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CHAPTER 1—DIPLOMATIC AND CONSULAR SERVICE GENERALLY

REVISION OF LAWS

Congress by the enactment of the Foreign Service Act of 1946, act Aug. 13, 1946, ch. 957, 60 Stat. 999, classified principally to chapter 14 (§801 et seq.) of this title, consolidated and revised the laws relating to the administration of the Foreign Service. The Foreign Service Act of 1980, Pub. L. 96–465, Oct. 17, 1980, 94 Stat. 2071, classified principally to chapter 52 (§3901 et seq.) of this title, repealed the Foreign Service Act of 1946 and further consolidated and revised the laws relating to the Foreign Service.

PROCLAMATIONS RESPECTING WAR AND NEUTRALITY

See notes preceding section 1 of Title 50, War and National Defense.

§§1 to 7. Repealed. Aug. 13, 1946, ch. 957, title XI, §1131(32)–(37), (49), (66), 60 Stat. 1037

Section 1, act May 24, 1924, ch. 182, §8, formerly §1, 43 Stat. 140; renumbered §8 and amended Feb. 23, 1931, ch. 276, §7, 46 Stat. 1207, related to establishment of Foreign Service.

Section 1a, act May 3, 1945, ch. 105, §1, 59 Stat. 102, related to Congressional declaration of purpose.

Section 2, act May 24, 1924, ch. 182, §9, formerly §2, 43 Stat. 140; renumbered §9 and amended Feb. 23, 1931, ch. 276, §7, 46 Stat. 1207, related to definition of a Foreign Service officer and assignment to duty generally.

Section 3, act May 24, 1924, ch. 182, §10, formerly §3, 43 Stat. 140; renumbered §10 and amended Feb. 23, 1931, ch. 276, §7, 46 Stat. 1207; Apr. 24, 1939, ch. 84, §2, 53 Stat. 583; May 3, 1945, ch. 105, §§4, 5, 59 Stat. 102, 103, related to grading, classification, and compensation of officers.

Section 3a, act May 24, 1924, ch. 182, §33, as added Feb. 23, 1931, ch. 276, §7, 46 Stat. 1215; amended Apr. 24, 1939, ch. 84, §4, 53 Stat. 588, related to salary increases.

Section 4, act May 24, 1924, ch. 182, §11, formerly §4, 43 Stat. 140; renumbered §11 and amended Feb. 23, 1931, ch. 276, §7, 46 Stat. 1215; June 29, 1935, ch. 337, 49 Stat. 436, related to appointment and commission of officers.

Section 5, act May 24, 1924, ch. 182, §12, formerly §5, 43 Stat. 141; renumbered §12 and amended Feb. 23, 1931, ch. 276, §7, 46 Stat. 1208, related to examination and appointment on probation of officers.

Section 6, act May 24, 1924, ch. 182, §12, formerly §5, 43 Stat. 141; renumbered §12 and amended Feb. 23, 1931, ch. 276, §7, 46 Stat. 1208, related to appointment to a class and not to a particular post.

Section 7, act May 24, 1924, ch. 182, §14, as added Feb. 23, 1931, ch. 276, §7, 46 Stat. 1208; amended May 3, 1945, ch. 105, §6, 59 Stat. 103, related to reports and recommendations for promotions.

EFFECTIVE DATE OF REPEAL

Repeal effective three months after Aug. 13, 1946, see act Aug. 13, 1946, ch. 957, title XI, §1141, 60 Stat. 1040.

§8. Repealed. Pub. L. 89–554, §8(a), Sept. 6, 1966, 80 Stat. 645

Section, act May 24, 1924, ch. 182, §7, 43 Stat. 141, related to recommissioning diplomatic and consular officers on July 1, 1924.

§9. Repealed. Aug. 13, 1946, ch. 957, title XI, §1131(25), 60 Stat. 1037

Section, acts Apr. 5, 1906, ch. 1366, §4, 34 Stat. 100; May 24, 1924, ch. 182, §17, formerly §10, 43 Stat. 142, renumbered §17 and amended Feb. 23, 1931, ch. 276, §7, 46 Stat. 1209, related to inspection of diplomatic and consular offices.

EFFECTIVE DATE OF REPEAL

Repeal effective three months after Aug. 13, 1946.

§10. Repealed. Pub. L. 89–554, §8(a), Sept. 6, 1966, 80 Stat. 645

Section, act May 24, 1924, ch. 182, §14, formerly §8, 43 Stat. 142; renumbered §14 and amended Feb. 23, 1931, ch. 276, §7, 46 Stat. 1208, abolished grade of consular assistant and provided against reduction of salaries of certain consuls.

§§11, 12. Repealed. Aug. 13, 1946, ch. 957, title XI, §1131(38), (39), 60 Stat. 1038

Section 11, R.S. §§1697, 1698, as amended acts Dec. 21, 1898, ch. 36, §§1, 2, 30 Stat. 770, 771; May 24, 1924, ch. 182, §16, formerly §9, 43 Stat. 142, renumbered §16 and amended Feb. 23, 1931, ch. 276, §7, 46 Stat. 1208; May 3, 1945, ch. 105, §7, 59 Stat. 103, related to bonds of officers.

Section 12, act May 24, 1924, ch. 182, §19, formerly §12, 43 Stat. 142; renumbered §19 and amended Feb. 23, 1931, ch. 276, §7, 46 Stat. 1209; May 3, 1945, ch. 105, §8, 59 Stat. 104, related to living, representation, and post allowances.

EFFECTIVE DATE OF REPEAL

Repeal effective three months after Aug. 13, 1946, see act Aug. 13, 1946, ch. 957, title XI, §1141, 60 Stat. 1040.

§13. Transferred

CODIFICATION

Section, act May 24, 1924, ch. 182, §18, formerly §11, 43 Stat. 142; renumbered §18 and amended Feb. 23, 1931, ch. 276, §7, 46 Stat. 1209, which related to receipt of official fees and method of accounting therefor, was transferred to section 4224 of this title.

§§14 to 23j. Repealed. Aug. 13, 1946, ch. 957, title XI, §1131(4), (29), (40)–(50), (53), (59)–(63), 60 Stat. 1035

Section 14, act May 24, 1924, ch. 182, §20, formerly §13, 43 Stat. 143; renumbered §20 and amended Feb. 23, 1931, ch. 276, §7, 46 Stat. 1209, related to private secretaries to ambassadors.

Section 15, act May 24, 1924, ch. 182, §21, formerly §14, 43 Stat. 143; renumbered §21 and amended Feb. 23, 1931, ch. 276, §7, 46 Stat. 1209; May 3, 1945, ch. 105, §9, 59 Stat. 104, related to assignment of officers for duty in Department of State or any other department or agency of the Government.

Section 16, act May 24, 1924, ch. 182, §21, formerly §14, 43 Stat. 143; renumbered §21 and amended Feb. 23, 1931, ch. 276, §7, 46 Stat. 1209; May 3, 1945, ch. 105, §9, 59 Stat. 104, related to assignment to special details.

Section 17, act May 24, 1924, ch. 182, §22, formerly §15, 43 Stat. 143; renumbered §22 and amended Feb. 23, 1931, ch. 276, §7, 46 Stat. 1210; Mar. 17, 1941, ch. 20, 55 Stat. 44, related to ordering of personnel to United States on statutory leave.

Section 17a, act May 24, 1924, ch. 182, §22, as added Feb. 23, 1931, ch. 276, §7, 46 Stat. 1210, related to leave of absence and sick leave.

Section 18, acts July 1, 1916, ch. 208, 39 Stat. 252; May 24, 1924, ch. 182, §23, formerly §16, 43 Stat. 143; renumbered §23 and amended Feb. 23, 1931, ch. 276, §7, 46 Stat. 1210, related to appointment of Foreign Service officer as counselor of embassy or legation.

Section 19, act May 24, 1924, ch. 182, §24, formerly §17, 43 Stat. 143; renumbered §24 and amended Feb. 23, 1931, ch. 276, §7, 46 Stat. 1210, related to Foreign Service officers acting as commissioner, chargé d'affaires, etc.

Section 20, R.S. §1685; acts Mar. 2, 1909, ch. 235, 35 Stat. 673; Feb. 5, 1915, ch. 23, §3, 38 Stat. 805; May 24, 1924, ch. 182, §17(25), 43 Stat. 143; Feb. 27, 1925, ch. 364, title I, 43 Stat. 1016; Feb. 23, 1931, ch. 276, §7, 46 Stat. 1210, related to compensation of officer acting as chargé d'affaires ad interim.

Section 21, acts May 24, 1924, ch. 182, §26, formerly §18, 43 Stat. 144; July 3, 1926, ch. 798, §1, 44 Stat. 902; renumbered §26 and amended Feb. 23, 1931, ch. 276, §7, 46 Stat. 1211; Apr. 24, 1939, ch. 84, §3, 53 Stat. 584; July 19, 1939, ch. 330, 53 Stat. 1067; Aug. 5, 1939, ch. 441, 53 Stat. 1208; Apr. 20, 1940, ch. 118, §1, 54 Stat. 143; Oct. 14, 1940, ch. 859, §4, 54 Stat. 1118; May 13, 1941, ch. 115, §1, 55 Stat. 189, eff. Aug. 1, 1941, related to retirement and disability system.

Section 21a, act July 3, 1926, ch. 798, §2, 44 Stat. 903, related to retirement and disability rights of Chief of Division of Western European Affairs.

Section 22, act May 24, 1924, ch. 182, §27, formerly §19, 43 Stat. 146; renumbered §27 and amended Feb. 23, 1931, ch. 276, §7, 46 Stat. 1213, related to recall to active duty of retired officers.

Section 23, act May 24, 1924, ch. 182, §28, formerly §20, 43 Stat. 146; renumbered §28 and amended Feb. 23, 1931, ch. 276, §7, 46 Stat. 1213, related to making other laws applicable to Foreign Service officers.

Section 23a, acts Feb. 23, 1931, ch. 276, §1, 46 Stat. 1207; May 3, 1945, ch. 105, §2, 59 Stat. 102, related to administrative, fiscal, and clerical personnel of Foreign Service.

Section 23b, act Feb. 23, 1931, ch. 276, §2, 46 Stat. 1207, related to appointment to grade of senior clerk.

Section 23c, acts Feb. 23, 1931, ch. 276, §3, 46 Stat. 1207; Apr. 24, 1939, ch. 84, §1, 53 Stat. 583; May 3, 1945, ch. 105, §3, 59 Stat. 102, related to allowances at all posts to clerks to meet excessive costs of living.

Section 23d, act Feb. 23, 1931, ch. 276, §4, 46 Stat. 1207, related to appointment of clerks to serve in a diplomatic mission.

Section 23e, act Feb. 23, 1931, ch. 276, §5, 46 Stat. 1207, related to regulations governing clerks.

Section 23f, act May 24, 1924, ch. 182, §31, as added Feb. 23, 1931, ch. 276, §7, 46 Stat. 1214; amended May 3, 1945, ch. 105, §10, 59 Stat. 105, related to Board of Foreign Personnel.

Section 23g, act May 24, 1924, ch. 182, §31, as added Feb. 23, 1931, ch. 276, §7, 46 Stat. 1214; amended May 3, 1945, ch. 105, §10, 59 Stat. 105, related to Chief of Division of Foreign Service personnel and Director of Office of Foreign Service.

Section 23h, act May 24, 1924, ch. 182, §32, as added Feb. 23, 1931, ch. 276, §7, 46 Stat. 1214; amended July 3, 1946, ch. 539, §5, 60 Stat. 427, related to Division of Foreign Service Personnel, efficiency ratings, etc.

Section 23i, act May 24, 1924, ch. 182, §33, as added Feb. 23, 1931, ch. 276, §7, 46 Stat. 1215; amended Apr. 24, 1939, ch. 84, §4, 53 Stat. 588, related to separation of officers from Service, retirement pay, and annuities.

Section 23j, act May 24, 1924, ch. 182, §34, as added Feb. 23, 1931, ch. 276, §7, 46 Stat. 1216, related to reduction of salary upon promotion to a higher grade.

EFFECTIVE DATE OF REPEAL

Repeal effective three months after Aug. 13, 1946, see act Aug. 13, 1946, ch. 957, title XI, §1141, 60 Stat. 1040.

§§23k, 23*l*. Transferred

CODIFICATION

Section 23k, act May 24, 1924, ch. 182, §35, as added Feb. 23, 1931, ch. 276, §7, 46 Stat. 1216, which related to establishment and maintenance of fiscal accounting and disbursing offices, was transferred to section 4225 of this title.

Section 23l, act May 24, 1924, ch. 182, §36, as added Feb. 23, 1931, ch. 276, §7, 46 Stat. 1216, which related to fees and official monies from diplomatic missions, was transferred to section 4226 of this title.

§24. Repealed. Aug. 13, 1946, ch. 957, title XI, §1131(67), 60 Stat. 1040

Section, act May 3, 1945, ch. 105, §12, 59 Stat. 105, related to restriction on transaction of business by officers and employees.

EFFECTIVE DATE OF REPEAL

Repeal effective three months after Aug. 13, 1946, see act Aug. 13, 1946, ch. 957, title XI, §1141, 60 Stat. 1040.

§§31 to 40. Repealed. Aug. 13, 1946, ch. 957, title XI, §1131(2), (3), (5), (6), (15), (19), (27), (28), (30), (31), (52), (55), (57), (58), 60 Stat. 1035

Section 31, act Mar. 2, 1909, ch. 235, 35 Stat. 672, related to restriction against creation of new ambassadorships.

Section 32, R.S. §1675; acts Mar. 3, 1875, ch. 153, 18 Stat. 483; Feb. 27, 1925, ch. 364, 43 Stat. 1015; Jan. 21, 1931, ch. 42, 46 Stat. 1040, related to appointment and salaries of ambassadors, ministers, etc.

Section 32a, act Jan. 21, 1931, ch. 42, 46 Stat. 1040, related to salary of minister to Liberia.

Section 33, R.S. §1744, related to citizenship as prerequisite to payment of compensation.

Section 34, act Sept. 29, 1919, ch. 72, 41 Stat. 291, related to appointment of an ambassador to Belgium.

Section 34a, act Jan. 22, 1930, ch. 22, 46 Stat. 57, related to appointment of an ambassador to Poland.

Section 34b, act June 5, 1930, ch. 404, 46 Stat. 502, related to appointment of a minister to Union of South Africa.

Section 34c, act June 1, 1922, ch. 204, title I, 42 Stat. 600, related to appointment of a minister to Egypt.

Section 35, acts Feb. 27, 1925, ch. 364, title I, 43 Stat. 1016; Apr. 29, 1926, ch. 195, title I, 44 Stat. 331; Feb. 24, 1927, ch. 189, title I, 44 Stat. 1180; Feb. 15, 1928, ch. 57, title I, 45 Stat. 65; Jan. 25, 1929, ch. 102, title I, 45 Stat. 1096; Apr. 18, 1930, ch. 184, title I, 46 Stat. 175, related to clerks at embassies and legations.

Section 36, R.S. §1686, related to compensation of persons filling two offices.

Section 37, act June 11, 1874, ch. 275, §1, 18 Stat. 67, related to special allowance to embassy messenger in Paris.

Section 38, act Feb. 5, 1915, ch. 23, §7, 38 Stat. 807, related to transaction of business by diplomatic officers.

Section 39, R.S. §1688, related to prohibition against uniforms and official costumes.

Section 40, R.S. §1674; acts Feb. 5, 1915, ch. 23, §6, 38 Stat. 806; July 1, 1916, ch. 208, 39 Stat. 252; May 24, 1924, ch. 182, §2, 43 Stat. 140, related to definition of diplomatic offices.

EFFECTIVE DATE OF REPEAL

Repeal effective three months after Aug. 13, 1946, see act Aug. 13, 1946, ch. 957, title XI, §1141, 60 Stat. 1040.

§41. Transferred

CODIFICATION

Section, act July 5, 1946, ch. 541, title I, 60 Stat. 448, which related to ambassadors or ministers unable to serve because of emergent conditions abroad, was transferred and set out as a note under section 901 of this title and subsequently omitted from the Code.

§§51, 51a. Repealed. Aug. 13, 1946, ch. 957, title XI, §1131(2), (7), 60 Stat. 1035

Section 51, R.S. §1674; act Feb. 5, 1915, ch. 23, §6, 38 Stat. 806, related to official designations in consular service.

Section 51a, R.S. §1695; acts Apr. 5, 1906, ch. 1366, §3, 34 Stat. 100; Feb. 5, 1915, ch. 23, §6, 38 Stat. 806, related to appointment of vice-consuls and consular agents.

EFFECTIVE DATE OF REPEAL

Repeal effective three months after Aug. 13, 1946, see act Aug. 13, 1946, ch. 957, title XI, §1141, 60 Stat. 1040.

§52. Omitted

CODIFICATION

Section, act Feb. 5, 1915, ch. 23, §6, 38 Stat. 806, abolished offices of vice consul general, deputy consul general, and deputy consul.

§53. Transferred

CODIFICATION

Section, R.S. §1689, which related to various provisions applicable to particular classes of consular officers, was transferred to section 4191 of this title.

§54. Omitted

CODIFICATION

Section, act Apr. 5, 1906, ch. 1366, §3, 34 Stat. 100, abolished grade of commercial agent.

§§55, 56. Repealed. Aug. 13, 1946, ch. 957, title XI, §1131(7), (51), 60 Stat. 1036

Section 55, R.S. §1695, related to limits of consulates.

Section 56, acts Feb. 27, 1925, ch. 364, 43 Stat. 1017; Apr. 29, 1926, ch. 195, title I, 44 Stat. 333; Feb. 24, 1927, ch. 189, title I, 44 Stat. 1182, related to appointment of consular clerks.

EFFECTIVE DATE OF REPEAL

Repeal effective three months after Aug. 13, 1946, see act Aug. 13, 1946, ch. 957, title XI, §1141, 60 Stat. 1040.

§57. Repealed. Feb. 23, 1931, ch. 276, §6, 46 Stat. 1207, eff. July 1, 1931

Section, act Apr. 5, 1906, ch. 1366, §5, 34 Stat. 101, related to citizenship requirements of consular clerks.

§58. Repealed. Aug. 13, 1946, ch. 957, title XI, §1131(8), 60 Stat. 1036

Section, R.S. §1696, related to expenses of vice consulate or consular agency.

EFFECTIVE DATE OF REPEAL

Repeal effective three months after Aug. 13, 1946, see act Aug. 13, 1946, ch. 957, title XI, §1141, 60 Stat. 1040.

§71. Repealed. Aug. 13, 1946, ch. 957, title XI, §1131(11), 60 Stat. 1036

Section, R.S. §1714, related to construction of powers and duties of consular officers.

EFFECTIVE DATE OF REPEAL

Repeal effective three months after Aug. 13, 1946, see act Aug. 13, 1946, ch. 957, title XI, §1141, 60 Stat. 1040.

§§72 to 79. Transferred

CODIFICATION

Section 72, R.S. §4082, which related to solemnization of marriages, was transferred to section 4192 of this title and subsequently repealed.

Section 73, R.S. §1707, which related to receipt of protests and declarations by consuls and vice-consuls, was transferred to section 4193 of this title.

Section 74, R.S. §1708, which related to lists and returns of seamen and vessels, was transferred to section 4194 of this title.

Section 75, R.S. §1709, which related to handling of estates of decedents by consular officers, was transferred to section 4195 of this title and subsequently repealed.

Section 76, R.S. §1710, which related to notification of death of a decedent by a consular officer, was transferred to section 4196 of this title.

Section 77, R.S. §1711, which related to following testamentary directions by a consular officer, was transferred to section 4197 of this title.

Section 78, act June 30, 1902, ch. 1331, §1, 32 Stat. 546, which related to appointment of a consular officer as a trust officer for settlement or conservation of an estate, was transferred to section 4198 of this title.

Section 79, act June 30, 1902, ch. 1331, §2, 32 Stat. 547, which related to failure of a consular officer to post bond prior to appointment as an administrator, was transferred to section 4199 of this title.

§§80 to 82. Repealed. Aug. 13, 1946, ch. 957, title XI, §1131(9), (10), (22), 60 Stat. 1036

Section 80, R.S. §1712; acts June 18, 1888, ch. 393, 25 Stat. 186; Feb. 9, 1889, ch. 122, §§1, 4, 25 Stat. 659; July 14, 1890, ch. 707, 26 Stat. 288; Apr. 5, 1906, ch. 1366, §3, 34 Stat. 100, related to commercial and agricultural reports.

Section 81, acts Jan. 27, 1879, ch. 28, §1, 20 Stat. 273; Apr. 5, 1906, ch. 1366, §3, 34 Stat. 100, related to reports on exports, imports, and wages.

Section 82, R.S. §1713; acts June 18, 1888, ch. 393, 25 Stat. 186; Feb. 9, 1889, ch. 122, §§1, 4, 25 Stat. 659, related to reports on current prices of merchandise, etc.

EFFECTIVE DATE OF REPEAL

Repeal effective three months after Aug. 13, 1946, see act Aug. 13, 1946, ch. 957, title XI, §1141, 60 Stat. 1040.

§§83 to 104. Transferred

CODIFICATION

Section 83, R.S. §1715, which related to certification of invoices, was transferred to section 4200 of this title.

Section 84, act Apr. 5, 1906, ch. 1366, §9, 34 Stat. 101, which related to fees for certification of invoices, was transferred to section 4201 of this title.

Section 85, R.S. §1716, which related to exaction of excessive fees for verification of invoices, was transferred to section 4202 of this title.

Section 86, act Feb. 24, 1903, ch. 753, 32 Stat. 854, which related to destruction of old invoices, was transferred to section 4203 of this title.

Section 87, R.S. §1717, which related to granting of a certificate for goods shipped from countries adjacent to the United States, was transferred to section 4204 of this title.

Section 88, R.S. §1718, which related to retention of papers of American vessels until payment of demands and wages, was transferred to section 4205 of this title.

Section 89, act June 26, 1884, ch. 121, §12, 23 Stat. 56, which related to fees for official services to American vessels or seamen, was transferred to section 4206 of this title.

Section 90, R.S. §1719, which related to profits from dealings with discharged seamen, was transferred to section 4207 of this title.

Section 91, R.S. §1722, which related to valuation of foreign coins in payment of fees, was transferred to section 4208 of this title.

Section 92, R.S. §1723, which related to exaction of excessive fees generally, was transferred to section 4209 of this title.

Section 93, R.S. §1724, which related to liability for uncollected fees, was transferred to section 4210 of this title.

Section 94, R.S. §1725, which related to returns as to fees by officers compensated by fees, was transferred to section 4211 of this title.

Section 95, R.S. §§1726, 1727, which related to receipt for fees, was transferred to section 4212 of this title.

Section 96, R.S. §1727, which related to registry of fees, was transferred to section 4213 of this title.

Section 97, R.S. §1728, which related to account of fees, was transferred to section 4214 of this title.

Section 98, act Apr. 5, 1906, ch. 1366, §7, 34 Stat. 101, which related to notarial acts, oaths, affirmations, affidavits, and depositions, was transferred to section 4215 of this title.

Section 99, acts Apr. 5, 1906, ch. 1366, §8, 34 Stat. 101; Feb. 5, 1915, ch. 23, §§3, 6, 38 Stat. 805, 806; May 24, 1924, ch. 182, §11, 43 Stat. 142; Aug. 13, 1946, ch. 957, title XI, §1131(26), 60 Stat. 1037, which related to general duty to account for fees, was transferred to section 4223 of this title.

Section 100, act Apr. 5, 1906, ch. 1366, §10, 34 Stat. 102, which related to use of official fee stamps on documents involved in performance of any consular or notarial act, was transferred to section 1196 of this title and was subsequently repealed by act June 28, 1955, ch. 196, 69 Stat. 187.

Section 101, R.S. §1731, which related to posting rates of fees, was transferred to section 4216 of this title.

Section 102, R.S. §1734, which related to embezzlement of fees or of effects of American citizens, was transferred to section 4217 of this title.

Section 103, R.S. §§1735, 1736, which related to liability for neglect of duty or malfeasance, was transferred to section 1199 of this title.

Section 104, R.S. §1737, which related to false certificates as to ownership of property, was transferred to section 4218 of this title.

§105. Repealed. Aug. 13, 1946, ch. 957, title XI, §1131(12), 60 Stat. 1036

Section, R.S. §1738, related to restriction of diplomatic functions by consular officers.

EFFECTIVE DATE OF REPEAL

Repeal effective three months after Aug. 13, 1946, see act Aug. 13, 1946, ch. 957, title XI, §1141, 60 Stat. 1040.

§§106 to 108. Repealed. May 3, 1945, ch. 105, §11, 59 Stat. 105

Section 106, R.S. §1699; act Apr. 5, 1906, ch. 1366, §6, 34 Stat. 101, related to restriction of transaction of private business by consular officer.

Section 107, R.S. §1700; act Apr. 5, 1906, ch. 1366, §6, 34 Stat. 101, related to extension of restriction as to transaction of business.

Section 108, R.S. §1701; act Apr. 5, 1906, ch. 1366, §3, 34 Stat. 100, related to penalty for violation of restriction and action on bond.

§109. Repealed. Pub. L. 89–554, §8(a), Sept. 6, 1966, 80 Stat. 632, 640

Section, R.S. §1706; act Apr. 5, 1906, ch. 1366, §3, 34 Stat. 100, related to allowance for office rent of consulates.

§§121, 122. Repealed. Aug. 13, 1946, ch. 957, title XI, §1131(13), (20), 60 Stat.

1036

Section 121, R.S. §1740; acts Apr. 5, 1906, ch. 1366, §3, 34 Stat. 100; Feb. 5, 1915, ch. 23, §6, 38 Stat. 806; Feb. 27, 1925, ch. 364, 43 Stat. 1017, related to commencement of salary of officers.

Section 122, act June 11, 1874, ch. 275, §4, 18 Stat. 70, related to fixing of travel time allowances.

EFFECTIVE DATE OF REPEAL

Repeal effective three months after Aug. 13, 1946, see act Aug. 13, 1946, ch. 957, title XI, §1141, 60 Stat. 1040.

§123. Repealed. Feb. 23, 1931, ch. 276, §22, 46 Stat. 1210, eff. July 1, 1931

Section, R.S. §1742, related to salary during absence.

§§124 to 126. Repealed. Aug. 13, 1946, ch. 957, title XI, §1131(14), (21), 60 Stat. 1036

Section 124, R.S. §1741; acts June 17, 1874, ch. 294, 18 Stat. 77; Apr. 5, 1906, ch. 1366, §3, 34 Stat. 100, related to absence without leave.

Section 125, R.S. §1743, related to extra compensation.

Section 126, R.S. §1751; act June 17, 1874, ch. 294, 18 Stat. 77, related to private correspondence on affairs of foreign governments.

EFFECTIVE DATE OF REPEAL

Repeal effective three months after Aug. 13, 1946, see act Aug. 13, 1946, ch. 957, title XI, §1141, 60 Stat. 1040.

§§127, 128. Transferred

CODIFICATION

Section 127, R.S. §1745, which related to regulation of fees by President, was transferred to section 4219 of this title.

Section 128, R.S. §1746, which related to medium for payment of fees, was transferred to section 4220 of this title.

§§129 to 130b. Repealed Aug. 13, 1946, ch. 957, title XI, §§1131(16), (17), 1132, 60 Stat. 1036, 1040

Section 129, R.S. §1748; act Apr. 5, 1906, ch. 1366, §3, 34 Stat. 100, related to office paraphernalia.

Section 130, R.S. 1749, related to allowances of widows. See section 1082 of this title.

Section 130a, acts Apr. 27, 1938, ch. 180, title I, 52 Stat. 250; June 29, 1939, ch. 248, title I, 53 Stat. 887; May 14, 1940, ch. 189, title I, 54 Stat. 183; June 28, 1941, ch. 258, title I, 55 Stat. 268; July 2, 1942, ch. 472, title I, 56 Stat. 471; July 1, 1943, ch. 182, title I, 57 Stat. 273; June 28, 1944, ch. 294, title I, 58 Stat. 398; May 21, 1945, ch. 129, title I, 59 Stat. 172; July 5, 1946, ch. 541, title I, 60 Stat. 449, related to expenses of bringing home remains of personnel dying abroad.

Section 130b, acts Apr. 27, 1938, ch. 180, title I, 52 Stat. 250; June 29, 1939, ch. 248, title I, 53 Stat. 887; May 14, 1940, ch. 189, title I, 54 Stat. 183; June 28, 1941, ch. 258, title I, 55 Stat. 267; July 2, 1942, ch. 472, title I, 56 Stat. 470; July 1, 1943, ch. 182, title I, 57 Stat. 273; June 28, 1944, ch. 294, title I, 58 Stat. 398; May 21, 1945, ch. 129, title I, 59 Stat. 171; July 5, 1946, ch. 541, title I, 60 Stat. 449, related to expenses of transporting personnel, families, and their effects to and from posts.

EFFECTIVE DATE OF REPEAL

Repeal effective three months after Aug. 13, 1946, see act Aug. 13, 1946, ch. 957, title XI, §1141, 60 Stat. 1040.

§131. Transferred

CODIFICATION

Section, R.S. §1750, which related to depositions and notarial acts, was transferred to section 4221 of this title.

§132. Repealed. Aug. 13, 1946, ch. 957, title XI, §1131(18), 60 Stat. 1036

Section, R.S. §1752, related to general regulations by President.

EFFECTIVE DATE OF REPEAL

Repeal effective three months after Aug. 13, 1946, see act Aug. 13, 1946, ch. 957, title XI, §1141, 60 Stat. 1040.

§133. Repealed. May 7, 1926, ch. 250, §7, 44 Stat. 405

Section, act Feb. 17, 1911, ch. 105, 36 Stat. 917, provided for purchase of buildings for Diplomatic and Consular Service.

§134. Repealed. Aug. 13, 1946, ch. 957, title XI, §1132, 60 Stat. 1040

Section, act Mar. 2, 1921, ch. 113, 41 Stat. 1215, related to acceptance of gifts of lands, buildings, etc., for use of the Service.

EFFECTIVE DATE OF REPEAL

Repeal effective three months after Aug. 13, 1946, see act Aug. 13, 1946, ch. 957, title XI, §1141, 60 Stat. 1040.

§§135, 136. Transferred

CODIFICATION

Section 135, act June 10, 1933, ch. 57, 48 Stat. 122, which related to protection of diplomatic codes, was transferred to section 815 of this title, and was subsequently repealed by act June 25, 1948, ch. 645, §21, 62 Stat. 862.

Section 136, act July 5, 1946, ch. 541, title I, 60 Stat. 452, which related to temporary assignment of American citizens in Foreign Service to Department of State during national emergencies, was transferred and set out as a note under section 909 of this title and subsequently omitted from the Code.

CHAPTER 2—CONSULAR COURTS

§§141 to 143. Repealed. Aug. 1, 1956, ch. 807, 70 Stat. 774

Act Aug. 1, 1956, repealed sections 141 to 143 effective upon the date which the President determined to be appropriate for the relinquishment of jurisdiction of the United States in Morocco. Jurisdiction of the United States in Morocco was relinquished by memorandum of President Eisenhower dated Sept. 15, 1956. Notice was given to Morocco on Oct. 6, 1956, and all pending cases were disposed of by 1960. See Bulletin of the State Department Vol. 35:909, page 844.

Section 141, R.S. §§4083, 4125, 4126, 4127; act June 14, 1878, ch. 193, 20 Stat. 131, related to judicial authority generally of ministers and consuls of United States in China, Siam, Turkey, Morocco, Muscat, Abyssinia, Persia, and territories formerly part of Ottoman Empire including Egypt.

Section 142, R.S. §4084, related to general criminal jurisdiction of ministers and consuls of United States.

Section 143, R.S. §4085, related to general jurisdiction of ministers and consuls of United States and venue in civil cases.

§144. Omitted

CODIFICATION

Section, acts Mar. 2, 1909, ch. 235, 35 Stat. 679; Mar. 4, 1915, ch. 145, 38 Stat. 1122, related to exercise of judicial functions by vice consul at Shanghai.

§§145 to 174. Repealed. Aug. 1, 1956, ch. 807, 70 Stat. 774

Act Aug. 1, 1956, repealed sections 145 to 174 effective upon the date which the President determined to be appropriate for the relinquishment of jurisdiction of the United States in Morocco. Jurisdiction of the United States in Morocco was relinquished by memorandum of President Eisenhower dated Sept. 15, 1956. Notice was given to Morocco on Oct. 6, 1956, and all pending cases were disposed of by 1960. See Bulletin of the State Department Vol. 35:909, page 844.

Section 145, R.S. §4086, related to system of laws to be applied.

Section 146, R.S. §4117, related to rules and regulations for consular courts generally.

Section 147, R.S. §4118, related to assent or dissent of consuls to, and publication of, rules, regulations, decrees, and orders.

Section 148, R.S. §4119, related to transmission of rules, regulations, orders and decrees to Secretary of State.

Section 149, R.S. §4087, related to warrant, arrest, trial, and sentence by consul.

Section 150, R.S. §4105, related to jurisdiction of consul sitting alone in criminal cases and finality of decision.

Section 151, R.S. §4089, related to jurisdiction of the consul sitting alone in criminal cases and appeal to minister.

Section 152, R.S. §4106, related to calling in by consul of associates in criminal cases and reference to minister upon disagreement.

Section 153, R.S. §4107, related to jurisdiction of consuls in civil cases, finality of decision, calling in of associates, and reference to minister upon disagreement.

Section 154, R.S. §4097, related to evidence and how it was to be taken.

Section 155, R.S. §4101, related to punishment generally and contempt.

Section 156, R.S. §4102, related to capital offenses, requisites for conviction, and conviction of lesser offenses.

Section 157, R.S. §4104, related to punishment for contempt of court.

Section 158, R.S. §4103, related to execution of criminals and pardons.

Section 159, R.S. §4120, related to fees for judicial services, application of moneys and rendition of accounts.

Section 160, R.S. §4099, related to settlement of criminal cases.

Section 161, R.S. §4098, related to arbitration, reference, and compromise of civil cases.

Section 162, R.S. §4100, related to invoking the aid of local authorities.

Section 163, R.S. §4108, related to jurisdiction of minister.

Section 164, R.S. §4109, related to appellate and original jurisdiction of minister.

Section 165, R.S. §4091, related to appellate jurisdiction of minister and new trials.

Section 166, R.S. §4090, related to jurisdiction of minister to try capital and felony cases.

Section 167, R.S. §4090, related to prevention of American citizens from enlisting with foreign countries.

Section 168, R.S. §§1693, 4111; act June 30, 1906, ch. 3934, §8, 34 Stat. 816, related to marshals of consular courts and their appointment and salary.

Section 169, R.S. §4112, related to execution and return of process by a marshal.

Section 170, R.S. §4113, related to bond of a marshal.

Section 171, R.S. §4114, related to suit on bond of marshal.

Section 172, R.S. §4115, related to necessity for production of original bond.

Section 173, R.S. §4116, related to service of rules, orders, writs, and processes of every kind in suit on bond of marshal.

Section 174, R.S. §§4121, 4122; act June 25, 1948, ch. 646, §39, 62 Stat. 992, related to expenses of prisons in foreign countries.

§175. Omitted

CODIFICATION

Section, act Mar. 2, 1901, ch. 802, 31 Stat. 893, which appropriated funds for feeding and keeping of prisoners, was repeated in subsequent appropriation acts down to and including act Mar. 3, 1917, ch. 161, 39 Stat. 1058, but was not repeated thereafter.

§§176 to 181. Repealed. Aug. 1, 1956, ch. 807, 70 Stat. 774

Act Aug. 1, 1956, repealed sections 176 to 181 effective upon the date which the President determined to be appropriate for the relinquishment of jurisdiction of the United States in Morocco. Jurisdiction of the United States in Morocco was relinquished by memorandum of President Eisenhower dated Sept. 15, 1956. Notice was given to Morocco on Oct. 6, 1956, and all pending cases were disposed of by 1960. See Bulletin of the State Department Vol. 35:909, page 844.

Section 176, R.S. §4128, related to the exercise of judicial duties by the Secretary of State in the absence of a minister.

Section 177, R.S. §§4127, 4129; act June 14, 1878, ch. 193, 20 Stat. 131, related to the general extension to unnamed countries with which the United States may after July 1, 1870 enter into treaty relations, of the provisions relating to the jurisdiction of consular and diplomatic officers.

Section 178, R.S. §4130; acts Feb. 1, 1876, ch. 6, 19 Stat. 2; Feb. 5, 1915, ch. 23, §6, 38 Stat. 806, related to the definition of the words "minister" and "consul".

Section 179, R.S. §4110, related to the responsibility of diplomatic and consular officers as judicial officers.

Section 180, R.S. §4088; act Apr. 5, 1906, ch. 1366, §3, 34 Stat. 100, related to the power of consuls in uncivilized countries or countries not recognized by treaties.

Section 181, R.S. §4125, related to the applicability of other laws to Turkey.

§182. Omitted

CODIFICATION

Section, act Mar. 23, 1874, ch. 62, §1, 18 Stat. 23, related to consular courts in Turkey and Egypt. Such courts in Turkey were abolished Oct. 14, 1949, and such courts in Egypt were abolished by the Treaty of Oct. 28, 1931.

§183. Repealed. Aug. 1, 1956, ch. 807, 70 Stat. 774

Section, R.S. §4126, related to the extension of other laws to Persia and suits between American citizens and subjects of Persia and other countries.

EFFECTIVE DATE OF REPEAL

Act Aug. 1, 1956, repealed section 183 effective upon the date which the President determined to be appropriate for the relinquishment of jurisdiction of the United States in Morocco. Jurisdiction of the United States in Morocco was relinquished by memorandum of President Eisenhower dated Sept. 15, 1956. Notice was given to Morocco on Oct. 6, 1956, and all pending cases were disposed of by 1960. See Bulletin of the State Department Vol. 35:909, page 844.

CHAPTER 3—UNITED STATES COURT FOR CHINA

§§191 to 200. Repealed. June 25, 1948, ch. 646, §39, 62 Stat. 992, eff. Sept. 1, 1948

Section 191, acts June 30, 1906, ch. 3934, §1, 34 Stat. 814; June 24, 1936, ch. 757, 49 Stat. 1909, related to establishment of court.

Section 192, act June 30, 1906, ch. 3934, §2, 34 Stat. 814, related to jurisdiction of consular courts.

Section 193, act June 30, 1906, ch. 3934, §2, 34 Stat. 814, related to administration of estates of decedents.

Section 194, acts June 30, 1906, ch. 3934, §3, 34 Stat. 815; Mar. 3, 1911, ch. 231, §291, 36 Stat. 1167; Jan. 31, 1928, ch. 14, §1, 45 Stat. 54, related to appeals and writs of error.

Section 195, act June 30, 1906, ch. 3934, §4, 34 Stat. 815, related to law applicable to determination of cases.

Section 196, act June 30, 1906, ch. 3934, §5, 34 Stat. 816, related to procedure generally.

Section 197, acts June 30, 1906, ch. 3934, §6, 34 Stat. 816; May 29, 1928, ch. 904, §§1, 2, 45 Stat. 997, related to officers of court.

Section 197a, act May 29, 1928, ch. 904, §§1, 2, 45 Stat. 997, related to salaries of judge.

Section 197b, act June 30, 1906, ch. 3934, §11, as added Aug. 7, 1935, ch. 452, §1, 49 Stat. 539, related to appointment and compensation of special judge.

Section 197c, acts Mar. 2, 1909, ch. 235, 35 Stat. 679; Mar. 4, 1915, ch. 145, 38 Stat. 1122, related to vice consul at Shanghai exercising judicial functions.

Section 198, act June 4, 1920, ch. 223, 41 Stat. 746, related to commissioner for court.

Section 198a, act June 30, 1906, ch. 3934, §10, as added Aug. 7, 1935, ch. 452, §1, 49 Stat. 538, related to commissioner for the court.

Section 199, act June 30, 1906, ch. 3934, §7, 34 Stat. 816, related to tenure of office of judge.

Section 200, act June 30, 1906, ch. 3934, §8, 34 Stat. 816, related to bond of marshal.

§201. Omitted

CODIFICATION

Section, acts Feb. 27, 1925, ch. 364, title I, 43 Stat. 1025; Apr. 29, 1926, ch. 195, title I, 44 Stat. 341; Feb. 24, 1927, ch. 189, title I, 44 Stat. 1192; Feb. 15, 1928, ch. 57, title I, 45 Stat. 76, related to expenses of judge and district attorney at sessions other than in Shanghai. By the Treaty of Jan. 11, 1943, 57 Stat., pt. 2, 767, between the United States and the Republic of China, the United States relinquished all of its extraterritorial rights in China.

§202. Repealed. June 25, 1948, ch. 646, §39, 62 Stat. 992, eff. Sept. 1, 1948

Section, act June 30, 1906, ch. 3934, §9, 34 Stat. 816, related to fees of marshal and clerk.

CHAPTER 4—PASSPORTS

Sec.

211. Repealed.
211a. Authority to grant, issue, and verify passports.
212. Persons entitled to passport.
212a. Restriction of passports for sex tourism.
212b. Unique passport identifiers for covered sex offenders.
213. Application for passport; verification by oath of initial passport.
214. Fees for execution and issuance of passports; persons excused from payment.
214a. Fees erroneously charged and paid; refund.
215 to 217. Omitted or Repealed.
217a. Validity of passport; limitation of time.
218. Returns as to passports issued, etc.
219 to 229. Repealed.

§211. Repealed. July 3, 1926, ch. 772, §4, 44 Stat. 887

Section, R.S. §4075; act June 14, 1902, ch. 1088, §1, 32 Stat. 386, provided for issuance of passports. See section 211a of this title.

§211a. Authority to grant, issue, and verify passports

The Secretary of State may grant and issue passports, and cause passports to be granted, issued, and verified in foreign countries by diplomatic and consular officers of the United States, and by such other employees of the Department of State who are citizens of the United States as the Secretary of State may designate, and by the chief or other executive officer of the insular possessions of the United States, under such rules as the President shall designate and prescribe for and on behalf of the United States, and no other person shall grant, issue, or verify such passports. Unless authorized by law, a passport may not be designated as restricted for travel to or for use in any country other than a country with which the United States is at war, where armed hostilities are in progress, or where there is imminent danger to the public health or the physical safety of United States travellers.

(July 3, 1926, ch. 772, §1, 44 Stat. 887; Pub. L. 95–426, title I, §124, Oct. 7, 1978, 92 Stat. 971; Pub. L. 103–236, title I, §127(a), Apr. 30, 1994, 108 Stat. 394; Pub. L. 103–415, §1(b), Oct. 25, 1994, 108 Stat. 4299.)

AMENDMENTS

1994—Pub. L. 103–415, §1(b)(1), substituted "such other employees" for "such employees".

Pub. L. 103–415, §1(b)(2), which directed the amendment of this section by substituting "United States" for "United States," was executed by making the substitution after "who are citizens of the", to reflect the probable intent of Congress.

Pub. L. 103–236 substituted "by diplomatic and consular officers of the United States, and by other employees of the Department of State who are citizens of the United States," for "by diplomatic representatives of the United States, and by such consul generals, consuls, or vice consuls when in charge,".

1978—Pub. L. 95–426 inserted provision prohibiting passport restrictions except for countries with which the United States is at war, where armed hostilities are in progress or there is imminent danger to the public health or physical safety of United States travellers.

SHORT TITLE OF 2006 AMENDMENT

Pub. L. 109–167, §1, Jan. 10, 2006, 119 Stat. 3578, provided that: "This Act [amending section 214 of this title] may be cited as the 'Passport Services Enhancement Act of 2005'."

LIMITATIONS ON USE OF FUNDS FOR PROCUREMENT OF PAPER FOR PASSPORTS

Pub. L. 100–440, title VI, §617(b), Sept. 22, 1988, 102 Stat. 1755, provided that: "None of the funds made available by this or any other Act with respect to any fiscal year may be used to procure paper for passports granted or issued pursuant to the first section of the Act entitled 'An Act to regulate the issue and validity of passports, and for other purposes', approved July 3, 1926 (22 U.S.C. 211a), if such paper is manufactured outside of the United States or its possessions or is procured from any corporation or other entity owned or controlled by persons not citizens of the United States. This subsection shall not apply if no domestic manufacturer for passport paper exists."

Similar provisions were contained in the following prior appropriation act:

Pub. L. 100–202, §101(m) [title VI, §622(b)], Dec. 22, 1987, 101 Stat. 1329–390, 1329–428.

PERSONS ENTITLED TO DIPLOMATIC OR OFFICIAL UNITED STATES PASSPORT

Pub. L. 95–426, title I, §125, Oct. 7, 1978, 92 Stat. 971, provided that: "It is the sense of the Congress that a diplomatic or official United States passport should be issued only to, and used only by, a person who holds a diplomatic or other official position in the United States Government or who is otherwise eligible for such a passport under conditions specifically authorized by law."

EX. ORD. NO. 11295. RULES GOVERNING GRANTING, ISSUING, AND VERIFYING OF PASSPORTS

Ex. Ord. No. 11295, Aug. 5, 1966, 31 F.R. 10603, provided:

By virtue of the authority vested in me by Section 301 of Title 3 of the United States Code, and as President of the United States, it is ordered as follows:

SECTION 1. *Delegation of authority*. The Secretary of State is hereby designated and empowered to exercise, without the approval, ratification, or other action of the President, the authority conferred upon the President by the first section of the Act of July 3, 1926 (22 U.S.C. 211a), to designate and prescribe for and on behalf of the United States rules governing the granting, issuing, and verifying of passports.

SEC. 2. *Superseded orders*. Subject to Section 3 of this order, the following are hereby superseded:

(1) Executive Order No. 7856 of March 31, 1938, entitled "Rules Governing the Granting and Issuing of Passports in the United States."

(2) Executive Order No. 8820 of July 11, 1941, entitled "Amending the Foreign Service Regulations of the United States."

SEC. 3. *Saving provisions*. All rules and regulations contained in the Executive order provisions revoked by Section 2 of this order, and all rules and regulations issued under the authority of those provisions, which are in force at the time of the issuance of this order shall remain in full force and effect until revoked, or except as they may be hereafter amended or modified, in pursuance of the authority conferred by this order, unless sooner terminated by operation of law.

LYNDON B. JOHNSON.

§212. Persons entitled to passport

No passport shall be granted or issued to or verified for any other persons than those owing allegiance, whether citizens or not, to the United States.

(R.S. §4076; June 14, 1902, ch. 1088, §2, 32 Stat. 386.)

CODIFICATION

R.S. §4076 derived from act May 30, 1866, ch. 102, 14 Stat. 54.

AMENDMENTS

1902—Act June 14, 1902, substituted "those owing allegiance, whether citizens or not, to the United States" for "citizens of the United States".

§212a. Restriction of passports for sex tourism

(a) In general

Following any conviction of an individual for a violation of section 2423 of title 18, the Attorney General shall notify in a timely manner—

(1) the Secretary of State for appropriate action under subsection (b); and

(2) the Secretary of Homeland Security for appropriate action under the Immigration and Nationality Act [8 U.S.C. 1101 et seq.].

(b) Authority to restrict passport

(1) Ineligibility for passport

(A) In general

The Secretary of State shall not issue a passport or passport card to an individual who is convicted of a violation of section 2423 of title 18 during the covered period if the individual used a passport or passport card or otherwise crossed an international border in committing the offense.

(B) Passport revocation

The Secretary of State shall revoke a passport or passport card previously issued to an individual described in subparagraph (A).

(2) Exceptions

(A) Emergency and humanitarian situations

Notwithstanding paragraph (1), the Secretary of State may issue a passport or passport card, in emergency circumstances or for humanitarian reasons, to an individual described in paragraph (1)(A).

(B) Limitation for return to United States

Notwithstanding paragraph (1), the Secretary of State may, prior to revocation, limit a previously issued passport or passport card only for return travel to the United States, or may issue a limited passport or passport card that only permits return travel to the United States.

(3) Definitions

In this subsection—

(A) the term "covered period" means the period beginning on the date on which an individual is convicted of a violation of section 2423 of title 18 and ending on the later of—

(i) the date on which the individual is released from a sentence of imprisonment relating to the offense; and

(ii) the end of a period of parole or other supervised release of the covered individual relating to the offense; and

(B) the term "imprisonment" means being confined in or otherwise restricted to a jail, prison, half-way house, treatment facility, or another institution, on a full or part-time basis, pursuant to the sentence imposed as the result of a criminal conviction.

(Pub. L. 110–457, title II, §236, Dec. 23, 2008, 122 Stat. 5082.)

REFERENCES IN TEXT

The Immigration and Nationality Act, referred to in subsec. (a)(2), is act June 27, 1952, ch. 477, 66 Stat. 163, which is classified principally to chapter 12 (§1101 et seq.) of Title 8, Aliens and Nationality. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of Title 8 and Tables.

§212b. Unique passport identifiers for covered sex offenders

(a) In general

Immediately after receiving a written determination from the Angel Watch Center that an individual is a covered sex offender, through the process developed for that purpose under section 16935f of title 42, the Secretary of State shall take appropriate action under subsection (b).

(b) Authority to use unique passport identifiers

(1) In general

Except as provided under paragraph (2), the Secretary of State shall not issue a passport to a covered sex offender unless the passport contains a unique identifier, and may revoke a passport previously issued without such an identifier of a covered sex offender.

(2) Authority to reissue

Notwithstanding paragraph (1), the Secretary of State may reissue a passport that does not include a unique identifier if an individual described in subsection (a) reapplies for a passport and the Angel Watch Center provides a written determination, through the process developed for that purpose under section 16935f of title 42, to the Secretary of State that the individual is no longer required to register as a covered sex offender.

(c) Defined terms

In this section—

(1) the term "covered sex offender" means an individual who—

(A) is a sex offender, as defined in section 16935b(f) of title 42; and

(B) is currently required to register under the sex offender registration program of any

jurisdiction;

(2) the term "unique identifier" means any visual designation affixed to a conspicuous location on the passport indicating that the individual is a covered sex offender; and

(3) the term "passport" means a passport book or passport card.

(d) Prohibition

The Secretary of State, the Secretary of Homeland Security, and the Attorney General, and their agencies, officers, employees, and agents, shall not be liable to any person for any action taken under this section.

(e) Disclosure

In furtherance of this section, the Secretary of State may require a passport applicant to disclose that they are a registered sex offender.

(f) Effective date

This section shall take effect upon certification by the Secretary of State, the Secretary of Homeland Security, and the Attorney General, that the process developed and reported to the appropriate congressional committees under section 16935f of title 42 has been successfully implemented.

(Pub. L. 110–457, title II, §240, as added Pub. L. 114–119, §8, Feb. 8, 2016, 130 Stat. 24.)

§213. Application for passport; verification by oath of initial passport

Before a passport is issued to any person by or under authority of the United States such person shall subscribe to and submit a written application which shall contain a true recital of each and every matter of fact which may be required by law or by any rules authorized by law to be stated as a prerequisite to the issuance of any such passport. If the applicant has not previously been issued a United States passport, the application shall be duly verified by his oath before a person authorized and empowered by the Secretary of State to administer oaths.

(June 15, 1917, ch. 30, title IX, §1, 40 Stat. 227; Pub. L. 90–428, §3, July 26, 1968, 82 Stat. 446.)

CODIFICATION

Second sentence of act June 15, 1917, which related to fees for taking application for passport, was omitted as superseded by sections 214 to 217a of this title.

AMENDMENTS

1968—Pub. L. 90–428 substituted provisions requiring that the initial passport application be duly verified under oath before a person authorized and empowered by the Secretary of State to administer oaths for provisions requiring that each passport application be duly verified under oath before a person authorized and empowered to administer oaths.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–428 effective on thirtieth day following July 26, 1968, see section 4 of Pub. L. 90–428, set out as a note under section 217a of this title.

ISSUANCE OF PASSPORTS FOR CHILDREN UNDER AGE 14

Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title II, §236], Nov. 29, 1999, 113 Stat. 1536, 1501A–430, provided that:

"(a) IN GENERAL.—

"(1) REGULATIONS.—Not later than 1 year after the date of the enactment of this Act [Nov. 29, 1999], the Secretary of State shall issue regulations providing that before a child under the age of 14 years is issued a passport the requirements under paragraph (2) shall apply under penalty of perjury.

"(2) REQUIREMENTS.—

"(A) Both parents, or the child's legal guardian, must execute the application and provide documentary evidence demonstrating that they are the parents or guardian; or

"(B) the person executing the application must provide documentary evidence that such person—

"(i) has sole custody of the child;

"(ii) has the consent of the other parent to the issuance of the passport; or

"(iii) is in loco parentis and has the consent of both parents, of a parent with sole custody over the child, or of the child's legal guardian, to the issuance of the passport.

"(b) EXCEPTIONS.—The regulations required by subsection (a) may provide for exceptions in exigent circumstances, such as those involving the health or welfare of the child, or when the Secretary determines that issuance of a passport is warranted by special family circumstances."

§214. Fees for execution and issuance of passports; persons excused from payment

(a) There shall be collected and paid into the Treasury of the United States a fee, prescribed by the Secretary of State by regulation, for the filing of each application for a passport (including the cost of passport issuance and use) and a fee, prescribed by the Secretary of State by regulation, for executing each such application except that the Secretary of State may by regulation authorize State officials or the United States Postal Service to collect and retain the execution fee for each application for a passport accepted by such officials or by that Service. Such fees shall not be refundable, except as the Secretary may by regulation prescribe. No passport fee shall be collected from an officer or employee of the United States proceeding abroad in the discharge of official duties, or from members of his immediate family; from an American seaman who requires a passport in connection with his duties aboard an American flag-vessel; from a widow, widower, child, parent, grandparent, brother, or sister of a deceased member of the Armed Forces proceeding abroad to visit the grave of such member or to attend a funeral or memorial service for such member; or from an individual or individuals abroad, returning to the United States, when the Secretary determines that foregoing the collection of such fee is justified for humanitarian reasons or for law enforcement purposes. No execution fee shall be collected for an application made before a Federal official by a person excused from payment of the passport fee under this section.

(b)(1) The Secretary of State may by regulation establish and collect a surcharge on applicable fees for the filing of each application for a passport in order to cover the costs of meeting the increased demand for passports as a result of actions taken to comply with section 7209(b) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 8 U.S.C. 1185 note). Such surcharge shall be in addition to the fees provided for in subsection (a) and in addition to the surcharges or fees otherwise authorized by law and shall be deposited as an offsetting collection to the appropriate Department of State appropriation, to remain available until expended for the purposes of meeting such costs.

(2) The authority to collect the surcharge provided under paragraph (1) may not be exercised after September 30, 2010.

(3) The Secretary of State shall ensure that, to the extent practicable, the total cost of a passport application during fiscal years 2006 and 2007, including the surcharge authorized under paragraph (1), shall not exceed the cost of the passport application as of December 1, 2005.

(June 4, 1920, ch. 223, §1, 41 Stat. 750; Feb. 10, 1956, ch. 31, 70 Stat. 11; Pub. L. 90–428, §2, July 26, 1968, 82 Stat. 446; Pub. L. 92–14, §1, May 14, 1971, 85 Stat. 38; Pub. L. 93–417, Sept. 17, 1974, 88 Stat. 1151; Pub. L. 97–241, title I, §116(a), Aug. 24, 1982, 96 Stat. 279; Pub. L. 104–208, div. A, title I, §101(a) [title IV, §407], Sept. 30, 1996, 110 Stat. 3009, 3009–55; Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title II, §233(a)], Nov. 29, 1999, 113 Stat. 1536, 1501A–426; Pub. L. 109–167, §2, Jan. 10, 2006, 119 Stat. 3578; Pub. L. 109–210, §1, Mar. 24, 2006, 120 Stat. 319; Pub. L. 109–472, §5, Jan. 11, 2007, 120 Stat. 3555.)

AMENDMENTS

2007—Subsec. (a). Pub. L. 109–472 substituted "from a widow" for "or from a widow" and inserted "; or from an individual or individuals abroad, returning to the United States, when the Secretary determines that foregoing the collection of such fee is justified for humanitarian reasons or for law enforcement purposes" after "memorial service for such member".

2006—Pub. L. 109–167 designated existing provisions as subsec. (a) and added subsec. (b).

Subsec. (a). Pub. L. 109–210 substituted "or from a widow, widower, child, parent, grandparent, brother, or sister of a deceased member of the Armed Forces proceeding abroad to visit the grave of such member or to attend a funeral or memorial service for such member" for "or from a widow, child, parent, brother, or sister of a deceased member of the Armed Forces proceeding abroad to visit the grave of such member".

1999—Pub. L. 106–113, in first sentence, substituted "the filing of each application for a passport (including the cost of passport issuance and use)" for "each passport issued" and "each such application except" for "each application for a passport; except" and inserted after first sentence "Such fees shall not be refundable, except as the Secretary may by regulation prescribe."

1996—Pub. L. 104–208 inserted "; except that the Secretary of State may by regulation authorize State officials or the United States Postal Service to collect and retain the execution fee for each application for a passport accepted by such officials or by that Service" before period at end of first sentence and struck out after first sentence "Nothing contained in this section shall be construed to limit the right of the Secretary of State by regulation (1) to authorize State officials to collect and retain the execution fee, or (2) to transfer to the United States Postal Service the execution fee for each application accepted by that Service."

1982—Pub. L. 97–241 substituted provision that the Secretary of State prescribe by regulation the fee for passports for provision that a fee of $10 be charged for each passport and that the fees be collected and paid into the Treasury quarterly.

1974—Pub. L. 93–417 substituted provisions authorizing the Secretary of State to prescribe fees for execution of applications for passports by regulation for provisions prescribing a fixed fee of $2, substituted "United States Postal Service" for "Postal Service", and struck out references to the fee of $2 in the proviso relating to the rights of the Secretary of State.

1971—Pub. L. 92–14 authorized the United States Postal Service to receive the fee of $2 for execution of an application for a passport.

1968—Pub. L. 90–428 increased from $1.00 to $2.00 and from $9.00 to $10.00, respectively, the fees for the execution and the issuance of passports, struck out "to a citizen or person owing allegiance to or entitled to the protection of the United States" after "for each passport issued", restricted the exemption for seamen to American seamen requiring a passport in connection with duties aboard an American flag-vessel, and inserted provision excusing a person exempted from a passport fee from paying an execution fee.

1956—Act Feb. 10, 1956, increased from $1 to $2 the fee for executing passport applications, and reworded authorization of State officials to collect and retain $2 fee.

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title II, §233(c)], Nov. 29, 1999, 113 Stat. 1536, 1501A–426, provided that: "The amendments made by this section [amending this section and repealing section 216 of this title] shall take effect on the date of issuance of final regulations under section 1 of the Passport Act of June 4, 1920 [22 U.S.C. 214], as amended by subsection (a)." [Final regulations issued Feb. 23, 2000, effective May 15, 2000, see 65 F.R. 14211.]

EFFECTIVE AND TERMINATION DATE OF 1971 AMENDMENT

Pub. L. 92–14, §2, May 14, 1971, 85 Stat. 38, as amended by Pub. L. 93–126, §8, Oct. 18, 1973, 87 Stat. 453, provided that: "The amendment made by this Act [amending this section] shall become effective on the date of enactment [May 14, 1971] and shall continue in effect until June 30, 1974."

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–428 effective on thirtieth day following July 26, 1968, see section 4 of Pub. L. 90–428, set out as a note under section 217a of this title.

EXTENSION OF AUTHORITY

Pub. L. 114–113, div. K, title VII, §7034(k)(1), Dec. 18, 2015, 129 Stat. 2764, provided that: "Section 1(b)(2) of the Passport Act of June 4, 1920 (22 U.S.C. 214(b)(2)) shall be applied by substituting 'September 30, 2016' for 'September 30, 2010'."

Prior extensions were contained in the following prior acts:

Pub. L. 113–235, div. J, title VII, §7034(l)(1), Dec. 16, 2014, 128 Stat. 2625.

Pub. L. 113–76, div. K, title VII, §7034(m)(1), Jan. 17, 2014, 128 Stat. 515.

Pub. L. 112–74, div. I, title VII, §7034(m)(1), Dec. 23, 2011, 125 Stat. 1216.

DEPOSIT OF RECEIPTS FROM EXPEDITED PASSPORT PROCESSING

Pub. L. 103–317, title V, Aug. 26, 1994, 108 Stat. 1760, provided in part "That hereafter all receipts

received from a new charge from expedited passport processing shall be deposited in this account as an offsetting collection and shall be available until expended".

INFORMATION FROM UNITED STATES PASSPORTS

Pub. L. 101–604, title II, §203(d), Nov. 16, 1990, 104 Stat. 3083, provided that: "Notwithstanding any other provision of law, to the extent provided in appropriation Acts, for each fiscal year not more than $5,000,000 in passport fees collected by the Department of State may be credited to a Department of State account. Amounts credited to such account shall be available only for the costs associated with the acquisition and production of machine-readable United States passports and visas and compatible reading equipment. Amounts credited to such account are authorized to remain available until expended."

§214a. Fees erroneously charged and paid; refund

Whenever a fee is erroneously charged and paid for the issue of a passport to a person who is exempted from the payment of such a fee by section 214 of this title, the Department of State is authorized to refund to the person who paid such fee the amount thereof, and the money for that purpose is authorized to be appropriated.

(July 3, 1926, ch. 772, §3, 44 Stat. 887.)

CERTAIN APPROPRIATION ACCOUNTS ABOLISHED

Effective July 1, 1935, enumerated appropriation accounts appearing on the books of the Government were abolished and in lieu thereof there was established an account to be designated "Refund of Moneys Erroneously Received and Covered." See section 1322 of Title 31, Money and Finance.

§215. Omitted

CODIFICATION

Section, act June 4, 1920, ch. 223, §2, 41 Stat. 750, provided for fees of $1 for each application for a visa and $9 for each visa. It was superseded by sections 2(h) and 7(h) of the Immigration Act of 1924 (act May 26, 1924, ch. 190, 43 Stat. 154, 157) which provided for fees in the same amounts. The 1924 Act was repealed by section 403(a)(23) of the Immigration and Nationality Act (act June 27, 1952, ch. 477, 66 Stat. 279). See section 1351 of Title 8, Aliens and Nationality, and section 9701 of Title 31, Money and Finance.

§216. Repealed. Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title II, §233(b)], Nov. 29, 1999, 113 Stat. 1536, 1501A–426

Section, act June 4, 1920, ch. 223, §4, 41 Stat. 751, authorized return of fees on refusal to visé.

EFFECTIVE DATE OF REPEAL

For effective date of repeal, see section 1000(a)(7) [div. A, title II, §233(c)] of Pub. L. 106–113, set out as an Effective Date of 1999 Amendment note under section 214 of this title.

§217. Repealed. July 3, 1926, ch. 772, §4, 44 Stat. 887

Section, act June 4, 1920, ch. 223, §3, 41 Stat. 751, limited time as to validity of passport or visé. See section 217a of this title.

§217a. Validity of passport; limitation of time

A passport shall be valid for a period of ten years from the date of issue, except that the Secretary of State may limit the validity of a passport to a period of less than ten years in an individual case or on a general basis pursuant to regulation.

(July 3, 1926, ch. 772, §2, 44 Stat. 887; July 1, 1930, ch. 782, 46 Stat. 839; May 16, 1932, ch. 187, 47 Stat. 157; Pub. L. 86–267, Sept. 14, 1959, 73 Stat. 552; Pub. L. 90–428, §1, July 26, 1968, 82 Stat. 446; Pub. L. 97–241, title I, §116(b)(1), Aug. 24, 1982, 96 Stat. 279.)

AMENDMENTS

1982—Pub. L. 97–241 substituted provision that a passport be valid for a period of ten years from issuance and that the Secretary of State could limit the period to less than ten years in an individual case or on a general basis by regulation for provision that a passport be limited to a period of not more than five years, that the Secretary of State could limit the passport to a shorter period, and that a valid passport outstanding as of the effective date of Pub. L. 90–428 be valid for a period of five years from the date of issue, except where such passport was limited to a shorter period by the Secretary.

1968—Pub. L. 90–428 substituted provisions that passport be limited to a period of not more than five years, though the Secretary of State may limit it to a shorter period and provisions as to the length of validity of passports outstanding as of the effective date of Pub. L. 90–428 for provisions that a passport or passport visa be limited to a period of three years, that a passport be renewed pursuant to regulations of the Secretary for a period not to exceed two years, provided that the final date of expiration not be more than five years from the original date of issue, that the Secretary be authorized to limit the validity of a passport, passport visa, or period of renewal of a passport to less than two years, and that the charge for the issue of an original passport be $9.00 and the charge for the renewal be $5.00.

1959—Pub. L. 86–267 substituted "three years" for "two years", and "five years" for "four years".

1932—Act May 16, 1932, among other changes, increased payment for renewals from $2 to $5, for issue of original passport from $5 to $9, and restored final expiration date of renewal passport to four years from six-year period.

1930—Act July 1, 1930, among other changes, provided for $2 payment for renewal of passport, $5 payment for issue of an original passport, and changed from four to six years the final expiration date of renewal passport.

EFFECTIVE DATE OF 1982 AMENDMENT

Pub. L. 97–241, title I, §116(b)(2), Aug. 24, 1982, 96 Stat. 279, provided that: "The amendment made by this subsection [amending this section] applies with respect to passports issued after the date of enactment of this Act [Aug. 24, 1982]."

EFFECTIVE DATE OF 1968 AMENDMENT

Pub. L. 90–428, §4, July 26, 1968, 82 Stat. 446, provided that: "This Act [amending this section and sections 213 and 214 of this title] shall take effect on the thirtieth day following the date of its enactment [July 26, 1968]."

§218. Returns as to passports issued, etc.

All persons who shall be authorized to grant, issue, or verify passports, shall make return of the same to the Secretary of State, in such manner and as often as he shall require; and such returns shall specify the names and all other particulars of the persons to whom the same shall be granted, issued, or verified, as embraced in such passport.

(R.S. §4077.)

CODIFICATION

R.S. §4077 derived from act May 30, 1866, ch. 102, 14 Stat. 54.

§§219 to 222. Repealed. June 25, 1948, ch. 645, §21, 62 Stat. 862, eff. Sept. 1, 1948

Section 219, R.S. §4078; act June 14, 1902, ch. 1088, §3, 32 Stat. 386, related to issuance of false passports. See section 1541 of Title 18, Crimes and Criminal Procedure.

Section 220, acts June 15, 1917, ch. 30, title IX, §2, 40 Stat. 227; Mar. 28, 1940, ch. 72, §7, 54 Stat. 80, related to false statements in application for passports. See section 1542 of Title 18.

Section 221, acts June 15, 1917, ch. 30, title IX, §3, 40 Stat. 227; Mar. 28, 1940, ch. 72, §7, 54 Stat. 80, related to unlawful use of passports. See section 1544 of Title 18.

Section 222, acts June 15, 1917, ch. 30, title IX, §4, 40 Stat. 227; Mar. 28, 1940, ch. 72, §7, 54 Stat. 80, related to forging or altering of passports. See section 1543 of Title 18.

§§223 to 229. Repealed. June 27, 1952, ch. 477, title IV, §403(a)(15), (20), (43), 66 Stat. 279, 280

Section 223, acts May 22, 1918, ch. 81, §1, 40 Stat. 559; June 21, 1941, ch. 210, §1, 55 Stat. 252, related to wartime restrictions generally. See section 1185 of Title 8, Aliens and Nationality.

Section 224, act May 22, 1918, ch. 81, §2, 40 Stat. 559, related to requirement of passport for citizens during wartime restrictions. See section 1185 of Title 8.

Section 225, acts May 22, 1918, ch. 81, §3, 40 Stat. 559; June 21, 1941, ch. 210, §2, 55 Stat. 253, related to penalty for violation of wartime restrictions. See section 1185 of Title 8.

Section 226, acts May 22, 1918, ch. 81, §4, 40 Stat. 559; June 21, 1941, ch. 210, §2a, 55 Stat. 253, related to definition of "United States" and "person" as used in wartime restriction. See section 1185 of Title 8.

Section 226a, act May 22, 1918, ch. 81, §5, as added June 21, 1941, ch. 210, §3, 55 Stat 253, related to permit as guarantee of admission to the United States. See section 1185 of Title 8.

Section 226b, act May 22, 1918, ch. 81, §6, as added June 21, 1941, ch. 210, §3, 55 Stat. 253, related to proclamation, rule, etc., as bar to prosecution. See section 1185 of Title 8.

Section 227, act Mar. 2, 1921, ch. 113, §1, 41 Stat. 1217, related to continuation of regulations as to alien passport requirements.

Sections 228 and 229, act June 20, 1941, ch. 209, §§1, 2, 55 Stat. 252, related to refusal of visés to aliens whose admission might endanger the public safety, and to rules and regulations governing this refusal. See section 1102 of Title 8.

TERMINATION OF EMERGENCY PROVISIONS

Joint Res. Mar. 31, 1953, ch. 13, §1, 67 Stat. 18, provided for the extension of certain emergency provisions (previously extended to April 1, 1953 by Joint Res. July 3, 1952, ch. 570, §1(b), 66 Stat. 333) until July 1, 1953. Joint Res. Mar. 31, 1953, ch. 13, §2, 67 Stat. 18, provided that the extension did not apply to the provisions of sections 223 to 226b of this title.

CHAPTER 5—PRESERVATION OF FRIENDLY FOREIGN RELATIONS GENERALLY

§§231, 232. Repealed. June 25, 1948, ch. 645, §21, 62 Stat. 862, eff. Sept. 1, 1948

Section 231, acts June 15, 1917, ch. 30, title VIII, §1, 40 Stat. 226; Mar. 28, 1940, ch. 72, §6, 54 Stat. 80, related to false statements to influence conduct of foreign governments toward the United States. See section 954 of Title 18, Crimes and Criminal Procedure.

Section 232, acts June 15, 1917, ch. 30, title VIII, §2, 40 Stat. 226; Mar. 28, 1940, ch. 72, §6, 54 Stat. 80, related to wrongful assumption of character of diplomatic or consular officer. See section 915 of Title 18.

§§233 to 233g. Transferred

CODIFICATION

Section 233, act June 15, 1917, ch. 30, title VIII, §3, 40 Stat. 226, as amended, which related to acting as a foreign agent without notice to Secretary of State, was transferred to section 601 of this title and was subsequently repealed by act June 25, 1948, ch. 645, §21, 62 Stat. 862. See section 951 of Title 18, Crimes and Criminal Procedure.

Section 233a, act June 8, 1938, ch. 327, §1, 52 Stat. 631, as amended, which related to defining, various terms included in provisions relating to foreign agents and propaganda, was transferred to section 611 of this title.

Section 233b, act June 8, 1938, ch. 327, §2, 52 Stat. 632, as amended, which related to registration

statements, was transferred to section 612 of this title.

Section 233c, act June 8, 1938, ch. 327, §3, 52 Stat. 632, as amended, which related to exemptions, was transferred to section 613 of this title.

Section 233d, act June 8, 1938, ch. 327, §4, 52 Stat. 632, as amended, which related to filing and labeling political propaganda, was transferred to section 614 of this title.

Section 233e, act June 8, 1938, ch. 327, §5, 52 Stat. 633, as amended, which related to books and records, was transferred to section 615 of this title.

Section 233f, act June 8, 1938, ch. 327, §6, 52 Stat. 633, as amended, which related to public examination of official records, was transferred to section 616 of this title.

Section 233g, act June 8, 1938, ch. 327, §§12, 13, as added Apr. 29, 1942, ch. 263, §1, 56 Stat. 258, which related to separability of provisions and effect on existing law, was transferred and set out as a note under section 611 of this title.

§§234, 235. Repealed. June 25, 1948, ch. 645, §21, 62 Stat. 862, eff. Sept. 1, 1948

Section 234, act June 15, 1917, ch. 30, title VIII, §5, 40 Stat. 226, related to conspiracy to injure property of foreign government. See section 956 of Title 18, Crimes and Criminal Procedure.

Section 235, act June 15, 1917, ch. 30, title VIII, §4, 40 Stat. 226, related to definition of "Foreign government". See section 11 of Title 18.

§§236 to 245. Transferred

CODIFICATION

Section 236, act Jan. 31, 1922, ch. 44, §1, 42 Stat. 361, which related to prohibition against exportation of arms to American countries or countries under American jurisdiction in a state of domestic violence, was transferred to section 409 of this title and was repealed by act June 25, 1948, ch. 645, §21, 62 Stat. 862.

Section 237, act Jan. 31, 1922, ch. 44, §2, 42 Stat. 361, which related to penalties, was transferred to section 410 of this title and was repealed by act June 25, 1948, ch. 645, §21, 62 Stat. 862.

Section 238, act June 15, 1917, ch. 30, title VI, §1, 40 Stat. 223, as amended, which related to illegal exportation of war materials, was transferred to section 401 of this title.

Section 239, act June 15, 1917, ch. 30, title VI, §2, 40 Stat. 224, which related to issuance of warrant for detention of seized property, was transferred to section 402 of this title and was repealed by act Aug. 13, 1953, ch. 434, §2, 67 Stat. 577.

Section 240, act June 15, 1917, ch. 30, title VI, §3, 40 Stat. 224, which related to filing petition for restoration of seized property, was transferred to section 403 of this title and was repealed by act Aug. 13, 1953, ch. 434, §2, 67 Stat. 577.

Section 241, act June 15, 1917, ch. 30, title VI, §4, 40 Stat. 224, as amended, which related to institution of libel proceedings and sale of seized property, was transferred to section 404 of this title and was repealed by act Aug. 13, 1953, ch. 434, §2, 67 Stat. 577.

Section 242, act June 15, 1917, ch. 30, title VI, §5, 40 Stat. 224, which related to method of trial and bond for redelivery, was transferred to section 405 of this title and was repealed by act Aug. 13, 1953, ch. 434, §2, 67 Stat. 577.

Section 243, act June 15, 1917, ch. 30, title VI, §6, 40 Stat. 225, which related to interference with foreign trade, was transferred to section 406 of this title.

Section 244, act June 15, 1917, ch. 30, title VI, §7, 40 Stat. 225, which related to the President's discretion to release seized property, was transferred to section 407 of this title and was repealed by act Aug, 13, 1953, ch. 434, §2, 67 Stat. 577.

Section 245, act June 15, 1917, ch. 30, title VI, §8, 40 Stat. 225, which related to use of land and naval forces to prevent exportation, was transferred to section 408 of this title.

§§245a to 245i. Repealed. Joint Res. Nov. 4, 1939, ch. 2, §19, 54 Stat. 12

Sections 245a to 245i, Joint Res. Aug. 31, 1935, ch. 837, 49 Stat. 1081; acts Feb. 29, 1936, ch. 106, 49 Stat. 1153; May 1, 1937, ch. 146, 50 Stat. 121, constituted the Neutrality Act of 1935. See the Neutrality Act of 1939, sections 441, 444, 445, 447 to 451, and 453 to 457 of this title.

§§245j to 245j–19. Transferred

CODIFICATION

Section 245j, Joint Res. Nov. 4, 1939, ch. 2, §1, 54 Stat. 4, which related to a proclamation of a state of war between foreign states, was transferred to section 441 of this title.

Section 245j–1, Joint Res. Nov. 4, 1939, ch. 2, §2, 54 Stat. 4, which related to commerce with states engaged in armed conflict, was transferred to section 442 of this title and was repealed by Joint Res. Nov. 17, 1941, ch. 473, §1, 55 Stat. 764.

Section 245j–2, Joint Res. Nov. 4, 1939, ch. 2, §3, 54 Stat. 7, which related to combat areas, was transferred to section 443 of this title and was repealed by Joint Res. Nov. 17, 1941, ch. 473, §1, 55 Stat. 764.

Section 245j–3, Joint Res. Nov. 4, 1939, ch. 2, §4, 54 Stat. 7, as amended, which related to American Red Cross vessels, was transferred to section 444 of this title.

Section 245j–4, Joint Res. Nov. 4, 1939, ch. 2, §5, 54 Stat. 7, which related to travel on vessels of belligerent states, was transferred to section 445 of this title.

Section 245j–5, Joint Res. Nov. 4, 1939, ch. 2, §6, 54 Stat. 7, which related to the arming of American merchant vessels, was transferred to section 446 of this title and was repealed by Joint Res. Nov. 17, 1941, ch. 473, §2, 55 Stat. 764.

Section 245j–6, Joint Res. Nov. 4, 1939, ch. 2, §7, 54 Stat. 7, as amended, which related to financial transactions, was transferred to section 447 of this title.

Section 245j–7, Joint Res. Nov. 4, 1939, ch. 2, §8, 54 Stat. 8, which related to solicitation and collection of funds and contributions, was transferred to section 448 of this title.

Section 245j–8, Joint Res. Nov. 4, 1939, ch. 2, §9, 54 Stat. 8, which related to American republics, was transferred to section 449 of this title.

Section 245j–9, Joint Res. Nov. 4, 1939, ch. 2, §10, 54 Stat. 9, which related to restrictions on use of American ports, was transferred to section 450 of this title.

Section 245j–10, Joint Res. Nov. 4, 1939, ch. 2, §11, 54 Stat. 9, which related to submarines and armed merchant vessels, was transferred to section 451 of this title.

Section 245j–11, Joint Res. Nov. 4, 1939, ch. 2, §12, 54 Stat. 10, which related to National Munitions Control Board, was transferred to section 452 of this title and was repealed by act Aug. 26, 1954, ch. 937, title V, §542(a)(12), 68 Stat. 861.

Section 245j–12, Joint Res. Nov. 4, 1939, ch. 2, §13, 54 Stat. 11, which related to regulations, was transferred to section 453 of this title.

Section 245j–13, Joint Res. Nov. 4, 1939, ch. 2. §14, 54 Stat. 11, which related to unlawful use of the American flag, was transferred to section 454 of this title.

Section 245j–14, Joint Res. Nov. 4, 1939, ch. 2, §15, 54 Stat. 11, which related to penalties, was transferred to section 455 of this title.

Section 245j–15, Joint Res. Nov. 4, 1939, ch. 2, §16, 54 Stat. 12, as amended, which defined terms used in neutrality provisions, was transferred to section 456 of this title.

Section 245j–16, Joint Res. Nov. 4, 1939, ch. 2, §17, 54 Stat. 12, which related to separability of provisions, was transferred to a note set out under section 441 of this title.

Section 245j–17, Joint Res. Nov. 4, 1939, ch. 2, §18, 54 Stat. 12, which related to appropriations, was transferred to section 457 of this title.

Section 245j–18, Joint Res. Nov. 4, 1939, ch. 2, §19, 54 Stat. 12, which related to repeal of earlier Joint Resolutions, was transferred and set out as a note under section 441 of this title.

Section 245j–19, Joint Res. Nov. 4, 1939, ch. 2, §20, 54 Stat. 12, which related to short title of this resolution, was transferred and set out as a note under section 441 of this title.

§246. Repealed. June 25, 1948, ch. 645, §21, 62 Stat. 862, eff. Sept. 1, 1948

Section, act July 8, 1918, ch. 138, 40 Stat. 821, related to wearing of foreign nation's uniform without authority. See section 703 of Title 18, Crimes and Criminal Procedure.

§247. Transferred

CODIFICATION

Section, act Sept. 22, 1922, ch. 414, 42 Stat. 1028, which related to foreign traveling salesmen, was transferred to section 503 of this title.

§248. Repealed. June 25, 1948, ch. 645, §21, 62 Stat. 862, eff. Sept. 1, 1948

Section, act June 20, 1936, ch. 635, §§1, 2, 49 Stat. 1557, related to prohibition against commercial use of arms of Swiss Confederation. See section 708 of Title 18, Crimes and Criminal Procedure.

§§249 to 250f. Transferred

CODIFICATION

Section 249, act Aug. 9, 1939, ch. 616, §1, 53 Stat. 1290, which related to utilization of services of government agencies to promote inter-American relations, was transferred to section 501 of this title.

Section 249a, act Aug. 9, 1939, ch. 616, §2, 53 Stat. 1290, which related to creation of advisory committees, was transferred to section 502 of this title.

Section 250, act June 15, 1940, ch. 365, §1, 54 Stat. 396, which related to military and naval assistance to governments of American republics, was transferred to section 521 of this title.

Section 250a, act June 15, 1940, ch. 365, §2, 54 Stat. 396, which related to transmission of information relating to implements of war, was transferred to section 522 of this title.

Section 250b, act June 15, 1940, ch. 365, §3, 54 Stat. 397, which related to contract restrictions against disposal of implements of war, was transferred to section 523 of this title.

Section 250c, act June 15, 1940, ch. 365, §4, 54 Stat. 397, which related to information on shipments to be given chairman of National Munitions Control Board, was transferred to section 524 of this title.

Section 250d, act June 15, 1940, ch. 365, §5, 54 Stat. 397, which related to appropriations and dispositions of receipts, was transferred to section 525 of this title.

Section 250e, act June 15, 1940, ch. 365, §6, 54 Stat. 397, which related to protection of patent rights, was transferred to section 526 of this title.

Section 250f, act June 15, 1940, ch. 365, §7, 54 Stat. 397, which related to purchases of implements of war from American republics, was transferred to section 527 of this title.

CHAPTER 6—FOREIGN DIPLOMATIC AND CONSULAR OFFICERS

Sec.

251 to 254. Repealed.
254a. Definitions.
254b. Privileges and immunities of mission of nonparty to Vienna Convention.
254c. Extension of more favorable or less favorable treatment than provided under Vienna Convention; authority of President.
254c–1. Policy toward certain agents of foreign governments.
254c–2. Repealed.
254d. Dismissal on motion of action against individual entitled to immunity.
254e. Liability insurance for members of mission.
255 to 255b. Repealed or Omitted.
256. Jurisdiction of consular officers in disputes between seamen.
257. Arrest of seamen; procedure generally.
258. Commitment and discharge.
258a. Enforcement of awards of foreign consuls.
259. Repealed.

§251. Repealed. June 25, 1948, ch. 645, §21, 62 Stat. 862, eff. Sept. 1, 1948

Section, R.S. §4062, related to violation of safe conduct. See sections 112 and 1545 of Title 18, Crimes and

§§252 to 254. Repealed. Pub. L. 95–393, §3(a)(1), Sept. 30, 1978, 92 Stat. 808

Section 252, R.S. §4063, related to the immunity of any ambassador or public minister of any foreign prince or State, or any domestic or domestic servant of any such minister against arrest, imprisonment, or seizure of his goods or chattels.

Section 253, R.S. §4064, related to imprisonment for not more than three years of anyone suing out a writ or process in violation of the provisions of former section 252 of this title, granting diplomatic immunity to certain persons.

Section 254, R.S. §§4065, 4066, related to suits against persons in the service of an ambassador or public minister founded upon a debt contracted before entering such service, and registration of the names of persons serving as domestic servants of an ambassador or a public minister with the State Department.

EFFECTIVE DATE OF REPEAL

Repeal effective at end of ninety-day period beginning on Sept. 30, 1978, see section 9 of Pub. L. 95–393, set out as an Effective Date note under section 254a of this title.

INSURANCE COVERAGE OF DIPLOMATIC MISSIONS TO UNITED STATES; REPORTS TO SPEAKER OF HOUSE OF REPRESENTATIVES AND PRESIDENT OF SENATE

Pub. L. 95–148, title V, §510(1), (2), Oct. 31, 1977, 91 Stat. 1240, provided that it was the sense of the Congress that the Secretary of State should prepare and submit to the Speaker of the House of Representatives and to the President of the Senate: (1) not later than six months after Oct. 31, 1977, a report on the adequacy of insurance provided by the accredited diplomatic missions to the United States to cover loss or injury arising from the wrongful acts or omissions of the employees of such missions in the United States; and (2) not later than one year after Oct. 31, 1977, a report on what efforts the President and the Secretary of State had made to encourage the provision of such coverage.

§254a. Definitions

As used in this Act—

(1) the term "members of a mission" means—

(A) the head of a mission and those members of a mission who are members of the diplomatic staff or who, pursuant to law, are granted equivalent privileges and immunities,

(B) members of the administrative and technical staff of a mission, and

(C) members of the service staff of a mission,

as such terms are defined in Article 1 of the Vienna Convention;

(2) the term "family" means—

(A) the members of the family of a member of a mission described in paragraph (1)(A) who form part of his or her household if they are not nationals of the United States, and

(B) the members of the family of a member of a mission described in paragraph (1)(B) who form part of his or her household if they are not nationals or permanent residents of the United States,

within the meaning of Article 37 of the Vienna Convention;

(3) the term "mission" includes missions within the meaning of the Vienna Convention and any missions representing foreign governments, individually or collectively, which are extended the same privileges and immunities, pursuant to law, as are enjoyed by missions under the Vienna Convention; and

(4) the term "Vienna Convention" means the Vienna Convention on Diplomatic Relations of April 18, 1961 (T.I.A.S. numbered 7502; 23 U.S.T. 3227), entered into force with respect to the United States on December 13, 1972.

(Pub. L. 95–393, §2, Sept. 30, 1978, 92 Stat. 808; Pub. L. 97–241, title II, §203(b)(1), Aug. 24, 1982,

96 Stat. 290.)

REFERENCES IN TEXT

This Act, referred to in text, means Pub. L. 95–393, Sept. 30, 1978, 92 Stat. 808, as amended, known as the Diplomatic Relations Act. For complete classification of this Act to the Code, see Short Title note below and Tables.

AMENDMENTS

1982—Par. (1)(A). Pub. L. 97–241 substituted "those members of a mission who are members of the diplomatic staff or who, pursuant to law, are granted equivalent privileges and immunities" for "members of the diplomatic staff of a mission".

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–241 effective Oct. 1, 1982, see section 204 of Pub. L. 97–241, set out as an Effective Date note under section 4301 of this title.

EFFECTIVE DATE

Pub. L. 95–393, §9, Sept. 30, 1978, 92 Stat. 810, provided that: "This Act [see Short Title note below] shall take effect at the end of the ninety-day period beginning on the date of its enactment [Sept. 30, 1978]".

SHORT TITLE

Pub. L. 95–393, §1, Sept. 30, 1978, 92 Stat. 808, provided that: "This Act [enacting this section, sections 254b to 254e of this title, and section 1364 of Title 28, Judiciary and Judicial Procedure, amending sections 1251 and 1351 of Title 28, repealing sections 252 to 254 of this title, and enacting provisions set out as a note under this section] may be cited as the 'Diplomatic Relations Act'."

§254b. Privileges and immunities of mission of nonparty to Vienna Convention

With respect to a nonparty to the Vienna Convention, the mission, the members of the mission, their families, and diplomatic couriers shall enjoy the privileges and immunities specified in the Vienna Convention.

(Pub. L. 95–393, §3(b), Sept. 30, 1978, 92 Stat. 808; Pub. L. 97–241, title II, §203(b)(2), Aug. 24, 1982, 96 Stat. 291.)

AMENDMENTS

1982—Pub. L. 97–241 substituted "With respect to a nonparty to the Vienna Convention, the mission, the members of the mission, their families, and diplomatic couriers" for "Members of the mission of a sending state which has not ratified the Vienna Convention, their families, and the diplomatic couriers of such state,".

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–241 effective Oct. 1, 1982, see section 204 of Pub. L. 97–241, set out as an Effective Date note under section 4301 of this title.

EFFECTIVE DATE

Section effective at end of ninety-day period beginning on Sept. 30, 1978, see section 9 of Pub. L. 95–393, set out as a note under section 254a of this title.

§254c. Extension of more favorable or less favorable treatment than provided under Vienna Convention; authority of President

(a) In general

The President may, on the basis of reciprocity and under such terms and conditions as he may determine, specify privileges and immunities for the mission, the members of the mission, their families, and the diplomatic couriers which result in more favorable treatment or less favorable treatment than is provided under the Vienna Convention.

(b) Consular immunity

(1) In general

The Secretary of State, with the concurrence of the Attorney General, may, on the basis of reciprocity and under such terms and conditions as the Secretary may determine, specify privileges and immunities for a consular post, the members of a consular post, and their families which result in more favorable or less favorable treatment than is provided in the Vienna Convention on Consular Relations, of April 24, 1963 (T.I.A.S. 6820), entered into force for the United States on December 24, 1969.

(2) Consultation

Before exercising the authority under paragraph (1), the Secretary of State shall consult with the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate regarding the circumstances that may warrant the need for privileges and immunities providing more favorable or less favorable treatment than is provided in the Vienna Convention.

(Pub. L. 95–393, §4, Sept. 30, 1978, 92 Stat. 809; Pub. L. 97–241, title II, §203(b)(3), Aug. 24, 1982, 96 Stat. 291; Pub. L. 114–323, title V, §501, Dec. 16, 2016, 130 Stat. 1935.)

AMENDMENTS

2016—Pub. L. 114–323 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

1982—Pub. L. 97–241 substituted "immunities for the mission, the members" for "immunities for members" and "diplomatic couriers which" for "diplomatic couriers of any sending state which".

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–241 effective Oct. 1, 1982, see section 204 of Pub. L. 97–241, set out as an Effective Date note under section 4301 of this title.

EFFECTIVE DATE

Section effective at end of ninety-day period beginning on Sept. 30, 1978, see section 9 of Pub. L. 95–393, set out as a note under section 254a of this title.

EX. ORD. NO. 12101. DELEGATION OF FUNCTIONS TO SECRETARY OF STATE RESPECTING PRIVILEGES AND IMMUNITIES FOR DIPLOMATIC MISSIONS AND PERSONNEL

Ex. Ord. No. 12101, Nov. 17, 1978, 43 F.R. 54195, as amended by Ex. Ord. No. 12608, Sept. 9, 1987, 52 F.R. 34617, provided:

By the authority vested in me as President of the United States of America by the Diplomatic Relations Act (Public Law 95–393, 92 Stat. 808; 22 U.S.C. 254a et seq.) and Section 301 of Title 3 of the United States Code, in order to implement the liability insurance and other requirements relating to diplomatic personnel, I hereby designate and empower the Secretary of State to perform, without the approval, ratification, or other action of the President, the functions vested or to be vested in the President by Section 4 of Diplomatic Relations Act (92 Stat. 809; 22 U.S.C. 254c).

§254c–1. Policy toward certain agents of foreign governments

(a) It is the sense of the Congress that the numbers, status, privileges and immunities, travel, accommodations, and facilities within the United States of official representatives to the United States of any foreign government that engages in intelligence activities within the United States harmful to the national security of the United States should not exceed the respective numbers, status, privileges and immunities, travel accommodations, and facilities within such country of official representatives of the United States to such country.

(b) Omitted.

(Pub. L. 98–618, title VI, §601(a), (b), Nov. 8, 1984, 98 Stat. 3303.)

CODIFICATION

Subsec. (b) of this section, which required the President to prepare and transmit to the Committee on Foreign Relations and Select Committee on Intelligence of the Senate and the Committee on Foreign Affairs and Permanent Select Committee on Intelligence of the House of Representatives a report on the numbers, status, privileges and immunities, travel, accommodations, and facilities within the United States of official representatives to the United States of any foreign government that engages in intelligence activities within the United States harmful to the national security of the United States and the respective numbers, status, privileges and immunities, travel, accommodations, and facilities within such country of official representatives of the United States to such country, and any action which may have been taken with respect thereto, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 33 of House Document No. 103–7.

§254c–2. Repealed. Pub. L. 103–199, title V, §501(c), Dec. 17, 1993, 107 Stat. 2325

Section, Pub. L. 100–178, title V, §501, Dec. 2, 1987, 101 Stat. 1014, related to annual report of Attorney General to congressional committees regarding admissions to United States over objections of the Federal Bureau of Investigation of Soviet nationals employed by or assigned to foreign mission or international organization in United States.

§254d. Dismissal on motion of action against individual entitled to immunity

Any action or proceeding brought against an individual who is entitled to immunity with respect to such action or proceeding under the Vienna Convention on Diplomatic Relations, under section 254b or 254c of this title, or under any other laws extending diplomatic privileges and immunities, shall be dismissed. Such immunity may be established upon motion or suggestion by or on behalf of the individual, or as otherwise permitted by law or applicable rules of procedure.

(Pub. L. 95–393, §5, Sept. 30, 1978, 92 Stat. 809.)

EFFECTIVE DATE

Section effective at end of ninety-day period beginning on Sept. 30, 1978, see section 9 of Pub. L. 95–393, set out as a note under section 254a of this title.

§254e. Liability insurance for members of mission

(a) Compliance with regulations

Each mission, members of the mission and their families, and individuals described in section 19 of the Convention on Privileges and Immunities of the United Nations of February 13, 1946, shall comply with any requirement imposed by the regulations promulgated by the Director of the Office of Foreign Missions in the Department of State pursuant to subsection (b).

(b) Establishment by regulation of liability insurance requirements

The Director of the Office of Foreign Missions shall, by regulation, establish liability insurance requirements which can reasonably be expected to afford adequate compensation to victims and which are to be met by each mission, members of the mission and their families, and individuals described in section 19 of the Convention on Privileges and Immunities of the United Nations of February 13, 1946, relating to risks arising from the operation in the United States of any motor vehicle, vessel, or aircraft.

(c) Enforcement of liability insurance requirements

The Director of the Office of Foreign Missions shall take such steps as he may deem necessary to insure that each mission, members of the mission and their families, and individuals described in section 19 of the Convention on Privileges and Immunities of the United Nations of February 13, 1946, who operate motor vehicles, vessels, or aircraft in the United States comply with the requirements established pursuant to subsection (b).

(Pub. L. 95–393, §6, Sept. 30, 1978, 92 Stat. 809; Pub. L. 98–164, title VI, §602, Nov. 22, 1983, 97 Stat. 1042.)

AMENDMENTS

1983—Subsec. (a). Pub. L. 98–164, §602(1), substituted "Director of the Office of Foreign Missions in the Department of State" for "President".

Subsec. (b). Pub. L. 98–164, §602(2), inserted provision respecting adequate compensation to victims, and substituted reference to Director for reference to President.

Subsec. (c). Pub. L. 98–164, §602(3), substituted reference to Director for reference to President.

EFFECTIVE DATE

Section effective at end of ninety-day period beginning on Sept. 30, 1978, see section 9 of Pub. L. 95–393, set out as a note under section 254a of this title.

AUTHORITY OF SECRETARY OF STATE

Except as otherwise provided, Secretary of State to have and exercise any authority vested by law in any official or office of Department of State and references to such officials or offices deemed to refer to Secretary of State or Department of State, as appropriate, see section 2651a of this title and section 161(d) of Pub. L. 103–236, set out as a note under section 2651a of this title.

§255. Repealed. June 25, 1948, ch. 645, §21, 62 Stat. 862, eff. Sept. 1, 1948

Section, R.S. §4062, related to assaulting, etc., a foreign minister. See sections 112 and 1545 of Title 18, Crimes and Criminal Procedure.

§§255a, 255b. Omitted

CODIFICATION

Sections, act Feb. 15, 1938, ch. 29, §§1, 2, 52 Stat. 30, which related to protection for officers and buildings, jurisdiction of offenses and penalties, and permitted picketing, are of particular application to the District of Columbia.

§256. Jurisdiction of consular officers in disputes between seamen

Whenever it is stipulated by treaty or convention between the United States and any foreign nation that the consul general, consuls, vice consuls, or consular or commercial agents of each nation, shall have exclusive jurisdiction of controversies, difficulties, or disorders arising at sea or in the waters or ports of the other nation, between the master or officers and any of the crew, or between any of the crew themselves, of any vessel belonging to the nation represented by such consular officer, such stipulations shall be executed and enforced within the jurisdiction of the United States as declared in sections 257 and 258 of this title. But before this section shall take effect as to the vessels of any particular nation having such treaty with the United States, the President shall be satisfied that similar provisions have been made for the execution of such treaty by the other contracting party, and shall issue his proclamation to that effect, declaring this section to be in force as to such nation.

(R.S. §4079.)

CODIFICATION

R.S. §4079 derived from act June 11, 1864, ch. 116, §1, 13 Stat. 121.

§257. Arrest of seamen; procedure generally

In all cases within the purview of section 256 of this title the consul general, consul, or other consular or commercial authority of such foreign nation charged with the appropriate duty in the

particular case, may make application to any court of record of the United States, or to any judge thereof, or to any United States magistrate judge, setting forth that such controversy, difficulty, or disorder has arisen, briefly stating the nature thereof, and when and where the same occurred, and exhibiting a certified copy or extract of the shipping articles, roll, or other proper paper of the vessel, to the effect that the person in question is of the crew or ship's company of such vessel; and further stating and certifying that such person has withdrawn himself, or is believed to be about to withdraw himself, from the control and discipline of the master and officers of the vessel or that he has refused, or is about to refuse, to submit to and obey the lawful jurisdiction of such consular or commercial authority in the premises; and further stating and certifying that, to the best of the knowledge and belief of the officer certifying, such person is not a citizen of the United States. Such application shall be in writing and duly authenticated by the consular or other sufficient official seal. Thereupon such court, judge, or magistrate judge shall issue his warrant for the arrest of the person so complained of, directed to the marshal of the United States for the appropriate district, or in his discretion to any person, being a citizen of the United States, whom he may specially depute for the purpose, requiring such person to be brought before him for examination at a certain time and place.

(R.S. §4080; May 28, 1896, ch. 252, §19, 29 Stat. 184; Mar. 2, 1901, ch. 814, 31 Stat. 956; Pub. L. 90–578, title IV, §402(b)(2), Oct. 17, 1968, 82 Stat. 1118; Pub. L. 101–650, title III, §321, Dec. 1, 1990, 104 Stat. 5117.)

CODIFICATION

R.S. §4080 derived from act June 11, 1864, ch. 116, §2, 13 Stat. 121.

Act Mar. 2, 1901, provided in part that all acts or parts of acts applicable to commissioners of the circuit court, except as to appointment and fees, shall be applicable to United States commissioners.

CHANGE OF NAME

Act May 28, 1896, abolished the circuit court and required the district court to appoint persons to be known as United States commissioners.

"United States magistrate judge" and "magistrate judge" substituted in text for "United States magistrate" and "magistrate", respectively, pursuant to section 321 of Pub. L. 101–650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure. Previously, "magistrate" substituted for "commissioner" pursuant to Pub. L. 90–578. See chapter 43 (§631 et seq.) of Title 28.

§258. Commitment and discharge

If, on such examination, it is made to appear that the person so arrested is a citizen of the United States, he shall be forthwith discharged from arrest, and shall be left to the ordinary course of law. But if this is not made to appear, and such court, judge, or magistrate judge finds, upon the papers referred to in section 257 of this title, a sufficient prima facie case that the matter concerns only the internal order and discipline of such foreign vessel, or whether in its nature civil or criminal, does not affect directly the execution of the laws of the United States, or the rights and duties of any citizen of the United States, he shall forthwith, by his warrant, commit such person to prison, where prisoners under sentence of a court of the United States may be lawfully committed, or, in his discretion, to the master or chief officer of such foreign vessel, to be subject to the lawful orders, control, and discipline of such master or chief officer, and to the jurisdiction of the consular or commercial authority of the nation to which such vessel belongs, to the exclusion of any authority or jurisdiction in the premises of the United States or any State thereof. No person shall be detained more than two months after his arrest, but at the end of that time shall be set at liberty and shall not again be arrested for the same cause. The expenses of the arrest and the detention of the person so arrested shall be paid by the consular officers making the application: *Provided*, That nothing in this section or section 257 of this title shall authorize the arrest or imprisonment of officers and seamen deserting or charged with desertion from merchant vessels of foreign nations in the United States and Territories and possessions thereof, and the cooperation, aid, and protection of competent legal authorities in effecting such arrest or imprisonment.

(R.S. §4081; Mar. 4, 1915, ch. 153, §§16, 17, 38 Stat. 1184; Pub. L. 90–578, title IV, §402(b)(2),

Oct. 17, 1968, 82 Stat. 1118; Pub. L. 101–650, title III, §321, Dec. 1, 1990, 104 Stat. 5117.)

CODIFICATION

R.S. §4081 derived from act June 11, 1864, ch. 116, §2, 13 Stat. 121.

CHANGE OF NAME

Words "magistrate judge" substituted in text for "magistrate" pursuant to section 321 of Pub. L. 101–650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure. Previously, "magistrate" substituted for "commissioner" pursuant to Pub. L. 90–578. See chapter 43 (§631 et seq.) of Title 28.

§258a. Enforcement of awards of foreign consuls

The district courts and the United States magistrate judges shall have power to carry into effect, according to the true intent and meaning thereof, the award or arbitration or decree of any consul, vice consul or commercial agent of any foreign nation, made or rendered by virtue of authority conferred on him as such consul, vice consul, or commercial agent, to sit as judge or arbitrator in such differences as may arise between the captains and crews of the vessels belonging to the nation whose interests are committed to his charge, application for the exercise of such power being first made to such court or magistrate judge, by petition of such consul, vice consul, or commercial agent. And said courts and magistrate judges may issue all proper remedial process, mesne and final, to carry into full effect such award, arbitration, or decree, and to enforce obedience thereto by imprisonment in the jail or other place of confinement in the district in which the United States may lawfully imprison any person arrested under the authority of the United States, until such award, arbitration or decree is complied with, or the parties are otherwise discharged therefrom, by the consent in writing of such consul, vice consul, or commercial agent, or his successor in office, or by the authority of the foreign government appointing such consul, vice consul, or commercial agent. The expenses of the said imprisonment and maintenance of the prisoners, and the cost of the proceedings, shall be borne by such foreign government, or by its consul, vice consul, or commercial agent requiring such imprisonment. The marshals of the United States shall serve all such process, and do all other acts necessary and proper to carry into effect the premises, under the authority of the said courts and magistrate judges.

(Mar. 3, 1911, ch. 231, §271, 36 Stat. 1163; Pub. L. 90–578, title IV, §402(b)(2), Oct. 17, 1968, 82 Stat. 1118; Pub. L. 101–650, title III, §321, Dec. 1, 1990, 104 Stat. 5117.)

CODIFICATION

Section was formerly classified to section 393 of Title 28 prior to the general revision and enactment of Title 28, Judiciary and Judicial Procedure, by act June 25, 1948, ch. 646, §1, 62 Stat. 869.

CHANGE OF NAME

"United States magistrate judges", "magistrate judge", and "magistrate judges" substituted in text for "United States magistrates", "magistrate", and "magistrates", respectively, pursuant to section 321 of Pub. L. 101–650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure. Previously, "magistrate" substituted for "commissioner" pursuant to Pub. L. 90–578. See chapter 43 (§631 et seq.) of Title 28.

§259. Repealed. Aug. 10, 1956, ch. 1041, §53, 70A Stat. 641

Section, act May 31, 1939, ch. 161, 53 Stat. 795, authorized Secretary of Army to sell supplies to aircraft operated by any foreign military or air attaché accredited to United States. See sections 4626, 4629, 9626, and 9629 of Title 10, Armed Forces.

CHAPTER 7—INTERNATIONAL BUREAUS, CONGRESSES, ETC.

Sec.

261. Policy as to settlement of disputes and disarmament.

262. President's participation in international congresses restricted.

262–1. Restriction relating to United States accession to any new international criminal tribunal.

262a. Contributions to international organizations; consent of State Department; limitations as to certain organizations.

262b. Commitments for United States contributions to international organizations; limitations; consultation with Congressional committees.

262c. Commitments for United States contributions to international financial institutions fostering economic development in less developed countries; continuation of participation.

262d. Human rights and United States assistance policies with international financial institutions.

262d–1. Congressional statement of policy of human rights and United States assistance policies with international institutions.

262e. Comparability of salaries and benefits of employees of international financial institutions with employees of American private business and governmental service.

262f. Promotion of development and utilization of light capital technologies and United States assistance policies with international financial institutions.

262g. Human nutrition in developing countries and United States assistance policies with international financial institutions; declaration of policy.

262g–1. Targeting assistance to specific populations.

262g–2. Establishment of guidelines for international financial institutions.

262g–3. International negotiations on future replenishments of international financial institutions; consultation with appropriate Members of Congress.

262h. Opposition by United States Executive Directors of international financial institutions to assistance for production or extraction of export commodities or minerals in surplus on world markets.

262i. Repealed.

262j. Use of renewable resources for energy production.

262k. Financial assistance to international financial institutions; considerations and criteria.

262k–1. Transparency of budgets.

262k–2. Female genital mutilation.

262*l*. Environmental reform measures and remedial measures; Committee on Health and the Environment.

262l–1. Sustainable economic growth and management of natural resources; environmental impact of loans; pest management; addition of trained professionals; "early warning system".

262l–2. Sustainable use of natural resources; use of agricultural and industrial chemicals.

262l–3. Environmental and energy initiatives; benchmarks; Global Warming Initiative; appropriations.

262m. Congressional findings and policies for multilateral development banks respecting environment, public health, natural resources, and indigenous peoples.

262m–1. Environmental performance of banks; mechanisms for improvement.

262m–2. Environmental impact of assistance proposals.

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262m–6. Repealed.

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262n–1. Increase in income and employment in developing countries; enhancement of purchasing power; diversification away from single crop or product economies.
262n–2. Financing projects for production of export commodities, products, or minerals in surplus in world markets discouraged; instructions by Secretary of the Treasury to United States Executive Directors.
262n–3. Reduction of barriers to agricultural trade.
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262o–1. Military spending by recipient countries; military involvement in economies of recipient countries.
262o–2. Advocacy of policies to enhance general effectiveness of International Monetary Fund.
262o–3. Administrative provisions.
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262p. Impact adjustment lending programs.
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262p–2. Instructions to United States Executive Directors for extension of credit.
262p–3. Participation of women in economic, social and policy development activities.
262p–4. Instructions to United States Executive Directors; indigenous people in borrowing country; determination of impact; protection of rights; consultation.
262p–4a. Loan programs to reduce economic dependence on illicit narcotics.
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262p–4c. Initiation of discussions to facilitate debt-for-development swaps for human welfare and environmental conservation.
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§261. Policy as to settlement of disputes and disarmament

It is declared to be the policy of the United States to adjust and settle its international disputes through mediation or arbitration, to the end that war may be honorably avoided. It looks with apprehension and disfavor upon a general increase of armament throughout the world, but it realizes that no single nation can disarm, and that without a common agreement upon the subject every considerable power must maintain a relative standing in military strength.

(Aug. 29, 1916, ch. 417, 39 Stat. 618.)

SHORT TITLE OF 2010 AMENDMENT

Pub. L. 111–158, §1, Apr. 26, 2010, 124 Stat. 1121, provided that: "This Act [enacting section 262p–12 of this title] may be cited as the 'Haiti Debt Relief and Earthquake Recovery Act of 2010'."

SHORT TITLE OF 1977 AMENDMENT

Pub. L. 95–118, §1, as added by Pub. L. 97–35, title XIII, §1361(a), Aug. 13, 1981, 95 Stat. 745, provided that: "This Act [enacting sections 262c, 262d, 262e to 262g–3, 282i, 284n, 285s, 285t, 286e–1f, and 290g–10 of this title, repealing sections 283y, 284m, and 290g–9 of this title, and enacting provisions set out as notes under 262c and 282i of this title] may be cited as the 'International Financial Institutions Act'."

§262. President's participation in international congresses restricted

The Executive shall not extend or accept any invitation to participate in any international congress, conference, or like event, without first having specific authority of law to do so.

(Mar. 4, 1913, ch. 149, 37 Stat. 913.)

§262–1. Restriction relating to United States accession to any new international criminal tribunal

(a) Prohibition

The United States shall not become a party to any new international criminal tribunal, nor give legal effect to the jurisdiction of such a tribunal over any matter described in subsection (b), except pursuant to—

(1) a treaty made under Article II, section 2, clause 2 of the Constitution of the United States on or after October 21, 1998; or

(2) any statute enacted by Congress on or after October 21, 1998.

(b) Jurisdiction described

The jurisdiction described in this section is jurisdiction over—

(1) persons found, property located, or acts or omissions committed, within the territory of the United States; or

(2) nationals of the United States, wherever found.

(c) Statutory construction

Nothing in this section precludes sharing information, expertise, or other forms of assistance with such tribunal.

(d) "New international criminal tribunal" defined

The term "new international criminal tribunal" means any permanent international criminal tribunal established on or after October 21, 1998, and does not include—

(1) the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law in the Territory of the Former Yugoslavia, as established by United Nations Security Council Resolution 827 of May 25, 1993; or

(2) the International Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of

Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighboring States, as established by United Nations Security Council Resolution 955 of November 8, 1994.

(Pub. L. 105–277, div. G, subdiv. B, title XXV, §2502, Oct. 21, 1998, 112 Stat. 2681–836.)

RESTRICTION RELATING TO UNITED STATES ACCESSION TO THE INTERNATIONAL CRIMINAL COURT

Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title VII, §705], Nov. 29, 1999, 113 Stat. 1536, 1501A–460, formerly set out as a note under this section, was transferred and is classified to section 7401 of this title.

PROHIBITION ON EXTRADITION OR TRANSFER OF UNITED STATES CITIZENS TO THE INTERNATIONAL CRIMINAL COURT

Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title VII, §706], Nov. 29, 1999, 113 Stat. 1536, 1501A–461, formerly set out as a note under this section, was transferred and is classified to section 7402 of this title.

§262a. Contributions to international organizations; consent of State Department; limitations as to certain organizations

All financial contributions by the United States to the normal operations of the international organizations covered by this Act, which member states are obligated to support annually, shall be limited to the amounts provided in this Act: *Provided*, That contributions for special projects not regularly budgeted by such international organizations shall not be subject to the above limitation.

All financial contributions by the United States to international organizations in which the United States participates as a member shall be made by or with the consent of the Department of State regardless of the appropriation from which any such contribution is made.

(Sept. 21, 1950, ch. 976, §2, 64 Stat. 903; Pub. L. 107–228, div. A, title IV, §405(b)(1), Sept. 30, 2002, 116 Stat. 1391.)

REFERENCES IN TEXT

This Act, referred to in text, is act Sept. 21, 1950, ch. 976, 64 Stat. 903, which enacted section 262a of this title, and amended sections 269b, 272a, 279a, 280b, 290b of this title. For complete classification of this Act to the Code, see Tables.

The international organizations covered by this Act, referred to in text, are the Inter-American Children's Institute, the International Labor Organization, the United Nations Food and Agriculture Organization, the South Pacific Commission, and the World Health Organization.

AMENDMENTS

2002—Pub. L. 107–228 struck out at end "The Secretary of State shall report annually to the Congress on the extent and disposition of such contributions."

§262b. Commitments for United States contributions to international organizations; limitations; consultation with Congressional committees

No representative of the United States Government in any international organization hereafter shall make any commitment requiring the appropriation of funds for a contribution by the United States in excess of 331/3 per centum of the budget of any international organization for which the appropriation for the United States contribution is contained in this Act: *Provided*, That in exceptional circumstances necessitating a contribution by the United States in excess of 331/3 per centum of the budget, a commitment requiring a United States appropriation of a larger proportion may be made after consultation by United States representatives in the organization or other appropriate officials of the Department of State with the Committees on Appropriations of the Senate and House of Representatives: *Provided, however*, That this section shall not apply to the United States representatives to the Inter-American organizations, Caribbean Commission and the Joint Support program of the International Civil Aviation Organization.

(Oct. 22, 1951, ch. 533, title VI, §602, 65 Stat. 599; Aug. 5, 1953, ch. 328, title I, 67 Stat. 368.)

REFERENCES IN TEXT

This Act, referred to in text, is act Oct. 22, 1951, ch. 533, title VI, 65 Stat. 599, popularly known as the Departments of State, Justice, Commerce and Judiciary Appropriation Act of 1952. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section is comprised of first paragraph of section 602 of act Oct. 22, 1951. Second par. of such section 602 contained a fiscal year provision.

AMENDMENTS

1953—Act Aug. 5, 1953, inserted proviso that this section is not to apply to the United States representatives to the Caribbean Commission and the Joint Support program of the International Civil Aviation Organization.

SIMILAR PROVISIONS

Provisions similar to this section were contained in act July 10, 1952, ch. 651, title I, 66 Stat. 550.

§262c. Commitments for United States contributions to international financial institutions fostering economic development in less developed countries; continuation of participation

(a) Congressional findings

It is the sense of the Congress that—

(1) for humanitarian, economic, and political reasons, it is in the national interest of the United States to assist in fostering economic development in the less developed countries of this world;

(2) the development-oriented international financial institutions have proved themselves capable of playing a significant role in assisting economic development by providing to less developed countries access to capital and technical assistance and soliciting from them maximum self-help and mutual cooperation;

(3) this has been achieved with minimal risk of financial loss to contributing countries;

(4) such institutions have proved to be an effective mechanism for sharing the burden among developed countries of stimulating economic development in the less developed world; and

(5) although continued United States participation in the international financial institutions is an important part of efforts by the United States to assist less developed countries, more of this burden should be shared by other developed countries. As a step in that direction, in future negotiations, the United States should work toward aggregate contributions to future replenishments to international financial institutions covered by this Act not to exceed 25 per centum.

(b) Funding commitments to international financial institutions; availability of funds subject to appropriations

The Congress recognizes that economic development is a long-term process needing funding commitments to international financial institutions. It also notes that the availability of funds for the United States contribution to international financial institutions is subject to the appropriations process.

(Pub. L. 95–118, title I, §101, Oct. 3, 1977, 91 Stat. 1067.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a)(5), is Pub. L. 95–118, Oct. 3, 1977, 91 Stat. 1067, known as the International Financial Institutions Act, which enacted sections 262c, 262d, 262e to 262g–3, 262m to 262p–12, 262r to 262t, 282i, 284n, 285s, 285t, 286e–1f, and 290g–10 of this title, repealed sections 283y,

284m, and 290g–9 of this title, and enacted provisions set out as notes under sections 262c and 282i of this title. For complete classification of this Act to the Code, see Short Title of 1977 Amendment note set out under section 261 of this title and Tables.

EFFECTIVE DATE

Section effective Oct. 3, 1977, see section 1001 of Pub. L. 95–118, set out as a note under section 282i of this title.

FUTURE UNITED STATES CONTRIBUTIONS TO THE INTERNATIONAL FINANCIAL INSTITUTIONS

Pub. L. 96–536, §101(b) [H.J. Res. 637, §101(b); H.R. 4473, title I], Dec. 16, 1980, 94 Stat. 3167, provided in part that: "It is the sense of the Congress that the United States share of contributions to future replenishments of the International Financial Institutions should not exceed the percentages enumerated below for each of the respective accounts within these institutions:

"Asian Development Bank:
"Paid-in capital, 16.3 percent;
"Callable capital, 16.3 percent;
"Asian Development Fund, 22.2 percent;
"African Development Bank:
"Special Fund, 18 percent;
"Inter-American Development Bank:
"Paid-in capital, 34.5 percent;
"Callable capital, 34.5 percent;
"Fund for Special Operations, 40 percent;
"International Bank for Reconstruction and Development:
"Paid-in capital, 24 percent;
"Callable capital, 24 percent;
"International Development Association, 25 percent;
"International Finance Corporation, 23 percent."

Similar provisions were contained in the following appropriation acts:
Pub. L. 96–123, §101(a) [incorporating Pub. L. 95–481, title III], Nov. 20, 1979, 93 Stat. 923.
Pub. L. 95–481, title III, Oct. 18, 1978, 92 Stat. 1599.
Pub. L. 95–148, title III, Oct. 31, 1977, 91 Stat. 1238.

STANDARDS FOR HUMAN NEEDS AND PROTECTION OF HUMAN RIGHTS; CONSULTATION FOR DEVELOPMENT OF CRITERIA; REPORT TO CONGRESS

Pub. L. 95–118, title VII, §703, Oct. 3, 1977, 91 Stat. 1070, provided that:

"(a) The Secretary of State and the Secretary of the Treasury shall initiate a wide consultation designed to develop a viable standard for the meeting of basic human needs and the protection of human rights and a mechanism for acting together to insure that the rewards of international economic cooperation are especially available to those who subscribe to such standards and are seen to be moving toward making them effective in their own systems of governance.

"(b) Not later than one year after the date of enactment of this Act [Oct. 3, 1977], the Secretary of State and the Secretary of the Treasury shall report to the President of the Senate and the Speaker of the House of Representatives on the progress made in carrying out this section."

§262d. Human rights and United States assistance policies with international financial institutions

(a) Policy goals

The United States Government, in connection with its voice and vote in the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the African Development Fund, the Asian Development Bank, the African Development Bank, the European Bank for Reconstruction

and Development, and the International Monetary Fund, shall advance the cause of human rights, including by seeking to channel assistance toward countries other than those whose governments engage in—

(1) a pattern of gross violations of internationally recognized human rights, such as torture or cruel, inhumane, or degrading treatment or punishment, prolonged detention without charges, or other flagrant denial to life, liberty, and the security of person; or

(2) provide refuge to individuals committing acts of international terrorism by hijacking aircraft.

(b) Policy considerations for Executive Directors of institutions in implementation of duties

Further, the Secretary of the Treasury shall instruct each Executive Director of the above institutions to consider in carrying out his duties:

(1) specific actions by either the executive branch or the Congress as a whole on individual bilateral assistance programs because of human rights considerations;

(2) the extent to which the economic assistance provided by the above institutions directly benefit the needy people in the recipient country;

(3) whether the recipient country—

(A) is seeking to acquire unsafeguarded special nuclear material (as defined in section 6305(8) of this title) or a nuclear explosive device (as defined in section 6305(4) of this title);

(B) is not a State Party to the Treaty on the Non-Proliferation of Nuclear Weapons; or

(C) has detonated a nuclear explosive device; and

(4) in relation to assistance for the Socialist Republic of Vietnam, the People's Democratic Republic of Laos, Russia and the other independent states of the former Soviet Union (as defined in section 5801 of this title), and Democratic Kampuchea (Cambodia), the responsiveness of the governments of such countries in providing a more substantial accounting of Americans missing in action.

(c) Requirements of United States assistance through institutions for projects in recipient countries

The United States Government, in connection with its voice and vote in the institutions listed in subsection (a), shall seek to channel assistance to projects which address basic human needs of the people of the recipient country.

(d) Criteria for determination of gross violations of internationally recognized human rights standards

In determining whether a country is in gross violation of internationally recognized human rights standards, as defined by the provisions of subsection (a), the United States Government shall give consideration to the extent of cooperation of such country in permitting an unimpeded investigation of alleged violations of internationally recognized human rights by appropriate international organizations including, but not limited to, the International Committee of the Red Cross, Amnesty International, the International Commission of Jurists, and groups or persons acting under the authority of the United Nations or the Organization of American States.

(e) Opposition by United States Executive Directors of institutions to financial or technical assistance to violating countries

The United States Executive Directors of the institutions listed in subsection (a) are authorized and instructed to oppose any loan, any extension of financial assistance, or any technical assistance to any country described in subsection (a)(1) or (2), unless such assistance is directed specifically to programs which serve the basic human needs of the citizens of such country.

(f) Consultative requirement

The Secretary of the Treasury or his delegate shall consult frequently and in a timely manner with the chairmen and ranking minority members of the Committee on Banking, Finance and Urban

Affairs of the House of Representatives and of the Committee on Foreign Relations of the Senate to inform them regarding any prospective changes in policy direction toward countries which have or recently have had poor human rights records.

(g) Violations of religious freedom

In determining whether the government of a country engages in a pattern of gross violations of internationally recognized human rights, as described in subsection (a), the President shall give particular consideration to whether a foreign government—

(1) has engaged in or tolerated particularly severe violations of religious freedom, as defined in section 6402 of this title; or

(2) has failed to undertake serious and sustained efforts to combat particularly severe violations of religious freedom when such efforts could have been reasonably undertaken.

(Pub. L. 95–118, title VII, §701, Oct. 3, 1977, 91 Stat. 1069; Pub. L. 96–259, title V, §501(a), (b), June 3, 1980, 94 Stat. 431, 432; Pub. L. 97–35, title XIII, §1342(b), Aug. 13, 1981, 95 Stat. 743; Pub. L. 97–375, title II, §211, Dec. 21, 1982, 96 Stat. 1826; Pub. L. 98–181, title I [title X, §1004], Nov. 30, 1983, 97 Stat. 1286; Pub. L. 101–240, title V, §541(c), (d)(4), (e)(8), Dec. 19, 1989, 103 Stat. 2517–2519; Pub. L. 101–513, title V, §562(b)(2), Nov. 5, 1990, 104 Stat. 2034; Pub. L. 102–511, title X, §1008, Oct. 24, 1992, 106 Stat. 3361; Pub. L. 103–236, title VIII, §823(b), Apr. 30, 1994, 108 Stat. 512; Pub. L. 105–292, title IV, §422, Oct. 27, 1998, 112 Stat. 2810; Pub. L. 106–569, title XI, §1103(g), Dec. 27, 2000, 114 Stat. 3031; Pub. L. 113–188, title XVI, §1601(b), Nov. 26, 2014, 128 Stat. 2025.)

AMENDMENTS

2014—Subsecs. (c) to (g). Pub. L. 113–188, which directed amendment of this section by striking subsec. (c) and redesignating subsec. (d) through subsec. (g) as added by section "501(g)" of Pub. L. 96–259 as subsecs. (c) through (f), respectively, was executed by redesignating subsec. (d) to subsec. (g) as added by section 501(b) of Pub. L. 96–259 (relating to consultative requirement) as (c) to (f), respectively, and striking out former subsec. (c) which related to reporting requirements, to reflect the probable intent of Congress.

2000—Subsec. (c)(1). Pub. L. 106–569 substituted "The Secretary of the Treasury shall report annually" for "Not later than 30 days after the end of each calendar quarter, the Secretary of the Treasury shall report quarterly".

1998—Subsec. (g). Pub. L. 105–292 added subsec. (g) relating to violations of religious freedom.

1994—Subsec. (b)(3). Pub. L. 103–236 amended par. (3) generally. Prior to amendment, par. (3) read as follows: "whether the recipient country has detonated a nuclear device or is not a State Party to the Treaty on Nonproliferation of Nuclear Weapons or both; and".

1992—Subsec. (a). Pub. L. 102–511, §1008(a), substituted "the African Development Bank, the European Bank for Reconstruction and Development, and the International Monetary Fund," for "and the African Development Bank,".

Subsec. (b)(4). Pub. L. 102–511, §1008(b), inserted "Russia and the other independent states of the former Soviet Union (as defined in section 5801 of this title)," after "Laos,".

1990—Subsec. (g). Pub. L. 101–513 struck out "(2)" before "The Secretary" and substituted "of the Committee on Banking, Finance and Urban Affairs of the House of Representatives and of the Committee on Foreign Relations of the Senate" for "specified in paragraph (1)".

1989—Subsec. (c). Pub. L. 101–240, §541(c), amended subsec. (c) generally, substituting provisions relating to quarterly reports by Secretary of the Treasury not later than 30 days after end of each calendar quarter for provisions relating to annual reports by Secretaries of State and the Treasury, and quarterly reports by Secretary of the Treasury.

Subsec. (d). Pub. L. 101–240, §541(e)(8), struck out at end "The annual report required under subsection (c) shall include a listing of categories of such assistance granted, with particular attention to categories that address basic human needs."

Subsec. (g)(1). Pub. L. 101–240, §541(d)(4), struck out par. (1) which related to quarterly reporting requirements by Secretary of the Treasury in consultation with Secretary of State.

1983—Subsec. (a)(1). Pub. L. 98–181 substituted "pattern" for "consistent pattern".

Subsec. (g)(1). Pub. L. 98–181 substituted "Not later than thirty days after the end of each calendar quarter, the Secretary of the Treasury, in consultation with the Secretary of State, shall report." for "The Secretary of the Treasury, in consultation with the Secretary of State, shall report quarterly".

1982—Subsec. (c)(1). Pub. L. 97–375 inserted "excluding section 262e of this title and".

1981—Subsec. (a). Pub. L. 97–35 inserted reference to the African Development Bank.

1980—Subsec. (c). Pub. L. 96–259, §501(a), designated existing provisions as par. (1) and added par. (2).

Subsec. (g). Pub. L. 96–259, §501(b), added subsec. (g).

CHANGE OF NAME

Committee on Banking, Finance and Urban Affairs of House of Representatives treated as referring to Committee on Banking and Financial Services of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Banking and Financial Services of House of Representatives abolished and replaced by Committee on Financial Services of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred from Committee on Energy and Commerce of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–236 effective 60 days after Apr. 30, 1994, see section 831 of Pub. L. 103–236, set out as an Effective Date note under section 6301 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101–240, title VIII, §801, Dec. 19, 1989, 103 Stat. 2524, provided that: "Except as otherwise provided in this Act, this Act and the amendments made by this Act [enacting sections 262m–7, 262p–4g to 262p–4k, 262r to 262r–2, 262s–1, 262t, 283z–5 to 283z–8, 286e–12, 286kk, and 2281 to 2286 of this title and section 3904a of Title 12, Banks and Banking, amending this section, sections 262m–7, 262p–1, 262p–5, 262s–2, 282b, 283b, 283cc, 284b, 285b, 286b, 286e–9, 286k–1, 286s, 290g–2, 290i–3, and 290k–5 of this title, and sections 635 and 635i–3 of Title 12, transferring former section 262q of this title to section 262s of this title and former section 4722 of Title 15, Commerce and Trade, to section 262s–2 of this title, repealing sections 262i, 262m–6, 276c–3, 283i, 286b–1, and 286b–2 of this title, enacting provisions set out as notes under sections 283z–6, 2151, and 2291 of this title and sections 635, 3901, and 3904a of Title 12, amending provisions set out as a note under section 262l of this title, and repealing provisions set out as notes under sections 262g–2 and 283 of this title] shall take effect on the date of the enactment of this Act [Dec. 19, 1989]."

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Aug. 13, 1981, see section 1372 of Pub. L. 97–35, set out as an Effective Date note under section 290i of this title.

EFFECTIVE DATE

Section effective Oct. 3, 1977, see section 1001 of Pub. L. 95–118, set out as a note under section 282i of this title.

CONSULTATIONS FOR ADOPTION OF AMENDMENT TO ARTICLES OF AGREEMENT RESPECTING HUMAN RIGHTS STANDARDS IN CONNECTION WITH ANY APPLICATION FOR ASSISTANCE

Pub. L. 95–118, title VII, §705, as added by Pub. L. 96–259, title V, §501(c), June 3, 1980, 94 Stat. 432, provided that: "The President shall direct the United States Governor of the International Bank for Reconstruction and Development, the United States Governor of the International Finance Corporation, the United States Governor of the International Development Association, the United States Governor of the Inter-American Development Bank, the United States Governor of the Asian Development Bank, and the United States Governor of the African Development Fund, to consult with the other Governors of those institutions concerning adoption of an amendment to the Articles of Agreement of their respective institutions to establish human rights standards to be considered in connection with each application for assistance."

AMENDMENT OF ARTICLES OF AGREEMENT OF INTERNATIONAL FINANCIAL INSTITUTIONS; ESTABLISHMENT OF HUMAN RIGHTS STANDARDS TO BE CONSIDERED IN CONNECTION WITH ASSISTANCE APPLICATION

Pub. L. 95–481, title VI, §611, Oct. 18, 1978, 92 Stat. 1602, provided that: "The President shall direct the United States Governor of the International Bank for Reconstruction and Development, the United States Governor of the International Finance Corporation, the United States Governor of the International Development Association, the United States Governor of the Inter-American Development Bank, the United

States Governor of the Asian Development Bank, and the United States Governor of the African Development Fund, to propose and seek adoption of an amendment to the Articles of Agreement for their respective institutions to establish human rights standards to be considered in connection with each application for assistance."

§262d–1. Congressional statement of policy of human rights and United States assistance policies with international institutions

It is the sense of the Congress that, where other means have proven ineffective in promoting international human rights, and except where the President determines that the cause of international human rights is served more effectively by actions other than voting against such assistance or where the assistance is directed to programs that serve the basic needs of the impoverished majority of the country in question, United States representatives to the International Bank for Reconstruction and Development, the International Development Association, the African Development Fund, the Asian Development Bank, and the Inter-American Development Bank should oppose loans and other financial or technical assistance to any country that persists in a systematic pattern of gross violations of fundamental human rights.

(Pub. L. 95–148, title V, §507, Oct. 31, 1977, 91 Stat. 1240.)

§262e. Comparability of salaries and benefits of employees of international financial institutions with employees of American private business and governmental service

The President shall direct the United States Executive Directors of such international financial institutions to take all appropriate actions to keep the salaries and benefits of the employees of such institutions to levels comparable to salaries and benefits of employees of private business and the United States Government in comparable positions.

(Pub. L. 95–118, title VII, §704, Oct. 3, 1977, 91 Stat. 1071.)

EFFECTIVE DATE

Section effective Oct. 3, 1977, see section 1001 of Pub. L. 95–118, set out as a note under section 282i of this title.

§262f. Promotion of development and utilization of light capital technologies and United States assistance policies with international financial institutions

The United States Government, in connection with its voice and vote in the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the African Development Fund, the Asian Development Bank, and the African Development Bank, shall promote the development and utilization of light capital technologies, otherwise known as intermediate, appropriate, or village technologies, by such international institutions as major facets of their development strategies, with major emphasis on the production and conservation of energy through light capital technologies.

(Pub. L. 95–118, title VIII, §801, Oct. 3, 1977, 91 Stat. 1071; Pub. L. 97–35, title XIII, §§1342(c), 1371(b)(1), Aug. 13, 1981, 95 Stat. 743, 746.)

AMENDMENTS

1981—Pub. L. 97–35 redesignated subsec. (a) as entire section, inserted reference to African Development Bank, and struck out subsec. (b) which related to an annual report to Congress on progress toward achieving goals of this section.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Aug. 13, 1981, see section 1372 of Pub. L. 97–35, set out as an Effective Date note under section 290i of this title.

EFFECTIVE DATE

Section effective Oct. 3, 1977, see section 1001 of Pub. L. 95–118, set out as a note under section 282i of this title.

§262g. Human nutrition in developing countries and United States assistance policies with international financial institutions; declaration of policy

The Congress declares it to be the policy of the United States, in connection with its voice and vote in the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the African Development Fund, the Asian Development Fund, and the Asian Development Bank, to combat hunger and malnutrition and to encourage economic development in the developing countries, with emphasis on assistance to those countries that are determined to improve their own agricultural production, by seeking to channel assistance for agriculturally related development to projects that would aid in fulfilling domestic food and nutrition needs and in alleviating hunger and malnutrition in the recipient country. The United States representatives to the institutions named in this section shall oppose any loan or other financial assistance for establishing or expanding production for export of palm oil, sugar, or citrus crops if such loan or assistance will cause injury to United States producers of the same, similar, or competing agricultural commodity.

(Pub. L. 95–118, title IX, §901, Oct. 3, 1977, 91 Stat. 1071; Pub. L. 97–35, title XIII, §1371(b)(2), Aug. 13, 1981, 95 Stat. 746.)

AMENDMENTS

1981—Pub. L. 97–35 redesignated subsec. (a) as entire section and struck out subsec. (b) which related to an annual report to Congress on the progress towards achieving the goals of this section.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Aug. 13, 1981, see section 1372 of Pub. L. 97–35, set out as an Effective Date note under section 290i of this title.

EFFECTIVE DATE

Section effective Oct. 3, 1977, see section 1001 of Pub. L. 95–118, set out as a note under section 282i of this title.

§262g–1. Targeting assistance to specific populations

(a) Congressional findings

The Congress finds that there is a need for concerted international efforts to deal with the problems of malnutrition, low life expectancy, childhood disease, underemployment, and low productivity in developing countries.

(b) Assistance to poorest populations

The Congress notes with approval that the Inter-American Development Bank, under the terms of its Fifth Replenishment, has adopted the target that 50 percent of its lending benefit the poorest groups and has developed a usable methodology for determining the proportion of its lending which benefits such groups.

(Pub. L. 95–118, title XI, §1101, as added Pub. L. 97–35, title XIII, §1361(b), Aug. 13, 1981, 95 Stat. 745.)

EFFECTIVE DATE

Section effective Aug. 13, 1981, see section 1372 of Pub. L. 97–35, set out as a note under section 290i of

this title.

§262g–2. Establishment of guidelines for international financial institutions

(a) Consultation with representatives of member countries

The Secretary of the Treasury shall consult with representatives of other member countries of the International Bank for Reconstruction and Development, the International Development Association, the Asian Development Bank, the African Development Fund, and the African Development Bank (if the United States becomes a member of that Bank), for the purpose of establishing guidelines within each of those institutions which specify that, in a manner consistent with the purposes and charters of those institutions, a specified proportion of the annual lending by each institution shall be designed to benefit needy people, primarily by financing sound, efficient, productive, self-sustaining projects designed to benefit needy people in developing countries, thus helping poor people improve their conditions of life.

(b) Congressional findings regarding implementation of objectives

The Congress finds that projects to construct basic infrastructure, to expand productive capacity (including private enterprise), and to address social problems can all meet the objectives of this section if they are designed and implemented properly. For the purposes of this title, "needy people" means those people living in "absolute" or "relative" poverty as determined under the standards employed by the International Bank for Reconstruction and Development and the International Development Association.

(Pub. L. 95–118, title XI, §1102, as added Pub. L. 97–35, title XIII, §1361(b), Aug. 13, 1981, 95 Stat. 745.)

REFERENCES IN TEXT

This title, referred to in subsec. (b), is title XI (§§1101–1103) of Pub. L. 95–118, as added by Pub. L. 97–35, title XIII, §1361(b), Aug. 13, 1981, 95 Stat. 745, which enacted sections 262g–1 and 262g–2 of this title and enacted a provision set out as a note below. For complete classification of title XI to the Code, see Tables.

EFFECTIVE DATE

Section effective Aug. 13, 1981, see section 1372 of Pub. L. 97–35, set out as a note under section 290i of this title.

REPORTS TO CONGRESS

Pub. L. 95–118, title XI, §1103, as added by Pub. L. 97–35, title XIII, §1361(b), Aug. 13, 1981, 95 Stat. 746, required reports on the progress being made toward achieving the goals of this section, prior to repeal by Pub. L. 101–240, title V, §541(d)(4), Dec. 19, 1989, 103 Stat. 2518.

§262g–3. International negotiations on future replenishments of international financial institutions; consultation with appropriate Members of Congress

The Secretary of the Treasury or his designee shall consult with the Chairman and the Ranking Minority Member of—

(1) the Committee on Banking, Finance and Urban Affairs of the House of Representatives, the Committee on Appropriations of the House of Representatives, and the appropriate subcommittee of each such committee, and

(2) the Committee on Foreign Relations of the Senate, the Committee on Appropriations of the Senate, and the appropriate subcommittee of each such committee,

for the purpose of discussing the position of the executive branch and the views of the Congress with respect to any international negotiations being held to consider future replenishments or capital expansions of any multilateral development bank which may involve an increased contribution or

subscription by the United States. Such consultation shall be made (A) not later than 30 days before the initiation of such international negotiations, (B) during the period in which such negotiations are being held, in a frequent and timely manner, and (C) before a session of such negotiations is held at which the United States representatives may agree to such a replenishment or capital expansion.

(Pub. L. 95–118, title XII, §1201, as added Pub. L. 97–35, title XIII, §1361(b), Aug. 13, 1981, 95 Stat. 746.)

CHANGE OF NAME

Committee on Banking, Finance and Urban Affairs of House of Representatives treated as referring to Committee on Banking and Financial Services of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Banking and Financial Services of House of Representatives abolished and replaced by Committee on Financial Services of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred from Committee on Energy and Commerce of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

EFFECTIVE DATE

Section effective Aug. 13, 1981, see section 1372 of Pub. L. 97–35, set out as a note under section 290i of this title.

§262h. Opposition by United States Executive Directors of international financial institutions to assistance for production or extraction of export commodities or minerals in surplus on world markets

The Secretary of the Treasury shall instruct the United States Executive Directors of the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the International Monetary Fund, the Asian Development Bank, the Inter-American Investment Corporation, the African Development Bank, and the African Development Fund to use the voice and vote of the United States to oppose any assistance by such institutions, using funds appropriated or otherwise made available pursuant to any provision of law, for the production or extraction of any commodity or mineral for export, if—

(1) such commodity or mineral, as the case may be, is in surplus on world markets; and

(2) the export of such commodity or mineral, as the case may be, would cause substantial injury to the United States producers of the same, similar, or competing commodity or mineral.

(Pub. L. 99–472, §22, Oct. 15, 1986, 100 Stat. 1210.)

SIMILAR PROVISIONS

Pub. L. 114–113, div. K, title VII, §7025(c), Dec. 18, 2015, 129 Stat. 2748, provided that: "The Secretary of the Treasury shall instruct the United States executive directors of the international financial institutions, as defined in section 7034(r)(3) of this Act [set out as a note below], to use the voice and vote of the United States to oppose any assistance by such institutions, using funds appropriated or made available by this Act [div. K of Pub. L. 114–113, 129 Stat. 2705, see Tables for classification], for the production or extraction of any commodity or mineral for export, if it is in surplus on world markets and if the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity."

Similar provisions were contained in the following appropriation acts:

Pub. L. 113–235, div. J, title VII, §7025(c), Dec. 16, 2014, 128 Stat. 2614.

Pub. L. 113–76, div. K, title VII, §7025(c), Jan. 17, 2014, 128 Stat. 504.

Pub. L. 112–74, div. I, title VII, §7025(c), Dec. 23, 2011, 125 Stat. 1206.

Pub. L. 111–117, div. F, title VII, §7026(c), Dec. 16, 2009, 123 Stat. 3354.

Pub. L. 111–8, div. H, title VII, §7026(c), Mar. 11, 2009, 123 Stat. 871.

Pub. L. 110–161, div. J, title VI, §614, Dec. 26, 2007, 121 Stat. 2318.

Pub. L. 109–102, title V, §514, Nov. 14, 2005, 119 Stat. 2200.

Pub. L. 108–447, div. D, title V, §514, Dec. 8, 2004, 118 Stat. 2995.

Pub. L. 108–199, div. D, title V, §514, Jan. 23, 2004, 118 Stat. 171.

Pub. L. 108–7, div. E, title V, §514, Feb. 20, 2003, 117 Stat. 184.
Pub. L. 107–115, title V, §514, Jan. 10, 2002, 115 Stat. 2142.
Pub. L. 106–429, §101(a) [title V, §514], Nov. 6, 2000, 114 Stat. 1900, 1900A–25.
Pub. L. 106–113, div. B, §1000(a)(2) [title V, §514], Nov. 29, 1999, 113 Stat. 1535, 1501A–85.
Pub. L. 105–277, div. A, §101(d) [title V, §514(a)], Oct. 21, 1998, 112 Stat. 2681–150, 2681–173.
Pub. L. 105–118, title V, §514, Nov. 26, 1997, 111 Stat. 2409.
Pub. L. 104–208, div. A, title I, §101(c) [title V, §514], Sept. 30, 1996, 110 Stat. 3009–121, 3009–143.
Pub. L. 104–107, title V, §514, Feb. 12, 1996, 110 Stat. 725.
Pub. L. 103–306, title V, §514, Aug. 23, 1994, 108 Stat. 1628.
Pub. L. 103–87, title V, §514, Sept. 30, 1993, 107 Stat. 948.
Pub. L. 102–391, title V, §521, Oct. 6, 1992, 106 Stat. 1661.
Pub. L. 101–513, title V, §522, Nov. 5, 1990, 104 Stat. 2007.
Pub. L. 101–167, title V, §522, Nov. 21, 1989, 103 Stat. 1221.
Pub. L. 100–461, title V, §522, Oct. 1, 1988, 102 Stat. 2268–25.
Pub. L. 100–202, §101(e) [title V, §522], Dec. 22, 1987, 101 Stat. 1329–131, 1329–157.
Pub. L. 99–500, §101(f) [title V, §522], Oct. 18, 1986, 100 Stat. 1783–213, 1783–229, and Pub. L. 99–591, §101(f) [title V, §522], Oct. 30, 1986, 100 Stat. 3341–214, 3341–229.
Pub. L. 99–190, §101(i) [title V, §523], Dec. 19, 1985, 99 Stat. 1291, 1306.
Pub. L. 98–473, title I, §101(1) [title V, §524], Oct. 12, 1984, 98 Stat. 1884, 1899.
Pub. L. 98–151, §101(b)(1) [incorporating Pub. L. 97–121, title V, §522], Nov. 14, 1983, 97 Stat. 964.
Pub. L. 97–377, title I, §101(b)(1) [incorporating Pub. L. 97–121, title V, §522], Dec. 21, 1982, 96 Stat. 1831.
Pub. L. 97–121, title V, §522, Dec. 29, 1981, 95 Stat. 1656.
Pub. L. 96–536, §101(b) [H.J. Res. 637, §101(b); H.R. 4473, title V, §522A], Dec. 16, 1980, 94 Stat. 3167.
Pub. L. 96–123, §101(a) [incorporating Pub. L. 95–481, title VI, §609], Nov. 20, 1979, 93 Stat. 923.
Pub. L. 95–481, title VI, §609, Oct. 18, 1978, 92 Stat. 1601.
Pub. L. 114–113, div. K, title VII, §7034(r)(3), Dec. 18, 2015, 129 Stat. 2768, provided that: "For the purposes of this Act [div. K of Pub. L. 114–113, 129 Stat. 2705, see Tables for classification] 'international financial institutions' shall mean the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the International Monetary Fund, the Asian Development Bank, the Asian Development Fund, the Inter-American Investment Corporation, the North American Development Bank, the European Bank for Reconstruction and Development, the African Development Bank, the African Development Fund, and the Multilateral Investment Guarantee Agency."
Similar provisions were contained in the following appropriation acts:
Pub. L. 113–235, div. J, title VII, §7029(h), Dec. 16, 2014, 128 Stat. 2618.
Pub. L. 113–76, div. K, title VII, §7029(g), Jan. 17, 2014, 128 Stat. 508.

§262i. Repealed. Pub. L. 101–240, title V, §541(d)(6), Dec. 19, 1989, 103 Stat. 2518

Section, Pub. L. 96–259, title IV, §401, June 3, 1980, 94 Stat. 431, related to communication and dissemination of information respecting export opportunity enhancement.

§262j. Use of renewable resources for energy production

(a) Promotion, etc., by United States in connection with international financial institutions

The United States Government, in connection with its voice and vote in the Inter-American Development Bank, the African Development Fund, and the Asian Development Bank, shall encourage such institutions—

(1) to promote the decentralized production of renewable energy;

(2) to identify renewable resources to produce energy in rural development projects and determine the feasibility of substituting them for systems using fossil fuel;

(3) to train personnel in developing technologies for getting energy from renewable resources;

(4) to support research into the use of renewable resources, including hydropower, biomass, solar photovoltaic, and solar thermal;

(5) to support an information network to make available to policymakers the full range of energy choices;

(6) to broaden their energy planning, analyses, and assessments to include consideration of the supply of, demand for, and possible uses of renewable resources; and

(7) to coordinate with the Agency for International Development and other aid organizations in supporting effective rural energy programs.

(b) "Renewable resource" defined

For purposes of this section, the term "renewable resource" means any energy resource which—

(1) meets the needs of rural communities;

(2) saves capital without wasting labor;

(3) is modest in scale and simple to install and maintain and which can be managed by local individuals;

(4) is acceptable and affordable; and

(5) does not damage the environment.

(Pub. L. 96–259, title VI, §602, June 3, 1980, 94 Stat. 433; Pub. L. 97–375, title I, §112, Dec. 21, 1982, 96 Stat. 1821.)

AMENDMENTS

1982—Subsec. (c). Pub. L. 97–375 struck out subsec. (c) which directed the Secretary of the Treasury, in consultation with the Director of the United States International Development Cooperation Agency, to report to Congress not later than six months after June 3, 1980, and annually thereafter on the progress toward achieving the goals set forth in this title.

CONGRESSIONAL STATEMENT OF FINDINGS RESPECTING USE OF RENEWABLE RESOURCES FOR ENERGY PRODUCTION IN POOR AND DEVELOPING COUNTRIES AND ROLE OF INTERNATIONAL FINANCIAL INSTITUTIONS

Pub. L. 96–259, title VI, §601, June 3, 1980, 94 Stat. 432, provided that: "The Congress finds that—

"(1) without an adequate supply of energy at affordable prices the world's poor will continue to be deprived of jobs, food, water, shelter, and clothing, and poor countries will continue to be economically and politically unstable;

"(2) dependence on increasingly expensive fossil fuel resources consumes too much of the capital available to poor countries with the result that funds are not available to meet the basic needs of poor people;

"(3) in many developing countries the cost of large central generators and long distance electrical distribution makes it unlikely that rural energy by means of a national grid will contribute to meeting the needs of poor people;

"(4) only one of eight rural inhabitants lives in an area which has access to electricity and even fewer rural inhabitants actually have or can afford electricity;

"(5) wood, animal and agricultural waste, and other 'noncommercial' fuels still supply about half the total energy in developing countries and all but a seventh in rural sectors;

"(6) growing dependence of the world's poor on wood for heating and cooking has forced the overcutting of forests and as a consequence erosion and loss of available agricultural land; and

"(7) recent initiatives by the international financial institutions to develop and utilize decentralized solar, hydro, biomass, geothermal, and wind energy should be significantly expanded to make renewable energy resources increasingly available to the world's poor on a wide scale."

§262k. Financial assistance to international financial institutions; considerations and criteria

(a) Congressional declaration of intent

United States active participation in international financial institution activity is based on our national objective of furthering the economic and social development of the nations of the world, in particular the developing nations. The attainment of this national objective is most effectively realized through a world economic and financial system which is both free and stable. Therefore, it is

the intent of the United States Congress that United States financial assistance to the international financial institutions should be primarily directed to those projects that would not generate excess commodity supplies in world markets, displace private investment initiatives or foster departures from a market-oriented economy.

(b) Effect of country adjustment programs; minimization of projected adverse impacts; avoidance of government subsidization

The Secretary of the Treasury shall instruct the representatives of the United States to the international financial institutions described in subsection (d) to take into account in their review of loans, credits, or other utilization of the resources of their respective institutions, the effect that country adjustment programs would have upon individual industry sectors and international commodity markets in order to—

(1) minimize any projected adverse impacts on such sector or markets of making such loans, credits, or utilization of resources; and

(2) avoid whenever possible government subsidization of production and exports of international commodities without regard to economic conditions in the markets for such commodities.

(c) Project proposals relating to mining, smelting, refining, and fabricating of minerals and metal products

More specifically, the following criteria should be considered as a basis for a vote by the respective United States Executive Director to each of the international financial institutions described in subsection (d) against a project proposal involving the creation of new capacity or the expansion, improvement, or modification of mining, smelting, refining, and fabricating of minerals and metal products:

(1) Analysis shows that the risks, returns, and incentives of a project are such that it could be financed at reasonable terms by commercial lending services.

(2) Analysis by the United States Bureau of Mines indicates that surplus capacity in the industry for the primary product of the defined project would exist over half the period of the economic life of the project because of projected world demand and capacity conditions.

(3) United States imports of the commodity constitute less than 50 percent of the domestic production of the primary product in those cases where the United States is the substantial producer of such commodities.

(d) International financial institutions

The international financial institutions referred to in subsections (a) and (b) are the International Monetary Fund, the International Bank for Reconstruction and Development, the International Development Association, the Inter-American Development Bank, the Asian Development Bank, and the African Development Bank.

(Pub. L. 99–88, title I, §502, Aug. 15, 1985, 99 Stat. 330; Pub. L. 102–285, §10(b), May 18, 1992, 106 Stat. 172.)

CHANGE OF NAME

"United States Bureau of Mines" substituted for "Bureau of Mines" in subsec. (c)(2) pursuant to section 10(b) of Pub. L. 102–285, set out as a note under section 1 of Title 30, Mineral Lands and Mining. For provisions relating to closure and transfer of functions of the United States Bureau of Mines, see note set out under section 1 of Title 30, Mineral Lands and Mining.

COPPER MINING, SMELTING, AND REFINING

Pub. L. 99–88, title I, §501, Aug. 15, 1985, 99 Stat. 329, provided that: "The Secretary of the Treasury shall instruct the United States Executive Directors of the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the International Monetary Fund, the Asian Development Bank, the Inter-American Investment Corporation, the African Development Bank, and the African Development Fund to use the voice and vote of the United States to oppose any assistance by these institutions, using funds appropriated or made available pursuant to this Act or any other Act, for the production of any copper commodity for export or for

the financing of the expansion, improvement, or modernization of copper mining, smelting, and refining capacity."

§262k–1. Transparency of budgets

(a) Limitation

Beginning three years after September 30, 1996, the Secretary of the Treasury shall instruct the United States Executive Director of each international financial institution to use the voice and vote of the United States to oppose any loan or other utilization of the funds of their respective institution, other than to address basic human needs, for the government of any country which the Secretary of the Treasury determines—

(1) does not have in place a functioning system for reporting to civilian authorities audits of receipts and expenditures that fund activities of the armed forces and security forces;

(2) has not provided to the institution information about the audit process requested by the institution.

(b) "International financial institution" defined

For purposes of this section, the term "international financial institution" shall include the institutions identified in section 532(b) of this Act.

(Pub. L. 104–208, div. A, title I, §101(c) [title V, §576], Sept. 30, 1996, 110 Stat. 3009–121, 3009–168; Pub. L. 105–118, title V, §572, Nov. 26, 1997, 111 Stat. 2430.)

REFERENCES IN TEXT

Section 532(b) of this Act, referred to in subsec. (b), is section 532(b) of Pub. L. 104–208, div. A, title I, §101(c) [title V], Sept. 30, 1996, 110 Stat. 3009–121, 3009–152, which is not classified to the Code.

AMENDMENTS

1997—Subsec. (a)(1). Pub. L. 105–118, §572(a), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "does not have in place a functioning system for a civilian audit of all receipts and expenditures that fund activities of the armed forces and security forces;".

Subsec. (a)(2). Pub. L. 105–118, §572(b), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "has not provided a summary of a current audit to the institution."

§262k–2. Female genital mutilation

(a) Limitation

Beginning 1 year after September 30, 1996, the Secretary of the Treasury shall instruct the United States Executive Director of each international financial institution to use the voice and vote of the United States to oppose any loan or other utilization of the funds of their respective institution, other than to address basic human needs, for the government of any country which the Secretary of the Treasury determines—

(1) has, as a cultural custom, a known history of the practice of female genital mutilation; and

(2) has not taken steps to implement educational programs designed to prevent the practice of female genital mutilation.

(b) "International financial institution" defined

For purposes of this section, the term "international financial institution" shall include the institutions identified in section 532(b) of this Act.

(Pub. L. 104–208, div. A, title I, §101(c) [title V, §579], Sept. 30, 1996, 110 Stat. 3009–121, 3009–170.)

REFERENCES IN TEXT

Section 532(b) of this Act, referred to in subsec. (b), is section 532(b) of Pub. L. 104–208, div. A, title I, §101(c) [title V], Sept. 30, 1996, 110 Stat. 3009–121, 3009–152, which is not classified to the Code.

§262*l*. Environmental reform measures and remedial measures; Committee on Health and the Environment

(a) Environmental reform measures; instructions to Executive Directors of Multilateral Development Banks

The Secretary of the Treasury shall instruct the United States Executive Directors of the Multilateral Development Banks to—

(1) vigorously promote a commitment of these institutions to—

(A) add professionally trained staff with experience in ecology and related areas to undertake environmental review of projects, and strengthen existing staff exercising environmental responsibilities;

(B) develop and implement management plans to ensure systematic and thorough environmental review of all projects and activities affecting the ecology and natural resources of borrowing countries, including—

(i) creation of a line unit to carry out such reviews as part of the normal project cycle,

(ii) appointment of an environmental advisor to the Presidents of the Multilateral Development Banks,

(iii) institution of a regular program of monitoring all ongoing projects to ensure that contract conditions and general bank policies to protect the environment and indigenous peoples are fully complied with;

(C) create career and other institutional incentives for all professionally trained bank staff to incorporate environmental and natural resources concerns into project planning and country programming activities;

(2) vigorously promote changes in these institutions in their preparation of projects and country programs that will prompt staff and encourage borrower countries to—

(A) actively and regularly involve environmental and health ministers, or comparable representatives, at the national, regional and local level, in the preparation of environmentally sensitive projects and in bank-supported country program planning and strategy sessions;

(B) actively and regularly seek the participation of non-governmental indigenous peoples and conservation organizations in the host countries at all stages of project planning and strategy sessions;

(C) fully inform local communities and appropriate non-governmental organizations with interests in local development projects of all project planning sufficiently in advance of project appraisal to allow informed participation of local communities and non-governmental organizations that may be adversely affected by them;

(3) establish a regular integrated multidisciplinary planning process to conduct land use capability analyses in reviewing potential loans. Such plans shall include, but not be limited to, a review of ongoing or other potential resource utilization efforts in and adjacent to the project area;

(4) vigorously promote a commitment of these institutions to develop and implement plans for the rehabilitation and management of the ecological resources of borrower nations on a sustained basis. Special attention shall be paid to soil conservation, wildlife, wetlands, estuaries, croplands, grasslands, forests, and fisheries, including—

(A) long-term programs of research designed to manage ecosystems properly;

(B) provision of adequate extension workers, park rangers, social forestry experts, and other appropriate personnel; and

(C) improved programs of training in environmental science and land-use planning;

(5) vigorously promote a commitment of these institutions to increase the proportion of their

programs supporting environmentally beneficial projects and project components, such as technical assistance for environmental ministries and institutions, resource rehabilitation projects and project components, protection of indigenous peoples, and appropriate light capital technology projects. Other examples of such projects include small scale mixed farming and multiple cropping, agroforestry, programs to promote kitchen gardens, watershed management and rehabilitation, high yield wood lots, integrated pest management systems, dune stabilization programs, programs to improve energy efficiency, energy efficient technologies such as small scale hydro projects, rural solar energy systems, and rural and mobile telecommunications systems, and improved efficiency and management of irrigation systems.[1]

(6) place an increased emphasis on upgrading the efficient use of energy and other resources by borrower nations. Such efforts shall include, but not be limited to—

(A) significantly increasing the proportion of energy project lending for energy efficiency improvements, and decentralized small scale facilities such as solar, wind, or biomass generating facilities; and

(B) conducting an analysis of the comparative costs of any new energy generating facilities with the cost of increasing the energy efficiency in the project service area;

(7) seek a commitment of these institutions to fund projects to protect and preserve crucial wetland systems and to avoid expenditures for projects designed to convert major wetland systems. Development proposals which may affect these areas should be the subject of detailed impact assessments so as to avoid detrimental impacts to fisheries, wildlife and other important resources;

(8) vigorously promote the establishment within the Economic Development Institute of the World Bank of a component which provides training in environmental and natural resource planning and program development;

(9) regularly raise, at meetings of the Boards of Directors of these institutions, the issue of their progress in improving their environmental performance, with specific focus on the measures set forth above; and

(10) require at least a four week project review period between the time when staff recommendations are presented to the board and board action on any projects.

(b) Joint evaluation of potential environmental problems and remedial measures

The Secretaries of Treasury and State, and the Administrator of the Agency for International Development, shall ensure and coordinate a thorough evaluation within the United States Government of the potential environmental problems, and the adequacy of measures to address these problems, associated with all proposed loans for projects involving large impoundments of rivers in tropical countries; penetration roads into relatively undeveloped areas; and agricultural and rural development programs. The potential environmental problems to be addressed in such evaluations shall include those relating to deterioration of water quality; siltation; spread of waterborne diseases; forced resettlement; deforestation; threats to the land, health and culture of indigenous peoples; wetlands disruption; topsoil management, water logging and salinization in irrigation projects; and pesticide misuse and resistance.

(c) Additional initiatives

The Secretary of the Treasury and the Secretary of State shall regularly undertake and continue diplomatic and other initiatives, in addition to those mentioned in subsection (a)(5), to discuss measures to improve the environmental performance of the Multilateral Development Banks with the representatives to these institutions, and with ministries from which they receive their instructions, of borrower and donor nations. In particular, joint efforts shall be undertaken with borrowers and donors to ensure cooperative implementation of the reforms described above.

(d) Special meetings of Boards of Governors

The Secretary of the Treasury and the Secretary of State shall propose formally that the Boards of Governors of each Multilateral Development Bank hold a special meeting within the next twelve

months, focused specifically on environmental performance and better implementation of multilateral development policies designed to protect the environment and indigenous peoples.

(e) Reporting requirements generally

The Secretary of the Treasury shall prepare and submit to the Committees on Appropriations by January 15, 1987, and annually thereafter, a report documenting the progress the Multilateral Development Banks have made in implementing the environmental reform measures described in paragraphs one through eight of subsection (a).

(f) Reporting requirements respecting environmental staffing

In the report of the Secretary of the Treasury required by subsection (e), regarding the implementation of staffing measures suggested in subsection (a)(1)(A), the Secretary of the Treasury shall specifically discuss the progress of the International Bank for Reconstruction and Development in upgrading and adding environmentally trained professionals to each of its six regional offices to review projects for their prospective ecological impacts.

(g) Duties of Administrator of Agency for International Development

The Administrator of the Agency for International Development in conjunction with the Secretaries of Treasury and State shall—

(1) instruct overseas missions of the Agency for International Development and embassies of the United States to analyze the impacts of Multilateral Development Bank projects proposed to be undertaken in the host country well in advance of a project's approval by the relevant institution. Such reviews shall address the economic viability of the project; adverse impacts on the environment, natural resources, and indigenous peoples; and recommendations as to measures, including alternatives, that could eliminate or mitigate adverse impacts. If not classified under the national security system of classification, such information shall be made available to the public;

(2) in preparation of reviews required by subsection (g)(1), compile a list of categories of projects likely to have adverse impacts on the environment, natural resources, or indigenous peoples. The list shall be developed in consultation with interested members of the public and made available to the Committee on Appropriations by December 31, 1986 and semiannually thereafter; and

(3) study the feasibility of creating a cooperative "early warning system" for projects of concern with other interested donors.

(h) Adverse impacts to environment, natural resources, or indigenous peoples; instructions to Executive Director of Multilateral Development Bank

If a review required by subsection (g)(1) identifies adverse impacts to the environment, natural resources, or indigenous peoples, the Secretary of the Treasury shall instruct the United States Executive Director of the Multilateral Development Bank to seek changes to the project necessary to eliminate or mitigate those impacts.

(i) Committee on Health and the Environment

The Administrator of the Agency for International Development shall appoint a Committee on Health and the Environment to examine opportunities for assisting countries in the proper use of agricultural and industrial chemicals and processes and alternatives such as integrated pest management. The committee shall be broadly representative of industry, agriculture, labor, health and environmental interests and shall report its preliminary findings to Congress before hearings on the fiscal year 1988 budget.

(Pub. L. 99–500, §101(f) [title V, §539], Oct. 18, 1986, 100 Stat. 1783–213, 1783–232, and Pub. L. 99–591, §101(f) [title V, §539], Oct. 30, 1986, 100 Stat. 3341–214, 3341–232.)

CODIFICATION

Section is from the Foreign Assistance and Related Programs Appropriations Act, 1987.
Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

PRIOR PROVISIONS

A prior section 262l, Pub. L. 102–391, title V, §532, Oct. 6, 1992, 106 Stat. 1666, which related to environmental and energy initiatives, benchmarks, Global Warming Initiative, and appropriations, was transferred to section 262l–3 of this title.

Another prior section 262l, Pub. L. 101–167, title V, §533, Nov. 21, 1989, 103 Stat. 1225, is set out as a note below.

Another prior section 262l, Pub. L. 100–461, title V, §535, Oct. 1, 1988, 102 Stat. 2268–28, which related to sustainable use of natural resources and use of agricultural and industrial chemicals, was transferred to section 262l–2 of this title.

Another prior section 262l, Pub. L. 100–202, §101(e) [title V, §537], Dec. 22, 1987, 101 Stat. 1329–131, 1329–161; Pub. L. 101–240, title V, §541(d)(8), Dec. 19, 1989, 103 Stat. 2518, which related to sustainable economic growth and management of natural resources, environmental impact of loans, pest management, addition of trained professionals, and "early warning system", was transferred to section 262l–1 of this title.

SIMILAR PROVISIONS

Similar provisions were contained in the following appropriation acts:

Pub. L. 101–513, title V, §533, Nov. 5, 1990, 104 Stat. 2013, as amended by Pub. L. 102–27, title III, §308, Apr. 10, 1991, 105 Stat. 152.

Pub. L. 99–190, §101(i) [title V, §540], Dec. 19, 1985, 99 Stat. 1291, 1309.

ECONOMIC GROWTH TO BE PREDICATED ON SUSTAINABLE MANAGEMENT OF NATURAL RESOURCES; GLOBAL CLIMATE CHANGE

Pub. L. 101–167, title V, §533, Nov. 21, 1989, 103 Stat. 1225, provided that:

"(a) It is the policy of the United States that sustainable economic growth must be predicated on the sustainable management of natural resources. The Secretary of the Treasury shall instruct the United States Executive Directors of each multilateral development bank (MDB) to promote vigorously within each MDB the expansion of programs in areas which address the problems of global climate change through requirements to—

"(1) augment and expand the professional staff of each MDB with expertise in end-use energy efficiency and conservation and renewable energy;

"(2) develop methodologies which allow borrowing countries to include investments in end-use energy efficiency and renewable energy as explicit alternatives in the 'least cost' energy sector investments plans they prepare with MDB assistance. Such plans shall give priority to projects and programs which support energy conservation, end-use efficiency and renewable energy sources in major economic sectors, and shall compare the economic and environmental costs of those actions with the economic and environmental costs of investments in conventional energy supplies;

"(3) provide analysis for each proposed loan to support additional power generating capacity, comparing the economic and environmental costs of investments in demand reduction, including energy conservation and end-use energy efficiency, with the economic and environmental costs of the proposal;

"(4) assure that systematic, detailed environmental impact assessments (EIA) of proposed energy projects, or projects with potential significant environmental impacts, are conducted early in the project cycle. Assessments should include but not be limited to—

"(A) consideration of a wide range of alternatives to the proposed project including, where feasible, alternative investments in end-use energy efficiency and non-conventional renewable energy; and

"(B) encouragement and adoption of policies which allow for public participation in the EIA process;

"(5) include environmental costs in the economic assessment of the proposed projects with significant potential environmental impacts, or power projects, and if possible for all projects which involve expansion of generating capacity of more than 10 MW, develop a standard increase in project cost as a surrogate for the environmental costs;

"(6) encourage and promote end-use energy efficiency and renewable energy in negotiations of policy-based energy sector lending, and MDBs should consider not proceeding with policy-based sector loans which do not contain commitments from the borrowing country to devote a significant portion of its sector investments toward energy efficiency and renewable energy;

"(7) provide technical assistance as a component of all energy sector lending to help borrowing countries identify and pursue end-use energy efficiency investments. This technical assistance shall include support for detailed audits of energy use and the development of institutional capacity to promote end-use energy efficiency and conservation;

"(8) work with borrowing countries, with input from the public in both borrowing and donor countries,

to develop loans for end-use energy efficiency and renewable energy, where possible 'bundling' small projects into larger, more easily financed projects; and

"(9) seek the convening of a special seminar for board members and senior staff of each MDB concerning alternate energy investment opportunities and end-use energy efficiency and conservation.

"(b) The Secretary of the Treasury as a part of the annual report to the Congress shall describe in detail, progress made by each of the MDBs in adopting and implementing programs meeting the standards set out in subsection (a), including in particular—

"(1) efforts by the Department of Treasury to assure implementation by each of the MDBs of programs substantially equivalent to those set out in this section, and results of such efforts;

"(2) progress made by each MDB in drafting and implementing least cost energy plans for each recipient country which meets requirements outlined in subsection (a)(2);

"(3) the absolute dollar amounts, and proportion of total lending in the energy sector, of loans and portions of loans, approved by each MDB in the previous year for projects or programs of end-use energy efficiency and conservation and renewable energy.

"(c) Not later than April 1, 1990, the Secretary of the Treasury shall request each MDB to prepare an analysis of the impact its current forestry sector loans will have on borrowing country emissions of CO_2 and the status of proposals for specific forestry sector activities to reduce CO_2 emissions.

"(d)(1) The Administrator of the Agency for International Development shall issue guidance to all Agency missions and bureaus detailing the elements of a 'Global Warming Initiative' which will emphasize the need to reduce emissions of greenhouse gases, especially CO_2, through strategies consistent with their continued economic development. This initiative shall emphasize the need to accelerate sustainable development strategies in areas such as reforestation, biodiversity, end-use energy efficiency, least-cost energy planning, and renewable energy, and shall encourage mission directors to incorporate the elements of this initiative in developing their country programs.

"(2) The Agency for International Development shall—

"(A) increase the number and expertise of personnel devoted to end-use energy efficiency, renewable energy, and environmental activities in all bureaus and missions;

"(B) devote increased resources to technical training of mission directors, in energy planning, energy conservation, end-use energy efficiency, renewable energy, reforestation, and biodiversity;

"(C) accelerate the activities of the Multi-Agency Working Group on Power Sector Innovation to enable completion of case studies of at least ten countries in fiscal year 1990; and

"(D) devote at least 10 percent of the resources allocated for forestry activities to the preservation and restoration (as opposed to management for extraction) of natural forests.

"(3) Funds appropriated by this Act [see Tables for classification] to carry out the provisions of sections 103 to 106 of the Foreign Assistance Act of 1961 [22 U.S.C. 2151a to 2151d] may be used to reimburse the full cost of technical personnel detailed or assigned to, or contracted by, the Agency for International Development to provide expertise in the environmental sector.

"(4)(A) [Amended section 2151q of this title.]

"(B) Not less than $10,000,000 of the funds appropriated to carry out the provisions of sections 103 through 106 of such Act [22 U.S.C. 2151a to 2151d] (including funds for sub-Saharan Africa) shall be made available for biological diversity activities, of which $2,000,000 shall be made available for the Parks in Peril project, pursuant to the authority of section 119(b) [of the Foreign Assistance Act of 1961, 22 U.S.C. 2151q(b)] and $1,000,000 shall be available for the National Science Foundation's international biological diversity program.

"(C) Funds obligated in prior fiscal years pursuant to the authority of section 119(b) may be expended in fiscal year 1990 pursuant to the authority of such section as amended by subparagraph (A).

"(e) The Secretary of the Treasury shall—

"(1) instruct the United States Executive Directors to the International Bank for Reconstruction and Development, the International Development Association, the Inter-American Development Bank, the African Development Bank, the Asian Development Bank, and the International Monetary Fund, to actively support lending portfolios which allow debtor developing countries to reduce or restructure debt in concert with the sustainable use of their natural resources. As a part of any such debt restructuring program, the United States Executive Director should require a thorough review of opportunities this initiative may offer for providing additional financial resources for the management of natural resources. The Secretary shall submit a report to the Committees on Appropriations on the progress of this program by April 30, 1990;

"(2) instruct the United States Executive Directors to the international financial institutions to seek the support of other donor countries in the implementation of this policy; and

"(3) instruct the United States Executive Director to the International Bank for Reconstruction and

Development to actively seek the implementation by the World Bank of the recommendations set forth in its April 1, 1988, report on 'Debt-for-Nature swaps', including the setting up of a pilot debt-for-nature swap program in one or more interested countries. The Secretary shall submit a progress report on the implementation of this program to the Committees on Appropriations by April 1, 1990.

"(f) The Secretary of the Treasury shall seek to incorporate natural resource management initiatives throughout the implementation of the Brady Plan. The Secretary shall submit to the Committees on Appropriations a report by April 15, 1990, describing how such initiatives have been incorporated into the Brady Plan and identifying any such initiatives undertaken to date.

"(g) The Secretary of the Treasury shall instruct the United States Executive Director to the Inter-American Development Bank to—

"(1) seek implementation of the environmental reform measures agreed to as part of the Bank's 7th Replenishment;

"(2) seek adoption of Bank policies regarding indigenous people, relations with nongovernmental organizations, and the protection of wildlife and unique natural and cultural features;

"(3) require the Bank to demonstrate how it has improved, and will improve, the monitoring of environmental and social components of loans; and

"(4) within four months after the date of enactment of this Act [Nov. 21, 1989] report to the Committees on Appropriations on the progress the Bank has made in implementing each of these reforms."

[1] *So in original. The period probably should be a semicolon.*

§262*l*–1. Sustainable economic growth and management of natural resources; environmental impact of loans; pest management; addition of trained professionals; "early warning system"

(a) Implementation of programs to promote sustainable economic growth and management of natural resources; instructions to Executive Directors of Multilateral Development Banks

It is the policy of the United States that participation in international financial institutions is predicated on the implementation of programs to promote environmentally sustainable economic growth and sustainable management of natural resources. The Secretary of the Treasury shall instruct the United States Executive Directors of the Multilateral Development Banks (MDB's) to continue to vigorously promote a commitment of these institutions to—

(1) add appropriately trained professional staff with expertise, and rigorously strengthen existing staffs' training in ecology and related areas;

(2) develop and implement management plans to ensure systematic environmental review of all projects;

(3) fully inform and involve host country environmental and health officials (Federal and local) and nongovernmental environmental and indigenous peoples organizations at all stages of the project cycle in environmentally sensitive projects as well as in policy based lending to ensure the active participation of local communities and non-governmental organizations in the planning of projects that may adversely affect them;

(4) substantially increase the proportion of lending supporting environmentally beneficial projects and project components, including but not limited to technical assistance for environmental ministries and institutions, resource rehabilitation projects and project components, protection of indigenous peoples, and appropriate light capital technology projects. Other examples of such projects include small scale mixed farming and multiple cropping, agroforestry, programs to promote kitchen gardens, watershed management and rehabilitation, high yield wood lots, integrated pest management systems, dune stabilization programs, programs to improve energy efficiency, energy efficient technologies such as small scale hydro projects, solar, wind and biomass energy systems, rural and mobile telecommunications systems, and improved efficiency and management of irrigation systems; and

(5) conduct analyses of the comparative costs of new generating facilities with the cost of increasing energy efficiency in the project service area.

(b) Environmental impact of loans; instructions to Executive Directors

The Secretary of the Treasury shall instruct the United States Executive Directors of the MDB's and, where appropriate, the International Monetary Fund (IMF) to—

(1) promote the requirement that all country lending strategies, policy based loans and adjustment programs contain analyses of the impact of such activities on the natural resources, potential for sustainable development, and legal protections for the land rights of indigenous peoples;

(2) promote the establishment of programs of policy-based lending in order to improve natural resource management, environmental quality, and protection of biological diversity;

(3) seek a commitment of these institutions to promote the conservation of wetlands, tropical forests, and other unique biological and highly productive ecosystems.

(c) Repealed. Pub. L. 101–240, title V, §541(d)(8), Dec. 19, 1989, 103 Stat. 2518

(d) Pest management

In order to promote sustainable and non-chemical dependent agriculture, the Secretary of the Treasury shall instruct the United States Executive Directors of the MDB's to initiate discussions with other directors of the MDB's to propose that policies be established that integrated pest management and biological control of pests be a preferential and priority approach to pest management on all bank sponsored agricultural projects.

(e) Instructions to Executive Director to IMF

The Secretary of the Treasury shall instruct the United States Executive Director to the International Monetary Fund to promote the requirement that the IMF conduct an in-depth analysis of the impact of its adjustment policies and conditionality of its lending facilities on the environment, public health, natural resources and indigenous people.

(f) Support of donor nations for additional trained professionals

No later than March 30, 1988, the Secretary of State and the Administrator of the Agency for International Development shall initiate discussions with other donor nations, to explore ways in which said donor nations can support the addition of professionals trained in environmental and socio-cultural impact analysis to the Inter-American Development Bank, Asian Development Bank and African Development Bank. On the basis of such discussions the Secretary of State and the Administrator of the Agency for International Development shall provide resources, including professional staff on loan, and/or financial support, to ensure with other donor nations the addition of sufficient staff trained in environmental and socio-cultural impact analysis to each of the above named regional development banks.

(g) Bilateral and multilateral discussions to strengthen environmental performance of Multilateral Development Banks

The Secretary of the Treasury and the Secretary of State, in cooperation with the Administrator of the Agency for International Development, shall conduct bilateral and multilateral discussions with other members of the MDB's to further strengthen the environmental performance of each bank. These discussions shall include, but not be limited to organizational, administrative and procedural arrangements to remove impediments to the efficient and effective management of assistance programs necessary to protect and ensure the sustainable use of natural resources and to carry out such assistance programs in consultation with affected local communities.

(h) Operation of "early warning system"

The Administrator of the Agency for International Development, in consultation with the Secretaries of Treasury and State, shall continue, and work to enhance, the operation of the "early warning system", by—

(1) instructing overseas missions of the Agency for International Development and embassies of the United States to analyze the impacts of Multilateral Development Bank loans well in advance of a loan's approval. Such reviews shall address the economic viability of the project; adverse impacts on the environment, natural resources, public health, and indigenous peoples; and

recommendations as to measures, including alternatives, that could eliminate or mitigate adverse impacts. If not classified under the national security system of classification, such information shall be made available to the public;

(2) compiling a list of proposed Multilateral Development Bank loans likely to have adverse impacts on the environment, natural resources, public health, or indigenous peoples. The list shall contain the information identified in paragraph (1), shall be updated in consultation with interested members of the public, and shall be made available to the Committees on Appropriations by April 1, 1988 and semiannually thereafter; and

(3) creating a cooperative mechanism for sharing information collected through the "early warning system" with interested donor and borrowing nations and encouraging the Multilateral Development Banks to institute a similar system.

(i) Adverse impacts to environment, natural resources, or indigenous peoples; instructions to Executive Director of appropriate Multilateral Development Bank

If a review required by subsection (h) identifies adverse impacts to the environment, natural resources, or indigenous peoples, the Secretary of the Treasury shall instruct the United States Executive Director of the appropriate MDB to seek changes to the project necessary to eliminate or mitigate those impacts.

(j) Report by February 1, 1988

The Committee on Health and Environment of the Agency for International Development, called for in section 262l(i) of this title, shall report its findings to the Committees on Appropriations by February 1, 1988.

(k) Report by August 1, 1988

The Secretary of State, in consultation with the Secretary of the Treasury, the Administrator of the Agency for International Development, other appropriate Federal agencies, and interested members of the public, shall prepare and submit to the Committees on Appropriations and the appropriate authorizing committees by August 1, 1988, a report on a comprehensive strategy for maximizing the use of foreign assistance provided by the United States through multilateral and bilateral development agencies to address natural resources problems, such as desertification, tropical deforestation, the loss of wetlands, soil conservation, preservation of wildlife and biological diversity, estuaries and fisheries, croplands and grasslands. The report shall include, but not be limited to—

(1) an identification of the multilateral and bilateral agencies funded in part or in whole by the United States Government, whose activities have, or could have, a significant impact on sustainable natural resource use, and the rights and welfare of indigenous people, in the developing countries;

(2) a description of the internal policies and procedures by which each of these agencies addresses these issues, as well as a description of their own organizational structures for doing so;

(3) an assessment of how the funds contributed by the United States to these agencies can best be used in the future to address these issues.

(Pub. L. 100–202, §101(e) [title V, §537], Dec. 22, 1987, 101 Stat. 1329–131, 1329–161; Pub. L. 101–240, title V, §541(d)(8), Dec. 19, 1989, 103 Stat. 2518.)

CODIFICATION

Section is from the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988. Section was formerly classified to section 262l of this title.

AMENDMENTS

1989—Subsec. (c). Pub. L. 101–240 struck out subsec. (c) which related to "debt for conservation" initiatives.

§262*l*–2. Sustainable use of natural resources; use of agricultural and industrial

chemicals

(a) Instructions to Executive Directors of Multilateral Development Banks

It is the policy of the United States that sustainable economic growth must be predicated on sustainable use of natural resources. The Secretary of the Treasury shall instruct the United States Executive Directors of the Multilateral Development Banks (MDB's) to—

(1) promote the adoption of internal guidelines requiring the use of least-cost planning techniques in evaluating proposed energy loans, and consider refusal to support power generation, utilization or energy sector loans unless cost-effective conservation measures have been fully evaluated and considered;

(2) encourage each MDB to offer technical assistance to borrower nations in preparing national energy plans. Special emphasis shall be given to least-cost analysis in making decisions on energy use and development, and such analyses shall take into account all demand-side as well as supply-side options;

(3) promote expansion of MDB expertise in the areas of energy conservation and renewable energy sources;

(4) promote the adoption of lending strategies which place increased emphasis on energy conservation and efficiency as opposed to merely increasing generating capacity;

(5) promote adoption of policies which minimize emissions of greenhouse gases;

(6) promote the adoption of lending strategies that place increased emphasis on energy efficient transportation programs. Such strategies shall consider alternatives to conventional mechanized transport such as nonmotorized vehicles, public transport and increased energy and cost efficiency of transportation systems; and

(7) promote the use of existing and the development of new mechanisms to promote conservation of biological diversity. Existing resources to be consulted shall include but not be limited to Conservation Data Centers.

(b) Bilateral and multilateral discussions to strengthen environmental performance of Multilateral Development Banks

The Secretary of the Treasury and the Secretary of State, in cooperation with the Administrator of the Agency for International Development, shall conduct bilateral and multilateral discussions with other members of the MDB's to further strengthen the environmental performance of each bank. These discussions shall include, but not be limited to organizational, administrative and procedural arrangements to remove impediments to the efficient and effective management of assistance programs necessary to protect and ensure the sustainable use of natural resources and to carry out such assistance programs in consultation with affected local communities.

(c) Duties of Administrator of Agency for International Development

The Administrator of the Agency for International Development shall—

(1) in the submission of future "early warning system" reports, as required by the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, make use of resources that promote the conservation of biological diversity, such as Conservation Data Centers;

(2) submit a report to the Committees on Appropriations, by January 15, 1989, on the Agency's activities and practices which encourage or discourage the use of renewable energy technologies overseas, and on ways to correct or refocus those efforts. This report shall include but is not limited to Agency activities which could be directed to develop a stronger interface with the private sector through the establishment of a United States Renewable Energy Industry Advisory Council;

(3) issue guidance to all Agency missions stating that renewable energy resources and conservation are to be the centerpiece of its energy efforts, and meeting energy needs through these means shall be discussed in every Country Development Strategy Statement; and

(4) take steps to implement recommendations set forth by a report of the Committee on Health and Environment on opportunities for the Agency to assist developing countries in the proper use

of agricultural and industrial chemicals.

(Pub. L. 100–461, title V, §535, Oct. 1, 1988, 102 Stat. 2268–28.)

REFERENCES IN TEXT

The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, referred to in subsec. (c)(1), is Pub. L. 100–202, §101(e), Dec. 22, 1987, 101 Stat. 1329–131. The "early warning system" reports refer to the reports required by section 537(h)(1) of the Act (Pub. L. 100–202, §101(e) [title V, §537(h)(1)]), which is classified to section 262l–1(h)(1) of this title. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section is from the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989. Section was formerly classified to section 262l of this title.

§262*l*–3. Environmental and energy initiatives; benchmarks; Global Warming Initiative; appropriations

(a) Instructions to Executive Directors of Multilateral Development Banks

It is the policy of the United States that sustainable economic growth must be predicated on the sustainable management of natural resources. The Secretary of the Treasury shall instruct the United States Executive Director of each multilateral development bank (MDB) to continue to promote vigorously the environmental and energy initiatives established in section 533(a) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513). The Secretary of the Treasury, in cooperation with the Secretary of State, shall also undertake direct, bilateral discussions with appropriate officials of the governments of the member nations of the Organization for Economic Cooperation and Development with a goal of building greater international support for the environmental goals established in subsection (d) of this section. The Secretary of the Treasury shall submit a report to the Committees on Appropriations by March 1, 1993, which describes the progress of these bilateral discussions.

(b) Report to Congress

The Secretary of the Treasury shall, not later than March 1, 1993, submit a report to the Congress containing the same information as requested in section 533(b) of Public Law 101–513.

(c) Improved environmental performance; benchmarks

(1) In furtherance of the policies contained in section 533(a) of Public Law 101–513 and section 1308 [1] of the International Development and Finance Act of 1989 (Public Law 101–240), and as a basis for measuring more effectively progress by the MDBs toward improved environmental performance, the Secretary of the Treasury shall instruct the United States Executive Directors of the MDBs to encourage each MDB, at a minimum, to meet the benchmarks established in paragraph (2) in the areas of sustainable energy development, forest conservation, forced displacement of populations, and environmental impact assessment. On March 1, 1993 and March 1, 1994, the Secretary of the Treasury shall submit a report to the Congress describing in detail the progress being made by the MDBs in meeting these benchmarks.

(2) For the purposes of paragraph (1), benchmarks are as follows:

(A) In the area of sustainable energy development—

(i) all loans in the energy sector should be based on, or support development of, "least-cost" integrated resource plans. Such plans shall include analyses of possible end-use energy efficiency measures and nonconventional renewable energy options, and such plans shall reflect the quantifiable environmental costs of proposed energy developments;

(ii) a substantial portion of loans and grants in the energy, industry, and transportation sectors shall be devoted to end-use energy efficiency improvements and nonconventional renewable energy development; and

(iii) all organizational units within the MDBs should create staff positions in a management

role in end-use efficiency and renewable energy, which positions shall be staffed by individuals with professional experience in program design and management and educational degrees in relevant technical disciplines.

(B) In the area of forest conservation—

(i) forestry loans should not support commercial logging in relatively undisturbed primary forests, nor should loans result in any significant loss of tropical forests;

(ii) forestry loans should not be disbursed until legal, economic, land tenure, and other policy conditions needed to ensure sustainability are in place;

(iii) loans should not support mineral, petroleum, or other industrial development in, or construction or upgrading of roads through, relatively undisturbed primary forests unless adequate safeguards and monitoring systems, developed in consultation with local populations, are already in place to prevent degradation of the surrounding forests;

(iv) loans should be consistent with and support the needs and rights of indigenous peoples and other long-term forest inhabitants and should not be made to countries which have shown an unwillingness to resolve fairly the territorial claims of such people; and

(v) support for protection of biological diversity, in close consultation with local communities, should be increased to account for a larger proportion of MDB lending.

(C) In the area of forced displacement of populations—

(i) the World Bank, Inter-American Development Bank, and Asian Development Bank should maintain a listing, available to the Secretary of the Treasury, of all ongoing projects involving forced displacement of populations, including the number of people displaced and a report on the status of the implementation of their resettlement policy guidelines for each such project, and obtain agreements with borrowers to ensure that all ongoing projects involving forced displacement will be in full compliance with their resettlement policy guidelines by mid-1993; and

(ii) the African Development Bank should adopt and implement policy guidelines on forced displacement similar to such guidelines of the other MDBs.

(D) In the area of procedures for environmental impact assessment (EIA)—

(i) each MDB should require that draft and final EIA reports be made available to the public in borrowing and donor countries and that the public be offered timely opportunities for comment on the EIA process, including initial scoping sessions, review of EIA categories assigned to individual projects, and opportunities to comment on draft and final EIA reports;

(ii) each MDB should apply EIA requirements to all sector loans and develop and apply the methodology for environmental assessment of structural adjustment loans;

(iii) each MDB should require that the EIA process include analyses of the potential impacts of proposed projects on the global environment; and

(iv) each MDB should require the head of the appropriate environmental unit, rather than project officers, determine the appropriate type of environmental analysis required under the bank's EIA procedures.

(d) Global Warming Initiative

The Administrator of the Agency for International Development shall instruct all Agency missions and bureaus to continue to implement all elements of the "Global Warming Initiative" as defined in, and which may continue under, the authorities of sections [2] 533(c)(1) through (4) of Public Law 101–513. The Initiative shall continue to emphasize the need to reduce emissions of greenhouse gases through strategies consistent with continued economic development, such as forest conservation, end-use energy efficiency, least-cost energy planning, and renewable energy development. The Administrator shall direct Agency mission directors to incorporate these strategies in their country programs.

(e) Environment and energy activities

Of the funds appropriated by this Act under the headings in title II of this Act under "Agency for International Development", not less than $650,000,000 shall be made available for environment and energy activities, including funds earmarked under section 533 of this Act, including the following—

(1) Not less than $20,000,000 of the aggregate of the funds appropriated to carry out the provisions of sections 103 through 106 and chapter 10 of part I of the Foreign Assistance Act of 1961 [22 U.S.C. 2151a–2151d; 2293 et seq.] shall be made available for biological diversity activities, of which $5,000,000 shall be made available for the Parks in Peril project pursuant to the authority of section 119(b) of that Act [22 U.S.C. 2151q(b)]; $1,500,000 shall be for the National Science Foundation's international biological diversity program; $750,000 shall be for the Neotropical Bird Conservation Initiative of the National Fish and Wildlife Foundation; and up to $2,000,000 shall be for Project Noah;

(2) Not less than $15,000,000 of the funds appropriated for the Development Assistance Fund and to carry out the provisions of chapter 10 of part I of the Foreign Assistance Act of 1961 [22 U.S.C. 2293 et seq.] shall be made available to support replicable renewable energy projects, and the Agency for International Development shall initiate at least five significant new activities in renewable energy during fiscal year 1993;

(3) Not less than $7,000,000 of the funds appropriated for the Development Assistance Fund and to carry out the provisions of chapter 10 of part I of the Foreign Assistance Act of 1961 [22 U.S.C. 2293 et seq.] shall be made available for assistance in support of elephant conservation and preservation;

(4) Not less than $25,000,000 of the funds appropriated for the Development Assistance Fund shall be made available for the Office of Energy of the Agency for International Development; and

(5) Up to $50,000,000 of the funds appropriated to carry out the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961 [22 U.S.C. 2346 et seq.] may be made available to carry out the "Forests for the Future Initiative" and to achieve a Global Forest Agreement.

(f) International development and economic support

Of the funds appropriated by this Act to carry out the provisions of part I and chapter 4 of part II of the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.; 2346 et seq.], the Agency for International Development should, to the extent feasible and inclusive of funds earmarked under subsection (e) of this section, target assistance for the following activities:

(1) $50,000,000 for projects associated with the Global Environment Facility;

(2) a total of $10,000,000 for CORECT, the Environmental Technology Export Council, and the International Fund for Renewable Energy Efficiency; and

(3) $55,000,000 for activities consistent with the Global Warming Initiative.

(g) Development Assistance Fund and Development Fund for Africa

Funds appropriated by this Act or any subsequent Act for the Development Assistance Fund and the Development Fund for Africa may be used for expenses (including related support costs) relating to the environment and energy sectors, of individuals detailed to or employed by the Agency for International Development, particularly those involved with the "Global Warning [3] Initiative" described in this subsection.[4]

(h) Conservation and biological diversity in Africa

Of the funds appropriated by this Act to carry out the provisions of section 2763 of this title, not less than $15,000,000 shall be made available to countries in Africa for programs which support conservation and biological diversity.

(Pub. L. 102–391, title V, §532, Oct. 6, 1992, 106 Stat. 1666.)

REFERENCES IN TEXT

Section 533 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991, referred to in subsecs. (a), (b), (c)(1), and (d), is section 533 of Pub. L. 101–513, which was formerly classified to section 262l of this title.

Section 1308 of the International Development and Finance Act of 1989 (Public Law 101–240), referred to in subsec. (c)(1), probably means a reference to the section 1308 of Pub. L. 95–118, the International

Financial Institutions Act, which was added by section 521 of Pub. L. 101–240, and subsequently renumbered section 1307 of Pub. L. 95–118 by section 541(f)(4) of Pub. L. 101–240, and is classified to section 262m–7 of this title. Pub. L. 101–240 does not contain a section 1308.

This Act, referred to in subsecs. (e) to (h), is Pub. L. 102–391, Oct. 6, 1992, 106 Stat. 1633, known as the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993. Provisions under the headings in title II of this Act under "Agency for International Development" appear at 106 Stat. 1638 et seq. and are not classified to the Code except for an undesignated par. that was formerly set out as a note under section 2151u of this title. Section 533 of the Act is not classified to the Code. For complete classification of this Act to the Code, see Tables.

The Foreign Assistance Act of 1961, referred to in subsecs. (e)(1) to (3), (5) and (f), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424. Part I of the Act is classified generally to subchapter I (§2151 et seq.) of chapter 32 of this title. For provisions deeming references to subchapter I to include parts IV (§2346 et seq.), VI (§2348 et seq.), and VIII (§2349aa et seq.) of subchapter II of chapter 32, see section 202(b) of Pub. L. 92–226, set out as a note under section 2346 of this title, and sections 2348c and 2349aa–5 of this title. Sections 103 to 106 of the Act are classified to section 2151a to 2151d of this title. For provisions deeming references to sections 2151a to 2151d of this title to include a reference to section 2293 of this title, see section 2293(d)(1) of this title. Chapter 10 of part I of the Act is classified generally to part X (§2293 et seq.) of subchapter I of chapter 32 of this title. Chapter 4 of part II of the Act is classified generally to part IV (§2346 et seq.) of subchapter II of chapter 32 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

CODIFICATION

Section is from the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993. Section was formerly classified to section 262l of this title.

[1] See References in Text note below.

[2] So in original. Probably should be "section".

[3] So in original. Probably should be "Warming".

[4] So in original. Probably should be "section."

§262m. Congressional findings and policies for multilateral development banks respecting environment, public health, natural resources, and indigenous peoples

The Congress finds that—

(1) United States assistance to the multilateral development banks should promote sustainable use of natural resources and the protection of the environment, public health, and the status of indigenous peoples in developing countries;

(2) multilateral development bank projects, policies, and loans have failed in some cases to provide adequate safeguards for the environment, public health, natural resources, and indigenous peoples;

(3) many development efforts of the multilateral development banks are more enduring and less costly if based on consultations with directly affected population groups and communities;

(4) developing country governments sometimes do not ensure that appropriate policies and procedures are in place to use natural resources sustainably or consult with affected population groups and communities, where costs could be reduced or benefits made more enduring; and

(5) in general, the multilateral development banks do not yet provide systematic and adequate assistance to their borrowers to encourage sustainable resource use and consultation with affected communities, where costs could be reduced or benefits made more enduring.

(Pub. L. 95–118, title XIII, §1301, as added Pub. L. 100–202, §101(e) [title I], Dec. 22, 1987, 101 Stat. 1329–131, 1329–134.)

CODIFICATION

Section 1301 of Pub. L. 95–118 is based on section 701 of title VII of H.R. 3750, One Hundredth Congress, as introduced Dec. 11, 1987, and enacted into law by Pub. L. 100–202.

§262m–1. Environmental performance of banks; mechanisms for improvement

The Secretary of the Treasury and the Secretary of State, in cooperation with the Administrator of the Agency for International Development, shall vigorously promote mechanisms to strengthen the environmental performance of these banks. These mechanisms shall include strengthening organizational, administrative, and procedural arrangements within the banks which will substantially improve management of assistance programs necessary to ensure the sustainable use of natural resources and the protection of indigenous peoples.

(Pub. L. 95–118, title XIII, §1302, as added Pub. L. 100–202, §101(e) [title I], Dec. 22, 1987, 101 Stat. 1329–131, 1329–134.)

CODIFICATION

Section 1302 of Pub. L. 95–118 is based on section 701 of title VII of H.R. 3750, One Hundredth Congress, as introduced Dec. 11, 1987, and enacted into law by Pub. L. 100–202.

DEFINITIONS

The definition in section 262p of this title applies to this section.

§262m–2. Environmental impact of assistance proposals

(a) Analysis by agencies, United States embassies and overseas missions of Agency for International Development; factors considered; affirmative investigation of adverse impacts; availability of information to public

(1) In the course of reviewing assistance proposals of the multilateral development banks, the Administrator of the Agency for International Development, in consultation with the Secretary of the Treasury and the Secretary of State, shall ensure that other agencies and appropriate United States embassies and overseas missions of the Agency for International Development are instructed to analyze, where feasible, the environmental impacts of multilateral development loans well in advance of such loans' approval by the relevant institutions to determine whether the proposals will contribute to the sustainable development of the borrowing country.

(2) To the extent possible, such reviews shall address the economic viability of the project, adverse impacts on the environment, natural resources, public health, and indigenous peoples, and recommendations as to measures, including alternatives, that could eliminate or mitigate adverse impacts.

(3) If there is reason to believe that any such loan is particularly likely to have substantial adverse impacts, the Administrator of the Agency for International Development, in consultation with the Secretary of the Treasury and the Secretary of State, shall ensure that an affirmative investigation of such impacts is undertaken in consultation with relevant Federal agencies. If not classified under the national security system of classification, the information collected pursuant to this paragraph shall be made available to the public.

(b) Evaluation by major shareholder governments prior to bank action on assistance proposals

(1) The Secretary of the Treasury shall instruct the Executive Directors representing the United States at the multilateral development banks as defined in section 262m–7(g) of this title to urge the management and other directors of each such bank, to provide sufficient time between the circulation of assistance proposals and bank action on those proposals, in order to permit their evaluation by major shareholder governments.

(2) The Secretary of the Treasury shall instruct such Executive Directors to work with other

countries' Executive Directors and multilateral development bank management to—

(A) improve the procedures of each multilateral development bank for providing its board of directors with a complete and accurate record regarding public consultation before they vote on proposed projects with significant environmental implications; and

(B) revise bank procedures to consistently require public consultation on operational policy proposals or revisions that have significant environmental or social implications.

(3) Progress under this subsection shall be incorporated into Treasury's required annual report to Congress on the environmental performance of the multilateral development banks.

(c) Identification of proposals likely to have adverse impact; transmittal to Congress

Based on the information obtained during the evaluation referred to in subsection (a) and other available information, the Administrator of the Agency for International Development, in consultation with the Secretary of the Treasury and the Secretary of State, shall identify those assistance proposals likely to have adverse impacts on the environment, natural resources, public health, or indigenous peoples. The proposals so identified shall be transmitted to the Committee on Appropriations and the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Appropriations and the Committee on Foreign Relations of the Senate, not later than June 30 and December 31 of each year following December 22, 1987.

(d) Reports to Executive Directors; elimination or mitigation of adverse impacts

The Secretary of the Treasury shall forward reports concerning information received under subsection (a) to the Executive Director representing the United States in the appropriate bank with instructions to seek to eliminate or mitigate adverse impacts which may result from the proposal.

(Pub. L. 95–118, title XIII, §1303, as added Pub. L. 100–202, §101(e) [title I], Dec. 22, 1987, 101 Stat. 1329–131, 1329–134; amended Pub. L. 108–447, div. D, title V, §593(b), Dec. 8, 2004, 118 Stat. 3037.)

CODIFICATION

Section 1303 of Pub. L. 95–118 is based on section 701 of title VII of H.R. 3750, One Hundredth Congress, as introduced Dec. 11, 1987, and enacted into law by Pub. L. 100–202.

AMENDMENTS

2004—Subsec. (b). Pub. L. 108–447, §593(b), designated existing provisions as par. (1) and added pars. (2) and (3).

Subsec. (b)(1). Pub. L. 108–447, §593(b)(1), which directed amendment of par. (1) by substituting "multilateral development banks as defined in section 262m–7(g) of this title" for "International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank", was executed by making substitution for "International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, and the African Development Bank", to reflect the probable intent of Congress.

CHANGE OF NAME

Committee on Banking, Finance and Urban Affairs of House of Representatives treated as referring to Committee on Banking and Financial Services of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Banking and Financial Services of House of Representatives abolished and replaced by Committee on Financial Services of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred from Committee on Energy and Commerce of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

§262m–3. Cooperative information exchange system

The Secretary of the Treasury, in consultation with the Secretary of State and the Administrator of the Agency for International Development, shall create a system for cooperative exchange of information with other interested member countries on assistance proposals of the multilateral

development banks.

(Pub. L. 95–118, title XIII, §1304, as added Pub. L. 100–202, §101(e) [title I], Dec. 22, 1987, 101 Stat. 1329–131, 1329–134.)

CODIFICATION

Section 1304 of Pub. L. 95–118 is based on section 701 of title VII of H.R. 3750, One Hundredth Congress, as introduced Dec. 11, 1987, and enacted into law by Pub. L. 100–202.

§262m–4. Environmental educational and training programs for mid-level bank managers and officials of borrowing countries

The Secretary of the Treasury shall instruct the United States Executive Directors of the multilateral development banks to support the strengthening of educational programs within each multilateral development bank to improve the capacity of mid-level managers to initiate and manage environmental aspects of development activities, and to train officials of borrowing countries in the conduct of environmental analyses.

(Pub. L. 95–118, title XIII, §1305, as added Pub. L. 100–202, §101(e) [title I], Dec. 22, 1987, 101 Stat. 1329–131, 1329–134.)

CODIFICATION

Section 1305 of Pub. L. 95–118 is based on section 701 of title VII of H.R. 3750, One Hundredth Congress, as introduced Dec. 11, 1987, and enacted into law by Pub. L. 100–202.

§262m–5. Environmental impact statements; factors considered; promotion of activities by United States Executive Directors

(a) The Secretary of the Treasury shall instruct the United States Executive Director of each multilateral development bank to vigorously and continuously urge that each bank identify and develop methods and procedures to insure that in addition to economic and technical considerations, unquantified environmental values be given appropriate consideration in decisionmaking, and include in the documents circulated to the Board of Executive Directors concerning each assistance proposal a detailed statement, to include assessment of the benefits and costs of environmental impacts and possible mitigating measures, on the environmental impact of the proposed action, any adverse environmental effects which cannot be avoided if the proposal is implemented, and alternatives to the proposed action.

(b) The Secretary of the Treasury shall instruct the United States Executive Director of each multilateral development bank to vigorously and continuously promote—

(1) increases in the proportion of loans supporting environmentally beneficial policies, projects, and project components;

(2) the establishment of environmental programs in appropriate policy-based loans for the purpose of improving natural resource management, environmental quality, and protection of biological diversity;

(3) increases in the proportion of staff with professional training and experience in ecology and related areas and in the areas of anthropological and sociological impact analysis to ensure systematic appraisal and monitoring of environmental and sociocultural impacts of projects and policies;

(4) active and systematic encouragement of participation by borrowing countries nongovernmental environmental, community and indigenous peoples' organizations at all stages of preparations for country lending strategies, policy based loans, and loans that may have adverse environmental or sociocultural impacts; and

(5) full availability to concerned or affected nongovernmental and community organization, early in the preparation phase and at all subsequent stages of planning of full documentary

information concerning details of design and potential environmental and sociocultural impacts of proposed loans.

(Pub. L. 95–118, title XIII, §1306, as added Pub. L. 100–202, §101(e) [title I], Dec. 22, 1987, 101 Stat. 1329–131, 1329–134.)

CODIFICATION

Section 1306 of Pub. L. 95–118 is based on section 701 of title VII of H.R. 3750, One Hundredth Congress, as introduced Dec. 11, 1987, and enacted into law by Pub. L. 100–202.

§262m–6. Repealed. Pub. L. 101–240, title V, §541(d)(4), Dec. 19, 1989, 103 Stat. 2518

Section, Pub. L. 95–118, title XIII, §1307, as added Pub. L. 100–202, §101(e) [title I], Dec. 22, 1987, 101 Stat. 1329–131, 1329–134, required annual reports to Congress on environmental policies.

§262m–7. Assessment of environmental impact of proposed multilateral development bank actions

(a) Assessment required before favorable vote on proposal

The Secretary of the Treasury shall instruct the United States Executive Director of each multilateral development bank not to vote in favor of any proposal (including but not limited to any loan, credit, grant, guarantee) which would result or be likely to result in significant impact on the environment, unless the Secretary, after consultation with the Secretary of State and the Administrators of the United States Agency for International Development and the Environmental Protection Agency, determines that for at least 120 days before the date of the vote—

(1) an assessment analyzing the environmental impacts of the proposed action, including associated and cumulative impacts, and of alternatives to the proposed action, has been completed by the borrower or the bank and has been made available to the board of directors of the bank; and

(2) such assessment or a comprehensive summary of the assessment (with proprietary information redacted) has been made available to affected groups, and local nongovernmental organizations and notice of its availability in the country and at the bank has been posted on the bank's website.

(b) Access to assessments in all member countries

The Secretary of the Treasury shall seek the adoption of policies and procedures, through discussions and negotiations with the other member countries of the multilateral development banks and with the management of such banks, which result in access by governmental agencies and interested members of the public of such member countries, to environmental assessments or documentary information containing comprehensive summaries of such assessments which discuss the environmental impact of prospective projects and programs being considered by such banks. Such assessments or summaries should be made available to such governmental agencies and interested members of the public at least 120 days before scheduled board action, and public participation in review of the relevant environmental information should be encouraged.

(c) Consideration of assessment

The Secretary of the Treasury shall—

(1) ensure that an environmental impact assessment or comprehensive summary of such assessment described in subsection (a) accompanies loan proposals through the agency review process; and

(2) take into consideration recommendations from all other interested Federal agencies and interested members of the public.

(d) Development of procedures for systematic environmental assessment

The Secretary of the Treasury, in consultation with other Federal agencies, including the Environmental Protection Agency, the Department of State, and the Council on Environmental Quality, shall—

(1) instruct the United States Executive Director of each multilateral development bank to initiate discussions with the other executive directors of the respective bank and to propose that the respective bank develop and make available to member governments of, and borrowers from, the respective bank, within 18 months after December 19, 1989, a procedure for the systematic environmental assessment of development projects for which the respective bank provides financial assistance, taking into consideration the Guidelines and Principles for Environmental Impact Assessment promulgated by the United Nations Environmental Programme and other bilateral or multilateral assessment procedures; and

(2) in determining the position of the United States on any action proposed to be taken by a multilateral development bank, develop and prescribe procedures for the consideration of, among other things—

(A) the environmental impact assessment of the action described in subsection (a);

(B) interagency and public review of such assessment; and

(C) other environmental review and consultation of such action that is required by other law.

(e) Use of United States personnel

The Secretary of the Treasury, in consultation with the Secretary of State, the Secretary of the Interior, the Administrator of the Environmental Protection Agency, the Chairman of the Council on Environmental Quality, the Administrator of the Agency for International Development, and the Administrator of the National Oceanic and Atmospheric Administration, shall—

(1) make available to the multilateral development banks, without charge, appropriate United States Government personnel to assist in—

(A) training bank staff in environmental impact assessment procedures;

(B) providing advice on environmental issues;

(C) preparing environmental studies for projects with potentially significant environmental impacts; and

(D) preparing documents for public release, and developing procedures to provide for the inclusion of interested nongovernmental organizations in the environmental review process; and

(2) encourage other member countries of such banks to provide similar assistance.

(f) Reports

(1) In general

The Secretary of the Treasury shall submit to the Committees on Foreign Relations and Environment and Public Works of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives—

(A) not later than the end of the 1-year period beginning on December 19, 1989, a progress report on the efficacy of efforts by the United States to encourage consistent and timely environmental impact assessment of actions proposed to be taken by the multilateral development banks and on the progress made by the multilateral development banks in developing and instituting environmental assessment policies and procedures; and

(B) not later than January 1, 1993, a detailed report on the matters described in subparagraph (A).

(2) Availability of reports

The reports required by paragraph (1) shall be made available to the member governments of, and the borrowers from, the multilateral development banks, and to the public.

(g) Multilateral development bank defined

In this title,[1] the term "multilateral development bank" means the International Bank for Reconstruction and Development, the European Bank for Reconstruction and Development, the

International Development Association, the International Finance Corporation, the Multilateral Investment Guarantee Agency, the African Development Bank, the African Development Fund, the Asian Development Bank, the Inter-American Development Bank, the Inter-American Investment Corporation, any other institution (other than the International Monetary Fund) specified in section 262r(c)(2) of this title, and any subsidiary of any such institution.

(Pub. L. 95–118, title XIII, §1307, formerly §1308, as added and renumbered §1307, Pub. L. 101–240, title V, §§521, 541(f)(4), Dec. 19, 1989, 103 Stat. 2511, 2519; amended Pub. L. 105–118, title V, §560(b), Nov. 26, 1997, 111 Stat. 2426; Pub. L. 108–447, div. D, title V, §593(a), Dec. 8, 2004, 118 Stat. 3037.)

REFERENCES IN TEXT

This title, referred to in subsec. (g), is title XIII of Pub. L. 95–118, which is classified to sections 262m to 262m–7 of this title. For complete classification of title XIII to the Code, see Tables.

AMENDMENTS

2004—Subsec. (a). Pub. L. 108–447, §593(a)(1), added subsec. (a) and struck out former subsec. (a) which related to assessments required before favorable vote on action proposed to be taken by banks that would have a significant effect on the human environment.

Subsec. (g). Pub. L. 108–447, §593(a)(2), amended heading and text of subsec. (g) generally. Prior to amendment, text read as follows: "For purposes of this section, the term 'multilateral development bank' means any of the institutions named in section 262m–2(b) of this title, and the International Finance Corporation."

1997—Subsec. (a)(1)(A). Pub. L. 105–118, §560(b)(1), substituted "borrower" for "borrowing country".

Subsec. (a)(2)(A). Pub. L. 105–118, §560(b)(2), struck out "country" after "borrower".

Subsec. (g). Pub. L. 105–118, §560(b)(3), added subsec. (g).

CHANGE OF NAME

Committee on Banking, Finance and Urban Affairs of House of Representatives treated as referring to Committee on Banking and Financial Services of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Banking and Financial Services of House of Representatives abolished and replaced by Committee on Financial Services of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred from Committee on Energy and Commerce of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

[1] *See References in Text note below.*

§262m–8. Climate change mitigation and greenhouse gas accounting

(a) Use of greenhouse gas accounting

The Secretary of the Treasury shall seek to ensure that multilateral development banks (as defined in section 262r(c)(4) of this title) adopt and implement greenhouse gas accounting in analyzing the benefits and costs of individual projects (excluding those with de minimus greenhouse gas emissions) for which funding is sought from the bank.

(b) Expansion of climate change mitigation activities

The Secretary of the Treasury shall work to ensure that the multilateral development banks (as defined in section 262r(c)(4) of this title) expand their activities supporting climate change mitigation by—

(1) significantly expanding support for investments in energy efficiency and renewable energy, including zero carbon technologies;

(2) reviewing all proposed infrastructure investments to ensure that all opportunities for integrating energy efficiency measures have been considered;

(3) increasing the dialogue with the governments of developing countries regarding—

(A) analysis and policy measures needed for low carbon emission economic development;

and

(B) reforms needed to promote private sector investments in energy efficiency and renewable energy, including zero carbon technologies; and

(4) integrate low carbon emission economic development objectives into multilateral development bank country strategies.

(c) Report to Congress

Not later than 1 year after June 24, 2009, and annually thereafter, the Secretary of the Treasury shall submit a report on the status of efforts to implement this section to the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Financial Services and the Committee on Appropriations of the House of Representatives.

(Pub. L. 95–118, title XIII, §1308, as added Pub. L. 111–32, title XI, §1111, June 24, 2009, 123 Stat. 1903.)

PRIOR PROVISIONS

A prior section 1308 of Pub. L. 95–118 was renumbered section 1307 and is classified to section 262m–7 of this title.

§262n. Congressional findings and policies respecting agricultural and commodity production

The Congress hereby finds the following:

(1) The financing of certain programs and projects by multilateral development banks has been of great concern insofar as the programs and projects have been detrimental to the interests of American farmers and the agribusiness sector.

(2) An increase in rural income in developing countries will generally result in an increase in exports of United States agricultural and food products.

(Pub. L. 95–118, title XIV, §1401, as added Pub. L. 100–202, §101(e) [title I], Dec. 22, 1987, 101 Stat. 1329–131, 1329–134.)

CODIFICATION

Section 1401 of Pub. L. 95–118 is based on section 701 of title VII of H.R. 3750, One Hundredth Congress, as introduced Dec. 11, 1987, and enacted into law by Pub. L. 100–202.

DEFINITIONS

The definitions in section 262p–5 of this title apply to this section.

§262n–1. Increase in income and employment in developing countries; enhancement of purchasing power; diversification away from single crop or product economies

The Secretary of the Treasury, after consultations with the Secretary of Agriculture and the Secretary of the Interior (to the extent appropriate) on markets and prices for commodities, shall periodically instruct the United States Executive Director of each multilateral development bank to work with other executive directors of the respective bank to continue to—

(1) support activities which result in broad increases in income and employment and enhance purchasing power in developing countries, particularly among the rural poor; and

(2) encourage diversification away from single crop or product economies in developing countries to help reduce wide fluctuations in commodity prices and the adverse impact of abrupt changes in the terms of trade.

(Pub. L. 95–118, title XIV, §1402, as added Pub. L. 100–202, §101(e) [title I], Dec. 22, 1987, 101 Stat. 1329–131, 1329–134.)

CODIFICATION

Section 1402 of Pub. L. 95–118 is based on section 701 of title VII of H.R. 3750, One Hundredth Congress, as introduced Dec. 11, 1987, and enacted into law by Pub. L. 100–202.

DEFINITIONS

The definitions in section 262p–5 of this title apply to this section.

§262n–2. Financing projects for production of export commodities, products, or minerals in surplus in world markets discouraged; instructions by Secretary of the Treasury to United States Executive Directors

(a) The Secretary of the Treasury shall take all appropriate steps to discourage multilateral development banks from financing projects which will result in the production of commodities, products, or minerals for export that will be in surplus in world markets at the time such production begins.

(b) The Secretary of the Treasury shall instruct the United States Executive Directors of the multilateral development banks to use the voice and vote of the United States in the respective banks—

(1) to oppose financing by the respective bank of projects which produce, or will produce, commodities, products, or minerals for export if—

(A) the commodity, product, or mineral is subsidized in a manner which is inconsistent with Article XVI.3 of the GATT 1994 as defined in section 3501(1)(B) of title 19, or Article 3.1(a) of the Agreement on Subsidies and Countervailing Measures referred to in section 3511(d)(12) of title 19; and

(B) support from financial sources other than multilateral development banks does not accompany such financing; and

(2) to oppose financing by the respective bank for production of a commodity, product, or mineral for export which—

(A) is likely to be in surplus on world markets at the time such production begins; and

(B) when exported, is likely to cause injury to United States producers within the meaning of Article 15 of the Agreement on Subsidies and Countervailing Measures referred to in subparagraph (A).

(Pub. L. 95–118, title XIV, §1403, as added Pub. L. 100–202, §101(e) [title I], Dec. 22, 1987, 101 Stat. 1329–131, 1329–134; amended Pub. L. 106–36, title I, §1002(b), June 25, 1999, 113 Stat. 133.)

CODIFICATION

Section 1403 of Pub. L. 95–118 is based on section 701 of title VII of H.R. 3750, One Hundredth Congress, as introduced Dec. 11, 1987, and enacted into law by Pub. L. 100–202.

AMENDMENTS

1999—Subsec. (b)(1)(A). Pub. L. 106–36, §1002(b)(1), substituted "GATT 1994 as defined in section 3501(1)(B) of title 19, or Article 3.1(a) of the Agreement on Subsidies and Countervailing Measures referred to in section 3511(d)(12) of title 19" for "General Agreement on Tariffs and Trade or Article 10 of the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade".

Subsec. (b)(2)(B). Pub. L. 106–36, §1002(b)(2), substituted "Article 15 of the Agreement on Subsidies and Countervailing Measures referred to in subparagraph (A)" for "Article 6 of the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade".

DEFINITIONS

The definitions in section 262p–5 of this title apply to this section.

§262n–3. Reduction of barriers to agricultural trade

The Secretary of the Treasury shall instruct the United States Executive Director at the International Monetary Fund to use aggressively the voice and vote of the United States to vigorously promote policies to encourage the opening of markets for agricultural commodities and products by requiring recipient countries to make efforts to reduce trade barriers.

(Pub. L. 95–118, title XIV, §1404, as added Pub. L. 105–277, div. A, §101(d) [title VI, §611], Oct. 21, 1998, 112 Stat. 2681–150, 2681–228.)

DEFINITIONS

The definitions in section 262p–5 of this title apply to this section.

§262*o*. Negotiations concerning replenishment or increase in capital; annual reports on implementation of lending policy goals

(a) In any negotiations concerning replenishment or an increase in capital for any multilateral development bank, the Secretary of the Treasury shall propose, as a principal point for negotiations, the following institutional reforms:

(1) The establishment of a unified program within each multilateral development bank to assess the extent to which bank lending benefits the least advantaged members of society, particularly women and the poor, and to increase the extent to which such members benefit from future bank lending.

(2) The establishment of an office or other administrative procedures within each multilateral development bank to—

(A) provide in-country liaison services for nongovernmental organizations operating at the community level;

(B) monitor the impact of project and nonproject lending on local populations; and

(C) ensure compliance with loan conditionalities, especially loan conditionalities relating to the protection of the quality of life of the poor and the rights of aboriginal minorities.

(3) A major increase in the number of members of the professional staff of each regional multilateral development bank with training in environmental or social impact analysis or natural science, including—

(A) recruitment of additional permanent professional staff; and

(B) training programs for existing staff members in these subject areas.

(4) With respect to the International Bank for Reconstruction and Development, the establishment of a program for policy-based lending to promote the sustainable use of renewable resources and the protection of the environment in borrowing countries.

(5) An increase in the length of any review period established by any multilateral development bank for board review of staff recommendations by such time as would be sufficient to allow the governments of member countries to review and comment on the staff recommendations before any action is taken by the board of directors of such bank on the recommendations.

(b) The Secretary of the Treasury shall instruct the United States Executive Director of each multilateral development bank to request the management of such bank to prepare an annual report which identifies and describes the most exemplary lending practices or loan components implemented during the preceding year with respect to each of the following lending policy goals for each major borrowing country or country group:

(1) Benefit to the poor.

(2) Involvement of nongovernmental organizations and local and indigenous populations in loan design, implementation, planning, and monitoring.

(3) Integration of, consideration of, and concern for environmental quality and the sustainable

use of natural resources into loan design, implementation, planning, and monitoring.

(4) Recognition of and support for the economic and social development of women.

(Pub. L. 95–118, title XV, §1501, as added Pub. L. 100–202, §101(e) [title I], Dec. 22, 1987, 101 Stat. 1329–131, 1329–134.)

CODIFICATION

Section 1501 of Pub. L. 95–118 is based on section 701 of title VII of H.R. 3750, One Hundredth Congress, as introduced Dec. 11, 1987, and enacted into law by Pub. L. 100–202.

DEFINITIONS

The definitions in section 262p–5 of this title apply to this section.

§262*o*–1. Military spending by recipient countries; military involvement in economies of recipient countries

(a) Consideration of commitment to achieving certain goals

(1) [1] In general

The Secretary of the Treasury shall instruct the United States Executive Directors of the international financial institutions (as defined in section 262r(c)(2) of this title) to promote growth in the international economy by taking into account, when considering whether to support or oppose loan proposals at these institutions, the extent to which the recipient government has demonstrated a commitment to achieving the following goals:

(A) to provide accurate and complete data on the annual expenditures and receipts of the armed forces;

(B) to establish good and publicly accountable governance, including an end to excessive military involvement in the economy; and

(C) to make substantial reductions in excessive military spending and forces.

(b) Steps to achieve goals required

The Secretary of the Treasury shall instruct the United States Executive Directors of the international financial institutions (as so defined) to promote a policy at each institution under which—

(1) the respective institution monitors closely and, through regular policy consultations with recipient governments, seeks to influence the composition of public expenditure in favor of funding growth and development priorities and away from unproductive expenditure, including excessive military expenditures;

(2) the respective institution supports lending operations which assist efforts of recipient governments to promote good governance, including public participation, and reduce military expenditures; and

(3) the allocation of resources and the extension of credit by the respective institution takes into account the performance of recipient governments in the areas of good governance, ending excessive military involvement in the economy and reducing excessive military expenditures.

(Pub. L. 95–118, title XV, §1502, as added Pub. L. 103–306, title V, §526(d), Aug. 23, 1994, 108 Stat. 1633.)

DEFINITIONS

The definitions in section 262p–5 of this title apply to this section.

[1] *So in original. No par. (2) has been enacted.*

§262*o*–2. Advocacy of policies to enhance general effectiveness of International

Monetary Fund

(a) In general

The Secretary of the Treasury shall instruct the United States Executive Director of the International Monetary Fund to use aggressively the voice and vote of the Executive Director to do the following:

(1) Vigorously promote policies to increase the effectiveness of the International Monetary Fund in structuring programs and assistance so as to promote policies and actions that will contribute to exchange rate stability and avoid competitive devaluations that will further destabilize the international financial and trading systems.

(2) Vigorously promote policies to increase the effectiveness of the International Monetary Fund in promoting market-oriented reform, trade liberalization, economic growth, democratic governance, and social stability through—

(A) establishing an independent monetary authority, with full power to conduct monetary policy, that provides for a non-inflationary domestic currency that is fully convertible in foreign exchange markets;

(B) opening domestic markets to fair and open internal competition among domestic enterprises by eliminating inappropriate favoritism for small or large businesses, eliminating elite monopolies, creating and effectively implementing anti-trust and anti-monopoly laws to protect free competition, and establishing fair and accessible legal procedures for dispute settlement among domestic enterprises;

(C) privatizing industry in a fair and equitable manner that provides economic opportunities to a broad spectrum of the population, eliminating government and elite monopolies, closing loss-making enterprises, and reducing government control over the factors of production;

(D) economic deregulation by eliminating inefficient and overly burdensome regulations and strengthening the legal framework supporting private contract and intellectual property rights;

(E) establishing or strengthening key elements of a social safety net to cushion the effects on workers of unemployment and dislocation; and

(F) encouraging the opening of markets for agricultural commodities and products by requiring recipient countries to make efforts to reduce trade barriers.

(3) Vigorously promote policies to increase the effectiveness of the International Monetary Fund, in concert with appropriate international authorities and other international financial institutions (as defined in section 262r(c)(2) of this title), in strengthening financial systems in developing countries, and encouraging the adoption of sound banking principles and practices, including the development of laws and regulations that will help to ensure that domestic financial institutions meet strong standards regarding capital reserves, regulatory oversight, and transparency.

(4) Vigorously promote policies to increase the effectiveness of the International Monetary Fund, in concert with appropriate international authorities and other international financial institutions (as defined in section 262r(c)(2) of this title), in facilitating the development and implementation of internationally acceptable domestic bankruptcy laws and regulations in developing countries, including the provision of technical assistance as appropriate.

(5) Vigorously promote policies that aim at appropriate burden-sharing by the private sector so that investors and creditors bear more fully the consequences of their decisions, and accordingly advocate policies which include—

(A) strengthening crisis prevention and early warning signals through improved and more effective surveillance of the national economic policies and financial market development of countries (including monitoring of the structure and volume of capital flows to identify problematic imbalances in the inflow of short and medium term investment capital, potentially destabilizing inflows of offshore lending and foreign investment, or problems with the maturity profiles of capital to provide warnings of imminent economic instability), and fuller disclosure of such information to market participants;

(B) accelerating work on strengthening financial systems in emerging market economies so as to reduce the risk of financial crises;

(C) consideration of provisions in debt contracts that would foster dialogue and consultation between a sovereign debtor and its private creditors, and among those creditors;

(D) consideration of extending the scope of the International Monetary Fund's policy on lending to members in arrears and of other policies so as to foster the dialogue and consultation referred to in subparagraph (C);

(E) intensified consideration of mechanisms to facilitate orderly workout mechanisms for countries experiencing debt or liquidity crises;

(F) consideration of establishing ad hoc or formal linkages between the provision of official financing to countries experiencing a financial crisis and the willingness of market participants to meaningfully participate in any stabilization effort led by the International Monetary Fund;

(G) using the International Monetary Fund to facilitate discussions between debtors and private creditors to help ensure that financial difficulties are resolved without inappropriate resort to public resources; and

(H) the International Monetary Fund accompanying the provision of funding to countries experiencing a financial crisis resulting from imprudent borrowing with efforts to achieve a significant contribution by the private creditors, investors, and banks which had extended such credits.

(6) Vigorously promote policies that would make the International Monetary Fund a more effective mechanism, in concert with appropriate international authorities and other international financial institutions (as defined in section 262r(c)(2) of this title), for promoting good governance principles within recipient countries by fostering structural reforms, including procurement reform, that reduce opportunities for corruption and bribery, and drug-related money laundering.

(7) Vigorously promote the design of International Monetary Fund programs and assistance so that governments that draw on the International Monetary Fund channel public funds away from unproductive purposes, including large "show case" projects and excessive military spending, and toward investment in human and physical capital as well as social programs to protect the neediest and promote social equity.

(8) Work with the International Monetary Fund to foster economic prescriptions that are appropriate to the individual economic circumstances of each recipient country, recognizing that inappropriate stabilization programs may only serve to further destabilize the economy and create unnecessary economic, social, and political dislocation.

(9) Structure International Monetary Fund programs and assistance so that the maintenance and improvement of core labor standards are routinely incorporated as an integral goal in the policy dialogue with recipient countries, so that—

(A) recipient governments commit to affording workers the right to exercise internationally recognized core worker rights, including the right of free association and collective bargaining through unions of their own choosing;

(B) measures designed to facilitate labor market flexibility are consistent with such core worker rights; and

(C) the staff of the International Monetary Fund surveys the labor market policies and practices of recipient countries and recommends policy initiatives that will help to ensure the maintenance or improvement of core labor standards.

(10) Vigorously promote International Monetary Fund programs and assistance that are structured to the maximum extent feasible to discourage practices which may promote ethnic or social strife in a recipient country.

(11) Vigorously promote recognition by the International Monetary Fund that macroeconomic developments and policies can affect and be affected by environmental conditions and policies, and urge the International Monetary Fund to encourage member countries to pursue macroeconomic stability while promoting environmental protection.

(12) Facilitate greater International Monetary Fund transparency, including by enhancing accessibility of the International Monetary Fund and its staff, fostering a more open release policy toward working papers, past evaluations, and other International Monetary Fund documents, seeking to publish all Letters of Intent to the International Monetary Fund and Policy Framework Papers, and establishing a more open release policy regarding Article IV consultations.

(13) Facilitate greater International Monetary Fund accountability and enhance International Monetary Fund self-evaluation by vigorously promoting review of the effectiveness of the Office of Internal Audit and Inspection and the Executive Board's external evaluation pilot program and, if necessary, the establishment of an operations evaluation department modeled on the experience of the International Bank for Reconstruction and Development, guided by such key principles as usefulness, credibility, transparency, and independence.

(14) Vigorously promote coordination with the International Bank for Reconstruction and Development and other international financial institutions (as defined in section 262r(c)(2) of this title) in promoting structural reforms which facilitate the provision of credit to small businesses, including microenterprise lending, especially in the world's poorest, heavily indebted countries.

(15) Work with the International Monetary Fund to—

(A) foster strong global anti-money laundering (AML) and combat the financing of terrorism (CFT) regimes;

(B) ensure that country performance under the Financial Action Task Force anti-money laundering and counterterrorist financing standards is effectively and comprehensively monitored;

(C) ensure note is taken of AML and CFT issues in Article IV reports, International Monetary Fund programs, and other regular reviews of country progress;

(D) ensure that effective AML and CFT regimes are considered to be indispensable elements of sound financial systems; and

(E) emphasize the importance of sound AML and CFT regimes to global growth and development.

(b) Coordination with other executive departments

To the extent that it would assist in achieving the goals described in subsection (a), the Secretary of the Treasury shall pursue the goals in coordination with the Secretary of State, the Secretary of Labor, the Secretary of Commerce, the Administrator of the Environmental Protection Agency, the Administrator of the Agency for International Development, and the United States Trade Representative.

(Pub. L. 95–118, title XV, §1503, as added Pub. L. 105–277, div. A, §101(d) [title VI, §610(a)], Oct. 21, 1998, 112 Stat. 2681–150, 2681–224; amended Pub. L. 108–458, title VII, §7703(a), Dec. 17, 2004, 118 Stat. 3860.)

AMENDMENTS

2004—Subsec. (a)(15). Pub. L. 108–458 added par. (15).

ANNUAL REPORT ON LENDING, SURVEILLANCE, OR TECHNICAL ASSISTANCE POLICIES OF THE INTERNATIONAL MONETARY FUND

Pub. L. 114–113, div. K, title IX, §9006, Dec. 18, 2015, 129 Stat. 2832, provided that: "Not later than one year after the date of the enactment of this Act [Dec. 18, 2015], and annually thereafter until 2025, the Secretary of the Treasury shall submit to the Committees on Appropriations and Foreign Relations of the Senate and the Committees on Appropriations and Financial Services of the House of Representatives a written report that includes—

"(1) a description of any changes in the policies of the International Monetary Fund (the Fund) with respect to lending, surveillance, or technical assistance;

"(2) an analysis of whether those changes, if any, increase or decrease the risk to United States financial commitments to the Fund;

"(3) an analysis of any new or ongoing exceptional access loans of the Fund in place during the year preceding the submission of the report; and

"(4) a description of any changes to the exceptional access policies of the Fund."

ADDITIONAL PROVISIONS RELATING TO INTERNATIONAL MONETARY FUND

Pub. L. 106–113, div. B, §1000(a)(5) [title V, §504], Nov. 29, 1999, 113 Stat. 1536, 1501A–317, as amended by Pub. L. 110–161, div. H, title I, §1502(a), Dec. 26, 2007, 121 Stat. 2250, provided that:

"(a) PUBLICATION OF IMF OPERATIONAL BUDGETS.—The Secretary of the Treasury shall instruct the United States Executive Director at the International Monetary Fund to use the voice, vote, and influence of the United States to urge vigorously the International Monetary Fund to publish the operational budgets of the International Monetary Fund, on a quarterly basis, not later than one year after the end of the period covered by the budget.

"(b) REPORT TO THE CONGRESS SHOWING COSTS OF UNITED STATES PARTICIPATION IN THE INTERNATIONAL MONETARY FUND.—The Secretary of the Treasury shall prepare and transmit to the Committees on Banking and Financial Services [now Committee on Financial Services], on Appropriations, and on International Relations [now Committee on Foreign Affairs] of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs, on Foreign Relations, and on Appropriations of the Senate a quarterly report, which shall be made readily available to the public, on the costs or benefits of United States participation in the International Monetary Fund and which shall detail the costs and benefits to the United States, as well as valuation gains or losses on the United States reserve position in the International Monetary Fund.

"(c) CONTINUATION OF FORGOING OF REIMBURSEMENT OF IMF FOR EXPENSES OF ADMINISTERING ESAF.—The Secretary of the Treasury shall instruct the United States Executive Director at the International Monetary Fund to use the voice, vote, and influence of the United States to urge vigorously the International Monetary Fund to continue to forgo reimbursements of the expenses incurred by the International Monetary Fund in administering the Enhanced Structural Adjustment Facility, until the Heavily Indebted Poor Countries Initiative (as defined in section 1623 of the International Financial Institutions Act [22 U.S.C. 262p–6]) is terminated.

"(d) NO GOLD SALES BY INTERNATIONAL MONETARY FUND WITHOUT PRIOR AUTHORIZATION BY THE CONGRESS.—(1) [Amended section 286c of this title.]

"(2) Not less than 30 days prior to the entrance by the United States into international negotiations for the purpose of reaching agreement on the disposition of Fund gold whereby resources of the Fund would be used for the special benefit of a single member, or of a particular segment of the membership of the Fund, the Secretary of the Treasury shall consult with the Committees on Banking and Financial Services [now Committee on Financial Services], on Appropriations, and on International Relations [now Committee on Foreign Affairs] of the House of Representatives and the Committees on Foreign Relations, on Appropriations, and on Banking, Housing and Urban Affairs of the Senate."

DEFINITIONS

The definitions in section 262p–5 of this title apply to this section.

§262*o*–3. Administrative provisions

(a) Achievement of certain policy goals

The Secretary of the Treasury should instruct the United States Executive Director at each multilateral development institution to inform the institution of the following United States policy goals, and use the voice and vote of the United States to achieve the goals at the institution before June 30, 2005:

(1) No later than 60 calendar days after the Board of Directors of the institution approves the minutes of a Board meeting, the institution shall post on its website an electronic version of the minutes, with material deemed too sensitive for public distribution redacted.

(2) The institution shall keep a written transcript or electronic recording of each meeting of its Board of Directors and preserve the transcript or recording for at least 10 years after the meeting.

(3) All public sector loan, credit and grant documents, country assistance strategies, sector strategies, and sector policies prepared by the institution and presented for endorsement or approval by its Board of Directors, with materials deemed too sensitive for public distribution redacted or withheld, shall be made available to the public 15 calendar days before consideration by the Board or, if not then available, when the documents are distributed to the Board. Such documents shall include the resources and conditionality necessary to ensure that the borrower

complies with applicable laws in carrying out the terms and conditions of such documents, strategies, or policies, including laws pertaining to the integrity and transparency of the process such as public consultation, and to public health and safety and environmental protection.

(4) The institution shall post on its website an annual report containing statistical summaries and case studies of the fraud and corruption cases pursued by its investigations unit.

(5) The institution shall require that any health, education, or poverty-focused loan, credit, grant, document, policy, or strategy prepared by the institution includes specific outcome and output indicators to measure results, and that the indicators and results be published periodically during the execution, and at the completion, of the project or program.

(6) The institution shall establish a plan and schedule for conducting regular, independent audits of internal management controls and procedures for meeting operational objectives, complying with Bank policies, and preventing fraud, and making reports describing the scope and findings of such audits available to the public.

(7) The institution shall establish effective procedures for the receipt, retention, and treatment of: (A) complaints received by the Bank regarding fraud, accounting, mismanagement, internal accounting controls, or auditing matters; and (B) the confidential, anonymous submission by employees of the Bank of concerns regarding fraud, accounting, mismanagement, internal accounting controls, or auditing matters.

(b) Report

Not later than September 1, 2004, and 6 months thereafter, the Secretary of the Treasury shall submit a report to the appropriate congressional committees describing the actions taken by each multilateral development institution to implement the policy goals described in subsection (a), and any further actions that need to be taken to fully implement such goals.

(c) Publication of written statements regarding inspection mechanism cases

No later than 60 calendar days after a meeting of the Board of Directors of a multilateral development institution, the Secretary of the Treasury should provide for publication on the website of the Department of the Treasury of any written statement presented at the meeting by the United States Executive Director at the institution concerning—

(1) a project on which a claim has been made to the inspection mechanism of the institution; or

(2) a pending inspection mechanism case.

(d) Congressional briefings

The Secretary of the Treasury or the designee of the Secretary should brief the appropriate congressional committees, when requested, on the steps that have been taken by the United States Executive Director at any multilateral development institution, and by any such institution, to implement the measures described in this section.

(e) Publication of "no" votes and abstentions by the United States

Each month, the Secretary of the Treasury should provide for posting on the website of the Department of the Treasury of a record of all "no" votes and abstentions made by the United States Executive Director at any multilateral development institution on any matter before the Board of Directors of the institution.

(f) Multilateral development institution defined

In this section, the term "multilateral development institution" shall have the meaning given in section 262r(c)(3) of this title.

(Pub. L. 95–118, title XV, §1504, as added Pub. L. 108–199, div. D, title V, §581, Jan. 23, 2004, 118 Stat. 202.)

DEFINITIONS

The definitions in section 262p–5 of this title apply to this section.

§262*o*–4. Promotion of policy goals

(a) In general

The Secretary of the Treasury shall instruct the United States Executive Director at each multilateral development bank to inform each such bank and the executive directors of each such bank of the policy of the United States as set out in this section and to actively promote this policy and the goals set forth in section 262o–3 of this title. It is the policy of the United States that each bank should—

(1) require the bank's employees, officers and consultants to make an annual disclosure of their financial interests and income and of any other potential source of conflict of interest;

(2) link project and program design and results to management and staff performance appraisals, salaries, and bonuses;

(3) implement voluntary disclosure programs for firms and individuals participating in projects financed by such bank;

(4) ensure that all loan, credit, guarantee, and grant documents and other agreements with borrowers include provisions for the financial resources and conditionality necessary to ensure that a person or country that obtains financial support from a bank complies with applicable bank policies and national and international laws in carrying out the terms and conditions of such documents and agreements, including bank policies and national and international laws pertaining to the comprehensive assessment and transparency of the activities related to access to information, public health, safety, and environmental protection;

(5) implement clear anti-corruption procedures setting forth the circumstances under which a person will be barred from receiving a loan, contract, grant, guarantee or credit from such bank, make such procedures available to the public, and make the identity of such person available to the public;

(6) coordinate policies across multilateral development banks on issues including debarment, cross-debarment, procurement guidelines, consultant guidelines, and fiduciary standards so that a person that is debarred by one such bank is subject to a rebuttable presumption of ineligibility to conduct business with any other such bank during the specific ineligibility period;

(7) require each bank borrower and grantee and each bidder, supplier and contractor for MDB projects to comply with the highest standard of ethics prohibiting coercive, collusive, corrupt and fraudulent practices, such as are defined in the World Bank's Procurement Guidelines of May, 2004;

(8) maintain a functionally independent Investigations Office, Auditor General Office and Evaluation Office that are free from interference in determining the scope of investigations (including forensic audits), internal auditing (including assessments of management controls for meeting operational objectives and complying with bank policies), performing work and communicating results, and that regularly report to such bank's board of directors and, as appropriate and in a manner consistent with such functional independence of the Investigations Office and the Auditor General Office, to the bank's President;

(9) require that each candidate for adjustment or budget support loans demonstrate transparent budgetary and procurement processes including budget publication and public scrutiny prior to loan or grant approval;

(10) require that for each project where compensation is to be provided to persons adversely affected by the project, such persons have recourse to an impartial and responsive mechanism to receive and resolve complaints. The mechanism should be easily accessible to all segments of the affected community without impeding access to other judicial or administrative remedies and without retribution;

(11) implement best practices in domestic laws and international conventions against corruption for whistleblower and witness disclosures and protections against retaliation for internal and lawful public disclosures by the bank's employees and others affected by such bank's operations who challenge illegality or other misconduct that could threaten the bank's mission, including: (1) best practices for legal burdens of proof; (2) access to independent adjudicative bodies, including

external arbitration based on consensus selection and shared costs; and (3) results that eliminate the effects of proven retaliation; and

(12) require, to the maximum extent possible, that all draft country strategies are issued for public consideration no less than 45 days before the country strategy is considered by the multilateral development bank board of directors.

(b) Publication of position statement

The Secretary of the Treasury shall, beginning thirty days after November 14, 2005, and within sixty calendar days of the meeting of the respective bank's Board of Directors at which such decisions are made, publish on the Department of the Treasury website a statement or explanation of the United States position on decisions related to: (1) operational policies; and (2) any proposal which would result or be likely to result in a significant effect on the environment.

(c) "Multilateral development bank" defined

In this section the term "multilateral development bank" has the meaning given that term in section 262m–7 of this title and also includes the European Bank for Reconstruction and Development and the Global Environment Facility.

(Pub. L. 95–118, title XV, §1505, as added Pub. L. 109–102, title V, §599B, Nov. 14, 2005, 119 Stat. 2241.)

CODIFICATION

November 14, 2005, referred to in subsec. (b), was in the original "the enactment of this Act" which was translated as meaning the date of enactment of Pub. L. 109–102, which enacted this section, to reflect the probable intent of Congress.

DEFINITIONS

The definitions in section 262p–5 of this title apply to this section.

§262p. Impact adjustment lending programs

(a) Establishment of guidelines; impact statements

The Secretary of the Treasury shall instruct the United States Executive Director of the International Bank for Reconstruction and Development and the International Development Association to initiate discussions with other directors of the respective institutions and to propose that—

(1) guidelines be established which reflect clear and tangible concern for the impact adjustment lending programs, and the activities in support of which such lending is made, have and will have on human welfare; and

(2) impact statements be required which assess the effect an adjustment lending program, and the activities in support of which such lending is made, will have on the poor of the country to which such lending is made.

(b) Proposed contents of impact statements

In the discussions referred to in subsection (a) with respect to the impact statement described in paragraph (2) of such subsection, the United States Executive Director should propose that such impact statements—

(1) specify what the projected effects of the adjustment loan will be on the poor;

(2) explain what procedures have been or will be taken to strengthen the in-country capacity of the borrower to—

(A) monitor nutrition levels in a timely manner; and

(B) measure the impact an adjustment loan, and the policies and activities in support of which such loan is made, has on the living standards of the country's population, especially the poorest; and

(3) indicate specifically what steps the borrower will take to—

(A) mitigate any adverse effect the policies and activities in support of which an adjustment loan is made are expected to have on the living standards of the poor (including the use of the proceeds of any adjustment loan, project aid, or other compensatory measure to mitigate such effect); and

(B) maximize the extent of the participation of the poor in the economic benefits resulting from an adjustment loan.

(c) Report to member governments by United States Executive Director of International Bank for Reconstruction and Development and by International Development Association

The Secretary of the Treasury shall instruct the United States Executive Director of the International Bank for Reconstruction and Development and the International Development Association to request the management of the respective institutions to prepare a report for distribution to member governments no later than June 30, 1988, that—

(1) assesses the impact on the poor of structural adjustment in countries to which structural adjustment lending has been made; and

(2) specifies the steps that have been or will be taken by the respective institution to—

(A) mitigate any adverse effect of adjustment lending, and the activities in support of which such lending is made, on the living standards of the poor in the countries to which such loans are made; and

(B) ensure the participation of the poor in the economic benefits resulting from adjustment lending and the activities in support of which such lending is made.

(d) "Adjustment lending" defined

For purposes of this section and section 262m–1 of this title, the term "adjustment lending" means nonproject lending in support of structural macroeconomic reforms or sectoral economic reform.

(Pub. L. 95–118, title XVI, §1601, as added Pub. L. 100–202, §101(e) [title I], Dec. 22, 1987, 101 Stat. 1329–131, 1329–134.)

CODIFICATION

Section 1601 of Pub. L. 95–118 is based on section 701 of title VII of H.R. 3750, One Hundredth Congress, as introduced Dec. 11, 1987, and enacted into law by Pub. L. 100–202.

DEFINITIONS

The definitions in section 262p–5 of this title apply to this section.

§262p–1. Grassroots Collaboration Program

(a) Proposal for establishment; private involvement; projects or policies for alleviation of poverty and promotion of environmental protection

The Secretary of the Treasury shall instruct the United States Executive Director of the International Bank for Reconstruction and Development and the International Development Association to initiate discussions with other directors of such institutions and to propose the establishment of a Grassroots Collaboration Program to develop improved mechanisms for involving, directly or indirectly, nongovernmental organizations in the design, implementation, and monitoring of development projects financed by, or development policies established by, such bank or association in order to alleviate poverty and promote environmental protection, including—

(1) encouraging nongovernmental organizations in borrowing countries to participate in all stages of project planning and country strategy activities to—

(A) minimize any adverse impact of such projects or activities on the poor people of such country;

(B) minimize any adverse impact of such projects or activities on the environment of such country; and

(C) maximize the extent to which such projects or activities will benefit the poor people of

such country;

(2) increasing the direct involvement of nongovernmental organizations in project design, implementation, or monitoring whenever such organizations have a distinct comparative advantage over other entities in providing such services by virtue of their grassroots involvement with poor people, especially women, in a borrowing country;

(3) providing microenterprise credit for small scale economic activities through nongovernmental organizations;

(4) supporting the enhancement of the institutional capacity of nongovernmental organizations in borrowing countries as development practitioners; and

(5) establishing or supporting jointly funded intermediary mechanisms with nongovernmental organizations to facilitate increased collaboration between such bank or association and nongovernmental organizations in borrowing countries.

(b) Implementation and financing of program

It is the sense of the Congress that the Grassroots Collaboration Program described in subsection (a) should be implemented and financed as part of the normal operations of the International Bank for Reconstruction and Development and the International Development Association.

(c) Flexible financing; initial grant

To the extent the activities under the Grassroots Collaboration Program described in subsection (a) need more flexible financing, it is the sense of the Congress that—

(1) such activities could be funded through a grant from the net income of the International Bank for Reconstruction and Development; and

(2) an initial grant of not less than $50,000,000 should be made for such activities with subsequent annual allocations of such additional amounts as may be necessary to allow the Grassroots Collaboration Program to maximize collaboration with nongovernmental organizations in the alleviation of poverty and the protection of the environment.

(d) Repealed. Pub. L. 101–240, title V, §541(d)(4), Dec. 19, 1989, 103 Stat. 2518

(e) Annual reports to Congress

Each annual report to the Congress by the National Advisory Council on International Monetary and Financial Policies shall describe the status of the establishment and operation of the Grassroots Collaboration Program described in subsection (a), the activities under taken by the Program and the sum of the amounts expended by the Program.

(Pub. L. 95–118, title XVI, §1602, as added Pub. L. 100–202, §101(e) [title I], Dec. 22, 1987, 101 Stat. 1329–131, 1329–134; amended Pub. L. 101–240, title V, §541(d)(4), Dec. 19, 1989, 103 Stat. 2518.)

CODIFICATION

Section 1602 of Pub. L. 95–118 is based on section 701 of title VII of H.R. 3750, One Hundredth Congress, as introduced Dec. 11, 1987, and enacted into law by Pub. L. 100–202.

AMENDMENTS

1989—Subsec. (d). Pub. L. 101–240 struck out subsec. (d) which related to initial reporting requirements by Secretary of the Treasury.

DEFINITIONS

The definitions in section 262p–5 of this title apply to this section.

§262p–2. Instructions to United States Executive Directors for extension of credit

(a) International Bank for Reconstruction and Development; International Development Association; access of poor to formal sources of credit; identification and removal of barriers

to extension of credit generally and to provisions of credit to microenterprises

The Secretary of the Treasury shall instruct the United States Executive Director of the International Bank for Reconstruction and Development and the International Development Association to initiate discussions with other directors of such Bank or Association and to propose that—

(1) in carrying on the activities of the Bank or Association, the Bank or Association take such steps as may be necessary to increase access for the poor people of a borrowing country to formal sources of credit; and

(2) the Bank or Association include a requirement in all appropriate project and nonproject agreements, as a condition for assistance under such agreements, that the borrowing country identify and remove unreasonable legal and regulatory barriers to—

(A) the establishment or operation of organizations which extend credit; and

(B) the provision of credit to microenterprises for small scale economic activities.

(b) African Development Bank and Asian Development Bank; provision of credit to microenterprises

The Secretary of the Treasury shall instruct the United States Executive Directors of the African Development Bank and the Asian Development Bank to initiate discussions with other directors of the respective banks and to propose that each such bank—

(1) examine the Program for the Financing of Small Projects of the Inter-American Development Bank and the steps taken by such bank to link the Program to the mainstream operation of the bank; and

(2) explore ways and means to establish similar programs within the respective banks to provide credit to microenterprises for small scale economic activities.

(c) Annual reports to Congress; inclusion of status of microenterprise credit promotion activities

Each annual report to the Congress by the National Advisory Council on International Monetary and Financial Policies shall describe the status of the microenterprise credit promotion activities of each of the institutions referred to in subsection (a) or (b).

(Pub. L. 95–118, title XVI, §1603, as added Pub. L. 100–202, §101(e) [title I], Dec. 22, 1987, 101 Stat. 1329–131, 1329–134.)

CODIFICATION

Section 1603 of Pub. L. 95–118 is based on section 701 of title VII of H.R. 3750, One Hundredth Congress, as introduced Dec. 11, 1987, and enacted into law by Pub. L. 100–202.

DEFINITIONS

The definitions in section 262p–5 of this title apply to this section.

§262p–3. Participation of women in economic, social and policy development activities

(a) Congressional declaration of policy

Congress hereby declares that it is the policy of the United States that multilateral development banks should—

(1) fully involve women in borrowing countries in the identification, planning, implementation, and evaluation of mainstream development activities financed by such banks;

(2) recognize and support women's direct and indirect roles in the economic development of their countries and communities;

(3) recognize and support women's direct and indirect roles in the education and social development of, the maintenance of the health of, and in the provision of adequate nutrition for, family members and communities, especially children;

(4) work to remove legal and customary barriers which impede the full participation of women in economic and social development, such as lack of access to credit, property rights, education, health care, and government services; and

(5) involve women's groups in borrowing countries in project identification and preparation in order to factor their assessments of women's economic and social needs into project design.

(b) Instructions by Secretary of the Treasury to United States Executive Directors

The Secretary of the Treasury shall instruct—

(1) the United States Executive Director of the International Bank for Reconstruction and Development and the International Development Association to support attempts to strengthen the role of the Women in Development division in policy development, project design and implementation, and evaluation; and

(2) the United States Executive Directors of the regional multilateral development banks to support exploring the establishment of a mechanism, or the strengthening of any existing mechanism, within each of the respective banks, to advise, advocate, and promote the full intergration [1] of women in the planning, design, implementation, and evaluation of lending activities both in borrowing countries and within the banks.

(c) Annual reports to Congress

Each annual report to the Congress by the National Advisory Council on International Monetary and Financial Policies shall describe the actions taken by the multilateral development banks to implement the policies established under this section.

(Pub. L. 95–118, title XVI, §1604, as added Pub. L. 100–202, §101(e) [title I], Dec. 22, 1987, 101 Stat. 1329–131, 1329–134.)

CODIFICATION

Section 1604 of Pub. L. 95–118 is based on section 701 of title VII of H.R. 3750, One Hundredth Congress, as introduced Dec. 11, 1987, and enacted into law by Pub. L. 100–202.

DEFINITIONS

The definitions in section 262p–5 of this title apply to this section.

[1] So in original. Probably should be "integration".

§262p–4. Instructions to United States Executive Directors; indigenous people in borrowing country; determination of impact; protection of rights; consultation

The Secretary of the Treasury shall instruct the United States Executive Director of each multilateral development bank to initiate discussions with other executive directors of the respective bank and to propose that the bank take such steps as may be necessary—

(1) to determine, at the time an initial feasibility study is conducted with respect to a proposed project and to the fullest extent possible, the impact such project would have on indigenous people in the borrowing country;

(2) to ensure compliance with loan conditionalities relating to the protection of the rights of indigenous people to lands and resources; and

(3) to consult with indigenous people, and nongovernmental organizations representing indigenous people, at every phase of loan design, planning, implementation, and monitoring.

(Pub. L. 95–118, title XVI, §1605, as added Pub. L. 100–202, §101(e) [title I], Dec. 22, 1987, 101 Stat. 1329–131, 1329–134.)

CODIFICATION

Section 1605 of Pub. L. 95–118 is based on section 701 of title VII of H.R. 3750, One Hundredth Congress,

as introduced Dec. 11, 1987, and enacted into law by Pub. L. 100–202.

DEFINITIONS

The definitions in section 262p–5 of this title apply to this section.

§262p–4a. Loan programs to reduce economic dependence on illicit narcotics

(a) Findings

The Congress finds that—

(1) the illicit narcotics epidemic currently afflicting the United States represents a direct threat to the well-being of every United States citizen;

(2) every effective means must be pursued to reduce the foreign production and subsequent importation into the United States of illicit narcotics;

(3) the multilateral development banks can play an integral role in efforts to control the production of illicit narcotics;

(4) producer country narcotics eradication programs will not be effective unless such programs provide an economic alternative to the production of narcotics;

(5) efforts to address the illicit narcotics epidemic through production control are doomed to failure unless greater effort is applied to curb use of and demand for illicit narcotics; and

(6) the appropriate role for the multilateral development banks in the "War Against Drugs" is through coordinating and financing alternative economic opportunities in producer and trafficking countries.

(b) Loan programs to reduce economic dependence on illicit narcotics

The Secretary of the Treasury shall instruct the United States Executive Director of the International Bank for Reconstruction and Development and the United States Executive Director of the Inter-American Development Bank to initiate discussions with other executive directors of such institutions and to advocate and support the creation, within such institutions, of specific country lending programs and policies (including crop substitution, creation of roads conducive to the expansion of markets for licit goods, other infrastructure development measures such as development projects generating employment, agricultural extension assistance, and region-specific development plans) which are particularly oriented to reducing or eliminating the economic dependence of regions of borrowing countries known to be areas in which illicit narcotics are produced or trafficked, on such production and trafficking.

(c) Coordination among assistance programs designed to reduce economic dependency on illicit narcotics

In addition, the Secretary of the Treasury should instruct the United States Executive Director of the International Bank for Reconstruction and Development and the United States Executive Director of the Inter-American Development Bank to encourage such institutions to provide coordination among other multilateral and bilateral assistance programs designed to reduce the economic dependence of regions of borrowing countries known to be areas in which illicit narcotics are produced or trafficked, on such production and trafficking.

(Pub. L. 95–118, title XVI, §1606, as added Pub. L. 100–461, title V, §555, Oct. 1, 1988, 102 Stat. 2268–36.)

CODIFICATION

Section 1606 of Pub. L. 95–118 is based on section 6 of H.R. 4645, One Hundredth Congress, as reported Sept. 28, 1988, and enacted into law by Pub. L. 100–461.

PRIOR PROVISIONS

A prior section 1606 of Pub. L. 95–118 was renumbered section 1622 and is classified to section 262p–5 of this title.

DEFINITIONS

The definitions in section 262p–5 of this title apply to this section.

§262p–4b. Directives regarding government-owned enterprises in countries receiving World Bank loans

(a) Finding

The Congress finds that a principal focus of United States Government policy in the multilateral development banks has been and should be to foster greater development of the private sector in member borrowing countries of such banks.

(b) Technical assistance to transform government-owned enterprises into privately owned enterprises

In order to assist and strengthen the advancement of ongoing efforts to have the International Bank for Reconstruction and Development play a key role in building a viable private sector in member borrowing countries of such bank, and to further assist such bank in its determination to facilitate the transfer of government-owned enterprises in such countries to private ownership, the Secretary of the Treasury shall instruct the United States Executive Director of such bank to vigorously encourage the provision of technical assistance to such countries (relying, where appropriate, on the expertise of the International Finance Corporation or the Multilateral Investment Guarantee Agency) to transform enterprises owned, in whole or part, by the governments of such countries into privately owned, self-sufficient enterprises. Such technical assistance may involve the valuation of the assets of such government-owned enterprises, the assessment of tender offers, and the creation or strengthening of market-based mechanisms to facilitate such a transfer of ownership.

(c) Reports

(1) In general

The United States Executive Director of the International Bank for Reconstruction and Development shall submit 3 reports to the Congress on—

(A) the progress made in transforming government-owned enterprises into privately owned enterprises as described in subsection (b);

(B) the performance of the privately owned enterprises resulting from such transformation; and

(C) the contributions of development finance companies toward strengthening the private sector in member borrowing countries.

(2) Timing

The United States Executive Director of the International Bank for Reconstruction and Development shall submit to the Congress the first report required by paragraph (1) within 1 year after October 1, 1988, and shall submit additional reports 12 months, and 24 months, after the date the first report is submitted.

(Pub. L. 95–118, title XVI, §1607, as added Pub. L. 100–461, title V, §555, Oct. 1, 1988, 102 Stat. 2268–36.)

CODIFICATION

Section 1607 of Pub. L. 95–118 is based on section 7 of H.R. 4645, One Hundredth Congress, as reported Sept. 28, 1988, and enacted into law by Pub. L. 100–461.

DEFINITIONS

The definitions in section 262p–5 of this title apply to this section.

§262p–4c. Initiation of discussions to facilitate debt-for-development swaps for human welfare and environmental conservation

(a) Findings

The Congress finds that—

(1) voluntary debt-for-development swaps in heavily indebted developing nations can simultaneously facilitate reduction of the burden of external indebtedness and increase the resources available within the country for charitable, educational, and scientific purposes, including environmental conservation, education, human welfare, health, agricultural research and development, microenterprise credit, and development of indigenous nonprofit organizations; and

(2) heavily indebted developing countries may desire to facilitate such swaps to the maximum extent consistent with sound domestic economic management and minimization of inflationary impact.

(b) Initiation of discussions to facilitate debt-for-development swaps for human welfare and environmental conservation

(1) In general

The Secretary of the Treasury shall instruct the United States Executive Director of the International Bank for Reconstruction and Development to initiate discussions with the directors of such bank, the International Development Association, and the International Finance Corporation and propose that such institutions provide advice and assistance, as appropriate, to borrowing country governments desiring to facilitate debt-for-development swaps, on mechanisms (including trust funds) to accomplish this purpose, particularly in the context of debt rescheduling, which mechanisms result in sound management of the macroeconomic impact of such swaps on such countries, and preserve the value of the capital obtained through such swaps.

(2) Definitions

As used in this section:

(A) Debt-for-development swap

The term "debt-for-development swap" means the purchase of qualified debt by, or the donation of such debt to, an organization described in section 501(c)(3) of title 26 which is exempt from taxation under section 501(a) of title 26, and the subsequent transfer of such debt to an organization located in such foreign country in exchange for an undertaking by such tax-exempt organization, such foreign government, or such foreign organization to engage in a charitable, educational, or scientific activity.

(B) Qualified debt

The term "qualified debt" means—

(i) sovereign debt issued by a foreign government;

(ii) debt owed by private institutions in the country governed by such foreign government; and

(iii) debt owed by institutions in the country governed by such foreign government, which are owned, in part, by private persons and, in part, by public institutions.

(Pub. L. 95–118, title XVI, §1608, as added Pub. L. 100–461, title V, §555, Oct. 1, 1988, 102 Stat. 2268–36.)

CODIFICATION

Section 1608 of Pub. L. 95–118 is based on section 8 of H.R. 4645, One Hundredth Congress, as reported Sept. 28, 1988, and enacted into law by Pub. L. 100–461.

DEFINITIONS

The definitions in section 262p–5 of this title apply to this section.

§262p–4d. Initiation of discussions to facilitate financing of human welfare and natural resource programs in sub-Saharan Africa in connection with debt

reduction and conversion

(a) Findings

The Congress finds that—

(1) the heavy burden of debt borne by sub-Saharan governments undermines efforts by such governments to finance projects and programs designed to promote charitable, educational, and scientific purposes, including education, human welfare, health, agricultural research and development, and conservation, restoration and enhancement of the natural resource base; and

(2) the financing of programs to promote such charitable, educational, and scientific purposes should be facilitated in the context of reducing and converting sovereign debt of sub-Saharan governments, as encouraged in the final communique of the June 1988 economic summit conference in Toronto, Canada, through such means as—

(A) concessional interest rates;

(B) extended repayment periods; or

(C) partial or complete write-offs of debt service obligations.

(b) Initiation of discussions to facilitate financing of human welfare and natural resource programs in sub-Saharan Africa in connection with debt reduction and conversion

The Secretary of the Treasury shall instruct the United States Executive Director of the African Development Bank and the African Development Fund to initiate discussions with the directors of such institutions and propose that such institutions, jointly with the International Bank for Reconstruction and Development, the International Development Association, and the International Finance Corporation, as appropriate, provide advice and assistance to government creditors holding sovereign debt of any sub-Saharan government, and to sub-Saharan governments which desire to finance programs with local currencies obtained through debt reduction and conversion to promote charitable, educational, and scientific (including conservation and restoration of natural resources) purposes, as a condition of reducing or converting such sovereign debt.

(Pub. L. 95–118, title XVI, §1609, as added Pub. L. 100–461, title V, §555, Oct. 1, 1988, 102 Stat. 2268–36.)

CODIFICATION

Section 1609 of Pub. L. 95–118 is based on section 9 of H.R. 4645, One Hundredth Congress, as reported Sept. 28, 1988, and enacted into law by Pub. L. 100–461.

DEFINITIONS

The definitions in section 262p–5 of this title apply to this section.

§262p–4e. Extent to which borrowing country governments have honored debt-for-development swap agreements to be considered as factor in making loans to such borrowers

(a) In general

The Secretary of the Treasury shall instruct the United States Executive Director of the International Bank for Reconstruction and Development to initiate discussions with the directors of such bank and propose that such bank consider, as an important factor in making loans to borrowing country governments, the history of compliance by such governments with, and the extent to which such governments have honored, agreements entered into by such governments as part of any debt-for-development swap which requires such governments to set aside or otherwise limit the use of real property to conservation purposes.

(b) Definitions

As used in this section:

(1) Debt-for-development swap

The term "debt-for-development swap" means the purchase of qualified debt by, or the donation of such debt to, an organization described in section 501(c)(3) of title 26 which is exempt from taxation under section 501(a) of title 26, and the subsequent transfer of such debt to an organization located in such foreign country in exchange for an undertaking by such tax-exempt organization, such foreign government, or such foreign organization to engage in a charitable, educational, or scientific activity.

(2) Qualified debt

The term "qualified debt" means—

(A) sovereign debt issued by a foreign government;

(B) debt owed by private institutions in the country governed by such foreign government; and

(C) debt owed by institutions in the country governed by such foreign government which are owned, in part, by private persons and, in part, by public institutions.

(Pub. L. 95–118, title XVI, §1610, as added Pub. L. 100–461, title V, §555, Oct. 1, 1988, 102 Stat. 2268–36.)

CODIFICATION

Section 1610 of Pub. L. 95–118 is based on section 10 of H.R. 4645, One Hundredth Congress, as reported Sept. 28, 1988, and enacted into law by Pub. L. 100–461.

DEFINITIONS

The definitions in section 262p–5 of this title apply to this section.

§262p–4f. Assistance to countries to develop statistical assessment of well-being of poor

(a) Findings

The Congress finds that—

(1) improvement in the capacity of developing countries to measure and monitor regularly the nutritional and physical well-being of the poorest 40 percent of the population of each of such countries is essential to the development of policies to reduce absolute poverty;

(2) internationally accepted statistical indicators that measure reliably the extent of absolute poverty and identify the location and characteristics of the poor are being developed and refined to guide policy formulation and target assistance to the poor;

(3) such guidance by indicators is, however, not able to be used in some developing countries, especially the poorest countries, due to the woeful unavailability of statistical data;

(4) the International Bank for Reconstruction and Development and the International Development Association have the technical and financial capability to assist borrowing country governments to develop such statistical measurement capabilities for social indicators necessary for the design and monitoring of poverty-reduction policies for such governments;

(5) availability of social indicator data is also essential to the work of such institutions, particularly in monitoring the impact of structural adjustment lending on the poor; and

(6) availability of such indicators will also facilitate the measurement of progress in the alleviation of poverty by other donor agencies, public and private.

(b) Assistance to countries to develop statistical assessment of well-being of poor

The Secretary of the Treasury shall instruct the United States Executive Director of the International Bank for Reconstruction and Development and the International Development Association to advocate and support, as an immediate priority, assistance by such institutions to borrowing country governments to develop appropriate statistical measures for assessing the physical well-being of the poor, by sex and age, by using such indicators as mortality, health, education, and nutrition, as well as wealth and income, and maintain and publish such indicators on an ongoing basis.

(Pub. L. 95–118, title XVI, §1611, as added Pub. L. 100–461, title V, §555, Oct. 1, 1988, 102 Stat. 2268–36.)

CODIFICATION

Section 1611 of Pub. L. 95–118 is based on section 11 of H.R. 4645, One Hundredth Congress, as reported Sept. 28, 1988, and enacted into law by Pub. L. 100–461.

DEFINITIONS

The definitions in section 262p–5 of this title apply to this section.

§262p–4g. Directives regarding government-owned enterprises in countries receiving IADB loans

(a) Finding

The Congress finds that a principal focus of United States Government policy in the multilateral development banks has been and should be to foster greater development of the private sector in member borrowing countries of such banks.

(b) Technical assistance to transform government-owned enterprises into privately owned enterprises

In order to assist and strengthen the advancement of ongoing efforts to have the Inter-American Development Bank play a key role in building a viable private sector in member borrowing countries of such bank, and to further assist such bank in its determination to facilitate the transfer of government-owned enterprises in such countries to private ownership, the Secretary of the Treasury shall instruct the United States Executive Director of such bank to vigorously encourage the provision of technical assistance to such countries to transform enterprises owned, in whole or in part, by the governments of such countries into privately owned, self-sufficient enterprises. Such technical assistance may involve the valuation of the assets of such government-owned enterprises, the assessment of tender offers, and the creation or strengthening of market-based mechanisms to facilitate such a transfer of ownership.

(Pub. L. 95–118, title XVI, §1612, as added Pub. L. 101–240, title II, §206, Dec. 19, 1989, 103 Stat. 2499.)

PRIOR PROVISIONS

A prior section 1612 of Pub. L. 95–118 was renumbered section 1622 and is classified to section 262p–5 of this title.

DEFINITIONS

The definitions in section 262p–5 of this title apply to this section.

§262p–4h. Discussions to increase productive economic participation of poor; reports

(a) In general

The Secretary of the Treasury shall instruct the United States Executive Director for each multilateral development bank to vigorously and continually advocate, in all replenishment negotiations and in discussion with other directors of such bank and with such bank, the following:

(1) A major objective of such bank's operations and financing in each borrowing country, as a long term priority, should be to increase the productive role of the poor in the economy of such country.

(2) Such bank should encourage and assist each borrowing country to develop sustainable national plans and strategies to eliminate the causes and alleviate the manifestations of poverty which keep the poor from leading economically and socially productive lives. Such plans and

strategies should give attention to—

(A) the enhancement of human resources, including programs for basic nutrition, primary health services, basic education, and safe water and basic sanitation;

(B) access to income-generating activities, employment, and productive assets such as land and credit; and

(C) consultation with public sector social agencies and local non-governmental organizations.

(3) As an integral element of ongoing policy dialogue with each borrowing country to design structural adjustment plans and project lending programs, such bank should provide assistance consistent with achieving the objectives of the country's national plan for increasing the productive economic participation of the poor. Such dialogue should be conducted with government agencies working in social and economic sectors and with non-governmental groups in the borrowing country, especially those that have grassroots involvement with poor people.

(4) In an annual review document, such bank should describe the extent to which the goal of increasing the productive economic participation of the poor is being advanced or retarded and the steps that are being taken to overcome obstacles to its fulfillment. Such review should be based on information contained in the bank's country implementation review documents and in the country strategy documents for each borrowing country. Such country strategy documents should describe the national strategy for productive economic participation of the poor and the steps the bank plans to take to assist the borrowing country during the period covered by the country strategy document.

(5) Such bank should assist countries in assessing and monitoring progress in achieving poverty alleviation goals and targets through measurement by appropriate social indicators.

(6) Such bank should adopt procedures and budgetary allocations for administrative purposes, and establish appropriate staffing levels, to ensure that adequate resources are available to implement the bank's program for enhancing the productive economic participation of the poor, in consultation with non-governmental groups.

(7) Such bank should adopt, as a separate and major criterion in the allocation of concessional financing resources, a preferential allocation to each country which undertakes significant efforts to enhance the productive economic participation of the poor.

(8) Such bank should require each country which receives structural adjustment assistance to have in place, after a reasonable phase-in period, a strategy to enhance the productive economic participation of the poor.

(b) Progress report

Before the end of the 1-year period beginning on December 19, 1989, the Secretary of the Treasury shall submit to the Committee on Banking, Finance and Urban Affairs and the Committee on Appropriations of the House of Representatives, and the Committee on Foreign Relations and the Committee on Appropriations of the Senate, a report on the following:

(1) The status of advocacy and progress being made to implement the objectives of subsection (a), describing the success to date, the obstacles encountered, and future expectations of progress.

(2) A description of the progress to date in achieving the purposes of section 262p–4f of this title, including the institutional capacity and effort devoted to assisting in the development of statistical measures to assess the well-being of the poor.

(3) A description and evaluation of the progress to date in developing effective mechanisms for involving non-governmental organizations, directly or indirectly, in the design, implementation, and monitoring of development projects, programs, and policies of the multilateral development banks.

(Pub. L. 95–118, title XVI, §1613, as added Pub. L. 101–240, title V, §501, Dec. 19, 1989, 103 Stat. 2505.)

PRIOR PROVISIONS

A prior section 1613 of Pub. L. 95–118 was renumbered section 1622 and is classified to section 262p–5 of this title.

CHANGE OF NAME

Committee on Banking, Finance and Urban Affairs of House of Representatives treated as referring to Committee on Banking and Financial Services of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Banking and Financial Services of House of Representatives abolished and replaced by Committee on Financial Services of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred from Committee on Energy and Commerce of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

DEFINITIONS

The definitions in section 262p–5 of this title apply to this section.

§262p–4i. Multilateral development banks and debt-for-nature exchanges

(a) Directions to United States Executive Directors

The Secretary of the Treasury shall direct the United States Executive Directors of the multilateral development banks to—

(1) negotiate for the creation in each respective multilateral development bank, except where the Secretary of the Treasury determines that the provisions of this subsection have previously been met, of a department that will—

(A) be responsible for environmental protection and resource conservation, including support for restoration, protection, and sustainable use policies;

(B) develop and monitor strict environmental guidelines and policies to govern lending activities; and

(C) actively promote, coordinate and facilitate debt-for-nature exchanges and the restoration, protection, and sustainable use of tropical forests, renewable natural resources, endangered ecosystems and species in debtor countries;

(2) support and encourage the approval of multilateral development bank loans which include provisions that foster and facilitate the implementation of a sound and effective environmental policy in the borrowing country;

(3) encourage the banks to assist such countries in reducing and restructuring private debt through the use of a portion of a project or policy based environmental loan in ways which will enable such countries to buy back private debt at a rate of discount available for such debt, at auction in the secondary market or through negotiations with creditors holding such debt;

(4) seek to ensure that staff of each bank facilitate debtor countries' collaboration with local and international non-governmental or private organizations in implementing debt-for-nature exchanges; and

(5) seek to ensure that each bank adopts policy guidelines which to the maximum extent possible provide for—

(A) the inclusion of sustainable use policies in loan agreements negotiated with borrower members;

(B) the adoption of economic programs to foster sound environmental policies; and

(C) the provision of debtor countries' policy changes or significant increases in financial resources for use in at least 1 of the following—

(i) restoration, protection, or sustainable use of the world's oceans and atmosphere;

(ii) restoration, protection, or sustainable use of diverse animal and plant species;

(iii) establishment, restoration, protection, and maintenance of parks and reserves;

(iv) development and implementation of sound systems of natural resource management;

(v) development and support of local conservation programs;

(vi) training programs to strengthen conservation institutions and increase scientific, technical, and managerial capabilities of individuals and organizations involved in conservation efforts;

(vii) efforts to generate knowledge, increase understanding, and enhance public commitment to conservation;

(viii) design and implementation of sound programs of land and ecosystem management; and

(ix) promotion of regenerative approaches in farming, forestry, and watershed management.

(b) Negotiation of guidelines for restoration, protection, or sustainable use policies

The United States Executive Directors of the multilateral development banks shall seek to negotiate with the other executive directors to provide guidelines for restoration, protection, or sustainable use policies. Pending the outcome of such negotiations, the United States Executive Directors shall consider restoration, protection, or sustainable use policies to be those which—

(1) support development that maintains and restores the renewable natural resource base so that present and future needs of debtor countries' populations can be met, while not impairing critical ecosystems and not exacerbating global environmental problems;

(2) are environmentally sustainable in that resources are conserved and managed in an effort to remove pressure on the natural resource base and to make judicious use of the land so as to sustain growth and the availability of all natural resources;

(3) support development that does not exceed the limits imposed by local hydrological cycles, soil, climate, vegetation, and human cultural practices;

(4) promote the maintenance and restoration of soils, vegetation, hydrological cycles, wildlife, critical ecosystems (tropical forests, wetlands, and coastal marine resources), biological diversity and other natural resources essential to economic growth and human well-being and shall, when using natural resources, be implemented to minimize the depletion of such natural resources; and

(5) take steps, wherever feasible, to prevent pollution that threatens human health and important biotic systems and to achieve patterns of energy consumption that meet human needs and rely on renewable resources.

(c) Inclusion of certain items in guidelines

The United States Executive Directors shall endeavor to include the provisions of paragraphs (1) through (5) of subsection (b) in the guidelines developed through the negotiations specified in this section.

(Pub. L. 95–118, title XVI, §1614, as added Pub. L. 101–240, title V, §512, Dec. 19, 1989, 103 Stat. 2508.)

PRIOR PROVISIONS

A prior section 1614 of Pub. L. 95–118 was renumbered section 1622 and is classified to section 262p–5 of this title.

DEFINITIONS

The definitions in section 262p–5 of this title apply to this section.

§262p–4j. Promotion of lending for environment

The Secretary of the Treasury shall instruct the United States Executive Director of the International Bank for Reconstruction and Development to initiate discussions with the other executive directors of such bank and the management of such bank and propose that, in order to reduce the future need for bank lending for reforestation and restoration of environmentally degraded areas, the bank establish a project and policy based environmental lending program (including a loan a portion of which could be used to reduce and restructure private debt), to be made available to interested countries with a demonstrated commitment to natural resource conservation, which would be based on—

(1) the estimated long-term economic return which could be expected from the sustainable use and protection of tropical forests, including the value of tropical forests for indigenous people and

for science;

(2) the value derived from such services as—

(A) watershed management;

(B) soil erosion control;

(C) the maintenance and improvement of—

(i) fisheries;

(ii) water supply regulation for industrial development;

(iii) food;

(iv) fuel;

(v) fodder; and

(vi) building materials for local communities;

(D) the extraction of naturally occurring products from locally controlled protected areas; and

(E) indigenous knowledge of the management and use of natural resources; and

(3) the long-term benefits expected to be derived from maintaining biological diversity and climate stabilization.

(Pub. L. 95–118, title XVI, §1615, as added Pub. L. 101–240, title V, §512, Dec. 19, 1989, 103 Stat. 2510.)

DEFINITIONS

The definitions in section 262p–5 of this title apply to this section.

§262p–4k. Promotion of institution-building for nongovernmental organizations concerned with environment

The Secretary of the Treasury shall instruct the United States Executive Directors of the multilateral development banks to vigorously promote the adoption of policies and procedures which seek to—

(1) increase collaboration with, and, where necessary, strengthen, nongovernmental organizations in such countries which are concerned with environmental protection by providing appropriate assistance and support for programs and activities on environmental protection; and

(2) encourage international collaboration for information exchange and project enhancement with nongovernmental organizations in developing countries which are concerned with environmental protection and government agencies and private voluntary organizations in developed countries which are concerned with environmental protection.

(Pub. L. 95–118, title XVI, §1616, as added Pub. L. 101–240, title V, §512, Dec. 19, 1989, 103 Stat. 2510.)

DEFINITIONS

The definitions in section 262p–5 of this title apply to this section.

§262p–4*l*. Improvement of interaction between International Bank for Reconstruction and Development and nongovernmental organizations

(a) In general

The Secretary of the Treasury shall instruct the United States Executive Director of the International Bank for Reconstruction and Development to propose, and urge the Executive Board and the management of the bank to develop and implement [1] specific mechanisms designed to—

(1) substantially improve the ability of the staff of the bank to interact with nongovernmental organizations and other local groups that are affected by loans made by the bank to borrower

countries; and

(2) delegate to the field offices of the bank in borrowing countries greater responsibility for decisions with respect to proposals for projects in such countries that are to be financed by the bank.

(b) Certain mechanisms urged

The mechanisms described in subsection (a) shall include, at a minimum, the following measures:

(1) An instruction to the management of the bank to undertake efforts to appropriately train and significantly increase the number of bank professional staff (based in Washington, District of Columbia, as of November 5, 1990) assigned, on a rotating basis, to field offices of the bank in borrower countries.

(2) The assignment to at least 1 professional in each field office of the bank in a borrower country of responsibility for relations with local nongovernmental organizations, and for the preparation and submission to appropriate staff of the bank of a report on the impact of project loans to be made by the bank to the country, based on views solicited from local people who will be affected by such loans, which shall be included as part of the project appraisal report.

(3) The establishment of the Grassroots Collaboration Program described in section 262p–1(a) of this title.

(4) Before a project loan is made to a borrower country, the country is to be required to hold open hearings on the proposed project during project identification and project preparation.

(5) The establishment of assessment procedures which allow affected parties and nongovernmental organizations to review information describing a prospective project or policy loan design, in a timely manner, before the loan is submitted to the Executive Board for approval.

(Pub. L. 95–118, title XVI, §1617, as added Pub. L. 101–513, title V, §562(a)(2), Nov. 5, 1990, 104 Stat. 2032.)

PRIOR PROVISIONS

A prior section 1617 of Pub. L. 95–118 was renumbered section 1622 and is classified to section 262p–5 of this title.

DEFINITIONS

The definitions in section 262p–5 of this title apply to this section.

[1] *So in original. Probably should be followed by a comma.*

§262p–4m. Population, health, and nutrition programs

The Secretary of the Treasury shall instruct the United States Executive Director of the International Bank for Reconstruction and Development to urge the bank to support an increase in the amount the bank lends annually to support population, health, and nutrition programs of the borrower countries.

(Pub. L. 95–118, title XVI, §1618, as added Pub. L. 101–513, title V, §562(a)(2), Nov. 5, 1990, 104 Stat. 2033.)

DEFINITIONS

The definitions in section 262p–5 of this title apply to this section.

§262p–4n. Equal employment opportunities

The Secretary of the Treasury shall instruct the United States Executive Directors of the multilateral development banks and of the International Monetary Fund to use the voices and votes of the Executive Directors to urge their respective banks and the Fund to adopt a policy which provides, and implement procedures which ensure, that such banks and the Fund, and the affiliates of

such banks and of the Fund, shall not discriminate against any person on the basis of race, ethnicity, gender, color, or religious affiliation in any determination related to employment.

(Pub. L. 95–118, title XVI, §1619, as added Pub. L. 101–513, title V, §562(b)(1), Nov. 5, 1990, 104 Stat. 2033.)

PRIOR PROVISIONS

A prior section 1619 of Pub. L. 95–118 was renumbered section 1622 and is classified to section 262p–5 of this title.

DEFINITIONS

The definitions in section 262p–5 of this title apply to this section.

§262p–4*o*. Respect for indigenous peoples

The Secretary of the Treasury shall direct the United States Executive Directors of the international financial institutions (as defined in section 262r(c)(2) of this title) and the United States representative to the council of the Global Environment Facility administered by the International Bank for Reconstruction and Development to use the voice and vote of the United States to bring about the creation and full implementation of policies designed to promote respect for and full protection of the territorial rights, traditional economies, cultural integrity, traditional knowledge and human rights of indigenous peoples.

(Pub. L. 95–118, title XVI, §1620, as added Pub. L. 103–306, title V, §526(e), Aug. 23, 1994, 108 Stat. 1633.)

PRIOR PROVISIONS

A prior section 1620 of Pub. L. 95–118 was renumbered 1622 and is classified to section 262p–5 of this title.

DEFINITIONS

The definitions in section 262p–5 of this title apply to this section.

§262p–4p. Encouragement of fair labor practices

(a) The Secretary of the Treasury shall direct the United States Executive Directors of the international financial institutions (as defined in section 262r(c)(2) of this title) to use the voice and vote of the United States to urge the respective institution—

(1) to adopt policies to encourage borrowing countries to guarantee internationally recognized worker rights (within the meaning of section 2467(4) of title 19) and to include the status of such rights as an integral part of the institution's policy dialogue with each borrowing country;

(2) in developing the policies referred to in paragraph (1), to use the relevant conventions of the International Labor Organization, which have set forth, among other things, the right of association, the right to organize and bargain collectively, a prohibition on the use of any form of forced or compulsory labor, and certain minimum labor standards that take into account differences in development levels among nations including a minimum age for the employment of children, acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health; and

(3) to establish formal procedures to screen projects and programs funded by the institution for any negative impact in a borrowing country on the rights referred to in paragraph (1).

(b) The Secretary of the Treasury shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate by the end of each fiscal year a report on the extent to which each borrowing country guarantees internationally recognized worker rights to its labor force and on progress toward achieving each of the goals described in subsection (a).

(Pub. L. 95–118, title XVI, §1621, as added Pub. L. 103–306, title V, §526(e), Aug. 23, 1994, 108 Stat. 1634; amended Pub. L. 104–188, title I, §1954(b)(4), Aug. 20, 1996, 110 Stat. 1928.)

CODIFICATION

Another section 1621 of Pub. L. 95–118 is classified to section 262p–4q of this title.

AMENDMENTS

1996—Subsec. (a)(1). Pub. L. 104–188 substituted "2467(4)" for "2462(a)(4)".

CHANGE OF NAME

Committee on Banking, Finance and Urban Affairs of House of Representatives treated as referring to Committee on Banking and Financial Services of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Banking and Financial Services of House of Representatives abolished and replaced by Committee on Financial Services of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred from Committee on Energy and Commerce of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–188 applicable to articles entered on or after Oct. 1, 1996, with provisions relating to retroactive application, see section 1953 of Pub. L. 104–188, set out as an Effective Date note under section 2461 of Title 19, Customs Duties.

DEFINITIONS

The definitions in section 262p–5 of this title apply to this section.

§262p–4q. Opposition to assistance by international financial institutions to terrorist states

(a) In general

The Secretary of the Treasury shall instruct the United States executive director of each international financial institution to use the voice and vote of the United States to oppose any loan or other use of the funds of the respective institution to or for a country for which the Secretary of State has made a determination under section 4605(j) of title 50 or section 2371 of this title.

(b) "International financial institution" defined

For purposes of this section, the term "international financial institution" includes—

(1) the International Bank for Reconstruction and Development, the International Development Association, and the International Monetary Fund;

(2) wherever applicable, the Inter-American Bank, the Asian Development Bank, the European Bank for Reconstruction and Development, the African Development Bank, and the African Development Fund; and

(3) any similar institution established after April 24, 1996.

(Pub. L. 95–118, title XVI, §1621, as added Pub. L. 104–132, title III, §327, Apr. 24, 1996, 110 Stat. 1257.)

CODIFICATION

Another section 1621 of Pub. L. 95–118 is classified to section 262p–4p of this title.

SIMILAR PROVISIONS

Similar provisions are contained in section 262p–11 of this title.

DEFINITIONS

The definitions in section 262p–5 of this title apply to this section.

§262p–4r. Use of authority of United States Executive Directors

(a) Action by the President

If the President determines that a particular foreign country has taken or has committed to take actions that contribute to efforts of the United States to respond to, deter, or prevent acts of international terrorism, the Secretary may, consistent with other applicable provisions of law, instruct the United States Executive Director of each international financial institution to use the voice and vote of the Executive Director to support any loan or other utilization of the funds of the respective institutions for such country, or any public or private entity within such country.

(b) Use of voice and vote

The Secretary may instruct the United States Executive Director of each international financial institution to aggressively use the voice and vote of the Executive Director to require an auditing of disbursements at such institution to ensure that no funds are paid to persons who commit, threaten to commit, or support terrorism.

(c) Definition

For purposes of this section, the term "international financial institution" means an institution described in section 262r(c)(2) of this title.

(Pub. L. 107–56, title III, §360, Oct. 26, 2001, 115 Stat. 329; Pub. L. 108–458, title VI, §6202(l), Dec. 17, 2004, 118 Stat. 3746.)

AMENDMENTS

2004—Subsec. (a). Pub. L. 108–458, §6202(l)(1), inserted "the" after "utilization of the funds of".
Subsec. (b). Pub. L. 108–458, §6202(l)(2), substituted "at such institution" for "at such institutions".

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108–458 effective as if included in Pub. L. 107–56, as of the date of enactment of such Act, and no amendment made by Pub. L. 107–56 that is inconsistent with such amendment to be deemed to have taken effect, see section 6205 of Pub. L. 108–458, set out as a note under section 1828 of Title 12, Banks and Banking.

"SECRETARY" DEFINED

Secretary means the Secretary of the Treasury, see section 302(b)(5) of Pub. L. 107–56, set out in a note under section 5311 of Title 31, Money and Finance.

§262p–5. Definitions

For purposes of this title and titles XIV and XV—

(1) the term "multilateral development bank" means the International Bank for Reconstruction and Development, the International Development Association, and the regional multilateral development banks; and

(2) the term "regional multilateral development bank" means the Inter-American Development Bank, the African Development Bank, the African Development Fund, and the Asian Development Bank.

(Pub. L. 95–118, title XVI, §1622, formerly §1606, as added Pub. L. 100–202, §101(e) [title I], Dec. 22, 1987, 101 Stat. 1329–131, 1329–134; renumbered §1612, Pub. L. 100–461, title V, §555, Oct. 1, 1988, 102 Stat. 2268–36; renumbered §1613, renumbered §1614, renumbered §1617, Pub. L. 101–240, title II, §206, title V, §§501, 512, Dec. 19, 1989, 103 Stat. 2499, 2505, 2508; renumbered §1619, renumbered §1620, Pub. L. 101–513, title V, §562(a)(2), (b)(1), Nov. 5, 1990, 104 Stat. 2032, 2033; renumbered §1622, Pub. L. 103–306, title V, §526(e), Aug. 23, 1994, 108 Stat. 1633.)

REFERENCES IN TEXT

This title and titles XIV and XV, referred to in text, are titles XVI, XIV, and XV, respectively, of Pub. L. 95–118. Title XIV is classified to sections 262n to 262n–3 of this title, title XV is classified to sections 262o

to 262o–4 of this title, and title XVI is classified to sections 262p to 262p–4q and 262p–5 to 262p–12 of this title. For complete classification of these titles to the Code, see Tables.

CODIFICATION

Section 1622, formerly §1606, of Pub. L. 95–118 is based on section 701 of title VII of H.R. 3750, One Hundredth Congress, as introduced Dec. 11, 1987, and enacted into law by Pub. L. 100–202. Renumbering of section 1606 of Pub. L. 95–118 as section 1612 was based on section 6 of H.R. 4645, One Hundredth Congress, as reported Sept. 28, 1988, and enacted into law by Pub. L. 100–461.

§262p–6. Improvement of the Heavily Indebted Poor Countries Initiative

(a) Improvement of the HIPC Initiative

In order to accelerate multilateral debt relief and promote human and economic development and poverty alleviation in heavily indebted poor countries, the Congress urges the President to commence immediately efforts, with the Paris Club of Official Creditors, as well as the International Monetary Fund (IMF), the International Bank for Reconstruction and Development (World Bank), and other appropriate multilateral development institutions to accomplish the following modifications to the Heavily Indebted Poor Countries Initiative:

(1) Focus on poverty reduction, good governance, transparency, and participation of citizens

A country which is otherwise eligible to receive cancellation of debt under the modified Heavily Indebted Poor Countries Initiative may receive such cancellation only if the country has committed, in connection with social and economic reform programs that are jointly developed, financed, and administered by the World Bank and the IMF—

(A) to enable, facilitate, or encourage the implementation of policy changes and institutional reforms under economic reform programs, in a manner that ensures that such policy changes and institutional reforms are designed and adopted through transparent and participatory processes;

(B) to adopt an integrated development strategy to support poverty reduction through economic growth, that includes monitorable poverty reduction goals;

(C) to take steps so that the financial benefits of debt relief are applied to programs to combat poverty (in particular through concrete measures to improve economic infrastructure, basic services in education, nutrition, and health, particularly treatment and prevention of the leading causes of mortality) and to redress environmental degradation;

(D) to take steps to strengthen and expand the private sector, encourage increased trade and investment, support the development of free markets, and promote broad-scale economic growth;

(E) to implement transparent policy making and budget procedures, good governance, and effective anticorruption measures;

(F) to broaden public participation and popular understanding of the principles and goals of poverty reduction, particularly through economic growth, and good governance; and

(G) to promote the participation of citizens and nongovernmental organizations in the economic policy choices of the government.

(2) Faster debt relief

The Secretary of the Treasury should urge the IMF and the World Bank to complete a debt sustainability analysis by December 31, 2000, and determine eligibility for debt relief, for as many of the countries under the modified Heavily Indebted Poor Countries Initiative as possible.

(b) Heavily Indebted Poor Countries review

The Secretary of the Treasury, after consulting with the Committees on Banking and Financial Services and International Relations of the House of Representatives, and the Committees on Foreign Relations and Banking, Housing, and Urban Affairs of the Senate, shall make every effort (including instructing the United States Directors at the IMF and World Bank) to ensure that an

external assessment of the modified Heavily Indebted Poor Countries Initiative, including the reformed Enhanced Structural Adjustment Facility program as it relates to that Initiative, takes place by December 31, 2001, incorporating the views of debtor governments and civil society, and that such assessment be made public.

(c) Definition

The term "modified Heavily Indebted Poor Countries Initiative" means the multilateral debt initiative presented in the Report of G–7 Finance Ministers on the Köln Debt Initiative to the Köln Economic Summit, Cologne, Germany, held from June 18–20, 1999.

(Pub. L. 95–118, title XVI, §1623, as added Pub. L. 106–113, div. B, §1000(a)(5) [title V, §502], Nov. 29, 1999, 113 Stat. 1536, 1501A–313.)

CHANGE OF NAME

Committee on Banking and Financial Services of House of Representatives abolished and replaced by Committee on Financial Services of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred from Committee on Energy and Commerce of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

DEFINITIONS

The definitions in section 262p–5 of this title apply to this section.

§262p–7. Reform of the Enhanced Structural Adjustment Facility

The Secretary of the Treasury shall instruct the United States Executive Directors at the International Bank for Reconstruction and Development (World Bank) and the International Monetary Fund (IMF) to use the voice and vote of the United States to promote the establishment of poverty reduction strategy policies and procedures at the World Bank and the IMF that support countries' efforts under programs developed and jointly administered by the World Bank and the IMF that have the following components:

(1) The development of country-specific poverty reduction strategies (Poverty Reduction Strategies) under the leadership of such countries that—

(A) will be set out in poverty reduction strategy papers (PRSPs) that provide the basis for the lending operations of the International Development Association (IDA) and the reformed Enhanced Structural Adjustment Facility (ESAF);

(B) will reflect the World Bank's role in poverty reduction and the IMF's role in macroeconomic issues;

(C) will make the IMF's and the World Bank's advice and operations fully consistent with the objectives of poverty reduction through broad-based economic growth; and

(D) should include—

(i) implementation of transparent budgetary procedures and mechanisms to help ensure that the financial benefits of debt relief under the modified Heavily Indebted Poor Countries Initiative (as defined in section 262p–6 of this title) are applied to programs that combat poverty; and

(ii) monitorable indicators of progress in poverty reduction.

(2) The adoption of procedures for periodic comprehensive reviews of reformed ESAF and IDA programs to help ensure progress toward longer-term poverty goals outlined in the Poverty Reduction Strategies and to allow adjustments in such programs.

(3) The publication of the PRSPs prior to Executive Board review of related programs under IDA and the reformed ESAF.

(4) The establishment of a standing evaluation unit at the IMF, similar to the Operations Evaluation Department of the World Bank, that would report directly to the Executive Board of

the IMF and that would undertake periodic reviews of IMF operations, including the operations of the reformed ESAF, including—

(A) assessments of experience under the reformed ESAF programs in the areas of poverty reduction, economic growth, and access to basic social services;

(B) assessments of the extent and quality of participation in program design by citizens;

(C) verifications that reformed ESAF programs are designed in a manner consistent with the Poverty Reduction Strategies; and

(D) prompt release to the public of all reviews by the standing evaluation unit.

(5) The promotion of clearer conditionality in IDA and reformed ESAF programs that focuses on reforms most likely to support poverty reduction through broad-based economic growth.

(6) The adoption by the IMF of policies aimed at reforming ESAF so that reformed ESAF programs are consistent with the Poverty Reduction Strategies.

(7) The adoption by the World Bank of policies to help ensure that its lending operations in countries eligible for debt relief under the modified Heavily Indebted Poor Countries Initiative are consistent with the Poverty Reduction Strategies.

(8) Strengthening the linkage between borrower country performance and lending operations by IDA and the reformed ESAF on the basis of clear and monitorable indictors.[1]

(9) Full public disclosure of the proposed objectives and financial organization of the successor to the ESAF at least 90 days before any decision by the Executive Board of the IMF to consider its adoption.

(Pub. L. 95–118, title XVI, §1624, as added Pub. L. 106–113, div. B, §1000(a)(5) [title V, §502], Nov. 29, 1999, 113 Stat. 1536, 1501A–314.)

DEFINITIONS

The definitions in section 262p–5 of this title apply to this section.

[1] *So in original. Probably should be "indicators".*

§262p–8. Modification of the Enhanced HIPC Initiative

(a) Authority

(1) In general

The Secretary of the Treasury should immediately commence efforts within the Paris Club of Official Creditors, the International Bank for Reconstruction and Development, the International Monetary Fund, and other appropriate multilateral development institutions to modify the Enhanced HIPC Initiative so that the amount of debt stock reduction approved for a country eligible for debt relief under the Enhanced HIPC Initiative shall be sufficient to reduce, for each of the first 3 years after May 27, 2003, or the Decision Point, whichever is later—

(A) the net present value of the outstanding public and publicly guaranteed debt of the country—

(i) as of the decision point [1] if the country has already reached its decision point; [1] or

(ii) as of May 27, 2003, if the country has not reached its decision point,[1]

to not more than 150 percent of the annual value of exports of the country for the year preceding the Decision Point; and

(B) the annual payments due on such public and publicly guaranteed debt to not more than—

(i) 10 percent or, in the case of a country suffering a public health crisis (as defined in subsection (e)), not more than 5 percent, of the amount of the annual current revenues received by the country from internal resources; or

(ii) a percentage of the gross national product of the country, or another benchmark, that

will yield a result substantially equivalent to that which would be achieved through application of clause (i).

(2) Limitation

In financing the objectives of the Enhanced HIPC Initiative, an international financial institution shall give priority to using its own resources.

(b) Relation to poverty and the environment

Debt cancellation under the modifications to the Enhanced HIPC Initiative described in subsection (a) should not be conditioned on any agreement by an impoverished country to implement or comply with policies that deepen poverty or degrade the environment, including any policy that—

(1) implements or extends user fees on primary education or primary health care, including prevention and treatment efforts for HIV/AIDS, tuberculosis, malaria, and infant, child, and maternal well-being;

(2) provides for increased cost recovery from poor people to finance basic public services such as education, health care, clean water, or sanitation;

(3) reduces the country's minimum wage to a level of less than $2 per day or undermines workers' ability to exercise effectively their internationally recognized worker rights, as defined under section 262p–4p of this title; [2] or

(4) promotes unsustainable extraction of resources or results in reduced budget support for environmental programs.

(c) Conditions

A country shall not be eligible for cancellation of debt under modifications to the Enhanced HIPC Initiative described in subsection (a) if the government of the country—

(1) has an excessive level of military expenditures;

(2) has repeatedly provided support for acts of international terrorism, as determined by the Secretary of State under section 4605(j)(1) of title 50 or section 2371(a) of this title;

(3) is failing to cooperate on international narcotics control matters; or

(4) engages in a consistent pattern of gross violations of internationally recognized human rights (including its military or other security forces).

(d) Programs to combat HIV/AIDS and poverty

A country that is otherwise eligible to receive cancellation of debt under the modifications to the Enhanced HIPC Initiative described in subsection (a) may receive such cancellation only if the country has agreed—

(1) to ensure that the financial benefits of debt cancellation are applied to programs to combat HIV/AIDS and poverty, in particular through concrete measures to improve basic services in health, education, nutrition, and other development priorities, and to redress environmental degradation;

(2) to ensure that the financial benefits of debt cancellation are in addition to the government's total spending on poverty reduction for the previous year or the average total of such expenditures for the previous 3 years, whichever is greater;

(3) to implement transparent and participatory policymaking and budget procedures, good governance, and effective anticorruption measures; and

(4) to broaden public participation and popular understanding of the principles and goals of poverty reduction.

(e) Definitions

In this section:

(1) Country suffering a public health crisis

The term "country suffering a public health crisis" means a country in which the HIV/AIDS infection rate, as reported in the most recent epidemiological data for that country compiled by the Joint United Nations Program on HIV/AIDS, is at least 5 percent among women attending prenatal clinics or more than 20 percent among individuals in groups with high-risk behavior.

(2) Decision Point

The term "Decision Point" means the date on which the executive boards of the International Bank for Reconstruction and Development and the International Monetary Fund review the debt sustainability analysis for a country and determine that the country is eligible for debt relief under the Enhanced HIPC Initiative.

(3) Enhanced HIPC Initiative

The term "Enhanced HIPC Initiative" means the multilateral debt initiative for heavily indebted poor countries presented in the Report of G–7 Finance Ministers on the Cologne Debt Initiative to the Cologne Economic Summit, Cologne, June 18–20, 1999.

(Pub. L. 95–118, title XVI, §1625, as added Pub. L. 108–25, title V, §501, May 27, 2003, 117 Stat. 747; amended Pub. L. 108–199, div. D, title V, §596, Jan. 23, 2004, 118 Stat. 209.)

REFERENCES IN TEXT

Section 262p–4p of this title, referred to in subsec. (b)(3), was in the original "section 526(e) of the Foreign Operations, Export Financing and Related Programs Appropriations Act, 1995 (22 U.S.C. 262p–4p)" meaning section 526(e) of Pub. L. 103–306, which was translated as reading section 1621 of Pub. L. 95–118 which was enacted by section 526(e) of Pub. L. 103–306 and is classified to section 262p–4p of this title, to reflect the probable intent of Congress.

CODIFICATION

May 27, 2003, referred to in subsec. (a)(1)(A)(ii), was in the original "the date of the enactment of this Act", which was translated as meaning the date of enactment of Pub. L. 108–25, which enacted this section, to reflect the probable intent of Congress.

AMENDMENTS

2004—Subsec. (a)(1)(B)(ii). Pub. L. 108–199 substituted "clause (i)" for "subparagraph (A)".

DEFINITIONS

The definitions in section 262p–5 of this title apply to this section.

[1] So in original. The words "decision point" probably should be capitalized.

[2] See References in Text note below.

§262p–9. Reform of the "Doing Business" Report of the World Bank

(a) The Secretary of the Treasury shall instruct the United States Executive Directors at the International Bank for Reconstruction and Development, the International Development Association, and the International Finance Corporation of the following United States policy goals, and to use the voice and vote of the United States to actively promote and work to achieve these goals:

(1) Suspension of the use of the "Employing Workers" Indicator for the purpose of ranking or scoring country performance in the annual Doing Business Report of the World Bank until a set of indicators can be devised that fairly represent the value of internationally recognized workers' rights, including core labor standards, in creating a stable and favorable environment for attracting private investment. The indicators shall bring to bear the experiences of the member governments in dealing with the economic, social and political complexity of labor market issues. The indicators should be developed through collaborative discussions with and between the World Bank, the International Finance Corporation, the International Labor Organization, private companies, and labor unions.

(2) Elimination of the "Labor Tax and Social Contributions" Subindicator from the annual Doing Business Report of the World Bank.

(3) Removal of the "Employing Workers" Indicator as a "guidepost" for calculating the annual Country Policy and Institutional Assessment score for each recipient country.

(b) Within 60 days after June 24, 2009, the Secretary of the Treasury shall provide an instruction to the United States Executive Directors referred to in subsection (a) to take appropriate actions with respect to implementing the policy goals of the United States set forth in subsection (a), and such instruction shall be posted on the website of the Department of the Treasury.

(Pub. L. 95–118, title XVI, §1626, as added Pub. L. 111–32, title XI, §1110, June 24, 2009, 123 Stat. 1902.)

DEFINITIONS

The definitions in section 262p–5 of this title apply to this section.

§262p–10. Enhancing the transparency and effectiveness of the Inspection Panel process of the World Bank

(a) Enhancing transparency in implementation of Management Action Plans

The Secretary of the Treasury shall direct the United States Executive Directors at the World Bank to seek to ensure that World Bank Procedure 17.55, which establishes the operating procedures of Management with regard to the Inspection Panel, provides that Management prepare and make available to the public semiannual progress reports describing implementation of Action Plans considered by the Board; allow and receive comments from Requesters and other Affected Parties for two months after the date of disclosure of the progress reports; post these comments on World Bank and Inspection Panel websites (after receiving permission from the requestors to post with or without attribution); submit the reports to the Board with any comments received; and make public the substance of any actions taken by the Board after Board consideration of the reports.

(b) Safeguarding the independence and effectiveness of the Inspection Panel

The Secretary of the Treasury shall direct the United States Executive Directors at the World Bank to continue to promote the independence and effectiveness of the Inspection Panel, including by seeking to ensure the availability of, and access by claimants to, the Inspection Panel for projects supported by World Bank resources.

(c) Evaluation of country systems

The Secretary of the Treasury shall direct the United States Executive Directors at the World Bank to request an evaluation by the Independent Evaluation Group on the use of country environmental and social safeguard systems to determine the degree to which, in practice, the use of such systems provides the same level of protection at the project level as do the policies and procedures of the World Bank.

(d) World Bank defined

In this section, the term "World Bank" means the International Bank for Reconstruction and Development and the International Development Association.

(Pub. L. 95–118, title XVI, §1627, as added Pub. L. 111–32, title XI, §1110, June 24, 2009, 123 Stat. 1902.)

DEFINITIONS

The definitions in section 262p–5 of this title apply to this section.

§262p–11. Opposition to loans or funds for countries that support terrorism

The Secretary of the Treasury shall instruct the United States Executive Director at each of the International Financial Institutions [1] (as defined in section 262r(c)(2) of this title) to use the voice and vote of the United States to oppose the provision of loans or other use of the funds of the respective institution to any country the government of which the Secretary of State has determined,

for purposes of section 4605(j) of title 50, section 2371 of this title, or section 2780 of this title, to be a government that has repeatedly provided support for acts of international terrorism.

(Pub. L. 95–118, title XVI (par.), as added Pub. L. 111–32, title XIV, §1404, June 24, 2009, 123 Stat. 1919.)

CODIFICATION

Section is comprised of an undesignated paragraph which was added at the end of title XVI of Pub. L. 95–118.

SIMILAR PROVISIONS

Similar provisions are contained in section 262p–4q of this title.

DEFINITIONS

The definitions in section 262p–5 of this title apply to this section.

[1] *So in original. Probably should not be capitalized.*

§262p–12. Cancellation of Haiti's debts to international financial institutions

(a) In general

The Secretary of the Treasury should direct the United States Executive Director at the International Monetary Fund, the International Development Association, the Inter-American Development Bank, the International Fund for Agricultural Development, and other multilateral development institutions (as defined in section 262r(c)(3) of this title) to use the voice, vote and influence of the United States at each such institution to seek to achieve—

(1) the immediate and complete cancellation of any and all remaining debts owed by Haiti to such institutions;

(2) the suspension of Haiti's debt service payments to such institutions until such time as the debts are canceled completely; and

(3) the provision, before February 1, 2015, of emergency, humanitarian and reconstruction assistance from such institutions to Haiti in the form of grants or other assistance such that Haiti does not accumulate debt.

(b) Use of certain funds for assistance to Haiti

The Secretary of the Treasury should instruct the United States Executive Director of the International Monetary Fund to advocate the use of some of the realized windfall profits that exceed the required contribution to the Poverty Reduction and Growth Trust (as referenced in the IMF Reforms Financial Facilities for Low-Income Countries Public Information Notice (PIN) No. 09/94) from the ongoing sale of 12,965,649 ounces of gold acquired since the second Amendment of the Fund's Article of Agreement, to provide debt stock relief and debt service relief for Haiti and, before February 1, 2015, to provide grants for Haiti.

(c) Securing other relief for Haiti

The Secretary of the Treasury and the Secretary of State should use all appropriate diplomatic influence to secure cancellation of any and all remaining bilateral, multilateral and private creditor debt owed by Haiti.

(Pub. L. 95–118, title XVI, §1628, as added Pub. L. 111–158, §2, Apr. 26, 2010, 124 Stat. 1121.)

DEFINITIONS

The definitions in section 262p–5 of this title apply to this section.

§262q. Transferred

CODIFICATION

Section, Pub. L. 100–418, title III, §3202, Aug. 23, 1988, 102 Stat. 1382, which related to multilateral development bank procurement, was renumbered section 1801 of title XVIII of Pub. L. 95–118, by Pub. L. 101–240, title V, §541(b)(1), Dec. 19, 1989, 103 Stat. 2517, and transferred to section 262s of this title.

§262r. Annual report by Chairman of National Advisory Council on International Monetary and Financial Policies

(a) In general

The Chairman shall report annually to the Speaker of the House of Representatives, the President of the Senate, and to the President of the United States on the participation of the United States in the international financial institutions. The Chairman shall present such report to the Speaker of the House of Representatives and the President of the Senate not later than April 1 of each year following the close of the fiscal year covered by such report, except that the report for fiscal year 1989 shall be submitted not later than June 1, 1990.

(b) Contents of reports

Each annual report required by subsection (a) shall contain—

(1) such data and explanations concerning the effectiveness, operations, and policies of the international financial institutions, such recommendations concerning the international financial institutions, and such other data and material as the Chairman may deem appropriate;

(2) the reports on each specific issue and topic which is required by any other provision of law to be included in the report of the National Advisory Council on International Monetary and Financial Policies required by section 286b(b)(5) of this title, as in effect immediately before December 19, 1989;

(3) a description of each loan or other form of financial assistance approved by any international financial institution during the fiscal year covered by such report, and a discussion of how such loan or financial assistance will benefit the people, particularly the poor people, of the recipient country;

(4) a review of the success achieved through the multilateral development banks in reducing or eliminating import restrictions and unfair export subsidies which—

(A) have been determined to be consistent with international agreements; and

(B) have a serious adverse impact on the United States;

(5) a description of the actions taken and the progress made in carrying out subsections (a) and (b) of section 286cc of this title;

(6) the report required by section 2018(c) of the International Narcotics Act of 1986 (title II of Public Law 99–570), discussing the actions taken and progress made in encouraging the multilateral development banks to finance drug eradication and crop substitution programs;

(7) a description of the progress made by the United States Executive Director of the International Monetary Fund with respect to the goals of section 286kk of this title;

(8) a description of the status of procedures in the multilateral development banks specifically designed to increase the productive role of the poor in the economies of the nations which are borrowers from such banks;

(9) in consultation with the Secretary of State, a report on the progress toward achieving the goals of title VII (other than section 262e of this title), including the information required to be reported pursuant to section 262d(c) [1] of this title, and, for the fiscal year 1990, the report described in section 262p–4h of this title;

(10) in consultation with the Secretary of State and the Administrator of the Agency for International Development, an assessment of the progress being made to implement the objectives of title XIII; and

(11) a report on—

(A) the progress made in transforming government-owned enterprises into privately owned enterprises as described in section 262p–4g(b) of this title;

(B) the performance of the privately owned enterprises resulting from such transformation; and

(C) the contributions of development finance companies toward strengthening the private sector in member borrowing countries.

(c) Definitions

As used in this title, title XVIII, and title XIX:

(1) Chairman

The term "Chairman" means the Chairman of the National Advisory Council on International Monetary and Financial Policies.

(2) International financial institutions

The term "international financial institutions" means the International Monetary Fund, International Bank for Reconstruction and Development, European Bank for Reconstruction and Development, International Development Association, International Finance Corporation, Multilateral Investment Guarantee Agency, African Development Bank, African Development Fund, Asian Development Bank, Inter-American Development Bank [2] Bank for Economic Cooperation and Development in the Middle East and North Africa,,[3] and Inter-American Investment Corporation.

(3) Multilateral development institutions

The term "multilateral development institutions" means the international financial institutions other than the International Monetary Fund.

(4) Multilateral development banks

The term "multilateral development banks" means the multilateral development institutions other than the Multilateral Investment Guarantee Agency.

(d) Testimony required

Upon request of the Committee on Banking, Finance and Urban Affairs of the House of Representatives, the Chairman shall testify before the Committee to support and explain each annual report required by subsection (a). If the President has delegated to a person or persons other than the Chairman the authority to manage United States participation in the international financial institutions which was vested in the President by section 1(b) of the Reorganization Plan No. 4 of 1965, such person or persons shall, upon request of the Committee, accompany the Chairman and testify before the Committee with regard to such report. The Chairman and such other person or persons shall assess, in their testimony, the effectiveness of the international financial institutions, the major issues affecting United States participation, the major developments in the past year, the prospects for the coming year, United States policy goals with respect to the international financial institutions, and any specific issues addressed to them by any member of the Committee.

(e) Advisory Committee on IMF policy

(1) In general

The Secretary of the Treasury should establish an International Monetary Fund Advisory Committee (in this subsection referred to as the "Advisory Committee").

(2) Membership

The Advisory Committee should consist of members appointed by the Secretary of the Treasury, after appropriate consultations with the relevant organizations. Such members should include representatives from industry, representatives from agriculture, representatives from organized labor, representatives from banking and financial services, and representatives from nongovernmental environmental and human rights organizations.

(Pub. L. 95–118, title XVII, §1701, as added Pub. L. 101–240, title V, §541(a), Dec. 19, 1989, 103 Stat. 2514; amended Pub. L. 101–513, title V, §562(c)(10)(A), Nov. 5, 1990, 104 Stat. 2036; Pub. L. 104–208, div. A, title I, §101(c) [title VII, §710(a)], Sept. 30, 1996, 110 Stat. 3009–121, 3009–181; Pub. L. 105–277, div. A, §101(d) [title VI, §610(b)], Oct. 21, 1998, 112 Stat. 2681–150, 2681–228.)

REFERENCES IN TEXT

Section 2018(c) of the International Narcotics Act of 1986, referred to in subsec. (b)(6), means section 2018(c) of Pub. L. 99–570, known as the International Narcotics Control Act of 1986, which is set out as a note under section 2291 of this title.

This title and titles VII, XIII, XVIII, and XIX, referred to in subsecs. (b)(9), (10) and (c), are titles XVII, VII, XIII, XVIII, and XIX, respectively, of Pub. L. 95–118. Title VII enacted sections 262d and 262e of this title, repealed sections 283y, 284m, and 290g–9 of this title, and enacted provisions set out as a note under section 262c of this title. Title XIII is classified to sections 262m to 262m–7 of this title. Title XVII is classified to sections 262r to 262r–5 of this title. Title XVIII is classified to sections 262s to 262s–2 of this title. Title XIX is classified to section 262t of this title. For complete classification of these titles to the Code, see Tables.

Section 262d(c) of this title, referred to in subsec. (b)(9), was repealed by Pub. L. 113–188, title XVI, §1601(b), Nov. 26, 2014, 128 Stat. 2025.

Reorganization Plan No. 4 of 1965, referred to in subsec. (d), is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1998—Subsec. (e). Pub. L. 105–277 added subsec. (e).

1996—Subsec. (c)(2). Pub. L. 104–208 inserted "Bank for Economic Cooperation and Development in the Middle East and North Africa," after "Inter-American Development Bank".

1990—Subsec. (c)(2). Pub. L. 101–513 inserted "European Bank for Reconstruction and Development," before "International Development Association,".

CHANGE OF NAME

Committee on Banking, Finance and Urban Affairs of House of Representatives treated as referring to Committee on Banking and Financial Services of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Banking and Financial Services of House of Representatives abolished and replaced by Committee on Financial Services of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred from Committee on Energy and Commerce of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

CONTENTS OF REPORTS; APPLICABILITY OF STATUTORY REQUIREMENTS

Pub. L. 105–277, div. A, §101(d) [title V, §583], Oct. 21, 1998, 112 Stat. 2681–150, 2681–202, provided that:

"(a) Notwithstanding any other provision of law, each annual report required by subsection 1701(a) of the International Financial Institutions Act, as amended (Public Law 95–118, 22 U.S.C. 262r), shall comprise—

"(1) an assessment of the effectiveness of the major policies and operations of the international financial institutions;

"(2) the major issues affecting United States participation;

"(3) the major developments in the past year;

"(4) the prospects for the coming year;

"(5) the progress made and steps taken to achieve United States policy goals (including major policy goals embodied in current law) with respect to the international financial institutions; and

"(6) such data and explanations concerning the effectiveness, operations, and policies of the international financial institutions, such recommendations concerning the international financial institutions, and such other data and material as the Chairman may deem appropriate.

"(b) The requirements of Sections 1602(e), 1603(c), 1604(c), and 1701(b) of the International Financial Institutions Act, as amended (Public Law 95–118, 22 U.S.C. 262p–1, 262p–2, 262p–3 and 262(r) [262r]), Section 2018(c) of the International Narcotics Control Act of 1986, as amended (Public Law 99–570, 22 U.S.C. 2291 note), Section 407(c) of the Foreign Debt Reserving Act of 1989 (Public Law 101–240, 22 U.S.C. 2291 note), Section 14(c) of the Inter-American Development Bank Act, as amended (Public Law 86–147, 22 U.S.C. 283j–1(c)), and Section 1002 of the Freedom for Russia and Emerging Eurasian

Democracies and Open Markets Support Act of 1992 (Public Law 102–511) (22 U.S.C. 286ll(b)) shall no longer apply to the contents of such annual reports."

INTERNATIONAL FINANCIAL INSTITUTION ADVISORY COMMISSION

Pub. L. 105–277, div. A, §101(d) [title VI, §603], Oct. 21, 1998, 112 Stat. 2681–150, 2681–220, provided that:

"(a) IN GENERAL.—The Secretary of the Treasury shall establish an International Financial Institution Advisory Commission (in this section referred to as the 'Commission').

"(b) MEMBERSHIP.—

"(1) IN GENERAL.—The Commission shall be composed of 11 members, as follows:

"(A) 3 members appointed by the Speaker of the House of Representatives.

"(B) 3 members appointed by the Majority Leader of the Senate.

"(C) 5 members appointed jointly by the Minority Leader of the House of Representatives and the Minority Leader of the Senate.

"(2) TIMING OF APPOINTMENTS.—All appointments to the Commission shall be made not later than 45 days after the date of enactment of this Act [Oct. 21, 1998].

"(3) CHAIRMAN.—The Majority Leader of the Senate, after consultation with the Speaker of the House of Representatives and the Minority Leaders of the House of Representatives and the Senate, shall designate 1 of the members of the Commission to serve as Chairman of the Commission.

"(c) QUALIFICATIONS.—

"(1) EXPERTISE.—Members of the Commission shall be appointed from among those with knowledge and expertise in the workings of the international financial institutions (as defined in section 1701(c)(2) of the International Financial Institutions Act [22 U.S.C. 262r(c)(2)]), the World Trade Organization, and the Bank for International Settlements.

"(2) FORMER AFFILIATION.—At least 4 members of the Commission shall be individuals who were officers or employees of the Executive Branch before January 20, 1992, and not more than half of such 4 members shall have served under Presidents from the same political party.

"(d) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall be filled in the same manner as the original appointment was made.

"(e) DUTIES OF THE COMMISSION.—The Commission shall advise and report to the Congress on the future role and responsibilities of the international financial institutions (as defined in section 1701(c)(2) of the International Financial Institutions Act [22 U.S.C. 262r(c)(2)]), the World Trade Organization, and the Bank for International Settlements. In carrying out such duties, the Commission shall meet with and advise the Secretary of the Treasury or the Deputy Secretary of the Treasury, and shall examine—

"(1) the effect of globalization, increased trade, capital flows, and other relevant factors on such institutions;

"(2) the adequacy, efficacy, and desirability of current policies and programs at such institutions as well as their suitability for respective beneficiaries of such institutions;

"(3) cooperation or duplication of functions and responsibilities of such institutions; and

"(4) other matters the Commission deems necessary to make recommendations pursuant to subsection (g).

"(f) POWERS AND PROCEDURES OF THE COMMISSION.—

"(1) HEARINGS.—The Commission or, at its direction, any panel or member of the Commission may, for the purpose of carrying out the provisions of this section, hold hearings, sit and act at times and places, take testimony, receive evidence, and administer oaths to the extent that the Commission or any panel or member considers advisable.

"(2) INFORMATION.—The Commission may secure directly information that the Commission considers necessary to enable the Commission to carry out its responsibilities under this section.

"(3) MEETINGS.—The Commission shall meet at the call of the Chairman.

"(g) REPORT.—On the termination of the Commission, the Commission shall submit to the Secretary of the Treasury and the appropriate committees a report that contains recommendations regarding the following matters:

"(1) Changes to policy goals set forth in the Bretton Woods Agreements Act [22 U.S.C. 286 et seq.] and the International Financial Institutions Act [see Short Title of 1977 Amendment note set out under section 261 of this title].

"(2) Changes to the charters, organizational structures, policies and programs of the international financial institutions (as defined in section 1701(c)(2) of the International Financial Institutions Act [22

U.S.C. 262r(c)(2)]).

"(3) Additional monitoring tools, global standards, or regulations for, among other things, global capital flows, bankruptcy standards, accounting standards, payment systems, and safety and soundness principles for financial institutions.

"(4) Possible mergers or abolition of the international financial institutions (as defined in section 1701(c)(2) of the International Financial Institutions Act [22 U.S.C. 262r(c)(2)]), including changes to the manner in which such institutions coordinate their policy and program implementation and their roles and responsibilities.

"(5) Any additional changes necessary to stabilize currencies, promote continued trade liberalization and to avoid future financial crises.

"(h) TERMINATION.—The Commission shall terminate 6 months after the first meeting of the Commission, which shall be not later than 30 days after the appointment of all members of the Commission.

"(i) REPORTS BY THE EXECUTIVE BRANCH.—

"(1) Within three months after receiving the report of the Commission under subsection (g), the President of the United States through the Secretary of the Treasury shall report to the appropriate committees on the desirability and feasibility of implementing the recommendations contained in the report.

"(2) Annually, for three years after the termination of the Commission, the President of the United States through the Secretary of the Treasury shall submit to the appropriate committees a report on the steps taken, if any, through relevant international institutions and international fora to implement such recommendations as are deemed feasible and desirable under paragraph (1)."

PROGRESS REPORTS TO CONGRESS ON UNITED STATES INITIATIVES TO UPDATE ARCHITECTURE OF INTERNATIONAL MONETARY SYSTEM

Pub. L. 105–277, div. A, §101(d) [title VI, §606], Oct. 21, 1998, 112 Stat. 2681–150, 2681–223, provided that: "Not later than July 15, 1999, and July 15, 2000, the Secretary of the Treasury shall report to the Chairmen and Ranking Members of the appropriate committees on the progress of efforts to reform the architecture of the international monetary system. The reports shall include a discussion of the substance of the United States position in consultations with other governments and the degree of progress in achieving international acceptance and implementation of such position with respect to the following issues:

"(1) Adapting the mission and capabilities of the International Monetary Fund to take better account of the increased importance of cross-border capital flows in the world economy and improving the coordination of its responsibilities and activities with those of the International Bank for Reconstruction and Development.

"(2) Advancing measures to prevent, and improve the management of, international financial crises, including by—

"(A) integrating aspects of national bankruptcy principles into the management of international financial crises where feasible; and

"(B) changing investor expectations about official rescues, thereby reducing moral hazard and systemic risk in international financial markets,

in order to help minimize the adjustment costs that the resolution of financial crises may impose on the real economy, in the form of disrupted patterns of trade, employment, and progress in living standards, and reduce the frequency and magnitude of claims on United States taxpayer resources.

"(3) Improving international economic policy cooperation, including among the Group of Seven countries, to take better account of the importance of cross-border capital flows in the determination of exchange rate relationships.

"(4) Improving international cooperation in the supervision and regulation of financial institutions and markets.

"(5) Strengthening the financial sector in emerging economies, including by improving the coordination of financial sector liberalization with the establishment of strong public and private institutions in the areas of prudential supervision, accounting and disclosure conventions, bankruptcy laws and administrative procedures, and the collection and dissemination of economic and financial statistics, including the maturity structure of foreign indebtedness.

"(6) Advocating that implementation of European Economic and Monetary Union and the advent of the European Currency Unit, or euro, proceed in a manner that is consistent with strong global economic growth and stability in world financial markets."

DEFINITIONS

Pub. L. 105–277, div. A, §101(d) [title VI, §607], Oct. 21, 1998, 112 Stat. 2681–150, 2681–224, as

amended by Pub. L. 106–200, title IV, §404(a), May 18, 2000, 114 Stat. 291, provided that: "For purposes of sections 601 through 606 of this title [see Tables for classification], the term 'appropriate committees' means the Committees on Appropriations, Foreign Relations, Finance, and Banking, Housing, and Urban Affairs of the Senate and the Committees on Appropriations, Ways and Means, and Banking and Financial Services [now Committee on Financial Services] of the House of Representatives."

[1] See References in Text note below.

[2] So in original. Probably should be followed by a comma.

[3] So in original.

§262r–1. Transmission to the Congress of operating summaries of the multilateral development banks

The Secretary of the Treasury shall transmit to the Congress, on a monthly basis, current copies of the Monthly Operating Summary of the International Bank for Reconstruction and Development, showing the loan proposals or appraisal reports under consideration and the status of those loan proposals or appraisal reports within the Bank. The Secretary of the Treasury shall also transmit to the Congress, at such times as may be appropriate, comparable documents prepared by the other multilateral development banks which show the loans or credits under consideration in the other multilateral development banks.

(Pub. L. 95–118, title XVII, §1702, as added Pub. L. 101–240, title V, §541(a), Dec. 19, 1989, 103 Stat. 2516.)

DEFINITIONS

The definitions in section 262r of this title apply to this section.

§262r–2. Combined report on effect of pending multilateral development bank loans on environment, natural resources, public health, and indigenous peoples

Not later than April 1 and October 1 of each year, the Administrator of the Agency for International Development, in consultation with the Secretary of the Treasury and the Secretary of State, shall submit to the Committee on Appropriations and the Committee on Banking, Finance and Urban Affairs of the House of Representatives, and the Committee on Appropriations and the Committee on Foreign Relations of the Senate, as a combined report, the reports required by section 262m–2(c) of this title and by section 262l–1(h)(2) of this title.

(Pub. L. 95–118, title XVII, §1703, as added Pub. L. 101–240, title V, §541(a), Dec. 19, 1989, 103 Stat. 2516.)

CHANGE OF NAME

Committee on Banking, Finance and Urban Affairs of House of Representatives treated as referring to Committee on Banking and Financial Services of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Banking and Financial Services of House of Representatives abolished and replaced by Committee on Financial Services of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred from Committee on Energy and Commerce of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

DEFINITIONS

The definitions in section 262r of this title apply to this section.

§262r–3. Reports on financial stabilization programs led by International Monetary Fund in connection with financing from Exchange Stabilization Fund

(a) In general

The Secretary of the Treasury, in consultation with the Secretary of Commerce and other appropriate Federal agencies, shall prepare reports on the implementation of financial stabilization programs (and any material terms and conditions thereof) led by the International Monetary Fund in countries in connection with which the United States has made a commitment to provide, or has provided financing from the stabilization fund established under section 5302 of title 31. The reports shall include the following:

(1) A description of the condition of the economies of countries requiring the financial stabilization programs, including the monetary, fiscal, and exchange rate policies of the countries.

(2) A description of the degree to which the countries requiring the financial stabilization programs have fully implemented financial sector restructuring and reform measures required by the International Monetary Fund, including—

(A) ensuring full respect for the commercial orientation of commercial bank lending;

(B) ensuring that governments will not intervene in bank management and lending decisions (except in regard to prudential supervision);

(C) the enactment and implementation of appropriate financial reform legislation;

(D) strengthening the domestic financial system and improving transparency and supervision; and

(E) the opening of domestic capital markets.

(3) A description of the degree to which the countries requiring the financial stabilization programs have fully implemented reforms required by the International Monetary Fund that are directed at corporate governance and corporate structure, including—

(A) making nontransparent conglomerate practices more transparent through the application of internationally accepted accounting practices, independent external audits, full disclosure, and provision of consolidated statements; and

(B) ensuring that no government subsidized support or tax privileges will be provided to bail out individual corporations, particularly in the semiconductor, steel, and paper industries.

(4) A description of the implementation of reform measures required by the International Monetary Fund to deregulate and privatize economic activity by ending domestic monopolies, undertaking trade liberalization, and opening up restricted areas of the economy to foreign investment and competition.

(5) A detailed description of the trade policies of the countries, including any unfair trade practices or adverse effects of the trade policies on the United States.

(6) A description of the extent to which the financial stabilization programs have resulted in appropriate burden-sharing among private sector creditors, including rescheduling of outstanding loans by lengthening maturities, agreements on debt reduction, and the extension of new credit.

(7) A description of the extent to which the economic adjustment policies of the International Monetary Fund and the policies of the government of the country adequately balance the need for financial stabilization, economic growth, environmental protection, social stability, and equity for all elements of the society.

(8) Whether International Monetary Fund involvement in labor market flexibility measures has had a negative effect on core worker rights, particularly the rights of free association and collective bargaining.

(9) A description of any pattern of abuses of core worker rights in recipient countries.

(10) The amount, rate of interest, and disbursement and repayment schedules of any funds disbursed from the stabilization fund established under section 5302 of title 31, in the form of

loans, credits, guarantees, or swaps, in support of the financial stabilization programs.

(11) The amount, rate of interest, and disbursement and repayment schedules of any funds disbursed by the International Monetary Fund to the countries in support of the financial stabilization programs.

(b) Timing

Not later than March 15, 1999, and semiannually thereafter, the Secretary of the Treasury shall submit to the Committees on Banking and Financial Services, Ways and Means, and International Relations of the House of Representatives and the Committees on Finance, Foreign Relations, and Banking, Housing, and Urban Affairs of the Senate a report on the matters described in subsection (a).

(Pub. L. 95–118, title XVII, §1704, as added Pub. L. 105–277, div. A, §101(d) [title VI, §612], Oct. 21, 1998, 112 Stat. 2681–150, 2681–228; amended Pub. L. 106–200, title IV, §404(b), May 18, 2000, 114 Stat. 292.)

AMENDMENTS

2000—Subsec. (b). Pub. L. 106–200 amended heading and text of subsec. (b) generally. Prior to amendment, text read as follows: "Not later than March 15, 1999, and semiannually thereafter, the Secretary of the Treasury shall submit to the Committees on Banking and Financial Services and International Relations of the House of Representatives and the Committees on Foreign Relations, and Banking, Housing, and Urban Affairs of the Senate a report on the matters described in subsection (a) of this section."

CHANGE OF NAME

Committee on Banking and Financial Services of House of Representatives abolished and replaced by Committee on Financial Services of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred from Committee on Energy and Commerce of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

DEFINITIONS

The definitions in section 262r of this title apply to this section.

§262r–4. Annual report and testimony on state of international financial system, IMF reform, and compliance with IMF agreements

(a) Reports

Not later than October 1 of each year, the Secretary of the Treasury shall submit to the Committees on Banking and Financial Services and on Ways and Means of the House of Representatives and the Committees on Finance and on Foreign Relations of the Senate a written report on (1) the progress (if any) made by the United States Executive Director at the International Monetary Fund in influencing the International Monetary Fund to adopt the policies and reform its internal procedures in the manner described in section 262o–2 of this title, and (2) the progress made by the International Monetary Fund in adopting and implementing the policies described in section 801(c)(1)(B) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001.

(b) Testimony

After submitting the report required by subsection (a) but not later than March 1 of each year, the Secretary of the Treasury shall appear before the Committee on Banking and Financial Services of the House of Representatives and the Committee on Foreign Relations of the Senate and present testimony on—

(1) any progress made in reforming the International Monetary Fund;

(2) the status of efforts to reform the international financial system;

(3) the compliance of countries which have received assistance from the International Monetary

Fund with agreements made as a condition of receiving the assistance; and

(4) the status of implementation of international anti-money laundering and counterterrorist financing standards by the International Monetary Fund, the multilateral development banks, and other multilateral financial policymaking bodies.

(Pub. L. 95–118, title XVII, §1705, as added Pub. L. 105–277, div. A, §101(d) [title VI, §613], Oct. 21, 1998, 112 Stat. 2681–150, 2681–230; amended Pub. L. 106–200, title IV, §404(c), May 18, 2000, 114 Stat. 292; Pub. L. 106–429, §101(a) [title VIII, §803(c)], Nov. 6, 2000, 114 Stat. 1900, 1900A–67; Pub. L. 108–458, title VII, §7703(b), Dec. 17, 2004, 118 Stat. 3860.)

REFERENCES IN TEXT

Section 801(c)(1)(B) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001, referred to in subsec. (a)(2), is section 801(c)(1)(B) of Pub. L. 106–429, §101(a) [title VIII], Nov. 6, 2000, 114 Stat. 1900, 1900A–65, which is not classified to the Code.

AMENDMENTS

2004—Subsec. (b)(4). Pub. L. 108–458 added par. (4).

2000—Subsec. (a). Pub. L. 106–429 inserted "(1)" after "a written report on" and inserted before period at end ", and (2) the progress made by the International Monetary Fund in adopting and implementing the policies described in section 801(c)(1)(B) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001".

Pub. L. 106–200 substituted "Committees on Banking and Financial Services and on Ways and Means of the House of Representatives and the Committees on Finance and on Foreign Relations of the Senate" for "Committee on Banking and Financial Services of the House of Representatives and the Committee on Foreign Relations of the Senate".

CHANGE OF NAME

Committee on Banking and Financial Services of House of Representatives abolished and replaced by Committee on Financial Services of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred from Committee on Energy and Commerce of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

DEFINITIONS

The definitions in section 262r of this title apply to this section.

§262r–5. Repealed. Pub. L. 106–429, §101(a) [title V, §592], Nov. 6, 2000, 114 Stat. 1900, 1900A–59

Section, Pub. L. 95–118, title XVII, §1706, as added Pub. L. 105–277, div. A, §101(d) [title VI, §614], Oct. 21, 1998, 112 Stat. 2681–150, 2681–230; amended Pub. L. 106–31, title V, §5003, May 21, 1999, 113 Stat. 110; Pub. L. 106–200, title IV, §404(d), May 18, 2000, 114 Stat. 292, related to audits of International Monetary Fund.

§262r–6. Reports on policies, operations, and management of international financial institutions

(a) Repealed. Pub. L. 108–199, div. D, title V, §599B(c), Jan. 23, 2004, 118 Stat. 211

(b) Annual report on United States supported policies

Beginning 180 days after the date of enactment of this Act [November 6, 2000], or October 31, 2000, whichever is later, and on October 31 of each year thereafter, the Secretary shall submit a report to the appropriate congressional committees on—

(1) the actions taken by recipient countries, as a result of the assistance allocated to them by the multilateral development banks under programs referred to in section 802(b),[1] to strengthen governance and reduce the opportunity for bribery and corruption; and

(2) how International Development Association-financed projects contribute to the eventual

graduation of a representative sample of countries from reliance on financing on concessionary terms and international development assistance.

(c) Omitted

(d) Report on debt relief

Not later than 90 days after the date of enactment of this Act [November 6, 2000], the Secretary shall submit a report to the appropriate congressional committees on the history of debt relief programs led by, or coordinated with, international financial institutions, including but not limited to—

(1) the extent to which poor countries and the poorest-of-the-poor benefit from debt relief, including measurable evidence of any such benefits; and

(2) the extent to which debt relief contributes to the graduation of a country from reliance on financing on concessionary terms and international development assistance.

(Pub. L. 106–429, §101(a) [title VIII, §803], Nov. 6, 2000, 114 Stat. 1900, 1900A–66; Pub. L. 108–199, div. D, title V, §599B(c), Jan. 23, 2004, 118 Stat. 211.)

REFERENCES IN TEXT

Section 802(b), referred to in subsec. (b)(1), is section 101(a), [title VIII, §802(b)] of Pub. L. 106–429, Nov. 6, 2000, 114 Stat. 1900, 1900A–66, which is not classified to the Code.

CODIFICATION

Section is comprised of section 101(a) [title VIII, §803] of Pub. L. 106–429. Section 101(a) [title VIII, §803(c)] of Pub. L. 106–429 amended section 262r–4 of this title.

AMENDMENTS

2004—Pub. L. 108–199 repealed heading and text of subsec. (a). Text read as follows: "Beginning 180 days after the date of enactment of this Act, or October 31, 2000, whichever is later, and on October 31 of each year thereafter, the Comptroller General of the United States shall submit to the appropriate congressional committees a report on the sufficiency of audits of the financial operations of each multilateral development bank conducted by persons or entities outside such bank."

DEFINITIONS

Pub. L. 106–429, §101(a) [title VIII, §806], Nov. 6, 2000, 114 Stat. 1900, 1900A–68, provided that: "In this title [enacting this section and section 286oo of this title and amending sections 262r–4, 286nn, and 2169 of this title]:

"(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term 'appropriate congressional committees' means the Committee on Foreign Relations and the Committee on Appropriations of the Senate, and the Committee on Banking and Financial Services [now Committee on Financial Services] and the Committee on Appropriations of the House of Representatives.

"(2) BANK.—The term 'Bank' means the International Bank for Reconstruction and Development.

"(3) FUND.—The term 'Fund' means the International Monetary Fund.

"(4) INTERNATIONAL FINANCIAL INSTITUTIONS.—The term 'international financial institutions' means the multilateral development banks and the International Monetary Fund.

"(5) MULTILATERAL DEVELOPMENT BANKS.—The term 'multilateral development banks' means the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the Asian Development Bank, the Inter-American Investment Corporation, the African Development Bank, the African Development Fund, the European Bank for Reconstruction and Development, and the Multilateral Investment Guaranty Agency.

"(6) SECRETARY.—The term 'Secretary' means the Secretary of the Treasury."

[1] *See References in Text note below.*

§262s. Multilateral development bank procurement

(a) Executive Directors

The Secretary of the Treasury shall instruct the United States Executive Director of each multilateral development bank to attach a high priority to promoting opportunities for exports for goods and services from the United States and, in carrying out this function, to investigate thoroughly any complaints from United States bidders about the awarding of procurement contracts by the multilateral development banks to ensure that all contract procedures and rules of the banks are observed and that United States firms are treated fairly.

(b) [1] Officer of procurement

(1) Establishment

The Secretary of the Treasury shall designate, within the Office of International Affairs in the Department of the Treasury, an officer of multilateral development bank procurement.

(2) Function

The officer shall act as the liaison between the Department of the Treasury, the Department of Commerce, and the United States Executive Directors' offices in the multilateral development banks, in carrying out this section. The officer shall cooperate with the Department of Commerce in efforts to improve opportunities for multilateral development bank procurement by United States companies.

(b) [1] "Multilateral development bank" defined

As used in this section, the term "multilateral development bank" includes the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the InterAmerican Investment Corporation, the Asian Development Bank, the African Development Bank, and the African Development Fund.

(Pub. L. 95–118, title XVIII, §1801, formerly Pub. L. 100–418, title III, §3202, Aug. 23, 1988, 102 Stat. 1382; renumbered §1801 of Pub. L. 95–118, Pub. L. 101–240, title V, §541(b)(1), Dec. 19, 1989, 103 Stat. 2517.)

CODIFICATION

Section was formerly classified to section 262q of this title prior to renumbering by Pub. L. 101–240.

SHORT TITLE

Pub. L. 100–418, title III, §3201, Aug. 23, 1988, 102 Stat. 1382, provided that: "This subtitle [subtitle C (§§3201, 3202) of title III of Pub. L. 100–418, enacting former section 262q of this title] may be cited as the 'Multilateral Development Banks Procurement Act of 1988'."

DEFINITIONS

The definitions in section 262r of this title apply to this section.

[1] So in original. Two subsecs. (b) have been enacted.

§262s–1. Procurement opportunities for United States firms

The Secretary of the Treasury shall instruct the United States Executive Directors of the multilateral development institutions to take all possible steps to ensure that information relating to potential procurement opportunities for United States firms is expeditiously communicated to the Secretary of the Treasury, the Secretary of State, and the Secretary of Commerce, and is disseminated as widely as possible to large and small businesses.

(Pub. L. 95–118, title XVIII, §1802, as added Pub. L. 101–240, title V, §541(a), Dec. 19, 1989, 103 Stat. 2516.)

DEFINITIONS

The definitions in section 262r of this title apply to this section.

§262s–2. Commercial Service Officers and multilateral development bank procurement

(a) Appointment of Commercial Service Officers to serve with Executive Directors

The Secretary of Commerce, in consultation with the Secretary of the Treasury, shall appoint a procurement officer, who is a representative of the International Trade Administration or a Commercial Service Officer of the United States and Foreign Commercial Service, to serve, on a full-time or part-time basis, with each of the Executive Directors of the multilateral development banks in which the United States participates.

(b) Functions of officers

Each procurement officer appointed under subsection (a) shall assist the United States Executive Director with respect to whom such officer is appointed in promoting opportunities for exports of goods and services from the United States by doing the following:

(1) Acting as the liaison between the business community and the multilateral development bank involved, whether or not the bank has offices in the United States. The Secretary of Commerce shall ensure that the procurement officer has access to, and disseminates to United States businesses, information relating to projects which are being proposed by the multilateral development bank, and bid specifications and deadlines for projects about to be developed by the bank. The procurement officer shall make special efforts to disseminate such information to small and medium-sized businesses interested in participating in such projects. The procurement officer shall explore opportunities for disseminating such information through private sector, nonprofit organizations.

(2) Taking actions to assure that United States businesses are fully informed of bidding opportunities for projects for which loans have been made by the multilateral development bank involved.

(3) Taking actions to assure that United States businesses can focus on projects in which they have a particular interest or competitive advantage, and to permit them to compete and have an equal opportunity in submitting timely and conforming bidding documents.

(Pub. L. 95–118, title XVIII, §1803, formerly Pub. L. 100–418, title II, §2302, Aug. 23, 1988, 102 Stat. 1341; renumbered §1803 of Pub. L. 95–118, and amended Pub. L. 101–240, title V, §541(b)(2), Dec. 19, 1989, 103 Stat. 2517.)

CODIFICATION

Section was formerly classified to section 4722 of Title 15, Commerce and Trade, prior to renumbering by Pub. L. 101–240.

AMENDMENTS

1989—Subsec. (c). Pub. L. 101–240 struck out subsec. (c) which defined "multilateral development bank" for purposes of this section.

ADDITIONAL PROCUREMENT OFFICERS

Pub. L. 102–549, title V, §501, Oct. 28, 1992, 106 Stat. 3663, provided that:

"(a) APPOINTMENT.—The Secretary of Commerce, in consultation with the Secretary of the Treasury, shall appoint one or more full-time additional procurement officers, for each multilateral development bank, to promote exports of goods and services from the United States by doing the following:

"(1) Acting as the liaison between the business community and one or more multilateral development banks, whether or not the banks have offices in the United States. The Secretary of Commerce shall ensure that the procurement officer has access to, and disseminates to United States businesses, information relating to projects which are being proposed by the multilateral development bank involved, and bid specifications and deadlines for projects about to be developed by the bank. The procurement officer shall

make special efforts to disseminate such information to small- and medium-sized businesses interested in participating in such projects. The procurement officer shall explore opportunities for disseminating such information through private sector, nonprofit organizations.

"(2) Taking actions to assure that United States businesses are fully informed of bidding opportunities for projects for which loans have been made by the multilateral development bank involved.

"(3) Taking actions to assure that United States businesses can focus on projects in which they have a particular interest or competitive advantage, and to permit them to compete and have an equal opportunity in submitting timely and conforming bidding documents.

"(b) DEFINITION.—As used in this section, the term 'multilateral development bank' has the meaning given that term in section 1701(c) of the International Financial Institutions Act (22 U.S.C. 262r(c)).

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Commerce $1,000,000 for each of the fiscal years 1993 and 1994 to carry out this section. Amounts appropriated pursuant to this subsection shall be available only for the purpose of making the appointment of additional procurement officers required by subsection (a)."

DEFINITIONS

The definitions in section 262r of this title apply to this section.

§262t. Personnel practices

(a) Statement of policy

It shall be the policy of the United States that no initiatives, discussions, or recommendations concerning the placement or removal of any personnel employed by the international financial institutions shall be based on the political philosophy or activity of the individual under consideration.

(b) Consultation

The Secretary of the Treasury shall consult with the Chairman and the ranking minority member of the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate before any discussion or recommendations by any official of the United States Government concerning the placement or removal of any principal officer of any international financial institutions.

(Pub. L. 95–118, title XIX, §1901, as added Pub. L. 101–240, title V, §541(a), Dec. 19, 1989, 103 Stat. 2517.)

CHANGE OF NAME

Committee on Banking, Finance and Urban Affairs of House of Representatives treated as referring to Committee on Banking and Financial Services of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Banking and Financial Services of House of Representatives abolished and replaced by Committee on Financial Services of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred from Committee on Energy and Commerce of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

DEFINITIONS

The definitions in section 262r of this title apply to this section.

§263. International Prison Commission

The United States shall continue as an adhering member of the International Prison Commission and participate in the work of said commission.

The Secretary of the Treasury be, and he is hereby, authorized annually to pay the pro rata share of the United States in the administration expenses of the International Prison Commission and the

necessary expenses of a commissioner to represent the United States on said commission at its annual meetings, together with necessary clerical and other expenses, out of any money which shall be appropriated for such purposes from time to time by Congress.

(Feb. 28, 1913, ch. 86, 37 Stat. 692.)

§263a. International Criminal Police Organization

The Attorney General is authorized to accept and maintain, on behalf of the United States, membership in the International Criminal Police Organization, and to designate any departments and agencies which may participate in the United States representation with that organization. All dues and expenses to be paid for the membership of the United States shall be paid out of sums authorized and appropriated for the Department of Justice.

(June 10, 1938, ch. 335, 52 Stat. 640; Pub. L. 85–768, Aug. 27, 1958, 72 Stat. 921; Pub. L. 90–159, Nov. 28, 1967, 81 Stat. 517; Pub. L. 92–380, §1, Aug. 10, 1972, 86 Stat. 531; Pub. L. 93–468, §1, Oct. 24, 1974, 88 Stat. 1422; Pub. L. 95–624, §21(a), Nov. 9, 1978, 92 Stat. 3466.)

AMENDMENTS

1978—Pub. L. 95–624 substituted provision authorizing payment of all dues and expenses for membership of the United States out of sums authorized and appropriated for Department of Justice for provisions authorizing each participating department and agency to pay its pro rata share of expenses of such membership and forbidding total dues paid for such membership to exceed $120,000 per annum.

1974—Pub. L. 93–468 substituted "$120,000" for "$80,000".

1972—Pub. L. 92–380 substituted "$80,000" for "$28,500".

1967—Pub. L. 90–159 substituted "$28,500" for "$25,000".

1958—Pub. L. 85–768 authorized the Attorney General to designate departments and agencies which may participate, on a pro rata share basis, in the United States representation with the International Criminal Police Organization, and increased from $1,500 to $25,000 per annum the amount of expenses which may be incurred by reason of United States membership.

§§264, 265. Omitted

CODIFICATION

Section 264, act Aug. 18, 1894, ch. 301, 28 Stat. 418, which related to Pan American Union, was superseded by Convention of 1928, ratified by the United States and providing that the government of Pan American Union should be vested in a governing board.

Section 265, act Jan. 25, 1929, ch. 102, title I, 45 Stat. 1102, which was from an appropriation act, related to disposition of receipts of Pan American Union, and was not repeated in subsequent appropriation acts.

§266. International commission of congresses of navigation; authorization of appropriation for expenses

The sum of $3,000 a year is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, for the support and maintenance of the permanent international commission of the congresses of navigation and for the payment of the actual expenses of the properly accredited national delegates of the United States to the meetings of the congresses and of the commission; and the Secretary of the Army is authorized to draw his warrant each year upon the Secretary of the Treasury for such sum, not to exceed $3,000, as may in his opinion be proper to apply to the purposes above mentioned, and the said sum shall be disbursed under such regulations as may be prescribed by the Secretary of the Army.

The national delegates aforesaid from the United States shall serve without compensation, but shall be reimbursed for their actual expenses incurred while traveling to and from the meetings, and while in attendance thereon, from the funds appropriated in this section and authorized to be

expended.

(June 28, 1902, ch. 1306, 32 Stat. 485; June 26, 1934, ch. 756, §2, 48 Stat. 1225; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501.)

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

APPROPRIATIONS

Act June 26, 1934, ch. 756, §2, 48 Stat. 1225, which was classified to section 725a of former Title 31, Money and Finance, repealed the permanent appropriation under the title "Permanent International Commission of Congress of Navigation (fiscal year) (8–887)" effective July 1, 1935, and provided that such portions of any Acts as make permanent appropriations to be expended under such account are amended so as to authorize, in lieu thereof, annual appropriations from the general fund of the Treasury in identical terms and in such amounts as now provided by the laws providing such permanent appropriations.

§266a. Transferred

CODIFICATION

Section, act Feb. 14, 1931, ch. 189, 46 Stat. 1162, as amended, which related to appropriations for expenses of participation in the International Technical Committee of Aerial Legal Experts, was transferred to section 231 of former Title 49, Transportation, and subsequently repealed by Pub. L. 103–272, §7(b), July 5, 1994, 108 Stat. 1379, the first section of which enacted subtitles II, III, and V to X of Title 49, Transportation.

§266b. Repealed. June 11, 1940, ch. 306, 54 Stat. 263

Section, Joint Res. Aug. 7, 1935, ch. 455, §2, 49 Stat. 540, related to termination of Authorizations for Participation in Work of Committee of International Technical Aerial Legal Experts.

§267. Permanent Commission of International Geodetic Association; representative of United States

The duly appointed representative of the United States on the permanent commission of the International Geodetic Association is granted authority to vote with the representatives on the permanent commission from other nations on all matters coming before the association, including the extension of its existence, subject to the approval of Congress.

(Mar. 3, 1917, ch. 161, 39 Stat. 1055.)

§267a. Appointment of delegates; compensation

The President is authorized to appoint delegates, who shall be officers of the National Ocean Survey, to attend the meetings of the International Geodetic Association whenever and wheresoever the same shall be held; but no extra salary or additional compensation shall be paid to such officers by reason of such attendance.

(July 23, 1894, No. 37, 28 Stat. 587.)

CHANGE OF NAME

Coast and Geodetic Survey consolidated with National Weather Bureau in 1965 to form Environmental Science Services Administration by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat.

1318. Environmental Science Services Administration abolished in 1970 and its personnel, property, records, etc., transferred to National Oceanic and Atmospheric Administration by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090. By order of Acting Associate Administrator of National Oceanic and Atmospheric Administration, 35 F.R. 19249, Dec. 19, 1970, Coast and Geodetic Survey redesignated National Ocean Survey. See notes set out under section 311 of Title 15, Commerce and Trade.

§267b. International Joint Commission; invitation to establish; personnel; duties

The President of the United States is requested to invite the Government of Great Britain to join in the formation of an international commission, to be composed of three members from the United States and three who shall represent the interests of the Dominion of Canada, whose duty it shall be to investigate and report upon the conditions and uses of the waters adjacent to the boundary lines between the United States and Canada, including all of the waters of the lakes and rivers whose natural outlet is by the River Saint Lawrence to the Atlantic Ocean; also upon the maintenance and regulation of suitable levels; and also upon the effect upon the shores of these waters and the structures thereon, and upon the interests of navigation, by reason of the diversion of these waters from or change in their natural flow; and, further, to report upon the necessary measures to regulate such diversion, and to make such recommendations for improvements and regulations as shall best subserve the interests of navigation in said waters. The said commissioners shall report upon the advisability of locating a dam at the outlet of Lake Erie, with a view to determining whether such dam will benefit navigation, and if such structure is deemed advisable, shall make recommendations to their respective Governments looking to an agreement or treaty which shall provide for the construction of the same, and they shall make an estimate of the probable cost thereof. The President, in selecting the three members of said Commission who shall represent the United States, is authorized to appoint one officer of the Corps of Engineers of the United States Army, one civil engineer well versed in the hydraulics of the Great Lakes, and one lawyer of experience in questions of international and riparian law, and said Commission shall be authorized to employ such persons as it may deem needful in the performance of the duties hereby imposed.

(June 13, 1902, ch. 1079, §4, 32 Stat. 373.)

CODIFICATION

Provisions of this section relating to the payment of salaries and expenses of the International Joint Commission were omitted. For provisions relating to the payment of salaries of the United States members of the International Joint Commission, see section 268 of this title.

ESTABLISHMENT OF COMMISSION

The International Joint Commission was organized in 1911 pursuant to article VII of the treaty of January 11, 1909, with Great Britain, 36 Stat. 2448.

WATER RESOURCES PLANNING

Jurisdiction, powers, or prerogatives of the International Joint Commission, United States and Canada, unaffected by Water Resources Planning Act, see section 1962–1 of Title 42, The Public Health and Welfare.

PASSAMAQUODDY TIDAL POWER PROJECT

Joint Res. Jan. 31, 1956, ch. 27, 70 Stat. 9, provided for the Secretary of State to request the International Joint Commission created by the treaty between the United States and Great Britain relating to boundary waters between the United States and Canada to arrange for a final survey to be made to determine the cost of construction and economic feasibility of the proposed Passamaquoddy tidal power project at Passamaquoddy Bay, authorized United States agencies to assist the Commission, authorized appropriations, and required the Secretary of State to report the results of the survey to Congress.

§268. International Joint Commission; salaries; powers

The salaries of the members on the part of the United States, of the International Joint Commission, established under the treaty of January 11, 1909, between the United States and Great

Britain, relating to boundary waters between the United States and Canada, shall be fixed by the President. Said commission or any member thereof shall have power to administer oaths and to take evidence on oath whenever deemed necessary in any proceeding or inquiry or matter within its jurisdiction under said treaty, and said commission shall be authorized to compel the attendance of witnesses in any proceedings before it or the production of books and papers when necessary by application to the district court of the United States for the district within which such session is held, which court is hereby empowered and directed to make all orders and issue all processes necessary and appropriate for that purpose.

(Mar. 4, 1911, ch. 285, 36 Stat. 1364.)

§268a. Repealed. Pub. L. 89–554, §8(a), Sept. 6, 1966, 80 Stat. 650

Section, act May 14, 1940, ch. 189, title I, 54 Stat. 191, related to compensation and travel expenses of the International Joint Commission.

Similar provisions were contained in the following prior appropriation acts:

June 29, 1939, ch. 248, title I, 53 Stat. 895.

Apr. 27, 1938, ch. 180, title I, 52 Stat. 256.

June 16, 1937, ch. 359, title I, 50 Stat. 270.

May 15, 1936, ch. 405, 49 Stat. 1319.

Mar. 22, 1935, ch. 39, 49 Stat. 75.

§268b. Advances from appropriation "Boundary line, Alaska and Canada, and the United States and Canada"

Advances of money under the appropriation "Boundary line, Alaska and Canada, and the United States and Canada", may be made to the commissioner on the part of the United States and by his authority to chiefs of parties prior to March 2, 1921.

(Apr. 15, 1918, ch. 52, 40 Stat. 523; Mar. 2, 1921, ch. 113, 41 Stat. 1210; June 10, 1921, ch. 18, title III, §304, 42 Stat. 24; Apr. 29, 1926, ch. 195, title I, 44 Stat. 336; Feb. 24, 1927, ch. 189, title I, 44 Stat. 1185; Feb. 15, 1928, ch. 57, title I, 45 Stat. 70; Jan. 25, 1929, ch. 102, title I, 45 Stat. 1101; Apr. 18, 1930, ch. 184, title I, 46 Stat. 179; Pub. L. 89–554, §8(a), Sept. 6, 1966, 80 Stat. 643; Pub. L. 92–310, title II, §231(aa), June 6, 1972, 86 Stat. 212; Pub. L. 104–316, title I, §111(a), Oct. 19, 1996, 110 Stat. 3833.)

CODIFICATION

Section is from the Diplomatic and Consular Service Appropriation Act of Mar. 2, 1921. Similar provisions were contained in act Apr. 15, 1918, and other prior acts.

Acts Apr. 29, 1926; Feb. 24, 1927; Feb. 15, 1928; Jan. 25, 1929; and Apr. 18, 1930, were appropriation acts for the fiscal years 1927, 1928, 1929, 1930, and 1931, respectively. These Acts made applicable boundary appropriations for the enumerated fiscal years.

Section was formerly classified to section 535 of Title 31 prior to the general revision and enactment of Title 31, Money and Finance, by Pub. L. 97–258, §1, Sept. 13, 1982, 96 Stat. 877.

AMENDMENTS

1996—Pub. L. 104–316 substituted "chiefs of parties" for "chiefs of parties and accounts arising under advances shall be rendered through and by the commissioner on the part of the United States to the General Accounting Office as under advances made to chiefs of parties".

1972—Pub. L. 92–310 struck out provisions that required chiefs of parties to give bonds.

1966—Pub. L. 89–554 struck out provisions that related to traveling expenses of the commissioner.

TRANSFER OF FUNCTIONS

"General Accounting Office" substituted in text for "Treasury Department" pursuant to act June 10, 1921, which transferred powers and duties conferred upon Comptroller, six auditors, and certain other officers of the Treasury to General Accounting Office. See section 701 et seq. of Title 31, Money and Finance.

§268c. Limitation on expenditure of funds for compensation of International Boundary Commissioner to actual hours worked

Funds appropriated on and after September 30, 1996, or otherwise made available under this Act or any other Act may be expended for compensation of the United States Commissioner of the International Boundary Commission, United States and Canada, only for actual hours worked by such Commissioner.

(Pub. L. 104–208, div. A, title I, §101(a) [title IV, §403], Sept. 30, 1996, 110 Stat. 3009, 3009–54.)

SIMILAR PROVISIONS

Similar provisions were contained in the following prior appropriation acts:
Pub. L. 103–317, title V, §503, Aug. 26, 1994, 108 Stat. 1764.
Pub. L. 103–121, title V, §503, Oct. 27, 1993, 107 Stat. 1189.

§269. Permanent International Association of Road Congresses; authorization of membership

The President is authorized to maintain membership of the United States in the Permanent International Association of Road Congresses.

(Pub. L. 102–138, title I, §164(b), Oct. 28, 1991, 105 Stat. 676.)

PRIOR PROVISIONS

A prior section 269, act June 18, 1926, ch. 623, 44 Stat. 754, authorized appropriations of $3,000 per annum to enable United States to accept membership in Permanent Association of International Road Congresses, prior to repeal by Pub. L. 102–138, title I, §164(a), Oct. 28, 1991, 105 Stat. 676.

§269a. Central Bureau of the International Map of the World on the Millionth Scale; authorization of appropriations

There is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, an annual sum of $50 as a contribution on the part of the United States toward the expenses incurred by the Central Bureau of the International Map of the World on the Millionth Scale.

(June 27, 1930, ch. 652, 46 Stat. 825.)

ANNUAL APPROPRIATIONS

Annual appropriations to meet the obligations of membership in various international organizations were contained in the following acts:
Pub. L. 114–113, div. K, title I, Dec. 18, 2015, 129 Stat. 2709, 2711.
Pub. L. 113–235, div. J, title I, Dec. 16, 2014, 128 Stat. 2577, 2579.
Pub. L. 113–76, div. K, title I, Jan. 17, 2014, 128 Stat. 468, 470.
Pub. L. 112–74, div. I, title I, Dec. 23, 2011, 125 Stat. 1168, 1169.
Pub. L. 111–117, div. F, title I, Dec. 16, 2009, 123 Stat. 3316, 3317.
Pub. L. 111–8, div. H, title I, Mar. 11, 2009, 123 Stat. 835, 836.
Pub. L. 110–161, div. J, title I, Dec. 26, 2007, 121 Stat. 2280, 2281.
Pub. L. 109–108, title IV, Nov. 22, 2005, 119 Stat. 2322, 2323.
Pub. L. 108–447, div. B, title IV, Dec. 8, 2004, 118 Stat. 2898, 2899.
Pub. L. 108–199, div. B, title IV, Jan. 23, 2004, 118 Stat. 82, 83.
Pub. L. 108–7, div. B, title IV, Feb. 20, 2003, 117 Stat. 88, 89.
Pub. L. 107–77, title IV, Nov. 28, 2001, 115 Stat. 786, 787.
Pub. L. 106–553, §1(a)(2) [title IV], Dec. 21, 2000, 114 Stat. 2762, 2762A–92, 2762A–94.
Pub. L. 106–113, div. B, §1000(a)(1) [title IV], Nov. 29, 1999, 113 Stat. 1535, 1501A–41, 1501A–42.
Pub. L. 105–277, div. A, §101(b) [title IV], Oct. 21, 1998, 112 Stat. 2681–50, 2681–95, 2681–97.

Pub. L. 105–119, title IV, Nov. 26, 1997, 111 Stat. 2497, 2499.
Pub. L. 104–208, div. A, title I, §101(a) [title IV], Sept. 30, 1996, 110 Stat. 3009, 3009–49, 3009–50.
Pub. L. 104–134, title I, §101[(a)] [title IV], Apr. 26, 1996, 110 Stat. 1321, 1321–39, 1321–40; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327.
Pub. L. 103–317, title V, Aug. 26, 1994, 108 Stat. 1762, 1763, as amended Pub. L. 103–335, title VIII, §8155(a), Sept. 30, 1994, 108 Stat. 2658.
Pub. L. 103–121, title V, Oct. 27, 1993, 107 Stat. 1187.
Pub. L. 102–395, title V, Oct. 6, 1992, 106 Stat. 1866, 1867.
Pub. L. 102–140, title V, Oct. 28, 1991, 105 Stat. 818.
Pub. L. 101–515, title III, Nov. 5, 1990, 104 Stat. 2126.
Pub. L. 101–162, title III, Nov. 21, 1989, 103 Stat. 1008.
Pub. L. 100–459, title III, Oct. 1, 1988, 102 Stat. 2205.
Pub. L. 100–202, §101(a) [title III], Dec. 22, 1987, 101 Stat. 1329, 1329–20, 1329–21.
Pub. L. 100–71, title I, July 11, 1987, 101 Stat. 394.
Pub. L. 99–500, §101(b) [title III], Oct. 18, 1986, 100 Stat. 1783–39, 1783–58, 1783–59, and Pub. L. 99–591, §101(b) [title III], Oct. 30, 1986, 100 Stat. 3341–39, 3341–58, 3341–59, as amended Pub. L. 100–71, title I, July 11, 1987, 101 Stat. 394.
Pub. L. 99–180, title III, Dec. 13, 1985, 99 Stat. 1150, 1151.
Pub. L. 98–411, title III, Aug. 30, 1984, 98 Stat. 1565, 1566.
Pub. L. 98–166, title III, Nov. 28, 1983, 97 Stat. 1094.
Pub. L. 97–377, title I, §101(d), Dec. 21, 1982, 96 Stat. 1877.
Pub. L. 97–276, §101(a), Oct. 2, 1982, 96 Stat. 1186.
Pub. L. 97–92, §101(h) [incorporating Pub. L. 96–536, §101(o); H.R. 7584, title I], Dec. 15, 1981, 95 Stat. 1190.
Pub. L. 96–536, §101(o) [H.R. 7584, title I], Dec. 16, 1980, 94 Stat. 3169.
Pub. L. 96–369, §101(a), Oct. 1, 1980, 94 Stat. 1351.
Pub. L. 96–68, title I, Sept. 24, 1979, 93 Stat. 417, 418.
Pub. L. 95–431, title I, Oct. 10, 1978, 92 Stat. 1022, 1023.
Pub. L. 95–86, title I, Aug. 2, 1977, 91 Stat. 420, 421.
Pub. L. 94–362, title I, July 14, 1976, 90 Stat. 938, 939.
Pub. L. 94–121, title I, Oct. 21, 1975, 89 Stat. 613, 614.
Pub. L. 93–433, title I, Oct. 5, 1974, 88 Stat. 1188, 1189.
Pub. L. 93–162, title I, Nov. 27, 1973, 87 Stat. 637, 638.
Pub. L. 92–544, title I, Oct. 25, 1972, 86 Stat. 1110, 1111.
Pub. L. 92–77, title I, Aug. 10, 1971, 85 Stat. 247, 248.
Pub. L. 91–472, title I, Oct. 21, 1970, 84 Stat. 1041, 1042.
Pub. L. 91–153, title I, Dec. 24, 1969, 83 Stat. 404, 405.
Pub. L. 90–470, title I, Aug. 9, 1968, 82 Stat. 669, 670.
Pub. L. 90–133, title I, Nov. 8, 1967, 81 Stat. 412, 413.
Pub. L. 89–797, title I, Nov. 8, 1966, 80 Stat. 1480, 1481.
Pub. L. 89–164, title I, Sept. 2, 1965, 79 Stat. 621, 622.
Pub. L. 88–527, title I, Aug. 31, 1964, 78 Stat. 712, 713.
Pub. L. 88–245, title I, Dec. 30, 1963, 77 Stat. 777, 778.
Pub. L. 87–843, title I, Oct. 18, 1962, 76 Stat. 1081, 1082.
Pub. L. 87–264, title I, Sept. 21, 1961, 75 Stat. 546, 547.
Pub. L. 86–678, title I, Aug. 31, 1960, 74 Stat. 557, 558.
Pub. L. 86–84, title I, July 13, 1959, 73 Stat. 183, 184.
Pub. L. 85–474, title I, June 30, 1958, 72 Stat. 246, 247.
Pub. L. 85–49, title I, June 11, 1957, 71 Stat. 56, 57.
June 20, 1956, ch. 414, title I, 70 Stat. 301.
July 7, 1955, ch. 279, title I, 69 Stat. 265, 266.
July 2, 1954, ch. 456, title I, 68 Stat. 414, 415.
Aug. 5, 1953, ch. 328, title I, 67 Stat. 368, 369.
July 10, 1952, ch. 651, title I, 66 Stat. 550, 551.
Oct. 22, 1951, ch. 533, title I, 65 Stat. 577, 578.
Sept. 6, 1950, ch. 896, Ch. III, title I, 64 Stat. 610, 611.
July 20, 1949, ch. 354, title I, 63 Stat. 449–451.
June 3, 1948, ch. 400, title I, 62 Stat. 308–310.

July 9, 1947, ch. 211, title I, 61 Stat. 282–284.
July 5, 1946, ch. 541, title I, 60 Stat. 453, 454.
May 21, 1945, ch. 129, title I, 59 Stat. 175, 176.
June 28, 1944, ch. 294, title I, 58 Stat. 402, 403.
July 1, 1943, ch. 182, title I, 57 Stat. 277, 278.
July 2, 1942, ch. 472, title I, 56 Stat. 474, 475.
June 28, 1941, ch. 258, title I, 55 Stat. 271–273.
May 14, 1940, ch. 189, title I, 54 Stat. 187–189.
June 29, 1939, ch. 248, title I, 53 Stat. 891–893.
Apr. 27, 1938, ch. 180, title I, 52 Stat. 253–255.
June 16, 1937, ch. 359, title I, 50 Stat. 267, 268.
June 22, 1936, ch. 689, title III, 49 Stat. 1634.
May 15, 1936, ch. 405, title I, 49 Stat. 1315–1317.
Mar. 22, 1935, ch. 39, title I, 49 Stat. 73, 74.
Apr. 7, 1934, ch. 104, title I, 48 Stat. 534.
Mar. 1, 1933, ch. 144, title I, 47 Stat. 1376.
July 1, 1932, ch. 361, title I, 47 Stat. 480–486.
Feb. 23, 1931, ch. 280, title I, 46 Stat. 1314–1320.
June 27, 1930, ch. 652, 46 Stat. 825.
Apr. 18, 1930, ch. 184, title I, 46 Stat. 179–185.
Jan. 25, 1929, ch. 102, title I, 45 Stat. 1100–1107.
Feb. 15, 1928, ch. 57, title I, 45 Stat. 69–75.
Feb. 24, 1927, ch. 189, title I, 44 Stat. 1184–1191.
Apr. 29, 1926, ch. 195, title I, 44 Stat. 335–340.
Feb. 27, 1925, ch. 364, title I, 43 Stat. 1019–1024.
May 28, 1924, ch. 204, title I, 43 Stat. 210–215.
Jan. 3, 1923, ch. 21, title I, 42 Stat. 1073–1077.
June 1, 1922, ch. 204, title I, 42 Stat. 605–609.

§269b. Omitted

Section, acts May 3, 1928, ch. 489, 45 Stat. 487; Sept. 21, 1950, ch. 976, §1(a), 64 Stat. 902; July 27, 1956, ch. 750, 70 Stat. 696; Feb. 16, 1960, Pub. L. 86–384, 74 Stat. 3; Oct. 4, 1961, Pub. L. 87–365, 75 Stat. 784, which authorized appropriations for the Department of State for the fiscal years 1963 and 1964, not in excess of $50,000 per fiscal year, to meet the obligations of the United States as a member of the Inter-American Children's Institute, has been omitted because the authorization has not been extended for later than the 1963 and 1964 fiscal years.

§269c. International Statistical Bureau at The Hague; authorization of appropriations

There is hereby authorized to be appropriated, out of any sums in the Treasury not otherwise appropriated, sums not exceeding $2,500 per annum to enable the United States to maintain membership in the International Statistical Bureau at The Hague, such sums to be expended under the direction of the Secretary of State.

(Apr. 28, 1924, ch. 136, 43 Stat. 112.)

§269d. Inter American Statistical Institute; authorization of appropriations

To enable the United States to become an adhering member of the Inter American Statistical Institute, there is hereby authorized to be appropriated annually, out of any money in the Treasury not otherwise appropriated, such sums as may be required for expenditure under the direction of the Secretary of State, for the payment of the share of the United States toward the support of the Institute: *Provided,* That (1) the membership dues of the United States payable for any fiscal year

shall not be paid unless, during the preceding fiscal year, at least eight other American nations shall have been in good standing as adhering members, and unless at least eight of such other adhering members for the last preceding year for which such members were respectively obligated to pay dues shall have paid dues which aggregated at least $10,000, and (2) the total cost to the United States for any fiscal year, for adhering membership, shall not exceed $35,000.

(Jan. 27, 1942, ch. 22, 56 Stat. 20; July 2, 1945, ch. 218, 59 Stat. 311.)

AMENDMENTS

1945—Act July 2, 1945, substituted the single proviso for two provisos.

§269e. Omitted

CODIFICATION

Section, acts July 10, 1952, ch. 651, title I, 66 Stat. 551; Aug. 5, 1953, ch. 328, title I, 67 Stat. 368; July 2, 1954, ch. 456, title I, 68 Stat. 415; July 7, 1955, ch. 279, title I, 69 Stat. 266; June 20, 1956, ch. 414, title I, 70 Stat. 301, related to availability of funds for United States participation in the International Civil Aviation Organization, and was from annual Department of State Appropriation Acts. Similar provisions which are permanent are classified to section 2673 of this title.

§269f. International Bureau for the Protection of Industrial Property; authorization of appropriations

Funds appropriated to the Secretary of State for "International Organizations and Conferences" shall be available for the payment by the United States of its proportionate share of the expenses of the International Bureau for the Protection of Industrial Property for any year after 1981 as determined under article 16(4) of the Paris Convention for the Protection of Industrial Property, as revised, except that in no event shall the payment for any year exceed 6 per centum of all expenses of the Bureau apportioned among countries for that year.

(Pub. L. 86–614, July 12, 1960, 74 Stat. 381; Pub. L. 88–69, July 19, 1963, 77 Stat. 82; Pub. L. 92–511, Oct. 20, 1972, 86 Stat. 918; Pub. L. 98–164, title I, §112, Nov. 22, 1983, 97 Stat. 1019.)

AMENDMENTS

1983—Pub. L. 98–164 substituted provisions making appropriations available for the payment of expenses of the International Bureau for the Protection of Industrial Property for any year after 1981, for provisions authorizing appropriations for contributions for the support of the International Bureau of Intellectual Property for the period from July 1, 1950, through June 30, 1959, and for the payment by the United States of its share of the expenses of the Bureau.

1972—Subsec. (a). Pub. L. 92–511, §1(1), substituted "International Bureau of Intellectual Property" for "International Bureau for the Protection of Industrial Property".

Subsec. (b). Pub. L. 92–511, §1(2), substituted provisions authorizing appropriation of sums as determined under article 16(4) of the Paris Convention for the Protection of Industrial Property up to a maximum of 4.5 percent of the total expenses apportioned among member countries, for provisions authorizing appropriation of sums for payment by the United States of its proportionate share not exceeding $15,000 annually.

1963—Pub. L. 88–69 increased the limitation on the annual appropriation authorization from $7,250 to $15,000.

ANNUAL APPROPRIATIONS

Annual appropriations to meet the obligations of membership in various international organizations were contained in acts listed in a note set out under section 269a of this title.

§269g. Private International Law Conference at The Hague and Private Law International Institute in Rome; membership; appointment of delegates

The President is hereby authorized to accept membership for the Government of the United States in (1) the Hague Conference on Private International Law and (2) the International (Rome) Institute for the Unification of Private Law, and to appoint the United States delegates and their alternates to meetings of the two organizations, and the committees and organs thereof.

(Pub. L. 88–244, §1, Dec. 30, 1963, 77 Stat. 775.)

§269g–1. Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary for the payment by the United States of its proportionate share of the expenses of the Hague Conference on Private International Law and of the International (Rome) Institute for the Unification of Private Law.

(Pub. L. 88–244, §2, Dec. 30, 1963, 77 Stat. 775; Pub. L. 92–497, Oct. 17, 1972, 86 Stat. 814; Pub. L. 97–241, title I, §114, Aug. 24, 1982, 96 Stat. 278.)

AMENDMENTS

1982—Pub. L. 97–241 struck out provision that no payment of the United States for any year exceed 7 per centum of all expenses apportioned among members for that year.

1972—Pub. L. 92–497 substituted provisions authorizing to be appropriated such sums as may be necessary for the payment of the United States of its proportionate share, except that no payment of the United States for any year shall exceed 7 per centum of all expenses apportioned among members for that year, for provisions authorizing to be appropriated such sums as may be necessary, not to exceed $25,000 annually, for the payment by the United States of its proportionate share.

ANNUAL APPROPRIATIONS

Annual appropriations to meet the obligations of membership in various international organizations were contained in acts listed in a note set out under section 269a of this title.

§269h. International Union for the Publication of Customs Tariffs; authorization of annual appropriations for expenses

There is hereby authorized to be appropriated annually to the Department of State such sums as may be necessary, including contributions pursuant to the convention of July 5, 1890, as amended, for the payment by the United States of its share of the expenses of the International Union for the Publication of Customs Tariffs and of the Bureau established to carry out the functions of the Union, but not to exceed 6 per centum of such expenses per annum.

(Pub. L. 90–569, Oct. 12, 1968, 82 Stat. 1003.)

ANNUAL APPROPRIATIONS

Annual appropriations to meet the obligations of membership in various international organizations were contained in acts listed in a note set out under section 269a of this title.

§§270 to 270g. Repealed. Pub. L. 88–619, §3, Oct. 3, 1964, 78 Stat. 995

Sections 270 to 270c, act July 3, 1930, ch. 851, §§1–4, 46 Stat. 1005, 1006, related to international tribunals, the administration of oaths, perjury, testimony of witnesses, production of documentary evidence, subpoena power, contempt and its punishment, the authority of commissioners to take evidence, and to procedure. See section 1782 of Title 28, Judiciary and Judicial Procedure.

Sections 270d to 270g, act July 3, 1930, ch. 851, §§5–8, as added June 7, 1933, ch. 50, 48 Stat. 117, 118, related to international tribunals, issuance of subpoenas upon application of United States' agent to United States district court, proceedings thereon, notice to foreign governments, forwarding of certified transcripts of testimony to agents of United States and any opposing government, perjury and contempt and the penalties therefor, and declared the Supreme Court of the District of Columbia to be a district court of the United States. See section 1782 of Title 28.

§271. International Labor Organization; membership

The President is authorized to accept membership for the Government of the United States of America in the International Labor Organization, which, through its general conference of representatives of its members and through its International Labor Office, collects information concerning labor throughout the world and prepares international conventions for the consideration of member governments with a view to improving conditions of labor.

(June 19, 1934, ch. 676, §1, 48 Stat. 1182.)

ACCEPTANCE OF CONSTITUTION BY UNITED STATES

Act June 30, 1948, ch. 756, §1, 62 Stat. 1151, provided: "That the President is hereby authorized to accept for the Government of the United States of America the Constitution of the International Labor Organization Instrument of Amendment adopted by the Twenty-ninth Session of the International Labor Conference on October 9, 1946."

ACCEPTANCE OF CONSTITUTIONAL AMENDMENT BY UNITED STATES

Pub. L. 88–65, July 17, 1963, 77 Stat. 80, provided: "That the President is hereby authorized to accept on behalf of the United States of America the instrument for the amendment of the constitution of the International Labor Organization adopted at Geneva on June 22, 1962, by the International Labor Conference at its forty-sixth session."

REASONS FOR ACCEPTANCE OF CONSTITUTION BY UNITED STATES

The reasons for acceptance of the Constitution of the Organization by the United States is set forth in the preliminary clauses of act June 30, 1948, ch. 756, 62 Stat. 1151, which provided that:

"Whereas the Senate and House of Representatives by Public Resolution Numbered 43 of the Seventy-third Congress authorized the President to accept membership for the Government of the United States of America in the International Labor Organization and the President, pursuant thereto, accepted such membership on August 20, 1934; and

"Whereas such membership in the International Labor Organization has proved of benefit to the people of the United States; and

"Whereas the International Labor Organization provides a unique international forum in which representatives of employers and workers join together with those of governments in formulating conventions and recommendations which serve as international minimum standards for labor and social legislation and administration within member countries; and

"Whereas extensive revision of the constitution has been undertaken to enable the Organization to meet changed conditions, to strengthen the application of conventions and recommendations, with careful provision to meet the constitutional rules and practices of Federal States, and to operate as a specialized agency in relationship with the United Nations; and

"Whereas the Constitution of the International Labor Organization Instrument of Amendment of 1946 was adopted unanimously on October 9, 1946, with the entire delegation of the United States to the Twenty-ninth Session of the International Labor Conference supporting this Instrument of Amendment."

EX. ORD. NO. 12216. PRESIDENT'S COMMITTEE ON THE INTERNATIONAL LABOR ORGANIZATION

Ex. Ord. No. 12216, June 18, 1980, 45 F.R. 41619, as amended by Ex. Ord. No. 13135, Aug. 27, 1999, 64 F.R. 47339; Ex. Ord. No. 13385, §7, Sept. 29, 2005, 70 F.R. 57991, provided:

By the authority vested in me as President by the Constitution and statutes of the United States of America, and in order to create in accordance with the Federal Advisory Committee Act (5 U.S.C. App.) an advisory committee on United States participation in the International Labor Organization, it is hereby ordered as follows:

1–1. ESTABLISHMENT OF COMMITTEE

1–101. There is established the President's Committee on the International Labor Organization (ILO). The members will be the Secretaries of Labor, State, and Commerce, the Assistant to the President for National Security Affairs, the Assistant to the President for Economic Policy, and one representative each from organized labor and the business community, to be designated by the Secretary of Labor.

1–102. The Chairman of the Committee shall be the Secretary of Labor. The Committee shall meet at the

request of the Chairman.

1–2. FUNCTIONS OF THE COMMITTEE

1–201. The Committee shall monitor and assess the work of the ILO.

1–202. The Committee shall make recommendations to the President or other officers of the Federal government, including the Secretary of Labor. With due recognition that in the ILO tripartite system, government, employer, and employee representatives retain the right to take positions independent of one another, the Committee shall exert its best efforts to develop a coordinated position as to United States policy on ILO issues.

1–203. The Committee shall also perform other functions relevant to relations with the ILO as requested by the President or the Committee Chairman.

1–3. FUNDING AND EXPENSES

1–301. Each member of the Committee who is not otherwise employed full-time by the Federal government may receive, to the extent permitted by law, compensation for each day he is engaged in the work of the Committee at a rate not to exceed the maximum daily rate now or hereafter prescribed by law, and may also receive transportation and travel expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 5702 and 5703).

1–302. The Chairman of the Committee is authorized to establish such additional advisory committees as may be deemed appropriate to carry out the purposes of this Order.

1–303. All necessary administrative staff services, support, facilities and expenses of the Committee shall be furnished by the Department of Labor to the extent permitted by law.

1–4. GENERAL PROVISIONS

1–401. Notwithstanding the provisions of any other Executive order, the functions of the President applicable to the Committee under the Federal Advisory Committee Act, as amended (5 U.S.C. App.), except that of reporting annually to the Congress, are hereby delegated to the Secretary of Labor, who shall perform them in accordance with guidelines and procedures established by the Administrator of General Services.

1–402. The Committee shall terminate on December 31, 1980, unless this date is extended by further Executive order.

EXTENSION OF TERM OF PRESIDENT'S COMMITTEE ON THE INTERNATIONAL LABOR ORGANIZATION

Term of President's Committee on the International Labor Organization extended until Sept. 30, 2017, by Ex. Ord. No. 13708, Sept. 30, 2015, 80 F.R. 60271, set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5, Government Organization and Employees.

Previous extensions of term of President's Committee on the International Labor Organization were contained in the following prior Executive Orders:

Ex. Ord. No. 13652, Sept. 30, 2013, 78 F.R. 61817, extended term until Sept. 30, 2015.
Ex. Ord. No. 13585, Sept. 30, 2011, 76 F.R. 62281, extended term until Sept. 30, 2013.
Ex. Ord. No. 13511, Sept. 29, 2009, 74 F.R. 50909, extended term until Sept. 30, 2011.
Ex. Ord. No. 13446, Sept. 28, 2007, 72 F.R. 56175, extended term until Sept. 30, 2009.
Ex. Ord. No. 13385, Sept. 29, 2005, 70 F.R. 57989, extended term until Sept. 30, 2007.
Ex. Ord. No. 13316, Sept. 17, 2003, 68 F.R. 55255, extended term until Sept. 30, 2005.
Ex. Ord. No. 13225, Sept. 28, 2001, 66 F.R. 50291, extended term until Sept. 30, 2003.
Ex. Ord. No. 13138, Sept. 30, 1999, 64 F.R. 53879, extended term until Sept. 30, 2001.
Ex. Ord. No. 13062, §1(i), Sept. 29, 1997, 62 F.R. 51755, extended term until Sept. 30, 1999.
Ex. Ord. No. 12974, Sept. 29, 1995, 60 F.R. 51875, extended term until Sept. 30, 1997.
Ex. Ord. No. 12869, Sept. 30, 1993, 58 F.R. 51751, extended term until Sept. 30, 1995.
Ex. Ord. No. 12774, Sept. 27, 1991, 56 F.R. 49835, extended term until Sept. 30, 1993.
Ex. Ord. No. 12692, Sept. 29, 1989, 54 F.R. 40627, extended term until Sept. 30, 1991.
Ex. Ord. No. 12610, Sept. 30, 1987, 52 F.R. 36901, extended term until Sept. 30, 1989.
Ex. Ord. No. 12534, Sept. 30, 1985, 50 F.R. 40319, extended term until Sept. 30, 1987.
Ex. Ord. No. 12489, Sept. 28, 1984, 49 F.R. 38927, extended term until Sept. 30, 1985.
Ex. Ord. No. 12399, Dec. 31, 1982, 48 F.R. 379, extended term until Sept. 30, 1984.
Ex. Ord. No. 12258, Dec. 31, 1980, 46 F.R. 1251, extended term until Dec. 31, 1982.

§272. Omitted

CODIFICATION

Section, act June 19, 1934, ch. 676, §2, 48 Stat. 1183, provided that the President, in accepting membership in the International Labor Organization, was to assume no obligation under the covenant of the League of Nations.

§272a. Authorization of appropriations

There is hereby authorized to be appropriated annually to the Department of State—

(a) such sums as may be necessary for the payments by the United States of its share of the expenses of the Organization, but not to exceed 25 per centum of such expenses, as apportioned by the International Labour Conference in accordance with article 13(2)(c) and 13(3) of the constitution of the Organization; and

(b) such additional sums as may be necessary to pay the expenses incident to participation by the United States in the activities of the Organization, including—

(1) salaries of the representative or representatives and alternates and appropriate staff, including personal services in the District of Columbia and elsewhere, without regard to the civil-service laws and chapter 51 and subchapter III of chapter 53 of title 5; services as authorized by section 3109 of title 5; under such rules and regulations as the Secretary of State may prescribe, allowances for living quarters, including heat, fuel, and light and cost-of-living allowances to persons temporarily stationed abroad; printing and binding without regard to section 501 of title 44 and section 6101 of title 41; and

(2) such other expenses as the Secretary of State deems necessary to participation by the United States in the activities of the Organization: *Provided*, That the provisions of section 287r of this title, and regulations thereunder, applicable to expenses incurred pursuant to subchapter XVII of this chapter shall be applicable to any expenses incurred pursuant to this paragraph.

(June 30, 1948, ch. 756, §2, 62 Stat. 1151; Oct. 28, 1949, ch. 782, title II, §202(2), title XI, §1106(a), 63 Stat. 954, 972; Sept. 21, 1950, ch. 976, §1(e), 64 Stat. 903; Pub. L. 85–477, ch. V, §502(f), June 30, 1958, 72 Stat. 273.)

REFERENCES IN TEXT

Subchapter XVII [§287m et seq.] of this chapter, referred to in subsec. (b)(2), was in the original a reference to the Act of July 30, 1946, Public Law 565, Seventy-ninth Congress.

CODIFICATION

In subsec. (b)(1), "chapter 51 and subchapter III of chapter 53 of title 5" and "section 3109 of title 5" substituted for "the Classification Act of 1949" and "section 15 of Public Law 600, Seventy-ninth Congress [5 U.S.C. 55a]", respectively, on authority of Pub. L. 89–554, §7(b) Sept. 6, 1966, 80 Stat. 631, which Act enacted Title 5, Government Organization and Employees.

In subsec. (b)(1), "section 501 of title 44" substituted for "section 11 of the Act of March 1, 1919 (44 U.S.C. 111)" on authority of Pub. L. 90–620, §2(b), Oct. 22, 1968, 82 Stat. 1305, which Act enacted Title 44, Public Printing and Documents.

In subsec. (b)(1), "section 6101 of title 41" substituted for "section 3709 of the Revised Statutes, as amended" on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

1958—Subsec. (a). Pub. L. 85–477 substituted provisions limiting appropriations to not more than 25 per centum of the expenses for provisions which authorized an appropriation of not more than $1,750,000 per annum for payment of expenses.

1950—Subsec. (a). Joint Res. Sept. 21, 1950, §1(e)(1), (2), increased the authorized annual appropriation from $1,091,739 to $1,750,000, and changed the reference to the Organization's constitution from article 13(c) to article 13(2)(c) and 13(3).

Subsec. (b). Joint Res. Sept. 21, 1950, §1(e)(3), struck out limitation of $95,000 on the authorized annual

appropriation for expenses.

1949—Subsec. (b)(1). Act Oct. 28, 1949, substituted "Classification Act of 1949" for "Classification Act of 1923".

LIMITATION OF CONTRIBUTIONS

Contributions by United States, except for special projects, limited to amount provided by Joint Res. Sept. 21, 1950; consent by State Department and reports to Congress, see section 262a of this title.

ANNUAL APPROPRIATIONS

Annual appropriations to meet the obligations of membership in various international organizations were contained in acts listed in a note set out under section 269a of this title.

§272b. Loyalty check on United States personnel

No person shall serve as representative, delegate, or alternate from the United States until such person has been investigated as to loyalty and security by the Director of the Office of Personnel Management.

(June 30, 1948, ch. 756, §3, 62 Stat. 1152; Apr. 5, 1952, ch. 159, §1, 66 Stat. 43; 1978 Reorg. Plan No. 2, §102, eff. Jan. 1, 1979, 43 F.R. 36037, 92 Stat. 3784.)

AMENDMENTS

1952—Act Apr. 5, 1952, substituted "Civil Service Commission" for "Federal Bureau of Investigation".

TRANSFER OF FUNCTIONS

"Director of the Office of Personnel Management" substituted in text for "Civil Service Commission" pursuant to Reorg. Plan No. 2 of 1978, §102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, which transferred functions vested by statute in Civil Service Commission to Director of Office of Personnel Management (except as otherwise specified), effective Jan. 1, 1979, as provided by section 1–102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

§273. Pan American Institute of Geography and History; authorization of annual appropriations for membership

In order to meet the obligations of the United States as a member of the Pan American Institute of Geography and History, there are authorized to be appropriated to the Department of State—

(1) such sums as may be required for the payment by the United States of its share of the expenses of the Institute, as apportioned in accordance with the statutes of the Institute;

(2) such additional sums as may be needed annually for the payment of all necessary expenses incident to participation by the United States in the activities of the Institute; and

(3) the sum of $386,050 for payment by the United States of its assessed annual contributions for the period beginning July 1, 1964, and extending through the fiscal year expiring June 30, 1969.

(Aug. 2, 1935, ch. 430, §1, 49 Stat. 512; Aug. 31, 1954, ch. 1154, 68 Stat. 1008; Pub. L. 89–646, Oct. 13, 1966, 80 Stat. 893; Pub. L. 91–340, July 17, 1970, 84 Stat. 438; Pub. L. 97–241, title I, §113, Aug. 24, 1982, 96 Stat. 278.)

AMENDMENTS

1982—Par. (1). Pub. L. 97–241 struck out ", not to exceed $200,000 annually," after "such sums".

1970—Pub. L. 91–340 increased annual appropriation authorization in par. (1) from $90,300 to $200,000, and added par. (3).

1966—Pub. L. 89–646 redesignated as cl. (1) provisions of former cl. (b), increasing the annual appropriation authorization from $50,000 to $90,300 and substituted cl. (2) additional annual appropriation authorization for payment of necessary expenses incident to participation by the United States in Institute activities for former cl. (a) appropriation authorization of $98,775 for payment by the United States of its

assessed annual contributions for period beginning July 1, 1951, and extending through fiscal year expiring June 30, 1954.

1954—Act Aug. 31, 1954, appropriated sufficient funds to pay back assessments for years 1951 to 1954, and increased from $10,000 to $50,000 the authorized annual contribution.

ANNUAL APPROPRIATIONS

Annual appropriations to meet the obligations of membership in various international organizations were contained in acts listed in a note set out under section 269a of this title.

§274. International Council of Scientific Unions and Associated Unions; authorization of annual appropriations for membership

There is hereby authorized to be appropriated, to be expended under the direction of the Secretary of State, in paying the annual share of the United States as an adhering member of the International Council of Scientific Unions and Associated Unions, including the International Astronomical Union, International Union of Chemistry, International Union of Geodesy and Geophysics, International Union of Mathematics, International Scientific Radio Union, International Union of Physics, and International Geographical Union, and such other international scientific unions as the Secretary of State may designate, such sum as may be necessary for the payment of such annual share, not to exceed $100,000 in any one year.

(Aug. 7, 1935, ch. 454, 49 Stat. 540; Pub. L. 85–627, Aug. 14, 1958, 72 Stat. 574; Pub. L. 89–104, Aug. 3, 1965, 79 Stat. 427.)

AMENDMENTS

1965—Pub. L. 89–104 substituted "$100,000" for "$65,000".

1958—Pub. L. 85–627 substituted "$65,000" for "$9,000".

ANNUAL APPROPRIATIONS

Annual appropriations to meet the obligations of membership in various international organizations were contained in acts listed in a note set out under section 269a of this title.

ANNUAL APPROPRIATIONS BETWEEN 1948 AND 1970

Act June 3, 1948, ch. 400, title I, §101, 62 Stat. 305, and subsequent Department of State Appropriation Acts through act Dec. 24, 1969, Pub. L. 91–153, title I, §101, 83 Stat. 404, failed to authorize appropriations for this section. See Annual Appropriations note set out above.

§274a. International biological program

(a) Congressional findings

The Congress hereby finds and declares that the international biological program, which was established under the auspices of the International Council of Scientific Unions and the International Union of Biological Sciences and is sponsored in the United States by the National Academy of Sciences and the National Academy of Engineering, deals with one of the most crucial situations to face this or any other civilization—the immediate or near potential of mankind to damage, possibly beyond repair, the earth's ecological system on which all life depends. The Congress further finds and declares that the international biological program provides an immediate and effective means available of meeting this situation, through its stated objectives of increased study and research related to biological productivity and human welfare in a changing world environment.

(b) Congressional support

The Congress therefore commends and endorses the international biological program and expresses its support of the United States National Committee and the Interagency Coordinating Committee, which together have the responsibility for planning, coordinating, and carrying out the program in the United States.

(c) Priority

In view of the urgency of the problem, the Congress finds and declares that the provision by the United States of adequate financial and other support for the international biological program is a matter of first priority.

(Pub. L. 91–438, §1, Oct. 7, 1970, 84 Stat. 889.)

§274b. Cooperation of Federal and non-Federal departments, agencies, and organizations; transfers of funds

(a) Full cooperation with international biological program

The Congress calls upon all Federal departments and agencies and other persons and organizations, both public and private, to support and cooperate fully with the international biological program and the activities and goals of the United States National Committee and the Interagency Coordinating Committee.

(b) Authorization for transfers of funds

For this purpose, the Congress authorizes and requests all Federal departments and agencies having functions or objectives which coincide with or are related to those of the international biological program to obligate or make appropriate transfers of funds to the program from moneys available for such functions or objectives and provide such other support as may be appropriate.

(Pub. L. 91–438, §2, Oct. 7, 1970, 84 Stat. 889.)

§275. International Hydrographic Bureau

To enable the United States to become a member of the International Hydrographic Bureau, and for the first annual contribution of the United States toward the creation and maintenance of such bureau, there is hereby appropriated out of money in the Treasury not otherwise appropriated $2,500, or so much thereof as may be necessary, to be paid by the Secretary of State when the exact quota shall have been ascertained.

(Mar. 2, 1921, ch. 113, 41 Stat. 1215.)

ANNUAL APPROPRIATIONS

Annual appropriations to meet the obligations of membership in various international organizations were contained in acts listed in a note set out under section 269a of this title.

§275a. Permanent International Commission of the Congresses of Navigation; authorization of appropriations

Not to exceed $45,000 annually of the funds appropriated for rivers and harbors shall be available for the support and maintenance of the Permanent International Commission of the Congresses of Navigation and for the payment in amounts approved by the Chief of Engineers of the expenses of the properly accredited delegates of the United States to the meetings of the congresses and of the Commission.

(June 30, 1948, ch. 771, title I, §107, 62 Stat. 1174; Pub. L. 89–298, title III, §306, Oct. 27, 1965, 79 Stat. 1094; Pub. L. 93–251, title I, §93, Mar. 7, 1974, 88 Stat. 39.)

AMENDMENTS

1974—Pub. L. 93–251 substituted "$45,000" for "$22,000".
1965—Pub. L. 89–298 substituted "$22,000" for "$5,000".

§§276 to 276a–4. Repealed. Pub. L. 105–277, div. G, subdiv. B, title XXV, §2503(d), Oct. 21, 1998, 112 Stat. 2681–837

Section 276, acts June 28, 1935, ch. 322, §1, 49 Stat. 425; Feb. 6, 1948, ch. 48, 62 Stat. 19; Pub. L. 85–477, ch. V, §502(b), June 30, 1958, 72 Stat. 272; Pub. L. 87–195, pt. IV, §710(a), Sept. 4, 1961, 75 Stat. 465; Pub. L. 87–565, pt. IV, §404, Aug. 1, 1962, 76 Stat. 263; Pub. L. 88–633, pt. IV, §401, Oct. 7, 1964, 78 Stat. 1014; Pub. L. 90–137, pt. IV, §402, Nov. 14, 1967, 81 Stat. 463; Pub. L. 92–226, pt. IV, §404, Feb. 7, 1972, 86 Stat. 34; Pub. L. 93–126, §3, Oct. 18, 1973, 87 Stat. 451; Pub. L. 94–141, title II, §204(a), Nov. 29, 1975, 89 Stat. 762; Pub. L. 95–45, §4(d)(1), June 15, 1977, 91 Stat. 223; Pub. L. 95–426, title VII, §710, Oct. 7, 1978, 92 Stat. 994; Pub. L. 105–277, div. G, subdiv. B, title XXV, §2503(b), Oct. 21, 1998, 112 Stat. 2681–837, authorized appropriations for annual contribution of the United States toward the maintenance of the Bureau of the Interparliamentary Union.

Section 276a, act June 28, 1935, ch. 322, §2, 49 Stat. 426, related to reports to Congress by American group of the Interparliamentary Union.

Section 276a–1, act June 28, 1935, ch. 322, §3, as added Pub. L. 94–141, title II, §204(b), Nov. 29, 1975, 89 Stat. 762; amended Pub. L. 95–45, §4(d)(2), June 15, 1977, 91 Stat. 223; Pub. L. 103–437, §9(a)(1), Nov. 2, 1994, 108 Stat. 4588, related to appointment of delegates from House of Representatives to the Conference of the Interparliamentary Union and appointment of Chairman and Vice Chairman.

Section 276a–2, act June 28, 1935, ch. 322, §4, as added Pub. L. 95–45, §4(d)(3), June 15, 1977, 91 Stat. 223, related to appointment of delegates from Senate to the Conference of the Interparliamentary Union and appointment of Chairman and Vice Chairman.

Section 276a–3, act June 28, 1935, ch. 322, §5, as added Pub. L. 95–45, §4(d)(3), June 15, 1977, 91 Stat. 223, related to executive secretary of American group of Interparliamentary Union.

Section 276a–4, act June 28, 1935, ch. 322, §6, as added Pub. L. 95–45, §4(d)(3), June 15, 1977, 91 Stat. 223, related to auditing of accounts of House and Senate delegations to the Interparliamentary Union and finality and conclusiveness of certificate of Chairman.

EFFECTIVE DATE OF REPEAL

Pub. L. 105–277, div. G, subdiv. B, title XXV, §2503(d), Oct. 21, 1998, 112 Stat. 2681–837, provided that: "Unless Congress receives the certification described in subsection (a) [set out below] before October 1, 1999, effective on that date the Act entitled 'An Act to authorize participation by the United States in the Interparliamentary Union', approved June 28, 1935 (22 U.S.C. 276–276a–4) is repealed." [The Secretary of State did not make the required certification.]

TERMINATION OF UNITED STATES MEMBERSHIP IN BUREAU OF INTERPARLIAMENTARY UNION

Pub. L. 105–277, div. G, subdiv. B, title XXV, §2503(a), Oct. 21, 1998, 112 Stat. 2681–836, provided that: "Unless the Secretary of State certifies to Congress that the United States will be assessed not more than $500,000 for its annual contribution to the Bureau of the Interparliamentary Union during fiscal year 1999, then effective October 1, 1999, the authority for further participation by the United States in the Bureau shall terminate in accordance with subsection (d) [set out above]." [The Secretary of State did not make the required certification.]

§276b. Repealed. Pub. L. 95–45, §4(d)(4), June 15, 1977, 91 Stat. 223

Section, act Aug. 25, 1937, ch. 757, 50 Stat. 770, provided that, on and after Aug. 25, 1937, the certificate of the president and executive secretary of the American Group of the Interparliamentary Union be final and conclusive upon the accounting officers in the auditing of all accounts of the Group.

§276c. Designation of Senate delegates to Conferences of the Interparliamentary Union

On and after June 30, 1958, Senate delegates to Conferences of the Interparliamentary Union shall be designated by the Presiding Officer of the Senate. Not less than two Senators so designated shall be members of the Committee on Foreign Relations.

(Pub. L. 85–474, title I, June 30, 1958, 72 Stat. 246; Pub. L. 94–141, title II, §204(c), Nov. 29, 1975,

89 Stat. 762.)

AMENDMENTS

1975—Pub. L. 94–141 inserted at end "Not less than two Senators so designated shall be members of the Committee on Foreign Relations."

§276c–1. Reports of expenditures by members of American groups or delegations and employees; consolidated reports by congressional committees; public inspection

Each chairman or senior member of the House of Representatives and Senate group or delegation of the United States group or delegation to the Interparliamentary Union, the NATO Parliamentary Assembly, the Canada-United States Interparliamentary Group, the Mexico-United States Interparliamentary Group, or any similar interparliamentary group of which the United States is a member or participates, by whom or on whose behalf local currencies owned by the United States are made available and expended and/or expenditures are made from funds appropriated for the expenses of such group or delegation, shall file with the chairman of the Committee on Foreign Relations of the Senate in the case of the group or delegation of the Senate, or with the chairman of the Committee on Foreign Affairs of the House of Representatives in the case of the group or delegation of the House, an itemized report showing all such expenditures made by or on behalf of each Member or employee of the group or delegation together with the purposes of the expenditure, including per diem (lodging and meals), transportation, and other purposes. Within sixty days after the beginning of each regular session of Congress, the chairman of the Committee on Foreign Relations and the chairman of the Committee on Foreign Affairs shall prepare consolidated reports showing with respect to each such group or delegation the total amount expended, the purposes of the expenditures, the amount expended for each such purpose, the names of the Members or employees by or on behalf of whom the expenditures were made and the amount expended by or on behalf of each Member or employee for each such purpose. The consolidated reports prepared by the chairman of the Committee on Foreign Relations of the Senate shall be filed with the Secretary of the Senate, and the consolidated reports prepared by the chairman of the Committee on Foreign Affairs of the House shall be filed with the Clerk of the House and shall be open to public inspection.

(Pub. L. 86–628, §105(b), July 12, 1960, 74 Stat. 460; Pub. L. 90–137, pt. IV, §401(b), Nov. 14, 1967, 81 Stat. 463; Pub. L. 94–59, title XI, §1104, July 25, 1975, 89 Stat. 299; Pub. L. 103–437, §9(a)(2), Nov. 2, 1994, 108 Stat. 4588; Pub. L. 104–186, title II, §218(1), Aug. 20, 1996, 110 Stat. 1747; Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title VII, §701(b)(2)], Nov. 29, 1999, 113 Stat. 1536, 1501A–459.)

AMENDMENTS

1999—Pub. L. 106–113 substituted "NATO Parliamentary Assembly" for "North Atlantic Assembly".

1996—Pub. L. 104–186 substituted "Clerk" for "Committee on House Administration" in last sentence.

1994—Pub. L. 103–437 substituted "Foreign Affairs" for "International Relations" wherever appearing.

1975—Pub. L. 94–59 brought reporting requirements into conformity with other foreign travel expense reporting requirements and into conformity with rules of House of Representatives.

1967—Pub. L. 90–137 substituted "North Atlantic Assembly" for "NATO parliamentarian's Conference".

§276c–2. Employee benefits for United States citizen-representatives to international financial institutions; Treasury Department as collecting, accounting, and depositing agency for employee payments; contributions from appropriated funds

Notwithstanding the provisions of any other law, the Executive Directors and Directors and their alternates, representing the United States in the International Monetary Fund, the International Bank

for Reconstruction and Development, the European Bank for Reconstruction and Development, the Inter-American Development Bank, the Bank for Economic Cooperation and Development in the Middle East and North Africa, the Asian Development Bank, the African Development Fund, the African Development Bank, and the Inter-American Investment Corporation, shall, if they are citizens of the United States, in the discretion of the Secretary of the Treasury, each be eligible on the basis of such service and the total compensation received therefor, for all employee benefits afforded employees in the civil service of the United States. The Treasury Department shall serve as the employing office for collecting, accounting for, and depositing in the Civil Service Retirement and Disability Fund, Employees Life Insurance Fund, and Employees Health Benefits Fund, all retirement and health insurance benefits payments made by these employees, and shall make any necessary agency contributions from funds appropriated to the Department of the Treasury.

(Pub. L. 91–599, ch. 5, §51, Dec. 30, 1970, 84 Stat. 1659; Pub. L. 95–612, §4, Nov. 8, 1978, 92 Stat. 3092; Pub. L. 97–35, title XIII, §1342(d), Aug. 13, 1981, 95 Stat. 743; Pub. L. 98–473, title I, §101(1) [title I], Oct. 12, 1984, 98 Stat. 1884, 1885; Pub. L. 101–513, title V, §562(c)(10)(C), Nov. 5, 1990, 104 Stat. 2036; Pub. L. 104–208, div. A, title I, §101(c) [title VII, §710(c)], Sept. 30, 1996, 110 Stat. 3009–121, 3009–181.)

CODIFICATION

Amendment by Pub. L. 98–473 is based on section 211(b) of title II of S. 2416, Ninety-eighth Congress, as introduced in the Senate on Mar. 13, 1984, which was enacted into permanent law by Pub. L. 98–473.

AMENDMENTS

1996—Pub. L. 104–208 inserted "the Bank for Economic Cooperation and Development in the Middle East and North Africa," after "the Inter-American Development Bank,".

1990—Pub. L. 101–513 inserted "the European Bank for Reconstruction and Development," before "the Inter-American Development Bank,".

1984—Pub. L. 98–473 inserted reference to the Inter-American Investment Corporation.

1981—Pub. L. 97–35 inserted reference to the African Development Bank.

1978—Pub. L. 95–612 prescribed requirement of citizenship to be eligible for employee benefits, extended the benefits to representatives to the African Development Fund, substituted provision for contributions from appropriated funds for prior provision for contributions from the fund established under section 822a(a) of title 31, and struck out provision making section effective Dec. 14, 1966.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Aug. 13, 1981, see section 1372 of Pub. L. 97–35, set out as an Effective Date note under section 290i of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95–612, §7, Nov. 8, 1978, 92 Stat. 3092, provided that: "This Act [amending this section, section 5108 of Title 5, Government Organization and Employees, and section 822a of former Title 31, Money and Finance, and enacting provisions set out as a note under section 5108 of Title 5] shall take effect on October 1, 1978, or on such later date as funds are made available pursuant to appropriation Acts authorized by section 5 of this Act [authorizing appropriations of $24,000,000 for fiscal year 1979; not classified to the Code]." Section 7 of Pub. L. 95–612 was repealed as executed by Pub. L. 97–258, §5(b), Sept. 13, 1982, 96 Stat. 1088, section 1 of which enacted Title 31, Money and Finance.

§276c–3. Repealed. Pub. L. 101–240, title V, §541(d)(7), Dec. 19, 1989, 103 Stat. 2518

Section, Pub. L. 98–181, title I [title X, §1006], Nov. 30, 1983, 97 Stat. 1287, related to personnel practices at the Inter-American Development Bank, Asian Development Bank, and African Development Bank.

§276c–4. Employment of United States citizens by certain international organizations

Not later than 180 days after December 16, 2016, and annually thereafter for 3 years, the Secretary of State shall submit to Congress a report that provides—

(1) for each international organization that had a geographic distribution formula in effect on January 1, 1991, an assessment of whether that organization—

(A) is taking good faith steps to increase the staffing of United States citizens, including, as appropriate, as assessment of any additional steps the organization could be taking to increase such staffing; and

(B) has met the requirements of its geographic distribution formula; and

(2) an assessment of United States representation among professional and senior-level positions at the United Nations, including—

(A) an assessment of the proportion of United States citizens employed at the United Nations Secretariat and at all United Nations specialized agencies, funds, and programs relative to the total employment at the United Nations Secretariat and at all such agencies, funds, and programs;

(B) an assessment of compliance by the United Nations Secretariat and such agencies, funds, and programs with any applicable geographic distribution formula; and

(C) a description of any steps taken or planned to be taken by the United States to increase the staffing of United States citizens at the United Nations Secretariat and such agencies, funds and programs.

(Pub. L. 102–138, title I, §181, Oct. 28, 1991, 105 Stat. 682; Pub. L. 114–323, title III, §308, Dec. 16, 2016, 130 Stat. 1923.)

AMENDMENTS

2016—Pub. L. 114–323 amended section generally. Prior to amendment, text read as follows: "Not less than 180 days after October 28, 1991, and each year thereafter, the Secretary of State shall submit a report to the Congress concerning each international organization which had a geographic distribution formula in effect on January 1, 1991, of whether each such organization—

"(1) is taking good faith steps to increase the staffing of United States citizens; and

"(2) has met its geographic distribution formula."

SUBCHAPTER I—CANADA-UNITED STATES INTERPARLIAMENTARY GROUP

§276d. United States group; appointment; term; meetings

Not to exceed twenty-four Members of Congress shall be appointed to meet jointly and at least annually and when Congress is not in session (except that this restriction shall not apply during the first session of the Eighty-sixth Congress or to meetings held in the United States) with representatives of the House of Commons and Senate of the Canadian Parliament for discussion of common problems in the interests of relations between the United States and Canada. Of the Members of the Congress to be appointed for the purposes of this subchapter (hereinafter designated as the United States group) half shall be appointed by the Speaker of the House from Members of the House (not less than four of whom shall be from the Foreign Affairs Committee), and half shall be appointed by the President of the Senate upon recommendations of the majority and minority leaders of the Senate from Members of the Senate (not less than four of whom shall be from the Foreign Relations Committee).

Such appointments shall be for the period of each meeting of the Canada-United States Interparliamentary group except for the four members of the Foreign Affairs Committee and the four members of the Foreign Relations Committee, whose appointments shall be for the duration of each Congress.

The Chairman or Vice Chairman of the House delegation shall be a Member from the Foreign Affairs Committee, and, unless the President of the Senate, upon the recommendation of the Majority Leader, determines otherwise, the Chairman or Vice Chairman of the Senate delegation shall be a Member from the Foreign Relations Committee.

(Pub. L. 86–42, §1, June 11, 1959, 73 Stat. 72; Pub. L. 95–45, §4(a), June 15, 1977, 91 Stat. 222; Pub. L. 103–437, §9(a)(3), Nov. 2, 1994, 108 Stat. 4588.)

AMENDMENTS

1994—Pub. L. 103–437 substituted "Foreign Affairs" for "International Relations" wherever appearing.

1977—Pub. L. 95–45 substituted "International Relations Committee" for "Foreign Affairs Committee" as the name of the House Committee from which not less than four of the House appointees must be drawn, inserted requirement that the appointment of the Senate appointees by the President of the Senate be made upon the recommendations of the majority and minority leaders of the Senate, and inserted provision that the Chairman or Vice Chairman of the House delegation be a Member from the International Relations Committee, and, unless the President of the Senate, upon the recommendation of the Majority Leader, determines otherwise, the Chairman or Vice Chairman of the Senate delegation be a Member from the Foreign Relations Committee.

§276e. Authorization of appropriations; disbursements

An appropriation of $150,000 annually is authorized, $75,000 of which shall be for the House delegation and $75,000 for the Senate delegation, or so much thereof as may be necessary, to assist in meeting the expenses of the United States group of the Canada-United States Interparliamentary group for each fiscal year for which an appropriation is made, the House and Senate portions of such appropriation to be disbursed on vouchers to be approved by the Chairman of the House delegation and the Chairman of the Senate delegation, respectively.

(Pub. L. 86–42, §2, June 11, 1959, 73 Stat. 72; Pub. L. 94–350, title I, §118(a), July 12, 1976, 90 Stat. 827; Pub. L. 103–236, title V, §502(a)(2), Apr. 30, 1994, 108 Stat. 462; Pub. L. 107–77, title IV, §408(b)(3), Nov. 28, 2001, 115 Stat. 791.)

AMENDMENTS

2001—Pub. L. 107–77 substituted "$150,000" for "$70,000" and substituted "$75,000" for "$35,000" in two places.

1994—Pub. L. 103–236 substituted "$70,000" for "$50,000" and substituted "$35,000" for "$25,000" in two places.

1976—Pub. L. 94–350 increased annual appropriations authorization to $50,000 from $30,000 and amount for the House and Senate delegations to $25,000 from $15,000.

PERMANENT APPROPRIATION FOR DELEGATION EXPENSES

Pub. L. 105–277, div. G, subdiv. B, title XXV, §2503(e), Oct. 21, 1998, 112 Stat. 2681–837, provided that: "Unobligated balances of appropriations made under section 303 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations [Appropriation] Act[,] 1988 (as contained in section 101(a) of the Continuing Appropriations Act, 1988; Public Law 100–202 [set out below]) that are available as of the day before the date of enactment of this Act [Oct. 21, 1998] shall be transferred on such date to the general fund of the Treasury of the United States."

Pub. L. 103–236, title V, §502(b), Apr. 30, 1994, 108 Stat. 462, provided that: "Funds appropriated and disbursed pursuant to section 303 of Title III [of section 101(a)] of Public Law 100–202 (101 Stat. 1329–23; 22 U.S.C. 276 note [now 276e note]) are authorized to be deposited in interest-bearing accounts and any interest which accrues shall be deposited, periodically, in a miscellaneous account of the Treasury."

Pub. L. 100–202, §101(a) [title III, §303], Dec. 22, 1987, 101 Stat. 1329, 1329–23, as amended by Pub. L. 100–459, title III, §303(a), Oct. 1, 1988, 102 Stat. 2207; Pub. L. 101–515, title III, §304(a), Nov. 5, 1990, 104 Stat. 2128; Pub. L. 105–277, div. G, subdiv. B, title XXV, §2503(c), Oct. 21, 1998, 112 Stat. 2681–837; Pub. L. 107–77, title IV, §408(a), Nov. 28, 2001, 115 Stat. 790, provided that: "There is hereby appropriated, out of any money in the Treasury not otherwise appropriated, a total of $620,000 for each fiscal year to carry out (in accordance with the respective authorization amounts) section 2(2) of Public Law 84–689 [22 U.S.C. 1928b(2)], section 2 of Public Law 86–42 [22 U.S.C. 276e], section 2 of Public Law 86–420 [22 U.S.C. 276i],

and section 109(b) and (c) of the Department of State Authorization Act, Fiscal Years 1984 and 1985 [§109(b), (c) of Pub. L. 98–164, title I, Nov. 22, 1983, 97 Stat. 1019, set out as a note under section 276l of this title].. [sic] These funds may be disbursed to each delegation, pursuant to vouchers in accordance with the applicable provisions of law, at any time requested by the Chairman of the delegation after that fiscal year begins."

[Pub. L. 107–77, title IV, §408(a), Nov. 28, 2001, 115 Stat. 790, which directed the amendment of section 101(a) [title III, §303] of Pub. L. 100–202, set out above, by substituting "$620,000" for "$440,000", was executed by making the substitution for "$350,000" to reflect the probable intent of Congress and the amendment by Pub. L. 105–277, §2503(c)(1).]

[Pub. L. 100–459, title III, §303(c), Oct. 1, 1988, 102 Stat. 2207, provided that: "The amendments made by this section [amending section 101(a) [title III, §303] of Pub. L. 100–202, set out above] shall take effect on October 1, 1988."]

§276f. Report to Congress

The United States group of the Canada-United States Interparliamentary group shall submit to the Congress a report for each fiscal year for which an appropriation is made including its expenditures under such appropriation.

(Pub. L. 86–42, §3, June 11, 1959, 73 Stat. 73.)

§276g. Auditing of accounts

The certificate of the Chairman of the House delegation or the Senate delegation of the Canada-United States Interparliamentary group shall hereafter be final and conclusive upon the accounting officers in the auditing of the accounts of the United States group of the Canada-United States Interparliamentary group.

(Pub. L. 86–42, §4, June 11, 1959, 73 Stat. 73.)

SUBCHAPTER II—MEXICO-UNITED STATES INTERPARLIAMENTARY GROUP

§276h. United States group; appointment; term; meetings

Not to exceed twenty-four Members of Congress shall be appointed to meet jointly and at least annually with representatives of the Chamber of Deputies and Chamber of Senators of the Mexican Congress for discussion of common problems in the interests of relations between the United States and Mexico. Of the Members of the Congress to be appointed for the purposes of this subchapter (hereinafter designated as the United States group) half shall be appointed by the Speaker of the House from Members of the House (not less than four of whom shall be from the Foreign Affairs Committee), and half shall be appointed by the President of the Senate upon recommendations of the majority and minority leaders of the Senate from Members of the Senate (not less than four of whom shall be from the Foreign Relations Committee). Such appointments shall be for the period of each meeting of the Mexico-United States Interparliamentary group except for the four members of the Foreign Affairs Committee, and the four members of the Foreign Relations Committee, whose appointments shall be for the duration of each Congress. The Chairman or Vice Chairman of the House delegation shall be a Member from the Foreign Affairs Committee, and, unless the President of the Senate, upon the recommendation of the Majority Leader, determines otherwise, the Chairman or Vice Chairman of the Senate delegation shall be a Member from the Foreign Relations Committee.

(Pub. L. 86–420, §1, Apr. 9, 1960, 74 Stat. 40; Pub. L. 95–45, §4(b), June 15, 1977, 91 Stat. 222;

Pub. L. 103–437, §9(a)(4), Nov. 2, 1994, 108 Stat. 4588.)

AMENDMENTS

1994—Pub. L. 103–437 substituted "Foreign Affairs" for "International Relations" wherever appearing.

1977—Pub. L. 95–45 substituted "International Relations Committee" for "Foreign Affairs Committee" as the name of the House Committee from which not less than four of the House appointees must be drawn, inserted requirement that the appointment of the Senate appointees by the President of the Senate be made upon the recommendations of the majority and minority leaders of the Senate, and inserted provision that the Chairman or Vice Chairman of the House delegation be a Member from the International Relations Committee, and, unless the President of the Senate, upon the recommendation of the Majority Leader, determines otherwise, the Chairman or Vice Chairman of the Senate delegation be a Member from the Foreign Relations Committee.

§276i. Authorization of appropriations; disbursements

An appropriation of $120,000 annually is authorized, $60,000 of which shall be for the House delegation and $60,000 for the Senate delegation, or so much thereof as may be necessary, to assist in meeting the expenses of the United States group of the Mexico-United States Interparliamentary group for each fiscal year for which an appropriation is made, the House and Senate portions of such appropriation to be disbursed on vouchers to be approved by the Chairman of the House delegation and the Chairman of the Senate delegation, respectively.

(Pub. L. 86–420, §2, Apr. 9, 1960, 74 Stat. 40; Pub. L. 94–350, title I, §118(b), July 12, 1976, 90 Stat. 827; Pub. L. 101–515, title III, §304(c), Nov. 5, 1990, 104 Stat. 2129; Pub. L. 103–236, title V, §502(a)(1), Apr. 30, 1994, 108 Stat. 461; Pub. L. 107–77, title IV, §408(b)(2), Nov. 28, 2001, 115 Stat. 790.)

AMENDMENTS

2001—Pub. L. 107–77 substituted "$120,000" for "$80,000" and substituted "$60,000" for "$40,000" in two places.

1994—Pub. L. 103–236 substituted "$80,000" for "$100,000" and substituted "$40,000" for "$50,000" in two places.

1990—Pub. L. 101–515 substituted "$100,000" for "$50,000" and "$50,000" for "$25,000" in two places.

1976—Pub. L. 94–350 increased annual appropriations authorization to $50,000 from $30,000 and amount for the House and Senate delegations to $25,000 from $15,000.

PERMANENT APPROPRIATION FOR DELEGATION EXPENSES

A permanent appropriation to carry out this section is contained in section 101(a) [title III, §303] of Pub. L. 100–202, as amended, set out as a note under section 276e of this title.

§276j. Report to Congress

The United States group of the Mexico-United States Interparliamentary group shall submit to the Congress a report for each fiscal year for which an appropriation is made including its expenditures under such appropriation.

(Pub. L. 86–420, §3, Apr. 9, 1960, 74 Stat. 40.)

§276k. Auditing of accounts

The certificate of the Chairman of the House delegation or the Senate delegation of the Mexico-United States Interparliamentary group shall on and after April 9, 1960 be final and conclusive upon the accounting officers in the auditing of the accounts of the United States group of the Mexico-United States Interparliamentary group.

(Pub. L. 86–420, §4, Apr. 9, 1960, 74 Stat. 40.)

SUBCHAPTER II–A—BRITISH-AMERICAN INTERPARLIAMENTARY GROUP

§276*l*. British-American Interparliamentary Group

(a) Establishment and meetings

Not to exceed 24 Members of Congress shall be appointed to meet annually and when the Congress is not in session (except that this restriction shall not apply to meetings held in the United States), with representatives of the House of Commons and the House of Lords of the Parliament of Great Britain for discussion of common problems in the interest of relations between the United States and Great Britain. The Members of Congress so appointed shall be referred to as the "United States group" of the United States Interparliamentary Group.

(b) Appointment of Members

Of the Members of Congress appointed for purposes of this section—

(1) half shall be appointed by the Speaker of the House of Representatives from among Members of the House (not less than 4 of whom shall be members of the Committee on Foreign Affairs), and

(2) half shall be appointed by the President Pro Tempore of the Senate, upon recommendations of the majority and minority leaders of the Senate, from among Members of the Senate (not less than 4 of whom shall be members of the Committee on Foreign Relations) unless the majority and minority leaders of the Senate determine otherwise.

(c) Chair and Vice Chair

(1) The Chair or Vice Chair of the House delegation of the United States group shall be a member from the Committee on Foreign Affairs.

(2) The President Pro Tempore of the Senate shall designate the Chair or Vice Chair of the Senate delegation.

(d) Funding

There is authorized to be appropriated $50,000 for each fiscal year to assist in meeting the expenses of the United States group for each fiscal year for which an appropriation is made, half of which shall be for the House delegation and half of which shall be for the Senate delegation. The House and Senate portions of such appropriations shall be disbursed on vouchers to be approved by the Chair of the House delegation and the Chair of the Senate delegation, respectively.

(e) Certification of expenditures

The certificate of the Chair of the House delegation or the Senate delegation of the United States group shall be final and conclusive upon the accounting officers in the auditing of the accounts of the United States group.

(f) Annual report

The United States group shall submit to the Congress a report for each fiscal year for which an appropriation is made for the United States group, which shall include its expenditures under such appropriation.

(Pub. L. 102–138, title I, §168, Oct. 28, 1991, 105 Stat. 676.)

CODIFICATION

Section is comprised of section 168 of Pub. L. 102–138. Subsec. (g) of section 168 of Pub. L. 102–138 amended section 1928e of this title.

APPROPRIATIONS FOR EXPENSES OF INTERPARLIAMENTARY GROUPS

Pub. L. 98–164, title I, §109(b), (c), Nov. 22, 1983, 97 Stat. 1019, as amended by Pub. L. 99–415, §7(b), Sept. 19, 1986, 100 Stat. 949; Pub. L. 100–459, title III, §303(b), Oct. 1, 1988, 102 Stat. 2207; Pub. L. 101–515, title III, §304(b), Nov. 5, 1990, 104 Stat. 2128; Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title VII, §701(a)], Nov. 29, 1999, 113 Stat. 1536, 1501A–459; Pub. L. 107–77, title IV, §408(b)(4), Nov. 28, 2001, 115 Stat. 791; Pub. L. 110–161, div. J, title VI, §634(s), Dec. 26, 2007, 121 Stat. 2331, provided that:

"(b) There are authorized to be appropriated each fiscal year $100,000, to be equally divided between delegations of the Senate and the House of Representatives, to assist in meeting the expenses of the United States Group of the British-American Parliamentary Group. Amounts appropriated under this section [amending section 1928e of this title and enacting this note] are authorized to remain available until expended.

"(c) There are authorized to be appropriated for each fiscal year $100,000 for expenses of United States participation in the Transatlantic Legislators' Dialogue (United States-European Union Interparliamentary Group)."

[A permanent appropriation to carry out section 109(b) and (c) of Pub. L. 98–164, set out above, is contained in section 101(a) [title III, §303] of Pub. L. 100–202, set out as a Permanent Appropriation for Delegation Expenses note under section 276e of this title.]

SUBCHAPTER II–B—UNITED STATES DELEGATION TO PARLIAMENTARY ASSEMBLY OF CONFERENCE ON SECURITY AND COOPERATION IN EUROPE (CSCE)

§276m. United States Delegation to Parliamentary Assembly of Conference on Security and Cooperation in Europe (CSCE)

(a) Establishment

In accordance with the allocation of seats to the United States in the Parliamentary Assembly of the Conference on Security and Cooperation in Europe (hereinafter referred to as the "CSCE Assembly") not to exceed 17 Members of Congress shall be appointed to meet jointly and annually with representative parliamentary groups from other Conference on Security and Cooperation in Europe (CSCE) member-nations for the purposes of—

(1) assessing the implementation of the objectives of the CSCE;

(2) discussing subjects addressed during the meetings of the Council of Ministers for Foreign Affairs and the biennial Summit of Heads of State or Government;

(3) initiating and promoting such national and multilateral measures as may further cooperation and security in Europe.

(b) Appointment of Delegation

For each meeting of the CSCE Assembly, there shall be appointed a United States Delegation, as follows:

(1) In 1992 and every even-numbered year thereafter, 9 Members shall be appointed by the Speaker of the House from Members of the House (not less than 4 of whom, including the Chairman of the United States Delegation, shall be from the Committee on Foreign Affairs); and 8 Members shall, upon recommendations of the Majority and Minority leaders of the Senate, be appointed by the President Pro Tempore of the Senate from Members of the Senate (not less than 4 of whom, including the Vice Chairman of the United States Delegation, shall be from the Committee on Foreign Relations, unless the President Pro Tempore of the Senate, upon recommendations of the Majority and Minority leaders of the Senate, determines otherwise).

(2) In every odd-numbered year beginning in 1993, 9 Members shall, upon recommendation of the Majority and Minority Leaders [1] of the Senate, be appointed by the President Pro Tempore of the Senate from Members of the Senate (not less than 4 of whom, including the Chairman of the United States Delegation, shall be from the Committee on Foreign Relations, unless the President Pro Tempore of the Senate, upon recommendations of the Majority and Minority leaders of the

Senate, determines otherwise); and 8 Members shall be appointed by the Speaker of the House from Members of the House (not less than 4 of whom, including the Vice Chairman, shall be from the Committee on Foreign Affairs).

(c) Administrative support

For the purpose of providing general staff support and continuity between successive delegations, each United States Delegation shall have 2 secretaries (one of whom shall be appointed by the Chairman of the Committee on Foreign Affairs of the House of Representatives and one of whom shall be appointed by the Chairman of the Delegation of the Senate).

(d) Funding

(1) United States participation

There is authorized to be appropriated for each fiscal year $80,000 to assist in meeting the expenses of the United States delegation.[2] For each fiscal year for which an appropriation is made under this subsection, half of such appropriation may be disbursed on voucher to be approved by the Chairman and half of such appropriation may be disbursed on voucher to be approved by the Vice Chairman.

(2) Availability of appropriations

Amounts appropriated pursuant to this subsection are authorized to be available until expended.

(e) Annual report

The United States Delegation shall, for each fiscal year for which an appropriation is made, submit to the Congress a report including its expenditures under such appropriation. The certificate of the Chairman and Vice Chairman of the United States Delegation shall be final and conclusive upon the accounting officers in the auditing of the accounts of the United States Delegation.

(Pub. L. 102–138, title I, §169, Oct. 28, 1991, 105 Stat. 677.)

EX. ORD. NO. 13029. CHANGE OF NAME OF CONFERENCE ON SECURITY AND COOPERATION IN EUROPE

Ex. Ord. No. 13029, Dec. 3, 1996, 61 F.R. 64591, provided in part that effective Jan. 1, 1995, the Conference on Security and Cooperation in Europe would be called the Organization for Security and Cooperation in Europe.

[1] So in original. Probably should not be capitalized.

[2] So in original. Probably should be capitalized.

SUBCHAPTER II–C—UNITED STATES SENATE-CHINA INTERPARLIAMENTARY GROUP

§276n. United States Senate-China Interparliamentary Group

(a) Establishment and meetings

Not to exceed 12 Senators shall be appointed to meet annually with representatives of the National People's Congress of the People's Republic of China for discussion of common problems in the interest of relations between the United States and China. The Senators so appointed shall be referred to as the "United States group" of the United States Senate-China Interparliamentary Group.

(b) Appointment of Members

The President pro tempore of the Senate shall appoint Senators under this section upon the recommendations of the majority and minority leaders of the Senate. The President pro tempore of

the Senate shall designate 1 Senator as the Chair of the United States group.

(c) Funding

There is authorized to be appropriated $100,000 for each fiscal year to assist in meeting the expenses of the United States group for each fiscal year for which an appropriation is made. Appropriations shall be disbursed on vouchers to be approved by the Chair of the United States group.

(d) Certification of expenditures

The certificate of the Chair of the United States group shall be final and conclusive upon the accounting officers in the auditing of the accounts of the United States group.

(e) Fiscal year 2004 funding

There is authorized within the contingent fund of the Senate under the appropriation account " MISCELLANEOUS ITEMS" $75,000 for fiscal year 2004 to assist in meeting the official expenses of the United States Senate-China Interparliamentary Group including conference room expenses, hospitality expenses, and food and food-related expenses. Expenses shall be paid on vouchers to be approved by the Chair of the United States group. The Secretary of the Senate is authorized to advance such sums as necessary to carry out this subsection.

(f) Appropriations

There are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2004, $100,000 for the United States Senate-China Interparliamentary Group.

(g) Effective date

(1) In general

Subsections (a) though (d) shall apply to fiscal year 2004, and each fiscal year thereafter.

(2) Fiscal year 2004

Subsections (e) and (f) shall apply to fiscal year 2004.

(Pub. L. 108–199, div. H, §153, Jan. 23, 2004, 118 Stat. 448.)

SUBCHAPTER II–D—UNITED STATES SENATE-RUSSIA INTERPARLIAMENTARY GROUP

§276*o*. United States Senate-Russia Interparliamentary Group

(a) Establishment and meetings

Not to exceed 12 Senators shall be appointed to meet annually with representatives of the Federation Council of Russia for discussion of common problems in the interest of relations between the United States and Russia. The Senators so appointed shall be referred to as the "United States group" of the United States Senate-Russia Interparliamentary Group.

(b) Appointment of Members

The majority and minority leaders of the Senate shall appoint the Senators of the United States group. The majority leader of the Senate shall designate 1 Senator as the Chair of the United States group.

(c) Funding

There is authorized to be appropriated $100,000 for each fiscal year to assist in meeting the expenses of the United States group for each fiscal year for which an appropriation is made. Appropriations shall be disbursed on vouchers to be approved by the Chair of the United States

group.

(d) Certification of expenditures

The certificate of the Chair of the United States group shall be final and conclusive upon the accounting officers in the auditing of the accounts of the United States group.

(e) Fiscal year 2004 funding

There is authorized within the contingent fund of the Senate under the appropriation account " MISCELLANEOUS ITEMS" $75,000 for fiscal year 2004 to assist in meeting the official expenses of the United States Senate-Russia Interparliamentary Group including conference room expenses, hospitality expenses, and food and food-related expenses. Expenses shall be paid on vouchers to be approved by the Chair of the United States group. The Secretary of the Senate is authorized to advance such sums as necessary to carry out this subsection.

(f) Appropriations

There are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2004, $100,000 for the United States Senate-Russia Interparliamentary Group.

(g) Effective date

(1) In general

Subsections (a) though (d) shall apply to fiscal year 2004, and each fiscal year thereafter.

(2) Fiscal year 2004

Subsections (e) and (f) shall apply to fiscal year 2004.

(Pub. L. 108–199, div. H, §154, Jan. 23, 2004, 118 Stat. 449.)

SUBCHAPTER II–E—UNITED STATES SENATE-JAPAN INTERPARLIAMENTARY GROUP

§276p. United States Senate-Japan Interparliamentary Group

(a) Establishment and meetings

Not to exceed 12 Senators shall be appointed to meet once per Congress with representatives of the Diet of Japan for discussion of common problems in the interest of relations between the United States and Japan. The Senators so appointed shall be referred to as the "United States group" of the United States Senate-Japan Interparliamentary Group. The meetings shall take place in Japan and Washington, D.C. alternatively.

(b) Appointment of members

The President of the Senate shall appoint Senators under this section, including a Chair and Vice Chair, upon recommendations of the majority and minority leaders of the Senate. Such appointments shall be for the duration of each Congress.

(c) Funding

There is authorized to be appropriated $100,000 for each Congress to assist in meeting the expenses of the United States group. Appropriations shall be disbursed on vouchers to be approved by the Chair of the United States group.

(d) Certification of expenditures

A report of expenditures by the United States group shall be prepared and certified each Congress by the Chair.

(e) Effective date

This section shall apply to fiscal year 2008, and each fiscal year thereafter.

(Pub. L. 110–161, div. H, title I, §5, Dec. 26, 2007, 121 Stat. 2221.)

SUBCHAPTER III—KERMIT ROOSEVELT FUND

§276aa. Establishment of the Kermit Roosevelt fund; creation and composition of board of trustees

There is established in the Department of the Army a board to be known as the Trustees of the Kermit Roosevelt Fund, whose duty it shall be properly to administer all money and property which on and after July 2, 1945, may come under its control as part of the Kermit Roosevelt fund, created pursuant to section 276bb of this title. The board shall be composed of the Chief of Finance, United States Army, ex officio, and three general officers of the Army who shall be appointed to the board and may be replaced thereon by the Secretary of the Army.

(July 2, 1945, ch. 228, §1, 59 Stat. 316; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501.)

CODIFICATION

Section was formerly classified to section 224 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, §1, Sept. 6, 1966, 80 Stat. 378.

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

§276bb. Acceptance of funds and property from Mrs. Kermit Roosevelt; purpose and use; disbursement and investment of fund

The board is authorized to accept from Mrs. Kermit Roosevelt such money and property as she may tender, to receipt therefor on behalf of the United States, and to deposit the funds so received in the Treasury of the United States as the original corpus of a trust fund, to be known as the Kermit Roosevelt fund, which shall be used for the purpose of fostering a better understanding and a closer relationship between the military forces of the United States and those of the United Kingdom by sponsoring lectures or courses of instruction to be delivered by officers of the British Army at the United States Military Academy and elsewhere in the United States and by officers of the United States Army at Sandhurst Royal Military College and elsewhere in the United Kingdom or, should such exchange lectures prove or become impracticable or unnecessary for any reason, by such other application of the funds as the board, with the approval of the Secretary of the Army may determine. The original corpus of the fund and the income therefrom may be disbursed at the discretion of the board in furtherance of the stated purpose, and shall be subject to investment and reinvestment as provided in section 276cc of this title.

(July 2, 1945, ch. 228, §2, 59 Stat. 316; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501.)

CODIFICATION

Section was formerly classified to section 225 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, §1, Sept. 6, 1966, 80 Stat. 378.

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

§276cc. Acceptance of funds and property from other sources; limitation; disbursement and investment

The board is also authorized to accept, receive, hold, and administer gifts, bequests and devises of money, securities, or other property, whether real or personal, from any source, for the benefit of the Kermit Roosevelt fund, but no such gift, bequest, or devise which entails any expenditure not to be met out of the gift, bequest, devise, or the income thereof shall be accepted without the consent of Congress. Such additional sums or property shall be receipted for by the Chief of Finance and may, at the discretion of the board and unless otherwise restricted by the terms of the gift, bequest, or devise, be administered and disbursed in the same manner as the original corpus of the fund and the income therefrom. The board may in its discretion sell or exchange securities or other property given, bequeathed, or devised to or for the benefit of the Kermit Roosevelt fund, and may invest and reinvest the proceeds thereof, together with any other moneys in the fund, in such investments as it may determine from time to time: *Provided, however*, That the board is not authorized to engage in any business, nor shall it make any investments for the account of the fund which could not lawfully be made by a trust company in the District of Columbia, except that it may make any investment directly authorized by the instrument of gift, bequest, or devise under which the funds to be invested are derived, and may retain any investments accepted by it.

(July 2, 1945, ch. 228, §3, 59 Stat. 317.)

CODIFICATION

Section was formerly classified to section 226 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, §1, Sept. 6, 1966, 80 Stat. 378.

§276dd. Income from property covered into Treasury; disbursement and investment

The income from any property held or administered by the board, as and when collected, shall be deposited in the Treasury of the United States to the credit of the trust fund established pursuant to section 276bb of this title, and it shall be and remain subject to investment, reinvestment, and disbursement by the board for the uses and purposes set forth herein.

(July 2, 1945, ch. 228, §4, 59 Stat. 317.)

CODIFICATION

Section was formerly classified to section 227 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, §1, Sept. 6, 1966, 80 Stat. 378.

§276ee. Powers of board; personal liability of members; compensation; decisions reviewable by Secretary of the Army; annual report; jurisdiction of court

The board shall have all the usual powers of a trustee in respect to all property administered by it, but the members of the board shall not be personally liable, except for misfeasance, on account of any acts performed in their trust capacity. The members of the board shall not be required to furnish bond, and no additional compensation shall accrue to any of them on account of their duties as trustees. Within the limits prescribed by sections 276bb to 276dd of this title, the administration, control, and expenditure of this fund and its application to the purposes intended shall be according

to the sole discretion of the board, and the exercise of its discretion and authority in regard thereto and its decisions thereon, including any payments made or authorized by it to be made from the Kermit Roosevelt fund, shall not be subject to review except by the Secretary of the Army, to whom the board shall, on the 1st day of January, each year, render a full report of its activities during the preceding twelve months. The actions of the board shall not be subject to judicial review except in an action brought in the United States District Court for the District of Columbia, which is given jurisdiction of such suits, for the purpose of enforcing the provisions of any trust accepted by the board.

(July 2, 1945, ch. 228, §5, 59 Stat. 317; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501.)

CODIFICATION

Section was formerly classified to section 228 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, §1, Sept. 6, 1966, 80 Stat. 378.

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

SUBCHAPTER IV—INTERNATIONAL BOUNDARY AND WATER COMMISSION

§277. International Boundary Commission, United States and Mexico; study of boundary waters

The President is authorized to designate the American Commissioner on the International Boundary Commission, United States and Mexico, or other Federal agency, to cooperate with a representative or representatives of the Government of Mexico in a study regarding the equitable use of the waters of the lower Rio Grande and the lower Colorado and Tia Juana Rivers, for the purpose of obtaining information which may be used as a basis for the negotiation of a treaty with the Government of Mexico relative to the use of the waters of these rivers and to matters closely related thereto. On completion of such study the results shall be reported to the Secretary of State.

(May 13, 1924, ch. 153, §1, 43 Stat. 118; Mar. 3, 1927, ch. 381, §1, 44 Stat. 1403; Aug. 19, 1935, ch. 561, 49 Stat. 660.)

AMENDMENTS

1935—Act Aug. 19, 1935, created the International Boundary Commission to take the place of the three special commissioners.

1927—Act Mar. 3, 1927, provided for a study of Tia Juana River in addition to the lower Rio Grande and Colorado Rivers.

CHANGE OF NAME

International Boundary Commission, United States and Mexico, American section, to which powers, duties, and functions of International Water Commission, United States and Mexico, American section, were transferred by act June 30, 1932, ch. 314, pt. II, title V, §510, 47 Stat. 417, reconstituted as International Boundary and Water Commission by Water Treaty of 1944.

SHORT TITLE

Pub. L. 100–465, Oct. 3, 1988, 102 Stat. 2272, which enacted sections 277g to 277g–3 of this title, is known as the Rio Grande Pollution Correction Act of 1987. For complete classification of this Act to the Code, see Short Title note set out under section 277g of this title and Tables.

Pub. L. 92–549, Oct. 25, 1972, 86 Stat. 1161, which enacted sections 277d–34 to 277d–42 of this title, is known as the American-Mexican Boundary Treaty Act of 1972. For complete classification of this Act to the Code, see Short Title note set out under section 277d–34 of this title and Tables.

Pub. L. 88–300, Apr. 29, 1964, 78 Stat. 184, which enacted sections 277d–17 to 277d–25 of this title, is known as the American-Mexican Chamizal Convention Act of 1964. For complete classification of this Act to the Code, see Short Title note set out under section 277d–17 of this title and Tables.

Act Sept. 13, 1950, ch. 948, 64 Stat. 846, which enacted sections 277d–1 to 277d–9 of this title, is known as the American-Mexican Treaty Act of 1950. For complete classification of this Act to the Code, see Short Title note set out under section 277d–1 of this title and Tables.

REPEALS

Act Mar. 3, 1927, cited as a credit to this section, was repealed by Pub. L. 89–554, §8(a), Sept. 6, 1966, 80 Stat. 647.

ANNUAL APPROPRIATIONS

Annual appropriations to meet the obligations of membership in various international organizations were contained in acts listed in a note set out under section 269a of this title.

§277a. Investigations of commission; construction of works or projects

The Secretary of State, acting through the American Commissioner, International Boundary Commission, United States and Mexico, is further authorized to conduct technical and other investigations relating to the defining, demarcation, fencing, or monumentation of the land and water boundary between the United States and Mexico, to flood control, water resources, conservation, and utilization of water, sanitation and prevention of pollution, channel rectification, stabilization, drainage of transboundary storm waters, and other related matters upon the international boundary between the United States and Mexico; and to construct and maintain fences, monuments and other demarcations of the boundary line between the United States and Mexico, and sewer systems, water systems, and electric light, power and gas systems crossing the international border, and to continue such work and operations through the American Commissioner as are now in progress and are authorized by law.

The President is authorized and empowered to construct, operate, and maintain on the Rio Grande River below Fort Quitman, Texas, any and all works or projects which are recommended to the President as the result of such investigations and by the President are deemed necessary and proper.

(May 13, 1924, ch. 153, §2, 43 Stat. 118; Mar. 3, 1927, ch. 381, §2, 44 Stat. 1403; Aug. 19, 1935, ch. 561, 49 Stat. 660; Pub. L. 101–246, title IV, §412(b)(2), Feb. 16, 1990, 104 Stat. 70.)

AMENDMENTS

1990—Pub. L. 101–246 inserted reference to drainage of transboundary storm waters.

1935—Act Aug. 19, 1935, amended section generally.

1927—Act Mar. 3, 1927, increased appropriation from $20,000 to $50,000.

CHANGE OF NAME

International Boundary Commission, United States and Mexico, American section, to which powers, duties, and functions of International Water Commission, United States and Mexico, American section, were transferred by act June 30, 1932, ch. 314, pt. II, title V, §510, 47 Stat. 417, reconstituted as International Boundary and Water Commission by Water Treaty of 1944.

REPEALS

Act Mar. 3, 1927, cited as a credit to this section, was repealed by Pub. L. 89–554, §8(a), Sept. 6, 1966, 80 Stat. 647.

WATER RESOURCES PLANNING

Jurisdiction, powers, or prerogatives of the International Boundary and Water Commission, United States and Mexico, unaffected by Water Resources Planning Act, see section 1962–1 of Title 42, The Public Health and Welfare.

§277b. Works or projects under treaty

(a) Construction, operation, maintenance, and supervision; sewage interceptor system

The President is further authorized (1) to construct any project or works which may be provided for in a treaty entered into with Mexico and to repair, protect, maintain, or complete works now existing or now under construction or those that may be constructed under the treaty provisions aforesaid; and to construct any project or works designed to facilitate compliance with the provisions of treaties between the United States and Mexico; (2) to operate and maintain any project or works so constructed or, subject to such rules and regulations for continuing supervision by the said American Commissioner or any Federal agency as the President may cause to be promulgated, to turn over the operation and maintenance of such project or works to any Federal agency, or any State, county, municipality, district, or other political subdivision within which such project or works may be in whole or in part situated, upon such terms, conditions, and requirements as the President may deem appropriate; and (3) to carry out preliminary surveys, operations, and maintenance of the interceptor system constructed to intercept sewage flows from Tijuana from selected canyon areas.

(b) Rio Grande bank protection project

Expenditures for the Rio Grande bank protection project shall be subject to the provisions and conditions made with respect to that project in the first undesignated paragraph under the heading " INTERNATIONAL OBLIGATIONS" contained in the Act of April 25, 1945 (59 Stat. 89).

(c) Anzalduas diversion dam

The Anzalduas diversion dam shall not be operated for irrigation or water supply purposes in the United States unless suitable arrangements have been made with the prospective water users for repayment to the Government of the United States for such portions of the dam as shall have been allocated to such purposes by the Secretary of State.

(d) Improvements to Rio Grande Canalization Project

Pursuant to the authority of subsection (a) and in order to facilitate further compliance with the terms of the Convention for Equitable Distribution of the Waters of the Rio Grande, May 21, 1906, United States-Mexico, the Secretary of State, acting through the United States Commissioner of the International Boundary and Water Commission, may make improvements to the Rio Grande Canalization Project, originally authorized by the Act of August 29, 1935 (49 Stat. 961). Such improvements may include all such works as may be needed to stabilize the Rio Grande in the reach between the Percha Diversion Dam in New Mexico and the American Diversion Dam in El Paso.

(May 13, 1924, ch. 153, §3, as added Aug. 19, 1935, ch. 561, 49 Stat. 660; amended Pub. L. 101–246, title IV, §412(b)(1), Feb. 16, 1990, 104 Stat. 70; Pub. L. 104–319, title I, §104, Oct. 19, 1996, 110 Stat. 3866.)

REFERENCES IN TEXT

The first undesignated paragraph under the heading "INTERNATIONAL OBLIGATIONS" contained in the Act of April 25, 1945 (59 Stat. 89), referred to in subsec. (b), is not classified to the Code.

AMENDMENTS

1996—Subsec. (d). Pub. L. 104–319 added subsec. (d).

1990—Pub. L. 101–246 designated existing provisions as subsec. (a), redesignated cls. (a) and (b) as (1) and (2), respectively, added cl. (3), and added subsecs. (b) and (c).

§277c. Agreements with political subdivisions; acquisition of lands

In order to carry out the provisions of sections 277 to 277d of this title, the President, or any Federal agency he may designate is authorized, (a) in his discretion, to enter into agreements with any one or more of said political subdivisions, in connection with the construction of any project or works provided for in paragraph (2) of section 277a and section 277b of this title, under the terms of

which agreements there shall be furnished to the United States, gratuitously, except for the examination and approval of titles, the lands or easements in lands necessary for the construction, operation, and maintenance in whole or in part of any such project or works, or for the assumption by one or more of any such political subdivisions making such agreement, of the operation and maintenance of such project or works in whole or in part upon the completion thereof: *Provided, however*, That when an agreement is reached that necessary lands or easements shall be provided by any such political subdivision and for the future operation and maintenance by it of a project or works or a part thereof, in the discretion of the President the title to such lands and easements for such projects or works need not be required to be conveyed to the United States but may be required only to be vested in and remain in such political subdivision; (b) to acquire by purchase, exercise of the power of eminent domain, or by donation, any real or personal property which may be necessary; (c) to withdraw from sale, public entry or disposal of such public lands of the United States as he may find to be necessary and thereupon the Secretary of the Interior shall cause the lands so designated to be withdrawn from any public entry whatsoever, and from sale, disposal, location or settlement under the mining laws or any other law relating to the public domain and shall cause such withdrawal to appear upon the records in the appropriate land office having jurisdiction over such lands, and such lands may be used for carrying out the purposes of sections 277 to 277d of this title: *Provided*, That any such withdrawal may subsequently be revoked by the President; and (d) to make or approve all necessary rules and regulations.

(May 13, 1924, ch. 153, §4, as added Aug. 19, 1935, ch. 561, 49 Stat. 660; amended May 22, 1936, ch. 447, 49 Stat. 1370.)

REPEALS

Clause (c), except the proviso thereof, repealed by Pub. L. 94–579, title VII, §704(a), Oct. 21, 1976, 90 Stat. 2792, effective on and after Oct. 21, 1976.

AMENDMENTS

1936—Act May 22, 1936, inserted "paragraph (2) of section 277a".

SAVINGS PROVISION

Repeal of cl. (c), except the proviso thereof, by Pub. L. 94–579, title VII, §704(a), Oct. 21, 1976, 90 Stat. 2792, not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see note set out under section 1701 of Title 43, Public Lands.

§277d. Funds received from Mexico; expenditure

Any moneys contributed by or received from the United Mexican States, the North American Development Bank, or the Border Environment Cooperation Commission for the purpose of cooperating or assisting in carrying out the provisions of sections 277 to 277d of this title shall be available for expenditure in connection with any appropriation which may be made for the purposes of such sections.

(May 13, 1924, ch. 153, §5, as added Aug. 19, 1935, ch. 561, 49 Stat. 660; amended Pub. L. 107–228, div. A, title II, §210, Sept. 30, 2002, 116 Stat. 1365.)

AMENDMENTS

2002—Pub. L. 107–228 inserted ", the North American Development Bank, or the Border Environment Cooperation Commission" after "United Mexican States".

§277d–1. Authorizations for Mexican treaty projects; acquisition of lands for relocation purposes; contracts and conveyances

The Secretary of State, acting through the United States Commissioner, International Boundary and Water Commission, United States and Mexico (herein referred to as the "Commission"), in

connection with any project under the jurisdiction of the United States Section, International Boundary and Water Commission, United States and Mexico, is authorized: (a) to purchase, or condemn, lands, or interests in lands, for relocation of highways, roadways, railroads, telegraph, telephone, or electric transmission lines, or any other properties whatsoever, the relocation of which, in the judgment of the said Commissioner, is necessitated by the construction or operation and maintenance of any such project, and to perform any or all work involved in said relocations on said lands, or interests in lands, other lands, or interests in lands, owned and held by the United States in connection with the construction or operation and maintenance of any such project, or properties not owned by the United States; (b) to enter into contracts with the owners of the said properties whereby they undertake to acquire any, or all, property needed for said relocation, or to perform any, or all, work involved in said relocations; and (c) for the purpose of effecting completely said relocations, to convey, or exchange Government properties acquired or improved under clause (a) of this section, with or without improvements, or other properties owned and held by the United States in connection with the construction or operation and maintenance of said project, or to grant term or perpetual easements therein or thereover. Grants or conveyances hereunder shall be by instruments executed by the Secretary of State without regard to provisions of law governing the patenting of public lands.

(Sept. 13, 1950, ch. 948, title I, §101, 64 Stat. 846.)

SHORT TITLE

Act Sept. 13, 1950, ch. 948, §1, 64 Stat. 846, provided that: "This Act [enacting this section and sections 277d–2 to 277d–9 of this title] may be cited as the 'American-Mexican Treaty Act of 1950'."

§277d–2. Construction and maintenance of roads, highways, etc.; housing and other facilities for personnel

The United States Commissioner is authorized to construct, equip, and operate and maintain all access roads, highways, railways, power lines, buildings, and facilities necessary in connection with any such project, and in his discretion to provide housing, subsistence, and medical and recreational facilities for the officers, agents, and employees of the United States, and/or for the contractors and their employees engaged in the construction, operation, and maintenance of any such project, and to make equitable charges therefor, or deductions from the salaries and wages due employees, or from progress payments due contractors, upon such terms and conditions as he may determine to be to the best interest of the United States, the sums of money so charged and collected or deducted to be credited to the appropriation for the project current at the time the obligations are incurred.

(Sept. 13, 1950, ch. 948, title I, §102, 64 Stat. 846.)

§277d–3. Authorization for appropriations; activities for which available; contracts for excess amounts

There are authorized to be appropriated to the Department of State for the use of the Commission, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the provisions of the Treaty of February 3, 1944, and other treaties and conventions between the United States of America and the United Mexican States, under which the United States Section operates, and to discharge the statutory functions and duties of the United States Section. Such sums shall be available for construction, operation and maintenance of stream gaging stations, and their equipment and sites therefor; personal services and rent in the District of Columbia and elsewhere; services, including those of attorneys and appraisers, in accordance with the provisions of section 3109 of title 5, at rates for individuals not in excess of the maximum daily rate for grade GS–15 of the General Schedule and the United States Commissioner is authorized, notwithstanding the provisions of any other Act, to employ as consultants by contract or otherwise without regard to chapter 51 and subchapter III of chapter 53 of title 5, and the civil-service laws and regulations,

retired personnel of the Armed Forces of the United States, who shall not be required to revert to an active status; travel expense, including, in the discretion of the Commissioner, expenses of attendance at meetings of organizations concerned with the activities of the Commission which may be necessary for the efficient discharge of the responsibilities of the Commission; hire, with or without personal services, of work animals, and animal-drawn, and motor-propelled (including passenger) vehicles and aircraft and equipment; acquisition by donation, purchase, or condemnation, of real and personal property, including expenses of abstracts, certificates of title, and recording fees; purchase of ice and drinking water; inspection of equipment, supplies and materials by contract or otherwise; drilling and testing of foundations and dam sites, by contract if deemed necessary; payment for official telephone service in the field in case of official telephones installed in private houses when authorized under regulations established by the Commissioner; purchase of firearms and ammunition for guard purposes; official entertainment and other representation expenses within the United States for the United States section; and such other objects and purposes as may be permitted by laws applicable, in whole or in part, to the United States Section: *Provided*, That, when appropriations have been made for the commencement or continuation of construction or operation and maintenance of any such project, the United States Commissioner, notwithstanding the provisions of sections 1341, 1342, and 1349 to 1351 and subchapter II of chapter 15 of title 31, and sections 6301(a) and (b) and 6303 of title 41, or any other law, may enter into contracts beyond the amount actually appropriated for so much of the work on any such authorized project as the physical and orderly sequence of construction makes necessary, such contracts to be subject to and dependent upon future appropriations by Congress: *Provided further*, That the United States Commissioner shall prepare, within 30 days after the end of each fiscal year, a report of all expenditures during that year for official entertainment and other representation expenses, which shall be available for public inspection.

(Sept. 13, 1950, ch. 948, title I, §103, 64 Stat. 847; Pub. L. 88–448, title IV, §402(a)(29), Aug. 19, 1964, 78 Stat. 494; Pub. L. 95–105, title V, §514(c), Aug. 17, 1977, 91 Stat. 862; Pub. L. 102–138, title I, §165, Oct. 28, 1991, 105 Stat. 676.)

REFERENCES IN TEXT

Grade GS–15, referred to in text, is contained in the General Schedule which is set out under section 5332 of Title 5, Government Organization and Employees.

CODIFICATION

In text, "section 3109 of title 5" and "chapter 51 and subchapter III of chapter 53 of title 5" substituted for "section 15 of the Act of August 2, 1946 (5 U.S.C. sec. 55a)" and "the Classification Act of 1949, as amended", respectively, on authority of Pub. L. 89–554, §7(b), Sept. 6, 1966, 80 Stat. 631, which Act enacted Title 5, Government Organization and Employees.

In text, "sections 1341, 1342, and 1349 to 1351 and subchapter II of chapter 15 of title 31 and sections 6301(a) and (b) and 6303 of title 41" substituted for "sections 3679, 3732, and 3733 of the Revised Statutes" on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, which Act enacted Title 31, Money and Finance, and Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

1991—Pub. L. 102–138 inserted "official entertainment and other representation expenses within the United States for the United States section;" after "guard purposes;" and concluding provision that the United States Commissioner prepare, within 30 days after the end of each fiscal year, a report of all expenditures during that year for official entertainment and other representation expenses, with such report to be available for public inspection.

1977—Pub. L. 95–105 substituted "the maximum daily rate for grade GS–15 of the General Schedule" for "$100 per diem".

1964—Pub. L. 88–448 struck out provisions which permitted retired personnel of the Armed Forces of the United States employed by the Commission to receive as compensation for temporary service, the difference between the rates of pay established therefor and their retired pay during the period or periods of their temporary employment.

EFFECTIVE DATE OF 1977 AMENDMENT

Pub. L. 95–105, title V, §514(d), Aug. 17, 1977, 91 Stat. 862, provided that: "The amendments made by this section [amending this section and sections 277d–28 and 277d–31 of this title] shall take effect on October 1, 1977."

§277d–4. Acquisition of properties of Imperial Irrigation District of California

The United States Commissioner, in order to comply with the provisions of articles 12 and 23 of the treaty of February 3, 1944, between the United States and Mexico, relating to the utilization of the waters of the Colorado and Tijuana Rivers and of the Rio Grande below Fort Quitman, Texas, is authorized to acquire, in the name of the United States, by purchase or by proceedings in eminent domain, the physical properties owned by the Imperial Irrigation District of California, located in the vicinity of Andrade, California, consisting of the Alamo Canal in the United States, the Rockwood Intake, the Hanlon Heading, the quarry, buildings used in connection with such facilities, and appurtenant lands, and to reconstruct, operate and maintain such properties in connection with the administration of said treaty.

(Sept. 13, 1950, ch. 948, title I, §104, 64 Stat. 847.)

§277d–5. Availability of prior appropriations; restriction to projects agreed to under treaty

Funds heretofore appropriated to the Department of State under the heading "International Boundary and Water Commission, United States and Mexico" shall be available for the purposes of sections 277d–1 to 277d–5 of this title: *Provided*, That authorizations under said sections shall apply only to projects agreed upon by the two Governments in accordance with the treaty of February 3, 1944.

(Sept. 13, 1950, ch. 948, title I, §105, 64 Stat. 848.)

§277d–6. Douglas-Agua Prieta Sanitation Project; operation by Commission; division of costs; contribution by City of Douglas, Arizona

The Secretary of State is authorized, notwithstanding any other provision of law and subject to the conditions provided in this section and section 277d–7 of this title, to enter into an agreement with the appropriate official or officials of the United Mexican States for the operation and maintenance by the International Boundary and Water Commission, United States and Mexico, of the Douglas-Agua Prieta sanitation project, located at Douglas, Arizona, and Agua Prieta, Sonora, Mexico, heretofore constructed by the said Commission, which agreement shall contain such provisions relating to a division between the two Governments of the costs of such operation and maintenance, or of the work involved therein, as may be recommended by said Commission and approved by the Government of Mexico and by the Secretary of State on behalf of the Government of the United States: *Provided*, That no such agreement shall be entered into until the governing body of the city of Douglas, Arizona, has given assurances satisfactory to the Secretary of State that it will, so long as such agreement remains in force, contribute an equitable proportion, as determined by the United States Section of said Commission, subject to the approval of the Secretary of State, of the costs of such operation and maintenance allocated to the United States.

(Sept. 13, 1950, ch. 948, title II, §201, 64 Stat. 848.)

§277d–7. Authorization for appropriations; availability of prior appropriations; use of moneys received

There is authorized to be appropriated to the United States Section, International Boundary and Water Commission, United States and Mexico, such sums as may be necessary to defray such costs as may accrue to the United States arising out of any such agreement for the operation and maintenance of such project: *Provided*, That funds heretofore appropriated to the Department of State under the heading "International Boundary and Water Commission, United States and Mexico", shall be available for expenditure for the purposes of this section and section 277d–6 of this title: *Provided further*, That any moneys received from the United Mexican States under the terms of any such agreement shall be available for expenditure in connection with any appropriations which may be available or which may be made for the purposes of said sections: *And provided further*, That moneys received from the city of Douglas, Arizona, pursuant to the provisions of said sections shall be available for expenditure in connection with any appropriations which may be available or which may be made available for the purposes of said sections.

(Sept. 13, 1950, ch. 948, title II, §202, 64 Stat. 848.)

§277d–8. Calexico Mexicali Sanitation Project; operation by Commission; division of costs; contribution by City of Calexico, California

The Secretary of State is authorized, subject to the conditions provided in this section and section 277d–9 of this title, to enter into an agreement with the appropriate official or officials of the United Mexican States for the construction, operation, and maintenance by the International Boundary and Water Commission, United States and Mexico, of a sanitation project for the cities of Calexico, California, and Mexicali, Lower California, Mexico, which agreement shall contain such provisions relating to a division between the two Governments of the cost of such construction and operation and maintenance, or of the work involved therein, as may be recommended by the said Commission and approved by the Government of Mexico and by the Secretary of State on behalf of the Government of the United States: *Provided*, That no such agreement shall be entered into until the governing body of the city of Calexico, California, has given assurances satisfactory to the Secretary of State that, so long as such agreement remains in force, the city of Calexico will contribute an equitable proportion as determined by the United States Section of said Commission, subject to the approval of the Secretary of State, of the costs of such construction, operation, and maintenance allocated to the United States.

(Sept. 13, 1950, ch. 948, title III, §301, 64 Stat. 848.)

§277d–9. Authorization for appropriations; availability of prior appropriations; use of moneys received

There is authorized to be appropriated to the United States section, International Boundary and Water Commission, United States and Mexico, such sums as may be necessary to defray such costs as may accrue to the United States arising out of any such agreement for the construction, operation, and maintenance of such project: *Provided*, That funds heretofore appropriated to the Department of State under the heading "International Boundary and Water Commission, United States and Mexico", shall be available for expenditure for the purposes of this section and section 277d–8 of this title: *Provided further*, That any moneys received from the United Mexican States under the terms of any such agreement shall be available for expenditure in connection with any appropriation which may be available or which may be made available for the purposes of said sections: *And provided further*, That moneys received from the city of Calexico, California, pursuant to the provisions of said sections, shall be available for expenditure in connection with any appropriations which may be available or which may be made available for the purposes of said sections.

(Sept. 13, 1950, ch. 948, title III, §302, 64 Stat. 849.)

§277d–10. Nogales Sanitation Project; operation by Commission; division of costs; contribution by Nogales, Arizona

The Secretary of State is authorized, notwithstanding any other provision of law and subject to the conditions provided in this section and section 277d–11 of this title, to enter into an agreement with the appropriate official or officials of the United Mexican States for the operation and maintenance by the International Boundary and Water Commission, United States and Mexico, of the Nogales sanitation project, located at Nogales, Arizona, and Nogales, Sonora, Mexico, heretofore constructed by the said Commission, which agreement shall contain such provisions relating to a division between the two Governments of the costs of such operation and maintenance, or of the work involved therein, as may be recommended by said Commission and approved by the Government of Mexico and by the Secretary of State on behalf of the Government of the United States: *Provided*, That no such agreement shall be entered into until the governing body of the city of Nogales, Arizona, has given assurances satisfactory to the Secretary of State that it will, so long as such agreement remains in force, contribute an equitable proportion, as determined by the United States section of said Commission, subject to the approval of the Secretary of State, of the costs of such operation and maintenance allocated to the United States.

(July 27, 1953, ch. 242, §1, 67 Stat. 195.)

§277d–11. Authorization of appropriations; availability of prior appropriations; use of moneys received

There is authorized to be appropriated to the United States section, International Boundary and Water Commission, United States and Mexico, such sums as may be necessary to defray such costs as may accrue to the United States arising out of any such agreement for the operation and maintenance of such project: *Provided*, That funds heretofore appropriated to the Department of State under the heading "International Boundary and Water Commission, United States and Mexico", shall be available for expenditure for the purposes of this section and section 277d–10 of this title: *Provided further*, That any moneys received from the United Mexican States under the terms of any such agreement shall be available for expenditure in connection with any appropriations which may be available or which may be made for the purposes of said sections: *And provided further*, That moneys received from the city of Nogales, Arizona, pursuant to the provisions of said sections shall be available for expenditure in connection with any appropriations which may be available or which may be made available for the purposes of said sections.

(July 27, 1953, ch. 242, §2, 67 Stat. 195.)

§277d–12. Expenditures for flood fighting, rescue operations, repairs or restoration of flood control or sanitation works threatened or destroyed by floodwaters of Rio Grande, Colorado, or Tijuana Rivers

On and after June 20, 1956, in addition to the funds available under the appropriation "Rio Grande emergency flood protection", the United States Commissioner is authorized to expend from any appropriation available to the International Boundary and Water Commission, United States and Mexico, American Section, such sums as may be necessary for prosecution of emergency flood fighting and rescue operations, repairs or restoration of any flood control or sanitation works threatened or destroyed by floodwaters of the Rio Grande, the Colorado or Tijuana Rivers, or other streams running across or near the boundary, and for taking emergency actions, consistent with the emergency provisions of the Safe Drinking Water Act [42 U.S.C. 300f et seq.], to protect against health threatening surface and ground water pollution problems along the United States-Mexico boundary.

(June 20, 1956, ch. 414, title I, 70 Stat. 302; Pub. L. 101–246, title IV, §412(a), Feb. 16, 1990, 104

Stat. 69; Pub. L. 103–236, title IV, §423(b), Apr. 30, 1994, 108 Stat. 457.)

REFERENCES IN TEXT

The Safe Drinking Water Act, referred to in text, is title XIV of act July 1, 1944, as added Dec. 16, 1974, Pub. L. 93–523, §2(a), 88 Stat. 1660, as amended, which is classified generally to subchapter XII (§300f et seq.) of chapter 6A of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 201 of Title 42 and Tables.

AMENDMENTS

1994—Pub. L. 103–236 substituted "Tijuana Rivers, or other streams running across or near the boundary, and for taking emergency actions, consistent with the emergency provisions of the Safe Drinking Water Act, to protect against health threatening surface and ground water pollution problems along the United States-Mexico boundary" for "Tijuana Rivers, and for taking emergency actions to protect against health threatening sanitation problems by repairing or replacing existing capital infrastructure along the United States-Mexico Boundary".

1990—Pub. L. 101–246 inserted "or sanitation" after "flood control" and inserted before period at end ", the Colorado or Tijuana Rivers, and for taking emergency actions to protect against health threatening sanitation problems by repairing or replacing existing capital infrastructure along the United States-Mexico Boundary".

§277d–13. Authorization for international storage dam on the Rio Grande

The Secretary of State, acting through the United States Commissioner, International Boundary and Water Commission, United States and Mexico, is hereby authorized to conclude with the appropriate official or officials of the Government of Mexico an agreement for the joint construction, operation, and maintenance by the United States and Mexico, in accordance with the provisions of the treaty of February 3, 1944, with Mexico, of a major international storage dam on the Rio Grande at the site and having substantially the characteristics described in minute numbered 207 adopted June 19, 1958, by the said Commission, and in the "Rio Grande International Storage Dams Project—Report on Proposed Dam and Reservoir" prepared by the United States Section of the said Commission and dated September 1958.

(Pub. L. 86–605, §1, July 7, 1960, 74 Stat. 360.)

§277d–14. Construction, operation, and maintenance on self-liquidating basis of facilities for generating hydroelectric energy

If agreement is concluded pursuant to section 277d–13 of this title for the construction of a major international storage dam the Secretary of State, acting through the United States Commissioner, International Boundary and Water Commission, United States and Mexico, is authorized to conclude with the appropriate official or officials of Mexico an agreement consistent with article 7 of the treaty of February 3, 1944, for the construction, operation, and maintenance on a self-liquidating basis, for the United States share, of facilities for generating hydroelectric energy at said dam.

If agreement for the construction of separate facilities for generating hydroelectric energy is concluded, the United States Commissioner, International Boundary and Water Commission, United States and Mexico, is directed to construct, operate, and maintain such self-liquidating facilities for the United States.

(Pub. L. 86–605, §2, July 7, 1960, 74 Stat. 360.)

§277d–15. Integration of operation of dam with other United States water conservation activities

If a dam is constructed pursuant to an agreement concluded under the authorization granted by section 277d–13 of this title, its operation for conservation and release of United States share of

waters shall be integrated with other United States water conservation activities on the Rio Grande below Fort Quitman, Texas, in such manner as to provide the maximum feasible amount of water for beneficial use in the United States with the understandings that (a) releases of United States share of waters from said dam for domestic, municipal, industrial, and irrigation uses in the United States shall be made pursuant to order by the appropriate authority or authorities of the State of Texas, and (b) the State of Texas having stipulated that the amount of water that will be available for use in the United States below Falcon Dam after the proposed dam is placed in operation will be not less than the amount available under existing conditions of river development, and to carry out such understandings and said stipulation the conservation storage of said dam shall be used, and it shall be the exclusive responsibility of the appropriate authority or authorities of said State to distribute available United States share of waters of the Rio Grande in such manner as will comply with said stipulation.

(Pub. L. 86–605, §3, July 7, 1960, 74 Stat. 360.)

§277d–16. Authorization of appropriations

There is hereby authorized to be appropriated to the Department of State for the use of the United States Section, International Boundary and Water Commission, United States and Mexico, such sums as may be necessary to carry out the provisions of sections 277d–13 to 277d–16 of this title.

(Pub. L. 86–605, §4, July 7, 1960, 74 Stat. 361.)

§277d–17. Chamizal boundary settlement; investigations relating to river channel; acquisition of lands; relocation of facilities

In connection with the convention between the United States of America and the United Mexican States for the solution of the problem of the Chamizal, signed August 29, 1963, the Secretary of State, acting through the United States Commissioner, International Boundary and Water Commission, United States and Mexico, is authorized—

a. to conduct technical and other investigations relating to: the demarcation or monumentation of the boundary between the United States and Mexico; flood control; water resources; sanitation and prevention of pollution; channel relocation, improvement, and stabilization; and other matters related to the new river channel.

b. to acquire by donation, purchase, or condemnation, all lands required—

(1) for transfer to Mexico as provided in said convention;

(2) for construction of that portion of the new river channel and the adjoining levee in the territory of the United States;

(3) for relocation of highways, roadways, railroads, telegraph, telephone, electric transmission lines, bridges, related facilities, and any publicly owned structure or facility, the relocation of which, in the judgment of the said Commissioner, is necessitated by the project.

c. For the purpose of effecting said relocations—

(1) to perform any or all work involved in said relocations;

(2) to enter into contracts with the owners of properties to be relocated whereby they undertake to acquire any or all properties needed for said relocations, or undertake to perform any or all work involved in said relocations;

(3) to convey or exchange properties acquired or improved by the United States under sections 277d–17 to 277d–25 of this title or under said convention, with or without improvements, or to grant term or perpetual easements therein or thereover.

(Pub. L. 88–300, §1, Apr. 29, 1964, 78 Stat. 184.)

CODIFICATION

Section is comprised of part of section 1 of Pub. L. 88–300. Remainder of section 1 is set out as a Short

Title note below.

SHORT TITLE

Pub. L. 88–300, §1, Apr. 29, 1964, 78 Stat. 184, provided in part: "That this Act [enacting this section and sections 277d–18 to 277d–25 of this title] may be cited as the 'American-Mexican Chamizal Convention Act of 1964'."

§277d–18. Construction, operation, and maintenance of works; Bridge of the Americas

(a) In general

The United States Commissioner is authorized to construct, operate, and maintain all works provided for in said convention and sections 277d–17 to 277d–25 of this title, and to turn over the operation and maintenance of any such works to any Federal agency, or any State, county, municipality, district, or other political subdivision within which such project or works may be in whole or in part situated, upon such terms, conditions, and requirements as the Commissioner may deem appropriate.

(b) Bridge of the Americas

The United States Commissioner is authorized to receive payments of money from public or private sources in the United States or Mexico made for the purpose of sharing in the cost of operations, maintenance, and replacement of the Bridge of the Americas which crosses the Rio Grande between El Paso, Texas, and Cd. Juarez, Chihuahua. Notwithstanding any other provision of law, such payments of money shall be credited to any appropriation to the Commission which is currently available. Funds received under this subsection shall be available only for the replacement of such bridge.

(c) Advance appropriations

The authority of subsection (b) may be exercised only to the extent or in such amounts as are provided in advance in appropriation Acts.

(Pub. L. 88–300, §2, Apr. 29, 1964, 78 Stat. 184; Pub. L. 103–236, title IV, §423(a), Apr. 30, 1994, 108 Stat. 457; Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title VII, §703], Nov. 29, 1999, 113 Stat. 1536, 1501A–460.)

AMENDMENTS

1999—Subsec. (b). Pub. L. 106–113 inserted "operations, maintenance, and" after "cost of".
1994—Pub. L. 103–236 designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

§277d–19. Compensation of owners and tenants to prevent economic injury; regulations

The United States Commissioner, under regulations approved by the Secretary of State, and upon application of the owners and tenants of lands to be acquired by the United States to fulfill and accomplish the purposes of said convention, and to the extent administratively determined by the Commissioner to be fair and reasonable, is authorized to—

a. Reimburse the owners and tenants for expenses and other losses and damages incurred by them in the process and as a direct result of such moving of themselves, their families, and their possessions as is occasioned by said acquisition: *Provided*, That the total of such reimbursement to the owners and tenants of any parcel of land shall in no event exceed 25 per centum of its fair value, as determined by the Commissioner. No payment under this subsection shall be made unless application therefor is supported by an itemized and certified statement of the expenses, losses, and damages incurred.

b. Compensate the said owners and tenants for identifiable, reasonable, and satisfactorily proved

costs and losses to owners and tenants over and above those reimbursed under the foregoing subsection in the categories hereinafter provided, and for which purpose there shall be established by the Commissioner a board of examiners, consisting of such personnel employed and compensation fixed as he deems advisable, without regard to the provisions of the civil service laws and chapter 51 and subchapter III of chapter 53 of title 5. Said board may hold hearings and shall examine submitted evidence and make determinations, subject to the Commissioner's approval, regarding all claims in said categories as follows:

(1) For properties—

(a) For nonconforming abodes and minimum forms of shelter for which there are no comparable properties on the market in the city of El Paso and concerning which fair market value would be inadequate to find minimum housing of equal utility, compensation to the owner up to an amount which when added to the market value allowed for his property, including land values, would enable purchase of minimum habitable housing of similar utility in another residential section of said city.

(b) For commercial properties for which there are no comparable properties on the market in or near El Paso, Texas, compensation to the owner up to an amount which, when added to the total fair market value, including the land value, would compensate the owner for the "value in use" of the real estate to him. Such "value in use" is to be determined on the basis of replacement cost less deterioration and obsolescence in existing real estate and taking into consideration factors bearing upon income attributable to the real estate.

(2) For loss in business:

(a) Loss of profits directly resulting from relocation, limited to the period between termination of business in the old location and commencement of business in the new, such period not to exceed thirty days.

(b) Loss to owner resulting from inability to rent to others housing or commercial space that can be reasonably related to uncertainties arising out of the pending acquisition of the owner's property by the United States, such losses limited to those incurred after July 18, 1963, and prior to the making by the United States of a firm offer to purchase.

(3) For penalty costs to property owners for prepayment of mortgages incident to acquisition of the properties by the United States.

(Pub. L. 88–300, §3, Apr. 29, 1964, 78 Stat. 184.)

CODIFICATION

In par. b., "chapter 51 and subchapter III of chapter 53 of title 5" substituted for "the Classification Act of 1949, as amended" on authority of Pub. L. 89–554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

§277d–20. Limitation on application for reimbursement or compensation

Application for reimbursement or compensation under section 277d–19 of this title shall be submitted to the Commissioner within either one year from the date of acquisition or the date of vacating the premises by the applicant, whichever date is later. Applications not submitted within said period shall be forever barred.

(Pub. L. 88–300, §4, Apr. 29, 1964, 78 Stat. 185.)

§277d–21. Attorneys' fees; penalties

The Commissioner, in rendering an award in favor of any claimant under section 277d–19 of this title, may, as part of such award, determine and allow reasonable attorneys' fees which shall not exceed 10 per centum of the amount awarded, to be paid out of but not in addition to the amount of

award, to the attorneys representing the claimant. Any attorney who charges, demands, receives, or collects for services rendered in connection with such claim any amount in excess of that allowed by the terms of this section, if award be made, shall be fined not more than $2,000 or imprisoned not more than one year, or both.

(Pub. L. 88–300, §5, Apr. 29, 1964, 78 Stat. 185.)

§277d–22. Prohibition against duplicate payments; eligibility for payments unaffected by means employed for acquisition of property; rights and powers unaffected

Payments to be made as herein provided shall be in addition to, but not in duplication of, any payments that may otherwise be authorized by law. The means employed to acquire the property, whether by condemnation or otherwise, shall not affect eligibility for reimbursement or compensation under sections 277d–17 to 277d–25 of this title. Nothing contained in such sections shall be construed as creating any legal right or cause of action against the United States or as precluding the exercise by the Government of the right of eminent domain or any other right or power that it may have under such sections or any other law; nor shall such sections be construed as precluding an owner or tenant from asserting any rights he may have under other laws or the Constitution of the United States.

(Pub. L. 88–300, §6, Apr. 29, 1964, 78 Stat. 186.)

§277d–23. Taxation; exclusion from gross income

No amount received as an award under subsection a. and subsections b. (1) and (3) of section 277d–19 of this title shall be included in gross income for purposes of chapter 1 of title 26. However, amounts received under subsection b. (1) shall be included in gross income to the extent that such amounts are not used within one year of the receipt thereof to purchase replacement housing or facilities.

(Pub. L. 88–300, §7, Apr. 29, 1964, 78 Stat. 186; Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095.)

AMENDMENTS

1986—Pub. L. 99–514 substituted "Internal Revenue Code of 1986" for "Internal Revenue Code of 1954", which for purposes of codification was translated as "title 26" thus requiring no change in text.

§277d–24. Definitions; exemption from administrative procedure provisions

As used in sections 277d–17 to 277d–25 of this title, the term "land" shall include interests in land, and the term "fair value" shall mean fair value of the interest acquired. The provisions of such sections shall be exempt from the operations of subchapter II of chapter 5, and chapter 7, of title 5.

(Pub. L. 88–300, §8, Apr. 29, 1964, 78 Stat. 186.)

CODIFICATION

"Subchapter II of chapter 5, and chapter 7, of title 5" substituted in text for "the Administrative Procedure Act of June 11, 1946 (60 Stat. 237), as amended (5 U.S.C. 1001–1011)" on authority of Pub. L. 89–554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

§277d–25. Authorization of appropriations

There are authorized to be appropriated to the Department of State for the use of the United States section of said Commission not to exceed $44,900,000 to carry out the provisions of said convention

and sections 277d–17 to 277d–25 of this title and for transfer to other Federal agencies to accomplish by them or other proper agency relocation of their facilities necessitated by the project. Of the appropriations authorized by this section, not to exceed $4,200,000 may be used to carry out the provisions of section 277d–19 of this title. The provisions of section 277d–3 of this title are hereby expressly extended to apply to the carrying out of the provisions of said convention and sections 277d–17 to 277d–25 of this title.

(Pub. L. 88–300, §9, Apr. 29, 1964, 78 Stat. 186.)

§277d–26. Lower Colorado River emergency flood control works; agreements with Mexico for joint construction, operation and maintenance

The Secretary of State, acting through the United States Commissioner, International Boundary and Water Commission, United States and Mexico, is authorized to conclude, with the appropriate official or officials of the Government of Mexico, agreements for emergency flood control measures of international character in the reaches of the lower Colorado River between Imperial Dam and the Gulf of California, in both the United States and Mexico, such agreements to provide: (a) for the joint clearing and maintaining free of trees and brush the bed and banks of the channel; for removing sediment deposits from the river channel; and (b) for corrective actions to guard against sedimentation and consequent aggradation of the river channel incident to desilting operations at diversion dams in the two countries: *Provided*, That, prior approval of the Secretary of the Interior is required of any proposed agreement with Mexico under clause (b) of this section which would involve construction and/or operation of works on the Colorado River in the United States under the jurisdiction of the Secretary. The measures contemplated herein are for the purpose of controlling floods on the lower Colorado River in accordance with article 13 of the 1944 Water Treaty with Mexico, and accomplishment thereof by the International Boundary and Water Commission, United States Section, would be in accord with the Memorandum of Understanding "as to Functions and Jurisdiction of Agencies of the United States in Relation to the Colorado and Tijuana Rivers and the Rio Grande Below Fort Quitman, Texas, Under Water Treaty Signed at Washington, February 3, 1944," between the Department of State and the United States Section, International Boundary and Water Commission and the Department of the Interior dated February 14, 1945.

(Pub. L. 88–411, §1, Aug. 10, 1964, 78 Stat. 386.)

§277d–27. Execution of agreements

The United States Commissioner, International Boundary and Water Commission, United States and Mexico, is authorized to carry out those measures agreed upon for execution by the United States in the agreements concluded pursuant to section 277d–26 of this title.

(Pub. L. 88–411, §2, Aug. 10, 1964, 78 Stat. 386.)

§277d–28. Authorization of appropriations

There is authorized to be appropriated to the Department of State for use of the United States Section, International Boundary and Water Commission, United States and Mexico, not in excess of $300,000 for the initial cost of the work authorized in sections 277d–26 to 277d–28 of this title, and not to exceed $30,000 based on December 1975 prices, plus or minus such amounts as may be justified by reason of ordinary fluctuations in operation and maintenance costs involved therein, annually thereafter for necessary maintenance.

(Pub. L. 88–411, §3, Aug. 10, 1964, 78 Stat. 386; Pub. L. 93–126, §7(b), Oct. 18, 1973, 87 Stat. 452; Pub. L. 95–105, title V, §514(b), Aug. 17, 1977, 91 Stat. 862.)

AMENDMENTS

1977—Pub. L. 95–105 inserted "based on December 1975 prices, plus or minus such amounts as may be justified by reason of ordinary fluctuations in operation and maintenance costs involved therein," after "$30,000".

1973—Pub. L. 93–126 substituted "$30,000" for "$20,000".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–105 effective Oct. 1, 1977, see section 514(d) of Pub. L. 95–105, set out as a note under section 277d–3 of this title.

§277d–29. Rio Grande canalization project; flood and sediment control; agreements authorized; control gates; costs; authorization of appropriations

For the purposes of facilitating and implementing operation and maintenance of the international Rio Grande canalization project, the United States Commissioner, International Boundary and Water Commission, United States and Mexico, is authorized to enter into agreements with the appropriate official or officials of local organizations, as defined in the Watershed Protection and Flood Prevention Act of August 4, 1954, as amended [16 U.S.C. 1001 et seq.], for the maintenance by said local organizations either directly or indirectly through mutually satisfactory maintenance agreements with others, including the United States, of all those flood and arroyo sediment control dams, together with all related works, hereafter installed or constructed in the Rio Grande watershed between Caballo Dam and El Paso, Texas, in accordance with said Act, and which are necessary, in the opinion of Said Commissioner, to facilitate and implement the operation and maintenance of said project.

Such maintenance agreements between the local organization and the United States shall provide the extent of contribution by the United States as may be mutually agreed by the two parties, based on the degree of benefits to be derived from said dams and related works, and the contribution by the United States may be either in the form of funds or performance of the actual operation and maintenance.

Control gates shall not be installed on any of the dams which, in the opinion of the United States Commissioner, International Boundary and Water Commission, United States and Mexico, are necessary to facilitate and implement the operation and maintenance of the Rio Grande canalization project.

Arrangements made between the United States and the local organizations shall be satisfactory to the Secretary of Agriculture for defraying cost of maintaining such work of improvement in accordance with regulations prescribed by said Secretary.

There is hereby authorized to be appropriated not in excess of $50,000 per annum for contributions to maintenance authorized by this section.

(Pub. L. 88–600, Sept. 18, 1964, 78 Stat. 956; Pub. L. 93–126, §7(c), Oct. 18, 1973, 87 Stat. 452.)

REFERENCES IN TEXT

The Watershed Protection and Flood Prevention Act of August 4, 1954, as amended, referred to in text, is act Aug. 4, 1954, ch. 656, 68 Stat. 666, which is classified principally to chapter 18 (§1001 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 16 and Tables.

AMENDMENTS

1973—Pub. L. 93–126 substituted "$50,000" for "$23,000".

§277d–30. Lower Rio Grande drainage conveyance canal projects; agreements with Mexico for construction, operation, and maintenance; division of costs; non-Federal assurances of one-half of Federal costs

The Secretary of State, acting through the United States Commissioner, International Boundary

and Water Commission, United States and Mexico, is authorized, notwithstanding any other provision of law and subject to the conditions provided in this section and section 277d–31 of this title to conclude an agreement or agreements with the appropriate official or officials of the Government of the United Mexican States for the construction, operation, and maintenance by the United Mexican States under the supervision of the International Boundary and Water Commission, United States and Mexico, of a drainage conveyance canal through Mexican territory for the discharge of waters of El Morillo and other drains in the United Mexican States into the Gulf of Mexico in the manner, and having substantially the characteristics, described in said Commission's minute numbered 223, dated November 30, 1965. The agreement or agreements shall provide that the cost of construction including costs of design and right-of-way and the costs of operation and maintenance, shall be equally divided between the United Mexican States and the United States. Before concluding the agreement or agreements, the Secretary of State shall receive satisfactory assurances from private citizens or a responsible local group that they or it will pay to the United States Treasury one-half of the actual United States costs of such construction, including costs of design and right-of-way, and one-half of the actual costs of operation and maintenance allocated under such agreement or agreements to the United States. Payments to the United States Treasury under this section shall be covered into the Treasury as miscellaneous receipts.

(Pub. L. 89–584, §1, Sept. 19, 1966, 80 Stat. 808.)

§277d–31. Authorization of appropriations

To defray costs that accrue to the United States under the agreement or agreements referred to in section 277d–30 of this title for the construction, operation, and maintenance of drainage conveyance canal projects, there are authorized to be appropriated to the Department of State for use of the United States Section, International Boundary and Water Commission, United States and Mexico, the following amounts:

(1) Not to exceed $690,000 for costs of construction.

(2) Upon completion of construction, not to exceed $25,000 based on estimated calendar year 1976 costs, plus or minus such amounts as may be justified by reason of ordinary fluctuations in operation and maintenance costs involved therein, annually for costs of operation and maintenance.

(Pub. L. 89–584, §2, Sept. 19, 1966, 80 Stat. 808; Pub. L. 93–126, §7(a), Oct. 18, 1973, 87 Stat. 452; Pub. L. 95–105, title V, §514(a), Aug. 17, 1977, 91 Stat. 862.)

AMENDMENTS

1977—Par. (2). Pub. L. 95–105 inserted "based on estimated calendar year 1976 costs, plus or minus such amounts as may be justified by reason of ordinary fluctuations in operation and maintenance costs involved therein," after "$25,000".

1973—Par. (2). Pub. L. 93–126 substituted "$25,000" for "$20,000".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–105 effective Oct. 1, 1977, see section 514(d) of Pub. L. 95–105, set out as a note under section 277d–3 of this title.

§277d–32. Tijuana River flood control project; agreement with Mexico for joint construction, operation and maintenance

The Secretary of State, acting through the United States Commissioner, International Boundary and Water Commission, United States and Mexico, is hereby authorized to conclude with the appropriate official or officials of the Government of Mexico an agreement for the joint construction, operation, and maintenance by the United States and Mexico, in accordance with the provisions of the treaty of February 3, 1944, with Mexico, of an international flood control project for the Tijuana

River, which shall be located and have substantially the characteristics described in "Report on an International Flood Control Project, Tijuana River Basin", prepared by the United States Section, International Boundary and Water Commission, United States and Mexico.

(Pub. L. 89–640, §1, Oct. 10, 1966, 80 Stat. 884.)

§277d–33. Authorization; construction, operation, and maintenance, appropriations, and acquisition of land

Pursuant to the agreement concluded under the authority of section 277d–32 of this title, the United States Commissioner is authorized to construct, operate, and maintain the portion of the "International Flood Control Project, Tijuana River Basin," assigned to the United States, and there is hereby authorized to be appropriated to the Department of State for use of the United States section the sum of $10,800,000 for construction costs of such project, as modified, based on estimated June 1976 prices, plus or minus such amounts as may be justified by reason of price index fluctuations in costs involved therein, and such sums as may be necessary for its maintenance and operation, except that no funds may be appropriated under sections 277d–32 and 277d–33 of this title for the fiscal year ending on September 30, 1977. Contingent upon the furnishing by the city of San Diego of its appropriate share of the funds for the acquisition of the land and interests therein needed to carry out the agreement between the United States and Mexico to construct such project, the Secretary of State, acting through the United States Commissioner, is further authorized to participate financially with non-Federal interests in the acquisition of said lands and interest therein, to the extent that funds provided by the city of San Diego are insufficient for this purpose.

(Pub. L. 89–640, §2, Oct. 10, 1966, 80 Stat. 884; Pub. L. 94–425, Sept. 28, 1976, 90 Stat. 1333.)

AMENDMENTS

1976—Pub. L. 94–425 substituted provisions authorizing appropriations of $10,800,000 for construction costs for project based on June 1976 prices, with exception that no funds may be appropriated for fiscal year ending Sept. 30, 1977 for provisions authorizing appropriations not to exceed $12,600,000 for construction costs for project, eliminated provision requiring approval of title by Attorney General, and inserted provision authorizing financial participation of Secretary of State through Commissioner to acquire land for construction of project contingent upon city of San Diego furnishing its appropriate share of funds.

§277d–34. American-Mexican Boundary Treaty, authorization for carrying out treaty provisions; investigations; land acquisition, purposes; damages, repair or compensation

In connection with the treaty between the United States of America and the United Mexican States to resolve pending boundary differences and maintain the Rio Grande and the Colorado River as the international boundary between the United States of America and the United Mexican States, signed November 23, 1970, (hereafter in this Act referred to as the "treaty"), the Secretary of State, acting through the United States Commissioner, International Boundary and Water Commission, United States, and Mexico (hereafter in this Act referred to as the "Commissioner"), is authorized—

(1) to conduct technical and other investigations relating to—

(A) the demarcation, mapping, monumentation, channel relocation, rectification, improvement, stabilization, and other matters relating to the preservation of the river boundaries between the United States and Mexico;

(B) the establishment and delimitation of the maritime boundaries in the Gulf of Mexico and in the Pacific Ocean;

(C) water resources; and

(D) the sanitation and the prevention of pollution;

(2) to acquire by donation, purchase, or condemnation, all lands or interests in lands required—

(A) for transfer to Mexico as provided in the treaty;

(B) for construction of that portion of new river channels and the adjoining levees in the territory of the United States;

(C) to preserve the Rio Grande and the Colorado River as the boundary by preventing the construction of works which may cause deflection or obstruction of the normal flow of the rivers or of their floodflows; and

(D) for relocation of any structure or facility, public or private, the relocation of which, in the judgment of the Commissioner, is necessitated by the project; and

(3) to remove, modify, or repair the damages caused to Mexico by works constructed in the United States which the International Boundary and Water Commission, United States and Mexico, as determined have an adverse effect on Mexico, or to compensate Mexico for such damages.

(Pub. L. 92–549, title I, §101, Oct. 25, 1972, 86 Stat. 1161.)

REFERENCES IN TEXT

This Act, referred to in text, means Pub. L. 92–549, Oct. 25, 1972, 86 Stat. 1161, which enacted sections 277d–34 to 277d–42 of this title and amended section 1322 of Title 19, Customs Duties. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

SHORT TITLE

Pub. L. 92–549, §1, Oct. 25, 1972, 86 Stat. 1161, provided: "That this Act [enacting this section and sections 277d–35 to 277d–42 of this title and amending section 1322 of Title 19, Customs Duties] may be cited as the 'American-Mexican Boundary Treaty Act of 1972'."

§277d–35. Construction, operation, and maintenance of works; property relocation, contracts; transfer of authority

The Commissioner is authorized—

(1) to construct, operate, and maintain all works provided for in the treaty and title I of this Act;

(2) to enter into contracts with the owners of properties to be relocated whereby such owners undertake to perform, at the expense of the United States, any or all operations involved in such relocations; and

(3) to turn over the operation and maintenance of any works referred to in paragraph (1) of this section to any Federal agency, or any State, county, municipality, district, or other political subdivision within which such works may be situated, in whole or in part, upon such terms, conditions, and requirements as the Commissioner may deem appropriate.

(Pub. L. 92–549, title I, §102, Oct. 25, 1972, 86 Stat. 1161.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 92–549, Oct. 25, 1972, 86 Stat. 1161, known as the "American-Mexican Boundary Treaty Act of 1972". Title I of this Act enacted sections 277d–34 to 277d–40 of this title and amended section 1322 of Title 19, Customs Duties. For complete classification of this Act to the Code, see Short Title note set out under section 277d–34 of this title and Tables.

§277d–36. Sale of excess land

Notwithstanding any other provision of law, the Commissioner is authorized to dispose of by warranty deed, or otherwise, any land acquired by him on behalf of the United States, or obtained by the United States pursuant to treaty between the United States and Mexico, and not required for project purposes, under procedures to be formulated by the Commissioner, to adjoining landowners at such price as he considers fair and equitable, and, if not so disposed of, to turn such land over to the General Services Administration for disposal under the provisions of chapters 1 to 11 of title 40

and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41.

(Pub. L. 92–549, title I, §103, Oct. 25, 1972, 86 Stat. 1162.)

CODIFICATION

In text, "chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41" substituted for "the Federal Property and Administrative Services Act of 1949" on authority of Pub. L. 107–217, §5(c), Aug. 21, 2002, 116 Stat. 1303, which Act enacted Title 40, Public Buildings, Property, and Works, and Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

§277d–37. Channel shifts; boundary determination

When a determination must be made under the treaty whether to permit a new channel to become the boundary, or whether or not to restore a river to its former channel, or whether, instead of restoration, the Governments should undertake a rectification of the river channel, the Commissioner's decision, approved by the Secretary of State shall be final so far as the United States is concerned, and the Commissioner is authorized to construct or arrange for the construction of such works as may be required to give effect to that decision.

(Pub. L. 92–549, title I, §104, Oct. 25, 1972, 86 Stat. 1162.)

§277d–38. Acquired land, addition to State; State jurisdiction

Land acquired or to be acquired by the United States of America in accordance with the provisions of the treaty, including the tract provided for in section 277d–39 of this title, shall become a geographical part of the State to which it attaches and shall be under the civil and criminal jurisdiction of such State, without affecting the ownership of such land. The addition of land and the ceding of jurisdiction to a State shall take effect upon acceptance by such State.

(Pub. L. 92–549, title I, §105, Oct. 25, 1972, 86 Stat. 1162.)

§277d–39. Hidalgo-Reynosa lands; administration; part of national wildlife refuge system

Upon transfer of sovereignty from Mexico to the United States of the 481.68 acres of land acquired by the United States from Mexico near Hidalgo-Reynosa, administration over the portion of that land which is determined by the Commissioner not to be required for the construction and maintenance of the relocated river channel shall be assumed by the Department of the Interior; and the Department of the Interior, United States Fish and Wildlife Service, is authorized to plan, establish, develop, and administer such portion of the acquired lands as a part of the national wildlife refuge system.

(Pub. L. 92–549, title I, §106, Oct. 25, 1972, 86 Stat. 1162; Pub. L. 93–271, §1(3), Apr. 22, 1974, 88 Stat. 92.)

CHANGE OF NAME

"United States Fish and Wildlife Service" substituted in text for "Fish and Wildlife Service, Bureau of Sport Fisheries and Wildlife" pursuant to section 1(3) of Pub. L. 93–271, see section 742b of Title 16, Conservation.

§277d–40. Authorization of appropriations

There is authorized to be appropriated to the Department of State for the use of the United States section of the International Boundary and Water Commission, United States and Mexico, such sums

as may be necessary to carry out the provisions of the treaty and title I of this Act.

(Pub. L. 92–549, title I, §108, Oct. 25, 1972, 86 Stat. 1162.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 92–549, Oct. 25, 1972, 86 Stat. 1161, known as the "American-Mexican Boundary Treaty Act of 1972". Title I of this Act enacted sections 277d–34 to 277d–40 of this title and amended section 1322 of Title 19, Customs Duties. For complete classification of this Act to the Code, see Short Title note set out under section 277d–34 of this title and Tables.

§277d–41. American-Mexican Boundary Treaty, Presidio flood control project; authorization of flood control agreement

The Secretary of State, acting through the Commissioner, is hereby authorized to conclude with the appropriate official or officials of the Government of Mexico an agreement for a coordinated plan by the United States and Mexico for international flood control works for protection of lands along the international section of the Rio Grande in the United States and in Mexico in the Presidio-Ojinaga Valley.

(Pub. L. 92–549, title II, §201, Oct. 25, 1972, 86 Stat. 1163.)

§277d–42. Construction, operation, and maintenance of flood control works; authorization of appropriations; restrictions

If an agreement is concluded pursuant to section 277d–41 of this title, the Commissioner is authorized to construct, operate, and maintain flood control works located in the United States having substantially the characteristics described in "Report on the Flood Control Project Rio Grande, Presidio Valley, Texas", prepared by the United States section, International Boundary and Water Commission, United States and Mexico; and there are hereby authorized to be appropriated to the Department of State for the use of the United States section of the Commission such sums as may be necessary to carry out the provisions of title II of this Act. No part of any appropriation under this section shall be expended for flood control works on any land, site, or easement unless such land, site, or easement has been acquired under the treaty for other purposes or by donation and, in the case of a donation, the title thereto has been approved in accordance with existing rules and regulations of the Attorney General of the United States.

(Pub. L. 92–549, title II, §202, Oct. 25, 1972, 86 Stat. 1163.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 92–549, Oct. 25, 1972, 86 Stat. 1161, known as the "American-Mexican Boundary Treaty Act of 1972". Title II of this Act enacted sections 277d–41 and 277d–42 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 277d–34 of this title and Tables.

§277d–43. Definitions

In sections 277d–43 to 277d–46 of this title, the following definitions apply:

(1) Administrator

The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) Commission

The term "Commission" means the United States section of the International Boundary and Water Commission, United States and Mexico.

(3) IWTP

The term "IWTP" means the South Bay International Wastewater Treatment Plant constructed under the provisions of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), section 510 of the Water Quality Act of 1987 (101 Stat. 80–82), and Treaty Minutes to the Treaty for the Utilization of Waters of the Colorado and Tijuana Rivers and of the Rio Grande, dated February 3, 1944.

(4) Secondary treatment

The term "secondary treatment" has the meaning such term has under the Federal Water Pollution Control Act and its implementing regulations.

(5) Secretary

The term "Secretary" means the Secretary of State.

(6) Mexican facility

The term "Mexican facility" means a proposed public-private wastewater treatment facility to be constructed and operated under sections 277d–43 to 277d–46 of this title within Mexico for the purpose of treating sewage flows generated within Mexico, which flows impact the surface waters, health, and safety of the United States and Mexico.

(7) Mgd

The term "mgd" means million gallons per day.

(Pub. L. 106–457, title VIII, §803, Nov. 7, 2000, 114 Stat. 1977.)

REFERENCES IN TEXT

The Federal Water Pollution Control Act, referred to in pars. (3) and (4), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92–500, §2, Oct. 18, 1972, 86 Stat. 816, which is classified generally to chapter 26 (§1251 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of Title 33 and Tables.

Section 510 of the Water Quality Act of 1987, referred to in par. (3), is section 510 of Pub. L. 100–4, title V, Feb. 4, 1987, 101 Stat. 80, which is not classified to the Code.

SHORT TITLE

Pub. L. 106–457, title VIII, §801, Nov. 7, 2000, 114 Stat. 1977, provided that: "This title [enacting this section and sections 277d–44 to 277d–46 of this title] may be cited as the 'Tijuana River Valley Estuary and Beach Sewage Cleanup Act of 2000'."

PURPOSE

Pub. L. 106–457, title VIII, §802, Nov. 7, 2000, 114 Stat. 1977, provided that: "The purpose of this title [see Short Title note above] is to authorize the United States to take actions to address comprehensively the treatment of sewage emanating from the Tijuana River area, Mexico, that flows untreated or partially treated into the United States causing significant adverse public health and environmental impacts."

§277d–44. Actions to be taken by the Commission and the Administrator

(a) Secondary treatment

(1) In general

Pursuant to Treaty Minute 311 to the Treaty for the Utilization of Waters of the Colorado and Tijuana Rivers and of the Rio Grande, dated February 3, 1944, and notwithstanding section 510(b)(2) of the Water Quality Act of 1987 (101 Stat. 81), the Commission is authorized and directed to provide for the secondary treatment of a total of not more than 50 mgd in Mexico—

(A) of effluent from the IWTP if such treatment is not provided for at a facility in the United States; and

(B) of additional sewage emanating from the Tijuana River area, Mexico.

(2) Additional authority

Subject to the results of the comprehensive plan developed under subsection (b) revealing a

need for additional secondary treatment capacity in the San Diego-Tijuana border region and recommending the provision of such capacity in Mexico, the Commission may provide not more than an additional 25 mgd of secondary treatment capacity in Mexico for treatment described in paragraph (1).

(b) Comprehensive plan

Not later than 24 months after November 7, 2000, the Administrator shall develop a comprehensive plan with stakeholder involvement to address the transborder sanitation problems in the San Diego-Tijuana border region. The plan shall include, at a minimum—

(1) an analysis of the long-term secondary treatment needs of the region;

(2) an analysis of upgrades in the sewage collection system serving the Tijuana area, Mexico; and

(3) an identification of options, and recommendations for preferred options, for additional sewage treatment capacity for future flows emanating from the Tijuana River area, Mexico.

(c) Contract

(1) In general

Notwithstanding any provision of Federal procurement law, the Commission may enter into a multiyear fee-for-services contract with the owner of a Mexican facility in order to carry out the secondary treatment requirements of subsection (a) and make payments under such contract, subject to the availability of appropriations and subject to the terms of paragraph (2).

(2) Terms

Any contract under this subsection shall provide, at a minimum, for the following:

(A) Transportation of the advanced primary effluent from the IWTP to the Mexican facility for secondary treatment.

(B) Treatment of the advanced primary effluent from the IWTP to the secondary treatment level in compliance with water quality laws of the United States, California, and Mexico.

(C) Return conveyance from the Mexican facility of any such treated effluent that cannot be reused in either Mexico or the United States to the South Bay Ocean Outfall for discharge into the Pacific Ocean in compliance with water quality laws of the United States and California.

(D) Subject to the requirements of subsection (a), additional sewage treatment capacity that provides for advanced primary and secondary treatment of sewage described in subsection (a)(1)(B) in addition to the capacity required to treat the advanced primary effluent from the IWTP.

(E) A contract term of 20 years.

(F) Arrangements for monitoring, verification, and enforcement of compliance with United States, California, and Mexican water quality standards.

(G) Arrangements for the disposal and use of sludge, produced from the IWTP and the Mexican facility, at a location or locations in Mexico.

(H) Maintenance by the owner of the Mexican facility at all times throughout the term of the contract of a 20 percent equity position in the capital structure of the Mexican facility.

(I) Payment of fees by the Commission to the owner of the Mexican facility for sewage treatment services with the annual amount payable to reflect all agreed upon costs associated with the development, financing, construction, operation, and maintenance of the Mexican facility, including costs associated with the purchase of any insurance or other financial instrument under subparagraph (K). Costs associated with the purchase of such insurance or other financial instrument may be amortized over the term of the contract.

(J) Neither the Commission nor the United States Government shall be liable for payment of any cancellation fees if the Commission cancels the contract.

(K) The owner of the Mexican facility may purchase insurance or other financial instrument to cover the risk of cancellation of the contract by the Commission. Any such insurance or other

financial instrument shall not be provided or guaranteed by the United States Government, and the Government may reserve the right to validate independently the reasonableness of the premium when negotiating the annual service fee with the owner.

(L) Transfer of ownership of the Mexican facility to an appropriate governmental entity, other than the United States, if the Commission cancels the contract.

(M) Transfer of ownership of the Mexican facility to an appropriate governmental entity, other than the United States, if the owner of the Mexican facility fails to perform under the contract.

(N) The use of competitive procedures under applicable law, consistent with division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41, by the owner of the Mexican facility in the procurement of property or services for the engineering, construction, and operation and maintenance of the Mexican facility.

(O) An opportunity for the Commission to review and approve the selection of contractors providing engineering, construction, and operation and maintenance for the Mexican facility.

(P) The maintenance by the owner of the Mexican facility of all records (including books, documents, papers, reports, and other materials) necessary to demonstrate compliance with the terms of this section and the contract.

(Q) Access by the Inspector General of the Department of State or the designee of the Inspector General for audit and examination of all records maintained pursuant to subparagraph (N) [1] to facilitate the monitoring and evaluation required under subsection (d).

(R) Offsets or credits against the payments to be made by the Commission under this section to reflect an agreed upon percentage of payments that the owner of the Mexican facility receives through the sale of water treated by the facility.

(d) Implementation

(1) In general

The Inspector General of the Department of State shall monitor the implementation of any contract entered into under this section and evaluate the extent to which the owner of the Mexican facility has met the terms of this section and fulfilled the terms of the contract.

(2) Report

The Inspector General shall transmit to Congress a report containing the evaluation under paragraph (1) not later than 2 years after the execution of any contract with the owner of the Mexican facility under this section, 3 years thereafter, and periodically after the second report under this paragraph.

(Pub. L. 106–457, title VIII, §804, Nov. 7, 2000, 114 Stat. 1978; Pub. L. 108–425, §1, Nov. 30, 2004, 118 Stat. 2420.)

REFERENCES IN TEXT

Section 510(b)(2) of the Water Quality Act of 1987, referred to in subsec. (a)(1), is section 510(b)(2) of Pub. L. 100–4, title V, Feb. 4, 1987, 101 Stat. 81, which is not classified to the Code.

Subparagraph (N) of subsec. (c)(2) of this section, referred to in subsec. (c)(2)(Q), was redesignated as subparagraph (P) by Pub. L. 108–425, §1(b)(3), Nov. 30, 2004, 118 Stat. 2420.

CODIFICATION

In subsec. (c)(2)(N), "division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41" substituted for "title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.)" on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

2004—Subsec. (a)(1). Pub. L. 108–425, §1(a), substituted "Pursuant to Treaty Minute 311 to the Treaty for the Utilization of Waters of the Colorado and Tijuana Rivers and of the Rio Grande, dated February 3, 1944," for "Subject to the negotiation and conclusion of a new Treaty Minute or the amendment of Treaty Minute 283 under section 1005 of this Act,".

Subsec. (c)(1). Pub. L. 108–425, §1(b)(1), added par. (1) and struck out former par. (1) which read as follows: "Subject to the availability of appropriations to carry out this subsection and notwithstanding any provision of Federal procurement law, upon conclusion of a new Treaty Minute or the amendment of Treaty Minute 283 under section 5, the Commission may enter into a fee-for-services contract with the owner of a Mexican facility in order to carry out the secondary treatment requirements of subsection (a) of this section and make payments under such contract."

Subsec. (c)(2)(I). Pub. L. 108–425, §1(b)(2), substituted ", including costs associated with the purchase of any insurance or other financial instrument under subparagraph (K). Costs associated with the purchase of such insurance or other financial instrument may be amortized over the term of the contract." for ", with such annual payment to maintain the owner's 20 percent equity position throughout the term of the contract."

Subsec. (c)(2)(J), (K). Pub. L. 108–425, §1(b)(3), added subpars. (J) and (K). Former subpars. (J) and (K) redesignated (L) and (M), respectively.

Subsec. (c)(2)(L), (M). Pub. L. 108–425, §1(b)(4), added subpars. (L) and (M) and struck out former subpars. (L) and (M) which read as follows:

"(L) Provision for the transfer of ownership of the Mexican facility to the United States, and provision for a cancellation fee by the United States to the owner of the Mexican facility, if the Commission fails to perform its obligations under the contract. The cancellation fee shall be in amounts declining over the term of the contract anticipated to be sufficient to repay construction debt and other amounts due to the owner that remain unamortized due to early termination of the contract.

"(M) Provision for the transfer of ownership of the Mexican facility to the United States, without a cancellation fee, if the owner of the Mexican facility fails to perform the obligations of the owner under the contract."

Pub. L. 108–425, §1(b)(3), redesignated subpars. (J) and (K) as (L) and (M), respectively. Former subpars. (L) and (M) redesignated (N) and (O), respectively.

Subsec. (c)(2)(N). Pub. L. 108–425, §1(b)(3), (5), redesignated subpar. (L) as (N) and inserted "under applicable law" after "competitive procedures". Former subpar. (N) redesignated (P).

Subsec. (c)(2)(O) to (R). Pub. L. 108–425, §1(b)(3), redesignated subpars. (M) to (P) as (O) to (R), respectively.

[1] *See References in Text note below.*

§277d–45. New Treaty Minute

(a) Congressional statement

In light of the existing threat to the environment and to public health and safety within the United States as a result of the river and ocean pollution in the San Diego-Tijuana border region, the Secretary is requested to give the highest priority to the negotiation and execution of a new Treaty Minute, or a modification of Treaty Minute 283, consistent with the provisions of sections 277d–43 to 277d–46 of this title, in order that the other provisions of sections 277d–43 to 277d–46 of this title to address such pollution may be implemented as soon as possible.

(b) Negotiation

(1) Initiation

The Secretary is requested to initiate negotiations with Mexico, within 60 days after November 7, 2000, for a new Treaty Minute or a modification of Treaty Minute 283 consistent with the provisions of sections 277d–43 to 277d–46 of this title.

(2) Implementation

Implementation of a new Treaty Minute or of a modification of Treaty Minute 283 under sections 277d–43 to 277d–46 of this title shall be subject to the provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(3) Matters to be addressed

A new Treaty Minute or a modification of Treaty Minute 283 under paragraph (1) should address, at a minimum, the following:

(A) The siting of treatment facilities in Mexico and in the United States.

(B) Provision for the secondary treatment of effluent from the IWTP at a Mexican facility if such treatment is not provided for at a facility in the United States.

(C) Provision for additional capacity for advanced primary and secondary treatment of additional sewage emanating from the Tijuana River area, Mexico, in addition to the treatment capacity for the advanced primary effluent from the IWTP at the Mexican facility.

(D) Provision for any and all approvals from Mexican authorities necessary to facilitate water quality verification and enforcement at the Mexican facility.

(E) Any terms and conditions considered necessary to allow for use in the United States of treated effluent from the Mexican facility, if there is reclaimed water which is surplus to the needs of users in Mexico and such use is consistent with applicable United States and California law.

(F) Any other terms and conditions considered necessary by the Secretary in order to implement the provisions of sections 277d–43 to 277d–46 of this title.

(c) Implementation

In light of the continuing threat to the environment and to public health and safety within the United States as a result of the river and ocean pollution in the San Diego-Tijuana border region, the Commission is requested to give the highest priority to the implementation of Treaty Minute 311 to the Treaty for the Utilization of Waters of the Colorado and Tijuana Rivers and of the Rio Grande, dated February 3, 1944, which establishes a framework for the siting of a treatment facility in Mexico to provide for the secondary treatment of effluent from the IWTP at the Mexican facility, to provide for additional capacity for advanced primary and secondary treatment of additional sewage emanating from the Tijuana River area, Mexico, and to meet the water quality standards of Mexico, the United States, and the State of California consistent with the provisions of sections 277d–43 to 277d–46 of this title, in order that the other provisions of sections 277d–43 to 277d–46 of this title to address such pollution may be implemented as soon as possible.

(Pub. L. 106–457, title VIII, §805, Nov. 7, 2000, 114 Stat. 1980; Pub. L. 108–425, §2, Nov. 30, 2004, 118 Stat. 2421.)

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (b)(2), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

AMENDMENTS

2004—Pub. L. 108–425, §2(1), struck out "Negotiation of" before "New" in section catchline.
Subsec. (c). Pub. L. 108–425, §2(2), added subsec. (c).

§277d–46. Authorization of appropriations

There is authorized to be appropriated such sums as may be necessary to carry out sections 277d–43 to 277d–46 of this title. Such sums shall remain available until expended.

(Pub. L. 106–457, title VIII, §806, Nov. 7, 2000, 114 Stat. 1981; Pub. L. 108–425, §3, Nov. 30, 2004, 118 Stat. 2421.)

AMENDMENTS

2004—Pub. L. 108–425 substituted "such sums as may be necessary" for "a total of $156,000,000 for fiscal years 2001 through 2005".

§277e. Disposal of lands; issuance of licenses for use of lands; compensation for injured property

The Secretary of State is authorized to lease any land heretofore or hereafter acquired under any Act, Executive order, or treaty in connection with projects, in whole or in part, constructed or administered by the Secretary of State through the said American Commissioner, or to dispose of such lands when no longer needed, subject to applicable regulations under chapters 1 to 11 of title 40 and division C (except sections 3302, 3306(f), 3307(e), 3501(b), 3509, 3906, 4104, 4710, and 4711) of subtitle I of title 41, by sale at public auction, after thirty days' advertisement, at a price not less than that which may be fixed by three disinterested appraisers, to be designated by the Secretary of State, or by private sale, or otherwise, at not less than such appraised value: *Provided*, That any of such land as shall have been donated to the United States and which is no longer needed may be reconveyed, without cost, to the grantor or his heirs: *Provided, further*, That the lease or disposal of any land pursuant hereto may, in the discretion of the Secretary of State, be subject to reservations in favor of the United States for rights-of-way for irrigation, drainage, river work, and other purposes, and any such disposal may be conditioned upon and made subject to inclusion of such lands in any existing irrigation district in the vicinity of such lands, the proceeds of any such lease or sale to be covered into the Treasury of the United States: *And provided further*, That in the discretion of the Secretary of State, and subject to such conditions as he may deem appropriate, conveyances of any other of such lands not needed by the United States may be made to the State to which they lie adjacent or to any similarly situated county, city, or other governmental subdivision of such State, without cost, for use for public purposes.

The Secretary of State is further authorized to issue revokable licenses for public or private use for irrigation or other structures or uses not inconsistent with the use of such lands made, or to be made, by the United States, across any lands retained by the United States, and to execute all necessary leases, title instruments, and conveyances, in order to carry out the provisions of this section.

Whenever the construction of any project or works undertaken or administered by the Secretary of State through the International Boundary and Water Commission, United States and Mexico, results in the interference with or necessitates the alteration or restoration of constructed and existing irrigation or water-supply structures, sanitary or sewage disposal works, or other structures, or physical property belonging to any municipal or private corporation, company, association, or individual, the Secretary of State may cause the restoration or reconstruction of such works, structures, or physical property or the construction of others in lieu thereof or he may compensate the owners thereof to the extent of the reasonable value thereof as the same may be agreed upon by the American Commissioner with such owner.

The Secretary of State acting through such officers as he may designate, is further authorized to consider, adjust, and pay from funds appropriated for the project, the construction of which resulted in damages, any claim for damages accruing after March 31, 1937, caused to owners of lands or other private property of any kind by reason of the operations of the United States, its officers or employees, in the survey, construction, operation, or maintenance of any project constructed or administered through the American Commissioner, International Boundary and Water Commission, United States and Mexico, if such claim for damages does not exceed $1,000 and has been filed with the American Commissioner within one year after the damage is alleged to have occurred, and when in the opinion of the American Commissioner such claim is substantiated by a report of a board appointed by the said Commissioner.

(Aug. 27, 1935, ch. 763, 49 Stat. 906; June 19, 1939, ch. 212, 53 Stat. 841; Oct. 31, 1951, ch. 654, §2(15), 65 Stat. 707; Pub. L. 85–201, Aug. 28, 1957, 71 Stat. 475.)

CODIFICATION

In text, "chapters 1 to 11 of title 40 and division C (except sections 3302, 3306(f), 3307(e), 3501(b), 3509, 3906, 4104, 4710, and 4711) of subtitle I of title 41" substituted for "the Federal Property and Administrative Services Act of 1949, as amended" on authority of Pub. L. 107–217, §5(c), Aug. 21, 2002, 116 Stat. 1303, which Act enacted Title 40, Public Buildings, Property, and Works, and Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

1957—Pub. L. 85–201 struck out "to citizens of the United States" after "is authorized to lease" and "to

American citizens" after "or to dispose of such lands" in first sentence of first paragraph, before first proviso.

1951—Act Oct. 31, 1951, inserted reference to applicable regulations of the Federal Property and Administrative Services Act of 1949, as amended, in text before first proviso of first paragraph.

1939—Act June 19, 1939, inserted last paragraph.

§277f. Valley Gravity Canal and Storage Project

The Secretary of State, with the approval of the President, shall designate the features of the Valley Gravity Canal and Storage Project which he deems international in character, and shall direct such changes in the general project plan as he deems advisable with respect to such features; and the features so designated shall be built, after consultation with the Bureau of Reclamation as to general design, by the American section of the International Boundary Commission, United States and Mexico, and shall be operated and maintained by said Commission insofar as their operation and maintenance in such manner is, in the opinion of the Secretary of State, necessary because of their international character. The construction, operation, and maintenance of such project shall be pursuant to the Federal reclamation laws, except as hereinbefore provided and except that—

(1) In addition to the nonreimbursable allocation to flood control or navigation which may be made by the Secretary of the Interior under section 485h(b) of title 43, the President, after consultation with the Secretary of State and the Secretary of the Interior, shall allocate such part of the total estimated cost of the project as he deems proper to the protection of American interests from drought hazards resulting from the uncontrolled and unregulated flow of the international portion of the Rio Grande below Old Fort Quitman, Texas. Provisions of law applicable with respect to allocations to flood control under section 485h(b) of title 43, shall, insofar as they are not inconsistent with the foregoing provisions, be applicable in like manner with respect to any allocation made under this subparagraph; and

(2) All revenues received by the United States in connection with the construction, operation, and maintenance of such projects shall be covered into the Treasury as miscellaneous receipts.

(June 28, 1941, ch. 259, 55 Stat. 338.)

CHANGE OF NAME

International Boundary Commission, United States and Mexico, American section, to which powers, duties, and functions of International Water Commission, United States and Mexico, American section, were transferred by act June 30, 1932, ch. 314, pt. II, title V, §510, 47 Stat. 417, reconstituted as International Boundary and Water Commission by Water Treaty of 1944.

§277g. Agreements to correct pollution of Rio Grande

(a) In general

The Secretary of State, acting through the United States Commissioner, International Boundary and Water Commission, United States and Mexico (hereafter in sections 277g to 277g–3 of this title referred to as the "Commissioner"), is authorized to conclude agreements with the appropriate representative of the Ministry of Foreign Relations of Mexico for the purpose of correcting the international problem of pollution of the Rio Grande caused by discharge of raw and inadequately treated sewage and other wastes into such river from the border cities including but not limited to Ciudad Acuna, Nuevo Laredo, and Reynosa, Mexico, and Del Rio, Laredo, and Hidalgo, Texas.

(b) Content of agreements

Agreements concluded under subsection (a) should consist of recommendations to the Governments of the United States and Mexico of measures to protect the health and welfare of persons along the Rio Grande from the effects of pollution, including—

(1) facilities that should be constructed, operated, and maintained in each country;

(2) estimates of the cost of plans, construction, operation, and maintenance of the facilities referred to in paragraph (1);

(3) formulas for the initial division between the United States and Mexico of the cost of plans, constructions, operation, and maintenance of the facilities referred to in paragraph (1);

(4) a method for review and adjustment of the formulas referred to in paragraph (3) at intervals of five years which recognizes that such initial formulas should not be used as a precedent in their subsequent review and adjustment; and

(5) dates for the beginning and completion of construction of the facilities referred to in paragraph (1).

(Pub. L. 100–465, §2, Oct. 3, 1988, 102 Stat. 2272.)

SHORT TITLE

Pub. L. 100–465, §1, Oct. 3, 1988, 102 Stat. 2272, provided that: "This Act [enacting this section and sections 277g–1 to 277g–3 of this title] may be cited as the 'Rio Grande Pollution Correction Act of 1987'."

§277g–1. Authority of Secretary of State to plan, construct, operate, and maintain facilities

The Secretary of State, acting through the Commissioner, is authorized to act jointly with the appropriate representative of the Government of Mexico and to—

(1) supervise the planning of, and

(2) supervise construction, operation, and maintenance of,

the facilities recommended in agreements concluded pursuant to section 277g of this title and approved by the Governments of the United States and Mexico.

(Pub. L. 100–465, §3, Oct. 3, 1988, 102 Stat. 2272.)

§277g–2. Consultation with Administrator of Environmental Protection Agency and other authorities

The Secretary of State shall consult with the Administrator of the Environmental Protection Agency and other concerned Federal, State, and local government officials in implementing sections 277g to 277g–3 of this title.

(Pub. L. 100–465, §4, Oct. 3, 1988, 102 Stat. 2273.)

§277g–3. Authorization of appropriations

There is authorized to be appropriated such sums as may be necessary for the United States to fund its share of the cost of the plans, construction, operation, and maintenance of the facilities recommended in agreements concluded pursuant to section 277g of this title and approved by the Governments of the United States and Mexico.

(Pub. L. 100–465, §5, Oct. 3, 1988, 102 Stat. 2273.)

§277h. Authority of the International Boundary and Water Commission to assist State and local governments

(a) Authority

The Commissioner of the United States section of the International Boundary and Water Commission may provide technical tests, evaluations, information, surveys, or others [1] similar services to State or local governments upon the request of such State or local government on a reimbursable basis.

(b) Reimbursements

Reimbursements shall be paid in advance of the goods or services ordered and shall be for the estimated or actual cost as determined by the United States section of the International Boundary and Water Commission. Proper adjustment of amounts paid in advance shall be made as determined by the United States section of the International Boundary and Water Commission on the basis of the actual cost of goods or services provided. Reimbursements received by the United States section of the International Boundary and Water Commission for providing services under this section shall be credited to the appropriation from which the cost of providing the services is charged.

(Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title VII, §702], Nov. 29, 1999, 113 Stat. 1536, 1501A–459.)

[1] *So in original. Probably should be "other".*

§277i. Report on water sharing

Not later than 120 days after February 7, 2014, and annually thereafter, the Secretary of State shall submit to Congress a report on efforts by Mexico to meet its treaty deliveries of water to the Rio Grande in accordance with the Treaty between the United States and Mexico Respecting Utilization of waters of the Colorado and Tijuana Rivers and of the Rio Grande (done at Washington, February 3, 1944).

(Pub. L. 113–79, title XII, §12310, Feb. 7, 2014, 128 Stat. 991.)

SUBCHAPTER V—GORGAS MEMORIAL LABORATORY

§278. Gorgas Memorial Laboratory; location; acceptance of funds from Latin American countries or other sources

There is hereby authorized to be permanently appropriated for each year, out of any money in the Treasury not otherwise appropriated, the sum of not to exceed $2,000,000 to be paid to the Gorgas Memorial Institute of Tropical and Preventive Medicine, Incorporated (hereinafter referred to as the Gorgas Memorial Institute), for the maintenance and operation by its, of a laboratory to be known as the Gorgas Memorial Laboratory, upon condition (1) that the necessary building or quarters for said laboratory shall be constructed within the five years next ensuing after this subchapter shall become a law, either upon the site offered by the Republic of Panama therefor, at, or adjacent to, the city of Panama, or upon a site in the Canal Zone to be provided by the United States; and (2) that the said Gorgas Memorial Institute be, and it is, authorized within its discretion, henceforth to accept from any of the Latin American Governments, or from any other sources, any funds which may be offered or given for the use of the Gorgas Memorial Institute for the maintenance and operation of the Gorgas Memorial Laboratory, and for carrying on the work of said Laboratory wherever deemed by the said Institute to be necessary or desirable.

(May 7, 1928, ch. 505, §1, 45 Stat. 491; July 1, 1948, ch. 787, 62 Stat. 1213; Apr. 19, 1954, ch. 160, 68 Stat. 57; Pub. L. 86–296, §1, Sept. 21, 1959, 73 Stat. 572; Pub. L. 89–181, Sept. 11, 1965, 79 Stat. 679; Pub. L. 93–559, §47, Dec. 30, 1974, 88 Stat. 1816.)

REFERENCES IN TEXT

For definition of Canal Zone, referred to in text, see section 3602(b) of this title.

AMENDMENTS

1974—Pub. L. 93–559 substituted "$2,000,000" for "$500,000".

1965—Pub. L. 89–181 substituted "not to exceed $500,000" for "$250,000".

1959—Pub. L. 86–296 substituted "$250,000" for "$150,000".

1954—Act Apr. 19, 1954, provided that donations for maintenance of the Laboratory may be accepted from Latin American countries and from other sources, in lieu of provisions which required that such countries be invited to contribute, and struck out provisions that such countries be represented on the board or council directing the administration of such Laboratory in proportion to the amount of their contributions.

1948—Act July 1, 1948, substituted "$150,000" for "$50,000".

EFFECTIVE DATE OF 1965 AMENDMENT

Pub. L. 89–181 provided that the amendment made by Pub. L. 89–181 is effective for fiscal years ending after June 30, 1963.

EFFECTIVE DATE OF 1959 AMENDMENT

Pub. L. 86–296, §1, Sept. 21, 1959, 73 Stat. 572, provided that the amendment made by that section is effective for fiscal years ending after June 30, 1960.

ADDITIONAL APPROPRIATION FOR THE FISCAL YEAR ENDING JUNE 30, 1970

Pub. L. 90–574, title V, §505, Oct. 15, 1968, 82 Stat. 1013, provided that the annual appropriation for the maintenance and operation of the Gorgas Memorial Laboratory for the fiscal year ending June 30, 1970 would be increased by $500,000.

ANNUAL APPROPRIATIONS

An annual appropriation was contained in the following appropriation acts:
Aug. 5, 1953, ch. 328, title I, 67 Stat. 368.
July 10, 1952, ch. 651, title I, 66 Stat. 550.
Oct. 22, 1951, ch. 533, title I, 65 Stat. 577.
Sept. 6, 1950, ch. 896, ch. III, title I, 64 Stat. 610.
July 20, 1949, ch. 354, title I, 63 Stat. 449.
June 3, 1948, ch. 400, title I, 62 Stat. 308.
July 9, 1947, ch. 211, title I, 61 Stat. 282.
July 5, 1946, ch. 541, title I, 60 Stat. 453.
May 21, 1945, ch. 129, title I, 59 Stat. 175.
June 28, 1944, ch. 294, title I, 58 Stat. 402.
July 1, 1943, ch. 182, title I, 57 Stat. 278.
July 2, 1942, ch. 472, title I, 56 Stat. 474.
June 28, 1941, ch. 258, title I, 55 Stat. 271.
May 14, 1940, ch. 189, title I, 54 Stat. 187.
June 29, 1939, ch. 248, title I, 53 Stat. 891.
Apr. 27, 1938, ch. 180, title I, 52 Stat. 253.
June 16, 1937, ch. 359, title I, 50 Stat. 267.
May 15, 1936, ch. 405, title I, 49 Stat. 1315.
Mar. 22, 1935, ch. 39, title I, 49 Stat. 73.
Apr. 7, 1934, ch. 104, title I, 48 Stat. 534.
Mar. 1, 1933, ch. 144, title I, 47 Stat. 1376.
July 1, 1932, ch. 361, title I, 47 Stat. 485.
Feb. 23, 1931, ch. 280, title I, 46 Stat. 1309.
Apr. 18, 1930, ch. 184, title I, 46 Stat. 173.
Jan. 25, 1929, ch. 102, title I, 45 Stat. 1094.

APPROPRIATION FOR CONSTRUCTION OF FACILITIES

Act May 7, 1928, ch. 505, §4, as added by Pub. L. 86–296, §2, Sept. 21, 1959, 73 Stat. 573, and amended Pub. L. 86–617, July 12, 1960, 74 Stat. 396, provided that a sum not to exceed $500,000 be appropriated for construction and equipment of facilities for Gorgas Memorial Laboratory, including preparation of plans and specifications, remodeling of buildings, and site improvement, but excluding the cost of acquisition of land.

§278a. Annual report to Congress; examination of books and accounts

The Gorgas Memorial Institute shall make to Congress, on April 1 of each year, a full report of the

operation and work of the Gorgas Memorial Laboratory during the fiscal year ending the preceding September 30, and shall include therewith a complete statement of the receipts and expenditures of said laboratory for such fiscal year. The books and accounts of the Gorgas Memorial Laboratory shall at all times be open to examination by the Comptroller General of the United States.

(May 7, 1928, ch. 505, §3, 45 Stat. 491; Pub. L. 95–426, title VII, §701(a), Oct. 7, 1978, 92 Stat. 991.)

AMENDMENTS

1978—Pub. L. 95–426 substituted "on April 1 of each year" and "during the fiscal year ending the preceding September 30" for "annually, on the first Monday in December" and "up to the first of November next preceding", respectively.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in the first sentence of this section relating to annual report to Congress, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 174 of House Document No. 103–7.

§278b. Repealed. Pub. L. 95–426, title VII, §701(b), Oct. 7, 1978, 92 Stat. 991

Section, act June 28, 1944, ch. 294, title I, 58 Stat. 402, related to a report to Congress of the operation and work of the laboratory, including the statement of the receipts and expenditures, such a report to cover a fiscal year period ending on June 30 of the calendar year immediately preceding the convening of each such session. Similar provisions were contained in the following prior acts:

July 1, 1943, ch. 182, title I, 57 Stat. 277.
July 2, 1942, ch. 472, title I, 56 Stat. 474.
June 28, 1941, ch. 258, title I, 55 Stat. 271.
May 14, 1940, ch. 189, title I, 54 Stat. 187.
June 29, 1939, ch. 248, 53 Stat. 891.
Apr. 27, 1938, ch. 180, title I, 52 Stat. 253.
June 16, 1937, ch. 359, title I, 50 Stat. 267.

SUBCHAPTER VI—UNITED NATIONS FOOD AND AGRICULTURE ORGANIZATION

§279. United States membership in the United Nations Food and Agriculture Organization

The President is hereby authorized to accept membership for the United States in the Food and Agriculture Organization of the United Nations (hereinafter referred to as the "Organization") the Constitution of which is set forth in appendix I of the First Report to the Governments of the United Nations by the Interim Commission on Food and Agriculture, dated August 1, 1944.

(July 31, 1945, ch. 342, §1, 59 Stat. 529.)

§279a. Authorization of appropriations for payment of United States expenses in Organization; limitation of contributions

There is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be required for expenditure under the direction of the Secretary of State, for the payment by the United States of its proportionate share in the expenses of the Organization: *Provided*, That the percentage contribution of the United States to the total annual budget of the Organization shall not exceed 33.33 per centum.

(July 31, 1945, ch. 342, §2, 59 Stat. 529; Sept. 21, 1950, ch. 976, §1(b), 64 Stat. 902; Aug. 26, 1954, ch. 937, title IV, §421, as added July 18, 1956, ch. 627, §8(n), 70 Stat. 559; Aug. 26, 1954, ch. 937, title V, §544(b), as added Pub. L. 85–141, §11(b)(2), Aug. 14, 1957, 71 Stat. 365; Pub. L. 87–195, pt. IV, §709, Sept. 4, 1961, 75 Stat. 465.)

AMENDMENTS

1961—Pub. L. 87–195 struck out provisions which limited the annual appropriations to not more than $3,000,000.

1957—Pub. L. 85–141, §11(b)(2), added section 544(b) to act August 26, 1954, which section 544(b) amended this section by increasing the maximum percentage contribution from 31.5 to 33.33 per centum.

1956—Act July 18, 1956, increased authorized annual appropriation from $2,000,000, to $3,000,000, and inserted provisions limiting percentage contribution of United States to total annual budget to not more than 31.5 per centum.

1950—Joint Res. Sept. 21, 1950, increased authorized annual appropriation from $1,250,000 to $2,000,000.

REPEALS

Section 709 of Pub. L. 87–195, cited as a credit to this section, was repealed by section 401 of Pub. L. 87–565, pt. IV, Aug. 1, 1962, 76 Stat. 263, except insofar as section 709 affected this section.

Section 544(b) of act Aug. 26, 1954, cited as a credit to this section, was repealed by Pub. L. 85–477, ch. IV, §401(h), June 30, 1958, 72 Stat. 270, except insofar as such section 544(b) affected this section.

Section 421 of act August 26, 1954, cited as a credit to this section was repealed by section 8(n) of Pub. L. 85–141, except insofar as section 421 affected this section.

SIMILAR PROVISIONS

Similar provisions were contained in the Department of State Appropriation Act, 1946, act July 5, 1946, ch. 541, title I, 60 Stat. 453.

ANNUAL APPROPRIATIONS

Annual appropriations to meet the obligations of membership in various international organizations were contained in acts listed in a note set out under section 269a of this title.

LIMITATION OF CONTRIBUTIONS

Contributions by United States, except for special projects, limited to amount provided by Joint Res. Sept. 21, 1950, consent by State Department and reports to Congress, see section 262a of this title.

§279b. Integration of International Institute of Agriculture with Organization

In adopting this subchapter, it is the sense of the Congress that the Government of the United States should use its best efforts to bring about, as soon as practicable, the integration of the functions and the resources of the International Institute of Agriculture with those of the Organization, in a legal and orderly manner, to effect one united institution in such form as to provide an adequate research, informational, and statistical service for the industry of agriculture.

(July 31, 1945, ch. 342, §3, 59 Stat. 530.)

§279c. Congressional authority necessary for acceptance of new obligations in Organization

Unless Congress by law authorizes such action, neither the President nor any person or agency shall on behalf of the United States accept any amendment under paragraph 1 of article XX of the Constitution of the Organization involving any new obligation for the United States.

(July 31, 1945, ch. 342, §4, 59 Stat. 530.)

§279d. Limitation on power of Conference to impose new obligations on United

States

In adopting this subchapter the Congress does so with the understanding that paragraph 2 of article XIII does not authorize the Conference of the Organization to so modify the provisions of its Constitution as to involve any new obligation for the United States.

(July 31, 1945, ch. 342, §5, 59 Stat. 530.)

SUBCHAPTER VII—SOUTH PACIFIC COMMISSION

§280. Representation in South Pacific Commission; appointment of commissioners and alternates

The President is hereby authorized to accept membership for the United States in the South Pacific Commission, created by the Agreement Establishing the South Pacific Commission, signed on February 6, 1947, at Canberra, Australia, by delegates representing the Governments of Australia, the French Republic, the Kingdom of the Netherlands, New Zealand, the United Kingdom of Great Britain and Northern Ireland, and the United States of America, and to appoint the United States Commissioners, and their alternates, thereto.

(Jan. 28, 1948, ch. 38, §1, 62 Stat. 15.)

PURPOSE OF COMMISSION

Act Jan. 28, 1948, ch. 38, 62 Stat. 15, provided that:

"Whereas delegates representing the Governments of Australia, the French Republic, the Kingdom of the Netherlands, New Zealand, the United Kingdom of Great Britain and Northern Ireland, and the United States of America attended the South Seas Conference held at Canberra, Australia, and signed an 'Agreement Establishing the South Pacific Commission' on February 6, 1947; and

"Whereas the purpose of the South Pacific Commission is to encourage and strengthen international cooperation in promoting the economic and social welfare and advancement of the non-self-governing territories in the South Pacific in accordance with the principles set forth in Chapter XI of the Charter of the United Nations, thereby contributing to the maintenance of international peace and security: Therefore be it".

§280a. Definitions

When used in this subchapter—

(1) the term "Secretary" means the Secretary of State;

(2) the term "Government agency" means any department, independent establishment, or other agency of the Government of the United States, or any corporation wholly owned by the Government of the United States; and

(3) the term "Commission" means the South Pacific Commission.

(Jan. 28, 1948, ch. 38, §2, 62 Stat. 15.)

§280b. Authorization of appropriations

There is hereby authorized to be appropriated to the Department of State, out of any money in the Treasury not otherwise appropriated—

(a) such [1] sums as may be required annually for the payment by the United States of its proportionate share of the expenses of the Commission and its auxiliary and subsidiary bodies, in accordance with article XIV of the agreement establishing the South Pacific Commission, as

amended, except that in no event shall that payment for any fiscal year of the Commission exceed 20 per centum of all expenses apportioned among participating governments of the Commission for that year.

(b) Such additional sums as may be needed for the payment of all necessary expenses incident to participation by the United States in the activities of the Commission, including salaries of the United States Commissioners, their alternates, and appropriate staff, without regard to the civil-service laws and chapter 51 and subchapter III of chapter 53 of title 5; personal services in the District of Columbia; services as authorized by section 3109 of title 5; under such rules and regulations as the Secretary of State may prescribe, allowances for living quarters, including heat, fuel, and light and cost-of-living allowances to persons temporarily stationed abroad; hire of passenger motor vehicles and other local transportation; printing and binding without regard to section 501 of title 44 and section 6101 of title 41; and such other expenses as the Secretary of State finds necessary to participation by the United States in the activities of the Commission: *Provided*, That the provisions of section 287r of this title, and regulations thereunder, applicable to expenses incurred pursuant to subchapter XVII of this chapter shall be applicable to any expenses incurred pursuant to this paragraph.

(Jan. 28, 1948, ch. 38, §3, 62 Stat. 15; Oct. 28, 1949, ch. 782, title II, §202(2), title XI, §1106(a), 63 Stat. 954, 972; Sept. 21, 1950, ch. 976, §1(c), 64 Stat. 902; Pub. L. 86–472, ch. VI, §603, May 14, 1960, 74 Stat. 141; Pub. L. 88–263, Jan. 31, 1964, 78 Stat. 7; Pub. L. 89–91, July 27, 1965, 79 Stat. 281; Pub. L. 91–632, Dec. 31, 1970, 84 Stat. 1876; Pub. L. 92–490, Oct. 13, 1972, 86 Stat. 808.)

REFERENCES IN TEXT

Subchapter XVII [§287m et seq.] of this chapter, referred to in subsec. (b), was in the original a reference to the Act of July 30, 1946 (Public Law 565, Seventy-ninth Congress).

CODIFICATION

In subsec. (b), "chapter 51 and subchapter III of chapter 53 of title 5" and "section 3109 of title 5" substituted for "the Classification Act of 1949" and "section 15 of Public Law 600, Seventy-ninth Congress [5 U.S.C. 55a]", respectively, on authority of Pub. L. 89–554, §7(b), Sept. 6, 1966, 80 Stat. 631, which Act enacted Title 5, Government Organization and Employees.

In subsec. (b), "section 501 of title 44" substituted for "section 11 of the Act of March 1, 1919 (44 U.S.C. 111)" on authority of Pub. L. 90–620, §2(b), Oct. 22, 1968, 82 Stat. 1305, which Act enacted Title 44, Public Printing and Documents.

In subsec. (b), "section 6101 of title 41" substituted for "section 3709 of the Revised Statutes, as amended" on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

1972—Subsec. (a). Pub. L. 92–490 struck out "not to exceed $250,000 per fiscal year" after "annually" and inserted "except that in no event shall that payment for any fiscal year of the Commission exceed 20 per centum of all expenses apportioned among participating governments of the Commission for that year" after "as amended".

1970—Subsec. (a). Pub. L. 91–632 substituted "$250,000" for "$200,000".

1965—Subsec. (a). Pub. L. 89–91 substituted "such sums as may be required annually, not to exceed $200,000 per fiscal year" for "Not more than $150,000 for the fiscal year 1965, and $150,000 for the fiscal year 1966".

1964—Subsec. (a). Pub. L. 88–263 substituted "$150,000 for the fiscal year 1965, and $150,000 for the fiscal year 1966," for "$100,000 annually".

1960—Subsec. (a). Pub. L. 86–472 substituted "$100,000" for "$75,000".

1950—Subsec. (a). Joint Res. Sept. 21, 1950, substituted "$75,000" for "$20,000".

1949—Subsec. (a). Act Oct. 28, 1949, substituted "Classification Act of 1949" for "Classification Act of 1923".

REPEALS

Act Oct. 28, 1949, ch. 782, cited as a credit to this section, was repealed (subject to a savings clause) by Pub. L. 89–554, Sept. 6, 1966, §8, 80 Stat. 632, 655.

ANNUAL APPROPRIATIONS

Annual appropriations to meet the obligations of membership in various international organizations were contained in acts listed in a note set out under section 269a of this title.

LIMITATION OF CONTRIBUTIONS

Contributions by United States, except for special projects, limited to amount provided by Joint Res. Sept. 21, 1950; consent by State Department and reports to Congress, see section 262a of this title.

[1] *So in original. Probably should be capitalized.*

§280c. Employment of personnel with specialized skills

The Secretary is authorized, when the Commission is desirous of obtaining the services of a person having special scientific or other technical or professional qualifications, from time to time to detail, or authorize the detail of, for temporary service to or in cooperation with the Commission, any person in the employ or service of the Government of the United States who has such qualifications, with the approval of the Government agency in which such person is employed or serving, under the same conditions as those governing the detail of officers and employees of the United States Government to the government of another country in accordance with the provisions of the Act of May 25, 1938 (52 Stat. 442), as amended, except that the authority vested in the President under that Act shall be vested in the Secretary for the purpose of carrying out this section.

(Jan. 28, 1948, ch. 38, §4, 62 Stat. 16.)

REFERENCES IN TEXT

Act of May 25, 1938 (52 Stat. 442), as amended, referred to in text, is act May 25, 1938, ch. 277, 52 Stat. 442, as amended, which was classified to section 118e of former title 5, Executive Departments and Government Officers and Employees, and was repealed by act Jan. 26, 1948, ch. 36, §1004(a), 62 Stat. 13. Section 1004(c) of act Jan. 26, 1948, provided that any reference to provisions of act May 25, 1938 shall be construed to be applicable to the appropriate provisions of titles III and IX of act Jan. 26, 1948 [see sections 1451 et seq., 1478 and 1479 of this title].

SUBCHAPTER VIII—CARIBBEAN COMMISSION

§280h. Representation in Caribbean Commission; appointment of commissioners and alternates

The President is hereby authorized to accept membership for the United States in the Caribbean Commission, created by "An agreement for the establishment of the Caribbean Commission," signed in Washington on October 30, 1946, by representatives of the Governments of the French Republic, the Kingdom of the Netherlands, the United Kingdom of Great Britain and Northern Ireland, and the United States of America, and to appoint the United States Commissioners, and their alternates, thereto.

(Mar. 4, 1948, ch. 97, §1, 62 Stat. 66.)

PURPOSE OF COMMISSION

Act Mar. 4, 1948, ch. 97, 62 Stat. 65, provided that:

"Whereas representatives of the Governments of the French Republic, the Kingdom of the Netherlands, the United Kingdom of Great Britain and Northern Ireland, and the United States of America signed 'An Agreement for the establishment of the Caribbean Commission' in Washington on October 30, 1946, which agreement continued and extended the international cooperative arrangements initiated in 1942 between the United Kingdom of Great Britain and Northern Ireland, and the United States; and

"Whereas the purpose of the Caribbean Commission is to encourage and strengthen international cooperation in promoting the economic and social welfare and advancement of the non-self-governing territories in the Caribbean area, whose economic and social development is of vital interest to the security of the United States, in accordance with the principles set forth in chapter XI of the Charter of the United Nations: Therefore be it".

ACCEPTANCE OF CARIBBEAN ORGANIZATION AGREEMENT

Pub. L. 87–73, June 30, 1961, 75 Stat. 194, provided: "That the President is hereby authorized to accept on behalf of the Government of the United States of America the 'Agreement for the Establishment of the Caribbean Organization' signed at Washington on June 21, 1960, by representatives of the Governments of the Republic of France, the Kingdom of the Netherlands, the United Kingdom of Great Britain and Northern Ireland, and the United States of America; that the participation of the Commonwealth of Puerto Rico and the Virgin Islands of the United States in the Caribbean Organization is hereby authorized; that the Caribbean Organization shall, upon promulgation by the President of an Executive order to this effect, be entitled to the privileges, exemptions, and immunities conferred by the International Organizations Immunities Act (59 Stat. 669; 22 U.S.C. 288); and that the Secretary of State is hereby authorized to appoint or designate a United States observer to the Caribbean Organization."

TERMINATION OF CARIBBEAN COMMISSION

Article III of the Agreement of the Establishment of the Caribbean Organization provides that "On the termination of the Agreement for the establishment of the Caribbean Commission, signed at Washington on October 30, 1946, the assets of the Caribbean Commission shall be and are by virtue of this Agreement transferred to and vested in the Caribbean Organization. The Caribbean Organization is hereby authorized to assume at the same time the liabilities of the Caribbean Commission and shall be regarded as the successor body to the Caribbean Commission."

Article IV of such Agreement provides that "The Agreement for the establishment of the Caribbean Commission shall terminate at the end of the first meeting of the Caribbean Council provided for in the Statute annexed to this Agreement."

EX. ORD. NO. 10609. DELEGATION OF AUTHORITY TO APPOINT ALTERNATE COMMISSIONERS

Ex. Ord. No. 10609, May 7, 1955, 20 F.R. 3147, provided:

By virtue of the authority vested in me by section 301 of title 3 of the United States Code (65 Stat. 713), and as President of the United States, it is ordered that the Secretary of State be, and he is hereby, designated and empowered to exercise, without the approval, ratification, or other action of the President, so much of the authority vested in the President by the first section of the Joint Resolution of March 4, 1948, entitled "Joint Resolution providing for membership and participation by the United States in the Caribbean Commission and authorizing an appropriation therefor" (62 Stat. 66; 22 U.S.C. 280h) as consists of authority to appoint alternate United States Commissioners to the Caribbean Commission.

DWIGHT D. EISENHOWER.

§280i. Authorization of appropriations

There is hereby authorized to be appropriated to the Department of State, out of any money in the Treasury not otherwise appropriated—

(a) Not more than $142,000 annually for the payment by the United States of its proportionate share of the expenses of the Commission and its auxiliary and subsidiary bodies, pursuant to article XV of the "agreement for the Establishment of the Caribbean Commission"; and

(b) Such additional sums as may be needed for the payment of all necessary expenses incident to participation by the United States in the activities of the Commission, including salaries of the United States Commissioners, their alternates, appropriate staff, without regard to the civil-service laws, and chapter 51 and subchapter III of chapter 53 of title 5; personal services in the District of Columbia; services as authorized by section 3109 of title 5; hire of passenger motor vehicles and other local transportation; printing and binding without regard to section 501 of title 44 and section 6101 of title 41; and such other expenses as the Secretary of State finds necessary to participation by the United States in the activities of the Commission: *Provided*, That the provisions of section 287r

of this title, and regulations thereunder, applicable to expenses incurred pursuant to subchapter XVII of this chapter shall be applicable to any expenses incurred pursuant to this paragraph.

(Mar. 4, 1948, ch. 97, §2, 62 Stat. 66; Oct. 28, 1949, ch. 782, title II, §202(2), title XI, §1106(a), 63 Stat. 954, 972.)

REFERENCES IN TEXT

Subchapter XVII [§287m et seq.] of this chapter, referred to in subsec. (b), was in the original a reference to the Act of July 30, 1946 (Public Law 565, Seventy-ninth Congress).

CODIFICATION

In subsec. (b), "chapter 51 and subchapter III of chapter 53 of title 5" and "section 3109 of title 5" substituted for "the Classification Act of 1949" and "section 15 of Public Law 600, Seventy-ninth Congress [5 U.S.C. 55a], respectively, on authority of Pub. L. 89–554, §7(b), Sept. 6, 1966, 80 Stat. 631, which Act enacted Title 5, Government Organization and Employees.

In subsec. (b), "section 501 of title 44" substituted for "section 11 of the Act of March 1, 1919 (44 U.S.C. 111)," on authority of Pub. L. 90–620, §2(b), Oct. 22, 1968, 82 Stat. 1305, which Act enacted Title 44, Public Printing and Documents.

In subsec. (b), "section 6101 of title 41" substituted for "section 3709 of the Revised Statutes, as amended" on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

1949—Subsec. (b). Act Oct. 28, 1949, substituted "Classification Act of 1949" for "Classification Act of 1923".

REPEALS

Act Oct. 28, 1949, ch. 782, cited as a credit to this section, was repealed (subject to a savings clause) by Pub. L. 89–554, Sept. 6, 1966, §8, 80 Stat. 632, 655.

ANNUAL APPROPRIATIONS

Annual appropriations to meet the obligations of membership in various international organizations were contained in acts listed in a note set out under section 269a of this title.

SUBCHAPTER IX—PAN AMERICAN RAILWAY CONGRESS

§280j. Representation in Congress; appointment of delegates and alternates

The President is hereby authorized to accept membership for the Government of the United States in, and to appoint the United States delegates and their alternates to, the Pan American Railway Congress, the constitution and bylaws of which were approved in Montevideo, Uruguay, April 1946, and deposited in the archives of the Pan American Union in Washington.

(June 28, 1948, ch. 686, §1, 62 Stat. 1060.)

§280k. Authorization of appropriations

There is hereby authorized to be appropriated to the Department of State, out of any money in the Treasury not otherwise appropriated—

(a) Such sums as may be necessary for the payment by the United States of its proportionate share of the expenses of the Pan American Railway Congress and its Permanent Commission; and

(b) Such additional sums as may be needed for the payment of all necessary expenses incident to participation by the United States in the activities thereof, including expenses of the United States delegates, their alternates, and appropriate staff, without regard to the civil-service laws and chapter 51 and subchapter III of chapter 53 of title 5; personal services in the District of Columbia;

services as authorized by section 3109 of title 5; hire of passenger motor vehicles and other local transportation; printing and binding without regard to section 501 of title 44 and section 6101 of title 41; and such other expenses as the Secretary of State finds necessary to participation by the United States in the activities of the organization: *Provided*, That the provisions of section 287r of this title, and regulations thereunder, applicable to expenses incurred pursuant to subchapter XVII of this chapter shall be applicable to any expenses incurred pursuant to this subsection.

(June 28, 1948, ch. 686, §2, 62 Stat. 1060; Oct. 28, 1949, ch. 782, title II, §202(2), title XI, §1106(a), 63 Stat. 954, 972; Pub. L. 91–553, Dec. 16, 1970, 84 Stat. 1441; Pub. L. 97–241, title I, §115, Aug. 24, 1982, 96 Stat. 278.)

REFERENCES IN TEXT

Subchapter XVII [§287m et seq.] of this chapter, referred to in subsec. (b), was in the original a reference to the Act of July 30, 1946 (Public Law 565, Seventy-ninth Congress).

CODIFICATION

In subsec. (b), "chapter 51 and subchapter III of chapter 53 of title 5" and "section 3109 of title 5" substituted for "the Classification Act of 1949" and "section 15 of Public Law 600, Seventy-ninth Congress [5 U.S.C. 55a]", respectively, on authority of Pub. L. 89–554, §7(b), Sept. 6, 1966, 80 Stat. 631, which Act enacted Title 5, Government Organization and Employees.

In subsec. (b), "section 501 of title 44" substituted for "section 11 of the Act of March 1, 1919 (44 U.S.C. 111)," on authority of Pub. L. 90–620, §2(b), Oct. 22, 1968, 82 Stat. 1305, which enacted Title 44, Public Printing and Documents.

In subsec. (b), "section 6101 of title 41" substituted for "section 3709 of the Revised Statutes, as amended" on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

1982—Subsec. (a). Pub. L. 97–241 substituted "Such sums as may be necessary" for "Not more than $15,000 annually".

1970—Subsec. (a). Pub. L. 91–553 increased annual authorization from $5,000 to $15,000.

1949—Subsec. (b). Act Oct. 28, 1949, substituted "Classification Act of 1949" for "Classification Act of 1923".

REPEALS

Act Oct. 28, 1949, ch. 782, cited as a credit to this section, was repealed (subject to a savings clause) by Pub. L. 89–554, Sept. 6, 1966, §8, 80 Stat. 632, 655.

ANNUAL APPROPRIATIONS

Annual appropriations to meet the obligations of membership in various international organizations were contained in acts listed in a note set out under section 269a of this title.

SUBCHAPTER X—THE INSTITUTE OF INTER-AMERICAN AFFAIRS

§§281 to 281b. Omitted

CODIFICATION

Sections 281 to 281b of this title contained provisions relating to the Institute of Inter-American Affairs. The Institute was created pursuant to act Aug. 5, 1947, ch. 498, 61 Stat. 780. Section 3 of such act, as amended, provided that the Institute was to have succession until June 30, 1960. Prior to such date, the Institute, together with its functions, was transferred to the Foreign Operations Administration by Reorg. Plan No. 7 of 1953, eff. Aug. 1, 1953, 18 F.R. 4541, 67 Stat. 639, set out in the Appendix to Title 5, Government Organization and Employees. The Foreign Operations Administration was abolished by Ex. Ord. No. 10610, May 9, 1955, 20 F.R. 3179, and its functions and offices were transferred to the Department of State to be administered by the International Cooperation Administration. The International Cooperation Administration

was to continue to exist for a period not to exceed sixty days after the effective date of Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424 [Sept. 4, 1961], and the President was authorized to transfer offices, entities, functions, property, records, and personnel of the Administration to the Agency carrying out functions relating to international development under the provisions of section 621(b), (e) of Pub. L. 87–195. The functions of the Administration were redelegated to the Agency for International Development pursuant to President's letter of Sept. 30, 1961 and Ex. Ord. No. 10973, Nov. 3, 1961, 26 F.R. 10469, section 102 of which provided for the establishment of the Agency for International Development and section 103 of which continued the existence of the Administration until the end of Nov. 3, 1961 and authorized the Secretary to utilize the personnel, offices, entities, property, records, and funds of the Administration. See section 621 of Pub. L. 87–195 and Ex. Ord. No. 10973, classified to section 2381 of this title, and set out as a note under section 2381, respectively.

Section 281, act Aug. 5, 1947, ch. 498, §1, 61 Stat. 780, created the Institute of Inter-American Affairs.

Section 281a, act Aug. 5, 1947, ch. 498, §2, 61 Stat. 781, set forth the purposes of the Institute of Inter-American Affairs.

Section 281b, acts Aug. 5, 1947, ch. 498, §3, 61 Stat. 781; Sept. 3, 1949, ch. 532, §1, 63 Stat. 685; Apr. 5, 1952, ch. 159, §1, 66 Stat. 43; Aug. 26, 1954, ch. 937, title V, §544(a), 68 Stat. 862; Aug. 14, 1957, Pub. L. 85–141, §11(b)(1), 71 Stat. 365, provided that the Institute of Inter-American Affairs have succession until June 30, 1960, and set forth the powers and duties of the Institute.

§281b–1. Repealed. Aug. 26, 1954, ch. 937, title V, §544(b), 68 Stat. 862

Section, act Sept. 3, 1949, ch. 532, §1, 63 Stat. 685, related to contract authorizations.

§§281b–2 to 281j. Omitted

CODIFICATION

Sections 281b–2 to 281j of this title contained provisions relating to the Institute of Inter-American Affairs. The Institute was created pursuant to act Aug. 5, 1947, ch. 498, 61 Stat. 780. Section 3 of such act, as amended, provided that the Institute was to have succession until June 30, 1960. See Codification note set out under section 281 of this title.

Section 281b–2, acts Aug. 26, 1954, ch. 937, title V, §544(a), 68 Stat. 862; Aug. 14, 1957, Pub. L. 85–141, §11(b)(1), 71 Stat. 365, authorized the Institute of Inter-American Affairs to make contracts for periods not to exceed five years, with the proviso that any contract extending beyond June 30, 1960, be made subject to termination by the Institute upon notice, and provided that the Institute, on and after July 1, 1954, be subject to the applicable provisions of the Budget and Accounting Act, 1921, as amended, in lieu of the provisions of the Government Corporation Control Act, as amended [31 U.S.C. 9101 et seq.].

Section 281c, act Aug. 5, 1947, ch. 498, §4, 61 Stat. 782, provided for transfer of assets to United States Treasury upon termination of corporate life of Institute of Inter-American Affairs.

Section 281d, act Aug. 5, 1947, ch. 498, §5, 61 Stat. 782, established a Board of Directors for Institute of Inter-American Affairs, and enumerated powers of Board.

Section 281e, act Aug. 5, 1947, ch. 498, §6, 61 Stat. 782, provided that Institute of Inter-American Affairs be a nonprofit corporation, have no capital stock, and that no part of its revenue, earnings, or other income or property inure to benefit of its directors, officers, and employees.

Section 281f, act Aug. 5, 1947, ch. 498, §7, 61 Stat. 782, authorized officers and employees of Institute of Inter-American Affairs to hold offices upon approval of Institute, with governments or governmental agencies of other American Republics.

Section 281g, act Aug. 5, 1947, ch. 498, §8, 61 Stat. 782, authorized Secretary of State to detail employees of Department of State to Institute of Inter-American Affairs.

Section 281h, act Aug. 5, 1947, ch. 498, §9, 61 Stat. 783, provided that principal office of Institute of Inter-American Affairs be located in District of Columbia, with branch offices any place in United States or other American Republics.

Section 281i, act Aug. 5, 1947, ch. 498, §10, 61 Stat. 783, exempted Institute of Inter-American Affairs from taxation by any Federal, State, or local taxing authority.

Section 281j, act Aug. 5, 1947, ch. 498, §11, 61 Stat. 783, reserved right to alter, amend or repeal provisions of sections 281 to 281b and 281c to 281l of this title, and set forth savings clause for such provisions.

§281k. Repealed. Pub. L. 89–554, §8(a), Sept. 6, 1966, 80 Stat. 654

Section, act Aug. 5, 1947, ch. 498, §12, 61 Stat. 783, provided for transfer of property to Institute of Inter-American Affairs.

§281*l*. Omitted

CODIFICATION

Section, act Aug. 5, 1947, ch. 498, §13, 61 Stat. 783, provided that Institute of Inter-American Affairs be subject to provisions of the Government Corporation Control Act. See Codification note set out under section 281 of this title.

SUBCHAPTER XI—INTERNATIONAL FINANCE CORPORATION

§282. Acceptance of membership by United States in International Finance Corporation

The President is hereby authorized to accept membership for the United States in the International Finance Corporation (hereinafter referred to as the "Corporation"), provided for by the Articles of Agreement of the Corporation deposited in the archives of the International Bank for Reconstruction and Development.

(Aug. 11, 1955, ch. 788, §2, 69 Stat. 669.)

SHORT TITLE

Act Aug. 11, 1955, ch. 788, §1, 69 Stat. 669, provided that: "This Act [enacting this subchapter] may be cited as the 'International Finance Corporation Act'."

§282a. Governor, executive director, and alternates of Corporation

The governor and executive director of the International Bank for Reconstruction and Development, and the alternate for each of them, appointed under section 286a of this title, shall serve as governor, director and alternates, respectively, of the Corporation.

(Aug. 11, 1955, ch. 788, §3, 69 Stat. 669.)

§282b. Applicability of National Advisory Council on International Monetary and Financial Problems

The provisions of section 286b of this title, shall apply with respect to the Corporation to the same extent as with respect to the International Bank for Reconstruction and Development.

(Aug. 11, 1955, ch. 788, §4, 69 Stat. 669; Pub. L. 101–240, title V, §541(e)(1), Dec. 19, 1989, 103 Stat. 2518.)

AMENDMENTS

1989—Pub. L. 101–240 struck out at end "Reports with respect to the Corporation under paragraphs 5 and 6 of subsection (b) of section 286b of this title, shall be included in the first report made thereunder after the establishment of the Corporation and in each succeeding report."

DELEGATION OF FUNCTIONS

Functions of National Advisory Council on International Monetary and Financial Problems under this

section delegated to National Advisory Council on International Monetary and Financial Policies, see section 2(a) of Ex. Ord. No. 11269, Feb. 14, 1966, 31 F.R. 2813, set out as a note under section 286b of this title.

§282c. Congressional authorization needed for certain actions

Unless Congress by law authorizes such action, neither the President nor any person or agency shall on behalf of the United States (a) subscribe to additional shares of stock under article II, section 3, of the Articles of Agreement of the Corporation; (b) accept any amendment under article VII of the Articles of Agreement of the Corporation; (c) make any loan to the Corporation. The United States Governor of the Corporation is authorized to agree to an amendment to article III of the articles of agreement of the Corporation to authorize the Corporation to make investments of its funds in capital stock and to limit the exercise of voting rights by the Corporation unless exercise of such rights is deemed necessary by the Corporation to protect its interests, as proposed in the resolution submitted by the Board of Directors on February 20, 1961. Unless Congress by law authorizes such action, no governor or alternate representing the United States shall vote for an increase of capital stock of the Corporation under article II, section 2(c)(ii), of the Articles of Agreement of the Corporation.

(Aug. 11, 1955, ch. 788, §5, 69 Stat. 669; Pub. L. 87–185, Aug. 30, 1961, 75 Stat. 413.)

AMENDMENTS

1961—Pub. L. 87–185 authorized acceptance of an amendment to the articles of agreement of the Corporation to permit investment in capital stock and to limit the exercise of voting rights.

§282d. Federal Reserve banks as depositories

Any Federal Reserve bank which is requested to do so by the Corporation shall act as its depository or as its fiscal agent, and the Board of Governors of the Federal Reserve System shall supervise and direct the carrying out of these functions by the Federal Reserve banks.

(Aug. 11, 1955, ch. 788, §6, 69 Stat. 669.)

§282e. Payment of subscriptions to Corporation by United States; dividends covered into Treasury

(a) Authority of Secretary of the Treasury

The Secretary of the Treasury is authorized to pay the subscription of the United States to the Corporation and for this purpose is authorized to use as a public-debt transaction not to exceed $35,168,000 of the proceeds of any securities hereafter issued under chapter 31 of title 31, and the purposes for which securities may be issued under that chapter are extended to include such purpose. Payment under this subsection of the subscription of the United States to the Corporation and any repayment thereof shall be treated as public-debt transactions of the United States.

(b) Dividends treated as miscellaneous receipts

Any payment of dividends made to the United States by the Corporation shall be covered into the Treasury as a miscellaneous receipt.

(Aug. 11, 1955, ch. 788, §7, 69 Stat. 670.)

CODIFICATION

In subsec. (a), "chapter 31 of title 31" and "that chapter" substituted for "the Second Liberty Bond Act, as amended" and "that Act", respectively, on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

§282f. Jurisdiction and venue of actions

For the purpose of any action which may be brought within the United States or its Territories or possessions by or against the Corporation in accordance with the Articles of Agreement of the Corporation, the Corporation shall be deemed to be an inhabitant of the Federal judicial district in which its principal office in the United States is located, and any such action at law or in equity to which the Corporation shall be a party shall be deemed to arise under the laws of the United States, and the district courts of the United States shall have original jurisdiction of any such action. When the Corporation is a defendant in any such action, it may, at any time before the trial thereof, remove such action from a State court into the district court of the United States for the proper district by following the procedure for removal of causes otherwise provided by law.

(Aug. 11, 1955, ch. 788, §8, 69 Stat. 670.)

FEDERAL RULES OF CIVIL PROCEDURE

One form of action, see rule 2, Title 28, Appendix, Judiciary and Judicial Procedure.

§282g. Status, privileges, and immunities of the United States

The provisions of article V, section 5(d), and article VI, sections 2 to 9, both inclusive, of the Articles of Agreement of the Corporation shall have full force and effect in the United States and its Territories and possessions upon acceptance of membership by the United States in, and the establishment of, the Corporation.

(Aug. 11, 1955, ch. 788, §9, 69 Stat. 670.)

§282h. Loans to or from International Bank for Reconstruction and Development; amendment to Articles of Agreement

The United States Governor of the Corporation is authorized to agree to the amendments of the articles of agreement of the Corporation to remove the prohibition therein contained against the Corporation lending to or borrowing from the International Bank for Reconstruction and Development, and to place limitations on such borrowing.

(Aug. 11, 1955, ch. 788, §10, as added Pub. L. 89–126, §2, Aug. 14, 1965, 79 Stat. 519.)

§282i. Increase in capital stock of Corporation; subscription to additional shares

(a) The United States Governor of the Corporation is authorized—

(1) to vote for an increase of five hundred and forty thousand shares in the authorized capital stock of the Corporation; and

(2) if such increase becomes effective, to subscribe on behalf of the United States to one hundred and eleven thousand four hundred and ninety-three additional shares of the capital stock of the Corporation: *Provided, however,* That any commitment to make payment for such additional subscriptions shall be made subject to obtaining the necessary appropriations.

(b) In order to pay for the increase in the United States subscription to the Corporation provided for in this section, there are authorized to be appropriated, without fiscal year limitation, $111,493,000 for payment by the Secretary of the Treasury.

(Aug. 11, 1955, ch. 788, §11, as added Pub. L. 95–118, title III, §301, Oct. 3, 1977, 91 Stat. 1068.)

EFFECTIVE DATE

Pub. L. 95–118, title X, §1001, Oct. 3, 1977, 91 Stat. 1072, provided that: "This Act [enacting this section and sections 262c, 262d, 262e to 262g, 284n, 285s, 285t, 286e–1f, and 290g–10 of this title, repealing sections 283y, 284m, 290g–9 of this title, and enacting provisions set out as a note under section 262c of this title]

shall take effect on the date of its enactment [Oct. 3, 1977], except that no funds authorized to be appropriated by any amendment contained in title II, III, IV, V, or VI [enacting this section and sections 286e–1f, 284n, 285s, 285t, or 290g–10 of this title] may be available for use or obligation prior to October 1, 1977".

§282j. Increase in capital stock of Corporation; subscription to additional shares

(a) The United States Governor of the Corporation is authorized—

(1) to vote for an increase of 650,000 shares in the authorized capital stock of the Corporation; and

(2) to subscribe on behalf of the United States to 175,162 additional shares of the capital stock of the Corporation, except that any subscription to additional shares shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts.

(b) In order to pay for the increase in the United States subscription to the Corporation provided for in this section, there are authorized to be appropriated, without fiscal year limitation, §175,162,000 for payment by the Secretary of the Treasury.

(Aug. 11, 1955, ch. 788, §12, as added Pub. L. 99–190, §101(i) [title I, (a)], Dec. 19, 1985, 99 Stat. 1291, 1294.)

CODIFICATION

Section 12 of act Aug. 11, 1955, is based on section 3 of H.R. 1948, Ninety-ninth Congress, as introduced Apr. 3, 1985, and enacted into law by Pub. L. 99–190.

§282k. Securities issued by Corporation

(a) Exemption from securities laws; reports to Securities and Exchange Commission

Any securities issued by the Corporation (including any guaranty by the Corporation, whether or not limited in scope) and any securities guaranteed by the Corporation as to both principal and interest shall be deemed to be exempted securities within the meaning of section 77c(a)(2) of title 15 and section 78c(a)(12) of title 15. The Corporation shall file with the Securities and Exchange Commission such annual and other reports with regard to such securities as the Commission shall determine to be appropriate in view of the special character of the Corporation and its operations and necessary in the public interest or for the protection of investors.

(b) Authority of Securities and Exchange Commission to suspend exemption; reports to Congress

The Securities and Exchange Commission, acting in consultation with the National Advisory Council on International Monetary and Financial Problems, is authorized to suspend the provisions of subsection (a) at any time as to any or all securities issued or guaranteed by the Corporation during the period of such suspension. The Commission shall include in its annual reports to the Congress such information as it shall deem advisable with regard to the operations and effect of this section.

(Aug. 11, 1955, ch. 788, §13, as added Pub. L. 101–513, title V, §562(e)(1)(A), Nov. 5, 1990, 104 Stat. 2037.)

§282*l*. Capital stock increase

(a) Subscription authorized

(1) In general

The United States Governor of the Corporation may—

(A) vote for an increase of 1,000,000 shares in the authorized capital stock of the

Corporation; and

(B) subscribe on behalf of the United States to 250,000 additional shares of the capital stock of the Corporation.

(2) Prior appropriation required

The subscription authority provided in paragraph (1) shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts.

(b) Limitations on authorization of appropriations

In order to pay for the subscription authorized in subsection (a), there are authorized to be appropriated, without fiscal year limitation, $50,000,000 for payment by the Secretary of the Treasury.

(Aug. 11, 1955, ch. 788, §14, as added Pub. L. 102–145, §125(a), Oct. 28, 1991, as added Pub. L. 102–266, §102, Apr. 1, 1992, 106 Stat. 97.)

§282m. Authority to vote for capital increases necessary to support economic restructuring in independent states of former Soviet Union

The United States Governor of the Corporation may vote in favor of any increase in the capital stock of the Corporation that may be needed to accommodate the requirements of the independent states of the former Soviet Union (as defined in section 5801 of this title).

(Aug. 11, 1955, ch. 788, §15, as added Pub. L. 102–511, title X, §1005, Oct. 24, 1992, 106 Stat. 3361.)

§282n. Authority to agree to amendments to Articles of Agreement

The United States Governor of the Corporation is authorized to agree to amendments to the Articles of Agreement of the Corporation that would—

(1) amend Article II, Section 2(c)(ii), to increase the vote by which the Board of Governors of the Corporation may increase the capital stock of the Corporation from a three-fourths majority to a four-fifths majority; and

(2) amend Article VII(a) to increase the vote by which the Board of Governors of the Corporation may amend the Articles of Agreement of the Corporation from a four-fifths majority to an eighty-five percent majority.

(Aug. 11, 1955, ch. 788, §16, as added Pub. L. 102–511, title X, §1006, Oct. 24, 1992, 106 Stat. 3361.)

§282*o*. Selective capital increase and amendment of the Articles of Agreement

(a) Vote authorized

The United States Governor of the Corporation is authorized to vote in favor of a resolution to increase the capital stock of the Corporation by $130,000,000.

(b) Amendment of the Articles of Agreement

The United States Governor of the Corporation is authorized to agree to and accept an amendment to Article IV, Section 3(a) of the Articles of Agreement of the Corporation that achieves an increase in basic votes to 5.55 percent of total votes.

(Aug. 11, 1955, ch. 788, §17, as added Pub. L. 112–74, div. I, title VII, §7081(b), Dec. 23, 2011, 125 Stat. 1259.)

SUBCHAPTER XII—INTER-AMERICAN DEVELOPMENT BANK

§283. Acceptance of membership by United States in Inter-American Development Bank

The President is hereby authorized to accept membership for the United States in the Inter-American Development Bank (hereinafter referred to as the "Bank"), provided for by the agreement establishing the bank (hereinafter referred to as the "agreement") deposited in the archives of the Organization of American States.

(Pub. L. 86–147, §2, Aug. 7, 1959, 73 Stat. 299.)

SHORT TITLE

Pub. L. 86–147, §1, Aug. 7, 1959, 73 Stat. 299, provided that: "This Act [enacting this subchapter and amending section 24 of Title 12, Banks and Banking] may be cited as the 'Inter-American Development Bank Act'."

PROPOSALS FOR JOINT ACT BY PARTICIPANTS IN INTER-AMERICAN DEVELOPMENT BANK FOR INCREASED EXPLORATION AND EXPLOITATION OF ENERGY AND MINERAL RESOURCES OF WESTERN HEMISPHERE

Pub. L. 96–259, title I, §102, June 3, 1980, 94 Stat. 430, which required Presidential evaluation and report on a proposal for joint action by countries of Western Hemisphere and other countries which participate in Inter-American Development Bank to increase exploration for and exploitation of energy and mineral resources of Western Hemisphere through multilateral incentives, administered by Inter-American Development Bank, was repealed by Pub. L. 101–240, title V, §541(d)(6), Dec. 19, 1989, 103 Stat. 2518.

PAR VALUE MODIFICATION

For Congressional direction that the Secretary of the Treasury maintain the value in terms of gold of the Inter-American Development Bank's holdings of United States dollars following the establishment of a par value of the dollar at $38 for a fine troy ounce of gold pursuant to the Par Value Modification Act and for the authorization of the appropriations necessary to provide such maintenance of value, see section 5152 of Title 31, Money and Finance.

§283a. Appointment of officers; term of office; salary

(a) Governor and alternate governor

The President, by and with the advice and consent of the Senate, shall appoint a governor of the Bank and an alternate for the governor. The term of office for the governor and the alternate governor shall be five years, but each shall remain in office until a successor has been appointed.

(b) Executive director and alternate executive director

The President, by and with the advice and consent of the Senate, shall appoint an executive director of the Bank and an alternate Executive Director. Except as provided for in article XV, section 3, of the agreement, the term of office for the executive director shall be three years, but he shall remain in office until a successor has been appointed.

(c) Compensation

No person shall be entitled to receive any salary or other compensation from the United States for services as a governor, alternate governor, or executive director.

(Pub. L. 86–147, §3, Aug. 7, 1959, 73 Stat. 299; Pub. L. 91–599, ch. 2, §21(b), Dec. 30, 1970, 84 Stat. 1658.)

AMENDMENTS

1970—Subsec. (b). Pub. L. 91–599 authorized appointment of an alternate Executive Director.

§283b. National Advisory Council on International Monetary and Financial Problems

The provisions of section 286b of this title shall apply with respect to the Bank to the same extent as with respect to the International Bank for Reconstruction and Development and the International Monetary Fund.

(Pub. L. 86–147, §4, Aug. 7, 1959, 73 Stat. 299; Pub. L. 101–240, title V, §541(e)(2), Dec. 19, 1989, 103 Stat. 2518.)

AMENDMENTS

1989—Pub. L. 101–240 struck out at end "Reports with respect to the Bank under paragraphs (5) and (6) of subsection (b) of section 286b of this title shall be included in the first report made thereunder after the establishment of the Bank and in each succeeding report."

DELEGATION OF FUNCTIONS

Functions of National Advisory Council on International Monetary and Financial Problems under this section delegated to National Advisory Council on International Monetary and Financial Policies, see section 2(a) of Ex. Ord. No. 11269, Feb. 14, 1966, 31 F.R. 2813, set out as a note under section 286b of this title.

§283c. Congressional authorization needed for certain actions

Unless Congress by law authorizes such action, neither the President nor any person or agency shall, on behalf of the United States, (a) subscribe to additional shares of stock under article II, section 3, or article IIA, section 2, of the agreement; (b) request or consent to any change in the quota of the United States under article IV, section 3, of the agreement; (c) accept any amendment under article XII of the agreement; or (d) make a loan or provide other financing to the Bank, except that loans or other financing may be provided to the Bank by a United States agency created pursuant to an Act of Congress which is authorized by law to make loans or provide other financing to international organizations. Unless Congress by law authorizes such actions, no governor or alternate appointed to represent the United States shall vote for any increase of capital stock of the Bank under article II, section 2, or article IIA, section 1, of the agreement or any increase in the resources of the Fund for Special Operations under article IV, section 3(g) thereof.

(Pub. L. 86–147, §5, Aug. 7, 1959, 73 Stat. 299; Pub. L. 94–302, title I, §103(a)(2), May 31, 1976, 90 Stat. 593.)

AMENDMENTS

1976—Pub. L. 94–302 inserted ", or article IIA, section 2," after "article II, section 3" and "or article IIA, section 1," after "article II, section 2,".

EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94–302, title I, §103(b), May 31, 1976, 90 Stat. 593, provided that: "The amendments made by paragraphs (2) and (3) of this section [amending this section and section 283h of this title] shall become effective upon approval by the Board of Governors of the Bank of the resolutions referred to in section 23 of the Inter-American Development Bank Act (22 U.S.C. 283 et seq.)."

§283d. Federal Reserve banks as depositories

Any Federal Reserve bank which is requested to do so by the Bank shall act as its depository or as its fiscal agent and the Board of Governors of the Federal Reserve System shall supervise and direct the carrying out of these functions by the Federal Reserve banks.

(Pub. L. 86–147, §6, Aug. 7, 1959, 73 Stat. 300.)

§283e. Payment of subscription to Bank and Fund by United States

(a) Authorization of appropriations

There is hereby authorized to be appropriated, without fiscal year limitation, for the purchase of thirty-five thousand shares of capital stock in the Bank, $350 million. In addition, there is authorized to be appropriated, without fiscal year limitation, for payment of the subscription of the United States to the Fund for Special Operations, $100 million.

(b) Issuance of special notes

For the purpose of keeping to a minimum the cost to the United States of participation in the Bank, the Secretary of the Treasury, after paying the requisite part of the subscription and quota of the United States in the Bank required to be made under article II, section 4, and article IV, section 3, respectively, of the agreement, is authorized and directed to issue special notes of the United States from time to time, at par, and to deliver such notes to the Bank in exchange for dollars to the extent permitted by the agreement. The special notes provided for in this subsection shall be issued under the authority and subject to the provisions of chapter 31 of title 31, and the purposes for which securities may be issued under that chapter are extended to include the purposes for which special notes are authorized and directed to be issued under this subsection, but such notes shall bear no interest, shall be nonnegotiable, and shall be payable on demand of the Bank. The face amount of special notes issued to the Bank under the authority of this subsection and outstanding at any one time shall not exceed, in the aggregate, the amount of the subscription and quota of the United States actually paid to the Bank under article II, section 4, and article IV, section 3, respectively, of the agreement.

(c) Income covered into Treasury

Any payment made to the United States by the Bank as a distribution of net income shall be covered into the Treasury as a miscellaneous receipt.

(Pub. L. 86–147, §7, Aug. 7, 1959, 73 Stat. 300.)

CODIFICATION

In subsec. (b), "chapter 31 of title 31" and "that chapter" substituted for "the Second Liberty Bond Act, as amended" and "that Act", respectively, on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

§283f. Jurisdiction and venue of actions

For the purpose of any action which may be brought within the United States, its Territories or possessions, or the Commonwealth of Puerto Rico by or against the Bank in accordance with the agreement, the Bank shall be deemed to be an inhabitant of the Federal judicial district in which its principal office in the United States is located, and any such action at law or in equity to which the Bank shall be a party shall be deemed to arise under the laws of the United States, and the district courts of the United States shall have original jurisdiction of any such action. When the Bank is a defendant in any such action, it may, at any time before the trial thereof, remove such action from a State court into the district court of the United States for the proper district by following the procedure for removal of causes otherwise provided by law.

(Pub. L. 86–147, §8, Aug. 7, 1959, 73 Stat. 300.)

§283g. Status, privileges, and immunities of the United States

The provisions of article X, section 4(c), and article XI, sections 2 to 9, both inclusive, of the agreement shall have full force and effect in the United States, its Territories and possessions, and the Commonwealth of Puerto Rico, upon acceptance of membership by the United States in, and the establishment of, the Bank.

(Pub. L. 86–147, §9, Aug. 7, 1959, 73 Stat. 301.)

§283h. Securities issued by Bank; reports to and of Securities and Exchange Commission

(a) Exempt securities; reports of Bank to Commission

Any securities issued by the Bank (including any guarantee by the Bank, whether or not limited in scope) in connection with raising of funds for including in the Bank's capital resources as defined in article II, section 5, and article IIA, section 4, of the agreement, and any securities guaranteed by the Bank as to both principal and interest to which the commitment in article II, section 4(a)(ii), or article IIA, section 3(c), of the agreement is expressly applicable, shall be deemed to be exempted securities within the meaning of subsection (a)(2) of section 77c of title 15 and subsection (a)(12) of section 78c of title 15. The Bank shall file with the Securities and Exchange Commission such annual and other reports with regard to such securities as the Commission shall determine to be appropriate in view of the special character of the Bank and its operations and necessary in the Public interest or for the protection of investors.

(b) Suspension of exemption provisions; annual reports of Commission to Congress

The Securities and Exchange Commission, acting in consultation with the National Advisory Council on International Monetary and Financial Problems, is authorized to suspend the provisions of subsection (a) at any time as to any or all securities issued or guaranteed by the Bank during the period of such suspension. The Commission shall include in its annual reports to Congress such information as it shall deem advisable with regard to the operations and effect of this section and in connection therewith shall include any views submitted for such purpose by any association of dealers registered with the Commission.

(Pub. L. 86–147, §11, Aug. 7, 1959, 73 Stat. 301; Pub. L. 94–302, title I, §103(a)(3), May 31, 1976, 90 Stat. 593.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94–302 struck out "ordinary" after "in the Bank's" and inserted "and article IIA, section 4" after "article II, section 5" and "or article IIA, section 3(c)" after "article II, section 4(a)(ii)".

EFFECTIVE DATE OF 1976 AMENDMENT

For effective date of amendment by Pub. L. 94–302, see section 103(b) of Pub. L. 94–302, set out as a note under section 283c of this title.

DELEGATION OF FUNCTIONS

Functions of National Advisory Council on International Monetary and Financial Problems delegated to National Advisory Council on International Monetary and Financial Policies, see section 2(a) of Ex. Ord. No. 11269, Feb. 14, 1966, 31 F.R. 2813, set out as a note under section 286b of this title.

§283i. Repealed. Pub. L. 101–240, title V, §541(d)(3), Dec. 19, 1989, 103 Stat. 2518

Section, Pub. L. 86–147, §12, Aug. 7, 1959, 73 Stat. 301, related to reports on effectiveness of section 283h of this title and section 24 of Title 12, Banks and Banking, on development of economic resources in member countries.

§283j. Increased United States participation in Bank activities

The United States Governor of the Bank is hereby authorized (1) to vote (A) for the increases in the authorized capital stock of the Bank under article II, Section 2, of the agreement, and (B) for an increase in the resources of the Fund for Special Operations under article IV, section 3, of the agreement, all as recommended by the Executive Directors in a report dated March 18, 1963, to the

Board of Governors of the Bank; (2) to agree on behalf of the United States to subscribe to its proportionate share of the $1,000,000,000 increase in the authorized callable capital stock of the Bank; and (3) to vote for an amendment to article VIII, section 3, of the agreement to provide that the Board of Governors may, upon certain conditions, increase by one the number of Executive Directors.

(Pub. L. 86–147, §13, as added Pub. L. 88–259, §1, Jan. 22, 1964, 78 Stat. 3.)

§283j–1. Audit

(a) Establishment

The Secretary of the Treasury shall instruct the United States Executive Director to propose the establishment by the Board of Executive Directors of a program of selective but continuing independent and comprehensive audit of the Inter-American Development Bank, in accordance with such terms of reference as the Board of Executive Directors itself (or through a subcommittee), may prescribe. Such proposal shall provide that the audit reports be submitted to the Board of Executive Directors and to the Board of Governors.

(b) Scope and standards

The Secretary of the Treasury shall prepare the scope of the audit and the auditing and reporting standards for the use of the United States Executive Director in assisting in the formulation of the terms of reference.

(c) Reports

The reports of the National Advisory Council on International Monetary and Financial Policies to the Congress shall include, among other things, an appraisal of the effectiveness of the implementation and administration of the loans made by the Bank based upon the audit reports. The Comptroller General may review the reports of audit and findings issued and report to the Secretary of the Treasury and the Congress any suggestions he might have in improving the scope of the audit or auditing and reporting standards of the independent auditing firm, group, or staff.

(Pub. L. 86–147, §14, as added Pub. L. 90–88, §1, Sept. 22, 1967, 81 Stat. 227; amended Pub. L. 104–316, title I, §111(b), Oct. 19, 1996, 110 Stat. 3833.)

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–316 substituted "Secretary of the Treasury shall prepare" for "Comptroller General of the United States shall prepare for the Secretary of the Treasury".

Subsec. (c). Pub. L. 104–316 substituted "may review" for "shall periodically review" in second sentence.

§283k. Authorization of appropriations

(a) Capital stock of Inter-American Development Bank

There is hereby authorized to be appropriated, without fiscal year limitation, for payment of the increased United States subscription to the capital stock of the Inter-American Development Bank, $411,760,000.

(b) Fund for Special Operations of the Inter-American Development Bank

There is hereby authorized to be appropriated, for payment of the increased United States subscription to the Fund for Special Operations of the Inter-American Development Bank, $50,000,000.

(Pub. L. 88–259, §2, Jan. 22, 1964, 78 Stat. 3.)

CODIFICATION

Section was not enacted as part of Pub. L. 86–147, Aug. 7, 1959, 73 Stat. 299, known as the Inter-American Development Bank Act, which comprises this subchapter.

§283*l*. Increase in resources of the Fund for Special Operations

(a) Authorization of vote; payment to Fund

The United States Governor of the Bank is hereby authorized to vote in favor of the resolution entitled "Increase of Resources of the Fund for Special Operations" proposed by the Governors at their annual meeting in April 1964, and now pending before the Board of Governors of the Bank. Upon the adoption of such resolution, the United States Governor is authorized to agree, on behalf of the United States to pay to the Fund for Special Operations of the Bank, the sum of $750,000,000, in accordance with and subject to the terms and conditions of such resolution.

(b) Authorization of appropriations

There is hereby authorized to be appropriated without fiscal year limitation, for the United States share in the increase in the resources of the Fund for Special Operations of the Bank, the sum of $750,000,000.

(c) Loan disapproval by the United States

With respect to any dollars herein provided, the voting power of the United States shall be exercised for the purpose of disapproving any loan from the Fund for Special Operations of the Bank for any project, enterprise, or activity in any country, during any period for which the President has suspended assistance to the government of such country because of any action taken on or after January 1, 1962, by the government of such country or any government agency or subdivision within such country as specified in paragraph (A), (B), or (C) of subsection (e)(1) of section 2370 of this title, and the failure of such country within a reasonable time to take appropriate steps to discharge its obligations or provide relief in accordance with provisions of such subsection.

(Pub. L. 86–147, §15, formerly §14, as added Pub. L. 89–6, Mar. 24, 1965, 79 Stat. 23; renumbered §15, Pub. L. 90–88, §1, Sept. 22, 1967, 81 Stat. 226.)

§283m. Additional increases in resources of the Fund for Special Operations

(a) Authorization of vote; payment to Fund

The United States Governor of the Bank is hereby authorized to vote in favor of the resolution entitled "Increase of $1,200,000,000 in Resources of Fund for Special Operations" proposed by the Governors at their annual meeting in April 1967 and now pending before the Board of Governors of the Bank. Upon the adoption of such resolution, the United States Governor is authorized to agree, on behalf of the United States, to pay to the Fund for Special Operations of the Bank, the sum of $900,000,000, in accordance with and subject to the terms and conditions of such resolution, and subject to the further condition that in consideration of the United States balance-of-payments deficit any local cost financing, by project or otherwise, with the funds authorized under this section to be held to the minimum possible level. The United States Governor is also authorized to vote in favor of the amendment to Annex C of the agreement, now pending before the Board of Governors of the Bank, to modify the procedure employed in the election of Executive Directors.

(b) Authorization of appropriations

There is hereby authorized to be appropriated without fiscal year limitation, for the United States share in the increase in the resources of the Fund for Special Operations of the Bank, the sum of $900,000,000.

(c) Loan disapproval by the United States

The voting power of the United States shall be exercised for the purpose of disapproving any loan which might assist the recipient country directly or indirectly to acquire sophisticated or heavy military equipment.

(Pub. L. 86–147, §16, as added Pub. L. 90–88, §2, Sept. 22, 1967, 81 Stat. 227.)

§283n. Increase in authorized capital stock; United States share; authorization of appropriations

(a) The United States Governor of the Bank is hereby authorized (1) to vote for an increase in the authorized capital stock of the Bank under article II, section 2, of the agreement as recommended by the Board of Executive Directors in its report of April 1967, to the Board of Governors of the Bank; and (2) to agree on behalf of the United States to subscribe to its proportionate share of the $1,000,000,000 increase in the authorized callable capital stock of the bank.

(b) There is hereby authorized to be appropriated, without fiscal year limitation, for payment by the Secretary of the Treasury of the increased United States subscription to the capital stock of the Inter-American Development Bank, $411,760,000.

(Pub. L. 86–147, §17, as added Pub. L. 90–325, June 4, 1968, 82 Stat. 168.)

§283*o*. Increase in authorized capital stock and additional subscriptions of members thereto; increase in resources of Fund for Special Operations and contributions thereto; United States share; authorization of appropriations

(a) The United States Governor of the Bank is hereby authorized to vote in favor of the two resolutions proposed by the Governors at their annual meeting in April 1970 and now pending before the Board of Governors of the Bank, which provide for (1) an increase in the authorized capital stock to the Bank and additional subscriptions of members thereto and (2) an increase in the resources of the Fund for Special Operations and contributions thereto. Upon adoption of such resolutions the United States Governor is authorized to agree on behalf of the United States (1) to subscribe to eighty-two thousand three hundred and fifty-two shares of $10,000 par value of the increase in the authorized capital stock of the Bank of which sixty-seven thousand three hundred and fifty-two shall be callable shares and fifteen thousand shall be paid in and (2) to pay to the Fund for Special Operations an initial annual installment of $100,000,000 and, upon further authorization by the Congress two subsequent annual installments of $450,000,000 each, in accordance with and subject to the terms and conditions of such resolutions.

(b) There are hereby authorized to be appropriated, without fiscal year limitation, the amounts necessary for payment by the Secretary of the Treasury of (1) three annual installments of $50,000,000 each for the United States subscription to paid-in capital stock of the Bank; (2) two installments of $336,760,000 each for the United States subscription to the callable capital stock of the Bank; and (3) one installment of $100,000,000 for the United States share of the increase in the resources of the Fund for Special Operations of the Bank.

(Pub. L. 86–147, §18, as added Pub. L. 91–599, ch. 2, §21(a), Dec. 30, 1970, 84 Stat. 1658.)

§283p. Authorization for payment of United States contribution to increase Fund for Special Operations; authorization of appropriations

(a) The United States Governor of the Bank is authorized to pay to the Fund for Special Operations two annual installments of $450,000,000 each in accordance with and subject to the terms and conditions of the resolution adopted by the Board of Governors on December 31, 1970, concerning an increase in the resources of the Fund for Special Operations and contributions thereto.

(b) There are hereby authorized to be appropriated, without fiscal year limitation, the amounts necessary for payment by the Secretary of the Treasury of the two annual installments of $450,000,000 each for the United States share of the increase in the resources of the Fund for Special Operations of the Bank.

(Pub. L. 86–147, §19, as added Pub. L. 92–246, §1, Mar. 10, 1972, 86 Stat. 59.)

§283q. Articles of agreement; authorization to agree to amendments

The United States Governor of the Bank is authorized to agree to amendments to the provisions of the articles of agreement as provided in proposed Board of Governors resolutions entitled (a) "Amendment of the Provisions of the Agreement Establishing the Bank with Respect to Membership and to Related Matters" and (b) "Amendment of the Provisions of the Agreement Establishing the Bank with Respect to the Election of Executive Directors".

(Pub. L. 86–147, §20, as added Pub. L. 92–246, §1, Mar. 10, 1972, 86 Stat. 59.)

§283r. Expropriation of United States property; loan restrictions

The President shall instruct the United States Executive Director of the Bank to vote against any loan or other utilization of the funds of the Bank for the benefit of any country which has—

(1) nationalized or expropriated or seized ownership or control of property owned by any United States citizen or by any corporation, partnership, or association not less than 50 per centum of which is beneficially owned by United States citizens;

(2) taken steps to repudiate or nullify existing contracts or agreements with any United States citizen or any corporation, partnership, or association not less than 50 per centum of which is beneficially owned by United States citizens; or

(3) imposed or enforced discriminatory taxes or other exactions, or restrictive maintenance or operational conditions, or has taken other actions, which have the effect of nationalizing, expropriating, or otherwise seizing ownership or control of property so owned;

unless the President determines that (A) an arrangement for prompt, adequate, and effective compensation has been made, (B) the parties have submitted the dispute to arbitration under the rules of the Convention for the Settlement of Investment Disputes, or (C) good faith negotiations are in progress aimed at providing prompt, adequate, and effective compensation under the applicable principles of international law.

(Pub. L. 86–147, §21, as added Pub. L. 92–246, §1, Mar. 10, 1972, 86 Stat. 59.)

§283s. Illegal drug traffic; loan restrictions

The Secretary of the Treasury shall instruct the United States Executive Director of the Bank to vote against any loan or other utilization of the funds of the Bank for the benefit of any country with respect to which the President has made a determination, and so notified the Secretary of the Treasury, that the government of such country has failed to take adequate steps to prevent narcotic drugs and other controlled substances (as defined by the Comprehensive Drug Abuse Prevention and Control Act of 1970 [21 U.S.C. 801 et seq.]) produced or processed, in whole or in part, in such country, or transported through such country, from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents, or from entering the United States unlawfully. Such instruction shall continue in effect until the President determines, and so notifies the Secretary of the Treasury, that the government of such country has taken adequate steps to prevent such sale or entry of narcotic drugs and other controlled substances.

(Pub. L. 86–147, §22, as added Pub. L. 92–246, §2, Mar. 10, 1972, 86 Stat. 60.)

REFERENCES IN TEXT

The Comprehensive Drug Abuse Prevention and Control Act of 1970, referred to in text, is Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1236, as amended, which is classified principally to chapter 13 (§801 et seq.) of Title 21, Food and Drugs. For complete classification of this act to the Code, see Short Title note set out under section 801 of Title 21 and Tables.

§283t. Authorization to vote on proposed resolutions

The United States Governor of the Bank is authorized to vote for three proposed resolutions of the Board of Governors entitled (a) "Amendments to the Agreement Establishing the Bank with respect to the Creation of the Inter-Regional Capital Stock of the Bank and to Related Matters", (b) "General Rules Governing Admission of Nonregional Countries to Membership in the Bank", and (c) "Increase in the Authorized Callable Ordinary Capital Stock and Subscriptions Thereto in Connection with the Admission of Nonregional Member Countries", which were submitted to the Board of Governors pursuant to a resolution of the Board of Executive Directors approved on March 4, 1975.

(Pub. L. 86–147, §23, as added Pub. L. 94–302, title I, §103(a)(1), May 31, 1976, 90 Stat. 592.)

§283u. Membership in the Bank for the Bahamas and Guyana

The United States Governor of the Bank is authorized to agree to the amendments to article II, section 1(b) and article IV, section 3(b) of the Agreement Establishing the Bank, as proposed by the Board of Executive Directors, to provide for membership for the Bahamas and Guyana in the Bank at such times and in accordance with such terms as the Bank may determine.

(Pub. L. 86–147, §24, as added Pub. L. 94–302, title I, §103(a)(1), May 31, 1976, 90 Stat. 592.)

§283v. Loans to the Caribbean Development Bank

The United States Governor of the Bank is authorized to agree to the amendments to article III, sections 1, 4, and 6(b) of the Agreement Establishing the Bank, as proposed by the Board of Executive Directors, to provide for lending to the Caribbean Development Bank.

(Pub. L. 86–147, §25, as added Pub. L. 94–302, title I, §103(a)(1), May 31, 1976, 90 Stat. 592.)

§283w. Increase in authorized capital stock of Bank and increase in resources of Fund for Special Operations; United States share; authorization of appropriations

(a) The United States Governor of the Bank is hereby authorized to vote in favor of two resolutions proposed by the Governors at a special meeting in July 1975, and now pending before the Board of Governors of the Bank, which provide for (1) an increase in the authorized capital stock of the Bank and additional subscriptions of members thereto and (2) an increase in the resources of the Fund for Special Operations and contributions thereto. Upon adoption of such resolutions, the United States Governor is authorized to agree on behalf of the United States (1) to subscribe to ninety-nine thousand four hundred and seventy-four shares of $10,000 par value of the increase in the authorized capital stock of the Bank of which eighty-nine thousand five hundred and twenty-six shall be callable shares and nine thousand nine hundred and forty-eight shall be paid in and (2) to contribute to the Fund for Special Operations $600,000,000, in accordance with and subject to the terms and conditions of such resolutions.

(b) There are hereby authorized to be appropriated, without fiscal year limitation, the amounts necessary for payment by the Secretary of the Treasury of (1) $1,199,997,873 for the United States subscription to the capital stock of the Bank and (2) $600,000,000 for the United States share of the increase in the resources of the Fund for Special Operations: *Provided, however,* That not more than $15,677,000 may be made available to the Fund for Special Operations for the fiscal year 1982.

(Pub. L. 86–147, §26, as added Pub. L. 94–302, title I, §101, May 31, 1976, 90 Stat. 591; amended Pub. L. 97–35, title XIII, §1351(c), Aug. 13, 1981, 95 Stat. 744.)

AMENDMENTS

1981—Subsec. (b). Pub. L. 97–35 inserted provision limiting amount of appropriations available for Fund for Special Operations for fiscal year 1982.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Aug. 13, 1981, except that any funds authorized to be appropriated shall not be available for use or obligation prior to Oct. 1, 1981, see section 1372 of Pub. L. 97–35, set out as an Effective Date note under section 290i of this title.

§283x. Subscription to additional shares; authorization of appropriations

(a) The United States Governor of the Bank is hereby authorized to vote for an additional increase of one hundred and eight thousand shares of $10,000 par value in the authorized callable capital stock of the Bank as recommended in the resolution of the Board of Governors entitled "Increase of US$4 Billion in the Authorized Capital Stock and Subscriptions Thereto." Upon adoption of a Board of Governors resolution increasing the authorized capital stock of the Bank by such amount, the United States Governor is authorized to agree on behalf of the United States to subscribe to thirty-seven thousand three hundred and three shares of $10,000 par value of such additional increase in callable capital in accordance with and subject to the terms and conditions of such resolution.

(b) In order to pay for the increase in the United States subscription to the Bank provided for in this section, there is hereby authorized to be appropriated, without fiscal year limitation, $450,002,218 for payment by the Secretary of the Treasury.

(Pub. L. 86–147, §27, as added Pub. L. 94–302, title I, §101, May 31, 1976, 90 Stat. 591.)

§283y. Repealed. Pub. L. 95–118, title VII, §702, Oct. 3, 1977, 91 Stat. 1070

Section, Pub. L. 86–147, §28, as added Pub. L. 94–302, title I, §103(a)(1), May 31, 1976, 90 Stat. 592; H. Res. 5, Jan. 4, 1977, set forth provisions relating to United States participation in financial assistance by Inter-American Development Bank to any country engaging in a consistent pattern of gross violations of internationally recognized human rights. See section 262d of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 3, 1977, see section 1001 of Pub. L. 95–118, set out as an Effective Date note under section 282i of this title.

§283z. Proposal of light-capital or intermediate technologies as part of Bank's development strategy

(a) Contents of proposed resolution

The United States Executive Director of the Bank shall propose to the Board of Executive Directors of the Bank the adoption of a resolution providing (1) that the development and utilization of light-capital or intermediate technologies should be accepted as major facets of the Bank's development strategy, and (2) that such light-capital or intermediate technologies should be developed and utilized as soon as possible in all Bank activities. Such resolution shall further provide that, by the close of the calendar year 1977, some projects that employ primarily such light-capital or intermediate technologies shall be designed and approved.

(b) Progress report to Congress

The United States Governor of the Bank shall report to the Congress no later than six months after May 31, 1976, on the proposal made under subsection (a), and no later than twelve months after such date on the progress that has been made with respect to such proposal.

(Pub. L. 86–147, §28, formerly §29, as added Pub. L. 94–302, title I, §104, May 31, 1976, 90 Stat. 593; renumbered §28, Pub. L. 96–259, title I, §101(1), June 3, 1980, 94 Stat. 429.)

PRIOR PROVISIONS

A prior section 28 of Pub. L. 86–147, as added by section 103(a)(1) of Pub. L. 94–302, was classified to section 283y of this title prior to repeal by Pub. L. 95–118, title VII, §702, Oct. 3, 1977, 91 Stat. 1070.

§283z–1. Increase in authorized capital stock of Bank and increase in resources of Fund for Special Operations

(a) United States share

The United States Governor of the Bank is authorized to vote for two resolutions which were proposed by the Governors at a special meeting in December 1978 and are pending before the Board of Governors of the Bank. These resolutions provide for (1) an increase in the authorized capital stock of the Bank and additional subscriptions thereto, and (2) an increase in the resources of the Fund for Special Operations and contributions thereto. Upon adoption of these resolutions, the United States Governor is authorized on behalf of the United States (A) to subscribe to two hundred twenty-seven thousand eight hundred and ninety-six shares of the increase in the authorized capital stock of the Bank, of which two hundred ten thousand eight hundred and four shall be callable and seventeen thousand and ninety-two shall be paid-in, and (B) to contribute to the Fund for Special Operations $630,000,000; except that any commitment to make such subscriptions to paid-in and callable capital stock and to make such contributions to the Fund for Special Operations shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts.

(b) Authorization of appropriations

In order to pay for the increase in the United States subscription and contribution provided for in this section, there are authorized to be appropriated, without fiscal year limitation, for payment by the Secretary of the Treasury (1) $2,474,287,189 for the United States subscription to the capital stock of the Bank, and (2) $630,000,000 for the United States share of the increase in the resources of the Fund for Special Operations: *Provided, however,* That for contributions to the Fund for Special Operations, not more than $175,000,000 may be made available for the fiscal year 1982, and not more than $105,000,000 may be made available for the fiscal year 1983.

(c) Funding requirements

For the purpose of keeping to a minimum the cost to the United States, the Secretary of the Treasury—

(1) shall pay the United States contribution to the Fund for Special Operations authorized by this section by letter of credit in four annual installments; and

(2) shall take the steps necessary to obtain a certification from the Bank that any undisbursed balances resulting from drawdowns on such letter of credit will not exceed at any time the United States share of expected disbursement requirements for the following three-month period.

(d) Limitation of funds to members of Bank

None of the funds authorized to be appropriated by this section may be used for any form of assistance to any country which is not a member of the Bank.

(Pub. L. 86–147, §29, as added Pub. L. 96–259, title I, §101(2), June 3, 1980, 94 Stat. 429; amended Pub. L. 97–35, title XIII, §1351(b), Aug. 13, 1981, 95 Stat. 744.)

AMENDMENTS

1981—Subsec. (b). Pub. L. 97–35 inserted provision limiting amount of appropriations available for Fund for Special Operations for fiscal years 1982 and 1983.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Aug. 13, 1981, except that any funds authorized to be appropriated shall not be available for use or obligation prior to Oct. 1, 1981, see section 1372 of Pub. L. 97–35, set out as an Effective Date note under section 290i of this title.

§283z–2. Contribution to Inter-American Development Bank; authorization of appropriations

(a) The United States Governor of the Bank is authorized on behalf of the United States to contribute to the Fund for Special Operations $70,000,000: *Provided, however*, That any commitment to make such contribution shall be made subject to obtaining the necessary appropriations.

(b) In order to pay for a portion of the increase in the United States subscription to the capital stock of the Bank provided for in section 283z–1(a) of this title and for the United States contribution to the Fund for Special Operations provided for in this section, there are authorized to be appropriated, without fiscal year limitation, for payment by the Secretary of the Treasury, (1) $274,920,799 for the United States subscription, and (2) $70,000,000 for the United States contribution to the Fund for Special Operations: *Provided, however*, That no funds may be made available for such contribution to the Fund for Special Operations for the fiscal year 1982.

(Pub. L. 86–147, §30, as added Pub. L. 97–35, title XIII, §1351(a), Aug. 13, 1981, 95 Stat. 744.)

EFFECTIVE DATE

Section effective Aug. 13, 1981, except that any funds authorized to be appropriated shall not be available for use or obligation prior to Oct. 1, 1981, see section 1372 of Pub. L. 97–35, set out as a note under section 290i of this title.

§283z–3. Increase in authorized capital stock of Bank and increases in resources of Fund for Special Operations; United States share; authorization of appropriations

(a)(1) The United States Governor of the Bank is authorized to vote for resolutions—

(A) which were proposed by the Governors at a special meeting in February 1983;

(B) which are pending before the Board of Governors of the Bank; and

(C) which provide for—

(i) an increase in the authorized capital stock of the Bank and subscriptions thereto; and

(ii) an increase in the resources of the Fund for Special Operations and contributions thereto.

(2)(A) Upon adoption of the resolutions specified in paragraph (1), the United States Governor of the Bank is authorized on behalf of the United States to—

(i) subscribe to 427,396 shares of the increase in the authorized capital stock of the Bank; and

(ii) contribute $350,000,000 to the Fund for Special Operations.

(B) Any commitment to make such subscriptions to paid-in and callable capital stock and to make such contributions to the Fund for Special Operations shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts.

(b) In order to pay for the increase in the United States subscription and contribution provided for in this section, there are authorized to be appropriated, without fiscal year limitation, for payment by the Secretary of the Treasury—

(1) $5,155,862,744 for the United States subscriptions to the capital stock of the Bank; and

(2) $350,000,000 for the United States share of the increase in the resources of the Fund for Special Operations.

(Pub. L. 86–147, §31, as added Pub. L. 98–181, title I [title X, §1001], Nov. 30, 1983, 97 Stat. 1284.)

§283z–4. Amendments to Articles of Agreement in resolution on Merger of Interregional and Ordinary Capital Resources

The United States Governor of the Inter-American Development Bank is hereby authorized to

agree to and to accept the amendments to the Articles of Agreement in the proposed resolution entitled "Merger of Inter-regional and Ordinary Capital Resources".

(Pub. L. 86–147, §32, as added Pub. L. 100–202, §101(e) [title I], Dec. 22, 1987, 101 Stat. 1329–131, 1329–134.)

CODIFICATION

Section 32 of Pub. L. 86–147 is based on section 501 of title V of H.R. 3750, One Hundredth Congress, as introduced Dec. 11, 1987, and enacted into law by Pub. L. 100–202.

§283z–5. Capital increase; increase in resources of Fund for Special Operations

(a) Authority to vote for, and to subscribe and contribute to, increase in authorized capital stock of Bank and increase in resources of Fund for Special Operations

(1) Vote authorized

The United States Governor of the Bank is authorized to vote for resolutions which—

(A) were transmitted by the Board of Executive Directors to the Governors of the Bank by resolution of April 19, 1989;

(B) are pending before the Board of Governors of the Bank; and

(C) provide for—

(i) an increase in the authorized capital stock of the Bank and subscriptions to the Bank; and

(ii) an increase in the resources of the Fund for Special Operations and contributions to the Fund.

(2) Subscription and contribution authority

To the extent and in the amounts provided in advance in appropriations Acts, on adoption of the resolutions described in paragraph (1), the United States Governor of the Bank may, on behalf of the United States—

(A) subscribe to 760,112 shares of the increase in the authorized capital stock of the Bank; and

(B) contribute $82,304,000 to the Fund for Special Operations.

(b) Limitation on authorization of appropriations

To pay for the subscription and contribution authorized under subsection (a), there are authorized to be appropriated, without fiscal year limitation, for payment by the Secretary of the Treasury—

(1) $9,169,559,712, for the United States subscription to the capital stock of the Bank; and

(2) $82,304,000, for the United States contribution to the Fund for Special Operations.

(c) Organizational changes required to be made before payment for subscription to capital stock and contribution to Fund for Special Operations

The Secretary of the Treasury may not make any payment for the subscription and contribution authorized under subsection (a) unless the Bank—

(1) has established an environmental unit with responsibility for the development, evaluation, and integration of Bank policies, projects, and programs designed to promote environmentally sustainable development in borrower countries;

(2) has increased the number of the staff of the Bank with environmentally oriented responsibilities and training;

(3) provides for an increase in the number of environmentally beneficial projects and programs financed by the Bank; and

(4) has designed a process for ensuring the access of indigenous non-governmental organizations to the process for designing projects and programs.

(d) Certification of access to Bank records required before payment for subscription to capital stock and contribution to Fund for Special Operations

The Secretary of the Treasury shall not make any payment for the subscription and contribution authorized under subsection (a) until the Secretary, after consultation with the United States Executive Director of the Bank, certifies to the Congress that—

(1) the Bank has given the Comptroller General of the United States access to the audit memorandum issued by the Auditor General of the Bank with respect to the November 1987 disbursement of funds to the Government of Nicaragua;

(2) the Bank has implemented and is continuing to implement revised procedures issued in 1988 for collecting loan services payments in arrears;

(3) the revised procedures referred to in paragraph (2) satisfy the recommendations of the Auditor General of the Bank; and

(4) the Comptroller General of the United States has access to all documents of the Bank on the same terms and under the same conditions as such documents are made available to the United States Executive Director of the Bank.

(Pub. L. 86–147, §33, as added Pub. L. 101–240, title II, §201, Dec. 19, 1989, 103 Stat. 2496.)

§283z–6. Investment in human capital

(a) In general

The Secretary of the Treasury shall instruct the United States Executive Director of the Inter-American Development Bank to propose and use the voice and vote of such director, during the 4-year period beginning on January 1, 1990, to vigorously promote an increase in the proportion of Bank lending in support of projects and programs which support investments in human capital and to seek the rapid implementation by the Bank of systematic mechanisms of consultation with locally affected populations in borrower countries either directly or through appropriate representative non-governmental organizations.

(b) "Investments in human capital" defined

As used in subsection (a), the term "investments in human capital" means investments in projects, policies, and programs designed to improve urban and rural health care and sanitation, basic nutrition, education, the small-producer private sector, the economic activities of women, and the development of indigenous non-governmental organizations.

(Pub. L. 86–147, §34, as added Pub. L. 101–240, title II, §202(a), Dec. 19, 1989, 103 Stat. 2498.)

REPORT TO CONGRESS

Pub. L. 101–240, title II, §202(b), Dec. 19, 1989, 103 Stat. 2498, provided that: "The Chairman of the National Advisory Council on International Monetary and Financial Policies shall include in the report required by section 1701 of the International Financial Institutions Act [22 U.S.C. 262r] for fiscal year 1991 a report on the efforts undertaken by the United States Executive Director of the Inter-American Development Bank, and the progress to date, in achieving the objectives of section 34 of the Inter-American Development Bank Act [22 U.S.C. 283z–6]."

§283z–7. Limitations on policy based lending

The Secretary of the Treasury shall—

(1) take all necessary steps to encourage the Bank to limit the aggregate value of the policy based loans made by the Bank (other than policy based loans made to any country which the Bank has determined is economically less developed or has a limited market economy, which are used to purchase sovereign debt of such country or to reduce the debt or debt service burden of such country) during the 4-year period beginning on January 1, 1990, to 25 percent of the aggregate value of all loans made by the Bank during such 4-year period;

(2) take all necessary steps to encourage the Bank to limit the aggregate value of the policy based loans made by the Bank to the government of a particular country during such 4-year period, to 50 percent of the aggregate value of all loans made by the Bank to such government

during such 4-year period;

(3) instruct the United States Executive Director of the Bank to explore with the other Executive Directors of the Bank ways to use a portion of the resources made available to the Bank by reason of the subscription and contribution described in section 283z–5(a)(2) of this title for debt reduction and debt service reduction for countries described in paragraph (1); and

(4) before the end of the 12-month period beginning on December 19, 1989, report to the Congress on the matters described in paragraph (3).

(Pub. L. 86–147, §35, as added Pub. L. 101–240, title II, §203, Dec. 19, 1989, 103 Stat. 2498.)

§283z–8. Increase in lending to Caribbean

The Secretary of the Treasury shall instruct the United States Executive Director of the Bank to enter into discussions with the management of the Bank and with other member country governments to seek to increase Bank lending to the Caribbean region, directly or through appropriate financial intermediaries, for viable projects which will—

(1) result in expanded regional economic integration, diversification, and industrial and agricultural production, and improved infrastructure; and

(2) seek to ensure equitable and environmentally sustainable economic growth.

(Pub. L. 86–147, §36, as added Pub. L. 101–240, title II, §204, Dec. 19, 1989, 103 Stat. 2499.)

§283z–9. Multilateral Investment Fund

(a) Authorization of contribution

The Secretary of the Treasury is authorized to contribute, and to make payment of, $500,000,000 to the Multilateral Investment Fund established pursuant to the agreements of February 11, 1992: *Provided*, That such funds shall only be disbursed from the Fund to countries that have governments that are democratically elected,[1] that do not harbor or sponsor international terrorists; that do not fail to cooperate in narcotics matters; and that do not engage in a consistent pattern of gross violations of internationally recognized human rights.

(b) Authorization of appropriations

There is hereby authorized to be appropriated without fiscal year limitation $500,000,000 for the contribution authorized in subsection (a).

(c) Environmental assessment of actions

If an Enterprise for the Americas Multilateral Investment Fund is established pursuant to this section, the Secretary of the Treasury shall instruct the United States representative to the Fund not to vote in favor of any action proposed to be taken by the Fund which may have a significant adverse effect on the environment unless an assessment of the impact of the action on the environment has been available for at least 120 days before the vote.

(Pub. L. 86–147, §37, as added Pub. L. 102–391, title V, §594(b), Oct. 6, 1992, 106 Stat. 1693.)

[1] *So in original. The comma probably should be a semicolon.*

§283z–10. Focus on low-income areas of Latin America and Caribbean

The Secretary of the Treasury shall direct the United States Executive Director of the Bank to use the voice and vote of the United States to support an increased focus on the poorest countries in Latin America and the Caribbean, and on poorer areas of better off countries, and to support

programs conducted by the Multilateral Investment Fund, particularly in targeting low-income countries and populations, working with nongovernmental organizations and training and assisting former combatants from civil conflicts in Latin America.

(Pub. L. 86–147, §38, as added Pub. L. 103–306, title V, §526(f), Aug. 23, 1994, 108 Stat. 1634.)

§283z–11. First replenishment of the resources of the Enterprise for the Americas Multilateral Investment Fund

(a) Contribution authority

(1) In general

The Secretary of the Treasury may contribute on behalf of the United States $150,000,000 to the first replenishment of the resources of the Enterprise for the Americas Multilateral Investment Fund.

(2) Subject to appropriations

The authority provided by paragraph (1) may be exercised only to the extent and in the amounts provided for in advance in appropriations Acts.

(b) Limitations on authorization of appropriations

For the United States contribution authorized by subsection (a), there are authorized to be appropriated not more than $150,000,000, without fiscal year limitation, for payment by the Secretary of the Treasury.

(Pub. L. 86–147, §39, as added Pub. L. 109–289, div. B, title II, §20410, as added Pub. L. 110–5, §2, Feb. 15, 2007, 121 Stat. 25.)

§283z–12. Authority to vote for and contribute to an increase in resources of the Fund for Special Operations; providing debt relief to Haiti

(a) Vote authorized

In accordance with section 283c of this title, the United States Governor of the Bank is authorized to vote in favor of a resolution to increase the resources of the Fund for Special Operations up to $479,000,000, in furtherance of providing debt relief for Haiti in view of the Cancun Declaration of March 21, 2010, which provides that:

(1) Haiti's debts to the Fund for Special Operations are to be cancelled;

(2) Haiti's remaining local currency conversion obligations to the Fund for Special Operations are to be cancelled;

(3) undisbursed balances of existing loans of the Fund for Special Operations to Haiti are to be converted to grants; and

(4) the Fund for Special Operations is to make available significant and immediate grant financing to Haiti as well as appropriate resources to other countries remaining as borrowers within the Fund for Special Operations, consistent with paragraph 6 of the Cancun Declaration of March 21, 2010.

(b) Contribution authority

To the extent and in the amount provided in advance in appropriations Acts the United States Governor of the Bank may, on behalf of the United States and in accordance with section 283c of this title, contribute up to $252,000,000 to the Fund for Special Operations, which will provide for debt relief of:

(1) up to $240,000,000 to the Fund for Special Operations;

(2) up to $8,000,000 to the International Fund For Agricultural Development (IFAD); and

(3) up to $4,000,000 for the International Development Association (IDA).

(c) Authorization of appropriations

To pay for the contribution authorized under subsection (b), there are authorized to be appropriated, without fiscal year limitation, for payment by the Secretary of the Treasury $212,000,000, for the United States contribution to the Fund for Special Operations.

(Pub. L. 86–147, §40, as added Pub. L. 111–212, title I, §1009, July 29, 2010, 124 Stat. 2330.)

§283z–13. Ninth Capital Increase

(a) Vote authorized

The United States Governor of the Bank is authorized to vote in favor of a resolution to increase the capital stock of the Bank by $70,000,000,000 as described in Resolution AG–7/10, "Report on the Ninth General Capital Increase in the resources of the Inter-American Development Bank" as approved by Governors on July 21, 2010.

(b) Subscription authorized

(1) The United States Governor of the Bank may subscribe on behalf of the United States to 1,741,135 additional shares of the capital stock of the Bank.

(2) Any subscription by the United States to the capital stock of the Bank shall be effective only to such extent and in such amounts as are provided in advance in appropriations Acts.

(c) Limitations on authorization of appropriations

(1) In order to pay for the increase in the United States subscription to the Bank under subsection (b), there are authorized to be appropriated, without fiscal year limitation, $21,004,064,337 for payment by the Secretary of the Treasury.

(2) Of the amount authorized to be appropriated under paragraph (1)—

(A) $510,090,175 shall be for paid in shares of the Bank; and

(B) $20,493,974,162 shall be for callable shares of the Bank.

(Pub. L. 86–147, §41, as added Pub. L. 112–74, div. I, title VII, §7081(c), Dec. 23, 2011, 125 Stat. 1260.)

SUBCHAPTER XII–A—INTER-AMERICAN INVESTMENT CORPORATION

§283aa. Acceptance of membership

The President is hereby authorized to accept membership for the United States in the Inter-American Investment Corporation (hereinafter in this subchapter referred to as the "Corporation") provided for by the agreement establishing the Corporation (hereinafter in this subchapter referred to as the "agreement") deposited in the archives of the Inter-American Development Bank.

(Pub. L. 98–473, title I, §101(1) [title I], Oct. 12, 1984, 98 Stat. 1884, 1885.)

CODIFICATION

Section is based on section 202 of title II of S. 2416, Ninety-eighth Congress, as introduced Mar. 13, 1984, and enacted into law by Pub. L. 98–473.

SHORT TITLE

Section 201 of title II of S. 2416, as introduced in the Senate Mar. 13, 1984, and as enacted into permanent law by Pub. L. 98–473, title I, §101(1) [title I], Oct. 12, 1984, 98 Stat. 1885, provided that: "This title [enacting this subchapter and amending section 276c–2 of this title and section 24 of Title 12, Banks and Banking] may be cited as the 'Inter-American Investment Corporation Act'."

§283bb. Governor, Director, and alternates

The Governor and Executive Director of the Inter-American Development Bank, and the alternate for each of them, appointed under section 283a of this title, shall serve as Governor, Director, and alternates, respectively, of the Corporation.

(Pub. L. 98–473, title I, §101(1) [title I], Oct. 12, 1984, 98 Stat. 1884, 1885.)

CODIFICATION

Section is based on section 203 of title II of S. 2416, Ninety-eighth Congress, as introduced Mar. 13, 1984, and enacted into law by Pub. L. 98–473.

§283cc. Applicability of Bretton Woods Agreements Act

The provisions of section 286b of this title shall apply with respect to the Corporation to the same extent as with respect to the International Bank for Reconstruction and Development and the International Monetary Fund.

(Pub. L. 98–473, title I, §101(1) [title I], Oct. 12, 1984, 98 Stat. 1884, 1885; Pub. L. 101–240, title V, §541(e)(3), Dec. 19, 1989, 103 Stat. 2518.)

CODIFICATION

Section is based on section 204 of title II of S. 2416, Ninety-eighth Congress, as introduced Mar. 13, 1984, and enacted into law by Pub. L. 98–473.

AMENDMENTS

1989—Pub. L. 101–240 struck out at end "Reports with respect to the Corporation under paragraphs (5) and (6) of subsection (b) of section 286b of this title shall be included in the first and subsequent reports made thereunder after the United States accepts membership in the Corporation."

§283dd. Restrictions

(a) [1] Unless authorized by law, neither the President nor any person or agency shall, on behalf of the United States—

(1) subscribe to additional shares of stock of the Corporation;

(2) vote for or agree to any amendment of the agreement which increases the obligations of the United States, or which changes the purpose or functions of the Corporation; or

(3) make a loan or provide other financing to the Corporation.

(Pub. L. 98–473, title I, §101(1) [title I], Oct. 12, 1984, 98 Stat. 1884, 1885.)

CODIFICATION

Section is based on section 205 of title II of S. 2416, Ninety-eighth Congress, as introduced Mar. 13, 1984, and enacted into law by Pub. L. 98–473.

[1] So in original. No subsec. (b) has been enacted.

§283ee. Federal Reserve banks as depositories

Any Federal Reserve bank which is requested to do so by the Corporation shall act as its depository or as its fiscal agent, and the Board of Governors of the Federal Reserve System shall supervise and direct the carrying out of these functions by the Federal Reserve banks.

(Pub. L. 98–473, title I, §101(1) [title I], Oct. 12, 1984, 98 Stat. 1884, 1885.)

CODIFICATION

Section is based on section 206 of title II of S. 2416, Ninety-eighth Congress, as introduced Mar. 13, 1984, and enacted into law by Pub. L. 98–473.

§283ff. Subscription of stock

(a) Secretary of the Treasury as subscribing authority

The Secretary of the Treasury is authorized to subscribe on behalf of the United States to five thousand one hundred shares of the capital stock of the Corporation: *Provided, however*, That the subscription shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts.

(b) Authorization of appropriations

There is authorized to be appropriated, without fiscal year limitation, for payment by the Secretary of the Treasury of the subscription of the United States for those shares, $51,000,000.

(c) Disposition of dividends

Any payment of dividends made to the United States by the Corporation shall be deposited into the Treasury as a miscellaneous receipt.

(Pub. L. 98–473, title I, §101(1) [title I], Oct. 12, 1984, 98 Stat. 1884, 1885.)

CODIFICATION

Section is based on section 207 of title II of S. 2416, Ninety-eighth Congress, as introduced Mar. 13, 1984, and enacted into law by Pub. L. 98–473.

FIRST GENERAL CAPITAL INCREASE

Pub. L. 106–113, div. B, §1000(a)(2) [title V, §594], Nov. 29, 1999, 113 Stat. 1535, 1501A–122, provided in part that the Secretary of the Treasury may effect the United States participation in the first general capital increase of the Inter-American Investment Corporation, and authorized $125,180,000 to be appropriated without fiscal year limitation for payment by the Secretary for paid-in capital of the Corporation.

§283gg. Jurisdiction of United States courts

For the purposes of any civil action which may be brought within the United States, its territories or possessions, or the Commonwealth of Puerto Rico, by or against the Corporation in accordance with the agreement, the Corporation shall be deemed to be an inhabitant of the Federal judicial district in which its principal office within the United States or its agent appointed for the purpose of accepting service or notice of service is located, and any such action to which the Corporation shall be a party shall be deemed to arise under the laws of the United States, and the district courts of the United States, including the courts enumerated in section 460 of title 28, shall have original jurisdiction of any such action. When the Corporation is a defendant in any action in a State court, it may at any time before the trial thereof remove the action into the appropriate district court of the United States by following the procedure for removal provided in section 1446 of title 28.

(Pub. L. 98–473, title I, §101(1) [title I], Oct. 12, 1984, 98 Stat. 1884, 1885.)

CODIFICATION

Section is based on section 208 of title II of S. 2416, Ninety-eighth Congress, as introduced Mar. 13, 1984, and enacted into law by Pub. L. 98–473.

§283hh. Effectiveness of agreement

Article VI, section 4(c), and article VII, sections 2 to 9, both inclusive, of the agreement shall have full force and effect in the United States, its territories and possessions, and the Commonwealth of Puerto Rico, upon acceptance of membership by the United States in the Corporation.

(Pub. L. 98–473, title I, §101(1) [title I], Oct. 12, 1984, 98 Stat. 1884, 1885.)

CODIFICATION

Section is based on section 209 of title II of S. 2416, Ninety-eighth Congress, as introduced Mar. 13, 1984, and enacted into law by Pub. L. 98–473.

§283ii. Securities issued by the Corporation

(a) Exempted securities

Any securities issued by the Corporation (including any guarantee by the Corporation, whether or not limited in scope) in connection with the raising of funds for inclusion in the Corporation's resources as defined in article II, section 2 of the agreement, and any securities guaranteed by the Corporation as to both principal and interest to which the commitment in article II, section 2(e) of the agreement is expressly applicable, shall be deemed to be exempted securities within the meaning of section 77c(a)(2) of title 15 and section 78c(a)(12) of title 15. The Corporation shall file with the Securities and Exchange Commission such annual and other reports with regard to such securities as the Commission shall determine to be appropriate in view of the special character of the Corporation and its operations as necessary in the public interest or for the protection of investors.

(b) Suspension by Securities and Exchange Commission

The Securities and Exchange Commission, acting in consultation with such agency or officer as the President shall designate, is authorized to suspend the provisions of subsection (a) at any time as to any or all securities issued or guaranteed by the Corporation during the period of such suspension. The Commission shall include in its annual reports to Congress such information as it shall deem advisable with regard to the operations and effect of this section and in connection therewith shall include any views submitted for such purpose by any association of dealers registered with the Commission.

(Pub. L. 98–473, title I, §101(1) [title I], Oct. 12, 1984, 98 Stat. 1884, 1885.)

CODIFICATION

Section is based on section 210 of title II of S. 2416, Ninety-eighth Congress, as introduced Mar. 13, 1984, and enacted into law by Pub. L. 98–473.

DELEGATION OF FUNCTIONS

Section 2 of Ex. Ord. No. 12567, Oct. 2, 1986, 51 F.R. 35495, provided that: "The functions vested in the President by Section 210 of the Inter-American Investment Corporation Act [this section] are hereby delegated to the Secretary of the Treasury."

SUBCHAPTER XIII—INTERNATIONAL DEVELOPMENT ASSOCIATION

§284. Acceptance of membership by United States in International Development Association

The President is hereby authorized to accept membership for the United States in the International Development Association (hereinafter referred to as the "Association"), provided for by the Articles of Agreement (hereinafter referred to as the "Articles") of the Association deposited in the archives of the International Bank for Reconstruction and Development.

(Pub. L. 86–565, §2, June 30, 1960, 74 Stat. 293.)

SHORT TITLE

Pub. L. 86–565, §1, June 30, 1960, 74 Stat. 293, provided that: "This Act [enacting this subchapter] may be cited as the 'International Development Association Act'."

PAR VALUE MODIFICATION

For Congressional direction that the Secretary of the Treasury maintain the value in terms of gold of the International Development Association's holdings of United States dollars following the establishment of a par value of the dollar at $38 for a fine troy ounce of gold pursuant to the Par Value Modification Act and for the authorization of the appropriations necessary to provide such maintenance of value, see section 5152 of Title 31, Money and Finance.

§284a. Governor, executive director, and alternates of Association

The Governor and Executive Director of the International Bank for Reconstruction and Development, and the alternate for each of them, appointed under section 286a of this title, shall serve as Governor, Executive Director and alternates, respectively, of the Association.

(Pub. L. 86–565, §3, June 30, 1960, 74 Stat. 293.)

§284b. National Advisory Council on International Monetary and Financial Problems

The provisions of section 286b of this title, shall apply with respect to the Association to the same extent as with respect to the International Bank for Reconstruction and Development and the International Monetary Fund.

(Pub. L. 86–565, §4, June 30, 1960, 74 Stat. 294; Pub. L. 101–240, title V, §541(e)(4), Dec. 19, 1989, 103 Stat. 2518.)

AMENDMENTS

1989—Pub. L. 101–240 struck out at end "Reports with respect to the Association under paragraphs (5) and (6) of subsection (b) of section 286b of this title, shall be included in the first report made thereunder after the establishment of the Association and in each succeeding report."

DELEGATION OF FUNCTIONS

Functions of National Advisory Council on International Monetary and Financial Problems under this section delegated to National Advisory Council on International Monetary and Financial Policies, see section 2(a) of Ex. Ord. No. 11269, Feb. 14, 1966, 31 F.R. 2813, set out as a note under section 286b of this title.

§284c. Congressional authorization needed for certain actions

Unless Congress by law authorizes such action, neither the President nor any person or agency shall, on behalf of the United States, (a) subscribe to additional funds under article III, section 1, of the articles; (b) accept any amendment under article IX of the articles; or (c) make a loan or provide other financing to the Association.

(Pub. L. 86–565, §5, June 30, 1960, 74 Stat. 294.)

§284d. Federal Reserve banks as depositories

Any Federal Reserve bank which is requested to do so by the Association shall act as its depository or as its fiscal agent, and the Board of Governors of the Federal Reserve System shall supervise and direct the carrying out of these functions by the Federal Reserve banks.

(Pub. L. 86–565, §6, June 30, 1960, 74 Stat. 294.)

§284e. Payment of subscription to Association by United States

(a) Authorization of appropriations for subscription

There is hereby authorized to be appropriated, without fiscal year limitation, for the subscription of the United States to the Association, $320,290,000.

(b) Increase in Association resources; contribution; authorization of appropriations

The United States Governor is hereby authorized (1) to vote for an increase in the resources of the Association and (2) to agree on behalf of the United States to contribute to the Association the sum of $312 million, both as recommended by the Executive Directors, in a report dated September 9, 1963, to the Board of Governors of the Association. There is hereby authorized to be appropriated out of funds supplied by the Nation's taxpayers or out of funds borrowed on their credit, without fiscal year limitations, $312 million to provide the United States share of the increase in the resources of the Association.

(c) Issuance of special notes

For the purpose of keeping to a minimum the cost to the United States of participation in the Association, the Secretary of the Treasury is authorized and directed to issue special notes of the United States from time to time, at par, and to deliver such notes to the Association in exchange for dollars to the extent permitted by the articles. The special notes provided for in this subsection shall be issued under the authority and subject to the provisions of chapter 31 of title 31, and the purposes for which securities may be issued under that chapter are extended to include the purposes for which special notes are authorized and directed to be issued under this subsection, but such notes shall bear no interest, shall be nonnegotiable, and shall be payable on demand of the Association. The face amount of special notes issued to the Association under the authority of this subsection and outstanding at any one time shall not exceed, in the aggregate, the amount actually paid to the Association under the articles.

(d) Income covered into Treasury

Any payment made to the United States by the Association as a distribution of net income shall be covered into the Treasury as a miscellaneous receipt.

(Pub. L. 86–565, §7, June 30, 1960, 74 Stat. 294; Pub. L. 88–310, §§1, 2, May 26, 1964, 78 Stat. 200.)

CODIFICATION

In subsec. (c), "chapter 31 of title 31" and "that chapter" substituted for "the Second Liberty Bond Act, as amended" and "that Act", respectively, on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

1964—Subsecs. (b) to (d). Pub. L. 88–310 added subsec. (b), redesignated former subsec. (b) as (c) and struck out ", after paying the requisite part of the subscription of the United States in the Association required to be made under the articles." after "Secretary of the Treasury" in first sentence and "of the subscription of the United States" after "amount" in third sentence, respectively, and redesignated former subsec. (c) as (d).

§284f. Jurisdiction and venue of actions

For the purpose of any action which may be brought within the United States, its possessions, or the Commonwealth of Puerto Rico, by or against the Association in accordance with the articles, the Association shall be deemed to be an inhabitant of the Federal Judicial district in which its principal office in the United States is located, and any such action at law or in equity to which the Association shall be a party shall be deemed to arise under the laws of the United States, and the district courts of the United States shall have original jurisdiction of any such action. When the Association is a defendant in any such action, it may, at any time before the trial thereof, remove such action from a State court into the district court of the United States for the proper district by following the procedure for removal of causes otherwise provided by law.

(Pub. L. 86–565, §8, June 30, 1960, 74 Stat. 294.)

§284g. Status, privileges, and immunities of the United States

The provisions of article VII, section 5(d), and article VIII sections 2 to 9, both inclusive, of the articles shall have full force and effect in the United States, its possessions, and the Commonwealth of Puerto Rico, upon acceptance of membership by the United States in, and the establishment of, the Association.

(Pub. L. 86–565, §9, June 30, 1960, 74 Stat. 295.)

§284h. Second replenishment; authorization of appropriations

The United States Governor is hereby authorized (1) to vote in favor of the second replenishment resolutions providing for an increase in the resources of the Association, and (2) to agree on behalf of the United States to contribute to the Association the sum of $480,000,000, as recommended by the Executive Directors in a report dated March 8, 1968, to the Board of Governors of the Association. There is hereby authorized to be appropriated, without fiscal year limitation, $480,000,000 for payment by the Secretary of the Treasury of the United States share of the increase in the resources of the Association.

(Pub. L. 86–565, §10, as added Pub. L. 91–14, May 23, 1969, 83 Stat. 10.)

§284i. Third replenishment; authorization of appropriations

The United States Governor is hereby authorized to agree on behalf of the United States to contribute to the Association three annual installments of $320,000,000 each as recommended in the "Report of the Executive Directors to the Board of Governors on Additions to IDA Resources: Third Replenishment," dated July 21, 1970. There is hereby authorized to be appropriated, without fiscal year limitation, the amounts necessary for payment by the Secretary of the Treasury of three annual installments of $320,000,000 each for the United States share of the increase in the resources of the Association.

(Pub. L. 86–565, §11, as added Pub. L. 92–247, §1, Mar. 10, 1972, 86 Stat. 60.)

§284j. Expropriation of United States property; loan restrictions

The President shall instruct the United States Executive Directors of the International Bank for Reconstruction and Development and the International Development Association to vote against any loan or other utilization of the funds of the Bank and the Association for the benefit of any country which has—

(1) nationalized or expropriated or seized ownership or control of property owned by any United States citizen or by any corporation, partnership, or association not less than 50 per centum of which is beneficially owned by the United States citizens;

(2) taken steps to repudiate or nullify existing contracts or agreements with any United States citizen or any corporation, partnership, or association not less than 50 per centum of which is beneficially owned by United States citizens; or

(3) imposed or enforced discriminatory taxes or other exactions, or restrictive maintenance or operational conditions, or has taken other actions, which have the effect of nationalizing, expropriating, or otherwise seizing ownership or control of property so owned;

unless the President determines that (A) an arrangement for prompt, adequate, and effective compensation has been made, (B) the parties have submitted the dispute to arbitration under the rules

of the Convention for the Settlement of Investment Disputes, or (C) good faith negotiations are in progress aimed at providing prompt, adequate, and effective compensation under the applicable principles of international law.

(Pub. L. 86–565, §12, as added Pub. L. 92–247, §1, Mar. 10, 1972, 86 Stat. 60.)

§284k. Illegal drug traffic; loan restrictions

The Secretary of the Treasury shall instruct the United States Executive Directors of the International Bank for Reconstruction and Development and the International Development Association to vote against any loan or other utilization of the funds of the Bank and the Association for the benefit of any country with respect to which the President has made a determination, and so notified the Secretary of the Treasury, that the government of such country has failed to take adequate steps to prevent narcotic drugs and other controlled substances (as defined by the Comprehensive Drug Abuse Prevention and Control Act of 1970 [21 U.S.C. 801 et seq.]) produced or processed, in whole or in part, in such country, or transported through such country, from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents, or from entering the United States unlawfully. Such instruction shall continue in effect until the President determines, and so notifies the Secretary of the Treasury, that the government of such country has taken adequate steps to prevent such sale or entry of narcotic drugs and other controlled substances.

(Pub. L. 86–565, §13, as added Pub. L. 92–247, §2, Mar. 10, 1972, 86 Stat. 61.)

REFERENCES IN TEXT

The Comprehensive Drug Abuse Prevention and Control Act of 1970, referred to in text, is Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1236, as amended, which is classified principally to chapter 13 (§801 et seq.) of Title 21, Food and Drugs. For classification of this Act to the Code, see Short Title note set out under section 801 of Title 21 and Tables.

§284*l*. Fourth replenishment; authorization of appropriations

(a) The United States Governor is hereby authorized to agree on behalf of the United States to pay to the Association four annual installments of $375,000,000 each as the United States contribution to the Fourth Replenishment of the Resources of the Association.

(b) In order to pay for the United States contribution, there is hereby authorized to be appropriated without fiscal year limitation four annual installments of $375,000,000 each for payment by the Secretary of the Treasury.

(Pub. L. 86–565, §14, as added Pub. L. 93–373, §1, Aug. 14, 1974, 88 Stat. 445.)

§284m. Repealed. Pub. L. 95–118, title VII, §702, Oct. 3, 1977, 91 Stat. 1070

Section, Pub. L. 86–565, §15, as added Pub. L. 93–373, §3, Aug. 14, 1974, 88 Stat. 445, set forth provisions relating to United States participation in loans by the International Development Association to any country developing any nuclear explosive device. See section 262d of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 3, 1977, see section 1001 of Pub. L. 95–118, set out as an Effective Date note under section 282i of this title.

§284n. Fifth replenishment; authorization of appropriations

(a) The United States Governor is authorized to agree on behalf of the United States to pay to the Association $2,400,000,000 as the United States contribution to the fifth replenishment of the

Resources of the Association: *Provided, however*, That any commitment to make such contributions shall be made subject to obtaining the necessary appropriations.

(b) In order to pay for the United States contribution provided for in this section, there are authorized to be appropriated, without fiscal year limitation, $2,400,000,000 for payment by the Secretary of the Treasury.

(Pub. L. 86–565, §16, as added Pub. L. 95–118, title IV, §401, Oct. 3, 1977, 91 Stat. 1068.)

EFFECTIVE DATE

Section effective Oct. 3, 1977, except that no funds authorized to be appropriated by this section may be available for use or obligation prior to Oct. 1, 1977, see section 1001 of Pub. L. 95–118, set out as a note under section 282i of this title.

§284*o*. Sixth replenishment; authorization of appropriations

(a) The United States Governor is authorized to agree on behalf of the United States to pay to the Association $3,240,000,000 as the United States contribution to the sixth replenishment of the resources of the Association: *Provided, however*, That any commitment to make such contributions shall be made subject to obtaining the necessary appropriations.

(b) In order to pay for the United States contributions provided for in this section, there is authorized to be appropriated, without fiscal year limitation, $3,240,000,000 for payment by the Secretary of the Treasury: *Provided, however*, That not more than $850,000,000 of such sum may be made available for the fiscal year 1982 and not more than $945,000,000 of such sum may be made available for the fiscal year 1983.

(Pub. L. 86–565, §17, as added Pub. L. 97–35, title XIII, §1321, Aug. 13, 1981, 95 Stat. 740.)

EFFECTIVE DATE

Section effective Aug. 13, 1981, see section 1372 of Pub. L. 97–35, set out as a note under section 290i of this title.

§284p. Seventh replenishment; authorization of appropriations

(a) The United States Governor is hereby authorized to agree on behalf of the United States to pay to the Association $2,250,000,000 as the United States contribution to the seventh replenishment of the resources of the Association, except that any commitment to make such contributions shall be made subject to obtaining the necessary appropriations.

(b) In order to pay for the United States contribution provided for in subsection (a), there are authorized to be appropriated, without fiscal year limitation, $2,250,000,000 for payment by the Secretary of the Treasury.

(Pub. L. 86–565, §18, as added Pub. L. 98–473, title I, §101(1) [title I], Oct. 12, 1984, 98 Stat. 1884, 1885.)

CODIFICATION

Section 18 of Pub. L. 86–565 is based on section 901 of S. 2582, Ninety-eighth Congress, as reported Apr. 18, 1984, and enacted into law by Pub. L. 98–473.

CREDITS AVAILABLE TO SUB-SAHARAN AFRICA

Pub. L. 98–473, title I, §101(1) [title I], Oct. 12, 1984, 98 Stat. 1884, 1885, provided: "That the Secretary of the Treasury shall instruct the United States Executive Director to undertake negotiations to ensure, to the maximum extent possible consistent with the effective use of resources, that the amount of development credits made available to sub-Saharan Africa through the seventh replenishment shall equal or exceed the amount of development credits made available to sub-Saharan Africa through the sixth replenishment."

§284q. Special Facility for Sub-Saharan Africa

(a) The Secretary of the Treasury shall pay to the Special Facility for Sub-Saharan Africa, administered by the Association, amounts appropriated pursuant to subsection (b).

(b) For purposes of the United States contribution provided for in subsection (a), there are authorized to be appropriated, without fiscal year limitation, $225,000,000.

(Pub. L. 86–565, §19, as added Pub. L. 99–190, §101(i) [title I, (a)], Dec. 19, 1985, 99 Stat. 1291, 1294.)

CODIFICATION

Section 19 of Pub. L. 86–565 is based on section 102 of title I of H.R. 2253, Ninety-ninth Congress, as reported May 15, 1985, and enacted into law by Pub. L. 99–190.

CONGRESSIONAL FINDINGS

Section 101 of title I of H.R. 2253, as enacted into permanent law by Pub. L. 99–190, §101(i) [title I], Dec. 19, 1985, 99 Stat. 1291, 1294, provided that: "The Congress hereby finds that—

"(1) Sub-Saharan Africa faces a virtually unprecedented condition of human misery which threatens the lives of one hundred and fifty million people;

"(2) only the combined effort of both the African nations themselves and international aid donors can overcome the obstacles to economic development which have given rise to conditions of famine, declining food production, infant mortality, desertification, and deteriorating infrastructure;

"(3) international relief efforts have helped to address the immediate crisis of starvation in Africa and the United States has made important contributions to this effort both bilaterally and through contributions to the multilateral development institutions;

"(4) there is a serious shortfall in the external capital resources necessary to support the policy reform efforts of the African governments and to achieve the long-term development necessary to avert a chronic state of crisis in Sub-Saharan Africa;

"(5) the Special Facility for Sub-Saharan Africa will have as its primary goal the implementation of policy reforms to help the African countries to help themselves;

"(6) to succeed, these efforts must be reinforced by development resources;

"(7) the appalling conditions prevalent in the countries of Sub-Saharan Africa underscore the need for the United States to participate in a coordinated framework with the other aid donor countries; and

"(8) the Special Facility for Sub-Saharan Africa provides such a framework and it is in the humanitarian, economic, and strategic interests of the United States to participate."

§284r. Eighth replenishment; authorization of appropriations

(a) The United States Governor is hereby authorized to agree on behalf of the United States to pay to the Association $2,875,000,000 to the eighth replenishment of the resources of the Association, except that any commitment to make such contributions shall be made subject to obtaining the necessary appropriations.

(b) In order to pay for the United States contribution provided for in subsection (a), there are authorized to be appropriated, without fiscal year limitation, $2,875,000,000 for payment by the Secretary of the Treasury.

(Pub. L. 86–565, §20, as added Pub. L. 100–202, §101(e) [title I], Dec. 22, 1987, 101 Stat. 1329–131, 1329–134.)

CODIFICATION

Section 20 of Pub. L. 86–565 is based on section 101 of title I of H.R. 3750, One Hundredth Congress, as introduced Dec. 11, 1987, and enacted into law by Pub. L. 100–202.

§284s. Ninth replenishment

(a) In general

The United States Governor is hereby authorized to agree on behalf of the United States to pay to

the Association $3,180,000,000 to the ninth replenishment of the resources of the Association, subject to obtaining the necessary appropriations.

(b) Limitations on authorization of appropriations

In order to pay for the United States contribution provided for in subsection (a), there are authorized to be appropriated, without fiscal year limitation, $3,180,000,000 for payment by the Secretary of the Treasury.

(Pub. L. 86–565, §21, as added Pub. L. 101–513, title V, §562(a)(1), Nov. 5, 1990, 104 Stat. 2032.)

SUBSEQUENT REPLENISHMENTS

Pub. L. 106–113, div. B, §1000(a)(2) [title V, §594], Nov. 29, 1999, 113 Stat. 1535, 1501A–122, provided in part that the Secretary of the Treasury may contribute on behalf of the United States to the twelfth replenishment of the International Development Association, and authorized $2,410,000,000 to be appropriated without fiscal year limitation.

Pub. L. 105–118, title V, §560(a), Nov. 26, 1997, 111 Stat. 2425, provided in part that the Secretary of the Treasury may contribute on behalf of the United States to the eleventh replenishment of the resources of the International Development Association, subject to obtaining the necessary appropriations, and authorized $1,600,000,000 to be appropriated without fiscal year limitation.

Pub. L. 103–87, title V, §526, Sept. 30, 1993, 107 Stat. 952, provided in part that the Secretary of the Treasury is authorized to agree on behalf of the United States to participate in the tenth replenishment of the resources of the International Development Association, subject to obtaining the necessary appropriations, and pursuant to the tenth replenishment authorized $2,500,000,000 to be appropriated.

§284t. Thirteenth replenishment

(a) Contribution authority

(1) In general

The United States Governor of the Association may contribute on behalf of the United States an amount equal to the amount appropriated under subsection (b), pursuant to the resolution of the Association entitled "Additions to IDA Resources: Thirteenth Replenishment".

(2) Subject to appropriations

Any commitment to make the contribution authorized by paragraph (1) shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts.

(b) Limitations on authorization of appropriations

For the contribution authorized by subsection (a), there are authorized to be appropriated such sums as may be necessary for payment by the Secretary of the Treasury, without fiscal year limitation.

(Pub. L. 86–565, §22, as added Pub. L. 108–199, div. D, title V, §580, Jan. 23, 2004, 118 Stat. 202.)

§284u. Fourteenth replenishment

(a) The United States Governor of the International Development Association is authorized to contribute on behalf of the United States $2,850,000,000 to the fourteenth replenishment of the resources of the Association, subject to obtaining the necessary appropriations.

(b) In order to pay for the United States contribution provided for in subsection (a), there are authorized to be appropriated, without fiscal year limitation, $2,850,000,000 for payment by the Secretary of the Treasury.

(Pub. L. 86–565, §23, as added Pub. L. 109–102, title V, §599C(a), Nov. 14, 2005, 119 Stat. 2242.)

§284v. Fifteenth replenishment

(a) The United States Governor of the International Development Association is authorized to contribute on behalf of the United States $3,705,000,000 to the fifteenth replenishment of the resources of the Association, subject to obtaining the necessary appropriations.

(b) In order to pay for the United States contribution provided for in subsection (a), there are authorized to be appropriated, without fiscal year limitation, $3,705,000,000 for payment by the Secretary of the Treasury.

(Pub. L. 86–565, §24, as added Pub. L. 111–32, title XI, §1109(a), June 24, 2009, 123 Stat. 1901.)

§284w. Multilateral debt relief

(a) Authorization of contribution

The Secretary of the Treasury is authorized to contribute, on behalf of the United States, not more than $356,000,000 to the International Development Association for the purpose of funding debt relief under the Multilateral Debt Relief Initiative in the period governed by the fifteenth replenishment of resources of the International Development Association, subject to obtaining the necessary appropriations and without prejudice to any funding arrangements in existence on June 24, 2009.

(b) Appropriations

In order to pay for the United States contribution provided for in subsection (a), there are authorized to be appropriated, without fiscal year limitation, not more than $356,000,000 for payment by the Secretary of the Treasury.

(c) Multilateral Debt Relief Initiative

In this section, the term "Multilateral Debt Relief Initiative" means the proposal set out in the G8 Finance Ministers' Communique entitled "Conclusions on Development," done at London, June 11, 2005, and reaffirmed by G8 Heads of State at the Gleneagles Summit on July 8, 2005.

(Pub. L. 86–565, §25, as added Pub. L. 111–32, title XI, §1109(a), June 24, 2009, 123 Stat. 1901.)

§284x. Sixteenth replenishment

(a) The United States Governor of the International Development Association is authorized to contribute on behalf of the United States $4,075,500,000 to the sixteenth replenishment of the resources of the Association, subject to obtaining the necessary appropriations.

(b) In order to pay for the United States contribution provided for in subsection (a), there are authorized to be appropriated, without fiscal year limitation, $4,075,500,000 for payment by the Secretary of the Treasury.

(Pub. L. 86–565, §26, as added Pub. L. 112–74, div. I, title VII, §7083(a), Dec. 23, 2011, 125 Stat. 1262.)

§284y. Multilateral debt relief

(a) Authorization of contribution

The Secretary of the Treasury is authorized to contribute, on behalf of the United States, not more than $474,000,000 to the International Development Association for the purpose of funding debt relief cost under the Multilateral Debt Relief Initiative incurred in the period governed by the sixteenth replenishment of resources of the International Development Association, subject to obtaining the necessary appropriations and without prejudice to any funding arrangements in existence on December 23, 2011.

(b) Appropriations

In order to pay for the United States contribution provided for in subsection (a), there are authorized to be appropriated, without fiscal year limitation, not more than $474,000,000 for payment by the Secretary of the Treasury.

(c) Multilateral Debt Relief Initiative

In this section, the term "Multilateral Debt Relief Initiative" means the proposal set out in the G8 Finance Ministers' Communiqué entitled "Conclusions on Development", done at London, June 11, 2005, and reaffirmed by G8 Heads of State at the Gleneagles Summit on July 8, 2005.

(Pub. L. 86–565, §27, as added Pub. L. 112–74, div. I, title VII, §7083(a), Dec. 23, 2011, 125 Stat. 1262.)

§284z. Seventeenth replenishment

(a) The United States Governor of the International Development Association is authorized to contribute on behalf of the United States $3,871,800,000 to the seventeenth replenishment of the resources of the Association, subject to obtaining the necessary appropriations.

(b) In order to pay for the United States contribution provided for in subsection (a), there are authorized to be appropriated, without fiscal year limitation, $3,871,800,000 for payment by the Secretary of the Treasury.

(Pub. L. 86–565, §28, as added Pub. L. 113–235, div. J, title VII, §7083(b), Dec. 16, 2014, 128 Stat. 2684.)

§284aa. Multilateral debt relief

(a) The Secretary of the Treasury is authorized to contribute, on behalf of the United States, not more than $565,020,000 to the International Development Association for the purpose of funding debt relief costs under the Multilateral Debt Relief Initiative incurred in the period governed by the seventeenth replenishment of resources of the International Development Association, subject to obtaining the necessary appropriations and without prejudice to any funding arrangements in existence on December 16, 2014.

(b) In order to pay for the United States contribution provided for in subsection (a), there are authorized to be appropriated, without fiscal year limitation, not more than $565,020,000 for payment by the Secretary of the Treasury.

(c) In this section, the term "Multilateral Debt Relief Initiative" means the proposal set out in the G8 Finance Ministers' Communique entitled "Conclusions on Development," done at London, June 11, 2005, and reaffirmed by G8 Heads of State at the Gleneagles Summit on July 8, 2005.

(Pub. L. 86–565, §29, as added Pub. L. 113–235, div. J, title VII, §7083(b), Dec. 16, 2014, 128 Stat. 2684.)

SUBCHAPTER XIV—ASIAN DEVELOPMENT BANK

§285. Acceptance of membership by United States in Asian Development Bank

The President is hereby authorized to accept membership for the United States in the Asian Development Bank (hereinafter referred to as the "Bank") provided for by the agreement establishing the Bank (hereinafter referred to as the "agreement") deposited in the archives of the United Nations.

(Pub. L. 89–369, §2, Mar. 16, 1966, 80 Stat. 71.)

SHORT TITLE

Pub. L. 89–369, §1, Mar. 16, 1966, 80 Stat. 71, provided: "That this Act [enacting this subchapter and amending section 24 of Title 12, Banks and Banking] may be cited as the 'Asian Development Bank Act'."

PAR VALUE MODIFICATION

For Congressional direction that the Secretary of the Treasury maintain the value in terms of gold of the Asian Development Bank's holdings of United States dollars following the establishment of a par value of the dollar at $38 for a fine troy ounce of gold pursuant to the Par Value Modification Act and for the authorization of the appropriations necessary to provide such maintenance of value, see section 5152 of Title 31, Money and Finance.

§285a. Appointment of Governor, Alternate Governor and Director; compensation

(a) The President shall appoint—

(1) a Governor of the Bank and an alternate for the Governor—

(A) by and with the advice and consent of the Senate; or

(B) from among individuals serving as officials required by law to be appointed by and with the advice and consent of the Senate; and

(2) a Director of the Bank, by and with the advice and consent of the Senate.

(b) No person shall be entitled to receive any salary or other compensation from the United States for services as a Governor or Alternate Governor. The Director may, in the discretion of the President, receive such compensation, allowances, and other benefits as, together with those received by him from the Bank, will equal those authorized for a chief of mission under the Foreign Service Act of 1980 [22 U.S.C. 3901 et seq.].

(Pub. L. 89–369, §3, Mar. 16, 1966, 80 Stat. 71; Pub. L. 96–465, title II, §2206(a)(1), Oct. 17, 1980, 94 Stat. 2160; Pub. L. 112–166, §2(aa), Aug. 10, 2012, 126 Stat. 1289.)

REFERENCES IN TEXT

The Foreign Service Act of 1980, referred to in subsec. (b), is Pub. L. 96–465, Oct. 17, 1980, 94 Stat. 2071, as amended, which is classified principally to chapter 52 (§3901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3901 of this title and Tables.

AMENDMENTS

2012—Subsec. (a). Pub. L. 112–166 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "The President, by and with the advice and consent of the Senate, shall appoint a Governor of the Bank, an alternate for the Governor, and a Director of the Bank."

1980—Subsec. (b). Pub. L. 96–465 substituted "a chief of mission under the Foreign Service Act of 1980" for "a Chief of Mission, class 2, within the meaning of the Foreign Service Act of 1946, as amended".

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–166 effective 60 days after Aug. 10, 2012, and applicable to appointments made on and after that effective date, including any nomination pending in the Senate on that date, see section 6(a) of Pub. L. 112–166, set out as a note under section 113 of Title 6, Domestic Security.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–465 effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

§285b. Coordination of policies and operations

The policies and operations of the representatives of the United States on the Bank shall be coordinated with other United States policies in such manner as the President shall direct.

(Pub. L. 89–369, §4, Mar. 16, 1966, 80 Stat. 71; Pub. L. 101–240, title V, §541(d)(2), (f)(3), Dec. 19,

1989, 103 Stat. 2518, 2519.)

AMENDMENTS

1989—Pub. L. 101–240 struck out subsec. (a) designation and struck out subsec. (b) which read as follows: "An annual report with respect to United States participation in the Bank shall be submitted to the Congress by such agency or officer as the President shall designate."

§285c. Congressional authorization needed for certain actions

Unless the Congress by law authorizes such action, neither the President nor any person or agency shall, on behalf of the United States, (a) subscribe to additional shares of stock of the Bank; (b) vote for or agree to any amendment of the agreement which increases the obligations of the United States, or which would change the purpose or functions of the Bank; or (c) make a loan or provide other financing to the Bank, except that funds for technical assistance note to exceed $1,000,000 in any one year may be provided to the Bank by a United States agency created pursuant to an Act of Congress which is authorized by law to provide funds to international organizations.

(Pub. L. 89–369, §5, Mar. 16, 1966, 80 Stat. 72.)

SUBSEQUENT REPLENISHMENTS

Pub. L. 105–118, title V, §560(a), Nov. 26, 1997, 111 Stat. 2425, provided in part that the Secretary of the Treasury may contribute on behalf of the United States to the sixth replenishment of the resources of the Asian Development Fund, subject to obtaining the necessary appropriations, and authorized $400,000,000 to be appropriated without fiscal year limitation.

Pub. L. 103–87, title V, §526, Sept. 30, 1993, 107 Stat. 952, provided in part that the Secretary of the Treasury is authorized to agree on behalf of the United States to participate in the fifth replenishment of the Asian Development Fund, subject to obtaining the necessary appropriations.

§285d. Federal Reserve banks as depositories

Any Federal Reserve bank which is requested to do so by the Bank shall act as its depository or as its fiscal agent, and the Board of Governors of the Federal Reserve System shall supervise and direct the carrying out of these functions by the Federal Reserve banks.

(Pub. L. 89–369, §6, Mar. 16, 1966, 80 Stat. 72.)

§285e. Authorization of appropriations; income covered into Treasury

(a) There is hereby authorized to be appropriated, without fiscal year limitation, for the purchase of twenty thousand shares of capital stock of the Bank, $200,000,000.

(b) Any payment made to the United States by the Bank as a distribution of net income shall be covered into the Treasury as a miscellaneous receipt.

(Pub. L. 89–369, §7, Mar. 16, 1966, 80 Stat. 72.)

§285f. Jurisdiction and venue of actions

For the purpose of any civil action which may be brought within the United States, its territories or possessions, or the Commonwealth of Puerto Rico, by or against the Bank in accordance with the agreement, the Bank shall be deemed to be an inhabitant of the Federal judicial district in which its principal office or agency in the United States is located, and any such action to which the Bank shall be a party shall be deemed to arise under the laws of the United States, and the district courts of the United States, including the courts enumerated in section 460 of title 28, shall have original

jurisdiction of any such action. When the Bank is a defendant in any action in a State court, it may, at any time before the trial thereof, remove such action into the district court of the United States for the proper district by following the procedure for removal of causes otherwise provided by law.

(Pub. L. 89–369, §8, Mar. 16, 1966, 80 Stat. 72.)

§285g. Status, immunities, and privileges

The agreement, and particularly articles 49 through 56, shall have full force and effect in the United States, its territories and possessions, and the Commonwealth of Puerto Rico, upon acceptance of membership by the United States in, and the establishment of, the Bank. The President, at the time of deposit of the instrument of acceptance of membership by the United States in the Bank, shall also deposit a declaration that the United States retains for itself and its political subdivisions the right to tax salaries and emoluments paid by the Bank to its citizens or nationals.

(Pub. L. 89–369, §9, Mar. 16, 1966, 80 Stat. 72.)

§285h. Securities issued by Bank as exempt securities; suspension of exemption provisions; reports to and of Securities and Exchange Commission

(a) Any securities issued by the Bank (including any guarantee by the Bank, whether or not limited in scope) in connection with raising of funds for inclusion in the Bank's ordinary capital resources as defined in article 7 of the agreement and any securities guaranteed by the Bank as to both principal and interest to which the commitment in article 6, section 5, of the agreement is expressly applicable, shall be deemed to be exempted securities within the meaning of subsection (a)(2) of section 77c of title 15, and subsection (a)(12) of section 78c of title 15. The Bank shall file with the Securities and Exchange Commission such annual and other reports with regard to such securities as the Commission shall determine to be appropriate in view of the special character of the Bank and its operations and necessary in the public interest or for the protection of investors.

(b) The Securities and Exchange Commission, acting in consultation with such agency or officer as the President shall designate, is authorized to suspend the provisions of subsection (a) at any time as to any or all securities issued or guaranteed by the Bank during the period of such suspension. The Commission shall include in its annual reports to Congress such information as it shall deem advisable with regard to the operations and effect of this section and in connection therewith shall include any views submitted for such purpose by any association of dealers registered with the Commission.

(Pub. L. 89–369, §11, Mar. 16, 1966, 80 Stat. 73.)

§285i. Authorization for payment of United States contribution; United States Special Resources

(a) Subject to the provisions of this subchapter, the United States Governor of the Bank is authorized to enter into an agreement with the Bank providing for a United States contribution of $100,000,000 to the Bank in two annual installments of $60,000,000 and $40,000,000, beginning in fiscal year 1972. This contribution is referred to hereinafter in this subchapter as the "United States Special Resources".

(b) The United States Special Resources shall be made available to the Bank pursuant to the provisions of this subchapter and article 19 of the Articles of Agreement of the Bank, and in a manner consistent with the Bank's Special Funds Rules and Regulations.

(Pub. L. 89–369, §12, as added Pub. L. 92–245, §1, Mar. 10, 1972, 86 Stat. 57.)

§285j. United States Special Resources

(a) Development projects and programs

The United States Special Resources shall be used to finance specific high priority development projects and programs in developing member countries of the Bank with emphasis on such projects and programs in the Southeast Asia region.

(b) Authorized uses

The United States Special Resources shall be used by the Bank only for—

(1) making development loans on terms which may be more flexible and bear less heavily on the balance of payments than those established by the Bank for its ordinary operations; and

(2) providing technical assistance credits on a reimbursable basis.

(c) Eligible goods and services

(1) The United States Special Resources may be expended by the Bank only for procurement in the United States of goods produced in, or services supplied from the United States, except that the United States Governor, in consultation with the National Advisory Council on International Monetary and Financial Policies, may allow eligibility for procurement in other member countries from the United States Special Resources if he determines that such procurement eligibility would materially improve the ability of the Bank to carry out the objectives of its special funds resources and would be compatible with the international financial position of the United States.

(2) The United States Special Resources may be used to pay for administrative expenses arising from the use of the United States Special Resources, but only to the extent such expenses are not covered from the Bank's service fee or income from use of United States Special Resources.

(d) Repayment in dollars

All financing of programs and projects by the Bank from the United States Special Resources shall be repayable to the Bank by the borrowers in United States dollars.

(Pub. L. 89–369, §13, as added Pub. L. 92–245, §1, Mar. 10, 1972, 86 Stat. 57.)

DELEGATION OF FUNCTIONS

Functions of National Advisory Council on International Monetary and Financial Problems delegated to National Advisory Council on International Monetary and Financial Policies, see section 2(a) of Ex. Ord. No. 11269, Feb. 14, 1966, 31 F.R. 2813, set out as a note under section 286b of this title.

§285k. Utilization of United States Special Resources

(a) The letters of credit provided for in section 285l of this title shall be issued to the Bank only to the extent that at the time of issuance the cumulative amount of the United States Special Resources provided to the Bank (A) constitute a minority of all special funds contributions to the Bank, and (B) are no greater than the largest cumulative contribution of any other single country contributing to the special funds of the Bank.

(b) The United States Governor of the Bank shall give due regard to the principles of (A) utilizing all special funds resources on an equitable basis, and (B) significantly shared participation by other contributors in each special fund to which United States Special Resources are provided.

(Pub. L. 89–369, §14, as added Pub. L. 92–245, §1, Mar. 10, 1972, 86 Stat. 58.)

§285*l*. Letter of credit form for United States Special Resources

The United States Special Resources will be provided to the Bank in the form of a nonnegotiable, noninterest-bearing, letter of credit which shall be payable to the Bank at par value on demand to meet the cost of eligible goods and services, and administrative costs authorized pursuant to section 285j(c) of this title.

(Pub. L. 89–369, §15, as added Pub. L. 92–245, §1, Mar. 10, 1972, 86 Stat. 58.)

§285m. Withdrawal rights covering United States Special Resources

The United States shall have the right to withdraw all or part of the United States Special Resources and any accrued resources derived therefrom under the procedures provided for in section 8.03 of the Special Funds Rules and Regulations of the Bank.

(Pub. L. 89–369, §16, as added Pub. L. 92–245, §1, Mar. 10, 1972, 86 Stat. 58.)

§285n. Authorization of appropriations to provide United States Special Resources

For the purpose of providing United States Special Resources to the Bank there is hereby authorized to be appropriated $100,000,000, all of which shall remain available until expended.

(Pub. L. 89–369, §17, as added Pub. L. 92–245, §1, Mar. 10, 1972, 86 Stat. 58; amended Pub. L. 93–189, §28, Dec. 17, 1973, 87 Stat. 732.)

AMENDMENTS

1973—Pub. L. 93–189 substituted "$100,000,000" for "$60,000,000 for the fiscal year 1972 and $40,000,000 for the fiscal year 1973".

§285*o*. Expropriation of United States property; loan restrictions

The President shall instruct the United States Executive Director of the Asian Development Bank to vote against any loan or other utilization of the funds of the Bank for the benefit of any country which has—

(1) nationalized or expropriated or seized ownership or control of property owned by any United States citizen or by any corporation, partnership, or association not less than 50 per centum of which is beneficially owned by United States citizens;

(2) taken steps to repudiate or nullify existing contracts or agreements with any United States citizen or any corporation, partnership, or association not less than 50 per centum of which is beneficially owned by United States citizens; or

(3) imposed or enforced discriminatory taxes or other exaction, or restrictive maintenance or operational conditions, or has taken other actions, which have the effect of nationalizing, expropriating, or otherwise seizing ownership or control of property so owned;

unless the President determines that (A) an arrangement for prompt, adequate, and effective compensation has been made, (B) the parties have submitted the dispute to arbitration under the rules of the Convention for the Settlement of Investment Disputes, or (C) good faith negotiations are in progress aimed at providing prompt, adequate, and effective compensation under the applicable principles of international law.

(Pub. L. 89–369, §18, as added Pub. L. 92–245, §1, Mar. 10, 1972, 86 Stat. 58.)

§285p. Illegal drug traffic; loan restrictions

The Secretary of the Treasury shall instruct the United States Executive Director of the Asian Development Bank to vote against any loan or other utilization of the funds of the Bank for the benefit of any country with respect to which the President has made a determination, and so notified the Secretary of the Treasury, that the government of such country has failed to take adequate steps to prevent narcotic drugs and other controlled substances (as defined by the Comprehensive Drug Abuse Prevention and Control Act of 1970 [21 U.S.C. 801 et seq.]) produced or processed, in whole

or in part, in such country, or transported through such country, from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents, or from entering the United States unlawfully. Such instruction shall continue in effect until the President determines, and so notifies the Secretary of the Treasury, that the government of such country has taken adequate steps to prevent such sale or entry of narcotic drugs and other controlled substances.

(Pub. L. 89–369, §19, as added Pub. L. 92–245, §2, Mar. 10, 1972, 86 Stat. 58.)

REFERENCES IN TEXT

The Comprehensive Drug Abuse Prevention and Control Act of 1970, referred to in text, is Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1236, as amended, which is classified principally to chapter 13 (§801 et seq.) of Title 21, Food and Drugs. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 21 and Tables.

§285q. Subscription to additional shares; authorization of appropriations

(a) The United States Governor of the Bank is authorized to subscribe on behalf of the United States to thirty thousand additional shares of the capital stock of the Bank in accordance with and subject to the terms and conditions of Resolution Numbered 46 adopted by the Bank's Board of Governors on November 30, 1971.

(b) In order to pay for the increase in the United States subscription to the Bank provided for in this section, there is hereby authorized to be appropriated without fiscal year limitation $361,904,726 for payment by the Secretary of the Treasury.

(Pub. L. 89–369, §20, as added Pub. L. 93–537, Dec. 22, 1974, 88 Stat. 1735.)

§285r. Contribution to special funds; authorization of appropriations

(a) The United States Governor of the Bank is hereby authorized to agree to contribute on behalf of the United States $50,000,000 to the special funds of the Bank. This contribution shall be made available to the Bank pursuant to the provisions of article 19 of the articles of agreement of the Bank.

(b) In order to pay for the United States contribution to the special funds, there is hereby authorized to be appropriated without fiscal year limitation $50,000,000 for payment by the Secretary of the Treasury.

(Pub. L. 89–369, §21, as added Pub. L. 93–537, Dec. 22, 1974, 88 Stat. 1735.)

§285s. Additional subscription to shares; authorization of appropriations

(a) The United States Governor of the Bank is authorized to subscribe on behalf of the United States to sixty-seven thousand and five hundred additional shares of the capital stock of the Bank: *Provided, however*, That any subscription to additional shares shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts.

(b) In order to pay for the increase in the United States subscription to the Bank provided for in this section, there are authorized to be appropriated without fiscal year limitation $814,286,250 for payment by the Secretary of the Treasury.

(Pub. L. 89–369, §22, as added Pub. L. 95–118, title V, §501, Oct. 3, 1977, 91 Stat. 1068; amended Pub. L. 97–35, title XIII, §1353, Aug. 13, 1981, 95 Stat. 745.)

AMENDMENTS

1981—Subsec. (a). Pub. L. 97–35 substituted "effective only to such extent or in such amounts as are provided in advance in appropriation Acts" for "made only after the amount required for such subscription has been appropriated".

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Aug. 13, 1981, except that any funds authorized to be appropriated shall not be available for use or obligation prior to Oct. 1, 1981, see section 1372 of Pub. L. 97–35, set out as an Effective Date note under section 290i of this title.

EFFECTIVE DATE

Section effective Oct. 3, 1977, except that no funds authorized to be appropriated by this section may be available for use or obligation prior to Oct. 1, 1977, see section 1001 of Pub. L. 95–118, set out as a note under section 282i of this title.

§285t. Additional contribution to special funds; authorization of appropriations

(a) The United States Governor of the Bank is authorized to contribute on behalf of the United States $180,000,000 to the Asian Development Fund, a special fund of the Bank: *Provided, however*, That any commitment to make such contribution shall be made subject to obtaining the necessary appropriations.

(b) In order to pay for the United States contribution to the Asian Development Fund provided for in this section, there are authorized to be appropriated without fiscal year limitation $180,000,000 for payment by the Secretary of the Treasury: *Provided, however*, That not more than $14,116,177 may be made available for such contribution for the fiscal year 1982.

(Pub. L. 89–369, §23, as added Pub. L. 95–118, title V, §501, Oct. 3, 1977, 91 Stat. 1069; amended Pub. L. 97–35, title XIII, §1352(c), Aug. 13, 1981, 95 Stat. 745.)

AMENDMENTS

1981—Subsec. (b). Pub. L. 97–35 inserted provision limiting amount of appropriations available for contributions for fiscal year 1982.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Aug. 13, 1981, except that any funds authorized to be appropriated shall not be available for use or obligation prior to Oct. 1, 1981, see section 1372 of Pub. L. 97–35, set out as an Effective Date note under section 290i of this title.

EFFECTIVE DATE

Section effective Oct. 3, 1977, except that no funds authorized to be appropriated by this section may be available for use or obligation prior to Oct. 1, 1977, see section 1001 of Pub. L. 95–118, set out as a note under section 282i of this title.

§285u. Additional contribution to special funds

(a) United States share

The United States Governor of the Bank is authorized to contribute on behalf of the United States $378,250,000 to the Asian Development Fund, a special fund of the Bank, except that any commitment to make such contribution shall be made subject to obtaining the necessary appropriations.

(b) Authorization of appropriations; maximum available for certain years

In order to pay for the United States contribution to the Asian Development Fund provided for in this section, there are authorized to be appropriated, without fiscal year limitation, $378,250,000 for payment by the Secretary of the Treasury: *Provided, however*, That not more than $111,250,000 of such sum may be made available for the fiscal year 1982, and not more than $44,500,000 of such sum may be made available for the fiscal year 1983.

(c) Funding requirements

For the purpose of keeping to a minimum the cost to the United States, the Secretary of the Treasury—

(1) shall pay the United States contribution to the Asian Development Fund authorized by this

section by letter of credit in four annual installments; and

(2) shall take the steps necessary to obtain a certification from the Bank that any undisbursed balances resulting from drawdowns on such letter of credit will not exceed at any time the United States share of expected disbursement requirements for the following three-month period.

(Pub. L. 89–369, §24, as added Pub. L. 96–259, title II, §201, June 3, 1980, 94 Stat. 430; amended Pub. L. 97–35, title XIII, §1352(b), Aug. 13, 1981, 95 Stat. 744.)

AMENDMENTS

1981—Subsec. (b). Pub. L. 97–35 inserted provision limiting amount of appropriations for fiscal years 1982 and 1983.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Aug. 13, 1981, except that any funds authorized to be appropriated shall not be available for use or obligation prior to Oct. 1, 1981, see section 1372 of Pub. L. 97–35, set out as an Effective Date note under section 290i of this title.

§285v. Sense of Congress respecting membership of Taiwan in Bank

It is the sense of the Congress that it is the policy of the United States that Taiwan (before January 1, 1979, known as the Republic of China) shall be permitted to retain membership in the Asian Development Bank and that the United States Executive Director of the Bank shall notify the Bank that a serious review of future United States participation, including any future payments to the Asian Development Fund, would ensue if Taiwan were expelled from the Bank.

(Pub. L. 89–369, §25, as added Pub. L. 96–259, title II, §201, June 3, 1980, 94 Stat. 430.)

§285w. Contribution to Asian Development Fund; authorization of appropriations

(a) The United States Governor of the Bank is authorized to contribute on behalf of the United States $66,750,000 to the Asian Development Fund, a special fund of the Bank: *Provided, however*, That any commitment to make such contribution shall be made subject to obtaining the necessary appropriations.

(b) In order to pay for the United States contribution to the Asian Development Fund provided for in this section, there is authorized to be appropriated, without fiscal year limitation, $66,750,000 for payment by the Secretary of the Treasury: *Provided, however*, That no funds may be made available for such contribution for the fiscal year 1982.

(Pub. L. 89–369, §26, as added Pub. L. 97–35, title XIII, §1352(a), Aug. 13, 1981, 95 Stat. 744.)

EFFECTIVE DATE

Section effective Aug. 13, 1981, except that any funds authorized to be appropriated shall not be available for use or obligation prior to Oct. 1, 1981, see section 1372 of Pub. L. 97–35, set out as a note under section 290i of this title.

§285x. Additional subscription to shares

(a) United States share

(1) The United States Governor of the Bank is authorized to subscribe on behalf of the United States to one hundred twenty-three thousand three hundred and seventy-five additional shares of the capital stock of the Bank.

(2) Any subscription to the capital stock of the Bank shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts.

(b) Authorization of appropriations

In order to pay for the increase in the United States subscription to the Bank provided for in subsection (a), there are authorized to be appropriated, without fiscal year limitation, $1,322,999,476 for payment by the Secretary of the Treasury.

(c) Continued membership of Republic of China in Bank

(1) The Congress hereby finds that—

(A) the Republic of China (Taiwan) is a charter member in good standing of the Asian Development Bank;

(B) the Republic of China has grown from a borrower to a lender in the Asian Development Bank; and

(C) the Republic of China provides, through its economic success, a model for other nations in Asia.

(2) It is the sense of the Congress that—

(A) Taiwan, Republic of China, should remain a full member of the Asian Development Bank, and that its status within that body should remain unaltered no matter how the issue of the People's Republic of China's application for membership is disposed of;

(B) the President and the Secretary of State should express support of Taiwan, Republic of China, making it clear that the United States will not countenance attempts to expel Taiwan, Republic of China, from the Asian Development Bank; and

(C) the Secretary of the Senate and Clerk of the House shall transmit a copy of this resolution to the President with the request that he transmit such copy to the Board of Governors of the Asian Development Bank.

(Pub. L. 89–369, §27, as added Pub. L. 98–181, title I [title X, §1002], Nov. 30, 1983, 97 Stat. 1285.)

§285y. Additional contribution to special funds; authorization of appropriations

(a)(1) The United States Governor of the Bank is authorized to contribute on behalf of the United States $520,000,000 to the Asian Development Fund, a special fund of the Bank.

(2) Any commitment to make the contribution authorized in paragraph (1) shall be made subject to obtaining the necessary appropriations.

(b) In order to pay for the United States contribution to the Asian Development Fund provided for in this section, there are authorized to be appropriated, without fiscal year limitation, $520,000,000 for payment by the Secretary of the Treasury.

(Pub. L. 89–369, §28, as added Pub. L. 98–181, title I [title X, §1002], Nov. 30, 1983, 97 Stat. 1286.)

§285z. Additional contribution to special funds; authorization of appropriations

(a) The United States Governor of the Bank is authorized to contribute on behalf of the United States $584,280,000 to the Asian Development Fund, a special Fund of the Bank, except that any commitment to make such contributions shall be made subject to obtaining the necessary appropriations.

(b) In order to pay for the United States contribution provided for in subsection (a), there are authorized to be appropriated, without fiscal year limitation, $584,280,000 for payment by the Secretary of the Treasury.

(Pub. L. 89–369, §29, as added Pub. L. 100–202, §101(e) [title I], Dec. 22, 1987, 101 Stat. 1329–131, 1329–134.)

CODIFICATION

Section 29 of Pub. L. 89–369 is based on section 201 of title II of H.R. 3750, One Hundredth Congress, as introduced Dec. 11, 1987, and enacted into law by Pub. L. 100–202.

§285aa. Capital increase

(a) Subscription authorized

(1) The United States Governor of the Bank may subscribe on behalf of the United States to 35,230 additional shares of the capital stock of the Bank. (2) Any subscription by the United States to the capital stock of the Bank shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts.

(b) Limitations on authorization of appropriations

In order to pay for the increase in the United States subscription to the Bank provided for in subsection (a), there are authorized to be appropriated, without fiscal year limitation, $213,000,000 for payment by the Secretary of the Treasury.

(Pub. L. 89–369, §30, as added Pub. L. 102–145, §125(b), as added Pub. L. 102–266, §102, Apr. 1, 1992, 106 Stat. 97.)

§285bb. Additional contribution to special funds

(a) Contribution authority

(1) In general

The United States Governor of the Bank may contribute on behalf of the United States an amount equal to the amount appropriated under subsection (b), pursuant to the resolution of the Bank entitled "Seventh Replenishment of the Asian Development Fund".

(2) Subject to appropriations

Any commitment to make the contribution authorized by paragraph (1) shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts.

(b) Limitations on authorization of appropriations

For the contribution authorized by subsection (a), there are authorized to be appropriated such sums as may be necessary for payment by the Secretary of the Treasury, without fiscal year limitation.

(Pub. L. 89–369, §31, as added Pub. L. 108–199, div. D, title V, §582, Jan. 23, 2004, 118 Stat. 204.)

§285cc. Eighth replenishment

(a) The United States Governor of the Bank is authorized to contribute on behalf of the United States $461,000,000 to the eighth replenishment of the resources of the Fund, subject to obtaining the necessary appropriations.

(b) In order to pay for the United States contribution provided for in subsection (a), there are authorized to be appropriated, without fiscal year limitation, $461,000,000 for payment by the Secretary of the Treasury.

(Pub. L. 89–369, §32, as added Pub. L. 109–102, title V, §599C(c), Nov. 14, 2005, 119 Stat. 2243.)

CODIFICATION

Pub. L. 109–102, title V, §599C(c), Nov. 14, 2005, 119 Stat. 2243, which directed that this section be added at the end of "the Asian Development Fund Act, Public Law 92–245, as amended (22 U.S.C. 285 et seq.)", was executed by adding this section at the end of the Asian Development Bank Act, Pub. L. 89–369, which is classified to this subchapter, to reflect the probable intent of Congress.

§285dd. Ninth replenishment

(a) The United States Governor of the Bank is authorized to contribute, on behalf of the United States, $461,000,000 to the ninth replenishment of the resources of the Fund, subject to obtaining the necessary appropriations.

(b) In order to pay for the United States contribution provided for in subsection (a), there are authorized to be appropriated, without fiscal year limitation, $461,000,000 for payment by the Secretary of the Treasury.

(Pub. L. 89–369, §33, as added Pub. L. 112–10, div. B, title XI, §2126(e), Apr. 15, 2011, 125 Stat. 191.)

§285ee. Fifth capital increase

(a) Subscription authorized

(1) The United States Governor of the Bank may subscribe on behalf of the United States to 1,104,420 additional shares of the capital stock of the Bank.

(2) Any subscription by the United States to capital stock of the Bank shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts.

(b) Authorization of appropriations

(1) In order to pay for the increase in the United States subscription to the Bank provided for in subsection (a), there are authorized to be appropriated, without fiscal year limitation, $13,323,173,083, for payment by the Secretary of the Treasury.

(2) Of the amount authorized to be appropriated under paragraph (1)—

(A) $532,929,240 is authorized to be appropriated for paid-in shares of the Bank; and

(B) $12,790,243,843 is authorized to be appropriated for callable shares of the Bank, for payment by the Secretary of the Treasury.

(Pub. L. 89–369, §34, as added Pub. L. 112–10, div. B, title XI, §2126(e), Apr. 15, 2011, 125 Stat. 191.)

§285ff. Tenth replenishment

(a) The United States Governor of the Bank is authorized to contribute, on behalf of the United States, $359,600,000 to the tenth replenishment of the resources of the Fund, subject to obtaining the necessary appropriations.

(b) In order to pay for the United States contribution provided for in subsection (a), there are authorized to be appropriated, without fiscal year limitation, $359,600,000 for payment by the Secretary of the Treasury.

(Pub. L. 89–369, §35, as added Pub. L. 113–235, div. J, title VII, §7083(a), Dec. 16, 2014, 128 Stat. 2684.)

SUBCHAPTER XV—INTERNATIONAL MONETARY FUND AND BANK FOR RECONSTRUCTION AND DEVELOPMENT

§286. Acceptance of membership by United States in International Monetary Fund

The President is hereby authorized to accept membership for the United States in the International Monetary Fund (hereinafter referred to as the "Fund"), and in the International Bank for Reconstruction and Development (hereinafter referred to as the "Bank"), provided for by the Articles

of Agreement of the Fund and the Articles of Agreement of the Bank as set forth in the Final Act of the United Nations Monetary and Financial Conference dated July 22, 1944, and deposited in the archives of the Department of State.

(July 31, 1945, ch. 339, §2, 59 Stat. 512.)

SHORT TITLE OF 1968 AMENDMENT

Pub. L. 90–349, June 19, 1968, 82 Stat. 188 [enacting sections 286n to 286r of this title and amending sections 412, 415, 417, and 467 of Title 12, Banks and Banking], is known as the "Special Drawing Rights Act". For complete classification of this Act to the Code, see Short Title note set out under section 286n of this title and Tables.

SHORT TITLE

Act July 31, 1945, ch. 339, §1, 59 Stat. 512, provided: "This act [enacting this subchapter and amending section 822a of former Title 31, Money and Finance] may be cited as the 'Bretton Woods Agreements Act'."

PAR VALUE MODIFICATION

For Congressional direction that the Secretary of the Treasury maintain the value in terms of gold of the holdings in United States dollars of the International Monetary Fund and of the International Bank for Reconstruction and Development following the establishment of a par value of the dollar at $38 for a fine troy ounce of gold pursuant to the Par Value Modification Act and for the authorization of the appropriation necessary to provide such maintenance of value, see section 5152 of Title 31, Money and Finance.

§286a. Appointments

(a) Governors and executive directors; term of office

The President, by and with the advice and consent of the Senate, shall appoint a governor of the Fund who shall also serve as a governor of the Bank, and an executive director of the Fund and an executive director of the Bank. The executive directors so appointed shall also serve as provisional executive directors of the Fund and the Bank for the purposes of the respective Articles of Agreement. The term of office for the governor of the Fund and of the Bank shall be five years. The term of office for the executive directors shall be two years, but the executive directors shall remain in office until their successors have been appointed.

(b) Alternates; term of office

The President, by and with the advice and consent of the Senate, shall appoint an alternate for the governor of the Fund and an alternate for the governor of the Bank. The President, by and with the advice and consent of the Senate, shall appoint an alternate for each of the executive directors. The alternate for each executive director shall be appointed from among individuals recommended to the President by the executive director. The terms of office for alternates for the governor and the executive directors shall be the same as the terms specified in subsection (a) for the governor and executive directors.

(c) Governor to serve as councillor; alternates and associates

Should the provisions of Schedule D of the Articles of Agreement of the Fund apply, the Governor of the Fund shall also serve as councillor, shall designate an alternate for the councillor, and may designate associates.

(d) Compensation for services

(1) No person shall be entitled to receive any salary or other compensation from the United States for services as a Governor, executive director, councillor, alternate, or associate.

(2) The United States executive director of the Fund shall not be compensated by the Fund at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5. The United States alternate executive director of the Fund shall not be compensated by the Fund at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5.

(3) The Secretary of the Treasury shall instruct the United States executive director of the Fund to present to the Fund's Executive Board a comprehensive set of proposals, consistent with maintaining high levels of competence of Fund personnel and consistent with the Articles of Agreement, with the objective of assuring that salaries and other compensation accorded Fund employees do not exceed those received by persons filling similar levels of responsibility within national government service or private industry. The Secretary shall report these proposals together with any measures adopted by the Fund's Executive Board to the Congress prior to February 1, 1979.

(July 31, 1945, ch. 339, §3, 59 Stat. 512; Pub. L. 93–94, Aug. 15, 1973, 87 Stat. 314; Pub. L. 94–564, §2, Oct. 19, 1976, 90 Stat. 2660; Pub. L. 95–435, §2, Oct. 10, 1978, 92 Stat. 1051.)

AMENDMENTS

1978—Subsec. (d). Pub. L. 95–435 designated existing provisions as par. (1) and added pars. (2) and (3).

1976—Subsec. (c). Pub. L. 94–564, §2(1), amended subsec. (c) generally to provide that the Governor serve as councillor and designate an alternate and associates. Former provisions relating to compensation were included in subsec. (d).

Subsec. (d). Pub. L. 94–564, §2(2), added subsec. (d).

1973—Subsec. (b). Pub. L. 93–94 substituted "and an alternate for the governor of the Bank" for "who shall also serve as alternate for the governor of the Bank".

EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94–564, §9, Oct. 19, 1976, 90 Stat. 2661, provided that: "The amendments made by sections 2, 3, 4, 5, 6, and 7 of this Act [amending this section, sections 286c, 286e–2, 286o, 286q, and 286r of this title, and section 822a of former Title 31, Money and Finance] shall become effective upon the entry into force of the amendments to the Articles of Agreement of the International Monetary Fund approved in Resolution Numbered 31–4 of the Board of Governors of the Fund." Such amendments entered into force Apr. 1, 1978.

LEVELS OF FUND SALARIES AND MINIMIZATION OF TRAVEL COSTS

Pub. L. 96–389, §9, Oct. 7, 1980, 94 Stat. 1554, provided that: "The United States Executive Director to the Fund shall seek to insure (a) that Fund salaries do not exceed those levels endorsed by the Fund Bank Joint Committee on Staff Compensation Issues; and (b) that travel costs are minimized by limiting first class and supersonic travel to instances where no reasonable alternative exists."

§286b. National Advisory Council on International Monetary and Financial Problems

(a) Establishment and composition

In order to coordinate the policies and operations of the representatives of the United States on the Fund and the Bank and of all agencies of the Government which make or participate in making foreign loans or which engage in foreign financial, exchange or monetary transactions, there is hereby established the National Advisory Council on International Monetary and Financial Problems (hereinafter referred to as the "Council"), consisting of the Secretary of the Treasury, as Chairman, the Secretary of State, the Secretary of Commerce, the Chairman of the Board of Governors of the Federal Reserve System, the President of the Export-Import Bank of the United States, and during such period as the Foreign Operations Administration shall continue to exist, the Director of the Foreign Operations Administration.

(b) Duties and functions; reports by Council

(1) The Council, after consultation with the representatives of the United States on the Fund and the Bank, shall recommend to the President general policy directives for the guidance of the representatives of the United States on the Fund and the Bank.

(2) The Council shall advise and consult with the President and the representatives of the United States on the Fund and the Bank on major problems arising in the administration of the Fund and the Bank.

(3) The Council shall coordinate, by consultation or otherwise, so far as is practicable, the policies

and operations of the representatives of the United States on the Fund and the Bank, the Export-Import Bank of the United States and all other agencies of the Government to the extent that they make or participate in the making of foreign loans or engage in foreign financial, exchange or monetary transactions.

(4) Whenever, under the Articles of Agreement of the Fund or the Articles of Agreement of the Bank, the approval, consent or agreement of the United States is required before an act may be done by the respective institutions, the decision as to whether such approval, consent, or agreement, shall be given or refused shall (to the extent such decision is not prohibited by section 286c of this title) be made by the Council, under the general direction of the President. No governor, executive director, or alternate representing the United States shall vote in favor of any waiver of condition under article V, section 4, or in favor of any declaration of the United States dollar as a scarce currency under article VII, section 3, of the Articles of Agreement of the Fund, without prior approval of the Council.

(5) The Council shall make such reports and recommendations to the President as he may from time to time request, or as the Council may consider necessary to more effectively or efficiently accomplish the purposes of this subchapter or the purposes for which the Council is created.

(6) The general policy objectives for the guidance of the United States Executive Director of the Bank shall take into account the effect that development assistance loans have upon individual industry sectors and international commodity markets—

(A) to minimize projected adverse impacts; and

(B) to avoid, wherever possible, government subsidization of production and exports of international commodities without regard to economic conditions in the markets for such commodities.

(c) Reports to Council

The representatives of the United States on the Fund and the Bank, and the Export-Import Bank of the United States (and all other agencies of the Government to the extent that they make or participate in the making of foreign loans or engage in foreign financial, exchange or monetary transactions) shall keep the Council fully informed of their activities and shall provide the Council with such further information or data in their possession as the Council may deem necessary to the appropriate discharge of its responsibilities under this subchapter.

(July 31, 1945, ch. 339, §4, 59 Stat. 512; Apr. 3, 1948, ch. 169, title I, §106, 62 Stat. 141; Oct. 10, 1951, ch. 479, title V, §501(e)(2), 65 Stat. 378; 1953 Reorg. Plan No. 5, eff. June 30, 1953, 18 F.R. 3741, 67 Stat. 637; 1953 Reorg. Plan No. 7, eff. Aug. 1, 1953, 18 F.R. 4541, 67 Stat. 639; Aug. 9, 1954, ch. 660, §2, 68 Stat. 678; Pub. L. 89–126, §1(1), Aug. 14, 1965, 79 Stat. 519; Pub. L. 90–267, §1(a), Mar. 13, 1968, 82 Stat. 47; Pub. L. 98–181, title I [title VIII, §808(a)], Nov. 30, 1983, 97 Stat. 1273; Pub. L. 101–240, title V, §541(d)(1), (f)(1), Dec. 19, 1989, 103 Stat. 2518, 2519.)

AMENDMENTS

1989—Subsec. (b). Pub. L. 101–240 redesignated pars. (7) and (8) as (5) and (6), respectively, and struck out former pars. (5) and (6) which read as follows:

"(5) The Council shall transmit to the President and to the Congress an annual report with respect to the participation of the United States in the Fund and Bank.

"(6) Each such report shall contain such data concerning the operations and policies of the Fund and Bank, such recommendations concerning the Fund and Bank, and such other data and material as the Council may deem appropriate."

1983—Subsec. (b)(8). Pub. L. 98–181 added par. (8).

1965—Subsec. (b)(5). Pub. L. 89–126 substituted provisions requiring an annual report, for provisions which required the Council to report from time to time, but not less frequently than every six months.

Subsec. (b)(6). Pub. L. 89–126 struck out provisions which required special reports on operations and policies of the Fund and Bank and prescribed contents of such reports, and inserted provisions requiring the annual report to contain such data concerning the operations and policies of the Fund and Bank, such recommendations concerning the Fund and the Bank, and such other data and material as deemed appropriate.

1954—Subsec. (a). Act Aug. 9, 1954, provided membership on Council for President of the Export-Import Bank of Washington.

1951—Subsec. (a). Act Oct. 10, 1951, substituted "Mutual Security Agency" for "Economic Cooperation Administration", and "Director for Mutual Security" for "Administrator for Economic Cooperation".

1948—Subsec. (a). Act Apr. 3, 1948, ch. 169, title I, §106, 62 Stat. 141, added Administrator for Economic Cooperation, during existence of the Administration, to membership of National Advisory Council.

CHANGE OF NAME

"Export-Import Bank of Washington" changed in text to "Export-Import Bank of the United States" to conform to such change in name in the Export-Import Bank Act of 1945, section 635 et seq. of Title 12, Banks and Banking, provided for in section 1(a) of Pub. L. 90–267.

EFFECTIVE DATE OF 1954 AMENDMENT

Amendment by act Aug. 9, 1954, effective upon initial appointment of President, First Vice President, and one member of the Board of Directors of the Export-Import Bank of Washington, see section 4 of act Aug. 9, 1954, set out as a note under section 635a of Title 12, Banks and Banking.

REPEALS

Act Apr. 3, 1948, cited as a credit to this section, was repealed by act June 20, 1952, ch. 449, §7(c), 66 Stat. 144.

TRANSFER OF FUNCTIONS

National Advisory Council on International Monetary and Financial Problems abolished and its functions, together with functions of its chairman and other officers, transferred to President by sections 1(b) and 3(a) of Reorg. Plan No. 4 of 1965, eff. July 27, 1965, 30 F.R. 9353, 79 Stat. 1321, set out in the Appendix to Title 5, Government Organization and Employees.

Function of Chairman of Board of Directors of Export-Import Bank of Washington of being a member of National Advisory Council on International Monetary and Financial Problems abolished by Reorg. Plan No. 5 of 1953, eff. June 30, 1953, 18 F.R. 3741, 67 Stat. 637, set out in the Appendix to Title 5.

Foreign Operations Administration abolished by Ex. Ord. No. 10610, May 9, 1955, 20 F.R. 3179, and its functions and offices transferred to Department of State to be administered by International Cooperation Administration. For later transfer, see section 2381 of this title, and notes set out under that section.

Office of Director for Mutual Security abolished and functions of Director transferred to Director of Foreign Operations Administration by Reorg. Plan No. 7 of 1953, eff. Aug. 1, 1953, 18 F.R. 4541. Section 4 of said Reorg. Plan No. 7 of 1953, specifically provided that Director of Foreign Operations Administration shall be a member of National Advisory Council on International Monetary and Financial Problems.

EX. ORD. NO. 11269. NATIONAL ADVISORY COUNCIL ON INTERNATIONAL MONETARY AND FINANCIAL POLICIES

Ex. Ord. No. 11269, Feb. 14, 1966, 31 F.R. 2813, as amended by Ex. Ord. No. 11334, Mar. 7, 1967, 32 F.R. 3933; Ex. Ord. No. 11808, Sept. 30, 1974, 39 F.R. 35563; Ex. Ord. No. 11977, Mar. 14, 1977, 42 F.R. 14671; Ex. Ord. No. 12164, Sept. 29, 1979, 44 F.R. 56681; Ex. Ord. No. 12188, Jan. 2, 1980, 45 F.R. 989; Ex. Ord. No. 12403, Feb. 8, 1983, 48 F.R. 6087; Ex. Ord. No. 12567, Oct. 2, 1986, 51 F.R. 35495; Ex. Ord. No. 12647, Aug. 2, 1988, 53 F.R. 29323; Ex. Ord. No. 12766, June 18, 1991, 56 F.R. 28463; Ex. Ord. No. 13118, §10(9), Mar. 31, 1999, 64 F.R. 16598, provided:

By virtue of the authority vested in me by Reorganization Plan No. 4 of 1965 (30 F.R. 9353) [set out in the Appendix to Title 5, Government Organization and Employees], and as President of the United States, it is ordered as follows:

SECTION 1. *Establishment of Council.* (a) There is hereby established the National Advisory Council on International Monetary and Financial Policies, hereinafter referred to as the Council.

(b) The Council shall be composed of the following members: the Secretary of the Treasury, who shall be the chairman of the Council, the Assistant to the President for Economic Affairs, who shall be Deputy Chairman of the Council, the Secretary of State, the United States Trade Representative, the Secretary of Commerce, the Chairman of the Board of Governors of the Federal Reserve System, the Administrator of the United States Agency for International Development, and the President of the Export-Import Bank of Washington [now the Export-Import Bank of the United States].

(c) Whenever matters within the jurisdiction of the Council may be of interest to Federal agencies not represented on the Council under Section 1(b) of this order, the Chairman of the Council may consult with such agencies and may invite them to designate representatives to participate in meetings and deliberations of the Council.

SEC. 2. *Functions of the Council.* (a) Exclusive of the functions delegated by the provisions of Section 3,

below, and subject to the limitations contained in subsection (b) of this Section, all of the functions which are now vested in the President in consequence of their transfer to him effected by the provisions of Section 1(b) of Reorganization Plan No. 4 of 1965 are hereby delegated to the Council.

(b) The functions under Sections 4(a) and 4(b)(3) of the Bretton Woods Agreements Act, including those made applicable to the International Finance Corporation, the Inter-American Development Bank, and the International Development Association (22 U.S.C. 286b(a) and (b)(3); 282b; 283b; 284b), to the extent that such functions consist of coordination of policies, are hereby delegated to the Council. The functions so delegated shall be deemed to include the authority to review proposed individual loan, financial, exchange, or monetary transactions to the extent necessary or desirable to effectuate the coordination of policies.

(c) The Council shall perform with respect to the Asian Development Bank, African Development Fund,, [sic] African Development Bank, Inter-American Investment Corporation, Multilateral Investment Guarantee Agency, and European Bank for Reconstruction and Development, the same functions as those delegated to it by subsections (a) and (b) of this section with respect to other international financial institutions.

SEC. 3. *Functions of the Secretary of the Treasury*. (a) Functions which are now vested in the President in consequence of their transfer to him effected by the provisions of Section 1(b) of Reorganization Plan No. 4 of 1965 are hereby delegated to the Secretary of the Treasury to the extent of the following:

(1) Authority, subject to the provisions of Section 7 of this Order, to instruct representatives of the United States to international financial organizations.

(2) Authority provided for in Section 4(b)(4) of the Bretton Woods Agreements Act (22 U.S.C. 286b(b)(4)). Such authority, insofar as it relates to the development aspects of the policies, programs, or projects of the International Bank for Reconstruction and Development shall be exercised subject to the provisions of Section 7 of this Order.

(b) In carrying out the functions delegated to him by subsection (a) of this Section the Secretary shall consult with the Council.

(c) Nothing in this order shall be deemed to derogate from the responsibilities of the Secretary of State with respect to the foreign policy of the United States.

(d) The Secretary of the Treasury shall perform, with respect to the Asian Development Bank, African Development Fund,, [sic] African Development Bank, Inter-American Investment Corporation, Multilateral Investment Guarantee Agency, and European Bank for Reconstruction and Development, the same functions as those delegated to him by subsections (a) and (b) of this section with respect to other international financial institutions.

(e) The Secretary of the Treasury is hereby delegated the functions conferred upon the President by Section 203(b) and Section 207 of the Act of May 31, 1976 (90 Stat. 593 and 594, 22 U.S.C. 290g–1 and 290g–5), subject to the provisions of Section 7 of this Order.

SEC. 4. *Information*. (a) All agencies and officers of the Government, including representatives of the United States to international financial organizations, (1) shall keep the Council or the Secretary of the Treasury, as the case may be, fully informed concerning the foreign loan, financial, exchange, and monetary transactions in which they engage or may engage or with respect to which they have other responsibility, and (2) shall provide the Council, the Secretary of State, and the Secretary with such further information or data in their possession as the Council, the Secretary of State, or the Secretary, as the case may be, may deem necessary to the appropriate discharge of the responsibilities of the Council, the Secretary of State, and Secretary under Sections 2 and 3 of this order, respectively.

(b) The Council shall from time to time transmit to all appropriate agencies and officers of the Government statements of the policies of the Council under this order and such other information relating to the above-mentioned transactions or to the functions of the Council hereunder as the Council shall deem desirable.

SEC. 5. *Executive Order No. 10033*. Section 2(a) of Executive Order No. 10033 of February 8, 1949 [set out as a note under section 286f of this title], is hereby amended by substituting for the name "National Advisory Council on International Monetary and Financial Problems" the following: "National Advisory Council on International Monetary and Financial Policies."

SEC. 6. *Effective date*. The provisions of this order shall be effective as of January 1, 1966.

SEC. 7. *Functions of the Secretary of State*. The Secretary of State shall advise both the Secretary of the Treasury and the appropriate United States representatives to the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the Asian Development Bank, the African Development Fund,, [sic] African Development Bank, Inter-American Investment Corporation, Multilateral Investment Guarantee Agency, and European Bank for Reconstruction and Development on the development aspects of matters relating to those institutions and their activities.

§§286b–1, 286b–2. Repealed. Pub. L. 101–240, title V, §541(d)(1), (5), Dec. 19, 1989, 103 Stat. 2518

Section 286b–1, Pub. L. 91–599, ch. 3, §31, Dec. 30, 1970, 84 Stat. 1658, related to annual report to Congress of National Advisory Council on International Monetary and Financial Policies.

Section 286b–2, act July 31, 1945, ch. 339, §50, as added Nov. 30, 1983, Pub. L. 98–181, title I [title VIII, §813], 97 Stat. 1276, related to reports to Congress by National Advisory Council on International Monetary and Financial Policies and Secretary of the Treasury.

§286c. Congressional authorization needed for certain actions

Unless Congress by law authorizes such action, neither the President nor any person or agency shall on behalf of the United States (a) request or consent to any change in the quota of the United States under article III, section 2(a), of the Articles of Agreement of the Fund; (b) propose a par value for the United States dollar under paragraph 2, paragraph 4, or paragraph 10 of schedule C of the Articles of Agreement of the Fund; (c) propose any change in the par value of the United States dollar under paragraph 6 of schedule C of the Articles of Agreement of the Fund, or approve any general change in par values under paragraph 11 of schedule C; (d) subscribe to additional shares of stock under article II, section 3, of the Articles of Agreement of the Bank; (e) accept any amendment under article XXVIII of the Articles of Agreement of the Fund or Article VIII of the Articles of Agreement of the Bank; (f) make any loan to the Fund or the Bank; or (g) approve any disposition of Fund gold, unless the Secretary certifies to the Congress that such disposition is necessary for the Fund to restitute gold to its members, or for the Fund to provide liquidity that will enable the Fund to meet member country claims on the Fund or to meet threats to the systemic stability of the international financial system. Unless Congress by law authorizes such action, no governor or alternate appointed to represent the United States shall vote for an increase of capital stock of the Bank under article II, section 2, of the Articles of Agreement of the Bank, if such increase involves an increased subscription on the part of the United States. Neither the President nor any person or agency shall, on behalf of the United States, consent to any borrowing (other than borrowing from a foreign government or other official public source) by the Fund of funds denominated in United States dollars, unless the Secretary of the Treasury transmits a notice of such proposed borrowing to both Houses of the Congress at least 60 days prior to the date on which such borrowing is scheduled to occur.

(July 31, 1945, ch. 339, §5, 59 Stat. 514; Pub. L. 89–126, §1(2), Aug. 14, 1965, 79 Stat. 519; Pub. L. 94–564, §3, Oct. 19, 1976, 90 Stat. 2660; Pub. L. 95–147, §4(a)(1), Oct. 28, 1977, 91 Stat. 1228; Pub. L. 98–181, title I [title VIII, §811], Nov. 30, 1983, 97 Stat. 1274; Pub. L. 106–113, div. B, §1000(a)(5) [title V, §504(d)(1)], Nov. 29, 1999, 113 Stat. 1536, 1501A–317.)

AMENDMENTS

1999—Pub. L. 106–113, which directed substitution of "approve any disposition of Fund gold, unless the Secretary certifies to the Congress that such disposition is necessary for the Fund to restitute gold to its members, or for the Fund to provide liquidity that will enable the Fund to meet member country claims on the Fund or to meet threats to the systemic stability of the international financial system." for "approve either the disposition of more than 25 million ounces of Fund gold for the benefit of the Trust Fund established by the Fund on May 6, 1976, or the establishment of any additional trust fund whereby resources of the International Monetary Fund would be used for the special benefit of a single member, or of a particular segment of the membership, of the Fund." in cl. (g) of first sentence, was executed by making the substitution for text which ended with "the fund." rather than "the Fund.", to reflect the probable intent of Congress.

1983—Pub. L. 98–181 inserted provision prohibiting the President or any person or agency from consenting to a borrowing of funds denominated in dollars unless notice of such borrowing is transmitted to Congress at least 60 days prior to such borrowing.

1977—Pub. L. 95–147 added to cl. (g) provisions relating to disposition of more than 25 million ounces of Fund gold for the benefit of the Trust Fund.

1976—Pub. L. 94–564 amended cls. (a) to (g) generally.

1965—Pub. L. 89–126 inserted "if such increase involves an increased subscription on the part of the United States".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment effective Apr. 1, 1978, see section 9 of Pub. L. 94–564, set out as a note under section 286a of this title.

§286d. Federal Reserve banks as depositories

Any Federal Reserve bank which is requested to do so by the Fund or the Bank shall act as its depository or as its fiscal agent, and the Board of Governors of the Federal Reserve System shall supervise and direct the carrying out of these functions by the Federal Reserve banks.

(July 31, 1945, ch. 339, §6, 59 Stat. 514.)

§286e. Payment of subscriptions to Fund and Bank by United States; issuance of special notes; income covered into Treasury

The Secretary of the Treasury is authorized to pay the balance of the subscription of the United States to the Fund not provided for in subsection (a) and to pay the subscription of the United States to the Bank from time to time when payments are required to be made to the Bank. For the purpose of making these payments, the Secretary of the Treasury is authorized to use as a public-debt transaction $8,675,000,000 of the proceeds of any securities hereafter issued under chapter 31 of title 31, and the purposes for which securities may be issued under that chapter are extended to include such purpose. Payment under this paragraph of the subscription of the United States to the Fund or the Bank and repayments thereof shall be treated as public-debt transactions of the United States.

For the purpose of keeping to a minimum the cost to the United States of participation in the Fund and the Bank, the Secretary of the Treasury, after paying the subscription of the United States to the Fund, and any part of the subscription of the United States to the Bank required to be made under article II, section 7(i), of the Articles of Agreement of the Bank, is authorized and directed to issue special notes of the United States from time to time at par and to deliver such notes to the Fund and the Bank in exchange for dollars to the extent permitted by the respective Articles of Agreement. The special notes provided for in this paragraph shall be issued under the authority and subject to the provisions of chapter 31 of title 31, and the purposes for which securities may be issued under that chapter are extended to include the purposes for which special notes are authorized and directed to be issued under this paragraph, but such notes shall bear no interest, shall be nonnegotiable, and shall be payable on demand of the Fund or the Bank, as the case may be. The face amount of special notes issued to the Fund under the authority of this paragraph and outstanding at any one time shall not exceed in the aggregate the amount of the subscription of the United States actually paid to the Fund and the dollar equivalent of currencies and gold which the United States shall have purchased from the Fund in accordance with the Articles of Agreement, and the face amount of such notes issued to the Bank and outstanding at any one time shall not exceed in the aggregate the amount of the subscription of the United States actually paid to the Bank under article II, section 7(i) of the Articles of Agreement of the Bank.

Any payment made to the United States by the Fund or the Bank as a distribution of net income shall be covered into the Treasury as a miscellaneous receipt.

(July 31, 1945, ch. 339, §7(b)–(d), 59 Stat. 514; Pub. L. 86–48, §2, June 17, 1959, 73 Stat. 80; Pub. L. 87–490, §2, June 19, 1962, 76 Stat. 105.)

REFERENCES IN TEXT

Subsection (a), referred to in the first par., means section 7(a) of act July 31, 1945, ch. 339, 59 Stat. 514, which generally amended subsec. (c) of section 822a of former Title 31, Money and Finance. Section 822a(c) of former Title 31 was repealed and reenacted as section 5302(d) of Title 31 by Pub. L. 97–258, §4(a), Sept.

13, 1982, 96 Stat. 1067, the first section of which enacted Title 31.

CODIFICATION

In first and second pars., "chapter 31 of title 31" and "that chapter" substituted for "the Second Liberty Bond Act, as amended" and "that Act", respectively, on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

Section is based on subsecs. (b) to (d) of section 7 of act July 31, 1945. Subsec. (a) of section 7 amended section 822a of former Title 31. See References in Text note above.

AMENDMENTS

1962—Pub. L. 87–490 included in the limitation of face amount of special notes issued to the Fund the dollar equivalent of currencies and gold which the United States shall have purchased from the Fund in accordance with the Articles of Agreement.

1959—Pub. L. 86–48 struck out "of $950,000,000" after "is authorized to pay the balance", and substituted "$8,675,000,000" for "not to exceed $4,125,000,000".

INCREASE IN QUOTA OF UNITED STATES; APPROPRIATION REQUIREMENTS; TRANSFERS AND CREDITS; RESTRICTIONS

Pub. L. 96–544, Dec. 17, 1980, 94 Stat. 3213, provided that: "For an increase in the United States quota in the International Monetary Fund, the dollar equivalent of 4,202.5 million Special Drawing Rights (approximately $5,537,839,000), to remain available until expended, and balances equivalent to the current SDR value of the United States quota in the Fund shall be merged with this appropriation. Amounts equivalent to the United States reserve position in the Fund shall be credited to this appropriation. Amounts available in this account may be transferred to the Fund by the Secretary of the Treasury to meet United States obligations in the Fund in an amount not to exceed at any time the United States quota in the Fund. The amounts provided for valuation adjustments of Fund holdings of United States dollars shall continue to be available for this purpose and shall be available for transfers to this appropriation account for the purpose of such adjustments. In the administration of these funds it shall be the policy of the United States:

"(1) that the Palestine Liberation Organization should not be given membership in the Fund or be given observer status or any other official status at any meeting sponsored by or associated with the Fund;

"(2) that the United States Executive Director of the Fund shall promptly notify the Fund of such policy;

"(3) that in the event that the Fund provides either membership, observer status, or any other official status to the Palestine Liberation Organization, such action would result in a serious diminution of United States support; and

"(4) that upon review of such action, the President would be required to report his recommendations to the Congress with regard to any further United States participation in the Fund."

§286e–1. Increase in quota of United States and in capital stock of Bank; subscription to additional shares

(a) The United States Governor of the Fund is authorized to request and consent to an increase of $1,375,000,000 in the quota of the United States under article III, section 2, of the articles of agreement of the Fund, as proposed in the resolution of the Board of Governors of the Fund dated February 2, 1959.

(b) The United States Governor of the Bank is authorized (1) to vote for increases in the capital stock of the Bank under article II, section 2, of the articles of agreement of the Bank, as recommended in the resolution of the Board of Governors of the Bank dated February 2, 1959, and (2) if such increases become effective, to subscribe on behalf of the United States to thirty-one thousand seven hundred and fifty additional shares of stock under article II, section 3, of the articles of agreement of the Bank.

(July 31, 1945, ch. 339, §16, as added Pub. L. 86–48, §1, June 17, 1959, 73 Stat. 80.)

§286e–1a. Increase in capital stock of Bank

The United States Governor of the Bank is authorized to vote for an increase of $1,000,000,000 in the authorized capital stock of the Bank under article II, section 2, of the articles of agreement of the Bank, as recommended in the report, dated November 6, 1962, to the Board of Governors of the Bank by the Bank's Executive Directors.

(July 31, 1945, ch. 339, §19, as added Pub. L. 88–178, Nov. 13, 1963, 77 Stat. 334.)

§286e–1b. Increase in quota of United States; authorization of appropriations

(a) The United States Governor of the Fund is authorized to consent to an increase of $1,035,000,000 in the quota of the United States in the Fund.

(b) In order to pay the increase in the United States subscription to the Fund provided for in this section, there is hereby authorized to be appropriated $1,035,000,000, to remain available until expended.

(July 31, 1945, ch. 339, §20, as added Pub. L. 89–31, June 2, 1965, 79 Stat. 119.)

§286e–1c. Additional increase in quota of United States

(a) The United States Governor of the Fund is authorized to consent to an increase of $1,540,000,000 in the quota of the United States in the Fund.

(b) In order to pay the increase in the United States quota in the Fund provided for in this section, there is hereby authorized to be appropriated $1,540,000,000, to remain available until expended.

(July 31, 1945, ch. 339, §22, as added Pub. L. 91–599, ch. 1, §1, Dec. 30, 1970, 84 Stat. 1657.)

§286e–1d. Increase in capital stock of Bank; subscription to additional shares; authorization of appropriations

(a) The United States Governor of the Bank is authorized (1) to vote for an increase of $3,000,000,000 in the authorized capital stock of the Bank, and (2) if such increase becomes effective, to subscribe on behalf of the United States to two thousand four hundred and sixty-one additional shares of the capital stock of the Bank.

(b) In order to pay for the increase in the United States subscription to the Bank provided for in this section, there is hereby authorized to be appropriated $246,100,000 to remain available until expended.

(July 31, 1945, ch. 339, §23, as added Pub. L. 91–599, ch. 1, §1, Dec. 30, 1970, 84 Stat. 1657.)

§286e–1e. Equivalent increase in quota of United States

The United States Governor of the Fund is authorized to consent to an increase in the quota of the United States in the Fund equivalent to 1,705 million Special Drawing Rights.

(July 31, 1945, ch. 339, §25, as added Pub. L. 94–564, §1, Oct. 19, 1976, 90 Stat. 2660.)

§286e–1f. Additional increase in capital stock of Bank; subscription to additional shares; authorization of appropriations

(a) The United States Governor of the Bank is authorized—

(1) to vote for an increase of seventy thousand shares in the authorized capital stock of the Bank; and

(2) if such increase becomes effective, to subscribe on behalf of the United States to thirteen thousand and five additional shares of the capital stock of the Bank: *Provided, however*, That any

subscription to additional shares shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts.

(b) In order to pay for the increase in the United States subscription to the Bank provided for in this section, there are authorized to be appropriated, without fiscal year limitation, $1,568,856,318 for payment by the Secretary of the Treasury.

(July 31, 1945, ch. 339, §27, as added Pub. L. 95–118, title II, §201, Oct. 3, 1977, 91 Stat. 1067; amended Pub. L. 97–35, title XIII, §1312, Aug. 13, 1981, 95 Stat. 740.)

AMENDMENTS

1981—Subsec. (a)(2). Pub. L. 97–35 substituted "effective only to such extent or in such amounts as are provided in advance in appropriations Acts" for "made only after the amount required for such subscription has been appropriated".

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Aug. 13, 1981, except that any funds authorized to be appropriated shall not be available for use or obligation prior to Oct. 1, 1981, see section 1372 of Pub. L. 97–35, set out as an Effective Date note under section 290i of this title.

EFFECTIVE DATE

Section effective Oct. 3, 1977, except that no funds authorized to be appropriated by this section may be available for use or obligation prior to Oct. 1, 1977, see section 1001 of Pub. L. 95–118, set out as a note under section 282i of this title.

§286e–1g. Additional increase in quota of United States; condition

The United States Governor of the Fund is authorized to consent to an increase in the quota of the United States in the Fund equivalent to 4,202.5 million Special Drawing Rights, limited to such amounts as are appropriated in advance in appropriation Acts.

(July 31, 1945, ch. 339, §32, as added and amended Pub. L. 96–389, §§1, 11, Oct. 7, 1980, 94 Stat. 1551, 1555.)

AMENDMENTS

1980—Pub. L. 96–389, §11, substituted "limited to such amounts as are appropriated in advance in appropriation Acts" for "to such extent or in such amounts as are provided in appropriations Acts".

EFFECTIVE DATE

Section effective Oct. 7, 1980, see section 12 of Pub. L. 96–389, set out as a note under section 286s of this title.

§286e–1h. Increase of subscription of stock; authority of United States Governor of Bank; authorization of appropriations

(a) The United States Governor of the Bank is authorized—

(1) to vote to increase by three hundred and sixty-five thousand shares the authorized capital stock of the Bank; and

(2) to subscribe on behalf of the United States to not more than seventy-three thousand and ten shares of the capital stock of the Bank: *Provided, however*, That not more than seven and one-half percent ($658,305,195) of the price of the shares subscribed may be paid in to the Bank on subscription, with the remainder of that price ($8,149,256,155) being subject to call only when a call on unpaid subscriptions is required to meet obligations of the Bank for funds borrowed or on loans guaranteed by it and not for use by the Bank in its lending activities or for administrative expenses: *Provided further*, That any subscription to such additional shares shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts.

(b) In order to pay for the paid-in portion of the United States subscription to the Bank provided for in this section, there is authorized to be appropriated, without fiscal year limitation, $658,305,195 for payment by the Secretary of the Treasury: *Provided, however*, That not more than $109,720,549 of such sum may be made available for each of the fiscal years 1982, 1983, and 1984.

(July 31, 1945, ch. 339, §39, as added Pub. L. 97–35, title XIII, §1311, Aug. 13, 1981, 95 Stat. 740.)

EFFECTIVE DATE

Section effective Aug. 13, 1981, except that any funds authorized to be appropriated shall not be available for use or obligation prior to Oct. 1, 1981, see section 1372 of Pub. L. 97–35, set out as a note under section 290i of this title.

§286e–1i. Increase in United States quota; consultations with Congress

(a) The United States Governor of the Fund is authorized to consent to an increase in the quota of the United States in the Fund equivalent to 5,310,800,000 Special Drawing Rights, limited to such amounts as are provided in advance in appropriations Acts.

(b)(1) The Secretary of the Treasury shall consult with the chairman and the ranking minority member of—

(A) the Committee on Banking, Finance and Urban Affairs and the Committee on Appropriations of the House of Representatives, and any appropriate subcommittee of each such committee; and

(B) the committee on Foreign Relations, the Committee on Appropriations, and the Committee on Banking, Housing, and Urban Affairs of the Senate, and any appropriate subcommittee of each such committee,

for purposes of discussing the position of the executive branch and the views of the Congress with respect to any international negotiations being held to consider any future quota increase for the International Monetary Fund which may involve an increased contribution, subscription, or loan by the United States.

(2) Such consultation shall be made—

(A) not later than thirty days before the initiation of such international negotiations;

(B) during the period in which such negotiations are being held, in a frequent and timely manner; and

(C) before a session of such negotiations is held at which the United States representatives may agree to such quota increase.

(July 31, 1945, ch. 339, §41, as added Pub. L. 98–181, title I [title VIII, §802(a)(4)], Nov. 30, 1983, 97 Stat. 1268.)

CHANGE OF NAME

Committee on Banking, Finance and Urban Affairs of House of Representatives treated as referring to Committee on Banking and Financial Services of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Banking and Financial Services of House of Representatives abolished and replaced by Committee on Financial Services of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred from Committee on Energy and Commerce of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

§286e–1j. Additional increase in capital stock of Bank; subscription to additional shares; authorization of appropriations

(a) The United States Governor of the Bank is authorized—

(1) to vote for an increase of seventy thousand shares in the authorized capital stock of the

Bank; and

(2) to subscribe on behalf of the United States to twelve thousand four hundred and fifty-three additional shares of the capital stock of the Bank, except that any subscription to such additional shares shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts.

(b) In order to pay for the increase in the United States subscription to the Bank provided for in this section, there are authorized to be appropriated, without fiscal year limitation, $1,502,267,655 for payment by the Secretary of the Treasury.

(July 31, 1945, ch. 339, §51, as added Pub. L. 99–190, §101(i) [title I, (a)], Dec. 19, 1985, 99 Stat. 1291, 1294.)

CODIFICATION

Section 51 of act July 31, 1945, is based on section 301 of title III of H.R. 2253, Ninety-ninth Congress, as reported May 15, 1985, and enacted into law by Pub. L. 99–190.

§286e–1k. Capital stock increase

(a) Increase authorized

The United States Governor of the Bank is authorized—

(1) to vote for an increase of 620,000 shares in the authorized capital stock of the Bank; and

(2) to subscribe on behalf of the United States to 116,262 additional shares of the capital stock of the Bank, except that any subscription to such additional shares shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts.

(b) Authorization of appropriations

In order to pay for the increase in the United States subscription to the Bank provided for in this section, there are authorized to be appropriated, without fiscal year limitation, $14,025,266,370, for payment by the Secretary of the Treasury.

(July 31, 1945, ch. 339, §53, as added Pub. L. 100–461, title V, §555, Oct. 1, 1988, 102 Stat. 2268–36.)

CODIFICATION

Section 53 of act July 31, 1945, is based on section 1 of H.R. 4645, One Hundredth Congress, as reported Sept. 28, 1988, and enacted into law by Pub. L. 100–461.

§286e–1*l*. Quota increase to 8,608,500,000 Special Drawing Rights

The United States Governor of the Fund may consent to an increase in the quota of the United States in the Fund equivalent to 8,608,500,000 Special Drawing Rights, limited to such amounts as are provided in advance in appropriations Acts.

(July 31, 1945, ch. 339, §56, as added Pub. L. 102–511, title X, §1001, Oct. 24, 1992, 106 Stat. 3357.)

§286e–1m. Quota increase to 10,622,500,000 Special Drawing Rights

(a) In general

The United States Governor of the Fund may consent to an increase in the quota of the United States in the Fund equivalent to 10,622,500,000 Special Drawing Rights.

(b) Subject to appropriations

The authority provided by subsection (a) shall be effective only to such extent or in such amounts

as are provided in advance in appropriations Acts.

(July 31, 1945, ch. 339, §61, as added Pub. L. 105–277, div. A, §101(d) [title VI, §608], Oct. 21, 1998, 112 Stat. 2681–150, 2681–224.)

§286e–2. Loans to Fund

(a) Limitations

(1) In order to carry out the purposes of the decisions of January 5, 1962, February 24, 1983, and January 27, 1997, as amended in accordance with their terms, of the Executive Directors of the International Monetary Fund, the Secretary of the Treasury is authorized to make loans, in an amount not to exceed the equivalent of 6,712,000,000 Special Drawing Rights, limited to such amounts as are provided in advance in appropriations Acts, except that prior to activation, the Secretary of the Treasury shall certify that supplementary resources are needed to forestall or cope with an impairment of the international monetary system and that the Fund has fully explored other means of funding, to the Fund under article VII, section 1(i), of the Articles of Agreement of the Fund. Any loan under the authority granted in this subsection shall be made with due regard to the present and prospective balance of payments and reserve position of the United States.

(2) In order to carry out the purposes of a one-time decision of the Executive Directors of the International Monetary Fund (the Fund) to expand the resources of the New Arrangements to Borrow, established pursuant to the decision of January 27, 1997 referred to in paragraph (1) above, and to make other amendments to the New Arrangements to Borrow to achieve an expanded and more flexible New Arrangements to Borrow as contemplated by paragraph 17 of the G–20 Leaders' Statement of April 2, 2009 in London, the Secretary of the Treasury is authorized to instruct the United States Executive Director to consent to such amendments notwithstanding subsection (d) of this section, and to make loans, in an amount not to exceed the dollar equivalent of 75,000,000,000 Special Drawing Rights, in addition to any amounts previously authorized under this section and limited to such amounts as are provided in advance in appropriations Acts, except that prior to activation, the Secretary of the Treasury shall report to Congress on whether supplementary resources are needed to forestall or cope with an impairment of the international monetary system and whether the Fund has fully explored other means of funding, to the Fund under article VII, section 1(i), of the Articles of Agreement of the Fund: *Provided*, That prior to instructing the United States Executive Director to provide consent to such amendments, the Secretary of the Treasury shall consult with the appropriate congressional committees on the amendments to be made to the New Arrangements to Borrow, including guidelines and criteria governing the use of its resources; the countries that have made commitments to contribute to the New Arrangements to Borrow and the amount of such commitments; and the steps taken by the United States to expand the number of countries so the United States share of the expanded New Arrangements to Borrow remains not greater than 20 percent, which approximates the United States share as of June 24, 2009: *Provided further*, That any loan under the authority granted in this subsection shall be made with due regard to the present and prospective balance of payments and reserve position of the United States.

(3) The authority to make loans under this section shall expire on the date that is 5 years after December 16, 2009, unless the Secretary of the Treasury, not later than 60 days before such expiration date or 60 days prior to the renewal of the decision governing the New Arrangements to Borrow (NAB), whichever occurs first, certifies to the appropriate congressional committees, that—

(A) no amendments made, or anticipated to be made, to the NAB to achieve an expanded and more flexible NAB, as described in paragraph 17 of the G20 Leaders' Statement at the 2009 London Summit, will impair the ability of the Secretary of the Treasury to consider a renewal of the NAB decision at intervals no greater than 5 years and to withdraw the adherence of the United States to the NAB decision as is currently provided under paragraph 19 of the New Arrangement to Borrow, adopted by the Executive Board of the International Monetary Fund (IMF) on January 27, 1997; and

(B)(i) the IMF will borrow resources from members under the NAB only when quota resources

need to be supplemented in order to forestall or cope with an impairment of the international monetary system or to deal with an exceptional situation that poses a threat to the stability of that system;

(ii) the IMF has, prior to any activation of the NAB, fully explored other means of funding to supplement any potential shortfall in quota resources necessary to forestall or cope with an impairment of the international monetary system or to deal with an exceptional situation that poses a threat to the stability of that system; or

(iii) it is in the United States' strategic economic interest to maintain the relative size or lower of the United States contribution to the NAB as in effect on the date of the certification.

(4) Not later than 15 days before submitting the certification under paragraph (3), the Secretary of the Treasury shall consult with the appropriate congressional committees regarding such certification.

(5) The authority to make loans under this section shall expire on December 16, 2022.

(b) Authorization of appropriations; repayments available for loans to Fund

(1) For the purpose of making loans to the International Monetary Fund pursuant to subsection (a)(1) of this section, there is authorized to be appropriated 6,712,000,000 Special Drawing Rights, except that prior to activation, the Secretary of the Treasury shall certify whether supplementary resources are needed to forestall or cope with an impairment of the international monetary system and that the Fund has fully explored other means of funding, to remain available until expended to meet calls by the International Monetary Fund. Any payments made to the United States by the International Monetary Fund as a repayment on account of the principal of a loan made under this section shall continue to be available for loans to the International Monetary Fund, only to the extent that amounts available for such loans are not rescinded by an Act of Congress.

(2) For the purpose of making loans to the International Monetary Fund pursuant to subsection (a)(2) of this section, there is hereby authorized to be appropriated not to exceed the dollar equivalent of 75,000,000,000 Special Drawing Rights, in addition to any amounts previously authorized under this section, except that prior to activation, the Secretary of the Treasury shall report to Congress on whether supplementary resources are needed to forestall or cope with an impairment of the international monetary system and whether the Fund has fully explored other means of funding, to remain available until expended to meet calls by the Fund. Any payments made to the United States by the Fund as a repayment on account of the principal of a loan made under this section shall continue to be available for loans to the Fund, only to the extent that amounts available for such loans are not rescinded by an Act of Congress.

(c) Interest and charges covered into Treasury; additional authorization of appropriations for payment of charges for purchase of currencies or gold from Fund

Payments of interest and charges to the United States on account of any loan to the International Monetary Fund shall be covered into the Treasury as miscellaneous receipts. In addition to the amount authorized in subsection (b), there is authorized to be appropriated such amounts as may be necessary for the payment of charges in connection with any purchases of currencies or gold by the United States from the International Monetary Fund.

(d) Amendment to Executive Directors' decision prohibited; conditions

Unless the Congress by law so authorizes, neither the President, the Secretary of the Treasury, nor any other person acting on behalf of the United States, may instruct the United States Executive Director to the Fund to consent to any amendment to the Decision of February 24, 1983, or the Decision of January 27, 1997, of the Executive Directors of the Fund, if the adoption of such amendment would significantly alter the amount, terms, or conditions of participation by the United States in the General Arrangements to Borrow or the New Arrangements to Borrow, as applicable.

(e) New requirement for activation of the new arrangements to borrow

(1) The Secretary of the Treasury shall include in the certification and report required by paragraphs (a)(1), (a)(2), (b)(1), and (b)(2) of this section prior to activation an additional

certification and report that—

(A) the one-year forward commitment capacity of the IMF (excluding borrowed resources) is expected to fall below 100,000,000,000 Special Drawing Rights during the period of the NAB activation; and

(B) activation of the NAB is in the United States strategic economic interest with the reasons and analysis for that determination.

(2) Prior to submitting any certification and report required by paragraphs (a)(1), (a)(2), (b)(1), and (b)(2) of this section, the Secretary of the Treasury shall consult with the appropriate congressional committees.

(f) Appropriate congressional committees, defined

In this section, the term "appropriate congressional committees" means the Committees on Appropriations and Foreign Relations of the Senate and the Committees on Appropriations and Financial Services of the House of Representatives.

(July 31, 1945, ch. 339, §17, as added Pub. L. 87–490, §1, June 19, 1962, 76 Stat. 105; amended Pub. L. 94–564, §4, Oct. 19, 1976, 90 Stat. 2661; Pub. L. 98–181, title I [title VIII, §802(a)(1)–(3)], Nov. 30, 1983, 97 Stat. 1268; Pub. L. 105–277, div. A, §101(d) [title VI, §609], Oct. 21, 1998, 112 Stat. 2681–150, 2681–224; Pub. L. 111–32, title XIV, §1401, June 24, 2009, 123 Stat. 1916; Pub. L. 111–117, div. F, title VII, §7090(b), (c), Dec. 16, 2009, 123 Stat. 3406; Pub. L. 114–113, div. K, title IX, §9001, Dec. 18, 2015, 129 Stat. 2829.)

AMENDMENTS

2015—Subsec. (a)(5). Pub. L. 114–113, §9001(1), added par. (5).

Subsec. (b). Pub. L. 114–113, §9001(2), inserted before period at end of pars. (1) and (2) ", only to the extent that amounts available for such loans are not rescinded by an Act of Congress".

Subsec. (e). Pub. L. 114–113, §9001(3), added subsec. (e).

Subsec. (f). Pub. L. 114–113, §9001(4), added subsec. (f).

2009—Subsec. (a). Pub. L. 111–32, §1401(1), designated existing provisions as par. (1) and added par. (2).

Subsec. (a)(2). Pub. L. 111–117, §7090(c), substituted "remains not greater than 20 percent, which approximates the United States share as of June 24, 2009" for "is representative of its share as of the date of the enactment of this Act".

Subsec. (a)(3), (4). Pub. L. 111–117, §7090(b), added pars. (3) and (4).

Subsec. (b). Pub. L. 111–32, §1401(2), designated existing provisions as par. (1), inserted "subsection (a)(1) of" after "pursuant to", and added par. (2).

1998—Subsec. (a). Pub. L. 105–277, §101(d) [title VI, §609(1)], substituted "February 24, 1983, and January 27, 1997" for "and February 24, 1983" and "6,712,000,000" for "4,250,000,000".

Subsec. (b). Pub. L. 105–277, §101(d) [title VI, §609(2)], substituted "6,712,000,000" for "4,250,000,000".

Subsec. (d). Pub. L. 105–277, §101(d) [title VI, §609(3)], inserted "or the Decision of January 27, 1997," after "February 24, 1983," and "or the New Arrangements to Borrow, as applicable" before period at end.

1983—Subsec. (a). Pub. L. 98–181, §802(a)(1), substituted "decisions of January 5, 1962, and February 24, 1983, as amended in accordance with their terms" for "decision of January 5, 1962", and "in an amount not to exceed the equivalent of 4,250,000,000 Special Drawing Rights, limited to such amounts as are provided in advance in appropriations Acts, except that prior to activation, the Secretary of the Treasury shall certify that supplementary resources are needed to forestall or cope with an impairment of the international monetary system and that the fund has fully explored other means of funding" for "not to exceed $2,000,000,000 outstanding at any one time".

Subsec. (b). Pub. L. 98–181, §802(a)(2), substituted "4,250,000,000 Special Drawing Rights, except that prior to activation, the Secretary of the Treasury shall certify whether supplementary resources are needed to forestall or cope with an impairment of the international monetary system and that the Fund has fully explored other means of funding" for "$2,000,000,000".

Subsec. (d). Pub. L. 98–181, §802(a)(3), added subsec. (d).

1976—Subsec. (a). Pub. L. 94–564 substituted "section 1(i)" for "section 2(i)".

EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 114–113, div. K, title IX, §9001(3), Dec. 18, 2015, 129 Stat. 2829, provided in part that subsection (e) of this section is "effective from the first day of the next period of renewal of the NAB [New

Arrangements to Borrow] decision after enactment of this Act [Dec. 18, 2015]".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment effective Apr. 1, 1978, see section 9 of Pub. L. 94–564, set out as a note under section 286a of this title.

§286e–3. Transfers to stabilization fund of purchase of currencies or gold from International Monetary Fund; administration; utilization of fund resources for repayments

Any purchases of currencies or gold by the United States from the International Monetary Fund may be transferred to and administered by the fund established by section 5302 of title 31, for use in accordance with the provisions of that section. The Secretary of the Treasury is authorized to utilize the resources of that fund for the purpose of any repayments in connection with such transactions.

(July 31, 1945, ch. 339, §18, as added Pub. L. 87–490, §1, June 19, 1962, 76 Stat. 105.)

CODIFICATION

"Section 5302 of title 31" substituted in text for "section 10 of the Gold Reserve Act of 1934, as amended (31 U.S.C. 822a)" on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

§286e–4. Loans to International Finance Corporation; amendment to Articles of Agreement

The United States Governor of the Bank is authorized to agree to an amendment to the articles of agreement of the Bank to permit the Bank to make, participate in, or guarantee loans to the International Finance Corporation for use in the lending operations of the latter.

(July 31, 1945, ch. 339, §21, as added Pub. L. 89–126, §1(3), Aug. 14, 1965, 79 Stat. 519.)

§286e–5. Amendments to Articles of Agreement

The United States Governor of the Fund is authorized to accept the amendments to the Articles of Agreement of the Fund approved in resolution numbered 31–4 of the Board of Governors of the Fund.

(July 31, 1945, ch. 339, §24, as added Pub. L. 94–564, §1, Oct. 19, 1976, 90 Stat. 2660.)

§286e–5a. Additional amendments to Articles of Agreement

The United States Governor of the Bank is hereby authorized to agree to and to accept the amendment to the Articles of Agreement in the proposed resolution entitled "Amendment to the Articles of Agreement of the Bank", forwarded to the United States on February 27, 1987.

(July 31, 1945, ch. 339, §52, as added Pub. L. 100–202, §101(e) [title I], Dec. 22, 1987, 101 Stat. 1329–131, 1329–134.)

CODIFICATION

Section 52 of act July 31, 1945, is based on section 601 of title VI of H.R. 3750, One Hundredth Congress, as introduced Dec. 11, 1987, and enacted into law by Pub. L. 100–202.

§286e–5b. Acceptance of amendments to Articles of Agreement of the Fund approved on June 28, 1990

The United States Governor of the Fund may agree to and accept the amendments to the Articles of Agreement of the Fund as proposed in the resolution numbered 45–3 of the Board of Governors of the Fund that was approved by such Board on June 28, 1990.

(July 31, 1945, ch. 339, §57, as added Pub. L. 102–511, title X, §1001, Oct. 24, 1992, 106 Stat. 3357.)

§286e–6. Vote against establishment of Council

The United States Governor of the Fund is directed to vote against the establishment of a Council authorized under Article XII, Section 1 of the Fund Articles of Agreement as amended, if under any circumstances the United States' vote in the Council would be less than its weighted vote in the Fund.

(July 31, 1945, ch. 339, §26, as added Pub. L. 94–564, §1, Oct. 19, 1976, 90 Stat. 2660.)

§286e–7. Supplementary Financing Facility

(a) Availability of resources

For the purpose of participation of the United States in the Supplementary Financing Facility (hereinafter referred to as the "facility") established by the decision numbered 5508–(77/127) of the Executive Directors of the Fund, the Secretary of the Treasury is authorized to make resources available as provided in the decision numbered 5509–(77/127) of the Fund, in an amount not to exceed the equivalent of 1,450 million Special Drawing Rights.

(b) Adjustments in the value of monetary assets

The Secretary of the Treasury shall account, through the fund established by section 5302 of title 31, for any adjustment in the value of monetary assets held by the United States in respect of United States participation in the facility.

(c) Authorization of appropriations

Notwithstanding any other provision of this section, the authority of the Secretary to enter into agreements making resources available under this section shall be limited to such amounts as are appropriated in advance in appropriation Acts. Effective October 1, 1978, there are hereby authorized to be appropriated to the Secretary of the Treasury, without fiscal year limitation, such sums as are necessary to carry out subsection (a) of this section, but not to exceed an amount of dollars equivalent to 1,450 million Special Drawing Rights.

(July 31, 1945, ch. 339, §28, as added Pub. L. 95–435, §1, Oct. 10, 1978, 92 Stat. 1051.)

CODIFICATION

In subsec. (b), "section 5302 of title 31" substituted for "section 10 of the Gold Reserve Act of 1934, as amended (31 U.S.C. 822a)" on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

§286e–8. Treatment of creditors in debt rescheduling

The Secretary of the Treasury shall instruct the United States executive director to seek to assure that no decision by the International Monetary Fund undermines or departs from United States policy regarding the comparability of treatment of public and private creditors in cases of debt rescheduling where official United States credits are involved.

(July 31, 1945, ch. 339, §29, as added Pub. L. 95–435, §3, Oct. 10, 1978, 92 Stat. 1052; amended Pub. L. 96–389, §5, Oct. 7, 1980, 94 Stat. 1554.)

AMENDMENTS

1980—Pub. L. 96–389 struck out "on the use of the facility" after "Monetary Fund".

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–389 effective Oct. 7, 1980, see section 12 of Pub. L. 96–389, set out as an Effective Date note under section 286s of this title.

§286e–9. Stabilization programs

The Secretary of the Treasury shall instruct the United States executive director on the Executive Board of the International Monetary Fund to initiate a wide consultation with the managing director of the Fund and other member country executive directors with regard to encouraging the staff of the Fund to formulate stabilization programs which, to the maximum feasible extent, foster a broader base of productive investment and employment, especially in those productive activities which are designed to meet basic human needs.

(July 31, 1945, ch. 339, §30, as added Pub. L. 95–435, §4, Oct. 10, 1978, 92 Stat. 1052; amended Pub. L. 96–389, §2(b), Oct. 7, 1980, 94 Stat. 1553; Pub. L. 101–240, title V, §541(d)(1), (f)(2), Dec. 19, 1989, 103 Stat. 2518, 2519.)

AMENDMENTS

1989—Pub. L. 101–240 struck out subsec. (a) designation and struck out subsec. (b) which read as follows: "In order to gain a better understanding of the social, political and economic impact of the Fund's stabilization programs on borrowing countries, especially as it relates to the poor majority within those countries, the United States Governor of the Fund shall prepare and submit, not later than 180 days after the close of each calendar year, a report to the Congress. Such report shall evaluate, to the maximum extent feasible, with respect to countries to which loans are made during each year, the effects of policies of those countries which result from the standby agreements on basic human needs in such countries."

1980—Subsec. (a). Pub. L. 96–389, §2(b)(1), struck out "entered into pursuant to loans from the Supplementary Financing Facility" after "stabilization programs".

Subsec. (b). Pub. L. 96–389, §2(b)(2), (3), struck out "entered into pursuant to loans from the Supplementary Financing Facility" after "stabilization programs" and "by the Supplementary Financing Facility" after "loans are made".

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–389 effective Oct. 7, 1980, see section 12 of Pub. L. 96–389, set out as an Effective Date note under section 286s of this title.

§286e–10. Repealed. Pub. L. 97–35, title XIII, §1371(a)(1), Aug. 13, 1981, 95 Stat. 746

Section, act July 31, 1945, ch. 339, §31, as added Oct. 10, 1978, Pub. L. 95–435, §4, 92 Stat. 1052, required an annual report to Congress on the status of internationally recognized human rights in each country which draws on funds under the Supplementary Financing Facility of the International Monetary Fund.

EFFECTIVE DATE OF REPEAL

Repeal effective Aug. 13, 1981, see section 1372 of Pub. L. 97–35, set out as an Effective Date note under section 290i of this title.

§286e–11. Assistance by the Fund to any country harboring international terrorists

The Secretary of the Treasury shall instruct the Executive Director of the United States to the International Monetary Fund to work in opposition to any extension of financial or technical assistance by the Supplemental Financing Facility or by any other agency or facility of such Fund to any country the government of which—

(1) permits entry into the territory of such country to any person who has committed an act of international terrorism, including any act of aircraft hijacking, or otherwise supports, encourages, or harbors such person; or

(2) fails to take appropriate measures to prevent any such person from committing any such act outside the territory of such country.

(Pub. L. 95–435, §6, Oct. 10, 1978, 92 Stat. 1053.)

CODIFICATION

Section was not enacted as part of act July 31, 1945, ch. 339, 59 Stat. 512, known as the Bretton Woods Agreements Act, which comprises this subchapter.

§286e–12. Contribution to Interest Subsidy Account of Enhanced Structural Adjustment Facility of International Monetary Fund

(a) Contribution authorized

(1) In general

Subject to paragraph (2), the United States Governor of the Fund may contribute $150,000,000 to the Interest Subsidy Account of the Enhanced Structural Adjustment Facility of the Fund on behalf of the United States.

(2) Condition

The United States Governor of the Fund may not make a commitment to contribute any amount authorized to be contributed under paragraph (1) before an amount equal to such amount has been appropriated for such purpose.

(b) Limitation on authorization of appropriations

To pay for the contribution authorized by subsection (a), there are authorized to be appropriated not to exceed $150,000,000, without fiscal year limitation, for payment by the Secretary of the Treasury.

(July 31, 1945, ch. 339, §54, as added Pub. L. 101–240, title III, §301, Dec. 19, 1989, 103 Stat. 2500.)

§286e–13. Approval of fund pledge to sell gold to provide resources for Reserve Account of Enhanced Structural Adjustment Facility Trust

The Secretary of the Treasury is authorized to instruct the United States Executive Director of the Fund to vote to approve the Fund's pledge to sell, if needed, up to 3,000,000 ounces of the Fund's gold, to restore the resources of the Reserve Account of the Enhanced Structural Adjustment Facility Trust to a level that would be sufficient to meet obligations of the Trust payable to lenders which have made loans to the Loan Account of the Trust that have been used for the purpose of financing programs to Fund members previously in arrears to the Fund.

(July 31, 1945, ch. 339, §58, as added Pub. L. 102–511, title X, §1001, Oct. 24, 1992, 106 Stat. 3357.)

§286f. Obtaining and furnishing information to the Fund

(a) Required disclosure

Whenever a request is made by the Fund to the United States as a member to furnish data under article VIII, section 5, of the Articles of Agreement of the Fund, the President may, through any agency he may designate, require any person to furnish such information as the President may determine to be essential to comply with such request. In making such determination the President

shall seek to collect the information only in such detail as is necessary to comply with the request of the Fund. No information so acquired shall be furnished to the Fund in such detail that the affairs of any person are disclosed.

(b) Penalty for refusal

In the event any person refuses to furnish such information when requested to do so, the President, through any designated governmental agency, may by subpoena require such person to appear and testify or to appear and produce records and other documents, or both. In case of contumacy by, or refusal to obey a subpoena served upon any such person, the district court for any district in which such person is found or resides or transacts business, upon application by the President or any governmental agency designated by him, shall have jurisdiction to issue an order requiring such person to appear and give testimony or appear and produce records and documents, or both; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(c) Penalty for unlawful disclosures

It shall be unlawful for any officer or employee of the Government, or for any advisor or consultant to the Government, to disclose, otherwise than in the course of official duty, any information obtained under this section, or to use any such information for his personal benefit. Whoever violates any of the provisions of this subsection shall, upon conviction, be fined not more than $5,000, or imprisoned for not more than five years, or both.

(d) "Person" defined

The term "person" as used in this section means an individual, partnership, corporation or association.

(July 31, 1945, ch. 339, §8, 59 Stat. 515.)

EX. ORD. NO. 10033. REGULATIONS GOVERNING THE PROVIDING OF STATISTICAL INFORMATION TO INTERGOVERNMENTAL ORGANIZATIONS

Ex. Ord. No. 10033, Feb. 8, 1949, 14 F.R. 561, as amended by Ex. Ord. No. 11269, Feb. 14, 1966, 31 F.R. 2813; Ex. Ord. No. 12013, Oct. 7, 1977, 42 F.R. 54931; Ex. Ord. No. 12318, Aug. 21, 1981, 46 F.R. 42833, provided:

SECTION 1. Except as provided in section 2 hereof, the Director of the Office of Management and Budget, hereinafter referred to as the Director, (a) shall determine, with the concurrence of the Secretary of State, what statistical information shall be provided in response to official requests received by the United States Government from any intergovernmental organization of which this country is a member, and (b) shall determine which Federal executive agency or agencies shall prepare the statistical information thus to be provided. The statistical information so prepared shall be transmitted to the requesting intergovernmental organization through established channels by the Secretary of State or by any Federal executive agency now or hereafter authorized by the Secretary of State to transmit such information.

SEC. 2. (a) The National Advisory Council on International Monetary and Financial Policies, hereinafter referred to as the National Advisory Council, shall determine, after consultation with the Director, what information is essential in order that the United States Government may comply with official requests for information received from the International Monetary Fund or the International Bank for Reconstruction and Development.

(b) The Director shall determine which Federal executive agency or agencies shall collect or make available information found essential under section 2(a) hereof.

(c) In the collection of information pursuant to a determination made by the Director under section 2(b) hereof in response to a request under article VIII, section 5, of the Articles of Agreement of the International Monetary Fund, the authority conferred on the President by section 8 of the Bretton Woods Agreements Act [this section] to require any person to furnish such information, by subpoena or otherwise, may be exercised by each of the following-named agencies:

Department of Agriculture.
Department of Commerce.
Department of the Interior.
Department of Labor.
Department of the Treasury.
Board of Governors of the Federal Reserve System.

Federal Communications Commission.
Federal Deposit Insurance Corporation.
Federal Power Commission.
Federal Trade Commission.
Interstate Commerce Commission.
Securities and Exchange Commission.
United States Maritime Commission.
United States Tariff Commission [now the United States International Trade Commission].

(d) The information collected or made available under section 2 of this order shall be submitted to the National Advisory Council for review and for presentation to the said Fund or Bank.

(e) As used in this order, the word "person" means an individual, partnership, corporation, or association.

SEC. 3. The Director's determination of any matter under section 1 or section 2(b) of this order shall be made after consulting appropriate Federal executive agencies and giving due consideration to any responsibility now exercised by any of them in relation to an intergovernmental organization.

SEC. 4. This order shall not be construed to authorize the Director or the National Advisory Council to provide, or to require any Federal executive agency to provide, to an intergovernmental organization (a) information during any period of time when the agency having primary responsibility for security of the specified information declares that it must be withheld from the intergovernmental organization in the interest of military security, or (b) information which any Federal executive agency is required by law to maintain on a confidential basis.

SEC. 5. The Director and the National Advisory Council are authorized to prescribe such regulations as may be necessary to carry out their respective responsibilities under this order.

SEC. 6. To the extent that this order conflicts with any previous Executive order, the provisions of this order shall control.

SEC. 7. [Revoked by Ex. Ord. No. 12318, Aug. 21, 1981, 46 F.R. 42833]

§286g. Jurisdiction and venue of actions

For the purpose of any action which may be brought within the United States or its Territories or possessions by or against the Fund or the Bank in accordance with the Articles of Agreement of the Fund or the Articles of Agreement of the Bank, the Fund or the Bank, as the case may be, shall be deemed to be an inhabitant of the Federal judicial district in which its principal office in the United States is located, and any such action at law or in equity to which either the Fund or the Bank shall be a party shall be deemed to arise under the laws of the United States, and the district courts of the United States shall have original jurisdiction of any such action. When either the Fund or the Bank is a defendant in any such action, it may, at any time before the trial thereof, remove such action from a State court into the district court of the United States for the proper district by following the procedure for removal of causes otherwise provided by law.

(July 31, 1945, ch. 339, §10, 59 Stat. 516.)

§286h. Status, privileges, and immunities of the United States

The provisions of article IX, sections 2 to 9, both inclusive, and the first sentence of article VIII, section 2(b), of the Articles of Agreement of the Fund, and the provisions of article VI, section 5(i), and article VII, sections 2 to 9, both inclusive, of the Articles of Agreement of the Bank, shall have full force and effect in the United States and its Territories and possessions upon acceptance of membership by the United States in, and the establishment of, the Fund and the Bank, respectively.

(July 31, 1945, ch. 339, §11, 59 Stat. 516.)

§286i. Stabilization loans by Bank; amendment to Articles of Agreement

The governor and executive director of the Bank appointed by the United States are directed to obtain promptly an official interpretation by the Bank as to its authority to make or guarantee loans

for programs of economic reconstruction and the reconstruction of monetary systems, including long-term stabilization loans. If the Bank does not interpret its powers to include the making or guaranteeing of such loans, the governor of the Bank representing the United States is directed to propose promptly and support an amendment to the Articles of Agreement for the purpose of explicitly authorizing the Bank, after consultation with the Fund, to make or guarantee such loans. The President is authorized and directed to accept an amendment to that effect on behalf of the United States.

(July 31, 1945, ch. 339, §12, 59 Stat. 516.)

§286j. Use of Fund resources

(a) Official interpretation of authority of Fund

The governor and executive director of the Fund appointed by the United States are directed to obtain promptly an official interpretation by the Fund as to whether its authority to use its resources extends beyond current monetary stabilization operations to afford temporary assistance to members in connection with seasonal, cyclical, and emergency fluctuations in the balance of payment of any member for current transactions, and whether it has authority to use its resources to provide facilities for relief, reconstruction, or armaments, or to meet a large or sustained outflow of capital on the part of any member.

(b) Proposal of amendment

If the interpretation by the Fund answers in the affirmative any of the questions stated in subsection (a), the governor of the Fund representing the United States is directed to propose promptly and support an amendment to the Articles of Agreement for the purpose of expressly negativing such interpretation. The President is authorized and directed to accept an amendment to that effect on behalf of the United States.

(July 31, 1945, ch. 339, §13, 59 Stat. 517.)

§286k. Further promotion of international economic relations

(a) Congressional declaration of policy

In the realization that additional measures of international economic cooperation are necessary to facilitate the expansion and balanced growth of international trade and render most effective the operations of the Fund and the Bank, it is declared to be the policy of the United States to seek to bring about further agreement and cooperation among nations and international bodies, as soon as possible, on ways and means which will best reduce obstacles to and restrictions upon international trade, eliminate unfair trade practices, promote mutually advantageous commercial relations, and otherwise facilitate the expansion and balanced growth of international trade and promote the stability of international economic relations. In considering the policies of the United States in foreign lending and the policies of the Fund and the Bank, particularly in conducting exchange transactions, the Council and the United States representatives on the Fund and the Bank shall give careful consideration to the progress which has been made in achieving such agreement and cooperation.

(b) Transmittal of information to Congressional committees

The President shall, upon the request of any committee of the Congress with legislative or oversight jurisdiction over monetary policy or the International Monetary Fund, provide to such committee any appropriate information relevant to that committee's jurisdiction which is furnished to any department or agency of the United States by the International Monetary Fund. The President shall comply with this provision consistent with United States membership obligations in the International Monetary Fund and subject to such limitations as are appropriate to the sensitive nature of the information.

(July 31, 1945, ch. 339, §14, 59 Stat. 517; Pub. L. 95–147, §4(a)(2), Oct. 28, 1977, 91 Stat. 1228.)

AMENDMENTS

1977—Pub. L. 95–147 designated existing provisions as subsec. (a) and added subsec. (b).

§286k–1. Securities issued by Bank as exempt securities; reports filed with Security and Exchange Commission

(a) Any securities issued by International Bank for Reconstruction and Development (including any guaranty by the bank, whether or not limited in scope), and any securities guaranteed by the bank as to both principal and interest, shall be deemed to be exempted securities within the meaning of subsection (a)(2) of section 77c of title 15, and subsection (a)(12) of section 78c of title 15. The bank shall file with the Securities and Exchange Commission such annual and other reports with regard to such securities as the Commission shall determine to be appropriate in view of the special character of the bank and its operations and necessary in the public interest or for the protection of investors.

(b) Repealed. Pub. L. 101–240, title V, §541(d)(1), Dec. 19, 1989, 103 Stat. 2518.

(July 31, 1945, ch. 339, §15, as added June 29, 1949, ch. 276, §2, 63 Stat. 298; amended Pub. L. 101–240, title V, §541(d)(1), Dec. 19, 1989, 103 Stat. 2518.)

AMENDMENTS

1989—Subsec. (b). Pub. L. 101–240 struck out subsec. (b) which related to contents of National Advisory Council reports provided for in section 286b of this title.

§286k–2. Suspension of right of International Bank to issue securities under section 286k–1; report of Securities and Exchange Commission

The Securities and Exchange Commission acting in consultation with the National Advisory Council on International Monetary and Financial Problems is authorized to suspend the provisions of section 286k–1 (a) of this title at any time as to any or all securities issued or guaranteed by the bank during the period of such suspension. The Commission shall include in its annual reports to Congress such information as it shall deem advisable with regard to the operations and effect of this section, and section 286k–1 of this title and section 24 of title 12 and in connection therewith shall include any views submitted for such purpose by any association of dealers registered with the Commission.

(June 29, 1949, ch. 276, §3, 63 Stat. 299.)

CODIFICATION

Section was not enacted as part of act July 31, 1945, ch. 339, 59 Stat. 512, known as the Bretton Woods Agreements Act, which comprises this subchapter.

DELEGATION OF FUNCTIONS

Functions of National Advisory Council on International Monetary and Financial Problems delegated to National Advisory Council on International Monetary and Financial Policies, see section 2(a) of Ex. Ord. No. 11269, Feb. 14, 1966, 31 F.R. 2813, set out as a note under section 286b of this title.

§286*l*. British loan; authorization to Secretary of the Treasury to carry out agreement

The Secretary of the Treasury, in consultation with the National Advisory Council on International Monetary and Financial Problems, is authorized to carry out the agreement dated December 6, 1945,

between the United States and the United Kingdom which was transmitted by the President to the Congress on January 30, 1946, and the action of the Secretary of the Treasury in signing the agreement dated March 6, 1957, amending said agreement is approved.

(July 15, 1946, ch. 577, §1, 60 Stat. 535; Pub. L. 85–21, Apr. 20, 1957, 71 Stat. 17.)

REFERENCES IN TEXT

Agreement dated December 6, 1945, between the United States and the United Kingdom, referred to in text, is set out as a note below.

CODIFICATION

Section was not enacted as a part of act July 31, 1945, ch. 339, 59 Stat. 512, known as the Bretton Woods Agreements Act, which comprises this subchapter.

AMENDMENTS

1957—Pub. L. 85–21 inserted ", and the action of the Secretary of the Treasury in signing the agreement dated March 6, 1957, amending said agreement is approved".

DELEGATION OF FUNCTIONS

Functions of National Advisory Council on International Monetary and Financial Problems delegated to National Advisory Council on International Monetary and Financial Policies, see section 2(a) of Ex. Ord. No. 11269, Feb. 14, 1966, 31 F.R. 2813, set out as a note under section 286b of this title.

PURPOSES

Act July 15, 1946, ch. 577, 60 Stat. 535, provided that:

"Whereas in the Bretton Woods Agreements Act [this subchapter] the Congress has declared it to be the policy of the United States 'to seek to bring about further agreement and cooperation among nations and international bodies, as soon as possible, on ways and means which will best reduce obstacles to and restrictions upon international trade, eliminate unfair trade practices, promote mutually advantageous commercial relations, and otherwise facilitate the expansion and balanced growth of international trade and promote the stability of international economic relations'; and

"Whereas in further implementation of the purposes of the Bretton Woods Agreements, the Governments of the United States and the United Kingdom have negotiated an agreement dated December 6, 1945, designed to expedite the achievement of stable and orderly exchange arrangements, the prompt elimination of exchange restrictions and discriminations, and other objectives of the above-mentioned policy declared by the Congress."

FINANCIAL AGREEMENT BETWEEN THE GOVERNMENTS OF THE UNITED STATES AND THE UNITED KINGDOM

It is hereby agreed between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland as follows:

1. Effective date of the agreement: The effective date of this Agreement shall be the date on which the Government of the United States notifies the Government of the United Kingdom that the Congress of the United States has made available the funds necessary to extend to the Government of the United Kingdom the line of credit in accordance with the provisions of this Agreement.

2. Line of credit: The Government of the United States will extend to the Government of the United Kingdom a line of credit of $3,750,000,000 which may be drawn upon at any time between the effective date of this Agreement and December 31, 1951, inclusive.

3. Purpose of the line of credit: The purpose of the line of credit is to facilitate purchases by the United Kingdom of goods and services in the United States, to assist the United Kingdom to meet transitional post-war deficits in its current balance of payments, to help the United Kingdom to maintain adequate reserves of gold and dollars, and to assist the Government of the United Kingdom to assume the obligations of multilateral trade, as defined in this and other agreements.

4. Amortization and interest:

(i) The amount of the line of credit drawn by December 31, 1951, shall be repaid in 50 annual installments beginning on December 31, 1951, with interest at the rate of 2 percent per annum. Interest for the year 1951 shall be computed on the amount outstanding on December 31, 1951, and for each year thereafter, interest shall be computed on the amount outstanding on January 1 of each such year.

Forty-nine annual installments of principal repayments and interest shall be equal, calculated at the rate of $31,823,000 for each $1,000,000,000 of the line of credit drawn by December 31, 1951, and the fiftieth

installment shall be at the rate of $31,840,736.65 for each such $1,000,000,000. Each installment shall consist of the full amount of the interest due and the remainder of the installment shall be the principal to be repaid in that year. Payments required by this section are subject to the provisions of section 5.

(ii) The Government of the United Kingdom may accelerate repayment of the amount drawn under this line of credit.

5. Deferment of annual installments.

(i) In any calendar year after December 31, 1956, in which the Government of the United Kingdom advises the Government of the United States that it finds that a deferment is necessary in view of the present and prospective conditions of international exchange and the level of its gold and foreign exchange reserves, the Government of the United Kingdom may defer the payment of the annual installment for that year of principal repayment and interest specified under Section 4. Not more than seven (7) annual installments may be so deferred. The first of any such deferred installments shall be paid on December 31, 2001, and the others shall be paid annually thereafter, in order.

(ii) In addition, the installment of interest in respect of the year 1956 is hereby deferred, in lieu of any right of waiver hitherto existing. This installment shall be paid on December 31 of the year following that in which the last of all other installments, including installments deferred under the preceding paragraph, is due.

(iii) Deferred installments shall bear interest at the rate of 2 percent per annum, payable annually on December 31 of each year following that in which deferment occurs.

(iv) Payment of deferred installments may be accelerated, in whole or in part, at the option of the Government of the United Kingdom. [Amended Mar. 6, 1957, eff. Apr. 25, 1957.]

6. Relation of this line of credit to other obligations. The Government of the United Kingdom undertakes not to defer an installment under Section 5 of this Agreement in any year, unless it also defers the installment due in that year under the Financial Agreement between the Government of Canada and the Government of the United Kingdom, dated March 6, 1946. [Amended Mar. 6, 1957, eff. Apr. 25, 1957.]

7. Sterling area exchange arrangements: The Government of the United Kingdom will complete arrangements as early as practicable and in any case not later than one year after the effective date of this Agreement, unless in exceptional cases a later date is agreed upon after consultation, under which immediately after the completion of such arrangements the sterling receipts from current transactions of all sterling area countries (apart from any receipts arising out of military expenditure by the Government of the United Kingdom prior to December 31, 1948, to the extent to which they are treated by agreement with the countries concerned on the same basis as the balances accumulated during the war) will be freely available for current transactions in any currency area without discrimination; with the result that any discrimination arising from the so-called sterling area dollar pool will be entirely removed and that each member of the sterling area will have its current sterling and dollar receipts at its free disposition for current transactions anywhere.

8. Other exchange arrangements:

(i) Government of the United Kingdom agrees that after the effective date of this Agreement it will not apply exchange controls in such a manner as to restrict (a) payments or transfers in respect of products of the United States permitted to be imported into the United Kingdom or other current transactions between the two countries or (b) the use of sterling balances to the credit of residents of the United States arising out of current transactions. Nothing in this paragraph (i) shall affect the provisions of Article VII of the Articles of Agreement of the International Monetary Fund when those Articles have come into force.

(ii) The Governments of the United States and the United Kingdom agree that not later than one year after the effective date of this Agreement, unless in exceptional cases a later date is agreed upon after consultation, they will impose no restrictions on payments and transfers for current transactions. The obligations of this paragraph (ii) shall not apply:

(a) to balances of third countries and their nationals accumulated before this paragraph (ii) becomes effective; or

(b) to restrictions imposed in conformity with the Articles of Agreement of the International Monetary Fund, provided that the Governments of the United Kingdom and the United States will not continue to invoke the provisions of Article XIV, Section 2 of those Articles after this paragraph (ii) becomes effective, unless in exceptional cases after consultation they agree otherwise; or

(c) to restrictions imposed in connection with measures designed to uncover and dispose of assets of Germany and Japan.

(iii) This section and section 9, which are in anticipation of more comprehensive arrangements by multilateral agreement, shall operate until December 31, 1951.

9. Import arrangements: If either the Government of the United States or the Government of the United Kingdom imposes or maintains quantitative import restrictions, such restrictions shall be administered on a basis which does not discriminate against imports from the other country in respect of any product; provided

that this undertaking shall not apply in cases in which (a) its application would have the effect of preventing the country imposing such restrictions from utilizing, for the purchase of needed imports, inconvertible currencies accumulated up to December 31, 1946, or (b) there may be special necessity for the country imposing such restrictions to assist, by measures not involving a substantial departure from the general rule of non-discrimination, a country whose economy has been disrupted by war, or (c) either government imposes quantitative restrictions having equivalent effect to any exchange restrictions which that government is authorized to impose in conformity with Article VII of the Articles of Agreement of the International Monetary Fund. The provisions of this section shall become effective as soon as practicable but not later than December 31, 1946.

10. Accumulated sterling balances:

(i) The Government of the United Kingdom intends to make agreements with the countries concerned, varying according to the circumstances of each case, for an early settlement covering the sterling balances accumulated by sterling area and other countries prior to such settlement (together with any future receipts arising out of military expenditure by the Government of the United Kingdom to the extent to which they are treated on the same basis by agreement with the countries concerned). The settlements with the sterling area countries will be on the basis of dividing these accumulated balances into three categories (a) balances to be released at once and convertible into any currency for current transactions, (b) balances to be similarly released by installments over a period of years beginning in 1951, and (c) balances to be adjusted as a contribution to the settlement of war and postwar indebtedness and in recognition of the benefits which the countries concerned might be expected to gain from such a settlement. The Government of the United Kingdom will make every endeavor to secure the early completion of these arrangements.

(ii) In consideration of the fact that an important purpose of the present line of credit is to promote the development of multilateral trade and facilitate its early resumption on a non-discriminatory basis, the Government of the United Kingdom agrees that any sterling balances released or otherwise available for current payments will, not later than one year after the effective date of this Agreement unless in special cases a later date is agreed upon after consultation, be freely available for current transactions in any currency area without discrimination.

11. Definitions:

For the purposes of this Agreement:

(i) The term "current transactions" shall have the meaning prescribed in Article XIX (i) of the Articles of Agreement of the International Monetary Fund.

(ii) The term "sterling area" means the United Kingdom and the other territories declared by the Defence (Finance) Definition of the Sterling Area) (No. 2) Order, 1944, to be included in the sterling area, namely "the following territories excluding Canada and Newfoundland, that is to say—

(a) any Dominion,

(b) any other part of His Majesty's dominions,

(c) any territory in respect of which a mandate on behalf of the League of Nations has been accepted by His Majesty and is being exercised by His Majesty's Government in the United Kingdom or in any Dominion,

(d) any British protectorate or protected State,

(e) Egypt, the Anglo-Egyptian Sudan and Iraq.

(f) Iceland and the Faroe Islands."

12. Consultation on Agreement: Either government shall be entitled to approach the other for a reconsideration of any of the provisions of this Agreement, if in its opinion the prevailing conditions of international exchange justify such reconsideration, with a view to agreeing upon modifications for presentation to their respective legislatures.

Signed in duplicate at Washington, District of Columbia this 6th day of December, 1945.

For the Government of the United States of America:

FRED M. VINSON,

SECRETARY OF THE TREASURY

OF THE UNITED STATES OF AMERICA.

For the Government of the United Kingdom of Great Britain and Northern Ireland:

HALIFAX.

§286m. Amount of loan; public-debt transaction; disposition of interest payments

For the purpose of carrying out the agreement dated December 6, 1945, between the United States and the United Kingdom, the Secretary of the Treasury is authorized to use as a public-debt transaction not to exceed $3,750,000,000 of the proceeds of any securities issued after July 15, 1946, under chapter 31 of title 31, and the purposes for which securities may be issued under that chapter are extended to include such purpose. Payments to the United Kingdom under this section and section 286l of this title and pursuant to the agreement and repayments thereof shall be treated as public-debt transactions of the United States. Payments of interest to the United States under the agreement shall be covered into the Treasury as miscellaneous receipts.

(July 15, 1946, ch. 577, §2, 60 Stat. 535.)

REFERENCES IN TEXT

Agreement dated December 6, 1945, between the United States and the United Kingdom, referred to in text, is set out as a note under section 286l of this title.

CODIFICATION

"Chapter 31 of title 31" and "that chapter" substituted in text for "the Second Liberty Bond Act, as amended" and "that Act", respectively, on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

Section was not enacted as a part of act July 31, 1945, ch. 339, 59 Stat. 512, known as the Bretton Woods Agreement Act, which comprises this subchapter.

§286n. Special Drawing Rights

The President is hereby authorized (a) to accept the amendment to the articles of agreement of the International Monetary Fund (hereinafter referred to as the "Fund"), attached to the April 1968 report by the Executive Directors to the Board of Governors of the Fund, for the purpose of (i) establishing a facility based on Special Drawing Rights in the Fund and (ii) giving effect to certain modifications in the present rules and practices of the Fund, and (b) to participate in the special drawing account established by the amendment.

(Pub. L. 90–349, §2, June 19, 1968, 82 Stat. 188.)

CODIFICATION

Section was not enacted as part of act July 31, 1945, ch. 339, 59 Stat. 512, known as the Bretton Woods Agreement Act, which comprises this subchapter.

SHORT TITLE

Pub. L. 90–349, §1, June 19, 1968, 82 Stat. 188, provided: "That this Act [enacting this section and sections 286o to 286r of this title and amending sections 412, 415, 417, and 467 of Title 12, Banks and Banking] may be cited as the 'Special Drawing Rights Act'."

§286*o*. Administration as part of the Exchange Stabilization Fund

(a) Special Drawing Rights

Special Drawing Rights allocated to the United States pursuant to article XVIII of the Articles of Agreement of the Fund, and Special Drawing Rights otherwise acquired by the United States, shall be credited to the account of, and administered as part of, the Exchange Stabilization Fund established by section 5302 of title 31.

(b) Deposit in and withdrawal from Fund

The proceeds resulting from the use of Special Drawing Rights by the United States, and payments of interest to the United States pursuant to article XX, article XXIV, and article XXV of the Articles of Agreement of the Fund, shall be deposited in the Exchange Stabilization Fund. Currency payments by the United States in return for Special Drawing Rights, and payments of

charges or assessments pursuant to article XX, article XXIV, and article XXV of the Articles of Agreement of the Fund, shall be made from the resources of the Exchange Stabilization Fund.

(Pub. L. 90–349, §3, June 19, 1968, 82 Stat. 188; Pub. L. 94–564, §5(1), (2), Oct. 19, 1976, 90 Stat. 2661.)

CODIFICATION

In subsec. (a), "section 5302 of title 31" substituted for "section 10 of the Gold Reserve Act of 1934, as amended (31 U.S.C. 822a)" on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

Section was not enacted as part of act July 31, 1945, ch. 339, 59 Stat. 512, known as the Bretton Woods Agreement Act, which comprises this subchapter.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94–564, §5(1), substituted "article XVIII" for "article XXIV".

Subsec. (b). Pub. L. 94–564, §5(2), substituted "article XX, article XXIV, and XXV" for "article XXVI, article XXX, and article XXXI" wherever appearing.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment effective Apr. 1, 1978, see section 9 of Pub. L. 94–564, set out as a note under section 286a of this title.

§286p. Issuance, purpose, and redemption of Special Drawing Rights certificates

(a) The Secretary of the Treasury is authorized to issue to the Federal Reserve banks, and such banks shall purchase, Special Drawing Right certificates in such form and in such denominations as he may determine, against any Special Drawing Rights held to the credit of the Exchange Stabilization Fund. Such certificates shall be issued and remain outstanding only for the purpose of financing the acquisition of Special Drawing Rights or for financing exchange stabilization operations. The amount of Special Drawing Right certificates issued and outstanding shall at no time exceed the value of the Special Drawing Rights held against the Special Drawing Right certificates. The proceeds resulting from the issuance of Special Drawing Right certificates shall be covered into the Exchange Stabilization Fund.

(b) Special Drawing Right certificates owned by the Federal Reserve banks shall be redeemed from the resources of the Exchange Stabilization Fund at such times and in such amounts as the Secretary of the Treasury may determine.

(Pub. L. 90–349, §4, June 19, 1968, 82 Stat. 188.)

CODIFICATION

Section was not enacted as part of act July 31, 1945, ch. 339, 59 Stat. 512, known as the Bretton Woods Agreement Act, which comprises this subchapter.

§286q. Limitation on allocations to the United States

(a) Unless Congress by law authorizes such action, neither the President nor any person or agency shall on behalf of the United States vote to allocate in each basic period Special Drawing Rights under article XVIII, sections 2 and 3, of the Articles of Agreement of the Fund so that allocations to the United States in that period exceed an amount equal to the United States quota in the Fund as authorized under the Bretton Woods Agreements Act [22 U.S.C. 286 et seq.].

(b)(1) Neither the President nor any person or agency shall on behalf of the United States vote to allocate Special Drawing Rights under article XVIII, sections 2 and 3, of the Articles of Agreement of the Fund without consultations by the Secretary of the Treasury at least 90 days prior to any such vote, with the Chairman and ranking minority members of the Committee on Foreign Relations and

the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives, and the appropriate subcommittees thereof.

(2) Such consultations shall include an explanation of the consistency of such proposal to allocate with the requirements of the Articles of Agreement of the Fund, in particular the requirement that in all its decisions with respect to allocation of Special Drawing Rights, the Fund shall "seek to meet the long-term global need, as and when it arises, to supplement existing reserve assets in such manner as will promote the attainment of its purposes and will avoid economic stagnation and deflation as well as excess demand and inflation in the world".

(Pub. L. 90–349, §6, June 19, 1968, 82 Stat. 189; Pub. L. 91–599, ch. 1, §2, Dec. 30, 1970, 84 Stat. 1657; Pub. L. 94–564, §5(3), Oct. 19, 1976, 90 Stat. 2661; Pub. L. 98–181, title I [title VIII, §803], Nov. 30, 1983, 97 Stat. 1270.)

REFERENCES IN TEXT

The Bretton Woods Agreements Act, referred to in subsec. (a), is act July 31, 1945, ch. 339, 59 Stat. 512, as amended, which is classified principally to this subchapter (§286 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 286 of this title and Tables.

CODIFICATION

Section was not enacted as part of act July 31, 1945, ch. 339, 59 Stat. 512, known as the Bretton Woods Agreement Act, which comprises this subchapter.

AMENDMENTS

1983—Pub. L. 98–181 designated existing provisions as subsec. (a) and added subsec. (b).

1976—Pub. L. 94–564 substituted "article XVIII" for "article XXIV".

1970—Pub. L. 91–599 inserted "in each basic period" after "vote to allocate" and substituted "allocations to the United States in that period exceed an amount equal to the United States quota in the Fund as authorized under the Bretton Woods Agreements Act" for "net cumulative allocations to the United States exceed an amount equal to the United States quota in the Fund as heretofore authorized under the Bretton Woods Agreements Act of 1945, as amended".

CHANGE OF NAME

Committee on Banking, Finance and Urban Affairs of House of Representatives treated as referring to Committee on Banking and Financial Services of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Banking and Financial Services of House of Representatives abolished and replaced by Committee on Financial Services of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred from Committee on Energy and Commerce of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment effective Apr. 1, 1978, see section 9 of Pub. L. 94–564, set out as a note under section 286a of this title.

§286r. United States participation in special drawing account

The provisions of article XXI(b) of the Articles of Agreement of the Fund shall have full force and effect in the United States and its territories and possessions when the United States becomes a participant in the special drawing account.

(Pub. L. 90–349, §7, June 19, 1968, 82 Stat. 189; Pub. L. 94–564, §5(4), Oct. 19, 1976, 90 Stat. 2661.)

CODIFICATION

Section was not enacted as part of act July 31, 1945, ch. 339, 59 Stat. 512, known as the Bretton Woods Agreement Act, which comprises this subchapter.

AMENDMENTS

1976—Pub. L. 94–564 substituted "article XXI(b)" for "article XXVII(b)".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment effective Apr. 1, 1978, see section 9 of Pub. L. 94–564, set out as a note under section 286a of this title.

§286s. Consideration of basic human needs in economic adjustment programs supported by Fund

(a) Formulation and design of programs

The President shall instruct the Secretary of the Treasury, the Secretary of State, and other appropriate Federal officials to use all appropriate means to encourage countries, in formulating economic adjustment programs to deal with their balance of payments difficulties, to design those programs so as to safeguard, to the maximum feasible extent, jobs, investment, real per capita income, policies to reduce the gap in wealth between rich and poor, and social programs such as health, housing, and education.

(b) Changes in Fund guidelines, policies, and decisions; review prior to approval of standby arrangements; coordination among institutions; coordination between Fund and Bank; periodic analyses

To ensure the effectiveness of economic adjustment programs supported by Fund resources and the reinforcement of those programs by longer term efforts to promote sustained growth and improved living conditions—

(1) United States representatives to the Fund shall recommend and shall work for changes in Fund guidelines, policies, and decisions that would—

(A) permit stand-by arrangements to be extended beyond three years, as necessary to enable Fund members to implement their economic adjustment programs successfully;

(B) provide that in approving any economic adjustment program the Fund shall take into account the effect such program will have on jobs, investment, real per capita income, the gap in wealth between the rich and poor, and social programs such as health, housing, and education, in order to seek to minimize the adverse impact of those adjustment programs on basic human needs; and

(C) provide that letters of intent submitted to the Fund in support of an economic adjustment program reflect that the member country has taken into account the effect such program will have on the factors listed in subparagraph (B);

(2)(A) before voting on the approval of any standby arrangement with respect to any economic adjustment program, the United States Executive Director shall review—

(i) any analysis of factors prepared by the Fund or the member country in accordance with subparagraphs (B) and (C) of paragraph (1), or

(ii) if no such analysis is prepared and available for such review, an analysis which shall be prepared by the United States Governor of the Fund which examines the effect of the program on the factors listed in subparagraph (B) of paragraph (1); and

(B) the United States Executive Director of the Fund shall take into account the analysis reviewed pursuant to subparagraph (A) of this paragraph in voting on approval of that standby arrangement;

(3) United States representatives to the Fund, to the Bank, and to other appropriate institutions shall work toward improving coordination among these institutions and, in particular, shall work toward formulation of programs in association with economic adjustment programs supported by Fund resources which (A) will, among other things, promote employment, investment, real income per capita, improvements in income distribution, and the objectives of social programs

such as health, housing, and education, and (B) will, to the maximum extent feasible and consistent with the borrowing country's need to improve its balance of payments position within a reasonable period, ameliorate any adverse effects of economic adjustment programs on the poor;

(4) United States representatives to the Fund and the Bank shall seek amendments to decisions on policies on the use of Fund and Bank resources to provide that, where countries are seeking Extended Fund Facility or upper credit tranche drawings from the Fund and are eligible to receive financing from the Bank, the Fund and Bank will coordinate their financing activities in order—

(A) to take into account the effects of economic adjustment programs on the areas listed in clause (A) of paragraph (3),

(B) to provide, to the extent feasible, Bank project loans designed to safeguard and further basic human needs in countries adopting economic adjustment programs supported by Fund resources, and

(C) to provide, as appropriate, Bank financing for programs of structural adjustment that will facilitate development of a productive economic base and greater attainment of basic human needs objectives over the longer term; and

(5) United States representatives to the Fund and the Bank shall request the Fund and the Bank to provide periodic analyses of the effects of economic adjustment programs supported by Fund or Bank financing on jobs, investment, real income per capita, income distribution, and social programs such as health, housing, and education.

(July 31, 1945, ch. 339, §33, as added Pub. L. 96–389, §2(a), Oct. 7, 1980, 94 Stat. 1551; amended Pub. L. 101–240, title V, §541(d)(1), Dec. 19, 1989, 103 Stat. 2518.)

AMENDMENTS

1989—Subsec. (c). Pub. L. 101–240 struck out subsec. (c) which required inclusion of statement detailing progress made in carrying out subsecs. (a) and (b) requirements in Council's annual report to Congress.

EFFECTIVE DATE

Pub. L. 96–389, §12, Oct. 7, 1980, 94 Stat. 1555, provided that: "This Act [enacting this section and sections 286e–1g and 286t to 286x of this title, amending sections 286e–1g, 286e–8, and 286e–9 of this title and section 27 of former Title 31, Money and Finance, and enacting provisions set out as notes under sections 286a and 286t of this title and section 822a of former Title 31] shall take effect on its date of enactment [Oct. 7, 1980], except that funds may not be appropriated under any authorization contained in this Act for any period prior to October 1, 1980."

§286t. Omitted

CODIFICATION

Section, act July 31, 1945, ch. 339, §34, as added Oct. 7, 1980, Pub. L. 96–389, §4(b), 94 Stat. 1553, directed the Secretary of the Treasury, in cooperation with the United States Director of the Fund, to study and report to Congress prior to May 15, 1981, with respect to adequacy of Fund resources and method of increasing Fund liquidity, promotion of more direct recycling of oil surpluses, and methods of providing adequate resources for balance-of-payments financing.

RECYCLING BALANCE-OF-PAYMENTS SURPLUSES BY OIL EXPORTING COUNTRIES

Pub. L. 96–389, §4(a), Oct. 7, 1980, 94 Stat. 1553, provided that: "It is the sense of the Congress that (1) the interests of the United States and those of other member countries require an effective International Monetary Fund equipped with resources adequate to facilitate orderly balance-of-payments adjustments; (2) persistent balance-of-payments surpluses in oil exporting countries have placed, and will continue to place, severe strains on the resources of oil importing countries and on the liquidity of the Fund; (3) these strains can only be relieved if the oil exporting countries assume a greater burden for financing balance-of-payments deficits through direct methods of recycling their surpluses and through proportionally greater contributions to the Fund and to the international lending institutions; and (4) the Fund must explore innovative proposals to encourage more direct recycling of oil surpluses and to increase its own liquidity."

§286u. Dollar-Special Drawing Rights substitution account

It is the sense of the Congress that the Secretary of the Treasury and the United States Executive Director of the Fund shall encourage member countries of the Fund to negotiate a dollar-Special Drawing Rights substitution account in which equitable burden sharing would exist among participants in the account.

(July 31, 1945, ch. 339, §35, as added Pub. L. 96–389, §4(b), Oct. 7, 1980, 94 Stat. 1554; amended Pub. L. 97–35, title XIII, §1371(a)(2), Aug. 13, 1981, 95 Stat. 746.)

AMENDMENTS

1981—Pub. L. 97–35 struck out reporting requirement on progress toward achieving account.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Aug. 13, 1981, see section 1372 of Pub. L. 97–35, set out as an Effective Date note under section 290i of this title.

EFFECTIVE DATE

Amendment by Pub. L. 96–389 effective Oct. 7, 1980, see section 12 of Pub. L. 96–389, set out as a note under section 286s of this title.

§286v. Membership for Taiwan in Fund

It is the sense of the Congress that it is the policy of the United States that Taiwan (before January 1, 1979, known as the Republic of China) shall be granted appropriate membership in the Fund and that the United States Executive Director of the Fund shall so notify the Fund.

(July 31, 1945, ch. 339, §36, as added Pub. L. 96–389, §6, Oct. 7, 1980, 94 Stat. 1554.)

EFFECTIVE DATE

Section effective Oct. 7, 1980, see section 12 of Pub. L. 96–389, set out as a note under section 286s of this title.

§286w. Denial of membership or other status in Fund for Palestine Liberation Organization; United States participation in Fund if membership or other status granted; report by President to Congress

It is the policy of the United States that the Palestine Liberation Organization should not be given membership in the Fund or be given observer status or any other official status at any meeting sponsored by or associated with the Fund. The United States Executive Director of the Fund shall promptly notify the Fund of such policy.

In the event that the Fund provides either membership, observer status, or any other official status to the Palestine Liberation Organization, such action would result in a serious diminution of United States support. Upon review of such action, the President would be required to report his recommendations to the Congress with regard to any further United States participation in the Fund.

(July 31, 1945, ch. 339, §37, as added Pub. L. 96–389, §7, Oct. 7, 1980, 94 Stat. 1554.)

EFFECTIVE DATE

Section effective Oct. 7, 1980, see section 12 of Pub. L. 96–389, set out as a note under section 286s of this title.

§286x. Assistance to private sector of El Salvador, Nicaragua, and other nations

It is the sense of the Congress that in providing assistance through loans or other means to any nation, in particular El Salvador and Nicaragua, the Fund and the Bank should encourage programs

which assist the private sector to create an environment which will stabilize the economy of the nation; and that the United States representatives to the Fund and the Bank shall promote the use of assistance by the Fund and the Bank to encourage such programs.

(July 31, 1945, ch. 339, §38, as added Pub. L. 96–389, §8, Oct. 7, 1980, 94 Stat. 1554.)

EFFECTIVE DATE

Section effective Oct. 7, 1980, see section 12 of Pub. L. 96–389, set out as a note under section 286s of this title.

§286y. Promoting conditions for exchange rate stability

(a) In order to help assure that the resources provided under section 286e–1i of this title are used to support pro-growth policies which will help establish the economic conditions necessary for more appropriate financial and exchange rate alignment and stability, it is the sense of Congress that the Secretary of the Treasury shall—

(1) in consultation with the Secretary of State and the United States Trade Representative, initiate discussions with other countries regarding the economic dislocations which result from structural exchange rate imbalances; and

(2) instruct the United States Executive Director of the Fund to work for adoption of policies in the Fund, both within the framework of article IV (of the Articles of Agreement of the Fund) consultations and with respect to the conditions associated with Fund-supported balance of payments adjustments programs, which promote conditions contributing to the stability of exchange rates and avoid the manipulation of exchange rates between major currencies. Among other initiatives, the Secretary of the Treasury shall propose strengthening the article IV consultation procedures of the Fund to attempt to ensure that countries which are artificially maintaining undervalued or overvalued rates of exchange agree to adopt market determined exchange rates.

(b) In determining his vote on extensions of assistance to any Fund borrower, the United States Executive Director of the Fund shall take into account whether such borrower's policies are consistent with the requirements of article IV of the Articles of Agreement of the Fund.

(July 31, 1945, ch. 339, §40, as added Pub. L. 98–181, title I [title VIII, §801], Nov. 30, 1983, 97 Stat. 1267.)

§286z. Collection and exchange of information on monetary and financial problems

(a) Sense of Congress

It is the sense of the Congress that—

(1) the lack of sufficient information currently available to allow members of the Fund to make sound and prudent decisions concerning their public and private sector international borrowing, and to allow lenders to make sound and prudent decisions concerning their international lending, threatens the stability of the international monetary system; and

(2) in recognition of the Fund's duties, as provided particularly by article VIII of the Articles of Agreement of the Fund, to act as a center for the collection and exchange of information on monetary and financial problems, the Fund should adopt necessary and appropriate measures to ensure that more complete and timely financial information will be available.

(b) Initiation by United States Executive Director of discussions with other Directors; adoption of procedures

To this end, the Secretary of the Treasury shall instruct the United States Executive Director of the Fund to initiate discussions with other directors of the Fund and with Fund management, and to

propose and vote for, the adoption of procedures, within the Fund—

(1) to collect and disseminate information, on a quarterly basis, from and to Fund members, and to such other persons as the Fund deems appropriate, concerning—

(A) the extension of credit by banks or nonbanks to private and public entities, including all government entities, instrumentalities, and central banks of member countries; and

(B) the receipt of such credit by those private and public entities of member countries, where such banks or nonbanks are not principally established within the borders of the member country to which the credits are extended; and

(2) to disseminate publicly information which is developed in the course of the Fund's collection, and to review and comment on efforts which the Fund determines would serve to enhance the informational base upon which international borrowing and lending decisions are taken.

(c) "Credit" defined

For purposes of this section, the term "credit" includes—

(1) outstanding loans to private and public entities, including government entities, instrumentalities, and central banks of any member, and

(2) unused lines of credit which have been made available to those private and public entities of any member,

where such loans or lines of credit are repayable in freely convertible currency.

(d) Providing necessary information

The President is authorized to use the authority provided under section 286f of this title to require any person (as defined in such section) subject to the jurisdiction of the United States to provide such information as the Fund determines to be necessary in order to carry out the provisions of this section.

(July 31, 1945, ch. 339, §42, as added Pub. L. 98–181, title I [title VIII, §802(a)(4)], Nov. 30, 1983, 97 Stat. 1269.)

§286aa. Instructions to United States Executive Director; Communist dictatorships

The Congress hereby finds that Communist dictatorships result in severe constraints on labor and capital mobility and other highly inefficient labor and capital supply rigidities which contribute to balance of payments deficits in direct contradiction of the goals of the International Monetary Fund. Therefore, the Secretary of the Treasury shall instruct the United States Executive Director of the Fund to actively oppose any facility involving use of Fund credit by any Communist dictatorship, unless the Secretary of the Treasury certifies and documents in writing upon request and so notifies and appears, if requested, before the Foreign Relations and Banking, Housing, and Urban Affairs Committees of the Senate and the Banking, Finance and Urban Affairs Committee of the House of Representatives, at least twenty-one days in advance of any vote on such drawing that such drawing—

(1) provides the basis for correcting the balance of payments difficulties and restoring a sustainable balance of payments position;

(2) would reduce the severe constraints on labor and capital mobility or other highly inefficient labor and capital supply rigidities and advances market-oriented forces in that country; and

(3) is in the best economic interest of the majority of the people in that country.

Should the Secretary not meet a request to appear before the aforementioned committees at least twenty-one days in advance of any vote on any facility involving use of Fund credit by any communist dictatorship and certify and document in writing that these three conditions have been

met, the United States Executive Director shall vote against such program.

(July 31, 1945, ch. 339, §43, as added Pub. L. 98–181, title I [title VIII, §804], Nov. 30, 1983, 97 Stat. 1270; amended Pub. L. 103–149, §4(b)(6), Nov. 23, 1993, 107 Stat. 1505.)

AMENDMENTS

1993—Pub. L. 103–149 struck out "(a)" before "The Congress" and struck out subsec. (b) which related to use of International Monetary Fund credit by any country which practices apartheid.

CHANGE OF NAME

Committee on Banking, Finance and Urban Affairs of House of Representatives treated as referring to Committee on Banking and Financial Services of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Banking and Financial Services of House of Representatives abolished and replaced by Committee on Financial Services of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred from Committee on Energy and Commerce of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

§286bb. Elimination of predatory agricultural export subsidies

The Secretary of the Treasury shall instruct the United States Executive Director of the Fund to propose and work for the adoption of a policy encouraging Fund members to eliminate all predatory agricultural export subsidies which might result in the reduction of other member countries' exports.

(July 31, 1945, ch. 339, §44, as added Pub. L. 98–181, title I [title VIII, §805], Nov. 30, 1983, 97 Stat. 1271.)

§286cc. Sustaining economic growth

(a) Economic adjustment programs

(1) The President shall instruct the Secretary of the Treasury, the Secretary of State, and other appropriate Federal officials, and shall request the Chairman of the Board of Governors of the Federal Reserve System, to use all appropriate means to encourage countries to formulate economic adjustment programs to deal with their balance of payment difficulties and external debt owed to private banks.

(2) Such economic adjustment programs should be designed to safeguard, to the maximum extent feasible, international economic growth, world trade, employment, and the long-term solvency of banks, and to minimize the likelihood of civil disturbances in countries needing economic adjustment programs.

(b) Changes in Fund guidelines; limitations on debt service exceptions

To ensure the effectiveness of economic adjustment programs supported by Fund resources—

(1) the United States Executive Director of the Fund shall recommend and shall work for changes in Fund guidelines, policies, and decisions which would—

(A) convert short-term bank debt which was made at high interest rates into long-term debt at lower rates of interest;

(B) assure that the annual external debt service, which shall include principal, interest, points, fees, and other charges required of the country involved, is a manageable and prudent percentage of the projected annual export earnings of such country; and

(C) provide that in approving any economic adjustment program the Fund shall take into account the number of countries applying to the Fund for economic adjustment programs and the aggregate effects that such programs will have on international economic growth, world trade, exports and employment of other member countries, and the long-term solvency of banks; and

(2) except as provided in subsection (c) of this section, the United States Executive Director of the Fund shall oppose and vote against providing assistance from the Fund for any economic adjustment program for a country in which the annual external debt service exceeds 85 per centum of the annual export earnings of such country, unless the Secretary of the Treasury first determines and provides written documentation to the Committee on Banking, Housing, and Urban Affairs and the Committee on Foreign Relations of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives that—

(A) the economic adjustment program converts high interest rate, short-term bank debt into long-term debt at significantly narrower interest rate spreads than the average interest rate spreads prevailing on bank debt reschedulings negotiated between August 1982 and August 1983 for countries receiving assistance from the Fund for economic adjustment programs in order to minimize the burdens of adjustment on the debtor nation, provided that such interest rate spreads are consistent with that nation's need to obtain adequate external private financing;

(B) the annual external debt service required of the country involved is a manageable and prudent percentage of the projected annual export earnings of such country; and

(C) the economic adjustment program will not have an adverse impact on international economic growth, world trade, exports, and employment of other member countries, and the long-term solvency of banks.

(c) Emergencies and extraordinary circumstances

The provisions of subsection (b)(2) shall not apply in any case in which the Secretary of the Treasury first determines and provides written documentation to the Committee on Banking, Housing, and Urban Affairs and the Committee on Foreign Relations of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives that—

(1) an emergency exists in a nation that has applied to the Fund for assistance that requires an immediate short-term loan to avoid disrupting orderly financial markets;

(2) a sudden decrease in export earnings in the country applying to the Fund for assistance has increased the ratio of annual external debt service to annual export earnings, to greater than 85 per centum for a period projected to be no more than one year; or

(3) other extraordinary circumstances exist which warrant waiving the provisions of subsection (b)(2).

(July 31, 1945, ch. 339, §45, as added Pub. L. 98–181, title I [title VIII, §806], Nov. 30, 1983, 97 Stat. 1272.)

CHANGE OF NAME

Committee on Banking, Finance and Urban Affairs of House of Representatives treated as referring to Committee on Banking and Financial Services of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Banking and Financial Services of House of Representatives abolished and replaced by Committee on Financial Services of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred from Committee on Energy and Commerce of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

§286dd. Fund bailouts of banks; rescheduling of debt

The Secretary of the Treasury shall instruct the United States Executive Director of the Fund—

(1) to oppose and vote against any Fund drawing by a member country where, in his judgment, the Fund resources would be drawn principally for the purpose of repaying loans which have been imprudently made by banking institutions to the member country; and

(2) to work to insure that the Fund encourages borrowing countries and banking institutions to negotiate, where appropriate, a rescheduling of debt which is consistent with safe and sound banking practices and the country's ability to pay.

(July 31, 1945, ch. 339, §46, as added Pub. L. 98–181, title I [title VIII, §807], Nov. 30, 1983, 97 Stat. 1273.)

§286ee. International cooperation

The Secretary of the Treasury shall instruct the United States Executive Director of the Fund to propose that the Fund adopt the following policies with respect to international lending:

(1) In its consultations with a member government on its economic policies pursuant to article IV of the Articles of Agreement of the Fund, the Fund should—

(A) intensify its examination of the trend and volume of external indebtedness of private and public borrowers in the member country and comment, as appropriate, in its report to the Executive Board from the viewpoint of the contribution of such borrowings to the economic stability of the borrower; and

(B) consider to what extent and in what form these comments might be made available to the international banking community and the public.

(2) As part of any Fund-approved stabilization program, the Fund should give consideration to placing limits on public sector external short- and long-term borrowing.

(3) As a part of its annual report, and at such times as it may consider desirable, the Fund should publish its evaluation of the trend and volume of international lending as it affects the economic situation of lenders, borrowers, and the smooth functioning of the international monetary system.

(July 31, 1945, ch. 339, §47, as added Pub. L. 98–181, title I [title VIII, §809], Nov. 30, 1983, 97 Stat. 1274.)

§286ff. Fund interest rates

The Secretary of the Treasury shall instruct the United States Executive Director of the Fund to propose and work for the adoption of Fund policies regarding the rate of remuneration paid on use of member's quota subscriptions and the rate of charges on Fund drawings to bring those rates in line with market rates.

(July 31, 1945, ch. 339, §48, as added Pub. L. 98–181, title I [title VIII, §810], Nov. 30, 1983, 97 Stat. 1274.)

§286gg. Elimination of trade restrictions

(a) Promotion of fair trade as financial assistance policy

(1) The Secretary of the Treasury shall instruct the United States Executive Director of each of the multilateral development banks (in this section referred to as the "banks") and of the Fund to initiate a wide consultation with the Managing Director of each of the banks and of the Fund and the other directors of the banks and of the Fund with regard to the development of financial assistance policies which, to the maximum feasible extent—

(A) reduce obstacles to and restrictions upon international trade and investment in goods and services;

(B) eliminate unfair trade and investment practices; and

(C) promote mutually advantageous economic relations.

(2) The Secretary of the Treasury shall work closely in this effort with the Trade Policy Committee.

(3) As part of this effort, the Secretary of the Treasury shall also instruct the United States Executive Director of each of the banks and of the Fund to encourage close cooperation between their staff and the Secretariat of the World Trade Organization (as the term "World Trade Organization" is defined in section 3501(8) of title 19).

(b) Agreement to eliminate unfair trade practices as condition of financial assistance

(1) The Secretary of the Treasury shall instruct the United States Executive Director of each of the banks and of the Fund, prior to the extension to any country of financial assistance by the banks and by the Fund, to work to have the banks and the Fund obtain the agreement of such country to eliminate, in a manner consistent with its balance of payments adjustment program, unfair trade and investment practices with respect to goods and services which the United States Trade Representative, after consultation with the Trade Policy Committee, has determined to have a significant deleterious effect on the international trading system.

(2) Such practices include—

(A) the provision of predatory export subsidies, employed in connection with the exporting of agricultural commodities and products thereof to foreign countries;

(B) the provision of other export subsidies, such as government subsidized below-market interest rate financing for commodities or manufactured goods;

(C) unreasonable import restrictions;

(D) the imposition of trade-related performance requirements on foreign investment; and

(E) practices which are inconsistent with international agreements.

(c) United States position on requests for loans or drawing under bank and Fund programs; progress made in eliminating unfair trade practices

(1) In determining the United States position on requests for loans or periodic drawing under bank and Fund programs, the Secretary of the Treasury shall take full account of the progress countries have made in achieving targets for eliminating or phasing out the practices referred to in subsection (b) of this section.

(2) In the event that the United States supports a request for loans or drawing by a country that has not achieved the bank and Fund targets relating to such practices specified in its program, the Secretary of the Treasury shall report to the appropriate committees of the Congress the reasons for the United States position.

(d) "Multilateral development banks" defined

For purposes of this section, the term "multilateral development banks" means the International Bank for Reconstruction and Development, the Inter-American Development Bank, the African Development Bank, and the Asian Development Bank.

(July 31, 1945, ch. 339, §49, as added Pub. L. 98–181, title I [title VIII, §812], Nov. 30, 1983, 97 Stat. 1275; amended Pub. L. 99–500, §101(f) [title V, §555], Oct. 18, 1986, 100 Stat. 1783–213, 1783–240, and Pub. L. 99–591, §101(f) [title V, §555], Oct. 30, 1986, 100 Stat. 3341–214, 3341–240; Pub. L. 106–36, title I, §1002(c), June 25, 1999, 113 Stat. 133.)

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

AMENDMENTS

1999—Subsec. (a)(3). Pub. L. 106–36 substituted "Secretariat of the World Trade Organization (as the term 'World Trade Organization' is defined in section 3501(8) of title 19)" for "GATT Secretariat".

1986—Subsec. (a)(1). Pub. L. 99–500 and Pub. L. 99–591, §101(f) [title V, §555(b)], inserted "each of the multilateral development banks (in this section referred to as the 'banks') and of", "each of the banks and of", and "banks and of the", and substituted "development of financial" for "development of Fund financial".

Subsec. (a)(3). Pub. L. 99–500 and Pub. L. 99–591, §101(f) [title V, §555(c)], inserted "each of the banks and of" and substituted "their staff" for "Fund staff".

Subsec. (b)(1). Pub. L. 99–500 and Pub. L. 99–591, §101(f) [title V, §555(d)], inserted "each of the banks and of", "the banks and by", and "the banks and".

Subsec. (c). Pub. L. 99–500 and Pub. L. 99–591, §101(f) [title V, §555(e), (f)], inserted "bank and" and "loans or" in pars. (1) and (2).

Subsec. (d). Pub. L. 99–500 and Pub. L. 99–591, §101(f) [title V, §555(a)], added subsec. (d).

§286hh. Policy based lending for debt reduction

(a) Criteria

The Secretary of the Treasury shall instruct the United States Executive Director of the International Bank for Reconstruction and Development to initiate discussions with other directors of such bank and to advocate and support the facilitation of voluntary market-based programs for the reduction of sovereign debt and the promotion of sustainable economic development, which, if implemented, would—

(1) not require any organization or government to participate in such a program;

(2) result in debt reduction for each participating country tailored to the particular situation of each country;

(3) provide assistance to participating countries conditioned on the implementation of economic reforms, and the preservation of economic reforms previously implemented, by the country that are consistent with the principles of sustainable development;

(4) encourage participating countries to make economic adjustments steadily and over a period of time in order to achieve policy reform;

(5) use debt reduction techniques that would not compensate commercial banks for the reduction in the value of such debt, but would serve as a catalyst for new lending;

(6) involve such bank in lending for purposes of debt reduction and conversion only where such involvement would not lower the credit-worthiness of such bank;

(7) not require public sector funding beyond that provided through any capital increase for such bank, and any replenishment for the International Development Association, which is agreed to by the member countries of such institutions; and

(8) accomplish debt reduction, not as an end, but as a means to greater growth and investment in, and the restoration of voluntary private lending to, participating countries for environmentally and economically sustainable development.

(b) Policy based lending for debt reduction and sustainable growth

The Secretary of the Treasury shall instruct the United States Executive Director of the International Bank for Reconstruction and Development to initiate discussions with other directors of such bank and to propose that policy based loans be made by such bank for, among other reasons, facilitating a reduction in the debt service burden of any country which is participating in a voluntary market-based program for debt reduction described in subsection (c).

(c) Voluntary market-based program for debt reduction and sustainable growth

In connection with the discussions initiated pursuant to subsection (b), the Secretary shall instruct the United States Executive Director of the International Bank for Reconstruction and Development to propose that a country be considered to be participating in a voluntary market-based program of debt reduction for purposes of subsection (b) if the creditors of such country agree to significantly reduce the debt service of such country through forgiveness of a percentage of the interest owed by such country on any sovereign debt or through any other means.

(d) Reports

Not later than March 1, 1989, March 1, 1991, and March 1, 1993, respectively, the Secretary of the Treasury shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate 3 reports each of which—

(1) describes the long term strategy and lending programs of the International Bank for Reconstruction and Development for reducing and managing the debt burden of the countries designated as "Highly Indebted Countries" in the 1987–1988 World Debt Tables published by such bank, and summarize the long term strategy and lending programs of such bank for other seriously indebted countries;

(2) contains an explanation of the measures taken by such bank to facilitate the reduction of the debt burden of the countries designated as "Highly Indebted Countries" in the 1987–1988 World Debt tables [1] published by such bank;

(3) describes the extent (if any) to which such bank has implemented the measures described in subsections (b) and (c); and

(4) describes the success each of such countries has had in managing and reducing their debt burdens and achieving sustainable and equitable economic growth as measured by criteria including the ratio of debt service to exports, the ratio of debt to gross national product, net resource flows, and per capita income.

(e) Review by House Banking Committee

On receipt of each report required to be submitted pursuant to subsection (d), and after consultation with the Secretary of the Treasury, the Committee on Banking, Finance and Urban Affairs of the House of Representatives shall forward such report to the Committee on Appropriations of the House of Representatives with an assessment by the Committee on Banking, Finance and Urban Affairs describing the effect on the international debt situation of funding the subscription of the United States to the shares of capital stock of the International Bank for Reconstruction and Development due for payment by the United States in the then next fiscal year.

(Pub. L. 100–461, title V, §555, Oct. 1, 1988, 102 Stat. 2268–36; Pub. L. 111–203, title IX, §939(f), July 21, 2010, 124 Stat. 1886.)

CODIFICATION

Section is based on section 3 of H.R. 4645, One Hundredth Congress, as reported Sept. 28, 1988, and enacted into law by Pub. L. 100–461.

Section was not enacted as part of act July 31, 1945, ch. 339, 59 Stat. 512, known as the Bretton Woods Agreements Act, which comprises this subchapter.

AMENDMENTS

2010—Subsec. (a)(6). Pub. L. 111–203 substituted "credit-worthiness" for "credit rating".

CHANGE OF NAME

Committee on Banking, Finance and Urban Affairs of House of Representatives treated as referring to Committee on Banking and Financial Services of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Banking and Financial Services of House of Representatives abolished and replaced by Committee on Financial Services of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred from Committee on Energy and Commerce of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–203 effective 2 years after July 21, 2010, see section 939(g) of Pub. L. 111–203, set out as a note under section 24a of Title 12, Banks and Banking.

[1] So in original. Probably should be capitalized.

§286ii. Limitations on Bank policy based lending; actions required to be taken to oppose excessive policy based lending by Bank

The Secretary of the Treasury shall—

(1) take all necessary steps to encourage the International Bank for Reconstruction and Development to limit—

(A) the aggregate value of the policy based loans made by such bank (other than for the purpose described in section 286hh(b) of this title) in any fiscal year of such bank beginning after June 30, 1989, to 25 percent of the aggregate value of all loans made by such bank in such fiscal year; and

(B) the aggregate value of the policy based loans made by such bank to the government of a particular country (other than for the purpose described in section 286hh(b) of this title) in any fiscal year of such bank beginning after June 30, 1989, and occurring during any period of 3

consecutive fiscal years of such bank (determined after disregarding any such fiscal year in which such bank did not make a policy based loan to such government), to 50 percent of the aggregate value of all loans made by such bank to such government during such 3-year period;

(2) instruct the United States Executive Director of such bank to propose and actively seek the adoption by the board of Executive Directors of such bank of a resolution establishing as official bank operating policy for fiscal years 1990 through 1995 of such bank the limits specified in paragraph (1); and

(3) until the resolution described in paragraph (2) is adopted, undertake, in consultation with the Secretary of State, discussions with other member country governments to secure the consent and cooperation of such governments with respect to the adoption of the limits specified in paragraph (1).

(Pub. L. 100–461, title V, §555, Oct. 1, 1988, 102 Stat. 2268–36.)

CODIFICATION

Section is based on section 4 of H.R. 4645, One Hundredth Congress, as reported Sept. 28, 1988, and enacted into law by Pub. L. 100–461.

Section was not enacted as part of act July 31, 1945, ch. 339, 59 Stat. 512, known as the Bretton Woods Agreements Act, which comprises this subchapter.

§286jj. Partial guarantees in connection with debt reduction for borrower countries

The Secretary of the Treasury shall instruct the United States Executive Director of the International Bank for Reconstruction and Development to initiate discussions with other directors of such bank and to propose that such bank establish criteria under which such bank would provide partial guarantees on debt service payments by borrower countries to private creditors when such guarantees would serve a catalytic role in facilitating final agreement on financing packages which involve significant debt reduction.

(Pub. L. 100–461, title V, §555, Oct. 1, 1988, 102 Stat. 2268–36.)

CODIFICATION

Section is based on section 5 of H.R. 4645, One Hundredth Congress, as reported Sept. 28, 1988, and enacted into law by Pub. L. 100–461.

Section was not enacted as part of act July 31, 1945, ch. 339, 59 Stat. 512, known as the Bretton Woods Agreements Act, which comprises this subchapter.

§286kk. Discussions to enhance capacity of Fund to alleviate potentially adverse impacts of Fund programs on poor and environment

The Secretary of the Treasury shall instruct the United States Executive Director of the Fund to seek policy changes by the Fund, through formal initiatives and through bilateral discussions, which will result in—

(1) the initiation of a systematic review of policy prescriptions implemented by the Fund, for the purpose of determining whether the Fund's objectives were met and the social and environmental impacts of such policy prescriptions; and

(2) the establishment of procedures which ensure the inclusion, in future economic reform programs approved by the Fund, of policy options which eliminate or reduce the potential adverse impact on the well-being of the poor or the environment resulting from such programs.

(July 31, 1945, ch. 339, §55, as added Pub. L. 101–240, title III, §302, Dec. 19, 1989, 103 Stat. 2500.)

§286*ll*. Fund policy changes

(a) Policy changes within IMF

The Secretary of the Treasury shall instruct the United States Executive Director of the Fund to promote regularly and vigorously in program discussions and quota increase negotiations the following proposals:

(1) Poverty alleviation, reduction of barriers to economic and social progress, and progress toward environmentally sound policies and programs

(A)(i) Considerations of poverty alleviation and the reduction of barriers to economic and social progress should be incorporated into all Fund programs and all consultations under article IV of the Articles of Agreement of the Fund.

(ii) Preparation of Policy Framework Papers should be extended to all nations which have Fund programs and active Bank or International Development Association lending programs, and existence of a Policy Framework Paper should be a precondition for new lending to such nations by the Fund.

(iii) All Policy Framework Papers should articulate the principal poverty, economic, and social measures that the borrowing nation needs to address, and this portion of the Policy Framework Paper (or a summary thereof that includes specific measures and timing) should be made available when the Policy Framework Paper is submitted to the Executive Directors of the Bank and of the Fund for consideration.

(iv) In considering whether to allocate resources of the Fund to a borrower, the Fund should take into consideration the nature of the program and commitment of the borrower to address the issues referred to in clause (iii).

(v) The Fund should establish procedures to enable the Fund to cooperate with the Bank in evaluating the effectiveness of the measures referred to in clause (iii), at the levels of policy, project design, monitoring, and reporting, in the international financial institutions and in the borrowing nations.

(B)(i) The Fund should be encouraged to make further progress toward environmentally sound policies and programs.

(ii) The Fund should incorporate environmental considerations into all Fund programs, including consultations under article IV of the Articles of Agreement of the Fund.

(iii) The Fund should be encouraged to support the efforts of nations to implement systems of natural resource accounting in their national income accounts.

(iv) The Fund should be encouraged to assist and cooperate fully with the statistical research being undertaken by the Organization for Economic Cooperation and Development and by the United Nations in order to facilitate development and adoption of a generally applicable system for taking account of the depletion or degradation of natural resources in national income accounts.

(v) The Fund should be encouraged to consider and implement, as appropriate, revisions in its national income reporting systems consistent with such new systems as are of general applicability.

(2) Policy audits

(A) The Fund should conduct periodic audits to review systematically the policy prescriptions recommended and required by the Fund in the areas of poverty and the environment.

(B) The purposes of such audits would be—

(i) to determine whether the Fund's objectives were met; and

(ii) to evaluate the social and environmental impacts of the implementation of the policy prescriptions.

(C) Such audits would have access to all ongoing programs and activities of the Fund and the ability to review the effects of Fund-supported programs, on a country-by-country basis, with respect to poverty, economic development, and environment.

(D) Such audits should be made public as appropriate with due respect to confidentiality.

(3) Ensuring policy options that increase the productive participation of the poor

The Fund should establish procedures that ensure the focus of future economic reform programs approved by the Fund on policy options that increase the productive participation of the poor in the economy.

(4) Public access to information

(A) The Fund should establish procedures for public access to information.

(B) Such procedures shall seek to ensure access of the public to information while paying due regard to appropriate confidentiality.

(C) Policy Framework Papers and the supporting documents prepared by the Fund's mission to a country are examples of documents that should be made public at an appropriate time and in appropriate ways.

(b) Progress report

Each annual report of the National Advisory Council on International Monetary and Financial Policies shall describe the following:

(1) The actions that the United States Executive Director and other officials have taken to convince the Fund to adopt the proposals set forth in subsection (a) through formal initiatives before the Board and management of the Fund, through bilateral discussions with other member nations, and through any further quota increase negotiations.

(2) The status of the progress being made by the Fund in implementing the proposals set forth in subsection (a).

(c) Study

The Secretary of the Treasury shall instruct the United States Executive Director to the Fund to urge the Fund—

(1) to explore ways to increase the involvement and participation of important ministries, national development experts, environmental experts, free-market experts, and other legitimate experts and representatives from the loan-recipient country in the development of Fund programs; and

(2) to report on the status of Fund efforts in this regard.

(July 31, 1945, ch. 339, §59, as added Pub. L. 102–511, title X, §1002, Oct. 24, 1992, 106 Stat. 3357.)

§286mm. Measures to reduce military spending by developing nations

(a) Development by Fund of means to measure military spending

(1) Position of the United States

The United States Executive Director of the Fund shall use the voice and vote of the United States to urge the Fund, in consultation with the Bank, to continue to develop an economic methodology to measure the level of military spending by each developing country.

(2) Progress report to the Congress

No later than 1 year after October 24, 1992, the Secretary of the Treasury shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs and the Committee on Foreign Relations of the Senate a report on the status of the development by the Fund of a workable economic methodology to measure military spending by developing countries.

(b) Annual reports by Fund on levels of military spending

The United States Executive Director of the Fund shall use the voice and vote of the United States to urge the Fund, beginning with 1994, to provide the Executive Board of the Fund with annual

reports stating the estimate by the Fund of the level of military spending by each developing country in the immediately preceding calendar year (or, with respect to developing countries whose fiscal years are not calendar years, in the most recently completed fiscal year of the developing country), not later than the date of the annual fall Interim and Development Committee meetings.

(c) Analysis and assessment of military spending to be included in article IV consultations by Fund

The United States Executive Director of the Fund shall use the voice and vote of the United States to urge the Fund, beginning no later than the date of the first report provided as described in subsection (b), to include in every article IV consultation with a developing country an analysis of the level of military spending by the developing country in the immediately preceding calendar year (or, with respect to developing countries whose fiscal years are not calendar years, in the most recently completed fiscal year of the developing country).

(July 31, 1945, ch. 339, §60, as added Pub. L. 102–511, title X, §1003, Oct. 24, 1992, 106 Stat. 3359.)

CHANGE OF NAME

Committee on Banking, Finance and Urban Affairs of House of Representatives treated as referring to Committee on Banking and Financial Services of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Banking and Financial Services of House of Representatives abolished and replaced by Committee on Financial Services of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred from Committee on Energy and Commerce of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

§286nn. Approval of contributions for debt reductions for the poorest countries

For the purpose of mobilizing the resources of the Fund in order to help reduce poverty and improve the lives of residents of poor countries and, in particular, to allow those poor countries with unsustainable debt burdens to receive deeper, broader, and faster debt relief, without allowing gold to reach the open market or otherwise adversely affecting the market price of gold, the Secretary of the Treasury is authorized to instruct the United States Executive Director of the Fund to vote—

(1) to approve an arrangement whereby the Fund—

(A) sells a quantity of its gold at prevailing market prices to a member or members in nonpublic transactions sufficient to generate 2.226 billion Special Drawing Rights in profits on such sales;

(B) immediately after, and in conjunction with each such sale, accepts payment by such member or members of such gold to satisfy existing repurchase obligations of such member or members so that the Fund retains ownership of the gold at the conclusion of such payment; and

(C) uses the earnings on the investment of the profits of such sales through a separate subaccount, only for the purpose of providing debt relief from the Fund under the modified Heavily Indebted Poor Countries (HIPC) Initiative (as defined in section 262p–6 of this title); and

(2) to support a decision that shall terminate the Special Contingency Account 2 (SCA–2) of the Fund so that the funds in the SCA–2 shall be made available to the poorest countries. Any funds attributable to the United States participation in SCA–2 shall be used only for debt relief from the Fund under the modified HIPC Initiative.

(July 31, 1945, ch. 339, §62, as added Pub. L. 106–113, div. B, §1000(a)(5) [title V, §503(a)], Nov. 29, 1999, 113 Stat. 1536, 1501A–316; amended Pub. L. 106–429, §101(a) [title VIII, §801(a)], Nov. 6, 2000, 114 Stat. 1900, 1900A–64.)

AMENDMENTS

2000—Par. (1)(B), (D). Pub. L. 106–429 inserted "and" at end of subpar. (B) and struck out subpar. (D)

which read as follows: "shall not use more than 9/14 of the earnings on the investment of the profits of such sales; and".

CERTIFICATION TO CONGRESS RELATING TO USE OF PROFITS TO AUGMENT INTERNATIONAL MONETARY FUND

Pub. L. 106–113, div. B, §1000(a)(5) [title V, §503(b)], Nov. 29, 1999, 113 Stat. 1536, 1501A–316, provided that: "Within 15 days after the United States Executive Director casts the votes necessary to carry out the instruction described in section 62 of the Bretton Woods Agreements Act [22 U.S.C. 286nn], the Secretary of the Treasury shall certify to the Congress that neither the profits nor the earnings on the investment of profits from the gold sales made pursuant to the instruction or of the funds attributable to United States participation in SCA–2 will be used to augment the resources of any reserve account of the International Monetary Fund for the purpose of making loans."

§286*oo*. Principles for International Monetary Fund lending

It is the policy of the United States to work to implement reforms in the International Monetary Fund (IMF) to achieve the following goals:

(1) Short-term balance of payments financing

Lending from the general resources of the Fund should concentrate chiefly on short-term balance of payments financing.

(2) Limitations on medium-term financing

Use of medium-term lending from the general resources of the Fund should be limited to a set of well-defined circumstances, such as—

(A) when a member's balance of payments problems will be protracted;

(B) such member has a strong structural reform program in place; and

(C) the member has little or no access to private sources of capital.

(3) Premium pricing

Premium pricing should be introduced for lending from the general resources of the Fund, for greater than 200 percent of a member's quota in the Fund, to discourage excessive use of Fund lending and to encourage members to rely on private financing to the maximum extent possible.

(4) Redressing misreporting of information

The Fund should have in place and apply systematically a strong framework of safeguards and measures to respond to, correct, and discourage cases of misreporting of information in the context of a Fund program, including—

(A) suspending Fund disbursements and ensuring that Fund lending is not resumed to members that engage in serious misreporting of material information until such time as remedial actions and sanctions, as appropriate, have been applied;

(B) ensuring that members make early repayments, where appropriate, of Fund resources disbursed on the basis of misreported information;

(C) making public cases of serious misreporting of material information;

(D) requiring all members receiving new disbursements from the Fund to undertake annually independent audits of central bank financial statements and publish the resulting audits; and

(E) requiring all members seeking new loans from the Fund to provide to the Fund detailed information regarding their internal control procedures, financial reporting and audit mechanisms and, in cases where there are questions about the adequacy of these systems, undertaking an on-site review and identifying needed remedies.

(July 31, 1945, ch. 339, §63, as added Pub. L. 106–429, §101(a) [title VIII, §805], Nov. 6, 2000, 114 Stat. 1900, 1900A–67.)

CODIFICATION

Section 101(a) [title VIII, §805] of Pub. L. 106–429, which directed amendment of the Bretton Woods Agreement Act by adding this section, was executed by amending the Bretton Woods Agreements Act by

adding this section, to reflect the probable intent of Congress.

§286pp. Acceptance of amendments to Articles of Agreement of Fund approved on April 28 and May 5, 2008

The United States Governor of the Fund may agree to and accept the amendments to the Articles of Agreement of the Fund as proposed in the resolutions numbered 63–2 and 63–3 of the Board of Governors of the Fund which were approved by such Board on April 28, 2008 and May 5, 2008, respectively.

(July 31, 1945, ch. 339, §64, as added Pub. L. 111–32, title XIV, §1402, June 24, 2009, 123 Stat. 1917.)

§286qq. Quota increase to 4,973,100,000 Special Drawing Rights

(a) In general

The United States Governor of the Fund may consent to an increase in the quota of the United States in the Fund equivalent to 4,973,100,000 Special Drawing Rights.

(b) Subject to appropriations

The authority provided by subsection (a) shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts.

(July 31, 1945, ch. 339, §65, as added Pub. L. 111–32, title XIV, §1402, June 24, 2009, 123 Stat. 1918.)

§286rr. Approval to sell a limited amount of the Fund's gold

(a) The Secretary of the Treasury is authorized to instruct the United States Executive Director of the Fund to vote to approve the sale of up to 12,965,649 ounces of the Fund's gold acquired since the second Amendment to the Fund's Articles of Agreement, only if such sales are consistent with the guidelines agreed to by the Executive Board of the Fund described in the Report of the Managing Director to the International Monetary and Financial Committee on a New Income and Expenditure Framework for the International Monetary Fund (April 9, 2008) to prevent disruption to the world gold market: *Provided*, That at least 30 days prior to any such vote, the Secretary shall consult with the appropriate congressional committees regarding the use of proceeds from the sale of such gold: *Provided further*, That the Secretary of the Treasury shall seek to ensure that:

(1) the Fund will provide support to low-income countries that are eligible for the Poverty Reduction and Growth Facility or other low-income lending from the Fund by making available Fund resources of not less than $4,000,000,000;

(2) such Fund resources referenced above will be used to leverage additional support by a significant multiple to provide loans with substantial concessionality and debt service payment relief and/or grants, as appropriate to a country's circumstances: [1]

(3) support provided through forgiveness of interest on concessional loans will be provided for not less than two years; and

(4) the support provided to low-income countries occurs within six years, a substantial amount of which shall occur within the initial two years.

(b) In addition to agreeing to and accepting the amendments referred to in section 286pp of this title relating to the use of proceeds from the sale of such gold, the United States Governor is authorized, consistent with subsection (a), to take such actions as may be necessary, including those referred to in section 286c(e) of this title, to also use such proceeds for the purpose of assisting low-income countries.

(July 31, 1945, ch. 339, §66, as added Pub. L. 111–32, title XIV, §1402, June 24, 2009, 123 Stat. 1918.)

[1] *So in original. The colon probably should be a semicolon.*

§286ss. Acceptance of amendment to Articles of Agreement of Fund approved on October 22, 1997

The United States Governor of the Fund may agree to and accept the amendment to the Articles of Agreement of the Fund as proposed in the resolution numbered 52–4 of the Board of Governors of the Fund which was approved by such Board on October 22, 1997: *Provided*, That not more than one year after the acceptance of such amendments to the Fund's Articles of Agreement, the Secretary of the Treasury shall submit a report to the appropriate congressional committees analyzing Special Drawing Rights, to include a discussion of how those countries that significantly use or acquire Special Drawing Rights in accordance with Article XIX, Section 2(c), use or acquire them; the extent to which countries experiencing balance of payment difficulties exchange or use their Special Drawing Rights to acquire reserve currencies; and the manner in which those reserve currencies are acquired when utilizing Special Drawing Rights.

(July 31, 1945, ch. 339, §67, as added Pub. L. 111–32, title XIV, §1402, June 24, 2009, 123 Stat. 1918; amended Pub. L. 111–117, div. F, title VII, §7034(q)(1)(A), Dec. 16, 2009, 123 Stat. 3363.)

AMENDMENTS

2009—Pub. L. 111–117 substituted "resolution numbered 52–4" for "resolution numbered 54–4".

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111–117, div. F, title VII, §7034(q)(1)(B), Dec. 16, 2009, 123 Stat. 3363, provided that: "The amendment made by subparagraph (A) [amending this section] shall take effect as if included in the enactment of section 1402 of Public Law 111–32."

§286tt. Restrictions on use of United States funds for foreign governments; protection of American taxpayers

(a) In general

The Secretary of the Treasury shall instruct the United States Executive Director at the International Monetary Fund—

(1) to evaluate, prior to consideration by the Board of Executive Directors of the Fund, any proposal submitted to the Board for the Fund to make a loan to a country if—

(A) the amount of the public debt of the country exceeds the gross domestic product of the country as of the most recent year for which such information is available; and

(B) the country is not eligible for assistance from the International Development Association.

(2) OPPOSITION TO LOANS UNLIKELY TO BE REPAID IN FULL.—If any such evaluation indicates that the proposed loan is not likely to be repaid in full, the Secretary of the Treasury shall instruct the United States Executive Director at the Fund to use the voice and vote of the United States to oppose the proposal.

(b) Reports to Congress

Within 30 days after the Board of Executive Directors of the Fund approves a proposal described in subsection (a), and annually thereafter by June 30, for the duration of any program approved under such proposals, the Secretary of the Treasury shall report in writing to the Committee on Financial

Services of the House of Representatives and the Committee on Foreign Relations and the Committee on Banking, Housing, and Urban Affairs of the Senate assessing the likelihood that loans made pursuant to such proposals will be repaid in full, including—

(1) the borrowing country's current debt status, including, to the extent possible, its maturity structure, whether it has fixed or floating rates, whether it is indexed, and by whom it is held;

(2) the borrowing country's external and internal vulnerabilities that could potentially affect its ability to repay; and

(3) the borrowing country's debt management strategy.

(July 31, 1945, ch. 339, §68, as added Pub. L. 111–203, title XV, §1501, July 21, 2010, 124 Stat. 2212.)

EFFECTIVE DATE

Section effective 1 day after July 21, 2010, except as otherwise provided, see section 4 of Pub. L. 111–203, set out as a note under section 5301 of Title 12, Banks and Banking.

§286uu. Acceptance of an amendment to the Articles of Agreement of the Bank to increase basic votes

The United States Governor of the Bank may accept on behalf of the United States the amendment to the Articles of Agreement of the Bank as proposed in resolution No. 596, entitled "Enhancing Voice and Participation of Developing and Transition Countries," of the Board of Governors of the Bank that was approved by such Board on January 30, 2009.

(July 31, 1945, ch. 339, §69, as added Pub. L. 112–74, div. I, title VII, §7081(a), Dec. 23, 2011, 125 Stat. 1258.)

§286vv. Capital stock increases

(a) Increases authorized

The United States Governor of the Bank is authorized—

(1)(A) to vote in favor of a resolution to increase the capital stock of the Bank on a selective basis by 230,374 shares; and

(B) to subscribe on behalf of the United States to 38,459 additional shares of the capital stock of the Bank, as part of the selective increase in the capital stock of the Bank, except that any subscription to such additional shares shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts;

(2)(A) to vote in favor of a resolution to increase the capital stock of the Bank on a general basis by 484,102 shares; and

(B) to subscribe on behalf of the United States to 81,074 additional shares of the capital stock of the Bank, as part of the general increase in the capital stock of the Bank, except that any subscription to such additional shares shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts.

(b) Limitations on authorization of appropriations

(1) In order to pay for the increase in the United States subscription to the Bank under subsection (a)(2)(B), there are authorized to be appropriated, without fiscal year limitation, $9,780,361,991 for payment by the Secretary of the Treasury.

(2) Of the amount authorized to be appropriated under paragraph (2)(A)— [1]

(A) $586,821,720 shall be for paid in shares of the Bank; and

(B) $9,193,540,271 shall be for callable shares of the Bank.

(3) In order to pay for the increase in the United States subscription to the Bank under subsection (a)(1)(B), there are authorized to be appropriated, without fiscal year limitation, $4,639,501,466 for

payment by the Secretary of the Treasury.

(4) Of the amount authorized to be appropriated under paragraph (3), $278,370,088 shall be for paid in shares of the Bank, and $4,361,131,378 shall be for callable shares of the Bank.

(July 31, 1945, ch. 339, §70, as added Pub. L. 112–74, div. I, title VII, §7081(a), Dec. 23, 2011, 125 Stat. 1259; amended Pub. L. 113–6, div. F, title VII, §1704(d), Mar. 26, 2013, 127 Stat. 429.)

AMENDMENTS

2013—Subsec. (b)(3), (4). Pub. L. 113–6 added pars. (3) and (4).

[1] *So in original. Probably should be "paragraph (1)—".*

§286ww. Acceptance of amendments to Articles of Agreement of Fund

The United States Governor of the Fund may accept the amendments to the Articles of Agreement of the Fund as proposed in resolution 66–2 of the Board of Governors of the Fund.

(July 31, 1945, ch. 339, §71, as added Pub. L. 114–113, div. K, title IX, §9002, Dec. 18, 2015, 129 Stat. 2830.)

§286xx. Quota increase

(a) In general

The United States Governor of the Fund may consent to an increase in the quota of the United States in the Fund equivalent to 40,871,800,000 Special Drawing Rights.

(b) Subject to appropriations

The authority provided by subsection (a) shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts.

(July 31, 1945, ch. 339, §72, as added Pub. L. 114–113, div. K, title IX, §9002, Dec. 18, 2015, 129 Stat. 2830.)

SUBCHAPTER XVI—UNITED NATIONS ORGANIZATION

§287. Representation in Organization

(a) Appointment of representative; rank, status, and tenure; duties

The President, by and with the advice and consent of the Senate, shall appoint a representative of the United States to the United Nations who shall have the rank and status of Ambassador Extraordinary and Plenipotentiary and shall hold office at the pleasure of the President. Such representative shall represent the United States in the Security Council of the United Nations and may serve ex officio as representative of the United States in any organ, commission, or other body of the United Nations other than specialized agencies of the United Nations, and shall perform such other functions in connection with the participation of the United States in the United Nations as the President may, from time to time, direct.

(b) Appointment of additional representatives; rank, status, and tenure; duties; reappointment unnecessary

The President, by and with the advice and consent of the Senate, shall appoint additional persons with appropriate titles, rank, and status to represent the United States in the principal organs of the United Nations and in such organs, commissions, or other bodies as may be created by the United

Nations with respect to nuclear energy or disarmament (control and limitation of armament). Such persons shall serve at the pleasure of the President and subject to the direction of the Representative of the United States to the United Nations. They shall, at the direction of the Representative of the United States to the United Nations, represent the United States in any organ, commission, or other body of the United Nations, including the Security Council, the Economic and Social Council, and the Trusteeship Council, and perform such other functions as the Representative of the United States is authorized to perform in connection with the participation of the United States in the United Nations. Any Deputy Representative or any other officer holding office at the time the provisions of this Act, as amended, become effective shall not be required to be reappointed by reason of the enactment of this Act, as amended.

(c) Appointment of special and alternate representatives; number; senior representative; duties

The President, by and with the advice and consent of the Senate, shall designate from time to time to attend a specified session or specified sessions of the General Assembly of the United Nations not to exceed five representatives of the United States and such number of alternates as he may determine consistent with the rules of procedure of the General Assembly. One of the representatives shall be designated as the senior representative.

(d) Additional appointees; conditions governing certain appointments; designation of certain State Department officers to sit on Security Council

The President may also appoint from time to time such other persons as he may deem necessary to represent the United States in organs and agencies of the United Nations. The President may, without the advice and consent of the Senate, designate any officer of the United States to act without additional compensation as the representative of the United States in either the Economic and Social Council or the Trusteeship Council (1) at any specified session thereof where the position is vacant or in the absence or disability of the regular representative or (2) in connection with a specified subject matter at any specified session of either such Council in lieu of the regular representative. The President may designate any officer of the Department of State, whose appointment is subject to confirmation by the Senate, to act, without additional compensation, for temporary periods as the representative of the United States in the Security Council of the United Nations in the absence or disability of the representatives provided for under subsections (a) and (b) or in lieu of such representatives in connection with a specified subject matter.

(e) Appointment of representative to European office of United Nations; rank, status, and tenure; duties

The President, by and with the advice and consent of the Senate, shall appoint a representative of the United States to the European office of the United Nations, with appropriate rank and status who shall serve at the pleasure of the President and subject to the direction of the Secretary of State. Such person shall, at the direction of the Secretary of State, represent the United States at the European office of the United Nations, and perform such other functions there in connection with the participation of the United States in international organizations as the Secretary of State may, from time to time, direct.

(f) Representation by President or Secretary of State

Nothing contained in this section shall preclude the President or the Secretary of State, at the direction of the President, from representing the United States at any meeting or session of any organ or agency of the United Nations.

(g) Compensation

All persons appointed in pursuance of authority contained in this section shall receive compensation at rates determined by the President upon the basis of duties to be performed but not in excess of rates authorized by sections 3961, 3962, and 3963 of this title for chiefs of mission, members of the Senior Foreign Service, and Foreign Service officers occupying positions of equivalent importance, except that no member of the Senate or House of Representatives or officer of the United States who is designated under subsections (c) and (d) of this section as a

representative of the United States or as an alternate to attend any specified session or specified sessions of the General Assembly shall be entitled to receive such compensation.

(h) Appointment of representative to Vienna office of United Nations; rank, status, and tenure; duties

The President, by and with the advice and consent of the Senate, shall appoint a representative of the United States to the Vienna office of the United Nations with appropriate rank and status, who shall serve at the pleasure of the President and subject to the direction of the Secretary of State. Such individual shall, at the direction of the Secretary of State, represent the United States at the Vienna office of the United Nations and perform such other functions there in connection with the participation of the United States in international organizations as the Secretary of State from time to time may direct. The representative of the United States to the Vienna office of the United Nations shall also serve as representative of the United States to the International Atomic Energy Agency.

(Dec. 20, 1945, ch. 583, §2, 59 Stat. 619; Oct. 10, 1949, ch. 660, §§1, 2, 63 Stat. 734, 735; Pub. L. 89–206, §§1, 2, Sept. 28, 1965, 79 Stat. 841, 842; Pub. L. 96–465, title II, §2206(a)(2)(A), Oct. 17, 1980, 94 Stat. 2160; Pub. L. 97–241, title I, §118, Aug. 24, 1982, 96 Stat. 279; Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title VII, §708(a)], Nov. 29, 1999, 113 Stat. 1536, 1501A–461.)

REFERENCES IN TEXT

This Act, as amended, referred to in subsec. (b), is Pub. L. 89–206, Sept. 28, 1965, 79 Stat. 841, which amended this section. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1999—Subsec. (h). Pub. L. 106–113 inserted at end "The representative of the United States to the Vienna office of the United Nations shall also serve as representative of the United States to the International Atomic Energy Agency."

1982—Subsec. (h). Pub. L. 97–241 added subsec. (h).

1980—Subsec. (g). Pub. L. 96–465 substituted "sections 3961, 3962, and 3963 of this title for chiefs of mission, members of the Senior Foreign Service," for "sections 866 and 867 of this title for chiefs of mission".

1965—Subsec. (a). Pub. L. 89–206, §1(a), struck out provisions which related to the appointment, rank and status, tenure and duties of a deputy representative of the United States to the United Nations.

Subsec. (b). Pub. L. 89–206, §1(a), substituted provisions that the President, by and with the advice and consent of the Senate, shall appoint additional persons with appropriate titles, rank, and status to represent the United States in the principal organs of the United Nations and in such organs, commissions, or other bodies as may be created by the United Nations with respect to nuclear energy or disarmament, that they shall serve at the pleasure of the President and subject to the direction of the Representative of the United States to the United Nations, that they shall, at the direction of the Representative of the United States to the United Nations, represent the United States in any organ, commission, or other body of the United Nations, including the Security Council, the Economic and Social Council, and the Trusteeship Council, and perform such other functions as the Representative of the United States is authorized to perform in connection with the participation of the United States in the United Nations, and that any Deputy Representative or any other officer holding office at the time the provisions of this Act, as amended, become effective shall not be required to be reappointed by reason of the enactment of this Act, as amended, for provisions which authorized the President, by and with the advice and consent of the Senate, to appoint an additional deputy representative of the United States to the Security Council who shall hold office at the pleasure of the President, and which required the deputy representative to represent the United States in the Security Council of the United Nations in the event of the absence or disability of both the representative and the deputy representative of the United States to the United Nations.

Subsec. (d). Pub. L. 89–206, §1(b), struck out provisions which required the representative of the United States in the Economic and Social Council and in the Trusteeship Council of the United Nations to be appointed only by and with the advice and consent of the Senate and which required the advice and consent of the Senate for the appointment by the President of the representative of the United States in any commission that may be formed by the United Nations with respect to atomic energy or in any other commission of the United Nations to which the United States is entitled to appoint a representative.

Subsecs. (e) to (g). Pub. L. 89–206, §2, added subsec. (e) and redesignated former subsecs. (e) and (f) as (f) and (g), respectively.

1949—Subsec. (a). Act Oct. 10, 1949, §1, created new post of deputy representative, and allowed the

principal and deputy representatives to serve ex officio on any organ, commission, or body, other than specialized agencies, of the United Nations.

Subsec. (b). Act Oct. 10, 1949, §1, amended subsec. (b) generally, to provide for appointment of an additional deputy representative.

Subsec. (c). Act Oct. 10, 1949, §1, amended subsec. (c) generally, to provide for appointment of special and alternate representatives.

Subsec. (d). Act Oct. 10, 1949, §1, allowed the designation by the President of any State Department officer, whose appointment is subject to confirmation by the Senate, to sit on the Security Council in certain instances.

Subsec. (f). Act Oct. 10, 1949, §2, added subsec. (f).

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title VII, §708(c)], Nov. 29, 1999, 113 Stat. 1536, 1501A–462, provided that: "The amendments made by subsections (a) and (b) [amending this section and section 2021 of this title] shall apply to individuals appointed on or after the date of enactment of this Act [Nov. 29, 1999]."

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–465 effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

SHORT TITLE

Act Dec. 20, 1945, ch. 583, §1, 59 Stat. 619, provided that: "This Act [enacting this subchapter] may be cited as the 'United Nations Participation Act of 1945'."

UNITED NATIONS PEACEKEEPING OPERATIONS; OVERSIGHT AND ACCOUNTABILITY

Pub. L. 114–323, title III, §§301–305, Dec. 16, 2016, 130 Stat. 1917–1920, provided that:

"SEC. 301. OVERSIGHT OF AND ACCOUNTABILITY FOR PEACEKEEPER ABUSES.

"(a) STRATEGY TO ENSURE REFORM AND ACCOUNTABILITY.—Not later than 180 days after the date of the enactment of this Act [Dec. 16, 2016], the Secretary [of State] shall submit, in unclassified form, to the appropriate congressional committees [Committees on Foreign Relations of Senate and House of Representatives]—

"(1) a United States strategy for combating sexual exploitation and abuse in United Nations peacekeeping operations; and

"(2) an implementation plan for achieving the objectives set forth in the strategy described in paragraph (1).

"(b) OBJECTIVES.—The objectives of the strategy required under subsection (a) shall be the following:

"(1) To dramatically reduce the incidence of sexual exploitation and abuse committed by civilian and military personnel assigned to United Nations peacekeeping operations.

"(2) To ensure the introduction and implementation by the United Nations of improved training, oversight, and accountability mechanisms for United Nations peacekeeping operations and the personnel involved with such operations.

"(3) To ensure swift justice for any such personnel who are found to have committed sexual exploitation or abuse.

"(4) To assist the United Nations and troop- or police-contributing countries, as necessary and appropriate, to improve their ability to prevent, identify, and prosecute sexual exploitation or abuse by personnel involved in peacekeeping operations.

"(c) ELEMENTS.—The strategy required under subsection (a) shall include the following elements and objectives:

"(1) The amendment of the model memorandum of understanding and review of all current memorandums of understanding for troop- or police-contributing countries participating in United Nations peacekeeping operations to strengthen provisions relating to the investigation, repatriation, prosecution, and discipline of troops or police that are credibly alleged to have engaged in cases of misconduct.

"(2) The establishment of onsite courts-martial, as appropriate, for the prosecution of crimes committed by military peacekeeping personnel, that is consistent with each peacekeeping operations' status of forces agreement with its host country.

"(3) The exploration of appropriate arrangements to waive the immunity of civilian employees of the United Nations and its specialized agencies, funds, and programs to enable the prosecution of such

employees who are credibly alleged to have engaged in sexual exploitation, abuse, or other crimes.

"(4) The creation of a United Nations Security Council ombudsman office that—

"(A) is authorized to conduct ongoing oversight of peacekeeping operations;

"(B) reports directly to the Security Council on—

"(i) offenses committed by peacekeeping personnel or United Nations civilian staff or volunteers; and

"(ii) the actions taken in response to such offenses; and

"(C) provides reports to the Security Council on the conduct of personnel in each peacekeeping operation not less frequently than annually and before the expiration or renewal of the mandate of any such peacekeeping operation.

"(5) The provision of guidance from the United Nations on the establishment of a standing claims commission for each peacekeeping operation—

"(A) to address any grievances by a host country's civilian population against United Nations personnel in cases of alleged abuses by peacekeeping personnel; and

"(B) to provide means for the government of the country of which culpable United Nations peacekeeping or civilian personnel are nationals to compensate the victims of such crimes.

"(6) The adoption of a United Nations policy and plan that increases the number of troop- or police-contributing countries that—

"(A) obtain and maintain DNA samples from each national of such country who is a member of a United Nations military contingent or formed police unit, consistent with national laws, of such contingent or unit; and

"(B) make such DNA samples available to investigators from the troop- or police-contributing country (except that such should not be made available to the United Nations) if allegations of sexual exploitation or abuse arise.

"(7) The adoption of a United Nations policy that bars troop- or police-contributing countries that fail to fulfill their obligation to ensure good order and discipline among their troops from providing any further troops for peace operations or restricts peacekeeper reimbursements to such countries until appropriate training, institutional reform, and oversight mechanisms to prevent such problems from recurring have been put in place.

"(8) The implementation of appropriate risk reduction policies, including refusal by the United Nations to deploy uniformed personnel from any troop- or police-contributing country that does not adequately—

"(A) investigate allegations of sexual exploitation or abuse involving nationals of such country; and

"(B) ensure justice for those personnel determined to have been responsible for such sexual exploitation or abuse.

"(d) IMPLEMENTATION.—The United States Permanent Representative to the United Nations shall use the voice, vote, and influence of the United States at the United Nations to advance the objectives of the strategy required by subsection (a).

"(e) PEACEKEEPING TRAINING.—The United States should deny further United States peacekeeper training or related assistance, except for training specifically designed to reduce the incidence of sexual exploitation or abuse, or to assist in its identification or prosecution, to any troop- or police-contributing country that does not—

"(1) implement and maintain effective measures to enhance the discovery of sexual exploitation and abuse offenses committed by peacekeeping personnel who are nationals of such country;

"(2) adequately respond to complaints about such offenses by carrying out swift and effective disciplinary action against the personnel who are found to have committed such offenses; and

"(3) provide detailed reporting to the ombudsman described in subsection (c)(4) (or other appropriate United Nations official) that describes the offenses committed by the nationals of such country and such country's responses to such offenses.

"(f) ASSISTANCE.—The United States should develop support mechanisms to assist troop- or police-contributing countries, as necessary and appropriate—

"(1) to improve their capacity to investigate allegations of sexual exploitation and abuse offenses committed by nationals of such countries while participating in a United Nations peacekeeping operation; and

"(2) to appropriately hold accountable any individual who commits an act of sexual exploitation or abuse.

"(g) HUMAN RIGHTS REPORTING.—In coordination with the ombudsman described in subsection (c)(4) (or other appropriate United Nations official), the Secretary [of State] shall identify, in the Department

[of State]'s annual country reports on human rights practices, the countries of origin of any peacekeeping personnel or units that—

"(1) are characterized by noteworthy patterns of sexual exploitation or abuse; or

"(2) have failed to institute appropriate institutional and procedural reforms after being made aware of any such patterns.

"SEC. 302. REIMBURSEMENT OF CONTRIBUTING COUNTRIES.

"It is the policy of the United States that—

"(1) the present formula for determining the troop reimbursement rate paid to troop- and police-contributing countries for United Nations peacekeeping operations should be clearly explained and made available to the public on the United Nations Department of Peacekeeping Operations website;

"(2) regular audits of the nationally-determined pay and benefits given to personnel from troop- and police-contributing countries participating in United Nations peacekeeping operations should be conducted to help inform the reimbursement rate referred to in paragraph (1); and

"(3) the survey mechanism developed by the United Nations Secretary General's Senior Advisory Group on Peacekeeping Operations for collecting troop- and police-contributing country data on common and extraordinary expenses associated with deploying personnel to peacekeeping operations should be coordinated with the audits described in paragraph (2) to ensure proper oversight and accountability.

"SEC. 303. WITHHOLDING OF ASSISTANCE.

"It is the policy of the United States that security assistance should not be provided to any unit of the security forces of a foreign country if such unit has engaged in a gross violation of human rights or in acts of sexual exploitation or abuse, including while serving in a United Nations peacekeeping operation.

"SEC. 304. UNITED NATIONS PEACEKEEPING ASSESSMENT FORMULA.

"The Secretary [of State] shall direct the United States Permanent Representative to the United Nations to use the voice, vote, and influence of the United States at the United Nations to urge the United Nations to share the raw data used to calculate Member State peacekeeping assessment rates and to make available the formula for determining peacekeeping assessments.

"SEC. 305. REIMBURSEMENT OR APPLICATION OF CREDITS.

"Notwithstanding any other provision of law, the President shall direct the United States Permanent Representative to the United Nations to use the voice, vote, and influence of the United States at the United Nations to seek and timely obtain a commitment from the United Nations to make available to the United States any peacekeeping credits that are generated from a closed peacekeeping operation."

[For definition of "peacekeeping credits" as used in sections 301–305 of Pub. L. 114–323, set out above, see section 2 of Pub. L. 114–323, set out as a note under section 2651 of this title.]

WHISTLEBLOWER PROTECTIONS FOR UNITED NATIONS PERSONNEL

Pub. L. 114–323, title III, §307, Dec. 16, 2016, 130 Stat. 1921, provided that: "The President shall direct the United States Permanent Representative to the United Nations to use the voice, vote, and influence of the United States at the United Nations to—

"(1) call for the removal of any official of the United Nations or of any United Nations agency, program, commission, or fund who the Secretary [of State] has determined has failed to uphold the highest standards of ethics and integrity established by the United Nations, including such standards specified in United Nations Codes of Conduct and Codes of Ethics, or whose conduct, with respect to preventing sexual exploitation and abuse by United Nations peacekeepers, has resulted in the erosion of public confidence in the United Nations;

"(2) ensure that best practices with regard to whistleblower protections are extended to all personnel serving the United Nations or serving any United Nations agency, program, commission, or fund, especially personnel participating in United Nations peacekeeping operations, United Nations police officers, United Nations staff, contractors, and victims of misconduct, wrongdoing, or criminal behavior involving United Nations personnel;

"(3) ensure that the United Nations implements protective measures for whistleblowers who report significant allegations of misconduct, wrongdoing, or criminal behavior by personnel serving the United Nations or serving any United Nations agency, program, commission, or fund, especially personnel participating in United Nations peacekeeping operations, United Nations staff, or contractors, specifically by implementing best practices for the protection of such whistleblowers from retaliation, including—

"(A) protection against retaliation for internal and lawful public disclosures;

"(B) legal burdens of proof;

"(C) statutes of limitation for reporting retaliation;

"(D) access to independent adjudicative bodies, including external arbitration; and

"(E) results that eliminate the effects of proven retaliation;

"(4) insist that the United Nations provides adequate redress to any whistleblower who has suffered from retribution in violation of the protective measures specified in paragraph (3), including reinstatement to any position from which such whistleblower was wrongfully removed, or reassignment to a comparable position at the same level of pay, plus any compensation for any arrearage in salary to which such whistleblower would have otherwise been entitled but for the wrongful retribution;

"(5) call for public disclosure of the number and general description of—

"(A) complaints submitted to the United Nations' Ethics Office, local Conduct and Discipline teams, or other entity designated to receive complaints from whistleblowers;

"(B) determinations that probable cause exists to conduct an investigation, and specification of the entity conducting such investigation, including the Office of Internal Oversight Services, the Office of Audit and Investigations (for UNDP), the Office of Internal Audit (for UNICEF), and the Inspector General's Office (for UNHCR);

"(C) dispositions of such investigations, including dismissal and referral for adjudication, specifying the adjudicating entity, such as the United Nations Dispute Tribunal; and

"(D) results of adjudication, including disciplinary measures proscribed and whether such measures were effected, including information with respect to complaints regarding allegations of sexual exploitation and abuse by United Nations peacekeepers, allegations of fraud in procurement and contracting, and all other allegations of misconduct, wrongdoing, or criminal behavior;

"(6) insist that the full, unredacted text of any investigation or adjudication referred to in paragraph (5) are made available to Member States upon request; and

"(7) call for an examination of the feasibility of establishing a stand-alone agency at the United Nations, independent of the Secretary General, to investigate all allegations of misconduct, wrongdoing, or criminal behavior, reporting to the Member States of the General Assembly, paid for from the United Nations regular budget, to replace existing investigative bodies, including the Office of Internal Oversight Services, the Office of Audit and Investigations, the Office of Internal Audit, and the offices of inspectors general of relevant United Nations agencies ."

QUALIFICATIONS OF THE UNITED NATIONS SECRETARY GENERAL

Pub. L. 114–323, title III, §310, Dec. 16, 2016, 130 Stat. 1924, provided that:

"(a) SENSE OF CONGRESS.—The Secretary [of State] shall direct the United States Permanent Representative to the United Nations to use the voice, vote, and influence of the United States at the United Nations to urge each future candidate for the position of the United Nations Secretary General to circulate to the Member States of the General Assembly a description of his or her priorities and objectives for leading the organization and ensuring that it upholds the principles outlined by the United Nations Charter, including specific recommendations to improve strategic planning and enact far-reaching management, performance, and accountability reforms.

"(b) PROPOSAL FOR UNITED NATIONS REFORM.—The descriptions referred to in subsection (a) shall include the following elements:

"(1) A process for determining the goals, objectives, and benchmarks for the timely withdrawal of peacekeeping forces prior to the approval by the United Nations Security Council of a new or expanded peacekeeping operation.

"(2) A proposal for ensuring that the numbers and qualifications of staff are clearly aligned with the specific needs of each United Nations agency, mission, and program, including measures to ensure that such agencies, missions, and programs have the flexibility needed to hire and release employees as workforce needs change over time.

"(c) STATEMENT OF POLICY.—It is the policy of the United States to withhold support for any candidate for the position of United Nations Secretary General unless such candidate has produced a clear vision for leading the United Nations, including a robust reform agenda as described in subsection (b), and circulated such l to the Member States of the General Assembly."

UNITED STATES MEMBERSHIP ON THE UNITED NATIONS COMMISSION ON HUMAN RIGHTS AND INTERNATIONAL NARCOTICS CONTROL BOARD

Pub. L. 107–228, div. A, title IV, §408, Sept. 30, 2002, 116 Stat. 1391, provided that: "The United States, in connection with its voice and vote in the United Nations General Assembly and the United Nations Economic and Social Council, shall make every reasonable effort—

"(1) to secure a seat for the United States on the United Nations Commission on Human Rights;

"(2) to secure a seat for a United States national on the United Nations International Narcotics Control Board; and

"(3) to prevent membership on the Human Rights Commission by any member nation the government of which, in the judgment of the Secretary, based on the Department's Annual Country Reports on Human Rights and the Annual Report on International Report on Religious Freedom, consistently violates internationally recognized human rights or has engaged in or tolerated particularly severe violations of religious freedom in that country."

[For definitions of "Secretary" and "Department" as used in section 408 of Pub. L. 107–228, set out above, see section 3 of Pub. L. 107–228, set out as a note under section 2651 of this title.]

UNITED NATIONS POLICY ON ISRAEL AND THE PALESTINIANS

Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title VII, §721], Nov. 29, 1999, 113 Stat. 1536, 1501A–462, as amended by Pub. L. 114–323, title VII, §715(b)(2), Dec. 16, 2016, 130 Stat. 1946, provided that:

"(a) CONGRESSIONAL STATEMENT.—It shall be the policy of the United States to promote an end to the persistent inequity experienced by Israel in the United Nations whereby Israel is the only longstanding member of the organization to be denied acceptance into any of the United Nations regional blocs.

"(b) POLICY ON ABOLITION OF CERTAIN UNITED NATIONS GROUPS.—It shall be the policy of the United States to seek the abolition of certain United Nations groups the existence of which is inimical to the ongoing Middle East peace process, those groups being the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and other Arabs of the Occupied Territories; the Committee on the Exercise of the Inalienable Rights of the Palestinian People; the Division for the Palestinian Rights; and the Division on Public Information on the Question of Palestine.

"(c) ANNUAL CONSULTATION.—At the time of the submission of each annual report under subsection (c), the Secretary of State shall consult with the appropriate congressional committees on specific responses received by the Secretary of State from each of the nations of the Western Europe and Others Group (WEOG) on their position concerning Israel's acceptance into their organization."

UNITED STATES COMMISSION ON IMPROVING THE EFFECTIVENESS OF THE UNITED NATIONS

Pub. L. 100–204, title VII, part B, Dec. 22, 1987, 101 Stat. 1391, as amended by Pub. L. 101–246, title IV, §409, Feb. 16, 1990, 104 Stat. 68, provided for establishment, membership, etc., of United States Commission on Improving the Effectiveness of the United Nations to examine the United Nations system as a whole and identify and evaluate its strengths and weaknesses and to transmit to President and Congress, not later than 18 months after the date on which all members of the Commission have been appointed, a report containing a detailed statement of the findings, conclusions, and recommendations of the Commission, which report was dated Sept. 10, 1993, and the Commission terminated Sept. 30, 1993.

SOVIET MISSION AT THE UNITED NATIONS

Pub. L. 99–569, title VII, §702, Oct. 27, 1986, 100 Stat. 3204, related to policy of Congress of limiting number of Soviet nationals serving as members of Soviet mission at the United Nations to number not to substantially exceed number of United States nationals serving as members of United States mission, required Secretary of State to report numbers of Soviet nationals so serving, and provided that spouses and dependents were not to be included in such numbers, prior to repeal by Pub. L. 103–199, title V, §501(d), Dec. 17, 1993, 107 Stat. 2325.

UNITED STATES PARTICIPATION IN THE UNITED NATIONS IF ISRAEL IS ILLEGALLY EXPELLED

Pub. L. 98–164, title I, §115, Nov. 22, 1983, 97 Stat. 1021, as amended by Pub. L. 99–93, title I, §142, Aug. 16, 1985, 99 Stat. 424; Pub. L. 100–204, title VII, §704, Dec. 22, 1987, 101 Stat. 1389, provided that:

"(a) The Congress finds that—

"(1) the United Nations was founded on the principle of universality;

"(2) the United Nations Charter stipulates that members may be suspended by the General Assembly only 'upon the recommendation of the Security Council'; and

"(3) any move by the General Assembly that would illegally deny Israel its credentials in the Assembly would be a direct violation of these provisions of the Charter.

"(b) If Israel is illegally expelled, suspended, denied its credentials, or in any other manner denied its right to participate in any principal or subsidiary organ or in any specialized, technical, or other agency of the United Nations, the United States shall suspend its participation in any such organ or agency until the illegal action is reversed. The United States shall reduce its annual assessed contribution to the United Nations or

such specialized agency by 8.34 percent for each month in which United States participation is suspended pursuant to this section. Nothing in this section may be construed to diminish or to affect United States participation in the United Nations Security Council or the Safeguards Program of the International Atomic Energy Agency."

INTERNATIONAL YEAR OF THE CHILD

Pub. L. 95–561, title XV, §§1501–1507, Nov. 1, 1978, 92 Stat. 2373–2375, described the purpose of the International Year of the Child (designated as 1979 by the United Nations General Assembly) as promotion of lasting improvements in the well-being of children, provided for the establishment of a National Commission on the International Year of the Child, and for the Commission's membership, functions, coordination and administration, and waiver of certain provisions of law relating to advertising, competitive bidding, and printing, authorized appropriations, and terminated the life of the Commission thirty days after the submission of its final report, which was to be submitted not later than Mar. 31, 1980, but which life was in no case to be extended beyond Apr. 30, 1980.

Pub. L. 97–35, title V, §511(b)(1), Aug. 13, 1981, 95 Stat. 443, provided that: "No funds are authorized to be appropriated to carry out part A of title XV of the Education Amendments of 1978 [sections 1501 to 1507 of Pub. L. 95–561, see note above] for fiscal year 1982, 1983, or 1984."

UNITED NATIONS ENVIRONMENT PROGRAM PARTICIPATION

Pub. L. 93–188, Dec. 15, 1973, 87 Stat. 713, provided:

"[SEC. 1. Short Title] That this Act [enacting this note] may be cited as the 'United Nations Environment Program Participation Act of 1973'.

"SEC. 2. [Congressional Declaration of Policy] It is the policy of the United States to participate in coordinated international efforts to solve environmental problems of global and international concern, and in order to assist the implementation of this policy, to contribute funds to the United Nations Environmental Fund for the support of international measures to protect and improve the environment.

"SEC. 3. [Authorization of Appropriations] There is authorized to be appropriated $40,000,000 for contributions to the United Nations Environment Fund, which amount is authorized to remain available until expended, and which may be used upon such terms and conditions as the President may specify: *Provided*, That not more than $10,000,000 may be appropriated for use in fiscal year 1974."

UNITED STATES GRANT FOR EXPANSION AND IMPROVEMENT OF UNITED NATIONS HEADQUARTERS

Pub. L. 91–622, Dec. 31, 1970, 84 Stat. 1867, provided: "That there is hereby authorized to be appropriated to the Secretary of State out of any money in the Treasury not otherwise appropriated, a sum not to exceed $20,000,000, to remain available until expended, for a grant to be made at the discretion of the Secretary of State, to the United Nations to defray a portion of the cost of the expansion and improvement of its headquarters in the city of New York on such terms and conditions as the Secretary of State may determine. Such grant shall not be considered a contribution to the United Nations for purpose of any other applicable law limiting contributions."

UNITED STATES LOAN FOR CONSTRUCTION OF PERMANENT HEADQUARTERS IN NEW YORK CITY

Act Aug. 11, 1948, ch. 834, 62 Stat. 1286, authorized the President to loan to the United Nations $65,000,000 to construct a permanent headquarters in New York City, provided for the repayment of the loan without interest in installments beginning July 1, 1951, and continuing until July 1, 1982, and authorized the Reconstruction Finance Corporation to advance to the United Nations up to $25,000,000 until such time as the $65,000,000 is appropriated by Congress.

ESTABLISHMENT OF PERMANENT HEADQUARTERS IN NEW YORK; AGREEMENT BETWEEN UNITED NATIONS AND UNITED STATES

Joint Res. Aug. 4, 1947, ch. 482, 61 Stat. 756, provided that:

"Whereas the Charter of the United Nations was signed on behalf of the United States on June 26, 1945, and was ratified on August 8, 1945, by the President of the United States, by and with the advice and consent of the Senate, and the instrument of ratification of the said Charter was deposited on August 8, 1945; and

"Whereas the said Charter of the United Nations came into force with respect to the United States on October 24, 1945; and

"Whereas article 104 of the Charter provides that 'The Organization shall enjoy in the territory of each of its Members such legal capacity as may be necessary for the exercise of its functions and the fulfillment of its

purposes'; and

"Whereas article 105 of the Charter provides that:

"1. The Organization shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfillment of its purposes.

"2. Representatives of the Members of the United Nations and officials of the Organization shall similarly enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Organization.

"3. The General Assembly may make recommendations with a view to determining the details of the application of paragraphs 1 and 2 of this article or may propose conventions to the Members of the United Nations for this purpose; and

"Whereas article 28 and other articles of the Charter of the United Nations contemplate the establishment of a seat for the permanent headquarters of the Organization; and

"Whereas the interim arrangements concluded on June 26, 1945, by the governments represented at the United Nations Conference on International Organization instructed the Preparatory Commission established in pursuance of the arrangements to 'make studies and prepare recommendations concerning the location of the permanent headquarters of the Organization'; and

"Whereas during the labors of the said Preparatory Commission, the Congress of the United States in H. Con. Res. 75, passed unanimously by the House of Representatives December 10, 1945, and agreed to unanimously by the Senate December 11, 1945, invited the United Nations 'to locate the seat of the United Nations Organization within the United States'; and

"Whereas the General Assembly on December 14, 1946, resolved 'that the permanent headquarters of the United Nations shall be established in New York City in the area bounded by First Avenue, East Forty-eighth Street, the East River, and East Forty-second Street'; and

"Whereas the General Assembly resolved on December 14, 1946, 'That the Secretary-General be authorized to negotiate and conclude with the appropriate authorities of the United States of America an agreement concerning the arrangements required as a result of the establishment of the permanent headquarters of the United Nations in the city of New York' and to be guided in these negotiations by the provisions of a preliminary draft agreement which had been negotiated by the Secretary-General and the Secretary of State of the United States; and

"Whereas the General Assembly resolved on December 14, 1946, that pending the coming into force of the agreement referred to above 'the Secretary-General be authorized to negotiate and conclude arrangements with the appropriate authorities of the United States of America to determine on a provisional basis the privileges, immunities, and facilities needed in connection with the temporary headquarters of the United Nations.'; and

"Whereas the Secretary of State of the United States, after consultation with the appropriate authorities of the State and city of New York, signed at Lake Success, New York, on June 26, 1947, on behalf of the United States an agreement with the United Nations regarding the headquarters of the United Nations, which agreement is incorporated herein; and

"Whereas the aforesaid agreement provides that it shall be brought into effect by an exchange of notes between the United States and the Secretary-General of the United Nations: Therefore be it

"Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is hereby authorized to bring into effect on the part of the United States the agreement between the United States of America and the United Nations regarding the headquarters of the United Nations, signed at Lake Success, New York, on June 26, 1947 (hereinafter referred to as the 'agreement'), with such changes therein not contrary to the general tenor thereof and not imposing any additional obligations on the United States as the President may deem necessary and appropriate, and at his discretion, after consultation with the appropriate State and local authorities, to enter into such supplemental agreements with the United Nations as may be necessary to fulfill the purposes of the said agreement: *Provided*, That any supplemental agreement entered into pursuant to section 5 of the agreement incorporated herein shall be submitted to the Congress for approval. The agreement follows:

"AGREEMENT BETWEEN THE UNITED NATIONS AND THE UNITED STATES OF AMERICA REGARDING THE HEADQUARTERS OF THE UNITED NATIONS

THE UNITED NATIONS AND THE UNITED STATES OF AMERICA:

Desiring to conclude an agreement for the purpose of carrying out the Resolution adopted by the General Assembly on 14 December 1946 to establish the seat of the United Nations in The City of New York and to regulate questions arising as a result thereof;

Have appointed as their representatives for this purpose:

The United Nations:
TRYGVE LIE,
and *Secretary-General,*

The United States of America:
GEORGE C. MARSHALL,
Secretary of State,
Who have agreed as follows:

"ARTICLE I—DEFINITIONS

SECTION 1

In this agreement:

(a) The expression 'headquarters district' means (1) the area defined as such in Annex 1, (2) any other lands or buildings which from time to time may be included therein by supplemental agreement with the appropriate American authorities;

(b) the expression 'appropriate American authorities' means such federal, state, or local authorities in the United States as may be appropriate in the context and in accordance with the laws and customs of the United States, including the laws and customs of the state and local government involved;

(c) the expression 'General Convention' means the Convention on the Privileges and Immunities of the United Nations approved by the General Assembly of the United Nations 13 February 1946, as acceded to by the United States;

(d) the expression 'United Nations' means the international organization established by the Charter of the United Nations, hereinafter referred to as the 'Charter':

(e) the expression 'Secretary-General' means the Secretary-General of the United Nations.

"ARTICLE II—THE HEADQUARTERS DISTRICT

SECTION 2

The seat of the United Nations shall be the headquarters district.

SECTION 3

The appropriate American authorities shall take whatever action may be necessary to assure that the United Nations shall not be dispossessed of its property in the headquarters district, except as provided in Section 22 in the event that the United Nations ceases to use the same; provided that the United Nations shall reimburse the appropriate American authorities for any costs incurred, after consultation with the United Nations, in liquidating by eminent domain proceedings or otherwise any adverse claims.

SECTION 4

(a) The United Nations may establish and operate in the headquarters district:

(1) its own short-wave sending and receiving radio broadcasting facilities (including emergency link equipment) which may be used on the same frequencies (within the tolerances prescribed for the broadcasting service by applicable United States regulations) for radiotelegraph, radioteletype, radiotelephone, radiotelephoto, and similar services;

(2) one point-to-point circuit between the headquarters district and the office of the United Nations in Geneva (using single sideband equipment) to be used exclusively for the exchange of broadcasting programs and interoffice communications;

(3) low power micro-wave, low or medium frequency facilities for communication within headquarters buildings only, or such other buildings as may temporarily be used by the United Nations;

(4) facilities for point-to-point communication to the same extent and subject to the same conditions as permitted under applicable rules and regulations for amateur operation in the United States, except that such rules and regulations shall not be applied in a manner inconsistent with the inviolability of the headquarters district provided by Section 9(a);

(5) such other radio facilities as may be specified by supplemental agreement between the United Nations and the appropriate American authorities.

(b) The United Nations shall make arrangements for the operation of the services referred to in this section with the International Telecommunication Union, the appropriate agencies of the Government of the United States and the appropriate agencies of other affected governments with regard to all frequencies and similar matters.

(c) The facilities provided for in this section may, to the extent necessary for efficient operation, be

established and operated outside the headquarters district. The appropriate American authorities will, on request of the United Nations, make arrangements, on such terms and in such manner as may be agreed upon by supplemental agreement, for the acquisition or use by the United Nations of appropriate premises for such purposes and the inclusion of such premises in the headquarters district.

SECTION 5

In the event that the United Nations should find it necessary and desirable to establish and operate an aerodrome, the conditions for the location, use and operation of such an aerodrome and the conditions under which there shall be entry into and exit therefrom shall be the subject of a supplemental agreement.

SECTION 6

In the event that the United Nations should propose to organize its own postal service, the conditions under which such service shall be set up shall be the subject of a supplemental agreement.

"ARTICLE III—LAW AND AUTHORITY IN THE HEADQUARTERS DISTRICT

SECTION 7

(a) The headquarters district shall be under the control and authority of the United Nations as provided in this agreement.

(b) Except as otherwise provided in this agreement or in the General Convention, the federal, state and local law of the United States shall apply within the headquarters district.

(c) Except as otherwise provided in this agreement or in the General Convention, the federal, state and local courts of the United States shall have jurisdiction over acts done and transactions taking place in the headquarters district as provided in applicable federal, state and local laws.

(d) The federal, state and local courts of the United States, when dealing with cases arising out of or relating to acts done or transactions taking place in the headquarters district, shall take into account the regulations enacted by the United Nations under Section 8.

SECTION 8

The United Nations shall have the power to make regulations, operative within the headquarters district for the purpose of establishing therein conditions in all respects necessary for the full execution of its functions. No federal, state or local law or regulation of the United States which is inconsistent with a regulation of the United Nations authorized by this section shall, to the extent of such inconsistency, be applicable within the headquarters district. Any dispute, between the United Nations and the United States, as to whether a regulation of the United Nations is authorized by this section or as to whether a federal, state or local law or regulation is inconsistent with any regulation of the United Nations authorized by this section, shall be promptly settled as provided in Section 21. Pending such settlement, the regulation of the United Nations shall apply, and the federal, state or local law or regulation shall be inapplicable in the headquarters district to the extent that the United Nations claims it to be inconsistent with the regulation of the United Nations. This section shall not prevent the reasonable application of fire protection regulations of the appropriate American authorities.

SECTION 9

(a) The headquarters district shall be inviolable. Federal, state or local officers or officials of the United States, whether administrative, judicial, military or police, shall not enter the headquarters district to perform any official duties therein except with the consent of and under conditions agreed to by the Secretary-General. The service of legal process, including the seizure of private property, may take place within the headquarters district only with the consent of and under conditions approved by the Secretary-General.

(b) Without prejudice to the provisions of the General Convention or Article IV of this agreement, the United Nations shall prevent the headquarters district from becoming a refuge either for persons who are avoiding arrest under the federal, state, or local law of the United States or are required by the Government of the United States for extradition to another country, or for persons who are endeavoring to avoid service of legal process.

SECTION 10

The United Nations may expel or exclude persons from the headquarters district for violation of its regulations adopted under Section 8 or for other cause. Persons who violate such regulations shall be subject to other penalties or to detention under arrest only in accordance with the provisions of such laws or regulations as may be adopted by the appropriate American authorities.

"ARTICLE IV—COMMUNICATIONS AND TRANSIT

SECTION 11

The federal, state or local authorities of the United States shall not impose any impediments to transit to or from the headquarters district of (1) representatives of Members or officials of the United Nations, or of specialized agencies as defined in Article 57, paragraph 2, of the Charter, or the families of such representatives or officials, (2) experts performing missions for the United Nations or for such specialized agencies, (3) representatives of the press, or of radio, film or other information agencies, who have been accredited by the United Nations (or by such a specialized agency) in its discretion after consultation with the United States, (4) representatives of nongovernmental organizations recognized by the United Nations for the purpose of consultation under Article 71 of the Charter, or (5) other persons invited to the headquarters district by the United Nations or by such specialized agency on official business. The appropriate American authorities shall afford any necessary protection to such persons while in transit to or from the headquarters district. This section does not apply to general interruptions of transportation which are to be dealt with as provided in Section 17, and does not impair the effectiveness of generally applicable laws and regulations as to the operation of means of transportation.

SECTION 12

The provisions of Section 11 shall be applicable irrespective of the relations existing between the Governments of the persons referred to in that section and the Government of the United States.

SECTION 13

(a) Laws and regulations in force in the United States regarding the entry of aliens shall not be applied in such manner as to interfere with the privileges referred to in Section 11. When visas are required for persons referred to in that Section, they shall be granted without charge and as promptly as possible.

(b) Laws and regulations in force in the United States regarding the residence of aliens shall not be applied in such manner as to interfere with the privileges referred to in Section 11 and, specifically, shall not be applied in such manner as to require any such person to leave the United States on account of any activities performed by him in his official capacity. In case of abuse of such privileges of residence by any such person in activities in the United States outside his official capacity, it is understood that the privileges referred to in Section 11 shall not be construed to grant him exemption from the laws and regulations of the United States regarding the continued residence of aliens, provided that:

(1) No proceedings shall be instituted under such laws or regulations to require any such person to leave the United States except with the prior approval of the Secretary of State of the United States. Such approval shall be given only after consultation with the appropriate Member in the case of a representative of a Member (or a member of his family) or with the Secretary-General or the principal executive officer of the appropriate specialized agency in the case of any other person referred to in Section 11;

(2) A representative of the Member concerned, the Secretary-General, or the principal executive officer of the appropriate specialized agency, as the case may be, shall have the right to appear in any such proceedings on behalf of the person against whom they are instituted;

(3) Persons who are entitled to diplomatic privileges and immunities under Section 15 or under the General Convention shall not be required to leave the United States otherwise than in accordance with the customary procedure applicable to diplomatic envoys accredited to the United States.

(c) This section does not prevent the requirement of reasonable evidence to establish that persons claiming the rights granted by Section 11 come within the classes described in that section, or the reasonable application of quarantine and health regulations.

(d) Except as provided above in this section and in the General Convention, the United States retains full control and authority over the entry of persons or property into the territory of the United States and the conditions under which persons may remain or reside there.

(e) The Secretary-General shall, at the request of the appropriate American authorities, enter into discussions with such authorities, with a view to making arrangements for registering the arrival and departure of persons who have been granted visas valid only for transit to and from the headquarters district and sojourn therein and in its immediate vicinity.

(f) The United Nations shall, subject to the foregoing provisions of this section, have the exclusive right to authorize or prohibit entry of persons and property into the headquarters district and to prescribe the conditions under which persons may remain or reside there.

SECTION 14

The Secretary-General and the appropriate American authorities shall, at the request of either of them,

consult as to methods of facilitating entrance into the United States, and the use of available means of transportation, by persons coming from abroad who wish to visit the headquarters district and do not enjoy the rights referred to in this Article.

"ARTICLE V—RESIDENT REPRESENTATIVES TO THE UNITED NATIONS

SECTION 15

(1) Every person designated by a Member as the principal resident representative to the United Nations of such Member or as a resident representative with the rank of ambassador or minister plenipotentiary,

(2) such resident members of their staffs as may be agreed upon between the Secretary-General, the Government of the United States and the Government of the Member concerned,

(3) every person designated by a Member of a specialized agency, as defined in Article 57, paragraph 2, of the Charter, as its principal resident representative, with the rank of ambassador or minister plenipotentiary, at the headquarters of such agency in the United States, and

(4) such other principal resident representatives of members to a specialized agency and such resident members of the staffs of representatives to a specialized agency as may be agreed upon between the principal executive officer of the specialized agency, the Government of the United States and the Government of the Member concerned, shall, whether residing inside or outside the headquarters district, be entitled in the territory of the United States to the same privileges and immunities, subject to corresponding conditions and obligations, as it accords to diplomatic envoys accredited to it. In the case of Members whose governments are not recognized by the United States, such privileges and immunities need be extended to such representatives, or persons on the staffs of such representatives, only within the headquarters district, at their residences and offices outside the district, in transit between the district and such residences and offices, and in transit on official business to or from foreign countries.

"ARTICLE VI—POLICE PROTECTION OF THE HEADQUARTERS DISTRICT

SECTION 16

(a) The appropriate American authorities shall exercise due diligence to ensure that the tranquility of the headquarters district is not disturbed by the unauthorized entry of groups of persons from outside or by disturbances in its immediate vicinity and shall cause to be provided on the boundaries of the headquarters district such police protection as is required for these purposes.

(b) If so requested by the Secretary-General, the appropriate American authorities shall provide a sufficient number of police for the preservation of law and order in the headquarters district, and for the removal therefrom of persons as requested under the authority of the United Nations. The United Nations shall, if requested, enter into arrangements with the appropriate American authorities to reimburse them for the reasonable cost of such services.

"ARTICLE VII—PUBLIC SERVICES AND PROTECTION OF THE HEADQUARTERS DISTRICT

SECTION 17

(a) The appropriate American authorities will exercise to the extent requested by the Secretary-General the powers which they possess with respect to the supplying of public services to ensure that the headquarters district shall be supplied on equitable terms with the necessary public services, including electricity, water, gas, post, telephone, telegraph, transportation, drainage, collection of refuse, fire protection, snow removal, et cetera. In case of any interruption or threatened interruption of any such services, the appropriate American authorities will consider the needs of the United Nations as being of equal importance with the similar needs of essential agencies of the Government of the United States, and will take steps accordingly, to ensure that the work of the United Nations is not prejudiced.

(b) Special provisions with reference to maintenance of utilities and underground construction are contained in Annex 2.

SECTION 18

The appropriate American authorities shall take all reasonable steps to ensure that the amenities of the headquarters district are not prejudiced and the purposes for which the district is required are not obstructed by any use made of the land in the vicinity of the district. The United Nations shall on its part take all reasonable steps to ensure that the amenities of the land in the vicinity of the headquarters district are not prejudiced by any use made of the land in the headquarters district by the United Nations.

SECTION 19

It is agreed that no form of racial or religious discrimination shall be permitted within the headquarters district.

"ARTICLE VIII—MATTERS RELATING TO THE OPERATION OF THIS AGREEMENT

SECTION 20

The Secretary-General and the appropriate American authorities shall settle by agreement the channels through which they will communicate regarding the application of the provisions of this agreement and other questions affecting the headquarters district, and may enter into such supplemental agreements as may be necessary to fulfill the purposes of this agreement. In making supplemental agreements with the Secretary-General, the United States shall consult with the appropriate state and local authorities. If the Secretary-General so requests, the Secretary of State of the United States shall appoint a special representative for the purpose of liaison with the Secretary-General.

SECTION 21

(a) Any dispute between the United Nations and the United States concerning the interpretation or application of this agreement or of any supplemental agreement, which is not settled by negotiation or other agreed mode of settlement, shall be referred for final decision to a tribunal of three arbitrators, one to be named by the Secretary-General, one to be named by the Secretary of State of the United States, and the third to be chosen by the two, or, if they should fail to agree upon a third, then by the President of the International Court of Justice.

(b) The Secretary-General or the United States may ask the General Assembly to request of the International Court of Justice an advisory opinion on any legal question arising in the course of such proceedings. Pending the receipt of the opinion of the Court, an interim decision of the arbitral tribunal shall be observed on both parties. Thereafter, the arbitral tribunal shall render a final decision, having regard to the opinion of the Court.

"ARTICLE IX—MISCELLANEOUS PROVISIONS

SECTION 22

(a) The United Nations shall not dispose of all or any part of the land owned by it in the headquarters district without the consent of the United States. If the United States is unwilling to consent to a disposition which the United Nations wishes to make of all or any part of such land, the United States shall buy the same from the United Nations at a price to be determined as provided in paragraph (d) of this section.

(b) If the seat of the United Nations is removed from the headquarters district, all right, title and interest of the United Nations in and to real property in the headquarters district or any part of it shall, on request of either the United Nations or the United States, be assigned and conveyed to the United States. In the absence of such request, the same shall be assigned and conveyed to the subdivision of a state in which it is located or, if such subdivision shall not desire it, then to the state in which it is located. If none of the foregoing desires the same, it may be disposed of as provided in paragraph (a) of this section.

(c) If the United Nations disposes of all or any part of the headquarters district, the provisions of other sections of this agreement which apply to the headquarters district shall immediately cease to apply to the land and buildings so disposed of.

(d) The price to be paid for any conveyance under this section shall, in default of agreement, be the then fair value of the land, buildings and installations, to be determined under the procedure provided in Section 21.

SECTION 23

The seat of the United Nations shall not be removed from the headquarters district unless the United Nations should so decide.

SECTION 24

This agreement shall cease to be in force if the seat of the United Nations is removed from the territory of the United States, except for such provisions as may be applicable in connection with the orderly termination of the operations of the United Nations at its seat in the United States and the disposition of its property therein.

SECTION 25

Wherever this agreement imposes obligations on the appropriate American authorities, the Government of the United States shall have the ultimate responsibility for the fulfillment of such obligations by the appropriate American authorities.

SECTION 26

The provisions of this agreement shall be complementary to the provisions of the General Convention. In so far as any provision of this agreement and any provisions of the General Convention relate to the same subject matter, the two provisions shall, wherever possible, be treated as complementary, so that both provisions shall be applicable and neither shall narrow the effect of the other; but in any case of absolute conflict, the provisions of this agreement shall prevail.

SECTION 27

This agreement shall be construed in the light of its primary purpose to enable the United Nations at its headquarters in the United States, fully and efficiently to discharge its responsibilities and fulfill its purposes.

SECTION 28

This agreement shall be brought into effect by an exchange of notes between the Secretary-General, duly authorized pursuant to a resolution of the General Assembly of the United Nations, and the appropriate executive officer of the United States, duly authorized pursuant to appropriate action of the Congress.

In witness whereof the respective representatives have signed this Agreement and have affixed their seals hereto.

Done in duplicate, in the English and French languages, both authentic, at Lake Success the twenty-sixth day of June 1947.

For the Government of the United States of America:

G. C. MARSHALL,

Secretary of State

For the United Nations:

TRYGVE LIE,

Secretary-General

"ANNEX 1

The area referred to in Section 1(a)(1) consists of (a) the premises bounded on the East by the westerly side of Franklin D. Roosevelt Drive, on the West by the easterly side of First Avenue, on the North by the southerly side of East Forty-eighth Street, and on the South by the northerly side of East Forty-second Street, all as proposed to be widened, in the Borough of Manhattan, City and State of New York, and (b) an easement over Franklin D. Roosevelt Drive, above a lower limiting plane to be fixed for the construction and maintenance of an esplanade, together with the structures thereon and foundations and columns to support the same in locations below such limiting plane, the entire area to be more definitely defined by supplemental agreement between the United Nations and the United States of America.

"ANNEX 2—MAINTENANCE OF UTILITIES AND UNDERGROUND CONSTRUCTION

SECTION 1

The Secretary-General agrees to provide passes to duly authorized employees of The City of New York, the State of New York, or any of their agencies or subdivisions, for the purpose of enabling them to inspect, repair, maintain, reconstruct and relocate utilities, conduits, mains and sewers within the headquarters district.

SECTION 2

Underground constructions may be undertaken by The City of New York, or the State of New York, or any of their agencies or subdivisions, within the headquarters district only after consultation with the Secretary-General, and under conditions which shall not disturb the carrying out of the functions of the United Nations.

SEC. 2. For the purpose of carrying out the obligations of the United States under said agreement and supplemental agreements with respect to United States assurances that the United Nations shall not be dispossessed of its property in the headquarters district, and with respect to the establishment of radio facilities and the possible establishment of an airport:

(a) The President of the United States, or any official or governmental agency authorized by the President, may acquire in the name of the United States any property or interest therein by purchase, donation, or other means of transfer, or may cause proceedings to be instituted for the acquisition of the same by condemnation.

(b) Upon the request of the President, or such officer as the President may designate, the Attorney General of the United States shall cause such condemnation or other proceedings to be instituted in the name of the United States in the district court of the United States for the district in which the property is situated and such court shall have full jurisdiction of such proceedings, and any condemnation proceedings shall be conducted

in accordance with the Act of August 1, 1888 (25 Stat. 357), as amended [now 40 U.S.C. 3113] and the Act of February 26, 1931 (46 Stat. 1421), as amended [now 40 U.S.C. 3114–3116, 3118].

(c) After the institution of any such condemnation proceedings, possession of the property may be taken at any time the President, or such officer as he may designate, determines is necessary, and the court shall enter such orders as may be necessary to effect entry and occupancy of the property.

(d) The President of the United States, or any officer or governmental agency duly authorized by the President, may, in the name of the United States, transfer or convey possession of and title to any interest in any property acquired or held by the United States, pursuant to paragraph (a) above, to the United Nations on the terms provided in the agreement or in any supplemental agreement, and shall execute and deliver such conveyances and other instruments and perform such other acts in connection therewith as may be necessary to carry out the provisions of the agreement.

(e) There are authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be required to enable the United States to carry out the undertakings hereby authorized: *Provided*, That any money appropriated under this authorization shall be spent only on a basis of reimbursement by the United Nations in accordance with section 3 of the agreement, and that the money thus reimbursed shall be deposited and covered into the Treasury of the United States as miscellaneous receipts.

SEC. 3. The President, or the Secretary of State under his direction, is authorized to enter into agreements with the State of New York or any other State of the United States and to the extent not inconsistent with State law, with any one or more of the political subdivisions thereof in aid of effectuating the provisions of the agreement.

SEC. 4. Any States, or, to the extent not inconsistent with State law any political subdivisions thereof, affected by the establishment of the headquarters of the United Nations in the United States are authorized to enter into agreements with the United Nations or with each other consistent with the agreement and for the purpose of facilitating compliance with the same: *Provided*, That, except in cases of emergency and agreements of a routine contractual character, a representative of the United States, to be appointed by the Secretary of State, may, at the discretion of the Secretary of State, participate in the negotiations, and that any such agreement entered into by such State or States or political subdivisions thereof shall be subject to approval by the Secretary of State.

SEC. 5. The President is authorized to make effective with respect to the temporary headquarters of the United Nations in the State of New York, on a provisional basis, such of the provisions of the agreement as he may deem appropriate, having due regard for the needs of the United Nations at its temporary headquarters.

SEC. 6. Nothing in the agreement shall be construed as in any way diminishing, abridging, or weakening the right of the United States to safeguard its own security and completely to control the entrance of aliens into any territory of the United States other than the headquarters district and its immediate vicinity, as to be defined and fixed in a supplementary agreement between the Government of the United States and the United Nations in pursuance of section 13(3)(e) of the agreement, and such areas as it is reasonably necessary to traverse in transit between the same and foreign countries. Moreover, nothing in section 14 of the agreement with respect to facilitating entrance into the United States by persons who wish to visit the headquarters district and do not enjoy the right of entry provided in section 11 of the agreement shall be construed to amend or suspend in any way the immigration laws of the United States or to commit the United States in any way to effect any amendment or suspension of such laws."

UN MEMBERSHIP FOR COMMUNIST CHINA

Pub. L. 91–472, title I, §105, Oct. 21, 1970, 84 Stat. 1044, provided that it was the sense of the Congress that the United Nations should not admit the Communist Chinese Government to membership as the representative of China. Similar provisions were contained in the following prior acts:

Dec. 24, 1969, Pub. L. 91–153, title I, §105, 83 Stat. 407.
Aug. 9, 1968, Pub. L. 90–470, title I, §105, 82 Stat. 672.
Nov. 8, 1967, Pub. L. 90–133, title I, §105, 81 Stat. 416.
Nov. 8, 1966, Pub. L. 89–797, title I, §105, 80 Stat. 1484.
Sept. 2, 1965, Pub. L. 89–164, title I, §105, 79 Stat. 625.
Aug. 31, 1964, Pub. L. 88–527, title I, §105, 78 Stat. 716.
Dec. 30, 1963, Pub. L. 88–245, title I, §105, 77 Stat. 781.
Oct. 18, 1962, Pub. L. 87–843, title I, §105, 76 Stat. 1085.
Sept. 21, 1961, Pub. L. 87–264, title I, §105, 75 Stat. 550.
Aug. 31, 1960, Pub. L. 86–678, title I, §105, 74 Stat. 561.
July 13, 1959, Pub. L. 86–84, title I, §105, 73 Stat. 186.
June 30, 1958, Pub. L. 85–474, title I, §105, 72 Stat. 249.

June 11, 1957, Pub. L. 85–49, title I, §105, 71 Stat. 60.
June 20, 1956, ch. 414, title I, §110, 70 Stat. 304.
July 7, 1955, ch. 279, title I, §110, 69 Stat. 270.
July 2, 1954, ch. 456, title I, §110, 68 Stat. 418.
Aug. 5, 1953, ch. 328, title I, §111, 67 Stat. 372.

TRUSTEESHIP AGREEMENT RELATING TO TERRITORY OF THE PACIFIC ISLANDS

Act of July 18, 1947, ch. 271, 61 Stat. 397, authorized the President to approve the trusteeship agreement between the United States and the Security Council of the United Nations for the Territory of the Pacific Islands.

EX. ORD. NO. 10108. DESIGNATION OF U.S. MISSION TO UNITED NATIONS

Ex. Ord. No. 10108, Feb. 9, 1950, 15 F.R. 757, provided:

By virtue of the authority vested in me by the United Nations Participation Act of 1945 (59 Stat. 619) [this subchapter], as amended by the act of October 10, 1949, 63 Stat. 734, and as President of the United States, it is hereby ordered as follows:

1. The Representative of the United States to the United Nations, the Deputy Representative of the United States to the United Nations, the Deputy Representative of the United States to the Security Council of the United Nations, representatives of the United States in the Economic and Social Council of the United Nations and its Commissions, representatives of the United States in the Trusteeship Council, the Atomic Energy Commission, the Commission for Conventional Armaments, and the Military Staff Committee of the United Nations, and representatives to organs and agencies of the United Nations appointed or designated and included within the United States Mission to the United Nations as herein designated, together with their deputies, staffs, and offices—shall constitute and be known as the United States Mission to the United Nations.

2. The Representative of the United States to the United Nations shall be the Chief of Mission in charge of the United States Mission to the United Nations. The Chief of Mission shall coordinate at the seat of the United Nations the activities of the Mission in carrying out the instructions of the President transmitted either by the Secretary of State or by other means of transmission as directed by the President. Instructions to the representatives of the United States Joint Chiefs of Staff in the Military Staff Committee of the United Nations shall be transmitted by the Joint Chiefs of Staff. On request of the Chief of Mission, such representatives shall, in addition to their responsibilities under the Charter of the United Nations, serve as advisers in the United States Mission to the United Nations.

3. The Chief of Mission shall be responsible for the administration of the Mission, including personnel, budget, obligation and expenditure of funds, and the central administrative services; provided that he shall not be responsible for the internal administration of the personnel, budget, and obligation and expenditure of funds of the representatives of the United States Joint Chiefs of Staff in the Military Staff Committee of the United Nations. The Chief of Mission shall discharge his responsibilities under this paragraph in accordance with such rules and regulations as the Secretary of State may from time to time prescribe.

4. The Deputy Representative of the United States to the United Nations shall be the Deputy Chief of Mission, who shall act as Chief of Mission in the absence of the Representative of the United States to the United Nations.

5. This order supersedes Executive Order No. 9844 of April 28, 1947, entitled "Designating the United States Mission to the United Nations and Providing for Its Direction and Administration."

EX. ORD. NO. 10422. LOYALTY PROCEDURES FOR EMPLOYEES

Ex. Ord. No. 10422, Jan. 9, 1953, 18 F.R. 239, as amended by Ex. Ord. No. 10459, June 2, 1953, 18 F.R. 3183; Ex. Ord. No. 10763, Apr. 23, 1958, eff. July 1, 1958, 23 F.R. 2767; Ex. Ord. No. 11890, Dec. 10, 1975, 40 F.R. 57775; Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, provided:

PART I—INVESTIGATION OF UNITED STATES CITIZENS EMPLOYED OR BEING CONSIDERED FOR EMPLOYMENT ON THE SECRETARIAT OF THE UNITED NATIONS

1. Whenever the Secretary of State receives, from the Secretary General of the United Nations, the name of and other necessary identifying data concerning each United States citizen employed or being considered for employment by the United Nations, the Secretary of State shall, consistent with the Privacy Act of 1974 (5 U.S.C. 552a) and other applicable law, cause an investigation to be conducted as provided in paragraph 2 of this Part, or forward the information received from the Secretary General to the Office of Personnel Management, which shall conduct an investigation, consistent with the Privacy Act of 1974 (5 U.S.C. 552a) and other applicable law, as provided in paragraphs 3 and 4 of this Part.

2. With respect to all applicants for short term appointments which will not exceed six months and which are not appointments to United Nations Secretariat professional posts or posts subject to geographical distribution, the Secretary of State shall cause an investigation to be conducted, which investigation shall be limited to a search of the files of the Department of State. If the investigation reveals any derogatory information within the meaning of the standard set forth in Part II of this order, the information received from the Secretary General of the United Nations shall be forwarded to the Office of Personnel Management, which shall conduct an investigation.

3. (a) Whenever the Office of Personnel Management receives the information forwarded by the Secretary General to the Secretary of State, the Office of Personnel Management shall conduct a National Agency Check. Each National Agency Check shall include reference to the following: (1) Federal Bureau of Investigation files; (2) Office of Personnel Management files; (3) Military Intelligence files as appropriate; and (4) files of any other appropriate Government investigative or intelligence agency.

(b) If the investigation conducted by the Office of Personnel Management reveals that a favorable National Agency Check was previously completed, and the investigation conducted by the Office of Personnel Management has not disclosed any derogatory information within the meaning of the standard set forth in Part II of this order, completion of a new National Agency Check is not required if: (1) the applicant is or was previously employed by the same or another international organization without an immediately prior break in such service exceeding one year; (2) the applicant is or was a United States Government civilian or military employee, or a United States Government contract employee, without an immediately prior break in such employment exceeding one year; or (3) the applicant is transferred or detailed from an agency of the United States Government pursuant to the provisions of sections 3343, 3581, 3582, 3583, or 3584 of Title 5 of the United States Code.

4. Whenever information disclosed with respect to any person being investigated is derogatory, within the standard set forth in Part II of this order, the Office of Personnel Management shall forward such information to the Federal Bureau of Investigation, and the Bureau shall conduct a full field investigation of such persons.

5. Reports of full field investigations shall be forwarded through the Office of Personnel Management to the International Organizations Employees Loyalty Board, established by Part IV of this order and hereinafter referred to as the Board. Whenever such a report contains derogatory information, under the standard set forth in Part II of this order, there shall be made available to the person in question the procedures of the Board provided or authorized by Part IV of this order (including the opportunity of a hearing) for inquiring into the loyalty of the person as a United States citizen in accordance with the standard set forth in Part II of this order. The Board shall transmit its determinations, as advisory opinions, together with the reasons therefor stated in as much detail as the Board determines that security considerations permit, to the Secretary of State for transmission to the Secretary General of the United Nations for his use in exercising his rights and duties with respect to the personnel of the United Nations as set out in the Charter and in regulations and decisions of the competent organs of the United Nations.

6. At any stage during the investigation or Board proceeding, the Board may transmit to the Secretary of State, for forwarding to the Secretary General, in as much detail as the Board determines that security considerations permit, the derogatory information disclosed by investigation. This shall be for the purpose of assisting the Secretary General in determining whether or not he should take action with respect to the employee, or the person being considered for employment, prior to the completion of the procedures outlined in this order. The making available of any such information shall be without prejudice to the right of full hearing as provided for herein.

7. The Secretary of State shall notify the Secretary General in all cases in which no derogatory information has been developed.

PART II—STANDARD

1. The standard to be used by the Board in making an advisory determination as provided for in paragraph 5 of Part I of this order with respect to a United States citizen who is an employee of, or is being considered for employment by, the United Nations, shall be whether or not on all the evidence there is a reasonable doubt as to the loyalty of the person involved to the Government of the United States.

2. Activities and associations of a United States citizen who is an employee or being considered for employment by the United Nations which may be considered in connection with the determination whether or not on all the evidence there is a reasonable doubt as to the loyalty of the person involved to the Government of the United States may include one or more of the following:

(a) Sabotage, espionage, or attempts or preparations therefor, or knowingly associating with spies or saboteurs.

(b) Treason or sedition or advocacy thereof.

(c) Advocacy of revolution or force or violence to alter the constitutional form of government of the United States.

(d) Intentional, unauthorized disclosure to any person, under circumstances which may indicate disloyalty to the United States, of United States documents or United States information of a confidential or non-public character obtained by the person making the disclosure as a result of his previous employment by the Government of the United States or otherwise.

(e) Performing or attempting to perform his duties, or otherwise acting, while an employee of the United States Government during a previous period, so as to serve the interests of another government in preference to the interests of the United States.

(f) Knowing membership with the specific intent of furthering the aims of, or adherence to and active participation in, any foreign or domestic organization, association, movement, group or combination of persons, which unlawfully advocates or practices the commission of acts of force or violence to prevent others from exercising their rights under the Constitution or laws of the United States, or of any State, or which seeks to overthrow the Government of the United States or any State or subdivision thereof by unlawful means.

PART III—OTHER INTERNATIONAL ORGANIZATIONS

The provisions of Parts I and II of this order shall be applicable to United States citizens who are employees of, or are being considered for employment by, other public international organizations of which the United States Government is a member, by arrangement between the executive head of the international organization concerned and the Secretary of State or other officer of the United States designated by the President.

PART IV—INTERNATIONAL ORGANIZATIONS EMPLOYEES LOYALTY BOARD

1. There is hereby established in the Office of Personnel Management an International Organizations Employees Loyalty Board of not less than three impartial persons, the members of which shall be officers or employees of the Office.

2. The Board shall have authority in cases referred to it under this order to inquire into the loyalty to the Government of the United States of United States citizens employed, or considered for employment, by international organizations of which the United States is a member, and to make advisory determinations in such cases, under the standard set forth in Part II of this order, for transmission by the Secretary of State to the executive heads of the international organizations coming under the arrangements made pursuant to Parts I and III of this order.

3. The Board shall make necessary rules and regulations, not inconsistent with the provisions of this order, for the execution of its functions. There shall be included in such rules and regulations provisions for furnishing each person whose case is considered by the Board:

(a) A written statement of the alleged derogatory information, in as much detail as security considerations permit.

(b) An opportunity to answer or comment upon the statement of alleged derogatory information, in writing, and to submit affidavits.

(c) An opportunity for hearing before the Board, or a panel thereof of at least three members, including the right of the person to be represented by counsel, to present witnesses and other evidence in his behalf, and to cross-examine witnesses offered in support of the derogatory information: *Provided*, That the Board shall conduct its hearings in such manner as to protect from disclosure information affecting the national security.

4. Based upon all the evidence before it, including such confidential information as it may have in its possession, the Board shall make its determinations in writing, and shall send to each person who is the subject thereof a copy. In cases in which hearing or other action is by a panel of three members, the action or determination of the panel shall constitute the action or determination of the Board, except that rules and regulations pursuant to paragraph 3 of this Part shall be adopted by action of the Board as a whole.

5. Except as otherwise specified in this order, the Office of Personnel Management shall provide the necessary investigative and other services required by the Board. All agencies of the executive branch of the Government are authorized and directed to cooperate with the Board, and, to the extent permitted by law, to furnish the Board such information and assistance as it may require in the performance of its functions.

6. All cases arising under this order which are pending before the Regional Loyalty Boards and the Loyalty Review Board of the Commission on the effective date of Executive Order No. 10450 of April 27, 1953, shall on that date be transferred to the Board.

DELEGATION OF AUTHORITY ON RATES OF COMPENSATION FOR U.S. REPRESENTATIVES TO THE UNITED NATIONS

Memorandum of President of the United States, Apr. 1, 1997, 62 F.R. 18261, provided:

Memorandum for the Secretary of State

By virtue of the authority vested in me by the Constitution and laws of the United States of America, including section 301 of title 3 of the United States Code, I hereby delegate to the Secretary of State the functions vested in the President by section 2(g) of the United Nations Participation Act of 1945 (Public Law 79–264, 22 U.S.C. 287(g)).

You are authorized and directed to publish this memorandum in the Federal Register.

WILLIAM J. CLINTON.

§287a. Action by representatives in accordance with Presidential instructions; voting

The representatives provided for in section 287 of this title, when representing the United States in the respective organs and agencies of the United Nations, shall, at all times, act in accordance with the instructions of the President transmitted by the Secretary of State unless other means of transmission is directed by the President, and such representatives shall, in accordance with such instructions, cast any and all votes under the Charter of the United Nations.

(Dec. 20, 1945, ch. 583, §3, 59 Stat. 620.)

§287b. Reports to Congress by President

(a) Periodic reports

The President shall, from time to time as occasion may require, but not less than once each year, make reports to the Congress of the activities of the United Nations and of the participation of the United States therein.

(b) Annual report on financial contributions

Not later than July 1 of each year, the Secretary of State shall submit a report to the designated congressional committees on the extent and disposition of all financial contributions made by the United States during the preceding year to international organizations in which the United States participates as a member.

(c) Annual report

In addition to the report required by subsection (a), the President, at the time of submission of the annual budget request to the Congress, shall submit to the designated congressional committees a report that includes the following:

(1) Costs of peacekeeping operations

(A) A description of all assistance from the United States to the United Nations to support peacekeeping operations that—

(i) was provided during the previous fiscal year;

(ii) is expected to be provided during the fiscal year; or

(iii) is included in the annual budget request to Congress for the forthcoming fiscal year.

(B) With respect to United Nations peacekeeping operations—

(i) the aggregate cost of all United Nations peacekeeping operations for the prior fiscal year;

(ii) the costs of each United Nations peacekeeping operation for the prior fiscal year; and

(iii) the amount of United States contributions (both assessed and voluntary) to United Nations peacekeeping operations on an operation-by-operation basis for the prior fiscal year.

(C) With respect to other international peacekeeping operations in which the United States participates—

(i) the aggregate cost of all such operations for the prior fiscal year;

(ii) the costs of each such operation for the prior fiscal year; and

(iii) the amount of United States contributions (both assessed and voluntary) to such

operations on an operation-by-operation basis for the prior fiscal year.

(D) For assessed or voluntary contributions described in subparagraph (B)(iii) or (C)(iii) that exceed $100,000 in value, including in-kind contributions—

(i) the total amount or estimated value of all such contributions to the United Nations and to each of its affiliated agencies and related bodies;

(ii) the nature and estimated total value of all in-kind contributions in support of United Nations peacekeeping operations and other international peacekeeping operations, including—

(I) logistics;

(II) airlift;

(III) arms and materiel;

(IV) nonmilitary technology and equipment;

(V) personnel; and

(VI) training;

(iii) the approximate percentage of all such contributions to the United Nations and to each such agency or body when compared with all contributions to the United Nations and to each such agency or body from any source; and

(iv) for each such United States Government contribution to the United Nations and to each such agency or body—

(I) the amount or value of the contribution;

(II) a description of the contribution, including whether it is an assessed or voluntary contribution;

(III) the purpose of the contribution;

(IV) the department or agency of the United States Government responsible for the contribution; and

(V) the United Nations or United Nations affiliated agency or related body that received the contribution.

(E) The report required under this subsection shall be submitted in unclassified form, but may include a classified annex.

(2) Other matters regarding peacekeeping operations

(A) An assessment of the effectiveness of ongoing international peacekeeping operations, their relevance to United States national interests, the efforts by the United Nations and other international organizations (as applicable) to resolve the relevant armed conflicts, and the projected termination dates for all such operations.

(B) The dollar value and percentage of total peacekeeping contracts that have been awarded to United States contractors during the previous year.

(3) United Nations reform

(A)(i) A description of the status of efforts to establish and implement an independent office of the Inspector General at the United Nations.

(ii) If an office of the Inspector General has been established at the United Nations, a discussion of whether the Inspector General is keeping the Secretary General and the members of the General Assembly fully informed about problems, deficiencies, the necessity for corrective action, and the progress of corrective action.

(iii) For purposes of this subparagraph, the term "office of the Inspector General" means an independent office (or other independent entity) established by the United Nations to conduct and supervise objective audits, inspections, and investigations relating to the programs and operations of the United Nations.

(B) A description of the status of efforts to reduce the United States peacekeeping assessment rate.

(C) A description of the status of other United States efforts to achieve financial and

management reform at the United Nations.

(4) Military personnel participating in multinational forces

A description of—

(A) the status under international law of members of multinational forces, including the legal status of such personnel if captured, missing, or detained;

(B) the extent of the risk for United States military personnel who are captured while participating in multinational forces in cases where their captors fail to respect the 1949 Geneva Conventions and other international agreements intended to protect prisoners of war; and

(C) the specific steps that have been taken to protect United States military personnel participating in multinational forces, together (if necessary) with any recommendations for the enactment of legislation to achieve that objective.

(5) Human rights and U.N. peacekeeping forces

A description of the efforts by United Nations peacekeeping forces to promote and protect internationally recognized human rights standards, including the status of investigations in any case of alleged human rights violations during the preceding year by personnel participating in United Nations peacekeeping forces, as well as any action taken in such cases.

(d) Consultations and reports on United Nations peacekeeping operations

(1) Consultations

Each month the President shall consult with Congress on the status of United Nations peacekeeping operations.

(2) Information to be provided

In connection with such consultations, the following information shall be provided each month to the designated congressional committees:

(A) With respect to ongoing United Nations peacekeeping operations, the following:

(i) A list of all resolutions of the United Nations Security Council anticipated to be voted on during such month that would extend or change the mandate of any United Nations peacekeeping operation.

(ii) For each such operation, any changes in the duration, mandate, and command and control arrangements that are anticipated as a result of the adoption of the resolution.

(iii) An estimate of the total cost to the United Nations of each such operation for the period covered by the resolution, and an estimate of the amount of that cost that will be assessed to the United States.

(iv) Any anticipated significant changes in United States participation in or support for each such operation during the period covered by the resolution (including the provision of facilities, training, transportation, communication, and logistical support, but not including intelligence activities reportable under title V of the National Security Act of 1947 [50 U.S.C. 3091 et seq.]), and the estimated costs to the United States of such changes.

(B) With respect to each new United Nations peacekeeping operation that is anticipated to be authorized by a Security Council resolution during such month, the following information for the period covered by the resolution:

(i) The anticipated duration, mandate, and command and control arrangements of such operation, the planned exit strategy, and the vital national interest to be served.

(ii) An estimate of the total cost to the United Nations of the operation, and an estimate of the amount of that cost that will be assessed to the United States.

(iii) A description of the functions that would be performed by any United States Armed Forces participating in or otherwise operating in support of the operation, an estimate of the number of members of the Armed Forces that will participate in or otherwise operate in support of the operation, and an estimate of the cost to the United States of such participation or support.

(iv) A description of any other United States assistance to or support for the operation (including the provision of facilities, training, transportation, communication, and logistical support, but not including intelligence activities reportable under title V of the National Security Act of 1947 [50 U.S.C. 3091 et seq.]), and an estimate of the cost to the United States of such assistance or support.

(v) A reprogramming of funds pursuant to section 2706 of this title, submitted in accordance with the procedures set forth in such section, describing the source of funds that will be used to pay for the cost of the new United Nations peacekeeping operation, provided that such notification shall also be submitted to the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate.

(3) Form and timing of information

(A) Form

The President shall submit information under clauses (i) and (iii) of paragraph (2)(A) in writing.

(B) Timing

(i) Ongoing operations

The information required under paragraph (2)(A) for a month shall be submitted not later than the 10th day of the month.

(ii) New operations

The information required under paragraph (2)(B) shall be submitted in writing with respect to each new United Nations peacekeeping operation not less than 15 days before the anticipated date of the vote on the resolution concerned unless the President determines that exceptional circumstances prevent compliance with the requirement to report 15 days in advance. If the President makes such a determination, the information required under paragraph (2)(B) shall be submitted as far in advance of the vote as is practicable.

(4) New United Nations peacekeeping operation defined

As used in paragraph (2), the term "new United Nations peacekeeping operation" includes any existing or otherwise ongoing United Nations peacekeeping operation—

(A) where the authorized force strength is to be expanded;

(B) that is to be authorized to operate in a country in which it was not previously authorized to operate; or

(C) the mandate of which is to be changed so that the operation would be engaged in significant additional or significantly different functions.

(5) Notification and quarterly reports regarding United States assistance

(A) Notification of certain assistance

(i) In general

The President shall notify the designated congressional committees at least 15 days before the United States provides any assistance to the United Nations to support peacekeeping operations.

(ii) Exception

This subparagraph does not apply to—

(I) assistance having a value of less than $3,000,000 in the case of nonreimbursable assistance or less than $14,000,000 in the case of reimbursable assistance; or

(II) assistance provided under the emergency drawdown authority of sections 2318(a)(1) and 2348a(c)(2) of this title.

(B) Annual report

The President shall submit an annual report to the designated congressional committees on all

assistance provided by the United States during the preceding calendar year to the United Nations to support peacekeeping operations. Each such report shall describe the assistance provided for each such operation, listed by category of assistance.

(e) Designated congressional committees

In this section, the term "designated congressional committees" means the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on International Relations and the Committee on Appropriations of the House of Representatives.

(f) Relationship to other notification requirements

Nothing in this section is intended to alter or supersede any notification requirement with respect to peacekeeping operations that is established under any other provision of law.

(Dec. 20, 1945, ch. 583, §4, 59 Stat. 620; Pub. L. 103–236, title IV, §§406, 407(b), Apr. 30, 1994, 108 Stat. 448, 450; Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title VII, §724(a)(1), (2), (b)], Nov. 29, 1999, 113 Stat. 1536, 1501A–465, 1501A–467; Pub. L. 107–228, div. A, title IV, §405(a), Sept. 30, 2002, 116 Stat. 1390; Pub. L. 114–323, title III, §306(a), Dec. 16, 2016, 130 Stat. 1920.)

REFERENCES IN TEXT

The National Security Act of 1947, referred to in subsec. (d)(2)(A)(iv), (B)(iv), is act July 26, 1947, ch. 343, 61 Stat. 495, which was formerly classified principally to chapter 15 (§401 et seq.) of Title 50, War and National Defense, prior to editorial reclassification in chapter 44 (§3001 et seq.) of Title 50. Title V of the Act is now classified generally to subchapter III (§3091 et seq.) of chapter 44 of Title 50. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Another subsec. (a)(2) of section 724 of Pub. L. 106–113, div. B, §1000(a)(7), repealed section 407(a) of Pub. L. 103–236, formerly set out as a note below.

AMENDMENTS

2016—Subsec. (c)(1)(A). Pub. L. 114–323, §306(a)(1), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "In accordance with section 407(a)(5)(B) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995, a description of all assistance provided by the United States to the United Nations to support peacekeeping operations during the previous calendar quarter and during the previous year."

Subsec. (c)(1)(D). Pub. L. 114–323, §306(a)(2), amended subpar. (D) generally. Prior to amendment, subpar. (D) read as follows: "In the case of the first 2 reports submitted pursuant to this subsection, a projection of all United States costs for United Nations peacekeeping operations during each of the next 2 fiscal years, including assessed and voluntary contributions."

Subsec. (c)(1)(E). Pub. L. 114–323, §306(a)(3), added subpar. (E).

2002—Subsec. (b). Pub. L. 107–228, §405(a)(1), (2), added subsec. (b) and struck out heading and text of former subsec. (b). Text read as follows: "Not later than 3 days (excluding Saturdays, Sundays, and legal holidays) after adoption of any resolution by the Security Council, the Secretary of State shall transmit the text of such resolution and any supporting documentation to the designated congressional committees."

Subsecs. (c), (d). Pub. L. 107–228, §405(a)(1), (4), redesignated subsecs. (d) and (e) as (c) and (d), respectively, and struck out heading and text of former subsec. (c). Text read as follows: "The Secretary of State shall promptly transmit to the designated congressional committees any published report prepared by the United Nations and distributed to the members of the Security Council that contains assessments of any proposed, ongoing, or concluded United Nations peacekeeping operation."

Subsec. (e). Pub. L. 107–228, §405(a)(4), redesignated subsec. (f) as (e). Former subsec. (e) redesignated (d).

Subsec. (e)(5)(B). Pub. L. 107–228, §405(a)(3), added subpar. (B) and struck out former subpar. (B) which related to quarterly reports.

Subsecs. (f), (g). Pub. L. 107–228, §405(a)(4), redesignated subsec. (g) as (f). Former subsec. (f) redesignated (e).

1999—Subsec. (a). Pub. L. 106–113, §1000(a)(7) [title VII, §724(a)(1)], struck out at end "He shall make special current reports on decisions of the Security Council to take enforcement measures under the provisions of the Charter of the United Nations, and on the participation therein under his instructions, of the representative of the United States."

Subsecs. (e) to (g). Pub. L. 106–113, §1000(a)(7) [title VII, §724(a)(2), (b)], added subsecs. (e) to (g) and struck out heading and text of former subsec. (e). Text read as follows: "As used in this section, the term 'designated congressional committees' has the meaning given that term by section 415 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995."

1994—Pub. L. 103–236 designated existing provisions as subsec. (a), inserted heading, and added subsecs. (b) to (e).

CHANGE OF NAME

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (a) of this section relating to reporting to Congress not less than once each year, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 39 of House Document No. 103–7.

DELEGATION OF FUNCTIONS

For delegation of congressional reporting functions of President under this section, see section 1 of Ex. Ord. No. 13313, July 31, 2003, 68 F.R. 46073, 46074, set out as a note under section 301 of Title 3, The President.

PUBLIC AVAILABILITY OF INFORMATION

Pub. L. 114–323, title III, §306(b), Dec. 16, 2016, 130 Stat. 1921, provided that: "Not later than 14 days after submitting each report under section 4(c) of the United Nations Participation Act of 1945 (22 U.S.C. 287b(c)), the Director of the Office of Management and Budget shall post a text-based, searchable version of any unclassified information described in paragraph (1)(D) of such section (as amended by subsection (a) of this section) on a publicly available website."

CONSULTATIONS AND REPORTS ON UNITED NATIONS PEACEKEEPING OPERATIONS

Pub. L. 103–236, title IV, §407(a), Apr. 30, 1994, 108 Stat. 448, directed President to consult monthly with Congress on status of United Nations peacekeeping operations, to provide certain information to designated congressional committees on a monthly or interim basis, to notify such committees at least 15 days before the United States would provide assistance to the United Nations to support peacekeeping assistance, and to submit quarterly reports on all such assistance, prior to repeal by Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title VII, §724(a)(2)], Nov. 29, 1999, 113 Stat. 1536, 1501A–467. See subsec. (e) of this section.

DESIGNATED CONGRESSIONAL COMMITTEES

Pub. L. 103–236, title IV, §415, Apr. 30, 1994, 108 Stat. 456, provided that: "For purposes of this part [part A (§§401 to 415) of title IV of Pub. L. 103–236, enacting section 2321n of this title, amending this section, enacting provisions set out as notes under this section and section 287e of this title, and amending provisions set out as notes under section 287e of this title], the term 'designated congressional committees' means the Committee on Appropriations and the Committee on Foreign Relations of the Senate and the Committee on Appropriations and the Committee on Foreign Affairs of the House of Representatives."

REPORT ON POLICIES PURSUED BY OTHER COUNTRIES IN INTERNATIONAL ORGANIZATIONS

Pub. L. 98–164, title I, §117, Nov. 22, 1983, 97 Stat. 1022, as amended by Pub. L. 100–204, title VII, §707, Dec. 22, 1987, 101 Stat. 1390, directed Secretary of State to transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate, by Jan. 31 of each year, a report regarding policies which each member country of United Nations pursued in international organizations of which United States was a member, prior to repeal by Pub. L. 103–236, title I, §139(27), Apr. 30, 1994, 108 Stat. 399.

§287b–1. Additional report on other United States contributions to the United Nations

(a) In general

Not later than 90 days after December 16, 2016, and annually thereafter, the Director of the Office

of Management and Budget shall submit to Congress a report on all assessed and voluntary contributions with a value greater than $100,000, including in-kind, of the United States Government to the United Nations and its affiliated agencies and related bodies during the previous fiscal year.

(b) Content

The report required under subsection (a) shall include the following elements:

(1) The total amount of all assessed and voluntary contributions, including in-kind, of the United States Government to the United Nations and its affiliated agencies and related bodies during the previous fiscal year.

(2) The approximate percentage of United States Government contributions to each United Nations affiliated agency or body in such fiscal year when compared with all contributions to each such agency or body from any source in such fiscal year.

(3) For each such United States Government contribution—

(A) the amount of each such contribution;

(B) a description of each such contribution (including whether assessed or voluntary);

(C) the department or agency of the United States Government responsible for each such contribution;

(D) the purpose of each such contribution; and

(E) the United Nations or its affiliated agency or related body receiving the contribution.

(c) Scope of initial report

The first report required under subsection (a) shall include the information required under this section for the previous 3 fiscal years.

(d) Public availability of information

Not later than 14 days after submitting a report required under subsection (a), the Director of the Office of Management and Budget shall post a public version of such report on a text-based, searchable, and publicly available Internet Web site.

(Pub. L. 114–323, title III, §312, Dec. 16, 2016, 130 Stat. 1925.)

CODIFICATION

Section was enacted as part of the Department of State Authorities Act, Fiscal Year 2017, and not as part of act Dec. 20, 1945, ch. 583, 59 Stat. 619, known as the United Nations Participation Act of 1945, which comprises this subchapter.

§287c. Economic and communication sanctions pursuant to United Nations Security Council Resolution

(a) Enforcement measures; importation of Rhodesian chromium

Notwithstanding the provisions of any other law, whenever the United States is called upon by the Security Council to apply measures which said Council has decided, pursuant to article 41 of said Charter, are to be employed to give effect to its decisions under said Charter, the President may, to the extent necessary to apply such measures, through any agency which he may designate, and under such orders, rules, and regulations as may be prescribed by him, investigate, regulate, or prohibit, in whole or in part, economic relations or rail, sea, air, postal, telegraphic, radio, and other means of communication between any foreign country or any national thereof or any person therein and the United States or any person subject to the jurisdiction thereof, or involving any property subject to the jurisdiction of the United States. Any Executive order which is issued under this subsection and which applies measures against Southern Rhodesia pursuant to any United Nations Security Council Resolution may be enforced, notwithstanding the provisions of any other law. The President may exempt from such Executive order any shipment of chromium in any form which is in transit to the United States on March 18, 1977.

(b) Penalties

Any person who willfully violates or evades or attempts to violate or evade any order, rule, or regulation issued by the President pursuant to subsection (a) of this section shall, upon conviction, be fined not more than $1,000,000 or, if a natural person, be imprisoned for not more than 20 years, or both.

(c) Steel mill products containing chromium; certificate of origin; regulations; subpenas; certificate exemption; release from customs custody; definitions

(1) During the period in which measures are applied against Southern Rhodesia under subsection (a) pursuant to any United Nations Security Council Resolution, a shipment of any steel mill product (as such product may be defined by the Secretary) containing chromium in any form may not be released from customs custody for entry into the United States if—

(A) a certificate of origin with respect to such shipment has not been filed with the Secretary; or

(B) in the case of a shipment with respect to which a certificate of origin has been filed with the Secretary, the Secretary determines that the information contained in such certificate does not adequately establish that the steel mill product in such shipment does not contain chromium in any form which is of Southern Rhodesian origin;

unless such release is authorized by the Secretary under paragraph (3)(B) or (C).

(2) The Secretary shall prescribe regulations for carrying out this subsection.

(3)(A) In carrying out this subsection, the Secretary may issue subpenas requiring the attendance and testimony of witnesses and the production of evidence. Any such subpena may, upon application by the Secretary, be enforced in a civil action in an appropriate United States district court.

(B) The Secretary may exempt from the certification requirements of this subsection any shipment of a steel mill product containing chromium in any form which is in transit to the United States on March 18, 1977.

(C) Under such circumstances as he deems appropriate, the Secretary may release from customs custody for entry into the United States, under such bond as he may require, any shipment of a steel mill product containing chromium in any form.

(4) As used in this subsection—

(A) the term "certificate of origin" means such certificate as the Secretary may require, with respect to a shipment of any steel mill product containing chromium in any form, issued by the government (or by a designee of such government if the Secretary is satisfied that such designee is the highest available certifying authority) of the country in which such steel mill product was produced certifying that the steel mill product in such shipment contains no chromium in any form which is of Southern Rhodesian origin; and

(B) the term "Secretary" means the Secretary of the Treasury.

(Dec. 20, 1945, ch. 583, §5, 59 Stat. 620; Oct. 10, 1949, ch. 660, §3, 63 Stat. 735; Pub. L. 95–12, §1, Mar. 18, 1977, 91 Stat. 22; Pub. L. 111–195, title I, §107(a)(1), July 1, 2010, 124 Stat. 1337.)

REFERENCES IN TEXT

Article 41 of said Charter, referred to in subsec. (a), is an article of the United Nations Charter.

AMENDMENTS

2010—Subsec. (b). Pub. L. 111–195 substituted "fined not more than $1,000,000" for "find not more than $10,000" and "20 years, or both." for "ten years, or both; and the officer, director, or agent of any corporation who knowingly participates in such violation or evasion shall be punished by a like fine, imprisonment, or both, and any property, funds, securities, papers, or other articles or documents, or any vessel, together with her tackle, apparel, furniture, and equipment, or vehicle, or aircraft, concerned in such violation shall be forfeited to the United States."

1977—Subsec. (a). Pub. L. 95–12, §1(1), inserted provision permitting enforcement of any Executive order, issued under this subsection, applying measures against Southern Rhodesia and permitting Presidential exemption from that Executive order of any shipment of chromium in transit to the United States on Mar. 18, 1977.

Subsec. (c). Pub. L. 95–12, §1(2), added subsec. (c).

1949—Subsec. (b). Act Oct. 10, 1949, made aircraft subject to forfeiture.

IMPORTATION OF STRATEGIC AND CRITICAL MATERIALS FROM ZIMBABWE-RHODESIA

Pub. L. 96–107, title VIII, §818, Nov. 9, 1979, 93 Stat. 818, provided that: "It is the sense of the Congress that the United States should have unlimited access to strategic and critical materials which are vital to the defense and security of the United States and that every effort should be made to remove artificial impediments against the importation of such materials into the United States from Zimbabwe-Rhodesia."

SANCTIONS AGAINST ZIMBABWE-RHODESIA; REPORT TO CONGRESS

Pub. L. 96–60, title IV, §408, Aug. 15, 1979, 93 Stat. 405, provided for termination of sanctions against Zimbabwe-Rhodesia by Nov. 15, 1979, unless the President determined and reported to Congress that termination of sanctions would not be in the national interest, with provision authorizing Congress to reject such Presidential determination, prior to repeal by Pub. L. 97–241, title V, §505(a)(1), Aug. 24, 1982, 96 Stat. 298.

DETERMINATIONS RESPECTING FUTURE ENFORCEMENT OF SANCTIONS AGAINST RHODESIA

Pub. L. 95–384, §27, Sept. 26, 1978, 92 Stat. 746, which related to enforcement of sanctions against Rhodesia, was repealed by Pub. L. 97–113, title VII, §734(a)(12), Dec. 29, 1981, 95 Stat. 1560.

SUSPENSION OF AMENDMENT OPERATION BY PRESIDENT; REPORT TO CONGRESS

Pub. L. 95–12, §2, Mar. 18, 1977, 91 Stat. 23, provided that:

"(a) Upon the enactment of this Act [Mar. 18, 1977], the President may suspend the operation of the amendments contained in this Act [amending this section] if he determines that such suspension would encourage meaningful negotiations and further the peaceful transfer of governing power from minority rule to majority rule in Southern Rhodesia. Such suspension shall remain in effect for such duration as deemed necessary by the President.

"(b) If the President suspends the operation of the amendments contained in this Act [amending this section], he shall so report to the Congress. In addition, the President shall report to the Congress when he terminates such suspension.

"(c) If the President suspends the operation of the amendments contained in this Act [amending this section], any reference in those amendments to date of enactment [Mar. 18, 1977] shall be deemed to be a reference to the date on which such suspension is terminated by the President."

EXECUTIVE ORDER NO. 11322

Ex. Ord. No. 11322, Jan. 5, 1967, 32 F.R. 119, which related to transactions involving Southern Rhodesia, was revoked by Ex. Ord. No. 12183, Dec. 16, 1979, 44 F.R. 74787, set out below.

EXECUTIVE ORDER NO. 11419

Ex. Ord. No. 11419, July 29, 1968, 33 F.R. 10837, which related to trade and other transactions involving Southern Rhodesia, was revoked by Ex. Ord. No. 12183, Dec. 16, 1979, 44 F.R. 74787, set out below.

EX. ORD. NO. 12183. REVOKING RHODESIAN SANCTIONS

Ex. Ord. No. 12183, Dec. 16, 1979, 44 F.R. 74787, provided:

By the authority vested in me as President by the Constitution and statutes of the United States of America, including Section 5 of the United Nations Participation Act of 1945, as amended (22 U.S.C. 287c), and in order to terminate current limitations relating to trade and other transactions involving Zimbabwe-Rhodesia, it is hereby ordered as follows:

1–101. (a) Subject to the provisions of this order, the following are hereby revoked with respect to transactions occurring after the effective date of this order:

(1) Executive Order 11322 of January 5, 1967 (32 F.R. 119);

(2) Executive Order 11419 of July 29, 1968 (33 F.R. 10837); and

(3) Executive Order 11978 of March 18, 1977 (42 F.R. 15403).

(b) To the extent consistent with this order, all determinations, authorizations, regulations, rulings, certificates, orders, directives, licenses, contracts, agreements, and other actions made, issued, taken, or entered into under the provisions of such Executive orders and not previously revoked, superseded, or otherwise made inapplicable, shall continue in full force and effect until amended, modified, or terminated by appropriate authority.

1–102. (a) The Secretaries of State, the Treasury, Commerce, and Transportation, and the heads of other government agencies, shall retain the authority and responsibility for the enforcement of Executive Orders 11322, 11419, and 11978 with respect to transactions occurring prior to the effective date of this order.

(b) The revocation, in Section 1–101 of this order, of such prior Executive orders shall not affect:

(1) any act done or omitted to be done or any suit or proceeding finished or started in civil or criminal cases prior to the revocation, but all such liabilities, penalties, and forfeitures under the Executive orders shall continue and may be enforced in the same manner as if the revocation had not been made; or

(2) any violation of any rules, regulations, orders, licenses, or other forms of administrative action under those revoked orders during the periods those orders were in effect.

1–103. (a) The Secretaries of State, the Treasury, Commerce, and Transportation, and the heads of other government agencies, shall take the appropriate measures to implement this order.

(b) In carrying out their respective functions and responsibilities under this order, the Secretaries of the Treasury, Commerce, and Transportation, and the heads of other government agencies, shall, as appropriate, consult with the Secretary of State. Each such Secretary and agency head and the Secretary of State shall also consult with other government agencies and private persons, as appropriate.

JIMMY CARTER.

EX. ORD. NO. 12918. PROHIBITING CERTAIN TRANSACTIONS WITH RESPECT TO RWANDA AND DELEGATING AUTHORITY WITH RESPECT TO OTHER UNITED NATIONS ARMS EMBARGOES

Ex. Ord. No. 12918, May 26, 1994, 59 F.R. 28205, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 5 of the United Nations Participation Act of 1945, as amended (22 U.S.C. 287c), the Export Administration Act of 1979, as amended (50 U.S.C. App. 2401 *et seq*.) [now 50 U.S.C. 4601 et seq.], the Arms Export Control Act (22 U.S.C. 2751 *et seq*.), and section 301 of title 3, United States Code, and in view of United Nations Security Council Resolution 918 of May 17, 1994, it is hereby ordered as follows:

SECTION 1. *Arms Embargo*. The following activities are prohibited, notwithstanding the existence of any rights or obligations conferred or imposed by any international agreement or any contract entered into or any license or permit granted before the effective date of this order, except to the extent provided in regulations, orders, directives, or licenses that may hereafter be issued pursuant to this order: (a) The sale or supply to Rwanda from the territory of the United States by any person, or by any United States person in any foreign country or other location, or using any U.S.-registered vessel or aircraft, of arms and related materiel of all types, including weapons and ammunition, military vehicles and equipment, paramilitary police equipment, and spare parts for the aforementioned, irrespective of origin. This prohibition does not apply to activities related to the United Nations Assistance Mission for Rwanda or the United Nations Observer Mission Uganda-Rwanda or other entities permitted to have such items by the United Nations Security Council; and

(b) Any willful evasion or attempt to violate or evade any of the prohibitions set forth in this order, by any person.

SEC. 2. *Definitions*. For purposes of this order, the term: (a) "Person" means a natural person as well as a corporation, business association, partnership, society, trust, or any other entity, organization or group, including governmental entities; and

(b) "United States person" means any citizen or national of the United States, any lawful permanent resident of the United States, or any corporation, business association, partnership, society, trust, or any other entity, organization or group, including governmental entities, organized under the laws of the United States (including foreign branches).

SEC. 3. *Responsibilities*. The functions and responsibilities for the enforcement of the foregoing prohibitions are delegated as follows: (a) The Secretary of State is hereby authorized to take such actions, including the promulgation of rules and regulations, and to employ all powers granted to the President by section 5 of the United Nations Participation Act [of 1945] [22 U.S.C. 287c] and other authorities available to the Secretary of State, as may be necessary to carry out the purpose of this order, relating to arms and related materiel of a type enumerated on the United States Munitions List (22 C.F.R. Part 121). The Secretary of State may redelegate any of these functions to other officers and agencies of the United States Government; and

(b) The Secretary of Commerce, in consultation with the Secretary of State, is hereby authorized to take such actions, including the promulgation of rules and regulations, and to employ all powers granted to the President by section 5 of the United Nations Participation Act [of 1945] and other authorities available to the Secretary of Commerce, as may be necessary to carry out the purpose of this order, relating to arms and related materiel identified in the Export Administration Regulations (15 C.F.R. Parts 730–799). The Secretary of Commerce may redelegate any of these functions to other officers and agencies of the United States Government.

SEC. 4. *Authorization*. All agencies of the United States Government are hereby directed to take all appropriate measures within their authority to carry out the provisions of this order, including suspension or

termination of licenses or other authorizations in effect as of the date of this order.

SEC. 5. *Delegation of Authority*. The Secretary of State and the Secretary of Commerce in consultation with the Secretary of State are hereby authorized to promulgate rules and regulations, and to employ all powers granted to the President by section 5 of the United Nations Participation Act [of 1945] [22 U.S.C. 287c] and not otherwise delegated by Executive order, as may be necessary to carry out the purpose of implementing any other arms embargo mandated by resolution of the United Nations Security Council, consistent with the allocation of functions delegated under section 3 of this order. The Secretary of State or the Secretary of Commerce may redelegate any of these functions to other officers and agencies of the United States Government.

SEC. 6. *Judicial Review*. Nothing contained in this order shall create any right or benefit, substantive or procedural, enforceable by any party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

SEC. 7. *Effective Date*. This order shall take effect at 11:59 p.m. eastern daylight time on May 26, 1994.

WILLIAM J. CLINTON.

§287d. Use of armed forces; limitations

The President is authorized to negotiate a special agreement or agreements with the Security Council which shall be subject to the approval of the Congress by appropriate Act or joint resolution, providing for the numbers and types of armed forces, their degree of readiness and general location, and the nature of facilities and assistance, including rights of passage, to be made available to the Security Council on its call for the purpose of maintaining international peace and security in accordance with article 43 of said Charter. The President shall not be deemed to require the authorization of the Congress to make available to the Security Council on its call in order to take action under article 42 of said Charter and pursuant to such special agreement or agreements the armed forces, facilities, or assistance provided for therein: *Provided*, That, except as authorized in section 287d–1 of this title, nothing herein contained shall be construed as an authorization to the President by the Congress to make available to the Security Council for such purpose armed forces, facilities, or assistance in addition to the forces, facilities, and assistance provided for in such special agreement or agreements.

(Dec. 20, 1945, ch. 583, §6, 59 Stat. 621; Oct. 10, 1949, ch. 660, §4, 63 Stat. 735.)

REFERENCES IN TEXT

Article 43 of said Charter and article 42 of said Charter, referred to in text, are articles of the United Nations Charter.

Herein, referred to in text, means act Dec. 20, 1945, ch. 583, 59 Stat. 619, as amended, known as the United Nations Participation Act of 1945, which is classified generally to this subchapter (§287 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 287 of this title and Tables.

AMENDMENTS

1949—Act Oct. 10, 1949, inserted ", except as authorized in section 287d–1 of this title," in proviso.

§287d–1. Noncombatant assistance to United Nations

(a) Armed forces details; supplies and equipment; obligation of funds; procurement and replacement of requested items

Notwithstanding the provisions of any other law, the President, upon the request by the United Nations for cooperative action, and to the extent that he finds that it is consistent with the national interest to comply with such request, may authorize, in support of such activities of the United Nations as are specifically directed to the peaceful settlement of disputes and not involving the employment of armed forces contemplated by chapter VII of the United Nations Charter—

(1) the detail to the United Nations, under such terms and conditions as the President shall determine, of personnel of the armed forces of the United States to serve as observers, guards, or

in any non-combatant capacity, but in no event shall more than a total of one thousand of such personnel be so detailed at any one time: *Provided*, That while so detailed, such personnel shall be considered for all purposes as acting in the line of duty, including the receipt of pay and allowances as personnel of the armed forces of the United States, credit for longevity and retirement, and all other perquisites appertaining to such duty: *Provided further*, That upon authorization or approval by the President, such personnel may accept directly from the United Nations (a) any or all of the allowances or perquisites to which they are entitled under the first proviso hereof, and (b) extraordinary expenses and perquisites incident to such detail;

(2) the furnishing of facilities, services, or other assistance and the loan of the agreed fair share of the United States of any supplies and equipment to the United Nations by the Department of Defense, under such terms and conditions as the President shall determine;

(3) the obligation, insofar as necessary to carry out the purposes of clauses (1) and (2) of this subsection, of any funds appropriated to the Department of Defense or any department therein, the procurement of such personnel, supplies, equipment, facilities, services, or other assistance as may be made available in accordance with the request of the United Nations, and the replacement of such items, when necessary, where they are furnished from stocks.

(b) Reimbursement from United Nations; waiver of reimbursement

Whenever personnel or assistance is made available pursuant to the authority contained in subsection (a)(1) and (2) of this section, the President shall require reimbursement from the United Nations for the expense thereby incurred by the United States: *Provided*, That in exceptional circumstances, or when the President finds it to be in the national interest, he may waive, in whole or in part, the requirement of such reimbursement: *Provided further*, That when any such reimbursement is made, it shall be credited, at the option of the appropriate department of the Department of Defense, either to the appropriation, fund, or account utilized in incurring the obligation, or to an appropriate appropriation, fund, or account currently available for the purposes for which expenditures were made.

(c) Additional appropriation authorizations

In addition to the authorization of appropriations to the Department of State contained in section 287e of this title, there is hereby authorized to be appropriated to the Department of Defense, or any department therein, such sums as may be necessary to reimburse such departments in the event that reimbursement from the United Nations is waived in whole or in part pursuant to authority contained in subsection (b) of this section.

(d) Disclosure of information

Nothing in this subchapter shall authorize the disclosure of any information or knowledge in any case in which such disclosure is prohibited by any other law of the United States.

(Dec. 20, 1945, ch. 583, §7, as added Oct. 10, 1949, ch. 660, §5, 63 Stat. 735; amended Aug. 10, 1949, ch. 412, §12(a), 63 Stat. 591.)

CHANGE OF NAME

National Military Establishment changed to Department of Defense by act Aug. 10, 1049.

EX. ORD. NO. 10206. SUPPORT OF PEACEFUL SETTLEMENT OF DISPUTES

Ex. Ord. No. 10206, Jan. 19, 1951, 16 F.R. 529, provided:

By virtue of the authority vested in me by the Constitution and the statutes, including the United Nations Participation Act of 1945 (59 Stat. 619), as amended [this subchapter], hereinafter referred to as the Act, and the act of August 8, 1950 (Public Law 673, 81st Congress) [sections 301 to 303 of Title 3, The President], and as President of the United States, it is hereby ordered as follows:

1. The Secretary of State, upon the request by the United Nations for cooperative action, and to the extent that he finds that it is consistent with the national interest to comply with such request, is authorized, in support of such activities of the United Nations as are specifically directed to the peaceful settlement of disputes and not involving the employment of armed forces contemplated by Chapter VII of the United Nations Charter, to request the Secretary of Defense to detail personnel of the armed forces to the United Nations, and to furnish facilities, services, or other assistance and to loan supplies and equipment to the United

Nations in an agreed fair share of the United States under such terms and conditions as the Secretary of State and the Secretary of Defense shall jointly determine and in accordance with and subject to the provisions of paragraphs (1), (2), and (3) of section 7(a) of the Act [subsection (a)(1), (2) and (3) of this section], and the Secretary of Defense is authorized to comply with the request of the Secretary of State, giving due regard to the requirements of the national defense.

2. The Secretary of State, in accordance with and subject to the provisions of section 7(b) of the Act [subsection (b) of this section], shall require reimbursement from the United Nations for the expense thereby incurred by the United States whenever personnel or assistance is made available to the United Nations, except that in exceptional circumstances, or when the Secretary of State finds it to be in the national interest, he may, after consultation with the Secretary of Defense, waive, in whole or in part, the requirement of such reimbursement.

3. The Secretary of Defense, in accordance with and subject to the provisions of section 7(a)(1) of the Act [subsection (a)(1) of this section], may authorize personnel of the armed forces detailed to the United Nations to accept directly from the United Nations (a) any or all of the allowances or perquisites to which they are entitled under the first proviso of section 7(a)(1) of the Act [subsection (a)(1) of this section], and (b) extraordinary expenses and perquisites incident to such detail.

HARRY S TRUMAN.

§287e. Authorization of appropriations; payment of expenses

There is hereby authorized to be appropriated annually to the Department of State, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary for the payment by the United States of its share of the expenses of the United Nations as apportioned by the General Assembly in accordance with article 17 of the Charter, and for all necessary salaries and expenses of the representatives provided for in section 287 of this title, and of their appropriate staffs, including personal services in the District of Columbia and elsewhere, without regard to the civil-service laws and chapter 51 and subchapter III of chapter 53 of title 5; travel expenses without regard to the Standardized Government Travel Regulations, as amended, subchapter I of chapter 57 and section 5731 of title 5 and, under such rules and regulations as the Secretary of State may prescribe, travel expenses of families and transportation of effects of United States representatives and other personnel in going to and returning from their post of duty; allowances for living quarters, including heat, fuel, and light, as authorized by section 5912 of title 5; cost-of-living allowances for personnel stationed abroad under such rules and regulations as the Secretary of State may prescribe; communications services; stenographic reporting, translating, and other services, by contract; hire of passenger motor vehicles and other local transportation; rent of offices; printing and binding without regard to section 501 of title 44; allowances and expenses as provided in section 287r of this title, and allowances and expenses equivalent to those provided in section 4085 of this title; the lease or rental (for periods not exceeding ten years) of living quarters for the use of the representatives provided for in section 287 of this title serving abroad and of their appropriate staffs the cost of installation and use of telephones in the same manner as telephone service is provided for use of the Foreign Service pursuant to section 1348 of title 31, and unusual expenses similar to those authorized by section 5913 of title 5, incident to the operation and maintenance of such living quarters abroad; and such other expenses as may be authorized by the Secretary of State; all without regard to section 6101 of title 41.

(Dec. 20, 1945, ch. 583, §8, formerly §7, 59 Stat. 621, renumbered and amended Oct. 10, 1949, ch. 660, §6, 63 Stat. 736; Oct. 28, 1949, ch. 782, title II, §202(2), title XI, §1106(a), 63 Stat. 954, 972; Pub. L. 86–707, title III, §311(b), Sept. 6, 1960, 74 Stat. 797; Pub. L. 96–465, title II, §2206(a)(2)(B), Oct. 17, 1980, 94 Stat. 2161; Pub. L. 97–241, title I, §119, Aug. 24, 1982, 96 Stat. 280; Pub. L. 100–459, title III, §304(a), Oct. 1, 1988, 102 Stat. 2207.)

REFERENCES IN TEXT

Article 17 of the Charter, referred to in text, is article 17 of the United Nations Charter.

CODIFICATION

In text, "chapter 51 and subchapter III of chapter 53 of title 5" substituted for "the Classification Act of 1949" on authority of Pub. L. 89–554, §7(b), Sept. 6, 1966, 80 Stat. 631, which Act enacted Title 5, Government Organization and Employees.

In text, "subchapter I of chapter 57 and section 5731 of title 5" substituted for "the Travel Expense Act of 1949, and section 10 of the Act of March 3, 1933, as amended [5 U.S.C. 73b]" on authority of Pub. L. 89–554, §7(b), Sept. 6, 1966, 80 Stat. 631, which Act enacted Title 5.

In text, "section 5912 of title 5" and "section 5913 of title 5" substituted for "the Act approved June 26, 1930 (5 U.S.C. 118a)" and "section 22 of the Administrative Expenses Act of 1946, as amended by section 311 of the Overseas Differentials and Allowances Act [5 U.S.C. 3039]", respectively, on authority of Pub. L. 89–554, §7(b), Sept. 6, 1966, 80 Stat. 631, which Act enacted Title 5.

In text, "section 501 of title 44" substituted for "section 11 of the Act of March 1, 1919 (44 U.S.C. 111)" on authority of Pub. L. 90–620, §2(b), Oct. 22, 1968, 82 Stat. 1305, which Act enacted Title 44, Public Printing and Documents.

In text, "section 1348 of title 31" substituted for "the Act of August 23, 1912, as amended (31 U.S.C. 679)" on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, which Act enacted Title 31, Money and Finance.

In text, "section 6101 of title 41" substituted for "section 3709 of the Revised Statutes, as amended (41 U.S.C. 5)" on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

1988—Pub. L. 100–459 inserted "serving abroad" after "use of the representatives provided for in section 287 of this title", inserted "abroad" after "such living quarters" and struck out at end "Any payments made by United States Government personnel for occupancy by them of living quarters leased or rented under this section shall be credited to the appropriation, fund, or account utilized by the Secretary of State for such lease or rental or to the appropriation, fund, or account currently available for such purpose."

1982—Pub. L. 97–241 substituted "use of the representatives provided for in section 287 of this title and of their appropriate staffs" for "use of the representative of the United States to the United Nations referred to in subsection (a) of section 287 of this title" and inserted provision that payments made by United States Government personnel for occupancy of living quarters leased or rented be credited to the appropriation, fund, or account utilized for such lease or rental or to the appropriation, fund, or account currently available for such purpose.

1980—Pub. L. 96–465 substituted reference to section 4085 of this title for reference to section 1131 of this title.

1960—Pub. L. 86–707 substituted "and unusual expenses similar to those authorized by section 5913 of title 5, incident to the operation and maintenance of such living quarters" for "and the allotment of funds, similar to the allotment authorized by section 1132 of this title, for unusual expenses incident to the operation and maintenance of such living quarters, to be accounted for in accordance with section 1133 of this title."

1949—Act Oct. 28, 1949, substituted "Classification Act of 1949" for "Classification Act of 1923".

Act Oct. 10, 1949, which renumbered section as section 8 of act Dec. 20, 1945, from section 7, authorized lease or rental, for periods not to exceed 10 years, of a residence for our representative to the United Nations, and clarified references to the civil service and classification laws, subsistence allowances, and travel expense.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–459 effective July 1, 1989, see section 304(c)(1) of Pub. L. 100–459, set out as an Effective Date of 1988 Amendment; Transition Provisions note under section 287e–1 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–465 effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

REPEALS

Act Oct. 28, 1949, ch. 782, cited as a credit to this section, was repealed (subject to a savings clause) by Pub. L. 89–554, Sept. 6, 1966, §8, 80 Stat. 632, 655.

ANNUAL APPROPRIATIONS

Annual appropriations to meet the obligations of membership in various international organizations were contained in acts listed in a note set out under section 269a of this title.

TAXATION OF INTERNET OR INTERNATIONAL CURRENCY TRANSACTIONS

Pub. L. 107–77, title IV, §404, Nov. 28, 2001, 115 Stat. 789, provided that: "Hereafter, none of the funds appropriated or otherwise made available for the United Nations may be used by the United Nations for the promulgation or enforcement of any treaty, resolution, or regulation authorizing the United Nations, or any of its specialized agencies or affiliated organizations, to tax any aspect of the Internet or international currency transactions."

Similar provisions were contained in the following appropriation acts:

Pub. L. 106–553, §1(a)(2) [title IV, §405], Dec. 21, 2000, 114 Stat. 2762, 2762A–96.

Pub. L. 106–113, div. B, §1000(a)(1) [title IV, §406], Nov. 29, 1999, 113 Stat. 1535, 1501A–45.

REFUND OF EXCESS CONTRIBUTIONS

Pub. L. 107–228, div. A, title I, §113(e), Sept. 30, 2002, 116 Stat. 1359, provided that: "The United States shall continue to insist that the United Nations and its specialized and affiliated agencies shall credit or refund to each member of the organization or agency concerned its proportionate share of the amount by which the total contributions to the organization or agency exceed the expenditures of the regular assessed budget of the organization or agency."

Similar provisions were contained in the following prior authorization act:

Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title I, §106(g)], Nov. 29, 1999, 113 Stat. 1536, 1501A–416.

REDUCTION IN APPROPRIATIONS FOR CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS IF OFFICIAL STATUS, ACCREDITATION, OR RECOGNITION IS GRANTED TO ORGANIZATION SEEKING LEGALIZATION OF PEDOPHILIA

Pub. L. 103–236, title I, §102(g), Apr. 30, 1994, 108 Stat. 389, as amended by Pub. L. 103–415, §1(o), Oct. 25, 1994, 108 Stat. 4301, provided that: "Notwithstanding any other provision of law, the funds authorized to be appropriated for the United Nations and its affiliated agencies in 'Contributions for International Organizations' shall be reduced in the amount of $118,875,000 for fiscal year 1995, and for each year thereafter, until the President certifies to the Speaker of the House of Representatives and the President of the Senate that no United Nations agency or United Nations affiliated agency grants any official status, accreditation, or recognition to any organization which promotes and condones or seeks the legalization of pedophilia, or which includes as a subsidiary or member any such organization."

[Functions of President under section 102(g) of Pub. L. 103–236, set out above, delegated to Secretary of State by Memorandum of President of the United States, July 26, 1994, 59 F.R. 40205, set out as a note under section 2370a of this title.]

MEMBERSHIP OF PALESTINE LIBERATION ORGANIZATION IN UNITED NATIONS AGENCIES

Pub. L. 101–246, title IV, §414, Feb. 16, 1990, 104 Stat. 70, provided that:

"(a) PROHIBITION.—No funds authorized to be appropriated by this Act or any other Act shall be available for the United Nations or any specialized agency thereof which accords the Palestine Liberation Organization the same standing as member states.

"(b) TRANSFER OR REPROGRAMMING.—Funds subject to the prohibition contained in subsection (a) which would be available for the United Nations or any specialized agency thereof (but for that prohibition) are authorized to remain available until expended and may be reprogrammed or transferred to any other account of the Department of State or the Agency for International Development to carry out the general purposes for which such funds were authorized."

PROBABLE EXEMPTIONS TO UNITED NATIONS EMPLOYEE HIRING FREEZE

Pub. L. 100–204, title VII, §701, Dec. 22, 1987, 101 Stat. 1383, as amended by Pub. L. 102–138, title I, §163, Oct. 28, 1991, 105 Stat. 676, provided that:

"(a) FINDINGS.—The Congress makes the following findings:

"(1) In April 1986, the Secretary-General of the United Nations adopted a freeze on the hiring of personnel within the United Nations Secretariat.

"(2) The conditions of the freeze were such that, as the terms of office for the personnel expired, replacements would not be recruited or hired to fill the vacant positions, with minor exceptions.

"(3) The freeze was designed to reduce United Nations personnel by 15 percent over three years, as recommended by the Group of High-Level Intergovernmental Experts to Review the Efficiency of the Administrative and Financial Functioning of the United Nations (commonly referred to as the 'Group of 18 Experts').

"(4) On May 5, 1987, the Secretary-General reported to the Department of State that he was

considering granting 156 exceptions to the hiring freeze.

"(5) Of these 156 probable exceptions, 104 would be Soviet and Soviet-bloc nationals currently employed in the United Nations Secretariat—of 298 Soviet and Soviet-bloc nationals currently employed in the United Nations Secretariat—who would be replaced over the next 18 months.

"(6) According to a report from the Select Committee on Intelligence of the Senate on 'Soviet Presence in the United Nations Secretariat' (Senate Print 99–52, May 1985), approximately one-fourth of the Soviets in the United Nations Secretariat are intelligence officers, many more are co-opted by the Soviet intelligence agencies, and all Soviets in the United Nations Secretariat must respond to KGB requests for assistance.

"(7) Other United States intelligence authorities estimate that as many as one-half of the Soviet and Soviet-bloc nationals in the United Nations Secretariat are officers of the KGB or the GRU.

"(8) If the Secretary-General's probable exemptions are adopted, the Soviet Union will be allowed to replace retiring Soviet and Soviet-bloc personnel with new, highly skilled and well-trained intelligence officers of the KGB or the GRU.

"(9) The Secretary-General's proposed exceptions would thus provide the Soviet Union with the capability to rebuild its intelligence apparatus within the United States, which was devastated in recent years when the United States ordered severe reductions in the size of the Soviet mission to the United Nations, the Soviet Embassy in Washington, District of Columbia, and the Soviet Consulate in San Francisco, California.

"(10) Article 100 of the United Nations Charter calls for the establishment of an international civil service whose members are neutral and loyal only to the United Nations.

"(11) Section 3 of Article 101 of the United Nations Charter calls for the appointment of individuals who are professionally qualified for the positions they are to fill and maintains that due regard shall be paid to the importance of recruiting the staff on as wide a geographical basis as possible.

"(12) As of September 1985, 442 of 446 Soviet nationals employed throughout the United Nations system are 'seconded', that is, serve on short, fixed-term contracts.

"(13) Through the abuse of short, fixed-term contracts, the Soviet Union has maintained undue influence and control over major offices of the United Nations Secretariat, thereby effectively using the United Nations Secretariat in the conduct of its foreign relations, in clear violation of Articles 100 and 101 of the United Nations Charter.

"(14) The Secretary-General's proposed exceptions to the hiring freeze (as described in paragraphs (1) through (5)) would continue the gross violations of Articles 100 and 101 of the United Nations Charter described in paragraph (13).

"(15) The Secretary-General's proposed exceptions to such hiring freeze would be clearly inconsistent with the terms of the United Nation's self-imposed reform program.

"(16) The United Nations has not yet achieved its reform goals and there is no indication that the United Nations can afford to make such large exceptions to such hiring freeze.

"(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

"(1) the President should take all such actions necessary to ensure compliance with the hiring freeze rule, including withholding all assessed United States contributions to the United Nations, and denying United States entry visas to Soviet and Soviet-bloc applicants coming to the United States to replace Soviet and Soviet-bloc nationals currently serving in the United Nations Secretariat;

"(2) the President, through the Department of State and the United States mission to the United Nations, should express to the Secretary-General of the United Nations the insistence of the American people that the hiring freeze continue indefinitely, or until the United Nations has complied with the Group of 18 recommendations and can thus afford to make exceptions to the freeze;

"(3) the Secretary-General should revoke all exceptions to the hiring freeze rule, excepting those member-nations which have 15 or fewer nationals serving in the United Nations Secretariat, or those positions not subject to geographical representation, such as those of the general service category;

"(4) the long-term, flagrant violations of Articles 100 and 101 of the United Nations Charter and the abuse of secondment by the Soviet Union and Soviet-bloc member-nations are reprehensible;

"(5) the United Nations should adopt the recommendations of the Group of 18 (as referred to in subsection (a)(3)) that no member-nation be allowed to have more than 50 percent of its nationals employed under fixed-term contracts;

"(6) the Soviet Union is hereby condemned for—

"(A) its refusal to adhere to the principles of the United Nations Charter calling for an international civil service,

"(B) its abuse of secondment, and

"(C) its absolute disregard of the solemn purpose of the United Nations to be an international civil service; and

"(7) if the Soviet Union and the Soviet-bloc intend to remain member-nations of the United Nations, they should adhere to Articles 100, 101, and all other principles of the United Nations Charter to which every other member-nation must adhere.

"(c) DEFINITION.—For the purposes of this section, the term 'Soviet-bloc' means the countries of Bulgaria, Cuba, Czechoslovakia, East Germany, Hungary, Nicaragua, North Korea, Poland, and Romania."

HOUSING ALLOWANCES OF INTERNATIONAL CIVIL SERVANTS

Pub. L. 100–204, title VII, §703, Dec. 22, 1987, 101 Stat. 1389, provided that:

"(a) UNITED STATES POLICY.—It is the policy of the United States to seek the implementation by the United Nations of the recommendation by the International Civil Service Commission to deduct from the pay (commonly referred to as a 'rental deduction') of an international civil servant the amount of any housing allowance or payment which is provided by any member state to that international civil servant, in accordance with Article 100 of the Charter of the United Nations and regulations thereunder.

"(b) UNITED STATES AMBASSADOR TO THE UNITED NATIONS.—The United States Ambassador to the United Nations shall seek to promote the adoption of the recommendation described in subsection (a)."

REFORM IN BUDGET DECISION-MAKING PROCEDURES OF UNITED NATIONS AND ITS SPECIALIZED AGENCIES

Pub. L. 103–236, title IV, §409(a)–(d), Apr. 30, 1994, 108 Stat. 454, as amended by Pub. L. 107–228, div. A, title IV, §405(b)(2), Sept. 30, 2002, 116 Stat. 1391, provided that:

"(a) ASSESSED CONTRIBUTIONS.—For assessed contributions authorized to be appropriated for 'Assessed Contributions to International Organizations' by this Act [108 Stat. 382, 388], the President may withhold 20 percent of the funds appropriated for the United States assessed contribution to the United Nations or to any of its specialized agencies for any calendar year if the United Nations or any such agency has failed to implement or to continue to implement consensus-based decisionmaking procedures on budgetary matters which assure that sufficient attention is paid to the views of the United States and other member states that are the major financial contributors to such assessed budgets.

"(b) NOTICE TO CONGRESS.—The President shall notify the Congress when a decision is made to withhold any share of the United States assessed contribution to the United Nations or its specialized agencies pursuant to subsection (a) and shall notify the Congress when the decision is made to pay any previously withheld assessed contribution. A notification under this subsection shall include appropriate consultation between the President (or the President's representative) and the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

"(c) CONTRIBUTIONS FOR PRIOR YEARS.—Subject to the availability of appropriations, payment of assessed contributions for prior years may be made to the United Nations or any of its specialized agencies notwithstanding subsection (a) if such payment would further United States interests in that organization.

"[(d) Repealed. Pub. L. 107–228, div. A, title IV, §405(b)(2), Sept. 30, 2002, 116 Stat. 1391.]"

[Functions of President under section 409 of Pub. L. 103–236, set out above, delegated to Secretary of State by Memorandum of President of the United States, July 26, 1994, 59 F.R. 40205, set out as a note under section 2370a of this title.]

Similar provisions were contained in the following prior authorization act:

Pub. L. 102–138, title I, §162(a)–(d), Oct. 28, 1991, 105 Stat. 675; repealed by Pub. L. 103–236, title I, §139(21), title IV, §409(e), Apr. 30, 1994, 108 Stat. 399, 454, as amended by Pub. L. 103–415, §1(aa), Oct. 25, 1994, 108 Stat. 4302.

Pub. L. 101–246, title IV, §405, Feb. 16, 1990, 104 Stat. 65, provided that progress had been made in formulation and implementation of budget reforms by United Nations and its specialized agencies but that limitation on United States assessed contributions would continue until President made specific determinations on continued implementation of decisionmaking procedures on budget matters, elimination of abuse of secondment in United Nations Secretariat, and reduction in staff of United Nations Secretariat, prior to repeal by Pub. L. 102–138, title I, §162(e), Oct. 28, 1991, 105 Stat. 676.

Pub. L. 99–93, title I, §143, Aug. 16, 1985, 99 Stat. 424, as amended by Pub. L. 100–204, title VII, §702(b), Dec. 22, 1987, 101 Stat. 1386, provided for limitation on assessed contributions of United States until reform in budget decisionmaking procedures of United Nations and its specialized agencies had been formulated and implemented as determined by President and reported to Congress, prior to repeal by Pub. L. 102–138, title I, §162(e), Oct. 28, 1991, 105 Stat. 676.

EMPLOYEES OF THE UNITED NATIONS

Pub. L. 99–93, title I, §151, Aug. 16, 1985, 99 Stat. 428, provided that:

"(a) INITIAL REPORT.—Not later than 90 days after the date of enactment of this Act [Aug. 16, 1985], the Secretary of State shall report to the Congress on whether, and the extent to which, international civil servants employed by the United Nations, including those seconded to the United Nations, are required to return all or part of their salaries to their respective governments. The Secretary shall also include in this report a description of the steps taken by the Department of State and by the United States Representative to the United Nations to correct this practice.

"(b) REPORT ON STEPS TO CORRECT PRACTICE.—The Secretary of State shall determine and report to the Congress on whether substantial progress has been made by June 1, 1986, in correcting the practice of international civil servants employed by the United Nations being required to return all or part of their salaries to their respective governments.

"(c) REDUCTION IN CONTRIBUTION IF SUBSTANTIAL PROGESS [sic] NOT MADE.—If the Secretary of State determines pursuant to subsection (b) that substantial progress has not been made in correcting this practice, the United States shall thereafter reduce the amount of its annual assessed contributions to the United Nations by the amount of that contribution which is the United States proportionate share of the salaries of those international civil servants employed by the United Nations who are returning any portion of their salaries to their respective governments.

"(d) NATIONAL TAXATION.—This section does not apply with respect to payments made for purposes of national taxation in accordance with formal treaty reservations concerning such taxation by a member state of the United Nations."

RESTRICTIONS RELATING TO THE PALESTINE LIBERATION ORGANIZATION AND THE SOUTH WEST AFRICA PEOPLE'S ORGANIZATION

Pub. L. 98–164, title I, §114, Nov. 22, 1983, 97 Stat. 1020, as amended by Pub. L. 99–93, title I, §144, Aug. 16, 1985, 99 Stat. 424; Pub. L. 100–204, title VII, §705, Dec. 22, 1987, 101 Stat. 1390, provided that:

"(a) Funds appropriated for any fiscal year for the Department of State for 'International Organizations and Conferences' may not be used for payment by the United States, as its contribution toward the assessed budget of the United Nations for any year, of any amount which would cause the total amount paid by the United States as its assessed contribution for that year to exceed the amount assessed as the United States contribution for that year less—

"(1) 25 per centum of the amount budgeted for that year for the Committee on the Exercise for the Inalienable Rights of the Palestinian People (or any similar successor entity); and

"(2) 25 per centum of the amount budgeted for that year for the Special Unit on Palestinian Rights (or any similar successor entity);

"(3) 25 percent of the amount budgeted for that year for the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories (or any similar successor entity);

"(4) 25 per centum of the amount budgeted for that year for projects whose primary purpose is to provide benefits to the Palestine Liberation Organization or entities associated with it or to the South West Africa People's Organization;

"(5) 25 percent of the amount budgeted for that year for the Second Decade to Combat Racism and Racial Discrimination;

"(6) 25 percent of the amount budgeted for any other United Nations agency or conference whose sole or partial purpose is to implement the provisions of General Assembly Resolution 33/79; and

"(7) 25 percent of the amount budgeted for the General Assembly-approved $73,500,000 conference center to be constructed for the Economic Commission for Africa (ECA) in the Ethiopian capital of Addis Ababa.

"(b) Funds appropriated for any fiscal year for the Department of State for 'International Organizations and Conferences' may not be used for payment by the United States, as its contribution toward the assessed budget of any specialized agency of the United Nations for any year, of any amount which would cause the total amount paid by the United States as its assessed contribution for that year to exceed the amount assessed as the United States contribution for that year less 25 per centum of the amount budgeted by such agency for that year for projects whose primary purpose is to provide benefits to the Palestine Liberation Organization or entities associated with it or to the South West Africa People's Organization.

"(c) The President shall annually review the budgets of the United Nations and its specialized agencies to determine which projects have the primary purpose of providing benefits to the Palestine Liberation

Organization or to the South West Africa People's Organization. The President shall report to the Congress on any such project for which a portion of the United States assessed contribution is withheld and the amount withheld.

"(d) Subsections (a)(3) and (b) shall not be construed as limiting United States contributions to the United Nations or its specialized agencies for projects whose primary purpose is to provide humanitarian, educational, developmental, and other nonpolitical benefits."

ANNUAL REVIEW FOR PROJECTS PROVIDING POLITICAL BENEFITS TO PALESTINE LIBERATION ORGANIZATION; REPORT TO CONGRESS ON WITHHOLDING OF ASSESSED CONTRIBUTION

Section 104(c) of Pub. L. 97–241 provided that: "The President shall annually review the budgets of the United Nations and its specialized agencies to determine which projects have the primary purpose of providing political benefit to the Palestine Liberation Organization. The President shall report to the Congress on any such project for which a portion of the United States assessed contribution is withheld and the amount withheld."

[Functions of the President under section 104(c) of Pub. L. 97–241, set out as a note above, delegated to the Secretary of State, see Ex. Ord. No. 12374, July 28, 1982, 47 F.R. 32903, as amended by Ex. Ord. No. 12408, Feb. 23, 1983, 48 F.R. 8035.]

LIMIT ON PAYMENTS TO UNITED NATIONS AND AFFILIATED AGENCIES

Pub. L. 103–236, title IV, §404(b)(1), (2), Apr. 30, 1994, 108 Stat. 447, as amended by Pub. L. 107–228, div. A, title IV, §402(a), Sept. 30, 2002, 116 Stat. 1388; Pub. L. 110–161, div. J, title I, §113, Dec. 26, 2007, 121 Stat. 2288; Pub. L. 111–8, div. H, title VII, §7051, Mar. 11, 2009, 123 Stat. 893; Pub. L. 111–117, div. F, title VII, §7051, Dec. 16, 2009, 123 Stat. 3378, provided that:

"(1) FISCAL YEARS 1994 AND 1995.—Funds authorized to be appropriated for 'Contributions for International Peacekeeping Activities' for fiscal years 1994 and 1995 shall not be available for the payment of the United States assessed contribution for a United Nations peacekeeping operation in an amount which is greater than 30.4 percent of the total of all assessed contributions for that operation, notwithstanding the last sentence of the paragraph headed 'Contributions to International Organizations' in Public Law 92–544, as amended by section 203 of the Foreign Relations Authorization Act, Fiscal Year 1976 (22 U.S.C. 287e note).

"(2) SUBSEQUENT FISCAL YEARS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), funds authorized to be appropriated for 'Contributions for International Peacekeeping Activities' for any fiscal year after fiscal year 1995 shall not be available for the payment of the United States assessed contribution for a United Nations peacekeeping operation in an amount which is greater than 25 percent of the total of all assessed contributions for that operation.

"(B) REDUCTION IN UNITED STATES SHARE OF ASSESSED CONTRIBUTIONS .—Notwithstanding the percentage limitation contained in subparagraph (A), the United States share of assessed contributions for each United Nations peacekeeping operation during the following periods is authorized to be as follows:

"(i) For assessments made during calendar year 2001, 28.15 percent.

"(ii) For assessments made during calendar year 2002, 27.90 percent.

"(iii) For assessments made during calendar year 2003, 27.40 percent.

"(iv) For assessments made during calendar year 2004, 27.40 percent.

"(v) For assessments made during each of the calendar years 2005, 2006, 2007, 2008, and 2009, 27.1 percent.

"(vi) For assessments made during calendar year 2010, 27.3 percent."

[Pub. L. 108–447, div. B, title IV, §411, Dec. 8, 2004, 118 Stat. 2905, provided that during fiscal year 2005, section 404(b)(2)(B) of Pub. L. 103–236, set out above, would be administered as though the final clause read as follows:

["(v) For assessments made during calendar year 2005, 27.1 percent."]

Pub. L. 103–236, title IV, §410, Apr. 30, 1994, 108 Stat. 454, provided that: "The United States shall not make any voluntary or assessed contribution—

"(1) to any affiliated organization of the United Nations which grants full membership as a state to any organization or group that does not have the internationally recognized attributes of statehood, or

"(2) to the United Nations, if the United Nations grants full membership as a state in the United Nations to any organization or group that does not have the internationally recognized attributes of statehood,

during any period in which such membership is effective."

Pub. L. 92–544, title I, §101, Oct. 25, 1972, 86 Stat. 1110, as amended by Pub. L. 94–141, title II, §203, Nov. 29, 1975, 89 Stat. 762; Pub. L. 103–236, title IV, §404(b)(3), Apr. 30, 1994, 108 Stat. 447; Pub. L. 107–228, div. A, title IV, §402(b), Sept. 30, 2002, 116 Stat. 1389, provided that: "Subject to section 404(b)(2) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 [Pub. L. 103–236] (22 U.S.C. 287e note), after December 31, 1973, no appropriation is authorized and no payment shall be made to the United Nations or any affiliated agency in excess of 25 per centum of the total annual assessment of such organization. Subject to section 404(b)(2) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 287e note), appropriations are authorized and contributions and payments may be made to the following organizations and activities notwithstanding that such contributions and payments are in excess of 25 per centum of the total annual assessment of the respective organization or 331/3 per centum of the budget for the respective activity: the International Atomic Energy Agency, the joint financing program of the International Civil Aviation Organization, and contributions for international peacekeeping activities conducted by or under the auspices of the United Nations or through multilateral agreements."

UNITED STATES ASSESSED CONTRIBUTION TO THE UNITED NATIONS

Pub. L. 92–226, pt. IV, §410, Feb. 7, 1972, 86 Stat. 36, provided that: "The Congress strongly urges the President to undertake such negotiations as may be necessary to implement that portion of the recommendations of the Report of the President's Commission for the Observance of the Twenty-fifth Anniversary of the United Nations (known as the 'Lodge Commission') which proposes that the portion of the regular assessed costs to be paid by the United States to the United Nations be reduced so that the United States is assessed in each year not more than 25 per centum of such costs assessed all members of the United Nations for that year."

§287e–1. Housing supplement for certain employees assigned to the United States Mission to the United Nations

The Secretary of State may, under such regulations as he shall prescribe, and notwithstanding section 3324(a) and (b) of title 31 and section 5536 of title 5:

(1) Make available to the Representative of the United States to the United Nations and the Deputy Permanent Representative of the United States to the United Nations living quarters leased or rented by the United States (for periods not exceeding ten years) and allowances for unusual expenses incident to the operation and maintenance of such living quarters similar to those and to be considered for all purposes as authorized by section 5913 of title 5.

(2) Make available in New York to no more than 30 foreign service employees of the staff of the United States Mission to the United Nations, other representatives, and no more than two employees who serve at the pleasure of the Representative, living quarters leased or rented by the United States (for periods not exceeding ten years). The number of employees to which such quarters will be made available shall be determined by the Secretary and shall reflect a significant reduction over the number of persons eligible for housing benefits as of October 1, 1988. No employee may occupy a unit under this provision if the unit is owned by the employee. The Secretary shall require that each employee occupying housing under this subsection contribute to the Department of State a percentage of his or her base salary, in an amount to be determined by the Secretary of State, toward the cost of such housing. The Secretary may reduce such payments to the extent of income taxes paid on the value of the leased or rented quarters any payments made by employees to the Department of State for occupancy by them of living quarters leased or rented under this section shall be credited to the appropriation, fund, or account utilized by the Secretary of State for such lease or rental or to the appropriation, fund, or account currently available for such purpose.

(3) provide [1] such allowance as the Secretary considers appropriate, to each Delegate and Alternate Delegate of the United States to any session of the General Assembly of the United Nations who is not a permanent member of the staff of the United States Mission to the United Nations, in order to compensate each such Delegate or Alternate Delegate for necessary housing and subsistence expenses incurred by him with respect to attending any such session.

(4) The Inspector General shall review the program established by this section no later than December 1989 and periodically thereafter with a view to increasing cost savings and making other appropriate recommendations.

(Dec. 20, 1945, ch. 583, §9, as added Pub. L. 93–126, §15, Oct. 18, 1973, 87 Stat. 454; amended Pub. L. 98–164, title II, §215, Nov. 22, 1983, 97 Stat. 1035; Pub. L. 100–459, title III, §304(b), Oct. 1, 1988, 102 Stat. 2207; Pub. L. 106–309, title IV, §405, Oct. 17, 2000, 114 Stat. 1098.)

CODIFICATION

"Section 3324(a) and (b) of title 31" substituted in introductory text for "section 3648 of the Revised Statutes (31 U.S.C. 3324)" on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

"Section 5913 of title 5" substituted in par. (1) for "section 22 of the Administrative Expenses Act of 1946, as amended by section 311 of the Overseas Differentials and Allowances Act" on authority of Pub. L. 89–554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

AMENDMENTS

2000—Par. (2). Pub. L. 106–309 substituted "30 foreign service employees" for "18 foreign service employees".

1988—Pub. L. 100–459, §304(b)(1), (3), substituted reference to Secretary of State for reference to President in introductory provisions and struck out last sentence providing that not more than fifty employees, including not more than five employees of the United Stated Information Agency, could receive an allowance under par. (1) of this section at any one time.

Par. (1). Pub. L. 100–459, §304(b)(1), (3), added par. (1) and struck out former par. (1) which read as follows: "grant any employee of the staff of the United States Mission to the United Nations designated by the Secretary of State, and any employee of the United States Information Agency designated by the Director of that Agency, who is required because of important representational responsibilities to live in the extraordinarily high-rent area immediately surrounding the headquarters of the United Nations in New York, New York, an allowance to compensate for the portion of expenses necessarily incurred by the employee for quarters and utilities which exceed the average of such expenses necessarily incurred by the employee for quarters and utilities which exceed the average of such expenses incurred by typical, permanent residents of the Metropolitan New York, New York, area with comparable salary and family size who are not compelled by reason of their employment to live in such high-rent area; and".

Pars. (2) to (4). Pub. L. 100–459, §304(b)(2), (3), added par. (2), redesignated former par. (2) as (3) and substituted "Secretary" for "President", and added par. (4).

1983—Pub. L. 98–164, §215(2), inserted limitation of five United States Information Agency employees, and substituted "fifty" for "forty-five".

Par. (1). Pub. L. 98–164, §215(1), inserted provisions relating to applicability to United States Information Agency employees.

EFFECTIVE DATE OF 1988 AMENDMENT; TRANSITION PROVISIONS

Pub. L. 100–459, title III, §304(c), Oct. 1, 1988, 102 Stat. 2208, provided that:

"(1) Provisions set forth in this section [amending this section and section 287e of this title] shall be effective July 1, 1989.

"(2) In the event that taxes paid by an employee on the benefit provided under subsection (2) of section 9 [22 U.S.C. 287e–1(2)] exceed the contribution amount computed as a percentage of base salary under that subsection, the Department of State may reimburse the employee up to the amount of such differential for the period from the date of enactment of this Act [Oct. 1, 1988] through July 1, 1989."

DELEGATION OF FUNCTIONS

Authority of President under this section delegated to Secretary of State, see section 4(b) of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, as amended by Ex. Ord. No. 11779, Apr. 22, 1974, 39 F.R. 14185, set out as a note under section 301 of Title 3, The President.

[1] *So in original. Probably should be capitalized.*

§287e–2. Reimbursement for goods and services provided by the United States to the United Nations

(a) Requirement to obtain reimbursement

(1) In general

Except as provided in paragraph (2), the President shall seek and obtain in a timely fashion a commitment from the United Nations to provide reimbursement to the United States from the United Nations whenever the United States Government furnishes assistance pursuant to the provisions of law described in subsection (c)—

(A) to the United Nations when the assistance is designed to facilitate or assist in carrying out an assessed peacekeeping operation;

(B) for any United Nations peacekeeping operation that is authorized by the United Nations Security Council under Chapter VI or Chapter VII of the United Nations Charter and paid for by peacekeeping or regular budget assessment of the United Nations members; or

(C) to any country participating in any operation authorized by the United Nations Security Council under Chapter VI or Chapter VII of the United Nations Charter and paid for by peacekeeping assessments of United Nations members when the assistance is designed to facilitate or assist the participation of that country in the operation.

(2) Exceptions

(A) In general

The requirement in paragraph (1) shall not apply to—

(i) goods and services provided to the United States Armed Forces;

(ii) assistance having a value of less than $3,000,000 per fiscal year per operation;

(iii) assistance furnished before November 29, 1999;

(iv) salaries and expenses of civilian police and other civilian and military monitors where United Nations policy is to require payment by contributing members for similar assistance to United Nations peacekeeping operations; or

(v) any assistance commitment made before November 29, 1999.

(B) Deployments of United States military forces

The requirements of subsection (d)(1)(B) shall not apply to the deployment of United States military forces when the President determines that such deployment is important to the security interests of the United States. The cost of such deployment shall be included in the data provided under section 2348d of this title.

(3) Form and amount

(A) Amount

The amount of any reimbursement under this subsection shall be determined at the usual rate established by the United Nations.

(B) Form

Reimbursement under this subsection may include credits against the United States assessed contributions for United Nations peacekeeping operations, if the expenses incurred by any United States department or agency providing the assistance have first been reimbursed.

(b) Treatment of reimbursements

(1) Credit

The amount of any reimbursement paid the United States under subsection (a) shall be credited to the current applicable appropriation, fund, or account of the United States department or agency providing the assistance for which the reimbursement is paid.

(2) Availability

Amounts credited under paragraph (1) shall be merged with the appropriations, or with

appropriations in the fund or account, to which credited and shall be available for the same purposes, and subject to the same conditions and limitations, as the appropriations with which merged.

(c) Covered assistance

Subsection (a) applies to assistance provided under the following provisions of law:

(1) Sections 287d and 287d–1 of this title.

(2) Sections 2261, 2318(a)(1), 2321j, 2348a(c), and 2357 of this title.

(3) Any other provisions of law pursuant to which assistance is provided by the United States to carry out the mandate of an assessed United Nations peacekeeping operation.

(d) Waiver

(1) Authority

(A) In general

The President may authorize the furnishing of assistance covered by this section without regard to subsection (a) if the President determines, and so notifies in writing the Committee on Foreign Relations of the Senate and the Speaker of the House of Representatives, that to do so is important to the security interests of the United States.

(B) Congressional notification

When exercising the authorities of subparagraph (A), the President shall notify the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives in accordance with the procedures applicable to reprogramming notifications under section 2394–1 of this title.

(2) Congressional review

Notwithstanding a notice under paragraph (1) with respect to assistance covered by this section, subsection (a) shall apply to the furnishing of the assistance if, not later than 15 calendar days after receipt of a notification under that paragraph, the Congress enacts a joint resolution disapproving the determination of the President contained in the notification.

(3) Senate procedures

Any joint resolution described in paragraph (2) shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

(e) Relationship to other reimbursement authority

Nothing in this section shall preclude the President from seeking reimbursement for assistance covered by this section that is in addition to the reimbursement sought for the assistance under subsection (a).

(f) Definition

In this section, the term "assistance" includes personnel, services, supplies, equipment, facilities, and other assistance if such assistance is provided by the Department of Defense or any other United States Government agency.

(Dec. 20, 1945, ch. 583, §10, as added Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title VII, §723], Nov. 29, 1999, 113 Stat. 1536, 1501A–463.)

REFERENCES IN TEXT

Section 601(b) of the International Security Assistance and Arms Export Control Act of 1976, referred to in subsec. (d)(3), is section 601(b) of Pub. L. 94–329, title VI, June 30, 1976, 90 Stat. 765, which is not classified to the Code.

CHANGE OF NAME

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§287e–3. Limitation on the United States share of assessments for United Nations regular budget

None of the funds available to the Department of State shall be used to pay the United States share of assessed contributions for the regular budget of the United Nations in an amount greater than 22 percent of the total of all assessed contributions for that budget.

(Dec. 20, 1945, ch. 583, §11, as added Pub. L. 107–228, div. A, title IV, §403, Sept. 30, 2002, 116 Stat. 1389.)

§287f. Omitted

CODIFICATION

Section, act Oct. 22, 1951, ch. 533, title I, 65 Stat. 577, which authorized the Department of State to acquire surplus property for the United Nations and authorized the reduction of the United States contribution to the United Nations by the value of the property acquired and expenses incidental thereto, was from the Department of State Appropriation Act, 1952, and was not repeated in subsequent appropriation acts. Similar provisions were contained in act Sept. 6, 1950, ch. 896, ch. III, title I, 64 Stat. 610.

§287g. Authorization of appropriations for loan to United Nations; restrictions on use of proceeds of loan

There is hereby authorized to be appropriated to the President, without fiscal-year limitation, out of any money in the Treasury not otherwise appropriated, $100,000,000 for a loan to the United Nations. The proceeds of such loan shall not be used to relieve members of the United Nations of their obligation to pay arrearages on payments of any United Nations assessments, and shall not be used to reduce regular or special assessments against any such members.

(Pub. L. 87–731, §1, Oct. 2, 1962, 76 Stat. 695.)

CODIFICATION

Section was not enacted as part of act Dec. 20, 1945, ch. 583, 59 Stat. 619, known as the United Nations Participation Act of 1945, which comprises this subchapter.

§287h. Limitation on loan

The total amount of money that may be loaned to the United Nations pursuant to the authorization contained in section 287g of this title shall not exceed the aggregate amount of loans made by other nations.

(Pub. L. 87–731, §2, Oct. 2, 1962, 76 Stat. 695.)

CODIFICATION

Section was not enacted as part of act Dec. 20, 1945, ch. 583, 59 Stat. 619, known as the United Nations Participation Act of 1945, which comprises this subchapter.

§287i. Deduction of principal and interest from annual payment of assessed share of United States of budget

There shall be deducted from the annual payment of the assessed share of the United States of the budget of the United Nations an amount equal to the corresponding annual installment of principal and interest due to the United States on account of the loan made pursuant to section 287g of this title.

(Pub. L. 87–731, §3, Oct. 2, 1962, 76 Stat. 696.)

CODIFICATION

Section was not enacted as part of act Dec. 20, 1945, ch. 583, 59 Stat. 619, known as the United Nations Participation Act of 1945, which comprises this subchapter.

§287j. Participation in future United Nations borrowing; promotion of pattern of financing to avoid future large-scale deficits; report to Congress

Nothing herein shall be regarded as authorizing the United States to participate in any future United Nations borrowing. It is the sense of the Congress that the United States shall use its best efforts to promote a pattern of United Nations financing (including a vigorous program for collection of delinquencies on annual assessments of nations and maintenance of such annual assessments on a current basis) that will avoid any future large-scale deficits.

(Pub. L. 87–731, §4, Oct. 2, 1962, 76 Stat. 696.)

CODIFICATION

Section originally contained a provision instructing the Department of State to submit to the Congress, not later than Jan. 31, 1963, a report on steps taken in the 17th Session of the General Assembly of the United Nations on long term financing of the United Nations which was omitted.

Section was not enacted as part of act Dec. 20, 1945, ch. 583, 59 Stat. 619, known as the United Nations Participation Act of 1945, which comprises this subchapter.

§287k. Congressional expression of satisfaction that expenditures relating to operations in Middle East and in the Congo are "expenses of the Organization"

The Congress expresses its satisfaction that the International Court of Justice has decided that the expenditures authorized in resolutions of the United Nations General Assembly relating to operations in the Middle East and in the Congo are "expenses of the Organization" within the meaning of the United Nations Charter, thereby providing a sound basis for obtaining prompt payment of assessments for such expenditures by making them obligations of all members of the United Nations.

(Pub. L. 87–731, §5, Oct. 2, 1962, 76 Stat. 696.)

CODIFICATION

Section was not enacted as part of act Dec. 20, 1945, ch. 583, 59 Stat. 619, known as the United Nations Participation Act of 1945, which comprises this subchapter.

§287*l*. Congressional declaration that United Nations take steps to give effect to advisory opinion of International Court of Justice on financial obligations of members

It is the sense of the Congress that the United Nations should take immediate steps to give effect to the advisory opinion of the International Court of Justice on the financial obligations of members of the United Nations in order to assure prompt payment of all assessments, including assessments to cover the cost of operations to maintain or restore international peace and security.

(Pub. L. 87–731, §6, Oct. 2, 1962, 76 Stat. 696.)

CODIFICATION

Section was not enacted as part of act Dec. 20, 1945, ch. 583, 59 Stat. 619, known as the United Nations Participation Act of 1945, which comprises this subchapter.

SUBCHAPTER XVII—UNITED NATIONS EDUCATIONAL, SCIENTIFIC, AND CULTURAL ORGANIZATION

§287m. Acceptance of membership by the United States

The President is hereby authorized to accept membership for the United States in the United Nations Educational, Scientific, and Cultural Organization (hereinafter referred to as the "Organization"), the constitution of which was approved in London on November 16, 1945, by the United Nations Conference for the establishment of an Educational, Scientific, and Cultural Organization, and deposited in the Archives of the Government of the United Kingdom.

(July 30, 1946, ch. 700, §1, 60 Stat. 712.)

CONSTITUTION OF THE UNITED NATIONS EDUCATIONAL, SCIENTIFIC, AND CULTURAL ORGANIZATION

THE GOVERNMENTS OF THE STATES PARTIES TO THIS CONSTITUTION ON BEHALF OF THEIR PEOPLES DECLARE

that since wars begin in the minds of men, it is in the minds of men that the defences of peace must be constructed;

that ignorance of each other's ways and lives has been a common cause, throughout the history of mankind, of that suspicion and mistrust between the peoples of the world through which their differences have all too often broken into war;

that the great and terrible war which has now ended was a war made possible by the denial of the democratic principles of the dignity, equality and mutual respect of men, and by the propagation, in their place, through ignorance and prejudice, of the doctrine of the inequality of men and races;

that the wide diffusion of culture, and the education of humanity for justice and liberty and peace are indispensable to the dignity of man and constitute a sacred duty which all the nations must fulfill in a spirit of mutual assistance and concern;

that a peace based exclusively upon the political and economic arrangements of governments would not be a peace which could secure the unanimous, lasting and sincere support of the peoples of the world, and that the peace must therefore be founded, if it is not to fail, upon the intellectual and moral solidarity of mankind.

FOR THESE REASONS,

the States parties to this Constitution, believing in full and equal opportunities for education for all, in the unrestricted pursuit of objective truth, and in the free exchange of ideas and knowledge, are agreed and determined to develop and to increase the means of communication between their peoples and to employ these means for the purposes of mutual understanding and a truer and more perfect knowledge of each other's lives;

IN CONSEQUENCE WHEREOF

they do hereby create the United Nations Educational, Scientific and Cultural Organisation for the purpose of advancing, through the educational and scientific and cultural relations of the peoples of the world, the objectives of international peace and of the common welfare of mankind for which the United Nations Organisation was established and which its Charter proclaims.

ARTICLE I.

PURPOSES AND FUNCTIONS

1. The purpose of the Organisation is to contribute to peace and security by promoting collaboration among the nations through education, science, and culture in order to further universal respect for justice, for the rule of law and for the human rights and fundamental freedoms which are affirmed for the peoples of the world, without distinction of race, sex, language or religion, by the Charter of the United Nations.

2. To realise this purpose the Organisation will:

(*a*) collaborate in the work of advancing the mutual knowledge and understanding of peoples, through all means of mass communication and to that end recommend such international agreements as may be necessary to promote the free flow of ideas by word and image;

(*b*) give fresh impulse to popular education and to the spread of culture;

by collaborating with Members, at their request, in the development of educational activities; by instituting collaboration among the nations to advance the ideal of equality of educational opportunity without regard to race, sex or any distinctions, economic or social;

by suggesting educational methods best suited to prepare the children of the world for the responsibilities of freedom;

(*c*) maintain, increase and diffuse knowledge;

by assuring the conservation and protection of the world's inheritance of books, works of art and monuments of history and science, and recommending to the nations concerned the necessary international conventions;

by encouraging cooperation among the nations in all branches of intellectual activity, including the international exchange of persons active in the fields of education, science and culture and the exchange of publications, objects of artistic and scientific interest and other materials of information;

by initiating methods of international cooperation calculated to give the people of all countries access to the printed and published materials produced by any of them.

3. With a view to preserving the independence, integrity and fruitful diversity of the cultures and educational systems of the States Members of this Organisation, the Organisation is prohibited from intervening in matters which are essentially within their domestic jurisdiction.

ARTICLE II.

MEMBERSHIP

1. Membership of the United Nations Organisation shall carry with it the right to membership of the United Nations Educational, Scientific and Cultural Organisation.

2. Subject to the conditions of the agreement between this Organisation and the United Nations Organisation, approved pursuant to Article X of this Constitution, States not members of the United Nations Organisation may be admitted to membership of the Organisation, upon recommendation of the Executive Board, by a two-thirds majority vote of the General Conference.

3. Members of the Organisation which are suspended from the exercise of the rights and privileges of membership of the United Nations Organisation shall, upon the request of the latter, be suspended from the rights and privileges of this Organisation.

4. Members of the Organisation which are expelled from the United Nations Organisation shall automatically cease to be members of this Organisation.

ARTICLE III.

ORGANS

The Organisation shall include a General Conference, an Executive Board and a Secretariat.

ARTICLE IV.

THE GENERAL CONFERENCE

A. COMPOSITION.

1. The General Conference shall consist of the representatives of the States Members of the Organisation. The Government of each Member State shall appoint not more than five delegates, who shall be selected after consultation with the National Commission, if established, or with educational, scientific and cultural bodies.

B. FUNCTIONS

2. The General Conference shall determine the policies and the main lines of work of the Organisation. It shall take decisions on programmes drawn up by the Executive Board.

3. The General Conference shall, when it deems it desirable, summon international conferences on education, the sciences and humanities and the dissemination of knowledge.

4. The General Conference shall, in adopting proposals for submission to the Member States, distinguish between recommendations and international conventions submitted for their approval. In the former case a majority vote shall suffice; in the latter case a two-thirds majority shall be required. Each of the Member States shall submit recommendations or conventions to its competent authorities within a period of one year from the close of the session of the General Conference at which they were adopted.

5. The General Conference shall advise the United Nations Organisation on the educational, scientific and cultural aspects of matters of concern to the latter, in accordance with the terms and procedure agreed upon

between the appropriate authorities of the two Organisations.

6. The General Conference shall receive and consider the reports submitted periodically by Member States as provided by Article VIII.

7. The General Conference shall elect the members of the Executive Board and, on the recommendation of the Board, shall appoint the Director-General.

C. VOTING

8. Each Member State shall have one vote in the General Conference. Decisions shall be made by a simple majority except in cases in which a two-thirds majority is required by the provisions of this Constitution. A majority shall be a majority of the Members present and voting.

D. PROCEDURE

9. The General Conference shall meet annually in ordinary session; it may meet in extraordinary session on the call of the Executive Board. At each session the location of its next session shall be designated by the General Conference and shall vary from year to year.

10. The General Conference shall, at each session, elect a President and other officers and adopt rules of procedure.

11. The General Conference shall set up special and technical committees and such other subordinate bodies as may be necessary for its purposes.

12. The General Conference shall cause arrangements to be made for public access to meetings, subject to such regulations as it shall prescribe.

E. OBSERVERS

13. The General Conference, on the recommendation of the Executive Board and by a two-thirds majority may, subject to its rules of procedure, invite as observers at specified sessions of the Conference or of its commissions representatives of international organisations, such as those referred to in Article XI, paragraph 4.

ARTICLE V.

EXECUTIVE BOARD

A. COMPOSITION

1. The Executive Board shall consist of eighteen members elected by the General Conference from among the delegates appointed by the Member States, together with the President of the Conference who shall sit *ex officio* in an advisory capacity.

2. In electing the members of the Executive Board the General Conference shall endeavour to include persons competent in the arts, the humanities, the sciences, education and the diffusion of ideas, and qualified by their experience and capacity to fulfill the administrative and executive duties of the Board. It shall also have regard to the diversity of cultures and a balanced geographical distribution. Not more than one national of any Member State shall serve on the Board at any one time, the President of the Conference excepted.

3. The elected members of the Executive Board shall serve for a term of three years, and shall be immediately eligible for a second term, but shall not serve consecutively for more than two terms. At the first election eighteen members shall be elected of whom one third shall retire at the end of the first year and one third at the end of the second year, the order of retirement being determined immediately after the election by the drawing of lots. Thereafter six members shall be elected each year.

4. In the event of the death or resignation of one of its members, the Executive Board shall appoint, from among the delegates of the Member State concerned, a substitute, who shall serve until the next session of the General Conference which shall elect a member for the remainder of the term.

B. FUNCTIONS

5. The Executive Board, acting under the authority of the General Conference, shall be responsible for the execution of the programme adopted by the Conference and shall prepare its agenda and programme of work.

6. The Executive Board shall recommend to the General Conference the admission of new Members to the Organisation.

7. Subject to decisions of the General Conference, the Executive Board shall adopt its own rules of procedure. It shall elect its officers from among its members.

8. The Executive Board shall meet in regular session at least twice a year and may meet in special session if convoked by the Chairman on his own initiative or upon the request of six members of the Board.

9. The Chairman of the Executive Board shall present to the General Conference, with or without comment, the annual report of the Director-General on the activities of the Organisation, which shall have been

previously submitted to the Board.

10. The Executive Board shall make all necessary arrangements to consult the representatives of international organisations or qualified persons concerned with questions within its competence.

11. The members of the Executive Board shall exercise the powers delegated to them by the General Conference on behalf of the Conference as a whole and not as representatives of their respective Governments.

ARTICLE VI.

SECRETARIAT

1. The Secretariat shall consist of a Director-General and such staff as may be required.

2. The Director-General shall be nominated by the Executive Board and appointed by the General Conference for a period of six years, under such conditions as the Conference may approve, and shall be eligible for re-appointment. He shall be the chief administrative officer of the Organisation.

3. The Director-General, or a deputy designated by him, shall participate, without the right to vote, in all meetings of the General Conference, of the Executive Board, and of the committees of the Organisation. He shall formulate proposals for appropriate action by the Conference and the Board.

4. The Director-General shall appoint the staff of the Secretariat in accordance with staff regulations to be approved by the General Conference. Subject to the paramount consideration of securing the highest standards of integrity, efficiency and technical competence, appointment to the staff shall be on as wide a geographical basis as possible.

5. The responsibilities of the Director-General and of the staff shall be exclusively international in character. In the discharge of their duties they shall not seek or receive instructions from any government or from any authority external to the Organisation. They shall refrain from any action which might prejudice their position as international officials. Each State Member of the Organisation undertakes to respect the international character of the responsibilities of the Director-General and the staff, and not to seek to influence them in the discharge of their duties.

6. Nothing in this Article shall preclude the Organisation from entering into special arrangements within the United Nations Organisation for common services and staff and for the interchange of personnel.

ARTICLE VII.

NATIONAL CO-OPERATING BODIES

1. Each Member State shall make such arrangements as suit its particular conditions for the purpose of associating its principal bodies interested in educational, scientific and cultural matters with the work of the Organisation, preferably by the formation of a National Commission broadly representative of the Government and such bodies.

2. National Commissions or national co-operating bodies, where they exist, shall act in an advisory capacity to their respective delegations to the General Conference and to their Governments in matters relating to the Organisation and shall function as agencies of liaison in all matters of interest to it.

3. The Organisation may, on the request of a Member State delegate, either temporarily or permanently, a member of its Secretariat to serve on the National Commission of that State, in order to assist in the development of its work.

ARTICLE VIII.

REPORTS BY MEMBER STATES

Each Member State shall report periodically to the Organisation, in a manner to be determined by the General Conference, on its laws, regulations and statistics relating to educational, scientific and cultural life and institutions, and on the action taken upon the recommendations and conventions referred to in Article IV, paragraph 4.

ARTICLE IX.

BUDGET

1. The budget shall be administered by the Organisation.

2. The General Conference shall approve and give final effect to the budget and to the apportionment of financial responsibility among the States Members of the Organisation subject to such arrangement with the United Nations as may be provided in the agreement to be entered into pursuant to Article X.

3. The Director-General, with the approval of the Executive Board, may receive gifts, bequests, and

subventions directly from governments, public and private institutions, associations and private persons.

ARTICLE X.

RELATIONS WITH THE UNITED NATIONS ORGANISATION

This Organisation shall be brought into relation with the United Nations Organisation, as soon as practicable, as one of the specialised agencies referred to in Article 57 of the Charter of the United Nations. This relationship shall be effected through an agreement with the United Nations Organisation under Article 63 of the Charter, which agreement shall be subject to the approval of the General Conference of this Organisation. The agreement shall provide for effective co-operation between the two Organisations in the pursuit of their common purposes, and at the same time shall recognise the autonomy of this Organisation, within the fields of its competence as defined in this Constitution. Such agreement may, among other matters, provide for the approval and financing of the budget of the Organisation by the General Assembly of the United Nations.

ARTICLE XI.

RELATIONS WITH OTHER SPECIALIZED INTERNATIONAL ORGANISATIONS AND AGENCIES

1. This Organisation may co-operate with other specialised inter-governmental organisations and agencies whose interests and activities are related to its purposes. To this end the Director-General, acting under the general authority of the Executive Board, may establish effective working relationships with such organisations and agencies and establish such joint committees as may be necessary to assure effective co-operation. Any formal arrangements entered into with such organisations or agencies shall be subject to the approval of the Executive Board.

2. Whenever the General Conference of this Organisation and the competent authorities of any other specialised inter-governmental organisations or agencies whose purposes and functions lie within the competence of this Organisation, deem it desirable to effect a transfer of their resources and activities to this Organisation, the Director-General, subject to the approval of the Conference, may enter into mutually acceptable arrangements for its purpose.

3. This Organisation may make appropriate arrangements with other inter-governmental organisations for reciprocal representation at meetings.

4. The United Nations Educational, Scientific and Cultural Organisation may make suitable arrangements for consultation and co-operation with non-governmental international organisations concerned with matters within its competence and may invite them to undertake specific tasks. Such co-operation may also include appropriate participation by representatives of such organisations on advisory committees set up by the General Conference.

ARTICLE XII.

LEGAL STATUS OF THE ORGANISATION

The provisions of Articles 104 and 105 of the Charter of the United Nations Organisation concerning the legal status of that Organisation, its privileges and immunities shall apply in the same way to this Organisation.

ARTICLE XIII.

AMENDMENTS

1. Proposals for amendments to this Constitution shall become effective upon receiving the approval of the General Conference by a two-thirds majority; provided, however, that those amendments which involve fundamental alterations in the aims of the Organisation or new obligations for the Member States shall require subsequent acceptance on the part of two-thirds of the Member States before they come into force. The draft texts of proposed amendments shall be communicated by the Director-General to the Member States at least six months in advance of their consideration by the General Conference.

2. The General Conference shall have power to adopt by a two-thirds majority rules of procedure for carrying out the provisions of this Article.

ARTICLE XIV.

INTERPRETATION

1. The English and French texts of this Constitution shall be regarded as equally authoritative.

2. Any question or dispute concerning the interpretation of this Constitution shall be referred for determination to the International Court of Justice or to an arbitral tribunal, as the General Conference may determine under its rules of procedure.

ARTICLE XV.

ENTRY INTO FORCE

1. This Constitution shall be subject to acceptance. The instruments of acceptance shall be deposited with the Government of the United Kingdom.

2. This Constitution shall remain open for signature in the archives of the Government of the United Kingdom. Signature may take place either before or after the deposit of the instrument of acceptance. No acceptance shall be valid unless preceded or followed by signature.

3. This Constitution shall come into force when it has been accepted by twenty of its signatories. Subsequent acceptances shall take effect immediately.

4. The Government of the United Kingdom will inform all members of the United Nations of the receipt of all instruments of acceptance and of the date on which the Constitution comes into force in accordance with the preceding paragraph.

In faith whereof, the undersigned, duly authorised to that effect, have signed this Constitution in the English and French languages, both texts being equally authentic.

Done in London the sixteenth day of November, 1945 in a single copy, in the English and French languages, of which certified copies will be communicated by the Government of the United Kingdom to the Governments of all the Members of the United Nations.

[Here follow the signatures of the heads of the delegations.]

§287n. Representatives in General Conference; number; citizenship; compensation

The President by and with the consent of the Senate shall designate from time to time to attend a specified session or specified sessions of the General Conference of the Organization not to exceed five representatives of the United States and such number of alternates not to exceed five as he may determine consistent with the rules of procedure of the General Conference: *Provided, however,* That each such representative and each such alternate must be an American citizen. One of the representatives shall be designated as the senior representative. Such representatives and alternates shall each be entitled to receive compensation at such rates provided for members of the Senior Foreign Service under section 3962 of this title, or provided for Foreign Service officers under section 3963 of this title, as the President may determine, for such periods as the President may specify, except that no Member of the Senate or House of Representatives or officer of the United States who is designated under this section as a representative of the United States or as an alternate to attend any specified session or specified sessions of the General Conference shall be entitled to receive such compensation. Whenever a representative of the United States is elected by the General Conference to serve on the Executive Board, or is elected President of the General Conference and thus becomes an ex officio adviser to the Executive Board, under provision of article V of the constitution of the Organization, the President may extend the above provisions for compensation to such representative during periods of service in connection with the Executive Board.

(July 30, 1946, ch. 700, §2, 60 Stat. 712; July 31, 1956, ch. 804, title I, §112, 70 Stat. 740; Pub. L. 88–426, title III, §§305(1), 306(g), Aug. 14, 1964, 78 Stat. 422, 430; Pub. L. 96–465, title II, §2206(a)(3), Oct. 17, 1980, 94 Stat. 2161.)

REFERENCES IN TEXT

Article V of the constitution of the Organization, referred to in text, is article V of the Constitution of the United Nations Educational, Scientific, and Cultural Organization, which is set out as a note under section 287m of this title.

AMENDMENTS

1980—Pub. L. 96–465 substituted "members of the Senior Foreign Service under section 3962 of this title, or provided for Foreign Service officers under section 3963 of this title," for "Foreign Service officers in the

schedule contained in section 867 of this title,".

1964—Pub. L. 88–426, §306(g), substituted provisions permitting payment of compensation at such rates provided for Foreign Service officers in the schedule contained in section 867 of this title for provisions which limited compensation at not more than $15,000 per annum.

1956—Act July 31, 1956, increased maximum compensation of representatives and alternatives from $12,000 to $15,000.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–465 effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88–426 effective on first day of first pay period which begins on or after July 1, 1964, except to the extent provided in section 501(c) of Pub. L. 88–426, see section 501 of Pub. L. 88–426.

REPEALS

Section 112 of act July 31, 1956, cited as a credit to this section, was repealed by section 305(1) of Pub. L. 88–426.

§287*o*. National Commission on Educational, Scientific, and Cultural Cooperation; membership; meetings; expenses

In fulfillment of article VII of the constitution of the Organization, the Secretary of State shall cause to be organized a National Commission on Educational, Scientific, and Cultural Corporation [1] of not to exceed one hundred members. Such Commission shall be appointed by the Secretary of State and shall consist of (a) not more than sixty representatives of principal national, voluntary organizations interested in educational, scientific, and cultural matters; and (b) not more than forty outstanding persons selected by the Secretary of State, including not more than ten persons holding office under or employed by the Government of the United States, not more than fifteen representatives of the educational, scientific, and cultural interests of State and local governments, and not more than fifteen persons chosen at large. The Secretary of State is authorized to name in the first instance fifty of the principal national voluntary organizations, each of which shall be invited to designate one representative for appointment to the National Commission. Thereafter, the National Commission shall periodically review and, if deemed advisable, revise the list of such organizations designating representatives in order to achieve a desirable rotation among organizations represented. To constitute the initial Commission, one-third of the members shall be appointed to serve for a term of one year, one-third for a term of two years, and one-third or the remainder thereof for a term of three years; from thence on following, all members shall be appointed for a term of three years each, but no member shall serve more than two consecutive terms. The National Commission shall meet at least once annually. The National Commission shall designate from among its members an executive committee, and may designate such other committees as may prove necessary, to consult with the Department of State and to perform such other functions as the National Commission shall delegate to them. No member of the National Commission shall be allowed any salary or other compensation for services: *Provided, however*, That he may be paid transportation and other expenses as authorized by section 5703 of title 5. The Department of State is authorized to provide the necessary secretariat for the Commission.

(July 30, 1946, ch. 700, §3, 60 Stat. 713; Pub. L. 87–139, §9, Aug. 14, 1961, 75 Stat. 341.)

REFERENCES IN TEXT

Article VII of the constitution of the Organization, referred to in text, is article VII of the Constitution of the United Nations Educational, Scientific, and Cultural Organization, which is set out as a note under section 287m of this title.

CODIFICATION

"Section 5703 of title 5" substituted in text for "section 5 of the Administrative Expenses Act of 1946, as

amended (5 U.S.C. 73b–2)" on authority of Pub. L. 89–554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

AMENDMENTS

1961—Pub. L. 87–139 substituted provisions for payment of transportation and other expenses as authorized by section 5703 of title 5, for provisions authorizing payment of actual transportation expenses plus a $10 maximum per diem.

[1] *So in original. Probably should be "Cooperation".*

§287p. Citizenship of members

Each such member of the National Commission must be an American citizen.

(July 30, 1946, ch. 700, §4, 60 Stat. 713.)

§287q. General and special conferences; expenses; acceptance of services and gifts or bequests of money or materials

The National Commission shall call general conferences for the discussion of matters relating to the activities of the Organization, to which conferences organized bodies actively interested in such matters shall be invited to send representatives: *Provided, however,* That the travel and maintenance of such representation shall be without expense to the Government. Such general conferences shall be held annually or biennially, as the National Commission may determine, and in such places as it may designate. They shall be attended so far as possible by the members of the National Commission and by the delegates of the United States to the General Conference of the Organization. The National Commission is further authorized to call special conferences of experts for the consideration of specific matters relating to the Organization by persons of specialized competences. The Department of State may pay their transportation and other expenses as authorized by section 5703 of title 5, for the period of actual attendance and of necessary travel. The National Commission is further authorized to receive and accept services and gifts or bequests of money or materials to carry out any of the educational, scientific, or cultural purposes of the National Commission as set forth in this subchapter and in the constitution of the Organization. Any money so received shall be held by the Secretary of State and shall be subject to disbursement through the disbursement facilities of the Treasury Department as the terms of the gift or bequest may require and shall remain available for expenditure by grant or otherwise until expended: *Provided,* That no such gift or bequest may be accepted or disbursed if the terms thereof are inconsistent with the purposes of the National Commission as set forth in this subchapter and in the constitution of the Organization. Gifts or bequests provided for herein shall, for the purposes of Federal income, estate, and gift taxes, be deemed to be a gift to or for the United States. The National Commission and Secretary of State shall submit to Congress annual reports of receipts and expenditures of funds and bequests received and disbursed pursuant to the provisions of this section.

(July 30, 1946, ch. 700, §5, 60 Stat. 713; Pub. L. 85–477, ch. V, §502(e), June 30, 1958, 72 Stat. 273; Pub. L. 87–139, §10, Aug. 14, 1961, 75 Stat. 341; Pub. L. 98–164, title I, §106(a), Nov. 22, 1983, 97 Stat. 1018.)

REPEAL OF REPORTING REQUIREMENTS

Pub. L. 89–348, §1(21), Nov. 8, 1965, 79 Stat. 1311, repealed provisions of this section which required an annual report to the Congress by the National Commission on Educational, Scientific, and Cultural Cooperation and the Secretary of State of the receipts and expenditures of funds and bequests received and disbursed in connection with the United Nations Educational, Scientific, and Cultural Organization.

REFERENCES IN TEXT

The constitution of the Organization, referred to in text, is the Constitution of the United Nations Educational, Scientific, and Cultural Organization, which is set out as a note under section 287m of this title.

CODIFICATION

"Section 5703 of title 5" substituted in text for "section 5 of the Administrative Expenses Act of 1946, as amended (5 U.S.C. 73b–2)" on authority of Pub. L. 89–554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

AMENDMENTS

1983—Pub. L. 98–164 struck out provision prohibiting acceptance of gifts or bequests aggregating more than $200,000 in any year.

1961—Pub. L. 87–139 substituted provisions authorizing payment of transportation and other expenses of attending experts as authorized by section 5703 of title 5, for provisions which allowed the experts $10 per diem plus actual transportation expenses.

1958—Pub. L. 85–477 authorized the National Commission to receive and accept services and gifts or bequests of money or materials.

§287r. Authorization of appropriations; payment of expenses

There is hereby authorized to be appropriated annually to the Department of State, out of any money in the Treasury not otherwise appropriated such sums as may be necessary for the payment by the United States of its share of the expenses of the Organization as apportioned by the General Conference of the Organization in accordance with article IX of the constitution of the Organization, and such additional sums as may be necessary to pay the expenses of participation by the United States in the activities of the Organization, including: (a) salaries of the representatives provided for in section 287n of this title, of their appropriate staffs, and of members of the secretariat of the National Commission provided for in section 287o of this title, including personal services in the District of Columbia and elsewhere, without regard to the civil-service laws and chapter 51 and subchapter III of chapter 53 of title 5; (b) travel expenses without regard to the Standardized Government Travel Regulations, as amended, the Subsistence Expense Act of 1926, as amended, and section 5731 of title 5, and, under such rules and regulations as the Secretary of State may prescribe, travel expenses of families and transportation of effects of United States representatives and other personnel in going to and returning from their post of duty; (c) allowances for living quarters, including heat, fuel, and light, as authorized by section 5912 of title 5; (d) cost of living allowances under such rules and regulations as the Secretary of State may prescribe, including allowances to persons temporarily stationed abroad; (e) communication services; (f) stenographic reporting, translating, and other services, by contract, if deemed necessary, without regard to section 6101 of title 41; (g) local transportation; (h) equipment; (i) transportation of things; (j) rent of offices; (k) printing and binding without regard to section 501 of title 44 and section 6101 of title 41; (l) official entertainment; (m) stationery; (n) purchase of newspapers, periodicals, books, and documents; and (o) such other expenses as may be authorized by the Secretary of State.

(July 30, 1946, ch. 700, §6, 60 Stat. 714; ch. 782, title II, §202(2), title XI, §1106(a), Oct. 28, 1949, 63 Stat. 954, 972.)

REFERENCES IN TEXT

Article IX of the constitution of the Organization, referred to in text, is article IX of the constitution of the United Nations Educational, Scientific, and Cultural Organization, which is set out as a note under section 287m of this title.

The Subsistence Expenses Act of 1926, as amended, referred to in clause (b), was repealed and superseded by the Travel Expense Act of 1949, which is now covered by subchapter I of chapter 57 of Title 5. Section 9(a) of the 1949 Act provided in part: "All Acts . . . applicable to civilian officers or employees of the departments and establishments, providing for reimbursement of actual travel or transportation expense, and all other Acts, general or special, which are in conflict with the provisions of this Act . . . are hereby modified, but only to the extent of inconsistency or conflict with the provisions of this Act . . ."

CODIFICATION

In cl. (a), "chapter 51 and subchapter III of chapter 53 of title 5" substituted for "the Classification Act of 1949" on authority of Pub. L. 89–554, §7(b), Sept. 6, 1966, 80 Stat. 631, which Act enacted Title 5, Government Organization and Employees.

In cls. (b) and (c), "section 5731 of title 5" and "section 5912 of title 5" substituted for "section 10 of the Act of March 3, 1933 (U.S.C., title 5, sec. 73b)" and "the Act approved June 26, 1930 (U.S.C., title 5, sec. 118a)", respectively, on authority of Pub. L. 89–554, §7(b), Sept. 6, 1966, 80 Stat. 631, which Act enacted Title 5.

In cl. (f), "section 6101 of title 41" substituted for "section 3709 of the Revised Statutes (U.S.C., title 41, sec. 5)" on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

In cl. (k), "section 501 of title 44" substituted for "section 11 of the Act of March 1, 1919 (44 U.S.C. 111)" on authority of Pub. L. 90–620, §2(b), Oct. 22, 1968, which Act enacted Title 44, Public Printing and Documents.

In cl. (k), "section 6101 of title 41" substituted for "section 3709 of the Revised Statutes (U.S.C., title 41, sec. 5)" on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

1949—Act Oct. 28, 1949, substituted "Classification Act of 1949" for "Classification Act of 1923".

REPEALS

Act Oct. 28, 1949, ch. 782, cited as a credit to this section, was repealed (subject to a savings clause) by Pub. L. 89–554, Sept. 6, 1966, §8, 80 Stat. 632, 655.

ANNUAL APPROPRIATIONS

Annual appropriations to meet the obligations of membership in various international organizations were contained in acts listed in a note set out under section 269a of this title.

RESTRICTION ON CONTRIBUTIONS BECAUSE OF JOURNALISTIC INTERFERENCE; REPORT TO CONGRESS

Pub. L. 97–241, title I, §109, Aug. 24, 1982, 96 Stat. 276, provided that:

"(a) None of the funds authorized to be appropriated by paragraph (2) of section 102 of this Act [section 102(2) of Pub. L. 97–241, which was not classified to the Code] or by any other Act for 'International Organizations and Conferences' may be used for payment by the United States of its contribution toward the assessed budget of the United Nations Educational, Scientific and Cultural Organization if that organization implements any policy or procedure the effect of which is to license journalists or their publications, to censor or otherwise restrict the free flow of information within or among countries, or to impose mandatory codes of journalistic practice or ethics.

"(b) Not later then February 1 of each year, the Secretary of State shall report to the Congress with respect to whether the United Nations Educational, Scientific and Cultural Organization has taken any action described in subsection (a) of this section."

[For termination, effective May 15, 2000, of reporting provisions in section 109(b) of Pub. L. 97–241, set out above, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 130 of House Document No. 103–7.]

§287s. Amendments to constitution of Organization involving new obligations

Unless Congress by law authorizes such action, neither the President nor any person or agency shall on behalf of the United States approve any amendment under article XIII of the constitution of the Organization involving any new obligation for the United States.

(July 30, 1946, ch. 700, §7, 60 Stat. 714.)

REFERENCES IN TEXT

Article XIII of the constitution of the Organization, referred to in text, is article XIII of the constitution of the United Nations Educational, Scientific, and Cultural Organization, which is set out as a note under section 287m of this title.

§287t. Prohibition against disclosure of information or knowledge

In adopting this subchapter, it is the understanding of the Congress that the constitution of the Organization does not require, nor does this subchapter authorize, the disclosure of any information or knowledge in any case in which such disclosure is prohibited by any law of the United States.

(July 30, 1946, ch. 700, §8, 60 Stat. 714.)

REFERENCES IN TEXT

The constitution of the Organization, referred to in text, is the constitution of the United Nations Educational, Scientific, and Cultural Organization, which is set out as a note under section 287m of this title.

SUBCHAPTER XVIII—PRIVILEGES AND IMMUNITIES OF INTERNATIONAL ORGANIZATIONS

§288. "International organization" defined; authority of President

For the purposes of this subchapter, the term "international organization" means a public international organization in which the United States participates pursuant to any treaty or under the authority of any Act of Congress authorizing such participation or making an appropriation for such participation, and which shall have been designated by the President through appropriate Executive order as being entitled to enjoy the privileges, exemptions, and immunities provided in this subchapter. The President shall be authorized, in the light of the functions performed by any such international organization, by appropriate Executive order to withhold or withdraw from any such organization or its officers or employees any of the privileges, exemptions, and immunities provided for in this subchapter (including the amendments made by this subchapter) or to condition or limit the enjoyment by any such organization or its officers or employees of any such privilege, exemption, or immunity. The President shall be authorized, if in his judgment such action should be justified by reason of the abuse by an international organization or its officers and employees of the privileges, exemptions, and immunities provided in this subchapter or for any other reason, at any time to revoke the designation of any international organization under this section, whereupon the international organization in question shall cease to be classed as an international organization for the purposes of this subchapter.

(Dec. 29, 1945, ch. 652, title I, §1, 59 Stat. 669.)

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original "this title", meaning title I of act Dec. 29, 1945, ch. 652, 59 Stat. 669, which is classified principally to this subchapter. For complete classification of title I to the Code, see Short Title note set out below and Tables.

SHORT TITLE OF 2010 AMENDMENT

Pub. L. 111–177, §1, June 8, 2010, 124 Stat. 1260, provided that: "This Act [enacting section 288f–7 of this title] may be cited as the 'Extending Immunities to the Office of the High Representative in Bosnia and Herzegovina and the International Civilian Office in Kosovo Act of 2010'."

SHORT TITLE

Act Dec. 29, 1945, ch. 652, title I, §10, 59 Stat. 673, provided that: "This title [enacting this subchapter and amending section 215 of Title 8, Aliens and Nationality, sections 116, 1607, 1621, 3466, 3469, 3475, and 3797 of Internal Revenue Code, 1939, and section 409 of Title 42, The Public Health and Welfare] may be cited as the 'International Organizations Immunities Act'."

INTERNATIONAL COTTON ADVISORY COMMITTEE

Pub. L. 104–127, title II, §283, Apr. 4, 1996, 110 Stat. 980, provided that:

"(a) IN GENERAL.—The President shall ensure that the Government of the United States participates as a

full member of the International Cotton Advisory Committee.

"(b) REPRESENTATION BY THE SECRETARY.—The Secretary of Agriculture shall represent the Government of the United States as a member of the International Cotton Advisory Committee and shall delegate the primary responsibility to represent the Government of the United States to appropriately qualified individuals."

ADMINISTRATIVE SUPPLIES FOR INTERNATIONAL ORGANIZATIONS

Act Aug. 4, 1947, ch. 479, 61 Stat. 752, provided for the procurement and furnishing of administrative supplies by the Treasury Department to international organizations until July 1, 1948. This act was popularly known as the "International Organizations Procurement Act of 1947."

PUBLIC INTERNATIONAL ORGANIZATIONS DESIGNATED BY STATUTE

The following organizations shall be considered public international organizations for purposes of this section:

The Global Fund to Fight AIDS, Tuberculosis and Malaria. See section 7622 of this title.

The International Development Law Institute. See section 288j of this title.

PUBLIC INTERNATIONAL ORGANIZATIONS ENTITLED TO ENJOY CERTAIN PRIVILEGES, EXEMPTIONS, AND IMMUNITIES

International organizations were designated by executive order as public international organizations entitled to enjoy the privileges, exemptions, and immunities conferred by the International Organizations Immunities Act (this subchapter) as follows:

African Development Bank, Ex. Ord. No. 12403, Feb. 8, 1983, 48 F.R. 6087.

African Development Fund, Ex. Ord. No. 11977, Mar. 14, 1977, 42 F.R. 14671.

African Union, Ex. Ord. No. 13377, Apr. 13, 2005, 70 F.R. 20263.

Asian Development Bank, Ex. Ord. No. 11334, Mar. 7, 1967, 32 F.R. 3933.

Border Environment Cooperation Commission, Ex. Ord. No. 12904, Mar. 16, 1994, 59 F.R. 13179.

Caribbean Organization, Ex. Ord. No. 10983, Dec. 30, 1961, 27 F.R. 32.

Commission for Environmental Cooperation, Ex. Ord. No. 12904, Mar. 16, 1994, 59 F.R. 13179.

Commission for Labor Cooperation, Ex. Ord. No. 12904, Mar. 16, 1994, 59 F.R. 13179.

Commission for the Study of Alternatives to the Panama Canal, Ex. Ord. No. 12567, Oct. 2, 1986, 51 F.R. 35495.

Council of Europe in Respect of the Group of States Against Corruption (GRECO), Ex. Ord. No. 13240, Dec. 18, 2001, 66 F.R. 66257.

Customs Cooperation Council, Ex. Ord. No. 11596, June 5, 1971, 36 F.R. 11079.

European Bank for Reconstruction and Development, Ex. Ord. No. 12766, June 18, 1991, 56 F.R. 28463.

European Central Bank, Ex. Ord. No. 13307, May 29, 2003, 68 F.R. 33338.

European Space Agency, Ex. Ord. No. 11318, Dec. 5, 1966, 31 F.R. 15307; Ex. Ord. No. 11351, May 22, 1967, 32 F.R. 7561; Ex. Ord. No. 11760, Jan. 17, 1974, 39 F.R. 2343; Ex. Ord. No. 12766, June 18, 1991, 56 F.R. 28463.

Food and Agriculture Organization, Ex. Ord. No. 9698, Feb. 19, 1946, 11 F.R. 1809.

Global Fund to Fight AIDS, Tuberculosis and Malaria, Ex. Ord. No. 13395, Jan. 13, 2006, 71 F.R. 3203.

Great Lakes Fishery Commission, Ex. Ord. No. 11059, Oct. 23, 1962, 27 F.R. 10405.

Hong Kong Economic and Trade Offices, Ex. Ord. No. 13052, June 30, 1997, 62 F.R. 35659.

Inter-American Defense Board, Ex. Ord. No. 10228, Mar. 26, 1951, 16 F.R. 2676.

Inter-American Development Bank, Ex. Ord. No. 10873, Apr. 8, 1960, 25 F.R. 3097; Ex. Ord. No. 11019, Apr. 27, 1962, 27 F.R. 4145.

Inter-American Institute of Agricultural Sciences, Ex. Ord. No. 9751, July 11, 1946, 11 F.R. 7713.

Inter-American Investment Corporation, Ex. Ord. No. 12567, Oct. 2, 1986, 51 F.R. 35495.

Inter-American Statistical Institute, Ex. Ord. No. 9751, July 11, 1946, 11 F.R. 7713.

Inter-American Tropical Tuna Commission, Ex. Ord. No. 11059, Oct. 23, 1962, 27 F.R. 10405.

Intergovernmental Maritime Consultative Organization, Ex. Ord. No. 10795, Dec. 13, 1958, 23 F.R. 9709.

International Atomic Energy Agency, Ex. Ord. No. 10727, Aug. 31, 1957, 22 F.R. 7099.

International Bank for Reconstruction and Development, Ex. Ord. No. 9751, July 11, 1946, 11 F.R. 7713.

International Boundary and Water Commission, United States and Mexico, Ex. Ord. No. 12467, Mar. 2, 1984, 49 F.R. 8229.

International Centre for Settlement of Investment Disputes, Ex. Ord. No. 11966, Jan. 19, 1977, 42 F.R. 4331.

International Civil Aviation Organization, Ex. Ord. No. 9863, May 31, 1947, 12 F.R. 3559.

International Civilian Office in Kosovo, Ex. Ord. No. 13568, Mar. 8, 2011, 76 F.R. 13497.

International Coffee Organization, Ex. Ord. No. 11225, May 22, 1965, 30 F.R. 7093.
International Committee of the Red Cross, Ex. Ord. No. 12643, June 23, 1988, 53 F.R. 24247.
International Cotton Advisory Committee, Ex. Ord. No. 9911, Dec. 19, 1947, 12 F.R. 8719.
International Cotton Institute, Ex. Ord. No. 11283, May 27, 1966, 31 F.R. 7667.
International Criminal Police Organization (INTERPOL) (limited privileges), Ex. Ord. No. 12425, June 16, 1983, 48 F.R. 28069; Ex. Ord. No. 12971, Sept. 15, 1995, 60 F.R. 48617; Ex. Ord. No. 13524, Dec. 16, 2009, 74 F.R. 67803.
International Development Association, Ex. Ord. No. 11966, Jan. 19, 1977, 42 F.R. 4331.
International Development Law Institute, Ex. Ord. No. 12842, Mar. 29, 1993, 58 F.R. 17081.
International Fertilizer Development Center, Ex. Ord. No. 11977, Mar. 14, 1977, 42 F.R. 14671.
International Finance Corporation, Ex. Ord. No. 10680, Oct. 2, 1956, 21 F.R. 7647.
International Food Policy Research Institute (limited privileges), Ex. Ord. No. 12359, Apr. 22, 1982, 47 F.R. 17791.
International Fund for Agricultural Development, Ex. Ord. No. 12732, Oct. 31, 1990, 55 F.R. 46489.
International Hydrographic Bureau, Ex. Ord. No. 10769, May 29, 1958, 23 F.R. 3801.
International Joint Commission—United States and Canada, Ex. Ord. No. 9972, June 25, 1948, 13 F.R. 3573.
International Labor Organization, Ex. Ord. No. 9698, Feb. 19, 1946, 11 F.R. 1809.
International Maritime Satellite Organization, Ex. Ord. No. 12238, Sept. 12, 1980, 45 F.R. 60877.
International Monetary Fund, Ex. Ord. No. 9751, July 11, 1946, 11 F.R. 7713.
International Pacific Halibut Commission, Ex. Ord. No. 11059, Oct. 23, 1962, 27 F.R. 10405.
International Renewable Energy Agency, Ex. Ord. No. 13705, Sept. 3, 2015, 80 F.R. 54405.
International Secretariat for Volunteer Service, Ex. Ord. No. 11363, July 20, 1967, 32 F.R. 10779.
International Telecommunication Union, Ex. Ord. No. 9863, May 31, 1947, 12 F.R. 3559.
International Telecommunications Satellite Organization (INTELSAT), Ex. Ord. No. 11718, May 14, 1973, 38 F.R. 12797; Ex. Ord. No. 11966, Jan. 19, 1977, 42 F.R. 4331.
International Union for Conservation of Nature and Natural Resources, Ex. Ord. No. 12986, Jan. 18, 1996, 61 F.R. 1693.
International Wheat Advisory Committee (International Wheat Council), Ex. Ord. No. 9823, Jan. 24, 1947, 12 F.R. 551.
Interparliamentary Union, Ex. Ord. No. 13097, Aug. 7, 1998, 63 F.R. 43065.
Israel-United States Binational Industrial Research and Development Foundation, Ex. Ord. No. 12956, Mar. 13, 1995, 60 F.R. 14199.
ITER International Fusion Energy Organization, Ex. Ord. No. 13451, Nov. 19, 2007, 72 F.R. 65653.
Korean Peninsula Energy Development Organization, Ex. Ord. No. 12997, Apr. 1, 1996, 61 F.R. 14949.
Multilateral Investment Guarantee Agency, Ex. Ord. No. 12647, Aug. 2, 1988, 53 F.R. 29323.
Multinational Force and Observers, Ex. Ord. No. 12359, Apr. 22, 1982, 47 F.R. 17791.
North American Development Bank, Ex. Ord. No. 12904, Mar. 16, 1994, 59 F.R. 13179.
North Pacific Anadromous Fish Commission, Ex. Ord. No. 12895, Jan. 26, 1994, 59 F.R. 4239.
North Pacific Marine Science Organization, Ex. Ord. No. 12894, Jan. 26, 1994, 59 F.R. 4237.
Office of the High Representative in Bosnia and Herzegovina, Ex. Ord. No. 13568, Mar. 8, 2011, 76 F.R. 13497.
Organization for European Economic Cooperation (now known as the Organization for Economic Cooperation and Development), Ex. Ord. No. 10133, June 27, 1950, 15 F.R. 4159.
Organization for the Prohibition of Chemical Weapons, Ex. Ord. No. 13049, June 11, 1997, 62 F.R. 32471.
Organization of American States (includes Pan American Union), Ex. Ord. No. 10533, June 3, 1954, 19 F.R. 3289.
Organization of Eastern Caribbean States, Ex. Ord. No. 12669, Feb. 20, 1989, 54 F.R. 7753.
Pacific Salmon Commission, Ex. Ord. No. 12567, Oct. 2, 1986, 51 F.R. 35495.
Pan American Health Organization (includes Pan American Sanitary Bureau), Ex. Ord. No. 10864, Feb. 18, 1960, 25 F.R. 1507.
Preparatory Commission of the International Atomic Energy Agency, Ex. Ord. No. 10727, Aug. 31, 1957, 22 F.R. 7099.
Provisional Intergovernmental Committee for the Movement of Migrants from Europe (now known as the Intergovernmental Committee for European Migration), Ex. Ord. No. 10335, Mar. 28, 1952, 17 F.R. 2741.
South Pacific Commission, Ex. Ord. No. 10086, Nov. 25, 1949, 14 F.R. 7147.
United International Bureau for the Protection of Intellectual Property (BIRPI), Ex. Ord. No. 11484, Sept. 29, 1969, 34 F.R. 15337.
United Nations, Ex. Ord. No. 9698, Feb. 19, 1946, 11 F.R. 1809.

United Nations Educational, Scientific, and Cultural Organization, Ex. Ord. No. 9863, May 31, 1947, 12 F.R. 3559.
United Nations Industrial Development Organization, Ex. Ord. No. 12628, Mar. 8, 1988, 53 F.R. 7725.
United States-Mexico Border Health Commission, Ex. Ord. No. 13367, Dec. 21, 2004, 69 F.R. 77605.
Universal Postal Union, Ex. Ord. No. 10727, Aug. 31, 1957, 22 F.R. 7099.
World Health Organization, Ex. Ord. No. 10025, Dec. 30, 1948, 13 F.R. 9361.
World Intellectual Property Organization, Ex. Ord. No. 11866, June 18, 1975, 40 F.R. 26015.
World Meteorological Organization, Ex. Ord. No. 10676, Sept. 1, 1956, 21 F.R. 6625.
World Tourism Organization, Ex. Ord. No. 12508, Mar. 22, 1985, 50 F.R. 11837.
World Trade Organization, Ex. Ord. No. 13042, Apr. 9, 1997, 62 F.R. 18017.

PUBLIC INTERNATIONAL ORGANIZATIONS FORMERLY ENTITLED TO ENJOY CERTAIN PRIVILEGES, EXEMPTIONS, AND IMMUNITIES

Executive orders designating international organizations as public international organizations entitled to enjoy the privileges, exemptions, and immunities conferred by the International Organizations Immunities Act (this subchapter) were revoked as follows:
Caribbean Commission, Ex. Ord. No. 10025, Dec. 30, 1948, 13 F.R. 9361; revoked by Ex. Ord. No. 10983, Dec. 30, 1961, 27 F.R. 32.
Coffee Study Group, Ex. Ord. No. 10943, May 19, 1961, 26 F.R. 4419; revoked by Ex. Ord. No. 12033, Jan. 10, 1978, 43 F.R. 1915.
Inter-American Coffee Board, Ex. Ord. No. 9751, July 11, 1946, 11 F.R. 7713; revoked by Ex. Ord. No. 10083, Oct. 10, 1949, 14 F.R. 6161.
Intergovernmental Committee on Refugees, Ex. Ord. No. 9823, Jan. 24, 1947, 12 F.R. 551; revoked by Ex. Ord. No. 10083, Oct. 10, 1949, 14 F.R. 6161.
Interim Communications Satellite Committee, Ex. Ord. No. 11227, June 2, 1965, 30 F.R. 7369; revoked by Ex. Ord. No. 11718, May 14, 1973, 38 F.R. 12797.
International Refugee Organization, Ex. Ord. No. 9887, Aug. 22, 1947, 12 F.R. 5723; revoked by Ex. Ord. No. 10832, Aug. 18, 1959, 24 F.R. 6753.
International Telecommunications Satellite Consortium, Ex. Ord. No. 11277, Apr. 30, 1966, 31 F.R. 6609; revoked by Ex. Ord. No. 11718, May 14, 1973, 38 F.R. 12797.
Lake Ontario Claims Tribunal, Ex. Ord. No. 11372, Sept. 18, 1967, 32 F.R. 13251; revoked by Ex. Ord. No. 11439, Dec. 7, 1968, 33 F.R. 18257.
Organization of African Unity (OAU), Ex. Ord. No. 11767, Feb. 19, 1974, 39 F.R. 6603; revoked by Ex. Ord. No. 13377, §3, Apr. 13, 2005, 70 F.R. 20263.
Southeast Asia Treaty Organization, Ex. Ord. No. 10866, Feb. 20, 1960, 25 F.R. 1584; revoked by Ex. Ord. No. 12033, Jan. 10, 1978, 43 F.R. 1915.
United Nations Relief and Rehabilitation Administration, Ex. Ord. No. 9698, Feb. 19, 1946, 11 F.R. 1809; revoked by Ex. Ord. No. 10083, Oct. 10, 1949, 14 F.R. 6161.

REVOCATION OF EXECUTIVE ORDER NOS. 9721 AND 10103

Ex. Ord. No. 9721, May 10, 1946, 11 F.R. 5209, as amended by Ex. Ord. No. 10103, Feb. 1, 1950, 15 F.R. 597, which provided for the transfer of Federal Government personnel to public international organizations, was revoked with certain savings provisions by section 2 of Ex. Ord. No. 10804, Feb. 12, 1959, 24 F.R. 1147, and subsequently revoked by Ex. Ord. No. 12553, Feb. 25, 1986, 51 F.R. 7237.

§288a. Privileges, exemptions, and immunities of international organizations

International organizations shall enjoy the status, immunities, exemptions, and privileges set forth in this section, as follows:

(a) International organizations shall, to the extent consistent with the instrument creating them, possess the capacity—

(i) to contract;

(ii) to acquire and dispose of real and personal property;

(iii) to institute legal proceedings.

(b) International organizations, their property and their assets, wherever located, and by whomsoever held, shall enjoy the same immunity from suit and every form of judicial process as is

enjoyed by foreign governments, except to the extent that such organizations may expressly waive their immunity for the purpose of any proceedings or by the terms of any contract.

(c) Property and assets of international organizations, wherever located and by whomsoever held, shall be immune from search, unless such immunity be expressly waived, and from confiscation. The archives of international organizations shall be inviolable.

(d) Insofar as concerns customs duties and internal-revenue taxes imposed upon or by reason of importation, and the procedures in connection therewith; the registration of foreign agents; and the treatment of official communications, the privileges, exemptions, and immunities to which international organizations shall be entitled shall be those accorded under similar circumstances to foreign governments.

(Dec. 29, 1945, ch. 652, title I, §2, 59 Stat. 669.)

§288b. Baggage and effects of officers and employees exempted from customs duties and internal revenue taxes

Pursuant to regulations prescribed by the Commissioner of U.S. Customs and Border Protection with the approval of the Secretary of the Treasury, the baggage and effects of alien officers and employees of international organizations, or of aliens designated by foreign governments to serve as their representatives in or to such organizations, or of the families, suites, and servants of such officers, employees, or representatives shall be admitted (when imported in connection with the arrival of the owner) free of customs duties and free of internal-revenue taxes imposed upon or by reason of importation.

(Dec. 29, 1945, ch. 652, title I, §3, 59 Stat. 669; Pub. L. 114–125, title VIII, §802(d)(2), Feb. 24, 2016, 130 Stat. 210.)

CHANGE OF NAME

"Commissioner of U.S. Customs and Border Protection" substituted for "Commissioner of Customs" in text on authority of section 802(d)(2) of Pub. L. 114–125, set out as a note under section 211 of Title 6, Domestic Security.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107–296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114–125, and section 802(b) of Pub. L. 114–125, set out as a note under section 211 of Title 6.

For transfer of functions of other officers, employees, and agencies of Department of the Treasury, with certain exceptions, to Secretary of the Treasury, with power to delegate, see Reorg. Plan No. 26, §§1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5, Government Organization and Employees. The Commissioner of Customs, referred to in text, was an officer of the Treasury Department.

§288c. Exemption from property taxes

International organizations shall be exempt from all property taxes imposed by, or under the authority of, any Act of Congress, including such Acts as are applicable solely to the District of Columbia or the Territories.

(Dec. 29, 1945, ch. 652, title I, §6, 59 Stat. 671.)

§288d. Privileges, exemptions, and immunities of officers, employees, and their

families; waiver

(a) Persons designated by foreign governments to serve as their representatives in or to international organizations and the officers and employees of such organizations, and members of the immediate families of such representatives, officers, and employees residing with them, other than nationals of the United States, shall, insofar as concerns laws regulating entry into and departure from the United States, alien registration and fingerprinting, and the registration of foreign agents, be entitled to the same privileges, exemptions, and immunities as are accorded under similar circumstances to officers and employees, respectively, of foreign governments, and members of their families.

(b) Representatives of foreign governments in or to international organizations and officers and employees of such organizations shall be immune from suit and legal process relating to acts performed by them in their official capacity and falling within their functions as such representatives, officers, or employees except insofar as such immunity may be waived by the foreign government or international organization concerned.

(Dec. 29, 1945, ch. 652, title I, §7(a), (b), 59 Stat. 671.)

§288e. Personnel entitled to benefits

(a) Notification to and acceptance by Secretary of State of personnel

No person shall be entitled to the benefits of this subchapter, unless he (1) shall have been duly notified to and accepted by the Secretary of State as a representative, officer, or employee; or (2) shall have been designated by the Secretary of State, prior to formal notification and acceptance, as a prospective representative, officer, or employee; or (3) is a member of the family or suite, or servant, of one of the foregoing accepted or designated representatives, officers, or employees.

(b) Deportation of undesirables

Should the Secretary of State determine that the continued presence in the United States of any person entitled to the benefits of this subchapter is not desirable, he shall so inform the foreign government or international organization concerned, as the case may be, and after such person shall have had a reasonable length of time, to be determined by the Secretary of State, to depart from the United States, he shall cease to be entitled to such benefits.

(c) Extent of diplomatic status

No person shall, by reason of the provisions of this subchapter, be considered as receiving diplomatic status or as receiving any of the privileges incident thereto other than such as are specifically set forth herein.

(Dec. 29, 1945, ch. 652, title I, §8, 59 Stat. 672.)

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original "this title", meaning title I of act Dec. 29, 1945, ch. 652, 59 Stat. 669, which is classified principally to this subchapter. For complete classification of title I to the Code, see Short Title note set out under section 288 of this title and Tables.

§288f. Applicability of reciprocity laws

The privileges, exemptions, and immunities of international organizations and of their officers and employees, and members of their families, suites, and servants, provided for in this subchapter, shall be granted notwithstanding the fact that the similar privileges, exemptions, and immunities granted to a foreign government, its officers, or employees, may be conditioned upon the existence of reciprocity by that foreign government: *Provided*, That nothing contained in this subchapter shall be construed as precluding the Secretary of State from withdrawing the privileges, exemptions, and immunities provided in this subchapter from persons who are nationals of any foreign country on the

ground that such country is failing to accord corresponding privileges, exemptions, and immunities to citizens of the United States.

(Dec. 29, 1945, ch. 652, title I, §9, 59 Stat. 673.)

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original "this title", meaning title I of act Dec. 29, 1945, ch. 652, 59 Stat. 669, which is classified principally to this subchapter. For complete classification of title I to the Code, see Short Title note set out under section 288 of this title and Tables.

§288f–1. European Space Agency and Organization of Eastern Caribbean States; extension of privileges, exemptions, and immunities to members

The provisions of this subchapter may be extended to the European Space Agency and to the Organization of Eastern Caribbean States (including any office established in the United States by that organization) in the same manner, to the same extent, and subject to the same conditions, as they may be extended to a public international organization in which the United States participates pursuant to any treaty or under the authority of any Act of Congress authorizing such participation or making an appropriation for such participation.

(Dec. 29, 1945, ch. 652, title I, §11, as added Pub. L. 89–353, Feb. 2, 1966, 80 Stat. 5; amended Pub. L. 98–164, title I, §120, Nov. 22, 1983, 97 Stat. 1023; Pub. L. 100–362, July 6, 1988, 102 Stat. 819.)

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original "this title", meaning title I of act Dec. 29, 1945, ch. 652, 59 Stat. 669, which is classified principally to this subchapter. For complete classification of title I to the Code, see Short Title note set out under section 288 of this title and Tables.

AMENDMENTS

1988—Pub. L. 100–362 inserted "and to the Organization of Eastern Caribbean States (including any office established in the United States by that organization)" after "European Space Agency".

1983—Pub. L. 98–164 substituted "Space Agency" for "Space Research Organization".

EXECUTIVE ORDER

For executive orders designating certain international organizations as public international organizations entitled to enjoy the privileges, exemptions, and immunities conferred by the International Organizations Immunities Act (this subchapter), see notes set out under section 288 of this title.

§288f–2. African Union; extension of privileges, exemptions, and immunities

(a) The provisions of this subchapter may be extended to the African Union and may continue to be extended to the International Labor Organization and the United Nations Industrial Development Organization in the same manner, to the same extent, and subject to the same conditions, as they may be extended to a public international organization in which the United States participates pursuant to any treaty or under the authority of any Act of Congress authorizing such participation or making an appropriation for such participation.

(b) Under such terms and conditions as the President shall determine, consistent with the purposes of this subchapter, the President is authorized to extend, or enter into an agreement to extend, to the African Union Mission to the United States of America, and to its members, the privileges and immunities enjoyed by diplomatic missions accredited to the United States, and by members of such missions, subject to corresponding conditions and obligations.

(Dec. 29, 1945, ch. 652, title I, §12, as added Pub. L. 93–161, Nov. 27, 1973, 87 Stat. 635; amended Pub. L. 96–60, title IV, §404, Aug. 15, 1979, 93 Stat. 403; Pub. L. 105–277, div. A, §101(b) [title

IV, §406], Oct. 21, 1998, 112 Stat. 2681–50, 2681–101; Pub. L. 108–447, div. D, title V, §569(h), Dec. 8, 2004, 118 Stat. 3026; Pub. L. 108–497, §8, Dec. 23, 2004, 118 Stat. 4019; Pub. L. 109–472, §7(a), Jan. 11, 2007, 120 Stat. 3556.)

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original "this title", meaning title I of act Dec. 29, 1945, ch. 652, 59 Stat. 669, which is classified principally to this subchapter. For complete classification of title I to the Code, see Short Title note set out under section 288 of this title and Tables.

AMENDMENTS

2007—Pub. L. 109–472 designated existing provisions as subsec. (a) and added subsec. (b).

2004—Pub. L. 108–447 and Pub. L. 108–497 amended section identically, substituting "African Union" for "Organization of African Unity".

1998—Pub. L. 105–277 inserted "and the United Nations Industrial Development Organization" after "International Labor Organization".

1979—Pub. L. 96–60 authorized continuation of extension of privileges and immunities provisions to International Labor Organization.

EXECUTIVE ORDER

For executive orders designating certain international organizations as public international organizations entitled to enjoy the privileges, exemptions, and immunities conferred by the International Organizations Immunities Act (this subchapter), see notes set out under section 288 of this title.

EX. ORD. NO. 13444. EXTENDING PRIVILEGES AND IMMUNITIES TO THE AFRICAN UNION MISSION TO THE UNITED STATES

Ex. Ord. No. 13444, Sept. 12, 2007, 72 F.R. 52747, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 7(a)(2) of the Department of State Authorities Act of 2006 (Public Law 109–472), I hereby extend to the African Union Mission to the United States of America, and to its members, the privileges and immunities enjoyed by diplomatic missions accredited to the United States, and by members of such missions, subject to corresponding conditions and obligations.

This extension of privileges and immunities is not intended to abridge in any respect privileges and immunities that the African Union Mission to the United States of America and its members otherwise may have acquired or may acquire by law.

GEORGE W. BUSH.

§288f–3. Immunities for International Committee of the Red Cross

The International Committee of the Red Cross, in view of its unique status as an impartial humanitarian body named in the Geneva Conventions of 1949 and assisting in their implementation, shall be considered to be an international organization for the purposes of this subchapter and may be extended the provisions of this subchapter in the same manner, to the same extent, and subject to the same conditions, as such provisions may be extended to a public international organization in which the United States participates pursuant to any treaty or under the authority of any Act of Congress authorizing such participation or making an appropriation for such participation.

(Dec. 29, 1945, ch. 652, title I, §13, as added Pub. L. 100–204, title VII, §743, Dec. 22, 1987, 101 Stat. 1395.)

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original "this title", meaning title I of act Dec. 29, 1945, ch. 652, 59 Stat. 669, which is classified principally to this subchapter. For complete classification of title I to the Code, see Short Title note set out under section 288 of this title and Tables.

EXECUTIVE ORDER

For executive orders designating certain international organizations as public international organizations entitled to enjoy the privileges, exemptions, and immunities conferred by the International Organizations

Immunities Act (this subchapter), see notes set out under section 288 of this title.

§288f–4. International Union for Conservation of Nature and Natural Resources; extension of privileges, exemptions, and immunities

The International Union for Conservation of Nature and Natural Resources shall be considered to be an international organization for the purposes of this subchapter and may be extended the provisions of this subchapter in the same manner, to the same extent, and subject to the same conditions, as such provisions may be extended to a public international organization in which the United States participates pursuant to any treaty or under the authority of any Act of Congress authorizing such participation or making an appropriation for such participation.

(Dec. 29, 1945, ch. 652, title I, §14, as added Pub. L. 103–236, title IV, §426, Apr. 30, 1994, 108 Stat. 458.)

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original "this title", meaning title I of act Dec. 29, 1945, ch. 652, 59 Stat. 669, which is classified principally to this subchapter. For complete classification of title I to the Code, see Short Title note set out under section 288 of this title and Tables.

§288f–5. European Central Bank; extension of privileges, exemptions, and immunities

The provisions of this subchapter may be extended to the European Central Bank in the same manner, to the same extent, and subject to the same conditions, as they may be extended to a public international organization in which the United States participates pursuant to any treaty or under the authority of any Act of Congress authorizing such participation or making an appropriation for such participation.

(Dec. 29, 1945, ch. 652, title I, §15, as added Pub. L. 107–278, §1, Nov. 5, 2002, 116 Stat. 1939.)

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original "this title", meaning title I of act Dec. 29, 1945, ch. 652, 59 Stat. 669, which is classified principally to this subchapter. For complete classification of title I to the Code, see Short Title note set out under section 288 of this title and Tables.

§288f–6. Global Fund to Fight AIDS, Tuberculosis and Malaria; extension of privileges, exemptions, and immunities

The provisions of this subchapter may be extended to the Global Fund to Fight AIDS, Tuberculosis and Malaria in the same manner, to the same extent, and subject to the same conditions, as they may be extended to a public international organization in which the United States participates pursuant to any treaty or under the authority of any Act of Congress authorizing such participation or making an appropriation for such participation.

(Dec. 29, 1945, ch. 652, title I, §16, as added Pub. L. 108–199, div. D, title V, §593, Jan. 23, 2004, 118 Stat. 208.)

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original "this title", meaning title I of act Dec. 29, 1945, ch. 652, 59 Stat. 669, which is classified principally to this subchapter. For complete classification of title I to the Code, see Short Title note set out under section 288 of this title and Tables.

§288f–7. Office of the High Representative in Bosnia and Herzegovina and the

International Civilian Office in Kosovo; extension of privileges, exemptions, and immunities

The provisions of this subchapter may be extended to the Office of the High Representative in Bosnia and Herzegovina (and to its officers and employees) or the International Civilian Office in Kosovo (and to its officers and employees) in the same manner, to the same extent, and subject to the same conditions, as such provisions may be extended to a public international organization in which the United States participates pursuant to any treaty or under the authority of any Act of Congress authorizing such participation or making an appropriation for such participation. Any such extension may provide for the provisions of this subchapter to continue to extend to the Office of the High Representative in Bosnia and Herzegovina (and to its officers and employees) or the International Civilian Office in Kosovo (and to its officers and employees) after that Office has been dissolved.

(Dec. 29, 1945, ch. 652, title I, §17, as added Pub. L. 111–177, §2, June 8, 2010, 124 Stat. 1260.)

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original "this title", meaning title I of act Dec. 29, 1945, ch. 652, 59 Stat. 669, which is classified principally to this subchapter. For complete classification of title I to the Code, see Short Title note set out under section 288 of this title and Tables.

§288g. Organization of American States; extension of privileges and immunities to members

Under such terms and conditions as he shall determine, the President is hereby authorized to extend, or to enter into an agreement extending, to the representatives of member states (other than the United States) to the Organization of American States and to permanent observers to the Organization of American States, and to members of the staffs of said representatives and permanent observers, the same privileges and immunities, subject to corresponding conditions and obligations, as are enjoyed by diplomatic envoys accredited to the United States.

(July 10, 1952, ch. 628, 66 Stat. 516; Pub. L. 93–149, §1(b), Nov. 7, 1973, 87 Stat. 560.)

CODIFICATION

Section was not enacted as part of the International Organizations Immunities Act which comprises this subchapter.

AMENDMENTS

1973—Pub. L. 93–149 substituted provisions extending diplomatic privileges and immunities to representatives of member states to the Organization of American States, to permanent observers to the Organization of American States, and to member of staff of such representatives and permanent observers, for provisions extending such privileges and immunities to representatives of member states on the Council of the Organization of American State and members of their staff.

EX. ORD. NO. 11931. EXTENSION OF DIPLOMATIC PRIVILEGES AND IMMUNITIES TO PERMANENT OBSERVERS TO ORGANIZATION OF AMERICAN STATES

Ex. Ord. No. 11931, Aug. 3, 1976, 41 F.R. 32689, provided:

By virtue of the authority vested in me by the Act of November 7, 1973 (87 Stat. 560; 22 U.S.C. 288g), and as President of the United States of America, I extend to Permanent Observers to the Organization of American States, and to the members of the diplomatic staffs of such Permanent Observers, the same privileges and immunities, subject to corresponding conditions and obligations, as are enjoyed by diplomatic envoys accredited to the United States.

This Executive order shall be effective as of November 7, 1973. The enjoyment of privileges and immunities extended hereunder shall be subject to any Agreements entered into between the Government of the United States and the Organization of American States after that date.

GERALD R. FORD.

§288h. Commission of European Communities; extension of privileges and immunities to members

Under such terms and conditions as he shall determine and consonant with the purposes of this section, the President is authorized to extend, or to enter into an agreement extending, to the Mission to the United States of America of the Commission of the European Communities, and to members thereof, the same privileges and immunities subject to corresponding conditions and obligations as are enjoyed by diplomatic missions accredited to the United States and by members thereof. Under such terms and conditions as the President may determine, the President is authorized to extend to other offices of the Commission of the European Communities which are established in the United States, and to members thereof—

(1) the privileges and immunities described in the preceding sentence; or

(2) as appropriate for the functioning of a particular office, privileges and immunities, equivalent to those accorded consular premises, consular officers, and consular employees, pursuant to the Vienna Convention on Consular Relations.

(Pub. L. 92–499, Oct. 18, 1972, 86 Stat. 815; Pub. L. 100–204, title VII, §741, Dec. 22, 1987, 101 Stat. 1394.)

CODIFICATION

Section was not enacted as part of the International Organizations Immunities Act which comprises this subchapter.

AMENDMENTS

1987—Pub. L. 100–204 inserted sentence at end.

EX. ORD. NO. 12651. OFFICES OF THE COMMISSION OF THE EUROPEAN COMMUNITIES

Ex. Ord. No. 12651, Sept. 9, 1988, 53 F.R. 35287, provided:

By virtue of the authority vested in me as President by the Constitution and laws of the United States of America, and the Act to extend diplomatic privileges and immunities to the Mission to the United States of America of the Commission of the European Communities and the members thereof, 22 U.S.C. Sec. 288h, I hereby extend to the Permanent Observer Mission of the Delegation of the Commission of the European Communities to the United Nations the same privileges and immunities as are accorded to permanent observer missions of states to the United Nations. I also hereby extend to the members of the diplomatic staff of that mission assigned to New York to observe the work of the United Nations and duly notified to the United States Government and the United Nations in that capacity, and to their families, the same privileges and immunities, subject to corresponding conditions and obligations, as are accorded to members of the diplomatic staff of missions accredited to the United Nations.

Pursuant to the same authority, I also hereby extend to the West Coast Office of the Delegation of the Commission of the European Communities and to the officers and employees of that mission assigned to San Francisco to represent the Commission to the Government of the United States and duly notified to and accepted by the Secretary of State, and to their families, the privileges and immunities, subject to corresponding conditions and obligations, substantively equivalent to those accorded consular premises, consular officers, and consular employees pursuant to the Vienna Convention on Consular Relations. For the purpose of extending privileges and immunities to the West Coast Office of the Delegation of the Commission of the European Communities, its official functions shall consist in:

(a) protecting in the United States the interests of the European Communities within the limits permitted by domestic and international law;

(b) furthering the development of commercial, economic, cultural, and scientific relations between the European Communities and the United States and otherwise promoting friendly relations between them;

(c) ascertaining by all lawful means conditions and developments in the commercial, economic, cultural, and scientific life of the United States, reporting thereon to the European Communities and giving information to persons interested.

Pursuant to the same authority, I also hereby extend to the members of the administrative and technical staff and members of the service staff of the Delegation of the Commission of the European Communities assigned to Washington to represent the Commission to the Government of the United States and duly notified to and

accepted by the Secretary of State, and to their families, the same privileges and immunities, subject to corresponding conditions and obligations, as are enjoyed by members of the administrative and technical staff and members of the service staff of diplomatic missions accredited to the United States.

This order is not intended to abridge in any respect privileges, exemptions or immunities that the Delegation of the Commission of the European Communities may have acquired or may acquire by international agreements or by Congressional action.

RONALD REAGAN.

EX. ORD. NO. 11689. PRESIDENTIAL EXTENSION OF DIPLOMATIC PRIVILEGES AND IMMUNITIES

Ex. Ord. No. 11689, Dec. 5, 1972, 37 F.R. 25987, provided:

By virtue of the authority vested in me by the Act of October 18, 1972 (Public Law 92–499) [this section], and as President of the United States, I hereby extend to the Mission to the United States of America of the Commission of the European Communities, and to the officers of that Mission assigned to Washington to represent the Commission to the Government of the United States and duly notified to and accepted by the Secretary of State, and to their families, the same privileges and immunities, subject to corresponding conditions and obligations, as are enjoyed by diplomatic missions accredited to the United States and by members of the diplomatic staffs thereof.

RICHARD NIXON.

§288i. Liaison Office of the People's Republic of China; extension of privileges and immunities to members

Under such terms and conditions as he shall determine and consonant with the purposes of this section, the President is authorized to extend to the Liaison Office of the People's Republic of China in Washington and to the members thereof the same privileges and immunities subject to corresponding conditions and obligations as are enjoyed by diplomatic missions accredited to the United States and by members thereof.

(Pub. L. 93–22, Apr. 20, 1973, 87 Stat. 24.)

CODIFICATION

Section was not enacted as part of the International Organizations Immunities Act which comprises this subchapter.

EXECUTIVE ORDER NO. 11771

Ex. Ord. No. 11771, Mar. 18, 1974, 39 F.R. 10415, which extended diplomatic privileges and immunities to the Liaison Office of the People's Republic of China in Washington, D.C., was revoked by Ex. Ord. No. 12553, Feb. 25, 1986, 51 F.R. 7237.

§288j. International Development Law Institute

For purposes of the International Organizations Immunities Act (22 U.S.C. 288 and following), the International Development Law Institute shall be considered to be a public international organization in which the United States participates under the authority of an Act of Congress authorizing such participation.

(Pub. L. 102–511, title VIII, §805, Oct. 24, 1992, 106 Stat. 3353.)

REFERENCES IN TEXT

The International Organizations Immunities Act, referred to in text, is title I of act Dec. 29, 1945, ch. 652, 59 Stat. 669, as amended, which is classified principally to this subchapter. For complete classification of this Act to the Code, see Short Title note set out under section 288 of this title and Tables.

CODIFICATION

Section was enacted as part of the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992, also known as the FREEDOM Support Act, and not as part of the International

Organizations Immunities Act which comprises this subchapter.

§288k. Extension of certain privileges, exemptions, and immunities to Hong Kong Economic and Trade Offices

(a) Application of International Organizations Immunities Act

The provisions of the International Organizations Immunities Act (22 U.S.C. 288 et seq.) may be extended to the Hong Kong Economic and Trade Offices in the same manner, to the same extent, and subject to the same conditions as such provisions may be extended to a public international organization in which the United States participates pursuant to any treaty or under the authority of any Act of Congress authorizing such participation or making an appropriation for such participation.

(b) Application of international agreement on certain State and local taxation

The President is authorized to apply the provisions of Article I of the Agreement on State and Local Taxation of Foreign Employees of Public International Organizations, done at Washington on April 21, 1994, to the Hong Kong Economic and Trade Offices.

(c) "Hong Kong Economic and Trade Offices" defined

The term "Hong Kong Economic and Trade Offices" refers to Hong Kong's official economic and trade missions in the United States.

(Pub. L. 105–22, §1, June 27, 1997, 111 Stat. 236.)

REFERENCES IN TEXT

The International Organizations Immunities Act, referred to in subsec. (a), is title I of act Dec. 29, 1945, ch. 652, 59 Stat. 669, as amended, which is classified principally to this subchapter. For complete classification of this Act to the Code, see Short Title note set out under section 288 of this title and Tables.

CODIFICATION

Section was not enacted as part of the International Organizations Immunities Act which comprises this subchapter.

§288*l*. The Holy See

Under such terms and conditions as the President shall determine, the President is authorized to extend, or to enter into an agreement to extend, to the Permanent Observer Mission of the Holy See to the United Nations in New York, and to its members, the privileges and immunities enjoyed by the diplomatic missions of member states to the United Nations, and their members, subject to corresponding conditions and obligations.

(Pub. L. 109–472, §7(b), Jan. 11, 2007, 120 Stat. 3556.)

CODIFICATION

Section was enacted as part of the Department of State Authorities Act of 2006, and not as part of the International Organizations Immunities Act which comprises this subchapter.

EX. ORD. NO. 13427. EXTENDING PRIVILEGES AND IMMUNITIES TO THE PERMANENT OBSERVER MISSION OF THE HOLY SEE TO THE UNITED NATIONS

Ex. Ord. No. 13427, Mar. 7, 2007, 72 F.R. 10879, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 7(b) of the Department of State Authorities Act of 2006 (22 U.S.C. 288l), I hereby extend to the Permanent Observer Mission of the Holy See to the United Nations in New York, and to its members, the privileges and immunities enjoyed by the diplomatic missions of member states to the United Nations, and members of such missions, subject to corresponding conditions and obligations.

This extension of privileges and immunities is not intended to abridge in any respect privileges or immunities that the Permanent Observer Mission of the Holy See to the United Nations in New York and its

members otherwise may have acquired or may acquire by law.

GEORGE W. BUSH.

SUBCHAPTER XIX—INTERNATIONAL REFUGEE ORGANIZATION

§289. Acceptance of membership by the United States; conditions

The President is hereby authorized to accept membership for the United States in the International Refugee Organization (hereinafter referred to as the "Organization"), the constitution of which was approved in New York on December 15, 1946, by the General Assembly of the United Nations, and deposited in the archives of the United Nations: *Provided*, *however*, That this authority is granted and the approval of the Congress of the acceptance of membership of the United States in the International Refugee Organization is given upon condition and with the reservation that no agreement shall be concluded on behalf of the United States and no action shall be taken by any officer, agency, or any other person and acceptance of the constitution of the Organization by or on behalf of the Government of the United States shall not constitute or authorize action (1) whereby any person shall be admitted to or settled or resettled in the United States or any of its Territories or possessions without prior approval thereof by the Congress, and this subchapter shall not be construed as such prior approval, or (2) which will have the effect of abrogating, suspending, modifying, adding to, or superseding any of the immigration laws or any other laws of the United States.

(July 1, 1947, ch. 185, §1, 61 Stat. 214.)

§289a. Designation of representative and alternates; compensation

The President shall designate from time to time a representative of the United States and not to exceed two alternates to attend a specified session or specified sessions of the general council of the Organization. Whenever the United States is elected to membership on the executive committee, the President shall designate from time to time, either from among the aforesaid representative and alternates or otherwise, a representative of the United States and not to exceed one alternate to attend sessions of the executive committee. Such representative or representatives shall each be entitled to receive compensation at a rate not to exceed $12,000 per annum, and any such alternate shall be entitled to receive compensation at a rate not to exceed $10,000 per annum, for such period or periods as the President may specify, except that no Member of the Senate or House of Representatives or officer of the United States who is designated as such a representative shall be entitled to receive such compensation.

(July 1, 1947, ch. 185, §2, 61 Stat. 215.)

§289b. Authorization of appropriations; payment of salaries and expenses

There is hereby authorized to be appropriated annually to the Department of State—

(a) such sums, not to exceed $73,325,000 for the fiscal year beginning July 1, 1947, as may be necessary for the payment of United States contributions to the Organization (consisting of supplies, services, or funds and all necessary expenses related thereto) as determined in accordance with article 10 of the constitution of the Organization; and

(b) such sums, not to exceed $175,000 for the fiscal year beginning July 1, 1947, as may be necessary for the payment of—

(1) salaries of the representative or representatives and alternates provided for in section 289a of this title, and appropriate staff, including personal services in the District of Columbia and

elsewhere, without regard to the civil-service laws and chapter 51 and subchapter III of chapter 53 of title 5; and

(2) such other expenses as the Secretary of State deems necessary to participation by the United States in the activities of the Organization; *Provided*, That the provisions of section 287e of this title and regulations thereunder, applicable to expenses incurred pursuant to subchapter XVI of this chapter shall be applicable to any expenses incurred pursuant to this chapter.

(July 1, 1947, ch. 185, §3, 61 Stat. 215; Oct. 28, 1949, ch. 782, title II, §202(2), title XI, §1106(a), 63 Stat. 954, 972.)

REFERENCES IN TEXT

Subchapter XVI [§287 et seq.] of this chapter, referred to in subsec. (b)(2), was in the original a reference to the United Nations Participation Act of 1945.

CODIFICATION

In subsec. (b)(1), "chapter 51 and subchapter III of chapter 53 of title 5" substituted for "the Classification Act of 1949" on authority of Pub. L. 89–554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

AMENDMENTS

1949—Subsec. (b)(1). Act Oct. 28, 1949, substituted "Classification Act of 1949" for "Classification Act of 1923".

REPEALS

Act Oct. 28, 1949, ch. 782, cited as a credit to this section, was repealed (subject to a savings clause) by Pub. L. 89–554, Sept. 6, 1966, §8, 80 Stat. 632, 655.

§289c. Transfer of funds; furnishing supplies and services; accounting for reimbursements

(a) Sums from the appropriations made pursuant to subsection (a) of section 289b of this title may be transferred to any department, agency, or independent establishment of the Government to carry out the purposes of such subsection, and such sums shall be available for obligation and expenditure in accordance with the laws governing obligations and expenditures of the department, agency, independent establishment, or organizational unit thereof concerned, and without regard to section 3324(a) and (b) of title 31 and section 6101 of title 41.

(b) Upon request of the Organization, any department, agency, or independent establishment of the Government (upon receipt of advancements or reimbursements for the cost and necessary expenses) may furnish supplies, or if advancements are made may procure and furnish supplies, and may furnish or procure and furnish services, to the Organization. When reimbursement is made it shall be credited, at the option of the department, agency, or independent establishment concerned, either to the appropriation, fund, or account utilized in incurring the obligation, or to an appropriate appropriation fund, or account which is current at the time of such reimbursement.

(July 1, 1947, ch. 185, §4, 61 Stat. 215; Pub. L. 89–554, §8(a), Sept. 6, 1966, 80 Stat. 654.)

CODIFICATION

In subsec. (a), "section 3324(a) and (b) of title 31 and section 6101 of title 41" substituted for "sections 3709 and 3648 of the Revised Statutes, as amended (U.S.C., 1940 edition, title 41, sec. 5, and title 31, sec. 529)" on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, which Act enacted Title 31, Money and Finance, and Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

1966—Subsec. (b). Pub. L. 89–554 struck out proviso which excepted certain personnel from the ceiling imposed by section 947 of former title 5.

§289d. Omitted

CODIFICATION

Section, act July 1, 1947, ch. 185, §5, 61 Stat. 216, authorized appropriations in the form of advance contributions to the Preparatory Commission of the Organization during the interim period between July 1, 1947 and the coming into force of the constitution of the Organization.

SUBCHAPTER XX—WORLD HEALTH ORGANIZATION

§290. Acceptance of membership by the United States

The President is hereby authorized to accept membership for the United States in the World Health Organization (hereinafter referred to as the Organization), the constitution of which was adopted in New York on July 22, 1946, by the International Health Conference for the establishment of an International Health Organization, and deposited in the archives of the United Nations.

(June 14, 1948, ch. 469, §1, 62 Stat. 441.)

PARTICIPATION OF TAIWAN IN THE WORLD HEALTH ORGANIZATION

Pub. L. 108–235, §1, June 14, 2004, 118 Stat. 656, provided that the Secretary of State is authorized to initiate a plan to endorse and obtain observer status for Taiwan at the annual week-long summit of the World Health Assembly each year in Geneva, Switzerland, to instruct the United States delegation to the World Health Assembly to implement that plan, to introduce a resolution in support of observer status for Taiwan at the summit of the World Health Assembly, and to submit, not later than 30 days after June 14, 2004, and by Apr. 1 of each year thereafter, a report to Congress concerning observer status for Taiwan at the Summit of the World Health Assembly.

INTERNATIONAL HEALTH ADMINISTRATION

Ex. Ord. No. 10399, Sept. 29, 1952, 17 F.R. 8648, designated Surgeon General to perform certain duties under International Sanitary Regulations of World Health Organization.

§290a. Designation of representatives and alternates; compensation; loyalty checkup

The President shall designate from time to time to attend a specified session or specified sessions of the World Health Assembly of the Organization not to exceed three delegates of the United States and such number of alternates as he may determine consistent with the rules of procedure of the World Health Assembly. One of the delegates shall be designated as the chief delegate. Whenever the United States becomes entitled to designate a person to serve on the Executive Board of the Organization, under article 24 of the constitution of the Organization, the President shall designate a representative of the United States, by and with the advice and consent of the Senate, and may designate not to exceed one alternate to attend sessions of the Executive Board. Such representative must be a graduate of a recognized medical school and have spent not less than three years in active practice as a physician or surgeon. Such representative and any such alternate shall each be entitled to receive compensation at one of the rates established under section 3962 or 3963 of this title, for such period or periods as the President may specify, except that no Member of the Senate or House of Representatives or officer of the United States who is thus designated shall be entitled to receive such compensation: *Provided*, That no person shall serve as such representative, delegate, or alternate until such person has been investigated as to loyalty and security by the Director of the Office of Personnel Management.

(June 14, 1948, ch. 469, §2, 62 Stat. 441; Apr. 5, 1952, ch. 159, §1, 66 Stat. 43; Pub. L. 87–793, §1001(i), Oct. 11, 1962, 76 Stat. 865; 1978 Reorg. Plan No. 2, §102, eff. Jan. 1, 1979, 43 F.R. 36037,

92 Stat. 3783; Pub. L. 96–465, title II, §2206(a)(4), Oct. 17, 1980, 94 Stat. 2161.)

AMENDMENTS

1980—Pub. L. 96–465 substituted "established under section 3962 or 3963 of this title" for "provided by section 867 of this title,".

1962—Pub. L. 87–793 substituted "Such representative and any such alternate shall each be entitled to receive compensation at one of the rates provided by section 867 of this title" for "Such representative shall be entitled to receive compensation at a rate not to exceed $12,000 per annum and any such alternate shall be entitled to receive compensation at a rate not to exceed $10,000 per annum."

1952—Act Apr. 5, 1952, substituted "Civil Service Commission" for "Federal Bureau of Investigation".

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–465 effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87–793 effective on first day of first pay period which begins on or after Oct. 11, 1962, see section 1008 of Pub. L. 87–793.

TRANSFER OF FUNCTIONS

"Director of the Office of Personnel Management" substituted in text for "Civil Service Commission" pursuant to Reorg. Plan No. 2 of 1978, §102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, which transferred functions vested by statute in Civil Service Commission to Director of Office of Personnel Management (except as otherwise specified), effective Jan. 1, 1979, as provided by section 1–102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

§290b. Authorization of appropriations; payment of salaries and expenses

There are hereby authorized to be appropriated to the Department of State for contribution to the working capital fund of the organization the sum of $560,000 and as annual appropriations the following:

(a) such sums as may be necessary for the payment by the United States of its share of the expenses of the Organization as apportioned by the Health Assembly in accordance with article 56 of the constitution of the Organization, except that payments by the United States for any fiscal year of the Organization after 1958 shall not exceed 331/3 per centum of the total assessments of active members of the Organization for such fiscal year; and

(b) such additional sums, not to exceed $83,000 for the fiscal year beginning July 1, 1947, as may be necessary to pay the expenses incident to participation by the United States in the activities of the Organization, including—

(1) salaries of the representative and alternate provided for in section 290a of this title, and appropriate staff, including personal services in the District of Columbia and elsewhere, without regard to the civil-service laws and chapter 51 and subchapter III of chapter 53 of title 5; services as authorized by section 3109 of title 5; under such rules and regulations as the Secretary of State may prescribe, allowances for living quarters, including heat, fuel, and light and cost of living allowances to persons temporarily stationed abroad; printing and binding without regard to section 501 of title 44 and section 6101 of title 41; and

(2) such other expenses as the Secretary of State deems necessary to participation by the United States in the activities of the Organization: *Provided*, That the provisions of section 287r of this title, and regulations thereunder, applicable to expenses incurred pursuant to subchapter XVII of this chapter shall be applicable to any expenses incurred pursuant to this paragraph.

(June 14, 1948, ch. 469, §3, 62 Stat. 441; Oct. 28, 1949, ch. 782, title II, §202(2), title XI, §1106(a), 63 Stat. 954, 972; Sept. 21, 1950, ch. 976, §1(d), 64 Stat. 902; Aug. 26, 1954, ch. 937, title IV, §419, as added July 8, 1955, ch. 301, §8(j), 69 Stat. 288.)

REFERENCES IN TEXT

Subchapter XVII [§287m et seq.] of this chapter, referred to in subsec. (b)(2), was in the original a reference to the Act of July 30, 1946, Public Law 565, Seventy-ninth Congress.

CODIFICATION

In subsec. (b)(1), "chapter 51 and subchapter III of chapter 53 of title 5" and "section 3109 of title 5" substituted for "the Classification Act of 1949" and "section 15 of Public Law 600, Seventy–ninth Congress [5 U.S.C. 55a]", respectively, on authority of Pub. L. 89–554, §7(b), Sept. 6, 1966, 80 Stat. 631, which Act enacted Title 5, Government Organization and Employees.

In subsec. (b)(1), "section 501 of title 44" substituted for "section 11 of the Act of March 1, 1919 (44 U.S.C. 111)," on authority of Pub. L. 90–620, §2(b), Oct. 22, 1968, 82 Stat. 1305, which Act enacted Title 44, Public Printing and Documents.

In subsec. (b)(1), "section 6101 of title 41" substituted for "section 3709 of the Revised Statutes, as amended" on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

1955—Subsec. (a). Act July 8, 1955, removed limitation of $3,000,000 which may be appropriated annually, and limited payments by United States to not more than 331/3 per centum of total assessments.

1950—Opening par. amended by Joint Res. Sept. 21, 1950, §1(d)(1), to provide for a contribution of $560,000 to working capital fund.

Subsec. (a). Joint Res. Sept. 21, 1950, §1(d)(2), increased authorized annual appropriation from $1,920,000 to $3,000,000.

1949—Subsec. (b)(1). Act Oct. 28, 1949, substituted "Classification Act of 1949" for "Classification Act of 1923".

REPEALS

Pub. L. 85–141, §8(n), Aug. 14, 1957, 71 Stat. 362, repealed section 419 of act Aug. 26, 1954, cited as a credit to this section, except insofar as section 419 affected this section.

Act Oct. 28, 1949, ch. 782, cited as a credit to this section, was repealed (subject to a savings clause) by Pub. L. 89–554, Sept. 6, 1966, §8, 80 Stat. 632, 655.

ANNUAL APPROPRIATIONS

Annual appropriations to meet the obligations of membership in various international organizations were contained in acts listed in a note set out under section 269a of this title.

LIMITATION OF CONTRIBUTIONS

Contributions by United States, except for special projects, limited to amount provided by Joint Res. Sept. 21, 1950; consent by State Department and reports to Congress, see section 262a of this title.

§290c. Withdrawal from Organization on one-year notice

In adopting this subchapter the Congress does so with the understanding that, in the absence of any provision in the World Health Organization Constitution for withdrawal from the Organization, the United States reserves its right to withdraw from the Organization on a one-year notice: *Provided, however,* That the financial obligations of the United States to the Organization shall be met in full for the Organization's current fiscal year.

(June 14, 1948, ch. 469, §4, 62 Stat. 442.)

§290d. Enactment of specific legislation by Congress

In adopting this subchapter, the Congress does so with the understanding that nothing in the Constitution of the World Health Organization in any manner commits the United States to enact any specific legislative program regarding any matters referred to in said Constitution.

(June 14, 1948, ch. 469, §5, 62 Stat. 442.)

§290e. Congressional declaration of policy

The Congress of the United States, recognizing that the diseases of mankind, because of their widespread prevalence, debilitating effects, and heavy toll in human life, constitute a major deterrent to the efforts of many peoples to develop their economic resources and productive capacities, and to improve their living conditions, declares it to be the policy of the United States to continue and strengthen mutual efforts among the nations for research against diseases such as heart disease and cancer. In furtherance of this policy, the Congress invites the World Health Organization to initiate studies looking toward the strengthening of research and related programs against these and other diseases common to mankind or unique to individual regions of the globe.

(June 14, 1948, ch. 469, §6, as added Pub. L. 85–477, ch. V, §502(m), June 30, 1958, 72 Stat. 275.)

§290e–1. International Agency for Research on Cancer; authorization of appropriations; limitation

There are hereby authorized to be appropriated such sums as may be necessary for the annual payment by the United States of its share of the expenses of the International Agency for Research on Cancer as determined in accordance with article VIII of the Statute of the International Agency for Research on Cancer, except that in no event shall that payment for any year exceed 16 per centum of all contributions assessed Participating Members of the Agency for that year.

(Pub. L. 92–494, Oct. 14, 1972, 86 Stat. 811.)

SUBCHAPTER XXI—INTER-AMERICAN FOUNDATION

§290f. Inter-American Foundation

(a) Establishment

There is created as an agency of the United States of America a body corporate to be known as the Inter-American Foundation (hereinafter in this section referred to as the "Foundation").

(b) Congressional declaration of purpose

The future of freedom, security, and economic development in the Western Hemisphere rests on the realization that man is the foundation of all human progress. It is the purpose of this section to provide support for developmental activities designed to achieve conditions in the Western Hemisphere under which the dignity and the worth of each human person will be respected and under which all men will be afforded the opportunity to develop their potential, to seek through gainful and productive work the fulfillment of their aspirations for a better life, and to live in justice and peace. To this end, it shall be the purpose of the Foundation, primarily in cooperation with private, regional, and international organizations, to—

(1) strengthen the bonds of friendship and understanding among the peoples of this hemisphere;

(2) support self-help efforts designed to enlarge the opportunities for individual development;

(3) stimulate and assist effective and ever wider participation of the people in the development process;

(4) encourage the establishment and growth of democratic institutions, private and governmental, appropriate to the requirements of the individual sovereign nations of this hemisphere.

In pursuing these purposes, the Foundation shall place primary emphasis on the enlargement of educational opportunities at all levels, the production of food and the development of agriculture, and the improvement of environmental conditions relating to health, maternal and child care, family

planning, housing, free trade union development, and other social and economic needs of the people.

(c) Programs and projects to achieve purposes

The Foundation shall carry out the purposes set forth in subsection (b) of this section primarily through and with private organizations, individuals, and international organizations by undertaking or sponsoring appropriate research and by planning, initiating, assisting, financing, administering, and executing programs and projects designed to promote the achievement of such purposes.

(d) Coordination of activities with national and international agencies

In carrying out its functions under this section, the Foundation shall, to the maximum extent possible, coordinate its undertakings with the developmental activities in the Western Hemisphere of the various organs of the Organization of American States, the United States Government, international organizations, and other entities engaged in promoting social and economic development of Latin America.

(e) Powers and functions

The Foundation, as a corporation—

(1) shall have perpetual succession unless sooner dissolved by an Act of Congress;

(2) may adopt, alter, and use a corporate seal, which shall be judicially noticed;

(3) may make and perform contracts and other agreements with any individual, corporation, or other body of persons however designated whether within or without the United States of America, and with any government or governmental agency, domestic or foreign;

(4) shall determine and prescribe the manner in which its obligations shall be incurred and its expenses, including expenses for representation (not to exceed $10,000 in any fiscal year), allowed and paid;

(5) may, as necessary for the transaction of the business of the Foundation, employ and fix the compensation of not to exceed one hundred persons at any one time;

(6) may acquire by purchase, devise, bequest, or gift, or otherwise lease, hold, and improve, such real and personal property as it finds to be necessary to its purposes, whether within or without the United States, and in any manner dispose of all such real and personal property held by it and use as general funds all receipts arising from the disposition of such property;

(7) shall be entitled to the use of the United States mails in the same manner and on the same conditions as the executive departments of the Government;

(8) may, with the consent of any board, corporation, commission, independent establishment, or executive department of the Government, including any field service thereof, avail itself of the use of information, services, facilities, officers, and employees thereof in carrying out the provisions of this section;

(9) may accept money, funds, property, and services of every kind by gift, device,[1] bequest, grant, or otherwise, and make advances, grants, and loans to any individual, corporation, or other body of persons, whether within or without the United States of America, or to any government or governmental agency, domestic or foreign, when deemed advisable by the Foundation in furtherance of its purposes;

(10) may sue and be sued, complain, and defend, in its corporate name in any court of competent jurisdiction; and

(11) shall have such other powers as may be necessary and incident to carrying out its powers and duties under this section.

(f) Disposal of assets on liquidation

Upon termination of the corporate life of the Foundation all of its assets shall be liquidated and, unless otherwise provided by Congress, shall be transferred to the United States Treasury as the property of the United States.

(g) Board of directors; number, term, and appointment

The management of the Foundation shall be vested in a board of directors (hereafter in this section referred to as the "Board") composed of nine members appointed by the President, by and with the

advice and consent of the Senate, one of whom he shall designate to serve as Chairman of the Board and one of whom he shall designate to serve as Vice Chairman of the Board. Six members of the Board shall be appointed from private life. Three members of the Board shall be appointed from among the following: officers or employees of agencies of the United States concerned with inter-American affairs, the United States Executive Director of the Inter-American Development Bank, or the Alternate Executive Director of the Inter-American Development Bank. Members of the Board shall be appointed for terms of six years, except that of the members first appointed two shall be appointed for terms of two years and two shall be appointed for terms of four years, as designated by the President at the time of their appointment. A member of the Board appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term; but upon the expiration of his term of office a member shall continue to serve until his successor is appointed and shall have qualified. Members of the Board shall be eligible for reappointment. All individuals appointed to the Board shall possess an understanding of and sensitivity to community level development processes. No more than 5 members of the Board may be members of any one political party.

(h) Reimbursement of expenses

Members of the Board shall serve without additional compensation, but shall be reimbursed for travel expenses, including per diem in lieu of subsistence, in accordance with section 5703 of title 5, while engaged in their duties on behalf of the corporation.

(i) Board; authority

The Board shall direct the exercise of all the powers of the Foundation.

(j) Rules and regulations; quorum of the Board

The Board may prescribe, amend, and repeal bylaws, rules, and regulations governing the manner in which the business of the Foundation may be conducted and in which the powers granted to it by law may be exercised and enjoyed. A majority of the Board shall be required as a quorum.

(k) Authority of the Board to appoint committees

In furtherance and not in limitation of the powers conferred upon it, the Board may appoint such committees for the carrying out of the work of the Foundation as the Board finds to be for the best interests of the Foundation, each committee to consist of two or more members of the Board, which committees, together with officers and agents duly authorized by the Board and to the extent provided by the Board, shall have and may exercise the powers of the Board in the management of the business and affairs of the Foundation.

(l) President of Foundation: appointment and compensation; employment of experts and consultants

(1) The chief executive officer of the Foundation shall be a President who shall be appointed by the Board of Directors on such terms as the Board may determine. The President shall receive compensation at the rate provided for level IV of the Executive Schedule under section 5315 of title 5.

(2) Experts and consultants, or organizations thereof, may be employed as authorized by section 3109 of title 5.

(m) Establishment of Council; consultation by the Board; reimbursement of expenses of members of the Council

In order to further the purposes of the Foundation there shall be established a Council to be composed of such number of individuals as may be selected by the Board from among individuals knowledgeable concerning developmental activities in the Western Hemisphere. The Board shall, from time to time, consult with the Council concerning the objectives of the Foundation. Members of the Council shall receive no compensation for their services but shall be entitled to reimbursement in accordance with section 5703 of title 5 for travel and other expenses incurred by them in the performance of their functions under this subsection.

(n) Nonprofit nature of the Foundation; conflict of interests

The Foundation shall be a nonprofit corporation and shall have no capital stock. No part of its revenue earnings, or other income or property shall inure to the benefit of its directors, officers, and employees and such revenue, earnings, or other income, or property shall be used for the carrying out of the corporate purposes set forth in this section. No director, officer, or employee of the corporation shall in any manner directly or indirectly participate in the deliberation upon or the determination of any question affecting his personal interests or the interests of any corporation, partnership, or organization in which he is directly or indirectly interested.

(o) Personnel; service in foreign governments or agencies

When approved by the Foundation, in furtherance of its purpose, the officers and employees of the Foundation may accept and hold offices or positions to which no compensation is attached with governments or governmental agencies of foreign countries.

(p) Service of employees of other agencies in the Foundation; rights and privileges

The Secretary of State shall have authority to detail employees of any agency under his jurisdiction to the Foundation under such circumstances and upon such conditions as he may determine. Any such employee so detailed shall not lose any privileges, rights, or seniority as an employee of any such agency by virtue of such detail.

(q) Establishment of principal and branch offices

The Foundation shall maintain its principal office in the metropolitan Washington, D.C., area. The Foundation may establish agencies, branch offices, or other offices in any place or places outside the United States in which the Foundation may carry on all or any of its operations and business.

(r) Exemption from tax

The Foundation, including its franchise and income, shall be exempt from taxation now or hereafter imposed by the United States, or any territory or possession thereof, or by any State, county, municipality, or local taxing authority.

(s) Authorization of appropriations

(1) Notwithstanding any other provision of law, not to exceed an aggregate amount of $50,000,000 of the funds made available for the fiscal years 1970 and 1971 to carry out part I of the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.] shall be available to carry out the purposes of this section. Funds made available to carry out the purposes of this section under the preceding sentence are authorized to remain available until expended.

(2) There are authorized to be appropriated $28,800,000 for fiscal year 1992 and $31,000,000 for fiscal year 1993 to carry out this section. Amounts appropriated under this paragraph are authorized to remain available until expended.

(t) Application of chapter 91 of title 31

The Foundation shall be subject to the provisions of chapter 91 of title 31.

(u) Interest on funds invested pending disbursement

When, with the permission of the Foundation, funds made available to a grantee under this section are invested pending disbursement, the resulting interest is not required to be deposited in the United States Treasury if the grantee uses the resulting interest for the purposes for which the grant was made. This subsection applies with respect to both interest earned before and interest earned after August 24, 1982.

(v) Travel expenses

Funds made available to the Foundation may be used for the expenses described in section 1345 of title 31 (relating to travel, transportation, and subsistence expenses for meetings).

(w) Printing expenses

Funds made available to the Foundation may be used for printing and binding without regard to section 501 of title 44.

(Pub. L. 91–175, pt. IV, §401, Dec. 30, 1969, 83 Stat. 821; Pub. L. 92–226, pt. IV, §406(2)–(5), Feb. 7, 1972, 86 Stat. 34; Pub. L. 95–105, title V, §508, Aug. 17, 1977, 91 Stat. 859; Pub. L. 97–241, title V, §501, Aug. 24, 1982, 96 Stat. 297; Pub. L. 98–164, title X, §1001, Nov. 22, 1983, 97 Stat. 1051; Pub. L. 99–83, title VII, §708, Aug. 8, 1985, 99 Stat. 243; Pub. L. 99–529, title II, §202(e), title IV, §403(a), Oct. 24, 1986, 100 Stat. 3012, 3019; Pub. L. 101–246, title VI, §601, Feb. 16, 1990, 104 Stat. 73; Pub. L. 102–138, title I, §173(a), (b)(1), (c), (d), Oct. 28, 1991, 105 Stat. 679, 680; Pub. L. 110–38, §1, June 21, 2007, 121 Stat. 230.)

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsec. (s)(1), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424. Part I of the Foreign Assistance Act of 1961 is classified generally to subchapter I (§2151 et seq.) of chapter 32 of this title. For provisions deeming references to subchapter I to include parts IV (§2346 et seq.), VI (§2348 et seq.), and VIII (§2349aa et seq.) of subchapter II of chapter 32, see section 202(b) of Pub. L. 92–226, set out as a note under section 2346 of this title, and sections 2348c and 2349aa–5 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

CODIFICATION

Repeal of section by Pub. L. 106–113, div. B, §1000(a)(2) [title V, §586(c)(2)], Nov. 29, 1999, 113 Stat. 1535, 1501A–118, did not become effective pursuant to section 1000(a)(2) [title V, §586] of div. B of Pub. L. 106–113, formerly set out as an Abolition of the Inter-American Foundation note below.

In subsec. (t), "chapter 91 of title 31" substituted for "the Government Corporation Control Act [31 U.S.C. 841 et seq.]" on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

2007—Subsec. (g). Pub. L. 110–38 amended third sentence generally. Prior to amendment, third sentence read as follows: "Three members of the Board shall be appointed from among officers or employees of agencies of the United States concerned with inter-American affairs."

1991—Subsec. (g). Pub. L. 102–138, §173(b)(1), inserted provision at end that all individuals appointed to the Board possess an understanding of and sensitivity to community level development processes and that no more than 5 members of the Board be of any one political party.

Subsec. (q). Pub. L. 102–138, §173(c), amended subsec. (q) generally. Prior to amendment, subsec. (q) read as follows: "The Foundation shall establish a principal office. The Foundation is authorized to establish agencies, branch offices, or other offices in any place or places within the United States or elsewhere in any of which locations the Foundation may carry on all or any of its operations and business."

Subsec. (s)(2). Pub. L. 102–138, §173(a), amended first sentence generally, substituting present provisions for provisions authorizing appropriations of $16,932,000 for fiscal year 1990 and $25,000,000 for fiscal year 1991.

Subsecs. (v), (w). Pub. L. 102–138, §173(d), added subsecs. (v) and (w).

1990—Subsec. (s)(2). Pub. L. 101–246 amended first sentence generally, substituting "$16,932,000 for the fiscal year 1990 and $25,000,000 for the fiscal year 1991" for "$11,969,000 for fiscal year 1986 and $12,969,000 for fiscal year 1987 (not less than $1,000,000 of which shall be for Haiti)".

1986—Subsec. (g). Pub. L. 99–529, §403(a), substituted "nine members" for "seven members" and "Six members" for "Four members".

Subsec. (s)(2). Pub. L. 99–529, §202(e), substituted "$12,969,000 for fiscal year 1987 (not less than $1,000,000 of which shall be for Haiti)" for "$11,969,000 for fiscal year 1987".

1985—Subsec. (s)(2). Pub. L. 99–83 substituted provisions authorizing appropriations of $11,969,000 for each of fiscal years 1986 and 1987, for provisions authorizing appropriations of $16,000,000 for each of fiscal years 1984 and 1985.

1983—Subsec. (s)(2). Pub. L. 98–164 substituted "$16,000,000 for the fiscal year 1984 and $16,000,000 for the fiscal year 1985" for "$12,000,000 for the fiscal year 1982 and $12,800,000 for the fiscal year 1983".

1982—Subsec. (h). Pub. L. 97–241, §501(b), substituted "travel expenses, including per diem in lieu of subsistence, in accordance with section 5703 of title 5" for "actual and necessary expenses not in excess of $50 per day, and for transportation expenses".

Subsec. (s)(2). Pub. L. 97–241, §501(a), substituted "$12,000,000 for the fiscal year 1982 and $12,800,000 for the fiscal year 1983" for "$25,000,000 for each of the fiscal years 1979 and 1980".

Subsec. (u). Pub. L. 97–241, §501(c), added subsec. (u).

1977—Subsec. (s). Pub. L. 95–105 designated existing provisions as par. (1) and added par. (2).

1972—Pub. L. 92–226, §406(3), substituted "Foundation" for "Institute" wherever appearing in subsecs. (b) to (g), (i), (j) to (r), and (t).

Subsec. (a). Pub. L. 92–226, §406(2), substituted "Inter-American Foundation" and "Foundation" for "Inter-American Social Development Institute" and "Institute".

Subsec. (e)(4). Pub. L. 92–226, §406(4), inserted ", including expenses for representation (not to exceed $10,000 in any fiscal year),".

Subsec. (l). Pub. L. 92–226, §406(5), designated existing provisions as par. (1), substituted "Foundation" for "Institute" and "President" for "Executive Director" in two places, and added par. (2).

EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99–529, title IV, §403(b), Oct. 24, 1986, 100 Stat. 3019, provided that: "The amendments made by subsection (a) [amending this section] shall take effect 120 days after the date of enactment of this Act [Oct. 24, 1986]."

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–83 effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as a note under section 2151–1 of this title.

SHORT TITLE

Pub. L. 91–175, pt. IV, Dec. 30, 1969, 83 Stat. 821, as amended by Pub. L. 92–226, pt. IV, §406(1), Feb. 7, 1972, 86 Stat. 34, which enacted this section, designated as the "Inter-American Foundation Act".

ABOLITION OF INTER-AMERICAN FOUNDATION

Pub. L. 106–113, div. B, §1000(a)(2) [title V, §586], Nov. 29, 1999, 113 Stat. 1535, 1501A–117, as amended by Pub. L. 106–429, §101(a) [title V, §591], Nov. 6, 2000, 114 Stat. 1900, 1900A–59, authorized the President, during fiscal years 2000 and 2001, to abolish the Inter-American Foundation, provided for the termination and transfer of functions of the Foundation, disposition of funds, and responsibilities and authorities of the Director of the Office of Management and Budget to take actions necessary to wind-up the affairs of the Foundation, required the Director to certify to Congress the discharge of the Director's responsibilities, directed the repeal of sections 290f and 2182a(d) of this title and the amendment of section 290h of this title and section 36 of Pub. L. 93–189 (22 U.S.C. 1942 note), effective on the date of transmittal to Congress of the Director's certification, and provided that section 1000(a)(2) [title V, §586] of Pub. L. 106–113 would only be effective upon the effective date of the abolition of the Foundation. The President did not exercise his authority to abolish the Inter-American Foundation during fiscal years 2000 and 2001.

TRANSITION RULE FOR BOARD APPOINTMENTS

Pub. L. 102–138, title I, §173(b)(2), Oct. 28, 1991, 105 Stat. 680, provided that: "The requirements established by the amendment made by paragraph (1) [amending this section] do not affect appointments made to the Board of the Inter-American Foundation before the date of enactment of this Act [Oct. 28, 1991]."

[1] So in original. Probably should be "devise,".

SUBCHAPTER XXII—AFRICAN DEVELOPMENT FUND

§290g. African Development Fund; United States participation

The President is hereby authorized to accept participation for the United States in the African Development Fund (hereinafter referred to as the "Fund") provided for by the agreement establishing the Fund (hereinafter referred to as the "agreement") deposited in the Archives of the United Nations.

(Pub. L. 94–302, title II, §202, May 31, 1976, 90 Stat. 593.)

SHORT TITLE

Pub. L. 94–302, title II, §201, May 31, 1976, 90 Stat. 593, provided that: "This title [enacting this subchapter] may be cited as the 'African Development Fund Act'."

§290g–1. Appointment of Governor and Alternate Governor; rank, duties, and compensation

(a) The President shall appoint a Governor, and an Alternate Governor, of the Fund—

(1) by and with the advice and consent of the Senate; or

(2) from among individuals serving as officials required by law to be appointed by and with the advice and consent of the Senate.

(b) The Governor, or in his absence the Alternate Governor, on the instructions of the President, shall cast the votes of the United States for the Director to represent the United States in the Fund. The Director representing the United States and his Alternate, if they are citizens of the United States, may, in the discretion of the President, receive such compensation, allowances, and other benefits not exceeding those authorized for a chief of mission under the Foreign Service Act of 1980 [22 U.S.C. 3901 et seq.].

(Pub. L. 94–302, title II, §203, May 31, 1976, 90 Stat. 593; Pub. L. 96–465, title II, §2206(a)(5), Oct. 17, 1980, 94 Stat. 2161; Pub. L. 112–166, §2(bb), Aug. 10, 2012, 126 Stat. 1290.)

REFERENCES IN TEXT

The Foreign Service Act of 1980, referred to in subsec. (b), is Pub. L. 96–465, Oct. 17, 1980, 94 Stat. 2071, as amended, which is classified principally to chapter 52 (§3901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3901 of this title and Tables.

AMENDMENTS

2012—Subsec. (a). Pub. L. 112–166 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "The President, by and with the advice and consent of the Senate, shall appoint a Governor, and an Alternate Governor, of the Fund."

1980—Subsec. (b). Pub. L. 96–465 substituted "a chief of mission under the Foreign Service Act of 1980" for "a Chief of Mission, class 2, within the meaning of the Foreign Service Act of 1946, as amended".

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–166 effective 60 days after Aug. 10, 2012, and applicable to appointments made on and after that effective date, including any nomination pending in the Senate on that date, see section 6(a) of Pub. L. 112–166, set out as a note under section 113 of Title 6, Domestic Security.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–465 effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

§290g–2. Law governing reports to the President and the Congress

The provisions of section 286b of this title, shall apply with respect to the Fund to the same extent as with respect to the International Bank for Reconstruction and Development and the International Monetary Fund.

(Pub. L. 94–302, title II, §204, May 31, 1976, 90 Stat. 594; Pub. L. 101–240, title V, §541(e)(6), Dec. 19, 1989, 103 Stat. 2519.)

AMENDMENTS

1989—Pub. L. 101–240 struck out at end "Reports with respect to the Fund under paragraphs (5) and (6) of section 286b(b) of this title, shall be included in the first report made thereunder after the United States accepts participation in the Fund."

§290g–3. Specific actions requiring Congressional authorization

Unless Congress by law authorizes such action, neither the President nor any person or agency shall, on behalf of the United States:

(a) agree to an increase in the subscription of the United States to the Fund;

(b) vote for or agree to any amendment of the agreement which increases the obligations of the United States, or which would change the purpose or functions of the Fund; or

(c) make a loan or provide other financing to the Fund, except that funds for technical assistance may be provided to the Fund by a United States agency created pursuant to an Act of Congress which is authorized by law to provide funds to international organizations.

(Pub. L. 94–302, title II, §205, May 31, 1976, 90 Stat. 594.)

§290g–4. Authorization of appropriations; repayments and distributions from Fund to Treasury

(a) There is hereby authorized to be appropriated without fiscal year limitation, as the United States subscription, $25,000,000 to be paid by the Secretary of the Treasury to the Fund in three annual installments of $9,000,000, $8,000,000, and $8,000,000.

(b) Any repayment or distribution of moneys from the Fund to the United States shall be covered into the Treasury as a miscellaneous receipt.

(Pub. L. 94–302, title II, §206, May 31, 1976, 90 Stat. 594.)

§290g–5. Federal Reserve banks as depository for the Fund; supervision

Any Federal Reserve bank which is requested to do so by the President shall act as a depository for the Fund, and the Board of Governors of the Federal Reserve System shall supervise and direct the carrying out of these functions by the Federal Reserve banks.

(Pub. L. 94–302, title II, §207, May 31, 1976, 90 Stat. 594.)

§290g–6. Civil action by or against the Fund; service of process, venue, jurisdiction, removal of actions

For the purpose of any civil action which may be brought within the United States, its territories or possessions, or the Commonwealth of Puerto Rico, by or against the Fund in accordance with the agreement, the Fund shall be deemed to be an inhabitant of the Federal judicial district in which its principal office or agency appointed for the purpose of accepting service or notice of service is located, and any such action to which the Fund shall be party shall be deemed to arise under the laws of the United States, and the district courts of the United States (including the courts enumerated in section 460 of title 28) shall have original jurisdiction of any such action. When the Fund is defendant in any action in a State court, it may, at any time before the trial thereof, remove such action into the district court of the United States for the proper district by following the procedure for removal of causes otherwise provided by law.

(Pub. L. 94–302, title II, §208, May 31, 1976, 90 Stat. 594.)

§290g–7. Force and effect of agreement; deposit of documents by the President; reservation of right to tax salaries and emoluments paid by the Fund to United States citizens or nationals

The agreement, including without limitation articles 41 through 50, shall have full force and effect in the United States, its territories and possessions, and the Commonwealth of Puerto Rico, upon the acceptance of participation by the United States in, and the entry into force of, the Fund. The

President, at the time of deposit of the instrument of acceptance of participation of the United States in the Fund, shall also deposit a declaration that the United States retains for itself and its political subdivisions the right to tax salaries and emoluments paid by the Fund to its citizens or nationals and may deposit a declaration providing for reservations on other matters set forth in article 58.

(Pub. L. 94–302, title II, §209, May 31, 1976, 90 Stat. 594.)

§290g–8. Presidential instructions to United States Governor of the Fund to veto any use of funds to benefit a country pursuing a detrimental economic policy against United States interests; exceptions

The President shall instruct the United States Governor of the Fund to cause the Executive Director representing the United States in the Fund to cast the votes of the United States against any loan or other utilization of the funds of the Fund for the benefit of any country which has—

(1) nationalized or expropriated or seized ownership or control of property owned by any United States citizen or by any corporation, partnership, or association not less than 50 per centum of which is beneficially owned by United States citizens;

(2) taken steps to repudiate or nullify existing contracts or agreements with any United States citizen or any corporation, partnership, or association not less than 50 per centum of which is beneficially owned by United States citizens; or

(3) imposed or enforced discriminatory taxes or other exactions, or restrictive maintenance or operational conditions, or has taken other actions, which have the effect of nationalizing, expropriating, or otherwise seizing ownership or control of property so owned;

unless the President determines that (A) an arrangement for prompt, adequate, and effective compensation has been made, (B) the parties have submitted the dispute to arbitration under the rules of the Convention for the Settlement of Investment Disputes, or (C) good faith negotiations are in progress aimed at providing prompt, adequate, and effective compensation under the applicable principles of international law.

(Pub. L. 94–302, title II, §210, May 31, 1976, 90 Stat. 595.)

§290g–9. Repealed. Pub. L. 95–118, title VII, §702, Oct. 3, 1977, 91 Stat. 1070

Section, Pub. L. 94–302, title II, §211, May 31, 1976, 90 Stat. 595; H. Res. 5, Jan. 4, 1977, set forth provisions relating to United States participation in financial assistance by the African Development Fund to any country engaging in a consistent pattern of gross violations of internationally recognized human rights. See section 262d of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 3, 1977, see section 1001 of Pub. L. 95–118, set out as an Effective Date note under section 282i of this title.

§290g–10. Additional authorization for contribution to African Development Fund

(a) Payment of United States contribution; review of payment and voting structure with other donor nations

The United States Governor is authorized to contribute on behalf of the United States $50,000,000 to the African Development Fund, which would represent an additional United States contribution to the first replenishment. The Secretary of the Treasury is directed to begin discussions with other donor nations to the African Development Fund for the purpose of setting amounts and of reviewing and possibly changing the voting structure within the Fund: *Provided, however*, That any

commitment to make such contribution shall be made subject to obtaining the necessary appropriations.

(b) Authorization of appropriations

In order to pay for the United States contribution to the African Development Fund provided for in this section there are authorized to be appropriated without fiscal year limitation $50,000,000 for payment by the Secretary of the Treasury.

(Pub. L. 94–302, title II, §211, formerly §212, as added Pub. L. 95–118, title VI, §601, Oct. 3, 1977, 91 Stat. 1069; renumbered §211, Pub. L. 96–259, title III, §301(1), June 3, 1980, 94 Stat. 430.)

PRIOR PROVISIONS

A prior section 211 of Pub. L. 94–302 was classified to section 290g–9 of this title prior to repeal by Pub. L. 95–118, title VII, §702, Oct. 3, 1977, 91 Stat. 1070.

EFFECTIVE DATE

Section effective Oct. 3, 1977, except that no funds authorized to be appropriated by this section may be available for use or obligation prior to Oct. 1, 1977, see section 1001 of Pub. L. 95–118, set out as a note under section 282i of this title.

§290g–11. Additional authorization for payment of United States contribution

(a) United States share

The United States Governor of the Fund is authorized to contribute on behalf of the United States $125,000,000 to the Fund as the United States contribution to the second replenishment of the resources of the Fund, except that any commitment to make such contribution shall be made subject to obtaining the necessary appropriations.

(b) Authorization of appropriations

In order to pay for the United States contribution provided for in this section, there is authorized to be appropriated, without fiscal year limitation, $125,000,000 for payment by the Secretary of the Treasury.

(c) Funding requirements

For the purpose of keeping to a minimum the cost to the United States, the Secretary of the Treasury—

(1) shall pay the United States contribution to the African Development Fund authorized by this section by letter of credit in three annual installments; and

(2) shall take the steps necessary to obtain a certification from the Fund that any undisbursed balances resulting from draw-downs on such letter of credit will not exceed at any time the United States share of expected disbursement requirements for the following three-month period.

(Pub. L. 94–302, title II, §212, as added Pub. L. 96–259, title III, §301(2), June 3, 1980, 94 Stat. 430.)

§290g–12. Additional authorization for payment of United States contribution

(a)(1) The United States Governor of the Fund is authorized to contribute on behalf of the United States $150,000,000 to the Fund as the United States contribution to the third replenishment of the resources of the Fund.

(2) Any commitment to make the contribution authorized in paragraph (1) shall be made subject to obtaining the necessary appropriations.

(b) In order to pay for the United States contribution provided for in this section, there are authorized to be appropriated, without fiscal year limitation, $150,000,000 for payment by the Secretary of the Treasury.

(Pub. L. 94–302, title II, §213, as added Pub. L. 98–181, title I [title X, §1003], Nov. 30, 1983, 97 Stat. 1286.)

§290g–13. Additional authorization for payment of United States contribution

(a)(1) The United States Governor of the Fund is authorized to contribute $225,000,000 to the fourth replenishment of the resources of the Fund.

(2) Any commitment to make the contribution authorized in paragraph (1) shall be made subject to obtaining the necessary appropriations.

(b) In order to pay for the United States contribution provided for in this section, there are authorized to be appropriated, without fiscal year limitation, $225,000,000 for payment by the Secretary of the Treasury.

(Pub. L. 94–302, title II, §214, as added Pub. L. 99–190, §101(i) [title I, (a)], Dec. 19, 1985, 99 Stat. 1291, 1294.)

CODIFICATION

Section 214 of Pub. L. 94–302 is based on section 201 of title II of H.R. 2253, Ninety-ninth Congress, as reported May 15, 1985, and enacted into law by Pub. L. 99–190.

§290g–14. Additional authorization for payment of United States contribution

(a) Contribution authorized

The United States Governor of the Fund is authorized to contribute $315,000,000 to the fifth replenishment of the resources of the Fund, except that such authority shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts.

(b) Authorization of appropriations

In order to pay for the United States contribution provided for in this section, there are authorized to be appropriated, without fiscal year limitation, $315,000,000, for payment by the Secretary of the Treasury.

(Pub. L. 94–302, title II, §215, as added Pub. L. 100–461, title V, §555, Oct. 1, 1988, 102 Stat. 2268–36.)

CODIFICATION

Section 215 of Pub. L. 94–302 is based on section 2 of H.R. 4645, One Hundredth Congress, as reported Sept. 28, 1988, and enacted into law by Pub. L. 100–461.

§290g–15. Sixth replenishment

(a) Contribution authorized

The United States Governor of the Fund is authorized to contribute $405,000,000 to the sixth replenishment of the resources of the Fund, except that such authority shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts.

(b) Limitations on authorization of appropriations

In order to pay for the United States contribution provided for in this section, there are authorized to be appropriated, without fiscal year limitation, $135,000,000 for payment by the Secretary of the Treasury.

(Pub. L. 94–302, title II, §216, as added Pub. L. 102–145, §125(c), as added Pub. L. 102–266, §102, Apr. 1, 1992, 106 Stat. 98.)

SUBSEQUENT REPLENISHMENT

Pub. L. 106–113, div. B, §1000(a)(2) [title V, §594], Nov. 29, 1999, 113 Stat. 1535, 1501A–122, provided in part that the Secretary of the Treasury may contribute on behalf of the United States to the eighth replenishment of the resources of the African Development Fund, and authorized $300,000,000 to be appropriated without fiscal year limitation.

§290g–16. Ninth replenishment

(a) Contribution authority

(1) In general

The United States Governor of the Fund may contribute on behalf of the United States an amount equal to the amount appropriated under subsection (b), pursuant to the resolution of the Fund entitled "The Ninth General Replenishment of Resources of the African Development Fund".

(2) Subject to appropriations

Any commitment to make the contribution authorized by paragraph (1) shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts.

(b) Limitations on authorization of appropriations

For the contribution authorized by subsection (a), there are authorized to be appropriated such sums as may be necessary for payment by the Secretary of the Treasury, without fiscal year limitation.

(Pub. L. 94–302, title II, §217, as added Pub. L. 108–199, div. D, title V, §583, Jan. 23, 2004, 118 Stat. 204.)

§290g–17. Tenth replenishment

(a) The United States Governor of the Fund is authorized to contribute on behalf of the United States $407,000,000 to the tenth replenishment of the resources of the Fund, subject to obtaining the necessary appropriations.

(b) In order to pay for the United States contribution provided for in subsection (a), there are authorized to be appropriated, without fiscal year limitation, $407,000,000 for payment by the Secretary of the Treasury.

(Pub. L. 94–302, title II, §218, as added Pub. L. 109–102, title V, §599C(b), Nov. 14, 2005, 119 Stat. 2243.)

§290g–18. Eleventh replenishment

(a) The United States Governor of the African Development Fund is authorized to contribute on behalf of the United States $468,165,000 to the eleventh replenishment of the resources of the Fund, subject to obtaining the necessary appropriations.

(b) In order to pay for the United States contribution provided for in subsection (a), there are authorized to be appropriated, without fiscal year limitation, $468,165,000 for payment by the Secretary of the Treasury.

(Pub. L. 94–302, title II, §219, as added Pub. L. 111–32, title XI, §1109(b), June 24, 2009, 123 Stat. 1901.)

§290g–19. Multilateral Debt Relief Initiative

(a) The Secretary of the Treasury is authorized to contribute, on behalf of the United States, not more than $26,000,000 to the African Development Fund for the purpose of funding debt relief

under the Multilateral Debt Relief Initiative in the period governed by the eleventh replenishment of resources of the African Development Fund, subject to obtaining the necessary appropriations and without prejudice to any funding arrangements in existence on June 24, 2009.

(b) In order to pay for the United States contribution provided for in subsection (a), there are authorized to be appropriated, without fiscal year limitation, not more than $26,000,000 for payment by the Secretary of the Treasury.

(Pub. L. 94–302, title II, §220, as added Pub. L. 111–32, title XI, §1109(b), June 24, 2009, 123 Stat. 1901.)

§290g–20. Twelfth replenishment

(a) The United States Governor of the Fund is authorized to contribute on behalf of the United States $585,000,000 to the twelfth replenishment of the resources of the Fund, subject to obtaining the necessary appropriations.

(b) In order to pay for the United States contribution provided for in subsection (a), there are authorized to be appropriated, without fiscal year limitation, $585,000,000 for payment by the Secretary of the Treasury.

(Pub. L. 94–302, title II, §221, as added Pub. L. 112–74, div. I, title VII, §7083(b), Dec. 23, 2011, 125 Stat. 1263.)

§290g–21. Multilateral debt relief

(a) Authorization of contribution

The Secretary of the Treasury is authorized to contribute, on behalf of the United States, not more than $60,000,000 to the African Development Fund for the purpose of funding debt relief costs under the Multilateral Debt Relief Initiative incurred in the period governed by the twelfth replenishment of resources of the African Development Fund, subject to obtaining the necessary appropriations and without prejudice to any funding arrangements in existence on December 23, 2011.

(b) Appropriations

In order to pay for the United States contribution provided for in subsection (a), there are authorized to be appropriated, without fiscal year limitation, not more than $60,000,000 for payment by the Secretary of the Treasury.

(c) Multilateral Debt Relief Initiative

In this section, the term "Multilateral Debt Relief Initiative" means the proposal set out in the G8 Finance Ministers' Communiqué entitled "Conclusions on Development", done at London, June 11, 2005, and reaffirmed by G8 Heads of State at the Gleneagles Summit on July 8, 2005.

(Pub. L. 94–302, title II, §222, as added Pub. L. 112–74, div. I, title VII, §7083(b), Dec. 23, 2011, 125 Stat. 1263.)

§290g–22. Thirteenth replenishment

(a) The United States Governor of the Fund is authorized to contribute on behalf of the United States $585,000,000 to the thirteenth replenishment of the resources of the Fund, subject to obtaining the necessary appropriations.

(b) In order to pay for the United States contribution provided for in subsection (a), there are authorized to be appropriated, without fiscal year limitation, $585,000,000 for payment by the Secretary of the Treasury.

(Pub. L. 94–302, title II, §223, as added Pub. L. 113–235, div. J, title VII, §7083(c), Dec. 16, 2014, 128 Stat. 2684.)

§290g–23. Multilateral debt relief

(a) The Secretary of the Treasury is authorized to contribute, on behalf of the United States, not more than $54,620,000 to the African Development Fund for the purpose of funding debt relief costs under the Multilateral Debt Relief Initiative incurred in the period governed by the thirteenth replenishment of resources of the African Development Fund, subject to obtaining the necessary appropriations and without prejudice to any funding arrangements in existence on December 16, 2014.

(b) In order to pay for the United States contribution provided for in subsection (a), there are authorized to be appropriated, without fiscal year limitation, not more than $54,620,000 for payment by the Secretary of the Treasury.

(c) In this section, the term "Multilateral Debt Relief Initiative" means the proposal set out in the G8 Finance Ministers' Communique entitled "Conclusions on Development," done at London, June 11, 2005, and reaffirmed by G8 Heads of State at the Gleneagles Summit on July 8, 2005.

(Pub. L. 94–302, title II, §224, as added Pub. L. 113–235, div. J, title VII, §7083(c), Dec. 16, 2014, 128 Stat. 2685.)

SUBCHAPTER XXIII—UNITED STATES AFRICAN DEVELOPMENT FOUNDATION

§290h. Congressional findings

The Congress finds that—

(1) social and economic development ultimately depends on the active participation of individuals within a society and on the enhancement of opportunities for those individuals;

(2) the development of individuals and institutions in African countries can benefit by the provision of support for community-based self-help activities;

(3) by enacting title IX of chapter 2 of part I of the Foreign Assistance Act of 1961 [22 U.S.C. 2218], and recent amendments to that Act, the Congress has sought to enable the poor to participate in the process of development;

(4) the Inter-American Foundation, established by Congress in the Foreign Assistance Act of 1969 [22 U.S.C. 290f], to support the efforts of the people of Latin America and the Caribbean to solve their development problems, has demonstrated a successful approach to development; and

(5) an African Development Foundation similar in structure to the Inter-American Foundation, but adapted to the specific needs of Africa, can complement current United States development programs in Africa.

(Pub. L. 96–533, title V, §502, Dec. 16, 1980, 94 Stat. 3151; Pub. L. 106–113, div. B, §1000(a)(2) [title V, §586(h)(1)], Nov. 29, 1999, 113 Stat. 1535, 1501A–119.)

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in par. (3), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended. Title IX of chapter 2 of part I of the Foreign Assistance Act of 1961 is classified generally to subpart IX of part II of subchapter I (§2218) of chapter 32 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

The Foreign Assistance Act of 1969, referred to in par. (4), is Pub. L. 91–175, Dec. 30, 1969, 83 Stat. 805, as amended. The Inter-American Foundation was established by section 401 of that Act, which is classified to section 290f of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

CODIFICATION

Amendment by Pub. L. 106–113, div. B, §1000(a)(2) [title V, §586(h)(1)], Nov. 29, 1999, 113 Stat. 1535, 1501A–119, directing the repeal of pars. (4) and (5) of this section did not become effective pursuant to section 1000(a)(2) [title V, §586] of div. B of Pub. L. 106–113, formerly set out as an Abolition of the Inter-American Foundation note under section 290f of this title.

CHANGE OF NAME

African Development Foundation changed to United States African Development Foundation by Pub. L. 113–76, div. K, title III, Jan. 17, 2014, 128 Stat. 482. See section 290h–1 of this title.

SHORT TITLE

Pub. L. 96–533, title V, §501, Dec. 16, 1980, 94 Stat. 3151, provided: "This title [enacting this subchapter] may be cited as the 'African Development Foundation Act'."

§290h–1. United States African Development Foundation

(a) Establishment of Foundation

There is established a body corporate to be known as the "United States African Development Foundation" (hereafter in this subchapter referred to as the "Foundation").

(b) Principal and branch offices

The Foundation shall establish a principal office in the United States and may establish such branch offices in Africa as may be necessary to carry out its functions.

(Pub. L. 96–533, title V, §503, Dec. 16, 1980, 94 Stat. 3152; Pub. L. 113–76, div. K, title III, Jan. 17, 2014, 128 Stat. 482.)

AMENDMENTS

2014—Pub. L. 113–76 inserted "United States" before "African Development".

§290h–2. Congressional declaration of purposes

(a) Purposes of Foundation

In order to enable the people of African countries to develop their potential, fulfill their aspirations, and enjoy better, more productive lives, the purposes of the Foundation shall be—

(1) to strengthen the bonds of friendship and understanding between the people of Africa and the United States;

(2) to support self-help activities at the local level designed to enlarge opportunities for community development;

(3) to stimulate and assist effective and expanding participation of Africans in their development process; and

(4) to encourage the establishment and growth of development institutions which are indigenous to particular countries in Africa and which can respond to the requirements of the poor in those countries.

(b) Implementation

The Foundation shall carry out the purposes specified in subsection (a) in cooperation with, and in response to, organizations indigenous to Africa which are representative of the needs and aspirations of the poor in Africa and, in carrying out such purposes, the Foundation shall, to the extent possible, coordinate its development assistance activities with the activities of the United States Government and private, regional, and international organizations.

(Pub. L. 96–533, title V, §504, Dec. 16, 1980, 94 Stat. 3152.)

§290h–3. Functions of Foundation

(a) Types of programs; project limitations; dissemination of project insights

(1) In order to carry out the purposes set forth in section 290h–2 of this title, the Foundation may make grants, loans, and loan guarantees to any African private or public group (including public international organizations), association, or other entity engaged in peaceful activities for—

(A) the fostering of local development institutions and the support of development efforts initiated by communities themselves;

(B) the development of self-evaluation techniques by participants in projects supported under this section, for the purpose of transferring experience gained in such projects to similar development activities;

(C) development research by Africans and the transfer of development resources, expertise, and knowledge within Africa;

(D) the procurement of such technical or other assistance as is deemed appropriate by the recipient of such grant, loan, or guarantee, to carry out the purposes of this subchapter; and

(E) other projects that would carry out the purposes set forth in section 290h–2 of this title.

(2) The total amount of grants, loans, and loan guarantees that may be made under this section for a project may not exceed $250,000.

(3) The Foundation may disseminate to the American public and to United States and multilateral development institutions insights gained from African development projects assisted under this subchapter.

(b) Community project priorities; disbursement of funds by recipients to other African entities

In making grants, loans, and loan guarantees under subsection (a), the Foundation shall give priority to projects which community groups undertake to foster their own development and in the initiation, design, implementation, and evaluation of which there is the maximum feasible participation of the poor. Where appropriate and in keeping with the purposes of this subchapter, the Foundation may make such grants, loans, and loan guarantees to African entities which are representative and knowledgeable of, and sensitive to, the needs and aspirations of the poor and which would disburse funds acquired under such grants, loans, and loan guarantees to other African entities to carry out the purposes of this subchapter.

(Pub. L. 96–533, title V, §505, Dec. 16, 1980, 94 Stat. 3152; Pub. L. 100–461, title II, §201, Oct. 1, 1988, 102 Stat. 2268–13.)

AMENDMENTS

1988—Subsec. (a)(1). Pub. L. 100–461 inserted "(including public international organizations)" after "public group".

§290h–4. Powers of Foundation

(a) General provisions

The Foundation, as a corporation—

(1) shall have perpetual succession unless dissolved by an Act of Congress;

(2) may sue and be sued, complain, and defend, in its corporate name in any court of competent jurisdiction;

(3) may adopt, alter, and use a seal, which shall be judicially noticed;

(4) may prescribe, amend, and repeal such rules and regulations as may be necessary for carrying out the functions of the Foundation;

(5) may make and perform such contracts and other agreements with any individual, corporation, or other private or public entity however designated and wherever situated, as may be necessary for carrying out the functions of the Foundation;

(6) may determine and prescribe the manner in which its obligations shall be incurred and its expenses allowed and paid, including expenses for representation not exceeding $10,000 in any fiscal year;

(7) may, as necessary for carrying out the functions of the Foundation, employ and fix the compensation of not to exceed the following number of persons at any one time: 25 during the fiscal year 1981, 50 during the fiscal year 1982, and 75 thereafter;

(8) may lease, purchase, or otherwise acquire, own, hold, improve, use, or otherwise deal in and with such property (real, personal, or mixed) or any interest therein, wherever situated, as may be necessary for carrying out the functions of the Foundation;

(9) may accept gifts or donations of services or of property (real, personal, or mixed), tangible or intangible, in furtherance of the purposes of this subchapter;

(10) may use the United States mails in the same manner and on the same conditions as the executive departments of the Government;

(11) may, with the consent of any agency of the United States, use the information, services, facilities, and personnel of that agency in carrying out the purposes of this subchapter; and

(12) shall have such other powers as may be necessary and incident to carrying out this subchapter.

(b) Nonprofit entity; restriction on use of moneys; conflict of interests

The Foundation shall be a nonprofit corporation and shall have no capital stock. No part of its revenue, earnings, or other income or property shall inure to the benefit of any of its directors, officers, or employees, and such revenue, earnings, or other income or property shall only be used for carrying out the purposes of this subchapter. No director, officer, or employee of the corporation shall in any manner directly or indirectly participate in the deliberation upon or the determination of any question affecting his or her personal interests or the interests of any corporation, partnership, or organization in which he or she is directly or indirectly interested.

(c) Tax exemption

The Foundation, including its franchise and income, shall be exempt from taxation now or hereafter imposed by the United States, by any territory or possession of the United States, or by any State, county, municipality, or local taxing authority.

(d) Termination of Foundation and liquidation of assets

Upon termination of the corporate life of the Foundation its assets shall be liquidated and, unless otherwise provided by Congress, shall be transferred to the United States Treasury as the property of the United States.

(Pub. L. 96–533, title V, §506, Dec. 16, 1980, 94 Stat. 3153.)

§290h–5. Management of Foundation

(a) Board of directors; membership; designation of Chairperson and Vice Chairperson; appointment considerations; term; vacancies

(1) The management of the Foundation shall be vested in a board of directors (hereafter in this subchapter referred to as the "Board") composed of seven members appointed by the President, by and with the advice and consent of the Senate. The President shall designate one member of the Board to serve as Chairperson of the Board and one member to serve as Vice Chairperson of the Board. Five members of the Board shall be appointed from private life. Two members of the Board shall be appointed from among officers and employees of agencies of the United States concerned with African affairs. All members of the Board shall be appointed on the basis of their understanding of and sensitivity to community level development processes. Members of the Board shall be appointed so that no more than four members of the Board are members of any one political party.

(2) Members of the Board shall be appointed for terms of six years, except that of the members first appointed, as designated by the President at the time of their appointment, two shall be appointed for terms of two years and two shall be appointed for terms of four years. A member of the Board appointed to fill a vacancy occurring before the expiration of the term for which that member's predecessor was appointed shall be appointed only for the remainder of that term. Upon the

expiration of his or her term a member shall continue to serve until a successor is appointed and shall have qualified.

(b) Compensation, actual, necessary, and transportation expenses

Members of the Board shall serve without additional compensation, but may be reimbursed for actual and necessary expenses not exceeding $100 per day, and for transportation expenses, while engaged in their duties on behalf of the Foundation.

(c) Quorum

A majority of the Board shall constitute a quorum.

(d) President of Foundation; appointment and compensation; employment of experts and consultants

(1) The Board of Directors shall appoint a president of the Foundation on such terms as the Board may determine. The president of the Foundation shall receive compensation at a rate not to exceed that provided for level IV of the Executive Schedule under section 5315 of title 5.

(2) Experts and consultants may be employed by the Board as authorized by section 3109 of title 5.

(e) Advisory council; membership; appointment considerations; consultations with council; compensation, travel, and other expenses

(1) The Board shall establish an advisory council to be composed of such number of individuals as may be selected by the Board from among individuals knowledgeable about development activities in Africa. The advisory council may include African recipients of grants, loans, or loan guarantees under this subchapter.

(2) The Board shall, at least once each year, consult the advisory council concerning the objectives and activities of the Foundation.

(3) Members of the advisory council shall receive no compensation for their services but may be allowed travel and other expenses in accordance with section 5703 of title 5, which are incurred by them in the performance of the functions under this subsection.

(Pub. L. 96–533, title V, §507, Dec. 16, 1980, 94 Stat. 3154; Pub. L. 101–167, title II, Nov. 21, 1989, 103 Stat. 1209.)

AMENDMENTS

1989—Subsec. (a)(1). Pub. L. 101–167 inserted at end "Members of the Board shall be appointed so that no more than four members of the Board are members of any one political party."

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101–167, title II, Nov. 21, 1989, 103 Stat. 1209, provided: "That the amendment to section 507(a)(1) of such Act [22 U.S.C. 290h–5(a)(1)] shall not affect an appointment made to the Board prior to the date of enactment of this Act [Nov. 21, 1989]".

§290h–6. Government corporation control provisions applicable

The Foundation shall be subject to the provisions of chapter 91 of title 31 applicable to wholly owned Government corporations.

(Pub. L. 96–533, title V, §508, Dec. 16, 1980, 94 Stat. 3155.)

CODIFICATION

"The provisions of chapter 91 of title 31 applicable to wholly owned Government corporations" substituted in text for "title I of the Government Corporation Control Act [31 U.S.C. 846 et seq.]" on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

§290h–7. Limitation on spending authority

Any authority provided by this subchapter involving the expenditure of funds (other than the funds made available pursuant to section 290h–8 of this title) shall be effective for a fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.

(Pub. L. 96–533, title V, §509, Dec. 16, 1980, 94 Stat. 3155.)

§290h–8. Authorization of appropriations

There are authorized to be appropriated to carry out this subchapter, in addition to amounts otherwise available for that purpose, $3,872,000 for fiscal year 1986 and $3,872,000 for fiscal year 1987. Funds appropriated under this section are authorized to remain available until expended.

(Pub. L. 96–533, title V, §510, Dec. 16, 1980, 94 Stat. 3155; Pub. L. 97–113, title III, §313, Dec. 29, 1981, 95 Stat. 1536; Pub. L. 99–83, title VIII, §810(a), Aug. 8, 1985, 99 Stat. 264.)

AMENDMENTS

1985—Pub. L. 99–83 amended section generally. Prior to amendment, section read as follows: "Of the funds appropriated to carry out part I of the Foreign Assistance Act of 1961, other than funds appropriated for the Economic Support Fund, not less than $2,000,000 for the fiscal year 1982 and up to $2,000,000 for the fiscal year 1983 shall be used to carry out this subchapter."

1981—Pub. L. 97–113 struck out "for the fiscal year 1981" after "Of the funds appropriated" and substituted "not less than $2,000,000 for the fiscal year 1982 and up to $2,000,000 for the fiscal year 1983" for "$2,000,000".

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–83 effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as a note under section 2151–1 of this title.

§290h–9. Repealed. Pub. L. 101–167, title II, Nov. 21, 1989, 103 Stat. 1209

Section, Pub. L. 96–533, title V, §511, Dec. 16, 1980, 94 Stat. 3155; Pub. L. 99–83, title VIII, §810(b), Aug. 8, 1985, 99 Stat. 264, related to expiration of authority of Foundation.

SUBCHAPTER XXIV—AFRICAN DEVELOPMENT BANK

§290i. Acceptance of membership

The President is hereby authorized to accept membership for the United States in the African Development Bank (hereinafter in this subchapter referred to as the "Bank") provided for by the agreement establishing the Bank (hereinafter in this subchapter referred to as the "agreement") deposited in the archives of the United Nations.

(Pub. L. 97–35, title XIII, §1332, Aug. 13, 1981, 95 Stat. 741.)

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original "this part", meaning part 3 of subtitle B of title XIII of Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 741, known as the African Development Bank Act, which enacted this subchapter and amended sections 262d, 262f, and 276c–2 of this title and section 24 of Title 12, Banks and Banking. For complete classification of part 3 to the Code, see Short Title note set out below and Tables.

EFFECTIVE DATE

Pub. L. 97–35, title XIII, §1372, Aug. 13, 1981, 95 Stat. 746, provided that: "This subtitle [subtitle B (§§1311–1372) of title XIII of Pub. L. 97–35, enacting this subchapter and sections 262g–1 to 262g–3, 283z–2, 284o, 285w, and 286e–1h of this title, amending sections 262d, 262f, 262g, 276c–2, 283w, 283z–1, 285s, 285t, 285u, 286e–1f, and 286u of this title and section 24 of Title 12, Banks and Banking, repealing

section 286e–10 of this title, and enacting provisions set out as notes under sections 262c, 262g–2, and 290i of this title] shall take effect upon its enactment [Aug. 13, 1981], except that funds authorized to be appropriated by any provision contained in part 1 [enacting section 286e–1h of this title and amending section 286e–1f of this title] or part 4 [enacting sections 283z–2 and 285w of this title and amending sections 283w, 283z–1, 285s, 285t, and 285u of this title] shall not be available for use or obligation prior to October 1, 1981."

SHORT TITLE

Pub. L. 97–35, title XIII, §1331, Aug. 13, 1981, 95 Stat. 741, provided that: "This part [part 3 (§§1331–1342) of subtitle B of title XIII of Pub. L. 97–35, enacting this subchapter and amending sections 262d, 262f, and 276c–2 of this title and section 24 of Title 12, Banks and Banking] may be cited as the 'African Development Bank Act'."

§290i–1. Governor and Alternate Governor

(a) Appointment

The President shall appoint a Governor and an Alternate Governor of the Bank—

(1) by and with the advice and consent of the Senate; or

(2) from among individuals serving as officials required by law to be appointed by and with the advice and consent of the Senate.

(b) Term; termination and reappointment

The term of office for the Governor and the Alternate Governor shall be five years, subject at any time to termination of appointment or to reappointment. The Governor and Alternate Governor shall remain in office until a successor has been appointed.

(c) Compensation and expenses

No person shall be entitled to receive any salary or other compensation from the United States for services as a Governor or Alternate Governor, except for reasonable expenses to attend meetings of the Board of Governors.

(d) Voting

The Governor, or in the Governor's absence the Alternate Governor, on the instructions of the President, shall cast the votes of the United States for the Director to represent the United States in the Bank.

(Pub. L. 97–35, title XIII, §1333, Aug. 13, 1981, 95 Stat. 741; Pub. L. 101–513, title V, §562(b)(3), Nov. 5, 1990, 104 Stat. 2034; Pub. L. 112–166, §2(z)(1), Aug. 10, 2012, 126 Stat. 1289.)

AMENDMENTS

2012—Pub. L. 112–166 substituted "The President shall appoint a Governor and an Alternate Governor of the Bank—" and pars. (1) and (2) for "The President, by and with the advice and consent of the Senate, shall appoint a Governor, an Alternate Governor, and a Director of the Bank." in subsec. (a), redesignated second and third sentences of subsec. (a) as (b), and redesignated former subsecs. (b) and (c) as (c) and (d), respectively.

1990—Subsec. (a). Pub. L. 101–513 substituted "Governor, an Alternate Governor, and a Director" for "Governor and an Alternate Governor".

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–166 effective 60 days after Aug. 10, 2012, and applicable to appointments made on and after that effective date, including any nomination pending in the Senate on that date, see section 6(a) of Pub. L. 112–166, set out as a note under section 113 of Title 6, Domestic Security.

DELEGATION OF FUNCTIONS

Functions of President under subsec. (c) delegated to Secretary of the Treasury, see Ex. Ord. No. 12403, Feb. 8, 1983, 48 F.R. 6087.

§290i–2. Director or Alternate Director; allowances

(a) The President, by and with the advice and consent of the Senate, shall appoint a Director of the Bank.

(b) The Director or Alternate Director representing the United States, if citizens of the United States, may, in the discretion of the President, receive such compensation, allowances, and other benefits as, together with those received from the Bank and from the African Development Fund, may not exceed those authorized for a chief of mission under the Foreign Service Act of 1980 [22 U.S.C. 3901 et seq.].

(Pub. L. 97–35, title XIII, §1334, Aug. 13, 1981, 95 Stat. 741; Pub. L. 112–166, §2(z)(2), Aug. 10, 2012, 126 Stat. 1289.)

REFERENCES IN TEXT

The Foreign Service Act of 1980, referred to in text, is Pub. L. 96–465, Oct. 17, 1980, 94 Stat. 2071, as amended, which is classified principally to chapter 52 (§3901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3901 of this title and Tables.

AMENDMENTS

2012—Pub. L. 112–166 added subsec. (a) and designated existing provisions as subsec. (b).

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–166 effective 60 days after Aug. 10, 2012, and applicable to appointments made on and after that effective date, including any nomination pending in the Senate on that date, see section 6(a) of Pub. L. 112–166, set out as a note under section 113 of Title 6, Domestic Security.

DELEGATION OF FUNCTIONS

Functions of President under this section delegated to Secretary of the Treasury, see Ex. Ord. No. 12403, Feb. 8, 1983, 48 F.R. 6087.

§290i–3. Applicability of Bretton Woods Agreements Act

The provisions of section 4 of the Bretton Woods Agreements Act (22 U.S.C. 286b) shall apply with respect to the Bank to the same extent as with respect to the International Bank for Reconstruction and Development and the International Monetary Fund.

(Pub. L. 97–35, title XIII, §1335, Aug. 13, 1981, 95 Stat. 741; Pub. L. 101–240, title V, §541(e)(7), Dec. 19, 1989, 103 Stat. 2519.)

REFERENCES IN TEXT

The Bretton Woods Agreements Act, referred to in section catchline, is act July 31, 1945, ch. 339, 59 Stat. 512, as amended, which is classified principally to subchapter XV (§286 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 286 of this title and Tables.

AMENDMENTS

1989—Pub. L. 101–240 struck out at end "Reports with respect to the Bank under paragraphs (5) and (6) of section 4 of that Act shall be included in the first and subsequent reports made thereunder after the United States accepts membership in the Bank."

§290i–4. Restrictions

(a) [1] Unless authorized by law, neither the President, nor any person or agency, shall, on behalf of the United States—

(1) subscribe to additional shares of stock of the Bank;

(2) vote for or agree to any amendment of the agreement which increases the obligations of the United States, or which changes the purpose or functions of the Bank; or

(3) make a loan or provide other financing to the Bank, except that funds for technical

assistance may be provided to the Bank by a United States agency created pursuant to an Act of Congress which is authorized by law to provide funds to international organizations.

(Pub. L. 97–35, title XIII, §1336, Aug. 13, 1981, 95 Stat. 742.)

[1] *So in original. No subsec. (b) has been enacted.*

§290i–5. Federal Reserve banks as depositories

Any Federal Reserve bank which is requested to do so by the Bank shall act as its depository or as its fiscal agent, and the Board of Governors of the Federal Reserve System shall supervise and direct the carrying out of these functions by the Federal Reserve banks.

(Pub. L. 97–35, title XIII, §1337, Aug. 13, 1981, 95 Stat. 742.)

§290i–6. Subscription to stock

(a) Authorization of United States subscription to stock

The President is authorized to agree to subscribe on behalf of the United States to twenty-nine thousand eight hundred and twenty shares of the capital stock of the Bank: *Provided, however*, That the subscription shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts.

(b) Authorization of appropriations

There is authorized to be appropriated, without fiscal year limitation, for payment by the Secretary of the Treasury of the initial United States subscription to twenty-nine thousand eight hundred and twenty shares of the capital stock of the Bank, $359,733,570: *Provided, however*, That not more than $17,986,679 of such sum may be made available for paid in subscriptions to the Bank for each of the fiscal years 1982, 1983, and 1984.

(c) Distributions by Bank

Any payment or distributions of moneys from the Bank to the United States shall be covered into the Treasury as a miscellaneous receipt.

(Pub. L. 97–35, title XIII, §1338, Aug. 13, 1981, 95 Stat. 742.)

DELEGATION OF FUNCTIONS

Functions of President under subsec. (a) delegated to Secretary of the Treasury, see Ex. Ord. No. 12403, Feb. 8, 1983, 48 F.R. 6087.

§290i–7. Jurisdiction of United States courts

For the purposes of any civil action which may be brought within the United States, its territories or possessions, or the Commonwealth of Puerto Rico, by or against the Bank in accordance with the agreement, the Bank shall be deemed to be an inhabitant of the Federal judicial district in which its principal office within the United States or its agent appointed for the purpose of accepting service or notice of service is located, and any such action to which the Bank shall be a party shall be deemed to arise under the laws of the United States, and the district courts of the United States, including the courts enumerated in section 460 of title 28, shall have original jurisdiction of any such action. When the Bank is defendant in any action in a State court, it may at any time before the trial thereof remove the action into the appropriate district court of the United States by following the procedure for removal provided in section 1446 of title 28.

(Pub. L. 97–35, title XIII, §1339, Aug. 13, 1981, 95 Stat. 742.)

§290i–8. Force and effect of agreement

Paragraph 5 of article 49, articles 50 through 59, and the other provisions of the agreement shall have full force and effect in the United States, its territories and possessions, and the Commonwealth of Puerto Rico, upon acceptance of membership by the United States in the Bank. The President, at the time of deposit of the instrument of acceptance of membership by the United States in the Bank, shall also deposit a declaration as provided in article 64, paragraph 3, of the agreement that the United States retains for itself and its political subdivisions the right to tax salaries and emoluments paid by the Bank to United States citizens or nationals.

(Pub. L. 97–35, title XIII, §1340, Aug. 13, 1981, 95 Stat. 743.)

REFERENCES IN TEXT

The agreement, referred to in text, is the agreement establishing the African Development Bank. See section 290i of this title.

§290i–9. Securities issued by Bank; Securities and Exchange Commission oversight

(a) Treatment as exempt securities; reports to Securities and Exchange Commission

Any securities issued by the Bank (including any guarantee by the Bank, whether or not limited in scope) in connection with the raising of funds for inclusion in the Bank's ordinary capital resources as defined in article 9 of the agreement and any securities guaranteed by the Bank as to both principal and interest to which the commitment in article 7, paragraph 4(a), of the agreement is expressly applicable, shall be deemed to be exempted securities within the meaning of sections 77c(a)(2) and 78c(a)(12) of title 15. The Bank shall file with the Securities and Exchange Commission such annual and other reports with regard to such securities as the Commission shall determine to be appropriate in view of the special character of the Bank and its operations as necessary in the public interest or for the protection of investors.

(b) Suspension of provisions; reports to Congress

The Securities and Exchange Commission, acting in consultation with such agency or officer as the President shall designate, is authorized to suspend the provisions of subsection (a) at any time as to any or all securities issued or guaranteed by the Bank during the period of such suspension. The Commission shall include in its annual reports to Congress such information as it shall deem advisable with regard to the operations and effect of this section and in connection therewith shall include any views submitted for such purpose by any association of dealers registered with the Commission.

(Pub. L. 97–35, title XIII, §1341, Aug. 13, 1981, 95 Stat. 743.)

REFERENCES IN TEXT

The agreement, referred to in subsec. (a), is the agreement establishing the African Development Bank. See section 290i of this title.

DELEGATION OF FUNCTIONS

Functions of President under subsec. (b) delegated to Secretary of the Treasury, see Ex. Ord. No. 12403, Feb. 8, 1983, 48 F.R. 6087.

§290i–10. Authorization of United States subscription to stock; authorization of appropriations

(a) The United States Governor of the Bank is authorized to agree to subscribe on behalf of the United States to fifty-nine thousand, six hundred and thirty-two shares of the capital stock of the Bank, except that the subscription shall be effective only to such extent or in such amounts as are

provided in advance in appropriations Acts.

(b) In order to pay for the United States subscription authorized in subsection (a), there are authorized to be appropriated, without fiscal year limitation, $719,370,633, for payment by the Secretary of the Treasury.

(Pub. L. 97–35, title XIII, §1343, as added Pub. L. 100–202, §101(e) [title I], Dec. 22, 1987, 101 Stat. 1329–131, 1329–134.)

CODIFICATION

Section 1343 of Pub. L. 97–35 is based on section 301 of title III of H.R. 3750, One Hundredth Congress, as introduced Dec. 11, 1987, and enacted into law by Pub. L. 100–202.

FIFTH GENERAL CAPITAL INCREASE

Pub. L. 106–113, div. B, §1000(a)(2) [title V, §594], Nov. 29, 1999, 113 Stat. 1535, 1501A–122, provided in part that the Secretary of the Treasury may effect the United States participation in the fifth general capital increase of the African Development Bank, and authorized $40,847,011 to be appropriated without fiscal year limitation for payment by the Secretary for paid-in capital of the Bank and $639,932,485 to be appropriated without fiscal year limitation for payment by the Secretary for callable capital of the Bank.

§290i–11. Sixth capital increase

(a) Subscription authorized

(1) The United States Governor of the Bank may subscribe on behalf of the United States to 289,391 additional shares of the capital stock of the Bank.

(2) Any subscription by the United States to the capital stock of the Bank shall be effective only to such extent and in such amounts as are provided in advance in appropriations Acts.

(b) Limitations on authorization of appropriations

(1) In order to pay for the increase in the United States subscription to the Bank under subsection (a), there are authorized to be appropriated, without fiscal year limitation, $4,322,228,221 for payment by the Secretary of the Treasury.

(2) Of the amount authorized to be appropriated under paragraph (1)—

(A) $259,341,759 shall be for paid in shares of the Bank; and

(B) $4,062,886,462 shall be for callable shares of the Bank.

(Pub. L. 97–35, title XIII, §1344, as added Pub. L. 112–74, div. I, title VII, §7081(d), Dec. 23, 2011, 125 Stat. 1260.)

SUBCHAPTER XXV—UNITED STATES-INDIA FUND FOR CULTURAL, EDUCATIONAL, AND SCIENTIFIC COOPERATION

§290j. Establishment of the Fund

(a) Agreement with Government of India; program purposes

The President is authorized to enter into an agreement with the Government of India for the establishment of a fund (hereafter in this subchapter referred to as the "Fund") which would provide grants and other assistance for cultural, educational, and scientific programs of mutual interest. Such programs may include exchanges of persons, exchanges of information, and other programs of study, research, and scholarly cooperation. The agreement may also provide for the establishment of an endowment, a foundation, or other means to carry out the purposes of the agreement.

(b) United States representatives

The United States representatives on any board or other entity created in accordance with the

agreement to administer the Fund shall be designated by the President predominately from among representatives of United States Government agencies, including those administering programs which may be supported in whole or in part by the Fund.

(c) Funding of programs

United States Government agencies carrying out programs of the types specified in subsection (a) may receive amounts directly from the Fund for use in carrying out those programs.

(Pub. L. 98–164, title IX, §902, Nov. 22, 1983, 97 Stat. 1051.)

SHORT TITLE

Pub. L. 98–164, title IX, §901, Nov. 22, 1983, 97 Stat. 1051, provided that: "This title [enacting this subchapter] may be cited as the 'United States-India Fund for Cultural, Educational, and Scientific Cooperation Act'."

EX. ORD. NO. 12517. DELEGATION CONCERNING UNITED STATES-INDIA FUND FOR CULTURAL, EDUCATIONAL, AND SCIENTIFIC COOPERATION

Ex. Ord. No. 12517, May 29, 1985, 50 F.R. 23105, provided:

By the authority vested in me as President by the Constitution and statutes of the United States of America, including section 301 of Title 3 of the United States Code, and in order to delegate certain functions concerning the United States-India Fund for Cultural, Educational, and Scientific Cooperation to the Secretary of State, it is hereby ordered as follows:

SECTION 1. All functions vested in the President by the United States-India Fund for Cultural, Educational, and Scientific Cooperation Act (Title IX of Public Law 98–164, 97 Stat. 1051; "the Act") [22 U.S.C. 290j et seq.] are delegated to the Secretary of State.

SEC. 2. India rupees provided to the President for purposes of Title IX of the Act and under Title III of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1985 (Public Law 98–411, 98 Stat. 1545) are allocated to the Secretary of the Treasury for investment to generate earnings for purposes of Title IX of the Act.

RONALD REAGAN.

§290j–1. Use of United States owned rupees to capitalize the Fund

(a) Subject to applicable requirements concerning reimbursement to the Treasury for United States owned foreign currencies, the President may make available to the Fund, for use in carrying out the agreement authorized by section 290j of this title, up to the equivalent of $200,000,000 in foreign currencies owned by the United States in India or owed to the United States by the Government of India. Such use may include investment in order to generate interest which would be retained in the Fund and used to support programs pursuant to that agreement.

(b) In accordance with the agreement negotiated pursuant to section 290j(a) of this title, sums made available for investment for the United States-India Fund for Cultural, Educational, and Scientific Cooperation under the Departments of Commerce, Justice, and State, and the Judiciary and Related Agencies Appropriation Act, 1985, and any earnings on such sums shall be available for the purposes of section 290j(a) of this title.

(Pub. L. 98–164, title IX, §903, Nov. 22, 1983, 97 Stat. 1051; Pub. L. 99–93, title VIII, §808, Aug. 16, 1985, 99 Stat. 452; Pub. L. 100–204, title III, §305, Dec. 22, 1987, 101 Stat. 1379.)

REFERENCES IN TEXT

The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1985, referred to in subsec. (b), is Pub. L. 98–411, Aug. 30, 1984, 98 Stat. 1545. For provisions relating to contribution to the United States-India Fund for Cultural, Educational, and Scientific Cooperation, see 98 Stat. 1567.

AMENDMENTS

1987—Subsec. (b). Pub. L. 100–204 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "Pending completion of the negotiation of an agreement with the Government of India, the annual

earnings generated by the moneys appropriated by the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1985, may be used for the purposes set out in section 290j(a) of this title."

1985—Pub. L. 99–93 designated existing provisions as subsec. (a) and added subsec. (b).

SUBCHAPTER XXVI—MULTILATERAL INVESTMENT GUARANTEE AGENCY

§290k. Acceptance of membership

The President is hereby authorized to accept membership for the United States in the Multilateral Investment Guarantee Agency (hereinafter in this subchapter referred to as the "Agency") provided for by the Convention Establishing the Multilateral Investment Guarantee Agency (hereinafter in this subchapter referred to as the "Convention") deposited in the archives of the International Bank for Reconstruction and Development (hereinafter in this subchapter referred to as the "Bank").

(Pub. L. 100–202, §101(e) [title I], Dec. 22, 1987, 101 Stat. 1329–131, 1329–134.)

CODIFICATION

Section is based on section 403 of title IV of H.R. 3750, One Hundredth Congress, as introduced Dec. 11, 1987, and enacted into law by Pub. L. 100–202.

Section 402 of title IV of H.R. 3750, as introduced Dec. 11, 1987, and as enacted into law by section 101(e) [title I] of Pub. L. 100–202, provided that: "This title [enacting this subchapter] shall be codified as subchapter XXVI of chapter 7 of title 22 of the United States Code."

SHORT TITLE

Section 401 of title IV of H.R. 3750, as introduced Dec. 11, 1987, and as enacted into law by Pub. L. 100–202, §101(e) [title I], Dec. 22, 1987, 101 Stat. 1329–131, 1329–134, provided that: "This title [enacting this subchapter] may be cited as the 'Multilateral Investment Guarantee Agency Act'."

§290k–1. Governor and Alternate Governor

The Governor and Alternate Governor of the Bank, appointed under section 286a of this title, shall serve as Governor and Alternate Governor, respectively, of the Agency.

(Pub. L. 100–202, §101(e) [title I], Dec. 22, 1987, 101 Stat. 1329–131, 1329–134.)

CODIFICATION

Section is based on section 404 of title IV of H.R. 3750, One Hundredth Congress, as introduced Dec. 11, 1987, and enacted into law by Pub. L. 100–202.

§290k–2. Instructions for United States Director

Immediately after taking office and prior to the issuance by the Agency of its first guarantee, the United States Director of the Agency shall propose and actively seek the adoption by the Board of Directors of policies and procedures under which the Agency will not issue guarantees in respect of any proposed investment that would—

(1) be in any country which has not taken or is not taking steps to afford internationally recognized workers' rights to workers in that country;

(2) be subject to trade-distorting performance requirements imposed by the host country that are likely to result in a significant net reduction in—

(A) employment in the United States or other member countries; or

(B) other trade benefits likely to accrue to the United States or other member countries from

the investment; or

(3) increase a country's productive capacity in an industry already facing excess worldwide capacity for the same, similar or competing product, and cause substantial injury to producers of such product in another member country.

(Pub. L. 100–202, §101(e) [title I], Dec. 22, 1987, 101 Stat. 1329–131, 1329–134.)

CODIFICATION

Section is based on section 405 of title IV of H.R. 3750, One Hundredth Congress, as introduced Dec. 11, 1987, and enacted into law by Pub. L. 100–202.

§290k–3. Opposition to certain guarantees or investment promotions; independent evaluation of guaranteed investments

Consistent with the purposes of section 290k–2 of this title, the Secretary of the Treasury shall—

(1) instruct the United States Director to oppose, and to actively seek the concurrence of other members of the Board of Directors in opposing, any guarantee or other investment promotion under consideration by the Agency if the proposed investment would—

(A) be in any country which is not a beneficiary developing country for purposes of title V of the Trade Act of 1974 [19 U.S.C. 2461 et seq.] because it has not taken or is not taking steps to afford internationally-recognized workers' rights to workers in that country;

(B) be subject to trade-distorting performance requirements imposed by the host country that are likely to result in a significant net reduction in—

(i) employment in the United States; or

(ii) other trade benefits likely to accrue to the United States from the investment; or

(C) likely increase a country's productive capacity in an industry already facing excess worldwide capacity for the same, similar or competing product, and cause substantial injury to producers of such products in the United States; and

(2) within 12 months after the United States becomes a member of the Agency and each year thereafter for the 3 succeeding years, conduct an independent evaluation of the United States investments which have been guaranteed by the Agency to determine—

(A) the anticipated net impact of such investments on employment in and exports from the United States, and

(B) the extent to which such investments were made in countries which had not taken or are not taking steps to afford internationally-recognized workers' rights to workers in those countries.

In the course of conducting each evaluation required under paragraph (2), the Secretary shall actively solicit and take into account the views of United States labor organizations. The Secretary shall furnish a copy of each such evaluation on its completion to the Congress.

(Pub. L. 100–202, §101(e) [title I], Dec. 22, 1987, 101 Stat. 1329–131, 1329–134.)

REFERENCES IN TEXT

The Trade Act of 1974, referred to in par. (1)(A), is Pub. L. 93–618, Jan. 3, 1975, 88 Stat. 1978, as amended. Title V of the Trade Act of 1974 is classified generally to subchapter V (§2461 et seq.) of chapter 12 of Title 19, Customs Duties. For complete classification of this Act to the Code, see section 2101 of Title 19 and Tables.

CODIFICATION

Section is based on section 406 of title IV of H.R. 3750, One Hundredth Congress, as introduced Dec. 11, 1987, and enacted into law by Pub. L. 100–202.

§290k–4. Consultation with representatives of private sector and of labor organizations on Agency policy directions and operations

Recognizing that United States participation in the Agency represents an effort to enhance United States trade prospects and strengthen the role of the United States private sector in the development process, the Secretary of the Treasury shall ensure regular and continuing consultations with United States private sector representatives and representatives of United States labor organizations, through appropriate mechanisms, on policy directions and operations of the Agency, and shall take account of those consultations in determining the policies of the United States toward the Agency.

(Pub. L. 100–202, §101(e) [title I], Dec. 22, 1987, 101 Stat. 1329–131, 1329–134.)

CODIFICATION

Section is based on section 407 of title IV of H.R. 3750, One Hundredth Congress, as introduced Dec. 11, 1987, and enacted into law by Pub. L. 100–202.

§290k–5. Applicability of Bretton Woods Agreements Act

The provisions of section 286b of this title shall apply with respect to the Agency to the same extent as with respect to the Bank and the International Monetary Fund.

(Pub. L. 100–202, §101(e) [title I], Dec. 22, 1987, 101 Stat. 1329–131, 1329–134; Pub. L. 101–240, title V, §541(e)(5), Dec. 19, 1989, 103 Stat. 2518.)

REFERENCES IN TEXT

The Bretton Woods Agreements Act, referred to in section catchline, is act July 31, 1945, ch. 339, 59 Stat. 512, as amended, which is classified principally to subchapter XV (§286 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 286 of this title and Tables.

CODIFICATION

Section is based on section 408 of title IV of H.R. 3750, One Hundredth Congress, as introduced Dec. 11, 1987, and enacted into law by Pub. L. 100–202.

AMENDMENTS

1989—Pub. L. 101–240 struck out at end "Reports with respect to the Agency under paragraphs (5) and (6) of section 286b(b) of this title shall be included in the reports made thereunder after the United States accepts membership in the Agency."

§290k–6. Restrictions

Unless authorized by law, neither the President nor any person or agency shall, on behalf of the United States—

(1) subscribe to additional shares of stock of the Agency;

(2) vote for or agree to any amendment of the Convention which increases the obligations of the United States, or which changes the purpose or functions of the Agency; or

(3) make a loan or provide other financing to the Agency.

(Pub. L. 100–202, §101(e) [title I], Dec. 22, 1987, 101 Stat. 1329–131, 1329–134.)

CODIFICATION

Section is based on section 409 of title IV of H.R. 3750, One Hundredth Congress, as introduced Dec. 11, 1987, and enacted into law by Pub. L. 100–202.

§290k–7. Federal Reserve banks as depositories

Any Federal Reserve bank that is requested to do so by the Agency shall act as its depository or as

its fiscal agent, and the Board of Governors of the Federal Reserve System shall supervise and direct the carrying out of these functions by the Federal Reserve banks.

(Pub. L. 100–202, §101(e) [title I], Dec. 22, 1987, 101 Stat. 1329–131, 1329–134.)

CODIFICATION

Section is based on section 410 of title IV of H.R. 3750, One Hundredth Congress, as introduced Dec. 11, 1987, and enacted into law by Pub. L. 100–202.

§290k–8. Subscription of stock

(a) Authority of Secretary of the Treasury

The Secretary of the Treasury is authorized to subscribe on behalf of the United States to 20,519 shares of the capital stock of the Agency, except that the subscription shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts.

(b) Authorization of appropriations

In order to pay for United States subscription authorized in subsection (a), there are authorized to be appropriated, without fiscal year limitation, $222,015,580, for payment by the Secretary of the Treasury.

(c) Dividends deposited into Treasury

Any payment of dividends made to the United States by the Agency shall be deposited into the Treasury as a miscellaneous receipt.

(Pub. L. 100–202, §101(e) [title I], Dec. 22, 1987, 101 Stat. 1329–131, 1329–134.)

CODIFICATION

Section is based on section 411 of title IV of H.R. 3750, One Hundredth Congress, as introduced Dec. 11, 1987, and enacted into law by Pub. L. 100–202.

FIRST GENERAL CAPITAL INCREASE

Pub. L. 106–113, div. B, §1000(a)(2) [title V, §594], Nov. 29, 1999, 113 Stat. 1535, 1501A–122, provided in part that the Secretary of the Treasury may effect the United States participation in the first general capital increase of the Multilateral Investment Guarantee Agency and authorized $29,870,087 to be appropriated without fiscal year limitation for payment by the Secretary for paid-in capital of the Agency and $139,365,533 to be appropriated without fiscal year limitation for payment by the Secretary for callable capital of the Agency.

§290k–9. Jurisdiction of United States courts and enforcement of arbitral awards

For the purposes of any civil action which may be brought within the United States, its territories or possessions, or the Commonwealth of Puerto Rico, by or against the Agency in accordance with the Convention, including an action brought to enforce an arbitral award against the Agency, the Agency shall be deemed to be an inhabitant of the Federal judicial district in which its principal office within the United States or its agent appointed for the purpose of accepting service or notice of service is located, and any such action to which the Agency shall be a party shall be deemed to arise under the laws of the United States, and the district courts of the United States, including the courts enumerated in section 460 of title 28, shall have original jurisdiction of any such action. When the Agency is a defendant in any action in a State court, it may at any time before the trial thereof remove the action into the appropriate district court of the United States by following the procedure for removal provided in section 1446 of title 28.

(Pub. L. 100–202, §101(e) [title I], Dec. 22, 1987, 101 Stat. 1329–131, 1329–134.)

CODIFICATION

Section is based on section 412 of title IV of H.R. 3750, One Hundredth Congress, as introduced Dec. 11,

1987, and enacted into law by Pub. L. 100–202.

§290k–10. Effectiveness of Convention

Articles 43 through 48, inclusive, of the Convention shall have full force and effect in the United States, its territories and possessions, and the Commonwealth of Puerto Rico, upon the entry into force of the Convention for the United States.

(Pub. L. 100–202, §101(e) [title I], Dec. 22, 1987, 101 Stat. 1329–131, 1329–134.)

CODIFICATION

Section is based on section 413 of title IV of H.R. 3750, One Hundredth Congress, as introduced Dec. 11, 1987, and enacted into law by Pub. L. 100–202.

§290k–11. Arbitral awards; enforcement; full faith and credit; Federal Arbitration Act inapplicable; exclusiveness of district court jurisdiction

(a) An award of an arbitral tribunal resolving a dispute arising under Article 57 or Article 58 of the Convention shall create a right arising under a treaty of the United States. The pecuniary obligations imposed by such an award shall be enforced and shall be given the same full faith and credit as if the award were a final judgment of a court of general jurisdiction of one of the several States. The Federal Arbitration Act (9 U.S.C. 1, et seq.) shall not apply to enforcement of awards rendered pursuant to the Convention.

(b) The district courts of the United States (including the courts enumerated in section 460 of title 28) shall have exclusive jurisdiction over actions and proceedings under subsection (a) of this section, regardless of the amount in controversy.

(Pub. L. 100–202, §101(e) [title I], Dec. 22, 1987, 101 Stat. 1329–131, 1329–134.)

REFERENCES IN TEXT

The Federal Arbitration Act, referred to in subsec. (a), is classified generally to Title 9, Arbitration.

CODIFICATION

Section is based on section 414 of title IV of H.R. 3750, One Hundredth Congress, as introduced Dec. 11, 1987, and enacted into law by Pub. L. 100–202.

SUBCHAPTER XXVII—EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT

§290*l*. Acceptance of membership

The President is hereby authorized to accept membership for the United States in the European Bank for Reconstruction and Development (in this subchapter referred to as the "Bank") provided for by the agreement establishing the Bank (in this subchapter referred to as the "Agreement"), signed on May 29, 1990.

(Pub. L. 101–513, title V, §562(c)(2), Nov. 5, 1990, 104 Stat. 2034.)

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original "this subsection" meaning subsection (c) of section 562 of Pub. L. 101–513, title V, Nov. 5, 1990, 104 Stat. 2034, which is classified principally to this subchapter. For complete classification of subsection (c) to the Code, see Short Title note set out below and Tables.

CODIFICATION

Another section 562(c) of Pub. L. 101–513, consisting of pars. (1) to (5), is set out as a note under section 2293 of this title.

SHORT TITLE

Pub. L. 101–513, title V, §562(c)(1), Nov. 5, 1990, 104 Stat. 2031, provided that: "This subsection [enacting this subchapter and amending sections 262r and 276c–2 of this title and section 24 of Title 12, Banks and Banking] may be cited as the 'European Bank for Reconstruction and Development Act'."

§290*l*–1. Governor and alternate Governor

(a) Appointment

The President, by and with the advice and consent of the Senate, shall appoint a Governor of the Bank, an alternate for the Governor, and a Director of the Bank.

(b) Compensation

Any person who serves as a Governor of the Bank or as an alternate for the Governor may not receive any salary or other compensation from the United States by reason of such service.

(Pub. L. 101–513, title V, §562(c)(3), Nov. 5, 1990, 104 Stat. 2034.)

CODIFICATION

Subsecs. (a) and (b) were in the original (A) and (B), respectively, and were editorially redesignated for purposes of codification.

Another section 562(c)(3) of Pub. L. 101–513 is set out as a note under section 2293 of this title.

§290*l*–2. Applicability of certain provisions of Bretton Woods Agreements Act

Section 286b of this title shall apply to the Bank in the same manner in which such section applies to the International Bank for Reconstruction and Development and the International Monetary Fund.

(Pub. L. 101–513, title V, §562(c)(4), Nov. 5, 1990, 104 Stat. 2034.)

REFERENCES IN TEXT

The Bretton Woods Agreements Act, referred to in section catchline, is act July 31, 1945, ch. 339, 59 Stat. 512, as amended, which is classified principally to subchapter XV (§286 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 286 of this title and Tables.

CODIFICATION

Another section 562(c)(4) of Pub. L. 101–513 is set out as a note under section 2293 of this title.

§290*l*–3. Federal Reserve banks as depositories

Any Federal Reserve Bank [1] which is requested to do so by the Bank may act as its depository, or as its fiscal agent, and the Board of Governors of the Federal Reserve System shall exercise general supervision over the carrying out of these functions.

(Pub. L. 101–513, title V, §562(c)(5), Nov. 5, 1990, 104 Stat. 2034.)

CODIFICATION

Another section 562(c)(5) of Pub. L. 101–513 is set out as a note under section 2293 of this title.

[1] *So in original. Probably should not be capitalized.*

§290*l*–4. Subscription of stock

(a) Subscription authority

(1) In general

The Secretary of the Treasury may subscribe on behalf of the United States to 100,000 shares of the capital stock of the Bank.

(2) Effectiveness of subscription commitment

Any commitment to make such subscription shall be effective only to such extent or in such amounts as are provided for in advance by appropriations Acts.

(b) Limitations on authorization of appropriations

For payment by the Secretary of the Treasury of the subscription of the United States for shares described in subsection (a), there are authorized to be appropriated $1,167,010,000 without fiscal year limitation.

(c) Disposition of net income distributions by Bank

Any payment made to the United States by the Bank as a distribution of net income shall be covered into the Treasury as a miscellaneous receipt.

(Pub. L. 101–513, title V, §562(c)(6), Nov. 5, 1990, 104 Stat. 2034.)

CODIFICATION

Subsecs. (a) to (c) were in the original (A) to (C), respectively, and pars. (1) and (2) of subsec. (a) were in the original (i) and (ii), respectively, and were editorially redesignated for purposes of codification.

FIRST GENERAL CAPITAL INCREASE

Pub. L. 105–118, title V, §560(a), Nov. 26, 1997, 111 Stat. 2425, provided in part that the Secretary of the Treasury may, to effect the United States participation in the first general capital increase of the European Bank for Reconstruction and Development, subscribe to and make payment for 100,000 additional shares of the capital stock of the Bank on behalf of the United States, and authorized $285,772,500 for paid-in capital and $984,327,500 for callable capital of the European Bank for Reconstruction and Development to be appropriated without fiscal year limitation, subject to obtaining the necessary appropriations.

§290*l*–5. Jurisdiction and venue of civil actions by or against Bank

(a) Jurisdiction

The United States district courts shall have original and exclusive jurisdiction of any civil action brought in the United States by or against the Bank.

(b) Venue

For purposes of section 1391(b) of title 28, the Bank shall be deemed to be a resident of the judicial district in which the principal office of the Bank in the United States, or its agent appointed for the purpose of accepting service or notice of service, is located.

(Pub. L. 101–513, title V, §562(c)(7), Nov. 5, 1990, 104 Stat. 2035.)

CODIFICATION

Subsecs. (a) and (b) were in the original (A) and (B), respectively, and were editorially redesignated for purposes of codification.

§290*l*–6. Effectiveness of Agreement

The Agreement shall have full force and effect in the United States, its territories and possessions, and the Commonwealth of Puerto Rico, upon acceptance of membership by the United States in the Bank and the entry into force of the Agreement.

(Pub. L. 101–513, title V, §562(c)(8), Nov. 5, 1990, 104 Stat. 2035.)

§290*l*–7. Exemption from securities laws for certain securities issued by Bank; reports required

(a) Exemption from securities laws; reports to Securities and Exchange Commission

Any securities issued by the Bank (including any guaranty by the Bank, whether or not limited in scope) in connection with the raising of funds for inclusion in the Bank's ordinary capital resources as defined in article 7 of the Agreement and any securities guaranteed by the Bank as to both principal and interest to which the commitment in article 6, paragraph 4, of the Agreement is expressly applicable, shall be deemed to be exempted securities within the meaning of section 77c(a)(2) of title 15 and section 78c(a)(12) of title 15. The Bank shall file with the Securities and Exchange Commission such annual and other reports with regard to such securities as the Commission shall determine to be appropriate in view of the special character of the Bank and its operations and necessary in the public interest or for the protection of investors.

(b) Authority of Securities and Exchange Commission to suspend exemption; reports to Congress

The Securities and Exchange Commission, acting in consultation with such agency or officer as the President shall designate, may suspend the provisions of subsection (a) at any time as to any or all securities issued or guaranteed by the Bank during the period of such suspension. The Commission shall include in its annual reports to the Congress such information as it shall deem advisable with regard to the operations and effect of this section.

(Pub. L. 101–513, title V, §562(c)(9), Nov. 5, 1990, 104 Stat. 2035.)

CODIFICATION

Subsecs. (a) and (b) were in the original (A) and (B), respectively, and were editorially redesignated for purposes of codification.

§290*l*–8. Congressional consultations

During negotiations on the establishment of operational guidelines for the Bank, the Secretary of the Treasury shall—

(A) consult on a regular and timely basis with the Committee on Banking, Finance and Urban Affairs and the Committee on Appropriations of the House of Representatives, and the Committee on Foreign Relations and the Committee on Appropriations of the Senate;

(B) seek to ensure that procedures and mechanisms are established, including the creation of specific departments or staffs within the Bank, which will allow the Bank to assess the impact of any loans, guarantees, or other activities on the environment and on internationally recognized human rights in borrower countries; and

(C) report, through consultation within 90 days after November 5, 1990, to the Committees specified in subparagraph (A) on the progress of efforts to create such procedures and mechanisms.

(Pub. L. 101–513, title V, §562(c)(11), Nov. 5, 1990, 104 Stat. 2036.)

CHANGE OF NAME

Committee on Banking, Finance and Urban Affairs of House of Representatives treated as referring to Committee on Banking and Financial Services of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Banking and Financial Services of House of Representatives abolished and replaced by Committee on Financial Services of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred from Committee on Energy and Commerce of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

GOALS IN NEGOTIATIONS CONCERNING STRUCTURE, BYLAWS, AND OPERATING

PROCEDURES OF BANK

Pub. L. 101–513, title V, §584, Nov. 5, 1990, 104 Stat. 2046, provided that: "In all negotiations concerning the structure, bylaws, and operating procedures of the European Bank for Reconstruction and Development (EBRD), the Secretary of the Treasury shall vigorously seek—

"(1) establishment of procedures for environmental assessment of all proposed operations with potentially significant environmental impacts;

"(2) establishment of an environmental unit with sufficient staff to review proposed operations, monitor compliance with environmental provisions, and provide overall policy guidance;

"(3) establishment of procedures for systematic consultation with and involvement of the public and interested nongovernmental organizations, including an opportunity for comment by local communities which may be affected by EBRD operations and establishment of a system of public notification and comment during the development of EBRD policies and operating procedures; and

"(4) agreement that a significant portion of the EBRD's funds shall be devoted to projects focused on environmental restoration and protection."

§290*l*–9. Capital increase

(a) Subscription authorized

(1) The United States Governor of the Bank may subscribe on behalf of the United States up to 90,044 additional callable shares of the capital stock of the Bank in accordance with Resolution No. 128 as adopted by the Board of Governors of the Bank on May 14, 2010.

(2) Any subscription by the United States to additional capital stock of the Bank shall be effective only to such extent and in such amounts as are provided in advance in appropriations Acts.

(b) Limitations on authorization of appropriations

In order to pay for the increase in the United States subscription to the Bank under subsection (a), there are authorized to be appropriated, without fiscal year limitation, up to $1,252,331,952 for payment by the Secretary of the Treasury.

(Pub. L. 101–513, title V, §562(c)(12), as added Pub. L. 112–74, div. I, title VII, §7081(e), Dec. 23, 2011, 125 Stat. 1260.)

CODIFICATION

Pub. L. 112–74, div. I, title VII, §7081(e), Dec. 23, 2011, 125 Stat. 1260, which directed amendment of section 562(c) of Pub. L. 101–513 (22 U.S.C. 290l et seq.) by adding at the end a new par. (12), was executed to the second of two subsecs. (c) by adding this section, to reflect the probable intent of Congress. The first subsec. (c) of section 562 is set out as a note under section 2293 of this title.

Subsecs. (a) and (b) were in the original (A) and (B), respectively, and pars. (1) and (2) of subsec. (a) were in the original (i) and (ii), respectively, and were editorially redesignated for purposes of codification.

SUBCHAPTER XXVIII—NORTH AMERICAN DEVELOPMENT BANK AND RELATED PROVISIONS

§290m. North American Development Bank

(a) Acceptance of membership

The President is hereby authorized to accept membership for the United States in the North American Development Bank (hereafter in this subchapter referred to as the "Bank") provided for in Chapter II of the Border Environment Cooperation Agreement (hereafter in this subchapter referred to as the "Cooperation Agreement").

(b) Subscription of stock

(1) Subscription authority

(A) In general

The Secretary of the Treasury may subscribe on behalf of the United States up to 150,000 shares of the capital stock of the Bank.

(B) Effectiveness of subscription

Except as provided in paragraph (3), any such subscription shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts.

(2) Limitations on authorization of appropriations

For payment by the Secretary of the Treasury of the subscription of the United States for shares described in paragraph (1), there are authorized to be appropriated $1,500,000,000 ($225,000,000 of which may be used for paid-in capital and $1,275,000,000 of which may be used for callable capital) without fiscal year limitation.

(3) Funding; limitation on callable capital subscriptions

(A) Funding

For fiscal year 1995, the Secretary of the Treasury shall pay to the Bank out of any sums in the Treasury not otherwise appropriated the sum of $56,250,000 for the paid-in portion of the United States share of the capital stock of the Bank, 10 percent of which may be transferred by the Bank to the President pursuant to section 290m–2 of this title to pay for the cost of direct and guaranteed Federal loans.

(B) Limitation on callable capital subscriptions

For fiscal year 1995, the Secretary of the Treasury shall subscribe to the callable capital portion of the United States share of the capital stock of the Bank in an amount not to exceed $318,750,000.

(4) Disposition of net income distributed by the facility

Any payment made to the United States by the Bank as a distribution of net income shall be covered into the Treasury as a miscellaneous receipt.

(c) Compensation of Board members

No person shall be entitled to receive any salary or other compensation from the Bank or the United States for services as a Board member.

(d) Applicability of Bretton Woods Agreements Act

The provisions of section 4 of the Bretton Woods Agreements Act [22 U.S.C. 286b] shall apply with respect to the Bank to the same extent as with respect to the International Bank for Reconstruction and Development and the International Monetary Fund.

(e) Restrictions

Unless authorized by law, neither the President nor any person or agency shall, on behalf of the United States—

(1) subscribe to additional shares of stock of the Bank;

(2) vote for or agree to any amendment of the Cooperation Agreement which increases the obligations of the United States, or which changes the purpose or functions of the Bank; or

(3) make a loan or provide other financing to the Bank.

(f) Federal Reserve banks as depositories

Any Federal Reserve bank that is requested to do so by the Bank shall act as its depository or as its fiscal agent, and the Board of Governors of the Federal Reserve System shall supervise and direct the carrying out of these functions by the Federal Reserve banks.

(g) Jurisdiction of United States courts and enforcement of arbitral awards

For the purpose of any civil action which may be brought within the United States, its territories or

possessions, or the Commonwealth of Puerto Rico, by or against the Bank in accordance with the Cooperation Agreement, including an action brought to enforce an arbitral award against the Bank, the Bank shall be deemed to be an inhabitant of the Federal judicial district in which its principal office within the United States or its agency appointed for the purpose of accepting service or notice of service is located, and any such action to which the Bank shall be a party shall be deemed to arise under the laws of the United States, and the district courts of the United States, including the courts enumerated in section 460 of title 28, shall have original jurisdiction of any such action. When the Bank is a defendant in any action in a State court, it may at any time before trial remove the action into the appropriate district court of the United States by following the procedure for removal provided in section 1446 of title 28.

(h) Exemption from securities laws for certain securities issued by Bank; reports required

(1) Omitted

(2) Exemption from securities laws for certain securities issued by the Bank; reports required

Any securities issued by the Bank (including any guarantee by the Bank, whether or not limited in scope) in connection with the raising of funds for inclusion in the Bank's capital resources as defined in Section 4 of Article II of Chapter II of the Cooperation Agreement, and any securities guaranteed by the Bank as to both the principal and interest to which the commitment in Section 3(d) of Article II of Chapter II of the Cooperation Agreement is expressly applicable, shall be deemed to be exempted securities within the meaning of section 77c(a)(2) of title 15, and section 78c(a)(12) of title 15. The Bank shall file with the Securities and Exchange Commission such annual and other reports with regard to such securities as the Commission shall determine to be appropriate in view of the special character of the Bank and its operations and necessary in the public interest or for the protection of investors.

(3) Authority of Securities and Exchange Commission to suspend exemption; reports to the Congress

The Securities and Exchange Commission, acting in consultation with the National Advisory Council on International Monetary and Financial Problems, is authorized to suspend the provisions of paragraph (2) at any time as to any or all securities issued or guaranteed by the Bank during the period of such suspension. The Commission shall include in its annual reports to Congress such information as it shall deem advisable with regard to the operations and effect of this subsection and in connection therewith shall include any views submitted for such purpose by any association of dealers registered with the Commission.

(Pub. L. 103–182, title V, §541, Dec. 8, 1993, 107 Stat. 2165.)

REFERENCES IN TEXT

This subchapter, referred to in subsec. (a), was in the original "this part" meaning part 2 of subtitle D of title V of Pub. L. 103–182, which enacted this subchapter and amended section 24 of Title 12, Banks and Banking. For complete classification of part 2 to the Code, see Tables.

CODIFICATION

Section is comprised of section 541 of Pub. L. 103–182. Subsec. (h)(1) of section 541 amended section 24 of Title 12, Banks and Banking.

§290m–1. Status, immunities, and privileges

Article VIII of Chapter II of the Cooperation Agreement shall have full force and effect in the United States, its territories and possessions, and the Commonwealth of Puerto Rico, upon entry into force of the Cooperation Agreement.

(Pub. L. 103–182, title V, §542, Dec. 8, 1993, 107 Stat. 2167.)

§290m–2. Community adjustment and investment program

(a) The President

(1) The President may enter into an agreement with the Bank that facilitates implementation by the President of a program for community adjustment and investment in support of the Agreement pursuant to chapter II of the Cooperation Agreement (hereafter in this section referred to as the "community adjustment and investment program").

(2) The President may receive from the Bank 10 percent of the paid-in capital actually paid to the Bank by the United States for the President to carry out, without further appropriations, through Federal agencies and their loan and loan guarantee programs, the community adjustment and investment program, pursuant to an agreement between the President and the Bank.

(3) The President may select one or more Federal agencies that make loans or guarantee the repayment of loans to assist in carrying out the community adjustment and investment program, and may transfer the funds received from the Bank to such agency or agencies for the purpose of assisting in carrying out the community adjustment and investment program.

(4)(A) Each Federal agency selected by the President to assist in carrying out the community adjustment and investment program shall use the funds transferred to it by the President from the Bank to pay for the costs of direct and guaranteed loans, as defined in section 661a of title 2, and, as appropriate, other costs associated with such loans, all subject to the restrictions and limitations that apply to such agency's existing loan or loan guarantee program.

(B) Funds transferred to an agency under subparagraph (A) shall be in addition to the amount of funds authorized in any appropriations Act to be expended by that agency for its loan or loan guarantee program.

(5) The President shall—

(A) establish guidelines for the loans and loan guarantees to be made under the community adjustment and investment program;

(B) endorse the grants made by the Bank for the community adjustment and investment program, as provided in Article I, section 1(b), and Article III, section 11(a), of Chapter II of the Cooperation Agreement; and

(C) endorse any loans or guarantees made by the Bank for the community adjustment and investment program, as provided in Article I, section 1(b), and Article III, section 6(a) and (c) of Chapter II of the Cooperation Agreement.

(b) Advisory Committee

(1) Establishment

The President shall establish an advisory committee to be known as the Community Adjustment and Investment Program Advisory Committee (in this section referred to as the "Advisory Committee") in accordance with the provisions of the Federal Advisory Committee Act.

(2) Membership

(A) In general

The Advisory Committee shall consist of 9 members of the public, appointed by the President, who, collectively, represent—

(i) community groups whose constituencies include low-income families;

(ii) any scientific, professional, business, nonprofit, or public interest organization or association which is neither affiliated with, nor under the direction of, a government;

(iii) for-profit business interests; and

(iv) other appropriate entities with relevant expertise.

(B) Representation

Each of the categories described in clauses (i) through (iv) of subparagraph (A) shall be represented by no fewer than 1 and no more than 3 members of the Advisory Committee.

(3) Function

It shall be the function of the Advisory Committee—

(A) to provide advice to the President regarding the implementation of the community adjustment and investment program, including advice on the guidelines to be established by the President for the loans and loan guarantees to be made pursuant to subsection (a)(4), advice on identifying the needs for adjustment assistance and investment in support of the goals and objectives of the Agreement, taking into account economic and geographic considerations, and advice on such other matters as may be requested by the President; and

(B) to review on a regular basis the operation of the community adjustment and investment program and provide the President with the conclusions of its review.

(4) Terms of members

(A) In general

Each member of the Advisory Committee shall serve at the pleasure of the President.

(B) Chairperson

The President shall appoint a chairperson from among the members of the Advisory Committee.

(C) Meetings

The Advisory Committee shall meet at least annually and at such other times as requested by the President or the chairperson. A majority of the members of the Advisory Committee shall constitute a quorum.

(D) Reimbursement for expenses

The members of the Advisory Committee may receive reimbursement for travel, per diem, and other necessary expenses incurred in the performance of their duties, in accordance with the Federal Advisory Committee Act.

(E) Staff and facilities

The Advisory Committee may utilize the facilities and services of employees of any Federal agency without cost to the Advisory Committee, and any such agency is authorized to provide services as requested by the Committee.

(c) Ombudsman

The President shall appoint an ombudsman to provide the public with an opportunity to participate in the carrying out of the community adjustment and investment program.

(1) Function

It shall be the function of the ombudsman—

(A) to establish procedures for receiving comments from the general public on the operation of the community adjustment and investment program, to receive such comments, and to provide the President with summaries of the public comments; and

(B) to perform an independent inspection and programmatic audit of the operation of the community adjustment and investment program and to provide the President with the conclusions of its investigation and audit.

(2) Authorization of appropriations

There are authorized to be appropriated to the President, or such agency as the President may designate, $25,000 for fiscal year 1995 and for each fiscal year thereafter, for the costs of the ombudsman.

(d) Reporting requirement

The President shall submit to the appropriate congressional committees an annual report on the community adjustment and investment program (if any) that is carried out pursuant to this section. Each report shall state the amount of the loans made or guaranteed during the 12-month period ending on the day before the date of the report.

(Pub. L. 103–182, title V, §543, Dec. 8, 1993, 107 Stat. 2167.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (b)(1), (4)(D), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

DELEGATION OF FUNCTIONS

Functions of President under subsec. (a)(1) to (3) of this section delegated to Secretary of the Treasury and functions of President under subsecs. (a)(5) and (d) of this section delegated to Community Adjustment and Investment Program Finance Committee by sections 4 to 6 of Ex. Ord. No. 12916, May 13, 1994, 59 F.R. 25780, set out as a note under section 3473 of Title 19, Customs Duties.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

COMMUNITY ADJUSTMENT AND INVESTMENT PROGRAM FINANCE COMMITTEE

For provisions establishing the Community Adjustment and Investment Program Finance Committee to assist in carrying out the program pursuant to subsec. (a)(3) of this section and to provide to the President advice and conclusions of reviews by the Advisory Committee pursuant to subsec. (b)(3) of this section and summaries of public comments or conclusions of investigations and audits by the ombudsman pursuant to subsec. (c)(1) of this section, see Ex. Ord. No. 12916, §§7–9, May 13, 1994, 59 F.R. 25780, set out as a note under section 3473 of Title 19, Customs Duties.

DEFINITIONS

Agreement means the North American Free Trade Agreement, see section 3301(1) of Title 19, Customs Duties.

§290m–3. "Border Environment Cooperation Agreement" defined

For purposes of this subchapter, the term "Border Environment Cooperation Agreement" (referred to in this subchapter as the "Cooperation Agreement") means the November 1993 Agreement Between the Government of the United States of America and the Government of the United Mexican States Concerning the Establishment of a Border Environment Cooperation Commission and a North American Development Bank.

(Pub. L. 103–182, title V, §544, Dec. 8, 1993, 107 Stat. 2170.)

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original "this part" meaning part 2 of subtitle D of title V of Pub. L. 103–182, which enacted this subchapter and amended section 24 of Title 12, Banks and Banking. For complete classification of part 2 to the Code, see Tables.

§290m–4. Authority to agree to certain amendments to the Border Environment Cooperation Agreement

The President may agree to amendments to the Cooperation Agreement that—

(1) enable the Bank to make grants and nonmarket rate loans out of its paid-in capital resources with the approval of its Board; and

(2) amend the definition of "border region" to include the area in the United States that is within 100 kilometers of the international boundary between the United States and Mexico, and the area in Mexico that is within 300 kilometers of the international boundary between the United States

and Mexico.

(Pub. L. 103–182, title V, §545, as added Pub. L. 108–215, §1(a), Apr. 5, 2004, 118 Stat. 579.)

§290m–5. Grants out of paid-in capital resources

(a) In general

The President shall instruct the United States Federal Government representatives on the Board of Directors of the North American Development Bank to oppose any proposal where grants out of the Bank's paid-in capital resources, except for grants from paid-in capital authorized for the community adjustment and investment program under the Bank's charter of 1993, would—

(1) be made to a project that is not being financed, in part, by loans; or

(2) account for more than 50 percent of the financing of any individual project.

(b) Exception

(1) General rule

The requirements of subsection (a) shall not apply in cases where—

(A) the President determines there are exceptional economic circumstances for making the grant and consults with the Committee on Foreign Relations of the Senate and the Committee on Financial Services of the House of Representatives; or

(B)(i) the grant is being made for a project that is so small that obtaining a loan is impractical; and

(ii) the grant does not exceed $250,000.

(2) Limitation

Not more than an aggregate of $5,000,000 in grants may be made under this subsection.

(Pub. L. 103–182, title V, §546, as added Pub. L. 108–215, §1(b), Apr. 5, 2004, 118 Stat. 579.)

§290m–6. Repealed. Pub. L. 113–188, title XVI, §1601(a), Nov. 26, 2014, 128 Stat. 2025

Section, Pub. L. 108–215, §2, Apr. 5, 2004, 118 Stat. 580, required and described the content of annual reports on the North American Development Bank.

SUBCHAPTER XXIX—UNITED STATES-MEXICO BORDER HEALTH COMMISSION

§290n. Appointment of members of Border Health Commission

Not later than 30 days after November 29, 1999, the President shall appoint the United States members of the United States-Mexico Border Health Commission, and shall attempt to conclude an agreement with Mexico providing for the establishment of such Commission.

(Pub. L. 103–400, §2, as added Pub. L. 106–113, div. B, §1000(a)(4) [title V, §516(1)], Nov. 29, 1999, 113 Stat. 1535, 1501A–276.)

PRIOR PROVISIONS

A prior section 290n, Pub. L. 103–400, §2, Oct. 22, 1994, 108 Stat. 4169, related to the establishment of the Border Health Commission, prior to repeal by Pub. L. 106–113, div. B, §1000(a)(4) [title V, §516(1)], Nov. 29, 1999, 113 Stat. 1535, 1501A–276.

SHORT TITLE

Pub. L. 103–400, §1, Oct. 22, 1994, 108 Stat. 4169, provided that: "This Act [enacting this subchapter] may be cited as the 'United States-Mexico Border Health Commission Act'."

§290n–1. Duties

It should be the duty of the Commission—

(1) to conduct a comprehensive needs assessment in the United States-Mexico Border Area for the purposes of identifying, evaluating, preventing, and resolving health problems and potential health problems that affect the general population of the area; and

(2) to implement the actions recommended by the needs assessment through—

(A) assisting in the coordination and implementation of the efforts of public and private entities to prevent and resolve such health problems, and

(B) assisting in the coordination and implementation of efforts of public and private entities to educate such population, in a culturally competent manner, concerning such health problems.

(Pub. L. 103–400, §3, Oct. 22, 1994, 108 Stat. 4169; Pub. L. 106–113, div. B, §1000(a)(4) [title V, §516(2)], Nov. 29, 1999, 113 Stat. 1535, 1501A–276.)

AMENDMENTS

1999—Par. (1). Pub. L. 106–113, §1000(a)(4) [title V, §516(2)(A)], substituted "; and" for semicolon at end.

Par. (2)(B). Pub. L. 106–113, §1000(a)(4) [title V, §516(2)(B)], substituted period for "; and" at end.

Par. (3). Pub. L. 106–113, §1000(a)(4) [title V, §516(2)(C)], struck out par. (3) which read as follows: "to formulate recommendations to the Governments of the United States and Mexico concerning a fair and reasonable method by which the government of one country could reimburse a public or private entity in the other country for the cost of a health care service that the entity furnishes to a citizen of the first country who is unable, through insurance or otherwise, to pay for the service."

§290n–2. Other authorized functions

In addition to the duties described in section 290n–1 of this title, the Commission should be authorized to perform the following functions as the Commission determines to be appropriate—

(1) to conduct or support investigations, research, or studies designed to identify, study, and monitor, on an on-going basis, health problems that affect the general population in the United States-Mexico Border Area;

(2) to conduct or support a binational, public-private effort to establish a comprehensive and coordinated system, which uses advanced technologies to the maximum extent possible, for gathering health-related data and monitoring health problems in the United States-Mexico Border Area; and

(3) to provide financial, technical, or administrative assistance to public or private nonprofit entities who act to prevent or resolve such problems or who educate the population concerning such health problems.

(Pub. L. 103–400, §4, Oct. 22, 1994, 108 Stat. 4169.)

§290n–3. Membership

(a) Number and appointment of United States section

The United States section of the Commission should be composed of 13 members. The section should consist of the following members:

(1) The Secretary of Health and Human Services or the Secretary's delegate.

(2) The commissioners of health or chief health officer from the States of Texas, New Mexico, Arizona, and California or such commissioners' delegates.

(3) Two individuals residing in United States-Mexico Border Area in each of the States of

Texas, New Mexico, Arizona, and California who are nominated by the chief executive officer of the respective States and appointed by the President from among individuals who have demonstrated ties to community-based organizations and have demonstrated interest and expertise in health issues of the United States-Mexico Border Area.

(b) Commissioner

The Commissioner of the United States section of the Commission should be the Secretary of Health and Human Services or such individual's delegate to the Commission. The Commissioner should be the leader of the section.

(c) Compensation

Members of the United States section of the Commission who are not employees of the United States or any State—

(1) shall each receive compensation at a rate of not to exceed the daily equivalent of the annual rate of basic pay payable for positions at GS–15 of the General Schedule under section 5332 of title 5 for each day such member is engaged in the actual performance of the duties of the Commission; and

(2) shall be allowed travel expenses, including per diem in lieu of subsistence at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, while away from their homes or regular places of business in the performance of services of the Commission.

(Pub. L. 103–400, §5, Oct. 22, 1994, 108 Stat. 4170.)

§290n–4. Regional offices

The Commission may designate or establish one border health office in each of the States of Texas, New Mexico, Arizona, and California. Such office should be located within the United States-Mexico Border Area, and should be coordinated with—

(1) State border health offices; and

(2) local nonprofit organizations designated by the State's chief executive officer and directly involved in border health issues.

If feasible to avoid duplicative efforts, the Commission offices should be located in existing State or local nonprofit offices. The Commission should provide adequate compensation for cooperative efforts and resources.

(Pub. L. 103–400, §6, Oct. 22, 1994, 108 Stat. 4170.)

§290n–5. Reports

Not later than February 1 of each year that occurs more than 1 year after the date of the establishment of the Commission, the Commission should submit an annual report to both the United States Government and the Government of Mexico regarding all activities of the Commission during the preceding calendar year.

(Pub. L. 103–400, §7, Oct. 22, 1994, 108 Stat. 4171.)

§290n–6. Definitions

As used in this subchapter:

(1) Commission

The term "Commission" means the United States-Mexico Border Health Commission.

(2) Health problem

The term "health problem" means a disease or medical ailment or an environmental condition

that poses the risk of disease or medical ailment. The term includes diseases, ailments, or risks of disease or ailment caused by or related to environmental factors, control of animals and rabies, control of insect and rodent vectors, disposal of solid and hazardous waste, and control and monitoring of air quality.

(3) Secretary

The term "Secretary" means the Secretary of Health and Human Services.

(4) United States-Mexico Border Area

The term "United States-Mexico Border Area" means the area located in the United States and Mexico within 100 kilometers of the border between the United States and Mexico.

(Pub. L. 103–400, §8, Oct. 22, 1994, 108 Stat. 4171.)

SUBCHAPTER XXX—MIDDLE EAST DEVELOPMENT BANK

§290*o*. Acceptance of membership

The President is hereby authorized to accept membership for the United States in the Bank for Economic Cooperation and Development in the Middle East and North Africa (in this subchapter referred to as the "Bank") provided for by the agreement establishing the Bank (in this subchapter referred to as the "Agreement"), signed on May 31, 1996.

(Pub. L. 104–208, div. A, title I, §101(c) [title VII, §702], Sept. 30, 1996, 110 Stat. 3009–121, 3009–179.)

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original "this title", meaning title I, §101(c) [title VII], of div. A of Pub. L. 104–208, Sept. 30, 1996, 110 Stat. 3009–121, 3009–179, which is classified principally to this subchapter. For complete classification of title I, §101(c) [title VII], to the Code, see Short Title note below and Tables.

SHORT TITLE

Pub. L. 104–208, div. A, title I, §101(c) [title VII, §701], Sept. 30, 1996, 110 Stat. 3009–121, 2009–179, provided that: "This title [enacting this subchapter and amending sections 262r and 276c–2 of this title and section 24 of Title 12, Banks and Banking] may be cited as the 'Bank for Economic Cooperation and Development in the Middle East and North Africa Act'."

§290*o*–1. Governor and alternate Governor

(a) Appointment

At the inaugural meeting of the Board of Governors of the Bank, the Governor and the alternate for the Governor of the International Bank for Reconstruction and Development, appointed pursuant to section 286a of this title, shall serve ex-officio as a Governor and the alternate for the Governor, respectively, of the Bank. The President, by and with the advice and consent of the Senate, shall appoint a Governor of the Bank and an alternate for the Governor.

(b) Compensation

Any person who serves as a governor of the Bank or as an alternate for the Governor may not receive any salary or other compensation from the United States by reason of such service.

(Pub. L. 104–208, div. A, title I, §101(c) [title VII, §703], Sept. 30, 1996, 110 Stat. 3009–121, 3009–179.)

§290*o*–2. Applicability of certain provisions of Bretton Woods Agreements Act

Section 286b of this title shall apply to the Bank in the same manner in which such section applies to the International Bank for Reconstruction and Development and the International Monetary Fund.

(Pub. L. 104–208, div. A, title I, §101(c) [title VII, §704], Sept. 30, 1996, 110 Stat. 3009–121, 3009–179.)

REFERENCES IN TEXT

The Bretton Woods Agreements Act, referred to in section catchline, is act July 31, 1945, ch. 339, 59 Stat. 512, as amended, which is classified principally to subchapter XV (§286 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 286 of this title and Tables.

§290*o*–3. Federal Reserve Banks as depositories

Any Federal Reserve Bank which is requested to do so by the Bank may act as its depository, or as its fiscal agent, and the Board of Governors of the Federal Reserve System shall exercise general supervision over the carrying out of these functions.

(Pub. L. 104–208, div. A, title I, §101(c) [title VII, §705], Sept. 30, 1996, 110 Stat. 3009–121, 3009–179.)

§290*o*–4. Subscription of stock

(a) Subscription authority

(1) In general

The Secretary of the Treasury may subscribe on behalf of the United States to not more than 7,011,270 shares of the capital stock of the Bank.

(2) Effectiveness of subscription commitment

Any commitment to make such subscription shall be effective only to such extent or in such amounts as are provided for in advance by appropriations Acts.

(b) Limitations on authorization of appropriations

For payment by the Secretary of the Treasury of the subscription of the United States for shares described in subsection (a), there are authorized to be appropriated $1,050,007,800 without fiscal year limitation.

(c) Limitations on obligation of appropriated amounts for shares of capital stock

(1) Paid-in capital stock

(A) In general

Not more than $105,000,000 of the amounts appropriated pursuant to subsection (b) may be obligated for subscription to shares of paid-in capital stock.

(B) Fiscal year 1997

Not more than $52,500,000 of the amounts appropriated pursuant to subsection (b) for fiscal year 1997 may be obligated for subscription to shares of paid-in capital stock.

(2) Callable capital stock

Not more than $787,505,852 of the amounts appropriated pursuant to subsection (b) may be obligated for subscription to shares of callable capital stock.

(d) Disposition of net income distributions by Bank

Any payment made to the United States by the Bank as a distribution of net income shall be covered into the Treasury as a miscellaneous receipt.

(Pub. L. 104–208, div. A, title I, §101(c) [title VII, §706], Sept. 30, 1996, 110 Stat. 3009–121, 3009–179.)

§290*o*–5. Jurisdiction and venue of civil actions by or against Bank

(a) Jurisdiction

The United States district courts shall have original and exclusive jurisdiction of any civil action brought in the United States by or against the Bank.

(b) Venue

For purposes of section 1391(b) of title 28, the Bank shall be deemed to be a resident of the judicial district in which the principal office of the Bank in the United States, or its agent appointed for the purpose of accepting service or notice of service, is located.

(Pub. L. 104–208, div. A, title I, §101(c) [title VII, §707], Sept. 30, 1996, 110 Stat. 3009–121, 3009–180.)

§290*o*–6. Effectiveness of Agreement

The Agreement shall have full force and effect in the United States, its territories and possessions, and the Commonwealth of Puerto Rico, upon acceptance of membership by the United States in the Bank and the entry into force of the Agreement.

(Pub. L. 104–208, div. A, title I, §101(c) [title VII, §708], Sept. 30, 1996, 110 Stat. 3009–121, 3009–180.)

§290*o*–7. Exemption from securities laws for certain securities issued by Bank; reports required

(a) Exemption from securities laws; reports to Securities and Exchange Commission

Any securities issued by the Bank (including any guaranty by the Bank, whether or not limited in scope) in connection with borrowing of funds, or the guarantee of securities as to both principal and interest, shall be deemed to be exempted securities within the meaning of section 77c(a)(2) of title 15 and section 78c(a)(12) of title 15. The Bank shall file with the Securities and Exchange Commission such annual and other reports with regard to such securities as the Commission shall determine to be appropriate in view of the special character of the Bank and its operations and necessary in the public interest or for the protection of investors.

(b) Authority of Securities and Exchange Commission to suspend exemption; reports to Congress

The Securities and Exchange Commission, acting in consultation with such agency or officer as the President shall designate, may suspend the provisions of subsection (a) at any time as to any or all securities issued or guaranteed by the Bank during the period of such suspension. The Commission shall include in its annual reports to the Congress such information as it shall deem advisable with regard to the operations and effect of this section.

(Pub. L. 104–208, div. A, title I, §101(c) [title VII, §709], Sept. 30, 1996, 110 Stat. 3009–121, 3009–180.)

SUBCHAPTER XXXI—INTERNATIONAL RENEWABLE ENERGY AGENCY

§290p. Acceptance of statute and membership

For fiscal year 2011 and thereafter, the President is authorized to accept the statute of, and to maintain membership of the United States in, the International Renewable Energy Agency, and the United States' assessed contributions to maintain such membership may be paid from funds appropriated for "Contributions to International Organizations".

(Pub. L. 111–212, title I, §1014, July 29, 2010, 124 Stat. 2332.)

SUBCHAPTER XXXII—ORGANIZATION OF AMERICAN STATES

§290q. Organization of American States revitalization and reform strategy

(a) Strategy

(1) In general

Not later than 180 days after October 2, 2013, the Secretary of State shall submit to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives a multiyear strategy that—

(A) identifies a path toward the adoption of necessary reforms that prioritize and reinforce the OAS's core competencies described in section 4(8);

(B) outlines an approach to secure from the OAS effective adoption of—

(i) a results-based budgeting process in order to strategically prioritize, and where appropriate, reduce current and future mandates; and

(ii) transparent hiring, firing, and promotion practices;

(C) reflects the inputs and coordination from other Executive Branch agencies, as appropriate; and

(D) identifies a path toward the adoption of necessary reforms that would—

(i) lead to an assessed fee structure in which no member state would pay more than 50 percent of the OAS's assessed yearly fees; and

(ii) seek to minimize the negative financial impact on the OAS and its operations.

(2) Policy priorities and coordination

The Secretary of State shall—

(A) carry out diplomatic engagement to build support for reforms and budgetary burden sharing among OAS member states and observers; and

(B) promote donor coordination among OAS member states.

(b) Briefings

The Secretary of State shall offer to the committees referred to in subsection (a)(1) a quarterly briefing that—

(1) reviews assessed and voluntary contributions;

(2) analyzes the progress made by the OAS to adopt and effectively implement a results-based budgeting process in order to strategically prioritize, and where appropriate, reduce current and future mandates;

(3) analyzes the progress made by the OAS to adopt and effectively implement transparent and merit-based human resource standards and practices and transparent hiring, firing, and promotion standards and processes, including with respect to factors such as gender and national origin;

(4) analyzes the progress made by the OAS to adopt and effectively implement a practice of soliciting member quotas to be paid on a schedule that will improve the consistency of its operating budget; and

(5) analyzes the progress made by the OAS to review, streamline, and prioritize mandates to focus on core missions and make efficient and effective use of available funding.

(Pub. L. 113–41, §5, Oct. 2, 2013, 127 Stat. 550.)

REFERENCES IN TEXT

Section 4(8), referred to in subsec. (a)(1)(A), is section 4(8) of Pub. L. 113–41, Oct. 2, 2013, 127 Stat. 549, which is not classified to the Code.

SHORT TITLE

Pub. L. 113–41, §1, Oct. 2, 2013, 127 Stat. 548, provided that: "This Act [enacting this section and provisions set out as notes under this section] may be cited as the 'Organization of American States Revitalization and Reform Act of 2013'."

FINDINGS

Pub. L. 113–41, §2, Oct. 2, 2013, 127 Stat. 548, provided that: "Congress makes the following findings:

"(1) The Charter of the Organization of American States recognizes that—

"(A) representative democracy is indispensable for the stability, peace, and development of the Western Hemisphere; and

"(B) a purpose of the Organization of American States is to promote and consolidate representative democracy, with due respect for the principle of nonintervention.

"(2) The United States supports the purposes and principles enshrined in—

"(A) the Charter of the Organization of American States;

"(B) the Inter-American Democratic Charter; and

"(C) the American Declaration on the Rights and Duties of Man.

"(3) The United States supports the Organization of American States in its efforts with all member states to meet our commitments under the instruments set forth in paragraph (2).

"(4) Congress supports the Organization of American States as it operates in a manner consistent with the Inter-American Democratic Charter."

STATEMENT OF POLICY

Pub. L. 113–41, §3, Oct. 2, 2013, 127 Stat. 548, provided that: "It is the policy of the United States—

"(1) to promote democracy and the rule of law throughout the Western Hemisphere;

"(2) to promote and protect human rights and fundamental freedoms in the Western Hemisphere; and

"(3) to support the practices, purposes, and principles expressed in the Charter of the Organization of American States, the American Declaration on the Rights and Duties of Man, the Inter-American Democratic Charter, and other fundamental instruments of democracy."

CHAPTER 8—FOREIGN SERVICE BUILDINGS

Sec.

291. Lease of buildings, etc., for offices, living quarters, heat, light, and equipment.

292. Acquisition of sites and buildings for diplomatic and consular establishments; allotment of space; credit of payments without regard to limitations of amounts.

292a. Demonstration of solar and other renewable energy technologies in foreign countries.

293. Repealed.

294. Manner of use of buildings; contracts for construction, etc.

294a. Contracts requiring payment in foreign currency.

295. Authorization of appropriations; Foreign Service Building Fund; expenditures; foreign currencies.

295a, 295b. Omitted.

296. Duties of Secretary of State with respect to commission and properties.

296a. Maintenance management of overseas property.

297. Acquisition of property by lease.

297a, 298. Omitted.

299. Short title.

300. Dispositions of property; damage payments; acceptance of gifts or services.
301. Lease or rental arrangements of not less than ten years; approval by Secretary; delegation of authority; information to Congress.
302. Award of contracts.
303. Repealed.
304. Annual report on embassy construction costs.

§291. Lease of buildings, etc., for offices, living quarters, heat, light, and equipment

The Secretary of State may lease or rent, for periods not exceeding ten years, such buildings and grounds for the use of the Foreign Service as may be necessary; and he may, in accordance with existing practice without cost to them, and within the limit of any appropriation made by Congress, furnish the officers and employees in the Foreign Service with living quarters, heat, light, and household equipment in Government-owned or rented buildings, at places where, in his judgment, it would be in the public interest to do so, notwithstanding the provisions of section 5536 of title 5; and appropriations for "Contingent expenses, foreign missions," and "Contingent expenses, consulates," are made available for such purposes.

(Apr. 18, 1930, ch. 184, title I, 46 Stat. 177.)

CODIFICATION

Section was not enacted as part of the Foreign Service Buildings Act, 1926, which comprises this chapter.

"Section 5536 of title 5" substituted in text for "section 1765 of the Revised Statutes (U.S.C., title 5, sec. 70; U.S.C., Supp. III, title 5, sec. 70)" on authority of Pub. L. 89–554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

§292. Acquisition of sites and buildings for diplomatic and consular establishments; allotment of space; credit of payments without regard to limitations of amounts

(a) Authority of Secretary of State

The Secretary of State is empowered to acquire by purchase or construction in the manner hereinafter provided, within the limits of appropriations made to carry out this chapter, by exchange, in whole or in part, of any building or grounds of the United States in foreign countries and under the jurisdiction and control of the Secretary of State, sites and buildings in foreign capitals and in other foreign cities, and to alter, repair, and furnish such buildings for the use of the diplomatic and consular establishments of the United States, or for the purpose of consolidating within one or more buildings, the embassies, legation, consulates, and other agencies of the United States Government there maintained. The space in such buildings shall be allotted by the Secretary of State among the several agencies of the United States Government.

(b) Payments from other than appropriated funds for acquisition of property

Payments made for rent or otherwise by the United States from funds other than appropriations made to carry out this chapter may be credited toward the acquisition of property under this chapter without regard to limitations of amounts imposed by this chapter.

(c) Authorization for improvements and construction

The Secretary of State may improve or construct facilities overseas for other Federal departments and agencies on an advance-of-funds or reimbursable basis if such advances or reimbursements are credited to the Embassy Security, Construction, and Maintenance account and remain available until expended.

(May 7, 1926, ch. 250, §1, 44 Stat. 403; May 29, 1928, ch. 876, §1, 45 Stat. 971; Pub. L. 88–94, §2(b), Aug. 12, 1963, 77 Stat. 122; Pub. L. 89–636, §2, Oct. 10, 1966, 80 Stat. 881; Pub. L. 95–105,

title I, §106(a), Aug. 17, 1977, 91 Stat. 845; Pub. L. 114–323, title I, §119, Dec. 16, 2016, 130 Stat. 1912.)

AMENDMENTS

2016—Subsec. (c). Pub. L. 114–323 added subsec. (c).

1977—Subsec. (a). Pub. L. 95–105, §106(a)(1), substituted "to carry out" for "pursuant to".

Subsec. (b). Pub. L. 95–105, §106(a)(2), substituted "to carry out" for "under authority of".

1966—Pub. L. 89–636 designated existing provisions as subsec. (a) and added subsec. (b).

1963—Pub. L. 88–94 struck out ", subject to the direction of the commission hereinafter established," after "is empowered", "under such terms and conditions as in the judgment of the commission may best protect the interests of the United States," after "in part," and ", to the extent deemed advisable by the commission," after "consolidating" and substituted ". The space in such buildings shall be allotted by the Secretary of State" for ", which buildings shall be appropriately designated by the commission, and the space in which shall be allotted by the Secretary of State under the direction of the commission."

1928—Act May 29, 1928, inserted "or by exchange, in whole or in part, under such terms and conditions as in the judgment of the commission may best protect the interest of the United States, of any building or grounds of the United States in foreign countries and under the jurisdiction and control of the Secretary of State".

PROPERTY AGREEMENTS

Pub. L. 103–236, title I, §134, Apr. 30, 1994, 108 Stat. 396, as amended by Pub. L. 103–415, §1(z), Oct. 25, 1994, 108 Stat. 4302, provided that: "Whenever the Department of State enters into lease-purchase agreements involving property in foreign countries pursuant to section 1 of the Foreign Service Buildings Act, 1926 (22 U.S.C. 292), the Department shall account for such transactions in accordance with fiscal year obligations."

§292a. Demonstration of solar and other renewable energy technologies in foreign countries

(a) Use of renewable energy systems in United States buildings in foreign countries

It is the purpose of this section to provide for the demonstration of solar energy and other renewable energy technologies in foreign countries through the use of such energy in buildings acquired under subsection (a) of section 292 of this title, in order that—

(1) countries in which such buildings are located may be given visible incentives to develop and use local solar energy or other renewable energy resources to reduce dependence upon petroleum and petroleum products;

(2) markets may be developed for American solar energy systems and components in order to stimulate investment in such systems and components and to reduce the costs of such systems and components to reasonable levels;

(3) in furtherance of the purpose of section 2151q [1] of this title, cooperation may be developed between the United States and other countries in an effort to develop solar energy or other renewable energy systems within a short period of time; and

(4) equipment which is vital to the operation of sensitive systems within United States missions abroad may be made more reliable and less dependent upon interruptible local energy supplies.

(b) Implementation of renewable energy projects by Secretary

(1) The Secretary of State shall implement projects for the application of solar energy or other forms of renewable energy in buildings acquired under subsection (a) section 292 of this title.

(2) The Secretary of State shall select projects under paragraph (1) in consultation with the Secretary of Energy. Such projects shall apply available solar energy and other renewable energy technologies, including those for—

(A) the heating and cooling of buildings;

(B) solar thermal electric systems;

(C) solar photovoltaic conversion systems;

(D) wind energy systems; and

(E) systems for developing fuels from biomass.

The Secretary of Energy shall inform the Secretary of State of all such technologies which are feasible for such projects, taking into account the resources and environmental conditions of the countries in which such projects are to be implemented. Upon the request of the Secretary of State, the Secretary of Energy shall provide to the Secretary of State any technical information or other technical assistance which the Secretary of State considers necessary with respect to any such project. Any project selected under this section should be similar to projects which have been demonstrated by the Department of Energy (or any of its predecessor agencies) to be reliable, maintainable, and technically feasible.

(3) Any project selected under this section shall be adaptable to the local resources, climatic conditions, and economic circumstances of the country in which such project is implemented in order that such country will be more likely to implement similar projects.

(4) The Secretary of State shall insure that any project selected under this section is demonstrated to, and available for inspection by, officials and other citizens of the country in which such project is implemented.

(5) In selecting projects under this section, the Secretary of State shall give priority to projects to be implemented in developing countries.

(c) Planning for use of renewable energy systems in construction of new buildings

Whenever any building is constructed under the authority contained in section 292 of this title, the Secretary of State shall insure that the planning for such construction takes into account those renewable energy systems which are available in the country in which the building is to be constructed.

(d) Availability of sums previously authorized to be appropriated

In addition to amounts otherwise available for such purposes, $4,000,000 of the amount authorized to be appropriated by section 101(a)(1) of this Act shall be available only to carry out the purposes of this section.

(Pub. L. 95–426, title I, §105, Oct. 7, 1978, 92 Stat. 965.)

REFERENCES IN TEXT

Section 2151q of this title, referred to in subsec. (a)(3), was repealed by Pub. L. 96–533, title III, §304(g), Dec. 16, 1980, 94 Stat. 3147. See section 2151d(a)(2), (b)(2), (c) of this title.

Section 101(a)(1) of this Act, referred to in subsec. (d), means section 101(a)(1) of Pub. L. 95–426, which is not classified to the Code.

CODIFICATION

Section was not enacted as part of the Foreign Service Buildings Act, 1926, which comprises this chapter.

[1] *See References in Text note below.*

§293. Repealed. Pub. L. 88–94, §2(a), Aug. 12, 1963, 77 Stat. 122

Section, acts May 7, 1926, ch. 250, §2, 44 Stat. 404; May 29, 1928, ch. 876, §2, 45 Stat. 971; June 19, 1952, ch. 446, §1, 66 Stat. 140, established the Foreign Service Buildings Commission, prescribed its duties, abolished the prior commission, authorized the issuance of rules and regulations, required annual reports to Congress and provided for appointment of personnel.

FOREIGN SERVICE BUILDINGS COMMISSION; REFERENCES IN OTHER LAWS

Pub. L. 88–94, §2(g), Aug. 12, 1963, 77 Stat. 122, provided that: "All references to the Foreign Service Buildings Commission, originally established by the Foreign Service Buildings Act, 1926 [this chapter] in all laws of the United States are hereby repealed."

§294. Manner of use of buildings; contracts for construction, etc.

Buildings and grounds acquired under this chapter or prior to May 7, 1926, acquired or authorized for the use of the diplomatic and consular establishments in foreign countries may be used, in the case of buildings and grounds for the diplomatic establishment, as Government offices or residences or as such offices and residences; or, in the case of other buildings and grounds, as such offices or such offices and residences. The contracts for purchases of buildings, for leases, and for all work of construction, alteration, and repair under this chapter are authorized to be negotiated, the terms of the contracts to be prescribed, and the work to be performed, where necessary, without regard to such statutory provisions as relate to the negotiation, making, and performance of contracts and performance of work in the United States and without regard to section 3324(a) and (b) of title 31.

(May 7, 1926, ch. 250, §3, 44 Stat. 404; Pub. L. 88–94, §2(c), Aug. 12, 1963, 77 Stat. 122; Pub. L. 102–138, title I, §115(c), Oct. 28, 1991, 105 Stat. 656.)

CODIFICATION

"Section 3324(a) and (b) of title 31" substituted in text for "section 3648 of the Revised Statutes of the United States (31 U.S.C. 529)" on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

1991—Pub. L. 102–138 inserted "purchases of buildings, for leases, and for" after "contracts for".

1963—Pub. L. 88–94 struck out ", subject to the direction of the commission," before "be used" and "in the judgment of the commission," after "where necessary," and inserted "and without regard to section 529 of title 31".

§294a. Contracts requiring payment in foreign currency

Whenever a contract is made for the construction, alteration, or repair of a Foreign Service building which requires payments in a foreign currency, the Secretary of State is authorized to purchase such currency at such times and in such amounts (within the total amount of the payments to be made under such contract) as he may deem necessary, the currency so purchased to be disbursed and accounted for at its cost price.

(May 14, 1940, ch. 189, title I, 54 Stat. 186.)

CODIFICATION

Section was not enacted as a part of the Foreign Service Buildings Act, 1926, which comprises this chapter.

PRIOR PROVISIONS

Prior similar provisions were contained in act June 29, 1939, ch. 248, title I, 53 Stat. 890.

§295. Authorization of appropriations; Foreign Service Building Fund; expenditures; foreign currencies

(a) For the purpose of carrying into effect the provisions of this chapter there is authorized to be appropriated an amount not exceeding $10,000,000, and the appropriations made pursuant to this authorization shall constitute a fund to be known as the Foreign Service Building Fund, to remain available until expended. Under this authorization not more than $2,000,000 shall be appropriated for any one year, but within the total authorization provided in this chapter the Secretary of State may enter into contracts for the acquisition of the buildings and grounds authorized by this chapter. In the case of the buildings and grounds authorized by this chapter, after the initial alterations, repairs, and furnishing have been completed, subsequent expenditures for such purposes may be made out of the appropriations authorized by this chapter in amounts authorized by the Congress each fiscal year.

(b) For the purpose of carrying into effect the provisions of this chapter there is authorized to be

appropriated, in addition to amounts previously authorized, an amount not to exceed $90,000,000, which shall be available exclusively for payments representing the value, in whole or in part, of property or credits in accordance with the provisions of section 295b [1] of this title. Sums appropriated pursuant to this authorization shall remain available until expended.

(c) For the purpose of carrying into effect the provisions of this chapter there is hereby authorized to be appropriated, in addition to amounts previously authorized, an amount not to exceed $10,000,000, which shall remain available until expended.

(d) In addition to amounts authorized before the date of enactment of this section, there is hereby authorized to be appropriated to the Secretary of State—

(1) for acquisition, by purchase or construction (including acquisition of leaseholds) of sites and buildings in foreign countries under this chapter, and for major alterations of buildings acquired under this chapter, the following sums—

(A) for use in Africa, not to exceed $7,140,000 of which not to exceed $3,270,000 may be appropriated for the fiscal year 1964;

(B) for use in the American Republics, not to exceed $5,360,000, of which not to exceed $4,030,000 may be appropriated for the fiscal year 1964;

(C) for use in Europe, not to exceed $6,839,000, of which not to exceed $1,820,000 may be appropriated for the fiscal year 1964;

(D) for use in the Far East, not to exceed $2,350,000, of which not to exceed $2,200,000 may be appropriated for the fiscal year 1964;

(E) for use in the Near East, not to exceed $2,710,000, of which not to exceed $2,100,000 may be appropriated for the fiscal year 1964;

(F) for facilities for the United States Information Agency, not to exceed $1,125,000, of which not to exceed $720,000 may be appropriated for the fiscal year 1964, and

(G) for facilities for agricultural and defense attaché housing, not to exceed $800,000, of which not to exceed $400,000 may be appropriated for the fiscal year 1964;

(2) for use to carry out the other purposes of this chapter, not to exceed $11,500,000 for the fiscal year 1964, $12,000,000 for the fiscal year 1965, $12,200,000 for the fiscal year 1966, $12,400,000 for the fiscal year 1967.

(e) For the purpose of carrying into effect the provisions of this chapter in South Vietnam, there is hereby authorized to be appropriated, in addition to amounts previously authorized prior to May 21, 1965, $2,600,000, to remain available until expended.

(f) In addition to amounts authorized before October 10, 1966, there is hereby authorized to be appropriated to the Secretary of State—

(1) for acquisition by purchase or construction (including acquisition of leaseholds) of sites and buildings in foreign countries under this chapter, and for major alterations of buildings acquired under this chapter, the following sums—

(A) for use in Africa, not to exceed $5,485,000, of which not to exceed $1,885,000 may be appropriated for the fiscal year 1967;

(B) for use in the American Republics, not to exceed $7,920,000, of which not to exceed $3,585,000 may be appropriated for the fiscal year 1967;

(C) for use in Europe, not to exceed $3,310,000, of which not to exceed $785,000 may be appropriated for the fiscal year 1967;

(D) for use in the Far East, not to exceed $3,150,000, of which not to exceed $560,000 may be appropriated for the fiscal year 1967;

(E) for use in the Near East, not to exceed $6,930,000, of which not to exceed $1,890,000 may be appropriated for the fiscal year 1967;

(F) for facilities for the United States Information Agency, not to exceed $615,000, of which not to exceed $430,000 may be appropriated for the fiscal year 1967;

(G) for facilities for agricultural and defense attaché housing, not to exceed $800,000, of which not to exceed $400,000 may be appropriated for the fiscal year 1967;

(2) for use to carry out the other purposes of this chapter, not to exceed $12,600,000 for the fiscal year 1968, not to exceed $12,750,000 for the fiscal year 1969, not to exceed $13,500,000 for the fiscal year 1970, not to exceed $14,300,000 for the fiscal year 1971, not to exceed $15,000,000 for the fiscal year 1972, and not to exceed $15,900,000 for the fiscal year 1973.

(g) In addition to amounts authorized before June 22, 1973, there is hereby authorized to be appropriated to the Secretary of State—

(1) for acquisition by purchase or construction (including acquisition of leaseholds) of sites and buildings in foreign countries under this chapter, and for major alterations of buildings acquired under this chapter, the following sums—

(A) for use in Africa, not to exceed $850,000, of which not to exceed $631,000 may be appropriated for the fiscal year 1974;

(B) for use in the American Republics, not to exceed $240,000, of which not to exceed $240,000 may be appropriated for the fiscal year 1974;

(C) for use in Europe, not to exceed $682,000, of which not to exceed $204,000 may be appropriated for the fiscal year 1974;

(D) for use in East Asia, not to exceed $1,243,000, of which not to exceed $985,000 may be appropriated for the fiscal year 1974;

(E) for use in the Near East and South Asia, not to exceed $10,433,000, of which not to exceed $2,287,000 may be appropriated for the fiscal year 1974;

(F) for facilities for the United States Information Agency, not to exceed $45,000 for use beginning in the fiscal year 1975;

(G) for facilities for agricultural and defense attaché housing, not to exceed $318,000 for use beginning in the fiscal year 1974; and

(2) for use to carry out other purposes of this chapter for fiscal years 1974 and 1975, $48,532,000, of which not to exceed $23,066,000 may be appropriated for fiscal year 1974.

(h) In addition to amounts authorized before November 29, 1975, there is authorized to be appropriated to the Secretary of State—

(1) for acquisition by purchase or construction (including acquisition of leaseholds) of sites and buildings in foreign countries under this chapter, and for major alterations of buildings acquired under this chapter, the following sums—

(A) for use in Europe, not to exceed $225,000 for fiscal year 1977;

(B) for use in the Near East and South Asia, not to exceed $12,885,000, of which not to exceed $3,985,000 may be appropriated for fiscal year 1976;

(C) for facilities for the United States Information Agency, not to exceed $3,400,000, of which not to exceed $2,800,000 may be appropriated for fiscal year 1976;

(D) for facilities for agricultural and defense attaché housing, not to exceed $150,000 for fiscal year 1977; and

(E) for facilities for the United States Agency for International Development, not to exceed $17,200,000 for fiscal year 1977; and

(2) for use to carry out the other purposes of this chapter for fiscal years 1976 and 1977, $73,058,000, of which not to exceed $32,840,000 may be appropriated for fiscal year 1976.

(i)(1) Sums appropriated under authority of this chapter shall remain available until expended. To the maximum extent feasible, expenditures under this chapter shall be made out of foreign currencies owned by or owed to the United States.

(2) Not to exceed 10 per centum of the funds authorized by any subparagraph under paragraph (1) of subsections (d), (f), (g), and (h) of this section may be used for any of the purposes for which funds are authorized under any other subparagraph of any of such paragraph (1).

(3) There are hereby authorized to be appropriated to the Secretary of State such additional or supplemental amounts as may be necessary for increases in salary, pay, retirement, or other employee benefits authorized by law.

(j)(1) In addition to exercising any other transfer authority available to the Secretary of State, and subject to paragraph (2), the Secretary may transfer to, and merge with, any appropriation for fiscal year 2018 under the heading "Diplomatic and Consular Programs", including for Worldwide Security Protection, and under the heading "Embassy Security, Construction, and Maintenance" funds appropriated under such headings if the Secretary determines such transfer is necessary to implement the recommendations of the Benghazi Accountability Review Board, or to prevent or respond to security situations and requirements.

(A) shall [2] not exceed 20 percent of any appropriation made available for fiscal year 2018 for the Department of State under the heading "Administration of Foreign Affairs", and no such appropriation shall be increased by more than 10 percent by any such transfer; and

(B) shall [2] be merged with funds in the heading to which transferred, and shall be available subject to the same terms and conditions as the funds with which merged.

(2) Not later than 15 days before any transfer of funds pursuant to paragraph (1), the Secretary of State shall notify in writing the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives. Any such notification shall include a description of the particular security need necessitating the transfer at issue.

(May 7, 1926, ch. 250, §4, 44 Stat. 404; June 19, 1952, ch. 446, §2, 66 Stat. 140; Pub. L. 86–723, §49, Sept. 8, 1960, 74 Stat. 847; Pub. L. 88–94, §§1, 2(d), Aug. 12, 1963, 77 Stat. 121, 122; Pub. L. 88–414, Aug. 10, 1964, 78 Stat. 387; Pub. L. 89–22, May 21, 1965, 79 Stat. 112; Pub. L. 89–636, §1, Oct. 10, 1966, 80 Stat. 881; Pub. L. 90–442, July 30, 1968, 82 Stat. 461; Pub. L. 91–586, Dec. 24, 1970, 84 Stat. 1578; Pub. L. 93–47, June 22, 1973, 87 Stat. 98; Pub. L. 93–263, Apr. 12, 1974, 88 Stat. 83; Pub. L. 94–141, title I, §171, Nov. 29, 1975, 89 Stat. 760; Pub. L. 94–350, title I, §109, July 12, 1976, 90 Stat. 824; Pub. L. 95–45, §3, June 15, 1977, 91 Stat. 221; Pub. L. 103–199, title V, §503, Dec. 17, 1993, 107 Stat. 2327; Pub. L. 114–323, title I, §113, Dec. 16, 2016, 130 Stat. 1911.)

REFERENCES IN TEXT

Section 295b of this title, referred to in subsec. (b), was omitted from the Code.

Date of enactment of this section, referred to in subsec. (d), probably means the date of enactment of Pub. L. 88–94, which was approved on Aug. 12, 1963.

AMENDMENTS

2016—Subsec. (j). Pub. L. 114–323 added subsec. (j).

1993—Subsec. (j). Pub. L. 103–199 struck out subsec. (j) which read as follows: "For the purpose of carrying into effect the provisions of this chapter in the Union of Soviet Socialist Republics, there is authorized to be appropriated, in addition to amounts authorized prior to July 12, 1976, $30,000,000, which amount is authorized to remain available until expended."

1977—Subsec. (h)(1). Pub. L. 95–45 substituted "$225,000" for "$6,725,000" in subpar. (A), "$12,885,000" for "$8,005,000" in subpar. (B), "$3,400,000" for "$3,745,000" in subpar. (C), "$150,000" for "$420,000" in subpar. (D), added subpar. (E), authorizing an appropriation of not to exceed $17,200,000 for facilities for the United States Agency for International Development for fiscal year 1977, and struck out subpars. which had authorized appropriations for Africa, the American Republics, and East Asia for fiscal year 1977.

1976—Subsec. (h)(2). Pub. L. 94–350, §109(1), increased appropriations authorization for fiscal years 1976 and 1977 to $73,058,000 from $71,600,000.

Subsec. (j). Pub. L. 94–350, §109(2), added subsec. (j).

1975—Subsec. (g)(1). Pub. L. 94–141, §171(a), substituted "$850,000" for "$2,190,000" in subpar. (A), "$240,000" for "$375,000" in subpar. (B), "$682,000" for "$4,780,000" in subpar. (C), "$1,243,000" for "$2,585,000" in subpar. (D), and "$10,433,000" for "$3,518,000" in subpar. (E).

Subsec. (h). Pub. L. 94–141, §171(b)(1), added subsec. (h). Former subsec. (h) redesignated (i).

Subsec. (i). Pub. L. 94–141, §171(b), redesignated former subsec. (h) as (i), and, as so redesignated, in par.

(2) inserted reference to subsec. (h) of this section.

1974—Subsec. (g)(1). Pub. L. 93–263, §1(1)–(3), increased appropriations authorization for fiscal year 1974, in subpar. (A) to $631,000 from $590,000, in subpar. (C) to $204,000 from $160,000, and in subpar. (E) to $2,287,000 from $2,218,000.

Subsec. (g)(2). Pub. L. 92–263, §1(4), increased appropriations authorization for fiscal years 1974 and 1975 to $48,532,000 from $45,800,000 and increased limitation for fiscal year 1974, to $23,066,000 from $21,700,000.

1973—Subsec. (g). Pub. L. 93–47, §1(1), added subsec. (g). Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 93–47, §1(1), (2), redesignated former subsec. (g) as (h), struck out from par. (2) provision for application of the paragraph beginning with the fiscal year 1966, inserted reference to subsec. (g), and added par. (3), respectively.

1970—Subsec. (f)(2). Pub. L. 91–586 authorized appropriations of not more than $15,000,000 for fiscal year 1972, and not more than $15,900,000 for fiscal year 1973.

1968—Subsec. (f)(2). Pub. L. 90–442 authorized appropriations not to exceed $13,500,000 for fiscal year 1970, and not to exceed $14,300,000 for fiscal year 1971.

1966—Subsec. (d). Pub. L. 89–636, §1(1), struck out last three sentences providing for availability of appropriated funds until expended, use of foreign currencies for expenditures, and use of funds authorized by any subpar. of par. (1) of subsec. (d), now incorporated in subsec. (g)(1) and (2) of this section, respectively.

Subsec. (e). Pub. L. 89–636, §1(2), substituted "$2,600,000" for "$1,000,000".

Subsec. (f). Pub. L. 89–636, §1(3), added subsec. (f).

Subsec. (g). Pub. L. 89–636, §1(3), redesignated second and third sentences of subsec. (d) as par. (1) and last sentence of subsec. (d) as par. (2), inserting therein provision for use of funds authorized by any subpar. of par. (1) of subsec. (f).

1965—Subsec. (e). Pub. L. 89–22 added subsec. (e).

1964—Subsec. (d). Pub. L. 88–414 authorized appropriations of not more than $12,200,000 for fiscal year 1966, $12,400,000 for fiscal year 1967, and beginning with fiscal year 1966, permitted use of not more than 10 per centum of the funds authorized for any subparagraph under par. (1) of this subsection for the purposes of any other subparagraph of such par. (1).

1963—Subsec. (a). Pub. L. 88–94, §2(d), struck out ", subject to the direction of the commission," after "Secretary of State".

Subsec. (d). Pub. L. 88–94, §1, added subsec. (d).

1960—Subsec. (c). Pub. L. 86–723 added subsec. (c).

Subsec. (b). Act June 19, 1952, added subsec. (b).

1952—Act June 19, 1952, designated existing provisions as subsec. (a), permitted the expenditure of the authorized and appropriated funds for continuing alterations, repairs, and furnishings, and added subsec. (b).

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment by Pub. L. 86–723 effective on first day of first pay period which begins more than thirty days after Sept. 8, 1960, see section 56(a) of Pub. L. 86–723.

TRANSFER OF FUNCTIONS

United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau) abolished and functions transferred to Secretary of State, see sections 6531 and 6532 of this title.

[1] *See References in Text note below.*

[2] *So in original.*

§§295a, 295b. Omitted

CODIFICATION

Section 295a, act May 25, 1938, ch. 275, 52 Stat. 441, authorized additional appropriations of an amount not to exceed $5,000,000.

Section 295b, act June 25, 1946, ch. 643, 60 Stat. 663, authorized additional appropriations of an amount not to exceed $125,000,000 of which $110,000,000 was to be used exclusively for the payments representing

the value of property or credits held abroad by the Government or owing to the Government which could have been used by the Department of State for buildings, equipment, etc.

DIPLOMATIC ESTABLISHMENTS IN PHILIPPINE ISLANDS

Acts July 9, 1947, ch. 211, title I, §101, 61 Stat. 288; June 3, 1948, ch. 400, title I, §1, 62 Stat. 315; July 20, 1949, ch. 354, title I, §101, 63 Stat. 456, provided in part that the construction of diplomatic and consular establishments in the Philippines should be without regard to the limitation proviso of section 295a.

§296. Duties of Secretary of State with respect to commission and properties

For the purposes of this chapter the Secretary of State is authorized to supervise, preserve, maintain, operate, and, when deemed necessary, to insure the Foreign Service properties in foreign countries and the other properties acquired in accordance with the provisions of this chapter; to rent and insure objects of art; to collect information and formulate plans; and, without regard to civil service and classification laws, to obtain architectural and other expert technical services as may be necessary and pay therefor the scale of professional fees as established by local authority, law or custom, and to make expenditures without regard to section 295a of this title requiring purchase of articles manufactured in the United States.

(May 7, 1926, ch. 250, §5, 44 Stat. 404; June 19, 1952, ch. 446, §3, 66 Stat. 140.)

REFERENCES IN TEXT

Section 295a of this title, referred to in text, was omitted from the Code.

AMENDMENTS

1952—Act June 19, 1952, amended section generally to authorize Secretary of State to supervise, preserve, maintain, operate, and insure Foreign Service property in foreign countries.

§296a. Maintenance management of overseas property

The Director of the Office of Foreign Buildings Operations shall—

(1) direct overseas posts to make annual building condition assessments of buildings and facilities used by the post;

(2) not later than 90 days after October 28, 1991, revise the Foreign Affairs Manual to stipulate that the Buildings and Maintenance Handbook shall be used by each post to identify their maintenance needs, standardize their maintenance operations, and conduct annual assessments as required by paragraph (1);

(3) direct the Office of Foreign Buildings Operations to provide proper training and assistance to posts to ensure that annual surveys are effectively completed; and

(4) direct overseas posts to ensure that all maintenance program fiscal transactions are properly encoded in the Department of State accounting system to enable compilation of actual expenditures on routine maintenance and specific maintenance funded by the Office of Foreign Buildings Operations.

(Pub. L. 102–138, title I, §125, Oct. 28, 1991, 105 Stat. 659.)

CODIFICATION

Section was enacted as part of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993, and not as part of the Foreign Service Buildings Act, 1926, which comprises this chapter.

AUTHORITY OF SECRETARY OF STATE

Except as otherwise provided, Secretary of State to have and exercise any authority vested by law in any official or office of Department of State and references to such officials or offices deemed to refer to Secretary of State or Department of State, as appropriate, see section 2651a of this title and section 161(d) of Pub. L. 103–236, set out as a note under section 2651a of this title.

§297. Acquisition of property by lease

The authority granted to acquire sites and buildings by purchase or otherwise shall include authority to acquire leaseholds.

(May 7, 1926, ch. 250, §6, 44 Stat. 405; June 19, 1952, ch. 446, §4, 66 Stat. 140; Pub. L. 95–105, title I, §106(b), Aug. 17, 1977, 91 Stat. 845.)

AMENDMENTS

1977—Pub. L. 95–105 struck out "of not less than ten years" after "acquire leaseholds".
1952—Act June 19, 1952, provided for leaseholds of not less than 10 years.

§297a. Omitted

CODIFICATION

Section, which related to leaseholds of not less than ten years, was from the Department of State Appropriation Act, 1953, act July 10, 1952, ch. 651, title I, 66 Stat. 550, and was not repeated in subsequent appropriation acts. Similar provisions were contained in the following prior appropriation acts:
1951—Oct. 22, 1951, ch. 533, title I, 65 Stat. 577.
1950—Sept. 6, 1950, ch. 896, ch. III, title I, 64 Stat. 610.
1949—July 20, 1949, ch. 354, title I, 63 Stat. 449.

§298. Omitted

CODIFICATION

Section, act May 7, 1926, ch. 250, §7, 44 Stat. 405, repealed act Feb. 17, 1911, ch. 105, 36 Stat. 917, incorporated as section 133 of this title, with a provision that the repeal "shall not invalidate appropriations already made under the authority of such Act."

§299. Short title

This chapter may be cited as the "Foreign Service Buildings Act, 1926."

(May 7, 1926, ch. 250, §8, 44 Stat. 405.)

§300. Dispositions of property; damage payments; acceptance of gifts or services

(a) Authority of Secretary of State

The Secretary of State is authorized—

(1) to sell, exchange, lease, or license any property or property interest acquired under this chapter, or under other authority, for use of diplomatic and consular establishments in foreign countries or in the United States pursuant to section 4304(b)(5) of this title,

(2) to receive payment in whatever form, or in kind, he determines to be in the interest of the United States for damage to or destruction of property acquired for use of diplomatic and consular establishments abroad, and the contents of such buildings, and

(3) to accept on behalf of the United States gifts of property or services of any kind made by will or otherwise for the purposes of this chapter.

(b) Disposition of proceeds; report to Congress

Proceeds derived from dispositions, payments, or gifts under subsection (a) shall, notwithstanding the provisions of any other law, be applied toward acquisition, construction, or other purposes

authorized by this chapter or held in the Foreign Service Buildings Fund, as in the judgment of the Secretary may best serve the Government's interest: *Provided*, That the Secretary shall report all such transactions annually to the Congress with the budget estimates of the Department of State.

(c) Proceeds from sale of furniture, furnishings, and equipment

Notwithstanding subsection (b), proceeds from the disposition of furniture, furnishings, and equipment from diplomatic and consular establishments in foreign countries shall be deposited into the Foreign Service Building Fund to be available for obligation or expenditure as directed by the Secretary.

(May 7, 1926, ch. 250, §9, as added Apr. 19, 1945, ch. 78, 59 Stat. 53; amended Pub. L. 88–94, §2(e), Aug. 12, 1963, 77 Stat. 122; Pub. L. 89–636, §3, Oct. 10, 1966, 80 Stat. 882; Pub. L. 99–399, title IV, §401(h)(2), Aug. 27, 1986, 100 Stat. 863; Pub. L. 101–246, title I, §116(c), Feb. 16, 1990, 104 Stat. 25.)

AMENDMENTS

1990—Subsec. (a)(1). Pub. L. 101–246 inserted before comma at end "or in the United States pursuant to section 4304(b)(5) of this title".

1986—Subsec. (c). Pub. L. 99–399 added subsec. (c).

1966—Subsec. (a). Pub. L. 89–636 substituted provisions designated as subsec. (a) and authorizing the Secretary to sell, exchange, lease, or license any property or property interest acquired under this chapter, to receive payment in whatever form, or in kind, for damage to or destruction of buildings or their contents, and to accept gifts of property or services for former provisions which authorized the Secretary, when he found it to be in the Government's interest, to sell buildings and grounds acquired for use of diplomatic and consular establishments in foreign countries.

Subsec. (b). Pub. L. 89–636 substituted provisions designated as subsec. (b) and providing for application of proceeds derived from dispositions, payments, or gifts under subsec. (a) toward acquisition, construction, or other purposes authorized by this chapter, as in the judgment of the Secretary may best serve the Government's interest, for former provision for application of proceeds of sales toward purchase and construction, furnishing, and preservation of other properties.

1963—Pub. L. 88–94 struck out "with the concurrence of the Foreign Service Buildings Commission," after "Government," and ", as in the judgment of the Commission may best serve the Government's interest" after "Foreign Service building fund".

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (b) of this section relating to the Secretary reporting transactions annually to Congress, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 129 of House Document No. 103–7.

§301. Lease or rental arrangements of not less than ten years; approval by Secretary; delegation of authority; information to Congress

(a) Leases

Notwithstanding the provisions of this chapter or any other Act, no lease or other rental arrangement for a period of less than ten years, and requiring an annual payment in excess of $50,000 shall be entered into by the Secretary of State for the purpose of renting or leasing offices, buildings, grounds, or living quarters for the use of the Foreign Service abroad, unless such lease or other rental arrangement is approved by the Secretary. The Secretary may delegate his authority under this section only to the Deputy Under Secretary of State for Administration or to the Director of the Office of Foreign Buildings. The Secretary shall keep the Congress fully and currently informed with respect to leases or other rental arrangements approved under this section.

(b) Advance payments for long-term leases and lease purchase

The Secretary may, subject to the availability of appropriations, make advance payments for long-term leases and lease-purchase agreements, if the Secretary or his designee determines, in each case, that such payments are in the interest of the United States Government in carrying out the

purposes of this chapter.

(May 7, 1926, ch. 250, §10, as added Pub. L. 89–636, §4, Oct. 10, 1966, 80 Stat. 882; amended Pub. L. 102–138, title I, §115(a), (b), Oct. 28, 1991, 105 Stat. 655.)

AMENDMENTS

1991—Pub. L. 102–138 designated existing provisions as subsec. (a), inserted heading, substituted "$50,000" for "$25,000,", and added subsec. (b).

AUTHORITY OF SECRETARY OF STATE

Except as otherwise provided, Secretary of State to have and exercise any authority vested by law in any official or office of Department of State and references to such officials or offices deemed to refer to Secretary of State or Department of State, as appropriate, see section 2651a of this title and section 161(d) of Pub. L. 103–236, set out as a note under section 2651a of this title.

§302. Award of contracts

(a) Eligibility limitation for construction, etc., abroad

Eligibility for award of contracts under this chapter or of any other contract by the Secretary of State, including lease-back or other agreements, the purpose of which is to obtain the construction, alteration, or repair of buildings and grounds abroad, when estimated to exceed $5,000,000, including any contract alternatives or options, shall be limited, after a determination that adequate competition will be obtained thereby, to (1) American-owned bidders and (2) bidders from countries which permit or agree to permit substantially equal access to American bidders for comparable diplomatic and consular building projects, except that participation may be permitted by or limited to host-country bidders where required by international agreement or by the law of the host country or where determined by the Secretary of State to be necessary in the interest of bilateral relations or necessary to carry out the construction project.

(b) Foreign laws and regulations; competitive status and adequacy; bidder qualifications

(1) Generally applicable laws and regulations pertaining to licensing and other qualifications to do business in the country in which the contract is to be performed shall not be deemed a limitation of access for purposes of this section.

(2) For purposes of determining competitive status, bids qualifying under subsection (a)(1) shall be reduced by 10 per centum.

(3) A determination of adequacy of competition for purposes of subsection (a) shall be made after advance publication by the Secretary of State of the proposed project, and receipt from not less than two prospective responsible bidders of intent to submit a bid or proposal. If competition is not determined to be adequate, contracts may be awarded without regard to subsection (a) and this subsection.

(4) Bidder qualification under subsection (a) shall be determined on the basis of nationality of ownership, the burden of which shall be on the prospective bidder. Qualification under subsection (a)(1) shall require evidence of (A) performance of similar construction work in the United States or at a United States diplomatic or consular establishment abroad, and (B) either (i) ownership in excess of fifty percent by United States citizens or permanent residents, or (ii) incorporation in the United States for more than three years and employment of United States citizens or permanent residents in more than half of the corporation's permanent full-time professional and managerial positions in the United States.

(5) Qualification under this section shall be established on the basis of determinations at the time bids are requested.

(c) Contracts for construction, etc., in United States

Contracts for construction, alteration, or repair in the United States for or on behalf of any foreign mission (as defined in section 202(a)(4) [1] of title II of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4302(a)(4)) may, pursuant to the authority of that title [22 U.S.C. 4301 et seq.], only

be awarded to or performed by bidders qualifying under subsection (a) (1) or (2) or by nationals of the country for which the contract is being performed who are granted the right of entry into the United States for that purpose.

(d) Discretionary determinations by Secretary of State

Determinations under this section shall be committed to the discretion of the Secretary of State.

(e) Termination of requirements

This section shall cease to be effective when the Secretary of State determines that there are internationally-agree-upon [2] rules in effect on bidding for construction contracts.

(May 7, 1926, ch. 250, §11, as added Pub. L. 98–164, title I, §136, Nov. 22, 1983, 97 Stat. 1029; amended Pub. L. 107–228, div. A, title II, §206(a), Sept. 30, 2002, 116 Stat. 1364.)

REFERENCES IN TEXT

Title II of the State Department Basic Authorities Act of 1956, referred to in subsec. (c), is title II of act Aug. 1, 1956, ch. 841, as added Aug. 24, 1982, Pub. L. 97–241, title II, §202(b), 96 Stat. 283, known as the Foreign Missions Act, which is classified principally to chapter 53 (§4301 et seq.) of this title. Section 202(a)(4) of title II was redesignated section 202(a)(3), and former section 202(a)(5) was redesignated section 202(a)(4), by Pub. L. 103–236, title I, §162(o)(1), Apr. 30, 1994, 108 Stat. 409. For complete classification of title II to the Code, see Short Title note set out under section 4301 of this title and Tables.

AMENDMENTS

2002—Subsec. (b)(4)(A). Pub. L. 107–228 inserted "or at a United States diplomatic or consular establishment abroad" after "United States".

[1] See References in Text note below.

[2] So in original. Probably should be "internationally-agreed-upon".

§303. Repealed. Pub. L. 114–323, title VII, §715(a)(1), Dec. 16, 2016, 130 Stat. 1946

Section, act May 7, 1926, ch. 250, §12, as added Pub. L. 105–277, div. G, subdiv. B, title XXII, §2215, Oct. 21, 1998, 112 Stat. 2681–814, required Secretary of State to submit annual report on overseas surplus properties.

§304. Annual report on embassy construction costs

(a) In general

Not later than 180 days after December 16, 2016, and annually thereafter, the Secretary shall submit to the appropriate congressional committees a comprehensive report regarding all ongoing embassy construction projects and major embassy security upgrade projects.

(b) Contents

Each report required under subsection (a) shall include the following with respect to each ongoing embassy construction projects and major embassy security upgrade projects:

(1) The initial cost estimate.
(2) The amount expended on the project to date.
(3) The projected timeline for completing the project.
(4) Any cost overruns incurred by the project.

(c) Initial report

The first report required under subsection (a) shall include an annex regarding all embassy construction projects and major embassy security upgrade projects completed during the 10-year

period ending on December 16, 2016, including, for each such project, the following:

(1) The initial cost estimate.

(2) The amount actually expended on the project.

(3) Any additional time required to complete the project beyond the initial timeline.

(4) Any cost overruns incurred by the project.

(Pub. L. 114–323, title I, §118, Dec. 16, 2016, 130 Stat. 1912.)

CODIFICATION

Section was enacted as part of the Department of State Authorities Act, Fiscal Year 2017, and not as part of the Foreign Service Buildings Act, 1926, which comprises this chapter.

DEFINITIONS

For definitions of "Secretary" and "appropriate congressional committees" as used in this section, see section 2 of Pub. L. 114–323, set out as a note under section 2651 of this title.

CHAPTER 9—FOREIGN WARS, WAR MATERIALS, AND NEUTRALITY

SUBCHAPTER I—WAR MATERIALS

Sec.

401. Illegal exportation of war materials.

402 to 405. Repealed.

406. Interference with foreign trade.

407. Repealed.

408. Use of land and naval forces to prevent exportation.

408a. "United States" defined.

409 to 420. Repealed or Omitted.

421. Contracts by Government agencies for defense articles, services, etc., for foreign governments in interests of United States.

422. Retention for United States of defense articles procured for foreign governments.

423. Omitted.

SUBCHAPTER II—NEUTRALITY

441. Proclamation of state of war between foreign states.

442, 443. Repealed.

444. American Red Cross vessels.

445. Travel on vessels of belligerent states.

446. Repealed.

447. Financial transactions.

448. Solicitation and collection of funds and contributions.

449. American republics.

450. Restrictions on use of American ports.

451. Submarines and armed merchant vessels.

452. Repealed.

453. Regulations.

454. Unlawful use of the American flag by vessel of foreign state.

455. General penalty provision.

456. Definitions.

457. Appropriations.

SUBCHAPTER III—PREVENTION OF OFFENSES AGAINST NEUTRALITY

461. Enforcement by courts; employment of land or naval forces.

462. Compelling foreign vessels to depart.

463. Bonds from armed vessels on clearing.

464. Detention by collectors of customs.

465. Detention of vessels.

PROCLAMATIONS RESPECTING WAR AND NEUTRALITY

See notes preceding section 1 of Title 50, War and National Defense.

SUBCHAPTER I—WAR MATERIALS

§401. Illegal exportation of war materials

(a) Seizure and forfeiture of materials and carriers

Whenever an attempt is made to export or ship from or take out of the United States any arms or munitions of war or other articles in violation of law, or whenever it is known or there shall be probable cause to believe that any arms or munitions of war or other articles are intended to be or are being or have been exported or removed from the United States in violation of law, the Secretary of the Treasury, or any person duly authorized for the purpose by the President, may seize and detain such arms or munitions of war or other articles and may seize and detain any vessel, vehicle, or aircraft containing the same or which has been or is being used in exporting or attempting to export such arms or munitions of war or other articles. The Secretary of Commerce may seize and detain any commodity (other than arms or munitions of war) or technology which is intended to be or is being exported in violation of laws governing such exports and may seize and detain any vessel, vehicle, or aircraft containing the same or which has been used or is being used in exporting or attempting to export such articles. All arms or munitions of war and other articles, vessels, vehicles, and aircraft seized pursuant to this subsection shall be forfeited.

(b) Applicability of laws relating to seizure, forfeiture, and condemnation

All provisions of law relating to seizure, summary and judicial forfeiture and condemnation for violation of the customs laws, the disposition of the property forfeited or condemned or the proceeds from the sale thereof; the remission or mitigation of such forfeitures; and the compromise of claims and the award of compensation to informers in respect of such forfeitures shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this section, insofar as applicable and not inconsistent with the provisions hereof. However, with respect to seizures and forfeitures of property under this section by the Secretary of Commerce, such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs law may be performed by such officers as are designated by the Secretary of Commerce or, upon the request of the Secretary of Commerce, by any other agency that has authority to manage and dispose of seized property. Awards of compensation to informers under this section may be paid only out of funds specifically appropriated therefor.

(c) Disposition of forfeited materials

Arms and munitions of war forfeited under subsection (b) of this section shall be delivered to the Secretary of Defense for such use or disposition as he may deem in the public interest, or, in the event that the Secretary of Defense refuses to accept such arms and munitions of war, they shall be sold or otherwise disposed of as prescribed under existing law in the case of forfeitures for violation of the customs laws.

(June 15, 1917, ch. 30, title VI, §1, 40 Stat. 223; June 17, 1930, ch. 497, title IV, §523, 46 Stat. 740; Aug. 13, 1953, ch. 434, §1, 67 Stat. 577; Pub. L. 105–119, title II, §211(a), Nov. 26, 1997, 111 Stat. 2487.)

AMENDMENTS

1997—Subsec. (a). Pub. L. 105–119, which directed the amendment of section 401 of title 22, United States Code, by inserting "The Secretary of Commerce may seize and detain any commodity (other than arms or munitions of war) or technology which is intended to be or is being exported in violation of laws governing

such exports and may seize and detain any vessel, vehicle, or aircraft containing the same or which has been used or is being used in exporting or attempting to export such articles." after first sentence in subsec. (a), was executed by making the insertion in section 1(a) of act June 15, 1917, ch. 30, which is classified to this section, to reflect the probable intent of Congress.

Subsec. (b). Pub. L. 105–119, which directed the amendment of section 401 of title 22, United States Code, by inserting "However, with respect to seizures and forfeitures of property under this section by the Secretary of Commerce, such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs law may be performed by such officers as are designated by the Secretary of Commerce or, upon the request of the Secretary of Commerce, by any other agency that has authority to manage and dispose of seized property." after "and not inconsistent with the provisions hereof." in subsec. (b), was executed by making the insertion in section 1(b) of act June 15, 1917, ch. 30, which is classified to this section, to reflect the probable intent of Congress.

1953—Act Aug. 13, 1953, provided not only seizure and forfeiture of articles or merchandise which are being, or are intended to be illegally exported, and the vehicle, vessel, or aircraft in which exportation is intended to accomplish, but also for the seizure and forfeiture of articles or merchandise actually illegally exported out, the carrier used to effectuate the exportation, provided for applicability of laws relating to seizure, summary and judicial forfeiture and condemnation, and provided for the disposition of seized materials.

1930—Act June 17, 1930, substituted "comptrollers of customs" for "Naval officers of customs".

EX. ORD. NO. 10863. AUTHORIZATION OF ATTORNEY GENERAL TO SEIZE ARMS AND MUNITIONS OF WAR, AND OTHER ARTICLES

Ex. Ord. No. 10863, Feb. 18, 1960, 25 F.R. 1507, provided:

By virtue of the authority vested in me by section 1 of Title VI of the act of June 15, 1917, 40 Stat. 223, as amended by section 1 of the act of August 13, 1953, 67 Stat. 577 (22 U.S.C. 401), it is ordered as follows:

SECTION 1. The Attorney General is hereby designated under section 1 of Title VI of the act of June 15, 1917, as amended by section 1 of the act of August 13, 1953 [this section], as a person duly authorized to seize and detain arms or munitions of war or other articles, and to seize and detain any vessel, vehicle, or aircraft containing such items or which has been, or is being, used in exporting or attempting to export such arms or munitions of war or other articles, whenever an attempt is made to export or ship from or take out of the United States such arms or munitions of war or other articles in violation of law, or whenever it is known, or there is probable cause to believe, that such arms or munitions of war or other articles are intended to be, or are being or have been, exported or removed from the United States in violation of law.

SEC. 2. The authority conferred upon the Attorney General by section 1 of this order may be exercised by any officer of the Department of Justice designated for such purpose by the Attorney General.

DWIGHT D. EISENHOWER.

§§402 to 405. Repealed. Aug. 13, 1953, ch. 434, §2, 67 Stat. 577

Section 402, act June 15, 1917, ch. 30, title VI, §2, 40 Stat. 224, related to issuance of warrant for detention of seized property.

Section 403, act June 15, 1917, ch. 30, title VI, §3, 40 Stat. 224, related to filing petition for restoration of seized property.

Section 404, acts June 15, 1917, ch. 30, title VI, §4, 40 Stat. 224; Mar. 1, 1929, ch. 420, 45 Stat. 1423, related to institution of libel proceedings and sale of seized property.

Section 405, act June 15, 1917, ch. 30, title VI, §5, 40 Stat. 224, related to method of trial and bond for redelivery.

For subject matter of sections 402 to 405 of this title, see section 401 of this title.

§406. Interference with foreign trade

Except in those cases in which the exportation of arms and munitions of war or other articles is forbidden by proclamation or otherwise by the President, as provided in section 401 of this title, nothing herein contained shall be construed to extend to, or interfere with any trade in such

commodities, conducted with any foreign port or place wheresoever, or with any other trade which might have been lawfully carried on before June 15, 1917, under the law of nations, or under the treaties or conventions entered into by the United States, or under the laws thereof.

(June 15, 1917, ch. 30, title VI, §6, 40 Stat. 225.)

REFERENCES IN TEXT

Herein, referred to in text, means act June 15, 1917, ch. 30, title VI, 40 Stat. 223, as amended, which enacted sections 31 to 39, 98, 130 to 133, 288, 343 to 346, 381, 502, 535, 536, 574, and 611 to 633 of former Title 18, Criminal Code and Criminal Procedure, sections 213, 231 to 233, 235, 401 to 408a, 462, and 465 of this title, and sections 30 to 42, 191, and 192 to 195 of Title 50, War and National Defense, and amended sections 25, 27, and 349 of former Title 18. For complete classification of this Act to the Code, see Tables.

§407. Repealed. Aug. 13, 1953, ch. 434, §2, 67 Stat. 577

Section, act June 15, 1917, ch. 30, title VI, §7, 40 Stat. 225, related to President's discretion to release seized property. See section 401 of this title.

§408. Use of land and naval forces to prevent exportation

The President may employ such part of the land or naval forces of the United States as he may deem necessary to carry out the purposes of sections 401 to 408 of this title.

(June 15, 1917, ch. 30, title VI, §8, 40 Stat. 225.)

AIR FORCE

For transfer of certain functions insofar as they pertain to the Air Force, and to the extent that they were not previously transferred to the Secretary of the Air Force from the Secretary of the Army, see Secretary of Defense Transfer Order No. 40 [App. A(1)], July 22, 1949.

§408a. "United States" defined

The term "United States" as used in this Act includes the Canal Zone and all territory and waters, continental or insular, subject to the jurisdiction of the United States.

(June 15, 1917, ch. 30, title XIII, §1, 40 Stat. 231.)

REFERENCES IN TEXT

This Act, referred to in text, means act June 15, 1917, ch. 30, 40 Stat. 217, as amended, which enacted sections 31 to 39, 98, 130 to 133, 288, 343 to 346, 381, 502, 535, 536, 574, and 611 to 633 of former Title 18, Criminal Code and Criminal Procedure, sections 213, 231 to 233, 235, 401 to 408a, 462, and 465 of this title, and sections 30 to 42, 191, and 192 to 195 of Title 50, War and National Defense, and amended sections 25, 27, and 349 of former Title 18. For complete classification of this Act to the Code, see Tables.

For definition of Canal Zone, referred to in text, see section 3602(b) of this title.

§§409, 410. Repealed. June 25, 1948, ch. 645, §21, 62 Stat. 862, eff. Sept. 1, 1948

Section 409, act Jan. 31, 1922, ch. 44, §1, 42 Stat. 361, related to prohibition against exportation of arms to American countries or countries under American jurisdiction in a state of domestic violence. See section 1934 of this title.

Section 410, act Jan. 31, 1922, ch. 44, §2, 42 Stat. 361, related to penalties. See section 1934 of this title.

§§411 to 419. Omitted

CODIFICATION

Sections 411, 412, and 413 to 419, popularly known as the Lend-Lease Act, terminated not later than June 30, 1946, pursuant to section 412 of this title.

Section 411, act Mar. 11, 1941, ch. 11, §2, 55 Stat. 31, defined "defense article" and "defense information" for purpose of lease, loan, etc., of war materials in interest of United States defense.

Section 412, acts Mar. 11, 1941, ch. 11, §3, 55 Stat. 31; Mar. 11, 1943, ch. 15, 57 Stat. 20; May 17, 1944, ch. 198, §§1, 2, 58 Stat. 222, 223; Apr. 16, 1945, ch. 61, §§1, 2, 59 Stat. 52, provided for procurement for and transfer of defense articles to other countries, repairs, limitation on amount, termination of powers after June 30, 1946, or after passage of concurrent resolution by both Houses before June 30, 1946, whichever is the earlier, naval convoys, and combat area navigation.

Section 412a, act Mar. 18, 1943, ch. 17, title I, §1, 57 Stat. 25, prohibited disposition of merchant vessels under sections 411 to 419 of this title except by lease for duration of war.

Section 413, act Mar. 11, 1941, ch. 11, §4, 55 Stat. 32, provided for contract restrictions against disposal of transferred articles by transferee governments.

Section 414, act Mar. 11, 1941, ch. 11, §5, 55 Stat. 32, provided for information regarding articles exported and reports to Congress. Section 5(b) of act Mar. 11, 1941, ch. 11, 55 Stat. 32, formerly classified to section 414(b) of this title, provided for reports with respect to operations under the Lend-Lease Act, and was repealed by Pub. L. 89–348, §1(19), Nov. 8, 1965, 79 Stat. 1311.

Section 415, acts Mar. 11, 1941, ch. 11, §6, 55 Stat. 33; Mar. 11, 1943, ch. 15, 57 Stat. 20; May 17, 1944, ch. 198, §1, 58 Stat. 222; Apr. 16, 1945, ch. 61, §1, 59 Stat. 52; July 25, 1947, ch. 327, §1, 61 Stat. 449, authorized appropriations.

Section 416, act Mar. 11, 1941, ch. 11, §7, 55 Stat. 33, provided for protection of patent rights.

Section 417, act Mar. 11, 1941, ch. 11, §8, 55 Stat. 33, provided for acquisition of war materials from foreign governments.

Section 418, act Mar. 11, 1941, ch. 11, §9, 55 Stat. 33, authorized executive promulgation of rules and regulations and delegation of powers.

Section 419, act Mar. 11, 1941, ch. 11, §10, 55 Stat. 33, related to effect of act Mar. 11, 1941 on existing laws relating to use of land and naval forces.

ADDITIONAL DEFENSE AID TO OTHER COUNTRIES; LEASE OF CERTAIN SHIPS, BARGES, ETC.

Acts Feb. 7, 1942, ch. 46, title III, §301, 56 Stat. 82; Oct. 26, 1942, ch. 629, title I, §103, 56 Stat. 994; Feb. 19, 1943, ch. 1, §4, 57 Stat. 4, June 26, 1943, ch. 147, §118, 57 Stat. 217; June 22, 1944, ch. 269, §121, 58 Stat. 322; May 29, 1945, ch. 130, §119, 59 Stat. 222, provided for additional defense aid to countries deemed vital to the defense of the United States and for the lease of ships for periods not extending beyond the termination of the national emergency.

LIMITATION ON APPROPRIATIONS

Act Apr. 28, 1942, ch. 247, title II, §201, 56 Stat. 233, provided that limitation of $2,500,000,000 shall apply to all appropriations made to the Navy Department since Mar. 11, 1941.

REDUCTION IN VALUE OF DEFENSE ARTICLES

The value of defense articles was reduced to $800,000,000 by act Dec. 17, 1941, ch. 591, title I, §102, 55 Stat. 813, and as thus limited was made inapplicable to the War Department after Dec. 17, 1941.

DEFINITIONS

Act Mar. 5, 1942, ch. 141, title III, §303, 56 Stat. 131, provided that the term "defense article" shall be deemed to include defense information and services, and the expenses in connection with the procurement or supplying of defense articles, information, and services.

§420. Repealed. July 25, 1947, ch. 327, §1, 61 Stat. 449

Section, acts May 2, 1941, ch. 84, §5, 55 Stat. 150; June 16, 1942, ch. 416, 56 Stat. 370, related to application of sections 1119a and 1119b of former Title 46, Shipping, to functions of the Maritime Commission under sections 411, 412 and 413 to 419 of this title.

§421. Contracts by Government agencies for defense articles, services, etc., for

foreign governments in interests of United States

The President may, from time to time, when he deems it in the interest of national defense, authorize the head of any department or agency of the Government, to enter into contracts for the procurement of defense articles, information, or services for the government of any country whose defense the President deems vital to the defense of the United States, to the extent that such government agrees to pay the United States for such defense articles, information, or services prior to the receipt thereof and to make such payments from time to time as the President may require to protect the interests of the United States; and, upon payment of the full cost, the President may dispose of such articles, information, or services to such government: *Provided*, That the total amount of the outstanding contracts under this section, less the amounts which have been paid to the United States under such contracts, shall at no time exceed $600,000,000.

(Oct. 28, 1941, ch. 460, title I, §102, 55 Stat. 746.)

§422. Retention for United States of defense articles procured for foreign governments

Any defense article procured pursuant to section 421 of this title shall be retained by or transferred to and for the use of such department or agency of the United States as the President may determine, in lieu of being disposed of to a foreign government, whenever in the judgment of the President the defense of the United States will be best served thereby.

(Oct. 28, 1941, ch. 460, title I, §103, 55 Stat. 747.)

§423. Omitted

CODIFICATION

Section, act June 14, 1943, ch. 122, §2, 57 Stat. 152, related to retention for defense of United States of certain articles, information or service procured for foreign governments from funds appropriated by act June 14, 1943 or prior acts appropriating funds to the President for such purposes.

SUBCHAPTER II—NEUTRALITY

§441. Proclamation of state of war between foreign states

(a) Issuance of proclamation

Whenever the President, or the Congress by concurrent resolution, shall find that there exists a state of war between foreign states, and that it is necessary to promote the security or preserve the peace of the United States or to protect the lives of citizens of the United States, the President shall issue a proclamation naming the states involved; and he shall, from time to time, by proclamation, name other states as and when they may become involved in the war.

(b) Revocation of proclamation

Whenever the state of war which shall have caused the President to issue any proclamation under the authority of this section shall have ceased to exist with respect to any state named in such proclamation, he shall revoke such proclamation with respect to such state.

(Nov. 4, 1939, ch. 2, §1, 54 Stat. 4.)

SHORT TITLE

Joint Res. Nov. 4, 1939, ch. 2, §20, 54 Stat. 12, provided that: "This joint resolution [enacting this subchapter] may be cited as the 'Neutrality Act of 1939'."

REPEALS

Joint Res. Nov. 4, 1939, ch. 2, §19, 54 Stat. 12, provided that: "The joint resolution of August 31, 1935, as amended [sections 245a to 245i of this title], and the joint resolution of January 8, 1937 [ch. 1, 50 Stat. 3], are hereby repealed; but offenses committed and penalties, forfeitures, or liabilities incurred under either of such joint resolutions prior to the date of enactment of this joint resolution [this subchapter] may be prosecuted and punished, and suits and proceedings for violations of either of such joint resolutions or of any rule or regulation issued pursuant thereto may be commenced and prosecuted, in the same manner and with the same effect as if such joint resolutions had not been repealed."

Neutrality Act of 1939 not to be deemed repealed or modified in any manner by Joint Res. May 7, 1940, ch. 185, 54 Stat. 179, according to section 3 thereof, which resolution amended section 5(b) of the Trading With the Enemy Act, see section 4305(b) of Title 50, War and National Defense, which resolution approved and confirmed Ex. Ord. No. 8389, amending Ex. Ord. No. 6560, formerly set out as a note under section 95a of Title 12, Banks and Banking, and regulations and general rulings issued by Secretary of Treasury under Ex. Ord. No. 8389.

SEPARABILITY

Joint Res. Nov. 4, 1939, ch. 2, §17, 54 Stat. 12, provided that: "If any of the provisions of this joint resolution [this subchapter], or the application thereof to any person or circumstance, is held invalid, the remainder of the joint resolution, and the application of such provision to other persons or circumstances, shall not be affected thereby."

PURPOSE OF AND RIGHTS RESERVED UNDER SUBCHAPTER

Joint Res. Nov. 4, 1939, ch. 2, 54 Stat. 4, provided in part as follows:

"Whereas the United States, desiring to preserve its neutrality in wars between foreign states and desiring also to avoid involvement therein, voluntarily imposes upon its nationals by domestic legislation the restrictions set out in this joint resolution [this subchapter]; and

"Whereas by so doing the United States waives none of its own rights or privileges, or those of any of its nationals, under international law, and expressly reserves all the rights and privileges to which it and its nationals are entitled under the law of nations; and

"Whereas the United States hereby expressly reserves the right to repeal, change or modify this [this subchapter] or any other domestic legislation in the interests of the peace, security or welfare of the United States and its people."

§§442, 443. Repealed. Nov. 17, 1941, ch. 473, §1, 55 Stat. 764

Section 442, Joint Res. Nov. 4, 1939, ch. 2, §2, 54 Stat. 4, related to commerce with states engaged in armed conflict.

Section 443, Joint Res. Nov. 4, 1939, ch. 2, §3, 54 Stat. 7, related to combat areas.

DEFINITION OF COMBAT AREAS

Proc. No. 2376, Nov. 4, 1939, 3 p.m., 4 F.R. 4495, 54 Stat. 2673; Proc. No. 2394, Apr. 10, 1940, 5 F.R. 1400, 54 Stat. 2693; Proc. No. 2410, June 11, 1940, 5:20 p.m. E.S.T., 5 F.R. 2209, 54 Stat. 2708, as modified by Proc. No. 2474, Apr. 10, 1941, 6 F.R. 1905, 55 Stat. 1628, defined various combat areas.

§444. American Red Cross vessels

(a) Transport of officers, American Red Cross personnel, medical personnel, medical supplies, food and clothing

The provisions of section 442(a) [1] of this title shall not prohibit the transportation by vessels, unarmed and not under convoy, under charter or other direction and control of the American Red Cross of officers and American Red Cross personnel, medical personnel, and medical supplies, food, and clothing, for the relief of human suffering: *Provided*, That where permission has not been given by the blockading power, no American Red Cross vessel shall enter a port where a blockade by aircraft, surface vessel, or submarine is being attempted through the destruction of vessels, or into a port of any country where such blockade of the whole country is being so attempted: *Provided*

further, That such American Red Cross vessel shall be on a mission of mercy only and carrying only Red Cross materials and personnel.

(b) Transport of refugee children

The provisions of sections 442(a) and 443 [1] of this title shall not prohibit a vessel, in ballast, unarmed, and not under convoy, and transporting refugee children, under sixteen years of age, from war zones, or combat areas, and shall not prohibit such vessel entering into such war zones or combat areas for this purpose, together with such necessary American citizen adult personnel in charge as may be approved by the Secretary of State, subject to the provisions of the immigration laws, if such vessel is proceeding under safe conduct granted by all of the States named in the proclamations issued under the authority of section 441(a) of this title, and if such vessel has painted on a large scale prominently, distinctly, and unmistakably on each side thereof and upon the superstructure thereof plainly visible from the air an American flag and a statement to the effect that such vessel is a refugee-child rescue ship of the United States or under United States registry: *Provided*, That every such child so brought into the United States shall, previous to departure from the port of embarkation, have been so sponsored by some responsible American person, natural or corporate, that he will not become a public charge.

(Nov. 4, 1939, ch. 2, §4, 54 Stat. 7; June 26, 1940, ch. 431, 54 Stat. 611; Aug. 27, 1940, ch. 695, 54 Stat. 866.)

REFERENCES IN TEXT

Sections 442(a) and 443 of this title, referred to in subsecs. (a) and (b), were repealed by act Nov. 17, 1941, ch. 473, §1, 55 Stat. 764.

AMENDMENTS

1940—Act June 26, 1940, inserted "unarmed and not under convoy", inserted two proviso clauses and struck out "proceeding under safe conduct granted by states named in any proclamation issued under the authority of section 441(a) of this title" after "control of the American Red Cross".

Act Aug. 27, 1940, designated existing provisions as subsec. (a) and added subsec. (b).

[1] *See References in Text note below.*

§445. Travel on vessels of belligerent states

(a) Proscription by Presidential proclamation

Whenever the President shall have issued a proclamation under the authority of section 441(a) of this title it shall thereafter be unlawful for any citizen of the United States to travel on any vessel of any state named in such proclamation, except in accordance with such rules and regulations as may be prescribed.

(b) Revocation of proclamation; effect

Whenever any proclamation issued under the authority of section 441(a) of this title shall have been revoked with respect to any state the provisions of this section shall thereupon cease to apply with respect to such state, except as to offenses committed prior to such revocation.

(Nov. 4, 1939, ch. 2, §5, 54 Stat. 7.)

§446. Repealed. Nov. 17, 1941, ch. 473, §2, 55 Stat. 764

Section, Joint Res. Nov. 4, 1939, ch. 2, §6, 54 Stat. 7, prohibited arming of American merchant vessels. Joint Res. Nov. 17, 1941, §2, which repealed this section, was itself repealed, effective July 1, 1948, by Joint Res. July 25, 1947, ch. 327, §2(a), 61 Stat. 451, which provided that it should remain in full force and effect until such date.

§447. Financial transactions

(a) Bonds, securities, or other obligations

Whenever the President shall have issued a proclamation under the authority of section 441(a) of this title, it shall thereafter be unlawful for any person within the United States to purchase, sell, or exchange bonds, securities, or other obligations of the government of any state named in such proclamation, or of any political subdivision of any such state, or of any person acting for or on behalf of the government of any such state, or political subdivision thereof, issued after the date of such proclamation, or to make any loan or extend any credit (other than necessary credits accruing in connection with the transmission of telegraph, cable, wireless and telephone services) to any such government, political subdivision, or person. The provisions of this subsection shall also apply to the sale by any person within the United States to any person in a state named in any such proclamation of any articles or materials listed in a proclamation referred to in or issued under the authority of section 452(i) [1] of this title.

(b) Renewal or adjustment of indebtedness

The provisions of this section shall not apply to a renewal or adjustment of such indebtedness as may exist on the date of such proclamation.

(c) Fine and imprisonment

Whoever shall knowingly violate any of the provisions of this section or of any regulations issued thereunder shall, upon conviction thereof, be fined not more than $50,000 or imprisoned for not more than five years, or both. Should the violation be by a corporation, organization, or association, each officer or director thereof participating in the violation shall be liable to the penalty herein prescribed.

(d) Revocation of proclamation

Whenever any proclamation issued under the authority of section 441(a) of this title shall have been revoked with respect to any state the provisions of this section shall thereupon cease to apply with respect to such state, except as to offenses committed prior to such revocation.

(e) Wartime

This section shall not be operative when the United States is at war.

(Nov. 4, 1939, ch. 2, §7, 54 Stat. 8; Feb. 21, 1942, ch. 104, 56 Stat. 95.)

REFERENCES IN TEXT

Section 452(i) of this title, referred to in subsec. (a), was repealed by act Aug. 26, 1954, ch. 937, title V, §542(a)(12), 68 Stat. 861. See former section 1934(a) and section 2778(a) of this title.

AMENDMENTS

1942—Subsec. (e). Joint Res. Feb. 21, 1942, added subsec. (e).

OPERATION OF SECTION POSTPONED UNTIL JULY 1, 1953

Joint Res. July 3, 1952, ch. 570, §1(b)(7), 66 Stat. 333, as amended by Joint Res. Mar. 31, 1953, ch. 13, §1, 67 Stat. 18, provided that this section which is normally operative in time of peace shall not be operative by reason of the termination of a state of war on Apr. 28, 1952, but rather (in addition to being inoperative, in accordance with their terms, in time of war) shall continue to be inoperative until 6 months after the termination of the national emergency proclaimed by the President on Dec. 16, 1950, 1950 Proc. 2914, 15 F.R. 9029, set out as a note preceding section 1 of Title 50, War and National Defense, or until such earlier date or dates as the Congress may provide, but in no event beyond Apr. 1, 1953.

REPEAL OF PRIOR ACTS CONTINUING SECTION

Section 6 of Joint Res. July 3, 1952, repealed Joint Res. Apr. 14, 1952, ch. 204, 66 Stat. 54 as amended by Joint Res. May 28, 1952, ch. 339, 66 Stat. 96; Joint Res. June 14, 1952, ch. 437, 66 Stat. 137; Joint Res. June 30, 1952, ch. 526, 66 Stat. 296, which continued provisions until July 3, 1952. This repeal shall take effect as of June 16, 1952, by section 7 of Joint Res. July 3, 1952.

[1] *See References in Text note below.*

§448. Solicitation and collection of funds and contributions

(a) Unlawful acts

Whenever the President shall have issued a proclamation under the authority of section 441(a) of this title, it shall thereafter be unlawful for any person within the United States to solicit or receive any contribution for or on behalf of the government of any state named in such proclamation or for or on behalf of any agent or instrumentality of any such state.

(b) Medical aid, food, and clothing

Nothing in this section shall be construed to prohibit the solicitation or collection of funds and contributions to be used for medical aid and assistance, or for food and clothing to relieve human suffering, when such solicitation or collection of funds and contributions is made on behalf of and for use by any person or organization which is not acting for or on behalf of any such government, but all such solicitations and collections of funds and contributions shall be in accordance with and subject to such rules and regulations as may be prescribed.

(c) Revocation of proclamation

Whenever any proclamation issued under the authority of section 441(a) of this title shall have been revoked with respect to any state the provisions of this section shall thereupon cease to apply with respect to such state, except as to offenses committed prior to such revocation.

(Nov. 4, 1939, ch. 2, §8, 54 Stat. 8.)

§449. American republics

This subchapter (except section 452 [1] of this title) shall not apply to any American republic engaged in war against a non-American state or states, provided the American republic is not cooperating with a non-American state or states in such war.

(Nov. 4, 1939, ch. 2, §9, 54 Stat. 8.)

REFERENCES IN TEXT

Section 452 of this title, referred to in text, was repealed by act Aug. 26, 1954, ch. 937, title V, §542(a)(12), 68 Stat. 861. See former section 1934(a) and section 2778(a) of this title.

[1] *See References in Text note below.*

§450. Restrictions on use of American ports

(a) Bond to insure non-delivery of men, ammunition, fuel, etc.

Whenever, during any war in which the United States is neutral, the President, or any person thereunto authorized by him, shall have cause to believe that any vessel, domestic or foreign, whether requiring clearance or not, is about to carry out of a port or from the jurisdiction of the United States, fuel, men, arms, ammunition, implements of war, supplies, dispatches, or information to any warship, tender, or supply ship of a state named in a proclamation issued under the authority of section 441(a) of this title, but the evidence is not deemed sufficient to justify forbidding the departure of the vessel as provided for by section 967 of title 18, and if, in the President's judgment, such action will serve to maintain peace between the United States and foreign states, or to protect the commercial interests of the United States and its citizens, or to promote the security or neutrality of the United States, he shall have the power, and it shall be his duty, to require the owner, master, or

person in command thereof, before departing from a port or from the jurisdiction of the United States, to give a bond to the United States, with sufficient sureties, in such amount as he shall deem proper, conditioned that the vessel will not deliver the men, or any fuel, supplies, dispatches, information, or any part of the cargo, to any warship, tender, or supply ship of a state named in a proclamation issued under the authority of section 441(a) of this title.

(b) Departure prohibited

If the President, or any person thereunto authorized by him, shall find that a vessel, domestic or foreign, in a port of the United States, has previously departed from a port or from the jurisdiction of the United States during such war and delivered men, fuel, supplies, dispatches, information, or any part of its cargo to a warship, tender, or supply ship of a state named in a proclamation issued under the authority of section 441(a) of this title, he may prohibit the departure of such vessel during the duration of the war.

(c) Alien seaman; bond

Whenever the President shall have issued a proclamation under section 441(a) of this title he may, while such proclamation is in effect, require the owner, master, or person in command of any vessel, foreign or domestic, before departing from the United States, to give a bond to the United States, with sufficient sureties, in such amount as he shall deem proper, conditioned that no alien seaman who arrived on such vessel shall remain in the United States for a longer period than that permitted under the regulations, as amended from time to time, issued pursuant to section 168 [1] of title 8. Notwithstanding the provisions of said section 168 [1] of title 8, the President may issue such regulations with respect to the landing of such seamen as he deems necessary to insure their departure either on such vessel or another vessel at the expense of such owner, master, or person in command.

(Nov. 4, 1939, ch. 2, §10, 54 Stat. 9.)

REFERENCES IN TEXT

Section 168 of title 8, referred to in subsec. (c), was repealed by act June 27, 1952, ch. 477, §403(a)(13), 66 Stat. 279. See section 1286 of Title 8, Aliens and Nationality.

CODIFICATION

In subsec. (a), "section 967 of title 18" substituted for "section 1, title V, chapter 30, of the Act approved June 15, 1917 (40 Stat. 217, 221; U.S.C., 1934 edition, title 18, sec. 31)" on authority of act June 25, 1948, ch. 645, 62 Stat. 863, section 1 of which enacted Title 18, Crimes and Criminal Procedure.

DELEGATION OF FUNCTIONS

For delegation to Secretary of Homeland Security of authority vested in President by subsecs. (a) and (b) of this section, see sections 1(n) and 1(o) of Ex. Ord. No. 10637, Sept. 16, 1955, 20 F.R. 7025, as amended, set out as a note under section 301 of Title 3, The President.

[1] *See References in Text note below.*

§451. Submarines and armed merchant vessels

Whenever, during any war in which the United States is neutral, the President shall find that special restrictions placed on the use of the ports and territorial waters of the United States by the submarines or armed merchant vessels of a foreign state will serve to maintain peace between the United States and foreign states, or to protect the commercial interests of the United States and its citizens, or to promote the security of the United States, and shall make proclamation thereof, it shall thereafter be unlawful for any such submarine or armed merchant vessel to enter a port or the territorial waters of the United States or to depart therefrom, except under such conditions and subject to such limitations as the President may prescribe. Whenever, in his judgment, the conditions which have caused him to issue his proclamation have ceased to exist, he shall revoke his

proclamation and the provisions of this section shall thereupon cease to apply, except as to offenses committed prior to such revocation.

(Nov. 4, 1939, ch. 2, §11, 54 Stat. 9.)

USE OF UNITED STATES PORTS AND TERRITORIAL WATERS BY SUBMARINES OF FOREIGN NATIONS

By Proc. Nos. 2375, Nov. 4, 1939, 4 F.R. 4494, 54 Stat. 2672; 2400, Apr. 25, 1940, 5 F.R. 1570, 54 Stat. 2699; 2406, May 11, 1940, 5 F.R. 1690, 54 Stat. 2705; 2409, June 10, 1940, 5 F.R. 2192, 54 Stat. 2707; 2445, Nov. 15, 1940, 5 F.R. 4524, 54 Stat. 2672, submarines of France, Germany, Poland, United Kingdom, India, Australia, Canada, New Zealand, Union of South Africa, Norway, Belgium, the Netherlands, Italy, and Greece were denied use of United States ports and territorial waters.

§452. Repealed. Aug. 26, 1954, ch. 937, title V, §542(a)(12), 68 Stat. 861

Section, acts Nov. 4, 1939, ch. 2, §12, 54 Stat. 10; Jan. 26, 1942, ch. 19, 56 Stat. 19, established the National Munitions Control Board. See former section 1934 and section 2778 of this title.

Subsec. (h) was subsequently repealed by act Aug. 30, 1954, ch. 1076, §1(28), 68 Stat. 968.

§453. Regulations

The President may, from time to time, promulgate such rules and regulations, not inconsistent with law, as may be necessary and proper to carry out any of the provisions of this subchapter; and he may exercise any power or authority conferred on him by this subchapter through such officer or officers, or agency or agencies, as he shall direct.

(Nov. 4, 1939, ch. 2, §13, 54 Stat. 11.)

DELEGATION OF POWERS

Power to make rules and regulations under this subchapter delegated to Secretary of State by Proc. No. 2374, promulgated Nov. 4, 1939, 4 F.R. 4493, 54 Stat. 2671. See proclamations preceding section 1 of Title 50, War and National Defense.

§454. Unlawful use of the American flag by vessel of foreign state

(a) It shall be unlawful for any vessel belonging to or operating under the jurisdiction of any foreign state to use the flag of the United States thereon, or to make use of any distinctive signs or markings, indicating that the same is an American vessel.

(b) Any vessel violating the provisions of subsection (a) of this section shall be denied for a period of three months the right to enter the ports or territorial waters of the United States except in cases of force majeure.

(Nov. 4, 1939, ch. 2, §14, 54 Stat. 11.)

§455. General penalty provision

In every case of the violation of any of the provisions of this subchapter or of any rule or regulation issued pursuant thereto where a specific penalty is not provided in this subchapter, such violator or violators, upon conviction, shall be fined not more than $10,000, or imprisoned not more than two years, or both.

(Nov. 4, 1939, ch. 2, §15, 54 Stat. 11.)

§456. Definitions

For the purposes of this subchapter—

(a) The term "United States", when used in a geographical sense, includes the several States and Territories, the insular possessions of the United States, the Canal Zone, and the District of Columbia.

(b) The term "person" includes a partnership, company, association, or corporation, as well as a natural person.

(c) The term "vessel" means every description of watercraft and aircraft capable of being used as a means of transportation on, under, or over water.

(d) The term "American vessel" means any vessel documented, and any aircraft registered or licensed, under the laws of the United States.

(e) The term "state" shall include nation, government, and country.

(f) The term "citizen" shall include any individual owing allegiance to the United States, a partnership, company, or association composed in whole or in part of citizens of the United States, and any corporation organized and existing under the laws of the United States as defined in subsection (a) of this section.

(Nov. 4, 1939, ch. 2, §16, 54 Stat. 12; Proc. No. 2695, July 4, 1946, 11 F.R. 7517, 60 Stat. 1352.)

REFERENCES IN TEXT

For definition of Canal Zone, referred to in subsec. (a), see section 3602(b) of this title.

CODIFICATION

Words "(including the Philippine Islands)" omitted from definition of "United States" in subsec. (a) pursuant to the authority of Proc. No. 2695, which granted independence to the Philippines under the provisions of section 1394 of this title, and which is set out as a note under section 1394.

§457. Appropriations

There is hereby authorized to be appropriated from time to time, out of any money in the Treasury not otherwise appropriated, such amounts as may be necessary to carry out the provisions and accomplish the purposes of this subchapter.

(Nov. 4, 1939, ch. 2, §18, 54 Stat. 12.)

SUBCHAPTER III—PREVENTION OF OFFENSES AGAINST NEUTRALITY

§461. Enforcement by courts; employment of land or naval forces

The district courts shall take cognizance of all complaints, by whomsoever instituted, in cases of captures made within the waters of the United States, or within a marine league of the coasts or shores thereof. In every case in which a vessel is fitted out and armed, or attempted to be fitted out and armed, or in which the force of any vessel of war, cruiser, or other armed vessel is increased or augmented, or in which any military expedition or enterprise is begun or set on foot, contrary to the provisions and prohibitions of this subchapter and sections 958 to 962 of title 18; and in every case of the capture of a vessel within the jurisdiction or protection of the United States as before defined; and in every case in which any process issuing out of any court of the United States is disobeyed or resisted by any person having the custody of any vessel of war, cruiser, or other armed vessel of any foreign prince or state, or of any colony, district, or people, or of any subjects or citizens of any foreign prince or state, or of any colony, district, or people, it shall be lawful for the President or such other person as he shall have empowered for that purpose, to employ such part of the land or naval forces of the United States, or of the militia thereof, for the purpose of taking possession of and detaining any such vessel, with her prizes, if any, in order to enforce the execution of the prohibitions and penalties of this subchapter and sections 958 to 962 of title 18, and the restoring of

such prizes in the cases in which restoration shall be adjudged; and also for the purpose of preventing the carrying on of any such expedition or enterprise from the territory or jurisdiction of the United States against the territory or dominion of any foreign prince or state, or of any colony, district, or people with whom the United States are at peace.

(Mar. 4, 1909, ch. 321, §14, 35 Stat. 1090.)

CODIFICATION

This subchapter and sections 958 to 962 of title 18, referred to in text, was in the original "this chapter", meaning chapter 2 of the act of Mar. 4, 1909, which had been classified to sections 461 to 464 of this title and sections 21 to 25, and 30 of former Title 18, Criminal Code and Criminal Procedure.

"This subchapter" substituted in text for "sections 461 to 464 of this title".

"Sections 958 to 962 of title 18" substituted in text for "sections 21 to 25, and 30 of title 18" on authority of act June 25, 1948, ch. 645, 62 Stat. 683, section 1 of which enacted Title 18, Crimes and Criminal Procedure.

Section was formerly classified to section 26 of title 18 prior to the general revision and enactment of Title 18 by act June 25, 1948, ch. 645, §1, 62 Stat. 683.

PRIOR PROVISIONS

Section was derived from R.S. §5287 (act Apr. 20, 1818, ch. 88, §8, 3 Stat. 449) which was amended by act Feb. 18, 1875, ch. 80, 18 Stat. 320, and was repealed by section 341 of the act of Mar. 4, 1909.

§462. Compelling foreign vessels to depart

It shall be lawful for the President to employ such part of the land or naval forces of the United States, or of the militia thereof, as he may deem necessary to compel any foreign vessel to depart from the United States or any of its possessions in all cases in which, by the law of nations or the treaties of the United States, it ought not to remain, and to detain or prevent any foreign vessel from so departing in all cases in which, by the law of nations or the treaties of the United States, it is not entitled to depart.

(Mar. 4, 1909, ch. 321, §15, 35 Stat. 1091; June 15, 1917, ch. 30, title V, §10, 40 Stat. 223.)

CODIFICATION

Section was formerly classified to section 27 of title 18 prior to the general revision and enactment of Title 18, Crimes and Criminal Procedure, by act June 25, 1948, ch. 645, §1, 62 Stat. 683.

Act June 15, 1917, inserted provisions relating to detention of vessels.

PRIOR PROVISIONS

Section was derived from R.S. §5288 (act Apr. 20, 1818, ch. 88, §9, 3 Stat. 449), which was repealed by act Mar. 4, 1909, ch. 321, §341, 35 Stat. 1153.

§463. Bonds from armed vessels on clearing

The owners or consignees of every armed vessel sailing out of the ports of, or under the jurisdiction of, the United States, belonging wholly or in part to citizens thereof, shall, before clearing out the same, give bond to the United States, with sufficient sureties, in double the amount of the value of the vessel and cargo on board, including her armament, conditioned that the vessel shall not be employed by such owners to cruise or commit hostilities against the subjects, citizens, or property of any foreign prince or state, or of any colony, district, or people, with whom the United States are at peace.

(Mar. 4, 1909, ch. 321, §16, 35 Stat. 1091.)

CODIFICATION

Section was formerly classified to section 28 of title 18 prior to the general revision and enactment of Title 18, Crimes and Criminal Procedure, by act June 25, 1948, ch. 645, §1, 62 Stat. 683.

PRIOR PROVISIONS

Section was derived from R.S. §5289 (act Apr. 20, 1818, ch. 88, §10, 3 Stat. 449), which was repealed by act Mar. 4, 1909, ch. 321, §341, 35 Stat. 1153.

§464. Detention by collectors of customs

The several collectors of the customs shall detain any vessel manifestly built for warlike purposes, and about to depart the United States, or any place subject to the jurisdiction thereof, the cargo of which principally consists of arms and munitions of war, when the number of men shipped on board, or other circumstances, render it probable that such vessel is intended to be employed by the owners to cruise or commit hostilities upon the subjects, citizens, or property of any foreign prince or state, or of any colony, district, or people with whom the United States are at peace, until the decision of the President is had thereon, or until the owner gives such bond and security as is required of the owners of armed vessels by section 463 of this title.

(Mar. 4, 1909, ch. 321, §17, 35 Stat. 1091.)

CODIFICATION

Section was formerly classified to section 29 of title 18 prior to the general revision and enactment of Title 18, Crimes and Criminal Procedure, by act June 25, 1948, ch. 645, §1, 62 Stat. 683.

PRIOR PROVISIONS

Section was derived from R.S. §5290 (act Apr. 20, 1818, ch. 88, §11, 3 Stat. 450), which was repealed by act Mar. 4, 1909, ch. 321, §341, 35 Stat. 1153.

TRANSFER OF FUNCTIONS

Offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise of Bureau of Customs of Department of the Treasury to which appointments were required to be made by President with advice and consent of Senate ordered abolished, with such offices to be terminated not later than Dec. 31, 1966, by Reorg. Plan No. 1, of 1965 eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. Functions of Offices eliminated were already vested in Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

§465. Detention of vessels

The President may employ such part of the land or naval forces of the United States as he may deem necessary to carry out the purposes of sections 462 and 465 of this title, and sections 756, 960, 963 to 967, and 3058 of title 18.

(June 15, 1917, ch. 30, title V, §9, 40 Stat. 223.)

CODIFICATION

This section was not enacted as part of act Mar. 4, 1909, ch. 321, 35 Stat. 1090, which comprises this subchapter.

Sections 462 and 465 of this title, and sections 756, 960, 963 to 967, and 3058 of title 18, referred to in text, was in the original "this title", meaning title V of act June 15, 1917, which had been classified to sections 462 and 465 of this title and sections 25, and 31 to 38 of former Title 18, Criminal Code and Criminal Procedure.

"Sections 756, 960, 963 to 967, and 3058 of title 18" substituted in text for "sections 25, and 31 to 38 of title 18" on authority of act June 25, 1948, ch. 645, 62 Stat. 683, section 1 of which enacted Title 18, Crimes and Criminal Procedures.

Section was formerly classified to section 38 of title 18 prior to the general revision and enactment of Title 18, by act June 25, 1948, ch. 645, §1, 62 Stat. 683.

DEFINITIONS

Definition of United States as used in this section, see section 408a of this title.

CHAPTER 10—HEMISPHERAL RELATIONS

SUBCHAPTER I—GENERALLY

Sec.
501. Utilization of services of Government agencies to promote inter-American relations.
502. Creation of advisory committees.
503. Facilitating work of foreign traveling salesmen; licenses and certificates of identification.
504. Transfer of hemisphere territory from one non-American power to another; recognition; consultation with American Republics.

SUBCHAPTER II—WAR MATERIALS

521. Military and naval assistance to governments of American Republics.
522. Transmission of information pertaining to implements of war, vessels, etc.
523. Restriction in contracts against disposal of implements of war, vessels, etc., or information.
524. Information on shipments to be given Chairman of National Munitions Control Board.
525. Appropriations and disposition of receipts.
526. Protection of patent rights.
527. Purchases of implements of war, etc., from American Republics.

SUBCHAPTER I—GENERALLY

§501. Utilization of services of Government agencies to promote inter-American relations

In order to render closer and more effective the relationship between the American republics the President of the United States is authorized, subject to such appropriations as are made available for the purpose, to utilize the services of the departments, agencies, and independent establishments of the Government in carrying out the reciprocal undertakings and cooperative purposes enunciated in the treaties, resolutions, declarations, and recommendations signed by all of the twenty-one American republics at the Inter-American Conference for the Maintenance of Peace held at Buenos Aires, Argentina, in 1936, and at the Eighth International Conference of American States held at Lima, Peru, in 1938.

(Aug. 9, 1939, ch. 616, §1, 53 Stat. 1290.)

§502. Creation of advisory committees

The President is authorized to create such advisory committees as in his judgment may be of assistance in carrying out the undertakings of this Government under the treaties, resolutions, declarations, and recommendations referred to, but no committee or member thereof shall be allowed any salary or other compensation for services: *Provided, however*, That they may, within the limits of appropriations made available therefor by the Congress, which appropriations are authorized, be paid their actual transportation expenses and not to exceed $10 per diem in lieu of subsistence and other expenses while away from their homes in attendance upon meetings within the United States under instructions from the Secretary of State.

(Aug. 9, 1939, ch. 616, §2, 53 Stat. 1290.)

TERMINATION OF ADVISORY COMMITTEES

Advisory committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, and advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by

Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

§503. Facilitating work of foreign traveling salesmen; licenses and certificates of identification

Whereas the United States has entered into conventions with the Governments of Uruguay, Guatemala, Salvador, Panama, and Venezuela which were signed on August 27, 1918, December 3, 1918, January 28, 1919, February 8, 1919, and July 3, 1919, respectively, for facilitating the work of traveling salesmen; and

Whereas Articles I and II of each of said conventions read as follows:

"ARTICLE I. Manufacturers, merchants, and traders domiciled within the jurisdiction of one of the high contracting parties may operate as commercial travelers either personally or by means of agents or employees within the jurisdiction of the other high contracting party on obtaining from the latter, upon payment of a single fee, a license which shall be valid throughout its entire territorial jurisdiction.

"In case either of the high contracting parties shall be engaged in war, it reserves to itself the right to prevent from operating within its jurisdiction under the provisions of this treaty, or otherwise, enemy nationals or other aliens whose presence it may consider prejudicial to public order and national safety.

"ART. II. In order to secure the license above mentioned the applicant must obtain from the country of domicile of the manufacturers, merchants, and traders represented a certificate attesting his character as commercial traveler. This certificate, which shall be issued by the authority to be designated in each country for the purpose, shall be visaed by the consul of the country in which the applicant proposes to operate, and the authorities of the latter shall, upon the presentation of such certificate, issue to the applicant the national license as provided in Article I."

Now, therefore, the Secretary of Commerce, or any person in the Department of Commerce designated by him, is authorized to issue the licenses and certificates of identification which are provided for by the said Articles I and II, respectively, of the said conventions, or which may be provided for by similar articles in any convention or treaty that may, on and after September 22, 1922, be concluded by the United States with a foreign government, and is further authorized to collect a reasonable fee for each license and certificate of identification issued. The amount of such fee shall be fixed by regulations made by the Secretary of Commerce and shall be paid into the Treasury of the United States quarterly.

(Sept. 22, 1922, ch. 414, 42 Stat. 1028.)

§504. Transfer of hemisphere territory from one non-American power to another; recognition; consultation with American Republics

(1) The United States would not recognize any transfer, and would not acquiesce in any attempt to transfer, any geographic region of this hemisphere from one non-American power to another non-American power; and

(2) If such transfer or attempt to transfer should appear likely, the United States shall, in addition to other measures, immediately consult with the other American republics to determine upon the steps which should be taken to safeguard their common interests.

(Apr. 10, 1941, ch. 49, 55 Stat. 133.)

PURPOSE OF ENACTMENT

The "whereas" clauses preceding the resolving words in Joint Res. Apr. 10, 1941, provided as follows:

"Whereas our traditional policy has been to consider any attempt on the part of non-American powers to extend their system to any portion of this hemisphere as dangerous to the peace and safety not only of this country but of the other American republics; and

"Whereas the American republics agreed at the Inter-American Conference for the Maintenance of Peace held in Buenos Aires in 1936 and at the Eighth International Conference of American States held in Lima in 1938 to consult with one another in the event that the peace, security, or territorial integrity of any American republic should be threatened; and

"Whereas the Meeting of the Foreign Ministers of the American Republics at Panama October 3, 1939, resolved 'That in case any geographic region of America subject to the jurisdiction of any non-American state should be obliged to change its sovereignty and there should result therefrom a danger to the security of the American Continent, a consultative meeting such as the one now being held will be convoked with the urgency that the case may require':".

SUBCHAPTER II—WAR MATERIALS

§521. Military and naval assistance to governments of American Republics

(a) Coast-defense and antiaircraft matériel; ammunition

The President may, in his discretion, authorize the Secretary of the Army to manufacture in factories and arsenals under his jurisdiction, or otherwise procure, coast-defense and antiaircraft matériel, including ammunition therefor, on behalf of the government of any American republic; to sell such matériel and ammunition to any such government; to test or prove such matériel and ammunition prior to sale or delivery to any such government; to repair such matériel on behalf of any such government; and to communicate to any such government plans, specifications, or other information relating to such matériel and ammunition as may be sold to any such government.

(b) Vessels of war; armament, artillery, equipment, and ammunition

The President may, in his discretion, authorize the Secretary of the Navy to construct vessels of war on behalf of the government of any American republic in shipyards under his jurisdiction; to manufacture armament and equipment for such vessels on behalf of any such government in arsenals under his jurisdiction; to sell armament and equipment for such vessels to any such government; to manufacture antiaircraft artillery and ammunition therefor, on behalf of any such government in factories and arsenals under his jurisdiction; to sell antiaircraft artillery and ammunition therefor to any such government; to test or prove such vessels, armament, artillery, ammunition, or equipment prior to sale or delivery to any such government; to repair such vessels, armament, artillery, or equipment on behalf of any such government; and to communicate to any such government plans, specifications, and other information relating to such vessels of war and their armament and equipment or antiaircraft artillery and ammunition therefor, as may be sold to any such government or relating to any vessels of war which any such government may propose to construct or manufacture within its own jurisdiction: *Provided*, That nothing contained herein shall be construed as authorizing the violation of any of the provisions of any treaty to which the United States is or may become a party or of any established principles or precedents of international law: *And provided further*, That no transaction authorized herein shall result in expense to the United States, nor involve the extension of credits by the United States: *And provided further*, That no contract shall be entered into under the terms of this subchapter which shall interfere with or delay the United States in the full use of its shipyards, arsenals, munition plants, and other equipment for its own purposes.

(June 15, 1940, ch. 365, §1, 54 Stat. 396; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501.)

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

SECRETARY OF THE AIR FORCE

For transfer of certain procurement and related functions and property, insofar as they pertain to Air Force, from Secretary of the Army and Department of the Army to Secretary of the Air Force and Department of the Air Force, see Secretary of Defense Transfer Order Nos. 6 [§1(a)(41)], eff. Jan. 15, 1948; 39 [§2zz], May 18, 1949.

§522. Transmission of information pertaining to implements of war, vessels, etc.

In carrying out transactions authorized by section 521 of this title, the Secretary of the Army and the Secretary of the Navy are authorized, in their discretion and provided that it be not inconsistent with any defense requirements of the United States or of its possessions, to communicate or transmit to the government of any American republic or to any duly authorized person for the use of such government information pertaining to the arms, ammunition, or implements of war sold under the terms of that section or to any vessels of war constructed within the jurisdiction of any such government, and to export for the use of any such government coast defense and antiaircraft matériel and ammunition therefor, and vessels of war and their armament and equipment involving such information: *Provided*, That any information thus communicated or transmitted or involved in any such arms, ammunition, implements of war, or equipment when exported shall cease to be considered restricted after one year from the date that such communication or transmission has been authorized or such exportation made.

(June 15, 1940, ch. 365, §2, 54 Stat. 396; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501.)

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 510. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

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For transfer of certain procurement and related functions and property, insofar as they pertain to Air Force, from Secretary of the Army and Department of the Army to Secretary of the Air Force and Department of the Air Force, see Secretary of Defense Transfer Order Nos. 6 [§1(a)(41)], eff. Jan. 15, 1948, 39 [§2zz], May 18, 1949.

§523. Restriction in contracts against disposal of implements of war, vessels, etc., or information

All contracts or agreements made by the Secretary of the Army or the Secretary of the Navy for the sale to the government of any American republic of any of the arms, ammunition, or implements of war, the sale of which is authorized by this subchapter, shall contain a clause by which the purchaser undertakes not to dispose of such arms, ammunition, or implements of war, or any plans, specifications, or information pertaining thereto, by gift, sale, or any mode of transfer in such manner that such arms, ammunition, implements of war, or plans, specifications, or information pertaining thereto, may become a part of the armament of any state other than an American republic.

(June 15, 1940, ch. 365, §3, 54 Stat. 397; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501.)

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

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§524. Information on shipments to be given Chairman of National Munitions Control Board

The Secretary of the Army or the Secretary of the Navy, as the case may be, shall, when any arms, ammunition, implements of war, or equipment are exported pursuant to the provisions of this subchapter, immediately inform the Secretary of State, Chairman of the National Munitions Control Board, of the quantities, character, value, terms of sale, and destination of the arms, ammunition, implements of war, or equipment so exported. Such information shall be included in the annual report of the Board.

(June 15, 1940, ch. 365, §4, 54 Stat. 397; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501.)

REFERENCES IN TEXT

National Munitions Control Board, referred to in text, was established under section 452 of this title, which was repealed by act Aug. 26, 1954, ch. 937, title V, §542(a)(12), 68 Stat. 861. See section 2778 of this title.

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

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§525. Appropriations and disposition of receipts

(a) There is hereby authorized to be appropriated from time to time, out of any moneys in the Treasury not otherwise appropriated, such amounts as may be necessary to carry out the provisions and accomplish the purposes of this subchapter.

(b) All moneys which may be received from the government of any American republic, in payment for any article delivered or service rendered in compliance with the provisions of this subchapter, shall revert to the respective appropriation or appropriations out of which funds were expended in carrying out the transaction for which money is received, and such moneys shall be available for expenditure for the purpose for which such expended funds were appropriated by law, during the fiscal year in which such funds are received and the ensuing fiscal year.

(June 15, 1940, ch. 365, §5, 54 Stat. 397.)

§526. Protection of patent rights

The Secretary of the Army and the Secretary of the Navy shall in all contracts or agreements for the sale of such matériel fully protect the rights of all citizens of the United States who have patent rights in and to any such matériel which is authorized to be sold and the funds collected for royalties on such patents shall be paid to the owners and holders of such patents.

(June 15, 1940, ch. 365, §6, 54 Stat. 397; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501.)

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

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§527. Purchases of implements of war, etc., from American Republics

The Secretaries of the Army and of the Navy are authorized to purchase arms, ammunition, and implements of war produced within the jurisdiction of any American republic if such arms, ammunition, or implements of war cannot be produced in the United States.

(June 15, 1940, ch. 365, §7, 54 Stat. 397; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501.)

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

SECRETARY OF THE AIR FORCE

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CHAPTER 11—FOREIGN AGENTS AND PROPAGANDA

SUBCHAPTER I—GENERALLY

Sec.

601. Repealed.

SUBCHAPTER II—REGISTRATION OF FOREIGN PROPAGANDISTS

611. Definitions.
612. Registration statement.
613. Exemptions.
614. Filing and labeling of political propaganda.
615. Books and records.
616. Public examination of official records; transmittal of records and information.
617. Liability of officers.
618. Enforcement and penalties.
619. Territorial applicability of subchapter.
620. Rules and regulations.
621. Reports to Congress.

SUBCHAPTER I—GENERALLY

§601. Repealed. June 25, 1948, ch. 645, §21, 62 Stat. 862, eff. Sept. 1, 1948

Section, acts June 15, 1917, ch. 30, title VIII, §3, 40 Stat. 226; Mar. 28, 1940, ch. 72, §6, 54 Stat. 80, related to acting as a foreign agent without notice to Secretary of State. See section 951 of Title 18, Crimes and Criminal Procedure.

SUBCHAPTER II—REGISTRATION OF FOREIGN PROPAGANDISTS

EX. ORD. NO. 9176. TRANSFER OF REGISTRATION FUNCTIONS FROM THE SECRETARY OF STATE TO THE ATTORNEY GENERAL

Ex. Ord. No. 9176, May 29, 1942, 7 F.R. 4127, provided:

By virtue of the authority vested in me by Title I of the First War Powers Act, 1941, approved December 18, 1941 (Public Law No. 354, 77th Congress [section 601 et seq. of the former Appendix to Title 50, War and National Defense]), and as President of the United States, it is hereby ordered as follows:

1. All functions, powers and duties of the Secretary of State under the act of June 8, 1938 (52 Stat. 631), as amended by the act of August 7, 1939 (53 Stat. 1244), requiring the registration of agents of foreign principals, are hereby transferred to and vested in the Attorney General.

2. All property, books and records heretofore maintained by the Secretary of State with respect to his administration of said act of June 8, 1938, as amended, are hereby transferred to and vested in the Attorney General.

3. The Attorney General shall furnish to the Secretary of State for such comment, if any, as the Secretary of State may desire to make from the point of view of the foreign relations of the United States, one copy of each registration statement that is hereafter filed with the Attorney General in accordance with the provisions of this Executive order.

4. All rules, regulations and forms which have been issued by the Secretary of State pursuant to the provisions of said act of June 8, 1938, as amended, and which are in effect shall continue in effect until modified, superseded, revoked or repealed by the Attorney General.

5. This order shall become effective as of June 1, 1942.

FRANKLIN D ROOSEVELT.

§611. Definitions

As used in and for the purposes of this subchapter—

(a) The term "person" includes an individual, partnership, association, corporation, organization, or any other combination of individuals;

(b) The term "foreign principal" includes—

(1) a government of a foreign country and a foreign political party;

(2) a person outside of the United States, unless it is established that such person is an individual and a citizen of and domiciled within the United States, or that such person is not an individual and is organized under or created by the laws of the United States or of any State or other place subject to the jurisdiction of the United States and has its principal place of business within the United States; and

(3) a partnership, association, corporation, organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country.

(c) Expect [1] as provided in subsection (d) of this section, the term "agent of a foreign principal" means—

(1) any person who acts as an agent, representative, employee, or servant, or any person who acts in any other capacity at the order, request, or under the direction or control, of a foreign principal or of a person any of whose activities are directly or indirectly supervised, directed, controlled, financed, or subsidized in whole or in major part by a foreign principal, and who directly or through any other person—

(i) engages within the United States in political activities for or in the interests of such foreign principal;

(ii) acts within the United States as a public relations counsel, publicity agent, information-service employee or political consultant for or in the interests of such foreign principal;

(iii) within the United States solicits, collects, disburses, or dispenses contributions, loans, money, or other things of value for or in the interest of such foreign principal; or

(iv) within the United States represents the interests of such foreign principal before any agency or official of the Government of the United States; and

(2) any person who agrees, consents, assumes or purports to act as, or who is or holds himself out to be, whether or not pursuant to contractual relationship, an agent of a foreign principal as defined in clause (1) of this subsection.

(d) The term "agent of a foreign principal" does not include any news or press service or association organized under the laws of the United States or of any State or other place subject to the jurisdiction of the United States, or any newspaper, magazine, periodical, or other publication for which there is on file with the United States Postal Service information in compliance with section 3611 [2] of title 39, published in the United States, solely by virtue of any bona fide news or journalistic activities, including the solicitation or acceptance of advertisements, subscriptions, or other compensation therefor, so long as it is at least 80 per centum beneficially owned by, and its officers and directors, if any, are citizens of the United States, and such news or press service or association, newspaper, magazine, periodical, or other publication, is not owned, directed, supervised, controlled, subsidized, or financed, and none of its policies are determined by any foreign principal defined in subsection (b) of this section, or by any agent of a foreign principal required to register under this subchapter;

(e) The term "government of a foreign country" includes any person or group of persons exercising sovereign de facto or de jure political jurisdiction over any country, other than the United States, or over any part of such country, and includes any subdivision of any such group and any group or agency to which such sovereign de facto or de jure authority or functions are directly or indirectly delegated. Such term shall include any faction or body of insurgents within a country assuming to exercise governmental authority whether such faction or body of insurgents has or has not been recognized by the United States;

(f) The term "foreign political party" includes any organization or any other combination of individuals in a country other than the United States, or any unit or branch thereof, having for an aim or purpose, or which is engaged in any activity devoted in whole or in part to, the establishment, administration, control, or acquisition of administration or control, of a government of a foreign country or a subdivision thereof, or the furtherance or influencing of the political or public interests, policies, or relations of a government of a foreign country or a subdivision thereof;

(g) The term "public-relations counsel" includes any person who engages directly or indirectly in informing, advising, or in any way representing a principal in any public relations matter pertaining to political or public interests, policies, or relations of such principal;

(h) The term "publicity agent" includes any person who engages directly or indirectly in the publication or dissemination of oral, visual, graphic, written, or pictorial information or matter of any kind, including publication by means of advertising, books, periodicals, newspapers, lectures, broadcasts, motion pictures, or otherwise;

(i) The term "information-service employee" includes any person who is engaged in furnishing, disseminating, or publishing accounts, descriptions, information, or data with respect to the political, industrial, employment, economic, social, cultural, or other benefits, advantages, facts, or conditions of any country other than the United States or of any government of a foreign country or of a foreign political party or of a partnership, association, corporation, organization, or other combination of individuals organized under the laws of, or having its principal place of business in, a foreign country;

(j) Repealed. Pub. L. 104–65, §9(1)(A), Dec. 19, 1995, 109 Stat. 699.

(k) The term "registration statement" means the registration statement required to be filed with the Attorney General under section 612(a) of this title, and any supplements thereto required to be filed under section 612(b) of this title, and includes all documents and papers required to be filed therewith or amendatory thereof or supplemental thereto, whether attached thereto or incorporated therein by reference;

(l) The term "American republic" includes any of the states which were signatory to the Final Act of the Second Meeting of the Ministers of Foreign Affairs of the American Republics at Habana, Cuba, July 30, 1940;

(m) The term "United States", when used in a geographical sense, includes the several States, the District of Columbia, the Territories, the Canal Zone, the insular possessions, and all other places now or hereafter subject to the civil or military jurisdiction of the United States;

(n) The term "prints" means newspapers and periodicals, books, pamphlets, sheet music, visiting cards, address cards, printing proofs, engravings, photographs, pictures, drawings, plans, maps, patterns to be cut out, catalogs, prospectuses, advertisements, and printed, engraved, lithographed, or autographed notices of various kinds, and, in general, all impressions or reproductions obtained on paper or other material assimilable to paper, on parchment or on cardboard, by means of printing, engraving, lithography, autography, or any other easily recognizable mechanical process, with the exception of the copying press, stamps with movable or immovable type, and the typewriter;

(o) The term "political activities" means any activity that the person engaging in believes will, or that the person intends to, in any way influence any agency or official of the Government of the United States or any section of the public within the United States with reference to formulating, adopting, or changing the domestic or foreign policies of the United States or with reference to the political or public interests, policies, or relations of a government of a foreign country or a foreign political party;

(p) The term "political consultant" means any person who engages in informing or advising any other person with reference to the domestic or foreign policies of the United States or the political or public interest, policies, or relations of a foreign country or of a foreign political party.

(June 8, 1938, ch. 327, §1, 52 Stat. 631; Aug. 7, 1939, ch. 521, §1, 53 Stat. 1244; Apr. 29, 1942, ch. 263, §1, 56 Stat. 249; Proc. No. 2695, July 4, 1946, 11 F.R. 7517, 60 Stat. 1352; Sept. 23, 1950, ch. 1024, title I, §20(a), 64 Stat. 1005; Aug. 1, 1956, ch. 849, §1, 70 Stat. 899; Pub. L. 87–366, §1, Oct. 4, 1961, 75 Stat. 784; Pub. L. 89–486, §1, July 4, 1966, 80 Stat. 244; Pub. L. 91–375, §6(k), Aug. 12, 1970, 84 Stat. 782; Pub. L. 104–65, §9(1), Dec. 19, 1995, 109 Stat. 699.)

REFERENCES IN TEXT

For definition of Canal Zone, referred to in subsec. (m), see section 3602(b) of this title.

CODIFICATION

Words "including the Philippine Islands," omitted from definition of "United States" in subsec. (m) pursuant to Proc. No. 2695, which granted independence to the Philippines under the authority of section 1394 of this title, under which section Proc. No. 2695 is set out as a note.

AMENDMENTS

1995—Subsec. (j). Pub. L. 104–65, §9(1)(A), struck out subsec. (j) which read as follows: "The term 'political propaganda' includes any oral, visual, graphic, written, pictorial, or other communication or expression by any person (1) which is reasonably adapted to, or which the person disseminating the same believes will, or which he intends to, prevail upon, indoctrinate, convert, induce, or in any other way influence a recipient or any section of the public within the United States with reference to the political or public interests, policies, or relations of a government of a foreign country or a foreign political party or with reference to the foreign policies of the United States or promote in the United States racial, religious, or social dissensions, or (2) which advocates, advises, instigates, or promotes any racial, social, political, or religious disorder, civil riot, or other conflict involving the use of force or violence in any other American republic or the overthrow of any government or political subdivision of any other American republic by any means

involving the use of force or violence. As used in this subsection the term 'disseminating' includes transmitting or causing to be transmitted in the United States mails or by any means or instrumentality of interstate or foreign commerce or offering or causing to be offered in the United States mails;".

Subsec. (o). Pub. L. 104–65, §9(1)(B), substituted "any activity that the person engaging in believes will, or that the person intends to, in any way influence" for "the dissemination of political propaganda and any other activity which the person engaging therein believes will, or which he intends to, prevail upon, indoctrinate, convert, induce, persuade, or in any other way influence".

Subsec. (p). Pub. L. 104–65, §9(1)(C), substituted a period for semicolon at end.

Subsec. (q). Pub. L. 104–65, §9(1)(D), struck out subsec. (q) which read as follows: "For the purpose of section 613(d) of this title, activities in furtherance of the bona fide commercial, industrial or financial interests of a domestic person engaged in substantial commercial, industrial or financial operations in the United States shall not be deemed to serve predominantly a foreign interest because such activities also benefit the interests of a foreign person engaged in bona fide trade or commerce which is owned or controlled by, or which owns or controls, such domestic person: *Provided*, That (i) such foreign person is not, and such activities are not directly or indirectly supervised, directed, controlled, financed or subsidized in whole or in substantial part by, a government of a foreign country or a foreign political party, (ii) the identity of such foreign person is disclosed to the agency or official of the United States with whom such activities are conducted, and (iii) whenever such foreign person owns or controls such domestic person, such activities are substantially in furtherance of the bona fide commercial, industrial or financial interests of such domestic person."

1970—Subsec. (d). Pub. L. 91–375 substituted "file with the United States Postal Service information in compliance with section 3611 of title 39" for "file with the Postmaster General a sworn statement in compliance with section 2 of the Act of August 24, 1912 (37 Stat. 553), as amended".

1966—Subsec. (b). Pub. L. 89–486, §1(1), redesignated former pars. (3) and (4) as (2) and (3), substituted in such par. (3) "combination of persons" for "combination of individuals" and struck out from definition of "foreign principal" former pars. (2), (5), and (6) which included "(2) an individual affiliated or associated with, or supervised, directed, controlled, financed, or subsidized, in whole or in part, by any foreign principal defined in clause (1) of this subsection"; "(5) a domestic partnership, association, corporation, organization, or other combination of individuals, subsidized directly or indirectly, in whole or in part, by any foreign principal defined in clause (1), (3), or (4) of this subsection"; and "(6) a domestic partnership, association, corporation, or other combination of individuals, supervised, directed, controlled, or financed, in whole or in substantial part, by any foreign government or foreign political party".

Subsec. (c). Pub. L. 89–486, §1(2), amended provisions generally to redefine "agent of a foreign principal" by specifying four categories of activities creating the agency relationship where person acts as agent, employee, representative, or servant or at the order of, or under the control of, a foreign principal, by requiring a showing not only of foreign connections but also of certain activities performed by the agent for foreign interests, by making change as it relates to problem of indirect control exerted by foreign principals over their agents, by including political activities and actions as political consultant, by excluding attorneys from the relationship, by incorporating provisions of former par. (3) in par. (2) where a person assumes or purports to act as an agent of a foreign principal, and by eliminating the separate category for military or governmental officials contained in former par. (4).

Subsec. (d). Pub. L. 89–486, §1(3), struck out "clause (1), (2), or (4) of" before "subsection (b)".

Subsec. (g). Pub. L. 89–486, §1(4), inserted "public relations" before "matter pertaining to" and "of such principal" after "or relations".

Subsecs. (o) to (q). Pub. L. 89–486, §1(5), added subsecs. (o) to (q).

1961—Subsec. (b)(6). Pub. L. 87–366 added par. (6).

1956—Subsec. (c)(5). Act Aug. 1, 1956, repealed par. (5) which included within definition of "agent of a foreign principal" any person trained in foreign espionage systems with certain exceptions. See sections 851 and 852 of Title 50, War and National Defense.

1950—Subsec. (c)(5). Act Sept. 23, 1950, added par. (5).

1942—Act Apr. 29, 1942, amended section generally to redefine terms used in this subchapter.

1939—Act Aug. 7, 1939, amended section generally to redefine terms used in this subchapter.

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104–65 effective Jan. 1, 1996, except as otherwise provided, see section 24 of Pub. L. 104–65, set out as an Effective Date note under section 1601 of Title 2, The Congress.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–375 effective within 1 year after Aug. 12, 1970, on date established therefor by Board of Governors of United States Postal Service and published by it in Federal Register, see section 15(a) of Pub. L. 91–375, set out as an Effective Date note preceding section 101 of Title 39, Postal Service.

EFFECTIVE DATE OF 1966 AMENDMENT

Pub. L. 89–486, §9, July 4, 1966, 80 Stat. 249, provided that: "This Act [enacting sections 219 and 613 of Title 18, Crimes and Criminal Procedure, and amending this section and sections 612 to 616 and 618 of this title] shall take effect ninety days after the date of its enactment [July 4, 1966]."

EFFECTIVE DATE OF 1942 AMENDMENT

Act Apr. 29, 1942, ch. 263, §3, 56 Stat. 258, provided that: "This Act [amending this subchapter] shall take effect on the sixtieth day after the date of its approval, except that prior to such sixtieth day the Attorney General may make, prescribe, amend, and rescind such rules, regulations, and forms as may be necessary to carry out the provisions of this Act [amending this subchapter]."

EFFECTIVE DATE

Act June 8, 1938, ch. 327, §7, 52 Stat. 633, provided that: "This Act [enacting this subchapter] shall take effect on the ninetieth day after the date of its enactment [June 8, 1938]."

SHORT TITLE

Act June 8, 1938, ch. 327, §14, as added by act Apr. 29, 1942, ch. 263, §1, 56 Stat. 258, provided that: "This Act [enacting this subchapter] may be cited as the 'Foreign Agents Registration Act of 1938, as amended'."

SEPARABILITY; EFFECT ON EXISTING LAW

Act June 8, 1938, ch. 327, §§12, 13, as added by act Apr. 29, 1942, ch. 263, §1, 56 Stat. 258, provided that:

"SEC. 12. If any provision of this Act [enacting this subchapter], or the application thereof to any person or circumstances, is held invalid, the remainder of the Act, and the application of such provisions to other persons or circumstances, shall not be affected thereby.

"SEC. 13. This Act [enacting this subchapter] is an addition to and not in substitution for any other existing statute."

TRANSFER OF FUNCTIONS

Act Apr. 29, 1942, ch. 263, §2, 56 Stat. 258, provided that: "Upon the effective date of this Act [see Effective Date of 1942 Amendment note above], all powers, duties, and functions of the Secretary of State under the Act of June 8, 1938 (52 Stat. 631), as amended [this subchapter], shall be transferred to and become vested in the Attorney General, together with all property, books, records, and unexpended balances of appropriations used by or available to the Secretary of State for carrying out the functions devolving on him under the above-cited Act. All rules, regulations, and forms which have been issued by the Secretary of State pursuant to the provisions of said Act, and which are in effect, shall continue in effect until modified, superseded, revoked, or repealed."

POLICY AND PURPOSE OF SUBCHAPTER

Act June 8, 1938, ch. 327, as added by act Apr. 29, 1942, ch. 263, §1, 56 Stat. 248, provided that: "It is hereby declared to be the policy and purpose of this Act [enacting this subchapter] to protect the national defense, internal security, and foreign relations of the United States by requiring public disclosure by persons engaging in propaganda activities and other activities for or on behalf of foreign governments, foreign political parties, and other foreign principals so that the Government and the people of the United States may be informed of the identity of such persons and may appraise their statements and actions in the light of their associations and activities."

[1] So in original. Probably should be "Except".

[2] So in original. Probably should be section "3685".

§612. Registration statement

(a) Filing; contents

No person shall act as an agent of a foreign principal unless he has filed with the Attorney General a true and complete registration statement and supplements thereto as required by subsections (a) and (b) of this section or unless he is exempt from registration under the provisions of this subchapter. Except as hereinafter provided, every person who becomes an agent of a foreign principal shall, within ten days thereafter, file with the Attorney General, in duplicate, a registration statement, under oath on a form prescribed by the Attorney General. The obligation of an agent of a foreign principal to file a registration statement shall, after the tenth day of his becoming such agent, continue from day to day, and termination of such status shall not relieve such agent from his obligation to file a registration statement for the period during which he was an agent of a foreign principal. The registration statement shall include the following, which shall be regarded as material for the purposes of this subchapter:

(1) Registrant's name, principal business address, and all other business addresses in the United States or elsewhere, and all residence addresses, if any;

(2) Status of the registrant; if an individual, nationality; if a partnership, name, residence addresses, and nationality of each partner and a true and complete copy of its articles of copartnership; if an association, corporation, organization, or any other combination of individuals, the name, residence addresses, and nationality of each director and officer and of each person performing the functions of a director or officer and a true and complete copy of its charter, articles of incorporation, association, constitution, and bylaws, and amendments thereto; a copy of every other instrument or document and a statement of the terms and conditions of every oral agreement relating to its organization, powers, and purposes; and a statement of its ownership and control;

(3) A comprehensive statement of the nature of registrant's business; a complete list of registrant's employees and a statement of the nature of the work of each; the name and address of every foreign principal for whom the registrant is acting, assuming or purporting to act or has agreed to act; the character of the business or other activities of every such foreign principal, and, if any such foreign principal be other than a natural person, a statement of the ownership and control of each; and the extent, if any, to which each such foreign principal is supervised, directed, owned, controlled, financed, or subsidized, in whole or in part, by any government of a foreign country or foreign political party, or by any other foreign principal;

(4) Copies of each written agreement and the terms and conditions of each oral agreement, including all modifications of such agreements, or, where no contract exists, a full statement of all the circumstances, by reason of which the registrant is an agent of a foreign principal; a comprehensive statement of the nature and method of performance of each such contract, and of the existing and proposed activity or activities engaged in or to be engaged in by the registrant as agent of a foreign principal for each such foreign principal, including a detailed statement of any such activity which is a political activity;

(5) The nature and amount of contributions, income, money, or thing of value, if any, that the registrant has received within the preceding sixty days from each such foreign principal, either as compensation or for disbursement or otherwise, and the form and time of each such payment and from whom received;

(6) A detailed statement of every activity which the registrant is performing or is assuming or purporting or has agreed to perform for himself or any other person other than a foreign principal and which requires his registration hereunder, including a detailed statement of any such activity which is a political activity;

(7) The name, business, and residence addresses, and if an individual, the nationality, of any person other than a foreign principal for whom the registrant is acting, assuming or purporting to act or has agreed to act under such circumstances as require his registration hereunder; the extent to which each such person is supervised, directed, owned, controlled, financed, or subsidized, in whole or in part, by any government of a foreign country or foreign political party or by any other foreign principal; and the nature and amount of contributions, income, money, or thing of value, if any, that the registrant has received during the preceding sixty days from each such person in

connection with any of the activities referred to in clause (6) of this subsection, either as compensation or for disbursement or otherwise, and the form and time of each such payment and from whom received;

(8) A detailed statement of the money and other things of value spent or disposed of by the registrant during the preceding sixty days in furtherance of or in connection with activities which require his registration hereunder and which have been undertaken by him either as an agent of a foreign principal or for himself or any other person or in conection [1] with any activities relating to his becoming an agent of such principal, and a detailed statement of any contributions of money or other things of value made by him during the preceding sixty days (other than contributions the making of which is prohibited under the terms of section 613 [2] of title 18) in connection with an election to any political office or in connection with any primary election, convention, or caucus held to select candidates for any political office;

(9) Copies of each written agreement and the terms and conditions of each oral agreement, including all modifications of such agreements, or, where no contract exists, a full statement of all the circumstances, by reason of which the registrant is performing or assuming or purporting or has agreed to perform for himself or for a foreign principal or for any person other than a foreign principal any activities which require his registration hereunder;

(10) Such other statements, information, or documents pertinent to the purposes of this subchapter as the Attorney General, having due regard for the national security and the public interest, may from time to time require;

(11) Such further statements and such further copies of documents as are necessary to make the statements made in the registration statement and supplements thereto, and the copies of documents furnished therewith, not misleading.

(b) Supplements; filing period

Every agent of a foreign principal who has filed a registration statement required by subsection (a) of this section shall, within thirty days after the expiration of each period of six months succeeding such filing, file with the Attorney General a supplement thereto under oath, on a form prescribed by the Attorney General, which shall set forth with respect to such preceding six months' period such facts as the Attorney General, having due regard for the national security and the public interest, may deem necessary to make the information required under this section accurate, complete, and current with respect to such period. In connection with the information furnished under clauses (3), (4), (6), and (9) of subsection (a) of this section, the registrant shall give notice to the Attorney General of any changes therein within ten days after such changes occur. If the Attorney General, having due regard for the national security and the public interest, determines that it is necessary to carry out the purposes of this subchapter, he may, in any particular case, require supplements to the registration statement to be filed at more frequent intervals in respect to all or particular items of information to be furnished.

(c) Execution of statement under oath

The registration statement and supplements thereto shall be executed under oath as follows: If the registrant is an individual, by him; if the registrant is a partnership, by the majority of the members thereof; if the registrant is a person other than an individual or a partnership, by a majority of the officers thereof or persons performing the functions of officers or by a majority of the board of directors thereof or persons performing the functions of directors, if any.

(d) Filing of statement not deemed full compliance nor as preclusion from prosecution

The fact that a registration statement or supplement thereto has been filed shall not necessarily be deemed a full compliance with this subchapter and the regulations thereunder on the part of the registrant; nor shall it indicate that the Attorney General has in any way passed upon the merits of such registration statement or supplement thereto; nor shall it preclude prosecution, as provided for in this subchapter, for willful failure to file a registration statement or supplement thereto when due or for a willful false statement of a material fact therein or the willful omission of a material fact required to be stated therein or the willful omission of a material fact or copy of a material document

necessary to make the statements made in a registration statement and supplements thereto, and the copies of documents furnished therewith, not misleading.

(e) Incorporation of previous statement by reference

If any agent of a foreign principal, required to register under the provisions of this subchapter, has previously thereto registered with the Attorney General under the provisions of section 2386 of title 18, the Attorney General, in order to eliminate inappropriate duplication, may permit the incorporation by reference in the registration statement or supplements thereto filed hereunder of any information or documents previously filed by such agent of a foreign principal under the provisions of said section.

(f) Exemption by Attorney General

The Attorney General may, by regulation, provide for the exemption—

(1) from registration, or from the requirement of furnishing any of the information required by this section, of any person who is listed as a partner, officer, director, or employee in the registration statement filed by an agent of a foreign principal under this subchapter, and

(2) from the requirement of furnishing any of the information required by this section of any agent of a foreign principal.

where by reason of the nature of the functions or activities of such person the Attorney General, having due regard for the national security and the public interest, determines that such registration, or the furnishing of such information, as the case may be, is not necessary to carry out the purposes of this subchapter.

(g) Electronic filing of registration statements and supplements

A registration statement or supplement required to be filed under this section shall be filed in electronic form, in addition to any other form that may be required by the Attorney General.

(June 8, 1938, ch. 327, §2, 52 Stat. 632; Apr. 29, 1942, ch. 263, §1, 56 Stat. 251; Aug. 3, 1950, ch. 524, §1, 64 Stat. 399; Pub. L. 89–486, §2, July 4, 1966, 80 Stat. 245; Pub. L. 110–81, title II, §212(a), Sept. 14, 2007, 121 Stat. 749.)

REFERENCES IN TEXT

Section 613 of title 18, referred to in subsec. (a)(8), was repealed by Pub. L. 94–283, title II, §201(a), May 11, 1976, 90 Stat. 496.

CODIFICATION

In subsec. (e), "section 2386 of title 18" was in the original "the Act of October 17, 1940 (54 Stat. 1201)", which had been classified to sections 14 to 17 of title 18. "Section 2386 of title 18" substituted for "sections 14 to 17 of title 18" on authority of act June 25, 1948, ch. 645, 62 Stat. 863, section 1 of which enacted Title 18, Crimes and Criminal Procedure.

PRIOR PROVISIONS

Provisions on this subject were contained in sections 612 and 613 of this title prior to general amendment of act June 8, 1938, by act Apr. 29, 1942.

AMENDMENTS

2007—Subsec. (g). Pub. L. 110–81 added subsec. (g).

1966—Subsec. (a). Pub. L. 89–486, §2(1), struck out requirement for transmittal of registration statements by the Attorney General to the Secretary of State and provision declaring a failure of transmission not to be a bar to prosecutions, now covered in section 616(b) of this title.

Subsec. (a)(3). Pub. L. 89–486, §2(2), struck out ", unless, and to the extent, this requirement is waived in writing by the Attorney General" after "statement of the nature of the work of each" and provided for a statement of the extent to which a foreign principal is supervised, directed, etc., by any other foreign principal.

Subsec. (a)(4), (6). Pub. L. 89–486, §2(3), (4), inserted ", including a detailed statement of any such activity which is a political activity".

Subsec. (a)(7). Pub. L. 89–486, §2(5), required certain information pertaining to control and financial arrangements with respect to those persons, not themselves foreign principals, who are so related to a foreign

principal that their agents when engaged in political activities in the interests of the principal are required to register.

Subsec. (a)(8). Pub. L. 89–486, §2(6), inserted requirement that agent report the money or other things of value spent or disposed of in connection with his becoming the agent of his foreign principal and all political contributions made during the preceding sixty days, other than contributions made on behalf of their principals, such contributions being prohibited under section 613 of title 18.

Subsec. (f). Pub. L. 89–486, §2(7), added subsec. (f).

1950—Subsec. (a). Act Aug. 3, 1950, made failure to register a continuing offense.

1942—Act Apr. 29, 1942, amended section generally.

EFFECTIVE DATE OF 2007 AMENDMENT

Pub. L. 110–81, title II, §212(c), Sept. 14, 2007, 121 Stat. 750, provided that: "The amendments made by this section [amending this section and section 616 of this title] shall take effect on the 90th day after the date of the enactment of this Act [Sept. 14, 2007]."

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89–486 effective ninety days after July 4, 1966, see section 9 of Pub. L. 89–486, set out as a note under section 611 of this title.

EFFECTIVE DATE OF 1942 AMENDMENT

Amendment by act Apr. 29, 1942, effective on the sixtieth day after Apr. 29, 1942, except that prior to such sixtieth day the Attorney General may make, prescribe, amend, and rescind such rules, regulations, and forms as may be necessary to carry out act Apr. 29, 1942, see section 3 of act Apr. 29, 1942, set out as a note under section 611 of this title.

FEES FOR NECESSARY EXPENSES OF REGISTRATION UNIT

Pub. L. 102–395, title I, Oct. 6, 1992, 106 Stat. 1831, provided in part that: "In addition, notwithstanding 31 U.S.C. 3302, for fiscal year 1993 and thereafter, the Attorney General shall establish and collect fees to recover necessary expenses of the Registration Unit (to include salaries, supplies, equipment and training) pursuant to the Foreign Agents Registration Act [probably means Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. 611 et seq.], and shall credit such fees to this appropriation, to remain available until expended."

[1] *So in original. Probably should be "connection".*

[2] *See References in Text note below.*

§613. Exemptions

The requirements of section 612(a) of this title shall not apply to the following agents of foreign principals:

(a) Diplomatic or consular officers

A duly accredited diplomatic or consular officer of a foreign government who is so recognized by the Department of State, while said officer is engaged exclusively in activities which are recognized by the Department of State as being within the scope of the functions of such officer;

(b) Officials of foreign government

Any official of a foreign government, if such government is recognized by the United States, who is not a public-relations counsel, publicity agent, information-service employee, or a citizen of the United States, whose name and status and the character of whose duties as such official are of public record in the Department of State, while said official is engaged exclusively in activities which are recognized by the Department of State as being within the scope of the functions of such official;

(c) Staff members of diplomatic or consular officers

Any member of the staff of, or any person employed by, a duly accredited diplomatic or consular officer of a foreign government who is so recognized by the Department of State, other than a

public-relations counsel, publicity agent, or information-service employee, whose name and status and the character of whose duties as such member or employee are of public record in the Department of State, while said member or employee is engaged exclusively in the performance of activities which are recognized by the Department of State as being within the scope of the functions of such member or employee;

(d) Private and nonpolitical activities; solicitation of funds

Any person engaging or agreeing to engage only (1) in private and nonpolitical activities in furtherance of the bona fide trade or commerce of such foreign principal; or (2) in other activities not serving predominantly a foreign interest; or (3) in the soliciting or collecting of funds and contributions within the United States to be used only for medical aid and assistance, or for food and clothing to relieve human suffering, if such solicitation or collection of funds and contributions is in accordance with and subject to the provisions of subchapter II of chapter 9 of this title, and such rules and regulations as may be prescribed thereunder;

(e) Religious, scholastic, or scientific pursuits

Any person engaging or agreeing to engage only in activities in furtherance of bona fide religious, scholastic, academic, or scientific pursuits or of the fine arts;

(f) Defense of foreign government vital to United States defense

Any person, or employee of such person, whose foreign principal is a government of a foreign country the defense of which the President deems vital to the defense of the United States while, (1) such person or employee engages only in activities which are in furtherance of the policies, public interest, or national defense both of such government and of the Government of the United States, and are not intended to conflict with any of the domestic or foreign policies of the Government of the United States, (2) each communication or expression by such person or employee which he intends to, or has reason to believe will, be published, disseminated, or circulated among any section of the public, or portion thereof, within the United States, is a part of such activities and is believed by such person to be truthful and accurate and the identity of such person as an agent of such foreign principal is disclosed therein, and (3) such government of a foreign country furnishes to the Secretary of State for transmittal to, and retention for the duration of this subchapter by, the Attorney General such information as to the identity and activities of such person or employee at such times as the Attorney General may require. Upon notice to the Government of which such person is an agent or to such person or employee, the Attorney General, having due regard for the public interest and national defense, may, with the approval of the Secretary of State, and shall, at the request of the Secretary of State, terminate in whole or in part the exemption herein of any such person or employee;

(g) Persons qualified to practice law

Any person qualified to practice law, insofar as he engages or agrees to engage in the legal representation of a disclosed foreign principal before any court of law or any agency of the Government of the United States: *Provided*, That for the purposes of this subsection legal representation does not include attempts to influence or persuade agency personnel or officials other than in the course of judicial proceedings, criminal or civil law enforcement inquiries, investigations, or proceedings, or agency proceedings required by statute or regulation to be conducted on the record.

(h) Agents of foreign principals

Any agent of a person described in section 611(b)(2) of this title or an entity described in section 611(b)(3) of this title if the agent has engaged in lobbying activities and has registered under the Lobbying Disclosure Act of 1995 [2 U.S.C. 1601 et seq.] in connection with the agent's representation of such person or entity.

(June 8, 1938, ch. 327, §3, 52 Stat. 632; Aug. 7, 1939, ch. 521, §2, 53 Stat. 1245; Apr. 29, 1942, ch. 263, §1, 56 Stat. 254; Pub. L. 87–366, §2, Oct. 4, 1961, 75 Stat. 784; Pub. L. 89–486, §3, July 4, 1966, 80 Stat. 246; Pub. L. 104–65, §9(2), (3), Dec. 19, 1995, 109 Stat. 700; Pub. L. 105–166, §5,

Apr. 6, 1998, 112 Stat. 39.)

REFERENCES IN TEXT

The Lobbying Disclosure Act of 1995, referred to in subsec. (h), is Pub. L. 104–65, Dec. 19, 1995, 109 Stat. 691, which is classified principally to chapter 26 (§1601 et seq.) of Title 2, The Congress. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 2 and Tables.

PRIOR PROVISIONS

Prior to general amendment of act June 8, 1938, by act Apr. 29, 1942, section related to additional registration statements after each six months period. Provisions on that subject were incorporated in section 612 of this title by 1942 amendment.

AMENDMENTS

1998—Subsec. (h). Pub. L. 105–166 substituted "has engaged in lobbying activities and has registered" for "is required to register and does register".

1995—Subsec. (g). Pub. L. 104–65, §9(2), substituted "judicial proceedings, criminal or civil law enforcement inquiries, investigations, or proceedings, or agency proceedings required by statute or regulation to be conducted on the record" for "established agency proceedings, whether formal or informal".

Subsec. (h). Pub. L. 104–65, §9(3), added subsec. (h).

1966—Subsec. (d). Pub. L. 89–486, §3(a), designated existing provisions as cls. (1) and (3), struck out "financial or mercantile" before "activities" in cl. (1), and inserted the cl. (2) exemption of any person engaging or agreeing to engage in other activities not serving predominantly a foreign interest.

Subsec. (g). Pub. L. 89–486, §3(b), added subsec. (g).

1961—Subsec. (d). Pub. L. 87–366 substituted "private and nonpolitical financial or mercantile activities in furtherance" for "private, non-political, financial, mercantile, or other activities in furtherance".

1942—Act Apr. 29, 1942, amended section generally.

1939—Act Aug. 7, 1939, amended section generally.

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104–65 effective Jan. 1, 1996, except as otherwise provided, see section 24 of Pub. L. 104–65, set out as an Effective Date note under section 1601 of Title 2, The Congress.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89–486 effective ninety days after July 4, 1966, see section 9 of Pub. L. 89–486, set out as a note under section 611 of this title.

EFFECTIVE DATE OF 1942 AMENDMENT

Amendment by act Apr. 29, 1942, effective on the sixtieth day after Apr. 29, 1942, except that prior to such sixtieth day the Attorney General may make, prescribe, amend, and rescind such rules, regulations, and forms as may be necessary to carry out act Apr. 29, 1942, see section 3 of act Apr. 29, 1942, set out as a note under section 611 of this title.

§614. Filing and labeling of political propaganda

(a) Copies to Attorney General; statement as to places, times, and extent of transmission

Every person within the United States who is an agent of a foreign principal and required to register under the provisions of this subchapter and who transmits or causes to be transmitted in the United States mails or by any means or instrumentality of interstate or foreign commerce any informational materials for or in the interests of such foreign principal (i) in the form of prints, or (ii) in any other form which is reasonably adapted to being, or which he believes will be, or which he intends to be, disseminated or circulated among two or more persons shall, not later than forty-eight hours after the beginning of the transmittal thereof, file with the Attorney General two copies thereof.

(b) Identification statement

It shall be unlawful for any person within the United States who is an agent of a foreign principal and required to register under the provisions of this subchapter to transmit or cause to be transmitted

in the United States mails or by any means or instrumentality of interstate or foreign commerce any informational materials for or in the interests of such foreign principal without placing in such informational materials a conspicuous statement that the materials are distributed by the agent on behalf of the foreign principal, and that additional information is on file with the Department of Justice, Washington, District of Columbia. The Attorney General may by rule define what constitutes a conspicuous statement for the purposes of this subsection.

(c) Public inspection

The copies of informational materials required by this subchapter to be filed with the Attorney General shall be available for public inspection under such regulations as he may prescribe.

(d) Library of Congress

For purposes of the Library of Congress, other than for public distribution, the Secretary of the Treasury and the United States Postal Service are authorized, upon the request of the Librarian of Congress, to forward to the Library of Congress fifty copies, or as many fewer thereof as are available, of all foreign prints determined to be prohibited entry under the provisions of section 1305 of title 19 and of all foreign prints excluded from the mails under authority of section 1717 of title 18.

Notwithstanding the provisions of section 1305 of title 19 and of section 1717 of title 18, the Secretary of the Treasury is authorized to permit the entry and the United States Postal Service is authorized to permit the transmittal in the mails of foreign prints imported for governmental purposes by authority or for the use of the United States or for the use of the Library of Congress.

(e) Information furnished to agency or official of United States Government

It shall be unlawful for any person within the United States who is an agent of a foreign principal required to register under the provisions of this subchapter to transmit, convey, or otherwise furnish to any agency or official of the Government (including a Member or committee of either House of Congress) for or in the interests of such foreign principal any political propaganda or to request from any such agency or official for or in the interests of such foreign principal any information or advice with respect to any matter pertaining to the political or public interests, policies or relations of a foreign country or of a political party or pertaining to the foreign or domestic policies of the United States unless the propaganda or the request is prefaced or accompanied by a true and accurate statement to the effect that such person is registered as an agent of such foreign principal under this subchapter.

(f) Appearances before Congressional committees

Whenever any agent of a foreign principal required to register under this subchapter appears before any committee of Congress to testify for or in the interests of such foreign principal, he shall, at the time of such appearance, furnish the committee with a copy of his most recent registration statement filed with the Department of Justice as an agent of such foreign principal for inclusion in the records of the committee as part of his testimony.

(June 8, 1938, ch. 327, §4, 52 Stat. 632; Aug. 7, 1939, ch. 521, §3, 53 Stat. 1246; Apr. 29, 1942, ch. 263, §1, 56 Stat. 255; Pub. L. 89–486, §4, July 4, 1966, 80 Stat. 246; Pub. L. 91–375, §4(a), Aug. 12, 1970, 84 Stat. 773; Pub. L. 104–65, §9(4)–(6), Dec. 19, 1995, 109 Stat. 700.)

CODIFICATION

Section 1717 of title 18, referred to in subsec. (d), was in the original "section 1 of title XII of the Act of June 15, 1917 (40 Stat. 230)" which was classified to section 343 of former Title 18, Criminal Code and Criminal Procedure. "Section 1717 of title 18" substituted for "section 343 of title 18" on authority of act June 25, 1948, ch. 645, 62 Stat. 683, section 1 of which enacted Title 18, Crimes and Criminal Procedure.

PRIOR PROVISIONS

Prior to general amendment of act June 8, 1938, by act Apr. 29, 1942, section related to retention of statements as public records. Provisions on that subject were incorporated in section 616 of this title by 1942 amendment.

AMENDMENTS

1995—Subsec. (a). Pub. L. 104–65, §9(4)(B), which directed striking out "and a statement, duly signed by or on behalf of such an agent, setting forth full information as to the places, times, and extent of such transmittal" after "Attorney General two copies thereof", was executed by striking out such language, which read in part "on behalf of such agent", to reflect the probable intent of Congress.

Pub. L. 104–65, §9(4)(A), substituted "informational materials" for "political propaganda".

Subsec. (b). Pub. L. 104–65, §9(5), substituted "informational materials for or" for "political propaganda for or" and substituted "without placing in such informational materials a conspicuous statement that the materials are distributed by the agent on behalf of the foreign principal, and that additional information is on file with the Department of Justice, Washington, District of Columbia. The Attorney General may by rule define what constitutes a conspicuous statement for the purposes of this subsection." for cls. (i) and (ii) and concluding provisions which made it unlawful for an agent of a foreign principal to transmit in the United States political propaganda unless the propaganda identified the agent and contained information about the registration of the agent and authorized the Attorney General to prescribe regulations relating to the information to be provided.

Subsec. (c). Pub. L. 104–65, §9(6), substituted "informational materials" for "political propaganda".

1966—Subsec. (a). Pub. L. 89–486, §4(1), inserted "for or in the interests of such foreign principal" after "political propaganda" and substituted "file with the Attorney General two copies thereof" for "sent to the Librarian of Congress two copies thereof and file with the Attorney General one copy thereof".

Subsec. (b). Pub. L. 89–486, §4(2), inserted "for or in the interests of such foreign principal" after "political propaganda", where first appearing, and "the relationship or connection between the person transmitting the political propaganda or causing it to be transmitted and such propaganda;" after "setting forth" and substituted "such foreign principal" for each of his foreign principals".

Subsec. (c). Pub. L. 89–486, §4(3), substituted "filed with the Attorney General" for "sent to the Librarian of Congress".

Subsecs. (e), (f). Pub. L. 89–486, §4(4), added subsecs. (e) and (f).

1942—Act Apr. 29, 1942, amended section generally.

1939—Act Aug. 7, 1939, amended section generally.

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104–65 effective Jan. 1, 1996, except as otherwise provided, see section 24 of Pub. L. 104–65, set out as an Effective Date note under section 1601 of Title 2, The Congress.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89–486 effective ninety days after July 4, 1966, see section 9 of Pub. L. 89–486, set out as a note under section 611 of this title.

EFFECTIVE DATE OF 1942 AMENDMENT

Amendment by act Apr. 29, 1942, effective on the sixtieth day after Apr. 29, 1942, except that prior to such sixtieth day the Attorney General may make, prescribe, amend, and rescind such rules, regulations, and forms as may be necessary to carry out act Apr. 29, 1942, see section 3 of act Apr. 29, 1942, set out as a note under section 611 of this title.

TRANSFER OF FUNCTIONS

In subsec. (d), "United States Postal Service" substituted for "Postmaster General" in two places pursuant to Pub. L. 91–375, §4(a), Aug. 12, 1970, 84 Stat. 773, set out as a note under section 201 of Title 39, Postal Service, which abolished office of Postmaster General of Post Office Department and transferred its functions to United States Postal Service.

§615. Books and records

Every agent of a foreign principal registered under this subchapter shall keep and preserve while he is an agent of a foreign principal such books of account and other records with respect to all his activities, the disclosure of which is required under the provisions of this subchapter, in accordance with such business and accounting practices, as the Attorney General, having due regard for the national security and the public interest, may by regulation prescribe as necessary or appropriate for the enforcement of the provisions of this subchapter and shall preserve the same for a period of three years following the termination of such status. Until regulations are in effect under this section every

agent of a foreign principal shall keep books of account and shall preserve all written records with respect to his activities. Such books and records shall be open at all reasonable times to the inspection of any official charged with the enforcement of this subchapter. It shall be unlawful for any person willfully to conceal, destroy, obliterate, mutilate, or falsify, or to attempt to conceal, destroy, obliterate, mutilate, or falsify, or to cause to be concealed, destroyed, obliterated, mutilated, or falsified, any books or records required to be kept under the provisions of this section.

(June 8, 1938, ch. 327, §5, 52 Stat. 633; Apr. 29, 1942, ch. 263, §1, 56 Stat. 256; Pub. L. 89–486, §5, July 4, 1966, 80 Stat. 247.)

PRIOR PROVISIONS

Prior to general amendment of act June 8, 1938, by act Apr. 29, 1942, section related to penalties. Provisions on that subject were incorporated in section 618 of this title by 1942 amendment.

AMENDMENTS

1966—Pub. L. 89–486 inserted "in accordance with such business and accounting practices," after "under the provisions of this subchapter,".

1942—Act Apr. 29, 1942, amended section generally.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89–486 effective ninety days after July 4, 1966, see section 9 of Pub. L. 89–486, set out as a note under section 611 of this title.

EFFECTIVE DATE OF 1942 AMENDMENT

Amendment by act Apr. 29, 1942, effective on the sixtieth day after Apr. 29, 1942, except that prior to such sixtieth day the Attorney General may make, prescribe, amend, and rescind such rules, regulations, and forms as may be necessary to carry out act Apr. 29, 1942, see section 3 of act Apr. 29, 1942, set out as a note under section 611 of this title.

§616. Public examination of official records; transmittal of records and information

(a) Permanent copy of statement; inspection; withdrawal

The Attorney General shall retain in permanent form one copy of all registration statements furnished under this subchapter, and the same shall be public records and open to public examination and inspection at such reasonable hours, under such regulations, as the Attorney General may prescribe, and copies of the same shall be furnished to every applicant at such reasonable fee as the Attorney General may prescribe. The Attorney General may withdraw from public examination the registration statement and other statements of any agent of a foreign principal whose activities have ceased to be of a character which requires registration under the provisions of this subchapter.

(b) Secretary of State

The Attorney General shall, promptly upon receipt, transmit one copy of every registration statement filed hereunder and one copy of every amendment or supplement thereto filed hereunder, to the Secretary of State for such comment and use as the Secretary of State may determine to be appropriate from the point of view of the foreign relations of the United States. Failure of the Attorney General so to transmit such copy shall not be a bar to prosecution under this subchapter.

(c) Executive departments and agencies; Congressional committees

The Attorney General is authorized to furnish to departments and agencies in the executive branch and committees of the Congress such information obtained by him in the administration of this subchapter, including the names of registrants under this subchapter, copies of registration statements, or parts thereof, or other documents or information filed under this subchapter, as may be appropriate in the light of the purposes of this subchapter.

(d) Public database of registration statements and updates

(1) In general

The Attorney General shall maintain, and make available to the public over the Internet, without a fee or other access charge, in a searchable, sortable, and downloadable manner, to the extent technically practicable, an electronic database that—

(A) includes the information contained in registration statements and updates filed under this subchapter; and

(B) is searchable and sortable, at a minimum, by each of the categories of information described in section 612(a) of this title.

(2) Accountability

The Attorney General shall make each registration statement and update filed in electronic form pursuant to section 612(g) of this title available for public inspection over the Internet as soon as technically practicable after the registration statement or update is filed.

(June 8, 1938, ch. 327, §6, 52 Stat. 633; Apr. 29, 1942, ch. 263, §1, 56 Stat. 256; Pub. L. 89–486, §6, July 4, 1966, 80 Stat. 247; Pub. L. 104–65, §9(7), Dec. 19, 1995, 109 Stat. 700; Pub. L. 110–81, title II, §212(b), Sept. 14, 2007, 121 Stat. 749.)

PRIOR PROVISIONS

Prior to general amendment of act June 8, 1938, by act Apr. 29, 1942, section related to rules and regulations. Provisions on that subject were incorporated in section 620 of this title by 1942 amendment.

Provisions on this subject were contained in section 614 of this title prior to general amendment of act June 8, 1938, by act Apr. 29, 1942.

AMENDMENTS

2007—Subsec. (d). Pub. L. 110–81 added subsec. (d).

1995—Subsec. (a). Pub. L. 104–65, §9(7)(A), struck out "and all statements concerning the distribution of political propaganda" after "all registration statements".

Subsec. (b). Pub. L. 104–65, §9(7)(B), struck out ", and one copy of every item of political propaganda" after "supplement thereto".

Subsec. (c). Pub. L. 104–65, §9(7)(C), struck out "copies of political propaganda," after "parts thereof,".

1966—Pub. L. 89–486 designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

1942—Act Apr. 29, 1942, amended section generally.

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110–81 effective on the 90th day after Sept. 14, 2007, see section 212(c) of Pub. L. 110–81, set out as a note under section 612 of this title.

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104–65 effective Jan. 1, 1996, except as otherwise provided, see section 24 of Pub. L. 104–65, set out as an Effective Date note under section 1601 of Title 2, The Congress.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89–486 effective ninety days after July 4, 1966, see section 9 of Pub. L. 89–486, set out as a note under section 611 of this title.

EFFECTIVE DATE OF 1942 AMENDMENT

Amendment by act Apr. 29, 1942, effective on the sixtieth day after Apr. 29, 1942, except that prior to such sixtieth day the Attorney General may make, prescribe, amend, and rescind such rules, regulations, and forms as may be necessary to carry out act Apr. 29, 1942, see section 3 of act Apr. 29, 1942, set out as a note under section 611 of this title.

§617. Liability of officers

Each officer, or person performing the functions of an officer, and each director, or person performing the functions of a director, of an agent of a foreign principal which is not an individual shall be under obligation to cause such agent to execute and file a registration statement and

supplements thereto as and when such filing is required under subsections (a) and (b) of section 612 of this title and shall also be under obligation to cause such agent to comply with all the requirements of sections 614(a) and (b) and 615 of this title and all other requirements of this subchapter. Dissolution of any organization acting as an agent of a foreign principal shall not relieve any officer, or person performing the functions of an officer, or any director, or person performing the functions of a director, from complying with the provisions of this section. In case of failure of any such agent of a foreign principal to comply with any of the requirements of this subchapter, each of its officers, or persons performing the functions of officers, and each of its directors, or persons performing the functions of directors, shall be subject to prosecution therefor.

(June 8, 1938, ch. 327, §7, 52 Stat. 633; Apr. 29, 1942, ch. 263, §1, 56 Stat. 256; Aug. 3, 1950, ch. 524, §2, 64 Stat. 400.)

PRIOR PROVISIONS

Section 7 of act June 8, 1938, prior to the general amendment of that act by act Apr. 29, 1942, provided for the effective date of the 1938 act. See Effective Date note set out under section 611 of this title.

AMENDMENTS

1950—Act Aug. 3, 1950, continued the obligation of officers, directors, and persons acting as such to comply with this subchapter despite the dissolution of a foreign agent.

1942—Act Apr. 29, 1942, amended section generally.

EFFECTIVE DATE OF 1942 AMENDMENT

Amendment by act Apr. 29, 1942, effective on the sixtieth day after Apr. 29, 1942, except that prior to such sixtieth day the Attorney General may make, prescribe, amend, and rescind such rules, regulations, and forms as may be necessary to carry out act Apr. 29, 1942, see section 3 of act Apr. 29, 1942, set out as a note under section 611 of this title.

§618. Enforcement and penalties

(a) Violations; false statements and willful omissions

Any person who—

(1) willfully violates any provision of this subchapter or any regulation thereunder, or

(2) in any registration statement or supplement thereto or in any other document filed with or furnished to the Attorney General under the provisions of this subchapter willfully makes a false statement of a material fact or willfully omits any material fact required to be stated therein or willfully omits a material fact or a copy of a material document necessary to make the statements therein and the copies of documents furnished therewith not misleading, shall, upon conviction thereof, be punished by a fine of not more than $10,000 or by imprisonment for not more than five years, or both, except that in the case of a violation of subsection (b), (e), or (f) of section 614 of this title or of subsection (g) or (h) of this section the punishment shall be a fine of not more than $5,000 or imprisonment for not more than six months, or both.

(b) Proof of identity of foreign principal

In any proceeding under this subchapter in which it is charged that a person is an agent of a foreign principal with respect to a foreign principal outside of the United States, proof of the specific identity of the foreign principal shall be permissible but not necessary.

(c) Removal

Any alien who shall be convicted of a violation of, or a conspiracy to violate, any provision of this subchapter or any regulation thereunder shall be subject to removal pursuant to chapter 4 of title II of the Immigration and Nationality Act [8 U.S.C. 1221 et seq.].

(d) Repealed. Pub. L. 104–65, §9(8)(B), Dec. 19, 1995, 109 Stat. 700

(e) Continuing offense

Failure to file any such registration statement or supplements thereto as is required by either

section 612(a) or section 612(b) of this title shall be considered a continuing offense for as long as such failure exists, notwithstanding any statute of limitation or other statute to the contrary.

(f) Injunctive remedy; jurisdiction of district court

Whenever in the judgment of the Attorney General any person is engaged in or about to engage in any acts which constitute or will constitute a violation of any provision of this subchapter, or regulations issued thereunder, or whenever any agent of a foreign principal fails to comply with any of the provisions of this subchapter or the regulations issued thereunder, or otherwise is in violation of the subchapter, the Attorney General may make application to the appropriate United States district court for an order enjoining such acts or enjoining such person from continuing to act as an agent of such foreign principal, or for an order requiring compliance with any appropriate provision of the subchapter or regulation thereunder. The district court shall have jurisdiction and authority to issue a temporary or permanent injunction, restraining order or such other order which it may deem proper.

(g) Deficient registration statement

If the Attorney General determines that a registration statement does not comply with the requirements of this subchapter or the regulations issued thereunder, he shall so notify the registrant in writing, specifying in what respects the statement is deficient. It shall be unlawful for any person to act as an agent of a foreign principal at any time ten days or more after receipt of such notification without filing an amended registration statement in full compliance with the requirements of this subchapter and the regulations issued thereunder.

(h) Contingent fee arrangement

It shall be unlawful for any agent of a foreign principal required to register under this subchapter to be a party to any contract, agreement, or understanding, either express or implied, with such foreign principal pursuant to which the amount or payment of the compensation, fee, or other remuneration of such agent is contingent in whole or in part upon the success of any political activities carried on by such agent.

(June 8, 1938, ch. 327, §8, as added Apr. 29, 1942, ch. 263, §1, 56 Stat. 257; amended Sept. 23, 1950, ch. 1024, title I, §20(b), 64 Stat. 1005; June 27, 1952, ch. 477, title IV, §402(d), 66 Stat. 276; Aug. 1, 1956, ch. 849, §1, 70 Stat. 899; Pub. L. 89–486, §7, July 4, 1966, 80 Stat. 248; Pub. L. 98–620, title IV, §402(26), Nov. 8, 1984, 98 Stat. 3359; Pub. L. 104–65, §9(8), Dec. 19, 1995, 109 Stat. 700; Pub. L. 104–208, div. C, title III, §308(e)(19), Sept. 30, 1996, 110 Stat. 3009–621.)

REFERENCES IN TEXT

The Immigration and Nationality Act, referred to in subsec. (c), is act June 27, 1952, ch. 477, 66 Stat. 163, as amended. Chapter 4 of title II of the Act is classified generally to part IV (§1221 et seq.) of subchapter II of chapter 12 of Title 8, Aliens and Nationality. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of Title 8 and Tables.

PRIOR PROVISIONS

Provisions on this subject were contained in section 615 of this title prior to general amendment of act June 8, 1938, by act Apr. 29, 1942.

AMENDMENTS

1996—Subsec. (c). Pub. L. 104–208 substituted "removal pursuant to chapter 4 of title II of the Immigration and Nationality Act" for "deportation in the manner provided by sections 1251 to 1253 of title 8".

1995—Subsec. (a)(2). Pub. L. 104–65, §9(8)(A), struck out "or in any statement under section 614(a) of this title concerning the distribution of political propaganda" after "or supplement thereto".

Subsec. (d). Pub. L. 104–65, §9(8)(B), struck out subsec. (d) which read as follows: "The United States Postal Service may declare to be nonmailable any communication or expression falling within clause (2) of section 611(j) of this title in the form of prints or in any other form reasonably adapted to, or reasonably appearing to be intended for, dissemination or circulation among two or more persons, which is offered or caused to be offered for transmittal in the United States mails to any person or persons in any other American republic by any agent of a foreign principal, if the United States Postal Service is informed in writing by the Secretary of State that the duly accredited diplomatic representative of such American republic has made

written representation to the Department of State that the admission or circulation of such communication or expression in such American republic is prohibited by the laws thereof and has requested in writing that its transmittal thereto be stopped."

1984—Subsec. (f). Pub. L. 98–620 struck out provision that the proceedings shall be made a preferred cause and expedited in every way.

1966—Subsec. (a)(2). Pub. L. 89–486, §7(1), inserted exception provision.

Subsecs. (f) to (h). Pub. L. 89–486, §7(2), added subsecs. (f) to (h).

1956—Act Aug. 1, 1956, amended credit to section by redesignating section 20(b) of act Sept. 23, 1950, as section 20.

1952—Subsec. (c). Act June 27, 1952, substituted "sections 1251 to 1253 of title 8" for "sections 155 and 156 of title 8".

1950—Subsec. (e). Act Sept. 23, 1950, added subsec. (e).

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–208 effective, with certain transitional provisions, on the first day of the first month beginning more than 180 days after Sept. 30, 1996, see section 309 of Pub. L. 104–208, set out as a note under section 1101 of Title 8, Aliens and Nationality.

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104–65 effective Jan. 1, 1996, except as otherwise provided, see section 24 of Pub. L. 104–65, set out as an Effective Date note under section 1601 of Title 2, The Congress.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–620 not applicable to cases pending on Nov. 8, 1984, see section 403 of Pub. L. 98–620, set out as an Effective Date note under section 1657 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89–486 effective ninety days after July 4, 1966, see section 9 of Pub. L. 89–486, set out as a note under section 611 of this title.

EFFECTIVE DATE

Section effective on the sixtieth day after Apr. 29, 1942, except that prior to such sixtieth day the Attorney General may make, prescribe, amend, and rescind such rules, regulations, and forms as may be necessary to carry out act Apr. 29, 1942, see section 3 of act Apr. 29, 1942, set out as an Effective Date of 1942 Amendment note under section 611 of this title.

§619. Territorial applicability of subchapter

This subchapter shall be applicable in the several States, the District of Columbia, the Territories, the Canal Zone, the insular possessions, and all other places now or hereafter subject to the civil or military jurisdiction of the United States.

(June 8, 1938, ch. 327, §9, as added Apr. 29, 1942, ch. 263, §1, 56 Stat. 257; amended Proc. No. 2695, July 4, 1946, 11 F.R. 7517, 60 Stat. 1352.)

REFERENCES IN TEXT

For definition of Canal Zone, referred to in text, see section 3602(b) of this title.

CODIFICATION

Words "including the Philippine Islands," omitted from section pursuant to Proc. No. 2695, which granted independence to the Philippine Islands under the authority of section 1394 of this title, under which section Proc. No. 2695 is set out as a note.

EFFECTIVE DATE

Section effective on the sixtieth day after Apr. 29, 1942, except that prior to such sixtieth day the Attorney General may make, prescribe, amend, and rescind such rules, regulations, and forms as may be necessary to carry out act Apr. 29, 1942, see section 3 of act Apr. 29, 1942, set out as an Effective Date of 1942 Amendment note under section 611 of this title.

§620. Rules and regulations

The Attorney General may at any time make, prescribe, amend, and rescind such rules, regulations, and forms as he may deem necessary to carry out the provisions of this subchapter.

(June 8, 1938, ch. 327, §10, as added Apr. 29, 1942, ch. 263, §1, 56 Stat. 257.)

PRIOR PROVISIONS

Provisions on this subject were contained in section 616 of this title prior to general amendment of act June 8, 1938, by act Apr. 29, 1942.

EFFECTIVE DATE

Section effective on the sixtieth day after Apr. 29, 1942, except that prior to such sixtieth day the Attorney General may make, prescribe, amend, and rescind such rules, regulations, and forms as may be necessary to carry out act Apr. 29, 1942, see section 3 of act Apr. 29, 1942, set out as an Effective Date of 1942 Amendment note under section 611 of this title.

§621. Reports to Congress

The Attorney General shall every six months report to the Congress concerning administration of this subchapter, including registrations filed pursuant to the subchapter, and the nature, sources and content of political propaganda disseminated and distributed.

(June 8, 1938, ch. 327, §11, as added Apr. 29, 1942, ch. 263, §1, 56 Stat. 258; amended Pub. L. 104–65, §19, Dec. 19, 1995, 109 Stat. 704.)

AMENDMENTS

1995—Pub. L. 104–65 added text and struck out former text which read as follows: "The Attorney General shall, from time to time, make a report to the Congress concerning the administration of this subchapter, including the nature, sources, and content of political propaganda disseminated or distributed."

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104–65 effective Jan. 1, 1996, see section 24 of Pub. L. 104–65, set out as an Effective Date note under section 1601 of Title 2, The Congress.

EFFECTIVE DATE

Section effective on the sixtieth day after Apr. 29, 1942, except that prior to such sixtieth day the Attorney General may make, prescribe, amend, and rescind such rules, regulations, and forms as may be necessary to carry out act Apr. 29, 1942, see section 3 of act Apr. 29, 1942, set out as an Effective Date of 1942 Amendment note under section 611 of this title.

CHAPTER 12—CLAIMS COMMISSIONS

§§661 to 672. Omitted

CODIFICATION

Sections 661 to 672, which established the American Mexican Claims Commission in 1942 for the settlement of certain claims, expired pursuant to the provisions of section 661(d), which provided that the authority of the Commission shall terminate at the expiration of four years after the date on which a majority of its members first appointed took office.

Section 661, acts Dec. 18, 1942, ch. 766, §2, 56 Stat. 1058; Apr. 3, 1945, ch. 52, §5, 59 Stat. 50; Oct. 28, 1949, ch. 782, title XI, §1106(a), 63 Stat. 972, established American Mexican Claims Commission, prescribed

its composition, provided for compensation of its members, and specified its termination date. Acts Dec. 18, 1942, ch. 766, §2, 56 Stat. 1058; Apr. 3, 1945, ch. 52, §5, 59 Stat. 50, were subsequently repealed by Pub. L. 89–554, §8(a), Sept. 6, 1966, 80 Stat. 651, 652.

Section 662, acts Dec. 18, 1942, ch. 766, §3, 56 Stat. 1058; Mar. 28, 1947, ch. 23, 61 Stat. 24, related to jurisdiction of Commission and to presentation of claims.

Section 663, acts Dec. 18, 1942, ch. 766, §4, 56 Stat. 1059; Apr. 3, 1945, ch. 52, §§4, 7, 59 Stat. 49, 50, related to authority of Commission to examine and render final decisions in those cases where claims were appraised by prior commissions.

Section 664, acts Dec. 18, 1942, ch. 766, §5, 56 Stat. 1060; Apr. 3, 1945, ch. 52, §§1, 2, 59 Stat. 49, related to determination of claims.

Section 665, act Dec. 18, 1942, ch. 766, §6, 56 Stat. 1061, related to determinations made by prior commissions, and to certification by the Secretary of State.

Section 666, act Dec. 18, 1942, ch. 766, §7, 56 Stat. 1061, provided for conversion of appraisals from Mexican to American currency, and for interest on award or appraisal.

Section 667, acts Dec. 18, 1942, ch. 766, §8, 56 Stat. 1061; Apr. 3, 1945, ch. 52, §§3, 6, 59 Stat. 49, 50, created Mexican Claims Fund, provided for appropriations to Fund, and for manner of payments from such Fund.

Section 668, act Dec. 18, 1942, ch. 766, §9, 56 Stat. 1062, provided for payment of awards.

Section 669, act Dec. 18, 1942, ch. 766, §10, 56 Stat. 1062, authorized appropriations for Commission to carry out its functions, and provided for deductions from award or appraisal as reimbursement for expenses incurred by United States.

Section 670, act Dec. 18, 1942, ch. 766, §11(a), 56 Stat. 1063, related to distribution of awards by Special Mexican Claims Commission pursuant to Convention signed Apr. 24, 1943.

Section 671, act Dec. 18, 1942, ch. 766, §12, 56 Stat. 1063, related to claims based on international arbitral awards prior to Convention of 1923.

Section 672, act Dec. 18, 1942, ch. 766, §13, 56 Stat. 1063, defined terms used in sections 661 to 671 of this title.

CHAPTER 13—SERVICE COURTS OF FRIENDLY FOREIGN FORCES

Sec.

701. Definitions.
702. Arrest of offenders.
703. Attendance of witnesses.
704. Immunities of courts and witnesses.
705. Imprisonment.
706. Operative effect dependent upon Presidential finding.

§701. Definitions

As used in this chapter, unless the context clearly requires a different meaning—

(a) "Friendly foreign force" means any military, naval, or air force of any friendly foreign state with respect to which this chapter is operative by virtue of a Presidential declaration as provided in section 706 of this title.

(b) "Service court" means any military, naval, or air force court, or court martial or similar tribunal of any friendly foreign force within the United States.

(c) "United States" means the United States, its Territories, its insular possessions, the Canal Zone, and any other place subject to the jurisdiction of the United States.

(June 30, 1944, ch. 326, §1, 58 Stat. 643; Proc. No. 2695, July 4, 1946, 11 F.R. 7517, 60 Stat. 1352.)

REFERENCES IN TEXT

For definition of Canal Zone, referred to in subsec. (c), see section 3602(b) of this title.

CODIFICATION

The phrase "(including the Philippine Islands)" omitted from the definition of the term "United States" in

subsection (b), pursuant to 1946 Proc. No. 2695, which granted independence to the Philippine Islands under the authority of section 1394 of this title, under which section Proc. No. 2695 is set out as a note.

§702. Arrest of offenders

Upon a specific or general request of the officer commanding any friendly foreign force, having service courts of appropriate jurisdiction within the United States, it shall be lawful for any person in the civil, military, or naval establishments of the United States having authority to arrest, summarily to arrest any member of such force designated in such request and to deliver him to the custody of any officer of such force or to the custody of the military or naval authorities of the United States who shall deliver him forthwith to the custody of an officer of such force, for trial in such service courts within the United States for such offenses as shall lie within the jurisdiction of the service courts of such friendly foreign force: *Provided*, That the trial of any member of such friendly foreign force for an offense against a member of the civilian population shall be in open court (except where security consideration forbids), shall take place promptly in the United States and within a reasonable distance from the place where the offense is alleged to have been committed, for the convenience of witnesses.

(June 30, 1944, ch. 326, §2, 58 Stat. 643.)

§703. Attendance of witnesses

(a) Subpoena; contempt; fees

Any district court of the United States, or the United States courts of any Territory or possession, within the jurisdiction of which proceedings are had before any service court of a friendly foreign force, or within the jurisdiction of which any person is found, shall have jurisdiction, upon application made by a service court of a friendly foreign force, to issue to such person an order requiring him to appear before the service court or an officer designated to take a deposition for use before such service court and there to produce evidence or give testimony if so ordered. Any failure to obey such order of the court may be punished by said court as a contempt thereof: *Provided*, That the fees of such witnesses and the mileage at the rate allowed to witnesses attending the courts of the United States should be duly paid or tendered in advance to such witnesses, with funds to be supplied by the friendly foreign force. Except as expressly permitted by the court, in its discretion, no such order shall run into any other district.

(b) Members of armed forces

Attendance of witnesses in the armed services of the United States shall be obtained by request addressed to the discretion of the commanding officer of the person whose testimony is required.

(c) False testimony; punishment

Persons subject to the jurisdiction of the United States, who are not members of a friendly foreign force, who shall give false testimony or shall commit any act in the presence of a service court of a friendly foreign force which, if committed before a court of the United States, would be in contempt thereof, shall upon conviction by a court of the United States be fined not more than $2,000 or imprisoned for not more than six months, or both.

(June 30, 1944, ch. 326, §3, 58 Stat. 644; Proc. No. 2695, July 4, 1946, 11 F.R. 7517, 60 Stat. 1352.)

CODIFICATION

In subsec. (a), reference to "or any court of first instance of the Philippine Commonwealth" omitted pursuant to Proc. No. 2695, which granted independence to the Philippines under the authority of section 1394 of this title, under which section said Proc. No. 2695 is set out as a note.

In subsec. (a), reference to "the District Court of the United States for the District of Columbia" omitted because the District of Columbia constitutes a judicial district, and the District Court of the United States for the District of Columbia is included within the term "district courts of the United States" as used in such

subsection. See sections 88 and 132 of Title 28, Judiciary and Judicial Procedure.

§704. Immunities of courts and witnesses

Members of any service court of a friendly foreign force lawfully exercising jurisdiction in the United States in relation to members of such force, and any witnesses appearing before such service court, shall enjoy the same immunities and privileges as are enjoyed by members of a court martial of the United States and by witnesses appearing before such a court martial.

(June 30, 1944, ch. 326, §4, 58 Stat. 644.)

§705. Imprisonment

Persons sentenced to imprisonment by a service court of a friendly foreign force may be confined in disciplinary barracks, guardhouses, or other places of detention of the United States armed forces or in penitentiaries or other institutions employed by the United States for the detention or treatment of prisoners, at the expense of the state on whose behalf the prisoner is detained.

(June 30, 1944, ch. 326, §5, 58 Stat. 644.)

§706. Operative effect dependent upon Presidential finding

This chapter shall be operative with respect to the military, naval, or air forces of any foreign state only after a finding and declaration by the President that the powers and privileges provided herein are necessary for the maintenance of discipline. The President may at any time revoke such finding and declaration.

(June 30, 1944, ch. 326, §6, 58 Stat. 645.)

PROCLAMATION NO. 2626

Proc. No. 2626, Oct. 12, 1944, 9 F.R. 12403, respecting activation by President, was revoked by Proc. No. 3107, Aug. 9, 1955, 20 F.R. 5805.

CHAPTER 14—FOREIGN SERVICE

REPEAL OF CHAPTER

Pub. L. 96–465, title II, §2205, Oct. 17, 1980, 94 Stat. 2159, repealed the Foreign Service Act of 1946 and related and miscellaneous provisions classified to this chapter. Pursuant to section 2403 of Pub. L. 96–465, set out as a note under section 3901 of this title, Pub. L. 96–465 is effective, except as otherwise provided, on Feb. 15, 1981. Notwithstanding repeal, however, of the provisions of this chapter, section 4172 of this title continues in force and effect the Foreign Service Act of 1946 and any other law repealed, modified, or affected by Pub. L. 96–465 for the purposes enumerated in such section 4172.

REVISION OF LAWS

Congress by the enactment of the Foreign Service Act of 1980, Pub. L. 96–465, Oct. 17, 1980, 94 Stat. 2071, classified principally to chapter 52 (§3901 et seq.) of this title, consolidated and revised the laws relating to the administration, etc., of the Foreign Service.

Prior to the enactment of the Foreign Service Act of 1980, the Foreign Service Act of 1946 and related and miscellaneous provisions, which governed the Foreign Service, were classified to this chapter. Some former provisions of this chapter, prior to the enactment of the Foreign Service Act of 1946, had similar and related provisions classified to former chapter 1 of this title as follows:

Former Chapter 1	*Former Chapter 14*
1, 1a	801
2	801, 909
3	861–870
3a	995
4	906, 907
5	911, 912
6	906
7	993
8	Omitted
9	1036
10, 11	Omitted
12	1131
13	812
14	Omitted
15	961–963
16	963–965
17	1148
17a	1148–1150
18	Omitted
19	909
20	876
21	1061 et seq.
21a	1063
22	915
23	Omitted
23a	861, 870
23b	937
23c	1131
23d	937
23e	886
23f	826, 827
23g	821
23h	826, 827, 861 et seq.
23i	1061 et seq.
23j	882
23k	813
23*l*	814
24	805
31	901
32	900 et seq.
32a	866, 867
33	910
34 to 34c	901
35	936–939
36, 37	Omitted
38	805
39	803

40	802
41	901 note
51	Omitted
51a	938, 951
52	Omitted
53	1171
54	Omitted
55	908
56	936
57, 58	Omitted
71	Omitted
72 to 79	1172–1179
80 to 82	Omitted
83 to 98	1180–1195
99	Omitted
100 to 104	1196–1200
105 to 109	Omitted
121	881, 882
122, 123	Omitted
124	882
125	861 et seq.
126	806
127	1201
128	1202
129	Omitted
130	1082
130a	1136
130b	1136, 1138
131	1203
132	842, 843
133	Omitted
134	809
135	815
136	909 note

Provisions similar to those contained in the Foreign Service Act of 1946 and related and miscellaneous provisions formerly classified to this chapter are covered by various sections as follows:

Former Chapter 14	*Present Title 22*
801	3901
802	3902
803–806	3905
807	3905
808	Rep.
809	2697
810	2698
811	Rep.
811a	3921, 3928

812–814	4224–4226
815	Rep.
816	2701
817	2702
821	3928
822	Rep.
826	3930
827	3931
841	3904
842, 843	3926
846	3904
861	3903
866	3961
867	3961 et seq., 3981 et seq.
868	3964
869	3961 et seq.
870	3961 et seq., 3981 et seq.
871	3964, 3965
873	3969
876, 877	3971
881	3961
882	3964, 4001
886	3981
887, 888	Rep.
889	3968, 3970
890	3969
896	3972
900	3944
901	3942, 3982
901a, 902	3944
906	3945
907, 908	3952
909	3982 et seq.
910	3941
911	3942, 3946, 3947
912	3947
913	3941 et seq.
914	4053
915	3948
921	Omitted
922	3941, 3943, 3949
923	3942 et seq.
924	3952
925	Rep.
926	Omitted
927	3948
928	3950
929	3943, 3946, 4043

930–932	Omitted
936	3943, 3949
937	3982 et seq.
938	3952
939	3941
946	3943
947	Omitted
951	3943
956, 957	Rep.
961	3942, 3983, 3984
962	3984
963	3983, 3985
964	3983
965	Omitted
966	3983, 3984, 4081
967	Rep.
968	4022
981	Omitted
986	4003
987	4004
991	4001
992	4001 et seq.
993	4002, 4005, 4006
994	4001
995	3966
996	4003
1001, 1002	4052
1003	4007, 4008
1004	4009, 4060
1005	4011
1006	4051
1007	4010
1008	4011
1009	4026
1016	4001
1017	3966
1021, 1022	4010
1026	3968, 4001
1027, 1028, 1031	4012
1036	3929
1037	4131 et seq.
1037a	4131–4138
1037b	4139
1037c	4140
1041	4021
1042–1045	4024
1046	2697
1047	4024

1048	4024, 4025
1061–1064	4041–4044
1065	4067
1071	4045
1076	4046
1076a	4047
1077–1079s	Omitted
1081	4048
1082	4049
1083	Rep.
1084	4050
1086	4044, 4055
1091	4056
1092	Rep.
1093	4057
1094	Rep.
1095	Omitted
1101	4058
1102	Rep.
1103–1106	4059–4062
1111	4063
1112	4064
1116	4065
1121	4066
1131	2704, 4085
1132, 1133	Rep.
1136	4081
1137	4082
1138	4081
1138a	2700
1139	2703
1140, 1146, 1147	Rep.
1148	4083
1149	4083
1150, 1151	Omitted
1156	4084
1157	4081
1158–1160	4084
1171–1195	4191–4215
1196	Rep.
1197	4216
1198	4217
1199	Rep.
1200–1204	4218–4222

SUBCHAPTER I—GENERAL PROVISIONS

§801. Repealed. Pub. L. 96–465, title II, §2205(1), Oct. 17, 1980, 94 Stat. 2159

Section, act Aug. 13, 1946, ch. 957, title I, §111, 60 Stat. 999, set forth Congressional declaration of objectives for this chapter.

The following provisions of the Foreign Service Act of 1946 (approved Aug. 13, 1946, ch. 957, 60 Stat. 999), which had been set out as notes under this section, were repealed by Pub. L. 96–465, title II, §2205(1), Oct. 17, 1980, 94 Stat. 2159:

Title I, §101, 60 Stat. 999, which provided that titles I through X of act Aug. 13, 1946, which enacted this chapter and amended section 681 of former Title 5, Executive Departments and Government Officers and Employees, be cited as the "Foreign Service Act of 1946".

Title X, §1061, 60 Stat. 1032, which provided that chapter be construed liberally.

Title X, §1062, 60 Stat. 1033, which provided that if any provision of this chapter or the application of any such provision to any person or circumstance be held invalid, the validity of the remainder of the chapter or the application thereof not be affected.

Title X, §1063, 60 Stat. 1033, which provided that the title, part, and section headings of this chapter were inserted for convenience and, in the case of conflict between such headings and substance of the titles, parts, or sections, the heading be disregarded.

Title X, §1064, 60 Stat. 1033, which provided that nothing in this chapter be construed to affect provisions of act July 3, 1946, ch. 359, §§1–4, 60 Stat. 426, formerly set out as a note under section 906 of this title, and that "classified grades" under that Act be construed to mean classes 1 to 5, inclusive.

Title X, §1071, 60 Stat. 1033, which authorized appropriations to carry out the purposes of this chapter.

Title XI, §1122, 60 Stat. 1035, which provided that funds appropriated to Department of State for fiscal year 1947, under the caption "Foreign Service", be available for purposes of this chapter and authorized additional appropriations as required to carry out this chapter.

Title XI, §1132, 60 Stat. 1040, which provided that any section not expressly repealed by this chapter but which is inconsistent with any provisions of this chapter shall be considered as having been amended or superseded by this chapter.

Title XI, §1133, 60 Stat. 1040, which provided that repeal of sections by this chapter should not in any way affect acts done or rights accruing or accrued, or any suits or proceedings had or commenced in any civil case, prior to such repeal, but that all rights and liabilities should continue as if such repeal had not been made.

Title XI, §1134, 60 Stat. 1040, which provided that repeal of any section by this chapter shall not be construed as a revival, up to effective date of this chapter, of any section which may have been previously repealed by implication.

Title XI, §1135, 60 Stat. 1040, which provided that notwithstanding provisions of this chapter, existing rules, regulations, and Executive orders remain in effect until revoked or modified, unless clearly inconsistent with the provisions of this chapter.

Title XI, §1141, 60 Stat. 1040, which provided that this chapter be effective three months following Aug. 13, 1946.

EFFECTIVE DATE OF REPEAL

Repeal effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

SHORT TITLE OF 1965 AMENDMENT

Pub. L. 89–308, §1, Oct. 31, 1965, 79 Stat. 1129, which provided that Pub. L. 89–308 be cited as the "Foreign Service Annuity Adjustment Act of 1965", was repealed by Pub. L. 96–465, title II, §2205(16) Oct. 17, 1980, 94 Stat. 2160.

§§802 to 807. Repealed. Pub. L. 96–465, title II, §2205(1), Oct. 17, 1980, 94 Stat. 2159

Section 802, acts Aug. 13, 1946, ch. 957, title I, §121, 60 Stat. 1000; Oct. 7, 1978, Pub. L. 95–426, title I, §116, 92 Stat. 969, set forth definitions applicable to provisions of this chapter.

Section 803, act Aug. 13, 1946, ch. 957, title X, §1001, 60 Stat. 1030, related to prohibition on wearing of uniforms.

Section 804, acts Aug. 13, 1946, ch. 957, title X, §1002, 60 Stat. 1030; Oct. 15, 1966, Pub. L. 89–673,

§8(3), 80 Stat. 953, related to acceptance of gifts by chief of mission or other principal officer.

Section 805, act Aug. 13, 1946, ch. 957, title X, §1003, 60 Stat. 1030, related to prohibition on engaging in business abroad.

Section 806, act Aug. 13, 1946, ch. 957, title X, §1004, 60 Stat. 1030, related to prohibition on personal correspondence on affairs of foreign governments.

Section 807, act Aug. 13, 1946, ch. 957, title X, §1005, 60 Stat. 1030, related to prohibition on political, racial, religious, or color discrimination.

EFFECTIVE DATE OF REPEAL

Repeal effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

§808. Repealed. Pub. L. 92–310, title II, §227(c), June 6, 1972, 86 Stat. 207

Section, act Aug. 13, 1946, ch. 957, title X, §1011, 60 Stat. 1030, related to bonds of officers and employees.

IMPAIRMENT OF EXISTING BONDS

Act Aug. 13, 1946, ch. 957, title XI, §1121, 60 Stat. 1035, which related to impairment of existing bonds by enactment of this chapter, was repealed by Pub. L. 96–465, title II, §2205(1), Oct. 17, 1980, 94 Stat. 2159.

§§809, 810. Repealed. Pub. L. 96–465, title II, §2205(1), Oct. 17, 1980, 94 Stat. 2159

Section 809, acts Aug. 13, 1946, ch. 957, title X, §1021, 60 Stat. 1031; Sept. 8, 1960, Pub. L. 86–723, §48, 74 Stat. 847, set forth provisions respecting acceptance of gifts on behalf of United States.

Section 810, act Aug. 13, 1946, ch. 957, title X, §1031, 60 Stat. 1032, authorized Secretary to retain attorneys.

EFFECTIVE DATE OF REPEAL

Repeal effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

§811. Repealed. May 26, 1949, ch. 143, §5, 63 Stat. 111

Section, act Aug. 13, 1946, ch. 957, title X, §1041, 60 Stat. 1032, related to delegation of authority by Secretary and Director General.

§811a. Repealed. Pub. L. 103–236, title I, §162(a), Apr. 30, 1994, 108 Stat. 405

Section, act May 26, 1949, ch. 143, §3, 63 Stat. 111, related to administration of Foreign Service by Secretary of State and to delegation of authority to Secretary of State, with respect to such administration. See section 3921 et seq. of this title.

EFFECTIVE DATE OF REPEAL

Repeal applicable with respect to officials, offices, and bureaus of Department of State when executive orders, regulations, or departmental directives implementing the amendments by sections 161 and 162 of Pub. L. 103–236 become effective, or 90 days after Apr. 30, 1994, whichever comes earlier, see section 161(b) of Pub. L. 103–236, as amended, set out as an Effective Date of 1994 Amendment note under section 2651a of this title.

§§812 to 814. Transferred

CODIFICATION

Section 812, acts May 24, 1924, ch. 182, §18, formerly §11, 43 Stat. 142; renumbered §18 and amended Feb. 23, 1931, ch. 276, §7, 46 Stat. 1209, which related to fees, accounting, and stamps, was transferred to section 4224 of this title.

Section 813, act May 24, 1924, ch. 182, §35, as added Feb. 23, 1931, ch. 276, §7, 46 Stat. 1216 and amended, which related to establishment of fiscal districts and district accounting and disbursing offices, was transferred to section 4225 of this title.

Section 814, act May 24, 1924, ch. 182, §36, as added Feb. 23, 1931, ch. 276, §7, 46 Stat. 1216, which related to disposition of fees and official monies from diplomatic missions, consular offices and district accounting and disbursing offices, was transferred to section 4226 of this title.

§815. Repealed. June 25, 1948, ch. 645, §21, 62 Stat. 862, eff. Sept. 1, 1948

Section, act June 10, 1933, ch. 57, 48 Stat. 122, related to protection of diplomatic codes. See section 952 of Title 18, Crimes and Criminal Procedure.

§§816, 817. Repealed. Pub. L. 96–465, title II, §2205(1), Oct. 17, 1980, 94 Stat. 2159

Section 816, act Aug. 13, 1946, ch. 957, title X, §1081, as added Dec. 16, 1963, Pub. L. 88–205, pt. IV, §404(d), 77 Stat. 391, related to educational facilities for children of employees.

Section 817, act Aug. 13, 1946, ch. 957, title X, §1091, as added July 12, 1976, Pub. L. 94–350, title I, §119, 90 Stat. 827, related to malpractice protection.

EFFECTIVE DATE OF REPEAL

Repeal effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

SUBCHAPTER II—GOVERNING BODIES OF THE SERVICES

PART A—OFFICERS

§821. Repealed. Pub. L. 96–465, title II, §2205(1), Oct. 17, 1980, 94 Stat. 2159

Section, act Aug. 13, 1946, ch. 957, title II, §201, 60 Stat. 1000, set forth provisions relating to appointment and duties of Director General.

EFFECTIVE DATE OF REPEAL

Repeal effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

§822. Repealed. May 26, 1949, ch. 143, §5, 63 Stat. 111

Section, act Aug. 13, 1946, ch. 957, title II, §202, 60 Stat. 1000, related to Deputy Director General.

PART B—BOARDS

§826. Repealed. Pub. L. 96–465, title II, §2205(1), Oct. 17, 1980, 94 Stat. 2159

Section, act Aug. 13, 1946, ch. 957, title II, §211, 60 Stat. 1001, related to composition and duties of Board of Foreign Service.

EFFECTIVE DATE OF REPEAL

Repeal effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

EXECUTIVE ORDER NO. 10522

Ex. Ord. No. 10522, Mar. 26, 1954, 19 F.R. 1689, was transferred to a note set out under section 3922 of this title.

EXECUTIVE ORDER NO. 11264

Ex. Ord. No. 11264, Dec. 31, 1965, 31 F.R. 67, as amended, was transferred to a note set out under section 3930 of this title.

§827. Repealed. Pub. L. 96–465, title II, §2205(1), Oct. 17, 1980, 94 Stat. 2159

Section, act Aug. 13, 1946, ch. 957, title II, §212, 60 Stat. 1001, related to duties and composition of Board of Examiners for Foreign Service.

EFFECTIVE DATE OF REPEAL

Repeal effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

SUBCHAPTER III—DUTIES OF OFFICERS AND EMPLOYEES

PART A—GENERAL

§§841 to 843. Repealed. Pub. L. 96–465, title II, §2205(1), Oct. 17, 1980, 94 Stat. 2159

Section 841, act Aug. 13, 1946, ch. 957, title III, §301, 60 Stat. 1001, related to compliance with laws, international agreements, and executive orders.

Section 842, act Aug. 13, 1946, ch. 957, title III, §302, 60 Stat. 1001, authorized Secretary, where not inconsistent with authority of President, to govern duties by regulations.

Section 843, act Aug. 13, 1946, ch. 957, title III, §303, 60 Stat. 1002, authorized President to delegate to Secretary authority to prescribe regulations.

EFFECTIVE DATE OF REPEAL

Repeal effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

PART B—SPECIAL

§846. Repealed. Pub. L. 96–465, title II, §2205(1), Oct. 17, 1980, 94 Stat. 2159

Section, act Aug. 13, 1946, ch. 957, title III, §311, 60 Stat. 1002, related to performance of service for government agencies and departments by officers and employees.

EFFECTIVE DATE OF REPEAL

Repeal effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

SUBCHAPTER IV—PERSONNEL CATEGORIES AND SALARIES

PART A—CATEGORIES OF PERSONNEL

§861. Repealed. Pub. L. 96–465, title II, §2205(1), Oct. 17, 1980, 94 Stat. 2159

Section, act Aug. 13, 1946, ch. 957, title IV, §401, 60 Stat. 1002, related to categories of officers and employees.

EFFECTIVE DATE OF REPEAL

Repeal effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

PART B—SALARIES

§§866, 867. Repealed. Pub. L. 96–465, title II, §2205(1), Oct. 17, 1980, 94 Stat. 2159

Section 866, acts Aug. 13, 1946, ch. 957, title IV, §411, 60 Stat. 1002; July 28, 1956, ch. 770, §2, 70 Stat. 704; Aug. 14, 1964, Pub. L. 88–426, title III, §306(b), 78 Stat. 428, related to chiefs of missions.

Section 867, acts Aug. 13, 1946, ch. 957, title IV, §412, 60 Stat. 1003; July 6, 1949, ch. 300, §1(a), 63 Stat. 407; Aug. 5, 1955, ch. 576, §4, 69 Stat. 537; July 28, 1956, ch. 770, §3, 70 Stat. 704; June 20, 1958, Pub. L. 85–462, §6(a)(1), (2), 72 Stat. 211; July 1, 1960, Pub. L. 86–568, title I, §113(a), (b), 74 Stat. 299; Oct. 11, 1962, Pub. L. 87–793, §902, 76 Stat. 861; Aug. 14, 1964, Pub. L. 88–426, title I, §119, 78 Stat. 411; Oct. 29, 1965, Pub. L. 89–301, §8(a), 79 Stat. 1118; July 18, 1966, Pub. L. 89–504, title I, §106(a), 80 Stat. 292; Dec. 16, 1967, Pub. L. 90–206, title II, §209(a), 81 Stat. 632; Ex. Ord. No. 11413, June 11, 1968, 33 F.R. 8641; Ex. Ord. No. 11474, June 16, 1969, 34 F.R. 9605; Ex. Ord. No. 11524, Apr. 15, 1970, 35 F.R. 6547; Ex. Ord. No. 11576, Jan. 8, 1971, 36 F.R. 347; Ex. Ord. No. 11637, Dec. 22, 1971, 36 F.R. 24911; Ex. Ord. No. 11691, Dec. 15, 1972, 37 F.R. 27607; Ex. Ord. No. 11739, Oct. 3, 1973, 38 F.R. 27581; Ex. Ord. No. 11811, Oct. 7, 1974, 39 F.R. 3602; Ex. Ord. No. 11883, Oct. 6, 1975, 40 F.R. 47091; Ex. Ord. No. 11941, Oct. 1, 1976, 41 F.R. 43889; Ex. Ord. No. 12010, Sept. 28, 1977, 42 F.R. 52365; Ex. Ord. No. 12087, Oct. 7, 1978, 43 F.R. 46823; Ex. Ord. No. 12165, Oct. 9, 1979, 44 F.R. 58671; Ex. Ord. No. 12200, Mar. 12, 1980, 45 F.R. 16443; Ex. Ord. No. 12248, Oct. 16, 1980, 45 F.R. 69199, related to classes of officers and table respecting per annum salary.

EFFECTIVE DATE OF REPEAL

Repeal effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

INCREASE IN RATE OF PER ANNUM SALARY OF FOREIGN SERVICE OFFICERS

Pub. L. 95–105, title IV, §412(b), Aug. 17, 1977, 91 Stat. 856, increasing the amount of each rate of per annum salary in classes 5 through 8 of Foreign Service Officers, in the table contained in section 867, by $250, was repealed by Pub. L. 95–426, title IV, §410, Oct. 7, 1978, 92 Stat. 980.

§§868 to 873. Repealed. Pub. L. 96–465, title II, §2205(1), Oct. 17, 1980, 94 Stat. 2159

Section 868, acts Aug. 13, 1946, ch. 957, title IV, §413, 60 Stat. 1003; Aug. 31, 1954, ch. 1177, 68 Stat. 1051; Apr. 5, 1955, ch. 23, §2, 69 Stat. 24, related to appointive salaries.

Section 869, acts Aug. 13, 1946, ch. 957, title IV, §414, 60 Stat. 1003; July 28, 1956, ch. 770, §4, 70 Stat. 704, related to classes and rate of salaries of Reserve officers.

Section 870, acts Aug. 13, 1946, ch. 957, title IV, §415, 60 Stat. 1003; July 6, 1949, ch. 300, §1(a), 63 Stat. 407; June 20, 1958, Pub. L. 85–462, §6(a)(3), 72 Stat. 212; July 1, 1960, Pub. L. 86–568, title I, §113(c), 74 Stat. 300; Oct. 11, 1962, Pub. L. 87–793, §903, 76 Stat. 862; Aug. 14, 1964, Pub. L. 88–426, title I, §120, 78 Stat. 411; Oct. 29, 1965, Pub. L. 89–301, §8(b), 79 Stat. 1118; July 18, 1966, Pub. L. 89–504, title I, §106(b), 80 Stat. 292; Dec. 16, 1967, Pub. L. 90–206, title II, §209(b), 81 Stat. 632; Ex. Ord. No. 11413, June 11, 1968, 33 F.R. 8641; Ex. Ord. No. 11474, June 16, 1969, 34 F.R. 9605; Ex. Ord. No. 11524, Apr. 15, 1970, 35 F.R. 6247; Ex. Ord. No. 11576, Jan. 8, 1971, 36 F.R. 347; Ex. Ord. No. 11637, Dec. 22, 1971, 36 F.R. 24911; Ex. Ord. No. 11691, Dec. 15, 1972, 37 F.R. 27607; Ex. Ord. No. 11739, Oct. 3, 1973, 38 F.R. 27581; Ex. Ord. No. 11811, Oct. 7, 1974, 39 F.R. 3602; Ex. Ord. No. 11883, Oct. 6, 1975, 40 F.R. 47091; Ex. Ord. No. 11941, Oct. 1, 1976, 41 F.R. 43889; Ex. Ord. No. 12010, Sept. 28, 1977, 42 F.R. 52365; Ex. Ord. No. 12087, Oct. 7, 1978, 43 F.R. 46823; Ex. Ord. No. 12165, Oct. 9, 1979, 44 F.R. 58671; Ex. Ord. No. 12200, Mar. 12, 1980, 45 F.R. 16443; Ex. Ord. No. 12248, Oct. 16, 1980, 45 F.R. 69199, related to classes of staff officers and employees, and employees recruited abroad, and table relating to per annum salaries.

Section 871, acts Aug. 13, 1946, ch. 957, title IV, §416, 60 Stat. 1004; Sept. 8, 1960, Pub. L. 86–723, §2, 74 Stat. 831, related to appointive salaries of staff officers.

Section 872, acts Aug. 13, 1946, ch. 957, title IV, §417, 60 Stat. 1004; Sept. 8, 1960, Pub. L. 86–723, §3, 74 Stat. 731, related to salary and compensation of alien clerks.

Section 873, act Aug. 13, 1946, ch. 957, title IV, §418, 60 Stat. 1004, related to salary or compensation of consular agents.

EFFECTIVE DATE OF REPEAL

Repeal effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

PART C—SALARIES OF OFFICERS TEMPORARILY IN CHARGE

§§876, 877. Repealed. Pub. L. 96–465, title II, §2205(1), Oct. 17, 1980, 94 Stat. 2159

Section 876, act Aug. 13, 1946, ch. 957, title IV, §421, 60 Stat. 1004, related to salaries of chargés d'affaires ad interim.

Section 877, act Aug. 13, 1946, ch. 957, title IV, §422, 60 Stat. 1004, related to salaries of officers in charge of consulate general or consulates.

EFFECTIVE DATE OF REPEAL

Repeal effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

PART D—TIME OF RECEIVING SALARY

§§881, 882. Repealed. Pub. L. 96–465, title II, §2205(1), Oct. 17, 1980, 94 Stat. 2159

Section 881, acts Aug. 13, 1946, ch. 957, title IV, §431, 60 Stat. 1004; Sept. 8, 1960, Pub. L. 86–723, §4, 74 Stat. 831; Aug. 17, 1977, Pub. L. 95–105, title IV, §401, 91 Stat. 852, related to eligibility period, etc., for

receipt of salary by chiefs of missions.

Section 882, acts Aug. 13, 1946, ch. 957, title IV, §432, 60 Stat. 1005; Apr. 5, 1955, ch. 23, §13(1), 69 Stat. 27, related to eligibility period, etc., for receipt of salary by officers and employees.

EFFECTIVE DATE OF REPEAL

Repeal effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

PART E—CLASSIFICATION OF POSITIONS

§886. Repealed. Pub. L. 96–465, title II, §2205(1), Oct. 17, 1980, 94 Stat. 2159

Section, acts Aug. 13, 1946, ch. 957, title IV, §441, 60 Stat. 1005; Sept. 8, 1960, Pub. L. 86–723, §5, 74 Stat. 831, related to classification of positions in Service and in Department.

EFFECTIVE DATE OF REPEAL

Repeal effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

RULES GOVERNING SALARY DETERMINATIONS FOR INITIAL CLASSIFICATION

Act Aug. 13, 1946, ch. 957, title XI, §1105, 60 Stat. 1034, which related to applicability of rules for salary determinations for initial classification, was repealed by Pub. L. 96–465, title II, §2205(1), Oct. 17, 1980, 94 Stat. 2159.

§887. Repealed. Pub. L. 86–723, §52(1), Sept. 8, 1960, 74 Stat. 847

Section, act Aug. 13, 1946, ch. 957, title IV, §442, 60 Stat. 1006, provided for establishment of new group of positions, known as subclasses, for officers and employees.

EFFECTIVE DATE OF REPEAL

Repeal effective the first day of first pay period which begins more than thirty days after Sept. 8, 1960, see Pub. L. 86–723, §56(a), Sept. 8, 1960, 74 Stat. 848.

§888. Repealed. Pub. L. 86–707, title V, §511(a)(1), Sept. 6, 1960, 74 Stat. 800

Section, acts Aug. 13, 1946, ch. 957, title IV, §443, 60 Stat. 1006; Apr. 5, 1955, ch. 23, §3, 69 Stat. 24, related to salary differentials for Foreign Service officers, Reserve officers, and staff officers. See section 5921 et seq. of Title 5, Government Organization and Employees.

§889. Repealed. Pub. L. 96–465, title II, §2205(1), Oct. 17, 1980, 94 Stat. 2159

Section, acts Aug. 13, 1946, ch. 957, title IV, §444, 60 Stat. 1006; Sept. 8, 1960, Pub. L. 86–723, §6, 74 Stat. 831; July 12, 1976, Pub. L. 94–350, title I, §112, 90 Stat. 826; Aug. 17, 1977, Pub. L. 95–105, title IV, §402(a), (b)(1), 91 Stat. 852; Oct. 7, 1978, Pub. L. 95–426, title IV, §§401(b), 412(a), 92 Stat. 977, 981; Aug. 15, 1979, Pub. L. 96–60, title I, §107(b), 93 Stat. 397, related to compensation plans and annuity increases for alien employees and family members of personnel abroad.

EFFECTIVE DATE OF REPEAL

Repeal effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

EMPLOYMENT OF FAMILY MEMBERS OVERSEAS

Pub. L. 95–426, title IV, §401(a), Oct. 7, 1978, 92 Stat. 977, which related to employment of family members overseas, was repealed by Pub. L. 96–465, title II, §2205(2), Oct. 17, 1980, 94 Stat. 2160. See

section 3951 of this title.

REPORT TO CONGRESS ON EMPLOYMENT OF FAMILY MEMBERS OF GOVERNMENT PERSONNEL OVERSEAS

Pub. L. 95–426, title IV, §401(c), Oct. 7, 1978, 92 Stat. 978, which related to report by Secretary of State respecting overseas employment of family members of Government personnel, was repealed by Pub. L. 96–465, title II, §2205(2), Oct. 17, 1980, 94 Stat. 2160.

§890. Repealed. Pub. L. 96–465, title II, §2205(1), Oct. 17, 1980, 94 Stat. 2159

Section, act Aug. 13, 1946, ch. 957, title IV, §445, 60 Stat. 1006, related to salaries and classification of positions of consular agents.

EFFECTIVE DATE OF REPEAL

Repeal effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

PART F—ADDITIONAL COMPENSATION

§896. Repealed. Pub. L. 96–465, title II, §2205(1), Oct. 17, 1980, 94 Stat. 2159

Section, act Aug. 13, 1946, ch. 957, title IV, §451, as added Oct. 7, 1978, Pub. L. 95–426, title IV, §402(a), 92 Stat. 978, related to special allowances to Foreign Service officers.

EFFECTIVE DATE OF REPEAL

Repeal effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

SUBCHAPTER V—APPOINTMENTS AND ASSIGNMENTS

PART A—PRINCIPAL DIPLOMATIC REPRESENTATIVES

§§900, 901. Repealed. Pub. L. 96–465, title II, §2205(1), Oct. 17, 1980, 94 Stat. 2159

Section 900, act Aug. 13, 1946, ch. 957, title V, §500, as added Sept. 8, 1960, Pub. L. 86–723, §7, 74 Stat. 832, set forth Congressional declaration of policy on qualifications for assignment of chiefs of missions and Foreign Service officers.

Section 901, acts Aug. 13, 1946, ch. 957, title V, §501, 60 Stat. 1007; Aug. 5, 1955, ch. 576, §5, 69 Stat. 537; July 13, 1972, Pub. L. 92–352, title I, §107, 86 Stat. 492; Aug. 17, 1977, Pub. L. 95–105, title IV, §403, 91 Stat. 853, related to appointment and assignment of ambassadors, ministers, etc., by President.

EFFECTIVE DATE OF REPEAL

Repeal effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

EXECUTIVE ORDER NO. 10608

Ex. Ord. No. 10608, May 5, 1955, 20 F.R. 3093, was transferred to a note set out under section 3942 of this title.

§901a. Repealed. Pub. L. 96–465, title II, §2205(5), Oct. 17, 1980, 94 Stat. 2160

Section, Pub. L. 93–126, §6, Oct. 18, 1973, 87 Stat. 452; Pub. L. 93–475, §4(a), Oct. 26, 1974, 88 Stat. 1440; Pub. L. 96–187, title I, §112(e)(2), Jan. 8, 1980, 93 Stat. 1366, related to campaign contribution report by nominees for ambassador or minister.

EFFECTIVE DATE OF REPEAL

Repeal effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

§902. Repealed. Pub. L. 96–465, title II, §2205(1), Oct. 17, 1980, 94 Stat. 2159

Section, acts Aug. 13, 1946, ch. 957, title V, §502, 60 Stat. 1007; Aug. 5, 1955, ch. 576, §6, 69 Stat. 537, related to lists of officers qualified to be career ambassadors, etc., furnished to President.

EFFECTIVE DATE OF REPEAL

Repeal effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

PART B—FOREIGN SERVICE OFFICERS

§906. Repealed. Pub. L. 96–465, title II, §2205(1), Oct. 17, 1980, 94 Stat. 2159

Section, act Aug. 13, 1946, ch. 957, title V, §511, 60 Stat. 1007, related to appointment by President to a class in Foreign Service.

APPOINTMENT OF ADDITIONAL FOREIGN SERVICE OFFICERS; TERMINATION DATE

Act July 3, 1946, ch. 539, §§1–4, 60 Stat. 426, which provided for appointment of 250 additional Foreign Service officers within 2 years after July 3, 1946, was repealed by Pub. L. 89–554, §8(a), Sept. 6, 1966, 80 Stat. 653.

§§907 to 911. Repealed. Pub. L. 96–465, title II, §2205(1), Oct. 17, 1980, 94 Stat. 2159

Section 907, act Aug. 13, 1946, ch. 957, title V, §512, 60 Stat. 1007, related to commission of Foreign Service officers.

Section 908, act Aug. 13, 1946, ch. 957, title V, §513, 60 Stat. 1007, authorized Secretary to define limits of consular districts.

Section 909, act Aug. 13, 1946, ch. 957, title V, §514, 60 Stat. 1008, related to assignment and transfers.

Section 910, acts Aug. 13, 1946, ch. 957, title V, §515, 60 Stat. 1008; Aug. 17, 1977, Pub. L. 95–105, title IV, §404, 91 Stat. 853, related to citizenship requirements of Foreign Service officers.

Section 911, acts Aug. 13, 1946, ch. 957, title V, §516, 60 Stat. 1008; July 28, 1956, ch. 770, §5, 70 Stat. 704; Sept. 8, 1960, Pub. L. 86–723, §8, 74 Stat. 832; Aug. 17, 1977, Pub. L. 95–105, title IV, §405, 91 Stat. 853, related to admissions to class 6, 7, or 8 for Foreign Service officers.

EFFECTIVE DATE OF REPEAL

Repeal effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

§912. Repealed. Pub. L. 96–465, title II, §2205(1), Oct. 17, 1980, 94 Stat. 2159

Section, acts Aug. 13, 1946, ch. 957, title V, §517, 60 Stat. 1008; Apr. 5, 1955, ch. 23, §4, 69 Stat. 25; July

28, 1956, ch. 770, §6, 70 Stat. 704; Sept. 8, 1960, Pub. L. 86–723, §9, 74 Stat. 832, related to admission to classes 1 to 7 for Foreign Service officers.

EFFECTIVE DATE OF REPEAL

Repeal effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

TRANSFER OF OFFICERS FROM OLD TO NEW CLASSES

Act Aug. 13, 1946, ch. 957, title XI, §1102, 60 Stat. 1033, which related to transfer of officers from old class to new class, was repealed by Pub. L. 96–465, title II, §2205(1), Oct. 17, 1980, 94 Stat. 2159.

IN CLASS PROMOTIONS

Act Aug. 13, 1946, ch. 957, title XI, §1104, 60 Stat. 1034, which related to in class promotions, was repealed by Pub. L. 96–465, title II, §2205(1), Oct. 17, 1980, 94 Stat. 2159.

§913. Repealed. Pub. L. 96–465, title II, §2205(1), Oct. 17, 1980, 94 Stat. 2159

Section, acts Aug. 13, 1946, ch. 957, title V, §518, 60 Stat. 1008; Aug. 5, 1955, ch. 576, §7, 69 Stat. 537, related to admission to class of career ambassador or career minister.

REINSTATEMENT OF CHIEFS OF MISSIONS

Act Aug. 13, 1946, ch. 959, title XI, §1101, 60 Stat. 1033, which related to reinstatement of chiefs of missions, was repealed by Pub. L. 96–465, title II, §2205(1), Oct. 17, 1979, 94 Stat. 2159.

EFFECTIVE DATE OF REPEAL

Repeal effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

§§914, 915. Repealed. Pub. L. 96–465, title II, §2205(1), Oct. 17, 1980, 94 Stat. 2159

Section 914, acts Aug. 13, 1946, ch. 957, title V, §519, 60 Stat. 1008; Aug. 17, 1977, Pub. L. 95–105, title IV, §406, 91 Stat. 854, related to reassignment to Foreign Service of former ambassadors or ministers.

Section 915, acts Aug. 13, 1946, ch. 957, title V, §520, 60 Stat. 1009; Sept. 8, 1960, Pub. L. 86–723, §10, 74 Stat. 832; Sept. 6, 1966, Pub. L. 89–554, §8(a), 80 Stat. 661; July 12, 1976, Pub. L. 94–350, title V, §517, 90 Stat. 845, related to reappointment or recall of Foreign Service officers or employees.

EFFECTIVE DATE OF REPEAL

Repeal effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

PART C—FOREIGN SERVICE RESERVE OFFICERS

§§921 to 924. Repealed. Pub. L. 96–465, title II, §2205(1), Oct. 17, 1980, 94 Stat. 2159

Section 921, act Aug. 13, 1946, ch. 957, title V, §521, 60 Stat. 1009, related to establishment of Foreign Service Reserve.

Section 922, acts Aug. 13, 1946, ch. 957, title V, §522, 60 Stat. 1009; Apr. 5, 1955, ch. 23, §5, 69 Stat. 25; July 24, 1959, Pub. L. 86–108, ch. VII, §701(b), 73 Stat. 257; Aug. 20, 1968, Pub. L. 90–494, §18, 82 Stat. 814; Aug. 17, 1977, Pub. L. 95–105, title IV, §407, 91 Stat. 854; Oct. 7, 1978, Pub. L. 95–426, title II, §204(b)(6), 92 Stat. 974, related to appointments and assignments to Reserve.

Section 923, act Aug. 13, 1946, ch. 957, title V, §523, 60 Stat. 1009, related to appointment and assignment to a class.

Section 924, act Aug. 13, 1946, ch. 957, title V, §524, 60 Stat. 1009, related to commissions for Reserve officers.

EFFECTIVE DATE OF REPEAL

Repeal effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

§925. Repealed. Pub. L. 86–723, §52(2), Sept. 8, 1960, 74 Stat. 847

Section, act Aug. 13, 1946, ch. 957, title V, §525, 60 Stat. 1010, authorized Secretary to define active duty period of Reserve officers.

EFFECTIVE DATE OF REPEAL

Repeal by Pub. L. 86–723 effective first day of first pay period which begins more than thirty days after Sept. 8, 1960, see Pub. L. 86–723, §56(a), Sept. 8, 1960, 74 Stat. 848.

§§926 to 928. Repealed. Pub. L. 96–465, title II, §2205(1), Oct. 17, 1980, 94 Stat. 2159

Section 926, act Aug. 13, 1946, ch. 957, title V, §526, 60 Stat. 1010, related to benefits of Reserve officers.

Section 927, act Aug. 13, 1946, ch. 957, title V, §527, 60 Stat. 1010, related to reappointment or reassignment of Reserve officers.

Section 928, acts Aug. 13, 1946, ch. 957, title V, §528, 60 Stat. 1010; Sept. 8, 1960, Pub. L. 86–723, §11, 74 Stat. 833, related to reinstatement of Reserve officers.

EFFECTIVE DATE OF REPEAL

Repeal effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

§§929 to 932. Repealed. Pub. L. 96–465, title II, §2205(6), Oct. 17, 1980, 94 Stat. 2160

Section 929, Pub. L. 90–464, §15, Aug. 20, 1968, 82 Stat. 813, related to limitation on tenure and extension of appointment for Reserve officers.

Section 930, Pub. L. 90–494, §16, Aug. 20, 1968, 82 Stat. 814, related to retirement and tenure for Reserve officers.

Section 931, Pub. L. 90–464, §17, Aug. 20, 1968, 82 Stat. 814, related to unlimited tenure for Foreign Service Reserve officers.

Section 932, Pub. L. 90–464, §19, Aug. 20, 1968, 82 Stat. 814, provided that sections 929 to 931 of this title not apply to officers and employees of the Agency for International Development, the Peace Corps, and the Arms Control and Disarmament Agency.

EFFECTIVE DATE OF REPEAL

Repeal effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

PART D—FOREIGN SERVICE STAFF OFFICERS AND EMPLOYEES

§936. Repealed. Pub. L. 96–465, title II, §2205(1), Oct. 17, 1980, 94 Stat. 2159

Section, acts Aug. 13, 1946, ch. 957, title V, §531, 60 Stat. 1010; Sept. 8, 1960, Pub. L. 86–723, §12, 74 Stat. 833, related to appointments for Foreign Service staff officers and employees.

EFFECTIVE DATE OF REPEAL

Repeal effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

TRANSFER OF PERSONNEL FROM OLD TO NEW CLASSES

Act Aug. 13, 1946, ch. 957, title XI, §1103, 60 Stat. 1034, which set forth provisions respecting transfer of personnel from old class to new class, was repealed by Pub. L. 96–465, title II, §2205(1), Oct. 17, 1980, 94 Stat. 2159.

§§937 to 939. Repealed. Pub. L. 96–465, title II, §2205(1), Oct. 17, 1980, 94 Stat. 2159

Section 937, acts Aug. 13, 1946, ch. 957, title V, §532, 60 Stat. 1010; Sept. 8, 1960, Pub. L. 86–723, §13, 74 Stat. 833, related to assignments and transfers of Foreign Service staff officers and employees.

Section 938, act Aug. 13, 1946, ch. 957, title V, §533, 60 Stat. 1010, related to commission as consul or vice consul.

Section 939, act Aug. 13, 1946, ch. 957, title V, §534, 60 Stat. 1011, related to citizenship requirements of staff officers or employees.

EFFECTIVE DATE OF REPEAL

Repeal effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

PART E—ALIEN CLERKS AND EMPLOYEES

§§946, 947. Repealed. Pub. L. 96–465, title II, §2205(1), Oct. 17, 1980, 94 Stat. 2159

Section 946, act Aug. 13, 1946, ch. 957, title V, §541, 60 Stat. 1011, related to appointment of alien clerks and employees.

Section 947, act Aug. 13, 1946, ch. 957, title V, §542, 60 Stat. 1011, related to assignments and transfers of alien clerks and employees.

EFFECTIVE DATE OF REPEAL

Repeal effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

PART F—CONSULAR AGENTS

§951. Repealed. Pub. L. 96–465, title II, §2205(1), Oct. 17, 1980, 94 Stat. 2159

Section, act Aug. 13, 1946, ch. 957, title V, §551, 60 Stat. 1011, related to appointment of consular agents.

EFFECTIVE DATE OF REPEAL

Repeal effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

PART G—ASSIGNMENT OF PERSONNEL BY THE ARMY AND NAVY

§§956, 957. Repealed. Aug. 10, 1956, ch. 1041, §53, 70A Stat. 641

Section 956, act Aug. 13, 1946, ch. 957, title V, §561, 60 Stat. 1011, related to detail of military and naval personnel as inspectors or supervisors of buildings, or as couriers. See section 713 of Title 10, Armed Forces.

Section 957, act Aug. 13, 1946, ch. 957, title V, §562, 60 Stat. 1011, authorized the Secretary of the Navy to assign enlisted men of the Navy and Marine Corps to serve as custodians at an embassy, legation, or consulate. See section 5983 of Title 10, Armed Forces.

PART H—ASSIGNMENT OF FOREIGN SERVICE PERSONNEL

§§961 to 966. Repealed. Pub. L. 96–465, title II, §2205(1), Oct. 17, 1980, 94 Stat. 2159

Section 961, acts Aug. 13, 1946, ch. 957, title V, §571, 60 Stat. 1011; May 26, 1949, ch. 143, §5, 63 Stat. 111; Apr. 5, 1955, ch. 23, §6, 69 Stat. 25; June 30, 1958, Pub. L. 85–477, ch. V, §502(h), 72 Stat. 273; Sept. 8, 1960, Pub. L. 86–723, §14, 74 Stat. 833; Dec. 16, 1963, Pub. L. 88–205, pt. IV, §404(a), 77 Stat. 391; Aug. 17, 1977, Pub. L. 95–105, title IV, §408, 91 Stat. 854, set forth provisions relating to assignments of officers or employees to any government agency or international organization.

Section 962, act Aug. 13, 1946, ch. 957, title V, §572, 60 Stat. 1012, related to compulsory service in the United States.

Section 963, act Aug. 13, 1946, ch. 957, title V, §573, 60 Stat. 1012, related to assignment for consultation or instruction.

Section 964, act Aug. 13, 1946, ch. 957, title V, §574, 60 Stat. 1012, related to assignment to trade, labor, agricultural, scientific, or other conferences.

Section 965, acts Aug. 13, 1946, ch. 957, title V, §575, 60 Stat. 1013; Sept. 8, 1960, Pub. L. 86–723, §15, 74 Stat. 834, related to assignments to foreign governments of officers and employees.

Section 966, act Aug. 13, 1946, ch. 957, title V, §576, as added Oct. 26, 1974, Pub. L. 93–475, §9(a), 88 Stat. 1440; amended Nov. 29, 1975, Pub. L. 94–141, title IV, §401(a), 89 Stat. 763; Oct. 7, 1978, Pub. L. 95–426, title IV, §403(a)(2)–(4), 92 Stat. 978, related to assignments to public or private nonprofit organizations and Members and officers of Congress.

A prior section 576 of act Aug. 13, 1946, ch. 957, title V, 60 Stat. 1013, which provided for assignments to international organizations, was repealed by Pub. L. 86–723, §52(3), Sept. 8, 1960, 74 Stat. 847.

EFFECTIVE DATE OF REPEAL

Repeal effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

§967. Repealed. Pub. L. 86–723, §52(4), Sept. 8, 1960, 74 Stat. 847

Section, act Aug. 13, 1946, ch. 957, title V, §577, 60 Stat. 1013, related to assignment or detail to United States as affecting personnel ceilings.

EFFECTIVE DATE OF REPEAL

Repeal effective on first day of first pay period which begins more than thirty days after Sept. 8, 1960, see Pub. L. 86–723, §56(a), Sept. 8, 1960, 74 Stat. 848.

§968. Repealed. Pub. L. 96–465, title II, §2205(1), Oct. 17, 1980, 94 Stat. 2159

Section, act Aug. 13, 1946, ch. 957, title V, §578, as added Sept. 8, 1960, Pub. L. 86–723, §16, 74 Stat. 834, related to foreign language knowledge as condition for assignment.

EFFECTIVE DATE OF REPEAL

Repeal effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

SUBCHAPTER VI—PERSONNEL ADMINISTRATION

PART A—GENERAL

§981. Repealed. Pub. L. 96–465, title II, §2205(1), Oct. 17, 1980, 94 Stat. 2159

Section, act Aug. 13, 1946, ch. 957, title VI, §601, 60 Stat. 1013, defined terms "efficiency record" and "efficiency report".

EFFECTIVE DATE OF REPEAL

Repeal effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

PART B—EFFICIENCY RECORDS

§§986, 987. Repealed. Pub. L. 96–465, title II, §2205(1), Oct. 17, 1980, 94 Stat. 2159

Section 986, act Aug. 13, 1946, ch. 957, title VI, §611, 60 Stat. 1013, related to responsibility of Director General for efficiency records.

Section 987, act Aug. 13, 1946, ch. 957, title VI, §612, 60 Stat. 1014, related to availability of records.

EFFECTIVE DATE OF REPEAL

Repeal effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

PART C—PROMOTION OF FOREIGN SERVICE OFFICERS AND RESERVE OFFICERS

§§991 to 996. Repealed. Pub. L. 96–465, title II, §2205(1), Oct. 17, 1980, 94 Stat. 2159

Section 991, acts Aug. 13, 1946, ch. 957, title VI, §621, 60 Stat. 1014; Nov. 29, 1975, Pub. L. 94–141, title IV, §402, 89 Stat. 764, related to promotion by selection of Foreign Service officers.

Section 992, act Aug. 13, 1946, ch. 957, title VI, §622, 60 Stat. 1014, related to eligibility for promotion.

Section 993, acts Aug. 13, 1946, ch. 957, title VI, §623, 60 Stat. 1014; Oct. 18, 1973, Pub. L. 93–126, §10, 87 Stat. 453, related to recommendations for promotion.

Section 994, act Aug. 13, 1946, ch. 956, title VI, §624, 60 Stat. 1014, related to promotion of Reserve officers.

Section 995, acts Aug. 13, 1946, ch. 957, title VI, §625, 60 Stat. 1014; Sept. 8, 1960, Pub. L. 86–723, §17, 74 Stat. 834; Nov. 29, 1975, Pub. L. 94–141, title IV, §403, 89 Stat. 764, related to computation, etc., of

within-class salary increases.

Section 996, act Aug. 13, 1946, ch. 957, title VI, §626, as added Sept. 8, 1960, Pub. L. 86–723, §18, 74 Stat. 834, related to effect on promotion of functional and geographical area specialization.

EFFECTIVE DATE OF REPEAL

Repeal effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

PART D—SEPARATION OF OFFICERS AND EMPLOYEES FROM THE SERVICE

§1001. Repealed. Pub. L. 96–465, title II, §2205(1), Oct. 17, 1980, 94 Stat. 2159

Section, acts Aug. 13, 1946, ch. 957, title VI, §631, 60 Stat. 1015; Aug. 5, 1955, ch. 576, §8, 69 Stat. 537; Sept. 8, 1960, Pub. L. 86–723, §20, 74 Stat. 835; July 12, 1976, Pub. L. 94–350, title V, §518, 90 Stat. 845, related to separation from service of career ambassadors.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 17, 1980, see section 2403(d)(1) of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

§1002. Repealed. Pub. L. 96–465, title II, §2205(1), Oct. 17, 1980, 94 Stat. 2159

Section, acts Aug. 13, 1946, ch. 957, title VI, §632, 60 Stat. 1015; Aug. 5, 1955, ch. 576, §9, 69 Stat. 537; Sept. 8, 1960, Pub. L. 86–723, §21, 74 Stat. 835; July 12, 1976, Pub. L. 94–350, title V, §519, 90 Stat. 846, related to separation from service of participants in the Foreign Service Retirement and Disability System who are not career ambassadors.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 17, 1980, see section 2403(d)(1) of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

MANDATORY RETIREMENT

Act Aug. 13, 1946, ch. 957, title XI, §1111, 60 Stat. 1034, which related to mandatory retirement of certain Foreign Service officers, was repealed by Pub. L. 96–465, title II, §2205(1), Oct. 17, 1980, 94 Stat. 2159.

§§1003 to 1009. Repealed. Pub. L. 96–465, title II, §2205(1), Oct. 17, 1980, 94 Stat. 2159

Section 1003, act Aug. 13, 1946, ch. 957, title VI, §633, as added Apr. 5, 1955, ch. 23, §7, 69 Stat. 25, related to selection-out process and regulations.

A prior section 633 of act Aug. 13, 1946, ch. 957, title VI, 60 Stat. 1015, which provided that Secretary prescribe maximum period during which Foreign Service officers in classes 2 or 3 remain in force without promotion and for retirement from Service for any officer who did not receive a promotion within such period, was repealed by act Apr. 5, 1955, ch. 23, §7, 69 Stat. 25.

Section 1004, act Aug. 13, 1946, ch. 957, title VI, §634, as added Apr. 5, 1955, ch. 23, §7, 69 Stat. 25; amended July 28, 1956, ch. 770, §7, 70 Stat. 704; Sept. 8, 1960, Pub. L. 86–723, §22, 74 Stat. 835; July 12, 1976, Pub. L. 94–350, title V, §520, 90 Stat. 846, related to selection-out benefits.

A prior section 634 of act Aug. 13, 1946, ch. 957, title VI, 60 Stat. 1015, which provided selection-out benefits to officers in classes 4 and 5 was repealed by act Apr. 5, 1955, ch. 23, §7, 69 Stat. 25.

Section 1005, acts Aug. 13, 1946, ch. 957, title VI, §635, 60 Stat. 1016; July 28, 1956, ch. 770, §8, 70 Stat. 704; Sept. 8, 1960, Pub. L. 86–723, §23, 74 Stat. 836, related to status, etc., of officers in class 7 or 8.

Section 1006, acts Aug. 13, 1946, ch. 957, title VI, §636, 60 Stat. 1016; Sept. 8, 1960, Pub. L. 86–723, §24,

74 Stat. 836, related to voluntary retirement.

Section 1007, acts Aug. 13, 1946, ch. 957, title VI, §637, 60 Stat. 1016; July 28, 1956, ch. 770, §8, 70 Stat. 704; Sept. 8, 1960, Pub. L. 86–723, §25(a), 74 Stat. 836; July 12, 1976, Pub. L. 94–350, title V, §521, 90 Stat. 846, related to separation for cause of officers and employees.

Section 1008, acts Aug. 13, 1946, ch. 957, title VI, §638, 60 Stat. 1016; Sept. 8, 1960, Pub. L. 86–723, §26, 74 Stat. 837, related to termination of limited appointments of Reserve officers, and staff officers and employees.

Section 1009, act Aug. 13, 1946, ch. 957, title VI, §639, as added Oct. 7, 1978, Pub. L. 95–426, title IV, §404, 92 Stat. 979, related to professional career counseling, advice, and placement assistance.

EFFECTIVE DATE OF REPEAL

Repeal effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

PART E—PROMOTION OF STAFF OFFICERS AND EMPLOYEES

§§1016, 1017. Repealed. Pub. L. 96–465, title II, §2205(1), Oct. 17, 1980, 94 Stat. 2159

Section 1016, acts Aug. 13, 1946, ch. 957, title VI, §641, 60 Stat. 1017; Sept. 8, 1960, Pub. L. 86–723, §27, 74 Stat. 837, related to class promotion of staff personnel.

Section 1017, acts Aug. 13, 1946, ch. 957, title VI, §642, 60 Stat. 1017; Sept. 8, 1960, Pub. L. 86–723, §28, 74 Stat. 837; Oct. 11, 1962, Pub. L. 87–793, §905, 76 Stat. 863, related to within-class salary increases for staff officers or employees.

EFFECTIVE DATE OF REPEAL

Repeal effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

PART F—SEPARATION OF STAFF OFFICERS AND EMPLOYEES

§§1021, 1022. Repealed. Pub. L. 96–465, title II, §2205(1), Oct. 17, 1980, 94 Stat. 2159

Section 1021, act Aug. 13, 1946, ch. 957, title VI, §651, 60 Stat. 1017, related to separation from service of staff officers and employees for unsatisfactory performance of duty.

Section 1022, act Aug. 13, 1946, ch. 957, title VI, §652, 60 Stat. 1017, related to separation from service of staff officers and employees for misconduct or malfeasance.

EFFECTIVE DATE OF REPEAL

Repeal effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

PART G—ALIEN CLERKS AND EMPLOYEES

§§1026 to 1028. Repealed. Pub. L. 96–465, title II, §2205(1), Oct. 17, 1980, 94 Stat. 2159

Section 1026, act Aug. 13, 1946, ch. 957, title VI, §661, 60 Stat. 1017, related to promotion for alien clerks and employees.

Section 1027, act Aug. 13, 1946, ch. 957, title VI, §662, 60 Stat. 1017, related to separation from service of alien clerks and employees for unsatisfactory performance of duty.

Section 1028, act Aug. 13, 1946, ch. 957, title VI, §663, 60 Stat. 1017, related to separation from service of alien clerks and employees for misconduct or malfeasance.

EFFECTIVE DATE OF REPEAL

Repeal effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

PART H—CONSULAR AGENTS

§1031. Repealed. Pub. L. 96–465, title II, §2205(1), Oct. 17, 1980, 94 Stat. 2159

Section, act Aug. 13, 1946, ch. 957, title VI, §671, 60 Stat. 1017, related to separation from service of consular agents.

EFFECTIVE DATE OF REPEAL

Repeal effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

PART I—INSPECTIONS

§1036. Repealed. Pub. L. 96–465, title II, §2205(1), Oct. 17, 1980, 94 Stat. 2159

Section, act Aug. 13, 1946, ch. 957, title VI, §681, 60 Stat. 1018, authorized detailing of officers for inspections, time of inspections, and powers of officers.

EFFECTIVE DATE OF REPEAL

Repeal effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

PART J—FOREIGN SERVICE GRIEVANCES

§§1037 to 1037c. Repealed. Pub. L. 96–465, title II, §2205(1), Oct. 17, 1980, 94 Stat. 2159

Section 1037, act Aug. 13, 1946, ch. 957, title VI, §691, as added Nov. 29, 1975, Pub. L. 94–141, title IV, §404(a), 89 Stat. 765, set forth Congressional statement of purposes with respect to grievances.

Section 1037a, act Aug. 13, 1946, ch. 957, title VI, §692, as added Nov. 29, 1975, Pub. L. 94–141, title IV, §404(a), 89 Stat. 765; amended 1977 Reorg. Plan No. 2, §§5, 7(a)(4), 42 F.R. 62461, 91 Stat. 1636, 1637, set forth provisions relating to consideration and resolution of grievances, promulgation of regulations for procedures, and applicable criteria.

Section 1037b, act Aug. 13, 1946, ch. 957, title VI, §693, as added Nov. 29, 1975, Pub. L. 94–141, title IV, §404(a), 89 Stat. 770, related to filing of grievances and election of remedies.

Section 1037c, act Aug. 13, 1946, ch. 957, title VI, §694, as added Nov. 29, 1975, Pub. L. 94–141, title IV, §404(a), 89 Stat. 770, related to judicial review of regulations and final actions.

EFFECTIVE DATE OF REPEAL

Repeal effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

SUBCHAPTER VII—THE FOREIGN SERVICE INSTITUTE

§§1041 to 1048. Repealed. Pub. L. 96–465, title II, §2205(1), Oct. 17, 1980, 94 Stat. 2159

Section 1041, acts Aug. 13, 1946, ch. 957, title VII, §701, 60 Stat. 1018; Sept. 8, 1960, Pub. L. 86–723, §29, 74 Stat. 837; Sept. 4, 1961, Pub. L. 87–195, pt. IV, §708(1), 75 Stat. 464, related to establishment, etc., of Foreign Service Institute.

Section 1042, act Aug. 13, 1946, ch. 957, title VII, §702, 60 Stat. 1018, related to appointment, salary, and duties of Director of Institute.

Section 1043, act Aug. 13, 1946, ch. 957, title VII, §703, 60 Stat. 1018, related to aid to nonprofit institutions.

Section 1044, acts Aug. 13, 1946, ch. 957, title VII, §704, 60 Stat. 1018; Oct. 28, 1949, ch. 782, title XI, §1106(a), 63 Stat. 972; Sept. 8, 1960, Pub. L. 86–723, §30, 74 Stat. 837, set forth provisions relating to appointment or assignment of personnel to faculty or staff of Institute.

Section 1045, act Aug. 13, 1946, ch. 957, title VII, §705, 60 Stat. 1019, related to instruction and education at localities other than Institute.

Section 1046, act Aug. 13, 1946, ch. 957, title VII, §706, 60 Stat. 1019, related to endowments and gifts.

Section 1047, act Aug. 13, 1946, ch. 957, title VII, §707, 60 Stat. 1019, related to acquisition of real property.

Section 1048, act Aug. 13, 1946, ch. 957, title VII, §708, as added Oct. 7, 1978, Pub. L. 95–426, title IV, §405(a)(1), 92 Stat. 979, authorized Institute to provide orientation and language training for family members of Government personnel.

EFFECTIVE DATE OF REPEAL

Repeal effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

SUBCHAPTER VIII—RETIREMENT AND DISABILITY SYSTEM

PART A—ESTABLISHMENT OF SYSTEM

§§1061 to 1063. Repealed. Pub. L. 96–465, title II, §2205(1), Oct. 17, 1980, 94 Stat. 2159

Section 1061, act Aug. 13, 1946, ch. 957, title VIII, §801, 60 Stat. 1019, authorized rules and regulations.

Section 1062, act Aug. 13, 1946, ch. 957, title VIII, §802, 60 Stat. 1020, related to maintenance of Foreign Service Retirement and Disability Fund.

Section 1063, acts Aug. 13, 1946, ch. 957, title VIII, §803, 60 Stat. 1020; Sept. 8, 1960, Pub. L. 86–723, §31, 74 Stat. 838; July 12, 1976, Pub. L. 94–350, title V, §501, 90 Stat. 834; Oct. 7, 1978, Pub. L. 95–426, title II, §204(b)(7), 92 Stat. 974, related to criteria for participants for benefits in System.

EFFECTIVE DATE OF REPEAL

Repeal effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

CONVERSION TO FOREIGN SERVICE RETIREMENT SYSTEM

Pub. L. 94–350, title V, §522(a)–(c), July 12, 1976, 90 Stat. 846, which set forth provisions relating to conversion to Foreign Service Retirement System, was repealed by Pub. L. 96–465, title II, §2205(4), Oct. 17, 1980, 94 Stat. 2160.

§§1064, 1065. Repealed. Pub. L. 96–465, title II, §2205(1), Oct. 17, 1980, 94 Stat. 2159

Section 1064, acts Aug. 13, 1946, ch. 957, title VIII, §804, 60 Stat. 1020; Apr. 5, 1955, ch. 23, §13(2), 69 Stat. 27; Sept. 8, 1960, Pub. L. 86–723, §32, 74 Stat. 838; Feb. 28, 1970, Pub. L. 91–201, title I, §101, title II, §201, 84 Stat. 17, 18; July 12, 1976, Pub. L. 94–350, title V, §502, 90 Stat. 834; Ex. Ord. No. 11952, §2(a), Jan. 7, 1977, 42 F.R. 2293, 4809; Ex. Ord. No. 12145, §1–102, July 18, 1979, 44 F.R. 42653, defined terms applicable to System.

Section 1065, act Aug. 13, 1946, ch. 957, title VIII, §805, as added July 12, 1976, Pub. L. 94–350, title V, §503, 90 Stat. 835, authorized maintenance of existing areas of conformity between Civil Service and Foreign Service Retirement Systems.

EFFECTIVE DATE OF REPEAL

Repeal effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

PART B—CONTRIBUTIONS TO THE FUND

§1071. Repealed. Pub. L. 96–465, title II, §2205(1), Oct. 17, 1980, 94 Stat. 2159

Section, acts Aug. 13, 1946, ch. 957, title VIII, §811, 60 Stat. 1020; Aug. 5, 1955, ch. 576, §10, 69 Stat. 537; Sept. 8, 1960, Pub. L. 86–723, §33, 74 Stat. 839; Feb. 28, 1970, Pub. L. 91–201, title I, §102(a), 84 Stat. 17; July 12, 1976, Pub. L. 94–350, title V, §504, 90 Stat. 836; Aug. 17, 1977, Pub. L. 95–105, title IV, §409(a), 91 Stat. 854, Ex. Ord. No. 12145, §1–103, July 18, 1979, 44 F.R. 42653, related to rate of contributions to Fund.

EFFECTIVE DATE OF REPEAL

Repeal effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

PART C—COMPUTATION AND PAYMENT OF ANNUITIES

§1076. Repealed. Pub. L. 96–465, title II, §2205(1), Oct. 17, 1980, 94 Stat. 2159

Section, acts Aug. 13, 1946, ch. 957, title VIII, §821, 60 Stat. 1020; Aug. 5, 1955, ch. 576, §11, 69 Stat. 537; July 28, 1956, ch. 770, §9, 70 Stat. 705; Sept. 8, 1960, Pub. L. 86–723, §34, 74 Stat. 839; Oct. 31, 1965, Pub. L. 89–308, §9(1), 79 Stat. 1131; Feb. 28, 1970, Pub. L. 91–201, title II, §202, 84 Stat. 18; July 12, 1976, Pub. L. 94–350, title V, §505, 90 Stat. 837; Ex. Ord. No. 11952, §2(b)–(d), Jan. 7, 1977, 42 F.R. 2293, 4809; Aug. 17, 1977, Pub. L. 95–105, title IV, §409(b), 91 Stat. 854; Ex. Ord. No. 12145, §§1–104 to 1–110, July 18, 1979, 44 F.R. 42653, related to rate of annuity and commencement and termination of payments.

EFFECTIVE DATE OF REPEAL

Repeal effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

RECOMPUTATION OF ANNUITY RATES

Act Aug. 13, 1946, ch. 957, title XI, §1112, 60 Stat. 1035, which related to recomputation of annuity rates, was repealed by Pub. L. 96–465, title II, §2205(1), Oct. 17, 1980, 94 Stat. 2159.

COMPUTATION OF ANNUITIES OF PARTICIPANTS RETIRING DURING THE PERIOD BEGINNING OCTOBER 1, 1978 AND ENDING DECEMBER 31, 1979

Pub. L. 95–426, title IV, §406, Oct. 7, 1978, 92 Stat. 979, which provided that the annuity of any participant in the Foreign Service Retirement and Disability System whose salary was or is limited by section 5308 of Title 5 and who retired during the period beginning Oct. 1, 1978 and ending Dec. 31, 1979, would be equal to 2 per centum of his or her basic salary for the highest year of service for which contributions had been made to the Foreign Service Retirement and Disability Fund multiplied by the number of years, not exceeding thirty-five, of service credit obtained in accordance with sections 1091 and 1093 of this title, was repealed by Pub. L. 95–482, §109, Oct. 18, 1978, 92 Stat. 1605.

§1076a. Repealed. Pub. L. 96–465, title II, §2205(1), Oct. 17, 1980, 94 Stat. 2159

Section, act Aug. 13, 1946, ch. 957, title VIII, §822, as added July 12, 1976, Pub. L. 94–350, title V, §506, 90 Stat. 838, related to commencement, etc., of payment of annuity.

EFFECTIVE DATE OF REPEAL

Repeal effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

§§1077, 1078. Repealed. Pub. L. 96–465, title II, §2205(12), Oct. 17, 1980, 94 Stat. 2160

Section 1077, act May 21, 1952, ch. 315, §1, 66 Stat. 81, related to increase of annuities of annuitants retired prior to Nov. 13, 1950.

Section 1078, act May 21, 1952, ch. 315, §2, 66 Stat. 82, related to increase of annuities of survivor annuitants of persons retired prior to Nov. 13, 1950.

EFFECTIVE DATE OF REPEAL

Repeal effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

§§1079 to 1079c. Repealed. Pub. L. 96–465, title II, §2205(13), Oct. 17, 1980, 94 Stat. 2160

Section 1079, act May 1, 1956, ch. 229, §1, 70 Stat. 125, related to increase of annuities of annuitants retired prior to July 1, 1949.

Section 1079a, act May 1, 1956, ch. 229, §2, 70 Stat. 125, related to availability of increases provided for by section 1079 of this title for officers retired before July 1, 1979, who exercised reduced annuity and restoration clause.

Section 1079b, act May 1, 1956, ch. 229, §3, 70 Stat. 125, related to increases for widowed annuitants.

Section 1079c, act May 1, 1956, ch. 229, §4, 70 Stat. 125, related to increases for officers' wives who become annuitants subsequent to the effective date of sections 1079 to 1079f of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

§1079d. Repealed. Pub. L. 96–465, title II, §2205(13), Oct. 17, 1980, 94 Stat. 2160

Section, acts May 1, 1956, ch. 229, §5, 70 Stat. 125; July 12, 1960, Pub. L. 86–612, §2(a), 74 Stat. 371, related to grants to needy ineligible widows.

EFFECTIVE DATE OF REPEAL

Repeal effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

EFFECTIVE DATE OF 1960 AMENDMENT

Pub. L. 86–612, §2(b), July 12, 1960, 74 Stat. 371, which provided that the amendment made to this section by section 2(a) of Pub. L. 86–612 take effect on the first day of the first month which begins more than thirty days after July 12, 1960, was repealed by Pub. L. 96–465, title II, §2205(15), Oct. 17, 1980, 94 Stat. 2160.

§§1079e, 1079f. Repealed. Pub. L. 96–465, title II, §2205(13), Oct. 17, 1980, 94 Stat. 2160

Section 1079e, act May 1, 1956, ch. 229, §6, 70 Stat. 125, related to restriction on increases under sections 1079 to 1079f of this title.

Section 1079f, act May 1, 1956, ch. 229, §7, 70 Stat. 125, provided that no annuity currently payable be reduced as a result of sections 1079 to 1079f of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

§§1079g to 1079k. Repealed. Pub. L. 96–465, title II, §2205(14), Oct. 17, 1980, 94 Stat. 2160

Section 1079g, Pub. L. 85–882, §1, Sept. 2, 1958, 72 Stat. 1705, related to increase of annuities for service terminated on or before Jan. 31, 1958.

Section 1079h, Pub. L. 85–882, §2, Sept. 2, 1958, 72 Stat. 1705, related to increase of annuities of retired officers for service terminated on or after Feb. 1, 1958, and provided a schedule of increase.

Section 1079i, Pub. L. 85–882, §3, Sept. 2, 1958, 72 Stat. 1705, related to increase of annuities of survivor annuitants for service terminated after Feb. 1, 1958, and provided a schedule of increase.

Section 1079j, Pub. L. 85–882, §4, Sept. 2, 1958, 72 Stat. 1705, provided that computation of increase on additional annuities purchased with voluntary contributions be barred.

Section 1079k, Pub. L. 85–882, §5, Sept. 2, 1958, 72 Stat. 1705, provided no annuity of a retired officer or survivor annuitant be increased under sections 1079g to 1079k of this title beyond a specified amount.

EFFECTIVE DATE OF REPEAL

Repeal effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

§1079*l*. Repealed. Pub. L. 96–465, title II, §2205(15), Oct. 17, 1980, 94 Stat. 2160

Section, Pub. L. 86–612, §1, July 12, 1960, 74 Stat. 371, set forth provisions relating to increase of annuities.

EFFECTIVE DATE OF REPEAL

Repeal effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

§§1079m to 1079s. Repealed. Pub. L. 96–465, title II, §2205(16), Oct. 17, 1980, 94 Stat. 2160

Section 1079m, Pub. L. 89–308, §2, Oct. 31, 1965, 79 Stat. 1129, related to adjustment in annuities for service terminated before Oct. 16, 1960.

Section 1079n, Pub. L. 89–308, §3, Oct. 31, 1965, 79 Stat. 1130, related to benefit of surviving widow of

annuitant whose service terminated before Oct. 16, 1960, and who has elected deferred annuity and dies before becoming eligible.

Section 1079o, Pub. L. 89–308, §4, Oct. 31, 1965, 79 Stat. 1130, related to benefit of surviving widow of annuitant who retired before Oct. 16, 1960, and who died before Oct. 31, 1965.

Section 1079p, Pub. L. 89–308, §5, Oct. 31, 1965, 79 Stat. 1131, related to increase in annuity for widows receiving less than $2,400.

Section 1079q, Pub. L. 89–308, §6, Oct. 31, 1965, 79 Stat. 1131, related to annuity benefits of widows under sections 1079m to 1079p of this title in lieu of any other benefits.

Section 1079r, Pub. L. 89–308, §7, Oct. 31, 1965, 79 Stat. 1131, provided for effective date for increases, adjustments, or grants of annuity.

Section 1079s, Pub. L. 89–308, §8, Oct. 31, 1965, 79 Stat. 1131, related to payments of annuity benefits from Foreign Service Retirement and Disability Fund.

EFFECTIVE DATE OF REPEAL

Repeal effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

PART D—BENEFITS ACCRUING TO CERTAIN PARTICIPANTS

§§1081, 1082. Repealed. Pub. L. 96–465, title II, §2205(1), Oct. 17, 1980, 94 Stat. 2159

Section 1081, acts Aug. 13, 1946, ch. 957, title VIII, §831, 60 Stat. 1021; Sept. 8, 1960, Pub. L. 86–723, §35, 74 Stat. 840; July 12, 1976, Pub. L. 94–350, title V, §507, 90 Stat. 839, related to benefits due to disability or incapacity.

Section 1082, acts Aug. 13, 1946, ch. 957, title VIII, §832, 60 Stat. 1022; Sept. 8, 1960, Pub. L. 86–723, §36, 74 Stat. 842; Oct. 31, 1965, Pub. L. 89–308, §9(2), 79 Stat. 1131; Feb. 28, 1970, Pub. L. 91–201, title II, §203, 84 Stat. 18; July 12, 1976, Pub. L. 94–350, title V, §508, 90 Stat. 839, related to payment of lump-sum credit and annuities for death in service.

EFFECTIVE DATE OF REPEAL

Repeal effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

§1083. Repealed. Pub. L. 94–350, title V, §516, July 12, 1976, 90 Stat. 845

Section, act Aug. 13, 1946, ch. 957, title VIII, §833, 60 Stat. 1022, provided for retirement of non Foreign Service officers and chiefs of missions.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1976, see Pub. L. 94–350, title V, §524(a), July 12, 1976, 90 Stat. 848.

§1084. Repealed. Pub. L. 96–465, title II, §2205(1), Oct. 17, 1980, 94 Stat. 2159

Section, act Aug. 13, 1946, ch. 957, title VIII, §834, as added Sept. 8, 1960, Pub. L. 86–723, §37, 74 Stat. 842; amended July 12, 1976, Pub. L. 94–350, title V, §509, 90 Stat. 840, related to discontinued service retirement.

EFFECTIVE DATE OF REPEAL

Repeal effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

PART E—LUMP-SUM PAYMENTS

§1086. Repealed. Pub. L. 96–465, title II, §2205(1), Oct. 17, 1980, 94 Stat. 2159

Section, acts Aug. 13, 1946, ch. 957, title VIII, §841, 60 Stat. 1022; Sept. 8, 1960, Pub. L. 86–723, §38, 74 Stat. 843; July 12, 1976, Pub. L. 94–350, title V, §510, 90 Stat. 840, related to separation from service and computation, etc., of lump-sum credit.

EFFECTIVE DATE OF REPEAL

Repeal effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

PART F—SERVICE PERIOD FOR ANNUITIES

§1091. Repealed. Pub. L. 96–465, title II, §2205(1), Oct. 17, 1980, 94 Stat. 2159

Section, acts Aug. 13, 1946, ch. 957, title VIII, §851, 60 Stat. 1023; Sept. 8, 1960, Pub. L. 86–723, §39, 74 Stat. 844; Feb. 28, 1970, Pub. L. 91–201, title II, §204, 84 Stat. 19; July 12, 1976, Pub. L. 94–350, title V, §511, 90 Stat. 842, Ex. Ord. No. 12145, §1–111, July 18, 1979, 44 F.R. 42654, related to computation, etc., of creditable service period for annuities.

EFFECTIVE DATE OF REPEAL

Repeal effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

§1092. Repealed. Pub. L. 94–350, title V, §516, July 12, 1976, 90 Stat. 845

Section, acts Aug. 13, 1946, ch. 957, title VIII, §852, 60 Stat. 1023; Apr. 5, 1955, ch. 23, §8(a), (b), 69 Stat. 26; Sept. 8, 1960, Pub. L. 86–723, §40, 74 Stat. 844; Feb. 28, 1970, Pub. L. 91–201, title I, §103, 84 Stat. 17, related to prior service credits. See sections 4045 and 4056 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1976, see Pub. L. 94–350, title V, §524(a), July 12, 1976, 90 Stat. 848.

§1093. Repealed. Pub. L. 96–465, title II, §2205(1), Oct. 17, 1980, 94 Stat. 2159

Section, acts Aug. 13, 1946, ch. 957, title VIII, §853, 60 Stat. 1024; Apr. 5, 1955, ch. 23, §9, 69 Stat. 27, related to extra credit for service at unhealthful posts.

EFFECTIVE DATE OF REPEAL

Repeal effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

§1094. Repealed. Pub. L. 94–350, title V, §516, July 12, 1976, 90 Stat. 845

Section, act Aug. 13, 1946, ch. 957, title VIII, §854, 60 Stat. 1024, provided for credit while on military leave. See section 4045 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1976, see Pub. L. 94–350, title V, §524(a), July 12, 1976, 90 Stat. 848.

§1095. Repealed. Pub. L. 96–465, title II, §2205(1), Oct. 17, 1980, 94 Stat. 2159

Section, act Aug. 13, 1946, ch. 957, title VIII, §855, as added Sept. 8, 1960, Pub. L. 86–723, §41, 74 Stat. 845, related to recomputation of annuities of certain former participants.

EFFECTIVE DATE OF REPEAL

Repeal effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

PART G—MONEYS

§1101. Repealed. Pub. L. 96–465, title II, §2205(1), Oct. 17, 1980, 94 Stat. 2159

Section, act Aug. 13, 1946, ch. 957, title VIII, §861, 60 Stat. 1024, related to estimation of needed appropriations by Secretary of Treasury.

EFFECTIVE DATE OF REPEAL

Repeal effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

§1102. Repealed. Pub. L. 89–348, §1(22), Nov. 8, 1965, 79 Stat. 1312

Section, act Aug. 13, 1964, ch. 957, title VIII, §862, 60 Stat. 1024, required an annual report to Congress and to President on condition of Foreign Service Retirement and Disability Fund and of estimates of appropriations necessary to continue system in effect.

§§1103 to 1106. Repealed. Pub. L. 96–465, title II, §2205(1), Oct. 17, 1980, 94 Stat. 2159

Section 1103, act Aug. 13, 1946, ch. 957, title VIII, §863, 60 Stat. 1024, related to investment of Fund by Secretary of the Treasury.

Section 1104, acts Aug. 13, 1946, ch. 957, title VIII, §864, 60 Stat. 1024; Apr. 5, 1955, ch. 23, §13(3), 69 Stat. 27; Ex. Ord. No. 11952, §2(e), Jan. 7, 1977, 42 F.R. 2293, 4809; Ex. Ord. No. 12145, §1–112, July 18, 1979, 44 F.R. 42654, related to attachment of moneys.

Section 1105, act Aug. 13, 1946, ch. 957, title VIII, §865, as added Feb. 28, 1970, Pub. L. 91–201, title I, §104(a), 84 Stat. 17; amended July 12, 1976, Pub. L. 94–350, title V, §512, 90 Stat. 843, related to payments for future benefits, and funding of normal costs.

Section 1106, act Aug. 13, 1946, ch. 957, title VIII, §866, as added Feb. 28, 1970, Pub. L. 91–201, title I, §104(a), 84 Stat. 18, related to unfunded liability obligations, and credit for military service with respect to funding requirements.

EFFECTIVE DATE OF REPEAL

Repeal effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

PART H—ANNUITANTS RECALLED IN SERVICE OR REEMPLOYED IN GOVERNMENT

§§1111, 1112. Repealed. Pub. L. 96–465, title II, §2205(1), Oct. 17, 1980, 94 Stat.

Section 1111, acts Aug. 13, 1946, ch. 957, title VIII, §871, 60 Stat. 1025; July 28, 1956, ch. 770, §10, 70 Stat. 705; Sept. 8, 1960, Pub. L. 86–723, §43, 74 Stat. 845; July 12, 1976, Pub. L. 94–350, title V, §513, 90 Stat. 843, related to annuity adjustment for recall service.

Section 1112, act Aug. 13, 1946, ch. 957, title VIII, §872, as added Sept. 8, 1960, Pub. L. 86–723, §44, 74 Stat. 846; amended Sept. 4, 1961, Pub. L. 87–195, pt. IV, §708(2), 75 Stat. 464, related to rights, etc., upon reemployment of annuitant.

EFFECTIVE DATE OF REPEAL

Repeal effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

PART I—VOLUNTARY CONTRIBUTIONS

§1116. Repealed. Pub. L. 96–465, title II, §2205(1), Oct. 17, 1980, 94 Stat. 2159

Section, acts Aug. 13, 1946, ch. 957, title VIII, §881, 60 Stat. 1025; Sept. 8, 1960, Pub. L. 86–723, §45, 74 Stat. 846; July 12, 1976, Pub. L. 94–350, title V, §514, 90 Stat. 843, related to composition, etc., of voluntary contribution account.

EFFECTIVE DATE OF REPEAL

Repeal effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

PART J—COST-OF-LIVING ADJUSTMENTS OF ANNUITIES

§1121. Repealed. Pub. L. 96–465, title II, §2205(1), (16), Oct. 17, 1980, 94 Stat. 2159, 2160

Section, act Aug. 13, 1946, ch. 957, title VIII, §882, as added Oct. 31, 1965, Pub. L. 89–308, §9(3), 79 Stat. 1131; amended Feb. 28, 1970, Pub. L. 91–201, title II, §205, 84 Stat. 19; July 12, 1976, Pub. L. 94–350, title V, §515, 90 Stat. 844; Oct. 1, 1976, Pub. L. 94–440, title XIII, §1306(e)(1), 90 Stat. 1463; Ex. Ord. No. 11272, §1–101, Jan. 16, 1981, 46 F.R. 5853, related to effective date, etc., of provisions authorizing cost-of-living annuity increase.

EFFECTIVE DATE OF REPEAL

Repeal effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

SUBCHAPTER IX—ALLOWANCES AND BENEFITS

PART A—ALLOWANCES AND SPECIAL ALLOTMENTS

§1131. Repealed. Pub. L. 96–465, title II, §2205(1), Oct. 17, 1980, 94 Stat. 2159

Section, acts Aug. 13, 1946, ch. 957, title IX, §901, 60 Stat. 1025; Apr. 5, 1955, ch. 23, §10, 69 Stat. 27;

Sept. 6, 1960, Pub. L. 86–707, title V, §511(c)(7), 74 Stat. 801, related to authorization of representation allowances.

EFFECTIVE DATE OF REPEAL

Repeal effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

§§1132, 1133. Repealed. Pub. L. 86–707, title V, §511(a)(1), Sept. 6, 1960, 74 Stat. 800

Section 1132, acts Aug. 13, 1946, ch. 957, title IX, §902, 60 Stat. 1026; July 28, 1956, ch. 770, §11, 70 Stat. 705, authorized the Secretary of State to allot funds to defray the unusual expenses incident to the operation and maintenance of official residences suitable for principal representatives of the United States. See section 5913 of Title 5, Government Organization and Employees.

Section 1133, act Aug. 13, 1946, ch. 957, title IX, §903, 60 Stat. 1026, required the Secretary of State to account for all allowances and allotments.

PART B—TRAVEL AND RELATED EXPENSES

§§1136 to 1138a. Repealed. Pub. L. 96–465, title II, §2205(1), Oct. 17, 1980, 94 Stat. 2159

Section 1136, acts Aug. 13, 1946, ch. 957, title IX, §911, 60 Stat. 1026; Apr. 5, 1955, ch. 23, §11, 69 Stat. 27; Sept. 6, 1960, Pub. L. 86–707, title III, §301(a), title V, §511(a)(1), 74 Stat. 795, 800; Sept. 4, 1961, Pub. L. 87–195, pt. IV, §708(3), 75 Stat. 464; Dec. 16, 1963, Pub. L. 88–205, pt. IV, §404(b), 77 Stat. 391; Dec. 23, 1967, Pub. L. 90–221, §1, 81 Stat. 671; Oct. 7, 1978, Pub. L. 95–426, title IV, §§407(a), 408(a), 409(a), 92 Stat. 980, related to payment, etc., of travel expenses, transportation and storage expenses, and expenses for bringing home remains of personnel and family members.

Section 1137, acts Aug. 13, 1946, ch. 957, title IX, §912, 60 Stat. 1027; Sept. 8, 1960, Pub. L. 86–723, §46, 74 Stat 846, related to loan of household furnishings and equipment to officers and employees.

Section 1138, acts Aug. 13, 1946, ch. 957, title IX, §913, 60 Stat. 1027; Sept. 6, 1960, Pub. L. 86–707, title III, §322, 74 Stat. 798; Sept. 8, 1960, Pub. L. 86–723, §47, 74 Stat. 846, related to transportation of motor vehicles of officers and employees.

Section 1138a, act Aug. 13, 1946, ch. 957, title IX, §914, as added Dec. 16, 1963, Pub. L. 88–205, pt. IV, §404(c), 77 Stat. 391, related to transportation for Government employees and dependents.

EFFECTIVE DATE OF REPEAL

Repeal effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

PART C—COMMISSARY AND MESS SERVICES AND RECREATION FACILITIES

§1139. Repealed. Pub. L. 96–465, title II, §2205(1), Oct. 17, 1980, 94 Stat. 2159

Section, acts Aug. 13, 1946, ch. 957, title IX, §921, 60 Stat. 1027; July 28, 1956, ch. 770, §12, 70 Stat. 705; Dec. 16, 1963, Pub. L. 88–205, pt. IV, §404(c), 77 Stat. 391; Oct. 7, 1978, Pub. L. 95–426, title I, §112(a)(2), 92 Stat. 968, related to commissary and mess services and recreational facilities abroad.

EFFECTIVE DATE OF REPEAL

Repeal effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as

an Effective Date note under section 3901 of this title.

§1140. Repealed. Oct. 31, 1951, ch. 654, §1(43), 65 Stat. 703

Section, act July 5, 1946, ch. 541, title I, 60 Stat. 452, related to sale or exchange of Foreign Service automobiles abroad.

PART D—LEAVES OF ABSENCE

§§1146, 1147. Repealed. Oct. 30, 1951, ch. 631, title II, §207(a)(6), 65 Stat. 682

Sections, act Aug. 13, 1946, ch. 957, title IX, §§931, 932, 60 Stat. 1028, related to annual and sick leave for officers and employees in the Foreign Service. See section 6301 et seq. of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 6, 1952, see act Oct. 30, 1951, ch. 631, §209, 65 Stat. 683.

§§1148 to 1151. Repealed. Pub. L. 96–465, title II, §2205(1), Oct. 17, 1980, 94 Stat. 2159

Section 1148, acts Aug. 13, 1946, ch. 957, title IX, §933, 60 Stat. 1028; Aug. 26, 1954, ch. 937, title V, §544(e), as added July 18, 1956, ch. 627, §11(a), 70 Stat. 563; Aug. 14, 1957, Pub. L. 85–141, §11(b)(1), 71 Stat. 365; Sept. 4, 1961, Pub. L. 87–195, pt. IV, §708(4), 75 Stat. 464, related to return of personnel on leaves of absence to United States, its territories and possessions.

Section 1149, act Aug. 13, 1946, ch. 957, title IX, §934, 60 Stat. 1028, related to leaves of absence of Reserve officers assigned to the Foreign Service.

Section 1150, act Aug. 13, 1946, ch. 957, title IX, §935, 60 Stat. 1029, related to transfers of leaves of absence.

Section 1151, act Aug. 13, 1946, ch. 957, title IX, §936, as added July 28, 1956, ch. 770, §17, 70 Stat. 708, related to application of Annual and Sick Leave Act of 1951.

EFFECTIVE DATE OF REPEAL

Repeal effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

PART E—MEDICAL SERVICES

§§1156 to 1160. Repealed. Pub. L. 96–465, title II, §2205(1), Oct. 17, 1980, 94 Stat. 2159

Section 1156, acts Aug. 13, 1946, ch. 957, title IX, §941, 60 Stat. 1029; July 28, 1956, ch. 770, §13, 70 Stat. 706, related to payment of expenses of medical treatment.

Section 1157, acts Aug. 13, 1946, ch. 957, title IX, §942, 60 Stat. 1029; July 28, 1956, ch. 770, §14, 70 Stat. 706; Sept. 4, 1961, Pub. L. 87–195, pt. IV, §708(5), 75 Stat. 464; Oct. 7, 1978, Pub. L. 95–426, title I, §113(a)(1), 92 Stat. 968, related to payment of expenses for travel for medical purposes.

Section 1158, acts Aug. 13, 1946, ch. 957, title IX, §943, 60 Stat. 1029; Apr. 5, 1955, ch. 23, §12, 69 Stat. 27; July 28, 1956, ch. 770, §15, 70 Stat. 707, related to physical examinations and inoculations.

Section 1159, act Aug. 13, 1946, ch. 957, title IX, §944, as added Dec. 23, 1967, Pub. L. 90–221, §2, 81 Stat. 671, related to authority to provide medical services beyond date of death or separation of officer or

employee.

Section 1160, act Aug. 13, 1946, ch. 957, title IX, §945, as added Oct. 7, 1978, Pub. L. 95–426, title I, §113(a)(2), 92 Stat. 968, related to establishment and provision of medical treatment and health care facilities.

EFFECTIVE DATE OF REPEAL

Repeal effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

SUBCHAPTER X—POWERS, DUTIES, AND LIABILITIES OF CONSULAR OFFICERS GENERALLY

§§1171 to 1195. Transferred

CODIFICATION

Section 1171, R.S. §1689, which related to general application of provisions to consular officers, was transferred to section 4191 of this title.

Section 1172, R.S. §4082, which related to solemnization of marriages, was transferred to section 4192 of this title and subsequently repealed.

Section 1173, R.S. §1707; June 25, 1948, ch. 646, §39, 62 Stat. 992, which related to receipt by consuls and vice consuls of protests, was transferred to section 4193 of this title.

Section 1174, R.S. §1708; Feb. 14, 1903, ch. 552, §10, 32 Stat. 829, which related to lists and returns of seamen and vessels, etc., was transferred to section 4194 of this title.

Section 1175, R.S. §1709; Mar. 3, 1911, ch. 223, 36 Stat. 1083; June 10, 1921, ch. 18, §304, 42 Stat. 24; July 12, 1940, ch. 618, 54 Stat. 758, which related to estates of decedents generally and to General Accounting Office as conservator, was transferred to section 4195 of this title and subsequently repealed.

Section 1176, R.S. §1710; July 12, 1940, ch. 618, 54 Stat. 760, which related to notification of death of decedent and transmission of inventory of effects of decedent, was transferred to section 4196 of this title.

Section 1177, R.S. §1711; July 12, 1940, ch. 618, 54 Stat. 760, which related to a consular or diplomatic officer following testamentary directions and assistance to a testamentary appointee, was transferred to section 4197 of this title.

Section 1178, act June 30, 1902, ch. 1331, §1, 32 Stat. 546, which related to execution of a bond as administrator or guardian and to an action on bond, was transferred to section 4198 of this title.

Section 1179, act June 30, 1902, ch. 1331, §2, 32 Stat. 547, which related to penalty for failure to give bond and for embezzlement, was transferred to section 4199 of this title.

Section 1180, R.S. §1715, which related to certification by consular officers of invoices generally, was transferred to section 4200 of this title.

Section 1181, act Apr. 5, 1906, ch. 1366, §9, 34 Stat. 101, which related to fees for certification of invoices, was transferred to section 4201 of this title.

Section 1182, R.S. §1716, which related to exaction of excessive fees for verification of invoices and penalty therefor, was transferred to section 4202 of this title.

Section 1183, act Feb. 24, 1903, ch. 753, 32 Stat. 854, which related to destruction of old invoices, was transferred to section 4203 of this title.

Section 1184, R.S. §1717, which provided for a restriction as to a certificate for goods from countries adjacent to United States, was transferred to section 4204 of this title.

Section 1185, R.S. §1718, which related to retention of papers of American vessels until payment of demands and wages, was transferred to section 4205 of this title.

Section 1186, act June 26, 1884, ch. 121, §12, 23 Stat. 56, which related to prohibition of fees for services to American vessels or seamen, was transferred to section 4206 of this title.

Section 1187, R.S. §1719; Apr. 5, 1906, ch. 1366, §3, 34 Stat. 100, which related to prohibition of profits from dealings with discharged seamen, was transferred to section 4207 of this title.

Section 1188, R.S. §1722; Apr. 5, 1906, ch. 1366, §3, 34 Stat. 100, which related to valuation of foreign coins in payment of fees, was transferred to section 4208 of this title.

Section 1189, R.S. §1723, which related to exaction of excessive fees and a penalty therefor of treble amount, was transferred to section 4209 of this title.

Section 1190, R.S. §1724; Apr. 5, 1906, ch. 1366, §3, 34 Stat. 100, which related to liability for uncollected fees, was transferred to section 4210 of this title.

Section 1191, R.S. §1725; July 31, 1894, ch. 174, §5, 28 Stat. 206; Apr. 5, 1906, ch. 1366, §3, 34 Stat. 100; June 10, 1921, ch. 18, §304, 42 Stat. 24, which related to returns as to fees by officers compensated by fees, was transferred to section 4211 of this title.

Section 1192, R.S. §§1726, 1727, which related to receipts for fees and numbering of receipts, was transferred to section 4212 of this title.

Section 1193, R.S. §1727, which related to registry of fees, was transferred to section 4213 of this title.

Section 1194, R.S. §1728; June 28, 1955, ch. 196, 69 Stat. 187, which related to accounting of fees and certification of a transcript of register, was transferred to section 4214 of this title.

Section 1195, act Apr. 5, 1906, ch. 1366, §7, 34 Stat. 101, which related to notarial acts, oaths, affirmations, affidavits, and depositions and fees therefor, was transferred to section 4215 of this title.

§1196. Repealed. June 28, 1955, ch. 196, 69 Stat. 187

Section, acts Apr. 5, 1906, ch. 1366, §10, 34 Stat. 102; May 24, 1924, ch. 182, §11, 43 Stat. 142, required consular officers to affix official fee stamps to documents in the performance of any consular or notarial act.

§§1197, 1198. Transferred

CODIFICATION

Section 1197, R.S. §1731, which related to posting rates of fees, was transferred to section 4216 of this title.

Section 1198, R.S. §1734; Dec. 21, 1898, ch. 36, §3, 30 Stat. 771, which related to embezzlement of fees or of effects of American citizens, was transferred to section 4217 of this title.

§1199. Repealed. Pub. L. 95–105, title I, §111(a)(1), Aug. 17, 1977, 91 Stat. 848

Section, R.S. §§1735, 1736; acts Apr. 5, 1906, ch. 1366, §3, 34 Stat. 100; June 6, 1972, Pub. L. 92–310, title II, §227(a), 86 Stat. 207, related to liability of consular officers for neglect of duty or for malfeasance.

PENDING ACTIONS

Pub. L. 95–105, title I, §111(b), Aug. 17, 1977, 91 Stat. 848, provided that: "The repeals made by subsection (a) [repealing this section] shall not affect suits commenced before the date of enactment of this Act [Aug. 17, 1977]."

§§1200 to 1204. Transferred

CODIFICATION

Section 1200, R.S. §1737; Apr. 5, 1906, ch. 1366, §3, 34 Stat. 100, which related to penalty for a false certificate as to ownership of property, was transferred to section 4218 of this title.

Section 1201, R.S. §1745; Apr. 5, 1906, ch. 1366, §3, 34 Stat. 100, which related to regulation of fees by President, was transferred to section 4219 of this title.

Section 1202, R.S. §1746, which related to medium for payment of fees, was transferred to section 4220 of this title.

Section 1203, R.S. §1750; Apr. 5, 1906, ch. 1366, §3, 34 Stat. 100, which related to depositions and notarial acts and to perjury and other offenses, was transferred to section 4221 of this title.

Section 1204, act June 26, 1936, ch. 640, §6A, as added June 25, 1938, ch. 682, 52 Stat. 1163, which related to authentication of documents of State of Vatican City by consular officer in Rome, was transferred to section 4222 of this title.

CHAPTER 14A—FOREIGN SERVICE INFORMATION OFFICERS CORPS

§§1221 to 1234. Repealed. Pub. L. 96–465, title II, §2205(6), Oct. 17, 1980, 94 Stat. 2160

Section 1221, Pub. L. 90–494, §1, Aug. 20, 1968, 82 Stat. 810; Pub. L. 95–426, title II, §204(b)(1), Oct. 7, 1978, 92 Stat. 973, related to establishment of a category of officers of United States Information Agency known as Foreign Service information officers.

Section 1222, Pub. L. 90–494, §2, Aug. 20, 1968, 82 Stat. 810; Pub. L. 95–426, title II, §204(b)(1), Oct. 7, 1978, 92 Stat. 973, related to Congressional statement of policy with respect to Foreign Service Information Officer Corps.

Section 1223, Pub. L. 90–494, §3, Aug. 20, 1968, 82 Stat. 810, related to Congressional statement of purpose with respect to Foreign Service Information Officer Corps.

Section 1224, Pub. L. 90–494, §4, Aug. 20, 1968, 82 Stat. 811; Pub. L. 95–426, title II, §204(b)(2), Oct. 7, 1978, 92 Stat. 973, related to authority of Director of United States Information Agency. See section 3922 of this title.

Section 1225, Pub. L. 90–494, §5, Aug. 20, 1968, 82 Stat. 811, related to policies and regulations of Foreign Service information officer personnel system and the Foreign Service officer personnel system. See sections 3923 and 3925 of this title.

Section 1226, Pub. L. 90–494, §6, Aug. 20, 1968, 82 Stat. 811, related to appointment and assignment of Foreign Service information officers.

Section 1227, Pub. L. 90–494, §7, Aug. 20, 1968, 82 Stat. 811, related to promotion of Foreign Service information officers.

Section 1228, Pub. L. 90–494, §8, Aug. 20, 1968, 82 Stat. 812, related to separation and retirement of Foreign Service information officers.

Section 1229, Pub. L. 90–494, §9, Aug. 20, 1968, 82 Stat. 812; Pub. L. 94–350, title V, §522(d), July 12, 1976, 90 Stat. 847, related to participation in Foreign Service retirement and disability system. See section 4043 of this title.

Section 1230, Pub. L. 90–494, §10, Aug. 20, 1968, 82 Stat. 812; Pub. L. 95–426, title II, §204(b)(3), Oct. 7, 1978, 92 Stat. 974, related to applicability of other statutory provisions.

Section 1231, Pub. L. 90–494, §11, Aug. 20, 1968, 82 Stat. 813; Pub. L. 95–426, title II, §204(b)(4), Oct. 7, 1978, 92 Stat. 974, related to commissioning and assignment as diplomatic and consular officers. See section 3952 of this title.

Section 1232, Pub. L. 90–494, §12, Aug. 20, 1968, 82 Stat. 813; Pub. L. 95–426, title II, §204(b)(1), Oct. 7, 1978, 92 Stat. 973, defined terms applicable to former provisions of chapter.

Section 1233, Pub. L. 90–494, §13, Aug. 20, 1968, 82 Stat. 813, related to transfer of Agency Foreign Service officers to Foreign Service information officer status.

Section 1234, Pub. L. 90–494, §14, Aug. 20, 1968, 82 Stat. 813, related to veterans' preference. See section 3941 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

CHAPTER 15—THE REPUBLIC OF THE PHILIPPINES

SUBCHAPTER I—LAWS AND OBLIGATIONS OF UNITED STATES

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SUBCHAPTER I—LAWS AND OBLIGATIONS OF UNITED STATES

PART 1—CUSTOMS DUTIES

§§1251 to 1255. Omitted

CODIFICATION

Section 1251, act Apr. 30, 1946, ch. 244, title II, §201, 60 Stat. 143, provided for entry of Philippine articles into the United States, between May 1, 1946 and July 3, 1954, free of ordinary customs duty.

Section 1252, act Apr. 30, 1946, ch. 244, title II, §202, 60 Stat. 143. Subsec. (a), related to ordinary customs duties on Philippine articles between July 4, 1954 and July 3, 1974. Subsec. (b), which related to ordinary customs duties on Philippine articles for the period after July 3, 1974, was omitted on authority of former section 1345 of this title which nullified subchapter I of this chapter upon the expiration of the revised agreement between the United States and the Republic of the Philippines which occurred on July 4, 1974.

Section 1253, act Apr. 30, 1946, ch. 244, title II, §203, 60 Stat. 144, related to customs duties on Philippines articles other than ordinary customs duties. See note above for section 1252(b) of this title.

Section 1254, act Apr. 30, 1946, ch. 244, title II, §204, 60 Stat. 144, related to equality in special import duties. See note above for section 1252(b) of this title.

Section 1255, act Apr. 30, 1946, ch. 244, title II, §205, 60 Stat. 144, related to equality in duties for products of the Philippines which did not come within the definition of Philippine articles. See note above for section 1252(b) of this title.

EXTENSION OF DUTY-FREE PERIOD UNTIL DECEMBER 31, 1955

Act July 5, 1954, ch. 459, 68 Stat. 448, provided that the duty-free treatment of this section was to be applied in lieu of section 1252(a)(1), (2) of this title for Philippine articles entered or withdrawn from United States warehouses for consumption during periods between July 3, 1954 and December 31, 1955 provided the President declared by proclamation that such period was one in which United States articles were admitted into the Philippines free of ordinary customs duties.

PROC. NO. 3060. EXTENSION OF THE PERIOD OF DUTY-FREE TREATMENT

Proc. No. 3060, July 10, 1954, 19 F.R. 4397, provided that United States articles entered or withdrawn from warehouse in the Philippines for consumption, during the period from July 4, 1954 to December 31, 1955, be admitted into the Philippines free from ordinary customs duty.

PART 2—QUOTAS

§§1261 to 1266. Omitted

CODIFICATION

Section 1261, act Apr. 30, 1946, ch. 244, title II, §211, 60 Stat. 144, related to amount and allocation of quotas for refined and unrefined Philippine sugar, between the period Jan. 1, 1946 and July 3, 1974.

Section 1262, act Apr. 30, 1946, ch. 244, title II, §212, 60 Stat. 145, related to amount and allocation of quotas for Philippine cordage, between the period Jan. 1, 1946 and July 3, 1974.

Section 1263, act Apr. 30, 1946, ch. 244, title II, §213, 60 Stat. 145, related to quota on Philippine rice, between the period Jan. 1, 1946 and July 3, 1974.

Section 1264, act Apr. 30, 1946, ch. 244, title II, §214, 60 Stat. 146, related to duty-free quotas on cigars, scrap tobacco, coconut oil and buttons of pearl or shell, between the period Jan. 1, 1946 and July 3, 1974.

Section 1265, act Apr. 30, 1946, ch. 244, title II, §215, 60 Stat. 147, which related to enactment of laws and regulations necessary to put into effect allocations of quotas, was omitted on authority of former section 1345 of this title which nullified subchapter I of this chapter upon expiration of the revised agreement between the United States and the Republic of the Philippines which occurred on July 4, 1974.

Section 1266, act Apr. 30, 1946, ch. 244, title II, §216, 60 Stat. 147, related to transfers and assignments of quota allotments. See note above for section 1265 of this title.

PART 3—INTERNAL TAXES

§§1271 to 1274. Omitted

CODIFICATION

Section 1271, act Apr. 30, 1946, ch. 244, title II, §221, 60 Stat. 147, which related to equality in internal taxes for Philippine products coming into the United States, was omitted on authority of former section 1345 of this title which nullified subchapter I of this chapter upon expiration of the revised agreement between the United States and the Republic of the Philippines which occurred on July 4, 1974.

Section 1272, act Apr. 30, 1946, ch. 244, title II, §222, 60 Stat. 148, related to exemption from tax of manila fiber. See note above for section 1271 of this title.

Section 1273, act Apr. 30, 1946, ch. 244, title II, §223, 60 Stat. 148, prohibited export taxes by the United States on articles exported to the Philippines. See note above for section 1271 of this title.

Section 1274, act Apr. 30, 1946, ch. 244, title II, §224, 60 Stat. 148, provided an exemption from taxes for articles for official use of the Philippine Government. See note above for section 1271 of this title.

PART 4—IMMIGRATION

§1281. Omitted

CODIFICATION

Section, act Apr. 30, 1946, ch. 244, title II, §231, 60 Stat. 148, which provided that certain Philippine citizens be granted non-quota status, was omitted on authority of former section 1345 of this title which nullified subchapter I of this chapter upon the expiration of the revised agreement between the United States and the Republic of the Philippines which occurred on July 4, 1974.

PHILIPPINE TRADERS AS NONIMMIGRANTS

Philippine traders as classifiable as nonimmigrants, see section 1184a of Title 8, Aliens and Nationality.

PROC. NO. 2696. IMMIGRATION QUOTA

Proc. No. 2696, July 4, 1946, 11 F.R. 7517, 60 Stat. 1353, provided:

The annual quota for the Philippine Islands effective July 4, 1946, for the remainder of the fiscal year ending June 30, 1947, and for each fiscal year thereafter, has been determined in accordance with the law to be, and shall be, 100.

The immigration quota of 50 authorized by section 8(a)(1) of the Act approved March 24, 1934, entitled "An Act to provide for the complete independence of the Philippine Islands, to provide for the adoption of a constitution and a form of government for the Philippine Islands, and for other purposes" (48 Stat. 462; 53 Stat. 1230; section 1238 of Title 48, Territories and Insular Possessions), which Act was accepted by concurrent resolution of the Philippine Legislature on May 1, 1934, and which became effective on that date, will become inoperative on July 4, 1946, the date the Government of the United States recognizes the independence of the Philippine Islands as a separate and self-governing nation.

The immigration quota assigned to the Philippine Islands is designed solely for purposes of compliance with the pertinent provisions of the Immigration Act of 1924 [section 145 et seq. of Title 8, Aliens and Nationality] and is not to be regarded as having any significance extraneous to this subject.

§1281a. Repealed. June 27, 1952, ch. 477, title IV, §403(a)(35), 666 Stat. 279

Section, act Mar. 24, 1934, ch. 84, §14, 48 Stat. 464, related to immigration after independence. See section 1151 et seq. of Title 8, Aliens and Nationality.

SUBCHAPTER II—OBLIGATIONS OF PHILIPPINES

PART 1—PURPOSES

§1291. Omitted

CODIFICATION

Section, act Apr. 30, 1946, ch. 244, title III, §301, 60 Stat. 148, which stated the purposes of this subchapter, was omitted on authority of subsec. (b)(1) of this section which provided that this subchapter be effective until the expiration of the revised agreement between the United States and the Republic of the Philippines which occurred on July 4, 1974.

PART 2—CUSTOMS DUTIES

§§1301 to 1305. Omitted

CODIFICATION

Section 1301, act Apr. 30, 1946, ch. 244, title III, §311, 60 Stat. 149, provided for entry of United States articles into Philippines, between May 1, 1946, and July 3, 1954, free of ordinary customs duties.

Section 1302, act Apr. 30, 1946, ch. 244, title III, §312, 60 Stat. 149. Subsec. (a) related to ordinary customs duties on United States articles between July 4, 1954, and July 3, 1974. Subsec. (b), which related ordinary customs duties on United States articles after July 3, 1974, was omitted on authority of section 1291(b)(1) of this title which provided that this subchapter be effective until the expiration of the revised agreement between the United States and the Republic of the Philippines which occurred on July 4, 1974.

Section 1303, act Apr. 30, 1946, ch. 244, title III, §313, 60 Stat. 149, related to customs duties on United States articles other than ordinary customs duties. See note above for section 1302(b) of this title.

Section 1304, act Apr. 30, 1946, ch. 244, title III, §314, 60 Stat. 150, related to equality in special import duties. See note above for section 1302(b) of this title.

Section 1305, act Apr. 30, 1946, ch. 244, title III, §315, 60 Stat. 150, related to equality in duties for products of the United States which did not come within the definition of United States articles. See note above for section 1302(b) of this title.

PART 3—INTERNAL TAXES

§§1311 to 1313. Omitted

CODIFICATION

Section 1311, act Apr. 30, 1946, ch. 244, title III, §321, 60 Stat. 150, which related to equality in internal taxes for United States products coming into the Philippines, was omitted on authority of section 1291(b)(1) of this title which provided that this subchapter be effective until the expiration of the revised agreement between the United States and the Republic of the Philippines which occurred on July 4, 1974.

Section 1312, act Apr. 30, 1946, ch. 244, title III, §322, 60 Stat. 150, prohibited export taxes by the Philippines on articles exported to the United States. See note above for section 1311 of this title.

Section 1313, act Apr. 30, 1946, ch. 244, title III, §323, 60 Stat. 150, provided an exemption from taxes for articles for official use of the United States Government. See note above for section 1311 of this title.

PART 4—IMMIGRATION

§§1321, 1322. Omitted

CODIFICATION

Section 1321, act Apr. 30, 1946, ch. 244, title III, §331, 60 Stat. 151, which provided that certain United States citizens be granted non-quota status, was omitted on authority of section 1291(b)(1) of this title which provided that this subchapter be effective until the expiration of the revised agreement between the United States and the Republic of the Philippines which occurred on July 4, 1974.

Section 1322, act Apr. 30, 1946, ch. 244, title III, §332, 60 Stat. 151, provided for immigration of United States citizens into the Philippines. See note above for section 1321 of this title.

PART 5—GENERAL PROVISIONS

§§1331 to 1334. Omitted

CODIFICATION

Section 1331, act Apr. 30, 1946, ch. 244, title III, §341, 60 Stat. 151, which related to rights of United States citizens and business enterprises to natural resources in the Philippines, was omitted on authority of section 1291(b)(1) of this title which provided that this subchapter be effective until the expiration of the revised agreement between the United States and the Republic of the Philippines which occurred on July 4, 1974.

Section 1332, act Apr. 30, 1946, ch. 244, title III, §342, 60 Stat. 151, provided for currency stabilization between the United States and the Philippines. See note above for section 1331 of this title.

Section 1333, acts June 11, 1934, ch. 445, 48 Stat. 929; Aug. 7, 1946, ch. 809, §1, 60 Stat. 901, which related to deposits of and interest on public moneys, terminated on July 1, 1951, under the provisions of section 2 of act Aug. 7, 1946.

Section 1334, act Apr. 30, 1946, ch. 244, title III, §343, 60 Stat. 151, related to allocation of quotas established by sections 1261, 1262, and 1264 of this title. See note above for section 1331 of this title.

SUBCHAPTER III—EXECUTIVE AGREEMENT BETWEEN UNITED STATES AND PHILIPPINES

§§1341 to 1348. Omitted

CODIFICATION

Section 1341, act Apr. 30, 1946, ch. 244, title IV, §401, 60 Stat. 151, which provided authorization for an executive agreement between United States and Republic of Philippines concerning trade and other related matters, was omitted in view of expiration of revised agreement concerning trade and other related matters which occurred on July 4, 1974.

Section 1342, act Apr. 30, 1946, ch. 244, title IV, §402, 60 Stat. 152, specified obligations of Philippines. See note above for section 1341 of this title.

Section 1343, act Apr. 30, 1946, ch. 244, title IV, §403, 60 Stat. 153, specified obligations of United States. See note above for section 1341 of this title.

Section 1344, act Apr. 30, 1946, ch. 244, title IV, §404, 60 Stat. 153, related to provisions concerning termination of agreement. See note above for section 1341 of this title.

Section 1345, act Apr. 30, 1946, ch. 244, title IV, §405, 60 Stat. 154, provided that upon expiration of agreement the provisions of subchapter I of this chapter shall cease to have effect. See note above for section 1341 of this title.

Section 1346, act Apr. 30, 1946, ch. 244, title IV, §406, 60 Stat. 154, related to interpretation of agreement. See note above for section 1341 of this title.

Section 1347, act Apr. 30, 1946, ch. 244, title IV, §407, 60 Stat. 154, related to termination of authority to make the agreement. See note above for section 1341 of this title.

Section 1348, act Apr. 30, 1946, ch. 244, title IV, §408, 60 Stat. 154, related to effective date of the agreement. See note above for section 1341 of this title.

SUBCHAPTER IV—GENERAL PROVISIONS RELATING TO TRADE RELATIONS

§§1351 to 1353. Omitted

CODIFICATION

Section 1351, act Apr. 30, 1946, ch. 244, title V, §501, 60 Stat. 155, which related to suspension and termination of trade agreement in case of discrimination, was omitted in view of the expiration of the revised agreement between the United States and the Republic of the Philippines which occurred on July 4, 1974.

Section 1352, act Apr. 30, 1946, ch. 244, title V, §502, 60 Stat. 155, which related to suspension of provisions of subchapter I of this chapter, was omitted on authority of former section 1345 of this title which nullified subchapter I of this chapter upon the expiration of the revised agreement between the United States and the Republic of the Philippines which occurred on July 4, 1974.

Section 1353, act Apr. 30, 1946, ch. 244, title V, §503, 60 Stat. 156, related to customs duties on imports from Philippines during period subchapter I of this chapter was in effect. See note above for section 1352 of this title.

§1354. Quotas on Philippine articles

(a) to (c) Omitted

(d) Investigations by International Trade Commission

The United States International Trade Commission shall at the request of the President, upon resolution of either House of Congress or concurrent resolution of both Houses of Congress, upon its own motion, or when in its judgment there is good reason therefor, upon application of any interested party, make an investigation to ascertain (1) whether imports of a Philippine article (other than an article for which a quota is established by part 2 of subchapter I) are coming, or are likely to come, into substantial competition with like articles which are the product of the United States; (2) what is the greatest amount of such article which may be entered, or withdrawn from warehouse, in the United States for consumption, without coming into substantial competition with like articles which are the product of the United States; and (3) the total amount of such article which (during the twelve months ended on the last day of the month preceding the month in which occurs the date of the beginning of the investigation) was entered, or withdrawn from warehouse, in the United States for consumption. During the course of the investigation the Commission shall hold a public hearing, of which reasonable public notice shall be given and at which parties interested shall be afforded reasonable opportunity to be present, to produce evidence, and to be heard. The Commission shall give precedence to such investigations. The Commission shall report the results of its investigations to the President, and shall send copies of such report to each House of the Congress.

(Apr. 30, 1946, ch. 244, title V, §504, 60 Stat. 156; Pub. L. 93–618, title I, §171(b), Jan. 3, 1975, 88 Stat. 2009.)

SUSPENSION OF PROVISIONS

Section not applicable during such time as the revised agreement between the United States and the Philippines is in effect, see section 1373 of this title.

REFERENCES IN TEXT

Part 2 of subchapter I, referred to in subsec. (d), was omitted from the Code. See Codification note set out under section 1261 of this title.

CODIFICATION

Subsec. (a) of this section, which provided that the President establish quotas on Philippine articles, was omitted on authority of subsec. (c) of this section which provided that no quota so established continue in effect after the expiration of the executive agreement which expiration occurred on July 4, 1974. Subsec. (b) of this section, which provided for the maximum and minimum quotas, was omitted on authority of subsec. (c) of this section. Subsec. (c) provided for the duration of the quotas.

AMENDMENTS

1975—Subsec. (d). Pub. L. 93–618 substituted "United States International Trade Commission" for "United States Tariff Commission".

EFFECTIVE DATE

Act Apr. 30, 1946, ch. 244, title V, §512, 60 Stat. 158, provided that: "This Act [enacting subchapters I to IV of this chapter; sections 2470(a)(2) and 2800(a)(4)(B) of the Internal Revenue Code of 1939; and section 734 of Title 48, Territories and Insular Possessions] shall take effect on the day after the date of its enactment [Apr. 30, 1946], except Part 2 of Title II [enacting sections 1261 to 1266 of this title], which shall take effect as of January 1, 1946."

SHORT TITLE

Act Apr. 30, 1946, ch. 244, title I, §1, 60 Stat. 141, provided that: "This Act [enacting subchapters I to IV of this chapter, amending section 1393 of this title, sections 2470 and 2800 of the Internal Revenue Code of 1939, and section 734 of Title 48, Territories and Insular Possessions, repealing section 1301 of Title 19, Customs Duties, sections 2476, and 3340 to 3343 of the Internal Revenue Code of 1939, and section 1243 of Title 48] may be cited as the 'Philippine Trade Act of 1946'."

§1355. Suspension of processing tax on coconut oil

Whenever the President, after consultation with the President of the Philippines, finds that adequate supplies of neither copra nor coconut oil, the product of the Philippines, are readily available for processing in the United States, he shall so proclaim, and after the date of such proclamation the provisions of section 2470(a)(2) of the Internal Revenue Code shall be suspended until the expiration of 30 days after he proclaims that, after consultation with the President of the Philippines, he has found that such adequate supplies are so readily available.

(Apr. 30, 1946, ch. 244, title V, §505(b), 60 Stat. 157.)

SUSPENSION OF PROVISIONS

Section not applicable during such time as the revised agreement between the United States and the Philippines is in effect, see section 1373 of this title.

REFERENCES IN TEXT

Section 2470(a)(2) of the Internal Revenue Code, referred to in text, is a reference to section 2470(a)(2) of the Internal Revenue Code of 1939. Section 2470 was repealed by section 7851 of the Internal Revenue Code of 1954, Title 26, and was reenacted as sections 4511 and 4513 of Title 26. The Internal Revenue Code of 1954 was redesignated the Internal Revenue Code of 1986 by Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095. Sections 4511 and 4513 of Title 26 were repealed by Pub. L. 87–456, title III, §302(d), May 24, 1962, 76 Stat. 77, effective Aug. 31, 1963.

TERMINATION OF SUSPENSION OF ADDITIONAL RATE ON COCONUT OIL

By Proc. No. 2847, July 28, 1949, 14 F.R. 4773, 63 Stat. 1279, the President found that "adequate supplies of copra and coconut oil, the product of the Philippines, are readily available for processing in the United

States" and that upon the expiration of 30 days from July 28, 1949, the suspension of the provisions of section 2470(a)(2) of the Internal Revenue Code of 1939 will be terminated.

SUSPENSION PROCLAMATION

By Proc. No. 2693, June 28, 1946, 11 F.R. 7255, 60 Stat. 1349, the President found that "adequate supplies of neither copra nor coconut oil, the product of the Philippines, are readily available for processing in the United States," and therefore the provisions of section 2470(a)(2) of the Internal Revenue Code of 1939 are suspended.

§1356. Termination of payments into Philippine treasury

Notwithstanding the provisions of section 4 of the Act of March 8, 1902 (32 Stat. 54, ch. 140), or of section 19 of the Act of March 24, 1934 (48 Stat. 456, ch. 84), as added to such Act by section 6 of the Act of August 7, 1939 (53 Stat. 1232, ch. 502), or of the Act of November 8, 1945 (59 Stat. 577, ch. 454) or of any other provision of law, the proceeds of any duties or taxes, collected subsequent to July 3, 1946, which but for the enactment of this Act would be required to be paid into the general funds of the Treasury of the Philippines or would be held in separate or special funds and paid into the Treasury of the Philippines, shall be covered into the general fund of the Treasury of the United States.

(Apr. 30, 1946, ch. 244, title V, §506(a), 60 Stat. 157.)

SUSPENSION OF PROVISIONS

Section not applicable during such time as the revised agreement between the United States and the Philippines is in effect, see section 1373 of this title.

REFERENCES IN TEXT

Section 4 of the Act of March 8, 1902 (32 Stat. 54, ch. 140), referred to in text, was classified to section 123a of Title 19, Customs Duties, and was transferred to section 3343(b) of the Internal Revenue Code of 1939, and subsequently repealed by act Apr. 30, 1946, ch. 244, title V, §506(b), 60 Stat. 157, eff. July 4, 1946.

Section 19 of the Act of March 24, 1934 (48 Stat. 456, ch. 84), as added to such Act by section 6 of the Act of August 7, 1939 (53 Stat. 1232, ch. 502), referred to in text, was classified to section 1248 of Title 48, Territories and Insular Possessions, which was omitted from the Code.

Act of November 8, 1945 (59 Stat. 577, ch. 454), referred to in text, was classified to section 1249 of Title 48, Territories and Insular Possessions, which was omitted from the Code.

This Act, referred to in text, is act Apr. 30, 1946, ch. 244, 60 Stat. 141, known as the Philippine Trade Act of 1946, which is classified principally to subchapters I to IV of this chapter. Subchapters I, II, and III of this chapter were omitted from the Code. For complete classification of this Act to the Code, see Short Title note set out under section 1354 of this title and Tables.

§1357. Trade agreements with the Philippines

Until July 4, 1974, no trade agreement shall be made with the Philippines under section 1351 of title 19, unless, prior to such time, the President of the United States has made the proclamation provided for in section 1347 of this title, or the executive agreement provided for in subchapter III of this chapter has been terminated.

(Apr. 30, 1946, ch. 244, title V, §508, 60 Stat. 158.)

SUSPENSION OF PROVISIONS

Section not applicable during such time as the revised agreement between the United States and the Philippines is in effect, see section 1373 of this title.

REFERENCES IN TEXT

The executive agreement provided for in subchapter III of this chapter, referred to in text, expired July 4, 1974.

§1358. Rights of third countries

The benefits granted by subchapters I to IV of this chapter, and by the executive agreement provided for in subchapter III, to the Philippines, Philippine articles or products, and Philippine citizens, shall not, by reason of any provision of any existing treaty or agreement with any third country, be extended to such country or its products, citizens, or subjects.

(Apr. 30, 1946, ch. 244, title V, §509, 60 Stat. 158.)

SUSPENSION OF PROVISIONS

Section not applicable during such time as the revised agreement between the United States and the Philippines is in effect, see section 1373 of this title.

REFERENCES IN TEXT

Subchapters I to IV of this chapter, referred to in text, was in the original "this Act", meaning act Apr. 30, 1946, ch. 244, 60 Stat. 141, known as the Philippine Trade Act of 1946, which is classified principally to subchapters I to IV of this chapter. Subchapters I, II, and III of this chapter were omitted from the Code. For complete classification of this Act to the Code, see Short Title note set out under section 1354 of this title and Tables.

The executive agreement provided for in subchapter III of this chapter, referred to in text, expired July 4, 1974.

§1359. Omitted

CODIFICATION

Section, act Apr. 30, 1946, ch. 244, title V, §510, 60 Stat. 158, related to administration of subchapter I of this chapter. See Codification note for section 1352 of this title.

§1360. Definitions

(a) For the purposes of subchapters I to IV of this chapter—

(1) The term "person" includes partnerships, corporations, and associations.

(2) The term "United States", when used in a geographical sense, means the States, the District of Columbia, the Territories of Alaska and Hawaii, and Puerto Rico.

(3) The term "ordinary customs duty" means a customs duty based on the article as such (whether or not such duty is also based in any manner on the use, value, or method of production of the article, or on the amount of like articles imported, or on any other factor); but does not include—

(A) a customs duty based on an act or omission of any person with respect to the importation of the article, or of the country from which the article is exported, or from which it comes; or

(B) a countervailing duty imposed to offset a subsidy, bounty, or grant; or

(C) an anti-dumping duty imposed to offset the selling of merchandise for exportation at a price less than the prevailing price in the country of export; or

(D) any tax, fee, charge, or exaction, imposed on or in connection with importation unless the law of the country imposing it designates or imposes it as a customs duty or contains a provision to the effect that it shall be treated as a duty imposed under the customs laws; or

(E) the tax imposed by section 2491(c) of the Internal Revenue Code with respect to an article, merchandise, or combination, 10 per centum or more of the quantity by weight of which consists of, or is derived directly or indirectly from, one or more of the oils, fatty acids, or salts specified in section 2470 of the Internal Revenue Code; or the tax imposed by section 3500 of the Internal Revenue Code.

(4) The term "Philippine article" means an article which is the product of the Philippines, unless, in the case of an article produced with the use of materials imported into the Philippines

from any foreign country (except the United States) the aggregate value of such imported materials at the time of importation into the Philippines was more than twenty per centum of the value of the article imported into the United States, the value of such article to be determined in accordance with, and as of the time provided by, the customs laws of the United States in effect at the time of importation of such article. As used in this paragraph the term "value", when used in reference to a material imported into the Philippines, includes the value of the material ascertained under the customs laws of the Philippines in effect at the time of importation into the Philippines, and, if not included in such value, the cost of bringing the material to the Philippines, but does not include the cost of landing it at the port of importation, or customs duties collected in the Philippines. For the purposes of this paragraph any imported material, used in the production of an article in the Philippines, shall be considered as having been used in the production of an article subsequently produced in the Philippines, which is the product of a chain of production in the Philippines in the course of which an article, which is the product of one stage of the chain, is used by its producer or another person, in a subsequent stage of the chain, as a material in the production of another article.

(5) The term "United States article" means an article which is the product of the United States, unless, in the case of an article produced with the use of materials imported into the United States from any foreign country (except the Philippines) the aggregate value of such imported materials at the time of importation into the United States was more than twenty per centum of the value of the article imported into the Philippines, the value of such article to be determined in accordance with, and as of the time provided by, the customs laws of the Philippines in effect at the time of importation of such article. As used in this paragraph the term "value", when used in reference to a material imported into the United States, includes the value of the material ascertained under the customs laws of the United States in effect at the time of importation into the United States, and, if not included in such value, the cost of bringing the material to the United States, but does not include the cost of landing it at the port of importation, or customs duties collected in the United States. For the purposes of this paragraph any imported material, used in the production of an article in the United States, shall be considered as having been used in the production of an article subsequently produced in the United States, which is the product of a chain of production in the United States in the course of which an article, which is the product of one stage of the chain, is used by its producer or another person, in a subsequent stage of the chain, as a material in the production of another article.

(6) The term "United States duty" means the rate or rates of ordinary customs duty which (at the time and place of entry, or withdrawal from warehouse, in the United States for consumption, of the Philippine article) would be applicable to a like article if imported from that foreign country which is entitled to the lowest rate, or the lowest aggregate of rates, of ordinary customs duty with respect to such like article.

(7) The term "Philippine duty" means the rate or rates of ordinary customs duty which (at the time and place of entry, or withdrawal from warehouse, in the Philippines for consumption, of the United States article) would be applicable to a like article if imported from that foreign country which is entitled to the lowest rate, or the lowest aggregate of rates, of ordinary customs duty with respect to such like article.

(8) The term "internal tax" includes an internal fee, charge, or exaction, and includes—

(A) the tax imposed by section 2491(c) of the Internal Revenue Code with respect to an article, merchandise, or combination, 10 per centum or more of the quantity by weight of which consists of, or is derived directly or indirectly from, one or more of the oils, fatty acids, or salts specified in section 2470 of the Internal Revenue Code; and the tax imposed by section 3500 of the Internal Revenue Code; and

(B) any other tax, fee, charge, or exaction, imposed on or in connection with importation unless the law of the country imposing it designates or imposes it as a customs duty or contains a provision to the effect that it shall be treated as a duty imposed under the customs laws.

(b) For the purposes of sections 1271(b) and 1311(b) of this title, any material, used in the

production of an article, shall be considered as having been used in the production of an article subsequently produced, which is the product of a chain of production in the course of which an article, which is the product of one stage of the chain, is used by its producer or another person, in a subsequent stage of the chain, as a material in the production of another article.

(c) For the purposes of paragraphs (6) and (7) of subsection (a) of this section—

(1) if an article is entitled to be imported from a foreign country free of ordinary customs duty, that country shall be considered as the country entitled to the lowest rate of ordinary customs duty with respect to such article; and

(2) a reduction in ordinary customs duty granted any country, by law, treaty, trade agreement, or otherwise, with respect to any article, shall be converted into the equivalent reduction in the rate of ordinary customs duty otherwise applicable to such article.

(d) The terms "includes" and "including" when used in a definition contained in subchapters I to IV of this chapter shall not be deemed to exclude other things otherwise within the meaning of the term defined.

(Apr. 30, 1946, ch. 244, title I, §2, 60 Stat. 141.)

SUSPENSION OF PROVISIONS

Section not applicable during such time as the revised agreement between the United States and the Philippines is in effect, see section 1373 of this title.

REFERENCES IN TEXT

Subchapters I to IV of this chapter, referred to in subsecs. (a) and (d), was in the original "this Act", meaning act Apr. 30, 1946, ch. 244, 60 Stat. 141, known as the Philippine Trade Act of 1946, which is classified principally to subchapters I to IV of this chapter. Subchapters I, II, and III of this chapter, which include sections 1271 and 1311 of this title, referred to in subsec. (b), were omitted from the Code. For complete classification of this Act to the Code, see Short Title note set out under section 1354 of this title and Tables.

Sections 2470 and 2491(c) of the Internal Revenue Code, referred to in subsec. (a)(3)(E), (8)(A), are references to sections 2470 and 2491(c) of the Internal Revenue Code of 1939, which were repealed by section 7851 of the Internal Revenue Code of 1954, Title 26. The Internal Revenue Code of 1954 was redesignated the Internal Revenue Code of 1986 by Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095. Section 2470 was reenacted as sections 4511 and 4513 of Title 26, and section 2491 was reenacted as part of sections 4581 and 4582 of Title 26. Sections 4511, 4513, 4581, and 4582 of Title 26 were repealed by Pub. L. 87–456, title III, §302(d), May 24, 1962, 76 Stat. 77, effective Aug. 31, 1963.

Section 3500 of the Internal Revenue Code, referred to in subsec. (a)(3)(E), (8)(A), is reference to section 3500 of the Internal Revenue Code of 1939, which was repealed by section 7851 of the Internal Revenue Code of 1954, Title 26. The Internal Revenue Code of 1954 was redesignated the Internal Revenue Code of 1986 by Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095. See section 4501 of Title 26, Internal Revenue Code.

ADMISSION OF ALASKA AND HAWAII TO STATEHOOD

Alaska was admitted into the Union on Jan. 3, 1959, on issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, and Hawaii was admitted into the Union on Aug. 21, 1959, on issuance of Proc. No. 3309, Aug. 21, 1959, 24 F.R. 6868, 73 Stat. c74. For Alaska Statehood Law, see Pub. L. 85–508, July 7, 1958, 72 Stat. 339, set out as a note preceding section 21 of Title 48, Territories and Insular Possessions. For Hawaii Statehood Law, see Pub. L. 86–3, Mar. 18, 1959, 73 Stat. 4, set out as a note preceding section 491 of Title 48.

SUBCHAPTER IV–A—TRADE RELATIONS UNDER REVISED AGREEMENT

§§1371, 1372. Omitted

CODIFICATION

Section 1371, act Aug. 1, 1955, ch. 438, title I, §2, 69 Stat. 413, which defined revised agreement, was omitted in view of the expiration of the revised agreement between the United States and the Republic of the Philippines which occurred on July 4, 1974.

Section 1372, act Aug. 1, 1955, ch. 438, title II, §201, 69 Stat. 413, authorized revised agreement. See Codification note for section 1371 of this title.

REVISED AGREEMENT BETWEEN UNITED STATES AND PHILIPPINES

Act Aug. 1, 1955, ch. 438, title II, §201, 69 Stat. 413, provided in part for a revised agreement, accompanied by a protocol, between the United States and the Republic of the Philippines concerning trade and other related matters during a transitional period following the institution of Philippine Independence on July 4, 1946, which agreement by the terms of Article XI thereof, was to have no effect after July 3, 1974.

MODIFICATION OF TEXT OF REVISED AGREEMENT

Act Aug. 1, 1955, ch. 438, title II, §202, 69 Stat. 425, provided that the text of the revised agreement between the United States and the Republic of the Philippines concerning trade and other related matters during a transitional period after Philippine independence was to be modified only to the extent necessary to correct errors or references to laws, to reflect executive or legislative action taken by the Philippines, or merely as changes in style.

DUTY-FREE TREATMENT FOR SCRAP TOBACCO AND FILLER TOBACCO

Pub. L. 87–47, June 16, 1961, 75 Stat. 92, provided that the duty-free treatment for scrap tobacco and filler tobacco described in item B in the schedule to paragraph 2 of article II of the agreement between the United States and the Republic of the Philippines concerning trade and other related matters during a transitional period after Philippine independence, as revised, was to apply only to articles certified by the Philippines as having been allocated for exportation to the United States free of duty under that paragraph.

§1373. Suspension of Philippine Trade Act of 1946

The Philippine Trade Act of 1946 [22 U.S.C. 1251 et seq.] (except section 506(a) of this title [22 U.S.C. 1356] relating to termination of payments into Philippine Treasury, and except amendments and repeals made by such Act) shall not apply during such time as the revised agreement is in effect.

(Aug. 1, 1955, ch. 438, title III, §302, 69 Stat. 426.)

REFERENCES IN TEXT

The Philippine Trade Act of 1946, referred to in text, is act Apr. 30, 1946, ch. 244, 60 Stat. 141, which is classified principally to subchapters I to IV of this chapter. Subchapters I, II, and III of this chapter were omitted from the Code. For complete classification of this Act to the Code, see Short Title note set out under section 1354 of this title and Tables.

The revised agreement, referred to in text, was set out as a note under section 1371 of this title.

EFFECTIVE DATE

Act Aug. 1, 1955, ch. 438, title III, §301(b), 69 Stat. 426, provided that: "The provisions of this title [enacting sections 1373 to 1379 of this title and amending section 734 of Title 48, Territories and Insular Possessions] shall take effect on January 1, 1956, but only if the President of the United States has made the proclamation referred to in subsection (a) [section 1379 of this title]."

SHORT TITLE

Act Aug. 1, 1955, ch. 438, title I, §1, 69 Stat. 413, provided that: "This Act [enacting this subchapter and amending section 734 of Title 48, Territories and Insular Possessions] may be cited as the 'Philippine Trade Agreement Revision Act of 1955'."

§§1374 to 1379. Omitted

CODIFICATION

Section 1374, act Aug. 1, 1955, ch. 438, title III, §303, 69 Stat. 426, related to quotas established by article

III of the revised agreement. See Codification note for section 1371 of this title.

Section 1375, act Aug. 1, 1955, ch. 438, title III, §304, 69 Stat. 426, related to suspension of processing tax on coconut oil. See Codification note for section 1371 of this title.

Section 1376, act Aug. 1, 1955, ch. 438, title III, §305, 69 Stat. 426, provided that prior to July 4, 1974, no trade agreement be entered into with Republic of Philippines that would be inconsistent with this subchapter or revised agreement. See Codification note for section 1371 of this title.

Section 1377, act Aug. 1, 1955, ch. 438, title III, §306, 69 Stat. 426, related to rights of third countries to benefits granted Philippines by revised agreement. See Codification note for section 1371 of this title.

Section 1378, act Aug. 1, 1955, ch. 438, title III, §307, 69 Stat. 426, related to administration of revised agreement. See Codification note for section 1371 of this title.

Section 1379, act Aug. 1, 1955, ch. 438, title III, §301(a), 69 Stat. 426, related to effective date of revised agreement. See Codification note for section 1371 of this title.

SUBCHAPTER V—PROPERTY RETAINED BY THE UNITED STATES

§1381. Retention by United States of title to real and personal property

There shall remain vested in the Government of the United States or its agencies or instrumentalities all the right, title, and interest of the said Government or its agencies or instrumentalities to all real and personal property within the Philippine Islands as may now be vested in, or later be acquired by the Government of the United States or any of its agencies or instrumentalities.

(July 3, 1946, ch. 536, §2, 60 Stat. 418.)

SHORT TITLE

Act July 3, 1946, ch. 536, §1, 60 Stat. 418, provided that: "This Act [enacting this subchapter] may be cited as the 'Philippine Property Act of 1946'."

§1382. Administration of the Trading With the Enemy Act in Philippines

The Trading With the Enemy Act of October 6, 1917 (40 Stat. 411), as amended, shall continue in force in the Philippines after July 4, 1946, and all powers and authority conferred upon the President of the United States or the Alien Property Custodian by the terms of the said Trading With the Enemy Act, as amended, with respect to the Philippines, shall continue thereafter to be exercised by the President of the United States, or such officer or agency as he may designate: *Provided*, That all property vested in or transferred to the President of the United States, the Alien Property Custodian, or any such officer or agency as the President of the United States may designate under the Trading With the Enemy Act, as amended, which was located in the Philippines at the time of such vesting, or the proceeds thereof, and which shall remain after the satisfaction of any claim payable under the Trading With the Enemy Act, as amended, and after the payment of such costs and expenses of administration as may by law be charged against such property or proceeds, shall be transferred by the President of the United States to the Republic of the Philippines: *Provided further*, That such property, or proceeds thereof, may be transferred by the President of the United States to the Republic of the Philippines upon indemnification acceptable to the President of the United States by the Republic of the Philippines for such claims, costs, and expenses of administration as may by law be charged against such property or proceeds thereof before final adjudication of such claims, costs, and expenses of administration: *Provided further*, That the courts of first instance of the Republic of the Philippines are given jurisdiction to make and enter all such rules as to notice or otherwise, and all such orders and decrees, and to issue such process as may be necessary and proper in the premises to enforce any orders, rules, and regulations issued by the President of the United States, the Alien Property Custodian, or such officer or agency designated by the President of the United States

pursuant to the Trading With the Enemy Act, as amended, with such right of appeal therefrom as may be provided by law: *And provided further*, That any suit authorized under the Trading With the Enemy Act, as amended, with respect to property vested in or transferred to the President of the United States, the Alien Property Custodian, or any officer or agency designated by the President of the United States hereunder, which at the time of such vesting or transfer was located within the Philippines, shall after July 4, 1946, be brought, in the appropriate court of first instance of the Republic of the Philippines, against the officer or agency hereunder designated by the President of the United States with such right of appeal therefrom as may be provided by law, but suits with respect to such property shall after ninety days from December 21, 1950, be brought only in the courts of the United States.

(July 3, 1946, ch. 536, §3, 60 Stat. 418; Dec. 21, 1950, ch. 1144, 64 Stat. 1116.)

REFERENCES IN TEXT

The Trading With the Enemy Act of October 6, 1917, as amended, referred to in text, is act Oct. 6, 1917, ch. 106, 40 Stat. 411, which is classified generally to chapter 53 (§4301 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1950—Act Dec. 21, 1950, required that 90 days after Dec. 21, 1950, all suits against the Philippine Alien Property Administration be brought in United States courts instead of in Philippine courts.

TERMINATION OF PHILIPPINE ALIEN PROPERTY ADMINISTRATION; TRANSFER OF FUNCTIONS

Section 101 of act Sept. 6, 1950, ch. 896, Ch. VIII, title I, 64 Stat. 699, provided in part that the Philippine Alien Property Administration cease to exist after June 30, 1951, and all duties performed by such Administration as of that date be transferred to the Office of Alien Property Custodian, including all records, files, and other property.

EXECUTIVE ORDER NO. 9789

Ex. Ord. No. 9789, Oct. 14, 1946, 11 F.R. 11981, related to the establishment of the Philippine Alien Property Administration, and was superseded by Ex. Ord. No. 9818, formerly set out below.

EXECUTIVE ORDER NO. 9818

Ex. Ord. No. 9818, Jan. 7, 1947, 12 F.R. 133, amended Oct. 15, 1949, ch. 695, §5(a), 63 Stat. 880, related to the establishment of the Philippine Alien Property Administration, and was omitted under the authority of Ex. Ord. No. 10254, set out below, which terminated the Administration.

EXECUTIVE ORDER NO. 9876

Ex. Ord. No. 9876, July 24, 1947, 12 F.R. 4981, authorized the delegation of certain presidential functions to the Philippine Alien Property Administrator and was omitted in view of Ex. Ord. No. 10254, set out below, which terminated the Administration.

EXECUTIVE ORDER NO. 9921

Ex. Ord. No. 9921, Jan 10, 1948, 13 F.R. 171, authorized the Philippine Alien Property Administrator to transfer certain property to the Republic of the Philippines, and was omitted under the authority of Ex. Ord. No. 10254, set out below, which terminated the Alien Property Administration.

EX. ORD. NO. 10254. TERMINATION OF PHILIPPINE ALIEN PROPERTY ADMINISTRATION AND TRANSFER OF FUNCTIONS TO DEPARTMENT OF JUSTICE

Ex. Ord. No. 10254, June 15, 1951, 16 F.R. 5829, provided:

1. The Philippine Alien Property Administration, established by Executive Order No. 9818 of January 7, 1947 [formerly set out as note under this section], is hereby terminated. All authority, rights, privileges, powers, duties, and functions vested in such Administration or in the Philippine Alien Property Administrator or transferred or delegated thereto are hereby vested in or transferred or delegated to the Attorney General, as the case may be, and shall be administered by him or under his direction and control by such officers and agencies of the Department of Justice as he may designate.

2. All property or interests vested in or transferred to the Philippine Alien Property Administration or the Administrator thereof, and all proceeds thereof, which are held or administered by the Philippine Alien

Property Administration or the Administrator thereof are hereby transferred to the Attorney General of the United States.

3. All personnel, records, files, furniture, funds, authorizations, equipment, and supplies of the Philippine Alien Property Administration are hereby transferred to the Department of Justice.

4. All necessary expenses incurred in the administration or operation of the functions, duties, authority, rights, privileges, and powers hereby vested in or transferred or delegated to the Attorney General shall be paid, to the extent permitted and in the manner prescribed by law, from funds or property or interests vested in or transferred to the Attorney General by or pursuant to the authority contained in this order, so as to prevent diminution of funds otherwise available for the War Claims Fund under section 39 of the Trading with the Enemy Act, as amended by section 12 of the act of July 3, 1948, 62 Stat. 1246 [50 U.S.C. 4336].

This order shall become effective at the close of business in Washington, D.C., on June 29, 1951, and shall at that time supersede all prior Executive orders to the extent that they are in conflict with this order.

HARRY S TRUMAN.

§1383. Transfer of property by President of United States

In respect to property not transferable to the Republic of the Philippines under section 1382 of this title, the President of the United States is authorized, in his discretion and under such terms and conditions as he may deem appropriate, to transfer to the Republic of the Philippines any or all of the right, title, and interest of the Government of the United States or its agencies or instrumentalities to any or all real and personal property vested in such agencies or instrumentalities.

(July 3, 1946, ch. 536, §4, 60 Stat. 419.)

EX. ORD. NO. 9937. DELEGATION OF PRESIDENT'S AUTHORITY TO AGENCIES PARTICIPATING IN THE PHILIPPINE RECOVERY PROGRAM

Ex. Ord. No. 9937, Mar. 20, 1948, 13 F.R. 1503 as amended by act June 30, 1949, ch. 288, title I, §103(a), 63 Stat. 380; 1949 Reorg. Plan No. 7, §2, eff. Aug. 19, 1949, 14 F.R. 5228, 63 Stat. 1070; 1950 Reorg. Plan No. 21, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1273, provided:

By virtue of the authority vested in me by the Constitution and the statutes, and as President of the United States, it is hereby ordered as follows:

The Commissioner of Public Roads of the Department of Commerce, the Chief of Engineers of the United States Army, the Philippine War Damage Commission, the Surgeon General of the Public Health Service of the Federal Security Agency [now the Department of Health and Human Services], the Maritime Administration, the Director of the Fish and Wildlife Service [now the United States Fish and Wildlife Service] of the Department of the Interior, and the Administrator of Civil Aeronautics, the Chief of the Weather Bureau [now the National Weather Service], and the Director of the Coast and Geodetic Survey [now the National Ocean Survey] of the Department of Commerce are hereby authorized, as to their respective agencies, to exercise the authority vested in the President by section 4 of the Philippine Property Act of 1946 (60 Stat. 419) [this section]: *Provided*, that this authority shall be exercised only with respect to property located in the Philippines in the possession and control of the respective agencies and utilized in carrying out the provisions of Title III of the Philippine Rehabilitation Act of 1946 (60 Stat. 135) [sections 1781 to 1789 of the former Appendix to Title 50, War and National Defense].

§1384. Transfer of shares of corporations owning agricultural lands; consideration; indemnification

Immediately upon passage of this subchapter the Alien Property Custodian of the United States shall enter into an agreement with the President of the Philippines to transfer to the Philippine Government for a nominal cash consideration all shares now vested or hereafter vested by the Alien Property Custodian of corporations owning in fee, leasing, or otherwise operating or controlling agricultural lands in the Philippines, other agricultural lands in the Philippines, vested or hereafter vested by the Alien Property Custodian not included in the foregoing, and improved property in Manila vested or hereafter vested by the Alien Property Custodian which in his judgment is urgently needed for the operation of an administrative agency of the Philippine Government: *Provided*, That

in respect to property transferred under this section to the Philippine Government, it shall be made a part of the agreement that the Philippine Government shall fully indemnify the United States for all claims payable under the Trading With the Enemy Act, as amended [50 U.S.C. 4301 et seq.], and for all such costs and expenses of administration as may by law be charged against such property or proceeds thereof.

(July 3, 1946, ch. 536, §5, 60 Stat. 419.)

REFERENCES IN TEXT

The Trading With the Enemy Act, as amended, referred to in text, is act Oct. 6, 1917, ch. 106, 40 Stat. 411, which is classified generally to chapter 53 (§4301 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Tables.

§1385. Ownership of naval reservations, diplomatic property, etc., unaffected

Nothing contained in this subchapter shall be construed as amending the provisions of the Act of March 24, 1934 (48 Stat. 456), as amended, respecting naval reservations and fueling stations, and diplomatic or consular property, and the property of the High Commissioner to the Philippine Islands, nor as amending the provisions of section 1392 of this title, respecting bases for the mutual protection of the Philippine Islands and the United States.

(July 3, 1946, ch. 536, §6, 60 Stat. 419.)

REFERENCES IN TEXT

Act of March 24, 1934, as amended, referred to in text, is act Mar. 24, 1934, ch. 84, 48 Stat. 456, as amended, which enacted sections 1281a, 1391, 1393 to 1395 of this title, and section 1248 of Title 48, Territories and Insular Possessions, amended sections 1231 to 1234, 1237, 1238, 1239, 1241 to 1243, 1245, and 1247, of Title 48, and enacted a provision set out as a note under section 1391 of this title. For complete classification of this Act to the Code, see Tables.

§1386. Definitions

For the purposes of this subchapter the term "Philippine Government" shall mean "Government of the Commonwealth of the Philippines" until the date of independence, and thereafter it shall mean the "Government of the Republic of the Philippines".

(July 3, 1946, ch. 536, §7, 60 Stat. 420.)

REFERENCES IN TEXT

Date of independence, referred to in text, was July 4, 1946 as recognized by 1946 Proc. No. 2695, eff. July 4, 1946, set out as a note under section 1394 of this title.

SUBCHAPTER VI—MISCELLANEOUS PROVISIONS

§1391. Transfer of property and rights to Philippine Commonwealth

All the property and rights which may have been acquired in the Philippine Islands by the United States under the treaties mentioned in the first section of this Act, except such land or other property as has heretofore been designated by the President of the United States for Military and other reservations of the Government of the United States, and except such land or other property or rights or interests therein as may have been sold or otherwise disposed of in accordance with law, are granted to the government of the Commonwealth of the Philippine Islands when constituted.

(Mar. 24, 1934, ch. 84, §5, 48 Stat. 459.)

REFERENCES IN TEXT

Treaties mentioned in the first section of this Act, referred to in text, were treaty of peace between the United States and Spain of December 10, 1898, and treaty between Spain and the United States concluded at Washington, Nov. 7, 1900.

The first section of this Act, referred to in text, is section 1 of act Mar. 24, 1934, which was classified to section 1231 of Title 48, Territories and Insular Possessions, and was omitted from the Code.

Since their independence, the Philippine Islands have been a republic, and are no longer designated as a "Commonwealth", referred to in text. See note below.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Jan. 17, 1933, ch. 11, §5, 47 Stat. 764.

SEPARABILITY

Act Mar. 24, 1934, ch. 84, §16, 48 Stat. 464, provided: "If any provision of this Act [enacting this section and sections 1281a, 1393 to 1395 of this title, amending sections 1231 to 1234, 1237 to 1239, 1241 to 1243, 1245, 1247, and 1248 of Title 48, Territories and Insular Possessions] is declared unconstitutional or the applicability thereof to any person or circumstances is held invalid, the validity of the remainder of the act and the applicability of such provisions and circumstances shall not be affected thereby."

PHILIPPINE INDEPENDENCE

Philippine Islands granted independence by Proc. No. 2695, which is set out as a note under section 1394 of this title.

§1392. Acquisition of military and naval bases by United States

After negotiation with the President of the Commonwealth of the Philippines, or the President of the Filipino Republic, the President of the United States is authorized by such means as he finds appropriate to withhold or to acquire and to retain such bases, necessary appurtenances to such bases, and the rights incident thereto, in addition to any provided for by the Act of March 24, 1934, as he may deem necessary for the mutual protection of the Philippine Islands and of the United States.

(June 29, 1944, ch. 322, §2, 58 Stat. 626.)

REFERENCES IN TEXT

Act of March 24, 1934, as amended, referred to in text, is act Mar. 24, 1934, ch. 84, 48 Stat. 456, as amended, which enacted sections 1281a, 1391, 1393 to 1395 of this title, and section 1248 of Title 48, Territories and Insular Possessions, amended sections 1231 to 1234, 1237, 1238, 1239, 1241 to 1243, 1245, and 1247 of Title 48, and enacted a provision set out as a note under section 1391 of this title. For complete classification of this Act to the Code, see Tables.

PHILIPPINE INDEPENDENCE

Philippine Islands granted independence by Proc. No. 2695, which is set out as a note under section 1394 of this title, and they now constitute a republic.

§1393. Supplementary sinking fund for bond payments; purchase of bonds by United States; creation of special trust account

(a) to (f). Repealed. Apr. 30, 1946, ch. 244, title V, §511(2), 60 Stat. 158.

(g)(1) The Philippine Government shall pay to the Secretary of the Treasury of the United States, at the end of each calendar quarter, all of the moneys received during such quarter from export taxes (less refunds), imposed and collected in accordance with the provisions of this section, and said moneys shall be deposited in an account with the Treasurer of the United States and shall constitute a supplementary sinking fund for the payment of bonds of the Philippines, its Provinces, cities, and municipalities, issued prior to May 1, 1934, under authority of Acts of Congress: *Provided, however*, That moneys received from any export tax imposed on any article which is shipped from the Philippines to the United States prior to July 4, 1946, and which is entered, or withdrawn from

warehouse for consumption, on or after July 4, 1946, shall be refunded by the independent Government of the Philippines.

(2) The said Secretary of the Treasury is authorized to accept the deposits of the proceeds of the export taxes referred to in subdivision (1) of this subsection in accordance with section 1333 [1] of this title.

(3) The Secretary of the Treasury of the United States, with the approval of the Philippine Government, is authorized to purchase with such supplementary sinking-fund bonds of the Philippines, its Provinces, cities, and municipalities, issued prior to May 1, 1934, under authority of Acts of Congress and to invest such fund in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. Whenever the Secretary of the Treasurer [2] finds that such fund is in excess of an amount adequate to meet future interest and principal payments on all such bonds, he may, with the approval of the Philippine Government, purchase with such excess any other bonds of the Philippines, its Provinces, cities, municipalities, and instrumentalities. For the purpose of this subsection obligations may be acquired on original issue at par, or by purchase of outstanding obligations at the market price. Any obligations acquired by the fund may, with the approval of the Philippine Government, be sold by the Secretary of the Treasury at the market price and the proceeds of such sale and the proceeds of the payment upon maturity or redemption of any obligations held in the supplementary sinking fund, as well as all moneys in any manner earned by such fund or on any obligations acquired by said fund, shall be paid into the said fund.

(4) During the three months preceding July 4, 1946, the Philippine Government and the Secretary of the Treasury of the United States shall confer to ascertain that portion of the bonds of the Philippines, its Provinces, cities, and municipalities, issued prior to May 1, 1934, under authority of Acts of Congress, which will remain outstanding on July 4, 1946; and the Philippine Government shall turn over to the Secretary of the Treasury of the United States for destruction all such bonds that are then held, canceled, or uncanceled, in any of the sinking funds maintained for the payment of such bonds. After such outstanding portion of this indebtedness is thus determined, and before July 4, 1946, (i) there shall be set up with the Treasurer of the United States a special trust account in the name of the Secretary of the Treasury of the United States to pay future interest and principal payments on such bonds; (ii) the Philippine Government shall pay to the Secretary of the Treasury of the United States for deposit in this special trust account all of the sinking funds maintained for the payment of such bonds; and (iii) the Secretary of the Treasury of the United States shall transfer into this special trust account all of the proceeds of the supplementary sinking fund referred to in subdivision (1) of this subsection. Any portion of such special trust account found by the Secretary of the Treasury of the United States on July 4, 1946, to be in excess of an amount adequate to meet future interest and principal payments on all such outstanding bonds shall be turned over to the Treasury of the independent Government of the Philippines to be set up as an additional sinking fund to be used for the purpose of liquidating and paying all other obligations of the Philippines, its Provinces, cities, municipalities, and instrumentalities. To the extent that such special trust account is determined by the Secretary of the Treasury of the United States to be insufficient to pay interest and principal on the outstanding bonds of the Philippines, its Provinces, cities, and municipalities, issued prior to May 1, 1934, under authority of Acts of Congress, the Philippine Government shall, on or before July 3, 1946, pay to the Secretary of the Treasury of the United States for deposit in such special trust account an amount which said Secretary of the Treasury determines is required to assure payment of principal and interest on such bonds: *Provided, however*, That if the Secretary of the Treasury of the United States finds that this requirement would impose an undue hardship upon the Philippines, then the Philippine Government shall continue to provide annually the necessary funds for the payment of interest and principal on such bonds until such time as the Secretary of the Treasury of the United States determines that the amount in the special trust account is adequate to meet interest and principal payments on such bonds.

(5) On and after July 4, 1946, the Secretary of the Treasury of the United States is authorized, with the approval of the independent Government of the Philippines, to purchase at the market price for the special trust account bonds of the Philippines, its Provinces, cities, and municipalities, issued

prior to May 1, 1934, under authority of Acts of Congress. The Secretary of the Treasury of the United States is also authorized, with the approval of the independent Government of the Philippines, to invest all or any part of such special trust account in any interest-bearing obligations of the United States or in any obligations guaranteed as to both principal and interest by the United States. Such obligations may be acquired on original issue at the issue price or by purchase of outstanding obligations at the market price, and any obligations acquired by the special trust account may, with the approval of the independent Government of the Philippines, be sold by the Secretary of the Treasury at the market price, and the proceeds of the payment upon maturity or redemption of such obligations shall be held as a part of such special trust account. Whenever the special trust account is determined by the Secretary of the Treasury of the United States to be adequate to meet interest and principal payments on all outstanding bonds of the Philippines, its Provinces, cities, and municipalities, issued prior to May 1, 1934, under authority of Acts of Congress, the Secretary of the Treasury is authorized to pay from such trust account the principal of such outstanding bonds and to pay all interest due and owing on such bonds. All such bonds and interest coupons paid or purchased by the special trust account shall be canceled and destroyed by the Secretary of the Treasury of the United States. From time to time after July 4, 1946, any moneys in such special trust account found by the Secretary of the Treasury of the United States to be in excess of an amount adequate to meet interest and principal payments on all such bonds shall be turned over to the treasurer of the independent Government of the Philippines.

(Mar. 24, 1934, ch. 84, §6, 48 Stat. 459; Aug. 7, 1939, ch. 502, §1, 53 Stat. 1226; Apr. 30, 1946, ch. 244, title V, §511(2), 60 Stat. 158; Pub. L. 86–346, title I, §104(1), Sept. 22, 1959, 73 Stat. 622.)

REFERENCES IN TEXT

Section 1333 of this title, referred to in subsec. (g)(2), was omitted from the Code.

PRIOR PROVISIONS

Similar provisions were contained in act Jan. 17, 1933, ch. 11, §6, 47 Stat. 764.

AMENDMENTS

1959—Subsec. (g)(5). Pub. L. 86–346 substituted "on original issue at the issue price" for "on original issue at par".

1946—Act Apr. 30, 1946, repealed opening par. and subsecs. (a) to (f), (h) relating to relations with the United States pending complete independence, and trade relations.

1939—Act Aug. 7, 1939, amended section generally.

EFFECTIVE DATE OF 1946 AMENDMENT

Amendment by act Apr. 30, 1946 effective May 1, 1946, see section 512 of act Apr. 30, 1946, set out as an Effective Date note under section 1354 of this title.

TERMINATION OF ACCEPTANCE OF DEPOSITS OF EXPORT TAXES

Authority of Secretary of the Treasury to accept deposits of proceeds of export taxes in accordance with section 1333 of this title terminated on July 1, 1951, under the provisions of act Aug. 7, 1946, ch. 809, §2, 60 Stat. 901.

[1] See References in Text note below.

[2] So in original. Probably should be "Treasury".

§1394. Recognition of Philippine independence

(a) Withdrawal of American sovereignty

On the 4th day of July immediately following the expiration of a period of ten years from the date of the inauguration of the new government under the constitution provided for in this Act, the President of the United States shall by proclamation withdraw and surrender all right of possession,

supervision, jurisdiction, control, or sovereignty then existing and exercised by the United States in and over the territory and people of the Philippine Islands, including all military and other reservations of the Government of the United States in the Philippines (except such naval reservations and fueling stations as are reserved under section 1391 of this title), and, on behalf of the United States, shall recognize the independence of the Philippine Islands as a separate and self-governing nation and acknowledge the authority and control over the same of the government instituted by the people thereof, under the constitution then in force.

(b) Naval reservations and fueling stations

The President of the United States is authorized and empowered to enter into negotiations with the government of the Philippine Islands, not later than two years after his proclamation recognizing the independence of the Philippine Islands, for the adjustment and settlement of all questions relating to naval reservations and fueling stations of the United States in the Philippine Islands, and pending such adjustment and settlement the matter of naval reservations and fueling stations shall remain in its present status.

(c) Property for diplomatic purposes

(1) Whenever the President of the United States shall find that any properties in the Philippines, owned by the Philippine Government or by private persons, would be suitable for diplomatic or consular establishments of the United States after the inauguration of the independent Government, he may, with the approval of the Philippine Government, and in exchange for the conveyance of title to the United States, transfer to the said Government or private persons any properties of the United States in the Philippines. Title to any properties so transferred to private persons, and title to any properties so acquired by the United States, shall be vested in fee simple in such persons and the United States, respectively, notwithstanding the provisions contained in subsection (a) of this section.

(2) Whenever, prior to July 4, 1946, the President of the United States shall find that any properties of the United States in the Philippines would be suitable for diplomatic and consular establishments of the United States after the inauguration of the independent Government, he shall designate the same by the issuance of a proclamation or proclamations, and title to any properties so designated shall continue to be vested in fee simple in the United States notwithstanding the provisions contained in subsection (a) of this section.

(3) Title to the lands and buildings pertaining to the official residences of the United States High Commissioner to the Philippine Islands in the cities of Manila and Baguio, together with all fixtures and movable objects, shall continue to be vested in the United States after July 4, 1946, notwithstanding the provisions contained in subsection (a) of this section.

(4) Administrative supervision and control over any properties acquired or designated by the President of the United States pursuant to this subsection, and over the official residences in the Philippines of the High Commissioner, shall, on and after July 4, 1946, be exercised by the Secretary of State, in accordance with Acts of Congress relating to property held by the United States in foreign countries for official establishments.

(Mar. 24, 1934, ch. 84, §10, 48 Stat. 463; Aug. 7, 1939, ch. 502, §3, 53 Stat. 1230.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a), is act Mar. 24, 1934, ch. 84, 48 Stat. 456, as amended, which enacted sections 1281a, 1391, 1393 to 1395 of this title, and section 1248 of Title 48, Territories and Insular Possessions, amended sections 1231 to 1234, 1237, 1238, 1239, 1241 to 1243, 1245, and 1247 of Title 48, and enacted a provision set out as a note under section 1391 of this title. For complete classification of this Act to the Code, see Tables.

PRIOR PROVISIONS

Provisions similar to those contained in subsec. (a) of this section were contained in the first par. of section 10 of act Jan. 17, 1933, ch. 11, 47 Stat. 768.

AMENDMENTS

1939—Subsec. (c). Act Aug. 7, 1939, added subsec. (c).

EFFECTIVE DATE OF 1939 AMENDMENT

Act Aug. 7, 1939, ch. 502, §7, 53 Stat. 1233, provided that act Aug. 7, 1939, should become effective on Jan. 1, 1940, if certain conditions were fulfilled. The conditions were fulfilled and section became effective on said date.

INDEPENDENCE DATE ADVANCED

Act June 29, 1944, ch. 322, §3, 58 Stat. 626, provided in part that date of independence could be advanced prior to July 4, 1946, but it was not done.

PROC. NO. 2695. PHILIPPINE INDEPENDENCE

Proc. No. 2695, July 4, 1946, 11 F.R. 7517, 60 Stat. 1352, provided:

The United States of America hereby withdraws and surrenders all rights of possession, supervision, jurisdiction, control, or sovereignty now existing and exercised by the United States of America in and over the territory and people of the Philippines; and,

On behalf of the United States of America, I do hereby recognize the independence of the Philippines as a separate and self-governing nation and acknowledge the authority and control over the same of the government instituted by the people thereof, under the constitution now in force.

§1395. Definitions

(a) As used in sections 1393 and 1394 of this title—

(1) The term "United States", when used in a geographical sense, but not the term "continental United States", includes all Territories and possessions of the United States, other than the Philippines.

(2) The term "cordage" includes yarns, twines (including binding twine described in paragraph 1622 [1] of section 1201 of title 19), cords, cordage, rope and cable, tarred or untarred, wholly or in chief value of manila (abaca) or other hard fiber.

(3) The term "Philippine Government" means the Government of the Commonwealth of the Philippines.

(4) The term "United States duty", when used in connection with the computation of export taxes, means the lowest rate of ordinary customs duty in effect at the time of the shipment of the article concerned from the Philippines and applicable to like articles imported into the continental United States from any foreign country, except Cuba, or when more than one rate of ordinary customs duty is applicable to such like articles, the aggregate of such rates.

(5) The term "refined sugars" possesses the same meaning as the term "direct-consumption sugar" as defined in section 1101 [1] of title 7.

(6) The term "Philippine article" means an article the growth, produce, or manufacture of the Philippines, in the production of which no materials of other than Philippine or United States origin valued in excess of 20 per centum of the total value of such article was used and which is brought into the United States from the Philippines.

(7) The term "American article" means an article the growth, produce, or manufacture of the United States, in the production of which no materials of other than Philippine or United States origin valued in excess of 20 per centum of the total value of such article was used and which is brought into the Philippines from the United States.

(8) The term "Philippine import duty" means the lowest rate of ordinary customs duty applicable at the port of arrival, at the time of entry, or withdrawal from warehouse, for consumption of the article concerned, to like articles imported into the Philippines from any other foreign country, or when more than one rate of ordinary customs duty is applicable to such like articles, the aggregate of such rates.

(b) As used in subsection (a) of this section:

(1) The terms "includes" and "including" shall not be deemed to exclude other things otherwise

within the meaning of the term defined.

(2) The term "ordinary customs duty" shall not include any import duty or charge which is imposed to compensate for an internal tax imposed in respect of a like domestic product or in respect of a commodity from which the imported product has been manufactured or produced in whole or in part.

(Mar. 24, 1934, ch. 84, §18, as added Aug. 7, 1939, ch. 502, §5, 53 Stat. 1231.)

REFERENCES IN TEXT

Paragraph 1622 of section 1201 of title 19, referred to in subsec. (a)(2), was repealed by act May 24, 1962, Pub. L. 87–456, title I, §101(a), 76 Stat. 72.

Since their independence, the Philippine Islands have been a republic, and are no longer designated as a "Commonwealth" as referred to in par. (3) of subsec. (a) of this section. See note below.

Section 1101 of title 7, referred to in subsec. (a)(5), was omitted from the Code.

PHILIPPINE INDEPENDENCE

Philippine Islands granted independence by Proc. No. 2695, set out as a note under section 1394 of this title.

[1] *See References in Text note below.*

CHAPTER 16—GREEK AND TURKISH ASSISTANCE

§§1401 to 1410. Repealed. Aug. 26, 1954, ch. 937, title V, §542(a)(1), (4), 68 Stat. 861

Section 1401, acts May 22, 1947, ch. 81, §1, 61 Stat. 103; Apr. 5, 1952, ch. 159, §1, 66 Stat. 43, authorized President to furnish assistance and prescribed type of assistance to be furnished. See sections 1451 to 1453 and 2395 of this title.

Section 1402, act May 22, 1947, ch. 81, §2, 61 Stat. 104, related to allocation of funds to Government agencies. See section 2392 of this title.

Section 1403, act May 22, 1947, ch. 81, §3, 61 Stat. 104, prescribed conditions precedent to receipt of assistance.

Section 1404, acts May 22, 1947, ch. 81, §4, 61 Stat. 105; Apr. 3, 1948, ch. 169, title III, §303, 62 Stat. 158, related to advancement and reimbursement of funds by and to R.F.C. and appropriations.

Section 1405, act May 22, 1947, ch. 81, §5, 61 Stat. 105, related to rules and regulations and withdrawal of aid. See section 2367 of this title.

Section 1406, act May 22, 1947, ch. 81, §6, 61 Stat. 105, related to termination of assistance. See section 2367 of this title.

Section 1407, act May 22, 1947, ch. 81, §7, 61 Stat. 105, required President to submit quarterly reports to Congress. See section 2394 of this title.

Section 1408, act May 22, 1947, ch. 81, §8, 61 Stat. 105, related to appointment and duties of chief of any mission to Greece and Turkey. See section 2391 of this title.

Section 1409, act Apr. 3, 1948, ch. 169, title III, §302, 62 Stat. 158, related to additional appropriations.

Section 1410, act Apr. 3, 1948, ch. 169, title III, §304, 62 Stat. 158, related to detail of certain personnel to missions in Greece and Turkey, and loyalty check.

See section 2151 et seq. of this title.

CHAPTER 17—RELIEF AID TO WAR-DEVASTATED COUNTRIES

§§1411 to 1417. Repealed. Aug. 26, 1954, ch. 937, title V, §542(a)(2), (3), 68 Stat. 861

Section 1411, acts May 31, 1947, ch. 90, §1, 61 Stat. 125; Dec. 17, 1947, ch. 520, §16(a), 61 Stat. 939; Apr. 5, 1952, ch. 159, §1, 66 Stat. 43, related to appropriation; uses; establishment of relief distribution missions; limitations on amounts; and advances by R.F.C.

Section 1412, act May 31, 1947, ch. 90, §2, 61 Stat. 125, related to relief assistance. See sections 2354, 2385, and 2392 of this title.

Section 1413, act May 31, 1947, ch. 90, §3, 61 Stat. 126, prescribed conditions governing relief assistance. See section 2171 et seq. of this title.

Section 1414, act May 31, 1947, ch. 90, §4, 61 Stat. 127, related to supervision of relief supplies in recipient countries; appointment, compensation, and duties of field administrator; and delegation of President's authority. See sections 2381 and 2385 of this title.

Section 1415, act May 31, 1947, ch. 90, §5, 61 Stat. 127, related to termination of relief by President or Congress. See section 2367 of this title.

Section 1416, act May 31, 1947, ch. 90, §6, 61 Stat. 128, related to sale of relief supplies by recipient country; establishment of special account as revolving fund; termination; and disposition of balance.

Section 1417, act May 31, 1947, ch. 90, §7, 61 Stat. 128, required the President to submit quarterly reports to Congress. See section 2394 of this title.

See section 2151 et seq. of this title.

Foreign Aid Act of 1947, act Dec. 17, 1947, ch. 520, §§1–18, 61 Stat. 934, which provided immediate aid urgently needed by peoples of Austria, China, France, and Italy and which was formerly set out as a note under former section 1411 of this title, was repealed by act Aug. 26, 1954, §542(a)(3).

CHAPTER 18—UNITED STATES INFORMATION AND EDUCATIONAL EXCHANGE PROGRAMS

SUBCHAPTER I—GENERAL PROVISIONS

Sec.
1431. Congressional declaration of objectives.
1432. Information on United States participation in United Nations.
1433. Definitions.
1434. Repealed.
1435. Delegation of authority by Secretary.
1436. Restriction on disclosure of information.
1437. Utilization of private agencies.
1438. Veterans' preference.
1439 to 1441. Repealed or Omitted.
1442. Informational media guaranties.
1442a. National security measures.

SUBCHAPTER II—INTERCHANGE OF PERSONS, KNOWLEDGE, AND SKILLS BETWEEN UNITED STATES AND FOREIGN COUNTRIES

1446. Repealed.
1447. Books and materials.
1448. Assistance to certain institutions abroad founded or sponsored by United States citizens.

SUBCHAPTER III—ASSIGNMENT OF SPECIALISTS

1451. Assignment of Government employees to requesting countries; governing regulations.
1452. Status and allowances of assigned personnel.
1453. Acceptance of office under foreign governments of assigned personnel; oath of allegiance.

SUBCHAPTER IV—PARTICIPATION BY GOVERNMENT AGENCIES

1456. Utilization of facilities and personnel of other Government agencies; reimbursement to agencies; report to Congress.
1457. Rendition of technical and other services to foreign governments; limitations.
1458. Policy governing rendition of services.

SUBCHAPTER V—DISSEMINATION ABROAD OF INFORMATION ABOUT THE UNITED STATES

1461. General authorization.
1461–1. Mission of United States Information Agency.
1461–1a. Clarification on domestic distribution of program material.
1461a. Omitted.
1461b. Indemnification of owners of short-wave radio facilities against loss or damage.
1461c. Omitted.
1462. Policies governing information activities.
1463. Repealed.
1464. Voice of America/Europe.
1464a. Broadcasting Board of Governors satellite and television.
1464b. Voice of America hiring practices.

SUBCHAPTER V–A—RADIO BROADCASTING TO CUBA

1465. Congressional findings and declaration of purposes.
1465a. Additional functions of Broadcasting Board of Governors.
1465b. Cuba Service.
1465c. Advisory Board for Cuba Broadcasting.
1465d. Assistance from other government agencies.
1465e. Compensation for Cuban interference with broadcasting in United States.
1465f. Authorization of appropriations.
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SUBCHAPTER V–B—TELEVISION BROADCASTING TO CUBA

1465aa. Findings and purposes.
1465bb. Television broadcasting to Cuba.
1465cc. Television Marti Service.
1465dd. Assistance from other Government agencies.
1465ee. Authorization of appropriations.
1465ff. Definitions.

SUBCHAPTER VI—ADVISORY COMMISSIONS TO FORMULATE POLICIES

1466 to 1468. Omitted.
1469. United States Advisory Commission on Public Diplomacy.

SUBCHAPTER VII—ADMINISTRATIVE PROCEDURE

1471. Authority of Secretary of State.
1472. Department of State and other Government agencies.
1473. Use of existing Government property and facilities.
1474. Additional authority of Secretary of State or other Government agency authorized to administer provisions.
1475. Travel expenses.
1475a. Replacement of passenger motor vehicles.
1475b, 1475c. Repealed.
1475d. Compensation for disability or death.
1475e. Use of English-teaching program fees.
1475f. Repealed.
1475g. Overseas public diplomacy posts and personnel overseas.
1475h. Overseas public diplomacy grants.

SUBCHAPTER VIII—APPROPRIATIONS AND OTHER FUNDS

1476. Repealed.
1477. Transfer of funds.
1477a, 1477b. Omitted or Repealed.
1477c. Notification and award of grants.
1478. Reimbursement of program expenses from sources other than appropriations;

disposition of receipts.
1479. Advancement of funds, property, or services by foreign governments; disposition; availability; return of unexpended balances or property.
1480. Repealed.

SUBCHAPTER I—GENERAL PROVISIONS

§1431. Congressional declaration of objectives

The Congress declares that the objectives of this chapter are to enable the Government of the United States to promote a better understanding of the United States in other countries, and to increase mutual understanding between the people of the United States and the people of other countries. Among the means to be used in achieving these objectives are—

(1) an information service to disseminate abroad information about the United States, its people, and policies promulgated by the Congress, the President, the Secretary of State and other responsible officials of Government having to do with matters affecting foreign affairs;

(2) Repealed. Pub. L. 87–256, §111(a)(2), Sept. 21, 1961, 75 Stat. 538.

(Jan. 27, 1948, ch. 36, title I, §2, 62 Stat. 6; Pub. L. 87–256, §111(a)(2), Sept. 21, 1961, 75 Stat. 538.)

AMENDMENTS

1961—Pub. L. 87–256 repealed par. (2) which authorized an educational exchange service to cooperate with other nations in the interchange of persons, knowledge, and skills, in the rendering of technical and other services, and in the interchange of developments in the field of education, the arts, and sciences. See section 2451 et seq. of this title.

TERMINATION OF CHAPTER

Act Jan. 27, 1948, ch. 36, title X, §1006, 62 Stat. 14, provided that: "The authority granted under this Act [this chapter] shall terminate whenever such termination is directed by concurrent resolution of the two Houses of the Congress."

SHORT TITLE OF 1983 AMENDMENT

For short title of Pub. L. 98–111, which enacted subchapter V–A of this chapter, as the "Radio Broadcasting to Cuba Act", see section 1 of Pub. L. 98–111, set out as a Short Title note under section 1465 of this title.

SHORT TITLE OF 1973 AMENDMENT

Pub. L. 93–168, §1, Nov. 29, 1973, 87 Stat. 688, provided: "That this Act [amending former section 1476 of this title] may be cited as the 'United States Information Agency Appropriations Authorization Act of 1973'."

SHORT TITLE

Act Jan. 27, 1948, ch. 36, title I, §1, 62 Stat. 6, provided that: "This Act [enacting this chapter] may be cited as the 'United States Information and Educational Exchange Act of 1948'."

SEPARABILITY

Act Jan. 27, 1948, ch. 36, title X, §1010, 62 Stat. 14, provided that: "If any provision of this Act [enacting this chapter] or the application of any such provision to any person or circumstance shall be held invalid, the validity of the remainder of the Act [this chapter] and the applicability of such provision to other persons or circumstances shall not be affected thereby."

TRANSFER OF FUNCTIONS

All functions vested in the President, the Secretary of State, the Department of State, the United States Information Agency, or the Director thereof, under this chapter, were transferred to the Director of the International Communication Agency by Reorg. Plan No. 2 of 1977, §7(a)(1), 42 F.R. 62461, 91 Stat. 1637, set out under section 1461 of this title, effective on or before July 1, 1978, at such time as specified by the President, except to the extent that such functions were vested in the President under sections 1452, 1456, and 1467 of this title. The International Communication Agency, and the Director thereof, were redesignated the United States Information Agency, and the Director thereof, by section 303 of Pub. L. 97–241, title III, Aug. 24, 1982, 96 Stat. 291, set out as a note under section 1461 of this title. United States Information Agency

(other than Broadcasting Board of Governors and International Broadcasting Bureau) abolished and functions transferred to Secretary of State, see sections 6531 and 6532 of this title.

PROMOTION OF FREE MEDIA AND OTHER AMERICAN VALUES

Pub. L. 108–458, title VII, §7108, Dec. 17, 2004, 118 Stat. 3790, provided that:

"(a) PROMOTION OF UNITED STATES VALUES THROUGH BROADCAST MEDIA.—

"(1) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

"(A) Although the United States has demonstrated and promoted its values in defending Muslims against tyrants and criminals in Somalia, Bosnia, Kosovo, Afghanistan, and Iraq, this message is neither convincingly presented nor widely understood.

"(B) If the United States does not act to vigorously define its message in countries with predominantly Muslim populations, the image of the United States will be defined by Islamic extremists who seek to demonize the United States.

"(C) Recognizing that many Muslim audiences rely on satellite television and radio, the United States Government has launched promising initiatives in television and radio broadcasting to the Islamic world, including Iran and Afghanistan.

"(2) SENSE OF CONGRESS.—It is the sense of Congress that—

"(A) the United States must do more to defend and promote its values and ideals to the broadest possible audience in countries with predominantly Muslim populations;

"(B) United States efforts to defend and promote these values and ideals are beginning to ensure that accurate expressions of these values reach large Muslim audiences and should be robustly supported;

"(C) the United States Government could and should do more to engage Muslim audiences in the struggle of ideas; and

"(D) the United States Government should more intensively employ existing broadcast media in the Islamic world as part of this engagement.

"(b) ENHANCING FREE AND INDEPENDENT MEDIA.—

"(1) FINDINGS.—Congress makes the following findings:

"(A) Freedom of speech and freedom of the press are fundamental human rights.

"(B) The United States has a national interest in promoting these freedoms by supporting free media abroad, which is essential to the development of free and democratic societies consistent with our own.

"(C) Free media is undermined, endangered, or nonexistent in many repressive and transitional societies around the world, including in Eurasia, Africa, and the Middle East.

"(D) Individuals lacking access to a plurality of free media are vulnerable to misinformation and propaganda and are potentially more likely to adopt anti-United States views.

"(E) Foreign governments have a responsibility to actively and publicly discourage and rebut unprofessional and unethical media while respecting journalistic integrity and editorial independence.

"(2) STATEMENT OF POLICY.—It shall be the policy of the United States, acting through the Secretary of State, to—

"(A) ensure that the promotion of freedom of the press and freedom of media worldwide is a priority of United States foreign policy and an integral component of United States public diplomacy;

"(B) respect the journalistic integrity and editorial independence of free media worldwide; and

"(C) ensure that widely accepted standards for professional and ethical journalistic and editorial practices are employed when assessing international media.

"(c) ESTABLISHMENT OF MEDIA NETWORK.—

"(1) GRANTS FOR ESTABLISHMENT OF NETWORK.—The Secretary of State shall, utilizing amounts authorized to be appropriated by subsection (e)(2) [(d)(2)], make grants to the National Endowment for Democracy (NED) under the National Endowment for Democracy Act (22 U.S.C. 4411 et seq.) for utilization by the Endowment to provide funding to a private sector group to establish and manage a free and independent media network as specified in paragraph (2).

"(2) MEDIA NETWORK.—The media network established using funds under paragraph (1) shall provide an effective forum to convene a broad range of individuals, organizations, and governmental participants involved in journalistic activities and the development of free and independent media in order to—

"(A) fund a clearinghouse to collect and share information concerning international media development and training;

"(B) improve research in the field of media assistance and program evaluation to better inform

decisions regarding funding and program design for government and private donors;

"(C) explore the most appropriate use of existing means to more effectively encourage the involvement of the private sector in the field of media assistance; and

"(D) identify effective methods for the development of a free and independent media in societies in transition.

"(d) AUTHORIZATIONS OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated for each of fiscal years 2005 and 2006, unless otherwise authorized by Congress, such sums as may be necessary to carry out United States Government broadcasting activities consistent with this section under the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1431 et seq.), the United States International Broadcasting Act of 1994 (22 U.S.C. 6201 et seq.), and the Foreign Affairs Reform and Restructuring Act of 1998 (22 U.S.C. 6501 et seq.), and to carry out other activities under this section consistent with the purposes of such Acts, unless otherwise authorized by Congress.

"(2) GRANTS FOR MEDIA NETWORK.—In addition to the amounts authorized to be appropriated under paragraph (1), there are authorized to be appropriated for each of fiscal years 2005 and 2006, unless otherwise authorized by Congress, such sums as may be necessary for grants under subsection (c)(1) for the establishment of the media network described in subsection (c)(2)."

CONTINUATION OF CERTAIN EXECUTIVE ORDERS, AGREEMENTS, DETERMINATIONS, REGULATIONS, CONTRACTS, APPOINTMENTS, AND OTHER ACTIONS

Continuation in full force and effect, and applicability to the appropriate provisions of the Mutual Educational and Cultural Exchange Act of 1961, set out as section 2451 et seq. of this title, until modified or superseded by appropriate authority, of all Executive orders, agreements, determinations, regulations, contracts, appointments, and other actions issued, concluded, or taken under authority of this section, see section 111(b) of Pub. L. 87–256, set out as a note under section 2451 of this title.

§1432. Information on United States participation in United Nations

In carrying out the objectives of this chapter, information concerning the participation of the United States in the United Nations, its organizations and functions, shall be emphasized.

(Jan. 27, 1948, ch. 36, title I, §3, 62 Stat. 6.)

§1433. Definitions

When used in this chapter, the term—

(1) "Secretary" means the Secretary of State.

(2) "Department" means the Department of State.

(3) "Government agency" means any executive department, board, bureau, commission, or other agency of the Federal Government, or independent establishment, or any corporation wholly owned (either directly or through one or more corporations) by the United States.

(Jan. 27, 1948, ch. 36, title I, §4, 62 Stat. 6.)

§1434. Repealed. Pub. L. 96–60, title II, §203(a)(1), Aug. 15, 1979, 93 Stat. 398

Section, acts Jan. 27, 1948, ch. 36, title X, §1001, 62 Stat. 13; Apr. 5, 1952, ch. 159, §1, 66 Stat. 43; 1977 Reorg. Plan No. 2, §7(a)(1), 42 F.R. 62461, 91 Stat. 1637; 1978 Reorg. Plan No. 2, §102, eff. Jan. 1, 1979, 43 F.R. 36037, 92 Stat. 3783, provided for loyalty check of personnel. Pub. L. 87–256, §111(a)(2), Sept. 21, 1961, 75 Stat. 538, previously repealed this section insofar as it related to persons employed or assigned to duties under the Mutual Educational and Cultural Exchange Act of 1961.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1979, see section 209 of Pub. L. 96–60, set out as an Effective Date of 1979 Amendment note under section 1471 of this title.

§1435. Delegation of authority by Secretary

The Secretary may delegate, to such officers of the Government as the Secretary determines to be appropriate, any of the powers conferred upon him by this chapter to the extent that he finds such delegation to be in the interest of the purposes expressed in this chapter and the efficient administration of the programs undertaken pursuant to this chapter.

(Jan. 27, 1948, ch. 36, title X, §1002, 62 Stat. 13.)

§1436. Restriction on disclosure of information

Nothing in this chapter shall authorize the disclosure of any information or knowledge in any case in which such disclosure (1) is prohibited by any other law of the United States, or (2) is inconsistent with the security of the United States.

(Jan. 27, 1948, ch. 36, title X, §1003, 62 Stat. 13.)

§1437. Utilization of private agencies

In carrying out the provisions of this chapter it shall be the duty of the Secretary and the Broadcasting Board of Governors to utilize, to the maximum extent practicable, the services and facilities of private agencies, including existing American press, publishing, radio, motion picture, and other agencies, through contractual arrangements or otherwise. It is the intent of Congress that the Secretary and the Broadcasting Board of Governors shall encourage participation in carrying out the purposes of this chapter by the maximum number of different private agencies in each field consistent with the present or potential market for their services in each country.

(Jan. 27, 1948, ch. 36, title X, §1005, 62 Stat. 14; Pub. L. 112–239, div. A, title X, §1078(d)(2), Jan. 2, 2013, 126 Stat. 1959.)

AMENDMENTS

2013—Pub. L. 112–239 inserted "and the Broadcasting Board of Governors" after "Secretary" in two places.

EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 112–239, div. A, title X, §1078(e), Jan. 2, 2013, 126 Stat. 1959, provided that: "This section [amending this section and sections 1461, 1461–1a, and 1462 of this title and enacting provisions set out as a note under section 1461 of this title] shall take effect and apply on the date that is 180 days after the date of the enactment of this section [Jan. 2, 2013]."

§1438. Veterans' preference

No provision of this chapter shall be construed to modify or to repeal the provisions of sections 1302(b), (c), 2108, 3305(b), 3306(a)(2), 3308 to 3318, 3319(b), 3320, 3351, 3363, 3364, 3501 to 3504, 7511, 7512, and 7701 of title 5.

(Jan. 27, 1948, ch. 36, title X, §1007, 62 Stat. 14.)

REFERENCES IN TEXT

Section 3306 of title 5, referred to in text, was repealed by Pub. L. 95–228, §1, Feb. 10, 1978, 92 Stat. 25.

Section 3319 of title 5, referred to in text, was repealed by Pub. L. 95–454, title III, §307(h)(1), Oct. 13, 1978, 92 Stat. 1149.

Section 3364 of title 5, referred to in text, was repealed by Pub. L. 94–183, §2(6), Dec. 31, 1975, 89 Stat. 1057.

Sections 7511 and 7512 of title 5, referred to in text, which related to adverse actions against preference eligible employees and comprised subchapter II of chapter 75 of Title 5, Government Organization and Employees, were repealed by Pub. L. 95–454 and replaced by a new subchapter II (§§7511–7514) of chapter

75 relating to removal, suspension for more than 14 days, reduction in grade or pay, or furlough for 30 days or less.

CODIFICATION

"Sections 1302(b), (c), 2108, 3305(b), 3306(a)(2), 3308 to 3318, 3319(b), 3320, 3351, 3363, 3364, 3501 to 3504, 7511, 7512, and 7701 of title 5" substituted in text for "the Veterans' Preference Act of 1944" on authority of Pub. L. 89–554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

§1439. Repealed. Pub. L. 96–470, title I, §117, Oct. 19, 1980, 94 Stat. 2240

Section, acts Jan. 27, 1948, ch. 36, title X, §1008, 62 Stat. 14; Sept. 21, 1961, Pub. L. 87–256, §111(a)(2), 75 Stat. 538; Oct. 26, 1974, Pub. L. 93–475, §7, 88 Stat. 1440; 1977 Reorg. Plan No. 2, §7(a)(1), 42 F.R. 62461, 91 Stat. 1637, required the Director to submit annual reports to Congress on expenditures made and activities carried on under this chapter, including appraisals and measurements, where feasible, as to the effectiveness of the several programs in each country where conducted. Pub. L. 87–256, §111(9)(2), Sept. 21, 1961, 75 Stat. 538, previously repealed this section insofar as it related to educational exchange activities. See section 2458(b) of this title.

§1440. Repealed. Pub. L. 105–277, div. G, subdiv. A, title XIII, §1336(1), Oct. 21, 1998, 112 Stat. 2681–790

Section, acts Jan. 27, 1948, ch. 36, title X, §1009, 62 Stat. 14; Pub. L. 87–256, §111(a)(2), Sept. 21, 1961, 75 Stat. 538, related to applicability of chapter provisions to similar international activities of State Department.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1999, see section 1301 of Pub. L. 105–277, set out as an Effective Date note under section 6531 of this title.

§1441. Omitted

CODIFICATION

Section, based on third proviso under subheading "International Information and Education Activities" under heading "State Department" of Title I of the Supplemental Appropriation Act, 1950 (approved Oct. 14, 1949, ch. 694, 63 Stat. 878), authorized the acquisition of land outside the continental United States, and was not repeated in the Department of State Appropriation Act, 1951 (approved Sept. 6, 1950, ch. 896, ch. III, title I, 64 Stat. 609), or other appropriation acts.

§1442. Informational media guaranties

(a) Authorization to make

The Director of the United States Information Agency may make guaranties, in accordance with the provisions of subsection (b) of section 1933 [1] of this title, of investments in enterprises producing or distributing informational media consistent with the national interests of the United States: *Provided*, That the purpose of making informational media guaranties shall be the achievement of the foreign policy objectives of the United States, including the objective mentioned in sections 1933(b)(4)(A) [1] and 1933(b)(4)(G) [1] of this title.

(b) Assumption of notes issued pursuant to section 1509(c)(2) of this title; advances

The Director is authorized to assume the obligation of not to exceed $28,000,000 of the notes authorized to be issued pursuant to section 1509(c)(2) [1] of this title, together with the interest accrued

and unpaid thereon, and to obtain advances from time to time from the Secretary of the Treasury up to such amount, less amounts previously advanced on such notes, as provided for in said notes. Such advances shall be deposited in a special account in the Treasury available for payments under informational media guaranties.

(c) Limitations of time; total of guaranties outstanding

The Director is authorized to make informational media guaranties without regard to the limitations of time contained in section 1933(b)(4) [1] of this title, but the total of such guaranties outstanding at any one time shall not exceed the sum of the face amount of the notes assumed by the Director less the amounts previously advanced on such notes by the Secretary of the Treasury plus the amount of the funds in the special account referred to in subsection (b).

(d) Sale of foreign currencies; special account; availability

Foreign currencies available after June 30, 1955, from conversions made pursuant to the obligation of informational media guaranties may be sold, in accordance with Treasury Department regulations, for dollars which shall be deposited in the special account and shall be available for payments under new guaranties. Such currencies shall be available, as may be provided for by the Congress in appropriation Acts, for use for educational, scientific, and cultural purposes which are in the national interest of the United States, and for such other purposes of mutual interest as may be agreed to by the governments of the United States and the country from which the currencies derive.

(e) Deposit of fees; availability

Notwithstanding the provisions of section 1933(b)(4)(E) [1] of this title, (1) fees collected for the issuance of informational media guaranties shall be deposited in the special account and shall be available for payments under informational media guaranties; and (2) the Director may require the payment of a minimum charge of up to fifty dollars for issuance of guaranty contracts, or amendments thereto.

(f) Advance payments

The Director is further authorized, under such terms as he may prescribe, to make advance payments under informational media guaranties: *Provided*, That currencies receivable from holders of such guaranties on account of such advance payments shall be paid to the United States within nine months from the date of the advance payment and that appropriate security to assure such payments is required before any advance payment is made.

(g) Separate accounts; transfers

As soon as feasible after July 18, 1956, all assets, liabilities, income, expenses, and charges of whatever kind pertaining to informational media guaranties, including any charges against the authority to issue notes provided in section 1509(c)(2) [1] of this title, cumulative from April 3, 1948, shall be accounted for separately from other guaranties issued pursuant to section 1933(b) [1] of this title: *Provided*, That there shall be transferred from the special account established pursuant to subsection (b), into the account available for payments under guaranties other than the informational media guaranties, an amount equal to the total of the fees received for the issuance of guaranties other than informational media guaranties, and used to make payments under informational media guaranties.

(h) Appropriations for restoration of realized impairment to capital; liquidation of notes

(1) There is authorized to be appropriated annually an amount to restore in whole or in part any realized impairment to the capital used in carrying on the authority to make informational media guaranties, as provided in subsection (c), through the end of the last completed fiscal year.

(2) Such impairment shall consist of the amount by which the losses incurred and interest accrued on notes exceed the revenue earned and any previous appropriations made for the restoration of impairment. Losses shall include the dollar losses on foreign currencies sold, and the dollar cost of

foreign currencies which (a) the Secretary of the Treasury, after consultation with the Director, has determined to be unavailable for, or in excess of, requirements of the United States, or (b) have been transferred to other accounts without reimbursement to the special account.

(3) Dollars appropriated pursuant to this section shall be applied to the payment of interest and in satisfaction of notes issued or assumed hereunder, and to the extent of such application to the principal of the notes, the Director is authorized to issue notes to the Secretary of the Treasury which will bear interest at a rate to be determined by the Secretary of the Treasury, taking into consideration the current average market yields of outstanding marketable obligations of the United States having maturities comparable to the guaranties. The currencies determined to be unavailable for, or in excess of, requirements of the United States as provided above shall be transferred to the Secretary of the Treasury to be held until disposed of, and any dollar proceeds realized from such disposition shall be deposited in miscellaneous receipts.

(4) Section 1476(a) of this title [1] shall not apply with respect to any amounts appropriated under this section for the purpose of liquidating the notes (and any accrued interest thereon) which were assumed in the operation of the informational media guaranty program under this section and which were outstanding on August 24, 1982.

(Jan. 27, 1948, ch. 36, title X, §1011, as added Aug. 26, 1954, ch. 937, title V, §544(a), 68 Stat. 862; amended Aug. 26, 1954, ch. 937, title V, §544(g), as added July 18, 1956, ch. 627, §11(a), 70 Stat. 563, and amended Pub. L. 85–141, §11(b)(1), Aug. 14, 1957, 71 Stat. 365; Pub. L. 85–477, ch. V, §502(i), June 30, 1958, 72 Stat. 274; Pub. L. 86–108, ch. VII, §701(c), July 24, 1959, 73 Stat. 257; Pub. L. 97–241, title III, §304(f), Aug. 24, 1982, 96 Stat. 293.)

REFERENCES IN TEXT

Section 1933 of this title, referred to in subsecs. (a), (c), (e), and (g), was repealed by Pub. L. 87–195, pt. III, §642(a)(2), Sept. 4, 1961, 75 Stat. 460. See section 2351 of this title.

Section 1509 of this title, referred to in subsecs. (b) and (g), was repealed by act Aug. 26, 1954, ch. 937, title V, §542(a)(4), (6), (9), (10), (11), 68 Stat. 861. See section 1754 et seq. of this title.

Section 1476(a) of this title, referred to in subsec. (h)(4), was repealed by Pub. L. 105–277, div. G, subdiv. A, title XIII, §1336(1), Oct. 21, 1998, 112 Stat. 2681–790.

AMENDMENTS

1982—Subsec. (h)(4). Pub. L. 97–241, §304(f), added par. (4).

1959—Subsec. (a). Pub. L. 86–108 provided that the purpose of making informational media guaranties shall be the achievement of the foreign policy objectives of the United States, including the objective mentioned in former sections 1933(b)(4)(A) and 1933(b)(4)(G) of this title, now covered by section 2351 of this title.

1958—Subsec. (h). Pub. L. 85–477 added subsec. (h).

1956—Subsec. (a). Act Aug. 26, 1954, §544(g), as added by act July 18, 1956, designated as subsec. (a) the entire former section and amended it to eliminate provisions which permitted the Director to make guaranties against funds made available by notes issued pursuant to section 1509(c)(2) of this title and which limited the amount of such guaranties in any fiscal year to not more than $10,000,000. Such provisions were covered by subsecs. (b) to (g) of this section.

Subsecs. (b) to (g). Act Aug. 26, 1954, §544(g), as added by act July 18, 1956, added subsecs (b) to (g).

REPEALS

Section 544(a), (g) of act Aug. 26, 1954, cited as a credit to this section, was repealed by section 11(b)(1) of Pub. L. 85–141, except in so far as section 544(a), (g) affected this section.

TRANSFER OF FUNCTIONS

United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau) abolished and functions transferred to Secretary of State, see sections 6531 and 6532 of this title.

[1] *See References in Text note below.*

§1442a. National security measures

(a) Restriction

In coordination with other appropriate executive branch officials, the Secretary of State shall take all appropriate steps to—

(1) prevent any agent of a foreign power from participating in educational and cultural exchange programs under this chapter;

(2) ensure that no person who is involved in the research, development, design, testing, evaluation, or production of missiles or weapons of mass destruction is a participant in any program of educational or cultural exchange under this chapter if such person is employed by, or attached to, an entity within a country that has been identified by any element of the United States intelligence community (as defined by section 3003(4) of title 50) within the previous 5 years as having been involved in the proliferation of missiles or weapons of mass destruction; and

(3) ensure that no person who is involved in the research, development, design, testing, evaluation, or production of chemical or biological weapons for offensive purposes is a participant in any program of educational or cultural exchange under this chapter.

(b) Definitions

(1) The term "appropriate executive branch officials" means officials from the elements of the United States Government listed pursuant to section 101 of the Intelligence Authorization Act for Fiscal Year 1999 (Public Law 105–272).

(2) The term "agent of a foreign power" has the same meaning as set forth in section 1801(b)(1)(B) and (b)(2) of title 50, and does not include any person who acts in the capacity defined under section 1801(b)(1)(A) of title 50.

(Jan. 27, 1948, ch. 36, title X, §1012, as added Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title IV, §403], Nov. 29, 1999, 113 Stat. 1536, 1501A–446.)

REFERENCES IN TEXT

Section 101 of the Intelligence Authorization Act for Fiscal Year 1999, referred to in subsec. (b)(1), is section 101 of Pub. L. 105–272, title I, Oct. 20, 1998, 112 Stat. 2397, which is not classified to the Code.

SUBCHAPTER II—INTERCHANGE OF PERSONS, KNOWLEDGE, AND SKILLS BETWEEN UNITED STATES AND FOREIGN COUNTRIES

§1446. Repealed. Pub. L. 87–256, §111(a)(2), Sept. 21, 1961, 75 Stat. 538

Section, acts Jan. 27, 1948, ch. 36, title II, §201, 62 Stat. 7; June 27, 1952, ch. 477, title IV, §402(f), 66 Stat. 276; June 4, 1956, ch. 356, 70 Stat. 241, authorized the interchange of persons on a reciprocal basis between the United States and other countries, provided for orientation courses, admission as nonimmigrant visitors, deportation, and eligibility requirements for reentry under changed status. See section 2451 et seq. of this title.

CONTINUATION OF CERTAIN EXECUTIVE ORDERS, AGREEMENTS, DETERMINATIONS, REGULATIONS, CONTRACTS, APPOINTMENTS, AND OTHER ACTIONS

Continuation in full force and effect, and applicability to the appropriate provisions of the Mutual Educational and Cultural Exchange Act of 1961, set out as section 2451 et seq. of this title, until modified or superseded by appropriate authority, of all Executive orders, agreements, determinations, regulations, contracts, appointments, and other actions issued, concluded, or taken under authority of this section, see section 111(b) of Pub. L. 87–256, set out as a note under section 2451 of this title.

§1447. Books and materials

The Secretary is authorized to provide for interchanges between the United States and other countries of books and periodicals, including government publications, for the translation of such writings, and for the preparation, distribution, and interchange of other educational materials.

(Jan. 27, 1948, ch. 36, title II, §202, 62 Stat. 7.)

§1448. Assistance to certain institutions abroad founded or sponsored by United States citizens

The Secretary is authorized to provide for assistance to schools, libraries, and community centers abroad, founded or sponsored by citizens of the United States, and serving as demonstration centers for methods and practices employed in the United States. In assisting any such schools, however, the Secretary shall exercise no control over their educational policies and shall in no case furnish assistance of any character which is not in keeping with the free democratic principles and the established foreign policy of the United States.

(Jan. 27, 1948, ch. 36, title II, §203, 62 Stat. 7.)

PARTIAL REPEAL

Pub. L. 87–256, §111(a)(2), Sept. 21, 1961, 75 Stat. 538, repealed this section insofar as it relates to schools. See section 2451 et seq. of this title.

CONTINUATION OF CERTAIN EXECUTIVE ORDERS, AGREEMENTS, DETERMINATIONS, REGULATIONS, CONTRACTS, APPOINTMENTS, AND OTHER ACTIONS

Continuation in full force and effect, and applicability to the appropriate provisions of the Mutual Educational and Cultural Exchange Act of 1961, set out as section 2451 et seq. of this title, until modified or superseded by appropriate authority, of all Executive orders, agreements, determinations, regulations, contracts, appointments, and other actions issued, concluded, or taken under authority of this section, see section 111(b) of Pub. L. 87–256, set out as a note under section 2451 of this title.

SUBCHAPTER III—ASSIGNMENT OF SPECIALISTS

§1451. Assignment of Government employees to requesting countries; governing regulations

The Director of the United States Information Agency is authorized, when the government of another country is desirous of obtaining the services of a person having special scientific or other technical or professional qualifications, from time to time to assign or authorize the assignment for service, to or in cooperation with such government, any person in the employ or service of the Government of the United States who has such qualifications, with the approval of the Government agency in which such person is employed or serving. No person shall be assigned for service to or in cooperation with the government of any country unless (1) the Director finds that such assignment is necessary in the national interest of the United States, or (2) such government agrees to reimburse the United States in an amount equal to the compensation, travel expenses, and allowances payable to such person during the period of such assignment in accordance with the provisions of section 1452 of this title, or (3) such government shall have made an advance of funds, property, or services as provided in section 1479 of this title. Nothing in this chapter, however, shall authorize the assignment of such personnel for service relating to the organization, training, operation, development, or combat equipment of the armed forces of a foreign government.

(Jan. 27, 1948, ch. 36, title III, §301, 62 Stat. 7; Pub. L. 97–241, title III, §304(a)(1)(A), (2)(A), Aug. 24, 1982, 96 Stat. 292.)

AMENDMENTS

1982—Pub. L. 97–241 substituted "person in the employ" for "citizen of the United States in the employ", "Director of the United States Information Agency" for "Secretary", and "Director finds" for "Secretary finds".

TRANSFER OF FUNCTIONS

United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau) abolished and functions transferred to Secretary of State, see sections 6531 and 6532 of this title.

REFERENCES TO ACT MAY 25, 1938

Act Jan. 27, 1948, ch. 36, title X, §1004(c), 62 Stat. 14, provided that: "Any reference in the Foreign Service Act of 1946 (60 Stat. 999) [section 801 et seq. of this title], or in any other law, to provisions of such Act of May 25, 1938, as amended [section 118e of former Title 5, Executive Departments and Government Officers and Employees], shall be construed to be applicable to the appropriate provisions of titles III and IX of this Act [sections 1451 to 1453, 1478, and 1479 of this title]."

EFFECTIVENESS OF EXECUTIVE ORDERS AND REGULATIONS UNDER ACT MAY 25, 1938, CH. 277, 52 STAT. 442

Act Jan. 27, 1948, ch. 36, title X, §1004(b), 62 Stat. 14, provided that: "Existing Executive orders and regulations pertaining to the administration of such Act of May 25, 1938, as amended [former section 118e of former Title 5, Executive Departments and Government Officers and Employees], shall remain in effect until superseded by regulations prescribed under the provisions of this Act [this chapter]."

§1452. Status and allowances of assigned personnel

Any person in the employ or service of the Government of the United States, while assigned for service to or in cooperation with another government under the authority of this chapter, shall be considered, for the purpose of preserving his rights, allowances, and privileges as such, an officer or employee of the Government of the United States and of the Government agency from which assigned and he shall continue to receive compensation from that agency. He may also receive, under such regulations as the President may prescribe, representation allowances similar to those allowed under section 4085 of this title. The authorization of such allowances and other benefits and the payment thereof out of any appropriations available therefor shall be considered as meeting all the requirements of section 5536 of title 5.

(Jan. 27, 1948, ch. 36, title III, §302, 62 Stat. 8; Pub. L. 97–241, title III, §304(a)(1)(B), (3), Aug. 24, 1982, 96 Stat. 292.)

AMENDMENTS

1982—Pub. L. 97–241 substituted "person in the employ or service of the Government of the United States" for "citizen of the United States", "section 4085 of this title" for "section 1131(3) of this title", and "section 5536 of title 5" for "section 1765 of the Revised Statutes". Prior to the amendment by Pub. L. 97–241, "section 5536 of title 5" had been substituted for "section 1765 of the Revised Statutes" (which was formerly classified to section 70 of title 5) on authority of Pub. L. 89–554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees, thereby requiring no change in text.

§1453. Acceptance of office under foreign governments of assigned personnel; oath of allegiance

Any person in the employ or service of the Government of the United States while assigned for service to or in cooperation with another government under authority of this chapter may, at the discretion of his Government agency, with the concurrence of the Director of the United States Information Agency, and without additional compensation therefor, accept an office under the government to which he is assigned, if the acceptance of such an office in the opinion of such agency is necessary to permit the effective performance of duties for which he is assigned, including the making or approving on behalf of such foreign government the disbursement of funds provided by

such government or of receiving from such foreign government funds for deposit and disbursement on behalf of such government, in carrying out programs undertaken pursuant to this chapter: *Provided, however*, That such acceptance of office shall in no case involve the taking of an oath of allegiance to another government.

(Jan. 27, 1948, ch. 36, title III, §303, 62 Stat. 8; Pub. L. 97–241, title III, §304(a)(1)(B), (2)(B), Aug. 24, 1982, 96 Stat. 292.)

AMENDMENTS

1982—Pub. L. 97–241 substituted "person in the employ or service of the Government of the United States" for "citizen of the United States" and "Director of the United States Information Agency" for "Secretary".

TRANSFER OF FUNCTIONS

United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau) abolished and functions transferred to Secretary of State, see sections 6531 and 6532 of this title.

SUBCHAPTER IV—PARTICIPATION BY GOVERNMENT AGENCIES

§1456. Utilization of facilities and personnel of other Government agencies; reimbursement to agencies; report to Congress

The Secretary is authorized, in carrying on any activity under the authority of this chapter, to utilize, with the approval of the President, the services, facilities, and personnel of the other Government agencies. Whenever the Secretary shall use the services, facilities, or personnel of any Government agency for activities under authority of this chapter, the Secretary shall pay for such performance out of funds available to the Secretary under this chapter, either in advance, by reimbursement, or direct transfer. The Secretary shall include in each report submitted to the Congress under section 1439 [1] of this title a statement of the services, facilities, and personnel of other Government agencies utilized in carrying on activities under the authority of this chapter, showing the names and salaries of the personnel utilized, or performing services utilized, during the period covered by such report, and the amounts paid to such other agencies under this section as payment for such performance.

(Jan. 27, 1948, ch. 36, title IV, §401, 62 Stat. 8.)

REFERENCES IN TEXT

Section 1439 of this title, referred to in text, was repealed by Pub. L. 96–470, title I, §117, Oct. 19, 1980, 94 Stat. 2240.

[1] *See References in Text note below.*

§1457. Rendition of technical and other services to foreign governments; limitations

A Government agency, at the request of the Secretary, may perform such technical or other services as such agency may be competent to render for the government of another country desirous of obtaining such services, upon terms and conditions which are satisfactory to the Secretary and to the head of the Government agency, when it is determined by the Secretary that such services will

contribute to the purposes of this chapter. However, nothing in this chapter shall authorize the performance of services relating to the organization, training, operation, development, or combat equipment of the armed forces of a foreign government.

(Jan. 27, 1948, ch. 36, title IV, §402, 62 Stat. 9.)

§1458. Policy governing rendition of services

In authorizing the performance of technical and other services under this subchapter, it is the sense of the Congress (1) that the Secretary shall encourage through any appropriate Government agency the performance of such services to foreign governments by qualified private American individuals and agencies, and shall not enter into the performance of such services to any foreign government where such services may be performed adequately by qualified private American individuals and agencies and such qualified individuals and agencies are available for the performance of such services; (2) that if such services are rendered by a Government agency, they shall demonstrate the technical accomplishments of the United States, such services being of an advisory, investigative, or instructional nature, or a demonstration of a technical process; (3) that such services shall not include the construction of public works or the supervision of the construction of public works, and that, under authority of this chapter, a Government agency shall render engineering services related to public works only when the Secretary shall determine that the national interest demands the rendering of such services by a Government agency, but this policy shall not be interpreted to preclude the assignment of individual specialists as advisers to other governments as provided under subchapter III of this chapter, together with such incidental assistance as may be necessary for the accomplishment of their individual assignments.

(Jan. 27, 1948, ch. 36, title IV, §403, 62 Stat. 9.)

SUBCHAPTER V—DISSEMINATION ABROAD OF INFORMATION ABOUT THE UNITED STATES

§1461. General authorization

(a) Dissemination of information abroad

The Secretary and the Broadcasting Board of Governors are authorized to use funds appropriated or otherwise made available for public diplomacy information programs to provide for the preparation, dissemination, and use of information intended for foreign audiences abroad about the United States, its people, and its policies, through press, publications, radio, motion pictures, the Internet, and other information media, including social media, and through information centers, instructors, and other direct or indirect means of communication.

(b) Dissemination of information within the United States

(1) Except as provided in paragraph (2), the Secretary and the Broadcasting Board of Governors may, upon request and reimbursement of the reasonable costs incurred in fulfilling such a request, make available, in the United States, motion pictures, films, video, audio, and other materials disseminated abroad pursuant to this chapter, the United States International Broadcasting Act of 1994 (22 U.S.C. 6201 et seq.), the Radio Broadcasting to Cuba Act (22 U.S.C. 1465 et seq.), or the Television Broadcasting to Cuba Act (22 U.S.C. 1465aa et seq.). Any reimbursement pursuant to this paragraph shall be credited to the applicable appropriation account of the Department of State or the Broadcasting Board of Governors, as appropriate. The Secretary and the Broadcasting Board of Governors shall issue necessary regulations—

(A) to establish procedures to maintain such material;

(B) for reimbursement of the reasonable costs incurred in fulfilling requests for such material; and

(C) to ensure that the persons seeking release of such material have secured and paid for necessary United States rights and licenses.

(2) With respect to material disseminated abroad before the effective date of section 1078 of the National Defense Authorization Act for Fiscal Year 2013—

(A) the Secretary and the Broadcasting Board of Governors shall make available to the Archivist of the United States, for domestic distribution, motion pictures, films, videotapes, and other material 12 years after the initial dissemination of the material abroad; and

(B) the Archivist shall be the official custodian of the material and shall issue necessary regulations to ensure that persons seeking its release in the United States have secured and paid for necessary United States rights and licenses and that all costs associated with the provision of the material by the Archivist shall be paid by the persons seeking its release, in accordance with paragraph (4).

(3) The Archivist may undertake the functions described in paragraph (1) on behalf of and at the request of the Secretary or the Broadcasting Board of Governors.

(4) The Archivist may charge fees to recover the costs described in paragraphs (1) and (2), in accordance with section 2116(c) of title 44. Such fees shall be paid into, administered, and expended as part of the National Archives Trust Fund.

(c) No requirement to provide material in different format

Nothing in this section may be construed to require the Secretary or the Broadcasting Board of Governors to make material disseminated abroad available in any format other than in the format disseminated abroad.

(Jan. 27, 1948, ch. 36, title V, §501, 62 Stat. 9; Pub. L. 92–352, title II, §204, July 13, 1972, 86 Stat. 494; Pub. L. 96–60, title II, §208, Aug. 15, 1979, 93 Stat. 401; Pub. L. 101–246, title II, §202, Feb. 16, 1990, 104 Stat. 49; Pub. L. 112–239, div. A, title X, §1078(a), Jan. 2, 2013, 126 Stat. 1957.)

REFERENCES IN TEXT

The United States International Broadcasting Act of 1994, referred to in subsec. (b)(1), is title III of Pub. L. 103–236, Apr. 30, 1994, 108 Stat. 432, which is classified principally to chapter 71 (§6201 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6201 of this title and Tables.

The Radio Broadcasting to Cuba Act, referred to in subsec. (b)(1), is Pub. L. 98–111, Oct. 4, 1983, 97 Stat. 749, which is classified generally to subchapter V–A (§1465 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1465 of this title and Tables.

The Television Broadcasting to Cuba Act, referred to in subsec. (b)(1), is part D of title II of Pub. L. 101–246, Feb. 16, 1990, 104 Stat. 58, which is classified principally to subchapter V–B (§1465aa et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1465aa of this title and Tables.

For the effective date of section 1078 of the National Defense Authorization Act for Fiscal Year 2013 [Pub. L. 112–239], referred to in subsec. (b)(2), see section 1078(e) of Pub. L. 112–239, set out as an Effective Date of 2013 Amendment note under section 1437 of this title.

AMENDMENTS

2013—Pub. L. 112–239 amended section generally. Prior to amendment, section provided general authorization to disseminate information about the United States abroad and domestically.

1990—Pub. L. 101–246 designated existing provisions as subsec. (a), substituted "Subject to subsection (b) of this section, any such information" for "Any such information" in second sentence, and added subsec. (b).

1979—Pub. L. 96–60 substituted " 'Problems of Communism' and the 'English Teaching Forum' which may be sold" for " 'Problems of Communism' which may continue to be sold" in parenthetical clause.

1972—Pub. L. 92–352 substituted provisions relating to the prohibition, except as otherwise provided, on the dissemination of information within the United States, its territories, or possessions, other than "Problems of Communism" which could continue to be sold at the Government Printing Office, for provisions relating to

the availability of press release or radio scripts for examination by representatives of United States press associations, newspapers, magazines, radio systems, and stations, and, on request, Members of Congress.

EFFECTIVE DATE OF 2013 AMENDMENT

Amendment by Pub. L. 112–239 effective and applicable on the date that is 180 days after Jan. 2, 2013, see section 1078(e) of Pub. L. 112–239, set out as a note under section 1437 of this title.

RULE OF CONSTRUCTION

Pub. L. 112–239, div. A, title X, §1078(b), Jan. 2, 2013, 126 Stat. 1958, provided that: "Nothing in this section [amending this section and sections 1437, 1461–1a, and 1462 of this title and enacting provisions set out as a note under section 1437 of this title], or in the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1431 et seq.), may be construed to affect the allocation of funds appropriated or otherwise made specifically available for public diplomacy or to authorize appropriations for Broadcasting Board of Governors programming other than for foreign audiences abroad."

TRANSFER OF FUNCTIONS

United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau), referred to in notes below, abolished and functions transferred to Secretary of State, see sections 6531 and 6532 of this title.

USIA NETWORK FOR DISSEMINATION OF INFORMATION CONCERNING UNITED STATES PROGRAMS TO COMBAT NARCOTICS AND OTHER CONTROLLED SUBSTANCES

Pub. L. 101–246, title II, §210, Feb. 16, 1990, 104 Stat. 54, provided that: "The United States Information Agency shall establish and maintain an international narcotics information network. The network shall disseminate prompt, accurate, and comprehensive information to foreign governments concerning programs and activities of the United States Government—

"(1) to eliminate the illicit production, trafficking, and abuse of narcotic and psychotropic drugs and other controlled substances within the United States; and

"(2) to promote drug prevention and rehabilitation in the United States."

[For abolition of United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau), transfer of functions, and treatment of references thereto, see sections 6531, 6532, and 6551 of this title.]

PUBLIC SERVICE ANNOUNCEMENTS TO PROMOTE CHILD SURVIVAL

Pub. L. 101–246, title II, §233, Feb. 16, 1990, 104 Stat. 57, provided that: "The United States Information Agency shall establish and maintain through the Voice of America a system of public service announcements focusing on child survival techniques."

[For abolition of United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau), transfer of functions, and treatment of references thereto, see sections 6531, 6532, and 6551 of this title.]

USIA POSTS AND PERSONNEL OVERSEAS

Pub. L. 100–204, title II, §204, Dec. 22, 1987, 101 Stat. 1373, prohibited use of appropriated funds to pay expenses associated with closing of United States Information Agency posts abroad or to pay expenses associated with Bureau of Management or with television and film service of Agency if an Agency post abroad was closed after Apr. 1, 1987, and not reopened within 180 days after Dec. 22, 1987, placed limitation on reduction of number of positions filled by American employees of Agency stationed abroad, authorized waiver of both prohibition and limitation, and permitted Director, in case of a sequestration order, to submit a report to congressional committees proposing a list of Agency posts to be downgraded or closed in order to comply with sequestration order, prior to repeal by Pub. L. 102–138, title II, §206(c), Oct. 28, 1991, 105 Stat. 693. See section 1475g of this title.

REDESIGNATION OF INTERNATIONAL COMMUNICATION AGENCY AS UNITED STATES INFORMATION AGENCY

Pub. L. 97–241, title III, §303, Aug. 24, 1982, 96 Stat. 291, provided that:

"(a) The International Communication Agency, established by Reorganization Plan Numbered 2 of 1977 [set out as a note below], is hereby redesignated the United States Information Agency. The Director of the International Communication Agency or any other official of the International Communication Agency is hereby redesignated the Director or other official, as appropriate, of the United States Information Agency.

"(b) Any reference in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding to the International Communication Agency or the Director or other official of the International Communication Agency shall be deemed to refer respectively to the United States Information Agency or the Director or other official of the United States Information Agency, as so redesignated by subsection (a)."

[For abolition of United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau), transfer of functions, and treatment of references thereto, see sections 6531, 6532, and 6551 of this title.]

REORGANIZATION PLAN NO. 8 OF 1953

EFF. AUG. 1, 1953, 18 F.R. 4542, 67 STAT. 642, AS AMENDED ACT JUNE 28, 1955, CH. 189, §12(C)(21), 69 STAT. 183; REORG. PLAN NO. 2 OF 1977, §9(B), EFF. OCT. 11, 1977, 42 F.R. 62461, 91 STAT. 1639

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, June 1, 1953, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949, as amended [see 5 U.S.C. 901 et seq.].

UNITED STATES INFORMATION AGENCY

SECTION 1. ESTABLISHMENT OF AGENCY

[Superseded. Reorg. Plan No. 2 of 1977, §9(b), eff. Oct. 11, 1977, 42 F.R. 62461, 91 Stat. 1639, set out as a note below. Section was amended by act June 28, 1955, ch. 189, §12(c)(21), 69 Stat. 183 and related to the establishment of the United States Information Agency.]

SEC. 2. TRANSFER OF FUNCTIONS

(a) Subject to subsection (c) of this section, there are hereby transferred to the Director (1) the functions vested in the Secretary of State by Title V of the United States Information and Educational Exchange Act of 1948, as amended [22 U.S.C. 1461, 1462], and so much of functions with respect to the interchange of books and periodicals and aid to libraries and community centers under sections 202 and 203 of the said Act [22 U.S.C. 1447, 1448] as is an integral part of information programs under that Act [22 U.S.C. 1431–1479], together with so much of the functions vested in the Secretary of State by other provisions of the said Act [22 U.S.C. 1431–1479] as is incidental to or is necessary for the performance of the functions under Title V and sections 202 and 203 transferred by this section, and (2) [Superseded. Reorg. Plan No. 2 of 1977, §9(b), eff. Oct. 11, 1977, 42 F.R. 62461, 91 Stat. 1639. Paragraph related to functions of the Secretary of State with respect to information programs relating to Germany and Austria.]

(b) [Superseded. Reorg. Plan No. 2 of 1977, §9(b), eff. Oct. 11, 1977, 42 F.R. 62461, 91 Stat. 1639. Subsection related to the transfer to the Director of functions vested in the Director for Mutual Security by the Mutual Security Act of 1951, as amended, act Oct. 10, 1951, ch. 479, 65 Stat. 373, which related to foreign information programs, as formerly provided for in section 1652 of this title.]

(c)(1) The Secretary of State shall direct the policy and control the content of a program, for use abroad, on official United States positions, including interpretations of current events, identified as official positions by an exclusive descriptive label.

(2) The Secretary of State shall continue to provide to the Director on a current basis full guidance concerning the foreign policy of the United States.

(3) [Superseded. Reorg. Plan No. 2 of 1977, §9(b), 42 F.R. 62461, 91 Stat. 1639. Paragraph provided that nothing in subsec. (c) of this section was to affect the functions of the Secretary of State with respect to conducting negotiations with other governments.]

(d) To the extent the President deems it necessary in order to carry out the functions transferred by the foregoing provisions of this section, he may authorize the Director to exercise, in relation to the respective functions so transferred, any authority or part thereof available by law, including appropriation acts, to the Secretary of State, the Director for Mutual Security, or the Director of the Foreign Operations Administration, in respect of the said transferred functions.

SEC. 3. PERFORMANCE OF TRANSFERRED FUNCTIONS

[Superseded. Reorg. Plan No. 2 of 1977, §9(b), 42 F.R. 62461, 91 Stat. 1639. Section related to the performance of transferred functions.]

SEC. 4. INCIDENTAL TRANSFERS

[Superseded. Reorg. Plan No. 2 of 1977, §9(b), 42 F.R. 62461, 91 Stat. 1639. Section related to incidental transfers.]

SEC. 5. INTERIM PROVISIONS

[Superseded. Reorg. Plan No. 2 of 1977, §9(b), 42 F.R. 62461, 91 Stat. 1639. Section related to interim provisions.]

[The United States Information Agency was abolished and replaced by the International Communication Agency pursuant to Reorg. Plan No. 2 of 1977, set out below, effective on or before July 1, 1978, at such time as specified by the President. The International Communication Agency was redesignated the United States Information Agency by section 303 of Pub. L. 97–241, title III, Aug. 24, 1982, 96 Stat. 291, set out as a note above. For abolition of United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau), transfer of functions, and treatment of references thereto, see sections 6531, 6532, and 6551 of this title.]

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 8 of 1953, prepared in accordance with the Reorganization Act of 1949, as amended, and providing for the reorganization of foreign information functions. My reasons for proposing this plan are stated in another message transmitted to the Congress today.

After investigation, I have found and hereby declare that each reorganization included in Reorganization Plan No. 8 of 1953 is necessary to accomplish one or more of the purposes set forth in section 2(a) of the Reorganization Act of 1949, as amended. I have also found and hereby declare that it is necessary to include in the accompanying reorganization plan, by reason of reorganizations made thereby, provisions for the appointment and compensation of officers specified in section 1 of the plan. The rates of compensation fixed for these officers are, respectively, those which I have found to prevail in respect of comparable officers in the executive branch of the Government.

I expect that the improved organizational arrangement provided for in Reorganization Plan No. 8 of 1953 will lead to substantial economies and significantly improved effectiveness of administration. It is not practicable, however, to itemize at this time the reductions in expenditures which will probably be brought about by the taking effect of the reorganizations included in the reorganization plan.

DWIGHT D. EISENHOWER.

THE WHITE HOUSE, June 1, 1953.

REORGANIZATION PLAN NO. 2 OF 1977

42 F.R. 62461, 91 STAT. 1636, AS AMENDED PUB. L. 101–246, TITLE II, §204(C), FEB. 16, 1990, 104 STAT. 50; PUB. L. 105–277, DIV. G, SUBDIV. A, TITLE XIII, §§1334(B), 1336(6), OCT. 21, 1998, 112 STAT. 2681–786, 2681–790; PUB. L. 106–113, DIV. B, §1000(A)(7) [DIV. A, TITLE IV, §404(A), (C)], NOV. 29, 1999, 113 STAT. 1536, 1501A–446, 1501A–447; PUB. L. 107–77, TITLE IV, §407(C), NOV. 28, 2001, 115 STAT. 790

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, October 11, 1977,[1] pursuant to the provisions of chapter 9 of title 5 of the United States Code.[2]

INTERNATIONAL COMMUNICATION AGENCY

SECTION 1. ESTABLISHMENT OF THE INTERNATIONAL COMMUNICATION AGENCY

[Repealed. Pub. L. 105–277, div. G, subdiv. A, title XIII, §1336(6), Oct. 21, 1998, 112 Stat. 2681–790. Section established the International Communication Agency.]

SEC. 2. DIRECTOR

[Repealed. Pub. L. 105–277, div. G, subdiv. A, title XIII, §1336(6), Oct. 21, 1998, 112 Stat. 2681–790. Section provided for appointment and responsibilities of Director of the Agency.]

SEC. 3. DEPUTY DIRECTOR

[Repealed. Pub. L. 105–277, div. G, subdiv. A, title XIII, §1336(6), Oct. 21, 1998, 112 Stat. 2681–790. Section provided for appointment and duties of Deputy Director of the Agency.]

SEC. 4. ASSOCIATE DIRECTORS

[Repealed. Pub. L. 105–277, div. G, subdiv. A, title XIII, §1336(6), Oct. 21, 1998, 112 Stat. 2681–790. Section provided for appointment, titles, and functions of four Associate Directors of the Agency.]

SEC. 5. PERFORMANCE OF FUNCTIONS

[Repealed. Pub. L. 105–277, div. G, subdiv. A, title XIII, §1336(6), Oct. 21, 1998, 112 Stat. 2681–790. Section provided for establishment of bureaus, offices, divisions, and other units within the Agency and for performance of functions of the Director within the Agency.]

SEC. 6. NEGOTIATIONS

[Repealed. Pub. L. 105–277, div. G, subdiv. A, title XIII, §1336(6), Oct. 21, 1998, 112 Stat. 2681–790. Section authorized Director to conduct negotiations with representatives of foreign states or organizations on matters for which responsibility was vested in the Director or in the Agency.]

SEC. 7. TRANSFER OF FUNCTIONS

(a) There are hereby transferred to the Director all functions vested in the President, the Secretary of State, the Department of State, the Director of the United States Information Agency, and the United States Information Agency pursuant to the following:

(1) the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1431–1479), except to the extent that any function in sections 302, 401, or 602 [22 U.S.C. 1452, 1456, or 1467] is vested in the President;

(2) the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451–2458a), except for: (A) such functions as are vested by sections 102(b)(6), 102(b)(10), 104(a), 104(e)(1), 104(e)(2), 104(f), 104(g), 105(a), 105(b), 105(c), 106(a), 108 [22 U.S.C. 2452(b)(6), (b)(10), 2454(a), (e)(1), (2), (f), (g), 2455(a), (b), (c), 2456(a), 2458]; (B) to the extent that such functions were assigned to the Secretary of Health, Education and Welfare immediately prior to the effective date of this Reorganization Plan, sections 104(b), 105(d)(2), 105(f), 106(d), and 106(f) [22 U.S.C. 2454(b), 2455(d)(2), (f), 2456(d), (f)]; and (C) to the extent that any function therein is vested in the President or the Secretary of State, sections 106(b) and 106(c) [22 U.S.C. 2456(b), (c)].

(3) Public Law 90–494 (22 U.S.C. [former] 929–932, 1221–1234), to the extent that such functions are vested in the Director of the United States Information Agency;

(4) Sections 522(3), 692(1), and 803(a)(4) of the Foreign Service Act of 1946, as amended (22 U.S.C. [former sections] 922(3), 1037a(1), and 1063(a)(4)), to the extent such functions are vested in the Director of the United States Information Agency or in the United States Information Agency.

(5) Section 4 of the United States Information Agency Appropriations Authorization Act of 1973, Public Law 93–168 [Nov. 29, 1973, 87 Stat. 689];

(6)(A) Sections 107(b), 204 and 205 of the Foreign Relations Authorization Act, Fiscal Year 1978, Public Law 95–105, 91 Stat. 844 [Aug. 17, 1977]; and (B) to the extent such functions are vested in the Director of the United States Information Agency, section 203 of the Act;

(7) The Center for Cultural and Technical Interchange Between East and West Act of 1960 (22 U.S.C. 2054–2057);

(8) Sections 101(a)(15)(J) and 212(e) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(J), 1182(e));

(9) Section 2(a)(1) of Reorganization Plan No. 8 of 1953 (22 U.S.C. 1461 note);

(10) Section 3(a) of the Arts and Artifacts Indemnity Act (20 U.S.C. 972(a));

(11) Section 7 of the Act of June 15, 1951, c. 138, 65 Stat. 71 ([former] 50 U.S.C. App. 2316);

(12) Section 9(b) of the National Foundation on the Arts and Humanities Act of 1965 (20 U.S.C. 958(b)), to the extent that such functions are vested in the Secretary of State;

(13) Section 112(a) of the Higher Education Act of 1965 (20 U.S.C. [former] 1009(a)), to the extent such functions are vested in the Department of State;

(14) Section 3(b)(1) of the Woodrow Wilson Memorial Act of 1968 (20 U.S.C. 80f(b)(1));

(15) Section 201 of Public Law 89–665, as amended by section 201(5) of Public Law 94–422 ([former] 16 U.S.C. 470i(a)(9));

(16) The third proviso in the twenty-third unnumbered paragraph of title V of Public Law 95–86 (headed "UNITED STATES INFORMATION AGENCY, SALARIES AND EXPENSES"), 91 Stat. 440–41 [Aug. 2, 1977];

(17) The twentieth unnumbered paragraph of title I of Public Law 95–86 (headed "CENTER FOR CULTURAL AND TECHNICAL INTERCHANGE BETWEEN EAST AND WEST"), 91 Stat. 424;

(18) Sections 4(d)(1)(F), 4(f)(1)(F), 4(g)(1)(F), and 4(h)(1)(F) of the Foreign Service Buildings Act, 1926,

as amended (22 U.S.C. 295(d)(1)(F), 295(f)(1)(F), 295(g)(1)(F), and 295(h)(1)(F)); and

(19) Sections 1, 2, and 3 of the Act of July 9, 1949, c. 301, 63 Stat. 408 (22 U.S.C. 2681–2683).

(b) There are hereby transferred to the Director all functions vested in the Assistant Secretary of State for Public Affairs pursuant to Section 2(a) of the John F. Kennedy Center Act (20 U.S.C. 76h(a)).

(c) The Director shall insure that the scholarly integrity and nonpolitical character of educational and cultural exchange activities vested in the Director are maintained.

SEC. 8. ESTABLISHMENT OF THE UNITED STATES ADVISORY COMMISSION ON INTERNATIONAL COMMUNICATION, CULTURAL, AND EDUCATIONAL AFFAIRS

(a) There is hereby established an advisory commission, to be known as the United States Advisory Commission on International Communication, Cultural and Educational Affairs (the "Commission") [the United States Advisory Commission on Public Diplomacy]. The Commission shall consist of seven members who shall be appointed by the President, by and with the advice and consent of the Senate. The members of the Commission shall represent the public interest and shall be selected from the cross section of educational, communications, cultural, scientific, technical, public service, labor and business and professional backgrounds. Not more than four members shall be from any one political party. The term of each member shall be three years except that of the original seven appointments, two shall be for a term of one year and two shall be for a term of two years. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed shall be appointed for the remainder of such term. Upon the expiration of a member's term of office, such member may continue to serve until a successor is appointed and has qualified. The President shall designate a member to chair the Commission.

(b) The functions now vested in the United States Advisory Commission on Information and in the United States Advisory Commission on International Educational and Cultural Affairs under sections 601 through 603 and 801(6) of the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1466–1468, 1471(6)), and under sections 106(b) and 107 of the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2456(b), 2457), respectively, are hereby consolidated and vested in the Commission, as follows:

The Commission shall formulate and recommend to the Director, the Secretary of State, and the President policies and programs to carry out the functions vested in the Director or the Agency, and shall appraise the effectiveness of policies and programs of the Agency. The Commission shall submit to the Congress, the President, the Secretary of State and the Director annual reports on programs and activities carried on by the Agency, including appraisals, where feasible, as to the effectiveness of the several programs. The Commission shall also include in such reports such recommendations as shall have been made by the Commission to the Director for effectuating the purposes of the Agency, and the action taken to carry out such recommendations. The Commission may also submit such other reports to the Congress as it deems appropriate, and shall make reports to the public in the United States and abroad to develop a better understanding of and support for the programs conducted by the Agency. The Commission's reports to the Congress shall include assessments of the degree to which the scholarly integrity and nonpolitical character of the educational and cultural exchange activities vested in the Director have been maintained, and assessments of the attitudes of foreign scholars and governments regarding such activities.

(c) The Commission shall have no authority with respect to the J. William Fulbright Foreign Scholarship Board or the United States National Commission for UNESCO. [As amended Pub. L. 101–246, title II, §204(c), Feb. 16, 1990, 104 Stat. 50; Pub. L. 105–277, div. G, subdiv. A, title XIII, §1334(b), Oct. 21, 1998, 112 Stat. 2681–786; Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title IV, §404(a), (c)], Nov. 29, 1999, 113 Stat. 1536, 1501A–446, 1501A–447; Pub. L. 107–77, title IV, §407(c), Nov. 28, 2001, 115 Stat. 790.]

[Section 6553 of this title provided that the United States Advisory Commission on Public Diplomacy, established under section 8 of Reorganization Plan Numbered 2 of 1977, set out above, was to continue to exist and operate until Oct. 1, 2005.]

[Any provisions of section 8 of Reorg. Plan No. 2 of 1977 inconsistent with 22 U.S.C. 1469 to no longer have legal effect on Jan. 20, 1989, and prohibition limiting membership of individuals from same political party is repealed, see [former] 22 U.S.C. 1469(d).]

[United States Advisory Commission on International Communication, Cultural and Educational Affairs was redesignated the United States Advisory Commission on Public Diplomacy by 22 U.S.C. 1469.]

SEC. 9. ABOLITIONS AND SUPERSESSIONS

(a) The following are hereby abolished:

(1) The United States Information Agency, including the offices of Director, Deputy Director, Deputy Director (Policy and Plans) (5 U.S.C. 5316(67)), Associate Director (Policy and Plans) (5 U.S.C. 5316(103)), and additional offices created by section 1(d) of Reorganization Plan No. 8 of 1953 (22 U.S.C. 1461 note), of

the United States Information Agency, provided that, pending the initial appointment of the Director, Deputy Director and Associate Directors of the Agency their functions shall be performed temporarily, but not for a period in excess of sixty (60) days, by such officers of the Department of State or of the United States Information Agency as the President shall designate;

(2) One of the offices of Assistant Secretary of State provided for in section 1 of the Act of May 26, 1949, c. 143, 63 Stat. 111, as amended (22 U.S.C. 2652), and in section 5315(22) of title 5 of the United States Code;

(3) The United States Advisory Commission on International Educational and Cultural Affairs (22 U.S.C. [former] 2456(b));

(4) The United States Advisory Commission on Information (22 U.S.C. [former] 1466–1468);

(5) All functions vested in or related to the United States Advisory Commission on International Educational and Cultural Affairs and the United States Advisory Commission on Information that are not transferred to the Director by section 7 or consolidated in the Commission by section 8 of this Reorganization Plan;

(6) The Advisory Committee on the Arts, all functions thereof, and all functions relating thereto (22 U.S.C. [former] 2456(c)); and

(7) The functions vested in the Secretary of State by section 3(e) of the Act of August 1, 1956, c. 841, 70 Stat. 890 (22 U.S.C. [former] 2670(e)).

(b) Sections 1, 2(a)(2), 2(b), 2(c)(3), 3, 4, and 5 of Reorganization Plan No. 8 of 1953 (22 U.S.C. 1461 note) are hereby superseded.

SEC. 10. OTHER TRANSFERS

So much of the personnel, property, records, and unexpended balances of appropriations, allocations and other funds employed, used, held, available, or to be made available in connection with the functions transferred or consolidated by this Reorganization Plan, as the Director of the Office of Management and Budget shall determine, shall be transferred to the appropriate department, agency, or commission at such time or times as the Director of the Office of Management and Budget shall provide, except that no such unexpended balances transferred shall be used for purposes other than those for which the appropriation was originally made. The Director of the Office of Management and Budget shall provide for terminating the affairs of all agencies, commissions, and offices abolished herein and for such further measures and dispositions as such Director deems necessary to effectuate the purposes of this Reorganization Plan.

SEC. 11. EFFECTIVE DATE

This Reorganization Plan shall become effective at such time or times, on or before July 1, 1978, as the President shall specify, but not sooner than the earliest time allowable under section 906 of title 5 of the United States Code.

[Amendment to Reorganization Plan No. 2 of 1977 [set out above] by Pub. L. 105–277 effective Oct. 1, 1999, see section 1301 of Pub. L. 105–277, set out as an Effective Date note under section 6531 of this title.]

[Pursuant to Ex. Ord. No. 12048, set out below, this Reorg. Plan is effective July 1, 1978.]

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 2 of 1977 to consolidate certain international communication, educational and cultural, and broadcasting activities of the United States Government. I am acting under the authority vested in me by the Reorganization Act, chapter 9 of title 5 of the United States Code. I am also acting pursuant to section 501 of the Foreign Relations Authorization Act, Fiscal Year 1978 (Public Law 95–105), which provides that my recommendations for reorganizing these activities be transmitted by October 31, 1977.

This reorganization will consolidate into a new agency, to be known as the Agency for International Communication, the functions now exercised by the State Department's Bureau of Educational and Cultural Affairs and the United States Information Agency.

The principal aspects of this proposal are:

—The new agency will take over USIA's international communications programs (including the Voice of America) and the international educational and cultural exchange activities now conducted by the Bureau of Educational and Cultural Affairs.

—The agency's Director will be the principal advisor on international information and exchange activities to the President, the National Security Council, and the Secretary of State. Under the direction of the Secretary of State, the Director will have primary responsibility within the

Government for the conduct of such activities. The Director, the Deputy Director and the Associate Directors of the new agency will be confirmed by the Senate.

—The two commissions that now advise USIA and the Bureau of Educational and Cultural Affairs will be combined into a single seven-member commission. Members of this nonpartisan commission will be chosen from fields related to the agency's mission. The commissioners will be appointed by the President and confirmed by the Senate.

The purpose of this reorganization is to broaden our informational, educational and cultural intercourse with the world, since this is the major means by which our government can inform others about our country, and inform ourselves about the rest of the world.

The new Agency for International Communication will play a central role in building these two-way bridges of understanding between our people and the other peoples of the world. Only by knowing and understanding each other's experiences can we find common ground on which we can examine and resolve our differences.

The new agency will have two distinct but related goals:

To tell the world about our society and policies—in particular our commitment to cultural diversity and individual liberty.

To tell ourselves about the world, so as to enrich our own culture as well as to give us the understanding to deal effectively with problems among nations.

As the world becomes more and more interdependent, such mutual understanding becomes increasingly vital. The aim of this reorganization, therefore, is a more effective dialogue among peoples of the earth. Americans—mostly immigrants or the descendants of immigrants—are particularly well suited to enter into such an undertaking. We have already learned much from those who have brought differing values, perspectives and experiences to our shores. And we must continue to learn.

Thus the new agency will lay heavy emphasis on listening to others, so as to learn something of their motivations and aspirations, their histories and cultures.

Several principles guided me in shaping this reorganization plan. Among the most important were:

—Maintaining the integrity of the educational and cultural exchange programs is imperative. To this end, the plan retains the Board of Foreign Scholarships, whose strong leadership has done so much to insure the high quality of the educational exchange program. In addition, I intend to nominate an Associate Director who will be responsible for the administration and supervision of educational and cultural functions consolidated in the new Agency. The responsibilities presently exercised by the Department of State in relation to the Center for Technical and Cultural Interchange Between East and West, Inc., will be transferred to the new agency without alteration.

—Keeping the Voice of America's news gathering and reporting functions independent and objective. The Voice's charter, enacted into law in 1976, provides that "VOA news will be accurate, objective, and comprehensive"; that VOA will "present a balanced and comprehensive projection of significant American thought and institutions"; and that VOA will present U.S. policies "clearly and effectively, and will also present responsible discussion and opinion on these policies." Under this Administration, VOA will be solely responsible for the content of news broadcasts—for there is no more valued coin than candor in the international marketplace of ideas. I also plan to nominate an Associate Director who will be responsible for the administration and supervision of the Voice of America.

—The new agency's activities must be straightforward, open, candid, balanced, and representative. They will not be given over to the advancement of the views of any one group, any one party or any one Administration. The agency must not operate in a covert, manipulative, or propagandistic way.

—Rights of U.S. Information Agency and State Department employees must be respected. In the new agency, their career achievements will be recognized and the best possible use made of their professional skills and abilities.

The Director of the new agency will assess and advise on the impact on worldwide public opinion of American foreign policy decisions. The Agency will coordinate the international information, educational, cultural and exchange programs conducted by the U.S. Government and will be a governmental focal point for private U.S. international exchange programs. It will also play a leading role within the U.S. Government in our efforts to remove barriers to the international exchange of ideas and information.

It is not practicable to specify all of the expenditure reductions and other economies that will result from the proposed reorganization, and therefore I do not do so. The reorganization will result in greater efficiency by unifying in Washington the management of programs which are already administered in a consolidated

manner in the field. For example, field officers will no longer report to two separate sets of supervisors and headquarters at home.

This plan abolishes the functions of the Advisory Committee on the Arts authorized by section 106(c) of the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2456(c)). Also abolished, as a result of the consolidation of certain functions of the United States Advisory Commission on Information and the United States Advisory Commission on International Educational and Cultural Affairs in the United States Advisory Commission on International Communication, Cultural and Educational Affairs, are the functions authorized by section 603 of the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1468) (requiring submission by the United States Advisory Commission on Information of a quarterly report to the Director of USIA and a semiannual report to the Congress). The new commission will report annually and at such other times as it deems appropriate (as does the existing Advisory Commission on International Educational and Cultural Affairs). Since appointments of all members of the new commission will be on a nonpartisan basis, as has been the case with the Advisory Commission on International Educational and Cultural Affairs, the requirement of section 602(a) of the U.S. Information and Educational Exchange Act (22 U.S.C. 1467(a)) that not more than three members of the Advisory Commission on Information shall be of the same political party is abolished.

Various obsolete or superseded functions under Reorganization Plan No. 8 of 1953 (22 U.S.C. 1461 note), which created the USIA, are superseded by this plan. Finally, the Plan abolishes a provision authorizing the Secretary of State to pay the expenses of transporting the bodies of participants in exchange programs who die away from home, since State no longer will conduct such programs (22 U.S.C. 2670(e)). All functions abolished by the reorganization are done so in compliance with section 903(b) of title 5 of the United States Code.

After investigation, I have found that this reorganization is necessary to carry out the policy set forth in section 901(a) of title 5 of the United States Code. The provisions in this Plan for the appointment and pay of the Director, Deputy Director, and Associate Directors of the Agency have been found by me to be necessary by reason of the reorganization made by the plan and are at a rate applicable to comparable officers in the executive branch.

In presenting this plan, I ask the support of Congress to strengthen and simplify the machinery by which we carry out these important functions of the United States Government.

Such action will make us better able to project the great variety and vitality of American life to those abroad, and to enrich our own lives with a fuller knowledge of the vitality and variety of other societies.

The new Agency for International Communication will help us demonstrate "a decent respect for the opinions of mankind," and to deal intelligently with a world awakening to a new spirit of freedom.

JIMMY CARTER.

THE WHITE HOUSE, October 11, 1977.

EX. ORD. NO. 12048. INTERNATIONAL COMMUNICATION AGENCY

Ex. Ord. No. 12048, Mar. 27, 1978, 43 F.R. 13361, as amended by Ex. Ord. No. 12388, Oct. 14, 1982, 47 F.R. 46245; Ex. Ord. No. 12608, Sept. 9, 1987, 52 F.R. 34617, provided:

By virtue of the authority vested in me by the Constitution and laws of the United States of America, including Section 11 of Reorganization Plan No. 2 of 1977 (42 FR 62461 (December 13, 1977)) [set out above], Section 202 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 581c) [31 U.S.C. 1531], and Section 301 of Title 3 of the United States Code, and as President of the United States of America, in order to provide for the establishment of the International Communication Agency, it is hereby ordered as follows:

SECTION 1. (a) Reorganization Plan No. 2 of 1977 (42 FR 62461), which establishes the International Communication Agency, except for Section 7(a)(14) thereof, is hereby effective.

(b) Section 7(a)(14) of Reorganization Plan No. 2 of 1977, relating to the Woodrow Wilson Memorial Act of 1968 [20 U.S.C. 80e et seq.], shall be effective on July 1, 1978.

SEC. 2. The functions vested in the Secretary of State by Executive Order No. 11312 are assigned and redelegated to the Director of the International Communication Agency. All authority vested in the United States Information Agency or its Director by Executive order is reassigned and redelegated to the International Communication Agency or its Director, respectively.

SEC. 3. In order to ensure appropriate coordination among the Executive agencies, the Director of the International Communication Agency shall exercise primary responsibility for Government-wide policy guidance for international informational, educational, and cultural activities, including exchange programs. The Director shall take into account the statutory functions of the other concerned Executive agencies.

SEC. 4. The Director of the International Communication Agency, with the assistance of the Secretary of Education, shall prepare and submit to the President the reports which the President is to transmit to the Congress pursuant to Section 108(b) of the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2458).

SEC. 5. The functions vested in the President by Sections 108(c) and 108(d) of the Mutual Educational and Cultural Exchange Act of 1961, as amended [22 U.S.C. 2458(c) and (d)], are delegated to the Director of the International Communication Agency; because, (a) such a delegation is in the interest of the purposes expressed in that Act and the efficient administration of the programs undertaken pursuant thereto, (b) the Director is an appropriate official to perform those functions, and (c) those functions are not now delegated to any other officer of the Government.

SEC. 6. The Director of the International Communication Agency shall be the principal adviser to the President, the National Security Council, and the Secretary of State on international informational, educational, and cultural matters. As such, the Director shall provide advice within the policy formulation activities of the National Security Council when such matters are considered. The Director shall ensure that the senior official of the Agency at each diplomatic mission provides advice to the Chief of Mission on such matters. The scope of the Director's advice shall include assessments of the impact of actual and proposed United States foreign policy decisions on public opinion abroad.

SEC. 7. The records, property, personnel, and unexpended balances of appropriations, available or to be made available, which relate to the functions transferred or reassigned, or redelegated as provided in this Order, are hereby transferred to the Director of the International Communication Agency.

SEC. 8. The Director of the Office of Management and Budget shall make such determinations, issue such orders, and take all actions, necessary or appropriate to effectuate the transfers or reassignments provided in this Order, including the transfer of funds, records, property, and personnel.

SEC. 9. This Order shall be effective on April 1, 1978.

SEC. 10. In accord with the name change provisions of Section 303 of Public Law 97–241 [set out as a note above] and effective on August 24, 1982, references in this Order to the International Communication Agency shall be deemed to be references to the United States Information Agency.

[For abolition of United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau), transfer of functions, and treatment of references thereto, see sections 6531, 6532, and 6551 of this title.]

[1] Actually transmitted Oct. 12, 1977.

[2] As amended Nov. 1, 1977, and Nov. 3, 1977.

§1461–1. Mission of United States Information Agency

The mission of the United States Information Agency shall be to further the national interest by improving United States relations with other countries and peoples through the broadest possible sharing of ideas, information, and educational and cultural activities. In carrying out this mission, the United States Information Agency shall, among other activities—

(1) conduct Government-sponsored information, educational, and cultural activities designed—

(A) to provide other peoples with a better understanding of the policies, values, institutions, and culture of the United States; and

(B) within the statutory limits governing domestic activities of the Agency, to enhance understanding on the part of the Government and people of the United States of the history, culture, attitudes, perceptions, and aspirations of others;

(2) encourage private institutions in the United States to develop their own exchange activities, and provide assistance for those exchange activities which are in the broadest national interest;

(3) coordinate international informational, educational, or cultural activities conducted or planned by departments and agencies of the United States Government;

(4) assist in the development of a comprehensive national policy on international communications; and

(5) promote United States participation in international events relevant to the mission of the

Agency.

(Pub. L. 95–426, title II, §202, Oct. 7, 1978, 92 Stat. 972; Pub. L. 97–241, title III, §303(b), Aug. 24, 1982, 96 Stat. 291.)

CODIFICATION

Section was enacted as part of the Foreign Relations Authorization Act, Fiscal Year 1979, and not as part of the United States Information and Educational Exchange Act of 1948 which comprises this chapter.

TRANSFER OF FUNCTIONS

"United States Information Agency" substituted in text for "International Communication Agency" pursuant to section 303(b) of Pub. L. 97–241, set out as a note under section 1461 of this title. United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau) abolished and functions transferred to Secretary of State, see sections 6531 and 6532 of this title.

INCREASE IN FINANCIAL RESOURCES OF AGENCY FOR EXCHANGE-OF-PERSONS ACTIVITIES

Pub. L. 95–426, title II, §203, Oct. 7, 1978, 92 Stat. 973, as amended by Pub. L. 97–241, title III, §303(b), Aug. 24, 1982, 96 Stat. 291, provided that: "The President shall, by a process of gradual expansion during the four-year period beginning October 1, 1979, increase significantly the financial resources expended annually by the United States Information Agency for exchange-of-persons activities. The President shall prepare at an early date a general plan for the accomplishment of this goal and shall adjust that plan annually, as he finds appropriate, in consultation with the Congress."

§1461–1a. Clarification on domestic distribution of program material

(a) In general

No funds authorized to be appropriated to the Department of State or the Broadcasting Board of Governors shall be used to influence public opinion in the United States. This section shall apply only to programs carried out pursuant to the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1431 et seq.), the United States International Broadcasting Act of 1994 (22 U.S.C. 6201 et seq.), the Radio Broadcasting to Cuba Act (22 U.S.C. 1465 et seq.), and the Television Broadcasting to Cuba Act (22 U.S.C. 1465aa et seq.). This section shall not prohibit or delay the Department of State or the Broadcasting Board of Governors from providing information about its operations, policies, programs, or program material, or making such available, to the media, public, or Congress, in accordance with other applicable law.

(b) Rule of construction

Nothing in this section shall be construed to prohibit the Department of State or the Broadcasting Board of Governors from engaging in any medium or form of communication, either directly or indirectly, because a United States domestic audience is or may be thereby exposed to program material, or based on a presumption of such exposure. Such material may be made available within the United States and disseminated, when appropriate, pursuant to sections 502 and 1005 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1462 and 1437), except that nothing in this section may be construed to authorize the Department of State or the Broadcasting Board of Governors to disseminate within the United States any program material prepared for dissemination abroad on or before the effective date of section 1078 of the National Defense Authorization Act for Fiscal Year 2013.

(c) Application

The provisions of this section shall apply only to the Department of State and the Broadcasting Board of Governors and to no other department or agency of the Federal Government.

(Pub. L. 99–93, title II, §208, Aug. 16, 1985, 99 Stat. 431; Pub. L. 103–236, title II, §232, Apr. 30, 1994, 108 Stat. 424; Pub. L. 112–239, div. A, title X, §1078(c), Jan. 2, 2013, 126 Stat. 1958.)

REFERENCES IN TEXT

The United States Information and Educational Exchange Act of 1948, referred to in subsec. (a), is act Jan. 27, 1948, ch. 36, 62 Stat. 6, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1431 of this title and Tables.

The United States International Broadcasting Act of 1994, referred to in subsec. (a), is title III of Pub. L. 103–236, Apr. 30, 1994, 108 Stat. 432, which is classified principally to chapter 71 (§6201 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6201 of this title and Tables.

The Radio Broadcasting to Cuba Act, referred to in subsec. (a), is Pub. L. 98–111, Oct. 4, 1983, 97 Stat. 749, which is classified generally to subchapter V–A (§1465 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1465 of this title and Tables.

The Television Broadcasting to Cuba Act, referred to in subsec. (a), is part D of title II of Pub. L. 101–246, Feb. 16, 1990, 104 Stat. 58, which is classified principally to subchapter V–B (§1465aa et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1465aa of this title and Tables.

For the effective date of section 1078 of the National Defense Authorization Act for Fiscal Year 2013 [Pub. L. 112–239], referred to in subsec. (b), see section 1078(e) of Pub. L. 112–239, set out as an Effective Date of 2013 Amendment note under section 1437 of this title.

CODIFICATION

Section was enacted as part of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987, and not as part of the United States Information and Educational Exchange Act of 1948 which comprises this chapter.

AMENDMENTS

2013—Pub. L. 112–239 amended section generally. Prior to amendment, text read as follows: "Except as provided in section 1461 of this title and this section, no funds authorized to be appropriated to the United States Information Agency shall be used to influence public opinion in the United States, and no program material prepared by the United States Information Agency shall be distributed within the United States. This section shall not apply to programs carried out pursuant to the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2451 et seq.). The provisions of this section shall not prohibit the United States Information Agency from responding to inquiries from members of the public about its operations, policies, or programs."

1994—Pub. L. 103–236 inserted at end "The provisions of this section shall not prohibit the United States Information Agency from responding to inquiries from members of the public about its operations, policies, or programs."

EFFECTIVE DATE OF 2013 AMENDMENT

Amendment by Pub. L. 112–239 effective and applicable on the date that is 180 days after Jan. 2, 2013, see section 1078(e) of Pub. L. 112–239, set out as a note under section 1437 of this title.

§1461a. Omitted

CODIFICATION

Section, act Aug. 31, 1960, Pub. L. 86–678, title IV, 74 Stat. 569, which related to exchange of funds in connection with establishments abroad, was from the Departments of State and Justice, the Judiciary, and Related Agencies Appropriation Act, 1961, and was not repeated in subsequent appropriation acts. Similar provisions were contained in the following prior appropriation acts:

July 13, 1959, Pub. L. 86–84, title IV, 73 Stat. 194.
June 30, 1958, Pub. L. 85–474, title IV, 72 Stat. 257.
June 11, 1957, Pub. L. 85–49, title IV, 71 Stat. 68.
June 20, 1956, ch. 414, title IV, 70 Stat. 312.
July 7, 1955, ch. 279, title IV, 69 Stat. 279.
July 2, 1954, ch. 456, title IV, 68 Stat. 432.

§1461b. Indemnification of owners of short-wave radio facilities against loss or

damage

Notwithstanding the provisions of sections 1341, 1342, 1349 to 1351 and subchapter II of chapter 15 of title 31, the United States Information Agency is authorized, in making contracts for the use of international shortwave radio stations and facilities, to agree on behalf of the United States to indemnify the owners and operators of said radio stations and facilities from such funds as may be hereafter appropriated for the purpose against loss or damage on account of injury to persons or property arising from such use of said radio stations and facilities.

(Pub. L. 95–431, title V, §501, Oct. 10, 1978, 92 Stat. 1041; Pub. L. 97–241, title III, §303(b), Aug. 24, 1982, 96 Stat. 291.)

CODIFICATION

"Sections 1341, 1342, and 1349 to 1351 and subchapter II of chapter 15 of title 31" substituted in text for "section 3679 of the Revised Statutes, as amended (31 U.S.C. 665)" on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

Section was enacted as part of appropriation act, cited as the credit to this section, and not as part of the United States Information and Educational Exchange Act of 1948 which comprises this chapter.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following prior appropriation acts:
Aug. 2, 1977, Pub. L. 95–86, title V, 91 Stat. 441.
July 14, 1976, Pub. L. 94–362, title V, 90 Stat. 960.
Oct. 21, 1975, Pub. L. 94–121, title V, 89 Stat. 639.
Oct. 5, 1974, Pub. L. 93–433, title V, 88 Stat. 1207.
Nov. 27, 1973, Pub. L. 93–162, title V, 87 Stat. 657.
Oct. 25, 1972, Pub. L. 92–544, title V, 86 Stat. 1132.
Aug. 10, 1971, Pub. L. 92–77, title V, 85 Stat. 269.
Oct. 21, 1970, Pub. L. 91–472, title V, 84 Stat. 1062.
Dec. 24, 1969, Pub. L. 91–153, title V, 83 Stat. 425.
Aug. 9, 1968, Pub. L. 90–470, title V, 82 Stat. 690.
Nov. 8, 1967, Pub. L. 90–133, title V, 81 Stat. 433.
Nov. 8, 1966, Pub. L. 89–797, title V, 80 Stat. 1504.
Sept. 2, 1965, Pub. L. 89–164, title V, 79 Stat. 643.
Aug. 31, 1964, Pub. L. 88–527, title V, 78 Stat. 734.
Dec. 30, 1963, Pub. L. 88–245, title V, 77 Stat. 800.
Oct. 18, 1962, Pub. L. 87–843, title V, 76 Stat. 1104.
Sept. 21, 1961, Pub. L. 87–264, title IV, 75 Stat. 557.
Aug. 31, 1960, Pub. L. 86–678, title IV, 74 Stat. 569.
July 13, 1959, Pub. L. 86–84, title IV, 73 Stat. 194.
June 30, 1958, Pub. L. 85–474, title IV, 72 Stat. 257.
June 11, 1957, Pub. L. 85–49, title IV, 71 Stat. 67.
June 20, 1956, ch. 414, title IV, 70 Stat. 312.
July 7, 1955, ch. 279, title IV, 69 Stat. 279.
July 2, 1954, ch. 456, title IV, 68 Stat. 432.

TRANSFER OF FUNCTIONS

"United States Information Agency" substituted in text for "International Communication Agency" pursuant to section 303(b) of Pub. L. 97–241, set out as a note under section 1461 of this title. United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau) abolished and functions transferred to Secretary of State, see sections 6531 and 6532 of this title.

§1461c. Omitted

CODIFICATION

Section, Pub. L. 90–470, title V, Aug. 9, 1968, 82 Stat. 690, which related to a one year extension to existing appointments and assignments to the Foreign Service Reserve for foreign information and educational activities which would otherwise have expired, was not repeated in subsequent appropriation acts. Similar

provisions were contained in the following prior appropriation acts:
Nov. 8, 1967, Pub. L. 90–133, title V, 81 Stat. 433.
Nov. 8, 1966, Pub. L. 89–797, title V, 80 Stat. 1504, 1505.
Sept. 2, 1965, Pub. L. 89–164, title V, 79 Stat. 643.
Aug. 31, 1964, Pub. L. 88–527, title V, 78 Stat. 734.
Dec. 30, 1963, Pub. L. 88–245, title V, 77 Stat. 800.
Oct. 18, 1962, Pub. L. 87–843, title V, 76 Stat. 1104.
Sept. 21, 1961, Pub. L. 87–264, title IV, 75 Stat. 558.
Aug. 31, 1960, Pub. L. 86–678, title IV, 74 Stat. 569.
July 13, 1959, Pub. L. 86–84, title IV, 73 Stat. 194.
June 30, 1958, Pub. L. 85–474, title IV, 72 Stat. 258.
June 11, 1957, Pub. L. 85–49, title IV, 71 Stat. 68.
June 20, 1956, ch. 414, title IV, 70 Stat. 312.
July 7, 1955, ch. 279, title IV, 69 Stat. 279.
July 2, 1954, ch. 456, title IV, 68 Stat. 432.

§1462. Policies governing information activities

In authorizing international information activities under this chapter, it is the sense of the Congress (1) that the Secretary and the Broadcasting Board of Governors shall reduce such Government information activities whenever corresponding private information dissemination is found to be adequate; (2) that nothing in this chapter shall be construed to give the Department or the Broadcasting Board of Governors a monopoly in the production or sponsorship on the air of short-wave broadcasting programs, or a monopoly in any other medium of information.

(Jan. 27, 1948, ch. 36, title V, §502, 62 Stat. 10; Pub. L. 112–239, div. A, title X, §1078(d)(1), Jan. 2, 2013, 126 Stat. 1958.)

AMENDMENTS

2013—Pub. L. 112–239 inserted "and the Broadcasting Board of Governors" after "Secretary" and "or the Broadcasting Board of Governors" after "Department".

EFFECTIVE DATE OF 2013 AMENDMENT

Amendment by Pub. L. 112–239 effective and applicable on the date that is 180 days after Jan. 2, 2013, see section 1078(e) of Pub. L. 112–239, set out as a note under section 1437 of this title.

§1463. Repealed. Pub. L. 103–236, title III, §315(a), Apr. 30, 1994, 108 Stat. 445

Section, act Jan. 27, 1948, ch. 36, title V, §503, as added July 12, 1976, Pub. L. 94–350, title II, §206, 90 Stat. 831; amended 1977 Reorg. Plan No. 2, §§5, 7(a)(1), 42 F.R. 62461, 91 Stat. 1636, 1637; Aug. 24, 1982, Pub. L. 97–241, title III, §303(b), 96 Stat. 291, related to principles governing communications of Voice of America broadcasts.

§1464. Voice of America/Europe

As part of its duties and programs under this subchapter, Voice of America/Europe shall—

(1) target news and features in accordance with the findings and recommendations of the Young European Survey;

(2) conduct periodic audience evaluations and measurements; and

(3) promote and advertise Voice of America/Europe.

(Jan. 27, 1948, ch. 36, title V, §504, as added Pub. L. 100–204, title IV, §402, Dec. 22, 1987, 101 Stat. 1381.)

§1464a. Broadcasting Board of Governors satellite and television

(a) In general

The Broadcasting Board of Governors is authorized to lease or otherwise acquire time on commercial or United States Government satellites for the purpose of transmitting materials and programs to posts and other users abroad.

(b) Broadcast principles

The Congress finds that the long-term interests of the United States are served by communicating directly with the peoples of the world by television. To be effective, the Broadcasting Board of Governors must win the attention and respect of viewers. These principles will therefore govern the television broadcasts of the United States International Television Service:

(1) The United States International Television Service will serve as a consistently reliable and authoritative source of news. The United States International Television Service news will be accurate and objective.

(2) The United States International Television Service will represent the United States, not any single segment of American society and will, therefore, present a balanced and comprehensive projection of significant American thought and institutions.

(3) The United States International Television Service will present the policies of the United States clearly and effectively and will also present responsible discussions and opinion on these policies.

(c) Programs

The Broadcasting Board of Governors is authorized to produce, acquire, or broadcast television programs, via satellite, only if such programs—

(1) are interactive, consisting of interviews among participants in different locales;

(2) cover news, public affairs, or other current events;

(3) cover official activities of government, Federal or State, including congressional proceedings and news briefings of any agency of the Executive branch; or

(4) are of an artistic or scientific character or are otherwise representative of American culture.

(d) Costs

When a comparable program produced by United States public or commercial broadcasters and producers is available at a cost which is equal to or less than the cost of production by the United States International Television Service, the Broadcasting Board of Governors shall use such materials in preference to the United States International Television Service produced materials.

(e) Allocation of funds

(1) Of the funds authorized to be appropriated to the Broadcasting Board of Governors not more than $12,000,000 for the fiscal year 1990 and not more than $12,480,000 for the fiscal year 1991 may be obligated or expended for the United States International Television Service.

(2) The Broadcasting Board of Governors shall prepare and submit to the Congress quarterly reports which contain a detailed explanation of expenditures for the United States International Television Service during the fiscal years 1990 and 1991. Such reports shall contain specific justification and supporting information pertaining to all programs, particularly those described in subsection (c)(4), that were produced in-house by the United States International Television Service. Each such report shall include a statement by the Broadcasting Board of Governors that, according to the best information available to the Broadcasting Board of Governors, no comparable United States commercially-produced or public television program is available at a cost which is equal to or less than the cost of production by the United States International Television Service.

(3) Of the funds authorized to be appropriated to the Broadcasting Board of Governors, $1,500,000 for the fiscal year 1990 and $1,500,000 for the fiscal year 1991 shall be available only for the purchase or use of programs produced with grants from the Corporation for Public Broadcasting or produced by United States public broadcasters.

(Jan. 27, 1948, ch. 36, title V, §505, as added Pub. L. 101–246, title II, §205(a), Feb. 16, 1990, 104

Stat. 50; amended Pub. L. 105–277, div. G, subdiv. A, title XIII, §1335(a)(1), Oct. 21, 1998, 112 Stat. 2681–786.)

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–277, §1335(a)(1)(A), substituted "Broadcasting Board of Governors" for "Director of the United States Information Agency".

Subsec. (b). Pub. L. 105–277, §1335(a)(1)(B), (C)(i), in introductory provisions, substituted "Broadcasting Board of Governors" for "United States Information Agency" and "television broadcasts of the United States International Television Service" for "Agency's television broadcasts (hereinafter in this section referred to as 'USIA–TV')".

Subsec. (b)(1) to (3). Pub. L. 105–277, §1335(a)(1)(C)(ii), substituted "The United States International Television Service" for "USIA–TV", wherever appearing.

Subsec. (c). Pub. L. 105–277, §1335(a)(1)(A), substituted "Broadcasting Board of Governors" for "Director of the United States Information Agency" in introductory provisions.

Subsec. (d). Pub. L. 105–277, §1335(a)(1)(A), (D), substituted "Broadcasting Board of Governors" for "Director of the United States Information Agency" and substituted "the United States International Television Service" for "USIA–TV" in two places.

Subsec. (e)(1). Pub. L. 105–277, §1335(a)(1)(B), (D), substituted "Broadcasting Board of Governors" for "United States Information Agency" and "the United States International Television Service" for "USIA–TV".

Subsec. (e)(2). Pub. L. 105–277, §1335(a)(1)(D), substituted "the United States International Television Service" for "USIA–TV", wherever appearing.

Pub. L. 105–277, §1335(a)(1)(A), (B), in first sentence, substituted "Broadcasting Board of Governors" for "United States Information Agency", and in last sentence, substituted "Broadcasting Board of Governors" for "Director of the United States Information Agency" after "statement by the" and for "United States Information Agency" after "available to the".

Subsec. (e)(3). Pub. L. 105–277, §1335(a)(1)(B), substituted "Broadcasting Board of Governors" for "United States Information Agency".

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective Oct. 1, 1999, see section 1301 of Pub. L. 105–277, set out as an Effective Date note under section 6531 of this title.

TELEVISION SERVICE OF USIA

Pub. L. 100–204, title II, §207, Dec. 22, 1987, 101 Stat. 1374, which provided that the television and film service of the United States Information Agency was to operate under same criteria and conditions as specified for Voice of America by section 1463 of this title, was repealed by Pub. L. 105–277, div. G, subdiv. A, title XIII, §1336(7), Oct. 21, 1998, 112 Stat. 2681–790.

§1464b. Voice of America hiring practices

(a) Prohibition

After February 16, 1990, the Voice of America shall not select candidates for employment who must be or are preapproved for employment at the Voice of America by a foreign government or an entity controlled by a foreign government.

(b) Exception

The prohibition referred to in this section shall not apply to—

(1) participants in the Voice of America's exchange programs; or

(2) clerical, technical, or maintenance staff at Voice of America offices in foreign countries.

(c) Report

If the Broadcasting Board of Governors determines that the prohibition under subsection (a) would require the termination of a specific Voice of America foreign language service, then, not less than 90 days before the Board begins to recruit such candidates, the Board shall submit to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives a report concerning—

(1) the number and location of speakers of the applicable foreign language who could be

recruited by the Voice of America without violating this section; and

(2) the efforts made by the Voice of America to recruit such individuals for employment.

(Jan. 27, 1948, ch. 36, title V, §506, as added Pub. L. 101–246, title II, §232, Feb. 16, 1990, 104 Stat. 57; amended Pub. L. 105–277, div. G, subdiv. A, title XIII, §1335(a)(2), Oct. 21, 1998, 112 Stat. 2681–787.)

AMENDMENTS

1998—Subsec. (c). Pub. L. 105–277, in introductory provisions, substituted "Broadcasting Board of Governors" for "Director of the United States Information Agency", "Board begins" for "Agency begins", and "Board shall" for "Director shall".

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective Oct. 1, 1999, see section 1301 of Pub. L. 105–277, set out as an Effective Date note under section 6531 of this title.

SUBCHAPTER V–A—RADIO BROADCASTING TO CUBA

REPEAL OF SUBCHAPTER

Subchapter repealed upon transmittal of determination by President under section 6063(c)(3) of this title that democratically elected government in Cuba is in power, see section 6037(c) of this title.

§1465. Congressional findings and declaration of purposes

The Congress finds and declares—

(1) that it is the policy of the United States to support the right of the people of Cuba to seek, receive, and impart information and ideas through any media and regardless of frontiers, in accordance with article 19 of Universal Declaration of Human Rights;

(2) that, consonant with this policy, radio broadcasting to Cuba may be effective in furthering the open communication of accurate information and ideas to the people of Cuba, in particular information about Cuba;

(3) that such broadcasting to Cuba, operated in a manner not inconsistent with the broad foreign policy of the United States and in accordance with high professional standards, would be in the national interest; and

(4) that the Voice of America already broadcasts to Cuba information that represents America, not any single segment of American society, and includes a balanced and comprehensive projection of significant American thought and institutions but that there is a need for broadcasts to Cuba which provide news, commentary and other information about events in Cuba and elsewhere to promote the cause of freedom in Cuba.

(Pub. L. 98–111, §2, Oct. 4, 1983, 97 Stat. 749.)

REPEAL OF SECTION

Section repealed upon transmittal of determination by President under section 6063(c)(3) of this title that democratically elected government in Cuba is in power, see section 6037(c) of this title.

CODIFICATION

Section was enacted as part of the Radio Broadcasting to Cuba Act which comprises this subchapter, and not as part of the United States Information and Educational Exchange Act of 1948 which comprises this chapter.

SHORT TITLE

Pub. L. 98–111, §1, Oct. 4, 1983, 97 Stat. 749, provided: "That this Act [enacting this subchapter] may be cited as the 'Radio Broadcasting to Cuba Act'."

§1465a. Additional functions of Broadcasting Board of Governors

(a) Radio broadcasting to Cuba

In order to carry out the objectives set forth in section 1465 of this title, the Broadcasting Board of Governors (hereafter in this subchapter referred to as the "Board") shall provide for the open communication of information and ideas through the use of radio broadcasting to Cuba. Radio broadcasting to Cuba shall serve as a consistently reliable and authoritative source of accurate, objective, and comprehensive news.

(b) Broadcasting as part of Voice of America

Radio broadcasting in accordance with subsection (a) shall be part of the Voice of America radio broadcasting to Cuba and shall be in accordance with all Voice of America standards to ensure the broadcast of programs which are objective, accurate, balanced, and which present a variety of views.

(c) Location of broadcast facilities; frequency; leased time from nongovernmental shortwave stations

Radio broadcasting to Cuba authorized by this subchapter shall utilize the broadcasting facilities located at Marathon, Florida, and the 1180 AM frequency that were used by the Voice of America prior to October 4, 1983. Other frequencies, not on the commercial Amplitude Modulation (AM) Band (535 kHz to 1605 kHz), may also be simultaneously utilized: *Provided*, That no frequency shall be used for radio broadcasts to Cuba in accordance with this subchapter which is not also used for all other Voice of America broadcasts to Cuba. Time leased from nongovernmental shortwave radio stations may be used to carry all or part of the Service programs and to rebroadcast Service programs: *Provided*, That not less than 30 per centum of the programs broadcast or rebroadcast shall be regular Voice of America broadcasts with particular emphasis on news and programs meeting the requirements of section 1463(2) [1] of this title.

(d) Changes in frequencies to other AM bands; jamming and interference

Notwithstanding subsection (c), in the event that broadcasts to Cuba on the 1180 AM frequency are subject to jamming or interference greater by 25 per centum or more than the average daily jamming or interference in the twelve months preceding September 1, 1983, the Broadcasting Board of Governors may lease time on commercial or noncommercial educational AM band radio broadcasting stations. The Federal Communications Commission shall determine levels of jamming and interference by conducting regular monitoring of the 1180 AM frequency. In the event that more than two hours a day of time is leased, not less than 30 per centum of the programing broadcast shall be regular Voice of America broadcasts with particular emphasis on news and programs meeting the requirements of section 1463(2) [1] of this title.

(e) Voice of America: Cuba Service; Voice of America: Radio Marti program

Any program of United States Government radio broadcasts to Cuba authorized by this section shall be designated "Voice of America: Cuba Service" or "Voice of America: Radio Marti program".

(f) Use of other facilities

In the event broadcasting facilities located at Marathon, Florida, are rendered inoperable by natural disaster or by unlawful destruction, the Broadcasting Board of Governors may, for the period in which the facilities are inoperable but not to exceed one hundred and fifty days, use other United States Government-owned transmission facilities for Voice of America broadcasts to Cuba authorized by this subchapter.

(Pub. L. 98–111, §3, Oct. 4, 1983, 97 Stat. 749; Pub. L. 105–277, div. G, subdiv. A, title XIII, §1324(1)–(3), Oct. 21, 1998, 112 Stat. 2681–780, 2681–781.)

REPEAL OF SECTION

Section repealed upon transmittal of determination by President under section 6063(c)(3) of this title that democratically elected government in Cuba is in power, see section 6037(c) of this title.

REFERENCES IN TEXT

Section 1463 of this title, referred to in subsecs. (c) and (d), was repealed by Pub. L. 103–236, title III, §315(a), Apr. 30, 1994, 108 Stat. 445.

CODIFICATION

Section was enacted as part of the Radio Broadcasting to Cuba Act which comprises this subchapter, and not as part of the United States Information and Educational Exchange Act of 1948 which comprises this chapter.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–277, §1324(1), (2), substituted "Broadcasting Board of Governors" for "United States Information Agency" and "Board" for "Agency".

Subsecs. (d), (f). Pub. L. 105–277, §1324(3), substituted "the Broadcasting Board of Governors" for "the Director of the United States Information Agency".

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective Oct. 1, 1999, see section 1301 of Pub. L. 105–277, set out as an Effective Date note under section 6531 of this title.

[1] *See References in Text note below.*

§1465b. Cuba Service

The Broadcasting Board of Governors shall establish within the International Broadcasting Bureau a Cuba Service (hereafter in this section referred to as the "Service"). The Service shall be responsible for all radio broadcasts to Cuba authorized by section 1465a of this title. The Broadcasting Board of Governors shall appoint a head of the Service and shall employ such staff as the head of the Service may need to carry out his duties. The Cuba Service shall be administered separately from other Voice of America functions and the head of the Cuba Service shall report directly to the Board [1] of the International Broadcasting Bureau.

(Pub. L. 98–111, §4, Oct. 4, 1983, 97 Stat. 750; Pub. L. 103–236, title III, §305(e)(1), formerly §305(d)(1), Apr. 30, 1994, 108 Stat. 436; Pub. L. 105–277, div. G, subdiv. A, title XIII, §§1323(f)(1), 1324(3), (4), (6), Oct. 21, 1998, 112 Stat. 2681–779, 2681–781.)

REPEAL OF SECTION

Section repealed upon transmittal of determination by President under section 6063(c)(3) of this title that democratically elected government in Cuba is in power, see section 6037(c) of this title.

CODIFICATION

Section was enacted as part of the Radio Broadcasting to Cuba Act which comprises this subchapter, and not as part of the United States Information and Educational Exchange Act of 1948 which comprises this chapter.

AMENDMENTS

1998—Pub. L. 105–277, §1324(6), substituted "Board" for "Director" in last sentence.

Pub. L. 105–277, §1324(4), which directed the amendment of this section by substituting "the International Broadcasting Bureau" for "the Voice of America", was executed by making the substitution for text in two places to reflect the probable intent of Congress.

Pub. L. 105–277, §1324(3), which directed the substitution of "the Broadcasting Board of Governors" for "the Director of the United States Information Agency" each place it appears, was executed by substituting "Broadcasting Board of Governors" for "Director of the United States Information Agency" in two places, to reflect the probable intent of Congress.

1994—Pub. L. 103–236 substituted "of the Voice of America" for "and the Associate Director for Broadcasting of the United States Information Agency".

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective Oct. 1, 1999, see section 1301 of Pub. L. 105–277, set out as an Effective Date note under section 6531 of this title.

PROHIBITIONS

Pub. L. 114–323, title VII, §703(b), Dec. 16, 2016, 130 Stat. 1941, provided that:

"(1) IN GENERAL.—Notwithstanding any other provision of law, any change to the Federal status of—

"(A) the Cuba Service established pursuant to section 4 of the Radio Broadcasting to Cuba Act (22 U.S.C. 1465b; Public Law 98–111) is prohibited unless such section is explicitly repealed and such service is dissolved by an Act of Congress enacted on or after the date of the enactment of this Act [Dec. 16, 2016]; and

"(B) the Television Marti Service established by section 244(a) of Television Broadcasting to Cuba Act (22 U.S.C. 1465cc; Public Law 101–246) is prohibited unless such section is explicitly repealed and such service is dissolved by an Act of Congress enacted on or after the date of the enactment of this Act.

"(2) DEFINITION.—In this subsection, the term 'change to the Federal status', with respect to a service referred to in subparagraph (A) or (B) of paragraph (1), includes any significant restructuring, privatization, subordination to a private or private-public entity, or merger with a private or public-private entity of such service."

[1] *So in original. There is no Board of the International Broadcasting Bureau.*

§1465c. Advisory Board for Cuba Broadcasting

(a) Establishment; membership; chairperson

There is established within the Office of the President the Advisory Board for Cuba Broadcasting (in this subchapter [1] referred to as the "Advisory Board"). The Advisory Board shall consist of nine members, appointed by the President by and with the advice and consent of the Senate, of whom not more than five shall be members of the same political party. The President shall designate one member of the Advisory Board to serve as chairperson.

(b) Review; recommendations

The Advisory Board shall review the effectiveness of the activities carried out under this subchapter and the Television Broadcasting to Cuba Act [22 U.S.C. 1465aa et seq.] and shall make recommendations to the President and the Broadcasting Advisory [2] Board of Governors as it may consider necessary.

(c) Terms; vacancies

In appointing the initial voting members of the Advisory Board, the President shall designate three members to serve for a term of three years, three members to serve for a term of two years, and three members to serve for a term of one year. Thereafter, the term of each member of the Advisory Board shall be three years. The President shall appoint, by and with the advice and consent of the Senate, members to fill vacancies occurring prior to the expiration of a term, in which case the members so appointed shall serve for the remainder of such term. Any member whose term has expired may serve until his successor has been appointed and qualified.

(d) Ex officio members

The head of the Cuba Service and the head of the Television Marti Service shall serve, ex officio, as members of the Advisory Board.

(e) Compensation; travel expenses

Members of the Advisory Board appointed by the President shall, while attending meetings of the Advisory Board or while engaged in duties relating to such meetings or in other activities of the Advisory Board pursuant to this section, including traveltime, be entitled to receive compensation equal to the daily equivalent of the compensation prescribed for level V of the Executive Schedule under section 5316 of title 5. While away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C.

5703) for persons in the Government service employed intermittently. The ex officio members of the Advisory Board shall not be entitled to any compensation under this section, but may be allowed travel expenses as provided in the preceding sentence.

(f) Procurement powers of Advisory Board

The Advisory Board may, to the extent it deems necessary to carry out its functions under this section, procure supplies, services, and other personal property, including specialized electronic equipment.

(g) Indefinite life span of Advisory Board

Notwithstanding any other provision of law, the Advisory Board shall remain in effect indefinitely.

(h) Authorization of appropriations

There are authorized to be appropriated $130,000 to carry out the provisions of this section.

(Pub. L. 98–111, §5, Oct. 4, 1983, 97 Stat. 750; Pub. L. 101–246, title II, §245(a), Feb. 16, 1990, 104 Stat. 61; Pub. L. 103–236, title III, §305(e)(2), formerly §305(d)(2), Apr. 30, 1994, 108 Stat. 436; Pub. L. 105–277, div. G, subdiv. A, title XIII, §§1323(f)(1), 1324(5), Oct. 21, 1998, 112 Stat. 2681–779, 2681–781.)

REPEAL OF SECTION

Section repealed upon transmittal of determination by President under section 6063(c)(3) of this title that democratically elected government in Cuba is in power, see section 6037(c) of this title.

REFERENCES IN TEXT

This subchapter, referred to in subsec. (a), was in the original "this division", and was translated as reading "this Act", meaning Pub. L. 98–111, which enacted this subchapter, to reflect the probable intent of Congress.

The Television Broadcasting to Cuba Act, referred to in subsec. (b), is part D of title II of Pub. L. 101–246, Feb. 16, 1990, 104 Stat. 58, as amended, which is classified principally to subchapter V–B (§1465aa et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1465aa of this title and Tables.

CODIFICATION

Section was enacted as part of the Radio Broadcasting to Cuba Act which comprises this subchapter, and not as part of the United States Information and Educational Exchange Act of 1948 which comprises this chapter.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–277, §1324(5), substituted "There is established within the Office of the President the Advisory Board for Cuba Broadcasting (in this division referred to as the 'Advisory Board')." for "There is established within the Office of the President the Advisory Board for Cuba Broadcasting (hereafter in this subchapter referred to as the 'Board').", and substituted "Advisory Board" for "Board" in two places.

Subsecs. (b) to (g). Pub. L. 105–277, §1324(5)(A), substituted "Advisory Board" for "Board" wherever appearing.

1994—Subsec. (b). Pub. L. 103–236 substituted "Broadcasting Board of Governors" for "Director and Associate Director for Broadcasting of the United States Information Agency".

1990—Pub. L. 101–246, §245(a)(1), substituted "Cuba Broadcasting" for "Radio Broadcasting to Cuba" in section catchline.

Subsec. (a). Pub. L. 101–246, §245(a)(2), amended subsec. (a) generally, substituting "Cuba Broadcasting" for "Radio Broadcasting to Cuba" and "to serve as chairperson" for "to serve as Chairman".

Subsec. (b). Pub. L. 101–246, §245(a)(2), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "The Board shall review the effectiveness of the activities carried out under this subchapter and shall make such recommendations to the President, the Director and the Associate Director for Broadcasting of the United States Information Agency as it may deem necessary."

Subsec. (d). Pub. L. 101–246, §245(a)(3), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: "The head of the Service shall serve, ex officio, as a member of the Board."

Subsec. (e). Pub. L. 101–246, §245(a)(4), substituted "The ex officio members" for "The ex officio member".

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective Oct. 1, 1999, see section 1301 of Pub. L. 105–277, set out as an Effective Date note under section 6531 of this title.

FORMER REFERENCES TO ADVISORY BOARD FOR RADIO BROADCASTING TO CUBA

Pub. L. 101–246, title II, §245(b), Feb. 16, 1990, 104 Stat. 61, provided that: "A reference in any provision of law to the 'Advisory Board for Radio Broadcasting to Cuba' shall be considered to be a reference to the 'Advisory Board for Cuba Broadcasting'."

CONTINUED SERVICE OF BOARD MEMBERS

Pub. L. 101–246, title II, §245(c), Feb. 16, 1990, 104 Stat. 61, provided that: "Each member of the Advisory Board for Radio Broadcasting to Cuba as in existence on the day before the effective date of the amendment made by subsection (a) [Feb. 16, 1990] shall continue to serve for the remainder of the term to which such member was appointed as a member of the Advisory Board for Cuba Broadcasting."

STAFF DIRECTOR

Pub. L. 101–246, title II, §245(d), Feb. 16, 1990, 104 Stat. 62, as amended by Pub. L. 105–277, div. G, subdiv. A, title XIII, §1325(5), Oct. 21, 1998, 112 Stat. 2681–782, provided that: "The Advisory Board shall have a staff director who shall be appointed by the Chairperson of the Advisory Board for Cuba Broadcasting."

[1] See References in Text note below.

[2] So in original. The word "Advisory" probably should not appear.

§1465d. Assistance from other government agencies

(a) In order to assist the Broadcasting Board of Governors in carrying out the purposes set forth in section 1465 of this title, any agency or instrumentality of the United States may sell, loan, lease, or grant property (including interests therein) and may perform administrative and technical support and services at the request of the Board. Support and services shall be provided on a reimbursable basis. Any reimbursement shall be credited to the appropriation from which the property, support, or services was derived.

(b) The Board may carry out the purposes of section 1465a of this title by means of grants, leases, or contracts (subject to the availability of appropriations), or such other means as the Board determines will be most effective.

(Pub. L. 98–111, §6, Oct. 4, 1983, 97 Stat. 751; Pub. L. 105–277, div. G, subdiv. A, title XIII, §1324(1), (2), Oct. 21, 1998, 112 Stat. 2681–781.)

REPEAL OF SECTION

Section repealed upon transmittal of determination by President under section 6063(c)(3) of this title that democratically elected government in Cuba is in power, see section 6037(c) of this title.

CODIFICATION

Section was enacted as part of the Radio Broadcasting to Cuba Act which comprises this subchapter, and not as part of the United States Information and Educational Exchange Act of 1948 which comprises this chapter.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–277 substituted "Broadcasting Board of Governors" for "United States Information Agency" and "Board" for "Agency".

Subsec. (b). Pub. L. 105–277, §1324(2), substituted "Board" for "Agency" in two places.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective Oct. 1, 1999, see section 1301 of Pub. L. 105–277, set out as an Effective Date note under section 6531 of this title.

§1465e. Compensation for Cuban interference with broadcasting in United States

(a) Interim assistance to United States broadcasters

It is the intent of the Congress that the Secretary of State should seek prompt and full settlement of United States claims against the Government of Cuba arising from Cuban interference with broadcasting in the United States. Pending the settlement of these claims, it is appropriate to provide some interim assistance to the United States broadcasters who are adversely affected by Cuban radio interference and who seek to assert their right to measures to counteract the effects of such interference.

(b) Money payments pursuant to authority from Federal Communications Commission

Accordingly, the Board may make payments to the United States radio broadcasting station licensees upon their application for expenses which they have incurred before, on, or after October 4, 1983, in mitigating, pursuant to special temporary authority from the Federal Communications Commission, the effects of activities by the Government of Cuba which directly interfere with the transmission or reception of broadcasts by these licensees. Such expenses shall be limited to the costs of equipment replaced (less depreciation) and associated technical and engineering costs.

(c) Regulations and procedures

The Federal Communications Commission shall issue such regulations and establish such procedures for carrying out this section as the Federal Communications Commission finds appropriate. Such regulations shall be issued no later than one hundred and eighty days after October 4, 1983.

(d) Authorization of appropriations

There are authorized to be appropriated to the Board, $5,000,000 for use in compensating United States radio broadcasting licensees pursuant to this section. Amounts appropriated under this section are authorized to be available until expended.

(e) Four-year availability for appropriated funds

Funds appropriated for implementation of this section shall be available for a period of no more than four years following the initial broadcast occurring as a result of programs described in this subchapter.

(f) Presidential task force

It is the sense of the Congress that the President should establish a task force to analyze the level of interference from the operation of Cuban radio stations experienced by broadcasters in the United States and to seek a practical political and technical solution to this problem.

(g) Effective Date

This section shall enter into effect on October 1, 1984.

(Pub. L. 98–111, §7, Oct. 4, 1983, 97 Stat. 752; Pub. L. 98–411, title V, §512, Aug. 30, 1984, 98 Stat. 1574; Pub. L. 105–277, div. G, subdiv. A, title XIII, §1324(2), Oct. 21, 1998, 112 Stat. 2681–781.)

REPEAL OF SECTION

Section repealed upon transmittal of determination by President under section 6063(c)(3) of this title that democratically elected government in Cuba is in power, see section 6037(c) of this title.

CODIFICATION

Section was enacted as part of the Radio Broadcasting to Cuba Act which comprises this subchapter, and not as part of the United States Information and Educational Exchange Act of 1948 which comprises this chapter.

AMENDMENTS

1998—Subsecs. (b), (d). Pub. L. 105–277 substituted "Board" for "Agency".
1984—Subsec. (b). Pub. L. 98–411 substituted "replaced (less" for "(replaced less".

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective Oct. 1, 1999, see section 1301 of Pub. L. 105–277, set out as an Effective Date note under section 6531 of this title.

§1465f. Authorization of appropriations

(a) There are authorized to be appropriated for the Broadcasting Board of Governors $14,000,000 for fiscal year 1984 and $11,000,000 for fiscal year 1985 to carry out sections 1465a and 1465b of this title. The amount obligated by the Broadcasting Board of Governors in ensuing fiscal years shall be sufficient to maintain broadcasts to Cuba under this subchapter at rates no less than the fiscal year 1985 level.

(b) In addition to amounts otherwise authorized to be appropriated to the Board for the fiscal years 1984 and 1985, there are authorized to be appropriated to the Board $54,800,000 for the fiscal year 1984 and $54,800,000 for the fiscal year 1985, which amounts shall be available only for expenses incurred by essential modernization of the facilities and operations of the Voice of America.

(c) Amounts appropriated under this section are authorized to be made available until expended.

(Pub. L. 98–111, §8, Oct. 4, 1983, 97 Stat. 752; Pub. L. 105–277, div. G, subdiv. A, title XIII, §1324(1), (2), Oct. 21, 1998, 112 Stat. 2681–781.)

REPEAL OF SECTION

Section repealed upon transmittal of determination by President under section 6063(c)(3) of this title that democratically elected government in Cuba is in power, see section 6037(c) of this title.

CODIFICATION

Section was enacted as part of the Radio Broadcasting to Cuba Act which comprises this subchapter, and not as part of the United States Information and Educational Exchange Act of 1948 which comprises this chapter.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–277, §1324(1), substituted "Broadcasting Board of Governors" for "United States Information Agency" in two places.
Subsec. (b). Pub. L. 105–277, §1324(2), substituted "Board" for "Agency" in two places.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective Oct. 1, 1999, see section 1301 of Pub. L. 105–277, set out as an Effective Date note under section 6531 of this title.

§1465g. Repealed. Pub. L. 103–236, title I, §139(9), Apr. 30, 1994, 108 Stat. 398

Section, Pub. L. 98–111, §9, Oct. 4, 1983, 97 Stat. 753, directed United States Information Agency to arrange for independent evaluations of Cuba Service programing for submission to Congress.

SUBCHAPTER V–B—TELEVISION BROADCASTING TO CUBA

REPEAL OF SUBCHAPTER

Subchapter repealed upon transmittal of determination by President under section 6063(c)(3) of this title that democratically elected government in Cuba is in power, see section 6037(c) of this title.

§1465aa. Findings and purposes

The Congress finds and declares that—

(1) it is the policy of the United States to support the right of the people of Cuba to seek, receive, and impart information and ideas through any media and regardless of frontiers, in accordance with article 19 of the Universal Declaration of Human Rights;

(2) consonant with this policy, television broadcasting to Cuba may be effective in furthering the open communication of accurate information and ideas to the people of Cuba and, in particular, information about Cuba;

(3) television broadcasting to Cuba, operated in a manner not inconsistent with the broad foreign policy of the United States and in accordance with high professional standards, would be in the national interest;

(4) facilities broadcasting television programming to Cuba must be operated in a manner consistent with applicable regulations of the Federal Communications Commission, and must not affect the quality of domestic broadcast transmission or reception; and

(5) that [1] the Voice of America already broadcasts to Cuba information that represents America, not any single segment of American society, and includes a balanced and comprehensive projection of significant American thought and institutions, but that there is a need for television broadcasts to Cuba which provide news, commentary, and other information about events in Cuba and elsewhere to promote the cause of freedom in Cuba.

(Pub. L. 101–246, title II, §242, Feb. 16, 1990, 104 Stat. 58.)

REPEAL OF SECTION

Section repealed upon transmittal of determination by President under section 6063(c)(3) of this title that democratically elected government in Cuba is in power, see section 6037(c) of this title.

CODIFICATION

Section was enacted as part of the Television Broadcasting to Cuba Act which comprises this subchapter, and not as part of the United States Information and Educational Exchange Act of 1948 which comprises this chapter.

SHORT TITLE

Pub. L. 101–246, title II, §241, Feb. 16, 1990, 104 Stat. 58, provided that: "This part [part D (§§241–248) of title II of Pub. L. 101–246, enacting this subchapter, amending section 1465c of this title, and enacting provisions set out as notes under section 1465c of this title] may be cited as the 'Television Broadcasting to Cuba Act'."

[1] So in original. The word "that" probably should not appear.

§1465bb. Television broadcasting to Cuba

(a) Television broadcasting to Cuba

In order to carry out the purposes set forth in section 1465aa of this title and notwithstanding the limitation of section 1461 of this title with respect to the dissemination in the United States of information prepared for dissemination abroad to the extent such dissemination is inadvertent, the Broadcasting Board of Governors (hereafter in this subchapter referred to as the "Agency" [1]) shall provide for the open communication of information and ideas through the use of television broadcasting to Cuba. Television broadcasting to Cuba shall serve as a consistently reliable and authoritative source of accurate, objective, and comprehensive news.

(b) Voice of America standards

Television broadcasting to Cuba under this subchapter shall be in accordance with all Voice of America standards to ensure the broadcast of programs which are objective, accurate, balanced, and which present a variety of views.

(c) Television Marti

Any program of United States Government television broadcasts to Cuba authorized by this section shall be designated the "Television Marti Program".

(d) Frequency assignment

(1) Subject to the Communications Act of 1934 [47 U.S.C. 151 et seq.], the Federal Communications Commission shall assign by order a suitable frequency to further the national interests expressed in this subchapter, except that no such assignment shall result in objectionable interference with the broadcasts of any domestic licensee.

(2) No Federal branch or agency shall compel an incumbent domestic licensee to change its frequency in order to eliminate objectionable interference caused by broadcasting of the Service.

(3) For purposes of section 305 of the Communications Act of 1934 [47 U.S.C. 305], a television broadcast station established for purposes of this subchapter shall be treated as a government station, but the Federal Communications Commission shall exercise the authority of the President under such section to assign a frequency to such station.

(e) Interference with domestic broadcasting

(1) Broadcasting by the Television Marti Service shall be conducted in accordance with such parameters as shall be prescribed by the Federal Communications Commission to preclude objectionable interference with the broadcasts of any domestic licensee. The Television Marti Service shall be governed by the same standards regarding objectionable interference as any domestic licensee. The Federal Communications Commission shall monitor the operations of television broadcasting to Cuba pursuant to subsection (f). If, on the basis of such monitoring or a complaint from any person, the Federal Communications Commission determines, in its discretion, that broadcasting by the Television Marti Service is causing objectionable interference with the transmission or reception of the broadcasts of a domestic licensee, the Federal Communications Commission shall direct the Television Marti Service to cease broadcasting and to eliminate the objectionable interference. Broadcasts by the Service shall not be resumed until the Federal Communications Commission finds that the objectionable interference has been eliminated and should not recur.

(2) The Federal Communications Commission shall take such actions as are necessary and appropriate to assist domestic licensees in overcoming the adverse effects of objectionable interference caused by broadcasting by the Television Marti Service. Such assistance may include the authorization of nondirectional increases in the effective radiated power of a domestic television station so that its coverage is equivalent to the maximum allowable for such facilities, to avoid any adverse effect on such stations of the broadcasts of the Television Marti Service.

(3) If the Federal Communications Commission directs the Television Marti Service to cease broadcasting pursuant to paragraph (1), the Commission shall, as soon as practicable, notify the appropriate committees of Congress of such action and the reasons therefor. The Federal Communications Commission shall continue to notify the appropriate committees of Congress of progress in eliminating the objectionable interference and shall assure that Congress is fully informed about the operation of the Television Marti Service.

(f) Monitoring of interference

The Federal Communications Commission shall continually monitor and periodically report to the appropriate committees of the Congress interference to domestic broadcast licensees—

(1) from the operation of Cuban television and radio stations; and

(2) from the operations of the television broadcasting to Cuba.

(g) Task force

It is the sense of the Congress that the President should establish a task force to analyze the level of interference from the operation of Cuban television and radio stations experienced by broadcasters in the United States and to seek a practical political and technical solution to this problem.

(Pub. L. 101–246, title II, §243, Feb. 16, 1990, 104 Stat. 59; Pub. L. 105–277, div. G, subdiv. A, title XIII, §1325(1), (2), Oct. 21, 1998, 112 Stat. 2681–781.)

REPEAL OF SECTION

Section repealed upon transmittal of determination by President under section 6063(c)(3) of this title that democratically elected government in Cuba is in power, see section 6037(c) of this title.

REFERENCES IN TEXT

The Communications Act of 1934, referred to in subsec. (d)(1), is act June 19, 1934, ch. 652, 48 Stat. 1064, as amended, which is classified principally to chapter 5 (§151 et seq.) of Title 47, Telecommunications. For complete classification of this Act to the Code, see section 609 of Title 47 and Tables.

CODIFICATION

Section was enacted as part of the Television Broadcasting to Cuba Act which comprises this subchapter, and not as part of the United States Information and Educational Exchange Act of 1948 which comprises this chapter.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–277, §1325(1), substituted "Broadcasting Board of Governors" for "United States Information Agency".

Subsec. (c). Pub. L. 105–277, §1325(2), in heading struck out "USIA" before "Television" and in text substituted "the 'Television" for " 'USIA Television".

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective Oct. 1, 1999, see section 1301 of Pub. L. 105–277, set out as an Effective Date note under section 6531 of this title.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103–7 (in which a report required under subsec. (f) of this section is listed on page 167), see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance.

[1] *So in original. Probably should be " 'Board' ".*

§1465cc. Television Marti Service

(a) Television Marti Service

There is within the Voice of America a Television Marti Service. The Service shall be responsible for all television broadcasts to Cuba authorized by this subchapter. The Broadcasting Board of Governors shall appoint a head of the Service who shall report directly to the International Broadcasting Bureau. The head of the Service shall employ such staff as the head of the Service may need to carry out the duties of the Service.

(b) Use of existing facilities of Board

To assure consistency of presentation and efficiency of operations in conducting the activities authorized under this subchapter, the Television Marti Service shall make maximum feasible utilization of Board facilities and management support, including Voice of America: Cuba Service, Voice of America, and the United States International Television Service.

(c) Authority

The Board may carry out the purposes of this subchapter by means of grants, leases, or contracts (subject to the availability of appropriations), or such other means as the Board determines will be most effective.

(Pub. L. 101–246, title II, §244, Feb. 16, 1990, 104 Stat. 61; Pub. L. 105–277, div. G, subdiv. A, title XIII, §1325(3), (4), Oct. 21, 1998, 112 Stat. 2681–781.)

REPEAL OF SECTION

Section repealed upon transmittal of determination by President under section 6063(c)(3) of this title that democratically elected government in Cuba is in power, see section 6037(c) of this title.

CODIFICATION

Section was enacted as part of the Television Broadcasting to Cuba Act which comprises this subchapter, and not as part of the United States Information and Educational Exchange Act of 1948 which comprises this chapter.

AMENDMENTS

1998—Pub. L. 105–277, §1325(4)(A), struck out "of the United States Information Agency" after "Service" in section catchline.

Subsec. (a). Pub. L. 105–277, §1325(4)(B)(ii), which directed amendment of subsec. (a) in second sentence by substituting "Broadcasting Board of Governors" for "Director of the United States Information Agency" and "the International Broadcasting Bureau" for "the Director of the Voice of America", was executed by making the substitutions in third sentence, to reflect the probable intent of Congress.

Pub. L. 105–277, §1325(4)(B)(i), substituted "There is" for "The Director of the United States Information Agency shall establish" in first sentence.

Subsec. (b). Pub. L. 105–277, §1325(4)(C), substituted "Board facilities" for "Agency facilities" and "International" for "Information Agency".

Subsec. (c). Pub. L. 105–277, §1325(3), (4)(D), in heading struck out "USIA" before "Authority", and in text substituted "Board" for "Agency" in two places.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective Oct. 1, 1999, see section 1301 of Pub. L. 105–277, set out as an Effective Date note under section 6531 of this title.

§1465dd. Assistance from other Government agencies

In order to assist the Broadcasting Board of Governors in carrying out the provisions of this subchapter, any agency or instrumentality of the United States may sell, loan, lease, or grant property (including interests therein) and may perform administrative and technical support and services at the request of the Board.

(Pub. L. 101–246, title II, §246, Feb. 16, 1990, 104 Stat. 62; Pub. L. 105–277, div. G, subdiv. A, title XIII, §1325(1), (3), Oct. 21, 1998, 112 Stat. 2681–781.)

REPEAL OF SECTION

Section repealed upon transmittal of determination by President under section 6063(c)(3) of this title that democratically elected government in Cuba is in power, see section 6037(c) of this title.

CODIFICATION

Section was enacted as part of the Television Broadcasting to Cuba Act which comprises this subchapter, and not as part of the United States Information and Educational Exchange Act of 1948 which comprises this chapter.

AMENDMENTS

1998—Pub. L. 105–277 substituted "Broadcasting Board of Governors" for "United States Information Agency" and "the Board" for "the Agency".

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective Oct. 1, 1999, see section 1301 of Pub. L. 105–277, set out as an Effective Date note under section 6531 of this title.

§1465ee. Authorization of appropriations

(a) Authorization of appropriations

In addition to amounts otherwise made available under section 201 for such purposes, there are

authorized to be appropriated to the United States Information Agency, $16,000,000 for the fiscal year 1990 and $16,000,000 for the fiscal year 1991 for television broadcasting to Cuba in accordance with the provisions of this subchapter.

(b) Limitation

(1) Subject to paragraph (2), no funds authorized to be appropriated under subsection (a) may be obligated or expended unless the President determines and notifies the appropriate committees of Congress that the test of television broadcasting to Cuba (as authorized by title V of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1989 (Public Law 100–459)) has demonstrated television broadcasting to Cuba is feasible and will not cause objectionable interference with the broadcasts of incumbent domestic licensees. The Federal Communications Commission shall furnish to the appropriate committees of Congress all interim and final reports and other appropriate documentation concerning objectionable interference from television broadcasting to Cuba to incumbent domestic licensees.

(2) Not less than 30 days before the President makes the determination under paragraph (1), the President shall submit a report to the appropriate committees of the Congress which includes the findings of the test of television broadcasting to Cuba. The period for the test of television broadcasting may be extended until—

(A) the date of the determination and notification by the President under paragraph (1), or

(B) 30 days,

whichever comes first.

(c) Availability of funds

Amounts appropriated to carry out the purposes of this subchapter are authorized to be available until expended.

(Pub. L. 101–246, title II, §247, Feb. 16, 1990, 104 Stat. 62; Pub. L. 102–138, title II, §232, Oct. 28, 1991, 105 Stat. 703.)

REPEAL OF SECTION

Section repealed upon transmittal of determination by President under section 6063(c)(3) of this title that democratically elected government in Cuba is in power, see section 6037(c) of this title.

REFERENCES IN TEXT

Section 201, referred to in subsec. (a), means section 201 of Pub. L. 101–246, title II, Feb. 16, 1990, 104 Stat. 48, which was not classified to the Code.

Title V of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1989 (Public Law 100–459), referred to in subsec. (b)(1), is title V of Pub. L. 100–459, Oct. 1, 1988, 102 Stat. 2213, which was not classified to the Code.

CODIFICATION

Section was enacted as part of the Television Broadcasting to Cuba Act which comprises this subchapter, and not as part of the United States Information and Educational Exchange Act of 1948 which comprises this chapter.

AMENDMENTS

1991—Subsec. (c). Pub. L. 102–138 added subsec. (c).

TRANSFER OF FUNCTIONS

United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau) abolished and functions transferred to Secretary of State, see sections 6531 and 6532 of this title.

TELEVISION BROADCASTING TO CUBA

Determination of President of the United States, No. 90–35, Aug. 26, 1990, 55 F.R. 38659, provided:

Pursuant to the authority vested in me by section 247 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101–246) (the Act) [this section], I hereby determine that the test of

television broadcasting to Cuba (as authorized by title V of the Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act, 1989 (Public Law 100–459) [Pub. L. 100–459, title V, Oct. 1, 1988, 102 Stat. 2213]), has demonstrated television broadcasting to Cuba is feasible and will not cause objectionable interference with the broadcasts of incumbent domestic licensees.

You are authorized and directed to transmit this determination to the appropriate committees of Congress (as defined in section 248 of the Act [22 U.S.C. 1465ff]) and to arrange for its publication in the Federal Register.

GEORGE BUSH.

§1465ff. Definitions

As used in this subchapter—

(1) the term "licensee" has the meaning provided in section 153(c) [1] of title 47;

(2) the term "incumbent domestic licensee" means a licensee as provided in section 153(c) [1] of title 47 that was broadcasting a television signal as of January 1, 1989;

(3) the term "objectionable interference" shall be applied in the same manner as such term is applied under regulations of the Federal Communications Commission to other domestic broadcasters; and

(4) the term "appropriate committees of Congress" includes the Committee on Foreign Affairs and the Committee on Energy and Commerce of the House of Representatives and the Committee on Foreign Relations of the Senate.

(Pub. L. 101–246, title II, §248, Feb. 16, 1990, 104 Stat. 62.)

REPEAL OF SECTION

Section repealed upon transmittal of determination by President under section 6063(c)(3) of this title that democratically elected government in Cuba is in power, see section 6037(c) of this title.

REFERENCES IN TEXT

Section 153 of title 47, referred to in pars. (1) and (2), was subsequently amended, and section 153(c) no longer defines "licensee". However, such term is defined elsewhere in that section.

CODIFICATION

Section was enacted as part of the Television Broadcasting to Cuba Act which comprises this subchapter, and not as part of the United States Information and Educational Exchange Act of 1948 which comprises this chapter.

CHANGE OF NAME

Committee on Energy and Commerce of House of Representatives treated as referring to Committee on Commerce of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Commerce of House of Representatives changed to Committee on Energy and Commerce of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred to Committee on Financial Services of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

[1] *See References in Text note below.*

SUBCHAPTER VI—ADVISORY COMMISSIONS TO FORMULATE POLICIES

§§1466 to 1468. Omitted

CODIFICATION

Sections 1466 to 1468 of this title, contained provisions relating to the United States Advisory Commission on Information, and the United States Advisory Commission on Educational Exchange. Public Law 87–256, §§106, 111(a)(2), Sept. 21, 1961, 75 Stat. 532, 538, replaced the Advisory Commission on Educational Exchange with the Advisory Commission on International Educational and Cultural Affairs and repealed these sections insofar as they related to the Advisory Commission on Educational Exchange. The Advisory Commission on International Educational and Cultural Affairs and the Advisory Commission on Information were both abolished by Reorg. Plan No. 2 of 1977, §9(a)(3), (4), 42 F.R. 62461, 91 Stat. 1639, set out under section 1461 of this title, effective on or before July 1, 1978, at such time as specified by the President.

Section 1466, acts Jan. 27, 1948, ch. 36, §601, 62 Stat. 10; Sept. 21, 1961, Pub. L. 87–256, §111(a)(2), 75 Stat. 538, created the United States Advisory Commission on Information, and the United States Advisory Commission on Educational Exchange and provided for the duties of the Commissions.

Section 1467, acts Jan. 27, 1948, ch. 36, title VI, §602, 62 Stat. 10; Sept. 21, 1961, Pub. L. 87–256, §111(a)(2), 75 Stat. 538, provided for the composition, membership, terms of office, compensation, designation of chairmen, rules and regulations, and representation of the public interest, for the Commission on Information and the Commission on Educational Exchange.

Section 1468, acts Jan. 27, 1948, ch. 36, title VI, §603, 62 Stat. 11; Sept. 21, 1961, Pub. L. 87–256, §111(a)(2), 75 Stat. 538, provided that the Commissions report to Congress on programs and activities carried out under this chapter, including recommendations for effectuating the purposes and objectives of this chapter.

§1469. United States Advisory Commission on Public Diplomacy

(a) Establishment

(1) There is established an advisory commission to be known as the United States Advisory Commission on Public Diplomacy (referred to in this section as the "Commission").

(2) The Commission shall consist of seven members appointed by the President, by and with the advice and consent of the Senate. The members of the Commission shall represent the public interest and shall be selected from a cross section of educational, communications, cultural, scientific, technical, public service, labor, business, and professional backgrounds. Not more than four members shall be from any one political party.

(3) The term of each member shall be 3 years, except that of the original seven appointments, two shall be for a term of 1 year and two shall be for a term of 2 years.

(4) Any member appointed to fill a vacancy occurring before the expiration of the term for which a predecessor was appointed shall be appointed for the remainder of such term. Upon the expiration of a member's term of office, such member may continue to serve until a successor is appointed and qualified.

(5) The President shall designate a member to chair the Commission.

(b) Staff

The Commission shall have a staff director who shall be appointed by the chairperson of the Commission. Subject to such rules and regulations as may be adopted by the Commission, the chairperson of the Commission may—

(1) appoint such additional personnel for the staff of the Commission as the chairperson considers necessary; and

(2) procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, but at rates for individuals not to exceed the daily equivalent of the annual rate of basic pay payable for grade GS–18 of the General Schedule under section 5332 of title 5.

(c) Duties and responsibilities

The Commission shall appraise United States Government activities intended to understand, inform, and influence foreign publics. The activities described in this subsection shall be referred to in this section as "public diplomacy activities".

(d) Reports

(1) Comprehensive annual report

(A) In general

Not less frequently than annually, the Commission shall submit a comprehensive report on public diplomacy and international broadcasting activities to Congress, the President, and the Secretary of State. This report shall include—

(i) a detailed list of all public diplomacy activities funded by the United States Government;

(ii) a description of—

(I) the purpose, means, and geographic scope of each activity;

(II) when each activity was started;

(III) the amount of Federal funding expended on each activity;

(IV) any significant outside sources of funding; and

(V) the Federal department or agency to which the activity belongs;

(iii) the international broadcasting activities under the direction of the Broadcasting Board of Governors;

(iv) an assessment of potentially duplicative public diplomacy and international broadcasting activities; and

(v) for any activities determined to be ineffective or results not demonstrated under subparagraph (B), recommendations on existing effective or moderately effective public diplomacy activities that could be augmented to carry out the objectives of the ineffective activities.

(B) Effectiveness assessment

In evaluating the public diplomacy and international broadcasting activities described in subparagraph (A), the Commission shall conduct an assessment that considers the public diplomacy target impact, the achieved impact, and the cost of public diplomacy activities and international broadcasting. The assessment shall include, if practicable, an appropriate metric such as "cost-per-audience" or "cost-per-student" for each activity. Upon the completion of the assessment, the Commission shall assign a rating of—

(i) "effective" for activities that—

(I) set appropriate goals and achieve all or most of the desired results;

(II) are well-managed; and

(III) are cost efficient;

(ii) "moderately effective" for activities that—

(I) set appropriate goals and achieve some desired results;

(II) are generally well-managed; and

(III) need to improve their cost efficiency, including reducing overhead;

(iii) "ineffective" for activities that—

(I) lack appropriate goals or fail to achieve stated goals or desired results;

(II) are not well-managed; or

(III) are not cost efficient, such as through insufficient use of available resources to achieve stated goals or desired results, or have excessive overhead; and

(iv) "results not demonstrated" for activities that—

(I) do not have acceptable performance public diplomacy metrics for measuring results; or

(II) are unable or failed to collect data to determine if they are effective.

(2) Other reports

(A) In general

The Commission shall submit other reports, including working papers, to Congress, the

President, and the Secretary of State at least semi-annually on other activities and policies related to United States public diplomacy.

(B) Availability

The Commission shall make the reports submitted pursuant to subparagraph (A) publicly available on the website of the Commission to develop a better understanding of, and support for, public diplomacy activities.

(3) Access to information

The Secretary of State shall ensure that the Commission has access to all appropriate information to carry out its duties and responsibilities under this subsection.

(Jan. 27, 1948, ch. 36, title VI, §604, as added Pub. L. 96–60, title II, §203(f), Aug. 15, 1979, 93 Stat. 399; amended Pub. L. 100–204, title II, §213, Dec. 22, 1987, 101 Stat. 1376; Pub. L. 101–246, title II, §206(a), Feb. 16, 1990, 104 Stat. 51; Pub. L. 105–277, div. G, subdiv. A, title XIII, §1334(b), Oct. 21, 1998, 112 Stat. 2681–786; Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title IV, §404(a), (c)], Nov. 29, 1999, 113 Stat. 1536, 1501A–446, 1501A–447; Pub. L. 107–77, title IV, §407(c), Nov. 28, 2001, 115 Stat. 790; Pub. L. 112–239, div. A, title XII, §1280(a)–(c), Jan. 2, 2013, 126 Stat. 2032.)

AMENDMENTS

2013—Subsec. (a)(1). Pub. L. 112–239, §1280(a), inserted "(referred to in this section as the 'Commission')" before period at end.

Subsec. (c). Pub. L. 112–239, §1280(b), amended subsec. (c) generally. Prior to amendment, subsec. (c) described the Commission's duties and responsibilities, including formulation and appraisal of policies and programs and submission of reports.

Subsec. (d). Pub. L. 112–239, §1280(c), amended subsec. (d) generally. Prior to amendment, text read as follows: "The Commission shall have no authority with respect to the J. William Fulbright Foreign Scholarship Board or the United States National Commission for UNESCO."

2001—Pub. L. 107–77 reenacted this section. See Reenactment and Repeal of Certain Provisions of Law note below.

1999—Pub. L. 106–113, §1000(a)(7) [div. A, title IV, §404(c)(2)], repealed this section. See Reenactment and Repeal of Certain Provisions of Law note below.

Pub. L. 106–113, §1000(a)(7) [div. A, title IV, §404(a), (c)(1)], amended Pub. L. 105–277, §1334, generally (see 1998 Amendment note below) and reenacted this section. See Reenactment and Repeal of Certain Provisions of Law note below.

1998—Pub. L. 105–277, §1334(b), which directed the repeal of this section, was omitted in the general amendment of Pub. L. 105–277, §1334, by Pub. L. 106–113, §1000(a)(7) [div. A, title IV, §404(a)]. See 1999 Amendment note above.

1990—Pub. L. 101–246 amended section generally. Prior to amendment, section consisted of subsecs. (a) to (d) relating to redesignation of United States Advisory Commission on International Communication, Cultural and Educational Affairs as United States Advisory Commission on Public Diplomacy, appointment of members, appointment of staff director and staff personnel, date of section entering into force as being Jan. 20, 1989, and repeal of prohibition limiting membership of individuals from same political party.

1987—Pub. L. 100–204 amended section generally, revising and restating as subsecs. (a) to (d) provisions of former subsecs. (a) and (b).

EFFECTIVE DATE

Section effective Oct. 1, 1979, and applicable only with respect to funds appropriated after Aug. 15, 1979, where new authorities provide for expenditure of appropriated funds, see section 209 of Pub. L. 96–60, set out as an Effective Date of 1979 Amendment note under section 1471 of this title.

TRANSFER OF FUNCTIONS

United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau) abolished and functions transferred to Secretary of State, see sections 6531 and 6532 of this title.

REENACTMENT AND REPEAL OF CERTAIN PROVISIONS OF LAW

Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title IV, §404(c)], Nov. 29, 1999, 113 Stat. 1536, 1501A–447,

provided that:

"(1) REENACTMENT.—The provisions of law repealed by section 1334 [22 U.S.C. 6553] of the Foreign Affairs Reform and Restructuring Act of 1998 [repealing this section and section 8 of Reorganization Plan No. 2 of 1977, set out under section 1461 of this title and in the Appendix to Title 5, Government Organization and Employees], as in effect before the date of the enactment of this Act [Nov. 29, 1999], are hereby reenacted into law.

"(2) REPEAL.—Effective September 30, 2001, section 604 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1469) and section 8 of the Reorganization Plan Numbered 2 of 1977 are repealed."

[Pub. L. 107–77, title IV, §407(c), Nov. 28, 2001, 115 Stat. 790, reenacted into law the provisions that were repealed by section 1000(a)(7) [div. A, title IV, §404(c)(2)] of div. B of Pub. L. 106–113, set out above.]

CONTINUITY OF ADVISORY COMMISSION

Pub. L. 107–77, title IV, §407(d), Nov. 28, 2001, 115 Stat. 790, provided that: "Notwithstanding any other provision of law, any period of discontinuity of the United States Advisory Commission on Public Diplomacy shall not affect the appointment or terms of service of members of the commission."

Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title IV, §404(d)], Nov. 29, 1999, 113 Stat. 1536, 1501A–447, provided that: "Notwithstanding any other provision of law, any period of discontinuity of the United States Advisory Commission on Public Diplomacy shall not affect the appointment or terms of service of members of the commission."

REDUCTION IN STAFF AND BUDGET

Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title IV, §404(e)], Nov. 29, 1999, 113 Stat. 1536, 1501A–447, provided that: "Notwithstanding section 604(b) of the United States Information and Educational Exchange Act of 1948 [22 U.S.C. 1469(b)], effective on the date of the enactment of this Act [Nov. 29, 1999], the United States Advisory Commission on Public Diplomacy shall have not more than 2 individuals who are compensated staff, and not more than 50 percent of the resources allocated in fiscal year 1999."

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

CONTINUED SERVICE OF COMMISSION MEMBERS

Pub. L. 101–246, title II, §206(b), Feb. 16, 1990, 104 Stat. 53, provided that each member of the United States Advisory Commission on Public Diplomacy as in existence on the day before Jan. 20, 1989, was to continue to serve for the remainder of the term to which such member was appointed.

SUBCHAPTER VII—ADMINISTRATIVE PROCEDURE

§1471. Authority of Secretary of State

In carrying out the purposes of this chapter, the Secretary is authorized, in addition to and not in limitation of the authority otherwise vested in him—

(1) In [1] carrying out subchapter II of this chapter, to make grants of money, services, or materials to State and local governmental institutions in the United States, to governmental institutions in other countries, and to individuals and public or private nonprofit organizations both in the United States and in other countries;

(2) to furnish, sell, or rent, by contract or otherwise, educational and information materials and equipment for dissemination to, or use by, peoples of foreign countries;

(3) whenever necessary in carrying out subchapter V of this chapter, to purchase, rent, construct, improve, maintain, and operate facilities for radio and television transmission and reception, including the leasing of associated real property (either within or outside the United

States) for periods not to exceed forty years, or for longer periods if provided for by an appropriation Act, and the alteration, improvement, and repair of such property, without regard to section 322 [2] of the Act of June 30, 1932, and any such real property or interests therein which are outside the United States may be acquired without regard to sections 3111 and 3112 of title 40 if the sufficiency of the title to such real property or interests therein is approved by the Director of the United States Information Agency;

(4) to provide for printing and binding outside the continental limits of the United States, without regard to section 501 of title 44;

(5) to employ persons on a temporary basis without regard to the civil service and classification laws, when such employment is provided for by the pertinent appropriation Act;

(6) to create such advisory committees as the Secretary may decide to be of assistance in formulating his policies for carrying out the purposes of this chapter. No committee member shall be allowed any salary or other compensation for services; but he may be paid his transportation and other expenses, as authorized by section 5703 of title 5; and

(7) notwithstanding any other provision of law, to carry out projects involving security construction and related improvements for overseas public diplomacy facilities not physically located together with other Department of State facilities abroad.

(Jan. 27, 1948, ch. 36, title VIII, §801, 62 Stat. 11; Pub. L. 87–139, §11, Aug. 14, 1961, 75 Stat. 341; 1977 Reorg. Plan No. 2, §§8(b), 9(a)(3), (4), 42 F.R. 62461, 91 Stat. 1637–1639; Pub. L. 96–60, title II, §§203(b)(1), (e), 204(a), Aug. 15, 1979, 93 Stat. 398–400; Pub. L. 97–241, title III, §303(b), Aug. 24, 1982, 96 Stat. 291; Pub. L. 98–164, title II, §217, Nov. 22, 1983, 97 Stat. 1036; Pub. L. 100–204, title II, §205, Dec. 22, 1987, 101 Stat. 1374; Pub. L. 102–138, title II, §203, Oct. 28, 1991, 105 Stat. 692; Pub. L. 103–236, title II, §222, Apr. 30, 1994, 108 Stat. 421; Pub. L. 105–277, div. G, subdiv. A, title XIII, §1335(a)(4), Oct. 21, 1998, 112 Stat. 2681–787.)

REFERENCES IN TEXT

Section 322 of the Act of June 30, 1932, referred to in par. (3), is section 322 of act June 30, 1932, ch. 314, 47 Stat. 412, which was classified to section 278a of former Title 40, Public Buildings, Property, and Works, and was repealed by Pub. L. 100–678, §7, Nov. 17, 1988, 102 Stat. 4052.

CODIFICATION

"Sections 3111 and 3112 of title 40" substituted in par. (3) for "section 355 of the Revised Statutes of the United States (40 U.S.C. 255)" on authority of Pub. L. 107–217, §5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

In par. (4), "section 501 of title 44" substituted for "section 11 of the Act of March 1, 1919 (44 U.S.C. 111)" on authority of Pub. L. 90–620, §2(b), Oct. 22, 1968, 82 Stat. 1305, the first section of which enacted Title 44, Public Printing and Documents.

In par. (6), ", with the approval of the Commission on Information and the Commission on Educational Exchange," was deleted pursuant to Reorg. Plan No. 2 of 1977, §9(a)(3), (4), 42 F.R. 62461, 91 Stat. 1639, set out under section 1461 of this title, which abolished both the United States Advisory Commission on Information, and the United States Advisory Commission on International Educational and Cultural Affairs [which replaced the Advisory Commission on Educational Exchange], effective on or before July 1, 1978, at such time as specified by the President.

In par. (6), "section 5703 of title 5" substituted for "section 5 of the Administrative Expenses Act of 1946, as amended, (5 U.S.C. 73b-2)" on authority of Pub. L. 89–554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

AMENDMENTS

1998—Par. (7). Pub. L. 105–277 substituted "overseas public diplomacy" for "Agency" and inserted "other" after "together with".

1994—Par. (7). Pub. L. 103–236 added par. (7).

1991—Par. (3). Pub. L. 102–138 inserted "and television" after "radio".

1987—Par. (3). Pub. L. 100–204 substituted "forty" for "twenty-five".

1983—Par. (3). Pub. L. 98–164 substituted "twenty-five" for "ten".

1979—Par. (1). Pub. L. 96–60, §204(a), struck out "within the limitation of such appropriations as the Congress may provide," after "chapter,".

Par. (3). Pub. L. 96–60, §203(e), substituted "leasing of associated real property (either within or outside the United States)" for "leasing of real property both within and without the continental limits of the United States" and provided for alteration, improvement, and repair of such property, without regard to section 278a of title 40, and for acquisition of such property or interests therein which are outside the United States without regard to section 255 of title 40 if the sufficiency of the title to such property or interests therein is approved by the Director.

Par. (5). Pub. L. 96–60, §203(b)(1), struck out provision for employment of aliens within the United States limited to services related to the translation or narration of colloquial speech in foreign languages when suitably qualified United States citizens were not available, now covered in section 1474(1) of this title, and inserted "pertinent" before "appropriation".

1961—Par. (6). Pub. L. 87–139 substituted provisions authorizing payment of transportation and other expenses as authorized by section 73b–2 of title 5, for provisions which allowed payment of actual transportation expenses and a maximum of $10 per diem.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective Oct. 1, 1999, see section 1301 of Pub. L. 105–277, set out as an Effective Date note under section 6531 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Pub. L. 96–60, title II, §209, Aug. 15, 1979, 93 Stat. 402, provided that: "The amendments made by sections 203 and 204 [enacting section 1469 and section 1477b of this title, amending this section, sections 1474, 1475a, 2454, 2458, and 2458a of this title, section 1304 of Title 5, Government Organization and Employees, and section 474 of former Title 40, Public Buildings, Property, and Works, and repealing section 1434 of this title] shall take effect on October 1, 1979, and to the extent that they provide new authorities involving the expenditure of appropriated funds, shall apply only with respect to funds appropriated after the date of enactment of this Act [Aug. 15, 1979]."

TRANSFER OF FUNCTIONS

"Director of the United States Information Agency" substituted for "Director of the International Communication Agency" in par. (3) pursuant to section 303(b) of Pub. L. 97–241, set out as a note under section 1461 of this title, which redesignated International Communication Agency, and Director thereof, as United States Information Agency, and the Director thereof. United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau) abolished and functions transferred to Secretary of State, see sections 6531 and 6532 of this title.

The Commission on Educational Exchange, created by section 1466 of this title, abolished pursuant to Pub. L. 87–256, §111(a)(2), Sept. 21, 1961, 75 Stat. 538.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

CONTRACTOR REQUIREMENTS

Pub. L. 100–204, title IV, §403, Dec. 22, 1987, 101 Stat. 1381, provided that:

"(a) FINDINGS.—The Congress finds that the overriding national security aspects of the $1,300,000,000 facilities modernization program of the Voice of America require the assurance of uninterrupted logistic support under all circumstances for the program. Therefore, it is in the best interests of the United States to provide a preference for United States contractors bidding on the projects of this program.

"(b) RESPONSIVE BID.—A bid shall not be treated as a responsive bid for purposes of the facilities modernization program of the Voice of America unless the bidder can establish that the United States goods and services content, excluding consulting and management fees, of his proposal and the resulting contract will not be less than 55 percent of the value of his proposal and the resulting total contract.

"(c) PREFERENCE FOR UNITED STATES CONTRACTORS.—Notwithstanding any other provision of law, in any case where there are two or more qualified bidders on projects of the facilities modernization

program of the Voice of America, including design and construction projects and projects with respect to transmitters, antennas, spare parts, and other technical equipment, all the responsive bids of United States persons and qualified United States joint venture persons shall be considered to be reduced by 10 percent.

"(d) EXCEPTION.—

"(1) Subsection (c) shall not apply with respect to any project of the facilities modernization program of the Voice of America when—

"(A) precluded by the terms of an international agreement with the host foreign country;

"(B) a foreign bidder can establish that he is a national of a country whose government permits United States contractors and suppliers the opportunity to bid on a competitive and nondiscriminatory basis with its national contractors and suppliers, on procurement and projects related to the construction, modernization, upgrading, or expansion of—

"(i) its national public radio and television sector, or

"(ii) its private radio and television sector, to the extent that such procurement or project is, in whole or in part, funded or otherwise under the control of a government agency or authority; or

"(C) the Secretary of Commerce certifies (in advance of the award of the contract for that project) to the Director of the United States Information Agency that the foreign bidder is not receiving any direct subsidy from any government, the effect of which would be to disadvantage the competitive position of United States persons who also bid on the project; or

"(D) the statutes of a host foreign country prohibit the use of United States contractors on such projects within that country.

"(2) An exception under paragraph (1)(D) shall only become effective with respect to a foreign country 30 days after the Secretary of State certifies to the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate what specific actions the Secretary has taken to urge the foreign country to permit the use of United States contractors on such projects.

"(d) [sic] DEFINITIONS.—For purposes of this section—

"(1) the term 'United States person' means a person that—

"(A) is incorporated or otherwise legally organized under the laws of the United States, including any State (and any political subdivision thereof) and the District of Columbia;

"(B) has its principal place of business in the United States;

"(C) has been incorporated or otherwise legally organized in the United States for more than 5 years before the issuance date of the Invitation For Bids or the Request For Proposals with respect to a modernization project under subsection (b);

"(D) has proven, as indicated by prior contracting experience, to possess the technical, managerial, and financial capability to successfully complete a project similar in nature and technical complexity to that being contracted for;

"(E)(i) employs United States citizens in at least 80 percent of its principal management positions in the United States;

"(ii) employs United States citizens in more than half of its permanent, full-time positions in the United States; and

"(iii) will employ United States citizens in at least 80 percent of the supervisory positions on the modernization project site; and

"(F) has the existing technical and financial resources in the United States to perform the contract; and

"(2) the term 'qualified United States joint venture person' means a joint venture in which a United States person or persons own at least 51 percent of the assets of the joint venture.

"(e) EFFECTIVE DATE.—The provisions of this section shall apply to any project with respect to which the Request For Proposals (commonly referred to as 'RFP') or the Invitation For Bids (commonly referred to as 'IFB') was issued after December 28, 1986."

[For abolition of United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau), transfer of functions, and treatment of references thereto, see sections 6531, 6532, and 6551 of this title.]

[1] *So in original. Probably should not be capitalized.*

[2] *See References in Text note below.*

§1472. Department of State and other Government agencies

(a) Authority of agencies

In carrying on activities which further the purposes of this chapter, subject to approval of such activities by the Secretary, the Department and the other Government agencies are authorized—

(1) to place orders and make purchases and rentals of materials and equipment;

(2) to make contracts, including contracts with governmental agencies, foreign or domestic, including subdivisions thereof, and intergovernmental organizations of which the United States is a member, and, with respect to contracts entered into in foreign countries, without regard to section 6306 of title 41;

(3) under such regulations as the Secretary may prescribe, to pay the transportation expenses, and not to exceed $10 per diem in lieu of subsistence and other expenses, of citizens or subjects of other countries, without regard to the Standardized Government Travel Regulations and the Subsistence Expense Act of 1926,[1] as amended; and

(4) to make grants for, and to pay expenses incident to, training and study.

(b) Contracts for telecommunication activities, etc.; availability of appropriations; cancellation costs

(1) Any contract authorized by subsection (a) and described in paragraph (3) of this subsection which is funded on the basis of annual appropriations may nevertheless be made for periods not in excess of 5 years when—

(A) appropriations are available and adequate for payment for the first fiscal year and for all potential cancellation costs; and

(B) the Director of the United States Information Agency determines that—

(i) the need of the Government for the property or service being acquired over the period of the contract is reasonably firm and continuing;

(ii) such a contract will serve the best interests of the United States by encouraging effective competition or promoting economies in performance and operation; and

(iii) such method of contracting will not inhibit small business participation.

(2) In the event that funds are not made available for the continuation of such a contract into a subsequent fiscal year, the contract shall be canceled and any cancellation costs incurred shall be paid from appropriations originally available for the performance of the contract, appropriations currently available for the acquisition of similar property or services and not otherwise obligated, or appropriations made for such cancellation payments.

(3) This subsection applies to contracts for the procurement of property or services, or both, for the operation, maintenance, and support of programs, facilities, and installations for or related to telecommunication activities, newswire services, and the distribution of books and other publications in foreign countries.

(4)(A) Notwithstanding the other provisions of this subsection, the Broadcasting Board of Governors is authorized to enter into contracts for periods not to exceed 7 years for circuit capacity to distribute radio and television programs and is authorized to enter into contracts for periods not to exceed ten years to acquire local broadcasting services outside the United States.

(B) The authority of this paragraph may be exercised for a fiscal year only to such extent or in such amounts as are provided in advance in appropriations Acts.

(Jan. 27, 1948, ch. 36, title VIII, §802, 62 Stat. 12; Pub. L. 97–241, title III, §304(b), Aug. 24, 1982, 96 Stat. 292; Pub. L. 103–236, title II, §225, Apr. 30, 1994, 108 Stat. 423; Pub. L. 107–228, div. A, title V, §503, Sept. 30, 2002, 116 Stat. 1392.)

REFERENCES IN TEXT

The Subsistence Expenses Act of 1926, as amended, referred to in subsec. (a)(3), was repealed and superseded by the Travel Expense Act of 1949, which is covered by subchapter I of chapter 57 of Title 5, Government Organization and Employees. Section 9(a) of the 1949 Act provided in part: "All Acts . . . applicable to civilian officers or employees of the departments and establishments, providing for

reimbursement of actual travel or transportation expense, and all other Acts, general or special, which are in conflict with the provisions of this Act . . . are hereby modified, but only to the extent of inconsistency or conflict with the provisions of this Act . . .".

CODIFICATION

In subsec. (a)(2), "section 6306 of title 41" substituted for "section 3741 of the Revised Statutes (41 U.S.C. 22)" on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

2002—Subsec. (b)(4)(A). Pub. L. 107–228 substituted "Broadcasting Board of Governors" for "United States Information Agency" and inserted before period "and is authorized to enter into contracts for periods not to exceed ten years to acquire local broadcasting services outside the United States".

1994—Subsec. (b)(4). Pub. L. 103–236 added par. (4).

1982—Pub. L. 97–241 designated existing provisions as subsec. (a) and added subsec. (b).

TRANSFER OF FUNCTIONS

United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau) abolished and functions transferred to Secretary of State, see sections 6531 and 6532 of this title.

EX. ORD. NO. 10477. AUTHORITY OF UNITED STATES INFORMATION AGENCY

Ex. Ord. No. 10477, Aug. 1, 1953, 18 F.R. 4540, as amended by Ex. Ord. No. 10822, May 20, 1959, 24 F.R. 4159; Ex. Ord. No. 12292, Feb. 23, 1981, 46 F.R. 13967; provided:

SECTION 1. *Determination*. It is hereby determined that it is necessary, in order to carry out the functions transferred to the Director of the United States Information Agency (hereinafter referred to as the Director) by the provisions of subsections (a), (b), and (c) of section 2 of the said Reorganization Plan No. 8 of 1953, to authorize the Director to exercise, in relation to respective functions so transferred, the authority specified in sections 2 and 3 hereof.

SEC. 2. [Revoked by Ex. Ord. No. 12292, Feb. 23, 1981, 46 F.R. 13967.]

SEC. 3. *Authority under various other statutes*. The Director is authorized to exercise the authority available to the Secretary of State or the Director of the Foreign Operations Administration, as the case may be, under the following-described provisions of law:

(a) The Foreign Service Buildings Act of 1926, as amended [22 U.S.C. 292 et seq.], regarding the acquisition, construction, alteration, repair, furnishing, exchange, and disposal of buildings and grounds in foreign countries.

(b) The act of July 9, 1949 [see 22 U.S.C. 2681 to 2683], regarding the transfer, acquisition, use, and disposal of international broadcasting facilities.

(c) The act of August 3, 1950, regarding the importation of sound recordings.

(d) The provisions under the first heading "Salaries and Expenses" of the Department of State Appropriation Act, 1954, regarding (1) employment of aliens, by contract, for services abroad, (2) purchase of uniforms, (3) cost of transporting to and from a place of storage and the cost of storing the furniture and household effects of an employee of the Foreign Service who is assigned to a post at which he is unable to use his furniture and effects, under such regulations as the Secretary of State may prescribe, (4) dues for library membership in organizations which issue publications to members only, or to members at a price lower than to others, (5) examination of estimates of appropriations in the field, (6) purchase of ice and drinking water abroad, (7) payment of excise taxes on negotiable instruments abroad, and (8) procurement, by contract or otherwise, of services, supplies and facilities, as follows: (i) maintenance, improvement, and repair of properties used for international information activities in foreign countries, (ii) fuel and utilities for Government-owned or leased property abroad, and (iii) rental or lease for periods not exceeding ten years of offices, buildings, grounds, and living quarters, and the furnishing of living quarters to officers and employees engaged in international information activities abroad [22 U.S.C. 291].

(e) The provisions of the Department of State Appropriation Act, 1954, regarding (1) exchange of funds for payment of expenses in connection with the operation of information establishments abroad without regard to the provisions of section 3651 of the Revised Statutes [section 543 of former Title 31], (section 103 of the General Provisions of the Department of State Appropriation Act, 1954), (2) payment of travel expenses outside the continental limits of the United States from funds available in the fiscal year that such travel is authorized and actually begins (section 104 of the General Provisions of the Department of State Appropriation Act, 1954), (3) granting authority to the chief of each information Field Staff to approve, with

the concurrence of the Chief of Mission, use of Government-owned vehicles for travel under conditions described in section 105 of the General Provisions of the Department of State Appropriation Act, 1954, and (4) purchase with foreign currencies for use abroad of passenger motor vehicles (exclusive of buses, ambulances, and station wagons) at a cost not to exceed the equivalent of $2,200 for each vehicle (section 106 of the General Provisions of the Department of State Appropriation Act, 1954).

(f) Section 202 of the Revised Statutes of the United States [see 22 U.S.C. 2656], so far as it authorizes the Secretary of State to keep the American public informed about the international information aspects of the United States foreign affairs.

(g) Section 504(d) of the Mutual Security Act of 1951, as amended (relating to reduction in personnel) [section 1655d of this title], with respect to personnel transferred from the Mutual Security Agency or the Foreign Operations Administration to the United States Information Agency.

(h) Section 161 of the Revised Statutes of the United States [see 5 U.S.C. 301], and section 4 of the act of May 26, 1949 [see 22 U.S.C. 2658], regarding the promulgation of rules and regulations and the delegation of authority.

SEC. 4. *Effective Date*. This order shall become effective on August 1, 1953.

[For abolition of United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau), transfer of functions, and treatment of references thereto, see sections 6531, 6532, and 6551 of this title.]

[1] *See References in Text note below.*

§1473. Use of existing Government property and facilities

In carrying on activities under this chapter which require the utilization of Government property and facilities, maximum use shall be made of existing Government property and facilities.

(Jan. 27, 1948, ch. 36, title VIII, §803, 62 Stat. 12.)

§1474. Additional authority of Secretary of State or other Government agency authorized to administer provisions

In carrying out the provisions of this chapter, the Secretary, or any Government agency authorized to administer such provisions, may—

(1) employ, without regard to the civil service and classification laws, aliens within the United States and abroad for service in the United States relating to the translation or narration of colloquial speech in foreign languages or the preparation and production of foreign language programs when suitably qualified United States citizens are not available when job vacancies occur, and aliens so employed abroad may be admitted to the United States, if otherwise qualified, as nonimmigrants under section 1101(a)(15) of title 8 for such time and under such conditions and procedures as may be established by the Director of the United States Information Agency and the Attorney General;

(2) pay travel expenses of aliens employed abroad for service in the United States and their dependents to and from the United States;

(3) incur expenses for entertainment within the United States within such amounts as may be provided in appropriations Acts;

(4) obtain insurance on official motor vehicles operated by the Secretary or such agency in foreign countries, and pay the expenses incident thereto;

(5) notwithstanding the provisions of section 2680(k) of title 28, pay tort claims in the manner authorized in the first paragraph of section 2672 of such title, when such claims arise in foreign countries in connection with operations conducted abroad under this chapter;

(6) employ aliens by contract for services abroad;

(7) provide ice and drinking water abroad;

(8) pay excise taxes on negotiable instruments abroad;

(9) pay to or for individuals, not United States Government employees, participating in

activities conducted under this chapter, the costs of emergency medical expenses, preparation and transport to their former homes of the remains of such participants or their dependents who die while away from their homes during such participation, and health and accident insurance premiums for participants or health and accident benefits for participants by means of a program of self-insurance;

(10) rent or lease, for periods not exceeding ten years, offices, buildings, grounds, and living quarters abroad for employees carrying out this chapter, and make payments therefor in advance;

(11) maintain, improve, and repair properties used for information activities in foreign countries;

(12) furnish fuel and utilities for Government-owned or leased property abroad;

(13) pay travel expenses of employees attending official international conferences, without regard to sections 5701–5708 of title 5, and regulations issued thereunder, but at rates not in excess of comparable allowances approved for such conferences by the Secretary;

(14) purchase uniforms;

(15) hire passenger motor vehicles;

(16) purchase passenger motor vehicles for use abroad, and right-hand drive and security vehicles may be so purchased without regard to any maximum price limitation established by law;

(17) procure services of experts and consultants in accordance with section 3109 of title 5;

(18) make advances of funds;

(19) notwithstanding section 5946 of title 5, pay dues for library membership in organizations which issue publications to members only, or to members at a price lower than to others;

(20) subject to the availability of appropriated funds, purchase motion picture, radio and television producers' liability insurance to cover errors and omissions or similar insurance coverage for the protection of interests in intellectual property;

(21) incur expenses authorized by the Foreign Service Act of 1980 (22 U.S.C. 3901 et seq.);

(22) furnish living quarters as authorized by section 5912 of title 5; and

(23) provide allowances as authorized by sections 5921 through 5928 of title 5.

(Jan. 27, 1948, ch. 36, title VIII, §804, as added Pub. L. 92–352, title II, §202, July 13, 1972, 86 Stat. 493; amended Pub. L. 94–350, title II, §203, July 12, 1976, 90 Stat. 830; Pub. L. 96–60, title II, §§203(b)(2), 204(b), Aug. 15, 1979, 93 Stat. 398, 400; Pub. L. 97–241, title III, §§303(b), 304(c), (d), Aug. 24, 1982, 96 Stat. 291, 293; Pub. L. 101–246, title II, §207, Feb. 16, 1990, 104 Stat. 53; Pub. L. 102–138, title II, §§204, 205, Oct. 28, 1991, 105 Stat. 692.)

REFERENCES IN TEXT

The Foreign Service Act of 1980, referred to in par. (21), is Pub. L. 96–465, Oct. 17, 1980, 94 Stat. 2071, as amended, which is classified principally to chapter 52 (§3901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3901 of this title and Tables.

AMENDMENTS

1991—Par. (9). Pub. L. 102–138, §205, amended par. (9) generally. Prior to amendment, par. (9) read as follows: "pay the actual expenses of preparing and transporting to their former homes the remains of persons, not United States Government employees, who may die away from their homes while participating in activities conducted under this chapter;".

Pars. (21) to (23). Pub. L. 102–138, §204, added pars. (21) to (23).

1990—Par. (1). Pub. L. 101–246 inserted "when job vacancies occur" after "available".

1982—Par. (16). Pub. L. 97–241, §304(c), inserted "and security" after "right-hand drive".

Par. (20). Pub. L. 97–241, §304(d), added par. (20).

1979—Par. (1). Pub. L. 96–60, §203(b)(2), authorized employment of aliens within the United States, previously covered in section 1471(5) of this title, extended services to include preparation and production of foreign language programs, and eliminated investigation-of-alien-employees requirement.

Par. (10). Pub. L. 96–60, §204(b)(1), substituted "ten" for "five" years.

Par. (14). Pub. L. 96–60, §204(b)(3), substituted a semicolon for ", when funds are appropriated therefor.".

Pars. (15) to (19). Pub. L. 96–60, §204(b)(4), added pars. (15) to (19).

1976—Par. (14). Pub. L. 94–350 added par. (14).

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–60 effective Oct. 1, 1979, and applicable only with respect to funds appropriated after Aug. 15, 1979, where new authorities provide for expenditure of appropriated funds, see section 209 of Pub. L. 96–60, set out as a note under section 1471 of this title.

TRANSFER OF FUNCTIONS

"Director of the United States Information Agency" substituted for "Director of the International Communication Agency" in par. (1) pursuant to section 303(b) of Pub. L. 97–241, set out as a note under section 1461 of this title, which redesignated International Communication Agency, and Director thereof, as United States Information Agency, and Director thereof. United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau) abolished and functions transferred to Secretary of State, see sections 6531 and 6532 of this title.

AUTHORITY TO ADMINISTER SUMMER TRAVEL AND WORK PROGRAMS

Pub. L. 105–277, div. G, subdiv. B, title XXIV, §2418, Oct. 21, 1998, 112 Stat. 2681–835, provided that: "The Director of the United States Information Agency is authorized to administer summer travel and work programs without regard to preplacement requirements."

Similar provisions were contained in Pub. L. 105–244, title VIII, §846, Oct. 7, 1998, 112 Stat. 1822.

[For abolition of United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau), transfer of functions, and treatment of references thereto, see sections 6531, 6532, and 6551 of this title.]

EMPLOYMENT AUTHORITY FOR FISCAL YEARS 1994 AND 1995

Pub. L. 103–236, title II, §223, Apr. 30, 1994, 108 Stat. 422, provided that, for fiscal years 1994 and 1995, Director of United States Information Agency could, in carrying out provisions of this chapter, employ individuals or organizations by contract for services to be performed in United States or abroad, who could not, by virtue of such employment, be considered to be employees of United States Government for purposes of any law administered by Office of Personnel Management.

§1475. Travel expenses

Appropriated funds made available for any fiscal year to the Secretary or any Government agency, to carry out the provisions of this chapter, for expenses in connection with travel of personnel outside the continental United States, including travel of dependents and transportation of personal effects, household goods, or automobiles of such personnel, shall be available for all such expenses in connection with travel or transportation which begins in that fiscal year pursuant to travel orders issued in that year, notwithstanding the fact that such travel or transportation may not be completed until the following fiscal year.

(Jan. 27, 1948, ch. 36, title VIII, §805, as added Pub. L. 92–352, title II, §202, July 13, 1972, 86 Stat. 494.)

§1475a. Replacement of passenger motor vehicles

The exchange allowances or proceeds derived from the exchange or sale of passenger motor vehicles used abroad for purposes of this chapter or the Mutual Educational and Cultural Exchange Act of 1961 [22 U.S.C. 2451 et seq.] shall be available without fiscal year limitation for replacement of an equal number of such vehicles in accordance with section 503 of title 40.

(Jan. 27, 1948, ch. 36, title VIII, §806, as added Pub. L. 94–350, title II, §204, July 12, 1976, 90 Stat. 830; amended Pub. L. 96–60, title II, §204(c), Aug. 15, 1979, 93 Stat. 400.)

REFERENCES IN TEXT

The Mutual Educational and Cultural Exchange Act of 1961, referred to in text, is Pub. L. 87–256, Sept. 21, 1961, 75 Stat. 527, as amended, which is classified principally to chapter 33 (§2451 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2451 of this title and Tables.

CODIFICATION

"Section 503 of title 40" substituted in text for "section 201(c) of the Federal Property and Administrative Services Act of 1949" on authority of Pub. L. 107–217, §5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

AMENDMENTS

1979—Pub. L. 96–60 substituted "shall be available" for "are authorized to be made available".

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–60 effective Oct. 1, 1979, and applicable only with respect to funds appropriated after Aug. 15, 1979, where new authorities provide for expenditures of appropriated funds, see section 209 of Pub. L. 96–60, set out as a note under section 1471 of this title.

§§1475b, 1475c. Repealed. Pub. L. 105–277, div. G, subdiv. A, title XIII, §1336(1), Oct. 21, 1998, 112 Stat. 2681–790

Section 1475b, act Jan. 27, 1948, ch. 36, title VIII, §807, as added Pub. L. 95–426, title II, §204(c), Oct. 7, 1978, 92 Stat. 974; amended Pub. L. 97–241, title III, §303(b), Aug. 24, 1982, 96 Stat. 291, related to seal of the United States Information Agency.

Section 1475c, act Jan. 27, 1948, ch. 36, title VIII, §808, as added Pub. L. 97–241, title III, §304(e), Aug. 24, 1982, 96 Stat. 293, provided for Acting Associate Director in the event of death, resignation, illness, or absence of Associate Director.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1999, see section 1301 of Pub. L. 105–277, set out as an Effective Date note under section 6531 of this title.

§1475d. Compensation for disability or death

A cultural exchange, international fair or exposition, or other exhibit or demonstration of United States economic accomplishments and cultural attainments, provided for under this chapter or the Mutual Educational and Cultural Exchange Act of 1961 [22 U.S.C. 2451 et seq.] shall not be considered a "public work" as that term is defined in section 1651 of title 42.

(Jan. 27, 1948, ch. 36, title VIII, §809, as added Pub. L. 97–241, title III, §304(e), Aug. 24, 1982, 96 Stat. 293.)

REFERENCES IN TEXT

The Mutual Educational and Cultural Exchange Act of 1961, referred to in text, is Pub. L. 87–256, Sept. 21, 1961, 75 Stat. 527, as amended, which is classified principally to chapter 33 (§2451 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2451 of this title and Tables.

§1475e. Use of English-teaching program fees

(a) In general

Notwithstanding section 3302 of title 31 or any other law or limitation of authority, fees and receipts described in subsection (b) are authorized to be credited each fiscal year for authorized purposes to the appropriate appropriations of the United States Information Agency to such extent as may be provided in advance in appropriations acts.

(b) Fees and receipts described

The fees and receipts described in this subsection are fees and payments received by or for the use of the United States Information Agency from or in connection with—

(1) English-teaching and library services,

(2) educational advising and counseling,

(3) Exchange Visitor Program Services,

(4) advertising and business ventures of the Voice of America and the International Broadcasting Bureau,

(5) cooperating international organizations, and [1]

(6) Agency-produced publications,[1]

(7) an amount not to exceed $100,000 of the payments from motion picture and television programs produced or conducted by or on behalf of the Agency under the authority of this chapter or the Mutual Education and Cultural Exchange Act of 1961 [22 U.S.C. 2451 et seq.].

(Jan. 27, 1948, ch. 36, title VIII, §810, as added Pub. L. 97–241, title III, §304(e), Aug. 24, 1982, 96 Stat. 293; amended Pub. L. 100–204, title II, §203, Dec. 22, 1987, 101 Stat. 1373; Pub. L. 101–246, title II, §208, Feb. 16, 1990, 104 Stat. 53; Pub. L. 105–277, div. G, subdiv. B, title XXIV, §2412, Oct. 21, 1998, 112 Stat. 2681–832.)

REFERENCES IN TEXT

The Mutual Education and Cultural Exchange Act of 1961, referred to in subsec. (b)(7), probably means the Mutual Educational and Cultural Exchange Act of 1961, Pub. L. 87–256, Sept. 21, 1961, 75 Stat. 527, as amended, which is classified principally to chapter 33 (§2451 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2451 of this title and Tables.

AMENDMENTS

1998—Pub. L. 105–277 amended section catchline and text generally. Prior to amendment, text read as follows:

"(a) Notwithstanding section 3302 of title 31 or any other law or limitation of authority, fees received by or for the use of the United States Information Agency from or in connection with English-teaching and library services, and Agency-produced publications, and not to exceed $100,000 of payments from motion picture and television programs, produced or conducted by or on behalf of the Agency under the authority of this chapter or the Mutual Educational and Cultural Exchange Act of 1961 is authorized to be credited each fiscal year to the appropriate appropriation of the United States Information Agency to such extent as may be provided in advance in an appropriation Act."

1990—Pub. L. 101–246 amended section catchline and text generally. Prior to amendment, section read as follows: "Notwithstanding the provisions of section 3302(b) of title 31 or any other law or limitation of authority, all payments received by or for the use of the United States Information Agency from or in connection with English-teaching and library services conducted by or on behalf of the Agency under the authority of this chapter or the Mutual Educational and Cultural Exchange Act of 1961 may be credited to the Agency's applicable appropriation to such extent as may be provided in advance in an appropriation Act."

1987—Pub. L. 100–204 amended section generally, changing structure of section from one consisting of subsecs. (a) and (b) to one consisting of one paragraph.

TRANSFER OF FUNCTIONS

United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau) abolished and functions transferred to Secretary of State, see sections 6531 and 6532 of this title.

[1] So in original. The word "and" probably should appear at end of par. (6).

§1475f. Repealed. Pub. L. 105–277, div. G, subdiv. A, title XIII, §1336(1), Oct. 21, 1998, 112 Stat. 2681–790

Section, act Jan. 27, 1948, ch. 36, title VIII, §811, as added Pub. L. 101–246, title II, §209, Feb. 16, 1990, 104 Stat. 53, related to recovery of indebtedness owed by person to United States arising out of activities of United States Information Agency.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1999, see section 1301 of Pub. L. 105–277, set out as an Effective Date note under

section 6531 of this title.

§1475g. Overseas public diplomacy posts and personnel overseas

(a) Limitation

Except as provided under this section no funds authorized to be appropriated to the Department of State may be used to pay any expense associated with the closing of any overseas public diplomacy post abroad.

(b) Notification

Not less than 45 days before the closing of any overseas public diplomacy post abroad the Secretary of State shall notify the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

(c) Exceptions

This section shall not apply to any overseas public diplomacy post closed—

(1) because of a break or downgrading of diplomatic relations between the United States and the country in which the post is located; or

(2) where there is a real and present threat to United States diplomats in the city where the post is located and where a travel advisory warning against travel by United States citizens to the city has been issued by the Department of State.

(Jan. 27, 1948, ch. 36, title VIII, §812, as added Pub. L. 102–138, title II, §206(a), Oct. 28, 1991, 105 Stat. 693; amended Pub. L. 105–277, div. G, subdiv. A, title XIII, §1335(a)(5), Oct. 21, 1998, 112 Stat. 2681–787.)

PRIOR PROVISIONS

Provisions similar to this section were contained in Pub. L. 100–204, title II, §204, Dec. 22, 1987, 101 Stat. 1373, which was set out as a note under section 1461 of this title prior to repeal by Pub. L. 102–138, title II, §206(c), Oct. 28, 1991, 105 Stat. 693.

AMENDMENTS

1998—Pub. L. 105–277, §1335(a)(5)(D), substituted "Overseas public diplomacy" for "USIA" in section catchline.

Subsec. (a). Pub. L. 105–277, §1335(a)(5)(A), (B), substituted "Department of State" for "United States Information Agency" and "overseas public diplomacy post" for "United States Information Agency post".

Subsec. (b). Pub. L. 105–277, §1335(a)(5)(A), (C), substituted "overseas public diplomacy post" for "United States Information Agency post" and "Secretary of State" for "Director of the United States Information Agency".

Subsec. (c). Pub. L. 105–277, §1335(a)(5)(A), substituted "overseas public diplomacy post" for "United States Information Agency post" in introductory provisions.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective Oct. 1, 1999, see section 1301 of Pub. L. 105–277, set out as an Effective Date note under section 6531 of this title.

REDUCTIONS IN AMERICAN EMPLOYEES

Pub. L. 102–138, title II, §206(b), Oct. 28, 1991, 105 Stat. 693, which provided that reductions could not be made in number of American employees of United States Information Agency stationed abroad until number of such employees was same percentage of total number of American employees of Agency as number of American employees of Agency stationed abroad in 1981 was to total number of American employees at Agency at same time in 1981, was repealed by Pub. L. 105–277, div. G, subdiv. A, title XIII, §1336(4), Oct. 21, 1998, 112 Stat. 2681–790.

§1475h. Overseas public diplomacy grants

(a) Competitive grant procedures

Except as provided in subsection (b), the Department of State shall work to achieve full and open competition in the award of grants for carrying out its overseas public diplomacy functions.

(b) Exceptions

The Department of State may award an overseas public diplomacy grant under procedures other than competitive procedures when—

(1) such a grant is made under the Mutual Educational and Cultural Exchange Act of 1961 (commonly known as the Fulbright-Hays Act) [22 U.S.C. 2451 et seq.] or any statute which expressly authorizes or requires that a grant be made with a specified entity;

(2) the terms of an international agreement or treaty between the United States Government and a foreign government or international organization have the effect of requiring the use of procedures other than competitive procedures;

(3) a recipient organization has developed particular expertise in the planning and administration of longstanding exchange programs important to United States foreign policy; or

(4) introducing competition would increase costs.

(c) Compliance with grant guidelines

(1) After October 1, 1991, overseas public diplomacy grants awarded by the Department of State shall substantially comply with Department of State grant guidelines and applicable circulars of the Office of Management and Budget.

(2) If the Agency [1] determines that a grantee has not satisfied the requirement of paragraph (1), the Department of State shall notify the grantee of the suspension of payments under a grant unless compliance is achieved within 90 days of such notice.

(3) The Agency [1] shall suspend payments under any such grant which remains in noncompliance 90 days after notification under paragraph (2).

(Pub. L. 102–138, title II, §212, Oct. 28, 1991, 105 Stat. 695; Pub. L. 105–277, div. G, subdiv. A, title XIII, §1335(b), Oct. 21, 1998, 112 Stat. 2681–787.)

REFERENCES IN TEXT

The Mutual Educational and Cultural Exchange Act of 1961, referred to in subsec. (b)(1), is Pub. L. 87–256, Sept. 21, 1961, 75 Stat. 527, as amended, which is classified principally to chapter 33 (§2451 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2451 of this title and Tables.

CODIFICATION

Section was enacted as part of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993, and not as part of the United States Information and Educational Exchange Act of 1948 which comprises this chapter.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–277, §1335(b)(1), (2), substituted "Department of State" for "United States Information Agency" and inserted "for carrying out its overseas public diplomacy functions" after "grants".

Subsec. (b). Pub. L. 105–277, §1335(b)(1), (3)(A), in introductory provisions, substituted "Department of State" for "United States Information Agency" and "an overseas public diplomacy grant" for "a grant".

Subsec. (b)(1). Pub. L. 105–277, §1335(b)(3)(B), inserted "such" after "(1)".

Subsec. (c)(1). Pub. L. 105–277, §1335(b)(1), (4), inserted "overseas public diplomacy" before "grants" and substituted "Department of State" for "United States Information Agency" in two places.

Subsec. (c)(2). Pub. L. 105–277, §1335(b)(1), substituted "Department of State" for "United States Information Agency".

Subsec. (c)(3). Pub. L. 105–277, §1335(b)(5), inserted "such" before "grant".

Subsec. (d). Pub. L. 105–277, §1335(b)(6), struck out heading and text of subsec. (d). Text read as follows: "Not later than 90 days after October 28, 1991, the Director of the United States Information Agency shall submit a detailed report to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives on United States Information Agency action to comply with subsection (a) of this section."

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective Oct. 1, 1999, see section 1301 of Pub. L. 105–277, set out as an Effective Date note under section 6531 of this title.

[1] *So in original. Probably should be "Department".*

SUBCHAPTER VIII—APPROPRIATIONS AND OTHER FUNDS

§1476. Repealed. Pub. L. 105–277, div. G, subdiv. A, title XIII, §1336(1), Oct. 21, 1998, 112 Stat. 2681–790

Section, acts Jan. 27, 1948, ch. 36, title VII, §701, 62 Stat. 11; Pub. L. 92–226, pt. IV, §407(d), Feb. 7, 1972, 86 Stat. 35; Pub. L. 92–352, title II, §203, July 13, 1972, 86 Stat. 494; Pub. L. 93–168, §3, Nov. 29, 1973, 87 Stat. 688; Pub. L. 93–475, §6, Oct. 26, 1974, 88 Stat. 1440; 1977 Reorg. Plan No. 2, §§5, 7(a)(1), 42 F.R. 62461, 91 Stat. 1636, 1637; Pub. L. 97–241, title III, §303(b), Aug. 24, 1982, 96 Stat. 291; Pub. L. 102–499, §2, Oct. 24, 1992, 106 Stat. 3264; Pub. L. 103–415, §1(q), Oct. 25, 1994, 108 Stat. 4301; Pub. L. 105–277, div. G, subdiv. B, title XXIV, §2419, Oct. 21, 1998, 112 Stat. 2681–835, limited appropriations to carry out chapter to amounts previously authorized and prohibited appropriations in excess of such amounts.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1999, see section 1301 of Pub. L. 105–277, set out as an Effective Date note under section 6531 of this title.

§1477. Transfer of funds

The Secretary shall authorize the transfer to other Government agencies for expenditure in the United States and in other countries, in order to carry out the purposes of this chapter, any part of any appropriations available to the Department for carrying out the purposes of this chapter, for direct expenditure or as a working fund, and any such expenditures may be made under the specific authority contained in this chapter or under the authority governing the activities of the Government agency to which a part of any such appropriation is transferred, provided the activities come within the scope of this chapter.

(Jan. 27, 1948, ch. 36, title VII, §702, 62 Stat. 11.)

§1477a. Omitted

Section, act Jan. 27, 1948, ch. 36, title VII, §703, as added Mar. 30, 1972, Pub. L. 92–264, 86 Stat. 114; amended Aug. 20, 1972, Pub. L. 92–394, 86 Stat. 577; July 6, 1973, Pub. L. 93–59, 87 Stat. 142; 1977 Reorg. Plan No. 2, §7(a)(1), 42 F.R. 62461, 91 Stat. 1637, which authorized appropriations for Radio Free Europe and Radio Liberty for fiscal year 1973 in an amount of $38,520,000, and also authorized an additional $1,150,000 for nondiscretionary costs, has been omitted in view of the authorization not being extended later than fiscal year 1973.

§1477b. Repealed. Pub. L. 105–277, div. G, subdiv. A, title XIII, §1336(1), Oct. 21, 1998, 112 Stat. 2681–790

Section, act Jan. 27, 1948, ch. 36, title VII, §704, as added Pub. L. 96–60, title II, §204(e), Aug. 15, 1979, 93 Stat. 400; amended Pub. L. 97–241, title I, §112(b), title III, §303(b), Aug. 24, 1982, 96 Stat. 278, 291; Pub. L. 103–236, title II, §224, Apr. 30, 1994, 108 Stat. 422, related to nondiscretionary personnel costs and currency fluctuations.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1999, see section 1301 of Pub. L. 105–277, set out as an Effective Date note under section 6531 of this title.

§1477c. Notification and award of grants

The Department of State may award grants for overseas public diplomacy programs only if the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate are notified fifteen days in advance of the proposed grant.

(Jan. 27, 1948, ch. 36, title VII, §705, as added Pub. L. 98–164, title II, §214, Nov. 22, 1983, 97 Stat. 1035; amended Pub. L. 99–93, title II, §214(a), Aug. 16, 1985, 99 Stat. 434; Pub. L. 100–204, title II, §202, Dec. 22, 1987, 101 Stat. 1372; Pub. L. 102–138, title II, §202, Oct. 28, 1991, 105 Stat. 692; Pub. L. 105–277, div. G, subdiv. A, title XIII, §1335(a)(3), Oct. 21, 1998, 112 Stat. 2681–787.)

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–277, §1335(a)(3)(A), struck out subsec. (a) which read as follows: "Unless the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate are notified fifteen days in advance of a proposed reprograming, funds appropriated for the United States Information Agency shall not be available for obligation or expenditure through any such reprograming of funds—

"(1) which creates new programs;

"(2) which eliminates a program, project, or activity;

"(3) which increases funds or personnel by any means for any project or activity for which funds have been denied or restricted by the Congress;

"(4) which relocates an office or employees;

"(5) which reorganizes offices, programs, or activities;

"(6) which involves contracting out functions which had been performed by Federal employees; or

"(7) which involves a reprograming in excess of $500,000 or 10 per centum, whichever is less, and which (A) augments existing programs, projects, or activities, (B) reduces by 10 per centum or more the funding for any existing program, project, or activity, or personnel approved by the Congress, or (C) results from any general savings from a reduction in personnel which would result in a change in existing programs, activities, or projects approved by the Congress."

Subsec. (b). Pub. L. 105–277, §1335(a)(3)(B), struck out subsec. (b) designation and substituted "The Department of State" for "In addition, the United States Information Agency" and "grants for overseas public diplomacy programs" for "program grants".

Subsec. (c). Pub. L. 105–277, §1335(a)(3)(A), struck out subsec. (c) which read as follows: "Funds appropriated for the United States Information Agency may not be available for obligation or expenditure through any reprogramming described in subsection (a) of this section during the period which is the last 15 days in which such funds are available unless notice of such reprogramming is made before such period."

1991—Subsec. (a)(7). Pub. L. 102–138 substituted "$500,000" for "$250,000".

1987—Subsec. (b). Pub. L. 100–204, §202(a), struck out "for the fiscal years 1986 and 1987" after "may award program grants".

Subsec. (c). Pub. L. 100–204, §202(b), added subsec. (c).

1985—Subsec. (b). Pub. L. 99–93 substituted "1986 and 1987" for "1984 and 1985".

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective Oct. 1, 1999, see section 1301 of Pub. L. 105–277, set out as an Effective Date note under section 6531 of this title.

EFFECTIVE DATE OF 1985 AMENDMENT

Pub. L. 99–93, title II, §214(b), Aug. 16, 1985, 99 Stat. 434, provided that: "The amendment made by subsection (a) [amending this section] shall take effect on October 1, 1985."

§1478. Reimbursement of program expenses from sources other than appropriations; disposition of receipts

The Secretary shall, when he finds it in the public interest, request and accept reimbursement from any cooperating governmental or private source in a foreign country, or from State or local governmental institutions or private sources in the United States, for all or part of the expenses of any portion of the program undertaken hereunder. The amounts so received shall be covered into the Treasury as miscellaneous receipts.

(Jan. 27, 1948, ch. 36, title IX, §901, 62 Stat. 13.)

§1479. Advancement of funds, property, or services by foreign governments; disposition; availability; return of unexpended balances or property

If any other government shall express the desire to provide funds, property, or services to be used by this Government, in whole or in part, for the expenses of any specific part of the program undertaken pursuant to this chapter, the Secretary is authorized, when he finds it in the public interest, to accept such funds, property, or services. Funds so received may be established as a special deposit account in the Treasury of the United States, to be available for the specified purpose, and to be used for reimbursement of appropriations or direct expenditure, subject to the provisions of this chapter. Any unexpended balance of the special deposit account and other property received under this section and no longer required for the purposes for which provided shall be returned to the government providing the funds or property.

(Jan. 27, 1948, ch. 36, title IX, §902, 62 Stat. 13.)

§1480. Repealed. Pub. L. 89–554, §8(a), Sept. 6, 1966, 80 Stat. 657, 658

Section, act June 20, 1956, ch. 414, title I, §107, 70 Stat. 304, related to maximum rates of per diem in lieu of subsistence payable to foreign participants. See section 2679 of this title.

Acts July 10, 1952, ch. 651, title I, §109, 66 Stat. 555; Aug. 5, 1953, ch. 328, title I, §108, 67 Stat. 371; July 2, 1954, ch. 456, title I, §107, 68 Stat. 418; July 7, 1955, ch. 279, title I, §107, 69 Stat. 270, which contained provision similar to section 1480 of this title, were repealed by Pub. L. 89–554, §8(a), Sept. 6, 1966, 80 Stat. 657, 658.

CHAPTER 19—FOREIGN ASSISTANCE PROGRAM

SUBCHAPTER I—ASSISTANCE TO EUROPEAN COUNTRIES

§§1501, 1502. Repealed. Oct. 10, 1951, ch. 479, title V, §503(b)(1), as added June 20, 1952, ch. 449, §7(c), 66 Stat. 144

Section 1501, acts Apr. 3, 1948, ch. 169, title I, §102, 62 Stat. 137; Apr. 19, 1949, ch. 77, §1, 63 Stat. 50; June 5, 1950, ch. 220, title I, §102, 64 Stat. 198, related to congressional declarations and findings. See sections 2151 and 2301 of this title.

Section 1502, act Apr. 3, 1948, ch. 169, title I, §103, 62 Stat. 138, related to participating countries.

§§1503 to 1505. Repealed. Aug. 26, 1954, ch. 937, title V, §542(a)(4), (10), 68 Stat. 861

Section 1503, acts Apr. 3, 1948, ch. 169, title I, §104, 62 Stat. 138; Apr. 19, 1949, ch. 77, §2, 63 Stat. 50; Oct. 10, 1951, ch. 479, title V, §503(b)(1), as added June 20, 1952, ch. 449, §7(c), 66 Stat. 144, related to

Economic Cooperation Administration and provided for the creation of a corporation, its powers, duties, and liabilities, termination date, capital stock, employment of personnel and promulgation of rules and regulations.

Section 1504, acts Apr. 3, 1948, ch. 169, title I, §105, 62 Stat. 140; Apr. 19, 1949, ch. 77, §3, 63 Stat. 50; Oct. 10, 1951, ch. 479, title V, §503(b)(1), as added June 20, 1952, ch. 449, §7(c), 66 Stat. 144, related to general functions of Administrator.

Section 1505, act Apr. 3, 1948, ch. 169, title I, §107, 62 Stat. 141, related to creation of Public Advisory Board; composition; qualifications; appointment; compensation; expenses; meetings; and additional advisory committees.

§1506. Repealed. Oct. 10, 1951, ch. 479, title V, §503(b)(1), as added June 20, 1952, ch. 449, §7(c), 66 Stat. 144

Section, acts Apr. 3, 1948, ch. 169, title I, §108, 62 Stat. 141; Apr. 19, 1949, ch. 77, §4, 63 Stat. 50, related to the United States Special Representative and Deputy Representative abroad; appointment and compensation; and rank. See section 2391 of this title.

§§1507 to 1513. Repealed. Aug. 26, 1954, ch. 937, title V, §542(a)(4), (6), (9)–(11), 68 Stat. 861

Section 1507, acts Apr. 3, 1948, ch. 169, title I, §109, 62 Stat. 142; Apr. 19, 1949, ch. 77, §5, 63 Stat. 51; Oct. 10, 1951, ch. 479, title V, §503(b)(1), as added June 20, 1952, ch. 449, §7(c), 66 Stat. 144, related to special missions for each participating country. See sections 2382, 2391, and 2396 of this title.

Section 1508, acts Apr. 3, 1948, ch. 169, title I, §110, 62 Stat. 142; Apr. 5, 1952, ch. 159, §1, 66 Stat. 43; Oct. 10, 1951, ch. 479, title V, §503(b)(1), as added June 20, 1952, ch. 449, §7(c), 66 Stat. 144, related to personnel performing outside United States, their pay and allowances, assignment to Foreign Service Reserve or Staff, employment of aliens and loyalty and security investigation of employees. See section 2385 of this title.

Section 1509, acts Apr. 3, 1948, ch. 169, title I, §111, 62 Stat. 143; Apr. 19, 1949, ch. 77, §6, 63 Stat. 51; June 5, 1950, ch. 220, title I, §103, 64 Stat. 198; Oct. 10, 1951, ch. 479, title V, §522, 65 Stat. 384; June 20, 1952, ch. 449, §7(a), 66 Stat. 143; July 16, 1953, ch. 195, ch. VII, §708(a), 67 Stat. 161, related to assistance to participating countries, nature and methods, terms and conditions; utilization of private channels of trade, terms and conditions; assistance by grants, payments-in-cash or credit, maximum issuance of notes; and funds to promote liberalization of trade among participants. See sections 2351, 2353, 2395 and 2403 of this title.

Section 1510, acts Apr. 3, 1948, ch. 169, title I, §112, 62 Stat. 146; Apr. 19, 1949, ch. 77, §7, 63 Stat. 52; June 5, 1950, ch. 220, title I, §104, 64 Stat. 199; Oct. 10, 1951, ch. 479, title V, §538(c) as added June 20, 1952, ch. 449, §7(m), 66 Stat. 148, related to protection of domestic economy, minimization of procurement in United States, surplus agricultural commodity, definition, procurement, acquisition from Commodity Credit Corporation, payment and payments by Secretary of Agriculture, exclusion of nonparticipating countries, utilization of private channels of trade, assistance by Administrator to aid small business to participate in furnishing commodities and services to program, appointment and duties of special assistant, report to Congress, marine insurance, limitation on use of advertising funds and on purchase price of commodities, price-policy for wheat and wheat-flour, and discriminatory trade practices. See sections 2352, 2354, and 2403 of this title.

Section 1511 act Apr. 3, 1948, ch. 169, title I, §113, 62 Stat. 148, related to reimbursement to Government agencies for commodities, services, or facilities; and transfer of commodities to other Government agencies to prevent spoilage or waste. See sections 2355 and 2392 of this title.

Section 1512, acts Apr. 3, 1948, ch. 169, title I, §114, 62 Stat. 149; Apr. 19, 1949, ch. 77, §8, 63 Stat. 53; June 5, 1950, ch. 220, title I, §105, 64 Stat. 200; act Oct. 10, 1951, ch. 479, title V, §503(b)(1), as added June 20, 1952, ch. 449, §7(c), 66 Stat. 144, related to appropriations, interim advances and repayment, availability of certain unobligated funds, appropriation of funds until June 30, 1952, disbursement of funds, merger of certain deposits of participating countries, creation of Foreign Economic Cooperation Trust fund, advances by Reconstruction Finance Corporation, transfer of German assistance funds and payment of expenses of rehabilitation, and deposit of German currency into GARIOA special account and availability of deposited funds. See section 2151 et seq. of this title.

Section 1513, acts Apr. 3, 1948, ch. 169, title I, §115, 62 Stat. 150; Apr. 19, 1949, ch. 77, §9, 63 Stat. 53; June 5, 1950, ch. 220, title I, §106, 64 Stat. 201; Oct. 10, 1951, ch. 479, title V, §§523, 527, 65 Stat. 385; Oct.

10, 1951, ch. 479, title V, §503(b)(1), as added June 20, 1952, ch. 449, §7(c), 66 Stat. 144; June 20, 1952, ch. 449, §9, 66 Stat. 150; July 16, 1953, ch. 195, ch. VII, §§708(b), (c), 710(b), 67 Stat. 161, related to bilateral and multilateral undertakings; conclusion of basic agreements by Secretary of State and advisory function of Administrator; conditions precedent for assistance; interim assistance; encouragement of joint organization between participating countries and followup system; utilization of manpower; capital equipment; repatriation of prisoners of war; use of special local currency by United States; procurement of strategic, critical or deficient materials for United States; and publicity regarding American assistance. See section 2151 et seq. of this title.

§1514. Repealed. Oct. 10, 1951, ch. 479, title V, §503(b)(1), as added June 20, 1952, ch. 449, §7(c), 66 Stat. 144

Section, act Apr. 3, 1948, ch. 169, title I, §116, 62 Stat. 153, related to assistance by other Western Hemisphere countries.

§§1515 to 1519. Repealed. Aug. 26, 1954, ch. 937, title V, §542(a)(4), (10), 68 Stat. 861

Section 1515, acts Apr. 3, 1948, ch. 169, title I, §117, 62 Stat. 153; Apr. 19, 1949, ch. 77, §10, 63 Stat. 54; Oct. 10, 1951, ch. 479, title V, §503(b)(1), as added June 20, 1952, ch. 449, §7(c), 66 Stat. 144; Oct. 26, 1951, ch. 575, title III, §305, 65 Stat. 647, prescribed additional duties of Administrator to promote production in participating countries and foreign travel by Americans and provided for payment of ocean freight charges on voluntary supplies, availability of ships for emigration from Italy, retention of title and return of ships. See section 2121 et seq. of this title.

Section 1516, acts Apr. 3, 1948, ch. 169, title I, §118, 62 Stat. 154; Apr. 19, 1949, ch. 77, §11, 63 Stat. 55, related to termination of assistance. See section 2367 and 2370 of this title.

Section 1517, act Apr. 3, 1948, ch. 169, title I, §119, 62 Stat. 154, related to exemption of functions, respecting assistance to European countries, from contract and accounting laws. See section 2393 of this title.

Section 1518, act Apr. 3, 1948, ch. 169, title I, §120, 62 Stat. 155, related to exemption of personnel from certain employment laws. See section 2386 of this title.

Section 1519, acts Apr. 3, 1948, ch. 169, title I, §121, 62 Stat. 155; Oct. 10, 1951, ch. 479, title V, §503(b)(1), as added June 20, 1952, ch. 449, §7(c), 66 Stat. 144, related to utilization of services and facilities of United Nations and prohibitions, transmittal of copies of Congressional reports on operations to the Secretary-General of the United Nations and registration of agreements.

§§1520 to 1522. Repealed. Oct. 10, 1951, ch. 479, title V, §503(b)(1), as added June 20, 1952, ch. 449, §7(c), 66 Stat. 144

Section 1520, act Apr. 3, 1948, ch. 169, title I, §122, 62 Stat. 155, related to termination of program. See section 2367 of this title.

Section 1521, act Apr. 3, 1941, ch. 169, title I, §123, 62 Stat. 156, related to reports to Congress. See section 2394 of this title.

Section 1522, act Apr. 3, 1948, ch. 169, title I, §124, 62 Stat. 156, provided for a Joint Congressional Committee, its composition, vacancies, chairman, functions, committee hearings, attendance of witnesses, cost of stenographic services, penalties, employment of personnel, appropriations and disbursements.

§1523. Repealed. Oct. 26, 1951, ch. 575, title III, §305, 65 Stat. 647

Section, act June 2, 1951, ch. 121, Ch. XIII, §1302(a), 65 Stat. 63, related to assistance denied countries trading with Russia or satellite countries. See section 1611 et seq. of this title. Section 1302(b) of that act repealed section 1304 of act Sept. 27, 1950, ch. 1052, Ch. XIII, 64 Stat. 1066, which contained similar provisions.

SUBCHAPTER II—ASSISTANCE TO INTERNATIONAL CHILDREN'S EMERGENCY FUND

§§1531 to 1536. Repealed. Aug. 26, 1954, ch. 937, title V, §542(a)(4), (6), 68 Stat. 861

Section 1531, act Apr. 3, 1948, ch. 169, title II, §202, 62 Stat. 157, related to purpose.

Section 1532, acts Apr. 3, 1948, ch. 169, title II, §203, 62 Stat. 157; July 14, 1949, ch. 336, §1, 63 Stat. 412, related to contributions.

Section 1533, act Apr. 3, 1948, ch. 169, title II, §204, 62 Stat. 157, related to limitations on contributions.

Section 1534, acts Apr. 3, 1948, ch. 169, title II, §205, 62 Stat. 157; July 14, 1949, ch. 336, §1, 63 Stat. 412, related to appropriations and availability thereof as relief aid to war devastated countries.

Section 1535, acts Apr. 3, 1948, ch. 169, title II, §206, 62 Stat. 157; July 1, 1949, ch. 336, §1, 63 Stat. 412, related to amount of appropriations in amount of $60,000,000.

Section 1536, act June 5, 1950, ch. 220, title V, §501, 64 Stat. 209, related to additional appropriations in amount of $15,000,000 and made certain funds appropriated by Foreign Aid Appropriation Act, 1949, available through June 30, 1951.

REPEAL OF ADDITIONAL APPROPRIATIONS

Acts June 20, 1952, ch. 449, §12, 66 Stat. 151; Oct. 10, 1951, ch. 479, title V, §545, as added by act July 16, 1953, ch. 195, ch. VI, §603, 67 Stat. 155, were repealed by act Aug. 26, 1954, §542(a)(9)–(11).

SUBCHAPTER III—ASSISTANCE TO CHINA

§§1541 to 1547. Repealed. Aug. 26, 1954, ch. 937, title V, §542(a)(4), (6), (9)–(11), 68 Stat. 861

Sections 1541–1546, act Apr. 3, 1948, ch. 169, title IV, §§402–407, 62 Stat. 158, 159, related to Congressional findings and declaration of purpose; administration of assistance; appropriations; agreements; monetary advances by and reimbursement to R.F.C.; and Joint Commission on Rural Reconstruction in China, establishment, composition, duties, limitations, apportionment of funds.

Section 1547, acts June 5, 1950, ch. 220, title II, §202, 64 Stat. 202; Oct. 10, 1951, ch. 479, title III, §302(b), 65 Stat. 376; June 20, 1952, ch. 449, §5(c), 66 Stat. 143; July 16, 1953, ch. 195, ch. V, §502, 67 Stat. 154, related to nature of assistance.

ADDITIONAL APPROPRIATIONS

Section 12 of act Apr. 19, 1949, ch. 77, 63 Stat. 55, as amended by act Feb. 14, 1950, ch. 16, §2, 64 Stat. 5, made available additional appropriations for assistance in China.

SUBCHAPTER IV—ASSISTANCE TO KOREA

§§1551, 1552. Repealed. Aug. 26, 1954, ch. 937, title V, §542(a)(6), (7), 68 Stat. 861

Section 1551, acts Feb. 14, 1950, ch. 16, §3, 64 Stat. 5; June 5, 1950, ch. 220, title I, §107(a), (b), 64 Stat. 202, related to conditions governing furnishing and termination of aid; shipping made available; appropriations; advances; and repayment.

Section 1552, acts Feb. 14, 1950, ch. 16, §4, 64 Stat. 6; June 5, 1950, ch. 220, title I, §107(c), 64 Stat. 202, related to termination of appropriation authorization period.

SUBCHAPTER V—AID TO PALESTINE REFUGEES

§§1556 to 1556b. Repealed. Aug. 26, 1954, ch. 937, title V, §542(a)(6), 68 Stat. 861

Sections, act June 5, 1950, ch. 220, title III, §§302–304, 64 Stat. 203, related to contributions to United Nations for assistance; authorization of appropriations and advances by R.F.C.; and nature of assistance. See section 2221 of this title.

SUBCHAPTER VI—INTERNATIONAL DEVELOPMENT

§§1557 to 1557k. Repealed. Aug. 26, 1954, ch. 937, title V, §542(a)(6), (9)–(11), 68 Stat. 861

Section 1557, act June 5, 1950, ch. 220, title IV, §402, 64 Stat. 204, related to Congressional declaration of findings. See section 2151 of this title.

Section 1557a, act June 5, 1950, ch. 220, title IV, §403, 64 Stat. 204, related to Congressional declaration of policy. See section 2151 of this title.

Section 1557b, acts June 5, 1950, ch. 220, title IV, §404, 64 Stat. 205; Oct. 10, 1951, ch. 479, title V, §528(a), 65 Stat. 386; June 20, 1952, ch. 449, §10(a), 66 Stat. 150; July 16, 1953, ch. 195, ch. VII, §709, 67 Stat. 161, related to United States participation in multilateral technical cooperation programs; contributions; and furnishing of services and facilities. See section 2357 of this title.

Section 1557c, act June 5, 1950, ch. 220, title IV, §405, 64 Stat. 205, related to bilateral technical cooperation programs. See section 2171 of this title.

Section 1557d, act June 5, 1950, ch. 220, title IV, §406, 64 Stat. 206, related to registration of agreements with Secretariat of the United Nations.

Section 1557e, acts June 5, 1950, ch. 220, title IV, §407, 64 Stat. 206; Oct. 10, 1951, ch. 479, title V, §528(b), 65 Stat. 386, related to programs.

Section 1557f, act June 5, 1950, ch. 220, title IV, §408, 64 Stat. 206, related to rules and regulations. See section 2381 of this title.

Section 1557g, act June 5, 1950, ch. 220, title IV, §409, 64 Stat. 206, related to advisory board; creation; duties; composition; compensation; and appointment of special committees.

Section 1557h, act June 5, 1950, ch. 220, title IV, §410, 64 Stat. 207, related to joint commission for economic development; appointment and compensation; duties; preparation of reports and studies; recommendations, and costs.

Section 1557i, act June 5, 1950, ch. 220, title IV, §411, 64 Stat. 207, related to termination of assistance. See section 2367 of this title.

Section 1557j, act June 5, 1950, ch. 220, title IV, §412, 64 Stat. 207, related to delegation of authority by President. See section 2381 of this title.

Section 1557k, acts June 5, 1950, ch. 220, title IV, §413, 64 Stat. 207; June 20, 1952, ch. 449, §10(b), 66 Stat. 150, related to employment of personnel. See sections 2385 to 2388 of this title.

REPEAL OF APPROPRIATIONS

Act Oct. 10, 1951, ch. 479, title V, §544, as added by act July 16, 1953, ch. 195, ch. VI, §602, 67 Stat. 155, which authorized appropriations for fiscal year 1954, was repealed by act Aug. 26, 1954, §542(a)(9), (11).

§1557*l*. Repealed. Oct. 10, 1951, ch. 479, title V, §528(c), 65 Stat. 386

Section, act June 5, 1950, ch. 220, title IV, §414, 64 Stat. 208, related to personnel investigations by the Federal Bureau of Investigation.

§§1557m to 1557*o*. Repealed. Aug. 26, 1954, ch. 937, title V, §542(a)(6), 68 Stat. 861

Section 1557m, act June 5, 1950, ch. 220, title IV, §415, 64 Stat. 208, required the President to submit an annual report to Congress. See section 2394 of this title.

Section 1557n, act June 5, 1950, ch. 220, title IV, §416, 64 Stat. 208, related to authorization for appropriations; original appropriation; and express or implied commitments. See section 2404 of this title.

Section 1557o, act June 5, 1950, ch. 220, title IV, §418, 64 Stat. 209, defined the terms "technical cooperation programs," "United States Government agency" and "international organization." See section 2403 of this title.

SUBCHAPTER VII—ASSISTANCE TO YUGOSLAVIA

§§1558 to 1558h. Repealed. Aug. 26, 1954, ch. 937, title V, §542(a)(8), 68 Stat. 861

Sections 1558 to 1558c, act Dec. 29, 1950, ch. 1182, §§2–5, 64 Stat. 1122, 1123, related to amount of funds available; agreement; terms; utilization of available funds; and nonendorsement of internal measures of Yugoslavian Government.

Section 1558d, act Dec. 29, 1950, ch. 1182, §6, 64 Stat. 1123, required the Secretary of State to make quarterly reports to Congress. See section 2394 of this title.

Sections 1558e to 1558g, act Dec. 29, 1950, ch. 1182, §§7–9, 64 Stat. 1123, 1124, related to transfer of available funds to Federal departments or agencies; local currency made available to United States; and shipping regulations. See sections 2353 and 2360 of this title.

Section 1558h, act Dec. 29, 1950, ch. 1182, §10, 64 Stat. 1124, related to termination of assistance. See section 2367 of this title.

CHAPTER 20—MUTUAL DEFENSE ASSISTANCE PROGRAM

SUBCHAPTER I—GENERAL PROVISIONS

§§1571 to 1584. Repealed. Aug. 26, 1954, ch. 937, title V, §542(a)(5), (9)–(11), 68 Stat. 861

Section 1571, act Oct. 6, 1949, ch. 626, §1, 63 Stat. 714, related to Congressional declaration of findings and policy.

Section 1572, act Oct. 6, 1949, ch. 626, title IV, §401, 63 Stat. 716, related to furnishing of military assistance without payment and limitation. See section 2355 of this title.

Section 1573, act Oct. 6, 1949, ch. 626, title IV, §402, 63 Stat. 717, related to agreements with other nations prior to furnishing aid and provisions thereof.

Section 1574, acts Oct. 6, 1949, ch. 626, title IV, §403, 63 Stat. 717; July 26, 1950, ch. 491, §§9, 10, 64 Stat. 375; Oct. 10, 1951, ch. 479, title V, §526, 65 Stat. 385; June 20, 1952, ch. 449, §8(a), 66 Stat. 148; July 16, 1953, ch. 195, ch. VII, §707(a), 67 Stat. 160, related to funds.

Section 1575, acts Oct. 6, 1949, ch. 626, title IV, §404, 63 Stat. 718; July 26, 1950, ch. 491, §11, 64 Stat. 376, related to delegation of President's powers. See section 2381 of this title.

Section 1576, acts Oct. 6, 1949, ch. 626, title IV, §405, 63 Stat. 718; July 26, 1950, ch. 491, §13, 64 Stat. 377, related to termination of assistance. See section 2367 of this title.

Section 1577, act Oct. 6, 1949, ch. 626, title IV, §406, 63 Stat. 718, related to personnel.

Section 1578, act Oct. 6, 1949, ch. 626, title IV, §407, 63 Stat. 719, related to unaffected laws and performance of functions by President.

Section 1579, acts Oct. 6, 1949, ch. 626, title IV, §408(a)–(d), 63 Stat. 719; July 26, 1950, ch. 491, §12(b), 64 Stat. 376; Oct. 10, 1951, ch. 479, §101(a)(1), 65 Stat. 374, related to operational funds.

Section 1580, acts Oct. 6, 1949, ch. 626, title IV, §408(e), (f), 63 Stat. 720; July 26, 1950, ch. 491, §12(c), 64 Stat. 376; Oct. 10, 1951, ch. 479, title V, §525, 65 Stat. 385; June 20, 1952, ch. 449, §8(b), 66 Stat. 149; July 16, 1953, ch. 195, ch. VII, §707(b), (c), 67 Stat. 160, related to transfer of equipment, materials, or services to designated nations; reimbursement of "fair value" of goods to United States; limitation on outstanding contracts; and transfers disallowed.

Section 1581, act Oct. 6, 1949, ch. 626, title IV, §409, 63 Stat. 720, related to transportation of equipment, etc., on United States flag vessels; rates. See section 2353 of this title.

Section 1582, act Oct. 6, 1949, ch. 626, title IV, §410, 63 Stat. 720, required President to submit reports to Congress. See section 2353 of this title.

Section 1583, acts Oct. 6, 1949, ch. 626, title IV, §411, 63 Stat. 720; July 16, 1953, ch. 195, title VII, §707(d), 67 Stat. 161, defined "equipment" and "materials", "mobilization reserve", "excess", "services", "agency", "Armed Forces of the United States", and "nation". See section 2403 of this title.

Section 1584, act Oct. 6, 1949, ch. 626, title IV, §412, 63 Stat. 721, prescribed penalties for accepting commissions, etc., for procurement services by United States officers and employees.

§1585. Omitted

CODIFICATION

Section was enacted as a part of the Supplemental Appropriation Act, 1951, act Sept. 27, 1950, ch. 1052, ch. X, §100, 64 Stat. 1063, and was not repeated in subsequent appropriation acts.

SUBCHAPTER II—NORTH ATLANTIC TREATY NATIONS

§§1591 to 1594. Repealed. Aug. 26, 1954, ch. 937, title V, §542(a)(5), 68 Stat. 861

Section 1591, acts Oct. 6, 1949, ch. 626, title I, §101, 63 Stat. 715; July 26, 1950, ch. 491, §1, 64 Stat. 373, related to form of assistance and agreements concerning use.

Section 1592, acts Oct. 6, 1949, ch. 626, title I, §102, 63 Stat. 715; July 26, 1950, ch. 491, §2, 64 Stat. 374, related to appropriations.

Section 1593, act Oct. 6, 1949, ch. 626, title I, §103, 63 Stat. 715, related to additional contract authorizations.

Section 1594, acts Oct. 6, 1949, ch. 626, title I, §104, 63 Stat. 715; July 26, 1950, ch. 491, §3, 64 Stat. 374, related to limitation on use of funds.

See section 2151 et seq. of this title.

SUBCHAPTER III—OTHER NATIONS

§§1601 to 1604. Repealed. Aug. 26, 1954, ch. 937, title V, §542(a)(5), 68 Stat. 861

Section 1601, acts Oct. 6, 1949, ch. 626, title II, §201, 63 Stat. 716; July 26, 1950, ch. 491, §5, 64 Stat. 375, related to appropriations for Greece, Turkey, and Iran.

Section 1602, acts Oct. 6, 1949, ch. 626, title III, §301, 63 Stat. 716; July 26, 1950, ch. 491, §6, 64 Stat. 375, related to military assistance to Republics of Korea and Philippines.

Section 1603, acts Oct. 6, 1949, ch. 626, title III, §302, 63 Stat. 716; July 26, 1950, ch. 491, §7, 64 Stat. 375, related to appropriations for military assistance to Republics of Korea and Philippines.

Section 1604, acts Oct. 6, 1949, ch. 626, title III, §303, 63 Stat. 716; July 26, 1950, ch. 491, §8, 64 Stat. 375, related to appropriations for general area of China.

See section 2151 et seq. of this title.

CHAPTER 20A—MUTUAL DEFENSE ASSISTANCE CONTROL PROGRAM

SUBCHAPTER I—WAR MATERIALS

§§1611 to 1611d. Omitted

CODIFICATION

Sections, act Oct. 26, 1951, ch. 575, title I, §§101–105, 65 Stat. 645; H. Res. 163, Mar. 19, 1975, were superseded, effective October 1, 1979, by section 4619(e) of Title 50, War and National Defense. See chapter 56 (§4601 et seq.) of Title 50.

Section 1611 set forth the Congressional declaration of policy.

Section 1611a related to responsibility for administration.

Section 1611b related to determinations respecting items to be embargoed.

Section 1611c related to resumption of assistance upon determination of compliance by the President.

Section 1611d defined "assistance" for purposes of this chapter.

SHORT TITLE

Act Oct. 26, 1951, ch. 575, §1, 65 Stat. 645, which provided that this chapter be cited as the "Mutual Defense Assistance Control Act of 1951", was superseded, effective October 1, 1979, by section 4619(e) of Title 50, War and National Defense.

SUBCHAPTER II—OTHER MATERIALS

§§1612 to 1612b. Omitted

CODIFICATION

Sections, act Oct. 26, 1951, ch. 575, title II, §§201–203, 65 Stat. 646, were superseded, effective October 1, 1979, by section 4619(e) of Title 50, War and National Defense. See chapter 56 (§4601 et seq.) of Title 50.

Section 1612 related to regulation of exports other than war materials.

Section 1612a related to negotiations with recipient countries for control of exports.

Section 1612b related to termination of assistance upon determination by the President.

SUBCHAPTER III—GENERAL PROVISIONS

§§1613 to 1613d. Omitted

CODIFICATION

Sections, acts Oct. 26, 1951, ch. 575, title III, §§301–305, 65 Stat. 647; Sept. 4, 1961, Pub. L. 87–195, pt. IV, §703(a), 75 Stat. 463; Oct. 19, 1980, Pub. L. 96–470, title I, §111(a), 94 Stat. 2239, were superseded, effective October 1, 1979, by section 4619(e) of Title 50, War and National Defense. See chapter 56 (§4601 et seq.) of Title 50.

Section 1613 set forth provisions relating to cooperation in the program by non-recipient countries.

Section 1613a related to duties of the Administrator with respect to this chapter.

Section 1613b related to applicability of other Federal statutory provisions and to availability of funds.

Section 1613c related to charging expenses to local-currency funds.
Section 1613d authorized appropriations necessary to carry out the objectives of this chapter.

CHAPTER 21—SETTLEMENT OF INTERNATIONAL CLAIMS

SUBCHAPTER I—GENERAL PROVISIONS

Sec.
1621. Definitions.
1622. Establishment of Commission.
1622a. Transfer of Foreign Claims Settlement Commission of the United States to Department of Justice.
1622b. Transfer of functions, powers, and duties of Foreign Claims Settlement Commission of the United States.
1622c. Membership of Foreign Claims Settlement Commission of the United States.
1622d. Appointment and compensation of officers and employees of Foreign Claims Settlement Commission of the United States; allowances and benefits; utilization of other Federal facilities.
1622e. Vesting of all non-adjudicatory functions, powers, and duties in Chairman of Foreign Claims Settlement Commission of the United States.
1622f. Administrative support and services to Foreign Claims Settlement Commission of the United States by Attorney General.
1622g. Independence of Foreign Claims Settlement Commission of the United States; finality of Commission decisions.
1623. Claims.
1624. Certification of awards; certification of claims.
1625. Omitted.
1626. Payments.
1627. Creation of special funds in Treasury.

SUBCHAPTER II—VESTING AND LIQUIDATION OF BULGARIAN, HUNGARIAN, AND RUMANIAN PROPERTY

1631. Definitions.
1631a. Property owned by Bulgaria, Hungary, and Rumania or any national thereof.
1631b. Cancellation and issuance of shares of stock or other beneficial interest in corporation.
1631c. Filing of order of conveyance.
1631d. Acquittance and discharge of obligation.
1631e. Rules by district courts; appeals.
1631f. Claims to vested property.
1631g. Payment of debts.
1631h. Hearings on claims; rules and regulations; delegation of powers.
1631i. Limitations.
1631j. Fees of agents, attorneys, or representatives.
1631k. Taxes.
1631*l*. Determination of expenses and time for filing suit, notice of claim and debt claim.
1631m. Lien, attachment, garnishment, etc., of transferred property.
1631n. Penalties.
1631*o*. Eligibility for return of interest in property.

SUBCHAPTER III—CLAIMS AGAINST BULGARIA, HUNGARY, RUMANIA, ITALY, AND THE SOVIET UNION

1641. Definitions.
1641a. Claims funds.
1641b. Claims of nationals of the United States against Bulgaria, Hungary, and Rumania.

1641c. Claims of nationals of the United States against Italy.
1641d. Claims of nationals of the United States against the Soviet Union.
1641e. Filing of claims; notice in Federal Register.
1641f. Amount of award.
1641g. Certification of awards.
1641h. Funds for payment of claims.
1641i. Payment of awards.
1641j. Claims by corporations or other legal entities.
1641k. Prohibition against payment of award to collaborators or disloyal persons.
1641*l*. Unpaid balance of claim; claims of United States unaffected.
1641m. Finality of action of Commission.
1641n. Appropriations.
1641*o*. Time limitation on completion of affairs of Commission.
1641p. Fees of agents, attorneys, or representatives.
1641q. Applicability of administrative provisions of subchapter I.

SUBCHAPTER IV—CLAIMS AGAINST CZECHOSLOVAKIA

1642. Definitions.
1642a. Financial provisions.
1642b. Claims against United States; jurisdiction; limitation; preference; reserve fund.
1642c. Determination of validity and amount of claims.
1642d. Nationality requirements.
1642e. Claims based on ownership interest in corporations or other legal entities.
1642f. Prevention of double benefits.
1642g. Consolidated awards.
1642h. Prohibition against payment of award to certain persons.
1642i. Certification of awards.
1642j. Time for filing of claims; notice.
1642k. Time limitation on completion of affairs of Commission.
1642*l*. Payment of awards.
1642m. Fees of attorneys; limitation; penalty.
1642n. Transfer of records.
1642*o*. Applicability of administrative provisions of subchapter I.
1642p. Authorization of appropriations.

SUBCHAPTER V—CLAIMS AGAINST CUBA AND CHINA

1643. Congressional declaration of purpose.
1643a. Definitions.
1643b. Receipt of claims; determination of amount and validity.
1643c. Ownership of claims by nationals.
1643d. Claims based on ownership interest in or debt or other obligation owing by corporations or other legal entities.
1643e. Offsets.
1643f. Action of Commission with respect to claims.
1643g. Transfer of records.
1643h. Applicability of administrative provisions of subchapter I.
1643i. Time limitation on completion of affairs of Commission.
1643j. Authorization of appropriations.
1643k. Fees for services; limitation; penalty.
1643l. Determination of ownership of claims referred by district courts of the United States.
1643m. Exclusivity of Foreign Claims Settlement Commission certification procedure.

SUBCHAPTER VI—CLAIMS AGAINST GERMAN DEMOCRATIC REPUBLIC

1644. Congressional declaration of purpose.
1644a. Definitions.
1644b. Receipt and determination of claims; notice by publication in Federal Register.

1644c. Ownership of claims by nationals.
1644d. Claims based on ownership interest in or debt or other obligation owing by corporations or other legal entities.
1644e. Offsets.
1644f. Consolidated awards.
1644g. Claims Fund; establishment; deductions.
1644h. Certification of amounts; priority of payments.
1644i. Time limitation on completion of affairs of Commission.
1644j. Transfer of records.
1644k. Authorization of appropriations.
1644*l*. Fees for services; limitation; penalty.
1644m. Applicability of administrative provisions of subchapter I.
SUBCHAPTER VII—CLAIMS AGAINST VIETNAM
1645. Congressional declaration of purpose.
1645a. Definitions.
1645b. Receipt and determination of claims; notice by publication in Federal Register.
1645c. Ownership of claims by nationals.
1645d. Claims based on ownership interest in or debt or other obligation owing by corporations or other legal entities.
1645e. Offsets.
1645f. Certifications; assigned claims.
1645g. Consolidated awards.
1645h. Claims Fund; establishment; deductions.
1645i. Award payment procedures.
1645j. Settlement period.
1645k. Transfer of records.
1645*l*. Authorization of appropriations.
1645m. Fees for services; limitation; penalty.
1645n. Applicability of other statutory provisions.
1645*o*. Separability.

SUBCHAPTER I—GENERAL PROVISIONS

AMENDMENTS

1955—Sections 1621 to 1627 of this title which constituted the International Claims Settlement Act of 1949 were designated title I of such Act, herein referred to as subchapter I, for purposes of codification, by act Aug. 9, 1955, ch. 645, §1, 69 Stat. 562.

§1621. Definitions

For the purposes of this subchapter—

(a) The term "person" shall include an individual, partnership, corporation, or the Government of the United States.

(b) The term "United States" when used in a geographical sense shall include the United States, its Territories and insular possessions, and the Canal Zone.

(c) The term "nationals of the United States" includes (1) persons who are citizens of the United States, and (2) persons who, though not citizens of the United States, owe permanent allegiance to the United States. It does not include aliens.

(d) The term "Yugoslav Claims Agreement of 1948" means the agreement between the Governments of the United States of America and of the Federal People's Republic of Yugoslavia regarding pecuniary claims of the United States and its nationals, signed July 19, 1948.

(Mar. 10, 1950, ch. 54, title I, §2, 64 Stat. 13; Aug. 9, 1955, ch. 645, §§1, 2, 69 Stat. 562.)

REFERENCES IN TEXT

For definition of Canal Zone, referred to in subsec. (b), see section 3602(b) of this title.

REFERENCES TO THIS SUBCHAPTER DEEMED TO INCLUDE SECTION 119 OF H.R. 2076

References to this subchapter deemed to include section 119 of H.R. 2076, see section 119(b) of H.R. 2076, as enacted into law by Pub. L. 104–91, set out as an Authority of Foreign Claims Settlement Commission note under section 1644 of this title.

AMENDMENTS

1955—Act Aug. 9, 1955, §1, amended credit to section by designating act Mar. 10, 1950, as "title I".

Act Aug. 9, 1955, §2, substituted "subchapter" for "chapter" in opening phrase.

SHORT TITLE OF 1999 AMENDMENT

Pub. L. 106–155, §1, Dec. 9, 1999, 113 Stat. 1740, provided that: "This Act [amending provisions set out as a note below] may be cited as the 'U.S. Holocaust Assets Commission Extension Act of 1999'."

SHORT TITLE

Act Mar. 10, 1950, ch. 54, §1, 64 Stat. 12, provided that: "This Act [enacting this chapter] may be cited as the 'International Claims Settlement Act of 1949'."

TITLES OF ACT

Act Aug. 9, 1955, ch. 645, §§1, 3, 69 Stat. 562, designated sections 1621 to 1627 of this title as "Title I" of act Mar. 10, 1950, which is classified to subchapter I of this chapter and added "Title II—Vesting and Liquidation of Bulgarian, Hungarian, and Rumanian Property" and "Title III—Claims Against Bulgaria, Hungary, Rumania, Italy, and the Soviet Union", which are classified to subchapters II and III, respectively, of this chapter. Pub. L. 85–604 added Title IV, Claims Against Czechoslovakia, which is classified to subchapter IV of this chapter. Pub. L. 88–666 added Title V, Claims Against Cuba and China, which is classified to subchapter V of this chapter. Pub. L. 94–542 added Title VI, Claims Against German Democratic Republic, which is classified to subchapter VI of this chapter. Pub. L. 96–606 added Title VII, Claims Against Vietnam, which is classified to subchapter VII of this chapter.

ABOLITION OF INTERNATIONAL CLAIMS COMMISSION AND TRANSFER OF FUNCTIONS

International Claims Commission of the United States, including offices of its members, abolished and functions of Commission and of members, officers, and employees thereof transferred to Foreign Claims Settlement Commission of the United States by Reorg. Plan No. 1 of 1954, §§2, 4, eff. July 1, 1954, 19 F.R. 3985, 68 Stat. 1279, set out as a note under section 1622 of this title.

APPROPRIATIONS

Act Mar. 10, 1950, ch. 54, §9, 64 Stat. 18, provided that: "There is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary to enable the Commission to carry out its functions under this Act [enacting this chapter]."

GUAM WORLD WAR II LOYALTY RECOGNITION

Pub. L. 114–328, div. A, title XVII, Dec. 23, 2016, 130 Stat. 2642, provided that:

"SEC. 1701. SHORT TITLE.

"This title may be cited as the 'Guam World War II Loyalty Recognition Act'.

"SEC. 1702. RECOGNITION OF THE SUFFERING AND LOYALTY OF THE RESIDENTS OF GUAM.

"(a) RECOGNITION OF THE SUFFERING OF THE RESIDENTS OF GUAM.—The United States recognizes that, as described by the Guam War Claims Review Commission, the residents of Guam, on account of their United States nationality, suffered unspeakable harm as a result of the occupation of Guam by Imperial Japanese military forces during World War II, by being subjected to death, rape, severe personal injury, personal injury, forced labor, forced march, or internment.

"(b) RECOGNITION OF THE LOYALTY OF THE RESIDENTS OF GUAM.—The United States forever will be grateful to the residents of Guam for their steadfast loyalty to the United States, as demonstrated by the countless acts of courage they performed despite the threat of death or great bodily harm they faced at the hands of the Imperial Japanese military forces that occupied Guam during World War II.

"SEC. 1703. GUAM WORLD WAR II CLAIMS FUND.

"(a) ESTABLISHMENT OF FUND.—The Secretary of the Treasury shall establish in the Treasury of the United States a special fund (in this title referred to as the 'Claims Fund') for the payment of claims submitted

by compensable Guam victims and survivors of compensable Guam decedents in accordance with sections 1704 and 1705.

"(b) COMPOSITION OF FUND.—The Claims Fund established under subsection (a) shall be composed of amounts deposited into the Claims Fund under subsection (c) and any other payments made available for the payment of claims under this title.

"(c) PAYMENT OF CERTAIN DUTIES, TAXES, AND FEES COLLECTED FROM GUAM DEPOSITED INTO FUND.—

"(1) IN GENERAL.—Notwithstanding section 30 of the Organic Act of Guam (48 U.S.C. 1421h), the excess of—

"(A) any amount of duties, taxes, and fees collected under such section after fiscal year 2014, over

"(B) the amount of duties, taxes, and fees collected under such section during fiscal year 2014, shall be deposited into the Claims Fund.

"(2) APPLICATION.—Paragraph (1) shall not apply after the date for which the Secretary of the Treasury determines that all payments required to be made under section 1704 have been made.

"(d) LIMITATION ON PAYMENTS MADE FROM FUND.—

"(1) IN GENERAL.—No payment may be made in a fiscal year under section 1704 until funds are deposited into the Claims Fund in such fiscal year under subsection (c).

"(2) AMOUNTS.—For each fiscal year in which funds are deposited into the Claims Fund under subsection (c), the total amount of payments made in a fiscal year under section 1704 may not exceed the amount of funds available in the Claims Fund for such fiscal year.

"(e) DEDUCTIONS FROM FUND FOR ADMINISTRATIVE EXPENSES.—The Secretary of the Treasury shall deduct from any amounts deposited into the Claims Fund an amount equal to 5 percent of such amounts as reimbursement to the Federal Government for expenses incurred by the Foreign Claims Settlement Commission and by the Department of the Treasury in the administration of this title. The amounts so deducted shall be covered into the Treasury as miscellaneous receipts.

"SEC. 1704. PAYMENTS FOR GUAM WORLD WAR II CLAIMS.

"(a) PAYMENTS FOR DEATH, PERSONAL INJURY, FORCED LABOR, FORCED MARCH, AND INTERNMENT.—After the Secretary of the Treasury receives the certification from the Chairman of the Foreign Claims Settlement Commission as required under section 1705(b)(8), the Secretary of the Treasury shall make payments, subject to the availably of appropriations, to compensable Guam victims and survivors of a compensable Guam decedents as follows:

"(1) COMPENSABLE GUAM VICTIM.—Before making any payments under paragraph (2), the Secretary shall make payments to compensable Guam victims as follows:

"(A) In the case of a victim who has suffered an injury described in subsection (c)(2)(A), $15,000.

"(B) In the case of a victim who is not described in subparagraph (A), but who has suffered an injury described in subsection (c)(2)(B), $12,000.

"(C) In the case of a victim who is not described in subparagraph (A) or (B), but who has suffered an injury described in subsection (c)(2)(C), $10,000.

"(2) SURVIVORS OF COMPENSABLE GUAM DECEDENTS.—In the case of a compensable Guam decedent, the Secretary shall pay $25,000 for distribution to survivors of the decedent in accordance with subsection (b). The Secretary shall make payments under this paragraph only after all payments are made under paragraph (1).

"(b) DISTRIBUTION OF SURVIVOR PAYMENTS.—A payment made under subsection (a)(2) to the survivors of a compensable Guam decedent shall be distributed as follows:

"(1) In the case of a decedent whose spouse is living as of the date of the enactment of this Act [Dec. 23, 2016], but who had no living children as of such date, the payment shall be made to such spouse.

"(2) In the case of a decedent whose spouse is living as of the date of the enactment of this Act and who had one or more living children as of such date, 50 percent of the payment shall be made to the spouse and 50 percent shall be made to such children, to be divided among such children to the greatest extent possible into equal shares.

"(3) In the case of a decedent whose spouse is not living as of the date of the enactment of this Act and who had one or more living children as of such date, the payment shall be made to such children, to be divided among such children to the greatest extent possible into equal shares.

"(4) In the case of a decedent whose spouse is not living as of the date of the enactment of this Act and who had no living children as of such date, but who—

"(A) had a parent who is living as of such date, the payment shall be made to the parent; or

"(B) had two parents who are living as of such date, the payment shall be divided equally between

the parents.

"(5) In the case of a decedent whose spouse is not living as of the date of the enactment of this Act, who had no living children as of such date, and who had no parents who are living as of such date, no payment shall be made.

"(c) DEFINITIONS.—For purposes of this title:

"(1) COMPENSABLE GUAM DECEDENT.—The term 'compensable Guam decedent' means an individual determined under section 1705 to have been a resident of Guam who died as a result of the attack and occupation of Guam by Imperial Japanese military forces during World War II, or incident to the liberation of Guam by United States military forces, and whose death would have been compensable under the Guam Meritorious Claims Act of 1945 (Public Law 79–224) [59 Stat. 582] if a timely claim had been filed under the terms of such Act.

"(2) COMPENSABLE GUAM VICTIM.—The term 'compensable Guam victim' means an individual who is not deceased as of the date of the enactment of this Act [Dec. 23, 2016] and who is determined under section 1705 to have suffered, as a result of the attack and occupation of Guam by Imperial Japanese military forces during World War II, or incident to the liberation of Guam by United States military forces, any of the following:

"(A) Rape or severe personal injury (such as loss of a limb, dismemberment, or paralysis).

"(B) Forced labor or a personal injury not under subparagraph (A) (such as disfigurement, scarring, or burns).

"(C) Forced march, internment, or hiding to evade internment.

"(3) DEFINITIONS OF SEVERE PERSONAL INJURIES AND PERSONAL INJURIES.—Not later than 180 days after the date of the enactment of this Act, the Foreign Claims Settlement Commission shall promulgate regulations to specify the injuries that constitute a severe personal injury or a personal injury for purposes of subparagraphs (A) and (B), respectively, of paragraph (2).

"SEC. 1705. ADJUDICATION.

"(a) AUTHORITY OF FOREIGN CLAIMS SETTLEMENT COMMISSION.—

"(1) IN GENERAL.—The Foreign Claims Settlement Commission shall adjudicate claims and determine the eligibility of individuals for payments under section 1704.

"(2) RULES AND REGULATIONS.—Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2016], the Chairman of the Foreign Claims Settlement Commission shall publish in the Federal Register such rules and regulations as may be necessary to enable the Commission to carry out the functions of the Commission under this title.

"(b) CLAIMS SUBMITTED FOR PAYMENTS.—

"(1) SUBMITTAL OF CLAIM.—For purposes of subsection (a)(1) and subject to paragraph (2), the Foreign Claims Settlement Commission may not determine an individual is eligible for a payment under section 1704 unless the individual submits to the Commission a claim in such manner and form and containing such information as the Commission specifies.

"(2) FILING PERIOD FOR CLAIMS AND NOTICE.—

"(A) FILING PERIOD.—An individual filing a claim for a payment under section 1704 shall file such claim not later than one year after the date on which the Foreign Claims Settlement Commission publishes the notice described in subparagraph (B).

"(B) NOTICE OF FILING PERIOD.—Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2016], the Foreign Claims Settlement Commission shall publish a notice of the deadline for filing a claim described in subparagraph (A)—

"(i) in the Federal Register; and

"(ii) in newspaper, radio, and television media in Guam.

"(3) ADJUDICATORY DECISIONS.—The decision of the Foreign Claims Settlement Commission on each claim filed under this title shall—

"(A) be by majority vote;

"(B) be in writing;

"(C) state the reasons for the approval or denial of the claim; and

"(D) if approved, state the amount of the payment awarded and the distribution, if any, to be made of the payment.

"(4) DEDUCTIONS IN PAYMENT.—The Foreign Claims Settlement Commission shall deduct, from a payment made to a compensable Guam victim or survivors of a compensable Guam decedent under this section, amounts paid to such victim or survivors under the Guam Meritorious Claims Act of 1945 (Public Law 79–224) [59 Stat. 582] before the date of the enactment of this Act.

"(5) INTEREST.—No interest shall be paid on payments made by the Foreign Claims Settlement

Commission under section 1704.

"(6) LIMITED COMPENSATION FOR PROVISION OF REPRESENTATIONAL SERVICES.—

"(A) LIMIT ON COMPENSATION.—Any agreement under which an individual who provided representational services to an individual who filed a claim for a payment under this title that provides for compensation to the individual who provided such services in an amount that is more than one percent of the total amount of such payment shall be unlawful and void.

"(B) PENALTIES.—Whoever demands or receives any compensation in excess of the amount allowed under subparagraph (A) shall be fined not more than $5,000 or imprisoned not more than one year, or both.

"(7) APPEALS AND FINALITY.—Objections and appeals of decisions of the Foreign Claims Settlement Commission shall be to the Commission, and upon rehearing, the decision in each claim shall be final, and not subject to further review by any court or agency.

"(8) CERTIFICATIONS FOR PAYMENT.—After a decision approving a claim becomes final, the Chairman of the Foreign Claims Settlement Commission shall certify such decision to the Secretary of the Treasury for authorization of a payment under section 1704.

"(9) TREATMENT OF AFFIDAVITS.—For purposes of section 1704 and subject to paragraph (2), the Foreign Claims Settlement Commission shall treat a claim that is accompanied by an affidavit of an individual that attests to all of the material facts required for establishing the eligibility of such individual for payment under such section as establishing a prima facie case of the eligibility of the individual for such payment without the need for further documentation, except as the Commission may otherwise require. Such material facts shall include, with respect to a claim for a payment made under section 1704(a), a detailed description of the injury or other circumstance supporting the claim involved, including the level of payment sought.

"(10) RELEASE OF RELATED CLAIMS.—Acceptance of a payment under section 1704 by an individual for a claim related to a compensable Guam decedent or a compensable Guam victim shall be in full satisfaction of all claims related to such decedent or victim, respectively, arising under the Guam Meritorious Claims Act of 1945 (Public Law 79–224) [59 Stat. 582], the implementing regulations issued by the United States Navy pursuant to such Act (Public Law 79–224), or this title.

"SEC. 1706. GRANTS PROGRAM TO MEMORIALIZE THE OCCUPATION OF GUAM DURING WORLD WAR II.

"(a) ESTABLISHMENT.—Subject to subsection (b), the Secretary of the Interior shall establish a grant program under which the Secretary shall award grants for research, educational, and media activities for purposes of appropriately illuminating and interpreting the causes and circumstances of the occupation of Guam during World War II and other similar occupations during the war that—

"(1) memorialize the events surrounding such occupation; or

"(2) honor the loyalty of the people of Guam during such occupation.

"(b) ELIGIBILITY.—The Secretary of the Interior may not award a grant under subsection (a) unless the person seeking the grant submits an application to the Secretary for such grant, in such time, manner, and form and containing such information as the Secretary specifies.

"SEC. 1707. AUTHORIZATION OF APPROPRIATIONS.

"(a) GUAM WORLD WAR II CLAIMS PAYMENTS AND ADJUDICATION.—For the purposes of carrying out sections 1704 and 1705, there is authorized to be appropriated for any fiscal year beginning after the date of enactment of this Act [Dec. 23, 2016], an amount equal to the amount deposited into the Claims Fund in a fiscal year under section 1703. Not more than 5 percent of funds make available under this subsection shall be used for administrative costs. Amounts appropriated under this section may remain available until expended.

"(b) GUAM WORLD WAR II GRANTS PROGRAM.—For purposes of carrying out section 1706, there are authorized to be appropriated $5,000,000 for each fiscal year beginning after the date of the enactment of this Act [Dec. 23, 2016]."

HOLOCAUST EXPROPRIATED ART RECOVERY

Pub. L. 114–308, Dec. 16, 2016, 130 Stat. 1524, provided that:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Holocaust Expropriated Art Recovery Act of 2016'.

"SEC. 2. FINDINGS.

"Congress finds the following:

"(1) It is estimated that the Nazis confiscated or otherwise misappropriated hundreds of thousands of works of art and other property throughout Europe as part of their genocidal campaign against the Jewish people and other persecuted groups. This has been described as the 'greatest displacement of art in human history'.

"(2) Following World War II, the United States and its allies attempted to return the stolen artworks to their countries of origin. Despite these efforts, many works of art were never reunited with their owners. Some of the art has since been discovered in the United States.

"(3) In 1998, the United States convened a conference with 43 other nations in Washington, DC, known as the Washington Conference, which produced Principles on Nazi-Confiscated Art. One of these principles is that 'steps should be taken expeditiously to achieve a just and fair solution' to claims involving such art that has not been restituted if the owners or their heirs can be identified.

"(4) The same year, Congress enacted the Holocaust Victims Redress Act (Public Law 105–158, 112 Stat. 15), which expressed the sense of Congress that 'all governments should undertake good faith efforts to facilitate the return of private and public property, such as works of art, to the rightful owners in cases where assets were confiscated from the claimant during the period of Nazi rule and there is reasonable proof that the claimant is the rightful owner.'.

"(5) In 2009, the United States participated in a Holocaust Era Assets Conference in Prague, Czech Republic, with 45 other nations. At the conclusion of this conference, the participating nations issued the Terezin Declaration, which reaffirmed the 1998 Washington Conference Principles on Nazi-Confiscated Art and urged all participants 'to ensure that their legal systems or alternative processes, while taking into account the different legal traditions, facilitate just and fair solutions with regard to Nazi-confiscated and looted art, and to make certain that claims to recover such art are resolved expeditiously and based on the facts and merits of the claims and all the relevant documents submitted by all parties.'. The Declaration also urged participants to 'consider all relevant issues when applying various legal provisions that may impede the restitution of art and cultural property, in order to achieve just and fair solutions, as well as alternative dispute resolution, where appropriate under law.'.

"(6) Victims of Nazi persecution and their heirs have taken legal action in the United States to recover Nazi-confiscated art. These lawsuits face significant procedural obstacles partly due to State statutes of limitations, which typically bar claims within some limited number of years from either the date of the loss or the date that the claim should have been discovered. In some cases, this means that the claims expired before World War II even ended. (See, e.g., Detroit Institute of Arts v. Ullin, No. 06–10333, 2007 WL 1016996 (E.D. Mich. Mar. 31, 2007).) The unique and horrific circumstances of World War II and the Holocaust make statutes of limitations especially burdensome to the victims and their heirs. Those seeking recovery of Nazi-confiscated art must painstakingly piece together their cases from a fragmentary historical record ravaged by persecution, war, and genocide. This costly process often cannot be done within the time constraints imposed by existing law.

"(7) Federal legislation is needed because the only court that has considered the question held that the Constitution prohibits States from making exceptions to their statutes of limitations to accommodate claims involving the recovery of Nazi-confiscated art. In Von Saher v. Norton Simon Museum of Art, 592 F.3d 954 (9th Cir. 2009), the United States Court of Appeals for the Ninth Circuit invalidated a California law that extended the State statute of limitations for claims seeking recovery of Holocaust-era artwork. The Court held that the law was an unconstitutional infringement of the Federal Government's exclusive authority over foreign affairs, which includes the resolution of war-related disputes. In light of this precedent, the enactment of a Federal law is necessary to ensure that claims to Nazi-confiscated art are adjudicated in accordance with United States policy as expressed in the Washington Conference Principles on Nazi-Confiscated Art, the Holocaust Victims Redress Act, and the Terezin Declaration.

"(8) While litigation may be used to resolve claims to recover Nazi-confiscated art, it is the sense of Congress that the private resolution of claims by parties involved, on the merits and through the use of alternative dispute resolution such as mediation panels established for this purpose with the aid of experts in provenance research and history, will yield just and fair resolutions in a more efficient and predictable manner.

"SEC. 3. PURPOSES.

"The purposes of this Act are the following:

"(1) To ensure that laws governing claims to Nazi-confiscated art and other property further United States policy as set forth in the Washington Conference Principles on Nazi-Confiscated Art, the Holocaust Victims Redress Act, and the Terezin Declaration.

"(2) To ensure that claims to artwork and other property stolen or misappropriated by the Nazis are not unfairly barred by statutes of limitations but are resolved in a just and fair manner.

"SEC. 4. DEFINITIONS.

"In this Act:

"(1) ACTUAL DISCOVERY.—The term 'actual discovery' means knowledge.

"(2) ARTWORK OR OTHER PROPERTY.—The term 'artwork or other property' means—

"(A) pictures, paintings, and drawings;

"(B) statuary art and sculpture;

"(C) engravings, prints, lithographs, and works of graphic art;

"(D) applied art and original artistic assemblages and montages;

"(E) books, archives, musical objects and manuscripts (including musical manuscripts and sheets), and sound, photographic, and cinematographic archives and mediums; and

"(F) sacred and ceremonial objects and Judaica.

"(3) COVERED PERIOD.—The term 'covered period' means the period beginning on January 1, 1933, and ending on December 31, 1945.

"(4) KNOWLEDGE.—The term 'knowledge' means having actual knowledge of a fact or circumstance or sufficient information with regard to a relevant fact or circumstance to amount to actual knowledge thereof.

"(5) NAZI PERSECUTION.—The term 'Nazi persecution' means any persecution of a specific group of individuals based on Nazi ideology by the Government of Germany, its allies or agents, members of the Nazi Party, or their agents or associates, during the covered period.

"SEC. 5. STATUTE OF LIMITATIONS.

"(a) IN GENERAL.—Notwithstanding any other provision of Federal or State law or any defense at law relating to the passage of time, and except as otherwise provided in this section, a civil claim or cause of action against a defendant to recover any artwork or other property that was lost during the covered period because of Nazi persecution may be commenced not later than 6 years after the actual discovery by the claimant or the agent of the claimant of—

"(1) the identity and location of the artwork or other property; and

"(2) a possessory interest of the claimant in the artwork or other property.

"(b) POSSIBLE MISIDENTIFICATION.—For purposes of subsection (a)(1), in a case in which the artwork or other property is one of a group of substantially similar multiple artworks or other property, actual discovery of the identity and location of the artwork or other property shall be deemed to occur on the date on which there are facts sufficient to form a substantial basis to believe that the artwork or other property is the artwork or other property that was lost.

"(c) PREEXISTING CLAIMS.—Except as provided in subsection (e), a civil claim or cause of action described in subsection (a) shall be deemed to have been actually discovered on the date of enactment of this Act [Dec. 16, 2016] if—

"(1) before the date of enactment of this Act—

"(A) a claimant had knowledge of the elements set forth in subsection (a); and

"(B) the civil claim or cause of action was barred by a Federal or State statute of limitations; or

"(2)(A) before the date of enactment of this Act, a claimant had knowledge of the elements set forth in subsection (a); and

"(B) on the date of enactment of this Act, the civil claim or cause of action was not barred by a Federal or State statute of limitations.

"(d) APPLICABILITY.—Subsection (a) shall apply to any civil claim or cause of action that is—

"(1) pending in any court on the date of enactment of this Act [Dec. 16, 2016], including any civil claim or cause of action that is pending on appeal or for which the time to file an appeal has not expired; or

"(2) filed during the period beginning on the date of enactment of this Act and ending on December 31, 2026.

"(e) EXCEPTION.—Subsection (a) shall not apply to any civil claim or cause of action barred on the day before the date of enactment of this Act [Dec. 16, 2016] by a Federal or State statute of limitations if—

"(1) the claimant or a predecessor-in-interest of the claimant had knowledge of the elements set forth in subsection (a) on or after January 1, 1999; and

"(2) not less than 6 years have passed from the date such claimant or predecessor-in-interest acquired such knowledge and during which time the civil claim or cause of action was not barred by a Federal or State statute of limitations.

"(f) RULE OF CONSTRUCTION.—Nothing in this Act shall be construed to create a civil claim or cause of action under Federal or State law.

"(g) SUNSET.—This Act shall cease to have effect on January 1, 2027, except that this Act shall continue

to apply to any civil claim or cause of action described in subsection (a) that is pending on January 1, 2027. Any civil claim or cause of action commenced on or after that date to recover artwork or other property described in this Act shall be subject to any applicable Federal or State statute of limitations or any other Federal or State defense at law relating to the passage of time."

UNITED STATES HOLOCAUST ASSETS COMMISSION

Pub. L. 105–186, June 23, 1998, 112 Stat. 611, as amended by Pub. L. 106–155, §2, Dec. 9, 1999, 113 Stat. 1740, provided that:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'U.S. Holocaust Assets Commission Act of 1998'.

"SEC. 2. ESTABLISHMENT OF COMMISSION.

"(a) ESTABLISHMENT.—There is established a Presidential Commission, to be known as the 'Presidential Advisory Commission on Holocaust Assets in the United States' (hereafter in this Act referred to as the 'Commission').

"(b) MEMBERSHIP.—

"(1) NUMBER.—The Commission shall be composed of 21 members, appointed in accordance with paragraph (2).

"(2) APPOINTMENTS.—Of the 21 members of the Commission—

"(A) eight shall be private citizens, appointed by the President;

"(B) four shall be representatives of the Department of State, the Department of Justice, the Department of the Army, and the Department of the Treasury (one representative of each such Department), appointed by the President;

"(C) two shall be Members of the House of Representatives, appointed by the Speaker of the House of Representatives;

"(D) two shall be Members of the House of Representatives, appointed by the minority leader of the House of Representatives;

"(E) two shall be Members of the Senate, appointed by the majority leader of the Senate;

"(F) two shall be Members of the Senate, appointed by the minority leader of the Senate; and

"(G) one shall be the Chairperson of the United States Holocaust Memorial Council.

"(3) CRITERIA FOR MEMBERSHIP.—Each private citizen appointed to the Commission shall be an individual who has a record of demonstrated leadership on issues relating to the Holocaust or in the fields of commerce, culture, or education that would assist the Commission in analyzing the disposition of the assets of Holocaust victims.

"(4) ADVISORY PANELS.—The Chairperson of the Commission may, in the discretion of the Chairperson, establish advisory panels to the Commission, including State or local officials, representatives of organizations having an interest in the work of the Commission, or others having expertise that is relevant to the purposes of the Commission.

"(5) DATE.—The appointments of the members of the Commission shall be made not later than 90 days after the date of enactment of this Act [June 23, 1998].

"(c) CHAIRPERSON.—The Chairperson of the Commission shall be selected by the President from among the members of the Commission appointed under subparagraph (A) or (B) of subsection (b)(2).

"(d) PERIOD OF APPOINTMENT.—Members of the Commission shall be appointed for the life of the Commission.

"(e) VACANCIES.—Any vacancy in the membership of the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

"(f) MEETINGS.—The Commission shall meet at the call of the Chairperson at any time after the date of appointment of the Chairperson.

"(g) QUORUM.—11 members of the Commission shall constitute a quorum, but a lesser number of members may hold meetings.

"SEC. 3. DUTIES OF THE COMMISSION.

"(a) ORIGINAL RESEARCH.—

"(1) IN GENERAL.—Except as otherwise provided in paragraph (3), the Commission shall conduct a thorough study and develop a historical record of the collection and disposition of the assets described in paragraph (2), if such assets came into the possession or control of the Federal Government, including the Board of Governors of the Federal Reserve System and any Federal reserve bank, at any time after January 30, 1933—

"(A) after having been obtained from victims of the Holocaust by, on behalf of, or under authority

of a government referred to in subsection (c);

"(B) because such assets were left unclaimed as the result of actions taken by, on behalf of, or under authority of a government referred to in subsection (c); or

"(C) in the case of assets consisting of gold bullion, monetary gold, or similar assets, after such assets had been obtained by the Nazi government of Germany from governmental institutions in any area occupied by the military forces of the Nazi government of Germany.

"(2) TYPES OF ASSETS.—Assets described in this paragraph include—

"(A) gold, including gold bullion, monetary gold, or similar assets in the possession of or under the control of the Board of Governors of the Federal Reserve System or any Federal reserve bank;

"(B) gems, jewelry, and nongold precious metals;

"(C) accounts in banks in the United States;

"(D) domestic financial instruments purchased before May 8, 1945, by individual victims of the Holocaust, whether recorded in the name of the victim or in the name of a nominee;

"(E) insurance policies and proceeds thereof;

"(F) real estate situated in the United States;

"(G) works of art; and

"(H) books, manuscripts, and religious objects.

"(3) COORDINATION OF ACTIVITIES.—In carrying out its duties under paragraph (1), the Commission shall, to the maximum extent practicable, coordinate its activities with, and not duplicate similar activities already being undertaken by, private individuals, private entities, or government entities, whether domestic or foreign.

"(4) INSURANCE POLICIES.—

"(A) IN GENERAL.—In carrying out its duties under this Act, the Commission shall take note of the work of the National Association of Insurance Commissioners with regard to Holocaust-era insurance issues and shall encourage the National Association of Insurance Commissioners to prepare a report on the Holocaust-related claims practices of all insurance companies, both domestic and foreign, doing business in the United States at any time after January 30, 1933, that issued any individual life, health, or property-casualty insurance policy to any individual on any list of Holocaust victims, including the following lists:

"(i) The list maintained by the United States Holocaust Memorial Museum in Washington, D.C., of Jewish Holocaust survivors.

"(ii) The list maintained by the Yad Vashem Holocaust Memorial Authority in its Hall of Names of individuals who died in the Holocaust.

"(B) INFORMATION TO BE INCLUDED.—The report on insurance companies prepared pursuant to subparagraph (A) should include the following, to the degree the information is available:

"(i) The number of policies issued by each company to individuals described in such subparagraph.

"(ii) The value of each policy at the time of issue.

"(iii) The total number of policies, and the dollar amount, that have been paid out.

"(iv) The total present-day value of assets in the United States of each company.

"(C) COORDINATION.—The Commission shall coordinate its work on insurance issues with that of the international Washington Conference on Holocaust-Era Assets, to be convened by the Department of State and the United States Holocaust Memorial Council.

"(b) COMPREHENSIVE REVIEW OF OTHER RESEARCH.—Upon receiving permission from any relevant individuals or entities, the Commission shall review comprehensively any research by private individuals, private entities, and non-Federal government entities, whether domestic or foreign, into the collection and disposition of the assets described in subsection (a)(2), to the extent that such research focuses on assets that came into the possession or control of private individuals, private entities, or non-Federal government entities within the United States at any time after January 30, 1933, either—

"(1) after having been obtained from victims of the Holocaust by, on behalf of, or under authority of a government referred to in subsection (c); or

"(2) because such assets were left unclaimed as the result of actions taken by, on behalf of, or under authority of a government referred to in subsection (c).

"(c) GOVERNMENTS INCLUDED.—A government referred to in this subsection includes, as in existence during the period beginning on March 23, 1933, and ending on May 8, 1945—

"(1) the Nazi government of Germany;

"(2) any government in any area occupied by the military forces of the Nazi government of Germany;

"(3) any government established with the assistance or cooperation of the Nazi government of

Germany; and

"(4) any government which was an ally of the Nazi government of Germany.

"(d) REPORTS.—

"(1) SUBMISSION TO THE PRESIDENT.—Not later than December 31, 2000, the Commission shall submit a final report to the President that shall contain any recommendations for such legislative, administrative, or other action as it deems necessary or appropriate. The Commission may submit interim reports to the President as it deems appropriate.

"(2) SUBMISSION TO THE CONGRESS.—After receipt of the final report under paragraph (1), the President shall submit to the Congress any recommendations for legislative, administrative, or other action that the President considers necessary or appropriate.

"SEC. 4. POWERS OF THE COMMISSION.

"(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this Act.

"(b) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out this Act. Upon request of the Chairperson of the Commission, the head of any such department or agency shall furnish such information to the Commission as expeditiously as possible.

"(c) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

"(d) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

"(e) ADMINISTRATIVE SERVICES.—For the purposes of obtaining administrative services necessary to carry out the purposes of this Act, including the leasing of real property for use by the Commission as an office, the Commission shall have the power to—

"(1) enter into contracts and modify, or consent to the modification of, any contract or agreement to which the Commission is a party; and

"(2) acquire, hold, lease, maintain, or dispose of real and personal property.

"SEC. 5. COMMISSION PERSONNEL MATTERS.

"(a) COMPENSATION.—No member of the Commission who is a private citizen shall be compensated for service on the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

"(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

"(c) EXECUTIVE DIRECTOR, DEPUTY EXECUTIVE DIRECTOR, GENERAL COUNSEL, AND OTHER STAFF.—

"(1) IN GENERAL.—Not later than 90 days after the selection of the Chairperson of the Commission under section 2, the Chairperson shall, without regard to the civil service laws and regulations, appoint an executive director, a deputy executive director, and a general counsel of the Commission, and such other additional personnel as may be necessary to enable the Commission to perform its duties under this Act.

"(2) QUALIFICATIONS.—The executive director, deputy executive director, and general counsel of the Commission shall be appointed without regard to political affiliation, and shall possess all necessary security clearances for such positions.

"(3) DUTIES OF EXECUTIVE DIRECTOR.—The executive director of the Commission shall—

"(A) serve as principal liaison between the Commission and other Government entities;

"(B) be responsible for the administration and coordination of the review of records by the Commission; and

"(C) be responsible for coordinating all official activities of the Commission.

"(4) COMPENSATION.—The Chairperson of the Commission may fix the compensation of the executive director, deputy executive director, general counsel, and other personnel employed by the Commission, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that—

"(A) the rate of pay for the executive director of the Commission may not exceed the rate payable for level III of the Executive Schedule under section 5314 of title 5, United States Code; and

"(B) the rate of pay for the deputy executive director, the general counsel of the Commission, and other Commission personnel may not exceed the rate payable for level IV of the Executive Schedule

under section 5315 of title 5, United States Code.

"(5) EMPLOYEE BENEFITS.—

"(A) IN GENERAL.—An employee of the Commission shall be an employee for purposes of chapters 83, 84, 85, 87, and 89 of title 5, United States Code, and service as an employee of the Commission shall be service for purposes of such chapters.

"(B) NONAPPLICATION TO MEMBERS.—This paragraph shall not apply to a member of the Commission.

"(6) OFFICE OF PERSONNEL MANAGEMENT.—The Office of Personnel Management—

"(A) may promulgate regulations to apply the provisions referred to under subsection (a) to employees of the Commission; and

"(B) shall provide support services, on a reimbursable basis, relating to—

"(i) the initial employment of employees of the Commission; and

"(ii) other personnel needs of the Commission.

"(d) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement to the agency of that employee, and such detail shall be without interruption or loss of civil service status or privilege.

"(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

"(f) STAFF QUALIFICATIONS.—Any person appointed to the staff of or employed by the Commission shall be an individual of integrity and impartiality.

"(g) CONDITIONAL EMPLOYMENT.—

"(1) IN GENERAL.—The Commission may offer employment on a conditional basis to a prospective employee pending the completion of any necessary security clearance background investigation. During the pendency of any such investigation, the Commission shall ensure that such conditional employee is not given and does not have access to or responsibility involving classified or otherwise restricted material.

"(2) TERMINATION.—If a person hired on a conditional basis as described in paragraph (1) is denied or otherwise does not qualify for all security clearances necessary for the fulfillment of the responsibilities of that person as an employee of the Commission, the Commission shall immediately terminate the employment of that person with the Commission.

"(h) EXPEDITED SECURITY CLEARANCE PROCEDURES.—A candidate for executive director or deputy executive director of the Commission and any potential employee of the Commission shall, to the maximum extent possible, be investigated or otherwise evaluated for and granted, if applicable, any necessary security clearances on an expedited basis.

"SEC. 6. ADMINISTRATIVE SUPPORT SERVICES.

"Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this Act.

"SEC. 7. TERMINATION OF THE COMMISSION.

"The Commission shall terminate 90 days after the date on which the Commission submits its final report under section 3.

"SEC. 8. MISCELLANEOUS PROVISIONS.

"(a) INAPPLICABILITY OF FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) does not apply to the Commission.

"(b) PUBLIC ATTENDANCE.—To the maximum extent practicable, each meeting of the Commission shall be open to members of the public.

"SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated not more than $6,000,000, in total, for the interagency funding of activities of the Commission under this Act for fiscal years 1998, 1999, 2000, and 2001, of which, notwithstanding section 1346 of title 31, United States Code, and section 611 of the Treasury and General Government Appropriations Act, 1998 [Pub. L. 105–61, 111 Stat. 1310], $537,000 shall be made available in equal amounts from funds made available for fiscal year 1998 to the Departments of Justice, State, and the Army that are otherwise unobligated. Funds made available to the Commission pursuant to this section shall remain available for obligation until December 31, 1999."

§1622. Establishment of Commission

(a), (b) Repealed. Pub. L. 89–554, §8(a), Sept. 6, 1966, 80 Stat. 656

(c) Rules and regulations; termination date; removal of personnel; reports

The Commission may prescribe such rules and regulations as may be necessary to enable it to carry out its functions, and may delegate functions to any member, officer, or employee of the Commission. The President may fix a termination date for the authority of the Commission, and the terms of office of its members under this subchapter. Any member of the Commission may be removed by the Secretary of State, upon notice and hearing, for neglect of duty, or malfeasance in office, but for no other cause. Not later than six months after its organization, and every six months thereafter, the Commission shall make a report, through the Secretary of State, to the Congress concerning its operations under this subchapter. The Commission shall, upon completion of its work, certify in duplicate to the Secretary of State and to the Secretary of the Treasury the following: (1) A list of all claims disallowed; (2) a list of all claims allowed, in whole or in part, together with the amount of each claim and the amount awarded thereon; and (3) a copy of the decision rendered in each case.

(Mar. 10, 1950, ch. 54, title I, §3, 64 Stat. 13; Aug. 8, 1953, ch. 396, §3, 67 Stat. 506; 1954 Reorg. Plan No. 1, §§1, 2, 4, eff. July 1, 1954, 19 F.R. 3985, 68 Stat. 1279; Aug. 9, 1955, ch. 645, §§1, 2, 69 Stat. 562; Pub. L. 89–554, §8(a), Sept. 6, 1966, 80 Stat. 656, 657.)

ANNUAL SUBMISSION OF REPORT

Pub. L. 89–348, §2(7), Nov. 8, 1965, 79 Stat. 1312, modified subsection (c) of this section to require annual submission instead of semiannual submission to the Congress by the Foreign Claims Settlement Commission of its report concerning its operations under the International Claims Settlement Act of 1949.

REFERENCES TO THIS SUBCHAPTER DEEMED TO INCLUDE SECTION 119 OF H.R. 2076

References to this subchapter deemed to include section 119 of H.R. 2076, see section 119(b) of H.R. 2076, as enacted into law by Pub. L. 104–91, set out as an Authority of Foreign Claims Settlement Commission note under section 1644 of this title.

AMENDMENTS

1966—Subsec. (a). Pub. L. 89–554 repealed subsec. (a) which related to the composition, appointment, chairman, quorum, and acting members of the Commission.

Subsec. (b). Pub. L. 89–554 repealed subsec. (b) which provided for the principal office of the Commission, and for the appointment and compensation of personnel.

Subsec. (d). Pub. L. 89–554 repealed subsec. (d) which related to a limitation on additional appointments to the Commission.

1955—Act Aug. 9, 1955, §1, amended credit to section by designating act Mar. 10, 1950, as "title I".

Subsec. (c). Act Aug. 9, 1955, §2, substituted "subchapter" for "chapter".

1953—Act Aug. 8, 1953, added par. at end which was editorially designated as subsec. (d).

ABOLITION OF INTERNATIONAL CLAIMS COMMISSION

International Claims Commission of the United States abolished by Reorg. Plan No. 1 of 1954, §4(a), eff. July 1, 1954, 19 F.R. 3985, 68 Stat. 1279, set out as a note below.

ABOLITION OF FUNCTIONS OF SECRETARY OF STATE

The functions of the Secretary of State under the third and fourth sentences of subsec. (c) of this section were abolished by Reorg. Plan No. 1 of 1954, §4(b), eff. July 1, 1954, 19 F.R. 3985, 68 Stat. 1279, set out as a note below.

REORGANIZATION PLAN NO. 1 OF 1954

EFF. JULY 1, 1954, 19 F.R. 3985, 68 STAT. 1279

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress

assembled, April 29, 1954, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949, as amended [see 5 U.S.C. 901 et seq.].

FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES

SECTION 1. ESTABLISHMENT OF COMMISSION

There is hereby established the Foreign Claims Settlement Commission of the United States, hereinafter referred to as the Commission. The Commission shall be composed of three members, who shall each be appointed by the President by and with the advice and consent of the Senate, hold office during the pleasure of the President, and receive compensation at the rate of $15,000 per annum. The President shall from time to time designate one of the members of the Commission as the Chairman of the Commission, hereinafter referred to as the Chairman. Two members of the Commission shall constitute a quorum for the transaction of the business of the Commission.

SEC. 2. TRANSFER OF FUNCTIONS

(a) All functions of the War Claims Commission and of the members, officers, and employees thereof are hereby transferred to the Foreign Claims Settlement Commission of the United States.

(b) All functions of the International Claims Commission of the United States (hereinafter referred to as the International Claims Commission) and the members, officers, and employees thereof are hereby transferred to the Foreign Claims Settlement Commission of the United States.

(c) The functions of the Secretary of State and of the Department of State with respect to the International Claims Commission and its affairs, exclusive of the functions of the said Secretary and Department under sections 3(c), 4(b), and 5, and the first sentence of section 8(d), of the International Claims Settlement Act of 1949, 64 Stat. 12, as amended [22 U.S.C. 1622(c), 1623(b), 1624, and 1627(d)], are hereby transferred to the Commission.

(d) The functions of the Commissioner provided for in the Joint Resolution approved August 4, 1939, ch. 421, 53 Stat. 1199, together with the functions of the Secretary of State under section 2 thereof, are hereby transferred to the Commission.

SEC. 3. CERTAIN FUNCTIONS OF CHAIRMAN

There are hereby vested in the Chairman all functions of the Commission with respect to the internal management of the affairs of the Commission, including but not limited to functions with respect to: (a) the appointment of personnel employed under the Commission, (b) the direction of employees of the Commission and the supervision of their official activities, (c) the distribution of business among employees and organizational units under the Commission, (d) the preparation of budget estimates, and (e) the use and expenditure of funds of the Commission available for expenses of administration.

SEC. 4. ABOLITIONS

(a) The War Claims Commission provided for in the War Claims Act of 1948, 62 Stat. 1240, as amended [50 U.S.C. 4101 et seq.] and the International Claims Commission, provided for in the International Claims Settlement Act of 1949, as amended [22 U.S.C. 1621–1627], including the offices of the members of each of the said commissions, and the office of Commissioner provided for in the aforesaid Joint Resolution of August 4, 1939, are hereby abolished.

(b) The functions of the Secretary of State under the third and fourth sentences of section 3(c) of the International Claims Settlement Act of 1949, as amended [22 U.S.C. 1622(c)], are hereby abolished.

SEC. 5. AUTHORIZATION TO DELEGATE

The Commission is hereby authorized to delegate any of its functions to one or more persons designated by the Commission from among the members of the Commission and the officers and employees serving under the Commission.

SEC. 6. TRANSITIONAL PROVISIONS

(a) Any person who is a member or acting member of the War Claims Commission or of the International Claims Commission immediately prior to the taking effect of the provisions of this reorganization plan may be designated by the President as an acting member of the Foreign Claims Settlement Commission of the United States in respect of an office of member the initial appointment to which has not then been made under section 1 of this reorganization plan. Each such acting member of the said Foreign Claims Settlement Commission shall perform the duties and receive the compensation of member. Unless sooner terminated, the tenure of any acting member designated hereunder shall terminate when the office of member concerned is filled in

pursuance of section 1 hereof, or 120 days after the effective date of this reorganization plan, whichever is earlier.

(b) The Chairman shall make such provisions as may be necessary with respect to winding up any affairs of the agencies abolished by the provisions of this reorganization plan not otherwise provided for herein.

(c) So much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, held, used, available, or to be made available, in connection with the functions transferred by section 2 of this reorganization plan as the Director of the Bureau of the Budget shall determine shall be transferred to the Commission at such time or times as the said Director shall direct.

(d) Such further measures and dispositions as the Director of the Bureau of the Budget shall deem to be necessary in order to effectuate the transfers provided for in subsection (c) of this section shall be carried out in such manner as he shall direct and by such agencies as he shall designate.

SEC. 7. EFFECTIVE DATE

The provisions of this reorganization plan shall take effect on the date determined under section 6(a) of the Reorganization Act of 1949, as amended or the first day of July, 1954, whichever is later.

[For provisions transferring the Foreign Claims Settlement Commission of the United States as a separate agency within the Department of Justice, see 22 U.S.C. 1622a et seq.]

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 1 of 1954, prepared in accordance with the Reorganization Act of 1949, as amended.

The reorganization plan establishes a new Government agency, the Foreign Claims Settlement Commission of the United States; transfers to that Commission the functions of the War Claims Commission and of the International Claims Commission of the United States; and abolishes the latter two Commissions.

The Foreign Claims Settlement Commission will be composed of three members appointed by the President by and with the advice and consent of the Senate. The President will designate one of the members as Chairman of the Commission. The Chairman will be responsible for the internal management of the affairs of the Commission. The reorganization plan contains provisions designed to assure smooth administration of functions during the period of transition to the new organization.

The War Claims Commission was created as a temporary agency by the War Claims Act of 1948. The Commission was made responsible for settling certain claims of former United States World War II prisoners of war, civilian internees captured or in hiding to avoid capture in the Philippines, Guam, Wake Island, and the Midway Islands, and certain religious organizations in the Philippines which had aided American forces during the war. In 1952, the Commission was assigned, additionally, the administration of claims of Philippine religious organizations which sustained losses of their educational, medical, and welfare facilities in the war, and of benefits to United States prisoners of war for inhumane treatment during internment by the enemy.

From its inception in 1949 to April 1, 1954, approximately 500,000 claims were filed with the War Claims Commission, and approximately $134 million was paid to claimants. Approximately 96,000 remaining claims are in the process of settlement, and the Commission must complete action on them, together with such appeals as may be filed, by March 31, 1955.

The International Claims Commission was established within the Department of State by the International Claims Settlement Act of 1949. Its immediate function was to adjudicate claims covered by a settlement of $17 million which was deposited with the Government of the United States by the Yugoslav Government primarily to compensate our nationals for losses sustained through nationalization of properties. The act also authorized the Commission to settle such claims as might be included later in any similar agreement between the United States and a foreign government. Subsequently, the Commission was assigned the administration of a $400,000 settlement negotiated with the Government of Panama.

From its establishment in 1950 to April 1, 1954, the International Claims Commission has settled 531 claims out of a total of 1,622 filed. Of this total, 1,555 claims were against Yugoslavia and 67 were against Panama. Under the act, settlement of the remaining Yugoslav claims must be completed by December 31, 1954.

The accompanying reorganization plan has substantial potential advantages. The Foreign Claims Settlement Commission will be able to administer any additional claims programs financed by funds derived from foreign governments without the delay which has often characterized the initiation of past programs. Moreover, the use of an existing agency will be more economical than the establishment of a new commission to administer a given type of foreign claims program. Consolidation of the affairs of the two present Commissions will also permit the retention and use of the best experience gained during the last several years in the field of claims

settlement. The declining workload of current programs can be meshed with the rising workload of new programs with maximum efficiency and effectiveness.

A proposed new claims program now pending before the Senate would provide benefits similar to those paid to World War II victims under the War Claims Act for losses and internments resulting from hostilities in Korea. The executive branch of the Government has recommended approval of this program by the Congress. I now suggest that this program be assigned by law to the Foreign Claims Settlement Commission.

There should also be assigned to this new Commission the settlement of such of the claims programs as may be authorized from among those recommended by the War Claims Commission in its report made pursuant to section 8 of the War Claims Act. That report, posing many complex policy, legal, and administrative problems, is now being reviewed by executive agencies; and recommendations will soon be sent to the Congress.

By peace treaties and an international agreement, the United States has acquired the right to utilize certain external assets and settlement funds of several countries. A total of about $39 million is available to indemnify claims of United States nationals against the Governments of Rumania, Hungary, Bulgaria, and Italy, arising out of war damage or confiscations in those countries. In addition, claims growing out of United States losses from default on obligations and nationalization of properties may be settled by awards from $9 million realized from an agreement made in 1933 with the Soviet Union, known as the Litvinov assignment. Action by the Congress is necessary before these various funds may be assigned for settlement, and recommendations of the executive branch in this connection will be transmitted at an early date.

In addition to the reorganizations I have described, the reorganization plan transfers to the Foreign Claims Settlement Commission the functions of the Commissioner provided for in the joint resolution of August 4, 1939. These functions involve the receipt and administration of claims covered by the Litvinov assignment. The office of Commissioner, for which funds have never been appropriated and which has never been filled, is abolished.

The reorganization plan does not transfer the war claims fund or the Yugoslav claims fund from the Department of the Treasury, or divest the Secretary of the Treasury of any functions under the War Claims Act of 1948, as amended, or under the International Claims Settlement Act of 1949, as amended. It does not limit the responsibility of the Secretary of State with respect to the conduct of foreign affairs. The reorganizations contained in the reorganization plan will not prejudice any interest or potential interest of any claimant.

After investigation, I have found and hereby declare that each reorganization included in the accompanying reorganization plan is necessary to accomplish one or more of the purposes set forth in section 2(a) of the Reorganization Act of 1949, as amended. I have also found and hereby declare that it is necessary to include in the accompanying reorganization plan, by reason of reorganizations made thereby, provisions for the appointment and compensation of officers specified in section 1 of the plan. The rate of compensation fixed for each of these officers is that which I have found to prevail in respect of comparable officers in the executive branch of the Government.

The statutory citation for certain functions of the Secretary of State with respect to the International Claims Commission which are abolished by the reorganization plan, is the third and fourth sentences of section 3(c) of the International Claims Settlement Act of 1949 (64 Stat. 13), as amended.

It is at this time impracticable to specify the reductions of expenditures which it is probable will be brought about by the taking effect of the reorganizations contained in the plan.

Reorganization Plan No. 1 of 1954 provides a single agency for the orderly completion of present claims programs. In addition, it provides an effective organization for the settlement of future authorized claims programs by utilizing the experience gained by present claims agencies. It provides unified administrative direction of the functions concerned, and it simplifies the organizational structure of the executive branch. I urge that the Congress allow the reorganization plan to become effective.

DWIGHT D. EISENHOWER.

THE WHITE HOUSE, April 29, 1954.

§1622a. Transfer of Foreign Claims Settlement Commission of the United States to Department of Justice

The Foreign Claims Settlement Commission of the United States, established under Reorganization Plan Numbered 1 of 1954, is hereby transferred to the Department of Justice as a

separate agency within that Department.

(Pub. L. 96–209, title I, §101, Mar. 14, 1980, 94 Stat. 96.)

REFERENCES IN TEXT

Reorganization Plan Numbered 1 of 1954, referred to in text, is Reorg. Plan. No. 1 of 1954, July 1, 1954, 19 F.R. 3985, 68 Stat. 1279, which is set out as a note under section 1622 of this title.

CODIFICATION

Section was not enacted as part of the International Claims Settlement Act of 1949 which comprises this chapter.

EFFECTIVE DATE

Pub. L. 96–209, title VI, Mar. 14, 1980, 94 Stat. 99, provided that: "This Act [enacting sections 1622a to 1622g of this title, amending sections 5316 of Title 5, Government Organization and Employees, and section 4101 of Title 50, War and National Defense, and enacting provisions set out as notes under this section, section 363 of former Title 31, Money and Finance, and section 7546 of Title 42, The Public Health and Welfare] shall take effect on the date of enactment [Mar. 14, 1980]."

AUTHORITY OF DIRECTOR OF OFFICE OF MANAGEMENT AND BUDGET RELATING TO TRANSFER OF FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES AND TERMINATION OF AFFAIRS OF ANNUAL ASSAY COMMISSION, UNITED STATES MARINE CORPS MEMORIAL COMMISSION, AND LOW-EMISSION VEHICLE CERTIFICATION BOARD

Pub. L. 96–209, title V, Mar. 14, 1980, 94 Stat. 98, provided that: "The Director of the Office of Management and Budget is authorized and directed to make such determinations as may be necessary with regard to the transfer of functions, powers, and duties pursuant to this Act [enacting sections 1622a to 1622g of this title, amending sections 5316 of Title 5, Government Organization and Employees, and 4101 of Title 50, War and National Defense, and enacting provisions set out as notes under this section and sections 363 of former Title 31, Money and Finance, and 7546 of Title 42, The Public Health and Welfare], and to make such additional incidental dispositions of personnel, assets, liabilities, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to or to be made available in connection with the functions transferred by this Act, as the Director may deem necessary to accomplish the purposes of this Act. The Director is further authorized and directed to provide for terminating the affairs of each agency, board, or commission [Annual Assay Commission under section 363 of former Title 31, the Low-Emission Vehicle Certification Board under section 7546 of Title 42, and the United States Marine Corps Memorial Commission] abolished by this Act."

§1622b. Transfer of functions, powers, and duties of Foreign Claims Settlement Commission of the United States

All functions, powers, and duties of the Foreign Claims Settlement Commission established by Reorganization Plan Numbered 1 of 1954 are hereby transferred with the Commission, together with personnel, assets, liabilities, unexpended balances of appropriations, authorizations, allocations, and other funds held, used, available, or to be made available in connection with the statutory functions of the Commission. The Commission shall continue to perform its functions as provided by the War Claims Act of 1948, as amended [50 U.S.C. 4101 et seq.], the International Claims Settlement Act of 1949, as amended [22 U.S.C. 1621 et seq.], and Reorganization Plan Numbered 1 of 1954.

(Pub. L. 96–209, title I, §102, Mar. 14, 1980, 94 Stat. 96.)

REFERENCES IN TEXT

Reorganization Plan Numbered 1 of 1954, referred to in text, is Reorg. Plan. No. 1 of 1954, July 1, 1954, 19 F.R. 3985, 68 Stat. 1279, which is set out as a note under section 1622 of this title.

The War Claims Act of 1948, as amended, referred to in text, is act July 3, 1948, ch. 826, 62 Stat. 1240, as amended, which is classified generally to chapter 51 (§4101 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Tables.

The International Claims Settlement Act of 1949, as amended, referred to in text, is act Mar. 10, 1950, ch.

54, 64 Stat. 12, as amended, which is classified generally to this chapter (§1621 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1621 of this title and Tables.

CODIFICATION

Section was not enacted as part of the International Claims Settlement Act of 1949 which comprises this chapter.

EFFECTIVE DATE

Section effective Mar. 14, 1980, see title VI of Pub. L. 96–209, set out as a note under section 1622a of this title.

§1622c. Membership of Foreign Claims Settlement Commission of the United States

(a) Composition of Commission; appointment and compensation of Chairman

The Commission shall be composed of a Chairman and two members. The Chairman shall be appointed by the President, by and with the advice and consent of the Senate, to serve on a full-time basis for a term of three years, and compensated at the rate provided for level V of the Executive Schedule under section 5316 of title 5.

(b) Appointment and compensation of members other than Chairman

The other members of the Commission shall be appointed by the President, by and with the advice and consent of the Senate, and serve on a part-time basis, and be compensated on a per diem basis at a rate of compensation equivalent to the daily rate for level V of the Executive Schedule under section 5316 of title 5 for each day that such member is employed in the actual performance of official business of the Commission as may be directed by the Chairman. Each member shall be reimbursed for travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 for persons in Government service employed intermittently.

(c) Terms of office

The terms of Office of the Chairman and members of the Commission shall be for three years, except the Chairman and members first appointed after the enactment of this subsection shall be appointed to terms ending respectively September 30, 1982, September 30, 1981, and September 30, 1980. The incumbent of any such office may continue to serve until a successor takes office.

(d) Continuation in office of existing members

Notwithstanding the provisions of subsections (a), (b), and (c) of this section, members of the Foreign Claims Settlement Commission who are serving on March 14, 1980, shall continue to serve in their same capacities until the expiration of the terms to which they were appointed.

(Pub. L. 96–209, title I, §103, Mar. 14, 1980, 94 Stat. 96.)

CODIFICATION

Section was not enacted as part of the International Claims Settlement Act of 1949 which comprises this chapter.

EFFECTIVE DATE

Section effective Mar. 14, 1980, see title VI of Pub. L. 96–209, set out as a note under section 1622a of this title.

§1622d. Appointment and compensation of officers and employees of Foreign Claims Settlement Commission of the United States; allowances and benefits; utilization of other Federal facilities

The Commission is authorized, in accordance with civil service laws and in accordance with title 5

to appoint and fix the compensation of such officers and employees as may be necessary to carry out the functions of the Commission. The Commission is authorized to employ experts and consultants in accordance with section 3109 of title 5 without compensation or at rates of compensation not in excess of the maximum daily rate prescribed for GS–18 under section 5332 of title 5. Notwithstanding any other provision of law, the Commission is further authorized to employ nationals of other countries who may possess special knowledge, languages, or other expertise necessary to assist the Commission. The Commission is authorized to pay expenses of packing, shipping, and storing personal effects of personnel of the Commission assigned abroad, and to pay allowances and benefits similar to those provided by title IX of the Foreign Service Act of 1946, as amended. The Commission is authorized, with the consent of the head of any other department or agency of the Federal Government, to utilize the facilities and services of such department or agency in carrying out the functions of the Commission. Officers and employees of any department and agency of the Federal Government may, with the consent of the head of such department or agency, be assigned to assist the Commission in carrying out its functions. The Commission shall reimburse such department and agency for the pay of such officers or employees.

(Pub. L. 96–209, title I, §104, Mar. 14, 1980, 94 Stat. 97.)

REFERENCES IN TEXT

Title IX of the Foreign Service Act of 1946, as amended, referred to in text, is title IX of act Aug. 13, 1946, ch. 957, 60 Stat. 1025, as amended, which was classified generally to subchapter IX (§§1131–1160) of chapter 14 of this title, and was repealed by section 2205(1) of the Foreign Service Act of 1980, Pub. L. 96–465, title II, Oct. 17, 1980, 94 Stat. 2159. The Foreign Service Act of 1980 is classified principally to chapter 52 (§3901 et seq.) of this title. Section 2401(c) of the 1980 Act (22 U.S.C. 4172(c)) provides in part that references in law to provisions of the Foreign Service Act of 1946 shall be deemed to include reference to the corresponding provisions of the 1980 Act. For provisions corresponding to title IX of the Foreign Service Act of 1946, see Table preceding section 801 of this title.

CODIFICATION

Section was not enacted as part of the International Claims Settlement Act of 1949 which comprises this chapter.

EFFECTIVE DATE

Section effective Mar. 14, 1980, see title VI of Pub. L. 96–209, set out as a note under section 1622a of this title.

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

SALARIES AND EXPENSES OF FOREIGN CLAIMS SETTLEMENT COMMISSION

Pub. L. 101–162, title II, Nov. 21, 1989, 103 Stat. 996, provided: "That for fiscal year 1990 and hereafter, funds appropriated under this heading ["SALARIES AND EXPENSES, FOREIGN CLAIMS SETTLEMENT COMMISSION"] shall be available for: allowances and benefits similar to those allowed under the Foreign Service Act of 1980 [22 U.S.C. 3901 et seq.] as determined by the [Foreign Claims Settlement] Commission; expenses of packing, shipping, and storing personal effects of personnel assigned abroad; rental or lease, for such periods as may be necessary, of office space and living quarters of personnel assigned abroad; maintenance, improvement, and repair of properties rented or leased abroad, and furnishing fuel, water, and utilities for such properties; insurance on official motor vehicles abroad; advances of funds abroad; advances or reimbursements to other Government agencies for use of their facilities and services in carrying out the functions of the Commission; hire of motor vehicles for field use only; and employment of aliens."

§1622e. Vesting of all non-adjudicatory functions, powers, and duties in Chairman of Foreign Claims Settlement Commission of the United States

All functions, powers, and duties not directly related to adjudicating claims are hereby vested in the Chairman, including the functions set forth in section 3 of Reorganization Plan Numbered 1 of 1954 and the authority to issue rules and regulations.

(Pub. L. 96–209, title I, §105, Mar. 14, 1980, 94 Stat. 97.)

REFERENCES IN TEXT

Reorganization Plan Numbered 1 of 1954, referred to in text, is Reorg. Plan. No. 1 of 1954, July 1, 1954, 19 F.R. 3985, 68 Stat. 1279, which is set out as a note under section 1622 of this title.

CODIFICATION

Section was not enacted as part of the International Claims Settlement Act of 1949 which comprises this chapter.

EFFECTIVE DATE

Section effective Mar. 14, 1980, see title VI of Pub. L. 96–209, set out as a note under section 1622a of this title.

§1622f. Administrative support and services to Foreign Claims Settlement Commission of the United States by Attorney General

The Attorney General shall provide necessary administrative support and services to the Commission. The Chairman shall prepare the budget requests, authorization documents, and legislative proposals for the Commission within the procedures established by the Department of Justice, and the Attorney General shall submit these items to the Director of the Office of Management and Budget as proposed by the Chairman.

(Pub. L. 96–209, title I, §106, Mar. 14, 1980, 94 Stat. 97.)

CODIFICATION

Section was not enacted as part of the International Claims Settlement Act of 1949 which comprises this chapter.

EFFECTIVE DATE

Section effective Mar. 14, 1980, see title VI of Pub. L. 96–209, set out as a note under section 1622a of this title.

§1622g. Independence of Foreign Claims Settlement Commission of the United States; finality of Commission decisions

Nothing in this Act shall be construed to diminish the independence of the Commission in making its determinations on claims in programs that it is authorized to administer pursuant to the powers and responsibilities conferred upon the Commission by the War Claims Act of 1948, as amended [50 U.S.C. 4101 et seq.], the International Claims Settlement Act of 1949, as amended [22 U.S.C. 1621 et seq.], and Reorganization Plan Numbered 1 of 1954. The decisions of the Commission with respect to claims shall be final and conclusive on all questions of law and fact, and shall not be subject to review by the Attorney General or any other official of the United States or by any court by mandamus or otherwise.

(Pub. L. 96–209, title I, §107, Mar. 14, 1980, 94 Stat. 97.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 96–209, Mar. 14, 1980, 94 Stat. 96, which enacted sections 1622a to 1622g of this title, amended section 5316 of Title 5, Government Organization and Employees, and section 4101 of Title 50, War and National Defense, and enacted provisions set out as notes under section 1622a of this title, section 363 of former Title 31, Money and Finance, and section 7546 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Tables.

The War Claims Act of 1948, as amended, referred to in text, is act July 3, 1948, ch. 826, 62 Stat. 1240, as amended, which is classified generally to chapter 51 (§4101 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Tables.

The International Claims Settlement Act of 1949, as amended, referred to in text, is act Mar. 10, 1950, ch. 54, 64 Stat. 12, as amended, which is classified generally to this chapter (§1621 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 1621 of this title and Tables.

Reorganization Plan Numbered 1 of 1954, referred to in text, is Reorg. Plan No. 1 of 1954, July 1, 1954, 19 F.R. 3985, 68 Stat. 1279, which is set out as a note under section 1622 of this title.

CODIFICATION

Section was not enacted as part of the International Claims Settlement Act of 1949 which comprises this chapter.

EFFECTIVE DATE

Section effective Mar. 14, 1980, see title VI of Pub. L. 96–209, set out as a note under section 1622a of this title.

§1623. Claims

(a) Jurisdiction of Commission; bases for determination; fair market value

(1) The Commission shall have jurisdiction to receive, examine, adjudicate, and render a final decision with respect to any claim of the Government of the United States or of any national of the United States—

(A) included within the terms of the Yugoslav Claims Agreement of 1948;

(B) included within the terms of any claims agreement concluded on or after March 10, 1954, between the Government of the United States and a foreign government (exclusive of governments against which the United States declared the existence of a state of war during World War II) similarly providing for the settlement and discharge of claims of the Government of the United States and of nationals of the United States against a foreign government, arising out of the nationalization or other taking of property, by the agreement of the Government of the United States to accept from that government a sum in en bloc settlement thereof; or

(C) included in a category of claims against a foreign government which is referred to the Commission by the Secretary of State.

(2) In the decision of claims under this subchapter, the Commission shall apply the following in the following order:

(A) The provisions of the applicable claims agreement as provided in this subsection.

(B) The applicable principles of international law, justice, and equity. In determining the value of a claim under international law, the Commission shall award the fair market value of the property as of the time of the taking by the foreign government involved (without regard to any action or event that occurs after the taking), except that the value of the claim shall not reflect any diminution in value attributable to actions which are carried out, or threats of action which are made, by the foreign government with respect to the property before the taking. Fair market value shall be ascertained in accordance with the method most appropriate to the property taken and equitable to the claimant, including—

(i) market value of outstanding equity securities;

(ii) replacement value;

(iii) going-concern value (which includes consideration of an enterprise's profitability); and

(iv) book value.

In the case of any claim for losses in a service industry, the appropriate basis of valuation shall be presumed to be that referred to in clause (iii). For purposes of the preceding sentence, the term "service" means economic activity the output of which is other than tangible goods.

(b) Notice of filing time; publication; basis of decisions; finality of decision

The Commission shall give public notice of the time when, and the limit of time within which, claims may be filed, which notice shall be published in the Federal Register. In addition, the Commission is authorized and directed to mail a similar notice to the last known address of each person appearing in the records of the Department of State as having indicated an intention of filing a claim with respect to a matter concerning which the Commission has jurisdiction under this subchapter. All decisions shall be upon such evidence and written legal contentions as may be presented within such period as may be prescribed therefor by the Commission, and upon the results of any independent investigation of cases which the Commission may deem it advisable to make. Each decision by the Commission pursuant to this subchapter shall be by majority vote, and shall state the reason for such decision, and shall constitute a full and final disposition of the case in which the decision is rendered.

(c) Administration of oaths; examination of witnesses; subpenas; reporting of hearings; witness fees; contempt

Any member of the Commission, or any employee of the Commission, designated in writing by the Chairman of the Commission, may administer oaths and examine witnesses. Any member of the Commission may require by subpena the attendance and testimony of witnesses, and the production of all necessary books, papers, documents, records, correspondence, and other evidence, from any place in the United States at any designated place of inquiry or of hearing. The Commission is authorized to contract for the reporting of inquiries or of hearings. Witnesses summoned before the Commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. In case of disobedience to a subpena, the aid of any district court of the United States, as constituted by chapter 5 of title 28, and the United States court of any Territory or other place subject to the jurisdiction of the United States may be invoked in requiring the attendance and testimony of witnesses and the production of such books, papers, documents, records, correspondence, and other evidence. Any such court within the jurisdiction of which the inquiry or hearing is carried on may, in case of contumacy or refusal to obey a subpena issued to any person, issue an order requiring such person to appear or to give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(d) Depositions

The Commission may order testimony to be taken by deposition in any inquiry or hearing pending before it at any stage of such proceeding or hearing. Such depositions may be taken, under such regulations as the Commission may prescribe, before any person designated by the Commission and having power to administer oaths. Any person may be compelled to appear and depose, and to produce books, papers, documents, records, correspondence, and other evidence in the same way as witnesses may be compelled to appear and testify and produce documentary evidence before the Commission, as hereinabove provided. If a witness whose testimony may be desired to be taken by deposition be in a foreign country, the deposition may be taken, provided the laws of the foreign country so permit, by a consular officer, or by an officer or employee of the Commission, or other person commissioned by the Commission, or under letters rogatory issued by the Commission. Witnesses whose depositions are taken as authorized in this subsection, and the persons taking the same, shall severally be entitled to the same fees as are paid for like services in the courts of the United States.

(e) Penalties

In addition to the penalties provided in section 1001 of title 18, any person guilty of any act, as provided therein, with respect to any matter under this subchapter, shall forfeit all rights under this subchapter, and, if payment shall have been made or granted, the Commission shall take such action as may be necessary to recover the same.

(f) Attorney's fees; limitation

No remuneration on account of services rendered on behalf of any claimant in connection with any claim filed with the Commission under this subchapter shall exceed 10 per centum of the total amount paid pursuant to any award certified under the provisions of this subchapter on account of

such claim. Any agreement to the contrary shall be unlawful and void. Whoever, in the United States or elsewhere, demands or receives, on account of services so rendered, any remuneration in excess of the maximum permitted by this section, shall be fined not more than $5,000 or imprisoned not more than twelve months, or both.

(g) Representation by United States; payments

The Attorney General shall assign such officers and employees of the Department of Justice as may be necessary to represent the United States as to any claims of the Government of the United States with respect to which the Commission has jurisdiction under this subchapter. Any and all payments required to be made by the Secretary of the Treasury under this subchapter pursuant to any award made by the Commission to the Government of the United States shall be covered into the Treasury to the credit of miscellaneous receipts.

(h) Notification of disposition of claims; right to hearing; finality of Commission's decision

The Commission shall notify all claimants of the approval or denial of their claims, stating the reasons and grounds therefor, and, if approved, shall notify such claimants of the amount for which such claims are approved. Any claimant whose claim is denied, or is approved for less than the full amount of such claim, shall be entitled, under such regulations as the Commission may prescribe, to a hearing before the Commission, or its duly authorized representatives, with respect to such claim. Upon such hearing, the Commission may affirm, modify, or revise its former action with respect to such claim, including a denial or reduction in the amount theretofore allowed with respect to such claim. The action of the Commission in allowing or denying any claim under this subchapter shall be final and conclusive on all questions of law and fact and not subject to review by the Secretary of State or any other official, department, agency, or establishment of the United States or by any court by mandamus or otherwise.

(i) Separation of awards

The Commission may in its discretion enter an award with respect to one or more items deemed to have been clearly established in an individual claim while deferring consideration and action on other items of the same claim.

(j) Compliance with administrative procedure law

The Commission shall comply with the provisions of subchapter II of chapter 5, and chapter 7, of title 5 except as otherwise specifically provided by this subchapter.

(k) Compliance with principles of international law, justice and equity; fair market value

In exercising authority granted after October 8, 1986, under this chapter or any other Act, the Commission, in determining the value of claims of the Government of the United States or of nationals of the United States (as defined in this chapter or such other Act) against any foreign government for losses arising from the nationalization or other taking of property, shall comply with the principles set forth in subsection (a)(2) of this section.

(Mar. 10, 1950, ch. 54, title I, §4, 64 Stat. 13; Aug. 9, 1955, ch. 645, §§1, 2, 69 Stat. 562; Pub. L. 90–421, §1(1), July 24, 1968, 82 Stat. 420; Pub. L. 99–451, §1, Oct. 8, 1986, 100 Stat. 1138; Pub. L. 105–277, div. G, subdiv. B, title XXII, §2211, Oct. 21, 1998, 112 Stat. 2681–812.)

REFERENCES TO THIS SUBCHAPTER DEEMED TO INCLUDE SECTION 119 OF H.R. 2076

References to this subchapter deemed to include section 119 of H.R. 2076, see section 119(b) of H.R. 2076, as enacted into law by Pub. L. 104–91, set out as an Authority of Foreign Claims Settlement Commission note under section 1644 of this title.

CODIFICATION

In subsec. (j), "subchapter II of chapter 5, and chapter 7, of title 5" substituted for "the Administrative Procedure Act of 1946" on authority of Pub. L. 89–554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–277 added par. (1), redesignated second sentence as par. (2) and former

pars. (1) and (2) as subpars. (A) and (B), respectively, and struck out former first sentence which read as follows: "The Commission shall have jurisdiction to receive, examine, adjudicate, and render final decisions with respect to claims of the Government of the United States and of nationals of the United States included within the terms of the Yugoslav Claims Agreement of 1948, or included within the terms of any claims agreement on and after March 10, 1954 concluded between the Government of the United States and a foreign government (exclusive of governments against which the United States declared the existence of a state of war during World War II) similarly providing for the settlement and discharge of claims of the Government of the United States and of nationals of the United States against a foreign government, arising out of the nationalization or other taking of property, by the agreement of the Government of the United States to accept from that government a sum in en bloc settlement thereof."

1986—Subsec. (a). Pub. L. 99–451, §1(a), amended second sentence generally. Prior to amendment, second sentence read as follows: "In the decision of claims under this subchapter, the Commission shall apply the following in the following order: (1) The provisions of the applicable claims agreement as provided in this subsection; and (2) the applicable principles of international law, justice, and equity."

Subsec. (k). Pub. L. 99–451, §1(b), added subsec. (k).

1968—Subsec. (f). Pub. L. 90–421 struck out provisions which authorized the Commission to determine the amount of attorney's fees, such fees not to exceed 10% of the award and any written agreement between attorney and claimant as to fees to be conclusive upon the Commission, if the agreed upon fees do not exceed 10% of the award, provisions which authorized the Secretary of the Treasury to deduct the fees from the amount of the award and to pay it directly to the attorney, any agreement to the contrary to be unlawful and void, provisions which authorized the Commission to give notice by mail to each claimant of the provisions of this subsection, and provisions which authorized the Commission to recover any fees paid in contravention of this subsection, the recipient to forfeit all rights under this subchapter.

1955—Act Aug. 9, 1955, §1, amended credit to section by designating act Mar. 10, 1950, as "title I".

Subsecs. (a), (b), (e) to (h) and (j). Act Aug. 9, 1955, §2, substituted "subchapter" for "chapter".

EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99–451, §2, Oct. 8, 1986, 100 Stat. 1139, provided that: "The amendments made by this Act [amending this section] shall apply to any claim pending on the date of the enactment of this Act [Oct. 8, 1986] and to any other claim determined after such date."

ABOLITION OF INTERNATIONAL CLAIMS COMMISSION AND TRANSFER OF FUNCTIONS

International Claims Commission of the United States, including offices of its members, abolished and functions of Commission and of members, officers, and employees thereof transferred to Foreign Claims Settlement Commission of the United States by Reorg. Plan No. 1 of 1954, §§1, 2, 4, eff. July 1, 1954, 19 F.R. 3985, 68 Stat. 1279, set out as a note under section 1622 of this title.

For provisions transferring the Foreign Claims Settlement Commission of the United States as a separate agency within the Department of Justice, see section 1622a et seq. of this title.

PROTESTS RELATING TO AWARDS BY COMMISSION; NOTICE BY PUBLICATION IN FEDERAL REGISTER

Act Mar. 10, 1950, ch. 54, title VI, §615, as added Pub. L. 94–542, Oct. 18, 1976, 90 Stat. 2512, provided that: "Notwithstanding the provision of sections 210 and 211 of the War Claims Act of 1948 (Act of July 3, 1948), as amended by Public Law 87–846 [50 U.S.C. 4140, 4141], the Foreign Claims Settlement Commission established by Reorganization Plan No. 1 of 1954 (68 Stat. 1279) [set out under section 1622 of this title] is authorized and directed to receive and consider protests relating to awards made by the Commission during the ten calendar days immediately preceding the expiration of the Commission's mandate to make such awards on May 17, 1967. Any such protests must be filed within ninety days after notice of the enactment of this provision is filed with and published in the Federal Register, which shall take place within thirty days of enactment [Oct. 18, 1976]. Such protests may include the submission of new evidence not previously before the Commission, and shall be acted upon within thirty days after receipt by the Commission. The Commission may modify awards made during the subject period in accordance with the procedures established by the War Claims Act of 1948 [50 U.S.C. 4101 et seq.], and any increases in awards determined to be appropriated by the Commission shall be certified to and paid by the Secretary of the Treasury out of funds which are now or may hereafter become available in the War Claims Fund in accordance with section 213 of the Act [50 U.S.C. 4143]."

§1624. Certification of awards; certification of claims

The Commission shall, as soon as possible, and in the order of the making of such awards, certify to the Secretary of the Treasury and to the Secretary of State copies of the awards made in favor of the Government of the United States or of nationals of the United States under this subchapter. The Commission shall certify to the Secretary of State, upon his request, copies of the formal submissions of claims filed pursuant to subsection (b) of section 1623 of this title for transmission to the foreign government concerned.

(Mar. 10, 1950, ch. 54, title I, §5, 64 Stat. 16; Aug. 9, 1955, ch. 645, §§1, 2, 69 Stat. 562.)

REFERENCES TO THIS SUBCHAPTER DEEMED TO INCLUDE SECTION 119 OF H.R. 2076

References to this subchapter deemed to include section 119 of H.R. 2076, see section 119(b) of H.R. 2076, as enacted into law by Pub. L. 104–91, set out as an Authority of Foreign Claims Settlement Commission note under section 1644 of this title.

AMENDMENTS

1955—Act Aug. 9, 1955, §1, amended credit to section by designating act Mar. 10, 1950, as "title I".

Act Aug. 9, 1955, §2, substituted "subchapter" for "chapter".

ABOLITION OF INTERNATIONAL CLAIMS COMMISSION AND TRANSFER OF FUNCTIONS

International Claims Commission of the United States, including offices of its members, abolished and functions of Commission and of members, officers, and employees thereof transferred to Foreign Claims Settlement Commission of the United States by Reorg. Plan No. 1 of 1954, §§1, 2, 4, eff. July 1, 1954, 19 F.R. 3985, 68 Stat. 1279, set out as a note under section 1622 of this title.

For provisions transferring Foreign Claims Settlement Commission of the United States as a separate agency within the Department of Justice, see section 1622a et seq. of this title.

§1625. Omitted

CODIFICATION

Section, acts Mar. 10, 1950, ch. 54, title 1, §6, 64 Stat. 16; Aug. 8, 1953, ch. 396, §1, 67 Stat. 506, provided that Commission complete its affairs in connection with settlement of all United States-Yugoslavian Claims arising under Yugoslav Claims Agreement of 1948, by December 31, 1954.

§1626. Payments

(a) Principal and interest; regulations

Subject to the limitations hereinafter provided, the Secretary of the Treasury is authorized and directed to pay, as prescribed by section 1627 of this title, an amount not exceeding the principal of each award, plus accrued interest on such awards as bear interest, certified pursuant to section 1624 of this title, in accordance with the award. Such payments, and applications for such payments, shall be made in accordance with such regulations as the Secretary of the Treasury may prescribe.

(b) Deductions; coverage into Treasury; reimbursement for expenses

(1) There shall be deducted from the amount of each payment made pursuant to subsection (c) of section 1627 of this title, as reimbursement for the expenses incurred by the United States, an amount equal to 5 per centum of such payment. All amounts so deducted shall be covered into the Treasury to the credit of miscellaneous receipts.

(2) The Secretary of the Treasury shall deduct from any amounts covered, subsequent to July 24, 1968, into any special fund, created pursuant to section 1627 of this title, 5 per centum thereof as reimbursement to the Government of the United States for expenses incurred by the Commission and by the Treasury Department in the administration of this subchapter. The amounts so deducted shall be covered into the Treasury to the credit of miscellaneous receipts.

(c) To whom made; exceptions

Payments made pursuant to this subchapter shall be made only to the person or persons on behalf of whom the award is made, except that—

(1) if any person to whom any payment is to be made pursuant to this subchapter is deceased or is under a legal disability, payment shall be made to his legal representative, except that if any payment to be made is not over $1,000 and there is no qualified executor or administrator, payment may be made to the person or persons found by the Secretary of the Treasury to be entitled thereto, without the necessity of compliance with the requirements of law with respect to the administration of estates;

(2) in the case of a partnership or corporation, the existence of which has been terminated and on behalf of which an award is made, payment shall be made, except as provided in paragraphs (3) and (4) of this subsection, to the person or persons found by the Secretary of the Treasury to be entitled thereto;

(3) if a receiver or trustee for any such partnership or corporation has been duly appointed by a court of competent jurisdiction in the United States and has not been discharged prior to the date of payment, payment shall be made to such receiver or trustee in accordance with the order of the court;

(4) if a receiver or trustee for any such partnership or corporation, duly appointed by a court of competent jurisdiction in the United States, makes an assignment of the claim, or any part thereof, with respect to which an award is made, or makes an assignment of such award, or any part thereof, payment shall be made to the assignee, as his interest may appear; and

(5) in the case of any assignment of an award, or any part thereof, which is made in writing and duly acknowledged and filed, after such award is certified to the Secretary of the Treasury, payment may, in the discretion of the Secretary of the Treasury, be made to the assignee, as his interest may appear.

(d) Erroneous payments as bar to further recovery

Whenever the Secretary of the Treasury shall find that any person is entitled to any such payment, after such payment shall have been received by such person, it shall be an absolute bar to recovery by any other person against the United States, its officers, agents, or employees with respect to such payment.

(e) Acquiescence in conditions of subchapter

Any person who makes application for any such payment shall be held to have consented to all the provisions of this subchapter.

(f) Non-assumption of liability by United States on claims against foreign governments

Nothing in this subchapter shall be construed as the assumption of any liability by the United States for the payment or satisfaction, in whole or in part, of any claim on behalf of any national of the United States against any foreign government.

(Mar. 10, 1950, ch. 54, title I, §7, 64 Stat. 16; Aug. 8, 1953, ch. 396, §2, 67 Stat. 506; Aug. 9, 1955, ch. 645, §§1, 2, 69 Stat. 562; Pub. L. 90–421, §1(2), (3), July 24, 1968, 82 Stat. 420; Pub. L. 104–316, title II, §202(h), Oct. 19, 1996, 110 Stat. 3842.)

REFERENCES TO THIS SUBCHAPTER DEEMED TO INCLUDE SECTION 119 OF H.R. 2076

References to this subchapter deemed to include section 119 of H.R. 2076, see section 119(b) of H.R. 2076, as enacted into law by Pub. L. 104–91, set out as an Authority of Foreign Claims Settlement Commission note under section 1644 of this title.

AMENDMENTS

1996—Subsec. (c)(1), (2). Pub. L. 104–316, §202(h)(1), substituted "Secretary of the Treasury" for "Comptroller General" in par. (1) and "Secretary of the Treasury" for "Comptroller General of the United States" in par. (2).

Subsec. (d). Pub. L. 104–316, §202(h)(2), struck out ", or the Comptroller General of the United States, as the case may be," after "Secretary of the Treasury".

1968—Subsec. (b). Pub. L. 90–421, §1(2), designated existing provisions as par. (1) and added par. (2).

Subsec. (c)(1). Pub. L. 90–421, §1(3), substituted "any person to whom any payment is to be made pursuant

to this subchapter" for "such person" and ", except that if any payment to be made is not over $1000" for ": *Provided*, That if the total award is not over $500", and struck out "of the United States" after "Comptroller General".

1955—Act Aug. 9, 1955, §1, amended credit to section by designating act Mar. 10, 1950, as "title I".

Act Aug. 9, 1955, §2, substituted "subchapter" for "chapter".

1953—Subsec. (b). Act Aug. 8, 1953, increased the amount deductible to cover expenses from 3 to 5 percent.

ABOLITION OF INTERNATIONAL CLAIMS COMMISSION AND TRANSFER OF FUNCTIONS

International Claims Commission of the United States, including offices of its members, abolished and functions of Commission and of members, officers, and employees thereof transferred to Foreign Claims Settlement Commission of the United States by Reorg. Plan No. 1, of 1954, §§1, 2, 4, eff. July 1, 1954, 19 F.R. 3985, 68 Stat. 1279, set out as a note under section 1622 of this title.

For provisions transferring Foreign Claims Settlement Commission of the United States as a separate agency within the Department of Justice, see section 1622a et seq. of this title.

§1627. Creation of special funds in Treasury

(a) Credits to, and payment from funds

There are created in the Treasury of the United States (1) a special fund to be known as the Yugoslav Claims Fund; and (2) such other special funds as may, in the discretion of the Secretary of the Treasury, be required, each to be a claims fund to be known by the name of the foreign government which has entered into a settlement agreement with the Government of the United States as described in subsection (a) of section 1623 of this title. There shall be covered into the Treasury to the credit of the proper special fund all funds hereinafter specified. All payments authorized under section 1626 of this title shall be disbursed from the proper fund, as the case may be, and all amounts covered into the Treasury to the credit of the aforesaid funds are permanently appropriated for the making of the payments authorized by section 1626 of this title.

(b) Credits to Yugoslav Claims Fund; credits to other funds

The Secretary of the Treasury is authorized and directed to cover into—

(1) the Yugoslav Claims Fund the sum of $17,000,000 being the amount paid by the Government of the Federal People's Republic of Yugoslavia pursuant to the Yugoslav Claims Agreement of 1948;

(2) a special fund created for that purpose pursuant to subsection (a) of this section any amounts hereafter paid, in United States dollars, by a foreign government which has entered into a claims settlement agreement with the Government of the United States as described in subsection (a) of section 1623 of this title.

(c) Payment of awards

The Secretary of the Treasury is authorized and directed out of the sums covered, prior to July 24, 1968, into any of the funds pursuant to subsection (b) of this section, and after making the deduction provided for in section 1626(b)(1) of this title—

(1) to make payments in full of the principal of awards of $1,000 or less, certified pursuant to section 1624 of this title;

(2) to make payments of $1,000 on the principal of each award of more than $1,000 in principal amount, certified pursuant to section 1624 of this title;

(3) to make additional payment of not to exceed 25 per centum of the unpaid principal of awards in the principal amount of more than $1,000;

(4) after completing the payments prescribed by paragraphs (2) and (3) of this subsection, to make payments, from time to time in ratable proportions, on account of the unpaid principal of all awards in the principal amount of more than $1,000, according to the proportions which the unpaid principal of such awards bear to the total amount in the fund available for distribution at the time such payments are made; and

(5) after payment has been made of the principal amounts of all such awards, to make pro rata

payments on account of accrued interest on such awards as bear interest.

(d) Payment of balance to Yugoslav Government; certification of adjudication costs; finality of certification

The Secretary of the Treasury, upon the concurrence of the Secretary of State, is authorized and directed, out of the sum covered into the Yugoslav Claims Fund pursuant to subsection (b) of this section, after completing the payments of such funds pursuant to subsection (c) of this section, to make payment of the balance of any sum remaining in such fund to the Government of the Federal People's Republic of Yugoslavia to the extent required under article 1(c) of the Yugoslav Claims Agreement of 1948. The Secretary of State shall certify to the Secretary of the Treasury the total cost of adjudication, not borne by the claimants, attributable to the Yugoslav Claims Agreement of 1948. Such certification shall be final and conclusive and shall not be subject to review by any other official, or department, agency, or establishment of the United States.

(e) Payments; priorities

Except as provided in subsection (f), the Secretary of the Treasury is authorized and directed out of sums covered, subsequent to July 24, 1968, into any special fund created pursuant to this section to make payment on account of awards certified by the Commission pursuant to this subchapter with respect to claims included within the terms of a claims settlement agreement concluded between the Government of the United States and a foreign government as described in section 1623(a) of this title, as follows and in the following order of priority:

(1) Payment in the amount of $1,000 or the principal amount of the award, whichever is less;

(2) Thereafter, payments from time to time on account of the unpaid principal balance of each remaining award which shall bear to such unpaid principal balance the same proportion as the total amount available for distribution at the time such payments are made bears to the aggregate unpaid principal balance of all such awards; and

(3) Thereafter, payments from time to time on account of the unpaid balance of each award of interest which shall bear to such unpaid balance of interest, the same proportion as the total amount available for distribution at the time such payments are made bears to the aggregate unpaid balance of interest of all such awards.

(f) People's Republic of China; claim payment priorities

(1) Out of sums covered after May 11, 1979, into the special fund created pursuant to this section to receive funds paid by the People's Republic of China, the Secretary of the Treasury is authorized and directed to make payments on account of awards certified by the Commission pursuant to subchapter V with respect to claims included within the terms of the Agreement Between the Government of the United States of America and the Government of the People's Republic of China Concerning the Settlement of Claims, signed on May 11, 1979, in the following order of priority:

(A) Payment in the amount of $1,000 or the principal amount of the award, whichever is less.

(B) Thereafter, except as provided in paragraph (2), to the extent there remain unpaid principal balances on awards, payments from time to time on account of the unpaid principal balance of each remaining award which bear to such unpaid principal balance the same proportion as the total amount available for distribution at the time such payments are made bears to the aggregate unpaid principal balance of all such awards.

(C) Thereafter, payments from time to time on account of the unpaid balance of each award of interest which bear to such unpaid balance of interest the same proportion as the total amount available for distribution at the time such payments are made bears to the aggregate unpaid balance of interest of all such awards.

(2)(A) For the purpose of computing the payments to be made under paragraph (1) to any claimant which was an incorporated business enterprise on the date of nationalization or other taking of property, the award certified by the Commission under subchapter V shall be reduced by the amount of Federal tax benefits derived by such claimant on account of the losses upon which such claim was based, but in no case shall such payments be reduced below the amount paid to such claimant on

account of such claim before October 13, 1980. For purposes of this subparagraph, such Federal tax benefits shall be the amount by which the claimant's taxes in any prior taxable year or years under chapters 1, 2A, 2B, 2D, and 2E of the Internal Revenue Code of 1939, or subtitle A of the Internal Revenue Code of 1986, were decreased with respect to the loss or losses upon which the claim was based. The sum of the amounts which would otherwise be payable but for this paragraph which are not paid to any such claimant shall be aggregated, and the Secretary of the Treasury is authorized and directed to make payments out of such aggregated sums in accordance with subparagraph (B).

(B) To the extent that there remain unpaid principal balances on awards to claimants which were, on the date of nationalization or other taking of property, nonprofit organizations operated exclusively for the promotion of social welfare, religious, charitable, or educational purposes (after payments made to such nonprofit organizations pursuant to subparagraphs (A) and (B) of paragraph (1) are taken into account), the Secretary of the Treasury is authorized and directed to make payments from time to time on account of the unpaid principal balance of each remaining award to such nonprofit organizations which bear to such unpaid principal balance the same proportion as the total sums aggregated pursuant to subparagraph (A) at the times such payments are made bear to the aggregate unpaid principal balance of all such awards to nonprofit organizations.

(g) Authority to invest and recover expenses from funds

The Secretary of the Treasury is authorized and directed to invest the amounts held respectively in the "special funds" established by this section in public debt securities with maturities suitable for the needs of the separate accounts and bearing interest at rates determined by the Secretary, taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities. The interest earned on the amounts in each special fund shall be used to make payments, in accordance with subsection (c), on awards payable from that special fund.

(Mar. 10, 1950, ch. 54, title I, §8, 64 Stat. 17; Aug. 9, 1955, ch. 645, §1, 69 Stat. 562; Pub. L. 90–421, §1(4), (5), July 24, 1968, 82 Stat. 420; Pub. L. 96–445, Oct. 13, 1980, 94 Stat. 1891; Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 100–204, title I, §142(a), Dec. 22, 1987, 101 Stat. 1350.)

REFERENCES IN TEXT

The Internal Revenue Code of 1939, referred to in subsec. (f)(2)(A), was generally repealed by section 7851 of the Internal Revenue Code of 1954, Title 26. The Internal Revenue Code of 1954 was redesignated the Internal Revenue Code of 1986 by Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095. For table of comparisons of the 1939 Code to the 1986 Code, see Table I preceding section 1 of Title 26, Internal Revenue Code. See also section 7852(b) of Title 26, Internal Revenue Code, for provision that references in any other law to a provision of the 1939 Code, unless expressly incompatible with the intent thereof, shall be deemed a reference to the corresponding provision of the 1986 Code.

Chapter 1 of the Internal Revenue Code of 1939, referred to in subsec. (f)(2)(A), was comprised of sections 1 to 482 of former Title 26, Internal Revenue Code. Section 14 of former Title 26 was repealed by act Oct. 20, 1951, ch. 521, title I, pt. II, §121(g), 65 Stat. 469. Sections 34 and 185 of former Title 26 were repealed by act Feb. 25, 1944, ch. 63, title I, §§106(c)(2), 107(a), 58 Stat. 31. Sections 264 and 363 of former Title 26 were repealed by act Oct. 21, 1942, ch. 619, title I, §§159(e), 170(a), 56 Stat. 860, 878. Sections 430 to 474 of former Title 26 were omitted, and subsequently, along with the remaining sections of former Title 26 comprising chapter 1, except sections 143 and 144, were repealed by sections 7851(a)(1)(A) of Title 26, Internal Revenue Code. Sections 143 and 144 of former Title 26 were repealed by section 7851(a)(1)(B) of Title 26.

Chapter 2A of the Internal Revenue Code of 1939, referred to in subsec. (f)(2)(A), was comprised of sections 500 to 511 of former Title 26, Internal Revenue Code. Sections 500 to 511 were repealed by section 7851(a)(1)(A) of Title 26, Internal Revenue Code.

Chapter 2B of the Internal Revenue Code of 1939, referred to in subsec. (f)(2)(A), was comprised of sections 600 to 605 of former Title 26, Internal Revenue Code. Sections 600 to 605 were repealed by act Nov. 8, 1945, ch. 453, title II, §202, 59 Stat. 574, eff. with respect to taxable years ending June 30, 1946.

Chapter 2D of the Internal Revenue Code of 1939, referred to in subsec. (f)(2)(A), was comprised of sections 700 to 706 of former Title 26, Internal Revenue Code. Sections 700 to 716 were repealed by section 7851(a)(1)(A) of Title 26, Internal Revenue Code.

Chapter 2E of the Internal Revenue Code of 1939, referred to in subsec. (f)(2)(A), was comprised of

sections 710 to 784 of former Title 26, Internal Revenue Code. Sections 710 to 736, 740, 742 to 744, 750, 751, 760, 761 and 780 to 784 were repealed by act Nov. 8, 1945, ch. 453, title I, §122(a), 59 Stat. 568. Section 741 was repealed by act Oct. 21, 1942, ch. 619, title II, §§224(b), 228(b), 56 Stat. 920, 925. Section 752 was repealed by act Oct. 21, 1942, ch. 619, title II, §229(a)(1), 56 Stat. 931, eff. as of Oct. 8, 1940.

Subtitle A of the Internal Revenue Code of 1986, referred to in subsec. (f)(2)(A), is subtitle A of act Aug. 16, 1954, ch. 736, 68A Stat. 4, as amended, which comprises Subtitle A (§1 et seq.) of Title 26, Internal Revenue Code.

REFERENCES TO THIS SUBCHAPTER DEEMED TO INCLUDE SECTION 119 OF H.R. 2076

References to this subchapter deemed to include section 119 of H.R. 2076, see section 119(b) of H.R. 2076, as enacted into law by Pub. L. 104–91, set out as an Authority of Foreign Claims Settlement Commission note under section 1644 of this title.

AMENDMENTS

1987—Subsec. (g). Pub. L. 100–204 added subsec. (g).

1986—Subsec. (f)(2)(A). Pub. L. 99–514 substituted "Internal Revenue Code of 1986" for "Internal Revenue Code of 1954".

1980—Subsec. (e). Pub. L. 96–445, §1(1), substituted "Except as provided in subsection (f), the Secretary of the Treasury" for "The Secretary of the Treasury".

Subsec. (f). Pub. L. 96–445, §1(2), added subsec. (f).

1968—Subsec. (c). Pub. L. 90–421, §1(4), inserted ", prior to July 24, 1968," after "the sums covered" and substituted "section 1626(b)(1) of this title" for "section 1626(b) of this title".

Subsec. (e). Pub. L. 90–421, §1(5), added subsec. (e).

1955—Act Aug. 9, 1955, amended credit to section by designating act Mar. 10, 1950, as "title I".

ABOLITION OF INTERNATIONAL CLAIMS COMMISSION AND TRANSFER OF FUNCTIONS

International Claims Commission of the United States, including offices of its members, abolished and functions of Commission and of members, officers, and employees thereof transferred to Foreign Claims Settlement Commission of the United States by Reorg. Plan No. 1 of 1954, §§1, 2, 4, eff. July 1, 1954, 19 F.R. 3985, 68 Stat. 1279, set out as a note under section 1622 of this title.

For provisions transferring Foreign Claims Settlement Commission of the United States as a separate agency within the Department of Justice, see section 1622a et seq. of this title.

SUBCHAPTER II—VESTING AND LIQUIDATION OF BULGARIAN, HUNGARIAN, AND RUMANIAN PROPERTY

§1631. Definitions

As used in this subchapter the term—

(1) "Person" means a natural person, partnership, association, other unincorporated body, corporation, or body politic.

(2) "Property" means any property, right, or interest.

(3) "Treaty of peace", with respect to a country, means the treaty of peace with that country signed at Paris, France, February 10, 1947, which came into force between that country and the United States on September 15, 1947.

(Mar. 10, 1950, ch. 54, title II, §201, as added Aug. 9, 1955, ch. 645, §3, 69 Stat. 562.)

§1631a. Property owned by Bulgaria, Hungary, and Rumania or any national thereof

(a) Vesting of property; liquidation; disposition of net proceeds

In accordance with article 25 of the treaty of peace with Bulgaria, article 29 of the treaty of peace

with Hungary, and article 27 of the treaty of peace with Rumania, any property which was blocked in accordance with Executive Order 8389 of April 10, 1940, as amended, and remains blocked on August 9, 1955, and which, as of September 15, 1947, was owned directly or indirectly by Bulgaria, Hungary, and Rumania or by any national thereof as defined in such Executive order, shall vest in such officer or agency as the President may from time to time designate and shall vest when, as, and upon such terms as the President or his designee shall direct. Such property shall be sold or otherwise liquidated as expeditiously as possible after vesting under such rules and regulations as the President or his designee may prescribe. The net proceeds remaining upon completion of the administration and liquidation thereof, including the adjudication of any suits or claims with respect thereto under sections 1631f and 1631g of this title, shall be covered into the Treasury. Notwithstanding the preceding provisions of this subsection, any such property determined by the President or his designee to be owned directly by a natural person shall not be vested under this subsection but shall remain blocked subject to release when, as, and upon such terms as the President or his designee may prescribe. If, at any time within one year from the date of the vesting of any property under this subsection, the President or his designee shall determine that it was directly owned at the date of vesting by a natural person, then the President or his designee shall divest such property and restore it to its blocked status prior to vesting, subject to release when, as, and upon such terms as the President or his designee may prescribe, or if such property has been liquidated, shall divest the net proceeds thereof and carry them in blocked accounts with the Treasury, bearing no interest, in the name of the owner thereof at the date of vesting, subject to release when, as, and upon such terms as the President or his designee may prescribe.

(b) Net proceeds of property vested in Alien Property Custodian or Attorney General

The net proceeds of any property which was vested in the Alien Property Custodian or the Attorney General after December 17, 1941, pursuant to the Trading With the Enemy Act, as amended [50 U.S.C. 4301 et seq.], and which at the date of vesting was owned directly or indirectly by Bulgaria, Hungary, or Rumania, or any national thereof, shall after completion of the administration, liquidation, and disposition of such property pursuant to such Act, including the adjudication of any suits or claims with respect thereto under such Act, be covered into the Treasury, except that the net proceeds of any such property which the President or his designee shall determine was directly owned by a natural person at the date of vesting shall be divested by the President or such officer or agency as he may designate and carried in blocked accounts with the Treasury, bearing no interest, in the name of the owner thereof at the date of vesting, subject to release when, as, and upon such terms as the President or his designee may prescribe.

(c) Determination of ownership by natural person of vested property

The determination under this section that any vested property was not directly owned by a natural person at the date of vesting shall be within the sole discretion of the President or his designee and shall not be subject to review by any court.

(d) Furnishing of information; production of books and records

The President or his designee may require any person to furnish, in the form of reports or otherwise, complete information, including information with regard to past transactions, relative to any property blocked under Executive Order 8389 of April 10, 1940, as amended, or as may be otherwise necessary to enforce the provisions of this section; and the President or his designee may require of any person the production of any books of account, records, contracts, letters, memoranda, or other papers relative to such property or as may be otherwise necessary to enforce the provisions of this section.

(Mar. 10, 1950, ch. 54, title II, §202, as added Aug. 9, 1955, ch. 645, §3, 69 Stat. 562.)

REFERENCES IN TEXT

Executive Order 8389 of April 10, 1940, referred to in subsecs. (a) and (d), is Ex. Ord. 8389, Apr. 10, 1940, 5 F.R. 1400, which is set out under section 4305 of Title 50, War and National Defense.

The Trading With the Enemy Act, as amended, and such Act, referred to in subsec. (b), is act Oct. 6, 1917, ch. 106, 40 Stat. 411, which is classified generally to chapter 53 (§4301 et seq.) of Title 50, War and National

Defense. For complete classification of this Act to the Code, see Tables.

EXECUTIVE ORDER NO. 10644

Ex. Ord. No. 10644, Nov. 8, 1955, 20 F.R. 8363, as amended by Ex. Ord. No. 11281, May 13, 1966, 31 F.R. 7215, which designated the Attorney General to perform functions of the President under this subchapter and the Secretary of the Treasury to perform functions under this section with respect to the release of blocked property and accounts, was revoked by Ex. Ord. No. 12553, Feb. 25, 1986, 51 F.R. 7237.

§1631b. Cancellation and issuance of shares of stock or other beneficial interest in corporation

Whenever shares of stock or other beneficial interest in any corporation, association, or company or trust are vested in any officer or agency designated by the President under this subchapter, it shall be the duty of the corporation, association, or company or trustee or trustees issuing such shares or any certificates or other instruments representing the same or any other beneficial interest to cancel such shares of stock or other beneficial interest upon its, his, or their books and in lieu thereof to issue certificates or other instruments for such shares or other beneficial interest to the designee of the President, or otherwise as such designee shall require.

(Mar. 10, 1950, ch. 54, title II, §203, as added Aug. 9, 1955, ch. 645, §3, 69 Stat. 563.)

§1631c. Filing of order of conveyance

Any vesting order, or other order or requirement issued pursuant to this subchapter, or a duly certified copy thereof, may be filed, registered, or recorded in any office for the filing, registering, or recording of conveyances, transfers, or assignments of such property as may be covered by such order or requirement; and if so filed, registered, or recorded shall impart the same notice and have the same force and effect as a duly executed conveyance, transfer, or assignment so filed, registered, or recorded.

(Mar. 10, 1950, ch. 54, title II, §204, as added Aug. 9, 1955, ch. 645, §3, 69 Stat. 563.)

§1631d. Acquittance and discharge of obligation

Any payment, conveyance, transfer, assignment, or delivery of property made to the President or his designee pursuant to this subchapter, or any rule, regulation, instruction, or direction issued under this subchapter, shall to the extent thereof be a full acquittance and discharge for all purposes of the obligation of the person making the same; and no person shall be held liable in any court for or in respect of any such payment, conveyance, transfer, assignment, or delivery made in good faith in pursuance of and in reliance on the provisions of this subchapter, or of any rule, regulation, instruction, or direction issued thereunder.

(Mar. 10, 1950, ch. 54, title II, §205, as added Aug. 9, 1955, ch. 645, §3, 69 Stat. 563.)

§1631e. Rules by district courts; appeals

The district courts of the United States are given jurisdiction to make and enter all such rules as to notice and otherwise, and all such orders and decrees, and to issue such process as may be necessary and proper in the premises to enforce the provisions of this subchapter, with a right of appeal from the final order or decree of such court as provided in chapter 83 of title 28.

(Mar. 10, 1950, ch. 54, title II, §206, as added Aug. 9, 1955, ch. 645, §3, 69 Stat. 563; amended Pub. L. 100–352, §6(g), June 27, 1988, 102 Stat. 664.)

AMENDMENTS

1988—Pub. L. 100–352 substituted "chapter 83" for "sections 1252, 1254, 1291, and 1292".

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–352 effective ninety days after June 27, 1988, except that such amendment not to apply to cases pending in Supreme Court on such effective date or affect right to review or manner of reviewing judgment or decree of court which was entered before such effective date, see section 7 of Pub. L. 100–352, set out as a note under section 1254 of Title 28, Judiciary and Judicial Procedure.

§1631f. Claims to vested property

(a) Action for return of property; jurisdiction; complaint; custody of property until final determination

Any person who has not filed a notice of claim under subsection (b) of this section may institute a suit in equity for the return of any property, or the net proceeds thereof, vested in a designee of the President pursuant to section 1631a(a) of this title and held by such designee. Such suit, to which said designee shall be made a party defendant, shall be instituted in the District Court of the United States for the District of Columbia or in the district court of the United States for the district in which the claimant resides, or, if a corporation, where it has its principal place of business, by the filing of a complaint which alleges—

(1) that the claimant is a person other than Bulgaria, Hungary, or Rumania, or a national thereof as defined in Executive Order 8389 of April 10, 1940, as amended; and

(2) that the claimant was the owner of such property immediately prior to its vesting, or is the successor in interest of such owner by inheritance, devise, or bequest.

If the court finds in favor of the claimant, it shall order the payment, conveyance, transfer, assignment, or delivery to said claimant of such property, or the net proceeds thereof, held by said designee or the portion thereof to which the court shall determine said claimant is entitled. If suit shall be so instituted, then such property, or, if liquidated, the net proceeds thereof, shall be retained in the custody of said designee until any final judgment or decree which shall be entered in favor of the claimant shall be fully satisfied, or until final judgment or decree shall be entered against the claimant or suit otherwise terminated.

(b) Notice of claim; review of denial

Any person who has not instituted a suit under the provisions of subsection (a) of this section may file a notice of claim under oath for the return of any property, or the net proceeds thereof, vested in a designee of the President pursuant to section 1631a(a) of this title and held by such designee. Such notice of claim shall be filed with said designee and in such form and containing such particulars as said designee shall require. Said designee may return any property so claimed, or the net proceeds thereof, whenever he shall determine—

(1) that the claimant is a person other than Bulgaria, Hungary, or Rumania, or a national thereof as defined in Executive Order 8389 of April 10, 1940, as amended; and

(2) that the claimant was the owner of such property immediately prior to its vesting, or is the successor in interest of such owner by inheritance, devise, or bequest.

Any person whose claim is finally denied in whole or in part by said designee may obtain review of such denial by filing a petition therefor in the United States Court of Appeals for the District of Columbia Circuit. Such petition for review must be filed within sixty days after the date of mailing of the final order of denial by said designee and a copy shall forthwith be transmitted to the said designee by the clerk of the court. Within forty-five days after receipt of such petition for review, or within such further time as the court may grant for good cause shown, said designee shall file an answer thereto, and shall file with the court the record of the proceedings with respect to such claim, as provided in section 2112 of title 28. The court may enter judgment affirming the order of the designee; or, upon finding that such order is not in accordance with law or that any material findings

upon which such order is based are unsupported by substantial evidence, may enter judgment modifying or setting aside the order in whole or in part, and (1) directing a return of all or part of the property claimed, or (2) remanding the claim for further administrative proceedings thereon. If a notice of claim is filed under this subsection, the property which is the subject of such claim, or, if liquidated, the net proceeds thereof, shall be retained in the custody of said designee until any final order of said designee or any final judgment or decree which shall be entered in favor of the claimant shall be fully satisfied, or until a final order of said designee or a final judgment or decree shall be entered against the claimant, or the claim or suit otherwise terminated.

(c) Exclusiveness of relief

The sole relief and remedy of any person having any claim to any property vested pursuant to section 1631a(a) of this title, except a person claiming under section 1631o of this title, shall be that provided by the terms of subsection (a) or (b) of this section, and in the event of the liquidation by sale or otherwise of such property, shall be limited to and enforced against the net proceeds received therefrom and held by the designee of the President. The claim of any person based on his ownership of shares of stock or other proprietary interest in a corporation which was the owner of property at the date of vesting thereof under section 1631a(a) of this title shall be allowable under subsection (a) or (b) of this section if 25 per centum or more of the outstanding capital stock or other proprietary interest in the corporation was owned at such date by nationals of countries other than Bulgaria, Hungary, Rumania, Germany, or Japan. But no such claim of a national of a foreign country shall be satisfied except after certification by the Department of State that the country of the national accords protection to nationals of the United States in similar types of cases.

(d) Recovery for conservation, preservation or maintenance of property

The designee of the President may retain or recover from any property, or the net proceeds thereof, returned pursuant to subsection (a) or (b) of this section an amount not exceeding that expended or incurred by him for the conservation, preservation, or maintenance of such property or proceeds.

(Mar. 10, 1950, ch. 54, title II, §207, as added Aug. 9, 1955, ch. 645, §3, 69 Stat. 564; amended Pub. L. 85–791, §33, Aug. 28, 1958, 72 Stat. 951; Pub. L. 90–421, §1(6), July 24, 1968, 82 Stat. 421.)

REFERENCES IN TEXT

Executive Order 8389 of April 10, 1940, referred to in subsecs. (a)(1) and (b)(1), is Ex. Ord. No. 8389, Apr. 10, 1940, 5 F.R. 1400, which is set out under section 4305 of Title 50, War and National Defense.

AMENDMENTS

1968—Subsec. (c). Pub. L. 90–421 inserted ", except a person claiming under section 1631o of this title," after "pursuant to section 1631a(a) of this title".

1958—Subsec. (b). Pub. L. 85–791, in fifth sentence, substituted "shall forthwith be transmitted to the said designee by the clerk of the court" for "must be served on the said designee", and in sixth sentence, substituted "receipt" for "service" and substituted "file with the court the record of the proceedings with respect to such claim, as provided in section 2112 of title 28" for "certify and file with the court a transcript of the entire record of the proceedings with respect to such claim".

§1631g. Payment of debts

(a) Claims allowable; defenses

Any property vested in the designee of the President pursuant to section 1631a(a) of this title, or the net proceeds thereof, shall be equitably applied by such designee in accordance with this section to the payment of debts owed by the person who owned such property immediately prior to its vesting in such designee. No debt claim shall be allowed under this section—

(1) if it is asserted against Bulgaria, Hungary, or Rumania (including the government or any political subdivisions, agencies, or instrumentalities thereof); or

(2) if it is based upon an obligation expressed or payable in any currency other than the

currency of the United States; or

(3) if it was not due and owing—

(A) on October 9, 1940, in the event the property in respect of which such debt claim is filed was owned immediately prior to vesting by a national of Rumania;

(B) on March 4, 1941, in the event the property in respect of which such debt claim is filed was owned immediately prior to vesting by a national of Bulgaria; or

(C) on March 13, 1941, in the event that the property in respect of which such debt claim is filed was owned immediately prior to vesting by a national of Hungary.

Any defense to the payment of such claim which would have been available to the debtor shall be available to the designee, except that the period from and after December 7, 1941, shall not be included for the purpose of determining the applicability of any statute of limitations. Debt claims allowable under this section shall include only those of natural persons who were citizens of the United States at the dates their debtors became obligated to them; those of other natural persons who are and have been continuously since December 7, 1941, residents of the United States; those of corporations organized under the laws of the United States or any State, Territory, or possession thereof, or the District of Columbia; and those acquired by the designee of the President under this subchapter. Successors in interest by inheritance, devise, bequest, or operation of law of debt claimants, other than persons who would themselves be disqualified hereunder from allowance of a debt claim, shall be eligible for payment to the same extent as their principals or predecessors would have been.

(b) Time limit for filing claims; extension; notice

The designee of the President under this subchapter shall fix a date or dates after which the filing of debt claims in respect of any or all debtors shall be barred, and may extend the time so fixed, and shall give at least sixty days' notice thereof by publication in the Federal Register. In no event shall the time extend beyond the expiration of one year from the date of the last vesting in the designee of the President of any property of a debtor in respect to whose debts the date is fixed. No debt shall be paid prior to the expiration of one hundred and twenty days after publication of the first such notice in respect of the debtor, nor in any event shall any payment of a debt claim be made out of any property or proceeds in respect of which a suit or proceeding for return pursuant to this subchapter is pending.

(c) Examination of claims; finality of determination

The designee shall examine the claims, and such evidence in respect thereof as may be presented to him or as he may introduce into the record, and shall make a determination, with respect to each claim, of allowance or disallowance, in whole or in part. The determination of the designee that a claim is within either paragraph (1) or (2) of subsection (a) of this section shall be final and shall not be subject to judicial review, and such claim shall not be considered a debt claim for any purpose under this section.

(d) Fund for debt payments

Payment of debt claims shall be made only out of such money included in, or received as net proceeds from the sale, use, or other disposition of, any property owned by the debtor immediately prior to its vesting in the designee of the President, as shall remain after deduction of (1) the amount of the expenses of the designee (including both expenses in connection with such property or proceeds thereof, and such portion as the designee shall fix of his other expenses), and of taxes, as defined in section 1631k of this title, paid by the designee in respect of such property or proceeds; and (2) such amount, if any, as the designee may establish as a cash reserve for the future payment of such expenses and taxes. If the money available hereunder for the payment of debt claims against the debtor is insufficient for the satisfaction of all claims allowed by the designee, ratable payments shall be made in accordance with subsection (g) of this section to the extent permitted by the money available and additional payments shall be made whenever the designee shall determine that substantial further money has become available, through liquidation of any such property or

otherwise. The designee shall not be required, through any judgment of any court, levy of execution, or otherwise, to sell or liquidate any property vested in him, for the purpose of paying or satisfying any debt claim.

(e) Amount payable; disallowance; notice; review; additional evidence; judgment

If the aggregate of debt claims filed as prescribed does not exceed the money from which, in accordance with subsection (d) of this section, payment may be made, the designee shall pay each claim to the extent allowed, and shall serve by registered mail, on each claimant whose claim is disallowed in whole or in part, a notice of such disallowance. Within sixty days after the date of mailing of the designee's determination, any debt claimant whose claim has been disallowed in whole or in part may file in the District Court of the United States for the District of Columbia a complaint for review of such disallowance naming the designee as defendant. Such complaint shall be served on the designee. The designee, within forty-five days after service on him, shall certify and file in said court a transcript of the record of proceedings with respect to the claim in question. Upon good cause shown such time may be extended by the court. Such record shall include the claim as filed, such evidence with respect thereto as may have been presented to the designee or introduced into the record by him, and the determination of the designee with respect thereto, including any findings made by him. The court may, in its discretion, take additional evidence, upon a showing that such evidence was offered to and excluded by the designee, or could not reasonably have been adduced before him or was not available to him. The court shall enter judgment affirming, modifying, or reversing the designee's determination, and directing payment in the amount, if any, which it finds due.

(f) Schedule of debt claims allowed; notice; review; additional evidence; intervention; judgment

If the aggregate of debt claims filed as prescribed exceeds the money from which, in accordance with subsection (d) of this section, payment may be made, the designee shall prepare and serve by registered mail on all claimants a schedule of all debt claims allowed and the proposed payment to each claimant. In preparing such schedule, the designee shall assign priorities in accordance with subsection (g) of this section. Within sixty days after the date of mailing of such schedule, any claimant considering himself aggrieved may file in the District Court of the United States for the District of Columbia a complaint for review of such schedule, naming the designee as defendant. A copy of such complaint shall be served upon the designee and on each claimant named in the schedule. The designee within forty-five days after service on him, shall certify and file in said court a transcript of the record of proceedings with respect to such schedule. Upon good cause shown such time may be extended by the court. Such record shall include the claims in question as filed, such evidence with respect thereto as may have been presented to the designee or introduced into the record by him, any findings or other determinations made by the designee with respect thereto, and the schedule prepared by the designee. The court may, in its discretion, take additional evidence, upon a showing that such evidence was offered to and excluded by the designee or could not reasonably have been adduced before him or was not available to him. Any interested debt claimant who has filed a claim with the designee pursuant to this section, upon timely application to the court, shall be permitted to intervene in such review proceedings. The court shall enter judgment affirming or modifying the schedule as prepared by the designee and directing payment, if any be found due, pursuant to the schedule as affirmed or modified and to the extent of the money from which, in accordance with subsection (d) of this section, payment may be made. Pending the decision of the court on such complaint for review, and pending final determination of any appeal from such decision, payment may be made only to an extent, if any, consistent with the contentions of all claimants for review.

(g) Priority of claims

Debt claims shall be paid in the following order of priority: (1) Wage and salary claims, not to exceed $600; (2) claims entitled to priority under sections 3713(a) and 9309 of title 31, except as provided in subsection (h) of this section; (3) all other claims for services rendered; for expenses

incurred in connection with such services, for rent, for goods and materials delivered to the debtor, and for payments made to the debtor for goods or services not received by the claimant; (4) all other debt claims. No payment shall be made to claimants within a subordinate class unless the money from which, in accordance with subsection (d) of this section, payment may be made permits payment in full of all allowed claims in every prior class.

(h) Priority as debt due United States

No debt of any kind shall be entitled to priority under any law of the United States or any State, Territory, or possession thereof, or the District of Columbia, solely by reason of becoming a debt due or owing to the United States as a result of its acquisition by the designee of the President under this subchapter.

(i) Exclusiveness of relief

The sole relief and remedy available to any person seeking satisfaction of a debt claim out of any property vested in the designee under section 1631a(a) of this title, or the proceeds thereof, shall be the relief and remedy provided in this section, and suits for the satisfaction of debt claims shall not be instituted, prosecuted, or further maintained except in conformity with this section. No person asserting any interest, right, or title in any property or proceeds acquired by the designee shall be barred from proceeding pursuant to this subchapter for the return thereof, by reason of any proceeding which he may have brought pursuant to this section; nor shall any security interest asserted by the creditor in any such property or proceeds be deemed to have been waived solely by reason of such proceeding. Nothing contained in this section shall bar any person from the prosecution of any suit at law or in equity against the original debtor or against any other person who may be liable for the payment of any debt for which a claim might have been filed hereunder. No purchaser, lessee, licensee, or other transferee of any property from the designee shall, solely by reason of such purchase, lease, license, or transfer, become liable for the payment of any debt owed by the person who owned such property prior to its vesting in the designee. Payment by the designee to any debt claimant shall constitute, to the extent of payment, a discharge of the indebtedness represented by the claim.

(Mar. 10, 1950, ch. 54, title II, §208, as added Aug. 9, 1955, ch. 645, §3, 69 Stat. 565.)

CODIFICATION

In subsec. (g), "sections 3713(a) and 9309 of title 31" substituted for "sections 3466 and 3468 of the Revised Statutes (31 U.S.C., secs. 191 and 193)" on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

§1631h. Hearings on claims; rules and regulations; delegation of powers

The officer or agency designated by the President under this subchapter to entertain claims under sections 1631f(b) and 1631g of this title shall have power to hold such hearings as may be deemed necessary; to prescribe rules and regulations governing the form and contents of claims, the proof thereof, and all other matters related to proceedings on such claims; and in connection with such proceedings to issue subpenas, administer oaths, and examine witnesses. Such powers, and any other powers conferred upon such officer or agency by sections 1631f(b) and 1631g of this title may be exercised through subordinate officers designated by such officer or agency.

(Mar. 10, 1950, ch. 54, title II, §209, as added Aug. 9, 1955, ch. 645, §3, 69 Stat. 568.)

§1631i. Limitations

No suit may be instituted pursuant to section 1631f(a) of this title after the expiration of one year from the date of vesting of the property in respect of which relief is sought. No return may be made pursuant to section 1631f(b) of this title unless notice of claim has been filed within one year from the date of vesting of the property in respect of which the claim is filed.

(Mar. 10, 1950, ch. 54, title II, §210, as added Aug. 9, 1955, ch. 645, §3, 69 Stat. 568.)

§1631j. Fees of agents, attorneys, or representatives

No property or proceeds shall be returned under this subchapter, nor shall any payment be made or judgment awarded in respect of any property vested in any officer or agency designated by the President under this subchapter unless satisfactory evidence is furnished to said designee, or the court, as the case may be, that the aggregate of the fees to be paid to all agents, attorneys at law or in fact, or representatives, for services rendered in connection with such return or payment or judgment does not exceed 10 per centum of the value of such property or proceeds or of such payment. Any agent, attorney at law or in fact, or representative, believing that the aggregate of the fees should be in excess of such 10 per centum may, in the case of any return of, or the making of any payment in respect of, such property or proceeds by the President or such officer or agency as he may designate, petition the district court of the United States for the district in which he resides for an order authorizing fees in excess of 10 per centum and shall name such officer or agency as respondent. The court hearing such petition or a court awarding any judgment in respect of any such property or proceeds, as the case may be, shall approve an aggregate of fees in excess of 10 per centum of the value of such property or proceeds only upon a finding that there exist special circumstances of unusual hardship which require the payment of such excess. Any person accepting any fee in excess of an amount approved under this section, or retaining for more than thirty days any portion of a fee, accepted prior to such approval, in excess of the fee as approved, shall be guilty of a violation of this subchapter.

(Mar. 10, 1950, ch. 54, title II, §211, as added Aug. 9, 1955, ch. 645, §3, 69 Stat. 568.)

§1631k. Taxes

(a) Liability

The vesting in any officer or agency designated by the President under this subchapter of any property or the receipt by such designee of any earnings, increment, or proceeds thereof shall not render inapplicable any Federal, State, Territorial, or local tax for any period before or after such vesting.

(b) Payment by designee; liability of former owner; enforcement of tax liability; transfer of property

The officer or agency designated by the President under this subchapter shall, notwithstanding the filing of any claim or the institution of any suit under this subchapter, pay any tax incident to any such property, or the earnings, increment, or proceeds thereof, at the earliest time appearing to him to be not contrary to the interest of the United States. The former owner shall not be liable for any such tax accruing while such property, earnings, increment, or proceeds are held by such designee, unless they are returned pursuant to this subchapter without payment of such tax by the designee. Every such tax shall be paid by the designee to the same extent, as nearly as may be deemed practicable, as though the property had not been vested, and shall be paid only out of the property, or earnings, increment, or proceeds thereof, to which they are incident or out of other property acquired from the same former owner, or earnings, increment, or proceeds thereof. No tax liability may be enforced from any property or the earnings, increment, or proceeds thereof while held by the designee except with his consent. Where any property is transferred, otherwise than pursuant to section 1631f(a) or 1631f(b) of this title, the designee may transfer the property free and clear of any tax, except to the extent of any lien for a tax existing and perfected at the date of vesting, and the proceeds of such transfer shall, for tax purposes, replace the property in the hands of the designee.

(c) Computation; suspension of limitations

Subject to the provisions of subsection (b) of this section, the manner of computing any Federal

taxes, including without limitation by reason of this enumeration, the applicability in such computation of credits, deductions, and exemptions to which the former owner is or would be entitled, and the time and manner of any payment of such taxes and the extent of any compliance by the designee with provisions of Federal law and regulations applicable with respect to Federal taxes, shall be in accordance with regulations prescribed by the Secretary of the Treasury to effectuate this section. Statutes of limitations on assessments, collection, refund, or credit of Federal taxes shall be suspended with respect to any vested property or the earnings, increment, or proceeds thereof, while vested and for six months thereafter; but no interest shall be paid upon any refund with respect to any period during which the statute of limitations is so suspended.

(d) "Tax" defined

The word "tax" as used in this section shall include, without limitation by reason of this enumeration, any property, income, excess-profits, war-profits, excise, estate, and employment tax, import duty, and special assessment; and also any interest, penalty, additional amount, or addition thereto not arising from any act, omission, neglect, failure, or delay on the part of the designee.

(Mar. 10, 1950, ch. 54, title II, §212, as added Aug. 9, 1955, ch. 645, §3, 69 Stat. 569.)

§1631*l*. Determination of expenses and time for filing suit, notice of claim and debt claim

Prior to covering the net proceeds of liquidation of any property into the Treasury pursuant to section 1631a(a) of this title, the designee of the President under this subchapter shall determine—

(1) the amount of his administrative expenses attributable to the performance of his functions under this subchapter with respect to such property and the proceeds thereof. The amount so determined, together with an amount not exceeding that expended or incurred for the conservation, preservation, or maintenance of such property and the proceeds thereof, and for taxes in respect of same, shall be deducted and retained by the designee from the proceeds otherwise covered into the Treasury; and

(2) that the time for the institution of a suit under section 1631f(a) of this title, for the filing of a notice of claim under section 1631f(b) of this title, and for the filing of debt claims under section 1631g of this title has elapsed.

The determinations of the designee under this section shall be final and conclusive.

(Mar. 10, 1950, ch. 54, title II, §213, as added Aug. 9, 1955, ch. 645, §3, 69 Stat. 570.)

§1631m. Lien, attachment, garnishment, etc., of transferred property

No property conveyed, transferred, assigned, delivered, or paid to the designee of the President under this subchapter, or the net proceeds thereof, shall be liable to lien, attachment, garnishment, trustee process, or execution, or subject to any order or decree of any court, except as provided in this subchapter.

(Mar. 10, 1950, ch. 54, title II, §214, as added Aug. 9, 1955, ch. 645, §3, 69 Stat. 570.)

§1631n. Penalties

Whoever shall willfully violate any provision of this subchapter or any rule or regulation issued hereunder, and whoever shall willfully violate, neglect, or refuse to comply with any order of the President or of a designee of the President under this subchapter, issued in compliance with the provisions of this subchapter shall be fined not more than $5,000, or, if a natural person, imprisoned for not more than five years, or both; and the officer, director, or agent of any corporation who knowingly participates in such violation shall be punished by a like fine, imprisonment, or both.

(Mar. 10, 1950, ch. 54, title II, §215, as added Aug. 9, 1955, ch. 645, §3, 69 Stat. 570.)

§1631*o*. Eligibility for return of interest in property

(a) Persons eligible; determination; prerequisites

Notwithstanding any other provision of this chapter or any provision of the Trading With the Enemy Act, as amended, any person (1) who was formerly a national of Bulgaria, Hungary, or Rumania, and (2) who, as a consequence of any law, decree, or regulation of the nation of which he was a national discriminating against political, racial or religious groups, at no time between December 7, 1941, and the time when such law, decree, or regulation was abrogated enjoyed full rights of citizenship under the law of such nation, shall be eligible hereunder to receive the return of his interest in property which was vested under section 1631a(a) of this title or under the Trading With the Enemy Act, as amended [50 U.S.C. 4301 et seq.], as the property of a corporation organized under the laws of Bulgaria, Hungary, or Rumania if 25 per centum or more of the outstanding capital stock of such corporation was owned at the date of vesting by such persons and nationals of countries other than Bulgaria, Hungary, Rumania, Germany, or Japan, or if such corporation was subjected after December 7, 1941, under the laws of its country, to special wartime measures directed against it because of the enemy character of some or all of its stockholders; and no certificate by the Department of State as provided under section 1631f(c) of this title shall be required for such persons.

(b) Notice of claim; time of claim; fund for payment

An interest in property vested under the Trading With the Enemy Act, as amended, as the property of a corporation organized under the laws of Bulgaria, Hungary, or Rumania shall be subject to return under subsection (a) of this section only if a notice of claim for the return of any such interest has been timely filed under the provisions of section 4330 of Title 50, provided that application may be made therefore within six months after July 24, 1968. In the event such interest has been liquidated and the net proceeds thereof transferred to the Bulgarian Claims Fund, Hungarian Claims Fund, or Rumanian Claims Fund, the net proceeds of any other interest representing vested property held in the United States Treasury may be used for the purpose of making the return hereunder.

(c) Finality of determination

Determinations by the designee of the President or any other officer or agency with respect to claims under this section, including the allowance or disallowance thereof, shall be final and shall not be subject to review by any court.

(Mar. 10, 1950, ch. 54, title II, §216, as added Pub. L. 90–421, §1(7), July 24, 1968, 82 Stat. 421.)

REFERENCES IN TEXT

The Trading With the Enemy Act, as amended, referred to in subsecs. (a) and (b), is act Oct. 6, 1917, ch. 106, 40 Stat. 411, which is classified generally to chapter 53 (§4301 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Tables.

SUBCHAPTER III—CLAIMS AGAINST BULGARIA, HUNGARY, RUMANIA, ITALY, AND THE SOVIET UNION

§1641. Definitions

As used in this subchapter the term—

(1) "Person" means a natural person, partnership, association, other unincorporated body, corporation, or body politic.

(2) "National of the United States" means (A) a natural person who is a citizen of the United

States, or who owes permanent allegiance to the United States, and (B) a corporation or other legal entity which is organized under the laws of the United States, any State or Territory thereof, or the District of Columbia, if natural persons who are nationals of the United States own, directly or indirectly, more than 50 per centum of the outstanding capital stock or other beneficial interest in such legal entity. It does not include aliens.

(3) "Treaty of peace", with respect to a country, means the treaty of peace with that country signed at Paris, France, February 10, 1947, which came into force between that country and the United States on September 15, 1947.

(4) "Memorandum of Understanding" means the Memorandum of Understanding between the United States and Italy regarding Italian assets in the United States and certain claims of nationals of the United States, signed at Washington, District of Columbia, August 14, 1947 (61 Stat. 3962).

(5) "Soviet Government" means the Union of Soviet Socialist Republics, including any of its present or former constituent republics, other political subdivisions, and any territories thereof, as constituted on or prior to November 16, 1933.

(6) "Litvinov Assignment" means (A) the communication dated November 16, 1933, from Maxim Litvinov to President Franklin D. Roosevelt, wherein the Soviet Government assigned to the Government of the United States amounts admitted or found to be due it as the successor of prior governments of Russia, or otherwise, preparatory to a final settlement of the claims outstanding between the two Governments and the claims of their nationals; (B) the communication dated November 16, 1933, from President Franklin D. Roosevelt to Maxim Litvinov, accepting such assignment; and (C) the assignments executed by Serge Ughet on August 25, 1933, and November 15, 1933, assigning certain assets to the Government of the United States.

(7) "Russian national" includes any corporation or business association organized under the laws, decrees, ordinances, or acts of the former Empire of Russia or of any government successor thereto, and subsequently nationalized or dissolved or whose assets were taken over by the Soviet Government or which was merged with any other corporation or organization by the Soviet Government.

(8) "Commission" means the Foreign Claims Settlement Commission of the United States, established pursuant to Reorganization Plan Numbered 1 of 1954 (68 Stat. 1279).

(9) "Property" means any property, right, or interest.

(Mar. 10, 1950, ch. 54, title III, §301, as added Aug. 9, 1955, ch. 645, §3, 69 Stat. 570.)

REFERENCES IN TEXT

Reorganization Plan Numbered 1 of 1954, referred to in par. (8), is Reorg. Plan No. 1 of 1954, eff. July 1, 1954, 19 F.R. 3985, 68 Stat. 1279, which is set out as a note under section 1622 of this title.

TRANSFER OF FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES AS SEPARATE AGENCY WITHIN DEPARTMENT OF JUSTICE

For provisions transferring Foreign Claims Settlement Commission of the United States as a separate agency within the Department of Justice, see section 1622a et seq. of this title.

§1641a. Claims funds

(a) Establishment; coverage into Treasury; deduction

There are created in the Treasury of the United States five funds to be known as the Bulgarian Claims Fund, the Hungarian Claims Fund, the Rumanian Claims Fund, the Italian Claims Fund, and the Soviet Claims Fund. The Secretary of the Treasury shall cover into each of the Hungarian, Rumanian, and Bulgarian Claims Funds, the funds attributable to the respective country or its nationals covered into the Treasury pursuant to subsections (a) and (b) of section 1631a of this title. The Secretary of the Treasury shall cover into the Italian Claims Fund the sum of $5,000,000 paid to the United States by the Government of Italy pursuant to article II of the Memorandum of Understanding. The Secretary shall cover into the Treasury the funds collected by the United States

pursuant to the Litvinov Assignment (including postal funds due prior to November 16, 1933, to the Union of Soviet Socialist Republics because of money orders certified to that country for payment) and shall cover into the Soviet Claims Fund the funds so covered into the Treasury. The Secretary shall deduct from each claims fund 5 per centum thereof as reimbursement to the Government of the United States for the expenses incurred by the Commission and by the Treasury Department in the administration of this subchapter. Such deduction shall be made before any payment is made out of such fund under section 1641i of this title. All amounts so deducted shall be covered into the Treasury to the credit of miscellaneous receipts.

(b) Bulgarian and Rumanian fund

The Secretary of the Treasury shall cover into each of the Bulgarian and Rumanian Claims Funds such sums as may be paid by the Government of the respective country pursuant to the terms of any claims settlement agreement between the Government of the United States and the Government of such country.

(c) Hungarian fund

The Secretary of the Treasury shall cover into the Hungarian Claims Fund, such sums as may be paid to the United States by the Government of Hungary pursuant to the terms of the United States Hungarian Claims Agreement of March 6, 1973.

(Mar. 10, 1950, ch. 54, title III, §302, as added Aug. 9, 1955, ch. 645, §3, 69 Stat. 571; amended Pub. L. 90–421, §1(8), July 24, 1968, 82 Stat. 422; Pub. L. 93–460, §1(1), Oct. 20, 1974, 88 Stat. 1386.)

AMENDMENTS

1974—Subsec. (c). Pub. L. 93–460 added subsec. (c).
1968—Pub. L. 90–421 designated existing provisions as subsec. (a) and added subsec. (b).

§1641b. Claims of nationals of the United States against Bulgaria, Hungary, and Rumania

The Commission shall receive and determine in accordance with applicable substantive law, including international law, the validity and amounts of claims of nationals of the United States against the Governments of Bulgaria, Hungary, and Rumania, or any of them, arising out of the failure to—

(1) restore or pay compensation for property of nationals of the United States as required by article 23 of the treaty of peace with Bulgaria, articles 26 and 27 of the treaty of peace with Hungary, and articles 24 and 25 of the treaty of peace with Rumania. Awards under this paragraph shall be in amounts not to exceed two-thirds of the loss or damage actually sustained;

(2) pay effective compensation for the nationalization, compulsory liquidation, or other taking, prior to August 9, 1955, of property of nationals of the United States in Bulgaria, Hungary, and Rumania;

(3) meet obligations expressed in currency of the United States arising out of contractual or other rights acquired by nationals of the United States prior to April 24, 1941, in the case of Bulgaria, and prior to September 1, 1939, in the case of Hungary and Rumania, and which became payable prior to September 15, 1947;

(4) pay effective compensation for the nationalization, compulsory liquidation, or other taking of property of nationals of the United States in Bulgaria and Rumania, between August 9, 1955, and the effective date of the claims agreement between the respective country and the United States; and

(5) pay effective compensation for the nationalization, compulsory liquidation, or other taking of property of nationals of the United States in Hungary, between August 9, 1955, and the date the United States-Hungarian Claims Agreement of March 6, 1973, enters into force.

(Mar. 10, 1950, ch. 54, title III, §303, as added Aug. 9, 1955, ch. 645, §3, 69 Stat. 571; amended

Pub. L. 90–421, §1(9), (10), July 24, 1968, 82 Stat. 422; Pub. L. 93–460, §1(2), (3), Oct. 20, 1974, 88 Stat. 1386.)

AMENDMENTS

1974—Par. (5). Pub. L. 93–460, §1(3), added par. (5).
1968—Par. (4). Pub. L. 90–421, §1(10), added par. (4).

§1641c. Claims of nationals of the United States against Italy

(a) Claims not provided for in peace treaty

The Commission shall receive and determine, in accordance with the Memorandum of Understanding and applicable substantive law, including international law, the validity and amount of claims of nationals of the United States against the government of Italy arising out of the war in which Italy was engaged from June 10, 1940, to September 15, 1947, and with respect to which provision was not made in the treaty of peace with Italy. Upon payment of the principal amounts (without interest) of all awards from the Italian Claims Fund created pursuant to section 1641a of this title, the Commission shall determine the validity and amount of any claim under this section by any natural person who was a citizen of the United States on August 9, 1955 and shall, in the event an award is issued pursuant to such claim, certify the same to the Secretary of the Treasury for payment out of remaining balances in the Italian Claims Fund in accordance with the provisions of section 1641i of this title, notwithstanding that the period of time prescribed in section 1641o of this title for the settlement of all claims under this section may have expired.

(b) Individuals who fail to file claims

The Commission shall receive and determine, or redetermine, as the case may be, in accordance with applicable substantive law, including international law, the validity and amounts of claims owned by person who were eligible to file claims under the first sentence of subsection (a) of this section on August 9, 1955, but failed to file such claims or, if they filed such claims, failed to file such claims within the limit of time required therefor: *Provided*, That no awards shall be made to persons who have received compensation in any amount pursuant to the treaty of peace with Italy, subsection (a) of this section, or section 4132 of title 50.

(c) Territory ceded by Italy

The Commission shall receive and determine, or redetermine as the case may be, in accordance with applicable substantive law, including international law, the validity and amounts of claims owned by persons who were nationals of the United States on September 3, 1943, and July 24, 1968, against the Government of Italy which arose out of the war in which Italy was engaged from June 10, 1940, to September 15, 1947, in territory ceded by Italy pursuant to the treaty of peace with Italy: *Provided*, That no awards shall be made to persons who have received compensation in any amount pursuant to the treaty of peace with Italy or subsection (a) of this section.

(d) Time within which to file; publication in Federal Register

Within thirty days after July 24, 1968, or within thirty days after the date of enactment of legislation making appropriations to the Commission for payment of administrative expenses incurred in carrying out its functions under subsections (b) and (c) of this section, whichever date is later, the Commission shall publish in the Federal Register the time when and the limit of time within which claims may be filed with the Commission, which limit shall not be more than six months after such publication.

(e) Certification of awards

The Commission shall certify awards on claims determined pursuant to subsections (b) and (c) of this section to the Secretary of the Treasury for payment out of remaining balances in the Italian Claims Fund in accordance with the provisions of section 1641i of this title, after payment in full of all awards certified pursuant to subsection (a) of this section.

(f) Transfers from Italian Claims Fund to War Claims Fund

After payment in full of all awards certified to the Secretary of the Treasury pursuant to subsections (a) and (e) of this section, the Secretary of the Treasury is authorized and directed to transfer the unobligated balance in the Italian Claims Fund into the War Claims Fund created by section 4110 of title 50.

(Mar. 10, 1950, ch. 54, title III, §304, as added Aug. 9, 1955, ch. 645, §3, 69 Stat. 572; amended Pub. L. 85–604, §2, Aug. 8, 1958, 72 Stat. 531; Pub. L. 90–421, §1(11), July 24, 1968, 82 Stat. 422.)

AMENDMENTS

1968—Pub. L. 90–421 designated existing provisions as subsec. (a) and added subsecs. (b) to (f).

1958—Pub. L. 85–604 authorized the Commission to determine the validity and amount of claims by natural persons who were citizens of the United States on Aug. 9, 1955.

§1641d. Claims of nationals of the United States against the Soviet Union

(a) Claims prior to November 16, 1933

The Commission shall receive and determine in accordance with applicable substantive law, including international law, the validity and amounts of—

(1) claims of nationals of the United States against a Russian national originally accruing in favor of a national of the United States with respect to which a judgment was entered in, or a warrant of attachment issued from, any court of the United States or of a State of the United States in favor of a national of the United States, with which judgment or warrant of attachment a lien was obtained by a national of the United States, prior to November 16, 1933, upon any property in the United States which has been taken, collected, recovered, or liquidated by the Government of the United States pursuant to the Litvinov Assignment. Awards under this paragraph shall not exceed the proceeds of such property as may have been subject to the lien of the judgment or attachment; nor, in the event that such proceeds are less than the aggregate amount of all valid claims so related to the same property, exceed an amount equal to the proportion which each such claim bears to the total amount of such proceeds; and

(2) claims, arising prior to November 16, 1933, of nationals of the United States against the Soviet Government.

(b) Federal and State court judgments

Any judgment entered in any court of the United States or of a State of the United States shall be binding upon the Commission in its determination, under paragraph (1) of subsection (a) of this section, of any issue which was determined by the court in which the judgment was entered.

(c) Preferences

The Commission shall give preference to the disposition of the claims referred to in paragraph (1) of subsection (a) of this section, over all other claims presented to it under this subchapter.

(Mar. 10, 1950, ch. 54, title III, §305, as added Aug. 9, 1955, ch. 645, §3, 69 Stat. 572.)

§1641e. Filing of claims; notice in Federal Register

(a) Time period

Within sixty days after August 9, 1955, or within sixty days after the date of enactment of legislation making appropriations to the Commission for payment of administrative expenses incurred in carrying out its functions under paragraph (1), (2), or (3) of section 1641b of this title, whichever date is later, the Commission shall publish in the Federal Register the time when and the limit of time within which claims may be filed under paragraph (1), (2), or (3) of section 1641b of this title, which limit shall not be more than one year after such publication, except that with respect to claims under section 1641d of this title this limit shall not exceed six months.

(b) Property taken in Bulgaria and Rumania

Within thirty days after July 24, 1968, or the enactment of legislation making appropriations to the Commission for payment of administrative expenses incurred in carrying out its functions under paragraph (4) of section 1641b of this title, whichever is later, the Commission shall publish in the Federal Register the time when and the limit of time within which claims may be filed under paragraph (4) of section 1641b of this title, which limit shall not be more than six months after such publication.

(c) Property taken in Hungary

Within thirty days after October 20, 1974, or thirty days after enactment of legislation making appropriations to the Commission for payment of administrative expenses incurred in carrying out its functions under paragraph (5) of section 1641b of this title, whichever date is later, the Commission shall publish in the Federal Register the time when, and the limit of time within which, claims may be filed with the Commission under paragraph (5) of section 1641b of this title, which limit shall not be more than six months after such publication.

(d) Failure to receive notice on Hungarian claims

Notwithstanding any other provision of this section, any national of the United States who was mailed notice by any department or agency of the Government of the United States with respect to filing a claim against the Government of Hungary arising out of any of the failures referred to in paragraph (1), (2), or (3) of section 1641b of this title, and who did not receive the notice as the result of administrative error in placing a nonexistent address on the notice, may file with the Commission a claim under any such paragraph. The Commission shall publish in the Federal Register, within thirty days after October 20, 1974, when the limit of time within which any such claim may be filed with the Commission, which limit shall not be more than six months after such publication.

(Mar. 10, 1950, ch. 54, title III, §306, as added Aug. 9, 1955, ch. 645, §3, 69 Stat. 572; amended Pub. L. 90–421, §1(12), July 24, 1968, 82 Stat. 423; Pub. L. 93–460, §1(4), Oct. 20, 1974, 88 Stat. 1386.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–460, §1(4)(A), substituted "paragraph (1), (2), or (3) of section 1641b of this title" for "this subchapter".

Subsecs. (c), (d). Pub. L. 93–460, §1(4)(B), added subsecs. (c) and (d).

1968—Pub. L. 90–421 designated existing provisions as subsec. (a) and added subsec. (b).

§1641f. Amount of award

The amount of any award made pursuant to this subchapter based on a claim of a national of the United States other than the national of the United States to whom the claim originally accrued shall not exceed the amount of the actual consideration last paid therefor either prior to January 1, 1953, or between that date and the filing of the claim, whichever is less.

(Mar. 10, 1950, ch. 54, title III, §307, as added Aug. 9, 1955, ch. 645, §3, 69 Stat. 573.)

§1641g. Certification of awards

The Commission shall as soon as possible, and in the order of the making of such awards, certify to the Secretary of the Treasury, in terms of United States currency, each award made pursuant to this subchapter.

(Mar. 10, 1950, ch. 54, title III, §308, as added Aug. 9, 1955, ch. 645, §3, 69 Stat. 573.)

§1641h. Funds for payment of claims

All payments authorized under this subchapter shall be disbursed exclusively from the claims fund attributable to the country with respect to which the claims are allowed pursuant to this subchapter. All amounts covered into the Treasury to the credit of the claims funds created by section 1641a of this title are hereby permanently appropriated for the making of the payments authorized under this subchapter.

(Mar. 10, 1950, ch. 54, title III, §309, as added Aug. 9, 1955, ch. 645, §3, 69 Stat. 573.)

§1641i. Payment of awards

(a) Manner of payment

The Secretary of the Treasury shall make payments on account of awards certified by the Commission pursuant to this subchapter as follows:

(1) Payment in full of the principal amount of each award made pursuant to section 1641d(a)(1) of this title and each award of $1,000 or less made pursuant to section 1641b or 1641c of this title;

(2) Payment in full of the principal amount of each award of $1,000 or less made pursuant to section 1641d(a)(2) of this title;

(3) Payment in the amount of $1,000 on account of the principal of each award of more than $1,000 in amount made pursuant to section 1641b, 1641c, or 1641d(a)(2) of this title;

(4) After completing the payments under the preceding paragraphs of this subsection from any one fund, payments from time to time, in ratable proportions, on account of the then unpaid principal of all awards in the principal amount of more than $1,000, according to the proportions which the unpaid principal of such awards bear to the total amount in the fund available for distribution on account of such awards at the time such payments are made;

(5) After payment has been made in full of the principal amounts of all awards from any one fund, pro rata payments from the remainder of such fund then available for distribution on account of accrued interest on such awards as bear interest;

(6) Whenever the Commission is authorized to settle claims by the enactment of paragraph (4) of section 1641b of this title with respect to Rumania and Bulgaria, no further payments shall be authorized by the Secretary of the Treasury on account of awards certified by the Commission pursuant to paragraph (1), (2), or (3) of section 1641b of this title of the Bulgarian or Rumanian Claims Funds, as the case may be, until payments on account of awards certified pursuant to paragraph (4) of section 1641b of this title with respect to such fund have been authorized in equal proportion to payments previously authorized on existing awards certified pursuant to paragraphs (1), (2), and (3) of section 1641b of this title.

(7)(A) Except as otherwise provided in subparagraph (D), whenever the Commission is authorized to settle claims by enactment of paragraph (5) of section 1641b of this title with respect to Hungary, no further payments shall be authorized by the Secretary of the Treasury on account of awards certified by the Commission under paragraphs (2) and (3) of section 1641b of this title out of the Hungarian Claims Fund until payments on account of awards certified under paragraph (5) of section 1641b of this title with respect to such fund have been authorized in equal proportions to payments previously authorized on existing awards certified under paragraphs (2) and (3) of section 1641b of this title.

(B) Except as otherwise provided in subparagraph (D), with respect to awards previously certified under paragraph (1) of section 1641b of this title, the Secretary of the Treasury shall not authorize any further payments until payments on account of awards certified under paragraphs (2), (3), and (5) of section 1641b of this title have been authorized in equal proportions to payments previously authorized on existing awards certified under paragraph (1) of section 1641b of this title.

(C) Except as otherwise provided in subparagraph (D), the Secretary of the Treasury shall not authorize any further payments on account of awards certified under paragraph (3) of section 1641b of this title based on Kingdom of Hungary bonds expressed in United States dollars or upon

awards to Standstill creditors of Hungary that were the subject matter of the agreement of December 5, 1969, between the Government of Hungary and the American Committee for Standstill creditors of Hungary.

(D) No payments shall be authorized by the Secretary of the Treasury on account of awards certified by the Commission under paragraph (5) of section 1641b of this title, and no further payments shall be so authorized under paragraphs (1), (2), or (3) of section 1641b of this title (except payments certified as the result of claims filed under subsection (d) of section 1641e of this title), until payments on account of awards certified under such paragraphs (1), (2), and (3) as the result of a claims [1] filed under subsection (d) of section 1641e of this title have been authorized in equal proportions to payments previously authorized on existing awards certified under such paragraphs and arising out of claims filed other than under such subsection (d).

(E) The Secretary of the Treasury is authorized and directed to deduct the sum of $125,000 from the Hungarian Claims Fund and cover such amount into the Treasury to the credit of miscellaneous receipts in satisfaction of the claim of the United States referred to in article 2, paragraph 4 of the United States-Hungarian Claims Agreement of March 6, 1973. Such amount shall be deducted in annual installments over the period during which the Government of Hungary makes payments to the Government of the United States as provided in article 4 of the agreement.

(b) Regulations

Such payments, and applications for such payments, shall be made in accordance with such regulations as the Secretary of the Treasury shall prescribe.

(c) "Award" defined

For the purposes of making any such payments, an "award" shall be deemed to mean the aggregate of all awards certified in favor of the same claimant and payable from the same fund.

(d) Consolidated award

With respect to any claim which, at the time of the award, is vested in persons other than the person to whom the claim originally accrued, the Commission may issue a consolidated award in favor of all claimants then entitled thereto, which award shall indicate the respective interests of such claimants therein; and all such claimants shall participate, in proportion to their indicated interests, in the payments provided by this section in all respects as if the award had been in favor of a single person.

(Mar. 10, 1950, ch. 54, title III, §310, as added Aug. 9, 1955, ch. 645, §3, 69 Stat. 573; amended Pub. L. 90–421, §1(13), July 24, 1968, 82 Stat. 423; Pub. L. 93–460, §1(5), Oct. 20, 1974, 88 Stat. 1386.)

AMENDMENTS

1974—Subsec. (a)(7). Pub. L. 93–460 added par. (7).
1968—Subsec. (a)(6). Pub. L. 90–421 added par. (6).

[1] *So in original. Probably should be "claim".*

§1641j. Claims by corporations or other legal entities

(a) If a corporation or other legal entity has a claim on which an award may be made under this subchapter, no award may be made to any other person under this subchapter with respect to such claim.

(b) A claim based upon an interest, direct or indirect, in a corporation or other legal entity which directly suffered the loss with respect to which the claim is asserted, but which was not a national of the United States at the time of the loss, shall be acted upon without regard to the nationality of such legal entity if at the time of the loss at least 25 per centum of the outstanding capital stock or other beneficial interest in such entity was owned, directly or indirectly, by natural persons who were nationals of the United States. This subsection shall not be construed so as to exclude from eligibility

a claim based upon a direct ownership interest in a corporation, association, or other entity, or the property thereof, for loss by reason of the nationalization, compulsory liquidation, or other taking of such corporation, association, or other entity by the Governments of Bulgaria, Hungary, Italy, Rumania, or the Soviet Government. Any such claim may be allowed without regard to the per centum of ownership vested in the claimant.

(Mar. 10, 1950, ch. 54, title III, §311, as added Aug. 9, 1955, ch. 645, §3, 69 Stat. 573; amended Pub. L. 85–604, §3(a), Aug. 8, 1958, 72 Stat. 531.)

AMENDMENTS

1958—Subsec. (b). Pub. L. 85–604 provided that it shall not be construed so as to exclude from eligibility a claim based upon a direct ownership interest in a corporation, association, or other entity, or the property thereof, for loss by reason of the nationalization, compulsory liquidation, or other taking, and permitted allowance of such claim without regard to the per centum of ownership vested in the claimant.

RECONSIDERATION OF CLAIMS

Pub. L. 85–604, §3(b), Aug. 8, 1958, 72 Stat. 531, provided that: "Any claim heretofore denied under subsection (b) of section 311 of the International Claims Settlement Act of 1949, as amended [subsec. (b) of this section], prior to the date of enactment of this section [Aug. 8, 1958], shall be reconsidered by the Foreign Claims Settlement Commission solely to redetermine its validity and amount by reason of the amendments made by this section [amending subsec. (b) of this section]."

§1641k. Prohibition against payment of award to collaborators or disloyal persons

No award shall be made under this subchapter to or for the benefit of any person who voluntarily, knowingly, and without duress, gave aid to or collaborated with or in any manner served any government hostile to the United States during World War II, or who has been convicted of a violation of any provision of chapter 115, of title 18, or of any other crime involving disloyalty to the United States.

(Mar. 10, 1950, ch. 54, title III, §312, as added Aug. 9, 1955, ch. 645, §3, 69 Stat. 574.)

§1641*l*. Unpaid balance of claim; claims of United States unaffected

Payment of any award made pursuant to section 1641b or 1641d of this title shall not, unless such payment is for the full amount of the claim, as determined by the Commission to be valid, with respect to which the award is made, extinguish such claim, or be construed to have divested any claimant, or the United States on his behalf, of any rights against the appropriate foreign government or national for the unpaid balance of his claim or for restitution of his property. All awards or payments made pursuant to this subchapter shall be without prejudice to the claims of the United States against any foreign government.

(Mar. 10, 1950, ch. 54, title III, §313, as added Aug. 9, 1955, ch. 645, §3, 69 Stat. 574.)

§1641m. Finality of action of Commission

The action of the Commission in allowing or denying any claim under this subchapter shall be final and conclusive on all questions of law and fact and not subject to review by any other official of the United States or by any court by mandamus or otherwise, and the Comptroller General shall allow credit in the accounts of any certifying or disbursing officer for payments in accordance with such action.

(Mar. 10, 1950, ch. 54, title III, §314, as added Aug. 9, 1955, ch. 645, §3, 69 Stat. 574.)

§1641n. Appropriations

There are authorized to be appropriated such sums as may be necessary to enable the Commission and the Treasury Department to pay their administrative expenses incurred in carrying out their functions under this subchapter.

(Mar. 10, 1950, ch. 54, title III, §315, as added Aug. 9, 1955, ch. 645, §3, 69 Stat. 574.)

§1641*o*. Time limitation on completion of affairs of Commission

(a) Claims against Russian nationals

The Commission shall complete its affairs in connection with the settlement of claims pursuant to section 1641d(a)(1) of this title not later than two years, and all other claims pursuant to this subchapter not later than four years, following August 9, 1955, or following the date of enactment of legislation making appropriations to the Commission for the payment of administrative expenses incurred in carrying out its functions under this subchapter, whichever date is later.

(b) Property taken in Bulgaria and Rumania; claims against Italy

The Commission shall complete its affairs in connection with the settlement of claims pursuant to paragraph (4) of section 1641b of this title and subsections (b) and (c) of section 1641c of this title not later than two years following July 24, 1968, or following the enactment of legislation making appropriations to the Commission for payment of administrative expenses incurred in carrying out its functions under paragraph (4) of section 1641b of this title and subsections (b) and (c) of section 1641c of this title, whichever is later.

(c) Property taken in Hungary

The Commission shall complete its affairs in connection with the settlement of claims pursuant to paragraph (5) of section 1641b of this title not later than two years following the deadline established under subsection (c) of section 1641e of this title.

(Mar. 10, 1950, ch. 54, title III, §316, as added Aug. 9, 1955, ch. 645, §3, 69 Stat. 574; amended Pub. L. 90–421, §1(14), July 24, 1968, 82 Stat. 423; Pub. L. 93–460, §1(6), Oct. 20, 1974, 88 Stat. 1387.)

AMENDMENTS

1974—Subsec. (c). Pub. L. 93–460 added subsec. (c).
1968—Pub. L. 90–421 designated existing provisions as subsec. (a) and added subsec. (b).

§1641p. Fees of agents, attorneys, or representatives

(a) Maximum remuneration; penalty for violation

The total remuneration paid to all agents, attorneys-at-law or in fact, or representatives, for services rendered on behalf of any claimant in connection with any claim filed with the Commission shall not exceed 10 per centum of the total amount paid under this subchapter on account of such claim, or such greater amount as may be determined pursuant to subsection (b) of this section. Any agreement to the contrary shall be unlawful and void. Whoever, in the United States or elsewhere, demands or receives, on account of services so rendered, any remuneration which, together with all remuneration paid to other persons on account of such services and of which he has notice, is in excess of the maximum permitted by this section, shall be fined not more than $5,000 or imprisoned not more than twelve months, or both.

(b) Petition for payment in excess of maximum; determination by Commission not subject to review

Not later than three months after the Commission has completed its affairs in connection with the settlement of all claims payable from the fund from which an award is payable, any agent,

attorney-at-law or in fact, or representative who believes that the total remuneration for services rendered in connection with the claim upon which such award is made should exceed the maximum otherwise permitted by this section may, pursuant to such procedure as the Commission shall prescribe by regulation, petition the Commission for an order authorizing the payment of remuneration in excess of such maximum. The Commission shall issue such an order only upon a finding that there exist special circumstances of unusual hardship which require the payment of such excess; and such order shall state the amount of the excess which may so be paid. The determination of the Commission in ruling upon such petition shall be within the sole discretion of the Commission and shall not be subject to review by any court.

(Mar. 10, 1950, ch. 54, title III, §317, as added Aug. 9, 1955, ch. 645, §3, 69 Stat. 574.)

§1641q. Applicability of administrative provisions of subchapter I

The following provisions of subchapter I shall be applicable to this subchapter: Subsections (b), (c), (d), (e), (h), and (j) of section 1623 of this title; and subsections (c), (d), (e), and (f) of section 1626 of this title.

(Mar. 10, 1950, ch. 54, title III, §318, as added Aug. 9, 1955, ch. 645, §3, 69 Stat. 575.)

SUBCHAPTER IV—CLAIMS AGAINST CZECHOSLOVAKIA

CZECHOSLOVAKIAN CLAIMS SETTLEMENT ACT OF 1981

Pub. L. 97–127, Dec. 29, 1981, 95 Stat. 1675, provided:

"SHORT TITLE

"SECTION 1. This Act may be cited as the 'Czechoslovakian Claims Settlement Act of 1981'.

"APPROVAL OF AGREEMENT

"SEC. 2. (a) The Congress hereby approves the Agreement between the Government of the United States of America and the Government of the Czechoslovak Socialist Republic on the Settlement of Certain Outstanding Claims and Financial Issues, initialed at Prague, Czechoslovakia on November 6, 1981.

"(b) The President may, without further approval by the Congress, execute such technical revisions of the Agreement approved by subsection (a) of this section as in his judgment may from time to time be required to facilitate the implementation of that Agreement. Nothing in this subsection shall be construed to authorize any revision of that Agreement to reduce any amount to be paid by the Government of the Czechoslovak Socialist Republic to the United States Government under the Agreement, or to defer the payment of any such amount.

"DEFINITIONS

"SEC. 3. For the purposes of this Act—

"(1) 'Agreement' means the Agreement on the Settlement of Certain Outstanding Claims and Financial Issues approved by section 2(a) of this Act;

"(2) 'national of the United States' has the meaning given such term by section 401(1) of the International Claims Settlement Act of 1949 [22 U.S.C. 1642(1)];

"(3) 'Commission' means the Foreign Claims Settlement Commission of the United States;

"(4) 'Fund' means the Czechoslovakian Claims Fund established by section 402(b) of the International Claims Settlement Act of 1949 [22 U.S.C. 1642a(b)];

"(5) 'Secretary' means the Secretary of the Treasury; and

"(6) 'property' means any property, right, or interest.

"THE FUND

"SEC. 4. (a) The Secretary shall cover into the Fund the amount paid by the Government of the Czechoslovak Socialist Republic in settlement and discharge of claims of nationals of the United States pursuant to article 1(1) of the Agreement, and shall deduct from that amount $50,000 for reimbursement to the United States Government for expenses incurred by the Department of the Treasury and the Commission in the administration of this Act and title IV of the International Claims Settlement Act of 1949 [this subchapter].

The amount so deducted shall be covered into the Treasury to the credit of miscellaneous receipts. The deduction required by this subsection shall be made in lieu of the deduction provided in section 402(e) of the International Claims Settlement Act of 1949 [22 U.S.C. 1642a(e)]; however, it is the sense of the Congress that the United States Government is entitled to a larger percentage of the total award (generally presumed to be 5 percent) and that the ex gratia payment hereinafter provided to certain claimants, who were otherwise excluded from sharing in this claims settlement under generally-accepted principles of international law and United States practice, is justified only by the extraordinary circumstances of this case and does not establish any precedent for future claims negotiations or payments.

"(b) The Secretary shall establish three accounts in the Fund into which the amount covered into the Fund pursuant to subsection (a) of this section, less the deduction required by that subsection, shall be covered as follows:

"(1) An account into which $74,550,000 shall be covered, to be available for payment in accordance with section 8 of this Act on account of awards certified pursuant to section 410 of the International Claims Settlement Act of 1949 [22 U.S.C. 1642i].

"(2) An account into which $1,500,000 shall be covered, to be available for payment in accordance with section 8 of this Act on account of awards determined pursuant to section 5 of this Act.

"(3) An account into which the remainder of amounts in the Fund shall be covered, to be available for payment in accordance with section 8 of this Act on account of awards determined pursuant to section 6 of this Act.

"DETERMINATION OF CERTAIN CLAIMS

"SEC. 5. (a) The Commission shall receive and determine, in accordance with applicable substantive law, including international law, the validity and amount of claims by nationals of the United States against the Government of the Czechoslovak Socialist Republic for losses resulting from the nationalization or other taking of property owned at the time by nationals of the United States, which nationalization or other taking occurred between August 8, 1958, and the date on which the Agreement enters into force. In making the determination with respect to the validity and amount of any such claim and the value of the property taken, the Commission is authorized to accept the fair or proved value of such property as of the time when the property taken was last operated, used, managed, or controlled by the national or nationals of the United States asserting the claim, regardless of whether such time is prior to the actual date of nationalization or other taking by the Government of the Czechoslovak Socialist Republic.

"(b) The Commission shall certify to the Secretary the amount of any award determined pursuant to subsection (a).

"DETERMINATION OF OTHER CLAIMS

"SEC. 6. (a)(1) The Congress finds that—

"(A) in the case of certain persons holding claims against the Czechoslovakian Government who became nationals of the United States by February 26, 1948, the date on which the current Communist Government of Czechoslovakia assumed power; and

"(B) while the Commission had the authority to deny those claims described in subparagraph (A) on the basis that the properties involved had been taken by the Benes Government while the claimants were not yet nationals of the United States, the effect of that denial is to withhold compensation to persons who have been United States citizens for many years and whose expropriated property has benefited the Communist Government of Czechoslovakia no less than properties expropriated more directly and clearly by the Communist Government.

"(2)(A) It is therefore the purpose of this section, in accordance with the intent of the Congress in enacting title IV of the International Claims Settlement Act of 1949 [this subchapter] and in the interests of equity, to make ex gratia payments to the claimants described in paragraph (1) of this subsection.

"(B) The Congress reaffirms the principle and practice of the United States to seek compensation from foreign governments on behalf only of persons who were nationals of the United States at the time they sustained losses by the nationalization or other taking of their property by those foreign governments. In making payments under this section, the Congress does not establish any precedent for future claims payments.

"(b) The Commission shall reopen and redetermine the validity and amount of any claim against the Government of Czechoslovakia which was filed with the Commission in accordance with the provisions of title IV of the International Claims Settlement Act of 1949 [this subchapter], which was based on property found by the Commission to have been nationalized or taken by the Government of Czechoslovakia on or after January 1, 1945, and before February 26, 1948, and which was denied by the Commission because such property was not owned by a person who was a national of the United States on the date of such

nationalization or taking. The provisions of section 405 of the International Claims Settlement Act of 1949 [22 U.S.C. 1642d] requiring that the property upon which a claim is based must have been owned by a national of the United States on the date of nationalization or other taking by the Government of Czechoslovakia shall be deemed to be met if such property was owned on such date by a person who became a national of the United States on or before February 26, 1948. The Commission shall certify to the Secretary the amount of any award determined pursuant to this subsection.

"PROCEDURES

"SEC. 7. (a) The provisions of sections 401, 403, 405, 406, 407, 408, 409, 414, 415, and 416 of the International Claims Settlement Act of 1949 [22 U.S.C. 1642, 1642b, 1642d, 1642e, 1642f, 1642g, 1642h, 1642m, 1642n, and 1642o, respectively], to the extent that such provisions are not inconsistent with this Act, together with such regulations as the Commission may prescribe, shall apply with respect to any claim determined pursuant to section 5(a) of this Act or redetermined pursuant to section 6(b) of this Act.

"(b) Not later than sixty days after the date of the enactment of this Act [Dec. 29, 1981], the Commission shall establish and publish in the Federal Register a period of time within which claims described in section 5 of the Act must be filed with the Commission, and the date for the completion of the Commission's affairs in connection with the determination of those such claims and claims described in section 6 of this Act. Such filing period shall be not more than one year after the date of such publication in the Federal Register, and such completion date shall be not more than two years after the final date for the filing of claims under section 5. No person holding a claim to which section 6 of this Act applies shall be required to refile that claim before the Commission makes the redetermination required by that section.

"PAYMENT OF AWARDS

"SEC. 8. (a) As soon as practicable after the date of the enactment of this Act [Dec. 29, 1981], the Secretary shall make payments from amounts in the account established pursuant to section 4(b)(1) of this Act on the unpaid balance of each award certified by the Commission pursuant to section 410 of the International Claims Settlement Act of 1949 [22 U.S.C. 1642i].

"(b) As soon as practicable after the Commission has completed the certification of awards pursuant to section 5(b) of this Act, the Secretary shall make payments on account of each such award from the amounts in the account established pursuant to section 4(b)(2) of this Act.

"(c) As soon as practicable after the Commission has completed the certification of awards pursuant to section 6(b) of this Act, the Secretary shall make payments on account of each such award from the amounts in the account established pursuant to section 4(b)(3) of this Act.

"(d) In the event that—

"(1) the amounts in the account established pursuant to section 4(b)(2) of this Act exceed the aggregate total of all awards certified by the Commission pursuant to section 5(b) of this Act, or

"(2) the amounts in the account established pursuant to section 4(b)(3) of this Act exceed the aggregate total of all awards certified by the Commission pursuant to section 6(b) of this Act,

the Secretary shall cover such excess amounts into the account established pursuant to section 4(b)(1) of this Act. The Secretary shall make payments pursuant to subsection (a) of this section, from such excess amounts, on the unpaid balance of awards certified by the Commission pursuant to section 410 of the International Claims Settlement Act of 1949 [22 U.S.C. 1642i].

"(e) Payments under this section shall be made on the unpaid balance of each award which bear to such unpaid balance the same proportion as the total amount in the account in the Fund from which the payments are made bears to the aggregate unpaid balance of all awards payable from that account. Payments under this section, and applications for such payments, shall be made in accordance with such regulations as the Secretary may prescribe.

"(f) In the event that—

"(1) the Secretary is unable, within three years after the date of the establishment of the account prescribed by section 4(b)(1) of this Act, to locate any person entitled to receive payment under this section on account of an award certified by the Commission pursuant to section 410 of the International Claims Settlement Act of 1949 [22 U.S.C. 1642i] or to locate any lawful heirs, successors, or legal representatives of that person, or if no valid application for payment is made by or on behalf of that person within six months after the Secretary has located that person or that person's heirs, successors, or legal representatives; or

"(2) within six months after the Commission has completed the certification of awards pursuant to sections 5(b) and 6(b) of this Act, no valid application for payment is made by or on behalf of any person entitled to receive payment under this section on account of an award certified by the Commission pursuant to either such section,

the Secretary shall give notice by publication in the Federal Register and in such other publications as the Secretary may determine that, unless valid application for payment is made within sixty days after the date of such publication, that person's award under title IV of the International Claims Settlement Act of 1949 [this subchapter] or this Act, as the case may be, and that person's right to receive payment on account of such award, shall lapse. Upon the expiration of such sixty-day period that person's award and right to receive payment shall lapse, and the amounts payable to that person shall be paid pro rata by the Secretary on account of all other awards under title IV of the International Claims Settlement Act of 1949 [this subchapter] or this Act, as the case may be.

"INVESTMENT OF FUNDS

"SEC. 9. The Secretary shall invest and hold in separate accounts the amounts held respectively in the accounts established by section 4 of this Act. Such investment shall be in public debt securities with maturities suitable for the needs of the separate accounts and bearing interest at rates determined by the Secretary, taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities. The interest earned on the amounts in each account established by section 4 of this Act shall be used to make payments, in accordance with section 8(e) of this Act, on awards payable from that account.

"IMPLEMENTATION OF AGREEMENT

"SEC. 10. (a) If, within sixty days after the date of the enactment of this Act [Dec. 29, 1981]—

"(1) the Government of the Czechoslovak Socialist Republic does not make the payments to the United States Government described in article 6(2) of the Agreement, or

"(2) the Czechoslovak Government does not receive the gold provided in article 6(1) of the Agreement,

the provisions of this Act shall cease to be effective, and the provisions of the Agreement may not be implemented unless the Congress approves the Agreement after the end of that sixty-day period.

"(b) The sixty-day period for implementation of the Agreement required by subsection (a) shall be extended by an additional period of thirty calendar days if, before the expiration of that sixty-day period, the Secretary of State certifies in writing that such extension is consistent with the purposes of this Act and reports that certification to the Speaker of the House of Representatives and to the Chairman of the Committee on Foreign Relations of the Senate, together with a detailed statement of the reasons for the extension. If at the end of that additional thirty-day period the events set forth in paragraphs (1) and (2) of subsection (a) have not occurred, the provisions of this Act shall cease to be effective and the provisions of the Agreement may not be implemented unless the Congress approves the Agreement after the end of that thirty-day period or unless the Congress, before the expiration of that thirty-day period, authorizes by joint resolution a further extension of time for implementation of the Agreement. Such joint resolution shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976 [Pub. L. 94–329, title VI, §601(b), June 30, 1976, 90 Stat. 765], and in the House of Representatives a motion to proceed to the consideration of such joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged.

"SOCIAL SECURITY AGREEMENT

"SEC. 11. The Secretary of State shall conduct a detailed review of the exchange of letters between the United States and Czechoslovakia providing for reciprocal social security payments to residents of the two countries. Such review should include an examination of the extent to which Czechoslovakia is complying with the spirit and provisions of the letters, a comparison of the benefits being realized by residents of Czechoslovakia and of the United States under the letters, and an evaluation of the basis of differences in such benefits. The Secretary of State, in consultation with the Department of Health and Human Services, shall report to the Congress, not later than six months after the date of the enactment of this Act [Dec. 29, 1981], the results of such review, together with any recommendations for legislation or changes in the agreement made by the letters that may be necessary to achieve greater comparability and equity of benefits for the residents of the two countries. Such report should include specific assessments of the feasibility, likely effects, and advisability of terminating United States social security payments to residents of Czechoslovakia in response to inequities and incomparabilities of benefits payments under the exchange of letters."

§1642. Definitions

As used in this subchapter—

(1) "National of the United States" means (A) a natural person who is a citizen of the United States, or who owes permanent allegiance to the United States, and (B) a corporation or other legal entity which is organized under the laws of the United States, any State or Territory thereof, or the District of Columbia, if natural persons who are nationals of the United States own, directly or indirectly, more than 50 per centum of the outstanding capital stock or other beneficial interest in such legal entity. It does not include aliens. (2) "Commission" means the Foreign Claims Settlement Commission of the United States, established, pursuant to Reorganization Plan Number 1 of 1954 (68 Stat. 1279). (3) "Property" means any property, right, or interest.

(Mar. 10, 1950, ch. 54, title IV, §401, as added Pub. L. 85–604, §1, Aug. 8, 1958, 72 Stat. 527.)

REFERENCES IN TEXT

Reorganization Plan Number 1 of 1954 (68 Stat. 1279), referred to in text, is Reorg. Plan No. 1 of 1954, eff. July 1, 1954, 19 F.R. 3985, 68 Stat. 1279, which is set out as a note under section 1622 of this title.

SEPARABILITY

Pub. L. 85–604, §4, Aug. 8, 1958, 72 Stat. 531, provided that: "If any provision of this Act [enacting this subchapter and amending sections 1641c and 1641j of this title], or the application thereof to any person or circumstances, shall be held invalid, the remainder of the Act, or the application of such provision to other persons or circumstances, shall not be affected."

TRANSFER OF FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES AS SEPARATE AGENCY WITHIN DEPARTMENT OF JUSTICE

For provisions transferring Foreign Claims Settlement Commission of the United States as a separate agency within the Department of Justice, see section 1622a et seq. of this title.

§1642a. Financial provisions

(a) Deposit of proceeds of certain property

The Secretary of the Treasury is directed to hold, in an account in the Treasury of the United States, the net proceeds of the sale of certain Czechoslovakian steel mill equipment heretofore blocked and sold in the United States by order of the Secretary of the Treasury under authority of Executive Order Numbered 9193, dated July 6, 1942 (7 F.R. 5205, July 9, 1942).

(b) Creation of Czechoslovakian Claims Fund

There is created in the Treasury of the United States a fund to be designated the Czechoslovakian Claims Fund, for the payment of unsatisfied claims of nationals of the United States against Czechoslovakia as authorized in this subchapter.

(c) Voluntary settlement and payment of claims of nationals of the United States

If, within one year following August 8, 1958, the Government of Czechoslovakia voluntarily settles with and pays to the Government of the United States a sum in payment of claims of United States nationals against Czechoslovakia, all moneys held pursuant to subsection (a) of this section shall be disposed of in accordance with the terms of the settlement agreement with Czechoslovakia and applicable provisions of this subchapter and the sum paid by Czechoslovakia shall be covered into the Czechoslovakian Claims Fund.

(d) Deposit of net proceeds into Fund

Upon the expiration of one year after August 8, 1958 if no settlement with Czechoslovakia of the type specified in subsection (c) of this section has occurred, all moneys held pursuant to subsection (a) of this section except amounts held in reserve pursuant to section 1642b of this title, shall be covered into the Czechoslovakian Claims Fund.

(e) Deductions for expenses

The Secretary of the Treasury shall deduct from the Czechoslovakian Claims Fund 5 per centum thereof as reimbursement to the Government of the United States for the expenses incurred by the

Commission and by the Treasury Department in the administration of this subchapter. The amount so deducted shall be covered into the Treasury to the credit of miscellaneous receipts.

(f) Disposition of balance of Fund

After the deduction for administrative expenses pursuant to subsection (e) of this section, and after payment of awards certified pursuant to section 1642i of this title, the balance remaining in the Fund, if any, shall be paid to Czechoslovakia in accordance with instructions to be provided by the Secretary of State.

(Mar. 10, 1950, ch. 54, title IV, §402, as added Pub. L. 85–604, §1, Aug. 8, 1958, 72 Stat. 527.)

REFERENCES IN TEXT

Executive Order Numbered 9193, dated July 6, 1942 (7 F.R. 5205, July 9, 1942), referred to in subsec. (a), is Ex. Ord. No. 9193, July 6, 1942, 7 F.R. 5205, which amended Ex. Ord. No. 9095, formerly set out under section 6 of the former Appendix to Title 50, War and National Defense, which was revoked by Ex. Ord. No. 12553, Feb. 25, 1986, 51 F.R. 7237.

§1642b. Claims against United States; jurisdiction; limitation; preference; reserve fund

No judicial relief or remedy shall be available to any person asserting a claim against the United States or any officer or agent thereof with respect to any action taken under this subchapter, or any other claim for or on account of the property or proceeds described in section 1642a of this title, or for any other action taken with respect thereto except to the extent that the action complained of constitutes a taking of private property without just compensation, and to such extent the sole judicial relief and remedy available shall be an action brought against the United States in the United States Court of Federal Claims which action must be brought within one year of August 8, 1958, or it shall be forever barred; and any action so brought shall receive a preference over all actions which themselves are not given preference by statute. No other court shall have original jurisdiction to consider any such claim by mandamus or otherwise. If any action is brought pursuant to this section the Secretary of the Treasury shall set aside an appropriate reserve in the account containing the moneys held pursuant to subsection (a) of section 1642a of this title. Such reserve shall be retained pending a final determination of all issues raised in the action and recovery in any such action shall be limited to and paid out of the moneys so reserved. After a final determination of all issues raised in the action and payment of any judgment against the United States entered pursuant thereto, any balance no longer required to be held in reserve shall be disposed of in accordance with the provisions of subsection (d) of section 1642a of this title. Nothing in this section shall be construed to create (1) any liability against the United States for any action taken pursuant to section 1642c of this title, (2) any liability against the United States in favor of the Government of Czechoslovakia, any agency or instrumentality thereof or any person who is an assignee or successor in interest thereto, or (3) any other liability against the United States.

(Mar. 10, 1950, ch. 54, title IV, §403, as added Pub. L. 85–604, §1, Aug. 8, 1958, 72 Stat. 528; amended Pub. L. 97–164, title I, §161(3), Apr. 2, 1982, 96 Stat. 49; Pub. L. 102–572, title IX, §902(b)(1), Oct. 29, 1992, 106 Stat. 4516.)

AMENDMENTS

1992—Pub. L. 102–572 substituted "United States Court of Federal Claims" for "United States Claims Court".

1982—Pub. L. 97–164 substituted "Claims Court" for "Court of Claims".

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–572 effective Oct. 29, 1992, see section 911 of Pub. L. 102–572, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–164 effective Oct. 1, 1982, see section 402 of Pub. L. 97–164, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

§1642c. Determination of validity and amount of claims

The Commission shall determine in accordance with applicable substantive law, including international law, the validity and amount of claims by nationals of the United States against the Government of Czechoslovakia for losses resulting from the nationalization or other taking on and after January 1, 1945, of property including any rights or interests therein owned at the time by nationals of the United States, subject, however, to the terms and conditions of an applicable claims agreement, if any, concluded between the Governments of Czechoslovakia and the United States within one year following August 8, 1958. In making the determination with respect to the validity and amount of claims and value of properties, rights, or interests taken, the Commission is authorized to accept the fair or proved value of the said property, right, or interest as of a time when the property or business enterprise taken, was last operated, used, managed or controlled by the national or nationals of the United States asserting the claim irrespective of whether such date is prior to the actual date of nationalization or taking by the Government of Czechoslovakia.

(Mar. 10, 1950, ch. 54, title IV, §404, as added Pub. L. 85–604, §1, Aug. 8, 1958, 72 Stat. 528.)

§1642d. Nationality requirements

A claim under section 1642c of this title shall not be allowed unless the property upon which the claim is based was owned by a national of the United States on the date of nationalization or other taking thereof and unless the claim has been held by a national of the United States continuously thereafter until the date of filing with the Commission.

(Mar. 10, 1950, ch. 54, title IV, §405, as added Pub. L. 85–604, §1, Aug. 8, 1958, 72 Stat. 528.)

§1642e. Claims based on ownership interest in corporations or other legal entities

(a) Nationals of United States

A claim under section 1642c of this title, based upon an ownership interest in any corporation, association, or other entity which is a national of the United States shall be denied.

(b) Direct ownership

A claim under section 1642c of this title, based upon a direct ownership interest in a corporation, association, or other entity for loss by reason of the nationalization or other taking of such corporation, association, or other entity, or the property thereof, shall be allowed, subject to other provisions of this subchapter, if such corporation, association, or other entity on the date of the nationalization or other taking was not a national of the United States, without regard to the per centum of ownership vested in the claimant in any such claim.

(c) Indirect ownership

A claim under section 1642c of this title, based upon an indirect ownership interest in a corporation, association, or other entity for loss by reason of the nationalization or other taking of such corporation, association, or other entity, or the property thereof, shall be allowed, subject to other provisions of this subchapter, only if at least 25 per centum of the entire ownership interest thereof at the time of such nationalization or other taking was vested in nationals of the United States.

(d) Computation of award

Any award on a claim under subsection (b) or (c) of this section shall be calculated on the basis of the total loss suffered by such corporation, association, or other entity, and shall bear the same

proportion to such loss as the ownership interest of the claimant bears to the entire ownership interest thereof.

(Mar. 10, 1950, ch. 54, title IV, §406, as added Pub. L. 85–604, §1, Aug. 8, 1958, 72 Stat. 529.)

§1642f. Prevention of double benefits

In determining the amount of any award by the Commission there shall be deducted all amounts the claimant has received from any source on account of the same loss or losses with respect to which such award is made.

(Mar. 10, 1950, ch. 54, title, IV, §407, as added Pub. L. 85–604, §1, Aug. 8, 1958, 72 Stat. 529.)

§1642g. Consolidated awards

With respect to any claim under section 1642c of this title which, at the time of the award, is vested in persons other than the person by whom the loss was sustained, the Commission may issue a consolidated award in favor of all claimants then entitled thereto, which award shall indicate the respective interests of such claimants therein, and all such claimants shall participate, in proportion to their indicated interests, in the payments authorized by this subchapter in all respects as if the award had been in favor of a single person.

(Mar. 10, 1950, ch. 54, title IV, §408, as added Pub. L. 85–604, §1, Aug. 8, 1958, 72 Stat. 529.)

§1642h. Prohibition against payment of award to certain persons

No award shall be made on any claim under section 1642c of this title to or for the benefit of (1) any person who has been convicted of a violation of any provision of chapter 115 of title 18, or of any other crime involving disloyalty to the United States, or (2) any claimant whose claim under this subchapter is within the scope of subchapter III of this chapter.

(Mar. 10, 1950, ch. 54, title IV, §409, as added Pub. L. 85–604, §1, Aug. 8, 1958, 72 Stat. 529.)

§1642i. Certification of awards

The Commission shall certify to the Secretary of the Treasury, in terms of United States currency, each award made pursuant to this subchapter.

(Mar. 10, 1950, ch. 54, title IV, §410, as added Pub. L. 85–604, §1, Aug. 8, 1958, 72 Stat. 529.)

§1642j. Time for filing of claims; notice

Within sixty days after August 8, 1958, or of legislation making appropriations to the Commission for payment of administrative expenses incurred in carrying out its functions under this subchapter, whichever date is later, the Commission shall give public notice by publication in the Federal Register of the time when, and the limit of time within which claims may be filed, which limit shall not be more than twelve months after such publication.

(Mar. 10, 1950, ch. 54, title IV, §411, as added Pub. L. 85–604, §1, Aug. 8, 1958, 72 Stat. 529.)

§1642k. Time limitation on completion of affairs of Commission

The Commission shall complete its affairs in connection with the settlement of claims pursuant to this subchapter not later than three years following the final date for the filing of claims as provided in section 1642j of this title or following the enactment of legislation making appropriations to the

Commission for payment of administrative expenses incurred in carrying out its functions under this subchapter, whichever date is later.

(Mar. 10, 1950, ch. 54, title IV, §412, as added Pub. L. 85–604, §1, Aug. 8, 1958, 72 Stat. 529.)

§1642*l*. Payment of awards

(a) Manner of payment

The Secretary of the Treasury is authorized and directed, out of the sums covered into the Czechoslovakian Claims Fund, to make payments on account of awards certified by the Commission pursuant to this subchapter as follows and in the following order of priority:

(1) Payment in the amount of $1,000 or in the amount of the award, whichever is less.

(2) Thereafter, payments from time to time on account of the unpaid balance of each remaining award made pursuant to this subchapter which shall bear to such unpaid balance the same proportion as the total amount in the fund available for distribution at the time such payments are made bears to the aggregate unpaid balance of all such awards.

(b) Regulations

Such payments, and applications for such payments, shall be made in accordance with such regulations as the Secretary of the Treasury shall prescribe.

(c) "Award" defined

For the purpose of making any such payments, an "award" shall be deemed to mean the aggregate of all awards certified in favor of the same claimant.

(d) Payment of interest of deceased persons or persons under legal disability

If any person to whom any payment is to be made pursuant to this subchapter is deceased or is under a legal disability, payment shall be made to his legal representative, except that if any payment to be made is not over $1,000 and there is no qualified executor or administrator, payment may be made to the person or persons found by the Comptroller General to be entitled thereto, without the necessity of compliance with the requirements of law with respect to the administration of estates.

(e) Partial payments

Subject to the provisions of any claims agreement hereafter concluded between the Governments of Czechoslovakia and the United States, payment of any award pursuant to this subchapter shall not, unless such payment is for the full amount of the claim, as determined by the Commission to be valid, with respect to which the award is made, extinguish such claim, or be construed to have divested any claimant, or the United States on his behalf, of any rights against any foreign government for the unpaid balance of his claim.

(Mar. 10, 1950, ch. 54, title IV, §413, as added Pub. L. 85–604, §1, Aug. 8, 1958, 72 Stat. 530.)

§1642m. Fees of attorneys; limitation; penalty

No remuneration on account of services rendered on behalf of any claimant in connection with any claim filed with the Commission under this subchapter shall exceed 10 per centum of the total amount paid pursuant to any award certified under the provisions of this subchapter on account of such claim. Any agreement to the contrary shall be unlawful and void. Whoever, in the United States or elsewhere, demands or receives, on account of services so rendered, any remuneration in excess of the maximum permitted by this section, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than $5,000 or imprisoned not more than twelve months, or both.

(Mar. 10, 1950, ch. 54, title IV, §414, as added Pub. L. 85–604, §1, Aug. 8, 1958, 72 Stat. 530.)

§1642n. Transfer of records

The Secretary of State is authorized and directed to transfer or otherwise make available to the Commission such records and documents relating to claims authorized by this subchapter as may be required by the Commission in carrying out its functions under this subchapter.

(Mar. 10, 1950, ch. 54, title IV, §415, as added Pub. L. 85–604, §1, Aug. 8, 1958, 72 Stat. 530.)

§1642*o*. Applicability of administrative provisions of subchapter I

To the extent they are not inconsistent with the provisions of this subchapter, the following provisions of subchapter I shall be applicable to this subchapter: Subsections (b), (c), (d), (e), (h), and (j) of section 1623 of this title; subsections (c), (d), (e), and (f) of section 1626 of this title.

(Mar. 10, 1950, ch. 54, title IV, §416, as added Pub. L. 85–604, §1, Aug. 8, 1958, 72 Stat. 530.)

§1642p. Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to enable the Commission and the Treasury Department to pay their administrative expenses incurred in carrying out their functions under this subchapter.

(Mar. 10, 1950, ch. 54, title IV, §417, as added Pub. L. 85–604, §1, Aug. 8, 1958, 72 Stat. 530.)

SUBCHAPTER V—CLAIMS AGAINST CUBA AND CHINA

§1643. Congressional declaration of purpose

It is the purpose of this subchapter to provide for the determination of the amount and validity of claims against the Government of Cuba, or the Chinese Communist regime, which have arisen since January 1, 1959, in the case of claims against the Government of Cuba, or since October 1, 1949, in the case of claims against the Chinese Communist regime, out of nationalization, expropriation, intervention, or other takings of, or special measures directed against, property of nationals of the United States, and claims for disability or death of nationals of the United States arising out of violations of international law by the Government of Cuba, or the Chinese Communist regime, in order to obtain information concerning the total amount of such claims against the Government of Cuba, or the Chinese Communist regime, on behalf of nationals of the United States. This subchapter shall not be construed as authorizing an appropriation or as any intention to authorize an appropriation for the purpose of paying such claims.

(Mar. 10, 1950, ch. 54, title V, §501, as added Pub. L. 88–666, Oct. 16, 1964, 78 Stat. 1110; amended Pub. L. 89–262, §1, Oct. 19, 1965, 79 Stat. 988; Pub. L. 89–780, §1, Nov. 6, 1966, 80 Stat. 1365.)

AMENDMENTS

1966—Pub. L. 89–780 provided for applicability of section to the Chinese Communist regime in the case of claims which have arisen since October 1, 1949.

1965—Pub. L. 89–262 struck out "which have arisen out of debts for merchandise furnished or services rendered by nationals of the United States without regard to the date on which such merchandise was furnished or services were rendered or" after "Government of Cuba" in first sentence.

SEPARABILITY

Act Mar. 10, 1950, ch. 54, title V, §513, as added by Pub. L. 88–666, Oct. 16, 1964, 78 Stat. 1113, provided that: "If any provision of this Act [enacting this subchapter], or the application thereof to any person or circumstances, shall be held invalid, the remainder of the Act, or the application of such provision to other

persons or circumstances, shall not be affected."

§1643a. Definitions

For the purposes of this subchapter:

(1) The term "national of the United States" means (A) a natural person who is a citizen of the United States, or (B) a corporation or other legal entity which is organized under the laws of the United States, or of any State, the District of Columbia, or the Commonwealth of Puerto Rico, if natural persons who are citizens of the United States own, directly or indirectly, 50 per centum or more of the outstanding capital stock or other beneficial interest of such corporation or entity. The term does not include aliens.

(2) The term "Commission" means the Foreign Claims Settlement Commission of the United States.

(3) The term "property" means any property, right, or interest, including any leasehold interest, and debts owed by the Government of Cuba or the Chinese Communist regime or by enterprises which have been nationalized, expropriated, intervened, or taken by the Government of Cuba or the Chinese Communist regime and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba or the Chinese Communist regime.

(4) The term "Government of Cuba" includes the government of any political subdivision, agency, or instrumentality thereof.

(5) The term "Chinese Communist regime" means the so-called Peoples Republic of China, including any political subdivision, agency, or instrumentality thereof.

(Mar. 10, 1950, ch. 54, title V, §502, as added Pub. L. 88–666, Oct. 16, 1964, 78 Stat. 1110; amended Pub. L. 89–780, §2, Nov. 6, 1966, 80 Stat. 1365.)

AMENDMENTS

1966—Par. (3). Pub. L. 89–780, §2(1), inserted reference to the Chinese Communist regime in three places.
Par. (5). Pub. L. 89–780, §2(2), added par. (5).

TRANSFER OF FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES AS SEPARATE AGENCY WITHIN DEPARTMENT OF JUSTICE

For provisions transferring Foreign Claims Settlement Commission of the United States as a separate agency within the Department of Justice, see section 1622a et seq. of this title.

§1643b. Receipt of claims; determination of amount and validity

(a) Claims for property loss

The Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba, or the Chinese Communist regime, arising since January 1, 1959, in the case of claims against the Government of Cuba, or since October 1, 1949, in the case of claims against the Chinese Communist regime, for losses resulting from the nationalization, expropriation, intervention, or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States, if such claims are submitted to the Commission within such period specified by the Commission by notice published in the Federal Register (which period shall not be more than eighteen months after such publication) within sixty days after October 16, 1964, or sixty days after November 6, 1966, with respect to claims against the Chinese Communist regime, or of legislation making appropriations to the Commission for payment of administrative expenses incurred in carrying out its functions with respect to each respective claims program authorized, under this subchapter, whichever date is later. In making the determination with respect to the validity and amount of claims and value of properties, rights, or interests taken, the Commission shall take into account the basis of valuation most appropriate to the property and equitable to the claimant,

including but not limited to, (i) fair market value, (ii) book value, (iii) going concern value, or (iv) cost of replacement.

(b) Claims for disability or death

The Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba, or the Chinese Communist regime, arising since January 1, 1959, in the case of claims against the Government of Cuba, or since October 1, 1949, in the case of claims against the Chinese Communist regime, for disability or death resulting from actions taken by or under the authority of the Government of Cuba, or the Chinese Communist regime, if such claims are submitted to the Commission within the period established by the Commission under subsection (a), or within six months after the date the claims first arose (as determined by the Commission), whichever date last occurs.

(Mar. 10, 1950, ch. 54, title V, §503, as added Pub. L. 88–666, Oct. 16, 1964, 78 Stat. 1110; amended Pub. L. 89–262, §2, Oct. 19, 1965, 79 Stat. 988; Pub. L. 89–780, §3, Nov. 6, 1966, 80 Stat. 1365.)

AMENDMENTS

1966—Subsec. (a). Pub. L. 89–780, §3, empowered the Commission to receive claims against the Chinese Communist regime arising since October 1, 1949, if such claims are submitted within such period of time specified by the Commission by notice published in the Federal Register, which notice is required to be published within 60 days after November 6, 1966.

Subsec. (b). Pub. L. 89–780, §3(1), (2), provided for applicability of subsection to the Chinese Communist regime in the case of claims arising since October 1, 1949.

1965—Subsec. (a). Pub. L. 89–262 struck out "arising out of debts for merchandise furnished or services rendered by nationals of the United States without regard to the date on which such merchandise was furnished or services rendered or" after "Government of Cuba".

§1643c. Ownership of claims by nationals

(a) Requirements for consideration of claims for property loss

A claim shall not be considered under section 1643b(a) of this title unless the property on which the claim was based was owned wholly or partially, directly or indirectly by a national of the United States on the date of the loss and if considered shall be considered only to the extent the claim has been held by one or more nationals of the United States continuously thereafter until the date of filing with the Commission.

(b) Requirements for consideration of claims for disability or death

A claim for disability under section 1643b(b) of this title may be considered if it is filed by the disabled person or by his successors in interest; and a claim for death under section 1643b(b) of this title may be considered if filed by the personal representative of decedent's estate or by a person or persons for pecuniary losses and damage sustained on account of such death. A claim shall not be considered under this section unless the disabled or deceased person was a national of the United States at the time of injury or death and if considered, shall be considered only to the extent the claim has been held by a national or nationals of the United States continuously until the date of filing with the Commission.

(Mar. 10, 1950, ch. 54, title V, §504, as added Pub. L. 88–666, Oct. 16, 1964, 78 Stat. 1111.)

§1643d. Claims based on ownership interest in or debt or other obligations owing by corporations or other legal entities

(a) Nationals of the United States; charge on property

A claim under section 1643b(a) of this title based upon an ownership interest in any corporation, association, or other entity which is a national of the United States shall not be considered. A claim under section 1643b(a) of this title based upon a debt or other obligation owing by any corporation, association, or other entity organized under the laws of the United States, or of any State, the District of Columbia, or the Commonwealth of Puerto Rico shall be considered, only when such debt or other obligation is a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba, or the Chinese Communist regime.

(b) Direct ownership

A claim under section 1643b(a) of this title based upon a direct ownership interest in a corporation, association, or other entity for loss shall be considered, subject to the other provisions of this subchapter, if such corporation, association, or other entity on the date of the loss was not a national of the United States, without regard to the per centum of ownership vested in the claimant.

(c) Indirect ownership

A claim under section 1643b(a) of this title based upon an indirect ownership interest in a corporation, association, or other entity for loss shall be considered, subject to the other provisions of this subchapter, only if at least 25 per centum of the entire ownership interest thereof at the time of such loss was vested in nationals of the United States.

(d) Computation of award

The amount of any claim covered by subsection (b) or (c) of this section shall be calculated on the basis of the total loss suffered by such corporation, association, or other entity, and shall bear the same proportion to such loss as the ownership interest of the claimant at the time of loss bears to the entire ownership interest thereof.

(Mar. 10, 1950, ch. 54, title V, §505, as added Pub. L. 88–666, Oct. 16, 1964, 78 Stat. 1111; amended Pub. L. 89–262, §3, Oct. 19, 1965, 79 Stat. 988; Pub. L. 89–780, §4, Nov. 6, 1966, 80 Stat. 1365.)

AMENDMENTS

1966—Subsec. (a). Pub. L. 89–780 provided for applicability of subsection to property nationalized or taken by the Chinese Communist regime.

1965—Subsec. (a). Pub. L. 89–262 authorized consideration of claims based on debt or other obligation owing by corporations or other legal entities which is a charge on property nationalized, expropriated, intervened, or taken by Government of Cuba.

§1643e. Offsets

In determining the amount of any claim, the Commission shall deduct all amounts the claimant has received from any source on account of the same loss or losses.

(Mar. 10, 1950, ch. 54, title V, §506, as added Pub. L. 88–666, Oct. 16, 1964, 78 Stat. 1112; amended Pub. L. 89–262, §4, Oct. 19, 1965, 79 Stat. 988.)

AMENDMENTS

1965—Pub. L. 89–262 struck out proviso that the deduction of such amounts shall not be construed as divesting the United States of any rights against the Government of Cuba for the amounts so deducted.

§1643f. Action of Commission with respect to claims

(a) Certification of amounts

The Commission shall certify to each individual who has filed a claim under this subchapter the amount determined by the Commission to be the loss or damage suffered by the claimant which is

covered by this subchapter. The Commission shall certify to the Secretary of State such amount and the basic information underlying that amount, together with a statement of the evidence relied upon and the reasoning employed in reaching its decision.

(b) Limitation on amount of claims of assignees

The amount determined to be due on any claim of an assignee who acquires the same by purchase shall not exceed (or, in the case of any such acquisition subsequent to the date of the determination, shall not be deemed to have exceeded) the amount of the actual consideration paid by such assignee, or in case of successive assignments of a claim by any assignee.

(Mar. 10, 1950, ch. 54, title V, §507, as added Pub. L. 88–666, Oct. 16, 1964, 78 Stat. 1112.)

§1643g. Transfer of records

The Secretary of State shall transfer or otherwise make available to the Commission such records and documents relating to claims authorized by this subchapter as may be required by the Commission in carrying out its functions under this subchapter.

(Mar. 10, 1950, ch. 54, title V, §508, as added Pub. L. 88–666, Oct. 16, 1964, 78 Stat. 1112.)

§1643h. Applicability of administrative provisions of subchapter I

To the extent they are not inconsistent with the provisions of this subchapter, the following provisions of subchapter I of this chapter shall be applicable to this subchapter: Subsections (b), (c), (d) (e), (h), and (j) of section 1623 of this title; subsection (f) of section 1626 of this title.

(Mar. 10, 1950, ch. 54, title V, §509, as added Pub. L. 88–666, Oct. 16, 1964, 78 Stat. 1112.)

§1643i. Time limitation on completion of affairs of Commission

The Commission shall complete its affairs in connection with the settlement of claims pursuant to this subchapter not later than July 6, 1972.

(Mar. 10, 1950, ch. 54, title V, §510, as added Pub. L. 88–666, Oct. 16, 1964, 78 Stat. 1112; amended Pub. L. 89–780, §5, Nov. 6, 1966, 80 Stat. 1365; Pub. L. 91–157, Dec. 24, 1969, 83 Stat. 435.)

AMENDMENTS

1969—Pub. L. 91–157 set July 6, 1972, as the final date for the settlement of claims pursuant to this subchapter.

1966—Pub. L. 89–780 inserted "with respect to each respective claims program authorized" after "carrying out its functions".

§1643j. Authorization of appropriations

There are hereby authorized to be appropriated such sums as may be necessary to enable the Commission to pay its administrative expenses incurred in carrying out its functions under this subchapter.

(Mar. 10, 1950, ch. 54, title V, §511, as added Pub. L. 88–666, Oct. 16, 1964, 78 Stat. 1113; amended Pub. L. 89–262, §5, Oct. 19, 1965, 79 Stat. 988.)

AMENDMENTS

1965—Pub. L. 89–262 redesignated subsec. (a) as the complete section, struck out limitation of amount of appropriations to aggregate amount of net proceeds realized from sale or liquidation of property of Government of Cuba and use of funds to pay administrative expenses of the Treasury Department in carrying

out its functions, and eliminated subsec. (b) providing for vesting and liquidation of Cuban property.

§1643k. Fees for services; limitation; penalty

No remuneration on account of any services rendered on behalf of any claimant in connection with any claim filed with the Commission under this subchapter shall exceed 10 per centum of so much of the total amount of such claim, as determined under this subchapter, as does not exceed $20,000, plus 5 per centum of so much of such amount, if any, as exceeds $20,000. Any agreement to the contrary shall be unlawful and void. Whoever, in the United States or elsewhere, demands or receives on account of services so rendered, any remuneration in excess of the maximum permitted by this section, shall be fined not more than $5,000 or imprisoned not more than twelve months, or both.

(Mar. 10, 1950, ch. 54, title V, §512, as added Pub. L. 88–666, Oct. 16, 1964, 78 Stat. 1113.)

§1643*l*. Determination of ownership of claims referred by district courts of the United States

Notwithstanding any other provision of this chapter and only for purposes of section 6082 of this title, a United State [1] district court, for fact-finding purposes, may refer to the Commission, and the Commission may determine, questions of the amount and ownership of a claim by a United States national (as defined in section 6023 of this title), resulting from the confiscation of property by the Government of Cuba described in section 1643b(a) of this title, whether or not the United States national qualified as a national of the United States (as defined in section 1643a(1) of this title) at the time of the action by the Government of Cuba.

(Mar. 10, 1950, ch. 54, title V, §514, as added Pub. L. 104–114, title III, §303(b), Mar. 12, 1996, 110 Stat. 820.)

EFFECTIVE DATE

Section effective Aug. 1, 1996, or date determined pursuant to suspension authority of President, see section 6085 of this title.

[1] *So in original. Probably should be "States".*

§1643m. Exclusivity of Foreign Claims Settlement Commission certification procedure

(a) Subject to subsection (b), neither any national of the United States who was eligible to file a claim under section 1643b of this title but did not timely file such claim under that section, nor any person who was ineligible to file a claim under section 1643b of this title, nor any national of Cuba, including any agency, instrumentality, subdivision, or enterprise of the Government of Cuba or any local government of Cuba, nor any successor thereto, whether or not recognized by the United States, shall have a claim to, participate in, or otherwise have an interest in, the compensation proceeds or nonmonetary compensation paid or allocated to a national of the United States by virtue of a claim certified by the Commission under section 1643f of this title, nor shall any district court of the United States have jurisdiction to adjudicate any such claim.

(b) Nothing in subsection (a) shall be construed to detract from or otherwise affect any rights in the shares of capital stock of nationals of the United States owning claims certified by the Commission under section 1643f of this title.

(Mar. 10, 1950, ch. 54, title V, §515, as added Pub. L. 104–114, title III, §304, Mar. 12, 1996, 110 Stat. 821.)

EFFECTIVE DATE

Section effective Aug. 1, 1996, or date determined pursuant to suspension authority of President, see section 6085 of this title.

SUBCHAPTER VI—CLAIMS AGAINST GERMAN DEMOCRATIC REPUBLIC

§1644. Congressional declaration of purpose

It is the purpose of this subchapter to provide for the determination of the validity and amounts of outstanding claims against the German Democratic Republic which arose out of the nationalization, expropriation, or other taking of (or special measures directed against) property interests of nationals of the United States. This subchapter shall not be construed as authorizing or as any intention to authorize an appropriation by the United States for the purpose of paying such claims.

(Mar. 10, 1950, ch. 54, title VI, §600, as added Pub. L. 94–542, Oct. 18, 1976, 90 Stat. 2509.)

SEPARABILITY

Act Mar. 10, 1950, ch. 54, title VI, §614, as added by Pub. L. 94–542, Oct. 18, 1976, 90 Stat. 2512, provided that: "If any provisions of this Act [enacting this subchapter] or the application thereof to any person or circumstances shall be held invalid, the remainder of the Act or the application of such provision to other persons or circumstances shall not be affected."

AUTHORITY OF FOREIGN CLAIMS SETTLEMENT COMMISSION

Section 119 of H.R. 2076, One Hundred Fourth Congress, as passed by the House of Representatives on Dec. 6, 1995, and as enacted into law by Pub. L. 104–91, title I, §101(a), Jan. 6, 1996, 110 Stat. 11, as amended by Pub. L. 104–99, title II, §211, Jan. 26, 1996, 110 Stat. 37, provided that:

"(a) AUTHORITY OF THE FOREIGN CLAIMS SETTLEMENT COMMISSION.—The Foreign Claims Settlement Commission of the United States (the 'Commission') is authorized to receive and determine the validity and amount of claims by nationals of the United States against the Federal Republic of Germany covered by Article 2(2) of the Agreement Between the Government of the Federal Republic of Germany and the Government of the United States of America Concerning Final Benefits to Certain United States Nationals Who Were Victims of National Socialist Measures of Persecution, entered into force September 19, 1995 (the 'Agreement'). In deciding such claims, the Commission shall be guided by the criteria applied by the Department of State in determining the validity and amount of the claims covered by and settled under Article 2(1) of the Agreement.

"(b) APPLICATION OF OTHER LAWS.—Except to the extent inconsistent with the provisions of this section, the provisions of title I of the International Claims Settlement Act of 1949 (22 U.S.C. 1621 et sec. [sic]), except for section 7(b) (22 U.S.C. 1626(b)), shall apply with respect to claims under this section. Any reference in such provisions to 'this title' ['this subchapter'] shall be deemed to refer to those provisions and to this section.

"(c) CERTIFICATION AND PAYMENT.—

"(1) Not later than two years after the entry into force of the Agreement, the Commission shall certify to the Secretary of State, in writing, its determinations as to the validity and amount of the claims authorized for decision under subsection (a).

"(2) In the case of claims found to be compensable under subsection (a), the Commission shall certify the awards entered in the claims to the Secretary of the Treasury in accordance with section 5 of title I of the International Claims Settlement Act of 1949 (22 U.S.C. 1624). Such awards shall be paid in accordance with subsections (a) and (c)–(f) of section 7 of such title (22 U.S.C. 1626) out of a special fund established in accordance with section 8 of such title (22 U.S.C. 1627), following conclusion of the negotiations provided for in Article 2(2) of the Agreement.

"(d) CONFIDENTIALITY OF RECORDS.—Records pertaining to the claims received by the Commission pursuant to subsection (a) shall not be publicly disclosed and shall not be required to be disclosed pursuant to section 552 of title 5, United States Code.

"(e) SEPARABILITY.—If any provision of this section or the application thereof to any person or

circumstances is held invalid, the remainder of this section or the application of such provision to other persons or circumstances shall not be affected."

§1644a. Definitions

As used in this subchapter—

(1) The term "national of the United States" means—

(a) a natural person who is a citizen of the United States;

(b) a corporation or other legal entity which is organized under the laws of the United States or of any State, the District of Columbia, or the Commonwealth of Puerto Rico, if natural persons who are citizens of the United States own, directly or indirectly, 50 per centum or more of the outstanding capital stock or other beneficial interest of such corporation or entity. The term does not include aliens.

(2) The term "Commission" means the Foreign Claims Settlement Commission of the United States.

(3) The term "property" means any property, right, or interest, including any leasehold interest, and debts owed by enterprises which have been nationalized, expropriated, or taken by the German Democratic Republic for which no restoration or no adequate compensation has been made to the former owners of such property.

(4) The term "German Democratic Republic" includes the government of any political subdivision, agency, or instrumentality thereof or under its control.

(5) The term "Claims Fund" is the special fund established in the Treasury of the United States composed of such sums as may be paid to the United States by the German Democratic Republic pursuant to the terms of any agreement settling such claims that may be entered into by the Governments of the United States and the German Democratic Republic.

(Mar. 10, 1950, ch. 54, title VI, §601, as added Pub. L. 94–542, Oct. 18, 1976, 90 Stat. 2509.)

TRANSFER OF FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES AS SEPARATE AGENCY WITHIN DEPARTMENT OF JUSTICE

For provisions transferring Foreign Claims Settlement Commission of the United States as a separate agency within the Department of Justice, see section 1622a et seq. of this title.

§1644b. Receipt and determination of claims; notice by publication in Federal Register

The Commission shall receive and determine in accordance with applicable substantive law, including international law, the validity and amounts of claims by nationals of the United States against the German Democratic Republic for losses arising as a result of the nationalization, expropriation, or other taking of (or special measures directed against) property, including any rights or interests therein, owned wholly or partially, directly or indirectly, at the time by nationals of the United States whether such losses occurred in the German Democratic Republic or in East Berlin. Such claims must be submitted to the Commission within the period specified by the Commission by notice published in the Federal Register (which period shall not be more than twelve months after such publication) within sixty days after October 18, 1976, or of legislation making appropriations to the Commission for payment of administrative expenses incurred in carrying out its functions under this subchapter, whichever date is later.

(Mar. 10, 1950, ch. 54, title VI, §602, as added Pub. L. 94–542, Oct. 18, 1976, 90 Stat. 2510.)

§1644c. Ownership of claims by nationals

A claim shall not be favorably considered under section 1644b of this title unless the property

right on which it is based was owned, wholly or partially, directly or indirectly, by a national of the United States on the date of loss and if favorably considered, the claim shall be considered only if it has been held by one or more nationals of the United States continuously from the date that the loss occurred until the date of filing with the Commission.

(Mar. 10, 1950, ch. 54, title VI, §603, as added Pub. L. 94–542, Oct. 18, 1976, 90 Stat. 2510.)

§1644d. Claims based on ownership interest in or debt or other obligation owing by corporations or other legal entities

(a) Nationals of the United States; charge on property

A claim under section 1644b of this title based upon an ownership interest in any corporation, association, or other entity which is a national of the United States, shall not be considered. A claim under section 1644b of this title based upon a debt or other obligation owing by any corporation, association, or other entity organized under the laws of the United States, or of any State, the District of Columbia, or the Commonwealth of Puerto Rico shall be considered only when such debt or other obligation is a charge on property which has been nationalized, expropriated, or taken by the German Democratic Republic.

(b) Direct ownership

A claim under section 1644b of this title based upon a direct ownership interest in a corporation, association, or other entity for loss, shall be considered subject to the provisions of this subchapter, if such corporation, association or other entity on the date of the loss was not a national of the United States, without regard to the per centum of ownership vested in the claimant.

(c) Indirect ownership

A claim under section 1644b of this title for losses based upon an indirect ownership interest in a corporation, association, or other entity, shall be considered, subject to the other provisions of this subchapter, only if at least 25 per centum of the entire ownership interest thereof, at the time of such loss, was vested in nationals of the United States.

(d) Computation of award

The amount of any claim covered by subsections (b) or (c) of this section shall be calculated on the basis of the total loss suffered by such corporation, association, or other entity, and shall bear the same proportion to such loss as the ownership interest of the claimant at the time of loss bears to the entire ownership interest thereof.

(Mar. 10, 1950, ch. 54, title VI, §604, as added Pub. L. 94–542, Oct. 18, 1976, 90 Stat. 2510.)

§1644e. Offsets

In determining the amount of any claim, the Commission shall deduct all amounts the claimant has received from any source on account of the same loss or losses, including any amount claimant received under section 4132(a) of title 50, for losses which occurred as a direct consequence of special measures directed against such property in any area covered under this subchapter.

(Mar. 10, 1950, ch. 54, title VI, §605, as added Pub. L. 94–542, Oct. 18, 1976, 90 Stat. 2511.)

§1644f. Consolidated awards

With respect to any claim under section 1644b of this title which, at the time of the award, is vested in persons other than the person by whom the original loss was sustained, the Commission shall issue a consolidated award in favor of all claimants then entitled thereto, which award shall indicate the respective interests of such claimants therein, and all such claimants shall participate, in

proportion to their indicated interests, in any payments that may be made under this subchapter in all respects as if the award had been in favor of a single person.

(Mar. 10, 1950, ch. 54, title VI, §606, as added Pub. L. 94–542, Oct. 18, 1976, 90 Stat. 2511.)

§1644g. Claims Fund; establishment; deductions

(a) The Secretary of the Treasury is hereby authorized to establish in the Treasury of the United States a fund to be designated the Claims Fund as defined under section 1644a(5) of this title for the payment of unsatisfied claims of nationals of the United States against the German Democratic Republic as authorized in this subchapter.

(b) The Secretary of the Treasury shall deduct from any amounts covered into the Claims Fund, an amount equal to 5 per centum thereof as reimbursement to the Government of the United States for expenses incurred by the Commission and by the Treasury Department in the administration of this subchapter. The amounts so deducted shall be covered into the Treasury to the credit of miscellaneous receipts.

(Mar. 10, 1950, ch. 54, title VI, §607, as added Pub. L. 94–542, Oct. 18, 1976, 90 Stat. 2511.)

§1644h. Certification of amounts; priority of payments

(a) The Commission shall certify to the Secretary of the Treasury, in terms of United States currency, each award made pursuant to section 1644b of this title.

(b) Upon certification of such award, the Secretary of the Treasury is authorized and directed, out of the sums covered into the Claims Fund, to make payments on account of such awards as follows, and in the following order of priority:

(1) payment in full of the principal amount of each award of $1,000 or less;

(2) payment in the amount of $1,000 on account of the principal amount of each award of more than $1,000 in principal amount;

(3) thereafter, payments from time to time, in ratable proportions, on account of the unpaid balance of the principal amounts of all awards according to the proportions which the unpaid balance of such awards bear to the total amount in the fund available for distribution at the time such payments are made;

(4) after payment has been made in full of the principal amounts of all awards, pro rata payments may be made on account of any interest that may be allowed on such awards;

(5) payments or applications for payments shall be made in accordance with such regulations as the Secretary of the Treasury may prescribe.

(Mar. 10, 1950, ch. 54, title VI, §608, as added Pub. L. 94–542, Oct. 18, 1976, 90 Stat. 2511.)

§1644i. Time limitation on completion of affairs of Commission

The Commission shall complete its affairs in connection with the settlement of claims pursuant to this subchapter not later than three years following the final date for the filing of claims as provided in section 1644b of this title.

(Mar. 10, 1950, ch. 54, title VI, §609, as added Pub. L. 94–542, Oct. 18, 1976, 90 Stat. 2512.)

§1644j. Transfer of records

The Secretary of State is authorized and directed to transfer or otherwise make available to the Commission such records and documents relating to claims authorized by this subchapter as may be required by the Commission in carrying out its functions under this subchapter.

(Mar. 10, 1950, ch. 54, title VI, §610, as added Pub. L. 94–542, Oct. 18, 1976, 90 Stat. 2512.)

§1644k. Authorization of appropriations

There are hereby authorized to be appropriated such sums as may be necessary to enable the Commission and the Treasury Department of [1] pay their respective administrative expenses incurred in carrying out their functions under this subchapter.

(Mar. 10, 1950, ch. 54, title VI, §611, as added Pub. L. 94–542, Oct. 18, 1976, 90 Stat. 2512.)

[1] *So in original. Probably should be "to".*

§1644*l*. Fees for services; limitation; penalty

No remuneration on account of services rendered on behalf of any claimant, in connection with any claim filed with the Commission under this subchapter, shall exceed 10 per centum of the total amount paid pursuant to any award certified under the provisions of this subchapter on account of such claims. Any agreement to the contrary shall be unlawful and void. Whoever, in the United States or elsewhere demands or receives, on account of services so rendered, any remuneration in excess of the maximum permitted by this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than $5,000 or imprisoned not more than twelve months, or both.

(Mar. 10, 1950, ch. 54, title VI, §612, as added Pub. L. 94–542, Oct. 18, 1976, 90 Stat. 2512.)

§1644m. Applicability of administrative provisions of subchapter I

To the extent they are not inconsistent with the provisions of this subchapter, the following provisions of subchapter I of this chapter shall be applicable to this subchapter: subsections (b), (c), (d), (e), (h), and (j) of section 1623 of this title; subsections (c), (d), (e), and (f) of section 1626 of this title.

(Mar. 10, 1950, ch. 54, title VI, §613, as added Pub. L. 94–542, Oct. 18, 1976, 90 Stat. 2512.)

SUBCHAPTER VII—CLAIMS AGAINST VIETNAM

§1645. Congressional declaration of purpose

It is the purpose of this subchapter to provide for the determination of the validity and amounts of outstanding claims against Vietnam which arose out of the nationalization, expropriation, or other taking of (or special measures directed against) property of nationals of the United States. This subchapter shall not be construed as authorizing or as any intention to authorize an appropriation by the United States for the purpose of paying such claims.

(Mar. 10, 1950, ch. 54, title VII, §701, as added Pub. L. 96–606, Dec. 28, 1980, 94 Stat. 3534.)

§1645a. Definitions

As used in this subchapter—

(1) the term "National of the United States" means—

(A) a natural person who is a citizen of the United States; and

(B) a corporation or other legal entity which is organized under the laws of the United States

or of any State, the District of Columbia, or the Commonwealth of Puerto Rico, if natural persons who are citizens of the United States own, directly or indirectly, 50 per centum or more of the outstanding capital stock or other beneficial interest of such corporation or entity;

(2) the term "Commission" means the Foreign Claims Settlement Commission of the United States;

(3) the term "property" means—

(A) any property, right, or interest, including any leasehold interest,

(B) any debt owed by Vietnam or by any enterprise which has been nationalized, expropriated, or otherwise taken by Vietnam, and

(C) any debt which is a charge on property which has been nationalized, expropriated, or otherwise taken by Vietnam;

(4) the term "Vietnam" means—

(A) the Government of the Socialist Republic of Vietnam,

(B) any predecessor governing authority operating in South Vietnam on or after April 29, 1975, including the Provisional Revolutionary Government of South Vietnam,

(C) the Government of the former Democratic Republic of Vietnam, and

(D) any political subdivision, agency, or instrumentality of any of the entities referred to in subparagraphs (A), (B), and (C); and

(5) the term "Claims Fund" means the special fund established in the Treasury of the United States composed of such sums as may be paid to or realized by the United States pursuant to the terms of any agreement settling those claims described in section 1645b of this title that may be entered into between the Governments of the United States and Vietnam.

(Mar. 10, 1950, ch. 54, title VII, §702, as added Pub. L. 96–606, Dec. 28, 1980, 94 Stat. 3534.)

§1645b. Receipt and determination of claims; notice by publication in Federal Register

The Commission shall receive and determine in accordance with applicable substantive law, including international law, the validity and amounts of claims by nationals of the United States against Vietnam arising on or after April 29, 1975, for losses incurred as a result of the nationalization, expropriation, or other taking of (or special measures directed against) property which, at the time of such nationalization, expropriation, or other taking, was owned wholly or partially, directly or indirectly, by nationals of the United States to whom no restoration or adequate compensation for such property has been made. Such claims must be submitted to the Commission within the period specified by the Commission by notice published in the Federal Register (which period shall not be more than a period of two years beginning on the date of such publication) within sixty days after December 28, 1980, or of legislation making appropriations to the Commission for payment of administrative expenses incurred in carrying out its functions under this subchapter, whichever date is later.

(Mar. 10, 1950, ch. 54, title VII, §703, as added Pub. L. 96–606, Dec. 28, 1980, 94 Stat. 3535.)

§1645c. Ownership of claims by nationals

A claim may be favorably considered under section 1645b of this title only if the property right on which it is based was owned, wholly or partially, directly or indirectly, by a national of the United States on the date of loss and only to the extent that the claim has been held by one or more nationals of the United States continuously from the date that the loss occurred until the date of filing with the Commission.

(Mar. 10, 1950, ch. 54, title VII, §704, as added Pub. L. 96–606, Dec. 28, 1980, 94 Stat. 3535.)

§1645d. Claims based on ownership interest in or debt or other obligation owing by corporations or other legal entities

(a) Nationals of United States; charge on property

A claim under section 1645b of this title based upon an ownership interest in any corporation, association, or other entity which is a national of the United States may not be considered. A claim under section 1645b of this title based upon a debt or other obligation owing by any corporation, association, or other entity organized under the laws of the United States, or of any State, the District of Columbia, or the Commonwealth of Puerto Rico may be considered only if such debt or other obligation is a charge on property which has been nationalized, expropriated, or otherwise taken by Vietnam.

(b) Direct ownership

A claim under section 1645b of this title based upon a direct ownership interest in a corporation, association, or other entity may be considered, subject to the other provisions of this subchapter, if such corporation, association, or other entity on the date of the loss was not a national of the United States, without regard to the per centum of ownership vested in the claimant.

(c) Indirect ownership

A claim under section 1645b of this title based upon an indirect ownership interest in a corporation, association, or other entity may be considered, subject to the other provisions of this subchapter, only if at least 25 per centum of the entire ownership interest thereof, at the time of such loss, was vested in nationals of the United States or if, at the time of the loss, nationals of the United States in fact controlled the corporation, association, or entity, as determined by the Commission.

(d) Computation of award

The amount of any claim covered by subsection (b) or (c) of this section shall be calculated on the basis of the total loss suffered by the corporation, association, or other entity, with respect to which the claim is made, and shall bear the same proportion to such loss as the ownership interest of the claimant at the time of loss bears to the entire ownership interest thereof.

(Mar. 10, 1950, ch. 54, title VII, §705, as added Pub. L. 96–606, Dec. 28, 1980, 94 Stat. 3535.)

§1645e. Offsets

In determining the amount of any claim under this subchapter, the Commission shall deduct all amounts the claimant has received from any source on account of the same loss or losses for which the claim is filed.

(Mar. 10, 1950, ch. 54, title VII, §706, as added Pub. L. 96–606, Dec. 28, 1980, 94 Stat. 3536.)

§1645f. Certifications; assigned claims

(a) The Commission shall certify to each claimant who files a claim under this subchapter the amount determined by the Commission to be the loss suffered by the claimant which is covered by this subchapter. The Commission shall certify to the Secretary of State such amount and the basic information underlying that amount, together with a statement of the evidence relied upon and the reasoning employed in making that determination.

(b) In any case in which a claim under this subchapter is assigned by purchase before the Commission determines the amount due on that claim, the amount so determined shall not exceed the amount of actual consideration paid by the last such assignee.

(Mar. 10, 1950, ch. 54, title VII, §707, as added Pub. L. 96–606, Dec. 28, 1980, 94 Stat. 3536.)

§1645g. Consolidated awards

With respect to any claim under section 1645b of this title which, at the time of the award, is vested in persons other than the person by whom the original loss was sustained, the Commission shall issue a consolidated award in favor of all claimants then entitled to the award, which award shall indicate the respective interests of such claimants in the award, and all such claimants shall participate, in proportion to their indicated interests, in any payments that may be made under this subchapter in all respects as if the award had been in favor of a single person.

(Mar. 10, 1950, ch. 54, title VII, §708, as added Pub. L. 96–606, Dec. 28, 1980, 94 Stat. 3536.)

§1645h. Claims Fund; establishment; deductions

(a) The Secretary of the Treasury may establish in the Treasury of the United States the Claims Fund for the payment of unsatisfied claims of nationals of the United States against Vietnam, as authorized by this subchapter.

(b) The Secretary of the Treasury shall deduct from any amounts covered into the Claims Fund an amount equal to 5 per centum thereof as reimbursement to the Government of the United States for expenses incurred by the Commission and by the Treasury Department in the administration of this subchapter. The amounts so deducted shall be covered into the Treasury as miscellaneous receipts.

(Mar. 10, 1950, ch. 54, title VII, §709, as added Pub. L. 96–606, Dec. 28, 1980, 94 Stat. 3536.)

§1645i. Award payment procedures

(a) Certification of amounts

The Commission shall certify to the Secretary of the Treasury, in terms of United States currency, each award made pursuant to section 1645b of this title.

(b) Priority of payments

(1) Upon certification of each award made pursuant to section 1645b of this title, the Secretary of the Treasury shall, out of the sums covered into the Claims Fund, make payments on account of such awards as follows, and in the following order of priority:

(A) Payment in the amount of $2,500 or the principal amount of the award, whichever is less.

(B) Thereafter, payments from time to time, in ratable proportions, on account of the unpaid balance of the principal amounts of all awards according to the proportions which the unpaid balance of such awards bear to the total amount in the Claims Fund available for distribution at the time such payments are made.

(2) After payment has been made in full of the principal amounts of all awards pursuant to paragraph (1), pro rata payments may be made on account of any interest that may be allowed on such awards.

(c) Regulations

Payments or applications for payments under subsection (b) shall be made in accordance with such regulations as the Secretary of the Treasury may prescribe.

(Mar. 10, 1950, ch. 54, title VII, §710, as added Pub. L. 96–606, Dec. 28, 1980, 94 Stat. 3537.)

§1645j. Settlement period

The Commission shall complete its affairs in connection with the settlement of claims pursuant to

this subchapter not later than three years after the final date for the filing of claims as provided in section 1645b of this title.

(Mar. 10, 1950, ch. 54, title VII, §711, as added Pub. L. 96–606, Dec. 28, 1980, 94 Stat. 3537.)

§1645k. Transfer of records

The Secretary of State, the Secretary of the Treasury, and the Secretary of Defense shall transfer or otherwise make available to the Commission such records and documents relating to claims authorized by this subchapter as may be required by the Commission in carrying out its functions under this subchapter.

(Mar. 10, 1950, ch. 54, title VII, §712, as added Pub. L. 96–606, Dec. 28, 1980, 94 Stat. 3537.)

§1645*l*. Authorization of appropriations

There are authorized to be appropriated for any fiscal year beginning on or after October 1, 1980, such sums as may be necessary to enable the Commission and the Treasury Department to pay their respective administrative expenses incurred in carrying out their functions under this subchapter. Amounts appropriated under this section may remain available until expended.

(Mar. 10, 1950, ch. 54, title VII, §713, as added Pub. L. 96–606, Dec. 28, 1980, 94 Stat. 3537.)

§1645m. Fees for services; limitation; penalty

No remuneration on account of services rendered on behalf of any claimant, in connection with any claim filed with the Commission under this subchapter, shall exceed 10 per centum of the total amount paid pursuant to any award certified under the provisions of this subchapter on account of such claim. Any agreement to the contrary shall be unlawful and void. Whoever, in the United States or elsewhere, demands or receives, on account of services so rendered, any remuneration in excess of the maximum permitted by this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $5,000 or imprisoned not more than twelve months, or both.

(Mar. 10, 1950, ch. 54, title VII, §714, as added Pub. L. 96–606, Dec. 28, 1980, 94 Stat. 3537.)

§1645n. Applicability of other statutory provisions

(a) To the extent they are not inconsistent with the provisions of this subchapter, the following provisions of subchapter I of this chapter shall be applicable to this subchapter; subsections (b), (c), (d), (e), and (h) of section 1623 of this title and subsections (c), (d), (e), and (f) of section 1626 of this title. Any reference in such provisions to "this subchapter" shall be deemed to be a reference to those provisions and to this subchapter.

(b) Except as otherwise provided in this subchapter and in those provisions of subchapter I referred to in subsection (a), the Commission shall comply with the provisions of subchapter II of chapter 5, and the provisions of chapter 7, of title 5.

(Mar. 10, 1950, ch. 54, title VII, §715, as added Pub. L. 96–606, Dec. 28, 1980, 94 Stat. 3538.)

§1645*o*. Separability

If any provision of this subchapter or the application thereof to any person or circumstances is held invalid, the remainder of this subchapter or the application of such provision to other persons or circumstances shall not be affected.

(Mar. 10, 1950, ch. 54, title VII, §716, as added Pub. L. 96–606, Dec. 28, 1980, 94 Stat. 3538.)

CHAPTER 21A—SETTLEMENT OF INVESTMENT DISPUTES

Sec.
1650. Appointments of representatives and panel members under Convention on the Settlement of Investment Disputes.
1650a. Arbitration awards under the Convention.

§1650. Appointments of representatives and panel members under Convention on the Settlement of Investment Disputes

The President may make such appointments of representatives and panel members as may be provided for under the convention.

(Pub. L. 89–532, §2, Aug. 11, 1966, 80 Stat. 344.)

REFERENCES IN TEXT

The convention, referred to in text, is the Convention on the Settlement of Investment Disputes Between States and Nationals of Other States which was signed on Aug. 27, 1965, approved by the Senate on May 16, 1966, and ratified by the President on June 1, 1966.

SHORT TITLE

Pub. L. 89–532, §1, Aug. 11, 1966, 80 Stat. 344, provided: "That this Act [enacting this chapter] may be cited as the 'Convention on the Settlement of Investment Disputes Act of 1966'."

§1650a. Arbitration awards under the Convention

(a) Treaty rights; enforcement; full faith and credit; nonapplication of Federal Arbitration Act

An award of an arbitral tribunal rendered pursuant to chapter IV of the convention shall create a right arising under a treaty of the United States. The pecuniary obligations imposed by such an award shall be enforced and shall be given the same full faith and credit as if the award were a final judgment of a court of general jurisdiction of one of the several States. The Federal Arbitration Act (9 U.S.C. 1 et seq.) shall not apply to enforcement of awards rendered pursuant to the convention.

(b) Jurisdiction; amount in controversy

The district courts of the United States (including the courts enumerated in section 460 of title 28) shall have exclusive jurisdiction over actions and proceedings under subsection (a) of this section, regardless of the amount in controversy.

(Pub. L. 89–532, §3, Aug. 11, 1966, 80 Stat. 344.)

REFERENCES IN TEXT

Chapter IV of the convention, referred to in subsec. (a), contains the Arbitration provisions of the Convention on the Settlement of Investment Disputes Between States and Nationals of Other States, providing in Section 1 (Art. 36) for Request for Arbitration, Section 2 (Arts. 37 to 40) for Constitution of the Tribunal, Section 3 (Arts. 41 to 47) for powers and functions of the tribunal, Section 4 (Arts. 48, 49) for The Award, Section 5 (Arts. 50 to 52) for interpretation, revision and annulment of the award, and Section 6 (Arts. 53 to 55) for recognition and enforcement of the award.

The Federal Arbitration Act, referred to in subsec. (a), is classified generally to Title 9, Arbitration.

CHAPTER 22—MUTUAL SECURITY ASSISTANCE

SUBCHAPTER I—ORGANIZATION AND GENERAL PROVISIONS

§§1651 to 1675p. Repealed. Aug. 26, 1954, ch. 937, title V, §542(a)(9)–(11), 68 Stat. 861

Section 1651, acts Oct. 10, 1951, ch. 479, §2, 65 Stat. 373; June 20, 1952, ch. 449, §2, 66 Stat. 141. related to Congressional declaration of purpose.

Section 1652, acts Oct. 10, 1951, ch. 479, title V, §501(a)–(d), 65 Stat. 377; June 20, 1952, ch. 449, §7(b), 66 Stat. 143, related to uniform program for military, economic, and technical assistance.

Section 1653, act Oct. 10, 1951, ch. 479, title V, §502, 65 Stat. 378, related to administration.

Section 1654, acts Oct. 10, 1951, ch. 479, title V, §503, 65 Stat. 378; June 20, 1952, ch. 449, §7(c), 66 Stat. 144, related to additional primary responsibilities of director.

Section 1655, acts Oct. 10, 1951, ch. 479, title V, §504, 65 Stat. 379; June 20, 1952, ch. 449, §7(d)–(f), 66 Stat. 144, related to other agency personnel.

Section 1656, act Oct. 10, 1951, ch. 479, title V, §505, 65 Stat. 379, provided that powers of Secretary of State shall be unaffected by this chapter. See section 2382 of this title.

Section 1657, acts Oct. 10, 1951, ch. 479, title V, §506, 65 Stat. 379; June 20, 1952, ch. 449, §7(g), 66 Stat. 145, related to duties of Secretary of Defense. See section 2383 of this title.

Section 1658, act Oct. 10, 1951, ch. 479, title V, §507, 65 Stat. 380, related to coordination among representatives overseas. See section 2382 of this title.

Section 1659, act Oct. 10, 1951, ch. 479, title V, §508, 65 Stat. 380, provided that other laws shall be unaffected by this chapter.

Section 1660, act Oct. 10, 1951, ch. 479, title V, §509, 65 Stat. 380, related to detail of personnel to foreign governments and international organizations. See sections 2387 and 2388 of this title.

Section 1661, acts Oct. 10, 1951, ch. 479, title V, §510, 65 Stat. 381; Apr. 5, 1952, ch. 159, §1, 66 Stat. 43, related to loyalty and security investigation of employees.

Section 1662, acts Oct. 10, 1951, ch. 479, title V, §511, 65 Stat. 381; June 20, 1952, ch. 449, §7(h), 66 Stat. 145, related to eligibility of nations for assistance and cooperative action requirements.

Section 1663, act Oct. 10, 1951, ch. 479, title V, §512, 65 Stat. 382, related to future appropriation authorizations.

Section 1664, acts Oct. 10, 1951, ch. 479, title V, §513, 65 Stat. 382; June 20, 1952, ch. 449, §7(i), 66 Stat. 145; July 16, 1953, ch. 195, ch. VII, §§701(c), 706(b), 67 Stat. 155, 158, related to transferability of appropriations under this chapter and special use of funds. See section 2360 of this title.

Section 1665, acts Oct. 10, 1951, ch. 479, title V, §514, 65 Stat. 382; June 20, 1952, ch. 449, §7(j), 66 Stat. 146; July 16, 1953, ch. 195, ch. IV, §402, 67 Stat. 154, related to procurement and stimulation of production of strategic materials and appropriation.

Section 1666, act Oct. 10, 1951, ch. 479, title V, §515, 65 Stat. 382, related to protection of funds against attachment.

Section 1667, acts Oct. 10, 1951, ch. 479, title V, §516, 65 Stat. 382; June 20, 1952, ch. 449, §7(k), 66 Stat. 146; July 16, 1953, ch. 195, ch. VII, §710(a)(1), (2), 67 Stat. 161, related to encouragement of free enterprise and foreign investment, cooperation by agencies and departments, and reports. See section 2351 of this title.

Section 1668, act Oct. 10, 1951, ch. 479, title V, §518, 65 Stat. 383, related to patents and technical information. See section 2356 of this title.

Section 1669, act Oct. 10, 1951, ch. 479, title V, §518, 65 Stat. 383, required the President to transmit reports to Congress. See section 2394 of this title.

Section 1670, acts Oct. 10, 1951, ch. 479, title V, §519, 65 Stat. 383; June 20, 1952, ch. 449, §7(l), 66 Stat. 146, related to local currencies.

Section 1671, acts Oct. 10, 1951, ch. 479, title V, §520, 65 Stat. 384; July 16, 1953, ch. 195, ch. VII, §706(c), 67 Stat. 158, related to use of certain funds for investment guaranties. See section 2351 of this title.

Section 1672, acts Oct. 10, 1951, ch. 479, title V, §521, 65 Stat. 384; July 16, 1953, ch. 195, ch. VII, §706(f)(1), 67 Stat. 158, related to use of funds for acquisition of collective defense facilities and administrative expenses.

Section 1673, act Oct. 10, 1951, ch. 479, title V, §524, 65 Stat. 385, related to return of equipment and material to United States and its disposition. See section 2355 of this title.

Section 1674, act Oct. 10, 1951, ch. 479, title V, §529, 65 Stat. 386, related to termination of assistance by President. See section 2367 of this title.

Section 1675, acts Oct. 10, 1951, ch. 479, title V, §529, 65 Stat. 386; July 16, 1953, ch. VII, §706(d), 67

Stat. 158, related to expiration of program. See section 2367 of this title.

Section 1675a, act Oct. 10, 1951, ch. 479, title V, §532, as added June 20, 1952, ch. 449, §7(m), 66 Stat. 146, related to exemptions from contract, accounting and certain other laws. See section 2393 of this title.

Section 1675b, act Oct. 10, 1951, ch. 479, title V, §533, as added June 20, 1952, ch. 449, §7(m), 66 Stat. 146, related to employment of retired officers. See section 2386 of this title.

Section 1675c, act Oct. 10, 1951, ch. 479, title V, §534, as added June 20, 1952, ch. 449, §7(m), 66 Stat. 146; amended July 16, 1953, ch. 195, ch. VI, §601, 67 Stat. 145, related to authorization of appropriations for movement of migrants. See section 2601 of this title.

Section 1675d, act Oct. 10, 1951, ch. 479, title V, §535, as added June 20, 1952, ch. 449, §7(m), 66 Stat. 146; amended July 16, 1953, ch. 195, ch. VI, §604, 67 Stat. 155, related to authority to pay ocean freight charges on relief packages.

Section 1675e, act Oct. 10, 1951, ch. 479, title V, §536, as added June 20, 1952, ch. 449, §7(m), 66 Stat. 146, related to authority to make informational media guaranties.

Section 1675f, act Oct. 10, 1951, ch. 479, title V, §537, as added June 20, 1952, ch. 449, §7(m), 66 Stat. 146, related to limitations on the use of propaganda funds.

Section 1675g, act Oct. 10, 1951, ch. 479, title V, §538(a), (b), as added June 20, 1952, ch. 449, §7(m), 66 Stat. 146, related to participation of small business in the furnishing of commodities and services and continuation of the Office of Small Business. See section 2352 of this title.

Section 1675h, act Oct. 10, 1951, ch. 479, title V, §539, as added June 20, 1952, ch. 449, §7(m), 66 Stat. 146, related to limitation on the use of counterpart funds.

Section 1675i, act Oct. 10, 1951, ch. 479, title V, §540, as added July 16, 1953, ch. 195, ch. I, §101, 67 Stat. 152, related to appropriations for military assistance generally.

Section 1675j, act Oct. 10, 1951, ch. 479, title V, §541, as added July 16, 1953, ch. 195, ch. II, §201(a), 67 Stat. 152, related to appropriations for defense, economic, and technical assistance to Europe, Nationalist China, and French Indo-China.

Section 1675k, act Oct. 10, 1951, ch. 479, title V, §542, as added July 16, 1953, ch. 195, ch. III, §301, 67 Stat. 153, related to appropriations for furnishing special weapons and determinations by President with respect to such weapons.

Section 1675l, act Oct. 10, 1951, ch. 479, title V, §543, as added July 16, 1953, ch. 195, ch. IV, §401, 67 Stat. 153, related to appropriations for defense, economic, and technical assistance in the Near East, Africa, Far East, and American Republics.

Section 1675m, act Oct. 10, 1951, ch. 479, title V, §546, as added July 16, 1953, ch. 195, ch. VII, §702, 67 Stat. 156, related to availability of unexpended balances. See section 2404 of this title.

Section 1675n, act Oct. 10, 1951, ch. 479, title V, §547, as added July 16, 1953, ch. 195, ch. VII, §706(e), 67 Stat 158, related to use of funds in economically underdeveloped areas.

Section 1675o, act Oct. 10, 1951, ch. 479, title V, §548, as added July 16, 1953, ch. 195, ch. VII, §706(f)(2), 67 Stat. 159, related to increases in authorized amounts and use of foreign currency.

Section 1675p, act Oct. 10, 1951, ch. 479, title V, §550, as added July 16, 1953, ch. 195, ch. VII, §706(h), 67 Stat. 159, related to surplus agricultural commodities. See sections 1701 and 1704 of Title 7, Agriculture.

See section 2151 et seq. of this title.

SUBCHAPTER II—EUROPE; APPROPRIATIONS

§§1681, 1682. Repealed. Aug. 26, 1954, ch. 937, title V, §542(a)(9)–(11), 68 Stat. 861

Section 1681, acts Oct. 10, 1951, ch. 479, title I, §101, 65 Stat. 373; June 20, 1952, ch. 449, §3, 66 Stat. 141; July 16, 1953, ch. 195, ch. VII, §§701(a), 703, 67 Stat. 155, 156, related to authorizations: amount, countries included; transfers between appropriations, notice to Congressional committees; and aid to Spain.

Section 1682, act Oct. 10, 1951, ch. 479, title V, §102, as added July 16, 1953, ch. 195, ch. II, §201(b), 67 Stat. 153, related to authorization for manufacture of military equipment in France and the United Kingdom.

See section 2151 et seq. of this title.

SUBCHAPTER III—NEAR EAST AND AFRICA; APPROPRIATIONS

§§1691 to 1697. Repealed. Aug. 26, 1954, ch. 937, title V, §542(a)(9)–(11), 68 Stat. 861

Section 1691, acts Oct. 10, 1951, ch. 479, title II, §201, 65 Stat. 374; June 20, 1952, ch. 449, §4(a), 66 Stat. 142, related to military assistance to Greece, Turkey and Iran, and authorization of amount.

Section 1692, acts Oct. 10, 1951, ch. 479, title II, §202, 65 Stat. 375; July 16, 1953, ch. 195, ch. VII, §§701(b), 704, 67 Stat. 155, 156, related to other assistance in area of Near East and Africa and amount available.

Section 1693, acts Oct. 10, 1951, ch. 479, title II, §203, 65 Stat. 375; June 20, 1952, ch. 449, §4(b), 66 Stat. 142, related to economic and technical assistance and authorization of amount.

Section 1694, act Oct. 10, 1951, ch. 479, title II, §204, 65 Stat. 375, related to aid to Palestine refugees and amount available.

Section 1695, act Oct. 10, 1951, ch. 479, title II, §205, 65 Stat. 375, related to aid to refugees coming into Israel and amount available.

Section 1696, act Oct. 10, 1951, ch. 479, title II, §206, as added June 20, 1952, ch. 449, §4(c), 66 Stat. 142; amended July 16, 1953, ch. 195, ch. V, §501, 67 Stat. 154, related to special economic assistance.

Section 1697, act Oct. 10, 1951, ch. 479, title V, §549, as added July 16, 1953, ch. 195, ch. VII, §706(g), 67 Stat. 159, related to making of a survey of refugee situation in Near East, report and recommendations.

See section 2151 et seq. of this title.

SUBCHAPTER IV—ASIA AND PACIFIC; APPROPRIATIONS

§§1701 to 1705. Repealed. Aug. 26, 1954, ch. 937, title V, §542(a)(9)–(11), 68 Stat. 861

Section 1701, acts Oct. 10, 1951, ch. 479, title III, §301, 65 Stat. 375; June 20, 1952, ch. 449, §5(a), 66 Stat. 142, related to authorization of amount for military assistance in general area of China, and Republics of Philippines and Korea.

Section 1702, acts Oct. 10, 1951, ch. 479, title III, §302(a), 65 Stat. 376; June 20, 1952, ch. 449, §5(b), 66 Stat. 142; July 16, 1953, ch. 195, ch. VII, §705, 67 Stat. 156, related to authorization of amount for economic and technical assistance in general area of China and Republics of Philippines and Korea.

Section 1703, acts Oct. 10, 1951, ch. 579, title III, §303, 65 Stat. 376; June 20, 1952, ch. 449, §5(d)–(g), 66 Stat. 143; July 16, 1953, ch. 195, ch. VI, §605, 67 Stat. 155, related to rehabilitation of Korea.

Section 1704, act Oct. 10, 1951, ch. 479, title III, §304, as added July 16, 1953, ch. 195, ch. II, §201(c), 67 Stat. 153, related to authorization of amount for aid to forces of French Indo-China.

Section 1705, act Oct. 10, 1951, ch. 479, title III, §302(b), as added July 16, 1953, ch. 195, ch. V, §502, 67 Stat. 154, related to authorization of amount for economic assistance to India and Pakistan.

See section 2151 et seq. of this title.

SUBCHAPTER V—AMERICAN REPUBLICS AND NON-SELF-GOVERNING TERRITORIES OF THE WESTERN HEMISPHERE

§§1711 to 1713. Repealed. Aug. 26, 1954, ch. 937, title V, §542(a)(9), (10), 68 Stat. 861

Section 1711, act Oct. 10, 1951, ch. 479, title IV, §401, 65 Stat. 377, related to authorization of amount for military assistance.

Section 1712, acts Oct. 10, 1951, ch. 479, title IV, §402, 65 Stat. 377; June 20, 1952, ch. 449, §6, 66 Stat. 143, related to authorization of amount for technical assistance.

Section 1713, act Oct. 10, 1951, ch. 479, title IV, §403, as added June 20, 1952, ch. 449, §6, 66 Stat. 143, related to additional appropriations for Latin American countries

See section 2151 et seq. of this title.

CHAPTER 23—PROTECTION OF CITIZENS ABROAD

Sec.

1731. Protection to naturalized citizens abroad.
1732. Release of citizens imprisoned by foreign governments.
1733. Interagency Hostage Recovery Coordinator.

EX. ORD. NO. 13698. HOSTAGE RECOVERY ACTIVITIES

Ex. Ord. No. 13698, June 24, 2015, 80 F.R. 37131, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, I hereby direct as follows:

SECTION 1. *Purpose*. The 21st century has witnessed a significant shift in hostage-takings by terrorist organizations and criminal groups abroad. Hostage-takers frequently operate in unstable environments that challenge the ability of the United States Government and its partners and allies to operate effectively. Increasingly, hostage-takers target private citizens—including journalists and aid workers—as well as Government officials. They also utilize increasingly sophisticated networks and tactics to derive financial, propaganda, and recruitment benefits from hostage-taking operations. The United States is committed to securing the safe recovery of U.S. nationals held hostage abroad and deterring future hostage-takings by denying hostage-takers any benefits from their actions. Because such hostage-takings pose unique challenges, the United States Government must be organized and work in a coordinated effort to use all instruments of national power to achieve these goals, consistent with the United States Government's no concessions policy. Establishing a single United States Government operational body to coordinate all efforts for the recovery of U.S. nationals taken hostage abroad, with policy guidance coordinated through the National Security Council, will increase the likelihood of a successful recovery, allow for enhanced support to hostages and their families, promote foreign policy and national security interests abroad, and enhance the prospects of successful criminal prosecutions of hostage-takers. Dedicating a senior diplomatic representative to operate in support of this coordinated effort will further enhance the potential for the safe recovery of hostages.

SEC. 2. *Establishment and Responsibilities of the Hostage Recovery Fusion Cell*. (a) The Attorney General, acting through the Director of the Federal Bureau of Investigation (FBI), shall establish within the FBI for administrative purposes an interagency Hostage Recovery Fusion Cell (HRFC).

(b) The following executive departments, agencies, and offices (agencies) shall participate in the HRFC:

(i) the Department of State;

(ii) the Department of the Treasury;

(iii) the Department of Defense;

(iv) the Department of Justice;

(v) the Office of the Director of National Intelligence;

(vi) the FBI;

(vii) the Central Intelligence Agency; and

(viii) other agencies as the President or the Attorney General, acting through the Director of the FBI, from time to time, may designate.

(c) The HRFC shall have a Director, who shall be a full-time senior officer or employee of, or detailed to, the FBI. The HRFC shall also have a Family Engagement Coordinator and other officers or employees as appropriate. The head of each participating agency shall, to the extent permitted by law, make available for assignment or detail to the HRFC such personnel as the Attorney General, acting through the Director of the FBI and after consultation with the head of the agency, may request. Such personnel so detailed or assigned will operate utilizing the clearances provided by their respective agencies.

(d) The HRFC shall coordinate efforts by participating agencies to ensure that all relevant information, expertise, and resources are brought to bear to secure the safe recovery of U.S. nationals held hostage abroad. The HRFC may also be tasked with coordinating the United States Government's response to other hostage-takings occurring abroad in which the United States has a national interest, as specifically referred to the HRFC by the Deputies Committee, as established in Presidential Policy Directive 1 of February 13, 2009

(Organization of the National Security Council System), or any successor. Pursuant to policy guidance coordinated through the National Security Council, the HRFC shall:

(i) identify and recommend hostage recovery options and strategies to the President through the National Security Council;

(ii) coordinate efforts by participating agencies to ensure that information regarding hostage events, including potential recovery options and engagements with families and external actors (including foreign governments), is appropriately shared within the United States Government to facilitate a coordinated response to a hostage-taking;

(iii) assess and track all hostage-takings of U.S. nationals abroad and provide regular reports to the President through the National Security Council on the status of such cases and any measures being taken toward the hostages' safe recovery;

(iv) provide a forum for intelligence sharing and, with the support of the Director of National Intelligence, coordinate the declassification of relevant information;

(v) coordinate efforts by participating agencies to provide appropriate support and assistance to hostages and their families in a coordinated and consistent manner and to provide families with timely information regarding significant events in their cases;

(vi) make recommendations to agencies in order to reduce the likelihood of U.S. nationals being taken hostage abroad and enhance United States Government preparation to maximize the probability of a favorable outcome following a hostage-taking; and

(vii) coordinate with agencies regarding congressional, media, and other public inquiries pertaining to hostage events.

SEC. 3. *Establishment of the Hostage Response Group*. (a) There shall be a Hostage Response Group (HRG) chaired by the Special Assistant to the President and Senior Director for Counterterrorism, to be convened on a regular basis and as needed at the request of the National Security Council to further the safe recovery of U.S. nationals held abroad. The HRG may also be tasked with coordinating the United States Government response to other hostage-takings occurring abroad in which the United States has a national interest, as specifically referred to the HRFC by the Deputies Committee.

(b) The regular members of the HRG shall include the Director of the HRFC, the HRFC's Family Engagement Coordinator, and senior representatives from the Department of State, Department of the Treasury, Department of Defense, Department of Justice, FBI, Office of the Director of National Intelligence, and other agencies as the President, from time to time, may designate.

(c) The HRG, in support of the Deputies Committee chaired by the Assistant to the President for Homeland Security and Counterterrorism, and consistent with the process outlined in Presidential Policy Directive 1 or any successor, shall:

(i) identify and recommend hostage recovery options and strategies to the President through the National Security Council, as consistent with Presidential Policy Directive 30 of June 24, 2015 (U.S. Nationals Taken Hostage Abroad and Personnel Recovery Efforts);

(ii) coordinate the development and implementation of U.S. hostage recovery policies, strategies, and procedures, consistent with the policies set forth in Presidential Policy Directive 30;

(iii) receive regular updates from the HRFC on the status of U.S. nationals being held hostage abroad and measures being taken to effect the hostages' safe recovery;

(iv) coordinate the provision of policy guidance to the HRFC, including reviewing recovery options proposed by the HRFC and working to resolve disputes within the HRFC; and

(v) where higher-level guidance is required, make recommendations to the Deputies Committee.

SEC. 4. *Establishment of the Special Presidential Envoy for Hostage Affairs*. (a) There shall be a Special Presidential Envoy for Hostage Affairs (Special Envoy), appointed by the President, who shall report to the Secretary of State.

(b) The Special Envoy shall:

(i) lead diplomatic engagement on U.S. hostage policy;

(ii) coordinate all diplomatic engagements in support of hostage recovery efforts, in coordination with the HRFC and consistent with policy guidance communicated through the HRG;

(iii) coordinate with the HRFC proposals for diplomatic engagements and strategy in support of hostage recovery efforts;

(iv) provide senior representation from the Special Envoy's office to the HRFC and in the HRG; and

(v) in coordination with the HRFC as appropriate, coordinate diplomatic engagements regarding cases in which a foreign government confirms that it has detained a U.S. national but the United States Government regards such detention as unlawful or wrongful.

SEC. 5. *Reporting*. (a) Within 180 days of the date of this order, the HRG shall provide a status report to the

Assistant to the President for Homeland Security and Counterterrorism on the establishment of the HRFC and its implementation of policy guidance communicated through the HRG.

(b) Within 1 year of the date of this order, the Director of the National Counterterrorism Center, in consultation with the Secretary of State, Secretary of Defense, Attorney General, and Director of the FBI, shall provide a status report to the Assistant to the President for Homeland Security and Counterterrorism on the implementation of this order. That report shall be informed by consultation with stakeholders outside of the United States Government, including former hostages and hostages' families, and shall, to the extent possible, be made available to the public.

SEC. 6. *Definition*. For purposes of this order, the term "U.S. national" means: (a) a U.S. national as defined in either 8 U.S.C. 1101(a)(22) or 8 U.S.C. 1408; or (b) a lawful permanent resident alien with significant ties to the United States.

SEC. 7. *General Provisions*. (a) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(b) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law, regulation, Executive Order, or Presidential Directive to any executive department, agency, or head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA.

§1731. Protection to naturalized citizens abroad

All naturalized citizens of the United States while in foreign countries are entitled to and shall receive from this Government the same protection of persons and property which is accorded to native-born citizens.

(R.S. §2000.)

CODIFICATION

R.S. §2000 derived from Act July 27, 1868, ch. 249, §2, 15 Stat. 224.

Section was formerly classified to section 903a of Title 8, Aliens and Nationality.

EQUITABLE TREATMENT BY UNITED STATES OF ITS CITIZENS LIVING ABROAD

Pub. L. 95–426, title VI, §611, Oct. 7, 1978, 92 Stat. 989, as amended by Pub. L. 96–60, title IV, §407, Aug. 15, 1979, 93 Stat. 405; Pub. L. 97–241, title V, §505(a)(2), (b)(1), Aug. 24, 1982, 96 Stat. 299, provided that: "The Congress finds that—

"(1) United States citizens living abroad should be provided fair and equitable treatment by the United States Government with regard to taxation, citizenship of progeny, veterans' benefits, voting rights, Social Security benefits, and other obligations, rights, and benefits; and

"(2) United States statutes and regulations should be designed so as not to create competitive disadvantage for individual American citizens living abroad or working in international markets."

§1732. Release of citizens imprisoned by foreign governments

Whenever it is made known to the President that any citizen of the United States has been unjustly deprived of his liberty by or under the authority of any foreign government, it shall be the duty of the President forthwith to demand of that government the reasons of such imprisonment; and if it appears to be wrongful and in violation of the rights of American citizenship, the President shall forthwith demand the release of such citizen, and if the release so demanded is unreasonably delayed or refused, the President shall use such means, not amounting to acts of war and not otherwise prohibited by law, as he may think necessary and proper to obtain or effectuate the release; and all the facts and proceedings relative thereto shall as soon as practicable be communicated by the President to Congress.

(R.S. §2001; Pub. L. 101–222, §9, Dec. 12, 1989, 103 Stat. 1900.)

CODIFICATION

R.S. §2001 derived from act July 27, 1868, ch. 249, §3, 15 Stat. 224.
Section was formerly classified to section 903b of Title 8, Aliens and Nationality.

AMENDMENTS

1989—Pub. L. 101–222 inserted "and not otherwise prohibited by law" after "acts of war".

RELEASE OF AMERICAN HOSTAGES IN IRAN

For Executive Order provisions relating to the release of the American hostages in Iran, see Ex. Ord. Nos. 12276 to 12285, Jan. 19, 1981, 46 F.R. 7913 to 7932, listed in a table under section 1701 of Title 50, War and National Defense.

§1733. Interagency Hostage Recovery Coordinator

(a) Interagency Hostage Recovery Coordinator

(1) In general

Not later than 60 days after November 25, 2015, the President shall designate an existing Federal official to coordinate efforts to secure the release of United States persons who are hostages held abroad. For purposes of carrying out the duties described in paragraph (2), such official shall have the title of "Interagency Hostage Recovery Coordinator".

(2) Duties

The Coordinator shall have the following duties:

(A) Coordinate activities of the Federal Government relating to each hostage situation described in paragraph (1) to ensure efforts to secure the release of hostages are properly resourced and correct lines of authority are established and maintained.

(B) Chair a fusion cell consisting of appropriate personnel of the Federal Government with purview over each hostage situation described in paragraph (1).

(C) Ensure sufficient representation of each Federal agency and department at each fusion cell established under subparagraph (B) and issue procedures for adjudication and appeal.

(D) Develop processes and procedures to keep family members of hostages described in paragraph (1) informed of the status of such hostages, inform such family members of updates that do not compromise the national security of the United States, and coordinate with the Federal Government's family engagement coordinator or other designated senior representative.

(b) Quarterly report and briefing

(1) Report

(A) In general

On a quarterly basis, the Coordinator shall submit to the appropriate congressional committees a report that includes a summary of each hostage situation described in subsection (a)(1).

(B) Form of report

Each report under this [1] subparagraph (A) may be submitted in classified or unclassified form.

(2) Briefing

On a quarterly basis, the Coordinator shall provide to the Senators representing the State, and the Member, Delegate, or Resident Commissioner of the House of Representatives representing the district, where a hostage described in subsection (a)(1) resides a briefing with respect to the status of such hostage.

(3) Appropriate congressional committees defined

In this section, the term "appropriate congressional committees" means—

(A) the Committee on Armed Services, the Committee on the Judiciary, the Permanent Select Committee on Intelligence, and the Committee on Foreign Affairs of the House of Representatives; and

(B) the Committee on Armed Services, the Committee on the Judiciary, the Select Committee on Intelligence, and the Committee on Foreign Relations of the Senate.

(Pub. L. 114–92, div. A, title X, §1092, Nov. 25, 2015, 129 Stat. 1018.)

[1] *So in original. The word "this" probably should not appear.*

CHAPTER 24—MUTUAL SECURITY PROGRAM

SUBCHAPTER I—GENERAL AND ADMINISTRATIVE PROVISIONS

Sec.
1750 to 1753a. Repealed.
1754. Foreign currencies.
1755 to 1782. Repealed or Omitted.
1783. Coordination with foreign policy.
1784 to 1795. Repealed.
1796. Participation in Joint Commission on Rural Reconstruction in China.
1797. Repealed.

SUBCHAPTER II—MILITARY ASSISTANCE

1811 to 1834. Repealed.

SUBCHAPTER III—ECONOMIC ASSISTANCE

PART A—DEFENSE SUPPORT

1841 to 1852. Repealed.
1853. Assistance to Yugoslavia.
1854. Repealed.

PART B—DEVELOPMENT LOAN FUND

1870 to 1876. Repealed.

PART C—TECHNICAL COOPERATION

1891 to 1896. Repealed.
1896a. Restriction on commitments for technical assistance.
1896b. Colombo Plan Council for Technical Cooperation; authorization.
1897, 1898. Repealed.

PART D—SPECIAL ASSISTANCE AND OTHER PROGRAMS

1920 to 1927. Repealed.
1928. North Atlantic Treaty Organization.
1928a. North Atlantic Treaty Parliamentary Conference; participation; appointment of United States Group.
1928b. Authorization of appropriations.
1928c. Report to the Congress.
1928d. Auditing and accounting.
1928e. North Atlantic Assembly; appropriations for expenses of annual meeting.
1929 to 1936. Repealed.
1937. Irish counterpart account; approval of disposition.
1938 to 1941. Repealed.
1942. Development assistance in Latin America; Congressional declaration of policy.
1943. Authorization of appropriations; restrictions; reports to congressional committees.

1944. Reconstruction assistance in Chile; authorization of appropriations.
1945. Utilization of funds for assistance in Latin America; availability for transportation of immigrants from Ryukyuan Archipelago.
SUBCHAPTER IV—CONTINGENCY FUND
1951. Repealed.

SUBCHAPTER I—GENERAL AND ADMINISTRATIVE PROVISIONS

§§1750 to 1753a. Repealed. Pub. L. 87–195, pt. III, §642(a)(2), (5), Sept. 4, 1961, 75 Stat. 460

Section 1750, act Aug. 26, 1954, ch. 937, §2, formerly ch. IV, §549, as added July 8, 1955, ch. 301, §11, 69 Stat. 289, renumbered and amended July 18, 1956, ch. 627, §2, 70 Stat. 555; July 24, 1959, Pub. L. 86–108, §2, 73 Stat. 246; May 14, 1960, Pub. L. 86–472, §2, 74 Stat. 134, stated the Congressional declaration of purpose for this chapter. See section 2151 et seq. of this title.

Section 1750a, Pub. L. 85–477, ch. V, §503, June 30, 1958, 72 Stat. 275, related to strengthening cooperation in the Western Hemisphere.

Section 1750b, act Aug. 26, 1954, ch. 937, ch. IV, §552, as added May 14, 1960, Pub. L. 86–472, ch. IV, §401(m), 74 Stat. 140, prohibited assistance to Cuba. See section 2370 of this title.

Section 1751, acts Aug. 26, 1954, ch. 937, ch. IV, §545, 68 Stat. 862; July 18, 1956, ch. 627, §11(b), 70 Stat. 565; June 30, 1958, Pub. L. 85–477, ch. IV, §401(i), ch. V, §501(31)–(33), 72 Stat. 270, 272, defined terms used in this chapter. See section 2403 of this title.

Section 1752, acts Aug. 26, 1954, ch. 937, ch. IV, §546, 68 Stat. 863; Aug. 14, 1957, Pub. L. 85–141, §11(c), 71 Stat 365, related to construction and application of this chapter.

Section 1753, acts Aug. 26, 1954, ch. 937, ch. IV, §501, 68 Stat. 849; July 18, 1956, ch. 627, §9(a), 70 Stat. 560, authorized transferability of funds. See section 2360 of this title.

Section 1753a, act Aug. 26, 1954, ch. 937, ch. IV, §551, as added July 24, 1959, Pub. L. 86–108, ch. IV, §401(m), 73 Stat. 255; amended Sept. 8, 1960, Pub. L. 86–735, §4, 74 Stat. 870, provided for limitations on the use of the President's special authority.

TRANSFER OF FUNDS TO CARRY OUT INTERNATIONAL EDUCATIONAL EXCHANGE ACTIVITIES

Section 13 of act July 18, 1956, ch. 627, 70 Stat. 565, was repealed by Pub. L. 87–195, pt. III, §642(a)(4). Sept. 4, 1961, 75 Stat. 460.

§1754. Foreign currencies

(a) Availability and use

Notwithstanding section 1306 of title 31, or any other provision of law, proceeds of sales made under section 1675p [1] of this title, shall remain available and shall be used for any of the purposes of this chapter, giving particular regard to the following purposes—

(1) for providing military assistance to nations or mutual defense organizations eligible to receive assistance under this chapter;

(2) for purchase of goods or services in friendly nations;

(3) for loans, under applicable provisions of this chapter, to increase production of goods or services, including strategic materials, needed in any nation with which an agreement was negotiated, or in other friendly nations, with the authority to use currencies received in repayment for the purposes stated in the section or for deposit to the general account of the Treasury of the United States;

(4) for developing new markets on a mutually beneficial basis;

(5) for grants-in-aid to increase production for domestic needs in friendly countries; and

(6) for purchasing materials for United States stockpiles.

(b) Availability to Members and employees of Congress; authorization requirements; reports

(1)(A) Notwithstanding section 1306 of title 31, or any other provision of law—

(i) local currencies owned by the United States which are in excess of the amounts reserved under section 2362(a) of this title and of the requirements of the United States Government in payment of its obligations outside of the United States, as such requirements may be determined from time to time by the President; and

(ii) any other local currencies owned by the United States in amounts not to exceed the equivalent of $75 per day per person or the maximum per diem allowance established under the authority of subchapter I of chapter 57 of title 5 for employees of the United States Government while traveling in a foreign country, whichever is greater, exclusive of the actual cost of transportation;

shall be made available to Members and employees of the Congress for their local currency expenses when authorized as provided in subparagraph (B).

(B) The authorization required for purposes of subparagraph (A) may be provided—

(i) by the Speaker of the House of Representatives in the case of a Member or employee of the House;

(ii) by the chairman of a standing or select committee of the House of Representatives in the case of a member or employee of that committee;

(iii) by the President of the Senate, the President pro tempore of the Senate, the Majority Leader of the Senate, or the Minority Leader of the Senate, in the case of a Member or employee of the Senate;

(iv) by the chairman of a standing, select, or special committee of the Senate in the case of a member or employee of that committee or of an employee of a member of that committee; and

(v) by the chairman of a joint committee of the Congress in the case of a member or employee of that committee.

(C) Whenever local currencies owned by the United States are not otherwise available for purposes of this subsection, the Secretary of the Treasury shall purchase such local currencies as may be necessary for such purposes, using any funds in the Treasury not otherwise appropriated.

(2) On a quarterly basis, the chairman of each committee of the House of Representatives or the Senate and of each joint committee of the Congress (A) shall prepare a consolidated report (i) which itemizes the amounts and dollar equivalent values of each foreign currency expended and the amounts of dollar expenditures from appropriated funds in connection with travel outside the United States, stating the purposes of the expenditures including per diem (lodging and meals), transportation, and other purposes, and (ii) which shows the total itemized expenditures, by such committee and by each member or employee of such committee (including in the case of a committee of the Senate, each employee of a member of the committee who received an authorization under paragraph (1) from the chairman of the committee); and (B) shall forward such consolidated report to the Clerk of the House of Representatives (if the committee is a committee of the House of Representatives or a joint committee whose funds are disbursed by the Chief Administrative Officer of the House) or to the Secretary of the Senate (if the committee is a committee of the Senate or a joint committee whose funds are disbursed by the Secretary of the Senate). Each such consolidated report shall be open to public inspection and shall be published in the Congressional Record within ten legislative days after the report is forwarded pursuant to this paragraph. In the case of the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives, such consolidated report may, in the discretion of the chairman of the committee, omit such information as would identify the foreign countries in which members and employees of that committee traveled.

(3)(A) Each Member or employee who receives an authorization under paragraph (1) from the Speaker of the House of Representatives, the President of the Senate, the President pro tempore of the Senate, the Majority Leader of the Senate, or the Minority Leader of the Senate, shall within

thirty days after the completion of the travel involved, submit a report setting forth the information specified in paragraph (2), to the extent applicable, to the Clerk of the House of Representatives (in the case of a Member of the House or an employee whose salary is disbursed by the Chief Administrative Officer of the House) or the Secretary of the Senate (in the case of a Member of the Senate or an employee whose salary is disbursed by the Secretary of the Senate). In the case of an authorization for a group of Members or employees, such reports shall be submitted for all Members of the group by its chairman, or if there is no designated chairman, by the ranking Member or if the group does not include a Member, by the senior employee in the group. Each report submitted pursuant to this subparagraph shall be open to public inspection.

(B) On a quarterly basis, the Clerk of the House of Representatives and the Secretary of the Senate shall each prepare a consolidation of the reports received by them under this paragraph with respect to expenditures during the preceding quarter by each Member and employee or by each group in the case of expenditures made on behalf of a group which are not allocable to individual members of the group. Each such consolidation shall be open to public inspection and shall be published in the Congressional Record within ten legislative days after its completion.

(Aug. 26, 1954, ch. 937, ch. IV, §502, 68 Stat. 849; Sept. 3, 1954, ch. 1262, §104, 68 Stat. 1223; July 8, 1955, ch. 301, §9(a), 69 Stat. 288; July 18, 1956, ch. 627, §9(b), 70 Stat. 560; Pub. L. 85–477, ch. IV, §401(a), June 30, 1958, 72 Stat. 268; Pub. L. 85–766, ch. X, §1001, Aug. 27, 1958, 72 Stat. 880; Pub. L. 86–472, ch. IV, §401(a), May 14, 1960, 74 Stat. 138; Pub. L. 86–628, title I, §105(a), July 12, 1960, 74 Stat. 460; Pub. L. 87–195, pt. III, §642(a)(2), Sept. 4, 1961, 75 Stat. 460; Pub. L. 88–633, pt. IV, §402, Oct. 7, 1964, 78 Stat. 1015; Pub. L. 93–126, §5, Oct. 18, 1973, 87 Stat. 452; Pub. L. 93–371, §107, Aug. 13, 1974, 88 Stat. 444; Pub. L. 94–59, title XI, §1105, July 25, 1975, 89 Stat. 299; Pub. L. 94–157, title I, ch. IV, Dec. 18, 1975, 89 Stat. 837; Pub. L. 94–350, title IV, §402, July 12, 1976, 90 Stat. 833; Pub. L. 94–440, title I, §109, Oct. 1, 1976, 90 Stat. 1445; Pub. L. 95–384, §22(a), Sept. 26, 1978, 92 Stat. 742; Pub. L. 104–186, title II, §218(2), Aug. 20, 1996, 110 Stat. 1747.)

REFERENCES IN TEXT

Section 1675p of this title, referred to in subsec. (a), was repealed by section 542(a)(9) of act Aug. 26, 1954, and is covered by section 1922 of this title.

CODIFICATION

In subsecs. (a) and (b)(1)(A), "section 1306 of title 31" substituted for "section 1415 of the Supplemental Appropriation Act, 1953 [31 U.S.C. 724]" on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

1996—Subsec. (b)(2), (3)(A). Pub. L. 104–186 substituted "by the Chief Administrative Officer" for "by the Clerk".

1978—Subsec. (b). Pub. L. 95–384, among other changes, inserted provisions requiring authorization by certain individuals of local currency expenses of members of employees of Congress and requiring each member or employee who has received an authorization for his local currency expenses to submit a report within 30 days setting forth certain specified information.

1976—Subsec. (b). Pub. L. 94–440 inserted "and the Select Committee on Intelligence of the Senate" after "Joint Committee on Congressional Operations" and inserted provision authorizing chairman of the Select Committee on Intelligence of the Senate to omit information from the consolidated report that would identify the foreign countries in which members and employees of such committee traveled.

Pub. L. 94–350 required publication of each consolidated report in the Congressional Record within ten legislative days after being forwarded pursuant to subsec. (b).

1975—Subsec. (b). Pub. L. 94–157 made local currencies available to Joint Committee on Congressional Operations.

Pub. L. 94–59 struck out provisions requiring each member or employee to make, to the chairman of the committee in accordance with regulations prescribed by the committee, an itemized report showing the amounts and dollar equivalent values of each foreign currency expended and the amounts of dollar expenditures made from appropriated funds in connection with travel outside the United States, together with the purposes of the expenditure, including lodging, meals, transportation, and other purposes, and, in the

provision requiring a consolidated report by the chairman of each committee within the first sixty-days that Congress is in session in each calendar year, inserted requirement that such report itemize those items, struck out references to subcommittees, substituted "Committee on House Administration" for "Clerk", and inserted provision for public inspection.

1974—Subsec. (b). Pub. L. 93–371 inserted provisions requiring each member or employee of any committee to make to the chairman, in accordance with prescribed regulations, an itemized report showing the amounts of foreign currency expended and dollar expenditure made from appropriated funds in connection with travel outside the United States, and substituted provisions relating to the preparation and submission of a consolidated report by the chairman, within the first sixty days that Congress is in session in each calendar year, showing total itemized expenditures during the preceding calendar year of the committee, for provisions relating to the submission by the Department of State to the chairman of each committee, within the first ninety calendar days that Congress is in session in each calendar year, showing amounts and equivalent dollar values of foreign currency expended during the preceding calendar year for travel outside the United States.

1973—Subsec. (b). Pub. L. 93–126 substituted "$75" for "$50" and "shall be made available to Members and employees of appropriate committees" for "shall be made available to appropriate committees" and substituted a reporting procedure under which the Department of State, within the first 90 calendar days that Congress is in session in each calendar year, submits a report covering the amounts and dollar equivalent values of each foreign currency expended by each Member and employee with respect to travel outside the United States, with such report to be available for public inspection, for a reporting procedure under which both the amounts and dollar equivalent values of each foreign currency expended and the amount of dollar expenditures made from appropriated funds with respect to travel outside the United States were reported within the first 60 days that Congress was in session in each calendar year, with each such report published in the Congressional Record.

1964—Subsec. (b). Pub. L. 88–633 inserted "which are in excess of the amounts reserved under section 2362(a) of this title and of the requirements of the United States Government in payment of its obligations outside the United States, as such requirements may be determined from time to time by the President (and any other local currencies owned by the United States in amounts not to exceed the equivalent of $50 per day per person exclusive of the actual cost of transportation)".

1961—Subsec. (c). Pub. L. 87–195 repealed subsec. (c) which related to the preservation of cultural monuments of the Upper Nile.

1960—Subsec. (b). Pub. L. 86–628 required inclusion in the reports of expenditures of each member and employee of the committees and subcommittees.

Pub. L. 86–472, §401(a)(1), required members and employees of committees to report the amounts of dollar expenditures made from appropriated funds in connection with travel outside the United States, and provided that the consolidated report shall show the total itemized expenditures incurred as a result of official activities of members and employees of committees or subcommittees.

Subsec. (c). Pub. L. 86–472, §401(a)(2), added subsec. (c).

1958—Subsec. (b). Pub. L. 85–766 required reports to the Select Committee on Astronautics and Space Exploration of the House of Representatives and the Special Committee on Space and Astronautics of the Senate.

Pub. L. 85–477 required each member or employee of the committees to make an itemized report to the chairman of his committee, provided that the chairman shall consolidate the reports and forward the consolidated report to the appropriate Congressional committee within the first 60 days that Congress is in session in each year, and required publication of each report in the Congressional Record.

1956—Subsec. (b). Act July 18, 1956, substituted "Joint Economic Committee and the Select Committees on Small Business of the Senate and House of Representatives" for "Joint Committee on the Economic Report".

1955—Subsec. (b). Act July 8, 1955, authorized the use of local currencies by the Joint Committee on Atomic Energy and the Joint Committee on the Economic Report.

1954—Subsec. (b). Act Sept. 3, 1954, substituted "Committee on Appropriations of the Senate" for "Committee on Rules and Administration of the Senate".

EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95–384, §22(b), Sept. 26, 1978, 92 Stat. 743, provided that: "Notwithstanding section 30 of this Act [set out as a note below], the amendment made by subsection (a) of this section [amending this section] shall take effect on the date of enactment of this Act [Sept. 26, 1978]."

SHORT TITLE OF 1960 AMENDMENT

Pub. L. 86–735, Sept. 8, 1960, 74 Stat. 869, as amended, which enacted sections 1942 to 1945 of this title and amended section 1753a of this title, is known as the "Latin American Development Act". For complete classification of this Act to the Code, see Short Title note set out under section 1942 of this title and Tables.

SHORT TITLE

Act Aug. 26, 1954, ch. 937, §1, 68 Stat. 832, as amended by act June 30, 1958, Pub. L. 85–477, §2, 72 Stat. 261, provided in part: "That this act [enacting this chapter, section 281b–2 of this title, and section 151c of former Title 5, Executive Departments and Government Officers and Employees, amending sections 279a, 281b, 290b, 1148, 1442, and 2658 of this title, section 1704 of Title 7, Agriculture, section 1441 of Title 26, Internal Revenue Code, and section 1641 of the former Appendix to Title 50, War and National Defense, and enacting provisions set out as notes under section 1751 of this title] may be cited as the 'Mutual Security Act of 1954'."

TRANSFER OF FUNCTIONS

Certain functions of Clerk of House of Representatives transferred to Director of Non-legislative and Financial Services by section 7 of House Resolution No. 423, One Hundred Second Congress, Apr. 9, 1992. Director of Non-legislative and Financial Services replaced by Chief Administrative Officer of House of Representatives by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

INTERNATIONAL SECURITY ASSISTANCE ACT OF 1978 NOT TO AFFECT AUTHORIZATIONS OF APPROPRIATIONS AND LIMITATIONS OF AUTHORITY APPLICABLE TO FISCAL YEAR 1978

Pub. L. 95–384, §30, Sept. 26, 1978, 92 Stat. 748, provided that: "Enactment of this Act [see Short Title of 1978 Amendment note set out under section 2151 of this title] shall not affect the authorizations of appropriations and limitations of authority applicable to the fiscal year 1978 which are contained in provisions of law amended by this Act (other than sections 31(a), (b), and (d) of the Arms Export Control Act [section 2771(a), (b), and (d) of this title])."

[1] *See References in Text note below.*

§§1755 to 1759. Repealed. Pub. L. 87–195, pt. III, §642(a)(2), Sept. 4, 1961, 75 Stat. 460

Section 1755, acts Aug. 26, 1954, ch. 937, ch. IV, §503, 68 Stat. 850; July 8, 1955, ch. 301, §9(b), 69 Stat. 288; Aug. 14, 1957, Pub. L. 85–141, §9(a), 71 Stat. 363; June 30, 1958, Pub. L. 85–477, ch. V, §501(17), 72 Stat. 271; July 24, 1959, Pub. L. 86–108, ch. IV, §401(a), 73 Stat. 252, provided for termination of assistance under this chapter. See section 2367 of this title.

Section 1756, acts Aug. 26, 1954, ch. 937, ch. IV, §504, 68 Stat. 851; Aug. 14, 1957, Pub. L. 85–141, §9(b), 71 Stat. 363; June 30, 1958, Pub. L. 85–477, ch. V §501(18), 72 Stat. 271; July 24, 1959, Pub. L. 86–108, ch. IV, §401(b), 73 Stat. 252; May 14, 1960, Pub. L. 86–472, ch. IV, §401(b), 74 Stat. 139, related to small business participation in furnishing of commodities and services. See section 2352 of this title.

Section 1757, acts Aug. 26, 1954, ch. 937, ch. IV, §505, 68 Stat. 851; July 8, 1955, ch. 301, §9(c), 69 Stat. 288; Aug. 14, 1957, Pub. L. 85–141, §9(c), 71 Stat. 363; July 24, 1959, Pub. L. 86–108, ch. IV, §401(c), 73 Stat. 252; May 14, 1960, Pub. L. 86–472, ch. IV, §401(c), 74 Stat. 139, provided for manner and terms of furnishing loan assistance and sales. See section 2395 of this title.

Section 1758, act Aug. 26, 1954, ch. 937, ch. IV, §506, 68 Stat. 852, related to patents and technical information. See section 2356 of this title.

Section 1759, acts Aug. 26, 1954, ch. 937, ch. IV, §507, 68 Stat. 852; July 18, 1956, ch. 627, §9(c), 70 Stat. 560, related to availability of funds.

§1759a. Repealed. Pub. L. 86–108, ch. IV, §401(l), July 24, 1959, 73 Stat. 255

Section, act Aug. 26, 1954, ch. 937, ch. IV, §549, as added July 18, 1956, ch. 627, §1(d), 70 Stat. 565; amended Aug. 14, 1957, Pub. L. 85–141, §11(e), 71 Stat. 365; June 30, 1958, Pub. L. 85–477, ch. V, §501(34), 72 Stat. 272, authorized an amount equal to 25 per centum of funds authorized to be appropriated for any fiscal year for purposes of sections 1891 to 1896, 1897, 1898, or 1923 of this title to be continued available for three months beyond end of fiscal year for which appropriated.

§1760. Repealed. Pub. L. 87–195, pt. III, §642(a)(2), Sept. 4, 1961, 75 Stat. 460

Section, act Aug. 26, 1954, ch. 937, ch. IV, §508, 68 Stat. 853, prohibited use of funds for propaganda purposes.

§1760a. Omitted

CODIFICATION

Section, which limited use of counterpart funds with respect to payment of debts of foreign countries, was enacted as a part of section 105 of the Mutual Security Appropriation Act, 1958, Pub. L. 85–279, §105, Sept. 3, 1957, 71 Stat. 603, and was not repeated in subsequent appropriation acts.

§§1761 to 1765. Repealed. Pub. L. 87–195, pt. III, §642(a)(2), Sept. 4, 1961, 75 Stat. 460

Section 1761, acts Aug. 26, 1954, ch. 937, ch. IV, §509, 68 Stat. 853; July 8, 1955, ch. 301, §9(d), 69 Stat. 288; July 18, 1956, ch. 627, §9(d), 70 Stat. 560; Aug. 14, 1957, Pub. L. 85–141, §9(d), 71 Stat. 363; June 30, 1958, Pub. L. 85–477, ch. IV, §401(b), 72 Stat. 269, related to shipping on United States vessels. See section 2353 of this title.

Section 1762, acts Aug. 26, 1954, ch. 937, ch. IV, §510, 68 Stat. 853; June 30, 1958, Pub. L. 85–477, ch. IV, §401(c), ch. V, §501(19), 72 Stat. 269, 271; July 24, 1959, Pub. L. 86–108, ch. IV, §401(d), 73 Stat. 253, related to purchase of commodities in bulk and to surplus agricultural commodities. See section 2354 of this title.

Section 1763, acts Aug. 26, 1954, ch. 937, ch. IV, §511, 68 Stat. 853; Aug. 14, 1957, Pub. L. 85–141, §9(e), 71 Stat. 363; June 30, 1958, Pub. L. 85–477, ch. V, §501(20), (21), 72 Stat. 271, provided for preservation of military stock and retention and return of equipment. See section 2355 of this title.

Section 1764, act Aug. 26, 1954, ch. 937, ch. IV, §512, 68 Stat. 854, prescribed penalties for accepting commissions, etc., for procurement services by United States officers and employees.

Section 1765, act Aug. 26, 1954, ch. 937, ch. IV, §513, as added Aug. 14, 1957, Pub. L. 85–141, §9(f), 71 Stat. 363; amended June 30, 1958, Pub. L. 85–477, ch. V, §501(22), 72 Stat. 271; May 14, 1960, Pub. L. 86–472, ch. IV, §401(d), 74 Stat. 139, provided for notice to legislative committees. See section 2394(d) of this title.

§1766. Omitted

CODIFICATION

Section, act Aug. 26, 1954, ch. 937, ch. IV, §514, 68 Stat. 854, related to reservation of foreign currencies or credits owed to or by the United States by the Secretary of the Treasury for sale to the Department of State for international educational exchange activities on basis of dollar value at time of reservation. See sections 2362 and 2455 of this title.

§§1766a to 1766c. Repealed. Pub. L. 87–195, pt. III, §642(a)(2), Sept. 4, 1961, 75 Stat. 460

Section 1766a, act Aug. 26, 1954, ch. 937, ch. IV, §515, as added July 18, 1956, ch. 627, §9(e), 70 Stat. 560, related to authorization for grant of contract authority. See section 2365 of this title.

Section 1766b, act Aug. 26, 1954, ch. 937, ch. IV, §516, as added June 30, 1958, Pub. L. 85–477, ch. IV, §401(d), 72 Stat. 269, prohibited use of funds for debt retirement.

Section 1766c, act Aug. 26, 1954, ch. 937, ch. IV, §517, as added June 30, 1958, Pub. L. 85–477, ch. IV, §401(d), 72 Stat. 269; amended July 24, 1959, Pub. L. 86–108, ch. IV, §401(e), 73 Stat. 253; May 14, 1960, Pub. L. 86–472, ch. IV, §401(e), 74 Stat. 139, related to completion of plans and cost estimates, and to computation of benefits and costs. See section 2361 of this title.

§1767. Repealed. Pub. L. 85–141, §11(d), Aug. 14, 1957, 71 Stat. 365

Section, act Aug. 26, 1954, ch. 937, title V, §547, 68 Stat. 864, provided for a general limitation on authorizations.

§§1767a, 1768. Repealed. Pub. L. 87–195, pt. III, §642(a)(2), Sept. 4, 1961, 75 Stat. 460

Section 1767a, act Aug. 26, 1954, ch. 937, ch. IV, §548, as added July 8, 1955, ch. 301, §11, 69 Stat. 289; amended July 18, 1956, ch. 627, §11(c), 70 Stat. 565, related to availability of unexpended balances of funds. See section 2404 of this title.

Section 1768, acts Aug. 26, 1954, ch. 937, ch. IV, §543, 68 Stat. 861; Aug. 14, 1957, Pub. L. 85–141, §11(a), 71 Stat. 365; June 30, 1958, Pub. L. 85–477, ch. IV, §401(g), 72 Stat. 270; July 24, 1959, Pub. L. 86–108, ch. IV, §401(k), 73 Stat. 255, contained savings provisions. See section 2392 of this title.

§§1781, 1782. Repealed. Pub. L. 87–195, pt. III, §642(a)(2), Sept. 4, 1961, 75 Stat. 460

Section 1781, acts Aug. 26, 1954, ch. 937, ch. IV, §521, 68 Stat. 855; July 18, 1956, ch. 627, §10(a), 70 Stat. 560; Aug. 14, 1957, Pub. L. 85–141, §10(a), 71 Stat. 363; June 30, 1958, Pub. L. 85–477, ch. V, §501(24), (25), 72 Stat. 271, empowered the President to delegate his authority and provided for the promulgation of rules and regulations. See section 2381 of this title.

Section 1782, acts Aug. 26, 1954, ch. 937, ch. IV, §522, 68 Stat. 855; July 18, 1956, ch. 627, §10(b), 70 Stat. 560; June 30, 1958, Pub. L. 85–477, ch. V, §501(26), 72 Stat. 272, related to allocation and transfer of funds among Government agencies, utilization of services and facilities, reimbursement for military assistance, commodities, services, and facilities, establishment of accounts, and to charge of expenses to appropriation. See section 2392 of this title.

§1783. Coordination with foreign policy

(a) to (c) Repealed. Pub. L. 87–195, pt. III, §642(a)(2), Sept. 4, 1961, 75 Stat. 460.

(d) Whenever the President determines that the prevention of improper currency transactions in a given country requires it, he may direct the chief of the United States diplomatic mission there to issue regulations applicable to members of the Armed Forces and officers and employees of the United States Government, and to contractors with the United States Government and their employees, governing the extent to which their pay and allowances received and to be used in that country shall be paid in local currency. Notwithstanding any other law, United States Government agencies are authorized and directed to comply with such regulations.

(Aug. 26, 1954, ch. 937, ch. IV, §523, 68 Stat. 856; Pub. L. 85–141, §10(b), Aug. 14, 1957, 71 Stat. 364; Pub. L. 85–477, ch. V, §501(27), June 30, 1958, 72 Stat. 272; Pub. L. 86–108, ch. IV, §401(f), July 24, 1959, 73 Stat. 253; Pub. L. 86–472, ch. IV, §401(f), May 14, 1960, 74 Stat. 139; Pub. L. 87–195, pt. III, §642(a)(2), pt. IV, §707, Sept. 4, 1961, 75 Stat. 460, 464.)

AMENDMENTS

1961—Subsecs. (a) to (c). Pub. L. 87–195, §642(a)(2), repealed subsecs. (a) to (c) which related to powers and functions of the Secretary of State, required the President to prescribe procedures to assure coordination

among representatives of the Government, and made the Secretary of State responsible for the continuous supervision and general direction of the assistance programs. See section 2382 of this title.

Subsec. (d). Pub. L. 87–195, §707, substituted "prevention of improper currency transactions" for "achievement of United States foreign policy objectives".

1960—Subsec. (d). Pub. L. 86–472 added subsec. (d).

1959—Subsec. (b). Pub. L. 86–108, §401(f)(1), required the chief of the diplomatic mission to make sure that recommendations of representatives pertaining to military assistance are coordinated with political and economic considerations.

Subsec. (c). Pub. L. 86–108, §401(f)(2), substituted provisions making the Secretary of State responsible for the continuous supervision and general direction of the assistance programs for provisions which required the Secretary of State to coordinate the various forms of assistance and to determine the value of the program under subchapter II of this chapter for any country.

1958—Subsec. (c)(2). Pub. L. 85–477 substituted "subchapter II of this chapter" for "sections 1811 to 1817 of this title".

1957—Subsec. (c). Pub. L. 85–141 added subsec. (c).

REPEALS

Section 707 of Pub. L. 87–195, cited as a credit to this section, was repealed by section 401 of Pub. L. 87–565, pt. IV, Aug. 1, 1962, 76 Stat. 263, except insofar as section 707 affected this section.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

STUDY OF AGENCIES ENGAGED IN FOREIGN ECONOMIC ACTIVITIES

Pub. L. 86–472, ch. VI, §604, May 14, 1960, 74 Stat. 141, which related to study of agencies engaged in foreign economic activities, was repealed by Pub. L. 87–195, pt. III, §642(a)(8), Sept. 4, 1961, 75 Stat. 460.

§§1784 to 1795. Repealed. Pub. L. 87–195, pt. III, §642(a)(2), Sept. 4, 1961, 75 Stat. 460

Section 1784, acts Aug. 26, 1954, ch. 937, ch. IV, §524, 68 Stat. 856; July 8, 1955, ch. 301, §10(a), 69 Stat. 288; Aug. 14, 1957, Pub. L. 85–141, §10(c), 71 Stat. 364; June 30, 1958, Pub. L. 85–477, ch. V, §501(28), 72 Stat. 272, prescribed duties of Secretary of Defense. See section 2383 of this title.

Section 1785, acts Aug. 26, 1954, ch. 937, ch. IV, §525, 68 Stat. 856; July 8, 1955, ch. 301, §10(b), 69 Stat. 288; Aug. 14, 1957, Pub. L. 85–141, §10(d), 71 Stat. 364, authorized transfer of functions of Foreign Operations Administration.

Section 1786, acts Aug. 26, 1954, ch. 937, ch. IV, §526, 68 Stat. 857; July 8, 1955, ch. 301, §10(c), 69 Stat. 289, authorized maintenance of special missions and staffs abroad. See section 2391 of this title.

Section 1787, acts Aug. 26, 1954, ch. 937, ch. IV, §527, 68 Stat. 857; July 31, 1956, ch. 804, title I, §113, 70 Stat. 740; Aug. 14, 1957, Pub. L. 85–141, §10(e), 71 Stat. 364; June 30, 1958, Pub. L. 85–477, ch. IV, §401(e), 72 Stat. 269; July 24, 1959, Pub. L. 86–108, ch. IV, §401(g), 73 Stat. 253; May 14, 1960, Pub. L. 86–472, ch. IV, §401(g), ch. V, §501(c), (d), 74 Stat. 139, 140, related to employment of personnel. See section 2385 of this title.

Section 1788, act Aug. 26, 1954, ch. 937, ch. IV, §528, 68 Stat. 858, authorized detail of personnel to foreign governments. See section 2387 of this title.

Section 1789, act Aug. 26, 1954, ch. 937, ch. IV, §529, 68 Stat. 858, authorized detail of personnel to international organizations. See section 2388 of this title.

Section 1790, acts Aug. 26, 1954, ch. 937, ch. IV, §530, 68 Stat. 859; July 8, 1955, ch. 301, §10(d), 69 Stat. 289; July 18, 1956, ch. 627, §10(c), 70 Stat. 561; May 14, 1960, Pub. L. 86–472, ch. V, §501(e), 74 Stat. 140, authorized employment of experts and consultants. See section 2386 of this title.

Section 1791, acts Aug. 26, 1954, ch. 937, ch. IV, §531, 68 Stat. 859; May 14, 1960, Pub. L. 86–472, ch. IV, §401(h), 74 Stat. 139, related to security clearance.

Section 1792, acts Aug. 26, 1954, ch. 937, ch. IV, §532, 68 Stat. 859; July 18, 1956, ch. 627, §10(d), 70 Stat. 561, related to exemption of personnel from certain Federal laws. See section 2386 of this title.

Section 1793, act Aug. 26, 1954, ch. 937, ch. IV, §533, 68 Stat. 860, provided for waiver of certain Federal laws. See section 2393 of this title.

Section 1793a, act Aug. 26, 1954, ch. 937, ch. IV, §533A, as added July 24, 1959, Pub. L. 86–108, ch. IV, §401(h), 73 Stat. 253; amended May 14, 1960, Pub. L. 86–472, ch. IV, §401(i), 74 Stat. 140, established Office of Inspector General and Comptroller and transferred certain functions thereto. See section 2384 of this title.

Section 1794, acts Aug. 26, 1954, ch. 937, ch. V, §534, 68 Stat. 860; July 8, 1955, ch. 301, §10(e), 69 Stat. 289; Aug. 14, 1957, Pub. L. 85–141, §10(f), 71 Stat. 364; July 24, 1959, Pub. L. 86–108, ch. IV, §401(i), 73 Stat. 254; May 14, 1960, Pub. L. 86–472, ch. IV, §401(j), 74 Stat. 140, provided for reports to Congress and for furnishing documents and other material to General Accounting Office and committees of Congress. See section 2394 of this title.

Section 1794a, act Aug. 26, 1954, ch. 937, ch. IV, §550, as added July 24, 1959, Pub. L. 86–108, ch. IV, §401(m), 73 Stat. 255, required President to make public information concerning mutual security program not deemed to be incompatible with security of United States. See section 2394(b) of this title.

Section 1795, acts Aug. 26, 1954, ch. 937, ch. IV, §535, 68 Stat. 860; July 18, 1956, ch. 627, §10(e), 70 Stat. 561; Aug. 14, 1957, Pub. L. 85–141, §10(g), 71 Stat. 364, related to cooperation with nations and international organizations.

§1796. Participation in Joint Commission on Rural Reconstruction in China

The President is authorized to continue to participate in the Joint Commission on Rural Reconstruction in China and to appoint citizens of the United States to the Commission.

(Aug. 26, 1954, ch. 937, ch. IV, §536, 68 Stat. 861.)

§1797. Repealed. Pub. L. 87–195, pt. III, §642(a)(2), Sept. 4, 1961, 75 Stat. 460

Section, act Aug. 26, 1954, ch. 937, ch. IV, §537, as added July 18, 1956, ch. 627, §10(f), 70 Stat. 561; amended Aug. 14, 1957, Pub. L. 85–141, §§6, 10(h), 71 Stat. 357, 364; June 30, 1958, Pub. L. 85–477, ch. IV, §401(f), ch. V, §501(29), 72 Stat. 270, 272; July 24, 1959, Pub. L. 86–108, ch. IV, §401(j), 73 Stat. 255; May 14, 1960, Pub. L. 86–472, ch. IV, §401(k), (l), ch. V, §501(f), 74 Stat. 140, related to uses of funds under this chapter. See section 2396 of this title.

SUBCHAPTER II—MILITARY ASSISTANCE

§§1811 to 1817. Repealed. Pub. L. 87–195, pt. III, §642(a)(2), Sept. 4, 1961, 75 Stat. 460

Section 1811, act Aug. 26, 1954, ch. 937, ch. I, §101, 68 Stat. 833, stated the Congressional declaration of purpose for military assistance. See section 2301 of this title.

Section 1811a, act Aug. 26, 1954, ch. 937, §2, formerly ch. IV, §549, as added July 8, 1955, ch. 301, §11, 69 Stat. 289, renumbered and amended July 18, 1956, ch. 627, §2, 70 Stat. 555; July 24, 1959, Pub. L. 86–108, §2, 73 Stat. 246; May 14, 1960, Pub. L. 86–472, §2, 74 Stat. 134, stated the Congressional declaration of purpose for this chapter. See sections 2151 and 2301 of this title.

Section 1812, act Aug. 26, 1954, ch. 937, ch. I, §102, 68 Stat. 833, related to the basis and terms of military assistance. See section 2395 of this title.

Section 1813, acts Aug. 26, 1954, ch. 937, ch. I, §103, 68 Stat. 833; July 8, 1955, ch. 301, §2(a)–(c), 69 Stat. 283; July 18, 1956, ch. 627, §3(a), 70 Stat. 555; Aug. 14, 1957, Pub. L. 85–141, §2(a), 71 Stat. 355; June 30, 1958, Pub. L. 85–477, ch. I, §101, 72 Stat. 261; July 24, 1959, Pub. L. 86–108, ch. I, §101(a), 73 Stat. 247; May 14, 1960, Pub. L. 86–472, ch. I, §101(a), 74 Stat. 134, authorized appropriations for military assistance. See section 2312 of this title.

Section 1814, acts Aug. 26, 1954, ch. 937, ch. I, §104, 68 Stat. 834; Aug. 14, 1957, Pub. L. 85–141, §2(b), 71 Stat. 356, authorized NATO infrastructure contributions.

Section 1815, acts Aug. 26, 1954, ch. 937, ch. I, §105, 68 Stat. 834; July 8, 1955, ch. 301, §2(d)–(f), 69 Stat. 284; July 18, 1956, ch. 627, §3(b), 70 Stat. 555; Aug. 14, 1957, Pub. L. 85–141, §2(c), 71 Stat. 356; June

30, 1958, Pub. L. 85–477, ch. I, §§102, 103, 72 Stat. 262; July 24, 1959, Pub. L. 86–108, ch. I, §101(b), 73 Stat. 247; May 14, 1960, Pub. L. 86–472, ch. I, §101(b), 74 Stat. 134, prescribed the conditions and eligibility for military assistance. See section 2314 of this title.

Section 1816, act Aug. 26, 1954, ch. 937, ch. I, §106, 68 Stat. 836, authorized the President to sell military equipment, materials and services and prescribed the manner of payment. See sections 2342 and 2343 of this title.

Section 1817, acts Aug. 26, 1954, ch. 937, ch. I, §107, 68 Stat. 836; Aug. 14, 1957, Pub. L. 85–141, §2(d), 71 Stat. 356, authorized the waiver of certain laws. See section 2393 of this title.

§1818. Repealed. Pub. L. 85–141, §2(e), Aug. 14, 1957, 71 Stat. 356

Section, acts Aug. 26, 1954, ch. 937, title I, §108, 68 Stat. 837; July 8, 1955, ch. 301, §2(g), 69 Stat. 284, authorized, until June 30, 1956, the transfer of military equipment and supplies to Japan.

§1819. Repealed. Pub. L. 95–148, title I, Oct. 31, 1977, 91 Stat. 1232

Section, act Aug. 2, 1955, ch. 491, §108, 69 Stat. 438, related to an accounting for military assistance funds.

EFFECTIVE DATE OF REPEAL

Pub. L. 95–148 provided that the repeal of this section is effective Oct. 1, 1977.

§§1831 to 1834. Repealed. Pub. L. 85–141, §3, Aug. 14, 1957, 71 Stat. 356

Section 1831, acts Aug. 26, 1954, ch. 937, title 1, §121, 68 Stat. 837; July 8, 1955, ch. 301, §3(a), 69 Stat. 284, authorized appropriations for assistance for Southeast Asia and Western Pacific for the fiscal year 1955.

Sections 1832, 1833, act Aug. 26, 1954, ch. 937, title I, §§122, 123, 68 Stat. 837, 838, authorized appropriations for fiscal year 1955 for manufacture in United Kingdom of military aircraft, and for provision of any common-use equipment, materials, commodities, or services which are to be used by military forces of nations receiving assistance.

Section 1834, act Aug. 20, 1954, ch. 937, title I, §124, as added July 8, 1955, ch. 301, §3(b), 69 Stat. 284, authorized appropriations for fiscal year 1956 to provide assistance in form of direct forces support to be delivered or rendered directly to military forces of nations eligible for military assistance.

SUBCHAPTER III—ECONOMIC ASSISTANCE

PART A—DEFENSE SUPPORT

§1841. Repealed. Pub. L. 87–195, pt. III, §642(a)(2), Sept. 4, 1961, 75 Stat. 460

Section, acts Aug. 26, 1954, ch. 937, ch. II, §131, 68 Stat. 838; July 8, 1955, ch. 301, §4, 69 Stat. 284; July 18, 1956, ch. 627, §4, 70 Stat. 556; Aug. 14, 1957, Pub. L. 85–141, §4(a), 71 Stat. 356; June 30, 1958, Pub. L. 85–477, ch. II, §201, ch. V, §501(3), (4), 72 Stat. 262, 270; July 24, 1959, Pub. L. 86–108, ch. II, §201, 73 Stat. 248; May 14, 1960, Pub. L. 86–472, ch. II, §201(a), (b), 74 Stat. 134, authorized economic assistance to sustain and increase the military effort and provided for executive authority to furnish assistance, appropriations, marine insurance and assistance for Korea. See section 2354(d) of this title.

§1842. Repealed. Pub. L. 85–141, §4(b), Aug. 14, 1957, 71 Stat. 356

Section, act Aug. 26, 1954, ch. 937, title I, §132, 68 Stat. 838, authorized appropriations for defense

support, relief and rehabilitation, and other necessary assistance for those parts of Korea which the President determined to be not under Communist control.

§§1851, 1852. Repealed. Pub. L. 87–195, pt. III, §642(a)(2), Sept. 4, 1961, 75 Stat. 460

Section 1851, acts Aug. 26, 1954, ch. 937, ch. II, §141, 68 Stat. 839; June 30, 1958, Pub. L. 85–477, ch. V, §501(6), 72 Stat. 270; May 14, 1960, Pub. L. 86–472, ch. II, §201(c), 74 Stat. 135, prescribed conditions of eligibility.

Section 1852, acts Aug. 26, 1954, ch. 937, ch. II, §142, 68 Stat. 839; July 8, 1955, ch. 301, §5, 69 Stat. 285; Aug. 14, 1957, Pub. L. 85–141, §5(a), 71 Stat. 356; June 30, 1958, Pub. L. 85–477, ch. II, §202, ch. V, §501(7, 8), 72 Stat. 262, 271; July 24, 1959, Pub. L. 86–108, ch. II, §202, 73 Stat. 248; May 14, 1960, Pub. L. 86–472, ch. II, §201(d), 74 Stat. 135, related to agreements by recipient nations for furnishing of defense support or military equipment and materials.

§1853. Assistance to Yugoslavia

In furnishing assistance to Yugoslavia, the President shall continuously assure himself (1) that Yugoslavia continues to maintain its independence, (2) that Yugoslavia is not participating in any policy or program for the Communist conquest of the world, and (3) that the furnishing of such assistance is in the interest of the national security of the United States. The President shall keep the Foreign Relations Committee and the Appropriations Committee of the Senate and the Speaker of the House of Representatives fully and constantly informed of any assistance furnished to Yugoslavia under this chapter.

(Aug. 26, 1954, ch. 937, ch. II, §143, as added July 18, 1956, ch. 627, §5, 70 Stat. 556; amended Pub. L. 85–141, §5(b), Aug. 14, 1957, 71 Stat. 356.)

AMENDMENTS

1957—Pub. L. 85–141 required the President to continuously assure himself that Yugoslavia continues to maintain its independence, that she is not participating in any policy or program for the Communist conquest of the world, and that the furnishing of assistance is in the interest of national security, and provided that certain committees of the Senate and the Speaker of the House of Representatives should be constantly informed of assistance furnished.

§1854. Repealed. Pub. L. 87–195, pt. III, §642(a)(2), Sept. 4, 1961, 75 Stat. 460

Section, act Aug. 26, 1954, ch. 937, ch. II, §144, as added Aug. 14, 1957, Pub. L. 85–141, §5(c), 71 Stat. 357; amended June 30, 1958, Pub. L. 85–477, ch. V, §501(9), 72 Stat. 271, authorized assistance to Southeast Asia.

PART B—DEVELOPMENT LOAN FUND

§§1870 to 1876. Repealed. Pub. L. 87–195, pt. III, §642(a)(2), (4), Sept. 4, 1961, 75 Stat. 460

Section 1870, act July 18, 1956, ch. 627, §14, 70 Stat. 566, stated Congressional declaration of policy to promote economic development of underdeveloped countries. See section 2151 of this title.

Section 1871, act Aug. 26, 1954, ch. 937, ch. II, §201, as added Aug. 14, 1957, Pub. L. 85–141, §6, 71 Stat. 357; amended May 14, 1960, Pub. L. 86–472, ch. II, §202(a), 74 Stat. 135, stated Congressional declaration of purpose for development loan program. See section 2151 of this title.

Section 1872, act Aug. 26, 1954, ch. 937, ch. II, §202, as added Aug. 14, 1957, Pub. L. 85–141, §6, 71 Stat.

357; amended June 30, 1958, Pub. L. 85 477, ch. II, §203(a), ch. V, §501(10), 72 Stat. 262, 271; July 24, 1959, Pub. L. 86–108, ch. II, §203(a), 73 Stat. 248; May 14, 1960, Pub. L. 86–472, ch. II, §202(b), 74 Stat. 135, created Development Loan Fund, authorized Fund to make loans, credits or guaranties, provided for repayment, administration, and reports, and restricted allocation, reservation, earmarking, commitment, or set-aside of funds.

Section 1873, act Aug. 26, 1954, ch. 937, ch. II, §203, as added Aug. 14, 1957, Pub. L. 85–141, §6, 71 Stat. 358; amended July 24, 1959, Pub. L. 86–108, ch. II, §203(b), 73 Stat. 248, authorized appropriations for capitalization of Fund.

Section 1874, act Aug. 26, 1954, ch. 937, ch. II, §204, as added Aug. 14, 1957, Pub. L. 85–141, §6, 71 Stat. 358; amended June 30, 1958, Pub. L. 86–477, ch. II, §203(b), 72 Stat. 263; July 24, 1959, Pub. L. 86–108, ch. II, §203(c), 73 Stat. 249, related to fiscal provisions for Fund.

Section 1875, act Aug. 26, 1954, ch. 937, ch. II, §205, as added Aug. 14, 1957, Pub. L. 85–141, §6, 71 Stat. 358; amended June 30, 1958, Pub. L. 85–477, ch. II, §203(c), 72 Stat. 263; July 24, 1959, Pub. L. 86–108, ch. II, §203(d), 73 Stat. 249; May 14, 1960, Pub. L. 86–472, ch. II, §202(c), ch. V, §501(a), 74 Stat. 135, 140, related to management of Fund, and powers and authority of Board of Directors.

Section 1876, act Aug. 26, 1954, ch. 937, ch. II, §205, as added Aug. 14, 1957, Pub. L. 85–141, §6, 71 Stat. 359, provided for applicability of functions of National Advisory Council on International Monetary and Financial Problems.

PART C—TECHNICAL COOPERATION

§§1891 to 1896. Repealed. Pub. L. 87–195, pt. III, §642(a)(2), Sept. 4, 1961, 75 Stat. 460

Section 1891, act Aug. 26, 1954, ch. 937, ch. II, §301, 68 Stat. 841, stated Congressional declaration of policy and purpose for technical cooperation.

Section 1892, act Aug. 26, 1954, ch. 937, ch. II, §302, 68 Stat. 841, related to authority of President and defined technical cooperation programs. See section 2171 of this title.

Section 1893, act Aug. 26, 1954, ch. 937, ch. II, §303, 68 Stat. 841, enumerated prerequisites to assistance. See section 2171 of this title.

Section 1894, acts Aug. 26, 1954, ch. 937, ch. II. §304, 68 Stat. 842; July 8, 1955, ch. 301, §7(a), 69 Stat. 285; July 18, 1956, ch. 627; §7(a), 70 Stat. 557; Aug. 14, 1957, Pub. L. 85–141, §7(a), 71 Stat. 359; June 30, 1958, Pub. L. 85–477, ch. II, §204(a), 72 Stat. 265; July 24, 1959, Pub. L. 86–108, ch. II, §204(a), 73 Stat. 249; May 14, 1960, Pub. L. 86–472, ch. II, §203(a), 74 Stat. 136, authorized appropriations for technical cooperation programs. See section 2172 of this title.

Section 1895, act Aug. 26, 1954, ch. 937, ch. II, §305, 68 Stat. 842, related to limitation on use of funds.

Section 1896, acts Aug. 26, 1954, ch. 937, ch. II, §306, 68 Stat. 842; July 8, 1955, ch. 301, §7(b), 69 Stat. 285; July 18, 1956, ch. 627, §7(b), 70 Stat. 557; Aug. 14, 1957, Pub. L. 85–141, §7(b), 71 Stat. 359; June 30, 1958, Pub. L. 85–477, ch. II, §204(b), 72 Stat. 265; July 24, 1959, Pub. L. 86–108, ch. II, §204(b), 73 Stat. 249; May 14, 1960, Pub. L. 86–472, ch. II, §203(b), 74 Stat. 136, authorized appropriations for multilateral technical cooperation and related programs.

§1896a. Restriction on commitments for technical assistance

No commitment for the calendar year 1955 or thereafter, with respect to contributions to the United Nations expanded program of technical assistance, shall be pledged on behalf of the United States until the Congress appropriates for said purpose.

(Sept. 3, 1954, ch. 1262, §101, 68 Stat. 1221.)

CODIFICATION

Section was enacted as a part of section 101 of the Mutual Security Appropriation Act, 1955. No other part of section 101 of the Mutual Security Appropriation Act, 1955, was classified to the Code.

§1896b. Colombo Plan Council for Technical Cooperation; authorization

To enable the United States to maintain membership in the Colombo Plan Council for Technical Cooperation, there is authorized to be appropriated from time to time to the Department of State such sums as may be necessary for the payment by the United States of its share of the expenses of the Colombo Plan Council for Technical Cooperation.

(Pub. L. 86–108, ch. V, §502, July 24, 1959, 73 Stat. 256.)

CODIFICATION

Section was enacted as part of the Mutual Security Act of 1959.

ANNUAL APPROPRIATIONS

Annual appropriations to meet the obligations of membership in various international organizations were contained in acts listed in a note set out under section 269a of this title.

§1897. Repealed. Pub. L. 87–195, pt. III, §642(a)(2), Sept. 4, 1961, 75 Stat. 460

Section, acts Aug. 26, 1954, ch. 937, ch. II, §307, 68 Stat. 842; July 18, 1956, ch. 627, §7(c), 70 Stat. 557; May 14, 1960, Pub. L. 86–472, ch. II, §203(c), 74 Stat. 136, authorized advances and grants-in-aid for technical cooperation program.

§1898. Repealed. Pub. L. 86–472, ch. II, §203(d), May 14, 1960, 74 Stat. 136

Section, acts Aug. 26, 1954, ch. 937, ch. II, §308, 68 Stat. 842; July 8, 1955, ch. 301, §7(c), 69 Stat. 286; July 24, 1959, Pub. L. 86–108, ch. II, §204(c), 73 Stat, 249, created an advisory board and provided for its duties, membership, allowances, and expenses.

PART D—SPECIAL ASSISTANCE AND OTHER PROGRAMS

§§1920, 1921. Repealed. Pub. L. 87–195, pt. III, §642(a)(2), Sept. 4, 1961, 75 Stat. 460

Section 1920, act Aug. 26, 1954, ch. 937, ch. II, §400, as added Aug. 14, 1957, Pub. L. 85–141, §8(a), 71 Stat. 360; amended June 30, 1958, Pub. L. 85–477, ch. II, §205(a), 72 Stat. 266; July 24, 1959, Pub. L. 86–108, ch. II, §205(a), 73 Stat. 249; May 14, 1960, Pub. L. 86–472, ch. II, §204(a), 74 Stat. 136, authorized assistance for special programs to maintain political or economic stability, for programs of economic development in Latin America and for schools and libraries abroad. See section 2171 et seq. of this title.

Section 1921, act Aug. 26, 1954, ch. 937, ch. II, §401, as added July 24, 1959, Pub. L. 86–108, ch. II, §205(b), 73 Stat. 249; amended May 14, 1960, Pub. L. 86–472, ch. II, §204(b), 74 Stat. 136, authorized contributions to the United Nations Emergency Fund. See section 2221 of this title.

§1922. Repealed. Pub. L. 104–127, title II, §228, Apr. 4, 1996, 110 Stat. 963

Section, acts Aug. 26, 1954, ch. 937, title IV, §402, 68 Stat. 843; July 8, 1955, ch. 301, §8(b), 69 Stat. 286; July 18, 1956, ch. 627, §8(b), 70 Stat. 558; Aug. 14, 1957, Pub. L. 85–141, §8(c), 71 Stat. 361; June 30, 1958, Pub. L. 85–477, ch. II, §205(b), 72 Stat. 266; July 24, 1959, Pub. L. 86–108, ch. II, §205(c), 73 Stat. 250; May 14, 1960, Pub. L. 86–472, ch. II, §204(c), 74 Stat. 136, related to disposition of surplus agricultural commodities and use of foreign currency proceeds.

§§1923, 1924. Repealed. Pub. L. 87–195, pt. III, §642(a)(2), Sept. 4, 1961, 75 Stat.

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Section 1923, act Aug. 26, 1954, ch. 937, ch. II, §403, as added June 30, 1958, Pub. L. 85–477, ch. II, §205(c), 72 Stat. 266; amended July 24, 1959, Pub. L. 86–108, ch. II, §205(d), 73 Stat. 250; May 14, 1960, Pub. L. 86–472, ch. II, §204(d), 74 Stat. 136, authorized the use of funds to meet responsibilities in Germany. See section 2364(b) of this title.

Section 1924, act Aug. 26, 1954, ch. 937, ch. II, §404, as added May 14, 1960, Pub. L. 86–472, ch. II, §204(e), 74 Stat. 136, related to the Indus Basin Development. See section 2223 of this title.

§1925. Repealed

Subsecs. (a), (c), and (d), acts Aug. 26, 1954, ch. 937, ch. II, §405(a), (c), (d), 68 Stat. 844; July 8, 1955, ch. 301, §8(d), 69 Stat. 286; July 18, 1956, ch. 627, §8(d), 70 Stat. 558; Aug. 14, 1957, Pub. L. 85–141, §8(e), 71 Stat. 361; June 30, 1958, Pub. L. 85–477, ch. II, §205(d), ch. V, §501(13), 72 Stat. 266, 271; July 24, 1959, Pub. L. 86–108, ch. II, §205(e), 73 Stat. 250; May 14, 1960, Pub. L. 86–472, ch. II, §204(f), 74 Stat. 137, related to movement of migrants, refugees, and escapees, and were repealed by Pub. L. 87–510, §6, June 28, 1962, 76 Stat. 124. See section 2601(a), (b)(1) of this title.

Subsec. (b), act Aug. 26, 1954, ch. 937, ch. II, §405(b), 68 Stat. 844, which related to the use of funds to facilitate migration of persons resident in Ryukyu Island Archipelago, was repealed by Pub. L. 87–195, pt. III, §642(a)(2), Sept. 4, 1961, 75 Stat. 460. See section 1945(b) of this title.

§§1926, 1927. Repealed. Pub. L. 87–195, pt. III, §642(a)(2), Sept. 4, 1961, 75 Stat. 460

Section 1926, acts Aug. 26, 1954, ch. 937, ch. II, §406, 68 Stat. 844; July 8, 1955, ch. 301, §8(e), 69 Stat. 286; July 18, 1956, ch. 627, §8(e), 70 Stat. 558; Aug. 14, 1957, Pub. L. 85–141, §8(f), 71 Stat. 361; June 30, 1958, Pub. L. 85–477, ch. II, §205(e), 72 Stat. 266; July 24, 1959, Pub. L. 86–108, ch. II, §205(f), 73 Stat. 250; May 14, 1960, Pub. L. 86–472, ch. II, §204(g), 74 Stat. 137, authorized appropriations for United Nations Children's Fund.

Section 1927, acts Aug. 26, 1954, ch. 937, ch. II, §407, 68 Stat. 844; July 8, 1955, ch. 301, §8(f), 69 Stat. 286; July 18, 1956, ch. 627, §8(f), 70 Stat. 558; Aug. 14, 1957, Pub. L. 85–141, §8(g), 71 Stat. 361; June 30, 1958, Pub. L. 85–477, ch. II, §205(f), 72 Stat. 266; July 24, 1959, Pub. L. 86–108, ch. II, §205(g), 73 Stat. 250; May 14, 1960, Pub. L. 86–472, ch. II, §204(h), 74 Stat. 137, authorized appropriations for contributions to Palestine refugees in Near East. See section 2221 of this title.

§1928. North Atlantic Treaty Organization

(a) Authorization for expenses

In order to provide for United States participation in the North Atlantic Treaty Organization, there is authorized to be appropriated such amounts as may be necessary from time to time for the payment by the United States of its share of the expenses of the Organization and all necessary salaries and expenses of the United States permanent representative to the Organization, of such persons as may be appointed to represent the United States in the subsidiary bodies of the Organization or in any multilateral organization which participates in achieving the aims of the North Atlantic Treaty, and of their appropriate staffs, and the expenses of participation in meetings of such organizations, including salaries, expenses, and allowances of personnel and dependents as authorized by the Foreign Service Act of 1980 [22 U.S.C. 3901 et seq.], and allowances and expenses as provided in section 287r of this title.

(b) Appointment of personal representative

The United States permanent representative to the North Atlantic Treaty Organization shall be appointed by the President by and with the advice and consent of the Senate and shall hold office at

the pleasure of the President. Such representative shall have the rank and status of ambassador extraordinary and plenipotentiary and shall be a chief of mission under the Foreign Service Act of 1980 [22 U.S.C. 3901 et seq.].

(c) Duration of staff service

Persons detailed to the international staff of the North Atlantic Treaty Organization in accordance with section 2388 of this title who are members of the Foreign Service serving under limited appointments may serve for periods of more than five years notwithstanding the limitation in section 309 of the Foreign Service Act of 1980 [22 U.S.C. 3949].

(Aug. 26, 1954, ch. 937, title IV, §408, 68 Stat. 845; Pub. L. 85–141, §8(h), Aug. 14, 1957, 71 Stat. 361; Pub. L. 86–108, ch. II, §205(h), July 24, 1959, 73 Stat. 250; Pub. L. 96–465, title II, §2206(a)(6), Oct. 17, 1980, 94 Stat. 2161.)

REFERENCES IN TEXT

The Foreign Service Act of 1980, referred to in subsecs. (a) and (b), is Pub. L. 96–465, Oct. 17, 1980, 94 Stat. 2071, as amended, which is classified principally to chapter 52 (§3901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3901 of this title and Tables.

AMENDMENTS

1980—Subsec. (a). Pub. L. 96–465, §2206(a)(6)(A), substituted "Foreign Service Act of 1980" for "Foreign Service Act of 1946, as amended (22 U.S.C. 801),".

Subsec. (b). Pub. L. 96–465, §2206(a)(6)(B), substituted "chief of mission under the Foreign Service Act of 1980" for "chief of mission, class 1, within the meaning of the Foreign Service Act of 1946, as amended (22 U.S.C. 801)".

Subsec. (c). Pub. L. 96–465, §2206(a)(6)(C), among other changes, substituted references to sections 2388 and 3949 of this title for references to sections 1789 and 922 of this title, respectively, and reference to members of the Foreign Service for reference to Foreign Service Reserve officers.

1959—Subsec. (c). Pub. L. 86–108 substituted "five years" for "four years".

1957—Subsec. (a). Pub. L. 85–141 struck out provisions authorizing appropriations of not more than $3,200,000 for the fiscal year 1955.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–465 effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

ANNUAL APPROPRIATIONS

Annual appropriations to meet the obligations of membership in various international organizations were contained in acts listed in a note set out under section 269a of this title.

ANNUAL REPORT REGARDING NATO SPECIAL OPERATIONS HEADQUARTERS

Pub. L. 111–84, div. A, title XII, §1244(d), as added Pub. L. 112–239, div. A, title XII, §1272(b), Jan. 2, 2013, 126 Stat. 2023, provided that: "Not later than March 1 of each year, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report regarding support for the NSHQ [NATO Special Operations Headquarters]. Each report shall include the following:

"(1) The total amount of funding provided by the United States and other NATO nations to the NSHQ for operating costs of the NSHQ.

"(2) A description of the activities carried out with such funding, including—

"(A) the amount of funding allocated for each such activity;

"(B) the extent to which other NATO nations participate in each such activity;

"(C) the extent to which each such activity is designed to meet the purposes set forth in paragraphs (1) through (5) of subsection (b) [section 1244(b) of Pub. L. 111–84, 123 Stat. 2541]; and

"(D) an assessment of the extent to which each such activity will promote the mission of the NSHQ.

"(3) Other contributions, financial or in kind, provided by the United States and other NATO nations in support of the NSHQ.

"(4) Any other matters that the Secretary of Defense considers appropriate."

[For termination, effective Dec. 31, 2021, of annual reporting provisions in section 1244(d) of Pub. L.

111–84, set out above, see section 1061 of Pub. L. 114–328, set out as a note under section 111 of Title 10, Armed Forces.]

REPORT ON HOST COUNTRIES ASSUMING GREATER SHARE OF COMMON DEFENSE BURDEN

Pub. L. 111–117, div. E, title I, §118, Dec. 16, 2009, 123 Stat. 3293, provided that:

"(a) The Secretary of Defense, in consultation with the Secretary of State, shall submit to the Committees on Appropriations of both Houses of Congress, by February 15 of each year, an annual report in unclassified and, if necessary, classified form, on actions taken by the Department of Defense and the Department of State during the previous fiscal year to encourage host countries to assume a greater share of the common defense burden of such countries and the United States.

"(b) The report under subsection (a) shall include a description of—

"(1) attempts to secure cash and in-kind contributions from host countries for military construction projects;

"(2) attempts to achieve economic incentives offered by host countries to encourage private investment for the benefit of the United States Armed Forces;

"(3) attempts to recover funds due to be paid to the United States by host countries for assets deeded or otherwise imparted to host countries upon the cessation of United States operations at military installations;

"(4) the amount spent by host countries on defense, in dollars and in terms of the percent of gross domestic product (GDP) of the host country; and

"(5) for host countries that are members of the North Atlantic Treaty Organization (NATO), the amount contributed to NATO by host countries, in dollars and in terms of the percent of the total NATO budget.

"(c) In this section, the term 'host country' means other member countries of NATO, Japan, South Korea, and United States allies bordering the Arabian Sea."

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 110–329, div. E, title I, §118, Sept. 30, 2008, 122 Stat. 3698.

Pub. L. 110–161, div. I, title I, §118, Dec. 26, 2007, 121 Stat. 2259.

NATO FREEDOM CONSOLIDATION

Pub. L. 110–17, Apr. 9, 2007, 121 Stat. 73, provided that:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'NATO Freedom Consolidation Act of 2007'.

"SEC. 2. FINDINGS.

"Congress makes the following findings:

"(1) The sustained commitment of the North Atlantic Treaty Organization (NATO) to mutual defense has made possible the democratic transformation of Central and Eastern Europe. Members of the North Atlantic Treaty Organization can and should play a critical role in addressing the security challenges of the post-Cold War era in creating the stable environment needed for those emerging democracies in Europe.

"(2) Lasting stability and security in Europe requires the military, economic, and political integration of emerging democracies into existing European structures.

"(3) In an era of threats from terrorism and the proliferation of weapons of mass destruction, the North Atlantic Treaty Organization is increasingly contributing to security in the face of global security challenges for the protection and interests of its member states.

"(4) In the NATO Participation Act of 1994 (title II of Public Law 103–447; 22 U.S.C. 1928 note), Congress declared that 'full and active participants in the Partnership for Peace in a position to further the principles of the North Atlantic Treaty and to contribute to the security of the North Atlantic area should be invited to become full NATO members in accordance with Article 10 of such Treaty at an early date . . .'.

"(5) In the NATO Enlargement Facilitation Act of 1996 (title VI of section 101(c) of title I of division A of Public Law 104–208; 22 U.S.C. 1928 note), Congress called for the prompt admission of Poland, Hungary, the Czech Republic, and Slovenia to the North Atlantic Treaty Organization, and declared that 'in order to promote economic stability and security in Slovakia, Estonia, Latvia, Lithuania, Romania, Bulgaria, Albania, Moldova, and Ukraine . . . the process of enlarging NATO to include emerging democracies in Central and Eastern Europe should not be limited to consideration of admitting Poland, Hungary, the Czech Republic, and Slovenia as full members of the NATO Alliance'.

"(6) In the European Security Act of 1998 (title XXVII of division G of Public Law 105–277; 22 U.S.C. 1928 note), Congress declared that 'Poland, Hungary, and the Czech Republic should not be the last

emerging democracies in Central and Eastern Europe invited to join NATO' and that 'Romania, Estonia, Latvia, Lithuania, and Bulgaria . . . would make an outstanding contribution to furthering the goals of NATO and enhancing stability, freedom, and peace in Europe should they become NATO members [and] upon complete satisfaction of all relevant criteria should be invited to become full NATO members at the earliest possible date'.

"(7) In the Gerald B. H. Solomon Freedom Consolidation Act of 2002 (Public Law 107–187; 22 U.S.C. 1928 note), Congress endorsed '. . . the vision of further enlargement of the NATO Alliance articulated by President George W. Bush on June 15, 2001, and by former President William J. Clinton on October 22, 1996'.

"(8) At the Madrid Summit of the North Atlantic Treaty Organization in July 1997, Poland, Hungary, and the Czech Republic were invited to join the Alliance, and the North Atlantic Treaty Organization heads of state and government issued a declaration stating '[t]he alliance expects to extend further invitations in coming years to nations willing and able to assume the responsibilities and obligations of membership . . . [n]o European democratic country whose admission would fulfill the objectives of the [North Atlantic] Treaty will be excluded from consideration'.

"(9) At the Washington Summit of the North Atlantic Treaty Organization in April 1999, the North Atlantic Treaty Organization heads of state and government issued a communiqué declaring '[w]e pledge that NATO will continue to welcome new members in a position to further the principles of the [North Atlantic] Treaty and contribute to peace and security in the Euro-Atlantic area . . . [t]he three new members will not be the last . . . [n]o European democratic country whose admission would fulfill the objectives of the Treaty will be excluded from consideration, regardless of its geographic location . . .'.

"(10) In May 2000 in Vilnius, Lithuania, the foreign ministers of Albania, Bulgaria, Estonia, Latvia, Lithuania, the Republic of Macedonia (FYROM), Romania, Slovakia, and Slovenia issued a statement (later joined by Croatia) declaring that—

"(A) their countries will cooperate in jointly seeking membership in the North Atlantic Treaty Organization in the next round of enlargement of the North Atlantic Treaty Organization;

"(B) the realization of membership in the North Atlantic Treaty Organization by one or more of these countries would be a success for all; and

"(C) eventual membership in the North Atlantic Treaty Organization for all of these countries would be a success for Europe and for the North Atlantic Treaty Organization.

"(11) On June 15, 2001, in a speech in Warsaw, Poland, President George W. Bush stated '[a]ll of Europe's new democracies, from the Baltic to the Black Sea and all that lie between, should have the same chance for security and freedom—and the same chance to join the institutions of Europe—as Europe's old democracies have . . . I believe in NATO membership for all of Europe's democracies that seek it and are ready to share the responsibilities that NATO brings . . . [a]s we plan to enlarge NATO, no nation should be used as a pawn in the agenda of others . . . [w]e will not trade away the fate of free European peoples . . . [n]o more Munichs . . . [n]o more Yaltas . . . [a]s we plan the Prague Summit, we should not calculate how little we can get away with, but how much we can do to advance the cause of freedom'.

"(12) On October 22, 1996, in a speech in Detroit, Michigan, former President William J. Clinton stated 'NATO's doors will not close behind its first new members . . . NATO should remain open to all of Europe's emerging democracies who are ready to shoulder the responsibilities of membership . . . [n]o nation will be automatically excluded . . . [n]o country outside NATO will have a veto . . . [a] gray zone of insecurity must not reemerge in Europe'.

"(13) At the Prague Summit of the North Atlantic Treaty Organization in November 2002, Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia were invited to join the Alliance in the second round of enlargement of the North Atlantic Treaty Organization since the end of the Cold War, and the North Atlantic Treaty Organization heads of state and government issued a declaration stating 'NATO's door will remain open to European democracies willing and able to assume the responsibilities and obligations of membership, in accordance with Article 10 of the Washington Treaty'.

"(14) On May 8, 2003, the United States Senate unanimously approved the Resolution of Ratification to Accompany Treaty Document No. 108–4, Protocols to the North Atlantic Treaty of 1949 on Accession of Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia, inviting Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia to join the North Atlantic Treaty Organization.

"(15) At the Istanbul Summit of the North Atlantic Treaty Organization in June 2004, the North Atlantic Treaty Organization heads of state and government issued a communiqué reaffirming that NATO's door remains open to new members, declaring '[w]e celebrate the success of NATO's Open Door Policy, and reaffirm tody [sic] that our seven new members will not be the last. The door to membership remains open. We welcome the progress made by Albania, Croatia, and the former Yugoslav Republic of

Macedonia (1) [sic] in implementing their Annual National Programmes under the Membership Action Plan, and encourage them to continue pursuing the reforms necessary to progress toward NATO membership. We also commend their contribution to regional stability and cooperation. We want all three countries to succeed and will continue to assist them in their reform efforts. NATO will continue to assess each country's candidacy individually, based on the progress made towards reform goals pursued through the Membership Action Plan, which will remain the vehicle to keep the readiness of each aspirant for membership under review. We direct that NATO Foreign Ministers keep the enlargement process, including the implementation of the Membership Action Plan, under continual review and report to us. We will review at the next Summit progress by aspirants towards membership based on that report'.

"(16) Georgia and Ukraine have stated their desire to join the Euro-Atlantic community, and in particular, are seeking to join the North Atlantic Treaty Organization. Georgia and Ukraine are working closely with the North Atlantic Treaty Organization and its members to meet criteria for eventual membership in NATO.

"(17) At a press conference with President Mikhail Saakashvili of Georgia in Washington, D.C. on July 5, 2006, President George W. Bush stated that '. . . I believe that NATO would benefit with Georgia being a member of NATO, and I think Georgia would benefit. And there's a way forward through the Membership Action Plan . . . And I'm a believer in the expansion of NATO. I think it's in the world's interest that we expand NATO'.

"(18) Following a meeting of NATO Foreign Ministers in New York on September 21, 2006, NATO Secretary General Jaap de Hoop Scheffer announced the launching of an Intensified Dialogue on membership between the Alliance and Georgia.

"(19) At the NATO-Ukraine Commission Summit in Brussels in February 2005, President of Ukraine Victor Yushchenko declared membership in NATO as the ultimate goal of Ukraine's cooperation with the Alliance and expressed Ukraine's desire to conclude a Membership Action Plan.

"(20) At the NATO-Ukraine Commission Foreign Ministerial meeting in Vilnius in April 2005, NATO and Ukraine launched an Intensified Dialogue on the potential membership of Ukraine in NATO.

"(21) At the Riga Summit of the North Atlantic Treaty Organization in November 2006, the Heads of State and Government of the member countries of NATO issued a declaration reaffirming that NATO's door remains open to new members, declaring that 'all European democratic countries may be considered for MAP (Membership Action Plan) or admission, subject to decision by the NAC (North Atlantic Council) at each stage, based on the performance of these countries towards meeting the objectives of the North Atlantic Treaty. We direct that NATO Foreign Ministers keep that process under continual review and report to us. We welcome the efforts of Albania, Croatia, and the former Yugoslav Republic of Macedonia to prepare themselves for the responsibilities and obligations of membership. We reaffirm that the Alliance will continue with Georgia and Ukraine its Intensified Dialogues which cover the full range of political, military, financial and security issues relating to those countries' aspirations to membership, without prejudice to any eventual Alliance decision. We reaffirm the importance of the NATO-Ukraine Distinctive Partnership, which has its 10th anniversary next year and welcome the progress that has been made in the framework of our Intensified Dialogue. We appreciate Ukraine's substantial contributions to our common security, including through participation in NATO-led operations and efforts to promote regional cooperation. We encourage Ukraine to continue to contribute to regional security. We are determined to continue to assist, through practical cooperation, in the implementation of far-reaching reform efforts, notably in the fields of national security, defence, reform of the defence-industrial sector and fighting corruption. We welcome the commencement of an Intensified Dialogue with Georgia as well as Georgia's contribution to international peacekeeping and security operations. We will continue to engage actively with Georgia in support of its reform process. We encourage Georgia to continue progress on political, economic and military reforms, including strengthening judicial reform, as well as the peaceful resolution of outstanding conflicts on its territory. We reaffirm that it is of great importance that all parties in the region should engage constructively to promote regional peace and stability.'.

"(22) Contingent upon their continued implementation of democratic, defense, and economic reform, and their willingness and ability to meet the responsibilities of membership in the North Atlantic Treaty Organization and a clear expression of national intent to do so, Congress calls for the timely admission of Albania, Croatia, Georgia, Macedonia (FYROM), and Ukraine to the North Atlantic Treaty Organization to promote security and stability in Europe.

"SEC. 3. DECLARATIONS OF POLICY.

"Congress—

"(1) reaffirms its previous expressions of support for continued enlargement of the North Atlantic Treaty Organization contained in the NATO Participation Act of 1994 [title II of Pub. L. 103–447, set out

as a note below], the NATO Enlargement Facilitation Act of 1996 [section 101(c) [title VI] of div. A of Pub. L. 104–208, set out as a note below], the European Security Act of 1998 [title XXVII of div. G of Pub. L. 105–277, set out as a note below], and the Gerald B. H. Solomon Freedom Consolidation Act of 2002 [Pub. L. 107–187, set out as a note below];

"(2) supports the commitment to further enlargement of the North Atlantic Treaty Organization to include European democracies that are able and willing to meet the responsibilities of Membership, as expressed by the Alliance in its Madrid Summit Declaration of 1997, its Washington Summit Communiqué of 1999, its Prague Summit Declaration of 2002, its Istanbul Summit Communiqué of 2004, and its Riga Summit Declaration of 2006; and

"(3) endorses the vision of further enlargement of the North Atlantic Treaty Organization articulated by President George W. Bush on June 15, 2001, and by former President William J. Clinton on October 22, 1996, and urges our allies in the North Atlantic Treaty Organization to work with the United States to realize a role for the North Atlantic Treaty Organization in promoting global security, including continued support for enlargement to include qualified candidate states, specifically by entering into a Membership Action Plan with Georgia and recognizing the progress toward meeting the responsibilities and obligations of NATO membership by Albania, Croatia, Georgia, Macedonia (FYROM), and Ukraine.

"SEC. 4. DESIGNATION OF ALBANIA, CROATIA, GEORGIA, MACEDONIA (FYROM), AND UKRAINE AS ELIGIBLE TO RECEIVE ASSISTANCE UNDER THE NATO PARTICIPATION ACT OF 1994.

"(a) DESIGNATION.—

"(1) ALBANIA.—The Republic of Albania is designated as eligible to receive assistance under the program established under section 203(a) of the NATO Participation Act of 1994 (title II of Public Law 103–447; 22 U.S.C. 1928 note), and shall be deemed to have been so designated pursuant to section 203(d)(1) of such Act.

"(2) CROATIA.—The Republic of Croatia is designated as eligible to receive assistance under the program established under section 203(a) of the NATO Participation Act of 1994, and shall be deemed to have been so designated pursuant to section 203(d)(1) of such Act.

"(3) GEORGIA.—Georgia is designated as eligible to receive assistance under the program established under section 203(a) of the NATO Participation Act of 1994, and shall be deemed to have been so designated pursuant to section 203(d)(1) of such Act.

"(4) MACEDONIA (FYROM).—The Republic of Macedonia (FYROM) is designated as eligible to receive assistance under the program established under section 203(a) of the NATO Participation Act of 1994, and shall be deemed to have been so designated pursuant to section 203(d)(1) of such Act.

"(5) UKRAINE.—Ukraine is designated as eligible to receive assistance under the program established under section 203(a) of the NATO Participation Act of 1994, and shall be deemed to have been so designated pursuant to section 203(d)(1) of such Act.

"(b) RULE OF CONSTRUCTION.—The designation of the Republic of Albania, the Republic of Croatia, Georgia, the Republic of Macedonia (FYROM), and Ukraine pursuant to subsection (a) as eligible to receive assistance under the program established under section 203(a) of the NATO Participation Act of 1994—

"(1) is in addition to the designation of Poland, Hungary, the Czech Republic, and Slovenia pursuant to section 606 of the NATO Enlargement Facilitation Act of 1996 (title VI of section 101(c) of title I of division A of Public Law 104–208; 22 U.S.C. 1928 note), the designation of Romania, Estonia, Latvia, Lithuania, and Bulgaria pursuant to section 2703(b) of the European Security Act of 1998 (title XXVII of division G of Public Law 105–277; 22 U.S.C. 1928 note), and the designation of Slovakia pursuant to section 4(a) of the Gerald B. H. Solomon Freedom Consolidation Act of 2002 (Public Law 107–187; 22 U.S.C. 1928 note) as eligible to receive assistance under the program established under section 203(a) of the NATO Participation Act of 1994; and

"(2) shall not preclude the designation by the President of other countries pursuant to section 203(d)(2) of the NATO Participation Act of 1994 as eligible to receive assistance under the program established under section 203(a) of such Act.

"SEC. 5. AUTHORIZATION OF SECURITY ASSISTANCE FOR COUNTRIES DESIGNATED UNDER THE NATO PARTICIPATION ACT OF 1994.

"Of the amounts made available for fiscal year 2008 under section 23 of the Arms Export Control Act (22 U.S.C. 2763) such sums as may be necessary are authorized to be appropriated for assistance to the Republic of Albania, the Republic of Croatia, Georgia, the Republic of Macedonia (FYROM), and Ukraine."

ANNUAL REPORT ON THE NATO PRAGUE CAPABILITIES COMMITMENT AND THE NATO

RESPONSE FORCE

Pub. L. 108–136, div. A, title XII, §1231, Nov. 24, 2003, 117 Stat. 1654, provided that:

"(a) FINDINGS.—Congress makes the following findings:

"(1) At the meeting of the North Atlantic Council held in Prague in November 2002, the heads of states and governments of the North Atlantic Treaty Organization (NATO) launched a Prague Capabilities Commitment and decided to create a NATO Response Force.

"(2) The Prague Capabilities Commitment is part of the continuing NATO effort to improve and develop new military capabilities for modern warfare in a high-threat environment. As part of this commitment, individual NATO allies have made firm and specific political commitments to improve their capabilities in the areas of—

"(A) chemical, biological, radiological, and nuclear defense;

"(B) intelligence, surveillance, and target acquisition;

"(C) air-to-ground surveillance;

"(D) command, control, and communications;

"(E) combat effectiveness, including precision guided munitions and suppression of enemy air defenses;

"(F) strategic air and sea lift;

"(G) air-to-air refueling; and

"(H) deployable combat support and combat service support units.

"(3) The NATO Response Force is envisioned to be a technologically advanced, flexible, deployable, interoperable, and sustainable force that includes land, sea, and air elements ready to move quickly to wherever needed, as determined by the North Atlantic Council. The NATO Response Force is also intended to be a catalyst for focusing and promoting improvements in NATO's military capabilities. It is expected to have initial operational capability by October 2004, and full operational capability by October 2006.

"(b) ANNUAL REPORT.—(1) Not later than January 31 of each year through 2008, the Secretary of Defense shall submit to the congressional committees specified in paragraph (5) a report, to be prepared in consultation with the Secretary of State, on implementation of the Prague Capabilities Commitment and development of the NATO Response Force by the member nations of the North Atlantic Treaty Organization (NATO).

"(2) The annual report under this subsection shall include the following matters:

"(A) A description of the actions taken by NATO as a whole and by each member nation of NATO other than the United States to further the Prague Capabilities Commitment, including any actions taken to improve capability shortfalls in the areas identified for improvement.

"(B) A description of the actions taken by NATO as a whole and by each member nation of NATO, including the United States, to create the NATO Response Force.

"(C) A discussion of the relationship between NATO's efforts to improve capabilities through the Prague Capabilities Commitment and those of the European Union to enhance European capabilities through the European Capabilities Action Plan, including the extent to which they are mutually reinforcing.

"(D) A discussion of NATO decisionmaking on the implementation of the Prague Capabilities Commitment and the development of the NATO Response Force, including—

"(i) an assessment of whether the Prague Capabilities Commitment and the NATO Response Force are the sole jurisdiction of the Defense Planning Committee, the North Atlantic Council, or the Military Committee;

"(ii) a description of the circumstances which led to the defense, military, security, and nuclear decisions of NATO on matters such as the Prague Capabilities Commitment and the NATO Response Force being made in bodies other than the Defense Planning Committee;

"(iii) a description of the extent to which any member that does not participate in the integrated military structure of NATO contributes to each of the component committees of NATO, including any and all committees relevant to the Prague Capabilities Commitment and the NATO Response Force;

"(iv) a description of the extent to which any member that does not participate in the integrated military structure of NATO participates in deliberations and decisions of NATO on resource policy, contribution ceilings, infrastructure, force structure, modernization, threat assessments, training, exercises, deployments, and other issues related to the Prague Capabilities Commitment or the NATO Response Force;

"(v) a description and assessment of the impediments, if any, that would preclude or limit NATO from conducting deliberations and making decisions on matters such as the Prague Capabilities Commitment or the NATO Response Force solely in the Defense Planning Committee; and

"(vi) the recommendations of the Secretary of Defense on streamlining defense, military, and

security decisionmaking within NATO relating to the Prague Capabilities Commitment, the NATO Response Force, and other matters, including an assessment of the feasibility and advisability of the greater utilization of the Defense Planning Committee for such purposes.

"(3) In the case of a report under this subsection after the first such report, the information submitted in such report under any of clauses (i) through (vi) of subparagraph (D) of paragraph (2) may consist solely of an update of any information previously submitted under that clause in a preceding report under this subsection.

"(4) Each report under this subsection shall be submitted in unclassified form, but may also be submitted in classified form if necessary.

"(5) The committees specified in this paragraph are—

"(A) the Committee on Armed Services and the Committee on Foreign Relations of the Senate; and

"(B) the Committee on Armed Services and the Committee on International Relations [now Committee on Foreign Affairs] of the House of Representatives."

SENSE OF CONGRESS ON COOPERATION BY UNITED STATES AND NATO WITH RUSSIA ON BALLISTIC MISSILE DEFENSES

Pub. L. 108–136, div. C, title XXXVI, §3623, Nov. 24, 2003, 117 Stat. 1824, provided that:

"(a) SENSE OF CONGRESS.—It is the sense of Congress that the President should, in conjunction with the North Atlantic Treaty Organization, encourage appropriate cooperative relationships between the Russian Federation and the United States and North Atlantic Treaty Organization with respect to the development and deployment of ballistic missile defenses.

"(b) REPORT TO CONGRESS.—Not later than one year after the date of the enactment of this Act [Nov. 24, 2003], the Secretary of Defense shall transmit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report (in unclassified or classified form as necessary) on the feasibility of increasing cooperation between the Russian Federation and the United States and the North Atlantic Treaty Organization on the subject of ballistic missile defense. The report shall include—

"(1) the recommendations of the Secretary;

"(2) a description of the threat such cooperation is intended to address; and

"(3) an assessment of possible benefits to ballistic missile defense programs of the United States."

GERALD B. H. SOLOMON FREEDOM CONSOLIDATION ACT

Pub. L. 107–187, June 10, 2002, 116 Stat. 590, provided that:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Gerald B. H. Solomon Freedom Consolidation Act of 2002'.

"SEC. 2. FINDINGS.

"The Congress makes the following findings:

"(1) In the NATO Participation Act of 1994 (title II of Public Law 103–447; 22 U.S.C. 1928 note), Congress declared that 'full and active participants in the Partnership for Peace in a position to further the principles of the North Atlantic Treaty and to contribute to the security of the North Atlantic area should be invited to become full NATO members in accordance with Article 10 of such Treaty at an early date . . .'.

"(2) In the NATO Enlargement Facilitation Act of 1996 (title VI of section 101(c) of title I of division A of Public Law 104–208; 22 U.S.C. 1928 note), Congress called for the prompt admission of Poland, Hungary, the Czech Republic, and Slovenia to NATO, and declared that 'in order to promote economic stability and security in Slovakia, Estonia, Latvia, Lithuania, Romania, Bulgaria, Albania, Moldova, and Ukraine . . . the process of enlarging NATO to include emerging democracies in Central and Eastern Europe should not be limited to consideration of admitting Poland, Hungary, the Czech Republic, and Slovenia as full members of the NATO Alliance'.

"(3) In the European Security Act of 1998 (title XXVII of division G of Public Law 105–277; 22 U.S.C. 1928 note), Congress declared that 'Poland, Hungary, and the Czech Republic should not be the last emerging democracies in Central and Eastern Europe invited to join NATO' and that 'Romania, Estonia, Latvia, Lithuania, and Bulgaria . . . would make an outstanding contribution to furthering the goals of NATO and enhancing stability, freedom, and peace in Europe should they become NATO members [and] upon complete satisfaction of all relevant criteria should be invited to become full NATO members at the earliest possible date'.

"(4) At the Madrid Summit of the NATO Alliance in July 1997, Poland, Hungary, and the Czech Republic were invited to join the Alliance in the first round of NATO enlargement, and the NATO heads of state and government issued a declaration stating '[t]he Alliance expects to extend further invitations in

coming years to nations willing and able to assume the responsibilities and obligations of membership . . . [n]o European democratic country whose admission would fulfill the objectives of the [North Atlantic] Treaty will be excluded from consideration'.

"(5) At the Washington Summit of the NATO Alliance in April 1999, the NATO heads of state and government issued a communique declaring '[w]e pledge that NATO will continue to welcome new members in a position to further the principles of the [North Atlantic] Treaty and contribute to peace and security in the Euro-Atlantic area . . . [t]he three new members will not be the last . . . [n]o European democratic country whose admission would fulfill the objectives of the Treaty will be excluded from consideration, regardless of its geographic location . . .'.

"(6) In late 2002, NATO will hold a summit in Prague, the Czech Republic, at which it will decide which additional emerging democracies in Central and Eastern Europe to invite to join the Alliance in the next round of NATO enlargement.

"(7) In May 2000 in Vilnius, Lithuania, the foreign ministers of Albania, Bulgaria, Estonia, Latvia, Lithuania, the Former Yugoslav Republic of Macedonia, Romania, Slovakia, and Slovenia issued a statement (later joined by Croatia) declaring that their countries will cooperate in jointly seeking NATO membership in the next round of NATO enlargement, that the realization of NATO membership by one or more of these countries would be a success for all, and that eventual NATO membership for all of these countries would be a success for Europe and NATO.

"(8) On June 15, 2001, in a speech in Warsaw, Poland, President George W. Bush stated '[a]ll of Europe's new democracies, from the Baltic to the Black Sea and all that lie between, should have the same chance for security and freedom—and the same chance to join the institutions of Europe—as Europe's old democracies have . . . I believe in NATO membership for all of Europe's democracies that seek it and are ready to share the responsibilities that NATO brings . . . [a]s we plan to enlarge NATO, no nation should be used as a pawn in the agenda of others . . . [w]e will not trade away the fate of free European peoples . . . [n]o more Munichs . . . [n]o more Yaltas . . . [a]s we plan the Prague Summit, we should not calculate how little we can get away with, but how much we can do to advance the cause of freedom'.

"(9) On October 22, 1996, in a speech in Detroit, Michigan, former President William J. Clinton stated 'NATO's doors will not close behind its first new members . . . NATO should remain open to all of Europe's emerging democracies who are ready to shoulder the responsibilities of membership . . . [n]o nation will be automatically excluded . . . [n]o country outside NATO will have a veto . . . [a] gray zone of insecurity must not reemerge in Europe'.

"SEC. 3. DECLARATIONS OF POLICY.

"Congress—

"(1) reaffirms its previous expressions of support for continued enlargement of the NATO Alliance contained in the NATO Participation Act of 1994 [title II of Pub. L. 103–447, set out as a note below], the NATO Enlargement Facilitation Act of 1996 [section 101(c) [title VI] of div. A of Pub. L. 104–208, set out as a note below], and the European Security Act of 1998 [title XXVII of div. G of Pub. L. 105–277, set out as a note below];

"(2) supports the commitment to further enlargement of the NATO Alliance expressed by the Alliance in its Madrid Declaration of 1997 and its Washington Summit Communique of 1999; and

"(3) endorses the vision of further enlargement of the NATO Alliance articulated by President George W. Bush on June 15, 2001, and by former President William J. Clinton on October 22, 1996, and urges our NATO allies to work with the United States to realize this vision at the Prague Summit in 2002.

"SEC. 4. DESIGNATION OF SLOVAKIA TO RECEIVE ASSISTANCE UNDER THE NATO PARTICIPATION ACT OF 1994.

"(a) IN GENERAL.—Slovakia is designated as eligible to receive assistance under the program established under section 203(a) of the NATO Participation Act of 1994 (title II of Public Law 103–447; 22 U.S.C. 1928 note) and shall be deemed to have been so designated pursuant to section 203(d)(1) of such Act.

"(b) RULE OF CONSTRUCTION.—The designation of Slovakia pursuant to subsection (a) as eligible to receive assistance under the program established under section 203(a) of the NATO Participation Act of 1994—

"(1) is in addition to the designation of Poland, Hungary, the Czech Republic, and Slovenia pursuant to section 606 of the NATO Enlargement Facilitation Act of 1996 (title VI of section 101(c) of title I of division A of Public Law 104–208; 22 U.S.C. 1928 note) and the designation of Romania, Estonia, Latvia, Lithuania, and Bulgaria pursuant to section 2703(b) of the European Security Act of 1998 (title XXVII of division G of Public Law 105–277; 22 U.S.C. 1928 note) as eligible to receive assistance under the program established under section 203(a) of the NATO Participation Act of 1994; and

"(2) shall not preclude the designation by the President of other emerging democracies in Central and Eastern Europe pursuant to section 203(d)(2) of the NATO Participation Act of 1994 as eligible to receive assistance under the program established under section 203(a) of such Act.

"SEC. 5. AUTHORIZATION OF SECURITY ASSISTANCE FOR COUNTRIES DESIGNATED UNDER THE NATO PARTICIPATION ACT OF 1994.

"(a) AUTHORIZATION OF FOREIGN MILITARY FINANCING.—Of the amounts made available for fiscal year 2002 under section 23 of the Arms Export Control Act (22 U.S.C. 2763)—

"(1) $6,500,000 is authorized to be available on a grant basis for Estonia;

"(2) $7,000,000 is authorized to be available on a grant basis for Latvia;

"(3) $7,500,000 is authorized to be available on a grant basis for Lithuania;

"(4) $8,500,000 is authorized to be available on a grant basis for Slovakia;

"(5) $4,500,000 is authorized to be available on a grant basis for Slovenia;

"(6) $10,000,000 is authorized to be available on a grant basis for Bulgaria; and

"(7) $11,500,000 is authorized to be available on a grant basis for Romania.

"(b) CONFORMING AMENDMENT.—Subsection (a) of section 515 of the Security Assistance Act of 2000 (Public Law 106–280) [114 Stat. 858] is amended by striking paragraphs (1), (5), (6), (7), and (8) and redesignating paragraphs (2), (3), (4), and (9) as paragraphs (1) through (4), respectively."

REPORTS ON BURDENSHARING OF FUTURE NATO OPERATIONS

Pub. L. 106–398, §1 [[div. A], title XII, §1221(b)–(d)], Oct. 30, 2000, 114 Stat. 1654, 1654A–328, provided that:

"(b) REPORT ON BURDENSHARING OF FUTURE NATO OPERATIONS.—Whenever the North Atlantic Treaty Organization undertakes a military operation, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report describing—

"(1) the contributions to that operation made by each of the member nations of the North Atlantic Treaty Organization during that operation; and

"(2) the contributions that each of the member nations of the North Atlantic Treaty Organization are making or have pledged to make during any follow-on operation.

"(c) TIME FOR SUBMISSION OF REPORT.—A report under subsection (b) shall be submitted not later than 90 days after the completion of the military operation.

"(d) APPLICABILITY.—Subsection (b) shall apply only with respect to military operations begun after the date of the enactment of this Act [Oct. 30, 2000]."

EUROPEAN SECURITY

Pub. L. 105–277, div. G, subdiv. B, title XXVII, Oct. 21, 1998, 112 Stat. 2681–839, as amended by Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title II, §209(d)], Nov. 29, 1999, 113 Stat. 1536, 1501A–423, provided that:

"SEC. 2701. SHORT TITLE.

"This title may be cited as the 'European Security Act of 1998'.

"SEC. 2702. STATEMENT OF POLICY.

"(a) POLICY WITH RESPECT TO NATO ENLARGEMENT.—Congress urges the President to outline a clear and complete strategic rationale for the enlargement of the North Atlantic Treaty Organization (NATO), and declares that—

"(1) Poland, Hungary, and the Czech Republic should not be the last emerging democracies in Central and Eastern Europe invited to join NATO;

"(2) the United States should ensure that NATO continues a process whereby all other emerging democracies in Central and Eastern Europe that wish to join NATO will be considered for membership in NATO as soon as they meet the criteria for such membership;

"(3) the United States should ensure that no limitations are placed on the numbers of NATO troops or types of equipment, including tactical nuclear weapons, to be deployed on the territory of new member states;

"(4) the United States should reject all efforts to condition NATO decisions on review or approval by the United Nations Security Council;

"(5) the United States should clearly delineate those NATO deliberations, including but not limited to discussions on arms control, further Alliance enlargement, procurement matters, and strategic doctrine, that are not subject to review or discussion in the NATO-Russia Permanent Joint Council;

"(6) the United States should work to ensure that countries invited to join the Alliance are provided an immediate seat in NATO discussions; and

"(7) the United States already pays more than a proportionate share of the costs of the common defense of Europe and should obtain, in advance, agreement on an equitable distribution of the cost of NATO enlargement to ensure that the United States does not continue to bear a disproportionate burden.

"(b) POLICY WITH RESPECT TO NEGOTIATIONS WITH RUSSIA.—

"(1) IMPLEMENTATION.—NATO enlargement should be carried out in such a manner as to underscore the Alliance's defensive nature and demonstrate to Russia that NATO enlargement will enhance the security of all countries in Europe, including Russia. Accordingly, the United States and its NATO allies should make this intention clear in negotiations with Russia, including negotiations regarding adaptation of the Conventional Armed Forces in Europe (CFE) Treaty of November 19, 1990.

"(2) LIMITATIONS ON COMMITMENTS TO RUSSIA.—In seeking to demonstrate to Russia NATO's defensive and security-enhancing intentions, it is essential that neither fundamental United States security interests in Europe nor the effectiveness and flexibility of NATO as a defensive alliance be jeopardized. In particular, no commitments should be made to Russia that would have the effect of—

"(A) extending rights or imposing responsibilities on new NATO members different from those applicable to current NATO members, including rights or responsibilities with respect to the deployment of nuclear weapons and the stationing of troops and equipment from other NATO members;

"(B) limiting the ability of NATO to defend the territory of new NATO members by, for example, restricting the construction of defense infrastructure or limiting the ability of NATO to deploy necessary reinforcements;

"(C) providing any international organization, or any country that is not a member of NATO, with authority to delay, veto, or otherwise impede deliberations and decisions of the North Atlantic Council or the implementation of such decisions, including deliberations and decisions with respect to the deployment of NATO forces or the admission of additional members to NATO;

"(D) impeding the development of enhanced relations between NATO and other European countries that do not belong to the Alliance;

"(E) establishing a nuclear weapons-free zone in Central or Eastern Europe;

"(F) requiring NATO to subsidize Russian arms sales, service, or support to the militaries of those former Warsaw Pact countries invited to join the Alliance; or

"(G) legitimizing Russian efforts to link concessions in arms control negotiations to NATO enlargement.

"(3) COMMITMENTS FROM RUSSIA.—In order to enhance security and stability in Europe, the United States should seek commitments from Russia—

"(A) to demarcate and respect all its borders with neighboring states;

"(B) to achieve the immediate and complete withdrawal of any armed forces and military equipment under the control of Russia that are deployed on the territories of the independent states of the former Soviet Union without the full and complete agreement of those states;

"(C) to station its armed forces on the territory of other states only with the full and complete agreement of that state and in strict accordance with international law; and

"(D) to take steps to reduce further its nuclear and conventional forces in Kaliningrad.

"(4) CONSULTATIONS.—As negotiations on adaptation of the Treaty on Conventional Armed Forces in Europe proceed, the United States should engage in close and continuous consultations not only with its NATO allies, but also with the emerging democracies of Central and Eastern Europe, Ukraine, and the South Caucasus.

"(c) POLICY WITH RESPECT TO BALLISTIC MISSILE DEFENSE COOPERATION.—

"(1) IN GENERAL.—As the United States proceeds with efforts to develop defenses against ballistic missile attack, it should seek to foster a climate of cooperation with Russia on matters related to missile defense. In particular, the United States and its NATO allies should seek to cooperate with Russia in such areas as early warning.

"(2) DISCUSSIONS WITH NATO ALLIES.—The United States should initiate discussions with its NATO allies for the purpose of examining the feasibility of deploying a ballistic missile defense capable of protecting NATO's southern and eastern flanks from a limited ballistic missile attack.

"(3) CONSTITUTIONAL PREROGATIVES.—Even as the Congress seeks to promote ballistic missile defense cooperation with Russia, it must insist on its constitutional prerogatives regarding consideration of arms control agreements with Russia that bear on ballistic missile defense.

"SEC. 2703. AUTHORITIES RELATING TO NATO ENLARGEMENT.

"(a) POLICY OF SECTION.—This section is enacted in order to implement the policy set forth in section

2702(a).

"(b) DESIGNATION OF ADDITIONAL COUNTRIES ELIGIBLE FOR NATO ENLARGEMENT ASSISTANCE.—

"(1) DESIGNATION OF ADDITIONAL COUNTRIES.—Romania, Estonia, Latvia, Lithuania, and Bulgaria are each designated as eligible to receive assistance under the program established under section 203(a) of the NATO Participation Act of 1994 [Pub. L. 103–447, title II] (22 U.S.C. 1928 note) and shall be deemed to have been so designated pursuant to section 203(d)(1) of such Act.

"(2) RULE OF CONSTRUCTION.—The designation of countries pursuant to paragraph (1) as eligible to receive assistance under the program established under section 203(a) of the NATO Participation Act of 1994—

"(A) is in addition to the designation of other countries by law or pursuant to section 203(d)(2) of such Act as eligible to receive assistance under the program established under section 203(a) of such Act; and

"(B) shall not preclude the designation by the President of other emerging democracies in Central and Eastern Europe pursuant to section 203(d)(2) of such Act as eligible to receive assistance under the program established under section 203(a) of such Act.

"(3) SENSE OF CONGRESS.—It is the sense of Congress that Romania, Estonia, Latvia, Lithuania, and Bulgaria—

"(A) are to be commended for their progress toward political and economic reform and meeting the guidelines for prospective NATO members;

"(B) would make an outstanding contribution to furthering the goals of NATO and enhancing stability, freedom, and peace in Europe should they become NATO members; and

"(C) upon complete satisfaction of all relevant criteria should be invited to become full NATO members at the earliest possible date.

"(c) REGIONAL AIRSPACE INITIATIVE AND PARTNERSHIP FOR PEACE INFORMATION MANAGEMENT SYSTEM.—

"(1) IN GENERAL.—Funds described in paragraph (2) are authorized to be made available to support the implementation of the Regional Airspace Initiative and the Partnership for Peace Information Management System, including—

"(A) the procurement of items in support of these programs; and

"(B) the transfer of such items to countries participating in these programs.

"(2) FUNDS DESCRIBED.—Funds described in this paragraph are funds that are available—

"(A) during any fiscal year under the NATO Participation Act of 1994 [Pub. L. 103–447, title II, set out as a note below] with respect to countries eligible for assistance under that Act; or

"(B) during fiscal year 1998 under any Act to carry out the Warsaw Initiative.

"(d) EXTENSION OF AUTHORITY REGARDING EXCESS DEFENSE ARTICLES.—[Amended section 105 of Pub. L. 104–164, 110 Stat. 1427.]

"(e) CONFORMING AMENDMENTS TO THE NATO PARTICIPATION ACT OF 1994.—[Amended section 203(c) of Pub. L. 103–447, set out in a note below.]

"SEC. 2704. SENSE OF CONGRESS WITH RESPECT TO THE TREATY ON CONVENTIONAL ARMED FORCES IN EUROPE.

"It is the sense of Congress that no revisions to the Treaty on Conventional Armed Forces in Europe will be approved for entry into force with respect to the United States that jeopardize fundamental United States security interests in Europe or the effectiveness and flexibility of NATO as a defensive alliance by—

"(1) extending rights or imposing responsibilities on new NATO members different from those applicable to current NATO members, including rights or responsibilities with respect to the deployment of nuclear weapons and the stationing of troops and equipment from other NATO members;

"(2) limiting the ability of NATO to defend the territory of new NATO members by, for example, restricting the construction of defense infrastructure or limiting the ability of NATO to deploy necessary reinforcements;

"(3) providing any international organization, or any country that is not a member of NATO, with the authority to delay, veto, or otherwise impede deliberations and decisions of the North Atlantic Council or the implementation of such decisions, including deliberations and decisions with respect to the deployment of NATO forces or the admission of additional members to NATO; or

"(4) impeding the development of enhanced relations between NATO and other European countries that do not belong to the Alliance.

"SEC. 2705. RESTRICTIONS AND REQUIREMENTS RELATING TO BALLISTIC MISSILE DEFENSE.

"(a) POLICY OF SECTION.—This section is enacted in order to implement the policy set forth in section 2702(c).

"(b) RESTRICTION ON ENTRY INTO FORCE OF ABMTMD DEMARCATION AGREEMENTS.—An ABMTMD demarcation agreement shall not be binding on the United States, and shall not enter into force with respect to the United States, unless, after the date of enactment of this Act [Oct. 21, 1998], that agreement is specifically approved with the advice and consent of the United States Senate pursuant to Article II, section 2, clause 2 of the Constitution.

"(c) SENSE OF CONGRESS WITH RESPECT TO DEMARCATION AGREEMENTS.—

"(1) RELATIONSHIP TO MULTILATERALIZATION OF ABM TREATY.—It is the sense of Congress that no ABMTMD demarcation agreement will be considered for advice and consent to ratification unless, consistent with the certification of the President pursuant to condition (9) of the resolution of ratification of the CFE Flank Document, the President submits for Senate advice and consent to ratification any agreement, arrangement, or understanding that would—

"(A) add one or more countries as State Parties to the ABM Treaty, or otherwise convert the ABM Treaty from a bilateral treaty to a multilateral treaty; or

"(B) change the geographic scope or coverage of the ABM Treaty, or otherwise modify the meaning of the term 'national territory' as used in Article VI and Article IX of the ABM Treaty.

"(2) PRESERVATION OF UNITED STATES THEATER BALLISTIC MISSILE DEFENSE POTENTIAL.—It is the sense of Congress that no ABMTMD demarcation agreement that would reduce the capabilities of United States theater missile defense systems, or the numbers or deployment patterns of such systems, will be approved for entry into force with respect to the United States.

"(d) REPORT ON COOPERATIVE PROJECTS WITH RUSSIA.—Not later than January 1, 1999, January 1, 2000, and January 1, 2001, the President shall submit to the Committees on International Relations, National Security [now Armed Services], and Appropriations of the House of Representatives and the Committees on Foreign Relations, Armed Services, and Appropriations of the Senate a report on cooperative projects with Russia in the area of ballistic missile defense, including in the area of early warning. Each such report shall include the following:

"(1) COOPERATIVE PROJECTS.—A description of all cooperative projects conducted in the area of early warning and ballistic missile defense during the preceding fiscal year and the fiscal year during which the report is submitted.

"(2) FUNDING.—A description of the funding for such projects during the preceding fiscal year and the year during which the report is submitted and the proposed funding for such projects for the next fiscal year.

"(3) STATUS OF DIALOGUE OR DISCUSSIONS.—A description of the status of any dialogue or discussions conducted during the preceding fiscal year between the United States and Russia aimed at exploring the potential for mutual accommodation of outstanding issues between the two nations on matters relating to ballistic missile defense and the ABM Treaty, including the possibility of developing a strategic relationship not based on mutual nuclear threats.

"(e) DEFINITIONS.—In this section:

"(1) ABMTMD DEMARCATION AGREEMENT.—The term 'ABMTMD demarcation agreement' means any agreement that establishes a demarcation between theater ballistic missile defense systems and strategic antiballistic missile defense systems for purposes of the ABM Treaty.

"(2) ABM TREATY.—The term 'ABM Treaty' means the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, signed at Moscow on May 26, 1972 (23 UST 3435), and includes the Protocols to that Treaty, signed at Moscow on July 3, 1974 (27 UST 1645)."

[Memorandum of President of the United States, Mar. 3, 2000, 66 F.R. 3851, delegated to the Secretary of Defense the duties and responsibilities of the President under section 2705(d) of div. G of Pub. L. 105–277, set out above, with such duties and responsibilities to be exercised subject to the concurrence of the Secretary of State, authorized redelegation not lower than the Under Secretary level of the delegated reporting requirements, and provided that the Department of Defense was to obtain clearance on the report from the Office of Management and Budget prior to its submission to Congress.]

LIMITATION ON UNITED STATES SHARE OF COSTS OF NATO EXPANSION

Pub. L. 105–261, div. A, title XII, §1221, Oct. 17, 1998, 112 Stat. 2152, provided that:

"(a) LIMITATION.—The United States share of defined NATO expansion costs may not exceed the lesser of—

"(1) the amount equal to 25 percent of those costs; or

"(2) $2,000,000,000.

"(b) DEFINED NATO EXPANSION COSTS.—For purposes of subsection (a), the term 'defined NATO expansion costs' means the commonly funded costs of the North Atlantic Treaty Organization (NATO) during fiscal years 1999 through 2011 for enlargement of NATO due to the admission to NATO of Poland, Hungary, and the Czech Republic."

REPORTS ON DEVELOPMENT OF EUROPEAN SECURITY AND DEFENSE IDENTITY

Pub. L. 105–261, div. A, title XII, §1223, Oct. 17, 1998, 112 Stat. 2154, as amended by Pub. L. 106–65, div. A, title X, §1067(3), Oct. 5, 1999, 113 Stat. 774, required the submission of reports by the Secretary of Defense on the development of the European Security and Defense Identity within the NATO Alliance, prior to repeal by Pub. L. 108–136, div. A, title X, §1031(g)(2), Nov. 24, 2003, 117 Stat. 1604.

NATO ENLARGEMENT FACILITATION

Pub. L. 104–208, div. A, title I, §101(c) [title VI], Sept. 30, 1996, 110 Stat. 3009–121, 3009–173, provided that:

"SEC. 601. SHORT TITLE.

"This title may be cited as the 'NATO Enlargement Facilitation Act of 1996'.

"SEC. 602. FINDINGS.

"The Congress makes the following findings:

"(1) Since 1949, the North Atlantic Treaty Organization (NATO) has played an essential role in guaranteeing the security, freedom, and prosperity of the United States and its partners in the Alliance.

"(2) The NATO Alliance is, and has been since its inception, purely defensive in character, and it poses no threat to any nation. The enlargement of the NATO Alliance to include as full and equal members emerging democracies in Central and Eastern Europe will serve to reinforce stability and security in Europe by fostering their integration into the structures which have created and sustained peace in Europe since 1945. Their admission into NATO will not threaten any nation. America's security, freedom, and prosperity remain linked to the security of the countries of Europe.

"(3) The sustained commitment of the member countries of NATO to a mutual defense has made possible the democratic transformation of Central and Eastern Europe. Members of the Alliance can and should play a critical role in addressing the security challenges of the post-Cold War era and in creating the stable environment needed for those emerging democracies in Central and Eastern Europe to successfully complete political and economic transformation.

"(4) The United States continues to regard the political independence and territorial integrity of all emerging democracies in Central and Eastern Europe as vital to European peace and security.

"(5) The active involvement by the countries of Central and Eastern Europe has made the Partnership for Peace program an important forum to foster cooperation between NATO and those countries seeking NATO membership.

"(6) NATO has enlarged its membership on 3 different occasions since 1949.

"(7) Congress supports the admission of qualified new members to NATO and the European Union at an early date and has sought to facilitate the admission of qualified new members into NATO.

"(8) Lasting security and stability in Europe requires not only the military integration of emerging democracies in Central and Eastern Europe into existing European structures, but also the eventual economic and political integration of these countries into existing European structures.

"(9) As new members of NATO assume the responsibilities of Alliance membership, the costs of maintaining stability in Europe should be shared more widely. Facilitation of the enlargement process will require current members of NATO, and the United States in particular, to demonstrate the political will needed to build on successful ongoing programs such as the Warsaw Initiative and the Partnership for Peace by making available the resources necessary to supplement efforts prospective new members are themselves undertaking.

"(10) New members will be full members of the Alliance, enjoying all rights and assuming all the obligations under the North Atlantic Treaty, signed at Washington on April 4, 1949 (hereafter in this Act referred to as the 'Washington Treaty').

"(11) In order to assist emerging democracies in Central and Eastern Europe that have expressed interest in joining NATO to be prepared to assume the responsibilities of NATO membership, the United States should encourage and support efforts by such countries to develop force structures and force modernization priorities that will enable such countries to contribute to the full range of NATO missions, including, most importantly, territorial defense of the Alliance.

"(12) Cooperative regional peacekeeping initiatives involving emerging democracies in Central and Eastern Europe that have expressed interest in joining NATO, such as the Baltic Peacekeeping Battalion, the Polish-Lithuanian Joint Peacekeeping Force, and the Polish-Ukrainian Peacekeeping Force, can make an important contribution to European peace and security and international peacekeeping efforts, can assist those countries preparing to assume the responsibilities of possible NATO membership, and accordingly should receive appropriate support from the United States.

"(13) NATO remains the only multilateral security organization capable of conducting effective military operations and preserving security and stability of the Euro-Atlantic region.

"(14) NATO is an important diplomatic forum and has played a positive role in defusing tensions between members of the Alliance and, as a result, no military action has occurred between two Alliance member states since the inception of NATO in 1949.

"(15) The admission to NATO of emerging democracies in Central and Eastern Europe which are found to be in a position to further the principles of the Washington Treaty would contribute to international peace and enhance the security of the region. Countries which have become democracies and established market economies, which practice good neighborly relations, and which have established effective democratic civilian control over their defense establishments and attained a degree of interoperability with NATO, should be evaluated for their potential to further the principles of the Washington Treaty.

"(16) Democratic civilian control of defense forces is an essential element in the process of preparation for those states interested in possible NATO membership.

"(17) Protection and promotion of fundamental freedoms and human rights is an integral aspect of genuine security, and in evaluating requests for membership in NATO, the human rights records of the emerging democracies in Central and Eastern Europe should be evaluated according to their commitments to fulfill in good faith the human rights obligations of the Charter of the United Nations, the principles of the Universal Declaration on Human Rights, and the Helsinki Final Act.

"(18) A number of Central and Eastern European countries have expressed interest in NATO membership, and have taken concrete steps to demonstrate this commitment, including their participation in Partnership for Peace activities.

"(19) The Caucasus region remains important geographically and politically to the future security of Central Europe. As NATO proceeds with the process of enlargement, the United States and NATO should continue to examine means to strengthen the sovereignty and enhance the security of United Nations recognized countries in that region.

"(20) In recognition that not all countries which have requested membership in NATO will necessarily qualify at the same pace, the accession date for each new member will vary.

"(21) The provision of additional NATO transition assistance should include those emerging democracies most ready for closer ties with NATO and should be designed to assist other countries meeting specified criteria of eligibility to move forward toward eventual NATO membership.

"(22) The Congress of the United States finds in particular that Poland, Hungary, and the Czech Republic have made significant progress toward achieving the criteria set forth in section 203(d)(3) of the NATO Participation Act of 1994 [Pub. L. 103–447, set out in a note below] and should be eligible for the additional assistance described in this Act.

"(23) The evaluation of future membership in NATO for emerging democracies in Central and Eastern Europe should be based on the progress of those nations in meeting criteria for NATO membership, which require enhancement of NATO's security and the approval of all NATO members.

"(24) The process of NATO enlargement entails the consensus agreement of the governments of all 16 NATO members and ratification in accordance with their constitutional procedures.

"(25) Some NATO members, such as Spain and Norway, do not allow the deployment of nuclear weapons on their territory although they are accorded the full collective security guarantees provided by Article 5 of the Washington Treaty. There is no a priori requirement for the stationing of nuclear weapons on the territory of new NATO members, particularly in the current security climate. However, NATO retains the right to alter its security posture at any time as circumstances warrant.

"SEC. 603. UNITED STATES POLICY.

"It is the policy of the United States—

"(1) to join with the NATO allies of the United States to adapt the role of the NATO Alliance in the post-Cold War world;

"(2) to actively assist the emerging democracies in Central and Eastern Europe in their transition so that such countries may eventually qualify for NATO membership;

"(3) to support the enlargement of NATO in recognition that enlargement will benefit the interests of the United States and the Alliance and to consider these benefits in any analysis of the costs of NATO

enlargement;

"(4) to ensure that all countries in Central and Eastern Europe are fully aware of and capable of assuming the costs and responsibilities of NATO membership, including the obligation set forth in Article 10 of the Washington Treaty that new members be able to contribute to the security of the North Atlantic area; and

"(5) to work to define a constructive and cooperative political and security relationship between an enlarged NATO and the Russian Federation.

"SEC. 604. SENSE OF THE CONGRESS REGARDING FURTHER ENLARGEMENT OF NATO.

"It is the sense of the Congress that in order to promote economic stability and security in Slovakia, Estonia, Latvia, Lithuania, Romania, Bulgaria, Albania, Moldova, and Ukraine—

"(1) the United States should continue and expand its support for the full and active participation of these countries in activities appropriate for qualifying for NATO membership;

"(2) the United States Government should use all diplomatic means available to press the European Union to admit as soon as possible any country which qualifies for membership;

"(3) the United States Government and the North Atlantic Treaty Organization should continue and expand their support for military exercises and peacekeeping initiatives between and among these nations, nations of the North Atlantic Treaty Organization, and Russia; and

"(4) the process of enlarging NATO to include emerging democracies in Central and Eastern Europe should not be limited to consideration of admitting Poland, Hungary, the Czech Republic, and Slovenia as full members of the NATO Alliance.

"SEC. 605. SENSE OF THE CONGRESS REGARDING ESTONIA, LATVIA AND LITHUANIA.

"In view of the forcible incorporation of Estonia, Latvia, Lithuania into the Soviet Union in 1940 under the Molotov-Ribbentrop Pact and the refusal of the United States and other countries to recognize that incorporation for over 50 years, it is the sense of the Congress that—

"(1) Estonia, Latvia, and Lithuania have valid historical security concerns that must be taken into account by the United States; and

"(2) Estonia, Latvia, and Lithuania should not be disadvantaged in seeking to join NATO by virtue of their forcible incorporation into the Soviet Union.

"SEC. 606. DESIGNATION OF COUNTRIES ELIGIBLE FOR NATO ENLARGEMENT ASSISTANCE.

"(a) IN GENERAL.—The following countries are designated as eligible to receive assistance under the program established under section 203(a) of the NATO Participation Act of 1994 [Pub. L. 103–447, set out in a note below] and shall be deemed to have been so designated pursuant to section 203(d)(1) of such Act: Poland, Hungary, and the Czech Republic.

"(b) DESIGNATION OF SLOVENIA.—Effective 90 days after the date of enactment of this Act [Sept. 30, 1996], Slovenia is designated as eligible to receive assistance under the program established under section 203(a) of the NATO Participation Act of 1994, and shall be deemed to have been so designated pursuant to section 203(d) of such Act, unless the President certifies to Congress prior to such effective date that Slovenia fails to meet the criteria under section 203(d)(3) of such Act.

"(c) DESIGNATION OF OTHER COUNTRIES.—The President shall designate other emerging democracies in Central and Eastern Europe as eligible to receive assistance under the program established under section 203(a) of such Act if such countries—

"(1) have expressed a clear desire to join NATO;

"(2) have begun an individualized dialogue with NATO in preparation for accession;

"(3) are strategically significant to an effective NATO defense; and

"(4) meet the other criteria outlined in section 203(d)(3) of the NATO Participation Act of 1994 (title II of Public Law 103–447; 22 U.S.C. 1928 note).

"(d) RULE OF CONSTRUCTION.—Nothing in this section precludes the designation by the President of Estonia, Latvia, Lithuania, Romania, Slovakia, Bulgaria, Albania, Moldova, Ukraine, or any other emerging democracy in Central and Eastern Europe pursuant to section 203(d) of the NATO Participation Act of 1994 as eligible to receive assistance under the program established under section 203(a) of such Act.

"SEC. 607. AUTHORIZATION OF APPROPRIATIONS FOR NATO ENLARGEMENT ASSISTANCE.

"(a) IN GENERAL.—There are authorized to be appropriated $60,000,000 for fiscal year 1997 for the program established under section 203(a) of the NATO Participation Act of 1994 [Pub. L. 103–447, set out in a note below].

"(b) AVAILABILITY.—Of the funds authorized to be appropriated by subsection (a)—

"(1) not less than $20,000,000 shall be available for the cost, as defined in section 502(5) of the

[Federal] Credit Reform Act of 1990 [2 U.S.C. 661a(5)], of direct loans pursuant to the authority of section 203(c)(4) of the NATO Participation Act of 1994 (relating to the 'Foreign Military Financing Program');

"(2) not less than $30,000,000 shall be available for assistance on a grant basis pursuant to the authority of section 203(c)(4) of the NATO Participation Act of 1994 (relating to the 'Foreign Military Financing Program'); and

"(3) not more than $10,000,000 shall be available for assistance pursuant to the authority of section 203(c)(3) of the NATO Participation Act of 1994 (relating to international military education and training).

"(c) RULE OF CONSTRUCTION.—Amounts authorized to be appropriated under this section are authorized to be appropriated in addition to such amounts as otherwise may be available for such purposes.

"SEC. 608. REGIONAL AIRSPACE INITIATIVE AND PARTNERSHIP FOR PEACE INFORMATION MANAGEMENT SYSTEM.

"(a) IN GENERAL.—To the extent provided in advance in appropriations acts for such purposes, funds described in subsection (b) are authorized to be made available to support the implementation of the Regional Airspace Initiative and the Partnership for Peace Information Management System, including—

"(1) the procurement of items in support of these programs; and

"(2) the transfer of such items to countries participating in these programs.

"(b) FUNDS DESCRIBED.—Funds described in this subsection are funds that are available—

"(1) during any fiscal year under the NATO Participation Act of 1994 [Pub. L. 103–447, set out as a note below] with respect to countries eligible for assistance under that Act; or

"(2) during fiscal year 1997 under any Act to carry out the Warsaw Initiative.

"SEC. 609. EXCESS DEFENSE ARTICLES.

"(a) PRIORITY DELIVERY.—Notwithstanding any other provision of law, the delivery of excess defense articles under the authority of section 203(c)(1) and (2) of the NATO Participation Act of 1994 [Pub. L. 103–447, set out in a note below] and section 516 of the Foreign Assistance Act of 1961 [22 U.S.C. 2321j] shall be given priority to the maximum extent feasible over the delivery of such excess defense articles to all other countries except those countries referred to in section 541 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1995 (Public Law 103–306; 108 Stat. 1640).

"(b) COOPERATIVE REGIONAL PEACEKEEPING INITIATIVES.—The Congress encourages the President to provide excess defense articles and other appropriate assistance to cooperative regional peacekeeping initiatives involving emerging democracies in Central and Eastern Europe that have expressed an interest in joining NATO in order to enhance their ability to contribute to European peace and security and international peacekeeping efforts.

"SEC. 610. MODERNIZATION OF DEFENSE CAPABILITY.

"The Congress endorses efforts by the United States to modernize the defense capability of Poland, Hungary, the Czech Republic, Slovenia, and any other countries designated by the President pursuant to section 203(d) of the NATO Participation Act of 1994 [Pub. L. 103–447, set out in a note below], by exploring with such countries options for the sale or lease to such countries of weapons systems compatible with those used by NATO members, including air defense systems, advanced fighter aircraft, and telecommunications infrastructure.

"SEC. 611. TERMINATION OF ELIGIBILITY.

"(a) TERMINATION OF ELIGIBILITY.—The eligibility of a country designated pursuant to subsection (a) or (b) of section 606 or pursuant to section 203(d) of the NATO Participation Act of 1994 [Pub. L. 103–447, set out in a note below] may be terminated upon a determination by the President that such country does not meet the criteria set forth in section 203(d)(3) of the NATO Participation Act of 1994.

"(b) NOTIFICATION.—At least 15 days before terminating the eligibility of any country pursuant to subsection (a), the President shall notify the congressional committees specified in section 634A of the Foreign Assistance Act of 1961 [22 U.S.C. 2394–1] in accordance with the procedures applicable to reprogramming notifications under that section.

"SEC. 612. CONFORMING AMENDMENTS TO THE NATO PARTICIPATION ACT.

"[Amended section 203 of Pub. L. 103–447, set out in a note below.]"

DEFENSE BURDENSHARING

Pub. L. 105–85, div. A, title XII, §1221, Nov. 18, 1997, 111 Stat. 1935, as amended by Pub. L. 105–261, div. A, title XII, §1233, Oct. 17, 1998, 112 Stat. 2156; Pub. L. 106–398, §1 [[div. A], title X, §1087(e)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A–293, provided that:

"(a) EFFORTS TO INCREASE ALLIED BURDENSHARING.—The President shall seek to have each nation that has cooperative military relations with the United States (including security agreements, basing arrangements, or mutual participation in multinational military organizations or operations) take one or more of the following actions:

"(1) For any nation in which United States military personnel are assigned to permanent duty ashore, increase its financial contributions to the payment of the nonpersonnel costs incurred by the United States Government for stationing United States military personnel in that nation, with a goal of achieving by September 30, 2000, 75 percent of such costs. An increase in financial contributions by any nation under this paragraph may include the elimination of taxes, fees, or other charges levied on United States military personnel, equipment, or facilities stationed in that nation.

"(2) Increase its annual budgetary outlays for national defense as a percentage of its gross domestic product by 10 percent or at least to a level commensurate to that of the United States by September 30, 1999.

"(3) Increase its annual budgetary outlays for foreign assistance (to promote democratization, governmental accountability and transparency, economic stabilization and development, defense economic conversion, respect for the rule of law and internationally recognized human rights, and humanitarian relief efforts) by 10 percent or to provide such foreign assistance at an annual rate that is not less than one percent of its gross domestic product, by September 30, 1999.

"(4) Increase the military assets (including personnel, equipment, logistics, support and other resources) that it contributes or has pledged to contribute to multinational military activities worldwide by 10 percent by September 30, 1999.

"(b) AUTHORITIES TO ENCOURAGE ACTIONS BY UNITED STATES ALLIES.—In seeking the actions described in subsection (a) with respect to any nation, or in response to a failure by any nation to undertake one or more of such actions, the President may take any of the following measures to the extent otherwise authorized by law:

"(1) Reduce the end strength level of members of the Armed Forces assigned to permanent duty ashore in that nation.

"(2) Impose on that nation fees or other charges similar to those that such nation imposes on United States forces stationed in that nation.

"(3) Reduce (through rescission, impoundment, or other appropriate procedures as authorized by law) the amount the United States contributes to the NATO Civil Budget, Military Budget, or Security Investment Program.

"(4) Suspend, modify, or terminate any bilateral security agreement the United States has with that nation, consistent with the terms of such agreement.

"(5) Reduce (through rescission, impoundment or other appropriate procedures as authorized by law) any United States bilateral assistance appropriated for that nation.

"(6) Take any other action the President determines to be appropriate as authorized by law.

"(c) REPORT ON PROGRESS IN INCREASING ALLIED BURDENSHARING.—Not later than March 1, 1999, the Secretary of Defense shall submit to Congress a report on—

"(1) steps taken by other nations to complete the actions described in subsection (a);

"(2) all measures taken by the President, including those authorized in subsection (b), to achieve the actions described in subsection (a);

"(3) the difference between the amount allocated by other nations for each of the actions described in subsection (a) during the period beginning on October 1, 1996, and ending on September 30, 1997, and during the period beginning on October 1, 1997, and ending on September 30, 1998, or, in the case of any nation for which the data for such periods is inadequate, the difference between the amounts for the latest periods for which adequate data is available; and

"(4) the budgetary savings to the United States that are expected to accrue as a result of the steps described under paragraph (1).

"(d) REPORT ON NATIONAL SECURITY BASES FOR FORWARD DEPLOYMENT AND BURDENSHARING RELATIONSHIPS.—(1) In order to ensure the best allocation of budgetary resources, the President shall undertake a review of the status of elements of the United States Armed Forces that are permanently stationed outside the United States. The review shall include an assessment of the following:

"(A) The alliance requirements that are to be found in agreements between the United States and other countries.

"(B) The national security interests that support permanently stationing elements of the United States Armed Forces outside the United States.

"(C) The stationing costs associated with the forward deployment of elements of the United States

Armed Forces.

"(D) The alternatives available to forward deployment (such as material prepositioning, enhanced airlift and sealift, or joint training operations) to meet such alliance requirements or national security interests, with such alternatives identified and described in detail.

"(E) The costs and force structure configurations associated with such alternatives to forward deployment.

"(F) The financial contributions that allies of the United States make to common defense efforts (to promote democratization, economic stabilization, transparency arrangements, defense economic conversion, respect for the rule of law, and internationally recognized human rights).

"(G) The contributions that allies of the United States make to meeting the stationing costs associated with the forward deployment of elements of the United States Armed Forces.

"(H) The annual expenditures of the United States and its allies on national defense, and the relative percentages of each nation's gross domestic product constituted by those expenditures.

"(2) The President shall submit to Congress a report on the review under paragraph (1). The report shall be submitted not later than March 1, 1999, in classified and unclassified form."

[Pub. L. 105–261, div. A, title XII, §1233(a), Oct. 17, 1998, 112 Stat. 2156, provided that the amendments made by that section to section 1221(a) of Pub. L. 105–85, set out above, are effective Oct. 1, 1998.]

Similar provisions were contained in the following prior authorization act:

Pub. L. 104–201, div. A, title X, §1084, Sept. 23, 1996, 110 Stat. 2673, as amended by Pub. L. 108–136, div. A, title X, §1045(e), Nov. 24, 2003, 117 Stat. 1613.

NATO PARTICIPATION

Pub. L. 103–447, title II, Nov. 2, 1994, 108 Stat. 4695, as amended by Pub. L. 104–107, title V, §585, Feb. 12, 1996, 110 Stat. 752; Pub. L. 104–208, div. A, title I, §101(c) [title VI, §612], Sept. 30, 1996, 110 Stat. 3009–121, 3009–178; Pub. L. 105–277, div. G, subdiv. B, title XXVII, §2703(e), Oct. 21, 1998, 112 Stat. 2681–842, provided that:

"SEC. 201. SHORT TITLE.

"This title may be cited as the 'NATO Participation Act of 1994'.

"SEC. 202. SENSE OF THE CONGRESS.

"It is the sense of the Congress that—

"(1) the leaders of the NATO member nations are to be commended for reaffirming that NATO membership remains open to Partnership for Peace countries emerging from communist domination and for welcoming eventual expansion of NATO to include such countries;

"(2) full and active participants in the Partnership for Peace in a position to further the principles of the North Atlantic Treaty and to contribute to the security of the North Atlantic area should be invited to become full NATO members in accordance with Article 10 of such Treaty at an early date, if such participants—

"(A) maintain their progress toward establishing democratic institutions, free market economies, civilian control of their armed forces, and the rule of law; and

"(B) remain committed to protecting the rights of all their citizens and respecting the territorial integrity of their neighbors;

"(3) the United States, other NATO member nations, and NATO itself should furnish appropriate assistance to facilitate the transition to full NATO membership at an early date of full and active participants in the Partnership for Peace; and

"(4) in particular, Poland, Hungary, the Czech Republic, and Slovakia have made significant progress toward establishing democratic institutions, free market economies, civilian control of their armed forces, and the rule of law since the fall of their previous communist governments.

"SEC. 203. AUTHORITY FOR PROGRAM TO FACILITATE TRANSITION TO NATO MEMBERSHIP.

"(a) IN GENERAL.—The President may establish a program to assist the transition to full NATO membership of Poland, Hungary, the Czech Republic, Slovakia, and other Partnership for Peace emerging democracies in Central and Eastern Europe designated pursuant to subsection (d).

"(b) CONDUCT OF PROGRAM.—The program established under subsection (a) shall facilitate the transition to full NATO membership of the countries designated under subsection (d) by supporting and encouraging, inter alia—

"(1) joint planning, training, and military exercises with NATO forces;

"(2) greater interoperability of military equipment, air defense systems, and command, control, and communications systems; and

"(3) conformity of military doctrine.

"(c) TYPE OF ASSISTANCE.—In carrying out the program established under subsection (a), the President may provide to the countries designated under subsection (d) the following types of security assistance:

"(1) The transfer of excess defense articles under section 516 of the Foreign Assistance Act of 1961 [22 U.S.C. 2321j].

"(2) Assistance under chapter 5 of part II of the Foreign Assistance Act of 1961 [22 U.S.C. 2347 et seq.] (relating to international military education and training).

"(3) Assistance under section 23 of the Arms Export Control Act [22 U.S.C. 2763] (relating to the 'Foreign Military Financing Program').

"(4) Assistance under chapter 4 of part II of the Foreign Assistance Act of 1961 [22 U.S.C. 2346 et seq.] (relating to the Economic Support Fund).

"(5) Funds made available for the 'Nonproliferation and Disarmament Fund'.

"(6) Assistance under chapter 6 of part II of the Foreign Assistance Act of 1961 [22 U.S.C. 2348 et seq.] (relating to peacekeeping operations and other programs).

"(7) Notwithstanding any other provision of law, including section 516(e) of the Foreign Assistance Act of 1961 [22 U.S.C. 2321j(e)], the President may direct the crating, packing, handling, and transportation of excess defense articles provided pursuant to paragraph (1) of this subsection without charge to the recipient of such articles.

"(d) DESIGNATION OF ELIGIBLE COUNTRIES.—

"(1) INITIAL PRESIDENTIAL REVIEW AND DESIGNATION.—Within 60 days of the enactment of the NATO Participation Act Amendments of 1995 [NATO Participation Act Amendments of 1995 was contained in S. 602 and title VII of H.R. 1868 which were predecessor versions of provisions enacted into law by section 585 of Pub. L. 104–107, which was approved Feb. 12, 1996], the President should evaluate the degree to which any emerging democracies in Central and Eastern Europe which has expressed its interest in joining NATO meets the criteria set forth in paragraph (3), and may designate one or more of these countries as eligible to receive assistance under the program established under subsection (a). The President shall, at the time of designation of any country pursuant to this paragraph, determine and report to the Committees on International Relations and Appropriations of the House of Representatives and the Committees on Foreign Relations and Appropriations of the Senate with respect to each country so designated that such country meets the criteria set forth in paragraph (3).

"(2) OTHER EUROPEAN COUNTRIES EMERGING FROM COMMUNIST DOMINATION.—In addition to the countries designated pursuant to paragraph (1), the President may at any time designate other European emerging democracies in Central and Eastern Europe as eligible to receive assistance under the program established under subsection (a). The President shall, at the time of designation of any country pursuant to this paragraph, determine and report to the Committees on International Relations and Appropriations of the House of Representatives and the Committees on Foreign Relations and Appropriations of the Senate with respect to each country so designated that such country meets the criteria set forth in paragraph (3).

"(3) CRITERIA.—The criteria referred to in paragraphs (1) and (2) are, with respect to each country, that the country—

"(A) has made significant progress toward establishing—

"(i) shared values and interests;

"(ii) democratic governments;

"(iii) free market economies;

"(iv) civilian control of the military, of the police, and of intelligence services, so that these organizations do not pose a threat to democratic institutions, neighboring countries, or the security of NATO or the United States;

"(v) adherence to the rule of law and to the values, principles, and political commitments set forth in the Helsinki Final Act and other declarations by the members of the Organization on Security and Cooperation in Europe;

"(vi) commitment to further the principles of NATO and to contribute to the security of the North Atlantic area;

"(vii) commitment to protecting the rights of all their citizens and respecting the territorial integrity of their neighbors;

"(viii) commitment and ability to accept the obligations, responsibilities, and costs of NATO membership; and

"(ix) commitment and ability to implement infrastructure development activities that will facilitate participation in and support for NATO military activities;

"(B) is likely, within five years of such determination, to be in a position to further the principles of the North Atlantic Treaty and to contribute to the security of the North Atlantic area; and

"(C) is not ineligible to receive assistance under section 552 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 [110 Stat. 741], with respect to transfers of equipment to a country the government of which the Secretary of State has determined is a terrorist government for purposes of section 40(d) of the Arms Export Control Act [22 U.S.C. 2780(d)].

"(e) NOTIFICATION.—At least 15 days before designating any country pursuant to subsection (d), the President shall notify the appropriate congressional committees in accordance with the procedures applicable under section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–1), and shall include with such notification a memorandum of justification with respect to the proposed designation.

"(f) DETERMINATION.—It is hereby determined that Poland, Hungary, the Czech Republic, and Slovakia meet the criteria required in paragraphs (1), (2), and (3) of subsection (d).

"(g) EFFECT ON OTHER AUTHORITIES.—Nothing in this Act [title] shall affect the eligibility of countries to participate under other provisions of law in programs described in this Act [title].

"SEC. 204. ADDITIONAL AUTHORITIES.

"(a) ARMS EXPORT CONTROL ACT.—The President is authorized to exercise the authority of sections 63 and 65 of the Arms Export Control Act [22 U.S.C. 2796b, 2796d] with respect to any country designated under section 203(d) of this title on the same basis authorized with respect to NATO countries.

"(b) OTHER NATO AUTHORITIES.—The President should designate any country designated under section 203(d) of this title as eligible under sections 2350c and 2350f of title 10, United States Code.

"(c) SENSE OF CONGRESS.—It is the sense of Congress that, in the interest of maintaining stability and promoting democracy in Poland, Hungary, the Czech Republic, Slovakia, and any other Partnership for Peace country designated under section 203(d) of this title, those countries should be included in all activities under section 2457 of title 10, United States Code, related to the increased standardization and enhanced interoperability of equipment and weapons systems, through coordinated training and procurement activities, as well as other means, undertaken by the North Atlantic Treaty Organization members and other allied countries.

"SEC. 205. ANNUAL REPORTING REQUIREMENT.

"The President shall include in the annual report required by [former] section 514(a) of Public Law 103–236 (22 U.S.C. 1928 note) the following:

"(1) A description of all assistance provided under the program established under section 203(a), or otherwise provided by the United States Government to facilitate the transition to full NATO membership of Poland, Hungary, the Czech Republic, Slovakia, and any other country designated by the President pursuant to section 203(d).

"(2) A description, on the basis of information received from the recipients and from NATO, of all assistance provided by other NATO member nations or NATO itself to facilitate the transition to full NATO membership of Poland, Hungary, the Czech Republic, Slovakia, and any other country designated by the President pursuant to section 203(d)."

COST-SHARING POLICY

Pub. L. 103–337, div. A, title XIII, §1313(a)–(d), Oct. 5, 1994, 108 Stat. 2894, 2895, as amended by Pub. L. 110–417, [div. A], title XII, §1238(b), Oct. 14, 2008, 122 Stat. 4644, provided that:

"(a) POLICY.—It is the policy of the United States that the North Atlantic Treaty Organization (NATO) allies should assist the United States in paying the incremental costs incurred by the United States for maintaining members of the Armed Forces in assignments to permanent duty ashore in European member nations of NATO solely for support of NATO roles and missions.

"(b) IMPLEMENTATION.—The President shall take all necessary actions to ensure the effective implementation of the policy set forth in subsection (a).

"(c) INCREMENTAL COSTS DEFINED.—For purposes of subsection (a), the definition provided for the term 'incremental costs' in section 1046 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 [Pub. L. 102–190, set out below], as added by subsection (e), shall apply with respect to maintaining members of the Armed Forces in assignments to permanent duty ashore in European member nations of NATO in the same manner as such term applies with respect to permanent stationing ashore of United States forces in foreign nations for purposes of subsection (e)(4) of such section 1046.

"[(d) Redesignated (c).]"

IMPLEMENTATION OF PARTNERSHIP FOR PEACE

Pub. L. 103–236, title V, §514, Apr. 30, 1994, 108 Stat. 467, as amended by Pub. L. 112–74, div. I, title VII, §7034(n), Dec. 23, 2011, 125 Stat. 1217, provided that:

"[(a) Repealed. Pub. L. 112–74, div. I, title VII, §7034(n), Dec. 23, 2011, 125 Stat. 1217.]

"(b) AUTHORITY OF THE PRESIDENT.—The President is authorized to confer, pursuant to agreement with any country eligible to participate in the Partnership for Peace, rights in respect of the military and related civilian personnel (including dependents of any such personnel) and activities of that country in the United States comparable to the rights conferred by that country in respect of the military and related civilian personnel (including dependents of any such personnel) and activities of the United States in that country."

[Functions of President under section 514 of Pub. L. 103–236, set out above, delegated to Secretary of State by section 1 of Ex. Ord. No. 13313, July 31, 2003, 68 F.R. 46073, set out as a note under section 301 of Title 3, The President.]

DEFENSE COST-SHARING

Pub. L. 102–190, div. A, title X, §1046, Dec. 5, 1991, 105 Stat. 1466, as amended by Pub. L. 103–160, div. A, title XIV, §1412(b), Nov. 30, 1993, 107 Stat. 1829; Pub. L. 103–337, div. A, title XIII, §1313(e), Oct. 5, 1994, 108 Stat. 2895, provided that:

"(a) DEFENSE COST-SHARING AGREEMENTS.—(1) The President shall consult with the foreign nations described in paragraph (2) to seek to achieve, within 12 months after the date of the enactment of this Act [Dec. 5, 1991], an agreement on equitable defense cost-sharing with each such nation.

"(2) The foreign nations referred to in paragraph (1) are—

"(A) each member nation of the North Atlantic Treaty Organization (other than the United States); and

"(B) every other foreign nation with which the United States has a bilateral or multilateral defense agreement that provides for the assignment of combat units of the Armed Forces of the United States to permanent duty in the nation or the placement of combat equipment of the United States in the nation.

"(3) Each defense cost-sharing agreement entered into under paragraph (1) should provide that the foreign nation agrees to share equitably with the United States, through cash compensation or in-kind contributions, or a combination thereof, the costs to the United States that arise solely from the implementation of the provisions of the bilateral or multilateral defense agreement with that nation.

"(b) EXCEPTION.—The provisions of subsection (a) shall not apply to those foreign nations that receive assistance under section 23 of the Arms Export Control Act (22 U.S.C. 2763) relating to the foreign military financing program or under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 et seq.) relating to the Economic Support Fund.

"(c) CONSULTATIONS.—In conducting the consultations required under subsection (a), the President should make maximum feasible use of the Department of Defense and the post of Ambassador-at-Large created by section 8125(c) of the Department of Defense Appropriations Act, 1989 [Pub. L. 100–463] (10 U.S.C. 113 note).

"(d) ALLIES MUTUAL DEFENSE PAYMENTS ACCOUNT.—The Secretary of Defense shall maintain an accounting for defense cost-sharing under each agreement entered into with a foreign nation pursuant to subsection (a). The accounting shall show for each foreign nation the amount and nature of the—

"(1) cost-sharing contributions agreed to by the nation;

"(2) cost-sharing contributions delivered by the nation;

"(3) additional contributions by the nation to any commonly funded multilateral programs providing for United States participation in the common defense;

"(4) contributions by the United States to any such commonly funded multilateral programs;

"(5) contributions of all other nations to any such commonly funded multilateral programs; and

"(6) costs to the United States that arise solely from the implementation of the provisions of the bilateral or multilateral defense agreement with the nation.

"(e) REPORTING REQUIREMENTS.—The Secretary of Defense shall include in each Report on Allied Contributions to the Common Defense prepared under section 1003 of Public Law 98–525 (22 U.S.C. 1928 note) information, in classified and unclassified form—

"(1) describing the efforts undertaken and the progress made by the President in carrying out subsections (a) and (c) during the period covered by the report;

"(2) specifying the accounting of defense cost-sharing contributions maintained under subsection (d) during that period;

"(3) assessing how equitably foreign nations not described in subsection (a) or excepted under subsection (b) are sharing the costs and burdens of implementing defense agreements with the United States and how those defense agreements serve the national security interests of the United States; and

"(4) specifying the incremental costs to the United States associated with the permanent stationing

ashore of United States forces in foreign nations.

"(f) INCREMENTAL COSTS DEFINED.—In this section, the term 'incremental costs', with respect to permanent stationing ashore of United States forces in foreign nations, means the difference between the costs associated with maintaining United States military forces in assignments to permanent duty ashore in the foreign nations and the costs associated with maintaining those same military forces at military bases in the United States."

ACTIVE-DUTY FORCES IN EUROPE OF MEMBER NATIONS OF NATO

Pub. L. 101–189, div. A, title IX, §912, Nov. 29, 1989, 103 Stat. 1523, directed Secretary of Defense to ensure that, for the next three years, the current ratio (expressed as a percentage) of U.S. active duty forces in Europe to allied active duty forces in Europe does not increase by more than a specified amount.

SENSE OF CONGRESS ON NEED FOR MODERNIZATION OF THEATER NUCLEAR CAPABILITIES OF NATO

Pub. L. 100–456, div. A, title X, §1004, Sept. 29, 1988, 102 Stat. 2039, provided that:

"(a) FINDINGS.—Congress makes the following findings:

"(1) The security of the North Atlantic Treaty Organization (NATO) alliance will continue for the foreseeable future to rely on a modern and credible nuclear deterrent.

"(2) NATO should make every effort to achieve the goal of raising the threshold for the use of nuclear weapons in the event of a conflict in Europe.

"(3) While recognizing that there is a critical need for improvements in conventional forces, Congress also recognizes that the United States will have to devote defense resources in the future to the continuing modernization of the theater nuclear capabilities of NATO.

"(4) The modernization of the theater nuclear capabilities of NATO is a continuing process and stems from the 1983 Montebello decision by NATO to reduce the stockpile of nuclear weapons in Europe while taking steps to ensure that the remaining nuclear weapons of the alliance are responsive, survivable, and effective.

"(5) Programs to modernize theater nuclear forces, which had a high priority for NATO before the ratification of the Intermediate-range Nuclear Forces (INF) Treaty, are at least as important following the ratification of that treaty in May 1988.

"(6) The NATO Nuclear Planning Group recently reaffirmed its endorsement of development by the United States of a new missile for delivery of theater nuclear weapons as a follow-on to the current Lance missile, with a view toward an eventual decision on deployment of such a follow-on missile.

"(b) SENSE OF CONGRESS.—In light of the findings in subsection (a), it is the sense of Congress that—

"(1) modernization of the theater nuclear capabilities of the North Atlantic Treaty Organization is essential to the deterrence strategy of the NATO alliance, particularly in light of the requirements of the Intermediate-range Nuclear Forces (INF) Treaty for the destruction of intermediate-range nuclear weapons;

"(2) continued modernization by the United States of theater nuclear capabilities should be undertaken in close consultation with other NATO member nations; and

"(3) the United States should proceed with ongoing activities to meet the identified requirement of the NATO alliance for development of a new missile for delivery of theater nuclear weapons as a follow-on to the Lance missile."

REPORT ON OFFICIAL DEVELOPMENT ASSISTANCE PROGRAM OF JAPAN

Pub. L. 100–456, div. A, title X, §1009(b), Sept. 29, 1988, 102 Stat. 2041, provided that: "The Secretary of Defense shall include with the annual report submitted pursuant to section 1003 of Public Law 98–525 (22 U.S.C. 1928 note) a report on the Official Development Assistance program of the Government of Japan. Such report shall be prepared each year in coordination with the Secretary of State and the Administrator of the Agency for International Development and shall include a description of the amount and nature of spending under such program by recipient, including distinguishing between grant aid, loans, and credits."

JAPAN-UNITED STATES SECURITY RELATIONSHIP AND EFFORTS BY JAPAN TO FULFILL SELF-DEFENSE RESPONSIBILITIES

Pub. L. 99–93, title VIII, §812, Aug. 16, 1985, 99 Stat. 453, as amended by Pub. L. 103–236, title I, §139(14), Apr. 30, 1994, 108 Stat. 398, provided that:

"(a) FINDINGS.—The Congress hereby finds—

"(1) the Japan-United States security relationship is the foundation of the peace and security of Japan and the Far East, as well as a major contributor to the protection of the United States and of the democratic freedoms and economic prosperity enjoyed by both the United States and Japan;

"(2) the threats to our two democracies have increased significantly since 1976, principally through the Soviet invasion of Afghanistan, the expansion of Soviet armed forces in the Far East, the invasion of Cambodia by Vietnam, and the instability in the Persian Gulf region as signified by the continuing Iran-Iraq conflict;

"(3) in recognition of these and other threats, the United States has greatly increased its annual defense spending through sustained real growth averaging 8.8 percent yearly between fiscal 1981 and 1985, and cumulative real growth of 50 percent in that period;

"(4) the United States Government appreciates the May 1981 commitment by the Prime Minister of Japan that, pursuant to the Treaty of Mutual Cooperation and Security of 1960 between Japan and the United States, Japan, on its own initiative, would seek to make even greater efforts for improving its defense capabilities, and pursuant to Japan's own Constitution, it was national policy for his country to acquire and maintain the self-defense forces adequate for the defense of its land area and surrounding airspace and sealanes, out to a distance of 1,000 miles;

"(5) the United States Government applauds the policy of Japan to obtain the capabilities to defend its sea and air lanes out to 1,000 miles, expects that these capabilities should be acquired by the end of the decade, and recognizes that achieving those capabilities would significantly improve the national security of both Japan and the United States;

"(6) the United States Government appreciates the contribution already made by Japan through the Host Nation Support Program and its recent efforts to increase its defense spending; and

"(7) Japan, however, in recent years consistently has not provided sufficient funding and resources to meet its self-defense needs and to meet common United States-Japan defense objectives and alliance responsibilities.

"(b) SENSE OF CONGRESS.—It is the sense of the Congress that Japan, to fulfill its self-defense responsibilities pursuant to the 1960 Mutual Cooperation and Security Treaty with the United States, and in accordance with the national policy declaration made by its Prime Minister in May 1981, to develop a 1,000-mile airspace and sealanes defense capability, should implement a 1986–1990 Mid-Term Defense Plan containing sufficient funding, program acquisition, and force development resources to obtain the agreed-upon 1,000 mile self-defense capabilities by the end of the decade, including the allocation of sufficient budgetary resources annually to reduce substantially the ammunition, logistics, and sustainability shortfalls of its self-defense forces."

SENSE OF CONGRESS RELATING TO INCREASE IN DEFENSE SPENDING BY UNITED STATES ALLIES

Pub. L. 98–525, title X, §1001, Oct. 19, 1984, 98 Stat. 2574, provided that: "It is the sense of Congress that the President—

"(1) should call on the pertinent member nations of the North Atlantic Treaty Organization to meet or exceed their pledges for an annual increase in defense spending during fiscal years 1984 and 1985 of at least 3 percent real growth; and

"(2) should call on Japan to further increase its defense spending during fiscal years 1984 and 1985; in furtherance of increased unity, equitable sharing of the common defense burden, and international stability."

Similar provisions were contained in Pub. L. 98–473, title I, §101(e) [§127], (h) [title VIII, §8105], Oct. 12, 1984, 98 Stat. 1877, 1883, 1904, 1943.

IMPROVEMENTS TO NATO CONVENTIONAL CAPABILITY

Pub. L. 98–525, title X, §1002, Oct. 19, 1984, 98 Stat. 2574, as amended by Pub. L. 99–145, title XI, §1101, Nov. 8, 1985, 99 Stat. 707; Pub. L. 101–189, div. A, title IX, §911(a), Nov. 29, 1989, 103 Stat. 1523; Pub. L. 101–510, div. A, title IV, §406, title XIII, §1312(c)(1), (2), Nov. 5, 1990, 104 Stat. 1546, 1670; Pub. L. 102–25, title VII, §704(a)(2), Apr. 6, 1991, 105 Stat. 118; Pub. L. 102–190, div. A, title X, §1042, Dec. 5, 1991, 105 Stat. 1462; Pub. L. 102–484, div. A, title XIII, §1303(a), Oct. 23, 1992, 106 Stat. 2546; Pub. L. 103–160, div. A, title XIV, §1412(a), Nov. 30, 1993, 107 Stat. 1828; Pub. L. 103–337, div. A, title XIII, §1303(a)–(c), Oct. 5, 1994, 108 Stat. 2889, 2890; Pub. L. 104–106, div. A, title XIII, §1334(a), title XV, §1502(c)(7), Feb. 10, 1996, 110 Stat. 484, 508; Pub. L. 106–65, div. A, title X, §§1032(b)(4), 1067(12), Oct. 5, 1999, 113 Stat. 751, 775, provided that:

"(a) The Congress finds—

"(1) that the North Atlantic Treaty Organization (NATO) should improve its conventional defense capability so as to lengthen the period of time that Western Europe can be defended by conventional forces without the necessity of resorting to the early use of nuclear weapons in the event of a non-nuclear attack on any NATO member country;

"(2) that fulfillment by NATO member nations of their goals and commitments to increase defense spending, improve conventional sustainability, and provide support facilities in Western Europe for rapid reinforcements from the United States is crucial to accomplishing that objective; and

"(3) that an increase over current United States military personnel levels in European member nations of NATO can be justified only if these goals and commitments are substantially met by NATO member nations (other than the United States).

"(b) The Congress urges the President and the Secretary of Defense to continue to encourage member nations of NATO (other than the United States) to work expeditiously to fulfill the following commitments they have undertaken:

"(1) To achieve and maintain an annual increase in their defense spending of at least 3 percent, after inflation.

"(2) To acquire a 30-day supply of air and ground munitions among those NATO members which have committed forces to the Northern, Center, and Southern Regions.

"(3) To construct the number of minimum essential and emergency operating facilities and semihardened aircraft shelters in Western Europe required by NATO Ministerial Guidance to support, under NATO/SHAPE standards, as a minimum, the annual commitment of United States reinforcing tactical aircraft.

"(c)(1) The end strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of the North Atlantic Treaty Organization may not exceed a permanent ceiling of approximately 100,000 in any fiscal year.

"(2) If the Secretary of Defense certifies to the Congress in writing during any fiscal year after fiscal year 1985 that during the previous fiscal year the member nations of NATO (other than the United States) have undertaken significant measures to improve their conventional defense capacity consistent with the goals set forth in subsection (b) which contributes to lengthening the time period between an armed attack on any NATO country and the time the Supreme Allied Commander, Europe, would have to request the release and use of nuclear weapons, the Congress would give strong consideration to authorizing an increase in the permanent ceiling prescribed in paragraph (1) for fiscal years after such fiscal year.

"(3) For purposes of this subsection, the following members of the Armed Forces are excluded in calculating the end strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of NATO:

"(A) Members assigned to permanent duty ashore in Iceland, Greenland, and the Azores.

"(B) Members performing duties in Europe for more than 179 days under a military-to-military contact program under [former] section 168 of title 10, United States Code.

"[(d) Repealed. Pub. L. 106–65, div. A, title X, §1032(b)(4), Oct. 5, 1999, 113 Stat. 751.]

"(e)(1) The Congress finds that a viable 'two-way street' of defense procurement improves NATO interoperability and therefore is important to overall improvements in conventional defense.

"(2) In addition to any funds appropriated pursuant to the authorization contained in this Act for the activities of the Director of Operational Test and Evaluation, Defense, the Director may use an additional amount, not to exceed $50,000,000, to acquire certain types of weapons, subsystems, and munitions of European NATO manufacture for side-by-side testing with comparable United States manufactured items. Such additional amount shall be derived from any funds appropriated pursuant to an authorization contained in this Act. Items that may be acquired under this paragraph include submunitions and dispensers, anti-tank and anti-armor guided missiles, mines, runway-cratering devices, torpedoes, mortar systems, light armored vehicles, and high-velocity anti-tank guns.

"(f)(1) This section shall not apply in the event of a declaration of war or an armed attack on any NATO member country.

"(2) This section may be waived by the President if he declares an emergency and immediately informs the Congress of his action and the reasons therefor."

[Pub. L. 103–337, div. A, title XIII, §1303(d), Oct. 5, 1994, 108 Stat. 2890, provided that: "The amendment made by subsection (a) [amending section 1002(c)(1) of Pub. L. 98–525, set out above] shall take effect on October 1, 1995."]

[Pub. L. 102–484, div. A, title XIII, §1303(b), Oct. 23, 1992, 106 Stat. 2546, which provided that the amendment of section 1002(c)(1) of Pub. L. 98–525, set out above, by section 1303(a) of Pub. L. 102–484, take effect Oct. 1, 1995, was repealed by Pub. L. 103–337, div. A, title XIII, §1303(c), Oct. 5, 1994, 108 Stat. 2890.]

[Pub. L. 101–189, div. A, title IX, §911(b), Nov. 29, 1989, 103 Stat. 1523, which provided that the amendment of section 1002 of Pub. L. 98–525, set out above, by section 911(a) of Pub. L. 101–189, take effect on Sept. 30, 1991, was repealed by Pub. L. 101–510, div. A, title IV, §406(c), Nov. 5, 1990, 104 Stat.

1546.]

REPORT ON ALLIED CONTRIBUTIONS TO THE COMMON DEFENSE

Pub. L. 98–525, title X, §1003, Oct. 19, 1984, 98 Stat. 2576, as amended by Pub. L. 101–510, div. A, title XIII, §1312(c)(3), Nov. 5, 1990, 104 Stat. 1670; Pub. L. 104–201, div. A, title X, §1084(e), Sept. 23, 1996, 110 Stat. 2675; Pub. L. 108–136, div. A, title X, §1045(e), Nov. 24, 2003, 117 Stat. 1613; Pub. L. 110–417, [div. A], title XII, §1238(a), Oct. 14, 2008, 122 Stat. 4644, provided that:

"(a) In recognition of the increasing military threat faced by the Western World and in view of the growth, relative to the United States, in the economic strength of Japan, Canada, and a number of Western European countries which has occurred since the signing of the North Atlantic Treaty on April 4, 1949, and the Mutual Cooperation and Security Treaty between Japan and the United States on January 19, 1960, it is the sense of the Congress that—

"(1) the burdens of mutual defense now assumed by some of the countries allied with the United States under those agreements are not commensurate with their economic resources;

"(2) since May 1978, when each member nation of the North Atlantic Treaty Organization (NATO) agreed to increase real defense spending annually in the range of 3 percent, most NATO members, except for the United States, have failed to meet the 3 percent real growth commitment consistently;

"(3) since May 1981, when the Government of Japan established its policy to defend the air and sea lines of communication out to 1,000 nautical miles from the coast of Japan, progress to develop the necessary self-defense capabilities to fulfill that pledge has been extremely disappointing;

"(4) Japan is the ally of the United States with the greatest potential for improving its self-defense capabilities and should, therefore, rapidly increase its annual defense spending to the levels required to fulfill that pledge and to enable Japan to be capable of an effective conventional self-defense capability by 1990, including the capability to carry out its 1,000-mile defense policy, a development that would be consonant not only with Japan's current prominent position in the family of nations but also with its unique sensibilities on the issues of war and peace, sensibilities that are recognized and respected by the people of the United States; and

"(5) the continued unwillingness of such countries to increase their contributions to the common defense to more appropriate levels will endanger the vitality, effectiveness, and cohesion of the alliances between those countries and the United States.

"(b) It is further the sense of the Congress that the President should seek from each signatory country (other than the United States) of the two treaties referred to in subsection (a) acceptance of international security responsibilities and an agreement to make contributions to the common defense which are commensurate with the economic resources of such country, including, when appropriate, an increase in host nation support.

"(c) The Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives each year, not later than March 1, a report containing a description of—

"(1) annual defense spending by each member nation of NATO, by each member nation of the Euro-Atlantic Partnership Council (EAPC), and by Japan, including available nominal budget figures and defense spending as a percentage of the respective nation's gross domestic product for the fiscal year immediately preceding the fiscal year in which the report is submitted;

"(2) activities of each NATO member nation, each EAPC member nation, and Japan to contribute to military or stability operations in which the United States Armed Forces are a participant;

"(3) any limitations that such nations place on the use of their national contributions described in paragraph (2); and

"(4) any actions undertaken by the United States Government to minimize those limitations described in paragraph (3).

"(d) The report required under subsection (c) shall be submitted in unclassified form, but may include a classified annex."

[Pub. L. 108–136, div. A, title X, §1045(e), Nov. 24, 2003, 117 Stat. 1613, provided in part that: "The amendment made by the preceding sentence [amending section 1084(e) of 104–201, set out in the credit of the note above] shall take effect as if included in Public Law 104–201."]

Similar provisions were contained in the following prior authorization act:

Pub. L. 98–94, title XI, §1102, Sept. 24, 1983, 97 Stat. 673.

NATO DEFENSE INDUSTRIAL COOPERATION

Pub. L. 97–252, title XI, §1122, Sept. 8, 1982, 96 Stat. 755, provided that:

"(a) The Congress finds that—

"(1) the United States remains firmly committed to cooperating closely with its North Atlantic Treaty

Organization (hereinafter in this section referred to as 'NATO') allies in protecting liberty and maintaining world peace;

"(2) the financial burden of providing for the defense of Western Europe and for the protection of the interests of NATO member countries in areas outside the NATO treaty area has reached such proportions that new cooperative approaches among the United States and its NATO allies are required to achieve and maintain an adequate collective defense at acceptable costs;

"(3) the need for a credible conventional deterrent in Western Europe has long been recognized in theory but has never been fully addressed in practice;

"(4) a more equitable sharing by NATO member countries of both the burdens and the technological and economic benefits of the common defense would do much to reinvigorate the North Atlantic Treaty Organization alliance with a restored sense of unity and common purpose;

"(5) a decision to coordinate more effectively the enormous technological, industrial, and economic resources of NATO member countries will not only increase the efficiency and effectiveness of NATO military expenditures but also provide inducement for the Soviet Union to enter into a meaningful arms reduction agreement so that both Warsaw Pact countries and NATO member countries can devote more of their energies and resources to peaceful and economically more beneficial pursuits.

"(b) It is the sense of the Congress that the President should propose to the heads of government of the NATO member countries that the NATO allies of the United States join the United States in agreeing—

"(1) to coordinate more effectively their defense efforts and resources to create, at acceptable costs, a credible, collective, conventional force for the defense of the North Atlantic Treaty area;

"(2) to establish a cooperative defense-industrial effort within Western Europe and between Western Europe and North America that would increase the efficiency and effectiveness of NATO expenditures by providing a larger production base while eliminating unnecessary duplication of defense-industrial efforts;

"(3) to share more equitably and efficiently the financial burdens, as well as the economic benefits (including jobs, technology, and trade) of NATO defense; and

"(4) to intensify consultations promptly for the early achievement of the objectives described in clauses (1) through (3)."

NORTH ATLANTIC TREATY ORGANIZATION COUNTRIES AND JAPAN; CONTRIBUTIONS OF ALLIES OF UNITED STATES TO COMMON DEFENSE COMMENSURATE WITH ECONOMIC RESOURCES; REPORT TO CONGRESS

Pub. L. 96–342, title X, §1006, Sept. 8, 1980, 94 Stat. 1120, as amended by Pub. L. 97–86, title IX, §919, Dec. 1, 1981, 95 Stat. 1132; Pub. L. 97–252, title XI, §1120, Sept. 8, 1982, 96 Stat. 754, provided that:

"(a) In recognition of the growth, relative to the United States, in the economic strength of Japan, Canada, and Western European countries which has occurred since the signing of the North Atlantic Treaty on April 4, 1949, and the Mutual Cooperation and Security Treaty between Japan and the United States on January 19, 1960, it is the sense of Congress that—

"(1) the burdens of mutual defense now assumed by the countries allied with the United States under those agreements are not commensurate with their economic resources; and

"(2) the continued unwillingness of those countries to increase their contributions to the common defense to more appropriate levels would endanger the vitality, effectiveness, and cohesiveness of the alliances between those countries and the United States.

"(b) It is further the sense of Congress that the President should seek from each signatory country (other than the United States) of the two treaties referred to in subsection (a) acceptance of international security responsibilities and agreement to make contributions to the common defense which are commensurate with the economic resources of such country, including, when appropriate, an increase in host nation support.

"(c)(1) The Secretary of Defense shall submit to the Congress not later than March 1, 1983, a report providing—

"(A) a comparison of the fair and equitable shares of the mutual defense burdens of these alliances that should be borne by the United States, by other member nations of the North Atlantic Treaty Organization (NATO), and by Japan, based upon economic strength and other relevant factors, and the actual defense efforts of each nation together with an explanation of disparities that currently exist and their impact on mutual defense efforts;

"(B) a description of efforts by the United States and of other efforts to eliminate existing disparities;

"(C) estimates of the real growth in defense spending in fiscal year 1983 projected for each NATO member nation compared to the annual real growth goal in the range of 3 percent set in May 1978;

"(D) a description of the defense-related initiatives undertaken by each NATO member nation within the real growth in defense spending of such nation in fiscal year 1983;

"(E) an explanation of those instances in which the commitments to real growth in defense spending and to the Long-Term Defense Program have not been realized and a description of efforts being made by the United States to ensure fulfillment of these important NATO commitments; and

"(F) a description of what additional actions the President plans to take should the efforts by the United States referred to in clauses (B) and (E) fail and, in those instances where such additional actions do not include consideration of the repositioning of elements of the Armed Forces of the United States, a detailed explanation as to why such repositioning is not being so considered.

"(2) If the report required by paragraph (1) as submitted to Congress is designated as having been classified, pursuant to Executive order, as requiring protection against unauthorized disclosure in the interest of national defense or foreign policy, then not later than thirty days after the submission of such report the Secretary shall submit to Congress a further report containing all the information in the initial report that does not require such protection."

NORTH ATLANTIC TREATY ORGANIZATION; BALANCE-OF-PAYMENTS DEFICIT; EQUITABLE COST SHARING; REPORT TO CONGRESS

Pub. L. 93–155, title VIII, §812, Nov. 16, 1973, 87 Stat. 619, provided that:

"(a) The Congress finds that in order to achieve a more equitable sharing of the costs and expenses arising from commitments and obligations under the North Atlantic Treaty, the President should seek, through appropriate bilateral and multilateral arrangements, payments sufficient in amount to offset fully any balance-of-payment deficit incurred by the United States during the fiscal year ending June 30, 1974, as the result of the deployment of forces in Europe in fulfillment of the treaty commitments and obligations of the United States. This balance-of-payment deficit shall be determined by the Secretary of Commerce in consultation with the Secretary of Defense and the Comptroller General of the United States.

"(b) In the event that the North Atlantic Treaty Organization members (other than the United States) fail to offset the net balance-of-payment deficit described in subsection (a) prior to the expiration of eighteen months after the date of enactment of this section [Nov. 16, 1973], no funds may be expended after the expiration of twenty-four months following the date of enactment of this section [Nov. 16, 1973] for the purpose of maintaining or supporting United States forces in Europe in any number greater than a number equal to the average monthly number of United States forces assigned to duty in Europe during the fiscal year ending June 30, 1974, reduced by a percentage figure equal to the percentage figure by which such balance-of-payment deficit during such fiscal year was not offset.

"(c) The Congress further finds (1) that the other members of the North Atlantic Treaty Organization should, in order to achieve a more equitable sharing of the cost burden under the treaty, substantially increase their contributions to assist the United States in meeting those added budgeting expenses incurred as the result of maintaining and supporting United States forces in Europe, including, but not limited to, wages paid to local personnel by the United States, recurring expenses incurred in connection with the maintenance and operation of real property, maintenance facilities, supply depots, cold storage facilities, communications systems, and standby operations, and nonrecurring expenses such as the construction and rehabilitation of plants and facilities; (2) that the amount paid by the United States in connection with the North Atlantic Treaty infrastructure program should be reduced to a more equitable amount; and (3) that the President should seek, through appropriate bilateral and multilateral arrangements, a substantial reduction of the amounts paid by the United States in connection with those matters described in (1) and (2) above.

"(d) The President shall submit to the Congress within ninety days after the date of enactment of this Act [Nov. 16, 1973], and at the end of each ninety-day period thereafter, a written report informing the Congress of the progress that has been made in implementing the provisions of this section."

UNITED STATES CITIZENS COMMISSION ON NATO

Pub. L. 86–719, Sept. 7, 1960, 74 Stat. 818, as amended by Pub. L. 87–116, July 31, 1961, 75 Stat. 242, provided for a United States Citizens Commission on NATO to terminate on June 30, 1962, including the appointment of the Commission, vacancies, chairman and vice chairman, statement of purpose, conferences in NATO countries, representative status, authority of Commission, compensation and expenses, appropriations, and reports to Congress.

EX. ORD. NO. 11633. SECURITY CLEARANCE PROGRAM FOR UNITED STATES CITIZENS EMPLOYED DIRECTLY BY NATO, SEATO, AND CENTO

Ex. Ord. No. 11633. Dec. 3, 1971, 36 F.R. 23197, provided:

The United States now participates in the activities of the North Atlantic Treaty Organization (NATO), the South-East Asia Treaty Organization (SEATO), and the Central Treaty Organization (CENTO). The Security regulations of these three treaty organizations provide that each participating nation shall be responsible for

the security screening and security clearance of its own citizens before they are authorized access to the Organization's TOP SECRET, SECRET, or CONFIDENTIAL information. There is no existing program, however, under which United States civilians who are hired directly by these organizations can be screened and cleared for access to such Organization's TOP SECRET, SECRET, or CONFIDENTIAL information while so employed. It is, of course, in the interest of the United States that United States citizens who participate in the activities of NATO, SEATO, and CENTO as direct hire employees of the civil or military agencies of those organizations be reliable, trustworthy, of good conduct and character, and of complete and unswerving loyalty to the United States. At the same time, it is a fundamental principle of our Government to protect against unreasonable or unwarranted encroachment on the freedom and privacy of individuals.

I have determined that the provisions and procedures prescribed by this Order are necessary to assure the preservation of the integrity of the classified information of NATO, SEATO, and CENTO, and to protect the national interest. I have also determined that these provisions and procedures recognize the rights of individuals affected thereby and provide maximum possible safeguards to protect such rights.

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution and statutes of the United States, and as Commander-in-Chief of the Armed Forces of the United States, it is ordered as follows:

SECTION 1. The Secretary of Defense shall establish a program and, by regulation, shall prescribe such specific requirements, restrictions, and other safeguards as he considers necessary for the administration of procedures whereby "Certificates of Security Clearance" for the United States citizens directly employed by civil or military agencies of NATO, SEATO, or CENTO may be provided to these international organizations when they so request. Such program shall also provide for the denial, revocation, or suspension of such "Certificates."

SEC. 2. Subject to the provisions of applicable international agreements, the procedures established by the Secretary of Defense shall, insofar as is practical, be similar to those established by him pursuant to the authority vested in him by Executive Order No. 10865 of February 20, 1960, as amended [set out as a note under section 3161 of Title 50, War and National Defense].

SEC. 3. The substance of the criteria, safeguards, and procedures provided in Sections 2, 3, 4, 5, 6, 7, and 9 of Executive Order No. 10865, as amended [set out as a note under section 3161 of Title 50, War and National Defense], shall be incorporated in the regulations of the Secretary of Defense governing the program established hereunder.

SEC. 4. Any authority vested in the Secretary of Defense by this Order may be delegated to the Deputy Secretary of Defense or an Assistant Secretary of Defense.

RICHARD NIXON.

DETERMINATION REGARDING END STRENGTH LEVEL OF U.S. ARMED FORCES IN EUROPE FOR FISCAL YEAR 1991

Determination of President of the United States, No. 91–37, May 29, 1991, 56 F.R. 25611, provided:

Memorandum for the Secretary of Defense

Consistent with section 406(b) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1546) [amending section 1002 of Pub. L. 98–525, set out as a note above], I hereby authorize an end strength level of members of the Armed Forces assigned to permanent duty ashore in European member nations of the North Atlantic Treaty Organization in excess of 261,855 for fiscal year 1991, and determine that the national security interests of the United States require such authorization.

You are authorized and directed to notify the Congress of this determination and of the necessity therefor contained in the attached justification [not set out in the Code], and to publish this determination in the Federal Register.

GEORGE BUSH.

§1928a. North Atlantic Treaty Parliamentary Conference; participation; appointment of United States Group

Not to exceed twenty-four Members of Congress shall be appointed to meet jointly and annually with representative parliamentary groups from other NATO (North Atlantic Treaty Organization) members, for discussion of common problems in the interests of the maintenance of peace and security in the North Atlantic area. Of the Members of the Congress to be appointed for the purposes of this resolution (hereinafter designated as the "United States Group"), half shall be appointed by the Speaker of the House from Members of the House (not less than four of whom shall be from the

Committee on Foreign Affairs), and half shall be appointed by the President of the Senate upon recommendations of the majority and minority leaders of the Senate from Members of the Senate. Not more than seven of the appointees from the Senate shall be of the same political party. The Chairman or Vice Chairman of the House delegation shall be a Member from the Foreign Affairs Committee, and, unless the President of the Senate, upon the recommendation of the Majority Leader, determines otherwise, the Chairman or Vice Chairman of the Senate delegation shall be a Member from the Foreign Relations Committee. Each delegation shall have a secretary. The secretaries of the Senate and House delegations shall be appointed, respectively, by the chairman of the Committee on Foreign Relations of the Senate and the chairman of the Committee on Foreign Affairs of the House of Representatives.

(July 11, 1956, ch. 562, §1, 70 Stat. 523; Pub. L. 88–205, pt. IV, §406, Dec. 16, 1963, 77 Stat. 392; Pub. L. 95–45, §4(c), June 15, 1977, 91 Stat. 222; Pub. L. 100–204, title VII, §744(a), Dec. 22, 1987, 101 Stat. 1396; Pub. L. 103–437, §9(a)(5), Nov. 2, 1994, 108 Stat. 4588.)

CODIFICATION

This section was not enacted as part of the Mutual Security Act of 1954 which comprises this chapter.

AMENDMENTS

1994—Pub. L. 103–437 substituted "Foreign Affairs" for "International Relations" wherever appearing.

1987—Pub. L. 100–204 inserted at end "Each delegation shall have a secretary. The secretaries of the Senate and House delegations shall be appointed, respectively, by the chairman of the Committee on Foreign Relations of the Senate and the chairman of the Committee on Foreign Affairs of the House of Representatives."

1977—Pub. L. 95–45 increased the size of the United States Group from eighteen to twenty-four, inserted requirement that not less than four of the appointees from the House of Representatives be from the Committee on International Relations, inserted requirement that the appointment of the Senate appointees by the President of the Senate be made upon recommendations of the majority and minority leaders of the Senate, substituted requirement that not more than seven of the appointees from the Senate be of the same political party for requirement which had provided that not more than five of the appointees from each of the respective Houses be of the same political party, and inserted provision that the Chairman or Vice Chairman of the House delegation be a Member from the International Relations Committee, and, unless the President of the Senate, upon the recommendation of the Majority Leader, determines otherwise, the Chairman or Vice Chairman of the Senate delegation be a Member from the Foreign Relations Committee.

1963—Pub. L. 88–205 struck out "and when Congress is not in session" after "to meet jointly and annually".

§1928b. Authorization of appropriations

There is authorized to be appropriated annually (1) for the annual contribution of the United States toward the maintenance of the NATO Parliamentary Assembly, such sum as may be agreed upon by the United States Group and approved by such Assembly, but in no event to exceed for any year an amount equal to 25 per centum of the total annual contributions made for that year by all members of the NATO Parliamentary Treaty Organization toward the maintenance of such Assembly, and (2) $200,000, $100,000 for the House delegation and $100,000 for the Senate delegation, or so much thereof as may be necessary, to assist in meeting the expenses of the United States Group of the NATO Parliamentary Assembly for each fiscal year for which an appropriation is made, such appropriation to be dispersed on voucher to be approved by the Chairman of the House delegation and the Chairman of the Senate delegation.

(July 11, 1956, ch. 562, §2, 70 Stat. 523; Pub. L. 85–477, ch. V, §502(d), June 30, 1958, 72 Stat. 273; Pub. L. 90–137, pt. IV, §401(a), Nov. 14, 1967, 81 Stat. 463; Pub. L. 92–226, pt. IV, §405, Feb. 7, 1972, 86 Stat. 34; Pub. L. 100–202, §101(a) [title III, §303], Dec. 22, 1987, 101 Stat. 1329, 1329–23; Pub. L. 100–204, title VII, §744(b), Dec. 22, 1987, 101 Stat. 1396; Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title VII, §701(b)(1)], Nov. 29, 1999, 113 Stat. 1536, 1501A–459; Pub. L. 107–77, title IV, §408(b)(1), Nov. 28, 2001, 115 Stat. 790.)

CODIFICATION

This section was not enacted as part of the Mutual Security Act of 1954 which comprises this chapter.

AMENDMENTS

2001—Pub. L. 107–77 substituted "$200,000" for "$100,000" and substituted "$100,000" for "$50,000" in two places.

1999—Pub. L. 106–113 substituted "NATO Parliamentary Assembly" for "North Atlantic Assembly" in two places.

1987—Pub. L. 100–204 which directed amendment of this section by increasing appropriation authorization to $75,000, with $50,000 for House delegation and $25,000 for Senate delegation, could not be executed because of prior amendment by Pub. L. 100–202.

Pub. L. 100–202 substituted "annually (1)" for "annually,", "(2) $100,000, $50,000" for "$50,000, $25,000", and "and $50,000" for "and $25,000".

1972—Pub. L. 92–226 increased annual appropriations authorization for expenses of the United States Group of the North Atlantic Assembly, including the amount for the House and Senate delegations from $15,000 to $25,000.

1967—Pub. L. 90–137 substituted "North Atlantic Assembly" for "North Atlantic Treaty Organization Parliamentary Conference" and "North Atlantic Treaty Parliamentary Conference" and "Assembly" for "Conference" in two places, respectively.

1958—Pub. L. 85–477 substituted provisions authorizing an annual contribution towards the maintenance of the Conference of such sum as may be agreed upon but in no event to exceed for any year an amount equal to 25 per centum of the total annual contributions made for that year for maintenance, for provisions which authorized an annual contribution of $6,000 for maintenance.

CHANGE OF NAME

Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title VII, §701(b)(3)], Nov. 29, 1999, 113 Stat. 1536, 1501A–459, provided that: "In the case of any provision of law having application on or after May 31, 1999 (other than a provision of law specified in subparagraphs (A) or (B) [probably should be "paragraphs (1) or (2)", which amended this section and sections 276c–1, 1928c, and 1928d of this title]), any reference contained in that provision to the North Atlantic Assembly shall, on and after that date, be considered to be a reference to the NATO Parliamentary Assembly."

PERMANENT APPROPRIATION FOR DELEGATION EXPENSES

A permanent appropriation to carry out cl. (2) of this section is contained in section 101(a) [title III, §303] of Pub. L. 100–202, as amended, set out as a note under section 276e of this title.

ANNUAL APPROPRIATIONS

Annual appropriations to meet the obligations of membership in various international organizations were contained in acts listed in a note set out under section 269a of this title.

AUTHORIZATION OF APPROPRIATIONS FOR EXPENSES OF 1959 ANNUAL MEETING OF NORTH ATLANTIC TREATY PARLIAMENTARY CONFERENCE

Pub. L. 86–108, ch. VII, §702, July 24, 1959, 73 Stat. 258, authorized appropriations for expenses of 1959 annual meeting of North Atlantic Treaty Parliamentary Conference, prior to repeal by Pub. L. 87–195, pt. III, §642(a)(7), Sept. 4, 1961, 75 Stat. 460.

§1928c. Report to the Congress

The United States Group of the NATO Parliamentary Assembly shall submit to the Congress a report for each fiscal year for which an appropriation is made, including its expenditures under such appropriation.

(July 11, 1956, ch. 562, §3, 70 Stat. 524; Pub. L. 90–137, pt. IV, §401(a)(2), Nov. 14, 1967, 81 Stat. 463; Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title VII, §701(b)(1)], Nov. 29, 1999, 113 Stat. 1536, 1501A–459.)

CODIFICATION

This section was not enacted as part of the Mutual Security Act of 1954 which comprises this chapter.

AMENDMENTS

1999—Pub. L. 106–113 substituted "NATO Parliamentary Assembly" for "North Atlantic Assembly".

1967—Pub. L. 90–137 substituted "North Atlantic Assembly" for "North Atlantic Treaty Parliamentary Conference".

§1928d. Auditing and accounting

The certificate of the Chairman of the House delegation and the Senate delegation of the NATO Parliamentary Assembly shall on and after July 11, 1956, be final and conclusive upon the accounting officers in the auditing of the accounts of the United States Group of the NATO Parliamentary Assembly.

(July 11, 1956, ch. 562, §4, 70 Stat. 524; Pub. L. 90–137, pt. IV, §401(a)(2), Nov. 14, 1967, 81 Stat. 463; Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title VII, §701(b)(1)], Nov. 29, 1999, 113 Stat. 1536, 1501A–459.)

CODIFICATION

This section was not enacted as part of the Mutual Security Act of 1954 which comprises this chapter.

AMENDMENTS

1999—Pub. L. 106–113 substituted "NATO Parliamentary Assembly" for "North Atlantic Assembly" in two places.

1967—Pub. L. 90–137 substituted "North Atlantic Assembly" for "North Atlantic Treaty Parliamentary Conference" in two places.

§1928e. North Atlantic Assembly; appropriations for expenses of annual meeting

In addition to the amounts authorized by section 1928b of this title, there is authorized to be appropriated $50,000 for fiscal year 1977 to meet the expenses incurred by the United States group in hosting the twenty-second annual meeting of the North Atlantic Assembly. In addition to amounts authorized by section 1928b of this title, there is authorized to be appropriated $550,000 for fiscal year 1994 to meet the expenses incurred by the United States group in hosting the fortieth annual meeting of the North Atlantic Assembly. In addition to the amounts authorized by section 1928b of this title, there is authorized to be appropriated $450,000 for fiscal year 1984 to meet the expenses incurred by the United States group in hosting the thirty-first annual meeting of the North Atlantic Assembly. Amounts appropriated under this section are authorized to remain available until expended.

(July 11, 1956, ch. 562, §5, as added Pub. L. 94–350, title I, §107, July 12, 1976, 90 Stat. 824; amended Pub. L. 98–164, title I, §109(a), Nov. 22, 1983, 97 Stat. 1019; Pub. L. 102–138, title I, §168(g), Oct. 28, 1991, 105 Stat. 677.)

CODIFICATION

This section was not enacted as part of the Mutual Security Act of 1954 which comprises this chapter.

AMENDMENTS

1991—Pub. L. 102–138 inserted after first sentence provisions authorizing appropriation of $550,000 for fiscal year 1994 to meet expenses of the United States group in hosting the fortieth annual meeting of the North Atlantic Assembly.

1983—Pub. L. 98–164 inserted provisions authorizing additional appropriations for fiscal year 1984 to meet the expenses of hosting the annual meeting.

CHANGE OF NAME

Reference to North Atlantic Assembly considered to be reference to NATO Parliamentary Assembly, see section 1000(a)(7) [div. A, title VII, §701(b)(3)] of Pub. L. 106–113, set out as a note under section 1928b of this title.

§1929. Repealed. Pub. L. 87–195, pt. III, §642(a)(2), Sept. 4, 1961, 75 Stat. 460

Section, acts Aug. 26, 1954, ch. 937, ch. II, §409, 68 Stat. 845; July 8, 1955, ch. 301, §8(g), 69 Stat. 286; July 18, 1956, ch. 627, §8(g), 70 Stat. 558; Aug. 14, 1957, Pub. L. 85–141, §8(i), 71 Stat. 361; June 30, 1958, Pub. L. 85–477, ch. II, §205(g), 72 Stat. 267; July 24, 1959, Pub. L. 86–108, ch. II, §205(i), 73 Stat. 250; May 14, 1960, Pub. L. 86–472, ch. II, §204(i), 74 Stat. 137, authorized payment of ocean freight charges and provided for arrangements for free entry.

§1930. Repealed. Pub. L. 86–108, ch. II, §205(j), July 24, 1959, 73 Stat. 250

Section, acts Aug. 26, 1954, ch. 937, ch. II, §410, 68 Stat. 846; July 8, 1955, ch. 301, §8(h), 69 Stat. 287; July 18, 1956, ch. 627, §8(h), 70 Stat. 558; Aug. 14, 1957, Pub. L. 85–141, §8(j), 71 Stat. 361; June 30, 1958, Pub. L. 85–477, ch. II, §205(h), ch. V, §501(14), 72 Stat. 267, 271, authorized appropriations for carrying out objectives of Mutual Defense Assistance Control Act of 1951, section 1611 et seq. of this title.

§1931. Repealed. Pub. L. 87–195, pt. III, §642(a)(2), Sept. 4, 1961, 75 Stat. 460

Section, acts Aug. 26, 1954, ch. 937, ch. II, §411, 68 Stat. 846; July 8, 1955, ch. 301, §8(i), 69 Stat. 287; July 18, 1956, ch. 627, §8(i), 70 Stat. 558; Aug. 14, 1957, Pub. L. 85–141, §8(k), 71 Stat. 362; June 30, 1958, Pub. L. 85–477, ch. II, §205(i), ch. V, §501(15), 72 Stat. 267, 271; July 24, 1959, Pub. L. 86–108, ch. II, §205(k), 73 Stat. 250; May 14, 1960, Pub. L. 86–472, ch. II, §204(j), ch. V, §501(b), 74 Stat. 137, 140, related to payment of administrative and other expenses. See sections 2396(b), (f) and 2397 of this title.

§1932. Repealed. Pub. L. 86–472, ch. II, §204(k), May 14, 1960, 74 Stat. 138

Section, act Aug. 26, 1954, ch. 937, ch. II, §412, as added July 24, 1959, Pub. L. 86–108, ch. II, §205(l), 73 Stat. 250, authorized appropriations for President's special education and training fund.

A prior section 412 of act Aug. 26, 1954, which authorized assistance to selected Chinese and Korean students for studying or teaching, or for research and related academic and technical activities in the United States, was repealed by Pub. L. 85–141, §8(l), Aug. 14, 1957, 71 Stat. 362.

§1933. Repealed. Pub. L. 87–195, pt. III, §642(a)(2), Sept. 4, 1961, 75 Stat. 460

Section, acts Aug. 26, 1954, ch. 937, ch. II, §413, 68 Stat. 846; July 18, 1956, ch. 627, §8(j), (k), 70 Stat. 558; June 30, 1958, Pub. L. 85–477, ch. II, §205(j), 72 Stat. 267; July 24, 1959, Pub. L. 86–108, ch. II, §205(m), 73 Stat. 251, related to encouragement of free enterprise and private participation. See section 2351 of this title.

§1934. Repealed. Pub. L. 94–329, title II, §212(b)(1), June 30, 1976, 90 Stat. 745

Section, acts Aug. 26, 1954, ch. 937, ch. II, §414, 68 Stat. 848; June 30, 1958, Pub. L. 85–477, ch. II, §205(k), 72 Stat. 267; Oct. 18, 1962, Pub. L. 87–845, §5, 76A Stat. 698; Nov. 14, 1967, Pub. L. 90–137, pt. IV, §403, 81 Stat. 463; Dec. 17, 1973, Pub. L. 93–189, §27, 87 Stat. 732; Nov. 29, 1975, Pub. L. 94–141, title I, §150(a), 89 Stat. 760, related to authority of President to control export and import of arms, ammunition, and implements of war.

REFERENCE TO FORMER SECTION 1934 OF THIS TITLE DEEMED REFERENCE TO SECTION 2778

Pub. L. 94–329, title II, §212(b)(1), June 30, 1976, 90 Stat. 745, provided in part that: "Any reference to such section [this section] shall be deemed to be a reference to section 38 of the Arms Export Control Act [section 2778 of this title] and any reference to licenses issued under section 38 of the Arms Export Control Act shall be deemed to include a reference to licenses issued under section 414 of the Mutual Security Act of 1954."

SAVINGS PROVISION

Pub. L. 94–329, title II, §212(b)(2), June 30, 1976, 90 Stat. 745, provided that: "All determinations, authorizations, regulations, orders, contracts, agreements, and other actions issued, undertaken, or entered into under section 414 of the Mutual Security Act of 1954 [this section] shall continue in full force and effect until modified, revoked, or superseded by appropriate authority."

EXECUTIVE ORDER NO. 11432

Ex. Ord. No. 11432, Oct. 22, 1968, 33 F.R. 15701, which amended section 301 of Ex. Ord. No. 10973, Nov. 6, 1961, 26 F.R. 10469, in regard to delegation of certain functions concerning arms control to the Department of the Treasury, was omitted in view of the subsequent amendment to section 301 by Ex. Ord. No. 11959, Jan. 18, 1977, 42 F.R. 4315.

§§1935, 1936. Repealed. Pub. L. 87–195, pt. III, §642(a)(2), Sept. 4, 1961, 75 Stat. 460

Section 1935, acts Aug. 26, 1954, ch. 937, ch. II, §415, 68 Stat. 849; July 18, 1956, ch. 627, §8(l), 70 Stat. 559, related to stockpiling of supplies.

Section 1936, acts Aug. 26, 1954, ch. 937, ch. II, §416, 68 Stat. 849; Aug. 14, 1957, Pub. L. 85–141, §8(m), 71 Stat. 362, provided for facilitation and encouragement of travel.

§1937. Irish counterpart account; approval of disposition

Pursuant to section 1513(b)(6) [1] of this title, the disposition within Ireland of the unencumbered balance, in the amount of approximately 6,000,000 Irish pounds, of the special account of Irish funds established under article IV of the Economic Cooperation Agreement between the United States of America and Ireland, dated June 28, 1948, for the purposes of—

(1) scholarship exchange between the United States and Ireland;

(2) other programs and projects (including the establishment of an Agricultural Institute) to improve and develop the agricultural production and marketing potential of Ireland and to increase the production and efficiency of Irish industry; and

(3) development programs and projects in aid of the foregoing objectives,

is approved, as provided in the agreement between the Government of the United States of America and the Government of Ireland, dated June 17, 1954.

(Aug. 26, 1954, ch. 937, ch. II, §417, 68 Stat. 849.)

REFERENCES IN TEXT

Section 1513(b)(6) of this title, referred to in text, was repealed by section 542(a)(4) of act Aug. 26, 1954.

[1] *See References in Text note below.*

§1938. Repealed. July 18, 1956, ch. 627, §8(m), 70 Stat. 559

Section, act Aug. 26, 1954, ch. 937, title IV, §418, as added July 8, 1955, ch. 301, §8(j), 69 Stat. 287, authorized the establishment of President's Fund for Asian Economic Development.

§§1939 to 1941. Repealed. Pub. L. 87–195, pt. III, §642(a)(2), (7), Sept. 4, 1961, 75 Stat. 460

Section 1939, act Aug. 26, 1954, ch. 937, ch. II, §419, as added Aug. 14, 1957, Pub. L. 85–141, §8(n), 71 Stat. 362; amended June 30, 1958, Pub. L. 85–477, ch. II, §205(l), 72 Stat. 267; July 24, 1959, Pub. L. 86–108, ch. II, §205(n), 73 Stat. 251; May 14, 1960, Pub. L. 86–472, ch. II, §204(l), 74 Stat. 138, related to

atoms for peace. See section 2171(c) of this title.

Act July 18, 1956, ch. 627, §12, 70 Stat. 565, which was formerly classified to section 1939 of this title and authorized appropriations for atoms for peace, was repealed by Pub. L. 87–195, pt. III, §642(a)(4) Sept. 4, 1961, 75 Stat. 460.

Section 1940, act Aug. 26, 1954, ch. 937, ch. II, §420, as added Aug. 14, 1957, Pub. L. 85–141, §8(n), 71 Stat. 362; amended June 30, 1958, Pub. L. 85–477, ch. II, §205(m), 72 Stat. 267, provided for a program of malaria eradication.

Section 1940a, act Aug. 26, 1954, ch. 937, ch. II, §421, as added May 14, 1960, Pub. L. 86–472, ch. II, §204(m), 74 Stat. 138, related to loans to small farmers. See section 2175 of this title.

Section 1941, Pub. L. 86–108, ch. V, §501, July 24, 1959, 73 Stat. 255, provided for international cooperation in health. Subsec. (b) of section 501 of Pub. L. 86–108 was previously repealed by Pub. L. 86–472, ch. IV, §602, May 14, 1960, 74 Stat. 141.

§1942. Development assistance in Latin America; Congressional declaration of policy

(a) It is the sense of the Congress that—

(1) the historic, economic, political, and geographic relationships among the American Republics are unique and of special significance and, as appropriate, should be so recognized in future legislation;

(2) although governmental forms differ among the American Republics, the peoples of all the Americas are dedicated to the creation and maintenance of governments which will promote individual freedom;

(3) the interests of the American Republics are so interrelated that sound social and economic progress in each is of importance to all and that lack of it in any American Republic may have serious repercussions in others;

(4) for the peoples of Latin America to continue to progress within the framework of our common heritage of democratic ideals, there is a compelling need for the achievement of social and economic advance adequate to meet the legitimate aspirations of the individual citizens of the countries of Latin America for a better way of life;

(5) there is a need for a plan of hemispheric development, open to all American Republics which cooperate in such plan, based upon a strong production effort, the expansion of foreign trade, the creation and maintenance of internal financial stability, the growth of free economic and social institutions, and the development of economic cooperation, including all possible steps to establish and maintain equitable rates of exchange and to bring about the progressive elimination of trade barriers;

(6) mindful of the advantages which the United States has enjoyed through the existence of a large domestic market with no internal trade barriers, and believing that similar advantages can accrue to all countries, it is the hope of the people of the United States that all American Republics will jointly exert sustained common efforts which will speedily achieve that economic cooperation in the Western Hemisphere which is essential for lasting peace and prosperity; and

(7) accordingly, it is declared to be the policy of the people of the United States to sustain and strengthen principles of individual liberty, free institutions, private enterprise, and genuine independence in the Western Hemisphere through cooperation with all American Republics which participate in a joint development program based upon self-help and mutual efforts.

(b) In order to carry forward the above policy, the Congress hereby—

(1) urges the President through our constitutional processes to develop cooperative programs on a bilateral or multilateral basis which will set forth specific plans of action designed to foster economic progress and improvements in the welfare and level of living of all the peoples of the American Republics on the basis of joint aid, mutual effort, and common sacrifice;

(2) proposes the development of workable procedures to expand hemispheric trade and to moderate extreme price fluctuations in commodities which are of exceptional importance in the economies of the American Republics, and encourages the development of regional economic

cooperation among the American Republics;

(3) supports the development of a more accurate and sympathetic understanding among the peoples of the American Republics through a greater interchange of persons, ideas, techniques, and educational, scientific, and cultural achievements;

(4) supports the strengthening of free democratic trade unions to raise standards of living through improved management-labor relations;

(5) favors the progressive development of common standards with respect to the rights and the responsibilities of private investment which flows across national boundaries within the Western Hemisphere;

(6) supports the consolidation of the public institutions and agencies of inter-American cooperation, insofar as feasible, within the structure of the Organization of American States and the strengthening of the personnel resources and authority of the Organization in order that it may play a role of increasing importance in all aspects of hemispheric cooperation; and

(7) declares that it is prepared to give careful and sympathetic consideration to programs which the President may develop for the purpose of promoting these policies.

(Pub. L. 86–735, §1, Sept. 8, 1960, 74 Stat. 869.)

CODIFICATION

This section was not enacted as part of the Mutual Security Act of 1954 which comprises this chapter.

SHORT TITLE

Pub. L. 88–205, pt. IV, §401(a), Dec. 16, 1963, 77 Stat. 390, amended Pub. L. 86–735 to provide: "That this Act [enacting this section and sections 1943 to 1945 of this title and amending section 1753a of this title] may be cited as the 'Latin American Development Act'."

REVISION OF SOCIAL PROGRESS TRUST FUND AGREEMENT

Pub. L. 93–189, §36, Dec. 17, 1973, 87 Stat. 734, as amended by Pub. L. 97–113, title VII, §734(a)(9), Dec. 29, 1981, 95 Stat. 1560, provided that:

"(a) The President or his delegate shall seek, as soon as possible a revision of the Social Progress Trust Fund Agreement (dated June 19, 1961) between the United States and the Inter-American Development Bank. Such revision should provide for the—

"(1) periodic transfer of unencumbered capital resources of such trust fund, and of any future repayments or other accruals otherwise payable to such trust fund, to the Inter-American Foundation, to be administered by the Foundation for purposes of part IV of the Foreign Assistance Act of 1969 (22 U.S.C. 290f and following);

"(2) utilization of such unencumbered capital resources, future repayments, and other accruals by the Inter-American Development Bank for purposes of sections 1 and 2 of the Latin American Development Act (22 U.S.C. 1942 and 1943) in such a way that the resources received in the currencies of the more developed member countries are utilized to the extent possible for the benefit of the lesser developed member countries; or

"(3) both the transfer described in paragraph (1) and the utilization described in paragraph (2).

"(b) Any transfer or utilization under this section shall be in such proportions as may be agreed to between the United States and the Inter-American Development Bank.

"(c) Any transfer under subsection (a)(1) shall be in the amounts, and in available currencies, determined in consultation with the Inter-American Foundation, to be required for its program purposes.

"(d) The revision of the Social Progress Trust Fund Agreement pursuant to this section shall provide that the President or his delegate shall specify, from time to time, after consultation with the Inter-American Development Bank, the particular currencies to be used in making the transfer or utilization described in this section.

"(e) [Repealed. Pub. L. 97–113, title VII, §734(a)(9), Dec. 29, 1981, 95 Stat. 1560]."

[Amendment of provisions of section 36 of Pub. L. 93–189, set out above, by Pub. L. 106–113, div. B, §1000(a)(2) [title V, §586(h)(2)], Nov. 29, 1999, 113 Stat. 1535, 1501A–120, did not become effective pursuant to section 1000(a)(2) [title V, §586] of div. B of Pub. L. 106–113, formerly set out as an Abolition of the Inter-American Foundation note under section 290f of this title.]

DELEGATION OF RESPONSIBILITIES RELATED TO THE LATIN AMERICAN DEVELOPMENT ACT OF 1960

Memorandum of President of the United States, May 30, 2001, 66 F.R. 30629, provided:

Memorandum for the Secretary of State

By the authority vested in me by the Constitution and laws of the United States of America, including section 301 of title 3 of the United States Code, I hereby delegate to the Secretary of State the functions conferred upon the President by the Latin American Development Act of 1960, 22 U.S.C. 1942 *et seq*.

The functions delegated by this memorandum may be redelegated as appropriate.

You are authorized and directed to publish this memorandum in the Federal Register.

GEORGE W. BUSH.

§1943. Authorization of appropriations; restrictions; reports to congressional committees

In order to carry out the purposes of section 1942 of this title, there is authorized to be appropriated to the President not to exceed $680,000,000, which shall remain available until expended, and which the President may use, subject to such further legislative provisions as may be enacted, in addition to other funds available for such purposes, on such terms and conditions as he may specify: *Provided*, That none of the funds made available pursuant to this section shall be used to furnish assistance to any country in Latin America being subjected to economic or diplomatic sanctions by the Organization of American States. The Secretary of State shall keep the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House currently informed about plans and programs for the utilization of such funds.

(Pub. L. 86–735, §2, Sept. 8, 1960, 74 Stat. 870; Pub. L. 88–205, pt. IV, §401(b), Dec. 16, 1963, 77 Stat. 390.)

CODIFICATION

This section was not enacted as part of the Mutual Security Act of 1954 which comprises this chapter.

AMENDMENTS

1963—Pub. L. 88–205 substituted "$680,000,000" for "$500,000,000".

DELEGATION OF FUNCTIONS

For delegation of certain functions of President under this section, see Memorandum of President of the United States, May 30, 2001, 66 F.R. 30629, set out as a note under section 1942 of this title.

§1944. Reconstruction assistance in Chile; authorization of appropriations

There is authorized to be appropriated to the President not to exceed $100,000,000, which shall remain available until expended, for use, in addition to other funds available for such purposes, in the reconstruction and rehabilitation of Chile on such terms and conditions as the President may specify.

(Pub. L. 86–735, §3, Sept. 8, 1960, 74 Stat. 870.)

CODIFICATION

This section was not enacted as part of the Mutual Security Act of 1954 which comprises this chapter.

DELEGATION OF FUNCTIONS

For delegation of certain functions of President under this section, see Memorandum of President of the United States, May 30, 2001, 66 F.R. 30629, set out as a note under section 1942 of this title.

§1945. Utilization of funds for assistance in Latin America; availability for transportation of immigrants from Ryukyuan Archipelago

(a) Funds appropriated under sections 1943 and 1944 of this title may be used for assistance under sections 1942 to 1945 of this title pursuant to such provisions applicable to the furnishing of such

assistance contained in any successor Act to the Mutual Security Act of 1954, as amended, as the President determines to be necessary to carry out the purposes for which such funds are appropriated.

(b) Of the funds appropriated under section 1943 of this title not more than $800,000 shall be available only for assisting in transporting to and settling in Latin America selected immigrants from that portion of the Ryukyuan Archipelago under United States administration.

(Pub. L. 86–735, §4, as added Pub. L. 87–195, pt. IV, §706, Sept. 4, 1961, 75 Stat. 463.)

REFERENCES IN TEXT

The Mutual Security Act of 1954, referred to in text, is act Aug. 26, 1954, ch. 937, 68 Stat. 832, as amended by acts July 8, 1955, ch. 301, 69 Stat. 283; July 18, 1956, ch. 627, §§2 to 11, 70 Stat. 555; Aug. 14, 1957, Pub. L. 85–141, 71 Stat. 355; June 30, 1958, Pub. L. 85–477, ch. 1, §§101 to 103, ch. II, §§201 to 205, ch. III, §301, ch. IV, §401, ch. V, §501, 72 Stat. 261; July 24, 1959, Pub. L. 86–108, §2, ch. 1, §101, ch. II, §§201 to 205(a) to (i), (k) to (n), ch. III, §301, ch. IV, §401(a) to (k), (m), 73 Stat. 246; May 14, 1960, Pub. L. 86–472, ch. I to V, 74 Stat. 134, which was principally classified to chapter 24 (§1750 et seq.) of this title and which was repealed by act July 18, 1956, ch. 627, §8(m), 70 Stat. 559, Pub. L. 85–141, §§2(e), 3, 4(b), 11(d), Aug. 14, 1957, 71 Stat. 356, Pub. L. 86–108, ch. II, §§205(j), ch. IV, 401(1), July 24, 1959, 73 Stat. 250, Pub. L. 86–472, ch. II, §§203(d), 204(k), May 14, 1960, 74 Stat. 138, Pub. L. 87–195, pt. III, §642(a)(2), Sept. 4, 1961, 75 Stat. 460, Pub. L. 94–329, title II, §212(b)(1), June 30, 1976, 90 Stat. 745, Pub. L. 104–127, title II, §228, Apr. 4, 1996, 110 Stat. 963, except for sections 1754, 1783, 1796, 1853, 1928, and 1937 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1754 of this title and Tables.

CODIFICATION

This section was not enacted as part of the Mutual Security Act of 1954 which comprises this chapter.

REPEALS

Section 706 of Pub. L. 87–195, cited as a credit to this section was repealed by section 401 of Pub. L. 87–565, pt. IV, Aug. 1, 1962, 76 Stat. 263, except insofar as section 706 affected this section.

DELEGATION OF FUNCTIONS

For delegation of certain functions of President under this section, see Memorandum of President of the United States, May 30, 2001, 66 F.R. 30629, set out as a note under section 1942 of this title.

SUBCHAPTER IV—CONTINGENCY FUND

§1951. Repealed

Subsecs. (a) and (b), acts Aug. 26, 1954, ch. 937, ch. III, §451(a), (b), 68 Stat. 843; July 8, 1955, ch. 301, §8(a), 69 Stat. 286; July 18, 1956, ch. 627, §8(a), 70 Stat. 557; Aug. 14, 1957, Pub. L. 85–141, §8(b), 71 Stat. 360; June 30, 1958, Pub. L. 85–477, ch. III, §301, ch. V, §501(12)(B), 72 Stat. 268, 271; July 24, 1959, Pub. L. 86–108, ch. III, §301, 73 Stat. 252; May 14, 1960, Pub. L. 86–472, ch. III, §301, 74 Stat. 138, which related to the creation of the President's special authority and contingency fund authorized appropriations, were repealed by Pub. L. 87–195, pt. III, §642(a)(2), Sept. 4, 1961, 75 Stat. 460. See section 2261 of this title.

Subsec. (c), acts Aug. 26, 1954, ch. 937, ch. III, §451(c), 68 Stat. 843; July 8, 1955, ch. 301, §8(a), 69 Stat. 286; July 18, 1956, ch. 627, §8(a), 70 Stat. 557; Aug. 14, 1957, Pub. L. 85–141, §8(b), 71 Stat. 360; June 30, 1958, Pub. L. 85–477, ch. III, §301, ch. V, §501(12)(B), 72 Stat. 268, 271; July 24, 1959, Pub. L. 86–108, ch. III, §301, 73 Stat. 252; May 14, 1960, Pub. L. 86–472, ch. III, §301, 74 Stat. 138, related to declaration of purpose and use of funds in connection with right of self-determination for people subject to captivity of Communist despotism, and was repealed by Pub. L. 87–510, §6, June 28, 1962, 76 Stat. 124.

CHAPTER 24A—MIDDLE EAST PEACE AND STABILITY

Sec.

1961. Economic assistance.
1962. Military assistance; use of armed forces.
1963. United Nations Emergency Force.
1964. Report to Congress.
1965. Expiration.

§1961. Economic assistance

The President is authorized to cooperate with and assist any nation or group of nations in the general area of the Middle East desiring such assistance in the development of economic strength dedicated to the maintenance of national independence.

(Pub. L. 85–7, §1, Mar. 9, 1957, 71 Stat. 5.)

APPROPRIATIONS, FISCAL YEAR 1957; RESTRICTION; REPORT TO CONGRESS

Pub. L. 85–7, §3, Mar. 9, 1957, 71 Stat. 5, authorized President to use, for balance of fiscal year 1957, funds not to exceed $200,000,000 for military and economic assistance for Middle East from appropriations available under Mutual Security Act of 1954, restricted availability of funds for military assistance to funds appropriated for military assistance and for economic assistance to funds appropriated for other than military assistance, and required that funds not be available until 15 days after reports on proposed use of funds be supplied to appropriate Congressional committees.

§1962. Military assistance; use of armed forces

The President is authorized to undertake, in the general area of the Middle East, military assistance programs with any nation or group of nations of that area desiring such assistance. Furthermore, the United States regards as vital to the national interest and world peace the preservation of the independence and integrity of the nations of the Middle East. To this end, if the President determines the necessity thereof, the United States is prepared to use armed forces to assist any such nation or group of such nations requesting assistance against armed aggression from any country controlled by international communism: *Provided*, That such employment shall be consonant with the treaty obligations of the United States and with the Constitution of the United States.

(Pub. L. 85–7, §2, Mar. 9, 1957, 71 Stat. 5.)

§1963. United Nations Emergency Force

The President should continue to furnish facilities and military assistance, within the provisions of applicable law and established policies, to the United Nations Emergency Force in the Middle East, with a view to maintaining the truce in that region.

(Pub. L. 85–7, §4, Mar. 9, 1957, 71 Stat. 6.)

§1964. Report to Congress

The President shall whenever appropriate report to the Congress his action hereunder.

(Pub. L. 85–7, §5, Mar. 9, 1957, 71 Stat. 6; Pub. L. 87–195, pt. IV, §705, Sept. 4, 1961, 75 Stat. 463.)

AMENDMENTS

1961—Pub. L. 87–195 substituted "whenever appropriate" for "within the months of January and July of each year".

REPEALS

Section 705 of Pub. L. 87–195, cited as a credit to this section, was repealed by section 401 of Pub. L.

87–565, pt. IV, Aug. 1, 1962, 76 Stat. 263, except insofar as section 705 affected this section.

§1965. Expiration

This chapter shall expire when the President shall determine that the peace and security of the nations in the general area of the Middle East are reasonably assured by international conditions created by action of the United Nations or otherwise except that it may be terminated earlier by a concurrent resolution of the two Houses of Congress.

(Pub. L. 85–7, §6, Mar. 9, 1957, 71 Stat. 6.)

CHAPTER 25—PROTECTION OF VESSELS ON THE HIGH SEAS AND IN TERRITORIAL WATERS OF FOREIGN COUNTRIES

Sec.

1971. "Vessel of the United States" defined.
1972. Action by Secretary of State upon seizure of vessel by foreign country; preconditions.
1973. Reimbursement of owner for any direct charges paid to secure release of vessel and crew.
1974. Inapplicability of chapter to certain seizures.
1975. Claims for amounts expended because of seizure.
1976. Authorization of appropriations.
1977. Reimbursement for seized commercial fishermen.
1978. Restriction on importation of fishery or wildlife products from countries which violate international fishery or endangered or threatened species programs.
1979. Fishermen's Protective Fund.
1980. Compensation for loss or destruction of commercial fishing vessel or gear.
1980a. Reimbursement of owner for fee paid to navigate foreign waters if fee inconsistent with international law.
1980b. Sanctions for imposition of conditions on U.S. fishing vessel found inconsistent with international law.

§1971. "Vessel of the United States" defined

For the purposes of this chapter the term "vessel of the United States" shall mean any private vessel documented or certificated under the laws of the United States. Notwithstanding any other law, the documentation or certification of any such vessel shall not be considered to be affected, for the purposes of this chapter, in any manner or to any extent if at any time during any voyage for the purpose of fishing beyond the fishery conservation zone (as defined in section 1802(8) [1] of title 16), the vessel is commanded by other than a citizen of the United States.

(Aug. 27, 1954, ch. 1018, §1, 68 Stat. 883; Pub. L. 95–541, §14(a), Oct. 28, 1978, 92 Stat. 2057; Pub. L. 96–561, title II, §238(b), Dec. 22, 1980, 94 Stat. 3300; Pub. L. 104–208, div. A, title I, §101(a) [title II, §211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009–41.)

REFERENCES IN TEXT

Section 1802(8) of title 16, referred to in text, which defined "fishery conservation zone", was repealed and section 1802(6) of Title 16, Conservation, defining the term "exclusive economic zone", was added by Pub. L. 99–659, title I, §101(a), Nov. 14, 1986, 100 Stat. 3706. Section 1802 was subsequently amended and the term "exclusive economic zone" is defined elsewhere in that section.

AMENDMENTS

1996—Pub. L. 104–208 made technical amendment to reference in original act which appears in text as reference to section 1802(8) of title 16.

1980—Pub. L. 96–561 made technical amendment to reference in original act which appears in text as reference to section 1802(8) of title 16.

1978—Pub. L. 95–541 provided that the documentation or certification of a vessel of the United States not be affected if at any time during the voyage for the purpose of fishing beyond the fishery conservation zone, the vessel is commanded by other than a citizen of the United States.

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–208, div. A, title I, §101(a) [title II, §211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009–41, provided that the amendment made by that section is effective 15 days after Oct. 11, 1996.

EFFECTIVE DATE OF 1980 AMENDMENT

Pub. L. 96–561, title II, §238(b), Dec. 22, 1980, 94 Stat. 3300, provided that the amendment made by that section is effective 15 days after Dec. 22, 1980.

EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95–541, §14(b), Oct. 28, 1978, 92 Stat. 2057, provided that the amendment made by section 14(a) of Pub. L. 95–541, amending this section, was to take effect Jan. 1, 1978, prior to the general amendment by Pub. L. 104–227, title I, §107, Oct. 2, 1996, 110 Stat. 3042.

SHORT TITLE OF 2000 AMENDMENT

Pub. L. 106–450, title I, §101, Nov. 7, 2000, 114 Stat. 1941, provided that: "This title [amending section 1977 of this title] may be cited as the 'Fishermen's Protective Act Amendments of 2000'."

SHORT TITLE

Pub. L. 90–482, §4, Aug. 12, 1968, 82 Stat. 730, provided that: "The Act of August 27, 1954 (68 Stat. 883; 22 U.S.C. 1971–1976), as amended by this Act [this chapter], may be cited as the 'Fishermen's Protective Act of 1967'."

[1] *See References in Text note below.*

§1972. Action by Secretary of State upon seizure of vessel by foreign country; preconditions

If—

(1) any vessel of the United States is seized by a foreign country on the basis of claims to jurisdiction that are not recognized by the United States, or on the basis of claims to jurisdiction recognized by the United States but exercised in a manner inconsistent with international law as recognized by the United States; [1]

(2) any general claim of any foreign country to exclusive fishery management authority is recognized by the United States, and any vessel of the United States is seized by such foreign country on the basis of conditions and restrictions under such claim, if such conditions and restrictions—

(A) are unrelated to fishery conservation and management,

(B) fail to consider and take into account traditional fishing practices of vessels of the United States,

(C) are greater or more onerous than the conditions and restrictions which the United States applies to foreign fishing vessels subject to the exclusive fishery management authority of the United States (as established in title I of the Magnuson-Stevens Fishery Conservation and Management Act [16 U.S.C. 1811 et seq.]), or

(D) fail to allow fishing vessels of the United States equitable access to fish subject to such country's exclusive fishery management authority;

the Secretary of State, unless there is clear and convincing credible evidence that the seizure did not meet the requirements under paragraph (1) or (2), as the case may be, shall immediately take such steps as are necessary—

(i) for the protection of such vessel and for the health and welfare of its crew;

(ii) to secure the release of such vessel and its crew; and

(iii) to determine the amount of any fine, license, fee, registration fee, or other direct charge reimbursable under section 1973(a) of this title.

(Aug. 27, 1954, ch. 1018, §2, 68 Stat. 883; Pub. L. 92–569, §1, Oct. 26, 1972, 86 Stat. 1182; Pub. L. 94–265, title IV, §403(a)(1), Apr. 13, 1976, 90 Stat. 360; Pub. L. 96–561, title II, §238(b), Dec. 22, 1980, 94 Stat. 3300; Pub. L. 98–364, title III, §303(a), July 17, 1984, 98 Stat. 444; Pub. L. 104–208, div. A, title I, §101(a) [title II, §211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009–41.)

REFERENCES IN TEXT

The Magnuson-Stevens Fishery Conservation and Management Act, referred to in par. (2)(C), is Pub. L. 94–265, Apr. 13, 1976, 90 Stat. 331, as amended. Title I of the Act is classified generally to subchapter II (§1811 et seq.) of chapter 38 of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of Title 16 and Tables.

AMENDMENTS

1996—Par. (2)(C). Pub. L. 104–208 substituted "Magnuson-Stevens Fishery" for "Magnuson Fishery".

1984—Pub. L. 98–364, in par. (1), substituted "any vessel of the United States is seized by a foreign country on the basis of claims to jurisdiction that are not recognized by the United States, or on the basis of claims to jurisdiction recognized by the United States but exercised in a manner inconsistent with international law as recognized by the United States;" for "any vessel of the United States is seized by a foreign country on the basis of claims in territorial waters or the high seas which are not recognized by the United States; or", and in provisions following par. (2)(D), substituted "the Secretary of State, unless there is clear and convincing credible evidence that the seizure did not meet the requirements under paragraph (1) or (2), as the case may be, shall immediately take such steps as are necessary" for "and there is no dispute as to the material facts with respect to the location or activity of such vessel at the time of such seizure, the Secretary of State shall immediately take such steps as are necessary".

1980—Par. (2)(C). Pub. L. 96–561 substituted "Magnuson Fishery Conservation and Management Act" for "Fishery Conservation and Management Act of 1976".

1976—Pub. L. 94–265 redesignated existing subsecs. (a) and (b) as pars. (1) and (2), respectively, and, in par. (1) struck out reference to rights in territorial waters, and in par. (2) substituted provisions relating to any general claim of any foreign country, conditions, and restrictions of seizure, lack of dispute as to material facts, and steps authorized for Secretary of State upon seizure, for provisions relating to lack of dispute as to material facts and actions authorized for Secretary of State upon seizure.

1972—Subsec. (b). Pub. L. 92–569 required the Secretary of State to take appropriate action to immediately ascertain the fees, fines, and other direct charges paid by a United States vessel owner to the seizing foreign country for the release of the vessel and its crew.

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–208, div. A, title I, §101(a) [title II, §211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009–41, provided that the amendment made by that section is effective 15 days after Oct. 11, 1996.

EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98–364, title III, §303(c), July 17, 1984, 98 Stat. 445, provided that: "The amendments made by subsections (a) and (b) [amending this section and section 1974 of this title] apply with respect to seizures made after April 1, 1983, by foreign countries of vessels of the United States."

EFFECTIVE DATE OF 1980 AMENDMENT

Pub. L. 96–561, title II, §238(b), Dec. 22, 1980, 94 Stat. 3300, provided that the amendment made by that section is effective 15 days after Dec. 22, 1980.

EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94–265, title IV, §403(b), Apr. 13, 1976, 90 Stat. 360, provided in part that the amendment made by section 403(a)(1) of Pub. L. 94–265 to this section was to take effect Mar. 1, 1977, prior to the general amendment of title IV of Pub. L. 94–265 by Pub. L. 104–297.

EFFECTIVE DATE OF 1972 AMENDMENT

Pub. L. 92–569, §6, Oct. 26, 1972, 86 Stat. 1183, provided that: "The amendments made by this Act

[enacting section 1979 of this title and amending this section and sections 1973, 1975, and 1977 of this title] shall apply with respect to seizures of vessels of the United States occurring on or after the date of the enactment of this Act [Oct. 26, 1972]; except that reimbursements under section 3 of the Fishermen's Protective Act of 1967 [section 1973 of this title] (as in effect before such date of enactment [Oct. 26, 1972]) may be made from the fund established by the amendment made by section 5 of this Act [enacting section 1979 of this title] with respect to any seizure of a vessel occurring before such date of enactment [Oct. 26, 1972] and after December 31, 1970, if no reimbursement was made before such date of enactment [Oct. 26, 1972]."

[1] *So in original. Probably should be followed by "or".*

§1973. Reimbursement of owner for any direct charges paid to secure release of vessel and crew

(a) Reimbursement by Secretary of State; "other direct charge" defined; source of reimbursement

In any case where a vessel of the United States is seized by a foreign country under the conditions of section 1972 of this title and a fine, license fee, registration fee, or any other direct charge must be paid in order to secure the prompt release of the vessel and crew, the owners of the vessel shall be reimbursed by the Secretary of State in the amount determined and certified by him as being the amount of the fine, license fee, registration fee, or any other direct charge actually paid. For purposes of this section, the term "other direct charge" means any levy, however characterized or computed (including, but not limited to, any computation based on the value of a vessel or the value of fish or other property on board a vessel), which is imposed in addition to any fine, license fee, or registration fee. Any reimbursement under this section shall be made from the Fishermen's Protective Fund established pursuant to section 1979 of this title.

(b) Determination and certification of charges by Secretary of State; reimbursement as lien on vessel; termination of lien

The Secretary of State shall make a determination and certification under subsection (a) of this section as soon as possible after he is notified pursuant to section 1972(b) of this title of the amounts of the fines, fees, and other direct charges which were paid by the owners to secure the release of their vessel and crew. The amount of reimbursement made by the Secretary of State to the owners of any vessel under subsection (a) of this section shall constitute a lien on the vessel which may be recovered in proceedings by libel in rem in the district court of the United States for any district within which the vessel may be. Any such lien shall terminate on the ninetieth day after the date on which the Secretary of State reimburses the owners under this section unless before such ninetieth day the United States initiates action to enforce the lien.

(Aug. 27, 1954, ch. 1018, §3, 68 Stat. 883; Pub. L. 90–482, §2, Aug. 12, 1968, 82 Stat. 730; Pub. L. 92–569, §2, Oct. 26, 1972, 86 Stat. 1182; Pub. L. 94–265, title IV, §403(a)(2), Apr. 13, 1976, 90 Stat. 360; Pub. L. 98–364, title III, §302(a), July 17, 1984, 98 Stat. 444.)

AMENDMENTS

1984—Subsec. (a). Pub. L. 98–364, §302(a)(1), substituted "Secretary of State in the amount determined and certified by him" for "Secretary of the Treasury in the amount certified to him by the Secretary of State".

Subsec. (b). Pub. L. 98–364, §302(a)(2), inserted "determination and" before "certification" in first sentence, and substituted "State" for "the Treasury" in second and third sentences.

1976—Subsec. (a). Pub. L. 94–265 inserted definition of "other direct charge".

1972—Pub. L. 92–569 designated existing provisions as subsec. (a), inserted provision that reimbursement under this section shall be made from the Fishermen's Protective Fund, and added subsec. (b).

1968—Pub. L. 90–482 inserted ", license fee, registration fee, or any other direct charge" after "fine" wherever appearing.

EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94–265, title IV, §403(b), Apr. 13, 1976, 90 Stat. 360, provided in part that the amendment made by section 403(a)(2) of Pub. L. 94–265 to this section was to apply with respect to seizures of vessels of the United States occurring on or after Dec. 31, 1974, prior to the general amendment of title IV of Pub. L. 94–265 by Pub. L. 104–297.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–569 applicable with respect to seizure of vessels of the United States occurring on or after Oct. 26, 1972, except that reimbursements under this section may be made from the fund established by section 1979 of this title with respect to seizure of vessels occurring after Dec. 31, 1970 and before Oct. 26, 1972 if no reimbursement was made before Oct. 26, 1972, see section 6 of Pub. L. 92–569, set out as a note under section 1972 of this title.

§1974. Inapplicability of chapter to certain seizures

The provisions of this chapter shall not apply with respect to a seizure made by a country at war with the United States or a seizure made in accordance with the provisions of any applicable convention or treaty, if that treaty or convention was made with advice and consent to [1] the Senate and was in force and effect for the United States and the seizing country at the time of the seizure.

(Aug. 27, 1954, ch. 1018, §4, 68 Stat. 883; Pub. L. 98–364, title III, §303(b), July 17, 1984, 98 Stat. 444.)

AMENDMENTS

1984—Pub. L. 98–364 substituted "any applicable convention or treaty, if that treaty or convention was made with advice and consent to the Senate and was in force and effect for the United States and the seizing country at the time of the seizure" for "any fishery convention or treaty to which the United States is a party".

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–364 applicable with respect to seizures made after Apr. 1, 1983, by foreign countries of vessels of the United States, see section 303(c) of Pub. L. 98–364, set out as a note under section 1972 of this title.

[1] So in original. Probably should be "of".

§1975. Claims for amounts expended because of seizure

(a) Action by Secretary

The Secretary of State shall—

(1) immediately notify a foreign country of—

(A) any reimbursement made by him under section 1973 of this title as a result of the seizure of a vessel of the United States by such country,

(B) any payment made pursuant to section 1977 of this title in connection with such seizure, and

(2) take such action as he deems appropriate to make and collect claims against such foreign country for the amounts so reimbursed and payments so made.

(b) Withholding amount of unpaid claim from foreign assistance funds

If a foreign country fails or refuses to make payment in full on any claim made under subsection (a)(2) of this section within one hundred and twenty days after the date on which such country is notified pursuant to subsection (a)(1) of this section, the Secretary of State shall transfer an amount equal to such unpaid claim or unpaid portion thereof from any funds appropriated by Congress and programed for the current fiscal year for assistance to the government of such country under the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.] unless the President certifies to the Congress that it is in the national interest not to do so in the particular instance (and if such funds are

insufficient to cover such claim, transfer shall be made from any funds so appropriated and programed for the next and any succeeding fiscal year) to (1) the Fishermen's Protective Fund established pursuant to section 1979 of this title if the amount is transferred with respect to an unpaid claim for a reimbursement made under section 1973 of this title, or (2) the separate account established in the Treasury of the United States pursuant to section 1977(c) of this title if the amount is transferred with respect to an unpaid claim for a payment made under section 1977(a) of this title. Amounts transferred under this section shall not constitute satisfaction of any such claim of the United States against such foreign country.

(Aug. 27, 1954, ch. 1018, §5, 68 Stat. 883; Pub. L. 90–482, §3, Aug. 12, 1968, 82 Stat. 730; Pub. L. 92–569, §3, Oct. 26, 1972, 86 Stat. 1182; Pub. L. 98–364, title III, §302(b), July 17, 1984, 98 Stat. 444.)

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsec. (b), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, which is classified principally to chapter 32 (§2151 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

AMENDMENTS

1984—Subsec. (a)(1)(A). Pub. L. 98–364 substituted "him" for "the Secretary of the Treasury".

1972—Pub. L. 92–569 substituted provisions that the Secretary of State notify the foreign country of reimbursements made under section 1973 of this title and payments made under section 1977 of this title, take appropriate action to make and collect claims against such foreign country and on failure to receive payment or on refusal to pay within 120 days after the notification, transfer an amount equal to the unpaid amount from funds programmed for assistance to that country to the Fishermen's Protective Fund or the separate account in the Treasury as the case may be, and in the case of inadequate funds programmed in the current fiscal year make the deduction from succeeding fiscal years, with exception that no such transfer be made when the President certifies to Congress that it is in the national interest not to do so, for provisions that the Secretary of State take appropriate action to collect claims against such foreign country and withhold amounts equal to the unpaid claims from the foreign assistance programmed for that fiscal year when such country fails or refuses to pay within 120 days of receipt of notice of claim.

1968—Pub. L. 90–482 inserted provisions authorizing the Secretary to act when payments are made pursuant to section 1977 of this title, and provisions authorizing the Secretary to withhold the amount of any unpaid claim against the foreign country from the foreign assistance funds programed for that country, such amounts withheld not to constitute satisfaction of any unpaid claim.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–569 applicable with respect to seizures of vessels of the United States occurring on or after Oct. 26, 1972, see section 6 of Pub. L. 92–569, set out as a note under section 1972 of this title.

EX. ORD. NO. 11772. DELEGATION OF CERTAIN AUTHORITY OF PRESIDENT TO SECRETARY OF STATE

Ex. Ord. No. 11772, Mar. 21, 1974, 39 F.R. 10879, provided:

By virtue of the authority vested in me by the Fishermen's Protective Act of 1967, as amended (22 U.S.C. 1971, et seq.), and Section 301 of Title 3 of the United States Code, and as President of the United States of America, the Secretary of State is hereby designated and empowered to exercise, without ratification, or other action of the President, the function conferred upon the President by Section 5(b) of the Fishermen's Protective Act of 1967, as amended [22 U.S.C. 1975(b)], of certifying to the Congress that it is in the national interest not to transfer to the Fishermen's Protective Fund or to the separate account established under the Act, pursuant to that Section, amounts appropriated by the Congress and programmed for assistance under the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.].

RICHARD NIXON.

§1976. Authorization of appropriations

There are authorized to be appropriated such amounts as may be necessary to carry out the provisions of this chapter.

(Aug. 27, 1954, ch. 1018, §6, 68 Stat. 883.)

§1977. Reimbursement for seized commercial fishermen

(a) Agreement to reimburse for actual costs, confiscation or spoilage of fish, and loss of income

The Secretary, upon receipt of an application filed with him at any time after the effective date of this section by the owner of any vessel of the United States which is documented or certificated as a commercial fishing vessel, shall enter into an agreement with such owner subject to the provision of this section and such other terms and conditions as the Secretary deems appropriate. Such agreement shall provide that, if said vessel is seized by a foreign country and detained under the conditions of section 1972 of this title, the Secretary shall guarantee—

(1) the owner of such vessel for all actual costs, except those covered by section 1973 of this title, incurred by the owner during the seizure and detention period and as a direct result thereof, as determined by the Secretary, resulting (A) from any damage to, or destruction of, such vessel, or its fishing gear or other equipment, (B) from the loss or confiscation of such vessel, gear, or equipment, or (C) from dockage fees or utilities;

(2) the owner of such vessel and its crew for the market value of fish caught before seizure of such vessel and confiscated or spoiled during the period of detention; and

(3) the owner of such vessel and its crew for not to exceed 50 per centum of the gross income lost as a direct result of such seizure and detention, as determined by the Secretary of State, based on the value of the average catch per day's fishing during the three most recent calendar years immediately preceding such seizure and detention of the vessel seized, or, if such experience is not available, then of all commercial fishing vessels of the United States engaged in the same fishery as that of the type and size of the seized vessel.

(b) Distribution of payments according to commercial fishing practices and procedures

Payments made by the Secretary under paragraphs (2) and (3) of subsection (a) of this section shall be distributed by the Secretary in accordance with the usual practices and procedures of the particular segment of the United States commercial fishing industry to which the seized vessel belongs relative to the sale of fish caught and the distribution of the proceeds of such sale.

(c) Establishment of fees; amount of fees; credit of fees to separate Treasury account; payment from collected fees; authorization of appropriations

The Secretary shall from time to time establish by regulation fees which shall be paid by the owners of vessels entering into agreements under this section. Such fees shall be adequate (1) to recover the costs of administering this section, and (2) to cover a reasonable portion of any payments made by the Secretary under this section. All fees collected by the Secretary shall be credited to a separate account established in the Treasury of the United States which shall remain available without fiscal year limitation to carry out the provisions of this section. Those fees not currently needed for payments under this section shall be kept on deposit or invested in obligations of, or guaranteed by, the United States and all revenues accruing from such deposits or investments shall be credited to such separate account. If a transfer of funds is made to the separate account under section 1975(b)(2) of this title with respect to an unpaid claim and such claim is later paid, the amount so paid shall be covered into the Treasury as miscellaneous receipts. All payments under this section shall be made first out of such fees so long as they are available and thereafter out of funds which are hereby authorized to be appropriated to such account to carry out the provisions of this section.

(d) Finality of determinations; insured losses

All determinations made under this section shall be final. No payment under this section shall be made with respect to any losses covered by any policy of insurance or other provision of law.

(e) Effective date

The provisions of this section shall be effective until October 1, 2018; except that payments may

be made under this section only to such extent and in such amounts as are provided in advance in appropriation Acts.

(f) Definitions

For the purposes of this section—

(1) the term "Secretary" means the Secretary of State.

(2) the term "owner" includes any charterer of a commercial fishing vessel.

(Aug. 27, 1954, ch. 1018, §7, as added Pub. L. 90–482, §1, Aug. 12, 1968, 82 Stat. 729; amended Pub. L. 92–569, §4, Oct. 26, 1972, 86 Stat. 1183; Pub. L. 92–594, §§1, 2, Oct. 27, 1972, 86 Stat. 1313; Pub. L. 94–273, §3(17), Apr. 21, 1976, 90 Stat. 377; Pub. L. 95–194, §1, Nov. 18, 1977, 91 Stat. 1413; Pub. L. 95–376, §1, Sept. 18, 1978, 92 Stat. 714; Pub. L. 97–68, §1, Oct. 26, 1981, 95 Stat. 1040; Pub. L. 98–364, title III, §301, July 17, 1984, 98 Stat. 444; Pub. L. 99–659, title IV, §408, Nov. 14, 1986, 100 Stat. 3740; Pub. L. 100–151, §1, Nov. 3, 1987, 101 Stat. 884; Pub. L. 100–350, §2, June 27, 1988, 102 Stat. 660; Pub. L. 101–627, title III, §301, Nov. 28, 1990, 104 Stat. 4462; Pub. L. 104–43, title IV, §403, Nov. 3, 1995, 109 Stat. 390; Pub. L. 106–450, title I, §102, Nov. 7, 2000, 114 Stat. 1941; Pub. L. 107–228, div. A, title II, §209, Sept. 30, 2002, 116 Stat. 1365; Pub. L. 108–219, title III, §302, Apr. 13, 2004, 118 Stat. 616; Pub. L. 114–323, title VII, §705, Dec. 16, 2016, 130 Stat. 1942.)

AMENDMENTS

2016—Subsec. (e). Pub. L. 114–323 substituted "2018" for "2008".

2004—Subsec. (e). Pub. L. 108–219 substituted "2008" for "2003".

2002—Subsec. (a)(3). Pub. L. 107–228 substituted "Secretary of State" for "Secretary of Commerce".

2000—Subsec. (a)(3). Pub. L. 106–450, §102(b), substituted "Secretary of Commerce" for "Secretary of the Interior".

Subsec. (e). Pub. L. 106–450, §102(a), substituted "2003" for "2000".

1995—Subsec. (c). Pub. L. 104–43, §403(a), struck out after second sentence "The amount fixed by the Secretary shall be predicated upon at least 331/3 per centum of the contribution by the Government."

Subsec. (e). Pub. L. 104–43, §403(b), substituted "October 1, 2000" for "October 1, 1993".

1990—Subsec. (e). Pub. L. 101–627 substituted "October 1, 1993" for "October 1, 1989".

1988—Subsec. (e). Pub. L. 100–350 substituted "October 1, 1989" for "October 1, 1988".

1987—Subsec. (e). Pub. L. 100–151 substituted "October 1, 1988" for "October 1, 1987".

1986—Subsec. (f)(1). Pub. L. 99–659 substituted "Secretary of State" for "Secretary of Commerce".

1984—Subsec. (e). Pub. L. 98–364 substituted "October 1, 1987" for "October 1, 1984".

1981—Subsec. (c). Pub. L. 97–68, §1(1), inserted provision that fees not currently needed for payments under this section be kept on deposit or invested in obligations of, or guaranteed by, the United States and that all revenues accruing from such deposits or investments be credited to the separate account established in the Treasury of the United States to carry out the provisions of this section.

Subsec. (e). Pub. L. 97–68, §1(2), substituted "October 1, 1984" for "October 1, 1981".

1978—Subsec. (e). Pub. L. 95–376 substituted "October 1, 1981; except that payments may be made under this section only to such extent and in such amounts as are provided in advance in appropriation Acts" for "October 1, 1978".

1977—Subsec. (e). Pub. L. 95–194 substituted "October 1, 1978" for "October 1, 1977".

1976—Subsec. (e). Pub. L. 94–273 substituted "October" for "July".

1972—Subsec. (c). Pub. L. 92–569 inserted provision that amounts paid subsequent to transfer to the separate account be covered into the Treasury as miscellaneous receipts.

Subsec. (e). Pub. L. 92–594, §1, extended provisions of this section until July 1, 1977, and struck out provisions relating to issuance of regulations.

Subsec. (f)(1). Pub. L. 92–594, §2, substituted "Secretary of Commerce" for "Secretary of the Interior".

EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99–659, title IV, §408, Nov. 14, 1986, 100 Stat. 3740, provided that the amendment made by that section is effective Oct. 1, 1986.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–569 applicable with respect to seizure of vessels of the United States occurring on or after Oct. 26, 1972, see section 6 of Pub. L. 92–569, set out as a note under section 1972 of this title.

§1978. Restriction on importation of fishery or wildlife products from countries which violate international fishery or endangered or threatened species programs

(a) Certification to President

(1) When the Secretary of Commerce, in consultation with the Secretary of State, determines that nationals of a foreign country, directly or indirectly, are conducting fishing operations in a manner or under circumstances which diminish the effectiveness of an international fishery conservation program, the Secretary of Commerce shall certify such fact to the President.

(2) When the Secretary of Commerce or the Secretary of the Interior, in consultation with the Secretary of State, finds that nationals of a foreign country, directly or indirectly, are engaging in trade or taking which diminishes the effectiveness of any international program for endangered or threatened species, the Secretary making such finding shall certify such fact to the President.

(3) In administering this subsection, the Secretary of Commerce or the Secretary of the Interior, as appropriate, in consultation with the Secretary of State, shall—

(A) periodically monitor the activities of foreign nationals that may affect the international programs referred to in paragraphs (1) and (2);

(B) promptly investigate any activity by foreign nationals that, in the opinion of the Secretary, may be cause for certification under paragraph (1) or (2); and

(C) promptly conclude; and reach a decision with respect to; any investigation commenced under subparagraph (B).

(4) The Secretary of Commerce and the Secretary of the Interior shall each report to Congress each certification to the President made by such Secretary under this subsection, within 15 days after making such certification.

(5) Upon receipt of any certification made under paragraph (1) or (2), the President may direct the Secretary of the Treasury to prohibit the bringing or the importation into the United States of any products from the offending country for any duration as the President determines appropriate and to the extent that such prohibition is sanctioned by the World Trade Organization (as defined in section 3501(8) of title 19) or the multilateral trade agreements (as defined in section 3501(4) of title 19).

(b) Notification to Congress

Within sixty days following certification by the Secretary of Commerce or the Secretary of the Interior, the President shall notify the Congress of any action taken by him pursuant to such certification. In the event the President fails to direct the Secretary of the Treasury to prohibit the importation of fish products or wildlife products of the offending country, or if such prohibition does not cover all fish products or wildlife products of the offending country, the President shall inform the Congress of the reasons therefor.

(c) Importation of fish products from offending country prohibited

It shall be unlawful for any person subject to the jurisdiction of the United States knowingly to bring or import into, or cause to be imported into, the United States any products prohibited by the Secretary of the Treasury pursuant to this section.

(d) Periodic review by Secretary of Commerce or Secretary of the Interior; termination of certification; notice

After making a certification to the President under subsection (a), the Secretary of Commerce or the Secretary of the Interior, as the case may be, in consultation with the Secretary of State, shall periodically review the activities of the nationals of the offending country to determine if the reasons for which the certification was made no longer prevail. Upon determining that such reasons no longer prevail, the Secretary concerned shall terminate the certification and publish notice thereof, together with a statement of the facts on which such determination is based, in the Federal Register.

(e) Penalties; forfeiture; customs laws

(1) Any person violating the provisions of this section shall be fined not more than $10,000 for the first violation, and not more than $25,000 for each subsequent violation.

(2) All products brought or imported into the United States in violation of this section, or the monetary value thereof, may be forfeited.

(3) All provisions of law relating to the seizure, judicial forfeiture, and condemnation of a cargo for violation of the customs laws, the disposition of such cargo or the proceeds from the sale thereof, and the remission or mitigation of such forfeitures shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this section, insofar as such provisions of law are applicable and not inconsistent with this section.

(f) Enforcement

(1) Enforcement of the provisions of this section prohibiting the bringing or importation of products into the United States shall be the responsibility of the Secretary of the Treasury.

(2) The judges of the United States district courts, and United States magistrate judges may, within their respective jurisdictions, upon proper oath or affirmation showing probable cause, issue such warrants or other process as may be required for enforcement of this chapter and regulations issued thereunder.

(3) Any person authorized to carry out enforcement activities hereunder shall have the power to execute any warrant or process issued by any officer or court of competent jurisdiction for the enforcement of this section.

(4) Such person so authorized shall have the power—

(A) with or without a warrant or other process, to arrest any persons subject to the jurisdiction of the United States committing in his presence or view a violation of this section or the regulations issued thereunder;

(B) with or without a warrant or other process, to search any vessel or other conveyance subject to the jurisdiction of the United States, and, if as a result of such search he has reasonable cause to believe that such vessel or other conveyance or any person on board is engaging in operations in violation of this section or the regulations issued thereunder, then to arrest such person.

(5) Such person so authorized, may seize, whenever and wherever lawfully found, all products brought or imported into the United States in violation of this section or the regulations issued thereunder. Products so seized may be disposed of pursuant to the order of a court of competent jurisdiction, or, if perishable, in a manner prescribed by regulations promulgated by the Secretary of the Treasury after consultation with the Secretary of Health and Human Services.

(g) Regulations

The Secretary of the Treasury, the Secretary of Commerce, and the Secretary of the Interior are each authorized to prescribe such regulations as he determines necessary to carry out the provisions of this section.

(h) Definitions

As used in this section—

(1) The term "person" means any individual, partnership, corporation, or association.

(2) The term "United States" means the several States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the Virgin Islands, and every other territory and possession of the United States.

(3) The term "international fishery conservation program" means any ban, restriction, regulation, or other measure in effect pursuant to a bilateral or multilateral agreement which is in force with respect to the United States, the purpose of which is to conserve or protect the living resources of the sea, including marine mammals.

(4) The term "international program for endangered or threatened species" means any ban, restriction, regulation, or other measure in effect pursuant to a multilateral agreement which is in force with respect to the United States, the purpose of which is to protect endangered or threatened

species of animals.

(5) The term "taking", as used with respect to animals to which an international program for endangered or threatened species applies, means to—

(A) harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect; or

(B) attempt to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect.

(Aug. 27, 1954, ch. 1018, §8, as added Pub. L. 92–219, Dec. 23, 1971, 85 Stat. 786; amended Pub. L. 90–578, title IV, §402(b)(2), Oct. 17, 1968, 82 Stat. 1118; Pub. L. 95–376, §2, Sept. 18, 1978, 92 Stat. 714; Pub. L. 96–61, §3(b), Aug. 15, 1979, 93 Stat. 408; Pub. L. 96–88, title V, §509(b), Oct. 17, 1979, 93 Stat. 695; Pub. L. 100–711, §8, Nov. 23, 1988, 102 Stat. 4772; Pub. L. 101–650, title III, §321, Dec. 1, 1990, 104 Stat. 5117; Pub. L. 102–582, title II, §201, Nov. 2, 1992, 106 Stat. 4904; Pub. L. 106–36, title I, §1002(d), June 25, 1999, 113 Stat. 133; Pub. L. 114–231, title V, §501, Oct. 7, 2016, 130 Stat. 956.)

AMENDMENTS

2016—Subsec. (a)(1). Pub. L. 114–231, §501(1)(A), which directed the insertion of ", in consultation with the Secretary of State," after "Secretary of Commerce", was executed by making the insertion after "Secretary of Commerce" the first time appearing to reflect the probable intent of Congress.

Subsec. (a)(2). Pub. L. 114–231, §501(1)(B), inserted ", in consultation with the Secretary of State," after "Secretary of the Interior".

Subsec. (a)(3). Pub. L. 114–231, §501(1)(C), inserted "in consultation with the Secretary of State," after ", as appropriate," in introductory provisions.

Subsec. (a)(4), (5). Pub. L. 114–231, §501(1)(D), (E), added par. (4) and redesignated former par. (4) as (5).

Subsec. (d). Pub. L. 114–231, §501(2), inserted "in consultation with the Secretary of State," after "as the case may be,".

1999—Subsec. (a)(4). Pub. L. 106–36 substituted "World Trade Organization (as defined in section 3501(8) of title 19) or the multilateral trade agreements (as defined in section 3501(4) of title 19)" for "General Agreement on Tariffs and Trade".

1992—Subsec. (a)(4). Pub. L. 102–582, §201(a)(1), substituted "any products from the offending country for any duration" for "fish products (if the certification is made under paragraph (1)) or wildlife products (if the certification is made under paragraph (2)) from the offending country for such duration".

Subsecs. (c), (e)(2). Pub. L. 102–582, §201(a)(2), (3), substituted "products" for "fish products or wildlife products".

Subsec. (f). Pub. L. 102–582, §201(a)(4), substituted "products" for "fish products and wildlife products" in pars. (1) and (5) and "Products" for "Fish products and wildlife products" in par. (5).

Subsec. (h)(2). Pub. L. 102–582, §201(b)(1), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "The term 'United States', when used in a geographical sense, means the continental United States, Alaska, Hawaii, Puerto Rico, and the United States Virgin Islands."

Subsec. (h)(3). Pub. L. 102–582, §201(b)(2), inserted "bilateral or" before "multilateral" and ", including marine mammals" before period at end.

Subsec. (h)(4). Pub. L. 102–582, §201(b)(3), (4), redesignated par. (5) as (4) and struck out former par. (4) which read as follows: "The term 'fish products' means any aquatic species (including marine mammals and plants) and all products thereof exported from an offending country, whether or not taken by fishing vessels of such country, or packed, processed, or otherwise prepared for export in such country or within the jurisdiction thereof."

Subsec. (h)(5). Pub. L. 102–582, §201(b)(5), amended par. (5) generally. Prior to amendment, par. (5) read as follows: "The term 'taking' means—

"(A) for purposes of subsection (a)(2) of this section—

"(i) to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or

"(ii) to attempt to engage in any such conduct with respect to,

animals to which an international program for endangered or threatened species applies; and

"(B) for purposes of paragraph (6), any conduct described in subparagraph (A)(i), whether or not such conduct is legal under the laws of the offending country, undertaken with respect to any wild animal."

Pub. L. 102–582, §201(b)(4), redesignated par. (7) as (5). Former par. (5) redesignated (4).

Subsec. (h)(6). Pub. L. 102–582, §201(b)(3), struck out par. (6) which read as follows: "The term 'wildlife products' means fish (other than those to which paragraph (4) applies) and wild animals, and parts (including eggs) thereof, taken within an offending country and all products of any such fish and wild animals, or parts thereof, whether or not such products are packed, processed, or otherwise prepared for export in such country

or within the jurisdiction thereof. Such term does not include any wild animal or fish if brought or imported into the United States for scientific research."

Subsec. (h)(7). Pub. L. 102–582, §201(b)(4), redesignated par. (7) as (5).

1988—Subsec. (h)(4). Pub. L. 100–711 amended par. (4) generally. Prior to amendment, par. (4) read as follows: "The term 'fish products' means fish and marine mammals and all products thereof taken by fishing vessels of an offending country whether or not packed, processed, or otherwise prepared for export in such country or within the jurisdiction thereof."

1979—Subsec. (a)(3), (4). Pub. L. 96–61, §3(b)(1), added par. (3) and redesignated former par. (3) as (4).

Subsecs. (d) to (h). Pub. L. 96–61, §3(b)(2), (3), added subsec. (d) and redesignated subsecs. (d) to (g) as (e) to (h), respectively.

1978—Subsec. (a). Pub. L. 95–376, §2(1), designated existing provisions as par. (1), struck out a provision enabling the President, upon receipt of certification, to direct the Secretary of the Treasury to prohibit importation of fish products of the offending country for as long as he determines appropriate and to the extent such prohibition is sanctioned by the General Agreement on Tariffs and Trade, and added pars. (2) and (3).

Subsec. (b). Pub. L. 95–376, §2(2), inserted "or the Secretary of the Interior" after "Secretary of Commerce" and inserted "or wildlife products" after "fish products" in two places.

Subsec. (c). Pub. L. 95–376, §2(3), inserted "or wildlife products" after "fish products".

Subsecs. (d)(2), (e)(1). Pub. L. 95–376, §2(4), (5)(A), inserted "and wildlife products" after "fish products".

Subsec. (e)(4)(B). Pub. L. 95–376, §2(5)(B), inserted "or other conveyance" after "vessel" wherever appearing.

Subsec. (e)(5). Pub. L. 95–376, §2(5)(A), (C), inserted "and wildlife products" after "all fish products", and substituted "Fish products and wildlife products" for "Any fish products".

Subsec. (f). Pub. L. 95–376, §2(6), inserted references to the Secretary of Commerce and the Secretary of the Interior.

Subsec. (g)(3). Pub. L. 95–376, §2(7)(A), (B), substituted "in effect" for "in force", and "which is in force with respect to the United States" for "to which the United States is a signatory party".

Subsec. (g)(5) to (7). Pub. L. 95–376, §2(7)(C), added pars. (5) to (7).

CHANGE OF NAME

"United States magistrate judges" substituted for "United States magistrates" in subsec. (f)(2) pursuant to section 321 of Pub. L. 101–650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure. Previously "United States magistrates" substituted for "United States commissioners" pursuant to Pub. L. 90–578. See chapter 43 (§631 et seq.) of Title 28.

"Secretary of Health and Human Services" substituted for "Secretary of Health, Education, and Welfare" in subsec. (f)(5) pursuant to section 509(b) of Pub. L. 96–88, which is classified to section 3508(b) of Title 20, Education.

§1979. Fishermen's Protective Fund

There is created a Fishermen's Protective Fund which shall be used by the Secretary of State to reimburse owners of vessels for amounts determined and certified by him under section 1973 of this title. The amount of any claim or portion thereof collected by the Secretary of State from any foreign country pursuant to section 1975(a) of this title shall be deposited in the fund and shall be available for the purpose of reimbursing vessel owners under section 1973 of this title; except that if a transfer to the fund was made pursuant to section 1975(b)(1) of this title with respect to any such claim, an amount from the fund equal to the amount so collected shall be covered into the Treasury as miscellaneous receipts. There is authorized to be appropriated to the fund (1) the sum of $3,000,000 to provide initial capital, and (2) such additional sums as may be necessary from time to time to supplement the fund in order to meet the requirements of the fund.

(Aug. 27, 1954, ch. 1018, §9, as added Pub. L. 92–569, §5, Oct. 26, 1972, 86 Stat. 1183; amended Pub. L. 98–364, title III, §302(c), July 17, 1984, 98 Stat. 444.)

AMENDMENTS

1984—Pub. L. 98–364 substituted "Secretary of State" for "Secretary of the Treasury" and "determined and certified by him" for "certified to him by the Secretary of State".

EFFECTIVE DATE

Section applicable with respect to seizure of vessels of the United States occurring on or after Oct. 26, 1972, except that reimbursements under section 1973 of this title may be made from the fund established by this section with respect to seizure of vessels occurring after Dec. 31, 1970 and before Oct. 26, 1972, if no reimbursement was made before Oct. 26, 1972, see section 6 of Pub. L. 92–569, set out as an Effective Date of 1972 Amendment note under section 1972 of this title.

§1980. Compensation for loss or destruction of commercial fishing vessel or gear

(a) Definitions

For purposes of this section—

(1) The terms "fishery", "fishery conservation zone", "fishing", "fishing vessel", "Secretary", and "vessel of the United States" shall each have the same respective meaning as is given to such terms in section 3 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802).[1]

(2) The term "fishing gear" means any equipment or appurtenance which is necessary for the carrying out of fishing operations by a fishing vessel, whether or not such equipment or appurtenance is attached to such vessel.

(3) The term "fund" means the Fishing Vessel and Gear Damage Compensation Fund established under subsection (f).

(4) The term "resulting economic loss" means the gross income, as estimated by the Secretary, that a fishing vessel owner or operator who is eligible for compensation under this section for damage to, loss of, or destruction of, a fishing vessel or the fishing gear used with such vessel will lose by reason of not being able to engage in fishing, or having to reduce his fishing effort, during the period before the vessel or gear, or both, are repaired or replaced and available for use.

(b) Causes of loss or destruction

Subject to the provisions of this section, the owner or operator (hereinafter referred to as the "vessel owner") of any fishing vessel which is a vessel of the United States is eligible for monetary compensation under this section for any damage to, loss of, or destruction of such vessel, or any fishing gear used with such vessel, or both, and for any resulting economic loss, if the damage, loss, or destruction—

(1) in the case of such vessel—

(A) occurs when such vessel is engaged in any fishery subject to the exclusive fishery management authority of the United States under the Magnuson-Stevens Fishery Conservation and Management Act [16 U.S.C. 1801 et seq.], and

(B) is attributable to any vessel (or its crew or fishing gear) other than a vessel of the United States; or

(2) in the case of such fishing gear—

(A) occurs when such fishing gear is being used for fishing in any fishery subject to such exclusive management authority, and

(B) is attributable to any other vessel, whether or not such vessel is a vessel of the United States.

For purposes of subparagraph (B), there shall be a rebuttable presumption that any damage, loss, or destruction of fishing gear is attributable to another vessel.

(c) Eligibility for compensation

A vessel owner is not eligible for compensation under this section with respect to fishing vessel or fishing gear damage, loss, or destruction and resulting economic loss unless such owner—

(1) makes application to the Secretary for compensation under this section within 90 days after the day on which the damage, loss, or destruction occurred or was first noticed by the owner;

(2) pays upon making such application a reasonable administrative fee which the Secretary shall

deposit into the fund;

(3) has, in such form as the Secretary shall prescribe by regulation, a current inventory or other evidence of possession of the fishery vessel or fishing gear concerned;

(4) has complied with all applicable regulations, if any, relating to the marking of, and (if appropriate) the notification of the location of, the fishing gear concerned; and

(5) is in compliance with such other regulations as may be prescribed by the Secretary to carry out this section.

(d) Application for compensation; initial determination of eligibility; amount of compensation; review of initial determination; subrogation of United States upon payment

(1) Application for compensation under this section shall be made in such form and manner, and include such documentation and other evidence relating to the cause and extent of the damage, loss, or destruction, and resulting economic loss, claimed, as the Secretary shall prescribe by regulation. The Secretary shall promptly, but not later than sixty days after receipt of an application, consider, and issue an initial determination with respect to, the application.

(2) The amount of compensation awarded to any vessel owner under this section shall be—

(A) the depreciated replacement cost, or the repair cost, whichever cost is less, of the fishing vessel or the fishing gear concerned; and

(B) 25 percent of any resulting economic loss.

Any amount determined pursuant to subparagraph (A) or (B) shall be reduced to the extent that evidence indicates that negligence by the vessel owner or operator contributed to the cause or the extent of the damage, loss, or destruction and shall be further reduced by the amount of compensation, if any, that the vessel owner or operator has received or will receive with respect to the damage, loss, destruction, or resulting economic loss through insurance, pursuant to any other provision of law, or otherwise.

(3) The initial determination made by the Secretary under paragraph (1) with respect to any application shall—

(A) if the application is disapproved, set forth the reasons therefor; or

(B) if the application is approved, set forth the amount of compensation to which the applicant is entitled and the basis on which such amount was determined.

(4) Any vessel owner who is aggrieved by any decision of the Secretary contained in the initial determination of the Secretary regarding such owner's application may, within thirty days after the date of issue of the initial determination, petition the Secretary for a review of the decision. If petition for review is not made to the Secretary within such thirty-day period regarding the initial determination, the initial determination shall be deemed to be the final determination on the application. Before undertaking any such review, the Secretary shall provide to the vessel owner opportunity to submit additional written or oral evidence relating to the decision. After review the Secretary shall issue a final determination with respect to the application.

(5) If compensation is awarded under the final determination on any application, the Secretary shall promptly pay from the fund to such owner the amount of compensation stated in the final determination. Upon the acceptance of such payment by the vessel owner, the United States shall be subrogated to all rights of the vessel owner with respect to which the payment is made.

(e) Surcharge on foreign fishing vessels

In addition to any fee imposed under section 204(b)(10) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1824(b)(10)) with respect to any foreign fishing vessel for any year after 1978, the Secretary shall impose a surcharge in an amount not to exceed 20 percent of the amount of the fee imposed under such section for such year. The failure to pay any surcharge imposed under this subsection with respect to any foreign fishing vessel shall be treated by the Secretary as a failure to pay the fee for such vessel under such section 204(b)(10).

(f) Fishing Vessel and Gear Damage Compensation Fund; requirements, etc.

(1) There is established in the Treasury of the United States the Fishing Vessel and Gear Damage Compensation Fund. The fund shall be available without fiscal year limitation as a revolving fund for the purposes of administering, and paying compensation awarded under, this section.

(2) The fund shall consist of—

(A) all sums recovered by the United States in the exercise of rights subrogated to it under subsection (d)(5);

(B) all administrative fees collected under subsection (c)(2);

(C) all surcharges collected under subsection (e);

(D) revenues received from deposits or investments made under the last sentence of this paragraph; and

(E) any revenue acquired through the issuance of obligations under paragraph (3).

Sums may be expended from the fund only to such extent and in such amounts as are provided in advance in appropriation Acts. Sums in the fund which are not currently needed for the purpose of paying such awards shall be kept on deposit or invested in obligations of, or guaranteed by, the United States.

(3) Whenever the amount in the fund is not sufficient to pay compensation under this section, the Secretary may issue, in an amount not to exceed $5,000,000, notes or other obligations to the Secretary of the Treasury, in such forms and denominations, bearing such maturities, and subject to such terms and conditions as the Secretary of the Treasury may prescribe. Such notices [2] or other obligations shall bear interest at a rate to be determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of such notices [2] or other obligations. Moneys obtained by the Secretary under this paragraph shall be deposited in the fund and redemptions of any such notices [2] or other obligations shall be made from the fund. The Secretary of the Treasury shall purchase any such notes or other obligations, and for such purpose he may use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31. The Secretary of the Treasury may sell any such notices [2] or other obligations at such times and prices and upon such terms and conditions as he shall determine. All purchases, redemptions, and sales of such notes or other obligations by the Secretary of the Treasury shall be treated as public debt transactions of the United States. All borrowing authority contained herein shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts.

(g) Penalty for false or misleading statements

Any person who willfully makes any false or misleading statement or representation for the purpose of obtaining compensation under this section is guilty of a criminal offense and, upon conviction thereof, shall be punished by a fine of not more than $25,000, or by imprisonment for not more than one year, or both.

(Aug. 27, 1954, ch. 1018, §10, as added Pub. L. 95–194, §2, Nov. 18, 1977, 91 Stat. 1413; amended Pub. L. 95–376, §3(a), Sept. 18, 1978, 92 Stat. 715; Pub. L. 96–289, §4(b), June 28, 1980, 94 Stat. 606; Pub. L. 96–561, title II, §§238(b), 241, Dec. 22, 1980, 94 Stat. 3300, 3301; Pub. L. 104–208, div. A, title I, §101(a) [title II, §211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009–41.)

REFERENCES IN TEXT

Section 3 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802), referred to in subsec. (a)(1), contained a prior par. (8) defining "fishery conservation zone" which was repealed and a new par. defining "exclusive economic zone" was added by Pub. L. 99–659, title I, §101(a), Nov. 14, 1986, 100 Stat. 3706.

The Magnuson-Stevens Fishery Conservation and Management Act, referred to in subsec. (b)(1)(A), is Pub. L. 94–265, Apr. 13, 1976, 90 Stat. 331, as amended, which is classified principally to chapter 38 (§1801 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of Title 16 and Tables.

CODIFICATION

In subsec. (f)(3), "chapter 31 of title 31" substituted for "the Second Liberty Bond Act" on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

1996—Subsecs. (a)(1), (b)(1)(A), (e). Pub. L. 104–208 substituted "Magnuson-Stevens Fishery" for "Magnuson Fishery".

1980—Subsec. (a)(1). Pub. L. 96–561, §238(b), substituted "Magnuson Fishery Conservation and Management Act" for "Fishery Conservation and Management Act of 1976".

Subsec. (a)(4). Pub. L. 96–561, §241(1), added par. (4).

Subsec. (b). Pub. L. 96–561, §§238(b), 241(2), inserted in provision preceding par. (1) "and for any resulting economic loss" after "or both," substituted "Magnuson Fishery Conservation and Management Act" for "Fishery Conservation and Management Act of 1976", struck out provision in par. (2)(B) permitting compensation in the case of fishing gear lost, damaged, or destroyed by an act of God, and inserted provision following par. (2)(B) establishing for purposes of subpar. (B) a rebuttable presumption that any damage, loss, or destruction of fishing gear is attributable to another vessel.

Subsec. (c). Pub. L. 96–561, §241(3), inserted in provision preceding par. (1) "and resulting economic loss" after "destruction".

Pub. L. 96–289 substituted "90" for "sixty" in par. (1).

Subsec. (d). Pub. L. 96–561, §241(4), inserted in par. (1) ", and resulting economic loss," after "destruction" and in par. (2) included within the amount of compensation awarded to any vessel owner 25 percent of any resulting economic loss.

Subsec. (e). Pub. L. 96–561, §238(b), substituted "Magnuson Fishery Conservation and Management Act" for "Fishery Conservation and Management Act of 1976".

1978—Subsec. (a). Pub. L. 95–376 substituted provisions defining "fishery", "fishing conservation zone", "fishing", "fishing vessel", "Secretary", "vessel of the United States", "fishing gear" and "fund" for provisions authorizing the Secretary to make a loan to an owner or operator whose commercial fishing vessel or its fishing gear was lost, damaged or destroyed by any vessel of a foreign nation.

Subsec. (b). Pub. L. 95–376 substituted provisions setting forth the causes of the damage, loss, or destruction of the vessel or its gear for which compensation is payable for provisions authorizing the Secretary to conduct an investigation of each incident of loss, damage or destruction for which the owner received a loan and allowing for repayment or cancellation of such loan depending on fault or nonfault of owner.

Subsec. (c). Pub. L. 95–376 substituted provisions setting forth the administrative provisions for making a claim for compensation for provisions directing the Secretary, with the assistance of the Attorney General, the Secretary of State, and the claimant, to take appropriate action to collect on any rights assigned to him, and directing how any sums recovered shall be dispensed.

Subsec. (d). Pub. L. 95–376 substituted provisions setting forth the form, manner and documentation of the application, the amount of compensation payable, procedure for review of the initial determination of eligibility and prompt payment upon finding of such eligibility for provisions defining "Secretary" as the "Secretary of Commerce".

Subsec. (e). Pub. L. 95–376 substituted provisions authorizing the imposition of a maximum 20 per cent surcharge in addition to any fee imposed under section 1824(b)(10) of title 16 for provisions authorizing the Secretary to establish by regulation fees to recover the cost of administering this section.

Subsecs. (f), (g). Pub. L. 95–376 added subsecs. (f) and (g).

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–208, div. A, title I, §101(a) [title II, §211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009–41, provided that the amendment made by that section is effective 15 days after Oct. 11, 1996.

EFFECTIVE DATE OF 1980 AMENDMENT

Pub. L. 96–561, title II, §238(b), Dec. 22, 1980, 94 Stat. 3300, provided that the amendment made by that section is effective 15 days after Dec. 22, 1980.

EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95–376, §3(b), Sept. 18, 1978, 92 Stat. 718, provided that: "The amendment made by subsection (a) [amending this section] shall take effect January 1, 1979."

SAVINGS PROVISION

Pub. L. 95–376, §3(c), Sept. 18, 1978, 92 Stat. 718, provided that: "Nothing in the amendment made by

subsection (a) [amending this section] shall be construed as affecting in any manner or to any extent any loan made under section 10 of the Fishermen's Protective Act of 1967 (as in effect before January 1, 1979) [this section], and, for purposes of the consideration by the Secretary of Commerce of any application for a loan under such section which was filed, but not acted on, before January 1, 1979, the amendment made by subsection (a) shall not be deemed to have been enacted."

COMPENSATION FOR CERTAIN FISHING VESSEL AND GEAR DAMAGE; APPLICATION

Pub. L. 96–561, title II, §240(a), (b)(1), Dec. 22, 1980, 94 Stat. 3300, 3301, provided that:

"(a) IN GENERAL.—If—

"(1) any owner or operator of a fishing vessel who suffered, after September 17, 1978, and before the date of the enactment of this title [Dec. 22, 1980], damage to, or loss or destruction of, such vessel or fishing gear used with such vessel, but did not apply for compensation therefor under section 10 of the Fishermen's Protective Act of 1967 (22 U.S.C. 1980) within the 60-day period prescribed in subsection (c)(1) of such section; or

"(2) any commercial fisherman who suffered, after September 17, 1978, and before the date of the enactment of this title, damages compensable under title IV of the Outer Continental Shelf Lands Act of 1978 (43 U.S.C. 1841 et seq.), but who did not timely file a claim therefor within the 60-day period prescribed in section 405(a) of such Act [43 U.S.C. 1845(a)];

such owner or operator may make application for compensation with respect to such damage, loss or destruction under such section 10 [this section], and such commercial fisherman may file a claim for, compensation for such damages under such title IV [43 U.S.C. 1841 et seq.], to the Secretary of Commerce, within the 60-day period beginning on the date of the enactment of this title [Dec. 22, 1980].

"(b) SPECIAL PROVISIONS.—(1) Notwithstanding any other provision of law—

"(A) any application or filing timely made under subsection (a) shall be treated by the Secretary of Commerce as an application timely made under such section 10(c)(1) [subsec. (c)(1) of this section], or as a filing timely made under such section 405(a) [43 U.S.C. 1845(a)], as the case may be, with respect to the damage, loss, or destruction claimed; and

"(B) any claim for fishing gear loss that was pending on June 1, 1980, before the United States-Union of Soviet Socialist Republics Fisheries Claims Board or the American-Spanish Fisheries Board shall be treated by the Secretary of Commerce as a timely application made, on the date of the enactment of this title [Dec. 22, 1980], under such section 10(c)(1) [subsec. (c)(1) of this section] for compensation for such loss."

TIMELY APPLICATIONS FOR COMPENSATION

Pub. L. 96–289, §4(a), June 28, 1980, 94 Stat. 605, provided that: "Notwithstanding the provisions of section 10(c)(1) of the Fishermens Protective Act of 1967 (22 U.S.C. 1980) [subsec. (c)(1) of this section] applications for compensation under such Act [this chapter], filed within 90 days after the date of enactment of this subsection [June 28, 1980] shall be deemed to be timely filed."

[1] *See References in Text note below.*

[2] *So in original. Probably should be "notes".*

§1980a. Reimbursement of owner for fee paid to navigate foreign waters if fee inconsistent with international law

(a) Reimbursable fees

In any case on or after June 15, 1994, in which a vessel of the United States exercising its right of passage is charged a fee by the government of a foreign country to engage in transit passage between points in the United States (including a point in the exclusive economic zone or in an area over which jurisdiction is in dispute), and such fee is regarded by the United States as being inconsistent with international law, the Secretary of State shall, subject to the availability of appropriated funds, reimburse the vessel owner for the amount of any such fee paid under protest.

(b) Documentation

In seeking such reimbursement, the vessel owner shall provide, together with such other

information as the Secretary of State may require—

(1) a copy of the receipt for payment;

(2) an affidavit attesting that the owner or the owner's agent paid the fee under protest; and

(3) a copy of the vessel's certificate of documentation.

(c) Timeliness

Requests for reimbursement shall be made to the Secretary of State within 120 days after the date of payment of the fee, or within 90 days after November 3, 1995, whichever is later.

(d) Funding; appropriations

Such funds as may be necessary to meet the requirements of this section may be made available from the unobligated balance of previously appropriated funds remaining in the Fishermen's Protective Fund established under section 1979 of this title. To the extent that requests for reimbursement under this section exceed such funds, there are authorized to be appropriated such sums as may be needed for reimbursements authorized under subsection (a), which shall be deposited in the Fishermen's Protective Fund established under section 1979 of this title.

(e) Claim against foreign government

The Secretary of State shall take such action as the Secretary deems appropriate to make and collect claims against the foreign country imposing such fee for any amounts reimbursed under this section.

(f) "Owner" defined

For purposes of this section, the term "owner" includes any charterer of a vessel of the United States.

(Aug. 27, 1954, ch. 1018, §11, as added Pub. L. 104–43, title IV, §402(a), Nov. 3, 1995, 109 Stat. 389.)

CONGRESSIONAL FINDINGS

Pub. L. 104–43, title IV, §401, Nov. 3, 1995, 109 Stat. 388, provided that: "The Congress finds that—

"(1) customary international law and the United Nations Convention on the Law of the Sea guarantee the right of passage, including innocent passage, to vessels through the waters commonly referred to as the 'Inside Passage' off the Pacific Coast of Canada;

"(2) in 1994 Canada required all commercial fishing vessels of the United States to pay 1,500 Canadian dollars to obtain a 'license which authorizes transit' through the Inside Passage;

"(3) this action was inconsistent with international law, including the United Nations Convention on the Law of the Sea, and, in particular, Article 26 of that Convention, which specifically prohibits such fees, and threatened the safety of United States commercial fishermen who sought to avoid the fee by traveling in less protected waters;

"(4) the Fishermen's Protective Act of 1967 [22 U.S.C. 1971 et seq.] provides for the reimbursement of vessel owners who are forced to pay a license fee to secure the release of a vessel which has been seized, but does not permit reimbursement of a fee paid by the owner in advance in order to prevent a seizure;

"(5) Canada required that the license fee be paid in person in 2 ports on the Pacific Coast of Canada, or in advance by mail;

"(6) significant expense and delay was incurred by commercial fishing vessels of the United States that had to travel from the point of seizure back to one of those ports in order to pay the license fee required by Canada, and the costs of that travel and delay cannot be reimbursed under the Fishermen's Protective Act;

"(7) the Fishermen's Protective Act of 1967 should be amended to permit vessel owners to be reimbursed for fees required by a foreign government to be paid in advance in order to navigate in the waters of that foreign country if the United States considers that fee to be inconsistent with international law;

"(8) the Secretary of State should seek to recover from Canada any amounts paid by the United States to reimburse vessel owners who paid the transit license fee;

"(9) the United States should review its current policy with respect to anchorage by commercial fishing vessels of Canada in waters of the United States off Alaska, including waters in and near the Dixon Entrance, and should accord such vessels the same treatment that commercial fishing vessels of the United States are accorded for anchorage in the waters of Canada off British Columbia;

"(10) the President should ensure that, consistent with international law, the United States Coast Guard has available adequate resources in the Pacific Northwest and Alaska to provide for the safety of United States citizens, the enforcement of United States law, and to protect the rights of the United States and keep the peace among vessels operating in disputed waters;

"(11) the President should continue to review all agreements between the United States and Canada to identify other actions that may be taken to convince Canada that any reinstatement of the transit license fee would be against Canada's long-term interests, and should immediately implement any actions which the President deems appropriate if Canada reinstates the fee;

"(12) the President should continue to convey to Canada in the strongest terms that the United States will not now, nor at any time in the future, tolerate any action by Canada which would impede or otherwise restrict the right of passage of vessels of the United States in a manner inconsistent with international law; and

"(13) the United States should continue its efforts to seek expeditious agreement with Canada on appropriate fishery conservation and management measures that can be implemented through the Pacific Salmon Treaty to address issues of mutual concern."

§1980b. Sanctions for imposition of conditions on U.S. fishing vessel found inconsistent with international law

(a) Certification

If the Secretary of State finds that the government of any nation imposes conditions on the operation or transit of United States fishing vessels which the United States regards as being inconsistent with international law or an international agreement, the Secretary of State shall certify that fact to the President.

(b) Sanctions

Upon receipt of a certification under subsection (a), the President shall direct the heads of Federal agencies to impose similar conditions on the operation or transit of fishing vessels registered under the laws of the nation which has imposed conditions on United States fishing vessels.

(c) "Fishing vessel" defined

For the purposes of this section, the term "fishing vessel" has the meaning given that term in section 2101(11a) of title 46.

(d) Sanctions commensurate with conditions certified

It is the sense of the Congress that any action taken by any Federal agency under subsection (b) should be commensurate with any conditions certified by the Secretary of State under subsection (a).

(Aug. 27, 1954, ch. 1018, §12, as added Pub. L. 104–43, title IV, §402(b), Nov. 3, 1995, 109 Stat. 390.)

CHAPTER 26—ARMED FORCES PARTICIPATION IN INTERNATIONAL AMATEUR SPORTS COMPETITIONS

§§1981 to 1985. Repealed. Pub. L. 85–861, §36A, Sept. 2, 1958, 72 Stat. 1569

Section 1981, acts July 1, 1947, ch. 203, §1, 61 Stat. 243; Mar. 14, 1955, ch. 11, 69 Stat. 11, defined terms used in sections 1981 to 1985 of this title. See section 716 of Title 10, Armed Forces.

Section 1982, act July 1, 1947, ch. 203, §2, as added Mar. 14, 1955, ch. 11, 69 Stat. 11, related to training, attendance, and participation, report to Congress, and to funds and equipment. See section 716 of Title 10.

Section 1983, act July 1, 1947, ch. 203, §3, as added Mar. 14, 1955, ch. 11, 69 Stat. 11, prescribed limitations on expenditure of funds, and related to use of appropriations. See section 716 of Title 10.

Sections 1984, 1985, act July 1, 1947, ch. 203, §§4, 5, as added Mar. 14, 1955, ch. 11, 69 Stat. 11,

authorized payment of allowances, travel and transportation, and subsistence and quarters. See section 419 of Title 37, Pay and Allowances of the Uniformed Services.

CHAPTER 27—INTERNATIONAL CULTURAL EXCHANGE AND TRADE FAIR PARTICIPATION

§§1991 to 2001. Repealed. Pub. L. 87–256, §111(a)(3), Sept. 21, 1961, 75 Stat. 538

Sections, act Aug. 1, 1956, ch. 811, §§2–12, 70 Stat. 778–780, related to international cultural exchange and trade fair participation. See section 2451 et seq. of this title.

Section 1991 stated purpose of chapter.

Section 1992 prescribed authority of President, and appointment and compensation of Commissioner General and principal representatives.

Section 1993 encouraged private participation and contributions of funds, property, and services.

Section 1994 authorized appropriations.

Section 1995 permitted utilization of other laws in carrying out chapter.

Section 1996 authorized expenditures for acquisition of exhibits.

Section 1997 related to performance of functions without regard to other laws.

Section 1998 required reports to Congress.

Section 1999 created Advisory Committee on Arts; prescribed qualifications, duties, terms of office and compensation of members; and provided for staff and secretarial services.

Section 2000 authorized creation of interagency committees.

Section 2001 prescribed extent of cultural program.

CONTINUATION OF CERTAIN EXECUTIVE ORDERS, AGREEMENTS, DETERMINATION, REGULATIONS, CONTRACTS, APPOINTMENTS, AND OTHER ACTIONS

Continuation in full force and effect, and applicability to the appropriate provisions of the Mutual Educational and Cultural Exchange Act of 1961, set out as section 2451 et seq. of this title, until modified or superseded by appropriate authority, of all Executive orders, agreements, determinations, regulations, contracts, appointments, and other actions issued, concluded; or taken under authority of these sections, see section 111(b) of Pub. L. 87–256, set out as a note under section 2451 of this title.

CHAPTER 28—INTERNATIONAL ATOMIC ENERGY AGENCY PARTICIPATION

Sec.

2021. Agency appointments by President.
2022. Purpose of participation; reports to Congress.
2023. Actions and votes of representatives.
2024. Authorization of appropriations for payment of expenses.
2025. Effect of employment on retirement, insurance, and other civil service rights and privileges.
2026. Termination of authority and participation in Agency.
2027. Annual review by Secretary of State of programs and projects of the International Atomic Energy Agency; United States opposition to certain programs and projects of the Agency.

§2021. Agency appointments by President

(a) Representative and deputy representative; terms; functions

The President, by and with the advice and consent of the Senate, shall appoint a representative and

a deputy representative of the United States to the International Atomic Energy Agency (referred to in this chapter as the "Agency"), who shall hold office at the pleasure of the President. Such representative and deputy representative shall represent the United States on the Board of Governors of the Agency, may represent the United States at the General Conference, and may serve ex officio as United States representative on any organ of that Agency, and shall perform such other functions in connection with the participation of the United States in the Agency as the President may from time to time direct. The Representative of the United States to the Vienna office of the United Nations shall also serve as representative of the United States to the Agency.

(b) Specified sessions

The President, by and with the advice and consent of the Senate, may appoint or designate from time to time to attend a specified session or specified sessions of the General Conference of the Agency a representative of the United States and such number of alternates as he may determine consistent with the rules of procedure of the General Conference.

(c) Designation of other persons

The President may also appoint or designate from time to time such other persons as he may deem necessary to represent the United States in the organs of the Agency. The President may designate any officer of the United States Government, whose appointment is subject to confirmation by the Senate, to act, without additional compensation, for temporary periods as the representative of the United States on the Board of Governors or to the General Conference of the Agency in the absence or disability of the representative and deputy representative appointed under subsection (a) or in lieu of such representatives in connection with a specified subject matter.

(d) Compensation; allowances and benefits

All persons appointed or designated in pursuance of authority contained in this section shall receive compensation at rates determined by the President upon the basis of duties to be performed but not in excess of rates authorized by sections 401, 402, and 403 of the Foreign Service Act of 1980 [22 U.S.C. 3961, 3962, and 3963] for chiefs of mission, members of the Senior Foreign Service, and Foreign Service officers occupying positions of equivalent importance, except that no Member of the Senate or House of Representatives or officer of the United States who is designated under subsection (b) or subsection (c) of this section as a delegate or representative of the United States or as an alternate to attend any specified session or specified sessions of the General Conference shall be entitled to receive such compensation. Any person who receives compensation pursuant to the provisions of this subsection may be granted allowances and benefits not to exceed those received under the Foreign Service Act of 1980 [22 U.S.C. 3901 et seq.] by chiefs of mission, members of the Senior Foreign Service, and Foreign Service officers occupying positions of equivalent importance.

(Pub. L. 85–177, §2, Aug. 28, 1957, 71 Stat. 453; Pub. L. 96–465, title II, §2206(a)(7)(A), Oct. 17, 1980, 94 Stat. 2161; Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title VII, §708(b)], Nov. 29, 1999, 113 Stat. 1536, 1501A–462.)

REFERENCES IN TEXT

The Foreign Service Act of 1980, referred to in subsec. (d), is Pub. L. 96–465, Oct. 17, 1980, 94 Stat. 2071, as amended, which is classified principally to chapter 52 (§3901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3901 of this title and Tables.

AMENDMENTS

1999—Subsec. (a). Pub. L. 106–113 inserted at end "The Representative of the United States to the Vienna office of the United Nations shall also serve as representative of the United States to the Agency."

1980—Subsec. (d). Pub. L. 96–465 substituted "sections 401, 402, and 403 of the Foreign Service Act of 1980 for chiefs of mission, members of the Senior Foreign Service," for "sections 866 and 867 of this title, for Chiefs of Mission" and "under the Foreign Service Act of 1980 by chiefs of mission, members of the Senior Foreign Service," for "by Chiefs of Mission".

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106–113 applicable to individuals appointed on or after Nov. 29, 1999, see section 1000(a)(7) [div. A, title VII, §708(c)] of Pub. L. 106–113, set out as a note under section 287 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–465 effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

SHORT TITLE OF 2002 AMENDMENT

Pub. L. 107–228, div. B, title XIII, §1341, Sept. 30, 2002, 116 Stat. 1451, provided that: "This subtitle [subtitle D (§§1341–1345) of title XIII of div. B of Pub. L. 107–228, enacting section 2027 of this title, amending section 2227 of this title, and enacting provisions set out as a note under this section] may be cited as the 'Iran Nuclear Proliferation Prevention Act of 2002'."

SHORT TITLE

Pub. L. 85–177, §1, Aug. 28, 1957, 71 Stat. 453, provided that: "This Act [enacting this chapter and amending section 2074 of Title 42, The Public Health and Welfare] may be cited as the 'International Atomic Energy Agency Participation Act of 1957'."

REPORTING REQUIREMENTS

Pub. L. 107–228, div. B, title XIII, §1344, Sept. 30, 2002, 116 Stat. 1452, required the Secretary of State to submit to Congress, beginning no later than 180 days after Sept. 30, 2002, and for five years thereafter, reports concerning assistance, nuclear materials and technology given by the International Atomic Energy Agency to Iran, Iranians in leadership positions at the Agency, the expected timeframe for the completion of the nuclear power reactors at the Bushehr nuclear power plant, and certain information on all programs and projects of the International Atomic Energy Agency in each country described in section 2227(a) of the title.

OPPOSITION TO CERTAIN PROGRAMS OR PROJECTS; REPORTING REQUIREMENTS

Pub. L. 105–277, div. G, subdiv. B, title XXVIII, §2809(b), (c), Oct. 21, 1998, 112 Stat. 2681–850, provided that:

"(b) OPPOSITION TO CERTAIN PROGRAMS OR PROJECTS.—The Secretary of State shall direct the United States representative to the International Atomic Energy Agency to oppose the following:

"(1) Technical assistance programs or projects of the Agency at the Juragua Nuclear Power Plant near Cienfuegos, Cuba, and at the Pedro Pi Nuclear Research Center.

"(2) Any other program or project of the Agency in Cuba that is, or could become, a threat to the security of the United States.

"(c) REPORTING REQUIREMENTS.—

"(1) REQUEST FOR IAEA REPORTS.—The Secretary of State shall direct the United States representative to the International Atomic Energy Agency to request the Director-General of the Agency to submit to the United States all reports prepared with respect to all programs or projects of the Agency that are of concern to the United States, including the programs or projects described in subsection (b).

"(2) ANNUAL REPORTS TO THE CONGRESS.—Not later than 180 days after the date of the enactment of this Act [Oct. 21, 1998], and on an annual basis thereafter, the Secretary of State, in consultation with the United States representative to the International Atomic Energy Agency, shall prepare and submit to the Congress a report containing a description of all programs or projects of the Agency in each country described in section 307(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2227(a))."

PRIVILEGES, EXEMPTIONS, AND IMMUNITIES

Entitlement of Agency to privileges, exemptions, and immunities as an international organization, see note set out under section 288 of this title.

TERMINATION OF AUTHORITY UNDER THIS SECTION

Authority under this section to terminate if Senate refuses its advice and consent by a formal vote to an amendment to the Statute of the Agency, see section 2026 of this title.

§2022. Purpose of participation; reports to Congress

The participation of the United States in the International Atomic Energy Agency shall be consistent with and in furtherance of the purposes of the Agency set forth in its Statute and the policy

concerning the development, use, and control of atomic energy set forth in the Atomic Energy Act of 1954, as amended [42 U.S.C. 2011 et seq.]. The President shall, from time to time as occasion may require, but not less than once each year, make reports to the Congress on the activities of the International Atomic Energy Agency and on the participation of the United States therein. In addition to any other requirements of law, the Department of State and the Atomic Energy Commission shall keep the Committees on Energy and Commerce and on Foreign Affairs of the House of Representatives and the Committees on Energy and Natural Resources and on Foreign Relations of the Senate, as appropriate, currently informed with respect to the activities of the Agency and the participation of the United States therein.

(Pub. L. 85–177, §3, Aug. 28, 1957, 71 Stat. 453; Pub. L. 103–437, §9(b), Nov. 2, 1994, 108 Stat. 4588.)

REPEAL OF REPORTING REQUIREMENT

Pub. L. 89–348, §1(20), Nov. 8, 1965, 79 Stat. 1311, repealed provisions of this section which directed President to report to Congress not less than once each year on activities of International Atomic Energy Agency and on participation of United States therein.

REFERENCES IN TEXT

Statute, referred to in text, is the "Statute of the International Atomic Energy Agency".

The Atomic Energy Act of 1954, as amended, referred to in text, is act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, which is classified principally to chapter 23 (§2011 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 42 and Tables.

AMENDMENTS

1994—Pub. L. 103–437 substituted "Committees on Energy and Commerce and on Foreign Affairs of the House of Representatives and the Committees on Energy and Natural Resources and on Foreign Relations of the Senate" for "Joint Committee on Atomic Energy, the House Committee on Foreign Affairs, and the Senate Committee on Foreign Relations".

CHANGE OF NAME

Committee on Energy and Commerce of House of Representatives treated as referring to Committee on Commerce of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Commerce of House of Representatives changed to Committee on Energy and Commerce of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred to Committee on Financial Services of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of Title 42, The Public Health and Welfare. See, also, Transfer of Functions notes set out under those sections.

TERMINATION OF AUTHORITY UNDER THIS SECTION

Authority under this section to terminate if Senate refuses its advice and consent by a formal vote to an amendment to the Statute of the Agency, see section 2026 of this title.

§2023. Actions and votes of representatives

The representatives provided for in section 2021 of this title, when representing the United States in the organs of the Agency, shall, at all times, act in accordance with the instructions of the President, and such representatives shall, in accordance with such instructions, cast any and all votes under the Statute of the International Atomic Energy Agency.

(Pub. L. 85–177, §4, Aug. 28, 1957, 71 Stat. 454.)

TERMINATION OF AUTHORITY UNDER THIS SECTION

Authority under this section to terminate if Senate refuses its advice and consent by a formal vote to an

amendment to the Statute of the Agency, see section 2026 of this title.

§2024. Authorization of appropriations for payment of expenses

There is authorized to be appropriated annually to the Department of State, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary for the payment by the United States of its share of the expenses of the International Atomic Energy Agency as apportioned by the Agency in accordance with paragraph (D) of article XIV of the Statute of the Agency, and for all necessary salaries and expenses of the representatives provided for in section 2021 of this title and of their appropriate staffs, including personal services without regard to the civil service laws and chapter 51 and subchapter III of chapter 53 of title 5; travel expenses without regard to the Standardized Government Travel Regulations, as amended, subchapter I of chapter 57 of title 5, and section 5731 of title 5, as amended; salaries as authorized by the Foreign Service Act of 1980 [22 U.S.C. 3901 et seq.], or as authorized by the Atomic Energy Act of 1954, as amended [42 U.S.C. 2011 et seq.], and expenses and allowances of personnel and dependents as authorized by the Foreign Service Act of 1980; services as authorized by section 3109 of title 5; translating and other services, by contract; hire of passenger motor vehicles and other local transportation; printing and binding without regard to section 501 of title 44; official functions and courtesies; such sums as may be necessary to defray the expenses of United States participation in the Preparatory Commission for the Agency, established pursuant to annex I of the Statute of the Agency; and such other expenses as may be authorized by the Secretary of State.

(Pub. L. 85–177, §5, Aug. 28, 1957, 71 Stat. 454; Pub. L. 96–465, title II, §2206(a)(7)(B), Oct. 17, 1980, 94 Stat. 2161.)

REFERENCES IN TEXT

Paragraph (D) of article XIV of the Statute of the Agency, referred to in text, provides "The Board of Governors shall apportion the expenses referred to in subparagraph B–1 above, among members in accordance with a scale to be fixed by the General Conference. In fixing the scale the General Conference shall be guided by the principles adopted by the United Nations in assessing contributions of Member States to the regular budget of the United Nations".

The Foreign Service Act of 1980, referred to in text, is Pub. L. 96–465, Oct. 17, 1980, 94 Stat. 2071, as amended, which is classified principally to chapter 52 (§3901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3901 of this title and Tables.

The Atomic Energy Act of 1954, as amended, referred to in text, is act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, which is classified principally to chapter 23 (§2011 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 42 and Tables.

CODIFICATION

"Chapter 51 and subchapter III of chapter 53 of title 5", "subchapter I of chapter 57 of title 5", "section 5731 of title 5", and "section 3109 of title 5" substituted in text for "the Classification Act of 1949, as amended", "the Travel Expense Act of 1949, as amended", "section 10 of the Act of March 3, 1933, as amended [5 U.S.C. 73b]", and "section 15 of the Act of August 2, 1946 (5 U.S.C. 55a)", respectively, on authority of Pub. L. 89–554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

"Section 501 of title 44" substituted in text for "section II of the Act of March 1, 1919 (44 U.S.C. 111)" on authority of Pub. L. 90–620, §2(b), Oct. 22, 1968, 82 Stat. 1305, the first section of which enacted Title 44, Public Printing and Documents.

AMENDMENTS

1980—Pub. L. 96–465 substituted references to the Foreign Service Act of 1980 for references to the Foreign Service Act of 1946.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–465 effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

TERMINATION OF AUTHORITY UNDER THIS SECTION

Authority under this section to terminate if Senate refuses its advice and consent by a formal vote to an amendment to the Statute of the Agency, see section 2026 of this title.

§2025. Effect of employment on retirement, insurance, and other civil service rights and privileges

(a) Federal employees

Notwithstanding any other provision of law, Executive order or regulation, a Federal employee who, with the approval of the Federal agency or the head of the department by which he is employed, leaves his position to enter the employ of the Agency shall not be considered for the purposes of subchapter III of chapter 83 of title 5, and chapter 87 of title 5, as separated from his Federal position during such employment with the Agency but not to extend beyond the first three consecutive years of his entering the employ of the Agency: *Provided*, (1) That he shall pay to the Director of the Office of Personnel Management within ninety days from the date he is separated without prejudice from the Agency all necessary deductions and agency contributions for coverage under subchapter III of chapter 83 of title 5 for the period of his employment by the Agency, and (2) That all deductions and agency contributions necessary for continued coverage under chapter 87 of title 5, shall be made during the term of his employment with the International Atomic Energy Agency. If such employee, within three years from the date of his employment with the Agency, and within ninety days from the date he is separated without prejudice from the Agency, applies to be restored to his Federal position, he shall within thirty days of such application be restored to such position or to a position of like seniority, status and pay.

(b) Presidential appointees or elected officers

Notwithstanding any other provision of law, Executive order or regulation, any Presidential appointee or elected officer who leaves his position to enter, or who within ninety days after the termination of his position enters, the employ of the Agency, shall be entitled to the coverage and benefits of subchapter III of chapter 83 of title 5, and chapter 87 of title 5, but not beyond the earlier of either the termination of his employment with the Agency or the expiration of three years from the date he entered employment with the Agency: *Provided*, (1) That he shall pay to the Director of the Office of Personnel Management within ninety days from the date he is separated without prejudice from the Agency all necessary deductions and agency contributions for coverage under subchapter III of chapter 83 of title 5 for the period of his employment by the Agency, and (2) That all deductions and agency contributions necessary for continued coverage under chapter 87 of title 5, shall be made during the term of his employment with the Agency.

(c) Regulations

The President is authorized to prescribe such regulations as may be necessary to carry out the provisions of this section and to protect the retirement, insurance and such other civil service rights and privileges as the President may find appropriate.

(Pub. L. 85–177, §6, Aug. 28, 1957, 71 Stat. 454; 1978 Reorg. Plan No. 2, §102, eff. Jan. 1, 1979, 43 F.R. 36037, 92 Stat. 3783.)

REPEALS

Section 7 of Pub. L. 85–795, Aug. 28, 1958, 72 Stat. 962, provided that: "Section 6(a) of the International Atomic Energy Agency Participation Act of 1957 [subsec. (a) of this section], is repealed except that it shall be considered to remain in effect with respect to any employee subject thereto who is serving as an employee of the International Atomic Energy Agency on the date of enactment of this Act [Aug. 28, 1958] and who does not make the election referred to in section 6, and for the purposes of any rights and benefits vested thereunder prior to such date."

Section 7 of Pub. L. 85–795, Aug. 28, 1958, 72 Stat. 962, was repealed by Pub. L. 89–554, §8(a), Sept. 6, 1966, 80 Stat. 660. See section 8 of Pub. L. 89–554, set out as a note preceding section 101

of Title 5, Government Organization and Employees.

CODIFICATION

In subsecs. (a) and (b), "subchapter III of chapter 83 of title 5" substituted for "the Civil Service Retirement Act, as amended" and "the Civil Service Retirement Act" in each subsection and "chapter 87 of title 5" substituted for "the Federal Employees' Group Life Insurance Act of 1954, as amended" on authority of Pub. L. 89–554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

TRANSFER OF FUNCTIONS

"Director of the Office of Personnel Management" substituted for "Civil Service Commission" in subsecs. (a) and (b), pursuant to Reorg. Plan No. 2 of 1978, §102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, which transferred all functions vested by statute in the United States Civil Service Commission to the Director of the Office of Personnel Management (except as otherwise specified), effective Jan. 1, 1979, as provided by section 1–102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

EXECUTIVE ORDER NO. 10774

Ex. Ord. No. 10774, July 25, 1958, 23 F.R. 5681, as amended by Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, which provided for protection of civil-service rights of Federal personnel who transfer to the International Atomic Energy Agency, was revoked in part by section 2 of Ex. Ord. No. 10804, Feb. 12, 1959, 24 F.R. 1147, and subsequently revoked by Ex. Ord. No. 12553, Feb. 25, 1986, 51 F.R. 7237.

§2026. Termination of authority and participation in Agency

In the event of an amendment to the Statute of the Agency being adopted in accordance with article XVIII–C of the Statute to which the Senate by formal vote shall refuse its advice and consent, upon notification by the Senate to the President of such refusal to advise and consent, all further authority under section [1] 2021, 2022, 2023 and 2024 of this title, as amended, shall terminate: *Provided, however*, That the Secretary of State, under such regulations as the President shall promulgate, shall have the necessary authority to complete the prompt and orderly settlement of obligations and commitments to the Agency already incurred and pay salaries, allowances, travel expenses, and other expenses required for a prompt and orderly termination of United States participation in the Agency: *And provided further*, That the representative and the deputy representative of the United States to the Agency, and such other officers or employees representing the United States in the Agency, under such regulations as the President shall promulgate, shall retain their authority under this chapter for such time as may be necessary to complete the settlement of matters arising out of the United States participation in the Agency.

(Pub. L. 85–177, §8, Aug. 28, 1957, 71 Stat. 455.)

REFERENCES IN TEXT

Article XVIII–C of the Statute, referred to in text, provides: "C. Amendments shall come into force for all members when: (i) Approved by the General Conference by a two-thirds majority of those present and voting after consideration of observations submitted by the Board of Governors on each proposed amendment, and (ii) Accepted by two-thirds of all the members in accordance with their respective constitutional processes. Acceptance by a member shall be effected by the deposit of an instrument of acceptance with the depositary Government referred to in paragraph C of Article XXI.".

[1] *So in original. Probably should be "sections".*

§2027. Annual review by Secretary of State of programs and projects of the International Atomic Energy Agency; United States opposition to certain programs and projects of the Agency

(a) Annual review

(1) In general

The Secretary shall undertake a comprehensive annual review of all programs and projects of the International Atomic Energy Agency (IAEA) in the countries described in section 2227(a) of this title and shall determine if such programs and projects are consistent with United States nuclear nonproliferation and safety goals.

(2) Report

Not later than one year after September 30, 2002, and on an annual basis thereafter for five years, the Secretary shall submit to Congress a report containing the results of the review under paragraph (1).

(b) Opposition to certain programs and projects of International Atomic Energy Agency

The Secretary shall direct the United States representative to the International Atomic Energy Agency to oppose programs of the Agency that are determined by the Secretary under the review conducted under subsection (a)(1) to be inconsistent with nuclear nonproliferation and safety goals of the United States.

(Pub. L. 107–228, div. B, title XIII, §1343, Sept. 30, 2002, 116 Stat. 1452.)

CODIFICATION

Section was enacted as part of the Iran Nuclear Proliferation Prevention Act of 2002, and also as part of the Security Assistance Act of 2002 and the Foreign Relations Authorization Act, Fiscal Year 2003, and not as part of the International Atomic Energy Agency Participation Act of 1957 which comprises this chapter.

DEFINITIONS

For definition of "Secretary" as used in this section, see section 3 of Pub. L. 107–228, set out as a note under section 2651 of this title.

CHAPTER 29—CULTURAL, TECHNICAL, AND EDUCATIONAL CENTERS

SUBCHAPTER I—CENTER BETWEEN EAST AND WEST

Sec.

2051 to 2053. Repealed.
2054. Statement of purpose.
2055. Duties of Secretary of State; establishment and operation of educational institution; grants, fellowships, and scholarships; availability of facilities.
2056. Administration.
2057. Authorization of appropriations.

SUBCHAPTER II—WESTERN HEMISPHERIC CENTER

2071, 2072. Repealed.

SUBCHAPTER III—DANTE B. FASCELL NORTH-SOUTH CENTER

2075. Center for Cultural and Technical Interchange Between North and South.

SUBCHAPTER IV—INTERNATIONAL UNIVERSITY

2077. International University for the Americas.

SUBCHAPTER V—INTERNATIONAL CENTER FOR MIDDLE EASTERN-WESTERN DIALOGUE

2078. International Center for Middle Eastern-Western Dialogue Trust Fund.

SUBCHAPTER I—CENTER BETWEEN EAST AND WEST

§§2051 to 2053. Repealed. Pub. L. 87–195, pt. III, §642(a)(7), Sept. 4, 1961, 75 Stat. 460

Sections, Pub. L. 86–108, ch. VI, §§601–603, July 24, 1959, 73 Stat. 256, 257, which directed the Secretary of State to submit to Congress before Jan. 3, 1960, a plan and program for the establishment in Hawaii of an educational institution, for grants, fellowships, and other payments to outstanding scholars and to qualified students from the nations of the East and West. See sections 2054 to 2057 of this title.

§2054. Statement of purpose

The purpose of this subchapter is to promote better relations and understanding between the United States and the nations of Asia and the Pacific (hereinafter referred to as "the East") through cooperative study, training, and research, by establishing in Hawaii a Center for Cultural and Technical Interchange Between East and West where scholars and students in various fields from the nations of the East and West may study, give and receive training, exchange ideas and views, and conduct other activities primarily in support of the objectives of the United States Information and Educational Exchange Act of 1948, as amended [22 U.S.C. 1431 et seq.], title III of chapter II of the Mutual Security Act of 1954, and other Acts promoting the international, educational, cultural, and related activities of the United States.

(Pub. L. 86–472, ch. VII, §702, May 14, 1960, 74 Stat. 141.)

REFERENCES IN TEXT

The United States Information and Educational Exchange Act of 1948, as amended, referred to in text, is act Jan. 27, 1948, ch. 36, 62 Stat. 6, as amended, which is classified generally to chapter 18 (§1431 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1431 of this title and Tables.

The Mutual Security Act of 1954, referred to in text, is act Aug. 26, 1954, ch. 937, 68 Stat. 832, as amended by acts July 8, 1955, ch. 301, 69 Stat. 283; July 18, 1956, ch. 627, §§2 to 11, 70 Stat. 555; Aug. 14, 1957, Pub. L. 85–141, 71 Stat. 355; June 30, 1958, Pub. L. 85–477, ch. 1, §§101 to 103, ch. II, §§201 to 205, ch. III, §301, ch. IV, §401, ch. V, §501, 72 Stat. 261; July 24, 1959, Pub. L. 86–108, §2, ch. 1, §101, ch. II, §§201 to 205(a) to (i), (k) to (n), ch. III, §301, ch. IV, §401(a) to (k), (m), 73 Stat. 246; May 14, 1960, Pub. L. 86–472, ch. I to V, 74 Stat. 134. Title III of chapter II of the Act was classified to sections 1891 to 1896, 1897, and 1898 of this title and was repealed by Pub. L. 87–195, pt. III, §642(a)(2), Sept. 4, 1961, 75 Stat. 460 and Pub. L. 86–472, ch. II, §203(d), May 14, 1960, 74 Stat. 136. For complete classification of this Act to the Code, see Short Title note set out under section 1754 of this title and Tables.

SHORT TITLE

Pub. L. 86–472, ch. VII, §701, May 14, 1960, 74 Stat. 141, provided that: "This chapter [enacting this subchapter] may be cited as the 'Center for Cultural and Technical Interchange Between East and West Act of 1960'."

TRANSFER OF FUNCTIONS

All functions vested in the President, the Secretary of State, the Department of State, the United States Information Agency, or the Director thereof, under this chapter, were transferred to the Director of the International Communication Agency by Reorg. Plan No. 2 of 1977, §7(a)(7), 42 F.R. 62461, 91 Stat. 1637, set out under section 1461 of this title, effective on or before July 1, 1978, at such time as specified by the President. The International Communication Agency, and the Director thereof, were redesignated the United States Information Agency, and the Director thereof, by section 303 of Pub. L. 97–241, title III, Aug. 24, 1982, 96 Stat. 291, set out as a note under section 1461 of this title. United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau) abolished and functions transferred to Secretary of State, see sections 6531 and 6532 of this title.

§2055. Duties of Secretary of State; establishment and operation of educational institution; grants, fellowships, and scholarships; availability of facilities

In order to carry out the purpose of this subchapter the Secretary of State (hereinafter referred to as the "Secretary") shall provide for—

(1) the establishment and operation in Hawaii of an educational institution to be known as the Center for Cultural and Technical Interchange Between East and West, through arrangements with public, educational, or other nonprofit institutions;

(2) grants, fellowships, and other payments to outstanding scholars and authorities from the nations of the East and West as may be necessary to attract such scholars and authorities to the Center;

(3) grants, scholarships, and other payments to qualified students from the nations of the East and West as may be necessary to enable such students to engage in study or training at the Center; and

(4) making the facilities of the Center available for study or training to other qualified persons.

(Pub. L. 86–472, ch. VII, §703, May 14, 1960, 74 Stat. 141.)

§2056. Administration

(a) Authority

In carrying out the provisions of this subchapter, the Secretary may utilize his authority under the provisions of the United States Information and Educational Exchange Act of 1948, as amended [22 U.S.C. 1431 et seq.].

(b) Gifts, bequests, and devises

The Secretary may, in administering the provisions of this subchapter, accept from public and private sources money and property to be utilized in carrying out the purposes and functions of the Center. In utilizing any gifts, bequests, or devises accepted there shall be available to the Secretary the same authorities as are available to him in accepting and utilizing gifts, bequests, and devises to the George P. Shultz National Foreign Affairs Training Center under the provisions of section 2697 of this title. For the purposes of Federal income, estate, and gift taxes, any gift, devise, or bequest accepted by the Secretary under the authority of this subchapter shall be deemed to be a gift, devise, or bequest to or for the use of the United States.

(c) Report to Congress

The Director of the United States Information Agency shall make periodic reports, as he deems necessary, to the Congress with respect to his activities under the provisions of this subchapter, and such reports shall include any recommendations for needed revisions in this subchapter.

(Pub. L. 86–472, ch. VII, §704, May 14, 1960, 74 Stat. 141; Pub. L. 96–465, title II, §2206(a)(8), Oct. 17, 1980, 94 Stat. 2162; Pub. L. 96–470, title II, §212(b), Oct. 19, 1980, 94 Stat. 2246; Pub. L. 97–241, title III, §303(b), Aug. 24, 1982, 96 Stat. 291; Pub. L. 107–132, §1(b), Jan. 16, 2002, 115 Stat. 2412.)

REFERENCES IN TEXT

The United States Information and Educational Exchange Act of 1948, as amended, referred to in subsec. (a), is act Jan. 27, 1948, ch. 36, 62 Stat. 6, as amended, which is classified generally to chapter 18 (§1431 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1431 of this title and Tables.

AMENDMENTS

2002—Subsec. (b). Pub. L. 107–132 substituted "George P. Shultz National Foreign Affairs Training Center" for "Foreign Service Institute".

1980—Subsec. (b). Pub. L. 96–465 substituted reference to section 2697 of this title for reference to section 809 of this title.

Subsec. (c). Pub. L. 96–470 substituted provision requiring the Director to make periodic reports, as he deems necessary, for provision requiring the Director to make an annual report.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–465 effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

TRANSFER OF FUNCTIONS

"Director of the United States Information Agency" substituted for "Director of the International Communication Agency" in subsec. (c), pursuant to section 303(b) of Pub. L. 97–241, set out as a note under section 1461 of this title which redesignated International Communication Agency, and Director thereof, as United States Information Agency, and Director thereof. United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau) abolished and functions transferred to Secretary of State, see sections 6531 and 6532 of this title.

§2057. Authorization of appropriations

There are authorized to be appropriated, to remain available until expended, such amounts as may be necessary to carry out the provisions of this subchapter.

(Pub. L. 86–472, ch. VII, §705, May 14, 1960, 74 Stat. 142.)

SUBCHAPTER II—WESTERN HEMISPHERIC CENTER

§§2071, 2072. Repealed. Pub. L. 87–195, pt. III, §642(a)(8), Sept. 4, 1961, 75 Stat. 460

Sections, Pub. L. 86–472, ch. VIII, §§801, 802, May 14, 1960, 75 Stat. 142, related to Western Hemispheric Center, stated Congressional declaration of purpose and authorized preparation and submission of plan to Congress.

SUBCHAPTER III—DANTE B. FASCELL NORTH-SOUTH CENTER

§2075. Center for Cultural and Technical Interchange Between North and South

(a) Short title

This section may be cited as the "Dante B. Fascell North-South Center Act of 1991" [1]

(b) Purpose

The purpose of this section is to promote better relations between the United States and the nations of Latin America and the Caribbean and Canada through cooperative study, training, and research, by supporting in Florida a Center for Cultural and Technical Interchange Between North and South where scholars and students in various fields from the nations of the hemisphere may study, give and receive training, exchange ideas and views, and conduct other activities consistent with the objectives of the Mutual Educational and Cultural Exchange Act of 1961 [22 U.S.C. 2451 et seq.] and other Acts promoting international, educational, cultural, scientific, and related activities of the United States.

(c) Dante B. Fascell North-South Center

In order to carry out the purpose of this section, the Director of the United States Information

Agency shall provide for the operation in Florida of an educational institution which shall be known and designated as the Dante B. Fascell North-South Center, through arrangements with public, educational, or other nonprofit institutions.

(d) Authorities

The Director of the United States Information Agency, in carrying out this section, may utilize the authorities of the Mutual Educational and Cultural Exchange Act of 1961 [22 U.S.C. 2451 et seq.]. Section 2056(b) of this title shall apply in the administration of this section. In order to carry out the purposes of this section, the Dante B. Fascell North-South Center is authorized to use funds made available under this section to acquire property and facilities, by construction, lease, or purchase.

(e) Authorization of appropriations

There are authorized to be appropriated $5,000,000 for fiscal year 1992 and $10,000,000 for each subsequent fiscal year to carry out this section. Amounts appropriated under this section are authorized to be available until expended.

(Pub. L. 102–138, title II, §208, Oct. 28, 1991, 105 Stat. 694; Pub. L. 106–29, §1, May 21, 1999, 113 Stat. 54.)

REFERENCES IN TEXT

The Mutual Educational and Cultural Exchange Act of 1961, referred to in subsecs. (b) and (d), is Pub. L. 87–256, Sept. 21, 1961, 75 Stat. 527, as amended, which is classified principally to chapter 33 (§2451 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2451 of this title and Tables.

CODIFICATION

Section is comprised of section 208 of Pub. L. 102–138. Subsec. (f) of section 208 of Pub. L. 102–138 repealed a prior section 2075 of this title. See Prior Provisions note below.

PRIOR PROVISIONS

A prior section 2075, Pub. L. 101–513, title II, Nov. 5, 1990, 104 Stat. 1984, was based on section 206 of title II of the House engrossed amendment (as passed the House of Representatives on May 24, 1990) to S. 2364, One Hundred First Congress, which was enacted into law by Pub. L. 101–513, and which was cited as the "Center for Cultural and Technical Interchange between North and South Act of 1990", established a North-South Center in Florida to promote better relations between the United States and the nations of Latin America and the Caribbean and Canada through study, training, exchange of ideas and views, and other activities in support of the objectives of the United States Information and Educational Exchange Act of 1948, prior to repeal, effective Oct. 1, 1991, by Pub. L. 102–138, title II, §208(f), Oct. 28, 1991, 105 Stat. 694.

AMENDMENTS

1999—Subsec. (a). Pub. L. 106–29, §1(1), added subsec. (a) and struck out heading and text of former subsec. (a). Text read as follows: "This section may be cited as the 'North/South Center Act of 1991'."

Subsec. (c). Pub. L. 106–29, §1(2)(A), amended subsec. heading generally. Prior to amendment, heading read as follows: "North/South Center".

Pub. L. 106–29, §1(2)(B), substituted "which shall be known and designated as the Dante B. Fascell North-South Center," for "known as the North/South Center,".

Subsec. (d). Pub. L. 106–29, §1(3), substituted "Dante B. Fascell North-South Center" for "North/South Center".

CHANGE OF NAME

Pub. L. 106–29, §2, May 21, 1999, 113 Stat. 54, provided that:

"(a) CENTER.—Any reference in any other provision of law to the educational institution in Florida known as the North/South Center shall be deemed to be a reference to the 'Dante B. Fascell North-South Center'.

"(b) SHORT TITLE.—Any reference in any other provision of law to the North/South Center Act of 1991 shall be deemed to be a reference to the 'Dante B. Fascell North-South Center Act of 1991'."

TRANSFER OF FUNCTIONS

United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau) abolished and functions transferred to Secretary of State, see sections 6531 and 6532 of

this title.

[1] *So in original. Probably should be followed by a period.*

SUBCHAPTER IV—INTERNATIONAL UNIVERSITY

§2077. International University for the Americas

(a) Purpose

The purpose of this section is to promote economic integration and the consolidation and strengthening of democratic institutions in the Western Hemisphere, and to commemorate the 500th anniversary of the discovery of the Americas by Christopher Columbus through the establishment of an institution of higher education, which shall be known as the "International University for the Americas".

(b) Establishment

The Secretary of State, in consultation with other governments in the Western Hemisphere, shall determine the most appropriate location for the International University for the Americas. In making that determination, the Secretary shall ensure that—

(1) the location chosen is in the Americas and is easily accessible to all peoples in the region; and

(2) the relevant government—

(A) has demonstrated a commitment to economic integration and democratic values though [1] its policies and programs; and

(B) has expressed an interest in that location being chosen as a site and has agreed to contribute some amount of assistance, either in cash or kind, toward the costs of developing the institution.

(c) Faculty, students, and curriculum

In developing the bylaws of the International University for the Americas, the Secretary of State shall ensure that they contain provisions to ensure that faculty and students are drawn from all the nations in the Western Hemisphere, and that the curriculum is designed to develop expertise in fields that will promote the economic integration of the Americas and the consolidation of democracy throughout the Hemisphere.

(d) Annual report

The annual reports submitted pursuant to section 1738m of title 7 shall include a progress report on the selection of a site and design for the establishment of the International University for the Americas.

(e) Funding

Of the funds that are allocated for assistance for Latin America and the Caribbean under chapter 1 of part I of the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.] (relating to development assistance) and chapter 4 of part II of that Act [22 U.S.C. 2346 et seq.] (relating to the economic support fund), $500,000 may be made available to carry out the site location and design phase of the International University for the Americas.

(Pub. L. 102–549, title VI, §604, Oct. 28, 1992, 106 Stat. 3669; Pub. L. 110–246, title III, §3001(b)(1)(A), (2)(O), June 18, 2008, 122 Stat. 1820.)

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsec. (e), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended. Chapter 1 of part I and chapter 4 of part II of the Act are classified generally to part I (§2151

et seq.) of subchapter I and part IV (§2346 et seq.) of subchapter II, respectively, of chapter 32 of this title. For provisions deeming references to part I of subchapter I to include a reference to section 2293 of this title, see section 2293(d)(1) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

AMENDMENTS

2008—Subsec. (d). Pub. L. 110–246 made technical amendment to reference in original act which appears in text as reference to section 1738m of title 7.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–246 effective May 22, 2008, see section 4(b) of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

[1] *So in original. Probably should be "through".*

SUBCHAPTER V—INTERNATIONAL CENTER FOR MIDDLE EASTERN-WESTERN DIALOGUE

§2078. International Center for Middle Eastern-Western Dialogue Trust Fund

(a) Establishment

There is established in the Treasury of the United States a trust fund to be known as the International Center for Middle Eastern-Western Dialogue Trust Fund. The income from the fund shall be used for operations of the International Center for Middle Eastern-Western Dialogue to promote dialogue and scholarship in the Middle East. The fund may accept contributions and gifts from public and private sources.

(b) Duties of Secretary of State; investments

It shall be the duty of the Secretary of the Treasury to invest in full amounts made available to the fund. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. The interest on, and the proceeds from the sale or redemption of, any obligations held in the fund shall be credited to and form a part of the fund and shall remain available without fiscal year limitation.

(c) Authorization of appropriations

For each fiscal year, there is authorized to be appropriated from the fund for the operations of the International Center for Middle Eastern-Western Dialogue the total amount of the interest and earnings credited to the fund under subsection (b).

(d) Authorization of additional appropriations

There are authorized to be appropriated to the International Center for Middle Eastern-Western Dialogue Trust Fund, without fiscal year limitation, such sums as may be necessary to carry out the provisions of this section and to provide for the permanent endowment for the International Center for Middle Eastern-Western Dialogue established under this section.

(e) Ownership of Center location

The United States, through the Department of State, shall retain ownership of the Palazzo Corpi building in Istanbul, Turkey, and the Secretary of State shall be responsible for maintaining the International Center for Middle Eastern-Western Dialogue at such location.

(Pub. L. 108–199, div. B, title VI, §633, Jan. 23, 2004, 118 Stat. 100.)

CODIFICATION

Section is comprised of section 633 of div. B of Pub. L. 108–199. Subsec. (f) of section 633 of div. B of

Pub. L. 108–199 amended section 1321(a) of Title 31, Money and Finance.

CHAPTER 29A—INTER-AMERICAN CULTURAL AND TRADE CENTER

Sec.

2081. United States participation in Inter-American Cultural and Trade Center; purposes of Interama.
2082. Participation in Interama by States and foreign countries.
2083. Commissioner for Interama; procurement and appointment of personnel; powers and duties.
2084. Cooperation of other Federal departments, agencies, and instrumentalities.
2085. Authorization of appropriations.

§2081. United States participation in Inter-American Cultural and Trade Center; purposes of Interama

The President is authorized, through such department or agency in the executive branch of the Government as he may designate, to provide for United States participation in the Inter-American Cultural and Trade Center (hereinafter in this chapter referred to as "Interama"). In providing for United States participation, the President shall cooperate with the Inter-American Center Authority (an agency of the State of Florida). The purposes of Interama are—

(1) to provide a permanent international center which will serve as a meeting ground for the governments and industries of the Western Hemisphere and of other areas of the world;

(2) to facilitate broad and continuous exchanges of ideas, persons, and products through cultural, educational, and other exchanges; and

(3) by other appropriate means, to promote mutual understanding between the peoples of the Western Hemisphere and to strengthen the ties which unite the United States with other nations of the free world.

(Pub. L. 89–355, §1, Feb. 19, 1966, 80 Stat. 5.)

§2082. Participation in Interama by States and foreign countries

The President is authorized, by proclamation or in such other manner as he may deem proper, to invite the several States of the United States and foreign countries to take part in Interama, except that no Communist de facto government holding any people in subjugation shall be invited to participate.

(Pub. L. 89–355, §2(a), Feb. 19, 1966, 80 Stat. 6.)

REPORT TO CONGRESS BY MAY 15, 1966

Pub. L. 89–355, §2(b), Feb. 19, 1966, 80 Stat. 6, provided that the department or agency, designated by the President pursuant to section 2081 of this title, submit a report to the Senate Committees on Foreign Relations and Appropriations and the Speaker of the House, on the proposed nature, extent and cost of United States participation in Interama and of the extent of participation of foreign countries and private industries.

§2083. Commissioner for Interama; procurement and appointment of personnel; powers and duties

(a) There shall be in the designated department or agency a Commissioner for Interama who shall be appointed by the President. Subject to the direction of the head of the designated department or agency, the Commissioner for Interama shall perform such duties as the President may prescribe to carry out this chapter.

(b) In order to carry out the provisions of this chapter, the head of the designated department or agency is authorized—

(1) to appoint and fix the compensation of such persons as he deems necessary without regard to the civil service laws and chapter 51 and subchapter III of chapter 53 of title 5; except that no person so appointed shall receive compensation at a rate in excess of that received by persons under chapter 51 and subchapter III of chapter 53 of title 5 for the performance of comparable duties;

(2) to procure temporary and intermittent services in accordance with the provisions of section 3109 of title 5;

(3) to enter into contracts;

(4) to select, purchase, rent, construct, or otherwise acquire exhibits, including materials and equipment therefor, and to provide for the transportation, insurance, display, maintenance, and dismantling thereof;

(5) to incur such other expenses as may be necessary; and

(6) to accept donations of money, property, and services and the loan of property.

(Pub. L. 89–355, §3, Feb. 19, 1966, 80 Stat. 6; Pub. L. 90–83, §10(b), Sept. 11, 1967, 81 Stat. 224.)

CODIFICATION

In subsec. (b)(1), (2), "chapter 51 and subchapter III of chapter 53 of title 5" and "section 3109 of title 5" substituted for "the Classification Act of 1949" and "section 15 of the Administrative Expenses Act of 1946 (5 U.S.C. 55a)", respectively, on authority of Pub. L. 89–554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

AMENDMENTS

1967—Subsec. (a). Pub. L. 90–83 struck out provision that Commissioner of Interama receive compensation at a rate prescribed for level IV of the Federal Executive Salary Schedule.

§2084. Cooperation of other Federal departments, agencies, and instrumentalities

The head of each department, agency, or instrumentality of the Federal Government is authorized—

(1) to cooperate with the head of the designated department or agency with respect to determining the manner in which and the extent to which the United States shall be a participant in and an exhibitor at Interama; and

(2) to make available to the head of the designated department or agency, on a reimbursable basis, such personnel as may be necessary to assist him in carrying out his functions under this chapter.

(Pub. L. 89–355, §4, Feb. 19, 1966, 80 Stat. 6.)

§2085. Authorization of appropriations

(a) There is authorized to be appropriated not to exceed $7,500,000 to provide for United States participation in Interama under this chapter, of which not to exceed $250,000 shall be available for expenditure in connection with the preparation of the report required to be submitted to the Congress under section 2(b) of this Act. Sums appropriated under this subsection shall remain available until expended.

(b) In addition to the amount authorized in subsection (a), there is authorized to be appropriated not to exceed $1,000,000 annually for each of the fiscal years 1968 and 1969 for the maintenance of United States installations and activities at Interama.

(Pub. L. 89–355, §5, Feb. 19, 1966, 80 Stat. 7.)

REFERENCES IN TEXT

Section 2(b) of this Act, referred to in subsec. (a), means section 2(b) of Pub. L. 89–355, which was set out as a note under section 2082 of this title.

CHAPTER 30—INTERNATIONAL COOPERATION IN HEALTH AND MEDICAL RESEARCH

Sec.

2101. Statement of purpose.
2102. Authority of Secretary.
2103. Authority of President.
2104. Authority of Federal officers and agencies unaffected.

§2101. Statement of purpose

It is the purpose of this chapter—

(1) to advance the status of the health sciences in the United States and thereby the health of the American people through cooperative endeavors with other countries in health research, and research training; and

(2) to advance the international status of the health sciences through cooperative enterprises in health research, research planning, and research training.

(Pub. L. 86–610, §2, July 12, 1960, 74 Stat. 364.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this joint resolution", which enacted this chapter and section 308 of the Public Health Service Act (act July 1, 1944, ch. 373, 58 Stat. 682). Such section 308 was redesignated section 307 by Pub. L. 93–353, July 23, 1974, title I, §106, 88 Stat. 367, and is classified to section 242l of Title 42, The Public Health and Welfare.

RECITAL

Pub. L. 86–610 provided that:

"Whereas it is recognized that disease and disability are the common enemies of all nations and peoples, and that the means, methods, and techniques for combating and abating the ravages of disease and disability and for improving the health and health standards of man should be sought and shared, without regard to national boundaries and divisions; and

"Whereas advances in combating and abating disease and in the positive promotion of human health can be stimulated by supporting and encouraging cooperation among scientists, research workers, and teachers on an international basis, with consequent benefit to the health of our people and of all peoples; and

"Whereas there already exist tested means for international cooperation in matters relating to health, including the World Health Organization, the Pan American Health Organization, and the United Nations Children's Fund (UNICEF), with which the United States is identified and associated, and it is highly desirable that the United States establish domestic machinery for the maximum mobilization of its health research resources, the more efficiently to cooperate with and support the research, research-training and research-planning endeavors of such international organizations: Therefore be it * * *".

SHORT TITLE

Pub. L. 86–610, §1, July 12, 1960, 74 Stat. 364, provided that: "This joint resolution [enacting this chapter and section 242l of Title 42, The Public Health and Welfare] may be cited as the 'International Health Research Act of 1960'."

SWINE INFLUENZA STUDY

Pub. L. 94–302, title III, §301, May 31, 1976, 90 Stat. 596, provided that:

"(a) The Congress finds and declares that—

"(1) the problems posed by swine influenza transcend national and political boundaries;

"(2) no one country, or even one portion of the world, can singularly undertake the search for a worldwide solution to the problems posed by swine influenza;

"(3) the global nature of swine influenza demands international cooperation and coordination in the

investigation and planning for effective control of swine influenza;

"(4) the Public Health Service of the United States has invited the World Health Organization of the United Nations and its International Influenza Reference Centers to participate in the investigation and planning for the control of swine influenza;

"(5) special collaboration has already been established among the United States, the United Kingdom, and Canada for mutual participation in the investigation and planning for the control of swine influenza;

"(6) the United States Department of State and the Public Health Service of the United States have joint programs to provide information to foreign countries on the nature and extent of swine influenza and the methods necessary to control it; and

"(7) the technology of the United States for the surveillance of virus disease and vaccine production should be made available to foreign countries.

"(b) It is the sense of the Congress that the President should furnish assistance to foreign countries and international organizations for the investigation and planning for the control of swine influenza."

EX. ORD. NO. 13193. FEDERAL LEADERSHIP ON GLOBAL TOBACCO CONTROL AND PREVENTION

Ex. Ord. No. 13193, Jan. 18, 2001, 66 F.R. 7387, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

SECTION 1. *Policy*. It shall be the policy of the executive branch to take strong action to address the potential global epidemic of diseases caused by tobacco use. The executive branch shall undertake activities to increase its capacity to address global tobacco prevention and control issues through coordinated domestic action, limited bilateral assistance to individual nations, and support to multilateral organizations. International activities shall be directed towards deterring children from tobacco use, protecting nonsmokers, and providing information about the adverse health effects of tobacco use and the health benefits of cessation.

SEC. 2. *Responsibilities of Federal Departments and Agencies*. (a) Tobacco Trade Policy. In the implementation of international trade policy, executive departments and agencies shall not promote the sale or export of tobacco or tobacco products, or seek the reduction or removal of foreign government restrictions on the marketing and advertising of such products, provided that such restrictions are applied equally to all tobacco or tobacco products of the same type. Departments and agencies are not precluded from taking necessary actions in accordance with the requirements and remedies available under applicable United States trade laws and international agreements to ensure nondiscriminatory treatment of United States products. Nothing in this Executive Order shall be construed (1) to modify the annual executive branch guidance to United States diplomatic posts on health, trade, and commercial aspects of tobacco, or (2) to affect any negotiating position of the United States on the Framework Convention on Tobacco Control.

(b) The Department of Health and Human Services' (HHS) Role in Tobacco Trade Policy Deliberations. The HHS shall be included in all deliberations of interagency working groups, chaired by the United States Trade Representative (USTR), that address issues relating to trade in tobacco and tobacco products. Through such participation, HHS shall advise the USTR, and other interested Federal agencies, of the potential public health impact of any tobacco-related trade action that is under consideration. Upon conclusion of a trade agreement that includes provisions specifically addressing tobacco or tobacco products, the USTR shall produce and make publicly available a summary describing those provisions.

(c) International Tobacco Control Needs Assessment. The HHS, with the cooperation of the Departments of State, Commerce, and Agriculture, and in consultation with the appropriate national Ministry of Health, shall conduct a pilot assessment of tobacco use in a country other than the United States. Such assessment will be carried out through a compilation and review of surveys and other needs assessments already available and include:

(1) initial estimates of the burden of disease and other public health consequences of tobacco use;

(2) the status of tobacco control regulatory measures in place to curtail tobacco consumption and tobacco related disease; and

(3) an analysis of the marketing, distribution, and manufacturing practices of tobacco companies in given regions, and the impact of those practices on smoking rates, particularly among women and children. Such assessment shall be prepared and provided to interested agencies and other parties not later than December 31, 2001, and be updated as practicable.

(d) Research and Training in Tobacco Control. The HHS will develop a research and training program linking institutions in the United States and certain other countries in the field of tobacco control. Emphasis

will be placed on the collection of standardized and comparable surveillance data; networks for communication, information and best practices; and the development and evaluation of culturally-targeted approaches to preventing tobacco use and increasing quit rates, especially among women and children.

SEC. 3. *General*. (a) Executive departments and agencies shall carry out the provisions of this order to the extent permitted by law and consistent with their statutory and regulatory authorities and their enforcement mechanisms.

(b) This order clarifies and strengthens Administration policy and does not create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its officers or employees, or any other person.

WILLIAM J. CLINTON.

§2102. Authority of Secretary

(a) Use of health research and research training resources

To carry out the purposes of clause (1) of section 2101 of this title, the Secretary of Health, Education, and Welfare (hereafter referred to as the "Secretary") may in the exercise of his responsibilities under the Vocational Rehabilitation Act, sections 191 to 194 of title 42, and any other provision of law, to conduct and support health research and research training, including research and research training relating to the rehabilitation of the handicapped, make such use of health research and research training resources in participating foreign countries as he may deem necessary and desirable.

(b) Fellowships; equipment, meetings and conferences; interchange of scientists and experts; consultants; compensation and travel expenses

To carry out his responsibilities under this section the Secretary may—

(1) establish and maintain fellowships in the United States and in participating foreign countries;

(2) make grants to public institutions or agencies and to nonprofit private institutions or agencies in the United States and in participating foreign countries for the purpose of establishing and maintaining fellowships;

(3) make grants or loans of equipment, medical, biological, physical, or chemical substances or other materials, for use by public institutions or agencies, or nonprofit private institutions or agencies, or by individuals, in participating foreign countries;

(4) participate and otherwise cooperate in any international health or medical research or research training meetings, conferences, or other activities;

(5) facilitate the interchange between the United States and participating foreign countries, and among participating foreign countries, of research scientists and experts who are engaged in experiments and programs of research or research training, and in carrying out such purpose may pay per diem compensation, subsistence, and travel for such scientists and experts when away from their places of residence at rates not to exceed those provided in section 5703 of title 5 for persons in the Government service intermittently employed; and

(6) procure, in accordance with the provisions of section 3109 of title 5, the temporary or intermittent services of experts or consultants; individuals so employed shall receive compensation at a rate to be fixed by the Secretary, but not in excess of $50 per diem, including travel time, and while away from their homes or regular places of business may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 for persons in the Government service employed intermittently.

(c) Definitions

For the purposes of this section—

(1) The term "health research" shall include, but not be limited to, research, investigations, and studies relating to causes and methods of prevention of accidents, including but not limited to highway and aviation accidents.

(2) The term "participating foreign countries" means those foreign countries which cooperate

with the United States in carrying out the purposes of this section.

(Pub. L. 86–610, §4, July 12, 1960, 74 Stat. 365.)

REFERENCES IN TEXT

The Vocational Rehabilitation Act, referred to in subsec. (a), is act June 2, 1920, ch. 219, 41 Stat. 735, as amended, which was classified generally to chapter 4 (§31 et seq.) of Title 29, Labor, and was repealed by §500(a) of the Rehabilitation Act of 1973, Pub. L. 93–112, title V, Sept. 26, 1973, 87 Stat. 355. The Rehabilitation Act of 1973 is classified generally to chapter 16 (§701 et seq.) of Title 29. Section 500(a), classified to section 790 of Title 29, in part provided that references to the Vocational Rehabilitation Act in any other provision of law be deemed reference to the Rehabilitation Act of 1973.

CODIFICATION

In subsec. (b)(5), (6), "section 5703 of title 5" and "section 3109 of title 5" substituted for "section 5 of the Administrative Expenses Act of 1946 (5 U.S.C. 73b–2)" and "section 15 of the Administrative Expenses Act of 1946 (5 U.S.C. 55a)" respectively, on authority of Pub. L. 89–554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

TRANSFER OF FUNCTIONS

For transfer of functions and offices relating to the Rehabilitation Act of 1973 [see References in Text note above] of Secretary and Department of Health, Education, and Welfare to Secretary and Department of Education and redesignation of Secretary of Health, Education, and Welfare as Secretary of Health and Human Services, see sections 3441 and 3508 of Title 20, Education.

§2103. Authority of President

(a) Use of foreign currencies and credits

It is the sense of Congress that the President should use his authority under the Constitution and laws of the United States to accomplish the purposes of section 2101 of this title and in accomplishing such purposes (1) use to the fullest extent practicable foreign currencies or credits available for utilization by the United States, (2) enter into agreements to use foreign currencies and credits available to other nations for use with the agreement of the United States, and (3) use any other foreign currencies and credits which may be made available by participating foreign countries.

(b) Disease and health deficiency investigations, experiments, and studies; rehabilitation

To carry out the purposes of section 2101 of this title the President, in cooperation with participating foreign countries, is authorized to encourage, support, and promote the planning and conduct of, and training for, research investigations, experiments, and studies in the United States and in participating foreign countries relating to the causes, diagnosis, treatment, control, and prevention of diseases and impairments of mankind (including nutritional and other health deficiencies) or to the rehabilitation of the handicapped.

(c) Fellowships; equipment; technical assistance; interchange of scientists and experts; compensation and travel expenses; health science programs and projects; meetings and conferences; scientific publications

To carry out his responsibilities under this chapter the President may—

(1) establish and maintain fellowships in participating foreign countries;

(2) make financial grants to establish and maintain fellowships, and for other purposes, to public institutions and agencies and to nonprofit private institutions and agencies, and to individuals in participating foreign countries, or contract with such institutions, agencies, or individuals without regard to section 3324(a) and (b) of title 31 and section 6101 of title 41;

(3) make grants or loans of equipment, medical, biological, physical, or chemical substances or other materials, for use by such institutions, agencies, or individuals;

(4) furnish technical assistance and advice to such institutions or agencies and in carrying out such purposes may pay the compensation and expenses of scientists and experts from the United States and other participating foreign countries;

(5) facilitate the interchange among participating foreign countries of scientists and experts (including the payment of travel and subsistence for such scientists and experts when away from their places of residence);

(6) cooperate and assist in the planning and conduct of research, research planning, and research training programs and projects by groups engaged in, or concerned with, research or research training endeavors in the health sciences, and, through financial grants or other appropriate means, assist in special research, research planning, or research training projects conducted by or under the auspices of such groups where they can effectively carry out such activities contemplated by this joint resolution;

(7) encourage and support international communication in the sciences relating to health by means of calling or cooperating in the convening, and financing or contributing to the financing of the expenses of, international scientific meetings and conferences; and provide, or arrange for the provision of, translating and other services, and issue or finance publications, leading to a more effective dissemination of relevant scientific information with respect to research conducted in the United States or participating foreign countries.

(d) Programs of an operational nature excepted from assistance

The activities authorized in this section shall not extend to the support of public health, medical care, or other programs of an operational nature as contrasted with research and research training nor shall any of the grants authorized by this section include grants for the improvement or extension of public health administration in other countries except for necessary research and research training in the science of public health and public health administration.

(e) Consultants; advisory committees; compensation and travel expenses

The President is authorized, to the extent he deems it necessary to carry out the purposes of section 2101 of this title, to employ experts and consultants or organizations thereof, as authorized by section 3109 of title 5 and create a committee or committees to be composed entirely of persons who are citizens of the United States to advise him in the administration of this chapter, individuals so employed and members of committees shall be entitled to receive compensation at a rate to be fixed by the President, but not to exceed $50 per diem, including travel time, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 for persons in the Government service employed intermittently.

(f) Delegation of authority; regulations

The President may delegate any authority vested in him by this section to the Secretary of Health, Education, and Welfare. The Secretary may from time to time issue such regulations as may be necessary to carry out any authority which is delegated to him under this section, and may delegate performance of any such authority to the Surgeon General of the Public Health Service, the Director of the Office of Vocational Rehabilitation, the Chief of the Children's Bureau, or other subordinates acting under his direction.

(g) Use of foreign currencies and credits

In order to carry out the purposes of section 2101 of this title, and subject to section 1306 of title 31, the President may use or enter into agreements with foreign nations or organizations of nations to use the foreign currencies which accrue under title I of the Food for Peace Act [7 U.S.C. 1701 et seq.], and the Mutual Security Act of 1954, or which are otherwise available for utilization by the United States. The President is authorized to agree to the utilization by foreign nations, for programs designed to carry out the purposes of section 2101 of this title in cooperation with the United States, of amounts deposited in special accounts pursuant to section 142(b) [1] of the Mutual Security Act of 1954, to the extent that the amounts in such accounts exceed the requirements of other programs covered by such section 142(b). Such utilization of amounts in special accounts shall be without regard to the second proviso in clause (iii) of such section 142(b).

(h) Repealed. Pub. L. 105–362, title VI, §601(a)(2)(F), Nov. 10, 1998, 112 Stat. 3286

(i) Definitions

For the purposes of this section—

(1) the term "health research" shall include, but not be limited to, research, investigations, and studies relating to causes and methods of prevention of accidents, including but not limited to highway and aviation accidents.

(2) the term "participating foreign countries" means those foreign countries which cooperate with the United States in carrying out the purposes of this section.

(Pub. L. 86–610, §5, July 12, 1960, 74 Stat. 366; Pub. L. 105–362, title VI, §601(a)(2)(F), Nov. 10, 1998, 112 Stat. 3286; Pub. L. 110–246, title III, §3001(b)(1)(A), (2)(P), June 18, 2008, 122 Stat. 1820.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (c) and (e), was in the original "this joint resolution", which enacted this chapter and section 308 of the Public Health Service Act (act July 1, 1944, ch. 373, 58 Stat. 682). Such section 308 was redesignated section 307 by Pub. L. 93–353, July 23, 1974, title I, §106, 88 Stat. 367, and is classified to section 242l of Title 42, The Public Health and Welfare.

The Food for Peace Act, referred to in subsec. (g), is act July 10, 1954, ch. 469, 68 Stat. 454, which is classified generally to chapter 41 (§1691 et seq.) of Title 7, Agriculture. Title I of the Act is classified to subchapter II (§1701 et seq.) of chapter 41 of Title 7. For complete classification of this Act to the Code, see Short Title note set out under section 1691 of Title 7 and Tables.

The Mutual Security Act of 1954, referred to in subsec. (g), is act Aug. 26, 1954, ch. 937, 68 Stat. 832, as amended by acts July 8, 1955, ch. 301, 69 Stat. 283; July 18, 1956, ch. 627, §§2 to 11, 70 Stat. 555; Aug. 14, 1957, Pub. L. 85–141, 71 Stat. 355; June 30, 1958, Pub. L. 85–477, ch. 1, §§101 to 103, ch. II, §§201 to 205, ch. III, §301, ch. IV, §401, ch. V, §501, 72 Stat. 261; July 24, 1959, Pub. L. 86–108, §2, ch. 1, §101, ch. II, §§201 to 205(a) to (i), (k) to (n), ch. III, §301, ch. IV, §401(a) to (k), (m), 73 Stat. 246; May 14, 1960, Pub. L. 86–472, ch. I to V, 74 Stat. 134, which was principally classified to chapter 24 (§1750 et seq.) of this title and which was repealed by act July 18, 1956, ch. 627, §8(m), 70 Stat. 559, Pub. L. 85–141, §§2(e), 3, 4(b), 11(d), Aug. 14, 1957, 71 Stat. 356, Pub. L. 86–108, ch. II, §§205(j), ch. IV, 401(1), July 24, 1959, 73 Stat. 250, Pub. L. 86–472, ch. II, §§203(d), 204(k), May 14, 1960, 74 Stat. 138, Pub. L. 87–195, pt. III, §642(a)(2), Sept. 4, 1961, 75 Stat. 460, Pub. L. 94–329, title II, §212(b)(1), June 30, 1976, 90 Stat. 745, Pub. L. 104–127, title II, §228, Apr. 4, 1996, 110 Stat. 963, except for sections 1754, 1783, 1796, 1853, 1928, and 1937 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1754 of this title and Tables.

Section 142(b) of the Mutual Security Act of 1954, referred to in subsec. (g), was classified to section 1852 of this title, and was repealed by Pub. L. 87–195, pt. III, §642(a)(2), Sept. 4, 1961, 75 Stat. 460.

CODIFICATION

In subsec. (c)(2), "section 3324(a) and (b) of title 31 and section 6101 of title 41" substituted for "sections 3648 and 3709 of the Revised Statutes of the United States" on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, which Act enacted Title 31, Money and Finance, and Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

In subsec. (e), "section 3109 of title 5" and "section 5703 of title 5" substituted for "section 15 of the Administrative Expenses Act of 1946 (5 U.S.C. 55a)" and "section 5 of the Administrative Expenses Act of 1946 (5 U.S.C. 73b–2)", respectively, on authority of Pub. L. 89–554, §7(b), Sept. 6, 1966, 80 Stat. 631, which Act enacted Title 5, Government Organization and Employees.

In subsec. (g), "section 1306 of title 31" substituted for "section 1415 of the Supplemental Appropriation Act, 1953" on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, which Act enacted Title 31, Money and Finance.

AMENDMENTS

2008—Subsec. (g). Pub. L. 110–246 substituted "Food for Peace Act" for "Agricultural Trade Development and Assistance Act of 1954".

1998—Subsec. (h). Pub. L. 105–362 struck out subsec. (h) which read as follows: "The President shall transmit to the Congress at the beginning of each regular session, a report summarizing activities under this section and making such recommendations as he may deem appropriate."

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–246 effective May 22, 2008, see section 4(b) of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

TRANSFER OF FUNCTIONS

Office of Vocational Rehabilitation redesignated Vocational Rehabilitation Administration which by Department of Health, Education, and Welfare reorganization became Rehabilitation Services Administration. The Rehabilitation Act of 1973 (29 U.S.C. §701 et seq.) established Rehabilitation Services Administration in Office of Secretary of Health, Education, and Welfare. Functions and offices of Secretary and Department of Health, Education, and Welfare relating to Rehabilitation Act of 1973 transferred to Secretary and Department of Education by section 3441 of Title 20, Education. The Secretary and Department of Health, Education, and Welfare redesignated Secretary and Department of Health and Human Services by section 3508(b) of Title 20, Education.

[1] *See References in Text note below.*

§2104. Authority of Federal officers and agencies unaffected

Nothing in this chapter shall be construed to repeal or restrict authority vested in the President, the Secretary of State, the Secretary of Health, Education, and Welfare, the Surgeon General of the Public Health Service, or any other officer or agency of the United States by any other provision of law.

(Pub. L. 86–610, §6, July 12, 1960, 74 Stat. 369.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this joint resolution", which enacted this chapter and section 308 of the Public Health Service Act (act July 1, 1944, ch. 373, 58 Stat. 682). Such section 308 was redesignated section 307 by Pub. L. 93–353, July 23, 1974, title I, §106, 88 Stat. 367, and is classified to section 242l of Title 42, The Public Health and Welfare.

TRANSFER OF FUNCTIONS

See Transfer of Functions notes set out under sections 2102 and 2103 of this title.

CHAPTER 31—INTERNATIONAL TRAVEL

SUBCHAPTER I—NATIONAL TOURISM POLICY

Sec.
2121. Congressional findings; establishment of policy.

SUBCHAPTER II—DUTIES

2122. Powers and duties of Secretary of Commerce.
2123. Office of Travel Promotion.
2123a. Research program.
2123b to 2123d. Repealed.

SUBCHAPTER III—ADMINISTRATION

2124. Tourism Policy Council.
2124a, 2124b. Repealed.
2124c. Rural Tourism Development Foundation.
2125 to 2129. Transferred or Repealed.

SUBCHAPTER IV—CORPORATION FOR TRAVEL PROMOTION

2131. Travel Promotion Act of 2009.

SUBCHAPTER I—NATIONAL TOURISM POLICY

§2121. Congressional findings; establishment of policy

(a) The Congress finds that—

(1) the tourism and recreation industries are important to the United States, not only because of the numbers of people they serve and the vast human, financial, and physical resources they employ, but because of the great benefits tourism, recreation, and related activities confer on individuals and on society as a whole;

(2) the Federal Government for many years has encouraged tourism and recreation implicitly in its statutory commitments to the shorter workyear and to the national passenger transportation system, and explicitly in a number of legislative enactments to promote tourism and support development of outdoor recreation, cultural attractions, and historic and natural heritage resources;

(3) as incomes and leisure time continue to increase, and as our economic and political systems develop more complex global relationships, tourism and recreation will become ever more important aspects of our daily lives; and

(4) the existing extensive Federal Government involvement in tourism, recreation, and other related activities needs to be better coordinated to effectively respond to the national interest in tourism and recreation and, where appropriate, to meet the needs of State and local governments and the private sector.

(b) There is established a national tourism policy to—

(1) optimize the contributions of the tourism and recreation industries to the position of the United States with respect to international competitiveness, economic prosperity, full employment, and the balance of payments;

(2) increase United States export earnings from United States tourism and transportation services traded internationally;

(3) ensure the orderly growth and development of tourism;

(4) coordinate and encourage the development of the tourism industry in rural communities which—

(A) have been severely affected by the decline of agriculture, family farming, or the extraction or manufacturing industries, or by the closing of military bases; and

(B) have the potential necessary to support and sustain an economy based on tourism;

(5) promote increased and more effective investment in international tourism by the States, local governments, and cooperative tourism marketing programs;

(6) make the opportunity for and benefits of tourism and recreation in the United States universally accessible to residents of the United States and foreign countries and insure that present and future generations are afforded adequate tourism and recreation resources;

(7) contribute to personal growth, health, education, and intercultural appreciation of the geography, history, and ethnicity of the United States;

(8) encourage the free and welcome entry of individuals traveling to the United States, in order to enhance international understanding and goodwill, consistent with immigration laws, the laws protecting the public health, and laws governing the importation of goods into the United States;

(9) eliminate unnecessary trade barriers to the United States tourism industry operating throughout the world;

(10) encourage competition in the tourism industry and maximum consumer choice through the continued viability of the retail travel agent industry and the independent tour operator industry;

(11) promote the continued development and availability of alternative personal payment mechanisms which facilitate national and international travel;

(12) promote quality, integrity, and reliability in all tourism and tourism-related services offered to visitors to the United States;

(13) preserve the historical and cultural foundations of the Nation as a living part of community

life and development, and insure future generations an opportunity to appreciate and enjoy the rich heritage of the Nation;

(14) insure the compatibility of tourism and recreation with other national interests in energy development and conservation, environmental protection, and the judicious use of natural resources;

(15) assist in the collection, analysis, and dissemination of data which accurately measure the economic and social impact of tourism to and within the United States, in order to facilitate planning in the public and private sectors; and

(16) harmonize, to the maximum extent possible, all Federal activities in support of tourism and recreation with the needs of the general public and the States, territories, local governments, and the tourism and recreation industry, and to give leadership to all concerned with tourism, recreation, and national heritage preservation in the United States.

(Pub. L. 87–63, title I, §101, formerly §1, June 29, 1961, 75 Stat. 129; renumbered and amended Pub. L. 97–63, §2(a), Oct. 16, 1981, 95 Stat. 1011; Pub. L. 102–372, §5, Sept. 30, 1992, 106 Stat. 1175.)

AMENDMENTS

1992—Subsec. (b)(1). Pub. L. 102–372, §5(1), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "optimize the contribution of the tourism and recreation industries to economic prosperity, full employment, and the international balance of payments of the United States;".

Subsec. (b)(2) to (16). Pub. L. 102–372, §5(2), (3), added pars. (2) to (5) and redesignated former pars. (2) to (12) as (6) to (16), respectively.

1981—Pub. L. 97–63 substituted provisions setting out a detailed 4-point recital of Congressional findings and establishing a 12-point national tourism policy for provisions setting out the former declaration of purpose of this chapter which was to strengthen the domestic and foreign commerce of the United States, and promote friendly understanding and appreciation of the United States by encouraging foreign residents to visit the United States and by facilitating international travel generally.

EFFECTIVE DATE OF 1981 AMENDMENT

Pub. L. 97–63, §6, Oct. 16, 1981, 95 Stat. 1018, provided that: "The amendments made by this Act [see Short Title of 1981 Amendment note below] shall take effect October 1, 1981."

SHORT TITLE OF 2014 AMENDMENT

Pub. L. 113–235, div. B, title VI, §601, Dec. 16, 2014, 128 Stat. 2218, provided that: "This title [amending sections 2123, 2123a, and 2131 of this title and section 1187 of Title 8, Aliens and Nationality] may be cited as the 'Travel Promotion, Enhancement, and Modernization Act of 2014'."

SHORT TITLE OF 1996 AMENDMENT

Pub. L. 104–288, §1, Oct. 11, 1996, 110 Stat. 3402, provided that: "This Act [enacting sections 2124 and 2141 to 2141f of this title, amending sections 2122 and 2124c of this title and section 4727 of Title 15, Commerce and Trade, and repealing sections 2123 to 2123d, 2124 to 2124b, and 2126 to 2129 of this title] may be cited as the 'United States National Tourism Organization Act of 1996'."

SHORT TITLE OF 1992 AMENDMENT

Pub. L. 102–372, §1(a), Sept. 30, 1992, 106 Stat. 1170, provided that: "This Act [enacting sections 2123a to 2123d and 2124c of this title, amending this section and sections 2122, 2123, 2124 to 2124b, and 2126 of this title, repealing sections 2123a and 2123b of this title, and enacting provisions set out as notes under this section and sections 2122 and 2124 of this title] may be cited as the 'Tourism Policy and Export Promotion Act of 1992'."

SHORT TITLE OF 1981 AMENDMENT

Pub. L. 97–63, §1, Oct. 16, 1981, 95 Stat. 1011, provided that: "This Act [enacting sections 2123b, 2124a, and 2124b of this title, amending this section and sections 2122, 2123, 2123a, 2124, and 2126 of this title, repealing section 2128 of this title, and enacting, amending, and repealing provisions set out as notes under this section] may be cited as the 'National Tourism Policy Act'."

SHORT TITLE

Pub. L. 87–63, §1, June 29, 1961, 75 Stat. 129, as amended by Pub. L. 97–63, §2(a), Oct. 16, 1981, 95 Stat.

1011, provided: "That this Act [enacting this chapter] may be cited as the 'International Travel Act of 1961'."

Pub. L. 87–63, §8, formerly §7, June 29, 1961, 75 Stat. 130, as renumbered Pub. L. 91–477, §5, Oct. 21, 1970, 84 Stat. 1072, which had formerly authorized the citation of Pub. L. 87–63 as the "International Travel Act of 1961", was repealed by Pub. L. 97–63, §5(b), Oct. 16, 1981, 95 Stat. 1018.

TOURISM POLICY AND EXPORT PROMOTION; CONGRESSIONAL STATEMENT OF FINDINGS

Pub. L. 102–372, §2, Sept. 30, 1992, 106 Stat. 1170, provided that: "The Congress finds that—

"(1) the travel and tourism industry is the second largest retail or service industry in the United States;

"(2) travel and tourism receipts make up over 6.7 percent of the United States gross national product;

"(3) in 1991, the travel and tourism industry generated about six million jobs directly and about two million five hundred thousand indirectly;

"(4) travel and tourism expenditures in 1991 were approximately $352,000,000,000;

"(5) forty-two million international visitors spent approximately $64,700,000,000 in the United States in 1991;

"(6) travel and tourism services ranked as the largest United States business services export in 1991, providing a United States travel trade balance of $16,800,000,000;

"(7) many local communities with significant tourism potential are unable to realize the economic and employment opportunities that tourism provides because they lack the necessary local resources and expertise needed to induce tourism trade;

"(8) increased efforts directed at the promotion of rural tourism will contribute to the economic development of rural America and further the conservation and promotion of natural, scenic, historic, scientific, educational, inspirational, and recreational resources for future generations of Americans and foreign visitors;

"(9) foreign tourists entering the United States are frequently faced with unnecessary delays at the United States border;

"(10) advanced technologies, industrial targeting, the industrialization of the Third World, and the flight of some United States manufacturing capacity to overseas locations have affected the international competitiveness of the United States;

"(11) exporting those goods and services which United States industry can produce at a comparative cost advantage, such as travel and tourism services, will be in the Nation's long-term strategic interest; and

"(12) the emergence of democratic governments in the formerly Communist nations of Eastern Europe and in the former Soviet Union provide new opportunities for United States firms engaged in both the inbound and outbound tourism markets."

NATIONAL TOURISM RESOURCES REVIEW COMMISSION

Pub. L. 91–477, §6, Oct. 21, 1970, 84 Stat. 1073, provided that:

"(a) [*Establishment; membership*]. There is established a commission to be known as the National Tourism Resources Review Commission (hereafter in this section referred to as the 'Commission') composed of fifteen members as follows:

"(1) One representative of the Department of Commerce designated by the Secretary of Commerce.

"(2) One representative of the Department of the Interior designated by the Secretary of the Interior.

"(3) One representative of the Department of State designated by the Secretary of State.

"(4) One representative of the Department of Transportation designated by the Secretary of Transportation.

"(5) Eleven individuals appointed by the President from private life who are informed about and concerned with the improvement, development, and promotion of United States tourism resources and opportunities or who are otherwise experienced in tourism research, promotion, or planning. The President shall designate one of the individuals appointed by him to serve as Chairman of the Commission.

"(b) [*Study and investigation; report to President and Congress; recommendations; termination*]. The Commission shall make a full and complete study and investigation for the purpose of—

"(1) determining the domestic travel needs of the people of the United States and of visitors from other countries at the present time and to the year 1980;

"(2) determining the travel resources of the United States available to satisfy such needs now and to the year 1980;

"(3) determining policies and programs which will insure that the domestic travel needs of the present and the future are adequately and efficiently met;

"(4) determining a recommended program of Federal assistance to the States in promoting domestic travel; and

"(5) determining whether a separate agency of the Government should be established, or whether an

existing department, agency, or instrumentality within the Government should be designated, to consolidate and coordinate tourism research, planning, and development activities presently performed by different existing agencies of the Government.

The Commission shall submit a comprehensive report of its activities and the results of such study and investigation, together with its recommendations with respect thereto, to the President and to the Congress not later than two years after the first meeting of the Commission. The Commission shall cease to exist sixty days after the date of the submission of its comprehensive report. The comprehensive report of the Commission shall propose such legislative enactments and administrative actions as in its judgment are necessary to carry out its recommendations.

"(c) [*Secretarial, clerical, and other assistance by Secretary of Commerce; information and assistance by Governmental departments and agencies*]. The Secretary of Commerce shall make available to the Commission such secretarial, clerical, and other assistance as the Commission may require to carry out its functions under this section. The Commission is authorized to request from any department, agency, or independent instrumentality of the Government any information and assistance it deems necessary to carry out its functions under this section; and each such department, agency, and instrumentality is authorized to cooperate with the Commission and, to the extent permitted by law, to furnish such information and assistance to the Commission upon request made by its Chairman.

"(d) [*Powers of Commission*]. In order to carry out the provisions of this section, the Commission is authorized—

"(1) to make, promulgate, issue, rescind, and amend rules and regulations governing the manner of the operations of the Commission;

"(2) to appoint and fix the compensation of such officers and employees as are necessary to carry out the provisions of this section and to prescribe their authority and duties; and

"(3) to obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code.

"(e) [*Compensation and travel expenses*]. (1) Members of the Commission from private life, while engaged in the performance of their duties as members of the Commission, shall receive compensation at a rate to be fixed by the President, not to exceed $100 each day, including traveltime, and shall, while so serving away from their homes or regular places of business, be entitled to travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(2) Members of the Commission who are officers or employees of the United States shall serve without additional compensation, but shall be entitled to travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(f) [*Authorization of appropriations*]. There are authorized to be appropriated such sums, not to exceed $750,000, as may be necessary to carry out the provisions of this section."

EX. ORD. NO. 13597. ESTABLISHING VISA AND FOREIGN VISITOR PROCESSING GOALS AND THE TASK FORCE ON TRAVEL AND COMPETITIVENESS

Ex. Ord. No. 13597, Jan. 19, 2012, 77 F.R. 3373, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and to improve visa and foreign visitor processing and travel promotion in order to create jobs and spur economic growth in the United States, while continuing to protect our national security, it is hereby ordered as follows:

SECTION 1. *Policy*. The travel and tourism industry is one of our Nation's leading service sectors and sources of exports. However, the U.S. market share of spending by international travelers fell from 17 percent to 11 percent of the global market from 2000 to 2010, more than a 30 percent decrease in our share of the global market. This decrease was due primarily to increased international competition, changing patterns in global development, and, to some degree, more stringent security requirements imposed after 2001. Given the importance of the travel and tourism industry to the U.S. economy and job creation, a coordinated policy, consistent with protecting our national security, is needed to support a prosperous and secure travel and tourism industry in the United States.

Steady progress has been made since 2010, when my Administration launched the National Export Initiative and the Travel Promotion Act was signed into law. While our processes for moving people and goods across our borders are now both more secure and more efficient, new initiatives are needed to enable us to better capitalize on the economic opportunities presented by a dynamic 21st century travel and tourism industry.

SEC. 2. *Visa and Foreign Visitor Processing*. (a) The Assistant to the President for Homeland Security and Counterterrorism shall, consistent with Presidential Policy Directive 1 or any successor documents and in coordination with the Assistant to the President and Cabinet Secretary, maintain an interagency process for coordinating the implementation of regulatory improvements and the evaluation of legislative proposals to enhance and expedite travel to and arrival in the United States by foreign nationals, consistent with national security requirements.

(b) The Secretaries of State and Homeland Security, in consultation with the Assistant to the President for Homeland Security and Counterterrorism, the Director of the Office of Management and Budget, and the heads of such agencies as appropriate, shall develop an implementation plan, within 60 days of the date of this order, describing actions to be undertaken, including those that build upon efforts underway, to achieve the following:

(i) increase nonimmigrant visa processing capacity in China and Brazil by 40 percent over the coming year;

(ii) ensure that 80 percent of nonimmigrant visa applicants are interviewed within 3 weeks of receipt of application, recognizing that resource and security considerations and the need to ensure provision of consular services to U.S. citizens may dictate specific exceptions;

(iii) increase efforts to expand the Visa Waiver Program and travel by nationals of Visa Waiver Program participants; and

(iv) expand reciprocal recognition programs for expedited travel, such as the Global Entry program.

This plan should also identify other appropriate measures that will enhance and expedite travel to and arrival in the United States by foreign nationals, consistent with national security requirements, as well as any potential challenges in achieving the stated goals of this subsection.

(c) Within 180 days of the date of this order, and periodically thereafter, the Secretaries of State and Homeland Security shall jointly submit through the Assistant to the President for Homeland Security and Counterterrorism a report to the President describing the progress on achieving the goals set forth in this section (as well as areas of concern or barriers to achieving those goals) to ensure the country remains secure while increasing travel and tourism to the United States.

(d) The Secretary of Commerce shall establish and maintain a publicly available website that provides updated metrics from across the Federal Government to assist industry and travelers in understanding the current status of the industry and its relevance to the economy, statistics on visa processes in key travel and tourism markets, and entry times into the United States.

SEC. 3. *Task Force on Travel and Competitiveness*. (a) A Task Force on Travel and Competitiveness (Task Force) is hereby established to develop the National Travel and Tourism Strategy described in this section. The Secretaries of Commerce and the Interior shall serve as Co-Chairs of the Task Force. The Task Force shall also include the heads of the following executive departments and agencies (agencies), or senior level officials designated by them:

(i) Department of State;

(ii) Department of the Treasury;

(iii) Department of Agriculture;

(iv) Department of Labor;

(v) Department of Transportation;

(vi) Department of Homeland Security;

(vii) Army Corps of Engineers;

(viii) Office of the United States Trade Representative;

(ix) Export-Import Bank; and

(x) Other agencies invited to participate by the Task Force Co-Chairs.

(b) The Secretaries of Commerce and the Interior, in consultation with the Director of the Office of Management and Budget, the Assistant to the President for Homeland Security and Counterterrorism, the Assistant to the President for Economic Policy, and the Assistant to the President for Domestic Policy, shall coordinate the overall work of the Task Force and assist its members in performing the responsibilities described herein.

(c) The Task Force shall develop a National Travel and Tourism Strategy with recommendations for new policies and initiatives to promote domestic and international travel opportunities throughout the United States with the goal of increasing the United States market share of worldwide travel, including obtaining a greater share of long-haul travel from Brazil, China, and India. Such recommendations shall include, among other things, strategies to promote visits to the United States public lands, waters, shores, monuments, and other iconic American destinations, thereby expanding job creation in the United States. The Task Force shall also consider recommendations to promote and expand travel and tourism opportunities in rural communities. In addition, the National Travel and Tourism Strategy shall identify any barriers to increasing the United States

market share of worldwide travel, and any other related areas of concern. The Task Force shall deliver the National Travel and Tourism Strategy to the President within 90 days of the date of this order.

(d) The Task Force, through the Secretary of Commerce, shall also coordinate with the Corporation for Travel Promotion (currently doing business as Brand USA, a nonprofit corporation established by the Travel Promotion Act of 2009 to promote travel to the United States) and the Tourism Policy Council, established by the United States National Tourism Organization Act of 1996. The Secretary of Commerce shall serve as the liaison between the Task Force and the United States Travel and Tourism Advisory Board (Board) chartered by the Secretary and shall consider the Board's advice in his or her role with the Task Force.

(e) The Tourism Policy Council coordinates policies concerning travel promotion and ensures consistency and cooperation among agencies, as set forth in the United States National Tourism Organization Act of 1996. The Task Force shall consult with the Tourism Policy Council where appropriate to facilitate the development of the National Travel and Tourism Strategy.

SEC. 4. *General Provisions*. (a) This order shall be implemented consistent with applicable law, and subject to the availability of appropriations.

(b) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department, agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities[,] its officers, employees, or agents, or any other person.

BARACK OBAMA.

SUBCHAPTER II—DUTIES

§2122. Powers and duties of Secretary of Commerce

In order to carry out the national tourism policy established in section 2121(b) of this title and by the United States National Tourism Organization Act of 1996, the Secretary of Commerce (hereafter in this chapter referred to as the "Secretary") shall develop and implement a comprehensive plan to perform critical tourism functions which, in the determination of the Secretary, are not being carried out by the United States National Tourism Organization or other private sector entities or State governments. Such plan may include programs to—

(1) collect and publish comprehensive international travel and tourism statistics and other marketing information;

(2) design, implement, and publish international travel and tourism forecasting models;

(3) facilitate the reduction or elimination of barriers to international travel and tourism; and

(4) work with the United States National Tourism Organization, the Tourism Policy Council, State tourism agencies, and Federal agencies in—

(A) coordinating the Federal implementation of a national travel and tourism policy;

(B) representing the United States' international travel and tourism interests to foreign governments; and

(C) maintaining United States participation in international travel and tourism trade shows and fairs until such activities can be transferred to such Organization and other private sector entities.

(Pub. L. 87–63, title II, §201, formerly §2, June 29, 1961, 75 Stat. 129; Pub. L. 93–623, §6, Jan. 3, 1975, 88 Stat. 2105; renumbered and amended Pub. L. 97–63, §3(b), (e)(1), Oct. 16, 1981, 95 Stat. 1012, 1013; Pub. L. 102–372, §6(a), Sept. 30, 1992, 106 Stat. 1175; Pub. L. 104–288, §10, Oct. 11, 1996, 110 Stat. 3407.)

REFERENCES IN TEXT

The United States National Tourism Organization Act of 1996, referred to in text, is Pub. L. 104–288, Oct. 11, 1996, 110 Stat. 3407, as amended. For complete classification of this Act to the Code, see Short Title of

1996 Amendment note set out under section 2121 of this title and Tables.

AMENDMENTS

1996—Pub. L. 104–288 amended section generally to narrow tourism-related duties of Secretary of Commerce, in view of creation of United States National Tourism Organization, with Secretary to focus on critical promotion functions which, in determination of Secretary, are not being carried out by new Organization or other private sector or State entities.

1992—Par. (2). Pub. L. 102–372, §6(3), added par. (2). Former par. (2) redesignated (3).

Par. (3). Pub. L. 102–372, §6(a)(1), (2), redesignated former par. (2) as (3) and substituted "receptive, linguistic, informational, currency exchange, meal, and package tour services required by the international market" for "tourist facilities, low cost unit tours, and other arrangements within the United States for meeting the requirements of foreign visitors". Former par. (3) redesignated (4).

Pars. (4) to (6). Pub. L. 102–372, §6(a)(1), redesignated former pars. (3) to (5) as (4) to (6), respectively. Former par. (6) redesignated (7).

Par. (7). Pub. L. 102–372, §6(1), (4), redesignated former par. (6) as (7) and substituted "and the use of other United States providers of travel products and services; and" for period at end.

Par. (8). Pub. L. 102–372, §6(5), added par. (8).

1981—Pub. L. 97–63, §3(b), substituted "In order to carry out the national tourism policy established by section 2121(b) of this title" for "In order to carry out the purpose of this chapter".

1975—Par. (6). Pub. L. 93–623 added par. (6).

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–63 effective Oct. 1, 1981, see section 6 of Pub. L. 97–63, set out as a note under section 2121 of this title.

UNITED STATES TRAVEL AND TOURISM PROMOTION

Pub. L. 108–7, div. B, title II, §210, Feb. 20, 2003, 117 Stat. 78, provided that:

"(a) The Secretary of Commerce is authorized to award grants and make direct lump sum payments in support of an international advertising and promotional campaign developed in consultation with the private sector to encourage individuals to travel to the United States consisting of radio, television, and print advertising and marketing programs.

"(b) The United States Travel and Tourism Promotion Advisory Board (hereinafter 'Board') is established to recommend the appropriate coordinated activities to the Secretary for funding.

"(c) The Secretary shall appoint the Board within 30 days of enactment [Feb. 20, 2003] and shall include tourism-related entities he deems appropriate.

"(d) The Secretary shall consult with the Board and State and regional tourism officials on the disbursement of funds.

"(e) There is authorized to be appropriated $50,000,000, to remain available until expended, and $50,000,000 is appropriated to implement this section."

SURVEY OF INTERNATIONAL AIR TRAVELERS

Pub. L. 102–372, §3, Sept. 30, 1992, 106 Stat. 1171, provided that: "The Secretary of Commerce, to the extent available resources permit, shall improve the survey of international air travelers conducted to provide the data needed to estimate the Nation's balance of payments in international travel by—

"(1) expanding the survey to cover travel to and from the Middle East, Africa, South America, and the Caribbean and enhancing coverage for Mexico, Oceania, the Far East, and Europe; and

"(2) improving the methodology for conducting on-board surveys by (A) enhancing communications, training, and liaison activities in cooperation with participating air carriers, (B) providing for the continuation of needed data bases, and (C) utilizing improved sampling procedures.

The Secretary of Commerce shall seek to increase the reporting frequency of the data provided by Statistics Canada and the Bank of Mexico on international travel trade between the United States and both Canada and Mexico. The Secretary shall improve the quarterly statistical report on United States international travel receipts and payments published in the Bureau of Economic Analysis document known as 'The Survey of Current Services' and heighten its visibility."

REPORT ON TOURISM AND TRAVEL ACTIVITIES

Pub. L. 102–372, §18, Sept. 30, 1992, 106 Stat. 1182, directed Secretary of Commerce, within 18 months after Sept. 30, 1992, to report to Congress on (1) status of actions required by section 3 of Pub. L. 102–372 and desirability and feasibility of publishing international travel receipts and payments on a monthly basis, (2)

Secretary's actions under 22 U.S.C. 2122(8) regarding the inbound and outbound tourism trade between United States and emerging democracies of Eastern Europe and the former Soviet Union, (3) activities of Department of Commerce and other Federal agencies to increase tourism opportunities for, and encourage travel by, disabled persons, and (4) efforts undertaken under 22 U.S.C. 2123c to improve visitor facilitation and effect on United States travel and tourism as a result of those improvements.

§2123. Office of Travel Promotion

(a) Office established

There is established within the Department of Commerce an office to be known as the Office of Travel Promotion.

(b) Director

(1) Appointment

The Office shall be headed by a Director who shall be appointed by the Secretary.

(2) Qualifications

The Director shall be a citizen of the United States and have experience in a field directly related to the promotion of travel to and within the United States.

(3) Duties

The Director shall be responsible for ensuring the office is carrying out its functions effectively and shall report to the Secretary.

(c) Functions

The Office shall—

(1) serve as liaison to the Corporation for Travel Promotion established by subsection (b) of section 11 of the Travel Promotion Act of 2009 [1] and support and encourage the development of programs to increase the number of international visitors to the United States for business, leisure, educational, medical, exchange, and other purposes;

(2) work with the Corporation, the Secretary of State and the Secretary of Homeland Security—

(A) to disseminate information more effectively to potential international visitors about documentation and procedures required for admission to the United States as a visitor;

(B) to ensure that arriving international visitors are generally welcomed with accurate information and in an inviting manner;

(C) to collect accurate data on the total number of international visitors that visit each State; and

(D) enhance the entry and departure experience for international visitors through the use of advertising, signage, and customer service; and

(3) support State, regional, and private sector initiatives to promote travel to and within the United States.

(d) Reports to Congress

Within a year after March 4, 2010, and periodically thereafter as appropriate, the Secretary shall transmit a report to the Senate Committee on Commerce, Science, and Transportation, the Senate Committee on Homeland Security and Governmental Affairs, the Senate Committee on Foreign Relations, the House of Representatives Committee on Energy and Commerce, the House of Representatives Committee on Homeland Security, and the House of Representatives Committee on Foreign Affairs describing the Office's work with the Corporation, the Secretary of State and the Secretary of Homeland Security to carry out subsection (c)(2).

(Pub. L. 87–63, title II, §202, as added Pub. L. 111–145, §9(i), formerly §9(g), Mar. 4, 2010, 124 Stat. 63; renumbered 9(i), Pub. L. 113–235, div. B, title VI, §606(1), Dec. 16, 2014, 128 Stat. 2219.)

REFERENCES IN TEXT

Subsection (b) of section 11 of the Travel Promotion Act of 2009, referred to in subsec. (c)(1), probably should be a reference to subsection (b) of the Travel Promotion Act of 2009, which is classified to section 2131(b) of this title.

PRIOR PROVISIONS

A prior section 2123, Pub. L. 87–63, title II, §202, formerly §3, June 29, 1961, 75 Stat. 130; Pub. L. 91–477, §§1, 2, Oct. 21, 1970, 84 Stat. 1071, 1072; renumbered and amended Pub. L. 97–63, §3(c), (d), (e)(1), Oct. 16, 1981, 95 Stat. 1012, 1013; Pub. L. 102–372, §§4(n), 6(b), (c), 7, 8(b), Sept. 30, 1992, 106 Stat. 1174, 1176, 1178, enumerated duties of Secretary of Commerce in carrying out national tourism policy, prior to repeal by Pub. L. 104–288, §9(a), Oct. 11, 1996, 110 Stat. 3407.

[1] *See References in Text note below.*

§2123a. Research program

(a) In general

The Office of Travel and Tourism Industries shall expand and continue its research and development activities in connection with the promotion of international travel to the United States, including—

(1) expanding access to the official Mexican travel surveys data to provide the States with traveler characteristics and visitation estimates for targeted marketing programs;

(2) expanding the number of inbound air travelers sampled by the Commerce Department's Survey of International Travelers to reach a 1 percent sample size and revising the design and format of questionnaires to accommodate a new survey instrument, improve response rates to at least double the number of States and cities with reliable international visitor estimates and improve market coverage;

(3) developing estimates of international travel exports (expenditures) on a State-by-State basis to enable each State to compare its comparative position to national totals and other States;

(4) evaluate the success of the Corporation in achieving its objectives and carrying out the purposes of section 2131 of this title; and

(5) research to support the annual reports required by section 2123(d) of this title.

(b) Authorization of appropriations

There are authorized to be appropriated to the Secretary of Commerce for fiscal years 2010 through 2014 such sums as may be necessary to carry out this section.

(Pub. L. 87–63, title II, §203, as added Pub. L. 111–145, §9(j), formerly §9(h), Mar. 4, 2010, 124 Stat. 64; renumbered 9(j), Pub. L. 113–235, div. B, title VI, §606(1), Dec. 16, 2014, 128 Stat. 2219.)

PRIOR PROVISIONS

A prior section 2123a, Pub. L. 87–63, title II, §203, as added Pub. L. 102–372, §8(a), Sept. 30, 1992, 106 Stat. 1177, provided for program of financial assistance to cooperative tourism marketing programs, prior to repeal by Pub. L. 104–288, §9(a), Oct. 11, 1996, 110 Stat. 3407.

Another prior section 2123a, Pub. L. 87–63, title II, §203, formerly §5, June 29, 1961, 75 Stat. 130; renumbered title II, §203, and amended Pub. L. 97–63, §3(e), Oct. 16, 1981, 95 Stat. 1013, directed Secretary to submit annual reports to President and Congress on activities under this chapter, prior to repeal by Pub. L. 102–372, §8(a), Sept. 30, 1992, 106 Stat. 1177. Section was formerly classified to section 2125 of this title prior to its renumbering by Pub. L. 97–63.

§§2123b to 2123d. Repealed. Pub. L. 104–288, §9(a), Oct. 11, 1996, 110 Stat. 3407

Section 2123b, Pub. L. 87–63, title II, §204, as added Pub. L. 102–372, §9, Sept. 30, 1992, 106 Stat. 1178, provided for program to identify and eliminate tourism trade barriers.

A prior section 2123b, Pub. L. 87–63, title II, §204, as added Pub. L. 97–63, §3(f), Oct. 16, 1981, 95 Stat.

1013, related to a regional tourism promotional and marketing program, prior to repeal by Pub. L. 102–372, §8(a), Sept. 30, 1992, 106 Stat. 1177.

Section 2123c, Pub. L. 87–63, title II, §205, as added Pub. L. 102–372, §10, Sept. 30, 1992, 106 Stat. 1178, directed Secretary of Commerce to take appropriate steps to prevent unnecessary delays when foreign tourists enter United States.

Section 2123d, Pub. L. 87–63, title II, §206, as added Pub. L. 102–372, §11, Sept. 30, 1992, 106 Stat. 1179, provided for measurement and evaluation of performance of United States Travel and Tourism Administration.

SUBCHAPTER III—ADMINISTRATION

§2124. Tourism Policy Council

(a) Establishment

In order to ensure that the United States' national interest in tourism is fully considered in Federal decision making, there is established a coordinating council to be known as the Tourism Policy Council (hereafter in this chapter referred to as the "Council").

(b) Membership

The Council shall consist of the following individuals:

(1) The Secretary of Commerce, who shall serve as the Chairman of the Council.
(2) The Under Secretary of Commerce for International Trade.
(3) The Director of the Office of Management and Budget.
(4) The Secretary of State.
(5) The Secretary of the Interior.
(6) The Secretary of Labor.
(7) The Secretary of Transportation.
(8) The Commissioner of the United States Customs Service.
(9) The President of the United States National Tourism Organization.
(10) The Commissioner of the Immigration and Naturalization Service.
(11) Representatives of other Federal agencies which have affected interests at each meeting as deemed appropriate and invited by the Chairman.

(c) No additional compensation for Council members

Members of the Council shall serve without additional compensation.

(d) Council meetings

The Council shall conduct its first meeting not later than 6 months after October 11, 1996. Thereafter the Council shall meet not less than 2 times each year.

(e) Involvement of Federal agencies and departments

(1) The Council shall coordinate national policies and programs relating to international travel and tourism, recreation, and national heritage resources, which involve Federal agencies;

(2) The Council may request directly from any Federal department or agency such personnel, information, services, or facilities as deemed necessary by the Chairman and to the extent permitted by law and within the limits of available funds.

(3) Federal departments and agencies may, in their discretion, detail to temporary duty with the Council such personnel as the Chairman may request for carrying out the functions of the Council. Each such detail of personnel shall be without loss of seniority, pay, or other employee status.

(f) Closed meetings

Where necessary to prevent the public disclosure of non-public information which may be presented by a Council member, the Council may hold, at the discretion of the Chairman, a closed

meeting which may exclude any individual who is not an officer or employee of the United States.

(g) Annual report

The Council shall submit an annual report for the preceding fiscal year to the President for transmittal to the Congress on or before December 31 of each year. The report shall include—

(1) a comprehensive and detailed report of the activities and accomplishments of the Council;

(2) the results of Council efforts to coordinate the policies and programs of member's agencies that have a significant effect on international travel and tourism, recreation, and national heritage resources, including progress toward resolving interagency conflicts and development of cooperative program activity;

(3) an analysis of problems referred to the Council by State and local governments, the tourism industry, the United States National Tourism Organization, the Secretary of Commerce, along with a detailed summary of any action taken or anticipated to resolve such problems; and

(4) any recommendation as deemed appropriate by the Council.

(h) Applicability of Federal Advisory Committee Act

The membership of the President of the United States National Tourism Organization on the Council shall not in itself make the Federal Advisory Committee Act applicable to the Council.

(Pub. L. 87–63, title III, §301, as added Pub. L. 104–288, §11, Oct. 11, 1996, 110 Stat. 3408.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (h), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

PRIOR PROVISIONS

A prior section 2124, Pub. L. 87–63, title III, §301, formerly §4, June 29, 1961, 75 Stat. 130; Pub. L. 88–426, title III, §305(29), Aug. 14, 1964, 78 Stat. 426; Pub. L. 91–477, §3(a), Oct. 21, 1970, 84 Stat. 1072; renumbered and amended Pub. L. 97–63, §4(a)(1)–(3), (b), (c)(2), Oct. 16, 1981, 95 Stat. 1014, 1015; Pub. L. 102–372, §§12–14, Sept. 30, 1992, 106 Stat. 1180, related to establishment of United States Travel and Tourism Administration, prior to repeal by Pub. L. 104–288, §9(a), Oct. 11, 1996, 110 Stat. 3407.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107–296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114–125, and section 802(b) of Pub. L. 114–125, set out as a note under section 211 of Title 6.

ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of Title 8, Aliens and Nationality.

§§2124a, 2124b. Repealed. Pub. L. 104–288, §§9(a), 11, Oct. 11, 1996, 110 Stat. 3407, 3408

Section 2124a, Pub. L. 87–63, title III, §302, as added Pub. L. 97–63, §4(c)(2), Oct. 16, 1981, 95 Stat. 1015; amended Pub. L. 102–372, §15, Sept. 30, 1992, 106 Stat. 1181, provided for establishment of Tourism Policy Council. See section 2124 of this title.

Section 2124b, Pub. L. 87–63, title III, §303, as added Pub. L. 97–63, §4(c)(2), Oct. 16, 1981, 95 Stat. 1017; amended Pub. L. 102–372, §16, Sept. 30, 1992, 106 Stat. 1181, provided for establishment of Travel and Tourism Advisory Board.

§2124c. Rural Tourism Development Foundation

(a) Establishment of Foundation

In order to assist in the development and promotion of rural tourism, there is established a charitable and nonprofit corporation to be known as the Rural Tourism Development Foundation (hereafter in this section referred to as the "Foundation").

(b) Functions

The functions of the Foundation shall be the planning, development, and implementation of projects and programs which have the potential to increase travel and tourism export revenues by attracting foreign visitors to rural America. Initially, such projects and programs shall include—

(1) participation in the development and distribution of educational and promotional materials pertaining to both private and public attractions located in rural areas of the United States, including Federal parks and recreational lands, which can be used by foreign visitors;

(2) development of educational resources to assist in private and public rural tourism development; and

(3) participation in Federal agency outreach efforts to make such resources available to private enterprises, State and local governments, and other persons and entities interested in rural tourism development.

(c) Board of Directors

(1) Composition

(A) The Foundation shall have a Board of Directors (hereafter in this section referred to as the "Board") that—

(i) during its first two years shall consist of nine voting members; and

(ii) thereafter shall consist of those nine members plus up to six additional voting members as determined in accordance with the bylaws of the Foundation.

(B)(i) The Secretary of Commerce shall, within six months after September 30, 1992, appoint the initial nine voting members of the Board and thereafter shall appoint the successors of each of three such members, as provided by such bylaws.

(ii) The voting members of the Board, other than those referred to in clause (i), shall be appointed in accordance with procedures established by such bylaws.

(C) The voting members of the Board shall be individuals who are not Federal officers or employees and who have demonstrated an interest in rural tourism development. Of such voting members, at least a majority shall have experience and expertise in tourism trade promotion, at least one shall have experience and expertise in resource conservation, at least one shall have experience and expertise in financial administration in a fiduciary capacity, at least one shall be a representative of an Indian tribe who has experience and expertise in rural tourism on an Indian reservation, at least one shall represent a regional or national organization or association with a major interest in rural tourism development or promotion, and at least one shall be a representative of a State who is responsible for tourism promotion.

(D) Voting members of the Board shall each serve a term of six years, except that—

(i) initial terms shall be staggered to assure continuity of administration;

(ii) if a person is appointed to fill a vacancy occurring prior to the expiration of the term of the person's predecessor, that person shall serve only for the remainder of the predecessor's term; and

(iii) any such appointment to fill a vacancy shall be made within sixty days after the vacancy occurs.

(2) Ex-officio members

The Secretary of Commerce and representatives of Federal agencies with responsibility for Federal recreational sites in rural areas (including the National Park Service, Bureau of Land Management, Forest Service, Corps of Engineers, Bureau of Indian Affairs, Tennessee Valley

Authority, and such other Federal agencies as the Board determines appropriate) shall be nonvoting ex-officio members of the Board.

(3) Chair

The Chairman and Vice Chairman of the Board shall be elected by the voting members of the Board for terms of two years.

(4) Meetings

The Board shall meet at the call of the Chairman and there shall be at least two meetings each year. A majority of the voting members of the Board serving at any one time shall constitute a quorum for the transaction of business. The Foundation shall have an official seal, which shall be judicially noticed. Voting membership on the Board shall not be deemed to be an office within the meaning of the laws of the United States.

(d) Compensation and expenses

No compensation shall be paid to the members of the Board for their services as members, but they may be reimbursed for actual and necessary traveling and subsistence expenses incurred by them in the performance of their duties as such members out of Foundation funds available to the Board for such purposes.

(e) Acceptance of gifts, devises, and bequests

(1) In general

The Foundation is authorized to accept, receive, solicit, hold, administer, and use any gifts, devises, or bequests, either absolutely or in trust, of real or personal property or any income therefrom or other interest therein for the benefit of or in connection with rural tourism, except that the Foundation may not accept any such gift, devise, or bequest which entails any expenditure other than from the resources of the Foundation. A gift, devise, or bequest may be accepted by the Foundation even though it is encumbered, restricted, or subject to beneficial interests of private persons if any current or future interest therein is for the benefit of rural tourism.

(2) Indians

A gift, devise, or bequest accepted by the Foundation for the benefit of or in connection with rural tourism on Indian reservations, pursuant to section 5341 of title 25, shall be maintained in a separate accounting for the benefit of Indian tribes in the development of tourism on Indian reservations.

(f) Investments

Except as otherwise required by the instrument of transfer, the Foundation may sell, lease, invest, reinvest, retain, or otherwise dispose of or deal with any property or income thereof as the Board may from time to time determine. The Foundation shall not engage in any business, nor shall the Foundation make any investment that may not lawfully be made by a trust company in the District of Columbia, except that the Foundation may make any investment authorized by the instrument of transfer and may retain any property accepted by the Foundation.

(g) Perpetual succession; liability of Board members

The Foundation shall have perpetual succession, with all the usual powers and obligations of a corporation acting as a trustee, including the power to sue and to be sued in its own name, but the members of the Board shall not be personally liable, except for malfeasance.

(h) Contractual power

The Foundation shall have the power to enter into contracts, to execute instruments, and generally to do any and all lawful acts necessary or appropriate to its purposes.

(i) Administration

(1) In general

In carrying out the provisions of this section, the Board may adopt bylaws, rules, and

regulations necessary for the administration of its functions and may hire officers and employees and contract for any other necessary services. Such officers and employees shall be appointed without regard to the provisions of title 5 governing appointments in the competitive service and may be paid without regard to the provisions of chapters 51 and 53 of such title relating to classification and General Schedule pay rates.

(2) Services

The Secretary of Commerce may accept the voluntary and uncompensated services of the Foundation, the Board, and the officers and employees of the Foundation in the performance of the functions authorized under this section, without regard to section 1342 of title 31 or the civil service classification laws, rules, or regulations.

(3) Construction

Neither an officer or employee hired under paragraph (1) nor an individual who provides services under paragraph (2) shall be considered a Federal employee for any purpose other than for purposes of chapter 81 of title 5, relating to compensation for work injuries, and chapter 171 of title 28, relating to tort claims.

(j) Exemption from taxes; contributions

The Foundation and any income or property received or owned by it, and all transactions relating to such income or property, shall be exempt from all Federal, State, and local taxation with respect thereto. The Foundation may, however, in the discretion of the Board, contribute toward the costs of local government in amounts not in excess of those which it would be obligated to pay such government if it were not exempt from taxation by virtue of this subsection or by virtue of its being a charitable and nonprofit corporation and may agree so to contribute with respect to property transferred to it and the income derived therefrom if such agreement is a condition of the transfer. Contributions, gifts, and other transfers made to or for the use of the Foundation shall be regarded as contributions, gifts, or transfers to or for the use of the United States.

(k) Liability of United States

The United States shall not be liable for any debts, defaults, acts, or omissions of the Foundation.

(l) Annual report

The Foundation shall, as soon as practicable after the end of each fiscal year, transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives an annual report of its proceedings and activities, including a full and complete statement of its receipts, expenditures, and investments.

(m) Definitions

As used in this section—

(1) the term "Indian reservation" has the meaning given the term "reservation" in section 1452(d) of title 25;

(2) the term "Indian tribe" has the meaning given that term in section 5304(e) of title 25;

(3) the term "local government" has the meaning given that term in section 3371(2) of title 5; and

(4) the term "rural tourism" has the meaning given that term by the Secretary of Commerce and shall include activities related to travel and tourism that occur on Federal recreational sites, on Indian reservations, and in the territories, possessions, and commonwealths of the United States.

(Pub. L. 102–372, §4, Sept. 30, 1992, 106 Stat. 1171; Pub. L. 104–288, §9(b), Oct. 11, 1996, 110 Stat. 3407.)

CODIFICATION

Section is comprised of section 4 of Pub. L. 102–372. Subsec. (n) of section 4 of Pub. L. 102–372 amended section 2123(a) of this title.

Section was enacted as part of the Tourism Policy and Export Promotion Act of 1992, and not as part of the International Travel Act of 1961 which comprises this chapter.

AMENDMENTS

1996—Subsec. (c)(1)(B)(i), (2). Pub. L. 104–288 substituted "Secretary of Commerce" for "Under Secretary of Commerce for Travel and Tourism".

CHANGE OF NAME

Committee on Energy and Commerce of House of Representatives treated as referring to Committee on Commerce of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Commerce of House of Representatives changed to Committee on Energy and Commerce of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred to Committee on Financial Services of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

§2125. Transferred

CODIFICATION

Section, Pub. L. 87–63, title II, §203, formerly §5, June 29, 1961, 75 Stat. 130, which related to annual reports to the President and Congress, was renumbered by Pub. L. 97–63, §3(e), Oct. 16, 1981, 95 Stat. 1013, transferred to section 2123a of this title, and subsequently repealed by Pub. L. 102–372, §8(a), Sept. 30, 1992, 106 Stat. 1177.

§§2126 to 2129. Repealed. Pub. L. 104–288, §9(a), Oct. 11, 1996, 110 Stat. 3407

Section 2126, Pub. L. 87–63, title III, §304, formerly §6, June 29, 1961, 75 Stat. 130; Pub. L. 91–477, §4, Oct. 21, 1970, 84 Stat. 1072; Pub. L. 93–193, §1(a), Dec. 19, 1973, 87 Stat. 765; Pub. L. 94–55, §1, July 9, 1975, 89 Stat. 262; Pub. L. 96–85, §1, Oct. 10, 1979, 93 Stat. 655; renumbered and amended Pub. L. 97–63, §5(a), Oct. 16, 1981, 95 Stat. 1018; Pub. L. 102–372, §17, Sept. 30, 1992, 106 Stat. 1181, authorized appropriations to carry out this chapter.

Section 2127, Pub. L. 87–63, title III, §305, formerly §7, as added Pub. L. 91–477, §5, Oct. 21, 1970, 84 Stat. 1072, and renumbered Pub. L. 97–63, §5(b), Oct. 16, 1981, 95 Stat. 1018, defined terms used in this chapter.

Section 2128, Pub. L. 87–63, title III, §306, as added Pub. L. 101–508, title X, §10301(a), Nov. 5, 1990, 104 Stat. 1388–395, provided for United States Travel and Tourism Administration Facilitation fee to be collected from each airline and cruise ship line transporting passengers to United States.

A prior section 2128, Pub. L. 87–63, §9, as added Pub. L. 96–85, §2, Oct. 10, 1979, 93 Stat. 655, related to reduction in number of employees of United States Travel Service in District of Columbia offices, prior to repeal by Pub. L. 97–63, §5(b), Oct. 16, 1981, 95 Stat. 1018, effective Oct. 1, 1981.

Section 2129, Pub. L. 87–63, title III, §307, as added Pub. L. 101–508, title X, §10301(b), Nov. 5, 1990, 104 Stat. 1388–396, provided civil penalties for nonpayment of Travel and Tourism Administration Facilitation fee.

SUBCHAPTER IV—CORPORATION FOR TRAVEL PROMOTION

§2131. Travel Promotion Act of 2009

(a) Short title

This section may be cited as the "Travel Promotion Act of 2009".

(b) The Corporation for Travel Promotion

(1) Establishment

The Corporation for Travel Promotion is established as a nonprofit corporation. The Corporation shall not be an agency or establishment of the United States Government. The

Corporation shall be subject to the provisions of the District of Columbia Nonprofit Corporation Act (D.C. Code, section 29–1001 et seq.), to the extent that such provisions are consistent with this subsection, and shall have the powers conferred upon a nonprofit corporation by that Act to carry out its purposes and activities.

(2) Board of directors

(A) In general

The Corporation shall have a board of directors of 11 members with knowledge of international travel promotion or marketing, broadly representing various regions of the United States, who are United States citizens. At least 5 members of the board shall have experience working in United States multinational entities with marketing budgets. At least 2 members of the board shall be audit committee financial experts (as defined by the Securities and Exchange Commission in accordance with section 7265 of title 15). All members of the board shall be a current or former chief executive officer, chief financial officer, or chief marketing officer, or have held an equivalent management position. Members of the board shall be appointed by the Secretary of Commerce (after consultation with the Secretary of Homeland Security and the Secretary of State), as follows:

(i) 1 shall have appropriate expertise and experience in the hotel accommodations sector;

(ii) 1 shall have appropriate expertise and experience in the restaurant sector;

(iii) 1 shall have appropriate expertise and experience in the small business or retail sector or in associations representing that sector;

(iv) 1 shall have appropriate expertise and experience in the travel distribution services sector;

(v) 1 shall have appropriate expertise and experience in the attractions or recreations sector;

(vi) 1 shall have appropriate expertise and experience as officials of a city convention and visitors' bureau;

(vii) 2 shall have appropriate expertise and experience as officials of a State tourism office;

(viii) 1 shall have appropriate expertise and experience in the passenger air sector;

(ix) 1 shall have appropriate expertise and experience in immigration law and policy, including visa requirements and United States entry procedures; and

(x) 1 shall have appropriate expertise in the land or sea passenger transportation sector.

(B) Incorporation

The members of the initial board of directors shall serve as incorporators and shall take whatever actions are necessary to establish the Corporation under the District of Columbia Nonprofit Corporation Act (D.C. Code, section 29–301.01 et seq.).

(C) Term of office

The term of office of each member of the board appointed by the Secretary shall be 3 years, except that, of the members first appointed—

(i) 3 shall be appointed for terms of 1 year;

(ii) 4 shall be appointed for terms of 2 years; and

(iii) 4 shall be appointed for terms of 3 years.

(D) Removal for cause

The Secretary of Commerce may remove any member of the board for good cause.

(E) Vacancies

Any vacancy in the board shall not affect its power, but shall be filled in the manner required by this subsection. Any member whose term has expired may serve until the member's successor has taken office, or until the end of the calendar year in which the member's term has expired, whichever is earlier. Any member appointed to fill a vacancy occurring prior to the

expiration of the term for which that member's predecessor was appointed shall be appointed for the remainder of the predecessor's term. No member of the board shall be eligible to serve more than 2 consecutive full 3-year terms.

(F) Election of Chairman and Vice Chairman

Members of the board shall annually elect one of the members to be Chairman and elect 1 or 2 of the members as Vice Chairman or Vice Chairmen.

(G) Status as Federal employees

Notwithstanding any provision of law to the contrary, no member of the board may be considered to be a Federal employee of the United States by virtue of his or her service as a member of the board.

(H) Compensation; expenses

No member shall receive any compensation from the Federal government for serving on the Board. Each member of the Board shall be paid actual travel expenses and per diem in lieu of subsistence expenses when away from his or her usual place of residence, in accordance with section 5703 of title 5.

(3) Officers and employees

(A) In general

The Corporation shall have an executive director and such other officers as may be named and appointed by the board for terms and at rates of compensation fixed by the board. No individual other than a citizen of the United States may be an officer of the Corporation. The Corporation may hire and fix the compensation of such employees as may be necessary to carry out its purposes. No officer or employee of the Corporation may receive any salary or other compensation (except for compensation for services on boards of directors of other organizations that do not receive funds from the Corporation, on committees of such boards, and in similar activities for such organizations) from any sources other than the Corporation for services rendered during the period of his or her employment by the Corporation. Service by any officer on boards of directors of other organizations, on committees of such boards, and in similar activities for such organizations shall be subject to annual advance approval by the board and subject to the provisions of the Corporation's Statement of Ethical Conduct. All officers and employees shall serve at the pleasure of the board.

(B) Nonpolitical nature of appointment

No political test or qualification shall be used in selecting, appointing, promoting, or taking other personnel actions with respect to officers, agents, or employees of the Corporation.

(4) Nonprofit and nonpolitical nature of Corporation

(A) Stock

The Corporation shall have no power to issue any shares of stock, or to declare or pay any dividends.

(B) Profit

No part of the income or assets of the Corporation shall inure to the benefit of any director, officer, employee, or any other individual except as salary or reasonable compensation for services.

(C) Politics

The Corporation may not contribute to or otherwise support any political party or candidate for elective public office.

(D) Sense of Congress regarding lobbying activities

It is the sense of Congress that the Corporation should not engage in lobbying activities (as defined in section 1602(7) of title 2.[1]

(5) Duties and powers

(A) In general

The Corporation shall develop and execute a plan—

(i) to provide useful information to foreign tourists, business people, students, scholars, scientists, and others interested in traveling to the United States, including the distribution of material provided by the Federal government concerning entry requirements, required documentation, fees, processes, and information concerning declared public health emergencies, to prospective travelers, travel agents, tour operators, meeting planners, foreign governments, travel media and other international stakeholders;

(ii) to identify, counter, and correct misperceptions regarding United States entry policies around the world;

(iii) to maximize the economic and diplomatic benefits of travel to the United States by promoting the United States of America to world travelers through the use of, but not limited to, all forms of advertising, outreach to trade shows, and other appropriate promotional activities;

(iv) to ensure that international travel benefits all States and territories of the United States and the District of Columbia, and to identify opportunities and strategies to promote tourism to rural and urban areas equally, including areas not traditionally visited by international travelers; and

(v) to give priority to the Corporation's efforts with respect to countries and populations most likely to travel to the United States.

(B) Specific powers

In order to carry out the purposes of this subsection, the Corporation may—

(i) obtain grants from and make contracts with individuals and private companies, State, and Federal agencies, organizations, and institutions;

(ii) hire or accept the voluntary services of consultants, experts, advisory boards, and panels to aid the Corporation in carrying out its purposes; and

(iii) take such other actions as may be necessary to accomplish the purposes set forth in this subsection.

(C) Public outreach and information

The Corporation shall develop and maintain a publicly accessible website.

(6) Open meetings

Meetings of the board of directors of the Corporation, including any committee of the board, shall be open to the public. The board may, by majority vote, close any such meeting only for the time necessary to preserve the confidentiality of commercial or financial information that is privileged or confidential, to discuss personnel matters, or to discuss legal matters affecting the Corporation, including pending or potential litigation.

(7) Major campaigns

The board may not authorize the Corporation to obligate or expend more than $25,000,000 on any advertising campaign, promotion, or related effort unless—

(A) the obligation or expenditure is approved by an affirmative vote of at least 2/3 of the members of the board present at the meeting;

(B) at least 6 members of the board are present at the meeting at which it is approved; and

(C) each member of the board has been given at least 3 days advance notice of the meeting at which the vote is to be taken and the matters to be voted upon at that meeting.

(8) Fiscal accountability

(A) Fiscal year

The Corporation shall establish as its fiscal year the 12-month period beginning on October 1.

(B) Budget

The Corporation shall adopt a budget for each fiscal year.

(C) Annual audits

The Corporation shall engage an independent accounting firm to conduct an annual financial audit of the Corporation's operations and shall publish the results of the audit. The Comptroller General of the United States may review any audit of a financial statement conducted under this paragraph by an independent accounting firm and may audit the Corporation's operations at the discretion of the Comptroller General. The Comptroller General and the Congress shall have full and complete access to the books and records of the Corporation.

(D) Program audits

Not later than 2 years after March 4, 2010, the Comptroller General shall conduct a review of the programmatic activities of the Corporation for Travel Promotion. This report shall be provided to appropriate congressional committees.

(c) Accountability measures

(1) Objectives

The Board shall establish annual objectives for the Corporation for each fiscal year subject to approval by the Secretary of Commerce (after consultation with the Secretary of Homeland Security and the Secretary of State). The Corporation shall establish a marketing plan for each fiscal year not less than 60 days before the beginning of that year and provide a copy of the plan, and any revisions thereof, to the Secretary.

(2) Budget

The board shall transmit a copy of the Corporation's budget for the forthcoming fiscal year to the Secretary not less than 60 days before the beginning of each fiscal year, together with an explanation of any expenditure provided for by the budget in excess of $500,000 for the fiscal year. The Corporation shall make a copy of the budget and the explanation available to the public and shall provide public access to the budget and explanation on the Corporation's website.

(3) Annual report to Congress

The Corporation shall submit an annual report for the preceding fiscal year to the Secretary of Commerce for transmittal to the Congress on or before the 15th day of May of each year. The report shall include—

(A) a comprehensive and detailed report of the Corporation's operations, activities, financial condition, and accomplishments under this section;

(B) a comprehensive and detailed inventory of amounts obligated or expended by the Corporation during the preceding fiscal year;

(C) a detailed description of each in-kind contribution, its fair market value, the individual or organization responsible for contributing, its specific use, and a justification for its use within the context of the Corporation's mission;

(D) an objective and quantifiable measurement of its progress, on an objective-by-objective basis, in meeting the objectives established by the board;

(E) an explanation of the reason for any failure to achieve an objective established by the board and any revisions or alterations to the Corporation's objectives under paragraph (1);

(F) a comprehensive and detailed report of the Corporation's operations and activities to promote tourism in rural and urban areas;

(G) a description of, and rationales for, the Corporation's efforts to focus on specific countries and populations;

(H)(i) a description of, and rationales for, the Corporation's combination of media channels employed in meeting the promotional objectives of its marketing campaign;

(ii) the ratio in which such channels are used; and

(iii) a justification for the use and ratio of such channels; and

(I) such recommendations as the Corporation deems appropriate.

(4) Limitation on use of funds

Amounts deposited in the Fund may not be used for any purpose inconsistent with carrying out the objectives, budget, and report described in this subsection.

(d) Matching public and private funding

(1) Establishment of Travel Promotion Fund

There is hereby established in the Treasury a fund which shall be known as the Travel Promotion Fund.

(2) Funding

(A) Start-up expenses

The Secretary of the Treasury shall make available to the Corporation such sums as may be necessary, but not to exceed $10,000,000, from amounts deposited in the general fund of the Treasury from fees under section 1187(h)(3)(B)(i)(I) of title 8 to cover the Corporation's initial expenses and activities under this section. Transfers shall be made at least monthly, immediately following the collection of fees under section 1187(h)(3)(B)(i)(I) of title 8, on the basis of estimates by the Secretary, and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess or less than the amounts required to be transferred.

(B) Subsequent years

For each of fiscal years 2012 through 2020, from amounts deposited in the general fund of the Treasury during the preceding fiscal year from fees under section 1187(h)(3)(B)(i)(I) of title 8, the Secretary of the Treasury shall transfer not more than $100,000,000 to the Fund, which shall be made available to the Corporation, subject to paragraph (3) of this subsection, to carry out its functions under this section. Transfers shall be made at least quarterly on the basis of estimates by the Secretary, and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess or less than the amounts required to be transferred.

(3) Matching requirement

(A) In general

No amounts may be made available to the Corporation under this subsection after fiscal year 2011, except to the extent that—

(i) for fiscal year 2012, the Corporation provides matching amounts from non-Federal sources equal in the aggregate to 50 percent or more of the amount transferred to the Fund under paragraph (2); and

(ii) for any fiscal year after fiscal year 2012, the Corporation provides matching amounts from non-Federal sources equal in the aggregate to 100 percent of the amount transferred to the Fund under paragraph (2) for the fiscal year.

(B) Goods and services

For the purpose of determining the amount received from non-Federal sources by the Corporation, other than money—

(i) the fair market value of goods and services (including advertising) contributed to the Corporation for use under this section may be included in the determination; but

(ii) the fair market value of such goods and services may not account for more than 70 percent of the matching requirement under subparagraph (A) for the Corporation in any fiscal year.

(C) Right of refusal

The Corporation may decline to accept any contribution in-kind that it determines to be inappropriate, not useful, or commercially worthless.

(D) Limitation

The Corporation may not obligate or expend funds in excess of the total amount received by the Corporation for a fiscal year from Federal and non-Federal sources.

(E) Maintenance of an in-kind contributions policy

The Corporation shall maintain an in-kind contributions policy.

(F) Formalized procedures for in-kind contributions policy

Not later than 90 days after December 16, 2014, the Secretary of Commerce, in coordination with the Corporation, shall establish formal, publicly available procedures specifying time frames and conditions for—

(i) making and agreeing to revisions of the Corporation's in-kind contributions policy; and

(ii) addressing and resolving disagreements between the Corporation and its partners, including the Secretary of Commerce, regarding the in-kind contributions policy.

(G) Biannual review of procedures to determine fair market value of goods and services

The Corporation and the Secretary of Commerce (or their designees) shall meet on a biannual basis to review the procedures to determine the fair market value of goods and services received from non-Federal sources by the Corporation under subparagraph (B).

(4) Carryforward

(A) Federal funds

Amounts transferred to the Fund under paragraph (2)(B) shall remain available until expended.

(B) Matching funds

Any amount received by the Corporation from non-Federal sources in each of the fiscal years 2011 through 2020 that cannot be used to meet the matching requirement under paragraph (3)(A) for the fiscal year in which amount was collected may be carried forward and treated as having been received in the succeeding fiscal year for purposes of meeting the matching requirement of paragraph (3)(A) in such succeeding fiscal year.

(e) Repealed. Pub. L. 113–235, div. B, title VI, §607, Dec. 16, 2014, 128 Stat. 2220

(f) Accountability

(1) Performance plans and measures

Not later than 90 days after December 16, 2014, the Corporation shall—

(A) establish performance metrics including, time frames, evaluation methodologies, and data sources for measuring—

(i) the effectiveness of marketing efforts by the Corporation, including its progress in achieving the long-term goals of increased traveler visits to and spending in the United States;

(ii) whether increases in visitation and spending have occurred in response to external influences, such as economic conditions or exchange rates, rather than in response to the efforts of the Corporation; and

(iii) any cost or benefit to the economy of the United States; and

(B) conduct periodic program evaluations in response to the data resulting from measurements under subparagraph (A).

(2) GAO accountability

Not later than 60 days after the date on which the Corporation receives a report from the Government Accountability Office with recommendations for the Corporation, the Corporation shall submit a report to Congress that describes the actions taken by the Corporation in response to the recommendations in such report.

(g) Procurement requirements

The Corporation shall—

(1) establish a competitive procurement process; and

(2) certify in its annual report to Congress under subsection (c)(3) that any contracts entered into were in compliance with the established competitive procurement process.

(h) to (j) Omitted

(Pub. L. 111–145, §9, Mar. 4, 2010, 124 Stat. 56; Pub. L. 111–198, §5(b), July 2, 2010, 124 Stat. 1357; Pub. L. 113–235, div. B, title VI, §§602–605(a), 606, 607, Dec. 16, 2014, 128 Stat. 2218–2220.)

REFERENCES IN TEXT

The District of Columbia Nonprofit Corporation Act, referred to in subsec. (b)(1), (2)(B), is Pub. L. 87–569, Aug. 6, 1962, 76 Stat. 265, which is not classified to the Code.

CODIFICATION

Section is comprised of section 9 of Pub. L. 111–145. Subsec. (h) of section 9 of Pub. L. 111–145, as redesignated by Pub. L. 113–235, §606(1), amended section 1187 of Title 8, Aliens and Nationality. Subsecs. (i) and (j) of section 9 of Pub. L. 111–145, as redesignated by Pub. L. 113–235, §606(1), enacted sections 2123 and 2123a of this title, respectively.

Section was enacted as part of the United States Capitol Police Administrative Technical Corrections Act of 2009, and not as part of the International Travel Act of 1961 which comprises this chapter.

AMENDMENTS

2014—Subsec. (b)(2)(A). Pub. L. 113–235, §602(1), in introductory provisions, substituted "promotion or marketing" for "promotion and marketing" and inserted "At least 5 members of the board shall have experience working in United States multinational entities with marketing budgets. At least 2 members of the board shall be audit committee financial experts (as defined by the Securities and Exchange Commission in accordance with section 7265 of title 15). All members of the board shall be a current or former chief executive officer, chief financial officer, or chief marketing officer, or have held an equivalent management position." after "United States citizens."

Subsec. (b)(2)(A)(x). Pub. L. 113–235, §602(2), substituted "land or sea passenger transportation sector" for "intercity passenger railroad business".

Subsec. (b)(5)(A)(iv). Pub. L. 113–235, §605(a)(1), substituted "all States and territories of the United States and the District of Columbia," for "all States and the District of Columbia".

Subsec. (c)(2). Pub. L. 113–235, §606(3), substituted "$500,000" for "$5,000,000".

Subsec. (c)(3)(G) to (I). Pub. L. 113–235, §603, added subpars. (G) and (H) and redesignated former subpar. (G) as (I).

Subsec. (d)(2)(B). Pub. L. 113–235, §605(a)(2)(A), substituted "2020" for "2015".

Subsec. (d)(3)(B)(ii). Pub. L. 113–235, §604(1), substituted "70 percent" for "80 percent".

Subsec. (d)(3)(E) to (G). Pub. L. 113–235, §604(2), added subpars. (E) to (G).

Subsec. (d)(4)(B). Pub. L. 113–235, §605(a)(2)(B), substituted "each of the fiscal years 2011 through 2020" for "fiscal year 2011, 2012, 2013, 2014, or 2015".

Subsec. (e). Pub. L. 113–235, §607, struck out subsec. (e), which related to Corporation's authority to impose annual assessment on United States members of the international travel and tourism industry.

Pub. L. 113–235, §606(1), (2), redesignated subsec. (f) as (e) and moved it to follow subsec. (d). Former subsec. (e) redesignated (h).

Subsec. (f). Pub. L. 113–235, §606(4), added subsec. (f). Former subsec. (f) redesignated (e).

Subsec. (g). Pub. L. 113–235, §606(4), added subsec. (g). Former subsec. (g) redesignated (i).

Subsec. (h). Pub. L. 113–235, §606(1), redesignated subsec. (e) as (h). Former subsec. (h) redesignated (j).

Subsecs. (i), (j). Pub. L. 113–235, §606(1), redesignated subsecs. (g) and (h) as (i) and (j), respectively.

2010—Subsec. (d)(2)(A). Pub. L. 111–198, §5(b)(1), (2), substituted "The" for "For fiscal year 2010, the" and "monthly, immediately following the collection of fees under section 1187(h)(3)(B)(i)(I) of title 8," for "quarterly, beginning on January 1, 2010,".

Subsec. (d)(2)(B). Pub. L. 111–198, §5(b)(3), substituted "fiscal years 2012 through 2015," for "fiscal years 2011 through 2014,".

Subsec. (d)(3)(A). Pub. L. 111–198, §5(b)(4), (5), substituted "fiscal year 2011," for "fiscal year 2010," in introductory provisions and "fiscal year 2012," for "fiscal year 2011," in cls. (i) and (ii).

Subsec. (d)(4)(B). Pub. L. 111–198, §5(b)(6), substituted "fiscal year 2011, 2012, 2013, 2014, or 2015" for

"fiscal year 2010, 2011, 2012, 2013, or 2014".

[1] *So in original. A closing parenthesis probably should precede the period.*

CHAPTER 31A—NATIONAL TOURISM ORGANIZATION

§2141. Omitted

CODIFICATION

Section, Pub. L. 104–288, §2, Oct. 11, 1996, 110 Stat. 3402, which stated findings of Congress and purpose of this chapter, was omitted because of the repeal of sections 2141a to 2141d of this title.

§§2141a to 2141d. Repealed. Pub. L. 104–288, §7(a), Oct. 11, 1996, 110 Stat. 3407

Section 2141a, Pub. L. 104–288, §3, Oct. 11, 1996, 110 Stat. 3403, related to establishment of United States National Tourism Organization.

Section 2141b, Pub. L. 104–288, §4, Oct. 11, 1996, 110 Stat. 3404, related to establishment of United States National Tourism Organization Board.

Section 2141c, Pub. L. 104–288, §5, Oct. 11, 1996, 110 Stat. 3406, related to design and use by Organization of symbols, emblems, trademarks, and names.

Section 2141d, Pub. L. 104–288, §6, Oct. 11, 1996, 110 Stat. 3406; Pub. L. 105–277, div. G, subdiv. A, title XIII, §1335(o), Oct. 21, 1998, 112 Stat. 2681–789, related to United States Government cooperation.

EFFECTIVE DATE OF REPEAL

For effective date of repeal, see Codification note for former section 2141e of this title.

§§2141e, 2141f. Omitted

CODIFICATION

Sections are omitted from the Code because of the repeal of sections 2141a to 2141d of this title.

Section 2141e, Pub. L. 104–288, §7, Oct. 11, 1996, 110 Stat. 3407, provided for the repeal of sections 2141a to 2141d of this title if, within 2 years after Oct. 11, 1996, the United States National Tourism Organization Board had not developed and implemented a comprehensive plan for the long-term financing of the United States National Tourism Organization, and further provided that the Board could suspend or terminate the Organization if sufficient private sector and State or local government funds were not identified or made available to continue the Organization's operations. [The Board did not develop and implement such a plan within 2 years after Oct. 11, 1996.]

Section 2141f, Pub. L. 104–288, §12, Oct. 11, 1996, 110 Stat. 3410, defined the terms "Organization" and "Board" for purposes of this chapter.

CHAPTER 32—FOREIGN ASSISTANCE

SUBCHAPTER I—INTERNATIONAL DEVELOPMENT

PART I—DECLARATION OF POLICY; DEVELOPMENT ASSISTANCE AUTHORIZATIONS

Sec.

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SUBCHAPTER I—INTERNATIONAL DEVELOPMENT

PART I—DECLARATION OF POLICY; DEVELOPMENT ASSISTANCE AUTHORIZATIONS

§2151. Congressional findings and declaration of policy

(a) United States development cooperation policy

The Congress finds that fundamental political, economic, and technological changes have resulted in the interdependence of nations. The Congress declares that the individual liberties, economic prosperity, and security of the people of the United States are best sustained and enhanced in a community of nations which respect individual civil and economic rights and freedoms and which work together to use wisely the world's limited resources in an open and equitable international economic system. Furthermore, the Congress reaffirms the traditional humanitarian ideals of the American people and renews its commitment to assist people in developing countries to eliminate hunger, poverty, illness, and ignorance.

Therefore, the Congress declares that a principal objective of the foreign policy of the United States is the encouragement and sustained support of the people of developing countries in their efforts to acquire the knowledge and resources essential to development and to build the economic, political, and social institutions which will improve the quality of their lives.

United States development cooperation policy should emphasize five principal goals:

(1) the alleviation of the worst physical manifestations of poverty among the world's poor majority;

(2) the promotion of conditions enabling developing countries to achieve self-sustaining economic growth with equitable distribution of benefits;

(3) the encouragement of development processes in which individual civil and economic rights are respected and enhanced;

(4) the integration of the developing countries into an open and equitable international economic system; and

(5) the promotion of good governance through combating corruption and improving transparency and accountability.

The Congress declares that pursuit of these goals requires that development concerns be fully reflected in United States foreign policy and that United States development resources be effectively and efficiently utilized.

(b) Coordination of development-related activities

Under the policy guidance of the Secretary of State, the agency primarily responsible for administering subchapter I of this chapter should have the responsibility for coordinating all United States development-related activities.

(Pub. L. 87–195, pt. I, §101, formerly §102, Sept. 4, 1961, 75 Stat. 424; Pub. L. 87–565, pt. I, §101, Aug. 1, 1962, 76 Stat. 255; Pub. L. 88–205, pt. I, §101(c), Dec. 16, 1963, 77 Stat. 379; Pub. L. 89–171, pt. I, §101, Sept. 6, 1965, 79 Stat. 653; Pub. L. 89–583, pt. I, §101, Sept. 19, 1966, 80 Stat. 796; Pub. L. 90–137, pt. I, §101, Nov. 14, 1967, 81 Stat. 445; Pub. L. 93–189, §2(2), Dec. 17, 1973, 87 Stat. 714; Pub. L. 94–161, title III, §301, Dec. 20, 1975, 89 Stat. 855; Pub. L. 95–88, title I, §§101, 113(b), Aug. 3, 1977, 91 Stat. 533, 538; renumbered and amended Pub. L. 95–424, title I, §101, Oct. 6, 1978, 92 Stat. 937; Pub. L. 106–309, title II, §203(a), Oct. 17, 2000, 114 Stat. 1091.)

REFERENCES TO SUBCHAPTER I DEEMED TO INCLUDE CERTAIN PARTS OF SUBCHAPTER II

References to subchapter I of this chapter are deemed to include parts IV (§2346 et seq.), VI (§2348 et seq.), and VIII (§2349aa et seq.) of subchapter II of this chapter, and references to subchapter II are deemed to exclude such parts. See section 202(b) of Pub. L. 92–226, set out as a note under section 2346 of this title, and sections 2348c and 2349aa–5 of this title.

AMENDMENTS

2000—Subsec. (a). Pub. L. 106–309 substituted "five principal goals" for "four principal goals" in introductory provisions of third paragraph and added par. (5).

1978—Subsec. (a). Pub. L. 95–424, in setting forth a new declaration of policy generally substituted four principal goals of development cooperation policy, they being (1) the alleviation of the worst manifestations of poverty, (2) self-sustained economic growth, (3) respect for civil and economic rights, and (4) the integration of the developing countries into an open and equitable economic system, for former seven pars. relating to: (1) primary responsibility for development being in the less developed countries themselves; (2) the active involvement of many countries; (3) the encouragement of regional cooperation; (5) assistance being of such nature as to help United States balance of payments; (6) furnishing of assistance in such manner as to promote efficiency, and (7) the furnishing of agricultural commodities, etc., to complement assistance under this subchapter.

Subsec. (b). Pub. L. 95–424 substituted provisions relating to the responsibility of the agency primarily responsible for administering the program for coordination of all development related activities, for former seven criteria for restructuring relationships with less developed countries, those criteria being: (1) sharing of technical expertise; (2) focusing on critical problems affecting the majority of the people; (3) use of the private sector; (4) development goals as the responsibility of each sovereign nation; (5) priority to undertakings directly improving the lives of the poorest people; (6) private investment in development programs; and (7) responsibility for coordination of activities with the agency having primary responsibility for administering this part.

Subsecs. (c) to (e). Pub. L. 95–424 struck out subsecs. (c) to (e).

1977—Subsec. (a). Pub. L. 95–88, §113(b)(1), inserted "environment and natural resources" to enumeration

of fundamental needs of the people of less developed countries which development assistance must be used in meeting.

Subsec. (b)(2). Pub. L. 95–88, §113(b)(2), inserted "environment and natural resources;" after "population planning and health;".

Subsec. (d). Pub. L. 95–88, §101(a), substituted provisions under which the President developed the criteria and factors to be used in assessing the commitment and progress of countries in meeting the objectives set forth in subsec. (c) and transmitted a report by Jan. 31, 1978, to the Speaker of the House and to the Committee on Foreign Relations of the Senate for provisions under which the President had established the criteria without Congressional involvement.

Subsec. (e). Pub. L. 95–88, §101(b), added subsec. (e).

1975—Subsecs. (c), (d). Pub. L. 94–161 added subsecs. (c) and (d).

1973—Pub. L. 93–189 designated existing provisions as subsec. (a) and added subsec. (b).

1967—Pub. L. 90–137, in providing a new statement of policy, reaffirming basic foreign assistance principles, and recognizing new problems and need for new priorities, substituted five pars. concerned with (1) freedom, security, prosperity, aggression, subversion, ignorance, want, despair, and national security; (2) economic cooperation and trade among countries, etc. (a reenactment of former sixth par. less provision for resort to international law procedures in adjudication of issues among friendly countries in support of such economic cooperation, etc.); (3) seven principles pertaining to: self-help efforts and responsibility of the country, multilateral basis of involvement and cooperation, regional cooperation, food production and voluntary family planning, balance of payments, maximum dollar effectiveness, and coordination of overall assistance; (4) Permanent Peace in the Middle East; and (5) suspension of assistance after severance of diplomatic relations for former sixteen pars. relating to: (1) dignity and interdependence of man, and freedom; (2) resources development, living standards improvement, and aspirations for justice, education, etc., now covered in par. (1); (4) free economic institutions and flow of private investment capital; (5) investment guaranties; (6) economic cooperation and trade among countries, etc., as described for par. (2); (7) long-range continuity and disposal of surplus property and agricultural crops; (8) world peace, national security, and dangers of international communism; (9) countries sharing United States views on world crisis; (10) loan guarantees and related technical assistance and development program; (11) regional organizations for mutual assistance; (12) prohibition of assistance for short-term emergency purposes; (13) common undertaking of countries to meet goals; (14) discretionary assistance by the President to South Vietnam to gain victory in the war against communism and return to homeland of Americans from that struggle; (15) damage or destruction by mob action of United States property and termination of assistance, now covered in section 2370(j) of this title; and (16) use of United States Armed Forces, now covered in section 2409 of this title.

1966—Pub. L. 89–583 provided for termination of assistance to any foreign country which does not take appropriate measures to provide compensation for damage or destruction by mob action of United States property within such country and declared that furnishing assistance shall not be construed as creating a new commitment or as affecting any existing commitment to use armed forces of the United States for the defense of any foreign country.

1965—Pub. L. 89–171 added expressions of the sense of Congress that in furnishing assistance under this subchapter excess personal property shall be utilized wherever practicable in lieu of the procurement of new items for United States-assisted projects and programs and that assistance under this chapter and other statutes should be terminated to any country permitting damage to or destruction of U.S. property within such country by mob action or by failing to take adequate preventive measures.

1963—Pub. L. 88–205 declared that institution of full investment guaranty programs with all recipient countries would be regarded as a significant measure of self-help by such countries improving investment climate, that assistance to maintain freedom from communism "shall" rather than "should" emphasize long-range development, that in the administration of programs of assistance, every precaution be taken to assure that assistance is not diverted to any short-term emergency purpose or any purpose not essential to long-range economic development, that other industrialized free-world countries increase their contributions and assistance to more equitably share the burden, and the President should in his discretion, extend or withhold assistance from South Vietnam to further victory and the return home of Americans involved in the struggle there.

1962—Pub. L. 87–565 declared distinctions made by foreign nations between American citizens because of race, color, or religion, relating to rights available to such citizens, to be repugnant to our principals, required in the administration of these funds, that consideration be given those countries sharing our world views and which do not divert their resources to military or propaganda efforts, supported by the Soviet Union or Communist China, against the United States or countries receiving aid under this chapter, that the highest emphasis be given to programs for loans or loan guarantees for use by organizations in making low-interest

loans to individuals in friendly countries for the purchase of small farms, purchase of homes, aiding or establishing small businesses, purchase of tools and equipment for an occupation or trade, or to obtain practical education in vocational skills, and to programs of technical assistance and development, each assisted country should be encouraged to recognize needs of the people in the preparation of national development programs, and declared that friendly nations are to be invited, where possible, to join in missions to consult with countries receiving assistance on the possibilities of joint action to assure effective development of economic development plans and effective use of assistance provided them, and that the President may request international financial institutions to assist in establishing such missions.

EFFECTIVE DATE OF 1979 AMENDMENT

Pub. L. 96–53, title V, §512, Aug. 14, 1979, 93 Stat. 380, provided that:

"(a) Except as provided in subsection (b) of this section and in section 503(b) [set out as an Effective Date of 1979 Amendment note under section 2385a of this title] this Act [see Short Title of 1979 Amendments note below] shall take effect on October 1, 1979.

"(b) Sections 114(b) [not classified to the Code], 123 [amending a provision set out as a note below], 501 [not classified to the Code], and 509 [set out as a note below] of this Act shall take effect on the date of enactment of this Act [Aug. 14, 1979]."

EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95–424, title VI, §605, Oct. 6, 1978, 92 Stat. 961, provided that: "The amendments made by this Act [see Short Title of 1978 Amendment note below] shall take effect on October 1, 1978."

SHORT TITLE OF 2016 AMENDMENT

Pub. L. 114–191, §1, July 15, 2016, 130 Stat. 666, provided that: "This Act [enacting section 2394c of this title and provisions set out as notes under section 2394c of this title] may be cited as the 'Foreign Aid Transparency and Accountability Act of 2016'."

SHORT TITLE OF 2014 AMENDMENT

Pub. L. 113–289, §1, Dec. 19, 2014, 128 Stat. 3283, provided that: "This Act [amending section 2152h of this title and provisions set out as a note under section 2152h of this title] may be cited as the 'Senator Paul Simon Water for the World Act of 2014'."

SHORT TITLE OF 2010 AMENDMENT

Pub. L. 111–166, §1, May 17, 2010, 124 Stat. 1186, provided that: "This Act [amending sections 2151n and 2304 of this title] may be cited as the 'Daniel Pearl Freedom of the Press Act of 2009'."

SHORT TITLE OF 2008 AMENDMENT

Pub. L. 110–457, title IV, §401, Dec. 23, 2008, 122 Stat. 5087, provided that: "This title [enacting sections 2370c to 2370c–2 of this title, amending section 4028 of this title, and enacting provisions set out as a note under section 2370c of this title] may be cited as the 'Child Soldiers Prevention Act of 2008'."

Pub. L. 110–417, [div. A], title XVI, §1601, Oct. 14, 2008, 122 Stat. 4652, provided that: "This title [enacting sections 2368, 2734, and 2734a of this title and provisions set out as notes under sections 2368 and 2734a of this title] may be cited as the 'Reconstruction and Stabilization Civilian Management Act of 2008'."

SHORT TITLE OF 2007 AMENDMENT

Pub. L. 110–53, title XX, §2001, Aug. 3, 2007, 121 Stat. 508, provided that: "This title [enacting section 6216 of this title, amending section 2228 of this title, enacting provisions set out as notes under this section and sections 2228, 2375, 2452c, 2656, 6204, 6216, and 7511 of this title and section 2000dd of Title 42, The Public Health and Welfare, and amending provisions set out as a note under section 2452 of this title] may be cited as the '9/11 Commission International Implementation Act of 2007'."

Pub. L. 109–472, §1(a), Jan. 11, 2007, 120 Stat. 3554, provided that: "This Act [enacting sections 288l, 2349bb–5, and 2349bb–6 of this title and section 118 of Title 18, Crimes and Criminal Procedure, amending sections 214, 288f–2, 2321h, 2349bb–2, and 4856 of this title, section 5924 of Title 5, Government Organization and Employees, and section 1356 of Title 8, Aliens and Nationality, enacting provisions set out as notes under section 2751 of this title and section 1714 of Title 8, and amending provisions set out as a note under section 6206 of this title] may be cited as the 'Department of State Authorities Act of 2006'."

SHORT TITLE OF 2006 AMENDMENT

Pub. L. 109–165, §1, Jan. 10, 2006, 119 Stat. 3574, provided that: "This Act [enacting and amending provisions set out as notes under section 2152 of this title] may be cited as the 'Torture Victims Relief

Reauthorization Act of 2005'."

SHORT TITLE OF 2005 AMENDMENT

Pub. L. 109–95, §1, Nov. 8, 2005, 119 Stat. 2111, provided that: "This Act [enacting sections 2152f and 2152g of this title and provisions set out as notes under sections 2152f and 2152g of this title] may be cited as the 'Assistance for Orphans and Other Vulnerable Children in Developing Countries Act of 2005'."

SHORT TITLE OF 2004 AMENDMENT

Pub. L. 108–484, §1, Dec. 23, 2004, 118 Stat. 3922, provided that: "This Act [enacting sections 2211 to 2211d, 2214, and 2214a of this title, amending sections 2212 and 2213 of this title, transferring sections 2151f and 2152b of this title to sections 2212 and 2213, respectively, of this title, repealing section 2152a of this title, enacting provisions set out as notes under section 2211 of this title, and amending provisions set out as a note under section 2212 of this title] may be cited as the 'Microenterprise Results and Accountability Act of 2004'."

SHORT TITLE OF 2003 AMENDMENTS

Pub. L. 108–179, §1, Dec. 15, 2003, 117 Stat. 2643, provided that: "This Act [enacting and amending provisions set out as notes under section 2152 of this title] may be cited as the 'Torture Victims Relief Reauthorization Act of 2003'."

Pub. L. 108–158, §1, Dec. 3, 2003, 117 Stat. 1949, provided that: "This Act [amending sections 2193, 2194, 2195, 2198, and 2200 of this title] may be cited as the 'Overseas Private Investment Corporation Amendments Act of 2003'."

SHORT TITLE OF 2002 AMENDMENTS

Pub. L. 107–246, §1, Oct. 23, 2002, 116 Stat. 1511, provided that: "This Act [amending sections 2295 and 2295b of this title and enacting provisions set out as notes under section 2295 of this title] may be cited as the 'Russian Democracy Act of 2002'."

Pub. L. 107–228, div. A, title VI, §661, Sept. 30, 2002, 116 Stat. 1405, provided that: "This subtitle [subtitle E (§§661–665) of title VI of div. A of Pub. L. 107–228, enacting section 2151n–2 of this title, amending sections 2151n and 2304 of this title, and enacting provisions set out as notes under sections 2151n and 2151n–2 of this title] may be cited as the 'Freedom Investment Act of 2002'."

Pub. L. 107–228, div. B, title X, §1001, Sept. 30, 2002, 116 Stat. 1425, provided that: "This division [see Tables for classification] may be cited as the 'Security Assistance Act of 2002'."

SHORT TITLE OF 2000 AMENDMENTS

Pub. L. 106–570, §1, Dec. 27, 2000, 114 Stat. 3038, provided that: "This Act [enacting section 2151b–1 of this title and enacting provisions set out as notes under this section and sections 2151b–1, 2517, 2656, and 6901 of this title, section 1701 of Title 50, War and National Defense, and preceding section 28101 of Title 49, Transportation] may be cited as the 'Assistance for International Malaria Control Act'."

Pub. L. 106–570, title I, §101, Dec. 27, 2000, 114 Stat. 3039, provided that: "This title [enacting section 2151b–1 of this title and provisions set out as a note under section 2151b–1 of this title] may be cited as the 'International Malaria Control Act of 2000'."

Pub. L. 106–373, §1, Oct. 27, 2000, 114 Stat. 1427, provided that: "This Act [amending sections 2220a to 2220c and 2220e of this title] may be cited as the 'Famine Prevention and Freedom From Hunger Improvement Act of 2000'."

Pub. L. 106–309, §1, Oct. 17, 2000, 114 Stat. 1078, provided that: "This Act [enacting sections 2152a to 2152c and 2462 of this title, amending this section and sections 287e–1, 2151–1, 2151f, 2151i, 2151aa, and 2395 of this title, and enacting provisions set out as notes under this section and sections 2151f, 2151i, 2152b, 2152c, 2462, and 2517 of this title and section 402 of Title 10, Armed Forces] may be cited as the 'Microenterprise for Self-Reliance and International Anti-Corruption Act of 2000'."

Pub. L. 106–309, title I, §101, Oct. 17, 2000, 114 Stat. 1079, provided that: "This title [enacting sections 2152a and 2152b of this title, amending section 2151f of this title, and enacting provisions set out as notes under sections 2151f and 2152b of this title] may be cited as the 'Microenterprise for Self-Reliance Act of 2000'."

Pub. L. 106–309, title II, §201, Oct. 17, 2000, 114 Stat. 1090, provided that: "This title [enacting section 2152c of this title, amending this section and sections 2151–1 and 2151aa of this title, and enacting provisions set out as notes under section 2152c of this title] may be cited as the 'International Anti-Corruption and Good Governance Act of 2000'."

Pub. L. 106–309, title IV, §401(a), Oct. 17, 2000, 114 Stat. 1096, provided that: "This section [amending

section 2151i of this title and enacting provisions set out as notes under section 2151i of this title] may be cited as the 'Support for Overseas Cooperative Development Act'."

Pub. L. 106–280, §1(a), Oct. 6, 2000, 114 Stat. 845, provided that: "This Act [enacting part IX (§2349bb et seq.) of subchapter II of this chapter and sections 2305, 2347f, and 2347g of this title, amending sections 2302, 2318, 2321h, 2321j, 2349aa–4, 2415, 2776, 2778, 2797, and 6723 of this title, and enacting provisions set out as notes under sections 2305, 2797, and 2797b of this title] may be cited as the 'Security Assistance Act of 2000'."

Pub. L. 106–264, title II, §201, Aug. 19, 2000, 114 Stat. 758, provided that: "This title [amending section 2151b of this title and enacting provisions set out as a note under section 2151b of this title] may be cited as the 'International Tuberculosis Control Act of 2000'."

SHORT TITLE OF 1999 AMENDMENTS

Pub. L. 106–158, §1, Dec. 9, 1999, 113 Stat. 1745, provided that: "This Act [enacting section 4727a of Title 15, Commerce and Trade, amending sections 2191a, 2193, 2195, and 2421 of this title and section 4727 of Title 15, and enacting provisions set out as a note under section 2191a of this title] may be cited as the 'Export Enhancement Act of 1999'."

Pub. L. 106–113, div. B, §1000(a)(2) [title V, §596(a)], Nov. 29, 1999, 113 Stat. 1535, 1501A–123, provided that: "This section [enacting part XII of subchapter I of this chapter and amending sections 5812 and 5814 of this title] may be cited as the 'Silk Road Strategy Act of 1999'."

Pub. L. 106–113, div. B, §1000(a)(7) [div. B, title XII, §1201], Nov. 29, 1999, 113 Stat. 1536, 1501A–497, provided that: "This title [amending sections 2321h, 2321j, 2367, 2753, 2761, 2762, 2776, and 2779a of this title and section 301 of Title 13, Census, and enacting provisions set out as notes under section 2551 of this title, sections 1 and 301 of Title 13, and former section 2099 of the former Appendix to Title 50, War and National Defense] may be cited as the 'Security Assistance Act of 1999'."

Pub. L. 106–87, §1, Nov. 3, 1999, 113 Stat. 1301, provided that: "This Act [amending section 2152 of this title and provisions set out as a note under section 2152 of this title] may be cited as the 'Torture Victims Relief Reauthorization Act of 1999'."

SHORT TITLE OF 1996 AMENDMENT

Pub. L. 104–319, §1, Oct. 19, 1996, 110 Stat. 3864, provided that: "This Act [amending sections 277b, 2151n, and 2304 of this title, enacting provisions set out as notes under this section and section 2452 of this title, and amending provisions set out as notes under sections 1157 and 1255 of Title 8, Aliens and Nationality] may be cited as the 'Human Rights, Refugee, and Other Foreign Relations Provisions Act of 1996'."

SHORT TITLE OF 1994 AMENDMENTS

Pub. L. 103–447, §1, Nov. 2, 1994, 108 Stat. 4691, provided that: "This Act [amending sections 2291, 2291a, 2291e, 2291f, 2291h to 2291k of this title, section 635 of Title 12, Banks and Banking, section 981 of Title 18, Crimes and Criminal Procedure, section 1616a of Title 19, Customs Duties, and section 881 of Title 21, Food and Drugs, repealing section 2291–2 of this title, enacting provisions set out as notes under this section, sections 1928 and 2420 of this title, and section 1182 of Title 8, Aliens and Nationality, amending provisions set out as a note under section 5311 of Title 31, Money and Finance, and repealing provisions set out as notes under this section, sections 2291, 2291h, and 2420 of this title, section 701 of Title 41, Public Contracts, and section 1902 of Title 46, Appendix, Shipping] may be cited as the 'International Narcotics Control Corrections Act of 1994'."

Pub. L. 103–392, §1, Oct. 22, 1994, 108 Stat. 4098, provided that: "This Act [enacting section 2151t–1 of this title, amending sections 2191, 2195, and 2421 of this title and sections 4052 and 4728 of Title 15, Commerce and Trade, and enacting provisions set out as a note under section 4701 of Title 15] may be cited as the 'Jobs Through Trade Expansion Act of 1994'."

SHORT TITLE OF 1992 AMENDMENTS

Pub. L. 102–583, §1, Nov. 2, 1992, 106 Stat. 4914, provided that Pub. L. 102–583 could be cited as the "International Narcotics Control Act of 1992", prior to repeal by Pub. L. 103–447, title I, §103(a), Nov. 2, 1994, 108 Stat. 4693.

Pub. L. 102–549, §1, Oct. 28, 1992, 106 Stat. 3651, provided that: "This Act [enacting sections 2077, 2200b, 2421a to 2421e, and 2430 to 2430i of this title and section 4723a of Title 15, Commerce and Trade, amending sections 2191, 2191a, 2194, 2195, 2197 to 2199, 2200a, 2421, and 5401 of this title, section 5314 of Title 5, Government Organization and Employees, section 1738i of Title 7, Agriculture, and sections 635q to 635s of Title 12, Banks and Banking, repealing section 2296 of this title, enacting provisions set out as notes

under this section and sections 262s–2, 2296, 2421, and 2421a of this title, and amending provisions set out as a note under this section] may be cited as the 'Jobs Through Exports Act of 1992'."

Pub. L. 102–549, title VI, §601, Oct. 28, 1992, 106 Stat. 3664, provided that: "This title [enacting sections 2077 and 2430 to 2430i of this title, amending section 1738i of Title 7, Agriculture, repealing section 2296 of this title, and enacting provisions set out as a note under section 2296 of this title] may be cited as the 'Enterprise for the Americas Act of 1992'."

SHORT TITLE OF 1990 AMENDMENT

Pub. L. 101–623, §1(a), Nov. 21, 1990, 104 Stat. 3350, provided that: "This Act [enacting section 2151x–1 of this title and section 3196 of Title 18, Crimes and Criminal Procedure, amending sections 2291c, 2321k, 2346c, and 2360 of this title and section 635 of Title 12, Banks and Banking, and enacting provisions set out as notes under sections 2291, 2291h, and 2360 of this title] may be cited as the 'International Narcotics Control Act of 1990'."

SHORT TITLE OF 1989 AMENDMENTS

Pub. L. 101–240, §1(a), Dec. 19, 1989, 103 Stat. 2492, provided that: "This Act [enacting sections 262m–7, 262p–4g to 262p–4k, 262r to 262r–2, 262s–1, 262t, 283z–5 to 283z–8, 286e–12, 286kk, 2281 to 2286, and 7901 to 7908 of this title and section 3904a of Title 12, Banks and Banking, amending sections 262d, 262m–7, 262p–1, 262p–5, 262s–2, 282b, 283b, 283cc, 284b, 285b, 286b, 286e–9, 286k–1, 286s, 290g–2, 290i–3, and 290k–5 of this title and sections 635 and 635i–3 of Title 12, transferring former section 262q of this title to section 262s of this title, and former section 4722 of Title 15, Commerce and Trade, to section 262s–2 of this title, repealing sections 262i, 262m–6, 276c–3, 283i, 286b–1, and 286b–2 of this title, enacting provisions set out as notes under this section, sections 262d, 283z–6, 2291, and 7901 of this title, and sections 635, 3901, and 3904a of Title 12, amending provisions set out as a note under section 262l of this title, and repealing provisions set out as notes under sections 262g–2 and 283 of this title] may be cited as the 'International Development and Finance Act of 1989'."

Pub. L. 101–240, title VII, §701, Dec. 19, 1989, 103 Stat. 2521, provided that: "This title [enacting sections 2281 to 2286 and 7901 to 7908 of this title and provisions set out as a note under section 7901 of this title of this title] may be cited as the 'Global Environmental Protection Assistance Act of 1989'."

Pub. L. 101–231, §1(a), Dec. 13, 1989, 103 Stat. 1954, provided that: "This Act [enacting section 2321k of this title, amending sections 2291, 2291a, 2708, and 2795 of this title and sections 2492 and 2495 of Title 19, Customs Duties, and enacting provisions set out as notes under sections 2291 and 2708 of this title] may be cited as the 'International Narcotics Control Act of 1989'."

Pub. L. 101–222, §1(a), Dec. 12, 1989, 103 Stat. 1892, provided that: "This Act [amending sections 1732, 2364, 2371, 2753, 2776, 2778, and 2780 of this title and section 4605 of Title 50, War and National Defense, and enacting provisions set out as a note under section 2371 of this title] may be cited as the 'Anti-Terrorism and Arms Export Amendments Act of 1989'."

SHORT TITLE OF 1988 AMENDMENTS

Pub. L. 100–690, title IV, §4001, Nov. 18, 1988, 102 Stat. 4261, provided that title IV of Pub. L. 100–690 could be cited as the "International Narcotics Control Act of 1988", prior to repeal by Pub. L. 103–447, title I, §103(b), Nov. 2, 1994, 108 Stat. 4693.

Pub. L. 100–461, title V, §555 [H.R. 5263, title I, §101, and S. 2757, title I, §101], Oct. 1, 1988, 102 Stat. 2268–36, provided that: "This title [amending sections 2191, 2194, 2194b, 2195, 2197, 2199, and 2200a of this title] may be cited as the 'Overseas Private Investment Corporation Amendments Act of 1988'."

SHORT TITLE OF 1986 AMENDMENTS

Pub. L. 99–570, title II, §2001, Oct. 27, 1986, 100 Stat. 3207–60, provided that title II of Pub. L. 99–570 could be cited as the "International Narcotics Control Act of 1986", prior to repeal by Pub. L. 103–447, title I, §103(c), Nov. 2, 1994, 108 Stat. 4694.

Pub. L. 99–529, §1, Oct. 24, 1986, 100 Stat. 3010, provided that: "This Act [enacting section 2151p–1 of this title, amending sections 290f, 2151b, 2151p, 2151q, 2222, 2291a, 2427, and 3929 of this title, and enacting provisions set out as a note under section 290f of this title] may be cited as the 'Special Foreign Assistance Act of 1986'."

SHORT TITLE OF 1985 AMENDMENTS

Pub. L. 99–204, §1, Dec. 23, 1985, 99 Stat. 1669, provided that: "This Act [enacting sections 2191a and 2194b of this title, amending sections 2191, 2194, 2195, and 2197 to 2200a of this title and section 709 of Title 18, Crimes and Criminal Procedure, repealing section 2200b of this title, enacting provisions set out as a

note under section 2191a of this title, and repealing provisions set out as a note under section 2200a of this title] may be cited as the 'Overseas Private Investment Corporation Amendments Act of 1985'."

Pub. L. 99–83, §1(a), Aug. 8, 1985, 99 Stat. 190, provided that: "This Act [enacting sections 2227, 2271 to 2276, 2291b, 2346 to 2346c, 2347c, 2347d, 2349aa–7 to 2349aa–9, 2511, 2521a, and 2770a of this title, section 469j of Title 16, Conservation, and sections 1356b and 1515a of former Title 49, Transportation, amending sections 290f, 290h–8, 290h–9, 2151–1, 2151a to 2151d, 2151f, 2151h, 2151s, 2151u, 2151x, 2151z, 2174, 2182, 2182a, 2184, 2201, 2222, 2291, 2291a, 2292a, 2304, 2311, 2312, 2314, 2321h, 2321i, 2346b, 2347a, 2348a, 2349aa–2, 2349aa–4, 2354, 2361, 2364, 2370, 2371, 2375, 2394, 2394–1, 2396, 2411, 2413, 2420, 2421, 2427, 2429a, 2501, 2502, 2504, 2506, 2510, 2522, 2523, 2752, 2753, 2761, 2763 to 2767, 2771, 2776, 2778, 2791, 2792, 2794, and 2795 of this title, sections 1431, 1721, 1722, 1727a, and 1736b of Title 7, Agriculture, section 7307 of Title 10, Armed Forces, and sections 1356, 1471, and 1515 of former Title 49, repealing sections 2293, 2294, 2346 to 2346c, 2346e to 2346i, and 2349aa–6 of this title, enacting provisions set out as notes under this section and sections 2151–1, 2151b, 2151u, 2291, 2346, 2374, 2429a, 2506, 2511, 2751, and 2778 of this title, section 4011 of Title 15, Commerce and Trade, and section 1515 of former Title 49, amending provisions set out as notes under sections 2370 and 2501 of this title, and repealing provisions set out as a note under section 2293 of this title] may be cited as the 'International Security and Development Cooperation Act of 1985'."

Pub. L. 99–83, title VI, §601, Aug. 8, 1985, 99 Stat. 228, provided that: "This title [enacting section 2291b of this title, amending sections 2151x, 2291, and 2291a of this title, and enacting provisions set out as a note under section 2291 of this title] may be cited as the 'International Narcotics Control Act of 1985'."

SHORT TITLE OF 1983 AMENDMENTS

Pub. L. 98–164, title VII, §701, Nov. 22, 1983, 97 Stat. 1045, provided that: "This title [enacting section 2151q of this title and amending section 2452 of this title] may be cited as the 'International Environment Protection Act of 1983'."

Pub. L. 98–151, §101(b)(2), Nov. 14, 1983, 97 Stat. 968, provided in part that: "Section 101(b)(2) of this joint resolution [enacting sections 2151f, and 2349aa to 2349aa–6 of this title, amending sections 2304, 2346a, 2403, and 2771 of this title, and enacting provisions set out as a note under section 2349aa of this title] may be cited as the 'International Security and Development Assistance Authorizations Act of 1983'."

SHORT TITLE OF 1981 AMENDMENTS

Pub. L. 97–113, §1, Dec. 29, 1981, 95 Stat. 1519, provided that: "This Act [see Tables for classification] may be cited as the 'International Security and Development Cooperation Act of 1981'."

Pub. L. 97–65, §1, Oct. 16, 1981, 95 Stat. 1021, provided that: "This Act [enacting sections 2194a and 2200b of this title, amending sections 2191, 2193, 2194, 2195, 2197, 2198, 2199, and 2200a of this title, and enacting provisions set out as notes under sections 2193 and 2200a of this title] may be cited as the 'Overseas Private Investment Corporation Amendments Act of 1981'."

SHORT TITLE OF 1980 AMENDMENTS

Pub. L. 96–533, §1, Dec. 16, 1980, 94 Stat. 3131, provided: "This Act [enacting sections 290h to 290h–9, 2226, 2346a, 2346b, 2769, and 2778a of this title, amending sections 2151a to 2151d, 2151n, 2151s, 2151u, 2151v, 2174, 2221, 2222, 2291a, 2292, 2292a, 2292l, 2304, 2311, 2312, 2318, 2321h to 2321j, 2346, 2347a, 2348a, 2354, 2364, 2367, 2370, 2384, 2394, 2399d, 2403, 2411, 2421, 2427, 2502, 2514, 2753, 2761 to 2765, 2771, 2776 to 2779, 2791, 2794, and 3510 of this title, sections 1712 and 1733 of Title 7, Agriculture, sections 5041 and 5045 of Title 42, The Public Health and Welfare, and section 4605 of Title 50, War and National Defense, repealing sections 2151q, 2346c to 2346e, and 2348b of this title, enacting provisions set out as notes under this section and sections 290h, 2151a, 2291a, 2293, 2370, and 3401 of this title, section 1522 of Title 8, Aliens and Nationality, and section 2667 of Title 10, Armed Forces, and repealing a provision set out as a note under section 2293 of this title] may be cited as the 'International Security and Development Cooperation Act of 1980'."

Pub. L. 96–257, §1, May 31, 1980, 94 Stat. 422, provided: "That this Act [enacting section 2346e of this title] may be cited as the 'Special Central American Assistance Act of 1979'."

SHORT TITLE OF 1979 AMENDMENTS

Pub. L. 96–92, §1, Oct. 29, 1979, 93 Stat. 701, provided that: "This Act [enacting sections 2346d, 2767, and 2768 of this title, amending sections 2261, 2291, 2291a, 2304, 2312, 2318, 2321h to 2321j, 2346 to 2346c, 2347a, 2348, 2348a, 2403, 2753, 2761, 2765, 2771, 2773, 2776, 2778, 2792, and 2794 of this title, and enacting provisions set out as notes under this section and sections 2321h, 2346c, 2771, 2776, and 3302 of this title] may be cited as the 'International Security Assistance Act of 1979'."

Pub. L. 96–53, §1, Aug. 14, 1979, 93 Stat. 359, provided that: "This Act [enacting sections 2151x, 2151y, 2374, and 3501 to 3513 of this title, and sections 1736g of Title 7, Agriculture, amending sections 2151–1, 2151a to 2151d, 2151i, 2151k, 2151n, 2151p, 2151q, 2151s, 2151u, 2151v, 2174, 2182, 2182a, 2183, 2220b, 2222, 2292a, 2292l, 2304, 2357, 2361, 2385a, 2395, 2399c, 2421, 2427, 2502, and 2506 of this title, sections 5314 to 5316 and 5924 of Title 5, Government Organization and Employees, and sections 1703, 1704, 1722, 1726, 1727, 1727a, 1727b, 1727d to 1727f, 1731, and 1734 of Title 7, and enacting provisions set out as notes under this section and sections 2151n, 2151y, 2312, 2385a, and 3201 of this title] may be cited as the 'International Development Cooperation Act of 1979'."

SHORT TITLE OF 1978 AMENDMENTS

Pub. L. 95–424, §1, Oct. 6, 1978, 92 Stat. 937, provided that: "This Act [enacting sections 2151–1, 2151t, 2151u, 2151v, 2151w, 2201, 2292l, 2335a, 2393a, 2394–1, 2394–1a and 2395a of this title, amending this section and sections 2151a, 2151a–1, 2151b, 2151c, 2151d, 2151e, 2151g, 2151h, 2151k, 2151n, 2151p, 2151q, 2151r, 2174, 2181, 2182, 2182a, 2183, 2213, 2220a, 2220d, 2221, 2222, 2292, 2292a, 2292i, 2292k, 2351, 2357, 2358, 2361, 2370, 2381a, 2384, 2394, 2395, 2396, 2397, 2399c, 2403, 2421, and 2427 of this title and sections 1703, 1706, 1727c, and 1727d of Title 7, Agriculture, repealing sections 2151f, 2151l, 2151m, 2151o, 2161, 2162, 2164, 2167, 2168, 2171, 2172, 2175, 2176, 2177, 2178, 2180, 2180a, 2211, 2212, 2213, 2216, 2217, 2217a, 2219, 2219a, 2220, 2224, 2271, 2281, 2292d, 2292g, 2368, 2369, 2408, 2410, 2415, 2416, 2417, 2418, and 2425 of this title, and enacting provisions set out as notes under this section and sections 2151v, 2151u, 2222, 2292d, and 2395 of this title and section 1711 of Title 7] may be cited as the 'International Development and Food Assistance Act of 1978'."

Pub. L. 95–384, §1, Sept. 26, 1978, 92 Stat. 730, provided that: "This Act [enacting sections 2348 to 2348c, 2373, 2417, 2428b, and 2766 of this title, amending sections 1754, 2261, 2291, 2291a, 2304, 2312, 2321b, 2321h to 2321j, 2346 to 2346c, 2347a, 2347b, 2360, 2372, 2413, 2429, 2429a, 2751, 2761, 2762, 2765, 2771, and 2776 of this title and section 4603 of Title 50, War and National Defense, repealing sections 2441 to 2443 of this title, and enacting provisions set out as notes under this section and sections 287c, 1754, 2291, 2311, 2346, 2346a, 2370, and 2751 of this title] may be cited as the 'International Security Assistance Act of 1978'."

Pub. L. 95–268, §1, Apr. 24, 1978, 92 Stat. 213, provided that: "This Act [enacting section 2200 of this title and amending sections 2191, 2194, 2195, 2197, 2199, and 2200a of this title] may be cited as the 'Overseas Private Investment Corporation Amendments Act of 1978'."

SHORT TITLE OF 1977 AMENDMENTS

Pub. L. 95–92, §1, Aug. 4, 1977, 91 Stat. 614, provided that: "This Act [enacting sections 2294, 2346b, 2372, and 2429a of this title, amending sections 2261, 2291a, 2312, 2321h to 2321j, 2346, 2346a, 2347a, 2370, 2391, 2429, 2443, 2753, 2771, 2778, and 2792 of this title, and enacting provisions set out as notes under this section and sections 2346, 2370, 2406, 2431, and 2751 of this title] may be cited as the 'International Security Assistance Act of 1977'."

Pub. L. 95–88, §1, Aug. 3, 1977, 91 Stat. 533, provided that: "This Act [enacting sections 2151o to 2151s, 2292k, and 2429b of this title and sections 1712, 1713, 1714, and 1727 to 1727f of Title 7, Agriculture, amending this section and sections 2151a, 2151b, 2151c, 2151d, 2151g, 2151h, 2151i, 2151k, 2151l, 2151m, 2151n, 2174, 2181, 2182, 2182a, 2183, 2222, 2225, 2292a, 2292h, 2357, 2370, 2384, 2385, 2386, 2399c, 2421, and 2427 of this title, section 5315 of Title 5, Government Organization and Employees, and sections 1427, 1431, 1692, 1702, 1703, 1706, 1711, 1721, 1722, 1723, 1726, 1731, and 1736b of Title 7, repealing section 2424 of this title, and enacting provisions set out as notes under this section and sections 2151b, 2151i, 2174, 2357, and 2384 of this title and sections 1702, 1708, and 1722 of Title 7] may be cited as the 'International Development and Food Assistance Act of 1977'."

SHORT TITLE OF 1976 AMENDMENT

Pub. L. 94–329, §1, June 30, 1976, 90 Stat. 729, provided: "That this Act [enacting sections 2292h, 2292i, 2321j, 2347, 2347a, 2347b, 2371, 2394a, 2428, 2429, 2755, 2765, 2778, and 2779 of this title, amending sections 2183, 2222, 2261, 2291, 2291a, 2292f, 2304, 2312, 2314, 2318, 2321b, 2321h, 2321i, 2346a, 2370, 2382, 2383, 2384, 2386, 2392, 2394, 2396, 2403, 2415, 2416, 2417, 2441, 2443, 2751, 2751 note, 2752, 2753, 2761, 2762, 2763, 2771, 2776, 2791, 2792, and 2794 of this title, repealing sections 2321a, 2415 note, 2431, 2431 notes, 2432, 2432 note, 2433, 2433 note, 2434, and 2435, and enacting provisions set out as notes under this section and sections 2291, 2292, 2314, 2321a, 2321b, 2347, 2352, 2370, 2428, 2431, 2441, 2751, 2753, 2763, 2776, and 2778 of this title] may be cited as the 'International Security Assistance and Arms Export Control Act of 1976'."

SHORT TITLE OF 1975 AMENDMENT

Pub. L. 94–161, §1, Dec. 20, 1975, 89 Stat. 849, provided: "That this Act [redesignating as sections 2292c to 2292e former sections 2262, 2399–1a, and 2399–1b of this title, enacting sections 2151a–1, 2151d, 2151e, 2151n, 2220a to 2220e, 2292 to 2292b, 2292f, and 2425 to 2427 of this title and sections 1691a, 1711, 1726, and 1736f of Title 7, Agriculture, amending this section and sections 2151a, 2151b, 2151c, 2151h, 2151i, 2151k, 2169, 2174, 2181 to 2183, 2221, 2222, 2225, 2293, 2357 and 2421 of this title and sections 1691, 1703, 1706, 1709, 1721, 1736, 1736a, and 1736b of Title 7, repealing sections 2151d, 2151e, 2201, 2292, and 2399 of this title, and enacting provisions set out as a note under section 2220a of this title and as a note under section 1691a of Title 7] may be cited as the 'International Development and Food Assistance Act of 1975'."

SHORT TITLE OF 1974 AMENDMENTS

Pub. L. 93–559, §1, Dec. 30, 1974, 88 Stat. 1795, provided: "That this Act [enacting sections 2151m, 2175a, 2182a, 2225, 2293, 2304, 2321h, 2321i, 2419 to 2424, 2435, and 2441 to 2443 of this title, amending sections 278, 2151a to 2151c, 2163, 2181, 2183, 2219a, 2222, 2261, 2312, 2318, 2321b, 2321f, 2346a, 2360, 2364, 2370, 2394, 2399, 2413, 2415, 2416, 2753, 2763, 2764, 2771, 2773, 2775, and 2776 of this title, repealing sections 2151j and 2200 of this title, enacting provisions set out as notes under sections 2166, 2175, 2311, 2370, 2399, 2406, 2415, 2431 to 2433, 2551, and 2764 of this title, and repealing provisions set out as a note under this section] may be cited as the 'Foreign Assistance Act of 1974'."

Pub. L. 93–390, §1, Aug. 27, 1974, 88 Stat. 763, provided: "That this Act [amending sections 2191, 2194, 2195, 2197, 2199, 2200 and 2200a of this title] may be cited as the 'Overseas Private Investment Corporation Amendments Act of 1974'."

Pub. L. 93–333, §1, July 8, 1974, 88 Stat. 290, provided: "That this Act [enacting section 2292c of this title, amending section 2292d of this title, and enacting provisions set out as notes under this section and section 2395 of this title] may be cited as the 'Foreign Disaster Assistance Act of 1974'."

SHORT TITLE OF 1973 AMENDMENT

Pub. L. 93–189, §1, Dec. 17, 1973, 87 Stat. 714, provided: "That this Act [enacting sections 2151a to 2151l, 2303, 2399–1a, 2399–1b, 2399c, 2399d, 2431 to 2434 and 2794 of this title, amending this section and sections 285n, 1934, 2163, 2171, 2174, 2181, 2183, 2195, 2199, 2200, 2212, 2219a, 2221, 2222, 2261, 2291, 2291a, 2311, 2312, 2314, 2318, 2321b, 2321f, 2346a, 2367, 2370, 2385, 2394, and section 2397 of this title, repealing sections 2314a, 2319 to 2321, 2321e, 2321g, and 2346a, of this title, and enacting provisions set out as notes under this section and sections 1942, 2163, 2220, 2415, and 2431 of this title] may be cited as the 'Foreign Assistance Act of 1973'."

SHORT TITLE OF 1972 AMENDMENT

Pub. L. 92–226, §1, Feb. 7, 1972, 86 Stat. 20, provided: "That this Act [enacting sections 2180a, 2291, 2292, 2321d to 2321g, 2346 to 2346b, and 2413 to 2418 of this title, amending sections 276, 290f, 1476, 1928b, 2162, 2163, 2169, 2172, 2174, 2181, 2183, 2198, 2199, 2200, 2212, 2219a, 2222, 2261, 2312, 2314, 2318, 2319, 2321b, 2370, 2384, 2394, 2397, 2403, 2411, 2684, 2771, 2773, and 2791 of this title and section 5314 of Title 5, Government Organization and Employees, repealing sections 2165 and 2241 to 2243 of this title, and enacting provisions set out as notes under this section and sections 287e, 2411, 2417, and 2680 of this title] may be cited as the 'Foreign Assistance Act of 1971'."

SHORT TITLE OF 1971 AMENDMENT

Pub. L. 91–652, §1, Jan. 5, 1971, 84 Stat. 1942, provided: "That this Act [enacting section 2411 of this title, amending sections 2261 and 2242 of this title, and enacting provisions set out as notes under sections 2261, 2302, and 2411 of this title] may be cited as the 'Special Foreign Assistance Act of 1971'."

SHORT TITLE OF 1969 AMENDMENT

Pub. L. 91–175, §1, Dec. 30, 1969, 83 Stat. 805, provided that: "This Act [enacting sections 290f, 2179, 2180, 2194 to 2200a and 2321a of this title, amending sections 2162, 2163, 2172, 2174, 2181 to 2183, 2191 to 2193, 2212, 2219a, 2221, 2222, 2242, 2261, 2312, 2318, 2360, 2362, 2370, 2384, 2394, 2396, 2397 and 2402 of this title, section 846 of former Title 31, Money and Finance, and sections 3343, 3581, 3582 and 5314 to 5316 of Title 5, Government Organization and Employees, and enacting provision set out as a note under this section], may be cited as the 'Foreign Assistance Act of 1969'."

SHORT TITLE OF 1968 AMENDMENT

Pub. L. 90–554, §1, Oct. 8, 1968, 82 Stat. 960, provided: "That this Act [enacting sections 2381a, 2399b, and 2410 of this title and section 617 of Title 16, Conservation, amending sections 2161, 2162, 2171, 2172, 2174, 2181, 2184, 2212, 2218, 2219a, 2222, 2242, 2261, 2312, 2318–2320, 2354, 2357, 2370, 2381, 2385,

2396, and 2397 of this title, and enacting provisions set out as a note under this section] may be cited as the 'Foreign Assistance Act of 1968'."

SHORT TITLE OF 1967 AMENDMENT

Pub. L. 90–137, §1, Nov. 14, 1967, 81 Stat. 445, provided: "That this Act [enacting sections 2167 to 2169, 2178, 2219, 2219a, 2220, 2224, 2243, 2302, 2341 to 2345, and 2409 of this title, amending this section and sections 276, 276c–1, 1928b to 1928d, 1934, 2161, 2162, 2165, 2171, 2172, 2174, 2181 to 2184, 2192, 2211, 2212, 2218, 2221, 2222, 2241, 2242, 2261, 2271, 2301, 2302, 2311, 2312, 2314, 2318 to 2321, 2341 to 2345, 2351, 2358, 2360, 2361, 2364, 2384 to 2386, 2389, 2392, 2394 to 2397, 2399a, and 2403 of this title, repealing sections 2217b and 2317(a) of this title, and enacting provision set out as a note under section 2395 of this title] may be cited as the 'Foreign Assistance Act of 1967'."

SHORT TITLE OF 1966 AMENDMENT

Pub. L. 89–583, §1, Sept. 19, 1966, 80 Stat. 795, provided: "That this Act [enacting sections 2217 to 2217b, 2218, 2281, and 2322 of this title and amending this section and sections 2161, 2162, 2165, 2171, 2172, 2174, 2181, 2182, 2184, 2211, 2212, 2221, 2222, 2241, 2242, 2261, 2312, 2314, 2316, 2318, 2320, 2351, 2354, 2358, 2360, 2362, 2364, 2370, 2382, 2384, 2394, 2395, and 2397 of this title] may be cited as the 'Foreign Assistance Act of 1966'."

SHORT TITLE OF 1965 AMENDMENT

Pub. L. 89–171, §1, Sept. 6, 1965, 79 Stat. 653, provided: "That this Act [enacting sections 2166, 2399, 2399a and 2408 of this title, and amending this section and sections 2165, 2172, 2174, 2181 to 2184, 2212, 2221, 2222, 2242, 2261, 2311 to 2313, 2315 to 2320, 2355, 2362, 2363, 2370, 2382, 2384 to 2386, 2390, 2391, 2395 to 2398, 2403, and 2404 of this title, section 1707 of Title 7, Agriculture, and provisions set out as a note under this section] may be cited as the 'Foreign Assistance Act of 1965'."

SHORT TITLE OF 1964 AMENDMENT

Pub. L. 88–633, §1, Oct. 7, 1964, 78 Stat. 1009, provided: "That this Act [enacting sections 2177, 2321, and 2407 of this title, amending sections 276, 1754, 2161, 2172, 2174, 2176, 2181, 2184, 2192, 2212, 2222, 2242, 2261, 2311, 2312, 2315, 2317, 2318, 2320, 2351, 2362, 2370, 2385, 2386, and 2397 of this title, and enacting provisions set out as a note under this section] may be cited as the 'Foreign Assistance Act of 1964'."

SHORT TITLE OF 1963 AMENDMENT

Pub. L. 88–205, §1, Dec. 16, 1963, 77 Stat. 379, provided that: "This Act [enacting sections 816, 1138a, 2216, 2320, 2398, and 2684 of this title, amending sections 961, 1136, 1139, 1251, 1928a, 1943, 2161, 2162, 2172, 2174, 2181, 2182, 2184, 2201, 2211 to 2213, 2222, 2242, 2261, 2312, 2313, 2318, 2319, 2351, 2361, 2362, 2370, 2381, 2384, 2386, 2391, 2395 to 2397, 2403, and 2404 of this title, sections 1701, 1705, 1706, and 1722 of Title 7, Agriculture, and section 1861 of Title 19, Customs Duties, enacting provisions set out as notes under this section and section 1942 of this title, and section 1706 of Title 7, and repealing provisions set out as notes under this section and section 2301 of this title], may be cited as the 'Foreign Assistance Act of 1963'."

SHORT TITLE OF 1962 AMENDMENT

Pub. L. 87–565, §1, Aug. 1, 1962, 76 Stat. 255, provided: "That this Act [enacting sections 2211 to 2213 of this title, amending this section and sections 276, 2161, 2171, 2172, 2181, 2182, 2184, 2192, 2222, 2242, 2261, 2271, 2314, 2315, 2318, 2360, 2361, 2368, 2370, 2381, 2384, 2385, 2389, 2394, 2395, 2397, 2402 to 2404, 2452, and 2669 of this title, repealing section 2173 of this title, enacting provisions set out as a note under section 2452 of this title, and repealing Part IV of the Foreign Assistance Act of 1961] may be cited as the 'Foreign Assistance Act of 1962'."

SHORT TITLE

Pub. L. 87–195, §1, as added by Pub. L. 87–329, title I, §111, Sept. 30, 1961, 75 Stat. 719, provided: "That this Act [enacting this chapter and sections 1613d and 1945 of this title, amending sections 276, 279a, 1041, 1112, 1136, 1148, 1157, 1754, 1783, 1925, 1951 and 1964 of this title, section 1704 of Title 7, Agriculture, and sections 1651 and 1701 of Title 42, The Public Health and Welfare, enacting provisions set out as notes under this section and sections 276, 1613d, and 1925 of this title, and repealing sections 1750, 1750a, 1750b to 1753a, 1755 to 1759, 1760, 1761 to 1765, 1766a to 1766c, 1767a, 1768, 1781, 1782, 1784 to 1795, 1797, 1811, 1812 to 1817, 1841, 1851, 1852, 1854, 1870, 1871 to 1876, 1891 to 1896, 1897, 1920, 1921, 1923, 1924, 1926, 1927, 1929, 1931, 1933, 1935, 1936, 1939 to 1940a, 1941, 2051 to 2053, 2071 and 2072 of this

title, Reorganization Plan No. 7 of 1953, and provisions set out as notes under sections 1753, 1783, 1922, 1928b, 1939 and 1951 of this title] may be cited as 'The Foreign Assistance Act of 1961'."

Pub. L. 87–195, pt. I, §101, Sept. 4, 1961, 75 Stat. 424, which provided that this subchapter should be cited as the "Act for International Development of 1961" was repealed by Pub. L. 88–205, pt. I, §101(b), Dec. 16, 1963, 77 Stat. 379.

Pub. L. 87–195, pt. V, §801, as added by Pub. L. 105–214, §1, July 29, 1998, 112 Stat. 885, provided that: "This part [part V (§§801–813) of Pub. L. 87–195, enacting subchapter IV of this chapter] may be cited as the 'Tropical Forest Conservation Act of 1998'."

REPEALS

Pub. L. 87–195, pt. III, §642, Sept. 4, 1961, 75 Stat. 460, as amended by Pub. L. 89–171, pt. III, §303(a), Sept. 6, 1965, 79 Stat. 661, provided that:

"(a) There are hereby repealed—

"(1) Reorganization Plan Numbered 7 of 1953 [formerly set out as a note under section 1785 of this title].

"(2) the Mutual Security Act of 1954, as amended [section 1750 et seq. of this title] (except sections 402, 405(a), 405(c), 405(d), 408, 414, 417, 451(c), 502(a), 502(b), 514, 523(d), and 536 [sections 1922, 1925(a), 1925(c), 1925(d), 1928, 1934, 1937, 1951(c), 1754(a), (b), 1766, 1783(d) and 1796 of this title]);

"(3) section 12 of the Mutual Security Act of 1955 [formerly set out as a note under section 1811 of this title];

"(4) sections 12, 13, and 14 of the Mutual Security Act of 1956 [section 1870 of this title and notes formerly set out under sections 1753 and 1939 of this title];

"(5) section 503 of the Mutual Security Act of 1958 [section 1750a of this title];

"(6) section 108 of the Mutual Security Appropriation Act, 1959 [formerly set out as a note under section 1922 of this title];

"(7) section 501(a), chapter VI, and sections 702 and 703 of the Mutual Security Act of 1959, as amended [sections 1941, and 2051 to 2053 of this title and notes formerly set out under sections 1928b and 1951 of this title]; and

"(8) section 604 and chapter VII of the Mutual Security Act of 1960 [sections 2071 and 2072 of this title and note formerly set out under section 1783 of this title].

"(b) References in law to the Acts, or provisions of such Acts, repealed by subsection (a) of this section shall hereafter be deemed to be references to this Act [see Short Title note for the Foreign Assistance Act of 1961 above] or appropriate provisions of this Act.

"(c) The repeal of the Acts listed in subsection (a) of this section shall not be deemed to affect amendments contained in such Acts to Acts not named in that subsection."

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT DEEMED AGENCY PRIMARILY RESPONSIBLE FOR ADMINISTERING THIS SUBCHAPTER

Any reference in this chapter to the agency primarily responsible for administering this subchapter, or to the Administrator of such agency, deemed reference to the United States Agency for International Development or to the Administrator of that agency, as appropriate, see section 1–200(a) of Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

UNITED STATES–CARIBBEAN STRATEGIC ENGAGEMENT

Pub. L. 114–291, Dec. 16, 2016, 130 Stat. 1497, provided that:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'United States–Caribbean Strategic Engagement Act of 2016'.

"SEC. 2. STATEMENT OF POLICY.

"Congress declares that it is the policy of the United States to increase engagement with the governments of the Caribbean region and with civil society, including the private sector, in both the United States and the Caribbean, in a concerted effort to—

"(1) enhance diplomatic relations between the United States and the Caribbean region;

"(2) increase economic cooperation between the United States and the Caribbean region;

"(3) support regional economic, political, and security integration efforts in the Caribbean region;

"(4) encourage enduring economic development and increased regional economic diversification and global competitiveness;

"(5) reduce levels of crime and violence, curb the trafficking of illicit drugs, strengthen the rule of law, and improve citizen security;

"(6) improve energy security by increasing access to diverse, reliable, and affordable power;

"(7) advance cooperation on democracy and human rights at multilateral fora;

"(8) continue support for public health advances and cooperation on health concerns and threats to the Caribbean region; and

"(9) expand Internet access throughout the region, especially to countries lacking the appropriate infrastructure.

"SEC. 3. STRATEGY.

"Not later than 180 days after the date of the enactment of this Act [Dec. 16, 2016], the Secretary of State, in coordination with the Administrator of the United States Agency for International Development (USAID), shall submit to the appropriate congressional committees a multi-year strategy for United States engagement to support the efforts of interested nations in the Caribbean region that—

"(1) identifies Department of State and USAID priorities, in coordination with other executive branch agencies, for United States policy towards the Caribbean region;

"(2) outlines an approach to partner with governments of the Caribbean region to improve citizen security, reduce the trafficking of illicit drugs, strengthen the rule of law, and improve the effectiveness and longevity of the Caribbean Basin Security Initiative;

"(3) establishes a comprehensive, integrated, multi-year strategy to encourage efforts of the Caribbean region to implement regional and national strategies that improve energy security, by increasing access to all available sources of energy, including by taking advantage of the indigenous energy sources of the Caribbean and the ongoing energy revolution in the United States;

"(4) outlines an approach to improve diplomatic engagement with the governments of the Caribbean region, including with respect to human rights and democracy;

"(5) Describes [sic] how the United States can develop an approach to supporting Caribbean countries in efforts they are willing to undertake with their own resources to diversify their economies;

"(6) describes ways to ensure the active participation of citizens of the Caribbean in existing program[s] and initiatives administered by the Department of State's Bureau of Educational and Cultural Affairs; and

"(7) reflects the input of other executive branch agencies, as appropriate.

"SEC. 4. BRIEFINGS.

"The Secretary of State shall offer to the appropriate congressional committees annual briefings that review Department of State efforts to implement the strategy for United States engagement with the Caribbean region in accordance with section 3.

"SEC. 5. PROGRESS REPORT.

"Not later than 2 years after the submission of the strategy required under section 3, the President shall submit to the appropriate congressional committees a report on progress made toward implementing the strategy.

"SEC. 6. REPORTING COST OFFSET.

[Amended section 4001 of this title.]

"SEC. 7. DEFINITIONS.

"In this Act:

"(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term 'appropriate congressional committees' means the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

"(2) CARIBBEAN REGION.—The term 'Caribbean region' means the Caribbean Basin Security Initiative beneficiary countries.

"(3) SECURITY ASSISTANCE.—The term 'security assistance' has the meaning given such term in section 502B(d)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2304(d)(2))."

SUPPORT TO CERTAIN GOVERNMENTS FOR BORDER SECURITY OPERATIONS

Pub. L. 114–92, div. A, title XII, §1226, Nov. 25, 2015, 129 Stat. 1056, as amended by Pub. L. 114–328, div. A, title XII, §1294, Dec. 23, 2016, 130 Stat. 2561, provided that:

"(a) AUTHORITY TO PROVIDE SUPPORT.—

"(1) IN GENERAL.—The Secretary of Defense, with the concurrence of the Secretary of State, is authorized to provide support on a reimbursement basis to the Government of Egypt, the Government of Jordan, the Government of Lebanon, and the Government of Tunisia for purposes of supporting and

enhancing efforts as follows:

"(A) Efforts of the armed forces of Jordan and the armed forces of Lebanon to increase security and sustain increased security along the border of Jordan and the border of Lebanon with Syria and Iraq, as applicable.

"(B) Efforts of the armed forces of Egypt and the armed forces of Tunisia to increase security and sustain increased security along the border of Egypt and the border of Tunisia with Libya, as applicable.

"(2) FREQUENCY.—Support may be provided under this subsection on a quarterly basis.

"(b) FUNDS AVAILABLE FOR SUPPORT.—The following amounts made be used to provide support under the authority of subsection (a):

"(1) In fiscal year 2016, amounts authorized to be appropriated for fiscal year 2016 and available for reimbursement of certain coalition nations for support provided to United States military operations pursuant to section 1233 of the National Defense Authorization Act for fiscal year 2008 (Public Law 110–181; 122 Stat. 393).

"(2) In fiscal year 2016, amounts authorized to be appropriated for fiscal year 2016 for the Counterterrorism Partnerships Fund pursuant to section 1534 of the Carl Levin and Howard P. 'Buck' McKeon National Defense Authorization Act for fiscal year 2015 (Public Law 113–291; 128 Stat. 3616).

"(3) In any fiscal year after fiscal year 2016, amounts authorized to be appropriated for such fiscal year and available for Operation and Maintenance, Defense-Wide, and the Counter Islamic State of Iraq and the Levant Fund for such fiscal year.

"(c) LIMITATIONS.—

"(1) LIMITATION ON AMOUNT.—The total amount of support provided under the authority of subsection (a) may not exceed $150,000,000 for any country specified in subsection (a) in any fiscal year.

"(2) SUPPORT TO THE GOVERNMENT OF LEBANON.—Support provided under the authority of subsection (a) to the Government of Lebanon may be used only for the armed forces of Lebanon, and may not be used for or to reimburse Hezbollah or any forces other than the armed forces of Lebanon.

"(3) PROHIBITION ON CONTRACTUAL OBLIGATIONS.—The Secretary of Defense may not enter into any contractual obligation to provide support under the authority of subsection (a).

"(4) DETERMINATION REQUIRED.—The Secretary of Defense may not provide support to a country specified in subsection (a) if the Secretary determines that the government of such country fails to increase security and sustain increased security along the border of the country as specified in subsection (a)(1).

"(d) NOTICE BEFORE EXERCISE.—Not later than 15 days before providing support under the authority of subsection (a), the Secretary of Defense shall submit to the specified congressional committees a report setting forth a full description of the support to be provided, including the amount of support to be provided, and the timeline for the provision of such support.

"(e) SPECIFIED CONGRESSIONAL COMMITTEES.—In the section, the term 'specified congressional committees' means—

"(1) the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives]; and

"(2) the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives.

"(f) EXPIRATION OF AUTHORITY.—No support may be provided under the authority of subsection (a) after December 31, 2019."

GIRLS COUNT

Pub. L. 114–24, June 12, 2015, 129 Stat. 314, provided that:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Girls Count Act of 2015'.

"SEC. 2. FINDINGS.

"Congress makes the following findings:

"(1) According to the United States Census Bureau's 2013 international figures, 1 person in 12, or close to 900,000,000 people, is a girl or young woman age 10 through 24.

"(2) The Census Bureau's data also illustrates that young people are the fastest growing segment of the population in developing countries.

"(3) Even though most countries do have birth registration laws, four out of ten babies born in 2012 were not registered worldwide. Moreover, an estimated 36 percent of children under the age of five worldwide (about 230,000,000 children) do not possess a birth certificate.

"(4) A nationally recognized proof of birth system is important to determining a child's citizenship, nationality, place of birth, parentage, and age. Without such a system, a passport, driver's license, or other identification card is difficult to obtain. The lack of such documentation can prevent girls and women from officially participating in and benefitting from the formal economic, legal, and political sectors in their countries.

"(5) The lack of birth registration among girls worldwide is particularly concerning as it can exacerbate the disproportionate vulnerability of women to trafficking, child marriage, and lack of access to health and education services.

"(6) A lack of birth registration among women and girls can also aggravate what, in many places, amounts to an already reduced ability to seek employment, participate in civil society, or purchase or inherit land and other assets.

"(7) Girls undertake much of the domestic labor needed for poor families to survive: carrying water, harvesting crops, tending livestock, caring for younger children, and doing chores.

"(8) Accurate assessments of access to education, poverty levels, and overall census activities are hampered by the lack of official information on women and girls. Without this rudimentary information, assessments of foreign assistance and domestic social welfare programs are difficult to gauge.

"(9) To help ensure that women and girls are considered in United States foreign assistance policies and programs, that their needs are addressed in the design, implementation, and evaluation of foreign assistance programs, and that women and girls have the opportunity to succeed, it is important that girls be counted and have access to birth certificates and other official documentation.

"SEC. 3. STATEMENT OF POLICY.

"It is the policy of the United States to—

"(1) encourage countries to support the rule of law and ensure girls and boys of all ages are able to fully participate in society, including by providing birth certifications and other official documentation;

"(2) enhance training and capacity-building in key developing countries, local nongovernmental organizations, and other civil society organizations, including faith-based organizations and organizations representing children and families in the design, implementation, and monitoring of programs under this Act, to effectively address the needs of birth registries in countries where girls are systematically undercounted; and

"(3) incorporate into the design, implementation, and evaluation of policies and programs measures to evaluate the impact that such policies and programs have on girls.

"SEC. 4. UNITED STATES ASSISTANCE TO SUPPORT COUNTING OF GIRLS IN THE DEVELOPING WORLD.

"(a) AUTHORIZATION.—The Secretary and the Administrator are authorized to prioritize and advance ongoing efforts to—

"(1) support programs that will contribute to improved and sustainable Civil Registration and Vital Statistics Systems (CRVS) with a focus on birth registration;

"(2) support programs that build the capacity of developing countries' national and local legal and policy frameworks to prevent discrimination against girls in gaining access to birth certificates, particularly where this may help prevent exploitation, violence, and other abuse; and

"(3) support programs and key ministries, including, interior, youth, and education ministries, to help increase property rights, social security, home ownership, land tenure security, inheritance rights, access to education, and economic and entrepreneurial opportunities, particularly for women and girls.

"(b) COORDINATION WITH MULTILATERAL ORGANIZATIONS.—The Secretary and the Administrator are authorized to coordinate with the World Bank, relevant United Nations agencies and programs, and other relevant organizations to encourage and work with countries to enact, implement, and enforce laws that specifically collect data on girls and establish registration programs to ensure girls are appropriately counted and have the opportunity to be active participants in the social, legal, and political sectors of society in their countries.

"(c) COORDINATION WITH PRIVATE SECTOR AND CIVIL SOCIETY ORGANIZATIONS.—The Secretary and the Administrator are authorized to work with the United States, international, and local private sector and civil society organizations to advocate for the registration and documentation of all girls and boys in developing countries, in order to help prevent exploitation, violence, and other abuses and to help provide economic and social opportunities.

"SEC. 5. REPORT.

"The Secretary and the Administrator shall include in relevant evaluations and reports to Congress the

following information:

"(1) To the extent practicable, a breakdown of United States foreign assistance beneficiaries by age, gender, marital status, location, and school enrollment status.

"(2) A description, as appropriate, of how United States foreign assistance benefits girls.

"(3) Specific information, as appropriate, on programs that address the particular needs of girls.

"SEC. 6. DEFINITIONS.

"In this Act:

"(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the United States Agency for International Development.

"(2) FOREIGN ASSISTANCE.—The term 'foreign assistance' has the meaning given the term in section 634(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2394(b)).

"(3) SECRETARY.—The term 'Secretary' means the Secretary of State.

"SEC. 7. SUNSET.

"This Act shall expire on the date that is five years after the date of the enactment of this Act [June 12, 2015]."

MILITARY-TO-MILITARY ENGAGEMENT WITH THE GOVERNMENT OF BURMA

Pub. L. 113–291, div. A, title XII, §1253, Dec. 19, 2014, 128 Stat. 3571, provided that:

"(a) AUTHORIZATION.—The Department of Defense is authorized to provide the Government of Burma the following:

"(1) Consultation, education, and training on human rights, the laws of armed conflict, civilian control of the military, rule of law, and other legal matters.

"(2) Consultation, education, and training on English-language, humanitarian and disaster relief, and improvements to medical and health standards.

"(3) Courses or workshops on defense institution reform.

"(4) Observer status to bilateral or multilateral humanitarian assistance and disaster relief exercises.

"(5) Aid or support in the event of a humanitarian crisis or natural disaster.

"(b) ANNUAL REPORTS.—

"(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Dec. 19, 2014], and each March 1 thereafter, the Secretary of Defense shall, in consultation with the Secretary of State, submit to the appropriate committees of Congress a report on military-to-military engagement between the United States Armed Forces and the Burmese military.

"(2) ELEMENTS.—Each report under paragraph (1) shall include the following:

"(A) A description of the military-to-military activities between the United States and Burma, and how engagement with the Burmese military supports the United States national security strategy and promotes reform in Burma.

"(B) A description of the objectives of the United States for developing the military-to-military relationship with the Burmese military, how the United States measures progress toward such objectives, and the implications of failing to achieve such objectives.

"(C) A description and assessment of the political, military, economic, and civil society reforms being undertaken by the Government of Burma, including those affecting—

"(i) individual freedoms and human rights of the Burmese people, including those of ethnic and religious minorities and internally displaced populations;

"(ii) the peaceful settlement of armed conflicts between the Government of Burma and ethnic minority groups in Burma;

"(iii) civilian control of the armed forces;

"(iv) constitutional and electoral reforms;

"(v) access for the purposes of human rights monitoring and humanitarian assistance to all areas in Burma, and cooperation with civilian authorities to investigate and resolve cases of human rights violations;

"(vi) governmental transparency and accountability; and

"(vii) respect for the laws of armed conflict and human rights, including with respect to child soldiers.

"(D) A description and assessment of relationships of the Government of Burma with unlawful or sanctioned entities.

"(3) FORM.—Each report under this subsection shall be submitted in unclassified form, but may include a classified annex.

"(4) SUNSET.—The requirement to submit additional reports under this subsection shall terminate at the end of the 5-year period beginning on the date of the enactment of this Act [Dec. 19, 2014].

"(c) RULE OF CONSTRUCTION.—No Department of Defense assistance to the Government of Burma is authorized by this Act [Pub. L. 113–291, see Tables for classification] except as provided in this section.

"(d) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term 'appropriate committees of Congress' means—

"(1) the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Appropriations of the Senate; and

"(2) the Committee on Armed Services, the Committee on Foreign Affairs, and the Committee on Appropriations of the House of Representatives."

ASSESSING PROGRESS IN HAITI

Pub. L. 113–162, Aug. 8, 2014, 128 Stat. 1858, provided that:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Assessing Progress in Haiti Act of 2014'.

"SEC. 2. FINDINGS.

"Congress makes the following findings:

"(1) On January 12, 2010, a massive earthquake struck near the Haitian capital city of Port-au-Prince, leaving an estimated 220,000 people dead, including 103 United States citizens, 101 United Nations personnel, and nearly 18 percent of the nation's civil service, as well as 300,000 injured, 115,000 homes destroyed, and 1,500,000 people displaced.

"(2) According to the Post Disaster Needs Assessment conducted by the Government of Haiti, with technical assistance from the United Nations, the World Bank, the Inter-American Development Bank, the Economic Commission for Latin America and the Caribbean, and the European Commission, an estimated 15 percent of the population was directly affected by the disaster and related damages and economic losses totaled $7,804,000,000.

"(3) Even before the earthquake, Haiti had some of the lowest socioeconomic indicators and the second highest rate of income disparity in the world, conditions that have further complicated post-earthquake recovery efforts and, according to the World Bank, have significantly reduced the prospects of addressing poverty reduction through economic growth.

"(4) According to the World Food Programme, more than 6,700,000 people in Haiti (out of a population of about 10,000,000) are considered food insecure.

"(5) In October 2010, an unprecedented outbreak of cholera in Haiti resulted in over 500,000 reported cases and over 8,000 deaths to date, further straining the capacity of Haiti's public health sector and increasing the urgency of resettlement and water, sanitation, and hygiene (WASH) efforts.

"(6) The international community, led by the United States and the United Nations, mounted an unprecedented humanitarian response in Haiti, with donors pledging approximately $10,400,000,000 for humanitarian relief and recovery efforts, including debt relief, supplemented by $3,100,000,000 in private charitable contributions, of which approximately $6,400,000,000 has been disbursed and an additional $3,800,000,000 has been committed as of September 30, 2013.

"(7) The emergency response of the men and women of the United States Government, led by the United States Agency for International Development (USAID) and the United States Southern Command, as well as of cities, towns, individuals, businesses, and philanthropic organizations across the United States, was particularly swift and resolute.

"(8) Since 2010, a total of $1,300,000,000 in United States assistance has been allocated for humanitarian relief and $2,300,000,000 has been allocated for recovery, reconstruction, and development assistance in Haiti, including $1,140,000,000 in emergency appropriations and $95,000,000 that has been obligated specifically to respond to the cholera epidemic.

"(9) Of the $3,600,000,000 in United States assistance allocated for Haiti, $651,000,000 was apportioned to USAID to support an ambitious recovery plan, including the construction of a power plant to provide electricity for the new Caracol Industrial Park (CIP) in northern Haiti, a new port near the CIP, and permanent housing in new settlements in the Port-au-Prince, St-Marc, and Cap-Haiï¿½AE4tien areas.

"(10) According to a recent report of the Government Accountability Office, as of June 30, 2013, USAID had disbursed 31 percent of its reconstruction funds in Haiti, the port project was 2 years behind schedule and USAID funding will be insufficient to cover a majority of the projected costs, the housing project has been reduced by 80 percent, and the sustainability of the power plant, the port, and the housing projects were all at risk.

"(11) GAO further found that Congress has not been provided with sufficient information to ensure that it is able to conduct effective oversight at a time when most funding remains to be disbursed, and specifically recommends that a periodic reporting mechanism be instituted to fill this information gap.

"(12) Donors have encountered significant challenges in implementing recovery programs, and nearly 4 years after the earthquake, an estimated 171,974 people remain displaced in camps, unemployment remains high, corruption is rampant, land rights remain elusive, allegations of wage violations are widespread, the business climate is unfavorable, and government capacity remains weak.

"(13) For Haiti to achieve stability and long term economic growth, donor assistance will have to be carefully coordinated with a commitment by the Government of Haiti to transparency, a market economy, rule of law, and democracy.

"(14) The legal environment in Haiti remains a challenge to achieving the goals supported by the international community.

"SEC. 3. STATEMENT OF POLICY.

"It is the policy of the United States to support the sustainable rebuilding and development of Haiti in a manner that—

"(1) promotes efforts that are led by and support the people and Government of Haiti at all levels so that Haitians lead the course of reconstruction and development of Haiti;

"(2) builds the long term capacity of the Government of Haiti and civil society in Haiti;

"(3) reflects the priorities and particular needs of both women and men so they may participate equally and to their maximum capacity;

"(4) respects and helps restore Haiti's natural resources, as well as builds community-level resilience to environmental and weather-related impacts;

"(5) provides timely and comprehensive reporting on goals and progress, as well as transparent post program evaluations and contracting data;

"(6) prioritizes the local procurement of goods and services in Haiti where appropriate; and

"(7) promotes the holding of free, fair, and timely elections in accordance with democratic principles and the Haitian Constitution.

"SEC. 4. SENSE OF CONGRESS.

"It is the sense of Congress that transparency, accountability, democracy, and good governance are integral factors in any congressional decision regarding United States assistance, including assistance to Haiti.

"SEC. 5. REPORT.

"(a) IN GENERAL.—Not later than December 31, 2014, and annually thereafter through December 31, 2017, the Secretary of State shall submit to Congress a report on the status of post-earthquake recovery and development efforts in Haiti.

"(b) CONTENTS.—The report required by subsection (a) shall include—

"(1) a summary of 'Post-Earthquake USG Haiti Strategy: Toward Renewal and Economic Opportunity', including any significant changes to the strategy over the reporting period and an explanation thereof;

"(2) a breakdown of the work that the United States Government agencies other than USAID and the Department of State are conducting in the Haiti recovery effort, and the cost of that assistance;

"(3) an assessment of the progress of United States efforts to advance the objectives of the 'Post-Earthquake USG Haiti Strategy: Toward Renewal and Economic Opportunity' produced by the Department of State, compared to what remains to be achieved to meet specific goals, including—

"(A) a description of any significant changes to the Strategy over the reporting period and an explanation thereof;

"(B) an assessment of progress, or lack thereof, over the reporting period toward meeting the goals and objectives, benchmarks, and timeframes specified in the Strategy, including—

"(i) a description of progress toward designing and implementing a coordinated and sustainable housing reconstruction strategy that addresses land ownership, secure land tenure, water and sanitation, and the unique concerns of vulnerable populations such as women and children, as well as neighborhood and community revitalization, housing finance, and capacity building for the Government of Haiti to implement an effective housing policy;

"(ii) a description of United States Government efforts to construct and sustain the proposed port, as well as an assessment of the current projected timeline and cost for completion; and

"(iii) a description of United States Government efforts to attract and leverage the investments of private sector partners to the CIP, including by addressing any policy impediments;

"(C) a description of the quantitative and qualitative indicators used to evaluate the progress toward meeting the goals and objectives, benchmarks, and timeframes specified in the Strategy at the program level;

"(D) the amounts committed, obligated, and expended on programs and activities to implement the Strategy, by sector and by implementing partner at the prime and subprime levels (in amounts of not less than $25,000); and

"(E) a description of the risk mitigation measures put in place to limit the exposure of United States assistance provided under the Strategy to waste, fraud, and abuse;

"(4) a description of measures taken to strengthen, and United States Government efforts to improve, Haitian governmental and nongovernmental organizational capacity to undertake and sustain United States-supported recovery programs;

"(5) as appropriate, a description of United States efforts to consult and engage with Government of Haiti ministries and local authorities on the establishment of goals and timeframes, and on the design and implementation of new programs under the Post-Earthquake USG Haiti Strategy: Toward Renewal and Economic Opportunity;

"(6) a description of efforts by Haiti's legislative and executive branches to consult and engage with Haitian civil society and grassroots organizations on the establishment of goals and timeframes, and on the design and implementation of new donor-financed programs, as well as efforts to coordinate with and engage the Haitian diaspora;

"(7) consistent with the Government of Haiti's ratification of the United Nations Convention Against Corruption, a description of efforts of the Governments of the United States and Haiti to strengthen Government of Haiti institutions established to address corruption, as well as related efforts to promote public accountability, meet public outreach and disclosure obligations, and support civil society participation in anti-corruption efforts;

"(8) a description of efforts to leverage public-private partnerships and increase the involvement of the private sector in Haiti in recovery and development activities and coordinate programs with the private sector and other donors;

"(9) a description of efforts to address the particular needs of vulnerable populations, including internally displaced persons, women, children, orphans, and persons with disabilities, in the design and implementation of new programs and infrastructure;

"(10) a description of the impact that agriculture and infrastructure programs are having on the food security, livelihoods, and land tenure security of smallholder farmers, particularly women;

"(11) a description of mechanisms for communicating the progress of recovery and development efforts to the people of Haiti, including a description of efforts to provide documentation, reporting and procurement information in Haitian Creole;

"(12) a description of the steps the Government of Haiti is taking to strengthen its capacity to receive individuals who are removed, excluded, or deported from the United States; and

"(13) an assessment of actions necessary to be taken by the Government of Haiti to assist in fulfilling the objectives of the Strategy.

"SEC. 6. STRATEGY.

"(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Aug. 8, 2014], the Secretary of State, acting through the Assistant Secretary of State for Western Hemisphere Affairs, shall coordinate and transmit to the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives a three-year Haiti strategy based on rigorous assessments that—

"(1) identifies and addresses constraints to sustainable, broad-based economic growth and to the consolidation of responsive, democratic government institutions;

"(2) includes an action plan that outlines policy tools, technical assistance, and anticipated resources for addressing the highest-priority constraints to economic growth and the consolidation of democracy, as well as a specific description of mechanisms for monitoring and evaluating progress; and

"(3) identifies specific steps and verifiable benchmarks appropriate to provide direct bilateral assistance to the Government of Haiti.

"(b) ELEMENTS.—The strategy required under subsection (a) should address the following elements:

"(1) A plan to engage the Government of Haiti on shared priorities to build long-term capacity, including the development of a professional civil service, to assume increasing responsibility for governance and budgetary sustainment of governmental institutions.

"(2) A plan to assist the Government of Haiti in holding free, fair and timely elections in accordance with democratic principles.

"(3) Specific goals for future United States support for efforts to build the capacity of the Government of Haiti, including to–

"(A) reduce corruption;

"(B) consolidate the rule of law and an independent judiciary;

"(C) strengthen the civilian police force;

"(D) develop sustainable housing, including ensuring appropriate titling and land ownership rights;

"(E) expand port capacity to support economic growth;

"(F) attract and leverage the investments of private sector partners, including to the Caracol Industrial Park;

"(G) promote large and small scale agricultural development in a manner that reduces food insecurity and contributes to economic growth;

"(H) improve access to potable water, expand public sanitation services, reduce the spread of infectious diseases, and address public health crises;

"(I) restore the natural resources of Haiti, including enhancing reforestation efforts throughout the country; and

"(J) gain access to safe, secure, and affordable supplies of energy in order to strengthen economic growth and energy security.

"(c) CONSULTATION.—In devising the strategy required under subsection (a), the Secretary should—

"(1) coordinate with all United States Government departments and agencies carrying out work in Haiti;

"(2) consult with the Government of Haiti, including the National Assembly of Haiti, and representatives of private and nongovernmental sectors in Haiti; and

"(3) consult with relevant multilateral organizations, multilateral development banks, private sector institutions, nongovernmental organizations, and foreign governments present in Haiti.

"(d) BRIEFINGS.—The Secretary of State, at the request of the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives, shall provide a quarterly briefing that reviews progress of the implementation of the strategy required under subsection (a)."

UNITED STATES SECURITY AND ASSISTANCE STRATEGIES IN AFRICA

Pub. L. 113–66, div. A, title XII, §1206, Dec. 26, 2013, 127 Stat. 899, provided that:

"(a) STRATEGIC FRAMEWORK FOR COUNTERTERRORISM ASSISTANCE AND COOPERATION IN THE SAHEL AND THE MAGHREB REGIONS.—

"(1) IN GENERAL.—The Secretary of Defense shall, in coordination with the Secretary of State, develop a strategic framework for United States counterterrorism assistance and cooperation in the Sahel and Maghreb regions of Africa, including for programs conducted under the Trans-Sahara Counter Terrorism Partnership, Operation Enduring Freedom–Trans Sahara, and related security assistance authorities.

"(2) ELEMENTS.—The strategic framework required by paragraph (1) shall include the following:

"(A) An evaluation of the threat of terrorist organizations operating in the Sahel and Maghreb regions to the national security of the United States.

"(B) An identification on a regional basis of the primary objectives, priorities, and desired end-states of United States counterterrorism assistance and cooperation programs in the region, and of the resources required to achieve such objectives, priorities, and end-states.

"(C) A methodology for assessing the effectiveness of United States counterterrorism assistance and cooperation programs in the region in making progress towards the objectives and desired end-states identified pursuant to subparagraph (B), including an identification of key benchmarks of such progress.

"(D) Criteria for bilateral and multilateral partnerships in the region.

"(E) Plans for enhancing coordination among United States and international agencies for planning and implementation of United States counterterrorism assistance and cooperation programs for the region on a regional basis, rather than a country-by-country basis, in order to improve coordination among United States regional and bilateral counterterrorism assistance and cooperation programs in the region.

"(3) REPORT.—Not later than 180 days after the date of the enactment of this Act [Dec. 26, 2013], the Secretary of Defense and the Secretary of State shall jointly submit to the appropriate committees of Congress a report that includes the following:

"(A) A comprehensive description of the strategic framework required by paragraph (1).

"(B) A description of lessons learned regarding the organization and implementation of United

States counterterrorism assistance and cooperation programs for the Sahel and Maghreb regions of Africa, including an evaluation of the performance and commitment of regional partners in the Sahel and Maghreb regions, including Mali in particular, in 2012 and 2013.

"(b) STRATEGY TO SUPPORT CONSOLIDATION OF SECURITY AND GOVERNANCE GAINS IN SOMALIA.—

"(1) REQUIREMENT FOR STRATEGY.—Not later than 180 days after the date of the enactment of this Act [Dec. 26, 2013], the President shall submit to the appropriate committees of Congress a strategy to guide future United States policy and programs in Somalia to counter armed threats and support regional security, and in support of Somali and international efforts to foster economic growth and opportunity, counter armed threats to stability, and develop credible, transparent, and representative government systems and institutions.

"(2) CONTENT OF STRATEGY.—The strategy required under paragraph (1) should include the following elements:

"(A) An interagency framework to plan, coordinate and review diplomatic, military, intelligence, development, and humanitarian elements of the United States policy regarding Somalia.

"(B) Plans and benchmarks for strengthening efforts, as appropriate, of the Government of Somalia, the African Union, and regional governments to stabilize the security situation within Somalia and further degrade al-Shabaab's capabilities, in order to enable the eventual transfer of security operations to Somali security forces capable of—

"(i) maintaining and expanding security and stability within Somalia;

"(ii) confronting transnational security threats; and

"(iii) preventing human rights abuses.

"(C) A plan to support the development and professionalization of credible, civilian led, Somali security forces that are representative of the population, including the infrastructure and procedures required to ensure chain of custody and the safe storage of military equipment and an assessment of the benefits and risks of the provision of weaponry to the Somali security forces by the United States.

"(D) A description of United States national security objectives addressed through military-to-military cooperation activities with Somali security forces.

"(E) A description of security risks to any United States personnel conducting security cooperation activities within Somalia and plans to assist the Somali security forces in preventing infiltration and insider attacks, including through the application of lessons learned in United States military training efforts in Afghanistan.

"(F) A description of United States tools for monitoring and responding to violations of the United Nations Security Council arms embargo, charcoal ban, and other international agreements affecting the stability of Somalia.

"(G) A description of mechanisms for coordinating United States military and non-military assistance with other international donors, regional governments, and relevant multilateral organizations.

"(H) A plan to support the consolidation of political gains at the national level, while also encouraging and supporting complementary processes at the local and regional levels and encouraging improved collaboration among Somali national and regional administrations.

"(I) Any plans to increase United States diplomatic engagement with Somalia, including through the future establishment of an embassy or other diplomatic posts in Mogadishu.

"(J) Any other element the President determines appropriate.

"(3) REPORTS.—Not later than 180 days after the date of the submission of the strategy required under paragraph (1), and annually thereafter for three years, the President shall submit to the appropriate committees of Congress an update on implementation of the strategy and progress made in Somalia and associated benchmarks for security, stability, development, and governance.

"(4) FORM.—The strategy required under paragraph (1) and the reports required under paragraph (3) shall be submitted in unclassified form, but may include a classified annex.

"(c) INTELLIGENCE ASSESSMENT AND REPORT ON AL-SHABAAB.—Not later than 90 days after the date of the enactment of this Act [Dec. 26, 2013], the Director of National Intelligence shall submit to the appropriate committees of Congress a classified intelligence assessment of the terrorist organization known as al-Shabaab. Such assessment shall include the following:

"(1) A description of organizational structure, operational objectives, and funding sources for al-Shabaab.

"(2) An assessment of the extent to which al-Shabaab threatens security and stability within Somalia and surrounding countries.

"(3) An assessment of the extent to which al-Shabaab threatens the security of United States citizens or

the national security or interests of the United States.

"(4) The description of the relationship between al-Shabaab and al-Qaeda and al-Qaeda affiliates.

"(5) An assessment of the capacity of the Government of Somalia to counter the threat posed by al-Shabaab.

"(6) An assessment of the capacity of regional countries and organizations, including the African Union, to counter the threat posed by al-Shabaab.

"(d) DESIGNATION OF GOVERNMENT OFFICIAL FOR AFRICA EXPORT POLICY.—Not later than 60 days after the date of the enactment of this Act [Dec. 26, 2013], and for the following three years, the President shall designate an existing senior United States Government official with existing interagency authority for export policy for Africa to coordinate among various United States Government agencies existing export strategies with the goal of significantly increasing United States exports to Africa in real dollar value.

"(e) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term 'appropriate committees of Congress' means—

"(1) the Committee on Armed Services, the Committee on Foreign Relations, the Committee on Appropriations, and the Select Committee on Intelligence of the Senate; and

"(2) the Committee on Armed Services, the Committee on Foreign Affairs, the Committee on Appropriations, and the Permanent Select Committee on Intelligence of the House of Representatives."

ASSISTANCE TO THE GOVERNMENT OF JORDAN FOR BORDER SECURITY OPERATIONS

Pub. L. 113–66, div. A, title XII, §1207, Dec. 26, 2013, 127 Stat. 902, provided that:

"(a) AUTHORITY TO PROVIDE ASSISTANCE.—

"(1) IN GENERAL.—The Secretary of Defense may, with the concurrence of the Secretary of State, provide assistance on a reimbursement basis to the Government of Jordan for purposes of supporting and maintaining efforts of the armed forces of Jordan to increase security and sustain increased security along the border between Jordan and Syria.

"(2) FREQUENCY.—Assistance under this subsection may be provided on a quarterly basis.

"(3) CERTIFICATION.—Assistance may be provided under this subsection only if the Secretary of Defense certifies to the specified congressional committees that the Government of Jordan is continuing to support and maintain efforts of the armed forces of Jordan to increase security or sustain increased security along the border between Jordan and Syria.

"(b) FUNDS AVAILABLE FOR ASSISTANCE.—Amounts authorized to be appropriated for fiscal year 2014 by title XV [127 Stat. 935] and available for reimbursement of certain coalition nations for support provided to United States military operations pursuant to section 1233 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181) [122 Stat. 393] as specified in the funding table in section 4302 [127 Stat. 1137] may be used to provide assistance under the authority in subsection (a).

"(c) LIMITATIONS.—

"(1) LIMITATION ON AMOUNT.—The total amount of assistance provided under the authority in subsection (a) may not exceed $150,000,000.

"(2) PROHIBITION ON CONTRACTUAL OBLIGATIONS.—The Secretary of Defense may not enter into any contractual obligation to provide assistance under the authority in subsection (a).

"(d) NOTICE BEFORE EXERCISE.—Not later than 15 days before providing assistance under the authority in subsection (a), the Secretary of Defense shall submit to the specified congressional committees a report setting forth a full description of the assistance to be provided, including the amount of assistance to be provided, and the timeline for the provision of such assistance.

"(e) SPECIFIED CONGRESSIONAL COMMITTEES.—In this section, the term 'specified congressional committees' means—

"(1) the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives]; and

"(2) the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives.

"(f) EXPIRATION OF AUTHORITY.—No assistance may be provided under the authority in subsection (a) after December 31, 2015."

[Pub. L. 114–328, div. A, title XII, §1241(d)(5), Dec. 23, 2016, 130 Stat. 2504, provided that, effective as of the date that is 270 days after Dec. 23, 2016, section 1207 of Pub. L. 113–66, set out above, is repealed.]

SUPPORT OF FOREIGN FORCES PARTICIPATING IN OPERATIONS TO DISARM THE LORD'S RESISTANCE ARMY

Pub. L. 113–66, div. A, title XII, §1208(a)–(f), Dec. 26, 2013, 127 Stat. 903, 904, provided that:

"(a) AUTHORITY.—Pursuant to the policy established by the Lord's Resistance Army Disarmament and Northern Uganda Recovery Act of 2009 (Public Law 111–172; 124 Stat. 1209) [set out below], the Secretary of Defense may, with the concurrence of Secretary of State, provide logistic support, supplies, and services, and intelligence support, to foreign forces participating in operations to mitigate and eliminate the threat posed by the Lord's Resistance Army as follows:

"(1) The national military forces of Uganda.

"(2) The national military forces of any other country determined by the Secretary of Defense to be participating in such operations.

"(b) FUNDING.—

"(1) IN GENERAL.—Of the amount authorized to be appropriated for a fiscal year for the Department of Defense for operation and maintenance, not more than $50,000,000 may be used in such fiscal year to provide support under subsection (a).

"(2) AVAILABILITY OF FUNDS ACROSS FISCAL YEARS.—Amounts available under this subsection for a fiscal year for support under the authority in subsection (a) may be used for support under that authority that begins in such fiscal year but ends in the next fiscal year.

"(c) Limitations.—

"(1) IN GENERAL.—The Secretary of Defense may not use the authority in subsection (a) to provide any type of support that is otherwise prohibited by any provision of law.

"(2) AVAILABILITY OF FUNDS FOR FISCAL YEAR 2014.—Of the amount available under subsection (b) for fiscal year 2014, not more than $37,500,000 may be obligated or expended to provide support under subsection (a) until the Secretary submits to the appropriate committees of Congress a report on Operation Observant Compass, including the specific goals of the campaign to counter the Lord's Resistance Army, the precise metrics used to measure progress in the campaign, and the actions that will be taken to transition the campaign if it is determined that it is no longer necessary for the United States to support the mission of the campaign.

"(d) NOTICE TO CONGRESS ON SUPPORT TO BE PROVIDED.—Not less than 15 days before the date on which funds are obligated to provide support under subsection (a), the Secretary of Defense shall submit to the appropriate committees of Congress a notice setting forth the following:

"(1) The type of support to be provided.

"(2) The national military forces to be supported.

"(3) The objectives of such support.

"(4) The estimated cost of such support.

"(5) The intended duration of such support.

"(e) DEFINITIONS.—In this section:

"(1) The term 'appropriate committees of Congress' means—

"(A) the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Appropriations of the Senate; and

"(B) the Committee on Armed Services, the Committee on Foreign Affairs, and the Committee on Appropriations of the House of Representatives.

"(2) The term 'logistic support, supplies, and services' has the meaning given that term in section 2350(1) of title 10, United States Code.

"(f) EXPIRATION.—The authority provided under this section may not be exercised after September 30, 2017."

REPORTS ON RESPONSIBILITY WITHIN DEPARTMENT OF STATE AND THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT FOR CONTRACT SUPPORT FOR OVERSEAS CONTINGENCY OPERATIONS

Pub. L. 112–239, div. A, title VIII, §850, Jan. 2, 2013, 126 Stat. 1854, provided that:

"(a) DOS AND USAID REPORTS REQUIRED.—Not later than six months after the date of the enactment of this Act [Jan. 2, 2013], the Secretary of State and the Administrator of the United States Agency for International Development shall, in consultation with the Chief Acquisition Officer of the Department of State and the Chief Acquisition Officer of the United States Agency for International Development, respectively, each submit to the appropriate committees of Congress an assessment of Department of State and United States Agency for International Development policies governing contract support in overseas contingency operations.

"(b) ELEMENTS.—Each report under subsection (a) shall include the following:

"(1) A description and assessment of the roles and responsibilities of the officials, offices, and components of the Department of State or the United States Agency for International Development, as

applicable, within the chain of authority and responsibility for policy, planning, and execution of contract support for overseas contingency operations.

"(2) Procedures and processes of the Department or Agency, as applicable, on the following in connection with contract support for overseas contingency operations:

"(A) Collection, inventory, and reporting of data.

"(B) Acquisition planning.

"(C) Solicitation and award of contracts.

"(D) Requirements development and management.

"(E) Contract tracking and oversight.

"(F) Performance evaluations.

"(G) Risk management.

"(H) Interagency coordination and transition planning.

"(3) Strategies and improvements necessary for the Department or the Agency, as applicable, to address reliance on contractors, workforce planning, and the recruitment and training of acquisition workforce personnel, including the anticipated number of personnel needed to perform acquisition management and oversight functions and plans for achieving personnel staffing goals, in connection with overseas contingency operations.

"(c) COMPTROLLER GENERAL REPORT.—Not later than one year after the date of the enactment of this Act [Jan. 2, 2013], the Comptroller General of the United States shall submit to the appropriate committees of Congress a report on the progress of the efforts of the Department of State and the United States Agency for International Development in implementing improvements and changes identified under paragraphs (1) through (3) of subsection (b) in the reports required by subsection (a), together with such additional information as the Comptroller General considers appropriate to further inform such committees on issues relating to the reports required by subsection (a).

"(d) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term 'appropriate committees of Congress' means—

"(1) the Committee on Foreign Relations, the Committee on Armed Services, the Committee on Homeland Security and Governmental Affairs, and the Committee on Appropriations of the Senate; and

"(2) the Committee on Foreign Affairs, the Committee on Armed Services, the Committee on Oversight and Government Reform, and the Committee on Appropriations of the House of Representatives."

GLOBAL SECURITY CONTINGENCY FUND

Pub. L. 112–81, div. A, title XII, §1207, Dec. 31, 2011, 125 Stat. 1625, as amended by Pub. L. 113–66, div. A, title XII, §1202, Dec. 26, 2013, 127 Stat. 893; Pub. L. 113–291, div. A, title XII, §1201, Dec. 19, 2014, 128 Stat. 3529, provided that:

"(a) ESTABLISHMENT.—There is established on the books of the Treasury of the United States an account to be known as the 'Global Security Contingency Fund' (in this section referred to as the 'Fund').

"(b) AUTHORITY.—Notwithstanding any other provision of law (other than the provisions of section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371) and the section 620J of such Act relating to limitations on assistance to security forces (22 U.S.C. 2378d)), amounts in the Fund shall be available to either the Secretary of State or the Secretary of Defense to provide assistance to countries or regions designated by the Secretary of State, with the concurrence of the Secretary of Defense, for purposes of this section, as follows:

"(1) To enhance the capabilities of a country's national military forces, or other national security forces that conduct border and maritime security, internal defense, and counterterrorism operations, as well as the government agencies responsible for such forces, to—

"(A) conduct border and maritime security, internal defense, or counterterrorism operations; or

"(B) participate in or support military, stability, or peace support operations consistent with United States foreign policy and national security interests.

"(2) For the justice sector (including law enforcement and prisons), rule of law programs, and stabilization efforts in a country in cases in which the Secretary of State, in consultation with the Secretary of Defense, determines that conflict or instability in a country or region challenges the existing capability of civilian providers to deliver such assistance.

"(c) TYPES OF ASSISTANCE.—

"(1) AUTHORIZED ELEMENTS.—A program to provide the assistance under subsection (b)(1) may include the provision of the following:

"(A) Equipment, including routine maintenance and repair of such equipment.

"(B) Supplies.

"(C) With respect to amounts in the Fund appropriated or transferred into the Fund after the date of the enactment of the Carl Levin and Howard P. 'Buck' McKeon National Defense Authorization Act for Fiscal Year 2015 [Dec. 19, 2014], small-scale construction not exceeding $750,000 on a per-project basis.

"(D) Training.

"(2) REQUIRED ELEMENTS.—A program to provide the assistance under subsection (b)(1) shall include elements that promote—

"(A) observance of and respect for human rights and fundamental freedoms; and

"(B) respect for legitimate civilian authority within the country concerned.

"(d) FORMULATION AND APPROVAL OF ASSISTANCE PROGRAMS.—

"(1) SECURITY PROGRAMS.—The Secretary of State and the Secretary of Defense shall jointly formulate assistance programs under subsection (b)(1). Assistance programs to be carried out pursuant to subsection (b)(1) shall be approved by the Secretary of State, with the concurrence of the Secretary of Defense, before implementation.

"(2) JUSTICE SECTOR AND STABILIZATION PROGRAMS.—The Secretary of State, in consultation with the Secretary of Defense, shall formulate assistance programs under subsection (b)(2). Assistance programs to be carried out under the authority in subsection (b)(2) shall be approved by the Secretary of State, with the concurrence of the Secretary of Defense, before implementation.

"(e) RELATION TO OTHER AUTHORITIES.—The authority to provide assistance under this section is in addition to any other authority to provide assistance to foreign nations. The administrative authorities of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) shall be available to the Secretary of State with respect to funds available to carry out this section.

"(f) TRANSFER AUTHORITY.—

"(1) DEPARTMENT OF DEFENSE FUNDS.—Funds authorized to be appropriated to the Department of Defense for operation and maintenance for Defense-wide activities may be transferred to the Fund by the Secretary of Defense in accordance with established procedures for reprogramming under section 1001 of this Act [125 Stat. 1554] and successor provisions of law. Amounts transferred under this paragraph shall be merged with funds otherwise made available under this section and remain available until expended as provided in subsection (i) for the purposes specified in subsection (b).

"(2) LIMITATION.—The total amount of funds transferred to the Fund in any fiscal year from the Department of Defense may not exceed $200,000,000.

"(3) TRANSFERS TO OTHER ACCOUNTS.—Funds available to carry out assistance authorized by this section may be transferred to an agency or account determined most appropriate to facilitate the provision of assistance authorized by this section.

"(4) RELATION TO OTHER TRANSFER AUTHORITIES.—The transfer authorities in paragraphs (1) and (3) are in addition to any other transfer authority available to the Department of Defense.

"(g) ALLOCATION OF CONTRIBUTIONS TO ASSISTANCE.—The contribution of the Secretary of State to an activity under the authority in subsection (b) shall be not less than 20 percent of the total amount required for such activity. The contribution of the Secretary of Defense to such activity shall be not more than 80 percent of the total amount required.

"(h) AUTHORITY TO ACCEPT GIFTS.—The Secretary of State may use money, funds, property, and services accepted pursuant to the authority of section 635(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2395(d)) to fulfill the purposes of subsection (b).

"(i) AVAILABILITY OF FUNDS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), amounts in the Fund shall remain available until September 30, 2017, except that amounts appropriated or transferred to the Fund before that date shall remain available for obligation and expenditure after that date for activities under programs commenced under subsection (b) before that date.

"(2) EXCEPTION.—Amounts appropriated and transferred to the Fund before the date of the enactment of the Carl Levin and Howard P. 'Buck' McKeon National Defense Authorization Act for Fiscal Year 2015 [Dec. 19, 2014] shall remain available for obligation and expenditure after September 30, 2015, only for activities under programs commenced under subsection (b) before September 30, 2015.

"(j) ADMINISTRATIVE EXPENSES.—Amounts in the Fund may be used for necessary administrative expenses in connection with the provision of assistance under this section.

"(k) DETAIL OF PERSONNEL.—The head of an agency of the United States Government may detail personnel to the Department of State to carry out the purposes of this section, with or without reimbursement for all or part of the costs of salaries and other expenses associated with such personnel.

"(l) NOTICES TO CONGRESS.—Not less than 30 days before initiating an activity under a program of assistance under subsection (b), the Secretary of State and the Secretary of Defense shall jointly submit to the specified congressional committees a notification that includes the following:

"(1) A notification of the intent to transfer funds into the Fund under subsection (f) or any other authority, including the original source of the funds.

"(2) A detailed justification for the total anticipated program for each country, including total anticipated costs and the specific activities contained therein.

"(3) The budget, execution plan and timeline, and anticipated completion date for the activity.

"(4) A list of other security-related assistance or justice sector and stabilization assistance that the United States is currently providing the country concerned and that is related to or supported by the activity.

"(5) Such other information relating to the program or activity as the Secretary of State or Secretary of Defense considers appropriate.

"(m) GUIDANCE AND PROCESSES FOR EXERCISE OF AUTHORITY.—Not later than 15 days after the date on which guidance and processes for implementation of the authority in subsection (b) have been issued, the Secretary of State and the Secretary of Defense shall jointly submit a report to the specified congressional committees on such guidance and processes. The Secretary of State and Secretary of Defense shall jointly submit additional reports not later than 15 days after the date on which any future modifications to the guidance and processes for implementation of the authority in subsection (b) are issued.

"(n) ANNUAL REPORTS.—Not later than October 30 each year until the expiration of the authority in subsection (b) pursuant to subsection (p), the Secretary of State and the Secretary of Defense jointly shall submit to the specified congressional committees a report on the following:

"(1) The obligation of funds from, and transfer of funds into, the Fund during the preceding fiscal year.

"(2) The status of programs and activities authorized under this section during the preceding fiscal year.

"(o) SPECIFIED CONGRESSIONAL COMMITTEES.—In this section, the term 'specified congressional committees' means—

"(1) the Committee on Armed Services, the Committee on Foreign Affairs, and the Committee on Appropriations of the House of Representatives; and

"(2) the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Appropriations of the Senate.

"(p) EXPIRATION.—The authority under this section may not be exercised after September 30, 2017. An activity under a program authorized by subsection (b) commenced before that date may be completed after that date, but only using funds available for fiscal years 2012 through 2017 and subject to the requirements contained in paragraphs (1) and (2) of subsection (i)."

LORD'S RESISTANCE ARMY DISARMAMENT AND NORTHERN UGANDA RECOVERY

Pub. L. 112–81, div. A, title XII, §1206, Dec. 31, 2011, 125 Stat. 1624, which related to logistic support, supplies, and services for foreign forces in operations against the Lord's Resistance Army, was repealed by Pub. L. 113–66, div. A, title XII, §1208(g), Dec. 26, 2013, 127 Stat. 904.

Pub. L. 111–172, May 24, 2010, 124 Stat. 1209, provided that:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Lord's Resistance Army Disarmament and Northern Uganda Recovery Act of 2009'.

"SEC. 2. FINDINGS.

"Congress makes the following findings:

"(1) For over 2 decades, the Government of Uganda engaged in an armed conflict with the Lord's Resistance Army (LRA) in northern Uganda that led to the internal displacement of more than 2,000,000 Ugandans from their homes.

"(2) The members of the Lord's Resistance Army used brutal tactics in northern Uganda, including mutilating, abducting and forcing individuals into sexual servitude and forcing a large number of children and youth in Uganda, estimated by the Survey for War Affected Youth to be over 66,000, to fight as part of the rebel force.

"(3) The Secretary of State has placed the Lord's Resistance Army on the Terrorist Exclusion list pursuant to section 212(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)), and LRA leader Joseph Kony has been designated a 'specially designated global terrorist' pursuant to Executive Order 13224 [listed in a table under section 1701 of Title 50, War and National Defense].

"(4) In late 2005, according to the United Nations Office for Coordination of Humanitarian Affairs, the

Lord's Resistance Army shifted their primary base of operations from southern Sudan to northeastern Democratic Republic of Congo, and the rebels have since withdrawn from northern Uganda.

"(5) Representatives of the Government of Uganda and the Lord's Resistance Army began peace negotiations in 2006, mediated by the Government of Southern Sudan in Juba, Sudan, and signed the Cessation of Hostilities Agreement on August 20, 2006, which provided for hundreds of thousands of internally displaced people to return home in safety.

"(6) After nearly 2 years of negotiations, representatives from the parties reached the Final Peace Agreement in April 2008, but Joseph Kony, the leader of the Lord's Resistance Army, refused to sign the Final Peace Agreement in May 2008 and his forces launched new attacks in northeastern Congo.

"(7) According to the United Nations Office for the Coordination of Humanitarian Relief and the United Nations High Commissioner for Refugees, the new activity of the Lord's Resistance Army in northeastern Congo and southern Sudan since September 2008 has led to the abduction of at least 1,500 civilians, including hundreds of children, and the displacement of more than 540,000 people.

"(8) In December 2008, the military forces of Uganda, the Democratic Republic of Congo, and southern Sudan launched a joint operation against the Lord's Resistance Army's bases in northeastern Congo, but the operation failed to apprehend Joseph Kony, and his forces retaliated with a series of new attacks and massacres in Congo and southern Sudan, killing an estimated 900 people in 2 months alone.

"(9) Despite the refusal of Joseph Kony to sign the Final Peace Agreement, the Government of Uganda has committed to continue reconstruction plans for northern Uganda, and to implement those mechanisms of the Final Peace Agreement not conditional on the compliance of the Lord's Resistance Army.

"(10) Since 2008, recovery efforts in northern Uganda have moved forward with the financial support of the United States and other donors, but have been hampered by a lack of strategic coordination, logistical delays, and limited leadership from the Government of Uganda.

"SEC. 3. STATEMENT OF POLICY.

"It is the policy of the United States to work with regional governments toward a comprehensive and lasting resolution to the conflict in northern Uganda and other affected areas by—

"(1) providing political, economic, military, and intelligence support for viable multilateral efforts to protect civilians from the Lord's Resistance Army, to apprehend or remove Joseph Kony and his top commanders from the battlefield in the continued absence of a negotiated solution, and to disarm and demobilize the remaining Lord's Resistance Army fighters;

"(2) targeting assistance to respond to the humanitarian needs of populations in northeastern Congo, southern Sudan, and Central African Republic currently affected by the activity of the Lord's Resistance Army; and

"(3) further supporting and encouraging efforts of the Government of Uganda and civil society to promote comprehensive reconstruction, transitional justice, and reconciliation in northern Uganda as affirmed in the Northern Uganda Crisis Response Act of 2004 (Public Law 108–283) and subsequent resolutions, including Senate Resolution 366, 109th Congress, agreed to February 2, 2006, Senate Resolution 573, 109th Congress, agreed to September 19, 2006, Senate Concurrent Resolution 16, 110th Congress, agreed to in the Senate March 1, 2007, and House Concurrent Resolution 80, 110th Congress, agreed to in the House of Representatives June 18, 2007.

"SEC. 4. REQUIREMENT OF A STRATEGY TO SUPPORT THE DISARMAMENT OF THE LORD'S RESISTANCE ARMY.

"(a) REQUIREMENT FOR STRATEGY.—Not later than 180 days after the date of the enactment of this Act [May 24, 2010], the President shall develop and submit to the appropriate committees of Congress a strategy to guide future United States support across the region for viable multilateral efforts to mitigate and eliminate the threat to civilians and regional stability posed by the Lord's Resistance Army.

"(b) CONTENT OF STRATEGY.—The strategy shall include the following:

"(1) A plan to help strengthen efforts by the United Nations and regional governments to protect civilians from attacks by the Lord's Resistance Army while supporting the development of institutions in affected areas that can help to maintain the rule of law and prevent conflict in the long term.

"(2) An assessment of viable options through which the United States, working with regional governments, could help develop and support multilateral efforts to eliminate the threat posed by the Lord's Resistance Army.

"(3) An interagency framework to plan, coordinate, and review diplomatic, economic, intelligence, and military elements of United States policy across the region regarding the Lord's Resistance Army.

"(4) A description of the type and form of diplomatic engagement across the region undertaken to coordinate and implement United States policy regarding the Lord's Resistance Army and to work

multilaterally with regional mechanisms, including the Tripartite Plus Commission and the Great Lakes Pact.

"(5) A description of how this engagement will fit within the context of broader efforts and policy objectives in the Great Lakes Region.

"(c) FORM.—The strategy under this section shall be submitted in unclassified form, but may include a classified annex.

"SEC. 5. HUMANITARIAN ASSISTANCE FOR AREAS OUTSIDE UGANDA AFFECTED BY THE LORD'S RESISTANCE ARMY.

"In accordance with section 491 of the Foreign Assistance Act of 1961 (22 U.S.C. 2292) and section 2 of the Migration and Refugee Assistance Act of 1962 (22 U.S.C. 2601), the President is authorized to provide additional assistance to the Democratic Republic of Congo, southern Sudan, and Central African Republic to respond to the humanitarian needs of populations directly affected by the activity of the Lord's Resistance Army.

"SEC. 6. ASSISTANCE FOR RECOVERY AND RECONSTRUCTION IN NORTHERN UGANDA.

"(a) AUTHORITY.—It is the sense of Congress that the President should support efforts by the people of northern Uganda and the Government of Uganda—

"(1) to assist internally displaced people in transition and returnees to secure durable solutions by spurring economic revitalization, supporting livelihoods, helping to alleviate poverty, and advancing access to basic services at return sites, specifically clean water, health care, and schools;

"(2) to enhance the accountability and administrative competency of local governance institutions and public agencies in northern Uganda with regard to budget management, provision of public goods and services, and related oversight functions;

"(3) to strengthen the operational capacity of the civilian police in northern Uganda to enhance public safety, prevent crime, and deal sensitively with gender-based violence, while strengthening accountability measures to prevent corruption and abuses;

"(4) to rebuild and improve the capacity of the justice system in northern Uganda, including the courts and penal systems, with particular sensitivity to the needs and rights of women and children;

"(5) to establish mechanisms for the disarmament, demobilization, and reintegration of former combatants and those abducted by the LRA, including vocational education and employment opportunities, with attention given to the roles and needs of men, women and children; and

"(6) to promote programs to address psychosocial trauma, particularly post-traumatic stress disorder.

"(b) FUTURE YEAR FUNDING.—It is the sense of Congress that the Secretary of State and Administrator of the United States Agency for International Development should work with the appropriate committees of Congress to increase assistance in future fiscal years to support activities described in this section if the Government of Uganda demonstrates a commitment to transparent and accountable reconstruction in war-affected areas of northern Uganda, specifically by—

"(1) finalizing the establishment of mechanisms within the Office of the Prime Minister to sufficiently manage and coordinate the programs under the framework of the Peace Recovery and Development Plan for Northern Uganda (PRDP);

"(2) increasing oversight activities and reporting, at the local and national level in Uganda, to ensure funds under the Peace Recovery and Development Plan for Northern Uganda framework are used efficiently and with minimal waste; and

"(3) committing substantial funds of its own, above and beyond standard budget allocations to local governments, to the task of implementing the Peace Recovery and Development Plan for Northern Uganda such that communities affected by the war can recover.

"(c) COORDINATION WITH OTHER DONOR NATIONS.—The United States should work with other donor nations to increase contributions for recovery efforts in northern Uganda and better leverage those contributions to enhance the capacity and encourage the leadership of the Government of Uganda in promoting transparent and accountable reconstruction in northern Uganda.

"(d) TERMINATION OF ASSISTANCE.—It is the sense of Congress that the Secretary of State should withhold non-humanitarian bilateral assistance to the Republic of Uganda if the Secretary determines that the Government of Uganda is not committed to reconstruction and reconciliation in the war-affected areas of northern Uganda and is not taking proactive steps to ensure this process moves forward in a transparent and accountable manner.

"SEC. 7. ASSISTANCE FOR RECONCILIATION AND TRANSITIONAL JUSTICE IN NORTHERN UGANDA.

"(a) SENSE OF CONGRESS.—It is the sense of Congress that, despite reconstruction and development efforts, a continued failure to take meaningful steps toward national reconciliation and accountability risks perpetuating longstanding political grievances and fueling new conflicts.

"(b) AUTHORITY.—In accordance with section 531 of the Foreign Assistance Act of 1961 (22 U.S.C. 2346), the President is authorized to support efforts by the people of northern Uganda and the Government of Uganda to advance efforts to promote transitional justice and reconciliation on both local and national levels, including to encourage implementation of the mechanisms outlined in the Annexure to the Agreement on Accountability and Reconciliation between the Government of Uganda and the Lord's Resistance Army/Movement, signed at Juba February 19, 2008, namely—

"(1) a body to investigate the history of the conflict, inquire into human rights violations committed during the conflict by all sides, promote truth-telling in communities, and encourage the preservation of the memory of events and victims of the conflict through memorials, archives, commemorations, and other forms of preservation;

"(2) a special division of the High Court of Uganda to try individuals alleged to have committed serious crimes during the conflict, and a special unit to carry out investigations and prosecutions in support of trials;

"(3) a system for making reparations to victims of the conflict; and

"(4) a review and strategy for supporting transitional justice mechanisms in affected areas to promote reconciliation and encourage individuals to take personal responsibility for their conduct during the war.

"SEC. 8. REPORT.

"(a) REPORT REQUIRED.—Not later than 1 year after the submission of the strategy required under section 4, the Secretary of State shall prepare and submit to the appropriate committees of Congress a report on the progress made toward the implementation of the strategy required under section 4 and a description and evaluation of the assistance provided under this Act toward the policy objectives described in section 3.

"(b) CONTENTS.—The report required under section (a) shall include—

"(1) a description and evaluation of actions taken toward the implementation of the strategy required under section 4;

"(2) a description of assistance provided under sections 5, 6, and 7;

"(3) an evaluation of bilateral assistance provided to the Republic of Uganda and associated programs in light of stated policy objectives;

"(4) a description of the status of the Peace Recovery and Development Plan for Northern Uganda and the progress of the Government of Uganda in fulfilling the steps outlined in section 6(b); and

"(5) a description of amounts of assistance committed, and amounts provided, to northern Uganda during the reporting period by the Government of Uganda and each donor country.

"(c) FORM.—The report under this section shall be submitted in unclassified form, but may include a classified annex.

"SEC. 9. SENSE OF CONGRESS ON FUNDING.

"It is the sense of Congress that—

"(1) of the total amounts to be appropriated for fiscal year 2011 for the Department of State and foreign operations, up to $10,000,000 should be used to carry out activities under section 5; and

"(2) of the total amounts to be appropriated for fiscal year 2011 through 2013 for the Department of State and foreign operations, up to $10,000,000 in each such fiscal year should be used to carry out activities under section 7.

"SEC. 10. DEFINITIONS.

"In this Act:

"(1) APPROPRIATE COMMITTEES OF CONGRESS.—The term 'appropriate committees of Congress' means the Committee on Appropriations and the Committee on Foreign Relations of the Senate and the Committee on Appropriations and the Committee on Foreign Affairs of the House of Representatives.

"(2) GREAT LAKES REGION.—The term 'Great Lakes Region' means the region comprising Burundi, Democratic Republic of Congo, Rwanda, southern Sudan, and Uganda.

"(3) LRA-AFFECTED AREAS.—The term 'LRA-affected areas' means those portions of northern Uganda, southern Sudan, northeastern Democratic Republic of Congo, and southeastern Central African Republic determined by the Secretary of State to be affected by the Lord's Resistance Army as of the date of the enactment of this Act [May 24, 2010]."

STRATEGY FOR UNITED STATES-LED PROVINCIAL RECONSTRUCTION TEAMS IN IRAQ

Pub. L. 110–417, [div. A], title XII, §1213, Oct. 14, 2008, 122 Stat. 4629, provided that:

"(a) IN GENERAL.—The President shall establish and implement a strategy for United States-led Provincial Reconstruction Teams (PRTs), including embedded PRTs and Provincial Support Teams, in Iraq that ensures that such United States-led PRTs are—

"(1) supporting the operational and strategic goals of the Multi-National Force–Iraq; and

"(2) developing the capacity of national, provincial, and local government and other civil institutions in Iraq to assume increasing responsibility for the formulation, implementation, and oversight of reconstruction and development activities.

"(b) ELEMENTS OF STRATEGY.—At a minimum, the strategy required under subsection (a) shall include—

"(1) a mission statement and clearly defined objectives for United States-led PRTs as a whole;

"(2) a mission statement and clearly defined objectives for each United States-led PRT; and

"(3) measures of effectiveness and performance indicators for meeting the objectives of each United States-led PRT as described in paragraph (2).

"(c) REPORT.—

"(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act [Oct. 14, 2008], and every 90 days thereafter through the end of fiscal year 2010, the President shall transmit to the appropriate congressional committees a report on the implementation of the strategy required under subsection (a), including an assessment of the specific contributions United States-led PRTs are making to implement the strategy. The initial report required under this subsection should include a general description of the strategy required under subsection (a) and a general discussion of the elements of the strategy required under subsection (b).

"(2) INCLUSION IN OTHER REPORT.—The report required under this subsection may be included in the report required by section 1227 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3465 [50 U.S.C. 1541 note]).

"(d) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term 'appropriate congressional committees' means—

"(1) the Committee on Armed Services, the Committee on Appropriations, and the Committee on Foreign Affairs of the House of Representatives; and

"(2) the Committee on Armed Services, the Committee on Appropriations, and the Committee on Foreign Relations of the Senate."

MIDDLE EAST FOUNDATION

Pub. L. 110–53, title XX, §2021, Aug. 3, 2007, 121 Stat. 513, provided that:

"(a) PURPOSES.—The purposes of this section are to support, through the provision of grants, technical assistance, training, and other programs, in the countries of the broader Middle East region, the expansion of—

"(1) civil society;

"(2) opportunities for political participation for all citizens;

"(3) protections for internationally recognized human rights, including the rights of women;

"(4) educational system reforms;

"(5) independent media;

"(6) policies that promote economic opportunities for citizens;

"(7) the rule of law; and

"(8) democratic processes of government.

"(b) MIDDLE EAST FOUNDATION.—

"(1) DESIGNATION.—The Secretary of State is authorized to designate an appropriate private, nonprofit organization that is organized or incorporated under the laws of the United States or of a State as the Middle East Foundation (referred to in this section as the 'Foundation').

"(2) FUNDING.—

"(A) AUTHORITY.—The Secretary of State is authorized to provide funding to the Foundation through the Middle East Partnership Initiative of the Department of State. Notwithstanding any other provision of law, the Foundation shall use amounts provided under this paragraph to carry out the purposes specified in subsection (a), including through making grants, using such funds as an endowment, and providing other assistance to entities to carry out programs for such purposes.

"(B) FUNDING FROM OTHER SOURCES.—In determining the amount of funding to provide to the Foundation, the Secretary of State shall take into consideration the amount of funds that the Foundation has received from sources other than the United States Government.

"(3) NOTIFICATION TO CONGRESSIONAL COMMITTEES.—The Secretary of State shall notify the appropriate congressional committees of the designation of an appropriate organization as the Foundation.

"(c) GRANTS FOR PROJECTS.—

"(1) FOUNDATION TO MAKE GRANTS.—The Secretary of State shall enter into an agreement with the Foundation that requires the Foundation to use the funds provided under subsection (b)(2) to make grants to persons or entities (other than governments or government entities) located in the broader Middle East region or working with local partners based in the broader Middle East region to carry out projects that support the purposes specified in subsection (a).

"(2) CENTER FOR PUBLIC POLICY.—Under the agreement described in paragraph (1), the Foundation may make a grant to an institution of higher education located in the broader Middle East region to create a center for public policy for the purpose of permitting scholars and professionals from the countries of the broader Middle East region and from other countries, including the United States, to carry out research, training programs, and other activities to inform public policymaking in the broader Middle East region and to promote broad economic, social, and political reform for the people of the broader Middle East region.

"(3) APPLICATIONS FOR GRANTS.—An entity seeking a grant from the Foundation under this section shall submit an application to the head of the Foundation at such time, in such manner, and containing such information as the head of the Foundation may reasonably require.

"(d) PRIVATE CHARACTER OF THE FOUNDATION.—Nothing in this section shall be construed to—

"(1) make the Foundation an agency or establishment of the United States Government, or to make the officers or employees of the Foundation officers or employees of the United States for purposes of title 5, United States Code; or

"(2) impose any restriction on the Foundation's acceptance of funds from private and public sources in support of its activities consistent with the purposes specified in subsection (a).

"(e) LIMITATION ON PAYMENTS TO FOUNDATION PERSONNEL.—No part of the funds provided to the Foundation under this section shall inure to the benefit of any officer or employee of the Foundation, except as salary or reasonable compensation for services.

"(f) RETENTION OF INTEREST.—The Foundation may hold funds provided under this section in interest-bearing accounts prior to the disbursement of such funds to carry out the purposes specified in subsection (a), and may retain for such purposes any interest earned without returning such interest to the Treasury of the United States. The Foundation may retain and use such funds as an endowment to carry out the purposes specified in subsection (a).

"(g) FINANCIAL ACCOUNTABILITY.—

"(1) INDEPENDENT PRIVATE AUDITS OF THE FOUNDATION.—The accounts of the Foundation shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants or independent licensed public accountants certified or licensed by a regulatory authority of a State or other political subdivision of the United States. The report of the independent audit shall be included in the annual report required by subsection (h).

"(2) GAO AUDITS.—The financial transactions undertaken pursuant to this section by the Foundation may be audited by the Government Accountability Office in accordance with such principles and procedures and under such rules and regulations as may be prescribed by the Comptroller General of the United States.

"(3) AUDITS OF GRANT RECIPIENTS.—

"(A) IN GENERAL.—A recipient of a grant from the Foundation shall agree to permit an audit of the books and records of such recipient related to the use of the grant funds.

"(B) RECORDKEEPING.—Such recipient shall maintain appropriate books and records to facilitate an audit referred to in subparagraph (A), including—

"(i) separate accounts with respect to the grant funds;

"(ii) records that fully disclose the use of the grant funds;

"(iii) records describing the total cost of any project carried out using grant funds; and

"(iv) the amount and nature of any funds received from other sources that were combined with the grant funds to carry out a project.

"(h) ANNUAL REPORTS.—Not later than January 31, 2008, and annually thereafter, the Foundation shall submit to the appropriate congressional committees and make available to the public a report that includes, for the fiscal year prior to the fiscal year in which the report is submitted, a comprehensive and detailed description of—

"(1) the operations and activities of the Foundation that were carried out using funds provided under

this section;

"(2) grants made by the Foundation to other entities with funds provided under this section;

"(3) other activities of the Foundation to further the purposes specified in subsection (a); and

"(4) the financial condition of the Foundation.

"(i) BROADER MIDDLE EAST REGION DEFINED.—In this section, the term 'broader Middle East region' means Afghanistan, Algeria, Bahrain, Egypt, Iran, Iraq, Jordan, Kuwait, Lebanon, Libya, Morocco, Oman, Pakistan, Qatar, Saudi Arabia, Syria, Tunisia, United Arab Emirates, West Bank and Gaza, and Yemen.

"(j) REPEAL.—Section 534(k) of Public Law 109–102 [119 Stat. 2210] is repealed."

[For definition of "appropriate congressional committees" as used in section 2021 of Pub. L. 110–53, set out above, see section 2002 of Pub. L. 110–53, set out below.]

DEMOCRATIC REPUBLIC OF THE CONGO RELIEF, SECURITY, AND DEMOCRACY PROMOTION

Pub. L. 109–456, Dec. 22, 2006, 120 Stat. 3384, provided that:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Democratic Republic of the Congo Relief, Security, and Democracy Promotion Act of 2006'.

"TITLE I—BILATERAL ACTION ON ADDRESSING URGENT NEEDS IN THE DEMOCRATIC REPUBLIC OF THE CONGO

"SEC. 101. FINDINGS.

"Congress makes the following findings:

"(1) The National Security Strategy of the United States, dated September 17, 2002, concludes that '[i]n Africa, promise and opportunity sit side-by-side with disease, war, and desperate poverty. This threatens both a core value of the United States preserving human dignity and our strategic priority combating global terror. American interests and American principles, therefore, lead in the same direction: we will work with others for an African continent that lives in liberty, peace, and growing prosperity.'.

"(2) On February 16, 2005, the Director of the Central Intelligence Agency testified, 'In Africa, chronic instability will continue to hamper counterterrorism efforts and pose heavy humanitarian and peacekeeping burdens.'.

"(3) According to the United States Agency for International Development, 'Given its size, population, and resources, the Congo is an important player in Africa and of long-term interest to the United States.'.

"(4) The Democratic Republic of the Congo is 2,345,410 square miles (approximately ¼ the size of the United States), lies at the heart of Africa, and touches every major region of sub-Saharan Africa. Therefore, a secure, peaceful, and prosperous Democratic Republic of the Congo would have a profound impact on progress throughout Africa.

"(5) The most recent war in the Democratic Republic of the Congo, which erupted in 1998, spawned some of the world's worst human rights atrocities and drew in six neighboring countries.

"(6) Despite the conclusion of a peace agreement and subsequent withdrawal of foreign forces in 2003, both the real and perceived presence of armed groups hostile to the Governments of Uganda, Rwanda, and Burundi continue to serve as a major source of regional instability and an apparent pretext for continued interference in the Democratic Republic of the Congo by its neighbors.

"(7) A mortality study completed in December 2004 by the International Rescue Committee found that 31,000 people were dying monthly and 3,800,000 people had died in the previous six years because of the conflict in the Democratic Republic of the Congo and resulting disintegration of the social service infrastructure, making this one of the deadliest conflicts since World War II.

"(8) In 2004, Amnesty International estimated that at least 40,000 women and girls were systematically raped and tortured in the Democratic Republic of the Congo since 1998, and nearly two-thirds of ongoing abuses against women and girls are perpetrated by members of the security forces, particularly the Forces Armes de la Republique Democratique du Congo (FARDC) and the Police Nationale Congolaise (PNC).

"(9) According to the Department of State, 'returning one of Africa's largest countries [the Democratic Republic of the Congo] to full peace and stability will require significant United States investments in support of national elections, the reintegration of former combatants, the return and reintegration of refugees and [internally displaced persons], establishment of central government control over vast territories, and promotion of national reconciliation and good governance'.

"SEC. 102. STATEMENT OF POLICY.

"It is the policy of the United States—

"(1) to help promote, reinvigorate, and support the political process in the Democratic Republic of the Congo in order to press all parties in the Transitional National Government and the succeeding government to implement fully and to institutionalize mechanisms, including national and international election observers, fair and transparent voter registration procedures, and a significant civic awareness and public education campaign created for the July 30, 2006, elections and future elections in the Democratic Republic of the Congo, to ensure that elections are carried out in a fair and democratic manner;

"(2) to urge the Government of the Democratic Republic of the Congo to recognize and act upon its responsibilities to immediately bring discipline to its security forces, hold those individuals responsible for atrocities and other human rights violations, particularly the rape of women and girls as an act of war, accountable and bring such individuals to justice;

"(3) to help ensure that, once a stable national government is established in the Democratic Republic of the Congo, it is committed to multiparty democracy, open and transparent governance, respect for human rights and religious freedom, ending the violence throughout the country, promoting peace and stability with its neighbors, rehabilitating the national judicial system and enhancing the rule of law, combating corruption, instituting economic reforms to promote development, and creating an environment to promote private investment;

"(4) to assist the Government of the Democratic Republic of the Congo as it seeks to meet the basic needs of its citizens, including security, safety, and access to health care, education, food, shelter, and clean drinking water;

"(5) to support security sector reform by assisting the Government of the Democratic Republic of the Congo to establish a viable and professional national army and police force that respects human rights and the rule of law, is under effective civilian control, and possesses a viable presence throughout the entire country, provided the Democratic Republic of the Congo meets all requirements for United States military assistance under existing law;

"(6) to help expedite planning and implementation of programs associated with the disarmament, demobilization, repatriation, reintegration, and rehabilitation process in the Democratic Republic of the Congo;

"(7) to support efforts of the Government of the Democratic Republic of the Congo, the United Nations Peacekeeping Mission in the Democratic Republic of the Congo (MONUC), and other entities, as appropriate, to disarm, demobilize, and repatriate the Democratic Forces for the Liberation of Rwanda and other illegally armed groups;

"(8) to make all efforts to ensure that the Government of the Democratic Republic of the Congo—

"(A) is committed to responsible and transparent management of natural resources across the country; and

"(B) takes active measures—

"(i) to promote economic development;

"(ii) to hold accountable individuals who illegally exploit the country's natural resources; and

"(iii) to implement the Extractive Industries Transparency Initiative by enacting laws requiring disclosure and independent auditing of company payments and government receipts for natural resource extraction;

"(9) to promote a viable civil society and to enhance nongovernmental organizations and institutions, including religious organizations, the media, political parties, trade unions, and trade and business associations, that can act as a stabilizing force and effective check on the government;

"(10) to help rebuild and enhance infrastructure, communications, and other mechanisms that will increase the ability of the central government to manage internal affairs, encourage economic development, and facilitate relief efforts of humanitarian organizations;

"(11) to help halt the high prevalence of sexual abuse and violence perpetrated against women and children in the Democratic Republic of the Congo and mitigate the detrimental effects from acts of this type of violence by undertaking a number of health, education, and psycho-social support programs;

"(12) to work aggressively on a bilateral basis to urge governments of countries contributing troops to the United Nations Peacekeeping Mission in the Democratic Republic of the Congo (MONUC) to enact and enforce laws on trafficking in persons and sexual abuse that meet international standards, promote codes of conduct for troops serving as part of United Nations peacekeeping missions, and immediately investigate and punish citizens who are responsible for abuses in the Democratic Republic of the Congo;

"(13) to assist the Government of the Democratic Republic of the Congo as undertakes steps to—

"(A) protect internally displaced persons and refugees in the Democratic Republic of the Congo

and border regions from all forms of violence, including gender-based violence and other human rights abuses;

"(B) address other basic needs of vulnerable populations with the goal of allowing these conflict-affected individuals to ultimately return to their homes; and

"(C) assess the magnitude of the problem of orphans from conflict and HIV/AIDS in the Democratic Republic of the Congo, and work to establish a program of national support;

"(14) to engage with governments working to promote peace and security throughout the Democratic Republic of the Congo and hold accountable individuals, entities, and countries working to destabilize the country; and

"(15) to promote appropriate use of the forests of the Democratic Republic of the Congo in a manner that benefits the rural population in that country that depends on the forests for their livelihoods and protects national and environmental interests.

"SEC. 103. BILATERAL ASSISTANCE TO THE DEMOCRATIC REPUBLIC OF THE CONGO.

"(a) FUNDING FOR FISCAL YEARS 2006 AND 2007.—Of the amounts made available to carry out the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), the Agricultural Trade Development and Assistance Act of 1954 [now Food for Peace Act] [7 U.S.C. 1691 et seq.] (68 Stat. 454, chapter 469), and the Arms Export Control Act (22 U.S.C. 2751 et seq.) for fiscal year 2006 and 2007, at least $52,000,000 for each such fiscal year should be allocated for bilateral assistance programs in the Democratic Republic of the Congo.

"(b) FUTURE YEAR FUNDING.—It is the sense of Congress that the Department of State should submit budget requests in fiscal years 2008 and 2009 that contain increases in bilateral assistance for the Democratic Republic of the Congo that are appropriate if progress is being made, particularly cooperation by the Government of the Democratic Republic of the Congo, toward accomplishing the policy objectives described in section 102.

"(c) COORDINATION WITH OTHER DONOR NATIONS.—The United States should work with other donor nations, on a bilateral and multilateral basis, to increase international contributions to the Democratic Republic of the Congo and accomplish the policy objectives described in section 102.

"SEC. 104. ACCOUNTABILITY FOR THE GOVERNMENT OF THE DEMOCRATIC REPUBLIC OF THE CONGO.

"(a) SENSE OF CONGRESS.—It is the sense of Congress that—

"(1) the Government of the Democratic Republic of the Congo must be committed to achieving the policy objectives described in section 102 if the efforts of the United States and other members of the international community are to be effective in bringing relief, security, and democracy to the country;

"(2) the Government of the Democratic Republic of the Congo should immediately exercise control over and discipline its armed forces, stop the mass rapes at the hands of its armed forces, and hold those responsible for these acts accountable before an appropriate tribunal;

"(3) the Government of the Democratic Republic of the Congo, in collaboration with international aid agencies, should establish expert teams to assess the needs of the victims of rape and provide health, counseling, and social support services that such victims need; and

"(4) the international community, through the United Nations peacekeeping mission, humanitarian and development relief, and other forms of assistance, is providing a substantial amount of funding that is giving the Government of the Democratic Republic of the Congo an opportunity to make progress towards accomplishing the policy objectives described in section 102, but this assistance cannot continue in perpetuity.

"(b) TERMINATION OF ASSISTANCE.—It is the sense of Congress that the Secretary of State should withhold assistance otherwise available under this Act if the Secretary determines that the Government of the Democratic Republic of the Congo is not making sufficient progress towards accomplishing the policy objectives described in section 102.

"SEC. 105. WITHHOLDING OF ASSISTANCE.

"The Secretary of State is authorized to withhold assistance made available under the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), other than humanitarian, peacekeeping, and counterterrorism assistance, for a foreign country if the Secretary determines that the government of the foreign country is taking actions to destabilize the Democratic Republic of the Congo.

"SEC. 106. REPORT ON PROGRESS TOWARD ACCOMPLISHING POLICY OBJECTIVES.

"(a) REPORT REQUIRED.—Not later than one year after the date of the enactment of this Act [Dec. 22, 2006], the Comptroller General of the United States shall submit to Congress a report on the progress made toward accomplishing the policy objectives described in section 102.

"(b) CONTENTS.—The report required under subsection (a) shall include—

"(1) a description of any major impediments that prevent the accomplishment of the policy objectives described in section 102, including any destabilizing activities undertaken in the Democratic Republic of Congo by governments of neighboring countries;

"(2) an evaluation of United States policies and foreign assistance programs designed to accomplish such policy objectives; and

"(3) recommendations for—

"(A) improving the policies and programs referred to in paragraph (2); and

"(B) any additional bilateral or multilateral actions necessary to promote peace and prosperity in the Democratic Republic of the Congo.

"SEC. 107. SPECIAL ENVOY FOR THE GREAT LAKES REGION.

"Not later than 60 days after the date of the enactment of this Act [Dec. 22, 2006], the President should appoint a Special Envoy for the Great Lakes Region to help coordinate efforts to resolve the instability and insecurity in Eastern Congo.

"TITLE II—MULTILATERAL ACTIONS TO ADDRESS URGENT NEEDS IN THE DEMOCRATIC REPUBLIC OF THE CONGO

"SEC. 201. PROMOTION OF UNITED STATES POLICY TOWARD THE DEMOCRATIC REPUBLIC OF THE CONGO IN THE UNITED NATIONS SECURITY COUNCIL.

"The United States should use its voice and vote in the United Nations Security Council—

"(1) to address exploitation at the United Nations Peacekeeping Mission in the Democratic Republic of the Congo (MONUC) by continuing to urge, when credible allegations exist, appropriate investigation of alleged perpetrators and, as necessary, prosecution of United Nations personnel responsible for sexual abuses in the Democratic Republic of the Congo;

"(2) to conclude at the earliest possible date a Memorandum of Understanding relating to binding codes of conduct and programs for the prevention of sexual abuse and trafficking in persons to be undertaken by the United Nations for all countries that contribute troops to MONUC, to include the assumption of personal liability for the provision of victims assistance and child support, as appropriate, by those who violate the codes of conduct;

"(3) to strengthen the authority and capacity of MONUC by—

"(A) providing specific authority and obligation to prevent and effectively counter imminent threats;

"(B) clarifying and strengthening MONUC's rules of engagement to enhance the protection of vulnerable civilian populations;

"(C) enhancing the surveillance and intelligence-gathering capabilities available to MONUC;

"(D) where consistent with United States policy, making available personnel, communications, and military assets that improve the effectiveness of robust peacekeeping, mobility, and command and control capabilities of MONUC; and

"(E) providing MONUC with the authority and resources needed to effectively monitor arms trafficking and natural resource exploitation at key border posts and airfields in the eastern part of the Democratic Republic of the Congo;

"(4) to encourage regular visits of the United Nations Security Council to monitor the situation in the Democratic Republic of the Congo;

"(5) to ensure that the practice of recruiting and arming children in the Democratic Republic of the Congo is immediately halted pursuant to Security Council Resolutions 1460 (2003) and 1539 (2004);

"(6) to strengthen the arms embargo imposed pursuant to Security Council Resolution 1493 (2003) and ensure that violators are held accountable through appropriate measures, including the possible imposition of sanctions;

"(7) to allow for the more effective protection and monitoring of natural resources in the Democratic Republic of the Congo, especially in the eastern part of the country, and for public disclosure and independent auditing of natural resource revenues to help ensure transparent and accountable management of these revenues;

"(8) to press countries in the Congo region to help facilitate an end to the violence in the Democratic Republic of the Congo and promote relief, security, and democracy throughout the region; and

"(9) to encourage the United Nations Secretary-General to become more involved in completing the policy objectives described in paragraphs (1) and (2) of section 102 and ensure that recent fighting in North Kivu, which displaced over 150,000 people, as well as fighting in Ituri and other areas, does not create

widespread instability throughout the country.

"SEC. 202. INCREASING CONTRIBUTIONS AND OTHER HUMANITARIAN AND DEVELOPMENT ASSISTANCE THROUGH INTERNATIONAL ORGANIZATIONS.

"(a) IN GENERAL.—The President should instruct the United States permanent representative or executive director, as the case may be, to the United Nations voluntary agencies, including the World Food Program, the United Nations Development Program, and the United Nations High Commissioner for Refugees, and other appropriate international organizations to use the voice and vote of the United States to support additional humanitarian and development assistance for the Democratic Republic of the Congo in order to accomplish the policy objectives described in section 102.

"(b) SUPPORT CONTINGENT ON PROGRESS.—If the Secretary of State determines that the Government of the Democratic Republic of the Congo is not making sufficient progress towards accomplishing the policy objectives described in section 102, the President shall consider withdrawing United States support for the assistance described in subsection (a) when future funding decisions are considered."

PROMOTION OF DEMOCRACY FOR IRAN

Pub. L. 109–293, title III, Sept. 30, 2006, 120 Stat. 1347, provided that:

"SEC. 301. DECLARATION OF POLICY.

"(a) IN GENERAL.—Congress declares that it should be the policy of the United States—

"(1) to support efforts by the people of Iran to exercise self-determination over the form of government of their country; and

"(2) to support independent human rights and peaceful pro-democracy forces in Iran.

"(b) RULE OF CONSTRUCTION.—Nothing in this Act [amending section 5318A of Title 31, Money and Finance, and enacting and amending provisions set out as notes under section 1701 of Title 50, War and National Defense] shall be construed as authorizing the use of force against Iran.

"SEC. 302. ASSISTANCE TO SUPPORT DEMOCRACY FOR IRAN.

"(a) AUTHORIZATION.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, the President is authorized to provide financial and political assistance (including the award of grants) to foreign and domestic individuals, organizations, and entities working for the purpose of supporting and promoting democracy for Iran. Such assistance may include the award of grants to eligible independent pro-democracy radio and television broadcasting organizations that broadcast into Iran.

"(2) LIMITATION ON ASSISTANCE.—In accordance with the rule of construction described in subsection (b) of section 301, none of the funds authorized under this section shall be used to support the use of force against Iran.

"(b) ELIGIBILITY FOR ASSISTANCE.—Financial and political assistance under this section should be provided only to an individual, organization, or entity that—

"(1) officially opposes the use of violence and terrorism and has not been designated as a foreign terrorist organization under section 219 of the Immigration and Nationality Act (8 U.S.C. 1189) at any time during the preceding four years;

"(2) advocates the adherence by Iran to nonproliferation regimes for nuclear, chemical, and biological weapons and materiel;

"(3) is dedicated to democratic values and supports the adoption of a democratic form of government in Iran;

"(4) is dedicated to respect for human rights, including the fundamental equality of women;

"(5) works to establish equality of opportunity for people; and

"(6) supports freedom of the press, freedom of speech, freedom of association, and freedom of religion.

"(c) FUNDING.—The President may provide assistance under this section using—

"(1) funds available to the Middle East Partnership Initiative (MEPI), the Broader Middle East and North Africa Initiative, and the Human Rights and Democracy Fund; and

"(2) amounts made available pursuant to the authorization of appropriations under subsection (g).

"(d) NOTIFICATION.—Not later than 15 days before each obligation of assistance under this section, and in accordance with the procedures under section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–l), the President shall notify the Committee on International Relations [now Committee on Foreign Affairs] and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

"(e) SENSE OF CONGRESS REGARDING DIPLOMATIC ASSISTANCE.—It is the sense of Congress

that—

"(1) support for a transition to democracy in Iran should be expressed by United States representatives and officials in all appropriate international fora;

"(2) officials and representatives of the United States should—

"(A) strongly and unequivocally support indigenous efforts in Iran calling for free, transparent, and democratic elections; and

"(B) draw international attention to violations by the Government of Iran of human rights, freedom of religion, freedom of assembly, and freedom of the press.

"(f) DURATION.—The authority to provide assistance under this section shall expire on December 31, 2011.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of State such sums as may be necessary to carry out this section."

SYRIA ACCOUNTABILITY AND LEBANESE SOVEREIGNTY RESTORATION

Pub. L. 108–175, Dec. 12, 2003, 117 Stat. 2482, provided that:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Syria Accountability and Lebanese Sovereignty Restoration Act of 2003'.

"SEC. 2. FINDINGS.

"Congress makes the following findings:

"(1) On June 24, 2002, President Bush stated 'Syria must choose the right side in the war on terror by closing terrorist camps and expelling terrorist organizations'.

"(2) United Nations Security Council Resolution 1373 (September 28, 2001) mandates that all states 'refrain from providing any form of support, active or passive, to entities or persons involved in terrorist acts', take 'the necessary steps to prevent the commission of terrorist acts', and 'deny safe haven to those who finance, plan, support, or commit terrorist acts'.

"(3) The Government of Syria is currently prohibited by United States law from receiving United States assistance because it has repeatedly provided support for acts of international terrorism, as determined by the Secretary of State for purposes of section 6(j)(1) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)) [now 50 U.S.C. 4605(j)(1)] and other relevant provisions of law.

"(4) Although the Department of State lists Syria as a state sponsor of terrorism and reports that Syria provides 'safe haven and support to several terrorist groups', fewer United States sanctions apply with respect to Syria than with respect to any other country that is listed as a state sponsor of terrorism.

"(5) Terrorist groups, including Hizballah, Hamas, Palestinian Islamic Jihad, the Popular Front for the Liberation of Palestine, and the Popular Front for the Liberation of Palestine—General Command, maintain offices, training camps, and other facilities on Syrian territory, and operate in areas of Lebanon occupied by the Syrian armed forces and receive supplies from Iran through Syria.

"(6) United Nations Security Council Resolution 520 (September 17, 1982) calls for 'strict respect of the sovereignty, territorial integrity, unity and political independence of Lebanon under the sole and exclusive authority of the Government of Lebanon through the Lebanese Army throughout Lebanon'.

"(7) Approximately 20,000 Syrian troops and security personnel occupy much of the sovereign territory of Lebanon exerting undue influence upon its government and undermining its political independence.

"(8) Since 1990 the Senate and House of Representatives have passed seven bills and resolutions which call for the withdrawal of Syrian armed forces from Lebanon.

"(9) On March 3, 2003, Secretary of State Colin Powell declared that it is the objective of the United States to 'let Lebanon be ruled by the Lebanese people without the presence of [the Syrian] occupation army'.

"(10) Large and increasing numbers of the Lebanese people from across the political spectrum in Lebanon have mounted peaceful and democratic calls for the withdrawal of the Syrian Army from Lebanese soil.

"(11) Israel has withdrawn all of its armed forces from Lebanon in accordance with United Nations Security Council Resolution 425 (March 19, 1978), as certified by the United Nations Secretary General.

"(12) Even in the face of this United Nations certification that acknowledged Israel's full compliance with Security Council Resolution 425, Syrian- and Iranian-supported Hizballah continues to attack Israeli outposts at Shebaa Farms, under the pretense that Shebaa Farms is territory from which Israel was required to withdraw by Security Counsel Resolution 425, and Syrian- and Iranian-supported Hizballah and other militant organizations continue to attack civilian targets in Israel.

"(13) Syria will not allow Lebanon—a sovereign country—to fulfill its obligation in accordance with Security Council Resolution 425 to deploy its troops to southern Lebanon.

"(14) As a result, the Israeli-Lebanese border and much of southern Lebanon is under the control of Hizballah, which continues to attack Israeli positions, allows Iranian Revolutionary Guards and other militant groups to operate freely in the area, and maintains thousands of rockets along Israel's northern border, destabilizing the entire region.

"(15) On February 12, 2003, Director of Central Intelligence George Tenet stated the following with respect to the Syrian- and Iranian-supported Hizballah: '[A]s an organization with capability and worldwide presence [it] is [al Qaeda's] equal if not a far more capable organization * * * [T]hey're a notch above in many respects, in terms of in their relationship with the Iranians and the training they receive, [which] puts them in a state-sponsored category with a potential for lethality that's quite great.'.

"(16) In the State of the Union address on January 29, 2002, President Bush declared that the United States will 'work closely with our coalition to deny terrorists and their state sponsors the materials, technology, and expertise to make and deliver weapons of mass destruction'.

"(17) The Government of Syria continues to develop and deploy short- and medium-range ballistic missiles.

"(18) According to the December 2001 unclassified Central Intelligence Agency report entitled 'Foreign Missile Developments and the Ballistic Missile Threat through 2015', 'Syria maintains a ballistic missile and rocket force of hundreds of FROG rockets, Scuds, and SS–21 SRBMs [and] Syria has developed [chemical weapons] warheads for its Scuds'.

"(19) The Government of Syria is pursuing the development and production of biological and chemical weapons and has a nuclear research and development program that is cause for concern.

"(20) According to the Central Intelligence Agency's 'Unclassified Report to Congress on the Acquisition of Technology Relating to Weapons of Mass Destruction and Advanced Conventional Munitions', released January 7, 2003: '[Syria] already holds a stockpile of the nerve agent sarin but apparently is trying to develop more toxic and persistent nerve agents. Syria remains dependent on foreign sources for key elements of its [chemical weapons] program, including precursor chemicals and key production equipment. It is highly probable that Syria also is developing an offensive [biological weapons] capability.'.

"(21) On May 6, 2002, the Under Secretary of State for Arms Control and International Security, John Bolton, stated: 'The United States also knows that Syria has long had a chemical warfare program. It has a stockpile of the nerve agent sarin and is engaged in research and development of the more toxic and persistent nerve agent VX. Syria, which has signed but not ratified the [Biological Weapons Convention], is pursuing the development of biological weapons and is able to produce at least small amounts of biological warfare agents.'.

"(22) According to the Central Intelligence Agency's 'Unclassified Report to Congress on the Acquisition of Technology Relating to Weapons of Mass Destruction and Advanced Conventional Munitions', released January 7, 2003: 'Russia and Syria have approved a draft cooperative program on cooperation on civil nuclear power. In principal, broader access to Russian expertise provides opportunities for Syria to expand its indigenous capabilities, should it decide to pursue nuclear weapons.'.

"(23) Under the Treaty on the Non-Proliferation of Nuclear Weapons (21 UST 483), which entered force on March 5, 1970, and to which Syria is a party, Syria has undertaken not to acquire or produce nuclear weapons and has accepted full scope safeguards of the International Atomic Energy Agency to detect diversions of nuclear materials from peaceful activities to the production of nuclear weapons or other nuclear explosive devices.

"(24) Syria is not a party to the Chemical Weapons Convention or the Biological Weapons Convention, which entered into force on April 29, 1997, and on March 26, 1975, respectively.

"(25) Syrian President Bashar Assad promised Secretary of State Powell in February 2001 to end violations of Security Council Resolution 661, which restricted the sale of oil and other commodities by Saddam Hussein's regime, except to the extent authorized by other relevant resolutions, but this pledge was never fulfilled.

"(26) Syria's illegal imports and transshipments of Iraqi oil during Saddam Hussein's regime earned Syria $50,000,000 or more per month as Syria continued to sell its own Syrian oil at market prices.

"(27) Syria's illegal imports and transshipments of Iraqi oil earned Saddam Hussein's regime $2,000,000 per day.

"(28) On March 28, 2003, Secretary of Defense Donald Rumsfeld warned: '[W]e have information that shipments of military supplies have been crossing the border from Syria into Iraq, including night-vision goggles * * * These deliveries pose a direct threat to the lives of coalition forces. We consider such

trafficking as hostile acts, and will hold the Syrian government accountable for such shipments.'.

"(29) According to Article 23(1) of the United Nations Charter, members of the United Nations are elected as nonpermanent members of the United Nations Security Council with 'due regard being specially paid, in the first instance to the contribution of members of the United Nations to the maintenance of international peace and security and to other purposes of the Organization'.

"(30) Despite Article 23(1) of the United Nations Charter, Syria was elected on October 8, 2001, to a 2-year term as a nonpermanent member of the United Nations Security Council beginning January 1, 2002, and served as President of the Security Council during June 2002 and August 2003.

"(31) On March 31, 2003, the Syrian Foreign Minister, Farouq al-Sharra, made the Syrian regime's intentions clear when he explicitly stated that 'Syria's interest is to see the invaders defeated in Iraq'.

"(32) On April 13, 2003, Secretary of Defense Donald Rumsfeld charged that 'busloads' of Syrian fighters entered Iraq with 'hundreds of thousands of dollars' and leaflets offering rewards for dead American soldiers.

"(33) On September 16, 2003, the Under Secretary of State for Arms Control and International Security, John Bolton, appeared before the Subcommittee on the Middle East and Central Asia of the Committee on International Relations [now Committee on Foreign Affairs] of the House of Representatives, and underscored Syria's 'hostile actions' toward coalition forces during Operation Iraqi Freedom. Under Secretary Bolton added that: 'Syria allowed military equipment to flow into Iraq on the eve of and during the war. Syria permitted volunteers to pass into Iraq to attack and kill our service members during the war, and is still doing so * * * [Syria's] behavior during Operation Iraqi Freedom underscores the importance of taking seriously reports and information on Syria's WMD capabilities.'.

"(34) During his appearance before the Committee on International Relations of the House of Representatives on September 25, 2003, Ambassador L. Paul Bremer, III, Administrator of the Coalition Provisional Authority in Iraq, stated that out of the 278 third-country nationals who were captured by coalition forces in Iraq, the 'single largest group are Syrians'.

"SEC. 3. SENSE OF CONGRESS.

"It is the sense of Congress that—

"(1) the Government of Syria should immediately and unconditionally halt support for terrorism, permanently and openly declare its total renunciation of all forms of terrorism, and close all terrorist offices and facilities in Syria, including the offices of Hamas, Hizballah, Palestinian Islamic Jihad, the Popular Front for the Liberation of Palestine, and the Popular Front for the Liberation of Palestine—General Command;

"(2) the Government of Syria should—

"(A) immediately and unconditionally stop facilitating transit from Syria to Iraq of individuals, military equipment, and all lethal items, except as authorized by the Coalition Provisional Authority or a representative, internationally recognized Iraqi government;

"(B) cease its support for 'volunteers' and terrorists who are traveling from and through Syria into Iraq to launch attacks; and

"(C) undertake concrete, verifiable steps to deter such behavior and control the use of territory under Syrian control;

"(3) the Government of Syria should immediately declare its commitment to completely withdraw its armed forces, including military, paramilitary, and security forces, from Lebanon, and set a firm timetable for such withdrawal;

"(4) the Government of Lebanon should deploy the Lebanese armed forces to all areas of Lebanon, including South Lebanon, in accordance with United Nations Security Council Resolution 520 (September 17, 1982), in order to assert the sovereignty of the Lebanese state over all of its territory, and should evict all terrorist and foreign forces from southern Lebanon, including Hizballah and the Iranian Revolutionary Guards;

"(5) the Government of Syria should halt the development and deployment of medium- and long-range surface-to-surface missiles and cease the development and production of biological and chemical weapons;

"(6) the Governments of Lebanon and Syria should enter into serious unconditional bilateral negotiations with the Government of Israel in order to realize a full and permanent peace;

"(7) the United States should continue to provide humanitarian and educational assistance to the people of Lebanon only through appropriate private, nongovernmental organizations and appropriate international organizations, until such time as the Government of Lebanon asserts sovereignty and control over all of its territory and borders and achieves full political independence, as called for in United Nations Security Council Resolution 520; and

"(8) as a violator of several key United Nations Security Council resolutions and as a nation that

pursues policies which undermine international peace and security, Syria should not have been permitted to join the United Nations Security Council or serve as the Security Council's President, and should be removed from the Security Council.

"SEC. 4. STATEMENT OF POLICY.

"It is the policy of the United States that—

"(1) Syria should bear responsibility for attacks committed by Hizballah and other terrorist groups with offices, training camps, or other facilities in Syria, or bases in areas of Lebanon occupied by Syria;

"(2) the United States will work to deny Syria the ability to support acts of international terrorism and efforts to develop or acquire weapons of mass destruction;

"(3) the Secretary of State will continue to list Syria as a state sponsor of terrorism until Syria ends its support for terrorism, including its support of Hizballah and other terrorist groups in Lebanon and its hosting of terrorist groups in Damascus, and comes into full compliance with United States law relating to terrorism and United Nations Security Council Resolution 1373 (September 28, 2001);

"(4) the full restoration of Lebanon's sovereignty, political independence, and territorial integrity is in the national security interest of the United States;

"(5) Syria is in violation of United Nations Security Council Resolution 520 (September 17, 1982) through its continued occupation of Lebanese territory and its encroachment upon Lebanon's political independence;

"(6) Syria's obligation to withdraw from Lebanon is not conditioned upon progress in the Israeli-Syrian or Israeli-Lebanese peace process but derives from Syria's obligation under Security Council Resolution 520;

"(7) Syria's acquisition of weapons of mass destruction and ballistic missile programs threaten the security of the Middle East and the national security interests of the United States;

"(8) Syria will be held accountable for any harm to Coalition armed forces or to any United States citizen in Iraq if the government of Syria is found to be responsible due to its facilitation of terrorist activities and its shipments of military supplies to Iraq; and

"(9) the United States will not provide any assistance to Syria and will oppose multilateral assistance for Syria until Syria ends all support for terrorism, withdraws its armed forces from Lebanon, and halts the development and deployment of weapons of mass destruction and medium- and long-range surface-to-surface ballistic missiles.

"SEC. 5. PENALTIES AND AUTHORIZATION.

"(a) PENALTIES.—Until the President makes the determination that Syria meets all the requirements described in paragraphs (1) through (4) of subsection (d) and certifies such determination to Congress in accordance with such subsection—

"(1) the President shall prohibit the export to Syria of any item, including the issuance of a license for the export of any item, on the United States Munitions List or Commerce Control List of dual-use items in the Export Administration Regulations (15 CFR part 730 et seq.); and

"(2) the President shall impose two or more of the following sanctions:

"(A) Prohibit the export of products of the United States (other than food and medicine) to Syria.

"(B) Prohibit United States businesses from investing or operating in Syria.

"(C) Restrict Syrian diplomats in Washington, D.C., and at the United Nations in New York City, to travel only within a 25-mile radius of Washington, D.C., or the United Nations headquarters building, respectively.

"(D) Prohibit aircraft of any air carrier owned or controlled by Syria to take off from, land in, or overfly the United States.

"(E) Reduce United States diplomatic contacts with Syria (other than those contacts required to protect United States interests or carry out the purposes of this Act).

"(F) Block transactions in any property in which the Government of Syria has any interest, by any person, or with respect to any property, subject to the jurisdiction of the United States.

"(b) WAIVER.—The President may waive the application of subsection (a)(1), (a)(2), or both if the President determines that it is in the national security interest of the United States to do so and submits to the appropriate congressional committees a report containing the reasons for the determination.

"(c) AUTHORITY TO PROVIDE ASSISTANCE TO SYRIA.—If the President—

"(1) makes the determination that Syria meets the requirements described in paragraphs (1) through (4) of subsection (d) and certifies such determination to Congress in accordance with such subsection;

"(2) determines that substantial progress has been made both in negotiations aimed at achieving a peace agreement between Israel and Syria and in negotiations aimed at achieving a peace agreement

between Israel and Lebanon; and

"(3) determines that the Government of Syria is strictly respecting the sovereignty, territorial integrity, unity, and political independence of Lebanon under the sole and exclusive authority of the Government of Lebanon through the Lebanese army throughout Lebanon, as required under paragraph (4) of United Nations Security Council Resolution 520 (1982),

then the President is authorized to provide assistance to Syria under chapter 1 of part I of the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.] (relating to development assistance).

"(d) CERTIFICATION.—A certification under this subsection is a certification transmitted to the appropriate congressional committees of a determination made by the President that—

"(1) the Government of Syria has ceased providing support for international terrorist groups and does not allow terrorist groups, such as Hamas, Hizballah, Palestinian Islamic Jihad, the Popular Front for the Liberation of Palestine, and the Popular Front for the Liberation of Palestine—General Command to maintain facilities in territory under Syrian control;

"(2) the Government of Syria ended its occupation of Lebanon described in section 2(7) of this Act;

"(3) the Government of Syria has ceased the development and deployment of medium- and long-range surface-to-surface ballistic missiles, is not pursuing or engaged in the research, development, acquisition, production, transfer, or deployment of biological, chemical, or nuclear weapons, has provided credible assurances that such behavior will not be undertaken in the future, and has agreed to allow United Nations and other international observers to verify such actions and assurances; and

"(4) the Government of Syria has ceased all support for, and facilitation of, all terrorist activities inside of Iraq, including preventing the use of territory under its control by any means whatsoever to support those engaged in terrorist activities inside of Iraq.

"SEC. 6. REPORT.

"(a) REPORT.—Not later than 6 months after the date of the enactment of this Act [Dec. 12, 2003], and every 12 months thereafter until the conditions described in paragraphs (1) through (4) of section 5(d) are satisfied, the Secretary of State shall submit to the appropriate congressional committees a report on—

"(1) Syria's progress toward meeting the conditions described in paragraphs (1) through (4) of section 5(d);

"(2) connections, if any, between individual terrorists and terrorist groups which maintain offices, training camps, or other facilities on Syrian territory, or operate in areas of Lebanon occupied by the Syrian armed forces, and terrorist attacks on the United States or its citizens, installations, or allies; and

"(3) how the United States is increasing its efforts against Hizballah and other terrorist organizations supported by Syria.

"(b) FORM.—The report submitted under subsection (a) shall be in unclassified form but may include a classified annex.

"SEC. 7. DEFINITION OF APPROPRIATE CONGRESSIONAL COMMITTEES.

"In this Act, the term 'appropriate congressional committees' means the Committee on International Relations [now Committee on Foreign Affairs] of the House of Representatives and the Committee on Foreign Relations of the Senate."

[For delegation of functions of President under section 5(b) of Pub. L. 108–175, set out above, see section 9 of Ex. Ord. No. 13338, May 11, 2004, 69 F.R. 26751, listed in a table under section 1701 of Title 50, War and National Defense.]

IRAQ RELIEF AND RECONSTRUCTION FUND

Pub. L. 109–234, title I, §1302(a), June 15, 2006, 120 Stat. 435, provided in part: "That notwithstanding section 2207(d) of Public Law 108–106 [set out below], requirements of section 2207 of Public Law 108–106 shall expire on October 1, 2008."

Pub. L. 108–106, title II, §§2207, 2208, Nov. 6, 2003, 117 Stat. 1231, as amended by section 574(a) of H.R. 4818, One Hundred Eighth Congress, as passed by the House of Representatives on July 15, 2004, and as enacted into law by Pub. L. 108–309, §135, Sept. 30, 2004, 118 Stat. 1143, provided that:

"SEC. 2207. (a) The Secretary of State shall submit to the Committees on Appropriations not later than January 5, 2004 and prior to the initial obligation of funds appropriated by this Act under the heading 'Iraq Relief and Reconstruction Fund' [117 Stat. 1225] a report on the proposed uses of all funds under this heading on a project-by-project basis, for which the obligation of funds is anticipated during the 3 month period from such date, including estimates by the CPA of the costs required to complete each such project: *Provided,* That up to 20 percent of funds appropriated under such heading may be obligated before the submission of the report: *Provided further,* That in addition such report shall include the following:

"(1) The use of all funds on a project-by-project basis for which funds appropriated under such heading were obligated prior to the submission of the report, including estimates by the CPA of the costs required to complete each project.

"(2) The distribution of duties and responsibilities regarding such projects among the agencies of the United States Government.

"(3) Revenues to the CPA attributable to or consisting of funds provided by foreign governments and international organizations, disaggregated by donor, any obligations or expenditures of such revenues, and the purpose of such obligations and expenditures.

"(4) Revenues to the CPA attributable to or consisting of foreign assets seized or frozen, any obligations or expenditures of such revenues, and the purpose of such obligations and expenditures.

"(b) Any proposed new projects and increases in funding of ongoing projects shall be reported to the Committees on Appropriations in accordance with regular notification procedures.

"(c) The report required by subsection (a) shall be updated and submitted to the Committees on Appropriations every 3 months and shall include information on how the estimates and assumptions contained in previous reports have changed.

"(d) The requirements of this section shall expire on October 1, 2007.

"SEC. 2208. Any reference in this chapter [chapter 2 of title II of Pub. L. 108–106, enacting section 7554 of this title, amending sections 7518 and 7532 of this title, and enacting this note and section 2215(a) of Pub. L. 108–106, set out as a note below] to the 'Coalition Provisional Authority in Iraq' or the 'Coalition Provisional Authority' shall be deemed to include any successor United States Government entity with the same or substantially the same authorities and responsibilities as the Coalition Provisional Authority in Iraq."

REPORTS ON IRAQI OIL PRODUCTION AND REVENUES

Pub. L. 108–106, title II, §2215(a), Nov. 6, 2003, 117 Stat. 1232, required the Coalition Provisional Authority in Iraq to report, not later than 30 days after Nov. 6, 2003, and on a monthly basis until Sept. 30, 2006, Iraqi oil production and oil revenues, and uses of such revenues.

REPORTS ON UNITED STATES STRATEGY FOR RELIEF AND RECONSTRUCTION IN IRAQ

Pub. L. 108–11, title I, §1506, Apr. 16, 2003, 117 Stat. 580, required the President to submit (1) not later than 45 days after Apr. 16, 2003, an initial report on United States strategy regarding post-conflict security, humanitarian assistance, governance, and reconstruction in Iraq undertaken as a result of Operation Iraqi Freedom, and (2) not later than 90 days after Apr. 16, 2003, and every 90 days thereafter until Sept. 30, 2004, subsequent reports related to reconstruction in Iraq.

COMMUNITY-BASED POLICE ASSISTANCE FOR JAMAICA AND EL SALVADOR

Pub. L. 108–7, div. E, title V, §582, Feb. 20, 2003, 117 Stat. 214, provided that:

"(a) AUTHORITY.—Funds made available to carry out the provisions of chapter 1 of part I [22 U.S.C. 2151 et seq.] and chapter 4 of part II [22 U.S.C. 2346 et seq.] of the Foreign Assistance Act of 1961, may be used, notwithstanding section 660 of that Act [22 U.S.C. 2420], to enhance the effectiveness and accountability of civilian police authority in Jamaica and El Salvador through training and technical assistance in human rights, the rule of law, strategic planning, and through assistance to foster civilian police roles that support democratic governance including assistance for programs to prevent conflict and foster improved police relations with the communities they serve.

"(b) REPORT.—

"(1) The Administrator of the United States Agency for International Development shall submit, at the time of submission of the agency's Congressional Budget Justification Document for fiscal year 2004, and annually thereafter, a report to the Committees on Appropriations describing the progress these programs are making toward improving police relations with the communities they serve and institutionalizing an effective community-based police program.

"(2) The requirements of paragraph (1) are in lieu of the requirements contains [sic] in section 587(b) of Public Law 107–115 [see Similar Provisions note below].

"(c) NOTIFICATION.—Assistance provided under subsection (a) shall be subject to the regular notification procedures of the Committees on Appropriations."

Provisions similar to section 582(a), (c) of div. E of Pub. L. 108–7 were contained in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2006, Pub. L. 109–102, title V, §564, Nov. 14, 2005, 119 Stat. 2225, and were repeated in provisions of subsequent appropriations acts which are not set out in the Code. Similar provisions were also contained in the following prior appropriations acts:

Pub. L. 108–447, div. D, title V, §564, Dec. 8, 2004, 118 Stat. 3022.

Pub. L. 108–199, div. D, title V, §573, Jan. 23, 2004, 118 Stat. 199.

Pub. L. 107–115, title V, §587, Jan. 10, 2002, 115 Stat. 2173.

ASSISTANCE FOR ZIMBABWE

Pub. L. 107–99, Dec. 21, 2001, 115 Stat. 962, provided that:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Zimbabwe Democracy and Economic Recovery Act of 2001'.

"SEC. 2. STATEMENT OF POLICY.

"It is the policy of the United States to support the people of Zimbabwe in their struggle to effect peaceful, democratic change, achieve broad-based and equitable economic growth, and restore the rule of law.

"SEC. 3. DEFINITIONS.

"In this Act:

"(1) INTERNATIONAL FINANCIAL INSTITUTIONS.—The term 'international financial institutions' means the multilateral development banks and the International Monetary Fund.

"(2) MULTILATERAL DEVELOPMENT BANKS.—The term 'multilateral development banks' means the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the Asian Development Bank, the Inter-American Investment Corporation, the African Development Bank, the African Development Fund, the European Bank for Reconstruction and Development, and the Multilateral Investment Guaranty Agency.

"SEC. 4. SUPPORT FOR DEMOCRATIC TRANSITION AND ECONOMIC RECOVERY.

"(a) FINDINGS.—Congress makes the following findings:

"(1) Through economic mismanagement, undemocratic practices, and the costly deployment of troops to the Democratic Republic of the Congo, the Government of Zimbabwe has rendered itself ineligible to participate in International Bank for Reconstruction and Development and International Monetary Fund programs, which would otherwise be providing substantial resources to assist in the recovery and modernization of Zimbabwe's economy. The people of Zimbabwe have thus been denied the economic and democratic benefits envisioned by the donors to such programs, including the United States.

"(2) In September 1999 the IMF suspended its support under a 'Stand By Arrangement', approved the previous month, for economic adjustment and reform in Zimbabwe.

"(3) In October 1999, the International Development Association (in this section referred to as the 'IDA') suspended all structural adjustment loans, credits, and guarantees to the Government of Zimbabwe.

"(4) In May 2000, the IDA suspended all other new lending to the Government of Zimbabwe.

"(5) In September 2000, the IDA suspended disbursement of funds for ongoing projects under previously-approved loans, credits, and guarantees to the Government of Zimbabwe.

"(b) SUPPORT FOR DEMOCRATIC TRANSITION AND ECONOMIC RECOVERY.—

"(1) BILATERAL DEBT RELIEF.—Upon receipt by the appropriate congressional committees of a certification described in subsection (d), the Secretary of the Treasury shall undertake a review of the feasibility of restructuring, rescheduling, or eliminating the sovereign debt of Zimbabwe held by any agency of the United States Government.

"(2) MULTILATERAL DEBT RELIEF AND OTHER FINANCIAL ASSISTANCE.—It is the sense of Congress that, upon receipt by the appropriate congressional committees of a certification described in subsection (d), the Secretary of the Treasury should—

"(A) direct the United States executive director of each multilateral development bank to propose that the bank should undertake a review of the feasibility of restructuring, rescheduling, or eliminating the sovereign debt of Zimbabwe held by that bank; and

"(B) direct the United States executive director of each international financial institution to which the United States is a member to propose to undertake financial and technical support for Zimbabwe, especially support that is intended to promote Zimbabwe's economic recovery and development, the stabilization of the Zimbabwean dollar, and the viability of Zimbabwe's democratic institutions.

"(c) MULTILATERAL FINANCING RESTRICTION.—Until the President makes the certification described in subsection (d), and except as may be required to meet basic human needs or for good governance, the Secretary of the Treasury shall instruct the United States executive director to each international financial institution to oppose and vote against—

"(1) any extension by the respective institution of any loan, credit, or guarantee to the Government of Zimbabwe; or

"(2) any cancellation or reduction of indebtedness owed by the Government of Zimbabwe to the

United States or any international financial institution.

"(d) PRESIDENTIAL CERTIFICATION THAT CERTAIN CONDITIONS ARE SATISFIED.—A certification under this subsection is a certification transmitted to the appropriate congressional committees of a determination made by the President that the following conditions are satisfied:

"(1) RESTORATION OF THE RULE OF LAW.—The rule of law has been restored in Zimbabwe, including respect for ownership and title to property, freedom of speech and association, and an end to the lawlessness, violence, and intimidation sponsored, condoned, or tolerated by the Government of Zimbabwe, the ruling party, and their supporters or entities.

"(2) ELECTION OR PRE-ELECTION CONDITIONS.—Either of the following two conditions is satisfied:

"(A) PRESIDENTIAL ELECTION.—Zimbabwe has held a presidential election that is widely accepted as free and fair by independent international monitors, and the president-elect is free to assume the duties of the office.

"(B) PRE-ELECTION CONDITIONS.—In the event the certification is made before the presidential election takes place, the Government of Zimbabwe has sufficiently improved the pre-election environment to a degree consistent with accepted international standards for security and freedom of movement and association.

"(3) COMMITMENT TO EQUITABLE, LEGAL, AND TRANSPARENT LAND REFORM.—The Government of Zimbabwe has demonstrated a commitment to an equitable, legal, and transparent land reform program consistent with agreements reached at the International Donors' Conference on Land Reform and Resettlement in Zimbabwe held in Harare, Zimbabwe, in September 1998.

"(4) FULFILLMENT OF AGREEMENT ENDING WAR IN DEMOCRATIC REPUBLIC OF CONGO.—The Government of Zimbabwe is making a good faith effort to fulfill the terms of the Lusaka, Zambia, agreement on ending the war in the Democratic Republic of Congo.

"(5) MILITARY AND NATIONAL POLICE SUBORDINATE TO CIVILIAN GOVERNMENT .—The Zimbabwean Armed Forces, the National Police of Zimbabwe, and other state security forces are responsible to and serve the elected civilian government.

"(e) WAIVER.—The President may waive the provisions of subsection (b)(1) or subsection (c), if the President determines that it is in the national interest of the United States to do so.

"SEC. 5. SUPPORT FOR DEMOCRATIC INSTITUTIONS, THE FREE PRESS AND INDEPENDENT MEDIA, AND THE RULE OF LAW.

"(a) IN GENERAL.—The President is authorized to provide assistance under part I [22 U.S.C. 2151 et seq.] and chapter 4 of part II [22 U.S.C. 2346 et seq.] of the Foreign Assistance Act of 1961 to—

"(1) support an independent and free press and electronic media in Zimbabwe;

"(2) support equitable, legal, and transparent mechanisms of land reform in Zimbabwe, including the payment of costs related to the acquisition of land and the resettlement of individuals, consistent with the International Donors' Conference on Land Reform and Resettlement in Zimbabwe held in Harare, Zimbabwe, in September 1998, or any subsequent agreement relating thereto; and

"(3) provide for democracy and governance programs in Zimbabwe.

"(b) FUNDING.—Of the funds authorized to be appropriated to carry out part I [22 U.S.C. 2151 et seq.] and chapter 4 of part II [22 U.S.C. 2346 et seq.] of the Foreign Assistance Act of 1961 for fiscal year 2002—

"(1) $20,000,000 is authorized to be available to provide the assistance described in subsection (a)(2); and

"(2) $6,000,000 is authorized to be available to provide the assistance described in subsection (a)(3).

"(c) SUPERSEDES OTHER LAWS.—The authority in this section supersedes any other provision of law.

"SEC. 6. SENSE OF CONGRESS ON THE ACTIONS TO BE TAKEN AGAINST INDIVIDUALS RESPONSIBLE FOR VIOLENCE AND THE BREAKDOWN OF THE RULE OF LAW IN ZIMBABWE.

"It is the sense of Congress that the President should begin immediate consultation with the governments of European Union member states, Canada, and other appropriate foreign countries on ways in which to—

"(1) identify and share information regarding individuals responsible for the deliberate breakdown of the rule of law, politically motivated violence, and intimidation in Zimbabwe;

"(2) identify assets of those individuals held outside Zimbabwe;

"(3) implement travel and economic sanctions against those individuals and their associates and families; and

"(4) provide for the eventual removal or amendment of those sanctions."

Provisions similar to those contained in section 4(c) of Pub. L. 107–99, set out above, were contained in the

following appropriation acts:

Pub. L. 114–113, div. K, title VII, §7042(k)(1), Dec. 18, 2015, 129 Stat. 2783.
Pub. L. 113–235, div. J, title VII, §7042(m)(1), Dec. 16, 2014, 128 Stat. 2644.
Pub. L. 113–76, div. K, title VII, §7042(n)(1), Jan. 17, 2014, 128 Stat. 532.
Pub. L. 112–74, div. I, title VII, §7043(j)(1), Dec. 23, 2011, 125 Stat. 1230.
Pub. L. 111–117, div. F, title VII, §7070(i)(1), Dec. 16, 2009, 123 Stat. 3388.
Pub. L. 111–8, div. H, title VII, §7070(e)(1), Mar. 11, 2009, 123 Stat. 902.
Pub. L. 110–161, div. J, title VI, §673, Dec. 26, 2007, 121 Stat. 2356.
Pub. L. 109–102, title V, §572, Nov. 14, 2005, 119 Stat. 2229.
Pub. L. 108–447, div. D, title V, §580, Dec. 8, 2004, 118 Stat. 3030.
Pub. L. 108–199, div. D, title V, §557, Jan. 23, 2004, 118 Stat. 190.
Pub. L. 108–7, div. E, title V, §556, Feb. 20, 2003, 117 Stat. 202.
Pub. L. 107–115, title V, §560, Jan. 10, 2002, 115 Stat. 2162.

REPORT ON RELATIONS WITH VIETNAM

Pub. L. 105–277, div. G, subdiv. B, title XXVIII, §2805, Oct. 21, 1998, 112 Stat. 2681–846, as amended by Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title II, §209(c)], Nov. 29, 1999, 113 Stat. 1536, 1501A–423, required the Secretary of State to submit a report, not later than 90 days after Oct. 21, 1998, and every 180 days thereafter during the period ending Sept. 30, 2001, regarding the Government of the Socialist Republic of Vietnam's cooperation in providing the fullest possible accounting of all unresolved cases of prisoners of war (POWs) or persons missing-in-action (MIAs), progress toward the release of all political and religious prisoners, including clergy, and cooperation with the Orderly Departure (ODP) and Resettlement Opportunities for Vietnamese Refugees (ROVR) programs.

IRAQ LIBERATION

Pub. L. 105–338, Oct. 31, 1998, 112 Stat. 3178, as amended by Pub. L. 108–11, title I, §1309(b), Apr. 16, 2003, 117 Stat. 568, known as the "Iraq Liberation Act of 1998", contained congressional findings regarding Iraq, stated the sense of Congress that United States policy should support efforts to remove the regime headed by Saddam Hussein from power in Iraq and to promote the emergence of a democratic government, authorized assistance to support a transition to democracy in Iraq, required Presidential designation of Iraqi democratic opposition organizations eligible to receive assistance, urged establishment of a war crimes tribunal for Iraq, stated the sense of Congress that the United States should support Iraq's transition to democracy upon replacement of the Saddam Hussein regime, and specified that, with an exception, nothing in the Act be construed to authorize the use of United States Armed Forces to carry out the Act.

ASSISTANCE FOR MAURITANIA

Pub. L. 104–319, title II, §202, Oct. 19, 1996, 110 Stat. 3866, provided that:

"(a) PROHIBITION.—The President should not provide economic assistance, military assistance or arms transfers to the Government of Mauritania unless the President certifies to the Congress that such Government has taken appropriate action to eliminate chattel slavery in Mauritania, including—

"(1) the enactment of anti-slavery laws that provide appropriate punishment for violators of such laws; and

"(2) the rigorous enforcement of such laws.

"(b) DEFINITIONS.—For purposes of this section, the following definitions apply:

"(1) ECONOMIC ASSISTANCE.—The term 'economic assistance' means any assistance under part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), except that such term does not include humanitarian assistance.

"(2) MILITARY ASSISTANCE OR ARMS TRANSFERS.—The term 'military assistance or arms transfers' means—

"(A) assistance under chapter 2 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2311 et seq.; relating to military assistance), including the transfer of excess defense articles under sections 516 through 519 of that Act (22 U.S.C. 2321j through 2321m);

"(B) assistance under chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 et seq.; relating to international military education and training);

"(C) assistance under the 'Foreign Military Financing Program' under section 23 of the Arms Export Control Act (22 U.S.C. 2763); or

"(D) the transfer of defense articles, defense services, or design and construction services under the Arms Export Control Act (22 U.S.C. 2751 et seq.), including defense articles and defense services licensed or approved for export under section 38 of that Act (22 U.S.C. 2778)."

AUTHORITY FOR ANTICRIME ASSISTANCE

Pub. L. 103–447, title I, §106, Nov. 2, 1994, 108 Stat. 4694, stated policy that prevention and suppression of international criminal activities should be a priority for the United States, and, for fiscal year 1995, authorized the President to furnish assistance to any country or international organization, on such terms and conditions as he determined, for the prevention and suppression of international criminal activities.

AFRICAN CONFLICT RESOLUTION

Pub. L. 103–381, Oct. 19, 1994, 108 Stat. 3513, provided that:

"SECTION. 1. SHORT TITLE.

"This Act may be cited as the 'African Conflict Resolution Act'.

"SEC. 2. FINDINGS AND STATEMENT OF POLICY.

"(a) FINDINGS.—The Congress makes the following findings:

"(1) It is in the national interest of the United States to help build African capability in conflict resolution. A relatively small investment of assistance in promoting African conflict resolution—

"(A) would reduce the enormous human suffering which is caused by wars in Africa;

"(B) would help the United States avoid huge future expenditures necessitated by Somalia-like humanitarian disasters; and

"(C) would reduce the need for United Nations intervention as African institutions develop the ability to resolve African conflicts.

"(2) Africa, to a greater extent than any other continent, is afflicted by war. Africa has been marred by more than 20 major civil wars since 1960. Rwanda, Somalia, Angola, Sudan, Liberia, and Burundi are among those countries that have recently suffered serious armed conflict.

"(3) In the last decade alone, between 2,000,000 and 4,000,000 Africans have died because of war. There were 5,200,000 refugees and 13,100,000 displaced people in Africa in 1993.

"(4) Millions more Africans are currently at risk of war-related death. Looming or ongoing conflicts in Zaire, Angola, Sudan, Rwanda, and other countries threaten Africa's future.

"(5) War has caused untold economic and social damage to the countries of Africa. Food production is impossible in conflict areas, and famine often results. Widespread conflict has condemned many of Africa's children to lives of misery and, in certain cases, has threatened the existence of traditional African cultures.

"(6) Conflict and instability in Africa, particularly in large, potentially rich countries such as Angola, Sudan, and Zaire, deprive the global economy of resources and opportunities for trade and investment. Peace in these countries could make a significant contribution to global economic growth, while creating new opportunities for United States businesses.

"(7) Excessive military expenditures threaten political and economic stability in Africa while diverting scarce resources from development needs. Demobilization and other measures to reduce the size of African armies, and civilian control of the military under the rule of law are in the interest of international security and economic development.

"(8) Conflict prevention, mediation, and demobilization are prerequisites to the success of development assistance programs. Nutrition and education programs, for example, cannot succeed in a nation at war. Billions of dollars of development assistance have been virtually wasted in war-ravaged countries such as Liberia, Somalia, and Sudan.

"(9) Africans have a long tradition of informal mediation. This tradition should be built upon to create effective institutions through which Africans can resolve African conflicts.

"(10) The effectiveness of U.S. support for conflict resolution programs requires coordination and collaboration with multilateral institutions and other bilateral donors.

"(11) African institutions are playing an active role in conflict resolution and mediation utilizing the experience of elder statesmen. Groups such as the All African Council of Churches have assisted in defusing conflicts. The Economic Community of West African States (ECOWAS) has sought to address the conflict in Liberia by deploying an African peacekeeping force. The Southern African states have been working to prevent a crisis in Lesotho. The Intergovernmental Authority on Desertification and Drought (IGADD) has been engaged in attempting to resolve the conflict in Sudan.

"(12) The Organization of African Unity, under the leadership of Secretary General Salim Salim, has established a conflict resolution mechanism and has been active in mediation and conflict resolution in several African countries.

"(b) UNITED STATES POLICY.—The Congress declares, therefore, that a key goal for United States foreign policy should be to help institutionalize conflict resolution capability in Africa.

"SEC. 3. IMPROVING THE CONFLICT RESOLUTION CAPABILITIES OF THE ORGANIZATION OF AFRICAN UNITY.

"(a) AUTHORIZATION OF ASSISTANCE.—The President is authorized to provide assistance to strengthen the conflict resolution capability of the Organization of African Unity, as follows:

"(1) Funds may be provided to the Organization of African Unity for use in supporting its conflict resolution capability, including providing technical assistance.

"(2) Funds may be used for expenses of sending individuals with expertise in conflict resolution to work with the Organization of African Unity.

"(b) FUNDING.—Of the foreign assistance funds that are allocated for sub-Saharan Africa, not less than $1,500,000 for each of the fiscal years 1995 through 1998 should be used to carry out subsection (a).

"SEC. 4. IMPROVING CONFLICT RESOLUTION CAPABILITIES OF MULTILATERAL SUBREGIONAL ORGANIZATIONS IN AFRICA.

"(a) AUTHORIZATION OF ASSISTANCE.—The President is authorized to provide assistance to strengthen the conflict resolution capabilities of subregional organizations established by countries in sub-Saharan Africa, as follows:

"(1) Funds may be provided to such organizations for use in supporting their conflict resolution capability, including providing technical assistance.

"(2) Funds may be used for the expenses of sending individuals with expertise in conflict resolution to work with such organizations.

"(b) FUNDING.—Of the foreign assistance funds that are allocated for sub-Saharan Africa, such sums as may be necessary for each of the fiscal years 1995 through 1998 may be used to carry out subsection (a).

"SEC. 5. IMPROVING CONFLICT RESOLUTION CAPABILITIES OF NON-GOVERNMENTAL ORGANIZATIONS.

"(a) AUTHORIZATION OF ASSISTANCE.—The President is authorized to provide assistance to nongovernmental organizations that are engaged in mediation and reconciliation efforts in sub-Saharan Africa.

"(b) FUNDING.—Of the foreign assistance funds that are allocated for sub-Saharan Africa, such sums as may be necessary for each of the fiscal years 1995 and 1996 should be used to carry out subsection (a).

"SEC. 6. AFRICAN DEMOBILIZATION AND RETRAINING PROGRAM.

"(a) AUTHORIZATION OF ASSISTANCE.—In order to facilitate reductions in the size of the armed forces of countries of sub-Saharan Africa, the President is authorized to—

"(1) provide assistance for the encampment and related activities for the purpose of demobilization of such forces; and

"(2) provide assistance for the reintegration of demobilized military personnel into civilian society through activities such as retraining for civilian occupations, creation of income-generating opportunities, their reintegration into agricultural activities, and the transportation to the home areas of such personnel.

"(b) FUNDING.—Of the foreign assistance funds that are allocated for sub-Saharan Africa, $25,000,000 for each of the fiscal years 1995 and 1996 should be used for the assistance described in subsection (a), if conditions permit.

"(c) CIVILIAN INVOLVEMENT.—The President is also authorized to promote civilian involvement in the planning and organization of demobilization and reintegration activities.

"SEC. 7. TRAINING FOR AFRICANS IN CONFLICT RESOLUTION AND PEACEKEEPING.

"(a) AUTHORIZATION.—The President is authorized to establish a program to provide education and training in conflict resolution and peacekeeping for civilian and military personnel of countries in sub-Saharan Africa.

"(b) FUNDING.—Of the funds made available under chapter 5 of part II of the Foreign Assistance Act of 1961 [22 U.S.C. 2347 et seq.], such sums as may be necessary for each of the fiscal years 1995 and 1996 should be used for the purposes of subsection (a).

"SEC. 8. PLAN FOR UNITED STATES SUPPORT FOR CONFLICT RESOLUTION AND DEMOBILIZATION IN SUB-SAHARAN AFRICA.

"(a) IN GENERAL.—Pursuant to the provisions of sections 3 through 7, the President should develop an integrated long-term plan, which incorporates local perspectives, to provide support for the enhancement of conflict resolution capabilities and demobilization activities in sub-Saharan Africa.

"(b) CONTENTS OF PLAN.—Such plan should include:

"(1) The type, purpose, amount, and duration of assistance that is planned to be provided to conflict resolution units in sub-Saharan Africa.

"(2) The type and amount of assistance that is planned to be provided for the demobilization of military personnel of countries of sub-Saharan Africa, including—

"(A) a list of which countries will receive such assistance and an explanation of why such countries were chosen for such assistance; and

"(B) a list of other countries and international organizations that are providing assistance for such demobilization.

"(3) The type and amount of assistance that is planned to be provided to nongovernmental organizations that are engaged in mediation and reconciliation efforts in sub-Saharan Africa.

"(4) A description of proposed training programs for Africans in conflict resolution and peacekeeping under section 7, including a list of prospective participants and plans to expand such programs.

"(5) The mechanisms to be used to coordinate interagency efforts to administer the plan.

"(6) Efforts to seek the participation of other countries and international organizations to achieve the objectives of the plan.

"(c) REPORT.—Not later than 180 days after the date of the enactment of this Act [Oct. 19, 1994], the President shall submit to the appropriate congressional committees a report containing a description of the plan developed under this section.

"SEC. 9. REPORTING REQUIREMENT.

"(a) REQUIREMENT.—The President shall submit to the appropriate congressional committees a report describing the efforts and progress made in carrying out the provisions of this Act.

"(b) DATE OF SUBMISSION.—The first report submitted under subsection (a) shall be submitted no later than 180 days after the date of the enactment of this Act [Oct. 19, 1994], and shall be submitted annually thereafter.

"SEC. 10. CONSULTATION REQUIREMENT.

"The President shall consult with the appropriate congressional committees prior to providing assistance under sections 3 through 7.

"SEC. 11. APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.

"For purposes of this Act, the term 'appropriate congressional committees' means the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate."

[Functions of President under sections 8 and 9 of Pub. L. 103–381, set out above, delegated to Administrator of the Agency for International Development by Memorandum of President of the United States, June 6, 1995, 60 F.R. 30771.]

WAIVER OF RESTRICTIONS FOR NARCOTICS-RELATED ECONOMIC ASSISTANCE

Pub. L. 104–164, title I, §133, July 21, 1996, 110 Stat. 1430, stated terms under which narcotics-related assistance under part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) could be provided for fiscal years 1996 and 1997.

Similar provisions were contained in the following prior acts:

Pub. L. 103–447, title I, §105, Nov. 2, 1994, 108 Stat. 4694.

Pub. L. 102–583, §8, Nov. 2, 1992, 106 Stat. 4933, prior to repeal by Pub. L. 103–447, title I, §103(a), Nov. 2, 1994, 108 Stat. 4693.

"APPROPRIATE CONGRESSIONAL COMMITTEES" DEFINED FOR PURPOSES OF PUB. L. 102–583

Pub. L. 102–583, §11(b), Nov. 2, 1992, 106 Stat. 4935, provided that as used in Pub. L. 102–583, the term "appropriate congressional committees" had the definition given that term by section 481(e)(6) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(e)(6)), prior to repeal by Pub. L. 103–447, title I, §103(a), Nov. 2, 1994, 108 Stat. 4693.

IMPACT ON EMPLOYMENT IN UNITED STATES

Pub. L. 102–549, title VIII, §801, Oct. 28, 1992, 106 Stat. 3671, provided that: "No funds made available to carry out any provision of this Act [see Short Title of 1992 Amendments note above] or the amendments made by this Act may be obligated or expended for any financial incentive to a business enterprise currently located in the United States for the purpose of inducing such an enterprise to relocate outside the United States, if such incentive or inducement is likely to reduce the number of employees in the United States because United States production is being replaced by such enterprise outside the United States."

INTERNATIONALLY RECOGNIZED WORKER RIGHTS

Pub. L. 102–549, title VIII, §802, Oct. 28, 1992, 106 Stat. 3671, provided that: "No funds made available to carry out any provision of this Act [see Short Title of 1992 Amendments note above] or the amendments made by this Act may be obligated or expended for any project or activity that contributes to the violation of internationally recognized workers rights, as defined in section 502(a)(4) of the Trade Act of 1974 [19 U.S.C. 2462(a)(4)], of workers in the recipient country, including any designated zone in that country."

HORN OF AFRICA RECOVERY AND FOOD SECURITY

Pub. L. 102–274, Apr. 21, 1992, 106 Stat. 115, as amended by Pub. L. 110–246, title III, §3001(b)(1)(A), (2)(R), June 18, 2008, 122 Stat. 1820, known as the Horn of Africa Recovery and Food Security Act, provided findings of Congress concerning the Horn of Africa (the region comprised of Ethiopia, Somalia, Sudan, and Djibouti), stated policy regarding individual countries, authorized a relief and rehabilitation program, provided for a peace initiative and a food security and recovery strategy, prohibited security assistance to Ethiopia, Somalia, or Sudan for fiscal year 1992 or 1993 absent a certification by the President, required the President to submit a report to Congress on the efforts and progress in carrying out Pub. L. 102–274 not later than 180 days after Apr. 21, 1992, and required additional reports.

PEACE PROCESS IN LIBERIA

Pub. L. 102–270, Apr. 16, 1992, 106 Stat. 106, as amended by Pub. L. 104–107, title V, §573(a), Feb. 12, 1996, 110 Stat. 749, provided: That (a) the Congress—

"(1) strongly supports the peace process for Liberia initiated by the Yamoussoukro peace accord;

"(2) urges all parties to abide by the terms of the Yamoussoukro agreement;

"(3) commends and congratulates the governments of the Economic Community of West African States (ECOWAS) for their leadership in seeking peace in Liberia; and

"(4) extends particularly praise to President Babangida of Nigeria, President Houphouet-Boigny of Cote d'Ivoire, and President Diouf of Senegal for their efforts to resolve this conflict.

"(b) AUTHORIZATION OF LIMITED ASSISTANCE.—The President is authorized to provide—

"(1) nonpartisan election and democracy-building assistance to support democratic institutions in Liberia, and

"(2) assistance for the resettlement of refugees, the demobilization and retraining of troops, and the provision of other appropriate assistance:

Provided, That the President determines and so certifies to the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives that Liberia has made significant progress toward democratization and that the provision of such assistance will assist that country in making further progress and is otherwise in the national interest of the United States. A separate determination and certification shall be required for each fiscal year in which such assistance is to be provided."

SUSPENSION OF CERTAIN PROGRAMS AND ACTIVITIES RELATING TO THE PEOPLE'S REPUBLIC OF CHINA

Pub. L. 101–246, title IX, §902, Feb. 16, 1990, 104 Stat. 83, as amended by Pub. L. 102–549, title II, §202(e), Oct. 28, 1992, 106 Stat. 3658, provided that:

"(a) SUSPENSIONS.—

"(1) OVERSEAS PRIVATE INVESTMENT CORPORATION.—The Overseas Private Investment Corporation shall continue to suspend the issuance of any new insurance, reinsurance, guarantees, financing, or other financial support with respect to the People's Republic of China, unless the President makes a report under subsection (b)(1) or (2) of this section.

"(2) TRADE AND DEVELOPMENT AGENCY.—The President shall suspend the obligation of funds under the Foreign Assistance Act of 1961 [see Short Title note above] for any new activities of the Trade and Development Agency with respect to the People's Republic of China, unless the President makes a report under subsection (b)(1) or (2) of this section.

"(3) MUNITIONS EXPORT LICENSES.—(A) The issuance of licenses under section 38 of the Arms Export Control Act [22 U.S.C. 2778] for the export to the People's Republic of China of any defense article on the United States Munitions List, including helicopters and helicopter parts, shall continue to be suspended, subject to subparagraph (B), unless the President makes a report under subsection (b)(1) or (2) of this section.

"(B) The suspension set forth in subparagraph (A) shall not apply to systems and components designed specifically for inclusion in civil products and controlled as defense articles only for purposes of export to a

controlled country, unless the President determines that the intended recipient of such items is the military or security forces of the People's Republic of China.

"(4) CRIME CONTROL AND DETECTION INSTRUMENTS AND EQUIPMENT.—The issuance of any license under section 6(k) of the Export Administration Act of 1979 [50 U.S.C. 4605(k)] for the export to the People's Republic of China of any crime control or detection instruments or equipment shall be suspended, unless the President makes a report under subsection (b)(1) or (2) of this section.

"(5) EXPORT OF SATELLITES FOR LAUNCH BY THE PEOPLE'S REPUBLIC OF CHINA .—Exports of any satellite of United States origin that is intended for launch from a launch vehicle owned by the People's Republic of China shall remain suspended, unless the President makes a report under subsection (b)(1) or (2) of this section.

"(6) NUCLEAR COOPERATION WITH THE PEOPLE'S REPUBLIC OF CHINA.—(A) Any—

"(i) application for a license under the Export Administration Act of 1979 [50 U.S.C. 4601 et seq.] for the export to the People's Republic of China for use in a nuclear production or utilization facility of any goods or technology which, as determined under section 309(c) of the Nuclear Non-Proliferation Act of 1978 [42 U.S.C. 2139a(c)], could be of significance for nuclear explosive purposes, or which, in the judgment of the President, is likely to be diverted for use in such a facility, for any nuclear explosive device, or for research on or development of any nuclear explosive device, shall be suspended,

"(ii) application for a license for the export to the People's Republic of China of any nuclear material, facilities, or components subject to the Agreement shall be suspended,

"(iii) approval for the transfer or retransfer to the People's Republic of China of any nuclear material, facilities, or components subject to the Agreement shall not be given, and

"(iv) specific authorization for assistance in any activities with respect to the People's Republic of China relating to the use of nuclear energy under section 57b.(2) of the Atomic Energy Act of 1954 [42 U.S.C. 2077(b)(2)] shall not be given,

until the conditions specified in subparagraph (B) are met.

"(B) Subparagraph (A) applies until—

"(i) the President certifies to the Congress that the People's Republic of China has provided clear and unequivocal assurances to the United States that it is not assisting and will not assist any nonnuclear-weapon state, either directly or indirectly, in acquiring nuclear explosive devices or the materials and components for such devices;

"(ii) the President makes the certifications and submits the report required by Public Law 99–183 [Dec. 16, 1985, 99 Stat. 1174]; and

"(iii) the President makes a report under subsection (b)(1) or (2) of this section.

"(C) For purposes of this paragraph, the term 'Agreement' means the Agreement for Cooperation Between the Government of the United States of America and the Government of the People's Republic of China Concerning Peaceful Uses of Nuclear Energy (done on July 23, 1985).

"(7) LIBERALIZATION OF EXPORT CONTROLS.—(A) The President shall negotiate with the governments participating in the group known as the Coordinating Committee (COCOM) to suspend, on a multilateral basis, any liberalization by the Coordinating Committee of controls on exports of goods and technology to the People's Republic of China under section 5 of the Export Administration Act of 1979 [50 U.S.C. 4604], including—

"(i) the implementation of bulk licenses for exports to the People's Republic of China; and

"(ii) the raising of the performance levels of goods or technology below which no authority or permission to export to the People's Republic of China would be required.

"(B) The President shall oppose any liberalization by the Coordinating Committee of controls which is described in subparagraph (A)(ii), until the end of the 6-month period beginning on the date of enactment of this Act [Feb. 16, 1990] or until the President makes a report under subsection (b)(1) or (2) of this section, whichever occurs first.

"(b) TERMINATION OF SUSPENSIONS.—A report referred to in subsection (a) is a report by the President to the Congress either—

"(1) that the Government of the People's Republic of China has made progress on a program of political reform throughout the country, including Tibet, which includes—

"(A) lifting of martial law;

"(B) halting of executions and other reprisals against individuals for the nonviolent expression of their political beliefs;

"(C) release of political prisoners;

"(D) increased respect for internationally recognized human rights, including freedom of expression, the press, assembly, and association; and

"(E) permitting a freer flow of information, including an end to the jamming of Voice of America and greater access for foreign journalists; or

"(2) that it is in the national interest of the United States to terminate a suspension under subsection (a)(1), (2), (3), (4), or (5), to terminate a suspension or disapproval under subsection (a)(6), or to terminate the opposition required by subsection (a)(7), as the case may be.

"(c) REPORTING REQUIREMENT.—Sixty days after the date of enactment of this Act [Feb. 16, 1990], the President shall submit to the Congress a report on—

"(1) any steps taken by the Government of China to achieve the objectives described in subsection (b)(1);

"(2) the effect of multilateral sanctions on political and economic developments in China and on China's international economic relations;

"(3) the impact of the President's actions described in section 901(a)(9) [Pub. L. 101–246, title IX, Feb. 16, 1990, 104 Stat. 80] and of the suspensions under subsection (a) of this section on—

"(A) political and economic developments in China;

"(B) the standard of living of the Chinese people;

"(C) relations between the United States and China; and

"(D) the actions taken by China to promote a settlement in Cambodia which will ensure Cambodian independence, facilitate an act of self-determination by the Cambodian people, and prevent the Khmer Rouge from returning to exclusive power;

"(4) the status of programs and activities suspended under subsection (a); and

"(5) the additional measures taken by the President under section 901(c) if repression in China deepens."

[Certification of President under section 902(a)(6)(B)(i) of Pub. L. 101–246, set out above, provided in Determination of President of the United States, No. 98–10, Jan. 12, 1998, 63 F.R. 3447.]

LIMITATION ON ASSISTANCE TO PANAMANIAN DEFENSE FORCE

Pub. L. 100–456, div. A, title XIII, §1302, Sept. 29, 1988, 102 Stat. 2060, prohibited the President from using appropriated funds to provide assistance to the Panamanian Defense Force, with such limitation to cease to apply upon a certification of certain conditions by the President to Congress.

CODIFICATION OF POLICY PROHIBITING NEGOTIATIONS WITH THE PALESTINE LIBERATION ORGANIZATION

Pub. L. 99–83, title XIII, §1302, Aug. 8, 1985, 99 Stat. 280, as amended by Pub. L. 101–246, title I, §108, Feb. 16, 1990, 104 Stat. 21, provided that:

"(a) UNITED STATES POLICY.—The United States in 1975 declared in a memorandum of agreement with Israel, and has reaffirmed since, that 'The United States will continue to adhere to its present policy with respect to the Palestine Liberation Organization, whereby it will not recognize or negotiate with the Palestine Liberation Organization so long as the Palestine Liberation Organization does not recognize Israel's right to exist and does not accept Security Council Resolutions 242 and 338.'.

"(b) REAFFIRMATION AND CODIFICATION OF POLICY.—The United States hereby reaffirms that policy. In accordance with that policy, no officer or employee of the United States Government and no agent or other individual acting on behalf of the United States Government shall negotiate with the Palestine Liberation Organization or any representatives thereof (except in emergency or humanitarian situations) unless and until the Palestine Liberation Organization recognizes Israel's right to exist, accepts United Nations Security Council Resolutions 242 and 338, and renounces the use of terrorism, except that no funds authorized to be appropriated by this or any other Act may be obligated or made available for the conduct of the current dialogue on the Middle East peace process with any representative of the Palestine Liberation Organization if the President knows and advises the Congress that that representative directly participated in the planning or execution of a particular terrorist activity which resulted in the death or kidnapping of a United States citizen."

OBLIGATION OR EXPENDITURE OF FUNDS FOR PLANNING, ETC., MINING OF THE PORTS OR TERRITORIAL WATERS OF NICARAGUA

Pub. L. 98–369, div. B, title IX, §2907, July 18, 1984, 98 Stat. 1210, provided that: "It is the sense of the Congress that no funds heretofore or hereafter appropriated in any Act of Congress shall be obligated or expended for the purpose of planning, directing, executing, or supporting the mining of the ports or territorial waters of Nicaragua."

PROHIBITION ON CERTAIN ASSISTANCE TO THE KHMER ROUGE IN KAMPUCHEA

Pub. L. 98–164, title X, §1005, Nov. 22, 1983, 97 Stat. 1058, prohibited the obligation or expenditure of

funds to promote, sustain, or augment the capacity of the Khmer Rouge or any of its members to conduct military or paramilitary operations in Kampuchea (now Cambodia) or elsewhere in Indochina.

TERMINATION OF NONRECURRING ACTIVITIES UNDER FOREIGN ASSISTANCE ACT OF 1961 AND REMOVAL FROM LAW

Pub. L. 97–113, title VII, §734(c), Dec. 29, 1981, 95 Stat. 1561, provided that: "Except as otherwise explicitly provided by their terms, amendments to the Foreign Assistance Act of 1961 [see Short Title note above] and the Arms Export Control Act [see Short Title note set out under section 2751 of this title] which are applicable only to a single fiscal or calendar year or which require reports or other actions on a nonrecurring basis shall be deemed to have expired and shall be removed from law upon the expiration of the applicable time periods for the fulfillment of the required actions."

ASSISTANCE FOR PANAMA

Pub. L. 101–167, title V, §561, Nov. 21, 1989, 103 Stat. 1239, prohibited United States assistance for programs, projects, or activities which would assist or lend support for the Noriega regime or ministries of government under the control of the Noriega regime, prohibited use of appropriated funds to finance any participation of the United States in joint military exercises conducted in Panama during the fiscal year 1990, and directed the Secretary of the Treasury to instruct the United States Executive Directors to the International Financial Institutions to vote against any loan to Panama unless the President had certified that certain conditions had been met.

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 100–461, title V, §564, Oct. 1, 1988, 102 Stat. 2268–40.

Pub. L. 100–202, §101(e) [title V, §570], Dec. 22, 1987, 101 Stat. 1329–131, 1329–174.

Pub. L. 96–92, §28, Oct. 29, 1979, 93 Stat. 711. [Repealed by Pub. L. 97–113, title VII, §734(a)(11), Dec. 29, 1981, 95 Stat. 1560.]

FINAL ACCOUNTING OF AMERICANS MISSING IN ACTION IN VIETNAM

Pub. L. 95–426, title VII, §705, Oct. 7, 1978, 92 Stat. 992, as amended by Pub. L. 97–241, title V, §505(a)(2), (b)(2), Aug. 24, 1982, 96 Stat. 299, provided that: "The President shall continue to take all possible steps to obtain a final accounting of all Americans missing in action in Vietnam." Similar provisions were contained in the following acts:

Pub. L. 95–105, title V, §505, Aug. 17, 1977, 91 Stat. 858, as amended by Pub. L. 97–241, title V, §505(a)(3), (b)(2), Aug. 24, 1982, 96 Stat. 299.

Pub. L. 95–88, title I, §132, Aug. 3, 1977, 91 Stat. 544, as amended by Pub. L. 97–113, title VII, §734(a)(6), Dec. 29, 1981, 95 Stat. 1560.

PLAN FOR INCREASED MINORITY BUSINESS PARTICIPATION IN FOREIGN ASSISTANCE ACTIVITIES; MINORITY RESOURCE CENTER SECTION AS IMPLEMENTING ADMINISTRATIVE UNIT; FUNCTIONS, DUTIES, ETC., OF CENTER

Pub. L. 95–88, title I, §133, Aug. 3, 1977, 91 Stat. 544, as amended by Pub. L. 96–53, title I, §123, Aug. 14, 1979, 93 Stat. 366; Pub. L. 97–113, title VII, §734(a)(6), Dec. 29, 1981, 95 Stat. 1560, provided that (1) the Administrator of the agency primarily responsible for administering part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) was to prepare and transmit to the Congress, not later than 30 days after Aug. 3, 1977, a detailed plan for the establishment of a section on minority business within such agency; and (2) upon the enactment of the International Development Cooperation Act of 1979 (Aug. 14, 1979), the section on minority business so established was to be redesignated as the Minority Resource Center and was to be responsible for assisting economically and socially disadvantaged businesses.

USE OF ACCRUED FOREIGN CURRENCIES

Pub. L. 93–189, §40, Dec. 18, 1973, 87 Stat. 736, provided that: "Effective July 1, 1974, no amount of any foreign currency (including principal and interest from loan repayments) which accrues in connection with any sale for foreign currency under any provision of law may be used under any agreement entered into after the date of the enactment of this Act [Dec. 17, 1973], or any revision or extension entered into after such date of any prior or subsequent agreement, to provide any assistance to any foreign country to procure equipment, materials, facilities, or services for the common defense, including internal security, unless such agreement is specifically authorized by legislation enacted after such date."

RELIGIOUS FREEDOM AND PERSECUTION

Pub. L. 88–633, pt. V, §501, Oct. 7, 1964, 78 Stat. 1015, provided that: "It is the sense of the Congress that

the United States deeply believes in the freedom of religion for all people and is opposed to infringement of this freedom anywhere in the world. The Congress condemns the persecution of any persons because of their religion. It is further the sense of Congress that all persons should be permitted the free exercise of religion and the pursuit of their culture."

COMMUNIST REGIME IN CHINA

Pub. L. 91–194, title I, §105, Feb. 9, 1970, 84 Stat. 7, related to Congressional opposition to the seating in the United Nations of the Communist regime in China as the representative of China, and requested the President, in the event of the seating of representatives of the Chinese Communist regime in the Security Council or the General Assembly of the United Nations, to inform the Congress of the implications of the seating upon the foreign policy of the United States. Similar provisions were contained in the following prior acts:

Oct. 17, 1968, Pub. L. 90–581, title I, §105, 82 Stat. 1139.
Jan. 2, 1968, Pub. L. 90–249, title I, §105, 81 Stat. 938.
Oct. 15, 1966, Pub. L. 89–691, title I, §105, 80 Stat. 1020.
Oct. 20, 1965, Pub. L. 89–273, title I, §105, 79 Stat. 1003.
Oct. 7, 1964, Pub. L. 88–634, title I, §105, 78 Stat. 1017.
Jan. 6, 1964, Pub. L. 88–258, title I, §105, 77 Stat. 858.
Oct. 23, 1962, Pub. L. 87–872, title I, §105, 76 Stat. 1164.
Sept. 30, 1961, Pub. L. 87–329, title I, §107, 75 Stat. 718.
Sept. 2, 1960, Pub. L. 86–704, title I, §107, 74 Stat. 779.
Sept. 28, 1959, Pub. L. 86–383, title I, §112, 73 Stat. 720.
Aug. 28, 1958, Pub. L. 85–853, §105, 72 Stat. 1101.
Sept. 3, 1957, Pub. L. 85–279, §109, 71 Stat. 604.
July 31, 1956, ch. 803, §108, 70 Stat. 735.
July 8, 1955, ch. 301, §12, 69 Stat. 290 (repealed by Pub. L. 87–195, pt. III, §642(a)(3), Sept. 4, 1961, 75 Stat. 460).

DEFINITIONS

Pub. L. 110–53, title XX, §2002, Aug. 3, 2007, 121 Stat. 508, provided that: "In this title [see Short Title of 2007 Amendment note above], except as otherwise provided, the term 'appropriate congressional committees'—

"(1) means—

"(A) the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives; and

"(B) the Committee on Foreign Relations and the Committee on Appropriations of the Senate; and

"(2) includes, for purposes of subtitle D [subtitle D (§§2041–2043) of title XX of Pub. L. 110–53, enacting provisions set out as notes under sections 2375, 2656, and 7511 of this title], the Committees on Armed Services of the House of Representatives and of the Senate."

Pub. L. 107–228, div. B, title X, §1002, Sept. 30, 2002, 116 Stat. 1425, provided that: "In this division [see Tables for classification]:

"(1) DEFENSE ARTICLE.—The term 'defense article' has the meaning given the term in section 47(3) of the Arms Export Control Act (22 U.S.C. 2794 note [22 U.S.C. 2794]).

"(2) DEFENSE SERVICE.—The term 'defense service' has the meaning given the term in section 47(4) of the Arms Export Control Act (22 U.S.C. 2794 note [22 U.S.C. 2794]).

"(3) EXCESS DEFENSE ARTICLE.—The term 'excess defense article' has the meaning given the term in section 644(g) of the Foreign Assistance Act of 1961 (22 U.S.C. 2403(g))."

EX. ORD. NO. 13595. INSTITUTING A NATIONAL ACTION PLAN ON WOMEN, PEACE, AND SECURITY

Ex. Ord. No. 13595, Dec. 19, 2011, 76 F.R. 80205, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

SECTION 1. *Policy*. (a) The United States recognizes that promoting women's participation in conflict prevention, management, and resolution, as well as in post-conflict relief and recovery, advances peace, national security, economic and social development, and international cooperation.

(b) The United States recognizes the responsibility of all nations to protect their populations from genocide, war crimes, ethnic cleansing, and crimes against humanity, including when implemented by means of sexual

violence. The United States further recognizes that sexual violence, when used or commissioned as a tactic of war or as a part of a widespread or systematic attack against civilians, can exacerbate and prolong armed conflict and impede the restoration of peace and security.

(c) It shall be the policy and practice of the executive branch of the United States to have a National Action Plan on Women, Peace, and Security (National Action Plan).

SEC. 2. *National Action Plan.* A National Action Plan shall be created pursuant to the process outlined in Presidential Policy Directive 1 and shall identify and develop activities and initiatives in the following areas:

(a) *National integration and institutionalization*. Through interagency coordination, policy development, enhanced professional training and education, and evaluation, the United States Government will institutionalize a gender-responsive approach to its diplomatic, development, and defense-related work in conflict-affected environments.

(b) *Participation in peace processes and decisionmaking*. The United States Government will improve the prospects for inclusive, just, and sustainable peace by promoting and strengthening women's rights and effective leadership and substantive participation in peace processes, conflict prevention, peacebuilding, transitional processes, and decisionmaking institutions in conflict-affected environments.

(c) *Protection from violence*. The United States Government will strengthen its efforts to prevent—and protect women and children from—harm, exploitation, discrimination, and abuse, including sexual and gender-based violence and trafficking in persons, and to hold perpetrators accountable in conflict-affected environments.

(d) *Conflict prevention*. The United States Government will promote women's roles in conflict prevention, improve conflict early-warning and response systems through the integration of gender perspectives, and invest in women and girls' health, education, and economic opportunity to create conditions for stable societies and lasting peace.

(e) *Access to relief and recovery*. The United States Government will respond to the distinct needs of women and children in conflict-affected disasters and crises, including by providing safe, equitable access to humanitarian assistance.

SEC. 3. *Responsibility of Executive Departments and Agencies.* (a) Executive departments and agencies (agencies) shall maintain a current awareness of U.S. policy with regard to Women, Peace, and Security, as set out in the National Action Plan, as it is relevant to their functions, and shall perform such functions so as to respect and implement that policy fully, while retaining their established institutional roles in the implementation, interpretation, and enforcement of Federal law.

(b) The Secretary of State, the Secretary of Defense, and the Administrator of the United States Agency for International Development shall each:

(i) designate one or more officers, as appropriate, as responsible for coordinating and implementing the National Action Plan;

(ii) within 150 days of the date of the release of the National Action Plan, develop and submit to the Assistant to the President and National Security Advisor an agency-specific implementation plan that will identify the actions each agency plans to take to implement the National Action Plan; and

(iii) execute their agency-specific implementation plans, and monitor and report to the Assistant to the President and National Security Advisor on such execution.

SEC. 4. *Interagency Process*. The Assistant to the President and National Security Advisor shall, consistent with Presidential Policy Directive 1 or any successor documents, establish an interagency process for coordinating the implementation of this order, which shall, *inter alia*:

(a) coordinate implementation of the National Action Plan and agency-specific implementation plans as specified in section 3(b) of this order;

(b) establish a mechanism for agencies to report progress in implementing the National Action Plan and agency-specific implementation plans, as appropriate and as specified in section 3(b), and in meeting the objectives of this order, which the Assistant to the President and National Security Advisor shall draw upon to provide an annual report to the President;

(c) coordinate a comprehensive periodic review of, and update to, the National Action Plan. The review of, and update to, the National Action Plan will be informed by consultation with relevant civil society organizations. The first review will take place in 2015; and

(d) consider and implement other revisions to the National Action Plan, as necessary.

SEC. 5. *General Provisions*. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) authority granted by law to an agency, or the head thereof; or

(ii) functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of

appropriations.

(c) Independent agencies are strongly encouraged to comply with this order.

(d) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA.

EX. ORD. NO. 13600. ESTABLISHING THE PRESIDENT'S GLOBAL DEVELOPMENT COUNCIL

Ex. Ord. No. 13600, Feb. 9, 2012, 77 F.R. 8713, as amended by Ex. Ord. No. 13652, §7, Sept. 30, 2013, 78 F.R. 61819, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

SECTION 1. *Policy*. To help protect national security and further American economic, humanitarian, and strategic interests in the world, it is the policy of the Federal Government to promote and elevate development as a core pillar of American power and chart a course for development, diplomacy, and defense to reinforce and complement one another. As stated in the 2010 National Security Strategy and the Presidential Policy Directive on Global Development, the successful pursuit of development is essential to advancing our national security objectives: security, prosperity, respect for universal values, and a just and sustainable international order. The effectiveness of this development policy will depend in large measure on how we engage with partners, beneficiaries of our development assistance, and stakeholders. We will use evidence-based decision-making in all areas of U.S. development policy and programs, and we commit to foster development expertise and learning worldwide.

SEC. 2. *Establishment.* There is established the President's Global Development Council (Council). The Council shall be established for administrative purposes within the United States Agency for International Development (USAID) subject to the foreign policy and budgetary guidance of the Secretary of State.

SEC. 3. *Membership*. The membership of the Council shall be as follows:

(a) The Council shall be composed of the officials described in paragraph (b) of this section and not more than 12 individuals from outside the Federal Government appointed by the President. Appointed members of the Council may serve as representatives of a variety of sectors, including, among others, institutions of higher education, non-profit and philanthropic organizations, civil society, and private industry.

(b) The Secretary of State, the Secretary of the Treasury, the Secretary of Defense, the USAID Administrator, the Chief Executive Officer of the Millennium Challenge Corporation, the United States Trade Representative, and the Chief Executive Officer of the Overseas Private Investment Corporation shall serve as non-voting members of the Council and may designate, to perform the Council functions of the member, a senior-level official who is part of the member's department, agency, or office, and who is a full-time officer or employee of the Federal Government.

(c) The President shall designate a member of the Council to serve as Chair and another member to serve as Vice Chair. The Chair shall convene and preside at meetings of the Council, determine meeting agendas, and direct its work. The Vice Chair shall perform the duties of the Chair in the absence of the Chair and shall perform such other functions as the Chair may assign.

(d) The term of office of members appointed by the President from outside the Federal Government shall be 2 years, and such members shall be eligible for reappointment and may continue to serve after the expiration of their terms until the President appoints a successor. A member appointed to fill a vacancy shall serve only for the unexpired term of such vacancy.

SEC. 4. *Mission and Functions*. The Council shall advise and support the President, through the National Security Staff and the National Economic Council staff, in furtherance of the policy set forth in section 1 of this order. The Council shall meet regularly and shall:

(a) inform the policy and practice of U.S. global development policy and programs by providing advice to the President and other senior officials on issues including:

(i) innovative, scalable approaches to development with proven demonstrable impact, particularly on sustainable economic growth and good governance;

(ii) areas for enhanced collaboration between the Federal Government and public and private sectors to advance development policy;

(iii) best practices for and effectiveness of research and development in low and middle income economies; and

(iv) long-term solutions to issues central to strategic planning for U.S. development efforts;

(b) support new and existing public-private partnerships by:

(i) identifying key areas for enhanced collaboration and any barriers to collaboration; and

(ii) recommending concrete efforts that the private and public sectors together can take to promote economic development priorities and initiatives; and

(c) increase awareness and action in support of development by soliciting public input on current and emerging issues in the field of global development as well as bringing to the President's attention concerns and ideas that would inform policy options.

SEC. 5. *Administration of the Council*. (a) The heads of executive departments and agencies shall assist and provide information to the Council, consistent with applicable law, as may be necessary to carry out the functions of the Council.

(b) Funding and administrative support for the Council shall be provided by USAID to the extent permitted by law and within existing appropriations.

(c) The USAID Administrator shall appoint an Executive Director who shall be a Federal officer or employee of USAID and serve as a liaison to the Administrator and the Executive Office of the President and consult with relevant executive departments, agencies, and offices on administrative matters and activities pertaining to the Council.

(d) The members of the Council who are appointed from outside the Federal Government shall serve without compensation for their work on the Council. Members of the Council may, however, receive travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in the Government service (5 U.S.C. 5701–5707).

(e) Insofar as the Federal Advisory Committee Act (FACA), as amended (5 U.S.C. App.), may apply to the Council, any functions of the President under FACA, except that of reporting to the Congress, shall be performed by the USAID Administrator in accordance with the guidelines issued by the Administrator of General Services.

SEC. 6. *Termination*. The Council shall terminate 2 years after the date of this order, unless renewed by the President.

SEC. 7. *General Provisions*. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) authority granted by law to a department or agency, or the head thereof; or

(ii) functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA.

[Reference to the National Security Staff deemed to be a reference to the National Security Council Staff, see Ex. Ord. No. 13657, set out as a note under section 3021 of Title 50, War and National Defense.]

EXTENSION OF TERM OF PRESIDENT'S GLOBAL DEVELOPMENT COUNCIL

Term of President's Global Development Council extended until Sept. 30, 2017, by Ex. Ord. No. 13708, Sept. 30, 2015, 80 F.R. 60271, set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5, Government Organization and Employees.

Previous extension of term of the President's Global Development Council was contained in the following prior Executive Order:

Ex. Ord. No. 13652, Sept. 30, 2013, 78 F.R. 61817, extended term until Sept. 30, 2015.

EX. ORD. NO. 13623. PREVENTING AND RESPONDING TO VIOLENCE AGAINST WOMEN AND GIRLS GLOBALLY

Ex. Ord. No. 13623, Aug. 10, 2012, 77 F.R. 49345, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

SECTION 1. *Policy*. (a) Recognizing that gender-based violence undermines not only the safety, dignity, and human rights of the millions of individuals who experience it, but also the public health, economic stability, and security of nations, it is the policy and practice of the executive branch of the United States Government to have a multi-year strategy that will more effectively prevent and respond to gender-based violence globally.

(b) Under the leadership of my Administration, the United States has made gender equality and women's empowerment a core focus of our foreign policy. This focus is reflected in our National Security Strategy, the

Presidential Policy Directive on Global Development, and the 2010 U.S. Quadrennial Diplomacy and Development Review. Evidence demonstrates that women's empowerment is critical to building stable, democratic societies; to supporting open and accountable governance; to furthering international peace and security; to growing vibrant market economies; and to addressing pressing health and education challenges.

(c) Preventing and responding to gender-based violence is a cornerstone of my Administration's commitment to advance gender equality and women's empowerment. Such violence significantly hinders the ability of individuals to fully participate in, and contribute to, their communities—economically, politically, and socially. It is a human rights violation or abuse; a public health challenge; and a barrier to civic, social, political, and economic participation. It is associated with adverse health outcomes, limited access to education, increased costs relating to medical and legal services, lost household productivity, and reduced income, and there is evidence it is exacerbated in times of crisis, such as emergencies, natural disasters, and violent conflicts.

(d) The executive branch multi-year strategy for preventing and responding to gender-based violence is set forth in the United States Strategy to Prevent and Respond to Gender-based Violence Globally (Strategy). The Strategy both responds to and expands upon the request in section 7061 of House conference report 112–331 accompanying the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2012 (Division I of Public Law 112–74), for the executive branch to develop a multi-year strategy to prevent and respond to violence against women and girls in countries where it is common.

SEC. 2. *Creating an Interagency Working Group*. There is established an Interagency Working Group (Working Group) to address gender-based violence, which shall coordinate implementation of the Strategy by the executive departments and agencies that are members of the Working Group (member agencies) in accordance with the priorities set forth in section 3 of this order.

(a) The Working Group shall be co-chaired by the Secretary of State and the Administrator of the United States Agency for International Development (Co-Chairs). In addition to the Co-Chairs, the Working Group shall consist of representatives from:

(i) the Department of the Treasury;
(ii) the Department of Defense;
(iii) the Department of Justice;
(iv) the Department of Labor;
(v) the Department of Health and Human Services;
(vi) the Department of Homeland Security;
(vii) the Office of Management and Budget;
(viii) the National Security Staff;
(ix) the Office of the Vice President;
(x) the Peace Corps;
(xi) the Millennium Challenge Corporation;
(xii) the White House Council on Women and Girls; and
(xiii) other executive departments, agencies, and offices, as designated by the Co-Chairs.

(b) Within 120 days of the date of this order, the Co-Chairs shall convene the first meeting of the Working Group to:

(i) establish benchmarks to implement the Strategy; and
(ii) determine a timetable for periodically reviewing those benchmarks.

(c) Within 18 months of the date of this order, the Working Group shall complete a progress report for submission to the Co-Chairs evaluating the U.S. Government's implementation of the Strategy.

(d) Within 3 years of the date of this order, the Working Group shall complete a final evaluation for submission to the Co-Chairs of the U.S. Government's implementation of the Strategy.

(e) Within 180 days of completing its final evaluation of the Strategy in accordance with subsection (d) of this section, the Working Group shall update or revise the Strategy to take into account the information learned and the progress made during and through the implementation of the Strategy.

(f) The activities of the Working Group shall, consistent with law, take due account of existing interagency bodies and coordination mechanisms and will coordinate with such bodies and mechanisms where appropriate in order to avoid duplication of efforts.

SEC. 3. *Strategy to Prevent and Respond to Gender-based Violence Globally*. Member agencies shall implement the Strategy to prevent and respond to gender-based violence globally based on the following priorities reflected in the Strategy:

(a) *Increasing Coordination of Gender-based Violence Prevention and Response Efforts Among U.S. Government Agencies and with Other Stakeholders.*

(i) Member agencies shall draw upon each other's expertise, responsibility, and capacity to provide a

comprehensive and multi-faceted approach to issues relating to gender-based violence.

(ii) Member agencies shall deepen engagement and coordination with other governments; international organizations, including multilateral and bilateral actors; the private sector; and civil society organizations, such as representatives of indigenous and marginalized groups, foundations, community-based, faith-based, and regional organizations (including those that serve survivors), labor unions, universities, and research organizations. The Working Group shall consider a range of mechanisms by which these stakeholders may provide input to the U.S. Government on its role in preventing and responding to gender-based violence globally.

(b) *Enhancing Integration of Gender-based Violence Prevention and Response Efforts into Existing U.S. Government Work*. Member agencies shall more comprehensively integrate gender-based violence prevention and response programming into their foreign policy and foreign assistance efforts. This integration shall also build on current efforts that address gender-based violence, such as the U.S. National Action Plan on Women, Peace, and Security; the Global Health Initiative; the President's Emergency Plan for AIDS Relief; the U.S. Government's work to counter trafficking in persons; and the U.S. Government's humanitarian response efforts. The Working Group shall coordinate these different efforts as they relate to gender-based violence to leverage the most effective programs and to avoid duplication.

(c) *Improving Collection, Analysis, and Use of Data and Research to Enhance Gender-based Violence Prevention and Response Efforts*. Member agencies shall work to promote ethical and safe research, data collection, and evidence-based analyses relating to different forms of gender-based violence and prevention and response efforts at the country and local level. This work will include the development of a research agenda that assesses agencies' research and data collection capabilities, needs, and gaps; builds upon existing data and research; and is coordinated with the work of other organizations that are prioritizing global gender-based violence research. Member agencies shall prioritize the monitoring and evaluation of gender-based violence prevention and response interventions to determine their effectiveness. Member agencies shall systematically identify and share best practices, lessons learned, and research within and across agencies. Member agencies, as appropriate, shall seek to develop public-private partnerships to support U.S. Government research initiatives and strategic planning efforts.

(d) *Enhancing or Expanding U.S. Government Programming that Addresses Gender-based Violence*. Consistent with the availability of appropriations, the U.S. Government shall support programming that provides a comprehensive and multi-sector approach to preventing and responding to gender-based violence; shall consider replicating or expanding successful programs; and shall assess the feasibility of a focused, coordinated, comprehensive, and multi-sector approach to gender-based violence in one or more countries.

SEC. 4. *General Provisions*. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department, agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) Independent agencies are strongly encouraged to comply with this order.

(d) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA.

[Reference to the National Security Staff deemed to be a reference to the National Security Council Staff, see Ex. Ord. No. 13657, set out as a note under section 3021 of Title 50, War and National Defense.]

EX. ORD. NO. 13677. CLIMATE-RESILIENT INTERNATIONAL DEVELOPMENT

Ex. Ord. No. 13677, Sept. 23, 2014, 79 F.R. 58231, as amended by Ex. Ord. No. 13693, §16(g), Mar. 19, 2015, 80 F.R. 15881, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and to safeguard security and economic growth, protect the sustainability and long-term durability of U.S. development work in vulnerable countries, and promote sound decisionmaking and risk management, it is hereby ordered as follows:

SECTION 1. *Policy*. The world must reduce greenhouse gas emissions to prevent the most dangerous consequences of climate change. Even with increased efforts to curb these emissions, we must prepare for and adapt to the impacts of climate change. The adverse impacts of climate change, including sea-level rise, increases in temperatures, more frequent extreme precipitation and heat events, more severe droughts, and

increased wildfire activity, along with other impacts of greenhouse gas emissions, such as ocean acidification, threaten to roll back decades of progress in reducing poverty and improving economic growth in vulnerable countries, compromise the effectiveness and resilience of U.S. development assistance, degrade security, and risk intranational and international conflict over resources.

Several Executive Orders have established a strong foundation for coordinated and consistent action to incorporate climate-resilience considerations into policies and procedures throughout the Federal Government. Executive departments and agencies (agencies) with international development programs must now build upon the recent progress made pursuant to these orders by systematically factoring climate-resilience considerations into international development strategies, planning, programming, investments, and related funding decisions, including the planning for and management of overseas facilities.

This order requires the integration of climate-resilience considerations into all United States international development work to the extent permitted by law. Dedicated U.S. climate-change adaptation funds are critical to managing the risks posed by climate-change impacts in vulnerable countries. Coping with the magnitude of the consequences of accelerating climate change also requires enhanced efforts across the Federal Government's broader international development work. Consideration of current and future climate-change impacts will improve the resilience of the Federal Government's broader international development programs, projects, investments, overseas facilities, and related funding decisions. The United States will also promote a similar approach among relevant multilateral entities in which it participates.

By taking these steps and more fully considering current and future climate-change impacts, the United States will foster better decision-making processes and risk-management approaches, ensure the effectiveness of U.S. investments, and assist other countries in integrating climate-resilience considerations into their own development planning and implementation. Collectively, these efforts will help to better optimize broader international development work and lead to enhanced global preparedness for and resilience to climate change.

The international climate-resilience actions required by this order complement efforts by the Federal Government to reduce greenhouse gas emissions at home and globally. The more greenhouse gas emissions are reduced, the less need there will be to adapt to the impacts of a changing climate.

SEC. 2. *Incorporating Climate Resilience into International Development*. (a) Agencies with direct international development programs and investments shall:

(i) incorporate climate-resilience considerations into decisionmaking by:

(A) assessing and evaluating climate-related risks to and vulnerabilities in agency strategies, planning, programs, projects, investments, overseas facilities, and related funding decisions, using best-available climate-change data, tools, and information, including those identified or developed pursuant to sections 3 and 4 of this order; and

(B) as appropriate, adjusting strategies, planning, programs, projects, investments, and related funding decisions, including the planning for and management of overseas facilities, based on such assessments and evaluations;

(ii) collaborate with other agencies to share knowledge, data, tools, information, frameworks, and lessons learned in incorporating climate-resilience considerations into agency strategy, planning, programs, projects, investments, and related funding decisions, including the planning for and management of overseas facilities;

(iii) work with other countries, as appropriate, to identify climate risks and incorporate climate-resilience considerations into their international development assistance efforts;

(iv) when determining how to use resources, support efforts of vulnerable countries to integrate climate-resilience considerations into national, regional, and sectoral development planning and action; and

(v) monitor progress in integrating and promoting climate-resilient development considerations as required by this subsection.

(b) Agencies that participate in multilateral entities and other agencies with representation in multilateral development entities, including multilateral development banks and United Nations organizations, shall, as appropriate:

(i) work to encourage multilateral entities to:

(A) assess and evaluate climate-related risks to and vulnerabilities in their strategies, planning, programs, projects, investments, and related funding decisions, using best-available climate-change data, tools, and information; and

(B) adjust their strategies, planning, programs, projects, investments, and related funding decisions, as appropriate, based on such assessments and evaluations;

(ii) collaborate with multilateral entities and share with agencies and other stakeholders knowledge, data, tools, information, frameworks, and lessons learned from the multilateral entities in incorporating climate-resilience considerations into strategies, planning, programs, projects, investments, and related

funding decisions;

(iii) encourage multilateral entities to support efforts of vulnerable countries to integrate climate-resilience considerations into national, regional, and sectoral development planning and action; and

(iv) monitor the efforts of multilateral entities in integrating climate-resilient development considerations as encouraged by this order.

SEC. 3. *Enhancing Data, Tools, and Information for Climate-Resilient International Development*. Agencies with direct international development programs and investments and those that participate in multilateral entities shall work together with science and security agencies and entities, through the Working Group on Climate-Resilient International Development established in section 4 of this order, to identify and develop, as appropriate, data, decision-support tools, and information to allow the screening for and incorporation of considerations of climate-change risks and vulnerabilities, as appropriate, in strategies, plans, programs, projects, investments, and related funding decisions, including the planning for and management of overseas facilities. In addition, such agencies shall coordinate efforts, including those undertaken pursuant to Executive Order 13653, to deliver information on climate-change impacts and make data, tools, and information available to decisionmakers in other countries, so as to build their capacity as information providers and users. United States participants in relevant multilateral entities shall share this information with the respective multilateral entity, as appropriate.

SEC. 4. *Working Group on Climate-Resilient International Development*. (a) *Establishment*. There is established a Working Group on Climate-Resilient International Development (Working Group) of the Council on Climate Preparedness and Resilience (Council) established by Executive Order 13653. The Secretary of the Treasury and the Administrator of the United States Agency for International Development, or their designees, shall co-chair the Working Group. Agencies with direct international development programs and investments, agencies that participate in multilateral entities, and science and security agencies and entities shall designate a representative from their respective agencies or entities to participate in the Working Group. Representatives from other agencies or entities may participate in the Working Group as determined by the Co-Chairs.

(b) *Mission and Function*.

(i) The Working Group shall:

(A) develop, for agencies with direct international development programs and investments, guidelines for integrating considerations of climate-change risks and climate resilience into agency strategies, plans, programs, projects, investments, and related funding decisions, including the planning for and management of overseas facilities;

(B) assess and identify, for agencies with direct international development programs and investments, existing climate-change data, tools, and information, as described in section 3 of this order, to help agencies assess climate risks and make decisions that incorporate climate-resilience considerations, such as through project screening. To the extent the Working Group identifies needs for new data, tools, and information, it shall work with relevant science and security agencies and entities to advance their development, as appropriate;

(C) identify approaches for adjusting strategies, planning, programs, projects, investments, and related funding decisions, including the planning for and management of overseas facilities, to respond to the findings of climate-risk assessments;

(D) facilitate the exchange of knowledge, data, tools, information, frameworks, and lessons learned in assessing climate risks to and incorporating climate-resilience considerations into strategies, planning, programs, projects, investments, and related funding decisions, including the planning for and management of overseas facilities, of agencies with direct international development programs and investments, including efforts referenced in section 3 of this order;

(E) work through existing channels to share best practices developed by the Working Group with other donor countries and multilateral entities to facilitate advancement of climate-resilient development policies;

(F) promote interagency collaboration, including through joint training; and

(G) develop, for agencies with direct international development programs and investments, methods for tracking and reporting on Federal Government progress in institutionalizing more climate-resilient development approaches, including performance metrics.

(ii) The Co-Chairs of the Council may designate additional Co-Chairs of the Working Group. The Co-Chairs of the Working Group may establish sub-working groups, as appropriate.

SEC. 5. *Implementation and Reporting of Progress*. (a) *Implementation*. To promote sustained focus on implementation, both at agency headquarters and in the field, the Working Group shall:

(i) establish a 2-year timeline, divided into 6-month intervals, to implement section 4(b)(i) of this order, setting forth specific goals to be accomplished and milestones to be achieved; and

(ii) analyze, at least annually, the Federal Government's progress in implementing this order and provide recommendations for priority areas for further implementation to the Council, Office of Management and Budget, National Security Council, Council on Environmental Quality, Office of Science and Technology Policy, and other agencies, offices, and entities, as appropriate.

(b) *Reporting*.

(i) Agencies with direct international development programs and investments shall report on and track progress in achieving the requirements identified in section 2(a) of this order, including accomplished and planned milestones, through the Federal Agency Planning process set forth in section 5 of Executive Order 13653. Once the Working Group has developed metrics and methodologies as required by section 4(b)(i)(G) of this order, agency reporting shall include an estimation of the proportion of each agency's direct international development programs and investments for which climate-risk assessments have been conducted, as well as an estimation of the proportion of the programs and investments for which climate risk was identified and acted upon.

(ii) Agencies that participate in multilateral entities shall report on the efforts of multilateral entities in integrating climate-resilient development considerations into their operations through the Federal Agency Planning process set forth in section 5 of Executive Order 13653. Where more than one agency is involved in the U.S. Government's participation in a multilateral entity, the lead agency for such participation shall be responsible for reporting, in coordination with the other agencies involved.

SEC. 6. *Climate-Change Mitigation*. As agencies incorporate climate-resilience considerations into international development work, they shall continue seeking opportunities to help international partners promote sustainable low-emissions development. The Federal Government has greatly increased the number and variety of international development initiatives focused on climate-change mitigation, including programs to promote clean energy, energy efficiency, and sustainable land-use and forestry practices, as well as partnerships with more than two dozen countries to formulate and implement sustainable low-emissions development strategies. Within 1 year of the date of this order, and building on the full range of efforts the United States has undertaken to date, the National Security Council shall convene relevant agencies and entities to explore further mitigation opportunities in broader U.S. international development work and develop recommendations for further action.

SEC. 7. *Definitions*. As used in this order:

(a) "Adaptation" has the meaning provided in section 8(b) of Executive Order 13653: adjustment in natural or human systems in anticipation of or response to a changing environment in a way that effectively uses beneficial opportunities or reduces negative effects;

(b) "Direct international development programs and investments" refers to:

(i) bilateral, regional, and multilateral international development programs and investments over which agencies have primary programmatic and financial management responsibilities; or

(ii) the extension of official financing by agencies bilaterally to private sector investors to support international development;

(c) "Climate-change mitigation" refers to actions that reduce or enhance removals of greenhouse gas emissions;

(d) "Resilience" has the meaning provided in section 8(c) of Executive Order 13653: the ability to anticipate, prepare for, and adapt to changing conditions and withstand, respond to, and recover rapidly from disruptions;

(e) "Agencies with direct international development programs and investments" means the Department of State, Department of Agriculture, Department of the Interior, United States Agency for International Development, Millennium Challenge Corporation, Overseas Private Investment Corporation, United States Trade and Development Agency, and other relevant agencies and entities, as determined by the Working Group Co-Chairs;

(f) "Science and security agencies and entities" means the Department of the Interior, Department of Energy, Office of Science and Technology Policy, National Oceanic and Atmospheric Administration, National Aeronautics and Space Administration, United States Global Change Research Program, Office of the Director of National Intelligence, and other relevant agencies and entities, as determined by the Working Group Co-Chairs; and

(g) "Agencies that participate in multilateral entities" means the Department of the Treasury, Department of State, and other relevant agencies and entities, as determined by the Working Group Co-Chairs.

SEC. 8. *General Provisions*. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law or Executive Order to an executive department, agency, or head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with U.S. obligations under international agreements and applicable U.S. law, and shall be subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA.

COORDINATION OF POLICIES AND PROGRAMS TO PROMOTE GENDER EQUALITY AND EMPOWER WOMEN AND GIRLS GLOBALLY

Memorandum of President of the United States, Jan. 30, 2013, 78 F.R. 7989, provided:

Memorandum for the Heads of Executive Departments and Agencies

Promoting gender equality and advancing the status of all women and girls around the world remains one of the greatest unmet challenges of our time, and one that is vital to achieving our overall foreign policy objectives. Ensuring that women and girls, including those most marginalized, are able to participate fully in public life, are free from violence, and have equal access to education, economic opportunity, and health care increases broader economic prosperity, as well as political stability and security.

During my Administration, the United States has made promoting gender equality and advancing the status of women and girls a central element of our foreign policy, including by leading through example at home. Executive Order 13506 of March 11, 2009, established the White House Council on Women and Girls to coordinate Federal policy on issues, both domestic and international, that particularly impact the lives of women and girls. This commitment to promoting gender equality is also reflected in the National Security Strategy of the United States, the Presidential Policy Directive on Global Development, and the 2010 U.S. Quadrennial Diplomacy and Development Review.

To elevate and integrate this strategic focus on the promotion of gender equality and the advancement of women and girls around the world, executive departments and agencies (agencies) have issued policy and operational guidance. For example, in March 2012, the Secretary of State issued *Policy Guidance on Promoting Gender Equality to Achieve our National Security and Foreign Policy Objectives*, and the United States Agency for International Development (USAID) Administrator released *Gender Equality and Female Empowerment Policy*. The Millennium Challenge Corporation issued *Gender Integration Guidelines* in March 2011 to ensure its existing gender policy is fully realized. My Administration has also developed a National Action Plan on Women, Peace, and Security, created pursuant to Executive Order 13595 of December 19, 2011, to strengthen conflict resolution and peace processes through the inclusion of women, and a Strategy to Prevent and Respond to Gender-based Violence Globally, implemented pursuant to Executive Order 13623 of August 10, 2012, to combat gender-based violence around the world. Improving interagency coordination and information sharing, and strengthening agency capacity and accountability will help ensure the effective implementation of these and other Government efforts to promote gender equality and advance the status of women and girls globally.

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to further strengthen the capacity of the Federal Government to ensure that U.S. diplomacy and foreign assistance promote gender equality and advance the status of women and girls worldwide, I hereby direct the following:

SECTION 1. *Strengthening Capacity and Coordination to Promote Gender Equality and Advance the Status of Women and Girls Internationally*. (a) Enhancing U.S. global leadership on gender equality requires dedicated resources, personnel with appropriate expertise in advancing the status of women and girls worldwide, and commitment from senior leadership, as exemplified by the critical and historic role played by the Office of Global Women's Issues at the Department of State. To assure maximum coordination of efforts to promote gender equality and advance the status of women and girls, the Secretary of State (Secretary) shall designate a coordinator (Coordinator), who will normally also be appointed by the President as an Ambassador at Large (Ambassador at Large) subject to the advice and consent of the Senate. The Ambassador at Large, who shall report directly to the Secretary of State, shall lead the Office of Global Women's Issues at the Department of State and provide advice and assistance on issues related to promoting gender equality and advancing the status of women and girls internationally.

(b) The Ambassador at Large shall, to the extent the Secretary may direct and consistent with applicable law, provide guidance and coordination with respect to global policies and programs for women and girls, and shall lead efforts to promote an international focus on gender equality more broadly, including through diplomatic initiatives with other countries and partnerships and enhanced coordination with international and nongovernmental organizations and the private sector. To this end, the Ambassador at Large shall also, to the extent the Secretary may direct, assist in:

(i) implementing existing and developing new policies, strategies, and action plans for the promotion of gender equality and advancement of the status of women and girls internationally, and coordinating such actions with USAID and other agencies carrying out related international activities, as appropriate; and

(ii) coordinating such initiatives with other countries and international organizations, as well as with nongovernmental organizations.

(c) Recognizing the vital link between diplomacy and development, and the importance of gender equality as both a goal in itself and as a vital means to achieving the broader aims of U.S. development assistance, the Senior Coordinator for Gender Equality and Women's Empowerment at USAID shall provide guidance to the USAID Administrator in identifying, developing, and advancing key priorities for U.S. development assistance, coordinating, as appropriate, with other agencies.

(d) The Assistant to the President for National Security Affairs (or designee), in close collaboration with the Chair of the White House Council on Women and Girls (or designee) and the Ambassador at Large (or designee), shall chair an interagency working group to develop and coordinate Government-wide implementation of policies to promote gender equality and advance the status of women and girls internationally. The Working Group shall consist of senior representatives from the Departments of State, the Treasury, Defense, Justice, Agriculture, Commerce, Labor, Health and Human Services, Education, and Homeland Security; the Intelligence Community, as determined by the Director of National Intelligence; the United States Agency for International Development; the Millennium Challenge Corporation; the Peace Corps; the U.S. Mission to the United Nations; the Office of the United States Trade Representative; the Office of Management and Budget; the Office of the Vice President; the National Economic Council; and such other agencies and offices as the President may designate.

SEC. 2. *General Provisions*. (a) Nothing in this memorandum shall be construed to impair or otherwise affect:

(i) the authority granted by law or Executive Order to an executive department, agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) Upon designation as such by the Secretary, the Coordinator shall exercise the functions of the Ambassador at Large set forth in this memorandum.

(d) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(e) The Secretary of State is hereby authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

§2151–1. Development assistance policy

(a) Principal purpose of bilateral development assistance

The Congress finds that the efforts of developing countries to build and maintain the social and economic institutions necessary to achieve self-sustaining growth and to provide opportunities to improve the quality of life for their people depend primarily upon successfully marshalling their own economic and human resources. The Congress recognizes that the magnitude of these efforts exceeds the resources of developing countries and therefore accepts that there will be a long-term need for wealthy countries to contribute additional resources for development purposes. The United States should take the lead in concert with other nations to mobilize such resources from public and private sources.

Provision of development resources must be adapted to the needs and capabilities of specific developing countries. United States assistance to countries with low per capita incomes which have limited access to private external resources should primarily be provided on concessional terms. Assistance to other developing countries should generally consist of programs which facilitate their

access to private capital markets, investment, and technical skills, whether directly through guarantee or reimbursable programs by the United States Government or indirectly through callable capital provided to the international financial institutions.

Bilateral assistance and United States participation in multilateral institutions shall emphasize programs in support of countries which pursue development strategies designed to meet basic human needs and achieve self-sustaining growth with equity.

The Congress declares that the principal purpose of United States bilateral development assistance is to help the poor majority of people in developing countries to participate in a process of equitable growth through productive work and to influence decisions that shape their lives, with the goal of increasing their incomes and their access to public services which will enable them to satisfy their basic needs and lead lives of decency, dignity, and hope. Activities shall be emphasized that effectively involve the poor in development by expanding their access to the economy through services and institutions at the local level, increasing their participation in the making of decisions that affect their lives, increasing labor-intensive production and the use of appropriate technology, expanding productive investment and services out from major cities to small towns and rural areas, and otherwise providing opportunities for the poor to improve their lives through their own efforts. Participation of the United States in multilateral institutions shall also place appropriate emphasis on these principles.

(b) Form of assistance; principles governing assistance

Assistance under this part should be used not only for the purpose of transferring financial resources to developing countries, but also to help countries solve development problems in accordance with a strategy that aims to insure wide participation of the poor in the benefits of development on a sustained basis. Moreover, assistance shall be provided in a prompt and effective manner, using appropriate United States institutions for carrying out this strategy. In order to achieve these objectives and the broad objectives set forth in section 2151 of this title and in subsection (a) of this section, bilateral development assistance authorized by this chapter shall be carried out in accordance with the following principles:

(1) Development is primarily the responsibility of the people of the developing countries themselves. Assistance from the United States shall be used in support of, rather than substitution for, the self-help efforts that are essential to successful development programs and shall be concentrated in those countries that take positive steps to help themselves. Maximum effort shall be made, in the administration of subchapter I of this chapter, to stimulate the involvement of the people in the development process through the encouragement of democratic participation in private and local governmental activities and institution building appropriate to the requirements of the recipient countries.

(2) Development planning must be the responsibility of each sovereign country. United States assistance should be administered in a collaborative style to support the development goals chosen by each country receiving assistance.

(3) United States bilateral development assistance should give high priority to undertakings submitted by host governments which directly improve the lives of the poorest of their people and their capacity to participate in the development of their countries, while also helping such governments enhance their planning, technical, and administrative capabilities needed to insure the success of such undertakings.

(4) Development assistance provided under this part shall be concentrated in countries which will make the most effective use of such assistance to help satisfy basic human needs of poor people through equitable growth, especially in those countries having the greatest need for outside assistance. In order to make possible consistent and informed judgments in this respect, the President shall assess the commitment and progress of countries in moving toward the objectives and purposes of this part by utilizing criteria, including but not limited to the following:

(A) increase in agricultural productivity per unit of land through small-farm, labor-intensive agriculture;

(B) reduction of infant mortality;

(C) control of population growth;

(D) promotion of greater equality of income distribution, including measures such as more progressive taxation and more equitable returns to small farmers;

(E) reduction of rates of unemployment and underemployment;

(F) increase in literacy; and

(G) progress in combating corruption and improving transparency and accountability in the public and private sector.

(5) United States development assistance should focus on critical problems in those functional sectors which affect the lives of the majority of the people in the developing countries; food production and nutrition; rural development and generation of gainful employment; population planning and health; environment and natural resources; education, development administration, and human resource development; and energy development and production.

(6) United States assistance shall encourage and promote the participation of women in the national economies of developing countries and the improvement of women's status as an important means of promoting the total development effort.

(7) United States bilateral assistance shall recognize that the prosperity of developing countries and effective development efforts require the adoption of an overall strategy that promotes the development, production, and efficient utilization of energy and, therefore, consideration shall be given to the full implications of such assistance on the price, availability, and consumption of energy in recipient countries.

(8) United States cooperation in development should be carried out to the maximum extent possible through the private sector, including those institutions which already have ties in the developing areas, such as educational institutions, cooperatives, credit unions, free labor unions, and private and voluntary agencies.

(9) To the maximum extent practicable, United States private investment should be encouraged in economic and social development programs to which the United States lends support.

(10) Assistance shall be planned and utilized to encourage regional cooperation by developing countries in the solution of common problems and the development of shared resources.

(11) Assistance efforts of the United States shall be planned and furnished to the maximum extent practicable in coordination and cooperation with assistance efforts of other countries, including the planning and implementation of programs and projects on a multilateral and multidonor basis.

(12) United States bilateral development assistance should be concentrated on projects which do not involve large-scale capital transfers. However, to the extent that such assistance does involve large-scale capital transfers, it should be furnished in association with contributions from other countries working together in a multilateral framework.

(13) United States encouragement of policy reforms is necessary if developing countries are to achieve economic growth with equity.

(14) Development assistance should, as a fundamental objective, promote private sector activity in open and competitive markets in developing countries, recognizing such activity to be a productive and efficient means of achieving equitable and long term economic growth.

(15) United States cooperation in development should recognize as essential the need of developing countries to have access to appropriate technology in order to improve food and water, health and housing, education and employment, and agriculture and industry.

(16) United States assistance should focus on establishing and upgrading the institutional capacities of developing countries in order to promote long term development. An important component of institution building involves training to expand the human resource potential of people in developing countries.

(17) Economic reform and development of effective institutions of democratic governance are mutually reinforcing. The successful transition of a developing country is dependent upon the quality of its economic and governance institutions. Rule of law, mechanisms of accountability and transparency, security of person, property, and investments, are but a few of the critical governance and economic reforms that underpin the sustainability of broad-based economic

growth. Programs in support of such reforms strengthen the capacity of people to hold their governments accountable and to create economic opportunity.

(c) Worldwide cooperative effort to overcome aspects of absolute poverty

The Congress, recognizing the desirability of overcoming the worst aspects of absolute poverty by the end of this century by, among other measures, substantially lowering infant mortality and birth rates, and increasing life expectancy, food production, literacy, and employment, encourages the President to explore with other countries, through all appropriate channels, the feasibility of a worldwide cooperative effort to overcome the worst aspects of absolute poverty and to assure self-reliant growth in the developing countries by the year 2000.

(Pub. L. 87–195, pt. I, §102, as added Pub. L. 95–424, title I, §101, Oct. 6, 1978, 92 Stat. 938; amended Pub. L. 96–53, title I, §104(a), Aug. 14, 1979, 93 Stat. 360; Pub. L. 99–83, title III, §301, Aug. 8, 1985, 99 Stat. 213; Pub. L. 106–309, title II, §203(b), Oct. 17, 2000, 114 Stat. 1092.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

REFERENCES TO SUBCHAPTER I DEEMED TO INCLUDE CERTAIN PARTS OF SUBCHAPTER II

References to subchapter I of this chapter are deemed to include parts IV (§2346 et seq.), VI (§2348 et seq.), and VIII (§2349aa et seq.) of subchapter II of this chapter, and references to subchapter II are deemed to exclude such parts. See section 202(b) of Pub. L. 92–226, set out as a note under section 2346 of this title, and sections 2348c and 2349aa–5 of this title.

AMENDMENTS

2000—Subsec. (b)(4)(G). Pub. L. 106–309, §203(b)(1), added subpar. (G).

Subsec. (b)(17). Pub. L. 106–309, §203(b)(2), added par. (17).

1985—Subsec. (b)(13) to (16). Pub. L. 99–83 added pars. (13) to (16).

1979—Subsec. (b)(5). Pub. L. 96–53, §104(a)(1), inserted applicability to energy development and production.

Subsec. (b)(7). Pub. L. 96–53, §104(a)(2), inserted applicability to promotion of development and production of energy.

EFFECTIVE DATE OF 1985 AMENDMENT

Pub. L. 99–83, title XIII, §1301, Aug. 8, 1985, 99 Stat. 280, provided that: "Except as otherwise provided in this Act, this Act [see Short Title of 1985 Amendment note set out under section 2151 of this title] shall take effect on October 1, 1985."

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–53 effective Oct. 1, 1979, see section 512(a) of Pub. L. 96–53, set out as a note under section 2151 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1978, see section 605 of Pub. L. 95–424, set out as an Effective Date of 1978 Amendment note under section 2151 of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§2151a. Agricultural development in rural areas

(a) Authorization to President to furnish assistance; appropriations

(1) In recognition of the fact that the great majority of the people of developing countries live in rural areas and are dependent on agriculture and agricultural-related pursuits for their livelihood, the

President is authorized to furnish assistance, on such terms and conditions as he may determine, for agriculture, rural development, and nutrition—

(A) to alleviate starvation, hunger, and malnutrition;

(B) to expand significantly the provision of basic services to rural poor people to enhance their capacity for self-help; and

(C) to help create productive farm and off-farm employment in rural areas to provide a more viable economic base and enhance opportunities for improved incomes, living standards, and contributions by rural poor people to the economic and social development of their countries.

(2) There are authorized to be appropriated to the President for purposes of this section, in addition to funds otherwise available for such purposes, $760,000,000 for fiscal year 1986 and $760,000,000 for fiscal year 1987. Of these amounts, the President may use such amounts as he deems appropriate to carry out the provisions of section 316 of the International Security and Development Cooperation Act of 1980. Amounts appropriated under this section are authorized to remain available until expended.

(3) Of the amounts authorized to be appropriated in paragraph (2) for the fiscal year 1987, not less than $2,000,000 shall be available only for the purpose of controlling and eradicating amblyomma variegatum (heartwater) in bovine animals in the Caribbean.

(b) Use of assistance primarily in aid of rural poor; multilateral infrastructure projects; forestry projects

(1) Assistance provided under this section shall be used primarily for activities which are specifically designed to increase the productivity and income of the rural poor, through such means as creation and strengthening of local institutions linked to the regional and national levels; organization of a system of financial institutions which provide both savings and credit services to the poor; stimulation of small, labor-intensive enterprises in rural towns; improvement of marketing facilities and systems; expansion of rural infrastructure and utilities such as farm-to-market roads, water management systems, land improvement, energy, and storage facilities; establishment of more equitable and more secure land tenure arrangements; and creation and strengthening of systems to provide other services and supplies needed by farmers, such as extension, research, training, fertilizer, water, forestry, soil conservation, and improved seed, in ways which assure access to them by small farmers.

(2) In circumstances where development of major infrastructure is necessary to achieve the objectives set forth in this section, assistance for that purpose should be furnished under this part in association with significant contributions from other countries working together in a multilateral framework. Infrastructure projects so assisted should be complemented by other measures to ensure that the benefits of the infrastructure reach the poor.

(3) The Congress recognizes that the accelerating loss of forests and tree cover in developing countries undermines and offsets efforts to improve agricultural production and nutrition and otherwise to meet the basic human needs of the poor. Deforestation results in increased flooding, reduction in water supply for agricultural capacity, loss of firewood and needed wood products, and loss of valuable plants and animals. In order to maintain and increase forest resources, the President is authorized to provide assistance under this section for forestry projects which are essential to fulfill the fundamental purposes of this section. Emphasis shall be given to community woodlots, agroforestry, reforestation, protection of watershed forests, and more effective forest management.

(c) Increased agricultural production in least developed countries

The Congress finds that the greatest potential for significantly expanding availability of food for people in rural areas and augmenting world food production at relatively low cost lies in increasing the productivity of small farmers who constitute a majority of the agricultural producers in developing countries. Increasing the emphasis on rural development and expanded food production in the poorest nations of the developing world is a matter of social justice and a principal element contributing to broadly based economic growth, as well as an important factor in alleviating inflation in the industrialized countries. In the allocation of funds under this section, special attention shall be

given to increasing agricultural production in countries which have been designated as "least developed" by the United Nations General Assembly.

(d) Coordination with population planning and health programs

Assistance provided under this section shall also be used in coordination with programs carried out under section 2151b of this title to help improve nutrition of the people of developing countries through encouragement of increased production of crops with greater nutritional value; improvement of planning, research, and education with respect to nutrition, particularly with reference to improvement and expanded use of indigenously produced foodstuffs; and the undertaking of pilot or demonstration programs explicitly addressing the problem of malnutrition of poor and vulnerable people. In particular, the President is encouraged—

(1) to devise and carry out in partnership with developing countries a strategy for programs of nutrition and health improvement for mothers and children, including breast feeding; and

(2) to provide technical, financial, and material support to individuals or groups at the local level for such programs.

(e) Use of local currency proceeds from sales of commodities

Local currency proceeds from sales of commodities provided under the Food for Peace Act [7 U.S.C. 1691 et seq.] which are owned by foreign governments shall be used whenever practicable to carry out the provisions of this section.

(f) National food security policies and programs; bilateral and multilateral assistance

The Congress finds that the efforts of developing countries to enhance their national food security deserves encouragement as a matter of United States development assistance policy. Measures complementary to assistance for expanding food production in developing countries are needed to help assure that food becomes increasingly available on a regular basis to the poor in such countries. Therefore, United States bilateral assistance under this chapter and the Food for Peace Act [7 U.S.C. 1691 et seq.], and United States participation in multilateral institutions, shall emphasize policies and programs which assist developing countries to increase their national food security by improving their food policies and management and by strengthening national food reserves, with particular concern for the needs of the poor, through measures encouraging domestic production, building national food reserves, expanding available storage facilities, reducing postharvest food losses, and improving food distribution.

(g) International Fund for Agricultural Development; participation and contributions; availability of appropriations

(1) In order to carry out the purposes of this section, the President may continue United States participation in and may make contributions to the International Fund for Agricultural Development.

(2) Of the aggregate amount authorized to be appropriated to carry out subchapter I of this chapter, up to $50,000,000 for fiscal year 1986 and up to $50,000,000 for fiscal year 1987 may be made available, by appropriation or by transfer, for United States contributions to the second replenishment of the International Fund for Agricultural Development.

(Pub. L. 87–195, pt. I, §103, as added Pub. L. 93–189, §2(3), Dec. 17, 1973, 87 Stat. 715; amended Pub. L. 93–559, §2, Dec. 30, 1974, 88 Stat. 1795; Pub. L. 94–161, title III, §302, Dec. 20, 1975, 89 Stat. 856; Pub. L. 95–88, title I, §102, Aug. 3, 1977, 91 Stat. 534; Pub. L. 95–424, title I, §103(a), Oct. 6, 1978, 92 Stat. 943; Pub. L. 96–53, title I, §101, Aug. 14, 1979, 93 Stat. 359; Pub. L. 96–533, title III, §301, Dec. 16, 1980, 94 Stat. 3145; Pub. L. 97–113, title III, §301(a), (c), Dec. 29, 1981, 95 Stat. 1531, 1532; Pub. L. 99–83, title III, §302, title X, §1001, Aug. 8, 1985, 99 Stat. 214, 270; Pub. L. 99–399, title XIII, §1304, Aug. 27, 1986, 100 Stat. 898; Pub. L. 110–246, title III, §3001(b)(1)(A), (2)(Q), June 18, 2008, 122 Stat. 1820.)

REFERENCES IN TEXT

Section 316 of the International Security and Development Cooperation Act of 1980, referred to in subsec. (a)(2), is section 316 of Pub. L. 96–533, title III, Dec. 16, 1980, 94 Stat. 3149, set out as a note below.

The Food for Peace Act, referred to in subsecs. (e) and (f), is act July 10, 1954, ch. 469, 68 Stat. 454, which

is classified generally to chapter 41 (§1691 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 1691 of Title 7 and Tables.

This chapter, referred to in subsec. (f), was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

REFERENCES TO SUBCHAPTER I DEEMED TO INCLUDE CERTAIN PARTS OF SUBCHAPTER II

References to subchapter I of this chapter are deemed to include parts IV (§2346 et seq.), VI (§2348 et seq.), and VIII (§2349aa et seq.) of subchapter II of this chapter, and references to subchapter II are deemed to exclude such parts. See section 202(b) of Pub. L. 92–226, set out as a note under section 2346 of this title, and sections 2348c and 2349aa–5 of this title.

AMENDMENTS

2008—Subsecs. (e), (f). Pub. L. 110–246 substituted "Food for Peace Act" for "Agricultural Trade Development and Assistance Act of 1954".

1986—Subsec. (a)(3). Pub. L. 99–399 added par. (3).

1985—Subsec. (a)(2). Pub. L. 99–83, §302, substituted "$760,000,000 for fiscal year 1986 and $760,000,000 for fiscal year 1987. Of these amounts, the President may use such amounts as he deems appropriate to carry out the provisions of section 316 of the International Security and Development Cooperation Act of 1980." for "$700,000,000 for the fiscal year 1982 and $700,000,000 for the fiscal year 1983, of which up to $1,000,000 for each such fiscal year shall be available only to carry out section 316 of the International Security and Development Cooperation Act of 1980."

Subsec. (g). Pub. L. 99–83, §1001, amended subsec. (g) generally. Prior to amendment, subsec. (g) read as follows: "In order to carry out the purposes of this section, the President may continue to participate in and may provide, on such terms and conditions as he may determine, up to $180,000,000 to the International Fund for Agricultural Development. There are authorized to be appropriated to the President for the purposes of this subsection $180,000,000, except that not more than $40,500,000 may be appropriated under this subsection for the fiscal year 1982. Amounts appropriated under this subsection are authorized to remain available until expended."

1981—Subsec. (a)(2). Pub. L. 97–113, §301(a), substituted "$700,000,000 for the fiscal year 1982 and $700,000,000 for the fiscal year 1983, of which up to $1,000,000 for each such fiscal year shall be available only to carry out section 316 of the International Security and Development Cooperation Act of 1980" for "$713,500,000 for the fiscal year 1981".

Subsec. (g). Pub. L. 97–113, §301(c), added subsec. (g).

1980—Subsec. (a)(2). Pub. L. 96–533 substituted appropriations authorization of $713,500,000 for fiscal year 1981 for such authorization of $659,000,000 for fiscal year 1980.

1979—Subsec. (a)(2). Pub. L. 96–53, §101(a), substituted provisions authorizing appropriations of $659,000,000 for fiscal year 1980, for provisions authorizing appropriations of $665,213,000 for fiscal year 1979.

Subsec. (b)(3). Pub. L. 96–53, §101(b), added par. (3).

Subsec. (f). Pub. L. 96–53, §101(c), added subsec. (f).

1978—Pub. L. 95–424 amended section generally, updating and clarifying the purposes of assistance to more accurately reflect the range of activities authorized by this section.

1977—Subsec. (a). Pub. L. 95–88, §102(a), struck out provisions authorizing appropriations of $291,000,000 for the fiscal year 1974, $500,000,000 for the fiscal year 1975, and $618,800,000 for the fiscal year 1976, and inserted provisions authorizing the appropriation of $580,000,000 for the fiscal year 1978.

Subsec. (h). Pub. L. 95–88, §102(b), added subsec. (h).

1975—Subsec. (a). Pub. L. 94–161, §302(1), authorized appropriation of $618,800,000 and $745,000,000 for fiscal years 1976 and 1977, respectively.

Subsecs. (c) to (g). Pub. L. 94–161, §302(2), added subsecs. (c) to (g).

1974—Subsec. (a). Pub. L. 93–559, §2(1), (2), designated existing provisions as subsec. (a) and increased appropriations authorization for fiscal year 1975 to $500,000,000 from $291,000,000.

Subsec. (b). Pub. L. 93–559, §2(3), added subsec. (b).

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–246 effective May 22, 2008, see section 4(b) of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–83 effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as a note under section 2151–1 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–53 effective Oct. 1, 1979, see section 512(a) of Pub. L. 96–53, set out as a note under section 2151 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–424 effective Oct. 1, 1978, see section 605 of Pub. L. 95–424, set out as a note under section 2151 of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

INTERNATIONAL FUND FOR AGRICULTURAL DEVELOPMENT; SIXTH REPLENISHMENT

Pub. L. 108–199, div. D, title V, §577, Jan. 23, 2004, 118 Stat. 201, provided that: "The Secretary of the Treasury may, to fulfill commitments of the United States, contribute on behalf of the United States to the sixth replenishment of the resources of the International Fund for Agricultural Development. The following amount is authorized to be appropriated without fiscal year limitation for payment by the Secretary of the Treasury: $45,000,000 for the International Fund for Agricultural Development."

WORLD HUNGER

Pub. L. 96–533, title III, §316, Dec. 16, 1980, 94 Stat. 3149, provided:

"(a) In order to further the purposes of section 103 of the Foreign Assistance Act of 1961 [this section], the Director of the United States International Development Cooperation Agency shall encourage the ongoing work of private and voluntary organizations to deal with world hunger problems abroad. To this end, the Director shall help facilitate widespread public discussion, analysis, and review of the issues raised by the Report of the Presidential Commission on World Hunger of March 1980, especially the issues raised by the Commission's call for increased public awareness of the political, economic, technical, and social factors relating to hunger and poverty.

"(b) As a means of carrying out subsection (a), and to ensure the effectiveness of private and voluntary organizations in dealing with world hunger abroad, the Director is urged to provide assistance to private and voluntary organizations engaged in facilitating public discussion of hunger and other related issues."

[For abolition of United States International Development Cooperation Agency (other than Agency for International Development and Overseas Private Investment Corporation), transfer of functions, and treatment of references thereto, see sections 6561, 6562, and 6571 of this title.]

REDUCTION OF POSTHARVEST LOSSES OF FOOD

Pub. L. 96–533, title III, §317, Dec. 16, 1980, 94 Stat. 3149, provided: "It is the sense of the Congress that—

"(1) the President should reaffirm the policy of the United States Government to support the goal established by the United Nations General Assembly of reducing by 50 percent postharvest losses of food in developing countries; and

"(2) the President, acting through the Agency for International Development, should increase substantially the proportion of funds made available under the Foreign Assistance Act of 1961 [see Short Title note set out under section 2151 of this title] for the purpose of assisting, together with other donor countries and with developing countries, in the reduction of postharvest losses of food in developing countries."

§2151a–1. Agricultural research

Agricultural research carried out under this chapter shall (1) take account of the special needs of small farmers in the determination of research priorities, (2) include research on the interrelationships among technology, institutions, and economic, social, environmental, and cultural factors affecting small-farm agriculture, and (3) make extensive use of field testing to adapt basic research to local conditions. Special emphasis shall be placed on disseminating research results to the

farms on which they can be put to use, and especially on institutional and other arrangements needed to assure that small farmers have effective access to both new and existing improved technology.

(Pub. L. 87–195, pt. I, §103A, as added Pub. L. 94–161, title III, §303, Dec. 20, 1975, 89 Stat. 857; amended Pub. L. 95–424, title I, §103(d), Oct. 6, 1978, 92 Stat. 945.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

AMENDMENTS

1978—Pub. L. 95–424 inserted "environmental" after "social" in cl. 2.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–424 effective Oct. 1, 1978, see section 605 of Pub. L. 95–424, set out as a note under section 2151 of this title.

§2151b. Population planning and health programs

(a) Congressional declaration of policy

The Congress recognizes that poor health conditions and uncontrolled population growth can vitiate otherwise successful development efforts.

Large families in developing countries are the result of complex social and economic factors which change relatively slowly among the poor majority least affected by economic progress, as well as the result of a lack of effective birth control. Therefore, effective family planning depends upon economic and social change as well as the delivery of services and is often a matter of political and religious sensitivity. While every country has the right to determine its own policies with respect to population growth, voluntary population planning programs can make a substantial contribution to economic development, higher living standards, and improved health and nutrition.

Good health conditions are a principal element in improved quality of life and contribute to the individual's capacity to participate in the development process, while poor health and debilitating disease can limit productivity.

(b) Assistance for voluntary population planning

In order to increase the opportunities and motivation for family planning and to reduce the rate of population growth, the President is authorized to furnish assistance, on such terms and conditions as he may determine, for voluntary population planning. In addition to the provision of family planning information and services, including also information and services which relate to and support natural family planning methods, and the conduct of directly relevant demographic research, population planning programs shall emphasize motivation for small families.

(c) Assistance for health programs; special health needs of children and mothers; Child Survival Fund; promotion of immunization and oral rehydration; control of AIDS and tuberculosis

(1) In order to contribute to improvements in the health of the greatest number of poor people in developing countries, the President is authorized to furnish assistance, on such terms and conditions as he may determine, for health programs. Assistance under this subsection shall be used primarily for basic integrated health services, safe water and sanitation, disease prevention and control, and related health planning and research. This assistance shall emphasize self-sustaining community-based health programs by means such as training of health auxiliary and other appropriate personnel, support for the establishment and evaluation of projects that can be replicated on a broader scale, measures to improve management of health programs, and other services and supplies to support health and disease prevention programs.

(2)(A) In carrying out the purposes of this subsection, the President shall promote, encourage, and

undertake activities designed to deal directly with the special health needs of children and mothers. Such activities should utilize simple, available technologies which can significantly reduce childhood mortality, such as improved and expanded immunization programs, oral rehydration to combat diarrhoeal diseases, and education programs aimed at improving nutrition and sanitation and at promoting child spacing. In carrying out this paragraph, guidance shall be sought from knowledgeable health professionals from outside the agency primarily responsible for administering subchapter I of this chapter. In addition to government-to-government programs, activities pursuant to this paragraph should include support for appropriate activities of the types described in this paragraph which are carried out by international organizations (which may include international organizations receiving funds under part III of this subchapter) and by private and voluntary organizations, and should include encouragement to other donors to support such types of activities.

(B) In addition to amounts otherwise available for such purpose, there are authorized to be appropriated to the President $25,000,000 for fiscal year 1986 and $75,000,000 for fiscal year 1987 for use in carrying out this paragraph. Amounts appropriated under this subparagraph are authorized to remain available until expended.

(C) Appropriations pursuant to subparagraph (B) may be referred to as the "Child Survival Fund".

(3) The Congress recognizes that the promotion of primary health care is a major objective of the foreign assistance program. The Congress further recognizes that simple, relatively low cost means already exist to reduce incidence of communicable diseases among children, mothers, and infants. The promotion of vaccines for immunization, and salts for oral rehydration, therefore, is an essential feature of the health assistance program. To this end, the Congress expects the agency primarily responsible for administering subchapter I of this chapter to set as a goal the protection of not less than 80 percent of all children, in those countries in which such agency has established development programs, from immunizable diseases by January 1, 1991. Of the aggregate amounts made available for fiscal year 1987 to carry out paragraph (2) of this subsection (relating to the Child Survival Fund) and to carry out subsection (c) (relating to development assistance for health), $50,000,000 shall be used to carry out this paragraph.

(4) RELATIONSHIP TO OTHER LAWS.—Assistance made available under this subsection and sections 2151b–2, 2151b–3, and 2151b–4 of this title, and assistance made available under part IV of subchapter II of this chapter to carry out the purposes of this subsection and the provisions cited in this paragraph, may be made available notwithstanding any other provision of law that restricts assistance to foreign countries, except for the provisions of this subsection, the provisions of law cited in this paragraph, subsection (f), section 2394–1 of this title, and provisions of law that limit assistance to organizations that support or participate in a program of coercive abortion or involuntary sterilization included under the Child Survival and Health Programs Fund heading in the Consolidated Appropriations Resolution, 2003 (Public Law 108–7).

(d) Administration of assistance

(1) Assistance under this part shall be administered so as to give particular attention to the interrelationship between (A) population growth, and (B) development and overall improvement in living standards in developing countries, and to the impact of all programs, projects, and activities on population growth. All appropriate activities proposed for financing under this part shall be designed to build motivation for smaller families through modification of economic and social conditions supportive of the desire for large families, in programs such as education in and out of school, nutrition, disease control, maternal and child health services, improvements in the status and employment of women, agricultural production, rural development, and assistance to the urban poor, and through community-based development programs which give recognition to people motivated to limit the size of their families. Population planning programs shall be coordinated with other programs aimed at reducing the infant mortality rate, providing better nutrition for pregnant women and infants, and raising the standard of living of the poor.

(2) Since the problems of malnutrition, disease, and rapid population growth are closely related, planning for assistance to be provided under subsections (b) and (c) of this section and under section 2151a of this title shall be coordinated to the maximum extent practicable.

(3) Assistance provided under this section shall emphasize low-cost integrated delivery systems

for health, nutrition, and family planning for the poorest people, with particular attention to the needs of mothers and young children, using paramedical and auxiliary medical personnel, clinics and health posts, commercial distribution systems, and other modes of community outreach.

(e) Research and analysis

(1) Health and population research and analysis carried out under this chapter shall—

(A) be undertaken to the maximum extent practicable in developing countries by developing country personnel, linked as appropriate with private and governmental biomedical research facilities within the United States;

(B) take account of the special needs of the poor people of developing countries in the determination of research priorities; and

(C) make extensive use of field testing to adapt basic research to local conditions.

(2) The President is authorized to study the complex factors affecting population growth in developing countries and to identify factors which might motivate people to plan family size or to space their children.

(f) Prohibition on use of funds for performance or research respecting abortions or involuntary sterilization

(1) None of the funds made available to carry out subchapter I of this chapter may be used to pay for the performance of abortions as a method of family planning or to motivate or coerce any person to practice abortions.

(2) None of the funds made available to carry out subchapter I of this chapter may be used to pay for the performance of involuntary sterilizations as a method of family planning or to coerce or provide any financial incentive to any person to undergo sterilizations.

(3) None of the funds made available to carry out subchapter I of this chapter may be used to pay for any biomedical research which relates, in whole or in part, to methods of, or the performance of, abortions or involuntary sterilization as a means of family planning.

(g) Authorization of appropriations

(1) There are authorized to be appropriated to the President, in addition to funds otherwise available for such purposes—

(A) $290,000,000 for fiscal year 1986 and $290,000,000 for fiscal year 1987 to carry out subsection (b) of this section; and

(B) $205,000,000 for fiscal year 1986 and $180,000,000 for fiscal year 1987 to carry out subsection (c) of this section.

(2) Funds appropriated under this subsection are authorized to remain available until expended.

(Pub. L. 87–195, pt. I, §104, as added Pub. L. 93–189, §2(3), Dec. 17, 1973, 87 Stat. 715; amended Pub. L. 93–559, §4(1), Dec. 30, 1974, 88 Stat. 1795; Pub. L. 94–161, title III, §304, Dec. 20, 1975, 89 Stat. 857; Pub. L. 95–88, title I, §103(a)–(c), Aug. 3, 1977, 91 Stat. 534; Pub. L. 95–424, title I, §104(a), Oct. 6, 1978, 92 Stat. 945; Pub. L. 96–53, title I, §102, Aug. 14, 1979, 93 Stat. 360; Pub. L. 96–533, title III, §302, Dec. 16, 1980, 94 Stat. 3145; Pub. L. 97–113, title III, §302, Dec. 29, 1981, 95 Stat. 1532; Pub. L. 98–473, title I, §101(1) [title V, §541(a)], Oct. 12, 1984, 98 Stat. 1884, 1903; Pub. L. 99–83, title III, §§303–305(a), Aug. 8, 1985, 99 Stat. 214; Pub. L. 99–529, title I, §103, title IV, §404(1), Oct. 24, 1986, 100 Stat. 3011, 3019; Pub. L. 106–264, title I, §111(a), title II, §203, Aug. 19, 2000, 114 Stat. 751, 759; Pub. L. 108–25, title III, §§301(a)(1), 303(c), May 27, 2003, 117 Stat. 728, 737.)

REFERENCES IN TEXT

The Consolidated Appropriations Resolution, 2003, referred to in subsec. (c)(4), is Pub. L. 108–7, Feb. 20, 2003, 117 Stat. 11. Provisions under the heading "Child Survival and Health Programs Fund" in Pub. L. 108–7 appear at 117 Stat. 161 and are not classified to the Code.

This chapter, referred to in subsec. (e)(1), was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of

this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

REFERENCES TO SUBCHAPTER I DEEMED TO INCLUDE CERTAIN PARTS OF SUBCHAPTER II

References to subchapter I of this chapter are deemed to include parts IV (§2346 et seq.), VI (§2348 et seq.), and VIII (§2349aa et seq.) of subchapter II of this chapter, and references to subchapter II are deemed to exclude such parts. See section 202(b) of Pub. L. 92–226, set out as a note under section 2346 of this title, and sections 2348c and 2349aa–5 of this title.

CODIFICATION

Amendment by Pub. L. 98–473 is based on section 303 of H.R. 5119, Ninety-eighth Congress, as passed by the House of Representatives May 10, 1984, which was enacted into permanent law by Pub. L. 98–473.

AMENDMENTS

2003—Subsec. (c)(4) to (7). Pub. L. 108–25 added par. (4) and struck out former pars. (4) to (7), which related to coordination between governments and organizations to prevent vertical transmission of HIV, prioritization of HIV/AIDS in foreign assistance program efforts, appropriation of funds for fiscal years 2001 and 2002, and coordination in developing a comprehensive tuberculosis program.

2000—Subsec. (c)(4) to (7). Pub. L. 106–264 added pars. (4) to (7).

1986—Subsec. (c)(2)(B). Pub. L. 99–529, §103(b), substituted "$75,000,000 for fiscal year 1987" for "$25,000,000 for fiscal year 1987".

Subsec. (c)(3). Pub. L. 99–529, §103(a), inserted provision allocating $50,000,000 of the amounts available for fiscal year 1987 for carrying out par. (3).

Subsec. (g)(1)(B). Pub. L. 99–529, §404(1), substituted "$180,000,000 for fiscal year 1987" for "$205,000,000 for fiscal year 1987".

1985—Subsec. (c)(2)(B). Pub. L. 99–83, §304, inserted provisions authorizing specific appropriations for fiscal years 1986 and 1987.

Subsec. (c)(3). Pub. L. 99–83, §305(a), added par. (3).

Subsec. (g). Pub. L. 99–83, §303, in amending subsec. (g) generally, substituted in par. (1) provision authorizing appropriations of $290,000,000 and $205,000,000 to carry out subsecs. (b) and (c), respectively, for fiscal years 1986 and 1987 for provisions authorizing $211,000,000 and $133,405,000 to carry out such subsecs. for fiscal years 1982 and 1983, and in par. (2) struck out provision that not less than 16 percent of available subsec. (b) appropriations or $38,000,000, whichever amount is less, be available in fiscal years 1982 an 1983 only for the United Nations Fund for Population Activities.

1984—Subsec. (c). Pub. L. 98–473 designated existing provisions as par. (1) and added par. (2).

1981—Subsec. (f)(3). Pub. L. 97–113, §302(b), added par. (3).

Subsec. (g). Pub. L. 97–113, §302(a), substituted provision authorizing appropriations of $211,000,000 and $133,405,000 to carry out subsecs. (b) and (c) for fiscal years 1982 and 1983 for provision authorizing $238,000,000 and $145,300,000 to carry out such subsections for fiscal year 1981 and provision that not less than 16 percent of available subsec. (b) appropriations or $38,000,000, whichever amount is less, be available in fiscal years 1982 and 1983 only for the United Nations Fund for Population Activities for provision making minimum of $3,000,000 available in fiscal year 1981 only to support the World Health Organization's Special Program of Research, Development and Research Training in Human Reproduction.

1980—Subsec. (b). Pub. L. 96–533, §302(a), made provision for information and services relating to and supporting natural family planning methods.

Subsec. (g). Pub. L. 96–533, §302(b), substituted in par. (1) appropriations authorization of $238,000,000 for fiscal year 1981 for authorization of $201,000,000 for fiscal year 1980 and made $3,000,000 available for World Health Organization's Special Human Reproduction Program, and in par. (2) appropriations authorization of $145,300,000 for fiscal year 1981 for authorization of $141,000,000 for fiscal year 1980, which made $4,000,000 available for development of John Sparkman Center for International Public Health Education at University of Alabama at Birmingham.

1979—Subsec. (d)(1). Pub. L. 96–53, §102(b), inserted provisions respecting use of community-based development programs.

Subsec. (g)(1). Pub. L. 96–53, §102(a), substituted provisions authorizing appropriations of $201,000,000 for fiscal year 1980, for provisions authorizing appropriations of $224,745,000 for fiscal year 1979.

Subsec. (g)(2). Pub. L. 96–53, §102(a), substituted provisions authorizing appropriations of $141,000,000 for fiscal year 1980, for provisions authorizing appropriations of $148,494,000 for fiscal year 1979, and inserted provisions relating to the Sparkman Center for International Public Health Education.

1978—Pub. L. 95–424 amended section generally placing greater emphasis on programs and efforts to change social and economic conditions which produce high birth rates.

1977—Subsec. (a). Pub. L. 95–88, §103(a), transferred to subsec. (b) provisions covering the President's authority to furnish assistance for health purpose and, in the provisions covering population planning remaining in subsec. (a), struck out provisions authorizing the appropriations of $145,000,000 for fiscal year 1974, $165,000,000 for fiscal year 1975, $243,100,000 for fiscal year 1976, and $275,600,000 for fiscal year 1977, struck out provisions requiring that not less than 67 percent of the funds made available under this section be used for population planning, and inserted provisions authorizing an appropriation of $167,000,000 for fiscal year 1978.

Subsec. (b). Pub. L. 95–88, §103(a), added subsec. (b), consisting of provisions transferred from subsec. (a) covering the President's authority to furnish assistance for health purposes, inserted references to disease prevention and environmental sanitation, and inserted provisions authorizing an appropriation of $107,700,000 for fiscal year 1978. Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 95–88, §103(b), redesignated former subsec. (b) as (c).

Subsec. (d). Pub. L. 95–88, §103(c), added subsec. (d).

1975—Subsec. (a). Pub. L. 94–161, §304(1)–(3), designated existing provisions as subsec. (a), authorized appropriations of $243,100,000 and $275,600,000 for fiscal years 1976 and 1977, and prescribed minimum percentage (67) of funds available for any fiscal year to be used for population planning, either in separate programs or as an element of health programs.

Subsec. (b). Pub. L. 94–161, §304(4), added subsec. (b).

1974—Pub. L. 93–559 increased appropriations authorization for fiscal year 1975 to $165,000,000 from $145,000,000.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–83 effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as a note under section 2151–1 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–53 effective Oct. 1, 1979, see section 512(a) of Pub. L. 96–53, set out as a note under section 2151 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–424 effective Oct. 1, 1978, see section 605 of Pub. L. 95–424, set out as a note under section 2151 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Pub. L. 95–88, title I, §103(d), Aug. 3, 1977, 91 Stat. 535, provided that: "The amendment made by subsection (a) of this section [amending this section] shall take effect on October 1, 1977."

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

FINDINGS

Pub. L. 106–264, title II, §202, Aug. 19, 2000, 114 Stat. 758, provided that: "Congress makes the following findings:

"(1) Since the development of antibiotics in the 1950s, tuberculosis has been largely controlled in the United States and the Western World.

"(2) Due to societal factors, including growing urban decay, inadequate health care systems, persistent poverty, overcrowding, and malnutrition, as well as medical factors, including the HIV/AIDS epidemic and the emergence of multi-drug resistant strains of tuberculosis, tuberculosis has again become a leading and growing cause of adult deaths in the developing world.

"(3) According to the World Health Organization—

"(A) in 1998, about 1,860,000 people worldwide died of tuberculosis-related illnesses;

"(B) one-third of the world's total population is infected with tuberculosis; and

"(C) tuberculosis is the world's leading killer of women between 15 and 44 years old and is a leading cause of children becoming orphans.

"(4) Because of the ease of transmission of tuberculosis, its international persistence and growth pose a direct public health threat to those nations that had previously largely controlled the disease. This is

complicated in the United States by the growth of the homeless population, the rate of incarceration, international travel, immigration, and HIV/AIDS.

"(5) With nearly 40 percent of the tuberculosis cases in the United States attributable to foreign-born persons, tuberculosis will never be controlled in the United States until it is controlled abroad.

"(6) The means exist to control tuberculosis through screening, diagnosis, treatment, patient compliance, monitoring, and ongoing review of outcomes.

"(7) Efforts to control tuberculosis are complicated by several barriers, including—

"(A) the labor intensive and lengthy process involved in screening, detecting, and treating the disease;

"(B) a lack of funding, trained personnel, and medicine in virtually every nation with a high rate of the disease;

"(C) the unique circumstances in each country, which requires the development and implementation of country-specific programs; and

"(D) the risk of having a bad tuberculosis program, which is worse than having no tuberculosis program because it would significantly increase the risk of the development of more widespread drug-resistant strains of the disease.

"(8) Eliminating the barriers to the international control of tuberculosis through a well-structured, comprehensive, and coordinated worldwide effort would be a significant step in dealing with the increasing public health problem posed by the disease."

PROGRESS REPORT ON IMPLEMENTATION OF IMMUNIZATION AND ORAL REHYDRATION PROMOTION PROGRAMS

Pub. L. 99–83, title III, §305(b), Aug. 8, 1985, 99 Stat. 215, provided that: "Each annual report required by section 634 of the Foreign Assistance Act of 1961 [22 U.S.C. 2394] shall describe the progress achieved during the preceding fiscal year in carrying out section 104(c)(3) of such Act [22 U.S.C. 2151b(c)(3)]."

§2151b–1. Assistance for malaria prevention, treatment, control, and elimination

(a) Assistance

(1) In general

The Administrator of the United States Agency for International Development, in coordination with the heads of other appropriate Federal agencies and nongovernmental organizations, shall provide assistance for the establishment and conduct of activities designed to prevent, treat, control, and eliminate malaria in countries with a high percentage of malaria cases.

(2) Consideration of interaction among epidemics

In providing assistance pursuant to paragraph (1), the Administrator should consider the interaction among the epidemics of HIV/AIDS, malaria, and tuberculosis.

(3) Dissemination of information requirement

Activities referred to in paragraph (1) shall include the dissemination of information relating to the development of vaccines and therapeutic agents for the prevention of malaria (including information relating to participation in, and the results of, clinical trials for such vaccines and agents conducted by United States Government agencies) to appropriate officials in such countries.

(b) Authorization of appropriations

(1) In general

There are authorized to be appropriated to carry out subsection (a) $50,000,000 for each of the fiscal years 2001 and 2002.

(2) Availability

Amounts appropriated pursuant to the authorization of appropriations under paragraph (1) are authorized to remain available until expended.

(Pub. L. 106–570, title I, §103, Dec. 27, 2000, 114 Stat. 3039.)

CODIFICATION

Section was enacted as part of the Assistance for International Malaria Control Act and also as part of the International Malaria Control Act of 2000, and not as part of the Foreign Assistance Act of 1961 which comprises this chapter.

FINDINGS

Pub. L. 106–570, title I, §102, Dec. 27, 2000, 114 Stat. 3039, provided that: "Congress makes the following findings:

"(1) The World Health Organization estimates that there are 300,000,000 to 500,000,000 cases of malaria each year.

"(2) According to the World Health Organization, more than 1,000,000 persons are estimated to die due to malaria each year.

"(3) According to the National Institutes of Health, about 40 percent of the world's population is at risk of becoming infected.

"(4) About half of those who die each year from malaria are children under 9 years of age.

"(5) Malaria kills one child each 30 seconds.

"(6) Although malaria is a public health problem in more than 90 countries, more than 90 percent of all malaria cases are in sub-Saharan Africa.

"(7) In addition to Africa, large areas of Central and South America, Haiti and the Dominican Republic, the Indian subcontinent, Southeast Asia, and the Middle East are high risk malaria areas.

"(8) These high risk areas represent many of the world's poorest nations.

"(9) Malaria is particularly dangerous during pregnancy. The disease causes severe anemia and is a major factor contributing to maternal deaths in malaria endemic regions.

"(10) 'Airport malaria', the importing of malaria by international aircraft and other conveyances, is becoming more common, and the United Kingdom reported 2,364 cases of malaria in 1997, all of them imported by travelers.

"(11) In the United States, of the 1,400 cases of malaria reported to the Centers for Disease Control and Prevention in 1998, the vast majority were imported.

"(12) Between 1970 and 1997, the malaria infection rate in the United States increased by about 40 percent.

"(13) Malaria is caused by a single-cell parasite that is spread to humans by mosquitoes.

"(14) No vaccine is available and treatment is hampered by development of drug-resistant parasites and insecticide-resistant mosquitoes."

§2151b–2. Assistance to combat HIV/AIDS

(a) Finding

Congress recognizes that the alarming spread of HIV/AIDS in countries in sub-Saharan Africa, the Caribbean, Central Asia, Eastern Europe, Latin America and other developing countries is a major global health, national security, development, and humanitarian crisis.

(b) Policy

(1) Objectives

It is a major objective of the foreign assistance program of the United States to provide assistance for the prevention and treatment of HIV/AIDS and the care of those affected by the disease. It is the policy objective of the United States, by 2013, to—

(A) assist partner countries to—

(i) prevent 12,000,000 new HIV infections worldwide;

(ii) support—

(I) the increase in the number of individuals with HIV/AIDS receiving antiretroviral treatment above the goal established under section 7672(a)(3) [1] of this title and increased pursuant to paragraphs (1) through (3) of section 7673(d) [1] of this title; and

(II) additional treatment through coordinated multilateral efforts;

(iii) support care for 12,000,000 individuals infected with or affected by HIV/AIDS,

including 5,000,000 orphans and vulnerable children affected by HIV/AIDS, with an emphasis on promoting a comprehensive, coordinated system of services to be integrated throughout the continuum of care;

(iv) provide at least 80 percent of the target population with access to counseling, testing, and treatment to prevent the transmission of HIV from mother-to-child;

(v) provide care and treatment services to children with HIV in proportion to their percentage within the HIV-infected population of a given partner country; and

(vi) train and support retention of health care professionals, paraprofessionals, and community health workers in HIV/AIDS prevention, treatment, and care, with the target of providing such training to at least 140,000 new health care professionals and paraprofessionals with an emphasis on training and in country deployment of critically needed doctors and nurses;

(B) strengthen the capacity to deliver primary health care in developing countries, especially in sub-Saharan Africa;

(C) support and help countries in their efforts to achieve staffing levels of at least 2.3 doctors, nurses, and midwives per 1,000 population, as called for by the World Health Organization; and

(D) help partner countries to develop independent, sustainable HIV/AIDS programs.

(2) Coordinated global strategy

The United States and other countries with the sufficient capacity should provide assistance to countries in sub-Saharan Africa, the Caribbean, Central Asia, Eastern Europe, and Latin America, and other countries and regions confronting HIV/AIDS epidemics in a coordinated global strategy to help address generalized and concentrated epidemics through HIV/AIDS prevention, treatment, care, monitoring and evaluation, and related activities.

(3) Priorities

The United States Government's response to the global HIV/AIDS pandemic and the Government's efforts to help countries assume leadership of sustainable campaigns to combat their local epidemics should place high priority on—

(A) the prevention of the transmission of HIV;

(B) moving toward universal access to HIV/AIDS prevention counseling and services;

(C) the inclusion of cost sharing assurances that meet the requirements under section 2151h of this title; and

(D) the inclusion of transition strategies to ensure sustainability of such programs and activities, including health care systems, under other international donor support, or budget support by respective foreign governments.

(c) Authorization

(1) In general

Consistent with section 2151b(c) of this title, the President is authorized to furnish assistance, on such terms and conditions as the President may determine, for HIV/AIDS, including to prevent, treat, and monitor HIV/AIDS, and carry out related activities, in countries in sub-Saharan Africa, the Caribbean, Central Asia, Eastern Europe, Latin America, and other countries and areas, particularly with respect to refugee populations or those in postconflict settings in such countries and areas with significant or increasing HIV incidence rates.

(2) Role of NGOs

It is the sense of Congress that the President should provide an appropriate level of assistance under paragraph (1) through nongovernmental organizations (including faith-based and community-based organizations) in countries in sub-Saharan Africa, the Caribbean, Central Asia, Eastern Europe, Latin America, and other countries and areas affected by the HIV/AIDS pandemic, particularly with respect to refugee populations or those in post-conflict settings in such countries and areas with significant or increasing HIV incidence rates..[2]

(3) Coordination of assistance efforts

The President shall coordinate the provision of assistance under paragraph (1) with the provision of related assistance by the Joint United Nations Programme on HIV/AIDS (UNAIDS), the United Nations Children's Fund (UNICEF), the World Health Organization (WHO), the United Nations Development Programme (UNDP), the Global Fund to Fight AIDS, Tuberculosis and Malaria and other appropriate international organizations (such as the International Bank for Reconstruction and Development), relevant regional multilateral development institutions, national, state, and local governments of partner countries, other international actors,,[2] appropriate governmental and nongovernmental organizations, and relevant executive branch agencies within the framework of the principles of the Three Ones.

(d) Activities supported

Assistance provided under subsection (c) shall, to the maximum extent practicable, be used to carry out the following activities:

(1) Prevention

Prevention of HIV/AIDS through activities including—

(A) programs and efforts that are designed or intended to impart knowledge with the exclusive purpose of helping individuals avoid behaviors that place them at risk of HIV infection, including integration of such programs into health programs and the inclusion in counseling programs of information on methods of avoiding infection of HIV, including delaying sexual debut, abstinence, fidelity and monogamy, reduction of casual sexual partnering and multiple concurrent sexual partnering,,[2] reducing sexual violence and coercion, including child marriage, widow inheritance, and polygamy, and where appropriate, use of male and female condoms;

(B) assistance to establish and implement culturally appropriate HIV/AIDS education and prevention programs that are designed with local input and focus on helping individuals avoid infection of HIV/AIDS, implemented through nongovernmental organizations, including faith-based and community-based organizations, particularly those locally based organizations that utilize both professionals and volunteers with appropriate skills, experience, and community presence;

(C) assistance for the purpose of encouraging men to be responsible in their sexual behavior, child rearing, and to respect women;

(D) assistance for the purpose of providing voluntary testing and counseling (including the incorporation of confidentiality protections with respect to such testing and counseling) and promoting the use of provider-initiated or "opt-out" voluntary testing in accordance with World Health Organization guidelines;

(E) assistance for the purpose of preventing mother-to-child transmission of the HIV infection, including medications to prevent such transmission and access to infant formula and other alternatives for infant feeding;

(F) assistance to—

(i) achieve the goal of reaching 80 percent of pregnant women for prevention and treatment of mother-to-child transmission of HIV in countries in which the United States is implementing HIV/AIDS programs by 2013; and

(ii) promote infant feeding options and treatment protocols that meet the most recent criteria established by the World Health Organization;

(G) medical male circumcision programs as part of national strategies to combat the transmission of HIV/AIDS;

(H) assistance to ensure a safe blood supply and sterile medical equipment;

(I) assistance to help avoid substance abuse and intravenous drug use that can lead to HIV infection;

(J) assistance for the purpose of increasing women's access to employment opportunities,

income, productive resources, and microfinance programs, where appropriate.[3]

(K) assistance for counseling, testing, treatment, care, and support programs, including—

(i) counseling and other services for the prevention of reinfection of individuals with HIV/AIDS;

(ii) counseling to prevent sexual transmission of HIV, including—

(I) life skills development for practicing abstinence and faithfulness;

(II) reducing the number of sexual partners;

(III) delaying sexual debut; and

(IV) ensuring correct and consistent use of condoms;

(iii) assistance to engage underlying vulnerabilities to HIV/AIDS, especially those of women and girls;

(iv) assistance for appropriate HIV/AIDS education programs and training targeted to prevent the transmission of HIV among men who have sex with men;

(v) assistance to provide male and female condoms;

(vi) diagnosis and treatment of other sexually transmitted infections;

(vii) strategies to address the stigma and discrimination that impede HIV/AIDS prevention efforts; and

(viii) assistance to facilitate widespread access to microbicides for HIV prevention, if safe and effective products become available, including financial and technical support for culturally appropriate introductory programs, procurement, distribution, logistics management, program delivery, acceptability studies, provider training, demand generation, and postintroduction monitoring.

(2) Treatment

The treatment and care of individuals with HIV/AIDS, including—

(A) assistance to establish and implement programs to strengthen and broaden indigenous health care delivery systems and the capacity of such systems to deliver HIV/AIDS pharmaceuticals and otherwise provide for the treatment of individuals with HIV/AIDS, including clinical training for indigenous organizations and health care providers;

(B) assistance to strengthen and expand hospice and palliative care programs to assist patients debilitated by HIV/AIDS, their families, and the primary caregivers of such patients, including programs that utilize faith-based and community-based organizations;

(C) assistance for the purpose of the care and treatment of individuals with HIV/AIDS through the provision of pharmaceuticals, including antiretrovirals and other pharmaceuticals and therapies for the treatment of opportunistic infections, pain management, nutritional support, and other treatment modalities;

(D) as part of care and treatment of HIV/AIDS, assistance (including prophylaxis and treatment) for common HIV/AIDS-related opportunistic infections for free or at a rate at which it is easily affordable to the individuals and populations being served; [4]

(E) as part of care and treatment of HIV/AIDS, assistance or referral to available and adequately resourced service providers for nutritional support, including counseling and where necessary the provision of commodities, for persons meeting malnourishment criteria and their families; [5]

(3) Preventative intervention education and technologies

(A) With particular emphasis on specific populations that represent a particularly high risk of contracting or spreading HIV/AIDS, including those exploited through the sex trade, victims of rape and sexual assault, individuals already infected with HIV/AIDS, and in cases of occupational exposure of health care workers, assistance with efforts to reduce the risk of HIV/AIDS infection including post-exposure pharmaceutical prophylaxis, and necessary pharmaceuticals and commodities, including test kits, condoms, and, when proven effective, microbicides.

(B) Bulk purchases of available test kits, condoms, and, when proven effective, microbicides

that are intended to reduce the risk of HIV/AIDS transmission and for appropriate program support for the introduction and distribution of these commodities, as well as education and training on the use of the technologies.

(4) Monitoring

The monitoring of programs, projects, and activities carried out pursuant to paragraphs (1) through (3), including—

(A) monitoring to ensure that adequate controls are established and implemented to provide HIV/AIDS pharmaceuticals and other appropriate medicines to poor individuals with HIV/AIDS;

(B) appropriate evaluation and surveillance activities;

(C) monitoring to ensure that appropriate measures are being taken to maintain the sustainability of HIV/AIDS pharmaceuticals (especially antiretrovirals) and ensure that drug resistance is not compromising the benefits of such pharmaceuticals;

(D) monitoring to ensure appropriate law enforcement officials are working to ensure that HIV/AIDS pharmaceuticals are not diminished through illegal counterfeiting or black market sales of such pharmaceuticals;

(E) carrying out and expanding program monitoring, impact evaluation research and analysis, and operations research and disseminating data and findings through mechanisms to be developed by the Coordinator of United States Government Activities to Combat HIV/AIDS Globally, in coordination with the Director of the Centers for Disease Control, in order to—

(i) improve accountability, increase transparency, and ensure the delivery of evidence-based services through the collection, evaluation, and analysis of data regarding gender-responsive interventions, disaggregated by age and sex;

(ii) identify and replicate effective models; and

(iii) develop gender indicators to measure outcomes and the impacts of interventions; and

(F) establishing appropriate systems to—

(i) gather epidemiological and social science data on HIV; and

(ii) evaluate the effectiveness of prevention efforts among men who have sex with men, with due consideration to stigma and risks associated with disclosure.

(5) Pharmaceuticals

(A) Procurement

The procurement of HIV/AIDS pharmaceuticals, antiviral therapies, and other appropriate medicines, including medicines to treat opportunistic infections.

(B) Mechanisms for quality control and sustainable supply

Mechanisms to ensure that such HIV/AIDS pharmaceuticals, antiretroviral therapies, and other appropriate medicines are quality-controlled and sustainably supplied.

(C) Mechanism to ensure cost-effective drug purchasing

Subject to subparagraph (B), mechanisms to ensure that safe and effective pharmaceuticals, including antiretrovirals and medicines to treat opportunistic infections, are purchased at the lowest possible price at which such pharmaceuticals may be obtained in sufficient quantity on the world market, provided that such pharmaceuticals are approved, tentatively approved, or otherwise authorized for use by—

(i) the Food and Drug Administration;

(ii) a stringent regulatory agency acceptable to the Secretary of Health and Human Services; or

(iii) a quality assurance mechanism acceptable to the Secretary of Health and Human Services.

(D) Distribution

The distribution of such HIV/AIDS pharmaceuticals, antiviral therapies, and other

appropriate medicines (including medicines to treat opportunistic infections) to qualified national, regional, or local organizations for the treatment of individuals with HIV/AIDS in accordance with appropriate HIV/AIDS testing and monitoring requirements and treatment protocols and for the prevention of mother-to-child transmission of the HIV infection.

(6) Related and coordinated activities

The conduct of related activities, including—

(A) the care and support of children who are orphaned by the HIV/AIDS pandemic, including services designed to care for orphaned children in a family environment which rely on extended family members;

(B) improved infrastructure and institutional capacity to develop and manage education, prevention, and treatment programs, including training and the resources to collect and maintain accurate HIV surveillance data to target programs and measure the effectiveness of interventions;

(C) vaccine research and development partnership programs with specific plans of action to develop a safe, effective, accessible, preventive HIV vaccine for use throughout the world; and [6]

(D) coordinated or referred activities to—

(i) enhance the clinical impact of HIV/AIDS care and treatment; and

(ii) ameliorate the adverse social and economic costs often affecting AIDS-impacted families and communities through the direct provision, as necessary, or through the referral, if possible, of support services, including—

(I) nutritional and food support;
(II) safe drinking water and adequate sanitation;
(III) nutritional counseling;
(IV) income-generating activities and livelihood initiatives;
(V) maternal and child health care;
(VI) primary health care;
(VII) the diagnosis and treatment of other infectious or sexually transmitted diseases;
(VIII) substance abuse and treatment services; and
(IX) legal services;

(E) coordinated or referred activities to link programs addressing HIV/AIDS with programs addressing gender-based violence in areas of significant HIV prevalence to assist countries in the development and enforcement of women's health, children's health, and HIV/AIDS laws and policies that—

(i) prevent and respond to violence against women and girls;

(ii) promote the integration of screening and assessment for gender-based violence into HIV/AIDS programming;

(iii) promote appropriate HIV/AIDS counseling, testing, and treatment into gender-based violence programs; and

(iv) assist governments to develop partnerships with civil society organizations to create networks for psychosocial, legal, economic, or other support services;

(F) coordinated or referred activities to—

(i) address the frequent coinfection of HIV and tuberculosis, in accordance with World Health Organization guidelines;

(ii) promote provider-initiated or "opt-out" HIV/AIDS counseling and testing and appropriate referral for treatment and care to individuals with tuberculosis or its symptoms, particularly in areas with significant HIV prevalence; and

(iii) strengthen programs to ensure that individuals testing positive for HIV receive tuberculosis screening and to improve laboratory capacities, infection control, and adherence; and

(G) activities to—

(i) improve the effectiveness of national responses to HIV/AIDS;

(ii) strengthen overall health systems in high-prevalence countries, including support for workforce training, retention, and effective deployment, capacity building, laboratory development, equipment maintenance and repair, and public health and related public financial management systems and operations; and

(iii) encourage fair and transparent procurement practices among partner countries; and

(iv) promote in-country or intra-regional pediatric training for physicians and other health professionals, preferably through public-private partnerships involving colleges and universities, with the goal of increasing pediatric HIV workforce capacity.

(7) Comprehensive HIV/AIDS public-private partnerships

The establishment and operation of public-private partnership entities within countries in sub-Saharan Africa, the Caribbean, and other countries affected by the HIV/AIDS pandemic that are dedicated to supporting the national strategy of such countries regarding the prevention, treatment, and monitoring of HIV/AIDS. Each such public-private partnership should—

(A) support the development, implementation, and management of comprehensive HIV/AIDS plans in support of the national HIV/AIDS strategy;

(B) operate at all times in a manner that emphasizes efficiency, accountability, and results-driven programs;

(C) engage both local and foreign development partners and donors, including businesses, government agencies, academic institutions, nongovernmental organizations, foundations, multilateral development agencies, and faith-based organizations, to assist the country in coordinating and implementing HIV/AIDS prevention, treatment, and monitoring programs in accordance with its national HIV/AIDS strategy;

(D) provide technical assistance, consultant services, financial planning, monitoring and evaluation, and research in support of the national HIV/AIDS strategy; and

(E) establish local human resource capacities for the national HIV/AIDS strategy through the transfer of medical, managerial, leadership, and technical skills.

(8) Compacts and framework agreements

The development of compacts or framework agreements, tailored to local circumstances, with national governments or regional partnerships in countries with significant HIV/AIDS burdens to promote host government commitment to deeper integration of HIV/AIDS services into health systems, contribute to health systems overall, and enhance sustainability, including—

(A) cost sharing assurances that meet the requirements under section 2151h of this title; and

(B) transition strategies to ensure sustainability of such programs and activities, including health care systems, under other international donor support, or budget support by respective foreign governments.

(e) Compacts and framework agreements

(1) Findings

Congress makes the following findings:

(A) The congressionally mandated Institute of Medicine report entitled "PEPFAR Implementation: Progress and Promise" states: "The next strategy [of the U.S. Global AIDS Initiative] should squarely address the needs and challenges involved in supporting sustainable country HIV/AIDS programs, thereby transitioning from a focus on emergency relief.".

(B) One mechanism to promote the transition from an emergency to a public health and development approach to HIV/AIDS is through compacts or framework agreements between the United States Government and each participating nation.

(2) Elements

Compacts on HIV/AIDS authorized under subsection (d)(8) shall include the following

elements:

(A) Compacts whose primary purpose is to provide direct services to combat HIV/AIDS are to be made between—

(i) the United States Government; and

(ii)(I) national or regional entities representing low-income countries served by an existing United States Agency for International Development or Department of Health and Human Services presence or regional platform; or

(II) countries or regions—

(aa) experiencing significantly high HIV prevalence or risk of significantly increasing incidence within the general population;

(bb) served by an existing United States Agency for International Development or Department of Health and Human Services presence or regional platform; and

(cc) that have inadequate financial means within such country or region.

(B) Compacts whose primary purpose is to provide limited technical assistance to a country or region connected to services provided within the country or region—

(i) may be made with other countries or regional entities served by an existing United States Agency for International Development or Department of Health and Human Services presence or regional platform;

(ii) shall require significant investments in HIV prevention, care, and treatment services by the host country;

(iii) shall be time-limited in terms of United States contributions; and

(iv) shall be made only upon prior notification to Congress—

(I) justifying the need for such compacts;

(II) describing the expected investment by the country or regional entity; and

(III) describing the scope, nature, expected total United States investment, and time frame of the limited technical assistance under the compact and its intended impact.

(C) Compacts shall include provisions to—

(i) promote local and national efforts to reduce stigma associated with HIV/AIDS; and

(ii) work with and promote the role of civil society in combating HIV/AIDS.

(D) Compacts shall take into account the overall national health and development and national HIV/AIDS and public health strategies of each country.

(E) Compacts shall contain—

(i) consideration of the specific objectives that the country and the United States expect to achieve during the term of a compact;

(ii) consideration of the respective responsibilities of the country and the United States in the achievement of such objectives;

(iii) consideration of regular benchmarks to measure progress toward achieving such objectives;

(iv) an identification of the intended beneficiaries, disaggregated by gender and age, and including information on orphans and vulnerable children, to the maximum extent practicable;

(v) consideration of the methods by which the compact is intended to—

(I) address the factors that put women and girls at greater risk of HIV/AIDS; and

(II) strengthen elements such as the economic, educational, and social status of women, girls, orphans, and vulnerable children and the inheritance rights and safety of such individuals;

(vi) consideration of the methods by which the compact will—

(I) strengthen the health care capacity, including factors such as the training, retention, deployment, recruitment, and utilization of health care workers;

(II) improve supply chain management; and

(III) improve the health systems and infrastructure of the partner country, including the ability of compact participants to maintain and operate equipment transferred or purchased as part of the compact;

(vii) consideration of proposed mechanisms to provide oversight;

(viii) consideration of the role of civil society in the development of a compact and the achievement of its objectives;

(ix) a description of the current and potential participation of other donors in the achievement of such objectives, as appropriate; and

(x) consideration of a plan to ensure appropriate fiscal accountability for the use of assistance.

(F) For regional compacts, priority shall be given to countries that are included in regional funds and programs in existence as of July 30, 2008.

(G) Amounts made available for compacts described in subparagraphs (A) and (B) shall be subject to the inclusion of—

(i) cost sharing assurances that meet the requirements under section 2151h of this title; and

(ii) transition strategies to ensure sustainability of such programs and activities, including health care systems, under other international donor support, and budget support by respective foreign governments.

(3) Local input

In entering into a compact on HIV/AIDS authorized under subsection (d)(8), the Coordinator of United States Government Activities to Combat HIV/AIDS Globally shall seek to ensure that the government of a country—

(A) takes into account the local perspectives of the rural and urban poor, including women, in each country; and

(B) consults with private and voluntary organizations, including faith-based organizations, the business community, and other donors in the country.

(4) Congressional and public notification after entering into a compact

Not later than 10 days after entering into a compact authorized under subsection (d)(8), the Global AIDS Coordinator shall—

(A) submit a report containing a detailed summary of the compact and a copy of the text of the compact to—

(i) the Committee on Foreign Relations of the Senate;

(ii) the Committee on Appropriations of the Senate;

(iii) the Committee on Foreign Affairs of the House of Representatives; and

(iv) the Committee on Appropriations of the House of Representatives; and

(B) publish such information in the Federal Register and on the Internet website of the Office of the Global AIDS Coordinator.

(f) Annual report

(1) In general

Not later than February 15, 2014, and annually thereafter, the President shall submit to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives a report in an open, machine readable format, on the implementation of this section for the prior fiscal year.

(2) Report due in 2014

The report due not later than February 15, 2014, shall include the elements required by law prior to the enactment of the PEPFAR Stewardship and Oversight Act of 2013.

(3) Report elements

Each report submitted after February 15, 2014, shall include the following:

(A) A description based on internationally available data, and where practicable high-quality country-based data, of the total global burden and need for HIV/AIDS prevention, treatment, and care, including—

(i) estimates by partner country of the global burden and need; and

(ii) HIV incidence, prevalence, and AIDS deaths for the reporting period.

(B) Reporting on annual targets across prevention, treatment, and care interventions in partner countries, including—

(i) a description of how those targets are designed to—

(I) ensure that the annual increase in new patients on antiretroviral treatment exceeds the number of annual new HIV infections;

(II) reduce the number of new HIV infections below the number of deaths among persons infected with HIV; and

(III) achieve an AIDS-free generation;

(ii) national targets across prevention, treatment, and care that are—

(I) established by partner countries; or

(II) where such national partner country-developed targets are unavailable, a description of progress towards developing national partner country targets; and

(iii) bilateral programmatic targets across prevention, treatment, and care, including—

(I) the number of adults and children to be directly supported on HIV treatment under United States-funded programs;

(II) the number of adults and children to be otherwise supported on HIV treatment under United States-funded programs; and

(III) other programmatic targets for activities directly and otherwise supported by United States-funded programs.

(C) A description, by partner country, of HIV/AIDS funding from all sources, including funding levels from partner countries, other donors, and the private sector, as practicable.

(D) A description of how United States-funded programs, in conjunction with the Global Fund, other donors, and partner countries, together set targets, measure progress, and achieve positive outcomes in partner countries.

(E) An annual assessment of outcome indicator development, dissemination, and performance for programs supported under this section, including ongoing corrective actions to improve reporting.

(F) A description and explanation of changes in related guidance or policies related to implementation of programs supported under this section.

(G) An assessment and quantification of progress over the reporting period toward achieving the targets set forth in subparagraph (B), including—

(i) the number, by partner country, of persons on HIV treatment, including specifically—

(I) the number of adults and children on HIV treatment directly supported by United States-funded programs; and

(II) the number of adults and children on HIV treatment otherwise supported by United States-funded programs;

(ii) HIV treatment coverage rates by partner country;

(iii) the net increase in persons on HIV treatment by partner country;

(iv) new infections of HIV by partner country;

(v) the number of HIV infections averted;

(vi) antiretroviral treatment program retention rates by partner country, including—

(I) performance against annual targets for program retention; and

(II) the retention rate of persons on HIV treatment directly supported by United States-funded programs; and

(vii) a description of supportive care.

(H) A description of partner country and United States-funded HIV/AIDS prevention programs and policies, including—

(i) an assessment by country of progress towards targets set forth in subparagraph (B), with a detailed description of the metrics used to assess—

(I) programs to prevent mother to child transmission of HIV/AIDS, including coverage rates;

(II) programs to provide or promote voluntary medical male circumcision, including coverage rates;

(III) programs for behavior-change; and

(IV) other programmatic activities to prevent the transmission of HIV;

(ii) antiretroviral treatment as prevention; and

(iii) a description of any new preventative interventions or methodologies.

(I) A description of the goals, scope, and measurement of program efforts aimed at women and girls.

(J) A description of the goals, scope, and measurement of program efforts aimed at orphans, vulnerable children, and youth.

(K) A description of the indicators and milestones used to assess effective, strategic, and appropriately timed country ownership, including—

(i) an explanation of the metrics used to determine whether the pace of any transition to such ownership is appropriate for that country, given that country's level of readiness for such transition;

(ii) an analysis of governmental and local nongovernmental capacity to sustain positive outcomes;

(iii) a description of measures taken to improve partner country capacity to sustain positive outcomes where needed; and

(iv) for countries undergoing a transition to greater country ownership, a description of strategies to assess and mitigate programmatic and financial risk and to ensure continued quality of care for essential services.

(L) A description, globally and by partner country, of specific efforts to achieve and incentivize greater programmatic and cost effectiveness, including—

(i) progress toward establishing common economic metrics across prevention, care and treatment with partner countries and the Global Fund;

(ii) average costs, by country and by core intervention;

(iii) expenditure reporting in all program areas, supplemented with targeted analyses of the cost-effectiveness of specific interventions; and

(iv) import duties and internal taxes imposed on program commodities and services, by country.

(M) A description of partnership framework agreements with countries, and regions where applicable, including—

(i) the objectives and structure of partnership framework agreements with countries, including—

(I) how these agreements are aligned with national HIV/AIDS plans and public health strategies and commitments of such countries; and

(II) how these agreements incorporate a role for civil society; and

(ii) a description of what has been learned in advancing partnership framework agreements with countries, and regions as applicable, in terms of improved coordination and collaboration, definition of clear roles and responsibilities of participants and signers, and implications for how to further strengthen these agreements with mutually accountable measures of progress.

(N) A description of efforts and activities to engage new partners, including faith-based, locally-based, and United States minority-serving institutions.

(O) A definition and description of the differentiation between directly and otherwise supported activities, including specific efforts to clarify programmatic attribution and contribution, as well as timelines for dissemination and implementation.

(P) A description, globally and by country, of specific efforts to address co-infections and co-morbidities of HIV/AIDS, including—

(i) the number and percent of people in HIV care or treatment who started tuberculosis treatment; and

(ii) the number and percentage of eligible HIV positive patients starting isoniazid preventative therapy.

(Q) A description of efforts by partner countries to train, employ, and retain health care workers, including efforts to address workforce shortages.

(R) A description of program evaluations completed during the reporting period, including whether all completed evaluations have been published on a publically available Internet website and whether any completed evaluations did not adhere to the common evaluation standards of practice published under paragraph (4).

(4) Common evaluation standards

Not later than February 1, 2014, the Global AIDS Coordinator shall publish on a publically available Internet website the common evaluation standards of practice referred to in paragraph (3)(R).

(5) Partner country defined

In this subsection, the term "partner country" means a country with a minimum United States Government investment of HIV/AIDS assistance of at least $5,000,000 in the prior fiscal year.

(g) Funding limitation

Of the funds made available to carry out this section in any fiscal year, not more than 7 percent may be used for the administrative expenses of the United States Agency for International Development in support of activities described in section 2151b(c) of this title, this section, section 2151b–3 of this title, and section 2151b–4 of this title. Such amount shall be in addition to other amounts otherwise available for such purposes.

(h) Definitions

In this section:

(1) AIDS

The term "AIDS" means acquired immune deficiency syndrome.

(2) HIV

The term "HIV" means the human immunodeficiency virus, the pathogen that causes AIDS.

(3) HIV/AIDS

The term "HIV/AIDS" means, with respect to an individual, an individual who is infected with HIV or living with AIDS.

(4) Relevant executive branch agencies

The term "relevant executive branch agencies" means the Department of State, the United States Agency for International Development, the Department of Health and Human Services (including its agencies and offices), and any other department or agency of the United States that participates in international HIV/AIDS activities pursuant to the authorities of such department or agency or this chapter.

(Pub. L. 87–195, pt. I, §104A, as added Pub. L. 108–25, title III, §301(a)(2), May 27, 2003, 117 Stat. 728; amended Pub. L. 110–293, title III, §301(a)–(e), July 30, 2008, 122 Stat. 2945–2953; Pub. L. 113–56, §5, Dec. 2, 2013, 127 Stat. 650.)

REFERENCES IN TEXT

Section 7672(a)(3) of this title and section 7673(d) of this title, referred to in subsec. (b)(1)(A)(ii)(I), were in the original references to sections 402(a)(3) and 403(d), respectively, and were translated as meaning sections 402(a)(3) and 403(d), respectively, of Pub. L. 108–25, to reflect the probable intent of Congress.

The PEPFAR Stewardship and Oversight Act of 2013, referred to in subsec. (f)(2), is Pub. L. 113–56, Dec. 2, 2013, 127 Stat. 648. For complete classification of this Act to the Code, see Short Title of 2013 Amendment note set out under section 7601 of this title and Tables.

This chapter, referred to in subsec. (h)(4), was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

AMENDMENTS

2013—Subsec. (f). Pub. L. 113–56 amended subsec. (f) generally. Prior to amendment, subsec. (f) related to annual reports on the implementation of this section.

2008—Subsec. (a). Pub. L. 110–293, §301(a)(1), inserted "Central Asia, Eastern Europe, Latin America" after "Caribbean,".

Subsec. (b). Pub. L. 110–293, §301(a)(2), amended subsec. (b) generally. Prior to amendment, text read as follows: "It is a major objective of the foreign assistance program of the United States to provide assistance for the prevention, treatment, and control of HIV/AIDS. The United States and other developed countries should provide assistance to countries in sub-Saharan Africa, the Caribbean, and other countries and areas to control this crisis through HIV/AIDS prevention, treatment, monitoring, and related activities, particularly activities focused on women and youth, including strategies to protect women and prevent mother-to-child transmission of the HIV infection."

Subsec. (c)(1). Pub. L. 110–293, §301(b)(1), substituted "Central Asia, Eastern Europe, Latin America, and other countries and areas, particularly with respect to refugee populations or those in postconflict settings in such countries and areas with significant or increasing HIV incidence rates" for "and other countries and areas".

Subsec. (c)(2). Pub. L. 110–293, §301(b)(2), substituted "Central Asia, Eastern Europe, Latin America, and other countries and areas affected by the HIV/AIDS pandemic, particularly with respect to refugee populations or those in post-conflict settings in such countries and areas with significant or increasing HIV incidence rates." for "and other countries and areas affected by the HIV/AIDS pandemic".

Subsec. (c)(3). Pub. L. 110–293, §301(b)(3), substituted "partner countries, other international actors," for "foreign countries" and inserted "within the framework of the principles of the Three Ones" before the period at end.

Subsec. (d)(1)(A). Pub. L. 110–293, §301(c)(1)(A), inserted "and multiple concurrent sexual partnering," after "casual sexual partnering" and substituted "male and female condoms" for "condoms".

Subsec. (d)(1)(B). Pub. L. 110–293, §301(c)(1)(B), substituted "programs that are designed with local input and" for "programs that" and "those locally based organizations" for "those organizations".

Subsec. (d)(1)(D). Pub. L. 110–293, §301(c)(1)(C), inserted "and promoting the use of provider-initiated or 'opt-out' voluntary testing in accordance with World Health Organization guidelines" before the semicolon at end.

Subsec. (d)(1)(F) to (K). Pub. L. 110–293, §301(c)(1)(D)–(G), added subpars. (F), (G), and (K) and redesignated former subpars. (F) to (H) as (H) to (J), respectively.

Subsec. (d)(2)(C) to (E). Pub. L. 110–293, §301(c)(2), inserted "pain management," after "opportunistic infections," in subpar. (C) and added subpars. (D) and (E).

Subsec. (d)(4)(E), (F). Pub. L. 110–293, §301(c)(3), added subpars. (E) and (F).

Subsec. (d)(5)(C), (D). Pub. L. 110–293, §301(c)(4), added subpar. (C) and redesignated former subpar. (C) as (D).

Subsec. (d)(6). Pub. L. 110–293, §301(c)(5)(A), substituted "Related and coordinated activities" for "Related activities" in heading.

Subsec. (d)(6)(D) to (G). Pub. L. 110–293, §301(c)(5)(B)–(D), added subpars. (D) to (G).

Subsec. (d)(8). Pub. L. 110–293, §301(c)(6), added par. (8).

Subsecs. (e), (f). Pub. L. 110–293, §301(d), added subsec. (e) and redesignated former subsec. (e) as (f). Former subsec. (f) redesignated (g).

Subsec. (f)(1). Pub. L. 110–293, §301(e)(1), substituted "Committee on Foreign Affairs" for "Committee on International Relations".

Subsec. (f)(2)(C), (D). Pub. L. 110–293, §301(e)(2), added subpars. (C) and (D) and struck out former subpar. (C) which required a detailed assessment of the impact of programs established under this section and sections 2151b–3 and 2151b–4 of this title.

Subsecs. (g), (h). Pub. L. 110–293, §301(d)(1), redesignated subsecs. (f) and (g) as (g) and (h), respectively.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

SUBMISSION OF ANNUAL REPORT

Pub. L. 113–76, div. K, title III, Jan. 17, 2014, 128 Stat. 477, provided in part: "That the annual report required by section 104(A)(f) [probably should be "104A(f)"] of the Foreign Assistance Act of 1961 [22 U.S.C. 2151b–2(f)] shall also be submitted hereafter to the Committees on Appropriations".

[1] See References in Text note below.

[2] So in original.

[3] So in original. The period probably should be "; and".

[4] So in original. The word "and" probably should appear.

[5] So in original. The semicolon probably should be a period.

[6] So in original. The word "and" probably should not appear.

§2151b–3. Assistance to combat tuberculosis

(a) Findings

Congress makes the following findings:

(1) Congress recognizes the growing international problem of tuberculosis and the impact its continued existence has on those countries that had previously largely controlled the disease.

(2) Congress further recognizes that the means exist to control and treat tuberculosis through expanded use of the DOTS (Directly Observed Treatment Short-course) treatment strategy, including DOTS-Plus to address multi-drug resistant tuberculosis, and adequate investment in newly created mechanisms to increase access to treatment, including the Global Tuberculosis Drug Facility established in 2001 pursuant to the Amsterdam Declaration to Stop TB and the Global Alliance for TB Drug Development.

(b) Policy

It is a major objective of the foreign assistance program of the United States to control tuberculosis. In all countries in which the Government of the United States has established development programs, particularly in countries with the highest burden of tuberculosis and other countries with high rates of tuberculosis, the United States should support the objectives of the Global Plan to Stop TB, including through achievement of the following goals:

(1) Reduce by half the tuberculosis death and disease burden from the 1990 baseline.

(2) Sustain or exceed the detection of at least 70 percent of sputum smear-positive cases of tuberculosis and the successful treatment of at least 85 percent of the cases detected in countries with established United States Agency for International Development tuberculosis programs.

(3) In support of the Global Plan to Stop TB, the President shall establish a comprehensive, 5-year United States strategy to expand and improve United States efforts to combat tuberculosis globally, including a plan to support—

(A) the successful treatment of 4,500,000 new sputum smear tuberculosis patients under DOTS programs by 2013, primarily through direct support for needed services, commodities, health workers, and training, and additional treatment through coordinated multilateral efforts; and

(B) the diagnosis and treatment of 90,000 new multiple drug resistant tuberculosis cases by 2013, and additional treatment through coordinated multilateral efforts.

(c) Authorization

To carry out this section and consistent with section 2151b(c) of this title, the President is authorized to furnish assistance, on such terms and conditions as the President may determine, for the prevention, treatment, control, and elimination of tuberculosis.

(d) Coordination

In carrying out this section, the President shall coordinate with the World Health Organization, the Global Fund to Fight AIDS, Tuberculosis, and Malaria, and other organizations with respect to the development and implementation of a comprehensive tuberculosis control program.

(e) Priority to Stop TB Strategy

In furnishing assistance under subsection (c), the President shall give priority to—

(1) direct services described in the Stop TB Strategy, including expansion and enhancement of Directly Observed Treatment Short-course (DOTS) coverage, rapid testing, treatment for individuals infected with both tuberculosis and HIV, and treatment for individuals with multi-drug resistant tuberculosis (MDR–TB), strengthening of health systems, use of the International Standards for Tuberculosis Care by all providers, empowering individuals with tuberculosis, and enabling and promoting research to develop new diagnostics, drugs, and vaccines, and program-based operational research relating to tuberculosis; and

(2) funding for the Global Tuberculosis Drug Facility, the Stop Tuberculosis Partnership, and the Global Alliance for TB Drug Development.

(f) Assistance for the World Health Organization and the Stop Tuberculosis Partnership

In carrying out this section, the President, acting through the Administrator of the United States Agency for International Development, is authorized to provide increased resources to the World Health Organization and the Stop Tuberculosis Partnership to improve the capacity of countries with high rates of tuberculosis and other affected countries to implement the Stop TB Strategy and specific strategies related to addressing multiple drug resistant tuberculosis (MDR–TB) and extensively drug resistant tuberculosis (XDR–TB).

(g) Annual report

The President shall submit an annual report to Congress that describes the impact of United States foreign assistance on efforts to control tuberculosis, including—

(1) the number of tuberculosis cases diagnosed and the number of cases cured in countries receiving United States bilateral foreign assistance for tuberculosis control purposes;

(2) a description of activities supported with United States tuberculosis resources in each country, including a description of how those activities specifically contribute to increasing the number of people diagnosed and treated for tuberculosis;

(3) in each country receiving bilateral United States foreign assistance for tuberculosis control purposes, the percentage provided for direct tuberculosis services in countries receiving United States bilateral foreign assistance for tuberculosis control purposes;

(4) a description of research efforts and clinical trials to develop new tools to combat

tuberculosis, including diagnostics, drugs, and vaccines supported by United States bilateral assistance;

(5) the number of persons who have been diagnosed and started treatment for multidrug-resistant tuberculosis in countries receiving United States bilateral foreign assistance for tuberculosis control programs;

(6) a description of the collaboration and coordination of United States anti-tuberculosis efforts with the World Health Organization, the Global Fund, and other major public and private entities within the Stop TB Strategy;

(7) the constraints on implementation of programs posed by health workforce shortages and capacities;

(8) the number of people trained in tuberculosis control; and

(9) a breakdown of expenditures for direct patient tuberculosis services, drugs and other commodities, drug management, training in diagnosis and treatment, health systems strengthening, research, and support costs.

(h) Definitions

In this section:

(1) DOTS

The term "DOTS" or "Directly Observed Treatment Short-course" means the World Health Organization-recommended strategy for treating tuberculosis including—

(A) low-cost and effective diagnosis, treatment, and monitoring of tuberculosis;

(B) a reliable drug supply;

(C) a management strategy for public health systems;

(D) health system strengthening;

(E) promotion of the use of the International Standards for Tuberculosis Care by all care providers;

(F) bacteriology under an external quality assessment framework;

(G) short-course chemotherapy; and

(H) sound reporting and recording systems.

(2) DOTS-Plus

The term "DOTS-Plus" means a comprehensive tuberculosis management strategy that is built upon and works as a supplement to the standard DOTS strategy, and which takes into account specific issues (such as use of second line anti-tuberculosis drugs) that need to be addressed in areas where there is high prevalence of multi-drug resistant tuberculosis.

(3) Global Alliance for Tuberculosis Drug Development

The term "Global Alliance for Tuberculosis Drug Development" means the public-private partnership that brings together leaders in health, science, philanthropy, and private industry to devise new approaches to tuberculosis and to ensure that new medications are available and affordable in high tuberculosis burden countries and other affected countries.

(4) Global Tuberculosis Drug Facility

The term "Global Tuberculosis Drug Facility (GDF)" means the new initiative of the Stop Tuberculosis Partnership to increase access to high-quality tuberculosis drugs to facilitate DOTS expansion.

(5) Stop TB Strategy

The term "Stop TB Strategy" means the 6-point strategy to reduce tuberculosis developed by the World Health Organization, which is described in the Global Plan to Stop TB 2006–2015: Actions for Life, a comprehensive plan developed by the Stop TB Partnership that sets out the actions necessary to achieve the millennium development goal of cutting tuberculosis deaths and disease burden in half by 2015.

(6) Stop Tuberculosis Partnership

The term "Stop Tuberculosis Partnership" means the partnership of the World Health Organization, donors including the United States, high tuberculosis burden countries, multilateral agencies, and nongovernmental and technical agencies committed to short- and long-term measures required to control and eventually eliminate tuberculosis as a public health problem in the world.

(Pub. L. 87–195, pt. I, §104B, as added Pub. L. 108–25, title III, §302(a), May 27, 2003, 117 Stat. 734; amended Pub. L. 110–293, title III, §302(a)–(e), July 30, 2008, 122 Stat. 2957–2959.)

AMENDMENTS

2008—Subsec. (b). Pub. L. 110–293, §302(a), amended subsec. (b) generally. Prior to amendment, text read as follows: "It is a major objective of the foreign assistance program of the United States to control tuberculosis, including the detection of at least 70 percent of the cases of infectious tuberculosis, and the cure of at least 85 percent of the cases detected, not later than December 31, 2005, in those countries classified by the World Health Organization as among the highest tuberculosis burden, and not later than December 31, 2010, in all countries in which the United States Agency for International Development has established development programs."

Subsec. (e). Pub. L. 110–293, §302(b), amended subsec. (e) generally. Prior to amendment, text read as follows: "In furnishing assistance under subsection (c) of this section, the President shall give priority to activities that increase Directly Observed Treatment Short-course (DOTS) coverage and treatment of multi-drug resistant tuberculosis where needed using DOTS-Plus, including funding for the Global Tuberculosis Drug Facility, the Stop Tuberculosis Partnership, and the Global Alliance for TB Drug Development. In order to meet the requirement of the preceding sentence, the President should ensure that not less than 75 percent of the amount made available to carry out this section for a fiscal year should be expended for antituberculosis drugs, supplies, direct patient services, and training in diagnosis and treatment for Directly Observed Treatment Short-course (DOTS) coverage and treatment of multi-drug resistant tuberculosis using DOTS-Plus, including substantially increased funding for the Global Tuberculosis Drug Facility."

Subsecs. (f) to (h). Pub. L. 110–293, §302(c), (d), added subsecs. (f) and (g) and redesignated former subsec. (f) as (h).

Subsec. (h)(1). Pub. L. 110–293, §302(e)(1), substituted "tuberculosis including—" for "tuberculosis." and added subpars. (A) to (H).

Subsec. (h)(5), (6). Pub. L. 110–293, §302(e)(2), (3), added par. (5) and redesignated former par. (5) as (6).

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§2151b–4. Assistance to combat malaria

(a) Finding

Congress finds that malaria kills more people annually than any other communicable disease except tuberculosis, that more than 90 percent of all malaria cases are in sub-Saharan Africa, and that children and women are particularly at risk. Congress recognizes that there are cost-effective tools to decrease the spread of malaria and that malaria is a curable disease if promptly diagnosed and adequately treated.

(b) Policy

It is a major objective of the foreign assistance program of the United States to provide assistance for the prevention, control, treatment, and cure of malaria.

(c) Authorization

To carry out this section and consistent with section 2151b(c) of this title, the President is authorized to furnish assistance, on such terms and conditions as the President may determine, for the prevention, treatment, control, and elimination of malaria.

(d) Coordination

In carrying out this section, the President shall coordinate with the World Health Organization, the

Global Fund to Fight AIDS, Tuberculosis, and Malaria, the Department of Health and Human Services (the Centers for Disease Control and Prevention and the National Institutes of Health), and other organizations with respect to the development and implementation of a comprehensive malaria control program.

(Pub. L. 87–195, pt. I, §104C, as added Pub. L. 108–25, title III, §303(a), May 27, 2003, 117 Stat. 736; amended Pub. L. 110–293, title III, §303(a), July 30, 2008, 122 Stat. 2960.)

AMENDMENTS

2008—Subsec. (b). Pub. L. 110–293 inserted "treatment," after "control,".

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§2151c. Education and human resources development

(a) General authority

In order to reduce illiteracy, to extend basic education and to increase manpower training in skills related to development, the President is authorized to furnish assistance on such terms and conditions as he may determine, for education, public administration, and human resource development. There are authorized to be appropriated to the President for the purposes of this section, in addition to funds otherwise available for such purposes, $180,000,000 for fiscal year 1986 and $180,000,000 for fiscal year 1987, which are authorized to remain available until expended.

(b) Scope of assistance programs

Assistance provided under this section shall be used primarily to expand and strengthen nonformal education methods, especially those designed to improve productive skills of rural families and the urban poor and to provide them with useful information; to increase the relevance of formal education systems to the needs of the poor, especially at the primary level, through reform of curricula, teaching materials, and teaching methods, and improved teacher training; and to strengthen the management capabilities of institutions which enable the poor to participate in development. Assistance under this section shall also be provided for advanced education and training of people of developing countries in such disciplines as are required for planning and implementation of public and private development activities.

(Pub. L. 87–195, pt. I, §105, as added Pub. L. 93–189, §2(3), Dec. 17, 1973, 87 Stat. 715; amended Pub. L. 93–559, §5, Dec. 30, 1974, 88 Stat. 1796; Pub. L. 94–161, title III, §305, Dec. 20, 1975, 89 Stat. 858; Pub. L. 95–88, title I, §104, Aug. 3, 1977, 91 Stat. 535; Pub. L. 95–424, title I, §105, Oct. 6, 1978, 92 Stat. 947; Pub. L. 96–53, title I, §§103, 122, Aug. 14, 1979, 93 Stat. 360, 366; Pub. L. 96–533, title III, §303, Dec. 16, 1980, 94 Stat. 3145; Pub. L. 97–113, title III, §303, Dec. 29, 1981, 95 Stat. 1532; Pub. L. 99–83, title III, §306, title XII, §1211(a)(1), Aug. 8, 1985, 99 Stat. 215, 279; Pub. L. 99–440, title II, §201(a), Oct. 2, 1986, 100 Stat. 1094; Pub. L. 99–631, §1(b)(1), Nov. 7, 1986, 100 Stat. 3519; Pub. L. 101–513, title V, §562(d)(1), Nov. 5, 1990, 104 Stat. 2031.)

AMENDMENTS

1990—Subsec. (b). Pub. L. 101–513 struck out par. (1) designation and par. (2) which authorized use of appropriations to finance education and training for victims of apartheid, for scholarships for students pursuing secondary school education in South Africa, and to provide in-service teacher training programs in South Africa.

1986—Subsec. (b). Pub. L. 99–440, §201(a), designated existing provisions as par. (1) and added par. (2).

Subsec. (b)(2)(C)(i). Pub. L. 99–631 substituted "in-service" for "inservice".

1985—Subsec. (a). Pub. L. 99–83, §306, substituted "for the purposes of this section, in addition to funds otherwise available for such purposes, $180,000,000 for fiscal year 1986 and $180,000,000 for fiscal year 1987" for "for purposes of this section, in addition to funds otherwise available for such purposes, $103,600,000 for the fiscal year 1982 and $103,600,000 for the fiscal year 1983".

Pub. L. 99–83, §1211(a)(1), struck out provisions relating to scholarships for South African students for fiscal years 1982 and 1983.

1981—Subsec. (a). Pub. L. 97–113 substituted appropriations authorizations of $103,600,000 for fiscal years 1982 and 1983 for such authorization of $101,000,000 for fiscal year 1981 and inserted provision for financing of South African scholarships for education in the United States.

1980—Subsec. (a). Pub. L. 96–533 substituted appropriations authorization of $101,000,000 for fiscal year 1981 for such authorization of $105,000,000 for fiscal year 1980.

1979—Subsec. (a). Pub. L. 96–53, §103(a), substituted provisions authorizing appropriations of $105,000,000 for fiscal year 1980, for provisions authorizing appropriations of $109,036,000 for fiscal year 1979.

Subsec. (b). Pub. L. 96–53, §103(b), inserted provisions relating to assistance for advanced education and training.

Subsec. (c). Pub. L. 96–53, §122, struck out subsec. (c) which authorized availability of appropriations for fiscal years 1977, and 1978 for educational assistance for southern Africa.

1978—Subsec. (a). Pub. L. 95–424 substituted "$109,036,000 for the fiscal year 1979, which amount is" for "$101,800,000 for the fiscal year 1977 and $84,900,000 for the fiscal year 1978, which amounts are".

1977—Subsec. (a). Pub. L. 95–88, §104(a), struck out provisions authorizing appropriations of $90,000,000 for fiscal year 1974, $92,000,000 for fiscal year 1975, and $89,200,000 for fiscal year 1976, and inserted provisions authorizing an appropriation of $84,900,000 for fiscal year 1978.

Subsec. (c). Pub. L. 95–88, §104(b), inserted "for the fiscal year 1977, and not less than $1,647,000 shall be available for the fiscal year 1978," after "shall be available".

1975—Subsec. (a). Pub. L. 94–161, §305(a)(1), (2), designated existing provisions as subsec. (a) and authorized appropriation of $89,200,000 and $101,800,000 for fiscal years 1976 and 1977, respectively.

Subsecs. (b), (c), Pub. L. 94–161, §305(a)(3), added subsecs. (b) and (c).

1974—Pub. L. 93–559 increased appropriations authorization for fiscal year 1975 to $92,000,000 from $90,000,000.

EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99–631, §1(c), Nov. 7, 1986, 100 Stat. 3519, provided that: "The amendments made by subsections (a) and (b) [amending this section and sections 2151n, 2346d, 5001, 5012 to 5016, 5019, 5034, 5035, 5039, 5053, 5056, 5059, 5062 to 5064, 5067 to 5072, 5081, 5082, 5091, 5092, 5095, 5100, 5101, and 5112 of this title] shall be deemed to have taken effect upon the enactment of the Comprehensive Anti-Apartheid Act of 1986 [Oct. 2, 1986]."

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–83 effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as a note under section 2151–1 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–53 effective Oct. 1, 1979, see section 512(a) of Pub. L. 96–53, set out as a note under section 2151 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–424 effective Oct. 1, 1978, see section 605 of Pub. L. 95–424, set out as a note under section 2151 of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§2151d. Development of indigenous energy resources

(a) Congressional statement of findings

(1)(A) The Congress finds that energy development and production are vital elements in the development process, that energy shortages in developing countries severely limit the development process in such countries, that two-thirds of the developing countries which import oil depend on it for at least 90 percent of the energy which their economies require, and that the dramatic increase in

world oil prices since 1973 has resulted in considerable economic hardship for many developing countries. The Congress is concerned that the value and purpose of much of the assistance provided to developing countries under sections 2151a, 2151b, and 2151c of this title are undermined by the inability of many developing countries to satisfy their energy requirements. Unless the energy deficit of the developing countries can be narrowed by more fully exploiting indigenous sources of energy such as oil, natural gas, and coal, scarce foreign exchange will increasingly have to be diverted to oil imports, primarily to the detriment of long-term development and economic growth.

(B) The Congress recognizes that many developing countries lack access to the financial resources and technology necessary to locate, explore, and develop indigenous energy resources.

(C) The Congress declares that there is potential for at least a moderate increase by 1990 in the production of energy for commercial use in the developing countries which are not members of the Organization of Petroleum Exporting Countries. In addition, there is a compelling need for vigorous efforts to improve the available data on the location, scale, and commercial exploitability of potential oil, natural gas, and coal reserves in developing countries, especially those which are not members of the Organization of Petroleum Exporting Countries. The Congress further declares that there are many benefits to be gained by the developing countries and by the United States and other developed countries through expanded efforts to expedite the location, exploration, and development of potential sources of energy in developing countries. These benefits include, but are not limited to, the following:

(i) The world's energy supply would be increased and the fear of abrupt depletion would be lessened with new energy production. This could have a positive impact upon energy prices in international markets as well as a positive effect upon the balance of payments problems of many developing countries.

(ii) Diversification of the world's supplies of energy from fossil fuels would make all countries, developing and developed, less susceptible to supply interruptions and arbitrary production and pricing policies.

(iii) Even a moderate increase in energy production in the developing countries would improve their ability to expand commercial trade, foreign investment, and technology transfer possibilities with the United States and other developed countries.

(D) Assistance for the production of energy from indigenous resources, as authorized by subsection (b) of this section, would be of direct benefit to the poor in developing countries because of the overwhelming impact of imported energy costs upon the lives of the poor and their ability to participate in development.

(2) The Congress also finds that energy production from renewable, decentralized sources and energy conservation are vital elements in the development process. Inadequate access by the poor to energy sources as well as the prospect of depleted fossil fuel reserves and higher energy prices require an enhanced effort to expand the energy resources of developing countries through greater emphasis on renewable sources. Renewable and decentralized energy technologies have particular applicability for the poor, especially in rural areas.

(b) General assistance authority; cooperative programs in energy production and conservation; program goals

(1) In order to help developing countries alleviate their energy problems by improving their ability to use indigenous energy resources to produce the energy needed by their economies, the President is authorized to furnish assistance, on such terms and conditions as he may determine, to enable such countries to prepare for and undertake development of their energy resources. Such assistance may include data collection and analysis, the training of skilled personnel, research on and development of suitable energy sources, and pilot projects to test new methods of energy production.

(2) The President is authorized to furnish assistance under this part for cooperative programs with developing countries in energy production and conservation, through research on and development and use of small-scale, decentralized, renewable energy sources for rural areas carried out as integral parts of rural development efforts in accordance with section 2151a of this title. Such programs shall also be directed toward the earliest practicable development and use of energy technologies which

are environmentally acceptable, require minimum capital investment, are most acceptable to and affordable by the people using them, are simple and inexpensive to use and maintain, and are transferable from one region of the world to another. Such programs may include research on and the development, demonstration, and application of suitable energy technologies (including use of wood); analysis of energy uses, needs, and resources; training and institutional development; and scientific interchange.

(c) Administrative coordination of planning and implementation of programs

The agency primarily responsible for administering subchapter I of this chapter and the Department of Energy shall coordinate with one another, to the maximum extent possible, the planning and implementation of energy programs under this part.

(d) Assistance for programs of technical cooperation and development, research, etc.

The President is authorized to furnish assistance, on such terms and conditions as he may determine, for the following activities, to the extent that such activities are not authorized by sections 2151a, 2151b, and 2151c of this title:

(1) programs of technical cooperation and development, particularly the development efforts of United States private and voluntary agencies and regional and international development organizations;

(2) programs of research into, and evaluation of, the process of economic development in less developed countries and areas, into the factors affecting the relative success and costs of development activities, and into the means, techniques, and such other aspects of development assistance as the President may determine in order to render such assistance of increasing value and benefit;

(3) programs of reconstruction following natural or manmade disasters and programs of disaster preparedness, including the prediction of and contingency planning for natural disasters abroad;

(4) programs designed to help solve special development problems in the poorest countries and to make possible proper utilization of infrastructure and related projects funded with earlier United States assistance; and

(5) programs of urban development, with particular emphasis on small, labor intensive enterprises, marketing systems for small producers, and financial and other institutions which enable the urban poor to participate in the economic and social development of their country.

(e) Authorization of appropriations

(1) There are authorized to be appropriated to the President for purposes of this section, in addition to funds otherwise available for such purposes, $207,000,000 for fiscal year 1986 and $207,000,000 for fiscal year 1987.

(2) Amounts appropriated under this section are authorized to remain available until expended.

(f) Financing cooperative projects among United States, Israel, and developing countries

Of the amounts authorized to be appropriated to carry out this part, $5,000,000 for fiscal year 1986 and $5,000,000 for fiscal year 1987 shall be used to finance cooperative projects among the United States, Israel, and developing countries.

(Pub. L. 87–195, pt. I, §106, as added Pub. L. 94–161, title III, §306(2), Dec. 20, 1975, 89 Stat. 858; amended Pub. L. 95–88, title I, §105, Aug. 3, 1977, 91 Stat. 535; Pub. L. 95–424, title I, §106, Oct. 6, 1978, 92 Stat. 947; Pub. L. 96–53, title I, §§104(b), 105, Aug. 14, 1979, 93 Stat. 360, 362; Pub. L. 96–533, title III, §304(b)–(f), Dec. 16, 1980, 94 Stat. 3146; Pub. L. 97–113, title III, §304, Dec. 29, 1981, 95 Stat. 1533; Pub. L. 99–83, title III, §307, title XII, §1211(a)(2), Aug. 8, 1985, 99 Stat. 215, 279.)

REFERENCES TO SUBCHAPTER I DEEMED TO INCLUDE CERTAIN PARTS OF SUBCHAPTER II

References to subchapter I of this chapter are deemed to include parts IV (§2346 et seq.), VI (§2348 et seq.), and VIII (§2349aa et seq.) of subchapter II of this chapter, and references to subchapter II are deemed to exclude such parts. See section 202(b) of Pub. L. 92–226, set out as a note under section 2346 of this title, and

sections 2348c and 2349aa–5 of this title.

PRIOR PROVISIONS

A prior section 2151d, Pub. L. 87–195, pt. I, §106, as added Pub. L. 93–189, §2(3), Dec. 17, 1973, 87 Stat. 715, authorized additional appropriations of $53,000,000 for fiscal years 1974, and 1975, for assistance to solve selected development problems in such fields as transportation, power, industry, urban development, and export development, prior to repeal by section 306(1) of Pub. L. 94–161.

AMENDMENTS

1985—Subsec. (b)(1). Pub. L. 99–83, §1211(a)(2), struck out par. (A) designation, and struck out par. (B) which related to use of funds in fiscal year 1981 for geological and geophysical survey work.

Subsec. (e)(1). Pub. L. 99–83, §307(a), amended par. (1) generally, substituting provisions authorizing appropriations of $207,000,000 for fiscal years 1986 and 1987 for provisions authorizing appropriations of $147,200,000 for fiscal years 1982 and 1983.

Subsec. (f). Pub. L. 99–83, §307(b), added subsec. (f).

1981—Subsec. (d)(3). Pub. L. 97–113, §304(a), authorized assistance for programs of disaster preparedness, including the prediction of and contingency planning for natural disasters abroad.

Subsec. (e)(1). Pub. L. 97–113, §304(b), substituted appropriations of $147,200,000 for fiscal years 1982 and 1983, for appropriations of $140,000,000 for fiscal year 1981.

1980—Subsec. (a). Pub. L. 96–533, §304(b), designated existing provisions as subpar. (1)(A), substituted subpar. (B), (C), and (D) for par. (2), (3), and (4) designations, substituted in subpar. (C), cl. (i), (ii), and (iii) for (A), (B), and (C) designations, and added par. (2).

Subsec. (b). Pub. L. 96–533, §304(c), (d), designated existing provisions as subpar. (1)(A), substituted subpar. (B) for par. (2) designation, substituted in subpar. (1)(B) "fiscal year 1981 shall be used for purposes of subparagraph (A)" for "fiscal year 1980 shall be used for purposes of paragraph (1)" and added par. (2).

Subsecs. (c) to (e). Pub. L. 96–533, §304(d)–(f), added subsec. (c), redesignated former subsecs. (c) and (d) as (d) and (e), respectively, and in subsec. (e) designated text as pars. (1) and (2), and in par. (1) as so designated, substituted appropriations authorization of "$140,000,000 for the fiscal year 1981" for such appropriation of "$125,000,000 for the fiscal year 1980".

1979—Subsecs. (a), (b). Pub. L. 96–53, §104(b)(2), (3), added subsecs. (a) and (b). Former subsecs. (a) and (b) redesignated (c) and (d), respectively.

Subsec. (c). Pub. L. 96–53, §104(b)(1), (2), redesignated former subsec. (a) as (c), struck out par. (2), relating to programs to increase energy production and conservation, and redesignated pars. (3) to (6) as (2) to (5), respectively.

Subsec. (d). Pub. L. 96–53, §§104(b)(2), 105, redesignated former subsec. (b) as (d) and substituted provisions authorizing appropriations for fiscal year 1980 of $125,000,000, for provisions authorizing appropriations for fiscal year 1979 of $126,244,000, and setting forth requirements for appropriations available to private voluntary agencies of the United States.

1978—Subsec. (b). Pub. L. 95–424 substituted "$126,244,000 for the fiscal year 1979, which amount is" for "$104,500,000 for the fiscal year 1977 and $105,000,000 for the fiscal year 1978, which amounts are".

1977—Subsec. (b). Pub. L. 95–88 struck out provisions authorizing an appropriation of $99,550,000 for fiscal year 1976 and inserted provisions authorizing an appropriation of $105,000,000 for fiscal year 1978.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–83 effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as a note under section 2151–1 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–53 effective Oct. 1, 1979, see section 512(a) of Pub. L. 96–53, set out as a note under section 2151 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–424 effective Oct. 1, 1978, see section 605 of Pub. L. 95–424, set out as a note under section 2151 of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§2151e. Appropriate technology

(a) In carrying out activities under this part, the President shall place special emphasis on the use of relatively smaller, cost-saving, labor-using technologies that are generally most appropriate for the small farms, small businesses, and small incomes of the poor.

(b) Funds made available to carry out this part should be used to the extent practicable for activities in the field of appropriate technology, including support of an expanded and coordinated private effort to promote the development and dissemination of appropriate technology in developing countries.

(Pub. L. 87–195, pt. I, §107, as added Pub. L. 94–161, title III, §306(2), Dec. 20, 1975, 89 Stat. 859; amended Pub. L. 95–424, title I, §107, Oct. 6, 1978, 92 Stat. 947.)

PRIOR PROVISIONS

A prior section 2151e, Pub. L. 87–195, pt. I, §107, as added Pub. L. 93–189, §2(3), Dec. 17, 1973, 87 Stat. 715, authorized additional appropriations of $39,000,000 for fiscal years 1974, and 1975, for assistance to select countries and organizations in support of general economy of recipient countries as for development programs conducted by private international organizations, prior to repeal by section 306(1) of Pub. L. 94–161. See section 2151d of this title.

AMENDMENTS

1978—Pub. L. 95–424 designated existing provisions as subsec. (a), substituted provisions mandating that the President place special emphasis on the use of relatively smaller, cost-saving, labor-using technologies generally more appropriate for small farms, small businesses and small incomes of the poor, for provisions authorizing the use of $20,000,000 for activities in the field of intermediate technology, directing the Agency for International Development to prepare a proposal to carry out this section and to keep Congress informed, and to implement such proposal, and added subsec. (b).

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–424 effective Oct. 1, 1978, see section 605 of Pub. L. 95–424, set out as a note under section 2151 of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§2151f. Transferred

CODIFICATION

Section, Pub. L. 87–195, pt. I, §108, as added Pub. L. 98–151, §101(b)(2), Nov. 14, 1983, 97 Stat. 972 and amended, which related to microenterprise development credits, was renumbered section 256 of Pub. L. 87–195 by Pub. L. 108–484, §4(a), (b), Dec. 23, 2004, 118 Stat. 3926, 3927, and transferred to section 2212 of this title.

PRIOR PROVISIONS

A prior section 2151f, Pub. L. 87–195, pt. I, §108, as added Pub. L. 93–189, §2(3), Dec. 17, 1973, 87 Stat. 715, related to application of subpart I, II, or X of part II of this subchapter to assistance under this part, prior to repeal by Pub. L. 95–424, title I, §102(g)(2)(K)(i), Oct. 6, 1978, 92 Stat. 943, eff. Oct. 1, 1978.

§2151g. Transfer of funds

Whenever the President determines it to be necessary for the purposes of this part, not to exceed 15 per centum of the funds made available for any provision of this part may be transferred to, and consolidated with, the funds made available for any other provision of this part, and may be used for any of the purposes for which such funds may be used, except that the total in the provision for the benefit of which the transfer is made shall not be increased by more than 25 per centum of the

amount of funds made available for such provision. The authority of sections 2360(a) and 2364(a) of this title may not be used to transfer funds made available under this part for use for purposes of any other provision of this chapter, except that the authority of such sections may be used to transfer for the purposes of section 2427 of this title not to exceed five per centum of the amount of funds made available for section 2427(a)(1) of this title.

(Pub. L. 87–195, pt. I, §109, as added Pub. L. 93–189, §2(3), Dec. 17, 1973, 87 Stat. 716; amended Pub. L. 95–88, title I, §129(b), Aug. 3, 1977, 91 Stat. 543; Pub. L. 95–424, title I, §102(g)(2)(K)(ii), Oct. 6, 1978, 92 Stat. 943.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

AMENDMENTS

1978—Pub. L. 95–424 substituted "Whenever" for "Notwithstanding section 2151f of this title, whenever".

1977—Pub. L. 95–88 provided that the authority under sections 2360(a) and 2364(a) of this title may be used to transfer for the purposes of section 2427 of this title not to exceed five per centum of the amount of funds made available for section 2427(a)(1) of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–424 effective Oct. 1, 1978, see section 605 of Pub. L. 95–424, set out as a note under section 2151 of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§2151h. Cost-sharing

No assistance shall be furnished by the United States Government to a country under sections 2151a through 2151d of this title until the country provides assurances to the President, and the President is satisfied, that such country will provide at least 25 per centum of the costs of the entire program, project, or activity with respect to which such assistance is to be furnished, except that such costs borne by such country may be provided on an "inkind" basis.

(Pub. L. 87–195, pt. I, §110, as added Pub. L. 93–189, §2(3), Dec. 17, 1973, 87 Stat. 716; amended Pub. L. 94–161, title III, §307, Dec. 20, 1975, 89 Stat. 859; Pub. L. 95–88, title I, §106, Aug. 3, 1977, 91 Stat. 535; Pub. L. 95–424, title I, §112(b), Oct. 6, 1978, 92 Stat. 949; Pub. L. 99–83, title XII, §1211(a)(3), Aug. 8, 1985, 99 Stat. 279.)

REFERENCES TO SECTIONS 2151A THROUGH 2151D DEEMED TO INCLUDE SECTION 2293

References to sections 2151a through 2151d of this title are deemed to include a reference to section 2293 of this title. See section 2293(d)(1) of this title.

AMENDMENTS

1985—Pub. L. 99–83 struck out subsec. (a) designation, and struck out subsec. (b) which set forth funding limits for grant assistance under sections 2151a to 2151d of this title.

1978—Subsec. (a). Pub. L. 94–424 struck out provision, following "on an 'in-kind' basis", relating to waiver by the President of cost-sharing requirement in case of a project or activity in a country determined to be relatively least developed by the agency primarily responsible for administering subchapter I of this chapter.

Subsec. (b). Pub. L. 95–424 substituted "No" for "Except for grants to countries determined to be relatively least developed based on the United Nations Conference on Trade and Development list of 'relatively least developed countries', no".

1977—Subsec. (a). Pub. L. 95–88, §106(1), substituted "sections 2151a through 2151d" for "sections 2151a through 2151e".

Subsec. (b). Pub. L. 95–88, §106(2), inserted provisions creating an exception for grants to countries

determined to be relatively least developed based on the United Nations Conference on Trade and Development list of "relatively least developed countries" and substituted "sections 2151a through 2151d" for "sections 2151a through 2151e".

1975—Subsec. (a). Pub. L. 94–161 authorized Presidential waiver of cost-sharing as a condition for being furnished project or activity assistance in the case of a relatively least developed country.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–83 effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as a note under section 2151–1 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–424 effective Oct. 1, 1978, see section 605 of Pub. L. 95–424, set out as a note under section 2151 of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§2151i. Development and use of cooperatives

In order to strengthen the participation of the rural and urban poor in their country's development, high priority shall be given to increasing the use of funds made available under this chapter for technical and capital assistance in the development and use of cooperatives in the less developed countries which will enable and encourage greater numbers of the poor to help themselves toward a better life. In meeting the requirement of the preceding sentence, specific priority shall be given to the following:

(1) Agriculture

Technical assistance to low income farmers who form and develop member-owned cooperatives for farm supplies, marketing and value-added processing.

(2) Financial systems

The promotion of national credit union systems through credit union-to-credit union technical assistance that strengthens the ability of low income people and micro-entrepreneurs to save and to have access to credit for their own economic advancement.

(3) Infrastructure

The support of rural electric and telecommunication cooperatives for access for rural people and villages that lack reliable electric and telecommunications services.

(4) Housing and community services

The promotion of community-based cooperatives which provide employment opportunities and important services such as health clinics, self-help shelter, environmental improvements, group-owned businesses, and other activities.

(Pub. L. 87–195, pt. I, §111, as added Pub. L. 93–189, §2(3), Dec. 17, 1973, 87 Stat. 716; amended Pub. L. 94–161, title III, §308, Dec. 20, 1975, 89 Stat. 859; Pub. L. 95–88, title I, §107(a), Aug. 3, 1977, 91 Stat. 535; Pub. L. 96–53, title I, §122, Aug. 14, 1979, 93 Stat. 366; Pub. L. 106–309, title IV, §401(c)(2), Oct. 17, 2000, 114 Stat. 1097.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

AMENDMENTS

2000—Pub. L. 106–309 inserted at end "In meeting the requirement of the preceding sentence, specific priority shall be given to the following:" and pars. (1) to (4).

1979—Pub. L. 96–53 struck out provisions relating to availability of funds for fiscal year 1978 for technical assistance.

1977—Pub. L. 95–88 substituted "technical and capital assistance in the development and use of cooperatives" for "assistance in the development of cooperatives" and "$10,000,000 of the funds made available under this chapter for the fiscal year 1978 may be used only for technical assistance" for "$20,000,000 of such funds shall be used during the fiscal years 1976 and 1977, including the period from July 1, 1976, through September 30, 1976, only for technical assistance".

1975—Pub. L. 94–161 earmarked not less than $20,000,000 for technical assistance during fiscal years 1976 and 1977, including period from July 1, 1976, through Sept. 30, 1976, and deleted similar provision making such minimum sum available for use during fiscal years 1974 and 1975.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–53 effective Oct. 1, 1979, see section 512(a) of Pub. L. 96–53, set out as a note under section 2151 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Pub. L. 95–88, title I, §107(b), Aug. 3, 1977, 91 Stat. 536, provided that: "The amendments made by subsection (a) [amending this section] shall take effect on October 1, 1977."

FINDINGS

Pub. L. 106–309, title IV, §401(b), Oct. 17, 2000, 114 Stat. 1096, provided that: "The Congress makes the following findings:

"(1) It is in the mutual economic interest of the United States and peoples in developing and transitional countries to promote cooperatives and credit unions.

"(2) Self-help institutions, including cooperatives and credit unions, provide enhanced opportunities for people to participate directly in democratic decision-making for their economic and social benefit through ownership and control of business enterprises and through the mobilization of local capital and savings and such organizations should be fully utilized in fostering free market principles and the adoption of self-help approaches to development.

"(3) The United States seeks to encourage broad-based economic and social development by creating and supporting—

"(A) agricultural cooperatives that provide a means to lift low income farmers and rural people out of poverty and to better integrate them into national economies;

"(B) credit union networks that serve people of limited means through safe savings and by extending credit to families and microenterprises;

"(C) electric and telephone cooperatives that provide rural customers with power and telecommunications services essential to economic development;

"(D) housing and community-based cooperatives that provide low income shelter and work opportunities for the urban poor; and

"(E) mutual and cooperative insurance companies that provide risk protection for life and property to under-served populations often through group policies."

DECLARATIONS OF POLICY

Pub. L. 106–309, title IV, §401(c)(1), Oct. 17, 2000, 114 Stat. 1096, provided that: "The Congress supports the development and expansion of economic assistance programs that fully utilize cooperatives and credit unions, particularly those programs committed to—

"(A) international cooperative principles, democratic governance and involvement of women and ethnic minorities for economic and social development;

"(B) self-help mobilization of member savings and equity and retention of profits in the community, except for those programs that are dependent on donor financing;

"(C) market-oriented and value-added activities with the potential to reach large numbers of low income people and help them enter into the mainstream economy;

"(D) strengthening the participation of rural and urban poor to contribute to their country's economic development; and

"(E) utilization of technical assistance and training to better serve the member-owners."

REPORT

Pub. L. 106–309, title IV, §401(d), Oct. 17, 2000, 114 Stat. 1097, provided that: "Not later than 6 months after the date of the enactment of this Act [Oct. 17, 2000], the Administrator of the United States Agency for

International Development, in consultation with the heads of other appropriate agencies, shall prepare and submit to Congress a report on the implementation of section 111 of the Foreign Assistance Act of 1961 (22 U.S.C. 2151i), as amended by subsection (c)."

§2151j. Repealed. Pub. L. 93–559, §30(b), Dec. 30, 1974, 88 Stat. 1804

Section, Pub. L. 87–195, pt. I, §112, as added Pub. L. 93–189, §2(3), Dec. 17, 1973, 87 Stat. 716, related to police training prohibition. See section 2420 of this title.

§2151k. Integrating women into national economies; report

(a) Particular programs, projects, and activities

In recognition of the fact that women in developing countries play a significant role in economic production, family support, and the overall development process of the national economies of such countries, subchapter I of this chapter shall be administered so as to give particular attention to those programs, projects, and activities which tend to integrate women into the national economies of developing countries, thus improving their status and assisting the total development effort.

(b) Assistance to encourage participation and integration of women; prohibition against separate assistance program for women

(1) Up to $10,000,000 of the funds made available each fiscal year under this part and part X of this subchapter shall be used, in addition to funds otherwise available for such purposes, for assistance on such terms and conditions as the President may determine to encourage and promote the participation and integration of women as equal partners in the development process in the developing countries. These funds shall be used primarily to support activities which will increase the economic productivity and income earning capacity of women.

(2) Nothing in this section shall be construed to authorize the establishment of a separate development assistance program for women.

(c) Funds for United Nations Decade for Women

Not less than $500,000 of the funds made available under this part for the fiscal year 1982 shall be expended on international programs which support the original goals of the United Nations Decade for Women.

(Pub. L. 87–195, pt. I, §113, as added Pub. L. 93–189, §2(3), Dec. 17, 1973, 87 Stat. 716; amended Pub. L. 94–161, title III, §309, Dec. 20, 1975, 89 Stat. 860; Pub. L. 95–88, title I, §108, Aug. 3, 1977, 91 Stat. 536; Pub. L. 95–424, title I, §108, Oct. 6, 1978, 92 Stat. 947; Pub. L. 96–53, title I, §122, Aug. 14, 1979, 93 Stat. 366; Pub. L. 97–113, title III, §305, Dec. 29, 1981, 95 Stat. 1533; Pub. L. 101–513, title V, §562(d)(2), Nov. 5, 1990, 104 Stat. 2031.)

REFERENCES TO SUBCHAPTER I DEEMED TO INCLUDE CERTAIN PARTS OF SUBCHAPTER II

References to subchapter I of this chapter are deemed to include parts IV (§2346 et seq.), VI (§2348 et seq.), and VIII (§2349aa et seq.) of subchapter II of this chapter, and references to subchapter II are deemed to exclude such parts. See section 202(b) of Pub. L. 92–226, set out as a note under section 2346 of this title, and sections 2348c and 2349aa–5 of this title.

AMENDMENTS

1990—Subsec. (b)(1). Pub. L. 101–513 inserted "and part X of this subchapter" after "this part".

1981—Subsec. (c). Pub. L. 97–113 added subsec. (c).

1979—Subsec. (b). Pub. L. 96–53 redesignated subsec. (d) as (b), and repealed former subsec. (b) which related to Presidential report to Congress on the impact of development programs, etc., on the economic integration of women.

Subsec. (c). Pub. L. 96–53 repealed subsec. (c) which required the report under former subsec. (b) to be submitted not later than one year after Aug. 3, 1977.

Subsec. (d). Pub. L. 96–53 redesignated subsec. (d) as (b).

1978—Subsec. (d). Pub. L. 95–424 added subsec. (d).

1977—Pub. L. 95–88 designated existing provisions as subsec. (a), inserted provisions relating to a recognition of the fact that women in developing countries play a significant role in economic production, family support, and the overall development process of the national economies of such countries, and added subsecs. (b) and (c).

1975—Pub. L. 94–161 substituted "This subchapter" for "Sections 2151a through 2151e of this title".

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–53 effective Oct. 1, 1979, see section 512(a) of Pub. L. 96–53, set out as a note under section 2151 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–424 effective Oct. 1, 1978, see section 605 of Pub. L. 95–424, set out as a note under section 2151 of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§§2151*l*, 2151m. Repealed. Pub. L. 95–424, title I, §§102(f), 104(b), Oct. 6, 1978, 92 Stat. 942, 947

Section 2151l, Pub. L. 87–195, pt. I, §114, as added Pub. L. 93–189, §2(3), Dec. 17, 1973, 87 Stat. 716; amended Pub. L. 95–88, title I, §109, Aug. 3, 1977, 91 Stat. 536, prohibited use of funds for performance of abortions or involuntary sterilizations.

Section 2151m, Pub. L. 87–195, pt. I, §115, as added Pub. L. 93–559, §20, Dec. 30, 1974, 88 Stat. 1800; amended Pub. L. 95–88, title I, §110, Aug. 3, 1977, 91 Stat. 536, prohibited use of funds available under this part for any countries to which assistance is furnished under part IV of subchapter II of this chapter or under subchapter V of this chapter without specific authorization from Congress.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1978, see section 605 of Pub. L. 95–424, set out as an Effective Date of 1978 Amendment note under section 2151 of this title.

§2151n. Human rights and development assistance

(a) Violations barring assistance; assistance for needy people

No assistance may be provided under subchapter I of this chapter to the government of any country which engages in a consistent pattern of gross violations of internationally recognized human rights, including torture or cruel, inhuman, or degrading treatment or punishment, prolonged detention without charges, causing the disappearance of persons by the abduction and clandestine detention of those persons, or other flagrant denial of the right to life, liberty, and the security of person, unless such assistance will directly benefit the needy people in such country.

(b) [1] Information to Congressional committees for realization of assistance for needy people; concurrent resolution terminating assistance

In determining whether this standard is being met with regard to funds allocated under subchapter I of this chapter, the Committee on Foreign Relations of the Senate or the Committee on Foreign Affairs of the House of Representatives may require the Administrator primarily responsible for administering subchapter I of this chapter to submit in writing information demonstrating that such assistance will directly benefit the needy people in such country, together with a detailed explanation of the assistance to be provided (including the dollar amounts of such assistance) and an explanation

of how such assistance will directly benefit the needy people in such country. If either committee or either House of Congress disagrees with the Administrator's justification it may initiate action to terminate assistance to any country by a concurrent resolution under section 2367 of this title.

(b) [1] Protection of children from exploitation

No assistance may be provided to any government failing to take appropriate and adequate measures, within their means, to protect children from exploitation, abuse or forced conscription into military or paramilitary services.

(c) Factors considered

In determining whether or not a government falls within the provisions of subsection (a) and in formulating development assistance programs under subchapter I of this chapter, the Administrator shall consider, in consultation with the Assistant Secretary of State for Democracy, Human Rights, and Labor and in consultation with the Ambassador at Large for International Religious Freedom—

(1) the extent of cooperation of such government in permitting an unimpeded investigation of alleged violations of internationally recognized human rights by appropriate international organizations, including the International Committee of the Red Cross, or groups or persons acting under the authority of the United Nations or of the Organization of American States;

(2) specific actions which have been taken by the President or the Congress relating to multilateral or security assistance to a less developed country because of the human rights practices or policies of such country; and

(3) whether the government—

(A) has engaged in or tolerated particularly severe violations of religious freedom, as defined in section 6402 of this title; or

(B) has failed to undertake serious and sustained efforts to combat particularly severe violations of religious freedom (as defined in section 6402 of this title), when such efforts could have been reasonably undertaken.

(d) Report to Speaker of House and Committee on Foreign Relations of the Senate

The Secretary of State shall transmit to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate, by February 25 of each year, a full and complete report regarding—

(1) the status of internationally recognized human rights, within the meaning of subsection (a)—

(A) in countries that receive assistance under subchapter I of this chapter, and

(B) in all other foreign countries which are members of the United Nations and which are not otherwise the subject of a human rights report under this chapter;

(2) wherever applicable, practices regarding coercion in population control, including coerced abortion and involuntary sterilization;

(3) the status of child labor practices in each country, including—

(A) whether such country has adopted policies to protect children from exploitation in the workplace, including a prohibition of forced and bonded labor and policies regarding acceptable working conditions; and

(B) the extent to which each country enforces such policies, including the adequacy of the resources and oversight dedicated to such policies;

(4) the votes of each member of the United Nations Commission on Human Rights on all country-specific and thematic resolutions voted on at the Commission's annual session during the period covered during the preceding year;

(5) the extent to which each country has extended protection to refugees, including the provision of first asylum and resettlement;

(6) the steps the Administrator has taken to alter United States programs under subchapter I of this chapter in any country because of human rights considerations;

(7) wherever applicable, violations of religious freedom, including particularly severe violations of religious freedom (as defined in section 6402 of this title);

(8) wherever applicable, a description of the nature and extent of acts of anti-Semitism and anti-Semitic incitement that occur during the preceding year, including descriptions of—

(A) acts of physical violence against, or harassment of [2] Jewish people, and acts of violence against, or vandalism of [2] Jewish community institutions, including schools, synagogues, and cemeteries;

(B) instances of propaganda in government and nongovernment media that attempt to justify or promote racial hatred or incite acts of violence against Jewish people;

(C) the actions, if any, taken by the government of the country to respond to such violence and attacks or to eliminate such propaganda or incitement;

(D) the actions taken by such government to enact and enforce laws relating to the protection of the right to religious freedom of Jewish people; and

(E) the efforts of such government to promote anti-bias and tolerance education;

(9) wherever applicable, consolidated information regarding the commission of war crimes, crimes against humanity, and evidence of acts that may constitute genocide (as defined in article 2 of the Convention on the Prevention and Punishment of the Crime of Genocide and modified by the United States instrument of ratification to that convention and section 2(a) of the Genocide Convention Implementation Act of 1987);

(10) for each country with respect to which the report indicates that extrajudicial killings, torture, or other serious violations of human rights have occurred in the country, the extent to which the United States has taken or will take action to encourage an end to such practices in the country;

(11)(A) wherever applicable, a description of the nature and extent—

(i) of the compulsory recruitment and conscription of individuals under the age of 18 by armed forces of the government of the country, government-supported paramilitaries, or other armed groups, and the participation of such individuals in such groups; and

(ii) that such individuals take a direct part in hostilities;

(B) what steps, if any, taken by the government of the country to eliminate such practices;

(C) such other information related to the use by such government of individuals under the age of 18 as soldiers, as determined to be appropriate by the Secretary; and

(12) wherever applicable—

(A) a description of the status of freedom of the press, including initiatives in favor of freedom of the press and efforts to improve or preserve, as appropriate, the independence of the media, together with an assessment of progress made as a result of those efforts;

(B) an identification of countries in which there were violations of freedom of the press, including direct physical attacks, imprisonment, indirect sources of pressure, and censorship by governments, military, intelligence, or police forces, criminal groups, or armed extremist or rebel groups; and

(C) in countries where there are particularly severe violations of freedom of the press—

(i) whether government authorities of each such country participate in, facilitate, or condone such violations of the freedom of the press; and

(ii) what steps the government of each such country has taken to preserve the safety and independence of the media, and to ensure the prosecution of those individuals who attack or murder journalists.

(e) Promotion of civil and political rights

The President is authorized and encouraged to use not less than $3,000,000 of the funds made available under this part, part X of this subchapter, and part IV of subchapter II of this chapter for each fiscal year for studies to identify, and for openly carrying out programs and activities which will encourage or promote increased adherence to civil and political rights, including the right to free

religious belief and practice, as set forth in the Universal Declaration of Human Rights, in countries eligible for assistance under this part or under part X of this subchapter, except that funds made available under part X of this subchapter may only be used under this subsection with respect to countries in sub-Saharan Africa. None of these funds may be used, directly or indirectly, to influence the outcome of any election in any country.

(f) Annual country reports on human rights practices

(1) The report required by subsection (d) shall include the following:

(A) A description of the nature and extent of severe forms of trafficking in persons, as defined in section 7102 of this title, in each foreign country.

(B) With respect to each country that is a country of origin, transit, or destination for victims of severe forms of trafficking in persons, an assessment of the efforts by the government of that country to combat such trafficking. The assessment shall address the following:

(i) Whether government authorities in that country participate in, facilitate, or condone such trafficking.

(ii) Which government authorities in that country are involved in activities to combat such trafficking.

(iii) What steps the government of that country has taken to prohibit government officials from participating in, facilitating, or condoning such trafficking, including the investigation, prosecution, and conviction of such officials.

(iv) What steps the government of that country has taken to prohibit other individuals from participating in such trafficking, including the investigation, prosecution, and conviction of individuals involved in severe forms of trafficking in persons, the criminal and civil penalties for such trafficking, and the efficacy of those penalties in eliminating or reducing such trafficking.

(v) What steps the government of that country has taken to assist victims of such trafficking, including efforts to prevent victims from being further victimized by traffickers, government officials, or others, grants of relief from deportation, and provision of humanitarian relief, including provision of mental and physical health care and shelter.

(vi) Whether the government of that country is cooperating with governments of other countries to extradite traffickers when requested, or, to the extent that such cooperation would be inconsistent with the laws of such country or with extradition treaties to which such country is a party, whether the government of that country is taking all appropriate measures to modify or replace such laws and treaties so as to permit such cooperation.

(vii) Whether the government of that country is assisting in international investigations of transnational trafficking networks and in other cooperative efforts to combat severe forms of trafficking in persons.

(viii) Whether the government of that country refrains from prosecuting victims of severe forms of trafficking in persons due to such victims having been trafficked, and refrains from other discriminatory treatment of such victims.

(ix) Whether the government of that country recognizes the rights of victims of severe forms of trafficking in persons and ensures their access to justice.

(C) Such other information relating to trafficking in persons as the Secretary of State considers appropriate.

(2) In compiling data and making assessments for the purposes of paragraph (1), United States diplomatic mission personnel shall consult with human rights organizations and other appropriate nongovernmental organizations.

(g) Child marriage status

(1) In general

The report required under subsection (d) shall include, for each country in which child marriage is prevalent, a description of the status of the practice of child marriage in such country.

(2) Defined term

In this subsection, the term "child marriage" means the marriage of a girl or boy who is—

(A) younger than the minimum age for marriage under the laws of the country in which such girl or boy is a resident; or

(B) younger than 18 years of age, if no such law exists.

(Pub. L. 87–195, pt. I, §116, as added Pub. L. 94–161, title III, §310, Dec. 20, 1975, 89 Stat. 860; amended Pub. L. 95–88, title I, §111, Aug. 3, 1977, 91 Stat. 537; Pub. L. 95–105, title I, §109(a)(2), Aug. 17, 1977, 91 Stat. 846; Pub. L. 95–424, title I, §109, Oct. 6, 1978, 92 Stat. 947; Pub. L. 96–53, title I, §106, title V, §504(a), Aug. 14, 1979, 93 Stat. 362, 378; Pub. L. 96–533, title III, §305, title VII, §701(a), Dec. 16, 1980, 94 Stat. 3147, 3156; Pub. L. 97–113, title III, §306, Dec. 29, 1981, 95 Stat. 1533; Pub. L. 98–164, title X, §1002(a), Nov. 22, 1983, 97 Stat. 1052; Pub. L. 99–440, title II, §202, Oct. 2, 1986, 100 Stat. 1095; Pub. L. 99–631, §1(b)(2), Nov. 7, 1986, 100 Stat. 3519; Pub. L. 100–204, title I, §127(1), Dec. 22, 1987, 101 Stat. 1342; Pub. L. 101–513, title V, §§562(d)(3), 599D, Nov. 5, 1990, 104 Stat. 2031, 2066; Pub. L. 103–149, §4(a)(3)(B), Nov. 23, 1993, 107 Stat. 1505; Pub. L. 103–236, title I, §162(e)(1), Apr. 30, 1994, 108 Stat. 405; Pub. L. 103–437, §9(a)(6), Nov. 2, 1994, 108 Stat. 4588; Pub. L. 104–319, title II, §201(a), Oct. 19, 1996, 110 Stat. 3866; Pub. L. 105–277, div. G, subdiv. B, title XXII, §2216, Oct. 21, 1998, 112 Stat. 2681–815; Pub. L. 105–292, title I, §102(d)(1), title IV, §421(a), title V, §501(b), Oct. 27, 1998, 112 Stat. 2794, 2809, 2811; Pub. L. 106–113, div. B, §§1000(a)(2) [title V, §597], 1000(a)(7) [div. A, title VIII, §806(a)], Nov. 29, 1999, 113 Stat. 1535, 1536, 1501A–126, 1501A–471; Pub. L. 106–386, div. A, §104(a), Oct. 28, 2000, 114 Stat. 1471; Pub. L. 107–228, div. A, title VI, §§665(a), 683(a), Sept. 30, 2002, 116 Stat. 1406, 1410; Pub. L. 108–332, §6(a)(1), Oct. 16, 2004, 118 Stat. 1285; Pub. L. 111–166, §2(1), May 17, 2010, 124 Stat. 1186; Pub. L. 113–4, title XII, §1207(b)(1), Mar. 7, 2013, 127 Stat. 141.)

REFERENCES IN TEXT

Section 2(a) of the Genocide Convention Implementation Act of 1987, referred to in subsec. (d)(8), probably means section 2(a) of the Genocide Convention Implementation Act of 1987 (the Proxmire Act), Pub. L. 100–606, Nov. 4, 1988, 102 Stat. 3045, which enacted chapter 50A (§1091 et seq.) of Title 18, Crimes and Criminal Procedure.

REFERENCES TO SUBCHAPTER I DEEMED TO INCLUDE CERTAIN PARTS OF SUBCHAPTER II

References to subchapter I of this chapter are deemed to include parts IV (§2346 et seq.), VI (§2348 et seq.), and VIII (§2349aa et seq.) of subchapter II of this chapter, and references to subchapter II are deemed to exclude such parts. See section 202(b) of Pub. L. 92–226, set out as a note under section 2346 of this title, and sections 2348c and 2349aa–5 of this title.

CODIFICATION

The amendment by section 102(d)(1) of Pub. L. 105–292 was executed before the amendment by Pub. L. 105–277 to reflect the probable intent of Congress.

AMENDMENTS

2013—Subsec. (g). Pub. L. 113–4 added subsec. (g).

2010—Subsec. (d)(12). Pub. L. 111–166 added par. (12).

2004—Subsec. (d)(8) to (11). Pub. L. 108–332 added par. (8) and redesignated former pars. (8) to (10) as (9) to (11), respectively.

2002—Subsec. (d)(9). Pub. L. 107–228, §665(a), added par. (9).

Subsec. (d)(10). Pub. L. 107–228, §683(a), added par. (10).

2000—Subsec. (f). Pub. L. 106–386 amended subsec. (f) generally, substituting present provisions for provisions listing information required for report under subsec. (d) of this section, providing for consultation with human rights and other appropriate nongovernmental organizations in compiling data for required information, and defining "trafficking" and "victims of trafficking" for purposes of subsection.

1999—Subsec. (d)(8). Pub. L. 106–113, §1000(a)(7) [div. A, title VIII, §806(a)], added par. (8).

Subsec. (f). Pub. L. 106–113, §1000(a)(2) [title V, §597], added subsec. (f).

1998—Subsec. (c). Pub. L. 105–292, §421(a)(1), inserted "and in consultation with the Ambassador at

Large for International Religious Freedom" after "Labor" in introductory provisions.

Subsec. (c)(3). Pub. L. 105–292, §421(a)(2)–(4), added par. (3).

Subsec. (d). Pub. L. 105–277, §2216(1), substituted "February 25" for "January 31" in introductory provisions.

Subsec. (d)(3) to (5). Pub. L. 105–277, §2216(2), (3), added par. (3) and redesignated former pars. (3) and (4) as (4) and (5), respectively. Former par. (5) redesignated (6).

Subsec. (d)(6). Pub. L. 105–277, §2216(2), redesignated par. (5) as (6). Former par. (6) redesignated (7). See Codification note above.

Pub. L. 105–292, §102(d)(1), added par. (6). See Codification note above.

Subsec. (d)(7). Pub. L. 105–277, §2216(2), redesignated par. (6) as (7). See Codification note above.

Subsec. (e). Pub. L. 105–292, §501(b), inserted ", including the right to free religious belief and practice" after "adherence to civil and political rights".

1996—Subsec. (d)(3) to (5). Pub. L. 104–319 added pars. (3) and (4) and redesignated former par. (3) as (5).

1994—Subsec. (b). Pub. L. 103–437 substituted "Foreign Affairs" for "International Relations" in subsec. (b) relating to submittal of information to Congress.

Subsec. (c). Pub. L. 103–236 substituted "Assistant Secretary of State for Democracy, Human Rights, and Labor" for "Assistant Secretary for Human Rights and Humanitarian Affairs" in introductory provisions.

1993—Subsec. (e). Pub. L. 103–149 struck out "(1)" before "The President is authorized" and struck out par. (2) which authorized grants to nongovernmental organizations in South Africa promoting political, economic, social, juridical, and humanitarian efforts to foster a just society and to help victims of apartheid.

Subsecs. (f), (g). Pub. L. 103–149 struck out subsec. (f) which authorized assistance to political detainees and prisoners and support for black-led community organizations in South Africa and subsec. (g) which authorized assistance to families of victims of violence in South Africa.

1990—Subsec. (b). Pub. L. 101–513, §599D, added subsec. (b) prohibiting assistance to governments failing to protect children from exploitation, abuse or conscription.

Subsec. (e)(1). Pub. L. 101–513, §562(d)(3), inserted ", part X of this subchapter," after "available under this part" and "or under part X of this subchapter, except that funds made available under part X of this subchapter may only be used under this subsection with respect to countries in sub-Saharan Africa" before period at end of first sentence.

1987—Subsec. (d). Pub. L. 100–204 added par. (2) and redesignated former par. (2) as (3).

1986—Subsec. (e)(2)(A). Pub. L. 99–440, §202(a), inserted authorization of appropriations of $1,500,000 for fiscal year 1986 and for each fiscal year thereafter.

Subsec. (f). Pub. L. 99–440, §202(b), added subsec. (f).

Subsec. (f)(2)(B). Pub. L. 99–631 substituted "subsection" for "paragraph".

Subsec. (g). Pub. L. 99–440, §202(b), added subsec. (g).

1983—Subsec. (e). Pub. L. 98–164, §1002(a), designated existing provisions as par. (1), substituted "$3,000,000 of the funds made available under this part and part IV of subchapter II of this chapter for each fiscal year" for "$1,500,000 of the funds made available under this part for each of the fiscal years 1982 and 1983", and added par. (2).

1981—Subsec. (e). Pub. L. 97–113 substituted "each of the fiscal years 1982 and 1983" for "the fiscal year 1981".

1980—Subsec. (a). Pub. L. 96–533, §701(a), prohibited assistance for government of any country causing the disappearance of persons by the abduction and clandestine detention of those persons.

Subsec. (e). Pub. L. 96–533, §305, substituted "1981" for "1980".

1979—Subsec. (d)(1). Pub. L. 96–53, §504(a), designated existing provisions as cl. (A) and added cl. (B).

Subsec. (e). Pub. L. 96–53, §106, substituted "1980" for "1979".

1978—Subsec. (e). Pub. L. 95–424 substituted "The President is authorized and encouraged to use not less than $1,500,000 of" for "Of", and "1979" for "1978, not less than $750,000 may be used only".

1977—Subsec. (c). Pub. L. 95–105 substituted "Assistant Secretary" for "Coordinator".

Pub. L. 95–88, §111(a), inserted references to the formulation of development assistance programs under this subchapter and the consultation of the Administrator with the Coordinator for Human Rights and Humanitarian Affairs in the introductory provisions, designated the remainder of the existing provisions as par. (1), and added par. (2).

Subsec. (d). Pub. L. 95–88, §111(a), substituted provisions directing the Secretary of State to transmit to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate, by January 31 of each year, a full and complete report regarding the status of internationally recognized human rights in countries that receive development assistance and the steps which the Administrator has taken to alter United

States development assistance programs in any country because of human rights considerations for provisions directing the President to transmit to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate, in the annual presentation materials on proposed economic development assistance programs, a full and complete report regarding the steps he has taken to carry out the provisions of this section.

Subsec. (e). Pub. L. 95–88, §111(b), added subsec. (e).

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108–332, §6(c), Oct. 16, 2004, 118 Stat. 1286, provided that:"The amendments made by subsections (a) and (b) [amending this section and sections 2304 and 6412 of this title] shall apply beginning with the first report under sections 116(d) and 502B(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n(d) and 2304(b)) and section 102(b) of the International Religious Freedom Act of 1998 (22 U.S.C. 6312(b) [6412(b)]) submitted more than 180 days after the date of the enactment of this Act [Oct. 16, 2004]."

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–236 applicable with respect to officials, offices, and bureaus of Department of State when executive orders, regulations, or departmental directives implementing the amendments by sections 161 and 162 of Pub. L. 103–236 become effective, or 90 days after Apr. 30, 1994, whichever comes earlier, see section 161(b) of Pub. L. 103–236, as amended, set out as a note under section 2651a of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–631 effective Oct. 2, 1986, see section 1(c) of Pub. L. 99–631, set out as a note under section 2151c of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–53 effective Oct. 1, 1979, see section 512(a) of Pub. L. 96–53, set out as a note under section 2151 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–424 effective Oct. 1, 1978, see section 605 of Pub. L. 95–424, set out as a note under section 2151 of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

ANNUAL REPORT ON ADVANCING FREEDOM AND DEMOCRACY

Pub. L. 107–228, div. A, title VI, §665(c), Sept. 30, 2002, 116 Stat. 1407, as amended by Pub. L. 110–53, title XXI, §2121(b), (d), Aug. 3, 2007, 121 Stat. 532, provided that: "The information to be included in the report required by sections 116(d) and 502B(b) of the Foreign Assistance Act of 1961 [22 U.S.C. 2151n(d), 2304(b)] pursuant to the amendments made by subsections (a) and (b) [amending this section and section 2304 of this title] may be submitted by the Secretary as a separate report entitled the Annual Report on Advancing Freedom and Democracy. If the Secretary elects to submit such information as a separate report, such report shall be submitted not later than 90 days after the date of submission of the report required by section [sic] 116(d) and 502B(b) of the Foreign Assistance Act of 1961."

[For definition of "Secretary" as used in section 665(c) of Pub. L. 107–228, set out above, see section 3 of Pub. L. 107–228, set out as a note under section 2651 of this title.]

ANNUAL REPORTS ON UNITED STATES-VIETNAM HUMAN RIGHTS DIALOGUE MEETINGS

Pub. L. 107–228, div. A, title VI, §702, Sept. 30, 2002, 116 Stat. 1420, provided that: "Not later than December 31 of each year or 60 days after the second United States-Vietnam human rights dialogue meeting held in a calendar year, whichever is earlier, the Secretary shall submit to the appropriate congressional committees a report covering the issues discussed at the previous two meetings and describing to what extent the Government of Vietnam has made progress during the calendar year toward achieving the following objectives:

"(1) Improving the Government of Vietnam's commercial and criminal codes to bring them into conformity with international standards, including the repeal of the Government of Vietnam's administrative detention decree (Directive 31/CP).

"(2) Releasing political and religious activists who have been imprisoned or otherwise detained by the Government of Vietnam, and ceasing surveillance and harassment of those who have been released.

"(3) Ending official restrictions on religious activity, including implementing the recommendations of the United Nations Special Rapporteur on Religious Intolerance.

"(4) Promoting freedom for the press, including freedom of movement of members of the Vietnamese and foreign press.

"(5) Improving prison conditions and providing transparency in the penal system of Vietnam, including implementing the recommendations of the United Nations Working Group on Arbitrary Detention.

"(6) Respecting the basic rights of indigenous minority groups, especially in the central and northern highlands of Vietnam.

"(7) Respecting the basic rights of workers, including working with the International Labor Organization to improve mechanisms for promoting such rights.

"(8) Cooperating with requests by the United States to obtain full and free access to persons who may be eligible for admission to the United States as refugees or immigrants, and allowing such persons to leave Vietnam without being subjected to extortion or other corrupt practices."

[For definitions of "Secretary" and "appropriate congressional committees" as used in section 702 of Pub. L. 107–228, set out above, see section 3 of Pub. L. 107–228, set out as a note under section 2651 of this title.]

ASSISTANCE FOR PROMOTING RELIGIOUS FREEDOM

Pub. L. 105–292, title V, §501(a), Oct. 27, 1998, 112 Stat. 2811, provided that: "Congress makes the following findings:

"(1) In many nations where severe violations of religious freedom occur, there is not sufficient statutory legal protection for religious minorities or there is not sufficient cultural and social understanding of international norms of religious freedom.

"(2) Accordingly, in the provision of foreign assistance, the United States should make a priority of promoting and developing legal protections and cultural respect for religious freedom."

REPORT ON HUMAN RIGHTS TO COMMITTEES ON APPROPRIATIONS

Pub. L. 102–391, title V, §511(b), Oct. 6, 1992, 106 Stat. 1658, as amended by Pub. L. 106–429, §101(a) [title V, §590], Nov. 6, 2000, 114 Stat. 1900, 1900A–59, provided that: "The Secretary of State shall also transmit the report required by section 116(d) of the Foreign Assistance Act of 1961 [22 U.S.C. 2151n(d)] to the Committees on Appropriations each year by the date specified in that section: *Provided*, That each such report submitted pursuant to such section shall (1) include a review of each country's commitment to children's rights and welfare as called for by the Declaration of the World Summit for Children; [(2) Repealed. Pub. L. 106–429, §101(a) [title V, §590], Nov. 6, 2000, 114 Stat. 1900, 1900A–59;] (3) describe the extent to which indigenous people are able to participate in decisions affecting their lands, cultures, traditions and the allocation of natural resources, and assess the extent of protection of their civil and political rights."

REPORT ON IMPACT ON FOREIGN RELATIONS OF UNITED STATES OF REPORTS ON HUMAN RIGHTS PRACTICES OF FOREIGN GOVERNMENTS

Pub. L. 96–53, title V, §504(b), Aug. 14, 1979, 93 Stat. 378, which required Secretary of State to report by Nov. 15, 1979, foreign relations impact made by reports of human rights violations of foreign governments, was repealed by Pub. L. 97–113, title VII, §734(a)(3), Dec. 29, 1981, 95 Stat. 1560.

[1] *So in original. Two subsecs. (b) have been enacted.*

[2] *So in original. Probably should be followed by a comma.*

§2151n–1. Repealed. Pub. L. 103–236, title I, §139(4), Apr. 30, 1994, 108 Stat. 397

Section, Pub. L. 95–105, title I, §108, Aug. 17, 1977, 91 Stat. 846, directed Secretary of State to report annually to Congress about American citizens in foreign jails.

§2151n–2. Human Rights and Democracy Fund

(a) Establishment of Fund

There is established a Human Rights and Democracy Fund (in this section referred to as the "Fund") to be administered by the Assistant Secretary of State for Democracy, Human Rights, and Labor.

(b) Purposes of Fund

The purposes of the Fund shall be—

(1) to support defenders of human rights;

(2) to assist the victims of human rights violations;

(3) to respond to human rights emergencies;

(4) to promote and encourage the growth of democracy, including the support for nongovernmental organizations in foreign countries; and

(5) to carry out such other related activities as are consistent with paragraphs (1) through (4).

(c) Funding

(1) In general

Of the amounts made available to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 [22 U.S.C. 2346 et seq.] for fiscal year 2003, $21,500,000 is authorized to be available to the Fund for carrying out the purposes described in subsection (b). Amounts made available to the Fund under this paragraph shall also be deemed to have been made available under section 116(e) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n(e)).

(2) Allocation of funds for the Documentation Center of Cambodia

Of the amount authorized to be available to the Fund under paragraph (1) for fiscal year 2003, $1,000,000 is authorized to be available for the Documentation Center of Cambodia for the purpose of collecting, cataloguing, and disseminating information about the atrocities committed by the Khmer Rouge against the Cambodian people.

(3) Father John Kaiser Memorial Fund

Of the amount authorized to be available to the Fund under paragraph (1) for fiscal year 2003, $500,000 is authorized to be available to advance the extraordinary work and values of Father John Kaiser with respect to solving ethnic conflict and promoting government accountability and respect for human rights. The amount made available under this paragraph may be referred to as the "Father John Kaiser Memorial Fund".

(Pub. L. 107–228, div. A, title VI, §664, Sept. 30, 2002, 116 Stat. 1406.)

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsec. (c)(1), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended. Chapter 4 of part II of the Act is classified generally to part IV (§2346 et seq.) of subchapter II of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

CODIFICATION

Section was enacted as part of the Freedom Investment Act of 2002, and also as part of the Department of State Authorization Act, Fiscal Year 2003 and the Foreign Relations Authorization Act, Fiscal Year 2003, and not as part of the Foreign Assistance Act of 1961 which comprises this chapter.

PURPOSES

Pub. L. 107–228, div. A, title VI, §662, Sept. 30, 2002, 116 Stat. 1405, provided that: "The purposes of this subtitle [subtitle E (§§661–665) of title VI of div. A of Pub. L. 107–228, see Short Title of 2002 Amendments note set out under section 2151 of this title] are the following:

"(1) To underscore that promoting and protecting human rights is in the national interests of the United States and is consistent with American values and beliefs.

"(2) To establish a goal of devoting one percent of the funds available to the Department under 'Diplomatic and Consular Programs', other than such funds that will be made available for worldwide security upgrades and information resource management, to enhance the ability of the United States to promote respect for human rights and the protection of human rights defenders."

[For definition of "Department" as used in section 662 of Pub. L. 107–228, set out above, see section 3 of

Pub. L. 107–228, set out as a note under section 2651 of this title.]

§2151*o*. Repealed. Pub. L. 103–149, §4(a)(3)(B), Nov. 23, 1993, 107 Stat. 1505

Section, Pub. L. 87–195, pt. I, §117, as added Pub. L. 99–440, title II, §201(b), Oct. 2, 1986, 100 Stat. 1094, related to assistance for disadvantaged South Africans.

A prior section 2151o, Pub. L. 87–195, pt. 1, §117, as added Pub. L. 95–88, title I, §112, Aug. 3, 1977, 91 Stat. 537, related to a strategy for programs of nutrition and health improvement for mothers and children, prior to repeal by Pub. L. 95–424, title I, §103(c), Oct. 6, 1978, 92 Stat. 945, eff. Oct. 1, 1978.

§2151p. Environmental and natural resources

(a) Congressional statement of findings

The Congress finds that if current trends in the degradation of natural resources in developing countries continue, they will severely undermine the best efforts to meet basic human needs, to achieve sustained economic growth, and to prevent international tension and conflict. The Congress also finds that the world faces enormous, urgent, and complex problems, with respect to natural resources, which require new forms of cooperation between the United States and developing countries to prevent such problems from becoming unmanageable. It is, therefore, in the economic and security interest of the United States to provide leadership both in thoroughly reassessing policies relating to natural resources and the environment, and in cooperating extensively with developing countries in order to achieve environmentally sound development.

(b) Assistance authority and emphasis

In order to address the serious problems described in subsection (a), the President is authorized to furnish assistance under subchapter I of this chapter for developing and strengthening the capacity of developing countries to protect and manage their environment and natural resources. Special efforts shall be made to maintain and where possible to restore the land, vegetation, water, wildlife, and other resources upon which depend economic growth and human well-being, especially of the poor.

(c) Implementation considerations applicable to programs and projects

(1) The President, in implementing programs and projects under this part and part X of this subchapter, shall take fully into account the impact of such programs and projects upon the environment and natural resources of developing countries. Subject to such procedures as the President considers appropriate, the President shall require all agencies and officials responsible for programs or projects under this part and part X of this subchapter—

(A) to prepare and take fully into account an environmental impact statement for any program or project under this part and part X of this subchapter significantly affecting the environment of the global commons outside the jurisdiction of any country, the environment of the United States, or other aspects of the environment which the President may specify; and

(B) to prepare and take fully into account an environmental assessment of any proposed program or project under this part and part X of this subchapter significantly affecting the environment of any foreign country.

Such agencies and officials should, where appropriate, use local technical resources in preparing environmental impact statements and environmental assessments pursuant to this subsection.

(2) The President may establish exceptions from the requirements of this subsection for emergency conditions and for cases in which compliance with those requirements would be seriously detrimental to the foreign policy interests of the United States.

(Pub. L. 87–195, pt. I, §117, formerly §118, as added Pub. L. 95–88, title I, §113(a), Aug. 3, 1977, 91 Stat. 537; amended Pub. L. 95–424, title I, §110, Oct. 6, 1978, 92 Stat. 948; Pub. L. 96–53, title I,

§122, Aug. 14, 1979, 93 Stat. 366; Pub. L. 97–113, title III, §307, Dec. 29, 1981, 95 Stat. 1533; renumbered §117 and amended Pub. L. 99–529, title III, §301(1), (2), Oct. 24, 1986, 100 Stat. 3014; Pub. L. 101–513, title V, §562(d)(4), Nov. 5, 1990, 104 Stat. 2031.)

REFERENCES TO SUBCHAPTER I DEEMED TO INCLUDE CERTAIN PARTS OF SUBCHAPTER II

References to subchapter I of this chapter are deemed to include parts IV (§2346 et seq.), VI (§2348 et seq.), and VIII (§2349aa et seq.) of subchapter II of this chapter, and references to subchapter II are deemed to exclude such parts. See section 202(b) of Pub. L. 92–226, set out as a note under section 2346 of this title, and sections 2348c and 2349aa–5 of this title.

CODIFICATION

Other sections 117 of Pub. L. 87–195, pt. I, were classified to section 2151o of this title prior to repeal by Pub. L. 95–424 and Pub. L. 103–149.

AMENDMENTS

1990—Subsec. (c)(1). Pub. L. 101–513 inserted "and part X of this subchapter" after "this part" wherever appearing.

1986—Subsec. (d). Pub. L. 99–529, §301(2), struck out subsec. (d) relating to loss of tropical forests in developing countries. See section 2151p–1 of this title.

1981—Pub. L. 97–113 amended section generally, substituting subsecs. (a) to (d) for former subsecs. (a) and (b) which authorized President to furnish assistance under this subchapter for developing and strengthening capacity of less developed countries to protect and manage their environment and natural resources and directed President to take into consideration environmental consequences of development actions in carrying out this part.

1979—Subsec. (c). Pub. L. 96–53 repealed subsec. (c) which related to studies and report to Congress by the President on the identification of major environmental and natural resource problems.

1978—Pub. L. 95–424 designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–53 effective Oct. 1, 1979, see section 512(a) of Pub. L. 96–53, set out as a note under section 2151 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–424 effective Oct. 1, 1978, see section 605 of Pub. L. 95–424, set out as a note under section 2151 of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

CLEAN WATER FOR THE AMERICAS PARTNERSHIP

Pub. L. 107–228, div. A, title VI, subtitle D, Sept. 30, 2002, 116 Stat. 1402, provided that:

"SEC. 641. SHORT TITLE.

"This subtitle may be cited as the 'Clean Water for the Americas Partnership Act of 2002'.

"SEC. 642. DEFINITIONS.

"In this subtitle:

"(1) JOINT PROJECT.—The term 'joint project' means a project between a United States association or nonprofit entity and a Latin American or Caribbean association or nongovernmental organization.

"(2) LATIN AMERICAN OR CARIBBEAN NONGOVERNMENTAL ORGANIZATION.—The term 'Latin American or Caribbean nongovernmental organization' includes any institution of higher education, any private nonprofit entity involved in international education activities, or any research institute or other research organization, based in the region.

"(3) REGION.—The term 'region' refers to the region comprised of the member countries of the Organization of American States (other than the United States and Canada).

"(4) UNITED STATES ASSOCIATION.—The term 'United States association' means a business league described in section 501(c)(6) of the Internal Revenue Code of 1986 (26 U.S.C. 501(c)(6)), and exempt from taxation under section 501(a) of such Code (26 U.S.C. 501(a)).

"(5) UNITED STATES NONPROFIT ENTITY.—The term 'United States nonprofit entity' includes any institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)), any private nonprofit entity involved in international education activities, or any research institute or other research organization, based in the United States.

"SEC. 643. ESTABLISHMENT OF PROGRAM.

"The President is authorized to establish a program which shall be known as the 'Clean Water for the Americas Partnership'.

"SEC. 644. ENVIRONMENTAL ASSESSMENT.

"The President is authorized to conduct a comprehensive assessment of the environmental problems in the region to determine—

"(1) which environmental problems threaten human health the most, particularly the health of the urban poor;

"(2) which environmental problems are most threatening, in the long-term, to the region's natural resources;

"(3) which countries have the most pressing environmental problems; and

"(4) whether and to what extent there is a market for United States environmental technology, practices, knowledge, and innovations in the region.

"SEC. 645. ESTABLISHMENT OF TECHNOLOGY AMERICA CENTERS.

"(a) AUTHORITY TO ESTABLISH.—The President, acting through the Director General of the United States and Foreign Commercial Service of the Department of Commerce, is authorized to establish Technology America Centers (TEAMs) in the region to serve the entire region and, where appropriate, to establish TEAMs in urban areas of the region to focus on urban environmental problems.

"(b) FUNCTIONS.—The TEAMs would link United States private sector environmental technology firms with local partners, both public and private, by providing logistic and information support to United States firms seeking to find local partners and opportunities for environmental projects. TEAMs should emphasize assisting United States small businesses.

"(c) LOCATION.—In determining whether to locate a TEAM in a country, the President, acting through the Director General of the United States and Foreign Commercial Service of the Department of Commerce, shall take into account the country's need for logistic and informational support and the opportunities presented for United States firms in the country. A TEAM may be located in a country without regard to whether a mission of the United States Agency for International Development is established in that country.

"SEC. 646. PROMOTION OF WATER QUALITY, WATER TREATMENT SYSTEMS, AND ENERGY EFFICIENCY.

"Subject to the availability of appropriations, the President is authorized to provide matching grants to United States associations and United States nonprofit entities for the purpose of promoting water quality, water treatment systems, and energy efficiency in the region. The grants shall be used to support joint projects, including professional exchanges, academic fellowships, training programs in the United States or in the region, cooperation in regulatory review, development of training materials, the establishment and development in the region of local chapters of the associations or nonprofit entities, and the development of online exchanges.

"SEC. 647. GRANTS FOR PREFEASIBILITY STUDIES WITHIN A DESIGNATED SUBREGION.

"(a) GRANT AUTHORITY.—

"(1) IN GENERAL.—Subject to the availability of appropriations, the Director of the Trade and Development Agency is authorized to make grants for prefeasibility studies for water projects in any country within a single subregion or in a single country designated under paragraph (2).

"(2) DESIGNATION OF SUBREGION.—The Director of the Trade and Development Agency shall designate in advance a single subregion or a single country for purposes of paragraph (1).

"(b) MATCHING REQUIREMENT.—The Director of the Trade and Development Agency may not make any grant under this section unless there are made available non-Federal contributions in an amount equal to not less than 25 percent of the amount of Federal funds provided under the grant.

"(c) LIMITATION PER SINGLE PROJECT.—With respect to any single project, grant funds under this section shall be available only for the prefeasibility portion of that project.

"(d) DEFINITIONS.—In this section:

"(1) PREFEASIBILITY.—The term 'prefeasibility' means, with respect to a project, not more than 25 percent of the design phase of the project.

"(2) SUBREGION.—The term 'subregion' means an area within the region and includes areas such as Central America, the Andean region, and the Southern cone.

"SEC. 648. CLEAN WATER TECHNICAL SUPPORT COMMITTEE.

"(a) IN GENERAL.—The President is authorized to establish a Clean Water Technical Support Committee (in this section referred to as the 'Committee') to provide technical support and training services for individual water projects.

"(b) COMPOSITION.—The Committee shall consist of international investors, lenders, water service providers, suppliers, advisers, and others with a direct interest in accelerating development of water projects in the region.

"(c) FUNCTIONS.—Members of the Committee shall act as field advisers and may form specialized working groups to provide in-country training and technical assistance, and shall serve as a source of technical support to resolve barriers to project development.

"SEC. 649. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—There are authorized to be appropriated to the President $10,000,000 for each of the fiscal years 2003, 2004, and 2005 to carry out this subtitle.

"(b) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to subsection (a) are authorized to remain available until expended.

"SEC. 650. REPORT.

"Eighteen months after the establishment of the program pursuant to section 643, the President shall submit a report to the appropriate congressional committees containing—

"(1) an assessment of the progress made in carrying out the program established under this subtitle; and

"(2) any recommendations for the enactment of legislation to make changes in the program established under this subtitle.

"SEC. 651. TERMINATION DATE.

"(a) IN GENERAL.—Except as provided in subsection (b), the authorities of this subtitle shall terminate 3 years after the date of establishment of the program described in section 643.

"(b) EXCEPTION.—In lieu of the termination date specified in subsection (a), the termination required by that subsection shall take effect five years after the date of establishment of the program described in section 643 if, prior to the termination date specified in subsection (a), the President determines and certifies to the appropriate congressional committees that it would be in the national interest of the United States to continue the program described in such section 643 for an additional 2-year period.

"SEC. 652. EFFECTIVE DATE.

"This subtitle shall take effect 90 days after the date of enactment of this Act [Sept. 30, 2002]."

[For definition of "appropriate congressional committees" as used in subtitle D of title VI of div. A of Pub. L. 107–228, set out above, see section 3 of Pub. L. 107–228, set out as a note under section 2651 of this title.]

§2151p–1. Tropical forests

(a) Importance of forests and tree cover

In enacting section 2151a(b)(3) of this title the Congress recognized the importance of forests and tree cover to the developing countries. The Congress is particularly concerned about the continuing and accelerating alteration, destruction, and loss of tropical forests in developing countries, which pose a serious threat to development and the environment. Tropical forest destruction and loss—

(1) result in shortages of wood, especially wood for fuel; loss of biologically productive wetlands; siltation of lakes, reservoirs, and irrigation systems; floods; destruction of indigenous peoples; extinction of plant and animal species; reduced capacity for food production; and loss of genetic resources; and

(2) can result in desertification and destabilization of the earth's climate.

Properly managed tropical forests provide a sustained flow of resources essential to the economic growth of developing countries, as well as genetic resources of value to developed and developing countries alike.

(b) Priorities

The concerns expressed in subsection (a) and the recommendations of the United States Interagency Task Force on Tropical Forests shall be given high priority by the President—

(1) in formulating and carrying out programs and policies with respect to developing countries, including those relating to bilateral and multilateral assistance and those relating to private sector activities; and

(2) in seeking opportunities to coordinate public and private development and investment activities which affect forests in developing countries.

(c) Assistance to developing countries

In providing assistance to developing countries, the President shall do the following:

(1) Place a high priority on conservation and sustainable management of tropical forests.

(2) To the fullest extent feasible, engage in dialogues and exchanges of information with recipient countries—

(A) which stress the importance of conserving and sustainably managing forest resources for the long-term economic benefit of those countries, as well as the irreversible losses associated with forest destruction, and

(B) which identify and focus on policies of those countries which directly or indirectly contribute to deforestation.

(3) To the fullest extent feasible, support projects and activities—

(A) which offer employment and income alternatives to those who otherwise would cause destruction and loss of forests, and

(B) which help developing countries identify and implement alternatives to colonizing forested areas.

(4) To the fullest extent feasible, support training programs, educational efforts, and the establishment or strengthening of institutions which increase the capacity of developing countries to formulate forest policies, engage in relevant land-use planning, and otherwise improve the management of their forests.

(5) To the fullest extent feasible, help end destructive slash-and-burn agriculture by supporting stable and productive farming practices in areas already cleared or degraded and on lands which inevitably will be settled, with special emphasis on demonstrating the feasibility of agroforestry and other techniques which use technologies and methods suited to the local environment and traditional agricultural techniques and feature close consultation with and involvement of local people.

(6) To the fullest extent feasible, help conserve forests which have not yet been degraded, by helping to increase production on lands already cleared or degraded through support of reforestation, fuelwood, and other sustainable forestry projects and practices, making sure that local people are involved at all stages of project design and implementation.

(7) To the fullest extent feasible, support projects and other activities to conserve forested watersheds and rehabilitate those which have been deforested, making sure that local people are involved at all stages of project design and implementation.

(8) To the fullest extent feasible, support training, research, and other actions which lead to sustainable and more environmentally sound practices for timber harvesting, removal, and processing, including reforestation, soil conservation, and other activities to rehabilitate degraded forest lands.

(9) To the fullest extent feasible, support research to expand knowledge of tropical forests and identify alternatives which will prevent forest destruction, loss, or degradation, including research in agroforestry, sustainable management of natural forests, small-scale farms and gardens, small-scale animal husbandry, wider application of adopted traditional practices, and suitable crops and crop combinations.

(10) To the fullest extent feasible, conserve biological diversity in forest areas by—

(A) supporting and cooperating with United States Government agencies, other donors (both bilateral and multilateral), and other appropriate governmental, intergovernmental, and nongovernmental organizations in efforts to identify, establish, and maintain a representative network of protected tropical forest ecosystems on a worldwide basis;

(B) whenever appropriate, making the establishment of protected areas a condition of support for activities involving forest clearance or degradation; and

(C) helping developing countries identify tropical forest ecosystems and species in need of protection and establish and maintain appropriate protected areas.

(11) To the fullest extent feasible, engage in efforts to increase the awareness of United States Government agencies and other donors, both bilateral and multilateral, of the immediate and long-term value of tropical forests.

(12) To the fullest extent feasible, utilize the resources and abilities of all relevant United States Government agencies.

(13) Require that any program or project under this part significantly affecting tropical forests (including projects involving the planting of exotic plant species)—

(A) be based upon careful analysis of the alternatives available to achieve the best sustainable use of the land, and

(B) take full account of the environmental impacts of the proposed activities on biological diversity,

as provided for in the environmental procedures of the Agency for International Development.

(14) Deny assistance under this part for—

(A) the procurement or use of logging equipment, unless an environmental assessment indicates that all timber harvesting operations involved will be conducted in an environmentally sound manner which minimizes forest destruction and that the proposed activity will produce positive economic benefits and sustainable forest management systems; and

(B) actions which significantly degrade national parks or similar protected areas which contain tropical forests or introduce exotic plants or animals into such areas.

(15) Deny assistance under this part for the following activities unless an environmental assessment indicates that the proposed activity will contribute significantly and directly to improving the livelihood of the rural poor and will be conducted in an environmentally sound manner which supports sustainable development:

(A) Activities which would result in the conversion of forest lands to the rearing of livestock.

(B) The construction, upgrading, or maintenance of roads (including temporary haul roads for logging or other extractive industries) which pass through relatively undegraded forest lands.

(C) The colonization of forest lands.

(D) The construction of dams or other water control structures which flood relatively undegraded forest lands.

(d) PVOs and other nongovernmental organizations

Whenever feasible, the President shall accomplish the objectives of this section through projects managed by private and voluntary organizations or international, regional, or national nongovernmental organizations which are active in the region or country where the project is located.

(e) Country analysis requirements

Each country development strategy statement or other country plan prepared by the Agency for International Development shall include an analysis of—

(1) the actions necessary in that country to achieve conservation and sustainable management of tropical forests, and

(2) the extent to which the actions proposed for support by the Agency meet the needs thus identified.

(f) Annual report

Each annual report required by section 2394(a) of this title shall include a report on the implementation of this section.

(Pub. L. 87–195, pt. I, §118, as added Pub. L. 99–529, title III, §301(3), Oct. 24, 1986, 100 Stat. 3014.)

PRIOR PROVISIONS

A prior section 118 of Pub. L. 87–195, pt. I, was renumbered section 117 and is classified to section 2151p of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§2151q. Endangered species

(a) Congressional findings and purposes

The Congress finds the survival of many animal and plant species is endangered by over-hunting, by the presence of toxic chemicals in water, air and soil, and by the destruction of habitats. The Congress further finds that the extinction of animal and plant species is an irreparable loss with potentially serious environmental and economic consequences for developing and developed countries alike. Accordingly, the preservation of animal and plant species through the regulation of the hunting and trade in endangered species, through limitations on the pollution of natural ecosystems, and through the protection of wildlife habitats should be an important objective of the United States development assistance.

(b) Remedial measures

In order to preserve biological diversity, the President is authorized to furnish assistance under subchapter I of this chapter, notwithstanding section 2420 of this title, to assist countries in protecting and maintaining wildlife habitats and in developing sound wildlife management and plant conservation programs. Special efforts should be made to establish and maintain wildlife sanctuaries, reserves, and parks; to enact and enforce anti-poaching measures; and to identify, study, and catalog animal and plant species, especially in tropical environments.

(c) Funding level

For fiscal year 1987, not less than $2,500,000 of the funds available to carry out subchapter I of this chapter (excluding funds made available to carry out section 2151b(c)(2) of this title, relating to the Child Survival Fund) shall be allocated for assistance pursuant to subsection (b) for activities which were not funded prior to fiscal year 1987. In addition, the Agency for International Development shall, to the fullest extent possible, continue and increase assistance pursuant to subsection (b) for activities for which assistance was provided in fiscal years prior to fiscal year 1987.

(d) Country analysis requirements

Each country development strategy statement or other country plan prepared by the Agency for International Development shall include an analysis of—

(1) the actions necessary in that country to conserve biological diversity, and

(2) the extent to which the actions proposed for support by the Agency meet the needs thus identified.

(e) Local involvement

To the fullest extent possible, projects supported under this section shall include close consultation with and involvement of local people at all stages of design and implementation.

(f) PVOs and other nongovernmental organizations

Whenever feasible, the objectives of this section shall be accomplished through projects managed by appropriate private and voluntary organizations, or international, regional, or national nongovernmental organizations, which are active in the region or country where the project is located.

(g) Actions by AID

The Administrator of the Agency for International Development shall—

(1) cooperate with appropriate international organizations, both governmental and nongovernmental;

(2) look to the World Conservation Strategy as an overall guide for actions to conserve biological diversity;

(3) engage in dialogues and exchanges of information with recipient countries which stress the importance of conserving biological diversity for the long-term economic benefit of those countries and which identify and focus on policies of those countries which directly or indirectly contribute to loss of biological diversity;

(4) support training and education efforts which improve the capacity of recipient countries to prevent loss of biological diversity;

(5) whenever possible, enter into long-term agreements in which the recipient country agrees to protect ecosystems or other wildlife habitats recommended for protection by relevant governmental or nongovernmental organizations or as a result of activities undertaken pursuant to paragraph (6), and the United States agrees to provide, subject to obtaining the necessary appropriations, additional assistance necessary for the establishment and maintenance of such protected areas;

(6) support, as necessary and in cooperation with the appropriate governmental and nongovernmental organizations, efforts to identify and survey ecosystems in recipient countries worthy of protection;

(7) cooperate with and support the relevant efforts of other agencies of the United States Government, including the United States Fish and Wildlife Service, the National Park Service, the Forest Service, and the Peace Corps;

(8) review the Agency's environmental regulations and revise them as necessary to ensure that ongoing and proposed actions by the Agency do not inadvertently endanger wildlife species or their critical habitats, harm protected areas, or have other adverse impacts on biological diversity (and shall report to the Congress within a year after October 24, 1986, on the actions taken pursuant to this paragraph);

(9) ensure that environmental profiles sponsored by the Agency include information needed for conservation of biological diversity; and

(10) deny any direct or indirect assistance under this part for actions which significantly degrade national parks or similar protected areas or introduce exotic plants or animals into such areas.

(h) Annual reports

Each annual report required by section 2394(a) of this title shall include, in a separate volume, a report on the implementation of this section.

(Pub. L. 87–195, pt. I, §119, as added Pub. L. 98–164, title VII, §702, Nov. 22, 1983, 97 Stat. 1045; amended Pub. L. 99–529, title III, §302, Oct. 24, 1986, 100 Stat. 3017; Pub. L. 101–167, title V, §533(d)(4)(A), Nov. 21, 1989, 103 Stat. 1227.)

REFERENCES TO SUBCHAPTER I DEEMED TO INCLUDE CERTAIN PARTS OF SUBCHAPTER II

References to subchapter I of this chapter are deemed to include parts IV (§2346 et seq.), VI (§2348 et seq.), and VIII (§2349aa et seq.) of subchapter II of this chapter, and references to subchapter II are deemed to exclude such parts. See section 202(b) of Pub. L. 92–226, set out as a note under section 2346 of this title, and sections 2348c and 2349aa–5 of this title.

PRIOR PROVISIONS

A prior section 2151q, Pub. L. 87–195, pt. I, §119, as added Pub. L. 95–88, title I, §114, Aug. 3, 1977, 91 Stat. 538; amended Pub. L. 95–424, title I, §111, Oct. 6, 1978, 92 Stat. 948; Pub. L. 96–53, title I, §§104(c), 107, Aug. 14, 1979, 93 Stat. 362, related to renewable and unconventional energy technologies, prior to repeal by Pub. L. 96–533, title III, §304(g), Dec. 16, 1980, 94 Stat. 3147.

AMENDMENTS

1989—Subsec. (b). Pub. L. 101–167 inserted ", notwithstanding section 2420 of this title," after "subchapter I of this chapter".

1986—Subsec. (c). Pub. L. 99–529 added subsec. (c) and struck out former subsec. (c) which read as follows: "The Administrator of the Agency for International Development, in conjunction with the Secretary of State, the Secretary of the Interior, the Administrator of the Environmental Protection Agency, the Chairman of the Council on Environmental Quality, and the heads of other appropriate Government agencies, shall develop a United States strategy, including specific policies and programs, to protect and conserve biological diversity in developing countries."

Subsec. (d). Pub. L. 99–529 added subsec. (d) and struck out former subsec. (d) which read as follows: "Each annual report required by section 2394(a) of this title shall include, in a separate volume, a report on the implementation of this subsection. Not later than one year after November 22, 1983, the President shall submit a comprehensive report to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate on the United States strategy to protect and conserve biological diversity in developing countries."

Subsecs. (e) to (h). Pub. L. 99–529 added subsecs. (e) to (h).

SHORT TITLE

For short title of title VII of Pub. L. 98–164, which enacted this section and amended section 2452 of this title, as the "International Environment Protection Act of 1983", see section 701 of Pub. L. 98–164, set out as a Short Title of 1983 Amendment note under section 2151 of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

INCREASED INTERNATIONAL COOPERATION TO PROTECT BIOLOGICAL DIVERSITY

Pub. L. 100–530, Oct. 25, 1988, 102 Stat. 2651, provided that Congress supports United States efforts, consistent with 22 U.S.C. 2151q(g), to initiate discussions to develop an international agreement to preserve biological diversity and calls upon the President to continue exerting United States leadership in order to achieve the earliest possible negotiation of an international convention to conserve biological diversity, and directed the President to submit a report to Congress on progress toward goal of negotiating such convention not later than one year after Oct. 25, 1988.

§2151r. Sahel development program; planning

(a) Congressional support

The Congress reaffirms its support of the initiative of the United States Government in undertaking consultations and planning with the countries concerned, with other nations providing assistance, with the United Nations, and with other concerned international and regional organizations, toward the development and support of a comprehensive long-term African Sahel development program.

(b) Presidential authorization

The President is authorized to develop a long-term comprehensive development program for the Sahel and other drought-stricken nations in Africa.

(c) Presidential guidelines

In developing this long-term program, the President shall—

(1) consider international coordination for the planning and implementation of such program;

(2) seek greater participation and support by African countries and organizations in determining development priorities; and

(3) begin such planning immediately.

(Pub. L. 87–195, pt. I, §120, formerly pt. III, §639B, as added Pub. L. 93–189, §20, Dec. 17, 1973, 87 Stat. 725; renumbered pt. I, §494B and amended Pub. L. 94–161, title I, §101(5), (7), Dec. 20, 1975, 89 Stat. 850; renumbered pt. I, §120 and amended Pub. L. 95–88, title I, §115(1), (2), Aug. 3, 1977, 91 Stat. 539; Pub. L. 95–424, title V, §502(d)(1), Oct. 6, 1978, 92 Stat. 959.)

CODIFICATION

Section was formerly classified to sections 2292e and 2399–1b of this title.

AMENDMENTS

1978—Subsec. (d). Pub. L. 95–424 struck out subsec. (d) authorizing appropriations for development of a long-term African Sahel development program.

1977—Pub. L. 95–88, §115(2), substituted "Sahel" for "African" in section catchline.

1975—Pub. L. 94–161, §101(7)(A), struck out "Sahel" after "African" in section catchline.

Subsec. (a). Pub. L. 94–161, §101(7)(B), (C), designated existing provisions as subsec. (a) and substituted "Congress reaffirms its support of" for "Congress supports".

Subsecs. (b) to (d). Pub. L. 94–161, §101(7)(D), added subsecs. (b) to (d).

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–424 effective Oct. 1, 1978, see section 605 of Pub. L. 95–424, set out as a note under section 2151 of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§2151s. Repealed. Pub. L. 101–513, title V, §562(d)(5), Nov. 5, 1990, 104 Stat. 2031

Section, Pub. L. 87–195, pt. I, §121, as added Pub. L. 95–88, title I, §115(3), Aug. 3, 1977, 91 Stat. 539; amended Pub. L. 96–53, title I, §108, Aug. 14, 1979, 93 Stat. 363; Pub. L. 96–533, title III, §306, Dec. 16, 1980, 94 Stat. 3147; Pub. L. 97–113, title III, §308, Dec. 29, 1981, 95 Stat. 1535; Pub. L. 99–83, title VIII, §809, Aug. 8, 1985, 99 Stat. 263, related to Sahel development program.

§2151t. Development assistance authority

(a) Authority of President to furnish assistance

In order to carry out the purposes of this part, the President is authorized to furnish assistance, on such terms and conditions as he may determine, to countries and areas through programs of grant and loan assistance, bilaterally or through regional, multilateral, or private entities.

(b) Authority of President to make loans; terms and conditions

The President is authorized to make loans payable as to principal and interest in United States dollars on such terms and conditions as he may determine, in order to promote the economic development of countries and areas, with emphasis upon assisting long-range plans and programs designed to develop economic resources and increase productive capacities. The President shall determine the interest payable on any loan. In making loans under this part, the President shall consider the economic circumstances of the borrower and other relevant factors, including the capacity of the recipient country to repay the loan at a reasonable rate of interest, except that loans may not be made at a rate of interest of less than 3 per centum per annum commencing not later than ten years following the date on which the funds are initially made available under the loan, during which ten-year period the rate of interest shall not be lower than 2 per centum per annum, nor higher than the applicable legal rate of interest of the country in which the loan is made.

(c) Dollar receipts from loans to be paid into Treasury

Dollar receipts paid during any fiscal year from loans made under subchapter I of this chapter or from loans made under predecessor foreign assistance legislation shall be deposited in the Treasury as miscellaneous receipts.

(d) Assistance to research and educational institutions in United States; limitation on amounts

Not to exceed $10,000,000 of the funds made available each fiscal year for the purposes of this part may be used for assistance, on such terms and conditions as the President may determine, to research and educational institutions in the United States for the purpose of strengthening their capacity to develop and carry out programs concerned with the economic and social development of developing countries.

(e) Development Loan Committee; establishment; duties; appointment of officers

The President shall establish an interagency Development Loan Committee, consisting of such officers from such agencies of the United States Government as he may determine, which shall, under the direction of the President, establish standards and criteria for lending operations under this part in accordance with the foreign and financial policies of the United States. Except in the case of officers serving in positions to which they were appointed by the President by and with the advice and consent of the Senate, officers assigned to the Committee shall be so assigned by the President by and with the advice and consent of the Senate.

(Pub. L. 87–195, pt. I, §122, as added Pub. L. 95–424, title I, §102(a), (b)(1), (c)(1), (d), Oct. 6, 1978, 92 Stat. 940, 941.)

REFERENCES TO SUBCHAPTER I DEEMED TO INCLUDE CERTAIN PARTS OF SUBCHAPTER II

References to subchapter I of this chapter are deemed to include parts IV (§2346 et seq.), VI (§2348 et seq.), and VIII (§2349aa et seq.) of subchapter II of this chapter, and references to subchapter II are deemed to exclude such parts. See section 202(b) of Pub. L. 92–226, set out as a note under section 2346 of this title, and sections 2348c and 2349aa–5 of this title.

PRIOR PROVISIONS

Subsec. (b) of this section consists of provisions formerly contained in subsections (b), (c), and (d) of section 2161 of this title. Subsec. (e) of this section consists of provisions formerly contained in section 2164 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1978, see section 605 of Pub. L. 95–424, set out as an Effective Date of 1978 Amendment note under section 2151 of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§2151t–1. Establishment of program

(a) In general

In carrying out part I of the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.] and other relevant foreign assistance laws, the President, acting through the Administrator of the United States Agency for International Development, shall establish a program of training and other technical assistance to assist foreign countries in—

(1) developing and strengthening laws and regulations to protect intellectual property; and

(2) developing the infrastructure necessary to implement and enforce such laws and regulations.

(b) Participation of other agencies

The Administrator of the United States Agency for International Development—

(1) shall utilize the expertise of the Patent and Trademark Office and other agencies of the United States Government in designing and implementing the program of assistance provided for

in this section;

(2) shall coordinate assistance under this section with efforts of other agencies of the United States Government to increase international protection of intellectual property, including implementation of international agreements containing high levels of protection of intellectual property; and

(3) shall consult with the heads of such other agencies in determining which foreign countries will receive assistance under this section.

(Pub. L. 103–392, title V, §501, Oct. 22, 1994, 108 Stat. 4103.)

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsec. (a), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424. Part I of the Act is classified generally to subchapter I (§2151 et seq.) of this chapter. For provisions deeming references to subchapter I to include parts IV (§2346 et seq.), VI (§2348 et seq.), and VIII (§2349aa et seq.) of subchapter II of this chapter, see section 202(b) of Pub. L. 92–226, set out as a note under section 2346 of this title, and sections 2348c and 2349aa–5 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

CODIFICATION

Section was enacted as part of the Jobs Through Trade Expansion Act of 1994, and not as part of the Foreign Assistance Act of 1961 which comprises this chapter.

§2151u. Private and voluntary organizations and cooperatives in overseas development

(a) Congressional finding of importance of participation by private and voluntary organizations

The Congress finds that the participation of rural and urban poor people in their countries' development can be assisted and accelerated in an effective manner through an increase in activities planned and carried out by private and voluntary organizations and cooperatives. Such organizations and cooperatives, embodying the American spirit of self-help and assistance to others to improve their lives and incomes, constitute an important means of mobilizing private American financial and human resources to benefit poor people in developing countries. The Congress declares that it is in the interest of the United States that such organizations and cooperatives expand their overseas development efforts without compromising their private and independent nature. The Congress further declares that the financial resources of such organizations and cooperatives should be supplemented by the contribution of public funds for the purpose of undertaking development activities in accordance with the principles set forth in section 2151–1 of this title and, if necessary and determined on a case-by-case basis, for the purpose of sharing the cost of developing programs related to such activities. The Congress urges the Administrator of the agency primarily responsible for administering subchapter I of this chapter, in implementing programs authorized under subchapter I of this chapter, to draw on the resource of private and voluntary organizations and cooperatives to plan and carry out development activities and to establish simplified procedures for the development and approval of programs to be carried out by such private and voluntary organizations and cooperatives as have demonstrated a capacity to undertake effective development activities.

(b) Payment of transportation charges on shipments by American National Red Cross and United States voluntary agencies

In order to further the efficient use of United States voluntary contributions for development, relief, and rehabilitation of friendly peoples, the President is authorized to use funds made available for the purposes of this part and part X of this subchapter to pay transportation charges on shipments by the American National Red Cross and by United States voluntary agencies registered with the Agency for International Development.

(c) Reimbursement for transportation charges

Reimbursement under this section may be provided for transportation charges on shipments from United States ports, or in the case of excess or surplus property supplied by the United States from foreign ports, to ports of entry abroad or to points of entry abroad in cases (1) of landlocked countries, (2) where ports cannot be used effectively because of natural or other disturbances, (3) where carriers to a specified country are unavailable, or (4) where a substantial savings in costs or time can be effected by the utilization of points of entry other than ports.

(d) Arrangements with receiving country for free entry of shipments and for availability of local currency to defray transportation costs

Where practicable, the President shall make arrangements with the receiving country for free entry of such shipments and for the making available by the country of local currencies for the purpose of defraying the transportation costs of such shipments from the port or point of entry of the receiving country to the designated shipping point of the consignee.

(e) Continuation of support for programs in countries antedating prohibitions on assistance; national interest considerations; report to Congress

Prohibitions on assistance to countries contained in this chapter or any other Act shall not be construed to prohibit assistance by the agency primarily responsible for administering subchapter I of this chapter in support of programs of private and voluntary organizations and cooperatives already being supported prior to the date such prohibition becomes applicable. The President shall take into consideration, in any case in which statutory prohibitions on assistance would be applicable but for this subsection, whether continuation of support for such programs is in the national interest of the United States. If the President continues such support after such date, he shall prepare and transmit, not later than one year after such date, to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate a report setting forth the reasons for such continuation.

(f) Funds for private and voluntary organizations

For each of the fiscal years 1986 through 1989, funds in an amount not less than thirteen and one half percent of the aggregate amount appropriated for that fiscal year to carry out sections 2151a(a), 2151b(b), 2151b(c), 2151c, 2151d, 2151s,[1] and 2292 of this title shall be made available for the activities of private and voluntary organizations, and the President shall seek to channel funds in an amount not less than 16 percent of such aggregate amount for the activities of private and voluntary organizations. Funds made available under part IV of subchapter II of this chapter for the activities of private and voluntary organizations may be considered in determining compliance with the requirements of this subsection.

(g) Repealed. Pub. L. 105–277, div. A, §101(d) [title II], Oct. 21, 1998, 112 Stat. 2681–150, 2681–156

(h) Promotion of democratic cooperatives

The Congress recognizes that, in addition to their role in social and economic development, cooperatives provide an opportunity for people to participate directly in democratic decisionmaking. Therefore, assistance under this part shall be provided to rural and urban cooperatives which offer large numbers of low- and middle-income people in developing countries an opportunity to participate directly in democratic decisionmaking. Such assistance shall be designed to encourage the adoption of self-help, private sector cooperative techniques and practices which have been successful in the United States.

(Pub. L. 87–195, pt. I, §123, as added Pub. L. 95–424, title I, §102(e), Oct. 6, 1978, 92 Stat. 941; amended Pub. L. 96–53, title I, §121, Aug. 14, 1979, 93 Stat. 366; Pub. L. 96–533, title III, §307, Dec. 16, 1980, 94 Stat. 3147; Pub. L. 97–113, title III, §309, Dec. 29, 1981, 95 Stat. 1535; Pub. L. 99–83, title III, §§309, 310, Aug. 8, 1985, 99 Stat. 215; Pub. L. 101–513, title V, §562(d)(6), Nov. 5, 1990, 104 Stat. 2031; Pub. L. 105–277, div. A, §101(d) [title II], Oct. 21, 1998, 112 Stat. 2681–150, 2681–156.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (e), was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

Section 2151s of this title, referred to in subsec. (f), was repealed by Pub. L. 101–513, title V, §562(d)(5), Nov. 5, 1990, 104 Stat. 2031.

REFERENCES TO SUBCHAPTER I DEEMED TO INCLUDE CERTAIN PARTS OF SUBCHAPTER II

References to subchapter I of this chapter are deemed to include parts IV (§2346 et seq.), VI (§2348 et seq.), and VIII (§2349aa et seq.) of subchapter II of this chapter, and references to subchapter II are deemed to exclude such parts. See section 202(b) of Pub. L. 92–226, set out as a note under section 2346 of this title, and sections 2348c and 2349aa–5 of this title.

AMENDMENTS

1998—Subsec. (g). Pub. L. 105–277 struck out subsec. (g) which read as follows: "After December 31, 1984, funds made available to carry out section 2151a(a), 2151b(b), 2151b(c), 2151c, 2151d, 2292, or 2293 of this title may not be made available for programs of any United States private and voluntary organization which does not obtain at least 20 percent of its total annual financial support for its international activities from sources other than the United States Government, except that this restriction does not apply with respect to programs which, as of that date, are receiving financial support from the agency primarily responsible for administering subchapter I of this chapter. The Administrator of the agency primarily responsible for administering subchapter I of this chapter may, on a case-by-case basis, waive the restriction established by this subsection, after taking into account the effectiveness of the overseas development activities of the organization, its level of volunteer support, its financial viability and stability, and the degree of its dependence for its financial support on the agency primarily responsible for administering subchapter I of this chapter."

1990—Subsec. (b). Pub. L. 101–513, §562(d)(6)(A), inserted "and part X of this subchapter" after "this part".

Subsec. (g). Pub. L. 101–513, §562(d)(6)(B), substituted "2292, or 2293" for "2191s, or 2292".

1985—Subsec. (e). Pub. L. 99–83, §309(a), substituted "one year" for "thirty days".

Subsec. (f). Pub. L. 99–83, §309(b)(1), substituted "1986 through 1989" for "1982, 1983, and 1984".

Pub. L. 99–83, §309(b)(2), which directed the substitution of "thirteen and one half" for "twelve" was executed by making the substitution for "12" as the probable intent of Congress because "twelve" did not appear in text.

Pub. L. 99–83, §309(b)(3), inserted provisions relating to funds for determining compliance with subsec. (f).

Subsec. (h). Pub. L. 99–83, §310, added subsec. (h).

1981—Subsecs. (f), (g). Pub. L. 97–113, §309, added subsecs. (f) and (g).

1980—Subsec. (a). Pub. L. 96–533, §307(1), (2), provided for contribution of public funds to private and voluntary organizations and cooperatives for purpose of sharing cost of developing programs related to development activities and encouraged establishment of simplified procedures for development of programs to be carried out by such entities having a capacity for undertaking effective development programs.

Subsec. (e). Pub. L. 96–533, §307(3), added subsec. (e).

1979—Subsec. (b). Pub. L. 96–53 substituted "Agency for International Development" for "Advisory Committee on Voluntary Foreign Aid".

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–83 effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as a note under section 2151–1 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–53 effective Oct. 1, 1979, see section 512(a) of Pub. L. 96–53, set out as a note under section 2151 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1978, see section 605 of Pub. L. 95–424, set out as an Effective Date of 1978 Amendment note under section 2151 of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

PRIVATE AND VOLUNTEER ORGANIZATIONS

Pub. L. 108–199, div. D, title V, §502, Jan. 23, 2004, 118 Stat. 166, which prohibited any funds appropriated or otherwise made available by div. D of Pub. L. 108–199 from being made available to any United States private and voluntary organization, except any cooperative development organization, which obtained less than 20 percent of its total annual funding for international activities from sources other than the United States Government, with certain exceptions, was from the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2004, and was not repeated in subsequent appropriation acts. Similar provisions were contained in the following prior appropriation acts:

Pub. L. 108–7, div. E, title V, §502(a), Feb. 20, 2003, 117 Stat. 180.

Pub. L. 107–115, title V, §502(a), Jan. 10, 2002, 115 Stat. 2139.

Pub. L. 106–429, §101(a) [title II], Nov. 6, 2000, 114 Stat. 1900, 1900A–8.

Pub. L. 106–113, div. B, §1000(a)(2) [title II], Nov. 29, 1999, 113 Stat. 1535, 1501A–68.

Pub. L. 105–277, div. A, §101(d) [title II], Oct. 21, 1998, 112 Stat. 2681–150, 2681–156.

Pub. L. 105–118, title II, Nov. 26, 1997, 111 Stat. 2390.

Pub. L. 104–208, div. A, title I, §101(c) [title II], Sept. 30, 1996, 110 Stat. 3009–121, 3009–126.

Pub. L. 104–107, title II, Feb. 12, 1996, 110 Stat. 708.

Pub. L. 103–306, title II, Aug. 23, 1994, 108 Stat. 1612.

Pub. L. 103–87, title II, Sept. 30, 1993, 107 Stat. 935.

Pub. L. 102–391, title II, Oct. 6, 1992, 106 Stat. 1642.

Pub. L. 101–513, title II, Nov. 5, 1990, 104 Stat. 1987.

Pub. L. 101–167, title II, Nov. 21, 1989, 103 Stat. 1204.

Pub. L. 100–461, title II, Oct. 1, 1988, 102 Stat. 2268–9.

Pub. L. 100–202, §101(e) [title II], Dec. 22, 1987, 101 Stat. 1329–131, 1329–139.

Pub. L. 99–500, §101(f) [title II], Oct. 18, 1986, 100 Stat. 1783–213, 1783–218, and Pub. L. 99–591, §101(f) [title II], Oct. 30, 1986, 100 Stat. 3341–214, 3341–218.

Pub. L. 99–190, §101(i) [title II], Dec. 19, 1985, 99 Stat. 1291, 1296.

Pub. L. 98–473, title I, §101(1) [title II], Oct. 12, 1984, 98 Stat. 1884, 1889; repealed by Pub. L. 105–277, div. A, §101(d) [title II], Oct. 21, 1998, 112 Stat. 2681–150, 2681–156.

SHIPMENT OF HUMANITARIAN ASSISTANCE

Pub. L. 108–199, div. D, title V, §534(f), Jan. 23, 2004, 118 Stat. 182, provided that: "During fiscal year 2004 and each fiscal year thereafter, of the amounts made available by the United States Agency for International Development to carry out the provisions of section 123(b) of the Foreign Assistance Act of 1961 [this section], funds may be made available to nongovernmental organizations for administrative costs necessary to implement a program to obtain available donated space on commercial ships for the shipment of humanitarian assistance overseas."

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 108–7, div. E, title V, §534(g), Feb. 20, 2003, 117 Stat. 194.

Pub. L. 107–206, title I, §602, Aug. 2, 2002, 116 Stat. 859.

STUDY AND REPORT CONCERNING USE OF PRIVATE AND VOLUNTARY ORGANIZATIONS, COOPERATIVES, AND PRIVATE SECTOR

Pub. L. 99–83, title III, §311, Aug. 8, 1985, 99 Stat. 216, provided that:

"(a) STUDY.—The Administrator of the Agency for International Development shall undertake a comprehensive study of additional ways to provide development assistance through nongovernmental organizations, including United States and indigenous private and voluntary organizations, cooperatives, the business community, and other private entities. Such study shall include—

"(1) an analysis of the percentage of development assistance allocated to governmental and nongovernmental programs;

"(2) an analysis of structural impediments, within both the United States and foreign governments, to additional use of nongovernmental programs; and

"(3) an analysis of the comparative economic benefits of governmental and nongovernmental programs.

"(b) REPORT.—The Administrator shall report the results of this study to the Congress no later than

September 30, 1986."

AFRICAN DEVELOPMENT FOUNDATION

Pub. L. 95–424, title I, §122, Oct. 6, 1978, 92 Stat. 954, as amended by Pub. L. 97–113, title VII, §734(a)(5), Dec. 29, 1981, 95 Stat. 1560, provided that:

"(a) The Congress declares that the United States should place higher priority on the formulation and implementation of policies and programs to enable the people of African nations to develop their potential, fulfill their aspirations, and enjoy better, more productive lives. In furtherance of these objectives, the Congress finds that additional support is needed for community-based self-help activities in Africa and that an African Development Foundation, organized to further the purposes set forth in section 123 of the Foreign Assistance Act of 1961 [this section], can complement current United States development programs in Africa.

"(b) [Repealed. Pub. L. 97–113, title VII, §734(a)(5), Dec. 29, 1981, 95 Stat. 1560.]"

[African Development Foundation changed to United States African Development Foundation by Pub. L. 113–76, div. K, title III, Jan. 17, 2014, 128 Stat. 482. See section 290h–1 of this title.]

[1] *See References in Text note below.*

§2151v. Aid to relatively least developed countries

(a) Characterization of least developed countries

Relatively least developed countries (as determined on the basis of criteria comparable to those used for the United Nations General Assembly list of "least developed countries") are characterized by extreme poverty, very limited infrastructure, and limited administrative capacity to implement basic human needs growth strategies. In such countries special measures may be necessary to insure the full effectiveness of assistance furnished under subchapter I of this chapter.

(b) Assistance on grant basis

For the purpose of promoting economic growth in these countries, the President is authorized and encouraged to make assistance under this part available on a grant basis to the maximum extent that is consistent with the attainment of United States development objectives.

(c) Waiver of principal and interest on prior liability

(1) The Congress recognizes that the relatively least developed countries have virtually no access to private international capital markets. Insofar as possible, prior assistance terms should be consistent with present grant assistance terms for relatively least developed countries. Therefore, notwithstanding section 2370(r) of this title and section 321 of the International Development and Food Assistance Act of 1975 but subject to paragraph (2) of this subsection, the President on a case-by-case basis, taking into account the needs of the country for financial resources and the commitment of the country to the development objectives set forth in sections 2151 and 2151–1 of this title—

(A) may permit a relatively least developed country to place amounts, which would otherwise be paid to the United States as payments on principal or interest on liability incurred by that country under subchapter I of this chapter (or any predecessor legislation) into local currency accounts (in equivalent amounts of local currencies as determined by the official exchange rate for United States dollars) for use by the relatively least developed country, with the concurrence of the Administrator of the agency primarily responsible for administering subchapter I of this chapter, for activities which are consistent with section 2151–1 of this title; and

(B) may waive interest payments on liability incurred by a relatively least developed country under subchapter I of this chapter (or any predecessor legislation) if the President determines that that country would be unable to use for development purposes the equivalent amounts of local currencies which could be made available under subparagraph (A).

(2) The aggregate amount of interest waived and interest and principal paid into local currency accounts under this subsection in any fiscal year may not exceed the amount approved for such

purpose in an Act appropriating funds to carry out this part for that fiscal year, which amount may not exceed the amount authorized to be so approved by the annual authorizing legislation for development assistance programs. Amounts due and payable during fiscal year 1981 to the United States from relatively least developed countries on loans made under this subchapter (or any predecessor legislation) are authorized to be approved for use, in accordance with the provisions of paragraph (1) of this subsection, in an amount not to exceed $10,845,000.

(3) In exercising the authority granted by this subsection, the President should act in concert with other creditor countries.

(d) Waiver of requirement of contribution

The President may on a case-by-case basis waive the requirement of section 2151h(a) of this title for financial or "in kind" contributions in the case of programs, projects, or activities in relatively least developed countries.

(e) Waiver of time limitations on aid

Section 2151h(b) of this title shall not apply with respect to grants to relatively least developed countries.

(Pub. L. 87–195, pt. I, §124, as added Pub. L. 95–424, title I, §112(a)(1), Oct. 6, 1978, 92 Stat. 948; amended Pub. L. 96–53, title I, §109, Aug. 14, 1979, 93 Stat. 363; Pub. L. 96–533, title III, §308, Oct. 16, 1980, 94 Stat. 3147.)

REFERENCES IN TEXT

Section 321 of the International Development and Food Assistance Act of 1975, referred to in subsec. (c)(1), is section 321 of Pub. L. 94–161, Dec. 20, 1975, 89 Stat. 868, which is set out as a note under section 2220a of this title.

REFERENCES TO SUBCHAPTER I DEEMED TO INCLUDE CERTAIN PARTS OF SUBCHAPTER II

References to subchapter I of this chapter are deemed to include parts IV (§2346 et seq.), VI (§2348 et seq.), and VIII (§2349aa et seq.) of subchapter II of this chapter, and references to subchapter II are deemed to exclude such parts. See section 202(b) of Pub. L. 92–226, set out as a note under section 2346 of this title, and sections 2348c and 2349aa–5 of this title.

AMENDMENTS

1980—Subsec. (c)(2). Pub. L. 96–533 substituted "fiscal year 1981" and "$10,845,000" for "fiscal year 1980" and "$18,800,000", respectively.

1979—Subsec. (c)(2). Pub. L. 96–53 inserted provisions respecting use of funds due and payable during fiscal year 1980 to the United States.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–53 effective Oct. 1, 1979, see section 512(a) of Pub. L. 96–53, set out as a note under section 2151 of this title.

EFFECTIVE DATE

Pub. L. 95–424, title I, §112(a)(2), Oct. 6, 1978, 92 Stat. 949, provided that: "The authority granted by section 124(c) of the Foreign Assistance Act of 1961 [subsec. (c) of this section] shall not become effective until October 1, 1979."

Section effective Oct. 1, 1978, see section 605 of Pub. L. 95–424, set out as an Effective Date of 1978 Amendment note under section 2151 of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

PRESIDENTIAL AUTHORITY DURING FISCAL YEARS 1990 AND 1991

Pub. L. 100–461, title V, §572, Oct. 1, 1988, 102 Stat. 2268–44, provided that during fiscal years 1990 and 1991, President could use authority of paragraphs (A) and (B) of subsection (c)(1) of this section with respect to such aggregate amounts of principal and interest payable during each of those fiscal years as President

determined, or at any time after Sept. 30, 1989, President could, if he determined it was in national interest to do so, use authority of those paragraphs with respect to such aggregate amounts of outstanding principal and interest payable at any time after that date, and that such authority could be exercised with respect to specified countries, and be exercised notwithstanding subsection (c)(2) of this section.

§2151w. Project and program evaluations

(a) The Administrator of the agency primarily responsible for administering subchapter I of this chapter is directed to improve the assessment and evaluation of the programs and projects carried out by that agency under this part. The Administrator shall consult with the appropriate committees of the Congress in establishing standards for such evaluations.

(b) Repealed. Pub. L. 97–113, title VII, §734(a)(1), Dec. 29, 1981, 95 Stat. 1560.

(Pub. L. 87–195, pt. I, §125, as added Pub. L. 95–424, title I, §113, Oct. 6, 1978, 92 Stat. 950; amended Pub. L. 97–113, title VII, §734(a)(1), Dec. 29, 1981, 95 Stat. 1560.)

REFERENCES TO SUBCHAPTER I DEEMED TO INCLUDE CERTAIN PARTS OF SUBCHAPTER II

References to subchapter I of this chapter are deemed to include parts IV (§2346 et seq.), VI (§2348 et seq.), and VIII (§2349aa et seq.) of subchapter II of this chapter, and references to subchapter II are deemed to exclude such parts. See section 202(b) of Pub. L. 92–226, set out as a note under section 2346 of this title, and sections 2348c and 2349aa–5 of this title.

AMENDMENTS

1981—Subsec. (b). Pub. L. 97–113 struck out subsec. (b) which required an annual Presidential report on actions taken by the international financial institutions and the United Nations Development Program to improve the evaluation of their own programs.

EFFECTIVE DATE

Section effective Oct. 1, 1978, see section 605 of Pub. L. 95–424, set out as an Effective Date of 1978 Amendment note under section 2151 of this title.

§2151x. Development and illicit narcotics production

(a) Congressional statement of findings

The Congress recognizes that illicit narcotics cultivation is related to overall development problems and that the vast majority of all individuals employed in the cultivation of illicit narcotics reside in the developing countries and are among the poorest of the poor in those countries and that therefore the ultimate success of any effort to eliminate illicit narcotics production depends upon the availability of alternative economic opportunities for those individuals, upon other factors which assistance under this part could address, as well as upon direct narcotics control efforts.

(b) Program planning priorities; resource utilization

(1) In planning programs of assistance under this part, and part X of this subchapter, and under part IV of subchapter II of this chapter for countries in which there is illicit narcotics cultivation, the agency primarily responsible for administering subchapter I of this chapter should give priority consideration to programs which would help reduce illicit narcotics cultivation by stimulating broader development opportunities.

(2) The agency primarily responsible for administering subchapter I of this chapter may utilize resources for activities aimed at increasing awareness of the effects of production and trafficking of illicit narcotics on source and transit countries.

(c) Administrative requirements

In furtherance of the purposes of this section, the agency primarily responsible for administering subchapter I of this chapter shall cooperate fully with, and share its expertise in development matters

with, other agencies of the United States Government involved in narcotics control activities abroad.

(Pub. L. 87–195, pt. I, §126, as added Pub. L. 96–53, title I, §110, Aug. 14, 1979, 93 Stat. 363; amended Pub. L. 99–83, title VI, §603, Aug. 8, 1985, 99 Stat. 228; Pub. L. 101–513, title V, §562(d)(7), Nov. 5, 1990, 104 Stat. 2031.)

REFERENCES TO SUBCHAPTER I DEEMED TO INCLUDE CERTAIN PARTS OF SUBCHAPTER II

References to subchapter I of this chapter are deemed to include parts IV (§2346 et seq.), VI (§2348 et seq.), and VIII (§2349aa et seq.) of subchapter II of this chapter, and references to subchapter II are deemed to exclude such parts. See section 202(b) of Pub. L. 92–226, set out as a note under section 2346 of this title, and sections 2348c and 2349aa–5 of this title.

AMENDMENTS

1990—Subsec. (b)(1). Pub. L. 101–513 inserted ", and part X of this subchapter," after "this part".

1985—Subsec. (b). Pub. L. 99–83 designated existing provisions as par. (1), inserted reference to part IV of subchapter II of this chapter, and added par. (2).

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–83 effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as a note under section 2151–1 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1979, see section 512(a) of Pub. L. 96–53, set out as an Effective Date of 1979 Amendment note under section 2151 of this title.

§2151x–1. Assistance for agricultural and industrial alternatives to narcotics production

(a) Waiver of restrictions

For the purpose of reducing dependence upon the production of crops from which narcotic and psychotropic drugs are derived, the President may provide assistance to a foreign country under chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 and following; relating to development assistance) and chapter 4 of part II of that Act (22 U.S.C. 2346 and following; relating to the economic support fund) to promote the production, processing, or the marketing of products or commodities, notwithstanding any other provision of law that would otherwise prohibit the provision of assistance to promote the production, processing, or the marketing of such products or commodities.

(b) Effective date

Subsection (a) applies with respect to funds made available for fiscal year 1991 or any fiscal year thereafter.

(Pub. L. 101–623, §6, Nov. 21, 1990, 104 Stat. 3355.)

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsec. (a), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended. Chapter 1 of part I and chapter 4 of part II of the Act are classified generally to part I (§2151 et seq.) of subchapter I and part IV (§2346 et seq.) of subchapter II, respectively, of this chapter. For provisions deeming references to part I of subchapter I to include a reference to section 2293 of this title, see section 2293(d)(1) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

CODIFICATION

Section was enacted as part of the International Narcotics Control Act of 1990, and not as part of the Foreign Assistance Act of 1961 which comprises this chapter.

§2151x–2. Assistance in furtherance of narcotics control objectives of United States

(a) Waiver of certain restrictions

For the purpose of reducing dependence upon the production of crops from which narcotic and psychotropic drugs are derived, the President may provide economic assistance for a country which, because of its coca production, is a major illicit drug producing country (as defined in section 481(i)(2) [1] of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(i)(2))) to promote the production, processing, or the marketing of products which can be economically produced in such country, notwithstanding the provisions of law described in subsection (b) of this section.

(b) Description of restrictions waived

The provisions of law made inapplicable by subsection (a) are any other provisions of law that would otherwise restrict the use of economic assistance funds with respect to the production, processing, or marketing of agricultural commodities (or the products thereof) or other products, including sections 521, 546, and 547 (but excluding section 510) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990, and comparable provisions of subsequent Acts appropriating funds for foreign operations, export financing, and related programs.

(c) "Economic assistance" defined

As used in this section, the term "economic assistance" means assistance under chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 and following; relating to development assistance) and assistance under chapter 4 of part II of that Act (22 U.S.C. 2346 and following; relating to the economic support fund).

(Pub. L. 101–624, title XV, §1544, Nov. 28, 1990, 104 Stat. 3695.)

REFERENCES IN TEXT

The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990, referred to in subsec. (b), is Pub. L. 101–167, Nov. 21, 1989, 103 Stat. 1195. Sections 510, 521, 546, and 547 of that Act are not classified to the Code.

The Foreign Assistance Act of 1961, referred to in subsecs. (a) and (c), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended. Chapter 1 of part I and chapter 4 of part II of the Act are classified generally to part I (§2151 et seq.) of subchapter I and part IV (§2346 et seq.) of subchapter II, respectively, of this chapter. For provisions deeming references to part I of subchapter I to include a reference to section 2293 of this title, see section 2293(d)(1) of this title. Subsec. (i) of section 481 of the Act was redesignated (e) by Pub. L. 102–583, §6(b)(3), Nov. 2, 1992, 106 Stat. 4932. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

CODIFICATION

Section was enacted as part of the Agricultural Development and Trade Act of 1990, and also as part of the Food, Agriculture, Conservation, and Trade Act of 1990, and not as part of the Foreign Assistance Act of 1961 which comprises this chapter.

[1] *See References in Text note below.*

§2151y. Accelerated loan repayments; annual review of countries with bilateral concessional loan balances; priority of determinations respecting negotiations with countries having balances; criteria for determinations

The Administrator of the agency primarily responsible for administering subchapter I of this chapter shall conduct an annual review of bilateral concessional loan balances and shall determine and identify those countries whose financial resources make possible accelerated loan repayments. In particular, European countries that were recipients of concessional loans by predecessor agencies to the agency primarily responsible for administering subchapter I of this chapter shall be contacted to

negotiate accelerated repayments. The criteria used by the Administrator in making these determinations shall be established in conjunction with the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

(Pub. L. 87–195, pt. I, §127, as added Pub. L. 96–53, title V, §508(a), Aug. 14, 1979, 93 Stat. 379.)

REFERENCES TO SUBCHAPTER I DEEMED TO INCLUDE CERTAIN PARTS OF SUBCHAPTER II

References to subchapter I of this chapter are deemed to include parts IV (§2346 et seq.), VI (§2348 et seq.), and VIII (§2349aa et seq.) of subchapter II of this chapter, and references to subchapter II are deemed to exclude such parts. See section 202(b) of Pub. L. 92–226, set out as a note under section 2346 of this title, and sections 2348c and 2349aa–5 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1979, see section 512(a) of Pub. L. 96–53, set out as an Effective Date of 1979 Amendment note under section 2151 of this title.

NEGOTIATING EFFORTS CONCERNING ACCELERATED LOAN REPAYMENTS TO BE INCLUDED IN ANNUAL REPORTS ON FOREIGN ASSISTANCE FOR 1980 AND 1981

Pub. L. 96–53, title V, §508(b), Aug. 14, 1979, 93 Stat. 379, which related to loan repayment provisions in reports, was repealed by Pub. L. 97–113, title VII, §734(a)(3), Dec. 29, 1981, 95 Stat. 1560.

§2151z. Targeted assistance

(a) Determination of target populations and strengthening United States assistance

The President shall use poverty measurement standards, such as those developed by the International Bank for Reconstruction and Development, and other appropriate measurements in determining target populations for United States development assistance, and shall strengthen United States efforts to assure that a substantial percentage of development assistance under this part directly improves the lives of the poor majority, with special emphasis on those individuals living in absolute poverty.

(b) Ultimate beneficiaries of activities

To the maximum extent possible, activities under this part that attempt to increase the institutional capabilities of private organizations or governments, or that attempt to stimulate scientific and technological research, shall be designed and monitored to ensure that the ultimate beneficiaries of these activities are the poor majority.

(Pub. L. 87–195, pt. I, §128, as added Pub. L. 97–377, title I, §101(b)(2), Dec. 21, 1982, 96 Stat. 1832; amended Pub. L. 99–83, title III, §312(a), Aug. 8, 1985, 99 Stat. 216.)

AMENDMENTS

1985—Pub. L. 99–83, in amending section generally, designated existing provisions as subsec. (a), substituted provisions setting overall guidelines and principles for determination of target populations and strengthening United States assistance, for provisions relating to Presidential responsibility in carrying out this part in fiscal year 1983 for targeting assistance for those living in absolute poverty, and added subsec. (b).

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–83 effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as a note under section 2151–1 of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

REPORT OF ADMINISTRATOR OF AGENCY FOR INTERNATIONAL DEVELOPMENT TO CONGRESS BY JUNE 21, 1983, ON IMPLEMENTATION OF SECTION

Pub. L. 97–377, title I, §101(b)(2), Dec. 21, 1982, 96 Stat. 1832, provided in part: "That within six months

after the date of approval of this joint resolution [Dec. 21, 1982], the Administrator of the Agency for International Development shall report to Congress on the implementation of this provision [this section], the types of projects determined to meet these requirements, and the effect on the overall United States foreign assistance program."

§2151aa. Program to provide technical assistance to foreign governments and foreign central banks of developing or transitional countries

(a) Establishment of program

(1) In general

Not later than 150 days after October 21, 1998, the Secretary of the Treasury, after consultation with the Secretary of State and the Administrator of the United States Agency for International Development, is authorized to establish a program to provide technical assistance to foreign governments and foreign central banks of developing or transitional countries.

(2) Role of Secretary of State

The Secretary of State shall provide foreign policy guidance to the Secretary to ensure that the program established under this subsection is effectively integrated into the foreign policy of the United States.

(b) Conduct of program

(1) In general

In carrying out the program established under subsection (a), the Secretary shall provide economic and financial technical assistance to foreign governments and foreign central banks of developing and transitional countries by providing advisers with appropriate expertise to advance the enactment of laws and establishment of administrative procedures and institutions in such countries to promote macroeconomic and fiscal stability, efficient resource allocation, transparent and market-oriented processes and sustainable private sector growth.

(2) Additional requirements

To the extent practicable, such technical assistance shall be designed to establish—

(A) tax systems that are fair, objective, and efficiently gather sufficient revenues for governmental operations;

(B) debt issuance and management programs that rely on market forces;

(C) budget planning and implementation that permits responsible fiscal policy management;

(D) commercial banking sector development that efficiently intermediates between savers and investors; and

(E) financial law enforcement to protect the integrity of financial systems, financial institutions, and government programs.

(3) Emphasis on anti-corruption

Such technical assistance shall include elements designed to combat anti-competitive, unethical, and corrupt activities, including protection against actions that may distort or inhibit transparency in market mechanisms and, to the extent applicable, privatization procedures.

(c) Administrative requirements

In carrying out the program established under subsection (a), the Secretary—

(1) shall establish a methodology for identifying and selecting foreign governments and foreign central banks to receive assistance under the program;

(2) prior to selecting a foreign government or foreign central bank to receive assistance under the program, shall receive the concurrence of the Secretary of State with respect to the selection of such government or central bank and with respect to the cost of the assistance to such government or central bank;

(3) shall consult with the heads of appropriate Executive agencies of the United States,

including the Secretary of State and the Administrator of the United States Agency for International Development, and appropriate international financial institutions to avoid duplicative efforts with respect to those foreign countries for which such agencies or organizations provide similar assistance;

(4) shall ensure that the program is consistent with the International Affairs Strategic Plan and Mission Performance Plan of the United States Agency for International Development;

(5) shall establish and carry out a plan to evaluate the program.

(d) Administrative authorities

In carrying out the program established under subsection (a), the Secretary shall have the following administrative authorities:

(1) The Secretary may provide allowances and benefits under chapter 9 of title I of the Foreign Service Act of 1980 (22 U.S.C. 4081 et seq.) to any officer or employee of any agency of the United States Government performing functions under this section outside the United States.

(2)(A) The Secretary may allocate or transfer to any agency of the United States Government any part of any funds available for carrying out this section, including any advance to the United States Government by any country or international organization for the procurement of commodities, supplies, or services.

(B) Such funds shall be available for obligation and expenditure for the purposes for which such funds were authorized, in accordance with authority granted in this section or under authority governing the activities of the agency of the United States Government to which such funds are allocated or transferred.

(3) Appropriations for the purposes of or pursuant to this section, and allocations to any agency of the United States Government from other appropriations for functions directly related to the purposes of this section, shall be available for—

(A) contracting with individuals for personal services abroad, except that such individuals shall not be regarded as employees of the United States Government for the purpose of any law administered by the Office of Personnel Management;

(B) the purchase and hire of passenger motor vehicles, except that passenger motor vehicles may be purchased only—

(i) for use in foreign countries; and

(ii) if the Secretary or the Secretary's designee has determined that the vehicle is necessary to accomplish the mission;

(C) the purchase of insurance for official motor vehicles acquired for use in foreign countries;

(D)(i) the rent or lease outside the United States, not to exceed 5 years, of offices, buildings, grounds, and quarters, including living quarters to house personnel, consistent with the relevant interagency housing board policy, and payments therefor in advance;

(ii) maintenance, furnishings, necessary repairs, improvements, and alterations to properties owned or rented by the United States Government or made available for use to the United States Government outside the United States; and

(iii) costs of insurance, fuel, water, and utilities for such properties;

(E) expenses of preparing and transporting to their former homes or places of burial the remains of foreign participants or members of the family of foreign participants, who may die while such participants are away from their homes participating in activities carried out with funds covered by this section;

(F) notwithstanding any other provision of law, transportation and payment of per diem in lieu of subsistence to foreign participants engaged in activities of the program under this section while such participants are away from their homes in countries other than the United States, at rates not in excess of those prescribed by the standardized Government travel regulations;

(G) expenses in connection with travel of personnel outside the United States, including travel expenses of dependents (including expenses during necessary stop-overs while engaged in such travel), and transportation of personal effects, household goods, and automobiles of such personnel when any part of such travel or transportation begins in one fiscal year pursuant

to travel orders issued in that fiscal year, notwithstanding the fact that such travel or transportation may not be completed during the same fiscal year, and cost of transporting automobiles to and from a place of storage, and the cost of storing automobiles of such personnel when it is in the public interest or more economical to authorize storage; and

(H) grants to, and cooperative agreements and contracts with, any individual, corporation, or other body of persons, nonprofit organization, friendly government or government agency, whether within or without the United States, and international organizations, as the Secretary determines is appropriate to carry out the purposes of this section.

(4) Whenever the Secretary determines it to be consistent with the purposes of this section, the Secretary is authorized to furnish services and commodities on an advance-of-funds basis to any friendly country or international organization that is not otherwise prohibited from receiving assistance under this chapter. Such advances may be credited to the currently applicable appropriation, account, or fund of the Department of the Treasury and shall be available for the purposes for which such appropriation, account, or fund is authorized to be used.

(e) Issuance of regulations

The Secretary is authorized to issue such regulations with respect to personal service contractors as the Secretary deems necessary to carry out this section.

(f) Rule of construction

Nothing in this section shall be construed to infringe upon the powers or functions of the Secretary of State (including the powers or functions described in section 4802 of this title) or of any chief of mission (including the powers or functions described in section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927)).

(g) Termination of assistance

The Secretary shall conclude assistance activities for a recipient foreign government or foreign central bank under the program established under subsection (a) if the Secretary, after consultation with the appropriate officers of the United States, determines that such assistance has resulted in the enactment of laws or the establishment of institutions in that country that promote fiscal stability and administrative procedures, efficient resource allocation, transparent and market-oriented processes and private sector growth in a sustainable manner.

(h) Report

(1) In general

Not later than 3 months after October 21, 1998, and every 6 months thereafter, the Secretary shall prepare and submit to the appropriate congressional committees a report on the conduct of the program established under this section during the preceding 6-month period.

(2) Definition

In this subsection, the term "appropriate congressional committees" means—

(A) the Committee on International Relations and the Committee on Appropriations of the House of Representatives; and

(B) the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

(i) Definitions

In this section:

(1) Developing or transitional country

The term "developing or transitional country" means a country eligible to receive development assistance under this part.

(2) International financial institution

The term "international financial institution" means the International Monetary Fund, the International Bank for Reconstruction and Development, the International Development

Association, the International Finance Corporation, the Multilateral Investment Guarantee Agency, the Asian Development Bank, the African Development Bank, the African Development Fund, the Inter-American Development Bank, the Inter-American Investment Corporation, the European Bank for Reconstruction and Development, and the Bank for Economic Cooperation and Development in the Middle East and North Africa.

(3) Secretary

The term "Secretary" means the Secretary of the Treasury.

(4) Technical assistance

The term "technical assistance" includes—

(A) the use of short-term and long-term expert advisers to assist foreign governments and foreign central banks for the purposes described in subsection (b)(1);

(B) training in the recipient country, the United States, or elsewhere for the purposes described in subsection (b)(1);

(C) grants of goods, services, or funds to foreign governments and foreign central banks;

(D) grants to United States nonprofit organizations to provide services or products which contribute to the provision of advice to foreign governments and foreign central banks; and

(E) study tours for foreign officials in the United States or elsewhere for the purpose of providing technical information to such officials.

(5) Foreign participant

The term "foreign participant" means the national of a developing or transitional country that is receiving assistance under the program established under subsection (a) who has been designated to participate in activities under such program.

(j) Authorization of appropriations

(1) In general

There are authorized to be appropriated to carry out this section $5,000,000 for fiscal year 1999.

(2) Availability of amounts

Amounts authorized to be appropriated under paragraph (1) are authorized to remain available until expended.

(Pub. L. 87–195, pt. I, §129, as added Pub. L. 105–277, div. A, §101(d) [title V, §589(a)], Oct. 21, 1998, 112 Stat. 2681–150, 2681–205; amended Pub. L. 106–309, title II, §204, Oct. 17, 2000, 114 Stat. 1092.)

REFERENCES IN TEXT

The Foreign Service Act of 1980, referred to in subsec. (d)(1), is Pub. L. 96–465, Oct. 17, 1980, 94 Stat. 2071, as amended. Chapter 9 of title I of the Foreign Service Act of 1980 is classified generally to subchapter IX (§4081 et seq.) of chapter 52 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3901 of this title and Tables.

This chapter, referred to in subsec. (d)(4), was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

CODIFICATION

Another section 129 of Pub. L. 87–195 was renumbered section 130 and is classified to section 2152 of this title.

AMENDMENTS

2000—Subsec. (b)(3). Pub. L. 106–309 added par. (3).

CHANGE OF NAME

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§2152. Assistance for victims of torture

(a) In general

The President is authorized to provide assistance for the rehabilitation of victims of torture.

(b) Eligibility for grants

Such assistance shall be provided in the form of grants to treatment centers and programs in foreign countries that are carrying out projects or activities specifically designed to treat victims of torture for the physical and psychological effects of the torture.

(c) Use of funds

Such assistance shall be available—

(1) for direct services to victims of torture; and

(2) to provide research and training to health care providers outside of treatment centers or programs described in subsection (b), for the purpose of enabling such providers to provide the services described in paragraph (1).

(Pub. L. 87–195, pt. I, §130, formerly §129, as added Pub. L. 105–320, §4(a), Oct. 30, 1998, 112 Stat. 3017; renumbered §130, Pub. L. 106–87, §6(a), Nov. 3, 1999, 113 Stat. 1302.)

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

STATEMENT OF POLICY

Pub. L. 109–165, §2, Jan. 10, 2006, 119 Stat. 3574, provided that: "It is the policy of the United States—

"(1) to ensure that, in its support abroad for programs and centers for the treatment of victims of torture, particular incentives and support should be given to establishing and supporting such programs and centers in emerging democracies, in post-conflict environments, and, with a view to providing services to refugees and internally displaced persons, in areas as close to ongoing conflict as safely as possible; and

"(2) to ensure that, in its support for domestic programs and centers for the treatment of victims of torture, particular attention should be given to regions with significant immigrant or refugee populations."

TORTURE VICTIMS RELIEF; EFFECTIVE DATE

Pub. L. 105–320, Oct. 30, 1998, 112 Stat. 3016, as amended by Pub. L. 106–87, §6(b), Nov. 3, 1999, 113 Stat. 1302; Pub. L. 108–179, §§2(a), 3(a), Dec. 15, 2003, 117 Stat. 2643; Pub. L. 109–165, §§3, 4, Jan. 10, 2006, 119 Stat. 3574, provided that:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Torture Victims Relief Act of 1998'.

"SEC. 2. FINDINGS.

"Congress makes the following findings:

"(1) The American people abhor torture by any government or person. The existence of torture creates a climate of fear and international insecurity that affects all people.

"(2) Torture is the deliberate mental and physical damage caused by governments to individuals to destroy individual personality and terrorize society. The effects of torture are long term. Those effects can last a lifetime for the survivors and affect future generations.

"(3) By eliminating the leadership of their opposition and frightening the general public, repressive governments often use torture as a weapon against democracy.

"(4) Torture survivors remain under physical and psychological threats, especially in communities where the perpetrators are not brought to justice. In many nations, even those who treat torture survivors are threatened with reprisals, including torture, for carrying out their ethical duty to provide care. Both the survivors of torture and their treatment providers should be accorded protection from further repression.

"(5) A significant number of refugees and asylees entering the United States have been victims of torture. Those claiming asylum deserve prompt consideration of their applications for political asylum to minimize their insecurity and sense of danger. Many torture survivors now live in the United States. They should be provided with the rehabilitation services which would enable them to become productive members of our communities.

"(6) The development of a treatment movement for torture survivors has created new opportunities for action by the United States and other nations to oppose state-sponsored and other acts of torture.

"(7) There is a need for a comprehensive strategy to protect and support torture victims and their treatment providers, together with overall efforts to eliminate torture.

"(8) By acting to heal the survivors of torture and protect their families, the United States can help to heal the effects of torture and prevent its use around the world.

"SEC. 3. DEFINITION.

"As used in this Act, the term 'torture' has the meaning given the term in section 2340(1) of title 18, United States Code, and includes the use of rape and other forms of sexual violence by a person acting under the color of law upon another person under his custody or physical control.

"SEC. 4. FOREIGN TREATMENT CENTERS.

"(a) AMENDMENTS TO THE FOREIGN ASSISTANCE ACT OF 1961.—[Enacted this section.]

"(b) FUNDING.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts authorized to be appropriated for fiscal years 2006 and 2007 pursuant to chapter 1 of part I of the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.], there are authorized to be appropriated to the President to carry out section 130 of such Act [this section] $12,000,000 for fiscal year 2006 and $13,000,000 for fiscal year 2007.

"(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to this subsection shall remain available until expended.

"(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect October 1, 1998.

"SEC. 5. DOMESTIC TREATMENT CENTERS.

"(a) ASSISTANCE FOR TREATMENT OF TORTURE VICTIMS.—The Secretary of Health and Human Services may provide grants to programs in the United States to cover the cost of the following services:

"(1) Services for the rehabilitation of victims of torture, including treatment of the physical and psychological effects of torture.

"(2) Social and legal services for victims of torture.

"(3) Research and training for health care providers outside of treatment centers, or programs for the purpose of enabling such providers to provide the services described in paragraph (1).

"(b) FUNDING.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts authorized to be appropriated for the Department of Health and Human Services for fiscal years 2006 and 2007, there are authorized to be appropriated to carry out subsection (a) $25,000,000 for each of the fiscal years 2006 and 2007.

"(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to this subsection shall remain available until expended.

"SEC. 6. MULTILATERAL ASSISTANCE.

"(a) FUNDING.—Of the amounts authorized to be appropriated for fiscal years 1999 and 2000 pursuant to chapter 3 of part I of the Foreign Assistance Act of 1961 [22 U.S.C. 2221 et seq.], there are authorized to be appropriated to the United Nations Voluntary Fund for Victims of Torture (in this section referred to as the 'Fund') the following amounts for the following fiscal years:

"(1) FISCAL YEAR 1999.—For fiscal year 1999, $3,000,000.

"(2) FISCAL YEAR 2000.—For fiscal year 2000, $3,000,000.

"(b) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to subsection (a) shall remain available until expended.

"(c) SENSE OF THE CONGRESS.—It is the sense of the Congress that the President, acting through the United States Permanent Representative to the United Nations, should—

"(1) request the Fund—

"(A) to find new ways to support and protect treatment centers and programs that are carrying out rehabilitative services for victims of torture; and

"(B) to encourage the development of new such centers and programs;

"(2) use the voice and vote of the United States to support the work of the Special Rapporteur on Torture and the Committee Against Torture established under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; and

"(3) use the voice and vote of the United States to establish a country rapporteur or similar procedural mechanism to investigate human rights violations in a country if either the Special Rapporteur or the Committee Against Torture indicates that a systematic practice of torture is prevalent in that country.

"SEC. 7. SPECIALIZED TRAINING FOR FOREIGN SERVICE OFFICERS.

"(a) IN GENERAL.—The Secretary of State shall provide training for foreign service officers with respect to—

"(1) the identification of torture;

"(2) the identification of the surrounding circumstances in which torture is most often practiced;

"(3) the long-term effects of torture upon a victim;

"(4) the identification of the physical, cognitive, and emotional effects of torture, and the manner in which these effects can affect the interview or hearing process; and

"(5) the manner of interviewing victims of torture so as not to retraumatize them, eliciting the necessary information to document the torture experience, and understanding the difficulties victims often have in recounting their torture experience.

"(b) GENDER-RELATED CONSIDERATIONS.—In conducting training under subsection (a)(4) or (5), gender-specific training shall be provided on the subject of interacting with women and men who are victims of torture by rape or any other form of sexual violence."

[Pub. L. 108–179, §2(b), Dec. 15, 2003, 117 Stat. 2643, provided that: "The amendment made by subsection (a) [amending section 5(b)(1) of Pub. L. 105–320, set out above] shall take effect October 1, 2003."]

[Pub. L. 108–179, §3(b), Dec. 15, 2003, 117 Stat. 2643, provided that: "The amendment made by subsection (a) [amending section 4(b)(1) of Pub. L. 105–320, set out above] shall take effect October 1, 2003."]

§2152a. Repealed. Pub. L. 108–484, §8(a), Dec. 23, 2004, 118 Stat. 3931

Section, Pub. L. 87–195, pt. I, §131, as added Pub. L. 106–309, title I, §105, Oct. 17, 2000, 114 Stat. 1082; amended Pub. L. 108–31, §3, June 17, 2003, 117 Stat. 776, related to microenterprise development grant assistance.

§2152b. Transferred

CODIFICATION

Section, Pub. L. 87–195, pt. I, §132, as added Pub. L. 106–309, title I, §107(a), Oct. 17, 2000, 114 Stat. 1086, which related to United States Microfinance Loan Facility, was renumbered section 257 of Pub. L. 87–195 by Pub. L. 108–484, §5(a), (b), Dec. 23, 2004, 118 Stat. 3927, and transferred to section 2213 of this title.

§2152c. Programs to encourage good governance

(a) Establishment of programs

(1) In general

The President is authorized to establish programs that combat corruption, improve transparency and accountability, and promote other forms of good governance in countries described in paragraph (2).

(2) Countries described

A country described in this paragraph is a country that is eligible to receive assistance under subchapter I of this chapter (including part IV of subchapter II of this chapter) or the Support for East European Democracy (SEED) Act of 1989 [22 U.S.C. 5401 et seq.].

(3) Priority

In carrying out paragraph (1), the President shall give priority to establishing programs in countries that received a significant amount of United States foreign assistance for the prior fiscal year, or in which the United States has a significant economic interest, and that continue to have the most persistent problems with public and private corruption. In determining which countries

have the most persistent problems with public and private corruption under the preceding sentence, the President shall take into account criteria such as the Transparency International Annual Corruption Perceptions Index, standards and codes set forth by the International Bank for Reconstruction and Development and the International Monetary Fund, and other relevant criteria.

(4) Relation to other laws

(A) In general

Assistance provided for countries under programs established pursuant to paragraph (1) may be made available notwithstanding any other provision of law that restricts assistance to foreign countries. Assistance provided under a program established pursuant to paragraph (1) for a country that would otherwise be restricted from receiving such assistance but for the preceding sentence may not be provided directly to the government of the country.

(B) Exception

Subparagraph (A) does not apply with respect to—

(i) section 2371 of this title or any comparable provision of law prohibiting assistance to countries that support international terrorism; or

(ii) section 907 of the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992.

(b) Specific projects and activities

The programs established pursuant to subsection (a) shall include, to the extent appropriate, projects and activities that—

(1) support responsible independent media to promote oversight of public and private institutions;

(2) implement financial disclosure among public officials, political parties, and candidates for public office, open budgeting processes, and transparent financial management systems;

(3) support the establishment of audit offices, inspectors general offices, third party monitoring of government procurement processes, and anti-corruption agencies;

(4) promote responsive, transparent, and accountable legislatures and local governments that ensure legislative and local oversight and whistle-blower protection;

(5) promote legal and judicial reforms that criminalize corruption and law enforcement reforms and development that encourage prosecutions of criminal corruption;

(6) assist in the development of a legal framework for commercial transactions that fosters business practices that promote transparent, ethical, and competitive behavior in the economic sector, such as commercial codes that incorporate international standards and protection of intellectual property rights;

(7) promote free and fair national, state, and local elections;

(8) foster public participation in the legislative process and public access to government information; and

(9) engage civil society in the fight against corruption.

(c) Conduct of projects and activities

Projects and activities under the programs established pursuant to subsection (a) may include, among other things, training and technical assistance (including drafting of anti-corruption, privatization, and competitive statutory and administrative codes), drafting of anti-corruption, privatization, and competitive statutory and administrative codes, support for independent media and publications, financing of the program and operating costs of nongovernmental organizations that carry out such projects or activities, and assistance for travel of individuals to the United States and other countries for such projects and activities.

(d) Repealed. Pub. L. 112–74, div. I, title VII, §7034(n), Dec. 23, 2011, 125 Stat. 1217

(e) Funding

Amounts made available to carry out the other provisions of subchapter I of this chapter (including

part IV of subchapter II of this chapter) and the Support for East European Democracy (SEED) Act of 1989 [22 U.S.C. 5401 et seq.] shall be made available to carry out this section.

(Pub. L. 87–195, pt. I, §133, as added Pub. L. 106–309, title II, §205(a), Oct. 17, 2000, 114 Stat. 1092; amended Pub. L. 107–228, div. A, title VI, §672(a), Sept. 30, 2002, 116 Stat. 1407; Pub. L. 112–74, div. I, title VII, §7034(n), Dec. 23, 2011, 125 Stat. 1217.)

REFERENCES IN TEXT

The Support for East European Democracy (SEED) Act of 1989, referred to in subsecs. (a)(2) and (e), is Pub. L. 101–179, Nov. 28, 1989, 103 Stat. 1298, as amended, which is classified principally to chapter 63 (§5401 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5401 of this title and Tables.

Section 907 of the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992, referred to in subsec. (a)(4)(B)(ii), is section 907 of Pub. L. 102–511, which is set out as a note under section 5812 of this title.

REFERENCES TO SUBCHAPTER I DEEMED TO INCLUDE CERTAIN PARTS OF SUBCHAPTER II

References to subchapter I of this chapter are deemed to include parts IV (§2346 et seq.), VI (§2348 et seq.), and VIII (§2349aa et seq.) of subchapter II of this chapter, and references to subchapter II are deemed to exclude such parts. See section 202(b) of Pub. L. 92–226, set out as a note under section 2346 of this title, and sections 2348c and 2349aa–5 of this title.

AMENDMENTS

2011—Subsec. (d). Pub. L. 112–74 struck out subsec. (d) which related to biennial reports.

2002—Subsec. (d). Pub. L. 107–228, §672(a)(1), substituted "Biennial reports" for "Annual report" in heading.

Subsec. (d)(1). Pub. L. 107–228, §672(a)(2), substituted "a biennial report" for "an annual report" in introductory provisions and "preceding two-year period" for "prior year" in subpars. (A) and (B).

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

TRANSITION

Pub. L. 107–228, div. A, title VI, §672(b), Sept. 30, 2002, 116 Stat. 1408, provided that: "The first biennial report under section 133(d) of the Foreign Assistance Act of 1961 ([former] 22 U.S.C. 2152c(d)), as amended by subsection (a), is required to be submitted not later than two years after the date of submission of the last annual report required under such section 133 (as in effect before the date of enactment of this Act [Sept. 30, 2002])."

FINDINGS AND PURPOSE

Pub. L. 106–309, title II, §202, Oct. 17, 2000, 114 Stat. 1090, provided that:

"(a) FINDINGS.—Congress finds the following:

"(1) Widespread corruption endangers the stability and security of societies, undermines democracy, and jeopardizes the social, political, and economic development of a society.

"(2) Corruption facilitates criminal activities, such as money laundering, hinders economic development, inflates the costs of doing business, and undermines the legitimacy of the government and public trust.

"(3) In January 1997 the United Nations General Assembly adopted a resolution urging member states to carefully consider the problems posed by the international aspects of corrupt practices and to study appropriate legislative and regulatory measures to ensure the transparency and integrity of financial systems.

"(4) The United States was the first country to criminalize international bribery through the enactment of the Foreign Corrupt Practices Act of 1977 [Pub. L. 95–213, title I, see Tables for classification] and United States leadership was instrumental in the passage of the Organization for Economic Cooperation and Development (OECD) Convention on Combatting Bribery of Foreign Public Officials in International Business Transactions.

"(5) The Vice President, at the Global Forum on Fighting Corruption in 1999, declared corruption to

be a direct threat to the rule of law and the Secretary of State declared corruption to be a matter of profound political and social consequence for our efforts to strengthen democratic governments.

"(6) The Secretary of State, at the Inter-American Development Bank's annual meeting in March 2000, declared that despite certain economic achievements, democracy is being threatened as citizens grow weary of the corruption and favoritism of their official institutions and that efforts must be made to improve governance if respect for democratic institutions is to be regained.

"(7) In May 1996 the Organization of American States (OAS) adopted the Inter-American Convention Against Corruption requiring countries to provide various forms of international cooperation and assistance to facilitate the prevention, investigation, and prosecution of acts of corruption.

"(8) Independent media, committed to fighting corruption and trained in investigative journalism techniques, can both educate the public on the costs of corruption and act as a deterrent against corrupt officials.

"(9) Competent and independent judiciary, founded on a merit-based selection process and trained to enforce contracts and protect property rights, is critical for creating a predictable and consistent environment for transparency in legal procedures.

"(10) Independent and accountable legislatures, responsive political parties, and transparent electoral processes, in conjunction with professional, accountable, and transparent financial management and procurement policies and procedures, are essential to the promotion of good governance and to the combat of corruption.

"(11) Transparent business frameworks, including modern commercial codes and intellectual property rights, are vital to enhancing economic growth and decreasing corruption at all levels of society.

"(12) The United States should attempt to improve accountability in foreign countries, including by—

"(A) promoting transparency and accountability through support for independent media, promoting financial disclosure by public officials, political parties, and candidates for public office, open budgeting processes, adequate and effective internal control systems, suitable financial management systems, and financial and compliance reporting;

"(B) supporting the establishment of audit offices, inspectors general offices, third party monitoring of government procurement processes, and anti-corruption agencies;

"(C) promoting responsive, transparent, and accountable legislatures that ensure legislative oversight and whistle-blower protection;

"(D) promoting judicial reforms that criminalize corruption and promoting law enforcement that prosecutes corruption;

"(E) fostering business practices that promote transparent, ethical, and competitive behavior in the private sector through the development of an effective legal framework for commerce, including anti-bribery laws, commercial codes that incorporate international standards for business practices, and protection of intellectual property rights; and

"(F) promoting free and fair national, state, and local elections.

"(b) PURPOSE.—The purpose of this title [see Short Title of 2000 Amendments note set out under section 2151 of this title] is to ensure that United States assistance programs promote good governance by assisting other countries to combat corruption throughout society and to improve transparency and accountability at all levels of government and throughout the private sector."

DEADLINE FOR INITIAL REPORT

Pub. L. 106–309, title II, §205(b), Oct. 17, 2000, 114 Stat. 1094, required transmission of the initial annual report under former 22 U.S.C. 2152c(d)(1) not later than 180 days after Oct. 17, 2000.

§2152d. Assistance to foreign countries to meet minimum standards for the elimination of trafficking

(a) Authorization

The President is authorized to provide assistance to foreign countries directly, or through nongovernmental and multilateral organizations, for programs, projects, and activities designed to meet the minimum standards for the elimination of trafficking (as defined in section 7102 of this title), including—

(1) the drafting of laws to prohibit and punish acts of trafficking;

(2) the investigation and prosecution of traffickers, including investigation of individuals and

entities that may be involved in trafficking in persons involving sexual exploitation;

(3) the creation and maintenance of facilities, programs, projects, and activities for the protection of victims; and

(4) the expansion of exchange programs and international visitor programs for governmental and nongovernmental personnel to combat trafficking.

(b) Funding

Amounts made available to carry out the other provisions of subchapter I of this chapter (including part IV of subchapter II of this chapter) and the Support for East European Democracy (SEED) Act of 1989 [22 U.S.C. 5401 et seq.] shall be made available to carry out this section. Assistance may be provided under this section notwithstanding section 2420 of this title.

(Pub. L. 87–195, pt. I, §134, as added Pub. L. 106–386, div. A, §109, Oct. 28, 2000, 114 Stat. 1481; amended Pub. L. 108–193, §6(f), Dec. 19, 2003, 117 Stat. 2883; Pub. L. 110–457, title I, §103(b), Dec. 23, 2008, 122 Stat. 5046.)

REFERENCES IN TEXT

The Support for East European Democracy (SEED) Act of 1989, referred to in subsec. (b), is Pub. L. 101–179, Nov. 28, 1989, 103 Stat. 1298, as amended, which is classified principally to chapter 63 (§5401 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5401 of this title and Tables.

REFERENCES TO SUBCHAPTER I DEEMED TO INCLUDE CERTAIN PARTS OF SUBCHAPTER II

References to subchapter I of this chapter are deemed to include parts IV (§2346 et seq.), VI (§2348 et seq.), and VIII (§2349aa et seq.) of subchapter II of this chapter, and references to subchapter II are deemed to exclude such parts. See section 202(b) of Pub. L. 92–226, set out as a note under section 2346 of this title, and sections 2348c and 2349aa–5 of this title.

AMENDMENTS

2008—Subsec. (a)(2). Pub. L. 110–457 inserted ", including investigation of individuals and entities that may be involved in trafficking in persons involving sexual exploitation" before semicolon at end.

2003—Subsec. (b). Pub. L. 108–193 inserted at end "Assistance may be provided under this section notwithstanding section 2420 of this title."

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§2152e. Program to improve building construction and practices in Latin American countries

(a) In general

The President, acting through the Administrator of the United States Agency for International Development, is authorized, under such terms and conditions as the President may determine, to carry out a program to improve building construction codes and practices in Ecuador, El Salvador, and other Latin American countries (in this section referred to as the "program").

(b) Program description

(1) In general

The program shall be in the form of grants to, or contracts with, organizations described in paragraph (2) to support the following activities:

(A) Training

Training of appropriate professionals in Latin America from both the public and private sectors to enhance their understanding of building and housing codes and standards.

(B) Translation and distribution

Translating and distributing in the region detailed construction manuals, model building codes, and publications from organizations described in paragraph (2), including materials that address zoning, egress, fire and life safety, plumbing, sewage, sanitation, electrical installation, mechanical installation, structural engineering, and seismic design.

(C) Other assistance

Offering other relevant assistance as needed, such as helping government officials develop seismic micro-zonation maps or draft pertinent legislation, to implement building codes and practices that will help improve the resistance of buildings and housing in the region to seismic activity and other natural disasters.

(2) Covered organizations

Grants and contracts provided under this section shall be carried out through United States organizations with expertise in the areas described in paragraph (1), including the American Society of Testing Materials, the Underwriters Laboratories, the American Society of Mechanical Engineers, the American Society of Civil Engineers, the American Society of Heating, Refrigeration, and Air Conditioning Engineers, the International Association of Plumbing and Mechanical Officials, the International Code Council, and the National Fire Protection Association.

(Pub. L. 107–228, div. A, title VI, §688, Sept. 30, 2002, 116 Stat. 1413.)

CODIFICATION

Section was enacted as part of the Department of State Authorization Act, Fiscal Year 2003, and also as part of the Foreign Relations Authorization Act, Fiscal Year 2003, and not as part of the Foreign Assistance Act of 1961 which comprises this chapter.

§2152f. Assistance for orphans and other vulnerable children

(a) Findings

Congress finds the following:

(1) There are more than 143,000,000 orphans living [1] sub-Saharan Africa, Asia, Latin America, and the Caribbean. Of this number, approximately 16,200,000 children have lost both parents.

(2) The HIV/AIDS pandemic has created an unprecedented orphan crisis, especially in sub-Saharan Africa, where children have been hardest hit. The pandemic is deepening poverty in entire communities, and is jeopardizing the health, safety, and survival of all children in affected countries. It is estimated that 14,000,000 children have lost one or both parents to AIDS.

(3) The orphans crisis in sub-Saharan Africa has implications for human welfare, development, and political stability that extend far beyond the region, affecting governments and people worldwide.

(4) Extended families and local communities are struggling to meet the basic needs of orphans and vulnerable children by providing food, health care including treatment of children living with HIV/AIDS, education expenses, and clothing.

(5) Famines, natural disasters, chronic poverty, ongoing conflicts, and civil wars in developing countries are adversely affecting children in these countries, the vast majority of whom currently do not receive humanitarian assistance or other support from the United States.

(6) The United States Government administers various assistance programs for orphans and other vulnerable children in developing countries. In order to improve targeting and programming of resources, the United States Agency for International Development should develop methods to adequately track the overall number of orphans and other vulnerable children receiving assistance, the kinds of programs for such children by sector and location, and any other such related data and analysis.

(7) The United States Agency for International Development should improve its capabilities to

deliver assistance to orphans and other vulnerable children in developing countries through partnerships with private volunteer organizations, including community and faith-based organizations.

(8) The United States Agency for International Development should be the primary United States Government agency responsible for identifying and assisting orphans and other vulnerable children in developing countries.

(9) Providing assistance to such children is an important expression of the humanitarian concern and tradition of the people of the United States.

(b) Definitions

In this section:

(1) AIDS

The term "AIDS" has the meaning given the term in section 2151b–2(g)(1) [2] of this title.

(2) Children

The term "children" means persons who have not attained 18 years of age.

(3) HIV/AIDS

The term "HIV/AIDS" has the meaning given the term in section 2151b–2(g)(3) [2] of this title.

(4) Orphan

The term "orphan" means a child deprived by death of one or both parents.

(5) Psychosocial support

The term "psychosocial support" includes care that addresses the ongoing psychological and social problems that affect individuals, their partners, families, and caregivers in order to alleviate suffering, strengthen social ties and integration, provide emotional support, and promote coping strategies.

(c) Assistance

The President is authorized to provide assistance, including providing such assistance through international or nongovernmental organizations, for programs in developing countries to provide basic care and services for orphans and other vulnerable children. Such programs should provide assistance—

(1) to support families and communities to mobilize their own resources through the establishment of community-based organizations to provide basic care for orphans and other vulnerable children;

(2) for school food programs, including the purchase of local or regional foodstuffs where appropriate;

(3) to increase primary school enrollment through the elimination of school fees, where appropriate, or other barriers to education while ensuring that adequate resources exist for teacher training and infrastructure;

(4) to provide employment training and related services for orphans and other vulnerable children who are of legal working age;

(5) to protect and promote the inheritance rights of orphans, other vulnerable children, and widows;

(6) to provide culturally appropriate psychosocial support to orphans and other vulnerable children; and

(7) to treat orphans and other vulnerable children with HIV/AIDS through the provision of pharmaceuticals, the recruitment and training of individuals to provide pediatric treatment, and the purchase of pediatric-specific technologies.

(d) Monitoring and evaluation

(1) Establishment

To maximize the sustainable development impact of assistance authorized under this section,

and pursuant to the strategy required in section 4 of the Assistance for Orphans and Other Vulnerable Children in Developing Countries Act of 2005, the President shall establish a monitoring and evaluation system to measure the effectiveness of United States assistance to orphans and other vulnerable children.

(2) Requirements

The monitoring and evaluation system shall—

(A) establish performance goals for the assistance and expresses [3] such goals in an objective and quantifiable form, to the extent feasible;

(B) establish performance indicators to be used in measuring or assessing the achievement of the performance goals described in subparagraph (A); and

(C) provide a basis for recommendations for adjustments to the assistance to enhance the impact of assistance.

(e) Special Advisor for Assistance to Orphans and Vulnerable Children

(1) Appointment

(A) In general

The Secretary of State, in consultation with the Administrator of the United States Agency for International Development, shall appoint a Special Advisor for Assistance to Orphans and Vulnerable Children.

(B) Delegation

At the discretion of the Secretary of State, the authority to appoint a Special Advisor under subparagraph (A) may be delegated by the Secretary of State to the Administrator of the United States Agency for International Development.

(2) Duties

The duties of the Special Advisor for Assistance to Orphans and Vulnerable Children shall include the following:

(A) Coordinate assistance to orphans and other vulnerable children among the various offices, bureaus, and field missions within the United States Agency for International Development.

(B) Advise the various offices, bureaus, and field missions within the United States Agency for International Development to ensure that programs approved for assistance under this section are consistent with best practices, meet the requirements of this chapter, and conform to the strategy outlined in section 4 of the Assistance for Orphans and Other Vulnerable Children in Developing Countries Act of 2005.

(C) Advise the various offices, bureaus, and field missions within the United States Agency for International Development in developing any component of their annual plan, as it relates to assistance for orphans or other vulnerable children in developing countries, to ensure that each program, project, or activity relating to such assistance is consistent with best practices, meets the requirements of this chapter, and conforms to the strategy outlined in section 4 of the Assistance for Orphans and Other Vulnerable Children in Developing Countries Act of 2005.

(D) Coordinate all United States assistance to orphans and other vulnerable children among United States departments and agencies, including the provision of assistance relating to HIV/AIDS authorized under the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (Public Law 108–25) [22 U.S.C. 7601 et seq.], and the amendments made by such Act (including section 102 of such Act, and the amendments made by such section, relating to the coordination of HIV/AIDS programs).

(E) Establish priorities that promote the delivery of assistance to the most vulnerable populations of orphans and children, particularly in those countries with a high rate of HIV infection among women.

(F) Disseminate a collection of best practices to field missions of the United States Agency for International Development to guide the development and implementation of programs to

assist orphans and vulnerable children.

(G) Administer the monitoring and evaluation system established in subsection (d).

(H) Prepare the annual report required by section 2152g of this title.

(f) Authorization of appropriations

(1) In general

There is authorized to be appropriated to the President to carry out this section such sums as may be necessary for each of the fiscal years 2006 and 2007.

(2) Availability of funds

Amounts made available under paragraph (1) are authorized to remain available until expended.

(Pub. L. 87–195, pt. I, §135, as added Pub. L. 109–95, §3, Nov. 8, 2005, 119 Stat. 2113.)

REFERENCES IN TEXT

Section 2151b–2(g) of this title, referred to in subsec. (b)(1), (3), was redesignated section 2151b–2(h) of this title by Pub. L. 110–293, title III, §301(d)(1), July 30, 2008, 122 Stat. 2951.

Section 4 of the Assistance for Orphans and Other Vulnerable Children in Developing Countries Act of 2005, referred to in subsecs. (d)(1) and (e)(2)(B), (C), is section 4 of Pub. L. 109–95, which is set out as a note under this section.

This chapter, referred to in subsec. (e)(2)(B), (C), was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

The United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003, referred to in subsec. (e)(2)(D), is Pub. L. 108–25, May 27, 2003, 117 Stat. 711, as amended, which is classified principally to chapter 83 (§7601 et seq.) of this title. Section 102 of the Act enacted section 7612 of this title and amended section 2651a of this title. For complete classification of this Act to the Code, see Short Title note set out under section 7601 of this title and Tables.

FINDINGS

Pub. L. 109–95, §2, Nov. 8, 2005, 119 Stat. 2111, provided that: "Congress makes the following findings:

"(1) As of July 2004, there were more than 143,000,000 children living in sub-Saharan Africa, Asia, Latin America, and the Caribbean who were identified as orphans, having lost one or both of their parents. Of this number, approximately 16,200,000 children were identified as double orphans, having lost both parents—the vast majority of whom died of AIDS. These children often are disadvantaged in numerous and devastating ways and most households with orphans cannot meet the basic needs of health care, food, clothing, and educational expenses.

"(2) It is estimated that 121,000,000 children worldwide do not attend school and that the majority of such children are young girls. According to the United Nations Children's Fund (UNICEF), orphans are less likely to be in school and more likely to be working full time.

"(3) School food programs, including take-home rations, in developing countries provide strong incentives for children to remain in school and continue their education. School food programs can reduce short-term hunger, improve cognitive functions, and enhance learning, behavior, and achievement.

"(4) Financial barriers, such as school fees and other costs of education, prevent many orphans and other vulnerable children in developing countries from attending school. Providing children with free primary school education, while simultaneously ensuring that adequate resources exist for teacher training and infrastructure, would help more orphans and other vulnerable children obtain a quality education.

"(5) The trauma that results from the loss of a parent can trigger behavior problems of aggression or emotional withdrawal and negatively affect a child's performance in school and the child's social relations. Children living in families affected by HIV/AIDS or who have been orphaned by AIDS often face stigmatization and discrimination. Providing culturally appropriate psychosocial support to such children can assist them in successfully accepting and adjusting to their circumstances.

"(6) Orphans and other vulnerable children in developing countries routinely are denied their inheritance or encounter difficulties in claiming the land and other property which they have inherited. Even when the inheritance rights of women and children are spelled out in law, such rights are difficult to claim and are seldom enforced. In many countries it is difficult or impossible for a widow, even if she has young children, to claim property after the death of her husband.

"(7) The HIV/AIDS pandemic has had a devastating affect on children and is deepening poverty in entire communities and jeopardizing the health, safety, and survival of all children in affected areas.

"(8) The HIV/AIDS pandemic has increased the number of orphans worldwide and has exacerbated the poor living conditions of the world's poorest and most vulnerable children. AIDS has created an unprecedented orphan crisis, especially in sub-Saharan Africa, where children have been hardest hit. An estimated 14,000,000 orphans have lost 1 or both parents to AIDS. By 2010, it is estimated that over 25,000,000 children will have been orphaned by AIDS.

"(9) Approximately 2,500,000 children under the age of 15 worldwide have HIV/AIDS. Every day another 2,000 children under the age of 15 are infected with HIV. Without treatment, most children born with HIV can expect to die by age two, but with sustained drug treatment through childhood, the chances of long-term survival and a productive adulthood improve dramatically.

"(10) Few international development programs specifically target the treatment of children with HIV/AIDS in developing countries. Reasons for this include the perceived low priority of pediatric treatment, a lack of pediatric health care professionals, lack of expertise and experience in pediatric drug dosing and monitoring, the perceived complexity of pediatric treatment, and mistaken beliefs regarding the risks and benefits of pediatric treatment.

"(11) Although a number of organizations seek to meet the needs of orphans or other vulnerable children, extended families and local communities continue to be the primary providers of support for such children.

"(12) The HIV/AIDS pandemic is placing huge burdens on communities and is leaving many orphans with little support. Alternatives to traditional orphanages, such as community-based resource centers, continue to evolve in response to the massive number of orphans that has resulted from the pandemic.

"(13) The AIDS orphans crisis in sub-Saharan Africa has implications for political stability, human welfare, and development that extend far beyond the region, affecting governments and people worldwide, and this crisis requires an accelerated response from the international community.

"(14) Although section 403(b) of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (22 U.S.C. 7673(b)) establishes the requirement that not less than 10 percent of amounts appropriated for HIV/AIDS assistance for each of fiscal years 2006 through 2008 shall be expended for assistance for orphans and other vulnerable children affected by HIV/AIDS, there is an urgent need to provide assistance to such children prior to 2006.

"(15) Numerous United States and indigenous private voluntary organizations, including faith-based organizations, provide assistance to orphans and other vulnerable children in developing countries. Many of these organizations have submitted applications for grants to the Administrator of the United States Agency for International Development to provide increased levels of assistance for orphans and other vulnerable children in developing countries.

"(16) Increasing the amount of assistance that is provided by the Administrator of the United States Agency for International Development through United States and indigenous private voluntary organizations, including faith-based organizations, will provide greater protection for orphans and other vulnerable children in developing countries.

"(17) It is essential that the United States Government adopt a comprehensive approach for the provision of assistance to orphans and other vulnerable children in developing countries. A comprehensive approach would ensure that important services, such as basic care, psychosocial support, school food programs, increased educational opportunities and employment training and related services, the protection and promotion of inheritance rights for such children, and the treatment of orphans and other vulnerable children with HIV/AIDS, are made more accessible.

"(18) Assistance for orphans and other vulnerable children can best be provided by a comprehensive approach of the United States Government that—

"(A) ensures that Federal agencies and the private sector coordinate efforts to prevent and eliminate duplication of efforts and waste in the provision of such assistance; and

"(B) to the maximum extent possible, focuses on community-based programs that allow orphans and other vulnerable children to remain connected to the traditions and rituals of their families and communities."

STRATEGY OF THE UNITED STATES

Pub. L. 109–95, §4, Nov. 8, 2005, 119 Stat. 2116, provided that:

"(a) REQUIREMENT FOR STRATEGY.—Not later than 180 days after the date of enactment of this Act [Nov. 8, 2005], the President shall develop, and transmit to the appropriate congressional committees, a strategy for coordinating, implementing, and monitoring assistance programs for orphans and vulnerable children.

"(b) CONSULTATION.—The strategy described in subsection (a) should be developed in consultation

with the Special Advisor for Assistance to Orphans and Vulnerable Children (appointed pursuant to section 135(e)(1) of the Foreign Assistance Act of 1961 [22 U.S.C. 2152f(e)(1)] (as added by section 3 of this Act)) and with employees of the field missions of the United States Agency for International Development to ensure that the strategy—

"(1) will not impede the efficiency of implementing assistance programs for orphans and vulnerable children; and

"(2) addresses the specific needs of indigenous populations.

"(c) CONTENT.—The strategy required by subsection (a) shall include—

"(1) the identity of each agency or department of the Federal Government that is providing assistance for orphans and vulnerable children in foreign countries;

"(2) a description of the efforts of the head of each such agency or department to coordinate the provision of such assistance with other agencies or departments of the Federal Government or nongovernmental entities;

"(3) a description of a coordinated strategy, including coordination with other bilateral and multilateral donors, to provide the assistance authorized in section 135 of the Foreign Assistance Act of 1961 [22 U.S.C. 2152f], as added by section 3 of this Act;

"(4) an analysis of additional coordination mechanisms or procedures that could be implemented to carry out the purposes of such section;

"(5) a description of a monitoring system that establishes performance goals for the provision of such assistance and expresses such goals in an objective and quantifiable form, to the extent feasible; and

"(6) a description of performance indicators to be used in measuring or assessing the achievement of the performance goals described in paragraph (5)."

[For definition of "appropriate congressional committees" as used in section 4 of Pub. L. 109–95, set out above, see section 6 of Pub. L. 109–95, set out as a note under section 2152g of this title.]

[1] So in original. Probably should be "living in".

[2] See References in Text note below.

[3] So in original. Probably should be "express".

§2152g. Annual report

(a) Report

Not later than one year after the date on which the President transmits to the appropriate congressional committees the strategy required by section 4(a), and annually thereafter, the President shall transmit to the appropriate congressional committees a report on the implementation of this Act and the amendments made by this Act.

(b) Contents

The report shall contain the following information for grants, cooperative agreements, contracts, contributions, and other forms of assistance awarded or entered into under section 2152f of this title:

(1) The amount of funding, the name of recipient organizations, the location of programs and activities, the status of progress of programs and activities, and the estimated number of orphans and other vulnerable children who received direct or indirect assistance under the programs and activities.

(2) The results of the monitoring and evaluation system with respect to assistance for orphans and other vulnerable children.

(3) The percentage of assistance provided in support of orphans or other vulnerable children affected by HIV/AIDS.

(4) Any other appropriate information relating to the needs of orphans and other vulnerable children in developing countries that could be addressed through the provision of assistance authorized in section 2152f of this title or under any other provision of law.

(Pub. L. 109–95, §5, Nov. 8, 2005, 119 Stat. 2117.)

REFERENCES IN TEXT

Section 4(a), referred to in subsec. (a), is section 4(a) of Pub. L. 109–95, which is set out as a note under section 2152f of this title.

This Act, referred to in subsec. (a), is Pub. L. 109–95, Nov. 8, 2005, 119 Stat. 2111, known as the Assistance for Orphans and Other Vulnerable Children in Developing Countries Act of 2005, which enacted this section and section 2152f of this title and enacted provisions set out as notes under this section and sections 2151 and 2152f of this title. For complete classification of this Act to the Code, see Short Title of 2005 Amendment note set out under section 2151 of this title and Tables.

CODIFICATION

Section was enacted as part of the Assistance for Orphans and Other Vulnerable Children in Developing Countries Act of 2005, and not as part of the Foreign Assistance Act of 1961 which comprises this chapter.

APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED

Pub. L. 109–95, §6, Nov. 8, 2005, 119 Stat. 2118, provided that: "In this Act [see Short Title of 2005 Amendment note set out under section 2151 of this title], the term 'appropriate congressional committees' means the Committee on Appropriations and the Committee on Foreign Relations of the Senate and the Committee on Appropriations and the Committee on International Relations [now Committee on Foreign Affairs] of the House of Representatives."

§2152h. Assistance to provide safe water, sanitation, and hygiene

(a) Purposes

The purposes of assistance authorized by this section are—

(1) to promote good health, economic development, poverty reduction, women's empowerment, conflict prevention, and environmental sustainability by providing assistance to expand access to safe water and sanitation, promoting integrated water resource management, and improving hygiene for people around the world;

(2) to seek to reduce by one-half from the baseline year 1990 the proportion of people who are unable to reach or afford safe drinking water and the proportion of people without access to basic sanitation by 2015;

(3) to focus water and sanitation assistance toward the countries, locales, and people with the greatest need;

(4) to promote affordability and equity in the provision of access to safe water and sanitation for the very poor, women, and other vulnerable populations;

(5) to improve water efficiency through water demand management and reduction of unaccounted-for water;

(6) to promote long-term sustainability in the affordable and equitable provision of access to safe water and sanitation through the creation of innovative financing mechanisms such as national revolving funds, and by strengthening the capacity of recipient governments and communities to formulate and implement policies that expand access to safe water and sanitation in a sustainable fashion, including integrated planning;

(7) to secure the greatest amount of resources possible, encourage private investment in water and sanitation infrastructure and services, particularly in lower middle-income countries, without creating unsustainable debt for low-income countries or unaffordable water and sanitation costs for the very poor; and

(8) to promote the capacity of recipient governments to provide affordable, equitable, and sustainable access to safe water and sanitation.

(b) Authorization

To carry out the purposes of subsection (a), the President is authorized to furnish assistance for programs in developing countries to provide affordable and equitable access to safe water, sanitation, and hygiene.

(c) Activities supported

Assistance provided under subsection (b) shall, to the maximum extent practicable, be used to—

(1) expand affordable and equitable access to safe water and sanitation for underserved populations;

(2) support the design, construction, maintenance, upkeep, repair, and operation of water delivery and sanitation systems;

(3) improve the safety and reliability of water supplies, including environmental management; and

(4) improve the capacity of recipient governments and local communities, including capacity-building programs for improved water resource management.

(d) Local currency

The President may use payments made in local currencies under an agreement made under title I of the Food for Peace Act (7 U.S.C. 1701 et seq.) to provide assistance under this section.

(e) Coordination and oversight

(1) USAID Global Water Coordinator

(A) Designation

The Administrator of the United States Agency for International Development (referred to in this paragraph as "USAID") or the Administrator's designee, who shall be a current USAID employee serving in a career or non-career position in the Senior Executive Service or at the level of a Deputy Assistant Administrator or higher, shall serve concurrently as the USAID Global Water Coordinator (referred to in this subsection as the "Coordinator").

(B) Specific duties

The Coordinator shall—

(i) provide direction and guidance to, coordinate, and oversee the projects and programs of USAID authorized under this section;

(ii) lead the implementation and revision, not less frequently than once every 5 years, of USAID's portion of the Global Water Strategy required under subsection (j);

(iii) seek—

(I) to expand the capacity of USAID, subject to the availability of appropriations, including through the designation of a lead subject matter expert selected from among USAID staff in each high priority country designated pursuant to subsection (h);

(II) to implement such programs and activities;

(III) to take advantage of economies of scale; and

(IV) to conduct more efficient and effective projects and programs;

(iv) coordinate with the Department of State and USAID staff in each high priority country designated pursuant to subsection (h) to ensure that USAID activities and projects, USAID program planning and budgeting documents, and USAID country development strategies reflect and seek to implement—

(I) the safe water, sanitation, and hygiene objectives established in the strategy required under subsection (j), including objectives relating to the management of water resources; and

(II) international best practices relating to—

(aa) increasing access to safe water and sanitation;

(bb) conducting hygiene-related activities; and

(cc) ensuring appropriate management of water resources; and

(v) develop appropriate benchmarks, measurable goals, performance metrics, and monitoring and evaluation plans for USAID projects and programs authorized under this section.

(2) Department of State Special Coordinator for Water Resources

(A) Designation

The Secretary of State or the Secretary's designee, who shall be a current employee of the Department of State serving in a career or non-career position in the Senior Executive Service or at the level of a Deputy Assistant Secretary or higher, shall serve concurrently as the Department of State Special Advisor for Water Resources (referred to in this paragraph as the "Special Advisor").

(B) Specific duties

The Special Advisor shall—

(i) provide direction and guidance to, coordinate, and oversee the projects and programs of the Department of State authorized under this section;

(ii) lead the implementation and revision, not less than every 5 years, of the Department of State's portion of the Global Water Strategy required under subsection (j);

(iii) prioritize and coordinate the Department of State's international engagement on the allocation, distribution, and access to global fresh water resources and policies related to such matters;

(iv) coordinate with United States Agency for International Development and Department of State staff in each high priority country designated pursuant to subsection (h) to ensure that United States diplomatic efforts related to safe water, sanitation, and hygiene, including efforts related to management of water resources and watersheds and the resolution of intra- and trans-boundary conflicts over water resources, are consistent with United States national interests; and

(v) represent the views of the United States Government on the allocation, distribution, and access to global fresh water resources and policies related to such matters in key international fora, including key diplomatic, development-related, and scientific organizations.

(3) Additional nature of duties and restriction on additional or supplemental compensation

The responsibilities and specific duties of the Administrator of the United States Agency for International Development (or the Administrator's designee) and the Secretary of State (or the Secretary's designee) under paragraph (2) or (3), respectively, shall be in addition to any other responsibilities or specific duties assigned to such individuals. Such individuals shall receive no additional or supplemental compensation as a result of carrying out such responsibilities and specific duties under such paragraphs.

(f) Priorities and criteria for maximum impact and long-term sustainability

The Administrator of the United States Agency for International Development shall ensure that the Agency for International Development's projects and programs authorized under this section are designed to achieve maximum impact and long-term sustainability by—

(1) prioritizing countries on the basis of the following clearly defined criteria and indicators, to the extent sufficient empirical data are available—

(A) the proportion of the population using an unimproved drinking water source;

(B) the total population using an unimproved drinking water source;

(C) the proportion of the population without piped water access;

(D) the proportion of the population using shared or other unimproved sanitation facilities;

(E) the total population using shared or other unimproved sanitation facilities;

(F) the proportion of the population practicing open defecation;

(G) the total number of children younger than 5 years of age who died from diarrheal disease;

(H) the proportion of all deaths of children younger than 5 years of age resulting from diarrheal disease;

(I) the national government's capacity, capability, and commitment to work with the United States to improve access to safe water, sanitation, and hygiene, including—

(i) the government's capacity and commitment to developing the indigenous capacity to provide safe water and sanitation without the assistance of outside donors; and

(ii) the degree to which such government—

(I) identifies such efforts as a priority; and
(II) allocates resources to such efforts;

(J) the availability of opportunities to leverage existing public, private, or other donor investments in the water, sanitation, and hygiene sectors, including investments in the management of water resources; and

(K) the likelihood of making significant improvements on a per capita basis on the health and educational opportunities available to women as a result of increased access to safe water, sanitation, and hygiene, including access to appropriate facilities at primary and secondary educational institutions seeking to ensure that communities benefitting from such projects and activities develop the indigenous capacity to provide safe water and sanitation without the assistance of outside donors;

(2) prioritizing and measuring, including through rigorous monitoring and evaluating mechanisms, the extent to which such project or program—

(A) furthers significant improvements in—

(i) the criteria set forth in subparagraphs (A) through (H) of paragraph (1);

(ii) the health and educational opportunities available to women as a result of increased access to safe water, sanitation, and hygiene, including access to appropriate facilities at primary and secondary educational institutions; and

(iii) the indigenous capacity of the host nation or community to provide safe water and sanitation without the assistance of outside donors;

(B) is designed, as part of the provision of safe water and sanitation to the local community—

(i) to be financially independent over the long term, focusing on local ownership and sustainability;

(ii) to be undertaken in conjunction with relevant public institutions or private enterprises;

(iii) to identify and empower local individuals or institutions to be responsible for the effective management and maintenance of such project or program; and

(iv) to provide safe water or expertise or capacity building to those identified parties or institutions for the purposes of developing a plan and clear responsibilities for the effective management and maintenance of such project or program;

(C) leverages existing public, private, or other donor investments in the water, sanitation, and hygiene sectors, including investments in the management of water resources;

(D) avoids duplication of efforts with other United States Government agencies or departments or those of other nations or nongovernmental organizations;

(E) coordinates such efforts with the efforts of other United States Government agencies or departments or those of other nations or nongovernmental organizations directed at assisting refugees and other displaced individuals; and

(F) involves consultation with appropriate stakeholders, including communities directly affected by the lack of access to clean water, sanitation or hygiene, and other appropriate nongovernmental organizations; and

(3) seeking to further the strategy required under subsection (j) after 2018.

(g) Use of current and improved empirical data collection and review of new standardized indicators

(1) In general

The Administrator of the United States Agency for International Development is authorized to use current and improved empirical data collection—

(A) to meet the health-based prioritization criteria established pursuant to subsection (f)(1); and

(B) to review new standardized indicators in evaluating progress towards meeting such criteria.

(2) Consultation and notice

The Administrator shall—

(A) regularly consult with the appropriate congressional committees; and

(B) notify such committees not later than 30 days before using current or improved empirical data collection for the review of any new standardized indicators under paragraph (1) for the purposes of carrying out this section.

(h) Designation of high priority countries

(1) Initial designation

Not later than October 1, 2015, the President shall—

(A) designate, on the basis of the criteria set forth in subsection (f)(1) not fewer than 10 countries as high priority countries to be the primary recipients of United States Government assistance authorized under this section during fiscal year 2016; and

(B) notify the appropriate congressional committees of such designations.

(2) Annual designations

(A) In general

Except as provided in subparagraph (B), the President shall annually make new designations pursuant to the criteria set forth in paragraph (1).

(B) Designations after fiscal year 2018

Beginning with fiscal year 2019, designations under paragraph (1) shall be made—

(i) based upon the criteria set forth in subsection (f)(1); and

(ii) in furtherance of the strategy required under subsection (j).

(i) Targeting of projects and programs to areas of greatest need

(1) In general

Not later than 15 days before the obligation of any funds for water, sanitation, or hygiene projects or programs pursuant to this section in countries that are not ranked in the top 50 countries based upon the WASH Needs Index, the Administrator of the United States Agency for International Development shall notify the appropriate congressional committees of the planned obligation of such funds.

(2) Defined term

In this subsection and in subsection (j), the term "WASH Needs Index" means the needs index for water, sanitation, or hygiene projects or programs authorized under this section that has been developed using the criteria and indicators described in subparagraphs (A) through (H) of subsection (f)(1).

(j) Global Water Strategy

(1) In general

Not later than October 1, 2017, October 1, 2022, and October 1, 2027, the President, acting through the Secretary of State, the Administrator of the United States Agency for International Development, and the heads of other Federal departments and agencies, as appropriate, shall submit a single government-wide Global Water Strategy to the appropriate congressional committees that provides a detailed description of how the United States intends—

(A) to increase access to safe water, sanitation, and hygiene in high priority countries designated pursuant to subsection (h), including a summary of the WASH Needs Index and the specific weighting of empirical data and other definitions used to develop and rank countries on the WASH Needs Index;

(B) to improve the management of water resources and watersheds in such countries; and

(C) to work to prevent and resolve, to the greatest degree possible, both intra- and trans-boundary conflicts over water resources in such countries.

(2) Agency-specific plans

The Global Water Strategy shall include an agency-specific plan—

(A) from the United States Agency for International Development that describes specifically how the Agency for International Development will—

(i) carry out the duties and responsibilities assigned to the Global Water Coordinator under subsection (e)(1);

(ii) ensure that the Agency for International Development's projects and programs authorized under this section are designed to achieve maximum impact and long-term sustainability, including by implementing the requirements described in subsection (f); and

(iii) increase access to safe water, sanitation, and hygiene in high priority countries designated pursuant to subsection (h);

(B) from the Department of State that describes specifically how the Department of State will—

(i) carry out the duties and responsibilities assigned to the Special Coordinator for Water Resources under subsection (e)(2); and

(ii) ensure that the Department's activities authorized under this section are designed—

(I) to improve management of water resources and watersheds in countries designated pursuant to subsection (h); and

(II) to prevent and resolve, to the greatest degree possible, both intra- and trans-boundary conflicts over water resources in such countries; and

(C) from other Federal departments and agencies, as appropriate, that describes the contributions of the departments and agencies to implementing the Global Water Strategy.

(3) Individualized plans for high priority countries

For each high priority country designated pursuant to subsection (h), the Administrator of the United States Agency for International Development shall—

(A) develop a costed, evidence-based, and results-oriented plan that—

(i) seeks to achieve the purposes of this section; and

(ii) meets the requirements under subsection (f); and

(B) include such plan in an appendix to the Global Water Strategy required under paragraph (1).

(4) First time access reporting requirement

The Global Water Strategy shall specifically describe the target percentage of funding for each fiscal year covered by such strategy to be directed toward projects aimed at providing first-time access to safe water and sanitation.

(5) Performance indicators

The Global Water Strategy shall include specific and measurable goals, benchmarks, performance metrics, timetables, and monitoring and evaluation plans required to be developed by the Administrator of the United States Agency for International Development pursuant to subsection (e)(1)(B)(v).

(6) Consultation and best practices

The Global Water Strategy shall—

(A) be developed in consultation with the heads of other appropriate Federal departments and agencies; and

(B) incorporate best practices from the international development community.

(k) Definitions

In this section—

(1) the term "appropriate congressional committees" means—

(A) the Committee on Foreign Relations of the Senate;

(B) the Committee on Appropriations of the Senate;

(C) the Committee on Foreign Affairs of the House of Representatives; and

(D) the Committee on Appropriations of the House of Representatives; and

(2) the term "long-term sustainability" refers to the ability of a service delivery system, community, partner, or beneficiary to maintain, over time, any water, sanitation, or hygiene project that receives funding pursuant to the amendments made by the Senator Paul Simon Water for the World Act of 2014.

(Pub. L. 87–195, pt. I, §136, formerly §135, as added Pub. L. 109–121, §5(a), Dec. 1, 2005, 119 Stat. 2536; amended Pub. L. 110–246, title III, §3001(b)(1)(A), (2)(Q), June 18, 2008, 122 Stat. 1820; renumbered §136 and amended Pub. L. 113–289, §§3–6(a), Dec. 19, 2014, 128 Stat. 3283–3288.)

REFERENCES IN TEXT

The Food for Peace Act, referred to in subsec. (d), is act July 10, 1954, ch. 469, 68 Stat. 454. Title I of the Act is classified generally to subchapter II (§1701 et seq.) of chapter 41 of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 1691 of Title 7 and Tables.

The Senator Paul Simon Water for the World Act of 2014, referred to in subsec. (k)(2), is Pub. L. 113–289, Dec. 19, 2014, 128 Stat. 3283, which amended this section and provisions set out as a note under this section. For complete classification of this Act to the Code, see Short Title of 2014 Amendment note set out under section 2151 of this title and Tables.

AMENDMENTS

2014—Pub. L. 113–289, §3(2)(A), substituted ", sanitation, and hygiene" for "and sanitation" in section catchline.

Subsec. (b). Pub. L. 113–289, §3(2)(B), substituted ", sanitation, and hygiene" for "and sanitation".

Subsec. (e). Pub. L. 113–289, §4, added subsec. (e).

Subsecs. (f) to (i). Pub. L. 113–289, §5, added subsecs. (f) to (i).

Subsecs. (j), (k). Pub. L. 113–289, §6(a), added subsecs. (j) and (k).

2008—Subsec. (d). Pub. L. 110–246 substituted "Food for Peace Act" for "Agricultural Trade Development and Assistance Act of 1954".

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–246 effective May 22, 2008, see section 4(b) of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

WATER FOR THE POOR

Pub. L. 109–121, Dec. 1, 2005, 119 Stat. 2533, as amended by Pub. L. 113–289, §6(c), Dec. 19, 2014, 128 Stat. 3290, provided that:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Senator Paul Simon Water for the Poor Act of 2005'.

"SEC. 2. FINDINGS.

"Congress makes the following findings:

"(1) Water-related diseases are a human tragedy, killing up to five million people annually, preventing millions of people from leading healthy lives, and undermining development efforts.

"(2) A child dies an average of every 15 seconds because of lack of access to safe water and adequate sanitation.

"(3) In the poorest countries in the world, one out of five children dies from a preventable, water-related disease.

"(4) Lack of access to safe drinking water, inadequate sanitation, and poor hygiene practices are directly responsible for the vast majority of diarrheal diseases which kill over two million children each year.

"(5) At any given time, half of all people in the developing world are suffering from one or more of the main diseases associated with inadequate provision of water supply and sanitation services.

"(6) Over 1.1 billion people, one in every six people in the world, lack access to safe drinking water.

"(7) Nearly 2.6 billion people, two in every five people in the world, lack access to basic sanitation services.

"(8) Half of all schools in the world do not have access to safe drinking water and basic sanitation.

"(9) Over the past 20 years, two billion people have gained access to safe drinking water and 600 million people have gained access to basic sanitation services.

"(10) Access to safe water and sanitation and improved hygiene are significant factors in controlling the spread of disease in the developing world and positively affecting worker productivity and economic development.

"(11) Increasing access to safe water and sanitation advances efforts toward other development objectives, such as fighting poverty and hunger, promoting primary education and gender equality, reducing child mortality, promoting environmental stability, improving the lives of slum dwellers, and strengthening national security.

"(12) Providing safe supplies of water and sanitation and hygiene improvements would save millions of lives by reducing the prevalence of water-borne diseases, water-based diseases, water-privation diseases, and water-related vector diseases.

"(13) Because women and girls in developing countries are often the carriers of water, lack of access to safe water and sanitation disproportionately affects women and limits women's opportunities at education, livelihood, and financial independence.

"(14) Between 20 percent and 50 percent of existing water systems in developing countries are not operating or are operating poorly.

"(15) In developing world water delivery systems, an average of 50 percent of all water is lost before it gets to the end-user.

"(16) Every $1 invested in safe water and sanitation would yield an economic return of between $3 and $34, depending on the region.

"(17) Developing sustainable financing mechanisms, such as pooling mechanisms and revolving funds, is necessary for the long-term viability of improved water and sanitation services.

"(18) The annual level of investment needed to meet the water and sanitation needs of developing countries far exceeds the amount of Official Development Assistance (ODA) and spending by governments of developing countries, so facilitating and attracting greater public and private investment is essential.

"(19) Meeting the water and sanitation needs of the lowest-income developing countries will require an increase in the resources available as grants from donor countries.

"(20) The long-term sustainability of improved water and sanitation services can be advanced by promoting community level action and engagement with civil society.

"(21) Target 10 of the United Nations Millennium Development Goals is to reduce by half the proportion of people without sustainable access to safe drinking water by 2015.

"(22) The participants in the 2002 World Summit on Sustainable Development, held in Johannesburg, South Africa, including the United States, agreed to the Plan of Implementation of the World Summit on Sustainable Development which included an agreement to work to reduce by one-half 'the proportion of people who are unable to reach or afford safe drinking water,' and 'the proportion of people without access to basic sanitation' by 2015.

"(23) At the World Summit on Sustainable Development, the United States announced the Water for the Poor Initiative, committing $970 million for fiscal years 2003 through 2005 to improve sustainable management of fresh water resources and accelerate and expand international efforts to achieve the goal of cutting in half by 2015 the proportion of people who are unable to reach or to afford safe drinking water.

"(24) United Nations General Assembly Resolution 58/217 (February 9, 2004) proclaimed 'the period from 2005 to 2015 the International Decade for Action, "Water for Life", to commence on World Water Day, 22 March 2005' for the purpose of increasing the focus of the international community on water-related issues at all levels and on the implementation of water-related programs and projects.

"(25) Around the world, 263 river basins are shared by two or more countries, and many more basins and watersheds cross political or ethnic boundaries.

"(26) Water scarcity can contribute to insecurity and conflict on subnational, national, and international levels, thus endangering the national security of the United States.

"(27) Opportunities to manage water problems can be leveraged in ways to build confidence, trust, and peace between parties in conflict.

"(28) Cooperative water management can help resolve conflicts caused by other problems and is often a crucial component in resolving such conflicts.

"(29) Cooperative water management can help countries recover from conflict and, by promoting

dialogue and cooperation among former parties in conflict, can help prevent the reemergence of conflict.

"SEC. 3. STATEMENT OF POLICY.

"It is the policy of the United States—

"(1) to increase the percentage of water and sanitation assistance targeted toward countries designated as high priority countries under section 6(f) of this Act;

"(2) to ensure that water and sanitation assistance reflect an appropriate balance of grants, loans, contracts, investment insurance, loan guarantees, and other assistance to further ensure affordability and equity in the provision of access to safe water and sanitation for the very poor;

"(3) to ensure that the targeting of water and sanitation assistance reflect an appropriate balance between urban, periurban, and rural areas to meet the purposes of assistance described in section 135 of the Foreign Assistance Act of 1961 [this section], as added by section 5(a) of this Act;

"(4) to ensure that forms of water and sanitation assistance provided reflect the level of existing resources and markets for investment in water and sanitation within recipient countries;

"(5) to ensure that water and sanitation assistance, to the extent possible, supports the poverty reduction strategies of recipient countries and, when appropriate, encourages the inclusion of water and sanitation within such poverty reduction strategies;

"(6) to promote country and local ownership of safe water and sanitation programs, to the extent appropriate;

"(7) to promote community-based approaches in the provision of affordable and equitable access to safe water and sanitation, including the involvement of civil society;

"(8) to mobilize and leverage the financial and technical capacity of businesses, governments, nongovernmental organizations, and civil society in the form of public-private alliances;

"(9) to encourage reforms and increase the capacity of foreign governments to formulate and implement policies that expand access to safe water and sanitation in an affordable, equitable, and sustainable manner, including integrated strategic planning; and

"(10) to protect the supply and availability of safe water through sound environmental management, including preventing the destruction and degradation of ecosystems and watersheds.

"SEC. 4. SENSE OF CONGRESS.

"It is the sense of Congress that—

"(1) in order to make the most effective use of amounts of Official Development Assistance for water and sanitation and avoid waste and duplication, the United States should seek to establish innovative international coordination mechanisms based on best practices in other development sectors; and

"(2) the United States should greatly increase the amount of Official Development Assistance made available to carry out section 135 of the Foreign Assistance Act of 1961 [this section], as added by section 5(a) of this Act.

"SEC. 5. ASSISTANCE TO PROVIDE SAFE WATER AND SANITATION.

"(a) IN GENERAL.—[Enacted this section.]

"(b) CONFORMING AMENDMENT.—[Amended section 1704 of Title 7, Agriculture.]

"[SEC. 6. REPEALED. PUB. L. 113–289, §6(C), DEC. 19, 2014, 128 STAT. 3290.]

"SEC. 7. MONITORING REQUIREMENT.

"The Secretary of State and the Administrator of the United States Agency for International Development shall monitor the implementation of assistance under section 135 of the Foreign Assistance Act of 1961 [this section], as added by section 5(a) of this Act, to ensure that the assistance is reaching its intended targets and meeting the intended purposes of assistance.

"SEC. 8. SENSE OF CONGRESS REGARDING DEVELOPMENT OF LOCAL CAPACITY.

"It is the sense of Congress that the Secretary of State should expand current programs and develop new programs, as necessary, to train local water and sanitation managers and other officials of countries that receive assistance under section 135 of the Foreign Assistance Act of 1961 [this section], as added by section 5(a) of this Act.

"SEC. 9. SENSE OF CONGRESS REGARDING ADDITIONAL WATER AND SANITATION PROGRAMS.

"It is the sense of the Congress that—

"(1) the United States should further support, as appropriate, water and sanitation activities of United Nations agencies, such as the United Nations Children's Fund (UNICEF), the United Nations Development Programme (UNDP), and the United Nations Environment Programme (UNEP); and

"(2) the Secretary of the Treasury should instruct each United States Executive Director at the multilateral development banks (within the meaning of section 1701(c) of the International Financial Institutions Act [22 U.S.C. 262r(c)]) to encourage the inclusion of water and sanitation programs as a critical element of their development assistance.

"SEC. 10. REPORT REGARDING WATER FOR PEACE AND SECURITY.

"(a) SENSE OF CONGRESS.—It is the sense of Congress that United States programs to support and encourage efforts around the world to develop river basin, aquifer, and other watershed-wide mechanisms for governance and cooperation are critical components of long-term United States national security and should be expanded.

"(b) REPORT.—The Secretary of State, in consultation with the Administrator of the United States Agency for International Development, shall submit to the Committee on International Relations [now Committee on Foreign Affairs] of the House of Representatives and the Committee on Foreign Relations of the Senate a report on efforts that the United States is making to support and promote programs that develop river basin, aquifer, and other watershed-wide mechanisms for governance and cooperation.

"SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—There are authorized to be appropriated for fiscal year 2006 and each subsequent fiscal year such sums as may be necessary to carry out this Act and the amendments made by this Act.

"(b) OTHER AMOUNTS.—Amounts appropriated pursuant to the authorization of appropriations in subsection (a) shall be in addition to the amounts otherwise available to carry out this Act and the amendments made by this Act.

"(c) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under subsection (a) are authorized to remain available until expended."

§2152i. Small Grants Program

(a) In general

A Small Grants Program (SGP) shall be established within the United States Agency for International Development (USAID) to provide small grants, cooperative agreements, and other assistance mechanisms and agreements of not more than $2,000,000 for the purpose of carrying out the provisions of chapters 1 and 10 of part I [22 U.S.C. 2151 et seq., 2293 et seq.] and chapter 4 of part II [22 U.S.C. 2346 et seq.] of the Foreign Assistance Act of 1961: *Provided*, That the SGP established pursuant to this section shall replace the function served previously by the Development Grants Program established under section 674 of division J, of Public Law 110–161, which is hereby abolished.

(b) Eligibility

Awards from the SGP shall only be made to eligible entities as described in the joint explanatory statement described in section 4 (in the matter preceding division A of this consolidated Act).

(c) Proposals

Awards made pursuant to the authority of this section shall be provided through—

(1) unsolicited applications received and evaluated pursuant to USAID policy regarding such proposals;

(2) an open and competitive process; or

(3) as otherwise allowable under Federal Acquisition Regulations and USAID procurement policies.

(d) Funding

(1) Of the funds appropriated by this Act to carry out chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq., 2346 et seq.], not less than $45,000,000 shall be made available for the SGP within USAID's Local Sustainability Office of the Bureau for Economic Growth, Education and Environment to carry out this subsection.

(2) Other than to meet the requirements of this section, funds made available to carry out this section may not be allocated in the report required by section 653(a) of the Foreign Assistance Act of

1961 [22 U.S.C. 2413(a)] to meet any other specifically designated funding levels contained in this Act: *Provided*, That such funds may be attributed to any such specifically designated funding level after the award of funds under this section, if applicable.

(3) Funds made available under this section shall remain available for obligation until September 30, 2019.

(e) Management

(1) Not later than 120 days after December 16, 2014, the USAID Administrator shall issue guidance to implement this section: *Provided*, That such guidance shall include the requirements contained in the joint explanatory statement described in section 4 (in the matter preceding division A of this consolidated Act).

(2) Upon selection of a mission pursuant to the procedures required by paragraph (1), such selected mission may be allocated the full estimated cost of the multi-year program: *Provided*, That such allocations shall be subject to the regular notification procedures of the Committees on Appropriations.

(3) In addition to funds otherwise available for such purposes, up to 20 percent of the funds made available to carry out this section may be used by USAID for administrative expenses, and other necessary support associated with managing and strengthening relationships with entities under the SGP.

(f) Report

Not later than 120 days after December 16, 2014, and after consultation with the appropriate congressional committees, the Administrator shall submit a report to such committees describing the guidance to implement the SGP.

(Pub. L. 113–235, div. J, title VII, §7080, Dec. 16, 2014, 128 Stat. 2682; Pub. L. 114–113, div. K, title VII, §7034(q)(3), Dec. 18, 2015, 129 Stat. 2768.)

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsecs. (a) and (d)(1), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424. Chapters 1 and 10 of part I and chapter 4 of part II of the Act are classified generally to parts I (§2151 et seq.) and X (§2293 et seq.) of subchapter I and part IV (§2346 et seq.) of subchapter II, respectively, of chapter 32 of this title. For provisions deeming references to part I of subchapter I to include a reference to section 2293 of this title, see section 2293(d)(1) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

Section 674 of division J, of Public Law 110–161, referred to in subsec. (a), is not classified to the Code.

Section 4 (in the matter preceding division A of this consolidated Act), referred to in subsecs. (b) and (e)(1), is section 4 of Pub. L. 113–235, Dec. 16, 2014, 128 Stat. 2132, which is not classified to the Code.

This Act, referred to in subsec. (d)(1), (2), is div. J of Pub. L. 113–235, Dec. 16, 1214, 128 Stat. 2573, known as the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2015. For complete classification of div. J to the Code, see Tables.

CODIFICATION

Section was enacted as part of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2015, and also as part of the Consolidated and Further Continuing Appropriations Act, 2015, and not as part of the Foreign Assistance Act of 1961 which comprises this chapter.

AMENDMENTS

2015—Subsecs. (b), (c). Pub. L. 114–113, §7034(q)(3)(A), substituted "Awards" for "Grants".

Subsec. (c)(3). Pub. L. 114–113, §7034(q)(3)(B)–(D), added par. (3).

Subsec. (e)(3). Pub. L. 114–113, §7034(q)(3)(E), substituted "20" for "12" and "administrative expenses, and other necessary support associated with managing and strengthening" for "administrative and oversight expenses associated with managing".

DEFINITIONS

Pub. L. 114–113, div. K, title VII, §7034(q)(4), Dec. 18, 2015, 129 Stat. 2768, provided that: "For the purposes of section 7080 of Public Law 113–235 [22 U.S.C. 2152i], 'eligible entities' shall be defined as small local, international, and United States-based nongovernmental organizations, educational institutions, and

other small entities that have received less than a total of $5,000,000 in USAID funding over the previous five years: *Provided*, That departments or centers of such educational institutions may be considered individually in determining such eligibility."

Pub. L. 113–235, div. J, title VII, §7034(t)(1), Dec. 16, 2014, 128 Stat. 2627, provided that: "Unless otherwise defined in this Act [div. J of Pub. L. 113–235, 128 Stat. 2573, see Tables for classification], for purposes of this Act the term 'appropriate congressional committees' shall mean the Committees on Appropriations and Foreign Relations of the Senate and the Committees on Appropriations and Foreign Affairs of the House of Representatives."

PART II—OTHER PROGRAMS

SUBPART I—MULTILATERAL AND REGIONAL DEVELOPMENT PROGRAMS

§§2161, 2162. Repealed. Pub. L. 95–424, title I, §102(g)(1)(A), Oct. 6, 1978, 92 Stat. 942

Section 2161, Pub. L. 87–195, pt. I, §201, Sept. 4, 1961, 75 Stat. 426; Pub. L. 87–565, pt. I, §102, Aug. 1, 1962, 76 Stat. 256; Pub. L. 88–205, pt. I, §102(a), Dec. 16, 1963, 77 Stat. 380; Pub. L. 88–633, pt. I, §101, Oct. 7, 1964, 78 Stat. 1009; Pub. L. 89–583, pt. I, §102(a), Sept. 19, 1966, 80 Stat. 796; Pub. L. 90–137, pt. I, §102(a), (b), Nov. 14, 1967, 81 Stat. 447; Pub. L. 90–554, pt. I, §101(a), Oct. 8, 1968, 82 Stat. 960, related to the establishment by the President of the Development Loan Fund. See section 2151(b) of this title.

Section 2162, Pub. L. 87–195, pt. I, §202, Sept. 4, 1961, 75 Stat. 426; Pub. L. 88–205, pt. I, §102(b), Dec. 16, 1963, 77 Stat. 380; Pub. L. 89–583, pt. I, §102(b), Sept. 19, 1966, 80 Stat. 796; Pub. L. 90–137, pt. I, §102(c), Nov. 14, 1967, 81 Stat. 447; Pub. L. 90–554, pt. I, §101(b), Oct. 8, 1968, 82 Stat. 960; Pub. L. 91–175, pt. I, §101(a), Dec. 30, 1969, 83 Stat. 805; Pub. L. 92–226, pt. I, §101(a), Feb. 7, 1972, 86 Stat. 21, related to authorization of appropriations, availability of funds, and encouragement of development through private enterprise.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1978, see section 605 of Pub. L. 95–424, set out as an Effective Date of 1978 Amendment note under section 2151 of this title.

§2163. Repealed. Pub. L. 93–189, §3(b), Dec. 17, 1973, 87 Stat. 717

Section, Pub. L. 87–195, pt. I, §203, Sept. 4, 1961, 75 Stat. 427; Pub. L. 91–175, pt. I, §101(b), Dec. 30, 1969, 83 Stat. 805; Pub. L. 92–226, pt. I, §101(b), Feb. 7, 1972, 86 Stat. 21; Pub. L. 93–189, §3(a), Dec. 17, 1973, 87 Stat. 717; Pub. L. 93–559, §6, Dec. 30, 1974, 88 Stat. 1796, authorized use of not more than 50 per centum of dollar receipts scheduled to be paid during each of the fiscal years 1974 and 1975 from loans made under this subchapter and predecessor foreign assistance legislation for making loans under part I of this subchapter for each such fiscal year, and disposition of dollar receipts paid on and after July 1, 1975.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1975, see section 3(b) of Pub. L. 93–189.

§2164. Repealed. Pub. L. 95–424, title I, §102(g)(1)(A), Oct. 6, 1978, 92 Stat. 942

Section, Pub. L. 87–195, pt. I, §204, Sept. 4, 1961, 75 Stat. 427, related to the establishment, duties and appointment of officers of the Development Loan Committee. The provisions of this section were redesignated as subsec. (e) of section 2151t of this title by section 102(d)(1), (2) of Pub. L. 95–424.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1978, see section 605 of Pub. L. 95–424, set out as an Effective Date of 1978 Amendment note under section 2151 of this title.

§2165. Repealed. Pub. L. 92–226, pt. I, §101(d), Feb. 7, 1972, 86 Stat. 21

Section, Pub. L. 87–195, pt. I, §205, Sept. 4, 1961, 75 Stat. 427; Pub. L. 89–171, pt. I, §102(a), Sept. 6, 1965, 79 Stat. 653; Pub. L. 89–583, pt. I, §102(c), Sept. 19, 1966, 80 Stat. 797; Pub. L. 90–137, pt. I, §102(d), Nov. 14, 1967, 81 Stat. 447, provided for use of international lending organizations.

§2166. Regional development in Africa

The President is requested to seek and to take appropriate action, in cooperation and consultation with African and other interested nations and with international development organizations, to further and assist in the advancement of African regional development institutions, including the African Development Bank, with the view toward promoting African economic development.

(Pub. L. 87–195, pt. I, §206, as added Pub. L. 89–171, pt. I, §102(b), Sept. 6, 1965, 79 Stat. 653.)

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

AFRICAN ASSISTANCE POLICY; PRESIDENTIAL REPORT TO CONGRESS

Pub. L. 93–559, §49, Dec. 30, 1974, 88 Stat. 1816, which related to Presidential review and report on African assistance policy, was repealed by Pub. L. 97–113, title VII, §734(a)(8), Dec. 29, 1981, 95 Stat. 1560.

PORTUGUESE AFRICAN TERRITORIES OF ANGOLA, MOZAMBIQUE, AND GUINEA-BISSAU: INDEPENDENCE POLICY

Pub. L. 93–559, §50, Dec. 30, 1974, 88 Stat. 1816, as amended by Pub. L. 97–113, title VII, §734(a)(8), Dec. 29, 1981, 95 Stat. 1560, provided that:

"(a)(1) Congress finds that the Government of Portugal's recognition of the right to independence of the African territories of Angola, Mozambique, and Guinea-Bissau marks a significant advance toward the goal of self-determination for all the peoples of Africa, without which peace on the continent is not secure.

"(2) Congress finds that progress toward independence for the Portuguese African territories will have a significant impact on the international organizations and the community of nations.

"(3) Congress commends the Portuguese Government's initiatives on these fronts as evidence of a reaffirmation of that Government's support for her obligations under both the United Nations Charter and the North Atlantic Treaty Organization.

"(b) Therefore, Congress calls upon the President and the Secretary of State to take the following actions designed to make clear United States support for a peaceful and orderly transition to independence in the Portuguese African territories:

"(1) An official statement should be issued of United States support for the independence of Angola, Mozambique and Guinea-Bissau, and of our desire to have good relations with the future governments of the countries.

"(2) It should be made clear to the Government of of Portugal that we view the efforts toward a peaceful and just settlement of the conflict in the African territories as consistent with Portugal's obligations under the North Atlantic Treaty Organization partnership.

"(3) The United States should encourage United Nations support for a peaceful transition to independence, negotiated settlement of all differences, and the protection of human rights of all citizens of the three territories.

"(4) The United States should open a dialog with potential leaders of Angola, Mozambique, and Guinea-Bissau and assure them of our commitment to their genuine political and economic independence.

"(5) The economic development needs of the three territories will be immense when independence is achieved. Therefore, it is urged that the United States Agency for International Development devote attention to assessing the economic situation in Angola, Mozambique, and Guinea-Bissau and be ready to cooperate with the future governments in providing the kind of assistance that will help make their

independence viable. In addition, the United States Government should take the initiative among other donors, both bilateral and multilateral, in seeking significant contribution of development assistance for the three territories.

"(6) In light of the need of Angola, Mozambique, and Guinea-Bissau for skilled and educated manpower, a priority consideration should be given to expanding current United States programs of educational assistance to the territories as a timely and substantive contribution to their independence.

"(c) [Repealed. Pub. L. 97–113, title VII, §734(a)(8), Dec. 29, 1981, 95 Stat. 1560.]"

EXECUTIVE ORDER NO. 12599

Ex. Ord. No. 12599, June 23, 1987, 52 F.R. 23779, which established the Coordinating Committee for Sub-Saharan Africa and assigned its functions in order to establish procedures for development of a common long-term goal for all United States economic programs and policies in Sub-Saharan Africa, was revoked by Ex. Ord. No. 13118, §10(3), Mar. 31, 1999, 64 F.R. 16598.

§§2167, 2168. Repealed. Pub. L. 95–424, title I, §102(g)(1)(A), Oct. 6, 1978, 92 Stat. 942

Section 2167, Pub. L. 87–195, pt. I, §207, as added Pub. L. 90–137, pt. I, §102(e), Nov. 14, 1967, 81 Stat. 448, related to placement of emphasis on democratic institutions, agriculture, education, public health and other needs, in the furnishing of development assistance.

Section 2168, Pub. L. 87–195, pt. I, §208, as added Pub. L. 90–137, pt. I, §102(e), Nov. 14, 1967, 81 Stat. 448, related to the taking into account, in determining to what extent United States should furnish assistance, of country's own efforts to aid itself.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1978, see section 605 of Pub. L. 95–424, set out as an Effective Date of 1978 Amendment note under section 2151 of this title.

§2169. Multilateral, regional, and bilateral programs

(a) Multilateral programs

The Congress recognizes that the planning and administration of development assistance by, or under the sponsorship of the United Nations, multilateral lending institutions, and other multilateral organizations may contribute to the efficiency and effectiveness of that assistance through participation of other donors in the development effort, improved coordination of policies and programs, pooling of knowledge, avoidance of duplication of facilities and manpower, and greater encouragement of self-help performance.

(b) Regional programs

It is further the sense of the Congress (1) that where problems or opportunities are common to two or more countries in a region, in such fields as agriculture, education, transportation, communications, power, watershed development, disease control, and establishment of development banks, these countries often can more effectively resolve such problems and exploit such opportunities by joining together in regional organizations or working together on regional programs, (2) that assistance often can be utilized more efficiently in regional programs than in separate country programs, and (3) that to the maximum extent practicable consistent with the purposes of this chapter assistance under this chapter should be furnished so as to encourage less developed countries to cooperate with each other in regional development programs.

(c) Federal funds to multilateral lending institutions and multilateral organizations for loans to foreign countries; increase

It is the sense of the Congress that the President should increase, to the extent practicable, the funds provided by the United States to multilateral lending institutions and multilateral organizations in which the United States participates for use by such institutions and organizations in making loans to foreign countries.

(Pub. L. 87–195, pt. I, §209, as added Pub. L. 90–137, pt. I, §102(e), Nov. 14, 1967, 81 Stat. 449; amended Pub. L. 92–226, pt. I, §101(c), Feb. 7, 1972, 86 Stat. 21; Pub. L. 94–161, title III, §311(1), Dec. 20, 1975, 89 Stat. 860; Pub. L. 106–429, §101(a) [title VIII, §804], Nov. 6, 2000, 114 Stat. 1900, 1900A–67.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

AMENDMENTS

2000—Subsec. (d). Pub. L. 106–429 struck out subsec. (d) which read as follows: "In furtherance of the provisions of subsection (a) of this section, any funds appropriated under subchapter I of this chapter may be transferred by the President to the International Development Association, the International Bank for Reconstruction and Development, the International Finance Corporation, the Asian Development Bank or other multilateral lending institutions and multilateral organizations in which the United States participates for the purpose of providing funds to enable any such institution or organization to make loans to foreign countries."

1975—Subsec. (c). Pub. L. 94–161 substituted provision for increase of Federal funds to multilateral lending institutions and multilateral organizations for making loans to foreign countries for prior provision for reduction of loans under the bilateral lending programs to attain a total amount not to exceed $100,000,000 not later than June 30, 1975.

1972—Subsec. (a). Pub. L. 92–226, §101(c)(1), in amending subsec. (a) generally, provided for United Nations sponsorship of development assistance and substituted "may contribute" for "may, in some instances, contribute".

Subsecs. (c), (d). Pub. L. 92–226, §101(c)(2), added subsecs. (c) and (d).

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

ESTABLISHMENT OF STANDARD GOVERNING ALLOCATION OF DEVELOPMENT ASSISTANCE FOR PRODUCTION AND EXPORT OF COMMODITIES IN SURPLUS IN WORLD MARKET; PRESIDENTIAL INITIATION OF INTERNATIONAL CONSULTATIONS; REPORT BY PRESIDENT TO CONGRESS

Pub. L. 95–481, title VI, §610, Oct. 18, 1978, 92 Stat. 1602, provided that: "The President shall initiate wide international consultations beginning with the member nations of the Organization of Economic Cooperation and Development (OECD), designed to develop a viable standard governing the allocation of development assistance for the production and export of commodities. Such consultations shall relate to commodities which are in surplus in the world market and if produced for export would cause substantial harm to producers of the same, similar or competing products. Not later than one year after the enactment of this Act [Oct. 18, 1978] the President shall report to the President of the Senate, the Speaker of the House of Representatives, and the Chairmen of the House and Senate Appropriations Committees on the progress made in carrying out this section."

POLICY WITH RESPECT TO COUNTRIES MOST SERIOUSLY AFFECTED BY FOOD SHORTAGES; PRESIDENTIAL REPORTS TO CONGRESS

Pub. L. 93–559, §55(a), Dec. 30, 1974, 88 Stat. 1819, provided that: "The United Nations has designated thirty-two countries as 'Most Seriously Affected' by the current economic crisis. These are countries without the internal food production capability or the foreign exchange availability to secure food to meet their immediate food requirements. The Congress calls upon the President and Secretary of State to take the following actions designed to mobilize appropriate resources to meet the food emergency:

"(1) Review and make appropriate adjustments in the level of programming of our food and fertilizer assistance programs with the aim of increasing to the maximum extent feasible the volume of food and fertilizer available to those countries most seriously affected by current food shortages.

"(2) Call upon all traditional and potential new donors of food, fertilizer, or the means of financing these commodities to immediately increase their participation in efforts to address the emergency food needs of the developing world.

"(3) Make available to these most seriously affected countries the maximum feasible volume of food commodities, with appropriate regard to the current domestic price and supply situations.

"(4) Maintain regular and full consultation with the appropriate committees of the Congress and report to the Congress and the Nation on steps which are being taken to help meet this food emergency. In accordance with this provision, the President shall report to the Congress on a global assessment of food needs for fiscal year 1975, specifying expected food grain deficits and currently planned programming of food assistance, and steps which are being taken to encourage other countries to increase their participation in food assistance or the financing of food assistance. Such report should reach the Congress promptly and should be supplemented quarterly for the remainder of fiscal year 1975.

"(5) The Congress directs that during the fiscal year ending June 30, 1975, not more than 30 percent of concessional food aid should be allocated to countries other than those which are most seriously affected by current food shortages, unless the President demonstrates to the appropriate Committees of the Congress that the use of such food assistance is solely for humanitarian food purposes.

"(6) The Congress calls upon the President to proceed with the implementation of resolutions and recommendations adopted by the World Food Conference. The Congress believes that it is incumbent upon the United States to take a leading role in assisting in the development of a viable and coherent world food policy which would begin the task of alleviating widespread hunger and suffering prevalent in famine-stricken nations. The President shall report to the Congress within 120 days of enactment of this Act [Dec. 30, 1974] on the implementation of the resolutions and the extent to which the United States is participating in the implementation of resolutions adopted at the World Food Conference."

SUBPART II—AMERICAN SCHOOLS AND HOSPITALS ABROAD; PROTOTYPE DESALTING PLANTS

§§2171, 2172. Repealed. Pub. L. 95–424, title I, §102(g)(1)(A), Oct. 6, 1978, 92 Stat. 942

Section 2171, Pub. L. 87–195, pt. I, §211, Sept. 4, 1961, 75 Stat. 427; Pub. L. 87–565, pt. I, §103(a), Aug. 1, 1962, 76 Stat. 256; Pub. L. 89–583, pt. I, §103(a), Sept. 19, 1966, 80 Stat. 797; Pub. L. 90–554, pt. I, §102(a), Oct. 8, 1968, 82 Stat. 960; Pub. L. 93–189, §4(1), Dec. 17, 1973, 87 Stat. 717, related to general authority of President to furnish assistance and considerations to be taken into account.

Section 2172, Pub. L. 87–195, pt. I, §212, Sept. 4, 1961, 75 Stat. 428; Pub. L. 87–565, pt. I, §103(b), Aug. 1, 1962, 76 Stat. 256; Pub. L. 88–205, pt. I, §103(a), Dec. 16, 1963, 77 Stat. 381; Pub. L. 88–633, pt. I, §102(b), Oct. 7, 1964, 78 Stat. 1009; Pub. L. 89–171, pt. I, §103(a), Sept. 6, 1965, 79 Stat. 654; Pub. L. 89–583, pt. I, §103(b), Sept. 19, 1966, 80 Stat. 797; Pub. L. 90–137, pt. I, §103(b), Nov. 14, 1967, 81 Stat. 449; Pub. L. 90–554, pt. I, §102(b), Oct. 8, 1968, 82 Stat. 960; Pub. L. 91–175, pt. I, §102, Dec. 30, 1969, 83 Stat. 805; Pub. L. 92–226, pt. I, §102(a), Feb. 7, 1972, 86 Stat. 22, related to authorization of appropriations.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1978, see section 605 of Pub. L. 95–424, set out as an Effective Date of 1978 Amendment note under section 2151 of this title.

§2173. Repealed. Pub. L. 87–565, pt. I, §103(c), Aug. 1, 1962, 76 Stat. 256

Section, Pub. L. 87–195, pt. I, §213, Sept. 4, 1961, 75 Stat. 428, related to peaceful use of atomic energy outside United States. See section 2171 of this title.

§2174. American schools, libraries, and hospital centers abroad

(a) Assistance for schools and libraries

The President is authorized to furnish assistance, on such terms and conditions as he may specify, to schools and libraries outside the United States founded or sponsored by United States citizens and

serving as study and demonstration centers for ideas and practices of the United States.

(b) Assistance for hospital centers

The President is authorized, notwithstanding the provisions of the Mutual Defense Assistance Control Act of 1951 [22 U.S.C. 1611 et seq.], to furnish assistance, on such terms and conditions as he may specify, to institutions referred to in subsection (a) of this section, and to hospital centers for medical education and research outside the United States, founded or sponsored by United States citizens.

(c) Authorization of appropriations

(1) To carry out the purposes of this section, there are authorized to be appropriated to the President $35,000,000 for fiscal year 1986 and $35,000,000 for fiscal year 1987.

(2) Amounts appropriated under paragraph (1) are authorized to remain available until expended.

(d) Pediatric plastic and reconstructive surgery centers

Notwithstanding the provisions of subsection (b), funds appropriated under this section may be used for assistance to centers for pediatric plastic and reconstructive surgery established by Children's Medical Relief International, except that assistance may not be furnished for the domestic operations of any such center located in the United States, its territories or possessions.

(Pub. L. 87–195, pt. I, §214, Sept. 4, 1961, 75 Stat. 428; Pub. L. 88–205, pt. I, §103(b), Dec. 16, 1963, 77 Stat. 381; Pub. L. 88–633, pt. I, §102(c), Oct. 7, 1964, 78 Stat. 1009; Pub. L. 89–171, pt. I, §103(b), Sept. 6, 1965, 79 Stat. 654; Pub. L. 89–583, pt. I, §103(c), Sept. 19, 1966, 80 Stat. 798; Pub. L. 90–137, pt. I, §103(c), Nov. 14, 1967, 81 Stat. 450; Pub. L. 90–554, pt. I, §102(c), Oct. 8, 1968, 82 Stat. 960; Pub. L. 91–175, pt. I, §103, Dec. 30, 1969, 83 Stat. 805; Pub. L. 92–226, pt. I, §102(b), Feb. 7, 1972, 86 Stat. 22; Pub. L. 93–189, §4(2), Dec. 17, 1973, 87 Stat. 717; Pub. L. 94–161, title III, §311(2), Dec. 20, 1975, 89 Stat. 861; Pub. L. 95–88, title I, §116(a), Aug. 3, 1977, 91 Stat. 539; Pub. L. 95–424, title I, §114, Oct. 6, 1978, 92 Stat. 950; Pub. L. 96–53, title I, §111, Aug. 14, 1979, 93 Stat. 363; Pub. L. 96–533, title IV, §401, Dec. 16, 1980, 94 Stat. 3149; Pub. L. 97–113, title V, §501, Dec. 29, 1981, 95 Stat. 1538; Pub. L. 99–83, title IV, §401, Aug. 8, 1985, 99 Stat. 217.)

REFERENCES IN TEXT

The Mutual Defense Assistance Control Act of 1951, referred to in subsec. (b), is act Oct. 26, 1951, ch. 575, 65 Stat. 644, as amended, which was classified generally to chapter 20A (§1611 et seq.) of this title prior to its supersedure by section 4619(e) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1985—Subsec. (c). Pub. L. 99–83 amended subsec. (c) generally, designating existing provisions as pars. (1) and (2) and substituting provisions authorizing appropriations of $35,000,000 for fiscal years 1986 and 1987 for provisions authorizing appropriations of $20,000,000 for fiscal years 1982 and 1983.

1981—Subsec. (c). Pub. L. 97–113 substituted appropriations of $20,000,000 for fiscal years 1982 and 1983, for appropriation of $30,000,000 for fiscal year 1981.

1980—Subsec. (c). Pub. L. 96–533 substituted appropriations authorization of $30,000,000 for the fiscal year 1981 for such authorization of $25,000,000 for the fiscal year 1980.

1979—Subsec. (c). Pub. L. 96–53 extended authorization of appropriations from fiscal year 1979 to fiscal year 1980.

1978—Subsec. (c). Pub. L. 95–424 substituted "$25,000,000 for the fiscal year 1979, which amount is" for "for the fiscal year 1977, $25,000,000, and for the fiscal year 1978, $25,000,000, which amounts are".

Subsecs. (d) to (f). Pub. L. 95–424 struck out subsec. (d) relating to authorization of appropriations, and subsec. (e) relating to submission of recommendations to Congress by the Secretary of State concerning assistance, and redesignated former subsec. (f) as (d).

1977—Subsec. (c). Pub. L. 95–88, §116(a)(1), struck out provisions authorizing appropriations of $19,000,000 for each of the fiscal years 1974 and 1975 and $25,000,000 for fiscal year 1976 and inserted provisions authorizing an appropriation of $25,000,000 for fiscal year 1978.

Subsec. (d). Pub. L. 95–88, §116(a)(2), struck out provisions authorizing appropriations of $6,500,000 for each of the fiscal years 1974 and 1975 and an appropriation of $7,000,000 for fiscal year 1976 and inserted provisions authorizing an appropriation of $7,000,000 for fiscal year 1978.

Subsec. (f). Pub. L. 95–88, §116(a)(3), added subsec. (f).

1975—Subsec. (c). Pub. L. 94–161, §311(2)(A), authorized appropriation of $25,000,000 for fiscal years 1976 and 1977.

Subsec. (d). Pub. L. 94–161, §311(2)(B), authorized additional appropriation of $7,000,000 for fiscal years 1976 and 1977.

1973—Subsec. (c). Pub. L. 93–189 substituted provisions authorizing appropriations for the fiscal years 1974 and 1975, for provisions authorizing appropriations for the fiscal years 1972 and 1973 and directing that any amounts appropriated for the fiscal year 1970 be available for expenditure solely in accordance with the allocations set forth on pages 25 and 26 of House Report No. 91–611 and on page 23 of Senate Report No. 91–603.

Subsec. (d). Pub. L. 93–189 substituted provisions authorizing the appropriation in fiscal years 1974 and 1975 of $6,500,000 in foreign currencies which the Secretary of the Treasury determines to be in excess to the normal requirements of the United States, for provisions authorizing the appropriation for the purposes of subsec. (b) of this section, in addition to funds otherwise available for such purposes, for the fiscal year 1970, of $3,000,000 in foreign currencies which the Secretary of the Treasury determines to be in excess of the normal requirement of the United States and directing that foreign currencies thus appropriated be available for expenditure solely in accordance with the allocation set forth on page 23 of Senate Report No. 91–603.

Subsec. (e). Pub. L. 93–189 added subsec. (e).

1972—Subsec. (c). Pub. L. 92–226 authorized appropriations of $30,000,000 for fiscal years 1972 and 1973, and struck out provision for authorization of $25,900,000 for fiscal year 1970, and $12,900,000 for fiscal year 1971.

1969—Subsec. (c). Pub. L. 91–175, §103(1), substituted authorization of $25,900,000 for the fiscal year 1970 and $12,900,000 for the fiscal year 1971, for sum of $14,600,000 for the fiscal year 1969, and inserted provision making amounts appropriated under this subsection for the fiscal year 1970 available for expenditure solely in accordance with the allocations set forth on pages 25 and 26 of House Report No. 91–611 and on page 23 of Senate Report No. 91–603.

Subsec. (d). Pub. L. 91–175, §103(2), (3), substituted authorization of $3,000,000 for fiscal year 1970, for sum of $5,100,000 for fiscal year 1969, and inserted provision making foreign currencies appropriated under this subsection available for expenditure solely in accordance with the allocation set forth on page 23 of Senate Report No. 91–603.

1968—Subsec. (c). Pub. L. 90–554, §102(c)(1), substituted authorization of $14,600,000 for fiscal year 1969, for sum of $14,000,000 for fiscal year 1968.

Subsec. (d). Pub. L. 90–554, §102(c)(2), substituted authorization of $5,100,000 for fiscal year 1969, for sum of $2,986,000 for fiscal year 1968.

1967—Subsec. (c). Pub. L. 90–137, §103(c)(1), substituted authorization of $14,000,000 for fiscal year 1968 for sum of $10,989,000 for fiscal year 1967.

Subsec. (d). Pub. L. 90–137, §103(c)(2), substituted authorization of $2,986,000 for fiscal year 1968 for sum of $1,000,000 for fiscal year 1967.

1966—Subsec. (b). Pub. L. 89–583, §103(c)(1), substituted "to institutions referred to in subsection (a) of this section, and to hospital centers for medical education and research outside the United States, founded or sponsored by United States citizens" for "to hospitals outside the United States founded or sponsored by United States citizens and serving as centers for medical education and research".

Subsec. (c). Pub. L. 89–583, §103(c)(2), substituted authorization of $10,989,000 for fiscal year 1967 for sum of $7,000,000 for fiscal year 1966.

Subsec. (d). Pub. L. 89–583, §103(c)(3), added subsec. (d).

1965—Subsec. (b). Pub. L. 89–171, §103(b)(1), substituted "medical education and research" for "medical treatment, education, and research".

Subsec. (c). Pub. L. 89–171, §103(b)(2), substituted "1966, $7,000,000" for "1965, $18,000,000".

1964—Subsec. (c). Pub. L. 88–633 substituted "1965, $18,000,000" for "1964, $19,000,000" and struck out "Of the sums authorized to be appropriated under this subsection, not to exceed $2,200,000 shall be available for direct dollar costs in carrying out subsection (b) of this section and $4,700,000 shall be available solely for the purchase of foreign currencies accruing to the United States Government under any Act."

1963—Subsec. (a). Pub. L. 88–205, §103(b)(1), substituted "furnish" for "use, in addition to other funds available for such purposes, funds made available for the purpose of section 2171 of this title for".

Subsec. (b). Pub. L. 88–205, §103(b)(2), substituted "to furnish" for "foreign currencies accruing to the United States Government under any Act, for purposes of subsection (a) of this section and for", and struck out "to use" before "notwithstanding".

Subsec. (c). Pub. L. 88–205, §103(b)(3), added subsec. (c).

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–83 effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as a note under section 2151–1 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–53 effective Oct. 1, 1979, see section 512(a) of Pub. L. 96–53, set out as a note under section 2151 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–424 effective Oct. 1, 1978, see section 605 of Pub. L. 95–424, set out as a note under section 2151 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Pub. L. 95–88, title I, §116(b), Aug. 3, 1977, 91 Stat. 539, provided that: "The amendment made by subsection (a)(3) [amending this section] shall not apply to funds appropriated before the date of enactment of this Act [Aug. 3, 1977]."

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§2175. Repealed. Pub. L. 95–424, title I, §102(g)(1)(A), Oct. 6, 1978, 92 Stat. 942

Section, Pub. L. 87–195, pt. I, §215, Sept. 4, 1961, 75 Stat. 428, related to loans to small farmers.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1978, see section 605 of Pub. L. 95–424, set out as an Effective Date of 1978 Amendment note under section 2151 of this title.

§2175a. Repealed. Pub. L. 97–113, title VII, §734(a)(8), Dec. 29, 1981, 95 Stat. 1560

Section, Pub. L. 93–559, §3, Dec. 30, 1974, 88 Stat. 1795, imposed a ceiling on aid to South Vietnam for procurement of fertilizers. See section 2370(f) of this title.

§§2176 to 2178. Repealed. Pub. L. 95–424, title I, §102(g)(1)(A), Oct. 6, 1978, 92 Stat. 942

Section 2176, Pub. L. 87–195, pt. I, §216, Sept. 4, 1961, 75 Stat. 429; Pub. L. 88–633, pt. I, §102(d), Oct. 7, 1964, 78 Stat. 1009, related to payment by the United States of transportation charges of the American Red Cross and United States voluntary nonprofit relief agencies.

Section 2177, Pub. L. 87–195, pt. I, §217, as added Pub. L. 88–633, pt. I, §102(e), Oct. 7, 1964, 78 Stat. 1009, related to a determination of the feasibility of establishing programs for the furnishing to less developed countries of used tools, machinery, etc., to be donated by private enterprise.

Section 2178, Pub. L. 87–195, pt. I, §218, as added Pub. L. 90–137, pt. I, §103(a), Nov. 14, 1967, 81 Stat. 450, related to the demonstration of the use of fish and other protein concentrates as a means of reducing nutritional deficiencies in less developed countries.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1978, see section 605 of Pub. L. 95–424, set out as an Effective Date of 1978 Amendment note under section 2151 of this title.

§2179. Prototype desalting plant

(a) Assistance in development

In furtherance of the purposes of subchapter I of this chapter and for the purpose of improving existing, and developing and advancing new, technology and experience in the design, construction, and operation of large-scale desalting plants of advanced concepts which will contribute materially to low-cost desalination in all countries, including the United States, the President, if he determines it to be feasible, is authorized to participate in the development of a large-scale water treatment and desalting prototype plant and necessary appurtenances to be constructed in Israel as an integral part of a dual-purpose power generating and desalting project. Such participation shall include financial, technical, and such other assistance as the President deems appropriate to provide for the study, design, construction, and, for a limited demonstration period of not to exceed five years, operation and maintenance of the water treatment and desalting facilities of the dual-purpose project.

(b) Terms and conditions

Any agreement entered into under subsection (a) of this section shall include such terms and conditions as the President deems appropriate to insure, among other things, that all information, products, uses, processes, patents, and other developments obtained or utilized in the development of this prototype plant will be available without further cost to the United States for the use and benefit of the United States throughout the world, and to insure that the United States, its officers, and employees have a permanent right to review data and have access to such plant for the purpose of observing its operations and improving science and technology in the field of desalination.

(c) Contracts

In carrying out the provisions of this section, the President may enter into contracts with public or private agencies and with any person without regard to section 3324(a) and (b) of title 31 and section 6101 of title 41.

(d) Patents

Nothing in this section shall be construed as intending to deprive the owner of any background patent or any right which such owner may have under that patent.

(e) Federal agencies

In carrying out the provisions of this section, the President may utilize the personnel, services, and facilities of any Federal agency.

(f) Authorization of appropriations

The United States costs, other than its administrative costs, for the study, design, construction, and operation of a prototype plant under this section shall not exceed either 50 per centum of the total capital costs of the facilities associated with the production of water, and 50 per centum of the operation and maintenance costs for the demonstration period, or $20,000,000, whichever is less. There are authorized to be appropriated, subject to the limitations of this subsection, such sums as may be necessary to carry out the provisions of this section, including administrative costs thereof. Such sums are authorized to remain available until expended.

(g) Restrictions on appropriations

No funds appropriated for the Office of Water Research and Technology pursuant to the appropriation authorized by the Act of July 11, 1969 (83 Stat. 45, Public Law 91–43), or prior authorization Acts, shall be used to carry out the purposes of this section.

(Pub. L. 87–195, pt. I, §219, as added Pub. L. 91–175, pt. I, §104, Dec. 30, 1969, 83 Stat. 806.)

REFERENCES IN TEXT

Act of July 11, 1969, referred to in subsec. (g), is Pub. L. 91–43, July 11, 1969, 83 Stat. 45, which is not classified to the Code.

REFERENCES TO SUBCHAPTER I DEEMED TO INCLUDE CERTAIN PARTS OF SUBCHAPTER II

References to subchapter I of this chapter are deemed to include parts IV (§2346 et seq.), VI (§2348 et

seq.), and VIII (§2349aa et seq.) of subchapter II of this chapter, and references to subchapter II are deemed to exclude such parts. See section 202(b) of Pub. L. 92–226, set out as a note under section 2346 of this title, and sections 2348c and 2349aa–5 of this title.

CODIFICATION

In subsec. (c), "section 3324(a) and (b) of title 31 and section 6101 of title 41" substituted for "sections 3648 and 3709 of the Revised Statutes of the United States (31 U.S.C. 529 and 41 U.S.C. 5)" on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, which Act enacted Title 31, Money and Finance, and Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

CHANGE OF NAME

Office of Water Research and Technology formed through merger of Office of Saline Water and Office of Water Resources Research by order of Secretary of the Interior, Ord. No. 2966, July 26, 1974.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§§2180, 2180a. Repealed. Pub. L. 95–424, title I, §102(g)(1)(A), Oct. 6, 1978, 92 Stat. 942

Section 2180, Pub. L. 87–195, pt. I, §220, as added Pub. L. 91–175, pt. I, §104, Dec. 30, 1969, 83 Stat. 807, related to programs for peaceful communications using television, etc., for educational, health, etc., purposes.

Section 2180a, Pub. L. 87–195, pt. I, §220A, as added Pub. L. 92–226, pt. I, §102(c), Feb. 7, 1972, 86 Stat. 22, related to assistance in the reopening of the Suez Canal.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1978, see section 605 of Pub. L. 95–424, set out as an Effective Date of 1978 Amendment note under section 2151 of this title.

SUBPART III—SHELTER AND OTHER CREDIT GUARANTY PROGRAMS

§2181. Policy

The Congress recognizes that shelter, including essential urban development services, is among the most fundamental of human needs. Shelter for most people in the developing countries consists largely of domestic materials assembled by local labor. While recognizing that most financing for such shelter must come from domestic resources, the Congress finds that carefully designed programs involving United States capital and expertise can increase the availability of domestic financing for improved shelter and related services for low-income people by demonstrating to local entrepreneurs and institutions that providing low-cost shelter can be financially viable. The Congress reaffirms, therefore, that the United States should continue to assist developing countries in marshalling resources for low-cost shelter. Particular attention should be given to programs which will support pilot projects for low-cost shelter or which will have a maximum demonstration impact on local institutions and national policy. The Congress declares that the long run goal of all such programs should be to develop domestic construction capabilities and to stimulate local credit institutions to make available domestic capital and other management and technological resources required for effective low-cost shelter programs and policies.

(Pub. L. 87–195, pt. I, §221, as added Pub. L. 91–175, pt. I, §105, Dec. 30, 1969, 83 Stat. 807; amended Pub. L. 92–226, pt. I, §103(a), Feb. 7, 1972, 86 Stat. 22; Pub. L. 93–189, §5(1), Dec. 17, 1973, 87 Stat. 717; Pub. L. 93–559, §7(1), Dec. 30, 1974, 88 Stat. 1796; Pub. L. 94–161, title III, §311(3), Dec. 20, 1975, 89 Stat. 861; Pub. L. 95–88, title I, §117(a)(1), Aug. 3, 1977, 91 Stat. 540;

Pub. L. 95–424, title I, §115(a), Oct. 6, 1978, 92 Stat. 950; Pub. L. 98–473, title I, §101(1) [title V, §541(a)], Oct. 12, 1984, 98 Stat. 1884, 1903.)

CODIFICATION

Amendment by Pub. L. 98–473 is based on section 311(a) of H.R. 5119, Ninety-eighth Congress, as passed by the House of Representatives May 10, 1984, which was enacted into permanent law by Pub. L. 98–473.

PRIOR PROVISIONS

A prior section 221 of Pub. L. 87–195, pt. I, Sept. 4, 1961, 75 Stat. 429, as amended by Pub. L. 87–565, pt. I, §104(a), Aug. 1, 1962, 76 Stat. 256; Pub. L. 88–205, pt. I, §104(a), Dec. 16, 1963, 77 Stat. 381; Pub. L. 88–633, pt. I, §103(a), Oct. 7, 1964, 78 Stat. 1009; Pub. L. 89–171, pt. I, §104(a), (b), Sept. 6, 1965, 79 Stat. 654; Pub. L. 89–583, pt. I, §104(a), Sept. 19, 1966, 80 Stat. 798; Pub. L. 90–137, pt. I, §104(a), Nov. 14, 1967, 81 Stat. 450; Pub. L. 90–554, pt. I, §103, Oct. 8, 1968, 82 Stat. 960, related to general authority for foreign investment guaranties by the President, prior to the general reorganization of this subpart by Pub. L. 91–175, pt. I, §105, Dec. 30, 1969, 83 Stat. 807.

AMENDMENTS

1984—Pub. L. 98–473 substituted ", including essential urban development services, is" for "requirements are" after "The Congress recognizes that shelter" and, in the remainder of the section substituted "shelter" for "housing" wherever appearing.

1978—Pub. L. 95–424 generally revised the statement of policy to clarify that in developing countries, financing, materials and labor for most housing must be obtained from local sources, while United States capital and technical expertise can increase the availability of housing and related services for low-income people by demonstrating financial viability of credit systems for low-cost housing.

1977—Pub. L. 95–88 struck out provisions that the total face amount of guaranties issued under this section outstanding at any one time not exceed $430,000,000 and added section 2182(c) of this title to the enumeration of sections setting out the conditions under which guaranties shall be issued.

1975—Pub. L. 94–161 substituted "$430,000,000" for "$355,000,000".

1974—Pub. L. 93–559 substituted "$355,000,000" for "$305,000,000".

1973—Pub. L. 93–189 substituted "$305,000,000" for "$205,000,000".

1972—Pub. L. 92–226 substituted "$205,000,000" for "$130,000,000".

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–424 effective Oct. 1, 1978, see section 605 of Pub. L. 95–424, set out as a note under section 2151 of this title.

USE OF FUNDS FROM SALE OF NOTES FOR DISCHARGE OF LIABILITIES UNDER GUARANTIES; TRANSFER OF FUNDS AND CANCELLATION OF NOTES AND INTEREST

Pub. L. 90–249, title I, §120, Jan. 2, 1968, 81 Stat. 941, provided that: "Hereafter, none of the funds obtained or authorized to be obtained from the sale of notes under authority of paragraph 111(c)(2) of the Economic Cooperation Act of 1948 [section 1509(c)(2) of this title] or paragraph 413(b)(4)(F) of the Mutual Security Act of 1954 [section 1933(b)(4)(F) of this title] may be used for the purposes of discharging liabilities under any guaranties (exclusive of informational media guaranties) issued under sections 221(b) and 224 of the Foreign Assistance Act of 1961 [subsec. (b) of this section and section 2184 of this title], sections 202(b) and 413(b)(4) of the Mutual Security Act of 1954 [sections 1872(b) and 1933(b)(4) of this title] and section 111(b)(3) of the Economic Cooperation Act of 1948 [section 1509(b)(3) of this title]. Any portion of the funds in the reserve established pursuant to section 222(e) of the Foreign Assistance Act of 1961 [section 2182(e) of this title] which are attributable to the funds realized from the sale of notes specified in the preceding sentence shall be transferred to the general fund of the Treasury. The Secretary of the Treasury shall cancel all such notes and sums owing and unpaid thereon, including interest to date of cancellation."

§2182. Authorization for worldwide shelter guarantees

(a) Authorization to issue guarantees to eligible investors

To carry out the policy of section 2181 of this title, the President is authorized to issue guaranties to eligible investors (as defined in section 2198(c) of this title) assuring against losses incurred in connection with loans made for projects meeting the criteria set forth in section 2181 of this title.

The total principal amount of guaranties issued under this subpart or heretofore issued under prior housing guaranty authorities, which are outstanding at any one time, shall not exceed $2,558,000,000. The authority of this section shall continue through September 30, 1992. The President may issue regulations from time to time with regard to the terms and conditions upon which such guaranties shall be issued and the eligibility of lenders.

(b) Emphasis on certain activities

Activities carried out under this section shall emphasize—

(1) projects which provide improved home sites to poor families on which to build shelter, and related services;

(2) projects comprised of expandable core shelter units on serviced sites;

(3) slum upgrading projects designed to conserve and improve existing shelter;

(4) shelter projects for low-income people designed for demonstration or institution building purposes; and

(5) community facilities and services in support of projects authorized under this section to improve the shelter occupied by the poor.

(c) Use of solar energy technology

In issuing guaranties under this section with respect to projects in a country which require the use or conservation of energy, the President shall give consideration to the use of solar energy technologies, where such technologies are economically and technically feasible. Technologies which may be used include solar hot water systems, solar heating and cooling, passive solar heating, biomass conversion, photovoltaic and wind applications, and community-scale solar thermal applications.

(k) [1] Minimum annual program levels

The total principal amount of guaranties issued under this section for each of the fiscal years 1986 and 1987 shall be comparable to the total principal amount of such guaranties issued for fiscal year 1984, subject to the dollar limitations on the issuance of guaranties under this section which are contained in subsection (a) and in appropriation Acts.

(Pub. L. 87–195, pt. I, §222, as added Pub. L. 91–175, pt. I, §105, Dec. 30, 1969, 83 Stat. 807; amended Pub. L. 94–161, title III, §311(4), Dec. 20, 1975, 89 Stat. 861; Pub. L. 95–88, title I, §117(a)(2), Aug. 3, 1977, 91 Stat. 540; Pub. L. 95–424, title I, §115(a), Oct. 6, 1978, 92 Stat. 950; Pub. L. 96–53, title I, §112(a), Aug. 14, 1979, 93 Stat. 363; Pub. L. 97–113, title III, §310(a), Dec. 29, 1981, 95 Stat. 1535; Pub. L. 98–473, title I, §101(1) [title V, §541(a)], Oct. 12, 1984, 98 Stat. 1884, 1903; Pub. L. 99–83, title III, §313(a)–(c), Aug. 8, 1985, 99 Stat. 216, 217; Pub. L. 100–202, §101(e) [title II, §201], Dec. 22, 1987, 101 Stat. 1329–131, 1329–142; Pub. L. 101–167, title II, Nov. 21, 1989, 103 Stat. 1205; Pub. L. 101–302, title II, May 25, 1990, 104 Stat. 224; Pub. L. 101–513, title II, Nov. 5, 1990, 104 Stat. 1989.)

CODIFICATION

Amendment by Pub. L. 98–473 is based on section 311(b) of H.R. 5119, Ninety-eighth Congress, as passed by the House of Representatives May 10, 1984, which was enacted into permanent law by Pub. L. 98–473.

PRIOR PROVISIONS

A prior section 222 of Pub. L. 87–195, pt. I, Sept. 4, 1961, 75 Stat. 430, as amended by Pub. L. 87–565, pt. I, §104(b), Aug. 1, 1962, 76 Stat. 257; Pub. L. 88–205, pt. I, §104(b)–(f), Dec. 16, 1963, 77 Stat. 381, 382; Pub. L. 89–171, pt. I, §104(c), Sept. 6, 1965, 79 Stat. 654; Pub. L. 89–583, pt. I, §104(b), Sept. 19, 1966, 80 Stat. 798; Pub. L. 90–137, pt. I, §104(b), Nov. 14, 1967, 81 Stat. 451, contained general provisions concerning foreign investment guaranties, prior to the general reorganization of this subpart by Pub. L. 91–175, pt. I, §105, Dec. 30, 1969, 83 Stat. 807.

AMENDMENTS

1990—Subsec. (a). Pub. L. 101–513 substituted "1992" for "1991".
Pub. L. 101–302 substituted "$2,558,000,000" for "$2,158,000,000".
1989—Subsec. (a). Pub. L. 101–167 substituted "1991" for "1990".

1987—Subsec. (a). Pub. L. 100–202 substituted "1990" for "1988".

1985—Subsec. (a). Pub. L. 99–83, §313(a), (b), substituted "$2,158,000,000" for "$1,958,000,000" and "1988" for "1986".

Subsec. (k). Pub. L. 99–83, §313(c), added subsec. (k).

1984—Subsec. (a). Pub. L. 98–473 substituted "$1,958,000,000" for "$1,718,000,000" and "1986" for "1984".

1981—Subsec. (a). Pub. L. 97–113 increased limitation on total principal amount of outstanding guarantees to $1,718,000,000 from $1,555,000,000 and extended termination date for exercise of guarantee authority to Sept. 30, 1984, from Sept. 30, 1982.

1979—Subsec. (a). Pub. L. 96–53 substituted "$1,555,000,000" for "$1,180,000,000", and "through September 30, 1982" for "until September 30, 1980".

1978—Pub. L. 95–424 amended section generally to provide a new consolidated section which provides a single authorization for the worldwide housing guarantee program, a new list of the types of programs to be emphasized, increased the worldwide authorization to $1,180,000,000, and encourages officials and governments in developing countries to consider the use of solar energy in housing projects.

1977—Subsec. (c). Pub. L. 95–88 inserted "or under section 2181 of this title" after "Latin American housing guaranty authority repealed by the Foreign Assistance Act of 1969" and substituted "$1,030,000,000" for "$600,000,000".

1975—Subsec. (c). Pub. L. 94–161 substituted "$600,000,000" for "$550,000,000".

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–83 effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as a note under section 2151–1 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–53 effective Oct. 1, 1979, see section 512(a) of Pub. L. 96–53, set out as a note under section 2151 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–424 effective Oct. 1, 1978, see section 605 of Pub. L. 95–424, set out as a note under section 2151 of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

[1] So in original. No subsecs. (d) to (j) have been enacted.

§2182a. Agricultural and productive credit and self-help community development programs

(a) Financing pilot programs; scope

It is the sense of the Congress that in order to stimulate the participation of the private sector in the economic development of less-developed countries, the authority conferred by this section should be used to establish pilot programs to encourage private banks, credit institutions, similar private lending organizations, cooperatives, and private nonprofit development organizations to make loans on reasonable terms to organized groups and individuals residing in a community for the purpose of enabling such groups and individuals to carry out agricultural credit and self-help community development projects for which they are unable to obtain financial assistance on reasonable terms. Agricultural credit and assistance for self-help community development projects should include, but not be limited to, material and such projects as wells, pumps, farm machinery, improved seed, fertilizer, pesticides, vocational training, food industry development, nutrition projects, improved breeding stock for farm animals, sanitation facilities, and looms and other handicraft aids.

(b) Guaranties; percentage limitation

To carry out the purposes of subsection (a), the agency primarily responsible for administering subchapter I of this chapter is authorized to issue guaranties, on such terms and conditions as it shall determine, to private lending institutions, cooperatives, and private nonprofit development organizations assuring against loss of not to exceed 50 per centum of the portfolio of such loans made by any lender to organized groups or individuals residing in a community to enable such groups or individuals to carry out agricultural credit and self-help community development projects for which they are unable to obtain financial assistance on reasonable terms. In no event shall the liability of the United States exceed 75 per centum of any one loan.

(c) Total and individual amount of guaranties

The total face amount of guaranties issued under this section outstanding at any one time shall not exceed $20,000,000. Not more than 10 per centum of such sum shall be provided for any one institution, cooperative, or organization.

(d) Inter-American Foundation consultations

The Inter-American Foundation shall be consulted in developing criteria for making loans eligible for guaranty coverage in Latin America under this section.

(e) Guaranty reserve

Not to exceed $3,000,000 of the guaranty reserve established under section 2183(b) of this title shall be available to make such payments as may be necessary to discharge liabilities under guaranties issued under this section or any guaranties previously issued under section 2200 of this title.

(f) Administrative and operating expenses; funds

Funds held by the Overseas Private Investment Corporation pursuant to section 2196 of this title may be available for meeting necessary administrative and operating expenses for carrying out the provisions of this section through June 30, 1976.

(g) Transfer of Overseas Private Investment Corporation's obligations and assets

The Overseas Private Investment Corporation shall, upon enactment of this subsection, transfer to the agency primarily responsible for administering subchapter I of this chapter all obligations, assets, and related rights and responsibilities arising out of, or related to the predecessor program provided for in section 2200 of this title.

(h) Termination of authority

The authority of this section shall continue through September 30, 1988.

(i) Excess foreign currencies; use

Notwithstanding the limitation in subsection (c) of this section, foreign currencies owned by the United States and determined by the Secretary of the Treasury to be excess to the needs of the United States may be utilized to carry out the purposes of this section, including the discharge of liabilities under this subsection. The authority conferred by this subsection shall be in addition to authority conferred by any other provision of law to implement guaranty programs utilizing excess local currency.

(Pub. L. 87–195, pt. I, §222A, as added Pub. L. 93–559, §8(a)(2), Dec. 30, 1974, 88 Stat. 1796; amended Pub. L. 95–88, title I, §117(b)(1), Aug. 3, 1977, 91 Stat. 540; Pub. L. 95–424, title I, §115(b), title V, §502(d)(1), Oct. 6, 1978, 92 Stat. 951, 959; Pub. L. 96–53, title I, §112(b), Aug. 14, 1979, 93 Stat. 364; Pub. L. 97–438, Jan. 8, 1983, 96 Stat. 2286; Pub. L. 98–473, title I, §101(1) [title V, §541(a)], Oct. 12, 1984, 98 Stat. 1884, 1903; Pub. L. 99–83, title III, §313(d), Aug. 8, 1985, 99 Stat. 217; Pub. L. 106–113, div. B, §1000(a)(2) [title V, §586(h)(3)], Nov. 29, 1999, 113 Stat. 1535, 1501A–120.)

REFERENCES IN TEXT

Section 2200 of this title, referred to in subsecs. (e) and (g), was in the original a reference to section 240 of this Act, meaning section 240 of Pub. L. 87–195, as added by section 105 of Pub. L. 91–175, which was

repealed by section 8(b) of Pub. L. 93–559, and was replaced by this section. Another section 240 of Pub. L. 87–195, as added by section 9 of Pub. L. 95–268, was enacted Apr. 24, 1978, and is classified to section 2200 of this title.

REFERENCES TO SUBCHAPTER I DEEMED TO INCLUDE CERTAIN PARTS OF SUBCHAPTER II

References to subchapter I of this chapter are deemed to include parts IV (§2346 et seq.), VI (§2348 et seq.), and VIII (§2349aa et seq.) of subchapter II of this chapter, and references to subchapter II are deemed to exclude such parts. See section 202(b) of Pub. L. 92–226, set out as a note under section 2346 of this title, and sections 2348c and 2349aa–5 of this title.

CODIFICATION

Amendment by Pub. L. 106–113, div. B, §1000(a)(2) [title V, §586(h)(3)], Nov. 29, 1999, 113 Stat. 1535, 1501A–120, directing repeal of subsec. (d) of this section did not become effective pursuant to section 1000(a)(2) [title V, §586] of div. B of Pub. L. 106–113, formerly set out as an Abolition of the Inter-American Foundation note under section 290f of this title.

Amendment by Pub. L. 98–473 is based on section 312 of H.R. 5119, Ninety-eighth Congress, as passed by the House of Representatives May 10, 1984, which was enacted into permanent law by Pub. L. 98–473.

AMENDMENTS

1985—Subsec. (h). Pub. L. 99–83 substituted "1988" for "1986".

1984—Subsec. (a). Pub. L. 98–473 struck out "in Latin America," after "economic development of less-developed countries" and "in not more than six Latin American countries" after "establish pilot programs".

Subsec. (b). Pub. L. 98–473 struck out "in not more than five Latin American countries" after "nonprofit development organizations".

Subsec. (h). Pub. L. 98–473 substituted "1986" for "1983".

1983—Subsec. (h). Pub. L. 97–438 substituted "1983" for "1982".

1979—Subsec. (a). Pub. L. 96–53, §112(b)(1), substituted "six" for "five".

Subsec. (c). Pub. L. 96–53, §112(b)(2), substituted "$20,000,000" for "$15,000,000".

Subsec. (h). Pub. L. 96–53, §112(b)(3), substituted "through September 30, 1982" for "until September 30, 1979".

1978—Subsec. (h). Pub. L. 95–424, §115(b), substituted "September 30, 1979" for "September 30, 1978".

Subsec. (j). Pub. L. 95–424, §502(d)(1), struck out subsec. (j) relating to a Presidential report to Congress on the results of the program established under this section.

1977—Subsec. (h). Pub. L. 95–88 substituted "September 30, 1978" for "December 31, 1977".

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–83 effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as a note under section 2151–1 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–53 effective Oct. 1, 1979, see section 512(a) of Pub. L. 96–53, set out as a note under section 2151 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–424 effective Oct. 1, 1978, see section 605 of Pub. L. 95–424, set out as a note under section 2151 of this title.

§2183. General provisions

(a) Fees; determination by President; reduction

A fee shall be charged for each guaranty issued under section 2182 or 2182a of this title in an amount to be determined by the President. In the event the fee to be charged for such type of guaranty is reduced, fees to be paid under existing contracts for the same type of guaranty may be similarly reduced.

(b) Accumulated and existing fees; expenditure of fees; revolving fund account; investments;

use of investment income

The amount of $50,000,000 of fees accumulated under prior investment guaranty provisions repealed by the Foreign Assistance Act of 1969, together with all fees collected in connection with guaranties issued under section 2182 of this title or under prior housing guaranty authorities, shall be available for meeting necessary administrative and operating expenses of carrying out the provisions of section 2182 of this title and administering housing guaranties heretofore authorized under this subpart and under prior housing guaranty provisions repealed by the Foreign Assistance Act of 1969 (including, but not limited to expenses pertaining to personnel, supplies, and printing), subject to such limitations as may be imposed in annual appropriation Acts; for meeting management and custodial costs incurred with respect to currencies or other assets acquired under guaranties made pursuant to section 2182 of this title or heretofore pursuant to this subpart or prior Latin American and other housing guaranty authorities repealed by the Foreign Assistance Act of 1969; and to pay the cost of investigating and adjusting (including costs of arbitration) claims under such guaranties; and shall be available for expenditure in discharge of liabilities under such guaranties until such time as all such property has been disposed of and all such liabilities have been discharged or have expired, or until all such fees have been expended in accordance with the provisions of this subsection. Fees collected in connection with guaranties issued under section 2182a of this title shall likewise be available to meet similar expenses, costs, or liabilities incurred in connection with the programs authorized by that section. All of the foregoing fees referred to in this section together with earnings thereon and other income arising from guaranty operations under this subpart shall be held in a revolving fund account maintained in the Treasury of the United States. All funds in such account may be invested in obligations of the United States. Any interest or other receipts derived from such investments shall be credited to such account and may be used for the purposes cited in this section.

(c) Priorities of funds for guaranty payments

Any payments made to discharge liabilities under guaranties issued under section 2182 of this title or heretofore under this subpart or under prior Latin American or other housing guaranty authorities repealed by the Foreign Assistance Act of 1969, shall be paid first out of fees referred to in subsection (b) (excluding amounts required for purposes other than the discharge of liabilities under guaranties) as long as such fees are available, and thereafter shall be paid out of funds, if any, realized from the sale of currencies or other assets acquired in connection with any payment made to discharge liabilities under such guaranties as long as funds are available, and finally out of funds hereafter made available pursuant to subsection (e).

(d) Guaranties as obligations backed by full faith and credit of United States

All guaranties issued under section 2182 or 2182a, or previously under section 2200 of this title or heretofore under this subpart or under prior Latin American or other housing guaranty authority repealed by the Foreign Assistance Act of 1969 shall constitute obligations, in accordance with the terms of such guaranties, of the United States of America and the full faith and credit of the United States of America is hereby pledged for the full payment and performance of such obligations.

(e) Authorization of appropriations; borrowing authority

(1) There is hereby authorized to be appropriated to the President such amounts, to remain available until expended, as may be necessary from time to time to carry out the purposes of this subpart.

(2)(A) In order to meet obligations incurred for the payment of claims pursuant to loan guaranties described in subsection (d), the Administrator of the agency primarily responsible for administering subchapter I of this chapter may, to the extent that reserves are not sufficient, borrow from time to time from the Treasury, except that—

(i) the Administrator may exercise the authority to borrow under this paragraph only to such extent or in such amounts as are provided in advance in appropriation Acts; and

(ii) the amount borrowed under this paragraph which is outstanding at any one time may not exceed $100,000,000.

(B) Any such borrowing shall bear interest at a rate determined by the Secretary of the Treasury, taking into account the current average market yield on outstanding marketable obligations of the United States of comparable maturities. The Secretary of the Treasury shall make loans under this paragraph and for such purpose may borrow on the credit of the United States in accordance with subchapter I of chapter 31 of title 31.

(f) Agency determination of maximum rate of interest

In the case of any loan investment guaranteed under section 2182 of this title, the agency primarily responsible for administering subchapter I of this chapter shall prescribe the maximum rate of interest allowable to the eligible investor, which maximum rate shall not exceed by more than 1 per centum the then current rate of interest applicable to housing mortgages insured by the Department of Housing and Urban Development. The maximum allowable rate of interest under this subsection shall be prescribed by the agency as of the date the project covered by the investment is officially authorized and, prior to the execution of the contract, the agency may amend such rate at its discretion, consistent with the provisions of this subsection.

(g) Guaranties under prior acts

Housing guaranties committed, authorized, or outstanding heretofore under this subpart or under prior housing guaranty authorities repealed by the Foreign Assistance Act of 1969 shall continue subject to provisions of law originally applicable thereto and fees collected hereafter with respect to such guaranties shall be available for the purposes specified in subsection (b).

(h) Fraud or misrepresentation

No payment may be made under any guaranty issued pursuant to this subpart for any loss arising out of fraud or misrepresentation for which the party seeking payment is responsible.

(i) Repealed. Pub. L. 95–424, title I, §115(i), Oct. 6, 1978, 92 Stat. 952

(j) Guaranties for housing projects; percentage requirement for families with income below median income

Guaranties shall be issued under section 2182 of this title only for housing projects which are coordinated with and complementary to any development assistance being furnished under part I of this subchapter and which are specifically designed to demonstrate the feasibility and suitability of particular kinds of housing or of financial or other institutional arrangements. Of the aggregate face value of housing guaranties hereafter issued under this subpart, not less than 90 per centum shall be issued for housing suitable for families with income below the median income (below the median urban income for housing in urban areas) in the country in which the housing is located.

(Pub. L. 87–195, pt. I, §223, as added Pub. L. 91–175, pt. I, §105, Dec. 30, 1969, 83 Stat. 808; amended Pub. L. 92–226, pt. I, §103(b) Feb. 7, 1972, 86 Stat. 22; Pub. L. 93–189, §5(2), Dec. 17, 1973, 87 Stat. 717; Pub. L. 93–559, §§7(2), 8(a)(3)–(5), Dec. 30, 1974, 88 Stat. 1796, 1797; Pub. L. 94–161, title III, §311(5), Dec. 20, 1975, 89 Stat. 861; Pub. L. 94–329, title IV, §414, June 30, 1976, 90 Stat. 761; Pub. L. 95–88, title I, §117(a)(3), (b)(2), (c), Aug. 3, 1977, 91 Stat. 540; Pub. L. 95–424, title I, §115(c)–(j), Oct. 6, 1978, 92 Stat. 951, 952; Pub. L. 96–53, title I, §112(c), (d), Aug. 14, 1979, 93 Stat. 364; Pub. L. 97–113, title III, §310(b), Dec. 29, 1981, 95 Stat. 1535; Pub. L. 98–473, title I, §101(1) [title V, §541(a)], Oct. 12, 1984, 98 Stat. 1884, 1903; Pub. L. 100–202, §101(e) [title II, §201], Dec. 22, 1987, 101 Stat. 1329–131, 1329–142; Pub. L. 105–277, div. A, §101(d) [title II], Oct. 21, 1998, 112 Stat. 2681–150, 2681–157.)

REFERENCES IN TEXT

The Foreign Assistance Act of 1969, referred to in subsecs. (b), (c), (d), and (g), is Pub. L. 91–175, Dec. 30, 1969, 83 Stat. 805, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables. The guaranty authorities repealed by the 1969 Act were the guaranty authorities contained in sections 2181 to 2184 prior to the general reorganization of this subpart by the 1969 Act.

Section 2200 of this title, referred to in subsec. (d), was in the original a reference to section 240 of this Act,

meaning section 240 of Pub. L. 87–195, as added by section 105 of Pub. L. 91–175, which was repealed by section 8(b) of Pub. L. 93–559, and was replaced by section 2182a of this title. Another section 240 of Pub. L. 87–195, as added by section 9 of Pub. L. 95–268, was enacted Apr. 24, 1978, and is classified to section 2200 of this title.

REFERENCES TO SUBCHAPTER I DEEMED TO INCLUDE CERTAIN PARTS OF SUBCHAPTER II

References to subchapter I of this chapter are deemed to include parts IV (§2346 et seq.), VI (§2348 et seq.), and VIII (§2349aa et seq.) of subchapter II of this chapter, and references to subchapter II are deemed to exclude such parts. See section 202(b) of Pub. L. 92–226, set out as a note under section 2346 of this title, and sections 2348c and 2349aa–5 of this title.

REFERENCES TO PART I DEEMED TO INCLUDE SECTION 2293

References to part I of this subchapter are deemed to include a reference to section 2293 of this title. See section 2293(d)(1) of this title.

CODIFICATION

Amendment by Pub. L. 98–473 is based on section 311(c) of H.R. 5119, Ninety-eighth Congress, as passed by the House of Representatives May 10, 1984, which was enacted into permanent law by Pub. L. 98–473.

PRIOR PROVISIONS

A prior section 223 of Pub. L. 87–195, pt. I, Sept. 4, 1961, 75 Stat. 431, as amended by Pub. L. 89–171, pt. I, §104(d), Sept. 6, 1965, 79 Stat. 654; Pub. L. 90–137, pt. I, §104(c), Nov. 4, 1967, 81 Stat. 451, contained definitions, prior to the general reorganization of this subpart by Pub. L. 91–175, pt. I, §105, Dec. 30, 1969, 83 Stat. 807.

AMENDMENTS

1998—Subsec. (j). Pub. L. 105–277 struck out at end "The face value of guaranties issued with respect to housing in any country shall not exceed $25,000,000 in any fiscal year, and the average face value of guaranties issued in any fiscal year shall not exceed $15,000,000. Of the total amount of housing guaranties authorized to be issued under section 2182 of this title through September 30, 1982, not less than a face amount of $25,000,000 shall be issued for projects in Israel and not less than a face amount of $25,000,000 shall be issued for projects in Egypt."

1987—Subsec. (e)(2)(A)(ii). Pub. L. 100–202 substituted "$100,000,000" for "$40,000,000".

1984—Subsec. (e). Pub. L. 98–473 designated existing provisions as par. (1) and added par. (2).

1981—Subsec. (b). Pub. L. 97–113 provided for maintenance of a revolving fund account in the Treasury consisting of fees, earnings from fees, and income from guaranty operations and authorized investment of account funds in obligations of the United States and use of investment income.

1979—Subsec. (f). Pub. L. 96–53, §112(c), substituted "the Department of Housing and Urban Development" for "such Department", and struck out provisions setting forth minimum rate of interest as not less than one-half of one per centum above the then current rate on mortgages insured by the Department of Housing and Urban Development.

Subsec. (j). Pub. L. 96–53, §112(d), struck out requirement that except for regional projects, guarantees for housing projects be granted to countries receiving or which have received in the two previous years assistance under part I of this subchapter and substituted provisions authorizing face amounts of housing guarantees through September 30, 1982 of not less than $25,000,000 for Israel and Egypt for provisions authorizing face amounts of housing guarantees until September 30, 1978 of an amount not to exceed $75,000,000 in Israel and $30,000,000 in Portugal and Lebanon.

1978—Subsec. (a). Pub. L. 95–424, §115(c), substituted "section 2182 or 2182a" for "section 2181, 2182, or 2182a".

Subsec. (b). Pub. L. 95–424, §115(d), struck out "2181 or" after "guarantees issued under section"; substituted "section 2182 of this title and administering housing guaranties heretofore authorized under this subpart and under" for "section 2181 and section 2182 of this title and of"; struck out "2181 or" after "made pursuant to section", and inserted "this subpart" after "heretofore pursuant to".

Subsec. (c). Pub. L. 95–424, §115(e), struck out "section 2181 or" after "guaranties issued under", and inserted "under this subpart or" after "heretofore".

Subsec. (d). Pub. L. 95–424, §115(f), substituted "section 2182 or 2182a" for "section 2181, 2182, 2182a", and inserted "under this subpart" after "heretofore".

Subsec. (f). Pub. L. 95–424, §115(g), substituted "section 2182" for "section 2181 or 2182".

Subsec. (g). Pub. L. 95–424, §115(h), inserted "heretofore under this subpart" after "outstanding".

Subsec. (i). Pub. L. 95–424, §115(i), struck out subsec. (i) directing that the authority of sections 2181 and 2182 of this title shall continue until Sept. 30, 1979.

Subsec. (j). Pub. L. 95–424, §115(j), substituted "section 2182" for "sections 2181 and 2182".

1977—Subsec. (b). Pub. L. 95–88, §117(b)(2), substituted "together with all fees collected in connection with guaranties issued under section 2181 or 2182 of this title or under prior housing guaranty authorities" for "together with all fees collected in connection with guaranties issued hereunder" and inserted provision that fees collected in connection with guaranties issued under section 2182a of this title shall likewise be available to meet similar expenses, costs, or liabilities incurred in connection with the programs authorized by that section.

Subsec. (i). Pub. L. 95–88, §117(a)(3), substituted "September 30, 1979" for "September 30, 1978".

Subsec. (j). Pub. L. 95–88, §117(c), substituted "September 30, 1978" for "September 30, 1977", "$75,000,000" for "$50,000,000" in provisions relating to housing guaranties in Israel, "$30,000,000" for "$20,000,000" in provisions relating to housing guaranties in Portugal, and "$30,000,000" for "$15,000,000" in provisions relating to housing guaranties in Lebanon.

1976—Subsec. (j). Pub. L. 94–329 authorized President to issue housing guaranties until September 30, 1977, in Lebanon, not exceeding a face amount of $15,000,000.

1975—Subsec. (i). Pub. L. 94–161, §311(5)(A), substituted "September 30, 1978" for "June 30, 1976".

Subsec. (j). Pub. L. 94–161, §311(5)(B), added subsec. (j).

1974—Subsec. (a). Pub. L. 93–559, §8(a)(3), inserted reference to section 2182a of this title.

Subsec. (b). Pub. L. 93–559, §8(a)(4), substituted in first sentence "section 2181 and section 2182 of this title" for "this subpart".

Subsec. (d). Pub. L. 93–559, §8(a)(5), substituted "section 2181, 2182, 2182a, or previously under section 2200 of this title" for "section 2181 or section 2182 of this title".

Subsec. (i). Pub. L. 93–559, §7(2), substituted "June 30, 1976" for "June 30, 1975".

1973—Subsec. (i). Pub. L. 93–189 substituted "June 30, 1975" for "June 30, 1974".

1972—Subsec. (i). Pub. L. 92–226 substituted "June 30, 1974" for "June 30, 1972".

EFFECTIVE DATE OF 1984 AMENDMENT

Section 311(d) of H.R. 5119, as passed by the House of Representatives on May 10, 1984, and enacted into permanent law by Pub. L. 98–473, §101(1) [title V, §541(a)], Oct. 12, 1984, 98 Stat. 1884, 1903, provided that: "The amendment made by subsection (c) of this section [amending this section] shall take effect on the date of enactment of this Act [Oct. 12, 1984]."

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–53 effective Oct. 1, 1979, see section 512(a) of Pub. L. 96–53, set out as a note under section 2151 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–424 effective Oct. 1, 1978, see section 605 of Pub. L. 95–424, set out as a note under section 2151 of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§2184. Trade credit insurance program for Central America

(a) Guarantees to Export-Import Bank; financial transactions with private sector in Central American countries

In order to enable the Export-Import Bank of the United States (hereafter in this section referred to as the "Bank") to determine that there exists reasonable assurance of repayment as required under section 2(b)(1)(B) of the Export-Import Bank Act of 1945 [12 U.S.C. 635(b)(1)(B)], the agency primarily responsible for administering subchapter I of this chapter (hereafter in this section referred to as the "Agency") is authorized to provide guarantees to the Bank for liabilities to be incurred by

the Bank in connection with guarantees or insurance provided under the Export-Import Bank Act of 1945 [12 U.S.C. 635 et seq.] for financing for transactions involving the export of goods and services for the use of the private sector in Central American countries.

(b) Extent of guarantees; agreements; reserve fund

(1) Guarantees provided by the Agency pursuant to the authority of subsection (a) shall be for short-term guarantees and insurance extended by the Bank which shall be repayable within a period not to exceed one year from the date of arrival at the port of importation of the goods and services covered by such guarantees or insurance. Guarantees or insurance extended by the Bank and guaranteed by the Agency pursuant to subsection (a) shall be provided by the Bank in accordance with criteria and procedures agreed to by the Agency and the Bank. Such agreement shall also provide for the establishment of a reserve fund by the Agency, with such funds made available to the reserve as the Agency deems necessary to discharge liabilities under guarantees provided by the Agency pursuant to subsection (a).

(2) The Administrator of such agency shall transmit a copy of such agreement to the Speaker of the House of Representatives and to the Committee on Foreign Relations and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(c) Deadline for guarantee commitments

The Agency shall not enter into any commitments to guarantee under subsection (a) after September 30, 1991.

(d) Availability of appropriated funds

Of the funds authorized to be appropriated for part IV of subchapter II of this chapter, there are authorized to be made available such sums as may be deemed necessary by the Agency to discharge liabilities under guarantees entered into under subsection (a).

(e) Guarantee commitments limit

Commitments to guarantee under subsection (a) are authorized only to the extent and in the amounts provided in appropriations Acts, except that the aggregate amount of outstanding commitments under subsection (a) may not exceed $300,000,000 of contingent liability for loan principal during fiscal year 1986 and may not exceed $400,000,000 of contingent liability for loan principal during fiscal year 1987.

(f) Credits to reserve fund

To the extent that any of the funds made available pursuant to subsection (d) are paid out for a claim arising out of liabilities guaranteed under subsection (a), amounts received after the date of such payment, with respect to such claim, shall be credited to the reserve fund referred to in subsection (b), shall be merged with the funds in such reserve, and shall be available for the purpose of payments by the Agency to the Bank for guarantees under subsection (a).

(g) Omitted

(h) Administrative and technical assistance

The Export-Import Bank shall provide without reimbursement such administrative and technical assistance to the Agency as the Bank and the Agency deem appropriate to assist the Agency in carrying out this section.

(Pub. L. 87–195, pt. I, §224, as added Pub. L. 98–473, title I, §101(1) [title V, §541(a)], Oct. 12, 1984, 98 Stat. 1884, 1903; amended Pub. L. 99–83, title III, §314, Aug. 8, 1985, 99 Stat. 217; Pub. L. 101–167, title IV, Nov. 21, 1989, 103 Stat. 1216; Pub. L. 101–179, title III, §304(b), Nov. 28, 1989, 103 Stat. 1313; Pub. L. 101–513, title IV, Nov. 5, 1990, 104 Stat. 2001.)

REFERENCES IN TEXT

The Export-Import Bank Act of 1945, referred to in subsec. (a), is act July 31, 1945, ch. 341, 59 Stat. 526, as amended, which is classified generally to subchapter I (§635 et seq.) of chapter 6A of Title 12, Banks and Banking. For complete classification of the Act to the Code, see Short Title note set out under section 635 of Title 12 and Tables.

REFERENCES TO SUBCHAPTER I DEEMED TO INCLUDE CERTAIN PARTS OF SUBCHAPTER II

References to subchapter I of this chapter are deemed to include parts IV (§2346 et seq.), VI (§2348 et seq.), and VIII (§2349aa et seq.) of subchapter II of this chapter, and references to subchapter II are deemed to exclude such parts. See section 202(b) of Pub. L. 92–226, set out as a note under section 2346 of this title, and sections 2348c and 2349aa–5 of this title.

CODIFICATION

Subsec. (g) of this section, which required, at intervals of six months, the administrator of the agency primarily responsible for administering subchapter I of this chapter and the President of the Export-Import Bank of the United States to prepare and transmit to the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate a report on the amount and extension of credits during the preceding six-month period, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 148 of House Document No. 103–7.

Section 224 of Pub. L. 87–195 is based on section 1011 of title X of H.R. 5119, Ninety-eighth Congress, as passed by the House of Representatives May 10, 1984, and enacted into law by Pub. L. 98–473.

PRIOR PROVISIONS

A prior section 224 of Pub. L. 87–195, pt. I, Sept. 4, 1961, 75 Stat. 432, as amended by Pub. L. 87–565, pt. I, §104(c), Aug. 1, 1962, 76 Stat. 257; Pub. L. 88–205, pt. I, §104(g), Dec. 16, 1963, 77 Stat. 382; Pub. L. 88–633, pt. I, §103(b), Oct. 7, 1964, 78 Stat. 1010; Pub. L. 89–171, pt. I, §104(e), Sept. 6, 1965, 79 Stat. 655; Pub. L. 89–583, pt. I, §104(c), Sept. 19, 1966, 80 Stat. 798; Pub. L. 90–137, pt. I, §104(d), Nov. 14, 1967, 81 Stat. 451; Pub. L. 90–554, pt. I, §104, Oct. 8, 1968, 82 Stat. 961, related to housing projects in Latin America, prior to the general reorganization of this subpart by Pub. L. 91–175, pt. I, §105, Dec. 30, 1969, 83 Stat. 807. See section 2182 of this title.

AMENDMENTS

1990—Subsec. (c). Pub. L. 101–513 substituted "1991" for "1990".

1989—Pub. L. 101–179 inserted "for Central America" after "program" in section catchline.

Subsec. (c). Pub. L. 101–167 substituted "1990" for "1989".

1985—Subsec. (e). Pub. L. 99–83 substituted "except that the aggregate amount of outstanding commitments under subsection (a) may not exceed $300,000,000 of contingent liability for loan principal during fiscal year 1986 and may not exceed $400,000,000 of contingent liability for loan principal during fiscal year 1987" for "not to exceed $300,000,000 in the fiscal year 1985".

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–83 effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as a note under section 2151–1 of this title.

§2185. Trade credit insurance program for Poland

(a) General authority

(1) Assurance to Export-Import Bank of repayment

The President is authorized to provide guarantees to the Bank for liabilities described in paragraph (2) in order to satisfy the requirement of section 2(b)(1)(B) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(1)(B)) that the Bank have [1] reasonable assurance of repayment.

(2) Liabilities which may be guaranteed

The liabilities that may be guaranteed under paragraph (1) are liabilities incurred by the Bank in connection with guarantees or insurance provided under the Export-Import Bank Act of 1945 [12 U.S.C. 635 et seq.] for financing for transactions involving the export of goods and services for the use of the private sector in Poland.

(b) Guarantees available only for short-term guarantees and insurance

Guarantees provided under subsection (a) shall be for short-term guarantees and insurance

extended by the Bank which shall be repayable within a period not to exceed one year from the date of arrival at the port of importation of the goods and services covered by such guarantees or insurance.

(c) Agreement on criteria and procedures

Guarantees or insurance extended by the Bank and guaranteed pursuant to subsection (a) shall be provided by the Bank in accordance with criteria and procedures agreed to by the Administrator and the Bank.

(d) Reserve fund

The agreement referred to in subsection (c) shall also provide for the establishment of a reserve fund by the administering agency, with such funds made available to the reserve as the Administrator deems necessary to discharge liabilities under guarantees provided under subsection (a).

(e) Discharge of liabilities

(1) Funds which may be used

Such amounts of the funds made available to carry out part IV of subchapter II of this chapter (relating to the economic support fund) as the President determines are necessary may be made available to discharge liabilities under guarantees entered into under subsection (a).

(2) Crediting of subsequent payments

To the extent that any of the funds made available pursuant to paragraph (1) are paid out for a claim arising out of liabilities guaranteed under subsection (a), amounts received after the date of such payment, with respect to such claim, shall be credited to the reserve fund established pursuant to subsection (d), shall be merged with the funds in such reserve, and shall be available for the purpose of payments by the Administrator to the Bank for guarantees under subsection (a).

(f) Appropriations action required

Commitments to guarantee under subsection (a) are authorized only to the extent and in the amounts provided in advance in appropriations Acts.

(g) Limitation on outstanding commitments

The aggregate amount of outstanding commitments under subsection (a) may not exceed $200,000,000 of contingent liability for loan principal during any fiscal year.

(h) Omitted

(i) Administrative and technical assistance

The Bank shall provide, without reimbursement, such administrative and technical assistance to the administering agency as the Bank and the Administrator determine appropriate to assist the administering agency in carrying out this section.

(j) Fees and premiums

The Bank is authorized to charge fees and premiums, in connection with guarantees or insurance guaranteed by the administering agency under subsection (a), that are commensurate (in the judgment of the Bank) with the Bank's administrative costs and the risks covered by the agency's guarantees. Any amounts received by the Bank in excess of the estimated costs incurred by the Bank in administering such guarantees or insurance—

(1) shall be credited to the reserve fund established pursuant to subsection (d),

(2) shall be merged with the funds in such reserve, and

(3) shall be available for the purpose of payments by the administering agency to the Bank for guarantees under subsection (a).

(k) Restrictions not applicable

Prohibitions on the use of foreign assistance funds for assistance for Poland shall not apply with respect to the funds made available to carry out this section.

(l) Expiration of authority

The President may not enter into any commitments to guarantee under subsection (a) after September 30, 1992.

(m) Definitions

For purposes of this section—

(1) the term "administering agency" means the Agency for International Development;

(2) the term "Administrator" means the Administrator of the Agency for International Development; and

(3) the term "Bank" means the Export-Import Bank of the United States.

(Pub. L. 87–195, pt. I, §225, as added Pub. L. 101–179, title III, §304(a), Nov. 28, 1989, 103 Stat. 1312.)

REFERENCES IN TEXT

The Export-Import Bank Act of 1945, referred to in subsec. (a)(2), is act July 31, 1945, ch. 341, 59 Stat. 526, as amended, which is classified generally to subchapter I (§635 et seq.) of chapter 6A of Title 12, Banks and Banking. For complete classification of this Act to the Code, see Short Title note set out under section 635 of Title 12 and Tables.

CODIFICATION

Subsec. (h) of this section, which required the Administrator and the President of the Bank, every 6 months, to prepare and transmit to the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate a report on the amount and extension of guarantees and insurance provided by the Bank and guaranteed under this section during the preceding 6-month period, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 148 of House Document No. 103–7.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

CONFORMING REFERENCE

Pub. L. 101–179, title III, §304(c), Nov. 28, 1989, 103 Stat. 1314, provided that: "With respect to Poland, any reference in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 [Pub. L. 101–167, Nov. 21, 1989, 103 Stat. 1195], to section 224 of the Foreign Assistance Act of 1961 [22 U.S.C. 2184] shall be deemed to be a reference to section 225 of that Act [22 U.S.C. 2185] (as enacted by this section)."

[1] *So in original. Probably should be "has".*

§2186. Loan guarantees to Israel program

(a) In general

Subject to the terms and conditions of this section, during the period beginning October 1, 1992, and ending September 30, 1997, the President is authorized to issue guarantees against losses incurred in connection with loans to Israel made as a result of Israel's extraordinary humanitarian effort to resettle and absorb immigrants into Israel from the republics of the former Soviet Union, Ethiopia and other countries. In the event that less than the full amount authorized to be issued under subsection (b) of this section is issued in such period, the authority to issue the balance of such guarantees shall be available in the fiscal year ending on September 30, 1998.

(b) Fiscal year levels

The President is authorized to issue guarantees in furtherance of the purposes of this section. Subject to subsection (d), the total principal amount of guarantees which may be issued by the President under this section shall be up to $10,000,000,000 which may be issued as follows:

(1) in fiscal year 1993, up to $2,000,000,000 may be issued on October 1, 1992 or thereafter;

(2) subject to subsection (d), in fiscal years 1994 through 1997, up to $2,000,000,000 in each fiscal year may be issued on October 1 or thereafter.

(3) If less than the full amount of guarantees authorized to be made available in a fiscal year pursuant to paragraphs (1) and (2) of this subsection is issued to Israel during that fiscal year, the authority to issue the balance of such guarantees shall extend to any subsequent fiscal year ending on or before September 30, 1998.

(4)(A) Not later than September 1 of each year during the period in which the President is authorized to issue loan guarantees under subsection (a), beginning in fiscal year 1993, the President shall notify the appropriate congressional committees in writing of his intentions regarding the exercise of that authority for the fiscal year beginning on October 1 of that year, including a statement of the total principal amount of guarantees, if any, that the President proposes to issue for that fiscal year.

(B) For purposes of this paragraph, the term "appropriate congressional committees" means the Committee on Appropriations and the Committee on Foreign Relations of the Senate and the Committee on Appropriations and the Committee on Foreign Affairs of the House of Representatives.

(c) Use of guarantees

Guarantees may be issued under this section only to support activities in the geographic areas which were subject to the administration of the Government of Israel before June 5, 1967.

(d) Limitation on guarantee amount

The amount of authorized but unissued guarantees that the President is authorized to issue as specified in subsection (b) shall be reduced by an amount equal to the amount extended or estimated to have been extended by the Government of Israel during the previous year for activities which the President determines are inconsistent with the objectives of this section or understandings reached between the United States Government and the Government of Israel regarding the implementation of the loan program. The President shall submit a report to Congress no later than September 30 of each fiscal year during the pendency of the program specifying the amount calculated under this subsection and that will be deducted from the amount of guarantees authorized to be issued in the next fiscal year.

(e) Fees

(1) Fees charged for the loan guarantee program under this section each year shall be an aggregate annual origination fee equal to the estimated subsidy cost of the guarantees issued under this section for that year, calculated by the Office of Management and Budget for the Federal Credit Reform Act of 1990 [2 U.S.C. 661 et seq.]. This shall also include an amount for the administrative expenses of the Agency for International Development in administering the program under this section. All such fees shall be paid by the Government of Israel to the Government of the United States. Funds made available for Israel under part 4 of subchapter II of this chapter, may be utilized by the Government of Israel to pay such fees to the United States Government. No further appropriations of subsidy cost are needed for the loan guarantee authorized hereunder for fiscal year 1993 and the four succeeding fiscal years.

(2) The origination fee shall be payable to the United States Government on a pro rata basis as each guarantee for each loan or increment is issued.

(f) Authority to suspend

Except as provided in subsections (l) and (m) of this section, the President shall determine the terms and conditions for issuing guarantees. If the President determines that these terms and conditions have been breached, the President may suspend or terminate the provision of all or part of the additional loan guarantees not yet issued under this section. Upon making such a determination to suspend or terminate the provision of loan guarantees, the President shall submit to the Speaker of the House of Representatives and the President Pro Tempore of the Senate his determination to do so, including the basis for such suspension or termination.

(g) Procedures for suspension or termination

Any suspension or termination pursuant to subsection (f) shall be in accordance with the following procedures:

(1) Upon making a determination to suspend or terminate the provision of loan guarantees, the President shall submit to the Speaker of the House of Representatives and the President Pro Tempore of the Senate his determination to do so, including the basis for such suspension or termination.

(2) Such a suspension or termination shall cease to be effective if Congress enacts, within 30 days of submission, a joint resolution authorizing the assistance notwithstanding the suspension.

(3) Any such joint resolution shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

(4) For the purpose of expediting the consideration and enactment of joint resolutions under this subsection, a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

(5) In the event that the President suspends the provision of additional loan guarantees under subsection (f) and Congress does not enact a joint resolution pursuant to this subsection, the provision of additional loan guarantees under the program established by this section may be resumed only if the President determines and so reports to Congress that the reasons for the suspension have been resolved or that the resumption is otherwise in the national interest.

(h) Economic context

The effective absorption of immigrants into Israel from the republics of the former Soviet Union and Ethiopia within the private sector requires large investment and economic restructuring to promote market efficiency and thereby contribute to productive employment and sustainable growth. Congress recognizes that the Government of Israel is developing an economic strategy designed to achieve these goals, and that the Government of Israel intends to adopt a comprehensive, multi-year economic strategy based on prudent macroeconomic policies and structural reforms. Congress also recognizes that these policies are being designed to reduce direct involvement of the government in the economic system and to promote private enterprise, important prerequisites for economic stability and sustainable growth.

(i) Consultations

It is the sense of the Congress that, as agreed between the two Governments and in order to further the policies specified in subsection (h), Israel and the United States should continue to engage in consultations concerning economic and financial measures, including structural and other reforms, that Israel should undertake during the pendency of this program to enable its economy to absorb and resettle immigrants and to accommodate the increased debt burden that will result from loans guaranteed pursuant to this section. It is the sense of the Congress that these consultations on economic measures should address progress and plans in the areas of budget policies, privatization, trade liberalization, financial and capital markets, labor markets, competition policy, and deregulation.

(j) Goods and services

During the pendency of the loan program authorized under this section, it is anticipated that, in the context of the economic reforms undertaken pursuant to subsections (h) and (i) of this section, Israel's increased population due to its absorption of immigrants, and the liberalization by the Government of Israel of its trade policy with the United States, the amount of United States investment goods and services purchased for use in or with respect to the country of Israel will substantially increase.

(k) Reports

The President shall report to Congress by December 31 of each fiscal year until December 31, 1999, regarding the implementation of this section.

(l) Applicability of certain sections

Section 2183 of this title shall apply to guarantees issued under subsection (a) in the same manner as such section applies to guarantees issued under section 2182 of this title, except that subsections (a), (e)(1), (g), and (j) of section 2183 of this title shall not apply to such guarantees and except that, to the extent section 2183 of this title is inconsistent with the Federal Credit Reform Act of 1990 [2 U.S.C. 661 et seq.], that Act shall apply. Loans shall be guaranteed under this section without regard to sections 2181, 2182, and 2198(c) of this title. Notwithstanding section 2183(f) of this title, the interest rate for loans guaranteed under this section may include a reasonable fee to cover the costs and fees incurred by the borrower in connection with this program or financing under this section in the event the borrower elects not to finance such costs or fees out of loan principal. Guarantees once issued hereunder shall be unconditional and fully and freely transferable.

(m) Terms and conditions

(1) Each loan guarantee issued under this section shall guarantee 100 percent of the principal and interest payable on such loans.

(2) The standard terms of any loan or increment guaranteed under this section shall be 30 years with semiannual payments of interest only over the first 10 years, and with semiannual payments of principal and interest on a level payment basis, over the last 20 years thereof, except that the guaranteed loan or any increments issued in a single transaction may include obligations having different maturities, interest rates, and payment terms if the aggregate scheduled debt service for all obligations issued in a single transaction equals the debt service for a single loan or increment of like amount having the standard terms described in this sentence. The guarantor shall not have the right to accelerate any guaranteed loan or increment or to pay any amounts in respect of the guarantees issued other than in accordance with the original payment terms of the loan. For purposes of determining the maximum principal amount of any loan or increment to be guaranteed under this section, the principal amount of each such loan or increment shall be—

(A) in the case of any loan issued on a discount basis, the original issue price (excluding any transaction costs) thereof; or

(B) in the case of any loan issue [1] on an interest-bearing basis, the stated principal amount thereof.

(Pub. L. 87–195, pt. I, §226, as added Pub. L. 102–391, title VI, §601, Oct. 6, 1992, 106 Stat. 1699.)

REFERENCES IN TEXT

The Federal Credit Reform Act of 1990, referred to in subsecs. (e)(1) and (l), is title V of Pub. L. 93–344 as added by Pub. L. 101–508, title XIII, §13201(a), Nov. 5, 1990, 104 Stat. 1388–609, which is classified generally to subchapter III (§661 et seq.) of chapter 17A of Title 2, The Congress. For complete classification of this Act to the Code, see Short Title note set out under section 621 of Title 2 and Tables.

Section 601(b) of the International Security Assistance and Arms Export Control Act of 1976, referred to in subsec. (g)(3), is section 601(b) of Pub. L. 94–329, title VI, June 30, 1976, 90 Stat. 765, which is not classified to the Code.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

[1] So in original. Probably should be "issued".

SUBPART IV—OVERSEAS PRIVATE INVESTMENT CORPORATION

§2191. Congressional statement of purpose; creation and functions of Corporation

To mobilize and facilitate the participation of United States private capital and skills in the economic and social development of less developed countries and areas, and countries in transition from nonmarket to market economies, thereby complementing the development assistance objectives of the United States, there is hereby created the Overseas Private Investment Corporation (hereinafter called the "Corporation"), which shall be an agency of the United States under the policy guidance of the Secretary of State.

The Corporation, in determining whether to provide insurance, financing, or reinsurance for a project, shall especially—

(1) be guided by the economic and social development impact and benefits of such a project and the ways in which such a project complements, or is compatible with, other development assistance programs or projects of the United States or other donors;

(2) give preferential consideration to investment projects in less developed countries that have per capita incomes of $984 or less in 1986 United States dollars, and restrict its activities with respect to investment projects in less developed countries that have per capita incomes of $4,269 or more in 1986 United States dollars (other than countries designated as beneficiary countries under section 2702 of title 19, Ireland, and Northern Ireland); and

(3) ensure that the project is consistent with the provisions of section 2151p of this title, section 2151p–1 of this title, and section 2151q of this title relating to the environment and natural resources of, and tropical forests and endangered species in, developing countries, and consistent with the intent of regulations issued pursuant to section 2151p of this title, section 2151p–1 of this title, and section 2151q of this title.

In carrying out its purpose, the Corporation, utilizing broad criteria, shall undertake—

(a) to conduct financing, insurance, and reinsurance operations on a self-sustaining basis, taking into account in its financing operations the economic and financial soundness of projects;

(b) to utilize private credit and investment institutions and the Corporation's guaranty authority as the principal means of mobilizing capital investment funds;

(c) to broaden private participation and revolve its funds through selling its direct investments to private investors whenever it can appropriately do so on satisfactory terms;

(d) to conduct its insurance operations with due regard to principles of risk management including efforts to share its insurance and reinsurance risks;

(e) to the maximum degree possible consistent with its purposes—

(1) to give preferential consideration in its investment insurance, reinsurance, and guaranty activities to investment projects sponsored by or involving United States small business; and

(2) to increase the proportion of projects sponsored by or significantly involving United States small business to at least 30 percent of all projects insured, reinsured, or guaranteed by the Corporation;

(f) to consider in the conduct of its operations the extent to which less developed country governments are receptive to private enterprise, domestic and foreign, and their willingness and ability to maintain conditions which enable private enterprise to make its full contribution to the development process;

(g) to foster private initiative and competition and discourage monopolistic practices;

(h) to further to the greatest degree possible, in a manner consistent with its goals, the balance-of-payments and employment objectives of the United States;

(i) to conduct its activities in consonance with the activities of the agency primarily responsible for administering subchapter I of this chapter and the international trade, investment, and financial policies of the United States Government, and to seek to support those developmental projects having positive trade benefits for the United States;

(j) to advise and assist, within its field of competence, interested agencies of the United States and other organizations, both public and private, national and international, with respect to projects and programs relating to the development of private enterprise in less developed countries and areas;

(k)(1) to decline to issue any contract of insurance or reinsurance, or any guaranty, or to enter into any agreement to provide financing for an eligible investor's proposed investment if the Corporation determines that such investment is likely to cause such investor (or the sponsor of an investment project in which such investor is involved) significantly to reduce the number of his employees in the United States production he is replacing his United States production with production from such investment which involves substantially the same product for substantially the same market as his United States production; and (2) to monitor conformance with the representations of the investor on which the Corporation relied in making the determination required by clause (1);

(l) to decline to issue any contract of insurance or reinsurance, or any guaranty, or to enter into any agreement to provide financing for an eligible investor's proposed investment if the Corporation determines that such investment is likely to cause a significant reduction in the number of employees in the United States;

(m) to refuse to insure, reinsure, or finance any investment subject to performance requirements which would reduce substantially the positive trade benefits likely to accrue to the United States from the investment; and

(n) to refuse to insure, reinsure, guarantee, or finance any investment in connection with a project which the Corporation determines will pose an unreasonable or major environmental, health, or safety hazard, or will result in the significant degradation of national parks or similar protected areas.

(Pub. L. 87–195, pt. I, §231, as added Pub. L. 91–175, pt. I, §105, Dec. 30, 1969, 83 Stat. 809; amended Pub. L. 93–390, §2(1), Aug. 27, 1974, 88 Stat. 763; Pub. L. 95–268, §2, Apr. 24, 1978, 92 Stat. 213; Pub. L. 97–65, §2, Oct. 16, 1981, 95 Stat. 1021; Pub. L. 99–204, §§3, 4(a), Dec. 23, 1985, 99 Stat. 1669; Pub. L. 100–461, title V, §555, Oct. 1, 1988, 102 Stat. 2268–36; Pub. L. 102–549, title I, §101, Oct. 28, 1992, 106 Stat. 3651; Pub. L. 103–392, title I, §105, Oct. 22, 1994, 108 Stat. 4099.)

REFERENCES TO SUBCHAPTER I DEEMED TO INCLUDE CERTAIN PARTS OF SUBCHAPTER II

References to subchapter I of this chapter are deemed to include parts IV (§2346 et seq.), VI (§2348 et seq.), and VIII (§2349aa et seq.) of subchapter II of this chapter, and references to subchapter II are deemed to exclude such parts. See section 202(b) of Pub. L. 92–226, set out as a note under section 2346 of this title, and sections 2348c and 2349aa–5 of this title.

CODIFICATION

Amendment by Pub. L. 100–461 is based on sections 102 and 110(a)(1) of title I of H.R. 5263, One Hundredth Congress, as passed by the House of Representatives on Sept. 20, 1988, and sections 102 and 110(a)(1) of title I of S. 2757, One Hundredth Congress, as reported Sept. 7, 1988, and enacted into law by Pub. L. 100–461.

PRIOR PROVISIONS

A prior section 231 of Pub. L. 87–195, pt. 1, Sept. 4, 1961, 75 Stat. 432, related to general authority of President to participate in financing of surveys of investment opportunities in less developed friendly countries, prior to the general reorganization of this subpart by Pub. L. 91–175, pt. I, §105, Dec. 30, 1969, 83 Stat. 807.

AMENDMENTS

1994—Pub. L. 103–392 inserted ", Ireland, and Northern Ireland" after "title 19" in par. (2) of second undesignated par.

1992—Pub. L. 102–549, in first undesignated par., substituted "countries and areas, and countries in transition from nonmarket to market economies," for "friendly countries and areas,".

1988—Pub. L. 100–461, in par. (2) of second undesignated par., substituted "984 or less in 1986 United States dollars" for "$896 or less in 1983 United States dollars" and "$4,269 or more in 1986 United States dollars (other than countries designated as beneficiary countries under section 2702 of title 19)" for "$3,887 or more in 1983 United States dollars".

Pub. L. 100–461, in par. (3) of second undesignated par., substituted "section 2151p of this title, section 2151p–1 of this title, and section" for "sections 2151p of this title and" and "tropical forests and endangered

species" for "biological diversity".

1985—Pub. L. 99–204, in second undesignated par., substituted "$896 or less in 1983 United States dollars" for "$680 or less in 1979 United States dollars" and "$3,887 or more in 1983 United States dollars" for "$2,950 or more in 1979 United States dollars" in par. (2), added par. (3), and added cl. (n).

1981—Pub. L. 97–65 substituted "$680 or less in 1979 United States dollars" for "$520 or less in 1975 United States dollars" and "$2,950 or more in 1979 United States dollars" for "$1,000 or more in 1975 United States dollars" in par. (2) of undesignated paragraph covering the guidelines to be used with regard to operations in less developed countries, inserted ", and to seek to support those developmental projects having positive trade benefits for the United States" in cl. (i) of undesignated paragraph enumerating the activities of the Corporation, and, in that unnumbered paragraph, added cl. (m), relating to investments which would reduce positive trade benefits.

1978—Pub. L. 95–268 inserted undesignated par. relating to determinations by the Corporation respecting insurance, financing, or reinsurance for a project, in cl. (e) designated existing provisions as subcl. (1) and, as so designated, substituted reference to guaranty activities for reference to financing activities and reference to small businesses for reference to businesses with a net worth of not more than $2,500,000 or with total assets of not more than $7,500,000, and added subcl. (2), struck out cl. (f) relating to encouragement and support of private investments for certain less developed friendly countries, redesignated former cls. (g) to (k) as (f) to (j), respectively, struck out former cl. (l) relating to preference by the Corporation for projects in countries having a per capita income of $450 or less in 1973 United States dollars, redesignated former cl. (m) as (k), and added cl. (n) which, as added, was redesignated as (l).

1974—Pub. L. 93–390, in introductory par., substituted "social development" for "social progress", in cl. (a) inserted provisions for conducting insurance and reinsurance operations and substituted provisions requiring in financial operations consideration of economic and financial soundness of projects for provisions requiring consideration of economic and financial soundness of projects and availability of financing from other sources on appropriate terms, in cl. (d) substituted "efforts to share its insurance and reinsurance" for "when appropriate, efforts to share its insurance", in cl. (e) substituted provisions requiring preferential treatment to investment projects involving businesses with enumerated net worth or total assets for provisions requiring utilization and encouragement for full participation in Corporation programs of small businesses, in cl. (i) inserted "and employment" before "objectives", and added cls. (l) and (m).

OVERSEAS PRIVATE INVESTMENT CORPORATION; REAFFIRMATION OF SUPPORT

Pub. L. 100–418, title II, §2203(a), Aug. 23, 1988, 102 Stat. 1328, provided that: "The Congress reaffirms its support for the Overseas Private Investment Corporation as a United States Government agency serving important development assistance goals. In order to enhance the Corporation's ability to meet these goals, the Overseas Private Investment Corporation should increase its loan guaranty and direct investment programs."

EX. ORD. NO. 11579. OVERSEAS PRIVATE INVESTMENT CORPORATION

Ex. Ord. No. 11579, Jan. 19, 1971, 36 F.R. 969, as amended by Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055; Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, provided:

By virtue of the authority vested in me by the Foreign Assistance Act of 1961 (75 Stat. 424), as amended (hereinafter the "Act") [section 2151 et seq. of this title] and section 301 of title 3 of the United States Code, and as President of the United States, it is ordered as follows:

SECTION 1. *Transfer to Overseas Private Investment Corporation*. All obligations, assets and related rights and responsibilities arising out of, or related to, predecessor programs and authorities similar to those provided for in sections 234(a), (b) and (d) of the Act [section 2194(a), (b) and (d) of this title] are hereby transferred to the Overseas Private Investment Corporation (hereinafter the "Corporation").

SEC. 2. *Delegation of functions*. (a) [Revoked by Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673.]

(b) The function of prescribing regulations relating to the reinstatement or restoration of officers and employees of the Corporation to other government positions, when their appointment to a position in the Corporation was made from another government position and their separation from the Corporation was not made for cause, is hereby delegated to the Office of Personnel Management.

SEC. 3. *Allocation and transfer of funds*. Funds made available under section 232 of the Act (repealed by section 105 of the Foreign Assistance Act of 1969) [section 2192 of this title] which are obligated but unexpended are hereby transferred to the Corporation.

SEC. 4. *General provisions*. (a) As used in this order, the words "function" or "functions" include any duty, obligation, power, authority, responsibility, right, privilege, discretion, or activity.

(b) The Corporation shall be deemed to be the successor of the Agency for International Development and the Administrator thereof, with respect to all functions vested in the Corporation pursuant to law.

(c) Except to the extent that they may be inconsistent with this order, all determinations, authorizations, regulations, rulings, certificates, orders, directives, contracts, agreements, and other actions made, issued, or entered into with respect to any function affected by this order and not revoked, superseded or otherwise made inapplicable before the date of this order, shall continue in full force and effect until amended, modified, or terminated by appropriate authority.

(d) Executive Order No. 10973 of November 3, 1961, as amended [set out as a note under this section], is hereby superseded insofar as any provision therein is in conflict with any provision herein.

(e) The provisions of this order shall become effective upon adoption by the Board of Directors of bylaws for the Corporation.

§2191a. Additional requirements

(a) Worker rights

(1) Limitation on OPIC activities

The Corporation may insure, reinsure, guarantee, or finance a project only if the country in which the project is to be undertaken is taking steps to adopt and implement laws that extend internationally recognized worker rights, as defined in section 2467(4) of title 19, to workers in that country (including any designated zone in that country). The Corporation shall also include the following language, in substantially the following form, in all contracts which the Corporation enters into with eligible investors to provide financial support under this subpart:

"The investor agrees not to take actions to prevent employees of the foreign enterprise from lawfully exercising their right of association and their right to organize and bargain collectively. The investor further agrees to observe applicable laws relating to a minimum age for employment of children, acceptable conditions of work with respect to minimum wages, hours of work, and occupational health and safety, and not to use forced labor. The investor is not responsible under this paragraph for the actions of a foreign government."

(2) Use of annual reports on workers rights

The Corporation shall, in making its determinations under paragraph (1), use the reports submitted to the Congress pursuant to section 2464 of title 19. The restriction set forth in paragraph (1) shall not apply until the first such report is submitted to the Congress.

(3) Waiver

Paragraph (1) shall not prohibit the Corporation from providing any insurance, reinsurance, guaranty, or financing with respect to a country if the President determines that such activities by the Corporation would be in the national economic interests of the United States. Any such determination shall be reported in writing to the Congress, together with the reasons for the determination.

(4) Operations of OPIC in the People's Republic of China

In making a determination under this section for the People's Republic of China, the Corporation shall discuss fully and completely the justification for making such determination with respect to each item set forth in subparagraphs (A) through (E) of section 2467(4) of title 19.

(b) Environmental impact

The Board of Directors of the Corporation shall not vote in favor of any action proposed to be taken by the Corporation that is likely to have significant adverse environmental impacts that are sensitive, diverse, or unprecedented, unless for at least 60 days before the date of the vote—

(1) an environmental impact assessment or initial environmental audit, analyzing the environmental impacts of the proposed action and of alternatives to the proposed action has been completed by the project applicant and made available to the Board of Directors; and

(2) such assessment or audit has been made available to the public of the United States, locally affected groups in the host country, and host country nongovernmental organizations.

(c) Public hearings

(1) The Board shall hold at least one public hearing each year in order to afford an opportunity for any person to present views as to whether the Corporation is carrying out its activities in accordance with section 2191 of this title and this section or whether any investment in a particular country should have been or should be extended insurance, reinsurance, guarantees, or financing under this subpart.

(2) In conjunction with each meeting of its Board of Directors, the Corporation shall hold a public hearing in order to afford an opportunity for any person to present views regarding the activities of the Corporation. Such views shall be made part of the record.

(Pub. L. 87–195, pt. I, §231A, as added Pub. L. 99–204, §5(a), Dec. 23, 1985, 99 Stat. 1670; amended Pub. L. 100–418, title II, §2203(c), Aug. 23, 1988, 102 Stat. 1328; Pub. L. 102–549, title I, §102(a), Oct. 28, 1992, 106 Stat. 3651; Pub. L. 104–188, title I, §1954(b)(3), Aug. 20, 1996, 110 Stat. 1928; Pub. L. 106–158, §3(a), Dec. 9, 1999, 113 Stat. 1745.)

AMENDMENTS

1999—Subsec. (b). Pub. L. 106–158, §3(a)(2) added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 106–158, §3(a)(1), (3), redesignated subsec. (b) as (c), designated existing provisions as par. (1), and added par. (2).

1996—Subsec. (a)(1). Pub. L. 104–188, §1954(b)(3)(A), substituted "2467(4)" for "2462(a)(4)".

Subsec. (a)(2). Pub. L. 104–188, §1954(b)(3)(B), substituted "2464" for "2465(c)".

Subsec. (a)(4). Pub. L. 104–188, §1954(b)(3)(C), substituted "2467(4)" for "2462(a)(4)".

1992—Subsec. (a)(1). Pub. L. 102–549 inserted at end provisions requiring Corporation to include certain language about employee rights in all contracts with eligible investors.

1988—Subsec. (a)(4). Pub. L. 100–418 added par. (4).

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106–158, §3(b), Dec. 9, 1999, 113 Stat. 1746, provided that: "The amendments made by subsection (a) [amending this section] shall take effect 90 days after the date of the enactment of this Act [Dec. 9, 1999]."

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–188 applicable to articles entered on or after Oct. 1, 1996, with provisions relating to retroactive application, see section 1953 of Pub. L. 104–188, set out as an Effective Date note under section 2461 of Title 19, Customs Duties.

EFFECTIVE DATE

Pub. L. 99–204, §5(b), Dec. 23, 1985, 99 Stat. 1671, provided that: "Subsection (a) of section 231A [subsec. (a) of this section], as added by subsection (a) of this section, shall not apply to projects insured, reinsured, guaranteed, or financed before the date of the enactment of this Act [Dec. 23, 1985]."

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§2191b. Worker rights and human rights guidelines

The President of the Overseas Private Investment Corporation is hereby authorized and directed to issue, not later than 9 months after December 16, 2009, a comprehensive set of environmental, transparency and internationally recognized worker rights and human rights guidelines with requirements binding on the Corporation and its investors that shall be consistently applied to all projects, funds and sub-projects supported by the Corporation: *Provided*, That these regulations shall be no less rigorous than the environmental and social guidelines that the Corporation has made publicly available as of June 3, 2009, and the environmental and social policies of the World Bank Group, and hereafter may be issued and further revised only following public notice and opportunity for comment: *Provided further*, That the Overseas Private Investment Corporation shall issue a report, not later than 180 days after December 16, 2009, highlighting its substantial commitment to invest in renewable and other clean energy technologies and plans to significantly reduce greenhouse gas emissions from its portfolio: *Provided further*, That such commitment shall include

implementing a revised climate change mitigation plan to reduce greenhouse gas emissions associated with projects and sub-projects in the agency's portfolio as of June 30, 2008 by at least 30 percent over a 10-year period and by at least 50 percent over a 15-year period.

(Pub. L. 111–117, div. F, title VII, §7079(b), Dec. 16, 2009, 123 Stat. 3396.)

CODIFICATION

Section was enacted as part of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2010, and also as part of the Consolidated Appropriations Act, 2010, and not as part of the Foreign Assistance Act of 1961 which comprises this chapter.

§2192. Capital of the Corporation

The President is authorized to pay in as capital of the Corporation, out of dollar receipts made available through the appropriation process from loans made pursuant to subchapter I of this chapter and from loans made under the Mutual Security Act of 1954, as amended, for the fiscal year 1970 not to exceed $20,000,000 and for the fiscal year 1971 not to exceed $20,000,000. Upon the payment of such capital by the President, the Corporation shall issue an equivalent amount of capital stock to the Secretary of the Treasury.

(Pub. L. 87–195, pt. I, §232, as added Pub. L. 91–175, pt. I, §105, Dec. 30, 1969, 83 Stat. 810.)

REFERENCES IN TEXT

The Mutual Security Act of 1954, referred to in text, is act Aug. 26, 1954, ch. 937, 68 Stat. 832, as amended by acts July 8, 1955, ch. 301, 69 Stat. 283; July 18, 1956, ch. 627, §§2 to 11, 70 Stat. 555; Aug. 14, 1957, Pub. L. 85–141, 71 Stat. 355; June 30, 1958, Pub. L. 85–477, ch. 1, §§101 to 103, ch. II, §§201 to 205, ch. III, §301, ch. IV, §401, ch. V, §501, 72 Stat. 261; July 24, 1959, Pub. L. 86–108, §2, ch. 1, §101, ch. II, §§201 to 205(a) to (i), (k) to (n), ch. III, §301, ch. IV, §401(a) to (k), (m), 73 Stat. 246; May 14, 1960, Pub. L. 86–472, ch. I to V, 74 Stat. 134, which was principally classified to chapter 24 (§1750 et seq.) of this title and which was repealed by act July 18, 1956, ch. 627, §8(m), 70 Stat. 559, Pub. L. 85–141, §§2(e), 3, 4(b), 11(d), Aug. 14, 1957, 71 Stat. 356, Pub. L. 86–108, ch. II, §§205(j), ch. IV, 401(1), July 24, 1959, 73 Stat. 250, Pub. L. 86–472, ch. II, §§203(d), 204(k), May 14, 1960, 74 Stat. 138, Pub. L. 87–195, pt. III, §642(a)(2), Sept. 4, 1961, 75 Stat. 460, Pub. L. 94–329, title II, §212(b)(1), June 30, 1976, 90 Stat. 745, Pub. L. 104–127, title II, §228, Apr. 4, 1996, 110 Stat. 963, except for sections 1754, 1783, 1796, 1853, 1928, and 1937 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1754 of this title and Tables.

REFERENCES TO SUBCHAPTER I DEEMED TO INCLUDE CERTAIN PARTS OF SUBCHAPTER II

References to subchapter I of this chapter are deemed to include parts IV (§2346 et seq.), VI (§2348 et seq.), and VIII (§2349aa et seq.) of subchapter II of this chapter, and references to subchapter II are deemed to exclude such parts. See section 202(b) of Pub. L. 92–226, set out as a note under section 2346 of this title, and sections 2348c and 2349aa–5 of this title.

PRIOR PROVISIONS

A prior section 232 of Pub. L. 87–195, pt. I, Sept. 4, 1961, 75 Stat. 432 as amended by Pub. L. 87–565, pt. I, §105, Aug. 1, 1962, 76 Stat. 257; Pub. L. 88–633, pt. I, §104, Oct. 7, 1964, 78 Stat. 1010; Pub. L. 90–137, pt. I, §105, Nov. 14, 1967, 81 Stat. 451, authorized appropriations for surveys of investment opportunities, prior to the general reorganization of this subpart by Pub. L. 91–175, pt. I, §105, Dec. 30, 1969, 83 Stat. 807.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§2193. Organization and management

(a) Structure

The Corporation shall have a Board of Directors, a President, an Executive Vice President, and such other officers and staff as the Board of Directors may determine.

(b) Board of directors

All powers of the Corporation shall vest in and be exercised by or under the authority of its Board of Directors ("the Board") which shall consist of fifteen Directors, including the Chairman, with eight Directors constituting a quorum for the transaction of business. Eight Directors shall be appointed by the President of the United States, by and with the advice and consent of the Senate, and shall not be officials or employees of the Government of the United States. At least two of the eight Directors appointed under the preceding sentence shall be experienced in small business, one in organized labor, and one in cooperatives. Each such Director shall be appointed for a term of no more than three years. The terms of no more than three such Directors shall expire in any one year. Such Directors shall serve until their successors are appointed and qualified and may be reappointed.

The other Directors shall be principal officers of the Government of the United States whose duties relate to the programs of the Corporation, including the President of the Corporation, the Administrator of the Agency for International Development, the United States Trade Representative, and one such officer of the Department of Labor, designated by and serving at the pleasure of the President of the United States. The United States Trade Representative may designate a Deputy United States Trade Representative to serve on the Board in place of the United States Trade Representative.

There shall be a Chairman and a Vice Chairman of the Board, both of whom shall be designated by the President of the United States from among the Directors of the Board other than those appointed under the second sentence of the first paragraph of this subsection.

All Directors who are not officers of the Corporation or officials of the Government of the United States shall be compensated at a rate equivalent to that of level IV of the Executive Schedule when actually engaged in the business of the Corporation and may be paid per diem in lieu of subsistence at the applicable rate prescribed in the standardized Government travel regulations, as amended from time to time, while away from their homes or usual places of business.

(c) President

The President of the Corporation shall be appointed by the President of the United States, by and with the advice and consent of the Senate, and shall serve at the pleasure of the President. In making such appointment, the President shall take into account private business experience of the appointee. The President of the Corporation shall be its Chief Executive Officer and responsible for the operations and management of the Corporation, subject to bylaws and policies established by the Board.

(d) Officers and staff

The Executive Vice President of the Corporation shall be appointed by the President of the United States, by and with the advice and consent of the Senate, and shall serve at the pleasure of the President. Other officers, attorneys, employees, and agents shall be selected and appointed by the Corporation, and shall be vested with such powers and duties as the Corporation may determine. Of such persons employed by the Corporation, not to exceed twenty may be appointed, compensated, or removed without regard to the civil service laws and regulations: *Provided*, That under such regulations as the President of the United States may prescribe, officers and employees of the United States Government who are appointed to any of the above positions may be entitled, upon removal from such position, except for cause, to reinstatement to the position occupied at the time of appointment or to a position of comparable grade and salary. Such positions shall be in addition to those otherwise authorized by law, including those authorized by section 5108 of title 5.

(e) Investment advisory council

The Board shall take prompt measures to increase the loan, guarantee, and insurance programs, and financial commitments, of the Corporation in sub-Saharan Africa, including through the use of an investment advisory council to assist the Board in developing and implementing policies, programs, and financial instruments with respect to sub-Saharan Africa. In addition, the investment

advisory council shall make recommendations to the Board on how the Corporation can facilitate greater support by the United States for trade and investment with and in sub-Saharan Africa. The investment advisory council shall terminate 4 years after May 18, 2000.

(Pub. L. 87–195, pt. I, §233, as added Pub. L. 91–175, pt. I, §105, Dec. 30, 1969, 83 Stat. 810; amended Pub. L. 97–65, §3(a), (b), Oct. 16, 1981, 95 Stat. 1021, 1022; Pub. L. 106–158, §4, Dec. 9, 1999, 113 Stat. 1746; Pub. L. 106–200, title I, §123(c)(1), May 18, 2000, 114 Stat. 269; Pub. L. 108–158, §3(e), Dec. 3, 2003, 117 Stat. 1950.)

REFERENCES IN TEXT

Level IV of the Executive Schedule, referred to in subsec. (b), is set out in section 5315 of Title 5, Government Organization and Employees.

PRIOR PROVISIONS

A prior section 233 of Pub. L. 87–195, pt. I, Sept. 4, 1961, 75 Stat. 432, contained definitions, prior to the general reorganization of this subpart by Pub. L. 91–175, pt. I, §105, Dec. 30, 1969, 83 Stat. 807.

AMENDMENTS

2003—Subsec. (b). Pub. L. 108–158, in second par., substituted "principal officers" for "officials" and "one such officer" for "an official" and inserted "whose duties relate to the programs of the Corporation" after "Government of the United States".

2000—Subsec. (e). Pub. L. 106–200 added subsec. (e).

1999—Subsec. (b). Pub. L. 106–158, §4(1), (2), in first par., struck out after first sentence "The Administrator of the Agency for International Development shall be the Chairman of the Board, ex officio. The United States Trade Representative shall be the Vice Chairman of the Board, ex officio, except that the United States Trade Representative may designate the Deputy United States Trade Representative to serve as Vice Chairman of the Board in place of the United States Trade Representative." and struck out "(other than the President of the Corporation, appointed pursuant to subsection (c) of this section who shall serve as a Director, ex officio)" after "Eight Directors".

Pub. L. 106–158, §4(3), in second par., inserted "the President of the Corporation, the Administrator of the Agency for International Development, the United States Trade Representative, and" after "United States, including" and inserted at end "The United States Trade Representative may designate a Deputy United States Trade Representative to serve on the Board in place of the United States Trade Representative."

Pub. L. 106–158, §4(4), inserted after second par. "There shall be a Chairman and a Vice Chairman of the Board, both of whom shall be designated by the President of the United States from among the Directors of the Board other than those appointed under the second sentence of the first paragraph of this subsection."

1981—Subsec. (b). Pub. L. 97–65 expanded to 15 the number of Directors on the Board, raised to 8 the number required to constitute a quorum and made other technical changes in connection with the increased size of the Board, inserted provision directing that the United States Trade Representative be the Vice Chairman of the Board, ex officio, but authorizing the United States Trade Representative to designate the Deputy United States Trade Representative to serve as Vice Chairman of the Board in place of the United States Trade Representative, provided that the President of the Corporation serve as a Director, ex officio, and inserted provision that an official of the Department of Labor be added to the Board as a Director.

EFFECTIVE DATE OF 1981 AMENDMENT

Pub. L. 97–65, §3(c), Oct. 16, 1981, 95 Stat. 1022, provided that: "The amendments made by this section [amending this section] shall take effect on October 1, 1981."

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

MEMBERS OF BOARD OF DIRECTORS OF OVERSEAS PRIVATE INVESTMENT CORPORATION

For provisions directing that the United States Trade Representative serve, ex officio, as an additional voting member of the Board of Directors of the Overseas Private Investment Corporation and to serve as the Vice Chair of that Board and authorizing and directing the appointment of an additional member of the Board of Directors of the Overseas Private Investment Corporation as part of the consolidation of the trade functions of the Federal government, see Reorg. Plan No. 3 of 1979, §4, 44 F.R. 69274, 93 Stat. 1381, eff. Jan. 2, 1980,

as provided in section 1–107(a) of Ex. Ord. No. 12188, 45 F.R. 993, set out in the Appendix to Title 5, Government Organization and Employees.

§2194. Investment insurance and other programs

The Corporation is hereby authorized to do the following:

(a) Investment insurance

(1) To issue insurance, upon such terms and conditions as the Corporation may determine, to eligible investors assuring protection in whole or in part against any or all of the following risks with respect to projects which the Corporation has approved—

(A) inability to convert into United States dollars other currencies, or credits in such currencies, received as earnings or profits from the approved project, as repayment or return of the investment therein, in whole or in part, or as compensation for the sale or disposition of all or any part thereof;

(B) loss of investment, in whole or in part, in the approved project due to expropriation or confiscation by action of a foreign government or any political subdivision thereof;

(C) loss due to war, revolution, insurrection, or civil strife; and

(D) loss due to business interruption caused by any of the risks set forth in subparagraphs (A), (B), and (C).

(2) Recognizing that major private investments in less developed friendly countries or areas are often made by enterprises in which there is multinational participation, including significant United States private participation, the Corporation may make arrangements with foreign governments (including agencies, instrumentalities, or political subdivisions thereof) or with multilateral organizations and institutions for sharing liabilities assumed under investment insurance for such investments and may in connection therewith issue insurance to investors not otherwise eligible hereunder, except that liabilities assumed by the Corporation under the authority of this subsection shall be consistent with the purposes of this subpart and that the maximum share of liabilities so assumed shall not exceed the proportionate participation by eligible investors in the project.

(3) Not more than 10 per centum of the maximum contingent liability of investment insurance which the Corporation is permitted to have outstanding under section 2195(a)(1) [1] of this title shall be issued to a single investor.

(4) Before issuing insurance for the first time for loss due to business interruption, and in each subsequent instance in which a significant expansion is proposed in the type of risk to be insured under the definition of "civil strife" or "business interruption", the Corporation shall, at least sixty days before such insurance is issued, submit to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives a report with respect to such insurance, including a thorough analysis of the risks to be covered, anticipated losses, and proposed rates and reserves and, in the case of insurance for loss due to business interruption, an explanation of the underwriting basis upon which the insurance is to be offered. Any such report with respect to insurance for loss due to business interruption shall be considered in accordance with the procedures applicable to reprogramming notifications pursuant to section 2394–1 of this title.

(b) Investment guaranties

To issue to eligible investors guaranties of loans and other investments made by such investors assuring against loss due to such risks and upon such terms and conditions as the Corporation may determine: *Provided, however*, That such guaranties on other than loan investments shall not exceed 75 per centum of such investment: *Provided further*, That except for loan investments for credit unions made by eligible credit unions or credit union associations, the aggregate amount of investment (exclusive of interest and earnings) so guaranteed with respect to any project shall not exceed, at the time of issuance of any such guaranty, 75 per centum of the total investment committed to any such project as determined by the Corporation, which determination shall be conclusive for purposes of the Corporation's authority to issue any such guaranty: *Provided further*, That not more than 15 per centum of the maximum contingent liability of investment guaranties

which the Corporation is permitted to have outstanding under section 2195(a)(2) [1] of this title shall be issued to a single investor.

(c) Direct investment

To make loans in United States dollars repayable in dollars or loans in foreign currencies (including, without regard to section 1306 of title 31, such foreign currencies which the Secretary of the Treasury may determine to be excess to the normal requirements of the United States and the Director of the Office of Management and Budget may allocate) to firms privately owned or of mixed private and public ownership upon such terms and conditions as the Corporation may determine. Loans may be made under this subsection only for projects that are sponsored by or significantly involve United States small business or cooperatives.

The Corporation may designate up to 25 percent of any loan under this subsection for use in the development or adaptation in the United States of new technologies or new products or services that are to be used in the project for which the loan is made and are likely to contribute to the economic or social development of less developed countries.

No loan may be made under this subsection to finance any operation for the extraction of oil or gas. The aggregate amount of loans under this subsection to finance operations for the mining or other extraction of any deposit of ore or other nonfuel minerals may not in any fiscal year exceed $4,000,000.

(d) Investment encouragement

To initiate and support through financial participation, incentive grant, or otherwise, and on such terms and conditions as the Corporation may determine, the identification, assessment, surveying and promotion of private investment opportunities, utilizing wherever feasible and effective the facilities of private organizations or private investors, except that—

(1) the Corporation shall not finance any survey to ascertain the existence, location, extent, or quality of, or to determine the feasibility of undertaking operations for the extraction of, oil or gas; and

(2) expenditures financed by the Corporation during any fiscal year on surveys to ascertain the existence, location, extent, or quality of, or to determine the feasibility of undertaking operations for the extraction of nonfuel minerals may not exceed $200,000.

(e) Special projects and programs

To administer and manage special projects and programs, including programs of financial and advisory support which provide private technical, professional, or managerial assistance in the development of human resources, skills, technology, capital savings and intermediate financial and investment institutions and cooperatives and including the initiation of incentives, grants, and studies for renewable energy and other small business activities. The funds for these projects and programs may, with the Corporation's concurrence, be transferred to it for such purposes under the authority of section 2392(a) of this title or from other sources, public or private. Administrative funds may not be made available for incentives, grants, and studies for renewable energy and other small business activities.

(f) Additional insurance functions

(1) To make and carry out contracts of insurance or reinsurance, or agreements to associate or share risks, with insurance companies, financial institutions, any other persons, or groups thereof, and employing the same, where appropriate, as its agent, or acting as their agent, in the issuance and servicing of insurance, the adjustment of claims, the exercise of subrogation rights, the ceding and accepting of reinsurance, and in any other matter incident to an insurance business; except that such agreements and contracts shall be consistent with the purposes of the Corporation set forth in section 2191 of this title and shall be on equitable terms.

(2) To enter into pooling or other risk-sharing arrangements with multinational insurance or financing agencies or groups of such agencies.

(3) To hold an ownership interest in any association or other entity established for the purposes of sharing risks under investment insurance.

(4) To issue, upon such terms and conditions as it may determine, reinsurance of liabilities assumed by other insurers or groups thereof in respect of risks referred to in subsection (a)(1).

The amount of reinsurance of liabilities under this subpart which the Corporation may issue shall not in the aggregate exceed at any one time an amount equal to the amount authorized for the maximum contingent liability outstanding at any one time under section 2195(a)(1) [1] of this title. All reinsurance issued by the Corporation under this subsection shall require that the reinsured party retain for his own account specified portions of liability, whether first loss or otherwise.

(g) Pilot equity finance program

(1) Authority for pilot program

In order to study the feasibility and desirability of a program of equity financing, the Corporation is authorized to establish a 4-year pilot program under which it may, on the limited basis prescribed in paragraphs (2) through (5), purchase, invest in, or otherwise acquire equity or quasi-equity securities of any firm or entity, upon such terms and conditions as the Corporation may determine, for the purpose of providing capital for any project which is consistent with the provisions of this subpart, except that—

(A) the aggregate amount of the Corporation's equity investment with respect to any project shall not exceed 30 percent of the aggregate amount of all equity investment made with respect to such project at the time that the Corporation's equity investment is made, except for securities acquired through the enforcement of any lien, pledge, or contractual arrangement as a result of a default by any party under any agreement relating to the terms of the Corporation's investment; and

(B) the Corporation's equity investment under this subsection with respect to any project, when added to any other investments made or guaranteed by the Corporation under subsection (b) or (c) with respect to such project, shall not cause the aggregate amount of all such investment to exceed, at the time any such investment is made or guaranteed by the Corporation, 75 percent of the total investment committed to such project as determined by the Corporation.

The determination of the Corporation under subparagraph (B) shall be conclusive for purposes of the Corporation's authority to make or guarantee any such investment.

(2) Equity authority limited to projects in sub-Saharan Africa and Caribbean basin and marine transportation projects globally

Equity investments may be made under this subsection only in projects in countries eligible for financing under this subpart that are countries in sub-Saharan Africa or countries designated as beneficiary countries under section 2702 of title 19 and in marine transportation projects in countries and areas eligible for OPIC support worldwide using United States commercial maritime expertise.

(3) Additional criteria

In making investment decisions under this subsection, the Corporation shall give preferential consideration to projects sponsored by or significantly involving United States small business or cooperatives. The Corporation shall also consider the extent to which the Corporation's equity investment will assist in obtaining the financing required for the project.

(4) Disposition of equity interest

Taking into consideration, among other things, the Corporation's financial interests and the desirability of fostering the development of local capital markets in less developed countries, the Corporation shall endeavor to dispose of any equity interest it may acquire under this subsection within a period of 10 years from the date of acquisition of such interest.

(5) Implementation

To the extent provided in advance in appropriations Acts, the Corporation is authorized to

create such legal vehicles as may be necessary for implementation of its authorities, which legal vehicles may be deemed non-Federal borrowers for purposes of the Federal Credit Reform Act of 1990 [2 U.S.C. 661 et seq.]. Income and proceeds of investments made pursuant to this subsection may be used to purchase equity or quasi-equity securities in accordance with the provisions of this section: *Provided, however*, That such purchases shall not be limited to the 4-year period of the pilot program: *Provided further*, That the limitations contained in paragraph (2) shall not apply to such purchases.

(6) Consultations with Congress

The Corporation shall consult annually with the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate on the implementation of the pilot equity finance program established under this subsection.

(h) Local currency guaranties for eligible investors

To issue to—

(1) eligible investors, or

(2) local financial institutions, guaranties,

denominated in currencies other than United States dollars, of loans and other investments made to projects sponsored by or significantly involving eligible investors, assuring against loss due to such risks and upon such terms and conditions as the Corporation may determine, for projects that the Corporation determines to have significant developmental effects or as the Corporation determines to be necessary or appropriate to carry out the purposes of this subpart.

(Pub. L. 87–195, pt. I, §234, as added Pub. L. 91–175, pt. I, §105, Dec. 30, 1969, 83 Stat. 811; amended 1970 Reorg. Plan No. 2, §102, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085; Pub. L. 93–390, §2(2), Aug. 27, 1974, 88 Stat. 764; Pub. L. 95–268, §3, Apr. 24, 1978, 92 Stat. 214; Pub. L. 97–65, §4, Oct. 16, 1981, 95 Stat. 1022; Pub. L. 99–204, §§6(a), 7, 8, Dec. 23, 1985, 99 Stat. 1671, 1672; Pub. L. 100–461, title V, §555, Oct. 1, 1988, 102 Stat. 2268–36; Pub. L. 101–218, §8(c), Dec. 11, 1989, 103 Stat. 1868; Pub. L. 102–549, title I, §103, Oct. 28, 1992, 106 Stat. 3651; Pub. L. 106–31, title VI, §6001, May 21, 1999, 113 Stat. 112; Pub. L. 108–158, §§4(a), 5(a), Dec. 3, 2003, 117 Stat. 1950.)

REFERENCES IN TEXT

Section 2195(a) of this title, referred to in subsecs. (a)(3), (b), and (f), was amended by Pub. L. 105–118, title V, §581, Nov. 26, 1997, 111 Stat. 2435, and, as so amended, provisions formerly appearing in pars. (1) and (2) of subsec. (a) are now contained in par. (1).

The Federal Credit Reform Act of 1990, referred to in subsec. (g)(5), is title V of Pub. L. 93–344, as added by Pub. L. 101–508, title XIII, §13201(a), Nov. 5, 1990, 104 Stat. 1388–609, which is classified generally to subchapter III (§661 et seq.) of chapter 17A of Title 2, The Congress. For complete classification of this Act to the Code, see Short Title note set out under section 621 of Title 2 and Tables.

CODIFICATION

Amendment by Pub. L. 100–461 is based on sections 103 and 104 of title I of H.R. 5263, One Hundredth Congress, as passed by the House of Representatives on Sept. 20, 1988, and sections 103 and 104 of title I of S. 2757, One Hundredth Congress, as reported Sept. 7, 1988, and enacted into law by Pub. L. 100–461.

In subsec. (c), "section 1306 of title 31" substituted for "section 1415 of the Supplemental Appropriation Act, 1953, [31 U.S.C. 724]" on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

2003—Subsec. (a)(1)(B). Pub. L. 108–158, §4(a), inserted "or any political subdivision thereof" after "government".

Subsec. (h). Pub. L. 108–158, §5(a), added subsec. (h).

1999—Subsec. (g). Pub. L. 106–31, §6000(1), struck out heading and text of par. designated as (c). Text read as follows: "The Corporation is authorized to establish a revolving fund to be available solely for the purposes specified in this subsection and to make transfers to the fund of a total of $10,000,000 (less amounts

transferred to the fund before October 28, 1992) from its noncredit account revolving fund. The Corporation shall transfer to the fund in each fiscal year all amounts received by the Corporation during the preceding fiscal year as income on securities acquired under this subsection, and from the proceeds on the disposition of such securities. Purchases of, investments in, and other acquisitions of equity from the fund are authorized for any fiscal year only to the extent or in such amounts as are provided in advance in appropriations Acts or are transferred to the Corporation pursuant to section 2392(a) of this title."

Subsec. (g)(2). Pub. L. 106–31, §6001(2), in heading, substituted "Equity authority limited to projects in sub-Saharan Africa and Caribbean basin and marine transportation projects globally" for "Limitation to projects in sub-Saharan Africa and Caribbean basin", and, in text, inserted "and in marine transportation projects in countries and areas eligible for OPIC support worldwide using United States commercial maritime expertise" after "section 2702 of title 19".

Subsec. (g)(5). Pub. L. 106–31, §6001(3), added par. (5).

1992—Subsec. (g)(5). Pub. L. 102–549 amended par. (5) generally, substituting designation "(c)" for "(5)". Prior to amendment, par. (5) read as follows: "CREATION OF FUND FROM CORPORATE REVENUES .—The Corporation is authorized to establish a fund to be available solely for the purposes specified in this subsection and to make a one-time transfer to the fund of $10,000,000 from its income and revenues."

1989—Subsec. (e). Pub. L. 101–218 inserted "and including the initiation of incentives, grants, and studies for renewable energy and other small business activities" after "cooperatives" and inserted at end "Administrative funds may not be made available for incentives, grants, and studies for renewable energy and other small business activities."

1988—Subsec. (c). Pub. L. 100–461, at end of first undesignated par., struck out "The Corporation may not purchase or invest in any stock in any other corporation, except that it may (1) accept as evidence of indebtedness debt securities convertible to stock, but such debt securities shall not be converted to stock while held by the Corporation, and (2) acquire stock through the enforcement of any lien or pledge or otherwise to satisfy a previously contracted indebtedness which would otherwise be in default, or as the result of any payment under any contract of insurance or guaranty. The Corporation shall dispose of any stock it may so acquire as soon as reasonably feasible under the circumstances then pertaining." and added second undesignated par. relating to designation of up to 25 percent of loan for use in development or adaptation of new technologies or new products or services.

Subsec. (f). Pub. L. 100–461, which directed that first sentence of last par. be struck out, was executed as probable intent of Congress by striking out first sentence of concluding provisions, before "The amount of reinsurance", which read as follows: "The authority granted by paragraph (3) may be exercised notwithstanding the prohibition under subsection (c) of this section against the Corporation purchasing or investing in any stock in any other corporation."

Subsec. (g). Pub. L. 100–461 added subsec. (g).

1985—Subsec. (a)(1)(D). Pub. L. 99–204, §6(a)(1), added subpar. (D).

Subsec. (a)(4). Pub. L. 99–204, §6(a)(2), substituted "insurance for the first time for loss due to business interruption" for "civil strife insurance for the first time" and "definition of 'civil strife' or 'business interruption' " for "definition of civil strife" and inserted provision that in the case of insurance for loss due to business interruption an explanation of the underwriting basis upon which the insurance is to be offered be submitted and provision that any report with respect to insurance for loss due to business interruption be considered in accordance with procedures applicable to reprogramming notifications pursuant to section 2394–1 of this title.

Subsec. (b). Pub. L. 99–204, §7, substituted "15" for "10".

Subsec. (f)(2). Pub. L. 99–204, §8, struck out "other national or" after "arrangements with".

1981—Subsec. (a)(1)(C). Pub. L. 97–65, §4(a)(1), inserted reference to civil strife.

Subsec. (a)(2). Pub. L. 97–65, §4(a)(2), substituted "eligible investors in the project" for "eligible investors in the total project financing".

Subsec. (a)(3). Pub. L. 97–65, §4(a)(3), substituted "which the Corporation is permitted to have outstanding under section 2195(a)(1) of this title" for "which the Corporation is authorized to issue under this subsection".

Subsec. (a)(4). Pub. L. 97–65, §4(a)(4), added par. (4).

Subsec. (b). Pub. L. 97–65, §4(b)(1), substituted "which the Corporation is permitted to have outstanding under section 2195(a)(2) of this title" for "which the Corporation is authorized to issue under this subsection".

Subsec. (f)(1). Pub. L. 97–65, §4(b)(2), struck out provisions under which the Corporation was prohibited from making or carrying out any association or risk-sharing agreement for the direct underwriting of insurance by the Corporation with others, other than on an individual basis where such direct underwriting facilitated the purposes of the Corporation as set forth in section 2191 of this title.

Subsec. (f)(4). Pub. L. 97–65, §4(b)(3), struck out provisions which had placed a $600,000,000 limit in any

one year on the amount of reinsurance which the Corporation may issue and which had directed the Corporation to endeavor to increase to the maximum extent possible the specified portions of liability, whether first loss or otherwise, which a reinsured party must retain for his own account.

1978—Subsec. (a)(2). Pub. L. 95–268, §3(1), struck out provisions relating to limitations on maximum share of liabilities assumed under par. (1) of this subsection.

Subsec. (a)(3). Pub. L. 95–268, §3(2), substituted "maximum contingent liability" for "total face amount".

Subsec. (a)(4) to (7). Pub. L. 95–268, §3(3), struck out pars. (4) to (7) which set forth requirements for participation by private insurance companies, multilateral organizations, or others in insurance programs, and limitations respecting participation by the Corporation as insurer under contracts of insurance.

Subsec. (b). Pub. L. 95–268, §3(2), substituted "maximum contingent liability" for "total face amount".

Subsec. (c). Pub. L. 95–268, §3(4), (5), inserted provisions setting forth requirements respecting United States small businesses or cooperatives, and substituted provisions relating to aggregate amount of loans for mining or other extraction of ores or other nonfuel minerals, for provisions prohibiting loans for mining or other extraction of ores or other minerals.

Subsec. (d). Pub. L. 95–268, §3(6), substituted provisions setting forth exception for financing surveys relating to oil and gas and limitation on amount of expenditures for surveys relating to nonfuel minerals, for provisions setting forth proviso relating to surveys for mining of any deposit of ore, oil, gas, or other mineral.

Subsec. (f)(1). Pub. L. 95–268, §3(7), inserted provisions setting forth exceptions for agreements and contracts.

1974—Subsec. (a)(2). Pub. L. 93–390, §2(2)(B), inserted "and institutions" after "multilateral organizations" and provisions relating to the maximum share of liabilities assumed under par. (1)(A) to (C) of this subsection.

Subsec. (a)(4) to (7). Pub. L. 93–390, §2(2)(C), added pars. (4) to (7).

Subsec. (f). Pub. L. 93–390, §2(2)(D), added subsec. (f).

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106–31, title VI, §6001, May 21, 1999, 113 Stat. 112, provided that the amendment made by section 6001 is effective Oct. 1, 1999.

TRANSFER OF FUNCTIONS

Functions vested by law (including reorganization plan) in Bureau of the Budget or Director of Bureau of the Budget transferred to President of the United States by section 101 of 1970 Reorg. Plan No. 2, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085, set out in the Appendix to Title 5, Government Organization and Employees. Section 102 of 1970 Reorg. Plan No. 2 redesignated Bureau of the Budget as Office of Management and Budget. For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

EXTENSION OF OPIC AUTHORITY

Pub. L. 114–113, div. K, title VII, §7061(b), Dec. 18, 2015, 129 Stat. 2810, provided that: "Notwithstanding section 235(a)(2) of the Foreign Assistance Act of 1961 [22 U.S.C. 2195(a)(2)], the authority of subsections (a) through (c) of section 234 of such Act [22 U.S.C. 2194(a)–(c)] shall remain in effect until September 30, 2016."

Similar provisions were contained in the following prior appropriations acts:

Pub. L. 113–235, div. J, title VII, §7073(b), Dec. 16, 2014, 128 Stat. 2679.

Pub. L. 113–76, div. K, title VII, §7064(b), Jan. 17, 2014, 128 Stat. 557.

Pub. L. 112–74, div. I, title VII, §7065(b), Dec. 23, 2011, 125 Stat. 1252.

Pub. L. 111–117, div. F, title VII, §7079(c), Dec. 16, 2009, 123 Stat. 3396.

Pub. L. 111–8, div. H, title VII, §7081(a), Mar. 11, 2009, 123 Stat. 910.

Pub. L. 110–161, div. J, title VI, §634(t), Dec. 26, 2007, 121 Stat. 2331.

APPROPRIATION OF MONEYS IN ADVANCE AS REQUISITE TO PURCHASES, INVESTMENTS, OR OTHER ACQUISITIONS OF EQUITY BY FUND CREATED UNDER PILOT EQUITY FINANCE PROGRAM

Pub. L. 100–461, title V, §555, Oct. 1, 1988, 102 Stat. 2268–36, provided in part: "That purchases, investments or other acquisitions of equity by the fund created by section 104 of H.R. 5263 as hereby enacted [22 U.S.C. 2194(g)(5)] are limited to such amounts as may be provided in advance in appropriations Acts", and further provided "That purchases, investments or other acquisitions of equity by the fund created by section 104 of S. 2757 as hereby enacted [22 U.S.C. 2194(g)(5)] are limited to such amounts as may be provided in advance in appropriations Acts".

[1] *See References in Text note below.*

§2194a. Contract authority of Corporation; specific authorization in appropriation Acts required

The authority of the Overseas Private Investment Corporation to enter into contracts under section 2194(a) of this title shall be effective for any fiscal year beginning after September 30, 1981, only to such extent or in such amounts as are provided in appropriation Acts.

(Pub. L. 97–65, §5(b)(2), Oct. 16, 1981, 95 Stat. 1023.)

CODIFICATION

Section was enacted as part of the Overseas Private Investment Corporation Amendments of 1981, and not as part of the Foreign Assistance Act of 1961 which comprises this chapter.

§2194b. Enhancing private political risk insurance industry

(a) Cooperative programs

In order to encourage greater availability of political risk insurance for eligible investors by enhancing the private political risk insurance industry in the United States, and to the extent consistent with this subpart, the Corporation shall undertake programs of cooperation with such industry, and in connection with such programs may engage in the following activities:

(1) Utilizing its statutory authorities, encourage the development of associations, pools, or consortia of United States private political risk insurers.

(2) Share insurance risks (through coinsurance, contingent insurance, or other means) in a manner that is conducive to the growth and development of the private political risk insurance industry in the United States.

(3) Notwithstanding section 2197(e) of this title, upon the expiration of insurance provided by the Corporation for an investment, enter into risk-sharing agreements with United States private political risk insurers to insure any such investment; except that, in cooperating in the offering of insurance under this paragraph, the Corporation shall not assume responsibility for more than 50 percent of the insurance being offered in each separate transaction.

(b) Advisory group

(1) Establishment and membership

The Corporation shall establish a group to advise the Corporation on the development and implementation of the cooperative programs under this section. The group shall be appointed by the Board and shall be composed of up to 12 members, including the following:

(A) Up to seven persons from the private political risk insurance industry, of whom no fewer than two shall represent private political risk insurers, one shall represent private political risk reinsurers, and one shall represent insurance or reinsurance brokerage firms.

(B) Up to four persons, other than persons described in subparagraph (A), who are purchasers of political risk insurance.

(2) Functions

The Corporation shall call upon members of the advisory group, either collectively or individually, to advise it regarding the capability of the private political risk insurance industry to meet the political risk insurance needs of United States investors, and regarding the development of cooperative programs to enhance such capability.

(3) Meetings

The advisory group shall meet not later than September 30, 1989, and at least annually

thereafter. The Corporation may from time to time convene meetings of selected members of the advisory group to address particular questions requiring their specialized knowledge.

(4) Federal Advisory Committee Act

The advisory group shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

(Pub. L. 87–195, pt. I, §234A, as added Pub. L. 99–204, §9(a), Dec. 23, 1985, 99 Stat. 1672; amended Pub. L. 100–461, title V, §555, Oct. 1, 1988, 102 Stat. 2268–36.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (b)(4), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

CODIFICATION

Amendment by Pub. L. 100–461 is based on section 105(a) of title I of H.R. 5263, One Hundredth Congress, as passed by the House of Representatives on Sept. 20, 1988, and section 105(a) of title I of S. 2757, One Hundredth Congress, as reported Sept. 7, 1988, and enacted into law by Pub. L. 100–461.

AMENDMENTS

1988—Pub. L. 100–461 amended section generally, substituting provisions relating to enhancing private political risk insurance industry for provisions which related to facultative reinsurance program.

§2195. Issuing authority, direct investment authority and reserves

(a) Issuing authority

(1) Insurance and financing

(A) The maximum contingent liability outstanding at any one time pursuant to insurance issued under section 2194(a) of this title, and the amount of financing issued under sections [1] 2194(b) and (c) of this title, shall not exceed in the aggregate $29,000,000,000.

(B) Subject to spending authority provided in appropriations Acts pursuant to section 661c(b) of title 2, the Corporation is authorized to transfer such sums as are necessary from its noncredit activities to pay for the subsidy and administrative costs of the investment guaranties and direct loan programs under subsections (b) and (c) of section 2194 of this title.

(2) Termination of authority

The authority of subsections (a), (b), and (c) of section 2194 of this title shall continue until September 30, 2007.

(b) Repealed. Pub. L. 102–549, title I, §104(a)(3), Oct. 28, 1992, 106 Stat. 3652

(c) Insurance Reserve; Guaranty Reserve

There shall be established in the Treasury of the United States a noncredit account revolving fund, which shall be available for discharge of liabilities, as provided in subsection (d) of this section, until such time as all such liabilities have been discharged or have expired or until all of the fund has been expended in accordance with the provisions of this section. Such fund shall be funded by: (1) the funds heretofore available to discharge liabilities under predecessor guaranty authority (including housing guaranty authorities), less both the amount made available for housing guaranty programs pursuant to section 2183(b) of this title and the amount made available to the Corporation pursuant to subsection (e) of this section; and (2) such sums as shall be appropriated pursuant to subsection (f) of this section for such purpose. Additional amounts may thereafter be transferred to such fund pursuant to section 2196 of this title.

(d) Priority of funds used to discharge liabilities

Any payments made to discharge liabilities under investment insurance or reinsurance issued under section 2194 of this title, under similar predecessor guaranty authority, or under section 2194b

of this title shall be paid first out of the noncredit account revolving fund, as long as such fund remains available, and thereafter out of funds made available pursuant to subsection (f) of this section. Any payments made to discharge liabilities under guaranties issued under section 2194(b) of this title or 2194(c) of this title shall be paid in accordance with the Federal Credit Reform Act of 1990 [2 U.S.C. 661 et seq.].

(e) Reserves from predecessor guaranty authority

There is hereby authorized to be transferred to the Corporation at its call, for the purposes specified in section 2196 of this title, all fees and other revenues collected under predecessor guaranty authority from December 31, 1968, available as of the date of such transfer.

(f) Authorization of appropriations; issuance, etc., of obligations by Corporation for purchase by Secretary of the Treasury

There are authorized to be appropriated to the Corporation, to remain available until expended, such amounts as may be necessary from time to time to replenish or increase the noncredit account revolving fund, to discharge the liabilities under insurance, reinsurance, or guaranties issued by the Corporation or issued under predecessor guaranty authority, or to discharge obligations of the Corporation purchased by the Secretary of the Treasury pursuant to this subsection. However, no appropriations shall be made to augment the noncredit account revolving fund until the amount of funds in the noncredit account revolving fund is less than $25,000,000. Any appropriations to augment the noncredit account revolving fund shall then only be made either pursuant to specific authorization enacted after August 27, 1974, or to satisfy the full faith and credit provision of section 2197(c) of this title. In order to discharge liabilities under investment insurance or reinsurance, the Corporation is authorized to issue from time to time for purchase by the Secretary of the Treasury its notes, debentures, bonds, or other obligations; but the aggregate amount of such obligations outstanding at any one time shall not exceed $100,000,000. Any such obligation shall be repaid to the Treasury within one year after the date of issue of such obligation. Any such obligation shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of any obligation authorized by this subsection. The Secretary of the Treasury shall purchase any obligation of the Corporation issued under this subsection, and for such purchase he may use as a public debt transaction the proceeds of the sale of any securities issued under chapter 31 of title 31 after August 27, 1974. The purpose for which securities may be issued under such chapter shall include any such purchase.

(Pub. L. 87–195, pt. I, §235, as added Pub. L. 91–175, pt. I, §105, Dec. 30, 1969, 83 Stat. 813; amended Pub. L. 93–189, §6(1), Dec. 17, 1973, 87 Stat. 717; Pub. L. 93–390, §2(3), Aug. 27, 1974, 88 Stat. 766; Pub. L. 95–268, §4, Apr. 24, 1978, 92 Stat. 214; Pub. L. 97–65, §5(a), (b)(1), (c), Oct. 16, 1981, 95 Stat. 1022, 1023; Pub. L. 99–204, §§9(b)(1), 10, 17(b), Dec. 23, 1985, 99 Stat. 1673, 1676; Pub. L. 100–418, title II, §2203(b), Aug. 23, 1988, 102 Stat. 1328; Pub. L. 100–461, title V, §555, Oct. 1, 1988, 102 Stat. 2268–36; Pub. L. 102–549, title I, §104, Oct. 28, 1992, 106 Stat. 3652; Pub. L. 103–392, title I, §§101–104, Oct. 22, 1994, 108 Stat. 4098; Pub. L. 104–208, div. A, title I, §101(c) [title I], Sept. 30, 1996, 110 Stat. 3009–121, 3009–123; Pub. L. 105–118, title V, §581, Nov. 26, 1997, 111 Stat. 2435; Pub. L. 106–113, div. B, §1000(a)(2) [title V, §599E], Nov. 29, 1999, 113 Stat. 1535, 1501A–132; Pub. L. 106–158, §2, Dec. 9, 1999, 113 Stat. 1745; Pub. L. 108–158, §§2, 3(a)–(d), Dec. 3, 2003, 117 Stat. 1949.)

REFERENCES IN TEXT

The Federal Credit Reform Act of 1990, referred to in subsec. (d), is title V of Pub. L. 93–344, as added by Pub. L. 101–508, title XIII, §13201(a), Nov. 5, 1990, 104 Stat. 1388–609, as amended, which is classified generally to subchapter III (§661 et seq.) of chapter 17A of Title 2, The Congress. For complete classification of this Act to the Code, see Short Title note set out under section 621 of Title 2 and Tables.

CODIFICATION

Amendment by Pub. L. 100–461 is based on sections 106 and 107 of title I of H.R. 5263, One Hundredth Congress, as passed by the House of Representatives on Sept. 20, 1988, and sections 106 and 107 of title I of

S. 2757, One Hundredth Congress, as reported Sept. 7, 1988, and enacted into law by Pub. L. 100–461.

In subsec. (f), "chapter 31 of title 31" and "such chapter" substituted for "the Second Liberty Bond Act" and "such Bond Act", respectively, on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

2003—Subsec. (a)(1)(B). Pub. L. 108–158, §3(a), substituted "subsidy and administrative costs" for "subsidy cost".

Subsec. (a)(2). Pub. L. 108–158, §2, substituted "2007" for "November 1, 2000".

Subsec. (c). Pub. L. 108–158, §3(b), substituted "a noncredit account revolving fund, which" for "an insurance and guaranty fund, which shall have separate accounts to be known as the Insurance Reserve and the Guaranty Reserve, which reserves" and "of the fund has" for "such reserves have" in first sentence, struck out third sentence which read: "The allocation of such funds to each such reserve shall be determined by the Board after consultation with the Secretary of the Treasury.", and substituted "fund" for "reserves" in last sentence.

Subsec. (d). Pub. L. 108–158, §3(c), in first sentence, substituted "noncredit account revolving fund, as long as such fund" for "Insurance Reserve, as long as such reserve" and, in second sentence, substituted "or 2194(c) of this title shall be paid in accordance with the Federal Credit Reform Act of 1990" for "or under similar predecessor guaranty authority shall be paid first out of the Guaranty Reserve as long as such reserve remains available, and thereafter out of funds made available pursuant to subsection (f) of this section".

Subsec. (f). Pub. L. 108–158, §3(d), substituted "noncredit account revolving fund" for "insurance and guaranty fund" in first sentence and for "Insurance Reserve" wherever appearing.

1999—Subsec. (a)(2). Pub. L. 106–158, which directed the amendment of par. (2) by substituting "2003" for "1999" could not be executed because "1999" did not appear in text subsequent to amendment by Pub. L. 106–113. See below.

Pub. L. 106–113 substituted "November 1, 2000" for "1999".

1997—Subsec. (a). Pub. L. 105–118 added heading and text of par. (1)(A), redesignated par. (2)(B) as subpar. (B) of par. (1), redesignated par. (3) as (2) and substituted "subsections (a), (b), and (c) of section 2194 of this title" for "subsections (a) and (b) of section 2194 of this title" and "September 30, 1999" for "September 30, 1997", and struck out former pars. (1) and (2)(A) which read as follows:

"(1) INSURANCE.—The maximum contingent liability outstanding at any one time pursuant to insurance issued under section 2194(a) of this title shall not exceed in the aggregate $13,500,000,000.

"(2) FINANCING.—(A) The maximum contingent liability outstanding at any one time pursuant to financing issued under subsections (b) and (c) of section 2194 of this title shall not exceed in the aggregate $9,500,000,000."

1996—Subsec. (a)(3). Pub. L. 104–208 substituted "1997" for "1996".

1994—Subsec. (a)(1). Pub. L. 103–392, §101, substituted "$13,500,000,000" for "$9,000,000,000".

Subsec. (a)(2). Pub. L. 103–392, §102, amended heading and text of par. (2). Prior to amendment, text read as follows:

"(A) The maximum contingent liability outstanding at any one time pursuant to guarantees issued under section 2194(b) of this title shall not exceed in the aggregate $2,500,000,000.

"(B) Subject to spending authority provided in appropriations Acts, pursuant to section 661c(b) of title 2, the Corporation is authorized—

"(i) to transfer $9,800,000, or such sums as are necessary, from its noncredit account revolving fund to pay for the subsidy cost of a program level for the loan and loan guarantee program under subsections (b) and (c) of section 2194 of this title of $650,000,000 for fiscal year 1993; and

"(ii) to transfer such sums as are necessary from its noncredit account revolving fund to pay for the subsidy cost of a program level for the loan and loan guarantee program under subsections (b) and (c) of section 2194 of this title of $850,000,000 for fiscal year 1994."

Subsec. (a)(3). Pub. L. 103–392, §103, substituted "1996" for "1994".

Subsec. (g). Pub. L. 103–392, §104, struck out heading and text of subsec. (g). Text read as follows: "Subject to spending authority provided in appropriations Acts, the Corporation is authorized to draw from its noncredit account revolving fund for the administrative costs of its direct loan and loan guarantee programs—

"(1) $8,128,000 for fiscal year 1993; and

"(2) $11,000,000 for fiscal year 1994."

1992—Pub. L. 102–549, §104(a)(1), amended section catchline.

Subsec. (a). Pub. L. 102–549, §104(a)(2), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows:

"(1) The maximum contingent liability outstanding at any one time pursuant to insurance issued under section 2194(a) of this title shall not exceed $7,500,000,000.

"(2) The maximum contingent liability outstanding at any one time pursuant to guaranties issued under section 2194(b) of this title shall not exceed in the aggregate $1,500,000,000. Commitments to guarantee loans are authorized for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

"(3) The Corporation shall not make any commitment to issue any guaranty which would result in a reserve less than 25 per centum of the maximum contingent liability then outstanding against guaranties issued or commitments made pursuant to section 2194(b) of this title or similar predecessor guaranty authority.

"(4) The Congress, in considering the budget programs transmitted by the President for the Corporation, pursuant to section 9104 of title 31, may limit the obligations and contingent liabilities to be undertaken under section 2194(a) and (b) of this title as well as the use of funds for operating and administrative expenses.

"(5) Subject to paragraphs (2), (3), and (4), the Corporation shall issue guaranties under section 2194(b) of this title having an aggregate contingent liability with respect to principal of not less than $200,000,000 in each fiscal year, to the extent that there are eligible projects which meet the Corporation's criteria for such guaranties.

"(6) The authority of section 2194(a) and (b) of this title shall continue until September 30, 1992."

Subsec. (b). Pub. L. 102–549, §104(a)(3), struck out subsec. (b) which provided for establishment of a revolving fund, known as the Direct Investment Fund, to be held by the Corporation.

Subsec. (g). Pub. L. 102–549, §104(b), added subsec. (g).

1988—Subsec. (a)(2). Pub. L. 100–461 substituted "$1,500,000,000" for "$1,000,000,000".

Pub. L. 100–418, §2203(b)(1)(A), substituted "$1,000,000,000" for "$750,000,000".

Subsec. (a)(5). Pub. L. 100–418, §2203(b)(1)(C), added par. (5). Former par. (5) redesignated (6).

Subsec. (a)(6). Pub. L. 100–461 substituted "1992" for "1988".

Pub. L. 100–418, §2203(b)(1)(B), redesignated par. (5) as (6).

Subsec. (b). Pub. L. 100–418, §2203(b)(2), in cl. (2), substituted "1981." for "1981,", and in closing provisions substituted "The Corporation shall make loans under section 2194(c) of this title in an aggregate amount of not less than $25,000,000 in each fiscal year, to the extent that there are eligible projects which meet the Corporation's criteria for such loans" for "and the Corporation shall use the funds so transferred to make loans under section 2194(c) of this title to the extent that there are eligible projects which meet the Corporation's criteria for funding".

1985—Subsec. (a)(5). Pub. L. 99–204, §10, substituted "1988" for "1985".

Subsec. (c). Pub. L. 99–204, §17(b)(1), substituted references to subsecs. (d), (e), and (f) of this section for references to sections 2195(d), 2194(e), and 2195(f), respectively, of this title.

Subsec. (d). Pub. L. 99–204, §9(b)(1), substituted ", under similar predecessor guaranty authority, or under section 2194b of this title" for "or under similar predecessor guaranty authority".

Pub. L. 99–204, §17(b)(2), substituted reference to subsec. (f) of this section for reference to section 2195(f) of this title wherever appearing.

1981—Subsec. (a)(2). Pub. L. 97–65, §5(a)(1), substituted provisions that commitments to guarantee loans are authorized for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts for provisions that the Corporation not make any commitment to issue any guaranty which would result in a fractional reserve less than 25 per centum of the maximum contingent liability then outstanding against guaranties issued or commitments made pursuant to section 2194(b) of this title or similar predecessor guaranty authority. See par. (3).

Subsec. (a)(3). Pub. L. 97–65, §5(a)(2), added par. (3) which consisted of provisions formerly contained in par. (2). Former par. (3) redesignated (4).

Subsec. (a)(4). Pub. L. 97–65, §5(a)(2)(A), redesignated par. (3) as (4). Former par. (4) redesignated (5).

Subsec. (a)(5). Pub. L. 97–65, §5(a)(2)(A), (b)(1), redesignated former par. (4) as (5) and substituted "September 30, 1985" for "September 30, 1981".

Subsec. (b). Pub. L. 97–65, §5(c), inserted provisions relating to the transfer to the Fund of certain moneys in fiscal year 1982 and in each fiscal year thereafter and the making of loans from those moneys under section 2194(c) of this title to the extent that there are eligible projects which meet the Corporation's criteria for funding.

1978—Subsec. (a)(2). Pub. L. 95–268, §4(1), struck out limitation on guaranties by credit unions of not to exceed $1,250,000.

Subsec. (a)(4). Pub. L. 95–268, §4(2), substituted "September 30, 1981" for "December 31, 1977".

1974—Subsec. (a)(4). Pub. L. 93–390, §2(3)(A), substituted "December 31, 1977" for "December 31, 1974".

Subsec. (d). Pub. L. 93–390, §2(3)(B), substituted "insurance or reinsurance issued under section 2194 of this title" for "insurance issued under section 2194(a) of this title".

Subsec. (f). Pub. L. 93–390, §2(3)(C), inserted provisions authorizing appropriations to discharge liabilities under reinsurance or obligations of the Corporation purchased by the Secretary of the Treasury, provisions relating to appropriations to augment the Insurance Reserve, and provisions relating to the issuance, sale, etc., of notes, debentures, bonds, or other obligations by the Corporation for purchase by the Secretary of the Treasury.

1973—Subsec. (a)(4). Pub. L. 93–189 substituted "December 31, 1974" for "June 30, 1974".

EXTENSION OF PERIOD UNDER SUBSECTION (A)(2)

For delayed applicability of subsec. (a)(2), see section 7079(c) of Pub. L. 111–117, set out as a note under section 2194 of this title.

[1] *So in original. Probably should be "section".*

§2196. Income and revenues

In order to carry out the purposes of the Corporation, all revenues and income transferred to or earned by the Corporation, from whatever source derived, shall be held by the Corporation and shall be available to carry out its purposes, including without limitation—

(a) payment of all expenses of the Corporation, including investment promotion expenses;

(b) transfers and additions to the insurance or guaranty reserves, the Direct Investment Fund established pursuant to section 2195 of this title, and such other funds or reserves as the Corporation may establish, at such time and in such amounts as the Board may determine; and

(c) payment of dividends, on capital stock, which shall consist of and be paid from net earnings of the Corporation after payments, transfers, and additions under subsections (a) and (b) hereof.

(Pub. L. 87–195, pt. I, §236, as added Pub. L. 91–175, pt. I, §105, Dec. 30, 1969, 83 Stat. 814.)

§2197. General provisions relating to insurance, guaranty, financing, and reinsurance programs

(a) Scope

Insurance, guaranties, and reinsurance issued under this subpart shall cover investment made in connection with projects in any less developed friendly country or area with the government of which the President of the United States has agreed to institute a program for insurance, guaranties, or reinsurance.

(b) Protection of interest

The Corporation shall determine that suitable arrangements exist for protecting the interest of the Corporation in connection with any insurance, guaranty or reinsurance issued under this subpart, including arrangements concerning ownership, use, and disposition of the currency, credits, assets, or investments on account of which payment under such insurance, guaranty or reinsurance is to be made, and any right, title, claim, or cause of action existing in connection therewith.

(c) Guaranties as obligations backed by full faith and credit of United States

All guaranties issued prior to July 1, 1956, all guaranties issued under sections 1872(b) [1] and 1933(b) [1] of this title, all guaranties heretofore issued pursuant to prior guaranty authorities repealed by the Foreign Assistance Act of 1969, and all insurance, reinsurance and guaranties issued pursuant to this subpart shall constitute obligations, in accordance with the terms of such insurance, reinsurance or guaranties, of the United States of America and the full faith and credit of the United States of America is hereby pledged for the full payment and performance of such obligations.

(d) Fees

(1) In general

Fees may be charged for providing insurance, reinsurance, financing, and other services under this subpart in amounts to be determined by the Corporation. In the event fees charged for insurance, reinsurance, financing, or other services are reduced, fees to be paid under existing contracts for the same type of insurance, reinsurance, financing, or services and for similar guarantees issued under predecessor guarantee authority may be reduced.

(2) Credit transaction costs

Project-specific transaction costs incurred by the Corporation relating to loan obligations or loan guarantee commitments covered by the provisions of the Federal Credit Reform Act of 1990 [2 U.S.C. 661 et seq.], including the costs of project-related travel and expenses for legal representation provided by persons outside the Corporation and other similar expenses which are charged to the borrower, shall be paid out of the appropriate finance account established pursuant to section 505(b) of such Act [2 U.S.C. 661d(b)].

(3) Noncredit transaction costs

Fees paid for the project-specific transaction costs and other direct costs associated with services provided to specific investors or potential investors pursuant to section 2194 of this title (other than those covered in paragraph (2)), including financing, insurance, reinsurance, missions, seminars, conferences, and other preinvestment services, shall be available for obligation for the purposes for which they were collected, notwithstanding any other provision of law.

(e) Maximum term of obligation

No insurance, guaranty, or reinsurance of any equity investment shall extend beyond twenty years from the date of issuance.

(f) Limitations on amounts

Compensation for insurance, reinsurance, or guaranties issued under this subpart shall not exceed the dollar value, as of the date of the investment, of the investment made in the project with the approval of the Corporation plus interest, earnings, or profits actually accrued on such investment to the extent provided by such insurance, reinsurance, or guaranty, except that the Corporation may provide that (1) appropriate adjustments in the insured dollar value be made to reflect the replacement cost of project assets, (2) compensation for a claim of loss under insurance of an equity investment may be computed on the basis of the net book value attributable to such equity investment on the date of loss, and (3) compensation for loss due to business interruption may be computed on a basis to be determined by the Corporation which reflects amounts lost. Notwithstanding the preceding sentence, the Corporation shall limit the amount of direct insurance and reinsurance issued by it under section 2194 or 2194b of this title so that risk of loss as to at least 10 per centum of the total investment of the insured and its affiliates in the project is borne by the insured and such affiliates, except that such limitation shall not apply to direct insurance or reinsurance of loans by banks or other financial institutions to unrelated parties.

(g) Fraud or misrepresentation

No payment may be made under any guaranty, insurance, or reinsurance issued pursuant to this subpart for any loss arising out of fraud or misrepresentation for which the party seeking payment is responsible.

(h) Limits of obligation

Insurance, guaranties, or reinsurance of a loan or equity investment of an eligible investor in a foreign bank, finance company, or other credit institution shall extend only to such loan or equity investment and not to any individual loan or equity investment made by such foreign bank, finance company, or other credit institution.

(i) Claims settlement

Claims arising as a result of insurance, reinsurance, or guaranty operations under this subpart or under predecessor guaranty authority may be settled, and disputes arising as a result thereof may be

arbitrated with the consent of the parties, on such terms and conditions as the Corporation may determine. Payment made pursuant to any such settlement, or as a result of an arbitration award, shall be final and conclusive notwithstanding any other provision of law.

(j) Presumption of compliance

Each guaranty contract executed by such officer or officers as may be designated by the Board shall be conclusively presumed to be issued in compliance with the requirements of this chapter.

(k) Balance of payments

In making a determination to issue insurance, guaranties, or reinsurance under this subpart, the Corporation shall consider the possible adverse effect of the dollar investment under such insurance, guaranty, or reinsurance upon the balance of payments of the United States.

(l) Convictions under Foreign Corrupt Practices Act of 1977; prohibition on payments for losses resulting from unlawful activities; suspension from eligibility of receipt of financial support

(1) No payment may be made under any insurance or reinsurance which is issued under this subpart on or after April 24, 1978, for any loss occurring with respect to a project, if the preponderant cause of such loss was an act by the investor seeking payment under this subpart, by a person possessing majority ownership and control of the investor at the time of the act, or by any agent of such investor or controlling person, and a court of the United States has entered a final judgment that such act constituted a violation under the Foreign Corrupt Practices Act of 1977.

(2) Not later than 120 days after April 24, 1978, the Corporation shall adopt regulations setting forth appropriate conditions under which any person convicted under the Foreign Corrupt Practices Act of 1977 for an offense related to a project insured or otherwise supported by the Corporation shall be suspended, for a period of not more than five years, from eligibility to receive any insurance, reinsurance, guaranty, loan, or other financial support authorized by this subpart.

(m) Notification of countries of environmental restrictions on certain activities

(1) Before finally providing insurance, reinsurance, guarantees, or financing under this subpart for any environmentally sensitive investment in connection with a project in a country, the Corporation shall notify appropriate government officials of that country of—

(A) all guidelines and other standards adopted by the International Bank for Reconstruction and Development and any other international organization relating to the public health or safety or the environment which are applicable to the project; and

(B) to the maximum extent practicable, any restriction under any law of the United States relating to public health or safety or the environment that would apply to the project if the project were undertaken in the United States.

The notification under the preceding sentence shall include a summary of the guidelines, standards, and restrictions referred to in subparagraphs (A) and (B), and may include any environmental impact statement, assessment, review, or study prepared with respect to the investment pursuant to section 2199(g) of this title.

(2) Before finally providing insurance, reinsurance, guarantees, or financing for any investment subject to paragraph (1), the Corporation shall take into account any comments it receives on the project involved.

(3) On or before September 30, 1986, the Corporation shall notify appropriate government officials of a country of the guidelines, standards, and legal restrictions described in paragraph (1) that apply to any project in that country—

(A) which the Corporation identifies as potentially posing major hazards to public health and safety or the environment; and

(B) for which the Corporation provided insurance, reinsurance, guarantees, or financing under this subpart before December 23, 1985, and which is in the Corporation's portfolio on that date.

(n) Penalties for fraud

Whoever knowingly makes any false statement or report, or willfully overvalues any land, property, or security, for the purpose of influencing in any way the action of the Corporation with respect to any insurance, reinsurance, guarantee, loan, equity investment, or other activity of the Corporation under section 2194 of this title or any change or extension of any such insurance, reinsurance, guarantee, loan, equity investment, or activity, by renewal, deferment of action or otherwise, or the acceptance, release, or substitution of security therefor, shall be fined not more than $1,000,000 or imprisoned not more than 30 years, or both.

(o) Use of local currencies

Direct loans or investments made in order to preserve the value of funds received in inconvertible foreign currency by the Corporation as a result of activities conducted pursuant to section 2194(a) of this title shall not be considered in determining whether the Corporation has made or has outstanding loans or investments to the extent of any limitation on obligations and equity investment imposed by or pursuant to this subpart. The provisions of section 504(b) of the Federal Credit Reform Act of 1990 [2 U.S.C. 661c(b)] shall not apply to direct loan obligations made with funds described in this subsection.

(Pub. L. 87–195, pt. I, §237, as added Pub. L. 91–175, pt. I, §105, Dec. 30, 1969, 83 Stat. 814; amended Pub. L. 93–390, §2(4), Aug. 27, 1974, 88 Stat. 767; Pub. L. 95–268, §§5, 6, Apr. 24, 1978, 92 Stat. 215; Pub. L. 97–65, §6, Oct. 16, 1981, 95 Stat. 1023; Pub. L. 99–204, §§4(b), 6(b), 9(b)(2), Dec. 23, 1985, 99 Stat. 1670, 1671, 1673; Pub. L. 100–461, title V, §555, Oct. 1, 1988, 102 Stat. 2268–36; Pub. L. 102–549, title I, §105, Oct. 28, 1992, 106 Stat. 3652.)

REFERENCES IN TEXT

Sections 1872(b) and 1933(b) of this title, referred to in subsec. (c), were repealed by Pub. L. 87–195, pt. III, §642(a)(2), Sept. 4, 1961, 75 Stat. 460. Section 642(b) of Pub. L. 87–195 provided that references to provisions of law repealed by subsec. (a) were to be deemed references to the appropriate provisions of Pub. L. 87–195. See sections 2163 and 2351 of this title.

The Foreign Assistance Act of 1969, referred to in subsec. (c), is Pub. L. 91–175, Dec. 30, 1969, 83 Stat. 805, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables. The guaranty authorities repealed by the 1969 Act were the guaranty authorities contained in sections 2181 to 2184 prior to the general reorganization of subpart III by the 1969 Act.

The Federal Credit Reform Act of 1990, referred to in subsec. (d)(2), is title V of Pub. L. 93–344, as added by Pub. L. 101–508, title XIII, §13201(a), Nov. 5, 1990, 104 Stat. 1388–609, which is classified generally to subchapter III (§661 et seq.) of chapter 17A of Title 2, The Congress. For complete classification of this Act to the Code, see Short Title note set out under section 621 of Title 2 and Tables.

This chapter, referred to in subsec. (j), was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

The Foreign Corrupt Practices Act of 1977, referred to in subsec. (l), is title I of Pub. L. 95–213, Dec. 19, 1977, 91 Stat. 1494, as amended, which enacted sections 78dd–1 to 78dd–3 of Title 15, Commerce and Trade, and amended sections 78m and 78ff of Title 15. For complete classification of this Act to the Code, see Short Title of 1977 Amendment note set out under section 78a of Title 15 and Tables.

CODIFICATION

Amendment by Pub. L. 100–461 is based on section 110(c) of title I of H.R. 5263, One Hundredth Congress, as passed by the House of Representatives on Sept. 20, 1988, and section 110(c) of title I of S. 2757, One Hundredth Congress, as reported Sept. 7, 1988, and enacted into law by Pub. L. 100–461.

AMENDMENTS

1992—Subsec. (d). Pub. L. 102–549, §105(a), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: "Fees shall be charged for insurance, guaranty, and reinsurance coverage in amounts to be determined by the Corporation. In the event fees charged for investment insurance, guaranties, or reinsurance are reduced, fees to be paid under existing contracts for the same type of insurance, guaranties, or reinsurance and for similar guaranties issued under predecessor guaranty authority may be reduced."

Subsecs. (n), (o). Pub. L. 102–549, §105(b), (c), added subsecs. (n) and (o).

1988—Pub. L. 100–461 inserted reference to financing in section catchline.

1985—Subsec. (f). Pub. L. 99–204, §6(b), added cl. (3).

Pub. L. 99–204, §9(b)(2), inserted "or 2194b" after "section 2194".

Subsec. (m). Pub. L. 99–204, §4(b), added subsec. (m).

1981—Subsec. (f). Pub. L. 97–65 substituted "Compensation for insurance, reinsurance, or guaranties issued under this subpart shall not exceed the dollar value, as of the date of the investment, of the investment made in the project with the approval of the Corporation plus interest, earnings, or profits actually accrued on such investment to the extent provided by such insurance, reinsurance, or guaranty, except that the Corporation may provide that (1) appropriate adjustments in the insured dollar value be made to reflect the replacement cost of project assets, and (2) compensation for a claim of loss under insurance of an equity investment may be computed on the basis of the net book value attributable to such equity investment on the date of loss" for "No insurance, reinsurance, or guaranty issued under this subpart shall exceed the dollar value, as of the date of the investment, of the investment made in the project with the approval of the Corporation plus interest, earnings or profits actually accrued on said investment to the extent provided by such insurance, reinsurance, or guaranty, except that the Corporation may provide for appropriate adjustments in the insured dollar value to reflect the replacement cost of project assets", and struck out provision that the preceding sentence not apply to the extent not permitted by State law.

1978—Subsec. (f). Pub. L. 95–268, §5, inserted provisions excepting from dollar amounts adjustments in the insured dollar amounts to reflect replacement cost of project assets, and provisions excepting from limitations loans by banks or other financial institutions to unrelated parties.

Subsec. (l). Pub. L. 95–268, §6, added subsec. (l).

1974—Subsecs. (a) to (c). Pub. L. 93–390, §2(4)(A)–(C), inserted references to reinsurance wherever appearing.

Subsec. (d). Pub. L. 93–390, §2(4)(D), inserted provisions authorizing fees to be charged for reinsurance and reduction of reinsurance fees under existing contracts in the event fees charged for reinsurance are reduced.

Subsec. (e). Pub. L. 93–390, §2(4)(E), inserted reference to reinsurance.

Subsec. (f). Pub. L. 93–390, §2(4)(F), (G), inserted "reinsurance" before "or guaranty" wherever appearing and provisions relating to limitations on the amount of direct insurance or reinsurance.

Subsec. (g). Pub. L. 93–390, §2(4)(H), inserted applicability to insurance and reinsurance.

Subsecs. (h) to (k). Pub. L. 93–390, §2(4)(I)–(K), inserted reference to reinsurance wherever appearing.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

[1] *See References in Text note below.*

§2198. Definitions

As used in this subpart—

(a) the term "investment" includes any contribution or commitment of funds, commodities, services, patents, processes, or techniques, in the form of (1) a loan or loans to an approved project, (2) the purchase of a share of ownership in any such project, (3) participation in royalties, earnings, or profits of any such project, and (4) the furnishing of commodities or services pursuant to a lease or other contract;

(b) the term "expropriation" includes, but is not limited to, any abrogation, repudiation, or impairment by a foreign government, a political subdivision of a foreign government, or a corporation owned or controlled by a foreign government, of its own contract with an investor with respect to a project, where such abrogation, repudiation, or impairment is not caused by the investor's own fault or misconduct, and materially adversely affects the continued operation of the project;

(c) the term "eligible investor" means: (1) United States citizens; (2) corporations, partnerships, or other associations including nonprofit associations, created under the laws of the United States, any State or territory thereof, or the District of Columbia, and substantially beneficially owned by United States citizens; and (3) foreign corporations, partnerships, of other associations wholly owned by one or more such United States citizens, corporations, partnerships, or other

associations: *Provided, however*, That the eligibility of such foreign corporation shall be determined without regard to any shares, in aggregate less than 5 per centum of the total of issued and subscribed share capital, held by other than the United States owners: *Provided further*, That in the case of any loan investment a final determination of eligibility may be made at the time the insurance or guaranty is issued; in all other cases, the investor must be eligible at the time a claim arises as well as at the time the insurance or guaranty is issued;

(d) the term "noncredit account revolving fund" means the account in which funds under section 2196 of this title and all funds from noncredit activities are held;

(e) the term "noncredit activities" means all activities of the Corporation other than its loan guarantee program under section 2194(b) of this title and its direct loan program under section 2194(c) of this title;

(f) the term "predecessor guaranty authority" means prior guaranty authorities (other than housing guaranty authorities) repealed by the Foreign Assistance Act of 1969, and sections 1509(b)(3), 1872(b), and 1933(b) [1] of this title (exclusive of authority relating to informational media guaranties); and

(g) the term "local financial institution"—

(1) means any bank or financial institution that is organized under the laws of any country or area in which the Corporation operates; but

(2) does not include a branch, however organized, of a bank or other financial institution that is organized under the laws of a country in which the Corporation does not operate.

(Pub. L. 87–195, pt. I, §238, as added Pub. L. 91–175, pt. I, §105, Dec. 30, 1969, 83 Stat. 815; amended Pub. L. 92–226, pt. I, §104(a), Feb. 7, 1972, 86 Stat. 22; Pub. L. 97–65, §7, Oct. 16, 1981, 95 Stat. 1024; Pub. L. 99–204, §17(a), Dec. 23, 1985, 99 Stat. 1676; Pub. L. 102–549, title I, §106, Oct. 28, 1992, 106 Stat. 3653; Pub. L. 108–158, §§4(b), 5(b), Dec. 3, 2003, 117 Stat. 1950.)

REFERENCES IN TEXT

The Foreign Assistance Act of 1969, referred to in subsec. (f), is Pub. L. 91–175, Dec. 30, 1969, 83 Stat. 805, as amended. For complete classification of this Act to the Code, see Short Title of 1969 Amendment note set out under section 2151 of this title and Tables. The guaranty authorities repealed by the 1969 Act were the guaranty authorities contained in sections 2181 to 2184 prior to the general reorganization of subpart III by the 1969 Act.

Section 1509(b)(3) of this title, referred to in subsec. (f), was repealed by act Aug. 26, 1954, ch. 937, title V, §542(a)(4), 68 Stat. 861.

Sections 1872(b) and 1933(b) of this title, referred to in subsec. (f), were repealed by Pub. L. 87–195, pt. III, §642(a)(2), Sept. 4, 1961, 75 Stat. 460. Section 642(b) of Pub. L. 87–195 provided that references to provisions of law repealed by subsec. (a) were to be deemed references to the appropriate provisions of Pub. L. 87–195. See sections 2163 and 2351 of this title.

AMENDMENTS

2003—Subsec. (b). Pub. L. 108–158, §4(b), inserted ", a political subdivision of a foreign government, or a corporation owned or controlled by a foreign government," after "government".

Subsec. (d). Pub. L. 108–158, §5(b)(1), struck out "and" after semicolon at end.

Subsec. (g). Pub. L. 108–158, §5(b)(2), (3), added subsec. (g).

1992—Subsecs. (c) to (f). Pub. L. 102–549 struck out "and" at end of subsec. (c), added subsecs. (d) and (e), and redesignated former subsec. (d) as (f).

1985—Subsec. (c)(2). Pub. L. 99–204 inserted reference to the District of Columbia.

1981—Subsec. (a). Pub. L. 97–65 substituted "contribution or commitment of funds" for "contribution of funds".

1972—Subsec. (c). Pub. L. 92–226 struck out "required by law to be" after "share capital," in first proviso.

[1] *See References in Text note below.*

§2199. General provisions and powers

(a) Place of residence

The Corporation shall have its principal office in the District of Columbia and shall be deemed, for purposes of venue in civil actions, to be a resident thereof.

(b) Transfer of prior obligations, etc.; administration prior to transfer

The President shall transfer to the Corporation, at such time as he may determine, all obligations, assets and related rights and responsibilities arising out of, or related to, predecessor programs and authorities similar to those provided for in section 2194(a), (b), and (d) of this title. Until such transfer, the agency heretofore responsible for such predecessor programs shall continue to administer such assets and obligations, and such programs and activities authorized under this subpart as may be determined by the President.

(c) Audits of the Corporation

(1) The Corporation shall be subject to the applicable provisions of chapter 91 of title 31, except as otherwise provided in this subpart.

(2) An independent certified public accountant shall perform a financial and compliance audit of the financial statements of the Corporation at least once every three years, in accordance with generally accepted Government auditing standards for a financial and compliance audit, as issued by the Comptroller General. The independent certified public accountant shall report the results of such audit to the Board. The financial statements of the Corporation shall be presented in accordance with generally accepted accounting principles. These financial statements and the report of the accountant shall be included in a report which contains, to the extent applicable, the information identified in section 9106 of title 31, and which the Corporation shall submit to the Congress not later than six and one-half months after the end of the last fiscal year covered by the audit. The Government Accountability Office may review the audit conducted by the accountant and the report to the Congress in the manner and at such times as the Government Accountability Office considers necessary.

(3) In lieu of the financial and compliance audit required by paragraph (2), the Government Accountability Office shall, if the Office considers it necessary or upon the request of the Congress, audit the financial statements of the Corporation in the manner provided in paragraph (2). The Corporation shall reimburse the Government Accountability Office for the full cost of any audit conducted under this paragraph.

(4) All books, accounts, financial records, reports, files, workpapers, and property belonging to or in use by the Corporation and the accountant who conducts the audit under paragraph (2), which are necessary for purposes of this subsection, shall be made available to the representatives of the Government Accountability Office.

(d) Powers of Corporation

To carry out the purposes of this subpart, the Corporation is authorized to adopt and use a corporate seal, which shall be judicially noticed; to sue and be sued in its corporate name; to adopt, amend, and repeal bylaws governing the conduct of its business and the performance of the powers and duties granted to or imposed upon it by law; to acquire, hold or dispose of, upon such terms and conditions as the Corporation may determine, any property, real, personal, or mixed, tangible or intangible, or any interest therein; to invest funds derived from fees and other revenues in obligations of the United States and to use the proceeds therefrom, including earnings and profits, as it shall deem appropriate; to indemnify directors, officers, employees and agents of the Corporation for liabilities and expenses incurred in connection with their Corporation activities; notwithstanding any other provision of law, to represent itself or to contract for representation in all legal and arbitral proceedings; to enter into limited-term contracts with nationals of the United States for personal services to carry out activities in the United States and abroad under subsections (d) and (e) of section 2194 of this title; to purchase, discount, rediscount, sell, and negotiate, with or without its endorsement or guaranty, and guarantee notes, participation certificates, and other evidence of indebtedness (provided that the Corporation shall not issue its own securities, except participation certificates for the purpose of carrying out section 2191(c) or participation certificates as evidence of

indebtedness held by the Corporation in connection with settlement of claims under section 2197(i) of this title); to make and carry out such contracts and agreements as are necessary and advisable in the conduct of its business; to exercise any priority of the Government of the United States in collecting debts from bankrupt, insolvent, or decedents' estates; to determine the character of and the necessity for its obligations and expenditures, and the manner in which they shall be incurred, allowed, and paid, subject to provisions of law specifically applicable to Government corporations; to collect or compromise any obligations assigned to or held by the Corporation, including any legal or equitable rights accruing to the Corporation; and to take such actions as may be necessary or appropriate to carry out the powers herein or hereafter specifically conferred upon it.

(e) Reviews, investigations, and inspections by Inspector General of Agency for International Development

The Inspector General of the Agency for International Development (1) may conduct reviews, investigations, and inspections of all phases of the Corporation's operations and activities and (2) shall conduct all security activities of the Corporation relating to personnel and the control of classified material. With respect to his responsibilities under this subsection, the Inspector General shall report to the Board. The agency primarily responsible for administering subchapter I of this chapter shall be reimbursed by the Corporation for all expenses incurred by the Inspector General in connection with his responsibilities under this subsection.

(f) Programs for Yugoslavia, Poland, Hungary, Romania, the People's Republic of China, or Pakistan; national interest

Except for the provisions of this subpart, no other provision of this chapter or any other law shall be construed to prohibit the operation in Yugoslavia, Poland, Hungary, or any other East European country, or the People's Republic of China, or Pakistan of the programs authorized by this subpart, if the President determines that the operation of such program in such country is important to the national interest.

(g) Environmental impact assessments

The requirements of section 2151p(c) of this title relating to environmental impact statements and environmental assessments shall apply to any investment which the Corporation insures, reinsures, guarantees, or finances under this subpart in connection with a project in a country.

(h) Preparation, maintenance, and contents of development impact profile for investment projects; development of criteria for evaluating projects

In order to carry out the policy set forth in paragraph (1) of the second undesignated paragraph of section 2191 of this title, the Corporation shall prepare and maintain for each investment project it insures, finances, or reinsures, a development impact profile consisting of data appropriate to measure the projected and actual effects of such project on development. Criteria for evaluating projects shall be developed in consultation with the Agency for International Development.

(i) Observance of and respect for human rights and fundamental freedoms as considerations for conduct of assistance programs, etc.; provisions applicable for determinations; exceptions

The Corporation shall take into account in the conduct of its programs in a country, in consultation with the Secretary of State, all available information about observance of and respect for human rights and fundamental freedoms in such country and the effect the operation of such programs will have on human rights and fundamental freedoms in such country. The provisions of section 2151n of this title shall apply to any insurance, reinsurance, guaranty, or loan issued by the Corporation for projects in a country, except that in addition to the exception (with respect to benefiting needy people) set forth in subsection (a) of such section, the Corporation may support a project if the national security interest so requires.

(j) Exemption from taxation

The Corporation, including its franchise, capital, reserves, surplus, advances, intangible property, and income, shall be exempt from all taxation at any time imposed by the United States, by any

territory, dependency, or possession of the United States, or by any State, the District of Columbia, or any county, municipality, or local taxing authority.

(k) Publication of policy guidelines

The Corporation shall publish, and make available to applicants for insurance, reinsurance, guarantees, financing, or other assistance made available by the Corporation under this subpart, the policy guidelines of the Corporation relating to its programs.

(Pub. L. 87–195, pt. I, §239, as added Pub. L. 91–175, pt. I, §105, Dec. 30, 1969, 83 Stat. 816; amended Pub. L. 92–226, pt. I, §104(b), Feb. 7, 1972, 86 Stat. 22; Pub. L. 92–310, title II, §227(d), June 6, 1972, 86 Stat. 207; Pub. L. 93–390, §2(5), Aug. 27, 1974, 88 Stat. 768; Pub. L. 95–268, §§7, 8, Apr. 24, 1978, 92 Stat. 215, 216; Pub. L. 95–598, title III, §318, Nov. 6, 1978, 92 Stat. 2678; Pub. L. 96–327, Aug. 8, 1980, 94 Stat. 1026; Pub. L. 97–65, §8, Oct. 16, 1981, 95 Stat. 1024; Pub. L. 97–113, title VII, §705(b)(2), Dec. 29, 1981, 95 Stat. 1545; Pub. L. 99–204, §§4(c), 11–13, Dec. 23, 1985, 99 Stat. 1670, 1673, 1674; Pub. L. 100–461, title V, §555, Oct. 1, 1988, 102 Stat. 2268–36; Pub. L. 101–167, title V, §597(a), Nov. 21, 1989, 103 Stat. 1257; Pub. L. 101–179, title III, §302(a), Nov. 28, 1989, 103 Stat. 1311; Pub. L. 101–513, title V, §576(a), Nov. 5, 1990, 104 Stat. 2044; Pub. L. 102–549, title I, §107, Oct. 28, 1992, 106 Stat. 3654; Pub. L. 105–118, title V, §579(a), Nov. 26, 1997, 111 Stat. 2435; Pub. L. 108–271, §8(b), July 7, 2004, 118 Stat. 814.)

REFERENCES TO SUBCHAPTER I DEEMED TO INCLUDE CERTAIN PARTS OF SUBCHAPTER II

References to subchapter I of this chapter are deemed to include parts IV (§2346 et seq.), VI (§2348 et seq.), and VIII (§2349aa et seq.) of subchapter II of this chapter, and references to subchapter II are deemed to exclude such parts. See section 202(b) of Pub. L. 92–226, set out as a note under section 2346 of this title, and sections 2348c and 2349aa–5 of this title.

CODIFICATION

Amendment by Pub. L. 100–461 is based on sections 108 and 110(a)(2) of title I of H.R. 5263, One Hundredth Congress, as passed by the House of Representatives on Sept. 20, 1988, and sections 108 and 110(a)(2) of title I of S. 2757, One Hundredth Congress, as reported Sept. 7, 1988, and enacted into law by Pub. L. 100–461.

AMENDMENTS

2004—Subsec. (c)(2) to (4). Pub. L. 108–271 substituted "Government Accountability Office" for "General Accounting Office" wherever appearing.

1997—Subsec. (f). Pub. L. 105–118 inserted ", or Pakistan" after "China".

1992—Subsec. (d). Pub. L. 102–549, after "legal and arbitral proceedings;", inserted "to enter into limited-term contracts with nationals of the United States for personal services to carry out activities in the United States and abroad under subsections (d) and (e) of section 2194 of this title;".

1990—Subsec. (f). Pub. L. 101–513 inserted "or any other East European country," after "Hungary,".

1989—Subsec. (f). Pub. L. 101–179 inserted ", Poland, Hungary," after "Yugoslavia".

Pub. L. 101–167, which directed amendment of subsec. (f) by inserting "Poland, Hungary," after "Yugoslavia,", did not take effect due to similar amendment by section 302(a) of Pub. L. 101–179. See amendment note above and section 302(c) of Pub. L. 101–179, set out below.

1988—Subsec. (f). Pub. L. 100–461, which directed that ", Romania," be struck out, was executed by striking out ", Romania" after "Yugoslavia", as the probable intent of Congress, because no comma followed "Romania" in original.

Subsec. (g). Pub. L. 100–461 made technical amendment to reference to section 2151p(c) of this title to reflect renumbering of corresponding section of original act.

1985—Subsec. (c). Pub. L. 99–204, §11, amended subsec. (c) generally, designating existing provisions as par. (1), substituting "chapter 91 of title 31" for "the Government Corporation Control Act", and adding pars. (2) to (4).

Subsec. (g). Pub. L. 99–204, §4(c), amended subsec. (g) generally. Prior to amendment, subsec. (g) read as follows: "Within six months after August 27, 1974, the Corporation shall develop and implement specific criteria intended to minimize the potential environmental implications of projects undertaken by investors abroad in accordance with any of the programs authorized by this subpart."

Subsecs. (j), (k). Pub. L. 99–204, §§12, 13, added subsecs. (j) and (k).

1981—Subsec. (d). Pub. L. 97–65, §8(1), inserted provision authorizing the Corporation to collect or compromise any obligations assigned to or held by the Corporation, including any legal or equitable rights accruing to the Corporation.

Subsec. (e). Pub. L. 97–65, §8(2)(A), and Pub. L. 97–113, §705(b)(2), made identical amendments by substituting references to Inspector General for references to Auditor-General wherever appearing.

Pub. L. 97–65, §8(2)(B), substituted language referring to Inspector General's authority to reviews, investigate, and conduct inspections of all phases of the Corporation's operations and activities for provisions which had formerly placed upon that official the responsibility for planning and directing the execution of audits, reviews, investigations, and inspections of all phases of the Corporation's operations and activities.

Subsecs. (f) to (l). Pub. L. 97–65, §8(3), redesignated subsecs. (g), (h), (i), and (l) as (f), (g), (h), and (i), respectively. Former subsecs. (f) providing for the establishment of an Advisory Council, (j) providing limits for projects involving the exploration for or the mining of or other extraction of copper, and (k) prohibiting the granting of insurance, reinsurance, guaranty, financing, or other financial support for projects to establish or expand production or processing of palm oil, sugar, or citrus crops for export, were struck out.

1980—Subsec. (g). Pub. L. 96–327 substituted "Yugoslavia, Romania or the People's Republic of China" for "Yugoslavia or Romania".

1978—Subsec. (b). Pub. L. 95–268, §7(1), struck out provisions relating to the cessation on Dec. 31, 1979, of programs operated by the Corporation under sections 2194(b) to (e) and 2200 of this title and transfer by the President of such programs and all obligations, etc., arising out of such programs to other agencies of the United States.

Subsec. (d). Pub. L. 95–598 substituted "any priority" for "the priority".

Pub. L. 95–268, §7(2), inserted provision relating to participation certificates as evidence of indebtedness held by Corporation for settlement of claims under section 2197(i) of this title.

Subsecs. (i) to (k). Pub. L. 95–268, §7(3), added subsecs. (i) to (k).

Subsec. (l). Pub. L. 95–268, §8, added subsec. (l).

1974—Subsec. (b). Pub. L. 93–390, §2(5)(A), inserted provisions relating to the cessation on Dec. 31, 1979, of programs operated by the Corporation under sections 2194(b) to (e) and 2200 of this title and transfer by the President of such programs and all obligations, etc., arising out of such programs to other agencies of the United States.

Subsec. (h). Pub. L. 93–390, §2(5)(B), added subsec. (h).

1972—Subsec. (d). Pub. L. 92–310 struck out provisions which authorized the Corporation to require bonds of officers and employees and to pay premiums therefor.

Subsec. (g). Pub. L. 92–226 added subsec. (g).

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–598 effective Oct. 1, 1979, see section 402(a) of Pub. L. 95–598, set out as an Effective Date note preceding section 101 of Title 11, Bankruptcy.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

TERMINATION OF ADVISORY COUNCILS

Advisory councils in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a council established by the Congress, its duration is otherwise provided by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

ENHANCEMENT OF NONGOVERNMENTAL SECTOR IN POLAND AND HUNGARY

Pub. L. 101–179, title III, §302(b), Nov. 28, 1989, 103 Stat. 1311, provided that: "In accordance with its mandate to foster private initiative and competition and enhance the ability of private enterprise to make its full contribution to the development process, the Overseas Private Investment Corporation shall support projects in Poland and Hungary which will result in enhancement of the nongovernmental sector and reduction of state involvement in the economy."

AVOIDANCE OF DUPLICATIVE AMENDMENTS

Pub. L. 101–179, title III, §302(c), Nov. 28, 1989, 103 Stat. 1311, provided that: "If the Foreign Operations,

Export Financing, and Related Programs Appropriations Act, 1990 [Pub. L. 101–167], contains the same amendment that is made by subsection (a) of this section [see 1989 Amendment note set out above], the amendment made by that Act shall not be effective."

§2200. Small business development in less developed friendly countries or areas; encouragement by other Federal departments, etc., of broadened participation by United States small business cooperatives and investors; project funding

(a) In general

The Corporation shall undertake, in cooperation with appropriate departments, agencies, and instrumentalities of the United States as well as private entities and others, to broaden the participation of United States small business, cooperatives, and other small United States investors in the development of small private enterprise in less developed friendly countries or areas. The Corporation shall allocate up to 50 per cent of its annual net income, after making suitable provision for transfers and additions to reserves, to assist and facilitate the development of projects consistent with the provisions of this section. Such funds may be expended, notwithstanding the requirements of section 2191(a) of this title, on such terms and conditions as the Corporation may determine, through loans, grants, or other programs authorized by section 2194 of this title and section 2194b of this title.

(b) Outreach to minority-owned and women-owned businesses

The Corporation shall collect data on the involvement of minority- and women-owned businesses in projects supported by the Corporation, including—

(1) the amount of insurance and financing provided by the Corporation to such businesses in connection with projects supported by the Corporation; and

(2) to the extent such information is available, the involvement of such businesses in procurement activities conducted or supported by the Corporation.

The Corporation shall include, in its annual report submitted to the Congress under section 2200a of this title, the aggregate data collected under this paragraph, in such form as to quantify the effectiveness of the Corporation's outreach activities to minority- and women-owned businesses.

(Pub. L. 87–195, pt. I, §240, as added Pub. L. 95–268, §9, Apr. 24, 1978, 92 Stat. 216; amended Pub. L. 99–204, §9(b)(3), Dec. 23, 1985, 99 Stat. 1673; Pub. L. 108–158, §6(a), Dec. 3, 2003, 117 Stat. 1950.)

PRIOR PROVISIONS

A prior section 2200, Pub. L. 87–195, pt. I, §240, as added Pub. L. 91–175, pt. I, §105, Dec. 30, 1969, 83 Stat. 817; amended Pub. L. 92–226, pt. I, §104(c), Feb. 7, 1972, 86 Stat. 22; Pub. L. 93–189, §6(2), Dec. 17, 1973, 87 Stat. 717; Pub. L. 93–390, §2(6), Aug. 27, 1974, 88 Stat. 768, provided for agricultural credit and self-help community development projects in Latin America, prior to repeal by Pub. L. 93–559, §8(b), Dec. 30, 1974, 88 Stat. 1797. See section 2182a of this title.

AMENDMENTS

2003—Pub. L. 108–158 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

1985—Pub. L. 99–204 inserted reference to section 2194b of this title.

§2200a. Report to Congress

(a) Annual report

After the end of each fiscal year, the Corporation shall submit to the Congress a complete and

detailed report of its operations during such fiscal year. Such report shall include—

(1) an assessment, based upon the development impact profiles required by section 2199(h) of this title, of the economic and social development impact and benefits of the projects with respect to which such profiles are prepared, and of the extent to which the operations of the Corporation complement or are compatible with the development assistance programs of the United States and other donors; and

(2) a description of any project for which the Corporation—

(A) refused to provide any insurance, reinsurance, guaranty, financing, or other financial support, on account of violations of human rights referred to in section 2199(i) of this title; or

(B) notwithstanding such violations, provided such insurance, reinsurance, guaranty, financing, or financial support, on the basis of a determination (i) that the project will directly benefit the needy people in the country in which the project is located, or (ii) that the national security interest so requires.

(b) Effect of all projects on employment in United States to be included in annual report

(1) Each annual report required by subsection (a) shall contain projections of the effects on employment in the United States of all projects for which, during the preceding fiscal year, the Corporation initially issued any insurance, reinsurance, or guaranty or made any direct loan. Each such report shall include projections of—

(A) the amount of United States exports to be generated by those projects, both during the start-up phase and over a period of years;

(B) the final destination of the products to be produced as a result of those projects; and

(C) the impact such production will have on the production of similar products in the United States with regard to both domestic sales and exports.

(2) The projections required by this subsection shall be based on an analysis of each of the projects described in paragraph (1).

(3) In reporting the projections on employment required by this subsection, the Corporation shall specify, with respect to each project—

(A) any loss of jobs in the United States caused by the project, whether or not the project itself creates other jobs;

(B) any jobs created by the project; and

(C) the country in which the project is located, and the economic sector involved in the project.

No proprietary information may be disclosed under this paragraph.

(c) Repealed. Pub. L. 100–461, title V, §555, Oct. 1, 1988, 102 Stat. 2268–36

(d) Maintenance of records

The Corporation shall maintain as part of its records—

(1) all information collected in preparing the report required by subsection (c) (as in effect before October 1, 1988), whether the information was collected by the Corporation itself or by a contractor; and

(2) a copy of the analysis of each project analyzed in preparing the reports required either by subsection (b), or by subsection (c) (as in effect before October 1, 1988).

(e) Assessment of cooperative political risk insurance program

Each annual report required by subsection (a) shall include an assessment of programs implemented by the Corporation under section 2194b(a) of this title, including the following information, to the extent such information is available to the Corporation:

(1) The nature and dollar value of political risk insurance provided by private insurers in conjunction with the Corporation, which the Corporation was not permitted to provide under this subpart.

(2) The nature and dollar value of political risk insurance provided by private insurers in conjunction with the Corporation, which the Corporation was permitted to provide under this

subpart.

(3) The manner in which such private insurers and the Corporation cooperated in recovery efforts and claims management.

(f) Information not required to be made available to public excluded from reports

Subsections (b) and (e) do not require the inclusion in any report submitted pursuant to those subsections of any information which would not be required to be made available to the public pursuant to section 552 of title 5 (relating to freedom of information).

(Pub. L. 87–195, pt. I, §240A, as added Pub. L. 91–175, pt. I, §105, Dec. 30, 1969, 83 Stat. 818; amended Pub. L. 93–390, §2(7), Aug. 27, 1974, 88 Stat. 768; Pub. L. 95–268, §10, Apr. 24, 1978, 92 Stat. 216; Pub. L. 97–65, §9, formerly §9(a), Oct. 16, 1981, 95 Stat. 1024, renumbered §9, Pub. L. 99–204, §17(c)(1), Dec. 23, 1985, 99 Stat. 1677; Pub. L. 99–204, §14(a), Dec. 23, 1985, 99 Stat. 1674; Pub. L. 100–461, title V, §555, Oct. 1, 1988, 102 Stat. 2268–36; Pub. L. 102–549, title I, §108, Oct. 28, 1992, 106 Stat. 3654.)

CODIFICATION

Amendment by Pub. L. 100–461 is based on sections 105(b) and 110(b) of title I of H.R. 5263, One Hundredth Congress, as passed by the House of Representatives on Sept. 20, 1988, and sections 105(b) and 110(b) of title I of S. 2757, One Hundredth Congress, as reported Sept. 7, 1988, and enacted into law by Pub. L. 100–461.

AMENDMENTS

1992—Subsec. (b)(2), (3). Pub. L. 102–549 added pars. (2) and (3) and struck out former par. (2) which read as follows: "Each report required by this subsection shall be based on an analysis of each of the projects described in paragraph (1). The reports may, however, present information and analysis in aggregate form, but only if—

"(A) those projects which are projected to have a positive effect on employment in the United States and those projects which are projected to have a negative effect on employment in the United States are grouped separately; and

"(B) there is set forth for each such grouping the key characteristics of the projects within that grouping, including the number of projects in each economic sector, the countries in which the projects in each economic sector are located, and the projected level of the impact of the projects in each economic sector on employment in the United States and on United States trade."

1988—Subsec. (c). Pub. L. 100–461 repealed subsec. (c) which related to actual effect of all projects on employment in United States as of Sept. 30, 1986, presentation of information, and methodology used in acquiring information and making analysis.

Subsec. (d)(1). Pub. L. 100–461 inserted "(as in effect before October 1, 1988)" after "subsection (c)".

Subsec. (d)(2). Pub. L. 100–461 substituted "either by subsection (b), or by subsection (c) (as in effect before October 1, 1988)" for "by either subsection (b) or (c)".

Subsec. (e). Pub. L. 100–461 added subsec. (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 100–461 redesignated subsec. (e) as (f) and substituted "(e)" for "(c)".

1985—Pub. L. 99–204, §14(a), designated existing provisions as subsec. (a) and added subsecs. (b) to (e).

1981—Pub. L. 97–65 struck out designation "(a)" before "After the end of each fiscal year", substituted references to section 2199(h) and (i) of this title for references to section 2199(i) and (l) of this title, respectively, in pars. (1) and (2)(A), and struck out subsec. (b) which had provided that, not later than Sept. 30, 1980, the Corporation was to submit to the Congress a report on the development of private and multilateral programs for investment insurance and any reinsurance arrangements the Corporation had made with private insurance companies, multilateral organizations and institutions or other entities.

1978—Subsec. (a). Pub. L. 95–268 added cls. (1) and (2) setting forth required contents of report.

Subsec. (b). Pub. L. 95–268 substituted provisions relating to report to be submitted not later than Sept. 30, 1980 involving the development and any arrangements by the Corporation with private insurance companies, etc., for provisions relating to report submitted not later than Jan. 1, 1976 involving the possibilities of the Corporation transferring all of its activities to private insurance companies, etc.

1974—Subsec. (b). Pub. L. 93–390 substituted "January 1, 1976" for "March 1, 1974" and "of its activities to private insurance companies, multilateral organizations and institutions, or other entities" for "or part of its activities to private United States citizens, corporations, or other associations".

REPORT TO CONGRESS NOT LATER THAN JUNE 30, 1982, ON METHODS FOR ESTIMATING

THE IMPACT ON INVESTMENTS IF INSURANCE OR OTHER SUPPORT IS NOT PROVIDED

Pub. L. 97–65, §9(b), Oct. 16, 1981, 95 Stat. 1024, which provided for a report to Congress by the Overseas Private Investment Corporation on the effect on investments of lack of insurance, was repealed by Pub. L. 99–204, §17(c)(2), Dec. 23, 1985, 99 Stat. 1677.

§2200b. Prohibition on noncompetitive awarding of insurance contracts on OPIC supported exports

(a) Requirement for certification

(1) In general

Except as provided in paragraph (3), the investor on whose behalf insurance, reinsurance, guaranties, or other financing is provided under this subpart with respect to a project shall be required to certify to the Corporation that any contract for the export of goods as part of that project will include a clause requiring that United States insurance companies have a fair and open competitive opportunity to provide insurance against risk of loss of such export.

(2) When certification must be made

The investor shall be required, in every practicable case, to so certify before the insurance, reinsurance, guarantee, or other financing is provided. In any case in which such a certification is not made in advance, the investor shall include in the certification the reasons for the failure to make a certification in advance.

(3) Exception

Paragraph (1) does not apply with respect to an investor who does not, because of the nature of the investment, have a controlling interest in fact in the project in question.

(b) Reports by United States Trade Representative

The United States Trade Representative shall review the actions of the Corporation under subsection (a) and, after consultation with representatives of United States insurance companies, shall report to the Congress in the report required by section 2241(b) of title 19 with respect to such actions.

(c) Definitions

For purposes of this section—

(1) the term "United States insurance company" includes—

(A) an individual, partnership, corporation, holding company, or other legal entity which is authorized, or in the case of a holding company, subsidiaries of which are authorized, by a State to engage in the business of issuing insurance contracts or reinsuring the risk underwritten by insurance companies; and

(B) foreign operations, branches, agencies, subsidiaries, affiliates, or joint ventures of any entity described in subparagraph (A);

(2) United States insurance companies shall be considered to have had a "fair and open competitive opportunity to provide insurance" if they—

(A) have received notice of the opportunity to provide insurance; and

(B) have been evaluated on a nondiscriminatory basis; and

(3) the term "State" includes the District of Columbia and any commonwealth, territory, or possession of the United States.

(Pub. L. 87–195, pt. I, §240B, as added Pub. L. 102–549, title I, §109, Oct. 28, 1992, 106 Stat. 3654.)

PRIOR PROVISIONS

A prior section 2200b, Pub. L. 87–195, pt. I, §240B, as added Pub. L. 97–65, §10, Oct. 16, 1981, 95 Stat. 1024, related to return of appropriated funds, prior to repeal by Pub. L. 99–204, §15, Dec. 23, 1985, 99 Stat. 1676.

SUBPART V—DISADVANTAGED CHILDREN IN ASIA

§2201. Assistance to disadvantaged children in Asia

(a) Congressional findings

The Congress recognizes the humanitarian needs of disadvantaged children in Asian countries where there has been or continues to be a heavy presence of United States military and related personnel in recent years. Moreover, the Congress finds that inadequate provision has been made for the care and welfare of such disadvantaged children, particularly those fathered by the [1] United States citizens.

(b) Authority of President

Accordingly, the President is authorized to expend up to $3,000,000 of funds made available under part I of this subchapter, in addition to funds otherwise available for such purposes, to help meet the needs of these disadvantaged children in Asia by assisting in the expansion and improvement of orphanages, hostels, day care centers, school feeding programs, and health, education, and welfare programs. Assistance provided under this section shall be furnished under the auspices of and by international organizations or private voluntary agencies operating within, and in cooperation with, the countries of Asia where these disadvantaged children reside.

(Pub. L. 87–195, pt. I, §241, as added Pub. L. 95–424, title I, §116, Oct. 6, 1978, 92 Stat. 952; amended Pub. L. 99–83, title IX, §903(a), Aug. 8, 1985, 99 Stat. 268.)

REFERENCES TO PART I DEEMED TO INCLUDE SECTION 2293

References to part I of this subchapter are deemed to include a reference to section 2293 of this title. See section 2293(d)(1) of this title.

PRIOR PROVISIONS

A prior section 2201, Pub. L. 87–195, pt. I, §241, Sept. 4, 1961, 75 Stat. 433; Pub. L. 88–205, pt. I, §105, Dec. 16, 1963, 77 Stat. 382, related to general authority of President respecting development research and use of funds for research into problems of population growth, prior to repeal by Pub. L. 94–161, title III, §306(1), Dec. 20, 1975, 89 Stat. 858.

AMENDMENTS

1985—Subsec. (b). Pub. L. 99–83 substituted "$3,000,000" for "$2,000,000".

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–83 effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as a note under section 2151–1 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1978, see section 605 of Pub. L. 95–424, set out as an Effective Date of 1978 Amendment note under section 2151 of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

[1] *So in original.*

SUBPART VI—MICROENTERPRISE DEVELOPMENT ASSISTANCE

PRIOR PROVISIONS

A prior subpart VI, consisting of sections 2211 to 2213, related to Alliance for Progress, prior to repeal by Pub. L. 95–424, title I, §102(g)(1)(A), title VI, §605, Oct. 6, 1978, 92 Stat. 942, 961, effective Oct. 1, 1978.

Division A—Grant Assistance

§2211. Findings and policy

Congress finds and declares the following:

(1) Access to financial services and the development of microenterprise are vital factors in the stable growth of developing countries and in the development of free, open, and equitable international economic systems.

(2) It is therefore in the best interest of the United States to facilitate access to financial services and assist the development of microenterprise in developing countries.

(3) Access to financial services and the development of microenterprises can be supported by programs providing credit, savings, training, technical assistance, business development services, and other financial services.

(4) Given the relatively high percentage of populations living in rural areas of developing countries, and the combined high incidence of poverty in rural areas and growing income inequality between rural and urban markets, microenterprise programs should target both rural and urban poor.

(5) Microenterprise programs have been successful and should continue to empower vulnerable women in the developing world. The Agency should work to ensure that recipients of microenterprise and microfinance development assistance under this subpart communicate and work with nongovernmental organizations and government organizations to identify and assist victims of trafficking as provided for in section 7104(a)(1) of this title and women who are victims of or susceptible to other forms of exploitation and violence.

(6) Given that microenterprise programs have been successful in empowering disenfranchised groups such as women, microenterprise programs should also target populations disenfranchised due to race or ethnicity in countries where a strong relationship between poverty and race or ethnicity has been demonstrated, such as countries in Latin America.

(Pub. L. 87–195, pt. I, §251, as added Pub. L. 108–484, §3, Dec. 23, 2004, 118 Stat. 3923.)

PRIOR PROVISIONS

A prior section 2211, Pub. L. 87–195, pt. I, §251, as added Pub. L. 87–565, pt. I, §106, Aug. 1, 1962, 76 Stat. 257; amended Pub. L. 88–205, pt. I, §106(a), Dec. 16, 1963, 77 Stat. 382; Pub. L. 89–583, pt. I, §105(a), Sept. 19, 1966, 80 Stat. 799; Pub. L. 90–137, pt. I, §106(a), Nov. 14, 1967, 81 Stat. 451, related to assistance in order to promote the economic development of countries and areas in Latin America, prior to repeal by Pub. L. 95–424, title I, §102(g)(1)(A), title VI, §605, Oct. 6, 1978, 92 Stat. 942, 961, effective Oct. 1, 1978.

FINDINGS AND POLICY

Pub. L. 108–484, §2, Dec. 23, 2004, 118 Stat. 3922, provided that: "Congress finds and declares the following:

"(1) Congress has demonstrated its support for microenterprise development assistance programs through the enactment of two comprehensive microenterprise laws:

"(A) The Microenterprise for Self-Reliance Act of 2000 (title I of Public Law 106–309; 114 Stat. 1082) [see Short Title of 2000 Amendments note set out under section 2151 of this title].

"(B) Public Law 108–31 [see Tables for classification] (an Act entitled 'An Act to amend the Microenterprise for Self-Reliance Act of 2000 and the Foreign Assistance Act of 1961 to increase assistance for the poorest people in developing countries under microenterprise assistance program under

those Acts, and for other purposes', approved June 17, 2003).

"(2) The report on the effectiveness of the United States Agency for International Development's microfinance program, prepared by the Consultative Group to Assist the Poor, rated the Agency in the top tier of the 17 donors in this field.

"(3) The Comptroller General, in a report dated November 2003, found that the United States Agency for International Development has met some, but not all, of the key objectives of such microenterprise development assistance programs.

"(4) The Comptroller General's report found, among other things, the following:

"(A) Microenterprise development assistance generally can help alleviate some impacts of poverty, improve income levels and quality of life for borrowers and provide poor individuals, workers, and their families with an important coping mechanism.

"(B) Microenterprise development assistance programs of the United States Agency for International Development have encouraged women's participation in microfinance projects and, according to data of the Agency, women have comprised two-thirds or more of the micro-loan clients in Agency-funded microenterprise projects since 1997.

"(5)(A) The Comptroller General's report recommends that the Administrator of the United States Agency for International Development review the Agency's 'microenterprise results reporting' system with the goal of ensuring that its annual reporting is complete and accurate.

"(B) Specifically, the Administrator should review and reconsider the methodologies used for the collection, analysis, and reporting of data on annual spending targets, outreach to the very poor, sustainability of microfinance institutions, and the contribution of Agency's funding to the institutions it supports."

SENSE OF CONGRESS

Pub. L. 108–484, §7, Dec. 23, 2004, 118 Stat. 3930, provided that: "It is the sense of Congress that, in carrying out title VI of chapter 2 of part I of the Foreign Assistance Act of 1961 [22 U.S.C. 2211 et seq.] (as added by section 3 of this Act and amended by sections 4 through 6 of this Act), the Administrator of the United States Agency for International Development—

"(1) where applicable, should ensure that microenterprise development assistance provided under such title is matched by recipients with an equal amount of assistance from non-United States Government sources, including private donations, multilateral funding, commercial and concessional borrowing, savings, and program income;

"(2) should include in the report required by section 258 of the Foreign Assistance Act of 1961 [22 U.S.C. 2214] (as added by section 6 of this Act) a description of all matching assistance (as described in paragraph (1)) provided for the prior year by recipients of microenterprise development assistance under such title;

"(3) should ensure that recipients of microenterprise development assistance under such title do not expend an unreasonably large percentage of such assistance on administrative costs;

"(4) should not use recipients of microenterprise development assistance under such title to carry out critical management functions of the Agency, including functions such as strategy development or overall management of programs in a country; and

"(5) should consult with the appropriate congressional committees with respect to the implementation of title VI of chapter 2 of part I of the Foreign Assistance Act of 1961 not later than 90 days after the date of the enactment of this Act [Dec. 23, 2004]."

REFERENCES

Pub. L. 108–484, §9, Dec. 23, 2004, 118 Stat. 3931, provided that: "Any reference in a law, regulation, agreement, or other document of the United States to section 108, 131, or 132 of the Foreign Assistance Act of 1961 [former 22 U.S.C. 2151f, 2152a, 2152b] shall be deemed to be a reference to subtitle B of title VI of chapter 2 of part I of the Foreign Assistance Act of 1961 [division B of this subpart], subtitle A of title VI of chapter 2 of part I of such Act [this division], or subtitle C of title VI of chapter 2 of part I of such Act [division C of this subpart], respectively."

§2211a. Authorization; implementation; targeted assistance

(a) Authorization

The President is authorized to provide assistance on a non-reimbursable basis for programs in

developing countries to increase the availability of credit, savings, and other services to microfinance and microenterprise clients lacking full access to capital, training, technical assistance, and business development services, through—

(1) assistance for the purpose of expanding the availability of credit, savings, and other financial and non-financial services to microfinance and microenterprise clients;

(2) assistance for the purpose of training, technical assistance, and business development services for microenterprises to enable them to make better use of credit, to better manage their enterprises, to conduct market analysis and product development for expanding domestic and international sales, particularly to United States markets, and to increase their income and build their assets;

(3) capacity-building for microfinance and microenterprise institutions in order to enable them to better meet the credit, savings, and training needs of microfinance and microenterprise clients; and

(4) policy, regulatory programs, and research at the country level that improve the environment for microfinance and microenterprise clients and institutions that serve the poor and very poor.

(b) Implementation

(1) Office of microenterprise development

There is established within the Agency an office of microenterprise development, which shall be headed by a Director who shall be appointed by the Administrator and who should possess technical expertise and ability to offer leadership in the field of microenterprise development.

(2) Additional provisions

(A) Use of implementing partner organizations

Assistance under this section shall emphasize the use of implementing partner organizations that best meet the requirements of subparagraph (C).

(B) Use of central funding mechanisms

(i) Program

In order to ensure that assistance under this subpart is distributed effectively and efficiently, the office shall also seek to implement a program of central funding under which assistance is administered directly by the office, including through targeted core support for microfinance and microenterprise networks and other practitioners.

(ii) Funding

Of the amount made available to carry out this division for a fiscal year, not less than $25,000,000 should be made available to carry out clause (i).

(C) Efficiency and cost-effectiveness

Assistance under this section shall meet high standards of efficiency, cost-effectiveness, and sustainability and shall especially provide the greatest possible resources to the poor and very poor. When administering assistance under this section, the Administrator shall—

(i) take into consideration the percentage of funds a provider of assistance intends to expend on administrative costs;

(ii) take all appropriate steps to ensure that the provider of assistance keeps administrative costs as low as practicable to ensure the maximum amount of funds are used for directly assisting microfinance and microenterprise clients, for establishing sustainable microfinance and microenterprise institutions, or for advancing the microenterprise development field; and

(iii) give preference to proposals from providers of assistance that are the most technically competitive and have a reasonable allocation to overhead and administrative costs.

(3) Approval of strategic plans

With respect to assistance provided under this section, the office shall be responsible for concurring in the microenterprise development components of strategic plans of missions,

bureaus, and other offices of the Agency and providing technical support to field missions to help the missions prepare such components.

(c) Targeted assistance

In carrying out sustainable poverty-focused programs under subsection (a), 50 percent of all microenterprise resources shall be targeted to clients who are very poor. Specifically, until September 30, 2006, such resources shall be used for—

(1) support of programs under this section through practitioner institutions that—

(A) provide credit and other financial services to clients who are very poor, with loans in 1995 United States dollars of—

(i) $1,000 or less in the Europe and Eurasia region;

(ii) $400 or less in the Latin America region; and

(iii) $300 or less in the rest of the world; and

(B) can cover their costs in a reasonable time period; or

(2) demand-driven business development programs that achieve reasonable cost recovery that are provided to clients holding poverty loans (as defined by the regional poverty loan limitations in paragraph (1)(A)), whether they are provided by microfinance institutions or by specialized business development services providers.

(Pub. L. 87–195, pt. I, §252, as added Pub. L. 108–484, §3, Dec. 23, 2004, 118 Stat. 3924.)

PRIOR PROVISIONS

A prior section 252 of Pub. L. 87–195 was classified to section 2212 of this title, prior to repeal by Pub. L. 95–424, title I, §102(g)(1)(A), title VI, §605, Oct. 6, 1978, 92 Stat. 942, 961, effective Oct. 1, 1978.

§2211b. Monitoring system

(a) In general

In order to maximize the sustainable development impact of assistance authorized under section 2211a(a) of this title, the Administrator of the Agency, acting through the Director of the office, shall strengthen its monitoring system to meet the requirements of subsection (b).

(b) Requirements

The requirements referred to in subsection (a) are the following:

(1) The monitoring system shall include performance goals for the assistance and expresses such goals in an objective and quantifiable form, to the extent feasible.

(2) The monitoring system shall include performance indicators to be used in measuring or assessing the achievement of the performance goals described in paragraph (1) and the objectives of the assistance authorized under section 2211a of this title.

(3) The monitoring system provides a basis for recommendations for adjustments to the assistance to enhance the sustainability and the impact of the assistance, particularly the impact of such assistance on the very poor, particularly poor women.

(4) The monitoring system adopts the widespread use of proven and effective poverty assessment tools to successfully identify the very poor and ensure that they receive adequate access to microenterprise loans, savings, and assistance.

(Pub. L. 87–195, pt. I, §253, as added Pub. L. 108–484, §3, Dec. 23, 2004, 118 Stat. 3925.)

PRIOR PROVISIONS

A prior section 253 of Pub. L. 87–195 was classified to section 2213 of this title, prior to repeal by Pub. L. 95–424, title I, §102(g)(1)(A), title VI, §605, Oct. 6, 1978, 92 Stat. 942, 961, effective Oct. 1, 1978.

§2211c. Development and certification of poverty measurement methods; application of methods

(a) Development and certification

(1) In general

The Administrator of the Agency, in consultation with microenterprise institutions and other appropriate organizations, shall develop no fewer than two low-cost methods for implementing partner organizations to use to assess the poverty levels of their current incoming or prospective clients. The Administrator shall develop poverty indicators that correlate with the circumstances of the very poor.

(2) Field testing

The Administrator shall field-test the methods developed under paragraph (1). As part of the testing, institutions and programs may use the methods on a voluntary basis to demonstrate their ability to reach the very poor.

(3) Certification

Not later than April 1, 2005, the Administrator shall, from among the low-cost poverty measurement methods developed under paragraph (1), certify no fewer than two such methods as approved methods for measuring the poverty levels of current, incoming, or prospective clients of microenterprise institutions for purposes of assistance under section 2211a of this title.

(b) Application

The Administrator shall require that, with reasonable exceptions, all implementing partner organizations applying for microenterprise assistance under this subpart use one of the certified methods, beginning not later than October 1, 2006, to determine and report the poverty levels of current, incoming, or prospective clients.

(Pub. L. 87–195, pt. I, §254, as added Pub. L. 108–484, §3, Dec. 23, 2004, 118 Stat. 3926.)

§2211d. Additional authorities

Notwithstanding any other provision of law, amounts made available for assistance for microenterprise development assistance under any provision of law other than this subpart may be provided to further the purposes of this subpart. To the extent assistance described in the preceding sentence is provided in accordance with such sentence, the Administrator of the Agency shall include, as part of the report required under section 2214 of this title, a detailed description of such assistance and, to the extent applicable, the information required by paragraphs (1) through (11) of subsection (b) of such section with respect to such assistance.

(Pub. L. 87–195, pt. I, §255, as added Pub. L. 108–484, §3, Dec. 23, 2004, 118 Stat. 3926.)

Division B—Credit Assistance

§2212. Microenterprise development credits

(a) Findings and policy

Congress finds and declares that—

(1) the development of micro- and small enterprises is a vital factor in the stable growth of developing countries and in the development and stability of a free, open, and equitable international economic system; and

(2) it is, therefore, in the best interests of the United States to assist the access to financial

services and the development of microenterprises in developing countries and to engage the United States private sector in that process.

(b) Program

To carry out the policy set forth in subsection (a), the President is authorized to provide assistance to increase the availability of financial services to microenterprise households lacking full access to credit, including through—

(1) loans and guarantees to microfinance institutions for the purpose of expanding the availability of savings and credit to poor and low-income households;

(2) training programs for microfinance institutions in order to enable them to better meet the financial services needs of their clients; and

(3) training programs for clients in order to enable them to make better use of credit, increase their financial literacy, and to better manage their enterprises to improve their quality of life.

(c) Eligibility criteria

The Administrator of the Agency shall establish criteria for determining which microfinance institutions described in subsection (b)(1) are eligible to carry out activities, with respect to microenterprise households, assisted under this section. Such criteria may include the following:

(1) The extent to which the recipients of financial services from the entity do not have access to the local formal financial sector.

(2) The extent to which the recipients of financial services from the entity are among the poorest people in the country.

(3) The extent to which the entity is oriented toward working directly with poor women.

(4) The extent to which the entity recovers its cost of lending.

(5) The extent to which the entity implements a plan to become financially sustainable.

(d) Additional requirement

Assistance provided under this section may only be used to support programs for microenterprise households and may not be used to support programs not directly related to the purposes described in subsection (b).

(e) Procurement provision

Assistance may be provided under this section without regard to section 2354(a) of this title.

(f) Availability of funds

(1) In general

Of the amounts authorized to be available to carry out subchapter I of this chapter, there are authorized to be available such sums as may be necessary for each of the fiscal years 2005 through 2009 to carry out this section.

(2) Coverage of subsidy costs

Amounts authorized to be available under paragraph (1) shall be made available to cover the subsidy cost, as defined in section 661a(5) of title 2, for activities under this section.

(Pub. L. 87–195, pt. I, §256, formerly §108, as added Pub. L. 98–151, §101(b)(2), Nov. 14, 1983, 97 Stat. 972; amended Pub. L. 99–83, title III, §308, Aug. 8, 1985, 99 Stat. 215; Pub. L. 100–418, title II, §2211, Aug. 23, 1988, 102 Stat. 1335; Pub. L. 106–309, title I, §106, Oct. 17, 2000, 114 Stat. 1085; Pub. L. 108–31, §2, June 17, 2003, 117 Stat. 775; renumbered §256 and amended Pub. L. 108–484, §4(a), (b), (c)(3), Dec. 23, 2004, 118 Stat. 3926, 3927.)

REFERENCES TO SUBCHAPTER I DEEMED TO INCLUDE CERTAIN PARTS OF SUBCHAPTER II

References to subchapter I of this chapter are deemed to include parts IV (§2346 et seq.), VI (§2348 et seq.), and VIII (§2349aa et seq.) of subchapter II of this chapter, and references to subchapter II are deemed to exclude such parts. See section 202(b) of Pub. L. 92–226 set out as a note under section 2346 of this title, and sections 2348c and 2349aa–5 of this title.

CODIFICATION

Section was formerly classified to section 2151f of this title.

Section 256, formerly 108, of Pub. L. 87–195 is based on section 407 of title IV of H.R. 2992, Ninety-eighth Congress, as reported May 17, 1983, and enacted into law by Pub. L. 98–151.

PRIOR PROVISIONS

A prior section 2212, Pub. L. 87–195, pt. I, §252, as added Pub. L. 87–565, pt. I, §106, Aug. 1, 1962, 76 Stat. 258; amended Pub. L. 88–205, pt. I, §106(b), Dec. 16, 1963, 77 Stat. 383; Pub. L. 88–633, pt. I, §105, Oct. 7, 1964, 78 Stat. 1010; Pub. L. 89–171, pt. I, §105, Sept. 6, 1965, 79 Stat. 655; Pub. L. 89–583, pt. I, §105(b), Sept. 19, 1966, 80 Stat. 799; Pub. L. 90–137, pt. I, §106(b), Nov. 14, 1967, 81 Stat. 451; Pub. L. 90–554, pt. I, §105, Oct. 8, 1968, 82 Stat. 961; Pub. L. 91–175, pt. I, §106, Dec. 30, 1969, 83 Stat. 818; Pub. L. 92–226, pt. I, §105, Feb. 7, 1972, 86 Stat. 23; Pub. L. 93–189, §7, Dec. 17, 1973, 87 Stat. 718, related to authorization of appropriations for Alliance for Progress, prior to repeal by Pub. L. 95–424, title I, §102(g)(1)(A), title VI, §605, Oct. 6, 1978, 92 Stat. 942, 961, effective Oct. 1, 1978.

AMENDMENTS

2004—Subsec. (c). Pub. L. 108–484, §4(c)(3)(A), substituted "Administrator of the Agency" for "Administrator of the agency primarily responsible for administering subchapter I of this chapter" in introductory provisions.

Subsec. (f)(1). Pub. L. 108–484, §4(c)(3)(B), substituted "subchapter I of this chapter" for "section 2152a of this title" and "such sums as may be necessary for each of the fiscal years 2005 through 2009" for "$1,500,000 for each of fiscal years 2001 through 2004".

2003—Pub. L. 108–31, §2(f), substituted "Microenterprise development credits" for "Micro- and small enterprise development credits" in section catchline.

Subsec. (a)(2). Pub. L. 108–31, §2(a), substituted "the access to financial services and the development of microenterprises" for "the development of the enterprises of the poor".

Subsec. (b). Pub. L. 108–31, §2(b), amended heading and text of subsec. (b) generally. Prior to amendment, text read as follows: "To carry out the policy set forth in subsection (a) of this section, the President is authorized to provide assistance to increase the availability of credit to micro- and small enterprises lacking full access to credit, including through—

"(1) loans and guarantees to credit institutions for the purpose of expanding the availability of credit to micro- and small enterprises;

"(2) training programs for lenders in order to enable them to better meet the credit needs of microentrepreneurs; and

"(3) training programs for microentrepreneurs in order to enable them to make better use of credit and to better manage their enterprises."

Subsec. (c). Pub. L. 108–31, §2(c)(1), substituted "microfinance institutions" for "credit institutions" and "microenterprise households" for "micro- and small enterprises" in introductory provisions.

Subsec. (c)(1), (2). Pub. L. 108–31, §2(c)(2), substituted "financial services" for "credit".

Subsec. (d). Pub. L. 108–31, §2(d), substituted "programs for microenterprise households" for "micro- and small enterprise programs".

Subsec. (f)(1). Pub. L. 108–31, §2(e), substituted "for each of fiscal years 2001 through 2004" for "for each of fiscal years 2001 and 2002".

2000—Pub. L. 106–309 amended section catchline and text generally, substituting provisions promoting micro- and small enterprise development credits for provisions relating to the establishment, funding and uses of a private sector revolving fund to aid developing countries.

1988—Subsec. (i). Pub. L. 100–418 added subsec. (i).

1985—Subsec. (b). Pub. L. 99–83 substituted "each of the fiscal years 1986 and 1987, up to $18,000,000" for "fiscal year 1984, up to $20,000,000".

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–83 effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as a note under section 2151–1 of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

REPORT TO CONGRESS

Pub. L. 108–31, §4, June 17, 2003, 117 Stat. 778, as amended by Pub. L. 108–484, §8(b), Dec. 23, 2004, 118 Stat. 3931, provided that: "Not later than September 30, 2005, the Administrator of the United States Agency for International Development shall submit to Congress a report that documents the process of developing and applying poverty assessment procedures with its partners."

FINDINGS AND DECLARATIONS OF POLICY OF 2000 AMENDMENT

Pub. L. 106–309, title I, §102, Oct. 17, 2000, 114 Stat. 1079, provided that: "Congress makes the following findings and declarations:

"(1) According to the World Bank, more than 1,200,000,000 people in the developing world, or one-fifth of the world's population, subsist on less than $1 a day.

"(2) Over 32,000 of their children die each day from largely preventable malnutrition and disease.

"(3)(A) Women in poverty generally have larger work loads and less access to educational and economic opportunities than their male counterparts.

"(B) Directly aiding the poorest of the poor, especially women, in the developing world has a positive effect not only on family incomes, but also on child nutrition, health and education, as women in particular reinvest income in their families.

"(4)(A) The poor in the developing world, particularly women, generally lack stable employment and social safety nets.

"(B) Many turn to self-employment to generate a substantial portion of their livelihood. In Africa, over 80 percent of employment is generated in the informal sector of the self-employed poor.

"(C) These poor entrepreneurs are often trapped in poverty because they cannot obtain credit at reasonable rates to build their asset base or expand their otherwise viable self-employment activities.

"(D) Many of the poor are forced to pay interest rates as high as 10 percent per day to money lenders.

"(5)(A) The poor are able to expand their incomes and their businesses dramatically when they can access loans at reasonable interest rates.

"(B) Through the development of self-sustaining microfinance programs, poor people themselves can lead the fight against hunger and poverty.

"(6)(A) On February 2–4, 1997, a global Microcredit Summit was held in Washington, District of Columbia, to launch a plan to expand access to credit for self-employment and other financial and business services to 100,000,000 of the world's poorest families, especially the women of those families, by 2005. While this scale of outreach may not be achievable in this short time-period, the realization of this goal could dramatically alter the face of global poverty.

"(B) With an average family size of five, achieving this goal will mean that the benefits of microfinance will thereby reach nearly half of the world's more than 1,000,000,000 absolute poor people.

"(7)(A) Nongovernmental organizations, such as those that comprise the Microenterprise Coalition (such as the Grameen Bank (Bangladesh), K–REP (Kenya), and networks such as Accion International, the Foundation for International Community Assistance (FINCA), and the credit union movement) are successful in lending directly to the very poor.

"(B) Microfinance institutions such as BRAC (Bangladesh), BancoSol (Bolivia), SEWA Bank (India), and ACEP (Senegal) are regulated financial institutions that can raise funds directly from the local and international capital markets.

"(8)(A) Microenterprise institutions not only reduce poverty, but also reduce the dependency on foreign assistance.

"(B) Interest income on the credit portfolio is used to pay recurring institutional costs, assuring the long-term sustainability of development assistance.

"(9) Microfinance institutions leverage foreign assistance resources because loans are recycled, generating new benefits to program participants.

"(10)(A) The development of sustainable microfinance institutions that provide credit and training, and mobilize domestic savings, is a critical component to a global strategy of poverty reduction and broad-based economic development.

"(B) In the efforts of the United States to lead the development of a new global financial architecture, microenterprise should play a vital role. The recent shocks to international financial markets demonstrate how the financial sector can shape the destiny of nations. Microfinance can serve as a powerful tool for building a more inclusive financial sector which serves the broad majority of the world's population including the very poor and women and thus generate more social stability and prosperity.

"(C) Over the last two decades, the United States has been a global leader in promoting the global microenterprise sector, primarily through its development assistance programs at the United States Agency for International Development. Additionally, the Department of the Treasury and the Department of State

have used their authority to promote microenterprise in the development programs of international financial institutions and the United Nations.

"(11)(A) In 1994, the United States Agency for International Development launched the 'Microenterprise Initiative' in partnership with the Congress.

"(B) The initiative committed to expanding funding for the microenterprise programs of the Agency, and set a goal that, by the end of fiscal year 1996, one-half of all microenterprise resources would support programs and institutions that provide credit to the poorest, with loans under $300.

"(C) In order to achieve the goal of the microcredit summit, increased investment in microfinance institutions serving the poorest will be critical.

"(12) Providing the United States share of the global investment needed to achieve the goal of the microcredit summit will require only a small increase in United States funding for international microcredit programs, with an increased focus on institutions serving the poorest.

"(13)(A) In order to reach tens of millions of the poorest with microcredit, it is crucial to expand and replicate successful microfinance institutions.

"(B) These institutions need assistance in developing their institutional capacity to expand their services and tap commercial sources of capital.

"(14) Nongovernmental organizations have demonstrated competence in developing networks of local microfinance institutions and other assistance delivery mechanisms so that they reach large numbers of the very poor, and achieve financial sustainability.

"(15) Recognizing that the United States Agency for International Development has developed very effective partnerships with nongovernmental organizations, and that the Agency will have fewer missions overseas to carry out its work, the Agency should place priority on investing in those nongovernmental network institutions that meet performance criteria through the central funding mechanisms of the Agency.

"(16) By expanding and replicating successful microfinance institutions, it should be possible to create a global infrastructure to provide financial services to the world's poorest families.

"(17)(A) The United States can provide leadership to other bilateral and multilateral development agencies as such agencies expand their support to the microenterprise sector.

"(B) The United States should seek to improve coordination among G–7 countries in the support of the microenterprise sector in order to leverage the investment of the United States with that of other donor nations.

"(18) Through increased support for microenterprise, especially credit for the poorest, the United States can continue to play a leadership role in the global effort to expand financial services and opportunity to 100,000,000 of the poorest families on the planet."

PURPOSES OF 2000 AMENDMENT

Pub. L. 106–309, title I, §103, Oct. 17, 2000, 114 Stat. 1081, as amended by Pub. L. 108–31, §1(a), June 17, 2003, 117 Stat. 775, provided that: "The purposes of this title [see Short Title of 2000 Amendments note set out under section 2151 of this title] are—

"(1) to make microenterprise development an important element of United States foreign economic policy and assistance;

"(2) to provide for the continuation and expansion of the commitment of the United States Agency for International Development to the development of microenterprise institutions as outlined in its 1994 Microenterprise Initiative;

"(3) to support and develop the capacity of United States and indigenous nongovernmental organization intermediaries to provide credit, savings, training, technical assistance, and business development services to microenterprise households;

"(4) to emphasize financial services and substantially increase the amount of assistance devoted to both financial services and complementary business development services designed to reach the poorest people in developing countries, particularly women;

"(5) to encourage the United States Agency for International Development to coordinate microenterprise policy, in consultation with the Department of the Treasury and the Department of State, and to provide global leadership among bilateral and multilateral donors in promoting microenterprise for the very poor; and

"(6) to ensure that in the implementation of this title at least 50 percent of all microenterprise assistance under this title, and the amendments made under this title, shall be targeted to the very poor."

DEFINITIONS

Pub. L. 106–309, title I, §104, Oct. 17, 2000, 114 Stat. 1082, as amended by Pub. L. 108–31, §1(b), June 17, 2003, 117 Stat. 775, provided that: "In this title [see Short Title of 2000 Amendments note set out under

section 2151 of this title]:

"(1) BUSINESS DEVELOPMENT SERVICES.—The term 'business development services' means support for the growth of microenterprises through training, technical assistance, marketing assistance, improved production technologies, and other services.

"(2) MICROENTERPRISE INSTITUTION.—The term 'microenterprise institution' means an institution that provides services, including microfinance, training, or business development services, to microentrepreneurs and their households.

"(3) MICROFINANCE INSTITUTION.—The term 'microfinance institution' means an institution that directly provides, or works to expand, the availability of credit, savings, and other financial services to microentrepreneurs.

"(4) PRACTITIONER INSTITUTION.—The term 'practitioner institution' means any institution that provides services, including microfinance, training, or business development services, for microentrepreneurs, or provides assistance to microenterprise institutions.

"(5) VERY POOR.—The term 'very poor' means individuals—

"(A) living in the bottom 50 percent below the poverty line established by the national government of the country in which those individuals live; or

"(B) living on the equivalent of less than $1 per day."

Division C—United States Microfinance Loan Facility

§2213. United States Microfinance Loan Facility

(a) Establishment

The Administrator is authorized to establish a United States Microfinance Loan Facility (in this section referred to as the "Facility") to pool and manage the risk from natural disasters, war or civil conflict, national financial crisis, or short-term financial movements that threaten the long-term development of United States-supported microfinance institutions.

(b) Disbursements

(1) In general

The Administrator shall make disbursements from the Facility to United States-supported microfinance institutions to prevent the bankruptcy of such institutions caused by—

(A) natural disasters;

(B) national wars or civil conflict; or

(C) national financial crisis or other short-term financial movements that threaten the long-term development of United States-supported microfinance institutions.

(2) Form of assistance

Assistance under this section shall be in the form of loans or loan guarantees for microfinance institutions that demonstrate the capacity to resume self-sustained operations within a reasonable time period.

(3) Congressional notification procedures

During each of the fiscal years 2005 through 2009, funds may not be made available from the Facility until 15 days after notification of the proposed availability of the funds has been provided to the congressional committees specified in section 2394–1 of this title in accordance with the procedures applicable to reprogramming notifications under that section.

(c) General provisions

(1) Policy provisions

In providing the credit assistance authorized by this section, the Administrator should apply, as appropriate, the policy provisions in subchapter I of this chapter that are applicable to development assistance activities.

(2) Default and procurement provisions

(A) Default provision

The provisions of section 2370(q) of this title, or any comparable provision of law, shall not be construed to prohibit assistance to a country in the event that a private sector recipient of assistance furnished under this section is in default in its payment to the United States for the period specified in such section.

(B) Procurement provision

Assistance may be provided under this section without regard to section 2354(a) of this title.

(3) Terms and conditions of credit assistance

(A) In general

Credit assistance provided under this section shall be offered on such terms and conditions, including fees charged, as the Administrator may determine.

(B) Limitation on principal amount of financing

The principal amount of loans made or guaranteed under this section in any fiscal year, with respect to any single event, may not exceed $30,000,000.

(C) Exception

No payment may be made under any guarantee issued under this section for any loss arising out of fraud or misrepresentation for which the party seeking payment is responsible.

(4) Full faith and credit

All guarantees issued under this section shall constitute obligations, in accordance with the terms of such guarantees, of the United States of America, and the full faith and credit of the United States of America is hereby pledged for the full payment and performance of such obligations to the extent of the guarantee.

(d) Funding

(1) Allocation of funds

Of the amounts made available to carry out subchapter I of this chapter for each of the fiscal years 2005 through 2009, such sums as may be necessary may be made available for—

(A) the subsidy cost, as defined in section 661a(5) of title 2, to carry out this section; and

(B) the administrative costs to carry out this section.

(2) Relation to other funding

Amounts made available under paragraph (1) are in addition to amounts available under any other provision of law to carry out this section.

(Pub. L. 87–195, pt. I, §257, formerly §132, as added Pub. L. 106–309, title I, §107(a), Oct. 17, 2000, 114 Stat. 1086; renumbered §257 and amended Pub. L. 108–484, §5(a), (b), (c)(2), Dec. 23, 2004, 118 Stat. 3927.)

REFERENCES TO SUBCHAPTER I DEEMED TO INCLUDE CERTAIN PARTS OF SUBCHAPTER II

References to subchapter I of this chapter are deemed to include parts IV (§2346 et seq.), VI (§2348 et seq.), and VIII (§2349aa et seq.) of subchapter II of this chapter, and references to subchapter II are deemed to exclude such parts. See section 202(b) of Pub. L. 92–226, set out as a note under section 2346 of this title, and sections 2348c and 2349aa–5 of this title.

CODIFICATION

Section was formerly classified to section 2152b of this title.

PRIOR PROVISIONS

A prior section 2213, Pub. L. 87–195, pt. I, §253, as added Pub. L. 87–565, pt. I, §106, Aug. 1, 1962, 76 Stat. 258; amended Pub. L. 88–205, pt. I, §106(c), Dec. 16, 1963, 77 Stat. 383, related to availability of

receipts from loans for Alliance for Progress, prior to repeal by Pub. L. 95–424, title I, §102(g)(1)(A), title VI, §605, Oct. 6, 1978, 92 Stat. 942, 961, effective Oct. 1, 1978.

AMENDMENTS

2004—Subsec. (b)(3). Pub. L. 108—484, §5(c)(2)(A), substituted "2005 through 2009" for "2001 and 2002".

Subsec.(d)(1). Pub. L. 108—484, §5(c)(2)(B), substituted "for each of the fiscal years 2005 through 2009, such sums as may be necessary" for "for the fiscal year 2001, up to $5,000,000".

Subsec. (e). Pub. L. 108–484, §5(c)(2)(C), struck out heading and text of subsec. (e) which defined "Administrator", "appropriate congressional committees", and "United States-supported microfinance institution" for purposes of this section.

Division D—Miscellaneous Provisions

§2214. Report

(a) In general

Not later than June 30, 2006, and each June 30 thereafter, the Administrator of the Agency, acting through the Director of the office, shall submit to the appropriate congressional committees a report that contains a detailed description of the implementation of this subpart for the previous fiscal year.

(b) Contents

The report shall contain the following:

(1) The number of grants, cooperative agreements, contracts, contributions, or other form of assistance provided under section 2211a of this title, with a listing of—

(A) the amount of each grant, cooperative agreement, contract, contribution, or other form of assistance;

(B) the name of each recipient and each developing country with respect to which projects or activities under the grant, cooperative agreement, contract, contribution, or other form of assistance were carried out; and

(C) a listing of the number of countries receiving assistance authorized by section 2211a of this title.

(2) The results of the monitoring system required under section 2211b of this title.

(3) The process of developing and applying poverty assessment procedures required under section 2211c of this title.

(4) The percentage of assistance furnished under section 2211a of this title that was allocated to the very poor based on the data collected using the certified methods required by section 2211c of this title.

(5) The estimated number of the very poor reached with assistance provided under section 2211a of this title.

(6) The amount of assistance provided under section 2211a of this title through central mechanisms.

(7) The name of each country that receives assistance under section 2212 of this title and the amount of such assistance.

(8) Information on the efforts of the Agency to ensure that recipients of United States microenterprise and microfinance development assistance work closely with nongovernmental organizations and foreign governments to identify and assist victims or potential victims of severe forms of trafficking in persons and women who are victims of or susceptible to other forms of exploitation and violence.

(9) Any additional information relating to the provision of assistance authorized by this subpart, including the use of the poverty measurement tools required by section 2211c of this title, or

additional information on assistance provided by the United States to support microenterprise development under this subpart or any other provision of law.

(10) An estimate of the percentage of beneficiaries of assistance under this subpart in countries where a strong relationship between poverty and race or ethnicity has been demonstrated.

(11) The level of funding provided through contracts, the level of funding provided through grants, contracts, and cooperative agreements that is estimated to be subgranted or subcontracted, as the case may be, to direct service providers, and an analysis of the comparative cost-effectiveness and sustainability of projects carried out under these mechanisms.

(c) Availability to public

The report required by this section shall be made available to the public on the Internet website of the Agency.

(Pub. L. 87–195, pt. I, §258, as added Pub. L. 108–484, §6, Dec. 23, 2004, 118 Stat. 3928.)

§2214a. Definitions

In this subpart:

(1) Administrator

The term "Administrator" means the Administrator of the Agency.

(2) Agency

The term "Agency" means the United States Agency for International Development.

(3) Appropriate congressional committees

The term "appropriate congressional committees" means the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate.

(4) Business development services

The term "business development services" means support for the growth of microenterprises through training, technical assistance, marketing assistance, improved production technologies, and other related services.

(5) Director

The term "Director" means the Director of the office.

(6) Implementing partner organization

The term "implementing partner organization" means an entity eligible to receive assistance under this subpart which is—

(A) a United States or an indigenous private voluntary organization;
(B) a United States or an indigenous credit union;
(C) a United States or an indigenous cooperative organization;
(D) an indigenous governmental or nongovernmental organization;
(E) a microenterprise institution;
(F) a microfinance institution; or
(G) a practitioner institution.

(7) Microenterprise institution

The term "microenterprise institution" means a not-for-profit entity that provides services, including microfinance, training, or business development services, for microenterprise clients in foreign countries.

(8) Microfinance institution

The term "microfinance institution" means a not-for-profit entity or a regulated financial intermediary that directly provides, or works to expand, the availability of credit, savings, and other financial services to microfinance and microenterprise clients in foreign countries.

(9) Microfinance network

The term "microfinance network" means an affiliated group of practitioner institutions that provides services to its members, including financing, technical assistance, and accreditation, for the purpose of promoting the financial sustainability and societal impact of microenterprise assistance.

(10) Office

The term "office" means the office of microenterprise development established under section 2211a(b)(1) of this title.

(11) Practitioner institution

The term "practitioner institution" means a not-for-profit entity or a regulated financial intermediary, including a microfinance network, that provides services, including microfinance, training, or business development services, for microfinance and microenterprise clients, or provides assistance to microenterprise institutions in foreign countries.

(12) Private voluntary organization

The term "private voluntary organization" means a not-for-profit entity that—

(A) engages in and supports activities of an economic or social development or humanitarian nature for citizens in foreign countries; and

(B) is incorporated as such under the laws of the United States, including any of its states, territories or the District of Columbia, or of a foreign country.

(13) United States-supported microfinance institution

The term "United States-supported microfinance institution" means a financial intermediary that has received funds made available under subchapter I of this chapter for fiscal year 1980 or any subsequent fiscal year.

(14) Very poor

The term "very poor" means those individuals—

(A) living in the bottom 50 percent below the poverty line established by the national government of the country in which those individuals live; or

(B) living on less than the equivalent of $1 per day (as calculated using the purchasing power parity (PPP) exchange rate method).

(Pub. L. 87–195, pt. I, §259, as added Pub. L. 108–484, §6, Dec. 23, 2004, 118 Stat. 3929.)

REFERENCES TO SUBCHAPTER I DEEMED TO INCLUDE CERTAIN PARTS OF SUBCHAPTER II

References to subchapter I of this chapter are deemed to include parts IV (§2346 et seq.), VI (§2348 et seq.), and VIII (§2349aa et seq.) of subchapter II of this chapter, and references to subchapter II are deemed to exclude such parts. See section 202(b) of Pub. L. 92–226, set out as a note under section 2346 of this title, and sections 2348c and 2349aa–5 of this title.

CHANGE OF NAME

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

SUBPART VII—EVALUATION OF PROGRAMS

§2216. Repealed. Pub. L. 95–424, title I, §102(g)(1)(A), Oct. 6, 1978, 92 Stat. 942

Section, Pub. L. 87–195, pt. I, §261, as added Pub. L. 88–205, pt. I, §107, Dec. 16, 1963, 77 Stat. 383, related to appointment of a committee to review and evaluate economic development program for less developed countries.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1978, see section 605 of Pub. L. 95–424, set out as an Effective Date of 1978 Amendment note under section 2151 of this title.

SUBPART VIII—SOUTHEAST ASIA MULTILATERAL AND REGIONAL PROGRAMS

§§2217, 2217a. Repealed. Pub. L. 95–424, title I, §102(g)(1)(A), Oct. 6, 1978, 92 Stat. 942

Section 2217, Pub. L. 87–195, pt. I, §271, as added Pub. L. 89–583, pt. I, §106, Sept. 19, 1966, 80 Stat. 799, set forth sense of Congress that acceleration of social and economic progress would be served by an expanded effort by countries of southeast Asia and other interested countries in cooperative programs.

Section 2217a, Pub. L. 87–195, pt. I, §272, as added Pub. L. 89–583, pt. I, §106, Sept. 19, 1966, 80 Stat. 800, related to a number of criteria to be taken into account in providing assistance under the Southeast Asia Multilateral and Regional Programs.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1978, see section 605 of Pub. L. 95–424, set out as an Effective Date of 1978 Amendment note under section 2151 of this title.

§2217b. Repealed. Pub. L. 90–137, pt. I, §107, Nov. 14, 1967, 81 Stat. 452

Section, Pub. L. 87–195, pt. I, §273, as added Pub. L. 89–583, pt. I, §106, Sept. 19, 1966, 80 Stat. 800, prescribed a $10,000,000 limitation on use of funds for promotion of social and economic development and stability in southeast Asia.

SUBPART IX—UTILIZATION OF DEMOCRATIC INSTITUTIONS IN DEVELOPMENT

§2218. Utilization of democratic institutions in development

(a) Popular participation through encouragement of democratic institutions

In carrying out programs authorized in this part and part I of this subchapter, emphasis shall be placed on assuring maximum participation in the task of economic development on the part of the people of the developing countries, through the encouragement of democratic private and local governmental institutions.

(b) Human and intellectual resources; self-government through civic education and training in requisite skills

In order to carry out the purposes of this section programs under this part and part I of this subchapter shall—

(1) recognize the differing needs, desires, and capacities of the people of the respective developing countries and areas;

(2) use the intellectual resources of such countries and areas in conjunction with assistance provided under this chapter so as to encourage the development of indigenous institutions that meet their particular requirements for sustained economic and social progress; and

(3) support civic education and training in skills required for effective participation in

governmental and political processes essential to self-government.

(c) Political, social, and related obstacles to development; democratic social and political trends

In the allocation of funds for research under this part and part I of this subchapter, emphasis shall be given to research designed to examine the political, social, and related obstacles to development in countries receiving assistance under subchapter I of this chapter. In particular, emphasis should be given to research designed to increase understanding of the ways in which development assistance can support democratic social and political trends in recipient countries.

(d) Implementation of objectives through application of experience gained from program evaluation

Emphasis shall also be given to the evaluation of relevant past and current programs under subchapter I of this chapter and to applying this experience so as to strengthen their effectiveness in implementing the objectives of this section.

(e) Inservice training programs

In order to carry out the purposes of this section, the agency primarily responsible for administering subchapter I of this chapter shall develop systematic programs of inservice training to familiarize its personnel with the objectives of this section and to increase their knowledge of the political and social aspects of development. In addition to other funds available for such purposes, not to exceed 1 per centum of the funds authorized to be appropriated for grant assistance under this part and part I of this subchapter may be used for carrying out the objectives of this subsection.

(Pub. L. 87–195, pt. I, §281, as added Pub. L. 89–583, pt. I, §106, Sept. 19, 1966, 80 Stat. 800; amended Pub. L. 90–137, pt. I, §108, Nov. 14, 1967, 81 Stat. 452; Pub. L. 90–554, pt. I, §106, Oct. 8, 1968, 82 Stat. 961; Pub. L. 95–424, title I, §102(g)(2)(A), Oct. 6, 1978, 92 Stat. 942.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b)(2), was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

REFERENCES TO SUBCHAPTER I DEEMED TO INCLUDE CERTAIN PARTS OF SUBCHAPTER II

References to subchapter I of this chapter are deemed to include parts IV (§2346 et seq.), VI (§2348 et seq.), and VIII (§2349aa et seq.) of subchapter II of this chapter, and references to subchapter II are deemed to exclude such parts. See section 202(b) of Pub. L. 92–226, set out as a note under section 2346 of this title, and sections 2348c and 2349aa–5 of this title.

REFERENCES TO PART I DEEMED TO INCLUDE SECTION 2293

References to part I of this subchapter are deemed to include a reference to section 2293 of this title. See section 2293(d)(1) of this title.

AMENDMENTS

1978—Subsecs. (a), (b), (c), (e). Pub. L. 95–424 inserted "and part 1 of this subchapter" after "this part".

1968—Subsec. (c). Pub. L. 90–554, §106(a), emphasized research designed to increase understanding of ways in which development assistance can support democratic social and political trends in recipient countries.

Subsec. (e). Pub. L. 90–554, §106(b), added subsec. (e).

1967—Pub. L. 90–137 designated existing provisions as subsec. (a) and added subsecs. (b) to (d).

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–424 effective Oct. 1, 1978, see section 605 of Pub. L. 95–424, set out as a note under section 2151 of this title.

SUBPART X—PROGRAMS RELATING TO POPULATION GROWTH AND

§§2219, 2219a. Repealed. Pub. L. 95–424, title I, §104(b), Oct. 6, 1978, 92 Stat. 947

Section 2219, Pub. L. 87–195, pt. I, §291, as added Pub. L. 90–137, pt. I, §109, Nov. 14, 1967, 81 Stat. 452, set forth a general statement of policy concerning population growth and family planning.

Section 2219a, Pub. L. 87–195, pt. I, §292, as added Pub. L. 90–137, pt. I, §109, Nov. 14, 1967, 81 Stat. 453; amended Pub. L. 90–554, pt. I, §107, Oct. 8, 1968, 82 Stat. 962; Pub. L. 91–175, pt. I, §107, Dec. 30, 1969, 83 Stat. 818; Pub. L. 92–226, pt. I, §106, Feb. 7, 1972, 86 Stat. 23; Pub. L. 93–189, §8, Dec. 17, 1973, 87 Stat. 718; Pub. L. 93–559, §4(2), Dec. 30, 1974, 88 Stat. 1795, related to the availability of funds on a loan or grant basis to carry out the purposes of this subpart.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1978, see section 605 of Pub. L. 95–424, set out as an Effective Date of 1978 Amendment note under section 2151 of this title.

SUBPART XI—FOOD PRODUCTION TARGETS AND REPORTS

§2220. Repealed. Pub. L. 95–424, title V, §502(d)(1), Oct. 6, 1978, 92 Stat. 959

Section, Pub. L. 87–195, pt. I, §295, as added Pub. L. 90–137, pt. I, §109, Nov. 14, 1967, 81 Stat. 453, related to reports and recommendations to Congress by the President for each country receiving assistance under this chapter which the President finds has a substantial food deficit.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1978, see section 605 of Pub. L. 95–424, set out as an Effective Date of 1978 Amendment note under section 2151 of this title.

SUBPART XII—FAMINE PREVENTION AND FREEDOM FROM HUNGER

§2220a. General provisions

(a) Congressional objectives and findings

The Congress declares that, in order to achieve the mutual goals among nations of ensuring food security, human health, agricultural growth, trade expansion, and the wise and sustainable use of natural resources, the United States should mobilize the capacities of the United States land-grant universities, other eligible universities, and public and private partners of universities in the United States and other countries, consistent with sections 2151a and 2151a–1 of this title, for: (1) global research on problems affecting food, agriculture, forestry, and fisheries; (2) improved human capacity and institutional resource development for the global application of agricultural and related environmental sciences; (3) agricultural development and trade research and extension services in the United States and other countries to support the entry of rural industries into world markets; and (4) providing for the application of agricultural sciences to solving food, health, nutrition, rural income, and environmental problems, especially such problems in low-income, food deficit countries.

The Congress so declares because it finds—

(A) that the establishment, endowment, and continuing support of land-grant universities in the United States by Federal, State, and county governments has led to agricultural progress with and through the private sector in this country and to understanding processes of economic

development;

(B) that land-grant and other universities in the United States have demonstrated over many years their ability to cooperate with international agencies, educational and research institutions in other countries, the private sector, and nongovernmental organizations worldwide, in expanding global agricultural production, processing, business and trade, to the benefit of aid recipient countries and of the United States;

(C) that, in a world of growing populations with rising expectations, increased food production and improved distribution, storage, and marketing in the developing countries is necessary not only to prevent hunger and ensure human health and child survival, but to build the basis for economic growth and trade, and the social security in which democracy and a market economy can thrive, and moreover, that the greatest potential for increasing world food supplies and incomes to purchase food is in the developing countries where the gap between food need and food supply is the greatest and current incomes are lowest;

(D) that increasing and making more secure the supply of food is of greatest benefit to the poorest majority in the developing world;

(E) that, with expanding global markets and increasing imports into many countries, including the United States, food safety and quality, as well as secure supply, have emerged as mutual concerns of all countries;

(F) that research, teaching, and extension activities, and appropriate institutional and policy development therefore are prime factors in improving agricultural production, food distribution, processing, storage, and marketing abroad (as well as in the United States);

(G) moreover, that agricultural research abroad has in the past and will continue in the future to provide benefits for agriculture and the broader economy of the United States and that increasing the availability of food of higher nutritional quality is of benefit to all;

(H) that there is a need to responsibly manage the world's agricultural and natural resources for sustained productivity, health and resilience to climate variability; and

(I) that universities and public and private partners of universities need a dependable source of funding in order to increase the impact of their own investments and those of their State governments and constituencies, in order to continue and expand their efforts to advance agricultural development in cooperating countries, to translate development into economic growth and trade for the United States and cooperating countries, and to prepare future teachers, researchers, extension specialists, entrepreneurs, managers, and decisionmakers for the world economy.

(b) Congressional declaration for collation of components to increase world food production

Accordingly, the Congress declares that, in order to prevent famine and establish freedom from hunger, the following components must be brought together in a coordinated program to increase world food and fiber production, agricultural trade, and responsible management of natural resources, including—

(1) continued efforts by the international agricultural research centers and other international research entities to provide a global network, including United States universities, for international scientific collaboration on crops, livestock, forests, fisheries, farming resources, and food systems of worldwide importance;

(2) contract research and the implementation of collaborative research support programs and other research collaboration led by United States universities, and involving research systems in other countries focused on crops, livestock, forests, fisheries, farming resources, and food systems, with benefits to the United States and partner countries;

(3) broadly disseminating the benefits of global agricultural research and development including increased benefits for United States agriculturally related industries through establishment of development and trade information and service centers, for rural as well as urban communities, through extension, cooperatively with, and supportive of, existing public and private trade and development related organizations;

(4) facilitation of participation by universities and public and private partners of universities in programs of multilateral banks and agencies which receive United States funds;

(5) expanding learning opportunities about global agriculture for students, teachers, community leaders, entrepreneurs, and the general public through international internships and exchanges, graduate assistantships, faculty positions, and other means of education and extension through long-term recurring Federal funds matched by State funds; and

(6) competitive grants through universities to United States agriculturalists and public and private partners of universities from other countries for research, institution and policy development, extension, training, and other programs for global agricultural development, trade, and responsible management of natural resources.

(c) University involvement, participation, and cooperation

The United States should—

(1) effectively involve the United States land-grant and other eligible universities more extensively in each of the program components described in paragraphs (1) through (6) of subsection (b);

(2) provide mechanisms for the universities and public and private partners of universities to participate and advise in the planning, development, implementation, and administration of each component;

(3) assist such universities and public and private partners of universities in cooperative joint efforts with—

(A) agricultural institutions in developing nations;

(B) regional and international agricultural research centers;

(C) multilateral banks and agencies receiving United States funds;

(D) development agencies of other countries; and

(E) United States Government foreign assistance and economic cooperation programs;

(4) generally engage the United States university community more extensively in the agricultural research, trade, and development initiatives undertaken outside the United States, with the objectives of strengthening its capacity to carry out research, teaching, and extension activities for solving problems in food production, processing, marketing, and consumption in agriculturally developing nations, and for transforming progress in global agricultural research and development into economic growth, trade, and trade benefits for aid recipient countries and United States communities and industries, and for the wise use of natural resources; and

(5) ensure that all federally funded support to universities and public and private partners of universities relating to the goals of this subpart is periodically reviewed for its performance.

(d) Universities

As used in this subpart, the term "universities" means those colleges or universities in each State, territory, or possession of the United States, or the District of Columbia, now receiving, or which may hereafter receive, benefits under the Act of July 2, 1862 (known as the First Morrill Act) [7 U.S.C. 301 et seq.], or the Act of August 30, 1890 (known as the Second Morrill Act) [7 U.S.C. 321 et seq.], which are commonly known as "land-grant" universities; institutions now designated or which may hereafter be designated as sea-grant colleges under the Act of October 15, 1966 (known as the National Sea Grant College and Program Act) [33 U.S.C. 1121 et seq.], which are commonly known as sea-grant colleges; Native American land-grant colleges as authorized under the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note); and other United States colleges and universities which—

(1) have demonstrable capacity in teaching, research, and extension (including outreach) activities in the agricultural sciences; and

(2) can contribute effectively to the attainment of the objectives of this subpart.

(e) Administrator

As used in this subpart, the term "Administrator" means the Administrator of the United States Agency for International Development.

(f) Public and private partners of universities

As used in this subpart, the term "public and private partners of universities" includes entities that have cooperative or contractual agreements with universities, which may include formal or informal associations of universities, other education institutions, United States Government and State agencies, private voluntary organizations, nongovernmental organizations, firms operated for profit, nonprofit organizations, multinational banks, and, as designated by the Administrator, any organization, institution, or agency incorporated in other countries.

(g) Agriculture

As used in this subpart, the term "agriculture" includes the science and practice of activity related to food, feed, and fiber production, processing, marketing, distribution, utilization, and trade, and also includes family and consumer sciences, nutrition, food science and engineering, agricultural economics and other social sciences, forestry, wildlife, fisheries, aquaculture, floraculture, veterinary medicine, and other environmental and natural resources sciences.

(h) Agriculturists

As used in this subpart, the term "agriculturists" includes farmers, herders, and livestock producers, individuals who fish and others employed in cultivating and harvesting food resources from salt and fresh waters, individuals who cultivate trees and shrubs and harvest nontimber forest products, as well as the processors, managers, teachers, extension specialists, researchers, policymakers, and others who are engaged in the food, feed, and fiber system and its relationships to natural resources.

(Pub. L. 87–195, pt. I, §296, as added Pub. L. 94–161, title III, §312, Dec. 20, 1975, 89 Stat. 861; amended Pub. L. 95–424, title I, §103(c), Oct. 6, 1978, 92 Stat. 945; Pub. L. 106–373, §2, Oct. 27, 2000, 114 Stat. 1427.)

REFERENCES IN TEXT

The First Morrill Act and the Second Morrill Act, referred to in subsec. (d), refer to acts July 2, 1862, ch. 130, 12 Stat. 503, and Aug. 30, 1890, ch. 841, 26 Stat. 417, as amended, which are classified generally to subchapters I (§301 et seq.) and II (§321 et seq.), respectively, of chapter 13 of Title 7, Agriculture. For complete classification of these Acts to the Code, see Short Title notes set out under sections 301 and 321 of Title 7 and Tables.

The National Sea Grant College and Program Act, referred to in subsec. (d), is title II of Pub. L. 89–454, as added Pub. L. 89–688, §1, Oct. 15, 1966, 80 Stat. 998, as amended, which is classified generally to subchapter II (§1121 et seq.) of chapter 22 of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1121 of Title 33 and Tables.

The Equity in Educational Land-Grant Status Act of 1994, referred to in subsec. (d), is Pub. L. 103–382, title V, part C, Oct. 20, 1994, 108 Stat. 4048, as amended, which is set out as a note under section 301 of Title 7, Agriculture. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

2000—Subsec. (a). Pub. L. 106–373, §2(a)(2)(A), in second sentence, redesignated pars. (1) to (7) as subpars. (A) to (G), respectively.

Pub. L. 106–373, §2(a)(1), amended first sentence generally. Prior to amendment, first sentence read as follows: "The Congress declares that, in order to prevent famine and establish freedom from hunger, the United States should strengthen the capacities of the United States land-grant and other eligible universities in program-related agricultural institutional development and research, consistent with sections 2151a and 2151a–1 of this title, should improve their participation in the United States Government's international efforts to apply more effective agricultural sciences to the goal of increasing world food production, and in general should provide increased and longer term support to the application of science to solving food and nutrition problems of the developing countries."

Subsec. (a)(A). Pub. L. 106–373, §2(a)(2)(B), substituted "with and through the private sector in this country and to understanding processes of economic development" for "in this country".

Subsec. (a)(B). Pub. L. 106–373, §2(a)(2)(C), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: "that land-grant and other universities in the United States have demonstrated over many years their ability to cooperate with foreign agricultural institutions in expanding indigenous food production for both domestic and international markets;".

Subsec. (a)(C). Pub. L. 106–373, §2(a)(2)(D), amended subpar. (C) generally. Prior to amendment, subpar.

(C) read as follows: "that, in a world of growing population with rising expectations, increased food production and improved distribution, storage, and marketing in the developing countries is necessary not only to prevent hunger but to build the economic base for growth, and moreover, that the greatest potential for increasing world food supplies is in the developing countries where the gap between food need and food supply is the greatest and current yields are lowest;".

Subsec. (a)(E). Pub. L. 106–373, §2(a)(2)(E), (H), added subpar. (E) and struck out former subpar. (E) which read as follows: "that research, teaching, and extension activities, and appropriate institutional development therefor are prime factors in increasing agricultural production abroad (as well as in the United States) and in improving food distribution, storage, and marketing;".

Subsec. (a)(F). Pub. L. 106–373, §2(a)(2)(H), added subpar. (F). Former subpar. (F) redesignated (G).

Subsec. (a)(G). Pub. L. 106–373, §2(a)(2)(E), (G), (I), redesignated subpar. (F) as (G), substituted "and the broader economy of the United States" for "in the United States", and struck out former subpar. (G) which read as follows: "that universities need a dependable source of Federal funding, as well as other financing, in order to expand, or in some cases to continue, their efforts to assist in increasing agricultural production in developing countries."

Subsec. (a)(H), (I). Pub. L. 106–373, §2(a)(2)(F), (J), added subpars. (H) and (I).

Subsec. (b). Pub. L. 106–373, §2(b), amended subsec. (b) generally. Prior to amendment, subsec. (b) contained declaration of Congress that various components had to be brought together in order to increase world food production.

Subsec. (c)(1). Pub. L. 106–373, §2(c)(1), substituted "each of the program components described in paragraphs (1) through (6) of subsection (b)" for "each component".

Subsec. (c)(2). Pub. L. 106–373, §2(c)(2)(A), inserted "and public and private partners of universities" after "for the universities".

Subsec. (c)(3). Pub. L. 106–373, §2(c)(3), inserted "and public and private partners of universities" after "such universities" in introductory provisions, added subpars. (C) to (E), and struck out concluding provisions which read as follows: "directed to strengthening their joint and respective capabilities and to engage them more effectively in research, teaching, and extension activities for solving problems in food production, distribution, storage, marketing, and consumption in agriculturally underdeveloped nations."

Subsec. (c)(4), (5). Pub. L. 106–373, §2(c)(2)(B), (4), added pars. (4) and (5).

Subsec. (d). Pub. L. 106–373, §2(d)(1), inserted "Native American land-grant colleges as authorized under the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note);" after "sea-grant colleges;" in introductory provisions.

Subsec. (d)(1). Pub. L. 106–373, §2(d)(2), substituted "extension (including outreach)" for "extension".

Subsec. (e). Pub. L. 106–373, §2(e), inserted "United States" before "Agency".

Subsecs. (f) to (h). Pub. L. 106–373, §2(f)—(h), added subsecs. (f) to (h).

1978—Subsecs. (f), (g). Pub. L. 95–424 struck out subsecs. (f) defining "agriculture", and (g) defining "farmers".

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–424 effective Oct. 1, 1978, see section 605 of Pub. L. 95–424, set out as a note under section 2151 of this title.

GLOBAL CROP DIVERSITY TRUST

Pub. L. 110–246, title III, §3202, June 18, 2008, 122 Stat. 1836, as amended by Pub. L. 113–79, title III, §3206, Feb. 7, 2014, 128 Stat. 780, provided that:

"(a) CONTRIBUTION.—The Administrator of the United States Agency for International Development shall contribute funds to endow the Global Crop Diversity Trust (referred to in this section as the 'Trust') to assist in the conservation of genetic diversity in food crops through the collection and storage of the germplasm of food crops in a manner that provides for—

"(1) the maintenance and storage of seed collections;

"(2) the documentation and cataloguing of the genetics and characteristics of conserved seeds to ensure efficient reference for researchers, plant breeders, and the public;

"(3) building the capacity of seed collection in developing countries;

"(4) making information regarding crop genetic data publicly available for researchers, plant breeders, and the public (including through the provision of an accessible Internet website);

"(5) the operation and maintenance of a back-up facility in which are stored duplicate samples of seeds, in the case of natural or man-made disasters; and

"(6) oversight designed to ensure international coordination of those actions and efficient, public accessibility to that diversity through a cost-effective system.

"(b) UNITED STATES CONTRIBUTION LIMIT.—The aggregate contributions of funds of the Federal Government provided to the Trust shall not exceed 25 percent of the total amount of funds contributed to the Trust from all sources.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $60,000,000 for the period of fiscal years 2014 through 2018."

INTERNATIONAL FOOD RESERVE

Pub. L. 95–426, title VI, §604, Oct. 7, 1978, 92 Stat. 986, provided that:

"(a) The Congress finds that—

"(1) half a billion people suffer regularly from malnutrition or undernutrition;

"(2) even very modest shortfalls in crop production can result in greatly increased human suffering, and undercut the benefits of bilateral and multilateral assistance programs, in poor developing countries with chronic food deficits;

"(3) increasing variability in world food production and trade presents a serious threat not only to consumers but also to producers;

"(4) the World Food Conference recognized the urgent need for an international undertaking to achieve a system of world food security based largely upon strategic food reserves;

"(5) the Congress through legislation has repeatedly urged the President to negotiate with other nations to establish such a system of reserves;

"(6) although the nations of the world have agreed to begin discussions on a system of grain reserves to regulate food availability, agreement on a global network of nationally held reserves still eludes the international community;

"(7) while some progress has taken place in the United States in creating domestic farmer held reserves, the scale of such reserves does not insure adequate protection against fluctuations in world production and price; and

"(8) the United States, as the world's leading producer of foodstuffs, remains in a unique position to provide the leadership necessary to make world food security a reality.

"(b) It is therefore the sense of the Congress that the President should continue his efforts directed toward achievement of an agreement establishing an international network of nationally held grain reserves which provides for supply assurance to consumers and income security to producers."

Similar provisions were contained in the following prior authorization act:

Pub. L. 95–105, title V, §510, Aug. 17, 1977, 91 Stat. 860.

COMMISSION ON HUNGER AND MALNUTRITION

Pub. L. 95–426, title VII, §711, Oct. 7, 1978, 92 Stat. 994, which authorized funds to be appropriated for fiscal years 1979 and 1980 for a commission to conduct studies on global hunger and malnutrition, which commission was to make recommendations to the President and Congress on policies to increase the capacity of the United States to reduce hunger and malnutrition, was repealed by Pub. L. 97–241, title V, §505(a)(2), Aug. 24, 1982, 96 Stat. 299.

SETTLEMENT OF DEBT OWED THE UNITED STATES

Pub. L. 94–161, title III, §321, Dec. 20, 1975, 89 Stat. 868, provided that: "No debt owed to the United States by any foreign country with respect to the payment of any loan made under any program funded under this Act [see Short Title of 1975 Amendment note set out under section 2151 of this title] may be settled in an amount less than the full amount of such debt unless the Congress by concurrent resolution approves of such settlement."

COOPERATION WITH OTHER COUNTRIES IN ALLEVIATING WORLD FOOD SHORTAGE; EMERGENCY AND HUMANITARIAN REQUIREMENTS

Pub. L. 93–189, §39, Dec. 17, 1973, 87 Stat. 735, as amended by Pub. L. 110–246, title III, §3001(c), June 18, 2008, 122 Stat. 1821, provided that:

"(a) It is the sense of the Congress that the United States should participate fully in efforts to alleviate current and future food shortages which threaten the world. To this end, the President shall—

"(1) encourage, support, and expedite, studies relating to the long-range implications of the world food situation (including studies of national and world production, distribution, and utilization of agricultural commodities and other foodstuffs) and support the organizing of a world food conference under United Nations auspices in 1974;

"(2) request the member nations of the General Agreement on Tariffs and Trade to explore the means for assuring equitable access by all nations to national markets and mineral and agricultural resources;

"(3) consult and cooperate with appropriate international agencies, such as the Food and Agriculture Organization of the United Nations, in determining the need for, the feasibility of, and cost on an equitably-shared basis of, establishing an international system of strategic food reserves; and

"(4) report his findings and recommendations to the Congress on the implementation of this section no later than December 31, 1974.

"(b) It is further the sense of the Congress that—

"(1) in making assessments which would affect or relate to the level of domestic production, the Executive Branch should include in the estimates of overall utilization the expected demands for humanitarian food assistance through such programs as are carried out under the Food for Peace Act (Public Law 480) [7 U.S.C. 1691 et seq.]; and

"(2) legislation providing increased flexibility for responding to emergency and humanitarian requirements for food assistance should be considered as promptly as possible to the end that the last sentence of section 401 of the Food for Peace Act (Public Law 480) [7 U.S.C. 1731], may be amended by striking the period and inserting in lieu thereof a comma and the following: 'unless the Secretary determines that some part of the exportable supply should be used to carry out the national interest and humanitarian objectives of this Act [see Short Title of 1973 Amendment note set out under section 2151 of this title]'."

§2220b. General authority

(a) Programs and activities affecting universities, agriculturally developing countries, and research

To carry out the purposes of this subpart, the President is authorized to provide assistance on such terms and conditions as he shall determine—

(1) to implement program components through United States universities as authorized by paragraphs (2) through (5) of this subsection;

(2) to build and strengthen the institutional capacity and human resource skills of agriculturally developing countries so that these countries may participate more fully in the international agricultural problem-solving effort and to introduce and adapt new solutions to local circumstances;

(3) to provide long-term program support for United States university global agricultural and related environmental collaborative research and learning opportunities for students, teachers, extension specialists, researchers, and the general public;

(4) to involve United States universities more fully in the international network of agricultural science, including the international agricultural research centers, the activities of international organizations such as the United Nations Development Program and the Food and Agriculture Organization, multilateral banks, the institutions of agriculturally developing nations, and United States and foreign nongovernmental organizations supporting extension and other productivity-enhancing programs; and

(5) to provide program support for international agricultural research centers, to provide support for research projects identified for specific problem-solving needs, and to develop and strengthen national research systems in the developing countries.

(b) Programs and activities respecting university capabilities, benefiting domestic and nondomestic agriculture, and based on existing programs and institutions

Programs under this subpart shall be carried out so as to—

(1) utilize and strengthen the capabilities of United States universities with public and private partners of universities in—

(A) developing capacity in the cooperating nation for classroom teaching in agriculture, plant and animal sciences, human nutrition, and vocational and domestic arts and other relevant fields appropriate to local needs;

(B) agricultural research to be conducted in the cooperating nations, at international agricultural research centers, or in the United States;

(C) the planning, initiation, and development of extension services through which information concerning agriculture, environment, and related subjects will be made available

directly to agriculturalists in the agriculturally developing nations by means of education and demonstration; or

(D) the exchange of educators, scientists, and students for the purpose of assisting in successful development in the cooperating nations;

(2) take into account the value to United States agriculture of such programs, integrating to the extent practicable the programs and financing authorized under this subpart with those supported by other Federal or State resources, including resources of the private sector, so as to maximize the contribution to the development of agriculture in the United States and in agriculturally developing nations; and

(3) whenever practicable, build on existing programs and institutions including those of the universities, the Department of Agriculture, State agricultural agencies, the Department of Commerce, the Department of the Interior, the Environmental Protection Agency, the Office of the United States Trade Representative, the Food and Drug Administration, other appropriate Federal agencies, and appropriate nongovernmental and business organizations.

(c) Activity objectives

To the maximum extent practicable, activities under this section shall—

(1) be directly related to the food and agricultural needs of developing countries;

(2) focus primarily on the needs of agricultural producers, rural families, processors, traders, consumers, and natural resources managers;

(3) be adapted to local circumstances;

(4) be carried out within the developing countries and transition countries comprising newly emerging democracies and newly liberalized economies; and

(5) emphasize the improvement of local systems for delivering the best available knowledge to the small farmers of such countries.

(d) Function of Administrator

The President shall exercise his authority under this section through the Administrator.

(e) Special programs

The Administrator shall establish and carry out special programs under this subpart as part of ongoing programs for child survival, democratization, development of free enterprise, environmental and natural resource management, and other related programs.

(Pub. L. 87–195, pt. I, §297, as added Pub. L. 94–161, title III, §312, Dec. 20, 1975, 89 Stat. 863; amended Pub. L. 96–53, title I, §113, Aug. 14, 1979, 93 Stat. 364; Pub. L. 106–373, §3, Oct. 27, 2000, 114 Stat. 1431.)

AMENDMENTS

2000—Subsec. (a)(1). Pub. L. 106–373, §3(a)(1), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "to strengthen the capabilities of universities in teaching, research, and extension work to enable them to implement current programs authorized by paragraphs (2), (3), (4), and (5) of this subsection, and those proposed in the report required by section 2220e of this title;".

Subsec. (a)(3). Pub. L. 106–373, §3(a)(2), amended par. (3) generally. Prior to amendment, par. (3) read as follows: "to provide program support for long-term collaborative university research, in the developing countries themselves to the maximum extent practicable, on food production, distribution, storage, marketing, and consumption;".

Subsec. (a)(4). Pub. L. 106–373, §3(a)(3), inserted "United States" before "universities" and "agricultural" before "research centers" and substituted "multilateral banks, the institutions of agriculturally developing nations, and United States and foreign nongovernmental organizations supporting extension and other productivity-enhancing programs" for "and the institutions of agriculturally developing nations".

Subsec. (b)(1). Pub. L. 106–373, §3(b)(1)(A), substituted "United States universities with public and private partners of universities" for "universities" in introductory provisions.

Subsec. (b)(1)(C). Pub. L. 106–373, §3(b)(1)(B), inserted ", environment," before "and related" and substituted "agriculturalists" for "farmers and farm families".

Subsec. (b)(2). Pub. L. 106–373, §3(b)(2), inserted ", including resources of the private sector," after

"Federal or State resources".

Subsec. (b)(3). Pub. L. 106–373, §3(b)(3), substituted ", the Department of Agriculture, State agricultural agencies, the Department of Commerce, the Department of the Interior, the Environmental Protection Agency, the Office of the United States Trade Representative, the Food and Drug Administration, other appropriate Federal agencies, and appropriate nongovernmental and business organizations." for "and the United States Department of Agriculture and the United States Department of Commerce."

Subsec. (c)(2). Pub. L. 106–373, §3(c)(1), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "be carried out within the developing countries;".

Subsec. (c)(4). Pub. L. 106–373, §3(c)(2), amended par. (4) generally. Prior to amendment, par. (4) read as follows: "provide for the most effective interrelationship between research, education, and extension in promoting agricultural development in developing countries; and".

Subsec. (e). Pub. L. 106–373, §3(d), added subsec. (e).

1979—Subsec. (a)(3). Pub. L. 96–53, §113(1), inserted provision relating to the scope of effort in developing countries.

Subsec. (c). Pub. L. 96–53, §113(2), reworked activity objectives through revising terminology and structure and expanding such objectives to include requirement for a direct relationship between activities and the food and agricultural needs of developing countries.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–53 effective Oct. 1, 1979, see section 512(a) of Pub. L. 96–53, set out as a note under section 2151 of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§2220c. Board for International Food and Agricultural Development

(a) Establishment; terms and expenses of members

To assist in the administration of the programs authorized by this subpart, the President shall establish a permanent Board for International Food and Agricultural Development (hereafter in this subpart referred to as the "Board") consisting of seven members, not less than four to be selected from the universities. Terms of members shall be set by the President at the time of appointment. Members of the Board shall be entitled to such reimbursement for expenses incurred in the performance of their duties (including per diem in lieu of subsistence while away from their homes or regular place of business) as the President deems appropriate on a case-by-case basis.

(b) General areas of responsibility

The Board's general areas of responsibility shall include participating in the planning, development, and implementation of, initiating recommendations for, and monitoring, the activities described in section 2220b of this title.

(c) Specific, but not exclusive, duties

The Board's duties shall include, but not necessarily be limited to—

(1) participating in the formulation of basic policy, procedures, and criteria for project proposal review, selection, and monitoring;

(2) developing and keeping current a roster of universities—

(A) interested in exploring their potential for collaborative relationships with agricultural institutions, and with scientists working on significant programs designed to improve agricultural production, trade, and natural resource management in developing countries, and with private organizations seeking to increase agricultural production and trade, natural resources management, and household food security in developing and transition countries; [1]

(B) having capacity in the agricultural, environmental, and related social sciences,

(C) able to maintain an appropriate balance of teaching, research, and extension functions,

(D) having capacity, experience, and commitment with respect to international agricultural

efforts, and

(E) able to contribute to solving the problems addressed by this subpart;

(3) recommending which developing nations could benefit from programs carried out under this subpart, and identifying those nations which have an interest in establishing or developing agricultural institutions which engage in teaching, research, or extension activities;

(4) reviewing and evaluating memorandums of understanding or other documents that detail the terms and conditions between the Administrator and universities and their partners participating in programs under this subpart;

(5) reviewing and evaluating agreements and activities authorized by this subpart and undertaken by universities and public and private partners of universities to assure compliance with the purposes of this subpart;

(6) recommending to the Administrator the apportionment of funds under section 2220b of this title;

(7) assessing the impact of programs carried out under this subpart in solving agricultural problems and natural resource issues in the developing nations, assuring efficiency in use of Federal resources, including in accordance with the Governmental Performance and Results Act of 1993 (Public Law 103–62; 107 Stat. 285), and the amendments made by that Act;

(8) developing information exchanges and consulting regularly with nongovernmental organizations, consumer groups, producers, agribusinesses and associations, agricultural cooperatives and commodity groups, State departments of agriculture, State agricultural research and extension agencies, and academic institutions;

(9) investigating and resolving issues concerning implementation of this subpart as requested by universities; and

(10) advising the Administrator on any and all issues as requested.

(d) Subordinate units; creation of Joint Policy Committee, Joint Operations Committee, and other units

The President may authorize the Board to create such subordinate units as may be necessary for the performance of its duties, including but not limited to the following:

(1) a Joint Policy Committee to participate in the design and development of the collaborative activities described in section 2220b of this title; and

(2) a Joint Operations Committee which shall assist in and advise on the mechanisms and processes for implementation of activities described in section 2220b of this title.

(e) Consultations in preparation of annual report and on agricultural development activities

In addition to any other functions assigned to and agreed to by the Board, the Board shall be consulted in the preparation of the annual report required by section 2220e of this title and on other agricultural development activities related to programs under this subpart.

(Pub. L. 87–195, pt. I, §298, as added Pub. L. 94–161, title III, §312, Dec. 20, 1975, 89 Stat. 864; amended Pub. L. 106–373, §4, Oct. 27, 2000, 114 Stat. 1432.)

REFERENCES IN TEXT

The Governmental Performance and Results Act of 1993, referred to in subsec. (c)(7), probably means the Government Performance and Results Act of 1993, Pub. L. 103–62, Aug. 3, 1993, 107 Stat. 285, which enacted section 306 of Title 5, Government Organization and Employees, sections 1115 to 1119, 9703, and 9704 of Title 31, Money and Finance, and sections 2801 to 2805 of Title 39, Postal Service, amended section 1105 of Title 31, and enacted provisions set out as notes under sections 1101 and 1115 of Title 31. For complete classification of this Act to the Code, see Short Title of 1993 Amendment note set out under section 1101 of Title 31 and Tables.

AMENDMENTS

2000—Subsec. (a). Pub. L. 106–373, §4(a), inserted "on a case-by-case basis" before period at end of third sentence.

Subsec. (b). Pub. L. 106–373, §4(b), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as

follows: "The Board's general areas of responsibility shall include, but not be limited to—

"(1) participating in the planning, development, and implementation of,

"(2) initiating recommendations for, and

"(3) monitoring of,

the activities described in section 2220b of this title."

Subsec. (c)(2)(A). Pub. L. 106–373, §4(c)(1)(A), substituted "improve agricultural production, trade, and natural resource management in developing countries, and with private organizations seeking to increase agricultural production and trade, natural resources management, and household food security in developing and transition countries;" for "increase food production in developing countries,".

Subsec. (c)(2)(B). Pub. L. 106–373, §4(c)(1)(B), inserted ", environmental, and related social" before "sciences".

Subsec. (c)(4). Pub. L. 106–373, §4(c)(2), inserted "and their partners" after "Administrator and universities".

Subsec. (c)(5). Pub. L. 106–373, §4(c)(3), inserted "and public and private partners of universities" after "universities".

Subsec. (c)(7). Pub. L. 106–373, §4(c)(5), substituted "and natural resource issues in the developing nations, assuring efficiency in use of Federal resources, including in accordance with the Governmental Performance and Results Act of 1993 (Public Law 103–62; 107 Stat. 285), and the amendments made by that Act;" for "in the developing nations."

Subsec. (c)(8) to (10). Pub. L. 106–373, §4(c)(4), (6), added pars. (8) to (10).

Subsec. (d)(1). Pub. L. 106–373, §4(d)(1), substituted "Policy" for "Research", "design" for "administration", and "section 2220b" for "section 2220b(a)(3)".

Subsec. (d)(2). Pub. L. 106–373, §4(d)(2), substituted "Joint Operations Committee which shall assist in and advise on the mechanisms and processes for implementation of activities described in section 2220b of this title." for "Joint Committee on Country Programs which shall assist in the implementation of the bilateral activities described in sections 2220b(a)(2), 2220b(a)(4), and 2220b(a)(5) of this title."

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

[1] *So in original. The semicolon probably should be a comma.*

§2220d. Funds for programs and activities

(a) Funds available under section 2151a of this title unaffected by other provisions

The President is authorized to use any of the funds hereafter made available under section 2151a of this title to carry out the purposes of this subpart. Funds made available for such purposes may be used without regard to the provisions of sections 2151h(b) and 2151t(d) of this title.

(b) Foreign currencies

Foreign currencies owned by the United States and determined by the Secretary of the Treasury to be excess to the needs of the United States shall be used to the maximum extent possible in lieu of dollars in carrying out the provisions of this subpart.

(c) Other authorizations

Assistance authorized under this subpart shall be in addition to any allotments or grants that may be made under other authorizations.

(d) Disclosure of funds to Administrator; annual report

Universities may accept and expend funds from other sources, public and private, in order to carry out the purposes of this subpart. All such funds, both prospective and inhand, shall be periodically disclosed to the Administrator as he shall by regulation require, but no less often than in an annual report.

(Pub. L. 87–195, pt. I, §299, as added Pub. L. 94–161, title III, §312, Dec. 20, 1975, 89 Stat. 865; amended Pub. L. 95–424, title I, §102(c)(2), Oct. 6, 1978, 92 Stat. 941.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95–424 substituted "sections 2151h(b) and 2151t(d) of this title" for "sections 2151h(b), 2171(a), and 2171(d) of this title".

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–424 effective Oct. 1, 1978, see section 605 of Pub. L. 95–424, set out as a note under section 2151 of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§2220e. Presidential report to Congress

The President shall transmit to the Congress, not later than September 1 of each year, a report detailing the activities carried out pursuant to this subpart during the preceding fiscal year and containing a projection of programs and activities to be conducted during the subsequent five fiscal years. Each report shall contain a summary of the activities of the Board established pursuant to section 2220c of this title and may include the separate views of the Board with respect to any aspect of the programs conducted or proposed to be conducted under this subpart.

(Pub. L. 87–195, pt. I, §300, as added Pub. L. 94–161, title III, §312, Dec. 20, 1975, 89 Stat. 866; amended Pub. L. 106–373, §5, Oct. 27, 2000, 114 Stat. 1433.)

AMENDMENTS

2000—Pub. L. 106–373 substituted "September 1" for "April 1".

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103–7 (in which a report required under this section is listed on page 25), see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance.

PART III—INTERNATIONAL ORGANIZATIONS AND PROGRAMS

§2221. General authority

(a) Voluntary contributions; grants and loans in case of the Indus Basin Development Fund

When he determines it to be in the national interest, the President is authorized to make voluntary contributions on a grant basis to international organizations and to programs administered by such organizations, and in the case of the Indus Basin Development Fund administered by the International Bank for Reconstruction and Development to make grants and loans payable as to principal and interest in United States dollars and subject to the provisions of section 2151t(b) of this title, on such terms and conditions as he may determine, in order to further the purposes of subchapter I of this chapter.

(b) Repealed. Pub. L. 97–113, title VII, §734(a)(1), Dec. 29, 1981, 95 Stat. 1560

(c) Palestine refugees; considerations and conditions for furnishing assistance

No contributions by the United States shall be made to the United Nations Relief and Works

Agency for Palestine Refugees in the Near East except on the condition that the United Nations Relief and Works Agency take all possible measures to assure that no part of the United States contribution shall be used to furnish assistance to any refugee who is receiving military training as a member of the so-called Palestine Liberation Army or any other guerrilla type organization or who has engaged in any act of terrorism.

(d) Audit of funds; report to Congress and the President

In any case in which a fund established solely by United States contributions under this chapter or any other Act is administered by an international organization under the terms of an agreement between the United States and such international organization, such agreement shall provide that the Comptroller General of the United States shall conduct such audits as are necessary to assure that such fund is administered in accordance with such agreement. The President shall undertake to modify any existing agreement entered into before November 14, 1967, to conform to the requirements of the preceding sentence. The Comptroller General shall report simultaneously to the Congress and the President the results of the audits conducted under this subsection.

(e) Evaluation of United Nations and its affiliated organizations; International Bank for Reconstruction and Development; Asian Development Bank

(1) In the case of the United Nations and its affiliated organizations, including the International Atomic Energy Agency, the President shall, acting through the United States representative to such organizations, propose and actively seek the establishment by the governing authorities of such organizations of external, professionally qualified groups of appropriate size for the purpose of providing an independent and continuous program of selective examination, review, evaluation, and audits of the programs and activities of such organizations. Such proposal shall provide that such groups shall be established in accordance with such terms of reference as such governing authority may prescribe and that the reports of such groups on each examination, review, evaluation, or audit shall be submitted directly to such governing authority for transmittal to the representative of each individual member nation. Such proposal shall further include a statement of auditing and reporting standards, as prepared by the Comptroller General of the United States, for the consideration of the governing authority of the international organization concerned to assist in formulating terms of reference for such review and evaluation groups.

(2) In the case of the International Bank for Reconstruction and Development and the Asian Development Bank, the President shall, acting through the United States representative to such organizations, propose and actively seek the establishment by the governing authorities of such organizations professionally qualified groups of appropriate size for the purpose of providing an independent and continuous program of selective examination, review, evaluation, and audit of the programs and activities of such organizations. Such proposal shall provide that such groups shall be established in accordance with such terms of reference as such governing authorities may prescribe, and that the reports of such groups on each examination, review, evaluation, or audit shall be submitted directly to such governing authority for transmittal to the representative of each individual member nation. Such proposal shall further include a statement of auditing and reporting standards, as prepared by the Comptroller General of the United States, for the consideration of the governing authority of the international organization concerned to assist in formulating terms of reference for such review and evaluation groups.

(f) International Fertilizer Development Center; United States participation and assistance

The President is hereby authorized to permit United States participation in the International Fertilizer Development Center and is authorized to use any of the funds made available under this part for the purpose of furnishing assistance to the Center on such terms and conditions as he may determine.

(g) Transfer of funding of technological assistance programs to United Nations Development Program

It is the sense of the Congress that the President should instruct the appropriate representatives of the United States to the United Nations to encourage the specialized agencies of the United Nations

to transfer the funding of technical assistance programs carried out by such agencies to the United Nations Development Program.

(h) International Food Policy Research Institute; availability of funds, etc.

The President is authorized to permit the United States to participate in and to use any of the funds made available under subchapter I of this chapter after December 29, 1981, for the purpose of furnishing assistance (on such terms and conditions as the President may determine) to the International Food Policy Research Institute.

(Pub. L. 87–195, pt. I, §301, Sept. 4, 1961, 75 Stat. 433; Pub. L. 89–171, pt. I, §106 (a), Sept. 6, 1965, 79 Stat. 656; Pub. L. 89–583, pt. I, §107(a)–(c), Sept. 19, 1966, 80 Stat. 800; Pub. L. 90–137, pt. I, §110(a), Nov. 14, 1967, 81 Stat. 453; Pub. L. 91–175, pt. I, §108(a), Dec. 30, 1969, 83 Stat. 819; Pub. L. 93–189, §9(1), Dec. 17, 1973, 87 Stat. 718; Pub. L. 94–161, title III, §313(c), Dec. 20, 1975, 89 Stat. 866; Pub. L. 95–424, title I, §§102(b)(2)(A), 117(d), Oct. 6, 1978, 92 Stat. 941, 953; Pub. L. 96–533, title VII, §702, Dec. 16, 1980, 94 Stat. 3156; Pub. L. 97–113, title III, §311(a), title VII, §734(a)(1), Dec. 29, 1981, 95 Stat. 1536, 1560.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (d), was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

REFERENCES TO SUBCHAPTER I DEEMED TO INCLUDE CERTAIN PARTS OF SUBCHAPTER II

References to subchapter I of this chapter are deemed to include parts IV (§2346 et seq.), VI (§2348 et seq.), and VIII (§2349aa et seq.) of subchapter II of this chapter, and references to subchapter II are deemed to exclude such parts. See section 202(b) of Pub. L. 92–226, set out as a note under section 2346 of this title, and sections 2348c and 2349aa–5 of this title.

AMENDMENTS

1981—Subsec. (b). Pub. L. 97–113, §734(a)(1), struck out subsec. (b) which limited contributions to United Nations Development Program and restricted assistance to Cuba. See section 2370(f) of this title.

Subsec. (e)(3). Pub. L. 97–113, §734(a)(1), struck out par. (3) which required reports by the President and the General Accounting Office of their evaluation of reports of international organizations to United States representatives on those organizations. See section 2394 of this title.

Subsec. (h). Pub. L. 97–113, §311(a), added subsec. (h).

1980—Subsec. (d). Pub. L. 96–533, §702(a), required the Comptroller General to report to Congress and the President the results of the audits.

Subsec. (e)(1). Pub. L. 96–533, §702(b)(1)–(3), substituted "organizations of external, professionally" for "organizations a single professionally", "groups" for "group" in three places, "evaluation, and audits" for "and evaluation", and "evaluation, or audit" for "and evaluation".

Subsec. (e)(2). Pub. L. 96–533, §702(b)(4), (5), required audits of programs and activities and reports of professionally qualified groups to include such audits.

Subsec. (e)(3). Pub. L. 96–533, §702(b)(6), required the Comptroller General to include in the reports to Congress and the President his evaluation of the reports received by the United States representatives to the international organizations and related information.

1978—Subsec. (a). Pub. L. 95–424 substituted "section 2151t(b) of this title" for "section 2161(d) of this title".

Subsec. (g). Pub. L. 95–424 added subsec. (g).

1975—Subsec. (f). Pub. L. 94–161 added subsec. (f).

1973—Subsec. (e). Pub. L. 93–189 added subsec. (e).

1969—Subsec. (c). Pub. L. 91–175 omitted provisions dealing with Israel and Arab governments taking steps toward repatriation of refugees and the extent and success of the United Nations and Arab governments to rectify refugees relief rolls, as criteria for the President to use in determining whether to furnish assistance for such refugees through contributions to the United Nations, omitted provisions dealing with amount of contribution for the fiscal year 1967, and expanded prohibition against the inclusion of members of other guerrilla type organizations or refugees engaged in any act of terrorism.

1967—Subsec. (d). Pub. L. 90–137 added subsec. (d).

1966—Subsec. (a). Pub. L. 89–583, §107(a), authorized in the case of the Indus Basin Development Executive grants and loans payable as to principal and interest in United States dollars and subject to the provisions of section 2161(d) of this title.

Subsec. (b). Pub. L. 89–583, §107(b), substituted "United Nations Development Program" for "United Nations Expanded Program of Technical Assistance and the United States Special Fund" and restricted economic or technical assistance to Cuba.

Subsec. (c). Pub. L. 89–583, §107(c), substituted provisions limiting contributions by the United States for fiscal year 1967 to $13,300,000, for provisions limiting contributions for calendar year 1966 to $15,200,000 and prohibited the making of contributions assisting any refugee who is receiving military training as a member of the Palestine Liberation Army.

1965—Subsec. (c). Pub. L. 89–171 limited contributions by the United States to the United Nations Relief and Works Agency for Palestine Refugees in the Near East to $15,200,000 for the calendar year 1966.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–424 effective Oct. 1, 1978, see section 605 of Pub. L. 95–424, set out as a note under section 2151 of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

USE OF CONTRIBUTIONS FOR PROJECTS IN CUBA

Pub. L. 91–194, title I, §100, Feb. 9, 1970, 84 Stat. 5, provided in part: "That the President shall seek to assure that no contribution to the United Nations Development Program authorized by the Foreign Assistance Act of 1961, as amended [section 2151 et seq. of this title], shall be used for projects for economic or technical assistance to the Government of Cuba, so long as Cuba is governed by the Castro regime."

Similar provisions were contained in Pub. L. 89–691, title I, §100, Oct. 15, 1966, 80 Stat. 1018; Pub. L. 90–249, title I, §100, Jan. 2, 1968, 81 Stat. 936; Pub. L. 90–581, title I, §100, Oct. 17, 1968, 82 Stat. 1137.

§2222. Authorization of appropriations

(a) Grants

(1) There are authorized to be appropriated to the President $270,000,000 for fiscal year 1986 and $236,084,000 for fiscal year 1987 for grants to carry out the purposes of this part, in addition to funds available under other Acts for such purposes. Of the amount appropriated for each of the fiscal years 1986 and 1987 pursuant to these authorizations—

(A) 59.65 percent shall be for the United Nations Development Program;

(B) 19.30 percent shall be for the United Nations Children's Fund;

(C) 7.20 percent shall be for the International Atomic Energy Agency, except that these funds may be contributed to that Agency only if the Secretary of State determines (and so reports to the Congress) that Israel is not being denied its right to participate in the activities of that Agency;

(D) 5.44 percent shall be for Organization of American States development assistance programs;

(E) 3.51 percent shall be for the United Nations Environment Program;

(F) 0.70 percent shall be for the World Meteorological Organization;

(G) 0.70 percent shall be for the United Nations Capital Development Fund;

(H) 0.35 percent shall be for the United Nations Education and Training Program for Southern Africa;

(I) 0.18 percent shall be for the United Nations Voluntary Fund for the Decade for Women;

(J) 0.07 percent shall be for the Convention on International Trade in Endangered Species;

(K) 0.70 percent shall be for the World Food Program;

(L) 0.18 percent shall be for the United Nations Institute for Namibia;

(M) 0.12 percent shall be for the United Nations Trust Fund for South Africa;

(N) 0.04 percent shall be for the United Nations Voluntary Fund for Victims of Torture;

(O) 0.07 percent shall be for the United Nations Industrial Development Organization;

(P) 0.55 percent shall be for the United Nations Development Program Trust Fund to Combat Poverty and Hunger in Africa;

(Q) 0.97 percent shall be for contributions to international conventions and scientific organizations;

(R) 0.18 percent for the United Nations Centre on Human Settlements (Habitat); and

(S) 0.09 percent shall be for the World Heritage Fund.

(2) The Congress reaffirms its support for the work of the Inter-American Commission on Human Rights. To permit such Commission to better fulfill its function of insuring observance and respect for human rights within this hemisphere, not less than $357,000 of the amount appropriated for fiscal year 1976 and $358,000 of the amount appropriated for fiscal year 1977, for contributions to the Organization of American States, shall be used only for budgetary support for the Inter-American Commission on Human Rights.

(b) Indus Basin Development

(1) There is authorized to be appropriated to the President for loans for Indus Basin Development to carry out the purposes of this section, in addition to funds available under this chapter or any other Act for such purposes, for use beginning in the fiscal year 1969, $61,220,000. Such amounts are authorized to remain available until expended.

(2) There is authorized to be appropriated to the President for grants for Indus Basin Development, in addition to any other funds available for such purposes, for use in the fiscal year 1974, $14,500,000, and for use in the fiscal year 1975, $14,500,000, and for use beginning in the fiscal year 1976, $27,000,000, which amounts shall remain available until expended. The President shall not exercise any special authority granted to him under section 2360(a) or 2364(a) of this title to transfer any amount appropriated under this paragraph to, and to consolidate such amount with, any funds made available under any other provision of this chapter.

(c) Prohibition against contributions for volunteer manpower programs

None of the funds available to carry out this part shall be contributed to any international organization or to any foreign government or agency thereof to pay the costs of developing or operating any volunteer program of such organization, government, or agency relating to the selection, training, and programing of volunteer manpower.

(d) Tuberculosis vaccine development programs

In addition to amounts otherwise available under this section, there are authorized to be appropriated to the President such sums as may be necessary for each of the fiscal years 2009 through 2013, which shall be used for United States contributions to tuberculosis vaccine development programs, which may include the Aeras Global TB Vaccine Foundation.

(e) to (h) Repealed. Pub. L. 95–424, title VI, §604, Oct. 6, 1978, 92 Stat. 961

(i) International Atomic Energy Agency; safeguards and inspections of nuclear fissile facilities and materials

In addition to amounts otherwise available under this section, there are authorized to be appropriated for fiscal year 1976 $1,000,000 and for fiscal year 1977 $2,000,000 to be available only for the International Atomic Energy Agency to be used for the purpose of strengthening safeguards and inspections relating to nuclear fissile facilities and materials. Amounts appropriated under this subsection are authorized to remain available until expended.

(j) Authorization of appropriations for multilateral and regional drug abuse control programs

In addition to amounts otherwise available under this section for such purposes, there are authorized to be appropriated to the President $3,000,000 for fiscal year 1989 to be available only for United States contributions to multilateral and regional drug abuse control programs. Of the amount authorized to be appropriated by this subsection—

(1) $2,000,000 shall be for a United States contribution to the United Nations Fund for Drug Abuse Control;

(2) $600,000 shall be for the Organization of American States (OAS) Inter-American Drug Abuse Control Commission (CICAD) Legal Development Project, except that the proportion which such amount bears to the total amount of contributions to this specific project may not exceed the proportion which the United States contribution to the budget of the Organization of American States for that fiscal year bears to the total contributions to the budget of the Organization of American States for that fiscal year; and

(3) $400,000 shall be for the Organization of American States (OAS) Inter-American Drug Abuse Control Commission (CICAD) Law Enforcement Training Project, except that the proportion which such amount bears to the total amount of contributions to this specific project may not exceed the proportion which the United States contribution to the budget of the Organization of American States for that fiscal year bears to the total contributions to the budget of the Organization of American States for that fiscal year.

(k) Authorization of appropriations for Global Alliance for Vaccines and Immunizations

In addition to amounts otherwise available under this section, there is authorized to be appropriated to the President such sums as may be necessary for each of the fiscal years 2009 through 2013 to be available only for United States contributions to the GAVI Fund.

(l) Authorization of appropriations for International AIDS Vaccine Initiative

In addition to amounts otherwise available under this section, there is authorized to be appropriated to the President such sums as may be necessary for each of the fiscal years 2009 through 2013 to be available only for United States contributions to the International AIDS Vaccine Initiative.

(m) Authorization of appropriations for malaria vaccine development programs

In addition to amounts otherwise available under this section, there are authorized to be appropriated to the President such sums as may be necessary for each of the fiscal years 2009 through 2013 to be available for United States contributions to malaria vaccine development programs, including the Malaria Vaccine Initiative of the Program for Appropriate Technologies in Health (PATH).

(Pub. L. 87–195, pt. I, §302, Sept. 4, 1961, 75 Stat. 433; Pub. L. 87–565, pt. I, §107, Aug. 1, 1962, 76 Stat. 259; Pub. L. 88–205, pt. I, §108, Dec. 16, 1963, 77 Stat. 383; Pub. L. 88–633, pt. I, §106, Oct. 7, 1964, 78 Stat. 1010; Pub. L. 89–171, pt. I, §106(b), Sept. 6, 1965, 79 Stat. 656; Pub. L. 89–583, pt. I, §107(d), Sept. 19, 1966, 80 Stat. 801; Pub. L. 90–137, pt. I, §110(b), Nov. 14, 1967, 81 Stat. 454; Pub. L. 90–554, pt. I, §108, Oct. 8, 1968, 82 Stat. 962; Pub. L. 91–175, pt. I, §108(b)–(d), Dec. 30, 1969, 83 Stat. 819; Pub. L. 92–226, pt. I, §107, Feb. 7, 1972, 86 Stat. 23; Pub. L. 93–189, §9(2)–(5), Dec. 17, 1973, 87 Stat. 719; Pub. L. 93–559, §9, Dec. 30, 1974, 88 Stat. 1798; Pub. L. 94–161, title III, §313(a), Dec. 20, 1975, 89 Stat. 866; Pub. L. 94–329, title V, §505, June 30, 1976, 90 Stat. 764; Pub. L. 95–88, title I, §118(a), Aug. 3, 1977, 91 Stat. 540; Pub. L. 95–424, title I, §117(a), (b)(1), (c), title VI, §604, Oct. 6, 1978, 92 Stat. 952, 953, 961; Pub. L. 96–53, title I, §114(a), Aug. 14, 1979, 93 Stat. 364; Pub. L. 96–533, title III, §309, Dec. 16, 1980, 94 Stat. 3148; Pub. L. 97–113, title III, §311(b), title VII, §734(a)(1), Dec. 29, 1981, 95 Stat. 1536, 1560; Pub. L. 99–83, title IV, §402(a), Aug. 8, 1985, 99 Stat. 217; Pub. L. 99–529, title IV, §404(2), Oct. 24, 1986, 100 Stat. 3019; Pub. L. 100–690, title IV, §4107, Nov. 18, 1988, 102 Stat. 4266; Pub. L. 106–264, title I, §112(a), Aug. 19, 2000, 114 Stat. 753; Pub. L. 108–25, title II, §203, May 27, 2003, 117 Stat. 727; Pub. L. 110–293, title II, §201, July 30, 2008, 122 Stat. 2936; Pub. L. 111–117, div. F, title VII, §7034(q)(2), Dec. 16, 2009, 123 Stat. 3363.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

AMENDMENTS

2009—Subsec. (l). Pub. L. 111–117, which directed substitution in subsec. (l) of "GAVI Alliance" for

"Vaccine Fund", could not be executed because "Vaccine Fund" did not appear in text.

2008—Subsec. (d). Pub. L. 110–293, §201(1), added subsec. (d).

Subsec. (k). Pub. L. 110–293, §201(2), substituted "fiscal years 2009 through 2013" for "fiscal years 2004 through 2008" and "GAVI Fund" for "Vaccine Fund".

Subsecs. (l), (m). Pub. L. 110–293, §201(3), (4), substituted "fiscal years 2009 through 2013" for "fiscal years 2004 through 2008".

2003—Subsec. (k). Pub. L. 108–25, §203(a), substituted "such sums as may be necessary for each of the fiscal years 2004 through 2008" for "$50,000,000 for each of the fiscal years 2001 and 2002" and "Vaccine Fund" for "Global Alliance for Vaccines and Immunizations".

Subsec. (l). Pub. L. 108–25, §203(b), substituted "such sums as may be necessary for each of the fiscal years 2004 through 2008" for "$10,000,000 for each of the fiscal years 2001 and 2002".

Subsec. (m). Pub. L. 108–25, §203(c), added subsec. (m).

2000—Subsecs. (k), (l). Pub. L. 106–264 added subsecs. (k) and (l).

1988—Subsec. (j). Pub. L. 100–690 added subsec. (j).

1986—Subsec. (a)(1). Pub. L. 99–529 substituted "$236,084,000 for fiscal year 1987" for "$270,000,000 for fiscal year 1987".

1985—Subsec. (a)(1). Pub. L. 99–83 substituted provisions relating to amounts authorized, percentages, and covered programs for fiscal years 1986 and 1987, for provisions relating to amounts authorized, percentages, and covered programs for fiscal years 1982 and 1983.

1981—Subsec. (a)(1). Pub. L. 97–113 substituted appropriations of $218,600,000 for fiscal years 1982 and 1983 for appropriation of $233,350,000 for fiscal year 1981 and added cls. (A) to (E).

Subsec. (a)(3). Pub. L. 97–113 struck out par. (3) which prohibited, for fiscal year 1979, funding of the United Nations Institute for Namibia unless the President found that the money would not be used for Southwest African Peoples Organization.

1980—Subsec. (a)(1). Pub. L. 96–533 substituted appropriations authorization of $233,350,000 for fiscal year 1981 for prior authorization of $267,280,000 for fiscal year 1980, including $42,500,000 of this amount for voluntary contributions to the United Nations Relief and Works Agency for Palestine Refugees, increasable to $52,000,000 upon certification of the President to Congress that members of Organization of Petroleum Exporting Countries have made equivalent matching contributions.

1979—Subsec. (a)(1). Pub. L. 96–53 substituted provisions authorizing appropriations of $267,280,000 for fiscal year 1980, for provisions authorizing appropriations of $285,450,000 for fiscal year 1979 and provisions respecting availability of funds for United Nations Trust Fund on South Africa, and the Namibia Institute, and availability of appropriations for fiscal year 1978.

1978—Subsec. (a)(1). Pub. L. 95–424, §117(a), (b)(1), substituted "$285,450,000 for the fiscal year 1979 of which not to exceed $300,000 shall be available for contributions to the United Nations Trust Fund on South Africa" for "for the fiscal year 1977, $219,900,000 and for the fiscal year 1978, $252,000,000"; substituted "fiscal year 1978, not to exceed $52,000,000" for "fiscal year 1978, not to exceed $42,500,000", and inserted provision relating to voluntary contributions to the United Nations Relief and Works Agency for Palestine Refugees.

Subsec. (a)(3). Pub. L. 95–424, §117(c), added par. (3).

Subsec. (d). Pub. L. 95–424, §604, struck out subsec. (d) which related to contributions to the United Nations Children's Fund for fiscal years 1976 and 1977.

Subsec. (e). Pub. L. 95–424, §604, struck out subsec. (e) which related to added contributions for expansion of technical and vocational training of Arab refugees.

Subsec. (f). Pub. L. 95–424, §604, struck out subsec. (f) which related to appropriation of Egyptian pounds for technical and vocational training and other assistance to Arab refugees.

Subsec. (g). Pub. L. 95–424, §604, struck out subsec. (g) which related to availability of funds for the International Atomic Energy Agency.

Subsec. (h). Pub. L. 95–424, §604, struck out subsec. (h) which related to prohibition of expenditures for the United Nations Educational, Scientific, and Cultural Organization.

1977—Subsec. (a)(1). Pub. L. 95–88 struck out provisions which authorized appropriations of $127,822,000 for fiscal year 1974, $165,000,000 for fiscal year 1975, and $194,500,000 for fiscal year 1976, inserted provisions authorizing an appropriation of $252,000,000 for fiscal year 1978, and inserted requirement that, of the funds authorized to be appropriated under subsec. (a) for fiscal year 1978, not to exceed $42,500,000 be available for voluntary contributions to the United Nations Relief and Works Agency for Palestine Refugees.

1976—Subsec. (i). Pub. L. 94–329 added subsec. (i).

1975—Subsec. (a)(1). Pub. L. 94–161, §313(a)(1)(A), (B), authorized appropriations of $194,500,000 and

$219,900,000 for fiscal years 1976 and 1977, required maximum contribution of $250,000 to be made to the Namibia Institute, and designated existing provisions as par. (1).

Subsec. (a)(2). Pub. L. 94–161, §313(a)(1)(C), added par. (2).

Subsec. (b)(1). Pub. L. 94–161, §313(a)(2), substituted "$61,220,000" for "$51,220,000".

Subsec. (b)(2). Pub. L. 94–161, §313(a)(3), authorized appropriations of $27,000,000 for use beginning in fiscal year 1976.

Subsec. (d). Pub. L. 94–161, §313(a)(4), substituted appropriations authorization of $20,000,000 for fiscal years 1976 and 1977, for prior appropriations authorization of $18,000,000 for fiscal years 1974 and 1975.

1974—Subsec. (a). Pub. L. 93–559, §9(a)(1), increased appropriations authorization for fiscal year 1975 to $165,000,000 from $150,000,000.

Subsecs. (g), (h). Pub. L. 93–559, §9(a)(2), added subsecs. (g) and (h).

1973—Subsec. (a). Pub. L. 93–189, §9(2), substituted "for the fiscal year 1974, $127,822,000 and for the fiscal year 1975, $150,000,000", for "for the fiscal year 1972, $138,000,000 and for the fiscal year 1973, $138,000,000".

Subsec. (b)(2). Pub. L. 93–189, §9(3), substituted "for use in the fiscal year 1974, $14,500,000, and for use in the fiscal year 1975, $14,500,000", for "for use in the fiscal year 1972, $15,000,000, and for use in the fiscal year 1973, $15,000,000".

Subsec. (d). Pub. L. 93–189, §9(4), substituted provisions directing that out of the funds made available for carrying out this part $18,000,000 be available in each of fiscal years 1974 and 1975 for contributions to the United Nations Children's Fund, for provisions authorizing the appropriation of $1,000,000 for fiscal year 1969 for contributions to the United Nations Children's Fund during the calendar year 1969 and directing that funds made thus available be in addition to funds available under this chapter or any other Act for such contributions and not be taken into account in computing the aggregate amount of United States contributions to such fund for the calendar year 1969.

Subsec. (e). Pub. L. 93–189, §9(5), substituted "$2,000,000 for the fiscal year 1974 and $2,000,000 for the fiscal year 1975", for "$1,000,000 for the fiscal year 1972 and $1,000,000 for the fiscal year 1973".

1972—Subsec. (a). Pub. L. 92–226, §107(a), authorized appropriations of $138,000,000 for fiscal years 1972 and 1973, and struck out provisions for authorization of $122,620,000 for fiscal years 1970 and 1971.

Subsec. (b)(2). Pub. L. 92–226, §107(b), authorized appropriations of $15,000,000 for fiscal years 1972 and 1973, and struck out provision for authorization of $7,530,000 for fiscal years 1970 and 1971; and prohibited the President from exercising any special authority to transfer any amount appropriated under par. (2) to, and to consolidate such amount with, any funds made available under any other provision of this chapter.

Subsec. (e). Pub. L. 92–226, §107(c), authorized appropriations of $1,000,000 for fiscal years 1972 and 1973, and struck out provision for authorization of $1,000,000 for fiscal years 1970 and 1971.

Subsec. (f). Pub. L. 92–226, §107(d), added subsec. (f).

1969—Subsec. (a). Pub. L. 91–175, §108(b), substituted "fiscal year 1970, $122,620,000, and for the fiscal year 1971, $122,620,000" for "fiscal year 1969, $135,000,000".

Subsec. (b). Pub. L. 91–175, §108(c), designated existing provisions as par. (1) and added par. (2).

Subsec. (e). Pub. L. 91–175, §108(d), added subsec. (e).

1968—Subsec. (a). Pub. L. 90–554, §108(a), substituted authorization of $135,000,000 for fiscal year 1969, for authorization of $141,000,000 for fiscal year 1968.

Subsec. (d). Pub. L. 90–554, §108(b), added subsec. (d).

1967—Subsec. (a). Pub. L. 90–137, §110(b)(1), substituted authorization of $141,000,000 for fiscal year 1968, for authorization of $140,433,000, for fiscal year 1967.

Subsec. (b). Pub. L. 90–137, §110(b)(2), substituted appropriation authorization of $51,220,000 for fiscal year 1969, for Indus Basin Development for appropriations authorization of $1,000,000 for fiscal year 1967, for contributions to United Nations Children's Fund during calendar year 1967 and for exclusion of such contributions from computation of aggregate amount of United States contributions to the fund during calendar year 1967.

1966—Subsec. (a). Pub. L. 89–583 designated existing provisions as subsec. (a) and (c), substituted in subsec. (a) "grants" for "use" and authorization of $140,433,000 for fiscal year 1967 for authorization of $144,755,000 for fiscal year 1966, and added subsec. (b).

1965—Pub. L. 89–171 substituted "1966" and "$144,755,000" for "1965" and "$134,272,400", respectively.

1964—Pub. L. 88–633 substituted "1965" and "$134,272,400" for "1964" and "$136,050,000", respectively, and prohibited contribution of funds for payment of costs of volunteer manpower programs.

1963—Pub. L. 88–205 substituted "1964" and "$136,050,000" for "1963" and "$148,900,000", respectively.

1962—Pub. L. 87–565 substituted "1963" and "$148,900,000" for "1962" and "$153,500,000", respectively.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–83 effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as a note under section 2151–1 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–53 effective Oct. 1, 1979, see section 512(a) of Pub. L. 96–53, set out as a note under section 2151 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–424 effective Oct. 1, 1978, see section 605 of Pub. L. 95–424, set out as a note under section 2151 of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

REPORT TO CONGRESS ON PALESTINE REFUGEE RATION DISTRIBUTION SYSTEM

Pub. L. 95–424, title I, §117(b)(2), Oct. 6, 1978, 92 Stat. 953, which provided that, not later than Jan. 31, 1979, the Secretary of State provide the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives with a full and detailed report on the progress made by the Commissioner-General of the United Nations Relief and Works Agency to improve the ration distribution system so that food to Palestine refugees can be more equitably distributed on the basis of need, rather than entitlement, was repealed by Pub. L. 97–113, title VII, §734(a)(5), Dec. 29, 1981, 95 Stat. 1560.

AUTHORIZATION OF APPROPRIATIONS FOR CONTRIBUTIONS TO THE WORLD ASSEMBLY ON AGING

Pub. L. 95–424, title I, §117(e), Oct. 6, 1978, 92 Stat. 953, provided that: "In addition to amounts otherwise available for such purpose, there are authorized to be appropriated to the President not to exceed $1,000,000 for contributions to the World Assembly on Aging to be convened under the auspices of the United Nations, except that the amount so contributed may not exceed 25 percent of the expenditures of such Assembly. Amounts appropriated under this subsection [this note] are authorized to remain available until expended."

§2223. Indus Basin development

In the event that funds made available under this chapter (other than subchapter II of this chapter) are used by or under the supervision of the International Bank for Reconstruction and Development in furtherance of the development of the Indus Basin through the program of cooperation among South Asian and other countries of the free world, which is designed to promote economic growth and political stability in South Asia, such funds may be used in accordance with requirements, standards, or procedures established by the Bank concerning completion of plans and cost estimates and determination of feasibility, rather than with requirements, standards, or procedures, concerning such matters set forth in this chapter or other Acts; and such funds may also be used without regard to the provisions of section 55305 of title 46, whenever the President determines that such provisions cannot be fully satisfied without seriously impeding or preventing accomplishment of the purposes of such programs: *Provided*, That compensating allowances are made in the administration of other programs to the same or other areas to which the requirements of said section 55305 of title 46 are applicable.

(Pub. L. 87–195, pt. I, §303, Sept. 4, 1961, 75 Stat. 433.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

REFERENCES TO SUBCHAPTER II DEEMED TO EXCLUDE CERTAIN PARTS OF SUBCHAPTER II

References to subchapter II of this chapter are deemed to exclude parts IV (§2346 et seq.), VI (§2348 et seq.), and VIII (§2349aa et seq.) of subchapter II, and references to subchapter I of this chapter are deemed to include such parts. See section 202(b) of Pub. L. 92–226, set out as a note under section 2346 of this title, and sections 2348c and 2349aa–5 of this title.

CODIFICATION

In text, "section 55305 of title 46" substituted for "section 901(b) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1241)" and "said section 55305" substituted for "said section 901(b)" on authority of Pub. L. 109–304, §18(c), Oct. 6, 2006, 120 Stat. 1709, which Act enacted section 55305 of Title 46, Shipping.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§2224. Repealed. Pub. L. 95–424, title VI, §604, Oct. 6, 1978, 92 Stat. 961

Section, Pub. L. 87–195, pt. I, §304, as added Pub. L. 90–137, pt. I, §110(c), Nov. 14, 1967, 81 Stat. 454, related to exploration by the President of means and prospects of establishing improved peacekeeping arrangements for standby forces maintained by the United Nations.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1978, see section 605 of Pub. L. 95–424, set out as an Effective Date of 1978 Amendment note under section 2151 of this title.

§2225. Integration of women

The President is requested to instruct each representative of the United States to each international organization of which the United States is a member (including but not limited to the International Bank for Reconstruction and Development, the Asian Development Bank, the Inter-American Development Bank, the International Monetary Fund, the United Nations, and the Organization for Economic Cooperation and Development) to carry out their duties with respect to such organizations in such a manner as to encourage and promote the integration of women into the national economies of member and recipient countries and into professional and policy-making positions within such organizations, thereby improving the status of women. The President is further requested, in making United States contributions to such organizations, to take into account the progress, or lack of progress, of such organizations in adopting and implementing policies and practices which encourage and promote the integration of women into the national economies of member and recipient countries, and into professional and policy-making positions within such organizations, in accordance with the World Plan of Action of the Decade for Women.

(Pub. L. 87–195, pt. I, §305, as added Pub. L. 93–559, §54, Dec. 30, 1974, 88 Stat. 1818; amended Pub. L. 94–161, title III, §313(b), Dec. 20, 1975, 89 Stat. 866; Pub. L. 95–88, title I, §118(b), Aug. 3, 1977, 91 Stat. 540.)

AMENDMENTS

1977—Pub. L. 95–88 inserted request that President, in making United States contributions, take into account the progress, or lack of progress, of organizations in adopting and implementing policies and practices which encourage and promote the integration of women into the national economies of member and recipient countries, and into professional and policy-making positions within such organizations, in accordance with the World Plan of Action of the Decade for Women.

1975—Pub. L. 94–161 corrected the credit to read "pt. I" rather than "pt. III".

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R.

56673, as amended, set out as a note under section 2381 of this title.

§2226. Reports on international organizations

The annual reports to the Congress under section 262a of this title, shall be submitted within nine months after the end of the fiscal year to which they relate.

(Pub. L. 87–195, pt. I, §306, as added Pub. L. 96–533, title VII, §703, Dec. 16, 1980, 94 Stat. 3157; amended Pub. L. 105–362, title XIII, §1301(b), Nov. 10, 1998, 112 Stat. 3293.)

AMENDMENTS

1998—Pub. L. 105–362 struck out subsec. (a) designation and struck out subsec. (b) which related to President's semiannual reports to Congress concerning voluntary contributions by United States Government to international organizations.

§2227. Withholding of United States proportionate share for certain programs of international organizations

(a) Covered programs

Notwithstanding any other provision of law, none of the funds authorized to be appropriated by this part shall be available for the United States proportionate share for programs for Burma, North Korea, Syria, Iran, Cuba, or the Palestine Liberation Organization or for projects whose purpose is to provide benefits to the Palestine Liberation Organization or entities associated with it, or at the discretion of the President, Communist countries listed in section 2370(f) of this title.

(b) Review and report by Secretary of State

The Secretary of State—

(1) shall review, at least annually, the budgets and accounts of all international organizations receiving payments of any funds authorized to be appropriated by this part; and

(2) shall report to the appropriate committees of the Congress the amounts of funds expended by each such organization for the purposes described in subsection (a) and the amount contributed by the United States to each such organization.

(c) Exceptions

(1) Subject to paragraph (2), the limitations of subsection (a) shall not apply to contributions to the International Atomic Energy Agency or the United Nations Children's Fund (UNICEF).

(2)(A) Except as provided in subparagraph (B), with respect to funds authorized to be appropriated by this part and available for the International Atomic Energy Agency, the limitations of subsection (a) shall apply to programs or projects of such Agency in Cuba.

(B)(i) Subparagraph (A) shall not apply with respect to programs or projects of the International Atomic Energy Agency that provide for the discontinuation, dismantling, or safety inspection of nuclear facilities or related materials, or for inspections and similar activities designed to prevent the development of nuclear weapons by a country described in subsection (a).

(ii) Clause (i) shall not apply with respect to the Juragua Nuclear Power Plant near Cienfuegos, Cuba, or the Pedro Pi Nuclear Research Center unless Cuba—

(I) ratifies the Treaty on the Non-Proliferation of Nuclear Weapons (21 UST 483) or the Treaty for the Prohibition of Nuclear Weapons in Latin America (commonly known as the Treaty of Tlatelolco);

(II) negotiates full-scope safeguards of the International Atomic Energy Agency not later than two years after ratification by Cuba of such Treaty; and

(III) incorporates internationally accepted nuclear safety standards.

(d) Programs and projects of the International Atomic Energy Agency in Iran

(1) Notwithstanding subsection (c), if the Secretary of State determines that programs and projects

of the International Atomic Energy Agency in Iran are inconsistent with United States nuclear nonproliferation and safety goals, will provide Iran with training or expertise relevant to the development of nuclear weapons, or are being used as a cover for the acquisition of sensitive nuclear technology, the limitations of subsection (a) shall apply to such programs and projects, and the Secretary of State shall so notify the appropriate congressional committees (as defined in section 3 of the Foreign Relations Authorization Act, Fiscal Year 2003).

(2) A determination made by the Secretary of State under paragraph (1) shall be effective for the 1-year period beginning on the date of the determination.

(Pub. L. 87–195, pt. I, §307, as added Pub. L. 99–83, title IV, §403, Aug. 8, 1985, 99 Stat. 219; amended Pub. L. 103–236, title IV, §431(a), Apr. 30, 1994, 108 Stat. 459; Pub. L. 105–277, div. A, §101(d) [title V, §516], div. G, subdiv. B, title XXVIII, §2809(a), Oct. 21, 1998, 112 Stat. 2681–150, 2681–174, 2681–849; Pub. L. 107–228, div. B, title XIII, §1342, Sept. 30, 2002, 116 Stat. 1451; Pub. L. 109–13, div. A, title II, §2101, May 11, 2005, 119 Stat. 266; Pub. L. 110–161, div. J, title VI, §616, Dec. 26, 2007, 121 Stat. 2320.)

REFERENCES IN TEXT

Section 3 of the Foreign Relations Authorization Act, Fiscal Year 2003, referred to in subsec. (d)(1), is section 3 of Pub. L. 107–228, which is set out as a note under section 2651 of this title.

AMENDMENTS

2007—Subsec. (a). Pub. L. 110–161 struck out "Libya," after "Syria,".

2005—Subsec. (a). Pub. L. 109–13 struck out "Iraq," after "Burma,".

2002—Subsec. (d). Pub. L. 107–228 added subsec. (d).

1998—Subsec. (a). Pub. L. 105–277, §101(d) [title V, §516], inserted before period at end ", or at the discretion of the President, Communist countries listed in section 2370(f) of this title".

Subsec. (c). Pub. L. 105–277, §2809(a), designated existing provisions as par. (1), substituted "Subject to paragraph (2), the limitations" for "The limitations", and added par. (2).

1994—Subsec. (a). Pub. L. 103–236, §431(a)(1), substituted "Burma, Iraq, North Korea, Syria" for "the South-West Africa People's Organization".

Subsec. (c). Pub. L. 103–236, §431(a)(2), added subsec. (c).

EFFECTIVE DATE

Section effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as an Effective Date of 1985 Amendment note under section 2151–1 of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§2228. International Muslim Youth Opportunity Fund

(a) Purpose

The purpose of this section is to strengthen the public educational systems in predominantly Muslim countries by—

(1) authorizing the establishment of an International Muslim Youth Educational Fund through which the United States dedicates resources, either through a separate fund or through an international organization, to assist those countries that commit to education reform; and

(2) providing resources for the Fund and to the President to help strengthen the public educational systems in those countries.

(b) Establishment of Fund

(1) Authority

The President is authorized to establish an International Muslim Youth Opportunity Fund and to carry out programs consistent with paragraph (4) under existing authorities, including the Mutual Educational and Cultural Exchange Act of 1961 (commonly referred to as the "Fulbright-Hays

Act") [22 U.S.C. 2451 et seq.].

(2) Location

The Fund may be established—

(A) as a separate fund in the Treasury; or

(B) through an international organization or international financial institution, such as the United Nations Educational, Science and Cultural Organization, the United Nations Development Program, or the International Bank for Reconstruction and Development.

(3) Transfers and receipts

The head of any department, agency, or instrumentality of the United States Government may transfer any amount to the Fund, and the Fund may receive funds from private enterprises, foreign countries, or other entities.

(4) Activities of the Fund

The Fund shall support programs described in this paragraph to improve the education environment in predominantly Muslim countries.

(A) Assistance to enhance modern educational programs

(i) The establishment in predominantly Muslim countries of a program of reform to create a modern education curriculum in the public educational systems in such countries.

(ii) The establishment or modernization of educational materials to advance a modern educational curriculum in such systems.

(iii) Teaching English to adults and children.

(iv) The enhancement in predominantly Muslim countries of community, family, and student participation in the formulation and implementation of education strategies and programs in such countries.

(B) Assistance for training and exchange programs for teachers, administrators, and students

(i) The establishment of training programs for teachers and educational administrators to enhance skills, including the establishment of regional centers to train individuals who can transfer such skills upon return to their countries.

(ii) The establishment of exchange programs for teachers and administrators in predominantly Muslim countries and with other countries to stimulate additional ideas and reform throughout the world, including teacher training exchange programs focused on primary school teachers in such countries.

(iii) The establishment of exchange programs for primary and secondary students in predominantly Muslim countries and with other countries to foster understanding and tolerance and to stimulate long-standing relationships.

(C) Assistance targeting primary and secondary students

(i) The establishment in predominantly Muslim countries of after-school programs, civic education programs, and education programs focusing on life skills, such as inter-personal skills and social relations and skills for healthy living, such as nutrition and physical fitness.

(ii) The establishment in predominantly Muslim countries of programs to improve the proficiency of primary and secondary students in information technology skills.

(D) Assistance for development of youth professionals

(i) The establishment of programs in predominantly Muslim countries to improve vocational training in trades to help strengthen participation of Muslims and Arabs in the economic development of their countries.

(ii) The establishment of programs in predominantly Muslim countries that target older Muslim youths not in school in such areas as entrepreneurial skills, accounting, micro-finance activities, work training, financial literacy, and information technology.

(E) Other types of assistance

(i) The translation of foreign books, newspapers, reference guides, and other reading materials into local languages.

(ii) The construction and equipping of modern community and university libraries.

(5) Authorization of appropriations

(A) In general

There is authorized to be appropriated to the President to carry out this section such sums as may be necessary for fiscal years 2008, 2009, and 2010.

(B) Availability

Amounts appropriated pursuant to the authorization of appropriations under subsection (a) [1] are authorized to remain available until expended.

(C) Additional funds

Amounts authorized to be appropriated under subsection (a) [1] shall be in addition to amounts otherwise available for such purposes.

(6) Report to Congress

Not later than 180 days after August 3, 2007, and annually thereafter until January 30, 2010, the President shall submit to the appropriate congressional committees a report on United States efforts to assist in the improvement of educational opportunities for predominantly Muslim children and youths, including the progress made toward establishing the International Muslim Youth Opportunity Fund.

(7) Appropriate congressional committees defined

In this subsection, the term "appropriate congressional committees" means the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

(Pub. L. 108–458, title VII, §7114, Dec. 17, 2004, 118 Stat. 3798; Pub. L. 110–53, title XX, §2012, Aug. 3, 2007, 121 Stat. 509.)

REFERENCES IN TEXT

The Mutual Educational and Cultural Exchange Act of 1961, referred to in subsec. (b)(1), is Pub. L. 87–256, Sept. 21, 1961, 75 Stat. 527, which is classified principally to chapter 33 (§2451 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2451 of this title and Tables.

August 3, 2007, referred to in subsec. (b)(6), was in the original "the date of the enactment of this section" and was translated as meaning the date of enactment of Pub. L. 110–53, which generally amended this section, to reflect the probable intent of Congress.

CODIFICATION

Section was enacted as part of the Intelligence Reform and Terrorism Prevention Act of 2004 and also as part of the 9/11 Commission Implementation Act of 2004, and not as part of the Foreign Assistance Act of 1961 which comprises this chapter.

AMENDMENTS

2007—Pub. L. 110–53 amended section catchline and text generally, substituting provisions relating to purpose of section, authority of President to establish an International Muslim Youth Opportunity Fund as a separate fund in the Treasury or through an international organization or financial institution, and authority of Fund to support specified activities, for provisions setting forth congressional findings and authorizing the Secretary of State to establish an International Youth Opportunity Fund through an existing international organization.

FINDINGS; POLICY

Pub. L. 110–53, title XX, §2011, Aug. 3, 2007, 121 Stat. 509, provided that:

"(a) FINDINGS.—Congress makes the following findings:

"(1) The report of the National Commission on Terrorist Attacks Upon the United States stated that

'[e]ducation that teaches tolerance, the dignity and value of each individual, and respect for different beliefs is a key element in any global strategy to eliminate Islamist terrorism'.

"(2) The report of the National Commission on Terrorist Attacks Upon the United States concluded that ensuring educational opportunity is essential to the efforts of the United States to defeat global terrorism and recommended that the United States Government 'should offer to join with other nations in generously supporting [spending funds] . . . directly for building and operating primary and secondary schools in those Muslim states that commit to sensibly investing their own money in public education'.

"(3) While Congress endorsed such a program in the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458 [see Tables for classification]), such a program has not been established.

"(b) POLICY.—It is the policy of the United States—

"(1) to work toward the goal of dramatically increasing the availability of modern basic education through public schools in predominantly Muslim countries, which will reduce the influence of radical madrassas and other institutions that promote religious extremism;

"(2) to join with other countries in generously supporting the International Muslim Youth Opportunity Fund authorized under section 7114 of the Intelligence Reform and Terrorism Prevention Act of 2004 [22 U.S.C. 2228], as amended by section 2012 of this Act, with the goal of building and supporting public primary and secondary schools in predominantly Muslim countries that commit to sensibly investing the resources of such countries in modern public education;

"(3) to offer additional incentives to increase the availability of modern basic education in predominantly Muslim countries; and

"(4) to work to prevent financing of educational institutions that support radical Islamic fundamentalism."

ASSIGNMENT OF SPECIFIED REPORTING AND DETERMINATION FUNCTIONS RELATING TO AFGHANISTAN, PAKISTAN, SAUDI ARABIA, AND CERTAIN EDUCATION ABROAD

Memorandum of President of the United States, Sept. 28, 2007, 72 F.R. 56871, provided:

Memorandum for the Secretary of State[,] the Secretary of Defense[, and] the Director of National Intelligence

By virtue of the authority vested in me as President by the Constitution and the laws of the United States, including section 301 of title 3, United States Code, I hereby assign to the Secretary of State the functions of the President under sections 2041(d)(3), 2042(c)(1), 2042(d), and 2043(c)(1) of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Public Law 110–53) (the "9/11 Act") and section 7114(b)(6) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458), as amended.

The Secretary of State shall consult with:

(1) the Secretary of Defense in the performance of the functions in section 2041(d)(3) of the 9/11 Act; and

(2) the Secretary of Defense and the Director of National Intelligence in the performance of the functions in section 2043(c)(1) of the 9/11 Act.

The Secretary of State is authorized and directed to publish this memorandum in the Federal Register.

GEORGE W. BUSH.

[1] *So in original. Probably should be "subparagraph (A)".*

PART IV—SUPPORTING ASSISTANCE

REFERENCES TO PART IV OF SUBCHAPTER I DEEMED REFERENCES TO PART IV OF SUBCHAPTER II

References to part IV of subchapter I of this chapter, or any sections thereof, are deemed references to part IV of subchapter II (§2346 et seq.) of this chapter, or to appropriate sections thereof. See section 202(b) of Pub. L. 92–226, set out as a note under section 2346 of this title.

§§2241 to 2243. Repealed. Pub. L. 92–226, pt. II, §202(b), Feb. 7, 1972, 86 Stat. 27

Section 2241, Pub. L. 87–195, pt. I, §401, Sept. 4, 1961, 75 Stat. 434; Pub. L. 89–583, pt. I, §108(a), Sept. 19, 1966, 80 Stat. 801; Pub. L. 90–137, pt. I, §111(a), Nov. 14, 1967, 81 Stat. 454, provided for general

authority and limitation on countries to receive assistance.

Section 2242, Pub. L. 87–195, pt. I, §402, Sept. 4, 1961, 75 Stat. 434; Pub. L. 87–565, pt. I, §108, Aug. 1, 1962, 76 Stat. 259; Pub. L. 88–205, pt. I, §109, Dec. 16, 1963, 77 Stat. 383; Pub. L. 88–633, pt. I, §107, Oct. 7, 1964, 78 Stat. 1010; Pub. L. 89–171, pt. I, §107, Sept. 6, 1965, 79 Stat. 656; Pub. L. 89–371, §1, Mar. 18, 1966, 80 Stat. 74; Pub. L. 89–583, pt. I, §108(b), Sept. 19, 1966, 80 Stat. 801; Pub. L. 90–137, pt. I, §111(b), Nov. 14, 1967, 81 Stat. 454; Pub. L. 90–554, pt. I, §109, Oct. 8, 1968, 82 Stat. 962; Pub. L. 91–175, pt. I, §109, Dec. 30, 1969, 83 Stat. 819; Pub. L. 91–652, §5, Jan. 5, 1971; 84 Stat. 1942, provided for authorization of appropriations, executive approval of budgeting of proceeds by Vietnam for economic assistance projects or programs, and executive approval of accommodation rate of exchange between United States and Vietnam.

Section 2243, Pub. L. 87–195, pt. I, §403, as added Pub. L. 90–137, pt. I, §111(c), Nov. 14, 1967, 81 Stat. 454, provided for United States refund claims.

For subject matters of sections 2241 to 2243 of this title, see sections 2346, 2346a, and 2346b of this title, respectively.

PART V—CONTINGENCIES

§2261. Authorization of appropriations

(a) Emergency assistance; reports to Speaker of House and committees of Senate

(1) Notwithstanding any other provision of law, the President is authorized to use funds made available to carry out any provision of this chapter (other than the provisions of part I of this subchapter) in order to provide, for any unanticipated contingencies, assistance authorized by subchapter I of this chapter in accordance with the provisions applicable to the furnishing of such assistance, except that the authority of this subsection may not be used to authorize the use of more than $25,000,000 during any fiscal year.

(2) The President shall report promptly to the Speaker of the House of Representatives and to the Committee on Foreign Relations and the Committee on Appropriations of the Senate each time he exercises the authority contained in this subsection.

(b) Repealed. Pub. L. 97–113, title VII, §734(a)(1), Dec. 29, 1981, 95 Stat. 1560

(c) Prohibition against payment of gifts to foreign officials

No part of this fund shall be used to pay for any gifts to any officials of any foreign government made heretofore or hereafter.

(Pub. L. 87–195, pt. I, §451, Sept. 4, 1961, 75 Stat. 434; Pub. L. 87–565, pt. I, §109, Aug. 1, 1962, 76 Stat. 259; Pub. L. 88–205, pt. I, §110, Dec. 16, 1963, 77 Stat. 384; Pub. L. 88–633, pt. I, §108, Oct. 7, 1964, 78 Stat. 1010; Pub. L. 89–171, pt. I, §108, Sept. 6, 1965, 79 Stat. 656; Pub. L. 89–371, §2, Mar. 18, 1966, 80 Stat. 74; Pub. L. 89–583, pt. I, §109, Sept. 19, 1966, 80 Stat. 801; Pub. L. 90–137, pt. I, §112, Nov. 14, 1967, 81 Stat. 455; Pub. L. 90–554, pt. I, §110, Oct. 8, 1968, 82 Stat. 962; Pub. L. 91–175, pt. I, §110, Dec. 30, 1969, 83 Stat. 819; Pub. L. 91–652, §6(a), Jan. 5, 1971, 84 Stat. 1942; Pub. L. 92–226, pt. I, §108, Feb. 7, 1972, 86 Stat. 24; Pub. L. 93–189, §10, Dec. 17, 1973, 87 Stat. 719; Pub. L. 93–559, §28(c), Dec. 30, 1974, 88 Stat. 1803; Pub. L. 94–329, title V, §503(2), June 30, 1976, 90 Stat. 763; Pub. L. 95–92, §2, Aug. 4, 1977, 91 Stat. 614; Pub. L. 95–384, §2, Sept. 26, 1978, 92 Stat. 730; Pub. L. 96–92, §2(b), Oct. 29, 1979, 93 Stat. 701; Pub. L. 97–113, title VII, §734(a)(1), Dec. 29, 1981, 95 Stat. 1560; Pub. L. 101–513, title V, §588, Nov. 5, 1990, 104 Stat. 2056.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(1), was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

REFERENCES TO SUBCHAPTER I DEEMED TO INCLUDE CERTAIN PARTS OF

SUBCHAPTER II

References to subchapter I of this chapter are deemed to include parts IV (§2346 et seq.), VI (§2348 et seq.), and VIII (§2349aa et seq.) of subchapter II of this chapter, and references to subchapter II are deemed to exclude such parts. See section 202(b) of Pub. L. 92–226, set out as a note under section 2346 of this title, and sections 2348c and 2349aa–5 of this title.

REFERENCES TO PART I DEEMED TO INCLUDE SECTION 2293

References to part I of this subchapter are deemed to include a reference to section 2293 of this title. See section 2293(d)(1) of this title.

AMENDMENTS

1990—Subsec. (a)(1). Pub. L. 101–513 struck out "not to exceed $10,000,000 of" after "authorized to use" and "in any fiscal year" after "funds made available", substituted "unanticipated contingencies" for "emergency purposes", and directed the amendment of subsec. (a) by inserting before the period ", except that the authority of this subsection may not be used to authorize the use of more than $25,000,000 during any fiscal year", which was executed by making the insertion before the period in par. (1) to reflect the probable intent of Congress.

1981—Subsec. (b). Pub. L. 97–113 struck out subsec. (b) which required quarterly Presidential reports to Committees of Senate and Speaker of House on the programming and obligation of funds under this section.

1979—Subsec. (a)(1). Pub. L. 96–92 designated existing provisions as par. (1), substituted authorization of $10,000,000 when made available in any fiscal year for emergency purposes for appropriation authorization of $5,000,000 for emergency purposes in fiscal year 1979, and deleted provision making appropriated amounts available until expended.

Subsec. (a)(2). Pub. L. 96–92 added par. (2).

1978—Subsec. (a). Pub. L. 95–384 substituted "fiscal year 1979 not to exceed $5,000,000" for "fiscal year 1978 not to exceed $5,000,000".

1977—Subsec. (a). Pub. L. 95–92 substituted provisions authorizing appropriations of not to exceed $5,000,000 for fiscal year 1978, for provisions authorizing appropriations of not to exceed $5,000,000 for fiscal years 1976 and 1977.

1976—Subsec. (a). Pub. L. 94–329 substituted "fiscal year 1976 not to exceed $5,000,000 and for the fiscal year 1977 not to exceed $5,000,000" for "fiscal year 1975 not to exceed $5,000,000," and "authorized by subchapter I of this chapter for any emergency" for "authorized by this subchapter or by section 2399 of this title for any emergency" and inserted provision authorizing that funds appropriated remain available until expended.

1974—Subsec. (a). Pub. L. 93–559 substituted appropriations authorization of $5,000,000 for fiscal year 1975 for prior authorization of $30,000,000 for fiscal years 1974, and 1975, and authorized assistance under section 2399 of this title and for any emergency purpose.

Subsec. (b). Pub. L. 93–559 substantially reenacted subsec. (b) provisions, substituting "submit" for "provide".

Subsec. (c). Pub. L. 93–559 added subsec. (c).

1973—Subsec. (a). Pub. L. 93–189 substituted provisions authorizing the appropriation of not to exceed $30,000,000 for each of the fiscal years 1974 and 1975, for provisions authorizing the appropriation of not to exceed $30,000,000 for each of the fiscal years 1972 and 1973, substituted "to provide assistance authorized by this subchapter primarily for disaster relief purposes, in accordance with the provisions applicable to the furnishing of such assistance", for "for use by the President for assistance authorized by this subchapter in accordance with the provisions applicable to the furnishing of such assistance, when he determines such use to be important to the national interest", and struck out a proviso for the use of $15,000,000, in addition to any other available funds, out of the funds appropriated for fiscal year 1971 for the flood victims of the East Pakistan flood.

1972—Subsec. (a). Pub. L. 92–226 authorized appropriations not to exceed $30,000,000 for fiscal years 1972 and 1973, and struck out provision for authorization of not to exceed $15,000,000 for fiscal year 1970, and not to exceed $30,000,000 for fiscal year 1971.

1971—Subsec. (a). Pub. L. 91–652 substituted "1971 not to exceed $30,000,000" for "1971 not to exceed $15,000,000", and inserted proviso which required $15,000,000 of the amount authorized for the fiscal year 1971 to be used for the relief of cyclone, etc., victims in East Pakistan.

1969—Subsec. (a). Pub. L. 91–175 substituted " fiscal year 1970 not to exceed $15,000,000, and for the fiscal year 1971 not to exceed $15,000,000" for "fiscal year 1968 not to exceed $50,000,000, and for the fiscal year 1969 not to exceed $10,000,000".

1968—Subsec. (a). Pub. L. 90–554 authorized an appropriation of $10,000,000 for fiscal year 1969.

1967—Subsec. (a). Pub. L. 90–137 substituted "1968" and "$50,000,000" for "1967" and "$110,000,000", respectively.

1966—Subsec. (a). Pub. L. 89–583, §109(a), substituted "1967" and "$110,000,000" for "1966" and "$150,000,000", respectively, and struck out second and third sentences which authorized withholding of assistance, from fiscal year 1966 funds, to any country permitting transportation of equipment, materials, or commodities to or from North Vietnam unless contrary to national interest of United States and authorized the appropriation of such sums, not to exceed $89,000,000, as may be necessary in the fiscal year 1966 for programs authorized by subchapters I and II of this chapter, to the President for use in Southeast Asia.

Pub. L. 89–371 substituted "$150,000,000" for "$50,000,000" and authorized withholding of assistance, from fiscal 1966 funds, to any country permitting transportation of equipment, materials, or commodities to or from North Vietnam unless contrary to national interest of United States.

Subsec. (b). Pub. L. 89–583, §109(b), struck out "the first sentence of" before "subsection (a)".

1965—Subsec. (a). Pub. L. 89–171, §108(a), substituted "1966" and "$50,000,000" for "1965" and "$150,000,000", respectively, and authorized the appropriation of such sums, not to exceed $89,000,000, as may be necessary in the fiscal year 1966 for programs authorized by subchapters I and II of this chapter, to the President for use in Southeast Asia.

Subsec. (b). Pub. L. 89–171, §108(b), substituted "the first sentence of subsection (a) of this section" for "this section".

1964—Subsec. (a). Pub. L. 88–633 substituted "1965" and "$150,000,000" for "1964" and "$160,000,000", respectively.

1963—Subsec. (a). Pub. L. 88–205 substituted "1964" and "$160,000,000" for "1963" and "$300,000,000", respectively.

1962—Subsec. (a). Pub. L. 87–565, §109(a), substituted "1963" for "1962".

Subsec. (b). Pub. L. 87–565, §109(b), substituted "provide quarterly reports to" for "keep", and "on the programing and the obligation" for "currently informed of the use".

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

APPROPRIATION FOR DISASTER RELIEF OF UNALLOCATED EXCESS FOREIGN CURRENCIES HELD IN PAKISTAN

Pub. L. 91–652, §6(b), Jan. 5, 1971, 84 Stat. 1943, authorized the appropriation of excess foreign currencies held in Pakistan not allocated on Jan. 5, 1971, for a period of one year from such date to help Pakistan withstand the disaster which had occurred.

§2262. Transferred

CODIFICATION

Section, Pub. L. 87–195, pt. I, §494, formerly §452, as added Pub. L. 93–333, §2(2), July 8, 1974, 88 Stat. 290; renumbered Pub. L. 94–161, title I, §101(4), Dec. 20, 1975, 89 Stat. 850, authorizing appropriations for disaster relief in Pakistan and Nicaragua, was transferred to section 2292c of this title, prior to repeal by Pub. L. 112–74, div. I, title VII, §7034(l), Dec. 23, 2011, 125 Stat. 1216.

PART VI—CENTRAL AMERICA DEMOCRACY, PEACE, AND DEVELOPMENT INITIATIVE

§2271. Statement of policy

(a) Congressional findings

The Congress finds that—

(1) the building of democracy, the restoration of peace, the improvement of living conditions,

and the application of equal justice under law in Central America are important to the interests of the United States and the community of American States; and

(2) the interrelated issues of social and human progress, economic growth, political reform, and regional security must be effectively dealt with to assure a democratic and economically and politically secure Central America.

(b) Policy requirements

(1) The achievement of democracy, respect for human rights, peace, and equitable economic growth depends primarily on the cooperation and the human and economic resources of the people and governments of Central America. The Congress recognizes that the United States can make a significant contribution to such peaceful and democratic development through a consistent and coherent policy which includes a long-term commitment of assistance. This policy should be designed to support actively—

(A) democracy and political reform, including opening the political process to all members of society;

(B) full observance of internationally recognized human rights, including free elections, freedom of the press, freedom of association, and the elimination of all human rights abuses;

(C) leadership development, including training and educational programs to improve public administration and the administration of justice;

(D) land reform, reform in tax systems, encouragement of private enterprise and individual initiative, creation of favorable investment climates, curbing corruption where it exists, and spurring balanced trade;

(E) the establishment of the rule of law and an effective judicial system; and

(F) the termination of extremist violence by both the left and the right as well as vigorous action to prosecute those guilty of crimes and the prosecution to the extent possible of past offenders.

(2) The policy described in paragraph (1) should also promote equitable economic growth and development, including controlling the flight of capital and the effective use of foreign assistance and adhering to approved programs for economic stabilization and fiscal responsibility. Finally, this policy should foster dialog and negotiations—

(A) to achieve peace based upon the objectives of democratization, reduction of armament, an end to subversion, and the withdrawal of foreign military forces and advisers; and

(B) to provide a security shield against violence and intimidation.

(3) It is the purpose of this part to establish the statutory framework and to authorize the appropriations and financing necessary to carry out the policy described in this section.

(c) Additional Congressional findings

The Congress finds, therefore, that the people of the United States are willing to sustain and expand a program of economic and military assistance in Central America if the recipient countries can demonstrate progress toward and a commitment to these goals.

(Pub. L. 87–195, pt. I, §461, as added Pub. L. 99–83, title VII, §701, Aug. 8, 1985, 99 Stat. 234.)

CODIFICATION

Another section 461 of Pub. L. 87–195 is classified to section 2281 of this title.

PRIOR PROVISIONS

A prior section 2271, Pub. L. 87–195, pt. I, §461, Sept. 4, 1961, 75 Stat. 434; Pub. L. 87–565, pt. I, §110, Aug. 1, 1962, 76 Stat. 259; Pub. L. 90–137, pt. I, §113, Nov. 14, 1967, 81 Stat. 455, related to emphasis on programs in agrarian countries which reach people who are engaged in agrarian pursuits, prior to repeal by Pub. L. 95–424, title VI, §604, Oct. 6, 1978, 92 Stat. 961, eff. Oct. 1, 1978.

EFFECTIVE DATE

Part effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as an Effective Date of 1985 Amendment note under section 2151–1 of this title.

§2272. Conditions on furnishing assistance

The President shall ensure that assistance authorized by this chapter and the Arms Export Control Act [22 U.S.C. 2751 et seq.] to Central American countries is furnished in a manner which fosters demonstrated progress toward and commitment to the objectives set forth in section 2271 of this title. Where necessary to achieve this purpose, the President shall impose conditions on the furnishing of such assistance. In carrying out this section, the President shall consult with the Congress in regard to progress toward the objectives set forth in section 2271 of this title, and any conditions imposed on the furnishing of assistance in furtherance of those objectives.

(Pub. L. 87–195, pt. I, §462, as added Pub. L. 99–83, title VII, §701, Aug. 8, 1985, 99 Stat. 235.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

The Arms Export Control Act, referred to in text, is Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1320, as amended, which is classified principally to chapter 39 (§2751 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

CODIFICATION

Another section 462 of Pub. L. 87–195 is classified to section 2282 of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§2273. Peace process in Central America

The Congress—

(1) strongly supports the initiatives taken by the Contadora group and the resulting Document of Objectives which has been agreed to by Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua and which sets forth a framework for negotiating a peaceful settlement to the conflict and turmoil in the region; and

(2) finds that the United States should provide such assistance and support as may be appropriate in helping to reach comprehensive and verifiable final agreements, based on the Document of Objectives, which will ensure peaceful and enduring solutions to the Central American conflicts.

(Pub. L. 87–195, pt. I, §463, as added Pub. L. 99–83, title VII, §701, Aug. 8, 1985, 99 Stat. 235.)

CODIFICATION

Another section 463 of Pub. L. 87–195 is classified to section 2283 of this title.

§2274. Economic assistance coordination

(a) Congressional findings

The Congress finds that participation by Central American countries in an effective forum for dialog on, and the continuous review and advancement of, Central America's political, economic, and social development would foster cooperation between the United States and Central American countries.

(b) Sense of Congress; Central American Development Organization; establishment, etc.

It is the sense of the Congress that—

(1) the President should enter into negotiations with the countries of Central America to

establish a Central American Development Organization (hereafter in this section referred to as the "Organization") to help provide a continuous and coherent approach to the development of the Central American region; and

(2) the establishment of the Organization should be based upon the following principles:

(A) Participation in the Organization should be open to the United States, other donors, and those Central American countries that commit themselves to, among other things, respecting internationally recognized human rights, building democracy, and encouraging equitable economic growth through policy reforms.

(B) The Organization should be structured to include representatives from both the public and private sectors, including representatives from the labor, agriculture, and business communities.

(C) The Organization should meet periodically to carry out the functions described in subparagraphs (D) and (E) of this paragraph and should be supported by a limited professional secretariat.

(D) The Organization should make recommendations affecting Central American countries on such matters as—

(i) political, economic, and social development objectives, including the strengthening of democratic pluralism and the safeguarding of internationally recognized human rights;

(ii) mobilization of resources and external assistance needs; and

(iii) reform of economic policies and structures.

(E) The Organization should have the capacity for monitoring country performance on recommendations issued in accordance with subparagraph (D) of this paragraph and for evaluating progress toward meeting such country objectives.

(F) To the maximum extent practicable, the United States should follow the recommendations of the Organization in disbursing bilateral economic assistance for any Central American country. No more than 75 percent of such United States assistance in any fiscal year should be disbursed until the recommendations of the Organization for that fiscal year have been made final and communicated to the donor countries. The limitation on disbursements contained in the preceding sentence should apply only to recommendations made final and communicated to donor countries prior to the fourth quarter of such fiscal year. The United States representative to the Organization should urge other donor countries to similarly implement the recommendations of the Organization.

(G) The administrator of the agency primarily responsible for administering subchapter I of this chapter, or his designee, should represent the United States Government in the Organization and should carry out his functions in that capacity under the continuous supervision and general direction of the Secretary of State.

(c) Participation of President in Organization

Subject to subsection (d)(2), the President is authorized to participate in the Organization.

(d) Preparation and transmission of proposal for implementation of provisions

(1) The administrator of the agency primarily responsible for administering subchapter I of this chapter, under the supervision and direction of the Secretary of State, shall prepare a detailed proposal to carry out this section and shall keep the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate fully and currently informed concerning the development of this proposal.

(2) The President shall transmit to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate a copy of the text of any agreement, which he proposes to sign, that would provide for the establishment of and United States participation in the Organization no less than sixty days prior to his signature. During that sixty-day period there shall be full and formal consultations with and review by those committees in accordance with procedures applicable to reprogramming notifications pursuant to section 2394–1 of this title.

(Pub. L. 87–195, pt. I, §464, as added Pub. L. 99–83, title VII, §701, Aug. 8, 1985, 99 Stat. 235.)

REFERENCES TO SUBCHAPTER I DEEMED TO INCLUDE CERTAIN PARTS OF SUBCHAPTER II

References to subchapter I of this chapter are deemed to include parts IV (§2346 et seq.), VI (§2348 et seq.), and VIII (§2349aa et seq.) of subchapter II of this chapter, and references to subchapter II are deemed to exclude such parts. See section 202(b) of Pub. L. 92–226, set out as a note under section 2346 of this title, and sections 2348c and 2349aa–5 of this title.

CODIFICATION

Another section 464 of Pub. L. 87–195 is classified to section 2284 of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§2275. Authorization of appropriations

(a) Fiscal years 1988 and 1989

In addition to amounts otherwise available for such purposes, there are authorized to be appropriated to the President, for the purpose of furnishing nonmilitary assistance for Central American countries, $1,200,000,000 for each of the fiscal years 1988 and 1989, which are authorized to remain available until expended.

(b) Transfer of funds

For the purpose of providing the assistance described in subsection (a), funds appropriated pursuant to the authorizations in that subsection may be transferred by the President for obligation in accordance with the authorities of subchapter I of this chapter (including part IV of subchapter II of this chapter), the Peace Corps Act [22 U.S.C. 2501 et seq.], the Migration and Refugee Assistance Act of 1962 [22 U.S.C. 2601 et seq.], the United States Information and Education Exchange Act of 1948 [22 U.S.C. 1431 et seq.], the Mutual Educational and Cultural Exchange Act of 1961 [22 U.S.C. 2451 et seq.], the National Endowment for Democracy Act [22 U.S.C. 4411 et seq.], and the State Department Basic Authorities Act of 1956.

(Pub. L. 87–195, pt. I, §465, as added Pub. L. 99–83, title VII, §701, Aug. 8, 1985, 99 Stat. 237.)

REFERENCES IN TEXT

The Peace Corps Act, referred to in subsec. (b), is Pub. L. 87–293, Sept. 22, 1961, 75 Stat. 612, as amended, which is classified principally to chapter 34 (§2501 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2501 of this title and Tables.

The Migration and Refugee Assistance Act of 1962, referred to in subsec. (b), is Pub. L. 87–510, June 28, 1962, 76 Stat. 121, as amended, which is classified principally to chapter 36 (§2601 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2601 of this title and Tables.

The United States Information and Education Exchange Act of 1948, referred to in subsec. (b), probably means the United States Information and Educational Exchange Act of 1948, which is act Jan. 27, 1948, ch. 36, 62 Stat. 6, as amended, and is classified generally to chapter 18 (§1431 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1431 of this title and Tables.

The Mutual Educational and Cultural Exchange Act of 1961, referred to in subsec. (b), is Pub. L. 87–256, Sept. 21, 1961, 75 Stat. 527, as amended, which is classified principally to chapter 33 (§2451 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2451 of this title and Tables.

The National Endowment for Democracy Act, referred to in subsec. (b), is title V of Pub. L. 98–164, Nov. 22, 1983, 97 Stat. 1039, as amended, which is classified generally to subchapter II (§4411 et seq.) of chapter 54 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4411 of this title and Tables.

The State Department Basic Authorities Act of 1956, referred to in subsec. (b), is act Aug. 1, 1956, ch. 841, 70 Stat. 890, which enacted sections 2651a, 2669, 2670, 2671, 2672, 2673 to 2679a, 2680, 2680a, 2684, 2687 to 2690, 2692, 2695, 2696 to 2715, and 2715b to 2734 of this title and chapters 53 (§4301 et seq.), 53A

(§4341 et seq.), and 53B (§4351 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2651 of this title and Tables.

REFERENCES TO SUBCHAPTER I DEEMED TO INCLUDE CERTAIN PARTS OF SUBCHAPTER II

References to subchapter I of this chapter are deemed to include parts IV (§2346 et seq.), VI (§2348 et seq.), and VIII (§2349aa et seq.) of subchapter II of this chapter, and references to subchapter II are deemed to exclude such parts. See section 202(b) of Pub. L. 92–226, set out as a note under section 2346 of this title, and sections 2348c and 2349aa–5 of this title.

CODIFICATION

Another section 465 of Pub. L. 87–195 is classified to section 2285 of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§2276. "Central American countries" defined

For the purposes of this part, the term "Central American countries" includes Belize, Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, Panama, and regional programs which benefit such countries.

(Pub. L. 87–195, pt. I, §466, as added Pub. L. 99–83, title VII, §701, Aug. 8, 1985, 99 Stat. 237.)

CODIFICATION

Another section 466 of Pub. L. 87–195 is classified to section 2286 of this title.

PART VII—DEBT-FOR-NATURE EXCHANGES

§2281. "Debt-for-nature exchange" defined

For purpose of this part, the term "debt-for-nature exchange" means the cancellation or redemption of the foreign debt of the government of a country in exchange for—

(1) that government's making available local currencies (including through the issuance of bonds) which are used only for eligible projects involving the conservation or protection of the environment in that country (as described in section 2283 of this title); or

(2) that government's financial resource or policy commitment to take certain specified actions to ensure the restoration, protection, or sustainable use of natural resources within that country; or

(3) a combination of assets and actions under both paragraphs (1) and (2).

(Pub. L. 87–195, pt. I, §461 [471], as added Pub. L. 101–240, title VII, §711, Dec. 19, 1989, 103 Stat. 2521.)

REFERENCES IN TEXT

Section 2283 of this title, referred to in par. (1), was in the original "section 463", meaning section 463 of Pub. L. 87–195, which has been translated as meaning section 463 of Pub. L. 87–195 relating to eligible projects rather than section 463 of Pub. L. 87–195, relating to the peace process in Central America, which is classified to section 2273 of this title.

CODIFICATION

Another section 461 of Pub. L. 87–195 is classified to section 2271 of this title.

PRIOR PROVISIONS

A prior section 2281, Pub. L. 87–195, pt. I, §471, as added Pub. L. 89–583, pt. I, §110, Sept. 19, 1966, 80

Stat. 802, related to agreements with less developed countries for establishment of Joint Commissions on Rural Development, prior to repeal by Pub. L. 95–424, title VI, §604, Oct. 6, 1978, 92 Stat. 961, effective Oct. 1, 1978.

§2282. Assistance for commercial debt exchanges

(a) The Administrator of the Agency for International Development is authorized to furnish assistance, in the form of grants on such terms and conditions as may be necessary, to nongovernmental organizations for the purchase on the open market of discounted commercial debt of a foreign government of an eligible country which will be canceled or redeemed under the terms of an agreement with that government as part of a debt-for-nature exchange.

(b) Notwithstanding any other provision of law, a grantee (or any subgrantee) of the grants referred to in subsection (a) may retain, without deposit in the Treasury of the United States and without further appropriation by Congress, interest earned on the proceeds of any resulting debt-for-nature exchange pending the disbursements of such proceeds and interest for approved program purposes, which may include the establishment of an endowment, the income of which is used for such purposes.

(Pub. L. 87–195, pt. I, §462 [472], as added Pub. L. 101–240, title VII, §711, Dec. 19, 1989, 103 Stat. 2521.)

CODIFICATION

Another section 462 of Pub. L. 87–195 is classified to section 2272 of this title.

§2283. Eligible projects

(a) The Administrator of the Agency for International Development shall seek to ensure that debt-for-nature exchanges under this part support one or more of the following activities by either the host government, a local private conservation group, or a combination thereof:

(1) restoration, protection, or sustainable use of the world's oceans and atmosphere;

(2) restoration, protection, or sustainable use of diverse animal and plant species;

(3) establishment, restoration, protection, and maintenance of parks and reserves;

(4) development and implementation of sound systems of natural resource management;

(5) development and support of local conservation programs;

(6) training programs to strengthen conservation institutions and increase scientific, technical, and managerial capabilities of individuals and organizations involved in conservation efforts;

(7) efforts to generate knowledge, increase understanding, and enhance public commitment to conservation;

(8) design and implementation of sound programs of land and ecosystem management; and

(9) promotion of regenerative approaches in farming, forestry, fishing, and watershed management.

(b)(1) In cooperation with nongovernmental organizations, the Administrator of the Agency for International Development shall seek to identify those areas, which because of an imminent threat, are in particular need of immediate attention to prevent the loss of unique biological life or valuable ecosystem.

(2) The Administrator of the Agency for International Development shall encourage as many eligible countries as possible to propose such exchanges with the purpose of demonstrating to a large number of governments the feasibility and benefits of sustainable development.

(Pub. L. 87–195, pt. I, §463 [473], as added Pub. L. 101–240, title VII, §711, Dec. 19, 1989, 103 Stat. 2522.)

CODIFICATION

Another section 463 of Pub. L. 87–195 is classified to section 2273 of this title.

§2284. Eligible countries

In order for a foreign country to be eligible to participate in a debt-for-nature exchange under this part, the Administrator of the Agency for International Development shall determine that—

(1) the host country is fully committed to the long-term viability of the program or project that is to be undertaken through the debt-for-nature exchange;

(2) a long-term plan has been prepared by the host country, or private conservation group, which adequately provides for the long-term viability of the program or project that is to be undertaken through the debt-for-nature exchange or that such a plan will be prepared in a timely manner; and

(3) there is a government agency or a local nongovernmental organization, or combination thereof, in the host country with the capability, commitment, and record of environmental concern to oversee the long-term viability of the program or project that is to be undertaken through the debt-for-nature exchange.

(Pub. L. 87–195, pt. I, §464 [474], as added Pub. L. 101–240, title VII, §711, Dec. 19, 1989, 103 Stat. 2522.)

CODIFICATION

Another section 464 of Pub. L. 87–195 is classified to section 2274 of this title.

§2285. Terms and conditions

(a) Fulfillment upon final approval by Administrator

The terms and conditions for making grants under this part shall be deemed to be fulfilled upon final approval by the Administrator of the Agency for International Development of the debt-for-nature exchange, a certification by the nongovernmental organization that the host government has accepted the terms of the exchange, and that an agreement has been reached to cancel the commercial debt in an agreed upon fashion.

(b) Grants intended to complement assistance otherwise available

Grants made under this section are intended to complement, and not substitute for, assistance otherwise available to a foreign country under this chapter or any other provision of law.

(c) Prohibition against acceptance of title or interest in land as condition on debt exchange

The United States Government is prohibited from accepting title or interest in any land in a foreign country as a condition on the debt exchange.

(Pub. L. 87–195, pt. I, §465 [475], as added Pub. L. 101–240, title VII, §711, Dec. 19, 1989, 103 Stat. 2522.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

CODIFICATION

Another section 465 of Pub. L. 87–195 is classified to section 2275 of this title.

§2286. Pilot program for sub-Saharan Africa

(a) List of areas of severely degraded national resources or of biological or ecological importance

The Administrator of the Agency for International Development, in cooperation with

nongovernmental conservation organizations, shall invite the government of each country in sub-Saharan Africa to submit a list of those areas of severely degraded national resources which threaten human survival and well-being and the opportunity for future economic growth or those areas of biological or ecological importance within the territory of that country.

(b) Assessment of list; agreement for future use of areas

The Administrator of the Agency for International Development shall assess the list submitted by each country under subsection (a) and shall seek to reach agreement with the host country for the restoration and future sustainable use of those areas.

(c) Grants for purchase of discounted commercial debt on open market; retention of interest by grantee

(1) The Administrator of the Agency for International Development is authorized to make grants, on such terms and conditions as may be necessary, to nongovernmental organizations for the purchase on the open market of discounted commercial debt of a foreign government of an eligible sub-Saharan country in exchange for commitments by that government to restore natural resources identified by the host country under subsection (a) or for commitments to develop plans for sustainable use of such resources.

(2) Notwithstanding any other provision of law, a grantee (or any subgrantee) of the grants referred to in section (a) [1] may retain, without deposit in the Treasury of the United States and without further appropriation by Congress, interest earned on the proceeds of any resulting debt-for-nature exchange pending the disbursements of such proceeds and interest for approved program purposes, which may include the establishment of an endowment, the income of which is used for such purposes.

(Pub. L. 87–195, pt. I, §466 [476], as added Pub. L. 101–240, title VII, §711, Dec. 19, 1989, 103 Stat. 2523.)

CODIFICATION

Another section 466 of Pub. L. 87–195 is classified to section 2276 of this title.

[1] *So in original. Probably should be "paragraph (1)".*

PART VIII—INTERNATIONAL NARCOTICS CONTROL

§2291. Policy, general authorities, coordination, foreign police actions, definitions, and other provisions

(a) Policy and general authorities

(1) Statements of policy

(A) International narcotics trafficking poses an unparalleled transnational threat in today's world, and its suppression is among the most important foreign policy objectives of the United States.

(B) Under the Single Convention on Narcotic Drugs, 1961, and under the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, the parties are required to criminalize certain drug-related activities, provide appropriately severe penalties, and cooperate in the extradition of accused offenders.

(C) International narcotics control programs should include, as priority goals, the suppression of the illicit manufacture of and trafficking in narcotic and psychotropic drugs, money laundering, and precursor chemical diversion, and the progressive elimination of the illicit cultivation of the crops from which narcotic and psychotropic drugs are derived.

(D) International criminal activities, particularly international narcotics trafficking, money laundering, and corruption, endanger political and economic stability and democratic development, and assistance for the prevention and suppression of international criminal activities should be a priority for the United States.

(E) The international community should provide assistance, where appropriate, to those producer and transit countries which require assistance in discharging these primary obligations.

(F) The objective of the United States in dealing with the problem of international money laundering is to ensure that countries adopt comprehensive domestic measures against money laundering and cooperate with each other in narcotics money laundering investigations, prosecutions, and related forfeiture actions.

(G) Effective international cooperation is necessary to control the illicit cultivation, production, and smuggling of, trafficking in, and abuse of narcotic and psychotropic drugs.

(2) In order to promote such cooperation, the President is authorized to conclude agreements, including reciprocal maritime agreements, with other countries to facilitate control of the production, processing, transportation, and distribution of narcotics analgesics, including opium and its derivatives, other narcotic and psychotropic drugs, and other controlled substances.

(3) In order to promote international cooperation in combatting international trafficking in illicit narcotics, it shall be the policy of the United States to use its voice and vote in multilateral development banks to promote the development and implementation in the major illicit drug producing countries of programs for the reduction and eventual eradication of narcotic drugs and other controlled substances, including appropriate assistance in conjunction with effective programs of illicit crop eradication.

(4) Notwithstanding any other provision of law, the President is authorized to furnish assistance to any country or international organization, on such terms and conditions as he may determine, for the control of narcotic and psychotropic drugs and other controlled substances, or for other anticrime purposes.

(b) Coordination of all United States antinarcotics assistance to foreign countries

(1) Responsibility of Secretary of State

Consistent with chapter 1 of the National Narcotics Leadership Act of 1988,[1] the Secretary of State shall be responsible for coordinating all assistance provided by the United States Government to support international efforts to combat illicit narcotics production or trafficking.

(2) Rule of construction

Nothing contained in this subsection or section 2291h(b) of this title shall be construed to limit or impair the authority or responsibility of any other Federal agency with respect to law enforcement, domestic security operations, or intelligence activities as defined in Executive Order 12333.

(c) Participation in foreign police actions

(1) Prohibition on effecting an arrest

No officer or employee of the United States may directly effect an arrest in any foreign country as part of any foreign police action with respect to narcotics control efforts, notwithstanding any other provision of law.

(2) Participation in arrest actions

Paragraph (1) does not prohibit an officer or employee of the United States, with the approval of the United States chief of mission, from being present when foreign officers are effecting an arrest or from assisting foreign officers who are effecting an arrest.

(3) Exception for exigent, threatening circumstances

Paragraph (1) does not prohibit an officer or employee from taking direct action to protect life or safety if exigent circumstances arise which are unanticipated and which pose an immediate

threat to United States officers or employees, officers or employees of a foreign government, or members of the public.

(4) Exception for maritime law enforcement

With the agreement of a foreign country, paragraph (1) does not apply with respect to maritime law enforcement operations in the territorial sea or archipelagic waters of that country.

(5) Interrogations

No officer or employee of the United States may interrogate or be present during the interrogation of any United States person arrested in any foreign country with respect to narcotics control efforts without the written consent of such person.

(6) Exception for Status of Forces arrangements

This subsection does not apply to the activities of the United States Armed Forces in carrying out their responsibilities under applicable Status of Forces arrangements.

(d) Use of herbicides for aerial eradication

(1) Monitoring

The President, with the assistance of appropriate Federal agencies, shall monitor any use under this part of a herbicide for aerial eradication in order to determine the impact of such use on the environment and on the health of individuals.

(2) Annual reports

In the annual report required by section 2291h(a) of this title, the President shall report on the impact on the environment and the health of individuals of the use under this part of a herbicide for aerial eradication.

(3) Report upon determination of harm to environment or health

If the President determines that any such use is harmful to the environment or the health of individuals, the President shall immediately report that determination to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate, together with such recommendations as the President deems appropriate.

(e) Definitions

For purposes of this part and other provisions of this chapter relating specifically to international narcotics matters—

(1) the term "legal and law enforcement measures" means—

(A) the enactment and implementation of laws and regulations or the implementation of existing laws and regulations to provide for the progressive control, reduction, and gradual elimination of the illicit cultivation, production, processing, transportation, and distribution of narcotic drugs and other controlled substances; and

(B) the effective organization, staffing, equipping, funding, and activation of those governmental authorities responsible for narcotics control;

(2) the term "major illicit drug producing country" means a country in which—

(A) 1,000 hectares or more of illicit opium poppy is cultivated or harvested during a year;

(B) 1,000 hectares or more of illicit coca is cultivated or harvested during a year; or

(C) 5,000 hectares or more of illicit cannabis is cultivated or harvested during a year, unless the President determines that such illicit cannabis production does not significantly affect the United States;

(3) the term "narcotic and psychotropic drugs and other controlled substances" has the same meaning as is given by any applicable international narcotics control agreement or domestic law of the country or countries concerned;

(4) the term "United States assistance" means—

(A) any assistance under this chapter (including programs under subpart IV of part II of this

subchapter, relating to the Overseas Private Investment Corporation), other than—

(i) assistance under this part,

(ii) any other narcotics-related assistance under this subchapter (including part IV of subchapter II of this chapter), but any such assistance provided under this clause shall be subject to the prior notification procedures applicable to reprogrammings pursuant to section 2394–1 of this title,

(iii) disaster relief assistance, including any assistance under part IX of this subchapter,

(iv) assistance which involves the provision of food (including monetization of food) or medicine, and

(v) assistance for refugees;

(B) sales, or financing on any terms, under the Arms Export Control Act [22 U.S.C. 2751 et seq.];

(C) the provision of agricultural commodities, other than food, under the Food for Peace Act [7 U.S.C. 1691 et seq.]; and

(D) financing under the Export-Import Bank Act of 1945 [12 U.S.C. 635 et seq.];

(5) the term "major drug-transit country" means a country—

(A) that is a significant direct source of illicit narcotic or psychotropic drugs or other controlled substances significantly affecting the United States; or

(B) through which are transported such drugs or substances; and

(6) the term "precursor chemical" has the same meaning as the term "listed chemical" has under paragraph (33) of section 802 of title 21;

(7) the term "major money laundering country" means a country whose financial institutions engage in currency transactions involving significant amounts of proceeds from international narcotics trafficking; and

(8) the term "appropriate congressional committees" means the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

(Pub. L. 87–195, pt. I, §481, as added Pub. L. 92–352, title V, §503, July 13, 1972, 86 Stat. 496; amended Pub. L. 93–189, §11(a), Dec. 17, 1973, 87 Stat. 719; Pub. L. 94–329, title V, §504(b), June 30, 1976, 90 Stat. 764; Pub. L. 95–384, §§3, 4, Sept. 26, 1978, 92 Stat. 730; Pub. L. 96–92, §3(b), Oct. 29, 1979, 93 Stat. 702; Pub. L. 97–113, title V, §502(a)(1), (b), title VII, §734(a)(1), Dec. 29, 1981, 95 Stat. 1538, 1539, 1560; Pub. L. 98–164, title X, §1003, Nov. 22, 1983, 97 Stat. 1053; Pub. L. 99–83, title VI, §§604–606, 618, Aug. 8, 1985, 99 Stat. 228, 229, 233; Pub. L. 99–570, title II, §§2005, 2008, 2009, 2017, Oct. 27, 1986, 100 Stat. 3207–61, 3207–64, 3207–68; Pub. L. 100–202, §101(e) [title V, §585(a)], Dec. 22, 1987, 101 Stat. 1329–131, 1329–184; Pub. L. 100–204, title VIII, §805, Dec. 22, 1987, 101 Stat. 1397; Pub. L. 100–461, title V, §578(e)(2), (g)(1), (3), (h), (i), Oct. 1, 1988, 102 Stat. 2268–47, 2268–48; Pub. L. 100–690, title IV, §4202(b), 4401–4403, 4405(a), 4407(a), (b)(1), 4502, 4802(b), Nov. 18, 1988, 102 Stat. 4267, 4275–4277, 4281, 4285, 4294; Pub. L. 101–231, §§15, 17(a)–(f), Dec. 13, 1989, 103 Stat. 1963–1965; Pub. L. 102–550, title XV, §1519, Oct. 28, 1992, 106 Stat. 4060; Pub. L. 102–583, §§4(a)–(d), 5(b), 6(b)(1)–(3), 11(a), Nov. 2, 1992, 106 Stat. 4914, 4915, 4931, 4932, 4934; Pub. L. 103–447, title I, §101(a), (b), Nov. 2, 1994, 108 Stat. 4691; Pub. L. 104–164, title I, §131(a), July 21, 1996, 110 Stat. 1429; Pub. L. 105–20, §2(b), June 27, 1997, 111 Stat. 234; Pub. L. 110–246, title III, §3001(b)(1)(A), (2)(Q), June 18, 2008, 122 Stat. 1820.)

REFERENCES IN TEXT

The National Narcotics Leadership Act of 1988, referred to in subsec. (b)(1), is subtitle A of title I of Pub. L. 100–690, Nov. 18, 1988, 102 Stat. 4181, as amended. Chapter 1 of the Act was classified principally to subchapter I (§1501 et seq.) of chapter 20 of Title 21, Food and Drugs, prior to repeal by Pub. L. 100–690, title I, §1009, Nov. 18, 1988, 102 Stat. 4188. For complete classification of this Act to the Code, see Tables.

Executive Order Number 12333, referred to in subsec. (b)(2), is set out as a note under section 3001 of Title

50, War and National Defense.

This chapter, referred to in subsec. (e)(4)(A), was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

The Arms Export Control Act, referred to in subsec. (e)(4)(B), is Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1320, as amended, which is classified principally to chapter 39 (§2751 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

The Food for Peace Act, referred to in subsec. (e)(4)(C), is act July 10, 1954, ch. 469, 68 Stat. 454, which is classified principally to chapter 41 (§1691 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 1691 of Title 7 and Tables.

The Export-Import Bank Act of 1945, referred to in subsec. (e)(4)(D), is act July 31, 1945, ch. 341, 59 Stat. 526, as amended, which is classified generally to subchapter I (§635 et seq.) of chapter 6A of Title 12, Banks and Banking. For complete classification of this Act to the Code, see Short Title note set out under section 635 of Title 12 and Tables.

PRIOR PROVISIONS

A prior section 481 of Pub. L. 87–195, pt. I, as added Pub. L. 92–226, pt. I, §109, Feb. 7, 1972, 86 Stat. 24, contained similar subject matter, prior to repeal by section 503 of Pub. L. 92–352.

AMENDMENTS

2008—Subsec. (e)(4)(C). Pub. L. 110–246 substituted "Food for Peace Act" for "Agricultural Trade Development and Assistance Act of 1954".

1997—Subsec. (b)(1). Pub. L. 105–20 substituted reference to chapter 1 of the National Narcotics Leadership Act of 1988 for reference to subtitle A of title I of the Anti-Drug Abuse Act of 1988.

1996—Subsec. (a)(1)(D) to (G). Pub. L. 104–164, §131(a)(1), added subpar. (D) and redesignated former subpars. (D) to (F) as (E) to (G), respectively.

Subsec. (a)(4). Pub. L. 104–164, §131(a)(2), inserted ", or for other anticrime purposes" before period at end.

1994—Subsec. (d)(2) to (4). Pub. L. 103–447, §101(a), redesignated pars. (3) and (4) as (2) and (3), respectively, and struck out heading and text of former par. (2). Text read as follows: "The Secretary of State shall inform the Secretary of Health and Human Services and the Administrator of the Environmental Protection Agency of the use or intended use by any country or international organization of any herbicide for aerial eradication in a program receiving assistance under this part."

Subsec. (e). Pub. L. 103–447, §101(b)(1), substituted "For" for "Except as provided in sections 2291j(h) and (i) of this title with respect to the definition of major illicit drug producing country and major drug-transit country, for".

Subsec. (e)(2). Pub. L. 103–447, §101(b)(2), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "the term 'major illicit drug producing country' means a country that illicitly produces during a fiscal year 5 metric tons or more of opium or opium derivative, 500 metric tons or more of coca, or 500 metric tons or more of marijuana;".

Subsec. (e)(6) to (8). Pub. L. 103–447, §101(b)(3)–(5), added pars. (6) and (7) and redesignated former par. (6) as (8).

1992—Pub. L. 102–583, §4(a), added section catchline and struck out former catchline which read as follows: "International narcotics control".

Subsec. (a)(1). Pub. L. 102–583, §4(a), added par. (1) and struck out former par. (1) which read as follows: "It is the sense of the Congress that—

"(A) under the Single Convention on Narcotic Drugs, 1961, each signatory country has the responsibility of limiting to licit purposes the cultivation, production, manufacture, sale, and other distribution of scheduled drugs;

"(B) suppression of international narcotics trafficking is among the most important foreign policy objectives of the United States;

"(C) the international community should provide assistance, where appropriate, to those producer and transit countries which require assistance in discharging these primary obligations;

"(D) international narcotics control programs should include, as a priority, the progressive elimination of the illicit cultivation of the crops from which narcotic and psychotropic drugs are derived, and should also include the suppression of the illicit manufacture of and traffic in narcotic and psychotropic drugs;

"(E) the objective of the United States in dealing with the problem of international money laundering should be to ensure that countries adopt comprehensive domestic measures against money laundering and

cooperative with each other in narcotics money laundering investigations, prosecutions, and related forfeiture actions; and

"(F) effective international cooperation is necessary to control the illicit cultivation, production, and smuggling of, trafficking in, and abuse of narcotic and psychotropic drugs."

Subsec. (a)(1)(D) to (F). Pub. L. 102–550, §1519(a), struck out "and" at end of subpar. (D), added subpar. (E), and redesignated former subpar. (E) as (F).

Subsec. (a)(2). Pub. L. 102–583, §4(b), inserted ", including reciprocal maritime agreements," after "agreements".

Subsec. (b). Pub. L. 102–583, §4(c), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "Not later than September 1 of each year, the President shall transmit to the Speaker of the House of Representatives, and to the Committee on Foreign Relations of the Senate, a complete and detailed midyear report on the activities and operations carried out under this part prior to such date. Such midyear report shall include, but not be limited to, the status of each agreement concluded prior to such date with other countries to carry out the purposes of this part."

Subsec. (c)(4). Pub. L. 102–583, §4(d), inserted "or archipelagic waters" after "sea".

Subsec. (d)(3). Pub. L. 102–583, §6(b)(1), substituted "section 2291h(a) of this title" for "subsection (e) of this section".

Subsec. (e). Pub. L. 102–583, §§6(b)(2), (3), 11(a), redesignated subsec. (i) as (e), substituted "Except as provided in sections 2291j(h) and (i) of this title with respect to the definition of major illicit drug producing country and major drug-transit country, for purposes of this part and other provisions of this chapter relating specifically to international narcotics matters" for "As used in this section" in introductory provisions, substituted "; and" for period at end of par. (5), added par. (6), and struck out former subsec. (e) which directed President to make annual reports to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate related to United States policy to promote an international strategy against the cultivation, and manufacture of and traffic in controlled substances, and described contents of those reports.

Pub. L. 102–550, §1519(b), added par. (7) and redesignated former pars. (7) and (8) as (8) and (9), respectively. As added, par. (7) read as follows:

"(A) Each report pursuant to this subsection shall include a report on major money laundering countries. This report shall specify—

"(i) which countries are major money laundering countries;

"(ii) which countries identified pursuant to clause (i) have financial institutions engaging in currency transactions involving international narcotics trafficking proceeds that include significant amounts of United States currency or currency derived from illegal drug sales in the United States or that otherwise significantly affect the United States;

"(iii) which countries identified pursuant to clause (ii) have not reached agreement with the United States authorities on a mechanism for exchanging adequate records in connection with narcotics investigations and proceedings;

"(iv) which countries identified pursuant to clause (iii)—

"(I) are negotiating in good faith with the United States to establish such a record-exchange mechanism, or

"(II) have adopted laws or regulations that ensure the availability to appropriate United States Government personnel and those of other governments of adequate records in connection with narcotics investigations and proceedings; and

"(v) which countries identified pursuant to clause (i)—

"(I) have ratified the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances and are taking steps to implement that Convention and other applicable agreements and conventions such as the recommendations of the Financial Action Task Force, the policy directive of the European Community, the legislative guidelines of the Organization of American States, and other similar declarations, and

"(II) have entered into bilateral agreements for the exchange of information on money-laundering with countries other than the United States,

"(B) In addition, for each major money laundering country, the report shall include findings on the country's adoption of law and regulations considered essential to prevent narcotics-related money laundering. Such findings shall include whether a country has—

"(i) criminalized narcotics money laundering;

"(ii) required banks and other financial institutions to know and record the identity of customers engaging in significant transactions, including the recording of large currency transactions at thresholds

appropriate to that country's economic situation;

"(iii) required banks and other financial institutions to maintain, for an adequate time, records necessary to reconstruct significant transactions through financial institutions in order to be able to respond quickly to information requests from appropriate government authorities in narcotics-related money laundering cases;

"(iv) required or allowed financial institutions to report suspicious transactions;

"(v) established systems for identifying, tracing, freezing, seizing, and forfeiting narcotics-related assets;

"(vi) enacted laws for the sharing of seized narcotics assets with other governments;

"(vii) cooperated, when requested, with appropriate law enforcement agencies of other governments investigating financial crimes related to narcotics; and

"(viii) addressed the problem on international transportation of illegal-source currency and monetary instruments.

The report shall also detail instances of refusals to cooperate with foreign governments, and any actions taken by the United States Government and any international organization to address such obstacles, including the imposition of sanctions or penalties.

"(C) The report shall also include information on multilateral and bilateral strategies pursued by the Department of State, the Department of Justice, the Department of the Treasury, and other relevant United States Government agencies, either collectively or individually, to ensure the cooperation of foreign governments with respect to narcotics-related money laundering.

"(D) The report shall include specific detail to demonstrate that all United States Government agencies are pursuing a common strategy with respect to achieving international cooperation against money laundering and are pursuing a common strategy with respect to major money laundering countries, including a summary of United States objectives on a country-by-country basis.

"(E) As used in this paragraph, the term 'major money laundering country' means a country whose financial institutions engage in currency transactions involving significant amounts of proceeds from international narcotics trafficking."

Subsecs. (f) to (h). Pub. L. 102–583, §6(b)(2), struck out subsec. (f) relating to consultation with members of Congress, subsec. (g) relating to congressional committee hearings, and subsec. (h) relating to annual certification procedures.

Subsec. (i). Pub. L. 102–583, §6(b)(3), redesignated subsec. (i) as (e).

Subsec. (i)(4). Pub. L. 102–583, §5(b), amended par. (4) generally. Prior to amendment, par. (4) consisted of subpars. (A) to (E) and concluding provisions, which defined "United States assistance".

Subsec. (i)(5). Pub. L. 102–550, §1519(c), inserted "or" at end of subpar. (A), substituted a period for "or" at end of subpar. (B), and struck out subpar. (C) which read as follows: "through which significant sums of drug-related profits or monies are laundered with the knowledge or complicity of the government."

Subsecs. (j), (k). Pub. L. 102–583, §6(b)(2), struck out subsec. (j) relating to actions by international bodies and subsec. (k) relating to procedures for determining major drug-transit countries.

1989—Subsec. (a)(1). Pub. L. 101–231, §17(a), struck out at end "This cooperation should include the development and transmittal of plans by each signatory country to the Single Convention on Narcotic Drugs, 1961, in which illicit narcotics and psychotropic crop cultivation exists, which would advise the International Narcotics Control Board, the United Nations Commission on Narcotic Drugs, and the international community of the strategy, programs, and timetable such country has established for the progressive elimination of that cultivation."

Subsec. (b). Pub. L. 101–231, §17(b), inserted "Mid-year report" as heading, struck out par. (1) which required quarterly reports on the programming and obligation of funds under this part, redesignated former par. (2) as subsec. (b), and substituted "Not later than September" for "Not later than August".

Subsec. (c). Pub. L. 101–231, §15, inserted "Participation in foreign police actions" as heading and amended text generally, inserting par. headings, redesignating provisions comprising former par. (1) as pars. (1) and (2) and, in par. (2), inserting provision not prohibiting presence of officers and employees when foreign officers are effecting an arrest, and striking out former par. (2) which prohibited officers or employees from engaging or participating in direct police action in a foreign country with respect to narcotics control efforts.

Subsec. (d). Pub. L. 101–231, §17(c), inserted "Use of herbicides for aerial eradication" as heading and amended text generally, substituting pars. (1) to (4) for former pars. (1) to (5).

Subsec. (h)(2)(A)(i)(IV). Pub. L. 101–231, §17(d)(1), substituted "illicit production" for "production".

Subsec. (h)(2)(B)(iii). Pub. L. 101–231, §17(d)(2), substituted "education and treatment programs" for "treatment".

Subsec. (h)(2)(B)(v). Pub. L. 101–231, §17(d)(3), substituted "essential precursor chemicals" for "precursor chemicals".

Subsec. (h)(3)(D). Pub. L. 101–231, §17(d)(4), substituted "illicit production" for "production".

Subsec. (i)(2). Pub. L. 101–231, §17(e), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "the term 'major illicit drug producing country' means a country producing five metric tons or more of opium or opium derivative during a fiscal year or producing five hundred metric tons or more of coca or marijuana (as the case may be) during a fiscal year;".

Subsec. (k)(4). Pub. L. 101–231, §17(f), struck out par. (4) which required that reports under subsec. (e) discuss changes made since notification provided pursuant to subsec. (k)(2) and (3).

1988—Subsec. (a)(1)(B) to (E). Pub. L. 100–690, §4502, added subpar. (B), and redesignated former subpars. (B) to (D) as (C) to (E), respectively.

Subsec. (d)(5). Pub. L. 100–690, §4202(b), added par. (5).

Subsec. (e)(4). Pub. L. 100–690, §4401, inserted provisions after first sentence requiring each determination of President to be expressed in numerical terms.

Subsec. (e)(8). Pub. L. 100–690, §4402, added par. (8).

Subsec. (h)(1). Pub. L. 100–690, §4407(a), added par. (1) and struck out former par. (1) which related to withholding of assistance to major illicit drug producing countries or major drug-transit countries.

Pub. L. 100–461, §578(h), inserted before "Subject" the following: "Not later than October 1 of each year, the Secretary of State shall submit a report to the Congress of those countries identified by the Secretary as being major drug producing or major drug transit countries (including the definition used to determine such drug transit countries) for purposes of the withholding requirements contained in subparagraph (A) of this paragraph and the certification requirements contained in paragraph (2) of this subsection."

Subsec. (h)(2). Pub. L. 100–690, §4407(a), added par. (2) and struck out former par. (2) which related to removal of restrictions imposed under par. (1).

Subsec. (h)(2)(A)(i)(I). Pub. L. 100–461, §578(g)(3), inserted "or multilateral agreement which achieves the objectives of this subsection," after "(ii)".

Subsec. (h)(2)(A)(ii). Pub. L. 100–461, §578(g)(1), amended cl. (ii) generally, substituting "A bilateral narcotics agreement referred to in clause (i)(I) is an agreement between the United States and a foreign country whereby the foreign country agrees to undertake specific activities including, where applicable, efforts to reduce drug production, drug consumption, and drug trafficking within its territory, including activities to address illicit crop eradication and crop substitution; drug interdiction and enforcement; drug consumption and treatment; identification and elimination of illicit drug laboratories; identification and elimination of the trafficking of precursor chemicals for the use in production of illegal drugs; cooperation with United States drug enforcement officials; and, where applicable, participation in extradition treaties, mutual legal assistance provisions directed at money laundering, sharing of evidence, and other initiatives for cooperative drug enforcement." for "A bilateral narcotics agreement referred to in clause (i)(I) is an agreement between the United States and a foreign country whereby the foreign country agrees to take specific activities including but not limited to, efforts to reduce drug production, drug consumption, and drug trafficking within its territory, including activities to address illicit crop eradication and crop substitution; drug interdiction and enforcement; drug consumption and treatment; identification of and elimination of illicit drug laboratories; identification and elimination of the trafficking of precursor chemicals for the use in production of illegal drugs; cooperation with United States drug enforcement officials; and, where applicable, participation in extradition treaties, mutual legal assistance provisions directed at money laundering, sharing of evidence, and other initiatives for cooperative drug enforcement."

Subsec. (h)(2)(B). Pub. L. 100–461, §578(i), substituted "subparagraph (A)(i)(II)" for "clause (A)(ii)".

Subsec. (h)(3). Pub. L. 100–690, §4407(a), added par. (3) and struck out former par. (3) which related to certification by President.

Subsec. (h)(4). Pub. L. 100–690, §4407(a), added par. (4). Subpar. (A) of former par. (4), which related to Congressional disapproval of certification, was struck out and subpar. (B) of former par. (4) redesignated par. (6)(B).

Subsec. (h)(5). Pub. L. 100–690, §4407(a), (b)(1)(A), added par. (5) and struck out former par. (5) which related to prohibition of assistance or financing to any country for which President has not made certification under par. (2) or with respect to which Congress has enacted a joint resolution disapproving such certification unless President makes certification or Congress enacts joint resolution approving certification.

Subsec. (h)(6)(A). Pub. L. 100–690, §4407(a), added subpar. (A).

Subsec. (h)(6)(B). Pub. L. 100–690, §4407(a), (b)(1)(B)(i), (ii), redesignated par. (4)(B) as (6)(B) and substituted "Any joint resolution under this subsection" for "Any such joint resolution" in cl. (i).

Subsec. (h)(6)(B)(ii). Pub. L. 100–690, §4407(b)(1)(B)(iii), which directed substitution of "resolutions" for

"resolution" was executed by making the substitution the first place it appears, thus correcting grammatical error, as the probable intent of Congress.

Subsec. (i)(4)(vi). Pub. L. 100–690, §4802(b), made technical amendment to reference to section 2151b(c)(2) of this title to correct reference to corresponding section of original act.

Subsec. (i)(4)(vii). Pub. L. 100–690, §4403, substituted "2151x(b)(2) of this title (but any such assistance shall be subject to the prior notification procedures applicable to reprogrammings pursuant to section 2394–1 of this title)," for "2151x of this title;".

Pub. L. 100–461, §578(e)(2)(A), added cl. (vii). Former cl. (vii) redesignated cl. (viii).

Subsec. (i)(4)(viii). Pub. L. 100–461, §578(e)(2)(B), redesignated cl. (vii) as (viii).

Subsec. (k). Pub. L. 100–690, §4405(a), added subsec. (k).

1987—Subsec. (e)(7). Pub. L. 100–204, §805(a), added par. (7).

Subsec. (h)(2)(A). Pub. L. 100–202 designated existing provisions of subpar. (A) as cl. (i), redesignated former cls. (i) and (ii) as subcls. (I) and (II), respectively, and in subcl. (I) inserted "in satisfying the goals agreed to in an applicable bilateral narcotics agreement with the United States, (as described in (ii)) and," after "on its own,", and added cl. (ii).

Subsec. (h)(4)(A). Pub. L. 100–204, §805(b), which directed that subpar. (A) of subsec. (h) of this section be amended by substituting "45" for "30", was executed by making the substitution in subpar. (A) of subsec. (h)(4) of this section to reflect the probable intent of Congress.

1986—Subsec. (a)(3), (4). Pub. L. 99–570, §2017, added par. (3) and redesignated former par. (3) as (4).

Subsec. (c). Pub. L. 99–570, §2009, amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows:

"(1) Notwithstanding any other provision of law, no officer or employee of the United States may engage or participate in any direct police arrest action in any foreign country with respect to narcotics control efforts. No such officer or employee may interrogate or be present during the interrogation of any United States person arrested in any foreign country with respect to narcotics control efforts without the written consent of such person. The provisions of this paragraph shall not apply to the activities of the United States Armed Forces in carrying out their responsibilities under applicable Status of Forces arrangements.

"(2) Paragraph (1) of this subsection shall not prohibit officers and employees of the United States from being present during direct police arrest actions with respect to narcotic control efforts in a foreign country to the extent that the Secretary of State and the government of that country agree to such an exemption. The Secretary of State shall report any such agreement to the Congress before the agreement takes effect."

Subsec. (e)(1). Pub. L. 99–570, §2005(b), substituted "March" for "February".

Subsec. (e)(3)(D). Pub. L. 99–570, §2008, added subpar. (D).

Subsec. (h). Pub. L. 99–570, §2005(a), amended subsec. (h) generally, revising and restating as pars. (1) to (5) provisions of former pars. (1) to (4).

Subsec. (i)(4). Pub. L. 99–570, §2005(d), in concluding provisions, added cl. (vi), and redesignated former cl. (vi) as (vii).

Subsec. (i)(5). Pub. L. 99–570, §2005(c), added par. (5).

1985—Subsec. (b). Pub. L. 99–83, §604, amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows:

"(1) Not later than forty-five days after the date on which each calendar quarter of each year ends, the President shall transmit to the Speaker of the House of Representatives, and to the Committee on Foreign Relations of the Senate, a report on the programing and obligation, on a calendar quarter basis, of funds under this part prior to such date.

"(2) Not later than forty-five days after the date on which the second calendar quarter of each year ends and not later than forty-five days after the date on which the fourth calendar quarter of each year ends, the President shall transmit to the Speaker of the House of Representatives, and to the Committee on Foreign Relations of the Senate, a complete and detailed semiannual report on the activities and operations carried out under this part prior to such date. Such semiannual report shall include, but shall not be limited to—

"(A) the status of each agreement concluded prior to such date with other countries to carry out the purposes of this part; and

"(B) the aggregate of obligations and expenditures made, and the types and quantity of equipment provided, on a calendar quarter basis, prior to such date—

"(i) to carry out the purposes of this part with respect to each country and each international organization receiving assistance under this part, including the costs of United States personnel engaged in carrying out such purposes in each such country and with each such international organization;

"(ii) to carry out each program conducted under this part in each country and by each international organization, including the cost of United States personnel engaged in carrying out each

such program; and

"(iii) for administrative support services within the United States to carry out the purposes of this part, including the cost of United States personnel engaged in carrying out such purposes in the United States."

Subsec. (c)(2). Pub. L. 99–83, §605, added par. (2).

Subsec. (e)(6). Pub. L. 99–83, §606, added par. (6).

Subsec. (h)(4). Pub. L. 99–83, §618, added par. (4).

1983—Subsec. (a). Pub. L. 98–164, §1003(a), amended subsec. (a) generally, substituting provisions relating to applicability and implementation of Single Convention on Narcotic Drugs, 1961, and development, promotion and assistance respecting international narcotics control, for provisions relating to agreements, assistance, sanctions, etc., to facilitate international narcotics control.

Subsec. (e). Pub. L. 98–164, §1003(b), amended subsec. (e) generally, substituting requirements for annual reports on cultivation and manufacture of and traffic in narcotic and psychotropic drugs and other controlled substances and the specific contents of the reports for requirements for annual reports on the status of United States policy regarding production, interdiction, and interception of trafficking in narcotics.

Subsecs. (f) to (j). Pub. L. 98–164, §1003(b), added subsecs. (f) to (j).

1981—Subsec. (c)(2). Pub. L. 97–113, §734(a)(1), struck out par. (2) which provided for a Presidential study of multilateral narcotics control activities and transmission of this study to the Speaker of the House and the President of the Senate no later than June 30, 1977.

Subsec. (d). Pub. L. 97–113, §502(a)(1), substituted provisions requiring the Secretary of State to inform the Secretary of Health and Human Services of any use of herbicides to eradicate marihuana in a program receiving assistance under this part, directing the Secretary of Health and Human Services to monitor the impact on the health of persons using such marihuana and if he determines their exposure to the herbicide harms their health, report to Congress such determination with any recommendations, urging the President to use not less than $100,000 to develop a substance that clearly and readily warns potential marihuana users that the marihuana has been sprayed with paraquat or other herbicide harmful to the health of the persons using it, and directing the Secretary of Agriculture, if such a substance is developed, to use such substance in conjunction with the spraying of paraquat or other herbicide for provisions prohibiting the use of funds under this part for spraying a herbicide to eradicate marihuana if that practice is likely to seriously harm the health of users of the sprayed marihuana, except if the substance is used with a substance that will clearly and readily warn potential users of the sprayed marihuana of the use of herbicide, and requiring the Secretary of State to submit a report to Congress not later than January 1 of each year detailing efforts taken to ensure compliance with this subsection.

Subsec. (e). Pub. L. 97–113, §502(b), added subsec. (e).

1979—Subsec. (d)(1). Pub. L. 96–92 substituted "for the purpose of" for "or used for any program involving".

1978—Subsec. (c)(1). Pub. L. 95–384, §3, inserted provisions prohibiting any agent or employee of the United States Government from interrogating, or from being present at the interrogation of, any United States person arrested in any foreign country in the absence of the written consent of the person arrested and provisions relating to the applicability of this paragraph to the activities of the United States Armed Forces.

Subsec. (d). Pub. L. 95–384, §4, added subsec. (d).

1976—Subsec. (c). Pub. L. 94–329 added subsec. (c).

1973—Pub. L. 93–189 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–246 effective May 22, 2008, see section 4(b) of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

EFFECTIVE DATE OF 1987 AMENDMENT

Pub. L. 100–202, §101(e) [title V, §585(b)], Dec. 22, 1987, 101 Stat. 1329–131, 1329–185, provided that: "The amendments made by paragraph (1) [probably means subsec. (a) which amended this section] shall apply with respect to any certification of the President under section 481(h)(2)(A) of the Foreign Assistance Act of 1961 [22 U.S.C. 2291(h)(2)(A)] made on or after March 1, 1989."

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–83 effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as a note under section 2151–1 of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

PREVENTION OF SMUGGLING OF METHAMPHETAMINE INTO THE UNITED STATES FROM MEXICO

Pub. L. 109–177, title VII, §723, Mar. 9, 2006, 120 Stat. 269, provided that:

"(a) IN GENERAL.—The Secretary of State, acting through the Assistant Secretary of the Bureau for International Narcotics and Law Enforcement Affairs, shall take such actions as are necessary to prevent the smuggling of methamphetamine into the United States from Mexico.

"(b) SPECIFIC ACTIONS.—In carrying out subsection (a), the Secretary shall—

"(1) improve bilateral efforts at the United States-Mexico border to prevent the smuggling of methamphetamine into the United States from Mexico;

"(2) seek to work with Mexican law enforcement authorities to improve the ability of such authorities to combat the production and trafficking of methamphetamine, including by providing equipment and technical assistance, as appropriate; and

"(3) encourage the Government of Mexico to take immediate action to reduce the diversion of pseudoephedrine by drug trafficking organizations for the production and trafficking of methamphetamine.

"(c) REPORT.—Not later than one year after the date of the enactment of this Act [Mar. 9, 2006], and annually thereafter, the Secretary shall submit to the appropriate congressional committees a report on the implementation of this section for the prior year.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section $4,000,000 for each of the fiscal years 2006 and 2007."

REPORTS ON ACTIVITIES IN COLOMBIA

Pub. L. 107–228, div. A, title VI, §694, Sept. 30, 2002, 116 Stat. 1415, which required annual reports on activities in Colombia, was repealed by Pub. L. 112–74, div. I, title VII, §7034(n), Dec. 23, 2011, 125 Stat. 1217.

LIMITATION ON COUNTERNARCOTICS ASSISTANCE TO COLOMBIA

Pub. L. 105–277, div. C, title VIII, §821(b), Oct. 21, 1998, 112 Stat. 2681–700, provided that:

"(1) LIMITATION ON PROVISION OF ASSISTANCE.—Except as provided in paragraph (2), United States counternarcotics assistance may not be provided for the Government of Colombia under this title [see Tables for classification] or under any other provision of law on or after the date of enactment of this Act [Oct. 21, 1998] if the Government of Colombia negotiates or permits the establishment of any demilitarized zone in which the eradication of drug production by the security forces of Colombia, including the Colombian National Police antinarcotics unit, is prohibited.

"(2) EXCEPTION.—If the Government of Colombia negotiates or permits the establishment of a demilitarized zone described in paragraph (1), United States counternarcotics assistance may be provided for the Government of Colombia for a period of up to 90 consecutive days upon a finding by the President that providing such assistance is in the national interest of the United States.

"(3) NOTIFICATION.—In each case in which counternarcotics assistance is provided for the Government of Colombia as a result of a finding by the President described in paragraph (2), the President shall notify the Committees on Appropriations and the authorizing committees of jurisdiction of the House of Representatives and the Senate not later than 5 days after such assistance is provided."

[For delegation of functions of President under section 821(b) of Pub. L. 105–277, div. C, title VIII, set out above, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.]

REPORT ON ARMED FORCES STATIONED IN ANDEAN COUNTRIES

Pub. L. 101–623, §8, Nov. 21, 1990, 104 Stat. 3355, which required the President to submit to Congress a monthly report listing the number of members of United States Armed Forces assigned or detailed to, or otherwise performing functions in, each Andean country, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 18 of House Document No. 103–7.

PRECURSOR CHEMICALS

Pub. L. 101–513, title V, §599H, Nov. 5, 1990, 104 Stat. 2068, provided that:

"(a) NEGOTIATIONS.—(1) The Attorney General shall enter into negotiations with the appropriate law enforcement and judicial agencies and any other officials of any foreign country with jurisdiction over

companies who manufacture, market, sell or purchase certain precursor and/or essential chemicals used in the production of illicit narcotics. The priority of negotiations should be determined based on an assessment by the Attorney General which countries have jurisdiction over companies that may be knowingly or unknowingly supplying chemicals for the illicit manufacture of controlled substances.

"(2) The purposes of the negotiations shall be to (a) establish a list of precursor and essential chemicals contributing to the illicit manufacture of controlled substances, as defined in section 102 of the Controlled Substances Act (21 USC 802); (b) reach one or more international agreements on a method for maintaining records of transactions of these listed chemicals; (c) establish a procedure by which such records may be made available to (and kept confidential as necessary by) United States law enforcement authorities for the exclusive purpose of conducting an investigation relative to precursor chemicals, essential chemicals and/or controlled substances contributing to the manufacture of illicit narcotics; and (d) encourage chemical source countries to enact national chemical control legislation which would (i) impose specific record keeping and reporting requirements for domestic transactions involving listed chemicals; (ii) establish a system of permits or declarations for imports and exports of listed chemicals; and (iii) authorize government officials to seize or suspend shipments of listed chemicals based on evidence that they may be destined for the illicit manufacture of controlled substances.

"(b) REPORTS.—Not later than one year after the date of enactment of this Act [Nov. 5, 1990], the Attorney General shall submit an interim report to the Judiciary Committee and the Foreign Relations Committee of the Senate on progress in the negotiations. Not later than eighteen months from the date of enactment, the Attorney General shall submit a final report to the aforementioned Senate Committees on the result of negotiations identifying countries with which agreements have not been reached and which have jurisdiction over companies believed to be engaged in the manufacture, marketing, sale or purchase of precursor and/or essential chemicals used in illicit manufacture of controlled substances.

"(c) PENALTIES.—After consulting with the Attorney General and the Director of the Office of National Drug Control Policy, the President shall impose penalties or sanctions including temporarily or permanently prohibiting any corporation, partnership, individual or business association (i) refusing to maintain records for the purpose of monitoring and regulating transactions of listed precursor chemicals, or (ii) refusing to make such records available to United States law enforcement authorities for investigative purposes (in coordination with the local law enforcement agency in which such corporation, partnership, individual, or business association resides, is created or has its principal place of business) from engaging in any or all transactions, in goods or services, within the commerce of the United States.

"(d) DEFINITIONS.—A record under subsection (a) shall be retrievable and include the date of the transaction, the identity of each party to the transaction, including the ultimate consignee, and accounting of the quantity and form of listed chemical(s) and a description of the method of transfer.

"(e) This section shall not apply to the manufacture, distribution, sale, import or export of any drug which may, under the Federal Food, Drug and Cosmetic Act [21 U.S.C. 301 et seq.] be lawfully sold over-the-counter without prescription."

LINKAGE OF DEBT REDUCTION LOANS TO REDUCTION IN DRUG TRAFFICKING; REPORT TO CONGRESS

Pub. L. 101–240, title IV, §407, Dec. 19, 1989, 103 Stat. 2504, provided that:

"(a) FINDINGS.—The Congress finds that—

"(1) the Brady Initiative is a positive step, recognizing as it does the need for reducing the debt and debt service burdens of the indebted developing countries;

"(2) the multilateral development banks should, as part of this debt reduction process, encourage such countries to further reform their economies by reducing their dependence on production and trafficking of illicit narcotics; and

"(3) reduction of debt should relieve some of the financial burden on these countries, and thereby enable them to rely on legal income-generating activities.

"(b) INSTRUCTION OF UNITED STATES EXECUTIVE DIRECTORS.—The Secretary of the Treasury shall instruct the United States Executive Director of each multilateral development bank that, in voting with respect to loans from the multilateral development bank to reduce the debt and debt burden of borrowing countries which are major producers, processors, traffickers, or exporters of illegal drugs to the United States, the Executive Director shall give preference to those countries which show marked improvement in reducing the volume of cultivation, processing, trafficking, and export to the United States of illegal drugs. In making a determination under the preceding sentence with respect to a country's improvement, the Secretary of the Treasury shall consult with the heads of the relevant agencies.

"(c) REPORT TO CONGRESS.—The Secretary of the Treasury shall include, in the detailed accounting

required by section 2018(c) of the International Narcotics Control Act of 1986 (22 U.S.C. 2191 note) [section 2018(c) of Pub. L. 99–570 set out below], relating to multilateral development bank assistance for drug eradication and crop substitution programs, an additional discussion of the steps taken and the progress made in implementing the goals set forth in subsection (b) of this section, and further steps needed to secure the achievement of these goals.

"(d) DEFINITIONS.—As used in this section—

"(1) the term 'multilateral development bank' includes the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the Inter-American Investment Corporation, the Asian Development Bank, the African Development Bank, and the African Development Fund; and

"(2) the term 'illegal drugs' means 'narcotic and psychotropic drugs and other controlled substances', as defined in section 481(i)(3) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(i)(3))."

DEBT-FOR-DRUGS EXCHANGES

Pub. L. 101–231, §10, Dec. 13, 1989, 103 Stat. 1961, provided that:

"(a) AUTHORITY.—The President may release Bolivia, Colombia, or Peru from its obligation to make payments to the United States Government of principal and interest on account of a loan made to that country under the Foreign Assistance Act of 1961 (22 U.S.C. 2151 and following; relating to foreign assistance programs) or credits extended for that country under section 23 of the Arms Export Control Act (22 U.S.C. 2763; relating to foreign military sales credits) if the President determines that that country is implementing programs to reduce the flow of cocaine to the United States in accordance with a formal bilateral or multilateral agreement, to which the United States is a party, that contains specific, quantitative and qualitative, performance criteria with respect to those programs.

"(b) CONGRESSIONAL REVIEW OF AGREEMENTS.—The President shall submit any such agreement with Bolivia, Colombia, or Peru to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate at least 15 days before exercising the authority of [sub]section (a) with respect to that country.

"(b) [(c)] COORDINATION WITH MULTILATERAL DEBT RELIEF ACTIVITIES.—The authority provided in subsection (a) shall be exercised in coordination with multilateral debt relief activities.

"(c) [(d)] EFFECTIVE DATE.—Subsection (a) takes effect on October 1, 1990."

ADDITIONAL ASSISTANCE TO COUNTRIES MEETING DRUG ERADICATION TARGETS OR TAKING SIGNIFICANT STEPS AGAINST DRUG PRODUCTION OR TRAFFICKING

Pub. L. 101–167, title V, §569(d), Nov. 21, 1989, 103 Stat. 1244, provided that:

"(1) If any funds made available for any fiscal year for security assistance are not used for assistance for the country for which those funds were allocated because of any provision of law requiring the withholding of assistance for countries that have not taken adequate steps to halt illicit drug production of [or] trafficking, the President shall use those funds for additional assistance for those countries which have met their illicit drug eradication targets or have otherwise taken significant steps to halt illicit drug production or trafficking, as follows:

"(A) Those funds may be transferred to and consolidated with the funds made available to carry out section 481 of the Foreign Assistance Act of 1961 [22 U.S.C. 2291] in order to provide additional narcotics control assistance for those countries. Funds transferred under this paragraph may only be used to provide increased funds for activities previously justified to the Congress. Transfers may be made under this paragraph without regard to the 20-percent increase limitation contained in section 610 of the Foreign Assistance Act [22 U.S.C. 2360].

"(B) Any such funds not used under subparagraph (A) shall be reprogrammed within the account for which they were appropriated (subject to the regular reprogramming procedures of the Committees on Appropriations) in order to provide additional security assistance for those countries.

"(2) As used in this section, the term 'security assistance' means economic support fund assistance, foreign military financing, and international military education and training."

DEFINITION OF TERMS USED IN INTERNATIONAL NARCOTICS CONTROL ACT OF 1988

Pub. L. 100–690, title IV, §4003, Nov. 18, 1988, 102 Stat. 4263, defined terms "drug" and "narcotic" to mean narcotic and psychotropic drugs and other controlled substances as defined in subsec. (i)(3) of this section for purposes of title IV of Pub. L. 100–690, prior to repeal by Pub. L. 102–583, §6(e)(1), Nov. 2, 1992, 106 Stat. 4933.

REGIONAL ANTI-NARCOTICS FORCES

Pub. L. 100–690, title IV, §4101, Nov. 18, 1988, 102 Stat. 4263, stated need for anti-narcotics multinational force in Western Hemisphere and authorized diplomatic efforts toward creation of such a force, prior to repeal by Pub. L. 102–583, §6(e)(1), Nov. 2, 1992, 106 Stat. 4933.

DETERMINING MAJOR DRUG-TRANSIT COUNTRIES WITH RESPECT TO FISCAL YEAR 1989

Pub. L. 100–690, title IV, §4405(b), Nov. 18, 1988, 102 Stat. 4276, directed Secretary of State to make determination of major drug-transit countries with respect to fiscal year 1989, prior to repeal by Pub. L. 102–583, §6(e)(1), Nov. 2, 1992, 106 Stat. 4933.

BILATERAL NARCOTICS AGREEMENTS REQUIRED FOR CERTIFICATIONS FOR FISCAL YEAR 1989 AND THEREAFTER

Pub. L. 100–202, §101(e) [title V, §585(c)], Dec. 22, 1987, 101 Stat. 1329–131, 1329–185, as amended by Pub. L. 100–461, title V, §578(g)(2), Oct. 1, 1988, 102 Stat. 2268–47, provided that beginning with certifications with respect to fiscal year 1989 and each subsequent year, a country which in the previous year had been designated a major drug producing or drug transit country would not be deemed as cooperating fully unless it had in place a bilateral narcotics agreement with the United States, or a multilateral agreement which achieves the objectives of this section, prior to repeal by Pub. L. 100–690, title IV, §4407(b)(2), Nov. 18, 1988, 102 Stat. 4281.

REVIEW OF EFFECTIVENESS OF INTERNATIONAL NARCOTICS CONTROL ASSISTANCE PROGRAM

Pub. L. 99–570, title II, §2007, Oct. 27, 1986, 100 Stat. 3207–64, directed Comptroller General to review effectiveness of assistance provided under this part, prior to repeal by Pub. L. 102–583, §6(e)(2), Nov. 2, 1992, 106 Stat. 4933.

MULTILATERAL DEVELOPMENT BANK ASSISTANCE FOR DRUG ERADICATION AND CROP SUBSTITUTION PROGRAMS

Pub. L. 99–570, title II, §2018, Oct. 27, 1986, 100 Stat. 3207–68, provided that:

"(a) MDB ASSISTANCE FOR DEVELOPMENT AND IMPLEMENTATION OF DRUG ERADICATION PROGRAM.—The Secretary of the Treasury shall instruct the United States Executive Directors of the multilateral development banks to initiate discussions with other Directors of their respective banks and to propose that all possible assistance be provided to each major illicit drug producing country for the development and implementation of a drug eradication program, including technical assistance, assistance in conducting feasibility studies and economic analyses, and assistance for alternate economic activities.

"(b) INCREASES IN MULTILATERAL DEVELOPMENT BANK LENDING FOR CROP SUBSTITUTION PROJECTS.—The Secretary of the Treasury shall instruct the United States Executive Directors of the multilateral development banks to initiate discussions with other Directors of their respective banks and to propose that each such bank increase the amount of lending by such bank for crop substitution programs which will provide an economic alternative for the cultivation or production of illicit narcotic drugs or other controlled substances in major illicit drug producing countries, to the extent such countries develop and maintain adequate drug eradication programs.

"(c) NATIONAL ADVISORY COUNCIL REPORT.—The Secretary of the Treasury shall include in the annual report to the Congress by the National Advisory Council on International Monetary and Financial Policies a detailed accounting of the manner in which and the extent to which the provisions of this section have been carried out.

"(d) DEFINITIONS.—For purposes of this section—

"(1) MULTILATERAL DEVELOPMENT BANK.—The term 'multilateral development bank' means the International Bank for Reconstruction and Development, the International Development Association, the Inter-American Development Bank, the African Development Bank, and the Asian Development Bank.

"(2) MAJOR ILLICIT DRUG PRODUCING COUNTRY.—The term 'major illicit drug producing country' has the meaning provided in section 481(i)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(i)(2)).

"(3) NARCOTIC DRUG AND CONTROLLED SUBSTANCE.—The terms 'narcotic drug' and 'controlled substance' have the meanings given to such terms in section 102 of the Controlled Substances Act (21 U.S.C. 802)."

REPORTS TO CONGRESS ON DRUG EDUCATION PROGRAMS ABROAD

Pub. L. 99–570, title II, §2029, Oct. 27, 1986, 100 Stat. 3207–72, directed Director of United States

Information Agency and Administrator of Agency for International Development to include in their annual reports to Congress a description of drug education programs carried out by their respective agencies, prior to repeal by Pub. L. 103–447, title I, §103(c), Nov. 2, 1994, 108 Stat. 4694.

UNITED STATES SENATE CAUCUS ON INTERNATIONAL NARCOTICS CONTROL

Pub. L. 107–68, title I, §103, Nov. 12, 2001, 115 Stat. 568, provided that:

"(a) Agency contributions for employees whose salaries are disbursed by the Secretary of the Senate from the appropriations account 'Expenses of the United States Senate Caucus on International Narcotics Control' under the heading 'Congressional Operations' shall be paid from the Senate appropriations account for 'Salaries, Officers and Employees'.

"(b) This section shall apply to pay periods beginning on or after October 1, 2001."

Pub. L. 99–93, title VIII, §814, Aug. 16, 1985, 99 Stat. 455, as amended by Pub. L. 99–151, title III, §306, Nov. 13, 1985, 99 Stat. 808; Pub. L. 100–202, §101(i) [title I, §5], Dec. 22, 1987, 101 Stat. 1329–290, 1329–294; Pub. L. 102–392, title III, §323, Oct. 6, 1992, 106 Stat. 1726; Pub. L. 105–119, title VI, §625, Nov. 26, 1997, 111 Stat. 2522; Pub. L. 106–57, title I, §7, Sept. 29, 1999, 113 Stat. 412; Pub. L. 107–228, div. A, title VI, §684, Sept. 30, 2002, 116 Stat. 1411, provided that:

"(a) ESTABLISHMENT.—There is established the United States Senate Caucus on International Narcotics Control (hereafter in this section referred to as the 'Caucus').

"(b) DUTIES.—The Caucus is authorized and directed—

"(1) to monitor and promote international compliance with narcotics control treaties, including eradication and other relevant issues; and

"(2) to monitor and encourage United States Government and private programs seeking to expand international cooperation against drug abuse and narcotics trafficking.

"(c) MEMBERSHIP.—(1) The Caucus shall be composed of 12 members as follows:

"(A) 7 Members of the Senate appointed by the President of the Senate, 4 of whom (including the member designated as Chairman) shall be selected from the majority party of the Senate, after consultation with the majority leader, and 3 of whom (including the member designated as Cochairman) shall be selected from the minority party of the Senate, after consultation with the minority leader.

"(B) 5 members of the public to be appointed by the President after consultation with the members of the appropriate congressional committees.

"(2) There shall be a Chairman and a Cochairman of the Caucus.

"(d) POWERS.—In carrying out this section, the Caucus may require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents as it deems necessary. Subpoenas may be issued over the signature of the Chairman of the Caucus or any member designated by him, and may be served by any person designated by the Chairman or such member. The Chairman of the Caucus, or any member designated by him, may administer oaths to any witness.

"(e) REPORT BY PRESIDENT TO CAUCUS.—In order to assist the Caucus in carrying out its duties, the President shall submit to the Caucus a copy of the report required by section 481(e) of the Foreign Assistance Act of 1961 (22 U.S.C. 2991(e)) [22 U.S.C. 2291(e)].

"(f) REPORT TO SENATE.—The Caucus is authorized and directed to report to the Senate with respect to the matters covered by this section on a periodic basis and to provide information to Members of the Senate as requested. For each fiscal year for which an appropriation is made the Caucus shall submit to the Congress a report on its expenditures under such appropriation.

"(g) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated to the Caucus $370,000 for each fiscal year, to remain available until expended, to assist in meeting the expenses of the Caucus for the purpose of carrying out the provisions of this section.

"(2) For purposes of section 502(b) of the Mutual Security Act of 1954 (22 U.S.C. 1754(b)), the Caucus shall be deemed to be a standing committee of the Senate and shall be entitled to the use of funds in accordance with such section.

"(h) STAFF.—The Caucus may appoint and fix the pay of such staff personnel as it deems desirable, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

"(i) TERMINATION.—The Caucus shall cease to exist on September 30, 2005."

Pub. L. 99–151, title III, §306, Nov. 13, 1985, 99 Stat. 808, provided that:

"(a) Notwithstanding the provisions of this or any other Act, the United States International Narcotics Control Commission, established by section 814 of the Foreign Relations Authorization Act, Fiscal Years

1986 and 1987 [section 814 of Pub. L. 99–93, set out as a note above], is hereby redesignated and shall hereafter be known as the United States Senate Caucus on International Narcotics Control.

"(b) Any reference to the United States International Narcotics Control Commission in any law, regulation, document, record, or other official paper of the United States shall be deemed to be a reference to the United States Senate Caucus on International Narcotics Control."

DRUG TRAFFICKING AND PROBLEM OF TOTAL CONFIDENTIALITY OF CERTAIN FOREIGN BANK ACCOUNTS

Pub. L. 99–83, title VI, §619, Aug. 8, 1985, 99 Stat. 233, provided that:

"(a) FINDINGS.—The Congress finds that—

"(1) several banks in Latin America and the Caribbean are used by narcotics traffickers as depositories for money obtained in providing illicit drugs to the United States and other countries of the region;

"(2) offshore banks which provide total confidentiality provide a service which materially assists the operations of illicit drug traffickers; and

"(3) cooperation in gaining access to the bank accounts of such narcotics traffickers would materially assist United States authorities in controlling the activities of such traffickers.

"(b) POLICY.—The Congress—

"(1) requests the President to negotiate treaties or appropriate international agreements with all countries providing confidential banking services (giving high priority to countries in the Caribbean region) to provide disclosure to the United States Government of information contained in official records, and in records of bank accounts, concerning persons under investigation for violations of United States law, in particular those regarding international drug trafficking;

"(2) directs the President to include reports on the results of such efforts in the annual International Narcotics Control Strategy Report; and

"(3) reaffirms its intention to obtain maximum cooperation on the part of all governments for the purpose of halting international drug trafficking, and constantly to evaluate the cooperation of those governments receiving assistance from the United States."

USE OF FUNDS APPROPRIATED PRIOR TO DECEMBER 29, 1981, FOR HERBICIDE ERADICATION OF MARIHUANA AND COLOMBIAN ANTI-NARCOTICS ENFORCEMENT PROGRAM

Pub. L. 97–113, title V, §502(a)(2)–(4), Dec. 29, 1981, 95 Stat. 1539, provided that:

"(2) Assistance provided from funds appropriated, before the enactment of this Act [Dec. 29, 1981], to carry out section 481 of the Foreign Assistance Act of 1961 [this section] may be made available for purposes prohibited by subsection (d) of such section as in effect immediately before the enactment of this subsection [Dec. 29, 1981].

"(3) Funds appropriated for the fiscal year 1980 to carry out section 481 of the Foreign Assistance Act of 1961 [this section] which were obligated for assistance for the Republic of Colombia may be used for purposes other than those set forth in section 482(a)(2) of that Act [22 U.S.C. 2291a] as in effect immediately before the enactment of the International Security and Development Cooperation Act of 1980 [Dec. 16, 1980].

"(4) Paragraphs (2) and (3) of this subsection shall apply only to the extent provided in advance in an appropriations Act. For such purpose, the funds described in those paragraphs are authorized to be made available for the purposes specified in those paragraphs."

UNITED STATES CITIZENS IMPRISONED IN MEXICO

Pub. L. 94–329, title IV, §408, June 30, 1976, 90 Stat. 759, as amended by Pub. L. 95–384, §29(b), Sept. 26, 1978, 92 Stat. 747, provided that:

"(a) The Congress, while sharing the concern of the President over the urgent need for international cooperation to restrict traffic in dangerous drugs, is convinced that such efforts must be consistent with respect for fundamental human rights. The Congress, therefore, calls upon the President to take steps to insure that United States efforts to secure stringent international law enforcement measures are combined with efforts to secure fair and humane treatment for citizens of all countries.

"(b) The Congress requests that the President communicate directly to the President and Government of the Republic of Mexico, a nation with which we have friendly and cooperative relations, the continuing desire of the United States for such relations between our two countries and the concern of the United States over treatment of United States citizens arrested in Mexico."

DELEGATION OF PRESIDENTIAL AUTHORITIES UNDER INTERNATIONAL NARCOTICS CONTROL ACT OF 1990

Determination of President of the United States, No. 91–20, Jan. 25, 1991, 56 F.R. 8681, provided:

Memorandum for the Secretary of State [and] the Secretary of Defense

By virtue of the authority vested in me by the Constitution and the laws of the United States of America, including the provisions of the International Narcotics Control Act of 1990 (the INCA), Public Law 101–623 [see Short Title of 1990 Amendment note set out under section 2151 of this title], and 3 U.S.C. section 301, I hereby:

(1) Delegate to the Secretary of State the functions conferred upon me by the following sections of the INCA:

Section 4(a) [Nov. 21, 1990, 104 Stat. 3353]; section 4(e); and, in consultation with the Secretary of Defense, section 13 [22 U.S.C. 2291h note].

(2) Delegate to the Secretary of Defense the functions conferred upon me by section 8 of the INCA [set out as a note above].

(3) Delegate to the heads of executive departments and agencies those functions under the INCA relating to notifications to the Congress insofar as such functions relate to programs for which those heads of departments and agencies have responsibilities for notifications to the Congress under Executive Order No. 12163, as amended [22 U.S.C. 2381 note]; provided that the heads of departments and agencies shall consult with the Secretary of State before exercising the functions delegated by this paragraph with regard to narcotics-related assistance.

The Secretary of State is authorized and directed to publish this memorandum in the Federal Register.

GEORGE BUSH.

[1] *See References in Text note below.*

§2291–1. Repealed. Pub. L. 102–583, §6(e)(2), Nov. 2, 1992, 106 Stat. 4933

Section, Pub. L. 99–570, title II, §2013, Oct. 27, 1986, 100 Stat. 3207–66; Pub. L. 100–690, title IV, §4404, Nov. 18, 1988, 102 Stat. 4276, related to reports and restrictions concerning major illicit drug producing and major drug-transit countries.

§2291–2. Repealed. Pub. L. 103–447, title I, §103(b), Nov. 2, 1994, 108 Stat. 4693

Section, Pub. L. 100–690, title IV, §4501, Nov. 18, 1988, 102 Stat. 4284; Pub. L. 102–583, §6(e)(1), Nov. 2, 1992, 106 Stat. 4933, provided for reporting on transfer of United States assets.

§2291–3. Repealed. Pub. L. 102–583, §6(e)(1), Nov. 2, 1992, 106 Stat. 4933

Section, Pub. L. 100–690, title IV, §4601, Nov. 18, 1988, 102 Stat. 4286, provided for the coordination of all United States anti-narcotics assistance to foreign countries. See section 2291(b) of this title.

§2291–4. Official immunity for authorized employees and agents of United States and foreign countries engaged in interdiction of aircraft used in illicit drug trafficking

(a) Employees and agents of foreign countries

Notwithstanding any other provision of law, it shall not be unlawful for authorized employees or agents of a foreign country (including members of the armed forces of that country) to interdict or attempt to interdict an aircraft in that country's territory or airspace if—

(1) that aircraft is reasonably suspected to be primarily engaged in illicit drug trafficking; and

(2) the President of the United States has, during the 12-month period ending on the date of the interdiction, certified to Congress with respect to that country that—

(A) interdiction is necessary because of the extraordinary threat posed by illicit drug trafficking to the national security of that country; and

(B) the country has appropriate procedures in place to protect against innocent loss of life in the air and on the ground in connection with interdiction, which shall at a minimum include effective means to identify and warn an aircraft before the use of force directed against the aircraft.

(b) Employees and agents of United States

Notwithstanding any other provision of law, it shall not be unlawful for authorized employees or agents of the United States (including members of the Armed Forces of the United States) to provide assistance for the interdiction actions of foreign countries authorized under subsection (a). The provision of such assistance shall not give rise to any civil action seeking money damages or any other form of relief against the United States or its employees or agents (including members of the Armed Forces of the United States).

(c) Annual report

(1) Except as provided in paragraph (2), not later than February 1 each year, the President shall submit to Congress a report on the assistance provided under subsection (b) during the preceding calendar year. Each report shall include for the calendar year covered by such report the following:

(A) A list specifying each country for which a certification referred to in subsection (a)(2) was in effect for purposes of that subsection during any portion of such calendar year, including the nature of the illicit drug trafficking threat to each such country.

(B) A detailed explanation of the procedures referred to in subsection (a)(2)(B) in effect for each country listed under subparagraph (A), including any training and other mechanisms in place to ensure adherence to such procedures.

(C) A complete description of any assistance provided under subsection (b).

(D) A summary description of the aircraft interception activity for which the United States Government provided any form of assistance under subsection (b).

(2) In the case of a report required to be submitted under paragraph (1) to the congressional intelligence committees (as defined in section 3003 of title 50), the submittal date for such report shall be as provided in section 3106 of title 50.

(3) Each report under paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

(d) Definitions

For purposes of this section:

(1) The terms "interdict" and "interdiction", with respect to an aircraft, mean to damage, render inoperative, or destroy the aircraft.

(2) The term "illicit drug trafficking" means illicit trafficking in narcotic drugs, psychotropic substances, and other controlled substances, as such activities are described by any international narcotics control agreement to which the United States is a signatory, or by the domestic law of the country in whose territory or airspace the interdiction is occurring.

(3) The term "assistance" includes operational, training, intelligence, logistical, technical, and administrative assistance.

(Pub. L. 103–337, div. A, title X, §1012, Oct. 5, 1994, 108 Stat. 2837; Pub. L. 107–108, title V, §503, Dec. 28, 2001, 115 Stat. 1405; Pub. L. 107–306, title VIII, §811(b)(6), Nov. 27, 2002, 116 Stat. 2425.)

CODIFICATION

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 1995, and not as part of the Foreign Assistance Act of 1961 which comprises this chapter.

AMENDMENTS

2002—Subsec. (c)(1). Pub. L. 107–306, §811(b)(6)(A), substituted "Except as provided in paragraph (2), not later than" for "Not later than".

Subsec. (c)(2), (3). Pub. L. 107–306, §811(b)(6)(B), (C), added par. (2) and redesignated former par. (2) as

(3).

2001—Subsec. (a)(2). Pub. L. 107–108, §503(a), substituted "has, during the 12-month period ending on the date of the interdiction, certified to Congress" for ", before the interdiction occurs, has determined" in introductory provisions.

Subsecs. (c), (d). Pub. L. 107–108, §503(b), added subsec. (c) and redesignated former subsec. (c) as (d).

DELEGATION OF FUNCTIONS

Functions of President under subsec. (c) of this section delegated to Secretary of State, see Memorandum of President of the United States, July 21, 2010, 75 F.R. 43795, set out as a note under section 5202 of this title.

PRESIDENTIAL DETERMINATIONS RELATING TO INTERDICTION

The President made the determination required by subsec. (a)(2) of this section for the following countries:
BRAZIL.—Determination No. 2015–01, Oct. 9, 2014, 79 F.R. 62793.
Determination No. 2014–02, Oct. 10, 2013, 78 F.R. 62953.
Determination No. 2013–01, Oct. 11, 2012, 77 F.R. 65457.
Determination No. 2012–02, Oct. 14, 2011, 76 F.R. 70635.
Determination No. 2011–03, Oct. 15, 2010, 75 F.R. 75853.
Determination No. 2010–02, Oct. 16, 2009, 74 F.R. 54429.
Determination No. 2009–4, Oct. 15, 2008, 73 F.R. 62849.
Determination No. 2008–3, Oct. 16, 2007, 72 F.R. 61035.
Determination No. 2007–3, Oct. 16, 2006, 71 F.R. 65369.
Determination No. 2006–02, Oct. 16, 2005, 70 F.R. 62227.
Determination No. 2005–03, Oct. 16, 2004, 69 F.R. 62797.
COLOMBIA.—Determination No. 2016–09, Aug. 4, 2016, 81 F.R. 55107.
Determination No. 2015–10, Aug. 5, 2015, 80 F.R. 50755.
Determination No. 2014–12, Aug. 7, 2014, 79 F.R. 49221.
Determination No. 2013–12, Aug. 9, 2013, 78 F.R. 51647, 73377.
Determination No. 2012–13, Aug. 10, 2012, 77 F.R. 50559.
Determination No. 2011–13, Aug. 10, 2011, 76 F.R. 53299.
Determination No. 2010–11, Aug. 10, 2010, 75 F.R. 67011, 68405.
Determination No. 2009–24, Aug. 13, 2009, 74 F.R. 42573.
Determination No. 2008–24, Aug. 15, 2008, 73 F.R. 54283.
Determination No. 2007–28, Aug. 16, 2007, 72 F.R. 50035.
Determination No. 2006–19, Aug. 17, 2006, 71 F.R. 51975.
Determination No. 2005–32, Aug. 17, 2005, 70 F.R. 50949.
Determination No. 2004–42, Aug. 17, 2004, 69 F.R. 52807.
Determination No. 2003–32, Aug. 18, 2003, 68 F.R. 50963.
Determination No. 95–7, Dec. 1, 1994, 59 F.R. 64835.
PERU.—Determination No. 95–9, Dec. 8, 1994, 59 F.R. 65231.

§2291–5. Provision of nonlethal equipment to foreign law enforcement organizations for cooperative illicit narcotics control activities

(a) In general

(1) Subject to paragraph (2), the Administrator of the Drug Enforcement Administration, in consultation with the Secretary of State, may transfer or lease each year nonlethal equipment to foreign law enforcement organizations for the purpose of establishing and carrying out cooperative illicit narcotics control activities.

(2)(A) The Administrator may transfer or lease equipment under paragraph (1) only if the equipment is not designated as a munitions item or controlled on the United States Munitions List pursuant to section 2778 of this title.

(B) The value of each piece of equipment transferred or leased under paragraph (1) may not exceed $100,000.

(b) Additional requirement

The Administrator shall provide for the maintenance and repair of any equipment transferred or

leased under subsection (a).

(c) Notification requirement

Before the export of any item authorized for transfer under subsection (a), the Administrator shall provide written notice to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives in accordance with the procedures applicable to reprogramming notifications under section 2394–1 of this title.

(d) Sense of Congress

It is the sense of Congress that—

(1) all United States law enforcement personnel serving in Mexico should be accredited the same status under the Vienna Convention on Diplomatic Immunity as other diplomatic personnel serving at United States posts in Mexico; and

(2) all Mexican narcotics law enforcement personnel serving in the United States should be accorded the same diplomatic status as Drug Enforcement Administration personnel serving in Mexico.

(Pub. L. 105–277, div. C, title VIII, §843, Oct. 21, 1998, 112 Stat. 2681–704.)

CODIFICATION

Section was enacted as part of the Western Hemisphere Drug Elimination Act, and also as part of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999, and not as part of the Foreign Assistance Act of 1961 which comprises this chapter.

CHANGE OF NAME

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§2291a. Authorization of appropriations

(a) Fiscal year authorization; availability of funds

(1) To carry out the purposes of section 2291 of this title, there are authorized to be appropriated to the President $147,783,000 for fiscal year 1993 and $171,500,000 for fiscal year 1994.

(2) Amounts appropriated under this subsection are authorized to remain available until expended.

(b) Procurement of weapons and ammunition

(1) Prohibition

Except as provided in paragraph (2), funds made available to carry out this part shall not be made available for the procurement of weapons or ammunition.

(2) Exceptions

Paragraph (1) shall not apply with respect to funds for the procurement of—

(A) weapons or ammunition provided only for the defensive arming of aircraft used for narcotics-related purposes, or

(B) firearms and related ammunition provided only for defensive purposes to employees or contract personnel of the Department of State engaged in activities under this part,

if, at least 15 days before obligating those funds, the President notifies the appropriate congressional committees in accordance with the procedures applicable to reprogramming notifications under section 2394–1 of this title.

(c) Contributions and reimbursement

(1) To ensure local commitment to the activities assisted under this part, a country receiving assistance under this part should bear an appropriate share of the costs of any narcotics control program, project, or activity for which such assistance is to be provided. A country may bear such costs on an "in kind" basis.

(2)(A) The President is authorized to accept contributions from foreign governments to carry out the purposes of this part. Such contributions shall be deposited as an offsetting collection to the applicable appropriation account and may be used under the same terms and conditions as funds appropriated pursuant to this part.

(B) At the time of submission of the annual congressional presentation documents required by section 2394(a) of this title, the President shall provide a detailed report on any contributions received in the preceding fiscal year, the amount of such contributions, and the purposes for which such contributions were used.

(3) The President is authorized to provide assistance under this part on a reimbursable basis. Such reimbursements shall be deposited as an offsetting collection to the applicable appropriation and may be used under the same terms and conditions as funds appropriated pursuant to this part.

(d) Administrative assistance

(1) Except as provided in paragraph (2), personnel funded pursuant to this section are authorized to provide administrative assistance to personnel assigned to the bureau designated by the Secretary of State to replace the Bureau for International Narcotics Matters.

(2) Paragraph (1) shall not apply to the extent that it would result in a reduction in funds available for antinarcotics assistance to foreign countries.

(e) Advance notification of transfer of seized assets

The President shall notify the appropriate congressional committees at least 10 days prior to any transfer by the United States Government to a foreign country for narcotics control purposes of any property or funds seized by or otherwise forfeited to the United States Government in connection with narcotics-related activity.

(f) Treatment of funds

Funds transferred to and consolidated with funds appropriated pursuant to this part may be made available on such terms and conditions as are applicable to funds appropriated pursuant to this part. Funds so transferred or consolidated shall be apportioned directly to the bureau within the Department of State responsible for administering this part.

(g) Excess property

For purposes of this part, the Secretary of State may use the authority of section 2358 of this title, without regard to the restrictions of such section, to receive nonlethal excess property from any agency of the United States Government for the purpose of providing such property to a foreign government under the same terms and conditions as funds authorized to be appropriated for the purposes of this part.

(Pub. L. 87–195, pt. I, §482, as added Pub. L. 92–352, title V, §503, July 13, 1972, 86 Stat. 497; amended Pub. L. 93–189, §11(b), Dec. 17, 1973, 87 Stat. 720; Pub. L. 94–329, title V, §504(a), June 30, 1976, 90 Stat. 764; Pub. L. 95–92, §3, Aug. 4, 1977, 91 Stat. 614; Pub. L. 95–384, §5, Sept. 26, 1978, 92 Stat. 731; Pub. L. 96–92, §3(a), Oct. 29, 1979, 93 Stat. 701; Pub. L. 96–533, title IV, §402(a), (b), Dec. 16, 1980, 94 Stat. 3149; Pub. L. 97–113, title V, §502(c), Dec. 29, 1981, 95 Stat. 1539; Pub. L. 99–83, title VI, §§602, 608, 614, Aug. 8, 1985, 99 Stat. 228, 229, 231; Pub. L. 99–529, title IV, §401, Oct. 24, 1986, 100 Stat. 3019; Pub. L. 99–570, title II, §2002, Oct. 27, 1986, 100 Stat. 3207–60; Pub. L. 100–690, title IV, §4201, Nov. 18, 1988, 102 Stat. 4267; Pub. L. 101–231, §§16, 17(g), Dec. 13, 1989, 103 Stat. 1964, 1965; Pub. L. 102–583, §§3, 4(e), 6(b)(4), Nov. 2, 1992, 106 Stat. 4914, 4915, 4932; Pub. L. 103–236, title I, §164(a), Apr. 30, 1994, 108 Stat. 411; Pub. L. 103–447, title I, §101(c), Nov. 2, 1994, 108 Stat. 4692; Pub. L. 104–164, title I, §131(b), (c), July 21, 1996, 110 Stat. 1429.)

AMENDMENTS

1996—Subsec. (c). Pub. L. 104–164, §131(b), substituted "Contributions and reimbursement" for "Contribution by recipient country" in heading, redesignated existing provisions as par. (1), and added pars. (2) and (3).

Subsecs. (f), (g). Pub. L. 104–164, §131(c), added subsecs. (f) and (g).

1994—Subsec. (d). Pub. L. 103–236 added subsec. (d).

Subsec. (e). Pub. L. 103–447 added subsec. (e).

1992—Subsec. (a)(1). Pub. L. 102–583, §3, substituted "$147,783,000 for fiscal year 1993 and $171,500,000 for fiscal year 1994" for "$115,000,000 for fiscal year 1990".

Subsec. (b). Pub. L. 102–583, §4(e), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "Funds authorized to be appropriated by this section shall not be made available for the procurement of weapons or ammunition under this part."

Subsecs. (c), (d). Pub. L. 102–583, §6(b)(4), redesignated subsec. (d) as (c) and struck out former subsec. (c) which read as follows: "Notwithstanding section 1306 of title 31, section 508 of the General Government Matters, Department of Commerce, and Related Agencies Appropriation Act, 1962, and section 1705 of title 7, up to the equivalent of $10,000,000 in currencies or credits of the Government of Pakistan held by the United States shall, to such extent as may be provided in an appropriation Act, be available to the President for the fiscal year 1981 (and shall remain available until expended) to carry out the purposes of section 2291 of this title through assistance to the Government of Pakistan. Notwithstanding any other provision of law, the availability or expenditure of such foreign currencies shall not affect or reduce appropriations otherwise available to carry out the administration of the international narcotics control program."

1989—Subsec. (a)(1). Pub. L. 101–231, §16, substituted "$115,000,000 for fiscal year 1990" for "$101,000,000 for fiscal year 1989".

Subsec. (d). Pub. L. 101–231, §17(g), inserted "Contribution by recipient country" as heading and amended text generally. Prior to amendment, text read as follows: "Assistance may be provided under this part to a foreign country only if the country provides assurances to the President, and the President is satisfied, that the country will provide at least 25 percent of the costs of any narcotics control program, project, or activity for which such assistance is to be provided. The costs borne by the country may include 'in-kind' contributions."

1988—Subsec. (a). Pub. L. 100–690 added par. (1) and struck out former pars. (1) and (3) which related to authorization for fiscal years 1986 and 1987, and to contribution to United Nations Fund for Drug Abuse Control.

1986—Subsec. (a)(1). Pub. L. 99–570, §2002(1), which directed that "$75,445,000 for the fiscal year 1987" be substituted for "$57,529,000 for the fiscal year 1987", was executed by making the substitution for "$65,445,000 for the fiscal year 1987" to reflect the probable intent of Congress and the intervening amendment by Pub. L. 99–529. See Amendment note for Pub. L. 99–529 below.

Pub. L. 99–570, §2002(2), inserted provisions that if the President submits a detailed plan for use of the money, an additional $45,000,000 may be appropriated to carry out the purpose of section 2291 of this title, of which at least $10,000,000 shall be used primarily for helicopters or other aircraft based in Latin America for use for narcotics control, eradication, and interdiction efforts throughout the region.

Pub. L. 99–529, which directed the substitution of "$65,445,000 for the fiscal year 1987" for "$57,529,000 for the fiscal year 1987", was executed by substituting the new phrase for "$57,529,000 for fiscal year 1987" to reflect the probable intent of Congress.

1985—Subsec. (a)(1). Pub. L. 99–83, §602, amended par. (1) generally, substituting provisions authorizing appropriations of $57,529,000 for fiscal years 1986 and 1987, for provisions authorizing appropriations of $37,700,000 for fiscal years 1982 and 1983.

Subsec. (a)(3). Pub. L. 99–83, §614, added par. (3).

Subsec. (d). Pub. L. 99–83, §608, added subsec. (d).

1981—Subsec. (a). Pub. L. 97–113, in par. (1), substituted appropriations authorization of $37,700,000 for fiscal years 1982 and 1983 for appropriation of $38,573,000 for fiscal year 1981, redesignated par. (3) as (2), and deleted former par. (2) which limited the contribution to the United Nations Fund for Drug Abuse Control from fiscal year 1981 appropriated funds to lesser of $3,000,000 or 50 percent of the total contributions by all countries to such Fund for the calendar year with respect to which the United States contribution is made.

1980—Subsec. (a). Pub. L. 96–533, §402(a), in par. (1), substituted appropriations authorization of $38,573,000 for fiscal year 1981 for such authorization of $51,758,000 for fiscal year 1980, redesignated as par. (3) as (2), substituting therein "1981" and "50 percent" for "1980" and "25 percent", and deleted former par. (2) authorization of $16,000,000 for interdiction of drug traffic by Republic of Colombia to be used only for helicopters, patrol vessels, fixed radar equipment, transport vehicles, fuel, and for training personnel, and redesignated par. (4) as (3).

Subsec. (c). Pub. L. 96–533, §402(b), added subsec. (c).

1979—Subsec. (a)(1). Pub. L. 96–92 designated existing provisions as par. (1), substituted appropriations authorization of $51,758,000 for fiscal year 1980 for authorization of $40,000,000 for fiscal year 1979, and designated provision respecting availability of funds as par. (4).

Subsec. (a)(2), (3). Pub. L. 96–92 added pars. (2) and (3).

Subsec. (a)(4). Pub. L. 96–92 designated existing provision respecting availability of funds as par. (4) and substituted "subsection" for "section".

1978—Pub. L. 95–384 designated existing provisions as subsec. (a), substituted "$40,000,000 for the fiscal year 1979" for "$39,000,000 for the fiscal year 1978", and added subsec. (b).

1977—Pub. L. 95–92 substituted provisions authorizing appropriations for fiscal year 1978 and providing for availability of amounts appropriated until expended, for provisions authorizing appropriations for fiscal years 1974 through 1977, provisions prohibiting obligation of appropriation for fiscal year 1976 for any country illegally trafficking in opiates unless such appropriation aids in reducing the amount of illegal opiates entering the international market, and provisions authorizing availability of amounts appropriated until expended.

1976—Pub. L. 94–329 inserted provision that authorized $40,000,000 for the fiscal year 1976, no part of which can be obligated to any country where illegal opiate traffic is a significant problem unless the President certifies in writing to the Speaker of the House and chairman of the Senate Committee on Foreign Relations that the assistance furnished is significantly the amount of illegal opiates entering the international market, and authorized $34,000,000 for the fiscal year 1977.

1973—Pub. L. 93–189 substituted "$42,500,000 for each of the fiscal years 1974 and 1975. Amounts appropriated under this section are authorized to remain available until expended", for "$42,500,000 for the fiscal year 1973, which amount is authorized to remain available until expended".

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–83 effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as a note under section 2151–1 of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

COLOMBIAN ANTI-NARCOTICS ENFORCEMENT PROGRAM

Pub. L. 96–533, title IV, §402(c), Dec. 16, 1980, 94 Stat. 3150, provided: "Notwithstanding the provisions of section 482(a)(2) of the Foreign Assistance Act of 1961 [subsec. (a)(2) of this section] as in effect immediately prior to the enactment of this Act [Dec. 16, 1980], funds appropriated for the fiscal year 1980 to carry out the purposes of section 481 of that Act [section 2291 of this title] which were obligated for assistance for Colombia may be used for fixed-wing aircraft, communications equipment, and such other equipment and operational support, including aviation services, as are essential to the Colombian anti-narcotics enforcement program."

§2291b. Prohibition on use of foreign assistance for reimbursements for drug crop eradications

Funds made available to carry out this chapter may not be used to reimburse persons whose illicit drug crops are eradicated.

(Pub. L. 87–195, pt. I, §483, as added Pub. L. 99–83, title VI, §609, Aug. 8, 1985, 99 Stat. 230.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

EFFECTIVE DATE

Section effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as an Effective Date of 1985 Amendment note under section 2151–1 of this title.

§2291c. Requirements relating to aircraft and other equipment

(a) Retention of title to aircraft

(1) In general

(A) Except as provided in paragraph (2), any aircraft made available to a foreign country under this part, or made available to a foreign country primarily for narcotics-related purposes under any other provision of law, shall be provided only on a lease or loan basis.

(B) Subparagraph (A) applies to aircraft made available at any time after October 27, 1986 (which was the date of enactment of the International Narcotics Control Act of 1986).

(2) Exceptions

(A) Paragraph (1) shall not apply to the extent that—

(i) the application of that paragraph with respect to particular aircraft would be contrary to the national interest of the United States; and

(ii) the President notifies the appropriate congressional committees in accordance with the procedures applicable to reprogramming notifications under section 2394–1 of this title.

(B) Paragraph (1) does not apply with respect to aircraft made available to a foreign country under any provision of law that authorizes property that has been civilly or criminally forfeited to the United States to be made available to foreign countries.

(3) Assistance for leasing of aircraft

(A) For purposes of satisfying the requirement of paragraph (1), funds made available for the "Foreign Military Financing Program" under section 23 of the Arms Export Control Act [22 U.S.C. 2763] may be used to finance the leasing of aircraft under chapter 6 of that Act [22 U.S.C. 2796 et seq.].

(B) Section 61(a)(3) [1] of that Act [22 U.S.C. 2796(a)(3)] shall not apply with respect to leases so financed; rather the entire cost of any such lease (including any renewals) shall be an initial, one time payment of the amount which would be the sales price for the aircraft if they were sold under section 21(a)(1)(B) or section 22 of that Act [22 U.S.C. 2761(a)(1)(B), 2762] (as appropriate).

(C) To the extent that aircraft so leased were acquired under chapter 5 of that Act [22 U.S.C. 2795 et seq.], funds used pursuant to this paragraph to finance such leases shall be credited to the Special Defense Acquisition Fund under chapter 5 of that Act (excluding the amount of funds that reflects the charges described in section 21(e)(1) of that Act [22 U.S.C. 2761(e)(1)]). The funds described in the parenthetical clause of the preceding sentence shall be available for payments consistent with sections 37(a) and 43(b) of that Act [22 U.S.C. 2777(a), 2792(b)].

(b) Permissible uses of aircraft and other equipment

The President shall take all reasonable steps to ensure that aircraft and other equipment made available to foreign countries under this part are used only in ways that are consistent with the purposes for which such equipment was made available.

(c) Reports

In the reports submitted pursuant to section 2291h(a) of this title, the President shall discuss—

(1) any evidence indicating misuse by a foreign country of aircraft or other equipment made available under this part, and

(2) the actions taken by the United States Government to prevent future misuse of such equipment by that foreign country.

(Pub. L. 87–195, pt. I, §484, as added Pub. L. 99–570, title II, §2003, Oct. 27, 1986, 100 Stat. 3207–61; amended Pub. L. 101–623, §7, Nov. 21, 1990, 104 Stat. 3355; Pub. L. 102–583, §4(f)(1), (2)(D), Nov. 2, 1992, 106 Stat. 4916, 4917.)

REFERENCES IN TEXT

The Arms Export Control Act, referred to in subsec. (a)(3), is Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1320, as amended. Chapters 5 and 6 of the Act are classified generally to subchapters V (§2795 et seq.) and VI (§2796 et seq.), respectively, of chapter 39 of this title. Section 61(a)(3) of the Act was redesignated section 61(a)(4), and a new section 61(a)(3) was added, by Pub. L. 103–236, title VII, §731(e)(2), (3), Apr. 30, 1994,

108 Stat. 503. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

CODIFICATION

The text of subsecs. (a) and (b) of section 2291h of this title, which were redesignated as subsecs. (b) and (c) of this section by Pub. L. 102–583, §4(f)(2)(D), was based on section 489(a) and (b) of Pub. L. 87–195, pt. I, as added Pub. L. 100–690, title IV, §4507, Nov. 18, 1988, 102 Stat. 4286; amended Pub. L. 102–583, §4(f)(2)(B), (C), Nov. 2, 1992, 106 Stat. 4917.

AMENDMENTS

1992—Pub. L. 102–583, §4(f)(1), amended section generally, substituting subsec. (a) for former text which read as follows: "Any aircraft which, at any time after October 27, 1986, are made available to a foreign country under this part, or are made available to a foreign country primarily for narcotics-related purposes under any other provision of law, shall be provided only on a lease or loan basis. The requirement of this section does not apply with respect to aircraft made available to a foreign country under section 635(b)(6)(B) of title 12 or under any provision of law that authorizes property that has been civilly or criminally forfeited to the United States to be made available to foreign countries."

Subsecs. (b), (c). Pub. L. 102–583, §4(f)(2)(D), redesignated subsecs. (a) and (b) of section 2291h of this title as subsecs. (b) and (c), respectively, of this section. See Codification note above.

1990—Pub. L. 101–623 inserted at end "The requirement of this section does not apply with respect to aircraft made available to a foreign country under section 635(b)(6)(B) of title 12 or under any provision of law that authorizes property that has been civilly or criminally forfeited to the United States to be made available to foreign countries."

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

TRAINING OF HOST COUNTRY PILOTS

Pub. L. 101–623, §13, Nov. 21, 1990, 104 Stat. 3356, provided that:

"(a) INSTRUCTION PROGRAM.—Not less than 90 days after the date of enactment of this Act [Nov. 21, 1990], the President shall implement, under chapter 8 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 and following; relating to international narcotics control assistance), a detailed program of instruction to train host country pilots, and other flight crew members, to fly host country aircraft involved in counternarcotics efforts in Andean countries. Such program shall be designed to eliminate direct participation of the United States Government (including participation through the use of either direct hire or contract personnel) in the operation of such aircraft.

"(b) REQUIREMENT FOR REPLACEMENT OF UNITED STATES GOVERNMENT PILOTS BY HOST COUNTRY PILOTS.—The President shall ensure that, within 18 months after the date of enactment of this Act [Nov. 21, 1990], flight crews composed of host country personnel replace all United States Government pilots and other flight crew members (including both direct hire or contract personnel) for host country aircraft involved in airborne counternarcotics operations in the Andean countries.

"(c) AIRCRAFT SUBJECT TO REQUIREMENTS.—As used in this section, the term 'host country aircraft' means any aircraft made available to an Andean country by the United States Government under chapter 8 of part I of the Foreign Assistance Act of 1961 [22 U.S.C. 2291 et seq.], or any other provision of law, for use by that country for narcotics-related purposes."

[Functions of President under section 13 of Pub. L. 101–623, set out above, delegated to Secretary of State in consultation with Secretary of Defense by Determination of President of the United States, No. 91–20, Jan. 25, 1991, 56 F.R. 8681, set out as a note under section 2291 of this title.]

[1] *See References in Text note below.*

§2291d. Records of aircraft use

(a) Requirement to maintain records

The President shall maintain detailed records on the use of any aircraft made available to a foreign country under this part, including aircraft made available before October 27, 1986.

(b) Congressional access to records

The President shall make the records maintained pursuant to subsection (a) available to the Congress upon a request of the Chairman of the Committee on Foreign Affairs of the House of Representatives or the Chairman of the Committee on Foreign Relations of the Senate.

(Pub. L. 87–195, pt. I, §485, as added Pub. L. 99–570, title II, §2003, Oct. 27, 1986, 100 Stat. 3207–61; amended Pub. L. 102–583, §4(f)(3), Nov. 2, 1992, 106 Stat. 4917.)

AMENDMENTS

1992—Pub. L. 102–583 substituted "President" for "Secretary of State" in subsecs. (a) and (b).

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§2291e. Reallocation of funds withheld from countries which fail to take adequate steps to halt illicit drug production or trafficking

If any funds authorized to be appropriated for any fiscal year for assistance under this chapter are not used for assistance for the country for which those funds were allocated because of the requirements of section 2291j of this title or any other provision of law requiring the withholding of assistance for countries that have not taken adequate steps to halt illicit drug production or trafficking, the President shall use those funds for additional assistance for those countries which have met their illicit drug eradication targets or have otherwise taken significant steps to halt illicit drug production or trafficking, as follows:

(1) International narcotics control assistance

Those funds may be transferred to and consolidated with the funds appropriated to carry out this part in order to provide additional narcotics control assistance for those countries. Funds transferred under this paragraph may only be used to provide increased funding for activities previously justified to the Congress. Transfers may be made under this paragraph without regard to the 20-percent increase limitation contained in section 2360(a) of this title. This paragraph does not apply with respect to funds made available for assistance under the Arms Export Control Act [22 U.S.C. 2751 et seq.].

(2) Other assistance

Any such funds not used under paragraph (1) shall be reprogrammed within the account for which they were appropriated (subject to the regular reprogramming procedures under section 2394–1 of this title) in order to provide additional assistance for those countries.

(Pub. L. 87–195, pt. I, §486, as added Pub. L. 100–690, title IV, §4206(a), Nov. 18, 1988, 102 Stat. 4270; amended Pub. L. 102–583, §6(b)(5), Nov. 2, 1992, 106 Stat. 4932; Pub. L. 103–447, title I, §101(d), Nov. 2, 1994, 108 Stat. 4692.)

REFERENCES IN TEXT

The Arms Export Control Act, referred to in par. (1), is Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1320, as amended, which is classified principally to chapter 39 (§2751 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

AMENDMENTS

1994—Pub. L. 103–447 struck out subsec. (a) designation and heading which read "Additional assistance for countries taking significant steps", substituted "assistance under this chapter" for "security assistance" in provisions before par. (1), "Other assistance" for "Security assistance" in par. (2) heading, and "additional assistance" for "additional security assistance" in par. (2) text, and struck out heading and text of subsec. (b). Text read as follows: "As used in this section, the term 'security assistance' means assistance under part II of subchapter II of this chapter (relating to the grant military assistance program), part IV of subchapter II of this chapter (relating to the Economic Support Fund), part V of subchapter II of this chapter (relating to

international military education and training), or the Arms Export Control Act (relating to the 'Foreign Military Financing Program')."

1992—Subsec. (a). Pub. L. 102–583, §6(b)(5)(A), substituted "section 2291j of this title" for "section 2291(h) of this title".

Subsec. (b). Pub. L. 102–583, §6(b)(5)(B), substituted "(relating to the 'Foreign Military Financing Program')" for "(relating to foreign military sales financing)".

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

SUPERSEDURE OF FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 1989

Pub. L. 100–690, title IV, §4206(b), Nov. 18, 1988, 102 Stat. 4270, which provided that the enactment of this section superseded section 578(d) of Pub. L. 100–461, Oct. 1, 1988, 102 Stat. 2268–46, and that funds could be transferred under subsec. (a)(1) of this section notwithstanding section 514 of Pub. L. 100–461, 102 Stat. 2268–23, was repealed by Pub. L. 102–583, §6(e)(1), Nov. 2, 1992, 106 Stat. 4933.

§2291f. Prohibition on assistance to drug traffickers

(a) Prohibition

The President shall take all reasonable steps to ensure that assistance under this chapter and the Arms Export Control Act [22 U.S.C. 2751 et seq.] is not provided to or through any individual or entity that the President knows or has reason to believe—

(1) has been convicted of a violation of, or a conspiracy to violate, any law or regulation of the United States, a State or the District of Columbia, or a foreign country relating to narcotic or psychotropic drugs or other controlled substances; or

(2) is or has been an illicit trafficker in any such controlled substance or is or has been a knowing assistor, abettor, conspirator, or colluder with others in the illicit trafficking in any such substance.

(b) Regulations

The President shall issue regulations specifying the steps to be taken in carrying out this section.

(c) Congressional review of regulations

Regulations issued pursuant to subsection (b) shall be submitted to the Congress before they take effect.

(Pub. L. 87–195, pt. I, §487, as added Pub. L. 100–690, title IV, §4503, Nov. 18, 1988, 102 Stat. 4285; amended Pub. L. 102–583, §6(b)(6), Nov. 2, 1992, 106 Stat. 4932; Pub. L. 103–447, title I, §101(e), Nov. 2, 1994, 108 Stat. 4692.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

The Arms Export Control Act, referred to in subsec. (a), is Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1320, as amended, which is classified principally to chapter 39 (§2751 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

AMENDMENTS

1994—Subsec. (a)(1). Pub. L. 103–447 inserted "to" after "relating".

1992—Subsec. (a)(1). Pub. L. 102–583 struck out "(as defined in section 2291(i)(3) of this title)" after "controlled substances".

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R.

56673, as amended, set out as a note under section 2381 of this title.

§2291g. Limitations on acquisition of real property and construction of facilities

(a) Acquisition of real property

(1) Prohibition

Funds made available to carry out this part may not be used to acquire (by purchase or other means) any land or other real property for use by foreign military, paramilitary, or law enforcement forces.

(2) Exception for certain leases

Paragraph (1) shall not apply to the acquisition of real property by lease of a duration not to exceed 2 years.

(b) Construction of facilities

(1) Limitation

Funds made available to carry out this part may not be used for construction of facilities for use by foreign military, paramilitary, or law enforcement forces unless, at least 15 days before obligating funds for such construction, the President notifies the appropriate congressional committees in accordance with procedures applicable to reprogramming notifications under section 2394–1 of this title.

(2) Exception

Paragraph (1) shall not apply to the construction of facilities which would require the obligation of less than $750,000 under this part.

(Pub. L. 87–195, pt. I, §488, as added Pub. L. 100–690, title IV, §4505, Nov. 18, 1988, 102 Stat. 4285; amended Pub. L. 102–583, §4(g), Nov. 2, 1992, 106 Stat. 4917; Pub. L. 107–228, div. A, title VI, §671(3), Sept. 30, 2002, 116 Stat. 1407.)

AMENDMENTS

2002—Subsec.(a)(3). Pub. L. 107–228 struck out heading and text of par. (3). Text read as follows: "The Secretary of State shall provide to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate within 30 days after the end of each quarter of the fiscal year a detailed report on all leases entered into pursuant to paragraph (2), including the cost and duration of such lease, a description of the property leased, and the purpose for which such lease was entered into."

1992—Pub. L. 102–583 amended section generally. Prior to amendment, section read as follows: "Funds made available to carry out this part may not be used to acquire (by purchase, lease, or other means) any real property for use by foreign military, paramilitary, or law enforcement forces".

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§2291h. Reporting requirements

(a) International narcotics control strategy report

Not later than March 1 of each year, the President shall transmit to the Speaker of the House of Representatives, and to the Committee on Foreign Relations of the Senate, a report containing the following:

(1) For each country that received assistance under this part for either of the 2 preceding fiscal years, a report on the extent to which the country has—

(A) met the goals and objectives of the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, including action on such issues as illicit

cultivation, production, distribution, sale, transport, and financing, and money laundering, asset seizure, extradition, mutual legal assistance, law enforcement and transit cooperation, precursor chemical control, and demand reduction;

(B) accomplished the goals described in an applicable bilateral narcotics agreement with the United States or a multilateral agreement; and

(C) taken legal and law enforcement measures to prevent and punish public corruption, especially by senior government officials, that facilitates the production, processing, or shipment of narcotic and psychotropic drugs and other controlled substances, or that discourages the investigation or prosecution of such acts.

(2)(A) A description of the policies adopted, agreements concluded, and programs implemented by the Department of State in pursuit of its delegated responsibilities for international narcotics control, including appropriate information on the status of negotiations between the United States and other countries on updated extradition treaties, mutual legal assistance treaties, precursor chemical controls, money laundering, and agreements pursuant to section 2015 of the International Narcotics Act of 1986 (relating to interdiction procedures for vessels of foreign registry).

(B) Information on multilateral and bilateral strategies with respect to money laundering pursued by the Department of State, the Department of Justice, the Department of the Treasury, and other relevant United States Government agencies, either collectively or individually, to ensure the cooperation of foreign governments with respect to narcotics-related money laundering and to demonstrate that all United States Government agencies are pursuing a common strategy with respect to major money laundering countries. The report shall include specific detail to demonstrate that all United States Government agencies are pursuing a common strategy with respect to achieving international cooperation against money laundering and are pursuing a common strategy with respect to major money laundering countries, including a summary of United States objectives on a country-by-country basis.

(3) The identity of those countries which are—

(A) major illicit drug producing countries or major drug-transit countries as determined under section 2291j(h) of this title;

(B) major sources of precursor chemicals used in the production of illicit narcotics; or

(C) major money laundering countries.

(4) In addition, for each country identified pursuant to paragraph (3), the following:

(A) A description of the plans, programs, and timetables adopted by such country, including efforts to meet the objectives of the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, and a discussion of the adequacy of the legal and law enforcement measures taken and the accomplishments achieved in accord with those plans.

(B) Whether as a matter of government policy or practice, such country encourages or facilitates the illicit production or distribution of narcotic or psychotropic drugs or other controlled substances or the laundering of proceeds from illegal drug transactions; and whether any senior official of the government of such country engages in, encourages, or facilitates the illicit production or distribution of such drugs or substances, or the laundering of proceeds from illegal drug transactions.

(5) In addition, for each country identified pursuant to paragraph (3)(A) or (3)(B), a detailed status report, with such information as can be reliably obtained, on the narcotic or psychotropic drugs or other controlled substances which are being cultivated, produced, or processed in or transported through such country, noting significant changes in conditions, such as increases or decreases in the illicit cultivation and manufacture of and traffic in such drugs and substances.

(6) In addition, for those countries identified pursuant to paragraph (3)(C)—

(A) which countries are parties to international agreements on a method for maintaining records of transactions of an established list of precursor and essential chemicals;

(B) which countries have established a procedure by which such records may be made

available to United States law enforcement authorities; and

(C) which countries have enacted national chemical control legislation which would impose specific recordkeeping and reporting requirements for listed chemicals, establish a system of permits or declarations for imports and exports of listed chemicals, and authorize government officials to seize or suspend shipments of listed chemicals.

(7) In addition, for those countries identified pursuant to paragraph (3)(D) the following:

(A)(i) Which countries have financial institutions engaging in currency transactions involving international narcotics trafficking proceeds that include significant amounts of United States currency or currency derived from illegal drug sales in the United States or that otherwise significantly affect the United States;

(ii) which countries identified pursuant to clause (i) have not reached agreement with the United States authorities on a mechanism for exchanging adequate records in connection with narcotics investigations and proceedings; and

(iii) which countries identified pursuant to clause (ii)—

(I) are negotiating in good faith with the United States to establish such a record-exchange mechanism, or

(II) have adopted laws or regulations that ensure the availability to appropriate United States Government personnel and those of other governments of adequate records in connection with narcotics investigations and proceedings.

(B) Which countries—

(i) have ratified the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances and are taking steps to implement that Convention and other applicable agreements and conventions such as the recommendations of the Financial Action Task Force, the policy directive of the European Community, the legislative guidelines of the Organization of American States, and other similar declarations; and

(ii) have entered into bilateral agreements for the exchange of information on money-laundering with countries other than the United States.

(C) Findings on each country's adoption of law and regulations considered essential to prevent narcotics-related money laundering. Such findings shall include whether a country has—

(i) criminalized narcotics money laundering;

(ii) required banks and other financial institutions to know and record the identity of customers engaging in significant transactions, including the recording of large currency transactions at thresholds appropriate to that country's economic situation;

(iii) required banks and other financial institutions to maintain, for an adequate time, records necessary to reconstruct significant transactions through financial institutions in order to be able to respond quickly to information requests from appropriate government authorities in narcotics-related money laundering cases;

(iv) required or allowed financial institutions to report suspicious transactions;

(v) established systems for identifying, tracing, freezing, seizing, and forfeiting narcotics-related assets;

(vi) enacted laws for the sharing of seized narcotics assets with other governments;

(vii) cooperated, when requested, with appropriate law enforcement agencies of other governments investigating financial crimes related to narcotics; and

(viii) addressed the problem on international transportation of illegal-source currency and monetary instruments.

The report shall also detail instances of refusals to cooperate with foreign governments, and any actions taken by the United States Government and any international organization to address such obstacles, including the imposition of sanctions or penalties.

(8)(A) A separate section that contains the following:

(i) An identification of the five countries that exported the largest amount of pseudoephedrine, ephedrine, and phenylpropanolamine (including the salts, optical isomers, or salts of optical isomers of such chemicals, and also including any products or substances containing such chemicals) during the preceding calendar year.

(ii) An identification of the five countries that imported the largest amount of the chemicals described in clause (i) during the preceding calendar year and have the highest rate of diversion of such chemicals for use in the illicit production of methamphetamine (either in that country or in another country).

(iii) An economic analysis of the total worldwide production of the chemicals described in clause (i) as compared to the legitimate demand for such chemicals worldwide.

(B) The identification of countries that imported the largest amount of chemicals under subparagraph (A)(ii) shall be based on the following:

(i) An economic analysis that estimates the legitimate demand for such chemicals in such countries as compared to the actual or estimated amount of such chemicals that is imported into such countries.

(ii) The best available data and other information regarding the production of methamphetamine in such countries and the diversion of such chemicals for use in the production of methamphetamine.

(b) Annual reports on assistance

(1) In general

At the time that the report required by subsection (a) is submitted each year, the Secretary of State, in consultation with appropriate United States Government agencies, shall report to the appropriate committees of the Congress on the assistance provided or proposed to be provided by the United States Government during the preceding fiscal year, the current fiscal year, and the next fiscal year to support international efforts to combat illicit narcotics production or trafficking.

(2) Information to be included

Each report pursuant to this subsection shall—

(A) specify the amount and nature of the assistance provided or to be provided;

(B) include, for each country identified in subsection (a)(3)(A), information from the Drug Enforcement Administration, the Customs Service, and the Coast Guard describing in detail—

(i) the assistance provided or to be provided to such country by that agency, and

(ii) the assistance provided or to be provided to that agency by such country,

with respect to narcotic control efforts during the preceding fiscal year, the current fiscal year, and the next fiscal year; and

(C) list all transfers, which were made by the United States Government during the preceding fiscal year, to a foreign country for narcotics control purposes of any property seized by or otherwise forfeited to the United States Government in connection with narcotics-related activity, including an estimate of the fair market value and physical condition of each item of property transferred.

(Pub. L. 87–195, pt. I, §489, as added Pub. L. 102–583, §5(a), Nov. 2, 1992, 106 Stat. 4917; amended Pub. L. 103–447, title I, §101(f)(1), Nov. 2, 1994, 108 Stat. 4692; Pub. L. 104–66, title I, §1112(c), Dec. 21, 1995, 109 Stat. 724; Pub. L. 109–177, title VII, §722(a), Mar. 9, 2006, 120 Stat. 268.)

REFERENCES IN TEXT

Section 2015 of the International Narcotics Act of 1986, referred to in subsec. (a)(2)(A), probably means section 2015 of the International Narcotics Control Act of 1986, Pub. L. 99–570, which was set out as a note under section 1902 of the former Appendix to Title 46, Shipping, prior to being repealed by Pub. L. 103–447, title I, §103(c), Nov. 2, 1994, 108 Stat. 4694.

PRIOR PROVISIONS

A prior section 2291h, Pub. L. 87–195, pt. I, §489, as added Pub. L. 100–690, title IV, §4507, Nov. 18, 1988, 102 Stat. 4286, related to permissible uses of aircraft and other equipment, prior to amendment by Pub. L. 102–583, §4(f)(2), Nov. 2, 1992, 106 Stat. 4917, which also transferred subsecs. (a) and (b) to section 2291c(b) and (c) of this title, respectively, and repealed the designation, heading, and subsecs. (c) and (d).

AMENDMENTS

2006—Subsec. (a)(8). Pub. L. 109–177 added par. (8).

1995—Pub. L. 104–66, §1112(c)(1), struck out "for fiscal year 1995" after "Reporting requirements" in section catchline.

Subsec. (c). Pub. L. 104–66, §1112(c)(2), struck out heading and text of subsec. (c). Text read as follows: "This section applies only during fiscal year 1995. Section 2291i of this title does not apply during that fiscal year."

1994—Pub. L. 103–447, §101(f)(1)(A), substituted "for fiscal year 1995" for "for fiscal years 1993 and 1994" in section catchline.

Subsec. (a). Pub. L. 103–447, §101(f)(1)(B)(i), substituted "March 1" for "April 1" in introductory provisions.

Subsec. (a)(3)(B) to (D). Pub. L. 103–447, §101(f)(1)(B)(ii), redesignated subpars. (C) and (D) as (B) and (C), respectively, and struck out former subpar. (B) which read as follows: "the significant direct or indirect sources of narcotics and psychotropic drugs and other controlled substances significantly affecting the United States;".

Subsec. (c). Pub. L. 103–447, §101(f)(1)(D), (E), redesignated subsec. (d) as (c) and amended heading and text generally. Prior to amendment, text read as follows: "This section applies only during fiscal years 1993 and 1994. Section 2291i of this title does not apply during those fiscal years."

Pub. L. 103–447, §101(f)(1)(C), struck out heading and text of subsec. (c). Text read as follows: "As used in this section—

"(1) the term 'precursor chemical' has the same meaning as the term 'listed chemical' has under paragraph (33) of section 802 of title 21; and

"(2) the term 'major money laundering country' means a country whose financial institutions engage in currency transactions involving significant amounts of proceeds from international narcotics trafficking."

Subsec. (d). Pub. L. 103–447, §101(f)(1)(D), redesignated subsec. (d) as (c).

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107–296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114–125, and section 802(b) of Pub. L. 114–125, set out as a note under section 211 of Title 6.

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

PLAN TO ADDRESS DIVERSION OF PRECURSOR CHEMICALS

Pub. L. 109–177, title VII, §722(d), Mar. 9, 2006, 120 Stat. 269, provided that: "In the case of each country identified pursuant to clause (i) or (ii) of section 489(a)(8)(A) of the Foreign Assistance Act of 1961 [22 U.S.C. 2291h(a)(8)(A)] (as added by subsection (a)) with respect to which the President has not transmitted to Congress a certification under section 490(b) of such Act (22 U.S.C. 2291j(b)), the Secretary of State, in consultation with the Attorney General, shall, not later than 180 days after the date on which the President transmits the report required by section 489(a) of such Act (22 U.S.C. 2291h(a)), submit to Congress a comprehensive plan to address the diversion of the chemicals described in section 489(a)(8)(A)(i) of such Act

to the illicit production of methamphetamine in such country or in another country, including the establishment, expansion, and enhancement of regulatory, law enforcement, and other investigative efforts to prevent such diversion."

STATUTORY REFERENCES TO ANNUAL REPORTS, CERTIFICATIONS, AND DEFINITIONS

Pub. L. 102–583, §6(a), Nov. 2, 1992, 106 Stat. 4932, provided that after Sept. 30, 1994, any reference in any provision of law to section 2291h or 2291j of this title would be deemed a reference to the corresponding provision of section 2291i or 2291k of this title, respectively, unless the context required otherwise; any reference in any provision of law enacted before Nov. 2, 1992, to section 2291(e) or (i) of this title be deemed a reference to section 2291h or 2291(e) of this title, respectively; and that any reference in any provision of law enacted before Nov. 2, 1992, to section 2291(h) of this title be deemed, as of Oct. 1, 1992, to be a reference to section 2291j of this title, prior to repeal by Pub. L. 103–447, title I, §103(a), Nov. 2, 1994, 108 Stat. 4693.

§2291i. Repealed. Pub. L. 104–66, title I, §1112(a), Dec. 21, 1995, 109 Stat. 723

Section, Pub. L. 87–195, pt. I, §489A, as added Pub. L. 102–583, §5(a), Nov. 2, 1992, 106 Stat. 4921; amended Pub. L. 103–447, title I, §101(f)(2), Nov. 2, 1994, 108 Stat. 4692, related to reporting requirements applicable after Sept. 30, 1995.

§2291j. Annual certification procedures

(a) Withholding of bilateral assistance and opposition to multilateral development assistance

(1) Bilateral assistance

Fifty percent of the United States assistance allocated each fiscal year in the report required by section 2413 of this title for each major illicit drug producing country, major drug-transit country, or country identified pursuant to clause (i) or (ii) of section 2291h(a)(8)(A) of this title shall be withheld from obligation and expenditure, except as provided in subsection (b). This paragraph shall not apply with respect to a country if the President determines that its application to that country would be contrary to the national interest of the United States, except that any such determination shall not take effect until at least 15 days after the President submits written notification of that determination to the appropriate congressional committees in accordance with the procedures applicable to reprogramming notifications under section 2394–1 of this title.

(2) Multilateral assistance

The Secretary of the Treasury shall instruct the United States Executive Director of each multilateral development bank to vote, on and after March 1 of each year, against any loan or other utilization of the funds of their respective institution to or for any major illicit drug producing country or major drug-transit country (as determined under subsection (h)) or country identified pursuant to clause (i) or (ii) of section 2291h(a)(8)(A) of this title, except as provided in subsection (b). For purposes of this paragraph, the term "multilateral development bank" means the International Bank for Reconstruction and Development, the International Development Association, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, and the European Bank for Reconstruction and Development.

(b) Certification procedures

(1) What must be certified

Subject to subsection (d), the assistance withheld from a country pursuant to subsection (a)(1) may be obligated and expended, and the requirement of subsection (a)(2) to vote against multilateral development bank assistance to a country shall not apply, if the President determines and certifies to the Congress, at the time of the submission of the report required by section 2291h(a) of this title, that—

(A) during the previous year the country has cooperated fully with the United States, or has

taken adequate steps on its own, to achieve full compliance with the goals and objectives established by the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances; or

(B) for a country that would not otherwise qualify for certification under subparagraph (A), the vital national interests of the United States require that the assistance withheld pursuant to subsection (a)(1) be provided and that the United States not vote against multilateral development bank assistance for that country pursuant to subsection (a)(2).

(2) Considerations regarding cooperation

In making the determination described in paragraph (1)(A), the President shall consider the extent to which the country has—

(A) met the goals and objectives of the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, including action on such issues as illicit cultivation, production, distribution, sale, transport and financing, and money laundering, asset seizure, extradition, mutual legal assistance, law enforcement and transit cooperation, precursor chemical control, and demand reduction;

(B) accomplished the goals described in an applicable bilateral narcotics agreement with the United States or a multilateral agreement; and

(C) taken legal and law enforcement measures to prevent and punish public corruption, especially by senior government officials, that facilitates the production, processing, or shipment of narcotic and psychotropic drugs and other controlled substances, or that discourages the investigation or prosecution of such acts.

(3) Information to be included in national interest certification

If the President makes a certification with respect to a country pursuant to paragraph (1)(B), the President shall include in such certification—

(A) a full and complete description of the vital national interests placed at risk if United States bilateral assistance to that country is terminated pursuant to this section and multilateral development bank assistance is not provided to such country; and

(B) a statement weighing the risk described in subparagraph (A) against the risks posed to the vital national interests of the United States by the failure of such country to cooperate fully with the United States in combating narcotics or to take adequate steps to combat narcotics on its own.

(c) Licit opium producing countries

The President may make a certification under subsection (b)(1)(A) with respect to a major illicit drug producing country, or major drug-transit country, that is a producer of licit opium only if the President determines that such country maintains licit production and stockpiles at levels no higher than those consistent with licit market demand, and has taken adequate steps to prevent significant diversion of its licit cultivation and production into the illicit markets and to prevent illicit cultivation and production.

(d) Congressional review

Subsection (e) shall apply if, within 30 calendar days after receipt of a certification submitted under subsection (b) at the time of submission of the report required by section 2291h(a) of this title, the Congress enacts a joint resolution disapproving the determination of the President contained in such certification.

(e) Denial of assistance for countries decertified

If the President does not make a certification under subsection (b) with respect to a country or the Congress enacts a joint resolution disapproving such certification, then until such time as the conditions specified in subsection (f) are satisfied—

(1) funds may not be obligated for United States assistance for that country, and funds previously obligated for United States assistance for that country may not be expended for the purpose of providing assistance for that country; and

(2) the requirement to vote against multilateral development bank assistance pursuant to subsection (a)(2) shall apply with respect to that country, without regard to the date specified in that subsection.

(f) Recertification

Subsection (e) shall apply to a country described in that subsection until—

(1) the President, at the time of submission of the report required by section 2291h(a) of this title, makes a certification under subsection (b)(1)(A) or (b)(1)(B) with respect to that country, and the Congress does not enact a joint resolution under subsection (d) disapproving the determination of the President contained in that certification; or

(2) the President, at any other time, makes the certification described in subsection (b)(1)(B) with respect to that country, except that this paragraph applies only if either—

(A) the President also certifies that—

(i) that country has undergone a fundamental change in government, or

(ii) there has been a fundamental change in the conditions that were the reason—

(I) why the President had not made a certification with respect to that country under subsection (b)(1)(A), or

(II) if he had made such a certification and the Congress enacted a joint resolution disapproving the determination contained in the certification, why the Congress enacted that joint resolution; or

(B) the Congress enacts a joint resolution approving the determination contained in the certification under subsection (b)(1)(B).

Any certification under subparagraph (A) of paragraph (2) shall discuss the justification for the certification.

(g) Senate procedures

Any joint resolution under this section shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

(h) Determining major drug-transit and major illicit drug producing countries

Not later than November 1 of each year, the President shall notify the appropriate committees of the Congress of which countries have been determined to be major drug-transit countries, and which countries have been determined to be major illicit drug producing countries, for purposes of this chapter.

(Pub. L. 87–195, pt. I, §490, as added Pub. L. 102–583, §5(a), Nov. 2, 1992, 106 Stat. 4924; amended Pub. L. 103–447, title I, §101(g)(1), Nov. 2, 1994, 108 Stat. 4692; Pub. L. 104–66, title I, §1112(d), Dec. 21, 1995, 109 Stat. 724; Pub. L. 109–177, title VII, §722(b), Mar. 9, 2006, 120 Stat. 268.)

REFERENCES IN TEXT

Section 601(b) of the International Security Assistance and Arms Export Control Act of 1976, referred to in subsec. (g), is section 601(b) of Pub. L. 94–329, title VI, June 30, 1976, 90 Stat. 765, which is not classified to the Code.

This chapter, referred to in subsec. (h), was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

AMENDMENTS

2006—Subsec. (a)(1). Pub. L. 109–177, §722(b)(1), substituted "major illicit drug producing country, major drug-transit country, or country identified pursuant to clause (i) or (ii) of section 2291h(a)(8)(A) of this title" for "major illicit drug producing country or major drug-transit country".

Subsec. (a)(2). Pub. L. 109–177, §722(b)(2), inserted "or country identified pursuant to clause (i) or (ii) of section 2291h(a)(8)(A) of this title" after "(as determined under subsection (h))".

1995—Pub. L. 104–66, §1112(d)(1), struck out "for fiscal year 1995" after "certification procedures" in section catchline.

Subsec. (i). Pub. L. 104–66, §1112(d)(2), struck out heading and text of subsec. (i). Text read as follows: "This section applies only during fiscal year 1995. Section 2291k of this title does not apply during that fiscal year."

1994—Pub. L. 103–447, §101(g)(1)(A), substituted "for fiscal year 1995" for "for fiscal years 1993 and 1994" in section catchline.

Subsec. (a)(1). Pub. L. 103–447, §101(g)(1)(B), struck out "(as determined under subsection (h) of this section)" after "drug-transit country".

Subsec. (a)(2). Pub. L. 103–447, §101(g)(1)(C), substituted "March 1" for "April 1".

Subsec. (c). Pub. L. 103–447, §101(g)(1)(D), substituted "that such country maintains licit production and stockpiles at levels no higher than those consistent with licit market demand, and has taken adequate steps to prevent significant diversion of its licit cultivation and production into the illicit markets and to prevent illicit cultivation and production." for "that such country has taken adequate steps to prevent significant diversion of its licit cultivation and production into the illicit market, maintains production and stockpiles at levels no higher than those consistent with licit market demand, and prevents illicit cultivation and production."

Subsec. (d). Pub. L. 103–447, §101(g)(1)(E), substituted "30 calendar days" for "45 calendar days".

Subsec. (g). Pub. L. 103–447, §101(g)(1)(F), substituted "Senate procedures" for "Congressional review procedures" in heading, struck out designation and heading of par. (1), and struck out heading and text of par. (2). Text read as follows: "For the purpose of expediting the consideration and enactment of joint resolutions under this section, a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives."

Subsec. (h). Pub. L. 103–447, §101(g)(1)(G), struck out "for fiscal years 1993 and 1994" after "drug producing countries" in heading and substituted "November 1" for "January 1" in text.

Subsec. (i). Pub. L. 103–447, §101(g)(1)(H), amended heading and text of subsec. (i) generally. Prior to amendment, text read as follows: "This section applies only during fiscal years 1993 and 1994. During those fiscal years, section 2291k of this title does not apply and the definitions provided in section 2291(e)(2) and (5) of this title do not apply."

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

CERTIFICATION FOR MAJOR ILLICIT DRUG PRODUCING AND DRUG TRANSIT COUNTRIES

Determination of President of the United States, No. 2001–12, Mar. 1, 2001, 66 F.R. 14454, provided:

Memorandum for the Secretary of State

By virtue of the authority vested in me by section 490(b)(1)(A) of the Foreign Assistance Act of 1961, as amended [22 U.S.C. 2291j(b)(1)(A)] (the "Act"), I hereby determine and certify that the following major illicit drug producing and/or major illicit drug transit countries have cooperated fully with the United States, or have taken adequate steps on their own, to achieve full compliance with the goals and objectives of the 1988 United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances:

The Bahamas, Bolivia, Brazil, People's Republic of China, Colombia, Dominican Republic, Ecuador, Guatemala, India, Jamaica, Laos, Mexico, Nigeria, Pakistan, Panama, Paraguay, Peru, Thailand, Venezuela, and Vietnam

By virtue of the authority vested in me by section 490(b)(1)(B) of the Act, I hereby determine and certify that, for the following major illicit drug producing and/or major illicit drug transit countries that do not qualify for certification under section 490(b)(1)(A), the vital national interests of the United States require that assistance not be withheld and that the United States not vote against multilateral development bank assistance:

Cambodia and Haiti

Analysis of the relevant U.S. vital national interests and risks posed thereto, as required under section 490(b)(3) of the Act, is attached for these countries [not set out in the Code].

I have determined that the following major illicit drug producing and/or major illicit drug transit countries do not meet the standards for certification set forth in section 490(b):

Afghanistan and Burma

In making these determinations, I have considered the factors set forth in section 490 of the Act, based on the information contained in the International Narcotics Control Strategy Report of 2001. Given that the

performance of each of these countries has differed, I have attached an explanatory statement for each of the countries subject to this determination [not set out in the Code].

You are hereby authorized and directed to report this determination to the Congress immediately and to publish it in the Federal Register.

GEORGE W. BUSH.

Prior certifications for major narcotics producing and transit countries were contained in the following:
Determination of President of the United States, No. 2000–16, Feb. 29, 2000, 65 F.R. 15797.
Determination of President of the United States, No. 99–15, Feb. 26, 1999, 64 F.R. 11319.
Determination of President of the United States, No. 98–15, Feb. 26, 1998, 63 F.R. 12937.
Determination of President of the United States, No. 97–18, Feb. 28, 1997, 62 F.R. 11589.
Determination of President of the United States, No. 96–13, Mar. 1, 1996, 61 F.R. 9891.
Determination of President of the United States, No. 95–15, Feb. 28, 1995, 60 F.R. 12859.
Determination of President of the United States, No. 94–22, Apr. 1, 1994, 59 F.R. 17231.
Determination of President of the United States, No. 93–18, Mar. 31, 1993, 58 F.R. 19033.
Determination of President of the United States, No. 92–18, Feb. 28, 1992, 57 F.R. 8571.
Determination of President of the United States, No. 91–22, Mar. 1, 1991, 56 F.R. 10773.
Determination of President of the United States, No. 90–12, Feb. 28, 1990, 55 F.R. 10597.
Determination of President of the United States, No. 89–11, Feb. 28, 1989, 54 F.R. 9413.
Determination of President of the United States, No. 88–10, Feb. 29, 1988, 53 F.R. 11487.

PRESIDENTIAL DETERMINATION UNDER SECTION 490(B)(1)(A) OF THE FOREIGN ASSISTANCE ACT RELATING TO THE LARGEST EXPORTING AND IMPORTING COUNTRIES OF CERTAIN PRECURSOR CHEMICALS

Determination of President of the United States, No. 2007–14, Feb. 28, 2007, 72 F.R. 10881, provided:
Memorandum for the Secretary of State

Pursuant to section 490(b)(1)(A) of the Foreign Assistance Act, I hereby determine that the top five exporting and importing countries of pseudoephedrine and ephedrine in 2005 (Belgium, China, Germany, India, Indonesia, Mexico, Singapore, South Africa, South Korea, Switzerland, Taiwan, and the United Kingdom) have cooperated fully with the United States or have taken adequate steps on their own to achieve full compliance with the goals and objectives established by the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.

You are directed to publish this determination in the Federal Register, and are authorized and directed to transmit to the Congress the report under section 722 of the Combat Methamphetamine Epidemic Act [of 2005].

GEORGE W. BUSH.

§2291j–1. International drug control certification procedures

During any fiscal year, funds that would otherwise be withheld from obligation or expenditure under section 2291j of this title may be obligated or expended beginning October 1 of such fiscal year provided that:

(1) Report

Not later than September 15 of the previous fiscal year the President has submitted to the appropriate congressional committees a report identifying each country determined by the President to be a major drug transit country or major illicit drug producing country as defined in section 2291(e) of this title.

(2) Designation and justification

In each report under paragraph (1), the President shall also—

(A) designate each country, if any, identified in such report that has failed demonstrably, during the previous 12 months, to make substantial efforts—

(i) to adhere to its obligations under international counternarcotics agreements; and

(ii) to take the counternarcotics measures set forth in section 2291h(a)(1) of this title; and

(B) include a justification for each country so designated.

(3) Limitation on assistance for designated countries

In the case of a country identified in a report under paragraph (1) that is also designated under paragraph (2) in the report, United States assistance may be provided to such country in the subsequent fiscal year only if the President determines and reports to the appropriate congressional committees that—

(A) provision of such assistance to the country in such fiscal year is vital to the national interests of the United States; or

(B) subsequent to the designation being made under paragraph (2)(A), the country has made substantial efforts—

(i) to adhere to its obligations under international counternarcotics agreements; and

(ii) to take the counternarcotics measures set forth in section 2291h(a)(1) of this title.

(4) International counternarcotics agreement defined

In this section, the term "international counternarcotics agreement" means—

(A) the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances; or

(B) any bilateral or multilateral agreement in force between the United States and another country or countries that addresses issues relating to the control of illicit drugs, such as—

(i) the production, distribution, and interdiction of illicit drugs;

(ii) demand reduction;

(iii) the activities of criminal organizations;

(iv) international legal cooperation among courts, prosecutors, and law enforcement agencies (including the exchange of information and evidence);

(v) the extradition of nationals and individuals involved in drug-related criminal activity;

(vi) the temporary transfer for prosecution of nationals and individuals involved in drug-related criminal activity;

(vii) border security;

(viii) money laundering;

(ix) illicit firearms trafficking;

(x) corruption;

(xi) control of precursor chemicals;

(xii) asset forfeiture; and

(xiii) related training and technical assistance,

and includes, where appropriate, timetables and objective and measurable standards to assess the progress made by participating countries with respect to such issues.

(5) Application

(A) Section 2291j(a) through (h) of this title shall not apply during any fiscal year with respect to any country identified in the report required by paragraph (1) of this section.

(B) Notwithstanding paragraphs (1) through (5)(A) of this section, the President may apply the procedures set forth in section 2291j(a) through (h) of this title during any fiscal year with respect to any country determined to be a major drug transit country or major illicit drug producing country as defined in section 2291(e) of this title.

(C) Nothing in this section shall affect the requirements of section 2291j of this title with respect to countries identified pursuant to section [1] clause (i) or (ii) of 2291h(a)(8)(A) of this title.

(6) Statutory construction

Nothing in this section supersedes or modifies the requirement in section 2291h(a) of this title (with respect to the International Narcotics Control Strategy Report) for the transmittal of a report not later than March 1, each fiscal year under that section.

(7) Transition rule

For funds obligated or expended under this section in fiscal year 2003, the date for submission of the report required by paragraph (1) of this section shall be at least 15 days before funds are obligated or expended.

(8) Effective date

This section shall take effect September 30, 2002, and shall remain in effect thereafter unless Congress enacts subsequent legislation repealing such section.

(Pub. L. 107–228, div. A, title VI, §706, Sept. 30, 2002, 116 Stat. 1424; Pub. L. 109–177, title VII, §722(c), Mar. 9, 2006, 120 Stat. 269.)

CODIFICATION

Section was enacted as part of the Department of State Authorization Act, Fiscal Year 2003, and also as part of the Foreign Relations Authorization Act, Fiscal Year 2003, and not as part of the Foreign Assistance Act of 1961 which comprises this chapter.

AMENDMENTS

2006—Par. (5)(C). Pub. L. 109–177 added subpar. (C).

PRESIDENTIAL DETERMINATION ON MAJOR DRUG TRANSIT OR MAJOR ILLICIT DRUG PRODUCING COUNTRIES FOR FISCAL YEAR 2017

Determination of President of the United States, No. 2016–10, Sept. 12, 2016, 81 F.R. 64749, provided:

Memorandum for the Secretary of State

Pursuant to section 706(1) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228) (FRAA), I hereby identify the following countries as major drug transit and/or major illicit drug producing countries: Afghanistan, The Bahamas, Belize, Bolivia, Burma, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, India, Jamaica, Laos, Mexico, Nicaragua, Pakistan, Panama, Peru, and Venezuela.

A country's presence on the foregoing Major Drug Transit and Major Illicit Drug Producing Countries List is not a reflection of its government's counternarcotics efforts or level of cooperation with the United States. Consistent with the statutory definition of a major drug transit or drug producing country set forth in section 481(e)(2) and (5) of the Foreign Assistance Act of 1961, as amended (FAA), the reason major drug transit or illicit drug producing countries are placed on the list is the combination of geographic, commercial, and economic factors that allow drugs to transit or be produced, even if a government has carried out the most assiduous narcotics control law enforcement measures.

Pursuant to section 706(2)(A) of the FRAA, I hereby designate Bolivia, Burma, and Venezuela as countries that have failed demonstrably during the previous 12 months to adhere to their obligations under international counternarcotics agreements and take the measures set forth in section 489(a)(1) of the FAA. Included in this report are justifications for the determinations on Bolivia, Burma, and Venezuela, as required by section 706(2)(B) [not set out in the Code]. Explanations for these decisions are published with this determination.

I have also determined, in accordance with provisions of section 706(3)(A) of the FRAA, that support for programs to aid Burma and Venezuela is vital to the national interests of the United States.

In addition to emphasizing the importance of international cooperation, this determination highlights a number of recent developments concerning various aspects associated with the worldwide drug problem.

GROWING CONSENSUS ON INTERNATIONAL NARCOTICS

There is a growing international consensus that counternarcotics programs must be designed and implemented with the aim of improving the health and safety of individuals while preventing and reducing violence and other harmful consequences to communities.

In concert with international partners, the United States is expanding its domestic and international funding for drug treatment and recovery support programs based on empirical scientific evidence that shows that substance use disorders are medical conditions and must be treated as such. To achieve greater balance, U.S. drug policy also includes stepped-up promotion of effective alternative development programs for farmers and others who agree to stop illegal drug cultivation and associated activities. Such efforts also focus on advancing the rule of law through improving and strengthening civil and law enforcement institutions. United States polices support overall citizen security, including deepening worldwide adherence to fundamental human rights guaranteed by international law.

This consensus was demonstrated at the United Nations General Assembly Special Session on the World Drug Problem (UNGASS) held on April 19–21, 2016, in New York. The meeting served as the first

high-level, global gathering on counternarcotics in a generation, and its resulting outcome document forged international consensus behind a balanced and pragmatic approach to drug control. A central theme of UNGASS was to further develop and implement strategies based on the UN Commission on Narcotic Drugs (CND) 2009 Political Declaration and Action Plan aimed at reducing drug production, trafficking, and use from the standpoint of effective public health practices. UNGASS participants, including the United States, also highlighted the importance of substantive advancement of the UN's 2030 Agenda for Sustainable Development, which for the first time in history incorporates rule of law objectives into global development policy.

UNGASS further underscored the broad consensus among United Nations member states with regard to many major drug control themes. At the special session, member states demonstrated their common cause to reinforce efforts to counter drug cultivation, production, distribution, and use through pragmatic approaches that balance both law enforcement and public health perspectives. As stated by the UN International Narcotics Control Board (INCB), we have a "common obligation to employ effective drug abuse prevention, treatment, and rehabilitation of our citizens." Participants also reaffirmed their ongoing commitment to the 1961, 1971, and 1988 UN conventions on drugs as the essential backdrop for worldwide drug control efforts. These conventions leave sufficient room for individual states to pursue drug policies that are in accord with their own laws and national realities.

The foreign policy approaches to drug control of the United States are explained in detail in the U.S. National Drug Control Strategy, and our policies and programs are designed to help reach the goals established at UNGASS and work effectively with partners around the world. They include, for example, on going bilateral cooperation and collaborative work through numerous regional and sub-regional multilateral organizations such as the Organization of American States; the European Union; regional affiliates of the global Financial Action Task Force; the Economic Community of West African States; the Association of Southeast Asian Nations; and many others. The United States also joins other nations in supporting the important, positive contributions of many nongovernmental organizations in the academic and private sectors that work on improving counternarcotics policies and programs.

GROWING CHALLENGES OF HEROIN USE, ADULTERANTS, AND OPIUM POPPY CULTIVATION

According to the UN Office on Drugs and Crime (UNODC), the use of heroin and other opium poppy derivatives is the greatest worldwide drug problem today. Heroin is also the greatest drug threat in the United States, according to the 2015 U.S. National Drug Threat Assessment published by the U.S. Drug Enforcement Administration. Especially dangerous is the increasing adulteration of heroin with synthetic opioids, such as fentanyl, leading to an increase in the number of deaths as the result of drug overdoses. In 2014, the Centers for Disease Control reported that approximately 10,500 Americans died from heroin-related overdoses; the true number likely is higher given inconsistent testing across the States.

Opium poppy cultivation is expanding beyond Afghanistan, Burma, and Laos the traditional primary producing countries in the world. While Afghanistan is still the major supplier of opium derivatives to Europe and Canada, nearly all opium derivatives found in the United States are primarily grown in or trafficked through Mexico or by Mexican-based drug trafficking organizations. In Mexico, for example, international officials estimate that the number of hectares of heroin poppy under cultivation increased from 11,000 hectares in 2013 to as much as 28,000 hectares in 2015. Limited poppy cultivation also has been detected in Colombia and Guatemala.

According to UNODC, 201,000 hectares of opium poppy were cultivated in Afghanistan in 2015, a 5 percent decline from 2014. Comparative data shows, however, that while cultivation and yields declined relative to previous years, cultivation is still at historically high levels.

The 2016 U.S. International Narcotics Control Strategy indicates that insurgent groups in Afghanistan generate significant revenue by taxing drugs passing through regions they control. Afghan government drug control efforts are hampered by broad security challenges associated with intensive, long-term conflict and combat. The U.S. Government continues to support a broad range of multilateral and bilateral drug control programs in Afghanistan.

Although many treatment and recovery facilities established in Afghanistan show great promise, the 2015 Afghanistan National Drug Use Survey conducted by the Department of State and the Afghan Ministry of Health Institutional Review Board found an 11 percent drug positive rate in Afghanistan. Use of heroin and other opium poppy products, according to international analysis, is also significant in Iran, Kazakhstan, Kyrgyzstan, and Uzbekistan. The INCB is also concerned about the increasing use of Afghan sourced heroin throughout the Middle East.

Heroin in the United States is being increasingly adulterated with low-cost synthetic opioids, especially fentanyl. Research has shown that fentanyl and its analogues can be 25 to 50 times more potent than heroin.

According to U.S. law enforcement, most illicit fentanyl, precursors, and fentanyl analogues that have been identified in the United States originate in China and enter the country via Mexico, Canada, or direct mail. The United States has taken a number of steps to address this issue. The United States is working with Mexico and Canada to develop bilateral and multilateral approaches to combating opioid production and trafficking, particularly heroin and fentanyl. Law enforcement cooperation with Mexico includes programs to strengthen Mexico's capacity to identify, investigate, interdict and dismantle clandestine drug laboratories and disrupt trafficking networks. The United States conducts regular and positive discussions with China to enhance controls on many chemicals used to make fentanyl and other synthetic drugs. In a welcome development in late 2015, China placed controls on 116 substances including a dangerous analogue to fentanyl, acetyl fentanyl. Much work remains to be done in this area, and developing compatible, consistent, enforceable international standards is crucial to successfully controlling this growing drug threat.

COCAINE AND COCA CULTIVATION

Although international and U.S. surveys indicate overall production of coca leaf for cocaine has remained stable from a decade ago, Colombia has seen a 42 percent increase in illegal coca crop cultivation from 2014 to 2015. Colombia remains the major provider of cocaine available in the United States, though data shows that cocaine use is declining in the United States and in Europe. Nevertheless, U.S. rates of overdose involving cocaine were up in 2014.

Increased Colombian coca cultivation can be attributed to a number of factors, including Colombia's decision to end the aerial coca eradication program in October 2015 throughout the country. Even prior to the end of spray eradication, coca growers began to implement "counter" eradication techniques, such as by migrating their plantings to areas where spray was not permitted by law or policy. Illegal coca cultivators also began to cultivate smaller, better concealed fields to avoid detection by law enforcement. Colombia has reformulated its counternarcotics strategy to prioritize robust law enforcement activity against criminal drug trafficking organizations, including enhanced interdiction, over that of crop eradication. In 2015, the country seized 295 metric tons of cocaine along with other illegal drugs.

To reach the United States, cocaine is primarily trafficked by land, air, and sea via Central America, Mexico, and the Caribbean. Over the past decade, roughly 97 percent of U.S. bound cocaine is smuggled out of South America on noncommercial maritime conveyances. Smaller amounts are smuggled via commercial maritime vessels and noncommercial aircraft. Using similar conveyances, cocaine destined for Europe is often routed through Brazil, Bolivia, and Venezuela, as well as via West Africa.

Numerous large shipping containers have been interdicted on Atlantic routes, sometimes with a first stop in Portuguese speaking countries in Africa. Using these routes reduces language barriers before the drugs are smuggled to their final destination. A variety of U.S. assistance programs, especially those designed to enhance national interdiction capabilities and target kingpin traffickers, are carried out in Africa.

United States assistance programs are designed to disrupt the flow of cocaine and other harmful products to the United States by building the capacity of judicial, law enforcement, and treatment institutions in partner countries. For example, in Central America these programs are carried out through the Central America Regional Security Initiative, while those in the Caribbean are conducted through the Caribbean Basin Security Initiative. The Merida Initiative provides the framework for assistance and bilateral cooperation with Mexico. Key activities of these programs include drug interdiction cooperation, especially maritime-based efforts in Central America and the Caribbean; law enforcement capacity building; anticorruption initiatives and support; and enhanced prosecution and judicial reform strengthening efforts.

LOOKING TO THE FUTURE

Future action by the international community to address drug cultivation, production, trafficking, and use should be closely tied to the important priorities described in the 2016 UNGASS outcome document. These include, for example, utilization of sound scientific evidence for prevention and treatment programs, effective law enforcement, and appropriately balanced responses to drug-related crime. Areas of special concern include the connections between drug use and human rights, especially as they pertain to vulnerable groups such as women and children. The exchange of information among nations and between professionals engaged in reducing drug trafficking and use, and efforts to stay ahead of new and threatening developments, such as synthetic substances, are central to progress by communities, countries, and regions around the world.

The U.S. Government will continue to work with fellow United Nations member states to galvanize the international community toward implementation of the principles that were agreed upon at the 2016 UNGASS. General coordination among concerned United Nations entities is particularly important. This includes collaboration among bodies within the UN structure as a whole, but particularly those that concern themselves to some extent with drug control and related social issues.

You are hereby authorized and directed to submit this report, with its Bolivia, Burma, and Venezuela memoranda of justification, under section 706 of the FRAA, to the Congress, and publish it in the Federal

Register.

BARACK OBAMA.

Prior identifications of major drug transit or major illicit drug producing countries were contained in the following:

Determination of President of the United States, No. 2015–12, Sept. 14, 2015, 80 F.R. 57063.
Determination of President of the United States, No. 2014–15, Sept. 15, 2014, 79 F.R. 56625.
Determination of President of the United States, No. 2013–14, Sept. 13, 2013, 78 F.R. 58855.
Determination of President of the United States, No. 2012–15, Sept. 14, 2012, 77 F.R. 58917.
Determination of President of the United States, No. 2011–16, Sept. 15, 2011, 76 F.R. 59495.
Determination of President of the United States, No. 2010–16, Sept. 15, 2010, 75 F.R. 67019, 68413.
Determination of President of the United States, No. 2009–30, Sept. 15, 2009, 74 F.R. 48369.
Determination of President of the United States, No. 2008–28, Sept. 15, 2008, 73 F.R. 54927.
Determination of President of the United States, No. 2007–33, Sept. 14, 2007, 43 Weekly Compilation of Presidential Documents 1216, Sept. 24, 2007.
Determination of President of the United States, No. 2006–24, Sept. 15, 2006, 71 F.R. 57865.
Determination of President of the United States, No. 2005–36, Sept. 14, 2005, 70 F.R. 56807.
Determination of President of the United States, No. 2004–47, Sept. 15, 2004, 69 F.R. 57809.
Determination of President of the United States, No. 2003–38, Sept. 15, 2003, 68 F.R. 54973.
Determination of President of the United States, No. 2003–14, Jan. 30, 2003, 68 F.R. 5787.

DEFINITIONS

For definition of "appropriate congressional committees" as used in this section, see section 3 of Pub. L. 107–228, set out as a note under section 2651 of this title.

[1] So in original. The word "section" probably should appear after "clause (i) or (ii) of".

§2291k. Repealed. Pub. L. 104–66, title I, §1112(b), Dec. 21, 1995, 109 Stat. 724

Section, Pub. L. 87–195, pt. I, §490A, as added Pub. L. 102–583, §5(a), Nov. 2, 1992, 106 Stat. 4927; amended Pub. L. 103–447, title I, §101(g)(2), Nov. 2, 1994, 108 Stat. 4693, related to annual certification procedures after Sept. 30, 1995.

PART IX—INTERNATIONAL DISASTER ASSISTANCE

§2292. General provisions

(a) Congressional policy

The Congress, recognizing that prompt United States assistance to alleviate human suffering caused by natural and manmade disasters is an important expression of the humanitarian concern and tradition of the people of the United States, affirms the willingness of the United States to provide assistance for the relief and rehabilitation of people and countries affected by such disasters.

(b) General authority

Subject to limitations in section 2292a of this title, and notwithstanding any other provision of this chapter or any other Act, the President is authorized to furnish assistance to any foreign country, international organization, or private voluntary organization, on such terms and conditions as he may determine, for international disaster relief and rehabilitation, including assistance relating to disaster preparedness, and to the prediction of, and contingency planning for, natural disasters abroad.

(c) Emergency Food Security Program

(1) In general

Subject to the limitations in section 2292a of this title, and notwithstanding any other provision of this chapter or any other Act, the President is authorized to make available emergency food assistance, including in the form of funds, transfers, vouchers, and agricultural commodities (including products derived from agricultural commodities) acquired through local or regional procurement, to meet emergency food needs arising from manmade and natural disasters.

(2) Designation

Funds made available under this subsection shall be known as the "International Disaster Assistance – Emergency Food Security Program".

(d) Specific direction

In carrying out the provisions of this section the President shall insure that the assistance provided by the United States shall, to the greatest extent possible, reach those most in need of relief and rehabilitation as a result of natural and manmade disasters.

(Pub. L. 87–195, pt. I, §491, as added Pub. L. 94–161, title I, §101(3), Dec. 20, 1975, 89 Stat. 849; amended Pub. L. 95–424, title I, §118(a), Oct. 6, 1978, 92 Stat. 953; Pub. L. 96–533, title IV, §404(b), Dec. 16, 1980, 94 Stat. 3150; Pub. L. 114–195, §7(c)(1), July 20, 2016, 130 Stat. 681.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (b) and (c)(1), was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

PRIOR PROVISIONS

A prior section 491 of Pub. L. 87–195, pt. I, as added Pub. L. 92–226, pt. I, §109, Feb. 7, 1972, 86 Stat. 24, provided for East Pakistan refugee relief assistance, including appropriations authorization of $250,000,000 for fiscal year 1972, prior to repeal by section 101(2) of Pub. L. 94–161.

AMENDMENTS

2016—Subsecs. (c), (d). Pub. L. 114–195 added subsec. (c) and redesignated former subsec. (c) as (d).

1980—Subsec. (b). Pub. L. 96–533 substituted "limitations" for "limitation on appropriations".

1978—Subsec. (b). Pub. L. 95–424 substituted ", international organization, or private voluntary organization" for "or international organization".

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–424 effective Oct. 1, 1978, see section 605 of Pub. L. 95–424, set out as a note under section 2151 of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§2292a. Authorization of appropriations

(a) Fiscal year authorization

There are authorized to be appropriated to the President to carry out section 2292 of this title, $2,794,184,000 for each of fiscal years 2017 and 2018, of which up to $1,257,382,000 should be made available to carry out section 2292(c) of this title. Amounts appropriated under this section are authorized to remain available until expended.

(b) Subsequent appropriations for reimbursement of additional fiscal year obligations charged against appropriation account

In addition to amounts otherwise available to carry out this part, up to $50,000,000 in any fiscal year may be obligated against appropriations under subchapter I of this chapter (other than this part) for use in providing assistance in accordance with the authorities and general policies of section 2292

of this title. Amounts subsequently appropriated under this part with respect to a disaster may be used to reimburse any appropriation account against which obligations were incurred under this subsection with respect to that disaster.

(c) Amounts in addition to other amounts

Amounts authorized to be appropriated pursuant to the authorizations of appropriations under section 2292(c) of this title are in addition to funds otherwise available for such purposes.

(d) Flexibility

(1) United States policy

It is the policy of the United States that the funds made available to carry out section 2292 of this title are intended to provide the President with the greatest possible flexibility to address disaster-related needs as they arise and to prepare for and reduce the impact of natural and man-made disasters.

(2) Sense of Congress

It is the sense of Congress that any amendments to applicable legal provisions contained in this chapter are not intended to limit such authorities.

(e) Report

Not later than March 1 of each fiscal year, the President shall submit to the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives a report that describes the activities undertaken by the President over the course of the prior fiscal year pursuant to section 2292(c) of this title, including the amounts of assistance provided, intended beneficiaries, monitoring and evaluation strategies, anticipated outcomes, and, as practicable, actual outcomes.

(Pub. L. 87–195, pt. I, §492, as added Pub. L. 94–161, title I, §101(3), Dec. 20, 1975, 89 Stat. 849; amended Pub. L. 95–88, title I, §119, Aug. 3, 1977, 91 Stat. 541; Pub. L. 95–424, title I, §118(b), Oct. 6, 1978, 92 Stat. 953; Pub. L. 96–53, title I, §115, Aug. 14, 1979, 93 Stat. 365; Pub. L. 96–533, title IV, §§403, 404(a), Dec. 16, 1980, 94 Stat. 3150; Pub. L. 97–113, title V, §503, Dec. 29, 1981, 95 Stat. 1539; Pub. L. 99–83, title IV, §404, Aug. 8, 1985, 99 Stat. 219; Pub. L. 114–195, §7(c)(2), July 20, 2016, 130 Stat. 681.)

REFERENCES TO SUBCHAPTER I DEEMED TO INCLUDE CERTAIN PARTS OF SUBCHAPTER II

References to subchapter I of this chapter are deemed to include parts IV (§2346 et seq.), VI (§2348 et seq.), and VIII (§2349aa et seq.) of subchapter II of this chapter, and references to subchapter II are deemed to exclude such parts. See section 202(b) of Pub. L. 92–226, set out as a note under section 2346 of this title, and sections 2348c and 2349aa–5 of this title.

REFERENCES IN TEXT

This chapter, referred to in subsec. (d)(2), was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

AMENDMENTS

2016—Subsec. (a). Pub. L. 114–195, §7(c)(2)(A), which directed substitution of "$2,794,184,000 for each of fiscal years 2017 and 2018, of which up to $1,257,382,000 should be made available to carry out section 2292(c) of this title." for "$25,000,000 for the fiscal year 1986 and $25,000,000 for the fiscal year 1987.", was executed by making the substitution for "$25,000,000 for fiscal year 1986 and $25,000,000 for fiscal year 1987." to reflect the probable intent of Congress.

Subsecs. (c) to (e). Pub. L. 114–195, §7(c)(2)(B), added subsecs. (c) to (e).

1985—Subsec. (a). Pub. L. 99–83 substituted provisions authorizing appropriations of $25,000,000 for fiscal years 1986 and 1987, for provisions authorizing appropriations of $27,000,000 for fiscal years 1982 and 1983.

1981—Subsec. (a). Pub. L. 97–113 substituted appropriations authorization of $27,000,000 for fiscal years 1982 and 1983, for appropriation of $25,000,000 for fiscal year 1981.

1980—Subsec. (a). Pub. L. 96–533, §§403, 404(a)(1), substituted appropriations authorization of "$25,000,000 for the fiscal year 1981" for such authorization of "$21,800,000 for the fiscal year 1980" and designated existing provisions as subsec. (a).

Subsec. (b). Pub. L. 96–533, §404(a)(2), added subsec. (b).

1979—Pub. L. 96–53 substituted "$21,800,000" for "$25,000,000" and "1980" for "1979".

1978—Pub. L. 95–424 substituted "the fiscal year 1979" for "each of the fiscal years 1977 and 1978" and struck out provision requiring the President to submit quarterly reports to the Committee on Foreign Relations of the Senate and to the Speaker of the House of Representatives on the programming and obligation of funds.

1977—Pub. L. 95–88 substituted "fiscal years 1977 and 1978" for "fiscal years 1976 and 1977".

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–83 effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as a note under section 2151–1 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–53 effective Oct. 1, 1979, see section 512(a) of Pub. L. 96–53, set out as a note under section 2151 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–424 effective Oct. 1, 1978, see section 605 of Pub. L. 95–424, set out as a note under section 2151 of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§2292a–1. Appropriated funds; Presidential reports to Committees on Appropriations of the Senate and the House

The President shall submit quarterly reports to the Committee on Appropriations of the United States Senate and to the Committee on Appropriations of the House of Representatives on the programing and obligation of funds appropriated for International Disaster Assistance.

(Pub. L. 94–330, title I, §100, June 30, 1976, 90 Stat. 773.)

CODIFICATION

Section was not enacted as part of the Foreign Assistance Act of 1961 which comprises this chapter.

§2292b. Disaster assistance coordination through a Special Coordinator for International Disaster Assistance; Presidential appointment and duties

The President is authorized to appoint a Special Coordinator for International Disaster Assistance whose responsibility shall be to promote maximum effectiveness and coordination in responses to foreign disasters by United States agencies and between the United States and other donors. Included among the Special Coordinator's responsibilities shall be the formulation and updating of contingency plans for providing disaster relief.

(Pub. L. 87–195, pt. I, §493, as added Pub. L. 94–161, title I, §101(3), Dec. 20, 1975, 89 Stat. 849.)

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§2292c. Repealed. Pub. L. 112–74, div. I, title VII, §7034(l), Dec. 23, 2011, 125 Stat. 1216

Section, Pub. L. 87–195, pt. I, §494, formerly §452, as added Pub. L. 93–333, §2(2), July 8, 1974, 88 Stat. 290; renumbered §494, Pub. L. 94–161, title I, §101(4), Dec. 20, 1975, 89 Stat. 850, authorized appropriations for disaster relief and emergency recovery needs in Pakistan and Nicaragua.

CODIFICATION

Section was formerly classified to section 2262 of this title.

§2292d. Repealed. Pub. L. 95–424, title VI, §604, Oct. 6, 1978, 92 Stat. 961

Section, Pub. L. 87–195, pt. I, §494A, formerly pt. III, §639A, as added Pub. L. 93–189, §20, Dec. 17, 1973, 87 Stat. 725, amended Pub. L. 93–333, §3(2)–(5), July 8, 1974, 88 Stat. 290; renumbered pt. I, §494A, Pub. L. 94–161, title I, §101(5), Dec. 20, 1975, 89 Stat. 850, related to famine and disaster relief to drought-stricken African nations.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1978, see section 605 of Pub. L. 95–424, set out as an Effective Date of 1978 Amendment note under section 2151 of this title.

ASSISTANCE IN CONTROLLING LOCUST PLAGUES IN AFRICA; AUTHORIZATION OF APPROPRIATIONS

Pub. L. 95–424, title I, §120, Oct. 6, 1978, 92 Stat. 954, provided that: "In order to assist in attempts to control locust plagues in Africa, especially in the Horn of Africa, there is authorized to be appropriated to the President, in addition to amounts otherwise authorized for disaster relief purposes, $2,000,000, which amount is authorized to remain available until expended."

§2292e. Transferred

CODIFICATION

Section, Pub. L. 87–195, pt. I, §120, formerly pt. III, §639B, as added Pub. L. 93–189, §20, Dec. 17, 1973, 87 Stat. 725; renumbered pt. I, §494B, and amended Pub. L. 94–161, title I, §101(5), (7), Dec. 20, 1975, 89 Stat. 850; renumbered pt. I, §120; amended Pub. L. 95–88, title I, §115(1), (2), Aug. 3, 1977, 91 Stat. 539, which related to the Sahel development program and had been classified to section 2399–1b of this title, has been transferred to section 2151r of this title.

§2292f. Repealed. Pub. L. 112–74, div. I, title VII, §7034(l), Dec. 23, 2011, 125 Stat. 1216

Section, Pub. L. 87–195, pt. I, §495, as added Pub. L. 94–161, title I, §101(8), Dec. 20, 1975, 89 Stat. 850; amended Pub. L. 94–329, title IV, §402, June 30, 1976, 90 Stat. 757, authorized relief and rehabilitation assistance for Cyprus.

§2292g. Repealed. Pub. L. 95–424, title VI, §604, Oct. 6, 1978, 92 Stat. 961

Section, Pub. L. 87–195, pt. I, §495A, as added Pub. L. 94–276, §2, Apr. 21, 1976, 90 Stat. 397, related to relief and rehabilitation for people victimized by recent earthquakes in Guatemala.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1978, see section 605 of Pub. L. 95–424, set out as an Effective Date of 1978 Amendment note under section 2151 of this title.

§§2292h to 2292q. Repealed. Pub. L. 112–74, div. I, title VII, §7034(l), Dec. 23, 2011, 125 Stat. 1216

Section 2292h, Pub. L. 87–195, pt. I, §495B, as added Pub. L. 94–329, title IV, §415, June 30, 1976, 90 Stat. 761; amended Pub. L. 95–88, title I, §120, Aug. 3, 1977, 91 Stat. 541; Pub. L. 96–525, Dec. 12, 1980, 94 Stat. 3043, authorized appropriations for relief, rehabilitation and reconstruction assistance for Italy.

Section 2292i, Pub. L. 87–195, pt. I, §495C, as added Pub. L. 94–329, title IV, §416, June 30, 1976, 90 Stat. 762; amended Pub. L. 95–424, title V, §502(d)(1), Oct. 6, 1978, 92 Stat. 959, authorized relief and rehabilitation assistance for Lebanon.

Section 2292j, Pub. L. 87–195, pt. I, §495D, as added Pub. L. 95–21, Apr. 18, 1977, 91 Stat. 48; amended Pub. L. 97–113, title VII, §734(a)(1), Dec. 29, 1981, 95 Stat. 1560, authorized relief and rehabilitation assistance for Romania.

Section 2292k, Pub. L. 87–195, pt. I, §495E, formerly §495D, as added Pub. L. 95–88, title I, §121, Aug. 3, 1977, 91 Stat. 541; renumbered §495E, Pub. L. 95–424, title I, §119(1), Oct. 6, 1978, 92 Stat. 953, requested use of funds for relief, rehabilitation, and reconstruction assistance for Turkey.

Section 2292l, Pub. L. 87–195, pt. I, §495F, as added Pub. L. 95–424, title I, §119(2), Oct. 6, 1978, 92 Stat. 953; amended Pub. L. 96–53, title I, §116, Aug. 14, 1979, 93 Stat. 365; Pub. L. 96–533, title IV, §405, Dec. 16, 1980, 94 Stat. 3150, authorized rehabilitation and resettlement assistance for Africa.

Section 2292m, Pub. L. 87–195, pt. I, §495G, as added Pub. L. 96–109, §1, Nov. 9, 1979, 93 Stat. 842, authorized special Caribbean hurricane relief assistance.

Section 2292n, Pub. L. 87–195, pt. I, §495H, as added Pub. L. 96–110, §2, Nov. 13, 1979, 93 Stat. 843; amended Pub. L. 97–113, title VII, §734(a)(1), Dec. 29, 1981, 95 Stat. 1560; Pub. L. 110–246, title III, §3001(b)(1)(A), (2)(Q), June 18, 2008, 122 Stat. 1820, authorized disaster relief assistance for Cambodia.

Section 2292o, Pub. L. 87–195, pt. I, §495I, as added Pub. L. 97–113, title V, §504, Dec. 29, 1981, 95 Stat. 1540, authorized assistance for displaced persons in Central America.

Section 2292p, Pub. L. 87–195, pt. I, §495J, as added Pub. L. 97–208, June 30, 1982, 96 Stat. 138, authorized emergency relief, rehabilitation, and reconstruction assistance for Lebanon.

Section 2292q, Pub. L. 87–195, pt. I, §495K, as added Pub. L. 99–8, §2, Apr. 2, 1985, 99 Stat. 21, authorized African famine assistance.

PART X—DEVELOPMENT FUND FOR AFRICA

PRIOR PROVISIONS

A prior part X, consisting of sections 2293 and 2294, related to assistance to Portugal and Portuguese colonies in Africa gaining independence, prior to repeal by Pub. L. 99–83, title XII, §1211(a)(4), Aug. 8, 1985, 99 Stat. 279.

§2293. Long-term development assistance for sub-Saharan Africa

(a) Findings

The Congress finds that—

(1) drought and famine have caused countless deaths and untold suffering among the people of sub-Saharan Africa;

(2) drought and famine in combination with other factors such as desertification, government neglect of the agricultural sector, and inappropriate economic policies have severely affected long-term development in sub-Saharan Africa; and

(3) the most cost-effective and efficient way of overcoming Africa's vulnerability to drought and famine is to address Africa's long-term development needs through a process that builds upon the needs and capabilities of the African people, promotes sustained and equitable economic growth, preserves the environment, and protects the rights of the individual.

(b) Authority to furnish assistance

The President is authorized to furnish project and program assistance, on such terms and conditions as he may determine in accordance with the policies contained in this section, for long-term development in sub-Saharan Africa.

(c) Purpose of assistance

(1) Purpose

The purpose of assistance under this section shall be to help the poor majority of men and women in sub-Saharan Africa to participate in a process of long-term development through economic growth that is equitable, participatory, environmentally sustainable, and self-reliant.

(2) Use of assistance to encourage private sector development

Assistance under this section should, in a manner consistent with paragraph (1), be used to promote sustained economic growth, encourage private sector development, promote individual initiatives, and help to reduce the role of central governments in areas more appropriate for the private sector.

(d) Application of development assistance general authorities and policies

Except to the extent inconsistent with this section—

(1) any reference in any law to part I of this subchapter (including references to sections 2151a through 2151d of this title) shall be deemed to include a reference to this section; and

(2) assistance under this section shall be provided consistent with the policies contained in section 2151–1 of this title.

(e) Private and voluntary organizations

(1) Consultation to ensure local perspectives

The Agency for International Development shall take into account the local-level perspectives of the rural and urban poor in sub-Saharan Africa, including women, during the planning process for project and program assistance under this section. In order to gain that perspective the Agency for International Development should consult closely with African, United States, and other private and voluntary organizations that have demonstrated effectiveness in or commitment to the promotion of local, grassroots activities on behalf of long-term development in sub-Saharan Africa as described in subsection (c).

(2) "Private and voluntary organization" defined

For purposes of this section, the term "private and voluntary organization" includes (in addition to entities traditionally considered to be private and voluntary organizations) cooperatives, credit unions, trade unions, women's groups, nonprofit development research institutions, and indigenous local organizations, which are private and nonprofit.

(f) Local involvement in project implementation

Local people, including women, shall be closely consulted and involved in the implementation of every project under this section which as [1] a local focus.

(g) Participation of African women

The Agency for International Development shall ensure that development activities assisted under this section incorporate a significant expansion of the participation (including decisionmaking) and integration of African women in each of the critical sectors described in subsection (i).

(h) Types of assistance

(1) Projects and programs to address critical sectoral priorities

Assistance under this section shall emphasize primarily projects and programs to address critical sectoral priorities for long-term development described in subsection (i).

(2) Reform of economic policies

(A) Use of program assistance

Assistance under this section may also include program assistance to promote reform of sectoral economic policies affecting long-term development in sub-Saharan Africa as described in subsection (c), with primary emphasis on reform of economic policies to support the critical sectoral priorities described in subsection (i).

(B) Protection of vulnerable groups

Assisted policy reforms shall also include provisions to protect vulnerable groups (especially poor, isolated, and female farmers, the urban poor, and children including displaced children) and long-term environmental interests from possible negative consequences of the reforms.

(3) Democratization and conflict resolution capabilities

Assistance under this section may also include program assistance—

(A) to promote democratization, good governance, and strong civil societies in sub-Saharan Africa; and

(B) to strengthen conflict resolution capabilities of governmental, intergovernmental, and nongovernmental entities in sub-Saharan Africa.

(4) Other assistance

Funds made available to carry out this section shall be used almost exclusively for assistance in accordance with paragraphs (1), (2), and (3). Assistance consistent with the purpose of subsection (c) may also be furnished under this section to carry out the provisions of sections 2151a through 2151d of this title.

(i) Critical sectoral priorities

The critical sectoral priorities for long-term development, as described in subsection (c), are the following:

(1) Agricultural production and natural resources

(A) Agricultural production

Increasing agricultural production in ways which protect and restore the natural resource base, especially food production, through agricultural policy changes, agricultural research (including participatory research directly involving small farmers) and extension, development and promotion of agriculture marketing activities, credit facilities, and appropriate production packages, and the construction and improvement of needed production-related infrastructure such as farm-to-market roads, small-scale irrigation, and rural electrification. Within this process, emphasis shall be given to promoting increased equity in rural income distribution, recognizing the role of small farmers.

(B) Natural resource base

Maintaining and restoring the renewable natural resource base primarily in ways which increase agricultural production, through the following:

(i) Small-scale, affordable, resource-conserving, low-risk local projects, using appropriate technologies (including traditional agricultural methods) suited to local environmental, resource, and climatic conditions, and featuring close consultation with and involvement of local people at all stages of project design and implementation. Emphasis shall be given to grants for African local government organizations, international or African nongovernmental organizations, and United States private and voluntary organizations.

(ii) Support for efforts at national and regional levels to provide technical and other support for projects of the kinds described in clause (i) and to strengthen the capacities of African countries to provide effective extension and other services in support of environmentally sustainable increases in food production.

(iii) Support for special training and education efforts to improve the capacity of countries in sub-Saharan Africa to manage their own environments and natural resources.

(iv) Support for low-cost desalination activities in order to increase the availability of fresh water sources in sub-Saharan Africa.

(2) Health

Improving health conditions, with special emphasis on meeting the health needs of mothers and children (including displaced children) through the establishment of primary health care systems that give priority to preventive health and that will be ultimately self-sustaining. In addition,

providing training and training facilities, in sub-Saharan Africa, for doctors and other health care providers, notwithstanding any provision of law that restricts assistance to foreign countries.

(3) Voluntary family planning services

Providing increased access to voluntary family planning services, including encouragement of private, community, and local government initiatives.

(4) Education

Improving the relevance, equity, and efficiency of education, with special emphasis on improving primary education.

(5) Income-generating opportunities

Developing income-generating opportunities for the unemployed and underemployed in urban and rural areas through, among other things, support for off-farm employment opportunities in micro- and small-scale labor-intensive enterprises.

(j) Minimum levels of assistance for certain critical sectors

The Agency for International Development should target the equivalent of 10 percent of the amount authorized to be appropriated for each fiscal year to carry out this part for each of the following:

(1) The activities described in subsection (i)(1)(B), including identifiable components of agricultural production projects.

(2) The activities described in subsection (i)(2).

(3) The activities described in subsection (i)(3).

(k) Effective use of assistance

Assistance provided under this section shall be concentrated in countries which will make the most effective use of such assistance in order to fulfill the purpose specified in subsection (c), especially those countries (including those of the Sahel region) having the greatest need for outside assistance.

(l) Promotion of regional integration

Assistance under this section shall, to the extent consistent with this section, include assistance to promote the regional and subregional integration of African production structures, markets, and infrastructure.

(m) Donor coordination mechanism

Funds made available to carry out this section may be used to assist the governments of countries in sub-Saharan Africa to increase their capacity to participate effectively in donor coordination mechanisms at the country, regional, and sector levels.

(n) Relation to other authorities

(1) Assistance under other authorities

The authority granted by this section to provide assistance for long-term development in sub-Saharan Africa is not intended to preclude the use of other authorities for that purpose. Centrally funded programs which benefit sub-Saharan Africa shall continue to be funded under part I of this subchapter.

(2) Transfer authorities

(A) The transfer authority contained in section 2151g of this title shall not apply with respect to this section.

(B) The transfer authority contained in section 2360(a) of this title may not be used to transfer funds made available to carry out this section in order to allow them to be used in carrying out any other provision of this chapter.

(3) Reprogramming notifications

Section 2394–1 of this title does not apply with respect to funds made available to carry out this

section.

(4) Procurement of goods and services

In order to allow the assistance authorized by this section to be furnished as effectively and expeditiously as possible, section 2354(a) of this title, and similar provisions relating to the procurement of goods and services, shall not apply with respect to goods and services procured for use in carrying out this section. The exemption provided by this paragraph shall not be construed to apply to the Comprehensive Anti/Apartheid Act of 1986.

(o) Support for SADCC projects

(1) Authority to provide assistance

To the extent funds are provided for such purpose in the annual Foreign Operations, Export Financing, and Related Programs Appropriations Act, funds made available to carry out this part may be used to assist sector projects, in the sectors specified in paragraph (2), that are supported by the Southern Africa Development Coordination Conference (SADCC) to enhance the economic development of the member states forming that regional institution.

(2) Sectors

The sectors with respect to which assistance may be provided under this subsection are the following: transportation; manpower development; agriculture and natural resources; energy (including the improved utilization of electrical power sources which already exist in the member states and offer the potential to swiftly reduce the dependence of those states on South Africa for electricity); and industrial development and trade (including private sector initiatives).

(3) Relation to DFA policies and authorities

To the maximum extent feasible, the assistance authorized by this subsection shall be provided consistent with the policies and authorities contained in the preceding subsection of this section.

(Pub. L. 87–195, pt. I, §496, as added Pub. L. 101–513, title V, §562(a), Nov. 5, 1990, 104 Stat. 2026; amended Pub. L. 106–200, title I, §127(c), May 18, 2000, 114 Stat. 273; Pub. L. 106–264, title I, §111(b), Aug. 19, 2000, 114 Stat. 752.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (n)(2)(B), was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

The Comprehensive Anti/Apartheid Act of 1986, referred to in subsec. (n)(4), probably means the Comprehensive Anti-Apartheid Act of 1986, which is Pub. L. 99–440, Oct. 2, 1986, 100 Stat. 1086, as amended, and was classified principally to chapter 60 (§5001 et seq.) of this title, prior to repeal by Pub. L. 103–149, §4(a)(1), (2), Nov. 23, 1993, 107 Stat. 1504, 1505. For complete classification of this Act to the Code, see Tables.

PRIOR PROVISIONS

A prior section 2293, Pub. L. 87–195, pt. I, §496, as added Pub. L. 93–559, §53, Dec. 30, 1974, 88 Stat. 1818; amended Pub. L. 94–161, title III, §314, Dec. 20, 1975, 89 Stat. 866, related to economic assistance, etc., to Portugal and Portuguese colonies in Africa gaining independence, prior to repeal by Pub. L. 99–83, title XII, §1211(a)(4), Aug. 8, 1985, 99 Stat. 279, effective Oct. 1, 1985.

AMENDMENTS

2000—Subsec. (h)(3). Pub. L. 106–200, §127(c)(1)(B), added par. (3). Former par. (3) redesignated (4).

Subsec. (h)(4). Pub. L. 106–200, §127(c)(1)(A), (2), redesignated par. (3) as (4) and substituted "paragraphs (1), (2), and (3)" for "paragraphs (1) and (2)" in first sentence.

Subsec. (i)(2). Pub. L. 106–264 inserted at end "In addition, providing training and training facilities, in sub-Saharan Africa, for doctors and other health care providers, notwithstanding any provision of law that restricts assistance to foreign countries."

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R.

56673, as amended, set out as a note under section 2381 of this title.

ELECTRIFY AFRICA

Pub. L. 114–121, Feb. 8, 2016, 130 Stat. 86, provided that:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Electrify Africa Act of 2015'.

"SEC. 2. PURPOSE.

"The purpose of this Act is to encourage the efforts of countries in sub-Saharan Africa to improve access to affordable and reliable electricity in Africa in order to unlock the potential for inclusive economic growth, job creation, food security, improved health, education, and environmental outcomes, and poverty reduction.

"SEC. 3. STATEMENT OF POLICY.

"It is the policy of the United States to partner, consult, and coordinate with the governments of sub-Saharan African countries, international financial institutions, and African regional economic communities, cooperatives, and the private sector, in a concerted effort to—

"(1) promote first-time access to power and power services for at least 50,000,000 people in sub-Saharan Africa by 2020 in both urban and rural areas;

"(2) encourage the installation of at least 20,000 additional megawatts of electrical power in sub-Saharan Africa by 2020 using a broad mix of energy options to help reduce poverty, promote sustainable development, and drive inclusive economic growth;

"(3) promote non-discriminatory reliable, affordable, and sustainable power in urban areas (including small urban areas) to promote economic growth and job creation;

"(4) promote policies to facilitate public-private partnerships to provide non-discriminatory reliable, sustainable, and affordable electrical service to rural and underserved populations;

"(5) encourage the necessary in-country reforms, including facilitating public-private partnerships specifically to support electricity access projects to make such expansion of power access possible;

"(6) promote reforms of power production, delivery, and pricing, as well as regulatory reforms and transparency, to support long-term, market-based power generation and distribution;

"(7) promote policies to displace kerosene lighting with other technologies;

"(8) promote an all-of-the-above energy development strategy for sub-Saharan Africa that includes the use of oil, natural gas, coal, hydroelectric, wind, solar, and geothermal power, and other sources of energy; and

"(9) promote and increase the use of private financing and seek ways to remove barriers to private financing and assistance for projects, including through charitable organizations.

"SEC. 4. DEVELOPMENT OF COMPREHENSIVE, MULTIYEAR STRATEGY.

"(a) STRATEGY REQUIRED.—

"(1) IN GENERAL.—The President shall establish a comprehensive, integrated, multiyear strategy to encourage the efforts of countries in sub-Saharan Africa to implement national power strategies and develop an appropriate mix of power solutions to provide access to sufficient reliable, affordable, and sustainable power in order to reduce poverty and drive economic growth and job creation consistent with the policy stated in section 3.

"(2) FLEXIBILITY AND RESPONSIVENESS.—The President shall ensure that the strategy required under paragraph (1) maintains sufficient flexibility for and remains responsive to concerns and interests of affected local communities and technological innovation in the power sector.

"(b) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act [Feb. 8, 2016], the President shall transmit to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives a report that contains the strategy required under subsection (a) and includes a discussion of the following elements:

"(1) The objectives of the strategy and the criteria for determining the success of the strategy.

"(2) A general description of efforts in sub-Saharan Africa to—

"(A) increase power production;

"(B) strengthen electrical transmission and distribution infrastructure;

"(C) provide for regulatory reform and transparent and accountable governance and oversight;

"(D) improve the reliability of power;

"(E) maintain the affordability of power;

"(F) maximize the financial sustainability of the power sector; and

"(G) improve non-discriminatory access to power that is done in consultation with affected

communities.

"(3) A description of plans to support efforts of countries in sub-Saharan Africa to increase access to power in urban and rural areas, including a description of plans designed to address commercial, industrial, and residential needs.

"(4) A description of plans to support efforts to reduce waste and corruption, ensure local community consultation, and improve existing power generation through the use of a broad power mix, including fossil fuel and renewable energy, distributed generation models, energy efficiency, and other technological innovations, as appropriate.

"(5) An analysis of existing mechanisms for ensuring, and recommendations to promote—

"(A) commercial cost recovery;

"(B) commercialization of electric service through distribution service providers, including cooperatives, to consumers;

"(C) improvements in revenue cycle management, power pricing, and fees assessed for service contracts and connections;

"(D) reductions in technical losses and commercial losses; and

"(E) non-discriminatory access to power, including recommendations on the creation of new service provider models that mobilize community participation in the provision of power services.

"(6) A description of the reforms being undertaken or planned by countries in sub-Saharan Africa to ensure the long-term economic viability of power projects and to increase access to power, including—

"(A) reforms designed to allow third parties to connect power generation to the grid;

"(B) policies to ensure there is a viable and independent utility regulator;

"(C) strategies to ensure utilities become or remain creditworthy;

"(D) regulations that permit the participation of independent power producers and private-public partnerships;

"(E) policies that encourage private sector and cooperative investment in power generation;

"(F) policies that ensure compensation for power provided to the electrical grid by on-site producers;

"(G) policies to unbundle power services;

"(H) regulations to eliminate conflicts of interest in the utility sector;

"(I) efforts to develop standardized power purchase agreements and other contracts to streamline project development;

"(J) efforts to negotiate and monitor compliance with power purchase agreements and other contracts entered into with the private sector; and

"(K) policies that promote local community consultation with respect to the development of power generation and transmission projects.

"(7) A description of plans to ensure meaningful local consultation, as appropriate, in the planning, long-term maintenance, and management of investments designed to increase access to power in sub-Saharan Africa.

"(8) A description of the mechanisms to be established for—

"(A) selection of partner countries for focused engagement on the power sector;

"(B) monitoring and evaluating increased access to, and reliability and affordability of, power in sub-Saharan Africa;

"(C) maximizing the financial sustainability of power generation, transmission, and distribution in sub-Saharan Africa;

"(D) establishing metrics to demonstrate progress on meeting goals relating to access to power, power generation, and distribution in sub-Saharan Africa; and

"(E) terminating unsuccessful programs.

"(9) A description of how the President intends to promote trade in electrical equipment with countries in sub-Saharan Africa, including a description of how the government of each country receiving assistance pursuant to the strategy—

"(A) plans to lower or eliminate import tariffs or other taxes for energy and other power production and distribution technologies destined for sub-Saharan Africa, including equipment used to provide energy access, including solar lanterns, solar home systems, and micro and mini grids; and

"(B) plans to protect the intellectual property of companies designing and manufacturing products that can be used to provide energy access in sub-Saharan Africa.

"(10) A description of how the President intends to encourage the growth of distributed renewable energy markets in sub-Saharan Africa, including off-grid lighting and power, that includes—

"(A) an analysis of the state of distributed renewable energy in sub-Saharan Africa;

"(B) a description of market barriers to the deployment of distributed renewable energy technologies both on- and off-grid in sub-Saharan Africa;

"(C) an analysis of the efficacy of efforts by the Overseas Private Investment Corporation and the United States Agency for International Development to facilitate the financing of the importation, distribution, sale, leasing, or marketing of distributed renewable energy technologies; and

"(D) a description of how bolstering distributed renewable energy can enhance the overall effort to increase power access in sub-Saharan Africa.

"(11) A description of plans to ensure that small and medium enterprises based in sub-Saharan Africa can fairly compete for energy development and energy access opportunities associated with this Act.

"(12) A description of how United States investments to increase access to energy in sub-Saharan Africa may reduce the need for foreign aid and development assistance in the future.

"(13) A description of policies or regulations, both domestically and internationally, that create barriers to private financing of the projects undertaken in this Act.

"(14) A description of the specific national security benefits to the United States that will be derived from increased energy access in sub-Saharan Africa.

"(c) INTERAGENCY WORKING GROUP.—

"(1) IN GENERAL.—The President may, as appropriate, establish an Interagency Working Group to coordinate the activities of relevant United States Government departments and agencies involved in carrying out the strategy required under this section.

"(2) FUNCTIONS.—The Interagency Working Group may, among other things—

"(A) seek to coordinate the activities of the United States Government departments and agencies involved in implementing the strategy required under this section;

"(B) ensure efficient and effective coordination between participating departments and agencies; and

"(C) facilitate information sharing, and coordinate partnerships between the United States Government, the private sector, and other development partners to achieve the goals of the strategy.

"SEC. 5. PRIORITIZATION OF EFFORTS AND ASSISTANCE FOR POWER PROJECTS IN SUB-SAHARAN AFRICA BY KEY UNITED STATES INSTITUTIONS.

"(a) IN GENERAL.—In pursuing the policy goals described in section 3, the Administrator of the United States Agency for International Development, the Director of the Trade and Development Agency, the Overseas Private Investment Corporation, and the Chief Executive Officer and Board of Directors of the Millennium Challenge Corporation should, as appropriate, prioritize and expedite institutional efforts and assistance to facilitate the involvement of such institutions in power projects and markets, both on- and off-grid, in sub-Saharan Africa and partner with other investors and local institutions in sub-Saharan Africa, including private sector actors, to specifically increase access to reliable, affordable, and sustainable power in sub-Saharan Africa, including through—

"(1) maximizing the number of people with new access to power and power services;

"(2) improving and expanding the generation, transmission and distribution of power;

"(3) providing reliable power to people and businesses in urban and rural communities;

"(4) addressing the energy needs of marginalized people living in areas where there is little or no access to a power grid and developing plans to systematically increase coverage in rural areas;

"(5) reducing transmission and distribution losses and improving end-use efficiency and demand-side management;

"(6) reducing energy-related impediments to business productivity and investment; and

"(7) building the capacity of countries in sub-Saharan Africa to monitor and appropriately and transparently regulate the power sector and encourage private investment in power production and distribution.

"(b) EFFECTIVENESS MEASUREMENT.—In prioritizing and expediting institutional efforts and assistance pursuant to this section, as appropriate, such institutions shall use clear, accountable, and metric-based targets to measure the effectiveness of such guarantees and assistance in achieving the goals described in section 3.

"(c) PROMOTION OF USE OF PRIVATE FINANCING AND ASSISTANCE.—In carrying out policies under this section, such institutions shall promote the use of private financing and assistance and seek ways to remove barriers to private financing for projects and programs under this Act, including through charitable organizations.

"(d) RULE OF CONSTRUCTION.—Nothing in this section may be construed to authorize modifying or limiting the portfolio of the institutions covered by subsection (a) in other developing regions.

"SEC. 6. LEVERAGING INTERNATIONAL SUPPORT.

"In implementing the strategy described in section 4, the President should direct the United States representatives to appropriate international bodies to use the influence of the United States, consistent with the broad development goals of the United States, to advocate that each such body—

"(1) commit to significantly increase efforts to promote investment in well-designed power sector and electrification projects in sub-Saharan Africa that increase energy access, in partnership with the private sector and consistent with the host countries' absorptive capacity;

"(2) address energy needs of individuals and communities where access to an electricity grid is impractical or cost-prohibitive;

"(3) enhance coordination with the private sector in sub-Saharan Africa to increase access to electricity;

"(4) provide technical assistance to the regulatory authorities of sub-Saharan African governments to remove unnecessary barriers to investment in otherwise commercially viable projects; and

"(5) utilize clear, accountable, and metric-based targets to measure the effectiveness of such projects.

"SEC. 7. PROGRESS REPORT.

"(a) IN GENERAL.—Not later than three years after the date of the enactment of this Act [Feb. 8, 2016], the President shall transmit to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate a report on progress made toward achieving the strategy described in section 4 that includes the following:

"(1) A report on United States programs supporting implementation of policy and legislative changes leading to increased power generation and access in sub-Saharan Africa, including a description of the number, type, and status of policy, regulatory, and legislative changes initiated or implemented as a result of programs funded or supported by the United States in countries in sub-Saharan Africa to support increased power generation and access after the date of the enactment of this Act.

"(2) A description of power projects receiving United States Government support and how such projects, including off-grid efforts, are intended to achieve the strategy described in section 4.

"(3) For each project described in paragraph (2)—

"(A) a description of how the project fits into, or encourages modifications of, the national energy plan of the country in which the project will be carried out, including encouraging regulatory reform in that county;

"(B) an estimate of the total cost of the project to the consumer, the country in which the project will be carried out, and other investors;

"(C) the amount of financing provided or guaranteed by the United States Government for the project;

"(D) an estimate of United States Government resources for the project, itemized by funding source, including from the Overseas Private Investment Corporation, the United States Agency for International Development, the Department of the Treasury, and other appropriate United States Government departments and agencies;

"(E) an estimate of the number and regional locations of individuals, communities, businesses, schools, and health facilities that have gained power connections as a result of the project, with a description of how the reliability, affordability, and sustainability of power has been improved as of the date of the report;

"(F) an assessment of the increase in the number of people and businesses with access to power, and in the operating electrical power capacity in megawatts as a result of the project between the date of the enactment of this Act and the date of the report;

"(G) a description of efforts to gain meaningful local consultation for projects associated with this Act and any significant estimated noneconomic effects of the efforts carried out pursuant to this Act; and

"(H) a description of the participation by small and medium enterprises based in sub-Saharan Africa on projects associated with this Act."

[For delegation of functions vested in President by sections 4 and 7 of Pub. L. 114–121, set out above, see Memorandum of President of the United States, Aug. 3, 2016, 81 F.R. 52323, set out below.]

AGRICULTURAL AND RURAL DEVELOPMENT IN SUB-SAHARAN AFRICA

Pub. L. 105–385, §2, Nov. 13, 1998, 112 Stat. 3460, provided that:

"(a) FINDINGS.—Congress finds the following:

"(1) The economic, security, and humanitarian interests of the United States and the nations of sub-Saharan Africa would be enhanced by sustainable, broad-based agricultural and rural development in each of the African nations.

"(2) According to the Food and Agriculture Organization, the number of undernourished people in Africa has more than doubled, from approximately 100,000,000 in the late 1960s to 215,000,000 in 1998, and is projected to increase to 265,000,000 by the year 2010. According to the Food and Agriculture Organization, the term 'under nutrition' means inadequate consumption of nutrients, often adversely affecting children's physical and mental development, undermining their future as productive and creative members of their communities.

"(3) Currently, agricultural production in Africa employs about two-thirds of the workforce but produces less than one-fourth of the gross domestic product in sub-Saharan Africa, according to the World Bank Group.

"(4) African women produce up to 80 percent of the total food supply in Africa according to the International Food Policy Research Institute.

"(5) An effective way to improve conditions of the poor is to increase the productivity of the agricultural sector. Productivity increases can be fostered by increasing research and education in agriculture and rural development.

"(6) In November 1996, the World Food Summit set a goal of reducing hunger worldwide by 50 percent by the year 2015 and encouraged national governments to develop domestic food plans and to support international aid efforts.

"(7) Although the World Bank Group recently has launched a major initiative to support agricultural and rural development, only 10 percent, or $1,200,000,000, of its total lending to sub-Saharan Africa for fiscal years 1993 to 1997 was devoted to agriculture.

"(8)(A) United States food processing and agricultural sectors benefit greatly from the liberalization of global trade and increased exports.

"(B) Africa represents a growing market for United States food and agricultural products. Africa's food imports are projected to rise from less than 8,000,000 metric tons in 1990 to more than 25,000,000 metric tons by the [sic] 2020.

"(9)(A) Increased private sector investment in African countries and expanded trade between the United States and Africa can greatly help African countries achieve food self-sufficiency and graduate from dependency on international assistance.

"(B) Development assistance, technical assistance, and training can facilitate and encourage commercial development in Africa, such as improving rural roads, agricultural research and extension, and providing access to credit and other resources.

"(10)(A) Several United States private voluntary organizations have demonstrated success in empowering Africans through direct business ownership and helping African agricultural producers more efficiently and directly market their products.

"(B) Rural business associations, owned and controlled by farmer shareholders, also greatly help agricultural producers to increase their household incomes.

"(b) DECLARATION OF POLICY.—It is the policy of the United States, consistent with title XII of part I of the Foreign Assistance Act of 1961 [probably means title XII of chapter 2 of part I of the Foreign Assistance Act of 1961, 22 U.S.C. 2220a et seq.], to support governments of sub-Saharan African countries, United States and African nongovernmental organizations, universities, businesses, and international agencies, to help ensure the availability of basic nutrition and economic opportunities for individuals in sub-Saharan Africa, through sustainable agriculture and rural development."

Pub. L. 105–385, title I, Nov. 13, 1998, 112 Stat. 3462, as amended by Pub. L. 110–234, title VII, §7511(c)(39), May 22, 2008, 122 Stat. 1271; Pub. L. 110–246, §4(a), title VII, §7511(c)(39), June 18, 2008, 122 Stat. 1664, 2032, provided that:

"SEC. 101. AFRICA FOOD SECURITY INITIATIVE.

"(a) ADDITIONAL REQUIREMENTS IN CARRYING OUT THE INITIATIVE.—In providing development assistance under the Africa Food Security Initiative, or any comparable or successor program, the Administrator of the United States Agency for International Development—

"(1) shall emphasize programs and projects that improve the food security of infants, young children, school-age children, women and food-insecure households, or that improve the agricultural productivity, incomes, and marketing of the rural poor in Africa;

"(2) shall solicit and take into consideration the views and needs of intended beneficiaries and program participants during the selection, planning, implementation, and evaluation phases of projects;

"(3) shall favor countries that are implementing reforms of their trade and investment laws and regulations in order to enhance free market development in the food processing and agricultural sectors; and

"(4) shall ensure that programs are designed and conducted in cooperation with African and United States organizations and institutions, such as private and voluntary organizations, cooperatives, land-grant

and other appropriate universities, and local producer-owned cooperative marketing and buying associations, that have expertise in addressing the needs of the poor, small-scale farmers, entrepreneurs, and rural workers, including women.

"(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that, if there is an increase in funding for sub-Saharan programs, the Administrator of the United States Agency for International Development should proportionately increase resources to the Africa Food Security Initiative, or any comparable or successor program, for fiscal year 2000 and subsequent fiscal years in order to meet the needs of the countries participating in such Initiative.

"SEC. 102. MICROENTERPRISE ASSISTANCE.

"(a) BILATERAL ASSISTANCE.—In providing microenterprise assistance for sub-Saharan Africa, the Administrator of the United States Agency for International Development shall, to the extent practicable, use credit and microcredit assistance to improve the capacity and efficiency of agriculture production in sub-Saharan Africa of small-scale farmers and small rural entrepreneurs. In providing assistance, the Administrator should use the applied research and technical assistance capabilities of United States land-grant universities.

"(b) MULTILATERAL ASSISTANCE.—

"(1) IN GENERAL.—The Administrator of the United States Agency for International Development shall continue to work with other countries, international organizations (including multilateral development institutions), and entities assisting microenterprises and shall develop a comprehensive and coordinated strategy for providing microenterprise assistance for sub-Saharan Africa.

"(2) ADDITIONAL REQUIREMENT.—In carrying out paragraph (1), the Administrator should encourage the World Bank Consultative Group to Assist the Poorest to coordinate the strategy described in such paragraph.

"SEC. 103. SUPPORT FOR PRODUCER-OWNED COOPERATIVE MARKETING ASSOCIATIONS.

"(a) PURPOSES.—The purposes of this section are—

"(1) to support producer-owned cooperative purchasing and marketing associations in sub-Saharan Africa;

"(2) to strengthen the capacity of farmers in sub-Saharan Africa to participate in national and international private markets and to promote rural development in sub-Saharan Africa;

"(3) to encourage the efforts of farmers in sub-Saharan Africa to increase their productivity and income through improved access to farm supplies, seasonal credit, technical expertise; and

"(4) to support small businesses in sub-Saharan Africa as they grow beyond microenterprises.

"(b) SUPPORT FOR PRODUCER-OWNED COOPERATIVE MARKETING ASSOCIATIONS.—

"(1) ACTIVITIES.—

"(A) IN GENERAL.—The Administrator of the United States Agency for International Development is authorized to utilize relevant foreign assistance programs and initiatives for sub-Saharan Africa to support private producer-owned cooperative marketing associations in sub-Saharan Africa, including rural business associations that are owned and controlled by farmer shareholders.

"(B) ADDITIONAL REQUIREMENTS.—In carrying out subparagraph (A), the Administrator—

"(i) shall take into account small-scale farmers, small rural entrepreneurs, and rural workers and communities; and

"(ii) shall take into account the local-level perspectives of the rural and urban poor through close consultation with these groups, consistent with section 496(e)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2293(e)(1)).

"(2) OTHER ACTIVITIES.—In addition to carrying out paragraph (1), the Administrator is encouraged—

"(A) to cooperate with governments of foreign countries, including governments of political subdivisions of such countries, their agricultural research universities, and particularly with United States nongovernmental organizations and United States land-grant universities, that have demonstrated expertise in the development and promotion of successful private producer-owned cooperative marketing associations; and

"(B) to facilitate partnerships between United States and African cooperatives and private businesses to enhance the capacity and technical and marketing expertise of business associations in sub-Saharan Africa.

"SEC. 104. AGRICULTURAL AND RURAL DEVELOPMENT ACTIVITIES OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION.

"(a) PURPOSE.—The purpose of this section is to encourage the Overseas Private Investment Corporation to work with United States businesses and other United States entities to invest in rural sub-Saharan Africa, particularly in ways that will develop the capacities of small-scale farmers and small rural entrepreneurs, including women, in sub-Saharan Africa.

"(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

"(1) the Overseas Private Investment Corporation should exercise its authority under law to undertake an initiative to support private agricultural and rural development in sub-Saharan Africa, including issuing loans, guaranties, and insurance, to support rural development in sub-Saharan Africa, particularly to support intermediary organizations that—

"(A) directly serve the needs of small-scale farmers, small rural entrepreneurs, and rural producer-owned cooperative purchasing and marketing associations;

"(B) have a clear track-record of support for sound business management practices; and

"(C) have demonstrated experience with participatory development methods; and

"(2) the Overseas Private Investment Corporation should utilize existing equity funds, loan and insurance funds, to the extent feasible and in accordance with existing contractual obligations, to support agriculture and rural development in sub-Saharan Africa.

"SEC. 105. AGRICULTURAL RESEARCH AND EXTENSION ACTIVITIES.

"(a) DEVELOPMENT OF PLAN.—The Administrator of the United States Agency for International Development, in consultation with the Secretary of Agriculture and appropriate Department of Agriculture agencies, especially the National Institute of Food and Agriculture, shall develop a comprehensive plan to coordinate and build on the research and extension activities of United States land-grant universities, international agricultural research centers, and national agricultural research and extension centers in sub-Saharan Africa.

"(b) ADDITIONAL REQUIREMENTS.—Such plan shall seek to ensure that—

"(1) research and extension activities will respond to the needs of small-scale farmers while developing the potential and skills of researchers, extension agents, farmers, and agribusiness persons in sub-Saharan Africa;

"(2) sustainable agricultural methods of farming will be considered together with new technologies in increasing agricultural productivity in sub-Saharan Africa; and

"(3) research and extension efforts will focus on sustainable agricultural practices and will be adapted to widely varying climates within sub-Saharan Africa."

REPORTS TO CONGRESS

Pub. L. 101–513, title V, §562(c), Nov. 5, 1990, 104 Stat. 2030, provided that: "As part of the annual Congressional Presentation materials for economic assistance, the Administrator of the Agency for International Development shall include a description of the progress made during the previous fiscal year in carrying out chapter 10 of part I of the Foreign Assistance Act of 1961 [this part] in three countries in sub-Saharan Africa which represent differing economic situations and levels of progress. The description shall include—

"(1) the nature and extent of consultation to ensure local perspectives, as described in subsections (e)(1) and (f) of section 496 [22 U.S.C. 2293(e)(1), (f)];

"(2) the degree of involvement of local people in the implementation of projects having a local focus;

"(3) the extent to which there has been expansion of the participation and integration of African women in each of the critical sectors specified in section 496(i);

"(4) program assistance provided, including the amounts obligated, the criteria used for assisting reforms, and the provisions made pursuant to section 496(h)(2)(B) to protect vulnerable groups from possible negative consequences of the reforms; and

"(5) a description of the assistance for the critical sector priorities specified in section 496(i), by sector, including the amounts obligated."

EX. ORD. NO. 13746. ADVANCING THE GOALS OF THE POWER AFRICA INITIATIVE TO EXPAND ACCESS TO ELECTRICITY IN SUB-SAHARAN AFRICA THROUGH THE ESTABLISHMENT OF THE PRESIDENT'S POWER AFRICA WORKING GROUP

Ex. Ord. No. 13746, Nov. 3, 2016, 81 F.R. 78697, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

SECTION 1. *Policy*. It is the policy of the United States to partner, consult, and coordinate with African governments, bilateral and multilateral partners, the private sector, and civil society to expand access to

electricity and increase electricity generation in Sub-Saharan Africa, in both urban and rural areas. Through the Power Africa initiative (Power Africa), we aim to double access to power in Sub-Saharan Africa by adding 30,000 megawatts (MW) of capacity and 60 million new household and business connections by 2030, and in so doing, leapfrog to cleaner forms of energy and foster inclusive economic growth and opportunity across Sub-Saharan Africa.

On June 30, 2013, my Administration launched Power Africa, a new initiative to double access to power in Sub-Saharan Africa, where more than two-thirds of the population is without electricity, and more than 85 percent of those living in rural areas lack access to electricity. In its initial phase, Power Africa aimed to add more than 10,000 MW of cleaner, more efficient electricity generation capacity and to increase electricity access by at least 20 million new households and commercial entities with on-grid, mini-grid, and off-grid solutions. Power Africa builds on Africa's enormous power potential, including extensive clean geothermal, hydro, wind and solar energy resources, as well as vast oil and gas reserves. Power Africa works with countries to develop resources responsibly, build out power generation, transmission, and distribution, and expand the reach of mini-grid and off-grid solutions. Power Africa brings to bear a wide range of tools from across the Federal Government and more than 130 public and private sector partners to support investment in Africa's energy sector. Power Africa provides coordinated support to help African partners expand their power networks and access to electricity, including through policy and regulatory best practices, institutional capacity building, pre-feasibility support, grants, long-term financing, insurance, guarantees, credit enhancements, and technical assistance.

On August 5, 2014, during the U.S.-Africa Leaders Summit, my Administration affirmed that Power Africa is intended to reach across Sub-Saharan Africa, and tripled Power Africa's goals. Power Africa is now working toward adding 30,000 MW of new, cleaner electricity generation capacity and increasing electricity access by at least 60 million new connections. On January 28, 2016, my Administration, in coordination with Power Africa partners, launched the Power Africa Roadmap, which lays out a concrete plan for Power Africa to meet its ambitious goals by 2030.

The Electrify Africa Act of 2015, enacted on February 8, 2016 (Public Law 114–121) (the "Act"), calls for the development of a strategy to add at least 20,000 MW of electrical power and promote first-time access to power and power services for at least 50 million people in Sub-Saharan Africa by 2020 in both urban and rural areas—an effort that directly supports and complements Power Africa's goals. This order furthers the purposes of the Act and the work that Power Africa has been undertaking.

SEC. 2. *Establishment of the Coordinator for Power Africa*. The United States Agency for International Development (USAID) shall serve as the lead agency to facilitate the implementation of Power Africa and associated activities across the United States Government. The Administrator of USAID shall establish the position of Coordinator for Power Africa within USAID.

SEC. 3. *Power Africa Working Group*. (a) There is hereby established the Power Africa Working Group (Working Group), co-chaired by the Coordinator for Power Africa within USAID and a member of the National Security Council (NSC) staff to be designated by the Assistant to the President for National Security Affairs. The Working Group shall serve as the multi-agency coordinating and advisory body for the Federal Government's efforts to identify, evaluate, prioritize, and deliver assistance to energy projects across Sub-Saharan Africa in order to advance the energy access and electricity generation goals of Power Africa and promote policy cohesion across the Federal Government. Through the Working Group, participating departments and agencies shall provide advice and promote coherence of United States Government positions on and assistance for priority energy projects and policy reforms in support of Power Africa.

(b) The Working Group shall consist of representatives of the following executive branch departments and agencies (Participating Agencies):

(i) the Department of State;
(ii) the Department of the Treasury;
(iii) the Department of Agriculture;
(iv) the Department of Commerce;
(v) the Department of Energy;
(vi) the Export-Import Bank of the United States;
(vii) the United States Agency for International Development;
(viii) the Overseas Private Investment Corporation;
(ix) the United States Trade and Development Agency;
(x) the Millennium Challenge Corporation;
(xi) the United States Army Corps of Engineers;
(xii) the Office of Management and Budget; and
(xiii) such other agencies as the Co-Chairs may designate or invite to participate, including the United

States African Development Foundation.

(c) The Working Group may consult with non-United States Government entities that participate in Power Africa as bilateral, multilateral, private sector partners and nongovernmental organizations to provide input and advice to the United States Government, as appropriate, regarding the implementation of Power Africa.

(d) The Working Group may establish sub-groups consisting exclusively of Working Group members or their designees, as appropriate, such as one for each of the three pillars of the Power Africa Roadmap: (1) megawatts, (2) connections, and (3) unlocking energy sector potential.

(e) The Working Group shall be supported by the Office of the Coordinator for Power Africa within USAID.

SEC. 4. *Mission and Functions of the Working Group*. The Working Group, as may be necessary and appropriate to carry out this order, shall:

(a) Ensure efficient and effective coordination of energy access activities in Sub-Saharan Africa among Participating Agencies.

(b) Identify, prioritize, and evaluate potential Power Africa projects, regulatory and policy reforms, and programmatic focus areas, including maximizing deployment of and access to renewable energy.

(c) Identify country and project specific obstacles to the development of the electricity sector, including financial and technical assistance needs and capacity building needs, and identify opportunities for Participating Agencies to deploy their respective tools and best practices to advance needed reforms and accelerate the completion of Power Africa projects.

(d) Enhance coordination among Participating Agencies to maximize the efficiency and effectiveness of United States Government development assistance and other development finance tools as related to Power Africa priorities.

(e) Facilitate information sharing and coordination of partnerships between Participating Agencies and African governments, the private sector, development partners, and bilateral and multilateral partners to help advance Power Africa's goals.

(f) Identify appropriate courses of action to liaise with host governments to advance regulatory and policy reforms, as well as energy transactions, related to Power Africa.

(g) Identify best practices for Participating Agencies to coordinate their engagement with development partners, including bilateral donors, development finance institutions, and multilateral development banks on energy access issues, to ensure that Power Africa's tools are deployed in a way that is complementary to and leverages the impact of United States Government resources.

(h) Meet with private sector partners, as appropriate, to review Power Africa projects and activities, and to solicit input regarding technical, policy, financial or political, obstacles that partners are encountering in the energy sector across Sub-Saharan Africa.

(i) Meet with bilateral and multilateral development partners, as appropriate, to coordinate country-specific and regional energy access policy agendas, coordinate deployment of financial resources and technical expertise to identify and accelerate Power Africa projects and activities, and review project pipelines.

(j) Monitor and periodically evaluate Power Africa projects and activities to measure the effectiveness of United States Government assistance and other development finance tools in achieving Power Africa's electricity generation and access goals, and to share lessons learned. These evaluations may recommend reforms to facilitate support for future projects and activities, and to increase the Working Group's effectiveness.

SEC. 5. *Partnering with African Private Sector Companies*. I hereby direct Participating Agencies to facilitate as appropriate, to the maximum extent possible under the law, the participation of local and regional companies in power, renewable energy, and climate change projects in low-income countries in Africa, including through the use of financing and risk insurance, where appropriate.

SEC. 6. *Reporting*. The Administrator of USAID, in coordination with the Participating Agencies, shall lead in the development of a report, to be transmitted to the Congress pursuant to section 7 of the Act and the Presidential Memorandum of August 3, 2016, "Delegation of Authority Pursuant to Section 4 and Section 7 of the Electrify Africa Act of 2015," on progress made toward achieving the comprehensive, integrated, multiyear strategy that was transmitted to the Congress on August 6, 2016, pursuant to section 4 of the Act, to encourage the efforts of countries in Sub-Saharan Africa to implement national power strategies and develop an appropriate mix of power solutions to provide access to sufficient, reliable, affordable, and sustainable power in order to reduce poverty and drive economic growth and job creation.

SEC. 7. *General Provisions*. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department, agency, or the head thereof, or the status of that department or agency within the Federal Government; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary,

administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA.

DELEGATION OF AUTHORITY PURSUANT TO SECTION 4 AND SECTION 7 OF THE ELECTRIFY AFRICA ACT OF 2015

Memorandum of President of the United States, Aug. 3, 2016, 81 F.R. 52323, provided:

Memorandum for the Administrator of the United States Agency for International Development

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, I hereby delegate to you the functions and authorities vested in the President by section 4 and section 7 of the Electrify Africa Act of 2015 (Public Law 114–121) (the "Act") [22 U.S.C. 2293 note].

Any reference in this memorandum to the Act shall be deemed to be a reference to any future act that is the same or substantially the same as such provisions.

You are authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

[1] *So in original. Probably should be "has".*

§2294. Authorizations of appropriations for Development Fund for Africa

Funds appropriated to carry out this part are authorized to be made available until expended. It is the sense of the Congress that the authority of this subsection [1] should be used to extend the period of availability of those funds whenever appropriate to improve the quality of assistance provided under section 2293 of this title.

(Pub. L. 87–195, pt. I, §497, as added Pub. L. 101–513, title V, §562(a), Nov. 5, 1990, 104 Stat. 2030.)

PRIOR PROVISIONS

A prior section 2294, Pub. L. 87–195, pt. I, §497, as added Pub. L. 95–92, §4, Aug. 4, 1977, 91 Stat. 614, related to balance of payments loan for Portugal, prior to repeal by Pub. L. 99–83, title XII, §1211(a)(4), Aug. 8, 1985, 99 Stat. 279, effective Oct. 1, 1985.

[1] *So in original. Probably should be "section".*

PART XI—SUPPORT FOR ECONOMIC AND DEMOCRATIC DEVELOPMENT OF THE INDEPENDENT STATES OF THE FORMER SOVIET UNION

§2295. Assistance for the independent states

The President is authorized to provide assistance to the independent states of the former Soviet Union under this part for the following activities:

(1) Urgent humanitarian needs

Meeting urgent humanitarian needs (including those arising from the health effects of exposure to radiation in the Chernobyl region), in particular—

(A) meeting needs for medicine, medical supplies and equipment, and food, including the nutritional needs of infants such as processed baby food; and

(B) continuing efforts to rebuild from the earthquake in Armenia.

(2) Democracy and rule of law

Establishing a democratic and free society by fostering—

(A) political, social, and economic pluralism;

(B) respect for internationally recognized human rights and the rule of law;

(C) the development of institutions of democratic governance, including electoral and legislative processes;

(D) the institution and improvement of public administration at the national, intergovernmental, regional, and local level;

(E) development and support of grass-roots and nongovernmental organizations promoting democracy, the rule of law, transparency, and accountability in the political process, including grants in small amounts to such organizations;

(F) international exchanges and other forms of public diplomacy to promote greater understanding on how democracy, the public policy process, market institutions, and an independent judiciary function in Western societies;

(G) political parties and coalitions committed to promoting democracy, human rights, and economic reforms;

(H) support for civic organizations committed to promoting human rights;

(I) the development of effective control by elected civilian officials over, and the development of a nonpolitical officer corps in, the military and security forces; and

(J) strengthened administration of justice through programs and activities carried out in accordance with section 2295b(e) of this title, including—

(i) support for nongovernmental organizations, civic organizations, and political parties that favor a strong and independent judiciary;

(ii) support for local organizations that work with judges and law enforcement officials in efforts to achieve a reduction in the number of pretrial detainees; and

(iii) support for the creation of legal associations or groups that provide training in human rights and advocacy, public education with respect to human rights-related laws and proposed legislation, and legal assistance to persons subject to improper government interference.

(3) Independent media

Developing free and independent media, including—

(A) supporting all forms of independent media reporting, including print, radio, and television;

(B) providing special support for, and unrestricted public access to, nongovernmental Internet-based sources of information, dissemination and reporting, including providing technical and other support for web radio services, providing computers and other necessary resources for Internet connectivity and training new Internet users in nongovernmental civic organizations on methods and uses of Internet-based media; and

(C) training in journalism, including investigative journalism techniques that educate the public on the costs of corruption and act as a deterrent against corrupt officials.

(4) Free market systems

Creating and developing private enterprise and free market systems based on the principle of private ownership of property, including—

(A) the development of private cooperatives, credit unions, and labor unions;

(B) the improvement in the collection and analysis of statistical information;

(C) the reform and restructuring of banking and financial systems; and

(D) the protection of intellectual property.

(5) Trade and investment

Creating conditions that promote trade and investment, and encouraging participation of the

United States private sector in the development of the private sector in the independent states of the former Soviet Union.

(6) Food distribution and production

Promoting market-based mechanisms for the distribution of the inputs necessary to agricultural production and for the handling, marketing, storage, and processing of agricultural commodities; encouraging policies that provide incentives for agricultural production; and creating institutions that provide technical and financial support for the agricultural sector.

(7) Health and human services

Promoting programs to strengthen and build institutions that provide quality health care and voluntary family planning services, housing, and other services and policies that are components of a social safety net, particularly for infants, children, and people with disabilities.

(8) Education and educational television

Promoting broad-based educational reform at all levels, in particular—

(A) by assisting the development of curricula and by making available textbooks, other educational materials, and appropriate telecommunications technologies for the delivery of educational and instructional programming; and

(B) by assisting the development of the skills necessary to produce educational television programs aimed at promoting basic skills and the human values associated with a democratic society and a free market economy.

(9) Energy efficiency and production

Promoting market-based pricing policies and the transfer of technologies that reduce energy wastage and harmful emissions; supporting developmentally sound capital energy projects that utilize United States advanced coal technologies; and promoting efficient production, use, and transportation of oil, gas, coal, and other sources of energy.

(10) Civilian nuclear reactor safety

Implementing—

(A) a program of short-term safety upgrade of civilian nuclear power plants, including the training of power plant personnel, implementation of improved procedures for nuclear power plant operation, the development of effective and independent regulatory authorities, and cost-effective hardware upgrades; and

(B) a program to retire those civilian nuclear power plants whose capacity could be more cost-effectively replaced through energy efficiency.

(11) Environment

Enhancing the human and natural environment and conserving environmental resources, including through—

(A) facilitation of the adoption of environmentally-sound policies and technologies, environmental restoration, and sustainable use of natural resources;

(B) promotion of the provision of environmental technology, education, and training by United States businesses, not-for-profit organizations, and institutions of higher education; and

(C) promotion of cooperative research efforts to validate and improve environmental monitoring of protracted radiation exposure.

(12) Transportation and telecommunications

Improving transportation and telecommunications infrastructure and management, including intermodal transportation systems to ensure the safe and efficient movement of people, products, and materials.

(13) Drug education, interdiction, and eradication

Promoting drug education, interdiction, and eradication programs.

(14) Migration

Protecting and caring for refugees, displaced persons, and other migrants; addressing the root causes of migration; and promoting the development of appropriate immigration and emigration laws and procedures.

(Pub. L. 87–195, pt. I, §498, as added Pub. L. 102–511, title II, §201, Oct. 24, 1992, 106 Stat. 3324; amended Pub. L. 107–246, §4(a), Oct. 23, 2002, 116 Stat. 1514.)

AMENDMENTS

2002—Par. (2). Pub. L. 107–246, §4(a)(1)(A), substituted "Democracy and rule of law" for "Democracy" in heading.

Par. (2)(E) to (J). Pub. L. 107–246, §4(a)(1)(B)–(E), added subpars. (E) to (H) and (J), redesignated former subpar. (F) as (I), and struck out former subpars. (E) and (G) which read as follows:

"(E) the development of a free and independent media;

"(G) strengthened administration of justice through programs and activities carried out in accordance with section 2295b(e) of this title."

Pars. (3) to (14). Pub. L. 107–246, §4(a)(2), added par. (3) and redesignated former pars. (3) to (13) as (4) to (14), respectively.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title, and section 3(b) of Ex. Ord. No. 12884, Dec. 1, 1993, 58 F.R. 64099, as amended, set out as a note under section 5812 of this title.

FINDINGS AND PURPOSES

Pub. L. 107–246, §2, Oct. 23, 2002, 116 Stat. 1511, provided that:

"(a) FINDINGS.—Congress makes the following findings:

"(1) Since the dissolution of the Soviet Union, the leadership of the Russian Federation has publicly committed itself to building—

"(A) a society with democratic political institutions and practices, the observance of universally recognized standards of human rights, and religious and press freedom; and

"(B) a market economy based on internationally accepted principles of transparency, accountability, and the rule of law.

"(2) In order to facilitate this transition, the international community has provided multilateral and bilateral technical assistance, and the United States' contribution to these efforts has played an important role in developing new institutions built on democratic and liberal economic foundations and the rule of law.

"(3)(A) Since 1992, United States Government democratic reform programs and public diplomacy programs, including training, and small grants have provided access to and training in the use of the Internet, brought nearly 40,000 Russian citizens to the United States, and have led to the establishment of more than 65,000 nongovernmental organizations, thousands of independent local media outlets, despite governmental opposition, and numerous political parties.

"(B) These efforts contributed to the substantially free and fair Russian parliamentary elections in 1995 and 1999.

"(4) The United States has assisted Russian efforts to replace its centrally planned, state-controlled economy with a market economy and helped create institutions and infrastructure for a market economy. Approximately two-thirds of the Russian Federation's gross domestic product is now generated by the private sector, and the United States recognized Russia as a market economy on June 7, 2002.

"(5)(A) The United States has fostered grassroots entrepreneurship in the Russian Federation by focusing United States economic assistance on small- and medium-sized businesses and by providing training, consulting services, and small loans to more than 250,000 Russian entrepreneurs.

"(B) There are now more than 900,000 small businesses in the Russian Federation, producing 12 to 15 percent, depending on the estimate, of the gross domestic product of the Russian Federation.

"(C) United States-funded programs have contributed to fighting corruption and financial crime, such as money laundering, by helping to—

"(i) establish a commercial legal infrastructure;

"(ii) develop an independent judiciary;

"(iii) support the drafting of a new criminal code, civil code, and bankruptcy law;

"(iv) develop a legal and regulatory framework for the Russian Federation's equivalent of the United States Securities and Exchange Commission;

"(v) support Russian law schools;

"(vi) create legal aid clinics; and

"(vii) bolster law-related activities of nongovernmental organizations.

"(6) Because the capability of Russian democratic forces and the civil society to organize and defend democratic gains without international support is uncertain, and because the gradual integration of the Russian Federation into the global order of free-market, democratic nations would enhance Russian cooperation with the United States on a wide range of political, economic, and security issues, the success of democracy in Russia is in the national security interest of the United States, and the United States Government should develop a far-reaching and flexible strategy aimed at strengthening Russian society's support for democracy and a market economy, particularly by enhancing Russian democratic institutions and education, promoting the rule of law, and supporting Russia's independent media.

"(7) Since the tragic events of September 11, 2001, the Russian Federation has stood with the United States and the rest of the civilized world in the struggle against terrorism and has cooperated in the war in Afghanistan by sharing intelligence and through other means.

"(8) United States-Russia relations have improved, leading to a successful summit between President Bush and President Putin in May 2002, resulting in a 'Foundation for Cooperation'.

"(b) PURPOSES.—The purposes of this Act [see Short Title of 2002 Amendments note set out under section 2151 of this title] are—

"(1) to strengthen and advance institutions of democratic government and of free and independent media, and to sustain the development of an independent civil society in the Russian Federation based on religious and ethnic tolerance, internationally recognized human rights, and an internationally recognized rule of law; and

"(2) to focus United States foreign assistance programs on using local expertise and to give local organizations a greater role in designing and implementing such programs, while maintaining appropriate oversight and monitoring."

UNITED STATES POLICY TOWARD THE RUSSIAN FEDERATION

Pub. L. 107–246, §3, Oct. 23, 2002, 116 Stat. 1513, provided that:

"(a) SENSE OF CONGRESS.—It is the sense of Congress that the United States Government should—

"(1) recognize that a democratic and economically stable Russian Federation is inherently less confrontational and destabilizing in its foreign policy and therefore that the promotion of democracy in Russia is in the national security interests of the United States; and

"(2) continue and increase assistance to the democratic forces in the Russian Federation, including the independent media, regional administrations, democratic political parties, and nongovernmental organizations.

"(b) STATEMENT OF POLICY.—It shall be the policy of the United States—

"(1) to facilitate Russia's integration into the Western community of nations, including supporting the establishment of a stable democracy and a market economy within the framework of the rule of law and respect for individual rights, including Russia's membership in the appropriate international institutions;

"(2) to engage the Government of the Russian Federation and Russian society in order to strengthen democratic reform and institutions, and to promote transparency and good governance in all aspects of society, including fair and honest business practices, accessible and open legal systems, freedom of religion, and respect for human rights;

"(3) to advance a dialogue among United States Government officials, private sector individuals, and representatives of the Government of the Russian Federation regarding Russia's integration into the Western community of nations;

"(4) to encourage United States Government officials and private sector individuals to meet regularly with democratic activists, human rights activists, representatives of the independent media, representatives of nongovernmental organizations, civic organizers, church officials, and reform-minded politicians from Moscow and all other regions of the Russian Federation;

"(5) to incorporate democratic reforms, the promotion of independent media, and economic reforms in a broader United States dialogue with the Government of the Russian Federation;

"(6) to encourage the Government of the Russian Federation to address, in a cooperative and transparent manner consistent with internationally recognized and accepted principles, cross-border issues, including the nonproliferation of weapons of mass destruction, environmental degradation, crime, trafficking, and corruption;

"(7) to consult with the Government of the Russian Federation and the Russian Parliament on the adoption of economic and social reforms necessary to sustain Russian economic growth and to ensure

Russia's transition to a fully functioning market economy and membership in the World Trade Organization;

"(8) to persuade the Government of the Russian Federation to honor its commitments made to the Organization for Security and Cooperation in Europe (OSCE) at the November 1999 Istanbul Conference, and to conduct a genuine good neighbor policy toward the other independent states of the former Soviet Union in the spirit of internationally accepted principles of regional cooperation; and

"(9) to encourage the G–8 partners and international financial institutions, including the World Bank, the International Monetary Fund, and the European Bank for Reconstruction and Development, to develop financial safeguards and transparency practices in lending to the Russian Federation."

ACTIVITIES TO SUPPORT THE RUSSIAN FEDERATION

Pub. L. 107–246, §5, Oct. 23, 2002, 116 Stat. 1515, provided that:

"(a) ASSISTANCE PROGRAMS.—In providing assistance to the Russian Federation under chapter 11 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2295 et seq.), the President is authorized to—

"(1) work with the Government of the Russian Federation, the Duma, and representatives of the Russian Federation judiciary to help implement a revised and improved code of criminal procedure and other laws;

"(2) establish civic education programs relating to democracy, public policy, the rule of law, and the importance of independent media, including the establishment of 'American Centers' and public policy schools at Russian universities and encourage cooperative programs with universities in the United States to offer courses through Internet-based off-site learning centers at Russian universities; and

"(3) support the Regional Initiatives (RI) program, which provides targeted assistance in those regions of the Russian Federation that have demonstrated a commitment to reform, democracy, and the rule of law, and which promotes the concept of such programs as a model for all regions of the Russian Federation.

"(b) RADIO FREE EUROPE/RADIO LIBERTY AND VOICE OF AMERICA.—RFE/RL, Incorporated, and the Voice of America should use new and innovative techniques, in cooperation with local independent media sources and using local languages as appropriate and as possible, to disseminate throughout the Russian Federation information relating to democracy, free-market economics, the rule of law, and human rights."

§2295a. Criteria for assistance to governments of the independent states

(a) In general

In providing assistance under this part for the government of any independent state of the former Soviet Union, the President shall take into account not only relative need but also the extent to which that independent state is acting to—

(1) make significant progress toward, and is committed to the comprehensive implementation of, a democratic system based on principles of the rule of law, individual freedoms, and representative government determined by free and fair elections;

(2) make significant progress in, and is committed to the comprehensive implementation of, economic reform based on market principles, private ownership, and integration into the world economy, including implementation of the legal and policy frameworks necessary for such reform (including protection of intellectual property and respect for contracts);

(3) respect internationally recognized human rights, including the rights of minorities and the rights to freedom of religion and emigration;

(4) respect international law and obligations and adhere to the Helsinki Final Act of the Conference on Security and Cooperation in Europe and the Charter of Paris, including the obligations to refrain from the threat or use of force and to settle disputes peacefully;

(5) cooperate in seeking peaceful resolution of ethnic and regional conflicts;

(6) implement responsible security policies, including—

(A) adhering to arms control obligations derived from agreements signed by the former Soviet Union;

(B) reducing military forces and expenditures to a level consistent with legitimate defense requirements;

(C) not proliferating nuclear, biological, or chemical weapons, their delivery systems, or related technologies; and

(D) restraining conventional weapons transfers;

(7) take constructive actions to protect the international environment, prevent significant transborder pollution, and promote sustainable use of natural resources;

(8) deny support for acts of international terrorism;

(9) accept responsibility for paying an equitable portion of the indebtedness to United States firms incurred by the former Soviet Union;

(10) cooperate with the United States Government in uncovering all evidence regarding Americans listed as prisoners-of-war, or otherwise missing during American operations, who were detained in the former Soviet Union during the Cold War; and

(11) terminate support for the communist regime in Cuba, including removal of troops, closing military and intelligence facilities, including the military and intelligence facilities at Lourdes and Cienfuegos, and ceasing trade subsidies and economic, nuclear, and other assistance.

(b) Ineligibility for assistance

The President shall not provide assistance under this part—

(1) for the government of any independent state that the President determines is engaged in a consistent pattern of gross violations of internationally recognized human rights or of international law;

(2) for the government of any independent state that the President determines has failed to take constructive actions to facilitate the effective implementation of applicable arms control obligations derived from agreements signed by the former Soviet Union;

(3) for the government of any independent state that the President determines has, on or after October 24, 1992, knowingly transferred to another country—

(A) missiles or missile technology inconsistent with the guidelines and parameters of the Missile Technology Control Regime; or

(B) any material, equipment, or technology that would contribute significantly to the ability of such country to manufacture any weapon of mass destruction (including nuclear, chemical, and biological weapons) if the President determines that the material, equipment, or technology was to be used by such country in the manufacture of such weapon;

(4) for the government of any independent state that is prohibited from receiving such assistance by section 2799aa or 2799aa–1 of this title or sections 5604(a)(1) and 5605 of this title;

(5) for the government of any independent state effective 30 days after the President has determined and certified to the appropriate congressional committees (and Congress has not enacted legislation disapproving the determination within that 30-day period) that such government is providing assistance for, or engaging in nonmarket based trade (as defined in section 2295b(k)(3) of this title) with, the Cuban Government; or

(6) for the Government of Russia if it has failed to make significant progress on the removal of Russian or Commonwealth of Independent States troops from Estonia, Latvia, and Lithuania or if it has failed to undertake good faith efforts, such as negotiations, to end other military practices that violate the sovereignty of the Baltics [1] states.

(c) Exceptions to ineligibility

Assistance prohibited by subsection (b) or any similar provision of law, other than assistance prohibited by the provisions referred to in subsection (b)(4), may be furnished under any of the following circumstances:

(1) The President determines that furnishing such assistance is important to the national interest of the United States.

(2) The President determines that furnishing such assistance will foster respect for internationally recognized human rights and the rule of law or the development of institutions of democratic governance.

(3) The assistance is furnished for the alleviation of suffering resulting from a natural or man-made disaster.

(4) The assistance is provided under the secondary school exchange program administered by the United States Information Agency.

The President shall immediately report to the Congress any determination under paragraph (1) or (2) or any decision to provide assistance under paragraph (3).

(d) Reduction in assistance for support of intelligence facilities in Cuba

(1) Reduction in assistance

Notwithstanding any other provision of law, the President shall withhold from assistance provided, on or after March 12, 1996, for an independent state of the former Soviet Union under this chapter an amount equal to the sum of assistance and credits, if any, provided on or after March 12, 1996, by such state in support of intelligence facilities in Cuba, including the intelligence facility at Lourdes, Cuba.

(2) Waiver

(A) The President may waive the requirement of paragraph (1) to withhold assistance if the President certifies to the appropriate congressional committees that the provision of such assistance is important to the national security of the United States, and, in the case of such a certification made with respect to Russia, if the President certifies that the Russian Government has assured the United States Government that the Russian Government is not sharing intelligence data collected at the Lourdes facility with officials or agents of the Cuban Government.

(B) At the time of a certification made with respect to Russia under subparagraph (A), the President shall also submit to the appropriate congressional committees a report describing the intelligence activities of Russia in Cuba, including the purposes for which the Lourdes facility is used by the Russian Government and the extent to which the Russian Government provides payment or government credits to the Cuban Government for the continued use of the Lourdes facility.

(C) The report required by subparagraph (B) may be submitted in classified form.

(D) For purposes of this paragraph, the term "appropriate congressional committees" includes the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

(3) Exceptions to reductions in assistance

The requirement of paragraph (1) to withhold assistance shall not apply with respect to—

(A) assistance to meet urgent humanitarian needs, including disaster and refugee relief;

(B) democratic political reform or rule of law activities;

(C) technical assistance for safety upgrades of civilian nuclear power plants;

(D) the creation of private sector or nongovernmental organizations that are independent of government control;

(E) the development of a free market economic system;

(F) assistance under the secondary school exchange program administered by the United States Information Agency; or

(G) assistance for the purposes described in the Cooperative Threat Reduction Act of 1993 (title XII of Public Law 103–160) [22 U.S.C. 5951 et seq.].

(Pub. L. 87–195, pt. I, §498A, as added Pub. L. 102–511, title II, §201, Oct. 24, 1992, 106 Stat. 3326; amended Pub. L. 103–236, title VIII, §826(c), Apr. 30, 1994, 108 Stat. 519; Pub. L. 104–114, title I, §106(b), (c)(1), (3), (d)(2), Mar. 12, 1996, 110 Stat. 795–797.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (d)(1), was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

The Cooperative Threat Reduction Act of 1993, referred to in subsec. (d)(3)(G), is title XII of div. A of Pub. L. 103–160, Nov. 30, 1993, 107 Stat. 1777, which is classified generally to chapter 68A (§5951 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5951

of this title and Tables.

AMENDMENTS

1996—Subsec. (a)(11). Pub. L. 104–114, §106(b), substituted "military and intelligence facilities, including the military and intelligence facilities at Lourdes and Cienfuegos" for "of military facilities".

Subsec. (b)(5), (6). Pub. L. 104–114, §106(c)(1), added par. (5) and redesignated former par. (5) as (6).

Subsec. (c)(4). Pub. L. 104–114, §106(c)(3), added par. (4).

Subsec. (d). Pub. L. 104–114, §106(d)(2), added subsec. (d).

1994—Subsec. (b)(4). Pub. L. 103–236 substituted "section 2799aa or 2799aa–1" for "section 2429 or 2429a".

CHANGE OF NAME

The Conference on Security and Cooperation in Europe to be called the Organization for Security and Cooperation in Europe effective Jan. 1, 1995, pursuant to Ex. Ord. No. 13029, Dec. 3, 1996, 61 F.R. 64591.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–236 effective 60 days after Apr. 30, 1994, see section 831 of Pub. L. 103–236, set out as an Effective Date note under section 6301 of this title.

TRANSFER OF FUNCTIONS

United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau) abolished and functions transferred to Secretary of State, see sections 6531 and 6532 of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

Functions of President under subsecs. (a) and (c)(2) of this section delegated to Coordinator by section 2(c), (d) of Ex. Ord. No. 12884, Dec. 1, 1993, 58 F.R. 64099, set out as a note under section 5812 of this title.

Functions of President under subsecs. (b)(1)–(3), (5), and (c)(1) of this section delegated to Secretary of State by section 1(2), (3) of Ex. Ord. No. 12884.

Functions of President under subsec. (c)(3) of this section and requirement to make reports under this section regarding determinations under subsec. (c)(3) delegated to Secretary of State by section 3(c) of Ex. Ord. No. 12884, Dec. 1, 1993, 58 F.R. 64099, as amended.

INELIGIBILITY FOR ASSISTANCE OF INSTITUTIONS WITHHOLDING CERTAIN DOCUMENTS OF UNITED STATES NATIONALS

Pub. L. 102–511, title II, §202, Oct. 24, 1992, 106 Stat. 3331, provided that:

"(a) PROHIBITION.—Except as provided in subsections (b) and (c), an agency, instrumentality, or other governmental entity of an independent state of the former Soviet Union shall not be eligible to receive assistance under chapter 11 of part I of the Foreign Assistance Act of 1961 [22 U.S.C. 2295 et seq.] if—

"(1) on the date of enactment of this Act [Oct. 24, 1992], there is outstanding a final judgment by a court of competent jurisdiction in that independent state that that governmental entity is withholding unlawfully books or other documents of religious or historical significance that are the property of United States persons; and

"(2) within 90 days of a request by such United States persons, the Secretary of State determines that execution of the court's judgment is blocked as the result of extrajudicial causes such as any of the following:

"(A) A declared refusal of the defendant to comply.

"(B) The unwillingness or failure of local authorities to enforce compliance.

"(C) The issuance of an administrative decree nullifying a court's judgment or forbidding compliance.

"(D) The passage of legislation, after a court's judgment, nullifying that judgment or forbidding compliance with that judgment.

"(b) EXCEPTION FOR HUMANITARIAN ASSISTANCE.—The prohibition contained in subsection (a) shall not apply to the provision of assistance to alleviate suffering resulting from a natural or man-made disaster.

"(c) WAIVER AUTHORITY.—The Secretary of State may waive the application of subsection (a) whenever the Secretary finds that—

"(1) the court's judgment has been executed; or

"(2) it is important to the national interest of the United States to do so.

"(d) REPORT.—Nine months after the date of enactment of this Act [Oct. 24, 1992], the Secretary of State shall report to the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate on the status of final judgments described in subsection (a)(1).

"(e) UNITED STATES PERSON.—For purposes of this section, the term 'United States person' means—

"(1) any citizen, national, or permanent resident alien of the United States; and

"(2) any corporation, partnership, or other juridical entity which is 50 percent or more beneficially owned by individuals described in paragraph (1)."

[1] *So in original. Probably should be "Baltic".*

§2295b. Authorities relating to assistance and other provisions

(a) Assistance through governments and nongovernmental organizations

Assistance under this part may be provided to governments or through nongovernmental organizations.

(b) Technical and managerial assistance

Technical assistance under this part shall, to the maximum extent feasible, be provided on a long term, on-site basis and shall emphasize the provision of practical, management and other problem-solving advice, particularly advice on private enterprise provided by United States business volunteers.

(c) Enterprise funds

Activities supported pursuant to this part may include the establishment of and the provision of support for one or more enterprise funds for the independent states of the former Soviet Union. If the President determines that an enterprise fund should be established and supported under this part, the provisions contained in section 201 of the Support for East European Democracy (SEED) Act of 1989 [22 U.S.C. 5421] (excluding the authorizations of appropriations provided in subsection (b) of that section) shall be deemed to apply with respect to such enterprise fund and to funds made available to such enterprise fund pursuant to this part.

(d) Cooperative development and research projects

Assistance under this part may include support for cooperative development projects, including cooperative development research projects, among the United States, other countries, and independent states of the former Soviet Union.

(e) Administration of justice programs

In order to strengthen the administration of justice in the independent states of the former Soviet Union under paragraph (2)(J) of section 2295 of this title, the President may exercise the same authorities as are available under section 2346c of this title, subject to the limitations and requirements of that section, other than subsection (c) and the last two sentences of subsection (e).

(f) Use of economic support funds

Any funds that have been allocated under part 4 of subchapter II of this chapter for assistance for the independent states of the former Soviet Union may be used in accordance with the provisions of this part.

(g) Use of SEED agency funds and administrative authorities

The President may authorize any agency of the United States Government that has authority to conduct activities under the Support for East European Democracy (SEED) Act of 1989 [22 U.S.C. 5401 et seq.] to use—

(1) any funds that are available to it for activities related to international affairs outside Eastern Europe, and

(2) any administrative authorities that are available to it for activities with respect to Eastern Europe,

to conduct activities authorized by section 2295 of this title with respect to the independent states of the former Soviet Union.

(h) Procurement restrictions

Funds made available for assistance under this part may be used for procurement—

(1) in the United States, the independent states of the former Soviet Union, or a developing country; or

(2) in any other country but only if—

(A) the provision of such assistance requires commodities or services of a type that are not produced in and available for purchase in any country specified in paragraph (1); or

(B) the President determines, on a case-by-case basis, that procurement in such other country is necessary—

(i) to meet unforseen [1] circumstances, such as emergency situations, where it is important to permit procurement in a country not specified in paragraph (1), or

(ii) to promote efficiency in the use of United States foreign assistance resources, including to avoid impairment of foreign assistance objectives.

(i) Terms and conditions

Assistance under this part shall be provided on such terms and conditions as the President may determine, consistent with applicable provisions of law (except as otherwise provided in subsection (j)).

(j) Waiver of certain provisions

(1) In general

Funds authorized to be appropriated for fiscal year 1993 by this part, and any other funds appropriated for fiscal year 1993 that are used under the authority of subsection (f) or (g), may be used to provide assistance under this part notwithstanding any other provision of law, except for—

(A) this part;

(B) section 2394–1 of this title and comparable notification requirements contained in sections of the annual foreign operations, export financing, and related programs Act;

(C) sections 2799aa and 2799aa–1 of this title and sections 5604 and 5605 of this title, to the extent that they apply to assistance to governments; and

(D) section 1341 of title 31 (commonly referred to as the "Anti-Deficiency Act"), the Congressional Budget and Impoundment Control Act of 1974, the Balanced Budget and Emergency Deficit Control Act of 1985, and the Budget Enforcement Act of 1990.

(2) Nuclear reactor safety and related activities

Any provision that corresponds to section 510 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (relating to the prohibition on financing exports of nuclear equipment, fuel, and technology) shall not apply with respect to funds used pursuant to this part.

(k) Definitions

(1) Appropriate congressional committees

As used in this part, the term "appropriate congressional committees" means the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

(2) Independent states of the former Soviet Union

As used in this part, the terms "independent states of the former Soviet Union" and "independent states" have the meaning given those terms by section 5801 of this title.

(3) Nonmarket based trade

As used in section 2295a(b)(5) of this title, the term "nonmarket based trade" includes exports, imports, exchanges, or other arrangements that are provided for goods and services (including oil and other petroleum products) on terms more favorable than those generally available in applicable markets or for comparable commodities, including—

(A) exports to the Cuban Government on terms that involve a grant, concessional price, guaranty, insurance, or subsidy;

(B) imports from the Cuban Government at preferential tariff rates;

(C) exchange arrangements that include advance delivery of commodities, arrangements in which the Cuban Government is not held accountable for unfulfilled exchange contracts, and arrangements under which Cuba does not pay appropriate transportation, insurance, or finance costs; and

(D) the exchange, reduction, or forgiveness of debt of the Cuban Government in return for a grant by the Cuban Government of an equity interest in a property, investment, or operation of the Cuban Government or of a Cuban national.

(4) Cuban Government

(A) The term "Cuban Government" includes the government of any political subdivision of Cuba, and any agency or instrumentality of the Government of Cuba.

(B) For purposes of subparagraph (A), the term "agency or instrumentality of the Government of Cuba" means an agency or instrumentality of a foreign state as defined in section 1603(b) of title 28, with each reference in such section to "a foreign state" deemed to be a reference to "Cuba".

(Pub. L. 87–195, pt. I, §498B, as added Pub. L. 102–511, title II, §201, Oct. 24, 1992, 106 Stat. 3328; amended Pub. L. 103–236, title VIII, §826(c), Apr. 30, 1994, 108 Stat. 519; Pub. L. 104–114, title I, §106(c)(2), Mar. 12, 1996, 110 Stat. 796; Pub. L. 107–246, §4(b), Oct. 23, 2002, 116 Stat. 1515.)

REFERENCES IN TEXT

The Support for East European Democracy (SEED) Act of 1989, referred to in subsec. (g), is Pub. L. 101–179, Nov. 28, 1989, 103 Stat. 1298, as amended, which is classified principally to chapter 63 (§5401 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5401 of this title and Tables.

The Congressional Budget and Impoundment Control Act of 1974, referred to in subsec. (j)(1)(D), is Pub. L. 93–344, July 12, 1974, 88 Stat. 297, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 621 of Title 2, The Congress, and Tables.

The Balanced Budget and Emergency Deficit Control Act of 1985, referred to in subsec. (j)(1)(D), is title II of Pub. L. 99–177, Dec. 12, 1985, 99 Stat. 1038, as amended, which enacted chapter 20 (§900 et seq.) and sections 654 to 656 of Title 2, amended sections 602, 622, 631 to 642, and 651 to 653 of Title 2, sections 1104 to 1106 and 1109 of Title 31, Money and Finance, and section 911 of Title 42, The Public Health and Welfare, repealed section 661 of Title 2, enacted provisions set out as notes under section 900 of Title 2 and section 911 of Title 42, and amended provisions set out as a note under section 621 of Title 2. For complete classification of this Act to the Code, see Short Title note set out under section 900 of Title 2 and Tables.

The Budget Enforcement Act of 1990, referred to in subsec. (j)(1)(D), is title XIII of Pub. L. 101–508, Nov. 5, 1990, 104 Stat. 1388–573. For complete classification of this Act to the Code, see Short Title of 1990 Amendment note set out under section 900 of Title 2 and Tables.

Section 510 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991, referred to in subsec. (j)(2), is section 510 of Pub. L. 101–513, title V, Nov. 5, 1990, 104 Stat. 2003, which is not classified to the Code.

AMENDMENTS

2002—Subsec. (e). Pub. L. 107–246 substituted "paragraph (2)(J)" for "paragraph (2)(G)".

1996—Subsec. (k)(3), (4). Pub. L. 104–114 added pars. (3) and (4).

1994—Subsec. (j)(1)(C). Pub. L. 103–236 substituted "sections 2799aa and 2799aa–1" for "sections 2429 and 2429a".

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–236 effective 60 days after Apr. 30, 1994, see section 831 of Pub. L. 103–236, set out as an Effective Date note under section 6301 of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

Functions of President under subsecs. (c) and (g) of this section delegated to Coordinator by section 2(c) of Ex. Ord. No. 12884, Dec. 1, 1993, 58 F.R. 64099, set out as a note under section 5812 of this title.

Functions of President under subsecs. (h) and (i) of this section delegated by section 5(a) of Ex. Ord. No. 12884 to head of agency responsible for administering the particular program or activity with respect to which the authority is to be exercised.

TRANS-CAUCASUS ENTERPRISE FUND

Pub. L. 104–107, title II, [(t)], Feb. 12, 1996, 110 Stat. 714, provided that: "The President shall establish a Trans-Caucasus Enterprise Fund to encourage regional peace through economic cooperation: *Provided*, That the President shall seek other bilateral and multilateral investors in the Fund: *Provided further*, That of the funds made available under this heading [OTHER BILATERAL ECONOMIC ASSISTANCE, ASSISTANCE FOR THE NEW INDEPENDENT STATES OF THE FORMER SOVIET UNION, see 110 Stat. 712], not less than $15,000,000 shall be made available for a United States investment in the Trans-Caucasus Enterprise Fund."

[1] *So in original. Probably should be "unforeseen".*

§2295c. Authorization of appropriations

(a) In general

To carry out this part, there are authorized to be appropriated to the President for fiscal year 1993 $410,000,000, in addition to amounts otherwise available for assistance for the independent states of the former Soviet Union. Amounts appropriated pursuant to this subsection are authorized to remain available until expended.

(b) Operating expenses

(1) Authority to transfer program funds

Subject to paragraph (2), funds made available under subsection (a) may be transferred to, and merged with, funds appropriated for "Operating Expenses of the Agency for International Development". Funds so transferred may be expended for administrative costs in carrying out this part, including reimbursement of the Department of State for its incremental costs associated with assistance provided under this part.

(2) Limitation on amount transferred

Not more than 2 percent of the funds made available for a fiscal year under subsection (a) may be transferred pursuant to paragraph (1) unless, at least 15 days before transferring any additional amount, the President notifies the appropriate congressional committees in accordance with the procedures applicable to reprogramming notifications under section 2394–1 of this title.

(Pub. L. 87–195, pt. I, §498C, as added Pub. L. 102–511, title II, §201, Oct. 24, 1992, 106 Stat. 3330.)

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

For delegation of certain functions of President under subsec. (b)(2), see section 3(b) of Ex. Ord. No. 12884, Dec. 1, 1993, 58 F.R. 64099, as amended, set out as a note under section 5812 of this title.

PART XII—SUPPORT FOR THE ECONOMIC AND POLITICAL INDEPENDENCE OF THE COUNTRIES OF THE SOUTH CAUCASUS AND CENTRAL ASIA

PRIOR PROVISIONS

A prior part XII, consisting of section 2296, related to the Enterprise for the Americas Initiative, prior to repeal by Pub. L. 102–549, title VI, §602(b), Oct. 28, 1992, 106 Stat. 3669.

§2296. United States assistance to promote reconciliation and recovery from regional conflicts

(a) Purpose of assistance

The purposes of assistance under this section include—

(1) the creation of the basis for reconciliation between belligerents;

(2) the promotion of economic development in areas of the countries of the South Caucasus and Central Asia impacted by civil conflict and war; and

(3) the encouragement of broad regional cooperation among countries of the South Caucasus and Central Asia that have been destabilized by internal conflicts.

(b) Authorization for assistance

(1) In general

To carry out the purposes of subsection (a), the President is authorized to provide humanitarian assistance and economic reconstruction assistance for the countries of the South Caucasus and Central Asia to support the activities described in subsection (c).

(2) Definition of humanitarian assistance

In this subsection, the term "humanitarian assistance" means assistance to meet humanitarian needs, including needs for food, medicine, medical supplies and equipment, education, and clothing.

(c) Activities supported

Activities that may be supported by assistance under subsection (b) include—

(1) providing for the humanitarian needs of victims of the conflicts;

(2) facilitating the return of refugees and internally displaced persons to their homes; and

(3) assisting in the reconstruction of residential and economic infrastructure destroyed by war.

(Pub. L. 87–195, pt. I, §499, as added Pub. L. 106–113, div. B, §1000(a)(2) [title V, §596(b)], Nov. 29, 1999, 113 Stat. 1535, 1501A–123.)

PRIOR PROVISIONS

A prior section 2296, Pub. L. 87–195, pt. I, §499, as added Pub. L. 102–391, title V, §594(a), Oct. 6, 1992, 106 Stat. 1692, authorized reduction of certain debts owed to the United States, prior to repeal by Pub. L. 102–549, title VI, §602(b), Oct. 28, 1992, 106 Stat. 3669.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§2296a. Economic assistance

(a) Purpose of assistance

The purpose of assistance under this section is to foster economic growth and development, including the conditions necessary for regional economic cooperation, in the South Caucasus and

Central Asia.

(b) Authorization for assistance

To carry out the purpose of subsection (a), the President is authorized to provide assistance for the countries of the South Caucasus and Central Asia to support the activities described in subsection (c).

(c) Activities supported

In addition to the activities described in section 2295 of this title, activities supported by assistance under subsection (b) should support the development of the structures and means necessary for the growth of private sector economies based upon market principles.

(Pub. L. 87–195, pt. I, §499A, as added Pub. L. 106–113, div. B, §1000(a)(2) [title V, §596(b)], Nov. 29, 1999, 113 Stat. 1535, 1501A–124.)

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§2296b. Development of infrastructure

(a) Purpose of programs

The purposes of programs under this section include—

(1) to develop the physical infrastructure necessary for regional cooperation among the countries of the South Caucasus and Central Asia; and

(2) to encourage closer economic relations and to facilitate the removal of impediments to cross-border commerce among those countries and the United States and other developed nations.

(b) Authorization for programs

To carry out the purposes of subsection (a), the following types of programs for the countries of the South Caucasus and Central Asia may be used to support the activities described in subsection (c):

(1) Activities by the Export-Import Bank to complete the review process for eligibility for financing under the Export-Import Bank Act of 1945 [12 U.S.C. 635 et seq.].

(2) The provision of insurance, reinsurance, financing, or other assistance by the Overseas Private Investment Corporation.

(3) Assistance under section 2421 of this title (relating to the Trade and Development Agency).

(c) Activities supported

Activities that may be supported by programs under subsection (b) include promoting actively the participation of United States companies and investors in the planning, financing, and construction of infrastructure for communications, transportation, including air transportation, and energy and trade including highways, railroads, port facilities, shipping, banking, insurance, telecommunications networks, and gas and oil pipelines.

(Pub. L. 87–195, pt. I, §499B, as added Pub. L. 106–113, div. B, §1000(a)(2) [title V, §596(b)], Nov. 29, 1999, 113 Stat. 1535, 1501A–124.)

REFERENCES IN TEXT

The Export-Import Bank Act of 1945, referred to in subsec. (b)(1), is act July 31, 1945, ch. 341, 59 Stat. 526, as amended, which is classified generally to subchapter I (§635 et seq.) of chapter 6A of Title 12, Banks and Banking. For complete classification of this Act to the Code, see Short Title note set out under section 635 of Title 12 and Tables.

§2296c. Border control assistance

(a) Purpose of assistance

The purpose of assistance under this section includes the assistance of the countries of the South Caucasus and Central Asia to secure their borders and implement effective controls necessary to prevent the trafficking of illegal narcotics and the proliferation of technology and materials related to weapons of mass destruction (as defined in section 2332a(c)(2) of title 18), and to contain and inhibit transnational organized criminal activities.

(b) Authorization for assistance

To carry out the purpose of subsection (a), the President is authorized to provide assistance to the countries of the South Caucasus and Central Asia to support the activities described in subsection (c).

(c) Activities supported

Activities that may be supported by assistance under subsection (b) include assisting those countries of the South Caucasus and Central Asia in developing capabilities to maintain national border guards, coast guard, and customs controls.

(Pub. L. 87–195, pt. I, §499C, as added Pub. L. 106–113, div. B, §1000(a)(2) [title V, §596(b)], Nov. 29, 1999, 113 Stat. 1535, 1501A–124.)

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§2296d. Strengthening democracy, tolerance, and the development of civil society

(a) Purpose of assistance

The purpose of assistance under this section is to promote institutions of democratic government and to create the conditions for the growth of pluralistic societies, including religious tolerance and respect for internationally recognized human rights.

(b) Authorization for assistance

To carry out the purpose of subsection (a), the President is authorized to provide the following types of assistance to the countries of the South Caucasus and Central Asia:

(1) Assistance for democracy building, including programs to strengthen parliamentary institutions and practices.

(2) Assistance for the development of nongovernmental organizations.

(3) Assistance for development of independent media.

(4) Assistance for the development of the rule of law, a strong independent judiciary, and transparency in political practice and commercial transactions.

(5) International exchanges and advanced professional training programs in skill areas central to the development of civil society.

(6) Assistance to promote increased adherence to civil and political rights under section 2151n(e) of this title.

(c) Activities supported

Activities that may be supported by assistance under subsection (b) include activities that are designed to advance progress toward the development of democracy.

(Pub. L. 87–195, pt. I, §499D, as added Pub. L. 106–113, div. B, §1000(a)(2) [title V, §596(b)], Nov. 29, 1999, 113 Stat. 1535, 1501A–125.)

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§2296e. Administrative authorities

(a) Assistance through governments and nongovernmental organizations

Assistance under this part may be provided to governments or through nongovernmental organizations.

(b) Use of economic support funds

Except as otherwise provided, any funds that have been allocated under part IV of subchapter II of this chapter for assistance for the independent states of the former Soviet Union may be used in accordance with the provisions of this part.

(c) Terms and conditions

Assistance under this part shall be provided on such terms and conditions as the President may determine.

(d) Available authorities

The authority in this part to provide assistance for the countries of the South Caucasus and Central Asia is in addition to the authority to provide such assistance under the FREEDOM Support Act (22 U.S.C. 5801 et seq.) or any other Act, and the authorities applicable to the provision of assistance under part XI of this subchapter may be used to provide assistance under this part.

(Pub. L. 87–195, pt. I, §499E, as added Pub. L. 106–113, div. B, §1000(a)(2) [title V, §596(b)], Nov. 29, 1999, 113 Stat. 1535, 1501A–125.)

REFERENCES IN TEXT

The FREEDOM Support Act, referred to in subsec. (d), is Pub. L. 102–511, Oct. 24, 1992, 106 Stat. 3320, as amended, also known as the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992. For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§2296f. Definitions

In this part:

(1) Appropriate congressional committees

The term "appropriate congressional committees" means the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

(2) Countries of the South Caucasus and Central Asia

The term "countries of the South Caucasus and Central Asia" means Armenia, Azerbaijan, Georgia, Kazakstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan.

(Pub. L. 87–195, pt. I, §499F, as added Pub. L. 106–113, div. B, §1000(a)(2) [title V, §596(b)], Nov. 29, 1999, 113 Stat. 1535, 1501A–126.)

CHANGE OF NAME

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

SUBCHAPTER II—MILITARY ASSISTANCE AND SALES

PART I—DECLARATION OF POLICY

§2301. Congressional statement of policy

The Congress of the United States reaffirms the policy of the United States to achieve international peace and security through the United Nations so that armed force shall not be used except for individual or collective self-defense. The Congress finds that the efforts of the United States and other friendly countries to promote peace and security continue to require measures of support based upon the principle of effective self-help and mutual aid. It is the purpose of subchapter II of this chapter to authorize measures in the common defense against internal and external aggression, including the furnishing of military assistance, upon request, to friendly countries and international organizations. In furnishing such military assistance, it remains the policy of the United States to continue to exert maximum efforts to achieve universal control of weapons of mass destruction and universal regulation and reduction of armaments, including armed forces, under adequate safeguards to protect complying countries against violation and evasion.

The Congress recognizes that the peace of the world and the security of the United States are endangered so long as hostile countries continue by threat of military action, by the use of economic pressure, and by internal subversion, or other means to attempt to bring under their domination peoples now free and independent and continue to deny the rights of freedom and self-government to peoples and countries once free but now subject to such domination.

It is the sense of the Congress that an important contribution toward peace would be made by the establishment under the Organization of American States of an international military force.

In enacting this legislation, it is therefore the intention of the Congress to promote the peace of the world and the foreign policy, security, and general welfare of the United States by fostering an improved climate of political independence and individual liberty, improving the ability of friendly countries and international organizations to deter or, if necessary, defeat aggression, facilitating arrangements for individual and collective security, assisting friendly countries to maintain internal security, and creating an environment of security and stability in the developing friendly countries essential to their more rapid social, economic, and political progress. The Congress urges that all other countries able to contribute join in a common undertaking to meet the goals stated in subchapter II of this chapter.

It is the sense of the Congress that in the administration of subchapter II of this chapter priority shall be given to the needs of those countries in danger of becoming victims of aggression or in which the internal security is threatened by internal subversion inspired or supported by hostile countries.

Finally, the Congress reaffirms its full support of the progress of the members of the North Atlantic Treaty Organization toward increased cooperation in political, military, and economic affairs. In particular, the Congress welcomes the steps which have been taken to promote multilateral programs of coordinated procurement, research, development, and production of defense articles and urges that such programs be expanded to the fullest extent possible to further the defense of the North Atlantic Area.

(Pub. L. 87–195, pt. II, §501, formerly §502, Sept. 4, 1961, 75 Stat. 434, renumbered §501 and amended Pub. L. 90–137, pt. II, §201(a), Nov. 14, 1967, 81 Stat. 455; Pub. L. 103–199, title VII, §705(1), Dec. 17, 1993, 107 Stat. 2328.)

REFERENCES IN TEXT

This legislation, referred to in fourth paragraph, means Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

REFERENCES TO SUBCHAPTER II DEEMED TO EXCLUDE CERTAIN PARTS OF SUBCHAPTER II

References to subchapter II of this chapter are deemed to exclude parts IV (§2346 et seq.), VI (§2348 et

seq.), and VIII (§2349aa et seq.) of subchapter II, and references to subchapter I of this chapter are deemed to include such parts. See section 202(b) of Pub. L. 92–226, set out as a note under section 2346 of this title, and sections 2348c and 2349aa–5 of this title.

PRIOR PROVISIONS

A prior section 501 of Pub. L. 87–195, provided that part II of Pub. L. 87–195 [subchapter II of this chapter] should be cited as the "International Peace and Security Act of 1961", prior to repeal by Pub. L. 88–205, pt. II, §201(b), Dec. 16, 1963, 77 Stat. 384.

AMENDMENTS

1993—Pub. L. 103–199, §705(1)(A), in second par., substituted "hostile countries" for "international communism and the countries it controls".

Pub. L. 103–199, §705(1)(B), in fourth par., struck out "Communist or Communist-supported" after "if necessary, defeat".

Pub. L. 103–199, §705(1)(C), in fifth par., substituted "aggression or in which the internal security is threatened by internal subversion inspired or supported by hostile countries." for "active Communist or Communist-supported aggression or those countries in which the internal security is threatened by Communist-inspired or Communist-supported internal subversion."

1967—Pub. L. 90–137 inserted par. to indicate that priority shall be given in the use of the funds available to defend against Communist aggression or Communist-inspired internal subversion.

TRANSFER OF PROSCRIBED WEAPONS TO PERSONS OR ENTITIES IN THE WEST BANK AND GAZA

Pub. L. 107–228, div. A, title VI, §699, Sept. 30, 2002, 116 Stat. 1418, provided that:

"(a) DETERMINATION REGARDING TRANSFERS.—If the President determines, based on a preponderance of the evidence, that a foreign person or entity has knowingly transferred proscribed weapons to Palestinian entities in the West Bank or Gaza, then, for the period specified in subsection (b), no assistance may be provided to the person or entity under part II of the Foreign Assistance Act of 1961 [22 U.S.C. 2301 et seq.] and no sales of defense articles or defense services may be made to the person or entity under section 23 of the Arms Export Control Act [22 U.S.C. 2763].

"(b) DURATION OF PROHIBITION.—The period referred to in subsection (a) is the period commencing on the date on which a notification of a determination under subsection (a) is submitted to the appropriate congressional committees and ending on the date that is two years after such date.

"(c) REPORT.—In conjunction with the report required under title VIII of the P.L.O. Commitments Compliance Act of 1989 (Public Law 101–246) [104 Stat. 76], the President shall submit a report to the appropriate congressional committees on transfers reviewed pursuant to subsection (a).

"(d) DEFINITION.—In this section, the term 'proscribed weapons' means arms, ammunition, and equipment the transfer of which is not in compliance with the Agreement on the Gaza Strip and the Jericho Area of May 4, 1994, its annexes, or subsequent agreements between Israel and the PLO, or Palestinian Authority, as appropriate."

[Functions of President under section 699 of Pub. L. 107–228, set out above, delegated to Secretary of State by Memorandum of President of the United States, Apr. 30, 2009, 74 F.R. 22637.]

[For definition of "appropriate congressional committees" as used in section 699 of Pub. L. 107–228, set out above, see section 3 of Pub. L. 107–228, set out as a note under section 2651 of this title.]

§2302. Utilization of defense articles and defense services

Defense articles and defense services to any country shall be furnished solely for internal security (including for antiterrorism and nonproliferation purposes), for legitimate self-defense, to permit the recipient country to participate in regional or collective arrangements or measures consistent with the Charter of the United Nations, or otherwise to permit the recipient country to participate in collective measures requested by the United Nations for the purpose of maintaining or restoring international peace and security, or for the purpose of assisting foreign military forces in less developed friendly countries (or the voluntary efforts of personnel of the Armed Forces of the United States in such countries) to construct public works and to engage in other activities helpful to the economic and social development of such friendly countries. It is the sense of the Congress that such foreign military forces should not be maintained or established solely for civic action activities and that such

civic action activities not significantly detract from the capability of the military forces to perform their military missions and be coordinated with and form part of the total economic and social development effort.

(Pub. L. 87–195, pt. II, §502, formerly §505(a), Sept. 4, 1961, 75 Stat. 436; Pub. L. 88–205, pt. II, §202(b), Dec. 16, 1963, 77 Stat. 384; Pub. L. 89–171, pt. II, §201(c), Sept. 6, 1965, 79 Stat. 656; renumbered and amended Pub. L. 90–137, pt. II, §201(d), Nov. 14, 1967, 81 Stat. 456; Pub. L. 106–280, title VII, §701, Oct. 6, 2000, 114 Stat. 861.)

CODIFICATION

Section was formerly classified to section 2313 of this title.

AMENDMENTS

2000—Pub. L. 106–280 inserted "(including for antiterrorism and nonproliferation purposes)" after "internal security" in first sentence.

1967—Pub. L. 90–137 substituted "Defense articles and defense services" for "Military assistance".

1965—Pub. L. 89–171 authorized military assistance to any country for the purpose of assisting foreign military forces in less developed friendly countries (or the voluntary efforts of personnel of the Armed Forces of the United States in such countries) to construct public works and to engage in other activities helpful to the economic and social development of such friendly countries, expressed the sense of Congress that such foreign military forces should not be maintained or established solely for civic action activities, and that such civic action activities should not significantly detract from the capability of the military forces to perform their military missions, and should be coordinated with and from part of the total economic and social development effort, and struck out prohibition against further assistance to Latin American countries, now incorporated in section 2319(c) of this title.

1963—Pub. L. 88–205 inserted proviso stopping further military assistance under this chapter to Latin American countries except to the extent necessary to fulfill prior commitments or to safeguard the security of the United States or of a country associated with the United States in the Alliance for Progress against the overthrow of a duly constituted government, now incorporated in section 2319(c) of this title.

TRANSFER TO REPUBLIC OF KOREA OF DEFENSE ARTICLES; REIMBURSEMENT FOR TRANSFER

Pub. L. 91–652, §3, Jan. 5, 1971, 84 Stat. 1942, authorized the President until June 30, 1972, to transfer to the Republic of Korea such Armed Forces defense articles located in Korea on July 1, 1970 as he determined appropriate and provided that no funds appropriated under Pub. L. 91–652 or this chapter were to be available for reimbursement to any Government agency for any such transfers of defense articles.

§2303. Repealed. Pub. L. 104–164, title I, §104(b)(2)(A), July 21, 1996, 110 Stat. 1426

Section, Pub. L. 87–195, pt. II, §502A, as added Pub. L. 93–189, §12(a), Dec. 17, 1973, 87 Stat. 720, directed that excess defense articles be provided whenever possible rather than new items.

§2304. Human rights and security assistance

(a) Observance of human rights as principal goal of foreign policy; implementation requirements

(1) The United States shall, in accordance with its international obligations as set forth in the Charter of the United Nations and in keeping with the constitutional heritage and traditions of the United States, promote and encourage increased respect for human rights and fundamental freedoms throughout the world without distinction as to race, sex, language, or religion. Accordingly, a principal goal of the foreign policy of the United States shall be to promote the increased observance of internationally recognized human rights by all countries.

(2) Except under circumstances specified in this section, no security assistance may be provided to any country the government of which engages in a consistent pattern of gross violations of

internationally recognized human rights. Security assistance may not be provided to the police, domestic intelligence, or similar law enforcement forces of a country, and licenses may not be issued under the Export Administration Act of 1979 [50 U.S.C. 4601 et seq.] for the export of crime control and detection instruments and equipment to a country, the government of which engages in a consistent pattern of gross violations of internationally recognized human rights unless the President certifies in writing to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate and the chairman of the Committee on Banking, Housing, and Urban Affairs of the Senate (when licenses are to be issued pursuant to the Export Administration Act of 1979).[1] that extraordinary circumstances exist warranting provision of such assistance and issuance of such licenses. Assistance may not be provided under part V of this subchapter to a country the government of which engages in a consistent pattern of gross violations of internationally recognized human rights unless the President certifies in writing to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate that extraordinary circumstances exist warranting provision of such assistance.

(3) In furtherance of paragraphs (1) and (2), the President is directed to formulate and conduct international security assistance programs of the United States in a manner which will promote and advance human rights and avoid identification of the United States, through such programs, with governments which deny to their people internationally recognized human rights and fundamental freedoms, in violation of international law or in contravention of the policy of the United States as expressed in this section or otherwise.

(4) In determining whether the government of a country engages in a consistent pattern of gross violations of internationally recognized human rights, the President shall give particular consideration to whether the government—

(A) has engaged in or tolerated particularly severe violations of religious freedom, as defined in section 6402 of this title; or

(B) has failed to undertake serious and sustained efforts to combat particularly severe violations of religious freedom when such efforts could have been reasonably undertaken.

(b) Report by Secretary of State on practices of proposed recipient countries; considerations

The Secretary of State shall transmit to the Congress, as part of the presentation materials for security assistance programs proposed for each fiscal year, a full and complete report, prepared with the assistance of the Assistant Secretary of State for Democracy, Human Rights, and Labor and with the assistance of the Ambassador at Large for International Religious Freedom, with respect to practices regarding the observance of and respect for internationally recognized human rights in each country proposed as a recipient of security assistance. Wherever applicable, such report shall include consolidated information regarding the commission of war crimes, crimes against humanity, and evidence of acts that may constitute genocide (as defined in article 2 of the Convention on the Prevention and Punishment of the Crime of Genocide and modified by the United States instrument of ratification to that convention and section 2(a) of the Genocide Convention Implementation Act of 1987). Wherever applicable, such report shall include information on practices regarding coercion in population control, including coerced abortion and involuntary sterilization. Such report shall also include, wherever applicable, information on violations of religious freedom, including particularly severe violations of religious freedom (as defined in section 6402 of this title). Wherever applicable, such report shall include a description of the nature and extent of acts of anti-Semitism and anti-Semitic incitement that occur, including the descriptions of such acts required under section 2151n(d)(8) of this title. Such report shall also include, for each country with respect to which the report indicates that extrajudicial killings, torture, or other serious violations of human rights have occurred in the country, the extent to which the United States has taken or will take action to encourage an end to such practices in the country. Each report under this section shall list the votes of each member of the United Nations Commission on Human Rights on all country-specific and thematic resolutions voted on at the Commission's annual session during the period covered during the preceding year. Each report under this section shall also include (i) wherever applicable, a description of the nature and extent of the compulsory recruitment and conscription of individuals

under the age of 18 by armed forces of the government of the country, government-supported paramilitaries, or other armed groups, the participation of such individuals in such groups, and the nature and extent that such individuals take a direct part in hostilities, (ii) what steps, if any, taken by the government of the country to eliminate such practices, and (iii) such other information related to the use by such government of individuals under the age of 18 as soldiers, as determined to be appropriate by the Secretary of State. Each report under this section shall describe the extent to which each country has extended protection to refugees, including the provision of first asylum and resettlement. In determining whether a government falls within the provisions of subsection (a)(3) and in the preparation of any report or statement required under this section, consideration shall be given to—

(1) the relevant findings of appropriate international organizations, including nongovernmental organizations, such as the International Committee of the Red Cross; and

(2) the extent of cooperation by such government in permitting an unimpeded investigation by any such organization of alleged violations of internationally recognized human rights.

(c) Congressional request for information; information required; 30-day period; failure to supply information; termination or restriction of assistance

(1) Upon the request of the Senate or the House of Representatives by resolution of either such House, or upon the request of the Committee on Foreign Relations of the Senate or the Committee on Foreign Affairs of the House of Representatives, the Secretary of State shall, within thirty days after receipt of such request, transmit to both such committees a statement, prepared with the assistance of the Assistant Secretary of State for Democracy, Human Rights, and Labor, with respect to the country designated in such request, setting forth—

(A) all the available information about observance of and respect for human rights and fundamental freedom in that country, and a detailed description of practices by the recipient government with respect thereto;

(B) the steps the United States has taken to—

(i) promote respect for and observance of human rights in that country and discourage any practices which are inimical to internationally recognized human rights, and

(ii) publicly or privately call attention to, and disassociate the United States and any security assistance provided for such country from, such practices;

(C) whether, in the opinion of the Secretary of State, notwithstanding any such practices—

(i) extraordinary circumstances exist which necessitate a continuation of security assistance for such country, and, if so, a description of such circumstances and the extent to which such assistance should be continued (subject to such conditions as Congress may impose under this section), and

(ii) on all the facts it is in the national interest of the United States to provide such assistance; and

(D) such other information as such committee or such House may request.

(2)(A) A resolution of request under paragraph (1) of this subsection shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

(B) The term "certification", as used in section 601 of such Act, means, for the purposes of this subsection, a resolution of request of the Senate under paragraph (1) of this subsection.

(3) In the event a statement with respect to a country is requested pursuant to paragraph (1) of this subsection but is not transmitted in accordance therewith within thirty days after receipt of such request, no security assistance shall be delivered to such country except as may thereafter be specifically authorized by law from such country unless and until such statement is transmitted.

(4)(A) In the event a statement with respect to a country is transmitted under paragraph (1) of this subsection, the Congress may at any time thereafter adopt a joint resolution terminating, restricting, or continuing security assistance for such country. In the event such a joint resolution is adopted,

such assistance shall be so terminated, so restricted, or so continued, as the case may be.

(B) Any such resolution shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

(C) The term "certification", as used in section 601 of such Act, means, for the purposes of this paragraph, a statement transmitted under paragraph (1) of this subsection.

(d) Definitions

For the purposes of this section—

(1) the term "gross violations of internationally recognized human rights" includes torture or cruel, inhuman, or degrading treatment or punishment, prolonged detention without charges and trial, causing the disappearance of persons by the abduction and clandestine detention of those persons, and other flagrant denial of the right to life, liberty, or the security of person;

(2) the term "security assistance" means—

(A) assistance under part II (military assistance) or part IV (economic support fund) or part V (military education and training) or part VI (peacekeeping operations) or part VIII (antiterrorism assistance) of this subchapter;

(B) sales of defense articles or services, extensions of credits (including participations in credits), and guaranties of loans under the Arms Export Control Act [22 U.S.C. 2751 et seq.]; or

(C) any license in effect with respect to the export to or for the armed forces, police, intelligence, or other internal security forces of a foreign country of—

(i) defense articles or defense services under section 38 of the Armed [2] Export Control Act (22 U.S.C. 2778); or

(ii) items listed under the 600 series of the Commerce Control List contained in Supplement No. 1 to part 774 of subtitle B of title 15, Code of Federal Regulations; [3]

(e) Removal of prohibition on assistance

Notwithstanding any other provision of law, funds authorized to be appropriated under subchapter I of this chapter may be made available for the furnishing of assistance to any country with respect to which the President finds that such a significant improvement in its human rights record has occurred as to warrant lifting the prohibition on furnishing such assistance in the national interest of the United States.

(f) Allocations concerned with performance record of recipient countries without contravention of other provisions

In allocating the funds authorized to be appropriated by this chapter and the Arms Export Control Act [22 U.S.C. 2751 et seq.], the President shall take into account significant improvements in the human rights records of recipient countries, except that such allocations may not contravene any other provision of law.

(g) Report to Congress on use of certain authorities relating to human rights conditions

Whenever the provisions of subsection (e) or (f) of this section are applied, the President shall report to the Congress before making any funds available pursuant to those subsections. The report shall specify the country involved, the amount and kinds of assistance to be provided, and the justification for providing the assistance, including a description of the significant improvements which have occurred in the country's human rights record.

(h) Report on practices of recipient countries relating to trafficking in persons

(1) The report required by subsection (b) shall include the following:

(A) A description of the nature and extent of severe forms of trafficking in persons, as defined in section 7102 of this title, in each foreign country.

(B) With respect to each country that is a country of origin, transit, or destination for victims of severe forms of trafficking in persons, an assessment of the efforts by the government of that country to combat such trafficking. The assessment shall address the following:

(i) Whether government authorities in that country participate in, facilitate, or condone such trafficking.

(ii) Which government authorities in that country are involved in activities to combat such trafficking.

(iii) What steps the government of that country has taken to prohibit government officials from participating in, facilitating, or condoning such trafficking, including the investigation, prosecution, and conviction of such officials.

(iv) What steps the government of that country has taken to prohibit other individuals from participating in such trafficking, including the investigation, prosecution, and conviction of individuals involved in severe forms of trafficking in persons, the criminal and civil penalties for such trafficking, and the efficacy of those penalties in eliminating or reducing such trafficking.

(v) What steps the government of that country has taken to assist victims of such trafficking, including efforts to prevent victims from being further victimized by traffickers, government officials, or others, grants of relief from deportation, and provision of humanitarian relief, including provision of mental and physical health care and shelter.

(vi) Whether the government of that country is cooperating with governments of other countries to extradite traffickers when requested, or, to the extent that such cooperation would be inconsistent with the laws of such country or with extradition treaties to which such country is a party, whether the government of that country is taking all appropriate measures to modify or replace such laws and treaties so as to permit such cooperation.

(vii) Whether the government of that country is assisting in international investigations of transnational trafficking networks and in other cooperative efforts to combat severe forms of trafficking in persons.

(viii) Whether the government of that country refrains from prosecuting victims of severe forms of trafficking in persons due to such victims having been trafficked, and refrains from other discriminatory treatment of such victims.

(ix) Whether the government of that country recognizes the rights of victims of severe forms of trafficking in persons and ensures their access to justice.

(C) Such other information relating to trafficking in persons as the Secretary of State considers appropriate.

(2) In compiling data and making assessments for the purposes of paragraph (1), United States diplomatic mission personnel shall consult with human rights organizations and other appropriate nongovernmental organizations.

(i) [4] Report on status of freedom of the press in recipient countries

The report required by subsection (b) shall include, wherever applicable—

(1) a description of the status of freedom of the press, including initiatives in favor of freedom of the press and efforts to improve or preserve, as appropriate, the independence of the media, together with an assessment of progress made as a result of those efforts;

(2) an identification of countries in which there were violations of freedom of the press, including direct physical attacks, imprisonment, indirect sources of pressure, and censorship by governments, military, intelligence, or police forces, criminal groups, or armed extremist or rebel groups; and

(3) in countries where there are particularly severe violations of freedom of the press—

(A) whether government authorities of each such country participate in, facilitate, or condone such violations of the freedom of the press; and

(B) what steps the government of each such country has taken to preserve the safety and independence of the media, and to ensure the prosecution of those individuals who attack or murder journalists.

(i) [4] Child marriage status

(1) In general

The report required under subsection (b) shall include, for each country in which child marriage is prevalent, a description of the status of the practice of child marriage in such country.

(2) Defined term

In this subsection, the term "child marriage" means the marriage of a girl or boy who is—

(A) younger than the minimum age for marriage under the laws of the country in which such girl or boy is a resident; or

(B) younger than 18 years of age, if no such law exists.

(Pub. L. 87–195, pt. II, §502B, as added Pub. L. 93–559, §46, Dec. 30, 1974, 88 Stat. 1815; amended Pub. L. 94–329, title III, §301(a), June 30, 1976, 90 Stat. 748; Pub. L. 95–105, title I, §109(a)(3), Aug. 17, 1977, 91 Stat. 846; Pub. L. 95–384, §§6(a)–(d)(1), (e), 10(b)(1), 12(b), Sept. 26, 1978, 92 Stat. 731, 732, 735, 737; Pub. L. 96–53, title V, §511, Aug. 14, 1979, 93 Stat. 380; Pub. L. 96–92, §4, Oct. 29, 1979, 93 Stat. 702; Pub. L. 96–533, title VII, §§701(b), 704, Dec. 16, 1980, 94 Stat. 3156, 3157; Pub. L. 98–151, §101(b)(2), Nov. 14, 1983, 97 Stat. 972; Pub. L. 99–64, title I, §124, July 12, 1985, 99 Stat. 156; Pub. L. 99–83, title XII, §1201, Aug. 8, 1985, 99 Stat. 276; Pub. L. 100–204, title I, §127(2), Dec. 22, 1987, 101 Stat. 1343; Pub. L. 103–236, title I, §162(e)(2), Apr. 30, 1994, 108 Stat. 405; Pub. L. 103–437, §9(a)(6), Nov. 2, 1994, 108 Stat. 4588; Pub. L. 104–319, title II, §201(b), Oct. 19, 1996, 110 Stat. 3866; Pub. L. 105–292, title I, §102(d)(2), title IV, §421(b), Oct. 27, 1998, 112 Stat. 2795, 2810; Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title II, §252, title VIII, §806(b)], Nov. 29, 1999, 113 Stat. 1536, 1501A–432, 1501A–471; Pub. L. 106–386, div. A, §104(b), Oct. 28, 2000, 114 Stat. 1472; Pub. L. 107–228, div. A, title VI, §§665(b), 683(b), Sept. 30, 2002, 116 Stat. 1407, 1411; Pub. L. 108–332, §6(a)(2), Oct. 16, 2004, 118 Stat. 1285; Pub. L. 111–166, §2(2), May 17, 2010, 124 Stat. 1187; Pub. L. 113–4, title XII, §1207(b)(2), Mar. 7, 2013, 127 Stat. 141; Pub. L. 113–276, title II, §§206, 208(b)(2), Dec. 18, 2014, 128 Stat. 2992, 2993.)

REFERENCES IN TEXT

The Export Administration Act of 1979, referred to in subsec. (a)(2), is Pub. L. 96–72, Sept. 29, 1979, 93 Stat. 503, which is classified principally to chapter 56 (§4601 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Tables.

Section 2(a) of the Genocide Convention Implementation Act of 1987, referred to in subsec. (b), probably means section 2(a) of the Genocide Convention Implementation Act of 1987 (the Proxmire Act), Pub. L. 100–606, Nov. 4, 1988, 102 Stat. 3045, which enacted chapter 50A (§1091 et seq.) of Title 18, Crimes and Criminal Procedure.

Section 601 of the International Security Assistance and Arms Export Control Act of 1976, referred to in subsec. (c)(2)(A), (4)(B), is section 601 of Pub. L. 94–329, which was not classified to the Code.

The Arms Export Control Act, referred to in subsecs. (d)(2)(B) and (f), is Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1320, as amended, which is classified principally to chapter 39 (§2751 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

This chapter, referred to in subsec. (f), was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

REFERENCES TO SUBCHAPTER I DEEMED TO INCLUDE CERTAIN PARTS OF SUBCHAPTER II

References to subchapter I of this chapter are deemed to include parts IV (§2346 et seq.), VI (§2348 et seq.), and VIII (§2349aa et seq.) of subchapter II of this chapter, and references to subchapter II are deemed to exclude such parts. See section 202(b) of Pub. L. 92–226, set out as a note under section 2346 of this title, and sections 2348c and 2349aa–5 of this title.

CODIFICATION

The 1983 amendment by Pub. L. 98–151 is based on section 202(a) of H.R. 2992, Ninety-eighth Congress, 1st Session, as reported May 17, 1983, which was enacted into permanent law by Pub. L. 98–151.

AMENDMENTS

2014—Subsec. (b). Pub. L. 113–276, §208(b)(2)(A), substituted "Wherever applicable, such report shall include a description" for "Wherever applicable, a description" in introductory provisions.

Subsec. (d)(1). Pub. L. 113–276, §206(1), struck out "and" at end.

Subsec. (d)(2)(B). Pub. L. 113–276, §208(b)(2)(B), which directed substitution of "credits)" for "credits", was executed by making the substitution for "credits" after "participations in", to reflect the probable intent of Congress.

Subsec. (d)(2)(C). Pub. L. 113–276, §206(2), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: "any license in effect with respect to the export of defense articles or defense services to or for the armed forces, police, intelligence, or other internal security forces of a foreign country under section 38 of the Arms Export Control Act."

2013—Subsec. (i). Pub. L. 113–4 added subsec. (i) relating to child marriage status.

2010—Subsec. (i). Pub. L. 111–166 added subsec. (i) relating to report on status of freedom of the press in recipient countries.

2004—Subsec. (b). Pub. L. 108–332 inserted after fourth sentence of introductory provisions "Wherever applicable, a description of the nature and extent of acts of anti-Semitism and anti-Semitic incitement that occur, including the descriptions of such acts required under section 2151n(d)(8) of this title."

2002—Subsec. (b). Pub. L. 107–228, §683(b), in introductory provisions, inserted after sixth sentence "Each report under this section shall also include (i) wherever applicable, a description of the nature and extent of the compulsory recruitment and conscription of individuals under the age of 18 by armed forces of the government of the country, government-supported paramilitaries, or other armed groups, the participation of such individuals in such groups, and the nature and extent that such individuals take a direct part in hostilities, (ii) what steps, if any, taken by the government of the country to eliminate such practices, and (iii) such other information related to the use by such government of individuals under the age of 18 as soldiers, as determined to be appropriate by the Secretary of State."

Pub. L. 107–228, §665(b), in introductory provisions, inserted after fourth sentence "Such report shall also include, for each country with respect to which the report indicates that extrajudicial killings, torture, or other serious violations of human rights have occurred in the country, the extent to which the United States has taken or will take action to encourage an end to such practices in the country."

2000—Subsec. (h). Pub. L. 106–386 added subsec. (h).

1999—Subsec. (b). Pub. L. 106–113, in introductory provisions, inserted after first sentence "Wherever applicable, such report shall include consolidated information regarding the commission of war crimes, crimes against humanity, and evidence of acts that may constitute genocide (as defined in article 2 of the Convention on the Prevention and Punishment of the Crime of Genocide and modified by the United States instrument of ratification to that convention and section 2(a) of the Genocide Convention Implementation Act of 1987)." and inserted after fourth sentence "Each report under this section shall describe the extent to which each country has extended protection to refugees, including the provision of first asylum and resettlement."

1998—Subsec. (a)(4). Pub. L. 105–292, §421(b), added par. (4).

Subsec. (b). Pub. L. 105–292, §102(d)(2), in introductory provisions, inserted "and with the assistance of the Ambassador at Large for International Religious Freedom" after "Labor" and "Such report shall also include, wherever applicable, information on violations of religious freedom, including particularly severe violations of religious freedom (as defined in section 6402 of this title)." after "sterilization."

1996—Subsec. (b). Pub. L. 104–319 inserted "Each report under this section shall list the votes of each member of the United Nations Commission on Human Rights on all country-specific and thematic resolutions voted on at the Commission's annual session during the period covered during the preceding year." after second sentence.

1994—Subsec. (b). Pub. L. 103–236 substituted "Democracy, Human Rights, and Labor" for "Human Rights and Humanitarian Affairs" in introductory provisions.

Subsec. (c)(1). Pub. L. 103–437 substituted "Foreign Affairs" for "International Relations" in introductory provisions.

Pub. L. 103–236 substituted "Democracy, Human Rights, and Labor" for "Human Rights and Humanitarian Affairs" in introductory provisions.

1987—Subsec. (b). Pub. L. 100–204 inserted after first sentence "Wherever applicable, such report shall include information on practices regarding coercion in population control, including coerced abortion and involuntary sterilization."

1985—Subsec. (a)(2). Pub. L. 99–64 inserted "and the chairman of the Committee on Banking, Housing, and Urban Affairs of the Senate (when licenses are to be issued pursuant to the Export Administration Act of 1979)."

Subsec. (g). Pub. L. 99–83 added subsec. (g).

1983—Subsec. (d)(2)(A). Pub. L. 98–151 inserted "or part VIII (antiterrorism assistance)".

1980—Subsec. (a)(2). Pub. L. 96–533, §704, substituted "Export Administration Act of 1979" for "Export Administration Act of 1969".

Subsec. (d)(1). Pub. L. 96–533, §701(b), defined "gross violations of internationally recognized human rights" to include causing the disappearance of persons by the abduction and clandestine detention of those persons.

1979—Subsec. (e). Pub. L. 96–53 added subsec. (e).

Subsec. (f). Pub. L. 96–92 added subsec. (f).

1978—Subsec. (a)(1). Pub. L. 95–384, §6(a), substituted "The United States shall" for "It is the policy of the United States", "throughout the world" for "for all", and "Accordingly" for "To this end".

Subsec. (a)(2). Pub. L. 95–384, §6(b), (d)(1), (e), substituted "Except" for "It is further the policy of the United States that, except" and inserted provisions prohibiting security assistance, including crime control and detection instruments, from being provided to police, domestic intelligence, or other police forces of governments which the executive branch determines are guilty of a consistent pattern of gross violations of internationally recognized human rights and prohibiting assistance under part V of this subchapter to a country the government of which, as determined by the executive branch, is engaged in a consistent pattern of gross violations of internationally recognized human rights.

Subsec. (a)(3). Pub. L. 95–384, §6(c), substituted "paragraphs (1) and (2)," for "the foregoing policy".

Subsec. (d)(2)(A). Pub. L. 95–384, §§10(b)(1), 12(b), substituted "(economic support fund)" for "(security supporting assistance)", inserted "or part VI (peacekeeping operations)" after "and training)", and struck out "or subchapter V (assistance to the Middle East) of this chapter" after "of this subchapter".

1977—Subsecs. (b), (c)(1). Pub. L. 95–105 substituted "Assistant Secretary of State" for "Coordinator".

1976—Pub. L. 94–329 restricted the power of the President by eliminating the extraordinary circumstances exception to termination of assistance for gross violations of recognized human rights, directed the Secretary of State, as part of the presentation materials for an assistance program, to transmit a full and complete report to Congress on the human rights practices of the proposed recipient country and, within 30 days of a request by Congress, to supply information concerning the human rights practices of a country receiving assistance for determination as to whether the assistance should be continued, restricted, or terminated, and defined "security assistance".

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108–332 applicable beginning with the first report under sections 2151n(d), 2304(b), and 6412(b) of this title submitted more than 180 days after Oct. 16, 2004, see section 6(c) of Pub. L. 108–332, set out as a note under section 2151n of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–236 applicable with respect to officials, offices, and bureaus of Department of State when executive orders, regulations, or departmental directives implementing the amendments by sections 161 and 162 of Pub. L. 103–236 become effective, or 90 days after Apr. 30, 1994, whichever comes earlier, see section 161(b) of Pub. L. 103–236, as amended, set out as a note under section 2651a of this title.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–83 effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as a note under section 2151–1 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–53 effective Oct. 1, 1979, see section 512(a) of Pub. L. 96–53, set out as a note under section 2151 of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

[1] So in original. The period probably should not appear.

[2] So in original. Probably should be "Arms".

[3] So in original. The semicolon probably should be a period.

[4] So in original. Two subsecs. (i) have been enacted.

§2305. National Security Assistance Strategy

(a) Multiyear plan

Not later than 180 days after October 6, 2000, and annually thereafter at the time of submission of the congressional presentation materials of the foreign operations appropriations budget request, the Secretary of State should submit to the appropriate committees of Congress a plan setting forth a National Security Assistance Strategy for the United States.

(b) Elements of the Strategy

The National Security Assistance Strategy should—

(1) set forth a multi-year plan for security assistance programs;

(2) be consistent with the National Security Strategy of the United States;

(3) be coordinated with the Secretary of Defense and the Chairman of the Joint Chiefs of Staff;

(4) be prepared, in consultation with other agencies, as appropriate;

(5) identify overarching security assistance objectives, including identification of the role that specific security assistance programs will play in achieving such objectives;

(6) identify a primary security assistance objective, as well as specific secondary objectives, for individual countries;

(7) identify, on a country-by-country basis, how specific resources will be allocated to accomplish both primary and secondary objectives;

(8) discuss how specific types of assistance, such as foreign military financing and international military education and training, will be combined at the country level to achieve United States objectives; and

(9) detail, with respect to each of the paragraphs (1) through (8), how specific types of assistance provided pursuant to the Arms Export Control Act [22 U.S.C. 2751 et seq.] and the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.] are coordinated with United States assistance programs managed by the Department of Defense and other agencies.

(c) Covered assistance

The National Security Assistance Strategy should cover assistance provided under—

(1) section 23 of the Arms Export Control Act (22 U.S.C. 2763);

(2) chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 et seq.); and

(3) section 516 of the Foreign Assistance Act of 1961 [22 U.S.C. 2321j].

(Pub. L. 106–280, title V, §501, Oct. 6, 2000, 114 Stat. 854.)

REFERENCES IN TEXT

The Arms Export Control Act, referred to in subsec. (b)(9), is Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1320, as amended, which is classified principally to chapter 39 (§2751 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

The Foreign Assistance Act of 1961, referred to in subsecs. (b)(9) and (c)(2), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, which is classified principally to this chapter. Chapter 5 of part II of the Act is classified generally to part V (§2347 et seq.) of subchapter II of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

CODIFICATION

Section was enacted as part of the Security Assistance Act of 2000, and not as part of the Foreign Assistance Act of 1961 which comprises this chapter.

DEFINITION

Pub. L. 106–280, §2, Oct. 6, 2000, 114 Stat. 846, provided that: "In this Act [see Short Title of 2000 Amendments note set out under section 2151 of this title], the term 'appropriate committees of Congress' means the Committee on Foreign Relations of the Senate and the Committee on International Relations [now Committee on Foreign Affairs] of the House of Representatives."

PART II—MILITARY ASSISTANCE

§2311. General authority

(a) Defense articles and services; noncombatant personnel; transfer of funds

The President is authorized to furnish military assistance, on such terms and conditions as he may determine, to any friendly country or international organization, the assisting of which the President finds will strengthen the security of the United States and promote world peace and which is otherwise eligible to receive such assistance, by—

(1) acquiring for any source and providing (by loan or grant) any defense article or defense service;

(2) assigning or detailing members of the Armed Forces of the United States and other personnel of the Department of Defense to perform duties of a noncombatant nature; or

(3) transferring such of the funds appropriated or otherwise made available under this part as the President may determine for assistance to a recipient country, to the account in which funds for the procurement of defense articles and defense services under section 21 and section 22 of the Arms Export Control Act [22 U.S.C. 2761 and 2762] have been deposited for such recipient, to be merged with such deposited funds, and to be used solely to meet obligations of the recipient for payment for sales under that Act [22 U.S.C. 2751 et seq.].

Sales which are wholly paid from funds transferred under paragraph (3) or from funds made available on a non-repayable basis under section 23 of the Arms Export Control Act [22 U.S.C. 2763] shall be priced to exclude the costs of salaries of members of the Armed Forces of the United States (other than the Coast Guard).

(b) Terms and conditions

In addition to such other terms and conditions as the President may determine pursuant to subsection (a), defense articles may be loaned thereunder only if—

(1) there is a bona fide reason, other than the shortage of funds, for providing such articles on a loan basis rather than on a grant basis;

(2) there is a reasonable expectation that such articles will be returned to the agency making the loan at the end of the loan period, unless the loan is then renewed;

(3) the loan period is of fixed duration not exceeding five years, during which such article may be recalled for any reason by the United States;

(4) the agency making the loan is reimbursed for the loan based on the amount charged to the appropriation for military assistance under subsection (c); and

(5) the loan agreement provides that (A) if the defense article is damaged while on loan, the country or international organization to which it was loaned will reimburse the United States for the cost of restoring or replacing the defense article, and (B) if the defense article is lost or destroyed while on loan, the country or international organization to which it was loaned will pay to the United States an amount equal to the replacement cost (less any depreciation in the value) of the defense article.

(c) Appropriation charges; exceptions

(1) In the case of any loan of a defense article or defense service made under this section, there shall be a charge to the appropriation for military assistance for any fiscal year while the article or service is on loan in an amount based on—

(A) the out-of-pocket expenses authorized to be incurred in connection with such loan during such fiscal year; and

(B) the depreciation which occurs during such year while such article is on loan.

(2) The provisions of this subsection shall not apply—

(A) to any particular defense article or defense service which the United States Government

agreed, prior to December 17, 1973, to lend; and

(B) to any defense article or defense service, or portion thereof, acquired with funds appropriated for military assistance under this chapter.

(Pub. L. 87–195, pt. II, §503, Sept. 4, 1961, 75 Stat. 435; Pub. L. 88–633, §201(a), Oct. 7, 1964, 78 Stat. 1011; Pub. L. 89–171, pt. II, §201(a), Sept. 6, 1965, 79 Stat. 656; Pub. L. 90–137, pt. II, §201(b), Nov. 14, 1967, 81 Stat. 455; Pub. L. 93–189, §12(b)(1), Dec. 17, 1973, 87 Stat. 720; Pub. L. 96–533, title I, §112(a), Dec. 16, 1980, 94 Stat. 3138; Pub. L. 97–113, title I, §§109(c), 110(c), Dec. 29, 1981, 95 Stat. 1526; Pub. L. 99–83, title I, §123(a), Aug. 8, 1985, 99 Stat. 205; Pub. L. 100–461, title V, §586(a), Oct. 1, 1988, 102 Stat. 2268–50.)

REFERENCES IN TEXT

The Arms Export Control Act, referred to in subsec. (a)(3), is Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1320, as amended, which is classified principally to chapter 39 (§2751 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

This chapter, referred to in subsec. (c)(2)(B), was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

CODIFICATION

A guaranty provision, formerly subsec. (e) of this section, was renumbered section 525(a) of Pub. L. 87–195 by Pub. L. 90–137, pt. II, §201(b)(3), Nov. 14, 1967, 81 Stat. 455, and classified to section 2345(a) of this title and repealed by Pub. L. 90–629, ch. 4, §45(a), Oct. 22, 1968, 82 Stat. 1327.

AMENDMENTS

1988—Subsec. (a). Pub. L. 100–461 inserted in last sentence "or from funds made available on a non-repayable basis under section 23 of the Arms Export Control Act" after "under paragraph (3)" and "(other than the Coast Guard)" after "Armed Forces of the United States".

1985—Subsec. (a). Pub. L. 99–83 inserted sentence relating to pricing of sales wholly paid from transferred funds.

1981—Subsec. (a)(3). Pub. L. 97–113, §110(c), substituted "country" for "specified in section 2312(a)(1) of this title, within the dollar limitations of that section".

Subsec. (b)(5). Pub. L. 97–113 substituted provision respecting payment of restoration or replacement costs for defense articles on loan for provision for making such a loan only if arrangements were made with the agency making the loan for reimbursement in the event the article was lost or destroyed while on loan, the reimbursement of which was to be made first out of any funds available to carry out this part and based on the depreciated value of the article at the time of loss or destruction.

1980—Subsec. (a)(3). Pub. L. 96–533 added par. (3).

1973—Pub. L. 93–189 designated existing provisions as subsec. (a), struck out references to making financial contributions to multilateral programs for the acquisition or construction of facilities for collective defense and providing financial assistance for expenses incident to participation by the United States government in regional or collective defense organizations, and added subsecs. (b) and (c).

1967—Subsec. (a). Pub. L. 90–137, §201(b)(1), substituted "or grant" for ", lease, sale, exchange, grant, or any other means".

Subsec. (d). Pub. L. 90–137, §201(b)(2), substituted a period for "; and".

Subsec. (e). Pub. L. 90–137, §201(b)(3), struck out subsec. (e) which related to the guaranty and insuring against political and credit risks in connection with credit sales for defense articles and services procured in the United States. See Codification note above.

1965—Subsec. (b). Pub. L. 89–171 struck out "in foreign countries" after "facilities".

1964—Subsec. (e). Pub. L. 88–633 added subsec. (e).

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100–461, title V, §586(c), Oct. 1, 1988, 102 Stat. 2268–50, provided that: "This section [amending this section] shall be effective on October 1, 1989."

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–83 effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as a note under section 2151–1 of this title.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

REPORTS TO CONGRESSIONAL COMMITTEES

Pub. L. 100–461, title III, Oct. 1, 1988, 102 Stat. 2268–17 provided in part: "That the Committees on Appropriations shall be furnished on March 1 of each year a complete report of the status of military assistance funds appropriated by this or any future Act committed for the payment of any sales under the Arms Export Control Act [22 U.S.C. 2751 et seq.] as regards the individual sale, item description, and estimated sales price."

FINDINGS BY SECRETARY OF STATE

The Secretary of State, in the implementation of the functions delegated to him under section 2314(a)(1), (4), and (e) of this title, was authorized by section 1–701(e)(1) of Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56678, eff. Oct. 1, 1979, set out as a note under section 2381 of this title, to find, in the case of a proposed transfer of a defense article or a related training or a related defense service by a foreign country or international organization to a foreign country or international organization not otherwise eligible under subsec. (a) of this section, whether the proposed transfer would strengthen the security of the United States and promote world peace.

REVIEW OF MILITARY ASSISTANCE PROGRAM; REDUCTION AND ELIMINATION PLAN; SUBMITTAL TO CONGRESS

Pub. L. 93–559, §17, Dec. 30, 1974, 88 Stat. 1800, which set forth provisions respecting review of military assistance program and submittal to Congress of plan for reduction and elimination, was repealed by Pub. L. 95–384, §29(c)(4), Sept. 26, 1978, 92 Stat. 747.

§2312. Authorization of appropriations

(a) Authorization and availability of amounts

(1) There are authorized to be appropriated to the President to carry out the purposes of this part $805,100,000 for fiscal year 1986 and $805,100,000 for fiscal year 1987.

(2) Amounts appropriated under this subsection are authorized to remain available until expended.

(b) Programing and budgeting procedures

In order to make sure that a dollar spent on military assistance to foreign countries is as necessary as a dollar spent for the United States military establishment, the President shall establish procedures for programing and budgeting so that programs of military assistance come into direct competition for financial support with other activities and programs of the Department of Defense.

(Pub. L. 87–195, pt. II, §504, Sept. 4, 1961, 75 Stat. 436; Pub. L. 88–205, pt. II, §202(a), Dec. 16, 1963, 77 Stat. 384; Pub. L. 88–633, pt. II, §201(b), Oct. 7, 1964, 78 Stat. 1011; Pub. L. 89–171, pt. II, §201(b), Sept. 6, 1965, 79 Stat. 656; Pub. L. 89–583, pt. II, §201(a), Sept. 19, 1966, 80 Stat. 802; Pub. L. 90–137, pt. II, §201(c), Nov. 14, 1967, 81 Stat. 455; Pub. L. 90–554, pt. II, §201(a), Oct. 8, 1968, 82 Stat. 962; Pub. L. 91–175, pt. II, §201, Dec. 30, 1969, 83 Stat. 819; Pub. L. 92–226, pt. II, §201(a), Feb. 7, 1972, 86 Stat. 25; Pub. L. 93–189, §12(b)(2), Dec. 17, 1973, 87 Stat. 721; Pub. L. 93–559, §10, Dec. 30, 1974, 88 Stat. 1798; Pub. L. 94–329, title I, §101, June 30, 1976, 90 Stat. 729; Pub. L. 95–23, Apr. 30, 1977, 91 Stat. 54; Pub. L. 95–92, §5(a), Aug. 4, 1977, 91 Stat. 614; Pub. L. 95–384, §7(a), Sept. 26, 1978, 92 Stat. 732; Pub. L. 96–92, §5(a), Oct. 29, 1979, 93 Stat. 702; Pub. L. 96–533, title I, §112(b), Dec. 16, 1980, 94 Stat. 3139; Pub. L. 97–113, title I, §110(a), Dec. 29, 1981, 95 Stat. 1526; Pub. L. 99–83, title I, §103, Aug. 8, 1985, 99 Stat. 195.)

AMENDMENTS

1985—Subsec. (a)(1). Pub. L. 99–83 amended par. (1) generally, substituting provisions authorizing appropriations of $805,100,000 for fiscal years 1986 and 1987, for provisions authorizing appropriations of not to exceed $238,500,000 for fiscal years 1982 and 1983.

1981—Subsec. (a). Pub. L. 97–113 in par. (1) substituted appropriations of $238,500,000 for fiscal years 1982 and 1983 for appropriation of $106,100,000 for fiscal year 1981 and struck out provision limiting assistance in listed amounts to Portugal ($51,000,000), Spain ($3,600,000), Philippines ($25,000,000), and Sudan ($1,700,000) for fiscal year 1981 and authorization of a 10-percent increase in any such amount when deemed necessary by the President, redesignated former par. (4) as (2), struck out former pars. (2), which limited assistance to those countries listed in par. (1), and par. (3), which provided that the authority contained in sections 2360(a) and 2364(a) of this title not be used to increase the amounts specified in par. (1) or the limitations in par. (2).

1980—Subsec. (a)(1). Pub. L. 96–533 substituted appropriations authorization of $106,100,000 for fiscal year 1981 with allocations of specified amounts for certain countries for fiscal year 1981 for such authorization of $110,200,000 for fiscal year 1980 with similar allocations for fiscal year 1980, included an allocation for The Sudan and deleted Jordan from the list.

1979—Subsec. (a)(1). Pub. L. 96–92 substituted appropriations authorization of $110,200,000 for fiscal year 1980 for prior authorization of $133,500,000 for fiscal year 1979, made the allocations available in specified amounts to Portugal, Spain, Jordan and the Philippines, struck out from the listing Greece, and struck out "for the fiscal year 1979" after "any such country" in provision limiting the percentage increment in an allotment to such fiscal year.

1978—Subsec. (a). Pub. L. 95–384 substituted provisions authorizing appropriations of $133,500,000 to the President for fiscal year 1979 to carry out the purposes of this part with specified amounts allocated to Portugal, Spain, Jordan, the Philippines, and Greece for provisions authorizing appropriations of $228,900,000 to the President for fiscal year 1978 to carry out the purposes of this part with specified amounts allocated to Greece, Portugal, Spain, Turkey, Jordan, Indonesia, the Philippines, and Thailand.

1977—Subsec. (a)(1). Pub. L. 95–92 substituted provisions authorizing appropriations for fiscal year 1978 to carry out the purposes of this part with specified amounts allocated to Greece, Portugal, Spain, Turkey, Jordan, Indonesia, Philippines, and Thailand, for provisions authorizing appropriations for fiscal years 1976 and 1977 to carry out the purposes of this part with specified amounts allocated to Greece, Indonesia, Jordan, Republic of Korea, Philippines, Thailand, Turkey, Ethiopia, and Portugal.

Pub. L. 95–23 substituted "$179,550,000" for "$177,300,000" and added Portugal, with a fiscal year 1977 limit of $32,250,000, to the table of countries.

Subsec. (a)(2). Pub. L. 95–92 substituted provisions prohibiting assistance to countries other than the countries specified in par. (1) except with respect to costs incurred under section 2321j(b) of this title or as otherwise required by law, for provisions setting forth limitations on amounts available for fiscal years 1976 and 1977 to carry out the purposes of this part with respect to assistance to international organizations and countries not designated in former par. (1).

Subsec. (a)(3). Pub. L. 95–92 substituted provisions relating to the authority of sections 2360(a) and 2364(a) of this title, for provisions setting forth limitations on the number of countries eligible for assistance under this part in fiscal years 1976 and 1977.

Subsec. (a)(4). Pub. L. 95–92 substituted provisions authorizing availability until expended of amounts appropriated under this subsection, for provisions relating to the authority of sections 2360(a) and 2364(a) of this title to increase appropriated amounts and making inapplicable to emergency assistance under section 2314(a) of this title limitations on appropriated funds under this section.

Subsec. (a)(5) to (8). Pub. L. 95–92 struck out pars. (5) to (8) which provided for appropriations for administrative and related expenses for fiscal years 1976 and 1977, restricted use of funds with respect to sophisticated weapons systems, authorized appropriated amounts to remain available until expended, and required assistance to Turkey under this part to be subject to section 2370(x) of this title, respectively.

1976—Subsec. (a). Pub. L. 94–329 designated existing provisions as par. (1), substituted provisions authorizing appropriations for the purpose of this part of $196,700,000 for fiscal 1976 and $177,300,000 for fiscal 1977, with limitations in expenditures for the specified countries, and authorizing an increase of not more than 10% of the specified amounts if the President finds it necessary for the purpose of this part, for provisions authorizing appropriations not to exceed $600,000,000 for fiscal 1975 with provisos limiting assistance under this part to thirty-one countries except for training in the United States, and prohibiting the furnishing of sophisticated weapons systems to underdeveloped countries unless the President determined that such systems were important to national security, and added pars. (2) to (8).

1974—Subsec. (a). Pub. L. 93–559 substituted "$600,000,000 for the fiscal year 1975" for "$512,500,000 for the fiscal year 1974" and designated existing provision as item (1) and added item (2).

1973—Subsec. (a). Pub. L. 93–189 substituted "$512,500,000 for the fiscal year 1974", for "$500,000,000 for the fiscal year 1972" and "thirty-one countries" for "forty countries".

1972—Subsec. (a). Pub. L. 92–226 substituted "$500,000,000 for the fiscal year 1972" for "$350,000,000 for the fiscal year 1970, and $350,000,000 for the fiscal year 1971".

1969—Subsec. (a). Pub. L. 91–175 substituted "$350,000,000 for the fiscal year 1970, and $350,000,000 for the fiscal year 1971" for "$375,000,000 for the fiscal year 1969," and inserted provisions cost-sharing expenses of United States participation in the military headquarters and related agencies program.

1968—Subsec. (a). Pub. L. 90–554 substituted "1969" and "$375,000,000" for "1968" and "$510,000,000", respectively, struck out provisions which made $24,100,000 of authorization available for fiscal year 1968, for cost-sharing expenses, and which prohibited other available funds from being used for cost-sharing expenses, and prohibited use of appropriated funds for weapons systems expenditures without Presidential determination of importance to national security and report to Congress, respectively.

1967—Subsec. (a). Pub. L. 90–137 substituted provisions authorizing appropriation of $510,000,000 for fiscal year 1968 for provisions authorizing appropriation of $875,000,000 for fiscal year 1967 in addition to such amounts as may be otherwise authorized to support Vietnamese forces and other free world forces in Vietnam, made $24,100,000 of such authorization available for fiscal year 1968 for cost-sharing expenses, and prohibited other available funds from being used for such cost-sharing expenses.

1966—Subsec. (a). Pub. L. 89–583 substituted provisions authorizing appropriation of $875,000,000 for fiscal year 1967 in addition to such amounts as may be otherwise authorized to support Vietnamese forces and other free world forces in Vietnam and limiting assistance to forty countries in any fiscal year for provisions authorizing appropriation of $1,170,000,000 for fiscal year 1966 and prescribing availability of minimum of $200,000,000 for use in Vietnam for fiscal year 1965 unless otherwise determined by the President and so reported to Committees on Foreign Relations and Appropriations of the Senate and to the Speaker of the House.

1965—Pub. L. 89–171 substituted "1966" and "$1,170,000,000" for "1965" and "$1,055,000,000", respectively.

1964—Subsec. (a). Pub. L. 88–633 substituted "1965" and "$1,055,000,000" for "1964" and "$1,000,000,000", respectively, and required not less than $200,000,000 to be available for fiscal year 1965 for use in Vietnam unless the President determined and reported otherwise to Congressional committees.

1963—Subsec. (a). Pub. L. 88–205 substituted "fiscal year 1964" and "$1,000,000,000, which", for "the fiscal years 1962 and 1963" and "$1,700,000,000 for each such fiscal year, which sum", respectively.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–83 effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as a note under section 2151–1 of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§2313. Transferred

CODIFICATION

Section, Pub. L. 87–195, pt. II, §505(a), (b), Sept. 4, 1961, 75 Stat. 436, as amended, was renumbered §§502, 507(c) of Pub. L. 87–195 by Pub. L. 90–137, pt. II, §201(d)(1), (l), Nov. 14, 1967, 81 Stat. 456, 457, and transferred to sections 2302 and 2319 of this title.

§2314. Furnishing of defense articles or related training or other defense service on grant basis

(a) Conditions of eligibility

In addition to such other provisions as the President may require, no defense articles or related training or other defense service shall be furnished to any country on a grant basis unless it shall

have agreed that—

(1) it will not, without the consent of the President—

(A) permit any use of such articles or related training or other defense service by anyone not an officer, employee, or agent of that country,

(B) transfer, or permit any officer, employee, or agent of that country to transfer such articles or related training or other defense service by gift, sale, or otherwise, or

(C) use or permit the use of such articles or related training or other defense service for purposes other than those for which furnished;

(2) it will maintain the security of such articles or related training or other defense service, and will provide substantially the same degree of security protection afforded to such articles or related training or other defense service by the United States Government;

(3) it will, as the President may require, permit continuous observation and review by, and furnish necessary information to, representatives of the United States Government with regard to the use of such articles or related training or other defense service; and

(4) unless the President consents to other disposition, it will return to the United States Government for such use or disposition as the President considers in the best interests of the United States, such articles or related training or other defense service which are no longer needed for the purposes for which furnished.

(b) Limitation on amount; exceptions

No defense articles shall be furnished on a grant basis to any country at a cost in excess of $3,000,000 in any fiscal year unless the President determines—

(1) that such country conforms to the purposes and principles of the Charter of the United Nations;

(2) that such defense articles will be utilized by such country for the maintenance of its own defensive strength, or the defensive strength of the free world;

(3) that such country is taking all reasonable measures, consistent with its political and economic stability, which may be needed to develop its defense capacities; and

(4) that the increased ability of such country to defend itself is important to the security of the United States.

(c) Reduction and termination of grants to countries able to maintain adequate military forces without undue economic strain

The President shall regularly reduce and, with such deliberate speed as orderly procedure and other relevant considerations, including prior commitments, will permit, shall terminate all further grants of military equipment and supplies to any country having sufficient wealth to enable it, in the judgment of the President, to maintain and equip its own military forces at adequate strength, without undue burden to its economy.

(d) Termination of assistance; report of violation by President; conditions for reinstatement

(1) Assistance and deliveries of assistance under this part to any country shall be terminated as hereinafter provided, if such country uses defense articles or defense services furnished under this chapter, the Mutual Security Act of 1954, or any predecessor Foreign Assistance Act, in substantial violation (either in terms of quantities or in terms of the gravity of the consequences regardless of the quantities involved) of any agreement entered into pursuant to any such Act (A) by using such articles or services for a purpose not authorized under section 2302 of this title or, if such agreement provides that such articles or services may only be used for purposes more limited than those authorized under section 2302 of this title, for a purpose not authorized under such agreement; (B) by transferring such articles or services to, or permitting any use of such articles or services by, anyone not an officer, employee, or agent of the recipient country without the consent of the President; or (C) by failing to maintain the security of such articles or services.

(2)(A) Assistance and deliveries of assistance shall be terminated pursuant to paragraph (1) of this subsection if the President so determines and so states in writing to the Congress, or if the Congress

so finds by joint resolution.

(B) The President shall report to the Congress promptly upon the receipt of information that a violation described in paragraph (1) of this subsection may have occurred.

(3) Assistance to a country shall remain terminated in accordance with paragraph (1) of this subsection until such time as—

(A) the President determines that the violation has ceased; and

(B) the country concerned has given assurances satisfactory to the President that such violation will not recur.

(4) The authority contained in section 2364(a) of this title may not be used to waive the provisions of this section with respect to further assistance under this part.

(e) Consent by President to transfer

In considering a request for approval of any transfer of any weapon, weapons system, munitions, aircraft, military boat, military vessel, or other implement of war to another country, the President shall not give his consent under subsection (a)(1) or (a)(4) to the transfer unless the United States itself would transfer the defense article under consideration to that country. In addition, the President shall not give his consent under subsection (a)(1) or (a)(4) to the transfer of any significant defense articles on the United States Munitions List unless the foreign country requesting consent to transfer agrees to demilitarize such defense articles prior to transfer, or the proposed recipient foreign country provides a commitment in writing to the United States Government that it will not transfer such defense articles, if not demilitarized, to any other foreign country or person without first obtaining the consent of the President.

(f) Disposition of defense articles furnished on a grant basis; net proceeds to be paid over to the United States

Effective July 1, 1974, no defense article shall be furnished to any country on a grant basis unless such country shall have agreed that the net proceeds of sale received by such country in disposing of any weapon, weapons system, munition, aircraft, military boat, military vessel, or other implement of war received under this part will be paid to the United States Government and shall be available to pay all official costs of the United States Government payable in the currency of that country, including all costs relating to the financing of international educational and cultural exchange activities in which that country participates under the programs authorized by the Mutual Educational and Cultural Exchange Act of 1961 [22 U.S.C. 2451 et seq.]. In the case of items which were delivered prior to 1985, the President may waive the requirement that such net proceeds be paid to the United States Government if he determines that to do so is in the national interest of the United States.

(g) Discrimination on basis of race, religion, national origin, or sex prohibited

(1) It is the policy of the United States that no assistance under this part should be furnished to any foreign country, the laws, regulations, official policies, or governmental practices of which prevent any United States person (as defined in section 7701(a)(30) of title 26) from participating in the furnishing of defense articles or defense services under this part on the basis of race, religion, national origin, or sex.

(2)(A) No agency performing functions under this part shall, in employing or assigning personnel to participate in the performance of any such function, whether in the United States or abroad, take into account the exclusionary policies or practices of any foreign government where such policies or practices are based upon race, religion, national origin, or sex.

(B) Each contract entered into by any such agency for the performance of any function under this part shall contain a provision to the effect that no person, partnership, corporation, or other entity performing functions pursuant to such contract, shall, in employing or assigning personnel to participate in the performance of any such function, whether in the United States or abroad, take into account the exclusionary policies or practices of any foreign government where such policies or practices are based upon race, religion, national origin, or sex.

(3) The President shall promptly transmit reports to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate concerning any transaction in which any United States person (as defined in section 7701(a)(30) of title 26) is prevented by a foreign government on the basis of race, religion, national origin, or sex, from participating in the furnishing of assistance under this part, or education and training under part V of this subchapter, to any foreign country. Such reports shall include (A) a description of the facts and circumstances of any such discrimination, (B) the response thereto on the part of the United States or any agency or employee thereof, and (C) the result of such response, if any.

(4)(A) Upon the request of the Committee on Foreign Relations of the Senate or the Committee on Foreign Affairs of the House of Representatives, the President shall, within 60 days after receipt of such request, transmit to both such committees a statement, prepared with the assistance of the Assistant Secretary of State for Democracy, Human Rights, and Labor, with respect to the country designated in such request, setting forth—

(i) all the available information about the exclusionary policies or practices of the government of such country when such policies or practices are based upon race, religion, national origin, or sex and prevent any such person from participating in a transaction involving the furnishing of any assistance under this part or any education and training under part V of this subchapter;

(ii) the response of the United States thereto and the results of such response;

(iii) whether, in the opinion of the President, notwithstanding any such policies or practices—

(I) extraordinary circumstances exist which necessitate a continuation of such assistance or education and training transaction, and, if so, a description of such circumstances and the extent to which such assistance or education and training transaction should be continued (subject to such conditions as Congress may impose under this section), and

(II) on all the facts it is in the national interest of the United States to continue such assistance or education and training transaction; and

(iv) such other information as such committee may request.

(B) In the event a statement with respect to an assistance or training transaction is requested pursuant to subparagraph (A) of this paragraph but is not transmitted in accordance therewith within 60 days after receipt of such request, such assistance or training transaction shall be suspended unless and until such statement is transmitted.

(C)(i) In the event a statement with respect to an assistance or training transaction is transmitted under subparagraph (A) of this paragraph, the Congress may at any time thereafter adopt a joint resolution terminating or restricting such assistance or training transaction.

(ii) Any such resolution shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

(iii) The term "certification", as used in section 601 of such Act, means, for the purposes of this paragraph, a statement transmitted under subparagraph (A) of this paragraph.

(Pub. L. 87–195, pt. II, §505, formerly §506, Sept. 4, 1961, 75 Stat. 436; Pub. L. 87–565, pt. II, §201(a), Aug. 1, 1962, 76 Stat. 259; Pub. L. 89–583, pt. II, §201(b), Sept. 19, 1966, 80 Stat. 803; renumbered §505, Pub. L. 90–137, pt. II, §201(e), Nov. 14, 1967, 81 Stat. 456 and amended Pub. L. 92–226, pt. II, §201(b), (c), Feb. 7, 1972, 86 Stat. 25; Pub. L. 93–189, §12(b)(3), Dec. 17, 1973, 87 Stat. 721; Pub. L. 94–329, title II, §§203(b), 204(b)(2), title III, §§302(a), 304(a), June 30, 1976, 90 Stat. 735, 736, 751, 754; Pub. L. 95–105, title I, §109(a)(4), Aug. 17, 1977, 91 Stat. 846; Pub. L. 99–83, title I, §123(b), Aug. 8, 1985, 99 Stat. 205; Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 101–513, title III, Nov. 5, 1990, 104 Stat. 1998; Pub. L. 103–236, title I, §162(e)(2), Apr. 30, 1994, 108 Stat. 405; Pub. L. 103–437, §9(a)(6), Nov. 2, 1994, 108 Stat. 4588.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (d)(1), was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

The Mutual Security Act of 1954, referred to in subsec. (d)(1), is act Aug. 26, 1954, ch. 937, 68 Stat. 832,

as amended by acts July 8, 1955, ch. 301, 69 Stat. 283; July 18, 1956, ch. 627, §§2–11, 70 Stat. 555; Aug. 14, 1957, Pub. L. 85–141, 71 Stat. 355; June 30, 1958, Pub. L. 85–477, ch. 1, §§101–103, ch. II, §§201–205, ch. III, §301, ch. IV, §401, ch. V, §501, 72 Stat. 261; July 24, 1959, Pub. L. 86–108, §2, ch. 1, §101, ch. II, §§201–205(a)–(i), (k)–(n), ch. III, §301, ch. IV, §401(a)–(k), (m), 73 Stat. 246; May 14, 1960, Pub. L. 86–472, ch. I to V, 74 Stat. 134, which was principally classified to chapter 24 (§1750 et seq.) of this title and which was repealed by act July 18, 1956, ch. 627, §8(m), 70 Stat. 559, Pub. L. 85–141, §§2(e) 3, 4(b), 11(d), Aug. 14, 1957, 71 Stat. 356, Pub. L. 86–108, ch. II, §§205(j), ch. IV, 401(1), July 24, 1959, 73 Stat. 250, Pub. L. 86–472, ch. II, §§203(d), 204(k), May 14, 1960, 74 Stat. 138, Pub. L. 87–195, pt. III, §642(a)(2), Sept. 4, 1961, 75 Stat. 460, Pub. L. 94–329, title II, §212(b)(1), June 30, 1976, 90 Stat. 745, Pub. L. 104–127, title II, §228, Apr. 4, 1996, 110 Stat. 963, except for sections 1754, 1783, 1796, 1853, 1928, and 1937 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1754 of this title and Tables.

The Mutual Educational and Cultural Exchange Act of 1961, referred to in subsec. (f), is Pub. L. 87–256, Sept. 21, 1961, 5 Stat. 527, as amended, which is classified principally to chapter 33 (§2451 et. seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2451 of this title and Tables.

Section 601 of the International Security Assistance and Arms Export Control Act of 1976, referred to in subsec. (g)(4)(C)(ii), is section 601 of Pub. L. 94–329, which was not classified to the Code.

AMENDMENTS

1994—Subsec. (g)(4)(A). Pub. L. 103–437 substituted "Foreign Affairs" for "International Relations" in introductory provisions.

Pub. L. 103–236 substituted "Democracy, Human Rights, and Labor" for "Human Rights and Humanitarian Affairs" in introductory provisions.

1990—Subsec. (f). Pub. L. 101–513 substituted "1985" for "1975" in second sentence.

1986—Subsec. (g)(1), (3). Pub. L. 99–514 substituted "Internal Revenue Code of 1986" for "Internal Revenue Code of 1954", which for purposes of codification was translated as "title 26" thus requiring no change in text.

1985—Subsec. (f). Pub. L. 99–83 inserted provisions relating to waiver for items delivered prior to 1975.

1977—Subsec. (g)(4)(A). Pub. L. 95–105 substituted "Assistant Secretary of State" for "Coordinator" in provisions preceding cl. (i).

1976—Subsec. (a). Pub. L. 94–329, §203(b), inserted "or related training or other defense service" after "articles" wherever appearing.

Subsec. (d). Pub. L. 94–329, §304(a), provided that either the President, by so stating in a writing to Congress, or Congress, by joint resolution, terminate assistance upon determining a violation, specified conditions for reinstatement of assistance, and denied the President the power, where a violation has been determined, of granting assistance on the basis of national security.

Subsec. (e). Pub. L. 94–329, §204(b)(2), struck out provisions relating to the President's notification of his consent to transfer war implements to another country, in writing, to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate indicating his justification for the transfer and the particular war implement transferred.

Subsec. (g). Pub. L. 94–329 added subsec. (g).

1973—Subsecs. (e), (f). Pub. L. 93–189 added subsecs. (e) and (f).

1972—Subsec. (b)(2). Pub. L. 92–226, §201(b), substituted "or" for "and".

Subsec. (e). Pub. L. 92–226, §201(c), repealed provisions respecting conditions of eligibility requiring agreements for use of foreign currencies from sale of surplus commodities for common defense including internal security.

1966—Subsec. (e). Pub. L. 89–583 added subsec. (e).

1962—Subsecs. (c), (d). Pub. L. 87–565 added subsecs. (c) and (d).

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–236 applicable with respect to officials, offices, and bureaus of Department of State when executive orders, regulations, or departmental directives implementing the amendments by sections 161 and 162 of Pub. L. 103–236 become effective, or 90 days after Apr. 30, 1994, whichever comes earlier, see section 161(b) of Pub. L. 103–236, as amended, set out as a note under section 2651a of this title.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–83 effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as a note

under section 2151–1 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94–329, title II, §203(b), June 30, 1976, 90 Stat. 735, provided that the amendment made by that section is effective July 1, 1976.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§2314a. Repealed. Pub. L. 93–189, §26(4), Dec. 17, 1973, 87 Stat. 731

Section, Pub. L. 91–672, §9, Jan. 12, 1971, 84 Stat. 2055, related to transfer of defense articles to other countries under sections 2314(a)(1), (4) and 2753(a)(2) of this title and prerequisites for consent of President to transfer.

§§2315 to 2317. Transferred

CODIFICATION

Section 2315, Pub. L. 87–195, pt. II, §507, Sept. 4, 1961, 75 Stat. 437, as amended, which related to sale of defense articles and services, manner of payment, price of non-excess defense articles, value of excess defense articles, contracts for procurement, undertakings, and fixed-price sales agreements, was renumbered §§522, 523 of Pub. L. 87–195 by Pub. L. 90–137, pt. II, §201(f), (g), Nov. 14, 1967, 81 Stat. 456, and transferred to sections 2342 and 2343 of this title, respectively, which sections were subsequently repealed.

Section 2316, Pub. L. 87–195, pt. II, §508, Sept. 4, 1961, 75 Stat. 437, as amended, which related to reimbursements and transfers to separate fund account, was renumbered §524 of Pub. L. 87–195 by Pub. L. 90–137, pt. II, §201(h), Nov. 14, 1967, 81 Stat. 456, and transferred to section 2344 of this title.

Section 2317(a), Pub. L. 87–195, pt. II, §509(a), Sept. 4, 1961, 75 Stat. 437; Pub. L. 88–633, pt. II, §201(d), Oct. 7, 1964, 78 Stat. 1011, related to exchanges, and was repealed by Pub. L. 90–137, pt. II, §201(i)(1), Nov. 14, 1967, 81 Stat. 457.

Section 2317(b), Pub. L. 87–195, pt. II, §509(b), as added Pub. L. 88–633, pt. II, §201(d), Oct. 7, 1964, 78 Stat. 1011, which related to guaranties, was renumbered §525(b) of Pub. L. 87–195 by Pub. L. 90–137, pt. II, §201(i)(2), Nov. 14, 1967, 81 Stat. 457, transferred to section 2345(b) of this title, and subsequently repealed.

§2318. Special authority

(a) Unforeseen emergency; national interest; determinations and reports to Congress; limitation of defense articles, defense services, and military education and training furnished

(1) If the President determines and reports to the Congress in accordance with section 2411 of this title that—

(A) an unforeseen emergency exists which requires immediate military assistance to a foreign country or international organization; and

(B) the emergency requirement cannot be met under the authority of the Arms Export Control Act [22 U.S.C. 2751 et seq.] or any other law except this section;

he may direct, for the purposes of subchapter II of this chapter, the drawdown of defense articles from the stocks of the Department of Defense, defense services of the Department of Defense, and military education and training, of an aggregate value of not to exceed $100,000,000 in any fiscal year.

(2)(A) If the President determines and reports to the Congress in accordance with section 2411 of this title that it is in the national interest of the United States to draw down articles and services from

the inventory and resources of any agency of the United States Government and military education and training from the Department of Defense, the President may direct the drawdown of such articles, services, and military education and training—

(i) for the purposes and under the authorities of—

(I) part VIII of subchapter I of this chapter (relating to international narcotics control assistance);

(II) part IX of subchapter I of this chapter (relating to international disaster assistance);

(III) part VIII of subchapter II of this chapter (relating to antiterrorism assistance);

(IV) part IX of subchapter II of this chapter (relating to nonproliferation assistance); or

(V) the Migration and Refugee Assistance Act of 1962 [22 U.S.C. 2601 et seq.]; or

(ii) for the purpose of providing such articles, services, and military education and training to Vietnam, Cambodia, and Laos as the President determines are necessary—

(I) to support cooperative efforts to locate and repatriate members of the United States Armed Forces and civilians employed directly or indirectly by the United States Government who remain unaccounted for from the Vietnam War; and

(II) to ensure the safety of United States Government personnel engaged in such cooperative efforts and to support Department of Defense-sponsored humanitarian projects associated with such efforts.

(B) An aggregate value of not to exceed $200,000,000 in any fiscal year of such articles, services, and military education and training may be provided pursuant to subparagraph (A) of this paragraph—

(i) not more than $75,000,000 of which may be provided from the drawdown from the inventory and resources of the Department of Defense;

(ii) not more than $75,000,000 of which may be provided pursuant to clause (i)(I) of such subparagraph; and

(iii) not more than $15,000,000 of which may be provided to Vietnam, Cambodia, and Laos pursuant to clause (ii) of such subparagraph.

(b) Notification and information to Congress of assistance furnished

(1) The authority contained in this section shall be effective for any such emergency only upon prior notification to the Committee on Foreign Affairs of the House of Representatives, the Committee on Foreign Relations of the Senate, and the Committee on Appropriations of each House of Congress. In the case of drawdowns authorized by subclauses (I) and (III) of subsection (a)(2)(A)(i), notifications shall be provided to those committees at least 15 days in advance of the drawdowns in accordance with the procedures applicable to reprogramming notifications under section 2394–1 of this title.

(2) The President shall keep the Congress fully and currently informed of all defense articles, defense services, and military education and training provided under this section, including providing the Congress with a report detailing all defense articles, defense services, and military education and training delivered to the recipient country or international organization upon delivery of such articles or upon completion of such services or education and training. Such report shall also include whether any savings were realized by utilizing commercial transport services rather than acquiring those services from United States Government transport assets.

(c) Commercial transportation and related services

For the purposes of any provision of law that authorizes the drawdown of defense or other articles or commodities, or defense or other services from an agency of the United States Government, such drawdown may include the supply of commercial transportation and related services that are acquired by contract for the purposes of the drawdown in question if the cost to acquire such commercial transportation and related services is less than the cost to the United States Government of providing such services from existing agency assets.

(d) Authorization of appropriations for reimbursement of applicable funds

There are authorized to be appropriated to the President such sums as may be necessary to reimburse the applicable appropriation, fund, or account for defense articles, defense services, and military education and training provided under this section.

(Pub. L. 87–195, pt. II, §506, formerly §510, Sept. 4, 1961, 75 Stat. 437; Pub. L. 87–565, pt. II, §201(d), Aug. 1, 1962, 76 Stat. 260; Pub. L. 88–205, pt. II, §202(c), Dec. 16, 1963, 77 Stat. 384; Pub. L. 88–633, pt. II, §201(e), Oct. 7, 1964, 78 Stat. 1012; Pub. L. 89–171, pt. II, §201(g), Sept. 6, 1965, 79 Stat. 658; Pub. L. 89–583, pt. II, §201(d), Sept. 19, 1966, 80 Stat. 803; renumbered §506 and amended Pub. L. 90–137, pt. II, §201(j), Nov. 14, 1967, 81 Stat. 457; Pub. L. 90–554, pt. II, §201(b), Oct. 8, 1968, 82 Stat. 962; Pub. L. 91–175, pt. II, §202, Dec. 30, 1969, 83 Stat. 820; Pub. L. 92–226, pt. II, §201(d), pt. III, §304(a)(2), Feb. 7, 1972, 86 Stat. 25, 28; Pub. L. 93–189, §12(b)(4), Dec. 17, 1973, 87 Stat. 721; Pub. L. 93–559, §11, Dec. 30, 1974, 88 Stat. 1798; Pub. L. 94–329, title I, §102, June 30, 1976, 90 Stat. 730; Pub. L. 96–92, §5(b), Oct. 29, 1979, 93 Stat. 702; Pub. L. 96–533, title I, §112(c), Dec. 16, 1980, 94 Stat. 3139; Pub. L. 97–113, title I, §110(b), Dec. 29, 1981, 95 Stat. 1526; Pub. L. 101–167, title V, §551(b), Nov. 21, 1989, 103 Stat. 1236; Pub. L. 104–164, title I, §103(a), (b), July 21, 1996, 110 Stat. 1423; Pub. L. 105–118, title V, §576, Nov. 26, 1997, 111 Stat. 2433; Pub. L. 106–280, title I, §121, Oct. 6, 2000, 114 Stat. 850.)

REFERENCES IN TEXT

The Arms Export Control Act, referred to in subsec. (a)(1)(B), is Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1320, as amended, which is classified principally to chapter 39 (§2751 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

The Migration and Refugee Assistance Act of 1962, referred to in subsec. (a)(2)(A)(i)(V), is Pub. L. 87–510, June 28, 1962, 76 Stat. 121, as amended, which is classified principally to chapter 36 (§2601 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2601 of this title and Tables.

REFERENCES TO SUBCHAPTER II DEEMED TO EXCLUDE CERTAIN PARTS OF SUBCHAPTER II

References to subchapter II of this chapter are deemed to exclude parts IV (§2346 et seq.), VI (§2348 et seq.), and VIII (§2349aa et seq.) of subchapter II, and references to subchapter I of this chapter are deemed to include such parts. See section 202(b) of Pub. L. 92–226, set out as a note under section 2346 of this title, and sections 2348c and 2349aa–5 of this title.

AMENDMENTS

2000—Subsec. (a)(2)(A)(i)(III) to (V). Pub. L. 106–280, §121(b), added subcls. (III) to (V) and struck out former subcl. (III) which read as follows: "the Migration and Refugee Assistance Act of 1962; or".

Subsec. (a)(2)(B). Pub. L. 106–280, §121(a), substituted "$200,000,000" for "$150,000,000" in introductory provisions.

1997—Subsec. (b)(2). Pub. L. 105–118, §576(1), inserted before period at end ", including providing the Congress with a report detailing all defense articles, defense services, and military education and training delivered to the recipient country or international organization upon delivery of such articles or upon completion of such services or education and training. Such report shall also include whether any savings were realized by utilizing commercial transport services rather than acquiring those services from United States Government transport assets".

Subsecs. (c), (d). Pub. L. 105–118, §576(2), (3), added subsec. (c) and redesignated former subsec. (c) as (d).

1996—Subsec. (a)(1). Pub. L. 104–164, §103(a), substituted "$100,000,000" for "$75,000,000" in concluding provisions.

Subsec. (a)(2)(A). Pub. L. 104–164, §103(b)(1), substituted "articles and services from the inventory and resources of any agency of the United States Government and military education and training from the Department of Defense, the President may direct the drawdown of such articles, services, and military education and training—" and cls. (i) and (ii) for "defense articles from the stocks of the Department of Defense, defense services of the Department of Defense, and military education and training, he may direct—

"(i) the drawdown of such articles, services, and the provision of such training for the purposes and under the authorities of parts VIII and IX of subchapter I of this chapter, as the case may be; and

"(ii) the drawdown of defense services for the purposes and under the authorities of the Migration and Refugee Assistance Act of 1962."

Subsec. (a)(2)(B). Pub. L. 104–164, §103(b)(2), substituted "$150,000,000 in any fiscal year of such articles, services, and military education and training may be provided pursuant to subparagraph (A) of this paragraph—" and cls. (i) to (iii) for "$75,000,000 in any fiscal year of defense articles, defense services, and military education and training may be provided pursuant to subparagraph (A) of this paragraph."

Subsec. (b)(1). Pub. L. 104–164, §103(b)(3), inserted at end "In the case of drawdowns authorized by subclauses (I) and (III) of subsection (a)(2)(A)(i), notifications shall be provided to those committees at least 15 days in advance of the drawdowns in accordance with the procedures applicable to reprogramming notifications under section 2394–1 of this title."

1989—Subsec. (a). Pub. L. 101–167 designated existing provisions as par. (1), redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, and added par. (2).

1981—Subsec. (a). Pub. L. 97–113 increased fiscal year limitation to $75,000,000 from $50,000,000 on aggregate value of assistance furnished.

1980—Subsec. (a). Pub. L. 96–533 increased to $50,000,000 from $10,000,000 fiscal year limitation on aggregate value of assistance furnished.

1979—Subsec. (a). Pub. L. 96–92 authorized military education and training assistance, substituted $10,000,000 fiscal year limitation on aggregate value of assistance furnished for $67,500,000 fiscal year limitation on total value of defense articles and defense services ordered, and eliminated requirement for determination that failure to respond immediately to the emergency would result in serious harm to vital United States security interests, deleted provision authorizing reimbursement from subsequent appropriations which is covered in subsec. (c), provision for effectiveness of authority only as provided in an appropriation Act, and requirement of information to Congress which is covered in subsec. (b)(2).

Subsec. (b). Pub. L. 96–92 required notification of Congressional Committees, reenacted former subsec. (a) provision for information to Congress respecting assistance furnished, included military education and training, and deleted authorization of Defense Department, in applicable appropriations, to incur obligations in anticipation of reimbursements, and authorization of appropriations for reimbursement purposes.

Subsec. (c). Pub. L. 96–92 incorporated reimbursement provision of former subsec. (b) and expanded section to include military education and training.

1976—Subsec. (a). Pub. L. 94–329 redesignated existing provisions as pars. (1) to (3), limited the President's authority to act by inserting requirements that he act only in cases of unforeseen emergencies requiring immediate military assistance to a foreign country or international organization where vital United States security interests are concerned when such emergency requirement cannot be met under authority of the Arms Export Control Act or any other law, reduced the President's authority from $150 million to $67.5 million in any fiscal year, and required current reporting to Congress on the use of such authority.

1974—Subsec. (a). Pub. L. 93–559 substituted "fiscal year 1975" for "fiscal year 1974" wherever appearing and "$150,000,000" for "$250,000,000".

1973—Subsec. (a). Pub. L. 93–189 substituted "the fiscal year 1974", "in the security interests", and "$250,000,000" for "the fiscal year 1972", "vital to the security", and "$300,000,000", respectively.

1972—Subsec. (a). Pub. L. 92–226 substituted "1972" for "1970 and the fiscal year 1971" and "the fiscal year 1972" for "each of the fiscal years 1970 and 1971", and repealed last sentence providing for prompt notice of action taken to Committees on Foreign Relations, Appropriations, and Armed Services of the Senate and Speaker of the House.

1969—Subsec. (a). Pub. L. 91–175 substituted "1970 and the fiscal year 1971" for "1969" in first sentence, and substituted "in each of the fiscal years 1970 and 1971" for "in the fiscal year 1969" in second sentence.

1968—Subsec. (a). Pub. L. 90–554 substituted "1969" for "1968" wherever appearing.

1967—Subsec. (a). Pub. L. 90–137 substituted "1968" for "1967" wherever appearing.

1966—Subsec. (a). Pub. L. 89–583 substituted "1967" for "1966" wherever appearing.

1965—Subsec. (a). Pub. L. 89–171 substituted "1966" for "1965" wherever appearing.

1964—Subsec. (a). Pub. L. 88–633 substituted "1965" for "1964" wherever appearing.

1963—Subsec. (a). Pub. L. 88–205 substituted "1964" for "1963" wherever appearing.

1962—Subsec. (a). Pub. L. 87–565 substituted "1963" for "1962" wherever appearing.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§§2319 to 2321. Repealed. Pub. L. 93–189, §12(b)(5), Dec. 17, 1973, 87 Stat. 722

Section 2319, Pub. L. 87–195, pt. II, §507, formerly §§505(b), 511, Sept. 4, 1961, 75 Stat. 436, 438; amended Pub. L. 88–205, pt. II, §202(d), Dec. 16, 1963, 77 Stat. 384; Pub. L. 89–171, pt. II, §201(c), (h), Sept. 6, 1965, 79 Stat. 656, 658; renumbered §507 and amended Pub. L. 90–137, pt. II §201(k), (l), Nov. 14, 1967, 81 Stat. 457; Pub. L. 90–554, pt. II, §201(c), Oct. 8, 1968, 82 Stat. 963; Pub. L. 92–226, pt. II, §201(e), Feb. 7, 1972, 86 Stat. 25, placed certain restrictions on military aid to Latin America.

Section 2320, Pub. L. 87–195, pt. II, §508, formerly §512, as added Pub. L. 88–205, pt. II, §202(e), Dec. 16, 1963, 77 Stat. 384; amended Pub. L. 86–633, pt. II, §201(f), Oct. 7, 1964, 78 Stat. 1012; Pub. L. 89–171, pt. II, §201(i), Sept. 6, 1965, 79 Stat. 658; Pub. L. 89–583, pt. II, §201(e), Sept. 19, 1966, 80 Stat. 803; renumbered §508 and amended Pub. L. 90–137, pt. II, §201(m), Nov. 14, 1967, 81 Stat. 457; Pub. L. 90–554, pt. II, §201(d), Oct. 8, 1968, 82 Stat. 963, placed certain restrictions on military aid to African countries.

Section 2321, Pub. L. 87–195, pt. II, §509, formerly §513, as added Pub. L. 88–633, pt. II, §201(g), Oct. 7, 1964, 78 Stat. 1012; renumbered §509 and amended Pub. L. 90–137, pt. II, §201(n), Nov. 14, 1967, 81 Stat. 457, provided for the giving of certification of recipients' capabilities to utilize defense articles effectively and for the making of a report to the Speaker of the House and the Senate's Foreign Relations and Appropriations Committees whenever articles are furnished without such certification.

§2321a. Repealed. Pub. L. 94–329, title I, §106(b)(1), June 30, 1976, 90 Stat. 733

Section, Pub. L. 87–195, pt. II, §510, as added Pub. L. 91–175, pt. II, §203, Dec. 30, 1969, 83 Stat. 820, limited the number of foreign military students to be trained in the United States out of funds appropriated under this subchapter, to not more than the number of foreign civilians brought to the United States under the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2451 et seq.) in the immediately preceding year.

SAVINGS PROVISION

Pub. L. 94–329, title I, §106(c), June 30, 1976, 90 Stat. 734, provided that: "Except as may be expressly provided to the contrary in this Act [see Short Title of 1976 Amendment note under section 2151 of this title], all determinations, authorizations, regulations, orders, contracts, agreements, and other actions issued, undertaken, or entered into under authority of any provision of law amended or repealed by this section [repealing this section and amending sections 2382, 2383, 2392, 2396, and 2403 of this title] shall continue in full force and effect until modified, revoked, or superseded by appropriate authority."

§2321b. Excess defense article

(a) to (c) Repealed. Pub. L. 94–329, title II, §210(c)(2), June 30, 1976, 90 Stat. 740

(d) Reports to Congress

The President shall promptly and fully inform the Speaker of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate of each decision to furnish on a grant basis to any country excess defense articles which are major weapons systems to the extent such major weapons system was not included in the presentation material previously submitted to the Congress. The annual presentation materials for security assistance programs shall include a table listing by country the total value of all deliveries of excess defense articles, disclosing both the aggregate original acquisition cost and the aggregate value at the time of delivery.

(Pub. L. 91–672, §8, Jan. 12, 1971, 84 Stat. 2054; Pub. L. 92–226, pt. IV, §402, Feb. 7, 1972, 86 Stat. 33; Pub. L. 93–189, §26(1)–(3), Dec. 17, 1973, 87 Stat. 731; Pub. L. 93–559, §13, Dec. 30, 1974, 88 Stat. 1799; Pub. L. 94–329, title II, §210(c)(2), June 30, 1976, 90 Stat. 740; Pub. L. 95–384, §29(a), Sept. 26, 1978, 92 Stat. 747.)

CODIFICATION

Section was not enacted as part of the Foreign Assistance Act of 1961 which comprises this chapter.

AMENDMENTS

1978—Subsec. (d). Pub. L. 95–384 substituted "The annual presentation materials for security assistance programs shall include a table" for "Additionally, the President shall also submit a quarterly report to the

Congress".

1976—Subsec. (a). Pub. L. 94–329 struck out subsec. (a) which provided that the value of excess defense article granted to a foreign country or international organization shall be considered to be an expenditure from the funds of this chapter for military assistance, and established accounting procedure when an order for excess defense article was placed.

Subsec. (b). Pub. L. 94–329 struck out subsec. (b) which provided that in the case of excess defense articles that were generated abroad, provisions of former subsec. (a) shall apply during any fiscal year only to the extent that the aggregate value of excess defense articles ordered during that year exceeded $100,000,000.

Subsec. (c). Pub. L. 94–329 struck out subsec. (c) which defined "value" as that meaning found in section 2403m of this title, except the term shall not include a value for any excess defense article which was less than 331/3 percent of the amount the United States paid for such article when it was acquired.

Subsec. (e). Pub. L. 94–329 struck out subsec. (e) which provided that except for excess defense articles granted under this subchapter, the provisions of this section did not apply to grants of such articles to South Vietnam prior to July 1, 1972.

1974—Subsec. (b). Pub. L. 93–559, §13(a)(1), substituted "$100,000,000" for "$150,000,000".

Subsec. (c). Pub. L. 93–559, §13(a)(2), inserted exception provision respecting definitions of value for excess defense articles.

1973—Subsec. (a). Pub. L. 93–189, §26(1), inserted provision preceding cl. (1) relating to the subtraction of amounts to be transferred under section 2392(d) of this title.

Subsec. (b). Pub. L. 93–189, §26(2), substituted "In the case of excess defense articles which are generated abroad, the provisions", for "The provisions" and "$150,000,000" for "$185,000,000".

Subsec. (c). Pub. L. 93–189, §26(3), substituted provisions defining "value" as that meaning given it in section 2403(m) of this title, for provisions defining such term as not less than 331/3 per centum of the amount the United States paid at the time the excess defense articles were acquired by the United States.

1972—Subsec. (a). Pub. L. 92–226, §402(1), substituted in first sentence "by any department, agency, or independent establishment of the United States Government (other than the Agency for International Development)" for "subchapter II of this chapter" and "the Foreign Assistance Act of 1961" for "that Act", codified in the text as "this chapter" and in second sentence "Unless such department, agency, or establishment certifies to the Comptroller General of the United States that the excess defense article it is ordering is not to be transferred by any means to a foreign country or international organization, when an order is placed for a defense article" for "When an order is placed under the military assistance program with the military departments for a defense article".

Subsec. (b). Pub. L. 92–226, §402(2), substituted "$185,000,000" for "$100,000,000".

Subsec. (e). Pub. L. 92–226, §402(3), added subsec. (e).

EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94–329, title II, §210(c)(2), June 30, 1976, 90 Stat. 740, provided in part that the amendment of subsecs. (a) to (c) and (e) by Pub. L. 94–329 is effective July 1, 1976.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

TRANSFER OF SUSPENSE ACCOUNT FUNDS TO GENERAL FUND OF TREASURY

Pub. L. 94–329, title II, §210(c)(2), June 30, 1976, 90 Stat. 740, provided in part that all funds in the suspense account referred to in former subsec. (a) of this section on July 1, 1976, shall be transferred to the general fund of the Treasury.

§2321c. Definitions

For purposes of sections 2321b and 2314a [1] of this title—

(1) "defense article" and "excess defense articles" have the same meanings as given them in subsections (d) and (g), respectively, of section 2403 of this title; and

(2) "foreign country" includes any department, agency, or independent establishment of the foreign country.

(Pub. L. 91–672, §11, Jan. 12, 1971, 84 Stat. 2055.)

REFERENCES IN TEXT

Section 2314a, referred to in text, was repealed by Pub. L. 93–189, §26(4), Dec. 17, 1973, 87 Stat. 731.

CODIFICATION

Section was not enacted as part of the Foreign Assistance Act of 1961 which comprises this chapter.

[1] *See References in Text note below.*

§2321d. Considerations in furnishing military assistance

Decisions to furnish military assistance made under subchapter II of this chapter shall take into account whether such assistance will—

(1) contribute to an arms race;

(2) increase the possibility of outbreak or escalation of conflict; or

(3) prejudice the development of bilateral or multilateral arms control arrangements.

(Pub. L. 87–195, pt. II, §511, as added Pub. L. 92–226, pt. II, §201(f), Feb. 7, 1972, 86 Stat. 25; amended Pub. L. 94–141, title I, §150(c), Nov. 29, 1975, 89 Stat. 760; Pub. L. 105–277, div. G, subdiv. A, title XII, §1225(b), Oct. 21, 1998, 112 Stat. 2681–773.)

REFERENCES TO SUBCHAPTER II DEEMED TO EXCLUDE CERTAIN PARTS OF SUBCHAPTER II

References to subchapter II of this chapter are deemed to exclude parts IV (§2346 et seq.), VI (§2348 et seq.), and VIII (§2349aa et seq.) of subchapter II, and references to subchapter I of this chapter are deemed to include such parts. See section 202(b) of Pub. L. 92–226, set out as a note under section 2346 of this title, and sections 2348c and 2349aa–5 of this title.

AMENDMENTS

1998—Pub. L. 105–277 substituted "take into account" for "be made in coordination with the Director of the United States Arms Control and Disarmament Agency and shall take into account his opinion as to" in introductory provisions.

1975—Pub. L. 94–141 substituted "be made in coordination with the Director of the United States Arms Control and Disarmament Agency and shall take into account his opinion as to" for "take into account".

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective Apr. 1, 1999, see section 1201 of Pub. L. 105–277, set out as an Effective Date note under section 6511 of this title.

§2321e. Repealed. Pub. L. 93–189, §12(b)(5), Dec. 17, 1973, 87 Stat. 722

Section, Pub. L. 87–195, pt. II, §512, as added Pub. L. 92–226, pt. II, §201(f), Feb. 7, 1972, 86 Stat. 25, provided for the diminution and consolidation of military assistance advisory groups and missions in foreign countries.

§2321f. Repealed. Pub. L. 97–113, title VII, §734(a)(1), Dec. 29, 1981, 95 Stat. 1560

Section, Pub. L. 87–195, pt. II, §513, as added Pub. L. 92–226, pt. II, §201(f), Feb. 7, 1972, 86 Stat. 25; amended Pub. L. 93–189, §12(b)(6), Dec. 17, 1973, 87 Stat. 722; Pub. L. 93–559, §12, Dec. 30, 1974, 88 Stat. 1798, prohibited military assistance to Thailand, Laos, and South Vietnam after June 30, 1972, 1974, and 1976, respectively, without prior authorization.

§2321g. Repealed. Pub. L. 93–189, §12(b)(5), Dec. 17, 1973, 87 Stat. 722

Section, Pub. L. 87–195, pt. II, §514, as added Pub. L. 92–226, pt. II, §201(f), Feb. 7, 1972, 86 Stat. 26, covered special foreign country accounts, the deposit of currencies, use of special accounts for payments of certain costs, Presidential waiver authority, the nonapplicability of provisions for special accounts, and the limitations on the amount of deposits.

SPECIAL FOREIGN COUNTRY ACCOUNTS

Section 1–501(b) of Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56675, eff. Oct. 1, 1979, set out as a note under section 2381 of this title, authorized the Secretary of the Treasury to continue to administer any open special foreign country accounts established pursuant to this section prior to its repeal by Pub. L. 93–189.

§2321h. Stockpiling of defense articles for foreign countries

(a) Transfer of defense articles

No defense article in the inventory of the Department of Defense which is set aside, reserved, or in any way earmarked or intended for future use by any foreign country may be made available to or for use by any foreign country unless such transfer is authorized under this chapter or the Arms Export Control Act [22 U.S.C. 2751 et seq.] or any subsequent corresponding legislation, and the value of such transfer is charged against funds authorized under such legislation or against the limitations specified in such legislation, as appropriate, for the fiscal period in which such defense article is transferred. For purposes of this subsection, "value" means the acquisition cost plus crating, packing, handling, and transportation costs incurred in carrying out this section.

(b) Fiscal year limits on new stockpiles or additions to existing stockpiles located in foreign countries

(1) The value of defense articles to be set aside, earmarked, reserved, or intended for use as war reserve stocks for allied or other foreign countries (other than for purposes of the North Atlantic Treaty Organization or in the implementation of agreements with Israel) in stockpiles located in foreign countries may not exceed in any fiscal year an amount that is specified in security assistance authorizing legislation for that fiscal year.

(2)(A) The value of such additions to stockpiles of defense articles in foreign countries shall not exceed $200,000,000 for each of fiscal years 2013, 2014, 2015, 2016, and 2017.

(B) Of the amount specified in subparagraph (A) for a fiscal year, not more than $200,000,000 may be made available for stockpiles in the State of Israel.

(c) Location of stockpiles of defense articles

(1) Limitation

Except as provided in paragraph (2), no stockpile of defense articles may be located outside the boundaries of a United States military base or a military base used primarily by the United States.

(2) Exceptions

Paragraph (1) shall not apply with respect to stockpiles of defense articles located in the Republic of Korea, Thailand, any country that is a member of the North Atlantic Treaty Organization, any country that is a major non-NATO ally, or any other country the President may designate. At least 15 days before designating a country pursuant to the last clause of the preceding sentence, the President shall notify the congressional committees specified in section 2394–1(a) of this title in accordance with the procedures applicable to reprogramming notifications under that section.

(d) Transferred articles not to be considered excess articles in determining value

No defense article transferred from any stockpile which is made available to or for use by any foreign country may be considered an excess defense article for the purpose of determining the value thereof.

(Pub. L. 87–195, pt. II, §514, as added Pub. L. 93–559, §15, Dec. 30, 1974, 88 Stat. 1799; amended Pub. L. 94–329, title I, §103, June 30, 1976, 90 Stat. 730; Pub. L. 95–92, §6, Aug. 4, 1977, 91 Stat.

615; Pub. L. 95–384, §8, Sept. 26, 1978, 92 Stat. 732; Pub. L. 96–92, §6(a), Oct. 29, 1979, 93 Stat. 703; Pub. L. 96–533, title I, §113, Dec. 16, 1980, 94 Stat. 3139; Pub. L. 97–113, title I, §111, Dec. 29, 1981, 95 Stat. 1527; Pub. L. 98–473, title I, §101(1) [title V, §541(a)], Oct. 12, 1984, 98 Stat. 1884, 1903; Pub. L. 99–83, title I, §124, Aug. 8, 1985, 99 Stat. 205; Pub. L. 100–202, §101(e) [title III, §301], Dec. 22, 1987, 101 Stat. 1329–131, 1329–147; Pub. L. 100–461, title V, §555, Oct. 1, 1988, 102 Stat. 2268–36; Pub. L. 101–167, title V, §587(b), Nov. 21, 1989, 103 Stat. 1253; Pub. L. 101–510, div. A, title XIII, §1303(b), Nov. 5, 1990, 104 Stat. 1669; Pub. L. 101–513, title V, §573, Nov. 5, 1990, 104 Stat. 2042; Pub. L. 102–391, title V, §569, Oct. 6, 1992, 106 Stat. 1681; Pub. L. 103–87, title V, §535, Sept. 30, 1993, 107 Stat. 955; Pub. L. 103–306, title V, §535, Aug. 23, 1994, 108 Stat. 1637; Pub. L. 104–107, title V, §531B, Feb. 12, 1996, 110 Stat. 732; Pub. L. 105–118, title V, §575, Nov. 26, 1997, 111 Stat. 2433; Pub. L. 105–277, div. A, §101(d) [title V, §571], Oct. 21, 1998, 112 Stat. 2681–150, 2681–198; Pub. L. 106–113, div. B, §§1000(a)(2) [title V, §584], 1000(a)(7) [div. B, title XII, §1231], Nov. 29, 1999, 113 Stat. 1535, 1536, 1501A–117, 1501A–499; Pub. L. 106–280, title I, §111, Oct. 6, 2000, 114 Stat. 849; Pub. L. 107–228, div. B, title XII, §1261, Sept. 30, 2002, 116 Stat. 1434; Pub. L. 108–287, title X, §12002, Aug. 5, 2004, 118 Stat. 1011; Pub. L. 109–472, §13(a)(2), Jan. 11, 2007, 120 Stat. 3559; Pub. L. 111–266, title III, §302(b), Oct. 8, 2010, 124 Stat. 2804; Pub. L. 112–150, §5(a)(2), July 27, 2012, 126 Stat. 1148; Pub. L. 113–296, §5(b), Dec. 19, 2014, 128 Stat. 4076; Pub. L. 114–113, div. K, title VII, §7034(k)(11)(B), Dec. 18, 2015, 129 Stat. 2765.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

The Arms Export Control Act, referred to in subsec. (a), is Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1320, as amended, which is classified principally to chapter 39 (§2751 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

CODIFICATION

Amendment by Pub. L. 98–473 is based on section 116(a) of H.R. 5119, Ninety-eighth Congress, as passed by the House of Representatives May 10, 1984, which was enacted into permanent law by Pub. L. 98–473.

AMENDMENTS

2015—Subsec. (b)(2)(A). Pub. L. 114–113 substituted "2015, 2016, and 2017" for "and 2015".

2014—Subsec. (b)(2)(A). Pub. L. 113–296 substituted ", 2014, and 2015" for "and 2014".

2012—Subsec. (b)(2)(A). Pub. L. 112–150 substituted "fiscal years 2013 and 2014" for "fiscal years 2011 and 2012".

2010—Subsec. (b)(2)(A). Pub. L. 111–266 substituted "fiscal years 2011 and 2012" for "fiscal years 2007 and 2008".

2007—Subsec. (b)(2)(A). Pub. L. 109–472, §13(a)(2)(A), substituted "$200,000,000" for "$100,000,000" and "2007 and 2008" for "2004 and 2005".

Subsec. (b)(2)(B). Pub. L. 109–472, §13(a)(2)(B), substituted "$200,000,000" for "$100,000,000".

2004—Subsec. (b)(2)(A). Pub. L. 108–287, §12002(1), substituted "for each of fiscal years 2004 and 2005" for "for fiscal year 2003".

Subsec. (b)(2)(B). Pub. L. 108–287, §12002(2), substituted "for a fiscal year" for "for fiscal year 2003".

2002—Subsec. (b)(2). Pub. L. 107–228 amended par. (2) generally. Prior to amendment, par. (2) read as follows:

"(2)(A) The value of such additions to stockpiles of defense articles in foreign countries shall not exceed $50,000,000 for fiscal year 2001.

"(B) Of the amount specified in subparagraph (A), not more than $50,000,000 may be made available for stockpiles in the Republic of Korea."

2000—Subsec. (b)(2). Pub. L. 106–280 amended par. (2) generally. Prior to amendment, par. (2) read as follows:

"(2)(A) The value of such additions to stockpiles of defense articles in foreign countries shall not exceed $60,000,000 for fiscal year 2000.

"(B) Of the amount specified in subparagraph (A), not more than $40,000,000 may be made available for stockpiles in the Republic of Korea and not more than $20,000,000 may be made available for stockpiles in

Thailand."

1999—Subsec. (b)(2). Pub. L. 106–113, §1000(a)(7) [title XII, §1231], amended par. (2) generally. Prior to amendment, par. (2) read as follows:

"(A) The value of such additions to stockpiles of defense articles in foreign countries shall not exceed $340,000,000 for fiscal year 1999 and $60,000,000 for fiscal year 2000.

"(B) Of the amount specified in subparagraph (A) for fiscal year 1999, not more than $320,000,000 may be made available for stockpiles in the Republic of Korea and not more than $20,000,000 may be made available for stockpiles in Thailand. Of the amount specified in subparagraph (A) for fiscal year 2000, not more than $40,000,000 may be made available for stockpiles in the Republic of Korea and not more than $20,000,000 may be made available for stockpiles in Thailand."

Subsec. (b)(2)(A). Pub. L. 106–113, §1000(a)(2) [title V, §584(a)], inserted "and $60,000,000 for fiscal year 2000" before period at end and directed the striking of "$50,000,000 for each of the fiscal years 1996 and 1997, $60,000,000 for fiscal year 1998, and", which was executed by striking after "shall not exceed" text which did not include a comma after "1998" to reflect the probable intent of Congress.

Subsec. (b)(2)(B). Pub. L. 106–113, §1000(a)(2) [title V, §584(b)], struck out "Of the amount specified in subparagraph (A) for each of the fiscal years 1996 and 1997, not more than $40,000,000 may be made available for stockpiles in the Republic of Korea and not more than $10,000,000 may be made available for stockpiles in Thailand. Of the amount specified in subparagraph (A) for fiscal year 1998, not more than $40,000,000 may be made available for stockpiles in the Republic of Korea and not more than $20,000,000 may be made available for stockpiles in Thailand. Of the amount specified in subparagraph (A) for fiscal year 1999, not more than $320,000,000 may be made available for stockpiles in the Republic of Korea and not more than $20,000,000 may be made available for stockpiles in Thailand." after "(B)" and inserted at end "Of the amount specified in subparagraph (A) for fiscal year 2000, not more than $40,000,000 may be made available for stockpiles in the Republic of Korea and not more than $20,000,000 may be made available for stockpiles in Thailand."

1998—Subsec. (b)(2)(A). Pub. L. 105–277, §101(d) [title V, §571(a)], substituted a comma for "and" after "1997" and inserted "and $340,000,000 for fiscal year 1999" before period at end.

Subsec. (b)(2)(B). Pub. L. 105–277, §101(d) [title V, §571(b)], inserted at end "Of the amount specified in subparagraph (A) for fiscal year 1999, not more than $320,000,000 may be made available for stockpiles in the Republic of Korea and not more than $20,000,000 may be made available for stockpiles in Thailand."

1997—Subsec. (b)(2)(A). Pub. L. 105–118, §575(a), inserted "and $60,000,000 for fiscal year 1998" before period at end.

Subsec. (b)(2)(B). Pub. L. 105–118, §575(b), inserted at end "Of the amount specified in subparagraph (A) for fiscal year 1998, not more than $40,000,000 may be made available for stockpiles in the Republic of Korea and not more than $20,000,000 may be made available for stockpiles in Thailand."

1996—Subsec. (b)(1). Pub. L. 104–107, §531B(a), inserted "or in the implementation of agreements with Israel" after "North Atlantic Treaty Organization".

Subsec. (b)(2). Pub. L. 104–107, §531B(b), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "The value of such additions to stockpiles in foreign countries shall not exceed a total of $200,000,000 for stockpiles in Israel for fiscal years 1994 and 1995, up to $40,000,000 may be made available for stockpiles in the Republic of Korea, and up to $10,000,000 may be made available for stockpiles in Thailand for fiscal year 1995, up to $72,000,000 may be made available for stockpiles in the Republic of Korea, and up to $20,000,000 may be made available for stockpiles in Thailand."

Subsec. (c). Pub. L. 104–107, §531B(c), inserted heading and amended text generally. Prior to amendment, text read as follows: "Except for stockpiles in existence on June 30, 1976 and for stockpiles located in the Republic of Korea, Thailand, or countries which are members of the North Atlantic Treaty Organization, or major non-NATO allies, no stockpile may be located outside the boundaries of a United States military base or a military base used primarily by the United States."

1994—Subsec. (b)(2). Pub. L. 103–306 substituted "a total of $200,000,000 for stockpiles in Israel for fiscal years 1994 and 1995, up to $40,000,000 may be made available for stockpiles in the Republic of Korea, and up to $10,000,000 may be made available for stockpiles in Thailand for fiscal year 1995" for "$200,000,000 for stockpiles in Israel for fiscal year 1994".

1993—Subsec. (b)(2). Pub. L. 103–87 which directed amendment of par. (2) "by striking out '$389,000,000 for fiscal year 1993, of which amount not less than $200,000,000 shall be available for stockpiles in Israel, and up to $189,000,000 may be available for stockpiles in the Republic of Korea' and inserting in lieu thereof '$200,000,000 for stockpiles in Israel for fiscal year 1994', up to $72,000,000 may be made available for

stockpiles in the Republic of Korea, and up to $20,000,000 may be made available for stockpiles in Thailand." was executed as if the end quotation mark for the inserted material followed "Thailand" rather than following "1994" to reflect the probable intent of Congress.

1992—Subsec. (b)(2). Pub. L. 102–391, which directed the substitution of "$389,000,000 for fiscal year 1993, of which amount not less than $200,000,000 shall be available for stockpiles in Israel, and up to $189,000,000 may be available for stockpiles in the Republic of Korea" for "$378,000,000 for fiscal year 1991, of which amount not less than $300,000,000 shall be available for stockpiles in Israel", was executed by making such substitution for "$378,000,000 for fiscal year 1991, of which amount not less than $300,000,000 shall be for stockpiles in Israel", to reflect the probable intent of Congress.

1990—Subsec. (b)(2). Pub. L. 101–513, §573(b), substituted "$378,000,000 for fiscal year 1991, of which amount not less than $300,000,000 shall be for stockpiles in Israel" for "$165,000,000 for fiscal year 1990".

Subsec. (c). Pub. L. 101–513, §573(a), inserted "or major non-NATO allies," after "Organization,".

Subsec. (e). Pub. L. 101–510 struck out subsec. (e) which read as follows: "The President shall promptly report to the Congress each new stockpile, or addition to an existing stockpile, described in this section of defense articles valued in excess of $10,000,000 in any fiscal year."

1989—Subsec. (b)(1). Pub. L. 101–167, §587(b)(1), substituted "an amount that is specified" for "an amount greater than is specified".

Subsec. (b)(2). Pub. L. 101–167, §587(b)(2), substituted "$165,000,000 for fiscal year 1990" for "$77,000,000 for fiscal year 1989".

1988—Subsec. (b)(2). Pub. L. 100–461 amended par. (2) generally, substituting "$77,000,000 for fiscal year 1989" for "$116,000,000 for fiscal year 1988".

1987—Subsec. (b)(2). Pub. L. 100–202 amended par. (2) generally, substituting "$116,000,000 for fiscal year 1988" for "$360,000,000 for fiscal year 1986 and shall not exceed $125,000,000 for fiscal year 1987".

Subsec. (c). Pub. L. 100–202 inserted ", Thailand," after "Korea".

1985—Subsec. (b)(2). Pub. L. 99–83 amended par. (2) generally, substituting provisions authorizing appropriations of not to exceed $360,000,000 for fiscal year 1986 and $125,000,000 for fiscal year 1987, for provisions authorizing appropriations of $125,000,000 for fiscal year 1984 and $248,000,000 for fiscal year 1985.

1984—Subsec. (b)(2). Pub. L. 98–473 substituted "$125,000,000 for the fiscal year 1984 and $248,000,000 for the fiscal year 1985" for "$130,000,000 for the fiscal year 1982 and $125,000,000 for the fiscal year 1983".

1981—Subsec. (b)(2). Pub. L. 97–113 substituted "$130,000,000 for the fiscal year 1982 and $125,000,000 for the fiscal year 1983" for "$85,000,000 for the fiscal year 1981".

1980—Subsec. (b)(2). Pub. L. 96–533 substituted "$85,000,000 for the fiscal year 1981" for "$95,000,000 for the fiscal year 1980".

1979—Subsec. (b)(2). Pub. L. 96–92, §6(a)(1), substituted "$95,000,000 for the fiscal year 1980" for "$90,000,000 for the fiscal year 1979".

Subsec. (c). Pub. L. 96–92, §6(a)(2), inserted reference to stockpiles in Republic of Korea.

1978—Subsec. (b)(2). Pub. L. 95–384 substituted "$90,000,000 for the fiscal year 1979" for "$270,000,000 for the fiscal year 1978".

1977—Subsec. (b)(2). Pub. L. 95–92 substituted "$270,000,000 for the fiscal year 1978" for "$93,750,000 for the period beginning July 1, 1975, and ending September 30, 1976, and $125,000,000 for the fiscal year 1977".

1976—Subsec. (a). Pub. L. 93–329 substituted provisions prohibiting the transfer of any defense article earmarked for foreign use unless such transfer is authorized under this chapter or the Arms Export Control Act or subsequent legislation, requiring the charge-off of such transfer against funds authorized under such legislation, and defining "value", for provisions that no funds, other than funds made available under this part or section 401(a) of Pub. L. 89–367 (80 Stat. 37) be obligated for purposes of stockpiling any defense article or war reserve material if such article is earmarked for future foreign use.

Subsec. (b). Pub. L. 94–329 substituted provisions limiting the value of earmarked defense articles for allied or foreign use to an amount not greater than is specified in security assistance legislation for that fiscal year and limiting the value of additions to stockpiles in foreign countries not to exceed $93,750,000 for the period beginning July 1, 1975 and ending Sept. 30, 1976, and $125,000,000 for fiscal 1977 for provisions specifying a charge-off of the cost of any such article earmarked for use by or on behalf of the country referred to in section 401(a)(1) of Pub. L. 89–367 (80 Stat. 37) against the limitations specified in such section or subsequent legislation and against funds authorized under this part.

Subsecs. (c) to (e). Pub. L. 94–329 added subsecs. (c) to (e).

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–83 effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as a note under section 2151–1 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Section 116(b) of H.R. 5119, as passed by the House of Representatives May 10, 1984, and enacted into permanent law by Pub. L. 98–473, title I, §101(1) [title V, §541(a)], Oct. 12, 1984, 98 Stat. 1884, 1903, provided that: "The amendment made by subsection (a) [amending this section] shall take effect on the date of enactment of this Act [Oct. 12, 1984]."

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

FISCAL YEAR 1992 ADDITIONS TO STOCKPILES IN ISRAEL

Pub. L. 102–145, §118, as added by Pub. L. 102–266, §102, Apr. 1, 1992, 106 Stat. 93, provided in part that the authority and conditions provided in section 571 of H.R. 2621, One Hundred Second Congress, 1st Session, as passed by the House on June 19, 1991, shall be applicable to funds appropriated by Pub. L. 102–145 (and are hereby enacted) in lieu of the authority and conditions provided in section 573 of Pub. L. 101–513 [amending this section]. Section 571 of H.R. 2621, as referred to above, provided that: "Notwithstanding section 514(b) of the Foreign Assistance Act of 1961 [subsec. (b) of this section], additions may be made to stockpiles in Israel during fiscal year 1992 having a value of $300,000,000: *Provided*, That the word 'value' as used in this section shall have the same meaning as in section 514 of the Foreign Assistance Act of 1961 [this section]."

REPUBLIC OF KOREA STOCKPILING AUTHORITIES; REPORT TO CONGRESS

Pub. L. 96–92, §6(b), Oct. 29, 1979, 93 Stat. 703, directed President to transmit to Congress, not later than Dec. 31, 1979, a report regarding stockpiling authorities for Republic of Korea, prior to repeal by Pub. L. 97–113, title VII, §734(a)(11), Dec. 29, 1981, 95 Stat. 1560.

§2321i. Overseas management of assistance and sales programs

(a) Assignment of military personnel for performance of enumerated functions

In order to carry out his responsibilities for the management of international security assistance programs conducted under this part, part V of this subchapter, and the Arms Export Control Act [22 U.S.C. 2751 et seq.], the President may assign members of the Armed Forces of the United States to a foreign country to perform one or more of the following functions:

(1) equipment and services case management;

(2) training management;

(3) program monitoring;

(4) evaluation and planning of the host government's military capabilities and requirements;

(5) administrative support;

(6) promoting rationalization, standardization, interoperability, and other defense cooperation measures; and

(7) liaison functions exclusive of advisory and training assistance.

(b) Furnishing of advisory and training assistance

Advisory and training assistance conducted by military personnel assigned under this section shall be kept to an absolute minimum. It is the sense of the Congress that advising and training assistance in countries to which military personnel are assigned under this section shall be provided primarily by other personnel who are not assigned under this section and who are detailed for limited periods to perform specific tasks.

(c) Number of personnel assigned; waiver; procedures applicable

(1) The number of members of the Armed Forces assigned to a foreign country under this section may not exceed six unless specifically authorized by the Congress. The president may waive this

limitation if he determines and reports to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives, 30 days prior to the introduction of the additional military personnel, that United States national interests require that more than six members of the Armed Forces be assigned under this section to carry out international security assistance programs in a country not specified in this paragraph. Pakistan, Tunisia, El Salvador, Honduras, Colombia, Indonesia, the Republic of Korea, the Philippines, Thailand, Egypt, Jordan, Morocco, Saudi Arabia, Greece, Portugal, Spain, and Turkey are authorized to have military personnel strengths larger than six under this section to carry out international security assistance programs.

(2) The total number of members of the Armed Forces assigned under this section to a foreign country in a fiscal year may not exceed the number justified to the Congress for that country in the congressional presentation materials for that fiscal year, unless the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives are notified 30 days in advance of the introduction of the additional military personnel.

(d) Costs

Effective October 1, 1989, the entire costs (excluding salaries of the United States military personnel other than the Coast Guard) of overseas management of international security assistance programs under this section shall be charged to or reimbursed from funds made available to carry out this part or the Arms Export Control Act [22 U.S.C. 2751 et seq.], other than any such costs which are either paid directly for such defense services under section 21(a) of the Arms Export Control Act [22 U.S.C. 2761(a)] or reimbursed from charges for services collected from foreign governments pursuant to section 21(e) [22 U.S.C. 2761(e)] and section 43(b) [22 U.S.C. 2792(b)] of that Act.

(e) Direction and supervision of assigned personnel

Members of the Armed Forces assigned to a foreign country under this section shall serve under the direction and supervision of the Chief of the United States Diplomatic Mission to that country.

(f) Presidential directive respecting purchase by foreign country of United States-made military equipment

The President shall continue to instruct United States diplomatic and military personnel in the United States missions abroad that they should not encourage, promote, or influence the purchase by any foreign country of United States-made military equipment, unless they are specifically instructed to do so by an appropriate official of the executive branch.

(Pub. L. 87–195, pt. II, §515, as added Pub. L. 93–559, §16, Dec. 30, 1974, 88 Stat. 1799; amended Pub. L. 94–329, title I, §104, June 30, 1976, 90 Stat. 731; Pub. L. 95–92, §7(a), Aug. 4, 1977, 91 Stat. 615; Pub. L. 95–384, §9, Sept. 26, 1978, 92 Stat. 732; Pub. L. 96–92, §7, Oct. 29, 1979, 93 Stat. 703; Pub. L. 96–533, title I, §114, Dec. 16, 1980, 94 Stat. 3139; Pub. L. 97–113, title I, §112, Dec. 29, 1981, 95 Stat. 1527; Pub. L. 99–83, title I, §125, Aug. 8, 1985, 99 Stat. 205; Pub. L. 100–690, title IV, §4305(a), Nov. 18, 1988, 102 Stat. 4273; Pub. L. 101–165, title IX, §9104(a), Nov. 21, 1989, 103 Stat. 1152; Pub. L. 101–167, title III, Nov. 21, 1989, 103 Stat. 1213; Pub. L. 102–391, title V, §556(c), Oct. 6, 1992, 106 Stat. 1675; Pub. L. 104–164, title I, §143, July 21, 1996, 110 Stat. 1434.)

REFERENCES IN TEXT

The Arms Export Control Act, referred to in subsecs. (a) and (d), is Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1320, as amended, which is classified principally to chapter 39 (§2751 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

AMENDMENTS

1996—Subsec. (a)(6). Pub. L. 104–164 struck out "among members of the North Atlantic Treaty Organization and with the Armed Forces of Japan, Australia, and New Zealand" after "defense cooperation measures".

1992—Subsec. (d). Pub. L. 102–391, which directed the substitution of "(excluding salaries of the United States military personnel other than the Coast Guard)" for "(excluding salaries of the United States military personnel)", was executed by making the substitution for "(excluding salaries of United States military

personnel)", to reflect the probable intent of Congress.

1989—Subsec. (d). Pub. L. 101–167 inserted "or the Arms Export Control Act" after "this part".

Pub. L. 101–165 changed effective date from Oct. 1, 1982, to Oct. 1, 1989, and provided that costs would exclude rather than include salaries of U.S. military personnel.

1988—Subsec. (c)(1). Pub. L. 100–690 inserted "Colombia," after "Honduras,".

1985—Subsec. (c)(1). Pub. L. 99–83 substituted "Pakistan, Tunisia, El Salvador, Honduras" for "For the fiscal year 1982 and the fiscal year 1983".

1981—Subsec. (a). Pub. L. 97–113 substituted provision authorizing the President to assign members of the Armed Forces of the United States to a foreign country to perform one or more enumerated functions for provision requiring specific Congressional authorization for military assistance groups, etc., to operate in a foreign country, with exception of regular units of the Armed Forces of the United States engaged in routine functions designed to bring about standardization of military operation and procedures between United States forces and defense treaty allies.

Subsec. (b). Pub. L. 97–113 substituted provision directing that advisory and training assistance conducted by military personnel assigned under this section be kept to an absolute minimum for provision authorizing the President to assign military personnel under international security programs to Portugal, Spain, Jordan, the Philippines, the Republic of Korea, Panama, Greece, Turkey, Indonesia, Thailand, Morocco, Egypt, and Saudi Arabia to perform logistics management, transportation, fiscal management, and contract administration of country programs, designated the maximum number assignable, and provided for reimbursement from Saudi Arabia. See subsec. (a) of this section.

Subsec. (c). Pub. L. 97–113 substituted provision designating the maximum number of personnel assignable, waiver of this limitation, and the procedures applicable for provision relating to assignment of military personnel to countries not specified in former subsec. (b) of this section for performance of accounting and other management functions, the maximum number assignable, and an exception to that number if the Chief of the Diplomatic Mission so requests.

Subsec. (d). Pub. L. 97–113 substituted provision directing that, effective Oct. 1, 1982, the entire costs of overseas management of international security assistance programs be charged or reimbursed from funds made available to carry out this part, other than costs paid directly for defense services under section 2761(a) of this title or reimbursed from charges for services collected from foreign governments pursuant to sections 2761(e) and 2792(b) of this title, for provision that the maximum number of members of the Armed Forces assignable for fiscal year 1979 to all countries not exceed 790.

Subsec. (e). Pub. L. 97–113 substituted "under this section" for "under subsection (b) or (c) of this section" and "to that country" for "in that country".

Subsec. (f). Pub. L. 97–113 redesignated subsec. (h) as (f). Former subsec. (f), relating to performance of management functions by defense attaché's if that President determined it was the most economic and efficient means of performing those functions, was struck out.

Subsec. (g). Pub. L. 97–113 struck out subsec. (g) which provided that the entire cost of overseas management of international security assistance programs under this section be charged or reimbursed from funds made available to carry out this part, including costs reimbursed from charges for services collected from foreign governments pursuant to sections 2761(e) and 2792(b) of this title, and that the prohibition of former subsec. (a) of this section and the numerical limitations of former subsecs. (b), (c), and (d) of this section not apply to Armed Forces members performing services for specific purposes and for fixed periods of time on a fully reimbursable basis under section 2761(a) of this title. See subsec. (d) of this section.

Subsec. (h). Pub. L. 97–113 redesignated subsec. (h) as (f).

1980—Subsec. (b)(1). Pub. L. 96–533, §114(1), substituted "fiscal year 1981" for "fiscal year 1980", substituted "Portugal, Spain, Jordan, the Philippines," for "the countries specified in section 2312(a) of this title and in", authorized assignment of military personnel for programs in Egypt, and deleted from the list of countries eligible for such programs Iran and Kuwait.

Subsec. (b)(3). Pub. L. 96–533, §114(2), substituted "assigned to Saudi Arabia" for "assigned to Iran, Kuwait, and Saudi Arabia", "assigned to such country" for "assigned to such countries" and "assigned to such country exceeds" for "assigned to each such country exceeds".

Subsec. (f). Pub. L. 96–533, §114(3), substituted "may not exceed six more than the number of defense attachés" for "may not exceed the number of defense attachés" and "December 31, 1979" for "December 31, 1978", and inserted "such countries and countries to which military personnel have been assigned pursuant to subsection (c) of this section" after "such countries".

1979—Subsec. (b)(1). Pub. L. 96–92, §7(1), substituted "fiscal year 1980" for "fiscal year 1979" and authorized assignment of military personnel for programs in Greece.

Subsec. (f). Pub. L. 96–92, §7(2), substituted "December 31, 1978" for "December 31, 1977".

1978—Subsec. (b)(1). Pub. L. 95–384, §9(a), substituted "fiscal year 1979" for "fiscal year 1978" and "Turkey, Indonesia, Thailand" for "Brazil".

Subsec. (d). Pub. L. 95–384, §9(b), substituted ", including any such members serving on a reimbursable basis pursuant to subsection (b)(3) of this section, may not exceed 790 for the fiscal year 1979" for "may not exceed 865 for the fiscal year 1978".

Subsec. (f). Pub. L. 95–384, §9(c), substituted "December 31, 1977, except that the President may assign an aggregate total of not to exceed eight additional defense attachés to such countries in order to perform overseas management functions under this subsection" for "December 31, 1976".

Subsec. (g). Pub. L. 95–384, §9(d), inserted "for fixed" after "for specific purposes and".

Subsec. (h). Pub. L. 95–384, §9(e), added subsec. (h).

1977—Subsec. (a). Pub. L. 95–92 substituted provisions requiring specific Congressional authorization for a military assistance advisory group, etc., to operate in any foreign country and set forth exceptions to such requirement, for provisions authorizing deductions of expenditures from military assistance appropriations during the period beginning July 1, 1976, and ending Sept. 30, 1977, under section 2312 of this title where under this section reimbursement is requested by the expending government agency or if the available funds are deposited in the Treasury as miscellaneous receipts.

Subsec. (b). Pub. L. 95–92 substituted provisions relating to assignment of military personnel to specified countries by President for implementation of management responsibilities during fiscal year 1978 under international security assistance programs, for provisions requiring specific Congressional authority for assignment of any military assistance advisory group, etc., to operate in any foreign country after Sept. 30, 1977, and provisions relating to assignment by the President of military personnel to diplomatic missions of the United States.

Subsec. (c). Pub. L. 95–92 substituted provisions relating to assignment of military personnel to nonspecified countries by President for performance of accounting and other management functions under international security assistance programs, for provisions limiting after Sept. 30, 1976, the number of military missions and groups to not more than 34.

Subsec. (d). Pub. L. 95–92 substituted provisions setting forth maximum number of military personnel assignable under subsecs. (b) and (c) of this section for fiscal year 1978 as 865, for provisions defining "military assistance advisory group, military mission, or other organization of United States military personnel performing similar military advisory functions under this chapter".

Subsecs. (e) to (g). Pub. L. 95–92 added subsecs. (e) to (g).

1976—Subsec. (a). Pub. L. 94–329, §104(1), designated existing provisions as subsec. (a) and substituted "During the period beginning July 1, 1976, and ending September 30, 1977" for "Effective July 1, 1976".

Subsecs. (b) to (d). Pub. L. 94–329, §104(2), added subsecs. (b) to (d).

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–83 effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as a note under section 2151–1 of this title.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§2321j. Authority to transfer excess defense articles

(a) Authorization

The President is authorized to transfer excess defense articles under this section to countries for which receipt of such articles was justified pursuant to the annual congressional presentation

documents for military assistance programs, or for programs under part VIII of subchapter I of this chapter, submitted under section 2394 of this title, or for which receipt of such articles was separately justified to the Congress, for the fiscal year in which the transfer is authorized.

(b) Limitations on transfers

(1) The President may transfer excess defense articles under this section only if—

(A) such articles are drawn from existing stocks of the Department of Defense;

(B) funds available to the Department of Defense for the procurement of defense equipment are not expended in connection with the transfer;

(C) the transfer of such articles will not have an adverse impact on the military readiness of the United States;

(D) with respect to a proposed transfer of such articles on a grant basis, such a transfer is preferable to a transfer on a sales basis, after taking into account the potential proceeds from, and likelihood of, such sales, and the comparative foreign policy benefits that may accrue to the United States as the result of a transfer on either a grant or sales basis;

(E) the President determines that the transfer of such articles will not have an adverse impact on the national technology and industrial base and, particularly, will not reduce the opportunities of entities in the national technology and industrial base to sell new or used equipment to the countries to which such articles are transferred; and

(F) the transfer of such articles is consistent with the policy framework for the Eastern Mediterranean established under section 2373 of this title.

(2) Accordingly, for the four-year period beginning on October 1, 1996, and thereafter for the four-period [1] beginning on October 1, 2000, the President shall ensure that excess defense articles offered to Greece and Turkey under this section will be made available consistent with the manner in which the President made available such excess defense articles during the four-year period that began on October 1, 1992, pursuant to section 573(e) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990.

(c) Terms of transfers

(1) No cost to recipient country

Excess defense articles may be transferred under this section without cost to the recipient country.

(2) Priority

Notwithstanding any other provision of law, the delivery of excess defense articles under this section to member countries of the North Atlantic Treaty Organization (NATO) on the southern and southeastern flank of NATO, to major non-NATO allies on such southern and southeastern flank, and to the Philippines shall be given priority to the maximum extent feasible over the delivery of such excess defense articles to other countries.

(d) Waiver of requirement for reimbursement of Department of Defense expenses

Section 2392(d) of this title shall not apply with respect to transfers of excess defense articles (including transportation and related costs) under this section.

(e) Transportation and related costs

(1) In general

Except as provided in paragraph (2), funds available to the Department of Defense may not be expended for crating, packing, handling, and transportation of excess defense articles transferred under the authority of this section.

(2) Exception

The President may provide for the transportation of excess defense articles without charge to a country for the costs of such transportation if—

(A) it is determined that it is in the national interest of the United States to do so;

(B) the recipient is a developing country receiving less than $10,000,000 of assistance under part V of this subchapter (relating to international military education and training) or section 23 of the Arms Export Control Act (22 U.S.C. 2763; relating to the Foreign Military Financing program) in the fiscal year in which the transportation is provided;

(C) the total weight of the transfer does not exceed 50,000 pounds; and

(D) such transportation is accomplished on a space available basis.

(f) Advance notification to Congress for transfer of certain excess defense articles

(1) In general

The President may not transfer excess defense articles that are significant military equipment (as defined in section 47(9) of the Arms Export Control Act [22 U.S.C. 2794(9)]) or excess defense articles valued (in terms of original acquisition cost) at $7,000,000 or more, under this section or under the Arms Export Control Act (22 U.S.C. 2751 et seq.) until 30 days after the date on which the President has provided notice of the proposed transfer to the congressional committees specified in section 2394–1(a) of this title in accordance with procedures applicable to reprogramming notifications under that section.

(2) Contents

Such notification shall include—

(A) a statement outlining the purposes for which the article is being provided to the country, including whether such article has been previously provided to such country;

(B) an assessment of the impact of the transfer on the military readiness of the United States;

(C) an assessment of the impact of the transfer on the national technology and industrial base and, particularly, the impact on opportunities of entities in the national technology and industrial base to sell new or used equipment to the countries to which such articles are to be transferred; and

(D) a statement describing the current value of such article and the value of such article at acquisition.

(g) Aggregate annual limitation

(1) In general

The aggregate value of excess defense articles transferred to countries under this section in any fiscal year may not exceed $500,000,000.

(2) Effective date

The limitation contained in paragraph (1) shall apply only with respect to fiscal years beginning after fiscal year 1996.

(h) Congressional presentation documents

Documents described in subsection (a) justifying the transfer of excess defense articles shall include an explanation of the general purposes of providing excess defense articles as well as a table which provides an aggregate annual total of transfers of excess defense articles in the preceding year by country in terms of offers and actual deliveries and in terms of acquisition cost and current value. Such table shall indicate whether such excess defense articles were provided on a grant or sale basis.

(i) Excess Coast Guard property

For purposes of this section, the term "excess defense articles" shall be deemed to include excess property of the Coast Guard, and the term "Department of Defense" shall be deemed, with respect to such excess property, to include the Coast Guard.

(Pub. L. 87–195, pt. II, §516, as added Pub. L. 99–661, div. A, title XI, §1101, Nov. 14, 1986, 100 Stat. 3960; amended Pub. L. 100–202, §101(b) [title VIII, §8143], Dec. 22, 1987, 101 Stat. 1321–43, 1329–89; Pub. L. 101–189, div. A, title IX, §934, Nov. 29, 1989, 103 Stat. 1538; Pub. L. 101–513, title V, §589, Nov. 5, 1990, 104 Stat. 2057; Pub. L. 102–190, div. A, title X, §1049(a), Dec. 5, 1991, 105 Stat. 1469; Pub. L. 102–391, title V, §574, Oct. 6, 1992, 106 Stat. 1683; Pub. L. 102–484, div. A, title XIII, §1313, Oct. 23, 1992, 106 Stat. 2548; Pub. L. 103–160, div. A, title XI, §1182(c)(2),

title XIV, §1421, Nov. 30, 1993, 107 Stat. 1772, 1829; Pub. L. 103–236, title VII, §731(a), Apr. 30, 1994, 108 Stat. 502; Pub. L. 104–106, div. A, title X, §1012(g)(1), Feb. 10, 1996, 110 Stat. 422; Pub. L. 104–164, title I, §104(a), July 21, 1996, 110 Stat. 1424; Pub. L. 106–113, div. B, §1000(a)(7) [div. B, title XII, §§1211(b), 1213], Nov. 29, 1999, 113 Stat. 1536, 1501A–497, 1501A–498; Pub. L. 106–280, title I, §122, Oct. 6, 2000, 114 Stat. 851; Pub. L. 107–228, div. B, title XII, §1234, Sept. 30, 2002, 116 Stat. 1433; Pub. L. 113–276, title II, §202, Dec. 18, 2014, 128 Stat. 2990.)

REFERENCES IN TEXT

Section 573(e) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990, referred to in subsec. (b)(2), is section 573(e) of Pub. L. 101–167, which is set out in a note below.

The Arms Export Control Act, referred to in subsec. (f)(1), is Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1320, as amended, which is classified principally to chapter 39 (§2751 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

PRIOR PROVISIONS

A prior section 2321j, Pub. L. 87–195, pt. II, §516, as added Pub. L. 94–329, title I, §105, June 30, 1976, 90 Stat. 732; amended Pub. L. 95–92, §§5(b), 7(b), Aug. 4, 1977, 91 Stat. 615, 617; Pub. L. 95–384, §7(b), Sept. 26, 1978, 92 Stat. 732; Pub. L. 96–92, §5(c), Oct. 29, 1979, 93 Stat. 703; Pub. L. 96–533, title I, §112(d), Dec. 16, 1980, 94 Stat. 3139, provided for termination of authorities contained in this part other than the authorities contained in sections 2318, 2321h, and 2321i of this title, prior to repeal by Pub. L. 97–113, title I, §110(d), Dec. 29, 1981, 95 Stat. 1526.

AMENDMENTS

2014—Subsec. (g)(1). Pub. L. 113–276 substituted "$500,000,000" for "$425,000,000".

2002—Subsec. (c)(2). Pub. L. 107–228 substituted ", to major non-NATO allies on such southern and southeastern flank, and to the Philippines" for "and to major non-NATO allies on such southern and southeastern flank".

2000—Subsec. (e)(2)(C). Pub. L. 106–280 substituted "50,000" for "25,000".

1999—Subsec. (b)(2). Pub. L. 106–113, §1000(a)(7) [title XII, §1211(b)], inserted "and thereafter for the four-period beginning on October 1, 2000," after "October 1, 1996,".

Subsec. (g)(1). Pub. L. 106–113, §1000(a)(7) [title XII, §1213], substituted "$425,000,000" for "$350,000,000".

1996—Pub. L. 104–164 amended section generally, expanding geographic scope of President's authority to transfer excess defense articles, including Coast Guard property and permitting waiver of Department of Defense reimbursement, to any country for military assistance programs or international narcotics control, so long as such transfer is preferable to sale and is consistent within congressionally documented Eastern Mediterranean policy requirements, meets certain terms of transfer requirements including preference for NATO and non-NATO allies on southern flank, complies with advance notification to Congress for certain excess defense articles, and is within aggregate annual limitations of $350,000,000 in value, for provisions which authorized President to transfer excess defense articles to predominantly NATO countries on southern flank for purpose of modernization of their defense capabilities.

Subsec. (g). Pub. L. 104–106 added subsec. (g) which prohibited certain transfers of vessels on a grant basis.

1994—Subsec. (b)(4). Pub. L. 103–236 added par. (4).

1993—Subsec. (a). Pub. L. 103–160, §1182(c)(2), made technical amendment to Pub. L. 102–484, §1313(2). See 1992 Amendment note below.

Subsec. (a)(3). Pub. L. 103–160, §1421, inserted "or fiscal year 1992" after "fiscal year 1991".

1992—Subsec. (a). Pub. L. 102–484, §1313(4), which directed the amendment of subsec. (a) by striking "and those countries which received Foreign Military Financing (FMF) assistance in fiscal year 1990 and which, as of October 1, 1990, contributed armed forces to deter Iraqi aggression in the Arabian Gulf,", could not be executed because that language did not appear subsequent to amendment by Pub. L. 102–391. See below.

Pub. L. 102–484, §1313(3), inserted "and (3) to those countries which, as of October 1, 1990, contributed armed forces to deter Iraqi aggression in the Arabian Gulf, and which either received Foreign Military Financing (FMF) assistance in fiscal year 1990 or are in the Near East Region and received Foreign Military Financing (FMF) assistance in fiscal year 1991," after "southeastern flank of NATO which are eligible for United States security assistance,".

Pub. L. 102–484, §1313(2), as amended by Pub. L. 103–160, §1182(c)(2), substituted "structure, (2)" for

"structure, and".

Pub. L. 102–484, §1313(1), inserted "(1)" after "may transfer".

Pub. L. 102–391 repealed the amendment by Pub. L. 101–513. See 1990 Amendment note below.

1991—Subsec. (a). Pub. L. 102–190, §1049(a)(1), struck out "during the fiscal years 1987 through 1991," before "the President may transfer".

Subsec. (f). Pub. L. 102–190, §1049(a)(2), added subsec. (f).

1990—Subsec. (a). Pub. L. 101–513, which directed amendment of subsec. (a) by inserting "and those countries which received Foreign Military Financing (FMF) assistance in fiscal year 1990 and which, as of October 1, 1990, contributed armed forces to deter Iraqi aggression in the Arabian Gulf," after the second occurrence of the words "United States security assistance,", was repealed by Pub. L. 102–391. See 1992 Amendment note above.

1989—Subsec. (a). Pub. L. 101–189 substituted "during the fiscal years 1987 through 1991" for "during the fiscal years 1987, 1988, and 1989" and inserted at end "Transfers to recipient countries under this subsection shall be consistent with the policy framework for the Eastern Mediterranean region established in section 2373 of this title."

1987—Subsec. (a). Pub. L. 100–202, §101(b) [title VIII, §8143(a), (b), (c)(1)], in first sentence substituted ", 1988, and 1989," for "and 1988", inserted ", and to major non-NATO allies on the southern and southeastern flank of NATO which are eligible for United States security assistance," after "military structure", and inserted "excess" before "defense articles", and in second sentence inserted "excess defense" before "articles".

Subsec. (b). Pub. L. 100–202, §101(b) [title VIII, §8143(c)(2)], in introductory text, inserted "excess" before "defense articles".

Subsecs. (c), (d). Pub. L. 100–202, §101(b) [title VIII, §8143(c)(2)], inserted "excess" before "defense articles".

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–106, title X, §1012(g)(2), Feb. 10, 1996, 110 Stat. 422, provided that: "The amendment made by paragraph (1) [amending this section] shall apply with respect to the transfer of a vessel on or after the date of the enactment of this Act [Feb. 10, 1996] (other than a vessel the transfer of which is authorized by subsection (a) [110 Stat. 421] or by law before the date of the enactment of this Act)."

EFFECTIVE DATE OF 1993 AMENDMENT

Pub. L. 103–160, title XI, §1182(c)(2), Nov. 30, 1993, 107 Stat. 1772, provided in part that the amendment made by that section is effective as of Oct. 23, 1992.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

MEDITERRANEAN EXCESS DEFENSE ARTICLES

Pub. L. 104–208, div. A, title I, §101(c) [title V, §535], Sept. 30, 1996, 110 Stat. 3009–121, 3009–153, provided that: "For the four-year period beginning on October 1, 1996, the President shall ensure that excess defense articles will be made available under section[s] 516 and 519 of the Foreign Assistance Act of 1961 [22 U.S.C. 2321j, 2321m] consistent with the manner in which the President made available excess defense articles under those sections during the four-year period that began on October 1, 1992, pursuant to section 573(e) of the Foreign Operations, Export Financing, Related Programs Appropriations Act, 1990 [Pub. L. 101–167, set out below]."

Similar provisions were contained in the following prior appropriation act:

Pub. L. 104–107, title V, §536, Feb. 12, 1996, 110 Stat. 735.

AVOIDING DUPLICATIVE AMENDMENTS

Pub. L. 102–190, title X, §1049(b), Dec. 5, 1991, 105 Stat. 1469, which provided that if the International

Cooperation Act of 1991 was enacted and made the same amendments to this section as did section 1049(a) of Pub. L. 102–190, then the duplicative amendments enacted by section 1049(a) would not take effect, was repealed by Pub. L. 102–484, div. A, title X, §1053(7), Oct. 23, 1992, 106 Stat. 2502.

MODERNIZATION OF MILITARY CAPABILITIES OF CERTAIN COUNTRIES

Pub. L. 101–167, title V, §573, Nov. 21, 1989, 103 Stat. 1246, as amended by Pub. L. 102–391, title V, §578(a), Oct. 6, 1992, 106 Stat. 1685, provided that:

"(a) AUTHORITY TO TRANSFER EXCESS DEFENSE ARTICLES.—

"(1) NATO SOUTHERN FLANK COUNTRIES.—The President may transfer—

"(A) to any NATO southern flank country which is eligible for United States security assistance and which is integrated into NATO's military structure; and

"(B) to any major non-NATO ally on the southern and southeastern flank of NATO which is eligible for United States security assistance, such excess defense articles as may be necessary to help modernize the defense capabilities of such country.

"(2) MAJOR ILLICIT DRUG PRODUCING COUNTRIES.—Subject to subsection (f), the President may transfer to any country—

"(A) which is a major illicit drug producing country,

"(B) which has a democratic government, and

"(C) whose armed forces do not engage in a consistent pattern of gross violations of internationally recognized human rights, such excess defense articles as may be necessary to carry out subsection (f)(1).

"(3) TERMS OF TRANSFERS.—Excess defense articles may be transferred under this section without cost to the recipient country.

"(b) LIMITATIONS ON TRANSFERS.—The President may transfer excess defense articles under this section only if—

"(1) they are drawn from existing stocks of the Department of Defense;

"(2) funds available to the Department of Defense for the procurement of defense equipment are not expended in connection with the transfer; and

"(3) the President determines that the transfer of the excess defense articles will not have an adverse impact on the military readiness of the United States.

"(c) NOTIFICATION TO CONGRESS.—

"(1) ADVANCE NOTICE.—The President may not transfer excess defense articles under this section until thirty days after the President has provided notice of the proposed transfer to the committees specified in paragraph (2). This notification shall include—

"(A) a certification of the need for the transfer;

"(B) an assessment of the impact of the transfer on the military readiness of the United States; and

"(C) the value of the excess defense articles to be transferred.

"(2) COMMITTEES TO BE NOTIFIED.—Notice shall be provided pursuant to paragraph (1) to the Committee on Foreign Affairs, and the Committee on Appropriations of the House of Representatives and the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Appropriations of the Senate.

"(d) WAIVER OF REQUIREMENT FOR REIMBURSEMENT OF DOD EXPENSES.—Section 632(d) of the Foreign Assistance Act of 1961 [22 U.S.C. 2392(d)] does not apply with respect to transfers of excess defense articles under this section.

"(e) MAINTENANCE OF MILITARY BALANCE IN EASTERN MEDITERRANEAN.—

"(1) UNITED STATES POLICY.—The Congress intends that excess defense articles be made available under this section consistent with the United States policy, established by section 841 of the International Cooperation Act of 1989 [probably means section 841 of H.R. 2655, 101st Congress, which was not enacted], of maintaining the military balance in the Eastern Mediterranean.

"(2) MAINTENANCE OF BALANCE.—Accordingly, the President shall ensure that, over the four-year period beginning on October 1, 1992, the ratio of—

"(A) the value of excess defense articles made available for Turkey under this section, to

"(B) the value of excess defense articles made available for Greece under this section, closely approximates the ratio of—

"(i) the amount of foreign military financing provided for Turkey, to

"(ii) the amount of foreign military financing provided for Greece.

"(3) EXCEPTION TO REQUIREMENT.—This subsection shall not apply if either Greece or Turkey ceases to be eligible to receive excess defense articles under subsection (a).

"(f) MAJOR ILLICIT DRUG PRODUCING COUNTRIES IN LATIN AMERICA AND THE CARIBBEAN.—

"(1) PURPOSE.—Excess defense articles shall be transferred under subsection (a)(2) for the purpose of encouraging the military forces of an eligible country in Latin America and the Caribbean to participate with local law enforcement agencies in a comprehensive national antinarcotics program, conceived and developed by the government of that country, by conducting activities within that country and on the high seas to prevent the production, processing, trafficking, transportation, and consumption of illicit narcotic or psychotrophic [sic] drugs or other controlled substances.

"(2) USES OF EXCESS DEFENSE ARTICLES.—Excess defense articles may be furnished to a country under subsection (a)(2) only if that country ensures that those excess defense articles will be used only in support of antinarcotics activities.

"(3) ROLE OF THE SECRETARY OF STATE.—The Secretary of State shall determine the eligibility of countries to receive excess defense articles under subsection (a)(2) and insure that any transfer is coordinated with other antinarcotics enforcement programs assisted by the United States Government.

"(4) LIMITATION.—The aggregate value of excess defense articles transferred to a country under subsection (a)(2) in any fiscal year may not exceed $10,000,000.

"(g) DEFINITIONS.—As used in this section—

"(1) the term 'excess defense article' has the meaning given that term by section 644(g) [probably means section 644(g) of Pub. L. 87–195, which is classified to section 2403(g) of this title];

"(2) the term 'made available' means that a good faith offer is made by the United States to furnish the excess defense articles to a country;

"(3) the term 'major non-NATO ally' includes Australia, Egypt, Israel, Japan, and New Zealand;

"(4) the term 'NATO' means the North Atlantic Treaty Organization; and

"(5) the term 'NATO southern flank countries' means Greece, Italy, Portugal, Spain, and Turkey."

[For delegation of functions of President under section 573 of Pub. L. 101–567, set out above, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.]

Provisions similar to those appearing in section 573(e) of Pub. L. 101–167, set out above, were contained in the following prior appropriation acts:

Pub. L. 100–461, title V, §569, Oct. 1, 1988, 102 Stat. 2268–43.

Pub. L. 100–202, §101(e) [title V, §582], Dec. 22, 1987, 101 Stat. 1329–131, 1329–182.

[1] *So in original. Probably should be "four-year period".*

§2321k. Designation of major non-NATO allies

(a) Notice to Congress

The President shall notify the Congress in writing at least 30 days before—

(1) designating a country as a major non-NATO ally for purposes of this chapter and the Arms Export Control Act (22 U.S.C. 2751 et seq.); or

(2) terminating such a designation.

(b) Initial designations

Australia, Egypt, Israel, Japan, the Republic of Korea, and New Zealand shall be deemed to have been so designated by the President as of the effective date of this section, and the President is not required to notify the Congress of such designation of those countries.

(Pub. L. 87–195, pt. II, §517, as added Pub. L. 104–164, title I, §147(a)(1), July 21, 1996, 110 Stat. 1434.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(1), was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

The Arms Export Control Act, referred to in subsec. (a)(1), is Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1320, as amended, which is classified principally to chapter 39 (§2751 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

The effective date of this section, referred to in subsec. (b), is July 21, 1996, the date of enactment of Pub. L. 104–164, which enacted this section.

PRIOR PROVISIONS

A prior section 2321k, Pub. L. 87–195, pt. II, §517, as added Pub. L. 101–231, §5, Dec. 13, 1989, 103 Stat. 1957; amended Pub. L. 101–623, §15, Nov. 21, 1990, 104 Stat. 3357; Pub. L. 102–583, §9(a), Nov. 2, 1992, 106 Stat. 4934; Pub. L. 103–236, title VII, §731(b), Apr. 30, 1994, 108 Stat. 502, related to modernization of counternarcotics capabilities of certain Latin America and Caribbean countries, prior to repeal by Pub. L. 104–164, title I, §104(b)(2)(B), July 21, 1996, 110 Stat. 1427.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

TREATMENT OF TAIWAN RELATING TO TRANSFERS OF DEFENSE ARTICLES AND DEFENSE SERVICES

Pub. L. 107–228, div. B, title XII, §1206, Sept. 30, 2002, 116 Stat. 1428, provided that: "Notwithstanding any other provision of law, for purposes of the transfer or possible transfer of defense articles or defense services under the Arms Export Control Act (22 U.S.C. 2751 et seq.), the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), or any other provision of law, Taiwan shall be treated as though it were designated a major non-NATO ally (as defined in section 644(q) of the Foreign Assistance Act of 1961 (22 U.S.C. 2403(q))[])."

[For definitions of "defense article" and "defense service" as used in section 1206 of Pub. L. 107–228, set out above, see section 1002 of Pub. L. 107–228, set out as a note under section 2151 of this title.]

PRESIDENTIAL DETERMINATIONS RELATING TO DESIGNATIONS OF COUNTRIES AS MAJOR NON-NATO ALLIES

The following Presidential Determinations designated the countries listed as major non-NATO allies of the United States for purposes of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) and the Arms Export Control Act (22 U.S.C. 2751 et seq.):

Determination No. 97–4, Nov. 12, 1996, 61 F.R. 59809.—Jordan.
Determination No. 98–9, Jan. 6, 1998, 63 F.R. 3635.—Argentina.
Determination No. 2002–10, Mar. 14, 2002, 67 F.R. 13247.—Bahrain.
Determination No. 2004–02, Oct. 6, 2003, 68 F.R. 59855.—Philippines.
Determination No. 2004–16, Dec. 30, 2003, 69 F.R. 2053.—Thailand.
Determination No. 2004–21, Jan. 15, 2004, 69 F.R. 4843.—Kuwait.
Determination No. 2004–35, June 3, 2004, 69 F.R. 34049.—Morocco.
Determination No. 2004–37, June 16, 2004, 69 F.R. 38797.—Pakistan.
Determination No. 2015–09, July 10, 2015, 80 F.R. 43613.—Tunisia.

§§2321*l* to 2321n. Repealed. Pub. L. 104–164, title I, §104(b)(2)(B), July 21, 1996, 110 Stat. 1427

Section 2321l, Pub. L. 87–195, pt. II, §518, as added Pub. L. 101–513, title V, §533(f), Nov. 5, 1990, 104 Stat. 2015, authorized President to transfer nonlethal excess defense articles and small arms to friendly countries and to international organizations and private and voluntary organizations for preservation of endangered animal and plant species.

Section 2321m, Pub. L. 87–195, pt. II, §519, as added Pub. L. 101–513, title V, §596(b), Nov. 5, 1990, 104 Stat. 2061; amended Pub. L. 103–236, title VII, §731(c), Apr. 30, 1994, 108 Stat. 502, authorized President to transfer to countries for whom foreign military financing program was justified such nonlethal excess defense articles as President determined necessary to help modernize defense capabilities of such countries.

Section 2321n, Pub. L. 87–195, pt. II, §520, as added Pub. L. 103–236, title IV, §408, Apr. 30, 1994, 108 Stat. 452, authorized President to transfer to international and regional organizations of which United States is a member such excess defense articles as President determined necessary to support and maintain international peacekeeping operations and security.

§2322. Transferred

CODIFICATION

Section, Pub. L. 87–195, pt. II, §521, formerly §514, as added Pub. L. 89–583, pt. II, §201(f), Sept. 19, 1966, 80 Stat. 803; renumbered §521, Pub. L. 90–137, pt. II, §201(o)(1), Nov. 14, 1967, 81 Stat. 457, which related to administration of sales programs, was transferred to section 2341 of this title and subsequently repealed by Pub. L. 90–629, §45(a), Oct. 22, 1968, 82 Stat. 1327.

§2323. Transfer of defense articles or services

(a) Notice to Congress

Notwithstanding any other provision of law, none of the funds available to the Department of Defense for the current fiscal year and hereafter may be obligated or expended to transfer to another nation or an international organization any defense articles or services (other than intelligence services) for use in the activities described in subsection (b) unless the congressional defense committees, the Committee on Foreign Affairs of the House of Representatives, and the Committee on Foreign Relations of the Senate are notified 15 days in advance of such transfer.

(b) Activities affected

This section applies to—

(1) any international peacekeeping or peace-enforcement operation under the authority of chapter VI or chapter VII of the United Nations Charter under the authority of a United Nations Security Council resolution; and

(2) any other international peacekeeping, peace-enforcement, or humanitarian assistance operation.

(c) Contents of notice

A notice under subsection (a) shall include the following:

(1) A description of the equipment, supplies, or services to be transferred.

(2) A statement of the value of the equipment, supplies, or services to be transferred.

(3) In the case of a proposed transfer of equipment or supplies—

(A) a statement of whether the inventory requirements of all elements of the Armed Forces (including the reserve components) for the type of equipment or supplies to be transferred have been met; and

(B) a statement of whether the items proposed to be transferred will have to be replaced and, if so, how the President proposes to provide funds for such replacement.

(Pub. L. 113–235, div. C, title VIII, §8050, Dec. 16, 2014, 128 Stat. 2264.)

CODIFICATION

Section was enacted as part of the Department of Defense Appropriations Act, 2015, and also as part of the Consolidated and Further Continuing Appropriations Act, 2015, and not as part of the Foreign Assistance Act of 1961 which comprises this chapter.

"CONGRESSIONAL DEFENSE COMMITTEES" DEFINED

For definition of "congressional defense committees", see section 8026 of div. C of Pub. L. 113–325, set out as a note under section 2731 of Title 10, Armed Forces.

PART III—FOREIGN MILITARY SALES

§§2341 to 2343. Repealed. Pub. L. 90–629, ch. 4, §45(a), Oct. 22, 1968, 82 Stat. 1327

Section 2341, Pub. L. 87–195, pt. II, §521, formerly §514, as added Pub. L. 89–583, pt. II, §201(f), Sept. 19, 1966, 80 Stat. 803; renumbered §521 and amended Pub. L. 90–137, pt. II, §201(o)(1), (3)–(7), Nov. 14, 1967, 81 Stat. 457, provided for administration of sales programs involving defense articles and services. Subsec. (a) related to encouragement of regional arms control and disarmament agreements and discouragement of arms races; reimbursable basis of acquisitions; domestic procurement; and considerations. Subsec. (b) related to limitation on military assistance and sales for American Republics; and inclusion of assistance to inter-American military force under control of Organization of American States. Subsec. (c) related to furnishing of defense articles and services; conditions; and report to Congress. For subject matter of subsecs. (a) to (c), see sections 2751 and 2791, 2773, and 2753 of this title, respectively.

Section 2342, Pub. L. 87–195, pt. II, §522, formerly §507 (a), Sept. 4, 1961, 75 Stat. 437; amended Pub. L. 87–565, pt. II, §201(b), Aug. 1, 1962, 76 Stat. 259; Pub. L. 89–171, pt. II, §201(d)(1), Sept. 6, 1965, 79 Stat. 657; renumbered §522 and amended Pub. L. 90–137, pt. II, §201(f), Nov. 14, 1967, 81 Stat. 456, provided for sales of defense articles from stock and services, manner of payment, price of non-excess defense articles, and value of excess defense articles. See section 2761 of this title.

Section 2343, Pub. L. 87–195, pt. II, §523, formerly §507(b), Sept. 4, 1961, 75 Stat. 437; amended Pub. L. 87–565, pt. II, §201(c), Aug. 1, 1962, 76 Stat. 259; Pub. L. 88–633, pt. II, §201(c), Oct. 7, 1964, 78 Stat. 1011; Pub. L. 89–171, pt. II, §201(d)(2), Sept. 6, 1965, 79 Stat. 657; renumbered §523 and amended Pub. L. 90–137, pt. II, §201(g), Nov. 14, 1967, 81 Stat. 456, related to contracts for procurement for sales; undertakings; reimbursements; fixed-price sales agreements; prohibition against sales of articles available from commercial sources; and waiver of restrictions. See section 2762 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1968, see section 41 of Pub. L. 90–629, set out as an Effective Date note under section 2751 of this title.

SAVINGS PROVISION

Pub. L. 90–629, §46, Oct. 22, 1968, 82 Stat. 1328, provided that: "Except as may be expressly provided to the contrary in this Act [see Short Title note set out under section 2751 of this title], all determinations, authorizations, regulations, orders, contracts, agreements, and other actions issued, undertaken, or entered into under authority of any provision of law repealed by section 45(a) [repealing sections 2341 to 2343, 2344(b)(3), 2345, 2394(g), and 2399a of this title] shall continue in full force and effect until modified by appropriate authority."

§2344. Reimbursements

(a) Separate fund account; transfers to such account

Whenever funds made available for use under subchapter II of this chapter have been or are used to furnish military assistance on cash or credit terms, United States dollar repayments, including dollar proceeds derived from the sale of foreign currency repayments to any agency or program of the United States Government, receipts received from the disposition of evidences of indebtedness and charges (including fees and premiums) or interest collected shall be credited to a separate fund account, and shall be available until expended solely for the purpose of financing sales and guaranties, including the overhead costs thereof, and, notwithstanding any provision of law relating to receipts and credits accruing to the United States Government, repayments in foreign currency may be used to carry out subchapter II of this chapter. Such amounts of the appropriations made available under subchapter II of this chapter (including unliquidated balances of funds heretofore obligated for financing sales and guarantees) as may be determined by the President shall be transferred to, and merged with, the separate fund account.

(b) Termination of account; special account for discharge of Federal liabilities and obligations; general fund for excess moneys

(1) The special fund account established under subsection (a) of this section shall terminate as of the end of June 30, 1968, or on such earlier date as may be selected by the President.

(2) Upon the termination of such fund account pursuant to paragraph (1), all of the assets of such fund account (including loans and other payments receivable) shall be transferred to a special account in the Treasury, which special account shall be available solely for the purpose of

discharging outstanding liabilities and obligations of the United States arising out of credit sales agreements entered into, and guaranties issued, under subchapter II of this chapter prior to June 30, 1968. Any moneys in such special account in excess of the aggregate United States dollar amount of such liabilities and obligations shall be transferred from time to time to the general fund of the Treasury.

(Pub. L. 87–195, pt. II, §524, formerly §508, Sept. 4, 1961, 75 Stat. 437; Pub. L. 89–171, pt. II, §201(e), Sept. 6, 1965, 79 Stat. 657; Pub. L. 89–583, pt. II, §201(c), Sept. 19, 1966, 80 Stat. 803; renumbered §524 and amended Pub. L. 90–137, pt. II, §201(h), Nov. 14, 1967, 81 Stat. 456; Pub. L. 90–629, ch. 4, §45(a), Oct. 22, 1968, 82 Stat. 1327.)

REFERENCES TO SUBCHAPTER II DEEMED TO EXCLUDE CERTAIN PARTS OF SUBCHAPTER II

References to subchapter II of this chapter are deemed to exclude parts IV (§2346 et seq.), VI (§2348 et seq.), and VIII (§2349aa et seq.) of subchapter II, and references to subchapter I of this chapter are deemed to include such parts. See section 202(b) of Pub. L. 92–226, set out as a note under section 2346 of this title, and sections 2348c and 2349aa–5 of this title.

CODIFICATION

Section was formerly classified to section 2316 of this title.

AMENDMENTS

1968—Subsec. (b)(3). Pub. L. 90–629 repealed provisions of par. (3) which related to appropriations for financing sales, dollar value payments, general fund for payments, and exempt transactions, and is now covered by section 2763 of this title.

1967—Pub. L. 90–137 designated existing provisions as subsec. (a) and added subsec. (b).

1966—Pub. L. 89–583 provided for transfer to and merger with the separate fund account of such amounts of available appropriations (including unliquidated balances of funds heretofore obligated for financing sales and guarantees) as is determined by the President.

1965—Pub. L. 89–171 inserted "receipts received from the disposition of evidences of indebtedness and charges (including fees and premiums) or interest collected" and substituted "have been or are used" for "are used" and "financing sales and guaranties, including the overhead costs thereof" for "furnishing further military assistance on cash or credit terms."

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–629 effective July 1, 1968, see section 41 of Pub. L. 90–629, set out as an Effective Date note under section 2751 of this title.

SAVINGS PROVISION

Determinations, authorizations, regulations, orders, contracts, agreements, and other actions issued, undertaken, or entered into under authority of any provision of former subsec. (b)(3) of this section as continuing in full force and effect until modified by appropriate authority, see section 46 of Pub. L. 90–629, set out as a note under former section 2341 of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

INCREASES IN MILITARY ASSISTANCE PROGRAMS; REPORTS TO CONGRESS ON PRESIDENTIAL DETERMINATIONS

Pub. L. 91–194, title I, §100, Feb. 9, 1970, 84 Stat. 7, in part, limited increases in the military assistance program for any country to twenty per cent of the amount justified to Congress unless the President determined that such an increase was essential to the national interest of the United States and reported such determination to the Congress within thirty days after each such determination.

Similar provisions were contained in Pub. L. 90–249, title I, §100, Jan. 2, 1968, 81 Stat. 937; Pub. L. 90–581, title I, §100, Oct. 17, 1968, 82 Stat. 1138.

EXPENDITURES BY UNDERDEVELOPED COUNTRIES FOR WEAPONS SYSTEMS; PRESIDENTIAL DETERMINATION; REPORT TO CONGRESS

Pub. L. 91–194, title I, §119, Feb. 9, 1970, 84 Stat. 10, directed the President to withhold economic assistance in an amount equivalent to the amount spent by any underdeveloped country for the purchase of sophisticated weapons systems from any country other than certain enumerated countries, unless the President determined that such a purchase was important to the national security of the United States and reported such determination to Congress within thirty days after each such determination.

Similar provisions were contained in Pub. L. 90–249, title I, §119, Jan. 2, 1968, 81 Stat. 940; Pub. L. 90–581, title I, §119, Oct. 17, 1968, 82 Stat. 1141.

ARMS RACES AND WEAPONS SYSTEMS RESTRAINTS; PROHIBITIONS AGAINST DIVERSION OF RESOURCES FOR ECONOMIC AND AGRICULTURAL DEVELOPMENT TO MILITARY PURPOSES

Pub. L. 91–194, title I, §120, Feb. 9, 1970, 84 Stat. 10, as amended by Pub. L. 110–246, title III, §3001(c), June 18, 2008, 122 Stat. 1821, provided that:

"(a) In order to restrain arms races and proliferation of sophisticated weapons, and to ensure that resources intended for economic development are not diverted to military purposes, the President shall take into account before furnishing development loans, Alliance loans, or supporting assistance to any country under this Act [Pub. L. 91–194], and before making sales under the Food for Peace Act, as amended [7 U.S.C. 1691 et seq.]:

"(1) the percentage of the recipient or purchasing country's budget which is devoted to military purposes,

"(2) the degree to which the recipient or purchasing country is using its foreign exchange resources to acquire military equipment; and

"(3) the amount spent by the recipient or purchasing country for the purchase of sophisticated weapons systems, such as missile systems and jet aircraft for military purposes, from any country.

"(b) The President shall report annually to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate his actions in carrying out this provision."

§2345. Repealed. Pub. L. 90–629, ch. 4, §45(a), Oct. 22, 1968, 82 Stat. 1327

Section, Pub. L. 87–195, pt. II, §525, formerly §§503(e), 509(b), as added Pub. L. 88–633, pt. II, §201(a), (d), Oct. 7, 1964, 78 Stat. 1011; amended Pub. L. 89–171, pt. II, §201(f), Sept. 6, 1965, 79 Stat. 657; renumbered §525 and amended Pub. L. 90–137, pt. II, §201(b)(3), (i)(2), Nov. 14, 1967, 81 Stat. 455, 457, provided for guaranties until June 30, 1968. See section 2764 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1968, see section 41 of Pub. L. 90–629, set out as an Effective Date note under section 2751 of this title.

SAVINGS PROVISION

Determinations, authorizations, regulations, orders, contracts, agreements, and other actions issued undertaken, or entered into under authority of any provision of former section 2345 of this title as continuing in full force and effect until modified by appropriate authority, see section 46 of Pub. L. 90–629, set out as a note under former section 2341 of this title.

PART IV—ECONOMIC SUPPORT FUND

§2346. Authority

(a) Policy requirements for assistance

The Congress recognizes that, under special economic, political, or security conditions, the national interests of the United States may require economic support for countries or in amounts which could not be justified solely under part I of subchapter I of this chapter or, in the case of countries in sub-Saharan Africa, part X of subchapter I of this chapter. In such cases, the President is authorized to furnish assistance to countries and organizations, on such terms and conditions as he may determine, in order to promote economic or political stability. To the maximum extent feasible,

the President shall provide assistance under this part consistent with the policy directions, purposes, and programs of subchapter I of this chapter.

(b) Responsibility for policy decisions and justifications

The Secretary of State shall be responsible for policy decisions and justifications for economic support programs under this part, including determinations of whether there will be an economic support program for a country and the amount of the program for each country. The Secretary shall exercise this responsibility in cooperation with the Administrator of the agency primarily responsible for administering subchapter I of this chapter.

(c) Detailed justification for uses and purposes of funds

As part of the annual presentation materials for foreign assistance submitted to the Congress, the agency primarily responsible for administering subchapter II of this chapter shall provide a detailed justification for the uses and the purposes of the funds provided under this part. Such material shall include, but not be limited to, information concerning the amounts and kinds of cash grant transfers, the amounts and kinds of budgetary and balance-of-payments support provided, and the amounts and kinds of project assistance provided with funds made available under this part.

(d) Repealed. Pub. L. 105–277, div. A, §101(d) [title V, §533(a)(5)], Oct. 21, 1998, 112 Stat. 2681–150, 2681–180

(e) Availability of funds

Amounts appropriated to carry out this part shall be available for economic programs only and may not be used for military or paramilitary purposes.

(Pub. L. 87–195, pt. II, §531, as added Pub. L. 99–83, title II, §201(a), Aug. 8, 1985, 99 Stat. 210; amended Pub. L. 101–513, title V, §562(d)(8), Nov. 5, 1990, 104 Stat. 2031; Pub. L. 105–277, div. A, §101(d) [title V, §533(a)(5)], Oct. 21, 1998, 112 Stat. 2681–150, 2681–180.)

REFERENCES TO SUBCHAPTER I DEEMED TO INCLUDE THIS AND CERTAIN OTHER PARTS OF SUBCHAPTER II, AND REFERENCES TO SUBCHAPTER II DEEMED TO EXCLUDE SUCH PARTS

Pub. L. 92–226, pt. II, §202(b), Feb. 7, 1972, 86 Stat. 27, provided that: "Chapter 4 of part I of the Foreign Assistance Act of 1961 [part IV of subchapter I of this chapter (sections 2241 to 2243 of this title)] is hereby repealed. References to such chapter [4 of part I of the Foreign Assistance Act of 1961 (former sections 2241 to 2243 of this title)] or any sections thereof shall hereafter [on and after Feb. 7, 1972] be deemed to be references to chapter 4 of part II of the Foreign Assistance Act of 1961, as added by subsection (a) of this section [this part], or to appropriate sections thereof. All references to part I of the Foreign Assistance Act of 1961 [subchapter I of this chapter] shall hereafter be deemed to be references also to chapter 4 of part II [this part], and all references to part II of such Act [subchapter II of this chapter] shall be deemed not to include chapter 4 of such part II [this part]".

References to subchapter I of this chapter are deemed to include parts VI (§2348 et seq.) and VIII (§2349aa et seq.) of subchapter II of this chapter, and references to subchapter II are deemed to exclude such parts. See sections 2348c and 2349aa–5 of this title.

REFERENCE TO PART I DEEMED TO INCLUDE SECTION 2293

Reference to part I of subchapter I of this chapter deemed to include a reference to section 2293 of this title. See section 2293(d)(1) of this title.

PRIOR PROVISIONS

A prior section 2346, Pub. L. 87–195, pt. II, §531, as added Pub. L. 92–226, pt. II, §202(a), Feb. 7, 1972, 86 Stat. 26; amended Pub. L. 95–92, §8(a), Aug. 4, 1977, 91 Stat. 617; Pub. L. 95–384, §10(a), Sept. 26, 1978, 92 Stat. 733; 1979 Reorg. Plan No. 2, §6(b)(1), eff. Oct. 1, 1979, 44 F.R. 41166, 93 Stat. 1379; Pub. L. 96–92, §8(a), Oct. 29, 1979, 93 Stat. 703; Pub. L. 96–533, title II, §201, Dec. 16, 1980, 94 Stat. 3142; Pub. L. 97–113, title II, §201, Dec. 29, 1981, 95 Stat. 1528, authorized President to furnish assistance to countries and organizations to promote economic or political stability, prior to repeal by Pub. L. 99–83, title II, §201(a), Aug. 8, 1985, 99 Stat. 210.

AMENDMENTS

1998—Subsec. (d). Pub. L. 105–277 struck out subsec. (d) which read as follows: "To the maximum extent feasible, funds made available pursuant to this part for commodity import programs or other program assistance shall be used to generate local currencies, not less than 50 percent of which shall be available to support activities consistent with the objectives of sections 2151a through 2151d of this title, and administered by the agency primarily responsible for administering subchapter I of this chapter."

1990—Subsec. (a). Pub. L. 101–513 inserted "or, in the case of countries in sub-Saharan Africa, part X of subchapter I of this chapter" after "part I of subchapter I of this chapter".

EFFECTIVE DATE

Section effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as an Effective Date of 1985 Amendment note under section 2151–1 of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

ASSISTANCE TO LEBANON

Pub. L. 107–228, div. B, title XII, §1224, Sept. 30, 2002, 116 Stat. 1432, provided that:

"(a) PROHIBITION.—Notwithstanding any other provision of law, $10,000,000 of the amounts made available for fiscal year 2003 or any subsequent fiscal year that are allocated for assistance to Lebanon under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 et seq.; relating to the economic support fund) may not be obligated unless and until the President certifies to the appropriate congressional committees that—

"(1) the armed forces of Lebanon have been deployed to the internationally recognized border between Lebanon and Israel; and

"(2) the Government of Lebanon is effectively asserting its authority in the area in which such armed forces have been deployed.

"(b) REQUIREMENT RELATING TO FUNDS WITHHELD.—Notwithstanding any other provision of law, any funds withheld pursuant to subsection (a) may not be programmed in order to be used for a purpose other than for assistance to Lebanon until the last month of the fiscal year in which the authority to obligate such funds lapses."

[For definition of "appropriate congressional committees" as used in section 1224 of Pub. L. 107–228, set out above, see section 3 of Pub. L. 107–228, set out as a note under section 2651 of this title.]

ASSISTANCE TO AFGHANISTAN

Pub. L. 99–83, title IX, §904, Aug. 8, 1985, 99 Stat. 268, provided that:

"(a) AUTHORIZATION.—The President may make available funds authorized to be appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 [22 U.S.C. 2346 et seq.] (relating to the economic support fund) for the provision of food, medicine, or other humanitarian assistance to the Afghan people, notwithstanding any other provision of law.

"(b) EARMARKING OF FUNDS.—Each fiscal year, not less than $15,000,000 of the aggregate amount of funds available to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 shall be available only for humanitarian assistance to the Afghan people pursuant to subsection (a) of this section.

"(c) EFFECTIVE DATES.—This section shall take effect on the date of enactment of this Act [Aug. 8, 1985], except that subsection (b) shall not apply to fiscal year 1985."

REPORTS ON ECONOMIC CONDITIONS PREVAILING IN EGYPT, ISRAEL, TURKEY, AND PORTUGAL

Pub. L. 99–83, title XII, §1205, Aug. 8, 1985, 99 Stat. 277, provided that:

"(a) EXTERNAL DEBT BURDEN OF CERTAIN COUNTRIES RECEIVING UNITED STATES ASSISTANCE.—The Congress finds that the Governments of Egypt, Israel, Turkey, and Portugal each have an enormous external debt burden which may be made more difficult by virtue of financing provided for those governments under various United States assistance programs.

"(b) ANNUAL REPORTS ON ECONOMIC CONDITIONS.—In order to assist the Congress in examining United States assistance for these countries, the President shall report to Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate, not later than January 15 of each year, regarding economic conditions prevailing in Egypt, Israel, Turkey, and Portugal which may affect their respective ability to meet their international debt obligations and to stabilize their economies."

[For delegation of functions of President under section 1205(b) of Pub. L. 99–83, set out above, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.]

REFERENCES TO SECURITY SUPPORTING ASSISTANCE AS REFERENCES TO ASSISTANCE UNDER PART IV OF SUBCHAPTER II OF THIS CHAPTER

Pub. L. 95–384, §10(b)(6), Sept. 26, 1978, 92 Stat. 735, provided that: "After September 30, 1978, any reference in any law to security supporting assistance shall be deemed to be a reference to assistance under chapter 4 of part II of the Foreign Assistance Act of 1961 [this part]."

SECURITY SUPPORTING ASSISTANCE PROGRAM FOR EGYPT

Pub. L. 95–92, §9, Aug. 4, 1977, 91 Stat. 619, as amended by Pub. L. 95–384, §29(c)(2)(A), Sept. 26, 1978, 92 Stat. 747, provided that: "It is the sense of the Congress that the security supporting assistance program for Egypt plays an important role in the Middle East peace effort and that the Executive branch should concentrate its efforts in order to make the program a success."

§2346a. Authorizations of appropriations

(a) Recipients and purposes of funds

There are authorized to be appropriated to the President to carry out the purposes of this part—

(1) $2,015,000,000 for the fiscal year 1986 and $2,015,000,000 for the fiscal year 1987 for the following countries signing the Camp David agreement: Israel and Egypt; and

(2) $1,785,000,000 for the fiscal year 1986 and $1,785,000,000 for the fiscal year 1987 for assistance under this part for recipients or purposes other than the countries referred to in paragraph (1).

(b) Availability of amounts

Amounts appropriated to carry out this part are authorized to remain available until expended.

(Pub. L. 87–195, pt. II, §532, as added Pub. L. 99–83, title II, §201(a), Aug. 8, 1985, 99 Stat. 211.)

PRIOR PROVISIONS

A prior section 2346a, Pub. L. 87–195, pt. II, 532, as added Pub. L. 97–113, title II, §202, Dec. 29, 1981, 95 Stat. 1529; amended Pub. L. 98–151, §101(b)(2), Nov. 14, 1983, 97 Stat. 970, earmarked specific funds for Israel and Egypt, prior to repeal by Pub. L. 99–83, title II, §201(a), Aug. 8, 1985, 99 Stat. 210.

Another prior section 2346a, Pub. L. 87–195, pt. II, §532, as added Pub. L. 96–533, title II, §202, Dec. 16, 1980, 94 Stat. 3142, related to Middle East programs and use of fiscal year funds, prior to repeal by Pub. L. 97–113, title II, §202, Dec. 29, 1981, 95 Stat. 1529.

Another prior section 2346a, Pub. L. 87–195, pt. II, §532, as added Pub. L. 92–226, pt. II, §202(a), Feb. 7, 1972, 86 Stat. 26; amended Pub. L. 93–189, §13(1), Dec. 17, 1973, 87 Stat. 722; Pub. L. 93–559, §18, Dec. 30, 1974, 88 Stat. 1800; Pub. L. 94–329, title V, §501(a), June 30, 1976, 90 Stat. 762; Pub. L. 95–92, §8(b), Aug. 4, 1977, 91 Stat. 617; Pub. L. 95–384, §10(a), Sept. 26, 1978, 92 Stat. 733; Pub. L. 96–92, §8(b), Oct. 29, 1979, 93 Stat. 703, related to Middle East program, providing policy requirements, availability of funds, amount of grants, and cash transfers, regional programs, comprehensive peace settlement and process of peace, and assistance to Syria, prior to repeal by Pub. L. 96–533, title II, §202, Dec. 16, 1980, 94 Stat. 3142.

EFFECTIVE DATE

Section effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as an Effective Date of 1985 Amendment note under section 2151–1 of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

TERMINATION OF ASSISTANCE PROGRAMS TO SYRIA

Pub. L. 98–164, title X, §1004, Nov. 22, 1983, 97 Stat. 1057, provided that:

"(a) After the enactment of this section [Nov. 22, 1983], funds available to the Agency for International Development may not be used for any payment or reimbursement of any kind to the Government of Syria or for the delivery of any goods or services of any kind to the Government of Syria.

"(b) The Administrator of the Agency for International Development shall deobligate all funds which have been obligated for Syria under the Foreign Assistance Act of 1961 [this chapter] prior to the enactment of this section [Nov. 22, 1983], except that—

"(1) such funds may continue to be used to finance the training or studies outside of Syria of students whose course of study began before the enactment of this section;

"(2) the Administrator may adopt as a contract of the United States Government any contract with a United States or third-country contractor which would otherwise be terminated pursuant to this subsection, and may assume in whole or in part any liabilities arising under such contract, except that the authority provided by this paragraph may be exercised only to the extent that budget authority is available to meet the obligations of the United States under such contracts; and

"(3) amounts certified pursuant to section 1311 of the Supplemental Appropriation Act, 1955 [31 U.S.C. 1108(c), 1501, 1502(a)], as having been obligated for Syria under chapter 4 of part II of the Foreign Assistance Act of 1961 [this part] shall continue to be available until expended to meet necessary expenses arising from the termination of assistance programs for Syria pursuant to this subsection."

Pub. L. 98–151, §101(b)(1), Nov. 14, 1983, 97 Stat. 964, provided that: "None of the funds heretofore appropriated or otherwise made available for Syria for the purposes of carrying out the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961 [this part] shall be expended after the date of enactment of this joint resolution [Nov. 14, 1983]. The Administrator of the Agency for International Development is directed to terminate the economic assistance program to Syria and to deobligate all funds heretofore obligated for assistance to Syria, except that such funds may continue to be available to finance the training or studies outside of Syria of students whose course of study or training program began before enactment of this joint resolution. The Administrator of the Agency for International Development is authorized to adopt as a contract of the United States Government, and assume any liabilities arising thereunder (in whole or in part), any contract with a United States contractor which had been funded by the Agency for International Development prior to the date of enactment of this joint resolution. Amounts certified pursuant to section 1311 of the Supplemental Appropriations Act, 1955 [31 U.S.C. 1108(c), 1501, 1502(a)], as having been obligated against appropriations heretofore made pursuant to chapter 4 of part II of the Foreign Assistance Act of 1961 (and predecessor legislation) for Syria are hereby continued available until expended to meet necessary expenses arising from the termination under this subsection of assistance programs for Syria authorized by such chapter: *Provided*, That this shall not be construed as permitting payments or reimbursements of any kind to the Government of Syria."

NEGOTIATIONS BETWEEN ISRAEL AND EGYPT; PROMOTION, ETC.

Pub. L. 95–384, §28, Sept. 26, 1978, 92 Stat. 746, provided that:

"(a) The Congress finds that—

"(1) a lasting settlement of the Arab-Israel conflict is vital to United States national interests as well as to the interests of the countries of the region;

"(2) support for a strong and secure Israel and the maintenance for this purpose of Israel's effective defense capabilities as essential to peace remains a fundamental tenet of United States foreign policy;

"(3) direct, face-to-face negotiations between Israel and Egypt without preconditions is an historic opening for peace, and the support of such negotiations by other moderate Arab countries, can best promote a peace settlement based on mutual concessions and accommodations;

"(4) the establishment of secure, recognized, and defensible borders between Israel and its neighbors will discourage hostilities; and

"(5) full, normalized relations between Israel and its Arab neighbors, including trade, travel, tourism, communications, and diplomatic relations are vital for peace.

"(b) It is the sense of the Congress that the Government of the United States should continue to promote direct negotiations between Israel and Egypt and to encourage other Arab countries to enter into negotiations leading to peace treaties with Israel.

"(c) It is further the sense of the Congress that the United States should be responsive to Israel's economic needs and defense requirements, including the provision of additional advanced aircraft, in order to maintain Israel's defense capability which is essential to peace."

§2346b. Emergency assistance

(a) Of the funds appropriated to carry out this part, up to $75,000,000 for the fiscal year 1986 and up to $75,000,000 for the fiscal year 1987 may be made available for emergency use under this part

when the national interests of the United States urgently require economic support to promote economic or political stability.

(b) Notwithstanding any provision of this part or of an appropriations Act (including a joint resolution making continuing appropriations) which earmarks funds available to carry out this part for a specific country or purpose, up to 5 percent of each amount so earmarked may be used to carry out this section.

(Pub. L. 87–195, pt. II, §533, formerly §535, as added Pub. L. 97–113, title II, §202, Dec. 29, 1981, 95 Stat. 1530; renumbered §533 and amended Pub. L. 99–83, title II, §201(b), Aug. 8, 1985, 99 Stat. 211.)

CODIFICATION

Section was classified to section 2346d of this title prior to renumbering by Pub. L. 99–83.

PRIOR PROVISIONS

A prior section 2346b, Pub. L. 87–195, pt. II, §533, as added Pub. L. 97–113, title II, §202, Dec. 29, 1981, 95 Stat. 1530, related to grants for eastern Mediterranean programs, prior to repeal by Pub. L. 99–83, title II, §201(a), Aug. 8, 1985, 99 Stat. 210.

Another prior section 2346b, Pub. L. 87–195, pt. II, §533, as added Pub. L. 96–533, title II, §202, Dec. 16, 1980, 94 Stat. 3143, related to Central American economic support, prior to repeal by Pub. L. 97–113, §202, Dec. 29, 1981, 95 Stat. 1529.

Another prior section 2346b, Pub. L. 87–195, pt. II, §533, as added Pub. L. 95–92, §8(c), Aug. 4, 1977, 91 Stat. 618; amended Pub. L. 95–384, §10(a), Sept. 26, 1978, 92 Stat. 735; Pub. L. 96–92, §8(c), Oct. 29, 1979, 93 Stat. 704, provided for a Southern Africa economic support program, including availability of funds and assistance requirements and limitations, prior to repeal by Pub. L. 96–533, title II, §202, Dec. 16, 1980, 94 Stat. 3142.

Another prior section 2346b, Pub. L. 87–195, pt. II, §533, as added Pub. L. 92–226, pt. II, §202(a), Feb. 7, 1972, 86 Stat. 27, provided for a Vietnam special dollar account for coverage of United States refund claims, amount in account, and maintenance of dollar level, prior to repeal by Pub. L. 93–189, §13(2), Dec. 17, 1973, 87 Stat. 722.

AMENDMENTS

1985—Subsec. (a). Pub. L. 99–83, §202(b)(1), substituted "1986" and "1987" for "1982" and "1983", respectively.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–83 effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as a note under section 2151–1 of this title.

§2346c. Administration of justice

(a) Authorization of assistance; purposes

The President may furnish assistance under this part to countries and organizations, including national and regional institutions, in order to strengthen the administration of justice in countries in Latin America and the Caribbean.

(b) Scope of assistance

Assistance under this section may only include—

(1) support for specialized professional training, scholarships, and exchanges for continuing legal education;

(2) programs to enhance prosecutorial and judicial capabilities and protection for participants in judicial cases;

(3) notwithstanding section 2420 of this title—

(A) programs to enhance professional capabilities to carry out investigative and forensic functions conducted under judicial or prosecutorial control;

(B) programs to assist in the development of academic instruction and curricula for training

law enforcement personnel;

(C) programs to improve the administrative and management capabilities of law enforcement agencies, especially their capabilities relating to career development, personnel evaluation, and internal discipline procedures; and

(D) programs, conducted through multilateral or regional institutions, to improve penal institutions and the rehabilitation of offenders;

(4) strengthening professional organizations in order to promote services to members and the role of the bar in judicial selection, enforcement of ethical standards, and legal reform;

(5) increasing the availability of legal materials and publications;

(6) seminars, conferences, and training and educational programs to improve the administration of justice and to strengthen respect for the rule of law and internationally recognized human rights; and

(7) revision and modernization of legal codes and procedures.

(c) Availability of funds

Not more than $20,000,000 of the funds made available to carry out this part for any fiscal year shall be available to carry out this section, in addition to amounts otherwise available for such purposes.

(d) Obligation of funds

Funds may not be obligated for assistance under this section unless the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate are notified of the amount and nature of the proposed assistance at least 15 days in advance in accordance with the procedures applicable to reprogrammings pursuant to section 2394–1 of this title.

(e) Participation of Defense personnel in training prohibited; availability of funds; expiration of authority

Personnel of the Department of Defense and members of the United States Armed Forces may not participate in the provision of training under this section. Of the funds made available to carry out this section, not more than $10,000,000 may be made available in fiscal year 1991 to carry out the provisions of subsection (b)(3) of this section. The authority of this section shall expire on September 30, 1991.

(Pub. L. 87–195, pt. II, §534, as added Pub. L. 99–83, title VII, §712, Aug. 8, 1985, 99 Stat. 244; amended Pub. L. 100–202, §101(e) [title V, §579], Dec. 22, 1987, 101 Stat. 1329–131, 1329–181; Pub. L. 101–167, title II, Nov. 21, 1989, 103 Stat. 1206; Pub. L. 101–513, title II, Nov. 5, 1990, 104 Stat. 1990; Pub. L. 101–623, §2(b)(6), Nov. 21, 1990, 104 Stat. 3351.)

PRIOR PROVISIONS

A prior section 2346c, Pub. L. 87–195, pt. II, §534, as added Pub. L. 97–113, title II, §202, Dec. 29, 1981, 95 Stat. 1530, prohibited the use of funds for nuclear facilities in foreign countries except under certain circumstances, prior to repeal by Pub. L. 99–83, title II, §201(a), Aug. 8, 1985, 99 Stat. 210.

Another prior section 2346c, Pub. L. 87–195, pt. II, §534, as added Pub. L. 95–384, §10(a), Sept. 26, 1978, 92 Stat. 735; amended Pub. L. 96–92, §8(d), Oct. 29, 1979, 93 Stat. 704, provided economic support for Turkey and Cyprus in amounts of $98,000,000 and $15,000,000 for fiscal year 1980, prior to repeal by Pub. L. 96–533, title II, §202, Dec. 16, 1980, 94 Stat. 3142.

AMENDMENTS

1990—Subsec. (e). Pub. L. 101–623, §2(b)(6)(A), which directed the substitution of "$10,000,000 may be made available in fiscal year 1991" for "$7,000,000 may be made available in fiscal year 1990", was executed by making the substitution for "$7,000,000 may be made available in fiscal year 1991" to reflect the probable intent of Congress and the intervening substitution of "fiscal year 1991" for "fiscal year 1990" by Pub. L. 101–513. See below.

Pub. L. 101–623, §2(b)(6)(B), and Pub. L. 101–513, amended subsec. (e) identically, substituting "September 30, 1991" for "September 30, 1990".

Pub. L. 101–513 substituted "fiscal year 1991" for "fiscal year 1990".

1989—Subsec. (e). Pub. L. 101–167 substituted "fiscal year 1990" for "each of fiscal years 1988 and 1989" and "September 30, 1990" for "September 30, 1989".

1987—Subsec. (b)(3). Pub. L. 100–202, §101(e) [title V, §579(a)], amended par. (3) generally. Prior to amendment, par. (3) read as follows: "notwithstanding section 2420 of this title, programs to enhance investigative capabilities, conducted under judicial or prosecutorial control;".

Subsec. (e). Pub. L. 100–202, §101(e) [title V, §579(b)], amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: "The authority of this section shall expire on September 30, 1987."

EFFECTIVE DATE

Section effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as an Effective Date of 1985 Amendment note under section 2151–1 of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

ADMINISTRATION OF JUSTICE ACTIVITIES

Pub. L. 108–199, div. D, title V, §536, Jan. 23, 2004, 118 Stat. 183, provided that: "Of the funds appropriated or otherwise made available by this Act or any subsequent Act for 'Economic Support Fund', assistance may be provided to strengthen the administration of justice in countries in Latin America and the Caribbean and in other regions consistent with the provisions of section 534(b) of the Foreign Assistance Act of 1961 [22 U.S.C. 2346c(b)], except that programs to enhance protection of participants in judicial cases may be conducted notwithstanding section 660 of that Act [22 U.S.C. 2420]. Funds made available pursuant to this section may be made available notwithstanding section 534(c) and the second and third sentences of section 534(e) of the Foreign Assistance Act of 1961 [22 U.S.C. 2346c(c), (e)]."

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 108–7, div. E, title V, §536, Feb. 20, 2003, 117 Stat. 195.

Pub. L. 107–115, title V, §536, Jan. 10, 2002, 115 Stat. 2152.

Pub. L. 106–429, §101(a) [title V, §540], Nov. 6, 2000, 114 Stat. 1900, 1900A–37.

Pub. L. 106–113, div. B, §1000(a)(2) [title V, §540], Nov. 29, 1999, 113 Stat. 1535, 1501A–95.

Pub. L. 105–277, div. A, §101(d) [title V, §542], Oct. 21, 1998, 112 Stat. 2681–150, 2681–184.

Pub. L. 105–118, title V, §541, Nov. 26, 1997, 111 Stat. 2418.

Pub. L. 104–208, div. A, title I, §101(c) [title V, §543], Sept. 30, 1996, 110 Stat. 3009–121, 3009–157.

Pub. L. 104–107, title V, §543, Feb. 12, 1996, 110 Stat. 739.

Pub. L. 103–306, title V, §549(a), (c), Aug. 23, 1994, 108 Stat. 1643, 1644.

Pub. L. 103–87, title V, §551(a)(1), (b), Sept. 30, 1993, 107 Stat. 962.

Pub. L. 102–391, title V, §588(a)(1), (b), Oct. 6, 1992, 106 Stat. 1689, 1690.

ANTI-NARCOTICS UPDATE

Pub. L. 102–145, §124, as added by Pub. L. 102–266, §102, Apr. 1, 1992, 106 Stat. 97, provided that: "The program authorized by section 534 of the Foreign Assistance Act of 1961 [22 U.S.C. 2346c] may continue from funds appropriated by this joint resolution for foreign operations, export financing, and related programs, notwithstanding the last sentence of section 534(e) of that Act: *Provided*, That such programs may include the protection of participants in judicial cases, notwithstanding section 660 of that Act [22 U.S.C. 2420]: *Provided further*, That, notwithstanding sections 534(c) and 660 of that Act, (1) up to $10,000,000 to provide support for a professional civilian police force for Panama, except that such assistance shall not include more than $5,000,000 for the procurement of equipment for law enforcement purposes, and shall not include lethal equipment, and (2) up to $16,000,000 for Bolivia, Colombia, and Peru."

§2346d. Repealed. Pub. L. 103–149, §4(a)(3)(B), Nov. 23, 1993, 107 Stat. 1505

Section, Pub. L. 87–195, pt. II, §535, as added Pub. L. 99–440, title V, §511(a), Oct. 2, 1986, 100 Stat. 1111; amended Pub. L. 99–631, §1(b)(3), Nov. 7, 1986, 100 Stat. 3519, related to economic support for disadvantaged South Africans.

§§2346e to 2346i. Repealed. Pub. L. 99–83, title II, §201(a), Aug. 8, 1985, 99 Stat. 210

Section 2346e, Pub. L. 87–195, pt. II, §536, as added Pub. L. 97–113, title II, §202, Dec. 29, 1981, 95 Stat. 1531, related to special requirements fund.

A prior section 2346e, Pub. L. 87–195, pt. II, §536, as added Pub. L. 96–257, §2, May 31, 1980, 94 Stat. 422, provided for Central American economic support for fiscal year 1980, in amount of $80,000,000, prior to repeal by Pub. L. 96–533, title II, §202, Dec. 16, 1980, 94 Stat. 3142.

Section 2346f, Pub. L. 87–195, pt. II, §537, as added Pub. L. 97–113, title II, §202, Dec. 29, 1981, 95 Stat. 1531, related to programs for Tunisia.

Section 2346g, Pub. L. 87–195, pt. II, §538, as added Pub. L. 97–113, title II, §202, Dec. 29, 1981, 95 Stat. 1531, related to programs for Costa Rica.

Section 2346h, Pub. L. 87–195, pt. II, §539, as added Pub. L. 97–113, title II, §202, Dec. 29, 1981, 95 Stat. 1531, related to programs for Nicaragua.

Section 2346i, Pub. L. 87–195, pt. II, §540, as added Pub. L. 97–113, title VII, §708(c), Dec. 29, 1981, 95 Stat. 1546, related to programs for Poland.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as an Effective Date of 1985 Amendment note under section 2151–1 of this title.

PART V—INTERNATIONAL MILITARY EDUCATION AND TRAINING

§2347. General authority

(a) The President is authorized to furnish, on such terms and conditions consistent with this chapter as the President may determine (but whenever feasible on a reimbursable basis), military education and training to military and related civilian personnel of foreign countries. Such civilian personnel shall include foreign governmental personnel of ministries other than ministries of defense, and may also include legislators and individuals who are not members of the government, if the military education and training would (i) contribute to responsible defense resource management, (ii) foster greater respect for and understanding of the principle of civilian control of the military, (iii) contribute to cooperation between military and law enforcement personnel with respect to counternarcotics law enforcement efforts, or (iv) improve military justice systems and procedures in accordance with internationally recognized human rights. Such training and education may be provided through—

(1) attendance at military educational and training facilities in the United States (other than Service academies) and abroad;

(2) attendance in special courses of instruction at schools and institutions of learning or research in the United States and abroad; and

(3) observation and orientation visits to military facilities and related activities in the United States and abroad.

(b) The President shall seek reimbursement for military education and training furnished under this part from countries using assistance under section 2763 of this title (relating to the Foreign Military Financing Program) to purchase such military education and training at a rate comparable to the rate charged to countries receiving grant assistance for military education and training under this part.

(Pub. L. 87–195, pt. II, §541, as added Pub. L. 94–329, title I, §106(a), June 30, 1976, 90 Stat. 732; amended Pub. L. 101–513, title III, Nov. 5, 1990, 104 Stat. 1997; Pub. L. 102–583, §10, Nov. 2, 1992, 106 Stat. 4934; Pub. L. 104–164, title I, §112(a), July 21, 1996, 110 Stat. 1427; Pub. L. 109–102, title V, §534(l)(3), Nov. 14, 2005, 119 Stat. 2211.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

AMENDMENTS

2005—Pub. L. 109–102 designated existing provisions as subsec. (a) and added subsec. (b).

1996—Pub. L. 104–164 inserted "and individuals who are not members of the government" after "legislators" in second sentence of introductory provisions.

1992—Pub. L. 102–583, in introductory provisions, inserted ", and may also include legislators," after "ministries of defense" and substituted "(iii) contribute to cooperation between military and law enforcement personnel with respect to counternarcotics law enforcement efforts, or (iv)" for "or (iii)".

1990—Pub. L. 101–513 inserted after first sentence "Such civilian personnel shall include foreign governmental personnel of ministries other than ministries of defense if the military education and training would (i) contribute to responsible defense resource management, (ii) foster greater respect for and understanding of the principle of civilian control of the military, or (iii) improve military justice systems and procedures in accordance with internationally recognized human rights."

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

FUNDS MADE AVAILABLE PURSUANT TO OTHER PROVISIONS OF LAW

Pub. L. 94–329, title I, §106(d), June 30, 1976, 90 Stat. 734, provided that: "Funds made available pursuant to other provisions of law for foreign military educational and training activities shall remain available for obligation and expenditure for their original purposes in accordance with the provisions of law originally applicable to those purposes or in accordance with the provisions of law currently applicable to those purposes."

§2347a. Authorization of appropriations

There are authorized to be appropriated to the President to carry out the purposes of this part $56,221,000 for fiscal year 1986 and $56,221,000 for fiscal year 1987.

(Pub. L. 87–195, pt. II, §542, as added Pub. L. 94–329, title I, §106(a), June 30, 1976, 90 Stat. 732; amended Pub. L. 95–92, §10, Aug. 4, 1977, 91 Stat. 619; Pub. L. 95–384, §11(a), Sept. 26, 1978, 92 Stat. 736; Pub. L. 96–92, §9, Oct. 29, 1979, 93 Stat. 705; Pub. L. 96–533, title I, §115(a), Dec. 16, 1980, 94 Stat. 3140; Pub. L. 97–113, title I, §113, title VII, §734(a)(1), Dec. 29, 1981, 95 Stat. 1528, 1560; Pub. L. 99–83, title I, §104, Aug. 8, 1985, 99 Stat. 195.)

AMENDMENTS

1985—Pub. L. 99–83 amended section generally, substituting provisions authorizing appropriations of $56,221,000 for fiscal years 1986 and 1987, for provisions authorizing appropriations of $42,000,000 for fiscal years 1982 and 1983.

1981—Pub. L. 97–113, §§113, 734(a)(1), substituted appropriations authorization of $42,000,000 for fiscal years 1982 and 1983 for appropriation of $34,000,000 for fiscal year 1981 and deleted prohibition against any training after June 30, 1976, outside the United States without a prior Presidential report to the Speaker of the House and the Senate Foreign Relations Committee and justification for the training.

1980—Pub. L. 96–533 substituted appropriations authorization of $34,000,000 for fiscal year 1981 for authorization of $31,800,000 for fiscal year 1980, including prohibition against availability of any amount for Inter-American regional programs unless the foreign country participants collectively contribute an equivalent amount to carry out the programs.

1979—Pub. L. 96–92 substituted appropriations authorization of $31,800,000 for fiscal year 1980, for identical authorization for fiscal year 1979, and required collective contribution of an equivalent amount by the foreign countries participating in Inter-American regional programs before such amount became available from the appropriation for such programs.

1978—Pub. L. 95–384 substituted "$31,800,000 for the fiscal year 1979" for "$31,000,000 for the fiscal year 1978".

1977—Pub. L. 95–92 substituted "$31,000,000 for the fiscal year 1978" for "$27,000,000 for the fiscal year

1976 and $30,200,000 for the fiscal year 1977".

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–83 effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as a note under section 2151–1 of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§2347b. Congressional declaration of purpose

Education and training activities conducted under this part shall be designed—

(1) to encourage effective and mutually beneficial relations and increased understanding between the United States and foreign countries in furtherance of the goals of international peace and security;

(2) to improve the ability of participating foreign countries to utilize their resources, including defense articles and defense services obtained by them from the United States, with maximum effectiveness, thereby contributing to greater self-reliance by such countries; and

(3) to increase the awareness of nationals of foreign countries participating in such activities of basic issues involving internationally recognized human rights.

(Pub. L. 87–195, pt. II, §543, as added Pub. L. 94–329, title I, §106(a), June 30, 1976, 90 Stat. 733; amended Pub. L. 95–384, §11(b), Sept. 26, 1978, 92 Stat. 736.)

AMENDMENTS

1978—Pub. L. 95–384 added par. (3).

§2347c. Exchange training; reciprocity agreement

(a) Attendance of foreign military personnel at professional military education institutions

In carrying out this part, the President is authorized to provide for attendance of foreign military personnel at professional military education institutions in the United States (other than service academies) without charge, and without charge to funds available to carry out this part (notwithstanding section 2392(d) of this title), if such attendance is pursuant to an agreement providing for the exchange of students on a one-for-one, reciprocal basis each fiscal year between those United States professional military education institutions and comparable institutions of foreign countries and international organizations.

(b) Attendance of foreign military and civilian defense personnel at flight training schools and programs

The President may provide for the attendance of foreign military and civilian defense personnel at flight training schools and programs (including test pilot schools) in the United States without charge, and without charge to funds available to carry out this part (notwithstanding section 2392(d) of this title), if such attendance is pursuant to an agreement providing for the exchange of students on a one-for-one basis each fiscal year between those United States flight training schools and programs (including test pilot schools) and comparable flight training schools and programs of foreign countries.

(c) Post-undergraduate flying training and tactical leadership programs at training locations in Southwest Asia

(1) The President is authorized to enter into cooperative arrangements providing for the participation of foreign and United States military and civilian defense personnel in post-undergraduate flying training and tactical leadership programs and integrated air and missile defense programs at training locations in Southwest Asia without charge to participating foreign

countries, and without charge to funds available to carry out this part (notwithstanding section 2392(d) of this title). Such training must satisfy common requirements with the United States for post-undergraduate flying and tactical leadership training and integrated air and missile defense training.

(2) Cooperative arrangements under this subsection shall require an equitable contribution of support and services from each participating country. The President may waive the requirement for an equitable contribution of a participating foreign country if he determines that to do so is important to the national security interests of the United States.

(3) Costs incurred by the United States shall be charged to the current applicable appropriations accounts or funds of the participating United States Government agencies.

(4) The President shall report to the appropriate congressional committees (as defined in section 2416(e) of this title) annually on the activities undertaken in the programs authorized under this subsection.

(Pub. L. 87–195, pt. II, §544, as added Pub. L. 99–83, title I, §126, Aug. 8, 1985, 99 Stat. 205; amended Pub. L. 104–164, title I, §112(b), July 21, 1996, 110 Stat. 1427; Pub. L. 107–228, div. B, title XII, §1213, Sept. 30, 2002, 116 Stat. 1429; Pub. L. 113–66, div. A, title XII, §1233, Dec. 26, 2013, 127 Stat. 920; Pub. L. 113–276, title II, §203, Dec. 18, 2014, 128 Stat. 2990.)

AMENDMENTS

2014—Subsec. (c)(4). Pub. L. 113–276 added par. (4).

2013—Subsec. (c)(1). Pub. L. 113–66 inserted "and integrated air and missile defense programs" after "tactical leadership programs" and "and integrated air and missile defense training" after "tactical leadership training".

2002—Subsec. (c). Pub. L. 107–228 added subsec. (c).

1996—Pub. L. 104–164 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE

Section effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as an Effective Date of 1985 Amendment note under section 2151–1 of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

AUTHORITY FOR EXCHANGE TRAINING THROUGH SPECIFIED PROFESSIONAL MILITARY EDUCATION INSTITUTION OUTSIDE UNITED STATES

Pub. L. 101–189, div. A, title IX, §935, Nov. 29, 1989, 103 Stat. 1538, provided that:

"(a) AUTHORITY.—The United States Army Russian Institute in Garmisch-Partenkirchen, Federal Republic of Germany, shall be treated for purposes of section 544 of the Foreign Assistance Act of 1961 (22 U.S.C. 2347c) as if it were located in the United States.

"(b) EXPIRATION OF AUTHORITY.—Subsection (a) shall cease to be in effect upon the enactment in foreign assistance authorizing legislation of an amendment to section 544 of the Foreign Assistance Act of 1961 that provides the same authority as is provided by subsection (a)."

§2347d. Training in maritime skills

The President is encouraged to allocate a portion of the funds made available each fiscal year to carry out this part for use in providing education and training in maritime search and rescue, operation and maintenance of aids to navigation, port security, at-sea law enforcement, international maritime law, and general maritime skills.

(Pub. L. 87–195, pt. II, §545, as added Pub. L. 99–83, title I, §127(a), Aug. 8, 1985, 99 Stat. 205.)

EFFECTIVE DATE

Section effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as an Effective Date of 1985 Amendment note under section 2151–1 of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§2347e. Prohibition on grant assistance for certain high income foreign countries

(a) In general

None of the funds made available for a fiscal year for assistance under this part may be made available for assistance on a grant basis for any of the high-income foreign countries described in subsection (b) for military education and training of military and related civilian personnel of such country.

(b) High-income foreign countries described

The high-income foreign countries described in this subsection are Austria, Finland, the Republic of Korea, Singapore, and Spain.

(Pub. L. 87–195, pt. II, §546, as added Pub. L. 104–164, title I, §112(c)(1), July 21, 1996, 110 Stat. 1427.)

§2347f. Consultation requirement

The selection of foreign personnel for training under this part shall be made in consultation with the United States defense attache to the relevant country.

(Pub. L. 87–195, pt. II, §547, as added Pub. L. 106–280, title II, §202, Oct. 6, 2000, 114 Stat. 851.)

§2347g. Records regarding foreign participants

(a) Development and maintenance of database

In order to contribute most effectively to the development of military professionalism in foreign countries, the Secretary of Defense shall develop and maintain a database containing records on each foreign military or defense ministry civilian participant in education and training activities conducted under this part after December 31, 2000. This record shall include the type of instruction received, the dates of such instruction, whether such instruction was completed successfully, and, to the extent practicable, a record of the person's subsequent military or defense ministry career and current position and location.

(b) Annual list of foreign personnel

For the purposes of preparing the report required pursuant to section 2347h of this title, the Secretary of State may annually request the Secretary of Defense to provide information contained in the database, with respect to a list submitted to the Secretary of Defense by the Secretary of State, that contains the names of foreign personnel or military units. To the extent practicable, the Secretary of Defense shall provide, and the Secretary of State may take into account, the information contained in the database, if any, relating to the Secretary of State's submission.

(c) Updating of database

If the Secretary of State determines and reports to Congress under section 2347h of this title that a foreign person identified in the database maintained pursuant to this section was involved in a violation of internationally recognized human rights, the Secretary of Defense shall ensure that the database is updated to contain such fact and all relevant information.

(Pub. L. 87–195, pt. II, §548, as added Pub. L. 106–280, title II, §202, Oct. 6, 2000, 114 Stat. 851; amended Pub. L. 107–228, div. B, title XII, §1212(b), Sept. 30, 2002, 116 Stat. 1429.)

AMENDMENTS

2002—Pub. L. 107–228 designated existing provisions as subsec. (a), inserted heading, and added subsecs. (b) and (c).

§2347h. Human rights report

(a) In general

Not later than March 1 of each year, the Secretary of State shall submit to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate a report describing, to the extent practicable, any involvement of a foreign military or defense ministry civilian participant in education and training activities under this part in a violation of internationally recognized human rights reported under section 2151n(d) of this title subsequent to such participation.

(b) Form

The report described in subsection (a) shall be in unclassified form, but may include a classified annex.

(Pub. L. 87–195, pt. II, §549, as added Pub. L. 107–228, div. B, title XII, §1212(a), Sept. 30, 2002, 116 Stat. 1428.)

PART VI—PEACEKEEPING OPERATIONS

§2348. General authorization

The President is authorized to furnish assistance to friendly countries and international organizations, on such terms and conditions as he may determine, for peacekeeping operations and other programs carried out in furtherance of the national security interests of the United States. Such assistance may include reimbursement to the Department of Defense for expenses incurred pursuant to section 287d–1 of this title, except that such reimbursements may not exceed $5,000,000 in any fiscal year unless a greater amount is specifically authorized by this section.

(Pub. L. 87–195, pt. II, §551, as added Pub. L. 95–384, §12(a), Sept. 26, 1978, 92 Stat. 736; amended Pub. L. 96–92, §10(b), Oct. 29, 1979, 93 Stat. 705.)

AMENDMENTS

1979—Pub. L. 96–92 authorized reimbursement of Department of Defense for expenses incurred in furnishing assistance to the United States limited to $5,000,000 per fiscal year unless specifically authorized.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

UNITED STATES PROPOSAL FOR THE EARLY WARNING SYSTEM IN SINAI

Pub. L. 94–110, Oct. 13, 1975, 89 Stat. 572, provided that:

"Whereas an agreement signed on September 4, 1975, by the Government of the Arab Republic of Egypt and the Government of Israel may, when it enters into force, constitute a significant step toward peace in the Middle East;

"Whereas the President of the United States on September 1, 1975, transmitted to the Government of the Arab Republic of Egypt and to the Government of Israel identical proposals for United States participation in an early-warning system, the text of which has been submitted to the Congress, providing for the assignment of no more than two hundred United States civilian personnel to carry out certain specified noncombat functions and setting forth the terms and conditions thereof;

"Whereas that proposal would permit the Government of the United States to withdraw such personnel if it concludes that their safety is jeopardized or that continuation of their role is no longer necessary; and

"Whereas the implementation of the United States proposals for the early-warning system in Sinai may enhance the prospect of compliance in good faith with the terms of the Egyptian-Israeli agreements and thereby promote the cause of peace: Now, therefore, be it

"Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized to implement the 'United States Proposal for the Early Warning System in Sinai': *Provided, however,* That United States civilian personnel assigned to Sinai under such proposal shall be removed immediately in the event of an outbreak of hostilities between Egypt and Israel or if the Congress by concurrent resolution determines that the safety of such personnel is jeopardized or that continuation of their role is no longer necessary. Nothing contained in this resolution shall be construed as granting any authority to the President with respect to the introduction of United States Armed Forces into hostilities or into situations wherein involvement in hostilities is clearly indicated by the circumstances which authority he would not have had in the absence of this joint resolution.

"SEC. 2. Any concurrent resolution of the type described in the first section of this resolution which is introduced in either House of Congress shall be privileged in the same manner and to the same extent as a concurrent resolution of the type described in section 5(c) of Public Law 93–148 [section 1544(c) of Title 50, War and National Defense] is privileged under section 7 of such law [section 1546 of title 50, War and National Defense].

"SEC. 3. The United States civilian personnel participating in the early warning system in Sinai shall include only individuals who have volunteered to participate in such system.

"SEC. 4. Whenever United States civilian personnel, pursuant to this resolution, participate in an early warning system, the President shall, so long as the participation of such personnel continues, submit written reports to the Congress periodically, but no less frequently than once every six months, on (1) the status, scope, and anticipated duration of their participation, and (2) the feasibility of ending or reducing as soon as possible their participation by substituting nationals of other countries or by making technological changes. The appropriate committees of the Congress shall promptly hold hearings on each report of the President and report to the Congress any findings, conclusions, and recommendations.

"SEC. 5. The authority contained in this joint resolution to implement the 'United States Proposal for the Early Warning System in Sinai' does not signify approval of the Congress of any other agreement, understanding, or commitment made by the executive branch."

EXECUTIVE ORDER NO. 11896

Ex. Ord. No. 11896, Jan. 13, 1976, 41 F.R. 2067, as amended by Ex. Ord. No. 12150, July 23, 1979, 44 F.R. 43455; Ex. Ord. No. 12227, July 22, 1980, 45 F.R. 49237; Ex. Ord. No. 12357, Apr. 6, 1982, 47 F.R. 15093, which established the United States Sinai Support Mission, was revoked by Ex. Ord. No. 12553, Feb. 25, 1986, 51 F.R. 7237.

§2348a. Authorization of appropriations

(a) Fiscal years 1986 and 1987

There are authorized to be appropriated to the President to carry out the purposes of this part, in addition to amounts otherwise available for such purposes, $37,000,000 for fiscal year 1986 and $37,000,000 for fiscal year 1987.

(b) Availability of funds

Amounts appropriated under this section are authorized to remain available until expended.

(c) Emergency transfer of funds

If the President determines that, as the result of an unforeseen emergency, the provision of assistance under this part in amounts in excess of funds otherwise available for such assistance is important to the national interests of the United States, the President may (1) exercise the authority of section 2360(a) of this title to transfer funds available to carry out part IV of this subchapter for use under this part without regard to the 20-percent increase limitation contained in such section, except that the total amount so transferred in any fiscal year may not exceed $15,000,000; and (2) in the event the President also determines that such unforeseen emergency requires the immediate

provision of assistance under this part, direct the drawdown of commodities and services from the inventory and resources of any agency of the United States Government of an aggregate value not to exceed $25,000,000 in any fiscal year.

(d) Reimbursement of applicable appropriation, fund, or account

There are authorized to be appropriated to the President such sums as may be necessary to reimburse the applicable appropriation, fund, or account for commodities and services provided under subsection (c)(2).

(Pub. L. 87–195, pt. II, §552, as added Pub. L. 95–384, §12(a), Sept. 26, 1978, 92 Stat. 736; amended Pub. L. 96–92, §10(a), (c), Oct. 29, 1979, 93 Stat. 705; Pub. L. 96–533, title I, §116(a), Dec. 16, 1980, 94 Stat. 3140; Pub. L. 97–113, title I, §114, Dec. 29, 1981, 95 Stat. 1528; Pub. L. 99–83, title I, §105(a), (b)(1), Aug. 8, 1985, 99 Stat. 195.)

AMENDMENTS

1985—Subsec. (a). Pub. L. 99–83, §105(a), amended subsec. (a) generally, substituting provisions authorizing appropriations of $37,000,000 for fiscal years 1986 and 1987, for provisions authorizing appropriations of $19,000,000 for fiscal years 1982 and 1983.

Subsec. (c). Pub. L. 99–83, §105(b)(1)(A), (B), designated existing provisions as cl. (1) and added cl. (2).

Subsec. (d). Pub. L. 99–83, §105(b)(1)(C), added subsec. (d).

1981—Subsec. (a). Pub. L. 97–113, §114(a), substituted "$19,000,000 for the fiscal year 1982 and $19,000,000 for the fiscal year 1983" for "$25,000,000 for the fiscal year 1981".

Subsec. (b). Pub. L. 97–113, §114(b), increased to $15,000,000 from $10,000,000 amount of funds authorized to be transferred in any fiscal year and deleted restriction on transfer of earmarked funds.

1980—Subsec. (a). Pub. L. 96–533 substituted "$25,000,000 for the fiscal year 1981" for "$21,100,000 for the fiscal year 1980".

1979—Subsec. (a). Pub. L. 96–92, §10(a), substituted "$21,100,000 for the fiscal year 1980" for "$30,900,000 for the fiscal year 1979".

Subsec. (c). Pub. L. 96–92, §10(c), added subsec. (c).

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–83 effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as a note under section 2151–1 of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§2348b. Repealed. Pub. L. 96–533, title I, §116(b), Dec. 16, 1980, 94 Stat. 3140

Section, Pub. L. 87–195, pt. II, §553, as added Pub. L. 95–384, §12(a), Sept. 26, 1978, 92 Stat. 736, provided for Middle East special requirements fund and funding limitations and requirements, including use of $3,500,000 for fiscal year 1979 for international peacekeeping in the Middle East.

§2348c. Administrative authorities

Except where expressly provided to the contrary, any reference in any law to subchapter I of this chapter shall be deemed to include reference to this part and any reference in any law to subchapter II of this chapter shall be deemed to exclude reference to this part.

(Pub. L. 87–195, pt. II, §553, formerly §554, as added Pub. L. 95–384, §12(a), Sept. 26, 1978, 92 Stat. 737; renumbered §553, Pub. L. 96–533, title I, §116(b), Dec. 16, 1980, 94 Stat. 3140.)

REFERENCES TO SUBCHAPTER I DEEMED TO INCLUDE CERTAIN PARTS OF SUBCHAPTER II, AND REFERENCES TO SUBCHAPTER II DEEMED TO EXCLUDE SUCH PARTS

References to subchapter I of this chapter are deemed to include parts IV (§2346 et seq.) and VIII (§2349aa

et seq.) of subchapter II of this chapter, and references to subchapter II are deemed to exclude such parts. See section 202(b) of Pub. L. 92–226, set out as a note under section 2346 of this title, and section 2349aa–5 of this title.

§2348d. Data on costs incurred in support of United Nations peacekeeping operations

(a) United States costs

The President shall annually provide to the Secretary General of the United Nations data regarding all costs incurred by the United States Department of Defense during the preceding year in support of all United Nations Security Council resolutions as reported to the Congress pursuant to section 8079 of the Department of Defense Appropriations Act, 1998.

(b) United Nations member costs

The President shall request that the United Nations compile and publish information concerning costs incurred by United Nations members in support of such resolutions.

(Pub. L. 87–195, pt. II, §554, as added Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title VII, §722], Nov. 29, 1999, 113 Stat. 1536, 1501A–462.)

REFERENCES IN TEXT

Section 8079 of the Department of Defense Appropriations Act, 1998, referred to in subsec. (a), is section 8079 of Pub. L. 105–56, title VIII, Oct. 8, 1997, 111 Stat. 1236, which is not classified to the Code.

PRIOR PROVISIONS

A prior section 554 of Pub. L. 87–195 was renumbered section 553 and is classified to section 2348c of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

PART VII—AIR BASE CONSTRUCTION IN ISRAEL

§2349. General authority

The President is authorized—

(1) to construct such air bases in Israel for the Government of Israel as may be agreed upon between the Government of Israel and the Government of the United States to replace the Israeli air bases located at Etzion and Etam on the Sinai peninsula that are to be evacuated by the Government of Israel; and

(2) for purposes of such construction, to furnish as a grant to the Government of Israel, on such terms and conditions as the President may determine, defense articles and defense services, which he may acquire from any source, of a value not to exceed the amount appropriated pursuant to section 2349a(a) of this title.

(Pub. L. 87–195, pt. II, §561, as added Pub. L. 96–35, §3, July 20, 1979, 93 Stat. 89.)

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§2349a. Authorization and utilization of funds

(a) Authorization of appropriation

There is authorized to be appropriated to the President to carry out this part not to exceed $800,000,000, which may be made available until expended.

(b) Presidential authority to incur obligations and enter into contracts

Upon agreement by the Government of Israel to provide to the Government of the United States funds equal to the difference between the amount required to complete the agreed construction work and the amount appropriated pursuant to subsection (a) of this section, and to make those funds available, in advance of the time when payments are due, in such amounts and at such times as may be required by the Government of the United States to meet those additional costs of construction, the President may incur obligations and enter into contracts to the extent necessary to complete the agreed construction work, except that this authority shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts.

(c) Crediting of funds to proper appropriation account

Funds made available by the Government of Israel pursuant to subsection (b) of this section may be credited to the appropriation account established to carry out the purposes of this section for the payment of obligations incurred and for refund to the Government of Israel if they are unnecessary for that purpose, as determined by the President. Credits and the proceeds of guaranteed loans made available to the Government of Israel pursuant to the Arms Export Control Act [22 U.S.C. 2751 et seq.], as well as any other source of financing available to it, may be used by Israel to carry out its undertaking to provide such additional funds.

(Pub. L. 87–195, pt. II, §562, as added Pub. L. 96–35, §3, July 20, 1979, 93 Stat. 90.)

REFERENCES IN TEXT

The Arms Export Control Act, referred to in subsec. (c), is Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1320, as amended, which is classified principally to chapter 39 (§2751 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§2349b. Waiver authorities

(a) Efficient and timely completion of authorized construction

It is the sense of the Congress that the President should take all necessary measures consistent with law to insure the efficient and timely completion of the construction authorized by this part, including the exercise of authority vested in him by section 2393(a) of this title.

(b) Use of funds to pay for personal services abroad

The provisions of paragraph (3) of section 2396(a) of this title shall be applicable to the use of funds available to carry out this part, except that no more than sixty persons may be engaged at any one time under that paragraph for purposes of this part.

(Pub. L. 87–195, pt. II, §563, as added Pub. L. 96–35, §3, July 20, 1979, 93 Stat. 90.)

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

PART VIII—ANTITERRORISM ASSISTANCE

§2349aa. General authority

Notwithstanding any other provision of law that restricts assistance to foreign countries (other than sections 2304 and 2371 of this title), the President is authorized to furnish, on such terms and conditions as the President may determine, assistance to foreign countries in order to enhance the ability of their law enforcement personnel to deter terrorists and terrorist groups from engaging in international terrorist acts such as bombing, kidnapping, assassination, hostage taking, and hijacking. Such assistance may include training services and the provision of equipment and other commodities related to bomb detection and disposal, management of hostage situations, physical security, and other matters relating to the detection, deterrence, and prevention of acts of terrorism, the resolution of terrorist incidents, and the apprehension of those involved in such acts.

(Pub. L. 87–195, pt. II, §571, as added Pub. L. 98–151, §101(b)(2), Nov. 14, 1983, 97 Stat. 972; amended Pub. L. 104–164, title I, §121(a), July 21, 1996, 110 Stat. 1428.)

CODIFICATION

Section 571 of Pub. L. 87–195 is based on section 201 of title II of H.R. 2992, Ninety-eighth Congress, as reported May 17, 1983, and enacted into law by Pub. L. 98–151.

AMENDMENTS

1996—Pub. L. 104–164 substituted "Notwithstanding any other provision of law that restricts assistance to foreign countries (other than sections 2304 and 2371 of this title)" for "Subject to the provisions of this part".

EFFECTIVE DATE

Section 203 of title II of H.R. 2992, as enacted into permanent law by Pub. L. 98–151, §101(b)(2), Nov. 14, 1983, 97 Stat. 972, provided that: "This title [enacting this part and amending sections 2304 and 2403 of this title] shall take effect on the date of enactment of this Act [Nov. 14, 1983]."

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§2349aa–1. Purposes

Activities conducted under this part shall be designed—

(1) to enhance the antiterrorism skills of friendly countries by providing training and equipment to deter and counter terrorism;

(2) to strengthen the bilateral ties of the United States with friendly governments by offering concrete assistance in this area of great mutual concern; and

(3) to increase respect for human rights by sharing with foreign civil authorities modern, humane, and effective antiterrorism techniques.

(Pub. L. 87–195, pt. II, §572, as added Pub. L. 98–151, §101(b)(2), Nov. 14, 1983, 97 Stat. 972.)

CODIFICATION

Section 572 of Pub. L. 87–195 is based on section 201 of title II of H.R. 2992, Ninety-eighth Congress, as reported May 17, 1983, and enacted into law by Pub. L. 98–151.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§2349aa–2. Limitations

(a) Services and commodities furnished by agency of United States Government; advance

payment

Whenever the President determines it to be consistent with and in furtherance of the purposes of this part, and on such terms and conditions consistent with this chapter as he may determine, any agency of the United States Government is authorized to furnish services and commodities, without charge to funds available to carry out this part, to an eligible foreign country, subject to payment in advance of the value thereof (within the meaning of section 2403(m) of this title) in United States dollars by the foreign country. Credits and the proceeds of guaranteed loans made available to such countries pursuant to the Arms Export Control Act [22 U.S.C. 2751 et seq.] shall not be used for such payments. Collections under this part shall be credited to the currently applicable appropriation, account, or fund of the agency providing such services and commodities and shall be available for the purposes for which such appropriation, account, or fund is authorized to be used.

(b) Consultation in development and implementation of assistance

The Assistant Secretary of State for Democracy, Human Rights, and Labor shall be consulted in the determinations of the foreign countries that will be furnished assistance under this part and determinations of the nature of assistance to be furnished to each such country.

(c) Arms and ammunition; value of equipment and commodities

(1) Arms and ammunition may be provided under this part only if they are directly related to antiterrorism assistance.

(2) The value (in terms of original acquisition cost) of all equipment and commodities provided under this part in any fiscal year shall not exceed 30 percent of the funds made available to carry out this part for that fiscal year.

(d) Information exchange activities

This part does not apply to information exchange activities conducted by agencies of the United States Government under other authority for such purposes.

(Pub. L. 87–195, pt. II, §573, as added Pub. L. 98–151, §101(b)(2), Nov. 14, 1983, 97 Stat. 972; amended Pub. L. 99–83, title V, §501(b), (c), Aug. 8, 1985, 99 Stat. 220; Pub. L. 99–399, title V, §507, Aug. 27, 1986, 100 Stat. 873; Pub. L. 101–604, title II, §213(b), Nov. 16, 1990, 104 Stat. 3086; Pub. L. 103–236, title I, §162(e)(3), Apr. 30, 1994, 108 Stat. 405; Pub. L. 104–132, title III, §328(a), Apr. 24, 1996, 110 Stat. 1257; Pub. L. 104–164, title I, §121(b), July 21, 1996, 110 Stat. 1428.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

The Arms Export Control Act, referred to in subsec. (a), is Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1320, as amended, which is classified principally to chapter 39 (§2751 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

CODIFICATION

Section 573 of Pub. L. 87–195 is based on section 201 of title II of H.R. 2992, Ninety-eighth Congress, as reported May 17, 1983, and enacted into law by Pub. L. 98–151.

AMENDMENTS

1996—Pub. L. 104–164, §121(b)(1), substituted "Limitations" for "Specific authorities and limitations" as section catchline.

Subsecs. (a), (b). Pub. L. 104–164, §121(b)(2), (3), redesignated subsecs. (b) and (c) as (a) and (b), respectively, and struck out former subsec. (a) which read as follows: "Notwithstanding section 2420 of this title, services and commodities may be granted for the purposes of this part to eligible foreign countries, subject to reimbursement of the value thereof (within the meaning of section 2403(m) of this title) pursuant to section 2392 of this title from funds available to carry out this part."

Subsec. (c). Pub. L. 104–164, §121(b)(4), which directed the amendment of subsec. (c) by striking out pars. (1) and (2), redesignating pars. (3) to (5) as (1) to (3), respectively, and amending par. (2) generally, could not

be executed because subsec. (c) [formerly (d)] did not contain pars. (3) to (5) subsequent to amendment by Pub. L. 104–132, §328(a)(2), see below.

Pub. L. 104–164, §121(b)(3), redesignated subsec. (d) as (c). Former subsec. (c) redesignated (b).

Pub. L. 104–132, §328(a)(1), struck out "development and implementation of the antiterrorism assistance program under this part, including" after "shall be consulted in the".

Subsec. (d). Pub. L. 104–164, §121(b)(3), redesignated subsecs. (e) as (d). Former subsec. (d) redesignated (c).

Pub. L. 104–132, §328(a)(2), amended subsec. (d) generally, substituting pars. (1) and (2) for former pars. (1) to (5) which related to location for training and advice, law enforcement personnel training, availability of items on United States Munitions List, and services, equipment, personnel, and facilities involved in collection of intelligence.

Subsec. (e). Pub. L. 104–164, §121(b)(3), which directed redesignation of subsec. (f) as (e), could not be executed because of prior amendment by Pub. L. 104–132, §328(a)(3), see below. Former subsec. (e) redesignated (d).

Subsec. (f). Pub. L. 104–132, §328(a)(3), struck out subsec. (f) which read as follows: "Funds made available to carry out this part may not be used for personnel compensation or benefits."

1994—Subsec. (c). Pub. L. 103–236 substituted "Democracy, Human Rights, and Labor" for "Human Rights and Humanitarian Affairs".

1990—Subsec. (d)(1) to (3). Pub. L. 101–604 added pars. (1) to (3) and struck out former pars. (1) to (3) which read as follows:

"(1) Training services provided pursuant to this part shall not be conducted outside the United States.

"(2) Personnel of the United States Government authorized to advise eligible foreign countries on antiterrorism matters shall carry out their responsibilities, to the maximum extent possible, within the United States. Such personnel may provide advice outside the United States on antiterrorism matters to eligible foreign countries for periods not to exceed thirty consecutive calendar days.

"(3) Employees of the Department of State shall not engage in the training of law enforcement personnel or provision of services under this part, except that employees of the Office of Security of the Department of State may provide training and services to law enforcement personnel for the physical protection of internationally protected persons and related facilities."

1986—Subsec. (d)(4). Pub. L. 99–399, in amending par. (4) generally, included articles in category X and articles in par. (b), (c), or (d) of category XIII as articles on the United States Munitions List which could be made available, struck out availability of articles only for fiscal years 1986 and 1987, substituted provision that the value in any fiscal year not exceed 25 percent of the funds available to carry out this part for that fiscal year for provision that the value not exceed $325,000 in fiscal year 1986 or 1987, and provided that no shock batons or similar devices be provided under this part.

1985—Subsec. (d)(4). Pub. L. 99–83, §501(b), in amending par. (4) generally, designated existing provisions as subpar. (A), inserted provisions excepting subpar. (B), and added subpars. (B) and (C).

Subsec. (f). Pub. L. 99–83, §501(c), added subsec. (f).

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–236 applicable with respect to officials, offices, and bureaus of Department of State when executive orders, regulations, or departmental directives implementing the amendments by sections 161 and 162 of Pub. L. 103–236 become effective, or 90 days after Apr. 30, 1994, whichever comes earlier, see section 161(b) of Pub. L. 103–236, as amended, set out as a note under section 2651a of this title.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–83 effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as a note under section 2151–1 of this title.

AUTHORITY OF SECRETARY OF STATE

Except as otherwise provided, Secretary of State to have and exercise any authority vested by law in any official or office of Department of State and references to such officials or offices deemed to refer to Secretary of State or Department of State, as appropriate, see section 2651a of this title and section 161(d) of Pub. L. 103–236, set out as a note under section 2651a of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§2349aa–3. Repealed. Pub. L. 104–164, title I, §121(c), July 21, 1996, 110 Stat. 1428

Section, Pub. L. 87–195, pt. II, §574, as added Pub. L. 98–151, §101(b)(2), Nov. 14, 1983, 97 Stat. 972, directed President to transmit to Congress, not less than 30 days before providing assistance to foreign country under this part, a report which specified terms and objectives of such assistance, and required annual presentation to Congress of information on all countries that received assistance under this part for each fiscal year.

§2349aa–4. Authorization of appropriations

(a) There are authorized to be appropriated to the President to carry out this part $72,000,000 for fiscal year 2001, $73,000,000 for fiscal year 2002, and $64,200,000 for fiscal year 2003.

(b) Amounts appropriated under this section are authorized to remain available until expended.

(Pub. L. 87–195, pt. II, §574, formerly §575, as added Pub. L. 98–151, §101(b)(2), Nov. 14, 1983, 97 Stat. 972; amended Pub. L. 99–83, title V, §501(a), Aug. 8, 1985, 99 Stat. 219; Pub. L. 99–399, title IV, §401(a)(2), Aug. 27, 1986, 100 Stat. 862; renumbered §574, Pub. L. 104–164, title I, §121(d), July 21, 1996, 110 Stat. 1428; Pub. L. 106–280, title IV, §401, Oct. 6, 2000, 114 Stat. 854; Pub. L. 107–228, div. B, title XII, §1251, Sept. 30, 2002, 116 Stat. 1433.)

PRIOR PROVISIONS

A prior section 574 of Pub. L. 87–195 was classified to section 2349aa–3 of this title prior to repeal by Pub. L. 104–164.

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–228 substituted ", $73,000,000 for fiscal year 2002, and $64,200,000 for fiscal year 2003" for "and $73,000,000 for fiscal year 2002".

2000—Subsec. (a). Pub. L. 106–280 substituted "$72,000,000 for fiscal year 2001 and $73,000,000 for fiscal year 2002" for "$9,840,000 for fiscal year 1986 and $14,680,000 for fiscal year 1987".

1986—Subsec. (a). Pub. L. 99–399 substituted "$14,680,000 for the fiscal year 1987" for "$9,840,000 for the fiscal year 1987".

1985—Pub. L. 99–83, in amending section generally, designated existing provisions as subsecs. (a) and (b), and in subsec. (a) as so designated, substituted provisions appropriating $9,840,000 for fiscal years 1986 and 1987 for provisions appropriating $5,000,000 for fiscal year 1984.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–83 effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as a note under section 2151–1 of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§2349aa–5. Administrative authorities

Except where expressly provided to the contrary, any reference in any law to subchapter I of this chapter shall be deemed to include reference to this part and any reference in any law to subchapter II of this chapter shall be deemed to exclude reference to this part.

(Pub. L. 87–195, pt. II, §575, formerly §576, as added Pub. L. 98–151, §101(b)(2), Nov. 14, 1983, 97 Stat. 972; renumbered §575, Pub. L. 104–164, title I, §121(d), July 21, 1996, 110 Stat. 1428.)

REFERENCES TO SUBCHAPTER I DEEMED TO INCLUDE CERTAIN PARTS OF SUBCHAPTER II, AND REFERENCES TO SUBCHAPTER II DEEMED TO EXCLUDE SUCH PARTS

References to subchapter I of this chapter are deemed to include parts IV (§2346 et seq.) and VI (§2348 et

seq.) of subchapter II of this chapter, and references to subchapter II are deemed to exclude such parts. See section 202(b) of Pub. L. 92–226, set out as a note under section 2346 of this title, and section 2348c of this title.

CODIFICATION

Section 575, formerly 576, of Pub. L. 87–195 is based on section 201 of title II of H.R. 2992, Ninety-eighth Congress, as reported May 17, 1983, and enacted into law by Pub. L. 98–151.

PRIOR PROVISIONS

A prior section 575 of Pub. L. 87–195 was renumbered section 574 and is classified to section 2349aa–4 of this title.

§2349aa–6. Repealed. Pub. L. 99–83, title V, §501(d), Aug. 8, 1985, 99 Stat. 220

Section, Pub. L. 87–195, pt. II, §577, as added Pub. L. 98–151, §101(b)(2), Nov. 14, 1983, 97 Stat. 972, provided for expiration of authorities of this part on Sept. 30, 1985.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as an Effective Date of 1985 Amendment note under section 2151–1 of this title.

§2349aa–7. Coordination of all United States terrorism-related assistance to foreign countries

(a) Responsibility

The Secretary of State shall be responsible for coordinating all assistance related to international terrorism which is provided by the United States Government to foreign countries.

(b) Reports

Not later than February 1 each year, the Secretary of State, in consultation with appropriate United States Government agencies, shall report to the appropriate committees of the Congress on the assistance related to international terrorism which was provided by the United States Government during the preceding fiscal year. Such reports may be provided on a classified basis to the extent necessary, and shall specify the amount and nature of the assistance provided.

(c) Rule of construction

Nothing contained in this section shall be construed to limit or impair the authority or responsibility of any other Federal agency with respect to law enforcement, domestic security operations, or intelligence activities as defined in Executive Order 12333.

(Pub. L. 99–83, title V, §502, Aug. 8, 1985, 99 Stat. 220; Pub. L. 99–399, title V, §503, Aug. 27, 1986, 100 Stat. 871.)

REFERENCES IN TEXT

Executive Order 12333, referred to in subsec. (c), is set out as a note under section 3001 of Title 50, War and National Defense.

CODIFICATION

Section was enacted as part of the International Security and Development Cooperation Act of 1985, and not as part of the Foreign Assistance Act of 1961 which comprises this chapter.

AMENDMENTS

1986—Pub. L. 99–399, §503(1), substituted "terrorism-related" for "anti-terrorism" in section catchline.

Subsec. (a). Pub. L. 99–399, §503(2), substituted "assistance related to international terrorism which is provided by the United States Government to foreign countries" for "anti-terrorism assistance to foreign countries provided by the United States Government".

Subsec. (b). Pub. L. 99–399, §503(3), substituted "assistance related to international terrorism which was"

for "anti-terrorism assistance".

Subsec. (c). Pub. L. 99–399, §503(4), added subsec. (c).

EFFECTIVE DATE

Section effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as an Effective Date of 1985 Amendment note under section 2151–1 of this title.

§2349aa–8. Prohibition on imports from and exports to Libya

(a) Prohibition on imports

Notwithstanding any other provision of law, the President may prohibit any article grown, produced, extracted, or manufactured in Libya from being imported into the United States.

(b) Prohibition on exports

Notwithstanding any other provision of law, the President may prohibit any goods or technology, including technical data or other information, subject to the jurisdiction of the United States or exported by any person subject to the jurisdiction of the United States, from being exported to Libya.

(c) "United States" defined

For purposes of this section, the term "United States", when used in a geographical sense, includes territories and possessions of the United States.

(Pub. L. 99–83, title V, §504, Aug. 8, 1985, 99 Stat. 221.)

CODIFICATION

Section was enacted as part of the International Security and Development Cooperation Act of 1985, and not as part of the Foreign Assistance Act of 1961 which comprises this chapter.

EFFECTIVE DATE

Section effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as an Effective Date of 1985 Amendment note under section 2151–1 of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§2349aa–9. Ban on importing goods and services from countries supporting terrorism

(a) Authority

The President may ban the importation into the United States of any good or service from any country which supports terrorism or terrorist organizations or harbors terrorists or terrorist organizations.

(b) Consultation

The President, in every possible instance, shall consult with the Congress before exercising the authority granted by this section and shall consult regularly with the Congress so long as that authority is being exercised.

(c) Reports

Whenever the President exercises the authority granted by this section, he shall immediately transmit to the Congress a report specifying—

(1) the country with respect to which the authority is to be exercised and the imports to be prohibited;

(2) the circumstances which necessitate the exercise of such authority;

(3) why the President believes those circumstances justify the exercise of such authority; and

(4) why the President believes the prohibitions are necessary to deal with those circumstances.

At least once during each succeeding 6-month period after transmitting a report pursuant to this subsection, the President shall report to the Congress with respect to the actions taken, since the last such report, pursuant to this section and with respect to any changes which have occurred concerning any information previously furnished pursuant to this subsection.

(d) "United States" defined

For purposes of this section, the term "United States" includes territories and possessions of the United States.

(Pub. L. 99–83, title V, §505, Aug. 8, 1985, 99 Stat. 221.)

CODIFICATION

Section was enacted as part of the International Security and Development Cooperation Act of 1985, and not as part of the Foreign Assistance Act of 1961 which comprises this chapter.

EFFECTIVE DATE

Section effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as an Effective Date of 1985 Amendment note under section 2151–1 of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§2349aa–10. Antiterrorism assistance

(a) Omitted

(b) Assistance to foreign countries to procure explosives detection devices and other counterterrorism technology

(1) Subject to section 2349aa–4(b) of this title, up to $3,000,000 in any fiscal year may be made available—

(A) to procure explosives detection devices and other counterterrorism technology; and

(B) for joint counterterrorism research and development projects on such technology conducted with NATO and major non-NATO allies under the auspices of the Technical Support Working Group of the Department of State.

(2) As used in this subsection, the term "major non-NATO allies" means those countries designated as major non-NATO allies for purposes of section 2350a(i)(3) [1] of title 10.

(c) Assistance to foreign countries

Notwithstanding any other provision of law (except section 2371 of this title) up to $1,000,000 in assistance may be provided to a foreign country for counterterrorism efforts in any fiscal year if—

(1) such assistance is provided for the purpose of protecting the property of the United States Government or the life and property of any United States citizen, or furthering the apprehension of any individual involved in any act of terrorism against such property or persons; and

(2) the appropriate committees of Congress are notified not later than 15 days prior to the provision of such assistance.

(Pub. L. 104–132, title III, §328, Apr. 24, 1996, 110 Stat. 1257.)

REFERENCES IN TEXT

Section 2349aa–4 of this title, referred to in subsec. (b)(1), was in the original "section 575", which was translated as meaning section 575 of the Foreign Assistance Act of 1961. Section 575 of the Act was renumbered section 574 by section 121(d) of Pub. L. 104–164 without corresponding amendment to this section.

Section 2350a of title 10, referred to in subsec. (b)(2), was subsequently amended, and section 2350a(i)(3) no longer defines the term "major non-NATO ally". However, such term is defined elsewhere in that section.

CODIFICATION

Section is comprised of section 328 of Pub. L. 104–132. Subsec. (a) of section 328 of Pub. L. 104–132 amended section 2349aa–2 of this title.

Section was enacted as part of the Antiterrorism and Effective Death Penalty Act of 1996, and not as part of the Foreign Assistance Act of 1961 which comprises this chapter.

"ASSISTANCE" DEFINED

Pub. L. 104–132, title III, §329, Apr. 24, 1996, 110 Stat. 1258, provided that: "For purposes of this title [enacting this section and sections 262p–4q, 2377, 2378, and 2781 of this title, section 1189 of Title 8, Aliens and Nationality, and sections 2332d and 2339B of Title 18, Crimes and Criminal Procedure, amending section 2349aa–2 of this title, section 2339A of Title 18, and section 44906 of Title 49, Transportation, and enacting provisions set out as notes under section 2377 of this title and sections 2332d and 2339B of Title 18]—

"(1) the term 'assistance' means assistance to or for the benefit of a government of any country that is provided by grant, concessional sale, guaranty, insurance, or by any other means on terms more favorable than generally available in the applicable market, whether in the form of a loan, lease, credit, debt relief, or otherwise, including subsidies for exports to such country and favorable tariff treatment of articles that are the growth, product, or manufacture of such country; and

"(2) the term 'assistance' does not include assistance of the type authorized under chapter 9 of part 1 of the Foreign Assistance Act of 1961 [22 U.S.C. 2292 et seq.] (relating to international disaster assistance)."

[1] *See References in Text note below.*

PART IX—NONPROLIFERATION AND EXPORT CONTROL ASSISTANCE

§2349bb. Purposes

The purposes of assistance under this part are to halt the proliferation of nuclear, chemical, and biological weapons, and conventional weaponry, through support of activities designed—

(1) to enhance the nonproliferation and export control capabilities of friendly countries by providing training and equipment to detect, deter, monitor, interdict, and counter proliferation;

(2) to strengthen the bilateral ties of the United States with friendly governments by offering concrete assistance in this area of vital national security interest;

(3) to accomplish the activities and objectives set forth in sections 5853 and 5854 of this title, without regard to the limitation of those sections to the independent states of the former Soviet Union; and

(4) to promote multilateral activities, including cooperation with international organizations, relating to nonproliferation.

(Pub. L. 87–195, pt. II, §581, as added Pub. L. 106–280, title III, §301, Oct. 6, 2000, 114 Stat. 851.)

NONPROLIFERATION TECHNOLOGY ACQUISITION PROGRAMS FOR FRIENDLY FOREIGN COUNTRIES

Pub. L. 107–228, div. B, title XIII, §1302, Sept. 30, 2002, 116 Stat. 1435, provided that:

"(a) IN GENERAL.—For the purpose of enhancing the nonproliferation and export control capabilities of friendly countries, of the amount authorized to be appropriated for fiscal year 2003 by section 585 [586] of the Foreign Assistance Act of 1961 (22 U.S.C. 2349bb et seq.) [22 U.S.C. 2349bb–4], the Secretary is authorized to make available—

"(1) $5,000,000 for the procurement and provision of nuclear, chemical, and biological detection systems, including spectroscopic and pulse echo technologies; and

"(2) $10,000,000 for the procurement and provision of x-ray systems capable of imaging sea-cargo containers.

"(b) REPORTS ON TRAINING PROGRAM.—

"(1) INITIAL REPORT.—Not later than March 31, 2003, the Secretary shall submit a report to the appropriate congressional committees setting forth his plans and budget for a multiyear training program to train foreign personnel in the utilization of the systems described in subsection (a).

"(2) SUBSEQUENT REPORTS.—Not later than March 31, 2004, and annually thereafter for the next three years, the Secretary shall submit a report to the appropriate congressional committees describing the progress, current status, and budget of that training program and of the provision of those systems."

[For definitions of "Secretary" and "appropriate congressional committees" as used in section 1302 of Pub. L. 107–228, set out above, see section 3 of Pub. L. 107–228, set out as a note under section 2651 of this title.]

§2349bb–1. Authorization of assistance

Notwithstanding any other provision of law (other than section 2304 or section 2371 of this title), the President is authorized to furnish, on such terms and conditions as the President may determine, assistance in order to carry out the purposes of this part. Such assistance may include training services and the provision of funds, equipment, and other commodities related to the detection, deterrence, monitoring, interdiction, and prevention or countering of proliferation, the establishment of effective nonproliferation laws and regulations, and the apprehension of those individuals involved in acts of proliferation of such weapons.

(Pub. L. 87–195, pt. II, §582, as added Pub. L. 106–280, title III, §301, Oct. 6, 2000, 114 Stat. 852.)

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§2349bb–2. Transit interdiction

(a) Allocation of funds

In providing assistance under this part, the President shall ensure that, beginning in fiscal year 2007, not less than one-quarter of the total of such assistance is obligated for the purpose of enhancing the capabilities of friendly countries to detect and interdict proliferation-related shipments of cargo to non-State actors and States of proliferation concern.

(b) Priority to certain countries

Priority shall be given in the apportionment of the assistance described under subsection (a) to any friendly country that has been determined by the Secretary of State to be a country frequently transited by proliferation-related shipments of cargo.

(c) Cooperative agreements

In order to promote cooperation regarding the interdiction of weapons of mass destruction and related materials and delivery systems, the President is authorized to conclude agreements, including reciprocal maritime agreements, with other countries to facilitate effective measures to prevent the transportation of such items to non-state actors and states of proliferation concern.

(d) Determination and notice to Congress

The Secretary of State shall notify the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate in writing not more than 30 days after making a determination that any friendly country has been determined to be a country eligible for priority consideration of any assistance under subsection (a). Such determination shall set forth the reasons for such determination, and may be submitted in classified and unclassified form, as necessary.

(Pub. L. 87–195, pt. II, §583, as added Pub. L. 106–280, title III, §301, Oct. 6, 2000, 114 Stat. 852; amended Pub. L. 109–472, §10(c), Jan. 11, 2007, 120 Stat. 3557.)

AMENDMENTS

2007—Subsec. (a). Pub. L. 109–472, §10(c)(1), substituted "shall ensure that, beginning in fiscal year 2007," for "should ensure that", "obligated" for "expended", and "to non-State actors and States of proliferation concern" for "that originate from, and are destined for, other countries".

Subsecs. (c), (d). Pub. L. 109–472, §10(c)(2), added subsecs. (c) and (d).

CHANGE OF NAME

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§2349bb–2a. International nonproliferation export control training

(a) General authority

The President is authorized to furnish, on such terms and conditions consistent with this part (but whenever feasible on a reimbursable basis), education and training to appropriate military and civilian personnel of foreign countries for the purpose of enhancing the nonproliferation and export control capabilities of such personnel through their attendance in special courses of instruction conducted by the United States.

(b) Administration of courses

The Secretary of State shall have overall responsibility for the development and conduct of international nonproliferation education and training programs under this section, and may utilize other departments and agencies of the United States, as appropriate, to recommend personnel for the education and training and to administer specific courses of instruction.

(c) Purposes

Education and training activities conducted under this section shall be—

(1) of a technical nature, emphasizing techniques for detecting, deterring, monitoring, interdicting, and countering proliferation;

(2) designed to encourage effective and mutually beneficial relations and increased understanding between the United States and friendly countries; and

(3) designed to improve the ability of friendly countries to utilize their resources with maximum effectiveness, thereby contributing to greater self-reliance by such countries.

(d) Priority to certain countries

In selecting personnel for education and training pursuant to this section, priority should be given to personnel from countries determined by the Secretary of State to be countries frequently transited by proliferation-related shipments of cargo.

(Pub. L. 87–195, pt. II, §584, as added Pub. L. 107–228, div. B, title XIII, §1303(2), Sept. 30, 2002, 116 Stat. 1436.)

PRIOR PROVISIONS

A prior section 584 of Pub. L. 87–195 was renumbered section 585 and is classified to section 2349bb–3 of this title.

§2349bb–3. Limitations

The limitations contained in section 2349aa–2(a) and (d) of this title shall apply to this part.

(Pub. L. 87–195, pt. II, §585, formerly §584,as added Pub. L. 106–280, title III, §301, Oct. 6, 2000, 114 Stat. 852; renumbered §585, Pub. L. 107–228, div. B, title XIII, §1303(1), Sept. 30, 2002, 116 Stat. 1436.)

PRIOR PROVISIONS

A prior section 585 of Pub. L. 87–195 was renumbered section 586 and is classified to section 2349bb–4 of this title.

§2349bb–4. Authorization of appropriations

(a) Authorization of appropriations

There are authorized to be appropriated to the President to carry out this part $162,000,000 for fiscal year 2003.

(b) Availability of funds

Funds made available under subsection (a) may be used notwithstanding any other provision of law (other than section 2304 or 2371 of this title) and shall remain available until expended.

(c) Treatment of appropriations

Amounts made available by the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002, under "Nonproliferation, Antiterrorism, Demining, and Related Programs" and "Assistance for the Independent States of the Former Soviet Union" accounts for the activities described in subsection (d) shall be considered to be made available pursuant to this part.

(d) Covered activities

The activities referred to in subsection (c) are—

(1) assistance under the Nonproliferation and Disarmament Fund;

(2) assistance for science and technology centers in the independent states of the former Soviet Union;

(3) export control assistance; and

(4) export control and border assistance under part XI of subchapter I of this chapter or the FREEDOM Support Act (22 U.S.C. 5801 et seq.).

(Pub. L. 87–195, pt. II, §586, formerly §585, as added Pub. L. 106–280, title III, §301, Oct. 6, 2000, 114 Stat. 852; renumbered §586 and amended Pub. L. 107–228, div. B, title XIII, §§1301(a), 1303(1), Sept. 30, 2002, 116 Stat. 1435, 1436.)

REFERENCES IN TEXT

The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002, referred to in subsec. (c), is Pub. L. 107–115, Jan. 10, 2002, 115 Stat. 2118, also known as the Kenneth M. Ludden Foreign Operations, Export Financing, and Related Programs Appropriations Act, Fiscal Year 2002. For complete classification of this Act to the Code, see Tables.

The FREEDOM Support Act, referred to in subsec. (d)(4), is Pub. L. 102–511, Oct. 24, 1992, 106 Stat. 3320, as amended, also known as the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992. For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–228, §1301(a)(1), substituted "$162,000,000 for fiscal year 2003" for "$129,000,000 for fiscal year 2001 and $142,000,000 for fiscal year 2002".

Subsec. (c). Pub. L. 107–228, §1301(a)(2), struck out "fiscal year 2001" before "appropriations" in heading and substituted "2002" for "2001" in text.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§2349bb–5. Proliferation interdiction assistance

Consistent with section 2349bb–2 of this title, the President is authorized to provide assistance to

friendly foreign countries for proliferation detection and interdiction activities and for developing complementary capabilities.

(Pub. L. 109–472, §10(a), Jan. 11, 2007, 120 Stat. 3557.)

CODIFICATION

Section was enacted as part of the Department of State Authorities Act of 2006, and not as part of the Foreign Assistance Act of 1961 which comprises this chapter.

§2349bb–6. Safeguarding and elimination of conventional arms

(a) In general

The Secretary of State is authorized to secure, remove, or eliminate stocks of man-portable air defense systems (MANPADS), small arms and light weapons, stockpiled munitions, abandoned ordnance, and other conventional weapons, including tactical missile systems (hereafter in this section referred to as "MANPADS and other conventional weapons"), as well as related equipment and facilities, located outside the United States that are determined by the Secretary to pose a proliferation threat.

(b) Elements

The activities authorized under subsection (a) may include the following:

(1) Humanitarian demining activities.

(2) The elimination or securing of MANPADS.

(3) The elimination or securing of other conventional weapons.

(4) Assistance to countries in the safe handling and proper storage of MANPADS and other conventional weapons.

(5) Cooperative programs with the North Atlantic Treaty Organization and other international organizations to assist countries in the safe handling and proper storage or elimination of MANPADS and other conventional weapons.

(6) The utilization of funds for the elimination or safeguarding of MANPADS and other conventional weapons.

(7) Activities to secure and safeguard MANPADS and other conventional weapons.

(8) Actions to ensure that equipment and funds, including security upgrades at locations for the storage or disposition of MANPADS and other conventional weapons and related equipment that are determined by the Secretary of State to pose a proliferation threat, continue to be used for authorized purposes.

(c) Rule of construction

Nothing in this section shall be construed to affect the authorities of the Secretary of Defense.

(Pub. L. 109–472, §11, Jan. 11, 2007, 120 Stat. 3557.)

CODIFICATION

Section was enacted as part of the Department of State Authorities Act of 2006, and not as part of the Foreign Assistance Act of 1961 which comprises this chapter.

MAN-PORTABLE AIR-DEFENSE SYSTEMS ORIGINATING FROM LIBYA

Pub. L. 112–81, div. A, title XII, §1235, Dec. 31, 2011, 125 Stat. 1638, provided that:

"(a) STATEMENT OF POLICY.—Pursuant to section 11 of the Department of State Authorities Act of 2006 (22 U.S.C. 2349bb–6), the following is the policy of the United States:

"(1) To reduce and mitigate, to the greatest extent feasible, the threat posed to United States citizens and citizens of allies of the United States by man-portable air-defense systems (MANPADS) that were in Libya as of March 19, 2011.

"(2) To seek the cooperation of, and to assist, the Government of Libya and governments of neighboring countries and other countries (as determined by the President) to secure, remove, or eliminate stocks of man-portable air-defense systems described in paragraph (1) that pose a threat to United States citizens and citizens of allies of the United States.

"(3) To pursue, as a matter of priority, an agreement with the Government of Libya and governments of neighboring countries and other countries (as determined by the Secretary of State) to formalize cooperation with the United States to limit the availability, transfer, and proliferation of man-portable air-defense systems described in paragraph (1).

"(b) INTELLIGENCE COMMUNITY ASSESSMENT ON MANPADS IN LIBYA.—

"(1) IN GENERAL.—The Director of National Intelligence shall submit to the appropriate committees of Congress an assessment by the intelligence community that accounts for the disposition of, and the threat to United States citizens and citizens of allies of the United States posed by man-portable air-defense systems that were in Libya as of March 19, 2011. The assessment shall be submitted as soon as practicable, but not later than the end of the 45-day period beginning on the date of the enactment of this Act [Dec. 31, 2011].

"(2) ELEMENTS.—The assessment submitted under this subsection shall include the following:

"(A) An estimate of the number of man-portable air-defense systems that were in Libya as of March 19, 2011.

"(B) An estimate of the number of man-portable air-defense systems in Libya as of March 19, 2011, that are currently in the secure custody of the Government of Libya, the United States, an ally of the United States, a member of the North Atlantic Treaty Organization (NATO), or the United Nations.

"(C) An estimate of the number of man-portable air-defense systems in Libya as of March 19, 2011, that were destroyed, disabled, or otherwise rendered unusable during Operation Unified Protector and since the end of Operation Unified Protector.

"(D) An assessment of the number of man-portable air-defense systems that is the difference between the number of man-portable air-defense systems in Libya as of March 19, 2011, and the cumulative number of man-portable air-defense systems accounted for under subparagraphs (B) and (C), and the current disposition and locations of such man-portable air-defense systems.

"(E) An assessment of the number of man-portable air-defense systems that are currently in the custody of militias in Libya.

"(F) A list of any organizations designated as terrorist organizations by the Department of State, or affiliate organizations or members of such organizations, that are known or believed to have custody of any man-portable air-defense systems that were in the custody of the Government of Libya as of March 19, 2011.

"(G) An assessment of the threat posed to United States citizens and citizens of allies of the United States from unsecured man-portable air-defense systems (as defined in section 11 of the Department of State Authorities Act of 2006) originating from Libya.

"(H) An assessment of the effect of the proliferation of man-portable air-defense systems that were in Libya as of March 19, 2011, on the price and availability of man-portable air-defense systems that are on the global arms market.

"(3) NOTICE REGARDING DELAY IN SUBMITTAL.—If, before the end of the 45-day period specified in paragraph (1), the Director determines that the assessment required by that paragraph cannot be submitted by the end of that period as required by that paragraph, the Director shall (before the end of that period) submit to the appropriate committees of Congress a report setting forth—

"(A) the reasons why the assessment cannot be submitted by the end of that period; and

"(B) an estimated date for the submittal of the assessment.

"(c) COMPREHENSIVE STRATEGY ON THREAT OF MANPADS ORIGINATING FROM LIBYA.—

"(1) STRATEGY REQUIRED.—The President shall develop and implement, and from time to time update, a comprehensive strategy, pursuant to section 11 of the Department of State Authorities Act of 2006 [22 U.S.C. 2349bb–6], to reduce and mitigate the threat posed to United States citizens and citizens of allies of the United States from man-portable air-defense systems that were in Libya as of March 19, 2011.

"(2) REPORT REQUIRED.—

"(A) IN GENERAL.—Not later than 45 days after the assessment required by subsection (b) is submitted to the appropriate committees of Congress, the President shall submit to the appropriate committees of Congress a report setting forth the strategy required by paragraph (1).

"(B) ELEMENTS.—The report required by this paragraph shall include the following:

"(i) An assessment of the effectiveness of efforts undertaken to date by the United States, Libya, Mauritania, Egypt, Algeria, Tunisia, Mali, Morocco, Niger, Chad, the United Nations, the North Atlantic Treaty Organization, and any other country or entity (as determined by the President) to reduce the threat posed to United States citizens and citizens of allies of the United States from man-portable air-defense systems that were in Libya as of March 19, 2011.

"(ii) A timeline for future efforts by the United States, Libya, and neighboring countries to—

"(I) secure, remove, or disable any man-portable air-defense systems that remain in Libya;

"(II) counter proliferation of man-portable air-defense systems originating from Libya that are in the region; and

"(III) disrupt the ability of terrorists, non-state actors, and state sponsors of terrorism to acquire such man-portable air-defense systems.

"(iii) A description of any additional funding required to address the threat of man-portable air-defense systems originating from Libya.

"(iv) A description of technologies currently available to reduce the susceptibility and vulnerability of civilian aircraft to man-portable air-defense systems, including an assessment of the feasibility of using aircraft-based anti-missile systems to protect United States passenger jets.

"(v) Recommendations for the most effective policy measures that can be taken to reduce and mitigate the threat posed to United States citizens and citizens of allies of the United States from man-portable air-defense systems that were in Libya as of March 19, 2011.

"(vi) Such recommendations for legislative or administrative action as the President considers appropriate to implement the strategy required by paragraph (1).

"(C) FORM.—The report required by this paragraph shall be submitted in unclassified form, but may include a classified annex.

"(d) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term 'appropriate committees of Congress' means—

"(1) the Committee on Armed Services, the Committee on Foreign Relations, and the Select Committee on Intelligence of the Senate; and

"(2) the Committee on Armed Services, the Committee on Foreign Affairs, and the Permanent Select Committee on Intelligence of the House of Representatives."

[Memorandum of President of the United States, Apr. 20, 2012, 77 F.R. 28757, delegated the reporting functions conferred upon the President by section 1235(c) of Pub. L. 112–81, set out above, to the Secretary of State.]

SUBCHAPTER III—GENERAL AND ADMINISTRATIVE PROVISIONS

PART I—GENERAL PROVISIONS

§2351. Encouragement of free enterprise and private participation

(a) Policy of United States

The Congress of the United States recognizes the vital role of free enterprise in achieving rising levels of production and standards of living essential to economic progress and development. Accordingly, it is declared to be the policy of the United States to encourage the efforts of other countries to increase the flow of international trade, to foster private initiative and competition, to encourage the development and use of cooperatives, credit unions, and savings and loan associations, to discourage monopolistic practices, to improve the technical efficiency of their industry, agriculture, and commerce, and to strengthen free labor unions; and to encourage the contribution of United States enterprise toward economic strength of less developed friendly countries, through private trade and investment abroad, private participation in programs carried out under this chapter (including the use of private trade channels to the maximum extent practicable in carrying out such programs), and exchange of ideas and technical information on the matters covered by this subsection.

(b) Action by President to facilitate participation to maximum extent

In order to encourage and facilitate participation by private enterprise to the maximum extent practicable in achieving any of the purposes of this chapter, the President shall—

(1) make arrangements to find, and draw the attention of private enterprise to, opportunities for

investment and development in less-developed friendly countries and areas;

(2) establish an effective system for obtaining adequate information with respect to the activities of, and opportunities for, nongovernmental participation in the development process, and for utilizing such information in the planning, direction, and execution of programs carried out under this chapter, and in the coordination of such programs with the ever-increasing developmental activities of nongovernmental United States institutions;

(3) accelerate a program of negotiating treaties for commerce and trade, including tax treaties, which shall include provisions to encourage and facilitate the flow of private investment to, and its equitable treatment in, friendly countries and areas participating in programs under this chapter;

(4) seek, consistent with the national interest, compliance by other countries or areas with all treaties for commerce and trade and taxes, and take all reasonable measures under this chapter or other authority to secure compliance therewith and to assist United States citizens in obtaining just compensation for losses sustained by them or payments exacted from them as a result of measures taken or imposed by any country or area thereof in violation of any such treaty;

(5) to the maximum extent practicable carry out programs of assistance through private channels and to the extent practicable in conjunction with local private or governmental participation, including loans under the authority of section 2151t of this title to any individual, corporation, or other body of persons;

(6) take appropriate steps to discourage nationalization, expropriation, confiscation, seizure of ownership or control, of private investment and discriminatory or other actions having the effect thereof, undertaken by countries receiving assistance under this chapter, which divert available resources essential to create new wealth, employment, and productivity in those countries and otherwise impair the climate for new private investment essential to the stable economic growth and development of those countries;

(7) utilize wherever practicable the services of United States private enterprise (including, but not limited to, the services of experts and consultants in technical fields such as engineering); and

(8) utilize wherever practicable the services of United States private enterprise on a cost-plus incentive fee contract basis to provide the necessary skills to develop and operate a specific project or program of assistance in a less developed friendly country or area in any case in which direct private investment is not readily encouraged, and provide where appropriate for the transfer of equity ownership in such project or program to private investors at the earliest feasible time.

(c) International Private Investment Advisory Council on Foreign Aid; establishment; composition; selection of members by Administrator; duration of service; Chairman; duties of Council; compensation; travel and other expenses; funds for payment of expenses of Council

(1) There is hereby established an International Private Investment Advisory Council on Foreign Aid to be composed of such number of leading American business specialists as may be selected, from time to time, by the Administrator of the Agency for International Development for the purpose of carrying out the provisions of this subsection. The members of the Council shall serve at the pleasure of the Administrator, who shall designate one member to serve as Chairman.

(2) It shall be the duty of the Council, at the request of the Administrator, to make recommendations to the Administrator with respect to particular aspects of programs and activities under this chapter where private enterprise can play a contributing role and to act as liaison for the Administrator to involve specific private enterprises in such programs and activities.

(3) The members of the Advisory Council shall receive no compensation for their services but shall be entitled to reimbursement in accordance with section 5703 of title 5 for travel and other expenses incurred by them in the performance of their functions under this subsection.

(4) The expenses of the Advisory Council shall be paid by the Administrator from funds otherwise available under this chapter.

(d) Engineering and professional services of United States firms

It is the sense of Congress that the Agency for International Development should continue to encourage, to the maximum extent consistent with the national interest, the utilization of engineering

and professional services of United States firms (including, but not limited to, any corporation, company, partnership, or other association) or by an affiliate of such United States firms in connection with capital projects financed by funds authorized under this chapter.

(e) Contracts on basis of competitive selection procedures

(1) The Congress finds that significantly greater effort must be made in carrying out programs under subchapter I of this chapter to award contracts on the basis of competitive selection procedures. All such contracts should be let on the basis of competitive selection procedures except in those limited cases in which the procurement regulations governing the agency primarily responsible for administering subchapter I of this chapter allow noncompetitive procedures to be used.

(2) Repealed. Pub. L. 97–113, title VII, §734(a)(1), Dec. 29, 1981, 95 Stat. 1560.

(Pub. L. 87–195, pt. III, §601, Sept. 4, 1961, 75 Stat. 438; Pub. L. 88–205, pt. III, §301(a), (b), Dec. 16, 1963, 77 Stat. 385; Pub. L. 88–633, pt. III, §301(a), (b), Oct. 7, 1964, 78 Stat. 1012; Pub. L. 89–583, pt. III, §301(a), Sept. 19, 1966, 80 Stat. 803; Pub. L. 90–137, pt. III, §301(a), Nov. 14, 1967, 81 Stat. 458; Pub. L. 95–424, title I, §102(g)(2)(B), title V, §501, Oct. 6, 1978, 92 Stat. 942, 956; Pub. L. 97–113, title VII, §734(a)(1), Dec. 29, 1981, 95 Stat. 1560.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (b) and (d), was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

REFERENCES TO SUBCHAPTER I DEEMED TO INCLUDE CERTAIN PARTS OF SUBCHAPTER II

References to subchapter I of this chapter are deemed to include parts IV (§2346 et seq.), VI (§2348 et seq.), and VIII (§2349aa et seq.) of subchapter II of this chapter, and references to subchapter II are deemed to exclude such parts. See section 202(b) of Pub. L. 92–226, set out as a note under section 2346 of this title, and sections 2348c and 2349aa–5 of this title.

AMENDMENTS

1981—Subsec. (e)(2). Pub. L. 97–113 struck out par. (2) which required reports to Congress on Agency for International Development contracts over $100,000 entered into without competitive selection. See section 2394(a)(2)(F) of this title.

1978—Subsec. (b)(5). Pub. L. 95–424 substituted "section 2151t" for "section 2161".

Subsec. (e). Pub. L. 95–424 added subsec. (e).

1967—Subsec. (c)(3). Pub. L. 90–137 substituted reference to section 5703 for former section 73b–2 of title 5.

1966—Subsec. (b)(2) to (8). Pub. L. 89–583, §301(a)(1)–(3), added par. (2), redesignated former pars. (2) to (6) as (3) to (7), respectively, and added par. (8).

Subsec. (c). Pub. L. 89–583, §301(a)(4), substituted provisions relating to International Private Investment Advisory Council on Foreign Aid for former provisions relating to Advisory Committee on Private Enterprise in Foreign Aid.

1964—Subsec. (c)(4). Pub. L. 88–633, §301(a), substituted "June 30, 1965" for "December 31, 1964".

Subsec. (d). Pub. L. 88–633, §301(b), added subsec. (d).

1963—Subsec. (b). Pub. L. 88–205, §301(a), substituted "to the maximum extent practicable" for "wherever appropriate" in par. (4), and added pars. (5) and (6).

Subsec. (c). Pub. L. 88–205, §301(b), added subsec. (c).

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–424 effective Oct. 1, 1978, see section 605 of Pub. L. 95–424, set out as a note under section 2151 of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

TERMINATION OF ADVISORY COUNCIL

Advisory council in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a council established by the Congress, its duration is otherwise provided by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§2352. Small business

(a) Assistance for participation in furnishing of commodities, defense articles, and services

Insofar as practicable and to the maximum extent consistent with the accomplishment of the purposes of this chapter, the President shall assist American small business to participate equitably in the furnishing of commodities, defense articles, and services (including defense services) financed with funds made available under this chapter—

(1) by causing to be made available to suppliers in the United States, and particularly to small independent enterprises, information, as far in advance as possible, with respect to purchases proposed to be financed with such funds;

(2) by causing to be made available to prospective purchasers in the countries and areas receiving assistance under this chapter information as to such commodities, articles, and services produced by small independent enterprises in the United States; and

(3) by providing for additional services to give small business better opportunities to participate in the furnishing of such commodities, articles, and services financed with such funds.

(b) Office of Small Business

There shall be an Office of Small Business, headed by a Special Assistant for Small Business, in such agency of the United States Government as the President may direct, to assist in carrying out the provisions of subsection (a) of this section.

(c) Information with respect to certain purchases by Department of Defense

The Secretary of Defense shall assure that there is made available to suppliers in the United States, and particularly to small independent enterprises, information with respect to purchases made by the Department of Defense pursuant to subchapter II of this chapter, such information to be furnished as far in advance as possible.

(Pub. L. 87–195, pt. III, §602, Sept. 4, 1961, 75 Stat. 439.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

REFERENCES TO SUBCHAPTER II DEEMED TO EXCLUDE CERTAIN PARTS OF SUBCHAPTER II

References to subchapter II of this chapter are deemed to exclude parts IV (§2346 et seq.), VI (§2348 et seq.), and VIII (§2349aa et seq.) of subchapter II, and references to subchapter I of this chapter are deemed to include such parts. See section 202(b) of Pub. L. 92–226, set out as a note under section 2346 of this title, and sections 2348c and 2349aa–5 of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

REPORTS ON PARTICIPATION BY SMALL BUSINESSES IN PROCUREMENT CONTRACTS OF USAID

Pub. L. 107–228, div. A, title VI, §687, Sept. 30, 2002, 116 Stat. 1411, provided that:

"(a) INITIAL REPORT.—Not later than 120 days after the date of the enactment of this Act [Sept. 30, 2002], the Administrator shall submit to the designated congressional committees a report that contains the

following:

"(1) For each of the fiscal years 2000, 2001, and 2002:

"(A) The total number of the contracts that were awarded by the Agency to—

"(i) all small businesses;

"(ii) small business concerns owned and controlled by socially and economically disadvantaged individuals;

"(iii) small business concerns owned and controlled by women;

"(iv) small businesses participating in the program under section 8(a) of such Act [probably means section 8(a) of the Small Business Act] (15 U.S.C. 637(a)); and

"(v) qualified HUBZone small business concerns.

"(B) The percentage of all contracts awarded by the Agency that were awarded to the small businesses in each category of small businesses specified in clauses (i) through (v) of subparagraph (A), as computed on the basis of dollar amounts.

"(C) Of all contracts awarded by the Agency for performance in the United States, the percentage of the contracts that were awarded to the small businesses in each category of small businesses specified in clauses (i) through (v) of subparagraph (A), as computed on the basis of dollar amounts.

"(D) To the extent available—

"(i) the total number of grant and cooperative agreements that were made by the Agency to the small businesses in each category of small businesses specified in clauses (i) through (v) of subparagraph (A);

"(ii) the percentage of all grant and cooperative agreements awarded by the Agency that were awarded to small businesses in each category of small businesses specified in clauses (i) through (v) of subparagraph (A), as computed on the basis of dollar amounts; and

"(iii) of all grant and cooperative agreements made by the Agency to entities in the United States, the percentage of the grant and cooperative agreements that were awarded to small businesses in each category of small businesses specified in clauses (i) through (v) of subparagraph (A), as computed on the basis of dollar amounts.

"(E) To the extent available—

"(i) the total dollar amount of all subcontracts entered into with the small businesses in each category specified in clauses (i) through (v) of subparagraph (A) by the prime contractors for contracts entered into by the Agency; and

"(ii) the percentage of all contracts entered into by the Agency that were performed under subcontracts described in clause (i), as computed on the basis of dollar amounts.

"(2) An analysis of any specific industries or sectors that are underrepresented by small businesses in the awarding of contracts by the Agency and, to the extent such information is available, such analysis pertaining to the making of grants and cooperative agreements by the Agency.

"(3) A specific plan of outreach, including measurable achievement milestones, to increase the total number of contracts that are awarded by the Agency, and the percentage of all contracts awarded by the Agency (computed on the basis of dollar amount) that are awarded, to—

"(A) all small businesses;

"(B) small business concerns owned and controlled by socially and economically disadvantaged individuals;

"(C) small business concerns owned and controlled by women;

"(D) small businesses participating in the program under section 8(a) of such Act (15 U.S.C. 637(a)); and

"(E) qualified HUBZone small business concerns,

in order to meet the statutory and voluntary targets established by the Agency and the Small Business Administration, with a particular focus on the industries or sectors identified in paragraph (2).

"(4) Any other information the Administrator determines appropriate.

"(b) PLAN TO INCREASE SMALL BUSINESS CONTRACTING.—The plan required for the report under subsection (a)(3) shall include the following matters:

"(1) Proposals and milestones that apply to all contracts entered into by or on behalf of the Agency in Washington, D.C., and proposals and milestones that apply to all contracts entered into by or on behalf of the Agency by offices outside Washington, D.C.

"(2) Proposals and milestones of the Agency to increase the amount of subcontracting to businesses described in such subsection (a)(3) by the prime contractors of the Agency.

"(3) With the milestones described in paragraph (2), a description of how the Administrator plans to

use the failure of a prime contractor to meet goals as a ranking factor for evaluating any other submission from the contractor for future contracts by the Agency.

"(c) ANNUAL REPORTS.—Not later than January 31, 2004, January 31, 2005, and January 31, 2006, the Administrator shall submit to the designated congressional committees a report for the preceding fiscal year that contains a description of the percentage of total contract and grant and cooperative agreement dollar amounts that were entered into by the Agency, and the total number of contracts and grants and cooperative agreements that were awarded by the Agency, to small businesses in each category specified in clauses (i) through (v) of subsection (a)(1)(A) during such fiscal year. The report for a fiscal year shall include, separately stated for contracts and grant and cooperative agreements entered into by the Agency, the percentage of the contracts and grant and cooperative agreements, respectively, that were awarded to small businesses in each such category, as computed on the basis of dollar amounts. The report shall also include a description of achievements toward measurable milestones for direct contracts of the Agency entered into by offices outside of Washington, D.C., and for subcontracting by prime contractors of the Agency.

"(d) DEFINITIONS.—In this section:

"(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the United States Agency for International Development.

"(2) AGENCY.—The term 'Agency' means the United States Agency for International Development.

"(3) DESIGNATED CONGRESSIONAL COMMITTEES.—The term 'designated congressional committees' means—

"(A) the Committee on International Relations [now Committee on Foreign Affairs] and the Committee on Small Business of the House of Representatives; and

"(B) the Committee on Foreign Relations and the Committee on Small Business [now Committee on Small Business and Entrepreneurship] of the Senate."

OFFICE IN AGENCY FOR INTERNATIONAL DEVELOPMENT

For location of the Office of Small Business, provided for in subsec. (b), in the United States Agency for International Development, see section 1–200(d) of Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

PROCUREMENTS FROM SMALL BUSINESSES

Pub. L. 94–329, title VI, §602, June 30, 1976, 90 Stat. 766, provided that: "In order to encourage procurements from small business concerns under chapter 4 of the Foreign Assistance Act of 1961 [part IV of subchapter II of this chapter], the Administrator of the Agency for International Development shall report to the Congress every six months on the extent to which small businesses have participated in procurements under such chapter [part] and on what efforts the Agency has made to foster such procurements from small business concerns. The Small Business Administration shall lend all available assistance to the Agency for the purposes of carrying out this section."

[For termination, effective May 15, 2000, of reporting provisions in section 602 of Pub. L. 94–329, set out above, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 130 of House Document No. 103–7.]

§2353. Shipping on United States vessels

The ocean transportation between foreign countries of commodities and defense articles purchased with foreign currencies made available or derived from funds made available under this chapter or the Food for Peace Act, as amended [7 U.S.C. 1691 et seq.], and transfers of fresh fruit and products thereof under this chapter, shall not be governed by the provisions of section 55305 of title 46, or any other law relating to the ocean transportation of commodities on United States flag vessels.

(Pub. L. 87–195, pt. III, §603, Sept. 4, 1961, 75 Stat. 439; Pub. L. 110–246, title III, §3001(b)(1)(A), (2)(Q), June 18, 2008, 122 Stat. 1820.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

The Food for Peace Act, as amended, referred to in text, is act July 10, 1954, ch. 469, 68 Stat. 454, which is classified principally to chapter 41 (§1691 et seq.) of Title 7, Agriculture. For complete classification of this

Act to the Code, see Short Title note set out under section 1691 of Title 7 and Tables.

CODIFICATION

In text, "section 55305 of title 46" substituted for "section 901(b) of the Merchant Marine Act of 1936, as amended (46 U.S.C. 1241)" on authority of Pub. L. 109–304, §18(c), Oct. 6, 2006, 120 Stat. 1709, which Act enacted section 55305 of Title 46, Shipping.

AMENDMENTS

2008—Pub. L. 110–246 substituted "Food for Peace Act" for "Agricultural Trade Development and Assistance Act of 1954".

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–246 effective May 22, 2008, see section 4(b) of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

§2354. Procurement

(a) Limitations on procurement outside United States

(1) Funds made available for assistance under this chapter may be used by the President for procurement—

(A) only in the United States, the recipient country, or developing countries; or

(B) in any other country but only if—

(i) the provision of such assistance requires commodities or services of a type that are not produced in and available for purchase in any country specified in subparagraph (A); or

(ii) the President determines, on a case-by-case basis, that procurement in such other country is necessary—

(I) to meet unforeseen circumstances, such as emergency situations, where it is important to permit procurement in a country not specified in subparagraph (A); or

(II) to promote efficiency in the use of United States foreign assistance resources, including to avoid impairment of foreign assistance objectives.

(2) For purposes of this subsection, the term "developing countries" shall not include advanced developing countries.

(b) Purchases in bulk

No funds made available under this chapter shall be used for the purchase in bulk of any commodities at prices higher than the market price prevailing in the United States at the time of purchase, adjusted for differences in the cost of transportation to destination, quality, and terms of payment.

(c) Agricultural commodities or products thereof available for disposition under Food for Peace Act

In providing for the procurement of any agricultural commodity or product thereof available for disposition under the Food for Peace Act, as amended [7 U.S.C. 1691 et seq.], for transfer by grant under this chapter to any recipient country in accordance with its requirements, the President shall, insofar as practicable and when in furtherance of the purposes of this chapter, authorize the procurement of such agricultural commodity only within the United States except to the extent that such agricultural commodity is not available in the United States in sufficient quantities to supply emergency requirements of recipients under this chapter.

(d) Marine insurance

In providing assistance in the procurement of commodities in the United States, United States dollars shall be made available for marine insurance on such commodities where such insurance is placed on a competitive basis in accordance with normal trade practice prevailing prior to the outbreak of World War II: *Provided,* That in the event a participating country, by statute, decree,

rule, or regulation, discriminates against any marine insurance company authorized to do business in any State of the United States, then commodities purchased with funds provided hereunder and destined for such country shall be insured in the United States against marine risk with a company or companies authorized to do a marine insurance business in any State of the United States.

(e) Parity for domestic commodities prior to use of funds outside United States

No funds made available under this chapter shall be used for the procurement of any agricultural commodity or product thereof outside the United States when the domestic price of such commodity is less than parity, unless the commodity to be financed could not reasonably be procured in the United States in fulfillment of the objectives of a particular assistance program under which such commodity procurement is to be financed.

(f) Commodity eligibility

No funds authorized to be made available to carry out subchapter I of this chapter shall be used under any commodity import program to make any payment to a supplier unless the supplier has certified to the agency primarily responsible for administering such subchapter I, such information as such agency shall by regulation prescribe, including but not limited to, a description of the commodity supplied by him and its condition, and, on the basis of such information such agency shall have approved such commodity as eligible and suitable for financing under this chapter.

(g) Construction or engineering services; applicability to advanced developing country

(1) None of the funds authorized to be appropriated or made available for obligation or expenditure under this chapter may be made available for the procurement of construction or engineering services from advanced developing countries, eligible under the Geographic Code 941, which have attained a competitive capability in international markets for construction services or engineering services.

(2) Paragraph (1) does not apply with respect to an advanced developing country which—

(A) is receiving direct economic assistance under part I of subchapter I of this chapter or part IV of subchapter II of this chapter, and

(B) if the country has its own foreign assistance programs which finance the procurement of construction or engineering services, permits United States firms to compete for those services.

(Pub. L. 87–195, pt. III, §604, Sept. 4, 1961, 75 Stat. 439; Pub. L. 89–583, pt. III, §301(b), Sept. 19, 1966, 80 Stat. 804; Pub. L. 90–554, pt. III, §301(a), Oct. 8, 1968, 82 Stat. 963; Pub. L. 96–533, title VII, §705, Dec. 16, 1980, 94 Stat. 3157; Pub. L. 99–83, title XII, §1207, Aug. 8, 1985, 99 Stat. 278; Pub. L. 102–391, title V, §597, Oct. 6, 1992, 106 Stat. 1694; Pub. L. 110–246, title III, §3001(b)(1)(A), (2)(Q), June 18, 2008, 122 Stat. 1820.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) to (c) and (e) to (g)(1), was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

The Food for Peace Act, as amended, referred to in subsec. (c), is act July 10, 1954, ch. 469, 68 Stat. 454, which is classified principally to chapter 41 (§1691 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 1691 of Title 7 and Tables.

REFERENCES TO SUBCHAPTER I DEEMED TO INCLUDE CERTAIN PARTS OF SUBCHAPTER II

References to subchapter I of this chapter are deemed to include parts IV (§2346 et seq.), VI (§2348 et seq.), and VIII (§2349aa et seq.) of subchapter II of this chapter, and references to subchapter II are deemed to exclude such parts. See section 202(b) of Pub. L. 92–226, set out as a note under section 2346 of this title, and sections 2348c and 2349aa–5 of this title.

REFERENCES TO PART I DEEMED TO INCLUDE SECTION 2293

References to part I of subchapter I of this chapter are deemed to include a reference to section 2293 of this title. See section 2293(d)(1) of this title.

AMENDMENTS

2008—Subsec. (c). Pub. L. 110–246 substituted "Food for Peace Act" for "Agricultural Trade Development and Assistance Act of 1954".

1992—Subsec. (a). Pub. L. 102–391 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "Funds made available under this chapter may be used for procurement outside the United States only if the President determines that such procurement will not result in adverse effects upon the economy of the United States or the industrial mobilization base, with special reference to any areas of labor surplus or to the net position of the United States in its balance of payments with the rest of the world, which outweigh the economic or other advantages to the United States of less costly procurement outside the United States, and only if the price of any commodity procured in bulk is lower than the market price prevailing in the United States at the time of procurement, adjusted for differences in the cost of transportation to destination, quality, and terms of payment."

1985—Subsec. (g). Pub. L. 99–83 designated existing provisions as par. (1) and added par. (2).

1980—Subsec. (e). Pub. L. 96–533, §705(a), authorized use of funds for procurement of a commodity outside the United States when the commodity to be financed could not reasonably be procured in the United States in fulfillment of objectives of a particular assistance program under which such commodity procurement is to be financed.

Subsec. (g). Pub. L. 96–533, §705(b), added subsec. (g).

1968—Subsec. (f). Pub. L. 90–554 added subsec. (f).

1966—Subsec. (c). Pub. L. 89–583, §301(b)(1), struck out "surplus" before "agricultural commodity" in three places and inserted "or products thereof available for disposition under the Agricultural Trade Development and Assistance Act of 1954, as amended," after "commodity" where first appearing.

Subsec. (e). Pub. L. 89–583, §301(b)(2), added subsec. (e).

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–246 effective May 22, 2008, see section 4(b) of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–83 effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as a note under section 2151–1 of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§2355. Retention and use of certain items and funds

(a) Commodities and defense articles; disposal to prevent spoilage or wastage or to conserve usefulness; funds realized from disposal or transfer

Any commodities and defense articles procured to carry out this chapter shall be retained by, or upon reimbursement, transferred to, and for the use of, such agency of the United States Government as the President may determine in lieu of being disposed of to a foreign country or international organization, whenever in the judgment of the President the best interests of the United States will be served thereby, or whenever such retention is called for by concurrent resolution. Any commodities or defense articles so retained may be disposed of without regard to provisions of law relating to the disposal of property owned by the United States Government, when necessary to prevent spoilage or wastage of such commodities or defense articles or to conserve the usefulness thereof. Funds realized from any disposal or transfer shall revert to the respective appropriation, fund, or account used to procure such commodities or defense articles or to the appropriation, fund, or account currently available for the same general purpose.

(b) Commodities transferred as repayment of assistance

Whenever commodities are transferred to the United States Government as repayment of assistance under this chapter, such commodities may be used in furtherance of the purposes and within the limitations of this chapter.

(c) Funds realized as result of illegal transactions

Funds realized as a result of any failure of a transaction financed under authority of subchapter I of this chapter to conform to the requirements of this chapter, or to applicable rules and regulations of the United States Government, or to the terms of any agreement or contract entered into under authority of subchapter I of this chapter, shall revert to the respective appropriation, fund, or account used to finance such transaction or to the appropriation, fund, or account currently available for the same general purpose.

(d) Funds realized from sale, transfer, or disposal of returned defense articles

Funds realized by the United States Government from the sale, transfer, or disposal of defense articles returned to the United States Government by a recipient country or international organization as no longer needed for the purpose for which furnished shall be credited to the respective appropriation, fund, or account used to procure such defense articles or to the appropriation, fund, or account currently available for the same general purpose.

(Pub. L. 87–195, pt. III, §605, Sept. 4, 1961, 75 Stat. 440; Pub. L. 89–171, pt. III, §301(a), Sept. 6, 1965, 79 Stat. 658.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) to (c), was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

REFERENCES TO SUBCHAPTER I DEEMED TO INCLUDE CERTAIN PARTS OF SUBCHAPTER II

References to subchapter I of this chapter are deemed to include parts IV (§2346 et seq.), VI (§2348 et seq.), and VIII (§2349aa et seq.) of subchapter II of this chapter, and references to subchapter II are deemed to exclude such parts. See section 202(b) of Pub. L. 92–226, set out as a note under section 2346 of this title, and sections 2348c and 2349aa–5 of this title.

AMENDMENTS

1965—Subsecs. (c), (d). Pub. L. 89–171 added subsecs. (c) and (d).

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§2356. Patents and technical information

(a) Practice of invention or disclosure of information; suits against United States for reasonable compensation; jurisdiction; limitation of action; defenses

Whenever, in connection with the furnishing of assistance under this chapter—

(1) an invention or discovery covered by a patent issued by the United States Government is practiced within the United States without the authorization of the owner, or

(2) information, which is (A) protected by law, and (B) held by the United States Government subject to restrictions imposed by the owner, is disclosed by the United States Government or any of its officers, employees, or agents in violation of such restrictions,

the exclusive remedy of the owner, except as provided in subsection (b) of this section, is to sue the United States Government for reasonable and entire compensation for such practice or disclosure in the district court of the United States for the district in which such owner is a resident, or in the United States Court of Federal Claims, within six years after the cause of action arises. Any period during which the United States Government is in possession of a written claim under subsection (b) of this section before mailing a notice of denial of that claim does not count in computing the six years. In any such suit, the United States Government may plead any defense that may be pleaded by

a private person in such an action. The last paragraph of section 1498(a) of title 28 shall apply to inventions and information covered by this section.

(b) Settlement of claims

Before suit against the United States Government has been instituted, the head of the agency of the United States Government concerned may settle and pay any claim arising under the circumstances described in subsection (a) of this section. No claim may be paid under this subsection unless the amount tendered is accepted by the claimant in full satisfaction.

(c) Drug products manufactured outside the United States

Funds appropriated pursuant to this chapter shall not be expended by the United States Government for the acquisition of any drug product or pharmaceutical product manufactured outside the United States if the manufacture of such drug product or pharmaceutical product in the United States would involve the use of, or be covered by, an unexpired patent of the United States which has not previously been held invalid by an unappealed or unappealable judgment or decree of a court of competent jurisdiction, unless such manufacture is expressly authorized by the owner of such patent.

(Pub. L. 87–195, pt. III, §606, Sept. 4, 1961, 75 Stat. 440; Pub. L. 97–164, title I, §160(a)(6), Apr. 2, 1982, 96 Stat. 48; Pub. L. 102–572, title IX, §902(b)(1), Oct. 29, 1992, 106 Stat. 4516.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (c), was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–572 substituted "United States Court of Federal Claims" for "United States Claims Court".

1982—Subsec. (a). Pub. L. 97–164 substituted "United States Claims Court" for "Court of Claims".

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–572 effective Oct. 29, 1992, see section 911 of Pub. L. 102–572, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–164 effective Oct. 1, 1982, see section 402 of Pub. L. 97–164, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

§2357. Furnishing of services and commodities

(a) Advance-of-funds or reimbursement basis

Whenever the President determines it to be consistent with and in furtherance of the purposes of subchapter I of this chapter and within the limitations of this chapter, any agency of the United States Government is authorized to furnish services and commodities on an advance-of-funds or reimbursement basis to friendly countries, international organizations, the American Red Cross, and voluntary nonprofit relief agencies registered with and approved by the Agency for International Development (including foreign voluntary nonprofit relief agencies so registered and approved when no United States voluntary nonprofit relief agency is available). Such advances or reimbursements may be credited to the currently applicable appropriation, account, or fund of the agency concerned and shall be available for the purposes for which such appropriation, account, or fund is authorized to be used, under the following circumstances:

(1) Advances or reimbursements which are received under this section within one hundred and eighty days after the close of the fiscal year in which such services and commodities are delivered.

(2) Advances or reimbursements received pursuant to agreements executed under this section in which reimbursement will not be completed within one hundred and eighty days after the close of the fiscal year in which such services and commodities are delivered: *Provided*, That such

agreements require the payment of interest at the current rate established pursuant to section 635(b)(1)(B) of title 12, and repayment of such principal and interest does not exceed a period of three years from the date of signing of the agreement to provide the service: *Provided further*, That funds available for this paragraph in any fiscal year shall not exceed $1,000,000 of the total funds authorized for use in such fiscal year by part I of subchapter I of this chapter, and shall be available only to the extent provided in appropriation Acts. Interest shall accrue as of the date of disbursement to the agency or organization providing such services.

(b) Agency contracts with individuals to perform services

When any agency of the United States Government provides services on an advance-of-funds or reimbursable basis under this section, such agency may contract with individuals for personal service abroad or in the United States to perform such services or to replace officers or employees of the United States Government who are assigned by the agency to provide such services. Such individuals shall not be regarded as employees of the United States Government for the purpose of any law administered by the Director of the Office of Personnel Management.

(c) Excess property

(1) Except as provided in subsection (d), no Government-owned excess property shall be made available under this section, section 2358 of this title, or otherwise in furtherance of the purposes of subchapter I of this chapter, unless, before the shipment of such property for use in a specified country (or transfer, if the property is already in such country), the agency administering such subchapter I has approved such shipment (or transfer) and made a written determination—

(A) that there is a need for such property in the quantity requested and that such property is suitable for the purpose requested;

(B) as to the status and responsibility of the designated end-user and his ability effectively to use and maintain such property; and

(C) that the residual value, serviceability, and appearance of such property would not reflect unfavorably on the image of the United States and would justify the costs of packing, crating, handling, transportation, and other accessorial costs, and that the residual value at least equals the total of these costs.

(2) For purposes of transferring property described in this subsection in furtherance of the provisions of part VIII of subchapter I of this chapter, the phrase "the agency administering such subchapter I" shall be considered to refer to the Department of State.

(d) Transfer of Government-owned excess property to enhance environmental protection in foreign countries

The Secretary of State, acting through the Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs, is authorized to transfer to any friendly country, international organization, the American Red Cross, or other voluntary nonprofit relief agency described in subsection (a), Government-owned excess property made available under this section or section 2358 of this title in order to support activities carried out under subchapter I of this chapter which are designed to enhance environmental protection in foreign countries if the Secretary of State makes a written determination—

(1) that there is a need for such property in the quantity requested and that such property is suitable for the purpose requested;

(2) as to the status and responsibility of the designated end-user and his ability effectively to use and maintain such property; and

(3) that the residual value, serviceability, and appearance of such property would not reflect unfavorably on the image of the United States and would justify the costs of packing, crating, handling, transportation, and other accessorial costs, and that the residual value at least equals the total of these costs.

(Pub. L. 87–195, pt. III, §607, Sept. 4, 1961, 75 Stat. 441; Pub. L. 90–554, pt. III, §301(b), Oct. 8, 1968, 82 Stat. 963; Pub. L. 94–161, title III, §315, Dec. 20, 1975, 89 Stat. 867; Pub. L. 95–88, title I,

§122(a), Aug. 3, 1977, 91 Stat. 541; Pub. L. 95–424, title V, §503, Oct. 6, 1978, 92 Stat. 959; 1978 Reorg. Plan No. 2, §102, eff. Jan. 1, 1979, 43 F.R. 36037, 92 Stat. 3783; Pub. L. 96–53, title I, §121, Aug. 14, 1979, 93 Stat. 366; Pub. L. 99–93, title I, §129, Aug. 16, 1985, 99 Stat. 419.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

REFERENCES TO SUBCHAPTER I DEEMED TO INCLUDE CERTAIN PARTS OF SUBCHAPTER II

References to subchapter I of this chapter are deemed to include parts IV (§2346 et seq.), VI (§2348 et seq.), and VIII (§2349aa et seq.) of subchapter II of this chapter, and references to subchapter II are deemed to exclude such parts. See section 202(b) of Pub. L. 92–226, set out as a note under section 2346 of this title, and sections 2348c and 2349aa–5 of this title.

REFERENCES TO PART I DEEMED TO INCLUDE SECTION 2293

References to part I of subchapter I of this chapter are deemed to include a reference to section 2293 of this title. See section 2293(d)(1) of this title.

AMENDMENTS

1985—Subsec. (c)(1). Pub. L. 99–93, §129(1)(A), (B), designated existing provisions of subsec. (c) as par. (1), redesignated existing pars. (1), (2), and (3) as subpars. (A), (B), and (C), respectively, and in introductory provisions of par. (1) as so designated substituted "Except as provided in subsection (d), no" for "No".

Subsec. (c)(2). Pub. L. 99–93, §129(1)(C), added par. (2).

Subsec. (d). Pub. L. 99–93, §129(2), added subsec. (d).

1979—Subsec. (a). Pub. L. 96–53 substituted "Agency for International Development" for "Advisory Committee on Voluntary Foreign Aid".

1978—Subsecs. (b), (c). Pub. L. 95–424 added subsec. (b) and redesignated former subsec. (b) as (c).

1977—Subsec. (a). Pub. L. 95–88 inserted "(including foreign voluntary nonprofit relief agencies so registered and approved when no United States voluntary nonprofit relief agency is available)" after "and voluntary nonprofit relief agencies registered with and approved by the Advisory Committee on Voluntary Foreign Aid" in provisions preceding par. (1).

1975—Subsec. (a). Pub. L. 94–161 substituted "currently" for "current", incorporated text following "Such advances or reimbursements" in provisions designated cl. (1) and added cl. (2).

1968—Pub. L. 90–554 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–53 effective Oct. 1, 1979, see section 512(a) of Pub. L. 96–53, set out as a note under section 2151 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–424 effective Oct. 1, 1978, see section 605 of Pub. L. 95–424, set out as a note under section 2151 of this title.

REGULATIONS

Pub. L. 95–88, title I, §122(b), Aug. 3, 1977, 91 Stat. 541, provided that: "For purposes of implementing the amendment made by subsection (a) [amending this section], the President shall issue regulations governing registration with and approval by the Advisory Committee on Voluntary Foreign Aid of foreign voluntary nonprofit agencies."

TRANSFER OF FUNCTIONS

"Director of the Office of Personnel Management" substituted for "Civil Service Commission" in subsec. (b) pursuant to Reorg. Plan No. 2 of 1978, §102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, which transferred all functions vested by statute in the United States Civil Service Commission to the Director of the Office of Personnel Management (except as otherwise specified), effective Jan. 1, 1979, as provided by section 1–102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

AUTHORITY OF SECRETARY OF STATE

Except as otherwise provided, Secretary of State to have and exercise any authority vested by law in any official or office of Department of State and references to such officials or offices deemed to refer to Secretary of State or Department of State, as appropriate, see section 2651a of this title and section 161(d) of Pub. L. 103–236, set out as a note under section 2651a of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

DELEGATION OF AUTHORITY

Memorandum of President of the United States, Feb. 16, 1995, 60 F.R. 10793, provided:

Memorandum for the Secretary of State [and] the Administrator of the Agency for International Development

By virtue of the authority vested in me by the Constitution and laws of the United States of America, including section 301 of title 3 of the United States Code, I hereby delegate as follows certain authorities vested in the President:

(A) the functions under section 607 of the Foreign Assistance Act of 1961, as amended (FAA) [22 U.S.C. 2357], to the Secretary of State and to the Administrator of the Agency for International Development, respectively, for matters within their respective areas of responsibility; and

(B) the functions in the first proviso under the heading "Population, Development Assistance," contained in title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1995 (Public Law 103–306) [108 Stat. 1611], and in comparable provisions in successor legislation, to the Secretary of State relating to those organizations and programs for which the Secretary of State has funding responsibility.

The delegations of authority described in subparagraph (A) are in addition to other delegations of such authority to the International Development Cooperation Agency.

The delegation of authority described above in subparagraph (B) shall be exercised in lieu of the delegation of the comparable authority to the Administrator of the Agency for International Development by section 1–102(a)(7) of Executive Order No. 12163, as amended [22 U.S.C. 2381 note].

Any reference in this memorandum to any Act, order, determination, or delegation of authority shall be deemed to be a reference to such Act, order, determination, or delegation of authority as amended from time to time.

The functions delegated by this memorandum may be redelegated within the Department of State or the Agency for International Development, as appropriate.

The Secretary of State is authorized and directed to publish this memorandum in the Federal Register.

WILLIAM J. CLINTON.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

§2358. Foreign and domestic excess property

(a) Advance acquisition of property; special account for payment of costs; limitation; use of property

It is the sense of the Congress that in furnishing assistance under subchapter I of this chapter excess personal property, or (if a substantial savings would occur) other property already owned by an agency of the United States Government, shall be utilized wherever practicable in lieu of or supplementary to the procurement of new items for United States-assisted projects and programs. The President is authorized to maintain in a separate account, which shall, notwithstanding section 1535(d) of title 31, be free from fiscal year limitation, $5,000,000 of funds made available under part I of subchapter I of this chapter, which may be used to pay costs (including personnel costs) of

acquisition, storage, renovation and rehabilitation, packing, crating, handling, transportation, and related costs of property classified as domestic or foreign excess property pursuant to chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41, any property available from an agency of the United States Government, or other property, in advance of known requirements therefor for use in furtherance of the purposes of subchapter I of this chapter: *Provided*, That the amount of property classified as domestic excess property pursuant to chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41 held at any one time pursuant to this section shall not exceed $15,000,000 in total original acquisition cost. Property acquired pursuant to the preceding sentence may be furnished (1) pursuant to any provision of subchapter I of this chapter for which funds are authorized for the furnishing of assistance, in which case the separate account established pursuant to this section shall be repaid from funds made available for such provision for all costs incurred, or (2) pursuant to section 2357 of this title, in which case such separate account shall be repaid in accordance with the provisions of that section for all costs incurred.

(b) Transfer of domestic excess property

Property classified as domestic excess property under chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41 shall not be transferred to the agency primarily responsible for administering subchapter I of this chapter for use pursuant to the provisions of subchapter I of this chapter or section 2357 of this title unless (1) such property is transferred for use exclusively by an agency of the United States Government, or (2) it has been determined in the same manner as provided for surplus property in section 549(a) to (e) of title 40, that such property is not needed for donation pursuant to those subsections. The foregoing restrictions shall not apply to the transfer in any fiscal year for use pursuant to the provisions of subchapter I of this chapter of amounts of such property with a total original acquisition cost to the United States Government not exceeding $45,000,000.

(Pub. L. 87–195, pt. III, §608, Sept. 4, 1961, 75 Stat. 441; Pub. L. 89–583, pt. III, §301(c), Sept. 19, 1966, 80 Stat. 804; Pub. L. 90–137, pt. III, §301(b), Nov. 14, 1967, 81 Stat. 458; Pub. L. 95–424, title I, §102(g)(2)(C), Oct. 6, 1978, 92 Stat. 942; Pub. L. 97–113, title VII, §701, Dec. 29, 1981, 95 Stat. 1543.)

REFERENCES TO SUBCHAPTER I DEEMED TO INCLUDE CERTAIN PARTS OF SUBCHAPTER II

References to subchapter I of this chapter are deemed to include parts IV (§2346 et seq.), VI (§2348 et seq.), and VIII (§2349aa et seq.) of subchapter II of this chapter, and references to subchapter II are deemed to exclude such parts. See section 202(b) of Pub. L. 92–226, set out as a note under section 2346 of this title, and sections 2348c and 2349aa–5 of this title.

REFERENCES TO PART I DEEMED TO INCLUDE SECTION 2293

References to part I of subchapter I of this chapter are deemed to include a reference to section 2293 of this title. See section 2293(d)(1) of this title.

CODIFICATION

In text, "chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41" substituted for references to the Federal Property and Administrative Services Act of 1949, as amended, on authority of Pub. L. 107–217, §5(c), Aug. 21, 2002, 116 Stat. 1303, which Act enacted Title 40, Public Buildings, Property, and Works, and Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

In subsec. (a), "section 1535(d) of title 31" substituted for "section 1210 of the General Appropriation Act, 1951 (64 Stat. 765) [31 U.S.C. 686–1]" on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

In subsec. (b), "section 549(a) to (e) of title 40" substituted for "section 203(j) of the Federal Property and Administrative Services Act of 1949, as amended" and "those subsections" substituted for "that subsection" on authority of Pub. L. 107–217, §5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

AMENDMENTS

1981—Subsec. (a). Pub. L. 97–113 authorized for subchapter I assistance use of property already owned by an agency of the United States (if a substantial savings would occur) as supplementary to procurement of new items for United States-assisted projects and programs and use of separate account funds for payment of costs of any property available from an agency of the United States.

1978—Subsec. (a). Pub. L. 95–424 substituted "part 1 of subchapter 1 of this chapter" for "section 2172 of this title".

1967—Subsec. (a). Pub. L. 90–137 required, in furnishing assistance under subchapter I of this chapter, utilization of excess personal property wherever practicable in lieu of new items for United States-assisted projects and programs.

1966—Subsec. (a). Pub. L. 89–583 permitted personnel costs attributable to the excess property program to be charged to the separate account for the advance acquisition of property.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–424 effective Oct. 1, 1978, see section 605 of Pub. L. 95–424, set out as a note under section 2151 of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§2359. Repealed. Pub. L. 105–277, div. A, §101(d) [title V, §533(a)(5)], Oct. 21, 1998, 112 Stat. 2681–150, 2681–180

Section, Pub. L. 87–195, pt. III, §609, Sept. 4, 1961, 75 Stat. 442, related to special accounts for proceeds from sales of commodities furnished on a grant basis.

§2360. Transfer of funds between accounts

(a) Necessity of transfer; limitations

Whenever the President determines it to be necessary for the purposes of this chapter, not to exceed 10 per centum of the funds made available for any provision of this chapter (except funds made available pursuant to subpart IV of part II of subchapter I of this chapter or for section 2763 of this title) may be transferred to, and consolidated with, the funds made available for any provision of this chapter (except funds made available under part II of subchapter II of this chapter), and may be used for any of the purposes for which such funds may be used, except that the total in the provision for the benefit of which the transfer is made shall not be increased by more than 20 per centum of the amount of funds made available for such provision.

(b) Augmentation of other appropriations

The authority contained in this section and in sections 2261, 2318 and 2364 of this title, shall not be used to augment appropriations made available pursuant to sections 2396(g)(1) and 2397 of this title or used otherwise to finance activities which normally would be financed from appropriations for administrative expenses.

(c) Military and development assistance purposes

Any funds which the President has notified Congress pursuant to section 2413 of this title that he intends to provide in military assistance to any country may be transferred to, and consolidated with, any other funds he has notified Congress pursuant to such section that he intends to provide to that country for development assistance purposes.

(Pub. L. 87–195, pt. III, §610, Sept. 4, 1961, 75 Stat. 442; Pub. L. 87–565, pt. III, §301(a), Aug. 1, 1962, 76 Stat. 260; Pub. L. 89–371, §3, Mar. 18, 1966, 80 Stat. 74; Pub. L. 89–583, pt. III, §301(d), Sept. 19, 1966, 80 Stat. 804; Pub. L. 90–137, pt. III, §301(c), Nov. 14, 1967, 81 Stat. 458; Pub. L. 91–175, pt. III, §301, Dec. 30, 1969, 83 Stat. 820; Pub. L. 93–559, §19(a), Dec. 30, 1974, 88 Stat.

1800; Pub. L. 95–384, §10(b)(2), Sept. 26, 1978, 92 Stat. 735; Pub. L. 101–623, §10(a), Nov. 21, 1990, 104 Stat. 3356.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

AMENDMENTS

1990—Subsec. (a). Pub. L. 101–623 inserted "or for section 2763 of this title" after "subchapter I of this chapter" and struck out "other" after second reference to "funds made available for any".

1978—Subsec. (b). Pub. L. 95–384 struck out provisions authorizing transfer and consolidation of not to exceed $9,000,000 of the funds appropriated under section 2242 of this title with the funds appropriated under section 2397(a) of this title to be available solely for additional administrative expenses incurred in connection with programs in Vietnam.

1974—Subsec. (a). Pub. L. 93–559, §19(a)(1), inserted provisions excepting funds made available under part II of subchapter II of this chapter from the designation of funds subject to consolidation.

Subsec. (c). Pub. L. 93–559, §19(a)(2), added subsec. (c).

1969—Subsec. (a). Pub. L. 91–175 inserted provision excepting funds made available pursuant to subpart IV of part II of subchapter I of this chapter form the designation of funds subject to consolidation.

1967—Subsec. (b). Pub. L. 90–137 increased limitation on funds available for transfer from $5,000,000 to $9,000,000.

1966—Subsec. (b). Pub. L. 89–583 substituted provisions authorizing transfer of $5,000,000 for administrative expenses for any fiscal year incurred in connection with programs in Vietnam for provisions authorizing transfer of $1,400,000 for administrative expenses for fiscal year 1966 incurred in connection with programs in the Republic of Vietnam.

Pub. L. 89–371 authorized transfer of $1,400,000 for administrative expenses for fiscal year 1966 incurred in connection with programs in the Republic of Vietnam.

1962—Pub. L. 87–565 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101–623, §10(b), Nov. 21, 1990, 104 Stat. 3356, provided that: "The amendments made by subsection (a) [amending this section] apply with respect to funds made available for fiscal year 1991 or any fiscal year thereafter."

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§2361. Completion of plans and cost estimates

(a) Restriction on agreements or grants

No agreement or grant which constitutes an obligation of the United States Government in excess of $500,000 under section 1501 of title 31 shall be made for any assistance authorized under part I of subchapter I of this chapter, subpart II of part II of subchapter I of this chapter, or part IV of subchapter II of this chapter—

(1) if such agreement or grant requires substantive technical or financial planning, until engineering, financial, and other plans necessary to carry out such assistance, and a reasonably firm estimate of the cost to the United States Government of providing such assistance, have been completed; and

(2) if such agreement or grant requires legislative action within the recipient country, unless such legislative action may reasonably be anticipated to be completed in time to permit the orderly accomplishment of the purposes of such agreement or grant.

(b) Plans for water or related land resource construction projects; computation of benefits and costs

Plans required under subsection (a) of this section for any water or related land resource construction project or program shall include a computation of benefits and costs made insofar as practicable in accordance with the principles, standards, and procedures established pursuant to the Water Resources Planning Act (42 U.S.C. 1962, et seq.) or acts amendatory or supplementary thereto.

(c) Contracts for construction outside United States; competitive basis

To the maximum extent practicable, all contracts for construction outside the United States made in connection with any agreement or grant subject to subsection (a) of this section shall be made on a competitive basis.

(d) Engineering, financial, and other plans

Subsection (a) of this section shall not apply to any assistance furnished for the sole purpose of preparation of engineering, financial, and other plans.

(e) Certification of country capability to maintain and utilize projects as prerequisite to assistance for capital projects exceeding cost limitations

In addition to any other requirements of this section, no assistance authorized under part I of subchapter I of this chapter, subpart II of part II of subchapter I of this chapter, or part IV of subchapter II of this chapter shall be furnished with respect to any capital assistance project estimated to cost in excess of $1,000,000 until the head of the agency primarily responsible for administering subchapter I of this chapter has received and taken into consideration a certification from the principal officer of such agency in the country in which the project is located as to the capability of the country (both financial and human resources) to effectively maintain and utilize the project taking into account among other things the maintenance and utilization of projects in such country previously financed or assisted by the United States.

(Pub. L. 87–195, pt. III, §611, Sept. 4, 1961, 75 Stat. 442; Pub. L. 87–565, pt. III, §301(b), Aug. 1, 1962, 76 Stat. 260; Pub. L. 88–205, pt. III, §301(c), Dec. 16, 1963, 77 Stat. 385; Pub. L. 90–137, pt. II, §301(d), Nov. 14, 1967, 81 Stat. 458; Pub. L. 95–424, title I, §102(g)(2)(D), (E), Oct. 6, 1978, 92 Stat. 943; Pub. L. 96–53, title I, §117, Aug. 14, 1979, 93 Stat. 365; Pub. L. 99–83, title XII, §§1208, 1211(b)(2), Aug. 8, 1985, 99 Stat. 278, 279.)

REFERENCES IN TEXT

The Water Resources Planning Act, referred to in subsec. (b), is Pub. L. 89–80, July 22, 1965, 79 Stat. 244, as amended, which is classified generally to chapter 19B (§1962 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1962 of Title 42 and Tables.

REFERENCES TO SUBCHAPTER I DEEMED TO INCLUDE CERTAIN PARTS OF SUBCHAPTER II

References to subchapter I of this chapter are deemed to include parts IV (§2346 et seq.), VI (§2348 et seq.), and VIII (§2349aa et seq.) of subchapter II of this chapter, and references to subchapter II are deemed to exclude such parts. See section 202(b) of Pub. L. 92–226, set out as a note under section 2346 of this title, and sections 2348c and 2349aa–5 of this title.

REFERENCES TO PART I DEEMED TO INCLUDE SECTION 2293

References to part I of subchapter I of this chapter are deemed to include a reference to section 2293 of this title. See section 2293(d)(1) of this title.

AMENDMENTS

1985—Subsec. (a). Pub. L. 99–83, §1208(1), substituted "$500,000" for "$100,000".

Pub. L. 99–83, §1211(b)(2), substituted reference to section 1501 of title 31, for reference to section 1311 of the Supplemental Appropriation Act, 1955.

Subsec. (b). Pub. L. 99–83, §1208(2), substituted "the principles, standards, and procedures established pursuant to the Water Resources Planning Act (42 U.S.C. 1962, et seq.) or acts amendatory or supplementary thereto" for "the procedures set forth in the Principles and Standards for Planning Water and Related Land Resources, dated October 25, 1973, with respect to such computations".

1979—Subsec. (b). Pub. L. 96–53 substituted "Principles and Standards for Planning Water and Related Land Resources, dated October 25, 1973" for "Memorandum of the President dated May 15, 1962".

1978—Subsec. (a). Pub. L. 95–424, §102(g)(2)(D), substituted "part I of subchapter I of this chapter, subpart II of part II of subchapter I of this chapter, or part IV of subchapter II of this chapter" for "subparts I, II, and VI of part II and part IV of subchapter I of this chapter".

Subsec. (e). Pub. L. 95–424, §102(g)(2)(E), substituted "part I of subchapter I of this chapter, subpart II of part II of subchapter I of this chapter, or part IV of subchapter II of this chapter" for "subparts I, II, or VI of part II or part IV of subchapter I of this chapter".

1967—Subsec. (e). Pub. L. 90–137 added subsec. (e).

1963—Subsec. (b). Pub. L. 88–205 substituted "the Memorandum of the President dated May 15, 1962," for "circular A–47 of the Bureau of the Budget."

1962—Subsec. (a). Pub. L. 87–565 included subpart VI of part II of subchapter I of this chapter within the restriction.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–83 effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as a note under section 2151–1 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–53 effective Oct. 1, 1979, see section 512(a) of Pub. L. 96–53, set out as a note under section 2151 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–424 effective Oct. 1, 1978, see section 605 of Pub. L. 95–424, set out as a note under section 2151 of this title.

§2362. Use of foreign currencies

(a) Currencies received in payment for nonmilitary assistance; foreign obligations

Except as otherwise provided in this chapter or other Acts, foreign currencies received either (1) as a result of the furnishing of nonmilitary assistance under the Mutual Security Act of 1954, as amended, or any Act repealed thereby, and unobligated on September 3, 1961, or (2) on or after September 4, 1961, as a result of the furnishing of nonmilitary assistance under the Mutual Security Act of 1954, as amended, or any Act repealed thereby, or (3) as a result of the furnishing of assistance under subchapter I of this chapter, which are in excess of amounts reserved under authority of section 2455(d) of this title or any other Act relating to educational and cultural exchanges, may be sold by the Secretary of the Treasury to agencies of the United States Government for payment of their obligations outside the United States, and the United States dollars received as reimbursement shall be deposited into miscellaneous receipts of the Treasury. Foreign currencies so received which are in excess of the amounts so reserved and of the requirements of the United States Government in payment of its obligations outside the United States, as such requirements may be determined from time to time by the President, shall be available for the authorized purposes of subchapter I of this chapter in such amounts as may be specified from time to time in appropriation Acts.

(b) United States operations abroad; excess foreign currencies

Any Act of the Congress making appropriations to carry out programs under this chapter or any other Act for United States operations abroad is hereby authorized to provide for the utilization of United States-owned excess foreign currencies to carry out any such operations authorized by law.

As used in this subsection, the term "excess foreign currencies" means foreign currencies or credits owned by or owed to the United States which are, under applicable agreements with the foreign country concerned, available for the use of the United States Government and are determined by the President to be excess to the normal requirements of departments and agencies of the United States for such currencies or credits and are not prohibited from use under this subsection by an agreement entered into with the foreign country concerned.

The President shall take all appropriate steps to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars. Dollar funds made available pursuant to this chapter shall not be expended for goods and services when United States-owned foreign currencies are available for such purposes unless the administrative official approving the voucher certifies as to the reason for the use of dollars in each case.

(c) Voluntary family planning programs; limitation

In addition to funds otherwise available, excess foreign currencies, as defined in subsection (b), may be made available to friendly foreign governments and to private, nonprofit United States organizations to carry out voluntary family planning programs in countries which request such assistance. No such program shall be assisted unless the President has received assurances that in the administration of such program the recipient will take reasonable precautions to insure that no person receives any family planning assistance or supplies unless he desires such services. The excess foreign currencies made available under this subsection shall not, in any one year, exceed 5 per centum of the aggregate of all excess foreign currencies. As used in this subsection, the term "voluntary family planning program" includes, but is not limited to, demographic studies, medical and psychological research, personnel training, the construction and staffing of clinics and rural health centers, specialized training of doctors and paramedical personnel, the manufacture of medical supplies, and the dissemination of family planning information, medical assistance, and supplies to individuals who desire such assistance.

(d) Reciprocal release of dollar value equivalents

In furnishing assistance under this chapter to the government of any country in which the United States owns excess foreign currencies as defined in subsection (b) of this section, except those currencies generated under the Food for Peace Act, as amended [7 U.S.C. 1691 et seq.], the President shall endeavor to obtain from the recipient country an agreement for the release, on such terms and conditions as the President shall determine, of an amount of such currencies up to the equivalent of the dollar value of assistance furnished by the United States for programs as may be mutually agreed upon by the recipient country and the United States to carry out the purposes for which new funds authorized by this chapter would themselves be available.

(Pub. L. 87–195, pt. III, §612, Sept. 4, 1961, 75 Stat. 443; Pub. L. 88–205, pt. III, §301(d), Dec. 16, 1963, 77 Stat. 385; Pub. L. 88–633, pt. III, §301(c), Oct. 7, 1964, 78 Stat. 1012; Pub. L. 88–638, §2(1), Oct. 8, 1964, 78 Stat. 1037; Pub. L. 89–171, pt. III, §301(b), Sept. 6, 1965, 79 Stat. 659; Pub. L. 89–583, pt. III, §301(e), Sept. 19, 1966, 80 Stat. 805; Pub. L. 91–175, pt. III, §302, Dec. 30, 1969, 83 Stat. 820; Pub. L. 110–246, title III, §3001(b)(1)(A), (2)(Q), June 18, 2008, 122 Stat. 1820.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a), (b), and (d), was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

The Mutual Security Act of 1954, referred to in subsec. (a), is act Aug. 26, 1954, ch. 937, 68 Stat. 832, as amended by acts July 8, 1955, ch. 301, 69 Stat. 283; July 18, 1956, ch. 627, §§2 to 11, 70 Stat. 555; Aug. 14, 1957, Pub. L. 85–141, 71 Stat. 355; June 30, 1958, Pub. L. 85–477, ch. 1, §§101 to 103, ch. II, §§201 to 205, ch. III, §301, ch. IV, §401, ch. V, §501, 72 Stat. 261; July 24, 1959, Pub. L. 86–108, §2, ch. 1, §101, ch. II, §§201 to 205(a) to (i), (k) to (n), ch. III, §301, ch. IV, §401(a) to (k), (m), 73 Stat. 246; May 14, 1960, Pub. L. 86–472, ch. I to V, 74 Stat. 134, which was principally classified to chapter 24 (§1750 et seq.) of this title and which was repealed by act July 18, 1956, ch. 627, §8(m), 70 Stat. 559, Pub. L. 85–141, §§2(e), 3, 4(b), 11(d), Aug. 14, 1957, 71 Stat. 356, Pub. L. 86–108, ch. II, §§205(j), ch. IV, 401(1), July 24, 1959, 73 Stat. 250, Pub. L. 86–472, ch. II, §§203(d), 204(k), May 14, 1960, 74 Stat. 138, Pub. L. 87–195, pt. III, §642(a)(2), Sept. 4, 1961, 75 Stat. 460, Pub. L. 94–329, title II, §212(b)(1), June 30, 1976, 90 Stat. 745, Pub. L. 104–127, title II, §228, Apr. 4, 1996, 110 Stat. 963, except for sections 1754, 1783, 1796, 1853, 1928, and 1937 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1754 of this title and Tables.

The Food for Peace Act, as amended, referred to in subsec. (d), is act July 10, 1954, ch. 469, 68 Stat. 454, which is classified principally to chapter 41 (§1691 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 1691 of Title 7 and Tables.

REFERENCES TO SUBCHAPTER I DEEMED TO INCLUDE CERTAIN PARTS OF SUBCHAPTER II

References to subchapter I of this chapter are deemed to include parts IV (§2346 et seq.), VI (§2348 et seq.), and VIII (§2349aa et seq.) of subchapter II of this chapter, and references to subchapter II are deemed to exclude such parts. See section 202(b) of Pub. L. 92–226, set out as a note under section 2346 of this title, and sections 2348c and 2349aa–5 of this title.

AMENDMENTS

2008—Subsec. (d). Pub. L. 110–246 substituted "Food for Peace Act" for "Agricultural Trade Development and Assistance Act of 1954".

1969—Subsec. (d). Pub. L. 91–175 added subsec. (d).

1966—Subsec. (c). Pub. L. 89–583 added subsec. (c).

1965—Subsecs. (b), (c). Pub. L. 89–171 redesignated subsec. (c) as (b) and prohibited dollar funds made available pursuant to this chapter from being expended for goods and services when United States-owned foreign currencies are available for such purposes unless the administrative official approving the voucher certifies as to the reason for the use of dollars in each case.

1964—Subsec. (b). Pub. L. 88–638 redesignated subsec. (b), as added by Pub. L. 88–205, as subsec. (t) of section 1704 of Title 7, Agriculture.

Subsec. (c). Pub. L. 88–633 added subsec. (c).

1963—Pub. L. 88–205 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–246 effective May 22, 2008, see section 4(b) of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

SEPARATE ACCOUNTS FOR LOCAL CURRENCIES AND CASH TRANSFERS

Pub. L. 114–113, div. K, title VII, §7026, Dec. 18, 2015, 129 Stat. 2748, provided that:

"(a) SEPARATE ACCOUNTS FOR LOCAL CURRENCIES.—

"(1) AGREEMENTS.—If assistance is furnished to the government of a foreign country under chapters 1 and 10 of part I [22 U.S.C. 2151 et seq., 2293 et seq.] or chapter 4 of part II [22 U.S.C. 2346 et seq.] of the Foreign Assistance Act of 1961 under agreements which result in the generation of local currencies of that country, the Administrator of the United States Agency for International Development (USAID) shall—

"(A) require that local currencies be deposited in a separate account established by that government;

"(B) enter into an agreement with that government which sets forth—

"(i) the amount of the local currencies to be generated; and

"(ii) the terms and conditions under which the currencies so deposited may be utilized, consistent with this section; and

"(C) establish by agreement with that government the responsibilities of USAID and that government to monitor and account for deposits into and disbursements from the separate account.

"(2) USES OF LOCAL CURRENCIES.—As may be agreed upon with the foreign government, local currencies deposited in a separate account pursuant to subsection (a), or an equivalent amount of local currencies, shall be used only—

"(A) to carry out chapter 1 or 10 of part I or chapter 4 of part II of the Foreign Assistance Act of 1961 (as the case may be), for such purposes as—

"(i) project and sector assistance activities; or

"(ii) debt and deficit financing; or

"(B) for the administrative requirements of the United States Government.

"(3) PROGRAMMING ACCOUNTABILITY.—USAID shall take all necessary steps to ensure that the equivalent of the local currencies disbursed pursuant to subsection (a)(2)(A) from the separate account established pursuant to subsection (a)(1) are used for the purposes agreed upon pursuant to subsection (a)(2).

"(4) TERMINATION OF ASSISTANCE PROGRAMS.—Upon termination of assistance to a country

under chapter 1 or 10 of part I or chapter 4 of part II of the Foreign Assistance Act of 1961 (as the case may be), any unencumbered balances of funds which remain in a separate account established pursuant to subsection (a) shall be disposed of for such purposes as may be agreed to by the government of that country and the United States Government.

"(5) REPORTING REQUIREMENT.—The USAID Administrator shall report on an annual basis as part of the justification documents submitted to the Committees on Appropriations on the use of local currencies for the administrative requirements of the United States Government as authorized in subsection (a)(2)(B), and such report shall include the amount of local currency (and United States dollar equivalent) used or to be used for such purpose in each applicable country.

"(b) SEPARATE ACCOUNTS FOR CASH TRANSFERS.—

"(1) IN GENERAL.—If assistance is made available to the government of a foreign country, under chapter 1 or 10 of part I [22 U.S.C. 2151 et seq., 2293 et seq.] or chapter 4 of part II [22 U.S.C. 2346 et seq.] of the Foreign Assistance Act of 1961, as cash transfer assistance or as nonproject sector assistance, that country shall be required to maintain such funds in a separate account and not commingle [them] with any other funds.

"(2) APPLICABILITY OF OTHER PROVISIONS OF LAW.—Such funds may be obligated and expended notwithstanding provisions of law which are inconsistent with the nature of this assistance including provisions which are referenced in the Joint Explanatory Statement of the Committee of Conference accompanying House Joint Resolution 648 (House Report No. 98–1159).

"(3) NOTIFICATION.—At least 15 days prior to obligating any such cash transfer or nonproject sector assistance, the President shall submit a notification through the regular notification procedures of the Committees on Appropriations, which shall include a detailed description of how the funds proposed to be made available will be used, with a discussion of the United States interests that will be served by the assistance (including, as appropriate, a description of the economic policy reforms that will be promoted by such assistance).

"(4) EXEMPTION.—Nonproject sector assistance funds may be exempt from the requirements of paragraph (1) only through the regular notification procedures of the Committees on Appropriations."

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 113–235, div. J, title VII, §7026, Dec. 16, 2014, 128 Stat. 2614.
Pub. L. 113–76, div. K, title VII, §7026, Jan. 17, 2014, 128 Stat. 505.
Pub. L. 112–74, div. I, title VII, §7026, Dec. 23, 2011, 125 Stat. 1206.
Pub. L. 111–117, div. F, title VII, §7027, Dec. 16, 2009, 123 Stat. 3355.
Pub. L. 111–8, div. H, title VII, §7027, Mar. 11, 2009, 123 Stat. 871.
Pub. L. 110–161, div. J, title VI, §628, Dec. 26, 2007, 121 Stat. 2325.
Pub. L. 109–102, title V, §529, Nov. 14, 2005, 119 Stat. 2206.
Pub. L. 108–447, div. D, title V, §529, Dec. 8, 2004, 118 Stat. 3003.
Pub. L. 108–199, div. D, title V, §529, Jan. 23, 2004, 118 Stat. 178.
Pub. L. 108–7, div. E, title V, §529, Feb. 20, 2003, 117 Stat. 190.
Pub. L. 107–115, title V, §529, Jan. 10, 2002, 115 Stat. 2148.
Pub. L. 106–429, §101(a) [title V, §532], Nov. 6, 2000, 114 Stat. 1900, 1900A–32.
Pub. L. 106–113, div. B, §1000(a)(2) [title V, §532], Nov. 29, 1999, 113 Stat. 1535, 1501A–91.
Pub. L. 105–277, div. A, §101(d) [title V, §533], Oct. 21, 1998, 112 Stat. 2681–150, 2681–179.
Pub. L. 105–118, title V, §532, Nov. 26, 1997, 111 Stat. 2414.
Pub. L. 104–208, div. A, title I, §101(c) [title V, §531], Sept. 30, 1996, 110 Stat. 3009–121, 3009–150.
Pub. L. 104–107, title V, §532, Feb. 12, 1996, 108 Stat. 732.
Pub. L. 103–306, title V, §536, Aug. 23, 1994, 108 Stat. 1637.
Pub. L. 103–87, title V, §537, Sept. 30, 1993, 107 Stat. 955.
Pub. L. 102–391, title V, §571, Oct. 6, 1992, 106 Stat. 1681.
Pub. L. 101–513, title V, §575, Nov. 5, 1990, 104 Stat. 2042.
Pub. L. 101–167, title II, title V, §592, Nov. 21, 1989, 103 Stat. 1207, 1253.
Pub. L. 100–461, title II, Oct. 1, 1988, 102 Stat. 2268–12.
Pub. L. 100–202, §101(e) [title II], Dec. 22, 1987, 101 Stat. 1329–131, 1329–143.
Pub. L. 99–500, §101(f) [title II], Oct. 18, 1986, 100 Stat. 1783–213, 1783–221, and Pub. L. 99–591, §101(f) [title II], Oct. 30, 1986, 100 Stat. 3341–214, 3341–221.

§2363. Accounting, valuation, reporting, and administration of foreign currencies

(a) Responsibility of Secretary of the Treasury; regulations

Under the direction of the President, the Secretary of the Treasury shall have responsibility for valuation and central accounting with respect to foreign credits (including currencies) owed to or owned by the United States. In order to carry out such responsibility the Secretary shall issue regulations binding upon all agencies of the Government.

(b) Establishment of exchange rates

The Secretary of the Treasury shall have sole authority to establish for all foreign currencies or credits the exchange rates at which such currencies are to be reported by all agencies of the Government.

(c) Repealed. Pub. L. 97–113, title VII, §734(a)(1), Dec. 29, 1981, 95 Stat. 1560

(d) Interest income on foreign currency proceeds; regulations; waiver; report to Congress

In cases where assistance is to be furnished to any recipient country in furtherance of the purposes of this chapter or any other Act on a basis which will result in the accrual of foreign currency proceeds to the United States, the Secretary of the Treasury shall issue regulations requiring that agreements, in respect of such assistance, include provisions for the receipt of interest income on the foreign currency proceeds deposited in authorized depositaries: *Provided*, That whenever the Secretary of State determines it not to be in the national interest to conclude arrangements for the receipt of interest income he may waive the requirement thereof: *Provided further*, That the Secretary of State, or his delegate, shall promptly make a complete report to the Congress on each such determination and the reasons therefor.

(Pub. L. 87–195, pt. III, §613, Sept. 4, 1961, 75 Stat. 443; Pub. L. 89–171, pt. III, §301(c), Sept. 6, 1965, 79 Stat. 659; Pub. L. 94–273, §46, Apr. 21, 1976, 90 Stat. 382; Pub. L. 97–113, title VII, §734(a)(1), Dec. 29, 1981, 95 Stat. 1560.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (d), was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

AMENDMENTS

1981—Subsec. (c). Pub. L. 97–113 struck out subsec. (c) which provided for semi-annual reports on foreign currencies acquired without payment of dollars by the United States. See section 2394(a)(8) of this title.

1976—Subsec. (c). Pub. L. 94–273 inserted provision relating to reports after Dec. 31, 1975.

1965—Subsec. (d). Pub. L. 89–171 added subsec. (d).

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§2364. Special authorities

(a) Furnishing of assistance and arms export sales, credits, and guaranties upon determination and notification of Congress of importance and vitality of such action to security interests and national security interests of United States; policy justification; fiscal year limitations; transfers between accounts

(1) The President may authorize the furnishing of assistance under this chapter without regard to any provision of this chapter, the Arms Export Control Act [22 U.S.C. 2751 et seq.], any law relating to receipts and credits accruing to the United States, and any Act authorizing or appropriating funds for use under this chapter, in furtherance of any of the purposes of this chapter, when the President determines, and so notifies in writing the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate, that to do so is important to the security interests of the United States.

(2) The President may make sales, extend credit, and issue guaranties under the Arms Export Control Act [22 U.S.C. 2751 et seq.], without regard to any provision of this chapter, the Arms Export Control Act, any law relating to receipts and credits accruing to the United States, and any Act authorizing or appropriating funds for use under the Arms Export Control Act, in furtherance of any of the purposes of such Act, when the President determines, and so notifies in writing the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate, that to do so is vital to the national security interests of the United States.

(3) Before exercising the authority granted in this subsection, the President shall consult with, and shall provide a written policy justification to, the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

(4)(A) The authority of this subsection may not be used in any fiscal year to authorize—

(i) more than $750,000,000 in sales to be made under the Arms Export Control Act [22 U.S.C. 2751 et seq.];

(ii) the use of more than $250,000,000 of funds made available for use under this chapter or the Arms Export Control Act; and

(iii) the use of more than $100,000,000 of foreign currencies accruing under this chapter or any other law.

(B) If the authority of this subsection is used both to authorize a sale under the Arms Export Control Act and to authorize funds to be used under the Arms Export Control Act or under this chapter with respect to the financing of that sale, then the use of the funds shall be counted against the limitation in subparagraph (A)(ii) and the portion, if any, of the sale which is not so financed shall be counted against the limitation in subparagraph (A)(i).

(C) Not more than $50,000,000 of the $250,000,000 limitation provided in subparagraph (A)(ii) may be allocated to any one country in any fiscal year unless that country is a victim of active aggression, and not more than $500,000,000 of the aggregate limitation of $1,000,000,000 provided in subparagraphs (A)(i) and (A)(ii) may be allocated to any one country in any fiscal year.

(5) The authority of this section may not be used to waive the limitations on transfers contained in section 2360(a) of this title.

(b) United States obligations in West Germany

Whenever the President determines it to be important to the national interest, he may use funds available for the purposes of part IV of subchapter I of this chapter in order to meet the responsibilities or objectives of the United States in Germany, including West Berlin, and without regard to such provisions of law as he determines should be disregarded to achieve this purpose.

(c) Certification by President of inadvisability to specify nature of use of funds; reports to Congress

The President is authorized to use amounts not to exceed $50,000,000 of the funds made available under this chapter pursuant to his certification that it is inadvisable to specify the nature of the use of such funds, which certification shall be deemed to be a sufficient voucher for such amounts. The President shall fully inform the chairman and ranking minority member of the Committee on Foreign Affairs of the House of Representatives and the chairman and ranking minority member of the Committee on Foreign Relations of the Senate of each use of funds under this subsection prior to the use of such funds.

(Pub. L. 87–195, pt. III, §614, Sept. 4, 1961, 75 Stat. 444; Pub. L. 89–583, pt. III, §301(f), (g), Sept. 19, 1966, 80 Stat. 805; Pub. L. 90–137, pt. III, §301(e), Nov. 14, 1967, 81 Stat. 459; Pub. L. 93–559, §19(b), Dec. 30, 1974, 88 Stat. 1800; Pub. L. 96–533, title I, §117(a), Dec. 16, 1980, 94 Stat. 3140; Pub. L. 99–83, title I, §128, Aug. 8, 1985, 99 Stat. 206; Pub. L. 101–222, §8, Dec. 12, 1989, 103 Stat. 1899; Pub. L. 103–199, title VII, §705(2), Dec. 17, 1993, 107 Stat. 2328.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (c), was in the original "this Act", meaning Pub. L. 87–195,

Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

The Arms Export Control Act, referred to in subsec. (a)(1), (2), (4)(A), (B), is Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1320, as amended, which is classified principally to chapter 39 (§2751 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

REFERENCES TO PART IV OF SUBCHAPTER I DEEMED REFERENCES TO PART IV OF SUBCHAPTER II

Part IV of subchapter I (§2241 et seq.) of this chapter has been repealed. References to part IV of subchapter I, or any sections thereof, are deemed references to part IV of subchapter II (§2346 et seq.) of this chapter, or to appropriate sections thereof. See section 202(b) of Pub. L. 92–226, set out as a note under section 2346 of this title.

AMENDMENTS

1993—Subsec. (a)(4)(C). Pub. L. 103–199 struck out "Communist or Communist-supported" after "victim of active".

1989—Subsec. (c). Pub. L. 101–222 amended second sentence generally. Prior to amendment, second sentence read as follows: "The President shall promptly and fully inform the Speaker of the House of Representatives and the chairman and ranking minority member of the Committee on Foreign Relations of the Senate of each use of funds under this subsection."

1985—Subsec. (a)(4). Pub. L. 99–83 designated existing provisions as subpar. (A), added cl. (i) and designations "(ii)" and "(iii)", struck out fiscal year limitation for any one country, and added subpars. (B) and (C).

1980—Subsec. (a). Pub. L. 96–533, in revising subsec. (a), incorporated part of existing first sentence in provisions designated par. (1), inserted reference to Arms Export Control Act, struck out reference to Mutual Defense Assistance Control Act of 1951, required notification of the Speaker of the House and chairman of the Senate Committee on Foreign Relations, and substituted "security interests" for "security"; inserted pars. (2) and (3); incorporated part of existing first sentence, second sentence, and substance of third sentence in provisions designated par. (4) and inserted reference to the Arms Export Control Act; and designated fourth sentence as par. (5) and substituted therein "may not" for "shall not".

1974—Subsec. (a). Pub. L. 93–559 provided that the authority of the section shall not be used to waive the limitations on transfers contained in section 2360(a) of this title.

1967—Subsec. (a). Pub. L. 90–137 substituted "506" for "510", classified to the Code as section 2318 of this title.

1966—Subsec. (a). Pub. L. 89–583, §301(f), provided that the $50,000,000 limitation on allocation of funds to any country in any one fiscal year shall not apply to any country which is a victim of active Communist or Communist-supported aggression.

Subsec. (c). Pub. L. 89–583, §301(g), inserted provision for reports to Congress of use of funds under this subsec.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–83 effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as a note under section 2151–1 of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§2365. Contract authority

Provisions of this chapter authorizing the appropriation of funds shall be construed to authorize the granting in any appropriation Act of authority to enter into contracts, within the amounts so authorized to be appropriated, creating obligations in advance of appropriations.

(Pub. L. 87–195, pt. III, §615, Sept. 4, 1961, 75 Stat. 444.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

§2366. Availability of funds

Except as otherwise provided in this chapter, funds shall be available to carry out the provisions of this chapter as authorized and appropriated to the President each fiscal year.

(Pub. L. 87–195, pt. III, §616, Sept. 4, 1961, 75 Stat. 444.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

ADMINISTRATION OF FUNDS

Pub. L. 87–329, title I, §112, Sept. 30, 1961, 75 Stat. 719, provided that funds appropriated under Pub. L. 87–329, popularly known as the Foreign Assistance and Related Agencies Appropriation Act, 1962, should be administered with a favorable view toward those recipient nations which share the view of the United States on the world crisis.

§2367. Termination expenses

(a) In general

Funds made available under this chapter and the Arms Export Control Act [22 U.S.C. 2751 et seq.], may remain available for obligation for a period not to exceed 8 months from the date of any termination of assistance under such chapter or Act for the necessary expenses of winding up programs related to such termination and may remain available until expended. Funds obligated under the authority of such chapter or Act prior to the effective date of the termination of assistance may remain available for expenditure for the necessary expenses of winding up programs related to such termination notwithstanding any provision of law restricting the expenditure of funds. In order to ensure the effectiveness of such assistance, such expenses for orderly termination of programs may include the obligation and expenditure of funds to complete the training or studies outside their countries of origin of students whose course of study or training program began before assistance was terminated.

(b) Liability to contractors

For the purpose of making an equitable settlement of termination claims under extraordinary contractual relief standards, the President is authorized to adopt as a contract or other obligation of the United States Government, and assume (in whole or in part) any liabilities arising thereunder, any contract with a United States or third-country contractor that had been funded with assistance under such chapter or Act prior to the termination of assistance.

(c) Termination expenses

Amounts certified as having been obligated for assistance subsequently terminated by the President, or pursuant to any provision of law, shall continue to remain available and may be reobligated to meet any necessary expenses arising from the termination of such assistance.

(d) Guaranty programs

Provisions of this chapter or any other Act requiring the termination of assistance under this chapter or any other Act shall not be construed to require the termination of guarantee commitments

that were entered into prior to the effective date of the termination of assistance.

(e) Relation to other provisions

Unless specifically made inapplicable by another provision of law, the provisions of this section shall be applicable to the termination of assistance pursuant to any provision of law.

(Pub. L. 87–195, pt. III, §617, Sept. 4, 1961, 75 Stat. 444; Pub. L. 93–189, §14, Dec. 17, 1973, 87 Stat. 722; Pub. L. 96–533, title III, §310, Dec. 16, 1980, 94 Stat. 3148; Pub. L. 106–113, div. B, §1000(a)(7) [div. B, title XII, §1221], Nov. 29, 1999, 113 Stat. 1536, 1501A–498; Pub. L. 106–264, title III, §302, Aug. 19, 2000, 114 Stat. 760.)

REFERENCES IN TEXT

This chapter and such chapter, referred to in subsecs. (a), (b), and (d), were in the original references to this Act and such Act, respectively, meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

The Arms Export Control Act and such Act, referred to in subsecs. (a) and (b), is Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1320, as amended, which is classified principally to chapter 39 (§2751 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

AMENDMENTS

2000—Pub. L. 106–264 amended section generally. Prior to amendment, section read as follows: "Assistance under any provision of this chapter may, unless sooner terminated by the President, be terminated by concurrent resolution. Funds made available under this chapter shall remain available for a period not to exceed eight months from the date of termination of assistance under this chapter for the necessary expenses of winding up programs related thereto. In order to ensure the effectiveness of assistance under this chapter, such expenses for orderly termination of programs may include the obligation and expenditure of funds to complete the training or studies outside their countries of origin of students whose course of study or training program began before assistance was terminated. Such expenses for orderly termination of programs under the Arms Export Control Act may include the obligation and expenditure of funds to complete the training or studies outside the countries of origin of students whose course of study or training program began before assistance was terminated, as long as the origin country's termination was not a result of activities beyond default of financial responsibilities."

1999—Pub. L. 106–113 inserted at end "Such expenses for orderly termination of programs under the Arms Export Control Act may include the obligation and expenditure of funds to complete the training or studies outside the countries of origin of students whose course of study or training program began before assistance was terminated, as long as the origin country's termination was not a result of activities beyond default of financial responsibilities."

1980—Pub. L. 96–533 authorized expenses for termination of programs to include completion of training or studies for students commenced outside their countries of origin prior to such termination.

1973—Pub. L. 93–189 substituted "eight months" for "twelve months".

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§2368. Assistance for a reconstruction and stabilization crisis

(a) Assistance

(1) In general

If the President determines that it is in the national security interests of the United States for United States civilian agencies or non-Federal employees to assist in reconstructing and stabilizing a country or region that is at risk of, in, or is in transition from, conflict or civil strife, the President may, in accordance with the provisions set forth in section 2364(a)(3) of this title, but notwithstanding any other provision of law, and on such terms and conditions as the President

may determine, furnish assistance to such country or region for reconstruction or stabilization using funds described in paragraph (2).

(2) Funds described

The funds referred to in paragraph (1) are funds made available under any other provision of this chapter, and transferred or reprogrammed for purposes of this section, and such transfer or reprogramming shall be subject to the procedures applicable to a notification under section 2394–1 of this title.

(3) Rule of construction

Nothing in this section shall be construed to provide authority to transfer funds between accounts or between Federal departments or agencies.

(b) Limitation

The authority contained in this section may be exercised only during fiscal years 2009, 2010, and 2011.

(Pub. L. 87–195, pt. III, §618, as added Pub. L. 110–417, [div. A], title XVI, §1604, Oct. 14, 2008, 122 Stat. 4654.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(2), was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

PRIOR PROVISIONS

A prior section 2368, Pub. L. 87–195, pt. III, §618, as added Pub. L. 87–565, pt. III, §301(c), Aug. 1, 1962, 76 Stat. 260, related to payment to the United States regarding the Settlement of Postwar Economic Assistance to Japan, prior to repeal by Pub. L. 95–424, title VI, §§604, 605, Oct. 6, 1978, 92 Stat. 961, effective Oct. 1, 1978.

Another prior section 2368, Pub. L. 87–195, pt. III, §618, Sept. 4, 1961, 75 Stat. 444, related to economic assistance to Latin America, prior to repeal by Pub. L. 87–565, pt. III, §301(c), Aug. 1, 1962, 76 Stat. 260.

FINDINGS

Pub. L. 110–417, [div. A], title XVI, §1602, Oct. 14, 2008, 122 Stat. 4653, as amended by Pub. L. 111–383, div. A, title X, §1075(e)(18), Jan. 7, 2011, 124 Stat. 4375, provided that: "Congress finds the following:

"(1) In June 2004, the Office of the Coordinator for Reconstruction and Stabilization (referred to as the 'Coordinator') was established in the Department of State with the mandate to lead, coordinate, and institutionalize United States Government civilian capacity to prevent or prepare for post-conflict situations and help reconstruct and stabilize a country or region that is at risk of, in, or is in transition from, conflict or civil strife.

"(2) In December 2005, the Coordinator's mandate was reaffirmed by the National Security Presidential Directive 44, which instructed the Secretary of State, and at the Secretary's direction, the Coordinator, to coordinate and lead integrated United States Government efforts, involving all United States departments and agencies with relevant capabilities, to prepare, plan for, and conduct reconstruction and stabilization operations.

"(3) National Security Presidential Directive 44 assigns to the Secretary, with the Coordinator's assistance, the lead role to develop reconstruction and stabilization strategies, ensure civilian interagency program and policy coordination, coordinate interagency processes to identify countries at risk of instability, provide decision-makers with detailed options for an integrated United States Government response in connection with reconstruction and stabilization operations, and carry out a wide range of other actions, including the development of a civilian surge capacity to meet reconstruction and stabilization emergencies. The Secretary and the Coordinator are also charged with coordinating with the Department of Defense on reconstruction and stabilization responses, and integrating planning and implementing procedures.

"(4) The Department of Defense issued Directive 3000.05, which establishes that stability operations are a core United States military mission that the Department of Defense must be prepared to conduct and

support, provides guidance on stability operations that will evolve over time, and assigns responsibilities within the Department of Defense for planning, training, and preparing to conduct and support stability operations.

"(5) The President's Fiscal Year 2009 Budget Request to Congress includes $248.6 million for a Civilian Stabilization Initiative that would vastly improve civilian partnership with United States Armed Forces in post-conflict stabilization situations, including by establishing an Active Response Corps of 250 persons, a Standby Response Corps of 2,000 persons, and a Civilian Response Corps of 2,000 persons."

RECONSTRUCTION AND STABILIZATION STRATEGY

Pub. L. 110–417, [div. A], title XVI, §1607, Oct. 14, 2008, 122 Stat. 4657, provided that:

"(a) IN GENERAL.—The Secretary of State, in consultation with the Administrator of the United States Agency for International Development, shall develop an interagency strategy to respond to reconstruction and stabilization operations.

"(b) CONTENTS.—The strategy required under subsection (a) shall include the following:

"(1) Identification of and efforts to improve the skills sets needed to respond to and support reconstruction and stabilization operations in countries or regions that are at risk of, in, or are in transition from, conflict or civil strife.

"(2) Identification of specific agencies that can adequately satisfy the skills sets referred to in paragraph (1).

"(3) Efforts to increase training of Federal civilian personnel to carry out reconstruction and stabilization activities.

"(4) Efforts to develop a database of proven and best practices based on previous reconstruction and stabilization operations.

"(5) A plan to coordinate the activities of agencies involved in reconstruction and stabilization operations."

[For definition of "personnel" as used in section 1607 of Pub. L. 110–417, set out above, see section 1603 of Pub. L. 110–417, set out as a note under section 2734a of this title.]

§2369. Repealed. Pub. L. 95–424, title VI, §604, Oct. 6, 1978, 92 Stat. 961

Section, Pub. L. 87–195, pt. III, §619, Sept. 4, 1961, 75 Stat. 444, related to assistance to newly independent countries.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1978, see section 605 of Pub. L. 95–424, set out as an Effective Date of 1978 Amendment note under section 2151 of this title.

§2370. Prohibitions against furnishing assistance

(a) Cuba; embargo on all trade

(1) No assistance shall be furnished under this chapter to the present government of Cuba. As an additional means of implementing and carrying into effect the policy of the preceding sentence, the President is authorized to establish and maintain a total embargo upon all trade between the United States and Cuba.

(2) Except as may be deemed necessary by the President in the interest of the United States, no assistance shall be furnished under this chapter to any government of Cuba, nor shall Cuba be entitled to receive any quota authorizing the importation of Cuban sugar into the United States or to receive any other benefit under any law of the United States, until the President determines that such government has taken appropriate steps according to international law standards to return to United States citizens, and to entities not less than 50 per centum beneficially owned by United States citizens, or to provide equitable compensation to such citizens and entities for property taken from such citizens and entities on or after January 1, 1959, by the Government of Cuba.

(b) Repealed. Pub. L. 97–113, title VII, §734(a)(1), Dec. 29, 1981, 95 Stat. 1560

(c) Indebtedness of foreign country to United States citizen or person

No assistance shall be provided under this chapter to the government of any country which is indebted to any United States citizen or person for goods or services furnished or ordered where (i) such citizen or person has exhausted available legal remedies, which shall include arbitration, or (ii) the debt is not denied or contested by such government, or (iii) such indebtedness arises under an unconditional guaranty of payment given by such government, or any predecessor government, directly or indirectly, through any controlled entity: *Provided,* That the President does not find such action contrary to the national security.

(d) Productive enterprises competing with United States enterprise; conditions on assistance; import controls; waiver of restriction by President

No assistance shall be furnished on a loan basis under part I of subchapter I of this chapter for construction or operation of any productive enterprise in any country where such enterprise will compete with United States enterprise unless such country has agreed that it will establish appropriate procedures to prevent the exportation for use or consumption in the United States of more than twenty per centum of the annual production of such facility during the life of the loan. In case of failure to implement such agreement by the other contracting party, the President is authorized to establish necessary import controls to effectuate the agreement. The restrictions imposed by or pursuant to this subsection may be waived by the President where he determines that such waiver is in the national security interest.

(e) Nationalization, expropriation or seizure of property of United States citizens, or taxation or other exaction having same effect; failure to compensate or to provide relief from taxes, exactions, or conditions; report on full value of property by Foreign Claims Settlement Commission; act of state doctrine

(1) The President shall suspend assistance to the government of any country to which assistance is provided under this chapter or any other Act when the government of such country or any government agency or subdivision within such country on or after January 1, 1962—

(A) has nationalized or expropriated or seized ownership or control of property owned by any United States citizen or by any corporation, partnership, or association not less than 50 per centum beneficially owned by United States citizens, or

(B) has taken steps to repudiate or nullify existing contracts or agreements with any United States citizen or any corporation, partnership, or association not less than 50 per centum beneficially owned by United States citizens, or

(C) has imposed or enforced discriminatory taxes or other exactions, or restrictive maintenance or operational conditions, or has taken other actions, which have the effect of nationalizing, expropriating, or otherwise seizing ownership or control of property so owned,

and such country, government agency, or government subdivision fails within a reasonable time (not more than six months after such action, or, in the event of a referral to the Foreign Claims Settlement Commission of the United States within such period as provided herein, not more than twenty days after the report of the Commission is received) to take appropriate steps, which may include arbitration, to discharge its obligations under international law toward such citizen or entity, including speedy compensation for such property in convertible foreign exchange, equivalent to the full value thereof, as required by international law, or fails to take steps designed to provide relief from such taxes, exactions, or conditions, as the case may be; and such suspension shall continue until the President is satisfied that appropriate steps are being taken, and provisions of this subsection shall not be waived with respect to any country unless the President determines and certifies that such a waiver is important to the national interests of the United States. Such certification shall be reported immediately to Congress.

Upon request of the President (within seventy days after such action referred to in subparagraphs (A), (B), or (C) of this paragraph, the Foreign Claims Settlement Commission of the United States (established pursuant to Reorganization Plan No. 1 of 1954, 68 Stat. 1279) is hereby authorized to evaluate expropriated property, determining the full value of any property nationalized, expropriated, or seized, or subjected to discriminatory or other actions as aforesaid, for purposes of this subsection

and to render an advisory report to the President within ninety days after such request. Unless authorized by the President, the Commission shall not publish its advisory report except to the citizen or entity owning such property. There is hereby authorized to be appropriated such amount, to remain available until expended, as may be necessary from time to time to enable the Commission to carry out expeditiously its functions under this subsection.

(2) Notwithstanding any other provision of law, no court in the United States shall decline on the ground of the federal act of state doctrine to make a determination on the merits giving effect to the principles of international law in a case in which a claim of title or other rights to property is asserted by any party including a foreign state (or a party claiming through such state) based upon (or traced through) a confiscation or other taking after January 1, 1959, by an act of that state in violation of the principles of international law, including the principles of compensation and the other standards set out in this subsection: *Provided*, That this subparagraph shall not be applicable (1) in any case in which an act of a foreign state is not contrary to international law or with respect to a claim of title or other right to property acquired pursuant to an irrevocable letter of credit of not more than 180 days duration issued in good faith prior to the time of the confiscation or other taking, or (2) in any case with respect to which the President determines that application of the act of state doctrine is required in that particular case by the foreign policy interests of the United States and a suggestion to this effect is filed on his behalf in that case with the court.

(f) Prohibition against assistance to Communist countries; conditions for waiver of restriction by President; enumeration of Communist countries; removal from application of provisions; preconditions

(1) No assistance shall be furnished under this chapter, (except section 2174(b) of this title) to any Communist country. This restriction may not be waived pursuant to any authority contained in this chapter unless the President finds and promptly reports to Congress that: (A) such assistance is vital to the security of the United States; (B) the recipient country is not controlled by the international Communist conspiracy; and (C) such assistance will further promote the independence of the recipient country from international communism. For the purposes of this subsection, the phrase "Communist country" includes specifically, but is not limited to, the following countries:

Democratic People's Republic of Korea,
People's Republic of China,
Republic of Cuba,
Socialist Republic of Vietnam,
Tibet,[1]

(2) Notwithstanding the provisions of paragraph (1) of this subsection, the President may remove a country, for such period as the President determines, from the application of this subsection, and other provisions which reference this subsection, if the President determines and reports to the Congress that such action is important to the national interest of the United States. It is the sense of the Congress that when consideration is given to authorizing assistance to a country removed from the application of this subsection, one of the factors to be weighed, among others, is whether the country in question is giving evidence of fostering the establishment of a genuinely democratic system, with respect for internationally recognized human rights.

(g) Use of assistance funds to compensate owners for expropriated or nationalized property; waiver for land reform programs

Notwithstanding any other provision of law, no monetary assistance shall be made available under this chapter to any government or political subdivision or agency of such government which will be used to compensate owners for expropriated or nationalized property and, upon finding by the President that such assistance has been used by any government for such purpose, no further assistance under this chapter shall be furnished to such government until appropriate reimbursement is made to the United States for sums so diverted. This prohibition shall not apply to monetary assistance made available for use by a government (or a political subdivision or agency of a government) to compensate nationals of that country in accordance with a land reform program, if

the President determines that monetary assistance for such land reform program will further the national interests of the United States.

(h) Regulations and procedures to insure aid is not used contrary to the best interests of the United States

The President shall adopt regulations and establish procedures to insure that United States foreign aid is not used in a manner which, contrary to the best interests of the United States, promotes or assists the foreign aid projects or activities of any country that is a Communist country for purposes of subsection (f).

(i) Repealed. Pub. L. 97–113, title VII, §734(a)(1), Dec. 29, 1981, 95 Stat. 1560

(j) Damage or destruction by mob action of United States property; termination of assistance

The President shall consider terminating assistance under this chapter or any other Act to any country which permits, or fails to take adequate measures to prevent, the damage or destruction by mob action of United States property within such country, and fails to take appropriate measures to prevent a recurrence thereof and to provide adequate compensation for such damage or destruction.

(k) Maximum amount of assistance, including military assistance to individual countries without approval of or presentation to Congress

Without the express approval of Congress, no assistance shall be furnished under this chapter to any country for construction of any productive enterprise with respect to which the aggregate value of assistance to be furnished by the United States will exceed $100,000,000, except that this sentence does not apply with respect to assistance for construction of any productive enterprise in Egypt which is described in the presentation materials to Congress. Except as otherwise provided in section 2318 of this title, no military assistance shall be furnished to any country under this chapter for carrying out any program, with respect to which the aggregate value of assistance to be furnished beginning July 1, 1966, by the United States will exceed $100,000,000 unless such program has been included in the presentation to the Congress during its consideration of authorizations for appropriations under this chapter or of appropriations pursuant to authorizations contained in this chapter. No provision of this chapter or any other Act shall be construed to authorize the President to waive the provisions of this subsection.

(l) Institution of investment guaranty program

The President shall consider denying assistance under this chapter to the government of any less developed country which, after December 31, 1966, has failed to enter into an agreement with the President to institute the investment guaranty program under section 2194(a)(1) of this title, providing protection against the specific risks of inconvertibility under subparagraph (A), and expropriation or confiscation under subparagraph (B), of such section 2194(a)(1).

(m) Repealed. Pub. L. 97–113, title VII, §734(a)(1), Dec. 29, 1981, 95 Stat. 1560

(n) Repealed. Pub. L. 95–88, title I, §123(b), Aug. 3, 1977, 91 Stat. 541

(o) Exclusion from assistance of countries seizing or imposing penalties or sanctions against United States fishing vessels

In determining whether or not to furnish assistance under this chapter, consideration shall be given to excluding from such assistance any country which hereafter seizes, or imposes any penalty or sanction against, any United States fishing vessel on account of its fishing activities in international waters. The provisions of this subsection shall not be applicable in any case governed by international agreement to which the United States is a party.

(p) Repealed. Pub. L. 93–559, §44, Dec. 30, 1974, 88 Stat. 1813

(q) Defaults in principal or interest payments on loans; meeting obligations under loans; notice to Congressional committees

No assistance shall be furnished under this chapter to any country which is in default, during a period in excess of six calendar months, in payment to the United States of principal or interest on

any loan made to such country under this chapter, unless such country meets its obligations under the loan or unless the President determines that assistance to such country is in the national interest and notifies the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate of such determination.

(r) Liability for repayment of principal or interest on loans outstanding after September 19, 1966

No recipient of a loan made under the authority of this chapter, any part of which is outstanding on or after September 19, 1966, shall be relieved of liability for the repayment of any part of the principal of or interest on such loan.

(s) Restraint of arms races and proliferation of sophisticated weapons

(1) In order to restrain arms races and proliferation of sophisticated weapons, and to ensure that resources intended for economic development are not diverted to military purposes, the President shall take into account before furnishing development loans, Alliance loans or supporting assistance to any country under this chapter, and before making sales under the Food for Peace Act, as amended [7 U.S.C. 1691 et seq.]:

(A) the percentage of the recipient or purchasing country's budget which is devoted to military purposes; and

(B) the degree to which the recipient or purchasing country is using its foreign exchange or other resources to acquire military equipment.

(2) Omitted.

(t) Diplomatic relations; severance, resumption, and negotiation of agreements

No assistance shall be furnished under this chapter or any other Act, and no sales shall be made under the Food for Peace Act [7 U.S.C. 1691 et seq.], in or to any country which has severed or hereafter severs diplomatic relations with the United States or with which the United States has severed or hereafter severs diplomatic relations, unless (1) diplomatic relations have been resumed with such country and (2) agreements for the furnishing of such assistance or the making of such sales, as the case may be, have been negotiated and entered into after the resumption of diplomatic relations with such country.

(u) Status of country with respect to obligations to the United Nations; report to Congress

In any decision to provide or continue to provide any program of assistance to any country under this chapter, there shall be taken into account the status of the country with respect to its dues, assessments, and other obligations to the United Nations; and where such country is delinquent with respect to any such obligations for the purposes of the first sentence of Article 19 of the United Nations Charter, the President shall furnish the Committee on Foreign Relations of the Senate and the Speaker of the House of Representatives a report setting forth the assurance given by the government of the country concerned of paying all of its arrearages and of placing its payments of such obligations on a current basis, or a full explanation of the unusual or exceptional circumstances which render it economically incapable of giving such assurance.

(v) Repealed. Pub. L. 93–559, §24, Dec. 30, 1974, 88 Stat. 1802

(w) Repealed. Pub. L. 95–424, title V, §502(d)(1), Oct. 6, 1978, 92 Stat. 959

(x) Omitted

(y) Limitation on assistance to countries aiding Cuba nuclear development

(1) Except as provided in paragraph (2), the President shall withhold from amounts made available under this chapter or any other Act and allocated for a country for a fiscal year an amount equal to the aggregate value of nuclear fuel and related assistance and credits provided by that country, or any entity of that country, to Cuba during the preceding fiscal year.

(2) The requirement to withhold assistance for a country for a fiscal year under paragraph (1) shall not apply if Cuba—

(A) has ratified the Treaty on the Non-Proliferation of Nuclear Weapons (21 UST 483) or the Treaty of Tlatelelco, and Cuba is in compliance with the requirements of either such Treaty;

(B) has negotiated and is in compliance with full-scope safeguards of the International Atomic Energy Agency not later than two years after ratification by Cuba of such Treaty; and

(C) incorporates and is in compliance with internationally accepted nuclear safety standards.

(3) The Secretary of State shall prepare and submit to the Congress each year a report containing a description of the amount of nuclear fuel and related assistance and credits provided by any country, or any entity of a country, to Cuba during the preceding year, including the terms of each transfer of such fuel, assistance, or credits.

(Pub. L. 87–195, pt. III, §620, Sept. 4, 1961, 75 Stat. 444; Pub. L. 87–565, pt. III, §301(d), Aug. 1, 1962, 76 Stat. 260; Pub. L. 88–205, pt. III, §301(e), Dec. 16, 1963, 77 Stat. 386; Pub. L. 88–633, pt. III, §301(d)–(g), Oct. 7, 1964, 78 Stat. 1013; Pub. L. 89–171, pt. III, §301(d), Sept. 6, 1965, 79 Stat. 659; Pub. L. 89–583, pt. III, §301(h), Sept. 19, 1966, 80 Stat. 805, 806; Pub. L. 90–137, pt. III, §301(f), Nov. 14, 1967, 81 Stat. 459; Pub. L. 90–554, pt. III, §301(c), Oct. 8, 1968, 82 Stat. 963; Pub. L. 91–175, pt. III, §303, Dec. 30, 1969, 83 Stat. 820; Pub. L. 92–226, pt. III, §301, Feb. 7, 1972, 86 Stat. 27; Pub. L. 93–189, §15, Dec. 17, 1973, 87 Stat. 722; Pub. L. 93–559, §§22–24, 44, Dec. 30, 1974, 88 Stat. 1801, 1802, 1813; Pub. L. 94–104, §2(c)(1), (2), Oct. 6, 1975, 89 Stat. 509; Pub. L. 94–329, title IV, §403, title VI, §606, June 30, 1976, 90 Stat. 757, 768; Pub. L. 95–88, title I, §123(a), (b), Aug. 3, 1977, 91 Stat. 541; Pub. L. 95–92, §22(d), Aug. 4, 1977, 91 Stat. 624; Pub. L. 95–384, §13(a), Sept. 26, 1978, 92 Stat. 737; Pub. L. 95–424, title I, §§102(g)(2)(F), 115(k), title V, §502(d)(1), Oct. 6, 1978, 92 Stat. 943, 952, 959; Pub. L. 96–533, title II, §203, Dec. 16, 1980, 94 Stat. 3145; Pub. L. 97–113, title VII, §§702, 707, 734(a)(1), (13), (b), Dec. 29, 1981, 95 Stat. 1544, 1546, 1560; Pub. L. 99–83, title XII, §§1202, 1203, Aug. 8, 1985, 99 Stat. 276, 277; Pub. L. 102–511, title IX, §901, Oct. 24, 1992, 106 Stat. 3355; Pub. L. 103–199, title VII, §705(3), Dec. 17, 1993, 107 Stat. 2328; Pub. L. 103–306, title V, §573, Aug. 23, 1994, 108 Stat. 1653; Pub. L. 105–277, div. G, subdiv. B, title XXVIII, §2810(a), Oct. 21, 1998, 112 Stat. 2681–850; Pub. L. 110–246, title III, §3001(b)(1)(A), (2)(Q), June 18, 2008, 122 Stat. 1820.)

AMENDMENT OF SECTION

Pub. L. 104–114, title II, §204(d)(1), (2), Mar. 12, 1996, 110 Stat. 810, provided that on date on which President submits determination under section 6063(c)(3) of this title that democratically elected government in Cuba is in power, this section is amended by repealing subsec. (a) and by striking out "Republic of Cuba" in subsec. (f).

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a), (c), (e), (f)(1), (g), (j) to (l), (o), (q) to (t), (u), and (y), was in the original "this Act", except in subsec. (u), where it was "the Foreign Assistance Act of 1961", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

Reorganization Plan No. 1 of 1954, 68 Stat. 1279, referred to in subsec. (e)(1), is set out in the Appendix to Title 5, Government Organization and Employees.

The Food for Peace Act, referred to in subsecs. (s)(1) and (t), is act July 10, 1954, ch. 469, 68 Stat. 454, which is classified principally to chapter 41 (§1691 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 1691 of Title 7 and Tables.

REFERENCES TO PART I DEEMED TO INCLUDE SECTION 2293

References to part I of subchapter I of this chapter are deemed to include a reference to section 2293 of this title. See section 2293(d)(1) of this title.

CODIFICATION

Subsec. (s)(2) of this section, which required the President to report annually to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate on actions taken to carry out this provision, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 26 of House Document No. 103–7.

Subsec. (x) was omitted pursuant to Pub. L. 95–384, §13(a), Sept. 26, 1978, 92 Stat. 737, which provided that subsec. (x) be of no further force and effect upon the President's determination and certification of certain conditions precedent which was made by Presidential Memorandum dated Sept. 26, 1978. See notes set out below.

AMENDMENTS

2008—Subsecs. (s)(1), (t). Pub. L. 110–246 substituted "Food for Peace Act" for "Agricultural Trade Development and Assistance Act of 1954".

1998—Subsec. (y). Pub. L. 105–277 added subsec. (y).

1994—Subsec. (f)(1). Pub. L. 103–306, which directed the amendment of par. (1) by striking out from the list of countries "Mongolian People's Republic.", was executed by striking out "Mongolian People's Republic," to reflect the probable intent of Congress.

1993—Subsec. (h). Pub. L. 103–199 substituted "any country that is a Communist country for purposes of subsection (f)" for "the Communist-bloc countries".

1992—Subsec. (f)(1). Pub. L. 102–511, which directed the amendment of par. (1) by striking out from the list of countries "Czechoslovak Socialist Republic.", "Estonia.", "German Democratic Republic.", "Hungarian People's Republic.", "Latvia.", "Lithuania.", "People's Republic of Albania.", "People's Republic of Bulgaria.", "Polish People's Republic.", "Socialist Federal Republic of Yugoslavia.", "Socialist Republic of Romania.", and "Union of Soviet Socialist Republics (including its captive constituent republics).", was executed by striking out those countries and the comma which followed each country in the original and not a period as shown in the directory language.

1985—Subsec. (f). Pub. L. 99–83, §1202, designated existing provisions as par. (1) and redesignated cls. (1), (2), and (3) as (A), (B), and (C), respectively, and added par. (2).

Subsec. (g). Pub. L. 99–83, §1203, inserted provisions relating to waiver of prohibitions in cases of land reform programs.

1981—Subsec. (b). Pub. L. 97–113, §734(a)(1), struck out subsec. (b) which prohibited aid to countries unless the President determined that they were not dominated by the international Communist movement. See subsec. (f) of this section.

Subsec. (f). Pub. L. 97–113, §707, substituted "includes specifically, but is not limited to" for "shall include specifically, but not be limited to", repeated in a different sequence the list of countries included within the phrase "Communist country", and substituted "Democratic People's Republic of Korea" for "North Korean Peoples Republic", "German Democratic Republic" for "German Democratic Republic (East Germany)", "Mongolian People's Republic" for "Outer Mongolia-Mongolian Peoples Republic", "Republic of Cuba" for "Cuba", "Socialist Federal Republic of Yugoslavia" for "Federal Peoples Republic of Yugoslavia", "Socialist Republic of Romania" for "Rumanian Peoples Republic", and "Socialist Republic of Vietnam" for "North Vietnam".

Subsec. (i). Pub. L. 97–113, §734(a)(1), struck out subsec. (i) which prohibited aid to countries determined by the President to be engaging in or prepared for aggressive military efforts, insurrection, or subversion against the United States or any country receiving United States aid.

Subsec. (k). Pub. L. 97–113, §702, struck out "for fiscal year 1977, fiscal year 1980, or fiscal year 1981" after "presentation materials to Congress".

Subsec. (m). Pub. L. 97–113, §734(a)(1), struck out subsec. (m) which prohibited grant assistance, except for International Military Education and Training, to any economically developed nation capable of sustaining its own defense burden and economic growth.

Subsec. (s)(1). Pub. L. 97–113, §734(b), substituted in subpar. (B) "foreign exchange or other resources" for "foreign exchange resources" and struck out subpar. (C), which directed the President to take into account the amount spent by the recipient or purchasing country for the purchase of sophisticated weapons systems, such as missile systems and jet aircraft for military purposes, from any country.

1980—Subsec. (k). Pub. L. 96–533 exempted from express Congressional approval productive enterprises in Egypt described in the presentation to Congress for fiscal years 1980 and 1981.

1978—Subsec. (d). Pub. L. 95–424, §102(g)(2)(F), substituted "on a loan basis under part I of subchapter I of this chapter" for "under section 2161 of this title".

Subsec. (l). Pub. L. 95–424, §115(k), substituted "2194(a)(1)" for "2181(b)(1)" in two places.

Subsec. (w). Pub. L. 95–424, §502(d)(1), struck out subsec. (w) relating to suspension and future resumption of military, economic, etc., assistance to the Government of Pakistan.

1977—Subsec. (a)(1). Pub. L. 95–88, §123(a)(1), struck out provision that no assistance be furnished to any country which furnished assistance to the government of Cuba unless the President determined that assistance to the supplying country was in the national interest of the United States.

Subsec. (a)(3). Pub. L. 95–88, §123(a)(2), struck out par. (3) which had directed that no funds be used to furnish assistance to countries which had not taken steps to prevent ships or aircraft of their registry from transporting equipment, materials, or commodities to Cuba.

Subsec. (n). Pub. L. 95–88, §123(b), struck out subsec. (n) which had prohibited the giving of aid to countries that sold or furnished to North Vietnam, or permitted their ships or aircraft to carry to or from North Vietnam, equipment, materials, or commodities, unless the President determined that the giving of aid was in the national interest.

Subsec. (x)(1). Pub. L. 95–92 substituted "1978" for "1976, the period beginning July 1, 1976, and ending September 30, 1976, and the fiscal year 1977," and provisions authorizing $175,000,000 during the fiscal year 1978 for Turkey as the total value of defense articles and services sold to such country, for provisions authorizing $125,000,000 during the fiscal year 1976, and the period beginning July 1, 1976, and ending Sept. 30, 1976, and $125,000,000 during the fiscal year 1977 for Turkey as the total value of defense articles and services sold to such country.

1976—Subsec. (k). Pub. L. 94–329, §606, inserted provision exempting from the condition of express approval of Congress any productive enterprise in Egypt which is described in the presentation to Congress for fiscal year 1977.

Subsec. (x)(1). Pub. L. 94–329, §403, further modified existing restrictions on assistance to Turkey by allowing the procurement under specified conditions of $125 million in defense articles and defense services by Turkey, provided that the President determines that such articles and services are necessary to enable Turkey to fulfill her defense responsibilities as a member of the North Atlantic Treaty Organization.

1975—Subsec. (x). Pub. L. 94–104 redesignated existing provisions as par. (1), substituted provisions authorizing the President to suspend the provisions of this section and of section 2753(c) of this title with respect to sales, credits, and guaranties under the Foreign Military Sales Act, for the procurement of defense articles and services certified by the President to be necessary to enable Turkey to fulfill her defense responsibilities as a member of NATO and that such suspension shall be effective only while Turkey observes the cease-fire and neither increases its forces on Cyprus nor transfers to Cyprus any United States supplied arms, ammunition, and implements of war for provisions authorizing the President to suspend the provisions of this section and certain other Acts if he determined that such suspension would further negotiations for a peaceful solution of the Cyprus conflict and that such suspension shall be effective only until Feb. 5, 1975, and if, during that time, Turkey observed cease-fire and neither increased its forces on Cyprus nor transferred to Cyprus any United States supplied implements of war, and added par. (2).

1974—Subsec. (n). Pub. L. 93–559, §23, authorized assistance when determined by the President to be in the national interest of the United States.

Subsec. (p). Pub. L. 93–559, §44, repealed subsec. (p) relating to assistance to United Arab Republic if essential to national interest of United States, and without any aid to aggressive actions by the United Arab Republic, and reports to Congressional committees.

Subsec. (v). Pub. L. 93–559, §24, repealed subsec. (v) relating to prohibition against assistance to Greece, waiver of the restriction by the President, report to Congress, and fiscal year limitation of assistance made available to Greece.

Subsec. (x). Pub. L. 93–559, §22, added subsec. (x).

1973—Subsec. (e)(1). Pub. L. 93–189 substituted "the provisions of this subsection shall not be waived with respect to any country unless the President determines and certifies that such a waiver is important to the national interest of the United States. Such certification shall be reported immediately to Congress", for "no other provision of this chapter shall be so construed to authorize the President to waive the provisions of this subsection".

1972—Subsecs. (v), (w). Pub. L. 92–226 added subsecs. (v) and (w).

1969—Subsec. (s). Pub. L. 91–175, §303(a), struck out provision empowering President to terminate assistance when he finds it is being diverted to military expenditures, continued provision requiring President to take military expenditures into account when furnishing assistance under this chapter and under the Agricultural Trade Development and Assistance Act of 1954, as amended, inserted provision requiring President to take into account amount spent by recipient on sophisticated weapons systems, and inserted provision requiring President to report annually to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate his actions in carrying out this section.

Subsec. (v). Pub. L. 91–175, §303(b), repealed subsec. (v) covering the withholding of assistance to countries with expenditures for weapons systems. See subsec. (s) of this section.

1968—Subsec. (v). Pub. L. 90–554, added subsec. (v).

1967—Subsec. (j). Pub. L. 90–137, §301(f)(1), substituted provisions for termination of assistance to countries because of damage or destruction by mob action of United States property (incorporated from

former penultimate paragraph of section 2151 of this title) for former provisions for assistance to Indonesia if essential to national interests of United States and reports thereof to Congress.

Subsec. (k). Pub. L. 90–137, §301(f)(2), substituted "506" for "510", classified to the Code as section 2318 of this title.

Subsec. (n). Pub. L. 90–137, §301(f)(3), restated the prohibition against assistance to define the kind of assistance meant, that is, loans, credits, guarantees, or grants or other assistance, to extend the prohibition to assistance under any other Act and to sales under the Agricultural Trade Development and Assistance Act of 1954, and to eliminate specific reference to such items of transportation as items of economic assistance, and war materials, such as arms, ammunition and implements of war, atomic energy materials, petroleum, transportation materials of strategic value, and items of primary strategic significance used in production of arms, ammunition, and implements of war.

Subsecs. (s) to (u). Pub. L. 90–137, §301(f)(4), added subsecs. (s) to (u).

1966—Subsec. (i). Pub. L. 89–583, §301(h)(1), provided for denial of assistance to any country which hereafter is officially represented at any international conference when that representation includes planning of activities involving insurrection or subversion, which military efforts, insurrection, or subversion are directed as described in the subsec., for Executive determination that such representation has ceased and for report to Congress that such representation will not be renewed or repeated.

Subsec. (k). Pub. L. 89–583, §301(h)(2), made permanent the temporary (calendar year 1965) prohibition against the initiation of projects exceeding $100,000,000 without the express approval of Congress and included military assistance amounting in the aggregate to more than $100,000,000.

Subsec. (l). Pub. L. 89–583, §301(h)(3), substituted "The President shall consider denying assistance under this chapter to the government of any less developed country which, after December 31, 1966," for "No assistance shall be provided under this chapter after December 31, 1966, to the government of any less developed country which".

Subsec. (n). Pub. L. 89–583, §301(h)(4), substituted "no assistance shall be furnished" and "September 19, 1966" for "the President shall consider denying assistance" and "September 6, 1965", respectively.

Subsecs. (p) to (r). Pub. L. 89–583, §301(h)(5), added subsecs. (p) to (r).

1965—Subsec. (e)(2). Pub. L. 89–171, §301(d)(2), substituted "other right to property" for "other right" in two places and deleted cl. (3) which made this subparagraph inapplicable in any case in which the proceedings are commenced after Jan. 1, 1966.

Subsec. (l). Pub. L. 89–171, §301(d)(3), substituted "December 31, 1966" for "December 31, 1965".

Subsecs. (n), (o). Pub. L. 89–171, §301(d)(4), added subsecs. (n) and (o).

1964—Subsec. (e). Pub. L. 88–633, §301(d), designated existing provisions as par. (1), redesignated subpars. (1) to (3) thereof as subpars. (A) to (C), substituted therein "subparagraphs (A), (B), or (C) of this paragraph" for "paragraphs (1), (2), or (3) of this subsection", and added par. (2).

Subsec. (f). Pub. L. 88–633, §301(e), inserted "(including its captive constituent republics)" after "Union of Soviet Socialist Republics".

Subsec. (k). Pub. L. 88–633, §301(f), substituted "1965" for "1964" in two places.

Subsec. (m). Pub. L. 88–633, §301(g), substituted "during each fiscal year" for "during fiscal year 1964" and "$500,000" for "$1,000,000".

1963—Subsec. (a). Pub. L. 88–205, §301(e)(1), designated existing provisions as par. (1) and added pars. (2) and (3).

Subsec. (e). Pub. L. 88–205, §301(e)(2), empowered the President to suspend assistance provided under any other act as well as under this chapter, inserted references to the repudiation or nullification of existing contracts or agreements with U.S. citizens or corporations, partnerships or associations not less than 50 percent beneficially owned by U.S. citizens, substituted "in the event of a referral to the Foreign Claims Settlement Commission of the United States within such period as provided herein, not more than twenty days after the report of the Commission is received" for "after August 1, 1962, whichever is later", required compensation for property to be "equivalent to the full value thereof", and authorized the Foreign Claims Settlement Commission to determine the full value of property nationalized, expropriated, or seized upon the President's request, and to render an advisory report to him thereon.

Subsecs. (i) to (m). Pub. L. 88–205, §301(e)(3), added subsecs. (i) to (m).

1962—Subsec. (a). Pub. L. 87–565, §301(d)(1), prohibited assistance to any country which furnishes assistance to the present government of Cuba unless the President determines that such assistance is in the national interest of the United States.

Subsec. (c). Pub. L. 87–565, §301(d)(2), extended the prohibition against providing assistance to cases where the goods or services have been ordered, and where the indebtedness arises under an unconditional guaranty of payment, provided the President does not find such action contrary to the national security, and

inserted "which shall include arbitration" after "exhausted available legal remedies".

Subsecs. (e) to (h). Pub. L. 87–565, §301(d)(3), added subsecs. (e) to (h).

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–246 effective May 22, 2008, see section 4(b) of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–277, div. G, subdiv. B, title XXVIII, §2810(b), Oct. 21, 1998, 112 Stat. 2681–851, provided that: "Section 620(y) of the Foreign Assistance Act of 1961 [22 U.S.C. 2370(y)], as added by subsection (a), shall apply with respect to assistance provided in fiscal years beginning on or after the date of the enactment of this Act [Oct. 21, 1998]."

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–83 effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as a note under section 2151–1 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–424 effective Oct. 1, 1978, see section 605 of Pub. L. 95–424, set out as a note under section 2151 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Pub. L. 94–104, §2(c)(5), Oct. 6, 1975, 89 Stat. 510, provided that: "This subsection [amending this section] shall become effective only upon enactment of foreign assistance legislation authorizing sales, credits, and guaranties under the Foreign Military Sales Act [section 2751 et seq. of this title] for fiscal year 1976."

REPEALS

Pub. L. 95–92, §22(d), Aug. 4, 1977, 91 Stat. 624, cited as a credit to this section, was repealed by Pub. L. 97–113, title VII, §734(a)(13), Dec. 29, 1981, 95 Stat. 1560.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

ASSISTANCE AND SALES TO ARGENTINA

Pub. L. 97–113, title VII, §725(b), (c), Dec. 29, 1981, 95 Stat. 1553, related to the provision of assistance and credits, loan guarantees, defense articles and services, export licenses, etc., by United States to Argentina, prior to repeal by Pub. L. 101–162, title V, Nov. 21, 1989, 103 Stat. 1030.

LIMITATIONS ON ASSISTANCE, SALES, CREDITS, AND EXPORT LICENSES TO CHILE

Pub. L. 97–113, title VII, §726(b), (c), Dec. 29, 1981, 95 Stat. 1554, as amended by Pub. L. 99–83, title VII, §715, Aug. 8, 1985, 99 Stat. 247; Pub. L. 101–513, title V, §544(b), Nov. 5, 1990, 104 Stat. 2019, provided that:

"(b) Notwithstanding any other provision of law—

"(1) no assistance may be furnished under chapter 2, 4, 5, or 6 of part II of the Foreign Assistance Act of 1961 [22 U.S.C. 2311 et seq., 2346 et seq., 2347 et seq., 2348 et seq.] to Chile;

"(2) no sale of defense articles or services may be made under the Arms Export Control Act [22 U.S.C. 2751 et seq.] to Chile;

"(3) no credits (including participation in credits) may be extended and no loan may be guaranteed under the Arms Export Control Act [22 U.S.C. 2751 et seq.] with respect to Chile; and

"(4) no export licenses may be issued under section 38 of the Arms Export Control Act [22 U.S.C. 2778] to or for the Government of Chile;

unless and until the President submits to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a detailed report certifying—

"(A) that the Government of Chile has made significant progress in complying with internationally recognized principles of human rights;

"(B) that the provision of such assistance, articles or services is in the national interest of the United States; and

"(C) that the Government of Chile is not aiding or abetting international terrorism and has taken appropriate steps to cooperate to bring to justice by all legal means available in the United States or Chile

those indicted by a United States grand jury in connection with the murders of Orlando Letelier and Ronni Moffitt.

"(c) The prohibition contained in subsection (b) does not prohibit the sale, or the licensing for export, of cartridge actuated devices, propellant actuated devices, components, parts, tools, technical manuals, time compliance to technical orders (TCTOs), or TCTO retrofits for aircraft of the F–5E/F, A/T–37, or C–130E/H type owned by the Chilean Air Force, so long as the items are provided only for purposes of enhancing the safety of the aircraft crew."

Pub. L. 94–329, title IV, §406, June 30, 1976, 90 Stat. 758, as amended by Pub. L. 95–384, §§10(b)(5), 12(c)(5), Sept. 26, 1978, 92 Stat. 735, 737, set forth limitations with respect to assistance, sales and credit for Chile, prior to repeal by Pub. L. 97–113, title VII, §726(a), Dec. 29, 1981, 95 Stat. 1554.

Pub. L. 93–559, §25, Dec. 30, 1974, 88 Stat. 1802, provided that notwithstanding any other provision of law, the total amount of assistance that was to be made available for Chile under this chapter, and the Foreign Military Sales Act, section 2751 et seq. of this title, during fiscal year 1975, was not to exceed $25,000,000, none of which was to be made available for the purpose of providing military assistance (including security supporting assistance, sales, credit sales, or guaranties or the furnishing by any means of excess defense articles or items from stockpiles of the Department of Defense), prior to repeal by Pub. L. 97–113, title VII, §734(a)(8), Dec. 29, 1981, 95 Stat. 1560.

ASSISTANCE FOR EL SALVADOR

Pub. L. 101–513, title V, §531, Nov. 5, 1990, 104 Stat. 2009, as amended by Pub. L. 103–236, title I, §139(22), Apr. 30, 1994, 108 Stat. 399, provided that:

"(a) STATEMENT OF POLICY.—United States military assistance to the Government of El Salvador shall seek three principal foreign policy objectives, as follows: (1) to promote a permanent settlement and cease-fire to the conflict in El Salvador, with the Secretary General of the United Nations serving as an active mediator between the opposing parties; (2) to foster greater respect for basic human rights, and the rule of law; and (3) to advance political accommodation and national reconciliation.

"(b) MAXIMUM LEVEL OF MILITARY ASSISTANCE.—Of the funds available for United States military assistance for fiscal year 1991, not more than $85,000,000 shall be made available for El Salvador.

"(c) PROHIBITION OF MILITARY ASSISTANCE.—(1) PROHIBITION.—Subject to paragraph (2), no United States military assistance may be furnished to the Government of El Salvador if the President determines and reports in writing to the Congress that—

"(A) after he has consulted with the Secretary General of the United Nations, the Government of El Salvador has declined to participate in good faith in negotiations for a permanent settlement and cease-fire to the armed conflict of El Salvador;

"(B) the Government of El Salvador has rejected or otherwise failed to support an active role for the Secretary General of the United Nations in mediating that settlement;

"(C) the Government of El Salvador has rejected a plan for the settlement of the conflict which—

"(i) has been put forward by the Secretary General of the United Nations in accordance with the terms and procedures in the April 4, 1990 Geneva Communique and the May 21, 1990 Caracas Accord between the Government of El Salvador and the FMLN;

"(ii) includes a proposal for an internationally monitored cease-fire; and

"(iii) has been accepted, within 15 days from its announcement, by the FMLN and is being complied with by the FMLN;

"(D) the Government of El Salvador has failed to conduct a thorough and professional investigation into, and prosecution of those responsible for the eight murders at the University of Central America on November 16, 1989; or

"(E) the military and security forces of El Salvador are assassinating or abducting civilian noncombatants, are engaging in other acts of violence directed at civilian targets, or are failing to control such activities by elements subject to the control of those forces; or

"(F) the Government of El Salvador has failed to actively seek and encourage a law enforcement service from outside El Salvador, such as Scotland Yard or INTERPOL, to accompany and monitor investigators of the Government of El Salvador in their investigation into the eight murders at the University of Central America on November 16, 1989.

"(2) REQUIREMENT FOR RESUMPTION OF ASSISTANCE.—Assistance prohibited under paragraph (1) may only be resumed pursuant to a law subsequently enacted by the Congress.

"(d) WITHHOLDING OF MILITARY ASSISTANCE.—(1) IN GENERAL.—Fifty per centum of the total United States military assistance allocated for El Salvador for fiscal year 1991 shall be withheld from obligation or expenditure (as the case may be) except as provided in paragraphs (2) and (3).

"(2) RELEASE OF ASSISTANCE.—The United States military assistance withheld pursuant to paragraph (1) may be obligated and expended only if the President determines and reports in writing to the Congress that—

"(A) after he has consulted with the Secretary General of the United Nations, the representatives of the FMLN—

"(i) have declined to participate in good faith in negotiations for a permanent settlement and cease-fire to the armed conflict in El Salvador, or

"(ii) have rejected or otherwise failed to support an active role for the Secretary General of the United Nations in mediating that settlement;

"(B) the FMLN has rejected a plan for the settlement of the conflict which—

"(i) has been put forward by the Secretary General of the United Nations in accordance with the terms and procedures in the April 4, 1990 Geneva Communique and the May 21, 1990 Caracas Accord between the Government of El Salvador and the FMLN;

"(ii) includes a proposal for an internationally monitored cease-fire; and

"(iii) has been accepted, within 15 days from its announcement, by the Government of El Salvador and is being complied with by the Government of El Salvador;

"(C) the survival of the constitutional Government of El Salvador is being jeopardized by substantial and sustained offensive military actions or operations by the FMLN;

"(D) proof exists that the FMLN is continuing to acquire or receive significant shipments of lethal military assistance from outside El Salvador, and this proof has been shared with the Congress; or

"(E) the FMLN is assassinating or abducting civilian noncombatants, is engaging in other acts of violence directed at civilian targets, or is failing to control such activities by elements subject to FMLN control.

"(3) EXCEPTION.—Notwithstanding any other provision of law, funds withheld pursuant to paragraph (1) of this subsection may be disbursed to pay the cost of any contract penalties which may be incurred as a result of such withholding of funds under this subsection.

"(e) CONDITION FOR TERMINATION OF ALL UNITED STATES ASSISTANCE.—(1) PROHIBITION.—Subject to paragraph (2), no United States assistance may be furnished to El Salvador if the duly-elected head of Government of El Salvador is deposed by military coup or decree.

"(2) REQUIREMENT FOR RESUMPTION OF ASSISTANCE.—Assistance prohibited under paragraph (1) may only be resumed pursuant to a law subsequently enacted by the Congress.

"(f) ESTABLISHMENT OF A FUND FOR CEASE-FIRE MONITORING, DEMOBILIZATION, AND TRANSITION TO PEACE.—(1) ESTABLISHMENT OF FUND.—There is hereby established in the Treasury of the United States a fund to assist with the costs of monitoring a permanent settlement of the conflict, including a cease-fire, and the demobilization of combatants in the conflict in El Salvador, and their transition to peaceful pursuits, which shall be known as the 'Demobilization and Transition Fund' (hereafter in this section referred to as the 'Fund'). Amounts in this Fund shall be available for obligation and expenditure only upon notification by the President to the Congress that the Government of El Salvador and representatives of the FMLN have reached a permanent settlement of the conflict, including a final agreement on a cease-fire.

"(2) TRANSFER OF CERTAIN MILITARY ASSISTANCE FUNDS.—Upon notification of the Congress of a permanent settlement of the conflict, including an agreement on a cease-fire, or on September 30, 1991, if no such notification has occurred prior to that date, the President shall transfer to the Fund any United States military assistance funds withheld pursuant to subsection (d) of this section.

"(3) USE OF THE FUND.—Notwithstanding any other provision of law, amounts in the Fund shall be available for El Salvador solely to support costs of demobilization, retraining, relocation, and reemployment in civilian pursuits of former combatants in the conflict in El Salvador, and of the monitoring of the permanent settlement and cease-fire.

"(4) DURATION OF AVAILABILITY OF FUNDS.—Notwithstanding any other provision of law, amounts transferred to the Fund shall remain available until expended.

"(g) STRENGTHENING CIVILIAN CONTROL OVER THE MILITARY.—In order to strengthen the control of the democratically-elected civilian Government of El Salvador over the armed forces of that country, United States military assistance for any fiscal year may be delivered to the armed forces of El Salvador only with the prior approval of the duly elected President of El Salvador.

"(h) SUPPORT FOR DEMOCRACY.—(1) ESTABLISHING A PROGRAM.—The Secretary of State, through agreement with the National Endowment for Democracy or other qualified organizations, shall establish and carry out a program of education, training, and dialogue for the purpose of strengthening democratic political and legal institutions in El Salvador.

"(2) ELECTION MONITORING.—Of the amounts made available to carry out this subsection, up to $2,000,000 may be used for support for monitoring the 1991 municipal and National Assembly elections in El Salvador, and for monitoring the registration and campaign processes leading up to those elections, by appropriate organizations such as the United Nations, the Organization of American States, the Carter Center, the National Democratic Institute for International Affairs, the National Republican Institute for International Affairs, and the Center for Electoral Assistance and Promotion (CAPEL) of San Jose, Costa Rica.

"(3) ASSISTANCE.—Up to $10,000,000 of funds appropriated under the heading 'Economic Support Fund' for fiscal year 1991 may be used to carry out this subsection.

"(i) [Repealed. Pub. L. 103–236, title I, §139(22), Apr. 30, 1994, 108 Stat. 399.]

"(j) DEFINITIONS.—For purposes of this section—

"(1) the term 'United States assistance' has the same meaning as is given to such term by section 481(i)(4) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(i)(4)) and includes United States military assistance as defined in paragraph (2); and

"(2) the term 'United States military assistance' means—

"(A) assistance to carry out chapter 2 (relating to grant military assistance) or chapter 5 (relating to international military education and training) of part II of the Foreign Assistance Act of 1961 [22 U.S.C. 2311 et seq., 2347 et seq.]; and

"(B) assistance to carry out section 23 of the Arms Export Control Act [22 U.S.C. 2763]."

[For Presidential determination required by section 531(d) of Pub. L. 101–513, set out above, and for delegation of functions of President under section 531(i) of Pub. L. 101–513, see Determination of President, No. 91–15, Jan. 15, 1991, 56 F.R. 4713.]

Pub. L. 97–113, title VII, §728, Dec. 29, 1981, 95 Stat. 1555, as amended by Pub. L. 97–233, Aug. 10, 1982, 96 Stat. 260; Pub. L. 98–53, July 15, 1983, 97 Stat. 287, set forth findings of Congress concerning recent civil strife in El Salvador and need for substantial assistance to El Salvador and for fiscal years 1982 and 1983, restricted funds that could be obligated for assistance for El Salvador under chapter 2 or 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2311 et seq., 2347 et seq.), letters of offer that could be issued and credits and guarantees that could be extended for El Salvador under the Arms Export Control Act (22 U.S.C. 2751 et seq.), and members of the Armed Forces that could be assigned or detailed to El Salvador to carry out functions under the Foreign Assistance Act of 1961 (this chapter) or the Arms Export Control Act, only if not later than thirty days after Dec. 29, 1981, and every one hundred and eighty days thereafter, the President makes a specific certification.

CARIBBEAN DEVELOPMENT BANK; ASSUMPTION OF MEMBER LOANS

Pub. L. 96–533, title III, §315, Dec. 16, 1980, 94 Stat. 3148, provided: "Notwithstanding section 620(r) of the Foreign Assistance Act of 1961 [subsec. (r) of this section], the President may, after consultation with the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives, make arrangements at his discretion for the assumption by the recipient members of the Caribbean Development Bank of any loans made to the Bank under the authority of that Act [this chapter]."

SOVIET MILITARY PERSONNEL AND ACTIVITIES IN CUBA; REPORTS TO CONGRESS

Pub. L. 96–533, title VII, §714, Dec. 16, 1980, 94 Stat. 3161, required reports respecting Soviet military activity in Cuba, prior to repeal by Pub. L. 97–113, title VII, §734(a)(2), Dec. 29, 1981, 95 Stat. 1560.

CUBAN PRESENCE IN AFRICA

Pub. L. 95–426, title VI, §613, Oct. 7, 1978, 92 Stat. 990, as amended by Pub. L. 97–241, title V, §505(a)(2), (b)(1), Aug. 24, 1982, 96 Stat. 299, provided that: "The Congress finds that—

"(1) the President authorized the exchange of notes of May 30, 1977, between the Governments of the United States and Cuba which established an Interests Section for the United States in the Embassy of Switzerland in Havana and an Interests Section for Cuba in the Embassy of Czechoslovakia in Washington;

"(2) the President has the authority under the Export Administration Act of 1969 [50 U.S.C. 4601 et seq.] to limit trade with Cuba being conducted by subsidiaries of American firms operating in third countries;

"(3) the President has the power to sever all diplomatic and economic relations with Cuba; and

"(4) there has been a sharp increase in the number of Cuban military personnel serving in Africa in the past year."

RESUMPTION OF MILITARY ASSISTANCE TO TURKEY; DETERMINATION AND CERTIFICATION TO CONGRESS BY PRESIDENT OF MILITARY COOPERATION AS IN BEST INTERESTS OF UNITED STATES AND NATO

Pub. L. 95–384, §13(a), Sept. 26, 1978, 92 Stat. 737, provided that: "Section 620(x) of the Foreign Assistance Act of 1961 [subsec. (x) of this section] shall be of no further force and effect upon the President's determination and certification to the Congress that the resumption of full military cooperation with Turkey is in the national interest of the United States and in the interest of the North Atlantic Treaty Organization and that the Government of Turkey is acting in good faith to achieve a just and peaceful settlement of the Cyprus problem, the early peaceable return of refugees to their homes and properties, and continued removal of Turkish military troops from Cyprus in the context of a solution to the Cyprus problem, and the early serious resumption of inter-communal talks aimed at a just, negotiated settlement."

DETERMINATION AND CERTIFICATION REGARDING RESUMPTION OF FULL MILITARY COOPERATION WITH TURKEY

Memorandum of the President of the United States, dated Sept. 26, 1978, provided:

Pursuant to the authority vested in me by Section 13(a) of the International Security Assistance Act of 1978, I hereby determine and certify:

(1) that the resumption of full military cooperation with Turkey is in the national interest of the United States and in the interest of the North Atlantic Treaty Organization; and

(2) that the Government of Turkey is acting in good faith to achieve a just and peaceful settlement of the Cyprus problem, the early peaceable return of refugees to their homes and properties, and continued removal of Turkish military troops from Cyprus in the context of a solution to the Cyprus problem, and the early serious resumption of inter-communal talks aimed at a just, negotiated settlement.

You are requested on my behalf to report this determination and certification to the Congress.

This determination and certification shall be published in the FEDERAL REGISTER.

JIMMY CARTER.

RESTRICTIONS ON ASSISTANCE DURING FISCAL YEAR 1978 INVOLVING MILITARY OR PARAMILITARY OPERATIONS IN ZAIRE

Pub. L. 95–92, §25, Aug. 4, 1977, 91 Stat. 625, required a Presidential determination that furnishing aid to Zaire during fiscal year 1978 was in the national interest and submission to the Congress of a Presidential certification for such aid, prior to repeal by Pub. L. 97–113, title VII, §734(a)(13), Dec. 29, 1981, 95 Stat. 1560.

RESTRICTIONS ON ASSISTANCE TO INDIA

Pub. L. 93–559, §27, Dec. 30, 1974, 88 Stat. 1802, provided that the total amount of assistance provided under this chapter and of credit sales made or guaranteed under the Foreign Military Sales Act, section 2751 et seq. of this title, for India was not to exceed $50,000,000 in fiscal year 1975, prior to repeal by Pub. L. 97–113, title VII, §734(a)(8), Dec. 29, 1981, 95 Stat. 1560.

RESTRICTIONS ON MILITARY ASSISTANCE AND EXCESS DEFENSE ARTICLES TO KOREA

Pub. L. 93–559, §26, Dec. 30, 1974, 88 Stat. 1802, provided that the aggregated amount of funds obligated or reserved for military assistance, including supply operations, under part II of subchapter II of this chapter, the acquisition cost of excess defense articles, if any, ordered under subchapter II of this chapter and not charged against appropriations for military assistance, credits including participations in credits, extended pursuant to section 2763 of this title, and the principal amount of loans guaranteed pursuant to section 2764(a) of this title, with respect to South Korea was not to exceed $145,000,000 for fiscal year 1975 until the President submitted a report to the Congress after Dec. 30, 1974, stating that the government of South Korea was making substantial progress in the observance of internationally recognized standards of human rights, after which the aggregate amount described above, with respect to South Korea, was not to exceed $165,000,000 for fiscal year 1975, with provisions of sections 2318 and 2364 of this title, or of any other law, not to be used to exceed these limitations, prior to repeal by Pub. L. 97–113, title VII, §734(a)(8), Dec. 29, 1981, 95 Stat. 1560.

REPAYMENT OF LOANS IN DEFAULT

Pub. L. 93–559, §56, Dec. 30, 1974, 88 Stat. 1820, provided that: "It is the sense of the Congress that any country receiving assistance under the Foreign Assistance Act of 1961 [this chapter] which is in default, at least 90 days prior to the date of enactment of this Act [Dec. 30, 1974], of any payment of principal or interest due on any loan or credit received from the United States shall promptly pay all such principal and interest. It is further the sense of the Congress that the President shall promptly enter into negotiations with each such

country to help effectuate the payment of such principal and interest, or to effectuate the transfer by such country to the United States of goods, services, concessions, or actions beneficial to the United States, in lieu of the payment of such principal and interest."

RESTRICTIONS ON ASSISTANCE TO NATIONS WHOSE GOVERNMENT IS BASED UPON COMMUNISM

Pub. L. 91–194, title I, §109, Feb. 9, 1970, 84 Stat. 8, provided that:

"(a) No assistance shall be furnished to any nation, whose government is based upon that theory of government known as communism under the Foreign Assistance Act of 1961, as amended [this chapter], for any arms, ammunition, implements of war, atomic energy materials, or any articles, materials, or supplies, such as petroleum, transportation materials of strategic value, and items of primary strategic significance used in the production of arms, ammunition, and implements of war, contained on the list maintained by the Administrator pursuant to title I of the Mutual Defense Assistance Control Act of 1951, as amended [section 1611 et seq. of this title].

"(b) No economic assistance shall be furnished to any nation whose government is based upon that theory of government known as communism under the Foreign Assistance Act of 1961, as amended [this chapter] except section 214(b) [section 2174(b) of this title], unless the President determines that the withholding of such assistance would be contrary to the national interest and reports such determination to the House of Representatives and the Senate. Reports made pursuant to this subsection shall be published in the Federal Register within seven days of submission to the committees and shall contain a statement by the President of the reasons for such determination."

Similar provisions were contained in the following prior acts:

Pub. L. 90–581, title I, §109, Oct. 17, 1968, 82 Stat. 1140.
Pub. L. 90–249, title I, §109, Jan. 2, 1968, 81 Stat. 939.
Pub. L. 89–691, title I, §109, Oct. 15, 1966, 80 Stat. 1020.
Pub. L. 89–273, title I, §109, Oct. 20, 1965, 79 Stat. 1004.
Pub. L. 88–634, title I, §109, Oct. 7, 1964, 78 Stat. 1018.
Pub. L. 88–272, title I, §109, Jan. 6, 1964, 77 Stat. 859.
Pub. L. 87–872, title I, §109, Oct. 23, 1962, 76 Stat. 1165.

RESTRICTIONS ON ASSISTANCE TO COUNTRIES SELLING, FURNISHING, OR PERMITTING SHIPS TO CARRY CERTAIN ITEMS TO CUBA OR TO NORTH VIETNAM

Pub. L. 91–194, title I, §107, Feb. 9, 1970, 84 Stat. 8, provided that:

"(a) No assistance shall be furnished under the Foreign Assistance Act of 1961, as amended [this chapter], to any country which sells, furnishes, or permits any ships under its registry to carry to Cuba, so long as it is governed by the Castro regime, in addition to those items contained on the list maintained by the Administrator pursuant to title I of the Mutual Defense Assistance Control Act of 1951, as amended [section 1611 et seq. of this title], any arms, ammunition, implements of war, atomic energy materials, or any other articles, materials, or supplies of primary strategic significance used in the production of arms, ammunition, and implements of war or of strategic significance to the conduct of war, including petroleum products.

"(b) No economic assistance shall be furnished under the Foreign Assistance Act of 1961, as amended [this chapter], to any country which sells, furnishes, or permits any ships under its registry to carry items of economic assistance to Cuba, so long as it is governed by the Castro regime, or to North Vietnam."

Similar provisions were contained in the following prior acts:

Pub. L. 90–581, title I, §107, Oct. 17, 1968, 82 Stat. 1139.
Pub. L. 90–249, title I, §107, Jan. 2, 1968, 81 Stat. 938.
Pub. L. 89–691, title I, §107, Oct. 15, 1966, 80 Stat. 1020.
Pub. L. 89–273, title I, §107, Oct. 20, 1965, 79 Stat. 1004.
Pub. L. 88–634, title I, §107, Oct. 7, 1964, 78 Stat. 1018.
Pub. L. 88–258, title I, §107, Jan. 6, 1964, 77 Stat. 859.
Pub. L. 87–872, title I, §107, Oct. 23, 1962, 76 Stat. 1165.

RESTRICTIONS ON ASSISTANCE TO COUNTRIES SELLING, FURNISHING OR PERMITTING SHIPS TO CARRY CERTAIN ITEMS TO NORTH VIETNAM

Pub. L. 91–194, title I, §116, Feb. 9, 1970, 84 Stat. 10, forbid assistance under the Foreign Assistance Act of 1961, as amended, to any country that sold, furnished or permitted any ships under its registry to carry to North Vietnam certain enumerated items unless the President determined that the withholding of such assistance was contrary to the national interest of the United States and reported such determination to Congress.

Similar provisions were contained in the following prior acts:
Pub. L. 90–581, title I, §116, Oct. 17, 1968, 82 Stat. 1141.
Pub. L. 90–249, title I, §116, Jan. 2, 1968, 81 Stat. 940.
Pub. L. 89–691, title I, §116, Oct. 15, 1966, 80 Stat. 1022.
Pub. L. 89–273, title I, §116, Oct. 20, 1965, 79 Stat. 1005.

INTERDICTION OF THE DELIVERY OF OFFENSIVE WEAPONS TO CUBA

For Presidential proclamation prohibiting the delivery of offensive weapons to Cuba, see Proc. No. 3504, Oct. 23, 1962, 27 F.R. 10401, set out as a note preceding section 1 of Title 50, War and National Defense.

PROC. NO. 3447. EMBARGO ON TRADE WITH CUBA

Proc. No. 3447, Feb. 3, 1962, 27 F.R. 1085, provided:

WHEREAS the Eighth Meeting of Consultation of Ministers of Foreign Affairs, Serving as Organ of Consultation in Application of the Inter-American Treaty of Reciprocal Assistance, in its Final Act resolved that the present Government of Cuba is incompatible with the principles and objectives of the Inter-American system; and, in light of the subversive offensive of Sino-Soviet Communism with which the Government of Cuba is publicly aligned, urged the member states to take those steps that they may consider appropriate for their individual and collective self-defense;

WHEREAS the Congress of the United States, in section 620(a) of the Foreign Assistance Act of 1961 (75 Stat. 445), as amended [subsection (a) of this section], has authorized the President to establish and maintain an embargo upon all trade between the United States and Cuba; and

WHEREAS the United States, in accordance with its international obligations, is prepared to take all necessary actions to promote national and hemispheric security by isolating the present Government of Cuba and thereby reducing the threat posed by its alignment with the communist powers:

NOW, THEREFORE, I, JOHN F. KENNEDY, President of the United States of America, acting under the authority of section 620(a) of the Foreign Assistance Act of 1961 (75 Stat. 445), as amended [subsection (a) of this section], do

1. Hereby proclaim an embargo upon trade between the United States and Cuba in accordance with paragraphs 2 and 3 of this proclamation.

2. Hereby prohibit, effective 12:01 A.M., Eastern Standard Time, February 7, 1962, the importation into the United States of all goods of Cuban origin and all goods imported from or through Cuba; and I hereby authorize and direct the Secretary of the Treasury to carry out such prohibition, to make such exceptions thereto, by license or otherwise, as he determines to be consistent with the effective operation of the embargo hereby proclaimed, and to promulgate such rules and regulations as may be necessary to perform such functions.

3. AND FURTHER, I do hereby direct the Secretary of Commerce, under the provisions of the Export Control Act of 1949, as amended (50 U.S.C. App. 2021–2032), to continue to carry out the prohibition of all exports from the United States to Cuba, and I hereby authorize him, under that Act, to continue, make, modify or revoke exceptions from such prohibition.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States of America to be affixed.

DONE at the City of Washington this third day of February, in the year of our Lord nineteen hundred and sixty-two, and of the Independence of the United States of America the one hundred and eighty-sixth.

[SEAL]

JOHN F. KENNEDY.

[1] *So in original. The comma probably should be a period.*

§2370a. Expropriation of United States property

(a) Prohibition

None of the funds made available to carry out this Act, the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.], or the Arms Export Control Act [22 U.S.C. 2751 et seq.] may be provided to a government or any agency or instrumentality thereof, if the government of such country (other than a country described if [1] subsection (d))—

(1) has on or after January 1, 1956—

(A) nationalized or expropriated the property of any United States person,

(B) repudiated or nullified any contract with any United States person, or

(C) taken any other action (such as the imposition of discriminatory taxes or other exactions) which has the effect of seizing ownership or control of the property of any United States person, and

(2) has not, within the period specified in subsection (c), either—

(A) returned the property,

(B) provided adequate and effective compensation for such property in convertible foreign exchange or other mutually acceptable compensation equivalent to the full value thereof, as required by international law,

(C) offered a domestic procedure providing prompt, adequate and effective compensation in accordance with international law, or

(D) submitted the dispute to arbitration under the rules of the Convention for the Settlement of Investment Disputes or other mutually agreeable binding international arbitration procedure.

(b) Other actions

The President shall instruct the United States Executive Directors of each multilateral development bank and international financial institution to vote against any loan or other utilization of the funds of such bank or institution for the benefit of any country to which assistance is prohibited under subsection (a), unless such assistance is directed specifically to programs which serve the basic human needs of the citizens of that country.

(c) Period for settlement of claims

The period of time described in subsection (a)(2) is the latest of the following—

(1) 3 years after the date on which a claim was filed,

(2) in the case of a country that has a totalitarian or authoritarian government at the time of the action described in subsection (a)(1), 3 years after the date of installation of a democratically elected government, or

(3) 90 days after April 30, 1994.

(d) Excepted countries and territories

This section shall not apply to any country established by international mandate through the United Nations or to any territory recognized by the United States Government to be in dispute.

(e) Resumption of assistance

A prohibition or termination of assistance under subsection (a) and an instruction to vote against loans under subsection (b) shall cease to be effective when the President certifies in writing to the Speaker of the House of Representatives and to the Committee on Foreign Relations of the Senate that such government has taken one of the steps described in subsection (a)(2).

(f) Reporting requirement

Not later than 90 days after April 30, 1994, and at the beginning of each fiscal year thereafter, the Secretary of State shall transmit to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate, a report containing the following:

(1) A list of every country in which the United States Government is aware that a United States person has an outstanding expropriation claim.

(2) The total number of such outstanding expropriation claims made by United States persons against each such country.

(3) The period of time in which each such claim has been outstanding.

(4) The status of each case and efforts made by the United States Government and the government of the country in which such claim has been made, to take one or more of the steps described in subsection (a)(2).

(5) Each project a United States Executive Director voted against as a result of the action

described in subsection (b).

(g) Waiver

The President may waive the prohibitions in subsections (a) and (b) for a country, on an annual basis, if the President determines and so notifies Congress that it is in the national interest to do so.

(h) "United States person" defined

For the purpose of this section, the term "United States person" means a United States citizen or corporation, partnership, or association at least 50 percent beneficially owned by United States citizens.

(i) Certain claims for expropriation by the Government of Nicaragua

(1) Any action of the types set forth in subparagraphs (A), (B), and (C) of subsection (a)(1) that was taken by the Government of Nicaragua during the period beginning on January 1, 1956, and ending on January 9, 2002, shall not be considered in implementing the prohibition under subsection (a) unless the action has been presented in accordance with the procedure set forth in paragraph (2).

(2) An action shall be deemed presented for purposes of paragraph (1) if it is—

(A) in writing; and

(B) received by the United States Department of State on or before 120 days after the date specified in paragraph (3) at—

(i) the headquarters of the United States Department of State in Washington, D.C.; or

(ii) the Embassy of the United States of America to Nicaragua.

(3) The date to which paragraph (2) refers is a date after December 8, 2004, that is specified by the Secretary of State, in the Secretary's discretion, in a notice published in the Federal Register.

(Pub. L. 103–236, title V, §527, Apr. 30, 1994, 108 Stat. 475; Pub. L. 108–447, div. D, title V, §584(c), Dec. 8, 2004, 118 Stat. 3032.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a), is Pub. L. 103–236, Apr. 30, 1994, 108 Stat. 382, known as the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995. For complete classification of this Act to the Code, see Short Title of 1994 Amendment note set out under section 2651 of this title and Tables.

The Foreign Assistance Act of 1961, as amended, referred to in subsec. (a), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, which is classified principally to this chapter (§2151 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

The Arms Export Control Act, referred to in subsec. (a), is Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1320, as amended, which is classified principally to chapter 39 (§2751 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

CODIFICATION

Section was enacted as part of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995, and not as part of the Foreign Assistance Act of 1961 which comprises this chapter.

AMENDMENTS

2004—Subsec. (i). Pub. L. 108–447 added subsec. (i).

DELEGATION OF RESPONSIBILITIES UNDER FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEARS 1994 AND 1995

Memorandum of President of the United States, July 26, 1994, 59 F.R. 40205, provided:

Memorandum for the Secretary of State

By the authority vested in me by the Constitution and laws of the United States of America, including section 301 of title 3 of the United States Code, I hereby delegate to the Secretary of State the functions vested in the President by the following provisions of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236) (the "Act"): sections 102(g) [22 U.S.C. 287e note], 161(c) [22 U.S.C. 2651a note], 401(b) [108 Stat. 446], 407(a) [22 U.S.C. 287b note], 409 [22 U.S.C. 287e note], 431(b) [108 Stat. 459],

514(b) [22 U.S.C. 1928 note], 523 [108 Stat. 473], 527(e) and (g) [22 U.S.C. 2370a(e), (g)], 528 [108 Stat. 477], 532(a) [108 Stat. 480], 574 [22 U.S.C. 2656 note], 583(b)(1) and (b)(6) [108 Stat. 489, 490], 733 [22 U.S.C. 2779a] and 735(d) [22 U.S.C. 2797b–1].

The functions under section 407(a) of the Act [22 U.S.C. 287b note] shall be exercised in coordination with the Secretary of Defense.

The functions under section 527(e) and (g) of the Act [22 U.S.C. 2370a(e), (g)] shall be exercised in consultation with the Secretary of the Treasury and the heads of other departments and agencies, as appropriate.

Any reference in this memorandum to any act, order, determination, or delegation of authority shall be deemed to be a reference to such act, order, determination, or delegation of authority as amended from time to time.

The functions delegated by this memorandum may be redelegated within the Department of State.

You are authorized and directed to publish this memorandum in the Federal Register.

WILLIAM J. CLINTON.

Memorandum of President of the United States, Jan. 4, 1995, 60 F.R. 3335, provided:

Memorandum for the Secretary of the Treasury

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, I hereby delegate to the Secretary of the Treasury the functions under section 527(b) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236) [22 U.S.C. 2370a(b)].

Any reference in this memorandum to any Act, order, determination, or delegation of authority shall be deemed to be a reference to such Act, order, determination, or delegation of authority as amended.

The functions delegated by this memorandum may be redelegated within the Department of the Treasury.

You are authorized and directed to publish this memorandum in the Federal Register.

WILLIAM J. CLINTON.

[1] *So in original. Probably should be "in".*

§2370b. Humanitarian assistance code of conduct

(a) In general

None of the funds made available for foreign operations, export financing, and related programs under the headings "Migration and Refugee Assistance", "United States Emergency Refugee and Migration Assistance Fund", "International Disaster and Famine Assistance", or "Transition Initiatives" may be obligated to an organization that fails to adopt a code of conduct that provides for the protection of beneficiaries of assistance under any such heading from sexual exploitation and abuse in humanitarian relief operations.

(b) Consistency with United Nations principles

The code of conduct referred to in subsection (a) shall, to the maximum extent practicable, be consistent with the six core principles of the United Nations Inter-Agency Standing Committee Task Force on Protection From Sexual Exploitation and Abuse in Humanitarian Crises.

(c) Reports

Not later than 180 days after May 11, 2005, and not later than one year after May 11, 2005, the President shall transmit to the appropriate congressional committees a report on the implementation of this section.

(d) Effective Date

This section shall take effect 60 days after May 11, 2005, and shall apply to funds obligated after such date for fiscal year 2005 and any subsequent fiscal year.

(Pub. L. 109–13, div. A, title II, §2110, May 11, 2005, 119 Stat. 268.)

CODIFICATION

Section was enacted as part of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005, and not as part of the Foreign Assistance Act of 1961 which comprises this chapter.

ASSIGNMENT OF FUNCTIONS RELATING TO THE REPORT TO THE CONGRESS ON IMPLEMENTATION OF HUMANITARIAN ASSISTANCE CODE OF CONDUCT

Memorandum of President of the United States, May 12, 2006, 71 F.R. 30549, provided:

Memorandum for the Secretary of State

Pursuant to the authority vested in me by the Constitution and laws of the United States, including section 301 of title 3, United States Code, the functions of the President under section 2110(c) of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (title II of Public Law 109–13) (22 U.S.C. 2370b), are assigned to the Secretary of State.

You are authorized and directed to publish this memorandum in the Federal Register.

GEORGE W. BUSH.

§2370c. Definitions

In sections 2370c to 2370c–2 of this title:

(1) Appropriate congressional committees

The term "appropriate congressional committees" means—

(A) the Committee on Foreign Relations of the Senate;

(B) the Committee on Appropriations of the Senate;

(C) the Committee on Foreign Affairs of the House of Representatives; and

(D) the Committee on Appropriations of the House of Representatives.

(2) Child soldier

Consistent with the provisions of the Optional Protocol to the Convention of the Rights of the Child, the term "child soldier"—

(A) means—

(i) any person under 18 years of age who takes a direct part in hostilities as a member of governmental armed forces;

(ii) any person under 18 years of age who has been compulsorily recruited into governmental armed forces;

(iii) any person under 15 years of age who has been voluntarily recruited into governmental armed forces; or

(iv) any person under 18 years of age who has been recruited or used in hostilities by armed forces distinct from the armed forces of a state; and

(B) includes any person described in clauses [1] (ii), (iii), or (iv) of subparagraph (A) who is serving in any capacity, including in a support role such as a cook, porter, messenger, medic, guard, or sex slave.

(Pub. L. 110–457, title IV, §402, Dec. 23, 2008, 122 Stat. 5088.)

REFERENCES IN TEXT

Sections 2370c to 2370c–2 of this title, referred to in text, was in the original "this title", meaning title IV of Pub. L. 110–457, Dec. 23, 2008, 122 Stat. 5087, known as the Child Soldiers Prevention Act of 2008, which is classified principally to sections 2370c to 2370c–2 of this title. For complete classification of title IV to the Code, see Short Title of 2008 Amendment note set out under section 2151 of this title and Tables.

CODIFICATION

Section was enacted as part of the Child Soldiers Prevention Act of 2008, and also as part of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, and not as part of the Foreign Assistance Act of 1961 which comprises this chapter.

EFFECTIVE DATE

Pub. L. 110–457, title IV, §407, Dec. 23, 2008, 122 Stat. 5091, provided that: "This title [enacting this section and sections 2370c–1 and 2370c–2 of this title, amending section 4028 of this title, and enacting provisions set out as a note under section 2151 of this title], and the amendments made by this title, shall take effect 180 days after the date of the enactment of this Act [Dec. 23, 2008]."

[1] *So in original. Probably should be "clause".*

§2370c–1. Prohibition

(a) In general

Subject to subsections (b) through (f), the authorities contained in sections 2321j, 2347, and 2348 of this title or section 2763 of this title may not be used to provide assistance to, and no licenses for direct commercial sales of military equipment may be issued to, the government of a country that is clearly identified, pursuant to subsection (b), for the most recent year preceding the fiscal year in which the authorities or license would have been used or issued in the absence of a violation of sections 2370c to 2370c–2 of this title, as having governmental armed forces or government-supported armed groups, including paramilitaries, militias, or civil defense forces, that recruit and use child soldiers.

(b) Identification and notification to countries in violation of standards

(1) Publication of list of foreign governments

The Secretary of State shall include a list of the foreign governments that have violated the standards under sections 2370c to 2370c–2 of this title and are subject to the prohibition in subsection (a) in the report required under section 7107(b) of this title.

(2) Notification of foreign countries

The Secretary of State shall formally notify any government identified pursuant to subsection (a).

(c) National interest waiver

(1) Waiver

The President may waive the application to a country of the prohibition in subsection (a) if the President determines that such waiver is in the national interest of the United States.

(2) Publication and notification

Not later than 45 days after each waiver is granted under paragraph (1), the President shall notify the appropriate congressional committees of the waiver and the justification for granting such waiver.

(d) Reinstatement of assistance

The President may provide to a country assistance otherwise prohibited under subsection (a) upon certifying to the appropriate congressional committees that the government of such country—

(1) has implemented measures that include an action plan and actual steps to come into compliance with the standards outlined in subsection (b); and

(2) has implemented policies and mechanisms to prohibit and prevent future government or government-supported use of child soldiers and to ensure that no children are recruited, conscripted, or otherwise compelled to serve as child soldiers.

(e) Exception for programs directly related to addressing the problem of child soldiers or professionalization of the military

(1) In general

The President may provide assistance to a country for international military education, training,

and nonlethal supplies (as defined in section 2557(d)(1)(B) of title 10) otherwise prohibited under subsection (a) upon certifying to the appropriate congressional committees that—

(A) the government of such country is taking reasonable steps to implement effective measures to demobilize child soldiers in its forces or in government-supported paramilitaries and is taking reasonable steps within the context of its national resources to provide demobilization, rehabilitation, and reintegration assistance to those former child soldiers; and

(B) the assistance provided by the United States Government to the government of such country will go to programs that will directly support professionalization of the military.

(2) Limitation

The exception under paragraph (1) may not remain in effect for a country for more than 5 years.

(f) Exception for peacekeeping operations

The limitation set forth in subsection (a) that relates to section 2348 of this title shall not apply to programs that support military professionalization, security sector reform, heightened respect for human rights, peacekeeping preparation, or the demobilization and reintegration of child soldiers.

(Pub. L. 110–457, title IV, §404, Dec. 23, 2008, 122 Stat. 5089; Pub. L. 113–4, title XII, §1208, Mar. 7, 2013, 127 Stat. 142.)

REFERENCES IN TEXT

Sections 2370c to 2370c–2 of this title, referred to in subsecs. (a) and (b)(1), was in the original "this title", meaning title IV of Pub. L. 110–457, Dec. 23, 2008, 122 Stat. 5087, known as the Child Soldiers Prevention Act of 2008, which is classified principally to sections 2370c to 2370c–2 of this title. For complete classification of title IV to the Code, see Short Title of 2008 Amendment note set out under section 2151 of this title and Tables.

CODIFICATION

Section was enacted as part of the Child Soldiers Prevention Act of 2008, and also as part of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, and not as part of the Foreign Assistance Act of 1961 which comprises this chapter.

AMENDMENTS

2013—Subsec. (a). Pub. L. 113–4, §1208(1), substituted "(b) through (f), the authorities contained in sections 2321j, 2347, and 2348 of this title" for "(b), (c), and (d), the authorities contained in section 2321j or 2347 of this title".

Subsec. (f). Pub. L. 113–4, §1208(2), added subsec. (f).

EFFECTIVE DATE

Section effective 180 days after Dec. 23, 2008, see section 407 of Pub. L. 110–457, set out as a note under section 2370c of this title.

§2370c–2. Reports

(a) Investigation of allegations regarding child soldiers

United States missions abroad shall thoroughly investigate reports of the use of child soldiers.

(b) Information for annual Human Rights Reports

In preparing those portions of the annual Human Rights Report that relate to child soldiers under sections 2151n and 2304 of this title, the Secretary of State shall ensure that such reports include a description of the use of child soldiers in each foreign country, including—

(1) trends toward improvement in such country of the status of child soldiers or the continued or increased tolerance of such practices; and

(2) the role of the government of such country in engaging in or tolerating the use of child soldiers.

(c) Annual report to Congress

If, during any of the 5 years following December 23, 2008, a country is notified pursuant to section 2370c–1(b)(2) of this title, or a wavier [1] is granted pursuant to section 2370c–1(c)(1) of this title, the President shall submit a report to the appropriate congressional committees not later than June 15 of the following year. The report shall include—

(1) a list of the countries receiving notification that they are in violation of the standards under sections 2370c to 2370c–2 of this title;

(2) a list of any waivers or exceptions exercised under sections 2370c to 2370c–2 of this title;

(3) justification for any such waivers and exceptions; and

(4) a description of any assistance provided under sections 2370c to 2370c–2 of this title pursuant to the issuance of such waiver.

(Pub. L. 110–457, title IV, §405, Dec. 23, 2008, 122 Stat. 5090.)

REFERENCES IN TEXT

Sections 2370c to 2370c–2 of this title, referred to in subsec. (c)(1), (2), (4), was in the original "this title", meaning title IV of Pub. L. 110–457, Dec. 23, 2008, 122 Stat. 5087, known as the Child Soldiers Prevention Act of 2008, which is classified principally to sections 2370c to 2370c–2 of this title. For complete classification of title IV to the Code, see Short Title of 2008 Amendment note set out under section 2151 of this title and Tables.

CODIFICATION

Section was enacted as part of the Child Soldiers Prevention Act of 2008, and also as part of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, and not as part of the Foreign Assistance Act of 1961 which comprises this chapter.

EFFECTIVE DATE

Section effective 180 days after Dec. 23, 2008, see section 407 of Pub. L. 110–457, set out as a note under section 2370c of this title.

DELEGATION OF AUTHORITY

Memorandum of President of the United States, June 14, 2012, 77 F.R. 37551, provided:

Memorandum for the Secretary of State

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, I hereby delegate to you the functions conferred upon the President by section 405(c) of the Child Soldiers Prevention Act of 2008, title IV of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (Public Law 110–457).

You are authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

[1] *So in original. Probably should be "waiver".*

§2371. Prohibition on assistance to governments supporting international terrorism

(a) Prohibition

The United States shall not provide any assistance under this chapter, the Food for Peace Act [7 U.S.C. 1691 et seq.], the Peace Corps Act [22 U.S.C. 2501 et seq.], or the Export-Import Bank Act of 1945 [12 U.S.C. 635 et seq.] to any country if the Secretary of State determines that the government of that country has repeatedly provided support for acts of international terrorism.

(b) Publication of determinations

Each determination of the Secretary of State under subsection (a), including each determination in effect on December 12, 1989, shall be published in the Federal Register.

(c) Rescission

A determination made by the Secretary of State under subsection (a) may not be rescinded unless

the President submits to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate—

(1) before the proposed rescission would take effect, a report certifying that—

(A) there has been a fundamental change in the leadership and policies of the government of the country concerned;

(B) that government is not supporting acts of international terrorism; and

(C) that government has provided assurances that it will not support acts of international terrorism in the future; or

(2) at least 45 days before the proposed rescission would take effect, a report justifying the rescission and certifying that—

(A) the government concerned has not provided any support for international terrorism during the preceding 6-month period; and

(B) the government concerned has provided assurances that it will not support acts of international terrorism in the future.

(d) Waiver

Assistance prohibited by subsection (a) may be provided to a country described in that subsection if—

(1) the President determines that national security interests or humanitarian reasons justify a waiver of subsection (a), except that humanitarian reasons may not be used to justify assistance under subchapter II of this chapter (including part IV, part VI, and part VIII), or the Export-Import Bank Act of 1945 [12 U.S.C. 635 et seq.]; and

(2) at least 15 days before the waiver takes effect, the President consults with the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate regarding the proposed waiver and submits a report to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate containing—

(A) the name of the recipient country;

(B) a description of the national security interests or humanitarian reasons which require the waiver;

(C) the type and amount of and the justification for the assistance to be provided pursuant to the waiver; and

(D) the period of time during which such waiver will be effective.

The waiver authority granted in this subsection may not be used to provide any assistance under this chapter which is also prohibited by section 2780 of this title.

(Pub. L. 87–195, pt. III, §620A, as added Pub. L. 94–329, title III, §303, June 30, 1976, 90 Stat. 753; amended Pub. L. 99–83, title V, §503(a), Aug. 8, 1985, 99 Stat. 220; Pub. L. 99–190, §101(i) [title V, §521], Dec. 19, 1985, 99 Stat. 1291, 1305; Pub. L. 101–222, §5, Dec. 12, 1989, 103 Stat. 1897; Pub. L. 110–246, title III, §3001(b)(1)(A), (2)(Q), June 18, 2008, 122 Stat. 1820.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (d), was in the original "this Act" and "the Foreign Assistance Act of 1961", respectively, meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

The Food for Peace Act, referred to in subsec. (a), is act July 10, 1954, ch. 469, 68 Stat. 454, which is classified principally to chapter 41 (§1691 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 1691 of Title 7 and Tables.

The Peace Corps Act, referred to in subsec. (a), is Pub. L. 87–293, Sept. 22, 1961, 75 Stat. 612, as amended, which is classified principally to chapter 34 (§2501 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2501 of this title and Tables.

The Export-Import Bank Act of 1945, referred to in subsecs. (a) and (d)(1), is act July 31, 1945, ch. 341, 59 Stat. 526, as amended, which is classified generally to chapter 6A (§635 et seq.) of Title 12, Banks and Banking. For complete classification of this Act to the Code, see Short Title note set out under section 635 of

Title 12 and Tables.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–246 substituted "Food for Peace Act" for "Agricultural Trade Development and Assistance Act of 1954".

1989—Pub. L. 101–222 amended section generally, in subsec. (a) substituting provisions prohibiting assistance if Secretary of State determines country has repeatedly supported terrorism, for provisions prohibiting assistance if President determines country grants sanctuary to terrorists or otherwise supports terrorism; redesignating subsec. (b) as (d) and inserting provisions prohibiting justification of waiver of assistance under specified Acts and provisions describing contents of report on proposed waiver; adding subsecs. (b) and (c); and striking out subsec. (c) which related to imposition of sanction by other countries.

1985—Subsec. (a). Pub. L. 99–190 inserted reference to the Export-Import Bank Act of 1945.

Pub. L. 99–83 amended subsec. (a) generally, substituting provisions relating to covered programs and Presidential determinations respecting termination of assistance, for provisions relating to termination of assistance to countries granting sanctuary to international terrorists and period of ineligibility.

Subsec. (b). Pub. L. 99–83 amended subsec. (b) generally, substituting provisions relating to waiver of application of subsec. (a), for provisions relating to reports respecting continuation of assistance to any country falling within provisions of former subsec. (a) of this section.

Subsec. (c). Pub. L. 99–83, in amending section generally, added subsec. (c).

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–246 effective May 22, 2008, see section 4(b) of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–83 effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as a note under section 2151–1 of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

SELF-DEFENSE IN ACCORDANCE WITH INTERNATIONAL LAW

Pub. L. 101–222, §10, Dec. 12, 1989, 103 Stat. 1900, provided that: "The use by any government of armed force in the exercise of individual or collective self-defense in accordance with applicable international agreements and customary international law shall not be considered an act of international terrorism for purposes of the amendments made by this Act [see Short Title of 1989 Amendment note, set out under section 2151 of this title]."

§2372. Repealed. Pub. L. 97–113, title VII, §725(a), Dec. 29, 1981, 95 Stat. 1553

Section, Pub. L. 87–195, pt. III, §620B, as added Pub. L. 95–92, §11, Aug. 4, 1977, 91 Stat. 619; amended Pub. L. 95–384, §12(c)(1), Sept. 26, 1978, 92 Stat. 737, prohibited assistance and sales to Argentina.

§2372a. Renewal, reissuance, etc., of export licenses to or for Argentina

Any export license referred to in section 2372 [1] of this title which is issued initially on or before September 30, 1978 may from time to time thereafter be renewed, reissued or modified (or in the event of lapse of such license, replacement licenses may be issued), provided that any such renewal, reissuance or modification (or any such replacement license) does not change significantly any such license as initially issued.

(Pub. L. 95–240, title II, §210, Mar. 7, 1978, 92 Stat. 118.)

REFERENCES IN TEXT

Section 2372 of this title, referred to in text, was in the original "Section 11 of Public Law 95–92", meaning section 11 of Pub. L. 95–92, Aug. 4, 1977, 91 Stat. 619, which added section 620B of Pub. L. 87–195. Section

620B of Pub. L. 87–195 was classified to section 2372 of this title and was repealed by Pub. L. 97–113, title VII, §725(a), Dec. 29, 1981, 95 Stat. 1553.

CODIFICATION

Section was enacted as part of the Supplemental Appropriations Act, 1978, and not as part of the Foreign Assistance Act of 1961 which comprises this chapter.

[1] *See References in Text note below.*

§2373. Eastern Mediterranean policy requirements

(a) Congressional declaration and statement of findings

The Congress declares that the achievement of a just and lasting Cyprus settlement is and will remain a central objective of United States foreign policy. The Congress further declares that any action of the United States with respect to section 2370(x) [1] of this title shall not signify a lessening of the United States commitment to a just solution to the conflict on Cyprus but is authorized in the expectation that this action will be conducive to achievement of a Cyprus solution and a general improvement in relations among Greece, Turkey, and Cyprus and between those countries and the United States. The Congress finds that—

(1) a just settlement on Cyprus must involve the establishment of a free and independent government on Cyprus and must guarantee that the human rights of all of the people of Cyprus are fully protected;

(2) a just settlement on Cyprus must include the withdrawal of Turkish military forces from Cyprus;

(3) the guidelines for inter-communal talks agreed to in Nicosia in February 1977 and the United Nations resolutions regarding Cyprus provide a sound basis for negotiation of a just settlement on Cyprus;

(4) serious negotiations, under United Nations auspices, will be necessary to achieve agreement on, and implementation of, constitutional and territorial terms within such guidelines; and

(5) the recent proposals by both Cypriot communities regarding the return of the refugees to the city of New Famagusta (Varosha) constitute a positive step and the United States should actively support the efforts of the Secretary General of the United Nations with respect to this issue.

(b) Governing principles

United States policy regarding Cyprus, Greece, and Turkey shall be directed toward the restoration of a stable and peaceful atmosphere in the Eastern Mediterranean region and shall therefore be governed by the following principles:

(1) The United States shall actively support the resolution of differences through negotiations and internationally established peaceful procedures, shall encourage all parties to avoid provocative actions, and shall strongly oppose any attempt to resolve disputes through force or threat of force.

(2) The United States will accord full support and high priority to efforts, particularly those of the United Nations, to bring about a prompt, peaceful settlement on Cyprus.

(3) All defense articles furnished by the United States to countries in the Eastern Mediterranean region will be used only in accordance with the requirements of this chapter, the Arms Export Control Act [22 U.S.C. 2751 et seq.], and the agreements under which those defense articles were furnished.

(4) The United States will furnish security assistance for Greece and Turkey only when furnishing that assistance is intended solely for defensive purposes, including when necessary to enable the recipient country to fulfill its responsibilities as a member of the North Atlantic Treaty Organization, and shall be designed to ensure that the present balance of military strength among countries of the region, including between Greece and Turkey, is preserved. Nothing in this paragraph shall be construed to prohibit the transfer of defense articles to Greece or Turkey for

legitimate self defense or to enable Greece or Turkey to fulfill their North Atlantic Treaty Organization obligations.

(5) The United States shall use its influence to ensure the continuation of the ceasefire on Cyprus until an equitable negotiated settlement is reached.

(6) The United States shall use its influence to achieve the withdrawal of Turkish military forces from Cyprus in the context of a solution to the Cyprus problem.

(c) Review of policy; report to Congress

Because progress toward a Cyprus settlement is a high priority of United States policy in the Eastern Mediterranean, the President and the Congress shall continually review that progress and shall determine United States policy in the region accordingly. To facilitate such a review the President shall, within 60 days after the date of enactment of this section and at the end of each succeeding 60-day period, transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report on progress made toward the conclusion of a negotiated solution of the Cyprus problem. Such transmissions shall include any relevant reports prepared by the Secretary General of the United Nations for the Security Council.

(d) Certification by President to Congress of assistance to Greece and Turkey

In order to ensure that United States assistance is furnished consistent with the policies established in this section, the President shall, whenever requesting any funds for security assistance under this chapter or the Arms Export Control Act [22 U.S.C. 2751 et seq.] for Greece and Turkey, transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate his certification, with a full explanation thereof, that the furnishing of such assistance will be consistent with the principles set forth in subsection (b). The President shall also submit such a certification with any notification to the Congress, pursuant to section 36(b) of the Arms Export Control Act [22 U.S.C. 2776(b)], of a proposed sale of defense articles or services to Greece or Turkey.

(e) Arms sales agreements to prohibit transfer to Cyprus

(1) Any agreement for the sale or provision of any article on the United States Munitions List (established pursuant to section 38 of the Arms Export Control Act [22 U.S.C. 2778]) entered into by the United States after December 22, 1987, shall expressly state that the article is being provided by the United States only with the understanding that it will not be transferred to Cyprus or otherwise used to further the severance or division of Cyprus.

(2) The President shall report to Congress any substantial evidence that equipment provided under any such agreement has been used in a manner inconsistent with the purposes of this subsection.

(Pub. L. 87–195, pt. III, §620C, as added Pub. L. 95–384, §13(b), Sept. 26, 1978, 92 Stat. 737; amended Pub. L. 100–202, §101(e) [title V, §562], Dec. 22, 1987, 101 Stat. 1329–131, 1329–171.)

REFERENCES IN TEXT

Section 2370(x) of this title, referred to in subsec. (a), was omitted. See Codification note set out under section 2370 of this title.

This chapter, referred to in subsecs. (b)(3) and (d), was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

The Arms Export Control Act, referred to in subsecs. (b)(3) and (d), is Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1320, as amended, which is classified principally to chapter 39 (§2751 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

PRIOR PROVISIONS

Provisions similar to those in subsec. (e) of this section were contained in the following appropriation acts:
Pub. L. 102–391, title V, §557, Oct. 6, 1992, 106 Stat. 1676.
Pub. L. 101–513, title V, §560, Nov. 5, 1990, 104 Stat. 2026.
Pub. L. 101–167, title V, §570, Nov. 21, 1989, 103 Stat. 1245.
Pub. L. 100–461, title V, §579, Oct. 1, 1988, 102 Stat. 2268–48.

AMENDMENTS

1987—Subsec. (e). Pub. L. 100–202 added subsec. (e).

DELEGATION OF FUNCTIONS

For delegation of congressional reporting functions of President under subsec. (c) of this section, see section 1 of Ex. Ord. No. 13313, July 31, 2003, 68 F.R. 46073, set out as a note under section 301 of Title 3, The President.

SPECIAL AMBASSADORIAL COMMISSION FOR CYPRUS AND THE AEGEAN

Pub. L. 100–202, §101(e) [title V, §586], Dec. 22, 1987, 101 Stat. 1329–131, 1329–185, provided that:

"(a) FINDINGS.—The Congress finds that—

"(1) the inability to achieve a just and lasting Cyprus settlement will continue to affect relations among the United States and its close NATO allies, Greece and Turkey, to the detriment of larger, mutually shared, security interests in the Eastern Mediterranean region;

"(2) it is of paramount importance that Cyprus, Greece, and Turkey resolve their differences through negotiations and otherwise peaceful procedures, and that the United States should support the resolution of these differences through all the diplomatic means at its disposal;

"(3) it is in the national interest of the United States that the President make a significant new diplomatic demarche towards bringing this dispute to a resolution; and

"(4) it is also in the national interest of the United States to undertake a diplomatic initiative to promote the peaceful and equitable resolution of differences between Greece and Turkey in the Aegean by fostering a renewed and sustained bilateral dialogue between those countries on such issues as: the delineation of the continental shelf, the definition of the territorial seas, air traffic control over the Aegean, NATO command and control arrangements in the Aegean, and the status of Lemnos and NATO exercises in the Aegean.

"(b) APPOINTMENT OF SPECIAL AMBASSADOR.—The President is authorized to appoint a special ambassadorial level envoy who shall be responsible for representing the United States in direct negotiations with the parties to the Cyprus dispute, for representing the United States in negotiations through international intermediaries and, generally, lending the good offices of the United States to the parties in this dispute in order to facilitate a peaceful settlement on Cyprus. As agreed to by Greece and Turkey, the special envoy shall also represent the United States in promoting mutual discussions between those countries concerning their differences on Aegean issues. The special ambassador appointed under this section shall have available the services of two deputies (one to specialize on the Cyprus question, the other on general Aegean issues) and such senior level Department of State personnel as may be required by the special ambassador in order to carry out his responsibilities.

"(c) REPORT.—Not later than June 1, 1988, the President shall submit a report to the Congress describing in detail the activities being undertaken by the special ambassador, the progress being made toward achievement of a peaceful resolution of the Cyprus dispute, an assessment of the obstacles to achievement of such a resolution and of the future role of the United States in acheiving [sic] a settlement on Cyprus, and an assessment of the progress being made toward resolution of issues affecting the Aegean region.

"(d) FUNDING.—Up to $500,000 of the funds appropriated under any heading of this Act [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, as enacted by section 101(e) of Pub. L. 101–202] which are allocated for Greece and up to $500,000 of the funds appropriated under any heading of this Act which are allocated for Turkey, may be used by the Department of State for any administrative costs associated with the activities of the special ambassador and supporting personnel, including transportation, salaries and per diem."

[1] *See References in Text note below.*

§2374. Repealed. Pub. L. 108–458, title VII, §7104(l), Dec. 17, 2004, 118 Stat. 3788

Section, Pub. L. 87–195, pt. III, §620D, as added Pub. L. 96–53, title V, §505, Aug. 14, 1979, 93 Stat. 378, related to prohibition on assistance to Afghanistan.

§2375. Assistance to Pakistan

(a) Congressional policy, findings, and goals

The Congress recognizes that Soviet forces occupying Afghanistan pose a security threat to Pakistan. The Congress also recognizes that an independent and democratic Pakistan with continued friendly ties with the United States is in the interest of both nations. The Congress finds that United States assistance will help Pakistan maintain its independence. Assistance to Pakistan is intended to benefit the people of Pakistan by helping them meet the burdens imposed by the presence of Soviet forces in Afghanistan and by promoting economic development. In authorizing assistance to Pakistan, it is the intent of Congress to promote the expeditious restoration of full civil liberties and representative government in Pakistan. The Congress further recognizes that it is in the mutual interest of Pakistan and the United States to avoid the profoundly destabilizing effects of the proliferation of nuclear explosive devices or the capacity to manufacture or otherwise acquire nuclear devices.

(b) Reaffirmation of 1959 bilateral agreement

The United States reaffirms the commitment made in its 1959 bilateral agreement with Pakistan relating to aggression from a Communist or Communist-dominated state.

(c) Availability; defensive aspects of assistance

Security assistance for Pakistan shall be made available in order to assist Pakistan in dealing with the threat to its security posed by the Soviet presence in Afghanistan. The United States will take appropriate steps to ensure that defense articles provided by the United States to Pakistan are used for defensive purposes.

(d) Waiver of limitations respecting nuclear transfers

The President may waive the prohibitions of section 2799aa of this title with respect to any grounds for the prohibition of assistance under that section arising before the effective date of part B of the Nuclear Proliferation Prevention Act of 1994 to provide assistance to Pakistan if he determines that to do so is in the national interest of the United States.

(e) Nuclear non-proliferation conditions on military assistance; exception

(1) No military assistance shall be furnished to Pakistan and no military equipment or technology shall be sold or transferred to Pakistan, pursuant to the authorities contained in this chapter or any other Act, unless the President shall have certified in writing to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate, during the fiscal year in which military assistance is to be furnished or military equipment or technology is to be sold or transferred, that Pakistan does not possess a nuclear explosive device and that the proposed United States military assistance program will reduce significantly the risk that Pakistan will possess a nuclear explosive device.

(2) The prohibitions in this section do not apply to any assistance or transfer provided for the purposes of:

(A) International narcotics control (including part VIII of subchapter I of this chapter) or any provision of law available for providing assistance for counternarcotics purposes.

(B) Facilitating military-to-military contact, training (including part V of subchapter II of this chapter) and humanitarian and civic assistance projects.

(C) Peacekeeping and other multilateral operations (including part VI of subchapter II of this chapter relating to peacekeeping) or any provision of law available for providing assistance for peacekeeping purposes, except that lethal military equipment provided under this subparagraph shall be provided on a lease or loan basis only and shall be returned upon completion of the operation for which it was provided.

(D) Antiterrorism assistance (including part VIII of subchapter II of this chapter relating to antiterrorism assistance) or any provision of law available for antiterrorism assistance purposes.

(3) The restrictions of this subsection shall continue to apply to contracts for the delivery of F–16

aircraft to Pakistan.

(4) Notwithstanding the restrictions contained in this subsection, military equipment, technology, or defense services, other than F–16 aircraft, may be transferred to Pakistan pursuant to contracts or cases entered into before October 1, 1990.

(f) Storage costs

The President may release the Government of Pakistan of its contractual obligation to pay the United States Government for the storage costs of items purchased prior to October 1, 1990, but not delivered by the United States Government pursuant to subsection (e) and may reimburse the Government of Pakistan for any such amount paid, on such terms and conditions as the President may prescribe: *Provided*, That such payments have no budgetary impact.

(g) Inapplicability of restrictions to previously owned items

Subsection (e) does not apply to broken, worn or unupgraded items or their equivalent which Pakistan paid for and took possession of prior to October 1, 1990 and which the Government of Pakistan sent to the United States for repair or upgrade. Such equipment or its equivalent may be returned to the Government of Pakistan: *Provided*, That the President determines and so certifies to the appropriate congressional committees that such equipment or equivalent neither constitutes nor has received any significant qualitative upgrade since being transferred to the United States and that its total value does not exceed $25,000,000.

(h) Ballistic missile sanctions not affected

Nothing contained herein shall affect sanctions for transfers of missile equipment or technology required under section 4612 of title 50 or section 2797b of this title.

(Pub. L. 87–195, pt. III, §620E, as added Pub. L. 97–113, title VII, §736, Dec. 29, 1981, 95 Stat. 1561; amended Pub. L. 99–83, title IX, §902, Aug. 8, 1985, 99 Stat. 267; Pub. L. 100–202, §101(e) [title V, §557], Dec. 22, 1987, 101 Stat. 1329–131, 1329–170; Pub. L. 101–167, title V, §591, Nov. 21, 1989, 103 Stat. 1253; Pub. L. 101–513, title V, §574(a), Nov. 5, 1990, 104 Stat. 2042; Pub. L. 102–145, §118, as added Pub. L. 102–266, §102, Apr. 1, 1992, 106 Stat. 93; Pub. L. 102–391, title V, §570(a), Oct. 6, 1992, 106 Stat. 1681; Pub. L. 103–87, title V, §536(a), Sept. 30, 1993, 107 Stat. 955; Pub. L. 103–236, title VIII, §822(b)(2), Apr. 30, 1994, 108 Stat. 512; Pub. L. 104–107, title V, §559(a), Feb. 12, 1996, 110 Stat. 743.)

REFERENCES IN TEXT

For effective date of part B of the Nuclear Proliferation Prevention Act of 1994, referred to in subsec. (d), as the date 60 days after Apr. 30, 1994, see section 831 of Pub. L. 103–236, set out as an Effective Date note under section 6301 of this title.

This chapter, referred to in subsec. (e), was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

CODIFICATION

Amendment by Pub. L. 102–145 is based on section 572(a) of H.R. 2621, One Hundred Second Congress, 1st Session, as passed by the House of Representatives on June 19, 1991, which was enacted into law by Pub. L. 102–145, §118, as added by Pub. L. 102–266, §102, Apr. 1, 1992, 106 Stat. 93. Section 118 of Pub. L. 102–145 provided that the authority and conditions provided in such section 572 shall be applicable to funds appropriated by Pub. L. 102–145 (and are hereby enacted) in lieu of the authority and conditions provided in section 574 of Pub. L. 101–513. See 1990, 1991, and 1992 Amendment notes below.

AMENDMENTS

1996—Subsec. (e). Pub. L. 104–107, §559(a)(1), designated existing provisions as par. (1), substituted "military assistance" for "assistance" wherever appearing, and added par. (2).

Subsecs. (f) to (h). Pub. L. 104–107, §559(a)(2), added subsecs. (f) to (h).

1994—Subsec. (d). Pub. L. 103–236 amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: "The President may waive the prohibitions of section 2429 of this title at any time during the period beginning on December 29, 1981, and ending on September 30, 1994, to provide assistance to Pakistan during that period if he determines that to do so is in the national interest of the United States."

1993—Subsec. (d). Pub. L. 103–87, which directed the substitution of "September 30, 1994" for the date specified in subsec. (d), was executed by substituting "September 30, 1994" for "September 30, 1993". See 1992 Amendment note below.

1992—Subsec. (d). Pub. L. 102–391, which directed the substitution of "September 30, 1993" for the date specified in subsec. (d), was executed by substituting "September 30, 1993" for "April 1, 1993". See 1991 Amendment note below.

Pub. L. 102–266 added Pub. L. 102–145, §118. See 1991 Amendment note below.

1991—Subsec. (d). Pub. L. 102–145, §118, as added by Pub. L. 102–266, which directed the amendment of subsec. (d) by substituting "April 1, 1993" for "April 1, 1991" in lieu of amendment by Pub. L. 101–513, §574(a), was executed by substituting "April 1, 1993" for "April 1, 1992" to reflect the probable intent of Congress. See Codification note above and 1990 Amendment note below.

1990—Subsec. (d). Pub. L. 101–513 substituted "April 1, 1992" for "April 1, 1991".

1989—Subsec. (d). Pub. L. 101–167 substituted "April 1, 1991" for "April 1, 1990".

1987—Subsec. (d). Pub. L. 100–202 substituted "April 1, 1990" for "September 30, 1987".

1985—Subsec. (e). Pub. L. 99–83 added subsec. (e).

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–236 effective 60 days after Apr. 30, 1994, see section 831 of Pub. L. 103–236, set out as an Effective Date note under section 6301 of this title.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–83 effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as a note under section 2151–1 of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

STRATEGY FOR THE UNITED STATES RELATIONSHIP WITH PAKISTAN

Pub. L. 110–53, title XX, §2042(a)–(f), Aug. 3, 2007, 121 Stat. 520–523, provided that:

"(a) CONGRESSIONAL FINDINGS.—Congress finds the following:

"(1) A democratic, stable, and prosperous Pakistan that is a full and reliable partner in the struggle against the Taliban, al Qaeda, and other terrorist groups, and is a responsible steward of its nuclear weapons and technology, is vital to the national security of the United States.

"(2) Since September 11, 2001, the Government of Pakistan has been a critical ally and an important partner in removing the Taliban regime in Afghanistan and combating al Qaeda.

"(3) Pakistan has made great sacrifices in the shared struggle against al Qaeda-affiliated terrorist groups, engaging in military operations that have led to the deaths of hundreds of Pakistani security personnel and enduring acts of terrorism that have killed hundreds of Pakistani civilians.

"(4) Publicly-stated goals of the Government of Pakistan and the national interests of the United States are in close agreement in many areas, including—

"(A) curbing the proliferation of nuclear weapons technology;

"(B) combating poverty and corruption;

"(C) enabling effective government institutions, including public education;

"(D) promoting democracy and the rule of law, particularly at the national level;

"(E) addressing the continued presence of Taliban and other violent extremist forces throughout the country;

"(F) maintaining the authority of the Government of Pakistan in all parts of its national territory;

"(G) securing the borders of Pakistan to prevent the movement of militants and terrorists into other countries and territories; and

"(H) effectively dealing with violent extremism.

"(5) The opportunity exists for shared effort in helping to achieve correlative goals with the Government of Pakistan, particularly—

"(A) increased United States assistance to Pakistan, as appropriate, to achieve progress in meeting the goals of subparagraphs (A) through (C) of paragraph (4);

"(B) increased commitment on the part of the Government of Pakistan to achieve the goals of paragraph (4)(D), particularly given continued concerns, based on the conduct of previous elections, regarding whether parliamentary elections scheduled for 2007 will be free, fair, and inclusive of all political parties and carried out in full accordance with internationally-recognized democratic norms; and

"(C) increased commitment on the part of the Government of Pakistan to take actions described in paragraph (4)(E), particularly given—

"(i) the continued operation of the Taliban's Quetta shura, as noted by then-North Atlantic Treaty Organization Supreme Allied Commander General James Jones in testimony before the Senate Foreign Relations Committee on September 21, 2006; and

"(ii) the continued operation of al Qaeda affiliates Lashkar-e Taiba and Jaish-e Muhammad, sometimes under different names, as demonstrated by the lack of meaningful action taken against Hafiz Muhammad Saeed, Maulana Masood Azhar, and other known leaders and members of such terrorist organizations; and

"(D) increased commitment on the part of the Government of the United States in regard to working with all elements of Pakistan [sic] society in helping to achieve the correlative goals described in subparagraphs (A) through (H) of paragraph (4).

"(b) STATEMENTS OF POLICY.—The following shall be the policy of the United States:

"(1) To maintain and deepen its friendship and long-term strategic relationship with Pakistan.

"(2) To work with the Government of Pakistan to combat international terrorism, especially in the frontier provinces of Pakistan, and to end the use of Pakistan as a safe haven for terrorist groups, including those associated with al Qaeda or the Taliban.

"(3) To support robust funding for programs of the United States Agency for International Development and the Department of State that assist the Government of Pakistan in working toward the goals described in subsection (a)(4), as the Government of Pakistan demonstrates a clear commitment to building a moderate, democratic state.

"(4) To work with the international community to secure additional financial and political support to effectively implement the policies set forth in this subsection.

"(5) To facilitate a just resolution of the dispute over the territory of Kashmir, to the extent that such facilitation is invited and welcomed by the Governments of Pakistan and India and by the people of Kashmir.

"(6) To facilitate greater communication and cooperation between the Governments of Afghanistan and Pakistan for the improvement of bilateral relations and cooperation in combating terrorism in both countries.

"(7) To work with the Government of Pakistan to dismantle existing proliferation networks and prevent the proliferation of nuclear technology.

"(c) STRATEGY RELATING TO PAKISTAN.—

"(1) REQUIREMENT FOR REPORT ON STRATEGY.—Not later than 90 days after the date of the enactment of this Act [Aug. 3, 2007], the President shall transmit to the appropriate congressional committees a report that describes the long-term strategy of the United States to engage with the Government of Pakistan to achieve the goals described in subparagraphs (A) through (H) of subsection (a)(4) and to carry out the policies described in subsection (b).

"(2) FORM.—The report required by paragraph (1) shall be transmitted in unclassified form, but may include a classified annex, if necessary.

"(d) LIMITATION ON UNITED STATES SECURITY ASSISTANCE TO PAKISTAN.—

"(1) LIMITATION.—For fiscal year 2008, United States assistance under chapter 2 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2311 et seq.) or section 23 of the Arms Export Control Act (22 U.S.C. 2763) may not be provided to, and a license for any item controlled under the Arms Export Control Act (22 U.S.C. 2751 et seq.) may not be approved for, Pakistan until the President transmits to the appropriate congressional committees a report that contains a determination of the President that the Government of Pakistan—

"(A) is committed to eliminating from Pakistani territory any organization such as the Taliban, al Qaeda, or any successor, engaged in military, insurgent, or terrorist activities in Afghanistan;

"(B) is undertaking a comprehensive military, legal, economic, and political campaign to achieving the goal described in subparagraph (A); and

"(C) is currently making demonstrated, significant, and sustained progress toward eliminating support or safe haven for terrorists.

"(2) MEMORANDUM OF JUSTIFICATION.—The President shall include in the report required by paragraph (1) a memorandum of justification setting forth the basis for the President's determination under paragraph (1).

"(3) FORM.—The report required by paragraph (1) and the memorandum of justification required by paragraph (2) shall be transmitted in unclassified form, but may include a classified annex, if necessary.

"(e) NUCLEAR PROLIFERATION.—

"(1) CONGRESSIONAL FINDING.—Congress finds that the maintenance by any country of a procurement or supply network for the illicit proliferation of nuclear and missile technologies would be inconsistent with that country being considered an ally of the United States.

"(2) SENSE OF CONGRESS.—It is the sense of Congress that the national security interest of the United States will best be served if the United States develops and implements a long-term strategy to improve the United States relationship with Pakistan and works with the Government of Pakistan to stop nuclear proliferation.

"(f) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There is authorized to be appropriated to the President such sums as may be necessary to provide assistance described in subsection (d)(1) for Pakistan for fiscal year 2008 in accordance with the requirements of subsection (d)(1).

"(2) OTHER FUNDS.—Amounts authorized to be appropriated under this subsection are in addition to amounts otherwise available for such purposes.

"(3) DECLARATION OF POLICY.—Congress declares that the amount of funds appropriated pursuant to the authorization of appropriations under paragraph (1) and for subsequent fiscal years shall be determined by the extent to which the Government of Pakistan displays demonstrable progress in—

"(A) preventing al Qaeda and other terrorist organizations from operating in the territory of Pakistan, including eliminating terrorist training camps or facilities, arresting members and leaders of terrorist organizations, and countering recruitment efforts;

"(B) preventing the Taliban from using the territory of Pakistan as a sanctuary from which to launch attacks within Afghanistan, including by arresting Taliban leaders, stopping cross-border incursions, and countering recruitment efforts; and

"(C) implementing democratic reforms, including allowing free, fair, and inclusive elections at all levels of government in accordance with internationally-recognized democratic norms, and respecting the independence of the press and judiciary.

"(4) BIANNUAL REPORTS TO CONGRESS.—

"(A) IN GENERAL.—The Secretary of State shall submit to the appropriate congressional committees a biannual report describing in detail the extent to which the Government of Pakistan has displayed demonstrable progress in meeting the goals described in subparagraphs (A) through (C) of paragraph (3).

"(B) SCHEDULE FOR SUBMISSION.—The report required by subparagraph (A) shall be submitted not later than April 15 and October 15 of each year until October 15, 2009.

"(C) FORM.—The report required by subparagraph (A) shall be submitted in unclassified form, but may include a classified annex, if necessary."

[For definition of "appropriate congressional committees" as used in section 2042(a)–(f) of Pub. L. 110–53, set out above, see section 2002 of Pub. L. 110–53, set out as a note under section 2151 of this title.]

[Functions of President under section 2042(c)(1), (d) of Pub. L. 110–53, set out above, assigned to Secretary of State by Memorandum of President of the United States, Sept. 28, 2007, 72 F.R. 56871, set out as a note under section 2228 of this title.]

NUCLEAR NON-PROLIFERATION CONDITIONS ON ASSISTANCE FOR PAKISTAN

Determination of President of the United States, No. 90–15, Mar. 28, 1990, 55 F.R. 17417, provided:

Memorandum for the Secretary of State

By the authority vested in me as President by the Constitution and laws of the United States of America, including section 620E(d) of the Foreign Assistance Act of 1961, as amended ("the Act") (22 U.S.C. 2375(d)), I hereby determine, pursuant to section 620E(d) of the Act, that provision of assistance to Pakistan under the Act [22 U.S.C. 2151 et seq.] through April 1, 1991, is in the national interest of the United States, and therefore waive the prohibitions of section 669 of the Act (22 U.S.C. 2429) with respect to that period.

You are authorized and directed to transmit this determination, together with the statement setting forth specific reasons therefor, to the Congress immediately.

This determination shall be published in the Federal Register.

GEORGE BUSH.

Prior determinations and certifications were contained in the following:

Determination of President of the United States, No. 90–1, Oct. 5, 1989, 54 F.R. 43797.

Determination of President of the United States, No. 89–7, Nov. 18, 1988, 53 F.R. 49111.

Determination of President of the United States, No. 88–5, Jan. 15, 1988, 53 F.R. 3325.

Determination of President of the United States, No. 88–4, Dec. 17, 1987, 53 F.R. 773.
Determination of President of the United States, No. 87–3, Oct. 27, 1986, 51 F.R. 40301.
Determination of President of the United States, No. 86–03, Nov. 25, 1985, 50 F.R. 50273.

WAIVER OF SANCTIONS

Sanctions contained in subsec. (e) waived in certain regards with respect to India by Determination of President of the United States, No. 2000–18, Mar. 16, 2000, 65 F.R. 16297, set out as a note under section 2799aa–1 of this title.

Sanctions contained in subsec. (e) waived in certain regards by Determination of President of the United States, No. 2000–4, Oct. 27, 1999, 64 F.R. 60649, set out as a note under section 2799aa–1 of this title.

§2376. Nuclear non-proliferation policy in South Asia

(a) Findings

The Congress finds that—

(1) the proliferation of weapons of mass destruction remains one of the most serious threats to international peace and stability;

(2) South Asia, in particular, is an area where the threat of a regional nuclear exchange remains high due to continued Indo-Pakistani tensions over issues such as Kashmir;

(3) to date, United States efforts to halt proliferation in South Asia have failed;

(4) although global disarmament is a desirable goal which should be vigorously pursued, both regional and sub-regional security arrangements can serve to decrease tensions and promote non-proliferation in certain areas;

(5) thus far, there has been some success on a regional basis, such as the South Pacific Nuclear Weapons Free Zone and the Treaty of Tlatelolco in Latin America;

(6) in particular, in Latin America, the Treaty of Tlatelolco has been signed by all the nuclear powers;

(7) a critical part of this treaty is Protocol II which prohibits nuclear attacks by nuclear weapons states on signatories to the treaty;

(8) in 1991, a proposal was made for a regional conference on non-proliferation in South Asia which would include Pakistan, India, the People's Republic of China, the Soviet Union, and the United States; and

(9) thus far, Pakistan, China, Russia, and the United States have expressed interest in attending such a conference, whereas India has refused to attend.

(b) Policy

It is the sense of the Congress that the President should pursue a policy which seeks a regional negotiated solution to the issue of nuclear non-proliferation in South Asia at the earliest possible time, including a protocol to be signed by all nuclear weapons states, prohibiting nuclear attacks by nuclear weapons states on countries in the region. Such a policy should have as its ultimate goal concurrent accession by Pakistan and India to the Nuclear Non-Proliferation Treaty, and should also include as needed a phased approach to that goal through a series of agreements among the parties on nuclear issues, such as the agreement reached by Pakistan and India not to attack one another's nuclear facilities.

(Pub. L. 87–195, pt. III, §620F, as added Pub. L. 102–391, title V, §585(a), Oct. 6, 1992, 106 Stat. 1688; amended Pub. L. 105–277, div. G, subdiv. B, title XXII, §2219(b), Oct. 21, 1998, 112 Stat. 2681–817; Pub. L. 113–188, title XIV, §1401, Nov. 26, 2014, 128 Stat. 2023.)

AMENDMENTS

2014—Subsec. (c). Pub. L. 113–188 struck out subsec. (c). Text read as follows: "Not later than April 1 of each year, the President shall submit a report to the Committees on Appropriations, the Speaker of the House of Representatives, and the chairman of the Committee on Foreign Relations of the Senate, on nuclear

proliferation in South Asia, including efforts taken by the United States to achieve a regional agreement on nuclear non-proliferation, and including a comprehensive list of the obstacles to concluding such a regional agreement."

1998—Subsec. (c). Pub. L. 105–277, which directed the substitution of "Not later than April 1 of each year," for "Not later than April 1, 1993 and every six months thereafter," was executed by making the substitution for text which contained a comma after "1993" to reflect the probable intent of Congress.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

DELEGATION OF AUTHORITY WITH RESPECT TO REPORTS TO CONGRESS CONCERNING PROGRESS TOWARD NONPROLIFERATION IN SOUTH ASIA

Memorandum of President of the United States, Mar. 30, 1994, 59 F.R. 17229, delegated to the Secretary of State the reporting functions vested in the President by former subsec. (c) of this section.

§2377. Prohibition on assistance to countries that aid terrorist states

(a) Withholding of assistance

The President shall withhold assistance under this chapter to the government of any country that provides assistance to the government of any other country for which the Secretary of State has made a determination under section 2371 of this title.

(b) Waiver

Assistance prohibited by this section may be furnished to a foreign government described in subsection (a) if the President determines that furnishing such assistance is important to the national interests of the United States and, not later than 15 days before obligating such assistance, furnishes a report to the appropriate committees of Congress including—

(1) a statement of the determination;

(2) a detailed explanation of the assistance to be provided;

(3) the estimated dollar amount of the assistance; and

(4) an explanation of how the assistance furthers United States national interests.

(Pub. L. 87–195, pt. III, §620G, as added Pub. L. 104–132, title III, §325, Apr. 24, 1996, 110 Stat. 1256.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

PRIOR PROVISIONS

Another section 620G of Pub. L. 87–195 was renumbered section 620J and is classified to section 2378a of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

CONGRESSIONAL FINDINGS

Pub. L. 104–132, title III, §324, Apr. 24, 1996, 110 Stat. 1255, provided that: "The Congress finds that—

"(1) international terrorism is among the most serious transnational threats faced by the United States and its allies, far eclipsing the dangers posed by population growth or pollution;

"(2) the President should continue to make efforts to counter international terrorism a national security priority;

"(3) because the United Nations has been an inadequate forum for the discussion of cooperative, multilateral responses to the threat of international terrorism, the President should undertake immediate efforts to develop effective multilateral responses to international terrorism as a complement to national

counter terrorist efforts;

"(4) the President should use all necessary means, including covert action and military force, to disrupt, dismantle, and destroy international infrastructure used by international terrorists, including overseas terrorist training facilities and safe havens;

"(5) the Congress deplores decisions to ease, evade, or end international sanctions on state sponsors of terrorism, including the recent decision by the United Nations Sanctions Committee to allow airline flights to and from Libya despite Libya's noncompliance with United Nations resolutions; and

"(6) the President should continue to undertake efforts to increase the international isolation of state sponsors of international terrorism, including efforts to strengthen international sanctions, and should oppose any future initiatives to ease sanctions on Libya or other state sponsors of terrorism."

"ASSISTANCE" DEFINED

Assistance defined for purposes of title III of Pub. L. 104–132, see section 329 of Pub. L. 104–132, set out as a note under section 2349aa–10 of this title.

§2378. Prohibition on assistance to countries that provide military equipment to terrorist states

(a) Prohibition

(1) In general

The President shall withhold assistance under this chapter to the government of any country that provides lethal military equipment to a country the government of which the Secretary of State has determined is a terrorist government for the purposes of section 4605(j) of title 50, or 2371 of this title.

(2) Applicability

The prohibition under this section with respect to a foreign government shall terminate 1 year after that government ceases to provide lethal military equipment. This section applies with respect to lethal military equipment provided under a contract entered into after April 24, 1996.

(b) Waiver

Notwithstanding any other provision of law, assistance may be furnished to a foreign government described in subsection (a) if the President determines that furnishing such assistance is important to the national interests of the United States and, not later than 15 days before obligating such assistance, furnishes a report to the appropriate committees of Congress including—

(1) a statement of the determination;

(2) a detailed explanation of the assistance to be provided;

(3) the estimated dollar amount of the assistance; and

(4) an explanation of how the assistance furthers United States national interests.

(Pub. L. 87–195, pt. III, §620H, as added Pub. L. 104–132, title III, §326, Apr. 24, 1996, 110 Stat. 1256.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(1), was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

CODIFICATION

April 24, 1966, referred to in subsec. (a)(2), was in the original "the date of enactment of this Act", which was translated as meaning the date of enactment of Pub. L. 104–132, which enacted this section, to reflect the probable intent of Congress.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

"ASSISTANCE" DEFINED

Assistance defined for purposes of title III of Pub. L. 104–132, see section 329 of Pub. L. 104–132, set out as a note under section 2349aa–10 of this title.

§2378–1. Prohibition on assistance to countries that restrict United States humanitarian assistance

(a) In general

No assistance shall be furnished under this chapter or the Arms Export Control Act [22 U.S.C. 2751 et seq.] to any country when it is made known to the President that the government of such country prohibits or otherwise restricts, directly or indirectly, the transport or delivery of United States humanitarian assistance.

(b) Exception

Assistance may be furnished without regard to the restriction in subsection (a) if the President determines that to do so is in the national security interest of the United States.

(c) Notice

Prior to making any determination under subsection (b), the President shall notify the Committee on International Relations, the Committee on Foreign Relations, and the Committees on Appropriations of the Senate and House of Representatives of his intention to make such a determination, the effective date of the determination, and the reasons for making the determination.

(Pub. L. 87–195, pt. III, §620I, as added Pub. L. 104–208, div. A, title I, §101(c) [title V, §559], Sept. 30, 1996, 110 Stat. 3009–121, 3009–161.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

The Arms Export Control Act, referred to in subsec. (a), is Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1320, as amended, which is classified principally to chapter 39 (§2751 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

CHANGE OF NAME

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§2378a. Depleted uranium ammunition

(a) Prohibition

Except as provided in subsection (b), none of the funds made available to carry out this chapter or any other Act may be made available to facilitate in any way the sale of M–833 antitank shells or any comparable antitank shells containing a depleted uranium penetrating component to any country other than—

(1) a country that is a member of the North Atlantic Treaty Organization;

(2) a country that has been designated as a major non-NATO ally (as defined in section 2403(q) of this title); or

(3) Taiwan.

(b) Exception

The prohibition contained in subsection (a) shall not apply with respect to the use of funds to facilitate the sale of antitank shells to a country if the President determines that to do so is in the national security interest of the United States.

(Pub. L. 87–195, pt. III, §620J, formerly §620G, as added Pub. L. 104–164, title I, §149, July 21, 1996, 110 Stat. 1436; renumbered §620J, Pub. L. 109–446, §2(b)(1), Dec. 21, 2006, 120 Stat. 3318.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

CODIFICATION

Another section 620J of Pub. L. 87–195 was renumbered section 620m and is classified to section 2378d of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§2378b. Limitation on assistance to the Palestinian authority

(a) Limitation

Assistance may be provided under this chapter to the Hamas-controlled Palestinian Authority only during a period for which a certification described in subsection (b) is in effect.

(b) Certification

A certification described in subsection (a) is a certification transmitted by the President to Congress that contains a determination of the President that—

(1) no ministry, agency, or instrumentality of the Palestinian Authority is effectively controlled by Hamas, unless the Hamas-controlled Palestinian Authority has—

(A) publicly acknowledged the Jewish state of Israel's right to exist; and

(B) committed itself and is adhering to all previous agreements and understandings with the United States Government, with the Government of Israel, and with the international community, including agreements and understandings pursuant to the Performance-Based Roadmap to a Permanent Two-State Solution to the Israeli-Palestinian Conflict (commonly referred to as the "Roadmap"); and

(2) the Hamas-controlled Palestinian Authority has made demonstrable progress toward—

(A) completing the process of purging from its security services individuals with ties to terrorism;

(B) dismantling all terrorist infrastructure within its jurisdiction, confiscating unauthorized weapons, arresting and bringing terrorists to justice, destroying unauthorized arms factories, thwarting and preempting terrorist attacks, and fully cooperating with Israel's security services;

(C) halting all anti-American and anti-Israel incitement in Palestinian Authority-controlled electronic and print media and in schools, mosques, and other institutions it controls, and replacing educational materials, including textbooks, with materials that promote peace, tolerance, and coexistence with Israel;

(D) ensuring democracy, the rule of law, and an independent judiciary, and adopting other reforms such as ensuring transparent and accountable governance; and

(E) ensuring the financial transparency and accountability of all government ministries and operations.

(c) Recertifications

Not later than 90 days after the date on which the President transmits to Congress an initial

certification under subsection (b), and every six months thereafter—

(1) the President shall transmit to Congress a recertification that the conditions described in subsection (b) are continuing to be met; or

(2) if the President is unable to make such a recertification, the President shall transmit to Congress a report that contains the reasons therefor.

(d) Congressional notification

Assistance made available under this chapter to the Palestinian Authority may not be provided until 15 days after the date on which the President has provided notice thereof to the appropriate congressional committees in accordance with the procedures applicable to reprogramming notifications under section 2394–1(a) of this title.

(e) National security waiver

(1) In general

Subject to paragraph (2), the President may waive subsection (a) with respect to—

(A) the administrative and personal security costs of the Office of the President of the Palestinian Authority;

(B) the activities of the President of the Palestinian Authority to fulfill his or her duties as President, including to maintain control of the management and security of border crossings, to foster the Middle East peace process, and to promote democracy and the rule of law; and

(C) assistance for the judiciary branch of the Palestinian Authority and other entities.

(2) Certification

The President may only exercise the waiver authority under paragraph (1) after—

(A) consulting with, and submitting a written policy justification to, the appropriate congressional committees; and

(B) certifying to the appropriate congressional committees that—

(i) it is in the national security interest of the United States to provide assistance otherwise prohibited under subsection (a); and

(ii) the individual or entity for which assistance is proposed to be provided is not a member of, or effectively controlled by (as the case may be), Hamas or any other foreign terrorist organization.

(3) Report

Not later than 10 days after exercising the waiver authority under paragraph (1), the President shall submit to the appropriate congressional committees a report describing how the funds provided pursuant to such waiver will be spent and detailing the accounting procedures that are in place to ensure proper oversight and accountability.

(4) Treatment of certification as notification of program change

For purposes of this subsection, the certification required under paragraph (2)(B) shall be deemed to be a notification under section 2394–1 of this title and shall be considered in accordance with the procedures applicable to notifications submitted pursuant to that section.

(f) Definitions

In this section:

(1) Appropriate congressional committees

The term "appropriate congressional committees" means—

(A) the Committee on International Relations and the Committee on Appropriations of the House of Representatives; and

(B) the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

(2) Foreign terrorist organization

The term "foreign terrorist organization" means an organization designated as a foreign terrorist organization by the Secretary of State in accordance with section 1189(a) of title 8.

(3) Palestinian Authority

The term "Palestinian Authority" means the interim Palestinian administrative organization that governs part of the West Bank and all of the Gaza Strip (or any successor Palestinian governing entity), including the Palestinian Legislative Council.

(Pub. L. 87–195, pt. III, §620K, as added, Pub. L. 109–446, §2(b)(2), Dec. 21, 2006, 120 Stat. 3318.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (d), was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

CHANGE OF NAME

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

PALESTINIAN ANTI-TERRORISM ACT OF 2006

Pub. L. 109–446, Dec. 21, 2006, 120 Stat. 3318, as amended by Pub. L. 114–323, title VII, §715(b)(3), Dec. 16, 2016, 130 Stat. 1946, provided that:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Palestinian Anti-Terrorism Act of 2006'.

"SEC. 2. LIMITATION ON ASSISTANCE TO THE PALESTINIAN AUTHORITY.

"(a) DECLARATION OF POLICY.—It shall be the policy of the United States—

"(1) to support a peaceful, two-state solution to end the conflict between Israel and the Palestinians in accordance with the Performance-Based Roadmap to a Permanent Two-State Solution to the Israeli-Palestinian Conflict (commonly referred to as the 'Roadmap');

"(2) to oppose those organizations, individuals, and countries that support terrorism and violently reject a two-state solution to end the Israeli-Palestinian conflict;

"(3) to promote the rule of law, democracy, the cessation of terrorism and incitement, and good governance in institutions and territories controlled by the Palestinian Authority; and

"(4) to urge members of the international community to avoid contact with and refrain from supporting the terrorist organization Hamas until it agrees to recognize Israel, renounce violence, disarm, and accept prior agreements, including the Roadmap.

"(b) AMENDMENTS.—

"(1) [Amended section 2378a of this title.]

"(2) [Enacted this section.]

"(c) PREVIOUSLY OBLIGATED FUNDS.—The provisions of section 620K of the Foreign Assistance Act of 1961 [22 U.S.C. 2378b], as added by subsection (b), shall be applicable to the unexpended balances of funds obligated prior to the date of the enactment of this Act [Dec. 21, 2006].

"SEC. 3. LIMITATION ON ASSISTANCE FOR THE WEST BANK AND GAZA.

"(a) AMENDMENT.—[Enacted section 2378c of this title.]

"(b) OVERSIGHT AND RELATED REQUIREMENTS.—

"(1) OVERSIGHT.—For each of the fiscal years 2007 and 2008, the Secretary of State shall certify to the appropriate congressional committees not later than 30 days prior to the initial obligation of amounts for assistance to nongovernmental organizations for the West Bank or Gaza under the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.] that procedures have been established to ensure that the Comptroller General of the United States will have access to appropriate United States financial information in order to review the use of such assistance.

"(2) VETTING.—Prior to any obligation of amounts for each of the fiscal years 2007 and 2008 for assistance to nongovernmental organizations for the West Bank or Gaza under the Foreign Assistance Act of 1961, the Secretary of State shall take all appropriate steps to ensure that such assistance is not provided to or through any individual or entity that the Secretary knows, or has reason to believe, advocates, plans, sponsors, engages in, or has engaged in, terrorist activity. The Secretary shall, as appropriate, establish procedures specifying the steps to be taken in carrying out this paragraph and shall terminate assistance to any individual or entity that the Secretary has determined advocates, plans, sponsors, or engages in terrorist activity.

"(3) PROHIBITION.—No amounts made available for fiscal year 2007 or 2008 for assistance to

nongovernmental organizations for the West Bank or Gaza under the Foreign Assistance Act of 1961 may be made available for the purpose of recognizing or otherwise honoring individuals who commit, or have committed, acts of terrorism.

"(4) AUDITS.—

"(A) IN GENERAL.—The Administrator of the United States Agency for International Development shall ensure that Federal or non-Federal audits of all contractors and grantees, and significant subcontractors and subgrantees, that receive amounts for assistance to nongovernmental organizations for the West Bank or Gaza under the Foreign Assistance Act of 1961 are conducted for each of the fiscal years 2007 and 2008 to ensure, among other things, compliance with this subsection.

"(B) AUDITS BY INSPECTOR GENERAL OF USAID.—Of the amounts available for each of the fiscal years 2007 and 2008 for assistance to nongovernmental organizations for the West Bank or Gaza under the Foreign Assistance Act of 1961, up to $1,000,000 for each such fiscal year may be used by the Office of the Inspector General of the United States Agency for International Development for audits, inspections, and other activities in furtherance of the requirements of subparagraph (A). Such amounts are in addition to amounts otherwise available for such purposes.

"SEC. 4. DESIGNATION OF TERRITORY CONTROLLED BY THE PALESTINIAN AUTHORITY AS TERRORIST SANCTUARY.

"It is the sense of Congress that, during any period for which a certification described in section 620K(b) of the Foreign Assistance Act of 1961 [22 U.S.C. 2378b(b)] (as added by section 2(b)(2) of this Act) is not in effect with respect to the Palestinian Authority, the territory controlled by the Palestinian Authority should be deemed to be in use as a sanctuary for terrorists or terrorist organizations for purposes of section 6(j)(5) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(5)) [now 50 U.S.C. 4605(j)(5)] and section 140 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f).

"SEC. 5. DENIAL OF VISAS FOR OFFICIALS OF THE PALESTINIAN AUTHORITY.

"(a) IN GENERAL.—Except as provided in subsection (b), a visa should not be issued to any alien who is an official of, under the control of, or serving as a representative of the Hamas-led Palestinian Authority during any period for which a certification described in section 620K(b) of the Foreign Assistance Act of 1961 [22 U.S.C. 2378b(b)] (as added by section 2(b)(2) of this Act) is not in effect with respect to the Palestinian Authority.

"(b) EXCEPTION.—The restriction under subsection (a) should not apply to—

"(1) the President of the Palestinian Authority and his or her personal representatives, provided that the President and his or her personal representatives are not affiliated with Hamas or any other foreign terrorist organization; and

"(2) members of the Palestinian Legislative Council who are not members of Hamas or any other foreign terrorist organization.

"SEC. 6. TRAVEL RESTRICTIONS ON OFFICIALS AND REPRESENTATIVES OF THE PALESTINIAN AUTHORITY AND THE PALESTINE LIBERATION ORGANIZATION STATIONED AT THE UNITED NATIONS IN NEW YORK CITY.

"(a) IN GENERAL.—Notwithstanding any other provision of law, and except as provided in subsection (b), the President should restrict the travel of officials and representatives of the Palestinian Authority and of the Palestine Liberation Organization, who are stationed at the United Nations in New York City to a 25-mile radius of the United Nations headquarters building during any period for which a certification described in section 620K(b) of the Foreign Assistance Act of 1961 [22 U.S.C. 2378b(b)] (as added by section 2(b)(2) of this Act) is not in effect with respect to the Palestinian Authority.

"(b) EXCEPTION.—The travel restrictions described in subsection (a) should not apply to the President of the Palestinian Authority and his or her personal representatives, provided that the President and his or her personal representatives are not affiliated with Hamas or any other foreign terrorist organization.

"SEC. 7. PROHIBITION ON PALESTINIAN AUTHORITY REPRESENTATION IN THE UNITED STATES.

"(a) PROHIBITION.—Notwithstanding any other provision of law, it shall be unlawful to establish or maintain an office, headquarters, premises, or other facilities or establishments within the jurisdiction of the United States at the behest or direction of, or with funds provided by, the Palestinian Authority during any period for which a certification described in section 620K(b) of the Foreign Assistance Act of 1961 [22 U.S.C. 2378b(b)] (as added by section 2(b)(2) of this Act) is not in effect with respect to the Palestinian Authority.

"(b) ENFORCEMENT.—

"(1) ATTORNEY GENERAL.—The Attorney General shall take the necessary steps and institute the

necessary legal action to effectuate the policies and provisions of subsection (a).

"(2) RELIEF.—Any district court of the United States for a district in which a violation of subsection (a) occurs shall have authority, upon petition of relief by the Attorney General, to grant injunctive and such other equitable relief as it shall deem necessary to enforce the provisions of subsection (a).

"(c) WAIVER.—Subsection (a) shall not apply if the President determines and certifies to the appropriate congressional committees that the establishment or maintenance of an office, headquarters, premises, or other facilities is vital to the national security interests of the United States.

"SEC. 8. INTERNATIONAL FINANCIAL INSTITUTIONS.

"(a) REQUIREMENT.—The President should direct the United States Executive Director at each international financial institution to use the voice, vote, and influence of the United States to prohibit assistance to the Palestinian Authority (other than assistance described under subsection (b)) during any period for which a certification described in section 620K(b) of the Foreign Assistance of 1961 [22 U.S.C. 2378b(b)] (as added by section 2(b)(2) of this Act) is not in effect with respect to the Palestinian Authority.

"(b) EXCEPTIONS.—The prohibition on assistance described in subsection (a) should not apply with respect to the following types of assistance:

"(1) Assistance to meet food, water, medicine, or sanitation needs, or other assistance to meet basic human needs.

"(2) Assistance to promote democracy, human rights, freedom of the press, non-violence, reconciliation, and peaceful coexistence, provided that such assistance does not directly benefit Hamas or other foreign terrorist organizations.

"(c) DEFINITION.—In this section, the term 'international financial institution' has the meaning given the term in section 1701(c)(2) of the International Financial Institutions Act (22 U.S.C. 262r(c)(2)).

"SEC. 9. DIPLOMATIC CONTACTS WITH PALESTINIAN TERROR ORGANIZATIONS.

"No funds authorized or available to the Department of State may be used for or by any officer or employee of the United States Government to negotiate with members or official representatives of Hamas, Palestinian Islamic Jihad, the Popular Front for the Liberation of Palestine, al-Aqsa Martyrs Brigade, or any other Palestinian terrorist organization (except in emergency or humanitarian situations), unless and until such organization—

"(1) recognizes Israel's right to exist;

"(2) renounces the use of terrorism;

"(3) dismantles the infrastructure in areas within its jurisdiction necessary to carry out terrorist acts, including the disarming of militias and the elimination of all instruments of terror; and

"(4) recognizes and accepts all previous agreements and understandings between the State of Israel and the Palestinian Authority.

"SEC. 10. ISRAELI–PALESTINIAN PEACE, RECONCILIATION AND DEMOCRACY FUND.

"(a) ESTABLISHMENT OF FUND.—Not later than 60 days after the date of the enactment of this Act [Dec. 21, 2006], the Secretary of State shall establish a fund to be known as the 'Israeli-Palestinian Peace, Reconciliation and Democracy Fund' (in this section referred to as the 'Fund'). The purpose of the Fund shall be to support, primarily, through Palestinian and Israeli organizations, the promotion of democracy, human rights, freedom of the press, and non-violence among Palestinians, and peaceful coexistence and reconciliation between Israelis and Palestinians.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of State $20,000,000 for fiscal year 2007 for purposes of the Fund.

"SEC. 11. REPORTING REQUIREMENT.

"Not later than 90 days after the date of the enactment of this Act [Dec. 21, 2006], and annually thereafter, the Secretary of State shall submit to the appropriate congressional committees a report that—

"(1) describes the steps that have been taken by the United States Government to ensure that other countries and international organizations, including multilateral development banks, do not provide direct assistance to the Palestinian Authority for any period for which a certification described in section 620K(b) of the Foreign Assistance Act of 1961 [22 U.S.C. 2378b(b)] (as added by section 2(b)(2) of this Act) is not in effect with respect to the Palestinian Authority; and

"(2) identifies any countries and international organizations, including multilateral development banks, that are providing direct assistance to the Palestinian Authority during such a period, and describes the nature and amount of such assistance.

"SEC. 12. DEFINITIONS.

"In this Act:

"(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term 'appropriate congressional committees' means—

"(A) the Committee on International Relations [now Committee on Foreign Affairs] and the Committee on Appropriations of the House of Representatives; and

"(B) the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

"(2) PALESTINIAN AUTHORITY.—The term 'Palestinian Authority' has the meaning given the term in section 620K(e)(2) of the Foreign Assistance Act of 1961 [22 U.S.C. 2378b(e)(2)] (as added by section 2(b)(2) of this Act)."

ASSISTANCE FOR THE WEST BANK AND GAZA

Determination of President of the United States, No. 2007–20, June 1, 2007, 72 F.R. 34973, provided:

Memorandum for the Secretary of State

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 550(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2006 (FOAA)(Public Law 109–102), as amended by the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006 (Public Law 109–234), sections 620K(e) and 620L(b)(4) of the Foreign Assistance Act [of 1961], as added by the Palestinian Anti-Terrorism Act of 2006 (Public Law 109–446), and section 301 of title 3, United States Code, I hereby certify and report that:

With respect to the provision of assistance for the administrative and personal security costs of the Office of the President of the Palestinian Authority; for the activities of the President of the Palestinian Authority to promote democracy, peaceful resolution of the Israeli-Palestinian conflict, and the rule of law and to fulfill his duties as President, including, among other things, to maintain control of the management and security of border crossings and to foster the Middle East peace process; and, with respect to independent agencies:

• it is in the national security interest of the United States to provide such assistance;

• as the case may be, the President of the Palestinian Authority, the President's party, and independent agencies and any members thereof, including any individual or entity for which assistance is proposed to be provided, are not members of, appointed by, or effectively controlled by Hamas or any other foreign terrorist organization; and

• such assistance provided hereunder will not be transferred or retransferred to any member of Hamas or other foreign terrorist organization or to any entity effectively controlled by Hamas or other foreign terrorist organization.

Accordingly, I hereby waive section 550(a) of the FOAA, as amended, and section 620K(a) of the Foreign Assistance Act, as amended, with respect to such assistance, and authorize such assistance for the above purposes.

Furthermore, I hereby determine that, with respect to assistance to nongovernmental organizations for the West Bank and Gaza other than assistance covered by paragraphs (b)(1), (2), and (3) of section 620L of the Foreign Assistance Act, as amended, it is in the national security interest of the United States to provide such assistance as the Secretary of State deems appropriate, and assign to the Secretary of State the functions under section 620L(b)(4)(B) regarding the specific programs, projects, and activities to be carried out using such assistance.

I also hereby assign the functions of the President under section 550(b) and (c) of the FOAA, as amended and as carried forward under the Revised Continuing Appropriations Resolution, 2007 (Public Law 110–5), to the Secretary of State.

You are hereby authorized and directed to report this determination to the Congress and publish it in the Federal Register.

GEORGE W. BUSH.

§2378c. Limitation on assistance for the West Bank and Gaza

(a) Limitation

Assistance may be provided under this chapter to nongovernmental organizations for the West Bank and Gaza only during a period for which a certification described in section 2378b(b) of this title is in effect with respect to the Palestinian Authority.

(b) Exceptions

Subsection (a) shall not apply with respect to the following:

(1) Assistance to meet basic human needs

Assistance to meet food, water, medicine, health, or sanitation needs, or other assistance to meet basic human needs.

(2) Assistance to promote democracy

Assistance to promote democracy, human rights, freedom of the press, non-violence, reconciliation, and peaceful coexistence, provided that such assistance does not directly benefit Hamas or any other foreign terrorist organization.

(3) Assistance for individual members of the Palestinian Legislative Council

Assistance, other than funding of salaries or salary supplements, to individual members of the Palestinian Legislative Council who the President determines are not members of Hamas or any other foreign terrorist organization, for the purposes of facilitating the attendance of such members in programs for the development of institutions of democratic governance, including enhancing the transparent and accountable operations of such institutions, and providing support for the Middle East peace process.

(4) Other types of assistance

Any other type of assistance if the President—

(A) determines that the provision of such assistance is in the national security interest of the United States; and

(B) not less than 30 days prior to the obligation of amounts for the provision of such assistance—

(i) consults with the appropriate congressional committees regarding the specific programs, projects, and activities to be carried out using such assistance; and

(ii) submits to the appropriate congressional committees a written memorandum that contains the determination of the President under subparagraph (A).

(c) Marking requirement

Assistance provided under this chapter to nongovernmental organizations for the West Bank and Gaza shall be marked as assistance from the American people or the United States Government unless the Secretary of State or, as appropriate, the Administrator of the United States Agency for International Development, determines that such marking will endanger the lives or safety of persons delivering such assistance or would have an adverse effect on the implementation of that assistance.

(d) Congressional notification

Assistance made available under this chapter to nongovernmental organizations for the West Bank and Gaza may not be provided until 15 days after the date on which the President has provided notice thereof to the Committee on International Relations and the Committee on Appropriations of the House of Representatives and to the Committee on Foreign Relations and the Committee on Appropriations of the Senate in accordance with the procedures applicable to reprogramming notifications under section 2394–1(a) of this title.

(e) Definitions

In this section:

(1) Appropriate congressional committees

the [1] term "appropriate congressional committees" means—

(A) the Committee on International Relations and the Committee on Appropriations of the House of Representatives; and

(B) the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

(2) Foreign terrorist organization

The term "foreign terrorist organization" means an organization designated as a foreign terrorist organization by the Secretary of State in accordance with section 1189(a) of title 8.

(Pub. L. 87–195, pt. III, §620L, as added Pub. L. 109–446, §3(a), Dec. 21, 2006, 120 Stat. 3320.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a), (c), and (d), was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

CHANGE OF NAME

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

DELEGATION OF FUNCTIONS

Functions of President under subsec. (b)(4)(B) of this section delegated to Secretary of State by Determination of President of the United States, No. 2007–20, June 1, 2007, 72 F.R. 34973, set out as a note under section 2378b of this title.

[1] *So in original. Probably should be capitalized.*

§2378d. Limitation on assistance to security forces

(a) In general

No assistance shall be furnished under this chapter or the Arms Export Control Act [22 U.S.C. 2751 et seq.] to any unit of the security forces of a foreign country if the Secretary of State has credible information that such unit has committed a gross violation of human rights.

(b) Exception

The prohibition in subsection (a) shall not apply if the Secretary determines and reports to the Committee on Foreign Relations of the Senate, the Committee on Foreign Affairs of the House of Representatives, and the Committees on Appropriations that the government of such country is taking effective steps to bring the responsible members of the security forces unit to justice.

(c) Duty to inform

In the event that funds are withheld from any unit pursuant to this section, the Secretary of State shall promptly inform the foreign government of the basis for such action and shall, to the maximum extent practicable, assist the foreign government in taking effective measures to bring the responsible members of the security forces to justice.

(d) Credible information

The Secretary shall establish, and periodically update, procedures to—

(1) ensure that for each country the Department of State has a current list of all security force units receiving United States training, equipment, or other types of assistance;

(2) facilitate receipt by the Department of State and United States embassies of information from individuals and organizations outside the United States Government about gross violations of human rights by security force units;

(3) routinely request and obtain such information from the Department of Defense, the Central Intelligence Agency, and other United States Government sources;

(4) ensure that such information is evaluated and preserved;

(5) ensure that when an individual is designated to receive United States training, equipment, or other types of assistance the individual's unit is vetted as well as the individual;

(6) seek to identify the unit involved when credible information of a gross violation exists but the identity of the unit is lacking; and

(7) make publicly available, to the maximum extent practicable, the identity of those units for which no assistance shall be furnished pursuant to subsection (a).

(Pub. L. 87–195, pt. III, §620M, formerly §620J, as added Pub. L. 110–161, div. J, title VI, §651,

Dec. 26, 2007, 121 Stat. 2341; renumbered §620M and amended Pub. L. 112–74, div. I, title VII, §7034(k), Dec. 23, 2011, 125 Stat. 1216; Pub. L. 113–76, div. K, title VII, §7034(l), Jan. 17, 2014, 128 Stat. 515.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

The Arms Export Control Act, referred to in subsec. (a), is Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1320, which is classified principally to chapter 39 (§2751 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

AMENDMENTS

2014—Subsec. (d)(5). Pub. L. 113–76 substituted "an individual is designated to receive United States training, equipment, or other types of assistance the individual's unit is vetted as well as the individual;" for "when vetting an individual for eligibility to receive United States training the individual's unit is also vetted;".

2011—Subsec. (a). Pub. L. 112–74, §7034(k)(2), substituted "information" for "evidence" and "a gross violation" for "gross violations".

Subsec. (b). Pub. L. 112–74, §7034(k)(3), substituted "steps" for "measures".

Subsec. (d). Pub. L. 112–74, §7034(k)(4), added subsec. (d).

PART II—ADMINISTRATIVE PROVISIONS

§2381. Exercise of functions

(a) Delegation by President; rules and regulations; utilization of goods and services from private enterprise, and facilities and resources of Federal agencies when not competitive with private enterprise

The President may exercise any functions conferred upon him by this chapter through such agency or officer of the United States Government as he shall direct. The head of any such agency or such officer may from time to time promulgate such rules and regulations as may be necessary to carry out such functions, and may delegate authority to perform any such functions, including, if he shall so specify, the authority successively to redelegate any of such functions to any of his subordinates. In providing technical assistance under this chapter, the head of any such agency or such officer shall utilize, to the fullest extent practicable, goods and professional and other services from private enterprise on a contract basis. In such fields as education, health, housing, or agriculture, the facilities and resources of other Federal agencies shall be utilized when such facilities are particularly or uniquely suitable for technical assistance, are not competitive with private enterprise, and can be made available without interfering unduly with domestic programs.

(b) Eligibility of suppliers; debarment period; causes for debarment; conditions for reinstatement; periodic review

The President shall issue and enforce regulations determining the eligibility of any person to receive funds made available under this chapter. A person may be suspended under such regulations for a temporary period pending the completion of an investigation and any resulting judicial or debarment proceedings, upon cause for belief that such person or an affiliate thereof probably has undertaken conduct which constitutes a cause for debarment; and, after an opportunity has been afforded to such person for a hearing, he may be debarred for an additional period, not to exceed three years. Among the causes for debarment shall be (1) offering or accepting a bribe or other illegal payment or credit in connection with any transaction financed with funds made available under this chapter; or (2) committing a fraud in the procurement or performance of any contract

financed with funds made available under this chapter; or (3) acting in any other manner which shows a lack of integrity or honesty in connection with any transaction financed with funds made available under this chapter. Reinstatement of eligibility in each particular case shall be subject to such conditions as the President shall direct. Each person whose eligibility is denied or suspended under this subsection shall, upon request, be entitled to a review of his eligibility not less often than once every two years.

(Pub. L. 87–195, pt. III, §621, Sept. 4, 1961, 75 Stat. 445; Pub. L. 87–565, pt. III, §302(a), Aug. 1, 1962, 76 Stat. 262; Pub. L. 88–205, pt. III, §302(a), Dec. 16, 1963, 77 Stat. 388; Pub. L. 90–554, pt. III, §302(a), Oct. 8, 1968, 82 Stat. 964.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

AMENDMENTS

1968—Pub. L. 90–554 designated existing provisions as subsec. (a) and added subsec. (b).

1963—Pub. L. 88–205 provided that goods and professional and other services from private enterprise should be utilized on a contract basis, and that Federal agencies be utilized only when not competitive with private enterprise and available without interfering unduly with domestic programs.

1962—Pub. L. 87–565 struck out designation "(a)" from provisions of subsec. (a), and repealed subsecs. (b) to (e) which related to the abolition of the Development Loan Fund, International Cooperation Administration, and the Office of Inspector General and Comptroller, the transfer of their functions, and the transfer of the function of the Export-Import Bank under section 1704(e) of title 7.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out below.

AID OFFICE OF SECURITY

Pub. L. 105–277, div. A, §101(d) [title V, §587], Oct. 21, 1998, 112 Stat. 2681–150, 2681–204, as amended by Pub. L. 106–31, title V, §5002(b), May 21, 1999, 113 Stat. 109, provided that:

"(a) ESTABLISHMENT OF OFFICE.—There shall be established within the Office of the Administrator of the Agency for International Development, an Office of Security. Such Office of Security shall, notwithstanding any other provision of law except section 207 of the Foreign Service Act of 1980 [22 U.S.C. 3927] and section 103 of Public Law 99–339 [22 U.S.C. 4802], have the responsibility for the supervision, direction, and control of all security activities relating to the programs and operations of that Agency.

"(b) TRANSFER AND ALLOCATION OF APPROPRIATIONS AND PERSONNEL.—There are transferred to the Office of Security all security functions exercised by the Office of Inspector General of the Agency for International Development exercised before the date of enactment of this Act [Oct. 21, 1998]. The Administrator shall transfer from the Office of the Inspector General of such Agency to the Office of Security established by subsection (a), the personnel (including the Senior Executive Service position designated for the Assistant Inspector General for Security), assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, and other funds held, used, available to, or to be made available in connection with such functions. Unexpended balances of appropriations, and other funds made available or to be made available in connection with such functions, shall be transferred to and merged with funds appropriated by this Act under the heading 'Operating Expenses of the Agency for International Development' [112 Stat. 2681–157].

"(c) TRANSFER OF EMPLOYEES.—Any employee in the career service who is transferred pursuant to this section shall be placed in a position in the Office of Security established by subsection (a) which is comparable to the position the employee held in the Office of the Inspector General of the Agency for International Development."

AGENCY FOR INTERNATIONAL DEVELOPMENT BUDGET SUBMISSION

Pub. L. 106–429, §101(a) [title V, §576], Nov. 6, 2000, 114 Stat. 1900, 1900A–54, provided that: "The Agency for International Development shall submit to the Committees on Appropriations a detailed budget justification that is consistent with the requirements of section 515 [114 Stat. 1900A–26], for each fiscal year. The Agency shall submit to the Committees on Appropriations a proposed budget justification format no later

than November 15, 2000, or 30 days after the enactment of this Act [Nov. 6, 2000], whichever occurs later. The proposed format shall include how the Agency's budget justification will address: (1) estimated levels of obligations for the current fiscal year and actual levels for the 2 previous fiscal years; (2) the President's request for new budget authority and estimated carryover obligational authority for the budget year; (3) the disaggregation of budget data and staff levels by program and activity for each bureau, field mission, and central office; and (4) the need for a user-friendly, transparent budget narrative."

Pub. L. 106–113, div. B, §1000(a)(2) [title V, §581], Nov. 29, 1999, 113 Stat. 1535, 1501A–116, provided that: "Beginning with the fiscal year 2001 budget, the Agency for International Development shall submit to the Committees on Appropriations a detailed budget for each fiscal year. The Agency shall submit to the Committees on Appropriations a proposed budget format no later than October 31, 1999, or 30 days after the enactment of this Act [Nov. 29, 1999], whichever occurs later. The proposed format shall include how the Agency's budget submission will address: (1) estimated levels of obligations for the current fiscal year and actual levels for the two previous fiscal years; (2) the President's request for new budget authority and estimated carryover obligational authority for the budget year; (3) the disaggregation of budget data by program and activity for each bureau, field mission, and central office; and (4) staff levels identified by program."

Pub. L. 102–391, title V, §599E, Oct. 6, 1992, 106 Stat. 1698, provided that: "The President shall include with each budget for a fiscal year submitted to the Congress under section 1105 of title 31, United States Code, materials that shall identify clearly and separately the amounts requested in the budget for appropriation for that fiscal year for salaries and expenses related to administrative activities of the Agency for International Development."

REORGANIZATION PLAN NO. 2 OF 1979

Reorganization Plan No. 2 of 1979, 44 F.R. 41165, 93 Stat. 1378, which established the United States International Development Cooperation Agency, was repealed by Pub. L. 105–277, div. G, subdiv. A, title XIV, §§1401, 1422(a)(1), Oct. 21, 1998, 112 Stat. 2681–790, 2681–792, effective Apr. 1, 1999.

EXECUTIVE ORDER NO. 10973

Ex. Ord. No. 10973, Nov. 3, 1961, 26 F.R. 10469, as amended, which related to the administration of foreign assistance and related functions, was revoked by Ex. Ord. No. 12163, §1–903(a)(1), Sept. 29, 1979, 44 F.R. 56679, eff. Oct. 1, 1979, set out below.

Ex. Ord. No. 10973, Nov. 3, 1961, 26 F.R. 10469, as amended, was superseded insofar as any provision therein was in conflict with any provision of Ex. Ord. No. 11579, Jan. 19, 1971, 36 F.R. 969, set out as a note under section 2191 of this title.

EX. ORD. NO. 12163. ADMINISTRATION OF FOREIGN ASSISTANCE AND RELATED FUNCTIONS

Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended by Ex. Ord. No. 12226, July 22, 1980, 45 F.R. 49235; Ex. Ord. No. 12292, Feb. 23, 1981, 46 F.R. 13968; Ex. Ord. No. 12321, Sept. 14, 1981, 46 F.R. 46109; Ex. Ord. No. 12365, May 24, 1982, 47 F.R. 22933; Ex. Ord. No. 12423, May 26, 1983, 48 F.R. 24025; Ex. Ord. No. 12458, Jan. 14, 1984, 49 F.R. 1977; Ex. Ord. No. 12500, Jan. 24, 1985, 50 F.R. 3733; Ex. Ord. No. 12560, May 24, 1986, 51 F.R. 19159; Ex. Ord. No. 12608, Sept. 9, 1987, 52 F.R. 34617; Ex. Ord. No. 12620, Dec. 24, 1987, 52 F.R. 49135; Ex. Ord. No. 12639, May 6, 1988, 53 F.R. 16691; Ex. Ord. No. 12680, July 5, 1989, 54 F.R. 28995; Ex. Ord. No. 12695, Nov. 1, 1989, 54 F.R. 46589; Ex. Ord. No. 12738, §§1–6, Dec. 14, 1990, 55 F.R. 52033; Ex. Ord. No. 13030, §1, Dec. 12, 1996, 61 F.R. 66187; Ex. Ord. No. 13091, §2, June 29, 1998, 63 F.R. 36153; Pub. L. 105–277, div. G, subdiv. A, title XIV, §1422(a)(2), Oct. 21, 1998, 112 Stat. 2681–792; Ex. Ord. No. 13118, §§1–9, Mar. 31, 1999, 64 F.R. 16595–16598; Ex. Ord. No. 13346, §3, July 8, 2004, 69 F.R. 41905; Ex. Ord. No. 13361, Nov. 16, 2004, 69 F.R. 67633; Ex. Ord. No. 13656, §6, Jan. 17, 2014, 79 F.R. 4263, provided:

By virtue of the authority vested in me by the Foreign Assistance Act of 1961 [this chapter], Reorganization Plan No. 2 of 1979 [set out above], the International Development Cooperation Act of 1979 [see Short Title of 1979 Amendment note set out under section 2151 of this title], and section 301 of title 3 of the United States Code, and as President of the United States, it is hereby ordered as follows:

1–1. DEPARTMENT OF STATE

1–100. *Delegation of Functions*. (a) Exclusive of the functions otherwise delegated, or reserved to the President, by this order, Executive Order 12884 [22 U.S.C. 5812 note], Executive Order 11579 [22 U.S.C. 2191 note], and Executive Order 12757 [former 7 U.S.C. 1738 note], and subject to the provisions of such

orders, there are hereby delegated to the Secretary of State (referred to in this Part as the "Secretary") all functions conferred upon the President by:

(1) the Foreign Assistance Act of 1961 (22 U.S.C. 2151 *et seq*.) ("Act");

(i) except that with respect to section 505(a) of the Act [22 U.S.C. 2314(a)], such functions only insofar as those functions relate to other provisions which may be required by the President or only insofar as they relate to consent;

(ii) except that with respect to section 505(b) of the Act, such functions only insofar as those functions pertain to countries that agree to the conditions set forth therein;

(2) section 1205(b) of the International Security and Development Cooperation Act of 1985 ("ISDCA of 1985") [Pub. L. 99–83, 22 U.S.C. 2346 note];

(3) section 8(d) of the Act of January 12, 1971 (22 U.S.C. 2321b(d));

(4) section 607 of the International Security Assistance and Arms Export Control Act of 1976 (22 U.S.C. 2394a);

(5) section 402(b)(2) of title 10, United States Code, which shall be exercised in consultation with the Secretary of Defense;

(6) the third proviso under the heading "Development Assistance" contained in title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999 (as contained in Public Law 105–277) [112 Stat. 2681–153];

(7) section 572 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461) [22 U.S.C. 2151v note];

(8) sections 508, 517 [22 U.S.C. 5814 note], 518, 528(a), 535 [50 U.S.C. 1701 note], 539 [50 U.S.C. 1701 note], 544, 561, 563, 572, 574, 575, 585, 594 [22 U.S.C. 2753 note] of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999 (as contained in Public Law 105–277) [112 Stat. 2681–150, 2681–171, 2681–174, 2681–176, 2681–178, 2681–181, 2681–182, 2681–185, 2681–191, 2681–193, 2681–198, 2681–199, 2681–203, 2681–215];

(9) section 523 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999 (as contained in Public Law 105–277) [112 Stat. 2681–177], which shall be exercised in consultation with the Secretary of the Treasury;

(10) section 551 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999 (as contained in Public Law 105–277) [112 Stat. 2681–187];

(11) section 591 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (Public Law 105–118) [111 Stat. 2439], and the provisions of law referenced therein;

(12) section 821(b) of the Western Hemisphere Drug Elimination Act (as contained in Public Law 105–277) [22 U.S.C. 2291 note];

(13) title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002 (Public Law 107–115), under the heading "Assistance for the Independent States of the Former Soviet Union, [sic]" in subsections (g)(4) and (6) [22 U.S.C. 5812 note];

(14) section 512 of Division D of the Consolidated Appropriations Act, 2004 (Public Law 108–199) [118 Stat. 170];

(15) sections 5(c) and 6 of the Anglo-Irish Agreement Support Act of 1986 (Public Law 99–415), as amended [100 Stat. 948, 949];

(16) the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (Public Law 108–25) (the "HIV/AIDS Act"), as amended [22 U.S.C. 7601 et seq.], and amendments made by the HIV/AIDS Act, which the Secretary shall perform, in the case of section 304 [22 U.S.C. 7634], after consultation with the Secretary of Health and Human Services.

(b) The functions under section 653 of the Act [22 U.S.C. 2413] delegated to the Secretary shall be exercised in consultation with the Secretary of Defense, insofar as they relate to functions under the Act administered by the Department of Defense, and the Director of the Office of Management and Budget.

(c) The functions under sections 239(f), 620(e), 620(g), 620(j), 620(q), and 620(s) of the Act [22 U.S.C. 2199(f), 2370(e), (g), (j), (q), (s)] delegated to the Secretary shall be exercised in consultation with the Administrator of the United States Agency for International Development.

(d) The Secretary shall perform all public information functions abroad with respect to the foreign assistance, aid, and development programs of the United States Government, to the extent such functions are not specifically assigned by statute to be performed by a different officer.

(e) The Secretary may redelegate to any other officer or agency of the Executive branch functions delegated to the Secretary by this order to the extent such delegation is not otherwise prohibited by law.

1–2. UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

1–200. *United States Agency for International Development.*

(a) The United States Agency for International Development is an independent establishment within the Executive branch. Any reference in the Act to the agency primarily responsible for administering part I of the Act [22 U.S.C. 2151 et seq.], or to the Administrator of such agency, shall be deemed to be a reference to the United States Agency for International Development or to the Administrator of that agency, as appropriate.

(b) The United States Agency for International Development shall be headed by an Administrator appointed pursuant to section 624(a) of the Act [22 U.S.C. 2384(a)].

(c) The officers provided for in section 624(a) of the Act shall serve in the United States Agency for International Development.

(d) The Office of Small Business provided for in section 602(b) of the Act [22 U.S.C. 2352(b)] shall be in the United States Agency for International Development.

(e) To the extent practicable, the Administrator of the United States Agency for International Development will exercise functions relating to Foreign Service personnel in a manner that will assure maximum compatibility among agencies authorized by law to utilize the Foreign Service personnel system. To this end, the Administrator shall consult regularly with the Secretary of State.

1–3. DEPARTMENT OF DEFENSE

1–301. *Delegation of Functions*. Subject to the provisions of this order, there are hereby delegated to the Secretary of Defense:

(a) The functions conferred upon the President by Part II [22 U.S.C. 2301 et seq.] (except chapters 4, 6 and 8 thereof) of the Act [22 U.S.C. 2346 et seq., 2348 et seq., 2349aa et seq.] not otherwise delegated or reserved to the President.

(b) To the extent that they relate to other functions under the Act [this chapter] administered by the Department of Defense, the functions conferred upon the President by sections 602(a), 605(a), 625(a), 625(d)(1), 625(h), 627, 628, 630(3), 631(a), 634(B), 635(b) (except with respect to negotiation, conclusion, and termination of international agreements), 635(d), 635(g), and 636(i) of the Act [22 U.S.C. 2352(a), 2355(a), 2385(a), (d)(1), (h), 2387, 2388, 2390(3), 2391(a), 2394–1a, 2395(b), (d), (g), and 2396(i)].

(c) Those functions under section 634A of the Act [22 U.S.C. 2394–1], to the extent they relate to notifications to the Congress concerning changes in programs under chapters 2 and 5 of part II of the Act [22 U.S.C. 2311 et seq., 2347 et seq.] and under the Arms Export Control Act, as amended [22 U.S.C. 2751 et seq.], subject to prior consultation with the Secretary of State.

(d) The functions under sections 627, 628, and 630(3) of the Act [22 U.S.C. 2387, 2388, and 2390(3)] delegated to the Secretary of Defense shall be exercised in consultation with the Secretary of State.

(e) the functions under section 655 of the Act [22 U.S.C. 2415] insofar as they relate to defense articles, defense services, and international military education and training furnished by grant or sale by the Secretary of Defense, except to the extent otherwise delegated.

(f) Those functions conferred upon the President under section 616 of the ISDCA of 1985 [Pub. L. 99–83, Aug. 8, 1985, 99 Stat. 232].

(g) The functions conferred upon the President under section 573 [22 U.S.C. 2321j note] and section 581(b)(2) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101–167) [Nov. 21, 1989, 103 Stat. 1246, 1250].

(h) The functions conferred upon the President under section 3 of the International Narcotics Control Act of 1989 (Public Law 101–231) [Dec. 13, 1989, 103 Stat. 1955], which shall be exercised in consultation with the Secretary of State.

1–302. *Reports and Information*. In carrying out the functions under section 514 of the Act [22 U.S.C. 2321h] delegated to him by section 301 of this order, the Secretary of Defense shall consult with the Secretary of State.

1–4. INSTITUTE FOR SCIENTIFIC AND TECHNOLOGICAL COOPERATION

[Revoked by Ex. Ord. No. 13118, §4, Mar. 31, 1999, 64 F.R. 16596]

1–5. OTHER AGENCIES

1–501. *Department of the Treasury*. (a) There are delegated to the Secretary of the Treasury the functions conferred upon the President by:

(1) section 305 [22 U.S.C. 2225], insofar as it relates to the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the Asian Development Bank, the African Development Fund, and the International Monetary Fund;

(2) the second sentence of section 612(a) of the Act [22 U.S.C. 2362(a)];
(3) section 502 of the Mutual Security Act of 1954 (22 U.S.C. 1754); and
(4) section 655(c) of the Act [former 22 U.S.C. 2415(c)].

(b) The Secretary of the Treasury shall continue to administer any open special foreign country accounts established pursuant to former section 514 of the Act as enacted by section 201(f) of Public Law 92–226 (86 Stat. 25) and repealed by Section 12(b)(5) of Public Law 93–189 (87 Stat. 722) [22 U.S.C. 2321g].

(c) The functions under section 305 of the Act [22 U.S.C. 2225] delegated to the Secretary of the Treasury shall be exercised in consultation with the Secretary of State.

1–502. *Department of Commerce*. There is hereby delegated to the Secretary of Commerce so much of the functions conferred upon the President by section 601(b)(1) of the Act [22 U.S.C. 2351(b)(1)] as consists of drawing the attention of private enterprise to opportunities for investment and development in less developed friendly countries and areas.

1–503. *Office of Personnel Management*. There is hereby delegated to the Director of the Office of Personnel Management the function of prescribing regulations conferred upon the President by the proviso contained in section 625(b) of the Act [22 U.S.C. 2385(b)].

[1–504. Revoked by Ex. Ord. No. 13118, §5(2), Mar. 31, 1999, 64 F.R. 16597.]

1–505. Trade and Development Agency. There is delegated to the Director of the Trade and Development Agency the functions conferred upon the President by section 661(d) of the Act [22 U.S.C. 2421(d)].

[1–506. Revoked by Ex. Ord. No. 13118, §5(4), Mar. 31, 1999, 64 F.R. 16597.]

1–6. ADDITIONAL DELEGATIONS AND LIMITATIONS OF AUTHORITY; CONSULTATION

1–601. *General Delegation of Functions*. There are hereby delegated to the heads of agencies having responsibilities for carrying out the provisions of the Act [this chapter] all functions conferred upon the President by:

(a) section 654 [22 U.S.C. 2414] (except as reserved to the President); and

(b) those provisions of acts appropriating funds under the authority of the Act [this chapter] that relate to the Act, or other acts authorizing such funds, insofar as they relate to the functions delegated by this order.

1–602. *Personnel*. (a) In carrying out the functions conferred upon the President by the provisions of section 625(d) of the Act [22 U.S.C. 2385(d)], and by this order delegated to the Secretary of State, the Secretary shall authorize such of the agencies that administer programs under the Act [this chapter] as he may deem appropriate to perform any of the functions under section 625(d) of the Act to the extent that the said functions relate to the programs administered by the respective agencies.

(b) Persons appointed, employed, or assigned after May 19, 1959, under section 527(c) of the Mutual Security Act of 1954 [former 22 U.S.C. 1787(c)] or section 625(d) of the Act [22 U.S.C. 2385(d)] for the purpose of performing functions under such Acts outside the United States shall not, unless otherwise agreed by the agency in which such benefits may be exercised, be entitled to the benefits provided by section 310 of the Foreign Service Act of 1980 (22 U.S.C. 3950) in cases in which their service under the appointment, employment, or assignment exceeds thirty months.

1–603. *Special Missions and Staffs Abroad*. The maintenance of special missions or staffs abroad, the fixing of the ranks of the chiefs thereof after the chiefs of the United States diplomatic missions, and the authorization of the same compensation and allowances authorized for a chief of mission as defined in section 102(a)(3) of the Foreign Service Act of 1980 (22 U.S.C. 3902(a)(3)), all under section 631 of the Act [22 U.S.C. 2391], shall be subject to the approval of the Secretary of State.

1–604. *International Agreements*. The negotiation, conclusion, and termination of international agreements pursuant to the Act [this chapter] shall be subject to the requirements of 1 U.S.C. 112b and to applicable regulations and procedures.

1–605. *Interagency Consultation*. Each officer to whom functions are delegated by this order, shall, in carrying out such functions, consult with the heads of other departments and agencies, including the Director of the Office of Management and Budget, on matters pertaining to the responsibilities of departments and agencies other than his or her own.

1–7. RESERVED FUNCTIONS

1–701. *Reservation of Functions to the President*. There are hereby excluded from the functions delegated by the foregoing provisions of this order:

(a) The functions conferred upon the President by sections 122(e), 298(a), 493, 504(b), 613(a), 614(a), 620(a), 620(d), 620(x), 620A, 620C(c), 621(a), 622(b), 622(c), 633(a), 633(b), 640B, and 663(b) of the Act [22 U.S.C. 2151t(e), 2220c(a), 2292b, 2312(b), 2363(a), 2364(a), 2370(a), (d), (x), 2371, 2373(c), 2381(a), 2382(b), (c), 2393(a), (b), 2399c, and 2423(b)].

(b) The functions conferred upon the President by the Act [this chapter] and section 408(b) of the Mutual Security Act of 1954 [22 U.S.C. 1928] with respect to the appointment of officers required to be appointed by and with the advice and consent of the Senate and with respect to the appointment of officers pursuant to sections 233(b) and 624(c) of the Act [22 U.S.C. 2193(b), 2384(c)].

(c) The functions conferred upon the President with respect to determinations, certifications, directives, or transfers of funds, as the case may be, by sections 209(d), 303, 465(b), 490(h), 505(d)(2)(A), 505(d)(3), 506(a), 552(c), 552(e), 610, 614(c), 620E, 632(b), 633A, 663(a) of the Act [22 U.S.C. 2169(d), 2223, 2275(b), 2291j(h), 2314(d)(2)(A), (d)(3), 2318(a), 2348a(c), (e), 2360, 2364(c), 2375, 2392(b), 2393a, 2423(a)].

[(d) Redesignated (c).]

(e) The following-described functions conferred upon the President:

(1) Those under section 503(a) [22 U.S.C. 2311(a)] that relate to findings: *Provided*, that the Secretary of State, in the implementation of the functions delegated to him under section 505(a)(1), (a)(4), and (e) of the Act [22 U.S.C. 2314(a)(1), (a)(4), and (e)], is authorized to find, in the case of a proposed transfer of a defense article or related training or a related defense service by a foreign country or international organization to a foreign country or international organization not otherwise eligible under section 503(a) of the Act, whether the proposed transfer will strengthen the security of the United States and promote world peace.

(2) Those under section 505(b) [22 U.S.C. 2314(b)] in respect of countries that do not agree to the conditions set forth therein.

(3) That under section 614(b) [22 U.S.C. 2364(b)] with respect to determining any provisions of law to be disregarded to achieve the purpose of that section.

(4) That under the second sentence of section 654(c) [22 U.S.C. 2414(c)] with respect to the publication in the Federal Register of any findings or determination reserved to the President: *Provided*, that any officer to whom there is delegated the function of making any finding or determination within the purview of section 654(a) [22 U.S.C. 2414(a)] is also authorized to reach the conclusion specified in performance of the function delegated to him.

(f) That under section 523(d) of the Mutual Security Act of 1954 (22 U.S.C. 1783(d)).

(g) Those under sections 130 [Pub. L. 99–83, Aug. 8, 1985, 99 Stat. 207], 504 and 505 [22 U.S.C. 2349aa–8, 2349aa–9] of the ISDCA of 1985[.]

(h) Those functions conferred by section 1(f)(1) and section 1(f)(2)(B)(ii)(VII) [now IX] of the State Department Basic Authorities Act of 1956, as amended (22 U.S.C. 2651a).

(i) Those functions conferred by section 202(d)(4)(C)(i) and (ii) of the HIV/AIDS Act, as amended [22 U.S.C. 7622(d)(4)(C)(i), (ii)].

1–702. *Subsequent Amendments*. Functions conferred upon the President by subsequent amendments to the Act [this chapter] are delegated to the Secretary only insofar as they do not relate directly and necessarily to the conduct of programs and activities that either the President or an agency other than the Department of State is authorized to administer pursuant to express reservation or delegation of authorities in a statute or in this or another Executive order.

1–703. *Office of Management and Budget*. In this order the Director of the Office of Management and Budget shall retain all authorities related to the implementation of his budgetary and policy coordination functions, including the authority to:

(a) request and receive information from any agency that is subject to this delegation;

(b) carry out all responsibilities associated with implementing the Government Performance and Results Act [Pub. L. 103–62, see Short Title of 1993 Amendment note set out under section 1101 of Title 31, Money and Finance], the Government Management Reform Act [Pub. L. 103–356, see Short Title of 1994 Amendment note set out under section 3301 of Title 31], and other comparable government-wide statutes dealing with management; and

(c) carry out all statutory budget and policy coordination responsibilities assigned to the Director of the Office of Management and Budget by statute or Executive order.

1–8. FUNDS

1–800. *Allocation of Funds*. Funds described below that are appropriated or otherwise made available to the President shall be deemed to be allocated without any further action of the President, as follows:

(a) Except as provided in subsections (b) and (c), there are allocated to the Secretary all funds made available for carrying out the Act, including any funds appropriated under the heading "Nonproliferation, Anti-Terrorism, Demining and Related Programs".

(b) There are allocated to the Secretary of Defense all funds made available for carrying out chapters 2 and 5 of Part II of the Act [22 U.S.C. 2311 et seq., 2347 et seq.].

(c) There are allocated to the Secretary of the Treasury all funds made available for carrying out section 129 of the Act [22 U.S.C. 2151aa].

(d) The Secretary of State, the Secretary of Defense, and the Secretary of the Treasury may allocate or transfer as appropriate any funds received under subsections (a), (b), and (c) of this section, respectively, to any agency or part thereof for obligation or expenditure thereby consistent with applicable law.

1–9. GENERAL PROVISIONS

1–901. *Definition*. As used in this order, the word "function" includes any duty, obligation, power, authority, responsibility, right, privilege, discretion, or activity.

1–902. *References to Orders and Acts*. Except as may for any reason be inappropriate:

(a) References in this order or in any other Executive order to (1) the Foreign Assistance Act of 1961 [this chapter] (including references herein to "the Act"), (2) unrepealed provisions of the Mutual Security Act of 1954 [act Aug. 26, 1954, ch. 937, 68 Stat. 832, as amended], or (3) any other act that relates to the subject of this order shall be deemed to include references to any subsequent amendments thereto.

(b) References in any prior Executive order to the Mutual Security Act of 1954 [act Aug. 26, 1954, ch. 937, 68 Stat. 832, as amended] or any provisions thereof shall be deemed to be references to the Act [this chapter] or the corresponding provision, if any, thereof.

(c) References in this order to provisions of any Act, and references in any other Executive order or in any memorandum delegation to provisions of any Act related to the subject of this order shall be deemed to include references to any provision of law that is the same or substantially the same as such provisions, respectively.

(d) References in this order or in any other Executive order to this order or to any provision thereof shall be deemed to include references thereto, respectively, as amended from time to time.

(e) References in any prior Executive order not superseded by this order to any provisions of any Executive order so superseded shall hereafter be deemed to be references to the corresponding provisions, if any, of this order.

1–903. *Prior Executive Orders*. (a) The following are revoked:

(1) Executive Order No. 10973 [22 U.S.C. 2381 note] of November 3, 1961, as amended;

(2) section 2(a) of Executive Order No. 11579 [22 U.S.C. 2191 note], of January 19, 1971; and

(3) Executive Order No. 10893 [22 U.S.C. 2382 note] of November 8, 1960.

(b) The following are amended:

(1) section 3(a) of Executive Order No. 11846 of March 27, 1975, as amended [19 U.S.C. 2111 note], by adding the following new paragraph (12) after paragraph (11):

"(12) The Director of the United States International Development Cooperation Agency";

(2) section 1–202 of [former] Executive Order 12065 of June 28, 1978, by striking out "The Administrator, Agency for International Development" and inserting in lieu thereof "The Director of the United States International Development Cooperation Agency";

(3) section 2(a) of Executive Order No. 11958 of January 18, 1977 [22 U.S.C. 2751 note], by striking out "the Administrator of the Agency for International Development" and inserting in lieu thereof "the Director of the United States International Development Cooperation Agency";

(4) section 3 of Executive Order 10900 of January 5, 1961 [7 U.S.C. 1691 note], by adding thereto the following new subsection:

"(d) The Secretary of State may redelegate to the Director of the United States International Development Cooperation Agency, or to any other officer or agency of the Executive branch, functions delegated to such Secretary by this order.";

(5) section 4 of Executive Order 11223 of May 12, 1965 [22 U.S.C. 2393 note], by inserting immediately following "the Secretary of State" the words "or the Director of the United States International Development Cooperation Agency (with respect to functions vested in or delegated to the Director)"; and

(6) the President's memorandum of October 18, 1961, entitled "Determination Under Section 604(a) of the Foreign Assistance Act of 1961" (26 FR 10543) is amended by inserting after "the Secretary of State" each time it appears in such memorandum the words "or the Director of the United States International Development Cooperation Agency (with respect to non-military programs administered by such Agency)".

[(c), (d) Revoked by Ex. Ord. No. 13118, §9, Mar. 31, 1999, 64 F.R. 16598.]

1–904. *Saving Provisions*. Except to the extent inconsistent with this order, all delegations of authority, determinations, authorizations, regulations, rulings, certificates, orders, directives, contracts, agreements, and other actions made, issued, or entered into with respect to any function affected by this order and not revoked, superseded, or otherwise made inapplicable before the date of this order, shall continue in full force and effect until amended, modified, or terminated by appropriate authority.

1–905. *Effective Date*. The provisions of this order shall become effective as of October 1, 1979.

1–906. *Implementation*. In carrying out this order, officers of the United States shall ensure that all actions taken by them are consistent with the President's constitutional authority to: (a) conduct the foreign affairs of the United States; (b) withhold information the disclosure of which could impair the foreign relations, the national security, the deliberative processes of the Executive, or the performance of the Executive's constitutional duties; (c) recommend for congressional consideration such measures as the President may judge necessary and expedient; and (d) supervise the unitary executive branch.

[Pub. L. 105–277, div. G, subdiv. A, title XIV, §1422(a)(2), Oct. 21, 1998, 112 Stat. 2681–792, provided that sections 1–101 through 1–103, 1–401 through 1–403, and 1–801(a), and other provisions of Ex. Ord. No. 12163 that relate to the United States International Development Cooperation Agency or the Director thereof were repealed.]

§2381a. Strengthened management practices

(a) Declaration of beliefs

The Congress believes that United States foreign aid funds could be utilized more effectively by the application of advanced management decisionmaking, information and analysis techniques such as systems analysis, automatic data processing, benefit-cost studies, and information retrieval.

(b) Management system; establishment; scope

To meet this need, the President shall establish a management system that includes: the definition of objectives and programs for United States foreign assistance; the development of quantitative indicators of progress toward these objectives; the orderly consideration of alternative means for accomplishing such objectives; and the adoption of methods for comparing actual results of programs and projects with those anticipated when they were undertaken. The system should provide information to the agency and to Congress that relates agency resources, expenditures, and budget projections to such objectives and results in order to assist in the evaluation of program performance, the review of budgetary requests, and the setting of program priorities.

(Pub. L. 87–195, pt. III, §621A, as added Pub. L. 90–554, pt. III, §302(b), Oct. 8, 1968, 82 Stat. 964; amended Pub. L. 95–424, title V, §502(d)(1), Oct. 6, 1978, 92 Stat. 959.)

AMENDMENTS

1978—Subsec. (c). Pub. L. 95–424 struck out subsec. (c) relating to annual reports to Congress by the President evaluating the progress made toward implementation of this section.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–424 effective Oct. 1, 1978, see section 605 of Pub. L. 95–424, set out as a note under section 2151 of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§2382. Coordination with foreign policy

(a) Powers or functions of Secretary of State

Nothing contained in this chapter shall be construed to infringe upon the powers or functions of the Secretary of State.

(b) Coordination among representatives of United States

The President shall prescribe appropriate procedures to assure coordination among representatives of the United States Government in each country, under the leadership of the Chief of the United States Diplomatic Mission. The Chief of the diplomatic mission shall make sure that recommendations of such representatives pertaining to military assistance (including civic action)

and military education and training programs are coordinated with political and economic considerations, and his comments shall accompany such recommendations if he so desires.

(c) Responsibility for supervision and general direction of assistance programs

Under the direction of the President, the Secretary of State shall be responsible for the continuous supervision and general direction of economic assistance, military assistance, and military education and training programs, including but not limited to determining whether there shall be a military assistance (including civic action) or a military education and training program for a country and the value thereof, to the end that such programs are effectively integrated both at home and abroad and the foreign policy of the United States is best served thereby.

(Pub. L. 87–195, pt. III, §622, Sept. 4, 1961, 75 Stat. 446; Pub. L. 89–171, pt. III, §302(a), Sept. 6, 1965, 79 Stat. 660; Pub. L. 89–583, pt. III, §302(a), Sept. 19, 1966, 80 Stat. 807; Pub. L. 90–629, ch. 4, §45(b)(1), (2), Oct. 22, 1968, 82 Stat. 1327; Pub. L. 94–329, title I, §106(b)(2), June 30, 1976, 90 Stat. 733.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

AMENDMENTS

1976—Subsec. (b). Pub. L. 94–329, §106(b)(2)(A), inserted "and military education and training" after "(including civic action)".

Subsec. (c). Pub. L. 94–329, §106(b)(2)(B), inserted reference to military education and training programs in two places.

1968—Subsec. (b). Pub. L. 90–629, §45(b)(1), struck out "or sales" before "programs".

Subsec. (c). Pub. L. 90–629, §45(b)(2), struck out "and sales" and "or sales" before "programs" and "program", respectively.

1966—Subsec. (b). Pub. L. 89–583, §302(a)(1), substituted "(including civic action) or sales programs" for "(including any civic action and sales program)".

Subsec. (c). Pub. L. 89–583, §302(a)(2), substituted "economic assistance and military assistance and sales programs" and "military assistance (including civic action) or sales program" for "the assistance programs authorized by this chapter" and "military assistance program (including civic action and sales program)", respectively.

1965—Subsec. (b). Pub. L. 89–171, §302(a)(1), inserted "(including any civic action and sales program)".

Subsec. (c). Pub. L. 89–171, §302(a)(2), inserted "including any civic action and sales program)".

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–629 effective July 1, 1968, see section 41 of Pub. L. 90–629, set out as an Effective Date note under section 2751 of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

EX. ORD. NO. 10338. COORDINATION PROCEDURES

Ex. Ord. No. 10338, Apr. 4, 1952, 17 F.R. 3009, provided:

SECTION 1. *Functions of the Chief of the United States Diplomatic Mission*. (a) The Chief of the United States Diplomatic Mission in each country, as the representative of the President and acting on his behalf, shall coordinate the activities of the United States representatives (including the chiefs of economic missions, military assistance advisory groups, and other representatives of agencies of the United States Government) in such country engaged in carrying out programs under the Mutual Security Act of 1951 (hereinafter referred to as the Act) [section 1509 et seq. of this title], and he shall assume responsibility for assuring the unified development and execution of the said programs in such country. More particularly, the functions of each Chief of United States Diplomatic Mission shall include, with respect to the programs and country concerned:

(1) Exercising general direction and leadership of the entire effort.

(2) Assuring that recommendations and prospective plans and actions of the United States representatives are effectively coordinated and are consistent with and in furtherance of the established policy of the United

States.

(3) Assuring that the interpretations and application of instructions received by the United States representatives from higher authority are in accordance with the established policy of the United States.

(4) Guiding the United States representatives in working out measures to prevent duplication in their efforts and to promote the most effective and efficient use of all United States officers and employees having mutual security responsibilities.

(5) Keeping the United States representatives fully informed as to current and prospective United States policies.

(6) Prescribing procedures governing the coordination of the activities of the United States representatives, and assuring that these representatives shall have access to all available information essential to the accomplishment of their prescribed duties.

(7) Preparing and submitting such reports on the operation and status of the programs under the Act as may be directed by the Director for Mutual Security.

(b) Each Chief of United States Diplomatic Mission shall perform his functions under this order in accordance with instructions from higher authority and subject to established policies and programs of the United States.

(c) No Chief of United States Diplomatic Mission shall delegate any function conferred upon him by the provisions of this order which directly involves the exercise of direction, coordination, or authority.

SEC. 2. *Referral of unresolved matters*. The Chief of the United States Diplomatic Mission in each country shall initiate steps to reconcile any divergent views arising in the country concerned with respect to programs under the Act. If agreement cannot be reached the Chief of the United States Diplomatic Mission shall recommend a course of action, and such course of action shall be followed unless a United States representative requests that the issue be referred to higher authority for decision. If such a request is made, the parties concerned shall promptly refer the issue to higher authority for resolution prior to taking action at the country level. The Director for Mutual Security shall assure expeditious decisions on matters so submitted.

SEC. 3. *Effect of order on United States representatives*. (a) All United States representatives in each country shall be subject to the responsibilities imposed upon the Chief of the United States Diplomatic Mission in such country by section 507 of the Mutual Security Act of 1951 [section 1658 of this title] and by this order.

(b) Subject to compliance with the provisions of this order and with the prescribed procedures of their respective agencies, all United States representatives affected by this order (1) shall have direct communication with their respective agencies and with such other parties and in such manner as may be authorized by their respective agencies, (2) shall keep the respective Chiefs of United States Diplomatic Missions and each other fully and currently informed on all matters, including prospective plans, recommendations, and actions, relating to programs under the Act, and (3) shall furnish to the respective Chiefs of United States Diplomatic Missions, upon their request, documents and information concerning the said programs.

SEC. 4. *Further coordination procedures*. The Director for Mutual Security shall be responsible for assuring the carrying out of the provisions of this order. He is authorized to prescribe, after consultation with the interested Government agencies, any additional procedures he may find necessary to carry out the provisions of this order.

SEC. 5. *Prior orders*. (a) To the extent that provisions of any prior order are inconsistent with the provisions of this order, the latter shall control, and any such prior provisions are amended accordingly. All orders, regulations, rulings, certificates, directives, and other actions relating to any function affected by this order shall remain in effect except as they are inconsistent herewith or are hereafter amended or revoked under proper authority.

(b) Nothing in this order shall affect Executive Orders Nos. 10062, 10063, and 10144 of June 6, 1949, June 13, 1949, and July 21, 1950, respectively.

(c) Executive Orders Nos. 9857, 9862, 9864, 9914, 9944, 9960, 10208, and 10259 of May 22, 1947, May 31, 1947, December 26, 1947, April 9, 1948, May 19, 1948, January 25, 1951, and June 27, 1951, respectively, are hereby revoked.

EXECUTIVE ORDER NO. 10893

Ex. Ord. No. 10893, Nov. 8, 1960, 25 F.R. 10731, as amended, which related to the administration of mutual security and related functions, was revoked by Ex. Ord. No. 12163, §1–903(a)(3), Sept. 29, 1979, 44 F.R. 56679, eff. Oct. 1, 1979, set out as a note under section 2381 of this title. Ex. Ord. No. 10893 was also revoked, except section 201 thereof, by section 1–501(h) of Ex. Ord. No. 12220, June 27, 1980, 45 F.R. 44247, formerly set out as a note under section 1691 of Title 7, Agriculture.

EXECUTIVE ORDER NO. 12066

Ex. Ord. No. 12066, June 29, 1978, 43 F.R. 28965, which related to the inspection of foreign assistance programs, was revoked by section 10(k) of Ex. Ord. No. 12292, Feb. 23, 1981, 46 F.R. 13968, set out as a note under section 3901 of this title.

§2383. Responsibilities of the Secretary of Defense; priorities in procurement, delivery, and allocation of military equipment

(a) In the case of assistance under subchapter II of this chapter, the Secretary of Defense shall have primary responsibility for—

(1) the determination of military end-item requirements;

(2) the procurement of military equipment in a manner which permits its integration with service programs;

(3) the supervision of end-item use by the recipient countries;

(4) the supervision of the training of foreign military and related civilian personnel;

(5) the movement and delivery of military end-items; and

(6) within the Department of Defense, the performance of any other functions with respect to the furnishing of military assistance, education and training.

(b) The establishment of priorities in the procurement, delivery, and allocation of military equipment shall be determined by the Secretary of Defense.

(Pub. L. 87–195, pt. III, §623, Sept. 4, 1961, 75 Stat. 446; Pub. L. 94–329, title I, §106(b)(3), June 30, 1976, 90 Stat. 733.)

REFERENCES TO SUBCHAPTER II DEEMED TO EXCLUDE CERTAIN PARTS OF SUBCHAPTER II

References to subchapter II of this chapter are deemed to exclude parts IV (§2346 et seq.), VI (§2348 et seq.), and VIII (§2349aa et seq.) of subchapter II, and references to subchapter I of this chapter are deemed to include such parts. See section 202(b) of Pub. L. 92–226, set out as a note under section 2346 of this title, and sections 2348c and 2349aa–5 of this title.

AMENDMENTS

1976—Subsec. (a)(4). Pub. L. 94–329, §106(b)(3)(A), inserted "and related civilian" after "military".
Subsec. (a)(6). Pub. L. 94–329, §106(b)(3)(B), inserted "education and training" after "assistance".

§2384. Statutory officers

(a) Appointment

The President may appoint, by and with the advice and consent of the Senate, twelve officers in the agency primarily responsible for administering subchapter I of this chapter, and in the selection of one of such persons due consideration shall be given to persons qualified as professional engineers.

(b) Rate of compensation; title of officers; order of succession

Within the limitations established by subsection (a) of this section, the President may fix the rate of compensation, and may designate the title of, any officer appointed pursuant to the authority contained in that subsection. The President may also fix the order of succession among the officers provided for in subsection (a) of this section in the event of the absence, death, resignation, or disability of one or more of said officers.

(c) Appointment of certain statutory officers to comparable positions

Any person who was appointed by and with the advice and consent of the Senate, to any statutory position authorized by any provision of law repealed by section 642(a) and who is serving in one of

such positions at the time of transfer of functions pursuant to subsections (c) and (d) of section 2381 of this title, may be appointed by the President to a comparable position authorized by subsection (a) of this section on the date of the establishment of the agency primarily responsible for administering subchapter I of this chapter, without further action by the Senate.

(d) Repealed. Pub. L. 95–88, title I, §124(a)(1), Aug. 3, 1977, 91 Stat. 541

(e) Coordinator for security assistance

In addition to the officers otherwise provided for in this section, the President shall appoint, by and with the advice and consent of the Senate, one officer for the purpose of coordinating security assistance programs.

(Pub. L. 87–195, pt. III, §624, Sept. 4, 1961, 75 Stat. 447; Pub. L. 87–565, pt. III, §302(b), Aug. 1, 1962, 76 Stat. 262; Pub. L. 88–205, pt. III, §302(b), Dec. 16, 1963, 77 Stat. 388; Pub. L. 88–426, title III, §305(33), (42), Aug. 14, 1964, 78 Stat. 426, 428; Pub. L. 89–171, pt. III, §302(b), Sept. 6, 1965, 79 Stat. 660; Pub. L. 89–583, pt. III, §302(b), Sept. 19, 1966, 80 Stat. 807; Pub. L. 90–137, pt. III, §302(a), Nov. 14, 1967, 81 Stat. 460; Pub. L. 91–175, pt. III, §304, Dec. 30, 1969, 83 Stat. 821; Pub. L. 92–226, pt. III, §302, Feb. 7, 1972, 86 Stat. 28; Pub. L. 94–329, title III, §301(b), June 30, 1976, 90 Stat. 750; Pub. L. 95–88, title I, §124(a)(1), Aug. 3, 1977, 91 Stat. 541; Pub. L. 95–105, title I, §109(a)(1), Aug. 17, 1977, 91 Stat. 846; Pub. L. 95–424, title V, §504, Oct. 6, 1978, 92 Stat. 959; Pub. L. 96–533, title VII, §706, Dec. 16, 1980, 94 Stat. 3158; Pub. L. 97–113, title VII, §705(b)(1), Dec. 29, 1981, 95 Stat. 1545; Pub. L. 98–164, title X, §1002(b), Nov. 22, 1983, 97 Stat. 1052; Pub. L. 103–236, title I, §162(e)(4), Apr. 30, 1994, 108 Stat. 405.)

REFERENCES IN TEXT

Section 642(a), referred to in subsec. (c), means section 642(a) of Pub. L. 87–195, which is set out as a note under section 2151 of this title.

REFERENCES TO SUBCHAPTER I DEEMED TO INCLUDE CERTAIN PARTS OF SUBCHAPTER II

References to subchapter I of this chapter are deemed to include parts IV (§2346 et seq.), VI (§2348 et seq.), and VIII (§2349aa et seq.) of subchapter II of this chapter, and references to subchapter II are deemed to exclude such parts. See section 202(b) of Pub. L. 92–226, set out as a note under section 2346 of this title, and sections 2348c and 2349aa–5 of this title.

AMENDMENTS

1994—Subsec. (f). Pub. L. 103–236 struck out subsec. (f) which provided for an Assistant Secretary of State for Human Rights and Humanitarian Affairs and prescribed the Assistant Secretary's duties.

1983—Subsec. (f)(2)(C). Pub. L. 98–164 inserted provisions relating to providing advice to the Administrator of the Agency for International Development on policy framework.

1981—Subsec. (g). Pub. L. 97–113 struck out subsec. (g) which related to the Inspector General and the duties, responsibilities, and compensation of such official. See sections 2, 8A, and 11 of the Inspector General Act of 1978, Pub. L. 95–452, Oct. 12, 1978, 92 Stat. 1101, as amended, set out in the Appendix to Title 5, Government Organization and Employees.

1980—Subsec. (g). Pub. L. 96–533 substituted in pars. (1) to (5) "Inspector General" for "Auditor General" wherever appearing; in par. (3), imposed upon the Inspector General requirement of supervising, directing, and controlling security activities, including audit, investigative, and security activities relating to programs and operations within the United States International Development Cooperation Agency; in par. (4) required submission of an annual report to the Director; and added pars. (6) to (9).

1978—Subsec. (g). Pub. L. 95–424 added subsec. (g).

1977—Subsec. (d). Pub. L. 95–88 struck out subsec. (d) which provided for an Inspector General, Foreign Assistance.

Subsec. (f)(1). Pub. L. 95–105, §109(a)(1)(A), substituted references to the Assistant Secretary of State for Human Rights and Humanitarian Affairs for references to the Coordinator for Human Rights and Humanitarian Affairs.

Subsec. (f)(2). Pub. L. 95–105, §109(a)(1)(B), substituted "Assistant Secretary of State" for "Coordinator".

1976—Subsec. (f). Pub. L. 94–329 added subsec. (f).

1972—Subsec. (e). Pub. L. 92–226 added subsec. (e).

1969—Subsec. (d)(2)(A). Pub. L. 91–175, §304(1), inserted provision including the Overseas Private Investment Corporation in Inspector General's reviews and audits, and inserted provision authorizing the conduct of such reviews and audits for programs under section 290f of this title.

Subsec. (d)(5), (7). Pub. L. 91–175, §304(2), (3), included section 290f of this title within provisions of this section.

1967—Subsec. (d)(2)(B). Pub. L. 90–137 struck out "of assistance" after "programs" in two places.

1966—Subsec. (d)(8). Pub. L. 89–583 added par. (8).

1965—Subsec. (b). Pub. L. 89–171, §302(b)(1), struck out "paragraph (3) of" before "subsection (a) of this section" the second time it appears and substituted "of one or more of said officers" for "of the officers provided for in paragraphs (1) and (2) of that subsection".

Subsec. (d)(2)(A), (5), (7). Pub. L. 89–171, §302(b)(2), substituted "the Latin American Development Act, as amended" for "Public Law 86–735".

1964—Subsec. (a). Pub. L. 88–426, §305(42), repealed provisions which related to the appointment of an Under Secretary, Deputy Under Secretary and ten Assistant Secretaries and prescribed their rates of compensation.

Subsec. (d)(1). Pub. L. 88–426, §305(33), repealed provisions which prescribed the compensation of the Inspector General, Deputy Inspector General and Assistant Inspector Generals. See section 5315 of Title 5, Government Organization and Employees.

1963—Subsecs. (a)(2), (3). Pub. L. 88–205, §302(b)(1), (2), reduced the number of Deputy Under Secretaries from two to one in par. (2), and increased the number of Assistant Secretaries from 9 to 10 in par. (3).

Subsec. (b). Pub. L. 88–205, §302(b)(3), made conforming changes in language to reflect that only one Deputy Under Secretary may now be appointed.

Subsec. (d)(1). Pub. L. 88–205, §302(b)(4), inserted "who shall be appointed by the President by and with the advice and consent of the Senate," and increased the salary of the Deputy Inspector General, Foreign Assistance, from $19,500 to $20,000.

1962—Subsecs. (d), (e). Pub. L. 87–565 redesignated subsec. (e) as (d), inserted ", and programs being conducted by United States Government Agencies under sections 1942 to 1945 of this title," in par. 2(A), and ", and sections 1942 to 1945 of this title," in pars. (5) and (7), and repealed former subsec. (d) which related to the temporary continuation of certain statutory positions.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–236 applicable with respect to officials, offices, and bureaus of Department of State when executive orders, regulations, or departmental directives implementing the amendments by sections 161 and 162 of Pub. L. 103–236 become effective, or 90 days after Apr. 30, 1994, whichever comes earlier, see section 161(b) of Pub. L. 103–236, as amended, set out as a note under section 2651a of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–424 effective Oct. 1, 1978, see section 605 of Pub. L. 95–424, set out as a note under section 2151 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Pub. L. 95–88, title I, §124(c), Aug. 3, 1977, 91 Stat. 542, provided that: "The amendments made by this section [amending this section and section 5315 of Title 5, Government Organization and Employees, and enacting provisions set out as a note under this section] shall take effect on July 1, 1978."

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88–426 effective on first day of first pay period which begins on or after July 1, 1964, except to the extent provided in section 501(c) of Pub. L. 88–426, see Pub. L. 88–426, title V, §501, Aug. 14, 1964, 78 Stat. 435.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

ASSISTANT ADMINISTRATOR FOR MANAGEMENT

Pub. L. 112–166, §2(v)(1), Aug. 10, 2012, 126 Stat. 1288, provided that: "Notwithstanding section 624(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2384(a)), the appointment by the President of the Assistant Administrator for Management at the United States Agency for International Development shall not be subject

to the advice and consent of the Senate."

ASSUMPTION OF DUTIES BY COORDINATOR FOR HUMAN RIGHTS AND HUMANITARIAN AFFAIRS

Pub. L. 95–105, title I, §109(a)(6), Aug. 17, 1977, 91 Stat. 846, provided that: "The individual holding the position of Coordinator for Human Rights and Humanitarian Affairs on the date of enactment of this section [Aug. 17, 1977] shall assume the duties of the Assistant Secretary of State for Human Rights and Humanitarian Affairs and shall not be required to be reappointed by reason of the enactment of this section."

REPORT TO SPEAKER OF THE HOUSE AND CONGRESSIONAL COMMITTEES ON OFFICE OF ASSISTANT SECRETARY FOR HUMAN RIGHTS AND HUMANITARIAN AFFAIRS

Pub. L. 95–105, title I, §109(a)(7), Aug. 17, 1977, 91 Stat. 847, which required the Secretary of State, not later than Jan. 31, 1978, to transmit to the Speaker of the House of Representatives and the chairmen of the Senate Committee on Foreign Relations and the Senate Committee on the Judiciary a comprehensive report on the Office of the Assistant Secretary for Human Rights and Humanitarian Affairs, including its current mandate and operations, the mandate and operations of its predecessor offices, and proposals for the reorganization of the Department of State that would strengthen human rights and humanitarian considerations in the conduct of United States foreign policy and promote the ability of the United States to participate effectively in international humanitarian efforts, was repealed by Pub. L. 97–241, title V, §505(a)(3), Aug. 24, 1982, 96 Stat. 299, and Pub. L. 98–164, title X, §1011(a)(5), Nov. 22, 1983, 97 Stat. 1061.

ASSIGNMENT OF DUTIES AND RESPONSIBILITIES TO INSPECTOR GENERAL, FOREIGN SERVICE

Pub. L. 95–88, title I, §124(a)(2), Aug. 3, 1977, 91 Stat. 542, which provided that the President (A) may assign to the Inspector General, Foreign Service, any of the duties and responsibilities vested by such section 624(d) [subsec. (d) of this section] in the Inspector General, Foreign Assistance, and (B) may authorize the Inspector General, Foreign Service, to exercise such of the authorities granted by such section 624(d) [subsec. (d) of this section] to the Inspector General, Foreign Assistance, as the President determines are necessary to carry out any duties or responsibilities so assigned, was repealed by Pub. L. 96–465, title II, §2205(11), Oct. 17, 1980, 94 Stat. 2160. See section 3929 of this title.

AGENCY FOR INTERNATIONAL DEVELOPMENT

For appointments under subsec. (a) to United States Agency for International Development, see section 1–200(b) and (c) of Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§2385. Employment of personnel

(a) Authorization

Any agency or officer of the United States Government carrying out functions under this chapter is authorized to employ such personnel as the President deems necessary to carry out the provisions and purposes of this chapter.

(b) Appointments excepted from civil-service laws; supergrade positions; reinstatement

Of the personnel employed in the United States to carry out subchapter I of this chapter or coordinate subchapter I and subchapter II of this chapter, not to exceed one hundred and ten may be appointed, compensated, or removed without regard to the provisions of any law, of whom not to exceed fifty-one may be compensated at rates higher than those provided for grade 15 of the general schedule established by section 5332 of title 5, but not in excess of the highest rate of grade 18 of such general schedule: *Provided*, That, under such regulations as the President shall prescribe, officers and employees of the United States Government who are appointed to any of the above positions may be entitled, upon removal from such position, to reinstatement to the position occupied at the time of appointment or to a position of comparable grade and salary. Such positions shall be in addition to those authorized by law to be filled by Presidential appointment, and in addition to the number authorized by section 5108 of title 5.

(c) Additional supergrade positions

Of the personnel employed in the United States to carry out subchapter II of this chapter, or any Act superseding subchapter II of this chapter in whole or in part, not to exceed eight may be compensated at rates higher than those provided for grade 15 of the general schedule established by section 5332 of title 5, but not in excess of the highest rate of grade 18 of such general schedule. Such positions shall be in addition to those authorized by law to be filled by Presidential appointment, and in addition to the number authorized by section 5108 of title 5.

(d) Employment or assignment of officers and employees to perform functions outside United States

For the purpose of performing functions under this chapter outside the United States, the President may employ or assign individuals, or may authorize the employment or assignment of officers or employees by agencies of the United States Government which are not authorized to utilize the Foreign Service personnel system, who shall receive compensation at any of the rates provided for under section 402 or section 403 of the Foreign Service Act of 1980 [22 U.S.C. 3962, 3963], or under chapter 53 of title 5, or at any other rate authorized by law, together with allowances and benefits under the Foreign Service Act of 1980 [22 U.S.C. 3901 et seq.]. Individuals so employed or assigned shall be entitled, except to the extent that the President may specify otherwise in cases in which the period of employment or assignment exceeds thirty months, to the same benefits as are provided by section 310 of that Act [22 U.S.C. 3950] for individuals appointed to the Foreign Service.

(e) Repealed. Pub. L. 96–465, title II, §2205(8), Oct. 17, 1980, 94 Stat. 2160

(f) Funds for personnel services

Funds provided for in agreements with foreign countries for the furnishing of services under this chapter with respect to specific projects shall be deemed to be obligated for the services of personnel employed by agencies of the United States Government (other than the agencies primarily responsible for administering subchapter I or II of this chapter) as well as personnel not employed by the United States Government.

(g) Repealed. Pub. L. 96–465, title II, §2205(8), Oct. 17, 1980, 94 Stat. 2160

(h) Acceptance of compensation or other benefits from foreign countries; arrangements for reimbursement

Notwithstanding any other provision of law, officers and employees of the United States Government performing functions under this chapter shall not accept from any foreign country any compensation or other benefits. Arrangements may be made by the President with such countries for reimbursement to the United States Government or other sharing of the cost of performing such functions.

(i) Assignment based on competency

To the maximum extent practicable officers and employees performing functions under this chapter abroad shall be assigned to countries and positions for which they have special competence, such as appropriate language and practical experience.

(j) Reemployment of annuitants under the Civil Service Retirement System and the Federal Employees' Retirement System

(1)(A) To facilitate the assignment of persons to Iraq, Pakistan, and Afghanistan or to posts vacated by members of the Service assigned to Iraq, Pakistan, and Afghanistan, the Administrator of the United States Agency for International Development may waive the application of the provisions of section 8344 or 8468 of title 5 on a case-by-case basis for employment of an annuitant in a position in the United States Agency for International Development for which there is exceptional difficulty in recruiting or retaining a qualified employee, or when a temporary emergency hiring need exists.

(B) The authority of the Administrator under subparagraph (A) shall terminate on October 1, 2010. An annuitant reemployed pursuant to such authority prior to such termination date may be employed

for a period ending not later than one year after such date.

(2) The Administrator should prescribe procedures for the exercise of any authority under this subsection, including criteria for any exercise of authority and procedures for a delegation of authority.

(3) An employee for whom a waiver under this section is in effect shall not be considered an employee for purposes of subchapter III of chapter 83, or chapter 84 of title 5.

(Pub. L. 87–195, pt. III, §625, Sept. 4, 1961, 75 Stat. 449; Pub. L. 87–565, pt. III, §302(c), Aug. 1, 1962, 76 Stat. 262; Pub. L. 87–793, pt. II, §1001(k), Oct. 11, 1962, 76 Stat. 865; Pub. L. 88–663, pt. III, §302(a), Oct. 7, 1964, 78 Stat. 1014; Pub. L. 89–171, pt. III, §302(c), Sept. 6, 1965, 79 Stat. 660; Pub. L. 90–137, pt. III, §302(b)–(d), Nov. 14, 1967, 81 Stat. 460; Pub. L. 90–554, title III, §302(c), Oct. 8, 1968, 82 Stat. 965; Pub. L. 93–189, §16, Dec. 17, 1973, 87 Stat. 722; Pub. L. 95–88, title I, §125, Aug. 3, 1977, 91 Stat. 542; Pub. L. 96–465, title II, §§2203(a), 2205(8), Oct. 17, 1980, 94 Stat. 2158, 2160; Pub. L. 97–113, title VII, §703, Dec. 29, 1981, 95 Stat. 1544; Pub. L. 109–234, title I, §1602(b)(2), June 15, 2006, 120 Stat. 442; Pub. L. 111–32, title XI, §1115(c)(3), June 24, 2009, 123 Stat. 1905.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a), (d), (f), (h), and (i), was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

The Foreign Service Act of 1980, referred to in subsec. (d), is Pub. L. 96–465, Oct. 17, 1980, 94 Stat. 2071, which is classified principally to chapter 52 (§3901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3901 of this title and Tables.

REFERENCES TO SUBCHAPTER I DEEMED TO INCLUDE CERTAIN PARTS OF SUBCHAPTER II, AND REFERENCES TO SUBCHAPTER II DEEMED TO EXCLUDE SUCH PARTS

References to subchapter I of this chapter are deemed to include parts IV (§2346 et seq.), VI (§2348 et seq.), and VIII (§2349aa et seq.) of subchapter II of this chapter, and references to subchapter II are deemed to exclude such parts. See section 202(b) of Pub. L. 92–226, set out as a note under section 2346 of this title, and sections 2348c and 2349aa–5 of this title.

AMENDMENTS

2009—Subsec. (j)(1)(A). Pub. L. 111–32 inserted ", Pakistan," after "Iraq" in two places.

Subsec. (j)(1)(B). Pub. L. 111–32 substituted "2010" for "2008".

2006—Subsec. (j). Pub. L. 109–234 added subsec. (j).

1981—Subsec. (d). Pub. L. 97–113 substituted "or under chapter 53 of title 5, or at any other rate authorized by law, together with allowances and benefits under the Foreign Service Act of 1980" for "together with allowances and benefits under that Act".

1980—Subsec. (d). Pub. L. 96–465, §2203(a), substituted references to the Foreign Service Act of 1980, for references to the Foreign Service Act of 1946, and struck out provisions relating to the applicability of section 1005 of the Foreign Service Act of 1946 and relating to the utilization of Presidential authority under the Foreign Service Act of 1946 to carry out the functions of this chapter.

Subsec. (e). Pub. L. 96–465, §2205(8), struck out subsec. (e) which set forth requirement of standards or other criteria for maintenance of adequate performance levels for personnel. See sections 4007 and 4008 of this title.

Subsec. (g). Pub. L. 96–465, §2205(8), struck out subsec. (g) which related to competency in foreign languages. See section 4022 of this title.

Subsec. (j). Pub. L. 96–465, §2205(8), struck out subsec. (j) which related to appointment and compensation of an Inter-American Committee representative.

Subsec. (k). Pub. L. 96–465, §2205(8), struck out subsec. (k) which related to applicability, etc., of Foreign Service Retirement and Disability System. See sections 3922 and 4043 of this title.

1977—Subsec. (d)(2). Pub. L. 95–88 struck out a numerical limitation of fifty on the number of persons which the President may assign, at any one time, to duty within the United States for the purpose of preparation for assignments outside the United States.

1973—Subsec. (k). Pub. L. 93–189 added subsec. (k).

1968—Subsec. (c). Pub. L. 90–554 inserted "or any Act superseding subchapter II of this chapter in whole

or in part" after "to carry out subchapter II of this chapter".

1967—Subsecs. (b), (c). Pub. L. 90–137, §302(b), (c), substituted references to section 5332 of title 5 for former references to the Classification Act of 1949, as amended, and to section 5108 for former section 1105 of title 5.

Subsec. (d)(2). Pub. L. 90–137, §302(d), authorized an increase in the assignment of foreign personnel from forty to fifty persons.

1965—Subsec. (d)(2). Pub. L. 89–171 substituted "forty" for "twenty".

1964—Subsec. (d)(2). Pub. L. 88–633, §302(a)(1), substituted "the assignment to such duty of more than twenty persons at any one time" for "more than thirty persons in the aggregate".

Subsec. (j). Pub. L. 88–633, §302(a)(2), added subsec. (j).

1962—Subsec. (b). Pub. L. 87–793, §1001(k)(1), substituted "but not in excess of the highest rate of grade 18 of such general schedule" for "and of these, not to exceed eight may be compensated at a rate in excess of the highest rate provided for grades of such general schedule but not in excess of $19,000 per year".

Pub. L. 87–565, §302(c)(1), substituted "one hundred and ten" for "seventy-six".

Subsec. (c). Pub. L. 87–793, §1001(k)(2), substituted "but not in excess of the highest rate of grade 18 of such general schedule" for "and of these, not to exceed three may be compensated at a rate in excess of the highest rate provided for grades of such general schedule but not in excess of $19,000 per year".

Subsec. (d)(2). Pub. L. 87–565, §302(c)(2), authorized the President to initially assign personnel, not exceeding 30 persons in the aggregate, for duty within the United States for a period not exceeding two years for preparation for duty outside the United States.

Subsec. (f). Pub. L. 87–565, §302(c)(3), inserted "with respect to specific projects", and "agencies of", and excluded services of employees of agencies primarily responsible for administering subchapter I or II of this chapter from the purview of this subsection.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment of subsec. (d) and repeal of subsecs. (e), (g), and (j) by Pub. L. 96–465 effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

Repeal of subsec. (k) by Pub. L. 96–465 effective Oct. 17, 1980, see Pub. L. 96–465, title II, §2403(d)(1), Oct. 17, 1980, 94 Stat. 2169.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87–793 effective on first day of first pay period which begins on or after Oct. 11, 1962, see Pub. L. 87–793, pt. II, §1008, Oct. 11, 1962, 76 Stat. 868.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

EXTENSION OF AUTHORITY

Pub. L. 114–113, div. K, title VII, §7034(k)(6), Dec. 18, 2015, 129 Stat. 2765, provided that: "Section 625(j)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2385(j)(1)) shall be applied by substituting 'September 30, 2016' for 'October 1, 2010' in subparagraph (B)."

Prior extensions were contained in the following prior acts:

Pub. L. 113–235, div. J, title VII, §7034(l)(6), Dec. 16, 2014, 128 Stat. 2625.

Pub. L. 113–76, div. K, title VII, §7034(m)(6), Jan. 17, 2014, 128 Stat. 515.

Pub. L. 112–74, div. I, title VII, §7034(m)(6), Dec. 23, 2011, 125 Stat. 1216.

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

ENTITLEMENT TO BENEFITS FOR SERVICES PERFORMED OUTSIDE UNITED STATES; SERVICE EXCEEDING THIRTY MONTHS

Persons appointed, employed, or assigned after May 19, 1959, under former section 1787(c) of this title or subsec. (d) of this section for the purpose of performing functions under the Mutual Security Act of 1954 (see Short Title note set out under section 1754 of this title) and this chapter, outside the United States, shall not,

unless otherwise agreed by the agency in which such benefits may be exercised, be entitled to the benefits provided for by section 3950 of this title in cases in which their service under the appointment, employment, or assignment exceeds thirty months, see Ex. Ord. No. 12163, §1–602(b), Sept. 29, 1979, 44 F.R. 56677, as amended, set out as a note under section 2381 of this title.

§2385a. Unified personnel system

(a) Establishment by regulations

Not later than May 1, 1979, the President shall submit to the Congress, and publish in the Federal Register, regulations establishing a unified personnel system for all employees of the agency primarily responsible for administering part I of the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.]. In preparing such regulations, the President shall keep the appropriate committees of the Congress fully and currently informed, and shall consult with them on a regular basis, concerning the nature of the unified personnel system to be established.

(b) Effective date of regulations

The regulations submitted to the Congress pursuant to subsection (a)—

(1) may not become effective until after the end of the 90-day period beginning on the date of such submission in order to provide the appropriate committees of the Congress an opportunity to review them; and

(2) shall not become effective then if, during such 90-day period, either House of Congress adopts a resolution stating in substance that it disapproves the personnel system proposed to be established by the regulations.

(c) Force and effect of regulations

Regulations which take effect pursuant to this section shall have the force and effect of law and shall apply with respect to the personnel of the agency primarily responsible for administering part I of the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.], notwithstanding and [1] inconsistent provision of law unless that provision of law specifically states that it supersedes regulations issued under this section.

(Pub. L. 95–424, title IV, §401, Oct. 6, 1978, 92 Stat. 956; Pub. L. 96–53, title V, §503(a), Aug. 14, 1979, 93 Stat. 378.)

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsecs. (a) and (c), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424. Part I of the Foreign Assistance Act of 1961 is classified generally to subchapter I (§2151 et seq.) of this chapter. For provisions deeming references to subchapter I to include parts IV (§2346 et seq.), VI (§2348 et seq.), and VIII (§2349aa et seq.) of subchapter II of this chapter, see section 202(b) of Pub. L. 92–226, set out as a note under section 2346 of this title, and sections 2348c and 2349aa–5 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

CODIFICATION

Section enacted as part of the International Development and Food Assistance Act of 1978, and not as part of the Foreign Assistance Act of 1961 which comprises this chapter.

AMENDMENTS

1979—Subsec. (a). Pub. L. 96–53 substituted "May 1" for "March 15".

EFFECTIVE DATE OF 1979 AMENDMENT

Pub. L. 96–53, title V, §503(b), Aug. 14, 1979, 93 Stat. 378, provided that: "The amendment made by subsection (a) [amending this section] shall be effective as of March 15, 1979."

EFFECTIVE DATE

Section effective Oct. 1, 1978, see section 605 of Pub. L. 95–424, set out as an Effective Date of 1978 Amendment note under section 2151 of this title.

[1] So in original. Probably should be "any".

§2386. Experts, consultants, and retired officers

(a) Employment; compensation; renewal of contracts of employment

Experts and consultants or organizations thereof may as authorized by section 3109 of title 5 be employed for the performance of functions under this chapter, and individuals so employed may be compensated at rates not in excess of the daily equivalent of the highest rate which may be paid to an employee under the General Schedule established by section 5332 of title 5, and while away from their homes or regular places of business, they may be paid actual travel expenses and per diem in lieu of subsistence at the applicable rate prescribed in the standardized Government travel regulations, as amended from time to time. Contracts for such employment with such organizations, employment of personnel as experts and consultants, not to exceed ten in number, contracts for such employment of retired military personnel with specialized research and development experience, not to exceed ten in number, and contracts for such employment of retired military personnel with specialized experience of a broad politico-military nature, not to exceed five in number, may be renewed annually.

(b) Exemption from certain Federal laws

Service of an individual as an expert or consultant under subsection (a) of this section shall not be considered as employment or holding of office or position bringing such individual within the provisions of section 3323(a) of title 5.

(c) Employment without compensation of persons of outstanding experience and ability

Persons of outstanding experience and ability may be employed without compensation by any agency of the United States Government for the performance of functions under this chapter in accordance with the provisions of section 4560(b) of title 50, and regulations issued thereunder.

(Pub. L. 87–195, pt. III, §626, Sept. 4, 1961, 75 Stat. 451; Pub. L. 88–205, pt. III, §302(c), Dec. 16, 1963, 77 Stat. 389; Pub. L. 88–448, title IV, §§401(e), 402(a)(35), Aug. 19, 1964, 78 Stat. 490, 495; Pub. L. 88–633, pt. III, §302(b), Oct. 7, 1964, 78 Stat. 1014; Pub. L. 89–171, pt. III, §302(d), Sept. 6, 1965, 79 Stat. 660; Pub. L. 90–137, pt. III, §302(e), Nov. 14, 1967, 81 Stat. 460; Pub. L. 94–329, title VI, §603, June 30, 1976, 90 Stat. 766; Pub. L. 95–88, title I, §126, Aug. 3, 1977, 91 Stat. 542.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (c), was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

AMENDMENTS

1977—Subsec. (b). Pub. L. 95–88 struck out provisions under which service of an individual as an expert or consultant under subsec. (a) would not be considered employment as would bring a person under section 8344 of title 5, section 1112 of this title, and any other law limiting the reemployment of retired officers or employees or governing the simultaneous receipt of compensation and retired pay or annuities subject to section 5532 of title 5.

1976—Subsec. (a). Pub. L. 94–329 substituted "the daily equivalent of the highest rate which may be paid to an employee under the General Schedule established by section 5332 of title 5" for "$100 per diem".

1967—Subsec. (a). Pub. L. 90–137, §302(e)(1), substituted reference to section 3109 for former section 55a of title 5.

Subsec. (b). Pub. L. 90–137, §302(e)(2), substituted references to sections 3323(a) and 8344 of title 5 for former section 2263 of title 5 and to section 5532 of title 5 for former section 3102 of title 5.

1965—Subsecs. (c), (d). Pub. L. 89–171 redesignated subsec. (d) as (c). Former subsec. (c) was repealed by Pub. L. 88–448, title IV, §402(a)(35), Aug. 19, 1964, 78 Stat. 495.

1964—Subsec. (a). Pub. L. 88–633, §302(b)(1), increased compensation limits from $75 to $100 per diem.

Subsec. (b). Pub. L. 88–448, §401(e), struck out provisions which stated that service as an expert or

consultant under subsection (a) of this section shall not be considered as employment or holding of office or position bringing such individual within the provisions of section 59a of title 5, and inserted ", subject to section 3102 of title 5".

Subsec. (c). Pub. L. 88–448, §402(a)(35), repealed subsec. (c) which related to compensation of retired officers.

Pub. L. 88–633, §302(b)(2), substituted "section 101(3) of Title 37" for "Career Compensation Act of 1949, as amended," in subsec. (c) subsequent to the repeal of such subsection by Pub. L. 88–448.

1963—Subsec. (b). Pub. L. 88–205 substituted "Service of an individual as an expert or consultant under subsection (a) of this section shall not" for "Nor shall such service", and struck out provisions exempting individuals serving under subsec. (a) of this section from coverage of sections 281, 283, or 284 of title 18, section 99 of title 5, or any Federal law imposing restrictions, requirements, or penalties in connection with claims or matters involving the U.S. Government, except insofar as such provisions prohibited such individuals from receiving compensation in respect of any matter in which such individual was directly involved in the performance of such service.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88–448 effective on first day of first month which begins later than the ninetieth day following Aug. 19, 1964, see Pub. L. 88–448, title IV, §403(a), Aug. 19, 1964, 78 Stat. 496.

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

§2387. Detail of personnel to foreign governments

Whenever the President determines it to be in furtherance of the purposes of this chapter, the head of any agency of the United States Government is authorized to detail or assign any officer or employee of his agency to any office or position with any foreign government or foreign government agency, where acceptance of such office or position does not involve the taking of an oath of allegiance to another government or the acceptance of compensation or other benefits from any foreign country by such officer or employee.

(Pub. L. 87–195, pt. III, §627, Sept. 4, 1961, 75 Stat. 452.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§2388. Detail of personnel to international organizations

Whenever the President determines it to be consistent with and in furtherance of the purposes of this chapter, the head of any agency of the United States Government is authorized to detail, assign, or otherwise make available to any international organization any officer or employee of his agency to serve with, or as a member of, the international staff of such organization, or to render any technical, scientific, or professional advice or service to, or in cooperation with, such organization.

(Pub. L. 87–195, pt. III, §628, Sept. 4, 1961, 75 Stat. 452.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to

the Code, see Short Title note set out under section 2151 of this title and Tables.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§2389. Status and benefits of personnel assigned or detailed to foreign governments or international organizations

(a) Allowances, privileges, rights, seniority, and other benefits

Any officer or employee, while assigned or detailed under section 2387 or 2388 of this title shall be considered, for the purpose of preserving his allowances, privileges, rights, seniority, and other benefits as such, an officer or employee of the United States Government and of the agency of the United States Government from which detailed or assigned, and he shall continue to receive compensation, allowances, and benefits from funds appropriated to that agency or made available to that agency under this chapter.

(b) Representation allowances

Any officer or employee assigned, detailed, or appointed under section 2387, 2388, 2391, or 2384(d) [1] of this title is authorized to receive under such regulations as the President may prescribe, representation allowances similar to those allowed under section 4085 of this title. The authorization of such allowances and other benefits and the payment thereof out of any appropriations available therefor shall be considered as meeting all the requirements of section 5536 of title 5.

(Pub. L. 87–195, pt. III, §629, Sept. 4, 1961, 75 Stat. 452; Pub. L. 87–565, pt. III, §302(d), Aug. 1, 1962, 76 Stat. 262; Pub. L. 90–137, pt. III, §302(f), Nov. 14, 1967, 81 Stat. 460; Pub. L. 96–465, title II, §2203(b), Oct. 17, 1980, 94 Stat. 2159.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

Section 2384(d) of this title, referred to in subsec. (b), was repealed by Pub. L. 95–88, title I, §124(a)(1), Aug. 3, 1977, 91 Stat. 541.

AMENDMENTS

1980—Subsec. (b). Pub. L. 96–465 substituted "section 4085 of this title" for "section 1131 of this title".

1967—Subsec. (b). Pub. L. 90–137 substituted reference to section 5536 of title 5 for former section 70 of title 5.

1962—Subsec. (b). Pub. L. 87–565 substituted "2384(d)" for "2384(e)".

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–465 effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

[1] *See References in Text note below.*

§2390. Terms of detail or assignment of personnel

Details or assignments may be made under section 2387 or 2388 of this title or section 1928 of this title—

(1) without reimbursement to the United States Government by the foreign government or international organization;

(2) upon agreement by the foreign government or international organization to reimburse the United States Government for compensation, travel expenses, benefits and allowances, or any part thereof, payable to the officer or employee concerned during the period of assignment or detail; and such reimbursements (including foreign currencies) shall be credited to the appropriation, fund, or account utilized for paying such compensation, travel expenses, benefits or allowances, or to the appropriation, fund, or account currently available for such purposes;

(3) upon an advance of funds, property, or services by the foreign government or international organization to the United States Government accepted with the approval of the President for specified uses in furtherance of the purposes of this chapter; and funds so advanced may be established as a separate fund in the Treasury of the United States Government, to be available for the specified uses, and to be used for reimbursement of appropriations or direct expenditure subject to the provisions of this chapter, any unexpended balance of such account to be returned to the foreign government or international organization; or

(4) subject to the receipt by the United States Government of a credit to be applied against the payment by the United States Government of its share of the expenses of the international organization to which the officer or employee is detailed or assigned, such credit to be based upon the compensation, travel expenses, benefits and allowances, or any part thereof, payable to such officer or employee during the period of detail or assignment in accordance with section 2389 of this title.

(Pub. L. 87–195, pt. III, §630, Sept. 4, 1961, 75 Stat. 452; Pub. L. 89–171, pt. III, §302(e), Sept. 6, 1965, 79 Stat. 660.)

REFERENCES IN TEXT

This chapter, referred to in par. (3), was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

AMENDMENTS

1965—Pub. L. 89–171 inserted "benefits" in pars. (2) and (4).

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§2391. Missions and staffs abroad

(a) Authorization

The President may maintain special missions or staffs outside the United States in such countries and for such periods of time as may be necessary to carry out the purposes of this chapter. Each such special mission or staff shall be under the direction of a chief.

(b) Appointment of mission chief and deputy; compensation

The chief and his deputy of each special mission or staff carrying out the purposes of subchapter I of this chapter shall be appointed by the President, and may, notwithstanding any other law, be removed by the President at his discretion. Such chief shall be entitled to receive such compensation and allowances as are authorized by the Foreign Service Act of 1980 [22 U.S.C. 3901 et seq.], not to exceed those authorized for a chief of mission (as defined in section 102(a)(3) [1] of that Act [22 U.S.C. 3902(a)(3)]), as the President shall determine to be appropriate.

(c) Appointment of Chairman of Development Assistance Committee; compensation

The President may appoint any United States citizen who is not an employee of the United States Government or may assign any United States citizen who is a United States Government employee

to serve as Chairman of the Development Assistance Committee or any successor committee thereto of the Organization for Economic Cooperation and Development upon election thereto by members of said Committee, and, in his discretion, may terminate such appointment or assignment, notwithstanding any other provision of law. Such person may receive such compensation and allowances as are authorized by the Foreign Service Act of 1980 [22 U.S.C. 3901 et seq.], not to exceed those authorized for a chief of mission (as defined in section 102(a)(3) [1] of that Act [22 U.S.C. 3902(a)(3)]), as the President shall determine to be appropriate. Such person (if not a United States Government employee who is assigned to serve as Chairman) shall be deemed to be an employee of the United States Government for purposes of chapters 81, 83, 87, and 89 of title 5. Such person may also, in the President's discretion, receive any other benefits and perquisites available under this chapter to chiefs of special missions or staffs outside the United States established under this section.

(d) Administration of assistance

Wherever practicable, especially in the case of the smaller programs, assistance under subchapter I of this chapter shall be administered under the direction of the Chief of the United States Diplomatic Mission by the principal economic officer of the mission.

(Pub. L. 87–195, pt. III, §631, Sept. 4, 1961, 75 Stat. 453; Pub. L. 88–205, pt. III, §302(d), Dec. 16, 1963, 77 Stat. 389; Pub. L. 89–171, pt. III, §302(f), Sept. 6, 1965, 79 Stat. 660; Pub. L. 95–92, §7(c), Aug. 4, 1977, 91 Stat. 617; Pub. L. 96–465, title II, §2203(c), (d), Oct. 17, 1980, 94 Stat. 2159.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (c), was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

The Foreign Service Act of 1980, referred to in subsecs. (b) and (c), is Pub. L. 96–465, Oct. 17, 1980, 94 Stat. 2071, as amended, which is classified principally to chapter 52 (§3901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3901 of this title and Tables.

Section 102(a)(3) of that Act, referred to in subsecs. (b) and (c), was redesignated section 102(3) pursuant to Pub. L. 98–164, which struck out designation "(a)" and struck out subsec. (b) of section 102.

REFERENCES TO SUBCHAPTER I DEEMED TO INCLUDE CERTAIN PARTS OF SUBCHAPTER II

References to subchapter I of this chapter are deemed to include parts IV (§2346 et seq.), VI (§2348 et seq.), and VIII (§2349aa et seq.) of subchapter II of this chapter, and references to subchapter II are deemed to exclude such parts. See section 202(b) of Pub. L. 92–226, set out as a note under section 2346 of this title, and sections 2348c and 2349aa–5 of this title.

AMENDMENTS

1980—Subsec. (b). Pub. L. 96–465, §2203(c), among other changes, substituted references to the Foreign Service Act of 1980 for references to the Foreign Service Act of 1946 and section 2385(d) of this title.

Subsec. (c). Pub. L. 96–465, §2203(d), among other changes, substituted references to the Foreign Service Act of 1980, for references to the Foreign Service Act of 1946, and inserted provisions relating to employee status for purposes of chapters 81, 83, 87 and 89 of title 5.

1977—Subsec. (d). Pub. L. 95–92 substituted reference to subchapter I of this chapter for reference to this chapter and struck out provisions requiring administration of assistance by the senior military officer of the mission for assistance under subchapter II of this chapter.

1965—Subsec. (d). Pub. L. 89–171 added subsec. (d).

1963—Subsec. (c). Pub. L. 88–205 added subsec. (c).

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–465 effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

FLAG AND GENERAL OFFICERS

Pub. L. 94–11, title I, §100, Mar. 26, 1975, 89 Stat. 20, provided in part that: "The total number of flag and general officers of the United States Armed Forces assigned or detailed to military assistance advisory groups, military missions, or similar organizations, or performing duties primarily with respect to the Military Assistance Program and the Foreign Military Sales Program shall not exceed twenty after May 1, 1975."

APPROVAL OF SECRETARY OF STATE

The maintenance of special missions or staffs abroad, the fixing of ranks of chiefs thereof after the chiefs of United States diplomatic missions, and authorization of same compensation and allowances as chief of mission, as defined in section 3902(3) of this title, all under this section, shall be subject to approval of Secretary of State, see section 1–603 of Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56677, as amended, set out as a note under section 2381 of this title.

[1] *See References in Text note below.*

§2392. Government agencies

(a) Allocation and transfer of funds

The President may allocate or transfer to any agency of the United States Government any part of any funds available for carrying out the purposes of this chapter, including any advance to the United States Government by any country or international organization for the procurement of commodities, defense articles, military education and training, or services (including defense services). Such funds shall be available for obligation and expenditure for the purposes for which authorized, in accordance with authority granted in this chapter or under authority governing the activities of the agencies of the United States Government to which such funds are allocated or transferred.

(b) Utilization of services and facilities of other agencies

Any officer of the United States Government carrying out functions under this chapter may utilize the services (including defense services) and facilities of, or procure commodities, defense articles, or military education and training from, any agency of the United States Government as the President shall direct, or with the consent of the head of such agency, and funds allocated pursuant to this subsection to any such agency may be established in separate appropriation accounts on the books of the Treasury.

(c) Reimbursement for commodities, services, and facilities

In the case of any commodity, service, or facility procured from any agency of the United States Government to carry out subchapter I of this chapter, reimbursement or payment shall be made to such agency from funds available to carry out such subchapter. Such reimbursement or payment shall be at replacement cost, or, if required by law, at actual cost, or, in the case of services procured from the Department of Defense to carry out part VIII of subchapter I of this chapter, the amount of the additional costs incurred by the Department of Defense in providing such services, or at any other price authorized by law and agreed to by the owning or disposing agency. The amount of any such reimbursement or payment shall be credited to current applicable appropriations, funds, or accounts, from which there may be procured replacements of similar commodities, services, or facilities, except that where such appropriations, funds, or accounts are not reimbursable except by reason of this subsection, and when the owning or disposing agency determines that such replacement is not necessary, any funds received in payment therefor shall be deposited into the Treasury as miscellaneous receipts.

(d) Reimbursement for military assistance

Except as otherwise provided in section 2318 of this title, reimbursement shall be made to any United States Government agency, from funds available for use under subchapter II of this chapter, for any assistance furnished under subchapter II of this chapter, from, by, or through such agency. Such reimbursement shall be in an amount equal to the value (as defined in section 2403(m) of this

title) of the defense articles or of the defense services (other than salaries of members of the Armed Forces of the United States), or other assistance furnished, plus expenses arising from or incident to operations under subchapter II of this chapter (other than salaries of the Armed Forces of the United States and unfunded estimated costs of civilian retirement and other benefits). The amount of such reimbursement shall be credited to the current applicable appropriations, funds, or accounts of such agency.

(e) Establishment of accounts

In furnishing assistance under this chapter, accounts may be established on the books of any agency of the United States Government or, on terms and conditions approved by the Secretary of the Treasury, in banking institutions in the United States, (1) against which letters of commitment may be issued which shall constitute recordable obligations of the United States Government, and moneys due or to become due under such letters of commitment shall be assignable under the Assignment of Claims Act of 1940, as amended [1] (second and third paragraphs of 31 U.S.C. 203 and 41 U.S.C. 15), and (2) from which disbursements may be made to, or withdrawals may be made by, recipient countries or agencies, organizations, or persons upon presentation of contracts, invoices, or other appropriate documentation. Expenditure of funds which have been made available through accounts so established shall be accounted for on standard documentation required for expenditure of funds of the United States Government: *Provided,* That such expenditures for commodities, defense articles, military education and training, services (including defense services), or facilities procured outside the United States may be accounted for exclusively on such certification as may be prescribed in regulations approved by the Comptroller General of the United States.

(f) Credits made by Export-Import Bank of the United States

Credits made by the Export-Import Bank of the United States with funds allocated thereto under subsection (a) of this section or under section 1782(a) [1] of this title, shall not be considered in determining whether the Bank has outstanding at any one time loans and guaranties to the extent of the limitation imposed by section 635e of title 12.

(g) Charge of expenses to appropriation or account

Any appropriation or account available to carry out provisions of subchapter I of this chapter may initially be charged in any fiscal year, within the limit of available funds, to finance expenses for which funds are available in other appropriations or accounts under subchapter I of this chapter: *Provided,* That as of the end of such fiscal year such expenses shall be finally charged to applicable appropriations or accounts with proper credit to the appropriations or accounts initially utilized for financing purposes: *Provided further,* That such final charge to applicable appropriations or accounts shall not be required in the case of expenses (other than those provided for under section 2397(a) of this title) incurred in furnishing assistance by the agency primarily responsible for administering subchapter I of this chapter where it is determined that the accounting costs of identifying the applicable appropriation or account to which such expenses should be charged would be disproportionate to the advantage to be gained.

(Pub. L. 87–195, pt. III, §632, Sept. 4, 1961, 75 Stat. 453; Pub. L. 90–137, pt. III, §302(g), Nov. 14, 1967, 81 Stat. 460; Pub. L. 90–267, §1(a), Mar. 13, 1968, 82 Stat. 47; Pub. L. 90–629, ch. 4, §45(b)(3), Oct. 22, 1968, 82 Stat. 1327; Pub. L. 94–329, title I, §106(b)(4), June 30, 1976, 90 Stat. 733; Pub. L. 100–690, title IV, §4506, Nov. 18, 1988, 102 Stat. 4286; Pub. L. 101–165, title IX, §9104(b)(2), Nov. 21, 1989, 103 Stat. 1152.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a), (b), and (e), was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

The Assignment of Claims Act of 1940, as amended, referred to in subsec. (e), means act Oct. 9, 1940, ch. 779, 54 Stat. 1029, which added the second and third pars. to section 203 of former Title 31, Money and Finance, and the second and third pars. to section 15 of former Title 41, Public Contracts. Section 203 of former Title 31 was repealed by Pub. L. 97–258, §5(b), Sept. 13, 1982, 96 Stat. 1068, and reenacted by the

first section thereof as section 3727 of Title 31, Money and Finance. Such second and third pars. were restated in section 3727(b) (last sentence) and (c) of Title 31. Section 15 of former Title 41 was amended generally by Pub. L. 103–355, title II, §2451, Oct. 13, 1994, 108 Stat. 3324, and was repealed and restated as section 6305 of Title 41, Public Contracts, by Pub. L. 111–350, §§3, 7(b), Jan. 4, 2011, 124 Stat. 3677, 3855.

Section 1782(a) of this title, referred to in subsec. (f), was repealed by Pub. L. 87–195, pt. III, §642(a)(2), Sept. 4, 1961, 75 Stat. 460.

REFERENCES TO SUBCHAPTER I DEEMED TO INCLUDE CERTAIN PARTS OF SUBCHAPTER II, AND REFERENCES TO SUBCHAPTER II DEEMED TO EXCLUDE SUCH PARTS

References to subchapter I of this chapter are deemed to include parts IV (§2346 et seq.), VI (§2348 et seq.), and VIII (§2349aa et seq.) of subchapter II of this chapter, and references to subchapter II are deemed to exclude such parts. See section 202(b) of Pub. L. 92–226, set out as a note under section 2346 of this title, and sections 2348c and 2349aa–5 of this title.

AMENDMENTS

1989—Subsec. (d). Pub. L. 101–165 inserted at end of second sentence "(other than salaries of the Armed Forces of the United States and unfunded estimated costs of civilian retirement and other benefits)".

1988—Subsec. (c). Pub. L. 100–690 inserted "or, in the case of services procured from the Department of Defense to carry out part VIII of subchapter I of this chapter, the amount of the additional costs incurred by the Department of Defense in providing such services," after "at actual cost,".

1976—Subsec. (a). Pub. L. 94–329, §106(b)(4)(A), inserted "military education and training" after "articles".

Subsec. (b). Pub. L. 94–329, §106(b)(4)(B), substituted "defense articles, or military education and training" for "and defense articles".

Subsec. (e). Pub. L. 94–329, §106(b)(4)(A), inserted "military education and training" after "articles".

1968—Subsec. (d). Pub. L. 90–629 struck out references to sections 2342 and 2343 of this title in the exception provision.

1967—Subsec. (d). Pub. L. 90–137 substituted reference to sections 2318, 2342, and 2343 for former reference to sections 2315 and 2318 of this title.

CHANGE OF NAME

"Export-Import Bank of Washington" changed to "Export-Import Bank of the United States" in text to conform to such change in name in the Export-Import Bank Act of 1945, section 635 et seq. of Title 12, Banks and Banking, provided for in section 1(a) of Pub. L. 90–267, Mar. 13, 1968, 82 Stat. 47.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–629 effective July 1, 1968, see section 41 of Pub. L. 90–629, set out as an Effective Date note under section 2751 of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

ACCOUNTING ADJUSTMENTS BETWEEN APPROPRIATIONS

Charge of expenses to appropriation or account not affected by provisions for accounting adjustments between appropriations, see section 3 of Pub. L. 89–473, June 29, 1966, 80 Stat. 221, set out as a note under section 628a of Title 31, Money and Finance.

[1] *See References in Text note below.*

§2393. Waiver of certain laws

(a) Contracts and expenditure of funds

Whenever the President determines it to be in furtherance of the purposes of this chapter, the functions authorized under this chapter may be performed without regard to such provisions of law

(other than the Renegotiation Act of 1951, as amended (50 U.S.C. App. 1211 et seq.)),[1] regulating the making, performance, amendment, or modification of contracts and the expenditure of funds of the United States Government as the President may specify.

(b) Neutrality laws

The functions authorized under subchapter II of this chapter may be performed without regard to such provisions as the President may specify of subchapter II of chapter 9 of this title.

(c) Assignment of personnel

Notwithstanding the provisions of sections 3544(b) and 8544(b) [1] of title 10, personnel of the Department of Defense may be assigned or detailed to any civil office to carry out this chapter.

(Pub. L. 87–195, pt. III, §633, Sept. 4, 1961, 75 Stat. 454.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

The Renegotiation Act of 1951, as amended, referred to in subsec. (a), is act Mar. 23, 1951, ch. 15, 65 Stat. 7, which was classified principally to section 1211 et seq. of the former Appendix to Title 50, War and National Defense, prior to its omission from the Code.

Sections 3544 and 8544 of title 10, referred to in subsec. (c), were repealed by Pub. L. 90–235, §4(a)(6), Jan. 2, 1968, 81 Stat. 759.

REFERENCES TO SUBCHAPTER II DEEMED TO EXCLUDE CERTAIN PARTS OF SUBCHAPTER II

References to subchapter II of this chapter are deemed to exclude parts IV (§2346 et seq.), VI (§2348 et seq.), and VIII (§2349aa et seq.) of subchapter II, and references to subchapter I of this chapter are deemed to include such parts. See section 202(b) of Pub. L. 92–226, set out as a note under section 2346 of this title, and sections 2348c and 2349aa–5 of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

EXECUTIVE ORDER NO. 10784

Ex. Ord. No. 10784, Oct. 1, 1958, 23 F.R. 7691, as amended by Ex. Ord. No. 10845, Oct. 12, 1959, 24 F.R. 8317, which specified laws from which functions authorized by this chapter shall be exempt, was superseded by Ex. Ord. No. 11223, May 12, 1965, 30 F.R. 6635, set out below.

EXECUTIVE ORDER NO. 10845

Ex. Ord. No. 10845 of Oct. 12, 1959, setting out laws from which authorized functions were exempt, was superseded by Ex. Ord. No. 11223, May 12, 1965, 30 F.R. 6635, set out below.

EX. ORD. NO. 11223. SPECIFICATION OF LAWS FROM WHICH FUNCTIONS AUTHORIZED BY THIS CHAPTER SHALL BE EXEMPT

Ex. Ord. No. 11223, May 12, 1965, 30 F.R. 6635, as amended by Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673; Ex. Ord. No. 12178, Dec. 10, 1979, 44 F.R. 71807; Ex. Ord. No. 13118, §10(10), Mar. 31, 1999, 64 F.R. 16599, provided:

By virtue of the authority vested in me by Section 633 of the Foreign Assistance Act of 1961, as amended, 75 Stat. 454 (22 U.S.C. 2393), it is hereby determined that, to the extent hereinafter indicated, the performance of functions authorized by that Act, as amended, and any predecessor legislation, without regard to the laws specified in the numbered subdivisions of Sections 1 and 2 of this order and without regard to consideration as specified in Sections 3 and 4 of this order will further the purposes of the Foreign Assistance Act of 1961, as amended [this chapter]:

SECTION 1. With respect to functions authorized by the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2151 *et seq*.), and any predecessor legislation except those functions exercised by the Department of Defense under authority of Sections 621 and 623 of the Foreign Assistance Act of 1961 (22 U.S.C. 2381 and 2383):

(1) The Act of March 26, 1934, 48 Stat. 500, as amended (15 U.S.C. 616a).

(2) Section 3648 of the Revised Statutes, as amended, 60 Stat. 809 (31 U.S.C. 529) [31 U.S.C. 3324].

(3) Section 305 of the Federal Property and Administrative Services Act of 1949, 63 Stat. 396, as amended (41 U.S.C. 255).

(4) Section 3709 of the Revised Statutes, as amended (41 U.S.C. 5).

(5) Section 3710 of the Revised Statutes (41 U.S.C. 8).

(6) Section 2 of title III of the Act of March 3, 1933, 47 Stat. 1520 (41 U.S.C. 10a).

(7) Section 3735 of the Revised Statutes (41 U.S.C. 13).

(8) Section 304(c) of the Federal Property and Administrative Services Act of 1949, as added by the Act of October 31, 1951, 65 Stat. 700 (41 U.S.C. 254(c)), but only with respect to contracts entered into with foreign governments or agencies thereof for the rendering of services to the United States or an agency thereof within the continental limits of the United States.

(9) Section 901(a) of the Merchant Marine Act, 1936, 49 Stat. 2015 as amended (46 U.S.C. [App.] 1241(a)) [now 46 U.S.C. 55302].

SEC. 2. With respect to purchases authorized to be made outside the limits of the United States or the District of Columbia under the Foreign Assistance Act of 1961, as amended [this chapter], and any predecessor legislation:

(1) [Former] Section 2276(a) of title 10 of the United States Code.

(2) Section 2313(b) of title 10 of the United States Code.

(3) Section 304(c) of the Federal Property and Administrative Services Act of 1949, as added by the Act of October 31, 1951, 65 Stat. 700 (41 U.S.C. 254(c)).

(4) Section 1301 of the Second War Powers Act, 1942, 56 Stat. 185 ([former] 50 U.S.C. App. 643), as extended by the provisions of the Act of June 30, 1953, 67 Stat. 120.

(5) Section 3(b) of the Act of August 28, 1958, 72 Stat. 972 (50 U.S.C. 1433(b)), but only with respect to contracts in which the inclusion of the clause required by Section 3(b), or the compliance with that clause, if included in a contract, is deemed by the executive or military department concerned to be impracticable.

SEC. 3. With respect to cost-type contracts heretofore or hereafter made with non-profit institutions under which no fee is charged or paid, amendments and modifications of such contracts may be made with or without consideration and may be utilized to accomplish the same things as any original contract could have accomplished, irrespective of the time or circumstances of the making, or the form of the contract amended or modified, or of the amending or modifying contract and irrespective of rights which may have accrued under the contract or the amendments or modifications thereof.

SEC. 4. With respect to contracts heretofore or hereafter made, other than those described in Section 3 of this order, amendments and modifications of such contracts may be made with or without consideration and may be utilized to accomplish the same things as any original contract could have accomplished, irrespective of the time or circumstances of the making, or the form of the contract amended or modified, or of the amending or modifying contract, and irrespective of rights which may have accrued under the contract or the amendments or modifications thereof, if the Secretary of State or the Administrator of the United States Agency for International Development (with respect to functions vested in or delegated to the Administrator) determines in each case that such action is necessary to protect the foreign policy interests of the United States.

SEC. 5. Executive Order No. 10784 of October 1, 1958, and Executive Order No. 10845 of October 12, 1959, are hereby superseded.

SEC. 6. I determine it to be in furtherance of the purposes of the Foreign Assistance Act of 1961, as amended [22 U.S.C. 2151 et seq.], and in the national security interest of the United States that the functions authorized by chapter 7 of Part II of that Act [22 U.S.C. 2349 et seq.], relating to air base construction in Israel, be performed without regard to the following additional specified provisions of law:

(1) Title IX of the Federal Property and Administration Services Act of 1949, as amended (40 U.S.C. 541–544) [now 40 U.S.C. 1101–1104];

(2) Section 612 of the Military Construction Authorization Act, 1967, as amended (31 U.S.C. 723a) [10 U.S.C. 2661a(b)];

(3) Section 719 of the Defense Production Act of 1950, as amended ([former] 50 U.S.C. App. 2168); and

(4) Section 111 of the Federal Property and Administrative Services Act of 1949, as amended ([former] 40 U.S.C. 759).

DETERMINATION UNDER THIS SECTION WAIVING REQUIREMENTS WITH RESPECT TO CLOSE OUT OF PRIOR YEAR APPROPRIATIONS ACCOUNTS

Determination of President of the United States, No. 91–21, Feb. 27, 1991, 56 F.R. 10771, provided:

Memorandum for the Secretary of State

Pursuant to the authority vested in me by section 633(a) of the Foreign Assistance Act of 1961, as amended (the "Act"), 22 U.S.C. 2393(a), I hereby determine it to be in furtherance of the purposes of the Act [22 U.S.C. 2151 et seq.] that the functions authorized by the Act be performed without regard to section 1405 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510) [amending sections 1551 to 1557 of Title 31, Money and Finance, repealing section 2782 of Title 10, Armed Forces, and enacting provisions set out as a note under section 1551 of Title 31], and amendments contained therein.

This determination shall apply only to funds appropriated to carry out the provisions of the Act that were appropriated for fiscal year 1984 and for prior fiscal years, and shall suspend the application of the provisions of section 1405 of the National Defense Authorization Act for Fiscal Year 1991, and amendments contained therein, through September 30, 1992.

You are authorized and directed to publish this determination in the Federal Register.

GEORGE BUSH.

[1] *See References in Text note below.*

[1] *See References in Text note below.*

§2393a. Requests by Government Accountability Office and Congressional committees for documents and materials

None of the funds made available pursuant to the provisions of this chapter shall be used to carry out any provision of this chapter in any country or with respect to any project or activity, after the expiration of the thirty-five-day period which begins on the date the Government Accountability Office or any committee of the Congress charged with considering legislation, appropriations or expenditures under this chapter, has delivered to the office of the head of any agency carrying out such provision, a written request that it be furnished any document, paper, communication, audit, review, finding, recommendation, report, or other material in its custody or control relating to the administration of such provision in such country or with respect to such project or activity, unless and until there has been furnished to the Government Accountability Office, or to such committee, as the case may be, (1) the document, paper, communication, audit, review, finding, recommendation, report, or other material so requested, or (2) a certification by the President that he has forbidden the furnishing thereof pursuant to request and his reason for so doing.

(Pub. L. 87–195, pt. III, §633A, as added Pub. L. 95–424, title V, §502(a)(1), Oct. 6, 1978, 92 Stat. 957; amended Pub. L. 108–271, §8(b), July 7, 2004, 118 Stat. 814.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

CODIFICATION

This section was formerly classified to subsec. (c) of section 2394 of this title prior to the complete revision of section 2394 of this title by Pub. L. 95–424, title V, §502(a)(2), Oct. 6, 1978, 92 Stat. 957.

AMENDMENTS

2004—Pub. L. 108–271 substituted "Government Accountability Office" for "General Accounting Office" in two places.

EFFECTIVE DATE

Section effective Oct. 1, 1978, see section 605 of Pub. L. 95–424, set out as an Effective Date of 1978 Amendment note under section 2151 of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R.

56673, as amended, set out as a note under section 2381 of this title.

§2394. Reports and information; definitions

(a) Annual report to Congress on programs having impact on developing countries; contents

In order that the Congress and the American people may be better and more currently informed regarding American foreign policy and the effectiveness of assistance provided by the United States Government to other countries and to international organizations, the Chairman of the Development Coordination Committee shall prepare and transmit to the Congress, no later than February 1 of each year, as a part of the annual presentation materials for foreign assistance, a report as described in this subsection. This report shall include—

(1)(A) a comprehensive and coordinated review of all United States policies and programs having a major impact on the development of developing countries, including but not limited to bilateral and multilateral assistance, trade, debt, employment, food, energy, technology, population, oceans, environment, human settlements, natural resources, and participation in international agencies concerned with development;

(B) an assessment of the impact of such policies and programs on the well-being of the poor majority in developing countries in accordance with the policy objectives of part I of subchapter I of this chapter, including increasing life expectancy and literacy, lowering infant mortality and birth rates, and increasing food production and employment, such assessment to include an evaluation of the extent to which programs under part I of subchapter I of this chapter directly benefit the poor majority; and

(C) an assessment of the impact of such policies and programs on economic conditions in the United States, including but not limited to employment, wages, and working conditions;

(2) the dollar value of all foreign assistance and guaranties by category and by country provided or made by the United States Government by any means to all foreign countries and international organizations—

(A) from 1946 to the fiscal year immediately preceding the fiscal year for which the report is required;

(B) as presented to Congress for the immediate preceding fiscal year;

(C) as obligated during the immediately preceding fiscal year;

(D) as planned for the fiscal year in which the report is presented;

(E) as proposed for the fiscal year following the year in which the report is presented; and

(F) of any contract in excess of $100,000 administered by the Agency for International Development which was entered into in the preceding fiscal year without competitive selection procedures, and the reasons for doing so;

(3) a summary of repayments, by country, to the United States from previous foreign assistance loans;

(4) the status of each sale of agricultural commodities on credit terms theretofore made under the Food for Peace Act [7 U.S.C. 1691 et seq.] with respect to which there remains outstanding any unpaid obligation; and the status of each transaction with respect to which a loan, contract or guarantee of insurance, or extension of credit (or participation therein) was theretofore made under the Export-Import Bank Act of 1945 [12 U.S.C. 635 et seq.] with respect to which there remains outstanding any unpaid obligation or potential liability; except that such report shall include individually only any loan, contract, sale, extension of credit, or other transactions listed in this paragraph which is in excess of $1,000,000;

(5)(A) the status of the debt servicing capacity of each country receiving assistance under this chapter;

(B) all forms of debt relief granted by the United States with respect to such countries, together with a detailed statement of the specific debt relief granted with respect to each such country and the purpose for which it was granted; and

(C) a summary of the net aid flow from the United States to such countries, taking into consideration the debt relief granted by the United States;

(6) the dollar value of all official development assistance, security assistance, international disaster assistance, refugee assistance, and international narcotics control assistance provided by each government of a country which is a member of the Organization for Economic Cooperation and Development or of the Organization of Petroleum Exporting Countries;

(7) the percentage which each type of assistance described in paragraph (6) represents of (A) the gross national product of each country referred to in paragraph (6), and (B) the budget of the government of such country, as well as the per capita contribution for each country for each type of assistance described in paragraph (6);

(8) the amount of all foreign currencies acquired without payment of dollars on hand of each foreign country as of September 30 of the preceding fiscal year;

(9) the Development Coordination Committee's operations pursuant to section 2399c(f) of this title;

(10) the aggregate dollar value and quantity of grant military assistance, military education and training, and any other defense articles and services furnished under this chapter by the United States to each foreign country and international organization for the preceding fiscal year;

(11) information concerning the activities of the Minority Resource Center during the preceding fiscal year; and

(12) other information appropriate to the conduct of the foreign assistance program of the United States Government.

(b) "Foreign assistance" and "provided by the United States Government" defined

For purposes of this section—

(1) "foreign assistance" means any tangible or intangible item provided by the United States Government to a foreign country or international organization under this chapter or any other Act, including but not limited to any training, service, or technical advice, any item of real, personal, or mixed property, any agricultural commodity, United States dollars, and any currencies of any foreign country which are owned by the United States Government; and

(2) "provided by the United States Government" includes, but is not limited to, foreign assistance provided by means of gift, loan, sale, credit, or guaranty.

(Pub. L. 87–195, pt. III, §634, Sept. 4, 1961, 75 Stat. 455; Pub. L. 87–565, pt. III, §302(e), (f), Aug. 1, 1962, 76 Stat. 262; Pub. L. 89–583, pt. III, §302(c), Sept. 19, 1966, 80 Stat. 807; Pub. L. 90–137, pt. III, §302(h), Nov. 14, 1967, 81 Stat. 460; Pub. L. 90–629, ch. 4, §45(a), (b)(4), Oct. 22, 1968, 82 Stat. 1327; Pub. L. 91–175, pt. III, §305, Dec. 30, 1969, 83 Stat. 821; Pub. L. 92–226, pt. III, §304(a)(3), (c)(2), Feb. 7, 1972, 86 Stat. 28, 32; Pub. L. 93–189, §17, Dec. 17, 1973, 87 Stat. 724; Pub. L. 93–559, §14, Dec. 30, 1974, 88 Stat. 1799; Pub. L. 94–273, §6(1), Apr. 21, 1976, 90 Stat. 377; Pub. L. 94–329, title II, §209(b), June 30, 1976, 90 Stat. 739; Pub. L. 95–424, title V, §502(a)(1), (2), Oct. 6, 1978, 92 Stat. 957; Pub. L. 96–533, title VII, §707, Dec. 16, 1980, 94 Stat. 3159; Pub. L. 97–113, title VII, §733, Dec. 29, 1981, 95 Stat. 1559; Pub. L. 99–83, title III, §312(b), Aug. 8, 1985, 99 Stat. 216; Pub. L. 110–246, title III, §3001(b)(1)(A), (2)(Q), June 18, 2008, 122 Stat. 1820.)

REFERENCES IN TEXT

The Food for Peace Act, referred to in subsec. (a)(4), is act July 10, 1954, ch. 469, 68 Stat. 454, which is classified principally to chapter 41 (§1691 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 1691 of Title 7 and Tables.

The Export-Import Bank Act of 1945, referred to in subsec. (a)(4), is act July 31, 1945, ch. 341, 59 Stat. 526, as amended, which is classified generally to subchapter I (§635 et seq.) of chapter 6A of Title 12, Banks and Banking. For complete classification of this Act to the Code, see Short Title note set out under section 635 of Title 12 and Tables.

This chapter, referred to in subsecs. (a)(5)(A), (10), (b)(1), was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

REFERENCES TO PART I DEEMED TO INCLUDE SECTION 2293

References to part I of subchapter I of this chapter are deemed to include a reference to section 2293 of this title. See section 2293(d)(1) of this title.

CODIFICATION

Prior to the complete revision of this section by section 502(a)(2) of Pub. L. 95–424, section 501(a)(1) of Pub. L. 95–424 redesignated former subsec. (c), relating to requests by the General Accounting Office and Congressional committees for documents and other material, as section 2393a of this title.

AMENDMENTS

2008—Subsec. (a)(4). Pub. L. 110–246 substituted "Food for Peace Act" for "Agricultural Trade Development and Assistance Act of 1954".

1985—Subsec. (a)(1)(B). Pub. L. 99–83 inserted provisions relating to evaluation of whether programs are benefiting the poor majority.

1981—Subsec. (a). Pub. L. 97–113, §733(1), substituted provision requiring information regarding American foreign policy and effectiveness of assistance to other countries for provision requiring information regarding United States development policy and effectiveness of assistance to developing countries and provision directing the Chairman prepare and transmit to Congress as part of the annual presentation materials for foreign assistance a report as described in this subsection for provision directing the Chairman to transmit a report on foreign assistance for the fiscal year ending the previous Sept. 30.

Subsec. (a)(1)(B). Pub. L. 97–113, §733(2), struck out "the progress developing countries are making toward achieving those objectives which are indicative of improved well-being of the poor majority, which objectives shall include but not be limited to" before "increasing life expectancy and literacy".

Subsec. (a)(2)(F). Pub. L. 97–113, §733(3), added subpar. (F).

Subsec. (a)(4). Pub. L. 97–113, §733(4), struck out requirement that the report include the status of each loan and each contract of guaranty or insurance theretofore made under this chapter, predecessor Acts, or any Act authorizing international security assistance, with respect to which there remained outstanding any unpaid obligation or potential liability, and the status of each extension of credit for the procurement of defense articles or defense services, and of each contract of guarantee in connection with any such procurement, theretofore made under the Arms Export Control Act with respect to which there remained outstanding any unpaid obligation or potential liability.

Subsec. (a)(7). Pub. L. 97–113, §733(5), struck out "and" after the semicolon.

Subsec. (a)(8). Pub. L. 97–113, §733(6), substituted provision that the report contain the amount of all foreign currencies acquired without payment of dollars on hand of each foreign country as of Sept. 30 of the preceding fiscal year for provision that the report contain such other matters relating to foreign assistance provided under subchapter I of this chapter as the Chairman of the Development Coordination Committee considers appropriate.

Subsec. (a)(9) to (12). Pub. L. 97–113, §733(6), added pars. (9) to (12).

1980—Subsec. (a)(6) to (8). Pub. L. 96–533 added pars. (6) and (7) and redesignated former par. (6) as (8).

1978—Subsec. (a). Pub. L. 95–424, §502(a)(2), added subsec. (a).

Subsec. (b). Pub. L. 95–424, §502(a)(2), substituted definitions of "foreign assistance" and "provided by the United States Government" for provisions requiring public disclosure of all information concerning operations under this chapter except that which is deemed incompatible with the Security of the United States.

Subsec. (c). Pub. L. 95–424, §502(a)(1), struck out "(c)" at beginning of subsection and transferred the remainder of subsection to section 2393a of this title.

Subsecs. (d) to (h). Pub. L. 95–424, §502(a)(2), struck out subsecs. (d), relating to presentation of programs to Congressional committees; (e), relating to inclusion of a specific plan in the President's recommendations to Congress; (f), relating to a report by the President to Congress showing the status of each outstanding loan; (g), relating to a report by the President to Congress showing debt-servicing problems; and (h), relating to military assistance to South Vietnam, Thailand, and Laos.

1976—Subsec. (d). Pub. L. 94–329 struck out provisions under which sales pursuant to the Foreign Assistance Act of 1961 or any other Act were included in the enumeration of factors used in developing, for purpose of presentation material, a chart showing the full extent of United States assistance planned or expected for each such country for the next fiscal year.

Subsec. (f). Pub. L. 94–273 substituted "September" for "June" and "March" for "December".

1974—Subsec. (d). Pub. L. 93–559 substituted in item (1) respecting presentation material "economic assistance, military grants (and including for any such grant of any excess defense article, the value of such article expressed in terms of its acquisition cost to the United States), and military sales" for "economic

assistance and military grants and sales".

1973—Subsec. (f). Pub. L. 93–189 inserted references to contracts of guarantee or insurance, the status of sales of defense articles or defense services on credit terms, the status of sales of agricultural commodities on credit terms, and the status of loans, contracts of guarantee or insurance, or extensions of credit (or participations therein) made under the Export-Import Bank Act of 1945, and inserted provisions limiting the reporting requirement of the subsection so as to include only loans, contracts, sales, extensions of credit, or other transactions in excess of $1,000,000.

Subsec. (g). Pub. L. 93–189 added subsec. (g).

1972—Subsec. (a). Pub. L. 92–226, §304(c)(2), struck out provisions for annual report to Congress concerning operations under this chapter, including information on the progress of the freedom of navigation and nondiscrimination declaration. See annual foreign assistance report provisions of section 2417 of this title.

Subsec. (d). Pub. L. 92–226, §304(a)(3), substituted in last sentence reference to section "2360(b)" for prior reference to sections "2360, 2364(a)".

1969—Subsec. (a). Pub. L. 91–175 excluded operations reported to Congress pursuant to section 2200a of this title from report required by this section, and struck out of last sentence reference to the operation of the investment guaranty program.

1968—Subsec. (d). Pub. L. 90–629, §45(b)(4), required the presentation material to include in the chart foreign assistance data under any other Act.

Subsec. (g). Pub. L. 90–629, §45(a), repealed provisions of subsec. (g) which related to exports of defense articles, contents of reports, and utilization of statistics and information of Government agencies, and is now covered by section 2776(a) of this title.

1967—Subsec. (d). Pub. L. 90–137, §302(h)(1), inserted introductory provision for presentation of programs to Congressional Committees in connection with requests for appropriations for fiscal year 1969, penultimate provision for inclusion of foreign assistance data (an assistance chart, contribution details, and a statement of projects), and provision for notification as to findings and reasons therefor under section 2311 or 2341(c) of this title.

Subsecs. (g), (h). Pub. L. 90–137, §302(h)(2), added subsecs. (g) and (h).

1966—Subsec. (f). Pub. L. 89–583 added subsec. (f).

1962—Subsec. (a). Pub. L. 87–565, §302(e), required reports to include information on progress under the freedom of navigation and nondiscriminatory declaration contained in section 2151 of this title.

Subsec. (d). Pub. L. 87–565, §302(f), substituted "At the end of each fiscal year" and "fiscal year" for "In January of each year" and "preceding twelve months", respectively, and provided that the presentation material submitted to Congress during its consideration of amendments to this chapter, or of any Act appropriating funds pursuant to authorizations contained in this chapter, should include a comparison of the current fiscal year programs and activities with those presented to Congress in the previous year and an explanation of any substantial changes.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–246 effective May 22, 2008, see section 4(b) of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–83 effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as a note under section 2151–1 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–424 effective Oct. 1, 1978, see section 605 of Pub. L. 95–424, set out as a note under section 2151 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Pub. L. 92–226, pt. III, §304(c)(3), Feb. 7, 1972, 86 Stat. 32, provided that: "The provisions of this subsection [amending this section and section 2403 of this title] and section 657 of such Act [section 2417 of this title], as added by subsection (b) of this Act [this section], shall apply with respect to each fiscal year commencing on or after July 1, 1971."

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–629 effective July 1, 1968, see section 41 of Pub. L. 90–629, set out as an Effective Date note under section 2751 of this title.

SAVINGS PROVISION

Determinations, authorizations, regulations, orders, contracts, agreements, and other actions issued, undertaken, or entered into under authority of any provision of former subsec. (g) of this section as continuing in full force and effect until modified by appropriate authority, see section 46 of Pub. L. 90–629, set out as a note under former section 2341 of this title.

ANNUAL REPORT ON ECONOMIC AND SOCIAL GROWTH

Pub. L. 104–107, title V, §574, Feb. 12, 1996, 110 Stat. 749, required the President to submit to the appropriate congressional committees an annual report providing a concise overview of the prospects for economic and social growth in countries receiving economic assistance under title II of Pub. L. 104–107, prior to repeal by Pub. L. 107–228, div. A, title VI, §671(2), Sept. 30, 2002, 116 Stat. 1407.

PROGRESS REPORT OF IMPLEMENTATION OF IMMUNIZATION AND ORAL REHYDRATION PROMOTION PROGRAMS

Annual report under this section to describe progress achieved during preceding fiscal year in carrying out section 2151b(c)(3) of this title, see section 305(b) of Pub. L. 99–83, set out as a note under section 2151b of this title.

NEGOTIATING EFFORTS CONCERNING ACCELERATED LOAN REPAYMENTS TO BE INCLUDED IN ANNUAL REPORTS FOR FOREIGN ASSISTANCE FOR 1980 AND 1981

Annual reports on foreign assistance submitted in 1980 and 1981 pursuant to this section to contain negotiating efforts respecting accelerated loan repayments under section 2151y of this title, see section 508(b) of Pub. L. 96–53, set out as a note under section 2151y of this title.

§2394–1. Notification of program changes

(a) Covered programs; content of notifications

None of the funds appropriated to carry out the purposes of this chapter (except for programs under subpart III or subpart IV of part II of subchapter I of this chapter, part V of subchapter I of this chapter, and programs of disaster relief and rehabilitation) or the Arms Export Control Act [22 U.S.C. 2751 et seq.] may be obligated for any activities, programs, projects, types of materiel assistance, countries, or other operations not justified, or in excess of the amount justified, to the Congress for obligation under this chapter or the Arms Export Control Act for any fiscal year unless the Committee on Foreign Relations of the Senate, the Committee on Foreign Affairs of the House of Representatives, and the Committee on Appropriations of each House of the Congress are notified fifteen days in advance of such obligation. Whenever a proposed reprograming exceeds $1,000,000 and the total amount proposed for obligation for a country under this chapter in a fiscal year exceeds by more than $5,000,000 the amount specified for that country in the report required by section 2413(a) of this title, notifications of such proposed reprogramings shall specify—

(1) the nature and purpose of such proposed obligation, and

(2) to the extent possible at the time of the proposed obligation, the country for which such funds would otherwise have been obligated.

(b) Exceptions

The notification requirement of this section does not apply to the reprogramming—

(1) of funds to be used for an activity, program, or project under part I of subchapter I of this chapter if the amounts to be obligated for that activity, program, or project for that fiscal year do not exceed by more than 10 percent the amount justified to the Congress for that activity, program, or project for that fiscal year; or

(2) of less than $25,000 to be used under part VIII of subchapter I of this chapter, or under part V of subchapter II of this chapter, for a country for which a program under that part for that fiscal year was justified to the Congress.

(c) Funds in the International Affairs Budget Function; reprogramming

The President shall notify the chairman of the Committee on Foreign Relations of the Senate and

the chairman of the Committee on Foreign Affairs of the House of Representatives concerning any reprogramming of funds in the International Affairs Budget Function, the authorizations of appropriations for which are in their respective jurisdictions, to the same degree and with the same conditions as the President notifies the Committees on Appropriations. The requirements of this subsection are in addition to, and not in lieu of, other notification requirements.

(Pub. L. 87–195, pt. III, §634A, formerly §671, as added Pub. L. 95–88, title I, §130, Aug. 3, 1977, 91 Stat. 543; renumbered §634A, Pub. L. 95–424, title V, §502(b), Oct. 6, 1978, 92 Stat. 959; amended Pub. L. 97–113, title VII, §704, Dec. 29, 1981, 95 Stat. 1544; Pub. L. 99–83, title XII, §1209(a), Aug. 8, 1985, 99 Stat. 278; Pub. L. 103–437, §9(a)(6), Nov. 2, 1994, 108 Stat. 4588.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

The Arms Export Control Act, referred to in subsec. (a), is Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1320, as amended, which is classified principally to chapter 39 (§2751 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

REFERENCES TO PART I DEEMED TO INCLUDE SECTION 2293

References to part I of subchapter I of this chapter are deemed to include a reference to section 2293 of this title. See section 2293(d)(1) of this title.

CODIFICATION

Section was formerly classified to section 2429b of this title.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–437 substituted "Foreign Affairs" for "International Relations" in introductory provisions.

1985—Pub. L. 99–83 designated existing provisions as subsec. (a), inserted references to the Arms Export Control Act in two places, and added subsecs. (b) and (c).

1981—Pub. L. 97–113 inserted provision respecting notification of proposed reprograming of assistance.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–83 effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as a note under section 2151–1 of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§2394–1a. Classification of reports

All information contained in any report transmitted under this chapter shall be public information. However, in the case of any item of information to be included in any such report that the President, on an extraordinary basis, determines is clearly detrimental to the security of the United States, he shall explain in a supplemental report why publication of each specific item would be detrimental to the security of the United States. A supplemental report shall be transmitted to the Congress at the time the report is transmitted.

(Pub. L. 87–195, pt. III, §634B, as added Pub. L. 95–424, title V, §502(c), Oct. 6, 1978, 92 Stat. 959.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

EFFECTIVE DATE

Section effective Oct. 1, 1978, see section 605 of Pub. L. 95–424, set out as an Effective Date of 1978 Amendment note under section 2151 of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§2394a. Extortion and illegal payments to officials of foreign countries receiving international security assistance

Within 60 days after receiving information which substantiates that officials of a foreign country receiving international security assistance have (1) received illegal or otherwise improper payments from a United States corporation in return for a contract to purchase defense articles or services from such corporation, or (2) extorted, or attempted to extort, money or other things of value in return for actions by officials of that country that permit a United States citizen or corporation to conduct business in that country, the President shall submit to Congress a report outlining the circumstances of such payment or extortion. The report shall contain a recommendation from the President as to whether the United States should continue a security assistance program for that country.

(Pub. L. 94–329, title VI, §607, June 30, 1976, 90 Stat. 768.)

CODIFICATION

Section was not enacted as part of Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, known as the Foreign Assistance Act of 1961, which comprises this chapter.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§2394b. HELP Commission

(a) Short title

This section may be cited as the "HELP Commission Act".

(b) Findings

(1) The Congress finds that, despite the long-standing efforts and resources of the United States dedicated to helping needy people around the world, despair remains and in many areas is growing.

(2) Therefore, a commission should be established to bring together the best minds associated with development and humanitarian assistance to make a comprehensive review of—

(A) policy decisions, including why certain development projects are funded and others are not, successes, and best practices, including their applicability to other existing programs and projects;

(B) delivery obstacles, including the roles of United States agencies and other governmental and nongovernmental organizations;

(C) methodology, including whether the delivery of United States development assistance always represents best practices and whether it can be improved; and

(D) results, including measuring improvements in human capacity instead of in purely economic terms.

(3) An examination of these issues should present new approaches and ideas to ensure that United States development assistance reaches and benefits its intended recipients.

(c) Establishment of Commission; responsibilities

(1) There is established the Helping to Enhance the Livelihood of People (HELP) Around the Globe Commission (in this section referred to as the "Commission").

(2) The Commission shall—

(A) identify the past and present objectives of United States development assistance, identify cases in which those objectives have been met, identify the beneficiaries of such assistance, and what percentage of the funds provided actually reached the intended beneficiaries;

(B) identify cases in which United States development assistance has been most successful, and analyze how such successes may be transferable to other countries or areas;

(C) study ways to expand educational opportunities and investments in people, and assess infrastructure needs;

(D) analyze how the United States could place conditions on governments in countries receiving United States development assistance, in light of and notwithstanding the objectives of the Millennium Challenge Account;

(E) analyze ways in which the United States can coordinate its development assistance programs with those of other donor countries and international organizations;

(F) analyze ways in which the safety of development assistance workers can be ensured, particularly in the midst of conflicts;

(G) compare the effectiveness of increased and open trade with development assistance, and analyze the advantages and disadvantages of such trade and whether such trade could be a more effective alternative to United States development assistance;

(H) analyze ways in which the United States can strengthen the capacity of indigenous nongovernmental organizations to be more effective in grassroots development;

(I) analyze ways in which decisions on providing development assistance can involve more of the people of the recipient countries;

(J) analyze ways in which results can be measured if United States development assistance is targeted to the least developed countries;

(K) recommend standards that should be set for "graduating" recipient countries from United States development assistance;

(L) analyze whether United States development assistance should be used as a means to achieve United States foreign policy objectives;

(M) analyze how the United States can evaluate the performance of its development assistance programs not only against economic indicators, but in other ways, including how to measure the success of United States development assistance in democratization efforts; and evaluate the existing foreign assistance framework to ascertain the degree of coordination, or lack thereof, of the disparate foreign development programs as administered by the various Federal agencies, to identify and assess the redundancies of programs and organizational structures engaged in foreign assistance, and to recommend revisions to authorizing legislation for foreign assistance that would seek to reconcile competing foreign policy and foreign aid goals; and

(N) study any other areas that the Commission considers necessary relating to United States development assistance.

(d) Membership

(1) The Commission shall be composed of 21 members as follows:

(A) Six members shall be appointed by the President, of whom at least two shall be representatives of nongovernmental organizations.

(B) Four members shall be appointed by the majority leader of the Senate, and three members shall be appointed by the minority leader of the Senate.

(C) Four members shall be appointed by the Speaker of the House of Representatives, and three members shall be appointed by the minority leader of the House of Representatives.

(D) The Administrator of the United States Agency for International Development shall serve as a member of the Commission, ex officio.

(2) Members under subparagraphs (A) through (C) of paragraph (1) shall be appointed for the life of the Commission.

(3) Members of the Commission shall be selected from among individuals noted for their knowledge and experience in foreign assistance, particularly development and humanitarian assistance.

(4) The appointments under paragraph (1) shall be made not later than 60 days after January 23, 2004.

(5) The President shall designate one of the members of the Commission not currently in Government service as the Chair of the Commission.

(6) In order to facilitate the workload of the Commission, the Commission shall divide the membership of the Commission into three subcommittees representing the different regions of the world to which the United States provides development assistance, the membership of each subcommittee to be proportional to the percentage of United States development assistance provided to the region represented by the subcommittee. Each subcommittee shall elect one of its members as Chair of the subcommittee.

(7)(A) Eleven members of the Commission shall constitute a quorum for purposes of transacting the business of the Commission. The Commission shall meet at the call of the Chair.

(B) A majority of the members of each regional subcommittee shall constitute a quorum for purposes of transacting the business of the subcommittee. Each subcommittee shall meet at the call of the Chair of the subcommittee.

(8) Any vacancy of the Commission shall not affect its powers, but shall be filled in the manner in which the original appointment was made.

(9) The Administrator of General Services shall provide to the Commission on a reimbursable basis (or, in the discretion of the Administrator, on a nonreimbursable basis) such administrative support services as the Commission may request to carry out this section.

(10)(A) Subject to subparagraph (B), members of the Commission shall serve without pay.

(B) Members of the Commission who are full-time officers or employees of the United States or Members of Congress may not receive additional pay, allowances, or benefits by reason of their service on the Commission.

(11) Members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5 while away from their homes or regular places of business in the performance of services for the Commission.

(12)(A) The Chairman of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(B) To the extent or in the amounts provided in advance in appropriations Acts—

(i) the executive director shall be compensated at the rate payable for level V of the Executive Schedule under section 5316 of title 5; and

(ii) the Chairman of the Commission may fix the compensation of other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5 relating to classification of positions and General Schedule pay rates, except that the rate of pay for such personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(e) Authority

(1) The Commission may, for the purpose of carrying out its functions under this section, hold hearings, sit and act at times and places in the United States and in countries that receive United States development assistance, take testimony, and receive evidence as the Commission considers advisable to carry out the purposes of this section.

(2) The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this section. Upon request of the Chair of the Commission, the head of such department or agency shall furnish such information to the Commission, subject to applicable law.

(3) The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(4) The Commission may adopt such rules and regulations, relating to administrative procedure, as may be reasonably necessary to enable it to carry out the provisions of this section.

(5) The Members of the Commission may, with the approval of the Commission, conduct such travel as is necessary to carry out the purposes of this section. Each trip must be approved by a majority of the Commission.

(6) Upon the request of the Commission, the head of any Federal department or agency may detail, on a reimbursable or nonreimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its functions under this section. The detail of any such personnel shall be without interruption or loss of civil service or Foreign Service status or privilege.

(f) Report of Commission

(1) Not later than 2 years after the members of the Commission are appointed under subsection (d)(1), the Commission shall submit a report to the President, the Secretary of State, the Committee on Appropriations and the Committee on International Relations of the House of Representatives, and the Committee on Appropriations and the Committee on Foreign Relations of the Senate, setting forth its findings and recommendations under section [1] (c)(2).

(2) The report may be submitted in classified form, together with a public summary of recommendations, if the classification of information would further the purposes of this section.

(3) Each member of the Commission may include the individual or dissenting views of the member.

(g) Applicability of other laws

The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(h) Definition

In this section, the term "United States development assistance" means—

(1) assistance provided by the United States under chapters 1, 10, 11, and 12 of part I of the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq., 2293 et seq., 2295 et seq., 2296 et seq.]; and

(2) assistance provided under any other provision of law to carry out purposes comparable to those set forth in the provisions referred to in paragraph (1).

(i) Authorization of appropriations

(1) There are authorized to be appropriated to the Commission such sums as may be necessary to carry out this section.

(2) Amounts authorized to be appropriated under subsection (a) are authorized to remain available until expended, but not later than the date of termination of the Commission.

(j) Termination

The Commission shall terminate 30 days after the submission of its report under subsection (f).

(k) Annual report of President

(1) Not later than April 1, 2004, and April 1 of each third year thereafter, the President shall transmit to the Congress a report that analyzes, on a country-by-country basis, the impact and effectiveness of United States economic assistance furnished to each country during the preceding 3 fiscal years. The report shall include the following for each recipient country:

(A) An analysis of the impact of United States economic assistance during the preceding 3 fiscal years on economic development in that country, with a discussion of the United States interests that were served by the assistance. The analysis shall be done on a sector-by-sector basis to the extent possible and shall identify any economic policy reforms that were promoted by the assistance. The analysis shall—

(i) include a description, quantified to the extent practicable, of the specific objectives the United States sought to achieve in providing economic assistance for that country; and

(ii) specify the extent to which those objectives were not achieved, with an explanation of why they were not achieved.

(B) A description of the amount and nature of economic assistance provided by other donors during the preceding 3 fiscal years, set forth by development sector to the extent possible.

(C) A discussion of the commitment of the host government to addressing the country's needs in each development sector, including a description of the resources devoted by that government to each development sector during the preceding 3 fiscal years.

(D) A description of the trends, both favorable and unfavorable, in each development sector.

(E) Statistical and other information necessary to evaluate the impact and effectiveness of United States economic assistance on development in the country.

(F) A comparison of the analysis provided in the report with relevant analyses by international financial institutions, other international organizations, other donor countries, or nongovernmental organizations.

(2) The report required by this section shall identify—

(A) each country in which United States economic assistance has been most successful, as indicated by the extent to which the specific objectives the United States sought to achieve in providing the assistance for the country, as referred to in paragraph (1)(A)(i), were achieved; and

(B) each country in which United States economic assistance has been least successful, as indicated by the extent to which the specific objectives the United States sought to achieve in providing the assistance for the country, as referred to in paragraph (1)(A)(i), were not achieved; and, for each such country, an explanation of why the assistance was not more successful and a specification of what the United States has done as a result.

(3) Information under paragraphs (1) and (2) for a fiscal year shall not be required with respect to a country for which United States economic assistance for the country for the fiscal year is less than $5,000,000.

(4) In this subsection, the term "United States economic assistance" means any bilateral economic assistance, from any budget functional category, that is provided by any department or agency of the United States to a foreign country, including such assistance that is intended—

(A) to assist the development and economic advancement of friendly foreign countries and peoples;

(B) to promote the freedom, aspirations, or sustenance of friendly peoples under oppressive rule by unfriendly governments;

(C) to promote international trade and foreign direct investment as a means of aiding economic growth;

(D) to save lives and alleviate suffering of foreign peoples during or following wars, natural disasters, or complex crisies [2] ;

(E) to assist in recovery and rehabilitation of countries or peoples following disaster or war;

(F) to protect refugees and promote durable solutions to aid refugees;

(G) to promote sound environmental practices;

(H) to assist in development of democratic institutions and good governance by the people of foreign countries;

(I) to promote peace and reconciliation or prevention of conflict;

(J) to improve the technical capacities of governments to reduce production of and demand for illicit narcotics; and

(K) to otherwise promote through bilateral foreign economic assistance the national objectives of the United States.

(Pub. L. 108–199, div. B, title VI, §637, Jan. 23, 2004, 118 Stat. 101.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (g), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

The Foreign Assistance Act of 1961, referred to in subsec. (h)(1), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended. Chapters 1, 10, 11, and 12 of part I of the Act are classified generally to parts I (§2151 et seq.), X (§2293 et seq.), XI (§2295 et seq.), and XII (§2296 et seq.) of subchapter I of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

CODIFICATION

Section was enacted as the HELP Commission Act, and also as part of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2004, and the Consolidated Appropriations Act, 2004, and not as part of the Foreign Assistance Act of 1961 which comprises this chapter.

CHANGE OF NAME

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

ASSIGNMENT OF FUNCTIONS IMPLEMENTING THE HELP COMMISSION ACT

Memorandum of President of the United States, Dec. 8, 2004, 69 F.R. 78847, provided:

Memorandum for the Secretary of State [and] the Administrator of the United States Agency for International Development

By the authority vested in me as President by the Constitution and laws of the United States, including section 301 of title 3, United States Code:

1. The functions of the President under subsection 637(k) of the [Departments of] Commerce, Justice[,] and State, the Judiciary, and Related Agencies Appropriations Act, 2004 (Division B, Public Law 108–199) (22 U.S.C. 2394b(k)) (the "Act") are assigned to the Secretary of State (Secretary).

2. The Administrator of the United States Agency for International Development shall provide support to assist the Secretary in the performance of functions assigned by this memorandum, and the heads of executive departments and agencies with information concerning assistance programs shall furnish promptly to the Secretary, consistent with applicable law, such information as the Secretary may request to assist in fulfillment of these responsibilities for the preparation of the report to which subsection 637(k) refers.

3. The Secretary shall coordinate the receipt by departments and agencies of requests from the HELP Commission under section 637(e) of the Act for information and their responses to such requests. Such departments and agencies shall provide relevant information and responses promptly. The Secretary shall ensure that such responses occur in a manner consistent with the President's constitutional authority to withhold information that could impair foreign relations, national security, the deliberate processes of the Executive, or the performance of the Executive's constitutional duties.

4. Heads of executive departments and agencies shall assist the Secretary in the implementation of this memorandum.

5. The Secretary is authorized and directed to publish this memorandum in the Federal Register.

GEORGE W. BUSH.

[1] *So in original. Probably should be "subsection".*

[2] *So in original. Probably should be "crises".*

§2394c. Information on covered United States foreign assistance programs

(a) Publication of information

(1) Update of existing website

Not later than 90 days after July 15, 2016, the Secretary of State shall update the Department of State's website, "ForeignAssistance.gov", to make publicly available comprehensive, timely, and comparable information on covered United States foreign assistance programs, including all information required under subsection (b) that is available to the Secretary of State.

(2) Information sharing

Not later than 2 years after July 15, 2016, and quarterly thereafter, the head of each Federal department or agency that administers covered United States foreign assistance shall provide the Secretary of State with comprehensive information about the covered United States foreign assistance programs carried out by such department or agency.

(3) Updates to website

Not later than 2 years after July 15, 2016, and quarterly thereafter, the Secretary of State shall

publish, on the "ForeignAssistance.gov" website or through a successor online publication, the information provided under subsection (b).

(b) Matters to be included

(1) In general

The information described in subsection (a)—

(A) shall be published for each country on a detailed basis, such as award-by-award; or

(B) if assistance is provided on a regional level, shall be published for each such region on a detailed basis, such as award-by-award.

(2) Types of information

(A) In general

To ensure the transparency, accountability, and effectiveness of covered United States foreign assistance programs, the information described in subsection (a) shall include—

(i) links to all regional, country, and sector assistance strategies, annual budget documents, congressional budget justifications, and evaluations in accordance with section 3(c)(2)(J);

(ii) basic descriptive summaries for covered United States foreign assistance programs and awards under such programs; and

(iii) obligations and expenditures.

(B) Publication

Each type of information described in subparagraph (A) shall be published or updated on the appropriate website not later than 90 days after the date on which the information is issued.

(C) Rule of construction

Nothing in this paragraph may be construed to require a Federal department or agency that administers covered United States foreign assistance to provide any information that does not relate to, or is not otherwise required by, the covered United States foreign assistance programs carried out by such department or agency.

(3) Report in lieu of inclusion

(A) Health or security of implementing partners

If the head of a Federal department or agency, in consultation with the Secretary of State, makes a determination that the inclusion of a required item of information online would jeopardize the health or security of an implementing partner or program beneficiary or would require the release of proprietary information of an implementing partner or program beneficiary, the head of the Federal department or agency shall provide such determination in writing to the appropriate congressional committees, including the basis for such determination.

(B) National interests of the United States

If the Secretary of State makes a determination that the inclusion of a required item of information online would be detrimental to the national interests of the United States, the Secretary of State shall provide such determination, including the basis for such determination, in writing to the appropriate congressional committees.

(C) Form

Information provided under this paragraph may be provided in classified form, as appropriate.

(4) Failure to comply

If a Federal department or agency fails to comply with the requirements under paragraph (1), (2), or (3) of subsection (a), or subsection (c), with respect to providing information described in subsection (a), and the information is not subject to a determination under subparagraph (A) or (B) of paragraph (3) not to make the information publicly available, the Director of the Office of Management and Budget, in consultation with the head of such department or agency, not later

than one year after July 15, 2016, shall submit a consolidated report to the appropriate congressional committees that includes, with respect to each required item of information not made publicly available—

(A) a detailed explanation of the reason for not making such information publicly available; and

(B) a description of the department's or agency's plan and timeline for—

(i) making such information publicly available; and

(ii) ensuring that such information is made publicly available in subsequent years.

(c) Scope of information

The online publication required under subsection (a) shall, at a minimum—

(1) in each of the fiscal years 2016 through 2019, provide the information required under subsection (b) for fiscal years 2015 through the current fiscal year; and

(2) for fiscal year 2020 and each fiscal year thereafter, provide the information required under subsection (b) for the immediately preceding 5 fiscal years in a fully searchable form.

(d) Sense of Congress

It is the sense of Congress that the Secretary of State and the Administrator of the United States Agency for International Development should coordinate the consolidation of processes and data collection and presentation for the Department of State's website, "ForeignAssistance.gov", and the United States Agency for International Development's website, "Explorer.USAID.gov", to the extent that is possible to maximize efficiencies, no later than the end of fiscal year 2018.

(Pub. L. 114–191, §4, July 15, 2016, 130 Stat. 669.)

REFERENCES IN TEXT

Section 3(c)(2)(J), referred to in subsec. (b)(2)(A)(i), is section 3(c)(2)(J) of Pub. L. 114–191, which is set out as a note below.

CODIFICATION

Section was enacted as part of the Foreign Aid Transparency and Accountability Act of 2016, and not as part of the Foreign Assistance Act of 1961 which comprises this chapter.

GUIDELINES FOR COVERED UNITED STATES FOREIGN ASSISTANCE PROGRAMS

Pub. L. 114–191, §3, July 15, 2016, 130 Stat. 667, provided that:

"(a) PURPOSES.—The purposes of this section are to—

"(1) evaluate the performance of covered United States foreign assistance and its contribution to the policies, strategies, projects, program goals, and priorities undertaken by the Federal Government;

"(2) support and promote innovative programs to improve effectiveness; and

"(3) coordinate the monitoring and evaluation processes of Federal departments and agencies that administer covered United States foreign assistance.

"(b) ESTABLISHMENT OF GUIDELINES.—Not later than 18 months after the date of the enactment of this Act [July 15, 2016], the President shall set forth guidelines, according to best practices of monitoring and evaluation studies and analyses, for the establishment of measurable goals, performance metrics, and monitoring and evaluation plans that can be applied with reasonable consistency to covered United States foreign assistance.

"(c) OBJECTIVES OF GUIDELINES.—

"(1) IN GENERAL.—The guidelines established pursuant to subsection (b) shall provide direction to Federal departments and agencies that administer covered United States foreign assistance on—

"(A) monitoring the use of resources;

"(B) evaluating the outcomes and impacts of covered United States foreign assistance projects and programs; and

"(C) applying the findings and conclusions of such evaluations to proposed project and program design.

"(2) OBJECTIVES.—The guidelines established pursuant to subsection (b) shall provide direction to Federal departments and agencies that administer covered United States foreign assistance on how to—

"(A) establish annual monitoring and evaluation objectives and timetables to plan and manage the process of monitoring, evaluating, analyzing progress, and applying learning toward achieving results;

"(B) develop specific project monitoring and evaluation plans, including measurable goals and performance metrics, and to identify the resources necessary to conduct such evaluations, which should be covered by program costs;

"(C) apply rigorous monitoring and evaluation methodologies to such programs, including through the use of impact evaluations, ex-post evaluations, or other methods, as appropriate, that clearly define program logic, inputs, outputs, intermediate outcomes, and end outcomes;

"(D) disseminate guidelines for the development and implementation of monitoring and evaluation programs to all personnel, especially in the field, who are responsible for the design, implementation, and management of covered United States foreign assistance programs;

"(E) establish methodologies for the collection of data, including baseline data to serve as a reference point against which progress can be measured;

"(F) evaluate, at least once in their lifetime, all programs whose dollar value equals or exceeds the median program size for the relevant office or bureau or an equivalent calculation to ensure the majority of program resources are evaluated;

"(G) conduct impact evaluations on all pilot programs before replicating, or conduct performance evaluations and provide a justification for not conducting an impact evaluation when such an evaluation is deemed inappropriate or impracticable;

"(H) develop a clearinghouse capacity for the collection, dissemination, and preservation of knowledge and lessons learned to guide future programs for United States foreign assistance personnel, implementing partners, the donor community, and aid recipient governments;

"(I) internally distribute evaluation reports;

"(J) publicly report each evaluation, including an executive summary, a description of the evaluation methodology, key findings, appropriate context, including quantitative and qualitative data when available, and recommendations made in the evaluation within 90 days after the completion of the evaluation;

"(K) undertake collaborative partnerships and coordinate efforts with the academic community, implementing partners, and national and international institutions, as appropriate, that have expertise in program monitoring, evaluation, and analysis when such partnerships provide needed expertise or significantly improve the evaluation and analysis;

"(L) ensure verifiable, reliable, and timely data, including from local beneficiaries and stakeholders, are available to monitoring and evaluation personnel to permit the objective evaluation of the effectiveness of covered United States foreign assistance programs, including an assessment of assumptions and limitations in such evaluations; and

"(M) ensure that standards of professional evaluation organizations for monitoring and evaluation efforts are employed, including ensuring the integrity and independence of evaluations, permitting and encouraging the exercise of professional judgment, and providing for quality control and assurance in the monitoring and evaluation process.

"(d) PRESIDENT'S REPORT.—Not later than 18 months after the date of the enactment of this Act [July 15, 2016], the President shall submit a report to the appropriate congressional committees that contains a detailed description of the guidelines established pursuant to subsection (b). The report shall be submitted in unclassified form, but it may contain a classified annex.

"(e) COMPTROLLER GENERAL'S REPORT.—The Comptroller General of the United States shall, not later than 18 months after the report required by subsection (d) is submitted to Congress, submit to the appropriate congressional committees a report that—

"(1) analyzes the guidelines established pursuant to subsection (b); and

"(2) assesses the implementation of the guidelines by the agencies, bureaus, and offices that implement covered United States foreign assistance as outlined in the President's budget request."

DEFINITIONS

Pub. L. 114–191, §2, July 15, 2016, 130 Stat. 666, provided that:

"In this Act [enacting this section and provisions set out as notes under this section and section 2151 of this title]:

"(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term 'appropriate congressional committees' means—

"(A) the Committee on Foreign Relations of the Senate;

"(B) the Committee on Appropriations of the Senate;

"(C) the Committee on Foreign Affairs of the House of Representatives; and

"(D) the Committee on Appropriations of the House of Representatives.

"(2) EVALUATION.—The term 'evaluation' means, with respect to a covered United States foreign assistance program, the systematic collection and analysis of information about the characteristics and outcomes of the program, including projects conducted under such program, as a basis for—

"(A) making judgments and evaluations regarding the program;

"(B) improving program effectiveness; and

"(C) informing decisions about current and future programming.

"(3) COVERED UNITED STATES FOREIGN ASSISTANCE.—The term 'covered United States foreign assistance' means assistance authorized under—

"(A) part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), except for—

"(i) title IV of chapter 2 of such part [22 U.S.C. 2191 et seq.] (relating to the Overseas Private Investment Corporation); and

"(ii) chapter 3 of such part [22 U.S.C. 2221 et seq.] (relating to International Organizations and Programs);

"(B) chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 et seq.; relating to Economic Support Fund);

"(C) the Millennium Challenge Act of 2003 (22 U.S.C. 7701 et seq.); and

"(D) the Food for Peace Act (7 U.S.C. 1721 [1691] et seq.)."

§2395. General authorities

(a) Manner of furnishing assistance; emphasis on loans

Except as otherwise specifically provided in this chapter, assistance under this chapter may be furnished on a grant basis or on such terms, including cash, credit, or other terms of repayment (including repayment in foreign currencies or by transfer to the United States Government of commodities) as may be determined to be best suited to the achievement of the purposes of this chapter, and shall emphasize loans rather than grants wherever possible.

(b) Authority of the President

The President may make loans, advances, and grants to, make and perform agreements and contracts with, or enter into other transactions with, any individual, corporation, or other body of persons, friendly government or government agency, whether within or without the United States, and international organizations in furtherance of the purposes and within the limitations of this chapter.

(c) Utilization of services and facilities of voluntary, nonprofit organizations

It is the sense of Congress that the President, in furthering the purposes of this chapter, shall use to the maximum extent practicable the services and facilities of voluntary, nonprofit organizations registered with, and approved by, the Agency for International Development.

(d) Acceptance of gifts, devises, bequests, grants, etc.

The President may accept and use in furtherance of the purposes of this chapter, money, funds, property, and services of any kind made available by gift, devise, bequest, grant, or otherwise for such purpose.

(e) Health and accident insurance for foreign participants and foreign employees

(1) Any agency of the United States Government is authorized to pay the cost of health and accident insurance for foreign participants in any program of furnishing technical information and assistance administered by such agency while such participants are absent from their homes for the purpose of participation in such program.

(2) Any agency of the United States Government is authorized to pay the cost of health and accident insurance for foreign employees of that agency while those employees are absent from their place of employment abroad for purposes of training or other official duties.

(f) Admission of alien participants

Alien participants in any program of furnishing technical information and assistance under this chapter may be admitted to the United States if otherwise qualified as nonimmigrants under section

1101(a)(15) of title 8, for such time and under such conditions as may be prescribed by regulations promulgated by the Secretary of State and the Attorney General.

(g) Powers and authorities of the President with respect to loans

In making loans under this chapter, the President—

(1) may issue letters of credit and letters of commitment;

(2) may collect or compromise any obligations assigned to, or held by, and any legal or equitable rights accruing to him, and, as he may determine, refer any such obligations or rights to the Attorney General for suit or collection;

(3) may acquire and dispose of, upon such terms and conditions as he may determine, any property, including any instrument evidencing indebtedness or ownership (provided that equity securities may not be directly purchased although such securities may be acquired by other means such as by exercise of conversion rights or through enforcement of liens or pledges or otherwise to satisfy a previously incurred indebtedness), and guarantee payment against any such instrument;

(4) may determine the character of, and necessity for, obligations and expenditures of funds used in making such loans and the manner in which they shall be incurred, allowed, and paid, subject to provisions of law specifically applicable to corporations of the United States Government; and

(5) shall cause to be maintained an integral set of accounts which shall be audited by the Government Accountability Office in accordance with principles and procedures applicable to commercial corporate transactions as provided by chapter 91 of title 31.

(h) Term of contracts and agreements

A contract or agreement which entails commitments for the expenditure of funds made available under part I (except development loans) and subpart II of part II of subchapter I and under subchapter II of this chapter, may, subject to any future action of the Congress, extend at any time for not more than five years.

(i) Settlement and arbitration of claims arising under investment guaranty operations

Claims arising as a result of investment guaranty operations may be settled, and disputes arising as a result thereof may be arbitrated with the consent of the parties, on such terms and conditions as the President may direct. Payment made pursuant to any such settlement, or as a result of an arbitration award, shall be final and conclusive notwithstanding any other provision of law.

(j) Financial transactions with foreign governments; exemption

The provisions of section 955 of title 18 shall not apply to prevent any person, including any individual, partnership, corporation, or association, from acting for, or participating in, any operation or transaction arising under this chapter, or from acquiring any obligation issued in connection with any operation or transaction arising under this chapter.

(k) Cost-type contracts with educational institutions; payment of reimbursable indirect costs

Any cost-type contract or agreement (including grants) entered into with a university, college, or other educational institution for the purpose of carrying out programs authorized by subchapter I of this chapter may provide for the payment of the reimbursable indirect costs of said university, college, or other educational institution on the basis of predetermined fixed-percentage rates applied to the total, or an element thereof, of the reimbursable direct costs incurred.

(l) Program oversight

The Administrator of the agency primarily responsible for administering subchapter I of this chapter may use funds made available under that subchapter to provide program and management oversight for activities that are funded under that subchapter and that are conducted in countries in which the agency does not have a field mission or office.

(m) Working capital fund

(1) There is established a working capital fund (in this subsection referred to as the "fund") for the United States Agency for International Development (in this subsection referred to as the "Agency")

which shall be available without fiscal year limitation for the expenses of personal and nonpersonal services, equipment, and supplies for—

(A) International Cooperative Administrative Support Services; and

(B) rebates from the use of United States Government credit cards.

(2) The capital of the fund shall consist of—

(A) the fair and reasonable value of such supplies, equipment, and other assets pertaining to the functions of the fund as the Administrator determines,

(B) rebates from the use of United States Government credit cards, and

(C) any appropriations made available for the purpose of providing capital,

minus related liabilities.

(3) The fund shall be reimbursed or credited with advance payments for services, equipment, or supplies provided from the fund from applicable appropriations and funds of the Agency, other Federal agencies and other sources authorized by section 2357 of this title at rates that will recover total expenses of operation, including accrual of annual leave and depreciation. Receipts from the disposal of, or payments for the loss or damage to, property held in the fund, rebates, reimbursements, refunds and other credits applicable to the operation of the fund may be deposited in the fund.

(4) At the close of each fiscal year the Administrator of the Agency shall transfer out of the fund to the miscellaneous receipts account of the Treasury of the United States such amounts as the Administrator determines to be in excess of the needs of the fund.

(5) The fund may be charged with the current value of supplies and equipment returned to the working capital of the fund by a post, activity, or agency, and the proceeds shall he [1] credited to current applicable appropriations.

(Pub. L. 87–195, pt. III, §635, Sept. 4, 1961, 75 Stat. 456; Pub. L. 87–565, pt. III, §302(g), Aug. 1, 1962, 76 Stat. 262; Pub. L. 88–205, pt. III, §302(e), Dec. 16, 1963, 77 Stat. 389; Pub. L. 89–171, pt. III, §302(g), Sept. 6, 1965, 79 Stat. 660; Pub. L. 89–583, pt. III, §302(d), Sept. 19, 1966, 80 Stat. 807; Pub. L. 90–137, pt. III, §302(i), Nov. 14, 1967, 81 Stat. 461; Pub. L. 95–424, title I, §102(g)(2)(G), Oct. 6, 1978, 92 Stat. 943; Pub. L. 96–53, title I, §121, Aug. 14, 1979, 93 Stat. 366; Pub. L. 106–264, title III, §301, Aug. 19, 2000, 114 Stat. 760; Pub. L. 106–309, title IV, §404, Oct. 17, 2000, 114 Stat. 1098; Pub. L. 108–271, §8(b), July 7, 2004, 118 Stat. 814.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) to (d), (g), and (j), was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

REFERENCES TO SUBCHAPTER I DEEMED TO INCLUDE CERTAIN PARTS OF SUBCHAPTER II, AND REFERENCES TO SUBCHAPTER II DEEMED TO EXCLUDE SUCH PARTS

References to subchapter I of this chapter are deemed to include parts IV (§2346 et seq.), VI (§2348 et seq.), and VIII (§2349aa et seq.) of subchapter II of this chapter, and references to subchapter II are deemed to exclude such parts. See section 202(b) of Pub. L. 92–226, set out as a note under section 2346 of this title, and sections 2348c and 2349aa–5 of this title.

REFERENCES TO PART I DEEMED TO INCLUDE SECTION 2293

References to part I of subchapter I of this chapter are deemed to include a reference to section 2293 of this title. See section 2293(d)(1) of this title.

CODIFICATION

In subsec. (g)(5), "chapter 91 of title 31" substituted for "the Government Corporation Control Act, as amended (31 U.S.C. 841 et seq.)" on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

2004—Subsec. (g)(5). Pub. L. 108–271 substituted "Government Accountability Office" for "General Accounting Office".

2000—Subsec. (l). Pub. L. 106–264 added subsec. (l).

Subsec. (m). Pub. L. 106–309 added subsec. (m).

1979—Subsec. (c). Pub. L. 96–53 substituted "Agency for International Development" for "Advisory Committee on Voluntary Foreign Aid".

1978—Subsec. (h). Pub. L. 95–424 substituted "part I (except development loans) and subpart II of part II of subchapter I" for "subparts II, V, and VI of part II of subchapter I (except development loans)".

1967—Subsec. (e). Pub. L. 90–137, §302(i)(1), designated existing provisions as par. (1) and added par. (2).

Subsec. (g). Pub. L. 90–137, §302(i)(2), struck out "and sales" after "loans" in introductory clause.

1966—Subsec. (h). Pub. L. 89–583 excluded development loans under the Alliance for Progress from the provision that contracts or agreements which entail commitments for the expenditure of funds may not extend for more than five years.

1965—Subsec. (g). Pub. L. 89–171 inserted "and sales" in introductory clause.

1963—Subsec. (k). Pub. L. 88–205 added subsec. (k).

1962—Subsec. (h). Pub. L. 87–565 included sections 2211 to 2213 of this title within the limitation on the duration of contracts and agreements.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–53 effective Oct. 1, 1979, see section 512(a) of Pub. L. 96–53, set out as a note under section 2151 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–424 effective Oct. 1, 1978, see section 605 of Pub. L. 95–424, set out as a note under section 2151 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Pub. L. 90–137, pt. III, §302(i)(2), Nov. 14, 1967, 81 Stat. 461, provided in part that amendment of subsec. (g) by such section 302(i)(2) shall take effect on June 30, 1968.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

INTERNATIONAL AGREEMENTS

The negotiation, conclusion, and termination of international agreements pursuant to this chapter shall be subject to requirements of section 112b of Title 1, General Provisions, and to applicable regulations and procedures, see section 1–604 of Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56677, eff. Oct. 1, 1979, set out as a note under section 2381 of this title.

INFORMATION TO CONGRESSIONAL COMMITTEES ON NEGOTIATIONS REGARDING DEBTS OWED UNITED STATES BY FOREIGN GOVERNMENTS; TRANSMITTAL TO CONGRESS OF DEBT MODIFICATION PROPOSALS

Pub. L. 93–333, §4, July 8, 1974, 88 Stat. 290, relating to cancellation, renegotiation, etc., of any debt owed by a foreign government, was repealed by Pub. L. 95–424, title VI, §603(b), Oct. 6, 1978, 92 Stat. 961.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

[1] *So in original. Probably should be "be".*

§2395a. International agreements concerning debt relief; transmittal to congressional committees

(1) Repealed. Pub. L. 97–113, title VII, §734(a)(5), Dec. 29, 1981, 95 Stat. 1560.

(2) The Secretary of State shall transmit to such committees a copy of the text of any agreement with any foreign government which would result in any such debt relief no less than thirty days prior to its entry into force, together with a detailed justification of the interest of the United States in the proposed debt relief. The requirements of this paragraph shall not apply with respect to an agreement if a statutory requirement exists that the amount of the debt relief provided by the agreement may not exceed the amount approved for such purposes in advance in an appropriation Act.

(Pub. L. 95–424, title VI, §603(a), Oct. 6, 1978, 92 Stat. 960; H. Res. 89, Feb. 5, 1979; Pub. L. 97–113, title VII, §734(a)(5), Dec. 29, 1981, 95 Stat. 1560.)

REFERENCES IN TEXT

"Such committees" and "such debt relief", referred to in par. (2), mean the Committee on Foreign Relations of the Senate, the Committee on Foreign Affairs of the House of Representatives, and the Committee on Appropriations of each House of Congress named as the ongoing recipients of any information respecting debt relief negotiations with foreign governments regarding any debts owing to the United States in par. (1) provisions prior to repeal thereof by section 734(a)(1) of Pub. L. 97–113.

CODIFICATION

Section enacted as part of the International Development and Food Assistance Act of 1978, and not as part of the Foreign Assistance Act of 1961 which comprises this chapter.

AMENDMENTS

1981—Par. (1). Pub. L. 97–113 struck out par. (1) which required Secretary of State keep the Committee on Foreign Relations of the Senate, the Committee on Foreign Affairs of the House of Representatives, and the Committee on Appropriations of each House of Congress informed respecting any debt relief negotiations with foreign governments regarding any debts owing to the United States.

EFFECTIVE DATE

Section effective Oct. 1, 1978, see section 605 of Pub. L. 95–424, set out as an Effective Date of 1978 Amendment note under section 2151 of this title.

ACTIONS TO PROVIDE BILATERAL DEBT RELIEF

Pub. L. 106–113, div. B, §1000(a)(5) [title V, §501], Nov. 29, 1999, 113 Stat. 1536, 1501A–311, as amended by Pub. L. 108–447, div. D, title V, §591(b), Dec. 8, 2004, 118 Stat. 3037; Pub. L. 109–102, title V, §578, Nov. 14, 2005, 119 Stat. 2232; Pub. L. 110–161, div. J, title VI, §699H(b)(1), Dec. 26, 2007, 121 Stat. 2372, provided that:

"(a) CANCELLATION OF DEBT.—Subject to the availability of amounts provided in advance in appropriations Acts, the President shall cancel all amounts owed to the United States (or any agency of the United States) by any country eligible for debt reduction under this section, as a result of loans made or credits extended prior to June 20, 1999, under any of the provisions of law specified in subsection (b).

"(b) PROVISIONS OF LAW.—The provisions of law referred to in subsection (a) are the following:

"(1) Sections 221 and 222 of the Foreign Assistance Act [of 1961] [22 U.S.C. 2181, 2182].

"(2) The Arms Export Control Act (22 U.S.C. 2751 et seq.).

"(3) Section 5(f) of the Commodity Credit Corporation Charter Act [15 U.S.C. 714c(f)], section 201 of the Agricultural Trade Act of 1978 (7 U.S.C. 5621), or section 202 of such Act (7 U.S.C. 5622), or predecessor provisions under the Food for Peace Act of 1966.

"(4) Title I of the Agricultural Trade Development and Assistance Act of 1954 [now Food for Peace Act] (7 U.S.C. 1701 et seq.).

"(5) The Act of March 11, 1941 (chapter 11; 55 Stat. 31; 22 U.S.C. 411 et seq.; commonly known as the 'Lend-Lease Act').

"(c) OTHER DEBT REDUCTION AUTHORITIES.—The authority provided in this section is in addition to any other debt relief authority and does not in any way limit such authority.

"(d) ELIGIBLE COUNTRIES.—A country that is performing satisfactorily under an economic reform program shall be eligible for cancellation of debt under this section if—

"(1) the country, as of December 31, 2000, is eligible to borrow from the International Development

Association;

"(2) the country, as of December 31, 2000, is not eligible to borrow from the International Bank for Reconstruction and Development; and

"(3)(A) the country has outstanding public and publicly guaranteed debt, the net present value of which on December 31, 1996, was at least 150 percent of the average annual value of the exports of the country for the period 1994 through 1996; or

"(B)(i) the country has outstanding public and publicly guaranteed debt, the net present value of which, as of the date the President determines that the country is eligible for debt relief under this section, is at least 150 percent of the annual value of the exports of the country; or

"(ii) the country has outstanding public and publicly guaranteed debt, the net present value of which, as of the date the President determines that the country is eligible for debt relief under this section, is at least 250 percent of the annual fiscal revenues of the country, and has minimum ratios of exports to Gross Domestic Product of 30 percent, and of fiscal revenues to Gross Domestic Product of 15 percent.

"(e) PRIORITY.—In carrying out subsection (a), the President should seek to leverage scarce foreign assistance and give priority to heavily indebted poor countries with demonstrated need and the capacity to use such relief effectively.

"(f) EXCEPTIONS.—A country shall not be eligible for cancellation of debt under this section if the government of the country—

"(1) has an excessive level of military expenditures;

"(2) has repeatedly provided support for acts of international terrorism, as determined by the Secretary of State under section 6(j)(1) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)) [now 50 U.S.C. 4605(j)(1)] or section 620A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2371(a));

"(3) is failing to cooperate on international narcotics control matters; or

"(4) (including its military or other security forces), engages in a consistent pattern of gross violations of internationally recognized human rights.

"(g) ADDITIONAL REQUIREMENT.—A country which is otherwise eligible to receive cancellation of debt under this section may receive such cancellation only if the country has committed, in connection with a social and economic reform program—

"(1) to enable, facilitate, or encourage the implementation of policy changes and institutional reforms under economic reform programs, in a manner that ensures that such policy changes and institutional reforms are designed and adopted through transparent and participatory processes;

"(2) to adopt an integrated development strategy of the type described in section 1624(a) of the International Financial Institutions Act [22 U.S.C. 262p–7], to support poverty reduction through economic growth, that includes monitorable poverty reduction goals;

"(3) to take steps so that the financial benefits of debt relief are applied to programs to combat poverty (in particular through concrete measures to improve economic infrastructure, basic services in education, nutrition, and health, particularly treatment and prevention of the leading causes of mortality) and to redress environmental degradation;

"(4) to take steps to strengthen and expand the private sector, encourage increased trade and investment, support the development of free markets, and promote broad-scale economic growth;

"(5) to implement transparent policy making and budget procedures, good governance, and effective anticorruption measures;

"(6) to broaden public participation and popular understanding of the principles and goals of poverty reduction, particularly through economic growth, and good governance; and

"(7) to promote the participation of citizens and nongovernmental organizations in the economic policy choices of the government.

"(h) CERTAIN PROHIBITIONS INAPPLICABLE.—Except as the President may otherwise determine for reasons of national security, a cancellation of debt under this section shall not be considered to be assistance for purposes of any provision of law limiting assistance to a country. The authority to provide for cancellation of debt under this section may be exercised notwithstanding section 620(r) of the Foreign Assistance Act of 1961 [22 U.S.C. 2370(r)], or any similar provision of law.

"(i) AUTHORIZATION OF APPROPRIATIONS.—For the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990 [2 U.S.C. 661a(5)]) of the cancellation of any debt under this section, there are authorized to be appropriated to the President such sums as may be necessary for each of the fiscal years 2000–2010, which shall remain available until expended.

"(j) ANNUAL REPORTS TO THE CONGRESS.—Not later than December 31 of each year, the President shall prepare and transmit to the Committees on Banking and Financial Services [now Committee on Financial Services], Appropriations, and International Relations [now Committee on Foreign Affairs] of the

House of Representatives, and the Committees on Banking, Housing, and Urban Affairs, Foreign Relations, and Appropriations of the Senate a report, which shall be made available to the public, concerning the cancellation of debt under subsection (a), and a detailed description of debt relief provided by the United States as a member of the Paris Club of Official Creditors for the prior fiscal year."

[Pub. L. 108–447, §591(b), which directed amendment of section 501(i) of Public Law 106–113 by substituting "2000–2006" for "2003–2004", was executed in section 1000(a)(5) [title V, §501] of div. B of Pub. L. 106–113, set out above, by making substitution for "2000 through 2004", to reflect the probable intent of Congress.]

NOTIFICATION TO CONGRESS ON DEBT RELIEF AGREEMENTS

Pub. L. 102–391, title V, §548, Oct. 6, 1992, 106 Stat. 1673, provided that: "The Secretary of State shall transmit to the Appropriations Committees of the Congress and to such other Committees as appropriate, a copy of the text of any agreement with any foreign government which would result in any debt relief no less than thirty days prior to its entry into force, other than one entered into pursuant to this Act, together with a detailed justification of the interest of the United States in the proposed debt relief: *Provided*, That the term 'debt relief' shall include any and all debt prepayment, debt rescheduling, and debt restructuring proposals and agreements: *Provided further*, That the Secretary of State and the Secretary of the Treasury should in every feasible instance notify the Appropriations Committees of the Congress and such other Committees as appropriate not less than 15 days prior to any formal multilateral or bilateral negotiation for official debt restructuring, rescheduling, or relief: *Provided further*, That the Secretary of State or the Secretary of the Treasury, as appropriate, shall report not later than February 1 of each year a consolidated statement of the budgetary implications of all debt-related agreements entered into force during the preceding fiscal year."

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 101–513, title V, §550, Nov. 5, 1990, 104 Stat. 2020.

Pub. L. 101–167, title V, §555, Nov. 21, 1989, 103 Stat. 1237.

Pub. L. 100–461, title V, §557, Oct. 1, 1988, 102 Stat. 2268–38.

Pub. L. 100–202, §101(e) [title V, §563], Dec. 22, 1987, 101 Stat. 1329–131, 1329–172.

§2396. Availability of funds

(a) General expenditures

Appropriations for the purposes of or pursuant to this chapter (except for subchapter II of this chapter), allocations to any agency of the United States Government, from other appropriations, for functions directly related to the purposes of this chapter, and funds made available for other purposes to the agency primarily responsible for administrating subchapter I of this chapter, shall be available for:

(1) rent of buildings and space in buildings in the United States, and for repair, alteration, and improvement of such leased properties;

(2) expenses of attendance at meetings concerned with the purposes of such appropriations or of this chapter, including (notwithstanding the provisions of section 1346(a) and (c) of title 31) expenses in connection with meetings of persons whose employment is authorized by section 2386 of this title;

(3) contracting with individuals for personal services abroad: *Provided*, That such individuals shall not be regarded as employees of the United States Government for the purpose of any law administered by the Civil Service Commission;

(4) purchase, maintenance, operation, and hire of aircraft: *Provided*, That aircraft for administrative purposes may be purchased only as specifically provided for in an appropriation or other Act;

(5) purchase and hire of passenger motor vehicles: *Provided*, That, except as may otherwise be provided in an appropriation or other Act, passenger motor vehicles for administrative purposes outside the United States may be purchased for replacement only, and such vehicles may be exchanged or sold and replaced by an equal number of such vehicles, and the cost, including exchange allowance, of each such replacement shall not exceed the current market price in the United States of a mid-sized sedan or station wagon meeting the requirements established by the General Services Administration for a Class III vehicle of United States manufacture (or, if the

replacement vehicle is a right-hand drive vehicle, 120 percent of that price) in the case of an automobile for the chief of any special mission or staff outside the United States established under section 2391 of this title: *Provided further*, That passenger motor vehicles, other than one for the official use of the head of the agency primarily responsible for administering subchapter I of this chapter, may be purchased for use in the United States only as may be specifically provided in an appropriation or other Act;

(6) entertainment (not to exceed $25,000 in any fiscal year except as may otherwise be provided in an appropriation or other Act);

(7) exchange of funds without regard to section 3651 [1] of the Revised Statutes (31 U.S.C. 543) and loss by exchange;

(8) expenditures (not to exceed $50,000 in any fiscal year except as may otherwise be provided in an appropriation or other Act) of a confidential character other than entertainment: *Provided*, That a certificate of the amount of each such expenditure, the nature of which it is considered inadvisable to specify, shall be made by the head of the agency primarily responsible for administering subchapter I of this chapter or such person as he may designate, and every such certificate shall be deemed a sufficient voucher for the amount therein specified;

(9) insurance of official motor vehicles or aircraft acquired for use in foreign countries;

(10) rent or lease outside the United States for not to exceed ten years of offices, buildings, grounds, and quarters, including living quarters to house personnel, and payments therefor in advance; maintenance, furnishings, necessary repairs, improvements, and alterations to properties owned or rented by the United States Government or made available for use to the United States Government outside the United States; and costs of fuel, water, and utilities for such properties;

(11) expenses of preparing and transporting to their former homes, or, with respect to foreign participants engaged in any program under subchapter I of this chapter, to their former homes or places of burial, and of care and disposition of, the remains of persons or members of the families of persons who may die while such persons are away from their homes participating in activities carried out with funds covered by this subsection;

(12) purchase of uniforms;

(13) payment of per diem in lieu of subsistence to foreign participants engaged in any program under subchapter I of this chapter while such participants are away from their homes in countries other than the United States, at rates not in excess of those prescribed by the standardized Government travel regulations, notwithstanding any other provision of law;

(14) use in accordance with authorities of the Foreign Service Act of 1980, as amended (22 U.S.C. 3901 et seq.), not otherwise provided for;

(15) ice and drinking water for use outside the United States;

(16) services of commissioned officers of the Environmental Science Services Administration, and for the purposes of providing such services the Environmental Science Services Administration may appoint not to exceed twenty commissioned officers in addition to those otherwise authorized; [2]

(b) Compensation, allowances, and travel of personnel; printing and binding; expenditures outside United States

Funds made available for the purposes of this chapter may be used for compensation, allowances, and travel of personnel including Foreign Service personnel whose services are utilized primarily for the purposes of this chapter, for printing and binding without regard to the provisions of any other law, and for expenditures outside the United States for the procurement of supplies and services and for other administrative and operating purposes (other than compensation of personnel) without regard to such laws and regulations governing the obligation and expenditure of funds of the United States Government as may be necessary to accomplish the purposes of this chapter.

(c) Construction of living quarters, office space, and supporting facilities

Notwithstanding any other law, not to exceed $6,000,000 of the funds available for assistance under this chapter may be used in any fiscal year (in addition to funds available for such use under other authorities in this chapter) to construct or otherwise acquire outside the United States (1)

essential living quarters, office space, and necessary supporting facilities for use of personnel carrying out activities authorized by this chapter, and (2) schools (including dormitories and boarding facilities) and hospitals for use of personnel carrying out activities authorized by this chapter, United States Government personnel, and their dependents. In addition, funds made available for assistance under this chapter may be used, notwithstanding any other law, to equip, staff, operate, and maintain such schools and hospitals.

(d) Education of dependents

Not to exceed $2,500,000 of the funds available for assistance under this chapter may be used in any fiscal year to provide assistance, on such terms and conditions as are deemed appropriate, to schools established, or to be established, outside the United States whenever it is determined that such action would be more economical or would best serve the interests of the United States in providing for the education of dependents of personnel carrying out activities authorized by this chapter and dependents of United States Government personnel, in lieu of acquisition or construction pursuant to subsection (c) of this section.

(e) Training costs

Funds available under this chapter may be used to pay costs of training United States citizen personnel employed or assigned pursuant to section 2385(d)(2) [3] of this title (through interchange or otherwise) at any State or local unit of government, public or private nonprofit institution, trade, labor, agricultural, or scientific association or organization, or commercial firm; and the provisions of sections 1881 to 1888 [3] of title 7 may be used to carry out the foregoing authority notwithstanding that interchange of personnel may not be involved or that the training may not take place at the institutions specified in sections 1881 to 1888 [3] of title 7. Such training shall not be considered employment or holding of office under section 5533 of title 5, and any payments or contributions in connection therewith may, as deemed appropriate by the head of the agency of the United States Government authorizing such training, be made by private or public sources and be accepted by any trainee, or may be accepted by and credited to the current applicable appropriation of such agency: *Provided, however*, That any such payments to any employee in the nature of compensation shall be in lieu, or in reduction, of compensation received from the United States Government.

(f) Assistance in carrying out functions under certain laws

Funds made available under part I of subchapter I of this chapter may be used for expenses (other than those provided for under section 2397(a) of this title) to assist in carrying out functions under part I of subchapter I of this chapter, under the Food for Peace Act, as amended [7 U.S.C. 1691 et seq.], and under the Latin American Development Act, as amended, performed by the agency primarily responsible for administering subchapter I of this chapter or by the Corporation established under subpart IV of part II of subchapter I of this chapter with respect to loan activities which it carries out under the provisions of the Food for Peace Act, as amended.

(g) Administrative, extraordinary, and operating expenses; reimbursement of military officers; training of foreign military personnel

Funds made available for the purposes of subchapter II of this chapter or the Arms Export Control Act [22 U.S.C. 2751 et seq.] shall be available for—

(1) administrative, extraordinary (not to exceed $300,000 in any fiscal year), and operating expenses incurred in furnishing defense articles, military education and training and defense services on a grant or sales basis by the agency primarily responsible for administering subchapter II of this chapter;

(2) reimbursement of actual expenses of military officers detailed or assigned as tour directors in connection with orientation visits of foreign military and related civilian personnel, in accordance with provisions of section 5702 of title 5, applicable to civilian officers and employees; and

(3) maintenance, repair, alteration and furnishing of United States-owned facilities in the District of Columbia or elsewhere for the training of foreign military and related civilian

personnel, without regard to the provisions of section 6303 of title 41 or other provision of law requiring a specific authorization or specific appropriation for such public contracts.

(h) Recipient countries to contribute local currencies; utilization of foreign currencies owned by United States

In carrying out programs under this chapter, the President shall take all appropriate steps to assure that, to the maximum extent possible, (1) countries receiving assistance under this chapter contribute local currencies to meet the cost of contractual and other services rendered in conjunction with such programs, and (2) foreign currencies owned by the United States are utilized to meet the costs of such contractual and other services.

(i) Financing motor vehicle transactions; waiver of domestic manufacturing restriction

Notwithstanding section 2399a [4] of this title or any other provision of this chapter, none of the funds made available to carry out this chapter shall be used to finance the purchase, sale, long-term lease, exchange, or guaranty of a sale of motor vehicles unless such motor vehicles are manufactured in the United States: *Provided*, That where special circumstances exist the President is authorized to waive the provisions of this section in order to carry out the purposes of this chapter.

(Pub. L. 87–195, pt. III, §636, Sept. 4, 1961, 75 Stat. 457; Pub. L. 88–205, pt. III, §302(f), Dec. 16, 1963, 77 Stat. 389; Pub. L. 89–171, pt. III, §302(h), Sept. 6, 1965, 79 Stat. 660; Pub. L. 90–137, pt. III, §302(j)–(o), Nov. 14, 1967, 81 Stat. 461, 462; Pub. L. 90–554, pt. III, §302(d), Oct. 8, 1968, 82 Stat. 965; Pub. L. 91–175, pt. III, §306, Dec. 30, 1969, 83 Stat. 821; Pub. L. 94–329, title I, §106(b)(5), June 30, 1976, 90 Stat. 733; Pub. L. 95–424, title I, §102(g)(2)(H)–(J), title V, §505, Oct. 6, 1978, 92 Stat. 943, 960; Pub. L. 99–83, title XII, §1211(b)(1), Aug. 8, 1985, 99 Stat. 279; Pub. L. 99–234, title I, §107(b), Jan. 2, 1986, 99 Stat. 1759; Pub. L. 99–550, §2(b), Oct. 27, 1986, 100 Stat. 3070; Pub. L. 100–202, §101(e) [title II, §201], Dec. 22, 1987, 101 Stat. 1329–131, 1329–141; Pub. L. 101–167, title III, Nov. 21, 1989, 103 Stat. 1214; Pub. L. 107–372, title II, §271(7), Dec. 19, 2002, 116 Stat. 3094; Pub. L. 110–246, title III, §3001(b)(1)(A), (2)(Q), June 18, 2008, 122 Stat. 1820.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) to (e), (h), and (i), was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

Section 3651 of the Revised Statutes (31 U.S.C. 543), referred to in subsec. (a)(7), was repealed by Pub. L. 97–258, §5(b), Sept. 13, 1982, 96 Stat. 1068, the first section of which enacted Title 31, Money and Finance.

The Foreign Service Act of 1980, referred to in subsec. (a)(14), is Pub. L. 96–465, Oct. 17, 1980, 94 Stat. 2071, as amended, which is classified principally to chapter 52 (§3901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3901 of this title and Tables.

Section 2385(d) of this title, referred to in subsec. (e), was amended by Pub. L. 96–465, title II, §2203(a), Oct. 17, 1980, 94 Stat. 2158, and as so amended does not contain a par. (2).

Sections 1881 to 1888 of title 7, referred to in subsec. (e), which related to the interchange of Department of Agriculture and State employees, were repealed by Pub. L. 91–648, title IV, §403, Jan. 5, 1971, 84 Stat. 1925. See section 3371 et seq. of Title 5, Government Organization and Employees.

The Food for Peace Act, as amended, referred to in subsec. (f), is act July 10, 1954, ch. 469, 68 Stat. 454, which is classified principally to chapter 41 (§1691 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 1691 of Title 7, and Tables.

The Latin American Development Act, as amended, referred to in subsec. (f), is Pub. L. 86–735, Sept. 8, 1960, 74 Stat. 869, as amended, which enacted sections 1942 to 1945 of this title and amended section 1753a of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1942 of this title and Tables.

The Arms Export Control Act, referred to in subsec. (g), is Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1320, as amended, which is classified principally to chapter 39 (§2751 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

Section 2399a of this title, referred to in subsec. (i), was repealed by Pub. L. 90–629, ch. 4, §45(a), Oct. 22, 1968, 82 Stat. 1327. See section 2753(a)(1) of this title.

REFERENCES TO SUBCHAPTER I DEEMED TO INCLUDE CERTAIN PARTS OF SUBCHAPTER II, AND REFERENCES TO SUBCHAPTER II DEEMED TO EXCLUDE SUCH PARTS

References to subchapter I of this chapter are deemed to include parts IV (§2346 et seq.), VI (§2348 et seq.), and VIII (§2349aa et seq.) of subchapter II of this chapter, and references to subchapter II are deemed to exclude such parts. See section 202(b) of Pub. L. 92–226, set out as a note under section 2346 of this title, and sections 2348c and 2349aa–5 of this title.

REFERENCES TO PART I DEEMED TO INCLUDE SECTION 2293

References to part I of subchapter I of this chapter are deemed to include a reference to section 2293 of this title. See section 2293(d)(1) of this title.

CODIFICATION

In subsec. (a)(2), "section 1346(a) and (c) of title 31" substituted for "section 9 of Public Law 60–328 (31 U.S.C. 673))" on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

In subsec. (g)(3), "section 6303 of title 41" substituted for "section 3733 of the Revised Statutes (41 U.S.C. 12)" on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

2008—Subsec. (f). Pub. L. 110–246 substituted "Food for Peace Act" for "Agricultural Trade Development and Assistance Act of 1954" in two places.

2002—Subsec. (a)(17). Pub. L. 107–372 struck out par. (17) which read as follows: "expenses in connection with travel of personnel outside the United States, including travel expenses of dependents (including expenses during necessary stopovers while engaged in such travel), and transportation of personal effects, household goods, and automobiles of such personnel when any part of such travel or transportation begins in one fiscal year pursuant to travel orders issued in that fiscal year, notwithstanding the fact that such travel or transportation may not be completed during the same fiscal year, and cost of transporting automobiles to and from a place of storage, and the cost of storing automobiles of such personnel when it is in the public interest or more economical to authorize storage."

1989—Subsec. (g). Pub. L. 101–167 inserted "or the Arms Export Control Act" after "subchapter II of this chapter" in introductory provisions.

1987—Subsec. (c). Pub. L. 100–202 substituted "$6,000,000" for "$3,000,000".

1986—Subsec. (a)(5). Pub. L. 99–550 struck out "(without regard to the limitations contained in section 5 of Public Law 63–127, as amended (31 U.S.C. 638a(c)(2)), and section 201 of Public Law 85–468 (31 U.S.C. 638c))" after "official use".

Subsec. (g)(2). Pub. L. 99–234 substituted "5702" for "5702(c)".

1985—Subsec. (a)(14). Pub. L. 99–83 substituted reference to Foreign Service Act of 1980 for reference to Foreign Service Act of 1946.

1978—Subsec. (a)(5). Pub. L. 95–424, §505, substituted "the current market price in the United States of a mid-sized sedan or station wagon meeting the requirements established by the General Services Administration for a Class III vehicle of United States manufacture (or, if the replacement vehicle is a right hand drive vehicle, 120 percent of that price)" for "$3,500".

Subsec. (c). Pub. L. 95–424, §102(g)(2)(H), struck out "(other than subpart I of part II of subchapter I of this chapter)" after "under this chapter" in two places.

Subsecs. (d), (e). Pub. L. 95–424, §102(g)(2)(I), struck out "(other than subpart I of part II of subchapter I of this chapter)" after "under this chapter".

Subsec. (f). Pub. L. 95–424, §102(g)(2)(J), substituted "available under part I of subchapter I of this chapter" for "section 2172 of this title", and "functions under part I" for "functions under subpart I of part II".

1976—Subsec. (g)(1). Pub. L. 94–329, §106(b)(5)(A), inserted "military education and training" after "articles".

Subsec. (g)(2), (3). Pub. L. 94–329, §106(b)(5)(B), substituted "and related civilian personnel" for "personnel".

1969—Subsec. (f). Pub. L. 91–175 added Corporation established under sections 2191 to 2200a of this title to the enumeration of agencies administering programs.

1968—Subsec. (g)(1). Pub. L. 90–554 required that when funds are made available for operating expenses, such expenses be incurred in furnishing defense articles and defense services on a grant or sales basis by the

agency primarily responsible for administering subchapter II of this chapter.

1967—Subsec. (a)(5). Pub. L. 90–137, §302(j), substituted "section 638a(c)(2) and section 638c of title 31" for "section 78a(c)(2) and section 78a–1 of title 5".

Subsec. (a)(16). Pub. L. 90–137, §302(k), substituted "Environmental Science Services Administration" for "Coast and Geodetic Survey" in two places.

Subsec. (d). Pub. L. 90–137, §302(l), increased limitation on funds available for education of dependents from $1,500,000 to $2,500,000.

Subsec. (e). Pub. L. 90–137, §302(m), substituted reference to section 5533 of title 5 for section 301 of the Dual Compensation Act (5 U.S.C. 3105).

Subsec. (g)(2). Pub. L. 90–137, §302(n), substituted reference to section 5702(c) of title 5 for former section 836 of title 5.

Subsec. (i). Pub. L. 90–137, §302(o), added subsec. (i).

1965—Subsec. (e). Pub. L. 89–171, §302(h)(1), substituted "section 301 of the Dual Compensation Act (5 U.S.C. 3105)" for "section 2 of the Act of July 31, 1894, as amended (5 U.S.C. 62)".

Subsec. (f). Pub. L. 89–171, §302(h)(2), substituted "Latin American Development Act, as amended" for "Act to provide for assistance in the development of Latin America and in the reconstruction of Chile, and for other purposes".

1963—Subsec. (h). Pub. L. 88–205 added subsec. (h).

CHANGE OF NAME

Commissioned Officer Corps of the Environmental Science Services Administration changed to Commissioned Officer Corps of the National Oceanic and Atmospheric Administration, see 1970 Reorg Plan No. 4, §4(d), eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, set out in the Appendix to Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–246 effective May 22, 2008, see section 4(b) of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–234 effective (1) on effective date of regulations to be promulgated not later than 150 days after Jan. 2, 1986, or (2) 180 days after Jan. 2, 1986, whichever occurs first, see section 301(a) of Pub. L. 99–234, set out as a note under section 5701 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–83 effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as a note under section 2151–1 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–424 effective Oct. 1, 1978, see section 605 of Pub. L. 95–424, set out as a note under section 2151 of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

[1] See References in Text note below.

[2] So in original. The semicolon probably should be a period.

[3] See References in Text note below.

[4] See References in Text note below.

§2396a. Property Management Fund

(a) The proceeds of overseas property acquired by the Agency for International Development

under the authority of section 2396(c) of this title may be deposited in a separate fund, which shall be known as the Property Management Fund. Such proceeds shall be available for use only for the purposes of section 2396(c) of this title and for maintenance, and shall remain available until expended. The Administrator of the Agency for International Development shall report all uses of funds deposited into the Property Management Fund as part of the annual Congressional Presentation materials submitted by the Agency for International Development.

(b) The provisions of subsection (a) shall be applicable to property acquired prior to November 5, 1990, and at any time thereafter.

(Pub. L. 101–513, title V, §585, Nov. 5, 1990, 104 Stat. 2047; Pub. L. 113–76, div. K, title VII, §7034(q), Jan. 17, 2014, 128 Stat. 517.)

CODIFICATION

Section was enacted as part of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991, and not as part of the Foreign Assistance Act of 1961 which comprises this chapter.

AMENDMENTS

2014—Subsec. (a). Pub. L. 113–76 inserted "and for maintenance" after "purposes of section 2396(c) of this title".

§2397. Administrative expenses

(a) Repealed. Pub. L. 95–424, title VI, §604, Oct. 6, 1978, 92 Stat. 961.

(b) There is authorized to be appropriated such amounts as may be necessary from time to time for administrative expenses which are incurred for functions of the Department of State under this chapter and unrepealed provisions of the Mutual Security Act of 1954, as amended, or for normal functions of the Department of State which relate to such functions.

(Pub. L. 87–195, pt. III, §637, Sept. 4, 1961, 75 Stat. 460; Pub. L. 87–565, pt. III, §302(h), Aug. 1, 1962, 76 Stat. 262; Pub. L. 88–205, pt. III, §302(g), Dec. 16, 1963, 77 Stat. 389; Pub. L. 88–633, pt. III, §302(c), Oct. 7, 1964, 78 Stat. 1014; Pub. L. 89–171, pt. III, §302(i), Sept. 6, 1965, 79 Stat. 661; Pub. L. 89–583, pt. III, §302(e), Sept. 19, 1966, 80 Stat. 808; Pub. L. 90–137, pt. III, §302(p), Nov. 14, 1967, 81 Stat. 462; Pub. L. 90–554, pt. III, §302(e), Oct. 8, 1968, 82 Stat. 965; Pub. L. 91–175, pt. III. §307, Dec. 30, 1969, 83 Stat. 821; Pub. L. 92–226, pt. III, §303, Feb. 7, 1972, 86 Stat. 28; Pub. L. 93–189, §18, Dec. 17, 1973, 87 Stat. 724; Pub. L. 95–424, title VI, §604, Oct. 6, 1978, 92 Stat. 961.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

The Mutual Security Act of 1954, referred to in subsec. (b), is act Aug. 26, 1954, ch. 937, 68 Stat. 832, as amended by acts July 8, 1955, ch. 301, 69 Stat. 283; July 18, 1956, ch. 627, §§2–11, 70 Stat. 555; Aug. 14, 1957, Pub. L. 85–141, 71 Stat. 355; June 30, 1958, Pub. L. 85–477, ch. 1, §§101–103, ch. II, §§201–205, ch. III, §301, ch. IV, §401, ch. V, §501, 72 Stat. 261; July 24, 1959, Pub. L. 86–108, §2, ch. 1, §101, ch. II, §§201–205(a)–(i), (k)–(n), ch. III, §301, ch. IV, §401(a)–(k), (m), 73 Stat. 246; May 14, 1960, Pub. L. 86–472, ch. I to V, 74 Stat. 134, which was principally classified to chapter 24 (§1750 et seq.) of this title and which was repealed by act July 18, 1956, ch. 627, §8(m), 70 Stat. 559, Pub. L. 85–141, §§2(e), 3, 4(b), 11(d), Aug. 14, 1957, 71 Stat. 356, Pub. L. 86–108, ch. II, §§205(j), ch. IV, 401(1), July 24, 1959, 73 Stat. 250, Pub. L. 86–472, ch. II, §§203(d), 204(k), May 14, 1960, 74 Stat. 138, Pub. L. 87–195, pt. III, §642(a)(2), Sept. 4, 1961, 75 Stat. 460, Pub. L. 94–329, title II, §212(b)(1), June 30, 1976, 90 Stat. 745, Pub. L. 104–127, title II, §228, Apr. 4, 1996, 110 Stat. 963, except for sections 1754, 1783, 1796, 1853, 1928, and 1937 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1754 of this title and Tables.

AMENDMENTS

1978—Subsec. (a). Pub. L. 95–424 struck out subsec. (a) which authorized appropriations for necessary

administrative expenses of the agency primarily responsible for administering subchapter I of this chapter.

1973—Subsec. (a). Pub. L. 93–189 substituted "for each of the fiscal years 1974 and 1975, $45,000,000", for "for the fiscal year 1972, $50,000,000, and for the fiscal year 1973, $50,000,000".

1972—Subsec. (a). Pub. L. 92–226 authorized appropriations of $50,000,000 for fiscal years 1972 and 1973, and struck out appropriation authorization of $51,125,000 for fiscal years 1970 and 1971.

1969—Subsec. (a). Pub. L. 91–175 substituted "fiscal year 1970, $51,125,000, and for the fiscal year 1971, $51,125,000" for "fiscal year 1969, $53,000,000".

1968—Subsec. (a). Pub. L. 90–554 substituted "1969" and "$53,000,000" for "1968" and "$55,814,000", respectively, and required a reduction in number of personnel, particularly administrative personnel, to keep within reduced funds for fiscal year 1969, excepting therefrom auditing or training activities.

1967—Subsec. (a). Pub. L. 90–137 substituted "1968" and "$55,814,000" for "1967" and "$55,813,500", respectively.

1966—Subsec. (a). Pub. L. 89–583 substituted "1967" and "$55,813,500" for "1966" and "54,240,000," respectively.

1965—Subsec. (a). Pub. L. 89–171 substituted "1966" and "$54,200,000" for "1965" and "$52,500,000", respectively.

1964—Subsec. (a). Pub. L. 88–633 substituted "1965" and "$52,500,000" for "1964" and "$54,000,000", respectively.

1963—Subsec. (a). Pub. L. 88–205 substituted "1964" and "$54,000,000" for "1963" and "$53,000,000", respectively.

1962—Subsec. (a). Pub. L. 87–565, §302(h)(1), substituted "1963" and "$53,000,000" for "1962" and "$50,000,000", respectively.

Subsec. (b). Pub. L. 87–565, §302(h)(2), struck out "to the Secretary of State" after "authorized to be appropriated."

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–424 effective Oct. 1, 1978, see section 605 of Pub. L. 95–424, set out as a note under section 2151 of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§2398. Assistance to countries pursuant to other statutes

(a) No provision of this chapter shall be construed to prohibit assistance to any country pursuant to the Peace Corps Act, as amended [22 U.S.C. 2501 et seq.]; the Mutual Educational and Cultural Exchange Act of 1961, as amended [22 U.S.C. 2451 et seq.]; or the Export-Import Bank Act of 1945, as amended [12 U.S.C. 635 et seq.].

(b) No provision of this chapter or any other provision of law shall be construed to prohibit assistance for any training activity which is funded under this chapter for Brazil or Argentina as long as such country continues to have a democractically [1] elected government and the assistance is otherwise consistent with sections 2151n, 2304, 2370(f), 2371, and 2420 of this title.

(Pub. L. 87–195, pt. III, §638, as added Pub. L. 88–205, pt. III, §302(h), Dec. 16, 1963, 77 Stat. 389; amended Pub. L. 89–171, pt. III, §302(j), Sept. 6, 1965, 79 Stat. 661; Pub. L. 93–189, §19, Dec. 17, 1973, 87 Stat. 725; Pub. L. 100–202, §101(e) [title V, §588(a)], Dec. 22, 1987, 101 Stat. 1329–131, 1329–186.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

The Peace Corps Act, as amended, referred to in subsec. (a), is Pub. L. 87–293, Sept. 22, 1961, 75 Stat. 612, as amended, which is classified principally to chapter 34 (§2501 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2501 of this title and Tables.

The Mutual Educational and Cultural Exchange Act of 1961, as amended, referred to in subsec. (a), is Pub.

L. 87–256, Sept. 21, 1961, 75 Stat. 527, as amended, which is classified principally to chapter 33 (§2451 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2451 of this title and Tables.

The Export-Import Bank Act of 1945, as amended, referred to in subsec. (a), is act July 31, 1945, ch. 341, 59 Stat. 526, as amended, which is classified generally to chapter 6A (§635 et seq.) of Title 12, Banks and Banking. For complete classification of this Act to the Code, see Short Title note set out under section 635 of Title 12 and Tables.

AMENDMENTS

1987—Pub. L. 100–202 designated existing provisions as subsec. (a) and added subsec. (b).

1973—Pub. L. 93–189 amended section catchline.

1965—Pub. L. 89–171 struck out provisions which prohibited any provision of this chapter from being construed to prohibit famine or disaster relief, including such relief through voluntary agencies, under sections 1721 to 1724 of title 7.

EFFECTIVE DATE OF 1987 AMENDMENT

Pub. L. 100–202, §101(e) [title V, §588(b)], Dec. 22, 1987, 101 Stat. 1329–131, 1329–187, provided that: "The amendment made by subsection (a)(2) [amending this section] does not apply with respect to funds appropriated prior to the date of enactment of this Act [Dec. 22, 1987]."

[1] So in original. Probably should be "democratically".

§2399. Repealed. Pub. L. 94–161, title I, §101(6), Dec. 20, 1975, 89 Stat. 850

Section, Pub. L. 87–195, pt. III, §639, as added Pub. L. 80–171, pt. III, §302(k), Sept. 6, 1965, 79 Stat. 661; amended Pub. L. 93–559, §28(a), Dec. 30, 1974, 88 Stat. 1803, provided for famine or disaster relief, authorized appropriation of $40,000,000 for fiscal year 1975, and required Presidential reports to Committees of the Senate and Speaker of the House. See sections 2292 and 2292a of this title.

§§2399–1a, 2399–1b. Transferred

CODIFICATION

Section 2399–1a, Pub. L. 87–195, pt. 1, §494A, formerly pt. III, §639A, as added Pub. L. 93–189, §20, Dec. 17, 1973, 87 Stat. 725; amended Pub. L. 93–333, §3, July 8, 1974, 88 Stat. 290 renumbered pt. 1, §494A, Pub. L. 94–161, title I, §101(5), Dec. 20, 1975, 89 Stat. 850, which related to famine and disaster relief to drought stricken African nations, was transferred to section 2292d of this title.

Section 2399–1b, Pub. L. 87–195, pt. I, §494B, formerly pt. III, §639B, as added Pub. L. 93–189, §20, Dec. 13, 1973, 87 Stat. 725; renumbered pt. 1, §494B, and amended Pub. L. 94–161, title I, §101(5), (7), Dec. 20, 1975, 89 Stat. 850, which related to an African Development program, was transferred to section 2292e of this title.

§2399a. Repealed. Pub. L. 90–629, ch. 4, §45(a), Oct. 22, 1968, 82 Stat. 1327

Section, Pub. L. 87–195, pt. III, §640, as added Pub. L. 89–171, pt. III, §302(k), Sept. 6, 1965, 79 Stat. 661; amended Pub. L. 90–137, pt. III, §302(q), Nov. 14, 1967, 81 Stat. 462, related to military sales. See section 2753(a)(1) of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1968, see section 41 of Pub. L. 90–629, set out as an Effective Date note under section 2751 of this title.

SAVINGS PROVISION

Determinations, authorizations, regulations, orders, contracts, agreements, and other actions issued, undertaken, or entered into under authority of any provision of former section 2399a of this title as continuing in full force and effect until modified by appropriate authority, see section 46 of Pub. L. 90–629, set out as a

note under section 2341 of this title.

§2399b. False claims and ineligible commodities

(a) Penalties; costs

Any person who makes or causes to be made or presents or causes to be presented to any bank or other financial institution or to any officer, agent, or employee of any agency of the United States Government a claim for payment from funds made available under this chapter for the purposes of furnishing assistance and who knows the claim to be false, fraudulent, or fictitious or to cover a commodity or commodity-related service determined by the President to be ineligible for payment from funds made available under this chapter, or who uses to support his claim any certification, statement, or entry on any contract, abstract, bill of lading, Government or commercial invoice, or Government form, which he knows, or in the exercise of prudent business management should know, to contain false, fraudulent, or fictitious information, or who uses or engages in any other fraudulent trick, scheme, or device for the purpose of securing or obtaining, or aiding to secure or obtain, for any person any benefit or payment from funds so made available under this chapter in connection with the negotiation, procurement, award, or performance of a contract financed with funds so made available under this chapter, and any person who enters into an agreement, combination, or conspiracy so to do, (1) shall pay to the United States an amount equal to 25 per centum of any amount thereby sought to be wrongfully secured or obtained but not actually received, and (2) shall forfeit and refund any payment, compensation, loan, commission, or advance received as a result thereof, and (3) shall, in addition, pay to the United States for each such act (A) the sum of $2,000 and double the amount of any damage which the United States may have sustained by reason thereof, or (B) an amount equal to 50 per centum of any such payment, compensation, loan, commission, or advance so received, whichever is the greater, together with the costs of suit.

(b) Recovery of penalties; procedure; finality of withholding of funds; recovery of withheld funds; limitation period

In order to secure recovery under this section, the President may, as he deems appropriate, (1) institute suit in the United States district court for any judicial district in which the person alleged to have performed or participated in an act described by this section may reside or may be found, and (2) upon posting by registered mail to such person a notice of claim describing the basis therefor and identifying the funds to be withheld, withhold from funds owed by any agency of the United States Government to such person an amount equal to the refund, damages, liquidated damages, and exemplary damages claimed by the United States under this section. Any such withholding of funds from any person shall constitute a final determination of the rights and liabilities of such person under this section with respect to the amount so withheld, unless within one year of receiving the notice of claim such person brings suit for recovery, which is hereby authorized, against the United States in any United States district court.

(c) "Person" defined

For purposes of this section, the term "person" includes any individual, corporation, partnership, association, or other legal entity.

(Pub. L. 87–195, pt. III, §640A, as added Pub. L. 90–554, pt. III, §302(f), Oct. 8, 1968, 82 Stat. 965.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§2399c. Coordination of policies and programs

(a) Development Coordination Committee established

The President shall establish a system for coordination of United States policies and programs which affect United States interests in the development of low-income countries. To that end, the President shall establish a Development Coordination Committee which shall advise him with respect to coordination of United States policies and programs affecting the development of the developing countries, including programs of bilateral and multilateral development assistance. The Committee shall include the head of the agency primarily responsible for administering subchapter I of this chapter, Chairman, and representatives of the Departments of State, Treasury, Commerce, Agriculture, Energy, and Labor, the Executive Office of the President, and other executive departments and agencies, as the President shall designate. The Committee shall advise the President concerning the degree to which bilateral and multilateral development assistance should focus on critical problems in those functional sectors which affect the lives of the majority of people in the developing countries: food production; rural development and nutrition; population planning and health; and education, public administration, and human resource development.

(b) Procedures to assure coordination

The President shall prescribe appropriate procedures to assure coordination among—

(1) the various departments and agencies of the United States Government having representatives in diplomatic missions abroad; and

(2) representatives of the United States Government in each country, under the direction of the Chief of the United States Diplomatic Mission.

The President shall keep the Congress advised of his actions under this subsection.

(c) Guidance of Secretary of State

Programs authorized by this chapter shall be undertaken with the foreign policy guidance of the Secretary of State.

(d) Repealed. Pub. L. 95–424, title V, §502(d)(1), Oct. 6, 1978, 92 Stat. 959

(e) Temporary assignment of employees

The head of any of the departments or agencies referred to in subsection (a) may temporarily assign, upon the request of the Chairman, any employee from such department or agency to the staff of the Committee.

(f) Studies

To carry out the purposes of subsection (a), the Committee shall—

(1) prepare studies on various development problems;

(2) devise implementation strategies on developmental problems appropriate to each such department or agency;

(3) monitor and evaluate the results of the development activities of each such department or agency; and

(4) arrange for the exchange of information and studies between such agencies and departments.

(Pub. L. 87–195, pt. III, §640B, as added Pub. L. 93–189, §21, Dec. 17, 1973, 87 Stat. 725; amended Pub. L. 95–88, title I, §127, Aug. 3, 1977, 91 Stat. 542; Pub. L. 95–424, title V, §502(d), Oct. 6, 1978, 92 Stat. 959; Pub. L. 96–53, title I, §118, Aug. 14, 1979, 93 Stat. 365; Pub. L. 97–113, title VII, §734(a)(1), Dec. 29, 1981, 95 Stat. 1560.)

REFERENCES TO SUBCHAPTER I DEEMED TO INCLUDE CERTAIN PARTS OF SUBCHAPTER II

References to subchapter I of this chapter are deemed to include parts IV (§2346 et seq.), VI (§2348 et seq.), and VIII (§2349aa et seq.) of subchapter II of this chapter, and references to subchapter II are deemed to exclude such parts. See section 202(b) of Pub. L. 92–226, set out as a note under section 2346 of this title, and

sections 2348c and 2349aa–5 of this title.

AMENDMENTS

1981—Subsec. (g). Pub. L. 97–113 struck our subsec. (g) which required annual reports to Congress by the Chairman of the Development Coordination Committee on the activities of the Committee respecting aid to low-income countries. See section 2394(a) of this title.

1979—Subsec. (a). Pub. L. 96–53 inserted reference to Department of Energy.

1978—Subsec. (d). Pub. L. 95–424, §502(d)(1), struck out subsec. (d) relating to annual reports to Congress by the President on United States actions affecting the development of less developed countries.

Subsec. (g). Pub. L. 95–424, §502(d)(2), substituted "section 2394 of this title, the Chairman of the Committee" for "subsection (d) of this section, the President".

1977—Subsec. (a). Pub. L. 95–88, §127(a), provided that the Committee advise the President concerning the degree to which bilateral and multilateral development assistance should focus on critical problems in those functional sectors which affect the lives of the majority of people in the developing countries: food production; rural development and nutrition; population planning and health; and education, public administration, and human resource development.

Subsec. (d). Pub. L. 95–88, §127(b), substituted "less developed countries" for "low-income countries" in the description of the subject matter of the Presidential reports to Congress, designated existing provisions setting out the subject matter of the reports as cl. (2)(A), and added cls. (1) and (2)(B).

Subsecs. (e) to (g). Pub. L. 95–88, §127(c), added subsecs. (e) to (g).

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–53 effective Oct. 1, 1979, see section 512(a) of Pub. L. 96–53, set out as a note under section 2151 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–424 effective Oct. 1, 1978, see section 605 of Pub. L. 95–424, set out as a note under section 2151 of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided for by law. See section 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

§2399d. Shipping differential

For the purpose of facilitating implementation of section 55305 of title 46, funds made available for the purposes of part I of subchapter I of this chapter or for purposes of part IV of subchapter II of this chapter may be used to make grants to recipients to pay all or any portion of such differential as is determined by the Secretary of Commerce to exist between United States and foreign-flag vessel charter or freight rates. Grants made under this section shall be paid with United States-owned foreign currencies wherever feasible.

(Pub. L. 87–195, pt. III, §640C, as added Pub. L. 93–189, §21, Dec. 17, 1973, 87 Stat. 726; amended Pub. L. 96–533, title VII, §708, Dec. 16, 1980, 94 Stat. 3159.)

REFERENCES TO PART I DEEMED TO INCLUDE SECTION 2293

References to part I of subchapter I of this chapter are deemed to include a reference to section 2293 of this title. See section 2293(d)(1) of this title.

CODIFICATION

In text, "section 55305 of title 46" substituted for "section 901(b) of the Merchant Marine Act, 1936 (46 U.S.C. 1241(b))" on authority of Pub. L. 109–304, §18(c), Oct. 6, 2006, 120 Stat. 1709, which Act enacted section 55305 of Title 46, Shipping.

AMENDMENTS

1980—Pub. L. 96–533 substituted "part IV of subchapter II of this chapter" for "subchapter IV of this chapter".

PART III—MISCELLANEOUS PROVISIONS

§2401. Effective date; identification of programs

This chapter shall take effect on September 4, 1961. Programs under this chapter shall be identified appropriately overseas as "American Aid".

(Pub. L. 87–195, pt. III, §641, Sept. 4, 1961, 75 Stat. 460.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

§2402. Saving provisions

(a) Determinations, authorizations, regulations, orders, contracts, agreements, etc., under prior law

Except as may be expressly provided to the contrary in this chapter, all determinations, authorizations, regulations, orders, contracts, agreements, and other actions issued, undertaken, or entered into under authority of any provision of law repealed by section 642(a) and the Foreign Assistance Act of 1969 shall continue in full force and effect until modified by appropriate authority.

(b) Compliance with similar provisions of prior law as compliance with this chapter

Wherever provisions of this chapter establish conditions which must be complied with before use may be made of authority contained in, or funds authorized by, this chapter, compliance with, or satisfaction of, substantially similar conditions under Acts listed in section 642(a) and the Foreign Assistance Act of 1969 or Acts repealed by those Acts shall be deemed to constitute compliance with the conditions established by this chapter.

(c) Continued availability of funds appropriated pursuant to prior law

Funds made available pursuant to provisions of law repealed by section 642(a)(2) and the Foreign Assistance Act of 1969 shall, unless otherwise authorized or provided by law, remain available for their original purposes in accordance with the provisions of law originally applicable thereto, or in accordance with the provisions of law currently applicable to those purposes.

(Pub. L. 87–195, pt. III, §643, Sept. 4, 1961, 75 Stat. 460; Pub. L. 87–565, pt. III, §303(a), Aug. 1, 1962, 76 Stat. 263; Pub. L. 91–175, pt. III, §308, Dec. 30, 1969, 83 Stat. 821.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b), was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

Section 642(a), referred to in text, means section 642(a) of Pub. L. 87–195, which is set out as a note under section 2151 of this title.

The Foreign Assistance Act of 1969, referred to in subsecs. (a) to (c), is Pub. L. 91–175, Dec. 30, 1969, 83

Stat. 805, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

AMENDMENTS

1969—Subsec. (a). Pub. L. 91–175 inserted "and Foreign Assistance Act of 1969" after "section 642(a)," and "section 642(a)(2)".

1962—Subsec. (d). Pub. L. 87–565 repealed subsec. (d) which provided that nothing in the chapter was to affect the Peace Corps pending enactment of the Peace Corps Act or adjournment of the first session of the 87th Congress, whichever was earlier.

§2403. Definitions

As used in this chapter—

(a) "Agency of the United States Government" includes any agency, department, board, wholly or partly owned corporation, instrumentality, commission, or establishment of the United States Government.

(b) "Armed Forces" of the United States means the Army, Navy, Air Force, Marine Corps, and Coast Guard.

(c) "Commodity" includes any material, article, supply, goods, or equipment used for the purposes of furnishing nonmilitary assistance.

(d) "Defense article" includes—

(1) any weapon, weapons system, munition, aircraft, vessel, boat or other implement of war;

(2) any property, installation, commodity, material, equipment, supply, or goods used for the purposes of furnishing military assistance;

(3) any machinery, facility, tool, material supply, or other item necessary for the manufacture, production, processing repair, servicing, storage, construction, transportation, operation, or use of any article listed in this subsection; or

(4) any component or part of any article listed in this subsection; but

shall not include merchant vessels or, as defined by the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011), source material (except uranium depleted in the isotope 235 which is incorporated in defense articles solely to take advantage of high density or pyrophoric characteristics unrelated to radioactivity), by-product material, special nuclear material, production facilities, utilization facilities, or atomic weapons or articles involving Restricted Data.

(e) "Defense information" includes any document, writing, sketch, photograph, plan, model, specification, design, prototype, or other recorded or oral information relating to any defense article or defense service, but shall not include Restricted Data as defined by the Atomic Energy Act of 1954, as amended [42 U.S.C. 2011 et seq.], and data removed from the Restricted Data category under section 142d of that Act [42 U.S.C. 2162(d)].

(f) "Defense service" includes any service, test, inspection, repair, publication, or technical or other assistance or defense information used for the purposes of furnishing military assistance, but does not include military educational and training activities under part V of subchapter II of this chapter.

(g) "Excess defense articles" means the quantity of defense articles (other than construction equipment, including tractors, scrapers, loaders, graders, bulldozers, dump trucks, generators, and compressors) owned by the United States Government, and not procured in anticipation of military assistance or sales requirements, or pursuant to a military assistance or sales order, which is in excess of the Approved Force Acquisition Objective and Approved Force Retention Stock of all Department of Defense Components at the time such articles are dropped from inventory by the supplying agency for delivery to countries or international organizations under this chapter.

(h) "Function" includes any duty, obligation, power, authority, responsibility, right, privilege, discretion, or activity.

(i) Repealed. Pub. L. 93–189, §22(2), Dec. 17, 1973, 87 Stat. 726.

(j) "Officer or employee" means civilian personnel and members of the Armed Forces of the

United States Government.

(k) "Services" include any service, repair, training of personnel, or technical or other assistance or information used for the purposes of furnishing nonmilitary assistance.

(l) "Surplus agricultural commodity" means any agricultural commodity or product thereof, class, kind, type, or other specification thereof, produced in the United States, either publicly or privately owned, which is in excess of domestic requirements, adequate carryover, and anticipated exports for United States dollars, as determined by the Secretary of Agriculture.

(m) "Value" means—

(1) with respect to an excess defense article, the actual value of the article plus the gross cost incurred by the United States Government in repairing, rehabilitating, or modifying the article, except that for purposes of section 2392(d) of this title such actual value shall not be taken into account;

(2) with respect to a nonexcess defense article delivered from inventory to foreign countries or international organizations under this chapter, the acquisition cost to the United States Government, adjusted as appropriate for condition and market value;

(3) with respect to a nonexcess defense article delivered from new procurement to foreign countries or international organizations under this chapter, the contract or production costs of such article;

(4) with respect to a defense service, the cost to the United States Government of such service; and

(5) with respect to military education and training or services provided under part VIII of subchapter II of this chapter, the additional costs that are incurred by the United States Government in furnishing such assistance.

(n) "Military education and training" includes formal or informal instruction of foreign students in the United States or overseas by officers or employees of the United States, contract technicians, contractors (including instruction at civilian institutions), or by correspondence courses, technical, educational, or information publications and media of all kinds, training aids, orientation, and military advice to foreign military units and forces.

(o) "Agriculture" includes aquaculture and fisheries.

(p) "Farmers" includes fishermen and other persons employed in cultivating and harvesting food resources from salt and fresh waters.

(q) "Major non-NATO ally" means a country which is designated in accordance with section 2321k of this title as a major non-NATO ally for purposes of this chapter and the Arms Export Control Act (22 U.S.C. 2751 et seq.).

(Pub. L. 87–195, pt. III, §644, Sept. 4, 1961, 75 Stat. 461; Pub. L. 87–565, pt. III, §303(b), Aug. 1, 1962, 76 Stat. 263; Pub. L. 88–205, pt. III, §303, Dec. 16, 1963, 77 Stat. 389; Pub. L. 89–171, pt. III, §303(b), Sept. 6, 1965, 79 Stat. 661; Pub. L. 90–137, pt. III, §303(a), Nov. 14, 1967, 81 Stat. 462; Pub. L. 90–629, ch. 4, §45(b)(5), Oct. 22, 1968, 82 Stat. 1327; Pub. L. 92–226, pt. III, §304(c)(1), Feb. 7, 1972, 86 Stat. 32; Pub. L. 93–189, §22, Dec. 17, 1973, 87 Stat. 726; Pub. L. 94–329, title I, §106(b)(6), June 30, 1976, 90 Stat. 733; Pub. L. 95–424, title I, §103(b), Oct. 6, 1978, 92 Stat. 944; Pub. L. 96–92, §22, Oct. 29, 1979, 93 Stat. 710; Pub. L. 96–533, title I, §115(b)(1), Dec. 16, 1980, 94 Stat. 3140; Pub. L. 98–151, §101(b)(2), Nov. 14, 1983, 97 Stat. 972; Pub. L. 102–583, §9(b), Nov. 2, 1992, 106 Stat. 4934; Pub. L. 104–164, title I, §147(a)(2), July 21, 1996, 110 Stat. 1435.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

The Atomic Energy Act of 1954, as amended, referred to in subsecs. (d) and (e), is act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, which is classified principally to chapter 23 (§2011 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 42 and Tables.

The Arms Export Control Act, referred to in subsec. (q), is Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1320, as

amended, which is classified principally to chapter 39 (§2751 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

CODIFICATION

The 1983 amendment by Pub. L. 98–151 is based on section 202(b) of H.R. 2992, Ninety-eighth Congress, 1st Session, as reported May 17, 1983, which was enacted into permanent law by Pub. L. 98–151.

AMENDMENTS

1996—Subsec. (q). Pub. L. 104–164 added subsec. (q).

1992—Subsec. (g). Pub. L. 102–583 inserted "(other than construction equipment, including tractors, scrapers, loaders, graders, bulldozers, dump trucks, generators, and compressors)" after second reference to "articles".

1983—Subsec. (m)(5). Pub. L. 98–151 inserted "or services provided under part VIII of subchapter II of this chapter".

1980—Subsec. (m)(5). Pub. L. 96–533 added par. (5).

1979—Subsec. (d). Pub. L. 96–92 defined "defense article" to include uranium depleted in the isotope 235 which is incorporated in defense articles solely to take advantage of high density or pyrophoric characteristics unrelated to radioactivity.

1978—Subsecs. (o), (p). Pub. L. 95–424 added subsecs. (o) and (p).

1976—Subsec. (f). Pub. L. 94–329, §106(b)(6)(A), struck out "training" after "inspection, repair", inserted "but does not include military educational and training activities under part V of subchapter II", and struck out definition of "Training".

Subsec. (n). Pub. L. 94–329, §106(b)(6)(B), added subsec. (n).

1973—Subsec. (g). Pub. L. 93–189, §22(1), substituted "Approved Force Acquisition Objective and Approved Force Retention Stock of all Department of Defense Components" for "mobilization reserve".

Subsec. (i). Pub. L. 93–189, §22(2), struck out subsec. (i) which defined "mobilization reserve".

Subsec. (m). Pub. L. 93–189, §22(3), amended subsec. (m) generally. Prior to amendment, subsec. (m) read as follows: " 'Value' means, other than in section 2417 of this title—

"(1) with respect to excess defense articles, the gross cost incurred by the United States Government in repairing, rehabilitating, or modifying such articles;

"(2) with respect to nonexcess defense articles delivered from inventory to countries or international organizations under this chapter, the standard price in effect at the time such articles are dropped from inventory by the supplying agency. Such standard price shall be the same price (including authorized reduced prices) used for transfers or sales of such articles in or between the Armed Forces of the United States Government, or, where such articles are not transferred or sold in or between the Armed Forces of the United States, the gross cost to the United States Government adjusted as appropriate for condition and market value; and

"(3) with respect to nonexcess defense articles delivered from new procurement to countries or international organizations under this chapter, the contract or production costs of such articles.

Military assistance programs and orders shall be based upon the best estimates of stock status and prevailing prices; reimbursements to the supplying agency shall be made on the basis of the stock status and prices determined pursuant to this section. Notwithstanding the foregoing provisions of this section, the Secretary of Defense may prescribe regulations authorizing reimbursements to the supplying agency based on negotiated prices for aircraft, vessels, plant equipment, and such other major items as he may specify: *Provided*, That such articles are not excess at the time such prices are negotiated: *Provided further*, That such prices are negotiated at the time firm orders are placed with the supplying agency."

1972—Subsec. (m). Pub. L. 92–226 substituted " 'Value' means, other than in section 2417 of this title" for " 'Value' means".

1968—Subsec. (m). Pub. L. 90–629 struck out "and sales" before "programs" in text following par. (3).

1967—Subsec. (d). Pub. L. 90–137, §303(a)(1), excluded production facilities, utilization facilities, and articles involving Restricted Data from definition of "defense articles".

Subsec. (e). Pub. L. 90–137, §303(a)(2), struck out "and formerly Restricted Data" before "as defined" and excluded data removed from the Restricted Data category under section 142d of the Atomic Energy Act of 1954 (classified to section 2162(d) of Title 42) from definition of "defense information".

Subsec. (f). Pub. L. 90–137, §303(a)(3), excluded the transfer of limited quantities of defense articles for test, evaluation, or standardization purposes from definition of "defense service" and defined "training", incorporating existing references to orientation and training aid.

1965—Subsec. (g). Pub. L. 89–171, §303(b)(1), inserted "and not procured in anticipation of military

assistance or sales requirements, or pursuant to a military assistance or sales order", and struck out "as grant assistance" after "international organizations".

Subsec. (m). Pub. L. 89–171, §303(b)(2), (3), in par. (2) substituted "Such standard price shall be the same price (including authorized reduced prices)" for "Such price shall be the same standard price", and in unnumbered par. after par. (3) substituted "Military Assistance and sales programs" for "Military assistance programs" and struck out "by the military assistance program" after "supplying agency".

1963—Subsec. (f). Pub. L. 88–205 inserted "including orientation".

1962—Subsec. (m)(2), (3). Pub. L. 87–565 struck out "as grant assistance" after "international organizations".

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–424 effective Oct. 1, 1978, see section 605 of Pub. L. 95–424, set out as a note under section 2151 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–226 applicable with respect to each fiscal year commencing on or after July 1, 1971, see section 304(c)(3) of Pub. L. 92–226, set out as a note under section 2394 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–629 effective on July 1, 1968, see section 41 of Pub. L. 90–629, set out as an Effective Date note under section 2751 of this title.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§2404. Unexpended balances

Unexpended balances of funds made available pursuant to this chapter, the Mutual Security Act of 1954, as amended, or the Latin American Development Act, as amended, are hereby authorized to be continued available for the general purposes for which appropriated, and may at any time be consolidated, and, in addition, may be consolidated with appropriations made available for the same general purposes under the authority of this chapter.

(Pub. L. 87–195, pt. III, §645, Sept. 4, 1961, 75 Stat. 462; Pub. L. 87–565, pt. III, §303(c), Aug. 1, 1962, 76 Stat. 263; Pub. L. 88–205, pt. III, §304, Dec. 16, 1963, 77 Stat. 390; Pub. L. 89–171, pt. III, §303(c), Sept. 6, 1965, 79 Stat. 661.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

The Mutual Security Act of 1954, referred to in text, is act Aug. 26, 1954, ch. 937, 68 Stat. 832, as amended by acts July 8, 1955, ch. 301, 69 Stat. 283; July 18, 1956, ch. 627, §§2–11, 70 Stat. 555; Aug. 14, 1957, Pub. L. 85–141, 71 Stat. 355; June 30, 1958, Pub. L. 85–477, ch. 1, §§101–103, ch. II, §§201–205, ch. III, §301, ch. IV, §401, ch. V, §501, 72 Stat. 261; July 24, 1959, Pub. L. 86–108, §2, ch. 1, §101, ch. II, §§201–205(a)–(i), (k)–(n), ch. III, §301, ch. IV, §401(a)–(k), (m), 73 Stat. 246; May 14, 1960, Pub. L. 86–472, ch. I to V, 74 Stat. 134, which was principally classified to chapter 24 (§1750 et seq.) of this title and which was repealed by act July 18, 1956, ch. 627, §8(m), 70 Stat. 559, Pub. L. 85–141, §§2(e), 3, 4(b), 11(d), Aug. 14, 1957, 71 Stat. 356, Pub. L. 86–108, ch. II, §§205(j), ch. IV, 401(1), July 24, 1959, 73 Stat. 250, Pub. L. 86–472, ch. II, §§203(d), 204(k), May 14, 1960, 74 Stat. 138, Pub. L. 87–195, pt. III, §642(a)(2), Sept. 4, 1961, 75 Stat. 460, Pub. L. 94–329, title II, §212(b)(1), June 30, 1976, 90 Stat. 745, Pub. L. 104–127, title II, §228, Apr. 4, 1996, 110 Stat. 963, except for sections 1754, 1783, 1796, 1853, 1928, and 1937 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1754 of this title and Tables.

The Latin American Development Act, as amended, referred to in text, is Pub. L. 86–735, Sept. 8, 1960, 74 Stat. 869, as amended, which enacted sections 1942 to 1945 of this title and amended section 1753a of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1942 of this title and Tables.

AMENDMENTS

1965—Pub. L. 89–171 substituted "the Latin American Development Act, as amended" for "Public Law 86–735".

1963—Pub. L. 88–205 included balances of funds made available under Public Law 86–735.

1962—Pub. L. 87–565 inserted "this chapter" after "pursuant to".

§2405. Separability

If any provision of this chapter or the application of any provision to any circumstances or persons shall be held invalid, the validity of the remainder of this chapter, and of the applicability of such provision to other circumstances or persons shall not be affected thereby.

(Pub. L. 87–195, pt. III, §646, Sept. 4, 1961, 75 Stat. 462.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

§2406. Development programs for dependable fuel supplies

It is of paramount importance that long-range economic plans take cognizance of the need for a dependable supply of fuels, which is necessary to orderly and stable development and growth, and that dependence not be placed upon sources which are inherently hostile to free countries and the ultimate well-being of economically underdeveloped countries and which might exploit such dependence for ultimate political domination. The agencies of government in the United States are directed to work with other countries in developing plans for basing development programs on the use of the large and stable supply of relatively low cost fuels available in the free world.

(Pub. L. 87–195, pt. III, §647, Sept. 4, 1961, 75 Stat. 462.)

PROHIBITION ON ASSISTANCE FOR NUCLEAR POWERPLANTS FOR FISCAL YEAR 1978

Pub. L. 95–92, §14, Aug. 4, 1977, 91 Stat. 622, which prohibited any funds made available to carry out this chapter for fiscal year 1978 from being used to finance the construction of, the operation or maintenance of, or the supply of fuel for any nuclear powerplant under an agreement of cooperation between the United States and any other country, was repealed by Pub. L. 97–113, title VII, §734(a)(13), Dec. 29, 1981, 95 Stat. 1560.

NUCLEAR POWERPLANTS IN ISRAEL OR EGYPT

Pub. L. 93–559, §43, Dec. 30, 1974, 88 Stat. 1813, which prohibited any funds authorized under Pub. L. 93–559 from being used to finance the construction of, the operation or maintenance of, or the supply of fuel for any nuclear powerplant in Israel or Egypt, was repealed by Pub. L. 97–113, title VII, §734(a)(8), Dec. 29, 1981, 95 Stat. 1560.

§2407. Special authorization for use of foreign currencies

Subject to the provisions of section 1306 of title 31, the President is authorized, as a demonstration of good will on the part of the people of the United States for the Polish and Italian people, to use foreign currencies accruing to the United States Government under this chapter or any other Act, for assistance on such terms and conditions as he may specify, in the repair, rehabilitation, improvement, and maintenance of cemeteries in Italy serving as the burial place of members of the armed forces of Poland who died in combat in Italy during World War II.

(Pub. L. 87–195, pt. III, §648, as added Pub. L. 88–633, pt. III, §303, Oct. 7, 1964, 78 Stat. 1014.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

CODIFICATION

"Section 1306 of title 31" substituted in text for "section 1415 of the Supplemental Appropriation Act, 1953, [31 U.S.C. 724]" on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§2408. Repealed. Pub. L. 95–424, title VI, §604, Oct. 6, 1978, 92 Stat. 961

Section, Pub. L. 87–195, pt. III, §649, as added Pub. L. 89–171, pt. III, §303(d), Sept. 6, 1965, 79 Stat. 661, related to aggregate of total amounts authorized to be appropriated under this chapter.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1978, see section 605 of Pub. L. 95–424, set out as an Effective Date of 1978 Amendment note under section 2151 of this title.

§2409. Use of United States Armed Forces

The furnishing of economic, military, or other assistance under this chapter shall not be construed as creating a new commitment or as affecting any existing commitment to use Armed Forces of the United States for the defense of any foreign country.

(Pub. L. 87–195, pt. III, §650, as added Pub. L. 90–137, pt. III, §303(b), Nov. 14, 1967, 81 Stat. 462.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

§2410. Repealed. Pub. L. 95–424, title VI, §604, Oct. 6, 1978, 92 Stat. 961

Section, Pub. L. 87–195, pt. III, §651, as added Pub. L. 90–554, pt. III, §303, Oct. 8, 1968, 82 Stat. 966, related to sale of supersonic planes to Israel.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1978, see section 605 of Pub. L. 95–424, set out as an Effective Date of 1978 Amendment note under section 2151 of this title.

§2410a. Repealed. Pub. L. 97–113, title VII, §734(a)(15), Dec. 29, 1981, 95 Stat. 1560

Section, Pub. L. 91–672, §7, Jan. 12, 1971, 84 Stat. 2054, restricted sale, grant, loan, or transfer of International Fighter aircraft to any foreign country, or agency thereof, other than South Vietnam.

§2411. Limitation upon exercise of special authorities

The President shall not exercise any special authority granted to him under section 2318(a), 2348a(c)(2), or 2360(a) of this title unless the President, before he intends to exercise any such authority, notifies the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate in writing of each such intended exercise, the section of this chapter under which such authority is to be exercised, and the justification for, and the extent of, the exercise of such authority.

(Pub. L. 87–195, pt. III, §652, as added Pub. L. 91–652, §8, Jan. 5, 1971, 84 Stat. 1943; amended Pub. L. 92–226, pt. III, §304(a)(1), Feb. 7, 1972, 86 Stat. 28; Pub. L. 96–533, title I, §117(b), Dec. 16, 1980, 94 Stat. 3141; Pub. L. 99–83, title I, §105(b)(2), Aug. 8, 1985, 99 Stat. 196; Pub. L. 104–164, title I, §103(c), July 21, 1996, 110 Stat. 1424.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

AMENDMENTS

1996—Pub. L. 104–164 substituted "before he intends" for "prior to the date he intends".

1985—Pub. L. 99–83 inserted reference to section 2348a(c)(2) of this title.

1980—Pub. L. 96–533 struck out reference to section 2364(a) of this title.

1972—Pub. L. 92–226 struck out provision which limited exercise of special authority for purpose of providing additional assistance to Cambodia and which required thirty days notice to congressional committee (ten days in emergencies requiring immediate assistance) of intention to exercise such authority.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–83 effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as a note under section 2151–1 of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

FUNDS NOT TO BE USED TO FINANCE INTRODUCTION OF UNITED STATES GROUND COMBAT TROOPS INTO CAMBODIA OR PROVIDE ADVISERS FOR SECURITY OR INTELLIGENCE FORCES IN CAMBODIA; ASSISTANCE TO CAMBODIA NOT TO BE CONSTRUED AS COMMITMENT BY UNITED STATES TO CAMBODIA FOR ITS DEFENSE

Pub. L. 91–652, §7, Jan. 5, 1971, 84 Stat. 1943, as amended by Pub. L. 92–226, pt. IV, §408, Feb. 7, 1972, 86 Stat. 35, provided that:

"(a) In line with the expressed intention of the President of the United States, none of the funds authorized or appropriated pursuant to this or any other Act may be used to finance the introduction of United States ground combat troops into Cambodia, or to provide United States advisers to or for military, paramilitary, police, or other security or intelligence forces in Cambodia.

"(b) Military and economic assistance provided by the United States to Cambodia and authorized or appropriated pursuant to this or any other Act shall not be construed as a commitment by the United States to Cambodia for its defense."

§2412. Limitation on foreign assistance appropriations

(a) Restrictions on appropriations in absence of or in excess of prior authorizations

Notwithstanding any provision of law enacted before January 12, 1971, no money appropriated for foreign assistance (including foreign military sales) shall be available for obligation or expenditure—

(1) unless the appropriation thereof has been previously authorized by law; or

(2) in excess of an amount previously prescribed by law.

(b) Exception

To the extent that legislation enacted after the making of an appropriation for foreign assistance (including foreign military sales) authorizes the obligation or expenditure thereof, the limitation contained in subsection (a) shall have no effect.

(c) Specific repeal or modification of section

The provisions of this section shall not be superseded except by a provision of law enacted after January 12, 1971, which specifically repeals or modifies the provisions of this section.

(Pub. L. 91–672, §10, Jan. 12, 1971, 84 Stat. 2055.)

CODIFICATION

Section was not enacted as part of Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, known as the Foreign Assistance Act of 1961, which comprises this chapter.

§2413. Changes in allocation of foreign assistance

(a) Notification by President to foreign country

Not later than thirty days after the enactment of any law appropriating funds to carry out any provision of this chapter (other than section 2261 or 2397 of this title) or the Arms Export Control Act [22 U.S.C. 2751 et seq.], the President shall notify the Congress of each foreign country and international organization to which the United States Government intends to provide any portion of the funds under such law and of the amount of funds under that law, by category of assistance, that the United States Government intends to provide to each.

(b) Application of provisions to continuing appropriations; waiver of provisions

The provisions of this section shall not apply in the case of any law making continuing appropriations and may not be waived under the provisions of section 2364(a) of this title.

(Pub. L. 87–195, pt. III, §653, as added Pub. L. 92–226, pt. III, §304(b), Feb. 7, 1972, 86 Stat. 28; amended Pub. L. 93–559, §21, Dec. 30, 1974, 88 Stat. 1801; Pub. L. 95–384, §§10(b)(3), 12(c)(2), Sept. 26, 1978, 92 Stat. 735, 737; Pub. L. 99–83, title XII, §1209(b), Aug. 8, 1985, 99 Stat. 279.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

The Arms Export Control Act, referred to in subsec. (a), is Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1320, as amended, which is classified principally to chapter 39 (§2751 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

AMENDMENTS

1985—Subsec. (a). Pub. L. 99–83, §1209(b)(1), inserted reference to the Arms Export Control Act.

Subsecs. (b), (c). Pub. L. 99–83, §1209(b)(2), (3), redesignated subsec. (c) as (b). Former subsec. (b), relating to report to Congress prior to grant of assistance with excess funds, was struck out.

1978—Subsec. (b). Pub. L. 95–384 substituted in provisions preceding par. (1) in two places and in par. (2) "assistance under part IV of subchapter II of this chapter" for "security supporting assistance" and in provisions preceding par. (1) in two places "part VI of subchapter II" for "subchapter IV" and inserted in par. (2) "or assistance under part VI of subchapter II of this chapter" before ", the President includes".

1974—Subsec. (a). Pub. L. 93–559, §21(1), struck out provisions limiting the military grant assistance or security supporting assistance to any foreign country or international organization to an amount not more than 10 percent of funds authorized under any law unless the President determines that it would be in the security interests of the United States to provide excess funds and reports to Congress the identity of the recipient, the amount of excess funds provided, and the justification for additional assistance. See subsec. (b) of this section.

Subsecs. (b), (c). Pub. L. 93–559, §21(2), added subsec. (b) and redesignated former subsec. (b) as (c).

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–83 effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as a note under section 2151–1 of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§2414. Presidential findings and determinations

(a) Report to Congress

In any case in which the President is required to make a report to the Congress, or to any committee or officer of either House of Congress, concerning any finding or determination under any provision of this chapter, the Foreign Military Sales Act [22 U.S.C. 2751 et seq.], or the Foreign Assistance and Related Programs Appropriation Act for each fiscal year, that finding or determination shall be reduced to writing and signed by the President.

(b) Action prohibition prior to execution of report

No action shall be taken pursuant to any such finding or determination prior to the date on which that finding or determination has been reduced to writing and signed by the President.

(c) Publication in Federal Register

Each such finding or determination shall be published in the Federal Register as soon as practicable after it has been reduced to writing and signed by the President. In any case in which the President concludes that such publication would be harmful to the national security of the United States, only a statement that a determination or finding has been made by the President, including the name and section of the Act under which it was made, shall be published.

(d) Information accessible to Congress prior to transmission of report

No committee or officer of either House of Congress shall be denied any requested information relating to any finding or determination which the President is required to report to the Congress, or to any committee or officer of either House of Congress, under any provision of this chapter, the Foreign Military Sales Act [22 U.S.C. 2751 et seq.], or the Foreign Assistance and Related Programs Appropriation Act for each fiscal year, even though such report has not yet been transmitted to the appropriate committee or officer of either House of Congress.

(Pub. L. 87–195, pt. III, §654, as added Pub. L. 92–226, pt. III, §304(b), Feb. 7, 1972, 86 Stat. 29.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (d), was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

The Foreign Military Sales Act, referred to in subsecs. (a) and (d), is Pub. L. 90–629, ch. 1, Oct. 22, 1968, 82 Stat. 1320, as amended, known as the Arms Export Control Act, on authority of section 201(b) of Pub. L. 94–329, title II, June 30, 1976, 90 Stat. 734, and is classified principally to chapter 39 (§2751 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§2414a. Annual report to Congress on voting practices at United Nations

(a) In general

Not later than March 31 of each year, the Secretary of State shall transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a full and complete annual report which assesses for the preceding calendar year, with respect to each foreign country member of the United Nations, the voting practices of the governments of such

countries at the United Nations, and which evaluates General Assembly and Security Council actions and the responsiveness of those governments to United States policy on issues of special importance to the United States.

(b) Information on voting practices in United Nations

Such report shall include, with respect to voting practices and plenary actions in the United Nations during the preceding calendar year, information to be compiled and supplied by the Permanent Representative of the United States to the United Nations, consisting of—

(1) an analysis and discussion, prepared in consultation with the Secretary of State, of the extent to which member countries supported United States policy objectives at the United Nations;

(2) an analysis and discussion, prepared in consultation with the Secretary of State, of actions taken by the United Nations by consensus;

(3) with respect to plenary votes of the United Nations General Assembly—

(A) a listing of all such votes on issues which directly affected important United States interests and on which the United States lobbied extensively and a brief description of the issues involved in each such vote;

(B) a listing of the votes described in subparagraph (A) which provides a comparison of the vote cast by each member country with the vote cast by the United States;

(C) a country-by-country listing of votes described in subparagraph (A); and

(D) a listing of votes described in subparagraph (A) displayed in terms of United Nations regional caucus groups;

(4) a listing of all plenary votes cast by member countries of the United Nations in the General Assembly which provides a comparison of the votes cast by each member country with the vote cast by the United States, including a separate listing of all plenary votes cast by member countries of the United Nations in the General Assembly on resolutions specifically related to Israel that are opposed by the United States;

(5) an analysis and discussion, prepared in consultation with the Secretary of State, of the extent to which other members supported United States policy objectives in the Security Council and a separate listing of all Security Council votes of each member country in comparison with the United States; and

(6) a side-by-side comparison of agreement on important and overall votes for each member country and the United States.

(c) Format

Information required pursuant to subsection (b)(3) shall also be submitted, together with an explanation of the statistical methodology, in a format identical to that contained in chapter II of the Report to Congress on Voting Practices in the United Nations, dated March 14, 1988.

(d) Statement by Secretary of State

Each report under subsection (a) shall contain a statement by the Secretary of State discussing the measures which have been taken to inform United States diplomatic missions of United Nations General Assembly and Security Council activities.

(Pub. L. 101–246, title IV, §406, Feb. 16, 1990, 104 Stat. 66; Pub. L. 108–447, div. D, title V, §534(k), Dec. 8, 2004, 118 Stat. 3007.)

CODIFICATION

Section is comprised of section 406 of Pub. L. 101–246. Subsec. (e) of section 406 of Pub. L. 101–246 repealed provisions contained in prior appropriation acts which had been formerly set out as this section. See Similar Provisions note below.

Section was enacted as part of the appropriation act cited as the credit to this section, and not as part of the Foreign Assistance Act of 1961 which comprises this chapter.

AMENDMENTS

2004—Subsec. (b)(4). Pub. L. 108–447 inserted before semicolon at end ", including a separate listing of all

plenary votes cast by member countries of the United Nations in the General Assembly on resolutions specifically related to Israel that are opposed by the United States".

SIMILAR PROVISIONS

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 101–167, title V, §527, Nov. 21, 1989, 103 Stat. 1223.

Pub. L. 100–461, title V, §527, Oct. 1, 1988, 102 Stat. 2268–26; repealed by Pub. L. 101–167, title V, §527(e)(6), Nov. 21, 1989, 103 Stat. 1224, and Pub. L. 101–246, title IV, §406(e)(5), Feb. 16, 1990, 104 Stat. 67.

Pub. L. 100–202, §101(e) [title V, §528], Dec. 22, 1987, 101 Stat. 1329–131, 1329–158; repealed by Pub. L. 101–167, title V, §527(e)(5), Nov. 21, 1989, 103 Stat. 1224, and Pub. L. 101–246, title IV, §406(e)(4), Feb. 16, 1990, 104 Stat. 67.

Pub. L. 99–500, §101(f) [title V, §528], Oct. 18, 1986, 100 Stat. 1783–213, 1783–230, and Pub. L. 99–591, §101(f) [title V, §528], Oct. 30, 1986, 100 Stat. 3341–214, 3341–230; repealed by Pub. L. 101–167, title V, §527(e)(4), Nov. 21, 1989, 103 Stat. 1224, and Pub. L. 101–246, title IV, §406(e)(3), Feb. 16, 1990, 104 Stat. 67.

Pub. L. 99–190, §101(i) [title V, §529], Dec. 19, 1985, 99 Stat. 1291, 1307; repealed by Pub. L. 101–167, title V, §527(e)(3), Nov. 21, 1989, 103 Stat. 1224, and Pub. L. 101–246, title IV, §406(e)(2), Feb. 16, 1990, 104 Stat. 67.

Pub. L. 98–473, title I, §101(1) [title V, §530], Oct. 12, 1984, 98 Stat. 1884, 1900; repealed by Pub. L. 101–167, title V, §527(e)(2), Nov. 21, 1989, 103 Stat. 1224.

Pub. L. 98–151, §101(b)(1), Nov. 14, 1983, 97 Stat. 967; repealed by Pub. L. 101–167, title V, §527(e)(1), Nov. 21, 1989, 103 Stat. 1224, and Pub. L. 101–246, title IV, §406(e)(1), Feb. 16, 1990, 104 Stat. 67.

STATEMENT OF POLICY ON MEMBER STATE'S VOTING PRACTICES AT THE UNITED NATIONS

Pub. L. 114–323, title III, §309, Dec. 16, 2016, 130 Stat. 1924, provided that: "It is the policy of the United States to strongly consider a Member State's voting practices at the United Nations before entering into any agreements with the Member State."

REQUIREMENT FOR DISCLOSURE OF FOREIGN AID IN REPORT OF SECRETARY OF STATE

Pub. L. 106–429, §101(a) [title V, §559], Nov. 6, 2000, 114 Stat. 1900, 1900A–45, which required that the report submitted to Congress under subsec. (a) of this section include, in addition to the voting practices of a foreign country, a side-by-side comparison of individual countries' overall support for the United States at the United Nations and the amount of United States assistance, as defined in section 2291(e)(4) of this title, provided to such country in fiscal year 2000, was from the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001, and was not repeated in subsequent appropriation acts. Similar provisions were contained in the following prior appropriation acts:

Pub. L. 106–113, div. B, §1000(a)(2) [title V, §560], Nov. 29, 1999, 113 Stat. 1535, 1501A–104.

Pub. L. 105–277, div. A, §101(d) [title V, §562], Oct. 21, 1998, 112 Stat. 2681–150, 2681–193.

Pub. L. 105–118, title V, §563, Nov. 26, 1997, 111 Stat. 2427.

Pub. L. 104–208, div. A, title I, §101(c) [title V, §580], Sept. 30, 1996, 110 Stat. 3009–121, 3009–170.

§2415. Annual military assistance report

(a) Report required

Not later than February 1 of each year, the President shall transmit to the Congress an annual report for the fiscal year ending the previous September 30.

(b) Information relating to military assistance and military exports

Each such report shall show the aggregate dollar value and quantity of defense articles (including excess defense articles), defense services, and international military education and training activities authorized by the United States and of such articles, services, and activities provided by the United States, excluding any activity that is reportable under title V of the National Security Act of 1947 [50 U.S.C. 3091 et seq.], to each foreign country and international organization. The report shall specify, by category, whether such defense articles—

(1) were furnished by grant under part II or part V of subchapter II of this chapter or under any other authority of law or by sale under chapter 2 of the Arms Export Control Act [22 U.S.C. 2761 et seq.];

(2) were furnished with the financial assistance of the United States Government, including through loans and guarantees; or

(3) were licensed for export under section 38 of the Arms Export Control Act [22 U.S.C. 2778] and, if so, a specification of those defense articles that were exported during the fiscal year covered by the report, including, in the case of defense articles that are firearms controlled under category I of the United States Munitions List, a statement of the aggregate dollar value and quantity of semiautomatic assault weapons, or spare parts for such weapons, the manufacture, transfer, or possession of which is unlawful under section 922 of title 18, that were licensed for export during the period covered by the report.

(c) Availability on Internet

All unclassified portions of such report shall be made available to the public on the Internet through the Department of State.

(Pub. L. 87–195, pt. III, §655, as added Pub. L. 104–106, div. A, title XIII, §1324(c), Feb. 10, 1996, 110 Stat. 481; amended Pub. L. 104–164, title I, §148, July 21, 1996, 110 Stat. 1435; Pub. L. 106–113, div. B, §1000(a)(7) [div. B, title XIII, §1306], Nov. 29, 1999, 113 Stat. 1536, 1501A–512; Pub. L. 106–280, title VII, §702, Oct. 6, 2000, 114 Stat. 861; Pub. L. 107–228, div. B, title XII, §§1205(c), 1262(b), Sept. 30, 2002, 116 Stat. 1428, 1434.)

REFERENCES IN TEXT

The National Security Act of 1947, referred to in subsec. (b), is act July 26, 1947, ch. 343, 61 Stat. 495, which was formerly classified principally to chapter 15 (§401 et seq.) of Title 50, War and National Defense, prior to editorial reclassification in chapter 44 (§3001 et seq.) of Title 50. Title V of the Act is now classified generally to subchapter III (§3091 et seq.) of chapter 44 of Title 50. For complete classification of this Act to the Code, see Tables.

The Arms Export Control Act, referred to in subsec. (b)(1), is Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1320, as amended. Chapter 2 of the Act is classified generally to subchapter II (§2761 et seq.) of chapter 39 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

PRIOR PROVISIONS

A prior section 2415, Pub. L. 87–195, pt. III, §655, as added Pub. L. 92–226, pt. III, §304(b), Feb. 7, 1972, 86 Stat. 29; amended Pub. L. 93–559, §39(a), Dec. 30, 1974, 88 Stat. 1810; Pub. L. 94–329, title IV, §413(a), June 30, 1976, 90 Stat. 761, related to limitation in amounts to be expended for assistance to Cambodia, prior to repeal by Pub. L. 95–424, title VI, §§604, 605, Oct. 6, 1978, 92 Stat. 961, effective Oct. 1, 1978.

AMENDMENTS

2002—Subsec. (b)(3). Pub. L. 107–228, §1205(c), inserted before period at end ", including, in the case of defense articles that are firearms controlled under category I of the United States Munitions List, a statement of the aggregate dollar value and quantity of semiautomatic assault weapons, or spare parts for such weapons, the manufacture, transfer, or possession of which is unlawful under section 922 of title 18, that were licensed for export during the period covered by the report".

Subsecs. (c), (d). Pub. L. 107–228, §1262(b), redesignated subsec. (d) as (c) and struck out heading and text of former subsec. (c). Text read as follows: "Each such report shall also include the total amount of military items manufactured outside the United States that were imported into the United States during the fiscal year covered by the report. For each country of origin the report shall show the type of item being imported and the total amount of the items."

2000—Subsec. (b)(3). Pub. L. 106–280 inserted before the period at end "and, if so, a specification of those defense articles that were exported during the fiscal year covered by the report".

1999—Subsec. (b). Pub. L. 106–113, §1000(a)(7) [title XIII, §1306(a)], reenacted heading without change and amended text generally. Prior to amendment, text read as follows: "Each such report shall show the aggregate dollar value and quantity of defense articles (including excess defense articles), defense services,

and international military education and training authorized by the United States, excluding that which is pursuant to activies reportable under title V of the National Security Act of 1947, to each foreign country and international organization. The report shall specify, by category, whether such defense articles—

"(1) were furnished by grant under part II or part V of subchapter II of this chapter or under any other authority of law or by sale under chapter 2 of the Arms Export Control Act; or

"(2) were licensed for export under section 38 of the Arms Export Control Act."

Subsec. (d). Pub. L. 106–113, §1000(a)(7) [title XIII, §1306(b)], added subsec. (d).

1996—Pub. L. 104–164 substituted "Annual military assistance report" for "Annual report on military assistance, military exports, and military imports" in section catchline and amended text generally. Prior to amendment, text read as follows:

"(a) REPORT REQUIRED.—Not later than February 1 of each of 1996 and 1997, the President shall transmit to Congress a report concerning military assistance authorized or furnished for the fiscal year ending the previous September 30.

"(b) INFORMATION RELATING TO MILITARY ASSISTANCE AND MILITARY EXPORTS.—Each such report shall show the aggregate dollar value and quantity of defense articles (including excess defense articles) and defense services, and of military education and training, authorized or furnished by the United States to each foreign country and international organization. The report shall specify, by category, whether those articles and services, and that education and training, were furnished by grant under part II or part V of subchapter II of this chapter or by sale under chapter 2 of the Arms Export Control Act or were authorized by commercial sale licensed under section 38 of the Arms Export Control Act.

"(c) INFORMATION RELATING TO MILITARY IMPORTS.—Each such report shall also include the total amount of military items of non-United States manufacture that were imported into the United States during the fiscal year covered by the report. The report shall show the country of origin, the type of item being imported, and the total amount of items."

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§2416. Annual foreign military training report

(a) Annual report

(1) In general

Not later than January 31 of each year, the Secretary of Defense and the Secretary of State shall jointly prepare and submit to the appropriate congressional committees a report on all military training provided to foreign military personnel by the Department of Defense and the Department of State during the previous fiscal year and all such training proposed for the current fiscal year.

(2) Exception for certain countries

Paragraph (1) does not apply to any NATO member, Australia, Japan, or New Zealand, unless one of the appropriate congressional committees has specifically requested, in writing, inclusion of such country in the report. Such request shall be made not later than 90 calendar days prior to the date on which the report is required to be transmitted.

(b) Contents

The report described in subsection (a) shall include the following:

(1) For each military training activity, the foreign policy justification and purpose for the activity, the number of foreign military personnel provided training and their units of operation, and the location of the training.

(2) For each country, the aggregate number of students trained and the aggregate cost of the military training activities.

(3) With respect to United States personnel, the operational benefits to United States forces derived from each military training activity and the United States military units involved in each activity.

(c) Form

The report described in subsection (a) shall be in unclassified form but may include a classified annex.

(d) Availability on Internet

All unclassified portions of the report described in subsection (a) shall be made available to the public on the Internet through the Department of State.

(e) Definition

In this section, the term "appropriate congressional committees" means—

(1) the Committee on Appropriations and the Committee on International Relations of the House of Representatives; and

(2) the Committee on Appropriations and the Committee on Foreign Relations of the Senate.

(Pub. L. 87–195, pt. III, §656, as added Pub. L. 106–113, div. B, §1000(a)(7) [div. B, title XIII, §1307], Nov. 29, 1999, 113 Stat. 1536, 1501A–512; amended Pub. L. 107–228, div. B, title XII, §1262(a), Sept. 30, 2002, 116 Stat. 1434.)

PRIOR PROVISIONS

A prior section 2416, Pub. L. 87–195, pt. III, §656, as added Pub. L. 92–226, pt. III, §304(b), Feb. 7, 1972, 86 Stat. 30; amended Pub. L. 93–559, §39(b), Dec. 30, 1974, 88 Stat. 1810; Pub. L. 94–329, title IV, §413(a), June 30, 1976, 90 Stat. 761, related to limitation on number of United States personnel in Cambodia, prior to repeal by Pub. L. 95–424, title VI, §§604, 605, Oct. 6, 1978, 92 Stat. 961, effective Oct. 1, 1978.

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–228 designated existing provisions as par. (1), inserted par. (1) heading, and added par. (2).

CHANGE OF NAME

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§2417. Repealed. Pub. L. 97–113, title VII, §734(a)(1), Dec. 29, 1981, 95 Stat. 1560

Section, Pub. L. 87–195, pt. III, §657, as added Pub. L. 95–384, §14, Sept. 26, 1978, 92 Stat. 739, required annual Presidential reports for fiscal year ending previous Sept. 30 respecting military assistance, military education and training assistance, foreign military sales, and commercial military sales. See sections 2394 and 2765 of this title.

PRIOR PROVISIONS

A prior section 2417, Pub. L. 87–195, pt. III, §657, as added Pub. L. 92–226, pt. III, §304(b), Feb. 7, 1972, 86 Stat. 30; amended Pub. L. 93–189, §23, Dec. 17, 1973, 87 Stat. 726; Pub. L. 94–273, §5(2), Apr. 21, 1976, 90 Stat. 377; Pub. L. 94–329, title II, §216, June 30, 1976, 90 Stat. 747, related to an annual report by the President to Congress showing the dollar value of foreign assistance including military sales, education and training, prior to repeal by Pub. L. 95–424, title V, §502(d)(1), Oct. 6, 1978, 92 Stat. 959, effective Oct. 1, 1978.

§2418. Repealed. Pub. L. 95–424, title VI, §604, Oct. 6, 1978, 92 Stat. 961

Section, Pub. L. 87–195, pt. III, §658, as added Pub. L. 92–226, pt. III, §304(b), Feb. 7, 1972, 86 Stat. 32, related to certification by the Comptroller General of the release of previously impounded funds prior to the expenditure of funds appropriated to carry out the purposes of this chapter.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1978, see section 605 of Pub. L. 95–424, set out as an Effective Date of 1978 Amendment note under section 2151 of this title.

§2419. Repealed. Pub. L. 97–113, title VII, §734(a)(1), Dec. 29, 1981, 95 Stat. 1560

Section, Pub. L. 87–195, pt. III, §659, as added Pub. L. 93–559, §29(a), Dec. 30, 1974, 88 Stat. 1803, prohibited aid to any country containing a military base constructed, maintained, or used by the United States if access to such base was denied unduly to bona fide media correspondents of the United States by the country in question.

§2420. Police training prohibition

(a) Effective date of prohibition

On and after July 1, 1975, none of the funds made available to carry out this chapter, and none of the local currencies generated under this chapter, shall be used to provide training or advice, or provide any financial support, for police, prisons, or other law enforcement forces for any foreign government or any program of internal intelligence or surveillance on behalf of any foreign government within the United States or abroad.

(b) Exception; qualification

Subsection (a) of this section shall not apply—

(1) with respect to assistance rendered under section 3763(c) [1] of title 42, with respect to any authority of the Drug Enforcement Administration or the Federal Bureau of Investigation which relates to crimes of the nature which are unlawful under the laws of the United States, or with respect to assistance authorized under section 2291a of this title;

(2) to any contract entered into prior to December 30, 1974, with any person, organization, or agency of the United States Government to provide personnel to conduct, or assist in conducting, any such program;

(3) with respect to assistance, including training, in maritime law enforcement and other maritime skills;

(4) with respect to assistance provided to police forces in connection with their participation in the regional security system of the Eastern Caribbean states; or [2]

(5) with respect to assistance, including training, relating to sanctions monitoring and enforcement;

(6) with respect to assistance provided to reconstitute civilian police authority and capability in the post-conflict restoration of host nation infrastructure for the purposes of supporting a nation emerging from instability, and the provision of professional public safety training, to include training in internationally recognized standards of human rights, the rule of law, anti-corruption, and the promotion of civilian police roles that support democracy;

(7) with respect to assistance provided to customs authorities and personnel, including training, technical assistance and equipment, for customs law enforcement and the improvement of customs laws, systems and procedures.

Notwithstanding clause (2), subsection (a) shall apply to any renewal or extension of any contract referred to in such paragraph entered into on or after December 30, 1974.

(c) Country with longstanding democratic tradition, etc.

Subsection (a) shall not apply with respect to a country which has a longstanding democratic tradition, does not have standing armed forces, and does not engage in a consistent pattern of gross violations of internationally recognized human rights.

(d) Assistance to Honduras or El Salvador

Notwithstanding the prohibition contained in subsection (a) assistance may be provided to Honduras or El Salvador for fiscal years 1986 and 1987 if, at least 30 days before providing assistance, the President notifies the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate, in accordance with the procedures applicable to reprogramming notifications pursuant to section 2394–1 of this title, that he has determined that

the government of the recipient country has made significant progress, during the preceding six months, in eliminating any human rights violations including torture, incommunicado detention, detention of persons solely for the nonviolent expression of their political views, or prolonged detention without trial. Any such notification shall include a full description of the assistance which is proposed to be provided and of the purposes to which it is to be directed.

(Pub. L. 87–195, pt. III, §660, as added Pub. L. 93–559, §30(a), Dec. 30, 1974, 88 Stat. 1803; amended Pub. L. 99–83, title I, §127(b), title VII, §711, Aug. 8, 1985, 99 Stat. 205, 243; Pub. L. 101–513, title V, §594, Nov. 5, 1990, 104 Stat. 2060; Pub. L. 104–107, title V, §540A(d), Feb. 12, 1996, 110 Stat. 737; Pub. L. 106–113, div. B, §1000(a)(2) [title V, §574], Nov. 29, 1999, 113 Stat. 1535, 1501A–111.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

Section 3763(c) of title 42, referred to in subsec. (b)(1), was in the original section 515(c) of the Omnibus Crime Control and Safe Streets Act of 1968 [title I of Pub. L. 90–351, June 19, 1968, 82 Stat. 207]. Section 515 was omitted in the general revision of title I of Pub. L. 90–351 by Pub. L. 96–157, §2, Dec. 27, 1979, 93 Stat. 1167.

AMENDMENTS

1999—Subsec. (b)(7). Pub. L. 106–113 added par. (7).

1996—Subsec. (b)(5), (6). Pub. L. 104–107 added pars. (5) and (6).

1990—Subsec. (b)(4). Pub. L. 101–513, which directed the amendment of this section by adding par. (4) at "the end of the subsection", was executed by adding par. (4) after par. (3) in subsec. (b) to reflect the probable intent of Congress.

1985—Subsec. (b)(3). Pub. L. 99–83, §127(b), added par. (3).

Subsecs. (c), (d). Pub. L. 99–83, §711, added subsecs. (c) and (d).

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–83 effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as a note under section 2151–1 of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

EXEMPTION OF NARCOTICS-RELATED MILITARY ASSISTANCE FOR SPECIFIC FISCAL YEARS FROM PROHIBITION ON ASSISTANCE FOR LAW ENFORCEMENT AGENCIES

Pub. L. 103–447, title I, §104, Nov. 2, 1994, 108 Stat. 4694, provided that:

"(a) EXEMPTION.—For fiscal year 1995, section 660 of the Foreign Assistance Act of 1961 (22 U.S.C. 2420) shall not apply with respect to—

"(1) transfers of excess defense articles under section 517 of that Act (22 U.S.C. 2321k);

"(2) funds made available for the 'Foreign Military Financing Program' under section 23 of the Arms Export Control Act (22 U.S.C. 2763) that are used for assistance provided for narcotics-related purposes; or

"(3) international military education and training under chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 and following) that is provided for narcotics-related purposes.

"(b) NOTIFICATION TO CONGRESS.—At least 15 days before any transfer under subsection (a)(1) or any obligation of funds under subsection (a)(2) or (a)(3), the President shall notify the appropriate congressional committees (as defined in section 481(e) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(e))[)] in accordance with the procedures applicable to reprogramming notifications under section 634A of that Act (22 U.S.C. 2394) [22 U.S.C. 2394–1].

"(c) COORDINATION WITH INTERNATIONAL NARCOTICS CONTROL ASSISTANCE PROGRAM .—Assistance provided pursuant to this section shall be coordinated with international narcotics control assistance under chapter 8 of part 1 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 et seq.)."

Pub. L. 102–583, §7, Nov. 2, 1992, 106 Stat. 4933, provided for exemption of narcotics-related military assistance for fiscal years 1993 and 1994 from prohibition on assistance for law enforcement agencies, prior to repeal by Pub. L. 103–447, title I, §103(a), Nov. 2, 1994, 108 Stat. 4693.

ASSISTANCE TO PUBLIC SECURITY FORCES OF EL SALVADOR; DELEGATION OF FUNCTIONS

Determination of President of the United States, No. 86–2, Oct. 29, 1985, 50 F.R. 48073, provided:

Memorandum for the Honorable George P. Shultz, the Secretary of State

Pursuant to Section 660(d) of the Foreign Assistance Act of 1961, as amended [22 U.S.C. 2420(d)], I hereby determine that the Government of El Salvador has made significant progress, during the six month period preceding this determination, in eliminating any human rights violations including torture, incommunicado detention, detention of persons solely for the non-violent expression of their political views, or prolonged detention without trial.

You are requested to report this determination to the Congress immediately, together with a full description of the assistance to be provided and of the purposes to which it is to be directed. None of the assistance so provided shall be furnished until 30 days after such a report has been made, as required by law.

I hereby delegate to the Secretary of State authority to make such determinations and reports as called for in the future under Section 660(d).

This determination shall be published in the Federal Register.

RONALD REAGAN.

[1] *See References in Text note below.*

[2] *So in original. The word "or" probably should appear at end of par. (6).*

§2421. Trade and Development Agency

(a) Purpose

The Trade and Development Agency shall be an agency of the United States under the foreign policy guidance of the Secretary of State. The purpose of the Trade and Development Agency is to promote United States private sector participation in development projects in developing and middle-income countries, with special emphasis on economic sectors with significant United States export potential, such as energy, transportation, telecommunications, and environment.

(b) Authority to provide assistance

(1) Authority

The Director of the Trade and Development Agency is authorized to work with foreign countries, including those in which the United States development programs have been concluded or those not receiving assistance under subchapter I of this chapter, to carry out the purpose of this section by providing funds for feasibility studies, architectural and engineering design, and other activities related to development projects which provide opportunities for the use of United States exports.

(2) Use of funds

Funds under this section may be used to provide support for feasibility studies for the planning, development, and management of, and procurement for, bilateral and multilateral development projects, including training activities undertaken in connection with a project, for the purpose of promoting the use of United States goods and services in such projects. Funds under this section may also be used for architectural and engineering design, including—

(A) concept design, which establishes the basic technical and operational criteria for a project, such as architectural drawings for a proposed facility, evaluation of site constraints, procurement requirements, and equipment specifications; and

(B) detail design, which sets forth specific dimensions and criteria for structural, mechanical, electrical, and architectural operations, and identifies other resources required for project operations.

(3) Information dissemination

(A) The Trade and Development Agency shall disseminate information about its project activities to the private sector.

(B) Other agencies of the United States Government shall cooperate with the Trade and Development Agency in order for the Agency to provide more effectively informational services to persons in the private sector concerning trade development and export promotion related to development projects.

(4) Nonapplicability of other provisions

Any funds used for purposes of this section may be used notwithstanding any other provision of law.

(5) Contributions to costs

The Trade and Development Agency shall, to the maximum extent practicable, require corporations and other entities to—

(A) share the costs of feasibility studies and other project planning services funded under this section; and

(B) reimburse the Trade and Development Agency those funds provided under this section, if the corporation or entity concerned succeeds in project implementation.

(c) Director and personnel

(1) Director

There shall be at the head of the Trade and Development Agency a Director who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) Officers and employees

(A) The Director may appoint such officers and employees of the Trade and Development Agency as the Director considers appropriate.

(B) The officers and employees appointed under this paragraph shall have such functions as the Director may determine.

(C) Of the officers and employees appointed under this paragraph, 2 may be appointed without regard to the provisions of title 5, governing appointments in the competitive service, and may be compensated without regard to the provisions of chapter 51 or subchapter III of chapter 53 of such title.

(D) Under such regulations as the President may prescribe, any individual appointed under subparagraph (C) may be entitled, upon removal (except for cause) from the position to which the appointment was made, to reinstatement to the position occupied by that individual at the time of appointment or to a position of comparable grade and pay.

(d) Annual report

The President shall, not later than December 31 of each year, submit to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate a report on the activities of the Trade and Development Agency in the preceding fiscal year.

(e) Audits

(1) In general

The Trade and Development Agency shall be subject to the provisions of chapter 35 of title 31, except as otherwise provided in this section.

(2) Independent audit

An independent certified public accountant shall perform a financial and compliance audit of the financial statements of the Trade and Development Agency each year, in accordance with generally accepted Government auditing standards for a financial and compliance audit, taking into consideration any standards recommended by the Comptroller General. The independent certified public accountant shall report the results of such audit to the Director of the Trade and Development Agency. The financial statements of the Trade and Development Agency shall be

presented in accordance with generally accepted accounting principles. These financial statements and the report of the accountant shall be included in a report which contains, to the extent applicable, the information identified in section 3512 of title 31, and which the Trade and Development Agency shall submit to the Congress not later than 6½ months after the end of the last fiscal year covered by the audit. The Comptroller General may review the audit conducted by the accountant and the report to the Congress in the manner and at such times as the Comptroller General considers necessary.

(3) Audit by Comptroller General

In lieu of the financial and compliance audit required by paragraph (2), the Comptroller General shall, if the Comptroller General considers it necessary or upon the request of the Congress, audit the financial statements of the Trade and Development Agency in the manner provided in paragraph (2).

(4) Availability of information

All books, accounts, financial records, reports, files, workpapers, and property belonging to or in use by the Trade and Development Agency and the accountant who conducts the audit under paragraph (2), which are necessary for purposes of this subsection, shall be made available to the representatives of the Government Accountability Office designated by the Comptroller General.

(f) Funding

(1) Authorization

(A) There are authorized to be appropriated for purposes of this section, in addition to funds otherwise available for such purposes, $48,000,000 for fiscal year 2000 and such sums as may be necessary for each fiscal year thereafter.

(B) Amounts appropriated pursuant to the authorization of appropriations under subparagraph (A) are authorized to remain available until expended.

(2) Funding for technical assistance grants by multilateral development banks

(A) The Trade and Development Agency should, in carrying out its program, provide, as appropriate, funds to multilateral development banks for technical assistance grants.

(B) As used in subparagraph (A)—

(i) the term "technical assistance grants" means funding by multilateral development banks of services from the United States in connection with projects and programs supported by such banks, including, but not limited to, engineering, design, and consulting services; and

(ii) the term "multilateral development bank" has the meaning given that term in section 262r(c) of this title.

(Pub. L. 87–195, pt. III, §661, as added Pub. L. 93–559, §31, Dec. 30, 1974, 88 Stat. 1804; amended Pub. L. 94–161, title III, §316, Dec. 20, 1975, 89 Stat. 867; Pub. L. 95–88, title I, §128, Aug. 3, 1977, 91 Stat. 543; Pub. L. 95–424, title I, §121, Oct. 6, 1978, 92 Stat. 954; Pub. L. 96–53, title I, §119, Aug. 14, 1979, 93 Stat. 365; Pub. L. 96–533, title III, §311, Dec. 16, 1980, 94 Stat. 3148; Pub. L. 97–113, title III, §312, Dec. 29, 1981, 95 Stat. 1536; Pub. L. 99–83, title IV, §405, Aug. 8, 1985, 99 Stat. 219; Pub. L. 100–418, title II, §2204(b)(1), (2), Aug. 23, 1988, 102 Stat. 1329; Pub. L. 102–549, title II, §201, Oct. 28, 1992, 106 Stat. 3655; Pub. L. 103–392, title II, §201, Oct. 22, 1994, 108 Stat. 4099; Pub. L. 106–158, §5, Dec. 9, 1999, 113 Stat. 1746; Pub. L. 108–271, §8(b), July 7, 2004, 118 Stat. 814.)

REFERENCES TO SUBCHAPTER I DEEMED TO INCLUDE CERTAIN PARTS OF SUBCHAPTER II

References to subchapter I of this chapter are deemed to include parts IV (§2346 et seq.), VI (§2348 et seq.), and VIII (§2349aa et seq.) of subchapter II of this chapter, and references to subchapter II are deemed to exclude such parts. See section 202(b) of Pub. L. 92–226, set out as a note under section 2346 of this title, and sections 2348c and 2349aa–5 of this title.

AMENDMENTS

2004—Subsec. (e)(4). Pub. L. 108–271 substituted "Government Accountability Office" for "General Accounting Office".

1999—Subsec. (a). Pub. L. 106–158, §5(a), inserted before period at end: ", with special emphasis on economic sectors with significant United States export potential, such as energy, transportation, telecommunications, and environment".

Subsec. (b)(5). Pub. L. 106–158, §5(b), added par. (5).

Subsec. (f)(1)(A). Pub. L. 106–158, §5(c)(1), substituted "$48,000,000 for fiscal year 2000 and such sums as may be necessary for each fiscal year thereafter" for "$77,000,000 for fiscal year 1995 and such sums as are necessary for fiscal year 1996".

Subsec. (f)(2)(A). Pub. L. 106–158, §5(c)(2), substituted "in carrying out its program, provide, as appropriate, funds" for "in fiscal years 1993 and 1994, substantially increase the amount of funds it provides".

1994—Subsec. (f)(1). Pub. L. 103–392 redesignated existing provisions as subpar. (A), substituted "$77,000,000 for fiscal year 1995 and such sums as are necessary for fiscal year 1996." for "$55,000,000 for fiscal year 1993 and $65,000,000 for fiscal year 1994.", and added subpar. (B).

1992—Pub. L. 102–549 amended section generally. Prior to amendment, section consisted of subsecs. (a) to (d) which authorized a trade and development program to facilitate access to natural resources of interest to the United States and to stimulate reimbursable aid programs, established an agency called the Trade and Development Program to carry out the program, established an advisory board, and authorized appropriations for purposes of section.

1988—Subsec. (a). Pub. L. 100–418, §2204(b)(1), inserted sentence providing for use of funds for project planning, development, management, and procurement for bilateral and multilateral projects, for purpose of promoting use of United States exports in such projects.

Subsecs. (b) to (d). Pub. L. 100–418, §2204(b)(2), added subsecs. (b) and (c) and redesignated former subsec. (b) as (d).

1985—Subsec. (b). Pub. L. 99–83 amended subsec. (b) generally, substituting provisions authorizing appropriations of $20,000,000 for fiscal years 1986 and 1987, for provisions authorizing appropriations of $6,907,000 for fiscal years 1982 and 1983.

1981—Pub. L. 97–113, §312(b), designated existing provisions as subsec. (a), struck out provision for use of $4,000,000 of funds made available for fiscal year 1981 for purposes of this chapter, and added subsec. (b).

1980—Pub. L. 96–533 substituted authorization for use of $4,000,000 of available funds for fiscal year 1981 for such authorization for use of $3,800,000 of available funds for fiscal year 1980 for reimbursable development programs.

1979—Pub. L. 96–53 substituted "$3,800,000" for "$3,000,000" and "1980" for "1979".

1978—Pub. L. 95–424 substituted "$3,000,000 of the funds made available for the purposes of this chapter for the fiscal year 1979" for "$2,000,000 of the funds made available for the purposes of this chapter. In the fiscal year 1977 and $2,000,000 of the funds made available for the purposes of this chapter in the fiscal year 1978,".

1977—Pub. L. 95–88 struck out provisions authorizing the President to use up to $1,000,000 of the funds made available for the purposes of this chapter in the fiscal year 1975 and $2,000,000 in the fiscal year 1976, and inserted provisions authorizing the President to use $2,000,000 of the funds made available for the purposes of this chapter in the fiscal year 1978.

1975—Pub. L. 94–161 increased usable funds in fiscal year 1976 to $2,000,000 from $1,000,000 and authorized use of $2,000,000 in fiscal year 1977.

CHANGE OF NAME

Pub. L. 102–549, title II, §202(a), (e), Oct. 28, 1992, 106 Stat. 3657, 3658, provided that:

"(a) RENAMING OF TRADE AND DEVELOPMENT PROGRAM.—The Trade and Development Program shall, on or after the effective date of this section [Oct. 28, 1992], be known as the Trade and Development Agency.

"(e) REFERENCE IN OTHER LAWS.—Any reference in any law to the Trade and Development Program shall be deemed to be a reference to the Trade and Development Agency."

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–83 effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as a note under section 2151–1 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–53 effective Oct. 1, 1979, see section 512(a) of Pub. L. 96–53, set out as a note

under section 2151 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–424 effective Oct. 1, 1978, see section 605 of Pub. L. 95–424, set out as a note under section 2151 of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

APPOINTMENT OF PRESENT DIRECTOR NOT AFFECTED

Pub. L. 102–549, title II, §202(b), Oct. 28, 1992, 106 Stat. 3657, provided that: "The enactment of this title [amending this section and section 5401 of this title, section 5314 of Title 5, Government Organization and Employees, and sections 635q to 635s of Title 12, Banks and Banking, enacting provisions set out as a note above, and amending provisions set out as a note under section 2151 of this title] shall not affect the appointment of the individual who is the Director of the Trade and Development Program on the effective date of this section [Oct. 28, 1992]."

TRADE AND DEVELOPMENT PROGRAM ACTIVITIES FOR POLAND AND HUNGARY

Pub. L. 101–179, title III, §305, Nov. 28, 1989, 103 Stat. 1314, authorized appropriation of an additional $6,000,000 for the 3-year period beginning Oct. 1, 1989, to carry out this section, in order to permit expansion of the Trade and Development Program [now Agency] into Poland and Hungary.

TRADE AND DEVELOPMENT PROGRAM; REAFFIRMATION OF SUPPORT

Pub. L. 100–418, title II, §2204(a), Aug. 23, 1988, 102 Stat. 1328, provided that: "The Congress reaffirms its support for the Trade and Development Program [now Trade and Development Agency], and believes that the Program's [Agency's] ability to support high priority development projects in developing countries would be enhanced by an increase in the funds authorized for the Program as well as by a clarification of the Program's status as a separate component of the International Development Cooperation Agency."

§2421a. Capital projects office within Agency for International Development

(a) Establishment of office

The Administrator of AID shall establish a capital projects office to carry out the purposes described in subsection (b).

(b) Purposes of office

The purposes referred to in subsection (a) are—

(1) to develop an AID program that would focus solely on developmentally sound capital projects, taking into consideration development needs of the host country and the export opportunities for the United States; and

(2) to consider specifically opportunities for United States high-technology firms, including small- and medium-sized firms, in supporting capital projects for developing countries and for countries making the transition from nonmarket to market economies.

(c) Activities of AID

The Administrator of AID (acting through the capital projects office), in coordination with the appropriate members of the Trade Promotion Coordination Committee—

(1) shall support capital projects in developing countries and in countries making the transition from nonmarket to market economies;

(2) shall periodically review infrastructure needs in developing countries and countries making the transition from nonmarket to market economies and shall explore opportunities for United States firms in the development of new capital projects in these countries, keeping both United States firms and the Congress informed of these reviews;

(3) shall ensure that each capital project for which AID provides funding is developmentally sound, as determined under the criteria developed by the Development Assistance Committee of

the Organization for Economic Cooperation and Development;

(4) shall coordinate its activities with other AID offices, and work with AID country missions, in developing capital projects that provide opportunities for United States firms consistent with AID's primary mission to help developing countries with traditional development projects;

(5) shall coordinate, where appropriate, funds available to AID for tied-aid purposes; and

(6) shall play a special role in helping to meet the infrastructure needs of countries making the transition from nonmarket to market economies by meeting the challenge of infrastructure assistance provided by foreign governments to those countries, including by undertaking a comprehensive study of the infrastructure needs of the various countries making the transition from nonmarket to market economies—

(A) to identify those sectors in the economies of these countries that are most in need of rebuilding, and

(B) to identify the state of technology in these countries and the opportunity for United States high technology firms to help develop a technological infrastructure in these countries, including an assessment of export opportunities for United States high technology companies.

The results of the study conducted pursuant to paragraph (6) shall be reported to the appropriate congressional committees within 12 months after October 28, 1992.

(Pub. L. 102–549, title III, §302, Oct. 28, 1992, 106 Stat. 3658.)

CODIFICATION

Section was enacted as part of the Aid, Trade, and Competitiveness Act of 1992 and also as part of the Jobs Through Exports Act of 1992, and not as part of the Foreign Assistance Act of 1961 which comprises this chapter.

SHORT TITLE OF 1992 AMENDMENT

Pub. L. 102–549, title III, §301, Oct. 28, 1992, 106 Stat. 3658, provided that: "This title [enacting this section and sections 2421b to 2421e of this title and provisions set out as notes below] may be cited as the 'Aid, Trade, and Competitiveness Act of 1992'."

REPORTS TO CONGRESS ON CAPITAL PROJECTS

Pub. L. 102–549, title III, §305, Oct. 28, 1992, 106 Stat. 3660, directed President, not later than May 1, 1993, to submit to Congress a report describing the extent to which United States Government resources have been expended specifically to support specified projects in developing countries and countries making the transition from nonmarket to market economies, the extent to which the activities of the United States Government have been coordinated, and the extent to which United States Government capital projects and tied-aid credit programs have affected United States exports.

REPORT ON FEASIBILITY OF AID CREDIT GUARANTEES TO FINANCE CAPITAL PROJECTS

Pub. L. 102–549, title III, §307, Oct. 28, 1992, 106 Stat. 3660, directed President, not later than May 1, 1993, to submit to Committee on Foreign Affairs and Committee on Appropriations of House of Representatives and Committee on Foreign Relations and Committee on Appropriations of Senate a report on feasibility of allowing AID to offer credit guarantees for financing of capital projects.

§2421b. Capital projects for poverty alleviation and environmental safety and sustainability

(a) Purposes

The Administrator of AID shall develop a program, in accordance with subsection (b), that focuses on developmentally sound capital projects for basic infrastructure that will measurably alleviate the worst manifestations of poverty or directly promote environmental safety and sustainability at the community level, taking into consideration development needs of the host country and export opportunities for services and goods from the United States.

(b) Activities of AID

In order to carry out subsection (a), the Administrator of AID shall, working with AID technical support staff, regional bureau staff, and country missions, identify and provide funding for capital projects to alleviate the worst manifestations of poverty or to promote environmental safety and sustainability at the community level in countries receiving assistance under part I of the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.]. Such projects may include basic sanitation systems, basic water supply and treatment, pollution control, and rural infrastructure benefiting poor communities or establishing environmentally sustainable patterns of rural development. Such projects should have measurable positive effects on indicators of human and environmental health.

(Pub. L. 102–549, title III, §303, Oct. 28, 1992, 106 Stat. 3659.)

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsec. (b), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424. Part I of the Act is classified generally to subchapter I (§2151 et seq.) of chapter 32 of this title. For provisions deeming references to subchapter I to include parts IV (§2346 et seq.), VI (§2348 et seq.), and VIII (§2349aa et seq.) of subchapter II of chapter 32, see section 202(b) of Pub. L. 92–226, set out as a note under section 2346 of this title, and sections 2348c and 2349aa–5 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

CODIFICATION

Section was enacted as part of the Aid, Trade, and Competitiveness Act of 1992 and also as part of the Jobs Through Exports Act of 1992, and not as part of the Foreign Assistance Act of 1961 which comprises this chapter.

§2421c. Coordination

The President shall use the Trade Promotion Coordination Committee to coordinate activities under sections 2421a to 2421e of this title with other relevant activities of the United States Government.

(Pub. L. 102–549, title III, §304, Oct. 28, 1992, 106 Stat. 3659.)

REFERENCES IN TEXT

Sections 2421a to 2421e of this title, referred to in text, was in the original "this title" meaning title III of Pub. L. 102–549, Oct. 28, 1992, 106 Stat. 3658, known as the Aid, Trade, and Competitiveness Act of 1992, which enacted sections 2421a to 2421e of this title and provisions set out as notes under section 2421a of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2421a of this title and Tables.

CODIFICATION

Section was enacted as part of the Aid, Trade, and Competitiveness Act of 1992 and also as part of the Jobs Through Exports Act of 1992, and not as part of the Foreign Assistance Act of 1961 which comprises this chapter.

§2421d. Funding for capital projects

(a) Funding level

The Congress strongly urges the President to use at least $650,000,000 for fiscal year 1993 and at least $700,000,000 for fiscal year 1994 of the total amounts made available for assistance under chapter 4 of part II of the Foreign Assistance Act of 1961 [22 U.S.C. 2346 et seq.] (relating to the economic support fund), assistance under the Support for East European Democracy (SEED) Act of 1989 [22 U.S.C. 5401 et seq.], assistance under the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992, and assistance under the Multilateral Assistance Initiative for the Philippines, for grants for developmentally sound capital projects. Such grants may be combined with financing offered by private financial entities or other entities.

(b) Development assistance capital projects

Funds appropriated to carry out chapter 1 or chapter 10 of part I of the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq., 2293 et seq.] (relating to development assistance and the Development Fund for Africa) may not be used for capital projects that do not meet the criteria contained in section 2421b of this title. This subsection does not apply with respect to capital projects for which funds have been obligated or expended before October 28, 1992.

(Pub. L. 102–549, title III, §306, Oct. 28, 1992, 106 Stat. 3660.)

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsecs. (a) and (b), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended. Chapter 10 of part I of the Act is classified generally to part X (§2293 et seq.) of subchapter I of chapter 32 of this title. Chapter 4 of part II of the Act is classified generally to part IV (§2346 et seq.) of subchapter II of chapter 32 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

The Support for East European Democracy (SEED) Act of 1989, referred to in subsec. (a), is Pub. L. 101–179, Nov. 28, 1989, 103 Stat. 1298, which is classified principally to chapter 63 (§5401 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5401 of this title and Tables.

The Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992, referred to in subsec. (a), is Pub. L. 102–511, Oct. 24, 1992, 106 Stat. 3320, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

CODIFICATION

Section was enacted as part of the Aid, Trade, and Competitiveness Act of 1992 and also as part of the Jobs Through Exports Act of 1992, and not as part of the Foreign Assistance Act of 1961 which comprises this chapter.

§2421e. Definitions

For purposes of sections 2421a to 2421e of this title—

(1) the term "AID" means the Agency for International Development; and

(2) the term "capital project" means a project involving the construction, expansion, alteration of, or the acquisition of equipment for, a physical facility or physical infrastructure, including related engineering design (concept and detail) and other services, the procurement of equipment (including any related services), and feasibility studies or similar engineering and economic services.

(Pub. L. 102–549, title III, §308, Oct. 28, 1992, 106 Stat. 3660.)

REFERENCES IN TEXT

Sections 2421a to 2421e of this title, referred to in text, was in the original "this title" meaning title III of Pub. L. 102–549, Oct. 28, 1992, 106 Stat. 3658, known as the Aid, Trade, and Competitiveness Act of 1992, which enacted sections 2421a to 2421e of this title and provisions set out as notes under section 2421a of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2421a of this title and Tables.

CODIFICATION

Section was enacted as part of the Aid, Trade, and Competitiveness Act of 1992 and also as part of the Jobs Through Exports Act of 1992, and not as part of the Foreign Assistance Act of 1961 which comprises this chapter.

§2421f. Sustainability requirements for certain capital projects in connection with overseas contingency operations

(a) Limitation

(1) In general

Commencing 60 days after January 2, 2013—

(A) amounts authorized to be appropriated for the Department of Defense may not be obligated or expended for a capital project described in subsection (b) unless the Secretary of Defense, in consultation with the United States commander of military operations in the country in which the project will be carried out, completes an assessment on the necessity and sustainability of the project;

(B) amounts authorized to be appropriated for the Department of State may not be obligated or expended for a capital project described in subsection (b) unless the Secretary of State, in consultation with the Chief of Mission in the country in which the project will be carried out, completes an assessment on the necessity and sustainability of the project; and

(C) amounts authorized to be appropriated for the United States Agency for International Development may not be obligated or expended for a capital project described in subsection (b) unless the Administrator of the United States Agency for International Development, in consultation with the Mission Director and the Chief of Mission in the country in which the project will be carried out, completes an assessment on the necessity and sustainability of the project.

(2) Elements

Each assessment on a capital project under this subsection shall include, but not be limited to, the following:

(A) An estimate of the total cost of the completed project to the United States.

(B) An estimate of the financial and other requirements necessary for the host government to sustain the project on an annual basis after completion of the project.

(C) An assessment whether the host government has the capacity (in both financial and human resources) to maintain and use the project after completion.

(D) A description of any arrangements for the sustainment of the project following its completion if the host government lacks the capacity (in financial or human resources) to maintain the project.

(E) An assessment whether the host government has requested or expressed its need for the project, and an explanation of the decision to proceed with the project absent such request or need.

(F) An assessment by the Secretary of Defense, where applicable, of the effect of the project on the military mission of the United States in the country concerned.

(b) Covered capital projects

(1) In general

Except as provided in paragraph (2), a capital project described in this subsection is any capital project overseas for an overseas contingency operation for the benefit of a host country and funded by the Department of Defense, the Department of State, or the United States Agency for International Development, as applicable, if the capital project—

(A) in the case of a project that directly supports building the capacity of indigenous security forces in the host country, has an estimated value in excess of $10,000,000;

(B) in the case of any project not covered by subparagraph (A) that is to be funded by the Department of State or the United States Agency for International Development, has an estimated value in excess of $5,000,000; or

(C) in the case of any other project, has an estimated value in excess of $2,000,000.

(2) Exclusion

A capital project described in this subsection does not include any project for military construction (as that term is defined in section 114(b) of title 10) or a military family housing project under section 2821 of such title.

(c) Waiver

The Secretary of Defense, the Secretary of State, or the Administrator of the United States Agency for International Development, as applicable, may waive the limitation in subsection (a) in order to initiate a capital project if such Secretary or the Administrator, as the case may be, determines that the project is in the national security, diplomatic, or humanitarian interests of the United States. In the first report submitted under subsection (d) after any waiver under this subsection, such Secretary or the Administrator shall include a detailed justification of such waiver. Not later than 90 days after issuing a waiver under this subsection, such Secretary or the Administrator shall submit to the appropriate committees of Congress the assessment described in subsection (a) with respect to the capital project concerned.

(d) Semi-annual reports

(1) In general

Not later than 30 days after the end of any fiscal-year half-year in which the Secretary of Defense, the Secretary of State, or the Administrator of the United States Agency for International Development conducts an assessment under subsection (a), such Secretary or the Administrator, as the case may be, shall submit to the appropriate committees of Congress a report setting forth each assessment so conducted during such fiscal-year half-year, including the elements of each capital project so assessed specified in subsection (a)(2).

(2) Additional elements

In addition to the matters provided for in paragraph (1), each report under that paragraph shall include the following:

(A) For each capital project covered by such report, an evaluation (other than by amount of funds expended) of the effectiveness of such project, including, at a minimum, the following:

(i) The stated goals of the project.

(ii) The actions taken to assess and verify whether the project has met the stated goals of the project or is on track to meet such goals when completed.

(iii) The current and anticipated levels of involvement of local governments, communities, and individuals in the project.

(B) For each country or region in which a capital project covered by such report is being carried out, an assessment of the current and anticipated risks of corruption or fraud in connection with such project.

(3) Form

Each report shall be submitted in unclassified form, but may include a classified annex.

(e) Definitions

In this section:

(1) The term "appropriate committees of Congress" means—

(A) the Committee on Armed Services, the Committee on Foreign Relations, the Committee on Homeland Security and Governmental Affairs, and the Committee on Appropriations of the Senate; and

(B) the Committee on Armed Services, the Committee on Foreign Affairs, the Committee on Oversight and Government Reform, and the Committee on Appropriations of the House of Representatives.

(2) The term "capital project" has the meaning given that term in section 2421e of this title.

(3) The term "overseas contingency operation" means a military operation outside the United States and its territories and possessions that is a contingency operation (as that term is defined in section 101(a)(13) of title 10).

(Pub. L. 112–239, div. A, title XII, §1273, Jan. 2, 2013, 126 Stat. 2023.)

CODIFICATION

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 2013, and not as part

of the Foreign Assistance Act of 1961 which comprises this chapter.

§2422. Repealed. Pub. L. 102–88, title VI, §601, Aug. 14, 1991, 105 Stat. 441

Section, Pub. L. 87–195, pt. III, §662, as added Pub. L. 93–559, §32, Dec. 30, 1974, 88 Stat. 1804, and amended Pub. L. 96–450, title IV, §407(a), Oct. 14, 1980, 94 Stat. 1981, prohibited funding of activities of the Central Intelligence Agency, other than intelligence gathering, without Presidential finding of importance to national security of United States and defined such activities as significant anticipated intelligence activities for purpose of section 413 of Title 50, War and National Defense. See section 3094 of Title 50.

§2423. Exchanges of certain materials

(a) Agreement for necessary or strategic raw material; definition

Notwithstanding any other provision of law, whenever the President determines it is in the United States national interest, he shall furnish assistance under this chapter or shall furnish defense articles or services under the Foreign Military Sales Act [22 U.S.C. 2751 et. seq.], pursuant to an agreement with the recipient of such assistance, articles, or services which provides that such recipient may only obtain such assistance, articles, or services in exchange for any necessary or strategic raw material controlled by such recipient. For the purposes of this section, the term "necessary or strategic raw material" includes petroleum, other fossil fuels, metals, minerals, or any other natural substance which the President determines is in short supply in the United States.

(b) Allocation of raw materials to Federal agencies

The President shall allocate any necessary or strategic raw material transferred to the United States under this section to any appropriate agency of the United States Government for stockpiling, sale, transfer, disposal, or any other purpose authorized by law.

(c) Deposits in United States Treasury of funds from disposal of materials

Funds received from any disposal of materials under subsection (b) shall be deposited as miscellaneous receipts in the United States Treasury.

(Pub. L. 87–195, pt. III, §663, as added Pub. L. 93–559, §32, Dec. 30, 1974, 88 Stat. 1805.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

The Foreign Military Sales Act, referred to in subsec. (a), is Pub. L. 90–629, ch. 1, Oct. 22, 1968, 82 Stat. 1320, as amended, known as the Arms Export Control Act, on authority of section 201(b) of Pub. L. 94–329, title II, June 30, 1976, 90 Stat. 734, and is classified principally to chapter 39 (§2751 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§2424. Repealed. Pub. L. 95–88, title I, §123(c), Aug. 3, 1977, 91 Stat. 541

Section, Pub. L. 87–195, pt. III, §664, as added Pub. L. 93–559, §33, Dec. 30, 1974, 88 Stat. 1805, authorized the President to waive provisions which prohibited assistance to countries trading with designated countries.

§2425. Repealed. Pub. L. 95–424, title VI, §604, Oct. 6, 1978, 92 Stat. 961

Section, Pub. L. 87–195, pt. III, §665, as added Pub. L. 94–161, title III, §317, Dec. 20, 1975, 89 Stat. 867, authorized appropriations for the interim period July 1, 1976 through Sept. 30, 1976 of such amounts as were necessary to conduct programs for which funding was authorized for fiscal year 1976 by the International Development and Food Assistance Act of 1975 provided the total amount authorized not exceed one-fourth of the total authorized for fiscal year 1976 for such programs and activities.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1978, see section 605 of Pub. L. 95–424, set out as an Effective Date of 1978 Amendment note under section 2151 of this title.

§2426. Discrimination against United States personnel

(a) Assignment of personnel on basis of ability and experience

The President shall not take into account, in assigning officers and employees of the United States to carry out any economic development assistance programs funded under this chapter in any foreign country, the race, religion, national origin, or sex of any such officer or employee. Such assignments shall be made solely on the basis of ability and relevant experience.

(b) Prohibition on use of funds in country practicing discrimination

Effective six months after December 20, 1975, or on such earlier date as the President may determine, none of the funds made available under this chapter may be used to provide economic development assistance to any country which objects to the presence of any officer or employee of the United States who is present in such country for the purpose of carrying out any program of economic development assistance authorized by the provisions of this chapter on the basis of the race, religion, national origin, or sex of such officer or employee.

(c) Rules and regulations

The Secretary of State shall promulgate such rules and regulations as he may deem necessary to carry out the provisions of this section.

(Pub. L. 87–195, pt. III, §666, as added Pub. L. 94–161, title III, §318, Dec. 20, 1975, 89 Stat. 868.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b), was in the original "this Act", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§2427. Operating expenses

(a) Authorization of appropriations

There are authorized to be appropriated to the President, in addition to funds otherwise available for such purposes—

(1) $387,000,000 for fiscal year 1986 and $387,000,000 for fiscal year 1987 for necessary operating expenses of the agency primarily responsible for administering subchapter I of this chapter, of which $21,750,000 for the fiscal year 1987 is authorized for the necessary operating expenses of the Office of the Inspector General of the Agency for International Development and the remaining amount for the fiscal year is authorized for other necessary operating expenses of that agency; and

(2) such amounts as may be necessary for increases in salary, pay, retirement, and other employee benefits authorized by law, and for other nondiscretionary costs of such agency.

(b) Continuing availability of funds

Amounts appropriated under this section are authorized to remain available until expended.

(Pub. L. 87–195, pt. III, §667, as added Pub. L. 94–161, title III, §319, Dec. 20, 1975, 89 Stat. 868; amended Pub. L. 95–88, title I, §129(a), Aug. 3, 1977, 91 Stat. 543; Pub. L. 95–424, title V, §506, Oct. 6, 1978, 92 Stat. 960; Pub. L. 96–53, title I, §120, Aug. 14, 1979, 93 Stat. 365; Pub. L. 96–533, title VII, §709, Dec. 16, 1980, 94 Stat. 3159; Pub. L. 97–113, title VII, §706, Dec. 29, 1981, 95 Stat. 1545; Pub. L. 99–83, title IV, §406, Aug. 8, 1985, 99 Stat. 219; Pub. L. 99–529, title IV, §402, Oct. 24, 1986, 100 Stat. 3019.)

REFERENCES TO SUBCHAPTER I DEEMED TO INCLUDE CERTAIN PARTS OF SUBCHAPTER II

References to subchapter I of this chapter are deemed to include parts IV (§2346 et seq.), VI (§2348 et seq.), and VIII (§2349aa et seq.) of subchapter II of this chapter, and references to subchapter II are deemed to exclude such parts. See section 202(b) of Pub. L. 92–226, set out as a note under section 2346 of this title, and sections 2348c and 2349aa–5 of this title.

AMENDMENTS

1986—Subsec. (a)(1). Pub. L. 99–529 inserted ", of which $21,750,000 for the fiscal year 1987 is authorized for the necessary operating expenses of the Office of the Inspector General of the Agency for International Development and the remaining amount for the fiscal year is authorized for other necessary operating expenses of that agency".

1985—Subsec. (a)(1). Pub. L. 99–83 amended par. (1) generally, substituting provisions authorizing appropriations of $387,000,000 for fiscal years 1986 and 1987, for provisions authorizing appropriations of $335,600,000 for fiscal years 1982 and 1983.

1981—Subsec. (a). Pub. L. 97–113 struck out from provision preceding par. (1) ", for the fiscal year 1981" after "for such purposes" and substituted in par. (1) "$335,600,000 for the fiscal year 1982 and $335,600,000 for the fiscal year 1983" for "$293,800,000".

1980—Subsec. (a). Pub. L. 96–533 substituted in provisions preceding par. (1) "1981" for "1980" and in par. (1) "$293,800,000" for "$263,000,000".

1979—Subsec. (a). Pub. L. 96–53 substituted in provisions preceding par. (1) "1980" for "1979" and in par. (1) "$263,000,000" for "$261,000,000".

1978—Subsec. (a). Pub. L. 95–424 substituted in provisions preceding par. (1) "1979" for "1978" and in par. (1) "$261,000,000" for "$220,200,000".

1977—Pub. L. 95–88 substituted provisions authorizing appropriations for fiscal year 1978 for provisions stating that nothing in this chapter was intended to preclude the Committees on Appropriations from setting a ceiling on operating expenses of the agency primarily responsible for administering subchapter I of this chapter or limiting the availability of other sums therefor.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–83 effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as a note under section 2151–1 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–53 effective Oct. 1, 1979, see section 512(a) of Pub. L. 96–53, set out as a note under section 2151 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–424 effective Oct. 1, 1978, see section 605 of Pub. L. 95–424, set out as a note under section 2151 of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§2428. Repealed. Pub. L. 97–113, title VII, §734(a)(1), Dec. 29, 1981, 95 Stat. 1560

Section, Pub. L. 87–195, pt. III, §668, as added Pub. L. 94–329, title IV, §411, June 30, 1976, 90 Stat. 760,

required annual reports respecting the Republic of Korea's armed forces modernization and self-sufficiency program, the role of the United States in the security of the Republic of Korea, and prospects for a withdrawal of United States forces from the country. See section 2375 of this title.

§2428a. Congressional declaration of policy toward Korea; transmittal of report to Speaker of the House and Congressional committees

(a) The Congress declares that—

(1) United States policy toward Korea should continue to be arrived at by joint decision of the President and the Congress;

(2) in any implementation of the President's policy of gradual and phased reduction of United States ground forces from the Republic of Korea, the United States should seek to accomplish such reduction in stages consistent with United States interests in Asia, notably Japan, and with the security interests of the Republic of Korea;

(3) any implementation of this policy should be carried out with a careful regard to the interest of the United States in continuing its close relationship with the people and government of Japan, in fostering democratic practices in the Republic of Korea, and in maintaining stable relations among the countries of East Asia; and

(4) these interests can be served most effectively by a policy which involves consultations by the United States Government, as appropriate, with the governments of the region, particularly those directly involved.

(b)(1) Any implementation of the foregoing policy shall be carried out in regular consultation with the Congress.

(2) Repealed. Pub. L. 103–236, title I, §139(5), Apr. 30, 1994, 108 Stat. 398.

(Pub. L. 95–105, title V, §512, Aug. 17, 1977, 91 Stat. 861; Pub. L. 103–236, title I, §139(5), Apr. 30, 1994, 108 Stat. 398.)

CODIFICATION

Section was enacted as part of the Foreign Relations Authorization Act, Fiscal Year 1978, and not as part of the Foreign Assistance Act of 1961 which comprises this chapter.

AMENDMENTS

1994—Subsec. (b)(2). Pub. L. 103–236 struck out par. (2) which read as follows: "Not later than February 15, 1978, and not later than February 15 of each year thereafter until any such withdrawal is completed, the President shall transmit a report in writing to the Speaker of the House of Representatives and the Committees on Foreign Relations, Armed Services, and Intelligence of the Senate assessing the implementation of the foregoing policy."

§2428b. Special security assistance for modernization of Armed Forces of Korea

(a) Transfer authority of President of defense articles and services located in Korea; applicable terms and conditions; reimbursement

(1) The President is authorized until December 31, 1982—

(A) to transfer, without reimbursement, to the Republic of Korea, only in conjunction with the withdrawal of the 2d Infantry Division and support forces from Korea, such United States Government-owned defense articles as he may determine which are located in Korea in the custody of units of the United States Army scheduled to depart from Korea; and

(B) to furnish to the Republic of Korea, without reimbursement, defense services (including technical and operational training) in Korea directly related to the United States Government-owned defense articles transferred to the Republic of Korea under this subsection.

(2) Any transfer under the authority of this section shall be made in accordance with all the terms

and conditions of the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.] applicable to the furnishing of defense articles and defense services under chapter 2 of part II of that Act [22 U.S.C. 2311 et seq.], except that no funds heretofore or hereafter appropriated under that Act shall be available to reimburse any agency of the United States Government for any such transfer or related services.

(b) Additional transfer authority of President of defense articles located outside of Korea; prerequisites for determinations respecting transfers; report by President to Congress of determinations

In order that transfers of defense articles under subsection (a) will not cause significant adverse impact on the readiness of the Armed Forces of the United States, the President is authorized, in lieu of such transfers, to transfer additional defense articles from the stocks of the Department of Defense, wherever located, to the Republic of Korea to compensate for the military capability of defense articles withdrawn from Korea in any case where he determines that—

(1) the transfer of specific defense articles located in Korea would have a significant adverse impact on the readiness of the United States Armed Forces;

(2) the defense capability provided by those defense articles is needed by the Armed Forces of the Republic of Korea in order to maintain the military balance on the Korean peninsula; and

(3) a comparable defense capability could be provided by less advanced defense articles in the stocks of the Department of Defense which could be transferred without significant adverse impact on the readiness of the United States Armed Forces.

The President shall report to the Congress each determination made under this subsection prior to the transfer of the defense articles described in such determination.

(c) Report by President to Congress of types, etc., of transferred defense articles

The President shall transmit to the Congress, together with the presentation materials for security assistance programs proposed for each fiscal year through and including the fiscal year 1983, a report describing the types, quantities, and value of defense articles furnished or intended to be furnished to the Republic of Korea under this section.

(d) Repealed. Pub. L. 97–113, title VII, §734(a)(12), Dec. 29, 1981, 95 Stat. 1560

(e) Congressional policy respecting further troop withdrawals

(1) It is the sense of the Congress that further withdrawal of ground forces of the United States from the Republic of Korea may seriously risk upsetting the military balance in that region and requires full advance consultation with the Congress.

(2) Repealed. Pub. L. 97–113, title VII, §734(a)(12), Dec. 29, 1981, 95 Stat. 1560.

(Pub. L. 95–384, §23, Sept. 26, 1978, 92 Stat. 743; Pub. L. 97–113, title VII, §734(a)(12), Dec. 29, 1981, 95 Stat. 1560.)

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsec. (a)(2), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, which is classified principally to this chapter (§2151 et seq.). Chapter 2 of part II of that Act is classified generally to part II (§2311 et seq.) of subchapter II of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

CODIFICATION

Section was enacted as part of the International Security Assistance Act of 1978, and not as part of the Foreign Assistance Act of 1961 which comprises this chapter.

AMENDMENTS

1981—Subsec. (d). Pub. L. 97–113 struck out subsec. (d) which required Presidential reports to Congress respecting viability of troop withdrawals from Korea.

Subsec. (e)(2). Pub. L. 97–113 struck out par. (2) which required Presidential reports to Congress respecting effect of further troop withdrawals from Korea.

§§2429, 2429a. Repealed. Pub. L. 103–236, title VIII, §826(b), Apr. 30, 1994, 108 Stat. 519

Section 2429, Pub. L. 87–195, pt. III, §669, as added Pub. L. 94–329, title III, §305, June 30, 1976, 90 Stat. 755; amended Pub. L. 95–92, §12, Aug. 4, 1977, 91 Stat. 620; Pub. L. 95–384, §§10(b)(4), 12(c)(3), Sept. 26, 1978, 92 Stat. 735, 737; Pub. L. 97–113, title VII, §737(b), Dec. 29, 1981, 95 Stat. 1562, related to nuclear enrichment transfers by or to recipients of economic, military or security supporting assistance from the United States. See section 2799aa of this title.

Section 2429a, Pub. L. 87–195, pt. III, §670, as added Pub. L. 95–92, §12, Aug. 4, 1977, 91 Stat. 620; amended Pub. L. 95–384, §§10(b)(4), 12(c)(3), Sept. 26, 1978, 92 Stat. 735, 737; Pub. L. 97–113, title VII, §737(c), Dec. 29, 1981, 95 Stat. 1562; Pub. L. 99–83, title XII, §1204(a), (b), Aug. 8, 1985, 99 Stat. 277, prohibited assistance to countries involved in transfer of nuclear reprocessing equipment, materials, or technology. See section 2799aa–1 of this title.

EFFECTIVE DATE OF REPEAL

Repeal by section 826(b) of Pub. L. 103–236 effective 60 days after Apr. 30, 1994, see section 831 of Pub. L. 103–236, set out as an Effective Date note under section 6301 of this title.

§2429a–1. Annual report on nuclear transfer activities

Beginning with the fiscal year 1983 and for each fiscal year thereafter, the President shall prepare and transmit to the Congress, as part of the presentation materials for foreign assistance programs proposed for that fiscal year, a classified report describing the nuclear programs and related activities of any country for which a waiver of section 2799aa or 2799aa–1 of this title is in effect, including an assessment of—

(1) the extent and effectiveness of International Atomic Energy Agency safeguards at that country's nuclear facilities; and

(2) the capability, actions, and intentions of the government of that country with respect to the manufacture or acquisition of a nuclear explosive device.

(Pub. L. 97–113, title VII, §735, Dec. 29, 1981, 95 Stat. 1561; Pub. L. 103–236, title VIII, §826(c), Apr. 30, 1994, 108 Stat. 519.)

CODIFICATION

Section was enacted as part of the International Security and Development Cooperation Act of 1981, and not as part of the Foreign Assistance Act of 1961 which comprises this chapter.

AMENDMENTS

1994—Pub. L. 103–236 substituted "section 2799aa or 2799aa–1" for "section 2429 or 2429a".

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–236 effective 60 days after Apr. 30, 1994, see section 831 of Pub. L. 103–236, set out as an Effective Date note under section 6301 of this title.

§2429a–2. Enforcement of nonproliferation treaties

(a) Policy

It is the sense of the Congress that the President should instruct the United States Permanent Representative to the United Nations to enhance the role of that institution in the enforcement of nonproliferation treaties through the passage of a United Nations Security Council resolution which would state that, any non-nuclear weapon state that is found by the United Nations Security Council, in consultation with the International Atomic Energy Agency (IAEA), to have terminated, abrogated, or materially violated an IAEA full-scope safeguards agreement would be subjected to international economic sanctions, the scope of which to be determined by the United Nations Security Council.

(b) Prohibition

Notwithstanding any other provision of law, no United States assistance under the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.] shall be provided to any non-nuclear weapon state that is found by the President to have terminated, abrogated, or materially violated an IAEA full-scope safeguard agreement or materially violated a bilateral United States nuclear cooperation agreement entered into after March 10, 1978.

(c) Waiver

The President may waive the application of subsection (b) if—

(1) the President determines that the termination of such assistance would be seriously prejudicial to the achievement of United States nonproliferation objectives or otherwise jeopardize the common defense and security; and

(2) the President reports such determination to the Congress at least 15 days in advance of any resumption of assistance to that state.

(Pub. L. 103–236, title V, §530, Apr. 30, 1994, 108 Stat. 479.)

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsec. (b), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, which is classified principally to this chapter (§2151 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

CODIFICATION

Section was enacted as part of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995, and not as part of the Foreign Assistance Act of 1961 which comprises this chapter.

DELEGATION OF FUNCTIONS

Functions of President under this section delegated to Secretary of State by par. (1) of Memorandum of President of the United States, Mar. 23, 2007, 72 F.R. 18103, set out in a note under section 635 of Title 12, Banks and Banking.

§2429b. Transferred

CODIFICATION

Section, Pub. L. 87–195, pt. III, §671, as added Pub. L. 95–88, title I, §130, Aug. 3, 1977, 91 Stat. 543, which related to notification of program changes, was transferred to section 2394–1 of this title.

SUBCHAPTER III–A—ENTERPRISE FOR THE AMERICAS INITIATIVE

§2430. Purpose

The purpose of this subchapter is to encourage and support improvement in the lives of the people of Latin America and the Caribbean through market-oriented reforms and economic growth with interrelated actions to promote debt reduction, investment reforms, community based conservation, and sustainable use of the environment, and child survival and child development. The Facility will support these objectives through administration of debt reduction operations under this subchapter for those countries with democratically elected governments that meet investment reforms and other policy conditions.

(Pub. L. 87–195, pt. IV, §701, as added Pub. L. 102–549, title VI, §602(a), Oct. 28, 1992, 106 Stat. 3664.)

PRIOR PROVISIONS

A prior section 701 of Pub. L. 87–195, pt. IV, Sept. 4, 1961, 75 Stat. 463, amended section 1651 of Title 42,

The Public Health and Welfare, prior to repeal by Pub. L. 87–565, pt. IV, §401, Aug. 1, 1962, 76 Stat. 263, except insofar as section 701 affected section 1651.

§2430a. Definitions

For purposes of this subchapter—

(1) the term "administering body" means the entity provided for in section 2430g(c) of this title;

(2) the term "Americas Framework Agreement" means an Americas Framework Agreement provided for in section 2430g of this title;

(3) the term "Americas Fund" means an Enterprise for the Americas Fund provided for in section 2430f(a) of this title;

(4) the term "appropriate congressional committees" means the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate;

(5) the term "beneficiary country" means an eligible country with respect to which the authority of section 2430c(a)(1) of this title is exercised;

(6) the term "eligible country" means a country designated by the President in accordance with section 2430b of this title;

(7) the term "Enterprise for the Americas Board" or "Board" means the board established by section 1738i of title 7; and

(8) the term "Facility" means the Enterprise for the Americas Facility established in the Department of the Treasury by section 1738 of title 7.

(Pub. L. 87–195, pt. IV, §702, as added Pub. L. 102–549, title VI, §602(a), Oct. 28, 1992, 106 Stat. 3664; amended Pub. L. 110–246, title III, §3001(b)(1)(A), (2)(Q), June 18, 2008, 122 Stat. 1820.)

PRIOR PROVISIONS

A prior section 702 of Pub. L. 87–195, pt. IV, Sept. 4, 1961, 75 Stat. 463, amended section 1701 of Title 42, The Public Health and Welfare, prior to repeal by Pub. L. 87–565, pt. IV, §401, Aug. 1, 1962, 76 Stat. 263, except insofar as section 702 affected section 1701.

AMENDMENTS

2008—Par. (7). Pub. L. 110–246 made technical amendment to reference in original act which appears in text as reference to section 1738i of title 7.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–246 effective May 22, 2008, see section 4(b) of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

§2430b. Eligibility for benefits

(a) Requirements

To be eligible for benefits from the Facility under this subchapter, a country must be a Latin American or Caribbean country—

(1) whose government is democratically elected;

(2) whose government has not repeatedly provided support for acts of international terrorism;

(3) whose government is not failing to cooperate on international narcotics control matters;

(4) whose government (including its military or other security forces) does not engage in a consistent pattern of gross violations of internationally recognized human rights;

(5) that has in effect, has received approval for, or, as appropriate in exceptional circumstances, is making significant progress toward—

(A) an International Monetary Fund standby arrangement, extended Fund arrangement, or an arrangement under the structural adjustment facility or enhanced structural adjustment facility, or in exceptional circumstances, a Fund monitored program or its equivalent, unless the

President determines (after consultation with the Enterprise for the Americas Board) that such an arrangement or program (or its equivalent) could reasonably be expected to have significant adverse social or environmental effects; and

(B) as appropriate, structural or sectoral adjustment loans from the International Bank for Reconstruction and Development or the International Development Association, unless the President determines (after consultation with the Enterprise for the Americas Board) that the resulting adjustment requirements could reasonably be expected to have significant adverse social or environmental effects;

(6) has put in place major investment reforms in conjunction with an Inter-American Development Bank loan or otherwise is implementing, or is making significant progress toward, an open investment regime; and

(7) if appropriate, has agreed with its commercial bank lenders on a satisfactory financing program, including, as appropriate, debt or debt service reduction.

(b) Eligibility determinations

Consistent with subsection (a), the President shall determine whether a country is eligible to receive benefits under this subchapter. The President shall notify the appropriate congressional committees of his intention to designate a country as an eligible country at least 15 days in advance of any formal determination.

(Pub. L. 87–195, pt. IV, §703, as added Pub. L. 102–549, title VI, §602(a), Oct. 28, 1992, 106 Stat. 3664.)

PRIOR PROVISIONS

A prior section 703 of Pub. L. 87–195, pt. IV, Sept. 4, 1961, 75 Stat. 463, amended section 1613d of this title and enacted provisions set out as a note under section 1613d of this title, prior to repeal by Pub. L. 87–565, pt. IV, §401, Aug. 1, 1962, 76 Stat. 263, except insofar as section 703 affected section 1613d.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

For delegation of functions of President under this section, see section 1 of Ex. Ord. No. 13345, July 8, 2004, 69 F.R. 41901, set out as a note under section 1738 of Title 7, Agriculture.

§2430c. Reduction of certain debt

(a) Authority to reduce debt

(1) Authority

The President may reduce the amount owed to the United States (or any agency of the United States) that is outstanding as of January 1, 1992, as a result of concessional loans made to an eligible country by the United States under subchapter I of this chapter, part IV of subchapter II of this chapter, or predecessor foreign economic assistance legislation.

(2) Appropriations requirement

The authority provided by this section may be exercised only in such amounts or to such extent as is provided in advance by appropriations Acts.

(3) Certain prohibitions inapplicable

(A) A reduction of debt pursuant to this section shall not be considered assistance for purposes of any provision of law limiting assistance to a country.

(B) The authority of this section may be exercised notwithstanding section 2370(r) of this title or section 321 of the International Development and Food Assistance Act of 1975.

(b) Implementation of debt reduction

(1) In general

Any debt reduction pursuant to subsection (a) shall be accomplished at the direction of the Facility by the exchange of a new obligation for obligations outstanding as of the date specified in subsection (a)(1).

(2) Exchange of obligations

The Facility shall notify the agency primarily responsible for administering subchapter I of this chapter of the agreement with an eligible country to exchange a new obligation for outstanding obligations pursuant to this subsection. At the direction of the Facility, the old obligations shall be canceled and a new debt obligation for the country shall be established, and the agency primarily responsible for administering subchapter I of this chapter shall make an adjustment in its accounts to reflect the debt reduction.

(Pub. L. 87–195, pt. IV, §704, as added Pub. L. 102–549, title VI, §602(a), Oct. 28, 1992, 106 Stat. 3665.)

REFERENCES IN TEXT

Section 321 of the International Development and Food Assistance Act of 1975, referred to in subsec. (a)(3)(B), is section 321 of Pub. L. 94–161, which is set out as a note under section 2220a of this title.

REFERENCES TO SUBCHAPTER I DEEMED TO INCLUDE CERTAIN PARTS OF SUBCHAPTER II

References to subchapter I of this chapter are deemed to include parts IV (§2346 et seq.), VI (§2348 et seq.), and VIII (§2349aa et seq.) of subchapter II of this chapter, and references to subchapter II are deemed to exclude such parts. See section 202(b) of Pub. L. 92–226, set out as a note under section 2346 of this title, and sections 2348c and 2349aa–5 of this title.

PRIOR PROVISIONS

A prior section 704 of Pub. L. 87–195, pt. IV, Sept. 4, 1961, 75 Stat. 463, amended section 1704 of Title 7, Agriculture, prior to repeal by Pub. L. 87–565, pt. IV, §401, Aug. 1, 1962, 76 Stat. 263, except insofar as section 704 affected section 1704.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

For delegation of functions of President under subsec. (a) of this section, see section 1 of Ex. Ord. No. 13345, July 8, 2004, 69 F.R. 41901, set out as a note under section 1738 of Title 7, Agriculture.

§2430d. Repayment of principal

(a) Currency of payment

The principal amount of each new obligation issued pursuant to section 2430c(b) of this title shall be repaid in United States dollars.

(b) Deposit of payments

Principal repayments of new obligations shall be deposited in the United States Government account established for principal repayments of the obligations for which those obligations were exchanged.

(Pub. L. 87–195, pt. IV, §705, as added Pub. L. 102–549, title VI, §602(a), Oct. 28, 1992, 106 Stat. 3666.)

PRIOR PROVISIONS

A prior section 705 of Pub. L. 87–195, pt. IV, Sept. 4, 1961, 75 Stat. 463, amended section 1964 of this title, prior to repeal by Pub. L. 87–565, pt. IV, §401, Aug. 1, 1962, 76 Stat. 263, except insofar as section 705 affected section 1964.

§2430e. Interest on new obligations

(a) Rate of interest

New obligations issued by a beneficiary country pursuant to section 2430c(b) of this title shall bear interest at a concessional rate.

(b) Currency of payment; deposits

(1) Local currency

If the beneficiary country has entered into an Americas Framework Agreement, interest shall be paid in the local currency of the beneficiary country and deposited in an Americas Fund. Such interest shall be the property of the beneficiary country, until such time as it is disbursed pursuant to section 2430f(d) of this title. Such local currencies shall be used for the purposes specified in the Americas Framework Agreement.

(2) United States dollars

If the beneficiary country has not entered into an Americas Framework Agreement, interest shall be paid in United States dollars and deposited in the United States Government account established for interest payments of the obligations for which the new obligations were exchanged.

(c) Interest already paid

If a beneficiary country enters into an Americas Framework Agreement subsequent to the date on which interest first became due on the newly issued obligation, any interest already paid on such new obligation shall not be redeposited into the Americas Fund established for that country.

(Pub. L. 87–195, pt. IV, §706, as added Pub. L. 102–549, title VI, §602(a), Oct. 28, 1992, 106 Stat. 3666.)

PRIOR PROVISIONS

A prior section 706 of Pub. L. 87–195, pt. IV, Sept. 4, 1961, 75 Stat. 463, enacted section 1945 of this title, prior to repeal by Pub. L. 87–565, pt. IV, §401, Aug. 1, 1962, 76 Stat. 263, except insofar as section 706 affected section 1945.

§2430f. Enterprise for the Americas Funds

(a) Establishment

Each beneficiary country that enters into an Americas Framework Agreement shall be required to establish an Enterprise for the Americas Fund to receive payments in local currency pursuant to section 2430e(b)(1) of this title.

(b) Deposits

Local currencies deposited in an Americas Fund shall not be considered assistance for purposes of any provision of law limiting assistance to a country.

(c) Investment

Deposits made in an Americas Fund shall be invested until disbursed. Any return on such investment may be retained by the Americas Fund, without deposit in the Treasury of the United States and without further appropriation by the Congress.

(d) Disbursements

Funds in an Americas Fund shall be disbursed only pursuant to an Americas Framework Agreement.

(Pub. L. 87–195, pt. IV, §707, as added Pub. L. 102–549, title VI, §602(a), Oct. 28, 1992, 106 Stat. 3666.)

PRIOR PROVISIONS

A prior section 707 of Pub. L. 87–195, pt. IV, Sept. 4, 1961, 75 Stat. 464, amended section 1783 of this

title, prior to repeal by Pub. L. 87–565, pt. IV, §401, Aug. 1, 1962, 76 Stat. 263, except insofar as section 707 affected section 1783.

§2430g. Americas Framework Agreements

(a) Authority

The Secretary of State is authorized, in consultation with other appropriate Government officials, to enter into an Americas Framework Agreement with any eligible country concerning the operation and use of the Americas Fund for that country. In the negotiation of such Agreements, the Secretary shall consult with the Enterprise for the Americas Board in accordance with section 2430h of this title.

(b) Contents of Agreements

An Americas Framework Agreement with an eligible country shall—

(1) require that country to establish an Americas Fund;

(2) require that country to make interest payments under section 2430e(b)(1) of this title into an Americas Fund;

(3) require that country to make prompt disbursements from the Americas Fund to the administering body described in subsection (c);

(4) when appropriate, seek to maintain the value of the local currency resources of the Americas Fund in terms of United States dollars;

(5) specify, in accordance with subsection (d), the purposes for which amounts in an Americas Fund may be used; and

(6) contain reasonable provisions for the enforcement of the terms of the agreement.

(c) Administering body

(1) In general

Funds disbursed from the Americas Fund in each beneficiary country shall be administered by a body constituted under the laws of that country.

(2) Composition

The administering body shall consist of—

(A) one or more individuals appointed by the United States Government,

(B) one or more individuals appointed by the government of the beneficiary country, and

(C) individuals who represent a broad range of—

(i) environmental nongovernmental organizations of the beneficiary country,

(ii) child survival and child development nongovernmental organizations of the beneficiary country,

(iii) local community development nongovernmental organizations of the beneficiary country, and

(iv) scientific or academic organizations or institutions of the beneficiary country.

A majority of the members of the administering body shall be individuals described in subparagraph (C).

(3) Responsibilities

The administering body—

(A) shall receive proposals for grant assistance from eligible grant recipients (as determined under subsection (e)) and make grants to eligible grant recipients in accordance with the priorities agreed upon in the Americas Framework Agreement, consistent with subsection (d);

(B) shall be responsible for the management of the program and oversight of grant activities funded from resources of the Americas Fund;

(C) shall be subject, on an annual basis, to an audit of financial statements conducted in accordance with generally accepted auditing standards by an independent auditor;

(D) shall be required to grant to representatives of the United States Government Accountability Office such access to books and records associated with operations of the Americas Fund as the Comptroller General of the United States may request;

(E) shall present an annual program for review each year by the Enterprise for the Americas Board; and

(F) shall submit a report each year on the activities that it undertook during the previous year to the Chair of the Enterprise for the Americas Board and to the government of the beneficiary country.

(d) Eligible activities

Grants from an Americas Fund shall be used for—

(1) activities that link the conservation and sustainable use of natural resources with local community development; and

(2) child survival and other child development activities.

(e) Grant recipients

Grants made from an Americas Fund shall be made to—

(1) nongovernmental environmental, conservation, child survival and child development, development, and indigenous peoples organizations of the beneficiary country;

(2) other appropriate local or regional entities; and

(3) in exceptional circumstances, the government of the beneficiary country.

(f) Review of larger grants

Any grant of more than $100,000 from an Americas Fund shall be subject to veto by the Government of the United States or the government of the beneficiary country.

(g) Eligibility criteria

In the event that a country ceases to meet the eligibility requirements set forth in section 2430b(a) of this title, as determined by the President pursuant to section 2430b(b) of this title, then grants from the Americas Fund for that country may only be made to nongovernmental organizations until such time as the President determines that such country meets the eligibility requirements set forth in section 2430b(a) of this title.

(Pub. L. 87–195, pt. IV, §708, as added Pub. L. 102–549, title VI, §602(a), Oct. 28, 1992, 106 Stat. 3667; amended Pub. L. 108–271, §8(b), July 7, 2004, 118 Stat. 814.)

PRIOR PROVISIONS

A prior section 708 of Pub. L. 87–195, pt. IV, Sept. 4, 1961, 75 Stat. 464, amended sections 1041, 1112, 1136, 1148, and 1157 of this title, prior to repeal by Pub. L. 87–565, pt. IV, §401, Aug. 1, 1962, 76 Stat. 263, except insofar as section 708 affected sections 1041, 1112, 1136, 1148, and 1157.

AMENDMENTS

2004—Subsec. (c)(3)(D). Pub. L. 108–271 substituted "Government Accountability Office" for "General Accounting Office".

§2430h. Enterprise for the Americas Board

For purposes of this subchapter, the Enterprise for the Americas Board shall—

(1) advise the Secretary of State on the negotiations of Americas Framework Agreements;

(2) ensure, in consultation with—

(A) the government of the beneficiary country,

(B) nongovernmental organizations of the beneficiary country,

(C) nongovernmental organizations of the region (if appropriate),

(D) environmental, scientific, child survival and child development, and academic leaders of the beneficiary country, and

(E) environmental, scientific, child survival and child development, and academic leaders of

the region (as appropriate),

that a suitable administering body is identified for each Americas Fund; and

(3) review the programs, operations, and fiscal audits of each administering body.

(Pub. L. 87–195, pt. IV, §709, as added Pub. L. 102–549, title VI, §602(a), Oct. 28, 1992, 106 Stat. 3668.)

PRIOR PROVISIONS

A prior section 709 of Pub. L. 87–195, pt. IV, Sept. 4, 1961, 75 Stat. 465, amended section 279a of this title, prior to repeal by Pub. L. 87–565, pt. IV, §401, Aug. 1, 1962, 76 Stat. 263, except insofar as section 709 affected section 279a.

§2430i. Annual reports to Congress

The annual reports submitted pursuant to section 1738m of title 7 shall include a description of each Americas Framework Agreement and a description of any grants that have been extended by administering bodies pursuant to an Americas Framework Agreement.

(Pub. L. 87–195, pt. IV, §710, as added Pub. L. 102–549, title VI, §602(a), Oct. 28, 1992, 106 Stat. 3669; amended Pub. L. 110–246, title III, §3001(b)(1)(A), (2)(Q), June 18, 2008, 122 Stat. 1820.)

PRIOR PROVISIONS

A prior section 710 of Pub. L. 87–195, pt. IV, Sept. 4, 1961, 75 Stat. 465, amended section 276 of this title and enacted provisions set out as a note under section 276 of this title, prior to repeal by Pub. L. 87–565, pt. IV, §401, Aug. 1, 1962, 76 Stat. 263, except insofar as section 710 affected section 276.

AMENDMENTS

2008—Pub. L. 110–246 made technical amendment to reference in original act which appears in text as reference to section 1738m of title 7.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–246 effective May 22, 2008, see section 4(b) of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

SUBCHAPTER IV—DEBT REDUCTION FOR DEVELOPING COUNTRIES WITH TROPICAL FORESTS

PRIOR PROVISIONS

A prior subchapter IV, Indochina Postwar Reconstruction, consisted of sections 2431 to 2435, prior to repeal by Pub. L. 94–329, title IV, §413(a), June 30, 1976, 90 Stat. 761.

§2431. Findings and purposes

(a) Findings

The Congress finds the following:

(1) It is the established policy of the United States to support and seek protection of tropical forests around the world.

(2) Tropical forests provide a wide range of benefits to humankind by—

(A) harboring a major share of the Earth's biological and terrestrial resources, which are the basis for developing pharmaceutical products and revitalizing agricultural crops;

(B) playing a critical role as carbon sinks in reducing greenhouse gases in the atmosphere, thus moderating potential global climate change; and

(C) regulating hydrological cycles on which far-flung agricultural and coastal resources

depend.

(3) International negotiations and assistance programs to conserve forest resources have proliferated over the past decade, but the rapid rate of tropical deforestation continues unabated.

(4) Developing countries with urgent needs for investment and capital for development have allocated a significant amount of their forests to logging concessions.

(5) Poverty and economic pressures on the populations of developing countries have, over time, resulted in clearing of vast areas of forest for conversion to agriculture, which is often unsustainable in the poor soils underlying tropical forests.

(6) Debt reduction can reduce economic pressures on developing countries and result in increased protection for tropical forests.

(7) Finding economic benefits to local communities from sustainable uses of tropical forests is critical to the protection of tropical forests.

(b) Purposes

The purposes of this subchapter are—

(1) to recognize the values received by United States citizens from protection of tropical forests;

(2) to facilitate greater protection of tropical forests (and to give priority to protecting tropical forests with the highest levels of biodiversity and under the most severe threat) by providing for the alleviation of debt in countries where tropical forests are located, thus allowing the use of additional resources to protect these critical resources and reduce economic pressures that have led to deforestation;

(3) to ensure that resources freed from debt in such countries are targeted to protection of tropical forests and their associated values; and

(4) to rechannel existing resources to facilitate the protection of tropical forests.

(Pub. L. 87–195, pt. V, §802, as added Pub. L. 105–214, §1, July 29, 1998, 112 Stat. 885.)

PRIOR PROVISIONS

A prior section 2431, Pub. L. 87–195, pt. V, §801, as added Pub. L. 93–189, §24, Dec. 17, 1973, 87 Stat. 728, authorized the President to furnish assistance for relief and reconstruction of South Vietnam, Cambodia, and Laos, prior to repeal by Pub. L. 94–329, title IV, §413(a), June 30, 1976, 90 Stat. 761.

A prior section 802 of Pub. L. 87–195, pt. V, was classified to section 2432 of this title prior to repeal by Pub. L. 94–329.

SHORT TITLE

For short title of this subchapter as the "Tropical Forest Conservation Act of 1998", see section 801 of Pub. L. 87–195, set out as a note under section 2151 of this title.

§2431a. Definitions

As used in this subchapter:

(1) Administering body

The term "administering body" means the entity provided for in section 2431g(c) of this title.

(2) Appropriate congressional committees

The term "appropriate congressional committees" means—

(A) the Committee on International Relations and the Committee on Appropriations of the House of Representatives; and

(B) the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

(3) Beneficiary country

The term "beneficiary country" means an eligible country with respect to which the authority of section 2431d(a)(1) of this title, section 2431e(a)(1) of this title, or paragraph (1) or (2) of section 2431f(a) of this title is exercised.

(4) Board

The term "Board" means the board referred to in section 2431i of this title.

(5) Developing country with a tropical forest

The term "developing country with a tropical forest" means—

(A)(i) a country that has a per capita income of $725 or less in 1994 United States dollars (commonly referred to as "low-income country"), as determined and adjusted on an annual basis by the International Bank for Reconstruction and Development in its World Development Report; or

(ii) a country that has a per capita income of more than $725 but less than $8,956 in 1994 United States dollars (commonly referred to as "middle-income country"), as determined and adjusted on an annual basis by the International Bank for Reconstruction and Development in its World Development Report; and

(B) a country that contains at least one tropical forest that is globally outstanding in terms of its biological diversity or represents one of the larger intact blocks of tropical forests left, on a regional, continental, or global scale.

(6) Eligible country

The term "eligible country" means a country designated by the President in accordance with section 2431c of this title.

(7) Tropical Forest Agreement

The term "Tropical Forest Agreement" or "Agreement" means a Tropical Forest Agreement provided for in section 2431g of this title.

(8) Tropical Forest Facility

The term "Tropical Forest Facility" or "Facility" means the Tropical Forest Facility established in the Department of the Treasury by section 2431b of this title.

(9) Tropical Forest Fund

The term "Tropical Forest Fund" or "Fund" means a Tropical Forest Fund provided for in section 2431h of this title.

(Pub. L. 87–195, pt. V, §803, as added Pub. L. 105–214, §1, July 29, 1998, 112 Stat. 886.)

PRIOR PROVISIONS

A prior section 803 of Pub. L. 87–195, pt. V, was classified to section 2433 of this title prior to repeal by Pub. L. 94–329.

CHANGE OF NAME

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§2431b. Establishment of Facility

There is established in the Department of the Treasury an entity to be known as the "Tropical Forest Facility" for the purpose of providing for the administration of debt reduction in accordance with this subchapter.

(Pub. L. 87–195, pt. V, §804, as added Pub. L. 105–214, §1, July 29, 1998, 112 Stat. 887.)

PRIOR PROVISIONS

A prior section 804 of Pub. L. 87–195, pt. V, was classified to section 2434 of this title prior to repeal by Pub. L. 94–329.

§2431c. Eligibility for benefits

(a) In general

To be eligible for benefits from the Facility under this subchapter, a country shall be a developing country with a tropical forest—

(1) whose government meets the requirements applicable to Latin American or Caribbean countries under paragraphs (1) through (5) and (7) of section 2430b(a) of this title; and

(2) that has put in place investment reforms, as evidenced by the conclusion of a bilateral investment treaty with the United States, implementation of an investment sector loan with the Inter-American Development Bank, World Bank-supported investment reforms, or other measures, as appropriate.

(b) Eligibility determinations

(1) In general

Consistent with subsection (a), the President shall determine whether a country is eligible to receive benefits under this subchapter.

(2) Congressional notification

The President shall notify the appropriate congressional committees of his intention to designate a country as an eligible country at least 15 days in advance of any formal determination.

(Pub. L. 87–195, pt. V, §805, as added Pub. L. 105–214, §1, July 29, 1998, 112 Stat. 887; amended Pub. L. 107–26, §1, Aug. 17, 2001, 115 Stat. 206.)

PRIOR PROVISIONS

A prior section 805 of Pub. L. 87–195, pt. V, enacted a provision set out as a note under former section 2431 of this title prior to repeal by Pub. L. 94–329, title IV, §413(a), June 30, 1976, 90 Stat. 761.

AMENDMENTS

2001—Subsec. (a)(2). Pub. L. 107–26 struck out "major" before "investment reforms,".

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

For delegation of functions of President under subsec. (b) of this section, see section 1 of Ex. Ord. No. 13345, July 8, 2004, 69 F.R. 41901, set out as a note under section 1738 of Title 7, Agriculture.

§2431d. Reduction of debt owed to United States as result of concessional loans under this chapter

(a) Authority to reduce debt

(1) Authority

The President may reduce the amount owed to the United States (or any agency of the United States) that is outstanding as of January 1, 1998, as a result of concessional loans made to an eligible country by the United States under subchapter I of this chapter, part IV of subchapter II of this chapter, or predecessor foreign economic assistance legislation.

(2) Authorization of appropriations

For the cost (as defined in section 661a(5) of title 2) for the reduction of any debt pursuant to this section, there are authorized to be appropriated to the President—

(A) $25,000,000 for fiscal year 1999;

(B) $75,000,000 for fiscal year 2000; and

(C) $100,000,000 for fiscal year 2001.

(3) Certain prohibitions inapplicable

(A) In general

A reduction of debt pursuant to this section shall not be considered assistance for purposes of

any provision of law limiting assistance to a country.

(B) Additional requirement

The authority of this section may be exercised notwithstanding section 2370(r) of this title or section 321 of the International Development and Food Assistance Act of 1975.

(b) Implementation of debt reduction

(1) In general

Any debt reduction pursuant to subsection (a) shall be accomplished at the direction of the Facility by the exchange of a new obligation for obligations of the type referred to in subsection (a) outstanding as of the date specified in subsection (a)(1).

(2) Exchange of obligations

(A) In general

The Facility shall notify the agency primarily responsible for administering subchapter I of this chapter of an agreement entered into under paragraph (1) with an eligible country to exchange a new obligation for outstanding obligations.

(B) Additional requirement

At the direction of the Facility, the old obligations that are the subject of the agreement shall be canceled and a new debt obligation for the country shall be established relating to the agreement, and the agency primarily responsible for administering subchapter I of this chapter shall make an adjustment in its accounts to reflect the debt reduction.

(c) Additional terms and conditions

(1) The following additional terms and conditions shall apply to the reduction of debt under subsection (a)(1) in the same manner as such terms and conditions apply to the reduction of debt under section 2430c(a)(1) of this title:

(A) The provisions relating to repayment of principal under section 2430d of this title.

(B) The provisions relating to interest on new obligations under section 2430e of this title.

(2) In addition to the application of the provisions relating to repayment of principal under section 2430d of this title to the reduction of debt under subsection (a)(1) (in accordance with paragraph (1)(A) of this subsection), repayment of principal on a new obligation established under subsection (b) may be made in the local currency of the beneficiary country and deposited in the Tropical Forest Fund of the country in the same manner as the provisions relating to payment of interest on new obligations under section 2430e of this title.

(d) Authorization of appropriations for fiscal years after fiscal year 2001

For the cost (as defined in section 661a(5) of title 2) for the reduction of any debt pursuant to this section or section 2431e of this title, there are authorized to be appropriated to the President the following:

(1) $50,000,000 for fiscal year 2002.

(2) $75,000,000 for fiscal year 2003.

(3) $100,000,000 for fiscal year 2004.

(4) $20,000,000 for fiscal year 2005.

(5) $25,000,000 for fiscal year 2006.

(6) $30,000,000 for fiscal year 2007.

(e) Use of funds to conduct program audits and evaluations

Of the amounts made available to carry out this subchapter for a fiscal year, $200,000 is authorized to be made available to carry out audits and evaluations of programs under this subchapter, including personnel costs associated with such audits and evaluations.

(Pub. L. 87–195, pt. V, §806, as added Pub. L. 105–214, §1, July 29, 1998, 112 Stat. 887; amended Pub. L. 107–26, §2(a), Aug. 17, 2001, 115 Stat. 206; Pub. L. 108–323, §§1–3(a), Oct. 6, 2004, 118

Stat. 1218.)

REFERENCES IN TEXT

This chapter, referred to in section catchline, was in the original "the Foreign Assistance Act of 1961", meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, which is classified principally to this chapter (§2151 et seq.). For complete classification of the Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

Section 321 of the International Development and Food Assistance Act of 1975, referred to in subsec. (a)(3)(B), is section 321 of Pub. L. 94–161, Dec. 20, 1975, 89 Stat. 868, which is set out as a note under section 2220a of this title.

REFERENCES TO SUBCHAPTER I DEEMED TO INCLUDE CERTAIN PARTS OF SUBCHAPTER II

References to subchapter I of this chapter are deemed to include parts IV (§2346 et seq.), VI (§2348 et seq.), and VIII (§2349aa et seq.) of subchapter II of this chapter, and references to subchapter II are deemed to exclude such parts. See section 202(b) of Pub. L. 92–226, set out as a note under section 2346 of this title, and sections 2348c and 2349aa–5 of this title.

PRIOR PROVISIONS

A prior section 806 of Pub. L. 87–195, pt. V, was classified to section 2435 of this title prior to repeal by Pub. L. 94–329.

AMENDMENTS

2004—Subsec. (c). Pub. L. 108–323, §3(a), designated existing provisions as par. (1), redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, of par. (1), and added par. (2).

Subsec. (d)(4) to (6). Pub. L. 108–323, §1, added pars. (4) to (6).

Subsec. (e). Pub. L. 108–323, §2, added subsec. (e).

2001—Subsec. (d). Pub. L. 107–26 added subsec. (d).

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

For delegation of functions of President under subsec. (a) of this section, see section 1 of Ex. Ord. No. 13345, July 8, 2004, 69 F.R. 41901, set out as a note under section 1738 of Title 7, Agriculture.

§2431e. Reduction of debt owed to United States as result of credits extended under title I of Food for Peace Act

(a) Authority to reduce debt

(1) Authority

Notwithstanding any other provision of law, the President may reduce the amount owed to the United States (or any agency of the United States) that is outstanding as of January 1, 1998, as a result of any credits extended under title I of the Food for Peace Act (7 U.S.C. 1701 et seq.) to a country eligible for benefits from the Facility.

(2) Authorization of appropriations

(A) In general

For the cost (as defined in section 661a(5) of title 2) for the reduction of any debt pursuant to this section, there are authorized to be appropriated to the President—

(i) $25,000,000 for fiscal year 1999;

(ii) $50,000,000 for fiscal year 2000; and

(iii) $50,000,000 for fiscal year 2001.

(B) Limitation

The authority provided by this section shall be available only to the extent that appropriations for the cost (as defined in section 661a(5) of title 2) of the modification of any debt pursuant to

this section are made in advance.

(b) Implementation of debt reduction

(1) In general

Any debt reduction pursuant to subsection (a) shall be accomplished at the direction of the Facility by the exchange of a new obligation for obligations of the type referred to in subsection (a) outstanding as of the date specified in subsection (a)(1).

(2) Exchange of obligations

(A) In general

The Facility shall notify the Commodity Credit Corporation of an agreement entered into under paragraph (1) with an eligible country to exchange a new obligation for outstanding obligations.

(B) Additional requirement

At the direction of the Facility, the old obligations that are the subject of the agreement shall be canceled and a new debt obligation shall be established for the country relating to the agreement, and the Commodity Credit Corporation shall make an adjustment in its accounts to reflect the debt reduction.

(c) Additional terms and conditions

(1) The following additional terms and conditions shall apply to the reduction of debt under subsection (a)(1) in the same manner as such terms and conditions apply to the reduction of debt under section 604(a)(1) of the Food for Peace Act [7 U.S.C. 1738c(a)(1)]:

(A) The provisions relating to repayment of principal under section 605 of such Act [7 U.S.C. 1738d].

(B) The provisions relating to interest on new obligations under section 606 of such Act [7 U.S.C. 1738e].

(2) In addition to the application of the provisions relating to repayment of principal under section 605 of the Food for Peace Act [7 U.S.C. 1738d] to the reduction of debt under subsection (a)(1) (in accordance with paragraph (1)(A) of this subsection), repayment of principal on a new obligation established under subsection (b) may be made in the local currency of the beneficiary country and deposited in the Tropical Forest Fund of the country in the same manner as the provisions relating to payment of interest on new obligations under section 606 of such Act [7 U.S.C. 1738e].

(Pub. L. 87–195, pt. V, §807, as added Pub. L. 105–214, §1, July 29, 1998, 112 Stat. 888; amended Pub. L. 108–323, §3(b), Oct. 6, 2004, 118 Stat. 1219; Pub. L. 110–246, title III, §3001(b)(1), (2)(Q), June 18, 2008, 122 Stat. 1820.)

REFERENCES IN TEXT

The Food for Peace Act, referred to in subsec. (a)(1), is act July 10, 1954, ch. 469, 68 Stat. 454. Title I of the Act is classified generally to subchapter II (§1701 et seq.) of chapter 41 of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 1691 of Title 7 and Tables.

AMENDMENTS

2008—Pub. L. 110–246 substituted "Food for Peace Act" for "Agricultural Trade Development and Assistance Act of 1954" in section catchline and wherever appearing in subsecs. (a)(1) and (c).

2004—Subsec. (c). Pub. L. 108–323 designated existing provisions as par. (1), redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, of par. (1), and added par. (2).

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–246 effective May 22, 2008, see section 4(b) of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

For delegation of functions of President under subsec. (a) of this section, see section 1 of Ex. Ord. No. 13345, July 8, 2004, 69 F.R. 41901, set out as a note under section 1738 of Title 7, Agriculture.

§2431f. Authority to engage in debt-for-nature swaps and debt buybacks

(a) Loans and credits eligible for sale, reduction, or cancellation

(1) Debt-for-nature swaps

(A) In general

Notwithstanding any other provision of law, the President may, in accordance with this section, sell to any eligible purchaser described in subparagraph (B) any concessional loans described in section 2431d(a)(1) of this title or any credits described in section 2431e(a)(1) of this title, or on receipt of payment from an eligible purchaser described in subparagraph (B), reduce or cancel such loans (or credits) or portion thereof, only for the purpose of facilitating a debt-for-nature swap to support eligible activities described in section 2431g(d) of this title.

(B) Eligible purchaser described

A loan or credit may be sold, reduced, or canceled under subparagraph (A) only to a purchaser who presents plans satisfactory to the President for using the loan or credit for the purpose of engaging in debt-for-nature swaps to support eligible activities described in section 2431g(d) of this title.

(C) Consultation requirement

Before the sale under subparagraph (A) to any eligible purchaser described in subparagraph (B), or any reduction or cancellation under such subparagraph (A), of any loan or credit made to an eligible country, the President shall consult with the country concerning the amount of loans or credits to be sold, reduced, or canceled and their uses for debt-for-nature swaps to support eligible activities described in section 2431g(d) of this title.

(D) Authorization of appropriations

For the cost (as defined in section 661a(5) of title 2) for the reduction of any debt pursuant to subparagraph (A), amounts authorized to be appropriated under sections 2431d(a)(2), 2431e(a)(2), and 2431d(d) of this title shall be made available for such reduction of debt pursuant to subparagraph (A).

(2) Debt buybacks

Notwithstanding any other provision of law, the President may, in accordance with this section, sell to any eligible country any concessional loans described in section 2431d(a)(1) of this title or any credits described in section 2431e(a)(1) of this title, or on receipt of payment from an eligible country, reduce or cancel such loans (or credits) or portion thereof, only for the purpose of facilitating a debt buyback by an eligible country of its own qualified debt, only if the eligible country uses an additional amount of the local currency of the eligible country, equal to not less than the lessor of 40 percent of the price paid for such debt by such eligible country, or the difference between the price paid for such debt and the face value of such debt, to support eligible activities described in section 2431g(d) of this title.

(3) Limitation

The authority provided by paragraphs (1) and (2) shall be available only to the extent that appropriations for the cost (as defined in section 661a(5) of title 2) of the modification of any debt pursuant to such paragraphs are made in advance.

(4) Terms and conditions

Notwithstanding any other provision of law, the President shall, in accordance with this section,

establish the terms and conditions under which loans and credits may be sold, reduced, or canceled pursuant to this section.

(5) Administration

(A) In general

The Facility shall notify the administrator of the agency primarily responsible for administering subchapter I of this chapter or the Commodity Credit Corporation, as the case may be, of eligible purchasers described in paragraph (1)(B) that the President has determined to be eligible under paragraph (1), and shall direct such agency or Corporation, as the case may be, to carry out the sale, reduction, or cancellation of a loan pursuant to such paragraph.

(B) Additional requirement

Such agency or Corporation, as the case may be, shall make an adjustment in its accounts to reflect the sale, reduction, or cancellation.

(b) Deposit of proceeds

The proceeds from the sale, reduction, or cancellation of any loan sold, reduced, or canceled pursuant to this section shall be deposited in the United States Government account or accounts established for the repayment of such loan.

(Pub. L. 87–195, pt. V, §808, as added Pub. L. 105–214, §1, July 29, 1998, 112 Stat. 889; amended Pub. L. 107–26, §2(b), Aug. 17, 2001, 115 Stat. 206.)

REFERENCES TO SUBCHAPTER I DEEMED TO INCLUDE CERTAIN PARTS OF SUBCHAPTER II

References to subchapter I of this chapter are deemed to include parts IV (§2346 et seq.), VI (§2348 et seq.), and VIII (§2349aa et seq.) of subchapter II of this chapter, and references to subchapter II are deemed to exclude such parts. See section 202(b) of Pub. L. 92–226, set out as a note under section 2346 of this title, and sections 2348c and 2349aa–5 of this title.

AMENDMENTS

2001—Subsec. (a)(1)(D). Pub. L. 107–26 substituted "to be appropriated under sections 2431d(a)(2), 2431e(a)(2), and 2431d(d) of this title" for "to appropriated under sections 2431d(a)(2) and 2431e(a)(2) of this title".

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

For delegation of functions of President under subsec. (a) of this section, see section 1 of Ex. Ord. No. 13345, July 8, 2004, 69 F.R. 41901, set out as a note under section 1738 of Title 7, Agriculture.

§2431g. Tropical Forest Agreement

(a) Authority

(1) In general

The Secretary of State is authorized, in consultation with other appropriate officials of the Federal Government, to enter into a Tropical Forest Agreement with any eligible country concerning the operation and use of the Fund for that country.

(2) Consultation

In the negotiation of such an Agreement, the Secretary shall consult with the Board in accordance with section 2431i of this title.

(b) Contents of Agreement

The requirements contained in section 2430g(b) of this title (relating to contents of an agreement) shall apply to an Agreement in the same manner as such requirements apply to an Americas

Framework Agreement.

(c) Administering body

(1) In general

Amounts disbursed from the Fund in each beneficiary country shall be administered by a body constituted under the laws of that country.

(2) Composition

(A) In general

The administering body shall consist of—

(i) one or more individuals appointed by the United States Government;

(ii) one or more individuals appointed by the government of the beneficiary country; and

(iii) individuals who represent a broad range of—

(I) environmental nongovernmental organizations of, or active in, the beneficiary country;

(II) local community development nongovernmental organizations of the beneficiary country; and

(III) scientific, academic, or forestry organizations of the beneficiary country.

(B) Additional requirement

A majority of the members of the administering body shall be individuals described in subparagraph (A)(iii).

(3) Responsibilities

The requirements contained in section 2430g(c)(3) of this title (relating to responsibilities of the administering body) shall apply to an administering body described in paragraph (1) in the same manner as such requirements apply to an administering body described in section 2430g(c)(1) of this title.

(d) Eligible activities

Amounts deposited in a Fund shall be used only to provide grants to conserve, maintain, and restore the tropical forests in the beneficiary country, through one or more of the following activities:

(1) Establishment, restoration, protection, and maintenance of parks, protected areas, and reserves.

(2) Development and implementation of scientifically sound systems of natural resource management, including land and ecosystem management practices.

(3) Training programs to increase the scientific, technical, and managerial capacities of individuals and organizations involved in conservation efforts.

(4) Restoration, protection, or sustainable use of diverse animal and plant species.

(5) Research and identification of medicinal uses of tropical forest plant life to treat human diseases, illnesses, and health related concerns.

(6) Development and support of the livelihoods of individuals living in or near a tropical forest in a manner consistent with protecting such tropical forest.

(e) Grant recipients

(1) In general

Grants made from a Fund shall be made to—

(A) nongovernmental environmental, forestry, conservation, and indigenous peoples organizations of, or active in, the beneficiary country;

(B) other appropriate local or regional entities of, or active in, the beneficiary country; or

(C) in exceptional circumstances, the government of the beneficiary country.

(2) Priority

In providing grants under paragraph (1), priority shall be given to projects that are run by nongovernmental organizations and other private entities and that involve local communities in

their planning and execution.

(f) Review of larger grants

Any grant of more than $100,000 from a Fund shall be subject to veto by the Government of the United States or the government of the beneficiary country.

(g) Eligibility criteria

In the event that a country ceases to meet the eligibility requirements set forth in section 2431c(a) of this title, as determined by the President pursuant to section 2431c(b) of this title, then grants from the Fund for that country may only be made to nongovernmental organizations until such time as the President determines that such country meets the eligibility requirements set forth in section 2431c(a) of this title.

(Pub. L. 87–195, pt. V, §809, as added Pub. L. 105–214, §1, July 29, 1998, 112 Stat. 890.)

§2431h. Tropical Forest Fund

(a) Establishment

Each beneficiary country that enters into a Tropical Forest Agreement under section 2431g of this title shall be required to establish a Tropical Forest Fund to receive payments of interest and principal on new obligations undertaken by the beneficiary country under this subchapter.

(b) Requirements relating to operation of Fund

The following terms and conditions shall apply to the Fund in the same manner as such terms as [1] conditions apply to an Enterprise for the Americas Fund under section 2430f of this title:

(1) The provision relating to deposits under subsection (b) of such section.

(2) The provision relating to investments under subsection (c) of such section.

(3) The provision relating to disbursements under subsection (d) of such section.

(Pub. L. 87–195, pt. V, §810, as added Pub. L. 105–214, §1, July 29, 1998, 112 Stat. 892; amended Pub. L. 108–323, §3(c), Oct. 6, 2004, 118 Stat. 1219.)

AMENDMENTS

2004—Subsec. (a). Pub. L. 108–323 inserted "and principal" after "interest".

[1] So in original. Probably should be "and".

§2431i. Board

(a) Enterprise for the Americas Board

The Enterprise for the Americas Board established under section 1738i(a) of title 7 shall, in addition to carrying out the responsibilities of the Board under section 1738i(c) of title 7, carry out the duties described in subsection (c) of this section for the purposes of this subchapter.

(b) Additional membership

(1) In general

The Enterprise for the Americas Board shall be composed of an additional four members appointed by the President as follows:

(A) Two representatives from the United States Government, including a representative of the International Forestry Division of the United States Forest Service.

(B) Two representatives from private nongovernmental environmental, scientific, forestry, or academic organizations with experience and expertise in preservation, maintenance, sustainable uses, and restoration of tropical forests.

(2) Chairperson

Notwithstanding section 1738i(b)(2) of title 7, the Enterprise for the Americas Board shall be headed by a chairperson who shall be appointed by the President and shall be the representative from the Department of State appointed under section 1738i(b)(1)(A) of title 7.

(c) Duties

The duties described in this subsection are as follows:

(1) Advise the Secretary of State on the negotiations of Tropical Forest Agreements.

(2) Ensure, in consultation with—

(A) the government of the beneficiary country;

(B) nongovernmental organizations of the beneficiary country;

(C) nongovernmental organizations of the region (if appropriate);

(D) environmental, scientific, forestry, and academic leaders of the beneficiary country; and

(E) environmental, scientific, forestry, and academic leaders of the region (as appropriate),

that a suitable administering body is identified for each Fund.

(3) Review the programs, operations, and fiscal audits of each administering body.

(Pub. L. 87–195, pt. V, §811, as added Pub. L. 105–214, §1, July 29, 1998, 112 Stat. 892; amended Pub. L. 107–26, §3, Aug. 17, 2001, 115 Stat. 206; Pub. L. 110–246, title III, §3001(b)(1)(A), (2)(Q), June 18, 2008, 122 Stat. 1820.)

AMENDMENTS

2008—Subsecs. (a), (b)(2). Pub. L. 110–246 made technical amendments to references in original act which appear in text as references to section 1738i(a) of title 7 in subsec. (a) and section 1781i(b)(2) of title 7 in subsec. (b)(2).

2001—Subsec. (b)(2). Pub. L. 107–26 substituted "and shall be the representative from the Department of State appointed under section 1738i(b)(1)(A) of title 7" for "from among the representatives appointed under section 1738i(b)(1)(A) of title 7 or paragraph (1)(A) of this subsection".

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–246 effective May 22, 2008, see section 4(b) of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§2431j. Consultations with Congress

The President shall consult with the appropriate congressional committees on a periodic basis to review the operation of the Facility under this subchapter and the eligibility of countries for benefits from the Facility under this subchapter.

(Pub. L. 87–195, pt. V, §812, as added Pub. L. 105–214, §1, July 29, 1998, 112 Stat. 893.)

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

For delegation of functions of President under this section, see section 1 of Ex. Ord. No. 13345, July 8, 2004, 69 F.R. 41901, set out as a note under section 1738 of Title 7, Agriculture.

§2431k. Annual reports to Congress

(a) In general

Not later than December 31 of each year, the President shall prepare and transmit to the Congress

an annual report concerning the operation of the Facility for the prior fiscal year. Such report shall include—

(1) a description of the activities undertaken by the Facility during the previous fiscal year;

(2) a description of any Agreement entered into under this subchapter;

(3) a report on any Funds that have been established under this subchapter and on the operations of such Funds; and

(4) a description of any grants that have been provided by administering bodies pursuant to Agreements under this subchapter.

(b) Supplemental views in annual report

Not later than December 15 of each year, each member of the Board shall be entitled to receive a copy of the report required under subsection (a). Each member of the Board may prepare and submit supplemental views to the President on the implementation of this subchapter by December 31 for inclusion in the annual report when it is transmitted to Congress pursuant to this section.

(Pub. L. 87–195, pt. V, §813, as added Pub. L. 105–214, §1, July 29, 1998, 112 Stat. 893.)

PRIOR PROVISIONS

Prior sections 2432 to 2435 were repealed by Pub. L. 94–329, title IV, §413(a), June 30, 1976, 90 Stat. 761.

Section 2432, Pub. L. 87–195, pt. V, §802, as added Pub. L. 93–189, §24, Dec. 17, 1973, 87 Stat. 728, authorized appropriation of $504,000,000 for fiscal year 1974 to remain available until expended for relief and reconstruction of South Vietnam, Cambodia, and Laos.

Section 2433, Pub. L. 87–195, pt. V, §803, as added Pub. L. 93–189, §24, Dec. 17, 1973, 87 Stat. 728, provided for assistance to South Vietnamese children.

Section 2434, Pub. L. 87–195, pt. V, §804, as added Pub. L. 93–189, §24, Dec. 17, 1973, 87 Stat. 729, made provision for assistance to the Center for Plastic and Reconstructive Surgery in Saigon.

Section 2435, Pub. L. 87–195, pt. V, §806, as added Pub. L. 93–559, §41, Dec. 30, 1974, 88 Stat. 1812, directed that provisions covering special programs for relief of South Vietnam, Cambodia, and Laos not apply to programs related to population growth, narcotics control, humanitarian programs by international organizations, and regional programs.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

For delegation of functions of President under subsec. (a) of this section, see section 2 of Ex. Ord. No. 13345, July 8, 2004, 69 F.R. 41901, set out as a note under section 1738 of Title 7, Agriculture.

SUBCHAPTER V—MIDDLE EAST ASSISTANCE

§§2441 to 2443. Repealed. Pub. L. 95–384, §12(c)(4), Sept. 26, 1978, 92 Stat. 737

Section 2441, Pub. L. 87–195, pt. VI, §901, as added Pub. L. 93–559, §42, Dec. 30, 1974, 88 Stat. 1812; amended Pub. L. 94–329, title IV, §401, June 30, 1976, 90 Stat. 756, related to Congressional statement of policy with regard to Middle East assistance.

Section 2442, Pub. L. 87–195, pt. VI, §902, as added Pub. L. 93–559, §42, Dec. 30, 1974, 88 Stat. 1812, related to allocations of funds with regard to Middle East assistance.

Section 2443, Pub. L. 87–195, pt. VI, §903, as added Pub. L. 93–559, §42, Dec. 30, 1974, 88 Stat. 1812; amended Pub. L. 94–329, title V, §502, June 30, 1976, 90 Stat. 763; Pub. L. 95–92, §13, Aug. 4, 1977, 91 Stat. 621, related to a special requirements fund with regard to Middle East assistance.

CHAPTER 33—MUTUAL EDUCATIONAL AND CULTURAL EXCHANGE PROGRAM

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§2451. Congressional statement of purpose

The purpose of this chapter is to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries by means of educational and cultural exchange; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations, and the contributions being made toward a peaceful and more fruitful life for people throughout the world; to promote international cooperation for educational and cultural advancement; and thus to assist in the development of friendly, sympathetic, and peaceful relations between the United States and the other countries of the world.

(Pub. L. 87–256, §101, Sept. 21, 1961, 75 Stat. 527.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 87–256, Sept. 21, 1961, 75 Stat. 527, as amended, known as the Mutual Educational and Cultural Exchange Act of 1961. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

SHORT TITLE

Pub. L. 87–256, §1, Sept. 21, 1961, 75 Stat. 527, provided: "That this Act [enacting this chapter, amending sections 1101, 1182 and 1258 of Title 8, Aliens and Nationality, sections 117, 871, 872, 1441, 3121, 3306, 3401 and 3402 of Title 26, Internal Revenue Code, and section 410 of Title 42, The Public Health and Welfare, repealing sections 1431(2), 1434, 1439, 1440, 1446, 1448, 1466 to 1468 and 1991 to 2001 of this title, sections 222 to 224 of Title 20, Education, and former section 1641(b)(2) of the former Appendix to Title 50, War and National Defense, and enacting provisions set out as notes under this section and under sections 117, 1441, 3121 and 3401 of Title 26] may be cited as the 'Mutual Educational and Cultural Exchange Act of 1961'."

Pub. L. 87–256 is also popularly known as the "Fulbright-Hays Act".

TRANSFER OF FUNCTIONS

Functions vested in President, Secretary of State, Department of State, United States Information Agency or Director thereof under this chapter transferred to Director of International Communication Agency by Reorg.

Plan No. 2 of 1977, §7(a)(2), 42 F.R. 62461, 91 Stat. 1637, set out under section 1461 of this title, effective on or before July 1, 1978, at such time as specified by President, except (A) for such functions as are vested by sections 2452(b)(6), (10), 2454(a), (e)(1), (2), (f), (g), 2455(a), (b), (c), 2456(a) and 2458 of this title, (B) for such functions as are vested by sections 2454(b), 2455(d)(2), (f), and 2456(d), (f) of this title, to extent that such functions were assigned to Secretary of Health, Education, and Welfare [now Secretary of Education] immediately prior to effective date of Reorg. Plan No. 2 of 1977, and (C) for such functions as are vested by section 2456(b), (c) of this title to extent that any such function therein is vested in President or Secretary of State. International Communication Agency, and Director thereof, redesignated United States Information Agency, and Director thereof, by section 303 of Pub. L. 97–241, title III, Aug. 24, 1982, 96 Stat. 291, set out as a note under section 1461 of this title. United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau) abolished and functions transferred to Secretary of State, see sections 6531 and 6532 of this title. References to United States Information Agency or International Communication Agency deemed to refer to Department of State, see section 6551 of this title.

EXPANSION OF UNITED STATES SCHOLARSHIP AND EXCHANGE PROGRAMS IN THE ISLAMIC WORLD

Pub. L. 108–458, title VII, §7112, Dec. 17, 2004, 118 Stat. 3796, provided that:

"(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

"(1) Exchange, scholarship, and library programs are effective ways for the United States Government to promote internationally the values and ideals of the United States.

"(2) Exchange, scholarship, and library programs can expose young people from other countries to United States values and offer them knowledge and hope.

"(b) DECLARATION OF POLICY.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress declares that—

"(1) the United States should commit to a long-term and sustainable investment in promoting engagement with people of all levels of society in countries with predominantly Muslim populations, particularly with youth and those who influence youth;

"(2) such an investment should make use of the talents and resources in the private sector and should include programs to increase the number of people who can be exposed to the United States and its fundamental ideas and values in order to dispel misconceptions; and

"(3) such programs should include youth exchange programs, young ambassadors programs, international visitor programs, academic and cultural exchange programs, American Corner programs, library programs, journalist exchange programs, sister city programs, and other programs related to people-to-people diplomacy.

"(c) SENSE OF CONGRESS.—It is the sense of Congress that the United States should significantly increase its investment in the people-to-people programs described in subsection (b).

"(d) AUTHORITY TO EXPAND EDUCATIONAL AND CULTURAL EXCHANGES.—The President is authorized to substantially expand the exchange, scholarship, and library programs of the United States, especially such programs that benefit people in the Muslim world.

"(e) AVAILABILITY OF FUNDS.—Of the amounts authorized to be appropriated in each of the fiscal years 2005 and 2006 for educational and cultural exchange programs, there shall be available to the Secretary of State such sums as may be necessary to carry out programs under this section, unless otherwise authorized by Congress."

ADVISORY COMMITTEE ON CULTURAL DIPLOMACY

Pub. L. 107–228, div. A, title II, §224, Sept. 30, 2002, 116 Stat. 1368, provided that:

"(a) ESTABLISHMENT.—There is established an Advisory Committee on Cultural Diplomacy (in this section referred to as the 'Advisory Committee'), which shall be composed of nine members, as follows:

"(1) The Under Secretary of State for Public Diplomacy, who shall serve as Chair.

"(2) The Assistant Secretary of State for Educational and Cultural Affairs.

"(3) Seven members appointed pursuant to subsection (c).

"(b) DUTIES.—The Advisory Committee shall advise the Secretary on programs and policies to advance the use of cultural diplomacy in United States foreign policy. The Advisory Committee shall, in particular, provide advice to the Secretary on—

"(1) increasing the presentation abroad of the finest of the creative, visual, and performing arts of the United States; and

"(2) strategies for increasing public-private partnerships to sponsor cultural exchange programs that promote the national interests of the United States.

"(c) APPOINTMENTS.—The members of the Advisory Committee shall be appointed by the Secretary, not more than four of whom shall be from the same political party, from among distinguished Americans with a demonstrated record of achievement in the creative, visual, and performing arts, or international affairs. No officer or employee of the United States shall be appointed to the Advisory Committee.

"(d) VACANCIES.—A vacancy in the membership of the Advisory Committee shall be filled in the same manner as provided under this subsection to make the original appointment.

"(e) MEETINGS.—A majority of the members of the Advisory Committee shall constitute a quorum. The Advisory Committee shall meet at least twice each year or as frequently as may be necessary to carry out its duties.

"(f) ADMINISTRATIVE SUPPORT.—The Secretary is authorized to provide the Advisory Committee with necessary administrative support from among the staff of the Bureau of Educational and Cultural Affairs of the Department.

"(g) COMPENSATION.—Members of the Advisory Committee shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services of the Advisory Committee.

"(h) EXEMPTION FROM FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act [5 U.S.C. App.] shall not apply to the Advisory Committee to the extent that the provisions of this section are inconsistent with that Act.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department such sums as may be necessary to carry out this section.

"(j) TERMINATION.—The Advisory Committee shall terminate September 30, 2005."

[For definitions of "Secretary" and "Department" as used in section 224 of Pub. L. 107–228, set out above, see section 3 of Pub. L. 107–228, set out as a note under section 2651 of this title.]

CONTINUATION OF CERTAIN EXECUTIVE ORDERS, AGREEMENTS, DETERMINATIONS, REGULATIONS, CONTRACTS, APPOINTMENTS, AND OTHER ACTIONS

Pub. L. 87–256, §111(b), Sept. 21, 1961, 75 Stat. 538, provided that: "All Executive orders, agreements, determinations, regulations, contracts, appointments, and other actions issued, concluded, or taken under authority of any provisions of law repealed by subsection (a) of this section [repealing sections 1431(2), 1434, 1439, 1440, 1446, 1448, 1466 to 1468, and 1991 to 2001 of this title, sections 222 to 224 of Title 20, Education, and former section 1641(b)(2) of the former Appendix to Title 50, War and National Defense] shall continue in full force and effect, and shall be applicable to the appropriate provisions of this Act [this chapter] until modified or superseded by appropriate authority."

REFERENCES IN OTHER LAWS TO REPEALED PROVISIONS

Pub. L. 87–256, §111(c), Sept. 21, 1961, 75 Stat. 538, provided that: "Any reference in any other Act to the provisions of law listed in subsection (a) [repealing sections 1431(2), 1434, 1439, 1440, 1446, 1448, 1466 to 1468, and 1991 to 2001 of this title, sections 222 to 224 of Title 20, Education, and former section 1641(b)(2) of the former Appendix to Title 50, War and National Defense] shall hereafter be considered to be references to the appropriate provisions of this Act [this chapter]."

§2451a. Repealed. Pub. L. 91–269, §7, May 27, 1970, 84 Stat. 272

Section, Pub. L. 89–685, §8, Oct. 15, 1966, 80 Stat. 974, required registration of international fair, exposition, celebration or other international exhibition with an international organization for participation by the United States. See section 2801 et seq. of this title.

§2452. Authorization of activities

(a) Grants or contracts for educational or cultural exchanges; participation in international fairs and expositions abroad

The Director of the United States Information Agency is authorized, when he considers that it would strengthen international cooperative relations, to provide, by grant, contract, or otherwise, for—

(1) educational exchanges, (i) by financing studies, research, instruction, and other educational

activities—

(A) of or for American citizens and nationals in foreign countries, and

(B) of or for citizens and nationals of foreign countries in American schools and institutions of learning located in or outside the United States;

and (ii) by financing visits and interchanges between the United States and other countries of students, trainees, teachers, instructors, and professors;

(2) cultural exchanges, by financing—

(i) visits and interchanges between the United States and other countries of leaders, experts in fields of specialized knowledge or skill, and other influential or distinguished persons;

(ii) tours in countries abroad by creative and performing artists and athletes from the United States, individually and in groups, representing any field of the arts, sports, or any other form of cultural attainment;

(iii) United States representation in international artistic, dramatic, musical, sports, and other cultural festivals, competitions, meetings, and like exhibitions and assemblies;

(iv) participation by groups and individuals from other countries in nonprofit activities in the United States similar to those described in subparagraphs (ii) and (iii) of this paragraph, when the Director of the United States Information Agency determines that such participation is in the national interest.[1]

(3) United States participation in international fairs and expositions abroad, including trade and industrial fairs and other public or private demonstrations of United States economic accomplishments and cultural attainments.

(b) Other exchanges

In furtherance of the purposes of this chapter, the President is further authorized to provide for—

(1) interchanges between the United States and other countries of handicrafts, scientific, technical, and scholarly books, books of literature, periodicals, and Government publications, and the reproduction and translation of such writings, and the preparation, distribution, and interchange of other educational and research materials, including laboratory and technical equipment for education and research;

(2) establishing and operating in the United States and abroad centers for cultural and technical interchanges to promote better relations and understanding between the United States and other nations through cooperative study, training, and research;

(3) assistance in the establishment, expansion, maintenance, and operation of schools and institutions of learning abroad, founded, operated, or sponsored by citizens or nonprofit institutions of the United States, including such schools and institutions serving as demonstration centers for methods and practices employed in the United States;

(4) fostering and supporting American studies in foreign countries through professorships, lectureships, institutes, seminars, and courses in such subjects as American history, government, economics, language and literature, and other subjects related to American civilization and culture, including financing the attendance at such studies by persons from other countries;

(5) promoting and supporting medical, scientific, cultural, and educational research and development;

(6) promoting modern foreign language training and area studies in United States schools, colleges, and universities by supporting visits and study in foreign countries by teachers and prospective teachers in such schools, colleges, and universities for the purpose of improving their skill in languages and their knowledge of the culture of the people of those countries, and by financing visits by teachers from those countries to the United States for the purpose of participating in foreign language training and area studies in United States schools, colleges, and universities;

(7) United States representation at international nongovernmental educational, scientific, and technical meetings;

(8) participation by groups and individuals from other countries in educational, scientific, and technical meetings held under American auspices in or outside the United States;

(9) encouraging independent research into the problems of educational and cultural exchange;

(10) promoting studies, research, instruction, and other educational activities of citizens and nationals of foreign countries in American schools, colleges, and universities located in the United States by making available to citizens and nationals of less developed friendly foreign countries for exchange for currencies of their respective countries (other than excess foreign currencies), at United States embassies, United States dollars in such amounts as may be necessary to enable such foreign citizens or nationals who are coming temporarily to the United States as students, trainees, teachers, instructors, or professors to meet expenses of the kind described in section 2454(e)(1) of this title;

(11) interchanges and visits between the United States and other countries of scientists, scholars, leaders, and other experts in the fields of environmental science and environmental management; and

(12) promoting respect for and guarantees of religious freedom abroad by interchanges and visits between the United States and other nations of religious leaders, scholars, and religious and legal experts in the field of religious freedom.

(Pub. L. 87–256, §102, Sept. 21, 1961, 75 Stat. 527; Pub. L. 87–565, pt. IV, §403, Aug. 1, 1962, 76 Stat. 263; Pub. L. 89–698, title II, §203(a), Oct. 29, 1966, 80 Stat. 1071; 1977 Reorg. Plan No. 2, §7(a)(2), 42 F.R. 62461, 91 Stat. 1637; Pub. L. 97–241, title III, §303(b), Aug. 24, 1982, 96 Stat. 291; Pub. L. 98–164, title VII, §703(a), Nov. 22, 1983, 97 Stat. 1045; Pub. L. 105–292, title V, §503, Oct. 27, 1998, 112 Stat. 2811.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original "this Act", meaning Pub. L. 87–256, Sept. 21, 1961, 75 Stat. 527, as amended, known as the Mutual Educational and Cultural Exchange Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2451 of this title and Tables.

AMENDMENTS

1998—Subsec. (b)(12). Pub. L. 105–292 added par. (12).

1983—Subsec. (b)(11). Pub. L. 98–164 added par. (11).

1966—Subsec. (b)(10). Pub. L. 89–698 added par. (10).

1962—Subsec. (a)(3). Pub. L. 87–565 inserted "abroad" after "expositions".

EFFECTIVE DATE OF 1962 AMENDMENT

Pub. L. 87–565, pt. IV, §403, Aug. 1, 1962, 76 Stat. 263, provided in part that: "The amendment made by this section [amending this section] shall not be applicable with respect to any fair or exposition within the United States for which an appropriation has been provided."

TRANSFER OF FUNCTIONS

United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau) abolished and functions transferred to Secretary of State, see sections 6531 and 6532 of this title. "Director of the United States Information Agency" substituted for "Director of the International Communication Agency" in subsec. (a), opening par. and par. (2)(iv), pursuant to section 303(b) of Pub. L. 97–241, title III, Aug. 24, 1982, 96 Stat. 291, set out as a note under section 1461 of this title. Previously, "Director of the International Communication Agency" substituted for "President" in subsec. (a), opening par. and par. (2)(iv), pursuant to Reorg. Plan No. 2 of 1977, §7(a)(2), 42 F.R. 62461, 91 Stat. 1637, set out under section 1461 of this title, effective on or before July 1, 1978, at such time as specified by President, which transferred functions vested in President, Secretary of State, Department of State, United States Information Agency, or Director thereof, under this chapter, to Director of International Communication Agency, except (A) for such functions as are vested by subsec. (b)(6), (10) of this section, and sections 2454(a), (e)(1), (2), (f), (g), 2455(a), (b), (c), 2456(a) and 2458 of this title, (B) for such functions as are vested by sections 2454(b), 2455(d)(2), (f), and 2456(d), (f) of this title, to the extent that such functions were assigned to Secretary of

Health, Education, and Welfare [now Secretary of Education] immediately prior to effective date of Reorg. Plan No. 2 of 1977, and (C) for such functions as are vested by section 2456(b), (c) of this title to the extent that any such function therein is vested in President or Secretary of State.

DELEGATION OF FUNCTIONS

Functions of President under this section delegated to Secretary of State, Director of United States Information Agency, Secretary of Commerce, and Secretary of Education, see Ex. Ord. No. 11034, June 25, 1962, 27 F.R. 6071, as amended, set out as a note under section 2454 of this title.

PERFORMANCE OF FUNCTIONS

Authorization of performance of functions under subsec. (a)(2) and (3) of this section by departments or other executive agencies, see Ex. Ord. No. 11380, §2, Nov. 8, 1967, 32 F.R. 15627, set out as a note under section 2454 of this title.

PILOT PROGRAM TO PROVIDE GRANTS TO AMERICAN-SPONSORED SCHOOLS IN PREDOMINANTLY MUSLIM COUNTRIES TO PROVIDE SCHOLARSHIPS

Pub. L. 108–458, title VII, §7113, Dec. 17, 2004, 118 Stat. 3797, as amended, formerly set out as a note under this section, was transferred and is classified to section 2452c of this title.

CONDUCT OF CERTAIN EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

Pub. L. 104–319, title I, §102, Oct. 19, 1996, 110 Stat. 3865, as amended by Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title IV, §402], Nov. 29, 1999, 113 Stat. 1536, 1501A–445, provided that:

"(a) IN GENERAL.—In carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy, the Secretary of State, with the assistance of the Under Secretary of State for Public Diplomacy, shall provide, where appropriate, opportunities for significant participation in such programs to nationals of such countries who are—

"(1) human rights or democracy leaders of such countries; or

"(2) committed to advancing human rights and democratic values in such countries.

"(b) GRANTEE ORGANIZATIONS.—To the extent practicable, grantee organizations selected to operate programs described in subsection (a) shall be selected through an open competitive process. Among the factors that should be considered in the selection of such a grantee are the willingness and ability of the organization to—

"(1) recruit a broad range of participants, including those described in paragraphs (1) and (2) of subsection (a); and

"(2) ensure that the governments of the countries described in subsection (a) do not have inappropriate influence in the selection process."

LIMITATION ON PARTICIPATION IN INTERNATIONAL EXPOSITIONS OR FAIRS

Pub. L. 103–236, title II, §230, Apr. 30, 1994, 108 Stat. 424, which provided that United States Information Agency could not obligate or expend funds for a United States Government funded pavilion or major exhibit at any international exposition or world's fair in excess of amounts expressly authorized and appropriated for such purpose, was repealed by Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title II, §204(e)], Nov. 29, 1999, 113 Stat. 1536, 1501A–421. See section 2452b of this title.

INTERNATIONAL EXCHANGE, SCHOLARSHIP, AND TRAINING PROGRAMS

Pub. L. 110–83, Sept. 20, 2007, 121 Stat. 781, authorized establishment of a United States-Poland parliamentary youth exchange program.

Pub. L. 106–554, §1(a)(4) [div. B, title II], Dec. 21, 2000, 114 Stat. 2763, 2763A–254, as amended by Pub. L. 107–228, div. A, title II, §227, Sept. 30, 2002, 116 Stat. 1369; Pub. L. 113–235, div. J, title VII, §7085, Dec. 16, 2014, 128 Stat. 2685, known as the Vietnam Education Foundation Act of 2000, established the Vietnam Education Foundation to provide fellowships to Vietnamese nationals to study the sciences, mathematics, medicine, and technology in the United States and to United States citizens to teach those subjects in Vietnam.

Pub. L. 104–319, title I, §103, Oct. 19, 1996, 110 Stat. 3865, as amended by Pub. L. 105–277, div. G, subdiv. B, title XXIV, §2415, Oct. 21, 1998, 112 Stat. 2681–834; Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title IV, §401], Nov. 29, 1999, 113 Stat. 1536, 1501A–445; Pub. L. 107–228, div. A, title II, §222, Sept. 30, 2002, 116 Stat. 1367, authorized establishment of educational and cultural exchange programs between United States and people of Tibet and authorized scholarships for Tibetans and Burmese.

Pub. L. 103–236, title II, §235, Apr. 30, 1994, 108 Stat. 425, authorized establishment and maintenance of

American studies collections at appropriate foreign university libraries to further the study of the United States.

Pub. L. 103–236, title II, §236, Apr. 30, 1994, 108 Stat. 425, authorized establishment of educational and cultural exchange programs between United States and Tibet.

Pub. L. 103–236, title II, §237, Apr. 30, 1994, 108 Stat. 426, established a scholarship program for East Timorese students qualified to study in United States.

Pub. L. 103–236, title II, §238, Apr. 30, 1994, 108 Stat. 426, related to establishment and expansion of Cambodian scholarship and exchange programs.

Pub. L. 103–236, title II, §239, Apr. 30, 1994, 108 Stat. 426, related to expansion of exchange program allocations to Africa.

Pub. L. 103–236, title II, §240, Apr. 30, 1994, 108 Stat. 426, as amended by Pub. L. 105–244, title I, §102(a)(7)(A), Oct. 7, 1998, 112 Stat. 1619, established a program to promote academic exchanges in disciplines relevant to environment and sustainable development.

Pub. L. 103–236, title II, §241, Apr. 30, 1994, 108 Stat. 427, authorized scholarships to qualified students from South Pacific nations.

Pub. L. 103–236, title II, §242, Apr. 30, 1994, 108 Stat. 427, provided for international exchange programs involving disability related matters.

Pub. L. 102–511, title VIII, §807, Oct. 24, 1992, 106 Stat. 3353, authorized exchange and training programs between United States and independent states of former Soviet Union.

Pub. L. 102–138, title II, §210, Oct. 28, 1991, 105 Stat. 694, authorized grants to Claude and Mildred Pepper Scholarship Program of the Washington Workshops Foundation to enable foreign visiting students to observe workings and operations of democratic form of government of United States.

Pub. L. 102–138, title II, §214, Oct. 28, 1991, 105 Stat. 696, established Israeli Arab Scholarship Fund within United States Information Agency to finance attendance of Israeli Arabs at United States institutions of higher education.

Pub. L. 102–138, title II, §225, Oct. 28, 1991, 105 Stat. 699, authorized establishment of an endowment fund to support an exchange program among secondary school students from United States and former Warsaw Pact countries, prior to repeal, eff. 6 months after Oct. 24, 1992, by Pub. L. 102–511, title VIII, §807(c), Oct. 24, 1992, 106 Stat. 3354.

Pub. L. 102–138, title II, §226, Oct. 28, 1991, 105 Stat. 699, authorized scholarships for foreign and United States students and scholars awarded by Bureau of Educational and Cultural Affairs of United States Information Agency to facilitate study, research, and teaching within United States.

Pub. L. 102–138, title II, §227, Oct. 28, 1991, 105 Stat. 700, as amended by Pub. L. 102–511, title VIII, §801, Oct. 24, 1992, 106 Stat. 3352; Pub. L. 105–277, div. G, subdiv. B, title XXIV, §2413, Oct. 21, 1998, 112 Stat. 2681–832, established Muskie Fellowship Program to award scholarships to graduate students from independent states of the former Soviet Union, Lithuania, Latvia, and Estonia for study within United States.

Pub. L. 102–138, title II, §228, Oct. 28, 1991, 105 Stat. 702, as amended by Pub. L. 103–236, title II, §233, Apr. 30, 1994, 108 Stat. 424; Pub. L. 105–277, div. G, subdiv. B, title XXII, §2219(a)(7), Oct. 21, 1998, 112 Stat. 2681–817, authorized assistance to United States graduate and postdoctoral students researching Near and Middle East.

Pub. L. 102–138, title II, §229, Oct. 28, 1991, 105 Stat. 702, authorized scholarships for Vietnamese residents qualified to study in United States.

STUDY AND REPORT ON WAYS TO REDUCE THE DRAIN FROM DEVELOPING COUNTRIES OF PROFESSIONAL PERSONS AND SKILLED SPECIALISTS

Pub. L. 89–698, title III, §301, Oct. 29, 1966, 80 Stat. 1072, authorized Secretary of Health, Education, and Welfare to conduct an investigation to determine number of individuals from developing countries who enter United States annually to further their education and fail to return to their homeland and to report to President and to Congress findings and conclusions together with recommendations for any legislation deemed necessary to encourage these individuals to return and use their education and training in service of their homeland.

EXECUTIVE ORDER NO. 10716

Ex. Ord. No. 10716, June 18, 1957, 22 F.R. 4345, as amended by Ex. Ord. No. 10912, Jan. 19, 1961, 26 F.R. 509, which related to administration of programs under this chapter, was superseded by Ex. Ord. No. 11034, June 25, 1962, 27 F.R. 6071, set out as a note under section 2454 of this title.

[1] So in original. The period probably should be a semicolon.

§2452a. Exchange program with countries in transition from totalitarianism to democracy

(a) Authorization of activities; grants or contracts for exchanges with foreign countries

Pursuant to the Mutual Educational and Cultural Exchange Act of 1961 [22 U.S.C. 2451 et seq.] and using the authorities contained therein, the President is authorized, when the President considers that it would strengthen international cooperative relations, to provide, by grant, contract, or otherwise, for exchanges with countries that are in transition from totalitarianism to democracy, which include, but are not limited to Poland, Hungary, Czechoslovakia, Bulgaria, and Romania—

(1) by financing studies, research, instruction, and related activities—

(A) of or for American citizens and nationals in foreign countries; and

(B) of or for citizens and nationals of foreign countries in American private businesses, trade associations, unions, chambers of commerce, and local, State, and Federal Government agencies, located in or outside the United States; and

(2) by financing visits and interchanges between the United States and countries in transition from totalitarianism to democracy.

The program under this section shall be coordinated by the Department of State.

(b) Transfer of funds

The President is authorized to transfer to the appropriate appropriations account of the Department of State such sums as the President shall determine to be necessary out of the travel accounts of the departments and agencies of the United States, except for the Department of State, as the President shall designate. Such transfers shall be subject to the approval of the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate. In addition, the President is authorized to accept such gifts or cost-sharing arrangements as may be proffered to sustain the program under this section.

(Pub. L. 101–610, title VI, §602, Nov. 16, 1990, 104 Stat. 3186; Pub. L. 105–277, div. G, subdiv. A, title XIII, §1335(c), Oct. 21, 1998, 112 Stat. 2681–787.)

REFERENCES IN TEXT

The Mutual Educational and Cultural Exchange Act of 1961, referred to in subsec. (a), is Pub. L. 87–256, Sept. 21, 1961, 75 Stat. 527, as amended, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2451 of this title and Tables.

CODIFICATION

Section was enacted as part of the National and Community Service Act of 1990, and not as part of the Mutual Educational and Cultural Exchange Act of 1961 which comprises this chapter.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–277, §1335(c)(1), substituted "Department of State" for "United States Information Agency" before period at end.

Subsec. (b). Pub. L. 105–277, §1335(c)(2), in first sentence, substituted "appropriate appropriations account of the Department of State" for "appropriations account of the United States Information Agency" and struck out "and the United States Information Agency" before ", as the President".

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective Oct. 1, 1999, see section 1301 of Pub. L. 105–277, set out as an Effective Date note under section 6531 of this title.

§2452b. International expositions

(a) Limitation

Except as provided in subsection (b) and notwithstanding any other provision of law, the Department of State may not obligate or expend any funds appropriated to the Department of State for a United States pavilion or other major exhibit at any international exposition or world's fair registered by the Bureau of International Expositions in excess of amounts expressly authorized and appropriated for such purpose.

(b) Exceptions

(1) In general

The Department of State is authorized to utilize its personnel and resources to carry out the responsibilities of the Department for the following:

(A) Administrative services, including legal and other advice and contract administration, under section 2452(a)(3) of this title related to United States participation in international fairs and expositions abroad. Such administrative services may not include capital expenses, operating expenses, or travel or related expenses (other than such expenses as are associated with the provision of administrative services by employees of the Department of State).

(B) Activities under section 2455(f) of this title with respect to encouraging foreign governments, international organizations, and private individuals, firms, associations, agencies and other groups to participate in international fairs and expositions and to make contributions to be utilized for United States participation in international fairs and expositions.

(C) Encouraging private support of United States pavilions and exhibits at international fairs and expositions.

(2) Statutory construction

Nothing in this subsection authorizes the use of funds appropriated to the Department of State to make payments for—

(A) contracts, grants, or other agreements with any other party to carry out the activities described in this subsection; or

(B) the satisfaction of any legal claim or judgment or the costs of litigation brought against the Department of State arising from activities described in this subsection.

(c) Notification

No funds made available to the Department of State by any Federal agency to be used for a United States pavilion or other major exhibit at any international exposition or world's fair registered by the Bureau of International Expositions may be obligated or expended unless the appropriate congressional committees are notified not less than 15 days prior to such obligation or expenditure.

(d) Reports

The Commissioner General of a United States pavilion or other major exhibit at any international exposition or world's fair registered by the Bureau of International Expositions shall submit to the Secretary of State and the appropriate congressional committees a report concerning activities relating to such pavilion or exhibit every 180 days while serving as Commissioner General and shall submit a final report summarizing all such activities not later than 1 year after the closure of the pavilion or exhibit.

(Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title II, §204], Nov. 29, 1999, 113 Stat. 1536, 1501A–420.)

CODIFICATION

Section is comprised of section 1000(a)(7) [div. A, title II, §204] of div. B of Pub. L. 106–113. Subsec. (e) of section 204 of title II of section 1000(a)(7) of Pub. L. 106–113 repealed section 230 of Pub. L. 103–236 which was classified as a note under section 2452 of this title.

Section was enacted as part of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001, and not as part of the Mutual Educational and Cultural Exchange Act of 1961 which comprises this chapter.

DEFINITIONS

In subsecs. (c) and (d), "appropriate congressional committees" means the Committee on International Relations (now Committee on Foreign Affairs) of the House of Representatives and the Committee on Foreign Relations of the Senate, see section 1000(a)(7) [§3(1)] of Pub. L. 106–113, set out as a note under section 2651 of this title.

§2452c. Program to provide grants to American-sponsored schools in predominantly Muslim countries to provide scholarships

(a) Findings

Congress makes the following findings:

(1) During the 2003–2004 school year, the Office of Overseas Schools of the Department of State is financially assisting 189 elementary and secondary schools in foreign countries.

(2) United States-sponsored elementary and secondary schools are located in more than 20 countries with predominantly Muslim populations in the Near East, Africa, South Asia, Central Asia, and East Asia.

(3) United States-sponsored elementary and secondary schools provide an American-style education in English, with curricula that typically include an emphasis on the development of critical thinking and analytical skills.

(b) Statement of policy

The United States has an interest in increasing the level of financial support provided to United States-sponsored elementary and secondary schools in countries with predominantly Muslim populations in order to—

(1) increase the number of students in such countries who attend such schools;

(2) increase the number of young people who may thereby gain at any early age an appreciation for the culture, society, and history of the United States; and

(3) increase the number of young people who may thereby improve their proficiency in the English language.

(c) Program

The Secretary of State, acting through the Director of the Office of Overseas Schools of the Department of State, may conduct a program to make grants to United States-sponsored elementary and secondary schools in countries with predominantly Muslim populations for the purpose of providing full or partial merit-based scholarships to students from lower-income and middle-income families of such countries to attend such schools.

(d) Determination of eligible students

For purposes of the program, a United States-sponsored elementary and secondary school that receives a grant under the program may establish criteria to be implemented by such school to determine what constitutes lower-income and middle-income families in the country (or region of the country, if regional variations in income levels in the country are significant) in which such school is located.

(e) Restriction on use of funds

Amounts appropriated to the Secretary of State pursuant to the authorization of appropriations in subsection (h) shall be used for the sole purpose of making grants under this section, and may not be used for the administration of the Office of Overseas Schools of the Department of State or for any other activity of the Office.

(f) Voluntary participation

Nothing in this section shall be construed to require participation in the program by a United States-sponsored elementary or secondary school in a predominantly Muslim country.

(g) Report

Not later than April 15, 2006, and April 15, 2008, the Secretary of State shall submit to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate a report on the program. The report shall assess the success of the program, examine any obstacles encountered in its implementation, and address whether it should be continued, and if so, provide recommendations to increase its effectiveness.

(h) Funding

There are authorized to be appropriated to the Secretary of State for each of the fiscal years 2007 and 2008, unless otherwise authorized by Congress, such sums as necessary to implement the program under this section.

(Pub. L. 108–458, title VII, §7113, Dec. 17, 2004, 118 Stat. 3797; Pub. L. 110–53, title XX, §2014(b)(1), Aug. 3, 2007, 121 Stat. 512.)

CODIFICATION

Section was formerly set out as a note under section 2452 of this title.

Section was enacted as part of the Intelligence Reform and Terrorism Prevention Act of 2004, and also as part of the 9/11 Commission Implementation Act of 2004, and not as part of the Mutual Educational and Cultural Exchange Act of 1961 which comprises this chapter.

AMENDMENTS

2007—Pub. L. 110–53, §2014(b)(1)(A), struck out "Pilot" before "Program" in section catchline.

Subsec. (c). Pub. L. 110–53, §2014(b)(1)(B), struck out "Pilot" before "Program" in heading and "pilot" before "program" in text.

Subsecs. (d), (f). Pub. L. 110–53, §2014(b)(1)(C), (D), struck out "pilot" before "program" wherever appearing.

Subsec. (g). Pub. L. 110–53, §2014(b)(1)(E), inserted "and April 15, 2008," before "the Secretary" and struck out "pilot" before "program".

Subsec. (h). Pub. L. 110–53, §2014(b)(1)(F), substituted "2007 and 2008" for "2005 and 2006" and struck out "pilot" before "program".

CHANGE OF NAME

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

FINDINGS

Pub. L. 110–53, title XX, §2014(a), Aug. 3, 2007, 121 Stat. 512, provided that: "Congress finds the following:

> "(1) Section 7113 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 22 U.S.C. 2452 note [now 22 U.S.C. 2452c]) authorized the establishment of a pilot program to provide grants to American-sponsored schools in predominantly Muslim countries so that such schools could provide scholarships to young people from lower-income and middle-income families in such countries to attend such schools, where they could improve their English and be exposed to a modern education.
>
> "(2) Since the date of the enactment of that section [Dec. 17, 2004], the Middle East Partnership Initiative has pursued implementation of that program."

§2453. Agreements with foreign governments and international organizations

(a) Authorization

The Director of the United States Information Agency is authorized to enter into agreements with foreign governments and international organizations, in furtherance of the purposes of this chapter. In such agreements the Director of the United States Information Agency is authorized, when he deems it in the public interest, to seek the agreement of the other governments concerned to cooperate and assist, including making use of funds placed in special accounts pursuant to agreements concluded in accordance with section 1513(b)(6) [1] of this title, or any similar agreements, in providing for the activities authorized in section 2452 of this title, and particularly

those authorized in subsection (a)(1) of said section 2452, with respect to the expenses of international transportation of their own citizens and nationals and of activities in furtherance of the purposes of this chapter carried on within the borders of such other nations.

(b) Creation or continuation of binational or multinational educational and cultural foundations and commissions

Such agreements may also provide for the creation or continuation of binational or multinational educational and cultural foundations and commissions for the purpose of administering programs in furtherance of the purposes of this chapter.

(c) United States participation in programs

In such agreements with international organizations, the Director of the United States Information Agency may provide for equitable United States participation in and support for, including a reasonable share of the cost of, educational and cultural programs to be administered by such organizations.

(Pub. L. 87–256, §103, Sept. 21, 1961, 75 Stat. 529; 1977 Reorg. Plan No. 2, §7(a)(2), 42 F.R. 62461, 91 Stat. 1637; Pub. L. 97–241, title III, §303(b), Aug. 24, 1982, 96 Stat. 291.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b), was in the original "this Act", meaning Pub. L. 87–256, Sept. 21, 1961, 75 Stat. 527, as amended, known as the Mutual Educational and Cultural Exchange Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2451 of this title and Tables.

Section 1513(b)(6) of this title, referred to in subsec. (a), was repealed by act Aug. 26, 1954, ch. 937, title V, §542(a), 68 Stat. 861.

TRANSFER OF FUNCTIONS

United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau) abolished and functions transferred to Secretary of State, see sections 6531 and 6532 of this title. "Director of the United States Information Agency" substituted for "Director of the International Communication Agency" in subsecs. (a) and (c), pursuant to section 303(b) of Pub. L. 97–241, title III, Aug. 24, 1982, 96 Stat. 291, set out as a note under section 1461 of this title. Previously, "Director of the International Communication Agency" substituted for "President" in subsecs. (a) and (c), pursuant to Reorg. Plan No. 2 of 1977, §7(a)(2), 42 F.R. 62461, 91 Stat. 1637, set out under section 1461 of this title, effective on or before July 1, 1978, at such time as specified by President, which transferred functions vested in President, Secretary of State, Department of State, United States Information Agency or Director thereof, under this chapter, to Director of International Communication Agency, except (A) for such functions as are vested by sections 2452(b)(6), (10), 2454(a), (e)(1), (2), (f), (g), 2455(a), (b), (c), 2456(a) and 2458 of this title, (B) for such functions as are vested by sections 2454(b), 2455(d)(2), (f), and 2456(d), (f) of this title, to the extent that such functions were assigned to Secretary of Health, Education, and Welfare [now Secretary of Education] immediately prior to effective date of Reorg. Plan No. 2 of 1977, and (C) for such functions as are vested by section 2456(b), (c) of this title to the extent that any such function therein is vested in President or Secretary of State.

DELEGATION OF FUNCTIONS

Functions of President under this section delegated to Secretary of State, see Ex. Ord. No. 11034, June 25, 1962, 27 F.R. 6071, set out as a note under section 2454 of this title.

[1] *See References in Text note below.*

§2454. Administration

(a) Delegation of powers; submission of proposal for delegation to Congress

The President may delegate, to such officers of the Government as he determines to be appropriate, any of the powers conferred upon him by this chapter to the extent that he finds such

delegation to be in the interest of the purposes expressed in this chapter and the efficient administration of the programs undertaken pursuant to this chapter: *Provided*, That where the President has delegated any of such powers to any officer, before the President implements any proposal for the delegation of any of such powers to another officer, that proposal shall be submitted to the Speaker of the House of Representatives and to the Committee on Foreign Relations of the Senate, and thereafter a period of not less than sixty days shall have elapsed while Congress is in session. In computing such sixty days, there shall be excluded the days on which either House is not in session because of an adjournment of more than three days.

(b) Employment of personnel

The President is authorized to employ such other personnel as he deems necessary to carry out the provisions and purposes of this chapter, and of such personnel not to exceed ten may be compensated without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, but not in excess of the highest rate of grade 18 of the General Schedule. Such positions shall be in addition to the number authorized by section 5108 of title 5.

(c) Repealed. Pub. L. 96–465, title II, §2205(7), Oct. 17, 1980, 94 Stat. 2160

(d) Extension of benefits

For the purpose of performing functions under this chapter outside the United States, the Director of the United States Information Agency is authorized to provide that any person employed or assigned by a United States Government agency shall be entitled, except to the extent that the Director of the United States Information Agency may specify otherwise in cases in which the period of employment or assignment exceeds thirty months, to the same benefits as are provided by section 3950 of this title for individuals appointed to the Foreign Service.

(e) Grants; use of funds, counseling service; publicity and promotion abroad

(1) In providing for the activities and interchanges authorized by section 2452 of this title, grants may be made to or for individuals, either directly or through foundations or educational or other institutions, which foundations or institutions are public or private nonprofit, and may include funds for tuition and other necessary incidental expenses, for travel expenses from their places of residence and return for themselves, and, whenever it would further the purposes of this chapter, for the dependent members of their immediate families, for health and accident insurance premiums, emergency medical expenses, costs of preparing and transporting to their former homes the remains of any of such persons who may die while away from their homes as participants or dependents of participants in any program under this chapter, and for per diem in lieu of subsistence at rates prescribed by the Director of the United States Information Agency, for all such persons, and for such other expenses as are necessary for the successful accomplishment of the purposes of this chapter.

(2) Funds available for programs under this chapter may be used (i) to provide for orientation courses, language training, or other appropriate services and materials for persons traveling out of the countries of their residence for educational and cultural purposes which further the purposes of this chapter, whether or not they are receiving other financial support from the Government, and (ii) to provide or continue services to increase the effectiveness of such programs following the return of such persons to the countries of their residence.

(3) For the purpose of assisting foreign students in making the best use of their opportunities while attending colleges and universities in the United States, and assisting such students in directing their talents and initiative into channels which will make them more effective leaders upon return to their native lands, the Director of the United States Information Agency may make suitable arrangements, by contract or otherwise, for the establishment and maintenance at colleges and universities in the United States attended by foreign students of an adequate counseling service.

(4) The Director of the United States Information Agency is authorized to provide for publicity and promotion (including representation) abroad of activities of the type provided for in this chapter, and of similar services and opportunities for interchange not supported by the United States Government.

(f) Repealed. Pub. L. 96–60, title II, §203(a)(1), Aug. 15, 1979, 93 Stat. 398

(g) Currency exchange for foreign students and teachers coming temporarily to the United States

(1) For the purpose of performing functions authorized by section 2452(b)(10) of this title, the President is authorized to establish the exchange rates at which all foreign currencies may be acquired through operations under such section, and shall issue regulations binding upon all embassies with respect to the exchange rates to be applicable in each of the respective countries where currency exchanges are authorized under such section.

(2) In performing the functions authorized under section 2452(b)(10) of this title, the President shall make suitable arrangements for protecting the interests of the United States Government in connection with the ownership, use, and disposition of all foreign currencies acquired pursuant to exchanges made under such section.

(3) The total amount of United States dollars acquired by any individual through currency exchanges under the authority of section 2452(b)(10) of this title shall in no event exceed $3,000 during any academic year.

(4) An individual shall be eligible to exchange foreign currency for United States dollars at United States embassies under section 2452(b)(10) of this title only if he gives satisfactory assurances that (A) he will devote essentially full time to his proposed educational activity in the United States and will maintain good standing in relation to such program; (B) he will return to the country of his citizenship or nationality prior to coming to the United States and will render such public service as is determined acceptable for a period of time determined reasonable and necessary by the government of such country; and (C) he will not apply for an immigrant visa or for permanent residence or for a nonimmigrant visa under the Immigration and Nationality Act [8 U.S.C. 1101 et seq.] after having received any benefits under such section for a period of time equal to the period of study, research, instruction, or other educational activity he performed pursuant to such section.

(5) As used in section 2452(b)(10) of this title, the term "excess foreign currencies" means foreign currencies, which if acquired by the United States (A) would be in excess of the normal requirements of departments, agencies, and embassies of the United States for such currencies, as determined by the President, and (B) would be available for the use of the United States Government under applicable agreements with the foreign country concerned.

(Pub. L. 87–256, §104, Sept. 21, 1961, 75 Stat. 529; Pub. L. 87–793, §1001(j), Oct. 11, 1962, 76 Stat. 865; Pub. L. 89–698, title II, §203(b), Oct. 29, 1966, 80 Stat. 1071; 1977 Reorg. Plan No. 2, §7(a)(2), 42 F.R. 62461, 91 Stat. 1637; Pub. L. 95–426, title II, §204(a), Oct. 7, 1978, 92 Stat. 973; Pub. L. 96–60, title II, §203(a)(1), Aug. 15, 1979, 93 Stat. 398; Pub. L. 96–465, title II, §§2205(7), 2206(a)(9), Oct. 17, 1980, 94 Stat. 2160, 2162; Pub. L. 97–241, title III, §303(b), Aug. 24, 1982, 96 Stat. 291; Pub. L. 103–236, title II, §231, Apr. 30, 1994, 108 Stat. 424.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a), (b), (d), (e)(1), (2), (4), was in the original "this Act", meaning Pub. L. 87–256, Sept. 21, 1961, 75 Stat. 527, as amended, known as the Mutual Educational and Cultural Exchange Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2451 of this title and Tables.

The Immigration and Nationality Act, referred to in subsec. (g)(4), is act June 27, 1952, ch. 477, 66 Stat. 163, as amended, which is classified principally to chapter 12 (§1101 et seq.) of Title 8, Aliens and Nationality. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of Title 8 and Tables.

CODIFICATION

In subsec. (b), "chapter 51 and subchapter III of chapter 53 of title 5" and "section 5108 of title 5" substituted for "the Classification Act of 1949, as amended" and "section 505 of the Classification Act of 1949, as amended", respectively, on authority of Pub. L. 89–554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees. In the original, section 1105 of title 5 read section 505 of the Classification Act of 1949, as amended.

AMENDMENTS

1994—Subsec. (e)(4). Pub. L. 103–236 inserted before period at end ", and of similar services and opportunities for interchange not supported by the United States Government".

1980—Subsec. (c). Pub. L. 96–465, §2205(7), struck out subsec. (c) which related to employment or assignment of persons in or to Foreign Service Reserve or Foreign Service Staff and alien clerks and employees.

Subsec. (d). Pub. L. 96–465, §2206(a)(9), among other changes, substituted reference to section 3950 of this title for reference to section 928 of this title and struck out provisions relating to the applicability of section 807 of this title.

1979—Subsec. (f). Pub. L. 96–60 struck out subsec. (f) relating to investigation-of-employees requirement.

1978—Subsec. (e)(1). Pub. L. 95–426 substituted "Director of the International Communication Agency" for "President".

1966—Subsec. (g). Pub. L. 89–698 added subsec. (g).

1962—Subsec. (b). Pub. L. 87–793 substituted "but not in excess of the highest rate of grade 18 of the General Schedule for "and of these not to exceed five may be compensated at a rate in excess of the highest rate provided for grades of the general schedule established by the Classification Act of 1949, as amended, but not in excess of $1,000 per annum more than such highest rate".

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–465 effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–60 effective Oct. 1, 1979, see section 209 of Pub. L. 96–60, set out as a note under section 1471 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87–793 effective on first day of first pay period which begins on or after Oct. 11, 1962, see Pub. L. 87–793, §1008, Oct. 11, 1962, 76 Stat. 868.

TRANSFER OF FUNCTIONS

United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau) abolished and functions transferred to Secretary of State, see sections 6531 and 6532 of this title. "Director of the United States Information Agency" substituted for "Director of the International Communication Agency" in subsecs. (d) and (e)(1), (3), and (4), pursuant to section 303(b) of Pub. L. 97–241, title III, Aug. 24, 1982, 96 Stat. 291, set out as a note under section 1461 of this title. Previously, "Director of the International Communication Agency" substituted for "Secretary of State" in subsec. (c) and for "President" in subsecs. (d), (e)(3), (4), pursuant to Reorg. Plan No. 2 of 1977, §7(a)(2), 42 F.R. 62461, 91 Stat. 1637, set out under section 1461 of this title, effective on or before July 1, 1978, at such time as specified by President, which transferred functions vested in President, Secretary of State, Department of State, United States Information Agency or Director thereof, under this chapter, to Director of International Communication Agency, except (A) for such functions as are vested by subsecs. (a), (e)(1), (2), (f), (g) of this section, sections 2452(b)(6), (10), 2455(a), (b), (c), 2456(a) and 2458 of this title, (B) for such functions as are vested by subsec. (b) of this section and sections 2455(d)(2), (f), and 2456(d), (f) of this title, to the extent that such functions were assigned to Secretary of Health, Education, and Welfare [now Secretary of Education] immediately prior to effective date of Reorg. Plan No. 2 of 1977, and (C) for such functions as are vested by section 2456(b), (c) of this title to the extent that any such function therein is vested in President or Secretary of State.

For transfer of functions and offices (relating to education) of Secretary and Department of Health, Education, and Welfare to Secretary and Department of Education, and termination of certain offices and positions under Ex. Ord. No. 11034, June 25, 1962, as amended, set out under this section, see sections 3441 and 3503 of Title 20, Education.

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

EX. ORD. NO. 11034. ADMINISTRATION OF PROGRAMS

Ex. Ord. No. 11034, June 25, 1962, 27 F.R. 6071, as amended by Ex. Ord. No. 11380, Nov. 8, 1967, 32 F.R. 15627; Ex. Ord. No. 12292, Feb. 23, 1981, 46 F.R. 13967; Ex. Ord. No. 12608, Sept. 9, 1987, 52 F.R. 34617, provided:

By virtue of the authority vested in me by the Mutual Educational and Cultural Exchange Act of 1961 (Public Law 87–256; 75 Stat. 527; hereinafter referred to as the Act) [this chapter] and as President of the United States, I find that the delegations set forth in this order are in the interest of the purposes expressed in the said Act and the efficient administration of the programs undertaken pursuant to that Act and determine that the delegates specified in the order are appropriate and I hereby order as follows:

SECTION 1. *Department of State*. (a) The following functions conferred upon the President by the Act are hereby delegated to the Secretary of State:

(1) The functions so conferred by Sections 102(a)(1), 102(a)(2)(i), (ii), and (iv), 102(b)(3), (5) and (9), 103, 104(e)(3), and 105(d)(1) and (e) of the Act [sections 2452(a)(1), (2)(i), (ii), (iv), (b)(3), (5), (9), 2453, subsec. (e)(3) of this section, and 2455(d)(1), (e) of this title].

(2) The functions so conferred by Sections 102(a)(2)(iii) and (b)(1), (2), (4), (7) and (8) of the Act (the provisions of Section 2(a) of this order notwithstanding) [section 2452(a)(2)(iii), (b)(1), (2), (4), (7), (8) of this title].

(3) The functions so conferred by Section 102(a)(3) of the Act [section 2452(a)(3) of this title] to the extent that they pertain to liquidation of affairs respecting the Universal and International Exhibition of Brussels, 1958.

(4) The functions so conferred by Sections 104(d) and (e)(4) and 108(c) and (d) of the Act [subsecs. (d), (e)(4) of this section and section 2458(c), (d) of this title] to the extent that they pertain to the functions delegated by the foregoing provisions of this section.

(5) The function so conferred by Section 104(e)(1) of the Act [subsec. (e)(1) of this section] of prescribing rates for per diem in lieu of subsistence; but in carrying out the said function as it relates to functions herein delegated to the Director of the United States Information Agency or the Secretary of Education, the Secretary of State shall consult with them.

(b) The Secretary of State, in collaboration with the Director of the United States Information Agency, the Secretary of Commerce, and the Secretary of Education with respect to the functions delegated by Sections 2, 3, and 4, respectively, of this order, shall prepare and transmit to the President the reports which the President is required to submit to the Congress by Section 108(b) of the Act [section 2458(b) of this title], excluding, however, the reports for which the Director of the United States Information Agency is responsible under section 2(b) of this order.

(c) With respect to the carrying out of functions under Section 102(a)(2)(ii) of the Act [section 2452(a)(2)(ii) of this title] hereinabove delegated to the Secretary of State, the Director of the United States Information Agency shall participate in the planning of cultural and other attractions. Such participation shall include consultation in connection with (1) the selection and scheduling of such attractions, and (2) the designation of the areas where the attractions will be presented.

SEC. 2. *United States Information Agency*. (a) Subject to the provisions of Section 6 of this order, the following functions conferred upon the President by the Act are hereby delegated to the Director of the United States Information Agency:

(1) The functions so conferred by Sections 102(a)(2)(iii) and (b)(1) [section 2452(a)(2)(iii), (b)(1) of this title]; Section 102(b)(2) [section 2452(b)(2) of this title] to the extent that it authorizes the type of centers now supported by the United States Information Agency abroad and designated as binational, community, or student centers; section 102(b)(4) [section 2452(b)(4) of this title] exclusive of professorships and lectureships; and Sections 102(b)(7) and (8) of the Act [section 2452(b)(7), (8) of this title]; all of the foregoing notwithstanding the provisions of Section 1(a)(2) of this order.

(2) The functions so conferred by Section 104(e)(4) of the Act [subsec. (e)(4) of this section] (the provisions of Sections 1(a)(4) and 3(b) of this order notwithstanding).

(3) The functions so conferred by Section 102(a)(3) of the Act [section 2452(a)(3) of this title] to the extent that they are in respect of fairs, expositions, and demonstrations held outside of the United States, but exclusive of the functions delegated by the provisions of Section 1(a)(3) of this order.

(4) The functions so conferred by Sections 104(d) and 108(c) and (d) of the Act [subsec. (d) of this section and section 2458(c), (d) of this title] to the extent that they pertain to the functions delegated by the foregoing provisions of this section.

(b) The Director of the United States Information Agency shall prepare and transmit to the President the reports which the President is required to submit to the Congress by section 108(b) of the Act [section 2458(b)

of this title] to the extent that they are with respect to activities carried out by the United States Information Agency pursuant to section 102(a)(2)(iii) and section 102(a)(3) of the Act [section 2452(a)(2)(iii) and (a)(3) of this title].

(c) The functions so conferred by Section 102(a)(3) of the Act [section 2452(a)(3) of this title] to the extent that they are in respect of fairs, expositions, and demonstrations held outside of the United States, but exclusive of the functions delegated by the provisions of Section 1(a)(3) of this order.

(d) The functions so conferred by Sections 104(d) and 108(c) and (d) of the Act [subsec. (d) of this section and section 2458(c), (d) of this title] to the extent that they pertain to the functions delegated by the foregoing provisions of this section.

SEC. 3. *Department of Commerce*. Subject to the provisions of Section 6 of this order, the following functions conferred upon the President by the Act are hereby delegated to the Secretary of Commerce:

(a) The functions so conferred by Section 102(a)(3) of the Act [section 2452(a)(3) of this title] to the extent that they are in respect of fairs, expositions, and demonstrations held in the United States.

(b) The functions so conferred by Sections 104(e)(4) and 108(c) of the act [subsec. (e)(4) of this section and section 2458(c) of this title] to the extent that they pertain to the functions delegated by the foregoing provisions of this section.

SEC. 4 *Department of Education*. Subject to the provisions of Section 6 of this order, the functions conferred upon the President by Section 102(b)(6) of the Act [section 2452(b)(6) of this title] are hereby delegated to the Secretary of Education.

SEC. 5. *Certain incidental matters*. (a) In respect of functions hereinabove delegated to them, there is hereby delegated to the Secretary of State, the Director of the United States Information Agency, the Secretary of Commerce, and the Secretary of Education, respectively:

(1) The authority conferred upon the President by Sections 105(d)(2) and (f) and 106(d) and (f) of the Act [sections 2455(d)(2), (f) and 2456(d), (f) of this title].

(2) Subject to the provisions of Section 5(b) and (c) of this order, the authority conferred upon the President by Section 104(b) of the Act [subsec. (b) of this section] to employ personnel.

(b) The employment, by any department or other executive agency under Section 5(a)(2) of this order, of any of the not to exceed ten persons who may be compensated with regard to the Classification Act of 1949 [chapter 51 and subchapter III of chapter 53 of Title 5, Government Organization and Employees] under Section 104(b) of the Act [subsec. (b) of this section] shall require prior authorization by the Secretary of State concurred in by the Director of the Office of Management and Budget.

(c) Persons employed or assigned by a department or other executive agency for the purpose of performing functions under the Act outside the United States shall be entitled, except in cases in which the period of employment or assignment exceeds thirty months, to the same benefits as are provided by section 310 of the Foreign Service Act of 1980 (22 U.S.C. 3950). In cases in which the period of employment or assignment exceeds thirty months, persons so employed or assigned shall be entitled to such benefits if agreed by the agency in which such benefits may be exercised.

(d) Pursuant to Section 104(f) of the Act [subsec. (f) of this section], Executive Order No. 10450 of April 27, 1953 (18 F.R. 2489) [set out as a note under section 7311 of Title 5, Government Organization and Employees] is hereby established as the standards and procedures for the employment or assignment to duties of persons under the Act.

(e) Any officer to whom functions vested in the President by the Act are hereinabove delegated may (1) allocate to any other officer of the executive branch of the Government any funds appropriated or otherwise made available for the functions so delegated to him as he may deem appropriate for the best carrying out of the functions and (2) make available, for use in connection with any funds so allocated by him, any authority he has under this order.

SEC. 6. *Policy guidance*. In order to assure appropriate coordination of programs, and taking into account the statutory functions of the departments and other executive agencies concerned, the Secretary of State shall exercise primary responsibility for Government-wide leadership and policy guidance with regard to international educational and cultural affairs.

SEC. 7. *Functions reserved to the President*. (a) There are hereby excluded from the functions delegated by the provisions of this order the functions conferred upon the President with respect to (1) the delegation of powers under Section 104(a) of the Act [subsec. (a) of this section], (2) the establishment of standards and procedures for the investigation of personnel under Section 104(f) of the Act [subsec. (f) of this section], (3) the transfer of appropriations under Section 105(c) of the Act [section 2455(c) of this title], (4) the appointment of members of the Board of Foreign Scholarships under Section 106(a)(1) of the Act [section 2456(a)(1) of this title], (5) the appointment of members, the designation of a chairman, and the receipt of recommendations of the United States Advisory Commission on International Educational and Cultural

Affairs under Section 106(b) of the Act [section 2456(b) of this title], (6) the waiver of provisions of law or limitations of authority under Section 108(a) of the Act [section 2458(a) of this title], and (7) the submission of annual reports to the Congress under Section 108(b) of the Act [section 2458(b) of this title].

(b) Notwithstanding the delegations made by this order, the President may in his discretion exercise any function comprehended by such delegations.

SEC. 8. *Waivers*. (a) It is hereby determined that the performance by any department or other executive agency of functions authorized by Sections 102(a)(2) and 102(a)(3) of the Act (22 U.S.C. 2452(a)(2) and (3)) without regard to prohibitions and limitations of authority contained in the following-specified provisions of law is in furtherance of the purposes of the Act:

(1) Section 15 of the Administrative Expenses Act of 1946 (c. 744, August 2, 1946; 60 Stat. 810), as amended (5 U.S.C. 55a) [section 3109(b) of Title 5, Government Organization and Employees] (experts and consultants; but the compensation paid individuals in pursuance of this paragraph shall not exceed the rate of $100.00 per diem.

(2) Section 16(a) of the Administrative Expenses Act of 1946 (c. 744, August 2, 1946; 60 Stat. 810; 5 U.S.C. 78) [section 1343, 1344, and 1349(b) of Title 31, Money and Finance] to the extent that it pertains to hiring automobiles and aircraft.

(3) Section 3648 of the Revised Statutes, as amended (31 U.S.C. 529) [section 3324(a) and (b) of Title 31] (advance of funds).

(4) Section 322 of the Act of June 30, 1932, c. 314, 47 Stat. 412 ([former] 40 U.S.C. 278a) (maximum charges).

(5) Section 3709 of the Revised Statutes, as amended (41 U.S.C. 5) (competitive bids).

(6) Section 3710 of the Revised Statutes (41 U.S.C. 8) (opening of bids).

(7) Section 2 of the Act of March 3, 1933, c. 212, 47 Stat. 1520 (41 U.S.C. 10a) (Buy American Act).

(8) Section 3735 of the Revised Statutes (41 U.S.C. 13) (contracts limited to one year).

(9) Sections 302–305 of the Federal Property and Administrative Services Act of 1949 (June 30, 1949, c. 288, 63 Stat. 393 et seq.), as amended (41 U.S.C. 252–255) (competitive bids; negotiated contracts; advances).

(10) Section 87 of the Act of January 12, 1895, c. 23, 28 Stat. 622, and the second proviso of Section 11 of the Act of March 1, 1919, c. 86, 40 Stat. 1270, as amended (44 U.S.C. 111) [section 501 of Title 44, Public Printing and Documents] to the extent that they pertain to printing by the Government Printing Office [now Government Publishing Office].

(11) Section 1 of the Act of June 20, 1978, c. 359, 20 Stat. 216, as amended (44 U.S.C. 322) [section 3703 of Title 44] (advertising).

(12) Section 3828 of the Revised Statutes (44 U.S.C. 324) [section 3702 of Title 44] (advertising).

(13) Section 901(a) of the Merchant Marine Act, 1936 (June 29, 1936, c. 858, 49 Stat. 2015, as amended; 46 U.S.C. [App.] 1241(a)) [now 46 U.S.C. 55302] (official travel overseas of United States officers and employees, and transportation of their personal effects, on ships registered under the laws of the United States).

(14) Any provision of law or limitation of authority to the extent that such provision or limitation would limit or prohibit construction of buildings by the United States on property not owned by it.

(15) Any provision of law or limitation of authority to the extent that such provision or limitation would limit or prohibit (i) receipt of admission fees or payments under contracts through advances or otherwise, for concessions, services, space, or other consideration, and the credit of such receipts to the applicable appropriation, and (ii) rental or lease for periods not exceeding ten years of buildings and grounds.

(b) It is directed (1) that all waivers of statutes and limitations of authority effected by the foregoing provisions of this section shall be utilized in a prudent manner and as sparingly as may be practical, and (2) that suitable steps shall be taken by the administrative agencies concerned to insure that result, including, as may be appropriate, the imposition of administrative limitations in lieu of waived statutory requirements and limitations of authority.

SEC. 9. *Definition*. As used in this order, the word "function" or "functions" includes any duty, obligation, power, authority, responsibility, right, privilege, discretion, or activity.

SEC. 10. *References to orders and acts*. Except as may for any reason be inappropriate:

(a) References in this order to the Act or any provision of the Act shall be deemed to include references thereto as amended from time to time.

(b) References in this order to any prior Executive order not superseded by this order shall be deemed to include references thereto as amended from time to time.

(c) References in this order to this order shall be deemed to include references thereto as amended from time to time.

SEC. 11. *Prior directives and actions*. (a) This order supersedes Executive Order No. 10716 of June 17,

1957, and Executive Order No. 10912 of January 18, 1961. Except to the extent that they may be inconsistent with law or with this order, other directives, regulations, and actions relating to the functions delegated by this order and in force immediately prior to the issuance of this order shall remain in effect until amended, modified, or revoked by appropriate authority.

(b) This order shall neither limit nor be limited by Executive Order No. 11014 of April 17, 1962 [formerly set out under this section].

(c) To the extent not heretofore superseded, there are hereby superseded the provisions of the letters of the President to the Director of the United States Information Agency dated August 16, 1955, and August 21, 1956 (22 F.R. 101–103).

SEC. 12. *Effective date*. The provisions of this order shall be effective immediately.

[For abolition of United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau), transfer of functions, and treatment of references thereto, see sections 6531, 6532, and 6551 of this title.]

EX. ORD. NO. 11380. AMENDING PRIOR EXECUTIVE ORDERS RELATING TO MUTUAL EDUCATIONAL AND CULTURAL EXCHANGE AND TO ALLOWANCES AND BENEFITS FOR GOVERNMENT PERSONNEL ON OVERSEAS DUTY

Ex. Ord. No. 11380, Nov. 8, 1967, 32 F.R. 15627, provided:

By virtue of the authority vested in me by the Mutual Educational and Cultural Exchange Act of 1961 (75 Stat. 527; 22 U.S.C. 2451 et seq.) and section 301 of title 3 of the United States Code, and as President of the United States, it is ordered as follows:

PART I—MUTUAL EDUCATIONAL AND CULTURAL EXCHANGE

SECTION 101. Executive Order No. 11034 of June 25, 1962 [set out as a note above], is hereby amended as follows:

(1) By changing the period at the end of section 1(b) to a comma and by inserting after that comma the following: "excluding, however, the reports for which the Director of the United States Information Agency is responsible under section 2(b) of this order.".

(2) By substituting for the paragraph designations (a), (b), (c), and (d) in section 2 new paragraph designations (1), (2), (3), and (4), respectively; by inserting the subsection designation (a) after the catchline of section 2; and by adding a new subsection (b) of section 2, reading as follows:

(b) The Director of the United States Information Agency shall prepare and transmit to the President the reports which the President is required to submit to the Congress by section 108(b) of the Act [section 2458(b) of this title] to the extent that they are with respect to activities carried out by the United States Information Agency pursuant to section 102(a)(2)(iii) and section 102(a)(3) of the Act [section 2452(a)(2)(iii) and (a)(3) of this title].

(3) By adding a new paragraph at the end of section 8(a), reading as follows:

"(15) Any provision of law or limitation of authority to the extent that such provision or limitation would limit or prohibit (i) receipt of admission fees or payments under contracts through advances or otherwise, for concessions, services, space, or other consideration, and the credit of such receipts to the applicable appropriation, and (ii) rental or lease for periods not exceeding ten years of buildings and grounds."

(4) By adding a new paragraph at the end of section 10, reading as follows:

"(c) References in this order to this order shall be deemed to include references thereto as amended from time to time."

SEC. 2. It is hereby determined that the performance by any department or other executive agency of functions authorized by sections 102(a)(2) and 102(a)(3) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2452(a)(2) and (3)) without regard to the provisions and limitations referred to in section (8)(a)(15) of Executive Order No. 11034 of June 25, 1962 (to the extent set forth in the latter section) is in furtherance of the purposes of that Act.

PART II—APPROVAL OF CERTAIN REGULATIONS RELATING TO LIVING QUARTERS

SEC. 201. Executive Order No. 10903 of January 9, 1961, as amended [set out as a note under section 5921 of Title 5, Government Organization and Employees], is hereby further amended by inserting at the end of section 1 thereof a new paragraph (g), reading as follows:

"(g) The authority vested in the President by section 5912 of title 5 of the United States Code to approve regulations prescribed by heads of agencies (under which employees who are citizens of the United States permanently stationed in foreign countries may be furnished, without cost to them, living quarters, including heat, fuel, and light, in government-owned or rented buildings)."

LYNDON B. JOHNSON.

[For abolition of United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau), transfer of functions, and treatment of references thereto, see sections 6531, 6532, and 6551 of this title.]

EX. ORD. NO. 11770. DELEGATION OF FUNCTIONS RESPECTING INTERNATIONAL SYMPOSIUM ON GEOTHERMAL ENERGY—1975

Ex. Ord. No. 11770, Feb. 21, 1974, 39 F.R. 7127, provided:

By virtue of the authority vested in me by section 104 of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2454; hereinafter referred to as the act), and section 301 of Title 3 of the United States Code, and as President of the United States, it is hereby ordered as follows:

SECTION 1. The Secretary of the Interior is authorized, with respect to the International Symposium on Geothermal Energy to be held in San Francisco, California, in May 1975, to perform the functions conferred by section 102(b)(5), (7), and (8) of the act [section 2452(b)(5), (7) and (8) of this title].

SEC. 2. I find that the delegation made by section 1 of this order is in the interest of the purposes expressed in the act and the efficient administration of the International Symposium on Geothermal Energy.

SEC. 3. The delegation made by this order shall become effective upon the expiration of sixty days while the Congress is in session. In computing that sixty days, there shall be excluded days on which either House is not in session because of an adjournment of more than three days.

RICHARD NIXON.

§2455. Appropriations

(a) Availability

Amounts appropriated to carry out the purposes of this chapter are authorized to be made available until expended.

(b) Acquisition of foreign currencies

Funds appropriated for programs under this chapter may, without regard to section 3651 [1] of the Revised Statutes (31 U.S.C. 543), be used for the acquisition from any source of foreign currencies in such amounts as may be necessary for current expenditures and for grants, including grants to foundations and commissions in accordance with international agreements providing for the accomplishment of the purposes of this chapter.

(c) Transfer of funds

Moneys appropriated to any department or agency of the Government in furtherance of the purposes of this chapter for research, technical aid, and educational and cultural programs, may be transferred by the President to any other appropriation available for like purposes, but no appropriation authorized by this chapter shall be increased or decreased by more than 10 per centum by reason of transfers pursuant to this subsection.

(d) Reserve and use of certain funds

The President is authorized—

(1) to reserve in such amounts and for such periods as he shall determine to be necessary to provide for the programs authorized by subsections (a)(1), (2)(i) of section 2452 of this title, and

(2) notwithstanding the provisions of any other law, to use in such amounts as may from time to time be specified in appropriation Acts, to the extent that such use is not restricted by agreement with the foreign nations concerned, for any programs authorized by this chapter,

any currencies of foreign nations received or to be received by the United States or any agency thereof—

(i) under agreements disposing of surplus property or settling lend-lease and other war accounts concluded after World War II;

(ii) as the proceeds of sales or loan repayments, including interest, for transactions heretofore or

hereafter effected under the Food for Peace Act, as amended [7 U.S.C. 1691 et seq.];

(iii) in repayment of principal or interest on any other credit extended or loan heretofore or hereafter made by the United States or any agency thereof; or

(iv) as deposits to the account of the United States pursuant to section 1513(b)(6) [1] or section 1513(h) [1] of this title, or any similar provision of any other law.

(e) Reservation and use of sums due or paid by the Republic of Finland

The Director of the United States Information Agency is further authorized to reserve and use for educational and cultural exchange programs and other activities authorized in subsections (a) and (b) of section 2452 of this title, in relation to Finland and the people of Finland, all sums due or paid on and after August 24, 1949, by the Republic of Finland to the United States as interest on or in retirement of the principal of the debt incurred under the Act of February 25, 1919, as refunded by the agreement dated May 1, 1923, pursuant to the authority contained in the Act of February 9, 1922, or of any other indebtedness incurred by that Republic and owing to the United States as a result of World War I.

(f) Contribution of funds, property, and services by foreign governments, international organizations, and private individuals, firms, associations, and agencies

Foreign governments, international organizations and private individuals, firms, associations, agencies, and other groups shall be encouraged to participate to the maximum extent feasible in carrying out this chapter and to make contributions of funds, property, and services which the President is authorized to accept, to be utilized to carry out the purposes of this chapter. Funds made available for the purposes of this chapter may be used to contribute toward meeting the expenses of activities carried out through normal private channels, by private means, and through foreign governments and international organizations.

(g) Currency exchanges

Notwithstanding any other provision of this chapter, there are authorized to be appropriated for the purposes of making currency exchanges under section 2452(b)(10) of this title, not to exceed $10,000,000 for the fiscal year ending June 30, 1968, and not to exceed $15,000,000 for the fiscal year ending June 30, 1969.

(Pub. L. 87–256, §105, Sept. 21, 1961, 75 Stat. 531; Pub. L. 89–698, title II, §203(c), Oct. 29, 1966, 80 Stat. 1072; 1977 Reorg. Plan No. 2, §7(a)(2), 42 F.R. 62461, 91 Stat. 1637; Pub. L. 97–241, title III, §303(b), Aug. 24, 1982, 96 Stat. 291; Pub. L. 103–236, title II, §227, Apr. 30, 1994, 108 Stat. 423; Pub. L. 110–246, title III, §3001(b)(1)(A), (2)(S), June 18, 2008, 122 Stat. 1820, 1821.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) to (d), (f), and (g), was in the original "this Act", meaning Pub. L. 87–256, Sept. 21, 1961, 75 Stat. 527, as amended, known as the Mutual Educational and Cultural Exchange Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2451 of this title and Tables.

Section 3651 of the Revised Statutes (31 U.S.C. 543), referred to in subsec. (b), was repealed by Pub. L. 97–258, §5(b), Sept. 13, 1982, 96 Stat. 1068, the first section of which enacted Title 31, Money and Finance.

The Food for Peace Act, as amended, referred to in subsec. (d)(2)(ii), is act July 10, 1954, ch. 469, 68 Stat. 454, which is classified principally to chapter 41 (§1691 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 1691 of Title 7 and Tables.

Sections 1513(b)(6) and 1513(h) of this title, referred to in subsec. (d)(2)(iv), were repealed by act Aug. 26, 1954, ch. 937, title V, §542(a), 68 Stat. 861.

The acts of February 25, 1919, and February 9, 1922, referred to in subsec. (e), are not classified to the Code.

AMENDMENTS

2008—Subsec. (d)(2)(ii). Pub. L. 110–246 substituted "Food for Peace Act" for "Agricultural Trade Development and Assistance Act of 1954".

1994—Subsec. (a). Pub. L. 103–236 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "Appropriations to carry out the purposes of this chapter, to remain available until expended, are

authorized, and this authorization includes the authority to grant, in any appropriation Act, the authority to enter into contracts, within the amounts so authorized, creating obligations in advance of appropriations."

1966—Subsec. (g). Pub. L. 89–698 added subsec. (g).

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–246 effective May 22, 2008, see section 4(b) of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

TRANSFER OF FUNCTIONS

United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau) abolished and functions transferred to Secretary of State, see sections 6531 and 6532 of this title. "Director of the United States Information Agency" substituted for "Director of the International Communication Agency" in subsec. (e), pursuant to section 303(b) of Pub. L. 97–241, title III, Aug. 24, 1982, 96 Stat. 291, set out as a note under section 1461 of this title. Previously, "Director of the International Communication Agency" substituted for "President" in subsec. (e), pursuant to Reorg. Plan No. 2 of 1977, §7(a)(2), 42 F.R. 62461, 91 Stat. 1637, set out under section 1461 of this title, effective on or before July 1, 1978, at such time as specified by President, which transferred functions vested in President, Secretary of State, Department of State, United States Information Agency or Director thereof, under this chapter, to Director of International Communication Agency, except (A) for such functions as are vested by subsecs. (a), (b), and (c) of this section, sections 2452(b)(6), (10), 2454(a), (e)(1), (2), (f), (g), 2456(a) and 2458 of this title, (B) for such functions as are vested by subsecs. (d)(2) and (f) of this section, sections 2454(b) and 2456(d), (f) of this title, to the extent that such functions were assigned to Secretary of Health, Education, and Welfare [now Secretary of Education] immediately prior to effective date of Reorg. Plan No. 2 of 1977, and (C) for such functions as are vested by section 2456(b), (c) of this title to the extent that any such function therein is vested in President or Secretary of State.

DELEGATION OF FUNCTIONS

Functions of President under this section delegated to Secretary of State, Director of United States Information Agency, Secretary of Commerce, and Secretary of Education, see Ex. Ord. No. 11034, June 25, 1962, 27 F.R. 6071, set out as a note under section 2454 of this title.

INCREASE IN GRANTS FOR EXCHANGE-OF-PERSONS ACTIVITIES; FUNDS FOR SPECIFIC PROGRAMS, REDUCTIONS, OTHER USE OF FUNDS, REPORT TO CONGRESSIONAL COMMITTEES

Pub. L. 97–241, title III, §305(c), (d), Aug. 24, 1982, 96 Stat. 294, provided that the amount obligated by United States Information Agency each fiscal year for grants for exchange-of-persons activities should be increased, through regular annual increases, so that by fiscal year 1986 the amount obligated for such grants would at least double (in terms of constant dollars) the amount obligated for such grants for fiscal year 1982 and in furtherance of this purpose provided for appropriations for the United States Information Agency for fiscal year 1983.

[1] *See References in Text note below.*

§2456. J. William Fulbright Foreign Scholarship Board

(a) Appointment; members; considerations for selection

(1) For the purpose of selecting students, scholars, teachers, trainees, and other persons to participate in the programs authorized under section 2452(a)(1) of this title, and of supervising such programs and the programs authorized under section 2452(b)(4) and (6) of this title, there is continued the authority of the President to appoint a board of foreign scholarships which shall be known as the "J. William Fulbright Foreign Scholarship Board" (hereinafter referred to as the "Board") consisting of twelve members. In connection with appointments to such Board, due consideration shall be given to the selection of distinguished representatives of cultural, educational, student advisory, and war veterans groups, and representatives of the United States Department of Education, the United States Department of Veterans Affairs, public and private nonprofit educational institutions.

(2) In the selection of American citizens for participation in programs under this chapter, preference shall be given to those who have served in the Armed Forces of the United States, and due consideration shall be given to applicants from all geographical areas of the United States.

(b) Omitted

(c) Repealed. Pub. L. 105–277, div. G, subdiv. A, title XIII, §1336(2), Oct. 21, 1998, 112 Stat. 2681–790

(d) Creation of interagency and other advisory committees; conferences of persons

The President is authorized to create such interagency and other advisory committees as in his judgment may be of assistance in carrying out the purposes of this chapter, and from time to time to convene conferences of persons interested in educational and cultural affairs to consider matters relating to the purposes of this chapter.

(e) Availability of appropriations for expenses; transportation expenses and per diem; compensation of members of Board and Committees

The provisions of section 1346(b) of title 31 shall be applicable to any interagency committee created pursuant to the provisions of this chapter. Members of the committees provided for in this section shall be entitled (i) to transportation expenses and per diem in lieu of subsistence at the rate prescribed by or established pursuant to section 5703 of title 5 while away from home in connection with attendance at meetings or in consultation with officials of the Government or otherwise carrying out duties as authorized, and (ii) if not otherwise in the employ of the United States Government, to compensation at rates not in excess of $50 per diem while performing services for such committees. Members of the Board shall be entitled to such expenses and per diem in lieu of subsistence as provided for under clause (i) of the preceding sentence and, while performing services for the Board, to compensation at a rate, prescribed by the Director of the United States Information Agency, not in excess of the daily rate for the first step of GS–15 of the General Schedule under section 5332 of title 5.

(f) Secretarial and staff assistance

The President is authorized to provide for necessary secretarial and staff assistance for the Board and such committees as may be created under this section.

(Pub. L. 87–256, §106, Sept. 21, 1961, 75 Stat. 532; 1977 Reorg. Plan No. 2, §§8(b), 9(a)(3), (6), 42 F.R. 62461, 91 Stat. 1638, 1639; Pub. L. 96–60, title II, §205(a), Aug. 15, 1979, 93 Stat. 401; Pub. L. 96–88, title III, §301(b)(2), title V, §507, Oct. 17, 1979, 93 Stat. 678, 692; Pub. L. 97–241, title III, §303(b), Aug. 24, 1982, 96 Stat. 291; Pub. L. 101–246, title II, §204(a)(1), Feb. 16, 1990, 104 Stat. 49; Pub. L. 102–54, §13(h)(1), June 13, 1991, 105 Stat. 275; Pub. L. 105–277, div. G, subdiv. A, title XIII, §1336(2), Oct. 21, 1998, 112 Stat. 2681–790.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a), (d), and (e), was in the original "this Act", meaning Pub. L. 87–256, Sept. 21, 1961, 75 Stat. 527, as amended, known as the Mutual Educational and Cultural Exchange Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2451 of this title and Tables.

CODIFICATION

Subsec. (b), which established the United States Advisory Commission on International Educational and Cultural Affairs to replace the United States Advisory Commission on Educational Exchange, and provided for its functions and the appointment and terms of its members, and the provisions of subsecs. (e) and (f) referring to the "Commission", were omitted pursuant to Reorg. Plan No. 2 of 1977, §9(a)(3), 42 F.R. 62461, 91 Stat. 1639, set out under section 1461 of this title, which abolished that Commission effective on or before July 1, 1978, at such time as specified by the President.

In subsec. (e), "section 1346(b) of title 31" substituted for "section 214 of the Act of May 3, 1945 (59 Stat. 134; 31 U.S.C. 691)" on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

In subsec. (e), "section 5703 of title 5" substituted for "section 5 of the Administrative Expense Act of

1946, as amended (5 U.S.C. 73b-2)" on authority of Pub. L. 89–554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

AMENDMENTS

1998—Subsec. (c). Pub. L. 105–277 repealed subsec. (c), which related to the continuation of the Advisory Committee on the Arts and the appointment, qualifications, and terms of office of its members.

1991—Subsec. (a)(1). Pub. L. 102–54 substituted "Department of Veterans Affairs" for "Veterans' Administration".

1990—Subsec. (a)(1). Pub. L. 101–246 substituted "board of foreign scholarships which shall be known as the 'J. William Fulbright Foreign Scholarship Board' " for "Board of Foreign Scholarships".

1979—Subsec. (e). Pub. L. 96–60 struck from second sentence "the Board," before "the Commission" and from cl. (ii) thereof "such Board," before "Commission" and provided for entitlement of members of the Board to expenses and per diem in lieu of subsistence and to compensation for services not exceeding a daily rate for first step, GS–15 of General Schedule.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective Oct. 1, 1999, see section 1301 of Pub. L. 105–277, set out as an Effective Date note under section 6531 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Pub. L. 96–60, title II, §205(b), Aug. 15, 1979, 93 Stat. 401, provided that: "The amendments made by subsection (a) [to subsec. (e) of this section] shall take effect on October 1, 1979."

TRANSFER OF FUNCTIONS

"Department of Education" substituted for "Office of Education" in subsec. (a), pursuant to sections 301(b)(2) and 507 of Pub. L. 96–88, which are classified to sections 3441(b)(2) and 3507 of Title 20, Education, and which transferred the Office of Education to the Department of Education.

"Director of the United States Information Agency" substituted for "Director of the International Communication Agency" in subsec. (e), pursuant to section 303(b) of Pub. L. 97–241, title III, Aug. 24, 1982, 96 Stat. 291, set out as a note under section 1461 of this title. United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau) abolished and functions transferred to Secretary of State, see sections 6531 and 6532 of this title.

Functions vested in President, Secretary of State, Department of State, United States Information Agency or Director thereof under this chapter transferred to Director of International Communication Agency by section 7(a)(2) of Reorg. Plan No. 2 of 1977, set out under section 1461 of this title, effective on or before July 1, 1978, at such time as specified by President, except (A) for such functions as are vested by subsec. (a) of this section, sections 2452(b)(6), (10), 2454(a), (e)(1), (2), (f), (g), 2455(a), (b), (c) and 2458 of this title, (B) for such functions as are vested by subsecs. (d) and (f) of this section, sections 2454(b) and 2455(d)(2), (f) of this title, to extent that such functions were assigned to Secretary of Health, Education, and Welfare [now Secretary of Education] immediately prior to effective date of Reorg. Plan No. 2 of 1977, and (C) for such functions as are vested by subsecs. (b) and (c) of this section to extent that any function therein is vested in President or Secretary of State.

DELEGATION OF FUNCTIONS

Functions of President under this section delegated to Secretary of State, Director of United States Information Agency, Secretary of Commerce, and Secretary of Education, see Ex. Ord. No. 11034, June 25, 1962, 27 F.R. 6071, set out as a note under section 2454 of this title.

TERMINATION OF ADVISORY COMMISSIONS AND COMMITTEES

Advisory commissions or committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a commission or committee established by the President or an officer of the Federal Government, such commission or committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a commission or committee established by the Congress, its duration is otherwise provided for by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

CONTINUED SERVICE OF BOARD MEMBERS

Pub. L. 101–246, title II, §204(b), Feb. 16, 1990, 104 Stat. 50, provided that: "Each member appointed to

the Board of Foreign Scholarships before the date of the enactment of this Act [Feb. 16, 1990] shall continue to serve for the remainder of the term to which each such member was appointed."

REFERENCES TO BOARD OF FOREIGN SCHOLARSHIPS

Pub. L. 101–246, title II, §204(c), Feb. 16, 1990, 104 Stat. 50, provided that: "Any reference in any provision of law to the Board of Foreign Scholarships shall, on and after the date of enactment of this Act [Feb. 16, 1990], be deemed to be a reference to the J. William Fulbright Foreign Scholarship Board."

§2457. Reports by Board

The Board shall submit annual reports to the Congress and such other reports to the Congress as it deems appropriate, and shall make reports to the public in the United States and abroad to develop a better understanding of and support for the programs authorized by this chapter.

(Pub. L. 87–256, §107, Sept. 21, 1961, 75 Stat. 534; 1977 Reorg. Plan No. 2, §9(a)(3), (6), 42 F.R. 62461, 91 Stat. 1639.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 87–256, Sept. 21, 1961, 75 Stat. 527, as amended, known as the Mutual Educational and Cultural Exchange Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2451 of this title and Tables.

CODIFICATION

Provisions relating to the submission of reports to Congress by the United States Advisory Commission on International Educational and Cultural Affairs [which replaced the United States Advisory Commission on Educational Exchange], and the Advisory Committee on the Arts, were omitted pursuant to Reorg. Plan No. 2 of 1977, §9(a)(3), (6), 42 F.R. 62461, 91 Stat. 1639, set out under section 1461 of this title, which abolished the Commission and the Committee effective on or before July 1, 1978, at such time as specified by the President.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in this section relating to submitting annual reports to Congress, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 155 of House Document No. 103–7.

TERMINATION OF ADVISORY COMMISSIONS AND COMMITTEES

Advisory commissions or committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a commission or committee established by the President or an officer of the Federal Government, such commission or committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a commission or committee established by the Congress, its duration is otherwise provided for by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§2458. Authority of President

(a) Performance of certain functions without regard to other laws; appropriation credits upon reimbursement for services in connection with exchange activities

(1) Whenever the President determines it to be in furtherance of this chapter, the functions authorized in section 2452(a)(2) and (3) of this title may be performed without regard to such provisions of law or limitations of authority regulating or relating to the making, performance, amendment, or modification of contracts, the acquisition and disposition of property, and the expenditure of Government funds, as he may specify.

(2) Notwithstanding any other provision of law, the Director of the United States Information Agency may provide, on a reimbursable basis, services within the United States in connection with exchange activities otherwise authorized by this chapter when such services are requested by a

department or executive agency. Reimbursements under this paragraph shall be credited to the applicable appropriation of the Agency.

(b) Periodic reports of activities and expenditures

The President shall submit periodic reports to the Congress of activities carried on and expenditures made in furtherance of the purposes of this chapter and of the United States Information and Educational Exchange Act of 1948, as amended [22 U.S.C. 1431 et seq.].

(c) Expenditures in selection, purchase, rental, construction, or other acquisition of exhibits and materials and equipment therefor

In connection with activities authorized by section 2452(a)(2) and (3) of this title, the President is authorized to provide for all necessary expenditures involved in the selection, purchase, rental, construction, or other acquisition of exhibits and materials and equipment therefor, and the actual display thereof, including but not limited to costs of transportation, insurance, installation, safekeeping and storage, maintenance and operation, rental of space, and dismantling.

(d) Utilization of provisions of other laws

The President is authorized to utilize the provisions of title VIII of the United States Information and Educational Exchange Act of 1948, as amended [22 U.S.C. 1471 et seq.], to the extent he deems necessary in carrying out the provisions and purposes of this chapter.

(Pub. L. 87–256, §108, Sept. 21, 1961, 75 Stat. 534; Pub. L. 96–60, title II, §203(d), Aug. 15, 1979, 93 Stat. 399; Pub. L. 96–470, title II, §212(a), Oct. 19, 1980, 94 Stat. 2246; Pub. L. 97–241, title III, §303(b), Aug. 24, 1982, 96 Stat. 291.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a), (b), and (d), was in the original "this Act", meaning Pub. L. 87–256, Sept. 21, 1961, 75 Stat. 527, as amended, known as the Mutual Educational and Cultural Exchange Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2451 of this title and Tables.

The United States Information and Educational Exchange Act of 1948, as amended, referred to in subsecs. (b) and (d), is act Jan. 27, 1948, ch. 36, 62 Stat. 6, as amended, which is classified generally to chapter 18 (§1431 et seq.) of this title. Title VIII of the Act, referred to in subsec. (d), is classified generally to subchapter VII (§1471 et seq.) of chapter 18 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1431 of this title and Tables.

AMENDMENTS

1980—Subsec. (b). Pub. L. 96–470 substituted provision requiring periodic reports on activities and expenditures made under this chapter and the United States Information and Educational Exchange Act of 1948 for provision requiring an annual report be made on activities and expenditures under this chapter.

1979—Subsec. (a). Pub. L. 96–60 designated existing provisions as par. (1) and added par. (2).

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–60 effective Oct. 1, 1979, see section 209 of Pub. L. 96–60, set out as a note under section 1471 of this title.

TRANSFER OF FUNCTIONS

United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau) abolished and functions transferred to Secretary of State, see sections 6531 and 6532 of this title.

"Director of the United States Information Agency" substituted for "Director of the International Communication Agency" in subsec. (a)(2), pursuant to section 303(b) of Pub. L. 97–241, title III, Aug. 24, 1982, 96 Stat. 291, set out as a note under section 1461 of this title.

Functions vested in President, Secretary of State, Department of State, United States Information Agency or Director thereof under this chapter transferred to Director of International Communication Agency by Reorg. Plan No. 2 of 1977, §7(a)(2), 42 F.R. 62461, 91 Stat. 1637, set out under section 1461 of this title, effective on or before July 1, 1978, at such time as specified by President, except (A) for such functions as are vested by this section, and sections 2452(b)(6), (10), 2454(a), (e)(1), (2), (f), (g), 2455(a), (b), (c), 2456(a) of this title, (B) for such functions as are vested by sections 2454(b), 2455(d)(2), (f), and 2456(d), (f) of this title, to the

extent that such functions were assigned to Secretary of Health, Education, and Welfare [now Secretary of Education] immediately prior to effective date of Reorg. Plan No. 2 of 1977, and (C) for such functions as are vested by section 2456(b), (c) of this title to the extent that any such function therein is vested in President or Secretary of State.

DELEGATION OF FUNCTIONS

Functions of President under this section delegated to Secretary of State, Director of United States Information Agency, and Secretary of Commerce, see Ex. Ord. No. 11034, June 25, 1962, 27 F.R. 6071, set out as a note under section 2454 of this title.

SOVIET NATIONALS PARTICIPATING IN EXCHANGE PROGRAMS; TOPICS AND LOCATION OF STUDY; NATIONAL SECURITY INTERESTS; REPORT TO CONGRESS

Pub. L. 97–241, title I, §126(c), Aug. 24, 1982, 96 Stat. 282, directed Secretary of State to submit annually to Congress a list of Soviet nationals participating during the upcoming academic year in the United States-Union of Soviet Socialist Republics graduate student/young faculty exchange or in the United States-Union of Soviet Socialist Republics senior scholar exchange, their topics of study, and where they were to study, such report to also include a determination by Secretary of State, in consultation with heads of other agencies involved in these exchange programs, that these exchange programs would not jeopardize United States national security interests, prior to repeal by Pub. L. 103–199, title III, §306, Dec. 17, 1993, 107 Stat. 2324.

§2458a. Federal employee participation in cultural exchange programs

(a) Grants and other foreign government assistance; family or household expense assistance prohibited; "Federal employee" defined

(1) Congress consents to the acceptance by a Federal employee of grants and other forms of assistance provided by a foreign government to facilitate the participation of such Federal employee in a cultural exchange—

(A) which is of the type described in section 2452(a)(2)(i) of this title,

(B) which is conducted for a purpose comparable to the purpose stated in section 2451 of this title, and

(C) which is specifically approved by the Secretary of State for purposes of this section;

but the Congress does not consent to the acceptance by any Federal employee of any portion of any such grant or other form of assistance which provides assistance with respect to any expenses incurred by or for any member of the family or household of such Federal employee.

(2) For purposes of this section, the term "Federal employee" means any employee as defined in subparagraphs (A) through (F) of section 7342(a)(1) of title 5, but does not include a person described in subparagraph (G) of such section.

(b) Foreign grants and other assistance not gifts for purposes of section 7342 of title 5

The grants and other forms of assistance with respect to which the consent of Congress is given in subsection (a) of this section shall not constitute gifts for purposes of section 7342 of title 5.

(c) Regulations

The Secretary of State is authorized to promulgate regulations for purposes of this section.

(Pub. L. 87–256, §108A, as added Pub. L. 94–350, title I, §111, July 12, 1976, 90 Stat. 825; amended Pub. L. 96–60, title II, §204(d), Aug. 15, 1979, 93 Stat. 400.)

AMENDMENTS

1979—Subsec. (a)(2). Pub. L. 96–60 substituted "(F)" for "(E)" and "(G)" for "(F)".

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–60 effective Oct. 1, 1979, see section 209 of Pub. L. 96–60, set out as a note under section 1471 of this title.

§2459. Immunity from seizure under judicial process of cultural objects imported for temporary exhibition or display

(a) Agreements; Presidential determination; publication in Federal Register

Whenever any work of art or other object of cultural significance is imported into the United States from any foreign country, pursuant to an agreement entered into between the foreign owner or custodian thereof and the United States or one or more cultural or educational institutions within the United States providing for the temporary exhibition or display thereof within the United States at any cultural exhibition, assembly, activity, or festival administered, operated, or sponsored, without profit, by any such cultural or educational institution, no court of the United States, any State, the District of Columbia, or any territory or possession of the United States may issue or enforce any judicial process, or enter any judgment, decree, or order, for the purpose or having the effect of depriving such institution, or any carrier engaged in transporting such work or object within the United States, of custody or control of such object if before the importation of such object the President or his designee has determined that such object is of cultural significance and that the temporary exhibition or display thereof within the United States is in the national interest, and a notice to that effect has been published in the Federal Register.

(b) Intervention of United States attorney in pending judicial proceedings

If in any judicial proceeding in any such court any such process, judgment, decree, or order is sought, issued, or entered, the United States attorney for the judicial district within which such proceeding is pending shall be entitled as of right to intervene as a party to that proceeding, and upon request made by either the institution adversely affected, or upon direction by the Attorney General if the United States is adversely affected, shall apply to such court for the denial, quashing, or vacating thereof.

(c) Enforcement of agreements and obligations of carriers under transportation contracts

Nothing contained in this section shall preclude (1) any judicial action for or in aid of the enforcement of the terms of any such agreement or the enforcement of the obligation of any carrier under any contract for the transportation of any such object of cultural significance; or (2) the institution or prosecution by or on behalf of any such institution or the United States of any action for or in aid of the fulfillment of any obligation assumed by such institution or the United States pursuant to any such agreement.

(Pub. L. 89–259, Oct. 19, 1965, 79 Stat. 985.)

CODIFICATION

Section was not enacted as a part of the Mutual Educational and Cultural Exchange Act of 1961, which comprises this chapter.

EXECUTIVE ORDER NO. 11312

Ex. Ord. No. 11312, Oct. 14, 1966, 31 F.R. 13415, which related to the delegation of functions to the Secretary of State, was revoked by Ex. Ord. No. 12047, Mar. 27, 1978, 43 F.R. 13359, set out below.

EX. ORD. NO. 12047. IMPORTED OBJECTS OF CULTURAL SIGNIFICANCE

Ex. Ord. No. 12047, Mar. 27, 1978, 43 F.R. 13359, as amended by Ex. Ord. No. 12388, Oct. 14, 1982, 47 F.R. 46245, provided:

By virtue of the authority vested in me by the Act of October 19, 1965, entitled "An Act to render immune from seizure under judicial process certain objects of cultural significance imported into the United States for temporary display or exhibition, and for other purposes" (79 Stat. 985, 22 U.S.C. 2459), and as President of the United States of America, it is hereby ordered as follows:

SECTION 1. The Director of the United States Information Agency is designated and empowered to perform the functions conferred upon the President by the above-mentioned Act and shall be deemed to be authorized, without the approval, ratification, or other action of the President, (1) to determine that any work of art or other object to be imported into the United States within the meaning of the Act is of cultural significance, (2) to determine that the temporary exhibition or display of any such work of art or other object

in the United States is in the national interest, and (3) to cause public notices of the determinations referred to above to be published in the Federal Register.

SEC. 2. The Director of the United States Information Agency, in carrying out this Order, shall consult with the Secretary of State with respect to the determination of national interest, and may consult with the Secretary of the Smithsonian Institution, the Director of the National Gallery of Art, and with such other officers and agencies of the Government as may be appropriate, with respect to the determination of cultural significance.

SEC. 3. The Director of the United States Information Agency is authorized to delegate within the Agency the functions conferred upon him by this Order.

SEC. 4. Executive Order No. 11312 of October 14, 1966 is revoked.

SEC. 5. Any order, regulation, determination or other action which was in effect pursuant to the provisions of Executive Order No. 11312 shall remain in effect until changed pursuant to the authority provided in this Order.

SEC. 6. This Order shall be effective on April 1, 1978.

[For abolition of United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau), transfer of functions, and treatment of references thereto, see sections 6531, 6532, and 6551 of this title.]

§2460. Bureau of Educational and Cultural Affairs

(a) Establishment; responsibilities

In order to carry out the purposes of this chapter, there is established in the United States Information Agency, or in such appropriate agency of the United States as the President shall determine, a Bureau of Educational and Cultural Affairs (hereinafter in this section referred to as the "Bureau"). The Bureau shall be responsible for managing, coordinating, and overseeing programs established pursuant to this chapter, including but not limited to—

(1) the J. William Fulbright Educational Exchange Program which, by promoting the exchange of scholars, researchers, students, trainees, teachers, instructors, and professors, between the United States and foreign countries, accomplishes the purposes of section 2452(a)(1) of this title;

(2) the Hubert H. Humphrey Fellowship Program which finances (A) study at American universities and institutions of higher learning, including study in degree granting programs, and (B) participation in fellowships, internships, or other programs in American governmental and nongovernmental institutions for public managers and other individuals from developing countries;

(3) the International Visitors Program which provides grants for short-term visits to the United States for foreign nationals who are, or have the potential to be, leaders in their respective fields in their own countries;

(4) the American Cultural Centers and Libraries which make available at selected foreign locations, books, films, sound recordings, and other materials about the United States, its people and culture, and about other topics;

(5) the American Overseas Schools Program which provides financial assistance to the operations of American-sponsored schools overseas;

(6) the American Studies Program which fosters and supports the study of the United States, and its people and culture, in foreign countries;

(7) a program of working with private, not-for-profit groups through contracts, grants, or cooperative agreements, as authorized by section 2452 of this title, so as to provide financial assistance to nongovernmental organizations engaged in implementing and enhancing exchange-of-persons programs;

(8) the Samantha Smith Memorial Exchange Program which advances understanding between the United States and the independent states of the former Soviet Union and between the United States and Eastern European countries through the exchange of persons under the age of 21 years and of students at an institution of higher education (as defined in section 1001 of title 20) who have not received their initial baccalaureate degree or through other programs designed to promote contact between the young peoples of the United States, the independent states of the former Soviet Union, and Eastern European countries; and

(9) the Arts America program which promotes a greater appreciation and understanding of American art abroad by supporting exhibitions and tours by American artists in other countries.

(b) Revocation or diminution of grants

(1) All recipients of Fulbright Academic Exchange and Humphrey Fellowship awards shall have full academic and artistic freedom, including freedom to write, publish, and create. No award granted pursuant to this chapter may be revoked or diminished on account of the political views expressed by the recipient or on account of any scholarly or artistic activity that would be subject to the protections of academic and artistic freedom normally observed in universities in the United States. The Board shall ensure that the academic and artistic freedoms of all persons receiving grants are protected.

(2) The J. William Fulbright Foreign Scholarship Board shall formulate a policy on revocation of Fulbright grants which shall be made known to all grantees. Such policy shall fully protect the right to due process as well as the academic and artistic freedom of all grantees.

(c) Program requirements

The President shall insure that all programs under the authority of the Bureau shall maintain their nonpolitical character and shall be balanced and representative of the diversity of American political, social, and cultural life. The President shall insure that academic and cultural programs under the authority of the Bureau shall maintain their scholarly integrity and shall meet the highest standards of academic excellence or artistic achievement.

(d) Administration of programs

(1) The Bureau shall administer no programs except those operating under the authority of this chapter and consistent with its purposes.

(2) Notwithstanding paragraph (1), the Bureau may also exercise the authorities of this chapter to administer programs authorized by, or funded pursuant to, the FREEDOM Support Act, the Support for East European Democracy Act [22 U.S.C. 5401 et seq.], the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.], or any other Act authorizing educational or cultural exchanges or activities, to the extent that such programs are consistent with the purposes of this chapter.

(e) Office of Citizen Exchanges

There is established in the Bureau of Educational and Cultural Affairs an Office of Citizen Exchanges. The Office shall support private not-for-profit organizations engaged in the exchange of persons between the United States and other countries.

(f) Coordination of exchange programs; reports

(1) The President shall ensure that all exchange programs conducted by the United States Government, its departments and agencies, directly or through agreements with other parties, are reported at a time and in a format prescribed by the Director. The President shall ensure that such exchanges are consistent with United States foreign policy and avoid duplication of effort.

(2) Not later than 90 days after April 30, 1994, and annually thereafter, the President shall submit to the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate a report pursuant to paragraph (1). Such report shall include information for each exchange program supported by the United States on the objectives of such exchange, the number of exchange participants supported, the types of exchange activities conducted, the total amount of Federal expenditures for such exchanges, and the extent to which such exchanges are duplicative.

(g) Working Group on United States Government-Sponsored International Exchanges and Training

(1) In order to carry out the purposes of subsection (f) and to improve the coordination, efficiency, and effectiveness of United States Government-sponsored international exchanges and training, there is established within the Department of State a senior-level interagency working group to be known as the Working Group on United States Government-Sponsored International Exchanges and Training (in this section referred to as the "Working Group").

(2) For purposes of this subsection, the term "Government-sponsored international exchanges and training" means the movement of people between countries to promote the sharing of ideas, to develop skills, and to foster mutual understanding and cooperation, financed wholly or in part, directly or indirectly, with United States Government funds.

(3) The Working Group shall be composed as follows:

(A) The Assistant Secretary of State for Educational and Cultural Affairs, who shall act as Chair.

(B) A senior representative of the Department of Defense, who shall be designated by the Secretary of Defense.

(C) A senior representative of the Department of Education, who shall be designated by the Secretary of Education.

(D) A senior representative of the Department of Justice, who shall be designated by the Attorney General.

(E) A senior representative of the Agency for International Development, who shall be designated by the Administrator of the Agency.

(F) Senior representatives of such other departments and agencies as the Chair determines to be appropriate.

(4) Representatives of the National Security Adviser and the Director of the Office of Management and Budget may participate in the Working Group at the discretion of the Adviser and the Director, respectively.

(5) The Working Group shall be supported by an interagency staff office established in the Bureau of Educational and Cultural Affairs of the Department of State.

(6) The Working Group shall have the following purposes and responsibilities:

(A) To collect, analyze, and report data provided by all United States Government departments and agencies conducting international exchanges and training programs.

(B) To promote greater understanding and cooperation among concerned United States Government departments and agencies of common issues and challenges in conducting international exchanges and training programs, including through the establishment of a clearinghouse for information on international exchange and training activities in the governmental and nongovernmental sectors.

(C) In order to achieve the most efficient and cost-effective use of Federal resources, to identify administrative and programmatic duplication and overlap of activities by the various United States Government departments and agencies involved in Government-sponsored international exchange and training programs, to identify how each Government-sponsored international exchange and training program promotes United States foreign policy, and to report thereon.

(D)(i) Not later than 1 year after October 21, 1998, the Working Group shall develop a coordinated and cost-effective strategy for all United States Government-sponsored international exchange and training programs, including an action plan with the objective of achieving a minimum of 10 percent cost savings through greater efficiency, the consolidation of programs, or the elimination of duplication, or any combination thereof.

(ii) Not later than 1 year after October 21, 1998, the Working Group shall submit a report to the appropriate congressional committees setting forth the strategy and action plan required by clause (i).

(iii) Each year thereafter the Working Group shall assess the strategy and plan required by clause (i).

(E) Not later than 2 years after October 21, 1998, to develop recommendations on common performance measures for all United States Government-sponsored international exchange and training programs, and to issue a report.

(F) To conduct a survey of private sector international exchange activities and develop strategies for expanding public and private partnerships in, and leveraging private sector support for, United States Government-sponsored international exchange and training activities.

(G) Not later than 6 months after October 21, 1998, to report on the feasibility and advisability

of transferring funds and program management for the ATLAS or the Mandela Fellows programs, or both, in South Africa from the Agency for International Development to the Department of State. The report shall include an assessment of the capabilities of the South African Fulbright Commission to manage such programs and the cost effects of consolidating such programs under one entity.

(7) All reports prepared by the Working Group shall be submitted to the President, through the Secretary of State, acting through the Under Secretary of State for Public Diplomacy.

(8) The Working Group shall meet at least on a quarterly basis.

(9) All decisions of the Working Group shall be by majority vote of the members present and voting.

(10) The members of the Working Group shall serve without additional compensation for their service on the Working Group. Any expenses incurred by a member of the Working Group in connection with service on the Working Group shall be compensated by that member's department or agency.

(11) With respect to any report issued under paragraph (6), a member may submit dissenting views to be submitted as part of the report of the Working Group.

(Pub. L. 87–256, §112, as added Pub. L. 98–164, title II, §213, Nov. 22, 1983, 97 Stat. 1034; amended Pub. L. 100–204, title III, §§302(a), 303, Dec. 22, 1987, 101 Stat. 1378, 1379; Pub. L. 101–246, title II, §§204(a)(2), 222(a), 223, Feb. 16, 1990, 104 Stat. 50, 55, 56; Pub. L. 103–199, title III, §301(1), Dec. 17, 1993, 107 Stat. 2322; Pub. L. 103–236, title II, §229(a), Apr. 30, 1994, 108 Stat. 423; Pub. L. 105–244, title I, §102(a)(7)(B), Oct. 7, 1998, 112 Stat. 1619; Pub. L. 105–277, div. G, subdiv. B, title XXIV, §2414, Oct. 21, 1998, 112 Stat. 2681–832; Pub. L. 107–228, div. A, title II, §§221, 229, Sept. 30, 2002, 116 Stat. 1367, 1371.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a), (b)(1), and (d), was in the original "this Act", meaning Pub. L. 87–256, Sept. 21, 1961, 75 Stat. 527, as amended, known as the Mutual Educational and Cultural Exchange Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2451 of this title and Tables.

The FREEDOM Support Act, referred to in subsec. (d)(2), is Pub. L. 102–511, Oct. 24, 1992, 106 Stat. 3320, as amended, also known as the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992. For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

The Support for East European Democracy Act, referred to in subsec. (d)(2), probably means the Support for East European Democracy (SEED) Act of 1989, Pub. L. 101–179, Nov. 28, 1989, 103 Stat. 1298, as amended, which is classified principally to chapter 63 (§5401 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5401 of this title and Tables.

The Foreign Assistance Act of 1961, referred to in subsec. (d)(2), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, which is classified principally to chapter 32 (§2151 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

AMENDMENTS

2002—Subsec. (d). Pub. L. 107–228, §221, designated existing provisions as par. (1) and added par. (2).

Subsec. (g)(1). Pub. L. 107–228, §229(1), substituted "Department of State" for "United States Information Agency".

Subsec. (g)(3)(A). Pub. L. 107–228, §229(2)(A), substituted "Assistant Secretary of State for Educational and Cultural Affairs" for "Associate Director for Educational and Cultural Affairs of the United States Information Agency".

Subsec. (g)(3)(B) to (G). Pub. L. 107–228, §229(2)(B), (C), redesignated subpars. (C) to (G) as (B) to (F), respectively, and struck out former subpar. (B) which read as follows: "A senior representative of the Department of State, who shall be designated by the Secretary of State."

Subsec. (g)(5). Pub. L. 107–228, §229(3), substituted "Department of State" for "United States Information Agency".

Subsec. (g)(6)(G). Pub. L. 107–228, §229(4), substituted "Department of State" for "United States Information Agency".

Subsec. (g)(7). Pub. L. 107–228, §229(5), substituted "Secretary of State, acting through the Under Secretary of State for Public Diplomacy" for "Director of the United States Information Agency".

1998—Subsec. (a)(8). Pub. L. 105–244 substituted "section 1001" for "section 1141(a)".

Subsec. (g). Pub. L. 105–277 added subsec. (g).

1994—Subsec. (f). Pub. L. 103–236 added subsec. (f).

1993—Subsec. (a)(8). Pub. L. 103–199 substituted "independent states of the former Soviet Union" for "Soviet Union" in two places.

1990—Subsec. (a)(8). Pub. L. 101–246, §223, inserted "or through other programs designed to promote contact between the young peoples of the United States, the Soviet Union, and Eastern European countries" after "degree".

Subsecs. (b) to (d). Pub. L. 101–246, §204(a)(2), added subsec. (b) and redesignated former subsecs. (b) and (c) as (c) and (d), respectively.

Subsec. (e). Pub. L. 101–246, §222(a), added subsec. (e).

1987—Subsec. (a)(8), (9). Pub. L. 100–204 added pars. (8) and (9).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of Title 20, Education.

TRANSFER OF FUNCTIONS

United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau) abolished and functions transferred to Secretary of State, see sections 6531 and 6532 of this title.

Pub. L. 101–246, title II, §222(b), Feb. 16, 1990, 104 Stat. 56, provided that: "There are hereby transferred to the Office of Citizen Exchanges on the date of enactment of this Act [Feb. 16, 1990] all functions carried out by the Office of Private Sector Programs on the day before such date."

PRIVATE SECTOR PROGRAM; RESTRICTIONS ON FUNDS FOR FOREIGN TRAVEL; WAIVER; REPORTS

Pub. L. 98–164, title II, §207, Nov. 22, 1983, 97 Stat. 1032, as amended by Pub. L. 103–236, title I, §139(11), Apr. 30, 1994, 108 Stat. 398, provided that:

"(a) No funds authorized to be appropriated for the Private Sector Program shall be used to pay for foreign travel by any United States citizen who, in the five years preceding the date of the proposed foreign travel, made two or more trips financed in whole or in substantial part by grants from the Private Sector Program. This limitation shall not apply to escort interpreters accompanying delegations, to artists accompanying exhibitions, to persons engaging in theatrical or musical performances, or to the full-time staff of the grantee organization. In addition, the Director of the Bureau of Educational and Cultural Affairs may waive this limitation in exceptional cases if he determines that foreign travel is essential to the successful completion of the grant program and so certifies in writing to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate at least fifteen days prior to the commencement of the proposed foreign travel.

"[(b) Repealed. Pub. L. 103–236, title I, §139(11), Apr. 30, 1994, 108 Stat. 398.]"

EX. ORD. NO. 13055. COORDINATION OF UNITED STATES GOVERNMENT INTERNATIONAL EXCHANGES AND TRAINING PROGRAMS

Ex. Ord. No. 13055, July 15, 1997, 62 F.R. 39099, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to improve the coordination of United States Government International Exchanges and Training Programs, it is hereby ordered as follows:

SECTION 1. There is hereby established within the United States Information Agency a senior-level Interagency Working Group on United States Government-Sponsored International Exchanges and Training ("the Working Group"). The purpose of the Working Group is to recommend to the President measures for improving the coordination, efficiency, and effectiveness of United States Government-sponsored international exchanges and training. The Working Group shall establish a clearinghouse to improve data collection and analysis of international exchanges and training.

SEC. 2. The term "Government-sponsored international exchanges and training" shall mean the movement of people between countries to promote the sharing of ideas, to develop skills, and to foster mutual understanding and cooperation, financed wholly or in part, directly or indirectly, with United States Government funds.

SEC. 3. The Working Group shall consist of the Associate Director for Educational and Cultural Affairs of the United States Information Agency, who shall act as Chair, and a comparable senior representative appointed by the respective Secretary of each of the Departments of State, Defense, Education, and the Attorney General, by the Administrator of the United States Agency for International Development, and by heads of other interested executive departments and agencies. In addition, representatives of the National Security Council and the Director of the Office of Management and Budget shall participate in the Working Group at their discretion. The Working Group shall be supported by an interagency staff office established in the Bureau of Education and Cultural Affairs of the United States Information Agency.

SEC. 4. The Working Group shall have the following responsibilities:

(a) Collect, analyze, and report data provided by all United States Government departments and agencies conducting international exchanges and training programs;

(b) Promote greater understanding of and cooperation on, among concerned United States Government departments and agencies, common issues and challenges faced in conducting international exchanges and training programs, including through the establishment of a clearinghouse for information on international exchange and training activities in the governmental and nongovernmental sectors;

(c) In order to achieve the most efficient and cost-effective use of Federal resources, identify administrative and programmatic duplication and overlap of activities by the various United States Government agencies involved in Government-sponsored international exchange and training programs, and report thereon;

(d) No later than 1 year from the date of this order, develop initially and thereafter assess annually a coordinated strategy for all United States Government-sponsored international exchange and training programs, and issue a report on such strategy;

(e) No later than 2 years from the date of this order, develop recommendations on performance measures for all United States Government-sponsored international exchange and training programs, and issue a report thereon; and

(f) Develop strategies for expanding public and private partnerships in, and leveraging private sector support for, United States Government-sponsored international exchange and training activities.

SEC. 5. All reports prepared by the Working Group pursuant to section 4 shall be made to the President, through the Director of the United States Information Agency.

SEC. 6. The Working Group shall meet on at least a quarterly basis.

SEC. 7. Any expenses incurred by a member of the Working Group in connection with such member's service on the Working Group shall be borne by the member's respective department or agency.

SEC. 8. If any member of the Working Group disagrees with respect to any matter in any report prepared pursuant to section 4, such member may prepare a statement setting forth the reasons for such disagreement and such statement shall be appended to, and considered a part of, the report.

SEC. 9. Nothing in this Executive order is intended to alter the authorities and responsibilities of the head of any department or agency.

WILLIAM J. CLINTON.

[For abolition of United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau), transfer of functions, and treatment of references thereto, see sections 6531, 6532, and 6551 of this title.]

DEFINITIONS

In subsec. (a)(8), independent states of the former Soviet Union has the meaning given in section 5801 of this title, see section 3 of Pub. L. 103–199, set out as a note under section 5801 of this title.

§2461. Exchanges between United States and independent states of the former Soviet Union

(a) Financing of exchanges with repayments on Lend-Lease debts

The President is authorized to negotiate and implement agreements with the independent states of the former Soviet Union under which repayments made by the independent states on Lend-Lease debts to the United States would be used to finance the exchange of persons between the United States and the independent states for educational, cultural, and artistic purposes. Exchanges authorized pursuant to this section shall be administered subject to the provisions of this chapter. Part

of the funds repaid to the United States shall be in convertible currency for the purpose of paying the expenses associated with study and other exchange activities in the United States by citizens of the independent states.

(b) Limitation on availability of funds

Funds made available for the purposes of this section shall be available only to the extent and in the amounts provided for in an appropriation Act.

(Pub. L. 87–256, §113, as added Pub. L. 101–246, title II, §224, Feb. 16, 1990, 104 Stat. 56; amended Pub. L. 103–199, title III, §301(2), Dec. 17, 1993, 107 Stat. 2322.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this Act", meaning Pub. L. 87–256, Sept. 21, 1961, 75 Stat. 527, as amended, known as the Mutual Educational and Cultural Exchange Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2451 of this title and Tables.

AMENDMENTS

1993—Pub. L. 103–199, §301(2)(A), substituted "Exchanges between United States and independent states of the former Soviet Union" for "United States-Soviet exchanges" in section catchline.

Subsec. (a). Pub. L. 103–199, §301(2)(B)–(E), substituted "agreements with the independent states of the former Soviet Union" for "an agreement with the Union of Soviet Socialist Republics", "made by the independent states" for "made by the Soviet Union", "and the independent states" for "and the Soviet Union", and "in the United States by citizens of the independent states" for "by Soviet citizens in the United States".

DEFINITIONS

In subsec. (a), independent states of the former Soviet Union and independent states have the meanings given in section 5801 of this title, see section 3 of Pub. L. 103–199, set out as a note under section 5801 of this title.

§2462. Establishment of grant program for foreign study by American college students of limited financial means

(a) Establishment

Subject to the availability of appropriations and under the authorities of the Mutual Educational and Cultural Exchange Act of 1961 [22 U.S.C. 2451 et seq.], the Secretary of State shall establish and carry out a program in each fiscal year to award grants of up to $5,000, to individuals who meet the requirements of subsection (b), toward the cost of up to one academic year of undergraduate study abroad. Grants under this Act shall be known as the "Benjamin A. Gilman International Scholarships".

(b) Eligibility

An individual referred to in subsection (a) is an individual who—

(1) is a student in good standing at an institution of higher education in the United States (as defined in section 101(a) of the Higher Education Act of 1965 [20 U.S.C. 1001(a)]);

(2) has been accepted for up to one academic year of study on a program of study abroad approved for credit by the student's home institution;

(3) is receiving any need-based student assistance under title IV of the Higher Education Act of 1965 [20 U.S.C. 1070 et seq.]; and

(4) is a citizen or national of the United States.

(c) Application and selection

(1) Grant application and selection shall be carried out through accredited institutions of higher education in the United States or a combination of such institutions under such procedures as are established by the Secretary of State.

(2) In considering applications for grants under this section—

(A) consideration of financial need shall include the increased costs of study abroad; and

(B) priority consideration shall be given to applicants who are receiving Federal Pell Grants under title IV of the Higher Education Act of 1965 [20 U.S.C. 1070 et seq.].

(Pub. L. 106–309, title III, §303, Oct. 17, 2000, 114 Stat. 1095.)

REFERENCES IN TEXT

The Mutual Educational and Cultural Exchange Act of 1961, referred to in subsec. (a), is Pub. L. 87–256, Sept. 21, 1961, 75 Stat. 527, as amended, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2451 of this title and Tables.

This Act, referred to in subsec. (a), probably means title III of Pub. L. 106–309, Oct. 17, 2000, 114 Stat. 1094, known as the International Academic Opportunity Act of 2000, which enacted this section and provisions set out as notes under this section. For complete classification of this Act to the Code, see Tables.

The Higher Education Act of 1965, referred to in subsecs. (b)(3) and (c)(2)(B), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219. Title IV of the Act is classified generally to subchapter IV (§1070 et seq.) of chapter 28 of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables.

CODIFICATION

Section was enacted as part of the International Academic Opportunity Act of 2000, and also as part of the Microenterprise for Self-Reliance and International Anti-Corruption Act of 2000, and not as part of the Mutual Educational and Cultural Exchange Act of 1961 which comprises this chapter.

INTERNATIONAL ACADEMIC OPPORTUNITY

Pub. L. 106–309, title III, Oct. 17, 2000, 114 Stat. 1094, provided that:

"SEC. 301. SHORT TITLE.

"This title [enacting this section and this note] may be cited as the 'International Academic Opportunity Act of 2000'.

"SEC. 302. STATEMENT OF PURPOSE.

"It is the purpose of this title to establish an undergraduate grant program for students of limited financial means from the United States to enable such students to study abroad. Such foreign study is intended to broaden the outlook and better prepare such students of demonstrated financial need to assume significant roles in the increasingly global economy.

"SEC. 303. ESTABLISHMENT OF GRANT PROGRAM FOR FOREIGN STUDY BY AMERICAN COLLEGE STUDENTS OF LIMITED FINANCIAL MEANS.

"[Enacted this section.]

"SEC. 304. REPORT TO CONGRESS.

"The Secretary of State shall report annually to the Congress concerning the grant program established under this title. Each such report shall include the following information for the preceding year:

"(1) The number of participants.

"(2) The institutions of higher education in the United States that participants attended.

"(3) The institutions of higher education outside the United States participants attended during their study abroad.

"(4) The areas of study of participants.

"SEC. 305. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $1,500,000 for each fiscal year to carry out this title.

"SEC. 306. EFFECTIVE DATE.

"This title shall take effect October 1, 2000."

§2463. Allocation of funds transferred to the Bureau of Educational and Cultural Affairs

Of each amount transferred to the Bureau of Educational and Cultural Affairs out of appropriations other than appropriations under the heading "Educational and Cultural Exchange

Programs" for support of an educational or cultural exchange program, notwithstanding any other provision of law, not more than 7.5 percent shall be made available to cover administrative expenses incurred in connection with support of the program. Amounts made available to cover administrative expenses shall be credited to the appropriations under the heading "Educational and Cultural Exchange Programs" and shall remain available until expended.

(Pub. L. 87–256, §114, as added Pub. L. 107–77, title IV, §406, Nov. 28, 2001, 115 Stat. 790.)

§2464. Ethical issues in international health research

(a) In general

The Secretary shall make available funds for international exchanges to provide opportunities to researchers in developing countries to participate in activities related to ethical issues in human subject research, as described in subsection (c).

(b) Coordination with other programs

The Secretary shall coordinate programs conducted pursuant to this section with similar programs that may be conducted by the United States Agency for International Development and other Federal agencies as part of United States international health programs, particularly with respect to research and treatment of infectious diseases.

(c) Ethical issues in human subject research

For purposes of subsection (a), the phrase "activities related to ethical issues in human subject research" includes courses of study, conferences, and fora on development of and compliance with international ethical standards for clinical trials involving human subjects, particularly with respect to responsibilities of researchers to individuals and local communities participating in such trials, and on management and monitoring of such trials based on such international ethical standards.

(Pub. L. 107–228, div. A, title II, §228, Sept. 30, 2002, 116 Stat. 1371.)

CODIFICATION

Section was enacted as part of the Department of State Authorization Act, Fiscal Year 2003, and also as part of the Foreign Relations Authorization Act, Fiscal Year 2003, and not as part of the Mutual Educational and Cultural Exchange Act of 1961 which comprises this chapter.

DEFINITION

For definition of "Secretary" as used in this section, see section 3 of Pub. L. 107–228, set out as a note under section 2651 of this title.

CHAPTER 34—THE PEACE CORPS

Sec.

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§2501. Congressional declaration of purpose

(a) The Congress of the United States declares that it is the policy of the United States and the purpose of this chapter to promote world peace and friendship through a Peace Corps, which shall make available to interested countries and areas men and women of the United States qualified for service abroad and willing to serve, under conditions of hardship if necessary, to help the peoples of such countries and areas in meeting their needs for trained manpower, particularly in meeting the basic needs of those living in the poorest areas of such countries, and to help promote a better understanding of the American people on the part of the peoples served and a better understanding of other peoples on the part of the American people.

(b) The Congress declares that it is the policy of the United States and a purpose of the Peace Corps to maintain, to the maximum extent appropriate and consistent with programmatic and fiscal considerations, a volunteer corps of at least 10,000 individuals.

(Pub. L. 87–293, title I, §2, Sept. 22, 1961, 75 Stat. 612; Pub. L. 95–331, §2, Aug. 2, 1978, 92 Stat. 414; Pub. L. 99–83, title XI, §1102(a), Aug. 8, 1985, 99 Stat. 272.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this Act", meaning Pub. L. 87–293, Sept. 22, 1961, 75 Stat. 612, as amended, known as the Peace Corps Act. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

AMENDMENTS

1985—Pub. L. 99–83 designated existing provisions as subsec. (a) and added subsec. (b).

1978—Pub. L. 95–331 inserted "particularly in meeting the basic needs of those living in the poorest areas of such countries" after "manpower".

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–83 effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as a note under section 2151–1 of this title.

EFFECTIVE DATE

Pub. L. 87–293, title I, §28, formerly §27, Sept. 22, 1961, 75 Stat. 625, as renumbered by Pub. L. 99–83, title XI, §1105(a)(1), Aug. 8, 1985, 99 Stat. 276, provided that: "This Act [see Short Title note below] shall take effect on the date of its enactment [Sept. 22, 1961]."

SHORT TITLE OF 2011 AMENDMENT

Pub. L. 112–57, §1, Nov. 21, 2011, 125 Stat. 736, provided that: "This Act [enacting sections 2507a to 2507i of this title, amending sections 2504, 2506, 2507, and 2509 of this title, and enacting provisions set out as notes under sections 2503 and 2507a of this title] may be cited as the 'Kate Puzey Peace Corps Volunteer Protection Act of 2011'."

SHORT TITLE OF 1978 AMENDMENT

Pub. L. 95–331, §1, Aug. 2, 1978, 92 Stat. 414, provided: "That this Act [amending this section and sections 2501a, 2502, 2504, 2509, and 2510 of this title and enacting provisions set out as notes under sections 2501a and 2509 of this title] may be cited as the 'Peace Corps Act Amendments of 1978'."

SHORT TITLE

Pub. L. 87–293, title I, §1, Sept. 22, 1961, 75 Stat. 612, provided that: "This Act [enacting this chapter, amending section 2253 of former Title 5, Executive Departments and Government Officers and Employees, section 425 of Title 20, Education, sections 912, 1303, 3121, 3122, 3401, and 6051 of Title 26, Internal Revenue Code, and sections 405, 409, and 410 of Title 42, The Public Health and Welfare, and enacting provisions set out as notes under this section and sections 912 and 3121 of Title 26] may be cited as the 'Peace Corps Act'."

DESIGNATION OF PAUL D. COVERDELL PEACE CORPS HEADQUARTERS

Pub. L. 107–21, §1, July 26, 2001, 115 Stat. 194, provided that:

"(a) IN GENERAL.—Effective on the date of enactment of this Act [July 26, 2001], the headquarters offices of the Peace Corps, wherever situated, shall be referred to as the 'Paul D. Coverdell Peace Corps Headquarters'.

"(b) REFERENCES.—Any reference before the date of enactment of this Act [July 26, 2001] in any law, regulation, order, document, record, or other paper of the United States to the headquarters or headquarters offices of the Peace Corps shall, on and after such date, be considered to refer to the Paul D. Coverdell Peace Corps Headquarters."

EXECUTIVE ORDER NO. 10924

Ex. Ord. No. 10924, Mar. 1, 1961, 26 F.R. 1789, relating to the establishment and administration of the Peace Corps, was superseded by Ex. Ord. No. 11041, Aug. 6, 1962, 27 F.R. 7859, formerly set out below.

EXECUTIVE ORDER NO. 11041

Ex. Ord. No. 11041, Aug. 7, 1962, 27 F.R. 7859, as amended by Ex. Ord. No. 11250, Oct. 10, 1965, 30 F.R. 13003, which provided for the continuance and administration of the Peace Corps in the Department of State, was superseded by Ex. Ord. No. 11603, June 30, 1971, 36 F.R. 12675, formerly set out below.

EXECUTIVE ORDER NO. 11603

Ex. Ord. No. 11603, June 30, 1971, 36 F.R. 12675, as amended by Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, which provided for the continuance and administration of the Peace Corps within ACTION, was superseded by Ex. Ord. No. 12137, May 16, 1979, 44 F.R. 29023, set out below.

EX. ORD. NO. 12137. ADMINISTRATION OF PEACE CORPS AS AN AGENCY WITHIN ACTION

Ex. Ord. No. 12137, May 16, 1979, 44 F.R. 29023, as amended by Ex. Ord. No. 12245, Oct. 6, 1980, 45 F.R. 66769; Ex. Ord. No. 12292, Feb. 23, 1981, 46 F.R. 13968; Ex. Ord. No. 12399, Dec. 31, 1982, 48 F.R. 379; Ex. Ord. No. 13724, §1, Apr. 8, 2016, 81 F.R. 22021, provided:

By virtue of the authority vested in me by the Peace Corps Act, as amended (22 U.S.C. 2501–2523) and Section 301 of Title 3 of the United States Code, and as President of the United States of America, it is hereby ordered as follows:

1–1. PEACE CORPS

1–101. The Peace Corps, which was established as an agency in the Department of State pursuant to Executive Order No. 10924 of March 1, 1961 (26 FR 1789) [formerly set out under this section], which was

continued in existence in that Department under the Peace Corps Act (the "Act") [this chapter] pursuant to Section 102 of Executive Order No. 11041 of August 6, 1962 (27 FR 7859) [formerly set out under this section], and which was transferred to and continued as a component of ACTION [now Corporation for National and Community Service] by Executive Order No. 11603 of June 30, 1971 (36 FR 12675) [formerly set out under this section], shall be an agency within ACTION pursuant to the provisions of this Order.

1–102. All references to the "Director" in Part 1–1 of this Order shall refer to the Director of the Peace Corps for whom provision is made in Section 4(a) of the Act (22 U.S.C. 2503).

1–103. Exclusive of the functions otherwise delegated by or reserved to the President by this Order, and subject to the provisions of this Order, there are hereby delegated to the Director all functions conferred upon the President by the Act [this chapter] and by Section 2(b) of Reorganization Plan No. 1 of 1971 [5 U.S.C. App.].

1–104. The function of determining the portion of living allowances constituting basic compensation, conferred upon the President by Section 201(a) of Public Law 87–293 (26 U.S.C. 912(3)), is hereby delegated to the Director and shall be performed in consultation with the Secretary of the Treasury.

1–105. The functions of prescribing regulations and making determinations (relating to appointment of Peace Corps employees in the Foreign Service System), conferred upon the President by Section 5 of Public Law 89–135 (79 Stat. 551) [probably means section 5(b) of Pub. L. 89–134, Aug. 24, 1965, 79 Stat. 551, set out as a note under section 2506 of this title], are hereby delegated to the Director.

1–106. The functions of prescribing conditions, conferred upon the President by the second sentence of Section 5(e), as amended (22 U.S.C. 2504(e)), and the third proviso of Section 6 of the Act (22 U.S.C. 2505) (relating to providing health care in Government facilities) and hereinabove delegated to the Director, shall be exercised in consultation with the head of the United States Government agency responsible for the facility.

1–107. The reports required by Section 11 of the Act, as amended ([former] 22 U.S.C. 2510), shall be prepared by the Director and submitted to the Congress through the President.

1–108. Subject to applicable provisions of law, all funds appropriated or otherwise made available to the President for carrying out the provisions of the Act [this chapter] shall be deemed to be allocated without any further action of the President to the Director or to such subordinate officer as the Director may designate. The Director or such officer may allocate or transfer, as appropriate, any of such funds to any United States Government agency or part thereof for obligation or expenditures thereby consistent with applicable law.

1–109. Nothing in this Order shall be deemed to impair or limit the powers or functions vested in the Secretary of State by the Act [this chapter].

1–110. The negotiation, conclusion, and termination of international agreements pursuant to the Act [this chapter] shall be under the direction of the Secretary of State.

1–111. Any substantial change in policies in effect on the date of this Order for the utilization of the Foreign Service Act of 1980 [22 U.S.C. 3901 et seq.], pursuant to Section 7 of the Act (22 U.S.C. 2506), shall be coordinated with the Secretary of State.

1–112. The Director shall consult and coordinate with the Director of ACTION to assure that the functions delegated to the Director by this Order are carried out consistently with the functions conferred upon the Director of ACTION by the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 et seq.), ("Volunteer Service Act"), Reorganization Plan No. 1 of 1971 [5 U.S.C. App.] and this Order.

1–113. The functions of adopting, altering, and using an official seal or emblem of the Peace Corps as set forth in section 19 of the Peace Corps Act (22 U.S.C. 2518) is hereby delegated to the Director of the Peace Corps.

1–2. THE PEACE CORPS ADVISORY COUNCIL [REVOKED BY EX. ORD. NO. 12399, DEC. 31, 1982, 48 F.R. 379]

1–3. RESERVATION OF FUNCTIONS TO THE PRESIDENT

1–301. There are hereby excluded from the delegations made by Section 1–1 of this Order the following powers and functions of the President:

(a) All authority conferred by Sections 4(b), 4(c)(2), 4(c)(3), 10(d), and 18 of the Act (22 U.S.C. 2503(b), (c)(2), (c)(3), 2509(d), and 2517).

(b) The authority conferred by Section 4(a) of the Act (22 U.S.C. 2503(a)) to appoint the Director and the Deputy Director of the Peace Corps.

(c) The authority conferred on the President by Section 5(f)(1)(B) of the Act (22 U.S.C. 2504(f)(1)(B)).

(d) The authority conferred by Section 10(f) of the Act (22 U.S.C. 2509(f)) to direct any agency of the United States Government to provide services, facilities, and commodities to officers carrying out functions under the Act [this chapter].

1–4. INCIDENTAL PROVISIONS

1–401. Persons appointed, employed, or assigned under Section 7(a) of the Act (22 U.S.C. 2506(a)) shall not, unless otherwise agreed by the agency in which such benefits may be exercised, be entitled to the benefits provided by Section 310 of the Foreign Service Act of 1980 (22 U.S.C. 3950) in cases in which their service under the appointment, employment, or assignment exceeds thirty months.

1–402. Pursuant to Section 10(d) of the Act (22 U.S.C. 2509(d)), it is hereby determined to be in furtherance of the purposes of the Act [this chapter] that functions authorized thereby may be performed without regard to the applicable laws specified in Section 1 and 2 of Executive Order No. 11223 of May 12, 1965 [22 U.S.C. 2393 note], and with or without consideration as specified in Section 3 of that Order, but subject to the limitations set forth in that Order.

1–403. As used in this Order, the words "Volunteers," "functions," "United States," and "United States Government agency" shall have the same meanings, respectively, as they have under the Act [this chapter].

1–5. NATIONAL VOLUNTARY ACTION PROGRAM

1–501. The National Voluntary Action Program to encourage and stimulate more widespread and effective voluntary action for solving public domestic problems, established in the Executive Branch of the Government by Section 1 of Executive Order No. 11470 of May 26, 1969 [formerly set out as a note under section 2701 of Title 42, the Public Health and Welfare], is continued in ACTION. That program shall supplement corresponding action by private and other non-Federal organizations such as the National Center for Voluntary Action. As used in this Order, the term "voluntary action" means the contribution or application of non-governmental resources of all kinds (time, money, goods, services, and skills) by private and other organizations of all types (profit and nonprofit, national and local, occupational, and altruistic) and by individual citizens.

1–6. DIRECTOR OF ACTION

1–601. In addition to the functions vested in the Director of ACTION by the Domestic Volunteer Service Act of 1973 (42 U.S.C., Section 4951 et seq.), Reorganization Plan No. 1 of 1971 [5 U.S.C. App.], and Section 1–401 of this Order, the Director of ACTION shall:

(a) Encourage local, national and international voluntary activities directed toward the solution or mitigation of community problems.

(b) Provide for the development and operation of a clearinghouse for information on Government programs designed to foster voluntary action.

(c) Initiate proposals for the greater and more effective application of voluntary action in connection with Federal programs, and coordinate, as consistent with law, Federal activities involving such action.

(d) Make grants of seed money, as authorized by law, for stimulating the development or deployment of innovative voluntary action programs directed toward community problems.

1–602. The head of each Federal department and agency, or a designated representative, when so requested by the Director of ACTION or the Director of the Peace Corps, shall, to the extent permitted by law and funds available, furnish information and assistance, and participate in all ways appropriate to carry out the objectives of this Order, the Domestic Volunteer Service Act of 1973 [42 U.S.C. 4951 et seq.] and Reorganization Plan No. 1 of 1971 [5 U.S.C. App.].

1–603. The head of each Federal department or agency shall, when so requested by the Director of ACTION, designate a senior official to have primary and continuing responsibility for the participation and cooperation of that department or agency in matters concerning voluntary action.

1–604. The head of each Federal department or agency, or a designated representative, shall keep the Director of ACTION informed of proposed budgets, plans, and programs of that department or agency affecting voluntary action programs.

1–605. Under the direction of the President and subject to the responsibilities of the Secretary of State, the Director of ACTION shall be responsible for the general direction of those ACTION functions, which jointly serve ACTION domestic volunteer components and the Peace Corps, and for advising the Director of the Peace Corps to ensure that the functions delegated under this Order to the Director of the Peace Corps are carried out.

1–7. GENERAL PROVISIONS

1–701. Except to the extent that they may be inconsistent with this Order, all determinations, authorizations, regulations, rulings, certifications, orders, directives, contracts, agreements, and other actions made, issued or

entered into with respect to any function affected by this Order and not revoked, superseded, or otherwise made inapplicable before the effective date of this Order shall continue in full force and effect until amended, modified, or terminated by appropriate authority.

1–702. Except as otherwise expressly provided herein, nothing in this Order shall be construed as subjecting any department, establishment, or other instrumentality of the Executive Branch of the Federal Government or the head thereof, or any function vested by law in or assigned pursuant to law to any such agency or head, to the authority of any other agency or head or as abrogating, modifying, or restricting any such function in any manner.

1–703. So much of the personnel, property, records, and unexpended balances or appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with the functions assigned to the Director of the Peace Corps or to the Director of ACTION by this Order as the Director of the Office of Management and Budget shall determine, shall be transferred to the Director of the Peace Corps or the Director of ACTION at such time or times as the Director of the Office of Management and Budget shall direct.

1–704. To the extent permitted by law, such further measures and dispositions as the Director of the Office of Management and Budget shall deem to be necessary in order to effectuate the provisions of this Order shall be carried out by such agencies as the Director of the Office of Management and Budget shall specify.

1–705. The authority conferred by Sections 1–703 and 1–704 of this Order shall supplement, not limit, the provisions of Section 1–108 of this Order.

1–706. Executive Order Nos. 11041, 11250, 11470 and 11603 are hereby superseded.

1–707. This Order shall become effective May 16, 1979.

EXECUTIVE ORDER NO. 12468

Ex. Ord. No. 12468, Mar. 22, 1984, 49 F.R. 11139, which established the Presidential Advisory Council on the Peace Corps and provided for its membership, functions, etc., was revoked by Ex. Ord. No. 12534, Sept. 30, 1985, 50 F.R. 40319, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5, Government Organization and Employees.

§2501–1. Independent agency status of Peace Corps

Effective on December 29, 1981, the Peace Corps shall be an independent agency within the executive branch and shall not be an agency within the ACTION Agency, the successor to the ACTION Agency, or any other department or agency of the United States.

(Pub. L. 87–293, title I, §2A, as added Pub. L. 97–113, title VI, §601(a), Dec. 29, 1981, 95 Stat. 1540; amended Pub. L. 103–82, title IV, §405(e), Sept. 21, 1993, 107 Stat. 921.)

AMENDMENTS

1993—Pub. L. 103–82 inserted ", the successor to the ACTION Agency,".

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–82 effective Apr. 4, 1994, see section 406(b) of Pub. L. 103–82, set out as a note under section 8332 of Title 5, Government Organization and Employees.

TRANSFER OF FUNCTIONS, PERSONNEL, ETC., TO PEACE CORPS

Pub. L. 97–113, title VI, §601(b), (c), Dec. 29, 1981, 95 Stat. 1540, provided that:

"(b) There are transferred to the Director of the Peace Corps all functions relating to the Peace Corps which were vested in the Director of the ACTION Agency [now Corporation for National and Community Service] on the day before the date of the enactment of this Act [Dec. 29, 1981].

"(c)(1) All personnel, assets liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds are are determined by the Director of the Office of Management and Budget, after consultation with the Comptroller General of the United States, the Director of the Peace Corps, and the Director of the ACTION Agency, to be employed, held, used, or assumed primarily in connection with any function relating to the Peace Corps before the date of the enactment of this Act [Dec. 29, 1981] are transferred to the Peace Corps. The transfer of unexpended balances pursuant to the preceding sentence shall be subject to section 202 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 581c) [31 U.S.C. 1531].

"(2)(A) The transfer pursuant to this subsection of full-time personnel (except special Government

employees) and part-time personnel holding permanent positions shall not cause any employee to be separated or reduced in rank, class, grade, or compensation, or otherwise suffer a loss of employment benefits for one year after—

"(i) the date on which the director of the Office of Management and Budget submits the report required by subsection (f)(l) of this section, or

"(ii) the effective date of the transfer of such employee,

whichever occurs later.

"(B) The personnel transferred pursuant to this subsection shall, to the maximum extent feasible, be assigned to such related functions and organizational units in the Peace Corps as such personnel were assigned to immediately before the date of the enactment of this Act [Dec. 29, 1981].

"(C) Collective-bargaining agreements in effect on the date of the enactment of this Act [Dec. 29, 1981] covering personnel transferred pursuant to this subsection or employed on such date of enactment [Dec. 29, 1981] by the Peace Corps shall continue to be recognized by the Peace Corps until the termination date of such agreements or until such agreements are modified in accordance with applicable procedures.

"(3) Under such regulations as the President may prescribe, each person who, immediately before the date of the enactment of this Act [Dec. 29, 1981], does not hold an appointment under section 7(a)(2) of the Peace Corps Act [22 U.S.C. 2506(a)(2)] and who is determined under paragraph (1) of this subsection to be employed primarily in connection with any function relating to the Peace Corps shall, effective on the date of the enactment of this Act [Dec. 29, 1981], and notwithstanding subparagraph (B) of section 7(a)(2) of the Peace Corps Act, be appointed a member of the Foreign Service under section 7(a)(2) of the Peace Corps Act [22 U.S.C. 2506(a)(2)], and be appointed or assigned to an appropriate class of the Foreign Service, except that—

"(A) any person who, immediately before such date of enactment [Dec. 29, 1981], holds a career or career-conditional appointment shall not, without the consent of such person, be so appointed until three years after such date of enactment [Dec. 29, 1981], during which period any such person not consenting to be so appointed may continue to hold such career or career-conditional appointment; and

"(B) each person so appointed who, immediately before such date of enactment [Dec. 29, 1981], held a career or career-conditional appointment at grade GS–8 or lower of the General Schedule established by section 5332 of title 5, United States Code, shall be appointed a member of the Foreign Service for the duration of operations under the Peace Corps Act [this chapter].

Each person appointed under this paragraph shall receive basic compensation at the rate of such person's class determined by the President to be appropriate, except that the rate of basic compensation received by such person immediately before the effective date of such person's appointment under this paragraph shall not be reduced as a result of the provisions of this paragraph."

REFERENCES TO ACTION AGENCY OR DIRECTOR OF ACTION AGENCY WITH RESPECT TO PEACE CORPS OR DIRECTOR FUNCTIONS OR ACTIVITIES

Pub. L. 97–113, title VI, §601(g), Dec. 29, 1981, 95 Stat. 1542, provided that: "References in any statute, reorganization plan, Executive order, regulation, or other official document or proceeding to the ACTION Agency [now Corporation for National and Community Service] or the Director of the ACTION Agency with respect to functions or activities relating to the Peace Corps shall be deemed to refer to the Peace Corps or the Director of the Peace Corps, respectively."

§2501a. Voluntary service programs

(a) Congressional declaration of policy of encouragement

The Congress declares that it is the policy of the United States and a further purpose of this chapter (1) to encourage countries and areas to establish programs under which their citizens and nationals would volunteer to serve in order to help meet the needs of less developed countries or areas for trained manpower; (2) to encourage less developed countries or areas to establish programs under which their citizens and nationals would volunteer to serve in order to meet their needs for trained manpower; and (3) to encourage the development of, and participation in, international voluntary service programs and activities.

(b) Limitations on executive activities and use of funds

(1) Activities carried out by the President in furtherance of the purposes of clauses (1) and (2) of

subsection (a) shall be limited to—

(A) furnishing technical assistance, materials, tools, supplies, and training appropriate to the support of volunteer programs in such countries or areas; and

(B) conducting demonstration projects in such countries or areas.

None of the funds made available to carry out the purposes of clauses (1) and (2) of subsection (a) may be used to pay the administrative costs of any program or project, other than a demonstration project, or to assist any program or project of a paramilitary or military nature. Funds allocated for activities set forth in this paragraph should be kept to a minimum so that such allocation will not be detrimental to other Peace Corps programs and activities.

(2) Not more than 2 per centum of the amount appropriated to the Peace Corps for a fiscal year may be used in such fiscal year to carry out the provisions of clause (3) of subsection (a) of this section. Such funds may be contributed to educational institutions, private voluntary organizations, international organizations, and foreign governments or agencies thereof, to pay a fair and proportionate share of the costs of encouraging the development of, and participation in, international voluntary programs and activities.

(c) Compromise of national character

Such activities shall not compromise the national character of the Peace Corps.

(Pub. L. 87–293, title III, §301, as added Pub. L. 88–200, §8, Dec. 13, 1963, 77 Stat. 360; amended Pub. L. 91–99, §3, Oct. 29, 1969, 83 Stat. 166; Pub. L. 91–352, §9, July 24, 1970, 84 Stat. 465; Pub. L. 92–352, title IV, §402, July 13, 1972, 86 Stat. 495; Pub. L. 95–331, §§7, 8(a), Aug. 2, 1978, 92 Stat. 415, 416.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this Act", meaning Pub. L. 87–293, Sept. 22, 1961, 75 Stat. 612, as amended, known as the Peace Corps Act. For complete classification of this Act to the Code, see Short Title note set out under section 2501 of this title and Tables.

AMENDMENTS

1978—Subsec. (b)(1). Pub. L. 95–331, §7, substituted provisions limiting activities to furnishing technical assistance, etc., in support of volunteer programs, and conducting demonstration projects and provisions relating to payment of costs of any program or project for provisions limiting activities to furnishing of knowledge and skills relating to the selection, training, and programming of voluntary manpower and provisions relating to use of available funds.

Subsec. (b)(2). Pub. L. 95–331, §8(a), substituted provisions authorizing use of 2 per centum of amount appropriated in a fiscal year for provisions authorizing use of $350,000 in a fiscal year.

1972—Subsec. (b)(2). Pub. L. 92–352 substituted "$350,000" for "$300,000" and "in any fiscal year to carry" for "in fiscal year 1971 to carry".

1970—Subsec. (a)(3). Pub. L. 91–352, §9(a), changed the policy objective from encouragement of participation in any international register which seeks to provide volunteers to serve in less developed countries or areas, training, or other assistance in order to help such countries or areas to meet their needs for trained manpower to encouragement of participation in international voluntary service programs and activities.

Subsec. (b)(2). Pub. L. 91–352, §9(b), substituted fiscal year 1971 for fiscal year 1970 and changed the authorization of the contribution of funds from a fair and proportionate share of the costs of the international registers to a fair and proportionate share of the costs of encouraging the development of and participation in international voluntary programs and activities.

1969—Subsec. (a). Pub. L. 91–99, §3(1), redesignated existing provisions as cls. (1) and (2), and added cl. (3).

Subsec. (b). Pub. L. 91–99, §3(2), redesignated existing provisions as cl. (1), struck out the provision which authorized the use of not more than $300,000 in carrying out the purposes of this section in fiscal year 1964 and inserted references to cls. (1) and (2) of subsec. (a) of this section, and added cl. (2).

EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95–331, §8(b), Aug. 2, 1978, 92 Stat. 416, provided that: "The amendment made by subsection (a) [amending this section] shall take effect on October 1, 1978."

DELEGATION OF FUNCTIONS

Functions of President under this section delegated to Director of Peace Corps by section 1–103 of Ex. Ord. No. 12137, May 16, 1979, 44 F.R. 29023, eff. May 16, 1979, set out as a note under section 2501 of this title.

§2502. Presidential authorization; appropriations and financial readjustments

(a) Terms and conditions of authorization

The President is authorized to carry out programs in furtherance of the purposes of this chapter, on such terms and conditions as he may determine.

(b) Authorization of appropriations

(1) There are authorized to be appropriated to carry out the purposes of this chapter $270,000,000 for fiscal year 2000, $298,000,000 for fiscal year 2001, $327,000,000 for fiscal year 2002, and $365,000,000 for fiscal year 2003.

(2) Amounts authorized to be appropriated under paragraph (1) for a fiscal year are authorized to remain available for that fiscal year and the subsequent fiscal year.

(c) Appropriations for increases in salary, pay, etc.

In addition to the amount authorized to be appropriated by subsection (b) to carry out the purposes of this chapter, there are authorized to be appropriated for increases in salary, pay, retirement, or other employee benefits authorized by law, for each fiscal year, such sums as may be necessary.

(d) Integration of women into national economics

In recognition of the fact that women in developing countries play a significant role in economic production, family support, and the overall development process, the Peace Corps shall be administered so as to give particular attention to those programs, projects, and activities which tend to integrate women into the national economics of developing countries, thus improving their status and assisting the total development effort.

(e), (f) Repealed. Pub. L. 97–113, title VI, §601(e)(1), Dec. 29, 1981, 95 Stat. 1542

(g) Redesignated (d)

(h) Integration of disabled people

In recognition of the fact that there are over 400,000,000 disabled people in the world, 95 percent of whom are among the poorest of the poor, the Peace Corps shall be administered so as to give particular attention to programs, projects, and activities which tend to integrate disabled people into the national economies of developing countries, thus improving their status and assisting the total development effort.

(Pub. L. 87–293, title I, §3, Sept. 22, 1961, 75 Stat. 612; Pub. L. 87–442, Apr. 27, 1962, 76 Stat. 62; Pub. L. 88–200, §1, Dec. 13, 1963, 77 Stat. 359; Pub. L. 88–285, Mar. 17, 1964, 78 Stat. 166; Pub. L. 89–134, §1, Aug. 24, 1965, 79 Stat. 549; Pub. L. 89–572, §1, Sept. 13, 1966, 80 Stat. 764; Pub. L. 90–175, Dec. 5, 1967, 81 Stat. 542; Pub. L. 90–362, June 27, 1968, 82 Stat. 250; Pub. L. 91–99, §1, Oct. 29, 1969, 83 Stat. 166; Pub. L. 91–352, §1, July 24, 1970, 84 Stat. 464; Pub. L. 92–135, Oct. 8, 1971, 85 Stat. 376; Pub. L. 92–352, title IV, §401, July 13, 1972, 86 Stat. 495; Pub. L. 93–49, §1, June 25, 1973, 87 Stat. 99; Pub. L. 93–302, §§1, 2, June 1, 1974, 88 Stat. 191; Pub. L. 94–130, §§1–3, Nov. 14, 1975, 89 Stat. 684; Pub. L. 94–281, §§1, 2, May 7, 1976, 90 Stat. 458; Pub. L. 95–102, §§1, 2, Aug. 15, 1977, 91 Stat. 841; Pub. L. 95–331, §3, Aug. 2, 1978, 92 Stat. 414; Pub. L. 96–53, title III, §301, Aug. 14, 1979, 93 Stat. 370; Pub. L. 96–533, title VI, §601(a), (b), Dec. 16, 1980, 94 Stat. 3155; Pub. L. 97–113, title VI, §§601(e)(1), 602, 603, Dec. 29, 1981, 95 Stat. 1542; Pub. L. 99–83, title XI, §1101, Aug. 8, 1985, 99 Stat. 272; Pub. L. 99–399, title XIII, §1301, Aug. 27, 1986, 100 Stat. 897; Pub. L. 102–565, §1, Oct. 28, 1992, 106 Stat. 4265; Pub. L. 106–30, §1, May 21, 1999, 113 Stat. 55.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) to (c), was in the original "this Act", meaning Pub. L. 87–293, Sept. 22, 1961, 75 Stat. 612, as amended, known as the Peace Corps Act. For complete classification of this Act to the Code, see Short Title note set out under section 2501 of this title and Tables.

AMENDMENTS

1999—Subsec. (b). Pub. L. 106–30 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "There are authorized to be appropriated to carry out the purposes of this chapter $218,146,000 for fiscal year 1993, which are authorized to remain available until September 30, 1994."

1992—Subsec. (b). Pub. L. 102–565 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "There are authorized to be appropriated to carry out the purposes of this chapter $130,000,000 for the fiscal year 1986 and $137,200,000 for the fiscal year 1987."

1986—Subsec. (b). Pub. L. 99–399 in amending subsec. (b) generally, substituted provision authorizing appropriations of $130,000,000 for fiscal year 1986 and $137,200,000 for fiscal year 1987 for provision authorizing appropriations of $130,000,000 for fiscal years 1986 and 1987, providing that unobligated balances continue to be made available for the general purposes for which appropriated, and prohibiting the use of funds to carry out this chapter for the Volunteers to America Program or any similar program involving the service or training of foreign nationals in the United States.

1985—Subsec. (b). Pub. L. 99–83 substituted provisions authorizing appropriations of $130,000,000 for fiscal years 1986 and 1987 for provisions authorizing appropriations of not to exceed $105,000,000 for fiscal years 1982 and 1983, and struck out provisos limiting use of funds in fiscal year 1967, and limiting contracts and agreements for research.

1981—Subsec. (b). Pub. L. 97–113, §602(a), substituted "the fiscal year 1982 not to exceed $105,000,000 and for the fiscal year 1983 not to exceed $105,000,000" for "fiscal year 1981 not to exceed $118,000,000".

Subsec. (c). Pub. L. 97–113, §602(b), substituted "each fiscal year" for "fiscal year 1981".

Subsec. (d). Pub. L. 97–113, §601(e)(1), redesignated subsec. (g) as (d) and struck out former subsec. (d) which provided for rectification of imbalance in readjustment allowance for the period Mar. 1, 1961, to Feb. 28, 1973.

Subsec. (e). Pub. L. 97–113, §601(e)(1), struck out subsec. (e) which related to waiver of claims resulting from erroneous payments to volunteers who terminated their volunteer service between Mar. 1, 1961, and Feb. 28, 1973.

Subsec. (f). Pub. L. 97–113, §601(e)(1), struck out subsec. (f) which related to relief from liability for improper payment of readjustment allowances made to volunteers between Mar. 1, 1961, and Feb. 28, 1973.

Subsec. (g). Pub. L. 97–113, §601(e)(1), redesignated subsec. (g) as (d).

Subsec. (h). Pub. L. 97–113, §603, added subsec. (h).

1980—Subsec. (b). Pub. L. 96–533, §601(a), substituted appropriations authorization of $118,000,000 for fiscal year 1981 for such authorization of $105,404,000 for fiscal year 1980.

Subsec. (c). Pub. L. 96–533, §601(b), substituted "1981" for "1980".

1979—Subsec. (b). Pub. L. 96–53, §301(1), substituted provisions authorizing to be appropriated for fiscal year 1980 not to exceed $105,404,000, for provisions authorizing to be appropriated for fiscal year 1978 not to exceed $86,544,000, and for fiscal year 1979 not to exceed $112,424,000, and setting forth availability of funds for the United Nations contributions by the Corps.

Subsec. (c). Pub. L. 96–53, §301(2), substituted "1980" for "1978, $1,069,000, and for fiscal year 1979".

1978—Subsec. (b). Pub. L. 95–331, §3(1), substituted provisions authorizing to be appropriated for fiscal year 1978 not to exceed $86,544,000 and for fiscal year 1979 not to exceed $112,424,000 and limitation with respect to volunteer program, for provisions authorizing to be appropriated for fiscal year 1978 not to exceed $82,900,000.

Subsec. (c). Pub. L. 95–331, §3(2), inserted provisions increasing 1978 appropriation from $1,000,000 to $1,069,000, and provisions authorizing to be appropriated such sums as necessary for fiscal year 1979.

Subsec. (g). Pub. L. 95–331, §3(3), added subsec. (g).

1977—Subsec. (b). Pub. L. 95–102, §1, substituted provisions authorizing appropriations for fiscal year 1978 not to exceed $82,900,000 for provisions authorizing appropriations for fiscal year 1976 not to exceed $88,468,000, for the period July 1, 1976, through Sept. 30, 1976, not to exceed $27,887,800, for fiscal year 1977 not to exceed $81,000,000.

Subsec. (c). Pub. L. 95–102, §2, substituted provisions authorizing additional appropriations for fiscal year 1978 of $1,000,000 for increases in salary, pay, etc., for provisions authorizing additional appropriations for fiscal year 1976 and the period July 1, 1976, through Sept. 30, 1976, not in excess of $1,000,000, and for fiscal year 1977 such sums as may be necessary for increases in salary, pay, etc.

1976—Subsec. (b). Pub. L. 94–281, §1, authorized appropriation of not to exceed $81,000,000 for fiscal

year 1977.

Subsec. (c). Pub. L. 94–281, §2, inserted provisions relating to fiscal year 1977 and authorization of such sums as may be necessary for such year.

1975—Subsec. (b). Pub. L. 94–130, §1, authorized appropriation of $88,468,000 for fiscal year 1976, and $27,887,800 for period July 1, 1976, through Sept. 30, 1976, and struck out appropriation authorization of $82,256,000 for fiscal year 1975.

Subsec. (c). Pub. L. 94–130, §2, authorized appropriation of $1,000,000 for fiscal year 1976, for increase in employee benefits, in addition to amounts authorized for fiscal year 1976, and for period July 1, 1976, through Sept. 30, 1976, and deleted prior appropriation authorization of $1,000,000 for fiscal year 1975, for increase in employee benefits, in addition to amounts authorized for fiscal year 1975.

Subsec. (d). Pub. L. 94–130, §3, substituted "shall transfer", "no later than December 31, 1975, not to exceed $315,000 from any sums available to carry out the purposes of this chapter in fiscal year 1976" for "is authorized to transfer" and "from any sums appropriated to carry out the purposes of this chapter in fiscal year 1975 not to exceed $315,000".

1974—Subsec. (b). Pub. L. 93–302, §1, substituted "There are authorized to be appropriated for fiscal year 1975 not to exceed $82,256,000 to carry out the purposes of this chapter" for "There are authorized to be appropriated to the President for the fiscal year 1974 not to exceed $77,001,000 to carry out the purposes of this chapter".

Subsecs. (c) to (f). Pub. L. 93–302, §2, added subsecs. (c) to (f).

1973—Subsec. (b). Pub. L. 93–49 substituted "1974" for "1973" and "$77,001,000" for "$88,027,000".

1972—Subsec. (b). Pub. L. 92–352 substituted "1973" for "1972" and "$88,027,000" for "$77,200,000".

1971—Subsec. (b). Pub. L. 92–135 substituted "1972" for "1971" and "$77,200,000" for "$98,800,000".

1970—Subsec. (b). Pub. L. 91–352 substituted "1971" for "1970" and "$98,800,000" for "$98,450,000".

1969—Subsec. (b). Pub. L. 91–99 substituted "1970" for "1969" and "$98,450,000" for "$112,800,000", and inserted provision prohibiting funds authorized to carry out the purposes of this chapter to be used to carry out the Volunteers to America Program conducted under the Mutual Educational and Cultural Exchange Act of 1961, or any similar program.

1968—Subsec. (b). Pub. L. 90–362 substituted "1969" for "1968" and "$112,800,000" for "$115,700,000".

1967—Subsec. (b). Pub. L. 90–175 substituted "1968" for "1967" and "$115,700,000" for "$110,000,000".

1966—Subsec. (b). Pub. L. 89–572 authorized an appropriation of $110,000,000 for the fiscal year 1967 and provided for obligation of limited amount of funds under contracts or agreements to carry out research relating to the basic responsibilities of the Peace Corps and for continuing availability of unobligated balances of funds.

1965—Subsec. (b). Pub. L. 89–134 substituted "1966" for "1965" and inserted $500,000 limit on funds available for research.

1964—Subsec. (b). Pub. L. 88–285 authorized an appropriation of $115,000,000 for fiscal year 1965.

1963—Subsec. (b). Pub. L. 88–200 substituted "1964" and "$102,000,000" for "1963" and "$63,750,000", respectively.

1962—Subsec. (b). Pub. L. 87–442 authorized an appropriation of $63,750,000 for the fiscal year 1963.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–83 effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as a note under section 2151–1 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–53 effective Oct. 1, 1979, see section 512(a) of Pub. L. 96–53, set out as a note under section 2151 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Pub. L. 95–102, §3, Aug. 15, 1977, 91 Stat. 841, provided that: "The amendments made by this Act [amending this section] shall take effect on October 1, 1977."

DELEGATION OF FUNCTIONS; ALLOCATION OF FUNDS

Functions of President under this section delegated to and funds available to President under this chapter allocated to Director of Peace Corps by sections 1–103 and 1–108 of Ex. Ord. No. 12137, May 16, 1979, 44 F.R. 29023, eff. May 16, 1979, set out as a note under section 2501 of this title.

APPLICABILITY OF PUB. L. 97–113 TO ACTIONS PRIOR TO DECEMBER 29, 1981

Pub. L. 97–113, title VI, §601(e)(2), Dec. 29, 1981, 95 Stat. 1542, provided that: "The amendment made by

paragraph (1) of this subsection [redesignating former subsec. (g) as (d) and striking out subsecs. (d) to (f) of this section] shall not alter or affect (A) the validity of any action taken before the date of the enactment of this Act [Dec. 29, 1981] under those provisions of law repealed by that amendment, or (B) the liability of any person for any payment described in section 3(f) of the Peace Corps Act [former subsec. (f) of this section] as in effect immediately before the date of the enactment of this Act."

PAYMENT OF READJUSTMENT ALLOWANCES FROM AMOUNT APPROPRIATED FOR FISCAL YEAR 1977; LIMITATION ON AMOUNT AVAILABLE

Pub. L. 94–281, §3, May 7, 1976, 90 Stat. 458, provided that: "Of the amount appropriated for fiscal year 1977 to carry out the purposes of the Peace Corps Act [see Short Title note set out under section 2501 of this title], $10,100,000 shall be available only for payment of the readjustment allowances authorized by sections 5(c) and 6(1) of such Act [sections 2504(c) and 2505(1) of this title]."

§2503. Director and Deputy Director; delegation of functions

(a) Appointment

The President may appoint, by and with the advice and consent of the Senate, a Director of the Peace Corps and a Deputy Director of the Peace Corps.

(b) Exercise of functions by Director

The President may exercise any functions vested in him by this chapter through the Director of the Peace Corps. The Director of the Peace Corps may promulgate such rules and regulations as he may deem necessary or appropriate to carry out such functions, and may delegate to any of his subordinates authority to perform any of such functions.

(c) Powers and functions of Secretary of State; coordination of activities; responsibility for supervision and direction of programs

(1) Nothing contained in this chapter shall be construed to infringe upon the powers or functions of the Secretary of State.

(2) The President shall prescribe appropriate procedures to assure coordination of Peace Corps activities with other activities of the United States Government in each country, under the leadership of the chief of the United States diplomatic mission.

(3) Under the direction of the President, the Secretary of State shall be responsible for the continuous supervision and general direction of the programs authorized by this chapter, to the end that such programs are effectively integrated both at home and abroad and the foreign policy of the United States is best served thereby.

(4) The Director of the Peace Corps may prescribe such regulations as may be necessary to assure that no individual performing service for the Peace Corps under any authority contained in this chapter shall engage in any activity determined by the Director to be detrimental to the best interests of the United States.

(d) Prohibition on performance of services more usefully performed by other agencies

Except with the approval of the Secretary of State, the Peace Corps shall not be assigned to perform services which could more usefully be performed by other available agencies of the United States Government in the country concerned.

(Pub. L. 87–293, title I, §4, Sept. 22, 1961, 75 Stat. 612; Pub. L. 88–426, title III, §305(27), Aug. 14, 1964, 78 Stat. 426; Pub. L. 91–352, §2, July 24, 1970, 84 Stat. 464; Pub. L. 97–113, title VI, §601(d)(1), Dec. 29, 1981, 95 Stat. 1541.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (b) and (c), was in the original "this Act", meaning Pub. L. 87–293, Sept. 22, 1961, 75 Stat. 612, as amended, known as the Peace Corps Act. For complete classification of this Act to the Code, see Short Title note set out under section 2501 of this title and Tables.

AMENDMENTS

1981—Subsec. (b). Pub. L. 97–113 substituted provision authorizing the President to exercise functions vested in him under this chapter through the Director of the Peace Corps and the Director of the Peace Corps to promulgate rules and regulations as deemed appropriate for provision authorizing the President to exercise functions vested in him under this chapter through such agency or officer of the United States Government as he directs and the head of such agency or such officer to promulgate rules and regulations as deemed appropriate.

1970—Subsec. (c). Pub. L. 91–352 added par. (4).

1964—Subsec. (a). Pub. L. 88–426 repealed provisions which prescribed the compensation of the Director and Deputy Director. See sections 5314 and 5315 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88–426 effective on first day of first pay period which begins on or after July 1, 1964, except to extent provided in section 501(c) of Pub. L. 88–426, see Pub. L. 88–426, title V, §501(a), Aug. 14, 1964, 78 Stat. 435.

TRANSFER OF FUNCTIONS

Transfer to President of the United States of functions conferred upon Director of Peace Corps by subsec. (c)(4) of this section, see section 2(b) of Reorg. Plan No. 1 of 1971, eff. July 1, 1971, 36 F.R. 11181, 85 Stat. 819, set out in the Appendix to Title 5, Government Organization and Employees.

DELEGATION OF FUNCTIONS

Functions of President under subsecs. (c)(1), (4), (d) delegated to Director of Peace Corps by sections 1–103 and 1–301(a), (b) of Ex. Ord. No. 12137, May 16, 1979, 44 F.R. 29023, eff. May 16, 1979, set out as a note under section 2501 of this title.

CONFORMING SAFETY AND SECURITY AGREEMENT REGARDING PEACE CORPS VOLUNTEERS SERVING IN FOREIGN COUNTRIES

Pub. L. 112–57, §7, Nov. 21, 2011, 125 Stat. 744, provided that:

"(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Nov. 21, 2011], the Director of the Peace Corps shall consult with the Assistant Secretary of State for Diplomatic Security and enter into a memorandum of understanding that specifies the duties and obligations of the Peace Corps and the Bureau of Diplomatic Security of the Department of State with respect to the protection of Peace Corps volunteers and staff members serving in foreign countries, including with respect to investigations of safety and security incidents and crimes committed against volunteers and staff members.

"(b) INSPECTOR GENERAL REVIEW.—

"(1) REVIEW.—The Inspector General of the Peace Corps shall review the memorandum of understanding described in subsection (a) and be afforded the opportunity to recommend changes that advance the safety and security of Peace Corps volunteers before entry into force of the memorandum of understanding.

"(2) REPORT.—The Director of the Peace Corps shall consider the recommendations of the Inspector General of the Peace Corps regarding the memorandum of understanding described in subsection (a). If the Director enters into the memorandum of understanding without implementing a recommendation of the Inspector General, the Director shall submit to the Inspector General a written explanation relating thereto.

"(c) FAILURE TO MEET DEADLINE.—

"(1) REQUIREMENT TO SUBMIT REPORT.—If, by the date that is 180 days after the date of the enactment of this Act, the Director of the Peace Corps is unable to obtain agreement with the Assistant Secretary of State for Diplomatic Security and certification by the Inspector General of the Peace Corps, the Director shall submit to the committees of Congress specified in paragraph (2) a report explaining the reasons for such failure and a certification that substantial steps are being taken to make progress toward agreement.

"(2) COMMITTEES OF CONGRESS SPECIFIED.—The committees of Congress specified in this paragraph are the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives."

CONTINUING FUNCTIONS OF DIRECTOR OF PEACE CORPS FROM DECEMBER 14, 1981

Pub. L. 97–113, title VI, §601(d)(2), Dec. 29, 1981, 95 Stat. 1542, provided: "The Director of the Peace Corps shall continue to exercise all the functions under the Peace Corps Act [this chapter] or any other law or authority which the Director was performing on December 14, 1981."

§2504. Peace Corps volunteers

(a) Persons eligible; terms and conditions of service; Federal employee status; racial, sex, religious, or color discrimination

The President may enroll in the Peace Corps for service abroad qualified citizens and nationals of the United States (referred to in this chapter as "volunteers"). The terms and conditions of the enrollment, training (including training under section 2507a of this title), compensation, hours of work, benefits, leave, termination, and all other terms and conditions of the service of volunteers shall be exclusively those set forth in this chapter and those consistent therewith which the President may prescribe; and, except as provided in this chapter, volunteers shall not be deemed officers or employees or otherwise in the service or employment of, or holding office under, the United States for any purpose. In carrying out this subsection, there shall be no discrimination against any person on account of race, sex, creed, or color.

(b) Living allowances, travel, leave and related items; transfers of supplies and equipment

Volunteers shall be provided with such living, travel, and leave allowances, and such housing, transportation, supplies, equipment, subsistence, and clothing as the President may determine to be necessary for their maintenance and to insure their health and their capacity to serve effectively. Supplies or equipment provided volunteers to insure their capacity to serve effectively may be transferred to the government or to other entities of the country or area with which they have been serving, when no longer necessary for such purpose, and when such transfers would further the purposes of this chapter. Transportation and travel allowances may also be provided, in such circumstances as the President may determine, for applicants for enrollment to or from places of training and places of enrollment, and for former volunteers from places of termination to their homes in the United States.

(c) Readjustment allowances

Volunteers shall be entitled to receive a readjustment allowance at a rate not less than $125 for each month of satisfactory service as determined by the President. The readjustment allowance of each volunteer shall be payable on his return to the United States: *Provided, however*, That, under such circumstances as the President may determine, the accrued readjustment allowance, or any part thereof, may be paid to the volunteer, members of his family or others, during the period of his service, or prior to his return to the United States. In the event of the volunteer's death during the period of his service, the amount of any unpaid readjustment allowance shall be paid in accordance with the provisions of section 5582(b) of title 5. For purposes of the Internal Revenue Code of 1986, a volunteer shall be deemed to be paid and to receive each amount of a readjustment allowance to which he is entitled after December 31, 1964, when such amount is transferred from funds made available under this chapter to the fund from which such readjustment allowance is payable.

(d) Repealed. Pub. L. 89–554, §8(a), Sept. 6, 1966, 80 Stat. 661

(e) Health care

Volunteers shall receive such health care (including, if necessary, for volunteers and trainees, services under section 2507b of this title) during their service, applicants for enrollment shall receive such health examinations preparatory to their service, applicants for enrollment who have accepted an invitation to begin a period of training under section 2507(a) of this title shall receive such immunization and dental care preparatory to their service, and former volunteers shall receive such health examinations within six months after termination of their service, including services provided in accordance with section 2507b of this title (except that the six-month limitation shall not apply in the case of such services), as the President may deem necessary or appropriate. Subject to such conditions as the President may prescribe, such health care may be provided in any facility of any agency of the United States Government, and in such cases the appropriation for maintaining and

operating such facility shall be reimbursed from appropriations available under this chapter. Health care may not be provided under this subsection in a manner inconsistent with the Assisted Suicide Funding Restriction Act of 1997 [42 U.S.C. 14401 et seq.].

(f) Retirement and other credits based upon length of service

(1) Any period of satisfactory service of a volunteer under this chapter shall be credited in connection with subsequent employment in the same manner as a like period of civilian employment by the United States Government—

(A) for the purposes of section 816(a) of the Foreign Service Act of 1980 [22 U.S.C. 4056(a)] and every other Act establishing a retirement system for civilian employees of any United States Government agency; and

(B) except as otherwise determined by the President, for the purposes of determining seniority, reduction in force, and layoff rights, leave entitlement, and other rights and privileges based upon length of service under the laws administered by the Office of Personnel Management, the Foreign Service Act of 1980 [22 U.S.C. 3901 et seq.], and every other Act establishing or governing terms and conditions of service of civilian employees of the United States Government: *Provided*, That service of a volunteer shall not be credited toward completion of any probationary or trial period or completion of any service requirement for career appointment.

(2) For the purposes of paragraph (1)(A) of this subsection, volunteers and volunteer leaders shall be deemed to be receiving compensation during their service at the respective rates of readjustment allowances payable under subsection (c) and section 2505(1) of this title.

(g) Assignment to other entities

The President may detail or assign volunteers or otherwise make them available to any entity referred to in paragraph (1) of section 2509(a) of this title on such terms and conditions as he may determine: *Provided*, That not to exceed two hundred volunteers may be assigned to carry out secretarial or clerical duties on the staffs of the Peace Corps representatives abroad: *Provided, however*, That any volunteer so detailed or assigned shall continue to be entitled to the allowances, benefits and privileges of volunteers authorized under or pursuant to this chapter.

(h) Tort claims; absentee voting; general average contributions for transportation of baggage; check cashing and currency exchange; claims for overpayment of pay; passport fees

Volunteers shall be deemed employees of the United States Government for the purposes of the Federal Tort Claims Act and any other Federal tort liability statute, section 3342 of title 31, section 5732 and section 5584 of title 5 (and readjustment allowances paid under this chapter shall be considered as pay for purposes of such section), and section 214 of this title.

(i) Termination of service

The service of a volunteer may be terminated at any time at the pleasure of the President.

(j) Oath of office

Upon enrollment in the Peace Corps, every volunteer shall take the oath prescribed for persons appointed to any office of honor or profit by section 3331 of title 5.

(k) Counseling programs for returned volunteers

In order to assure that the skills and experience which former volunteers have derived from their training and their service abroad are best utilized in the national interest, the President may, in cooperation with agencies of the United States, private employers, educational institutions and other entities of the United States, undertake programs under which volunteers would be counseled with respect to opportunities for further education and employment.

(l) Legal expenses of defendant in judicial or administrative proceedings

Notwithstanding any other provision of law, counsel may be employed and counsel fees, court costs, bail, and other expenses incident to the defense of volunteers may be paid in foreign judicial or administrative proceedings to which volunteers have been made parties and counsel may be

employed and counsel fees, court costs and other expenses may be paid in the support of volunteers who are parties, complaining witnesses, or otherwise participating in the prosecution of crimes committed against such volunteers.

(m) Allowances and expenses of minor children

The minor children of a volunteer living with the volunteer may receive—

(1) such living, travel, education, and leave allowances, such housing, transportation, subsistence, and essential special items of clothing as the President may determine;

(2) such health care, including health care following the volunteer's service for illness or injury incurred during such service, and health and accident insurance, as the President may determine and upon such terms as he may determine, including health care in any facility referred to in subsection (e) of this section, subject to such conditions as the President may prescribe and subject to reimbursement of appropriations as provided in such subsection (e);

(3) such orientation, language, and other training necessary to accomplish the purposes of this chapter as the President may determine; and

(4) the benefits of subsection (l) of this section on the same basis as volunteers.

(n) Moving expenses

The costs of packing and unpacking, transporting to and from a place of storage, and storing the furniture and household and personal effects of a volunteer who has one or more minor children at the time of his entering a period of pre-enrollment training may be paid from the date of his departure from his place of residence to enter training until no later than three months after termination of his service.

(Pub. L. 87–293, title I, §5, Sept. 22, 1961, 75 Stat. 613; Pub. L. 88–200, §2, Dec. 13, 1963, 77 Stat. 359; Pub. L. 89–134, §2, Aug. 24, 1965, 79 Stat. 549; Pub. L. 89–554, §8(a), Sept. 6, 1966, 80 Stat. 661, 662; Pub. L. 89–572, §2(a), Sept. 13, 1966, 80 Stat. 765; Pub. L. 91–99, §2, Oct. 29, 1969, 83 Stat. 166; Pub. L. 91–352, §3, July 24, 1970, 84 Stat. 464; Pub. L. 94–130, §§4, 6, Nov. 14, 1975, 89 Stat. 684; Pub. L. 95–331, §4, Aug. 2, 1978, 92 Stat. 414; Pub. L. 96–465, title II, §2202(a), Oct. 17, 1980, 94 Stat. 2157; Pub. L. 97–113, title VI, §§604(b), 606, Dec. 29, 1981, 95 Stat. 1543; Pub. L. 99–83, title XI, §1105(b), Aug. 8, 1985, 99 Stat. 276; Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 105–12, §9(j), Apr. 30, 1997, 111 Stat. 27; Pub. L. 106–30, §2(b)(1)–(3), May 21, 1999, 113 Stat. 55; Pub. L. 112–57, §§3, 8(a)(1), (b), Nov. 21, 2011, 125 Stat. 744, 745.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a), (e) to (h), and (m), was in the original "this Act", meaning Pub. L. 87–293, Sept. 22, 1961, 75 Stat. 612, as amended, known as the Peace Corps Act. For complete classification of this Act to the Code, see Short Title note set out under section 2501 of this title and Tables.

The Internal Revenue Code of 1986, referred to in subsec. (c), is classified generally to Title 26, Internal Revenue Code.

The Assisted Suicide Funding Restriction Act of 1997, referred to in subsec. (e), is Pub. L. 105–12, Apr. 30, 1997, 111 Stat. 23, which is classified principally to chapter 138 (§14401 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 14401 of Title 42 and Tables.

The Foreign Service Act of 1980, referred to in subsec. (f)(1), is Pub. L. 96–465, Oct. 17, 1980, 94 Stat. 2071, as amended, which is classified principally to chapter 52 (§3901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3901 of this title and Tables.

The Federal Tort Claims Act, referred to in subsec. (h), is title IV of act Aug. 2, 1946, ch. 753, 60 Stat. 842, which was classified principally to chapter 20 (§§921, 922, 931–934, 941–946) of former Title 28, Judicial Code and Judiciary. Title IV of act Aug. 2, 1946, was substantially repealed and reenacted as sections 1346(b) and 2671 et seq. of Title 28, Judiciary and Judicial Procedure, by act June 25, 1948, ch. 646, 62 Stat. 992, the first section of which enacted Title 28. The Federal Tort Claims Act is also commonly used to refer to chapter 171 of Title 28, Judiciary and Judicial Procedure. For complete classification of title IV to the Code, see Tables. For distribution of former sections of Title 28 into the revised Title 28, see Table at the beginning of Title 28.

AMENDMENTS

2011—Subsec. (a). Pub. L. 112–57, §8(a)(1), inserted "(including training under section 2507a of this title)" after "training".

Subsec. (e). Pub. L. 112–57, §8(b), in first sentence, inserted "(including, if necessary, for volunteers and trainees, services under section 2507b of this title)" after "health care" and "including services provided in accordance with section 2507b of this title (except that the six-month limitation shall not apply in the case of such services)," before "as the President".

Subsec. (l). Pub. L. 112–57, §3, inserted "and counsel may be employed and counsel fees, court costs and other expenses may be paid in the support of volunteers who are parties, complaining witnesses, or otherwise participating in the prosecution of crimes committed against such volunteers" before period at end.

1999—Subsec. (f)(1)(B). Pub. L. 106–30, §2(b)(1), substituted "Office of Personnel Management" for "Civil Service Commission".

Subsec. (h). Pub. L. 106–30, §2(b)(2), substituted "section 3342 of title 31, section 5732 and" for "the Federal Voting Assistance Act of 1955 (5 U.S.C. 2171 et seq.), the Act of June 4, 1954, chapter 264, section 4 (5 U.S.C. 73b–5), the Act of December 23, 1944, chapter 716, section 1, as amended (31 U.S.C. 492a),".

Subsec. (j). Pub. L. 106–30, §2(b)(3), substituted "section 3331 of title 5." for "section 1757 of the Revised Statutes of the United States, as amended (5 U.S.C. 16), and shall swear (or affirm) that he does not advocate the overthrow of our constitutional form of government in the United States, and that he is not a member of an organization that advocates the overthrow of our constitutional form of government in the United States, knowing that such organization so advocates."

1997—Subsec. (e). Pub. L. 105–12 inserted at end "Health care may not be provided under this subsection in a manner inconsistent with the Assisted Suicide Funding Restriction Act of 1997."

1986—Subsec. (c). Pub. L. 99–514 substituted "Internal Revenue Code of 1986" for "Internal Revenue Code of 1954".

1985—Subsec. (a). Pub. L. 99–83 in amending last sentence generally, struck out provisions prohibiting political tests.

1981—Subsec. (c). Pub. L. 97–113, §606, substituted "not less than $125" for "not to exceed $125".

Subsec. (h). Pub. L. 97–113, §604(b), struck out provision making section 2702 of this title, relating to malpractice protection, applicable to volunteers and vesting the President with the authority reposed in the Secretary of State in section 2702(f) of this title, and deeming a Peace Corps representative to be a principal representative of the United States for purposes of section 2702(g) of this title. See section 2509(i) and (j) of this title.

1980—Subsec. (f)(1)(A). Pub. L. 96–465, §2202(a)(1)(A), substituted "section 816(a) of the Foreign Service Act of 1980" for "section 852(a)(1) of the Foreign Service Act of 1946, as amended (22 U.S.C. 1092(a)(1)),".

Subsec. (f)(1)(B). Pub. L. 96–465, §2202(a)(1)(B), substituted "Foreign Service Act of 1980" for "Foreign Service Act of 1946".

Subsec. (h). Pub. L. 96–465, §2202(a)(2), substituted "section 2702 of this title" for "section 817 of this title" and "President" for "Director of ACTION".

1978—Subsec. (c). Pub. L. 95–331, §4(1), struck out provisions relating to allowances for volunteers with minor children at the time of their entering a period of pre-enrollment training.

Subsec. (h). Pub. L. 95–331, §4(2), inserted provisions relating to applicability of malpractice protection.

1975—Subsec. (a). Pub. L. 94–130, §4, prohibited discrimination against any person on account of sex.

Subsec. (c). Pub. L. 94–130, §6, substituted $125 for $75 in initial clause of first sentence.

1970—Subsec. (c). Pub. L. 91–352, §3(a), inserted exception that in case of volunteers having one or more children at time of entering a period of pre-enrollment training, one parent would be entitled to receive a readjustment allowance not exceeding $125 for each month of satisfactory service as determined by the President, and substituted "section 5582(b) of title 5" for "section 61f of title 5".

Subsecs. (m), (n). Pub. L. 91–352, §3(b), added subsecs. (m) and (n).

1969—Subsec. (h). Pub. L. 91–99 inserted provision that for purposes of section 5584 of title 5 (and readjustment allowances made thereto) volunteers are to be deemed employees of the United States Government.

1966—Subsec. (d). Repealed by Pub. L. 89–554, and now covered by section 8142 of Title 5, Government Organization and Employees.

Subsec. (f). Repealed, as applicable to the Civil Service Retirement Act, as amended, by Pub. L. 89–554, and now covered by section 8332(b) of Title 5.

Subsec. (h). Repealed, as applicable to act June 4, 1954, chapter 264, section 5 (5 U.S.C. 73b-5), by Pub. L. 89–554, and now covered by section 5732 of Title 5.

Subsec. (l). Pub. L. 89–572 added subsec. (l).

1965—Subsec. (c). Pub. L. 89–134, §2(a), provided that, for purposes of the Internal Revenue Code of 1954, a volunteer is deemed to be paid and to receive readjustment allowance to which he is entitled after December 31, 1964, when the amount is transferred from funds made available under this chapter to the fund from which the readjustment allowance is paid.

Subsec. (e). Pub. L. 89–134, §2(b), extended health care provisions to include health examinations for applicants for enrollment preparatory to their service, immunization and dental care for applicants who have accepted an invitation to begin a period of training under section 2507(a) of this title, and health examinations to former volunteers within six months after termination of their service.

Subsec. (g). Pub. L. 89–134, §2(c), authorized an increase from 100 to 200 in the number of volunteer secretaries and clerical workers permitted to serve on the staffs of Peace Corps representatives abroad.

Subsec. (h). Pub. L. 89–134, §2(d), extended check cashing and currency exchange transaction privileges of government employees to Peace Corps volunteers.

1963—Subsec. (b). Pub. L. 88–200, §2(a), inserted provision for transfer of supplies and equipment.

Subsec. (c). Pub. L. 88–200, §2(b), substituted "a readjustment allowance" for "termination payments" in first sentence, the second sentence reading "The readjustment allowance of each volunteer shall be payable on his return to the United States: *Provided, however*, That, under such circumstances as the President may determine, the accrued readjustment allowance, or any part thereof, may be paid to the volunteer, members of his family or others, during the period of his service, or prior to his return to the United States" for "The termination payment of each volunteer shall be payable at the termination of his service, or may be paid during the course of his service to the volunteer, to members of his family or to others, under such circumstances as the President may determine" and "readjustment allowance" for "termination payment" in third sentence.

Subsec. (f)(2). Pub. L. 88–200, §2(c), substituted "readjustment allowances" for "termination payments."

Subsec. (g). Pub. L. 88–200, §2(d), provided for assignment of volunteers to duties on staffs of Peace Corps representatives abroad.

Subsec. (h). Pub. L. 88–200, §2(e), provided that volunteers shall be deemed employees of the U.S. Government for the purposes of absentee voting assistance and payment of general average contributions for transportation of baggage.

Subsec. (k). Pub. L. 88–200, §2(f), added subsec. (k).

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–12 effective Apr. 30, 1997, and applicable to Federal payments made pursuant to obligations incurred after Apr. 30, 1997, for items and services provided on or after such date, subject to also being applicable with respect to contracts entered into, renewed, or extended after Apr. 30, 1997, as well as contracts entered into before Apr. 30, 1997, to the extent permitted under such contracts, see section 11 of Pub. L. 105–12, set out as an Effective Date note under section 14401 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–83 effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as a note under section 2151–1 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–465 effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

DELEGATION OF FUNCTIONS

Functions of President under this section, except those under subsec. (f)(1)(B), delegated to Director of Peace Corps, with function of prescribing conditions in subsec. (e) to be exercised in consultation with head of agency responsible for facility, by sections 1–103, 1–106, and 1–301(c) of Ex. Ord. No. 12137, May 16, 1979, 44 F.R. 29023, eff. May 16, 1979, set out as a note under section 2501 of this title.

EVALUATION OF HEALTH-CARE SERVICES PROVIDED TO PEACE CORPS VOLUNTEERS

Pub. L. 102–565, §3, Oct. 28, 1992, 106 Stat. 4266, provided that:

"(a) IN GENERAL.—The Director of the Peace Corps shall contract with an eligible organization or organizations to conduct before January 1, 1997, a total of three evaluations of the health-care needs of the Peace Corps volunteers and the adequacy of the system through which the Peace Corps provides health-care services in meeting those needs.

"(b) REQUIREMENTS OF THE EVALUATIONS.—Each evaluation shall include an assessment of the

adequacy of the Peace Corps health-care system—

"(1) to provide diagnostic, treatment, and referral services to meet the health-care needs of Peace Corps volunteers, and

"(2) to conduct health examinations of applicants for enrollment as Peace Corps volunteers and to provide immunization and dental care preparatory to service of applicants for enrollment who have accepted an invitation to begin a period of training for service as a Peace Corps volunteer.

"(c) REPORTS TO THE PEACE CORPS.—An organization making an evaluation under this section shall submit to the Director of the Peace Corps a report containing its findings and recommendations not later than May 31, 1993, December 31, 1994, and December 31, 1996, as the case may be. Each report shall include recommendations regarding appropriate standards and procedures for ensuring the furnishing of quality medical care and for measuring the quality of care provided to Peace Corps volunteers.

"(d) REPORT TO CONGRESS.—Not later than 90 days after receipt of a report required by subsection (c), the Director of the Peace Corps shall transmit the report, together with the Director's comments, to the appropriate congressional committees.

"(e) DEFINITIONS.—For purposes of this section—

"(1) the term 'appropriate congressional committees' means the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives; and

"(2) the term 'eligible organization' means an independent health-care accreditation organization or other independent organization with expertise in evaluating health-care systems similar to that of the Peace Corps."

LEGAL EXPENSES INCURRED PRIOR TO SEPT. 13, 1966

Pub. L. 89–572, §2(b), Sept. 13, 1966, 80 Stat. 765, provided that: "The authority contained in subsection (a) [adding subsec. (l) to this section] shall extend to counsels fees, costs, and other expenses of the types specified therein that were incurred prior to the date of enactment of this Act [Sept. 13, 1966]."

EX. ORD. NO. 11103. APPOINTMENT OF FORMER VOLUNTEERS TO CIVILIAN CAREER SERVICES

Ex. Ord. No. 11103, Apr. 10, 1963, 28 F.R. 3571, as amended by Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, provided:

By virtue of the authority vested in me by the Civil Service Act (22 Stat. 403) [see, generally, section 1101 et seq. of Title 5, Government Organization and Employers], and section 1753 of the Revised Statutes [section 3301 of Title 5], and as President of the United States, it is hereby ordered as follows:

SECTION 1. Under such regulations as the Office of Personnel Management may prescribe, the head of any agency in the Executive Branch may appoint in the competitive service any person who is certified by the Director of the Peace Corps as having served satisfactorily as a Volunteer or Volunteer Leader under the Peace Corps Act [see Short Title note set out under section 2501 of this title] and who passes such examination as the Office of Personnel Management may prescribe. Any person so appointed shall, upon completion of the prescribed probationary period, acquire a competitive status.

SEC. 2. The head of any agency in the Executive Branch having an established merit system in the excepted service may appoint in such service any person who is certified by the Director of the Peace Corps as having served satisfactorily as a Volunteer or Volunteer Leader under the Peace Corps Act [see Short Title note set out under section 2501 of this title] and who passes such examination as such agency head may prescribe.

SEC. 3. Certificates of satisfactory service for the purposes of this order shall be issued only to persons who have completed a full term of service (approximately two years) under the Peace Corps Act [see Short Title note set out under section 2501 of this title]: *Provided*, That such certificates may be issued to persons who have completed a lesser period of satisfactory service if, in the judgment of the Director of the Peace Corps, (1) their service was of sufficient duration to demonstrate their capability to complete satisfactorily a full term, and (2) their failure to complete a full term was due to circumstances beyond their control.

SEC. 4. Any appointment under this order shall be effected within a period of one year after completion of the appointee's service under the Peace Corps Act [see Short Title note set out under section 2501 of this title]: *Provided*, That such period may be extended to not more than three years in the case of persons who, following such service, are engaged in military service, in the pursuit of studies at a recognized institution of higher learning, or in other activities which, in the view of the appointing authority, warrant an extension of such period.

SEC. 5. Any law, Executive Order, or regulation which would disqualify an applicant for appointment in the competitive service or in the excepted service concerned shall also disqualify an applicant for appointment under this order.

§2505. Peace Corps volunteer leaders; number; applicability of chapter; benefits

The President may enroll in the Peace Corps qualified citizens or nationals of the United States whose services are required for supervisory or other special duties or responsibilities in connection with programs under this chapter (referred to in this chapter as "volunteer leaders"). The ratio of the total number of volunteer leaders to the total number of volunteers in service at any one time shall not exceed one to twenty-five. Except as otherwise provided in this chapter, all of the provisions of this chapter applicable to volunteers shall be applicable to volunteer leaders, and the term "volunteers" shall include "volunteer leaders": *Provided, however,* That—

(1) volunteer leaders shall be entitled to receive a readjustment allowance at a rate not less than $125 for each month of satisfactory service as determined by the President;

(2) spouses and minor children of volunteer leaders may receive such living, travel, and leave allowances, and such housing, transportation, subsistence, and essential special items of clothing, as the President may determine, but the authority contained in this paragraph shall be exercised only under exceptional circumstances;

(3) spouses and minor children of volunteer leaders accompanying them may receive such health care as the President may determine and upon such terms as he may determine, including health care in any facility referred to in section 2504(e) of this title, subject to such conditions as the President may prescribe and subject to reimbursement of appropriations as provided in section 2504(e) of this title; and

(4) spouses and minor children of volunteer leaders accompanying them may receive such orientation, language, and other training necessary to accomplish the purposes of this chapter as the President may determine.

(Pub. L. 87–293, title I, §6, Sept. 22, 1961, 75 Stat. 615; Pub. L. 88–200, §3, Dec. 13, 1963, 77 Stat. 360; Pub. L. 89–134, §3, Aug. 24, 1965, 79 Stat. 549; Pub. L. 91–352, §4, July 24, 1970, 84 Stat. 465; Pub. L. 97–387, §1(a), Dec. 23, 1982, 96 Stat. 1947.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 87–293, Sept. 22, 1961, 75 Stat. 612, as amended, known as the Peace Corps Act. For complete classification of this Act to the Code, see Short Title note set out under section 2501 of this title and Tables.

AMENDMENTS

1982—Par. (1). Pub. L. 97–387 substituted "not less than $125" for "not to exceed $125".

1970—Pub. L. 91–352 struck out provisions extending health care under cl. (3) to a married volunteer's child if born during the volunteer's service.

1965—Pub. L. 89–134 extended the health care provisions of cl. (3) to a married volunteer's child if born during the volunteer's service.

1963—Pub. L. 88–200 substituted "a readjustment allowance" for "termination payments" in cl. (1).

EFFECTIVE DATE OF 1982 AMENDMENT

Pub. L. 97–387, §1(b), Dec. 23, 1982, 96 Stat. 1947, provided that: "This amendment [amending this section] shall be effective as of December 29, 1981."

DELEGATION OF FUNCTIONS

Functions of President under this section delegated to Director of Peace Corps with functions relating to providing health care in government facilities under clause (3) to be exercised in consultation with head of agency responsible for facility by sections 1–103 and 1–106 of Ex. Ord. No. 12137, May 16, 1979, 44 F.R. 29023, eff. May 16, 1979, set out as a note under section 2501 of this title.

APPOINTMENT TO CIVILIAN CAREER SERVICES

Appointment of former volunteer leaders to civilian career services, see Ex. Ord. No. 11103, Apr. 10, 1963, 28 F.R. 3571, set out as a note under section 2504 of this title.

§2506. Peace Corps employees

(a) Foreign employment; compensation, allowances, and benefits; utilization of Presidential authority respecting Foreign Service; additional compensation and differentials; additional governmental employment by person receiving Foreign Service Reserve or staff appointment or assignment; limitation on length of employment

(1) For the purpose of performing functions under this chapter outside the United States, the President may employ or assign persons, or authorize the employment or assignment of officers or employees of agencies of the United States Government which are not authorized to utilize the Foreign Service personnel system, who shall receive compensation at any of the rates established under section 402 or 403 of the Foreign Service Act of 1980 [22 U.S.C. 3962, 3963], together with allowances and benefits thereunder; and persons so employed or assigned shall be entitled, except to the extent that the President may specify otherwise in cases in which the period of the employment or assignment exceeds thirty months, to the same benefits as are provided by section 310 of that Act [22 U.S.C. 3950] for persons appointed to the Foreign Service.

(2) The President may utilize such authority contained in the Foreign Service Act of 1980 [22 U.S.C. 3901 et seq.] relating to members of the Foreign Service and other United States Government officers and employees as the President deems necessary to carry out functions under this chapter, except that—

(A) no Foreign Service appointment or assignment under this paragraph shall be for a period of more than seven and one-half years, subject to paragraph (5) and except as provided in paragraph (6); and

(B) no individual whose Foreign Service appointment or assignment under this paragraph has been terminated shall be reappointed or reassigned under this paragraph before the expiration of a period of time equal to the preceding tour of duty of that individual.

Subparagraphs (A) and (B) do not apply with respect to foreign national employees. Such provisions of the Foreign Service Act of 1980 [22 U.S.C. 3901 et seq.] (other than the provisions of section 309 [22 U.S.C. 3949]) as the President deems appropriate shall apply to individuals appointed or assigned under this paragraph, including in all cases, the provisions of section 310 of that Act [22 U.S.C. 3950], except that (i) the President may by regulation make exceptions to the application of section 310 [22 U.S.C. 3950] in cases in which the period of the appointment or assignment exceeds thirty months, (ii) members of the Foreign Service appointed or assigned pursuant to this paragraph shall receive within-class salary increases in accordance with such regulations as the President may prescribe, and (iii) under such regulations as the President may prescribe, individuals who are to perform duties of a more routine nature than are generally performed by members of the Foreign Service assigned to class 9 in the Foreign Service Schedule may be appointed to an unenumerated class ranking below class 9 in the Foreign Service Schedule and be paid basic compensation at rates lower than those for class 9, except that such rates may be no less than the then applicable minimum wage rate specified in section 206(a)(1) of title 29.

(3) The President may specify what additional allowance authorized by section 5941 of title 5 and which of the allowances and differentials authorized by sections 5923 through 5925 of such title 5, may be granted to any person employed, appointed, or assigned under this subsection, or contracted with for personal services under section 2509(a)(5) of this title, and may determine the rates thereof not to exceed the rates otherwise granted to employees under the sections of title 5 referred to in this paragraph.

(4) An individual who has received an appointment or assignment in the Foreign Service under this subsection may, not later than September 30, 1982, or three years after separation from such appointment or assignment, whichever is later, be appointed to a position in any United States department, agency, or establishment—

(A) in the competitive service under title 5 without competitive examination and in accordance with such regulations and conditions consistent with this subsection as may be prescribed by the Director of the Office of Personnel Management, or

(B) in an established merit system in the excepted service,

if such individual (i) served satisfactorily under the authority of this subsection, as certified by the President, for not less than thirty-six months on a continuous basis without a break in service of more than three days, and (ii) is qualified for the position in question.

(5) Except as provided in paragraph (6), the Director of the Peace Corps may make appointments or assignments of United States citizens under paragraph (2) for periods of more than five years only in the case of individuals whose performance as employees of the Peace Corps has been exceptional and only in order to achieve one or more of the following purposes:

(A) To permit individuals who have served at least two and one-half years of such an appointment or assignment abroad to serve in the United States thereafter.

(B) To permit individuals who have served at least two and one-half years of such an appointment or assignment in the United States to serve abroad thereafter.

(C) To permit individuals who have served at least two and one-half years of such an appointment or assignment in a recruitment, selection, or training activity to be reassigned to an activity other than the one in which they have most recently so served.

(D) To promote the continuity of functions in administering the Peace Corps.

At no time may the number of appointments or assignments of United States citizens in effect under paragraph (2) for periods in excess of five years exceed fifteen percent of the total of all appointments and assignments of United States citizens then in effect under paragraph (2).

(6) Notwithstanding the limitation set forth in paragraph (2)(A) on the length of an appointment or assignment under paragraph (2) and notwithstanding the limitations set forth in paragraph (5) on the circumstances under which such an appointment or assignment may exceed five years, the Director of the Peace Corps, under special circumstances, may personally approve an extension of an appointment or assignment under paragraph (2) for not more than one year on an individual basis.

(7) The limitations specified in subparagraphs (A) and (B) of paragraph (2) and in paragraph (5) shall not apply to—

(A) the Inspector General of the Peace Corps; and

(B) officers and employees of the Office of the Inspector General of the Peace Corps.

(b) Repealed. Pub. L. 96–465, title II, §2205(9), Oct. 17, 1980, 94 Stat. 2160

(c) Peace Corps representatives; terms and conditions of service; removal

In each country or area in which volunteers serve abroad, the President may appoint an employee or a volunteer as a Peace Corps representative to have direction of other employees of the Peace Corps abroad and to oversee the activities carried on under this chapter in such country or area. Unless a representative is a volunteer, the compensation, allowances and benefits, and other terms and conditions of service of each such representative, shall be the same as those of a person appointed, or assigned pursuant to paragraph (1) or (2) of subsection (a) of this section, except that any such representative may, notwithstanding any provision of law, be removed by the President in his discretion.

(Pub. L. 87–293, title I, §7, Sept. 22, 1961, 75 Stat. 615; Pub. L. 87–793, §1001(l), Oct. 11, 1962, 76 Stat. 865; Pub. L. 88–200, §4, Dec. 13, 1963, 77 Stat. 360; Pub. L. 89–134, §4, Aug. 24, 1965, 79 Stat. 549; Pub. L. 91–352, §5, July 24, 1970, 84 Stat. 465; Pub. L. 96–53, title III, §302, Aug. 14, 1979, 93 Stat. 371; Pub. L. 96–465, title II, §§2202(b), 2205(9), Oct. 17, 1980, 94 Stat. 2157, 2160; Pub. L. 98–473, title I, §101(1) [title V, §541(a)], Oct. 12, 1984, 98 Stat. 1884, 1903; Pub. L. 99–83, title XI, §1103(a), Aug. 8, 1985, 99 Stat. 272; Pub. L. 112–57, §§5(1), 6, Nov. 21, 2011, 125 Stat. 744.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 87–293, Sept. 22, 1961, 75 Stat. 612, as amended, known as the Peace Corps Act. For complete classification of this Act to the Code, see Short Title note set out under section 2501 of this title and Tables.

The Foreign Service Act of 1980, referred to in subsec. (a)(1), (2), is Pub. L. 96–465, Oct. 17, 1980, 94

Stat. 2071, as amended, which is classified principally to chapter 52 (§3901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3901 of this title and Tables.

CODIFICATION

Amendment by Pub. L. 98–473 is based on section 703 of H.R. 5119, Ninety-eighth Congress, as passed by the House of Representatives May 10, 1984, which was enacted into permanent law by Pub. L. 98–473.

AMENDMENTS

2011—Subsec. (a)(3). Pub. L. 112–57, §5(1), inserted ", or contracted with for personal services under section 2509(a)(5) of this title," after "employed, appointed, or assigned under this subsection".

Subsec. (a)(7). Pub. L. 112–57, §6, added par. (7).

1985—Subsec. (a)(2)(A). Pub. L. 99–83, §1103(a)(1), substituted "seven and one-half" for "five", substituted ", subject to paragraph (5) and except as provided in paragraph (6)" for "unless the Director of the Peace Corps, under special circumstances, personally approves an extension of not more than one year on an individual basis", and inserted reference to section 309 of the Foreign Service Act of 1980.

Subsec. (a)(5), (6). Pub. L. 99–83, §1103(a)(2), added pars. (5) and (6).

1984—Subsec. (a)(2). Pub. L. 98–473 inserted provision that subparagraphs (A) and (B) do not apply with respect to foreign national employees.

1980—Subsec. (a)(1). Pub. L. 96–465, §2202(b)(1)(A), substituted "which are not authorized to utilize the Foreign Service personnel system, who shall receive compensation at any of the rates established under section 402 or 403 of the Foreign Service Act of 1980" for ", who shall receive compensation at any of the rates provided for persons appointed to the Foreign Service Reserve and Staff under the Foreign Service Act of 1946, as amended (22 U.S.C. 801 et seq.)" and "section 310" for "section 528" and struck out reference to the applicability of section 1005 of the Foreign Service Act of 1946.

Subsec. (a)(2). Pub. L. 96–465, §2202(b)(1)(B), among other changes, substituted references to the Foreign Service Act of 1980 for references to the Foreign Service Act of 1946 and references to class 9 for class 10, and inserted provision relating to section 206(a)(1) of title 29.

Subsec. (a)(4). Pub. L. 96–465, §2202(b)(2), among other changes, struck out provisions relating to the time Congress enacts Foreign Service personnel reform legislation, inserted reference to September 30, 1982, and substituted "such individual" for "such person" and "continuous basis without a break in service of more than three days" for "substantially continuous basis".

Subsec. (b). Pub. L. 96–465, §2205(9), struck out subsec. (b) which related to criteria for performance of foreign employment, separation, and severance benefits. See sections 3922 and 4007 to 4009 of this title.

1979—Subsec. (a)(4). Pub. L. 96–53 added par. (4).

1970—Subsec. (a)(3). Pub. L. 91–352 substantially reenacted provisions and substituted references to section 5941 of title 5, and sections 5923 through 5925 of such title 5, for references to section 118h of title 5 and title II of the Overseas Differentials and Allowances Act.

1965—Subsec. (a). Pub. L. 89–134, §4(a), (b), redesignated subsec. (c) as (a), incorporated into par. (1) material formerly set out as introductory material, spelled out the authority of the President to utilize his authority to appoint and assign persons under the Foreign Service Act of 1946 by making specific reference to his authority as it related to Foreign Service Reserve Officers, Foreign Service Staff officers and employees, alien clerks and employees and other Government officers and employees apart from the Foreign Service, limited to five-year duration all Foreign Service Reserve or Staff appointments and assignments unless the Director of the Peace Corps personally approved one-years extensions on an individual basis, prohibited reappointment or reassignment under this par. before expiration of a period of time equal to the length of the appointee's preceding tour of duty, inserted proviso in par. (2) allowing appointment of an unenumerated class of Foreign Service staff officers and employees ranking below class 10 to be paid basic compensation at rates lower than those of class 10 to perform duties of a more routine nature than are usually performed by Foreign Service staff officers and employees of class 10, and, in par. (3), inserted reference to section 118h of title 5 and substituted reference to subsec. (a) for reference to subsec. (c). Former subsec. (a), relating to domestic employment, was repealed.

Subsec. (b). Pub. L. 89–134, §4(c), redesignated subsec. (d) as (b), inserted "for the purpose of performing functions under this chapter outside the United States" after "or assigned", and substituted reference to subsec. (a)(2) for reference to subsec. (c)(2). Former subsec. (b), relating to compensation for domestic employment, was repealed.

Subsec. (c). Pub. L. 89–134, §4(d), redesignated subsec. (e) as (c) and substituted reference to subsec. (a) of this section for reference to subsec. (c) of this section. Former subsec. (c) redesignated (a).

Subsecs. (d), (e). Pub. L. 89–134, §4(c), (d), redesignated subsecs. (d) and (e) as (b) and (c), respectively.

1963—Subsec. (b). Pub. L. 88–200 struck out "so" before "employed".

1962—Subsec. (b). Pub. L. 87–793 substituted "but not in excess of the highest grade 18 of such general schedule" for "and of these not to exceed two may be compensated at a rate in excess of the highest rate provided for grades of such general schedule but not in excess of $19,000 per year".

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–83 effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as a note under section 2151–1 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–465 effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–53 effective Oct. 1, 1979, see section 512(a) of Pub. L. 96–53, set out as a note under section 2151 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Pub. L. 89–134, §5(a), Aug. 24, 1965, 79 Stat. 551, provided that: "Section 4 of this Act [amending this section] shall not become effective until the first day of the fourth pay period which begins after the date this Act becomes law. [Aug. 24, 1965]."

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87–793 effective on first day of first pay period which begins on or after Oct. 11, 1962, see section 1008 of Pub. L. 87–793.

DELEGATION OF FUNCTIONS

Functions of President under this section delegated to Director of Peace Corps by section 1–103 of Ex. Ord. No. 12137, May 16, 1979, 44 F.R. 29023, eff. May 16, 1979, set out as a note under section 2501 of this title.

COORDINATION OF CHANGES IN POLICY WITH SECRETARY OF STATE

Any substantial changes in policies in effect on May 16, 1979, for the utilization of the Foreign Service Act of 1980 (§3901 et seq. of this title) pursuant to this section are to be coordinated with the Secretary of State, see section 1–111 of Ex. Ord. No. 12137, May 16, 1979, 44 F.R. 29023, set out as a note under section 2501 of this title.

PEACE CORPS APPOINTMENTS OR ASSIGNMENTS

Pub. L. 108–199, div. D, title II, Jan. 23, 2004, 118 Stat. 156, provided in part: "That during fiscal year 2004 and any subsequent fiscal year, the Director of the Peace Corps may make appointments or assignments, or extend current appointments or assignments, to permit United States citizens to serve for periods in excess of 5 years in the case of individuals whose appointment or assignment, such as regional safety security officers and employees within the Office of the Inspector General, involves the safety of Peace Corps volunteers: *Provided further*, That the Director of the Peace Corps may make such appointments or assignments notwithstanding the provisions of section 7 of the Peace Corps Act [this section] limiting the length of an appointment or assignment, the circumstances under which such an appointment or assignment may exceed 5 years, and the percentage of appointments or assignments that can be made in excess of 5 years."

Similar provisions were contained in the following prior appropriation act:

Pub. L. 108–7, div. E, title II, Feb. 20, 2003, 117 Stat. 171.

REPORTS TO CONGRESS

Pub. L. 99–83, title XI, §1103(b), Aug. 8, 1985, 99 Stat. 273, which required the Director of the Peace Corps to submit to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives reports on the exercise of certain appointment authority granted under section 1103(a) of Pub. L. 99–83 (amending subsec. (a) of this section), terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 189 of House Document No. 103–7.

BENEFITS FOR PERSONS APPOINTED OR ASSIGNED UNDER SUBSEC. (A)

Persons appointed, employed, or assigned under subsec. (a) of this section are not, unless otherwise agreed

by the agency in which such benefits may be exercised, entitled to the benefits provided by section 928 of this title in cases in which their service under the appointment, employment, or assignment exceeds thirty months, see section 1–401 of Ex. Ord. No. 12137, May 16, 1979, 44 F.R. 29023, set out as a note under section 2501 of this title.

TRANSFER OF WASHINGTON HEADQUARTERS PERSONNEL FROM CIVIL SERVICE TO FOREIGN SERVICE APPOINTMENTS

Pub. L. 89–134, §5(b), Aug. 24, 1965, 79 Stat. 551, provided that: "Under such regulations as the President may prescribe, each person employed under authorities repealed by section 4(a) of this Act [which repealed former subsecs. (a) and (b) of this section providing for employment of Washington headquarters personnel in accordance with standard civil service laws] immediately prior to the effective date of that section [see Effective Date of 1965 Amendment note above] shall effective on that date be appointed a Foreign Service Reserve officer or Foreign Service staff officer or employee under the authority of section 7(a)(2) of the Peace Corps Act [subsec. (a)(2) of this section], as amended, and appointed or assigned to an appropriate class thereof; except that—

"(1) no person who holds a career or career-conditional appointment immediately prior to the effective date of section 4(a) of this Act [see effective date of 1965 Amendment note above] shall, without his consent, be so appointed until three years after such effective date; and

"(2) each person so appointed who, immediately prior to the effective date of section 4(a) of this Act [see effective date of 1965 Amendment note above], held a career or career-conditional appointment at grade 8 or below of the General Schedule established by the Classification Act of 1949, as amended [see §5101 et seq. of Title 5, Government Organization and Employees], shall receive an appointment for the duration of operations under the Peace Corps Act, as amended [see Short Title note set out under section 2501 of this title].

Each person appointed under this subsection shall receive basic compensation at the rate of his class determined by the President to be appropriate, but the rate of basic compensation received by such person immediately prior to the effective date of his appointment under this subsection shall not be reduced by the provisions of this subsection."

[Functions of the President conferred by section 5(b) of Pub. L. 89–134, set out above, to prescribe regulations and make determinations (relating to appointment of Peace Corps Employees in the Foreign Service System) were delegated to the Director of the Peace Corps, by section 1–105 of Ex. Ord. No. 12137, May 16, 1976, 44 F.R. 29023, set out as a note under section 2501 of this title. Such functions were previously transferred from the President to the Director of ACTION [now Corporation for National and Community Service] by section 102(c) of Ex. Ord. No. 11603, June 30, 1971, 36 F.R. 12675, set out as a note under section 2501 of this title, which was superseded by section 1–707 of Ex. Ord. No. 12137.]

§2507. Training program

(a) Applicants for enrollment and enrolled volunteers

The President shall make provision for such training, including training under section 2507a of this title, as he deems appropriate for each applicant for enrollment as a volunteer and each enrolled volunteer. All of the provisions of this chapter applicable respectively to volunteers and volunteer leaders shall be applicable to applicants for enrollment as such during any period of training occurring prior to enrollment, and the respective terms "volunteers" and "volunteer leaders" shall include such applicants during any such period of training.

(b) Citizen trainees for voluntary programs; foreign nationals as trainees; advances of funds or reimbursement basis; use of credits

The President may also make provision, on the basis of advances of funds or reimbursement to the United States, for training for citizens of the United States, other than those referred to in subsection (a) of this section, who have been selected for service abroad in programs not carried out under authority of this chapter which are similar to those authorized by this chapter. The provisions of section 2508 of this title shall apply, on a similar advance of funds or a reimbursement basis, with respect to persons while within the United States for training under authority of this subsection.

Advances or reimbursements received under this subsection may be credited to the current applicable appropriation, fund, or account and shall be available for the purposes for which such appropriation, fund, or account is authorized to be used.

(Pub. L. 87–293, title I, §8, Sept. 22, 1961, 75 Stat. 616; Pub. L. 102–511, title IX, §904, Oct. 24, 1992, 106 Stat. 3356; Pub. L. 112–57, §8(a)(2), Nov. 21, 2011, 125 Stat. 745.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b), was in the original "this Act", meaning Pub. L. 87–293, Sept. 22, 1961, 75 Stat. 612, as amended, known as the Peace Corps Act. For complete classification of this Act to the Code, see Short Title note set out under section 2501 of this title and Tables.

AMENDMENTS

2011—Subsec. (a). Pub. L. 112–57 inserted ", including training under section 2507a of this title," after "for such training".

1992—Subsec. (c). Pub. L. 102–511 struck out subsec. (c) which read as follows: "Training hereinabove provided for shall include instruction in the philosophy, strategy, tactics, and menace of communism."

DELEGATION OF FUNCTIONS

Functions of President under this section delegated to Director of Peace Corps by section 1–103 of Ex. Ord. No. 12137, May 16, 1979, 44 F.R. 29023, eff. May 16, 1979, set out as a note under section 2501 of this title.

§2507a. Sexual assault risk-reduction and response training

(a) In general

As part of the training provided to all volunteers under section 2507(a) of this title, the President shall develop and implement comprehensive sexual assault risk-reduction and response training that, to the extent practicable, conforms to best practices in the sexual assault field.

(b) Development and consultation with experts

In developing the sexual assault risk-reduction and response training under subsection (a), the President shall consult with and incorporate, as appropriate, the recommendations and views of experts in the sexual assault field.

(c) Subsequent training

Once a volunteer has arrived in his or her country of service, the President shall provide the volunteer with training tailored to the country of service that includes cultural training relating to gender relations, risk-reduction strategies, treatment available in such country (including sexual assault forensic exams, post-exposure prophylaxis (PEP) for HIV exposure, screening for sexually transmitted diseases, and pregnancy testing), MedEvac procedures, and information regarding a victim's right to pursue legal action against a perpetrator.

(d) Information regarding crimes and risks

Each applicant for enrollment as a volunteer shall be provided with information regarding crimes against and risks to volunteers in the country in which the applicant has been invited to serve, including an overview of past crimes against volunteers in the country.

(e) Contact information

The President shall provide each applicant, before the applicant enrolls as a volunteer, with—

(1) the contact information of the Inspector General of the Peace Corps for purposes of reporting sexual assault mismanagement or any other mismanagement, misconduct, wrongdoing, or violations of law or policy whenever it involves a Peace Corps employee, volunteer, contractor, or outside party that receives funds from the Peace Corps;

(2) clear, written guidelines regarding whom to contact, including the direct telephone number for the designated Sexual Assault Response Liaison (SARL) and the Office of Victim Advocacy and what steps to take in the event of a sexual assault or other crime; and

(3) contact information for a 24-hour sexual assault hotline to be established for the purpose of providing volunteers a mechanism to anonymously—

(A) report sexual assault;

(B) receive crisis counseling in the event of a sexual assault; and

(C) seek information about Peace Corps sexual assault reporting and response procedures.

(f) Definitions

In this section and sections 2507b through 2507g of this title:

(1) Personally identifying information

The term "personally identifying information" means individually identifying information for or about a volunteer who is a victim of sexual assault, including information likely to disclose the location of such victim, including the following:

(A) A first and last name.

(B) A home or other physical address.

(C) Contact information (including a postal, email, or Internet protocol address, or telephone or facsimile number).

(D) A social security number.

(E) Any other information, including date of birth, racial or ethnic background, or religious affiliation, that, in combination with information described in subparagraphs (A) through (D), would serve to identify the victim.

(2) Restricted reporting

(A) In general

The term "restricted reporting" means a system of reporting that allows a volunteer who is sexually assaulted to confidentially disclose the details of his or her assault to specified individuals and receive the services outlined in section 2507b(c) of this title without the dissemination of his or her personally identifying information except as necessary for the provision of such services, and without automatically triggering an official investigative process.

(B) Exceptions

In cases in which volunteers elect restricted reporting, disclosure of their personally identifying information is authorized to the following persons or organizations when disclosure would be for the following reasons:

(i) Peace Corps staff or law enforcement when authorized by the victim in writing.

(ii) Peace Corps staff or law enforcement to prevent or lessen a serious or imminent threat to the health or safety of the victim or another person.

(iii) SARLs, victim advocates or healthcare providers when required for the provision of victim services.

(iv) State and Federal courts when ordered, or if disclosure is required by Federal or State statute.

(C) Notice of disclosure and privacy protection

In cases in which information is disclosed pursuant to subparagraph (B), the President shall—

(i) make reasonable attempts to provide notice to the volunteer with respect to whom such information is being released; and

(ii) take such action as is necessary to protect the privacy and safety of the volunteer.

(3) Sexual assault

The term "sexual assault" means any conduct prescribed by chapter 109A of title 18, whether or not the conduct occurs in the special maritime and territorial jurisdiction of the United States, and includes both assaults committed by offenders who are strangers to the victim and assaults committed by offenders who are known or related by blood or marriage to the victim.

(4) Stalking

The term "stalking" means engaging in a course of conduct directed at a specific person that would cause a reasonable person to—

(A) fear for his or her safety or the safety of others; or

(B) suffer substantial emotional distress.

(Pub. L. 87–293, title I, §8A, as added Pub. L. 112–57, §2, Nov. 21, 2011, 125 Stat. 736.)

OFFSET OF COSTS AND PERSONNEL

Pub. L. 112–57, §9, Nov. 21, 2011, 125 Stat. 745, provided that: "Notwithstanding any other provision of law, the Direct [probably should be "Director"] of the Peace Corps shall—

"(1) eliminate such initiatives, positions, and programs within the Peace Corps (other than within the Office of Inspector General) as the Director deems necessary to ensure any and all costs incurred to carry out the provisions of this Act [see Short Title of 2011 Amendment note set out under section 2501 of this title], and the amendments made by this Act, are entirely offset;

"(2) ensure no net increase in personnel are added to carry out the provisions of this Act, with any new full or part time employees or equivalents offset by eliminating an equivalent number of existing staff (other than within the Office of Inspector General);

"(3) report to Congress not later than 60 days after the date of the enactment of this Act [Nov. 21, 2011] the actions taken to ensure compliance with paragraphs (1) and (2), including the specific initiatives, positions, and programs within the Peace Corps that have been eliminated to ensure that the costs of carrying out this Act will be offset; and

"(4) not implement any other provision of this Act (other than paragraphs (1), (2), and (3)) or any amendment made by this Act until the Director has certified that the actions specified in paragraphs (1), (2), and (3) have been completed."

§2507b. Sexual assault policy

(a) In general

The President shall develop and implement a comprehensive sexual assault policy that—

(1) includes a system for restricted and unrestricted reporting of sexual assault;

(2) mandates, for each Peace Corps country program, the designation of a Sexual Assault Response Liaison (SARL), who shall receive comprehensive training on procedures to respond to reports of sexual assault, with duties including ensuring that volunteers who are victims of sexual assault are moved to a safe environment and accompanying victims through the in-country response at the request of the victim;

(3) requires SARLs to immediately contact a Victim Advocate upon receiving a report of sexual assault in accordance with the restricted and unrestricted reporting guidelines promulgated by the Peace Corps;

(4) to the extent practicable, conforms to best practices in the sexual assault field;

(5) is applicable to all posts at which volunteers serve; and

(6) includes a guarantee that volunteers will not suffer loss of living allowances for reporting a sexual assault.

(b) Development and consultation with experts

In developing the sexual assault policy under subsection (a), the President shall consult with and incorporate, as appropriate, the recommendations and views of experts in the sexual assault field, including experts with international experience.

(c) Elements

The sexual assault policy developed under subsection (a) shall include, at a minimum, the following services with respect to a volunteer who has been a victim of sexual assault:

(1) The option of pursuing either restricted or unrestricted reporting of an assault.

(2) Provision of a SARL and Victim's Advocate to the volunteer.

(3) At a volunteer's discretion, provision of a sexual assault forensic exam in accordance with applicable host country law.

(4) If necessary, the provision of emergency health care, including a mechanism for such

volunteer to evaluate such provider.

(5) If necessary, the provision of counseling and psychiatric medication.

(6) Completion of a safety and treatment plan with the volunteer, if necessary.

(7) Evacuation of such volunteer for medical treatment, accompanied by a Peace Corps staffer at the request of such volunteer. When evacuated to the United States, such volunteer shall be provided, to the extent practicable, a choice of medical providers including a mechanism for such volunteers to evaluate the provider.

(8) An explanation to the volunteer of available law enforcement and prosecutorial options, and legal representation.

(d) Training

The President shall train all staff outside the United States regarding the sexual assault policy developed under subsection (a).

(Pub. L. 87–293, title I, §8B, as added Pub. L. 112–57, §2, Nov. 21, 2011, 125 Stat. 738.)

§2507c. Office of Victim Advocacy

(a) Establishment of Office of Victims [1] Advocacy

(1) In general

The President shall establish an Office of Victim Advocacy in Peace Corps headquarters headed by a full-time victim advocate who shall report directly to the Director. The Office of Victim Advocacy may deploy personnel abroad when necessary to help assist victims.

(2) Prohibition

Peace Corps Medical Officers, Safety and Security Officers, and program staff may not serve as victim advocates. The victim advocate referred to in paragraph (1) may not have any other duties in the Peace Corps that are not reasonably connected to victim advocacy.

(3) Exemption

The victim advocate and any additional victim advocates shall be exempt from the limitations specified in subparagraphs (A) and (B) of paragraph (2) and paragraph (5) under section 2506(a) of this title.

(b) Responsibilities

(1) Victims of sexual assault

The Office of Victim Advocacy shall help develop and update the sexual assault risk-reduction and response training described in section 2507a of this title and the sexual assault policy described in section 2507b of this title, ensure that volunteers who are victims of sexual assault receive services specified in section 2507b(c) of this title, and facilitate their access to such services.

(2) Other crimes

In addition to assisting victims of sexual assault in accordance with paragraph (1), the Office of Victim Advocacy shall assist volunteers who are victims of crime by making such victims aware of the services available to them and facilitating their access to such services.

(3) Priority

The Office of Victim Advocacy shall give priority to cases involving serious crimes, including sexual assault and stalking.

(c) Status updates

The Office of Victim Advocacy shall provide to volunteers who are victims regular updates on the status of their cases if such volunteers have opted to pursue prosecution.

(d) Transition

The Office of Victim Advocacy shall assist volunteers who are victims of crime and whose service has terminated in receiving the services specified in section 2507b(c) of this title requested by such volunteer.

(e) Sunset

This section shall cease to be effective on October 1, 2018.

(Pub. L. 87–293, title I, §8C, as added Pub. L. 112–57, §2, Nov. 21, 2011, 125 Stat. 739.)

[1] *So in original. Probably should be "Victim".*

§2507d. Establishment of Sexual Assault Advisory Council

(a) Establishment

There is established a Sexual Assault Advisory Council (in this section referred to as the "Council").

(b) Membership

The Council shall be composed of not less than 8 individuals selected by the President, not later than 180 days after November 21, 2011, who are returned volunteers (including volunteers who were victims of sexual assault and volunteers who were not victims of sexual assault) and governmental and nongovernmental experts and professionals in the sexual assault field. No Peace Corps employee shall be a member of the Council. The number of governmental experts appointed to the Council shall not exceed the number of nongovernmental experts.

(c) Functions; meetings

The Council shall meet not less often than annually to review the sexual assault risk-reduction and response training developed under section 2507a of this title, the sexual assault policy developed under section 2507b of this title, and such other matters related to sexual assault the Council views as appropriate, to ensure that such training and policy conform to the extent practicable to best practices in the sexual assault field.

(d) Reports

On an annual basis for 5 years after November 21, 2011, and at the discretion of the Council thereafter, the Council shall submit to the President and the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives a report on its findings based on the reviews conducted pursuant to subsection (c).

(e) Employee status

Members of the Council shall not be considered employees of the United States Government for any purpose and shall not receive compensation other than reimbursement of travel expenses and per diem allowance in accordance with section 5703 of title 5.

(f) Nonapplicability of FACA

The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Council.

(g) Sunset

This section shall cease to be effective on October 1, 2018.

(Pub. L. 87–293, title I, §8D, as added Pub. L. 112–57, §2, Nov. 21, 2011, 125 Stat. 740.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (f), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, which is set out in the Appendix to Title 5, Government Organization and Employees.

§2507e. Volunteer feedback and Peace Corps review

(a) Monitoring and evaluation

Not later than 1 year after November 21, 2011, the President shall establish goals, metrics, and monitoring and evaluation plans for all Peace Corps programs. Monitoring and evaluation plans shall incorporate best practices from monitoring and evaluation studies and analyses.

(b) Performance plans and elements

The President shall establish performance plans with performance elements and standards for Peace Corps representatives and shall review the performance of Peace Corps representatives not less than annually to determine whether they have met these performance elements and standards. Nothing in this subsection shall be construed as limiting the discretion of the President to remove a Peace Corps representative.

(c) Annual volunteer surveys

Annually through September 30, 2018, the President shall conduct a confidential survey of volunteers regarding the effectiveness of Peace Corps programs and staff and the safety of volunteers. The results shall be provided in aggregate form without identifying information to the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives. Results from the annual volunteer survey shall be considered in reviewing the performance of Peace Corps representatives under subsection (a).

(d) Peace Corps Inspector General

The Inspector General of the Peace Corps shall—

(1) submit to the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives—

(A) a report, not later than one year after November 21, 2011, and biennially through September 30, 2018, on reports received from volunteers relating to misconduct, mismanagement, or policy violations of Peace Corps staff, any breaches of the confidentiality of volunteers, and any actions taken to assure the safety of volunteers who provide such reports;

(B) a report, not later than two years and five years after November 21, 2011, evaluating the effectiveness and implementation of the sexual assault risk-reduction and response training developed under section 2507a of this title and the sexual assault policy developed under section 2507b of this title, including a case review of a statistically significant number of cases; and

(C) a report, not later than two years after November 21, 2011, describing how Peace Corps representatives are hired, how Peace Corps representatives are terminated, and how Peace Corps representatives hire staff, including an assessment of the implementation of the performance plans described in subsection (b); and

(2) when conducting audits or evaluations of Peace Corps programs overseas, notify the Director of the Peace Corps about the results of such evaluations, including concerns the Inspector General has noted, if any, about the performance of Peace Corps representatives, for appropriate action.

(e) Portfolio reviews

(1) In general

The President shall, at least once every 3 years, perform a review to evaluate the allocation and delivery of resources across the countries the Peace Corps serves or is considering for service. Such portfolio reviews shall at a minimum include the following with respect to each such country:

(A) An evaluation of the country's commitment to the Peace Corps program.

(B) An analysis of the safety and security of volunteers.
(C) An evaluation of the country's need for assistance.
(D) An analysis of country program costs.
(E) An evaluation of the effectiveness of management of each post within a country.
(F) An evaluation of the country's congruence with the Peace Corp's [1] mission and strategic priorities.

(2) Briefing

Upon request of the Chairman and Ranking Member of the Committee on Foreign Relations of the Senate or the Committee on Foreign Affairs of the House of Representatives, the President shall brief such committees on each portfolio review required under paragraph (1). If requested, each such briefing shall discuss performance measures and sources of data used (such as project status reports, volunteer surveys, impact studies, reports of Inspector General of the Peace Corps, and any relevant external sources) in making the findings and conclusions in such review.

(Pub. L. 87–293, title I, §8E, as added Pub. L. 112–57, §2, Nov. 21, 2011, 125 Stat. 740.)

[1] So in original. Probably should be "Corps' ".

§2507f. Establishment of a policy on stalking

(a) In general

The President shall develop and implement a comprehensive policy on stalking that—
(1) requires an immediate, effective, and thorough response from the Peace Corps upon receipt of a report of stalking;
(2) provides, during training, all Peace Corps volunteers with a point of contact for the reporting of stalking; and
(3) protects the confidentiality of volunteers who report stalking to the maximum extent practicable.

(b) Development and consultation with experts

In developing the stalking policy under subsection (a), the President shall consult with and incorporate, as appropriate, the recommendations and views of those with expertise regarding the crime of stalking.

(c) Training of in-country staff

The President shall provide for the training of all in-country staff regarding the stalking policy developed under subsection (a).

(Pub. L. 87–293, title I, §8F, as added Pub. L. 112–57, §2, Nov. 21, 2011, 125 Stat. 742.)

§2507g. Establishment of a confidentiality protection policy

(a) In general

The President shall establish and maintain a process to allow volunteers to report incidents of misconduct or mismanagement, or violations of any policy, of the Peace Corps in order to protect the confidentiality and safety of such volunteers and of the information reported, and to ensure that such information is acted on appropriately. This process shall conform to existing best practices regarding confidentiality.

(b) Guidance

The President shall provide additional training to officers and employees of the Peace Corps who have access to information reported by volunteers under subsection (a) in order to protect against the inappropriate disclosures of such information and ensure the safety of such volunteers.

(c) Penalty

Any Peace Corps volunteer or staff member who is responsible for maintaining confidentiality under subsection (a) and who breaches such duty shall be subject to disciplinary action, including termination, and in the case of a staff member, ineligibility for re-employment with the Peace Corps.

(Pub. L. 87–293, title I, §8G, as added Pub. L. 112–57, §2, Nov. 21, 2011, 125 Stat. 742.)

§2507h. Removal and assessment and evaluation

(a) In general

If a volunteer requests removal from the site in which such volunteer is serving because the volunteer feels at risk of imminent bodily harm, the President shall, as expeditiously as practical after receiving such request, remove the volunteer from the site. If the President receives such a request, the President shall assess and evaluate the safety of such site and may not assign another volunteer to the site until such time as the assessment and evaluation is complete and the site has been determined to be safe. Volunteers may remain at a site during the assessment and evaluation.

(b) Determination of site as unsafe

If the President determines that a site is unsafe for any remaining volunteers at the site, the President shall, as expeditiously as practical, remove all volunteers from the site.

(c) Tracking and recording

The President shall establish a global tracking and recording system to track and record incidents of crimes against volunteers.

(Pub. L. 87–293, title I, §8H, as added Pub. L. 112–57, §2, Nov. 21, 2011, 125 Stat. 743.)

§2507i. Reporting requirements

(a) In general

The President shall annually through September 30, 2018, submit to the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives a report summarizing information on—

(1) sexual assault of volunteers;

(2) other crimes against volunteers;

(3) the number of arrests, prosecutions, and incarcerations for crimes involving Peace Corps volunteers for every country in which volunteers serve; and

(4) the annual rate of early termination of volunteers, including demographic data associated with such early termination.

(b) GAO

Not later than one year after November 21, 2011, the Comptroller General of the United States shall submit to the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives a report evaluating the quality and accessibility of health care provided through the Department of Labor to returned volunteers upon their separation from the Peace Corps.

(c) Access to communications

(1) In general

The President shall determine the level of access to communication, including cellular and Internet access, of each volunteer.

(2) Report

Not later than six months after November 21, 2011, the President shall submit to the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives a report on the costs, feasibility, and benefits of providing all volunteers with access to adequate communication, including cellular service and Internet access.

(Pub. L. 87–293, title I, §8I, as added Pub. L. 112–57, §2, Nov. 21, 2011, 125 Stat. 743.)

§2508. Foreign participants; admission into the United States as nonimmigrants; removal

In order to provide for assistance by foreign nationals in the training of volunteers, and to permit effective implementation of Peace Corps projects with due regard for the desirability of cost-sharing arrangements, where appropriate, the President may make provision for transportation, housing, subsistence, or per diem in lieu thereof, and health care or health and accident insurance for foreign nationals engaged in activities authorized by this chapter while they are away from their homes, without regard to the provisions of any other law: *Provided, however,* That per diem in lieu of subsistence furnished to such persons shall not be at rates higher than those prescribed by the Secretary of State pursuant to section 2679 of title 22. Such persons, and persons coming to the United States under contract pursuant to section 2509(a)(5) of this title, may be admitted to the United States, if otherwise qualified, as nonimmigrants under section 1101(a)(15) of title 8 for such time and under such conditions as may be prescribed by regulations promulgated by the Secretary of State and the Attorney General. A person admitted under this section who fails to maintain the status under which he was admitted or who fails to depart from the United States at the expiration of the time for which he was admitted, or who engages in activities of a political nature detrimental to the interests of the United States, or in activities not consistent with the security of the United States, shall, upon the warrant of the Attorney General, be taken into custody and promptly removed pursuant to chapter 4 of title II of the Immigration and Nationality Act [8 U.S.C. 1221 et seq.] [1] proceedings under this section shall be summary and the findings of the Attorney General as to matters of fact shall be conclusive.

(Pub. L. 87–293, title I, §9, Sept. 22, 1961, 75 Stat. 617; Pub. L. 97–113, title VI, §605(a), Dec. 29, 1981, 95 Stat. 1543; Pub. L. 104–208, div. C, title III, §308(e)(18), Sept. 30, 1996, 110 Stat. 3009–621.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 87–293, Sept. 22, 1961, 75 Stat. 612, as amended, known as the Peace Corps Act. For complete classification of this Act to the Code, see Short Title note set out under section 2501 of this title and Tables.

The Immigration and Nationality Act, referred to in text, is act June 27, 1952, ch. 477, 66 Stat. 163, as amended. Chapter 4 of title II of the Act is classified generally to part IV (§1221 et seq.) of subchapter II of chapter 12 of Title 8, Aliens and Nationality. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of Title 8 and Tables.

AMENDMENTS

1996—Pub. L. 104–208 substituted "removed pursuant to chapter 4 of title II of the Immigration and Nationality Act" for "deported pursuant to sections 1251, 1252, and 1253 of title 8. Deportation".

1981—Pub. L. 97–113 substituted reference to section "2509(a)(5)" for "2509(a)(4)" of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–208 effective, with certain transitional provisions, on the first day of the first month beginning more than 180 days after Sept. 30, 1996, see section 309 of Pub. L. 104–208, set out as a note under section 1101 of Title 8, Aliens and Nationality.

ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of Title 8, Aliens and Nationality.

DELEGATION OF FUNCTIONS

Functions of President under this section delegated to Director of Peace Corps by section 1–103 of Ex. Ord. No. 12137, May 16, 1979, 44 F.R. 29023, eff. May 16, 1979, set out as a note under section 2501 of this title.

[1] *So in original. Probably should be followed by a period and "Removal".*

§2509. Presidential powers and authorities

(a) Contract authority; assignment of volunteers; acceptance of voluntary services and gifts and transfers of property; personal service contracts

In furtherance of the purposes of this chapter, the President may—

(1) enter into, perform, and modify contracts and agreements and otherwise cooperate with any agency of the United States Government or of any State or any subdivision thereof, other governments and departments and agencies thereof, and educational institutions, voluntary agencies, farm organizations, labor unions, and other organizations, individuals and firms;

(2) assign volunteers in special cases to temporary duty with international organizations and agencies when the Secretary of State determines that such assignment would serve the purposes of this chapter;

(3) assign volunteers to duty or otherwise make them available to any entity referred to in paragraph (1), in order to assist such organizations and agencies in providing development or other relief assistance to displaced persons and refugees in any country, if the government of the country agrees to such assignment;

(4) accept in the name of the Peace Corps and employ or transfer in furtherance of the purposes of this chapter (A) voluntary services notwithstanding the provisions of section 1342 of title 31, and (B) any money or property (real, personal or mixed, tangible or intangible) received by gift, devise, bequest, or otherwise; and

(5) contract with individuals for personal services abroad, and with aliens (abroad or within the United States) for personal services within the United States: *Provided*, That no such person shall be deemed an officer or employee or otherwise in the service or employment of the United States Government for the purposes of any law administered by the Office of Personnel Management (except that the President may determine the applicability to such individuals of provisions of the Foreign Service Act of 1980 (22 U.S.C. 3901 et seq.)).

(b) Claim settlements

Notwithstanding any other provision of law, whenever the President determines that it will further the purposes of this chapter, the President, under such regulations as he may prescribe, may settle and pay, in an amount not exceeding $20,000, any claim against the United States, for loss of or damage to real or personal property (including loss of occupancy or use thereof) belonging to, or for personal injury or death of, any person not a citizen or resident of the United States, where such claim arises abroad out of the act or omission of any Peace Corps employee or out of the act or omission of any volunteer, but only if such claim is presented in writing within one year after it accrues. Any amount paid in settlement of any claim under this subsection shall be accepted by the claimant in full satisfaction thereof and shall bar any further action or proceeding thereon.

(c) Five-year contract authority

Subject to any future action of the Congress, a contract or agreement which entails commitments for the expenditure of funds available for the purposes of this chapter, including commitments for the purpose of paying or providing for allowances and other benefits of volunteers authorized by sections 2504 and 2505 of this title, may extend at any time for not more than five years.

(d) Waiver of certain Federal laws

Whenever the President determines it to be in furtherance of the purposes of this chapter, functions authorized by this chapter may be performed without regard to such provisions of law (other than sections 3101(a) and (c), 3104, 3106, 3301(b)(2), and 6101 of title 41, and the Renegotiation Act of 1951, as amended) regulating the making, performance, amendment, or modification of contracts and the expenditure of Government funds as the President may specify.

(e) Allocation of funds

The President may allocate or transfer to any agency of the United States Government any funds available for carrying out the purposes of this chapter including any advance received by the United States from any country or international organization under authority of this chapter, but not to exceed 20 per centum in the aggregate of such funds may be allocated or transferred to agencies other than the Peace Corps. Such funds shall be available for obligation and expenditure for the purposes of this chapter in accordance with authority granted in this chapter or under authority governing the activities of the agencies of the United States Government to which such funds are allocated or transferred.

(f) Utilization of other Government agency services and facilities

Any officer of the United States Government carrying out functions under this chapter may utilize the services and facilities of, or procure commodities from, any agency of the United States Government as the President shall direct, or with the consent of the head of such agency, and funds allocated pursuant to this subsection to any such agency may be established in separate appropriation accounts on the books of the Treasury.

(g) Reimbursement for commodities, services, and facilities

In the case of any commodity, service, or facility procured from any agency of the United States Government under this chapter, reimbursement or payment shall be made to such agency from funds available under this chapter. Such reimbursement or payment shall be at replacement cost, or, if required by law, at actual cost, or at any other price authorized by law and agreed to by the owning or disposing agency. The amount of any such reimbursement or payment shall be credited to current applicable appropriations, funds, or accounts from which there may be procured replacements of similar commodities, services, or facilities, except that where such appropriations, funds, or accounts are not reimbursable except by reason of this subsection, and when the owning or disposing agency determines that such replacement is not necessary, any funds received in payment therefor shall be covered into the Treasury as miscellaneous receipts.

(h) Hospitalization and medical treatment for Foreign Service local employees

The President may provide hospitalization and medical treatment to Foreign Service local employees who are within the United States for training related to their employment under this chapter, for illnesses, injuries, or conditions other than those arising out of and in the course of employment, which, in the judgment of the President, began during such employee's travel related to such training or so near to the beginning of such travel that the onset of the illness, injury, or condition could not have been known, and for which immediate medical treatment or hospitalization is reasonably required.

(i) Procurement of legal services

The Director of the Peace Corps shall have the same authority as is available to the Secretary of State under section 2698(a) of this title. For purposes of this subsection, the reference in such section 2698(a) of this title to a principal officer of the Foreign Service shall be deemed to be a reference to a Peace Corps representative and the reference in such section to a member of the Foreign Service shall be deemed to be a reference to a person employed, appointed, or assigned under this chapter.

(j) Malpractice protection

The provisions of section 2702 of this title shall apply to volunteers and persons employed, appointed, or assigned under this chapter, and to individuals employed under personal services contracts to furnish medical services abroad pursuant to subsection (a)(5) of this section..[1] For purposes of this subsection, references to the Secretary in subsection (b) of such section shall be

deemed to be references to the Director of the Peace Corps, references to the Secretary in subsection (f) of such section shall be deemed to be references to the President, and the reference in subsection (g) of such section to a principal representative of the United States shall be deemed to be a reference to a Peace Corps representative.

(Pub. L. 87–293, title I, §10, Sept. 22, 1961, 75 Stat. 617; Pub. L. 88–200, §5, Dec. 13, 1963, 77 Stat. 360; Pub. L. 89–134, §6, Aug. 24, 1965, 79 Stat. 551; Pub. L. 89–572, §6, Sept. 13, 1966, 80 Stat. 765; Pub. L. 93–49, §2, June 25, 1973, 87 Stat. 99; Pub. L. 95–331, §5(a), (c), Aug. 2, 1978, 92 Stat. 414, 415; Pub. L. 97–113, title VI, §604(a), Dec. 29, 1981, 95 Stat. 1543; Pub. L. 103–236, title VI, §602, Apr. 30, 1994, 108 Stat. 491; Pub. L. 106–30, §2(b)(4), May 21, 1999, 113 Stat. 56; Pub. L. 112–57, §5(2), Nov. 21, 2011, 125 Stat. 744.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 87–293, Sept. 22, 1961, 75 Stat. 612, as amended, known as the Peace Corps Act. For complete classification of this Act to the Code, see Short Title note set out under section 2501 of this title and Tables.

The Foreign Service Act of 1980, referred to in subsec. (a)(5), is Pub. L. 96–465, Oct. 17, 1980, 94 Stat. 2071, which is classified principally to chapter 52 (§3901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3901 of this title and Tables.

The Renegotiation Act of 1951, as amended, referred to in subsec. (d), is act Mar. 23, 1951, ch. 15, 65 Stat. 7, as amended, which was classified principally to section 1211 et seq. of the former Appendix to Title 50, War and National Defense, prior to its omission from the Code.

CODIFICATION

In subsec. (d), "sections 3101(a) and (c), 3104, 3106, 3301(b)(2), and 6101 of title 41" substituted for "section 3709 of the Revised Statutes of the United States, as amended, section 302 of the Federal Property and Administrative Services Act of 1949," on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

2011—Subsec. (a)(5). Pub. L. 112–57 substituted "the purposes of any law administered by the Office of Personnel Management (except that the President may determine the applicability to such individuals of provisions of the Foreign Service Act of 1980 (22 U.S.C. 3901 et seq.))" for "any purpose".

1999—Subsec. (a)(4). Pub. L. 106–30 substituted "section 1342 of title 31" for "31 U.S.C. 665(b)".

1994—Subsec. (c). Pub. L. 103–236, §602(a), which directed amendment of subsec. (c) by substituting "five years" for "thirty six months", was executed by making the substitution for "thirty-six months" to reflect the probable intent of Congress.

Subsec. (j). Pub. L. 103–236, §602(b), inserted before period at end of first sentence ", and to individuals employed under personal services contracts to furnish medical services abroad pursuant to subsection (a)(5) of this section."

1981—Subsecs. (i), (j). Pub. L. 97–113 added subsecs. (i) and (j).

1978—Subsec. (a)(2). Pub. L. 95–331, §5(a)(1), struck out proviso limiting to no more than 125 Peace Corps volunteers or volunteer leaders the number assignable to the described organizations.

Subsec. (a)(3) to (5). Pub. L. 95–331, §5(c), added par. (3) and redesignated former pars. (3) and (4) as (4) and (5), respectively.

Subsec. (b). Pub. L. 95–331, §5(a)(2), substituted "$20,000" for "$10,000".

Subsec. (h). Pub. L. 95–331, §5(a)(3), added subsec. (h).

1973—Subsec. (d). Pub. L. 93–49 excepted from waiver of Federal laws the application of sections 5 and 252 of title 41.

1966—Subsec. (a)(3). Pub. L. 89–572 inserted "or transfer" after "and employ" and struck out ", and transfer such money or property to the government or other entities of the country or area with which the volunteers are serving, when such transfers would further the general purposes of the chapter".

1965—Subsec. (a)(3). Pub. L. 89–134 inserted "money or" after "and transfer such".

1963—Subsec. (a)(3). Pub. L. 88–200 inserted provision for transfer of property.

EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95–331, §5(b), Aug. 2, 1978, 92 Stat. 415, provided that: "The amendment made by paragraph (2) of subsection (a) [amending this section] shall apply to claims made after the date of the enactment of this Act

[Aug. 2, 1978]."

DELEGATION OF FUNCTIONS; ALLOCATION OF FUNDS

Funds available to President under this chapter allocated to and functions of President under this section, except subsec. (d) and those functions under subsec. (f) relating to directing agencies to provide services, facilities, and commodities to officers carrying out functions under this chapter, were delegated to Director of Peace Corps by sections 1–103 and 1–301(a), (d) of Ex. Ord. No. 12137, May 16, 1979, 44 F.R. 29203, eff. May 16, 1979, set out as a note under section 2501 of this title.

PROHIBITION AGAINST USE OF FUNDS APPROPRIATED AFTER FEBRUARY 15, 1981, AND BEFORE DECEMBER 29, 1981, FOR LEGAL SERVICES OR MALPRACTICE PROTECTION

Pub. L. 97–113, title VI, §604(c), Dec. 29, 1981, 95 Stat. 1543, provided: "To the extent that the authorities provided by the amendments made by subsection (a) [enacting subsecs. (i) and (j) of this section] are authorities which are not applicable with respect to the Peace Corps immediately before the enactment of this Act [Dec. 29, 1981] and which require the expenditure of funds, those authorities may not be exercised using any funds appropriated after February 15, 1981, and before the date of the enactment of this Act."

WAIVER OF CERTAIN LAWS BY PRESIDENT UNDER SUBSEC. (D)

For determination under subsec. (d) of this section that it is in the furtherance of the purposes of this chapter and that the functions under this chapter may be performed without regard to the applicable laws specified in section 1 and 2 of Ex. Ord. No. 11223, May 12, 1965, 30 F.R. 6635, set out as a note under section 2393 of this title, with certain limitations see section 1–402 of Ex. Ord. No. 12137, May 16, 1979, 44 F.R. 29203, set out as a note under section 2501 of this title.

[1] *So in original.*

§2510. Omitted

CODIFICATION

Section, Pub. L. 87–293, title I, §11, Sept. 22, 1961, 75 Stat. 619; Pub. L. 95–331, §6, Aug. 2, 1978, 92 Stat. 415; Pub. L. 99–83, title XI, §1102(b), Aug. 8, 1985, 99 Stat. 272, which required the President to transmit to Congress, at least once in each fiscal year, a report on operations under this chapter, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 26 of House Document No. 103–7.

§2511. Peace Corps National Advisory Council

(a) Establishment

A Peace Corps National Advisory Council (hereinafter in this section referred to as the "Council") shall be established in accordance with the provisions of this section.

(b) Functions

(1) The Council shall advise and consult with the President and the Director of the Peace Corps with regard to policies and programs designed to further the purposes of this chapter and shall, as the Council considers appropriate, periodically report to the Congress with regard to the Peace Corps.

(2) Members of the Council shall (subject to subsection (d)(1)) conduct on-site inspections, and make examinations, of the activities of the Peace Corps in the United States and in other countries in order to—

(A) evaluate the accomplishments of the Peace Corps;

(B) assess the potential capabilities and the future role of the Peace Corps;

(C) make recommendations to the President, the Director of the Peace Corps, and, as the Council considers appropriate, the Congress, for the purpose of guiding the future direction of the

Peace Corps and of helping to ensure that the purposes and programs of the Peace Corps are carried out in ways that are economical, efficient, responsive to changing needs in developing countries and to changing relationships among people, and in accordance with law; and

(D) make such other evaluations, assessments, and recommendations as the Council considers appropriate.

(3) The Council may provide for public participation in its activities.

(c) Membership

(1) Persons appointed as members of the Council shall be broadly representative of the general public, including educational institutions, private volunteer agencies, private industry, farm organizations, labor unions, different regions of the United States, different educational, economic, racial, and national backgrounds and age groupings, and both sexes.

(2)(A) The Council shall consist of fifteen voting members who shall be appointed by the President, by and with the advice and consent of the Senate. At least seven of such members shall be former Peace Corps volunteers, and not more than eight of such members shall be members of the same political party.

(B) The first appointments of members of the Council under this paragraph shall be made not more than sixty days after August 8, 1985, and, solely for purposes of determining the expiration of their terms, shall be deemed to take effect on the sixtieth day after August 8, 1985.

(C) No member appointed under this paragraph may be an officer or employee of the United States Government.

(D) Of the members initially appointed under this paragraph, eight shall be appointed to 1-year terms and seven shall be appointed to 2-year terms. Thereafter, all appointed members shall be appointed to 2-year terms.

(E) A member of the Council appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term.

(F) No member of the Council may serve for more than two consecutive 2-year terms.

(G) Members of the Council shall serve at the pleasure of the President.

(H) An appointed member of the Council may be removed by a vote of nine members for malfeasance in office, for persistent neglect of or inability to discharge duties, or for offenses involving moral turpitude, and for no other cause.

(I) Within thirty days after any vacancy occurs in the office of an appointed member of the Council, the President shall nominate an individual to fill the vacancy.

(3) In addition to the voting members of the Council, the Secretary of State and the Administrator of the Agency for International Development, or their designees, and the Director and Deputy Director of the Peace Corps, shall be non-voting members, ex officio, of the Council.

(d) Compensation

(1) Except as provided in paragraph (2), a member of the Council who is not an officer or employee of the United States Government—

(A) shall be paid compensation out of funds made available for the purposes of this chapter at the daily equivalent of the highest rate payable under section 5332 of title 5 for each day (including travel time) during which the member is engaged in the actual performance of duties as a Council member, and

(B) while away from his or her home or regular place of business on necessary travel, as determined by the Director of the Peace Corps, in the actual performance of duties as a Council member, shall be paid per diem, travel, and transportation expenses in the same manner as is provided under subchapter I of chapter 57 of title 5.

(2) A member of the Council may not be paid compensation under paragraph (1)(A) for more than twenty days in any calendar year.

(e) Quorum

A majority of the voting members of the Council shall constitute a quorum for the purposes of transacting any business.

(f) Financial interests of members

A member of the Council shall disclose to the Council the existence of any direct or indirect financial interest of that member in any particular matter before the Council and may not vote or otherwise participate as a Council member with respect to that particular matter.

(g) Chair and Vice Chair

At its first meeting and at its first regular meeting in each calendar year thereafter, the Council shall elect a Chair and Vice Chair from among its appointed members who are citizens of the United States. The Chair and Vice Chair may not both be members of the same political party.

(h) Meetings, bylaws, and regulations

(1) The Council shall hold a regular meeting during each calendar quarter and shall meet at the call of the President, the Director of the Peace Corps, the Council's Chair, or one-fourth of its members.

(2) The Council shall prescribe such bylaws and regulations as it considers necessary to carry out its functions. Such bylaws and regulations shall include procedures for fixing the time and place of meetings, giving or waiving of notice of meetings, and keeping of minutes of meetings.

(i) Reports to the President and the Director

Not later than January 1, 1988, and not later than January 1 of each second year thereafter, the Council shall submit to the President and the Director of the Peace Corps a report on its views on the programs and activities of the Peace Corps. Each report shall contain a summary of the advice and recommendations provided by the Council to the President and the Director during the period covered by the report and such recommendations (including recommendations for administrative or legislative action) as the Council considers appropriate to make to the Congress. Within ninety days after receiving each such report, the President shall submit to the Congress a copy of the report, together with any comments concerning the report that the President or the Director considers appropriate.

(j) Administrative assistance

The Director of the Peace Corps shall make available to the Council such personnel, administrative support services, and technical assistance as are necessary to carry out its functions effectively.

(Pub. L. 87–293, title I, §12, as added Pub. L. 99–83, title XI, §1104(a), Aug. 8, 1985, 99 Stat. 273.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (b)(1) and (d)(1)(A), was in the original "this Act", meaning Pub. L. 87–293, Sept. 22, 1961, 75 Stat. 612, as amended, known as the Peace Corps Act. For complete classification of this Act to the Code, see Short Title note set out under section 2501 of this title and Tables.

PRIOR PROVISIONS

A prior section 2511, Pub. L. 87–293, title I, §12, Sept. 22, 1961, 75 Stat. 619, established Peace Corps National Advisory Council and set forth its composition, functions, and terms of members, prior to repeal by Pub. L. 92–352, title IV, §403, July 13, 1972, 86 Stat. 495, effective 90 days after July 13, 1972.

EFFECTIVE DATE

Section effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as an Effective Date of 1985 Amendment note under section 2151–1 of this title.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (i) of this section relating to requirement that the President submit to Congress a copy of each report received under subsec. (i), see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 14 of House Document No. 103–7.

TERMINATION OF ADVISORY COUNCILS

Advisory councils established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a council established by the Congress, its duration is otherwise provided for by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

TERMINATION OF SIMILAR ADVISORY BODY

Pub. L. 99–83, title XI, §1104(b), Aug. 8, 1985, 99 Stat. 275, provided that: "Any advisory body carrying out functions similar to those assigned to the Peace Corps National Advisory Council provided for in subsection (a) [enacting this section] shall cease to exist sixty days after the date of the enactment of this Act [Aug. 8, 1985]."

§2512. Experts and consultants

(a) Employment; compensation, travel expenses and per diem; renewal of contracts

Experts and consultants or organizations thereof may, as authorized by section 3109 of title 5, be employed by the President for the performance of functions under this chapter, and individuals so employed may be compensated at rates not in excess of the per diem equivalent of the highest rate payable under section 5332 of title 5, and while away from their homes or regular places of business, they may be paid actual travel expenses and per diem in lieu of subsistence and other expenses at the applicable rate prescribed in the Standardized Government Travel Regulations, as amended from time to time, while so employed: *Provided,* That contracts for such employment may be renewed annually.

(b) Exemption from restrictions upon receipt of retirement benefits

Service of an individual as a member of the Council authorized to be established by section 2511 [1] of this title or as an expert or consultant under subsection (a) of this section shall not be considered as employment or holding of office or position bringing such individual within the provisions of sections 3323(b) and 8344 of title 5, section 4064 of this title, or any other law limiting the reemployment of retired officers or employees or governing the simultaneous receipt of compensation and retired pay or annuities.

(Pub. L. 87–293, title I, §13, Sept. 22, 1961, 75 Stat. 619; Pub. L. 88–200, §6, Dec. 13, 1963, 77 Stat. 360; Pub. L. 88–448, title IV, §401(c), Aug. 19, 1964, 78 Stat. 490; Pub. L. 91–352, §6, July 24, 1970, 84 Stat. 465; Pub. L. 96–465, title II, §2202(c), Oct. 17, 1980, 94 Stat. 2158; Pub. L. 107–107, div. A, title X, §1048(i)(9), Dec. 28, 2001, 115 Stat. 1229.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this Act", meaning Pub. L. 87–293, Sept. 22, 1961, 75 Stat. 612, as amended, known as the Peace Corps Act. For complete classification of this Act to the Code, see Short Title note set out under section 2501 of this title and Tables.

Section 2511 of this title, referred to in subsec. (b), was repealed by Pub. L. 92–352, title IV, §403, July 13, 1972, 86 Stat. 495.

AMENDMENTS

2001—Subsec. (b). Pub. L. 107–107 struck out ", subject to section 5532 of title 5" before period at end.

1980—Subsec. (b). Pub. L. 96–465 substituted "section 4064 of this title" for "section 1112 of this title".

1970—Subsec. (a). Pub. L. 91–352, §6(a), substituted "section 3109 of title 5" for "section 55a of title 5" and "the per diem equivalent of the highest rate payable under section 5332 of title 5" for "$75 per diem".

Subsec. (b). Pub. L. 91–352, §6(b), substituted "sections 3323(b) and 8344 of title 5" and "section 5532 of title 5" for "section 2263 of title 5" and "section 3102 of title 5", respectively.

1964—Subsec. (b). Pub. L. 88–448 struck out provisions providing that such service shall not be considered as employment or holding of office or position bringing such individual within the provisions of section 59a of title 5, and inserted ", subject to section 3102 of title 5".

1963—Subsec. (a). Pub. L. 88–200, §6(a), substituted "President" for "Peace Corps".

Subsec. (b). Pub. L. 88–200, §6(b), struck out provisions for exemption from conflict-of-interest laws and restrictions upon receipt of compensation.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–465 effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88–448 effective on first day of first month which begins later than ninetieth day following Aug. 19, 1964, see Pub. L. 88–448, title IV, §403, Aug. 19, 1964, 78 Stat. 496.

DELEGATION OF FUNCTIONS

Functions of President under this section delegated to Director of Peace Corps by section 1–103 of Ex. Ord. No. 12137, May 16, 1979, 44 F.R. 29023, eff. May 16, 1979, set out as a note under section 2501 of this title.

PEACE CORPS NATIONAL ADVISORY COUNCIL

Abolition of Peace Corps National Advisory Council, see section 2511 of this title.

[1] *See References in Text note below.*

§2513. Assignment of personnel to foreign governments or international organizations

(a) Authority; oath of allegiance

In furtherance of the purposes of this chapter, the head of any agency of the United States Government is authorized to detail, assign, or otherwise make available any officer or employee of his agency (1) to serve with, or as a member of, the international staff of any international organization, or (2) to any office or position to which no compensation is attached with any foreign government or agency thereof: *Provided*, That such acceptance of such office or position shall in no case involve the taking of an oath of allegiance to another government.

(b) Benefits of detailed personnel

Any such officer or employee, while so detailed or assigned, shall be considered, for the purpose of preserving his allowances, privileges, rights, seniority, and other benefits as such, an officer or employee of the United States Government and of the agency of the United States Government from which detailed or assigned, and he shall continue to receive compensation, allowances, and benefits from funds authorized by this chapter. He may also receive, under such regulations as the President may prescribe, representation allowances similar to those allowed under section 4085 of this title. The authorization of such allowances and other benefits, and the payment thereof out of any appropriations available therefor, shall be considered as meeting all of the requirements of section 5536 of title 5.

(c) Reimbursement provisions

Details or assignments may be made under this section—

(1) without reimbursement to the United States Government by the international organization or foreign government;

(2) upon agreement by the international organization or foreign government to reimburse the United States Government for compensation, travel expenses, and allowances, or any part thereof, payable to such officer or employee during the period of assignment or detail in accordance with subsection (b) of this section; and such reimbursement shall be credited to the appropriation, fund, or account utilized for paying such compensation, travel expenses, or allowances, or to the appropriation, fund, or account currently available for such purpose; or

(3) upon an advance of funds, property or services to the United States Government accepted with the approval of the President for specified uses in furtherance of the purposes of this chapter;

and funds so advanced may be established as a separate fund in the Treasury of the United States Government, to be available for the specified uses, and to be used for reimbursement of appropriations or direct expenditure subject to the provisions of this chapter, any unexpended balance of such account to be returned to the foreign government or international organization.

(Pub. L. 87–293, title I, §14, Sept. 22, 1961, 75 Stat. 620; Pub. L. 91–352, §7, July 24, 1970, 84 Stat. 465; Pub. L. 96–465, title II, §2202(d), Oct. 17, 1980, 94 Stat. 2158.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 87–293, Sept. 22, 1961, 75 Stat. 612, as amended, known as the Peace Corps Act. For complete classification of this Act to the Code, see Short Title note set out under section 2501 of this title and Tables.

AMENDMENTS

1980—Subsec. (b). Pub. L. 96–465 substituted "section 4085 of this title" for "section 1131 of this title".
1970—Subsec. (b). Pub. L. 91–352 substituted "section 5536 of title 5" for "section 70 of title 5".

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–465 effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

DELEGATION OF FUNCTIONS

Functions of President under this section delegated to Director of Peace Corps by section 1–103 of Ex. Ord. No. 12137, May 16, 1979, 44 F.R. 29023, eff. May 16, 1979, set out as a note under section 2501 of this title.

§2514. Use of funds

(a) Administrative and other expenses

Funds made available for the purposes of this chapter may be used for compensation, allowances and travel of employees, including members of the Foreign Service whose services are utilized primarily for the purposes of this chapter, for printing and binding without regard to the provisions of any other law, and for expenditures outside the United States for the procurement of supplies and services and for other administrative and operating purposes (other than compensation of employees) without regard to such laws and regulations governing the obligation and expenditure of Government funds as may be necessary to accomplish the purposes of this chapter.

(b) Travel expenses abroad; transportation of personal effects, household goods and automobiles; storage

Funds made available for the purposes of this chapter may be used to pay expenses in connection with travel abroad of employees and, to the extent otherwise authorized by this chapter, of volunteers, including travel expenses of dependents (including expenses during necessary stopovers while engaged in such travel), and transportation of personal effects, household goods, and automobiles when any part of such travel or transportation begins in one fiscal year pursuant to travel orders issued in that fiscal year, notwithstanding the fact that such travel or transportation may not be completed during the same fiscal year, and cost of transporting to and from a place of storage, and the cost of storing automobiles of employees when it is in the public interest or more economical to authorize storage.

(c) Costs of training personnel employed or assigned overseas

Funds available under this chapter may be used to pay costs of training employees employed or assigned pursuant to section 2506(a)(2) of this title (through interchange or otherwise) at any State or local unit of government, public or private nonprofit institution, trade, labor, agricultural, or scientific association or organization, or commercial firm; and the provisions of subchapter VI of chapter 33 of title 5 may be used to carry out the foregoing authority notwithstanding that interchange of personnel may not be involved or that the training may not take place at the institutions specified in that Act.[1] Any payments or contributions in connection therewith may, as

deemed appropriate by the head of the agency of the United States Government authorizing such training, be made by private or public sources and be accepted by any trainee, or may be accepted by and credited to the current applicable appropriation of such agency: *Provided, however*, That any such payments to an employee in the nature of compensation shall be in lieu, or in reduction, of compensation received from the United States Government.

(d) Payment of expenses

Funds available for the purposes of this chapter shall be available for—

(1) rent of buildings and space in buildings in the United States, and for repair, alteration, and improvement of such leased properties;

(2) expenses of attendance at meetings concerned with the purposes of this chapter, including (notwithstanding the provisions of section 1346 of title 31) expenses in connection with meetings of persons whose employment is authorized by section 2512(a) of this title;

(3) rental and hire of aircraft;

(4) purchase and hire of passenger motor vehicles: *Provided*, That, except as may otherwise be provided in an appropriation or other Act, passenger motor vehicles for administrative purposes abroad may be purchased for replacement only, and such vehicles may be exchanged or sold and replaced by an equal number of such vehicles, and the cost, including exchange allowance, of each such replacement shall not exceed the applicable cost limitation described in section 2396(a)(5) of this title in the case of an automobile for any Peace Corps country representative appointed under section 2506(c) of this title: *Provided further*, That the provisions of section 1343 of title 31 shall not apply to the purchase of vehicles for the transportation, maintenance, or direct support of volunteers overseas: *Provided further*, That passenger motor vehicles may be purchased for use in the United States only as may be specifically provided in an appropriation or other Act;

(5) entertainment (not to exceed $5,000 in any fiscal year except as may otherwise be provided in an appropriation or other Act);

(6) exchange of funds and loss by exchange;

(7) expenditures (not to exceed $20,000 in any fiscal year except as may be otherwise provided in an appropriation or other Act) not otherwise authorized by law to meet unforeseen emergencies or contingencies arising in the Peace Corps: *Provided*, That a certificate of the amount only of each such expenditure and that such expenditure was necessary to meet an unforeseen emergency or contingency, made by the Director of the Peace Corps or his designee, shall be deemed a sufficient voucher for the amount therein specified;

(8) insurance of official motor vehicles acquired for use abroad;

(9) rent or lease abroad for not to exceed five years of offices, health facilities, buildings, grounds, and living quarters, and payments therefor in advance; maintenance, furnishings, necessary repairs, improvements, and alterations to properties owned or rented by the United States Government or made available for its use abroad; and costs of fuel, water, and utilities for such properties;

(10) expenses of preparing and transporting to their former homes, or, with respect to foreign participants engaged in activities under this chapter, to their former homes or places of burial, and of care and disposition of, the remains of persons or members of the families of persons who may die while such persons are away from their homes participating in activities under this chapter;

(11) use in accordance with authorities of the Foreign Service Act of 1980 (22 U.S.C. 3901 et seq.), not otherwise provided for;

(12) ice and drinking water for use abroad; and

(13) the transportation of Peace Corps employees, Peace Corps volunteers, dependents of such employees and volunteers, and accompanying baggage, by a foreign air carrier when the transportation is between two places outside the United States without regard to section 40118 of title 49.

(Pub. L. 87–293, title I, §15, Sept. 22, 1961, 75 Stat. 621; Pub. L. 89–134, §7, Aug. 24, 1965, 79 Stat. 551; Pub. L. 89–572, §3, Sept. 13, 1966, 80 Stat. 765; Pub. L. 96–465, title II, §2202(e), Oct. 17, 1980, 94 Stat. 2158; Pub. L. 96–533, title VI, §601(c), Dec. 16, 1980, 94 Stat. 3155; Pub. L.

100–202, §101(e) [title II, §201], Dec. 22, 1987, 101 Stat. 1329–131, 1329–145; Pub. L. 106–30, §2(a), (b)(5)–(8), May 21, 1999, 113 Stat. 55, 56.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 87–293, Sept. 22, 1961, 75 Stat. 612, as amended, known as the Peace Corps Act. For complete classification of this Act to the Code, see Short Title note set out under section 2501 of this title and Tables.

The Foreign Service Act of 1980, referred to in subsec. (d)(11), is Pub. L. 96–465, Oct. 17, 1980, 94 Stat. 2071, as amended, which is classified principally to chapter 52 (§3901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3901 of this title and Tables.

AMENDMENTS

1999—Subsec. (c). Pub. L. 106–30, §2(b)(5), substituted "subchapter VI of chapter 33 of title 5" for "sections 1881 to 1888 of title 7".

Subsec. (d)(2). Pub. L. 106–30, §2(b)(6), substituted "section 1346 of title 31" for "section 9 of Public Law 60–328 (31 U.S.C. 673)".

Subsec. (d)(6). Pub. L. 106–30, §2(b)(7), struck out "without regard to section 3561 of the Revised Statutes (31 U.S.C. 543)" after "exchange of funds".

Subsec. (d)(11). Pub. L. 106–30, §2(b)(8), substituted "Foreign Service Act of 1980 (22 U.S.C. 3901 et seq.)" for "Foreign Service Act of 1946, as amended (22 U.S.C. 801 et seq.)".

Subsec. (d)(13). Pub. L. 106–30, §2(a), added par. (13).

1987—Subsec. (d)(4). Pub. L. 100–202 substituted "the applicable cost limitation described in section 2396(a)(5) of this title" for "$2,500" and inserted proviso that section 1343 of title 31 not apply to the purchase of vehicles for the transportation, maintenance, or direct support of volunteers overseas.

1980—Subsec. (a). Pub. L. 96–465 substituted "members of the Foreign Service" for "Foreign Service personnel".

Subsec. (d)(7). Pub. L. 96–533 increased to $20,000 from $5,000 fiscal year expenditures limitation.

1966—Subsec. (c). Pub. L. 89–572, §3(a), substituted "2506(a)(2)" for "2506(c)(2)".

Subsec. (d)(4). Pub. L. 89–572, §3(b), substituted "2506(c)" for "2506(e)".

1965—Subsec. (c). Pub. L. 89–134 struck out provision that training not be considered employment or holding of office under section 2 of the Act of July 31, 1894, as amended (5 U.S.C. 62).

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–465 effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

[1] So in original. Probably should be "that subchapter."

§2514a. Authorization for Peace Corps to provide separation pay for host country resident personal services contractors of the Peace Corps

(a) Establishment of fund

There is established in the Treasury of the United States a fund for the Peace Corps to provide separation pay for host country resident personal services contractors of the Peace Corps.

(b) Funding

The Director of the Peace Corps may deposit in the fund established under subsection (a)—

(1) amounts previously obligated and not canceled to provide the separation pay described in such subsection; and

(2) amounts obligated for fiscal years after fiscal year 2006 for current and future costs of providing such separation pay.

(c) Availability

Beginning in fiscal year 2007, amounts deposited in the fund established under subsection (a) shall be available without fiscal year limitation for severance, retirement, or other separation payments to host country resident personal services contractors of the Peace Corps in countries where such

payments are legally authorized.

(Pub. L. 110–86, §1, Sept. 27, 2007, 121 Stat. 979.)

CODIFICATION

Section was not enacted as part of the Peace Corps Act which comprises this chapter.

§2515. Foreign Currency Fluctuations Account

(a) Establishment

(1) There is established in the Treasury of the United States an account to be known as the "Foreign Currency Fluctuations, Peace Corps, Account". The account shall be used for the purpose of providing funds to pay expenses for operations of the Peace Corps outside the United States which, as a result of fluctuations in currency exchange rates, exceed the amount appropriated for such expenses.

(2) Funds in the account may be transferred, upon the certification of the Director of the Peace Corps (or the Director's designee) that the transfer is necessary for the purpose specified in paragraph (1), to the account containing funds appropriated for the expenses of the Peace Corps.

(b) Use of funds in account

Funds transferred under subsection (a) shall be merged with, and be available for the same time period, as the appropriation to which they are applied. Notwithstanding any provision of law limiting the amount of funds the Peace Corps may obligate in any fiscal year, such amount shall be increased to the extent necessary to reflect fluctuations in exchange rates from those used in preparing the budget submission.

(c) Exchange rates applicable to obligations

An obligation of the Peace Corps payable in the currency of a foreign country may be recorded as an obligation based upon exchange rates used in preparing a budget submission. A change reflecting fluctuations in exchange rates may be recorded as a disbursement is made.

(d) Transfers back to account

Funds transferred from the Foreign Currency Fluctuations, Peace Corps, Account may be transferred back to that account—

(1) if the funds are not needed to pay obligations incurred because of fluctuations in currency exchange rates of foreign countries in the appropriation to which the funds were originally transferred; or

(2) because of subsequent favorable fluctuations in the rates or because other funds are, or become, available to pay such obligations.

(e) Limitation on transfers back

A transfer of funds back to the account under subsection (d) may not be made after the end of the fiscal year or other period for which the appropriation, to which the funds were originally transferred, is available for obligation.

(f) Transfers to account from regular appropriations

(1) At the end of the fiscal year or other period for which appropriations for the expenses of the Peace Corps are made available, unobligated balances of such appropriation may be transferred into the Foreign Currency Fluctuations, Peace Corps, Account, to be merged with, and to be available for the same period and purposes as, that account.

(2) The authority of this subsection shall be exercised only to the extent that specific amounts are provided in advance in an appropriation Act.

(g) Authorization of appropriations

There are authorized to be appropriated to the Foreign Currency Fluctuations, Peace Corps, Account for each fiscal year such sums as may be necessary to maintain a balance of $5,000,000 in

such account at the beginning of such fiscal year.

(h) Reports

Each year the Director of the Peace Corps shall submit to the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives, and to the Committee on Foreign Relations and the Committee on Appropriations of the Senate, a report on funds transferred under this section.

(Pub. L. 87–293, title I, §16, as added Pub. L. 102–565, §2(a), Oct. 28, 1992, 106 Stat. 4265.)

PRIOR PROVISIONS

A prior section 2515, Pub. L. 87–293, title I, §16, Sept. 22, 1961, 75 Stat. 622, related to appointment of persons serving under prior law, prior to repeal by Pub. L. 89–572, §5(a), Sept. 13, 1966, 80 Stat. 765.

EFFECTIVE DATE

Pub. L. 102–565, §2(b), Oct. 28, 1992, 106 Stat. 4266, provided that: "The amendment made by subsection (a) [enacting this section] applies with respect to each fiscal year after fiscal year 1992."

REPEALS; AMENDMENTS AND APPLICATION OF AMENDMENTS UNAFFECTED; CONTINUATION OF DETERMINATIONS, AUTHORIZATION, REGULATIONS, ORDERS, CONTRACTS, AGREEMENTS, AND OTHER ACTIONS

Pub. L. 89–572, §5, Sept. 13, 1966, 80 Stat. 765, provided that:

"(a) Section 16 of the Peace Corps Act, as amended [former section 2515 of this title], which relates to appointment of persons serving under prior law, section 20 of the Peace Corps Act, as amended, which relates to moratorium on student loans [amending section 425 of Title 20, Education], section 21 of the Peace Corps Act, as amended, which amends the Civil Service Retirement Act [section 8301 et seq. of Title 5, Government Organization and Employees], and title II of the Act, which relates to Internal Revenue Code and Social Security Act amendments [amending sections 912, 1303, 3121, 3122, 3401 and 6051 of Title 26, Internal Revenue Code, and sections 405, 409 and 410 of Title 42, The Public Health and Welfare, and notes under sections 912 and 3121 of Title 26] are hereby repealed.

"(b) Such repeal shall not be deemed to affect amendments contained in such provisions and the application of the amendments contained in the title. All determinations, authorizations, regulations, orders, contracts, agreements, and other actions issued, undertaken, or entered into under authority of the provisions of law repealed by subsection (a) shall continue in full force and effect until modified by appropriate authority."

§2516. Use of foreign currencies

Whenever possible, expenditures incurred in carrying out functions under this chapter shall be paid for in such currency of the country or area where the expense is incurred as may be available to the United States.

(Pub. L. 87–293, title I, §17, Sept. 22, 1961, 75 Stat. 623.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 87–293, Sept. 22, 1961, 75 Stat. 612, as amended, known as the Peace Corps Act. For complete classification of this Act to the Code, see Short Title note set out under section 2501 of this title and Tables.

§2517. Activities promoting Americans' understanding of other peoples

In order to further the goal of the Peace Corps, as set forth in section 2501 of this title, relating to the promotion of a better understanding of other peoples on the part of the American people, the Director, utilizing the authorities under section 2509(a)(1) of this title and other provisions of law, shall, as appropriate, encourage, facilitate, and assist activities carried out by former volunteers in furtherance of such goal and the efforts of agencies, organizations, and other individuals to support or assist in former volunteers' carrying out such activities.

(Pub. L. 87–293, title I, §18, as added Pub. L. 100–202, §101(e) [title II, §201], Dec. 22, 1987, 101

Stat. 1329–131, 1329–145.)

PRIOR PROVISIONS

A prior section 2517, Pub. L. 87–293, title I, §18, Sept. 22, 1961, 75 Stat. 623, provided that Mutual Defense Assistance Control Act of 1951 (22 U.S.C. 1611 et seq.) applied, subject to an exception, to functions carried out under this chapter, prior to repeal by Pub. L. 97–113, title VI, §605(b), Dec. 29, 1981, 95 Stat. 1543. The 1951 Act was superseded by the Export Administration Act of 1979 (50 U.S.C. 4601 et seq.).

PAUL D. COVERDELL WORLD WISE SCHOOLS PROGRAM

Pub. L. 106–570, title VI, Dec. 27, 2000, 114 Stat. 3051, as amended by Pub. L. 107–21, §2, July 26, 2001, 115 Stat. 194, provided that:

"SEC. 601. SHORT TITLE.

"This title may be cited as the 'Paul D. Coverdell World Wise Schools Act of 2000'.

"SEC. 602. FINDINGS.

"Congress makes the following findings:

"(1) Paul D. Coverdell was elected to the Georgia State Senate in 1970 and later became Minority Leader of the Georgia State Senate, a post he held for 15 years.

"(2) As the 11th Director of the Peace Corps from 1989 to 1991, Paul Coverdell's dedication to the ideals of peace and understanding helped to shape today's Peace Corps.

"(3) Paul D. Coverdell believed that Peace Corps volunteers could not only make a difference in the countries where they served but that the greatest benefit could be felt at home.

"(4) In 1989, Paul D. Coverdell founded the Peace Corps World Wise Schools Program to help fulfill the Third Goal of the Peace Corps, 'to promote a better understanding of the people served among people of the United States'.

"(5) The World Wise Schools Program is an innovative education program that seeks to engage learners in an inquiry about the world, themselves, and others in order to broaden perspectives; promote cultural awareness; appreciate global connections; and encourage service.

"(6) In a world that is increasingly interdependent and ever changing, the World Wise Schools Program pays tribute to Paul D. Coverdell's foresight and leadership. In the words of one World Wise Schools teacher, 'It's a teacher's job to touch the future of a child; it's the Peace Corps' job to touch the future of the world. What more perfect partnership.'.

"(7) Paul D. Coverdell served in the United States Senate from the State of Georgia from 1993 until his sudden death on July 18, 2000.

"(8) Senator Paul D. Coverdell was beloved by his colleagues for his civility, bipartisan efforts, and his dedication to public service.

"SEC. 603. DESIGNATION OF PAUL D. COVERDELL WORLD WISE SCHOOLS PROGRAM.

"(a) IN GENERAL.—Effective on the date of enactment of this Act [Dec. 27, 2000], the program under section 18 of the Peace Corps Act (22 U.S.C. 2517) referred to before such date as the 'World Wise Schools Program' is redesignated as the 'Paul D. Coverdell World Wise Schools Program'.

"(b) REFERENCES.—Any reference before the date of enactment of this Act [Dec. 27, 2000] in any law, regulation, order, document, record, or other paper of the United States to the Peace Corps World Wise Schools Program shall, on and after such date, be considered to refer to the Paul D. Coverdell World Wise Schools Program.

"(c) NEW REFERENCES IN PEACE CORPS DOCUMENTS.—The Director of the Peace Corps shall ensure that any reference in any public document, record, or other paper of the Peace Corps, including any promotional material, produced on or after the date of enactment of this subsection [July 26, 2001], to the program described in subsection (a) be a reference to the 'Paul D. Coverdell World Wise Schools Program'."

PAUL D. COVERDELL FELLOWS PROGRAM

Pub. L. 106–309, title IV, §408, Oct. 17, 2000, 114 Stat. 1100, provided that:

"(a) SHORT TITLE.—This section may be cited as the 'Paul D. Coverdell Fellows Program Act of 2000'.

"(b) FINDINGS.—Congress makes the following findings:

"(1) Paul D. Coverdell was elected to the George [sic] State Senate in 1970 and later became Minority Leader of the Georgia State Senate, a post he held for 15 years.

"(2) Paul D. Coverdell served with distinction as the 11th Director of the Peace Corps from 1989 to 1991, where he promoted a fellowship program that was composed of returning Peace Corps volunteers who agreed to work in underserved American communities while they pursued educational degrees.

"(3) Paul D. Coverdell served in the United States Senate from the State of Georgia from 1993 until his sudden death on July 18, 2000.

"(4) Senator Paul D. Coverdell was beloved by his colleagues for his civility, bipartisan efforts, and his dedication to public service.

"(c) DESIGNATION OF PAUL D. COVERDELL FELLOWS PROGRAM.—

"(1) IN GENERAL.—Effective on the date of the enactment of this Act [Oct. 17, 2000], the program under section 18 of the Peace Corps Act (22 U.S.C. 2517) referred to before such date as the 'Peace Corps Fellows/ USA Program' is redesignated as the 'Paul D. Coverdell Fellows Program'.

"(2) REFERENCES.—Any reference before the date of the enactment of this Act [Oct. 17, 2000] in any law, regulation, order, document, record, or other paper of the United States to the Peace Corps Fellows/ USA Program shall, on and after such date, be considered to refer to the Paul D. Coverdell Fellows Program."

§2518. Seal and name

(a) Judicial notice

The President may adopt, alter, and use an official seal or emblem of the Peace Corps of such design as he shall determine, which shall be judicially noticed.

(b) Exclusiveness of use; penalties for violations; injunctions

(1) The use of the official seal or emblem and the use of the name "Peace Corps" shall be restricted exclusively to designate programs authorized under this chapter.

(2) Whoever, whether an individual, partnership, corporation, or association, uses the seal for which provision is made in this section, or any sign, insignia, or symbol in colorable imitation thereof, or the words "Peace Corps" or any combination of these or other words or characters in colorable imitation thereof, other than to designate programs authorized under this chapter, shall be fined not more than $500 or imprisoned not more than six months, or both. A violation of this subsection may be enjoined at the suit of the Attorney General, United States attorneys, or other persons duly authorized to represent the United States.

(Pub. L. 87–293, title I, §19, Sept. 22, 1961, 75 Stat. 623; Pub. L. 88–200, §7, Dec. 13, 1963, 77 Stat. 360.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original "this Act", meaning Pub. L. 87–293, Sept. 22, 1961, 75 Stat. 612, as amended, known as the Peace Corps Act. For complete classification of this Act to the Code, see Short Title note set out under section 2501 of this title and Tables.

AMENDMENTS

1963—Pub. L. 88–200 designated existing provisions as subsec. (a) and added subsec. (b).

DELEGATION OF FUNCTIONS

Functions of President under this section, except authority to adopt and alter an official seal or emblem, delegated to Director of Peace Corps by section 1–103 of Ex. Ord. No. 12137, May 16, 1979, 44 F.R. 29023, eff. May 16, 1979, set out as a note under section 2501 of this title.

§2519. Security investigations

All persons employed or assigned to duties under this chapter shall be investigated to insure that the employment or assignment is consistent with the national interest in accordance with standards and procedures established by the President. If an investigation made pursuant to this section develops any data reflecting that the person who is the subject of the investigation is of questionable loyalty or is a questionable security risk, the investigating agency shall refer the matter to the Federal Bureau of Investigation for the conduct of a full field investigation. The results of that full field

investigation shall be furnished to the initial investigating agency, and to the agency by which the subject person is employed, for information and appropriate action. Volunteers shall be deemed employees of the United States Government for the purpose of this section.

(Pub. L. 87–293, title I, §22, Sept. 22, 1961, 75 Stat. 624.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 87–293, Sept. 22, 1961, 75 Stat. 612, as amended, known as the Peace Corps Act. For complete classification of this Act to the Code, see Short Title note set out under section 2501 of this title and Tables.

DELEGATION OF FUNCTIONS

Functions of President under this section delegated to Director of Peace Corps by section 1–103 of Ex. Ord. No. 12137, May 16, 1979, 44 F.R. 29023, eff. May 16, 1979, set out as a note under section 2501 of this title.

§2520. Military training and service exemption

Notwithstanding the provisions of any other law or regulation, service in the Peace Corps as a volunteer shall not in any way exempt such volunteer from the performance of any obligations or duties under the provisions of the Universal Military Training and Service Act [50 U.S.C. 3801 et seq.].

(Pub. L. 87–293, title I, §23, Sept. 22, 1961, 75 Stat. 624.)

REFERENCES IN TEXT

The Universal Military Training and Service Act, referred to in text, subsequently renamed the Military Selective Service Act, is act June 24, 1948, ch. 625, 62 Stat. 604, which is classified principally to chapter 49 (§3801 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Tables.

§2521. Foreign language proficiency

No person shall be assigned to duty as a volunteer under this chapter in any foreign country or area unless at the time of such assignment he possesses such reasonable proficiency as his assignment requires in speaking the language of the country or area to which he is assigned.

(Pub. L. 87–293, title I, §24, Sept. 22, 1961, 75 Stat. 624.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 87–293, Sept. 22, 1961, 75 Stat. 612, as amended, known as the Peace Corps Act. For complete classification of this Act to the Code, see Short Title note set out under section 2501 of this title and Tables.

§2521a. Nonpartisan appointments

In carrying out this chapter, no political test or political qualification may be used in—

(1) selecting any person for enrollment as a volunteer or for appointment to a position at, or for assignment to (or for employment for assignment to), a duty station located abroad, or

(2) promoting or taking any other action with respect to any volunteer or any person assigned to such a duty station.

(Pub. L. 87–293, title I, §25, as added Pub. L. 99–83, title XI, §1105(a)(2), Aug. 8, 1985, 99 Stat. 276.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 87–293, Sept. 22, 1961, 75 Stat. 612, as amended, known as the Peace Corps Act. For complete classification of this Act to the Code, see Short Title note set out under section 2501 of this title and Tables.

PRIOR PROVISIONS

A prior section 25 of Pub. L. 87–293 was renumbered section 26 and is classified to section 2522 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as an Effective Date of 1985 Amendment note under section 2151–1 of this title.

§2522. Definitions

(a) The term "abroad" means any area outside the United States.

(b) The term "United States" means the several States and the District of Columbia.

(c) The term "function" includes any duty, obligation, right, power, authority, responsibility, privilege, discretion, activity, and program.

(d) The term "health care" includes all appropriate examinations, preventive, curative and restorative health and medical care, and supplementary services when necessary.

(e) For the purposes of this chapter or any other Act, the period of any individual's service as a volunteer under this chapter shall include—

(i) except for the purposes of section 2504(f) of this title, any period of training under section 2507(a) of this title prior to enrollment as a volunteer under this chapter; and

(ii) the period between enrollment as a volunteer and the termination of service as such volunteer by the President or by death or resignation.

(f) The term "United States Government agency" includes any department, board, wholly or partly owned corporation, or instrumentality, commission, or establishment of the United States Government.

(g) The word "transportation" in sections 2504(b), 2504(m), and 2505(2) of this title includes transportation of not to exceed three hundred pounds per person of unaccompanied necessary personal and household effects.

(Pub. L. 87–293, title I, §26, formerly §25, Sept. 22, 1961, 75 Stat. 624; Pub. L. 89–572, §4, Sept. 13, 1966, 80 Stat. 765; Pub. L. 91–352, §8, July 24, 1970, 84 Stat. 465; renumbered §26, Pub. L. 99–83, title XI, §1105(a)(1), Aug. 8, 1985, 99 Stat. 276.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (e), was in the original "this Act", meaning Pub. L. 87–293, Sept. 22, 1961, 75 Stat. 612, as amended, known as the Peace Corps Act. For complete classification of this Act to the Code, see Short Title note set out under section 2501 of this title and Tables.

PRIOR PROVISIONS

A prior section 26 of Pub. L. 87–293 was renumbered section 27 and is classified to section 2523 of this title.

AMENDMENTS

1970—Subsec. (g). Pub. L. 91–352 inserted reference to section 2504(m) of this title.

1966—Subsec. (b). Pub. L. 89–572 struck out territories from definition of "United States".

§2523. Separability

If any provision of this chapter or the application of any provision to any circumstances or persons shall be held invalid, the validity of the remainder of this chapter and the applicability of such provision to other circumstances or persons shall not be affected thereby.

(Pub. L. 87–293, title I, §27, formerly §26, Sept. 22, 1961, 75 Stat. 625; renumbered §27, Pub. L. 99–83, title XI, §1105(a)(1), Aug. 8, 1985, 99 Stat. 276.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 87–293, Sept. 22, 1961, 75 Stat. 612, as amended, known as the Peace Corps Act. For complete classification of this Act to the Code, see Short Title note set out under section 2501 of this title and Tables.

PRIOR PROVISIONS

A prior section 27 of Pub. L. 87–293 was renumbered section 28 and is set out as an Effective Date note under section 2501 of this title.

CHAPTER 35—ARMS CONTROL AND DISARMAMENT

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2551. Congressional statement of purpose.
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SUBCHAPTER II—SPECIAL REPRESENTATIVES AND VISITING SCHOLARS

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SUBCHAPTER V—ON-SITE INSPECTION ACTIVITIES

2595. Findings.
2595a. Policy coordination concerning implementation of on-site inspection provisions.
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SUBCHAPTER I—GENERAL PROVISIONS

§2551. Congressional statement of purpose

An ultimate goal of the United States is a world which is free from the scourge of war and the

dangers and burdens of armaments; in which the use of force has been subordinated to the rule of law; and in which international adjustments to a changing world are achieved peacefully. It is the purpose of this chapter to provide impetus toward this goal by addressing the problem of reduction and control of armaments looking toward ultimate world disarmament.

The Secretary of State must have the capacity to provide the essential scientific, economic, political, military, psychological, and technological information upon which realistic arms control, nonproliferation, and disarmament policy must be based. The Secretary shall have the authority, under the direction of the President, to carry out the following primary functions:

(1) The preparation for and management of United States participation in international negotiations and implementation fora in the arms control, nonproliferation, and disarmament field.

(2) The conduct, support, and coordination of research for arms control, nonproliferation, and disarmament policy formulation.

(3) The preparation for, operation of, or direction of, United States participation in such control systems as may become part of United States arms control, nonproliferation, and disarmament activities.

(4) The dissemination and coordination of public information concerning arms control, nonproliferation, and disarmament.

(Pub. L. 87–297, title I, §102, formerly §2, Sept. 26, 1961, 75 Stat. 631; Pub. L. 94–141, title I, §144, Nov. 29, 1975, 89 Stat. 758; Pub. L. 103–236, title VII, §§703, 719(a), Apr. 30, 1994, 108 Stat. 491, 501; renumbered §102 and amended Pub. L. 105–277, div. G, subdiv. A, title XII, §1223(1), (21), Oct. 21, 1998, 112 Stat. 2681–768, 2681–772.)

AMENDMENTS

1998—Pub. L. 105–277, §1223(1)(A), in first undesignated par., substituted "addressing" for "creating a new agency of peace to deal with".

Pub. L. 105–277, §1223(1)(B), struck out second undesignated par. which read as follows: "Arms control, nonproliferation, and disarmament policy, being an important aspect of foreign policy, must be consistent with national security policy as a whole. The formulation and implementation of United States arms control, nonproliferation, and disarmament policy in a manner which will promote the national security can best be insured by a central organization charged by statute with primary responsibility for this field. This organization must have such a position within the Government that it can provide the President, the Secretary of State, other officials of the executive branch, and the Congress with recommendations concerning United States arms control, nonproliferation, and disarmament policy, and can assess the effect of these recommendations upon our foreign policies, our national security policies, and our economy."

Pub. L. 105–277, §1223(1)(C), in last undesignated par., in introductory provisions, substituted "The Secretary of State" for "This organization", substituted "The Secretary shall have" for "It shall have", and struck out "and the Secretary of State" after "the President", in subpar. (1) inserted ", nonproliferation," after "arms control", redesignated subpar. (3) as (2) and struck out former subpar. (2) which read as follows: "When directed by the President, the preparation for, and management of, United States participation in international negotiations and implementation fora in the nonproliferation field.", redesignated subpar. (4) as (3) and struck out ", as appropriate," before "direction of", and redesignated subpar. (5) as (4).

1994—Pub. L. 103–236, §719(a), inserted ", nonproliferation," after "Arms control" in second undesignated par. and after "arms control" wherever appearing in second and third undesignated pars.

Pub. L. 103–236, §703, substituted subpars. (1) to (5) for former subpars. (a) to (d) which read as follows:

"(a) The conduct, support, and coordination of research for arms control and disarmament policy formulation;

"(b) The preparation for and management of United States participation in international negotiations in the arms control and disarmament field;

"(c) The dissemination and coordination of public information concerning arms control and disarmament; and

"(d) The preparation for, operation of, or as appropriate, direction of United States participation in such control systems as may become part of United States arms control and disarmament activities."

1975—Pub. L. 94–141 substituted "It shall have the authority, under the direction of the President and the Secretary of State," for "It must be able".

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective Apr. 1, 1999, see section 1201 of Pub. L. 105–277, set out as an Effective Date note under section 6511 of this title.

SHORT TITLE OF 1999 AMENDMENT

Pub. L. 106–113, div. B, §1000(a)(7) [div. B, title XI, §1101], Nov. 29, 1999, 113 Stat. 1536, 1501A–485, provided that: "This title [enacting sections 2652c and 2797b–2 of this title and section 1526 of Title 50, War and National Defense, amending sections 2577, 2593a, 2797b, 2797b–1, 2797c, and 3282 of this title, enacting provisions set out as notes under sections 2593a, 2652c, 3282, 5601, 5853, and 6723 of this title and section 7704 of Title 42, The Public Health and Welfare, and amending provisions set out as a note under section 2155 of Title 42] may be cited as the 'Arms Control and Nonproliferation Act of 1999'."

SHORT TITLE OF 1994 AMENDMENT

Pub. L. 103–236, title VII, §701(a), Apr. 30, 1994, 108 Stat. 491, provided that: "This part [part A (§§701–719) of title VII of Pub. L. 103–236, enacting sections 2578 and 2593a to 2593d of this title, amending this section, sections 2562, 2565 to 2568, 2571, 2573 to 2577, 2579, 2581, 2585, 2591, 2593, 2791, 2797, and 2797b of this title, section 5315 of Title 5, Government Organization and Employees, and section 2139a of Title 42, The Public Health and Welfare, repealing sections 2578, 2589, 2590, and 2592 of this title, enacting provisions set out as notes under this section, and repealing provisions set out as notes under this section] may be cited as the 'Arms Control and Nonproliferation Act of 1994'."

SHORT TITLE OF 1989 AMENDMENT

Pub. L. 101–216, §1, Dec. 11, 1989, 103 Stat. 1853, provided that: "This Act [enacting sections 2577a and 2595 to 2595c of this title, amending sections 2563, 2567, 2588, and 2589 of this title, and enacting provisions set out as notes under sections 2565 and 2567 of this title] may be cited as the 'Arms Control and Disarmament Amendments Act of 1989'."

SHORT TITLE OF 1987 AMENDMENT

Pub. L. 100–213, §1, Dec. 24, 1987, 101 Stat. 1444, provided that: "This Act [enacting sections 2578, 2579, and 2593 of this title, amending sections 2589 and 2592 of this title, and enacting provisions set out as a note under section 2578 of this title] may be cited as the 'Arms Control and Disarmament Amendments Act of 1987'."

SHORT TITLE OF 1982 AMENDMENT

Pub. L. 97–339, §1, Oct. 15, 1982, 96 Stat. 1635, provided: "That this Act [amending sections 2571, 2585, and 2589 of this title] may be cited as the 'Arms Control and Disarmament Amendments Act of 1982'."

SHORT TITLE OF 1977 AMENDMENT

Pub. L. 95–108, §1, Aug. 17, 1977, 91 Stat. 871, provided that: "This Act [enacting sections 2567 and 2577 of this title and amending sections 2571, 2581, and 2589 of this title and section 5315 of Title 5, Government Organization and Employees] may be cited as the 'Arms Control and Disarmament Act Amendments of 1977'."

SHORT TITLE

Pub. L. 87–297, title I, §101, formerly §1, Sept. 26, 1961, 75 Stat. 631, as renumbered §101 by Pub. L. 105–277, div. G, subdiv. A, title XII, §1223(21), Oct. 21, 1998, 112 Stat. 2681–772, provided that: "This Act [enacting this chapter] may be cited as the 'Arms Control and Disarmament Act'."

INTERNATIONAL ARMS SALES CODE OF CONDUCT

Pub. L. 106–113, div. B, §1000(a)(7) [div. B, title XII, subtitle F], Nov. 29, 1999, 113 Stat. 1536, 1501A–508, provided that:

"SEC. 1261. SHORT TITLE.

"This subtitle may be cited as the 'International Arms Sales Code of Conduct Act of 1999'.

"SEC. 1262. INTERNATIONAL ARMS SALES CODE OF CONDUCT.

"(a) NEGOTIATIONS.—The President shall attempt to achieve the foreign policy goal of an international arms sales code of conduct. The President shall take the necessary steps to begin negotiations within appropriate international fora not later than 120 days after the date of the enactment of this Act [Nov. 29, 1999]. The purpose of these negotiations shall be to establish an international regime to promote global transparency with respect to arms transfers, including participation by countries in the United Nations Register

of Conventional Arms, and to limit, restrict, or prohibit arms transfers to countries that do not observe certain fundamental values of human liberty, peace, and international stability.

"(b) CRITERIA.—The President shall consider the following criteria in the negotiations referred to in subsection (a):

"(1) PROMOTES DEMOCRACY.—The government of the country—

"(A) was chosen by and permits free and fair elections;

"(B) promotes civilian control of the military and security forces and has civilian institutions controlling the policy, operation, and spending of all law enforcement and security institutions, as well as the armed forces;

"(C) promotes the rule of law and provides its nationals the same rights that they would be afforded under the United States Constitution if they were United States citizens; and

"(D) promotes the strengthening of political, legislative, and civil institutions of democracy, as well as autonomous institutions to monitor the conduct of public officials and to combat corruption.

"(2) RESPECTS HUMAN RIGHTS.—The government of the country—

"(A) does not persistently engage in gross violations of internationally recognized human rights, including—

"(i) extrajudicial or arbitrary executions;

"(ii) disappearances;

"(iii) torture or severe mistreatment;

"(iv) prolonged arbitrary imprisonment;

"(v) systematic official discrimination on the basis of race, ethnicity, religion, gender, national origin, or political affiliation; and

"(vi) grave breaches of international laws of war or equivalent violations of the laws of war in internal armed conflicts;

"(B) vigorously investigates, disciplines, and prosecutes those responsible for gross violations of internationally recognized human rights;

"(C) permits access on a regular basis to political prisoners by international humanitarian organizations;

"(D) promotes the independence of the judiciary and other official bodies that oversee the protection of human rights;

"(E) does not impede the free functioning of domestic and international human rights organizations; and

"(F) provides access on a regular basis to humanitarian organizations in situations of conflict or famine.

"(3) NOT ENGAGED IN CERTAIN ACTS OF ARMED AGGRESSION.—The government of the country is not engaged in acts of armed aggression in violation of international law.

"(4) NOT SUPPORTING TERRORISM.—The government of the country does not provide support for international terrorism.

"(5) NOT CONTRIBUTING TO PROLIFERATION OF WEAPONS OF MASS DESTRUCTION .—The government of the country does not contribute to the proliferation of weapons of mass destruction.

"(6) REGIONAL LOCATION OF COUNTRY.—The country is not located in a region in which arms transfers would exacerbate regional arms races or international tensions that present a danger to international peace and stability.

"(c) REPORTS TO CONGRESS.—

"(1) REPORT RELATING TO NEGOTIATIONS.—Not later than 6 months after the commencement of the negotiations under subsection (a), and not later than the end of every 6-month period thereafter until an agreement described in subsection (a) is concluded, the President shall report to the Committee on International Relations [now Committee on Foreign Affairs] of the House of Representatives and the Committee on Foreign Relations of the Senate on the progress made during these negotiations.

"(2) HUMAN RIGHTS REPORTS.—In the report required in sections 116(d) and 502B(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n(b) and 2304(b)), the Secretary of State shall describe the extent to which the practices of each country evaluated meet the criteria in paragraphs (1)(A) and (2) of subsection (a)."

CONGRESSIONAL DECLARATIONS; PURPOSES OF 1994 AMENDMENT

Pub. L. 103–236, title VII, §702, Apr. 30, 1994, 108 Stat. 491, stated congressional declarations and purposes of amendments by part A of title VII of Pub. L. 103–236 (see Short Title of 1994 Amendment note above) to strengthen United States Arms Control and Disarmament Agency, and to improve congressional

oversight of arms control, nonproliferation, and disarmament activities of United States Arms Control and Disarmament Agency, and of Agency's operating budget.

REPORT ON REVITALIZATION OF ACDA

Pub. L. 103–236, title VII, §717(b), Apr. 30, 1994, 108 Stat. 500, provided that not later than Dec. 31, 1995, Director of United States Arms Control and Disarmament Agency was to submit to Congress a detailed report describing actions undertaken to revitalize United States Arms Control and Disarmament Agency.

SOVIET WEAPONS DESTRUCTION

Pub. L. 102–228, title II, Dec. 12, 1991, 105 Stat. 1693, as amended by Pub. L. 102–484, div. A, title XIV, §1421(a)(2), (3), Oct. 23, 1992, 106 Stat. 2565; Pub. L. 103–236, title I, §139(17), Apr. 30, 1994, 108 Stat. 398; Pub. L. 104–106, div. A, title XII, §1204, Feb. 10, 1996, 110 Stat. 470; Pub. L. 110–53, title XVIII, §1811(1), Aug. 3, 2007, 121 Stat. 492; Pub. L. 110–181, div. A, title XIII, §1304(a)(1), Jan. 28, 2008, 122 Stat. 412; Pub. L. 113–291, div. A, title XIII, §1351(1), Dec. 19, 2014, 128 Stat. 3606, provided that:

"PART A—SHORT TITLE

"SEC. 201. SHORT TITLE.

"This title may be cited as the 'Soviet Nuclear Threat Reduction Act of 1991'."

"PART B—FINDINGS AND PROGRAM AUTHORITY

"[SEC. 211. REPEALED. PUB. L. 110–181, DIV. A, TITLE XIII, §1304(A)(1)(A), JAN. 28, 2008, 122 STAT. 412.]

"[SEC. 212. REPEALED. PUB. L. 113–291, DIV. A, TITLE XIII, §1351(1), DEC. 19, 2014, 128 STAT. 3606.]

"PART C—ADMINISTRATIVE AND FUNDING AUTHORITIES

"[SECS. 221, 222. REPEALED. PUB. L. 113–291, DIV. A, TITLE XIII, §1351(1), DEC. 19, 2014, 128 STAT. 3606.]

"SEC. 223. DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS.

"It is the sense of the Senate that the committee of conference on House Joint Resolution 157 [enacted into law as Pub. L. 102–229] should consider providing the necessary authority in the conference agreement for the President to transfer funds pursuant to this title.

"PART D—REPORTING REQUIREMENTS

"[SEC. 231. REPEALED. PUB. L. 113–291, DIV. A, TITLE XIII, §1351(1), DEC. 19, 2014, 128 STAT. 3606.]"

REPORT ON FULFILLMENT OF PRIMARY FUNCTIONS

Pub. L. 102–228, title IV, §401(c), Dec. 12, 1991, 105 Stat. 1699, directed Inspector General of Arms Control and Disarmament Agency to submit, not later than Dec. 15, 1992, to President, Speaker of House of Representatives, and chairman of Committee on Foreign Relations of Senate a report on Agency's fulfillment of primary functions described in section 2551 of this title and directed President to submit comments on any recommendations contained in the report dealing with executive branch organization and direction, prior to repeal by Pub. L. 103–236, title I, §139(18), Apr. 30, 1994, 108 Stat. 398.

CONVENTIONAL ARMS TRADE

Pub. L. 93–559, §51, Dec. 30, 1974, 88 Stat. 1817, as amended by Pub. L. 97–113, title VII, §734(a)(8), Dec. 29, 1981, 95 Stat. 1560, provided that:

"(a) It is the sense of the Congress that the recent growth in international transfers of conventional arms to developing nations—

"(1) is a cause for grave concern for the United States and other nations in that in particular areas of the world it increases the danger of potential violence among nations, and diverts scarce world resources from more peaceful uses; and

"(2) could be controlled progressively through negotiations and agreements among supplier and recipient nations.

"(b) Therefore, the President is urged to propose to the Geneva Conference of the Committee on Disarmament that it consider as a high priority agenda item discussions among participating nations of that Conference for the purposes of—

"(1) agreeing to workable limitations on conventional arms transfers; and

"(2) establishing a mechanism through which such limitations could be effectively monitored.

"(c) [Repealed. Pub. L. 97–113, title VII, §734(a)(8), Dec. 29, 1981, 95 Stat. 1560.]"

EXECUTIVE ORDER NO. 12946

Ex. Ord. No. 12946, Jan. 20, 1995, 60 F.R. 4829, which established within Department of Defense the President's Advisory Board on Arms Proliferation Policy, was revoked by Ex. Ord. No. 13062, §3(c), Sept. 29, 1997, 62 F.R. 51756, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5, Government Organization and Employees.

§2552. Definitions

As used in this chapter—

(a) The terms "arms control" and "disarmament" mean the identification, verification, inspection, limitation, control, reduction, or elimination, of armed forces and armaments of all kinds under international agreement including the necessary steps taken under such an agreement to establish an effective system of international control, or to create and strengthen international organizations for the maintenance of peace.

(b) The term "Government agency" means any executive department, commission, agency, independent establishment, corporation wholly or partly owned by the United States which is an instrumentality of the United States, or any board, bureau, division, service, office, officer, authority, administration, or other establishment in the executive branch of Government.

(Pub. L. 87–297, title I, §103, formerly §3, Sept. 26, 1961, 75 Stat. 631; renumbered §103 and amended Pub. L. 105–277, div. G, subdiv. A, title XII, §1223(2), (21), Oct. 21, 1998, 112 Stat. 2681–769, 2681–772.)

AMENDMENTS

1998—Subsec. (c). Pub. L. 105–277, §1223(2), struck out subsec. (c) which read as follows: "The term 'Agency' means the United States Arms Control and Disarmament Agency."

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective Apr. 1, 1999, see section 1201 of Pub. L. 105–277, set out as an Effective Date note under section 6511 of this title.

SUBCHAPTER II—SPECIAL REPRESENTATIVES AND VISITING SCHOLARS

§§2561 to 2566. Repealed. Pub. L. 105–277, div. G, subdiv. A, title XII, §1222, Oct. 21, 1998, 112 Stat. 2681–768

Section 2561, Pub. L. 87–297, title II, §21, Sept. 26, 1961, 75 Stat. 632, related to establishment of United States Arms Control and Disarmament Agency.

Section 2562, Pub. L. 87–297, title II, §22, Sept. 26, 1961, 75 Stat. 632; Pub. L. 88–426, title III, §305(17)(A), Aug. 14, 1964, 78 Stat. 424; Pub. L. 94–141, title I, §145, Nov. 29, 1975, 89 Stat. 758; Pub. L. 96–66, §1(a), Sept. 21, 1979, 93 Stat. 414; Pub. L. 98–202, §2, Dec. 2, 1983, 97 Stat. 1381; Pub. L. 103–236, title VII, §705, Apr. 30, 1994, 108 Stat. 492, related to appointment and duties of Director.

Section 2563, Pub. L. 87–297, title II, §23, Sept. 26, 1961, 75 Stat. 632; Pub. L. 88–426, title III, §305(17)(B), Aug. 14, 1964, 78 Stat. 424; Pub. L. 96–66, §1(b), Sept. 21, 1979, 93 Stat. 414; Pub. L. 101–216, title I, §102, Dec. 11, 1989, 103 Stat. 1853, related to appointment and powers and duties of Deputy Director.

Section 2564, Pub. L. 87–297, title II, §24, Sept. 26, 1961, 75 Stat. 632; Pub. L. 88–426, title III, §305(17)(C), Aug. 14, 1964, 78 Stat. 424, related to number, appointment, and powers and duties of Assistant Directors.

Section 2565, Pub. L. 87–297, title II, §25, Sept. 26, 1961, 75 Stat. 632; Pub. L. 103–236, title VII, §706,

Apr. 30, 1994, 108 Stat. 492, related to establishment of bureaus, offices, and divisions within Agency.

Section 2566, Pub. L. 87–297, title II, §26, Sept. 26, 1961, 75 Stat. 632; Pub. L. 103–236, title VII, §707, Apr. 30, 1994, 108 Stat. 493, related to appointment, function, and term of Scientific and Policy Advisory Committee.

EFFECTIVE DATE OF REPEAL

Repeal effective Apr. 1, 1999, see section 1201 of Pub. L. 105–277, set out as an Effective Date note under section 6511 of this title.

§2567. Presidential Special Representatives

The President may appoint, by and with the advice and consent of the Senate, Special Representatives of the President for arms control, nonproliferation, and disarmament matters. Each Presidential Special Representative shall hold the rank of ambassador. Presidential Special Representatives appointed under this section shall perform their duties and exercise their powers under the direction of the President and the Secretary of State. The Department of State shall be the Government agency responsible for providing administrative support, including funding, staff, and office space, to all Presidential Special Representatives.

(Pub. L. 87–297, title II, §201, formerly §27, as added Pub. L. 95–108, §2(a), Aug. 17, 1977, 91 Stat. 871; amended Pub. L. 98–202, §6(a), Dec. 2, 1983, 97 Stat. 1382; Pub. L. 101–216, title I, §103(a), Dec. 11, 1989, 103 Stat. 1853; Pub. L. 103–236, title VII, §708(a), Apr. 30, 1994, 108 Stat. 493; renumbered §201 and amended Pub. L. 105–277, div. G, subdiv. A, title XII, §1223(4), (21), Oct. 21, 1998, 112 Stat. 2681–769, 2681–772.)

AMENDMENTS

1998—Pub. L. 105–277, §1223(4), struck out "One such Representative may serve in the Agency as Chief Science Advisor." after "rank of ambassador." and ", acting through the Director" after "Secretary of State", and substituted "Department of State" for "Agency".

1994—Pub. L. 103–236 amended section generally. Prior to amendment, section read as follows: "The President may appoint, by and with the advice and consent of the Senate, two Special Representatives for Arms Control and Disarmament Negotiations, one of whom should serve as special representative for conventional arms control negotiations, and the other should serve as special representative and chief science advisor to the Director. The two Special Representatives shall perform their duties and exercise their powers under the direction of the President and the Secretary of State, acting through the Director."

1989—Pub. L. 101–216 substituted ", one of whom should serve as special representative for conventional arms control negotiations, and the other should serve as special representative and chief science advisor to the Director. The two Special Representatives shall perform their duties and exercise their powers under the direction of the President and the Secretary of State, acting through the Director" for "who shall perform such duties and exercise such powers (under the direction of the President and the Secretary of State, acting through the Director) as the Director may prescribe with respect to international arms control and disarmament negotiations and matters relating thereto".

1983—Pub. L. 98–202 substituted "two Special Representatives" for "a Special Representative".

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective Apr. 1, 1999, see section 1201 of Pub. L. 105–277, set out as an Effective Date note under section 6511 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101–216, title I, §103(b), Dec. 11, 1989, 103 Stat. 1853, provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to individuals who are appointed as Special Representatives on or after the date of enactment of this Act [Dec. 11, 1989]."

§2568. Program for visiting scholars

A program for visiting scholars in the fields of arms control, nonproliferation, and disarmament shall be established by the Secretary of State in order to obtain the services of scholars from the

faculties of recognized institutions of higher learning. The purpose of the program will be to give specialists in the physical sciences and other disciplines relevant to the Department of State's activities an opportunity for active participation in the arms control, nonproliferation, and disarmament activities of the Department of State and to gain for the Department of State the perspective and expertise such persons can offer. Each fellow in the program shall be appointed for a term of one year, except that such term may be extended for a 1-year period.

(Pub. L. 87–297, title II, §202, formerly §28, as added Pub. L. 98–202, §3, Dec. 2, 1983, 97 Stat. 1381; amended Pub. L. 103–236, title VII, §719(b), Apr. 30, 1994, 108 Stat. 501; renumbered §202 and amended Pub. L. 105–277, div. G, subdiv. A, title XII, §1223(5), (21), Oct. 21, 1998, 112 Stat. 2681–769, 2681–772.)

AMENDMENTS

1998—Pub. L. 105–277, §1223(5), substituted "Secretary of State" for "Director" and "Department of State's" for "Agency's", substituted "Department of State" for "Agency" in two places, and struck out at end "Fellows shall be chosen by a board consisting of the Director, who shall be the chairperson, and all former Directors of the Agency."

1994—Pub. L. 103–236 substituted "fields of arms control, nonproliferation, and disarmament" for "field of arms control and disarmament" in first sentence and inserted ", nonproliferation," after "participation in the arms control" in second sentence.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective Apr. 1, 1999, see section 1201 of Pub. L. 105–277, set out as an Effective Date note under section 6511 of this title.

SUBCHAPTER III—FUNCTIONS

§2571. Research, development and other studies

The Secretary of State is authorized and directed to exercise his powers in this subchapter in such manner as to ensure the acquisition of a fund of theoretical and practical knowledge concerning disarmament and nonproliferation. To this end, the Secretary of State is authorized and directed, under the direction of the President, (1) to ensure the conduct of research, development, and other studies in the fields of arms control, nonproliferation, and disarmament; (2) to make arrangements (including contracts, agreements, and grants) for the conduct of research, development, and other studies in the fields of arms control, nonproliferation, and disarmament by private or public institutions or persons; and (3) to coordinate the research, development, and other studies conducted in the fields of arms control, nonproliferation, and disarmament by or for other Government agencies. In carrying out his responsibilities under this chapter, the Secretary of State shall, to the maximum extent feasible, make full use of available facilities, Government and private. The authority of the Secretary under this chapter with respect to research, development, and other studies concerning arms control, nonproliferation, and disarmament shall be limited to participation in the following:

(a) Control, reduction and elimination of armed forces and armaments

the detection, identification, inspection, monitoring, limitation, reduction, control, and elimination of armed forces and armaments, including thermonuclear, nuclear, missile, conventional, bacteriological, chemical, and radiological weapons:

(b) Weapon detection and identification tests

the techniques and systems of detecting, identifying, inspecting, and monitoring of tests of nuclear, thermonuclear, and other weapons;

(c) Analysis of national budgets and economic indicators

the analysis of national budgets, levels of industrial production, and economic indicators to determine the amounts spent by various countries for armaments [1] and of all aspects of anti-satellite activities;

(d) Space, earth's surface and underwater regions

the control, reduction, and elimination of armed forces and armaments in space, in areas on and beneath the earth's surface, and in underwater regions;

(e) Structure and operation of international control

the structure and operation of international control and other organizations useful for arms control, nonproliferation, and disarmament;

(f) Training of control system personnel

the training of scientists, technicians, and other personnel for manning the control systems which may be created by international arms control, nonproliferation, and disarmament agreements;

(g) Danger of war from accident, miscalculation, or surprise attack

the reduction and elimination of the danger of war resulting from accident, miscalculation, or possible surprise attack, including (but not limited to) improvements in the methods of communications between nations;

(h) Economic and political consequences of disarmament

the economic and political consequences of arms control, nonproliferation, and disarmament, including the problems of readjustment arising in industry and the reallocation of national resources;

(i) Disarmament implications of foreign and national security policies of United States

the arms control, nonproliferation, and disarmament implications of foreign and national security policies of the United States with a view to a better understanding of the significance of such policies for the achievement of arms control, nonproliferation, and disarmament;

(j) National security and foreign policy implications of disarmament

the national security and foreign policy implications of arms control, nonproliferation, and disarmament proposals with a view to a better understanding of the effect of such proposals upon national security and foreign policy;

(k) Methods for maintenance of peace and security during stages of disarmament

methods for the maintenance of peace and security during different stages of arms control, nonproliferation, and disarmament;

(l) War prevention factors

the scientific, economic, political, legal, social, psychological, military, and technological factors related to the prevention of war with a view to a better understanding of how the basic structure of a lasting peace may be established; and

(m) Other related problems

such related problems as the Secretary of State may determine to be in need of research, development, or study in order to carry out the provisions of this chapter.

(Pub. L. 87–297, title III, §301, formerly §31, Sept. 26, 1961, 75 Stat. 633; Pub. L. 88–186, §5, Nov. 26, 1963, 77 Stat. 342; Pub. L. 95–108, §3, Aug. 17, 1977, 91 Stat. 871; Pub. L. 97–339, §4, Oct. 15, 1982, 96 Stat. 1636; Pub. L. 103–236, title VII, §719(c), Apr. 30, 1994, 108 Stat. 501; renumbered §301 and amended Pub. L. 105–277, div. G, subdiv. A, title XII, §1223(6), (21), Oct. 21, 1998, 112 Stat. 2681–769, 2681–772.)

AMENDMENTS

1998—Pub. L. 105–277, §1223(6)(A)–(E), in introductory provisions, inserted "this subchapter in" after "powers in", substituted "Secretary of State" for "Director" wherever appearing and "ensure" for "insure" in two places, struck out "in accordance with procedures established under section 2575 of this title" after "other

Government agencies", and substituted "The authority of the Secretary under this chapter with respect to research, development, and other studies concerning arms control, nonproliferation, and disarmament shall be limited to participation in the following:" for "The authority of the Director with respect to research, development, and other studies shall be limited to participation in the following insofar as they relate to arms control, nonproliferation, and disarmament:".

Subsec. (l). Pub. L. 105–277, §1223(6)(F), inserted "and" at end.

Subsec. (m). Pub. L. 105–277, §1223(6)(B), substituted "Secretary of State" for "Director".

1994—Pub. L. 103–236, in introductory provisions, substituted "fields of arms control, nonproliferation, and disarmament" for "field of arms control and disarmament" in three places, in first sentence, inserted "and nonproliferation" after "disarmament", and in fourth sentence, inserted ", nonproliferation," after "arms control" wherever appearing.

1982—Subsec. (c). Pub. L. 97–339 inserted "and of all aspects of antisatellite activities".

1977—Pub. L. 95–108 struck out "United States" before "private" in cl. (2) of opening par.

1963—Pub. L. 88–186 inserted "United States" before "private" in cl. (2) of opening par.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective Apr. 1, 1999, see section 1201 of Pub. L. 105–277, set out as an Effective Date note under section 6511 of this title.

REPORT ON INTERNATIONAL TRANSFER OF CONVENTIONAL ARMS

Pub. L. 92–352, title III, §302, July 13, 1972, 86 Stat. 495, directed Arms Control and Disarmament Agency, with cooperation of other agencies, to prepare a comprehensive report on international transfer of conventional arms and submit this report no later than one year after July 13, 1972, with an interim report submitted no later than six months after July 13, 1972.

[1] So in original. Probably should be followed by a comma.

§2572. Patents; availability to general public; protection of background rights

All research within the United States contracted for, sponsored, cosponsored, or authorized under authority of this chapter, shall be provided for in such manner that all information as to uses, products, processes, patents, and other developments resulting from such research developed by Government expenditure will (with such exceptions and limitations, if any, as the Secretary of State may find to be necessary in the public interest) be available to the general public. This section shall not be so construed as to deprive the owner of any background patent relating thereto of such rights as he may have thereunder.

(Pub. L. 87–297, title III, §302, formerly §32, Sept. 26, 1961, 75 Stat. 634; renumbered §302 and amended Pub. L. 105–277, div. G, subdiv. A, title XII, §1223(7), (21), Oct. 21, 1998, 112 Stat. 2681–769, 2681–772.)

AMENDMENTS

1998—Pub. L. 105–277, §1223(7), substituted "Secretary of State" for "Director" and "section" for "subsection".

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective Apr. 1, 1999, see section 1201 of Pub. L. 105–277, set out as an Effective Date note under section 6511 of this title.

§2573. Policy formulation

(a) Formulation

The Secretary of State shall prepare for the President, and the heads of such other Government agencies as the President may determine, recommendations and advice concerning United States arms control, nonproliferation, and disarmament policy.

(b) Prohibition

No action shall be taken pursuant to this chapter or any other Act that would obligate the United States to reduce or limit the Armed Forces or armaments of the United States in a militarily significant manner, except pursuant to the treaty-making power of the President set forth in Article II, Section 2, Clause 2 of the Constitution or unless authorized by the enactment of further affirmative legislation by the Congress of the United States.

(c) Statutory construction

Nothing contained in this chapter shall be construed to authorize any policy or action by any Government agency which would interfere with, restrict, or prohibit the acquisition, possession, or use of firearms by an individual for the lawful purpose of personal defense, sport, recreation, education, or training.

(Pub. L. 87–297, title III, §303, formerly §33, Sept. 26, 1961, 75 Stat. 634; Pub. L. 88–186, §3, Nov. 26, 1963, 77 Stat. 342; Pub. L. 103–236, title VII, §709, Apr. 30, 1994, 108 Stat. 494; renumbered §303 and amended Pub. L. 105–277, div. G, subdiv. A, title XII, §1223(8), (21), subdiv. B, title XXVI, §2602, Oct. 21, 1998, 112 Stat. 2681–769, 2681–772, 2681–839.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (c), was in the original "this chapter" and was translated as reading "this Act", meaning Pub. L. 87–297, Sept. 26, 1961, 75 Stat. 631, known as the Arms Control and Disarmament Act, which is classified generally to this chapter, to reflect the probable intent of Congress.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–277, §1223(8), substituted "Secretary of State" for "Director" and struck out "the Secretary of State," after "the President,".

Subsec. (c). Pub. L. 105–277, §2602, added subsec. (c).

1994—Pub. L. 103–236 amended section generally. Prior to amendment, section read as follows: "The Director is authorized and directed to prepare for the President, the Secretary of State, and the heads of such other Government agencies, as the President may determine, recommendations concerning United States arms control and disarmament policy: *Provided, however*, That no action shall be taken under this chapter or any other law that will obligate the United States to disarm or to reduce or to limit the Armed Forces or armaments of the United States, except pursuant to the treaty making power of the President under the Constitution or unless authorized by further affirmative legislation by the Congress of the United States. Nothing contained in this chapter shall be construed to authorize any policy or action by any Government agency which would interfere with, restrict, or prohibit the acquisition, possession, or use of firearms by an individual for the lawful purpose of personal defense, sport, recreation, education, or training."

1963—Pub. L. 88–186 inserted provision precluding construction of this chapter to authorize the regulation of the possession of firearms by an individual.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 1223(8), (21) of Pub. L. 105–277 effective Apr. 1, 1999, see section 1201 of Pub. L. 105–277, set out as an Effective Date note under section 6511 of this title.

§2574. Negotiation management

(a) Responsibilities

The Secretary of State, under the direction of the President, shall have primary responsibility for the preparation, conduct, and management of United States participation in all international negotiations and implementation fora in the field of arms control, nonproliferation, and disarmament. In furtherance of these responsibilities, Special Representatives of the President appointed pursuant to section 2567 of this title, shall, as directed by the President, serve as United States Government representatives to international organizations, conferences, and activities relating to the field of nonproliferation, such as the preparations for and conduct of the review relating to the Treaty on the Non-Proliferation of Nuclear Weapons.

(b) Authority

The Secretary of State is authorized—

(1) to formulate plans and make preparations for the establishment, operation, and funding of inspections and control systems which may become part of the United States arms control, nonproliferation, and disarmament activities; and

(2) as authorized by law, to put into effect, direct, or otherwise assume United States responsibility for such systems.

(Pub. L. 87–297, title III, §304, formerly §34, Sept. 26, 1961, 75 Stat. 634; Pub. L. 103–236, title VII, §710, Apr. 30, 1994, 108 Stat. 494; renumbered §304 and amended Pub. L. 105–277, div. G, subdiv. A, title XII, §1223(9), (21), Oct. 21, 1998, 112 Stat. 2681–769, 2681–772.)

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–277, §1223(9)(A)(v), (vi), made technical amendment to reference in original act which appears in text as reference to section 2567 of this title, and struck out "the" after "serve as" in second sentence.

Pub. L. 105–277, §1223(9)(A)(iv), which directed amendment of subsec. (a) by striking "and shall have primary responsibility, whenever directed by the President, for the preparation, conduct, and management of the United States participation in international negotiations and implementation fora in the field of nonproliferation" before period at end of first sentence, was executed by striking language which did not include the word "the" before "United States" to reflect the probable intent of Congress.

Pub. L. 105–277, §1223(9)(A)(i), (ii), in first sentence, substituted "The Secretary of State" for "The Director" and struck out "and the Secretary of State" after "the President".

Pub. L. 105–277, §1223(9)(A)(iii), which directed the insertion of ", nonproliferation," after "fields of arms control", was executed by making the insertion after "field of arms control" to reflect the probable intent of Congress.

Subsec. (b). Pub. L. 105–277, §1223(9)(D), in introductory provisions, substituted "Secretary of State" for "Director", redesignated pars. (2) and (3) as (1) and (2), respectively, and struck out former par. (1) which read as follows: "for the purpose of conducting negotiations concerning arms control, nonproliferation, or disarmament or for the purpose of exercising any other authority given him by this chapter—

"(A) to consult and communicate with, or to direct the consultation and communication with, representatives of other nations or of international organizations, and

"(B) to communicate in the name of the Secretary of State with diplomatic representatives of the United States in the United States or abroad;".

Pub. L. 105–277, §1223(9)(C), redesignated subsec. (c) as (b).

Pub. L. 105–277, §1223(9)(B), struck out subsec. (b) which read as follows: "The Director shall perform functions pursuant to section 2(c) of the Reorganization Plan 8 of 1953 with respect to providing to the United States Information Agency official United States positions and policy on arms control, nonproliferation, and disarmament matters for dissemination abroad."

Subsec. (c). Pub. L. 105–277, §1223(9)(C), redesignated subsec. (c) as (b).

1994—Pub. L. 103–236 amended section generally. Prior to amendment, section related to powers and duties of Director to consult with representatives of the United States and other nations, to provide official United States positions on arms control and disarmament matters to the United States Information Agency, and to formulate and implement plans for arms control inspection and control systems.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective Apr. 1, 1999, see section 1201 of Pub. L. 105–277, set out as an Effective Date note under section 6511 of this title.

§2575. Repealed. Pub. L. 105–277, div. G, subdiv. A, title XII, §1222, Oct. 21, 1998, 112 Stat. 2681–768

Section, Pub. L. 87–297, title III, §35, Sept. 26, 1961, 75 Stat. 635; Pub. L. 103–236, title VII, §719(d), Apr. 30, 1994, 108 Stat. 501, related to coordination of Government agencies and resolution of policy differences.

EFFECTIVE DATE OF REPEAL

Repeal effective Apr. 1, 1999, see section 1201 of Pub. L. 105–277, set out as an Effective Date note under section 6511 of this title.

§2576. Arms control information

In order to assist the Secretary of State in the performance of his duties with respect to arms control, nonproliferation, and disarmament policy and negotiations, any Government agency preparing any legislative or budgetary proposal for—

(1) any program of research, development, testing, engineering, construction, deployment, or modernization with respect to nuclear armaments, nuclear implements of war, military facilities or military vehicles designed or intended primarily for the delivery of nuclear weapons,

(2) any program of research, development, testing, engineering, construction, deployment, or modernization with respect to armaments, ammunition, implements of war, or military facilities, having—

(A) an estimated total program cost in excess of $250,000,000, or

(B) an estimated annual program cost in excess of $50,000,000, or

(3) any other program involving technology with potential military application or weapons systems which such Government agency or the Secretary of State believes may have a significant impact on arms control, nonproliferation, and disarmament policy or negotiations,

shall, on a continuing basis, provide the Secretary of State with full and timely access to detailed information with respect to the nature, scope, and purpose of such proposal.

(Pub. L. 87–297, title III, §305, formerly §36, as added Pub. L. 94–141, title I, §146, Nov. 29, 1975, 89 Stat. 758; amended Pub. L. 95–338, §1, Aug. 8, 1978, 92 Stat. 458; Pub. L. 103–236, title VII, §§704(1), 719(e), Apr. 30, 1994, 108 Stat. 492, 501; renumbered §305 and amended Pub. L. 105–277, div. G, subdiv. A, title XII, §1223(10), (21), Oct. 21, 1998, 112 Stat. 2681–770, 2681–772.)

AMENDMENTS

1998—Pub. L. 105–277, §1223(10), substituted "Secretary of State" for "Director" wherever appearing and, in concluding provisions, struck out ", in accordance with the procedures established pursuant to section 2575 of this title," after "detailed information".

1994—Pub. L. 103–236, §719(e), substituted "information" for "impact information and analysis" in section catchline, redesignated subsec. (a) as entire section, and inserted ", nonproliferation," after "arms control" in introductory provisions and par. (3).

Subsecs. (b), (c). Pub. L. 103–236, §704(1), struck out subsec. (b) which required the Director to assess and analyze certain legislative and budgetary proposals with respect to their impact on arms control and disarmament policy and negotiations and subsec. (c) which prohibited courts from compelling performance of any requirement under this section.

1978—Subsec. (a)(3). Pub. L. 95–338, §1(1), substituted "technology with potential military application or weapons systems" for "weapons systems or technology".

Subsec. (b)(2). Pub. L. 95–338, §1(2), inserted provisions requiring requests to be transmitted either as an individual program or as an aggregation of related programs, and classification requirements for transmitted statements.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective Apr. 1, 1999, see section 1201 of Pub. L. 105–277, set out as an Effective Date note under section 6511 of this title.

§2577. Verification of compliance

(a) In general

In order to ensure that arms control, nonproliferation, and disarmament agreements can be

verified, the Secretary of State shall report to Congress, on a timely basis, or upon request by an appropriate committee of the Congress—

(1) in the case of any arms control, nonproliferation, or disarmament agreement that has been concluded by the United States, the determination of the Secretary of State as to the degree to which the components of such agreement can be verified;

(2) in the case of any arms control, nonproliferation, or disarmament agreement that has entered into force, any significant degradation or alteration in the capacity of the United States to verify compliance of the components of such agreement;

(3) the amount and percentage of research funds expended by the Department of State for the purpose of analyzing issues relating to arms control, nonproliferation, and disarmament verification; and

(4) the number of professional personnel assigned to arms control verification on a full-time basis by each Government agency.

(b) Assessments upon request

Upon the request of the chairman or ranking minority member of the Committee on Foreign Relations of the Senate or the Committee on International Relations of the House of Representatives, in case of an arms control, nonproliferation, or disarmament proposal presented to a foreign country by the United States or presented to the United States by a foreign country, the Secretary of State shall submit a report to the Committee on the degree to which elements of the proposal are capable of being verified.

(c) Standard for verification of compliance

In making determinations under paragraphs (1) and (2) of subsection (a), the Secretary of State shall assume that all measures of concealment not expressly prohibited could be employed and that standard practices could be altered so as to impede verification.

(d) Rule of construction

Except as otherwise provided for by law, nothing in this section may be construed as requiring the disclosure of sensitive information relating to intelligence sources or methods or persons employed in the verification of compliance with arms control, nonproliferation, and disarmament agreements.

(Pub. L. 87–297, title III, §306, formerly §37, as added Pub. L. 95–108, §4, Aug. 17, 1977, 91 Stat. 871; amended Pub. L. 103–236, title VII, §712, Apr. 30, 1994, 108 Stat. 495; renumbered §306 and amended Pub. L. 105–277, div. G, subdiv. A, title XII, §1223(11), (21), Oct. 21, 1998, 112 Stat. 2681–770, 2681–772; Pub. L. 106–113, div. B, §1000(a)(7) [div. B, title XI, §1115], Nov. 29, 1999, 113 Stat. 1536, 1501A–489.)

AMENDMENTS

1999—Subsec. (a). Pub. L. 106–113, §1000(a)(7) [title XI, §1115(a)], struck out "adequately" before "verified" in introductory provisions.

Subsecs. (b) to (d). Pub. L. 106–113, §1000(a)(7) [title XI, §1115(b)], added subsec. (b) and redesignated former subsecs. (b) and (c) as (c) and (d), respectively. Language in section 1000(a)(7) [title XI, §1115(b)] directing redesignation of subsec. (d) as (e) could not be executed. See 1998 Amendment note below.

1998—Subsec. (a). Pub. L. 105–277, §1223(11)(A), substituted "Secretary of State" for "Director" in introductory provisions and par. (1) and substituted "Department of State" for "Agency" in par. (3).

Subsec. (b). Pub. L. 105–277, §1223(11)(A), substituted "Secretary of State" for "Director".

Subsec. (d). Pub. L. 105–277, §1223(11)(B), struck out heading and text of subsec. (d). Text read as follows: "In order to ensure adherence of the United States to obligations or commitments undertaken in arms control, nonproliferation, and disarmament agreements, and in order for the Director to make the assessment required by section 2593a(a)(5) of this title, the Director, or the Director's designee, shall participate in all interagency groups or organizations within the executive branch of Government that assess, analyze, or review United States planned or ongoing policies, programs, or actions that have a direct bearing on United States adherence to obligations undertaken in arms control, nonproliferation, or disarmament agreements."

1994—Pub. L. 103–236 substituted "Verification of compliance" for "Verification of Arms Control Agreements" as section catchline and amended text generally. Prior to amendment, text consisted of subsecs. (a) to (c) requiring the Director to report to Congress relating to verification of arms control proposals and

agreements.

CHANGE OF NAME

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective Apr. 1, 1999, see section 1201 of Pub. L. 105–277, set out as an Effective Date note under section 6511 of this title.

§2577a. Arms control verification

(a) Establishment of working group

The President should establish a working group—

(1) to examine verification approaches to a strategic arms reduction agreement and other arms control agreements; and

(2) to assess the relevance for such agreements of the verification provisions of the Treaty Between the United States and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range and Shorter-Range Missiles (signed at Washington, December 8, 1987).

(b) Information and data base

(1) The Agency shall allocate sufficient resources to develop and maintain a comprehensive information and data base on verification concepts, research, technologies, and systems. The Agency shall collect, maintain, analyze, and disseminate information pertaining to arms control verification and monitoring, including information regarding—

(A) all current United States bilateral and multilateral arms treaties; and

(B) proposed, prospective, and potential bilateral or multilateral arms treaties in the areas of nuclear, conventional, chemical, and space weapons.

(2) The Agency shall seek to improve United States verification and monitoring activities through the monitoring and support of relevant research and analysis.

(3) The Agency shall provide detailed information on the activities pursuant to this section in its annual report to the Congress.

(Pub. L. 101–216, title I, §105, Dec. 11, 1989, 103 Stat. 1854.)

CODIFICATION

Section was enacted as part of the Arms Control and Disarmament Amendments Act of 1989, and not as part of the Arms Control and Disarmament Act which comprises this chapter.

TRANSFER OF FUNCTIONS

"Agency", referred to in subsec. (b), meaning the United States Arms Control and Disarmament Agency, abolished and functions transferred to Secretary of State, see sections 6511 and 6512 of this title.

§2578. Negotiating records

(a) Preparation of records

The Secretary of State shall establish and maintain records for each arms control, nonproliferation, and disarmament agreement to which the United States is a party and which was under negotiation or in force on or after January 1, 1990, which shall include classified and unclassified materials such as instructions and guidance, position papers, reporting cables and memoranda of conversation, working papers, draft texts of the agreement, diplomatic notes, notes verbal, and other internal and external correspondence.

(b) Negotiating and implementation records

In particular, the Secretary of State shall establish and maintain a negotiating and implementation record for each such agreement, which shall be comprehensive and detailed, and shall document all communications between the parties with respect to such agreement. Such records shall be maintained both in hard copy and magnetic media.

(Pub. L. 87–297, title III, §307, formerly §38, as added Pub. L. 103–236, title VII, §713(a), Apr. 30, 1994, 108 Stat. 496; renumbered §307 and amended Pub. L. 105–277, div. G, subdiv. A, title XII, §1223(12), (21), Oct. 21, 1998, 112 Stat. 2681–770, 2681–772.)

PRIOR PROVISIONS

A prior section 2578, Pub. L. 87–297, title III, §38, as added Pub. L. 100–213, §3(b), Dec. 24, 1987, 101 Stat. 1445; amended Pub. L. 103–199, title IV, §401(a), Dec. 17, 1993, 107 Stat. 2324, related to reports on activities of Standing Consultative Commission, prior to repeal by Pub. L. 103–236, title VII, §704(2), Apr. 30, 1994, 108 Stat. 492.

AMENDMENTS

1998—Subsecs. (a), (b). Pub. L. 105–277, §1223(12)(A), substituted "Secretary of State" for "Director".

Subsec. (c). Pub. L. 105–277, §1223(12)(B), struck out heading and text of subsec. (c). Text read as follows: "In order to implement effectively this section, the Director shall ensure that Agency personnel participate throughout the negotiation and implementation phases of all arms control, nonproliferation, and disarmament agreements."

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective Apr. 1, 1999, see section 1201 of Pub. L. 105–277, set out as an Effective Date note under section 6511 of this title.

§2579. Omitted

CODIFICATION

Section, Pub. L. 87–297, title III, §308, formerly §39, as added Pub. L. 100–213, §4, Dec. 24, 1987, 101 Stat. 1445; amended Pub. L. 103–236, title VII, §719(f), Apr. 30, 1994, 108 Stat. 502; renumbered §308 and amended Pub. L. 105–277, div. G, subdiv. A, title XII, §1223(21), Oct. 21, 1998, 112 Stat. 2681–772, which required the Director of the United States Arms Control and Disarmament Agency (whose functions were transferred to the Secretary of State under section 6512 of this title) to provide an annual report to Congress on studies relating to arms control, nonproliferation, and disarmament issues, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 155 of House Document No. 103–7.

SUBCHAPTER IV—ADDITIONAL GENERAL PROVISIONS

§2581. General authority of Secretary of State

In addition to any authorities otherwise available, the Secretary of State in the performance of functions under this chapter is authorized to—

(a) Utilization of other Federal agencies; transfers of supplies, equipment, and surplus property

utilize or employ the services, personnel, equipment, or facilities of any other Government agency, with the consent of the agency concerned, to perform such functions on behalf of the Department of State as may appear desirable. Any Government agency is authorized, notwithstanding any other provision of law, to transfer to or to receive from the Secretary of State, without reimbursement,

supplies and equipment other than administrative supplies or equipment. Transfer or receipt of excess property shall be in accordance with the provisions of chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41;

(b) Employment of personnel

appoint and fix the compensation of employees possessing specialized technical expertise without regard to the provisions of title 5 governing appointments in the competitive service and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, if the Secretary of State ensures that—

(1) any employee who is appointed under this subsection is not paid at a rate—

(A) in excess of the rate payable for positions of equivalent difficulty or responsibility, or

(B) exceeding the maximum rate payable for grade 15 of the General Schedule; and

(2) the number of employees appointed under this subsection shall not exceed 10 percent of the Department of State's full-time-equivalent positions allocated to carry out the purpose of this chapter.[1]

(c) Detail of other agency personnel without prejudice to status or advancement

enter into agreements with other Government agencies, including the military departments through the Secretary of Defense, under which officers or employees of such agencies may be detailed to the Department of State for the performance of service pursuant to this chapter without prejudice to the status or advancement of such officers or employees within their own agencies;

(d) Experts and consultants; stenographic reporting services; compensation and travel expenses; limitation on period of employment; renewal of employment contracts

procure services of experts and consultants or organizations thereof, including stenographic reporting services, as authorized by section 3109 of title 5 and to pay in connection therewith travel expenses of individuals, including transportation and per diem in lieu of subsistence while away from their homes or regular places of business, as authorized by section 5703 of such title: *Provided*, That no such individual shall be employed for more than 130 days in any fiscal year unless the President certifies that employment of such individual in excess of such number of days is necessary in the national interest: *And provided further*, That such contracts may be renewed annually;

(e) Employment of outstanding personnel

employ individuals of outstanding ability without compensation in accordance with the provisions of section 4560(b) of title 50 and regulations issued thereunder;

(f) Establishment of scientific and policy advisory board; compensation and expenses

establish a scientific and policy advisory board to advise with and make recommendations to the Secretary of State on United States arms control, nonproliferation, and disarmament policy and activities. A majority of the board shall be composed of individuals who have a demonstrated knowledge and technical expertise with respect to arms control, nonproliferation, and disarmament matters and who have distinguished themselves in any of the fields of physics, chemistry, mathematics, biology, or engineering, including weapons engineering. The members of the board may receive the compensation and reimbursement for expenses specified for consultants by subsection (d) of this section;

(g) Oaths and sworn statements

administer oaths and take sworn statements in the course of an investigation made pursuant to the Secretary of State's responsibilities under this chapter;

(h) Delegation of functions

delegate, as appropriate, to the Under Secretary for Arms Control and International Security or other officers of the Department of State, any authority conferred upon the Secretary of State by the provisions of this chapter; and

(i) Rules and regulations

make, promulgate, issue, rescind, and amend such rules and regulations as may be necessary or desirable to the exercise of any authority conferred upon the Secretary of State by the provisions of this chapter.

(Pub. L. 87–297, title IV, §401, formerly §41, Sept. 26, 1961, 75 Stat. 635; Pub. L. 93–332, §1(a), July 8, 1974, 88 Stat. 289; Pub. L. 95–108, §5, Aug. 17, 1977, 91 Stat. 872; Pub. L. 102–228, title IV, §401(b), Dec. 12, 1991, 105 Stat. 1698; Pub. L. 103–236, title VII, §715, Apr. 30, 1994, 108 Stat. 498; renumbered §401 and amended Pub. L. 105–277, div. G, subdiv. A, title XII, §1223(13), (21), Oct. 21, 1998, 112 Stat. 2681–770, 2681–772.)

REFERENCES IN TEXT

The General Schedule, referred to in subsec. (b), is set out under section 5332 of Title 5.

CODIFICATION

In subsec. (a), "chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41" substituted for "the Federal Property and Administrative Services Act of 1949, as amended" on authority of Pub. L. 107–217, §5(c), Aug. 21, 2002, 116 Stat. 1303, which Act enacted Title 40, Public Buildings, Property, and Works, and Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

1998—Pub. L. 105–277, §1223(13)(A), substituted "In addition to any authorities otherwise available, the Secretary of State in the performance of functions under this chapter" for "In the performance of his functions, the Director" in introductory provisions.

Subsec. (a). Pub. L. 105–277, §1223(13)(B), (C), substituted "Department of State" for "Agency" and "Secretary of State" for "Director", and struck out "It is the intent of this section that the Director rely upon the Department of State for general administrative services in the United States and abroad to the extent agreed upon between the Secretary of State and the Director." after "may appear desirable."

Subsec. (b). Pub. L. 105–277, §1223(13)(B), (D)(i), in introductory provisions, substituted "Secretary of State" for "Director" and struck out "appoint officers and employees, including attorneys, for the Agency in accordance with the provisions of title 5 governing appointment in the competitive service, and fix their compensation in accordance with chapter 51 and with subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates, except that the Director may, to the extent the Director determines necessary to the discharge of his responsibilities," before "appoint and fix".

Subsec. (b)(1). Pub. L. 105–277, §1223(13)(D)(ii), substituted "subsection" for "exception" in introductory provisions.

Subsec. (b)(2). Pub. L. 105–277, §1223(13)(B), (D)(iii), substituted "subsection" for "exception", "Department of State's" for "Agency's", and "positions allocated to carry out the purpose of this chapter" for "ceiling".

Subsec. (c). Pub. L. 105–277, §1223(13)(B), substituted "Department of State" for "Agency".

Subsec. (f). Pub. L. 105–277, §1223(13)(G), amended subsec. (f) generally. Prior to amendment, subsec. (f) read as follows: "establish advisory boards to advise with and make recommendations to the Director on United States arms control and disarmament policy and activities. The members of such boards may receive the compensation and reimbursement for expenses specified for consultants by subsection (d) of this section;".

Subsec. (g). Pub. L. 105–277, §1223(13)(B), (E), (F), redesignated subsec. (h) as (g), substituted "Secretary of State's" for "Director's", and struck out former subsec. (g) which read as follows: "permit, under such terms and conditions as he may prescribe, any officer or employee of the Agency, in connection with the attendance by such officer or employee at meetings or in performing advisory services concerned with the functions or activities of the Agency, to accept payment, in cash or in kind, from any private agency or organization, or from any individual affiliated with such agency or organization, for travel and subsistence expenses, such payment to be retained by such officer or employee to cover the cost thereof or to be deposited to the credit of the appropriation from which the cost thereof is paid;".

Subsec. (h). Pub. L. 105–277, §1223(13)(B), (F), (H), redesignated subsec. (i) as (h) and substituted "Under Secretary for Arms Control and International Security" for "Deputy Director", "Department of State" for "Agency", and "Secretary of State" for "Director". Former subsec. (h) redesignated (g).

Subsec. (i). Pub. L. 105–277, §1223(13)(B), (F), redesignated subsec. (j) as (i) and substituted "Secretary of State" for "Director". Former subsec. (i) redesignated (h).

Subsec. (j). Pub. L. 105–277, §1223(13)(F), redesignated subsec. (j) as (i).

1994—Subsec. (b). Pub. L. 103–236 substituted "except that the Director may, to the extent the Director determines necessary to the discharge of his responsibilities, appoint and fix the compensation of employees possessing specialized technical expertise without regard to the provisions of title 5 governing appointments in the competitive service and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, if the Director ensures that—" for "except that during the 2-year period beginning on August 17, 1977, the Director may, to the extent he deems necessary to the discharge of his responsibilities, appoint and fix the compensation of officers and employees for the Agency without regard to such provisions, subject to the following requirements:", added pars. (1) and (2), and struck out former pars. (1) to (3) which read as follows:

"(1) an officer or employee whose compensation is fixed under the foregoing exception may not be paid a salary at a rate in excess of the rate payable under such chapter 51 and such subchapter III for positions of equivalent difficulty or responsibility except for (A) those officers and employees whose compensation is fixed by law, and (B) scientific and technical personnel who may be compensated at a rate not to exceed the rate in effect for grade GS–18 of the General Schedule;

"(2) the Director shall make adequate provision for administrative review of any determination to suspend or dismiss any officer or employee appointed under the foregoing exception; and

"(3) an officer or employee of the Agency serving under a career or career conditional appointment on August 17, 1977, may not be involuntarily deprived, while employed by the Agency, of any rights normally granted such officer or employee in the competitive service;".

1991—Subsecs. (h) to (j). Pub. L. 102–228 added subsec. (h) and redesignated former subsecs. (h) and (i) as (i) and (j), respectively.

1977—Subsec. (b). Pub. L. 95–108, §5(a), incorporated existing provisions into introductory paragraph, and as so incorporated, revised terminology to reflect current classification of civil service laws, etc., and inserted provisions authorizing the Director to appoint and fix compensation of officers and employees of the agency, without regard to the provisions of title 5, during a two-year period beginning Aug. 17, 1977, and added pars. (1) to (3).

Subsecs. (g) to (i). Pub. L. 95–108, §5(b), added subsec. (g) and redesignated former subsecs. (g) and (h) as (h) and (i), respectively.

1974—Subsec. (d). Pub. L. 93–332 substituted "as authorized by section 3109 of title 5" for "as authorized by section 55a of title 5, at rates not to exceed $100 per diem for individuals", "section 5703 of such title" for "section 73b–2 of title 5" and "130 days" for "one hundred days".

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective Apr. 1, 1999, see section 1201 of Pub. L. 105–277, set out as an Effective Date note under section 6511 of this title.

DELEGATION OF AUTHORITY TO MAKE CERTIFICATIONS UNDER SECTION 41(D) OF THE ARMS CONTROL AND DISARMAMENT ACT

Memorandum of the President of the United States, Aug. 18, 1990, 55 F.R. 37693, provided:

Memorandum for the Director of the United States Arms Control and Disarmament Agency

By virtue of the authority vested in me as President by the Constitution and laws of the United States, including section 301 of title 3 of the United States Code, you are hereby delegated the authority set forth in section 41(d) of the Arms Control and Disarmament Act (22 U.S.C. 2581(d)) to certify that the employment of persons referred to in that section in excess of the number of days set forth in that section is necessary in the national interest.

You are authorized and directed to publish this memorandum in the Federal Register.

GEORGE BUSH.

[For abolition, transfer of functions, and treatment of references to United States Arms Control and Disarmament Agency, see section 6511 et seq. of this title.]

[1] *So in original. The period probably should be a semicolon.*

§§2582, 2583. Repealed. Pub. L. 105–277, div. G, subdiv. A, title XII, §1222, Oct.

Section 2582, Pub. L. 87–297, title IV, §42, Sept. 26, 1961, 75 Stat. 636; Pub. L. 96–465, title II, §2204(a), Oct. 17, 1980, 94 Stat. 2159, related to appointment or employment of Foreign Service personnel.

Section 2583, Pub. L. 87–297, title IV, §43, Sept. 26, 1961, 75 Stat. 636, related to exemption from provisions of law relating to contracts or expenditures of Government funds.

EFFECTIVE DATE OF REPEAL

Repeal effective Apr. 1, 1999, see section 1201 of Pub. L. 105–277, set out as an Effective Date note under section 6511 of this title.

§2584. Dual compensation exemption

Members of advisory boards and consultants may serve as such without regard to any Federal law limiting the reemployment of retired officers or employees or governing the simultaneous receipt of compensation and retired pay or annuities, subject to section 5532 [1] of title 5. This section shall apply only to individuals carrying out activities related to arms control, nonproliferation, and disarmament.

(Pub. L. 87–297, title IV, §402, formerly §44, Sept. 26, 1961, 75 Stat. 636; Pub. L. 88–448, title IV, §401(d), Aug. 19, 1964, 78 Stat. 490; renumbered §402 and amended Pub. L. 105–277, div. G, subdiv. A, title XII, §1223(14), (21), Oct. 21, 1998, 112 Stat. 2681–771, 2681–772.)

CODIFICATION

"Section 5532 of title 5" substituted in text for "section 201 of the Dual Compensation Act" [5 U.S.C. 3102], on authority of section 7(b) of Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5, Government Organization and Employees. Section 5532 of title 5 was repealed by Pub. L. 106–65, div. A, title VI, §651(a)(1), Oct. 5, 1999, 113 Stat. 664.

AMENDMENTS

1998—Pub. L. 105–277, in section catchline, struck out "Conflict of interest and" before "dual compensation", in first sentence, substituted "Members of advisory boards and consultants may serve as such without regard to any" for "The members of the General Advisory Committee created by section 2566 of this title, and the members of the advisory boards, the consultants, and the individuals of outstanding ability employed without compensation, all of which are provided in section 2581 of this title, may serve as such without regard to the provisions of section 281, 283, 284, or 1914 of title 18, or of section 190 of the Revised Statutes (5 U.S.C. 99), or of any other Federal law imposing restrictions, requirements, or penalties in relation to the employment of individuals, the performance of services, or the payment or receipt of compensation in connection with any claim, proceeding or matter involving the United States Government, except insofar as such provisions of law may prohibit any such individual from receiving compensation from a source other than a nonprofit educational institution in respect of any particular matter in which the Agency is directly interested. Nor shall such service be considered as employment or holding of office or position bringing such individual within the provisions of sections 3323(b) and 8344 of title 5, or any other", and inserted at end "This section shall apply only to individuals carrying out activities related to arms control, nonproliferation, and disarmament."

1964—Pub. L. 88–448 struck out provisions which stated that such service shall not be considered as employment or holding of office or position bringing such individual within the provisions of section 59a of title 5, and inserted ", subject to section 3102 of title 5".

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective Apr. 1, 1999, see section 1201 of Pub. L. 105–277, set out as an Effective Date note under section 6511 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88–448 effective on first day of first month which begins later than ninetieth day following Aug. 19, 1964, see Pub. L. 88–448, title IV, §403, Aug. 19, 1964, 78 Stat. 496.

TERMINATION OF ADVISORY COMMITTEES AND BOARDS

Advisory committees and boards, in existence on Jan. 5, 1973, to terminate not later than the expiration of

the 2-year period following Jan. 5, 1973, unless, in the case of a committee or board established by the President or an officer of the Federal Government, such committee or board is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee or board established by the Congress, its duration is otherwise provided by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

[1] *See Codification note below.*

§§2585 to 2588. Repealed. Pub. L. 105–277, div. G, subdiv. A, title XII, §1222, Oct. 21, 1998, 112 Stat. 2681–768

Section 2585, Pub. L. 87–297, title IV, §45, Sept. 26, 1961, 75 Stat. 637; Pub. L. 88–186, §2, Nov. 26, 1963, 77 Stat. 341; Pub. L. 94–141, title I, §147, Nov. 29, 1975, 89 Stat. 759; 1978 Reorg. Plan No. 2, §102, eff. Jan. 1, 1979, 43 F.R. 36037, 92 Stat. 3783; Pub. L. 97–339, §3, Oct. 15, 1982, 96 Stat. 1635; Pub. L. 103–236, title VII, §716, Apr. 30, 1994, 108 Stat. 498, related to national security requirements.

Section 2586, Pub. L. 87–297, title IV, §46, Sept. 26, 1961, 75 Stat. 638, related to Comptroller General audit of contracts.

Section 2587, Pub. L. 87–297, title IV, §47, Sept. 26, 1961, 75 Stat. 638, related to transfer of activities and facilities to Arms Control and Disarmament Agency.

Section 2588, Pub. L. 87–297, title IV, §48, Sept. 26, 1961, 75 Stat. 638; Pub. L. 96–465, title II, §2204(b), Oct. 17, 1980, 94 Stat. 2159; Pub. L. 99–550, §2(c), Oct. 27, 1986, 100 Stat. 3070; Pub. L. 101–216, title I, §106, Dec. 11, 1989, 103 Stat. 1854, related to use of funds by Director.

EFFECTIVE DATE OF REPEAL

Repeal effective Apr. 1, 1999, see section 1201 of Pub. L. 105–277, set out as an Effective Date note under section 6511 of this title.

§§2589, 2590. Repealed. Pub. L. 103–236, title VII, §717(a)(1), Apr. 30, 1994, 108 Stat. 498

Section 2589, Pub. L. 87–297, title IV, §49, Sept. 26, 1961, 75 Stat. 639; Pub. L. 88–186, §§1, 4, Nov. 26, 1963, 77 Stat. 341, 342; Pub. L. 89–27, May 27, 1965, 79 Stat. 118; Pub. L. 90–314, May 23, 1968, 82 Stat. 129; Pub. L. 91–246, May 12, 1970, 84 Stat. 207; Pub. L. 92–352, title III, §301, July 13, 1972, 86 Stat. 494; Pub. L. 93–332, §1(b), July 8, 1974, 88 Stat. 289; Pub. L. 94–141, title I, §§141, 148, Nov. 29, 1975, 89 Stat. 757, 760; Pub. L. 95–108, §6, Aug. 17, 1977, 91 Stat. 873; Pub. L. 95–338, §§2, 3, Aug. 8, 1978, 92 Stat. 458, 459; Pub. L. 96–66, §2(a), Sept. 21, 1979, 93 Stat. 414; Pub. L. 97–339, §2(a), Oct. 15, 1982, 96 Stat. 1635; Pub. L. 98–202, §1, Dec. 2, 1983, 97 Stat. 1381; Pub. L. 99–93, title VII, §§701, 702, Aug. 16, 1985, 99 Stat. 444; Pub. L. 100–213, §2, Dec. 24, 1987, 101 Stat. 1444; Pub. L. 101–216, title I, §101, Dec. 11, 1989, 103 Stat. 1853; Pub. L. 102–228, title IV, §401(a), Dec. 12, 1991, 105 Stat. 1698; Pub. L. 103–236, title I, §106(b), Apr. 30, 1994, 108 Stat. 391, authorized appropriations to carry out purposes of this chapter.

Section 2590, Pub. L. 87–297, title IV, §50, Sept. 26, 1961, 75 Stat. 639; Pub. L. 94–141, title I, §149, Nov. 29, 1975, 89 Stat. 760, required submission of reports to Congress on Agency activities.

§2591. Repealed. Pub. L. 105–277, div. G, subdiv. A, title XII, §1222, Oct. 21, 1998, 112 Stat. 2681–768

Section, Pub. L. 87–297, title IV, §49, formerly §51, as added Pub. L. 98–202, §4, Dec. 2, 1983, 97 Stat. 1382; amended Pub. L. 103–199, title IV, §401(b), Dec. 17, 1993, 107 Stat. 2324; renumbered §49 and amended Pub. L. 103–236, title VII, §§717(a)(2), 719(g), Apr. 30, 1994, 108 Stat. 498, 502, related to specialists fluent in Russian or other languages of the independent states of the former Soviet Union.

EFFECTIVE DATE OF REPEAL

Repeal effective Apr. 1, 1999, see section 1201 of Pub. L. 105–277, set out as an Effective Date note under section 6511 of this title.

§2592. Repealed. Pub. L. 103–236, title VII, §704(3), Apr. 30, 1994, 108 Stat. 492

Section, Pub. L. 87–297, title IV, §52, as added Pub. L. 99–93, title VII, §703, Aug. 16, 1985, 99 Stat. 444; amended Pub. L. 100–213, §5, Dec. 24, 1987, 101 Stat. 1446; Pub. L. 103–199, title IV, §401(c), Dec. 17, 1993, 107 Stat. 2324, related to reports on adherence to and compliance with arms control agreements.

§§2592a, 2592b. Repealed. Pub. L. 103–199, title IV, §403(a)(1), (b)(1), Dec. 17, 1993, 107 Stat. 2325

Section 2592a, Pub. L. 99–145, title X, §1002, Nov. 8, 1985, 99 Stat. 705; Pub. L. 100–456, div. A, title IX, §905(a), Sept. 29, 1988, 102 Stat. 2032, related to submission by President of annual report to Congress on Soviet compliance with arms control commitments.

Section 2592b, Pub. L. 100–456, div. A, title IX, §906, Sept. 29, 1988, 102 Stat. 2033, related to submission by President of annual report to Congress on arms control strategy of the United States.

§2593. Repealed. Pub. L. 105–277, div. G, subdiv. A, title XII, §1222, Oct. 21, 1998, 112 Stat. 2681–768

Section, Pub. L. 87–297, title IV, §50, formerly §53, as added Pub. L. 100–213, §6(a), Dec. 24, 1987, 101 Stat. 1446; renumbered §50 Pub. L. 103–236, title VII, §717(a)(2), Apr. 30, 1994, 108 Stat. 498, related to Inspector General of the Arms Control and Disarmament Agency.

EFFECTIVE DATE OF REPEAL

Repeal effective Apr. 1, 1999, see section 1201 of Pub. L. 105–277, set out as an Effective Date note under section 6511 of this title.

§2593a. Annual report to Congress

(a) In general

Not later than April 15 of each year, the President shall submit to the appropriate congressional committees a report prepared by the Secretary of State with the concurrence of the Director of Central Intelligence and in consultation with the Secretary of Defense, the Secretary of Energy, and the Chairman of the Joint Chiefs of Staff on the status of United States policy and actions with respect to arms control, nonproliferation, and disarmament. Such report shall include—

(1) a detailed statement concerning the arms control, nonproliferation, and disarmament objectives of the executive branch of Government for the forthcoming year;

(2) a detailed assessment of the status of any ongoing arms control, nonproliferation, or disarmament negotiations, including a comprehensive description of negotiations or other activities during the preceding year and an appraisal of the status and prospects for the forthcoming year;

(3) a detailed assessment of adherence of the United States to obligations undertaken in arms control, nonproliferation, and disarmament agreements, including information on the policies and organization of each relevant agency or department of the United States to ensure adherence to such obligations, a description of national security programs with a direct bearing on questions of adherence to such obligations and of steps being taken to ensure adherence, and a compilation of any substantive questions raised during the preceding year and any corrective action taken;

(4) a detailed assessment of the adherence of other nations to obligations undertaken in all arms control, nonproliferation, and disarmament agreements or commitments, including the Missile Technology Control Regime, to which the United States is a participating state, including information on actions taken by each nation with regard to the size, structure, and disposition of its

military forces in order to comply with arms control, nonproliferation, or disarmament agreements or commitments, and shall include, in the case of each agreement or commitment about which compliance questions exist—

(A) a description of each significant issue raised and efforts made and contemplated with the other participating state to seek resolution of the difficulty;

(B) an assessment of damage, if any, to the United States security and other interests; and

(C) recommendations as to any steps that should be considered to redress any damage to United States national security and to reduce compliance problems;

(5) a discussion of any material noncompliance by foreign governments with their binding commitments to the United States with respect to the prevention of the spread of nuclear explosive devices (as defined in section 6305(4) of this title) by non-nuclear-weapon states (as defined in section 6305(5) of this title) or the acquisition by such states of unsafeguarded special nuclear material (as defined in section 6305(8) of this title), including—

(A) a net assessment of the aggregate military significance of all such violations;

(B) a statement of the compliance policy of the United States with respect to violations of those commitments; and

(C) what actions, if any, the President has taken or proposes to take to bring any nation committing such a violation into compliance with those commitments; and

(6) a specific identification, to the maximum extent practicable in unclassified form, of each and every question that exists with respect to compliance by other countries with arms control, nonproliferation, and disarmament agreements with the United States.

(b) Classification of report

The report required by this section shall be submitted in unclassified form, with classified annexes, as appropriate. The portions of this report described in paragraphs (4) and (5) of subsection (a) shall summarize in detail, at least in classified annexes, the information, analysis, and conclusions relevant to possible noncompliance by other nations that are provided by United States intelligence agencies.

(c) Reporting consecutive noncompliance

If the President in consecutive reports submitted to the appropriate congressional committees under this section reports that any designated nation is not in full compliance with its binding nonproliferation commitments to the United States, then the President shall include in the second such report an assessment of what actions are necessary to compensate for such violations.

(d) Additional requirement

Each report required by this section shall include a discussion of each significant issue described in subsection (a)(6) that was contained in a previous report issued under this section during 1995, or after December 31, 1995, until the question or concern has been resolved and such resolution has been reported in detail to the appropriate committees of Congress (as defined in section 1102(1) of the Arms Control, Non-Proliferation, and Security Assistance Act of 1999).

(e) Annual report

(1) In general

Not later than June 15 of each year described in paragraph (2), the Director of National Intelligence shall submit to the appropriate congressional committees a report that contains a detailed assessment, consistent with the provision of classified information and intelligence sources and methods, of the adherence of other nations to obligations undertaken in all arms control, nonproliferation, and disarmament agreements or commitments to which the United States is a party, including information of cases in which any such nation has behaved inconsistently with respect to its obligations undertaken in such agreements or commitments.

(2) Covered year

A year described in this paragraph is a year in which the President fails to submit the report required by subsection (a) by not later than April 15 of such year.

(3) Form

The report required by this subsection shall be submitted in unclassified form, but may contain a classified annex if necessary.

(f) Appropriate congressional committees defined

In this section, the term "appropriate congressional committees" means—

(1) the Committee on Foreign Relations, the Committee on Armed Services, and the Select Committee on Intelligence of the Senate; and

(2) the Committee on Foreign Affairs, the Committee on Armed Services, and the Permanent Select Committee on Intelligence of the House of Representatives.

(Pub. L. 87–297, title IV, §403, formerly §51, as added and amended Pub. L. 103–236, title VII, §717(a)(3), title VIII, §828(a), Apr. 30, 1994, 108 Stat. 498, 520; renumbered §403 and amended, Pub. L. 105–277, div. G, subdiv. A, title XII, §1223(15), (21), Oct. 21, 1998, 112 Stat. 2681–771, 2681–772; Pub. L. 106–113, div. B, §1000(a)(7) [div. B, title XI, §1113], Nov. 29, 1999, 113 Stat. 1536, 1501A–487; Pub. L. 107–228, div. B, title XI, §1103, Sept. 30, 2002, 116 Stat. 1426; Pub. L. 113–66, div. A, title XII, §1247, Dec. 26, 2013, 127 Stat. 924; Pub. L. 114–92, div. A, title XII, §1272, Nov. 25, 2015, 129 Stat. 1076.)

REFERENCES IN TEXT

Section 1102(1) of the Arms Control, Non-Proliferation, and Security Assistance Act of 1999, referred to in subsec. (d), is section 1000(a)(7) [div. B, title XI, §1102(1)] of Pub. L. 106–113, which is set out as a note under section 2652c of this title.

AMENDMENTS

2015—Subsec. (e). Pub. L. 114–92 amended subsec. (e) generally. Prior to amendment, text read as follows: "Not later than May 15 of each year, the President shall provide to the appropriate congressional committees a briefing on the most-recent report required by this section."

2013—Subsec. (a). Pub. L. 113–66, §1247(a)(1), substituted "the appropriate congressional committees" for "the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate" in introductory provisions.

Subsec. (c). Pub. L. 113–66, §1247(a)(2), substituted "appropriate congressional committees" for "Congress".

Subsec. (e). Pub. L. 113–66, §1247(b)(2), added subsec. (e). Former subsec. (e) redesignated (f).

Pub. L. 113–66, §1247(a)(3), added subsec. (e).

Subsec. (f). Pub. L. 113–66, §1247(b)(1), redesignated subsec. (e) as (f).

2002—Subsec. (a). Pub. L. 107–228 substituted "April 15" for "January 31" in introductory provisions.

1999—Subsec. (a)(4). Pub. L. 106–113, §1000(a)(7) [title XI, §1113(a)(1)(A)–(C)], in introductory provisions, inserted "or commitments, including the Missile Technology Control Regime," before "to which", "or commitments" before ", and shall", and "or commitment" before "about which".

Subsec. (a)(6). Pub. L. 106–113, §1000(a)(7) [title XI, §1113(a)(1)(D), (2), (3)], added par. (6).

Subsec. (d). Pub. L. 106–113, §1000(a)(7) [title XI, §1113(b)], added subsec. (d).

1998—Subsec. (a). Pub. L. 105–277, §1223(15)(A)(ii), (iii), in introductory provisions, substituted "Secretary of State with the concurrence of the Director of Central Intelligence and in consultation with" for "Director, in consultation with the Secretary of State," and "and the Chairman of the Joint Chiefs of Staff" for "the Chairman of the Joint Chiefs of Staff, and the Director of Central Intelligence".

Subsec. (a)(1). Pub. L. 105–277, §1223(15)(A)(i), inserted ", nonproliferation," after "arms control".

Subsec. (a)(2). Pub. L. 105–277, §1223(15)(A)(iv), (v), redesignated par. (3) as (2) and struck out former par. (2) which read as follows: "a detailed statement concerning the nonproliferation objectives of the executive branch of Government for the forthcoming year;".

Subsec. (a)(3). Pub. L. 105–277, §1223(15)(A)(v), redesignated par. (5) as (3). Former par. (3) redesignated (2).

Pub. L. 105–277, §1223(15)(A)(i), inserted ", nonproliferation," after "arms control".

Subsec. (a)(4). Pub. L. 105–277, §1223(15)(A)(iv), (v), redesignated par. (6) as (4) and struck out former par. (4) which read as follows: "a detailed assessment of the status of any ongoing nonproliferation

negotiations or other activities, including a comprehensive description of the negotiations or other activities during the preceding year and an appraisal of the status and prospects for the forthcoming year;".

Subsec. (a)(5) to (7). Pub. L. 105–277, §1223(15)(A)(v), redesignated pars. (5) to (7) as (3) to (5), respectively.

Subsec. (b). Pub. L. 105–277, §1223(15)(B), inserted at end "The portions of this report described in paragraphs (4) and (5) of subsection (a) shall summarize in detail, at least in classified annexes, the information, analysis, and conclusions relevant to possible noncompliance by other nations that are provided by United States intelligence agencies."

1994—Subsec. (a)(5) to (7). Pub. L. 103–236, §828(a)(1)–(3), struck out "and" at end of par. (5), substituted "; and" for period at end of par. (6), and added par. (7).

Subsec. (c). Pub. L. 103–236, §828(a)(4), added subsec. (c).

CHANGE OF NAME

Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108–458, set out as a note under section 3001 of Title 50, War and National Defense.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective Apr. 1, 1999, see section 1201 of Pub. L. 105–277, set out as an Effective Date note under section 6511 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by section 828(a) of Pub. L. 103–236 effective 60 days after Apr. 30, 1994, see section 831 of Pub. L. 103–236, set out as an Effective Date note under section 6301 of this title.

DELEGATION OF FUNCTIONS

For delegation of congressional reporting functions of President under this section, see section 1 of Ex. Ord. No. 13313, July 31, 2003, 68 F.R. 46073, set out as a note under section 301 of Title 3, The President.

REPORT ON NON-COMPLIANCE BY THE RUSSIAN FEDERATION WITH ITS OBLIGATIONS UNDER THE INF TREATY

Pub. L. 113–291, div. A, title XII, §1244, Dec. 19, 2014, 128 Stat. 3564, provided that:

"(a) FINDINGS.—Congress makes the following findings:

"(1) It was the object and purpose of the INF Treaty to eliminate the production or deployment of ground launched ballistic and cruise missiles with a range of between 500 and 5,500 kilometers, which was accomplished in 1992.

"(2) The July 2014 Department of State annual report on 'Adherence to and Compliance with Arms Control, Nonproliferation, and Disarmament Agreements and Commitments' stated that 'The United States has determined that the Russian Federation is in violation of its obligations under the INF Treaty not to possess, produce, or flight-test a ground-launched cruise missile (GLCM) with a range capability of 500km to 5,500km, or to possess or produce launchers of such missiles.'.

"(3) In a letter to the Senate Armed Services Committee dated October 23, 2014, General Martin Dempsey, Chairman of the Joint Chiefs of Staff, wrote 'these violations are a serious challenge to the security of the United States and our allies. These actions, particularly when placed in the broader context of Russian regional aggression, must be met with a strategic response.'.

"(b) SENSE OF CONGRESS.—It is the sense of Congress that—

"(1) the Russian Federation's actions in violation of its obligations under the INF Treaty adversely affect the national security of the United States and its allies, including the members of the North Atlantic Treaty Organization (NATO) and those in East Asia;

"(2) the Government of the Russian Federation is responsible for this violation and also for returning to compliance with the INF Treaty;

"(3) it is in the national security interests of the United States and its allies for the INF Treaty to remain in effect and for the Russian Federation to return to full and verifiable compliance with all its obligations under the INF Treaty; and

"(4) as identified in section 1061 of the National Defense Authorization Act for Fiscal Year 2014 (Public Law 113–66; 127 Stat. 865), the President should take appropriate actions to resolve the issues

relating to noncompliance by the Russian Federation with its obligations under the INF Treaty.

"(c) REPORT REQUIRED.—

"(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act [Dec. 19, 2014], the President shall submit to the appropriate congressional committees a report on noncompliance by the Russian Federation with its obligations under the INF Treaty.

"(2) ELEMENTS.—The report required under paragraph (1) shall include the following:

"(A) An assessment of the effect of Russian noncompliance on the national security interests of the United States and its allies, including the North Atlantic Treaty Organization, and those in East Asia.

"(B) A description of the President's plan to resolve issues related to Russian noncompliance, including—

"(i) actions that have been taken, and what further actions are planned or warranted by the United States;

"(ii) plans to address Russian noncompliance diplomatically with the Russian Federation to resolve concerns about such noncompliance and bring Russia back into full compliance with the INF Treaty;

"(iii) an assessment of possible steps (including verification measures) that would permit confidence that the Russian Federation has returned to full compliance; and

"(iv) the status of any United States efforts to develop coordinated or cooperative responses with allies.

"(C) An assessment of whether Russian noncompliance threatens the viability of the INF Treaty, whether such noncompliance constitutes a material breach of the INF Treaty, and whether it is in the interests of the United States to remain a party to the INF Treaty if such noncompliance continues.

"(3) FORM.—The report required under paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

"(d) BRIEFINGS REQUIRED.—At the time of the submission of the report required under subsection (c), and every six months thereafter until the date on which the Russian Federation is in compliance with its obligations under the INF Treaty, the Secretary of State, jointly with the Secretary of Defense and the heads of such other departments or agencies as appropriate, shall provide to the appropriate congressional committees a briefing on the status of United States efforts to resolve its concerns relating to noncompliance by the Russian Federation with its obligations under the INF Treaty.

"(e) NOTIFICATION.—In the event the President determines that the Russian Federation has deployed, or intends to deploy, systems that violate the INF Treaty, the President shall promptly notify the appropriate congressional committees of such determination and any plans to respond to such deployments.

"(f) DEFINITIONS.—In this section:

"(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term 'appropriate congressional committees' means—

"(A) the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives];

"(B) the Committee on Foreign Relations and the Select Committee on Intelligence of the Senate; and

"(C) the Committee on Foreign Affairs and the Permanent Select Committee on Intelligence of the House of Representatives.

"(2) INF TREATY.—The term 'INF Treaty' means the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range and Shorter-Range Missiles, commonly referred to as the Intermediate-Range Nuclear Forces (INF) Treaty, signed at Washington December 8, 1987, and entered into force June 1, 1988."

NOTIFICATION AND REVIEW OF POTENTIALLY SIGNIFICANT ARMS CONTROL NONCOMPLIANCE

Pub. L. 113–291, div. A, title XII, §1267, Dec. 19, 2014, 128 Stat. 3584, provided that:

"(a) NOTICE TO PRESIDENT.—If the Secretary of Defense, after consultation with the Secretary of State and the Director of National Intelligence, has substantial reason to believe that there is a case of foreign activity that would pose a significant threat to United States national security interests and that may be inconsistent with an arms control treaty to which the United States is a party, and such case is not included in, or is significantly different from a case included in, the most-recent annual report submitted to Congress pursuant to section 403 of the Arms Control and Disarmament Act (22 U.S.C. 2593a), the Secretary of Defense shall notify the President of such belief of the Secretary.

"(b) REFERRAL TO SECRETARY OF STATE.—If the President receives a notification from the

Secretary of Defense under subsection (a), the President shall promptly refer the matter to the Secretary of State to arrange for an inter-agency review of the case in order to provide for an assessment of whether the case constitutes a significant case of non-compliance with an arms control treaty to which the United States is a party.

"(c) NOTICE TO CONGRESS.—Not later than 60 days after the date on which the President makes a referral under subsection (b), the Secretary of State shall submit to the appropriate committees of Congress the results of the assessment of the case with respect to which the referral was made under subsection (b).

"(d) DEFINITION.—In this section, the term 'appropriate congressional committees' means—

"(1) the Committee on Armed Services, the Committee on Foreign Relations, and the Select Committee on Intelligence of the Senate; and

"(2) the Committee on Armed Services, the Committee on Foreign Affairs, and the Permanent Select Committee on Intelligence of the House of Representatives."

REQUIREMENT FOR TRANSMITTAL OF SUMMARIES

Pub. L. 106–113, div. B, §1000(a)(7) [div. B, title XI, §1118], Nov. 29, 1999, 113 Stat. 1536, 1501A–489, provided that: "Whenever a United States delegation engaging in negotiations on arms control, nonproliferation, or disarmament submits to the Secretary of State a summary of the activities of the delegation or the status of those negotiations, a copy of each such summary shall be further transmitted by the Secretary of State to the Committee on Foreign Relations of the Senate and to the Committee on International Relations [now Committee on Foreign Affairs] of the House of Representatives promptly."

TRANSMISSION OF EXECUTIVE BRANCH REPORTS PROVIDING CONGRESS WITH CLASSIFIED SUMMARIES OF ARMS CONTROL DEVELOPMENTS

Pub. L. 105–261, div. A, title XV, §1502, Oct. 17, 1998, 112 Stat. 2171, as amended by Pub. L. 106–65, div. A, title X, §1067(3), Oct. 5, 1999, 113 Stat. 774, provided that:

"(a) REPORTING REQUIREMENT.—The Director of the Arms Control and Disarmament Agency (or the Secretary of State, if the Arms Control and Disarmament Agency becomes an element of the Department of State) shall transmit to the Committee on Armed Services of the House of Representatives on a periodic basis reports containing classified summaries of arms control developments.

"(b) CONTENTS OF REPORTS.—The reports required by subsection (a) shall include information reflecting the activities of forums established to consider issues relating to treaty implementation and treaty compliance."

§2593b. Public annual report on world military expenditures and arms transfers

Not later than December 31 of each year, the Secretary of State shall publish an unclassified report on world military expenditures and arms transfers. Such report shall provide detailed, comprehensive, and statistical information regarding military expenditures, arms transfers, armed forces, and related economic data for each country of the world. In addition, such report shall include pertinent in-depth analyses as well as highlights with respect to arms transfers and proliferation trends and initiatives affecting such developments.

(Pub. L. 87–297, title IV, §404, formerly §52, as added Pub. L. 103–236, title VII, §717(a)(3), Apr. 30, 1994, 108 Stat. 499; renumbered §404 and amended Pub. L. 105–277, div. G, subdiv. A, title XII, §1223(16), (21), Oct. 21, 1998, 112 Stat. 2681–772.)

AMENDMENTS

1998—Pub. L. 105–277, §1223(16), substituted "Secretary of State" for "Director" in first sentence.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective Apr. 1, 1999, see section 1201 of Pub. L. 105–277, set out as an Effective Date note under section 6511 of this title.

§§2593c, 2593d. Repealed. Pub. L. 105–277, div. G, subdiv. A, title XII, §1222, Oct. 21, 1998, 112 Stat. 2681–768

Section 2953c, Pub. L. 87–297, title IV, §53, as added Pub. L. 103–236, title VII, §718(a), Apr. 30, 1994,

108 Stat. 500, related to requirement for authorization of appropriations.

Section 2593d, Pub. L. 87–297, title IV, §54, as added Pub. L. 103–236, title VII, §718(a), Apr. 30, 1994, 108 Stat. 500, related to transfers and reprogrammings of funds.

EFFECTIVE DATE OF REPEAL

Repeal effective Apr. 1, 1999, see section 1201 of Pub. L. 105–277, set out as an Effective Date note under section 6511 of this title.

§2593e. Measures against persons involved in activities that violate arms control treaties or agreements with the United States

(a) Reports on Persons that violate treaties or agreements

(1) In general

Not later than 30 days after the submittal to Congress of an annual report on the status of United States policy and actions with respect to arms control, nonproliferation, and disarmament pursuant to section 2593a of this title, the Secretary of the Treasury shall submit to the appropriate congressional committees a report, consistent with the protection of intelligence sources and methods, identifying every person with respect to whom there is credible information indicating that—

(A) the person—

(i)(I) is an individual who is a citizen, national, or permanent resident of a country described in paragraph (2); or

(II) is an entity organized under the laws of a country described in paragraph (2); and

(ii) has engaged in any activity that contributed to or is a significant factor in the President's or the Secretary of State's determination that such country is not in full compliance with its obligations as further described in paragraph (2); or

(B) the person has provided material support for such non-compliance to a person described in subparagraph (A).

(2) Country described

A country described in this paragraph is a country (other than a country described in paragraph (3)) that the President or the Secretary of State has determined, in the most recent annual report described in paragraph (1), to be not in full compliance with its obligations undertaken in all arms control, nonproliferation, and disarmament agreements or commitments to which the United States is a participating state.

(3) Excluded countries

The following countries are not described for purposes of paragraph (2):

(A) The United States.

(B) Any country determined by the Director of National Intelligence to be closely cooperating in intelligence matters with the United States in the period covered by the most recent annual report described in paragraph (1), regardless of the extent of the compliance of such country with the obligations described in paragraph (2) during such period.

(b) Imposition of measures

Except as provided in subsections (d), (e), and (f), the President shall impose the measures described in subsection (c) with respect to each person identified in a report under subsection (a).

(c) Measures described

(1) In general

The measures to be imposed with respect to a person under subsection (b) are the head of any executive agency (as defined in section 133 of title 41) may not enter into, renew, or extend a contract for the procurement of goods or services with the person.

(2) Exception for major routes of supply

The requirement to impose measures under paragraph (1) shall not apply with respect to any contract for the procurement of goods or services along a major route of supply to a zone of active combat or major contingency operation.

(3) Requirement to revise regulations

(A) In general

Not later than 90 days after December 23, 2016, the Federal Acquisition Regulation, the Defense Federal Acquisition Regulation Supplement, and the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards shall be revised to implement paragraph (1).

(B) Certifications

The revisions to the Federal Acquisition Regulation under subparagraph (A) shall include a requirement for a certification from each person that is a prospective contractor that the person, and any person owned or controlled by the person, does not engage in any activity described in subsection (a)(1)(A)(ii).

(C) Remedies

If the head of an executive agency determines that a person has submitted a false certification under subparagraph (B) on or after the date on which the applicable revision of the Federal Acquisition Regulation required by this paragraph becomes effective—

(i) the head of that executive agency shall terminate a contract with such person or debar or suspend such person from eligibility for Federal contracts for a period of not less than 2 years;

(ii) any such debarment or suspension shall be subject to the procedures that apply to debarment and suspension under the Federal Acquisition Regulation under subpart 9.4 of part 9 of title 48, Code of Federal Regulations; and

(iii) the Administrator of General Services shall include on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs maintained by the Administrator under part 9 of the Federal Acquisition Regulation each person that is debarred, suspended, or proposed for debarment or suspension by the head of an executive agency on the basis of a determination of a false certification under subparagraph (B).

(d) Waiver for lack of knowing violation

(1) In general

The President may waive the application of measures on a case-by-case basis under subsection (b) with respect to a person if the President—

(A) determines that—

(i)(I) in the case of a person described in subsection (a)(1)(A), the person did not knowingly engage in any activity described in such subsection;

(II) in the case of a person described in subsection (a)(1)(B), the person conducted or facilitated a transaction or transactions with, or provided financial services to, a person described in subsection (a)(1)(A) that did not knowingly engage in any activity described in such subsection; and

(III) in the case of a person described in subsection (a)(1)(A) or (a)(1)(B), the person has terminated the activity for which otherwise covered by such subsection or has provided verifiable assurances that the person will terminate such activity; and

(ii) the waiver is in the national security interest of the United States; and

(B) submits to the appropriate congressional committees a report on the determination and the reasons for the determination.

(2) Form of report

The report required by paragraph (1)(B) shall be submitted in unclassified form, but may include a classified annex.

(e) Waiver to prevent disclosure of intelligence sources and methods

The President may waive the application of measures on a case-by-case basis under subsection (b) with respect to a person if the President—

(1) determines that the waiver is necessary to prevent the disclosure of intelligence sources or methods; and

(2) submits to the appropriate congressional committees a report, consistent with the protection of intelligence sources and methods, on the determination and the reasons for the determination.

(f) Timing of imposition

(1) In general

Except as provided in paragraph (2), the President shall immediately impose measures under subsection (b) against a person described in subsection (a)(1) upon the submittal to Congress of the report identifying the person pursuant to subsection (a)(1) unless the President determines and certifies to the appropriate congressional committees that the government of the country concerned has taken specific and effective actions, including, as appropriate, the imposition of appropriate penalties, to terminate the involvement of the person in the activities that resulted in the identification of the person in the report.

(2) Delay

(A) In general

The President may delay the imposition of measures against a person for up to 120 days after the date of the submittal to Congress of the report identifying the person pursuant to subsection (a)(1) if the President initiates consultations with the government concerned with respect to the taking of actions described in paragraph (1).

(B) Additional delay

The President may delay the imposition of measures for up to an additional 120 days after the delay authorized by subparagraph (A) if the President determines and certifies to the appropriate congressional committees that the government concerned is in the process of taking the actions described in paragraph (1).

(3) Report

Not later than 60 days after the submittal to Congress of the report identifying a person pursuant to subsection (a)(1), the President shall submit to the appropriate congressional committees a report on the status of consultations, if any, with the government concerned under this subsection, and the basis for any determination under paragraph (1).

(g) Termination

(1) Termination through compliance of country with arms control and other agreements

The measures imposed with respect to a person under subsection (b) shall terminate on the date on which the President submits to Congress a subsequent annual report pursuant to section 2593a of this title that does not contain a determination of the President that the country described in subsection (a)(2) with respect to which the measures were imposed with respect to the person is a country that is not in full compliance with its obligations undertaken in all arms control, nonproliferation, and disarmament agreements or commitments to which the United States is a participating state.

(2) Termination through cessation by person of violating activities

In addition to termination provided for by paragraph (1), the measures imposed with respect to a person under subsection (b) in connection with a particular activity shall terminate upon a determination of the President that the person has ceased such activity. The termination of measures imposed with respect to a person in connection with a particular activity pursuant to this

paragraph shall not result in the termination of any measures imposed with respect to the person in connection with any other activity for which measures were imposed under subsection (b).

(h) Appropriate congressional committees defined

In this section, the term "appropriate congressional committees" means—

(1) the Committee on Armed Services, the Committee on Foreign Affairs, and the Permanent Select Committee on Intelligence of the House of Representatives; and

(2) the Committee on Armed Services, the Committee on Foreign Relations, and the Select Committee on Intelligence of the Senate.

(Pub. L. 114–328, div. A, title XII, §1290, Dec. 23, 2016, 130 Stat. 2555.)

CODIFICATION

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 2017, and not as part of the Arms Control and Disarmament Act which comprises this chapter.

SUBCHAPTER V—ON-SITE INSPECTION ACTIVITIES

§2595. Findings

The Congress finds that—

(1) under this chapter, the Department of State is charged with the "formulation and implementation of United States arms control and disarmament policy in a manner which will promote the national security";

(2) the On-Site Inspection Agency was established in 1988 pursuant to the INF Treaty to implement, on behalf of the United States, the inspection provisions of the INF Treaty;

(3) on-site inspection activities under the INF Treaty include—

(A) inspections in Russia, Ukraine, Kazakhstan, Belarus, Turkmenistan, Uzbekistan, the Czech Republic, and Germany,

(B) escort duties for teams visiting the United States and the Basing Countries,

(C) establishment and operation of the Portal Monitoring Facility in Russia, and

(D) support for the inspectors at the Portal Monitoring Facility in Utah;

(4) the On-Site Inspection Agency has additional responsibilities to those specified in paragraph (3), including the monitoring of nuclear tests pursuant to the Threshold Test Ban Treaty and the Peaceful Nuclear Explosions Treaty and the monitoring of the inspection provisions of such additional arms control agreements as the President may direct;

(5) the personnel of the On-Site Inspection Agency include civilian technical experts, civilian support personnel, and members of the Armed Forces; and

(6) the senior officials of the On-Site Inspection Agency include representatives from the Department of State.

(Pub. L. 87–297, title V, §501, formerly §61, as added Pub. L. 101–216, title II, §201, Dec. 11, 1989, 103 Stat. 1855; amended Pub. L. 102–228, title IV, §402(a)(1), Dec. 12, 1991, 105 Stat. 1699; Pub. L. 103–199, title IV, §401(d), Dec. 17, 1993, 107 Stat. 2324; renumbered and amended Pub. L. 105–277, div. G, subdiv. A, title XII, §1223(17), (21), Oct. 21, 1998, 112 Stat. 2681–772.)

AMENDMENTS

1998—Par. (1). Pub. L. 105–277, §1223(17)(A), substituted "Department of State" for "United States Arms Control and Disarmament Agency".

Par. (2). Pub. L. 105–277, §1223(17)(B), (C), redesignated par. (3) as (2) and struck out former par. (2) which read as follows: "as defined in this chapter, the terms 'arms control' and 'disarmament' mean 'the

identification, verification, inspection, limitation, control, reduction, or elimination, of armed forces and armaments of all kinds under international agreement to establish an effective system of international control';".

Par. (3). Pub. L. 105–277, §1223(17)(C), redesignated par. (4) as (3). Former par. (3) redesignated (2).

Par. (4). Pub. L. 105–277, §1223(17)(C), (D), redesignated par. (5) as (4) and substituted "paragraph (3)" for "paragraph (4)". Former par. (4) redesignated (3).

Par. (5). Pub. L. 105–277, §1223(17)(C), redesignated par. (6) as (5). Former par. (5) redesignated (4).

Pars. (6), (7). Pub. L. 105–277, §1223(17)(C), (E), redesignated par. (7) as (6) and struck out "United States Arms Control and Disarmament Agency and the" before "Department of State". Former par. (6) redesignated (5).

1993—Par. (4)(A). Pub. L. 103–199, §401(d)(1), substituted "Russia, Ukraine, Kazakhstan, Belarus, Turkmenistan, Uzbekistan, the Czech Republic, and Germany" for "the Soviet Union, Czechoslovakia, and the German Democratic Republic".

Par. (4)(B). Pub. L. 103–199, §401(d)(2), struck out "Soviet" before "teams".

Par. (4)(C). Pub. L. 103–199, §401(d)(3), substituted "Russia" for "the Soviet Union".

Par. (4)(D). Pub. L. 103–199, §401(d)(4), struck out "Soviet" before "inspectors".

1991—Pars. (5) to (7). Pub. L. 102–228 added par. (5) and redesignated former pars. (5) and (6) as (6) and (7), respectively.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective Apr. 1, 1999, see section 1201 of Pub. L. 105–277, set out as an Effective Date note under section 6511 of this title.

ACCOUNTING FOR REIMBURSABLE EXPENSES INCURRED BY DEPARTMENT OF DEFENSE ON BEHALF OF SOVIET UNION OR SUCCESSOR ENTITIES IN MONITORING INF TREATY

Pub. L. 103–139, title VIII, §8033, Nov. 11, 1993, 107 Stat. 1447, provided that: "During the current fiscal year and thereafter, of the funds appropriated, reimbursable expenses incurred by the Department of Defense on behalf of the Soviet Union or its successor entities in monitoring United States implementation of the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range or Shorter-Range Missiles ('INF Treaty'), concluded December 8, 1987, may be treated as orders received and obligation authority for the applicable appropriation, account, or fund increased accordingly. Likewise, any reimbursements received for such costs may be credited to the same appropriation, account, or fund to which the expenses were charged: *Provided,* That reimbursements which are not received within one hundred and eighty days after submission of an appropriate request for payment shall be subject to interest at the current rate established pursuant to section 2(b)(1)(B) of the Export-Import Bank Act of 1945 (59 Stat. 526) [12 U.S.C. 635(b)(1)(B)]. Interest shall begin to accrue on the one hundred and eighty-first day following submission of an appropriate request for payment: *Provided further,* That funds appropriated in this Act [see Tables for classification] may be used to reimburse United States military personnel for reasonable costs of subsistence, at rates to be determined by the Secretary of Defense, incurred while accompanying Soviet Inspection Team members or inspection team members of the successor entities of the Soviet Union engaged in activities related to the INF Treaty: *Provided further,* That this provision includes only the in-country period (referred to in the INF Treaty) and is effective whether such duty is performed at, near, or away from an individual's permanent duty station."

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 102–396, title IX, §9045, Oct. 6, 1992, 106 Stat. 1912.

Pub. L. 102–172, title VIII, §8045, Nov. 26, 1991, 105 Stat. 1182.

Pub. L. 101–511, title VIII, §8049, Nov. 5, 1990, 104 Stat. 1885.

Pub. L. 101–165, title IX, §9062, Nov. 21, 1989, 103 Stat. 1142.

Pub. L. 100–463, title VIII, §8138, Oct. 1, 1988, 102 Stat. 2270–46.

UNITED STATES PROGRAM FOR ON-SITE INSPECTIONS UNDER ARMS CONTROL AGREEMENTS

Pub. L. 101–189, div. A, title X, §1014, Nov. 29, 1989, 103 Stat. 1547, provided that:

"(a) FINDINGS CONCERNING ON-SITE INSPECTION PERSONNEL.—Congress makes the following findings:

"(1) The United States is currently engaged in multilateral and bilateral negotiations seeking to achieve treaties or agreements to reduce or eliminate various types of military weapons and to make certain reductions in military personnel levels. These negotiations include negotiations for (A) reductions in

strategic forces, conventional armaments, and military personnel levels, (B) regimes for monitoring nuclear testing, and (C) the complete elimination of chemical weapons.

"(2) Requirements for monitoring these possible treaties or agreements will be extensive and will place severe stress on the monitoring capabilities of United States national technical means.

"(3) In the case of the INF Treaty, the United States and the Soviet Union negotiated, and are currently using, on-site inspection procedures to complement and support monitoring by national technical means. Similar on-site inspection procedures are being negotiated for inclusion in possible future treaties and agreements referred to in paragraph (1).

"(4) During initial implementation of the provisions of the INF Treaty, the United States was not fully prepared for the personnel requirements for the conduct of on-site inspections. The Director of Central Intelligence has stated that on-site inspection requirements for any strategic arms reduction treaty or agreement will be far more extensive than those for the INF Treaty. The number of locations within the Soviet Union that would possibly be subject to on-site inspections under a START agreement have been estimated to be approximately 2,500 (compared to 120 for the INF Treaty).

"(5) On-site inspection procedures are likely to be an integral part of any future arms control treaty or agreement.

"(6) Personnel requirements will be extensive for such on-site inspection procedures, both in terms of numbers of personnel and technical and linguistic skills. Since verification requirements for the INF Treaty are already placing severe stress on current personnel resources, the requirements for verification under START and other possible future treaties and agreements may quickly exceed the current number of verification personnel having necessary technical and language skills.

"(7) There is a clear need for a database of the names of individuals who are members of the Armed Forces or civilian employees of the United States Government, or of other citizens and nationals of the United States, who are qualified (by reason of technical or language skills) to participate in on-site inspections under an arms control treaty or agreement.

"(8) The organization best suited to establish such a database is the On-Site Inspection Agency (OSIA) of the Department of Defense, which was created by the President to implement (for the United States) the on-site inspection provisions of the INF Treaty.

"(b) STATUS OF THE OSIA.—(1) Congress finds that—

"(A) the Director of the OSIA (currently a brigadier general of the Army) is appointed by the Secretary of Defense with the concurrence of the Secretary of State and the approval of the President;

"(B) the Secretary of Defense provides to the Director appropriate policy guidance formulated by the interagency arms control mechanism established by the President;

"(C) most of the personnel of the OSIA are members of the Armed Forces (who are trained and paid by the military departments within the Department of Defense) and include linguists, weapons specialists, and foreign area specialists;

"(D) the Department of Defense provides the OSIA with substantially all of its administrative and logistic support (including military air transportation for inspections in the Soviet Union and Eastern Europe); and

"(E) the facilities in Europe and the United States at which OSIA personnel escort personnel of the Soviet Union conducting inspections under the on-site inspection terms of the INF Treaty are under the jurisdiction of the Department of Defense (or under the jurisdiction of entities that are contractors with the Department of Defense).

"(2) In light of the findings in paragraph (1) and the report submitted pursuant to section 909 of Public Law 100–456 [div. A, title IX, Sept. 29, 1988, 102 Stat. 2036] entitled 'Report to the Congress on U.S. Monitoring and Verification Activities Related to the INF Treaty' (submitted on July 27, 1989), Congress hereby determines that by locating the On-Site Inspection Agency within the Department of Defense for the purposes of administrative and logistic support and operational guidance, and integrating on-site inspection responsibilities under the INF Treaty with existing organizational activities of that Department, the President has been able to ensure that sensitive national security assets are protected and that obligations of the United States under that treaty are fulfilled in an efficient and cost-effective manner.

"(c) ESTABLISHMENT OF PERSONNEL DATABASE.—(1) In light of the findings in subsection (a), the Director of the On-Site Inspection Agency shall establish a database consisting of the names of individuals who could be assigned or detailed (in the case of Government personnel) or employed (in the case of non-Government personnel) to participate in the conduct of on-site inspections under any future arms control treaty or agreement that includes provisions for such inspections.

"(2) The database should be composed of the names of individuals with skills (including linguistic and technical skills) necessary for the conduct of on-site inspections.

"(d) INF TREATY DEFINED.—For purposes of this section, the term 'INF Treaty' means the Treaty Between the United States and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range and Shorter-Range Missiles, signed in Washington, DC, on December 8, 1987."

§2595a. Policy coordination concerning implementation of on-site inspection provisions

(a) Interagency coordination

OSIA should receive policy guidance which is formulated through an interagency mechanism established by the President.

(b) Role of Secretary of Defense

The Secretary of Defense should provide to OSIA appropriate policy guidance formulated through the interagency mechanism described in subsection (a) and operational direction, consistent with section 113(b) of title 10.

(c) Role of Secretary of State

The Secretary of State should provide to the interagency mechanism described in subsection (a) appropriate recommendations for policy guidance to OSIA consistent with sections 2551(3) and 2574(b) of this title.

(Pub. L. 87–297, title V, §502, formerly §62, as added Pub. L. 101–216, title II, §201, Dec. 11, 1989, 103 Stat. 1855; renumbered §502 and amended Pub. L. 105–277, div. G, subdiv. A, title XII, §1223(18), (21), Oct. 21, 1998, 112 Stat. 2681–772.)

AMENDMENTS

1998—Subsec. (c). Pub. L. 105–277, §1223(18), in heading substituted "Secretary of State" for "Director" and in text substituted "Secretary of State" for "Director" and "2551(3) and 2574(b)" for "2551(d), 2562, and 2574(c)".

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective Apr. 1, 1999, see section 1201 of Pub. L. 105–277, set out as an Effective Date note under section 6511 of this title.

§2595b. Repealed. Pub. L. 105–277, div. G, subdiv. A, title XII, §1222, Oct. 21, 1998, 112 Stat. 2681–768

Section, Pub. L. 87–297, title V, §63, as added Pub. L. 101–216, title II, §201, Dec. 11, 1989, 103 Stat. 1856, authorized appropriations for On-Site Inspection Agency for fiscal years 1990 and 1991.

EFFECTIVE DATE OF REPEAL

Repeal effective Apr. 1, 1999, see section 1201 of Pub. L. 105–277, set out as an Effective Date note under section 6511 of this title.

§2595b–1. Review of certain reprogramming notifications

Any notification submitted to the Congress with respect to a proposed transfer, reprogramming, or reallocation of funds from or within the budget of OSIA shall also be submitted to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate, and shall be subject to review by those committees.

(Pub. L. 87–297, title V, §503, formerly §64, as added Pub. L. 102–228, title IV, §402(b)(2), Dec. 12, 1991, 105 Stat. 1699; renumbered §503 and amended Pub. L. 105–277, div. G, subdiv. A, title XII, §1223(19), (21), Oct. 21, 1998, 112 Stat. 2681–772.)

AMENDMENTS

1998—Pub. L. 105–277, §1223(19) substituted section catchline for former section catchline "Improving congressional oversight of on-site inspection activities", struck out subsec. (b) designation and heading, substituted "International Relations" for "Foreign Affairs", and struck out heading and text of subsec. (a). Text read as follows: "Concurrent with the submission to the Congress of the request for authorization of appropriations for OSIA for fiscal year 1993, the President shall submit a report on OSIA to the Committee on Foreign Affairs of the House of Representatives, the Committee on Foreign Relations of the Senate, and the Committees on Armed Services of the House of Representatives and Senate. The report shall include a review of—

"(1) the history of OSIA, including how, when, and under what auspices it was established, including the applicable texts of the relevant executive orders;

"(2) the missions and tasks assigned to OSIA to date;

"(3) any additional missions and tasks likely to be assigned to OSIA during fiscal year 1993;

"(4) the budgetary history of OSIA; and

"(5) the extent to which OSIA plays a role in arms control policy formulation and operational implementation."

CHANGE OF NAME

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective Apr. 1, 1999, see section 1201 of Pub. L. 105–277, set out as an Effective Date note under section 6511 of this title.

§2595c. Definitions

As used in this subchapter—

(1) the term "INF Treaty" means the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range and Shorter-Range Missiles (signed at Washington, December 8, 1987);

(2) the term "OSIA" means the On-Site Inspection Agency established by the President, or such other agency as may be designated by the President to carry out the on-site inspection provisions of the INF Treaty;

(3) the term "Peaceful Nuclear Explosions Treaty" means the Treaty Between the United States of America and the Union of Soviet Socialist Republics on Underground Nuclear Explosions for Peaceful Purposes (signed at Washington and Moscow, May 28, 1976); and

(4) the term "Threshold Test Ban Treaty" means the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Underground Nuclear Weapons Tests (signed at Moscow, July 3, 1974).

(Pub. L. 87–297, title V, §504, formerly §64, as added Pub. L. 101–216, title II, §201, Dec. 11, 1989, 103 Stat. 1856; renumbered §65 and amended Pub. L. 102–228, title IV, §402(a)(2), (b)(1), Dec. 12, 1991, 105 Stat. 1699; renumbered §504 and amended Pub. L. 105–277, div. G, subdiv. A, title XII, §1223(20), (21), Oct. 21, 1998, 112 Stat. 2681–772.)

AMENDMENTS

1998—Par. (1). Pub. L. 105–277, §1223(20), inserted "of America" after "United States".

1991—Pars. (3), (4). Pub. L. 102–228, §402(a)(2), added pars. (3) and (4).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective Apr. 1, 1999, see section 1201 of Pub. L. 105–277, set out as an Effective Date note under section 6511 of this title.

CHAPTER 36—MIGRATION AND REFUGEE ASSISTANCE

Sec.

2601. Refugees and migration.
2602. Presidential authorization.
2603. Delegation of powers.
2604. Allocation, transfer and availability of funds; separate appropriation accounts on Treasury books.
2605. Use of funds and personnel; savings provision.
2606. Audits of U.S. funds received by the United Nations High Commissioner for Refugees.

§2601. Refugees and migration

(a) United States membership in International Organization for Migration; contributions to Organization

(1) The President is authorized to continue membership for the United States in the International Organization for Migration in accordance with the constitution of such organization approved in Venice, Italy, on October 19, 1953, as amended in Geneva, Switzerland, on November 24, 1998, upon entry into force of such amendments.

(2) For the purpose of assisting in the movement of refugees and migrants, there are authorized to be appropriated to the President such amounts as may be necessary from time to time for payment by the United States of its contributions to the International Organization for Migration and all necessary salaries and expenses incidental to United States participation in such organization.

(b) Appropriations for assistance to refugees

There are authorized to be appropriated such amounts as may be necessary from time to time—

(1) for contributions to the activities of the United Nations High Commissioner for Refugees for assistance to refugees under his mandate or persons on behalf of whom he is exercising his good offices, and for contributions to the International Organization for Migration, the International Committee of the Red Cross, and to other relevant international organizations; and

(2) for assistance to or on behalf of refugees who are outside the United States designated by the President (by class, group, or designation of their respective countries of origin or areas of residence) when the President determines that such assistance will contribute to the foreign policy interests of the United States.

(c) United States Emergency Refugee and Migration Assistance Fund; appropriations

(1) Whenever the President determines it to be important to the national interest he is authorized to furnish on such terms and conditions as he may determine assistance under this chapter for the purpose of meeting unexpected urgent refugee and migration needs.

(2) There is established a United States Emergency Refugee and Migration Assistance Fund to carry out the purposes of this section. There is authorized to be appropriated to the President from time to time such amounts as may be necessary for the fund to carry out the purposes of this section, except that no amount of funds may be appropriated which, when added to amounts previously appropriated but not yet obligated, would cause such amounts to exceed $100,000,000. Amounts appropriated hereunder shall remain available until expended.

(3) Whenever the President requests appropriations pursuant to this authorization he shall justify such requests to the Committee on Foreign Relations of the Senate and to the Speaker of the House of Representatives, as well as to the Committees on Appropriations.

(d) Information to Congressional committees

The President shall keep the appropriate committees of Congress currently informed of the use of funds and the exercise of functions authorized in this chapter.

(e) Continued availability of certain funds

Unexpended balances of funds made available under authority of the Mutual Security Act of 1954, as amended, and of the Foreign Assistance Act of 1961, as amended, [22 U.S.C. 2151 et seq.], and allocated or transferred for the purposes of sections 405(a), 405(c), 405(d) and 451(c) [1] of the Mutual

Security Act of 1954, as amended [22 U.S.C. 1925(a), (c), (d), 1951(c)], are authorized to be continued available for the purposes of this section and may be consolidated with appropriations authorized by this section.

(f) Restrictions on foreign assistance not applicable to migration and refugee assistance

The President may furnish assistance and make contributions under this chapter notwithstanding any provision of law which restricts assistance to foreign countries.

(Pub. L. 87–510, §2, June 28, 1962, 76 Stat. 121; Pub. L. 88–634, title II, §201, Oct. 7, 1964, 78 Stat. 1021; Pub. L. 94–141, title V, §501(a), Nov. 29, 1975, 89 Stat. 771; Pub. L. 96–212, title III, §312(b), Mar. 17, 1980, 94 Stat. 116; Pub. L. 99–93, title I, §111, Aug. 16, 1985, 99 Stat. 410; Pub. L. 103–236, title IV, §430(a), Apr. 30, 1994, 108 Stat. 459; Pub. L. 107–228, div. A, title II, §242, Sept. 30, 2002, 116 Stat. 1374.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (c)(1), (d), and (f), was in the original "this Act", meaning Pub. L. 87–510, June 28, 1962, 76 Stat. 121, as amended, known as the Migration and Refugee Assistance Act of 1962, which enacted this chapter, amended section 1404 of Title 8, Aliens and Nationality, repealed sections 1925(a), (c), (d), and 1951(c) of this title, enacted a provision set out as a note under this section, and amended a provision set out as a note under section 1182 of Title 8. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

The Foreign Assistance Act of 1961, as amended, referred to in subsec. (e), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, which is classified principally to chapter 32 (§2151 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

The Mutual Security Act of 1954, as amended, referred to in subsec. (e), is act Aug. 26, 1954, ch. 937, 68 Stat. 832, as amended by acts July 8, 1955, ch. 301, 69 Stat. 283; July 18, 1956, ch. 627, §§2–11, 70 Stat. 555; Aug. 14, 1957, Pub. L. 85–141, 71 Stat. 355; June 30, 1958, Pub. L. 85–477, ch. 1, §§101–103, ch. II, §§201–205, ch. III, §301, ch. IV, §401, ch. V, §501, 72 Stat. 261; July 24, 1959, Pub. L. 86–108, §2, ch. 1, §101, ch. II, §§201–205(a)–(i), (k)–(n), ch. III, §301, ch. IV, §401(a)–(k), (m), 73 Stat. 246; May 14, 1960, Pub. L. 86–472, ch. I to V, 74 Stat. 134, which was principally classified to chapter 24 (§1750 et seq.) of this title and which was repealed by act July 18, 1956, ch. 627, §8(m), 70 Stat. 559, Pub. L. 85–141, §§2(e), 3, 4(b), 11(d), Aug. 14, 1957, 71 Stat. 356, Pub. L. 86–108, ch. II, §§205(j), ch. IV, 401(1), July 24, 1959, 73 Stat. 250, Pub. L. 86–472, ch. II, §§203(d), 204(k), May 14, 1960, 74 Stat. 138, Pub. L. 87–195, pt. III, §642(a)(2), Sept. 4, 1961, 75 Stat. 460, Pub. L. 94–329, title II, §212(b)(1), June 30, 1976, 90 Stat. 745, Pub. L. 104–127, title II, §228, Apr. 4, 1996, 110 Stat. 963, except for sections 1754, 1783, 1796, 1853, 1928, and 1937 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1754 of this title and Tables.

Sections 405(a), 405(c), 405(d), and 451(c) of the Mutual Security Act of 1954, as amended, referred to in subsec. (e), were sections of act Aug. 26, 1954, ch. 937, 68 Stat. 832, and were repealed by section 6 of Pub. L. 87–510.

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–228 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "The President is authorized to continue membership for the United States in the International Organization for Migration in accordance with its constitution approved in Venice, Italy, on October 19, 1953, as amended in Geneva, Switzerland, on May 20, 1987. For the purpose of assisting in the movement of refugees and migrants and to enhance the economic progress of the developing countries by providing for a coordinated supply of selected manpower, there are authorized to be appropriated such amounts as may be necessary from time to time for the payment by the United States of its contributions to the Organization and all necessary salaries and expenses incident to United States participation in the Organization."

1994—Subsec. (a). Pub. L. 103–236, §430(a)(1)–(3), substituted "the International Organization for Migration" for "the Intergovernmental Committee for European Migration", inserted ", as amended in Geneva, Switzerland, on May 20, 1987" before period at end of first sentence, and substituted "the Organization" for "the Committee" in two places.

Subsec. (b)(1). Pub. L. 103–236, §430(a)(1), substituted "the International Organization for Migration" for "the Intergovernmental Committee for European Migration".

Subsec. (c)(2). Pub. L. 103–236, §430(a)(4), substituted "$100,000,000" for "$50,000,000".

1985—Subsec. (f). Pub. L. 99–93 added subsec. (f).

1980—Subsec. (b). Pub. L. 96–212, §312(b)(1), in par. (1) inserted provisions respecting contributions to the Intergovernmental Committee for European Migration, etc., in par. (2) inserted provisions requiring refugees to be outside of the United States, and struck out requirement that the assistance contribute to the defense or security of the United States, and struck out pars. (3) to (6), which related to assistance when determined by the President to be in the interest of the United States, assistance to State and local agencies, assistance for transportation and resettlement, and assistance for employment and professional refresher training projects, respectively.

Subsec. (c)(2). Pub. L. 96–212, §312(b)(2), inserted provisions increasing amount from $25,000,000 to $50,000,000.

1975—Subsec. (c). Pub. L. 94–141 designated existing provision as par. (1), substituted provisions authorizing the President to furnish assistance on such terms and conditions as he determines, for provisions authorizing President to transfer not more than $10,000,000 in any fiscal year of the funds made available under the Foreign Assistance Act of 1961 for the purposes of this chapter, and added pars. (2) and (3).

1964—Subsec. (e). Pub. L. 88–634 struck out last sentence "Funds appropriated for the purposes of this section shall remain available until expended."

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–212 effective with respect to fiscal years beginning on and after Oct. 1, 1979, see section 313 of Pub. L. 96–212, set out as an Effective Date note under section 1522 of Title 8, Immigration and Nationality.

SHORT TITLE

Pub. L. 87–510, §1, June 28, 1962, 76 Stat. 121, provided: "That this Act [enacting this chapter, amending sections 1925 and 1951 of this title and section 1104 of Title 8, Aliens and Nationality, enacting provisions set out as a note under this section, and amending provisions set out as a note under section 1182 of Title 8] may be cited as the 'Migration and Refugee Assistance Act of 1962'."

UNITED STATES POLICY REGARDING INVOLUNTARY RETURN OF REFUGEES

Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title II, §251], Nov. 29, 1999, 113 Stat. 1536, 1501A–431, provided that:

"(a) IN GENERAL.—None of the funds made available by this Act [see Short Title of 1999 Amendment note set out under section 2651 of this title] or by section 2(c) of the Migration and Refugee Assistance Act of 1962 (22 U.S.C. 2601(c)) shall be available to effect the involuntary return by the United States of any person to a country in which the person has a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion, except on grounds recognized as precluding protection as a refugee under the United Nations Convention Relating to the Status of Refugees of July 28, 1951, and the Protocol Relating to the Status of Refugees of January 31, 1967, subject to the reservations contained in the United States Senate Resolution of Ratification.

"(b) MIGRATION AND REFUGEE ASSISTANCE.—None of the funds made available by this Act or by section 2(c) of the Migration and Refugee Assistance Act of 1962 (22 U.S.C. 2601(c)) shall be available to effect the involuntary return of any person to any country unless the Secretary of State first notifies the appropriate congressional committees [Committee on Foreign Affairs of the House of Representatives and Committee on Foreign Relations of the Senate], except that in the case of an emergency involving a threat to human life the Secretary of State shall notify the appropriate congressional committees as soon as practicable.

"(c) INVOLUNTARY RETURN DEFINED.—As used in this section, the term 'to effect the involuntary return' means to require, by means of physical force or circumstances amounting to a threat thereof, a person to return to a country against the person's will, regardless of whether the person is physically present in the United States and regardless of whether the United States acts directly or through an agent."

Similar provisions were contained in the following prior act:

Pub. L. 105–277, div. G, subdiv. B, title XXII, §2241, Oct. 21, 1998, 112 Stat. 2681–821.

UNITED STATES POLICY CONCERNING OVERSEAS ASSISTANCE TO REFUGEES AND DISPLACED PERSONS

Pub. L. 103–236, title V, §501, Apr. 30, 1994, 108 Stat. 460, provided that:

"(a) STANDARDS FOR REFUGEE WOMEN AND CHILDREN.—The United States Government, in providing for overseas assistance and protection of refugees and displaced persons, shall seek to address the protection and provision of basic needs of refugee women and children who represent 80 percent of the world's refugee population. As called for in the 1991 United Nations High Commissioner for Refugees

(UNHCR) 'Guidelines on the Protection of Refugee Women', whether directly, or through international organizations and nongovernmental voluntary organizations, the Secretary of State shall seek to ensure—

"(1) specific attention on the part of the United Nations and relief organizations to recruit and employ female protection officers;

"(2) implementation of gender awareness training for field staff including, but not limited to, security personnel;

"(3) the protection of refugee women and children from violence and other abuses on the part of governments or insurgent groups;

"(4) full involvement of women refugees in the planning and implementation of (A) the delivery of services and assistance, and (B) the repatriation process;

"(5) incorporation of maternal and child health needs into refugee health services and education, specifically to include education on and access to services in reproductive health and birth spacing;

"(6) the availability of counseling and other services, grievance processes, and protective services to victims of violence and abuse, including but not limited to rape and domestic violence;

"(7) the provision of educational programs, particularly literacy and numeracy, vocational and income-generation skills training, and other training efforts promoting self-sufficiency for refugee women, with special emphasis on women heads of household;

"(8) education for all refugee children, ensuring equal access for girls, and special services and family tracing for unaccompanied refugee minors;

"(9) the collection of data that clearly enumerate age and gender so that appropriate health, education, and assistance programs can be planned;

"(10) the recruitment, hiring, and training of more women program professionals in the international humanitarian field; and

"(11) gender-awareness training for program staff of the United Nations High Commissioner for Refugees (UNHCR) and nongovernmental voluntary organizations on implementation of the 1991 UNHCR 'Guidelines on the Protection of Refugee Women'.

"(b) PROCEDURES.—The Secretary of State should adopt specific procedures to ensure that all recipients of United States Government refugee and migration assistance funds implement the standards outlined in subsection (a).

"(c) REQUIREMENTS FOR REFUGEE AND MIGRATION ASSISTANCE.—The Secretary of State, in providing migration and refugee assistance, should support the protection efforts set forth under this section by raising at the highest levels of government the issue of abuses against refugee women and children by governments or insurgent groups that engage in, permit, or condone—

"(1) a pattern of gross violations of internationally recognized human rights, such as torture or cruel, inhumane, or degrading treatment or punishment, prolonged detention without charges, or other flagrant denial to life, liberty, and the security of person;

"(2) the blockage of humanitarian relief assistance;

"(3) gender-specific persecution such as systematic individual or mass rape, forced pregnancy, forced abortion, enforced prostitution, any form of indecent assault or act of violence against refugee women, girls, and children; or

"(4) continuing violations of the integrity of the person against refugee women and children on the part of armed insurgents, local security forces, or camp guards.

"(d) INVESTIGATION OF REPORTS.—Upon receipt of credible reports of abuses under subsection (c), the Secretary of State should immediately investigate such reports through emergency fact-finding missions or other means of investigating such reports and help identify appropriate remedial measures.

"(e) MULTILATERAL IMPLEMENTATION OF THE 1991 UNHCR 'GUIDELINES ON THE PROTECTION OF REFUGEE WOMEN'.—The Secretary of State should work to ensure that multilateral organizations fully incorporate the needs of refugee women and children into all elements of refugee assistance programs and work to encourage other governments that provide refugee assistance to adopt refugee assistance policies designed to encourage full implementation of the 1991 UNHCR's 'Guidelines on the Protection of Refugee Women'."

UNITED STATES MEMBERSHIP IN INTERGOVERNMENTAL COMMITTEE FOR EUROPEAN MIGRATION

Pub. L. 100–204, title VII, §745, Dec. 22, 1987, 101 Stat. 1396, authorized President to continue United States membership in Intergovernmental Committee for European Migration and, upon entry into force of amendments to constitution of such body approved May 20, 1987, to continue membership under the name International Organization for Migration in accordance with such constitution and amendments, and

authorized appropriation of necessary amounts for payment of United States contributions to such body and salaries and expenses incidental to United States participation in such body, prior to repeal by Pub. L. 103–236, title IV, §430(b), Apr. 30, 1994, 108 Stat. 459.

INDOCHINA MIGRATION AND REFUGEE ASSISTANCE

Pub. L. 94–23, May 23, 1975, 89 Stat. 87, as amended by Pub. L. 94–313, June 21, 1976, 90 Stat. 691; Pub. L. 95–145, title II, §§201, 202, Oct. 28, 1977, 91 Stat. 1224, 1225; Pub. L. 95–549, title II, §201, Oct. 30, 1978, 92 Stat. 2066; Pub. L. 96–110, §3(a), Nov. 13, 1979, 93 Stat. 844, which set forth provisions respecting appropriations, etc., for migration and refugee assistance for aliens who fled from Cambodia, Laos, and Vietnam, was repealed by Pub. L. 96–212, title III, §312(c), Mar. 17, 1980, 94 Stat. 117.

AVAILABILITY OF FUNDS FOR CONTINUATION OF ACTIVITIES

Pub. L. 87–510, §7, June 28, 1962, 76 Stat. 124, provided that: "Until the enactment of legislation appropriating funds for activities under this Act [see Short Title note above], such activities may be conducted with funds made available under section 451(a) of the Foreign Assistance Act of 1961, as amended [section 2261(a) of this title]."

EXECUTIVE ORDER NO. 12244

Ex. Ord. No. 12244, Oct. 3, 1980, 45 F.R. 66443, which provided exemptions from certain statutory requirements for temporary housing for Haitian and Cuban refugees at Fort Allen in Puerto Rico for the period beginning Oct. 2, 1980, and ending Oct. 1, 1981, was revoked by Ex. Ord. No. 12553, Feb. 25, 1986, 51 F.R. 7237.

EXECUTIVE ORDER NO. 12327

Ex. Ord. No. 12327, Oct. 1, 1981, 46 F.R. 48893, which provided for temporary housing of Haitian refugees at Fort Allen in Puerto Rico and exempted Fort Allen from certain statutory requirements, was revoked by Ex. Ord. No. 12553, Feb. 25, 1986, 51 F.R. 7237.

DELEGATION OF AUTHORITY

Determination of President of the United States, No. 02–25, July 9, 2002, 67 F.R. 47437, provided:

Memorandum for the Secretary of State

By virtue of the authority vested in me by the Constitution and laws of the United States, including section 301 of title 3 of the United States Code, I hereby delegate the functions and authorities conferred upon the President by sections 2(d) and 2(f) of the Migration and Refugee Assistance Act (MRAA) of 1962, as amended, 22 U.S.C. §2601, insofar as they relate to actions taken under the authority of section 2(b)(2) of the MRAA, to the Secretary of State, who should insure timely performance of any duties and obligations of the delegated authority and who is authorized to redelegate these functions and authorities consistent with applicable law. The Secretary of State, or his or her delegate, is directed to provide notice to the President of any use of the functions and authorities delegated by this determination.

This delegation of authority supplements Presidential Determination No. 99–6, Delegation of Authority Under Section 2(b)(2) of the Migration and Refugee Assistance Act of 1962, as amended (November 30, 1998) [set out below].

Any reference in this memorandum to section 2 of the MRAA, as amended, shall be deemed to include references to any hereafter-enacted provision of law that is the same or substantially the same as such provision.

You are authorized and directed to publish this Determination in the Federal Register.

GEORGE W. BUSH.

Determination of President of the United States, No. 99–6, Nov. 30, 1998, 34 Weekly Compilation of Presidential Documents 2398, Dec. 7, 1998, provided:

Memorandum for the Secretary of State

By virtue of the authority vested in me by the Constitution and laws of the United States of America, including section 301 of title 3 of the United States Code, I hereby delegate the functions and authorities conferred upon the President by section 2(b)(2) of the Migration and Refugee Assistance Act (MRAA) of 1962, as amended, 22 U.S.C. 2601(b)(2), to the Secretary of State, who is authorized to redelegate these functions and authorities consistent with applicable law. The Secretary of State, or his or her delegate, is directed to provide notice to the President of any use of the functions and authorities delegated by this determination.

Any reference in this memorandum to section 2(b)(2) of the MRAA, as amended, shall be deemed to

include references to any hereafter-enacted provision of law that is the same or substantially the same as such provision.

You are authorized and directed to publish this memorandum in the Federal Register.

WILLIAM J. CLINTON.

[1] *See References in Text note below.*

§2602. Presidential authorization

(a) Authority of President to make loans, advances, grants, contracts, etc.; authority to use money, funds, property, services, etc.

In carrying out the purpose of this chapter, the President is authorized—

(1) to make loans, advances, and grants to, make and perform agreements and contracts with, or enter into other transactions with, any individual, corporation, or other body of persons, government or government agency, whether within or without the United States, and international and intergovernmental organizations;

(2) to accept and use money, funds, property, and services of any kind made available by gift, devise, bequest, grant, or otherwise for such purposes.

(b) Performance of functions without regard to specified provisions of law

Whenever the President determines it to be in furtherance of the purposes of this chapter, the functions authorized under this chapter may be performed without regard to such provisions of law (other than the Renegotiation Act of 1951), as amended, regulating the making, performance, amendment, or modification of contracts and the expenditure of funds of the United States Government as the President may specify.

(Pub. L. 87–510, §3, June 28, 1962, 76 Stat. 123.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 87–510, June 28, 1962, 76 Stat. 121, as amended, known as the Migration and Refugee Assistance Act of 1962, which enacted this chapter, amended section 1104 of Title 8, Aliens and Nationality, repealed sections 1925(a), (c), (d), and 1951(c) of this title, enacted a provision set out as a note under section 2601 of this title, and amended a provision set out as a note under section 1182 of Title 8. For complete classification of this Act to the Code, see Short Title note set out under section 2601 of this title and Tables.

The Renegotiation Act of 1951, as amended, referred to in subsec. (b), is act Mar. 23, 1951, ch. 15, 65 Stat. 7, which was classified principally to section 1211 et seq. of the former Appendix to Title 50, War and National Defense, prior to its omission from the Code.

§2603. Delegation of powers

The President is authorized to designate the head of any department or agency of the United States Government, or any official thereof who is required to be appointed by the President by and with the advice and consent of the Senate, to perform any functions conferred upon the President by this chapter. If the President shall so specify, any individual so designated under this section is authorized to redelegate to any of his subordinates any functions authorized to be performed by him under this section, except the function of exercising the waiver authority specified in section 2602(b) of this title.

(Pub. L. 87–510, §4(a)(1), June 28, 1962, 76 Stat. 123.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 87–510, June 28, 1962, 76 Stat. 121, as amended, known as the Migration and Refugee Assistance Act of 1962, which enacted this chapter, amended section 1104 of Title 8, Aliens and Nationality, repealed sections 1925(a), (c), (d), and

1951(c) of this title, enacted a provision set out as a note under section 2601 of this title, and amended a provision set out as a note under section 1182 of Title 8. For complete classification of this Act to the Code, see Short Title note set out under section 2601 of this title and Tables.

EX. ORD. NO. 11077. ADMINISTRATION OF CHAPTER

Ex. Ord. No. 11077. Jan. 22, 1963, 28 F.R. 629, as amended by Ex. Ord. No. 11922, June 16, 1976, 41 F.R. 24573; Ex. Ord. No. 12608, Sept. 9, 1987, 52 F.R. 34617, provided:

By virtue of the authority vested in me by the Migration and Refugee Assistance Act of 1962 (76 Stat. 121–124; hereinafter referred to as the Act) [this chapter], and as President of the United States, it is ordered as follows:

SECTION 1. *Department of State*. (a) The Secretary of State is hereby designated to perform the following:

(1) The functions provided for in Sections 2(a) and 2(b)(1) of the Act [section 2601(a), (b)(1) of this title].

(2) The functions provided for in Section 2(b)(2) of the Act [section 2601(b)(2) of this title], exclusive of so much thereof as is assigned or reserved by the provisions of Section 2(1) of this order.

(3) In connection with functions under the Act assigned to the Secretary of State, the functions provided for in Sections 3(a), 4(b), and 5(a) of the Act [sections 2602(a), 2604, and 2605(a) of this title].

(b) The Secretary of State shall from time to time furnish the President documents appropriate for the discharge by the President of his responsibilities under Section 2(d) of the Act [section 2601(d) of this title].

(c) With due regard for other relevant considerations (including the interests of any other executive agencies which may be concerned), the Secretary of State shall assume the leadership and provide the guidance for assuring that programs authorized under the Act best serve the foreign policy objectives of the United States.

(d) Funds appropriated or otherwise made available to the President for the United States Emergency Refugee and Migration Assistance Fund established by Section 2(c) of the act (22 U.S.C. 2601) shall be deemed to be allocated without further action of the President to the Secretary of State, and the Secretary may allocate or transfer, as appropriate, such funds to any agency, or part thereof, for obligation or expenditure consistent with the provisions of this order, the act, and other applicable law: *Provided*, That such funds may not be transferred, obligated, or expended until the President shall have made the determinations provided for in Section 2(c)(1) of the act [section 2601(c)(1) of this title], which determinations are reserved to the President, and the designations and determinations provided for in Section 2(b)(2) of the act [section 2601(b)(2) of this title].

SEC. 2. *Redelegation*. (a) The Secretary of State may redelegate any of his functions under this order to any of his subordinates.

(b) The Secretary of State may assign to the head of any executive department or to the head of any other agency of the executive branch of the Government, with the consent of the head of the department or agency concerned, the performance of any function of the Secretary under this order whenever he deems that such action would be advantageous to the Government.

SEC. 3. *Waivers*. (a) In accordance with Section 3(b) of the Act [section 2602(b) of this title], it is hereby determined that it is in furtherance of the purposes of the Act that the functions authorized under the Act may be performed (by any department or agency of the Government authorized to perform those functions) without regard to the following-specified provisions of law:

(1) The Act of March 26, 1934, c. 90, 47 Stat. 500, as amended (15 U.S.C. 616a) (shipment of certain exports in United States vessels.)

(2) Section 3648 of the Revised Statutes, as amended (31 U.S.C. 529) (advance of funds).

(3) Section 3709 of the Revised Statutes, as amended (41 U.S.C. 5) (competitive bids).

(4) Section 3710 of the Revised Statutes (41 U.S.C. 8) (opening of bids).

(5) Section 2 of the Act of March 3, 1933, c. 212, 47 Stat. 1520 (41 U.S.C. 10a) (Buy American Act).

(6) Section 3735 of the Revised Statutes (41 U.S.C. 13) (contracts limited to one year).

(7) Sections 302–305 of the Federal Property and Administrative Services Act of 1949 (June 30, 1949, c. 288, 63 Stat. 393 et seq.), as amended (41 U.S.C. 252–255) (competitive bids; negotiated contracts; advances).

(8) Section 901(a) of the Merchant Marine Act, 1936 (June 29, 1936, c. 858, 49 Stat. 2015, as amended; 46 U.S.C. [App.] 1241(a)[)] [now 46 U.S.C. 55302] (official travel overseas of United States officers and employees, and transportation of their personal effects, on ships registered under the laws of the United States[)].

(b) It is directed (1) that all waivers of statutes and limitations of authority effected by the foregoing provisions of this section shall be utilized in a prudent manner and as sparingly as may be practical, and (2)

that suitable steps shall be taken by the administrative agencies concerned to insure that result, including, as may be appropriate, the imposition of administrative limitations in lieu of waived statutory requirements and limitations of authority.

SEC. 4. *Definition*. As used in this order, the word "function" or "functions" includes any executive duty, obligation, power, authority, responsibility, right, privilege, discretion, or activity.

SEC. 5. *Saving provisions*. Except to the extent that they may be inconsistent with law or with this order, all determinations, authorizations, regulations, orders, contracts, agreements and other actions issued, undertaken, or entered into with respect to any function affected by this order and not revoked, superseded, or otherwise made inapplicable before the date of this order, shall continue in full force and effect until amended, modified, or terminated by appropriate authority.

SEC. 6. *Effective date*. The provisions of this order shall be effective as of July 1, 1962.

§2604. Allocation, transfer and availability of funds; separate appropriation accounts on Treasury books

The President may allocate or transfer to any agency of the United States Government any part of any funds available for carrying out the purposes of this chapter. Such funds shall be available for obligation and expenditure for the purposes for which authorized in accordance with authority granted in this chapter or under authority governing the activities of the agencies of the United States Government to which such funds are allocated or transferred. Funds allocated or transferred pursuant to this section to any such agency may be established in separate appropriation accounts on the books of the Treasury.

(Pub. L. 87–510, §4(b), June 28, 1962, 76 Stat. 123.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 87–510, June 28, 1962, 76 Stat. 121, as amended, known as the Migration and Refugee Assistance Act of 1962, which enacted this chapter, amended section 1104 of Title 8, Aliens and Nationality, repealed sections 1925(a), (c), (d), and 1951(c) of this title, enacted a provision set out as a note under section 2601 of this title, and amended a provision set out as a note under section 1182 of title 8. For complete classification of this Act to the Code, see Short Title note set out under section 2601 of this title and Tables.

§2605. Use of funds and personnel; savings provision

(a) Use of funds

Funds made available for the purposes of this chapter shall be available for—

(1) compensation, allowances, and travel of personnel, including members of the Foreign Service whose services are utilized primarily for the purpose of this chapter, and without regard to the provisions of any other law, for printing and binding, and for expenditures outside the United States for the procurement of supplies and services and for other administrative and operating purposes (other than compensation of personnel) without regard to such laws and regulations governing the obligation and expenditure of Government funds as may be necessary to accomplish the purposes of this chapter;

(2) employment or assignment of members of the Foreign Service serving under limited appointments for the duration of operations under this chapter;

(3) exchange of funds without regard to section 3651 [1] of the Revised Statutes (31 U.S.C. 543), and loss by exchanges;

(4) expenses authorized by the Foreign Service Act of 1980 [22 U.S.C. 3901 et seq.], not otherwise provided for;

(5) expenses authorized by the Act of August 1, 1956 (70 Stat. 890–892), as amended;

(6) contracting for personal services abroad, and individuals employed by contract to perform such services shall not be considered to be employees of the United States for purposes of any law administered by the Office of Personnel Management, except that the Secretary of State may

determine the applicability to such individuals of section 2(f) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2669(f)) and of any other law administered by the Secretary concerning the employment of such individuals abroad; and

(7) all other expenses determined by the President to be necessary to carry out the purposes of this chapter.

(b) Savings provision

Except as may be expressly provided to the contrary in this chapter, all determinations, authorizations, regulations, orders, contracts, agreements and other actions issued, undertaken, or entered into under authority of any provision of law repealed by this chapter shall continue in full force and effect until modified, revoked, or superseded under the authority of this chapter.

(c) Use of personnel

Personnel funded pursuant to this section are authorized to provide administrative assistance to personnel assigned to the bureau charged with carrying out this chapter.

(Pub. L. 87–510, §5, June 28, 1962, 76 Stat. 123; Pub. L. 96–465, title II, §2206(a)(10), Oct. 17, 1980, 94 Stat. 2162; Pub. L. 99–93, title I, §112(a), Aug. 16, 1985, 99 Stat. 410; Pub. L. 103–236, title I, §164(b), Apr. 30, 1994, 108 Stat. 411; Pub. L. 103–415, §1(ff), Oct. 25, 1994, 108 Stat. 4303.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 87–510, June 28, 1962, 76 Stat. 121, as amended, known as the Migration and Refugee Assistance Act of 1962, which enacted this chapter, amended section 1104 of Title 8, Aliens and Nationality, repealed sections 1925(a), (c), (d), and 1951(c) of this title, enacted a provision set out as a note under section 2601 of this title, and amended a provision set out as a note under section 1182 of title 8. For complete classification of this Act to the Code, see Short Title note set out under section 2601 of this title and Tables.

Section 3651 of the Revised Statutes (31 U.S.C. 543), referred to in subsec. (a)(3), was repealed by Pub. L. 97–258, §5(b), Sept. 13, 1982, 96 Stat. 1068, the first section of which enacted Title 31, Money and Finance.

The Foreign Service Act of 1980, referred to in subsec. (a)(4), is Pub. L. 96–465, Oct. 17, 1980, 94 Stat. 2071, which is classified principally to chapter 52 (§3901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3901 of this title and Tables.

Act of August 1, 1956, as amended, referred to in subsec. (a)(5), is act Aug. 1, 1956, ch. 841, 70 Stat. 890, known as the State Department Basic Authorities Act of 1956, which enacted sections 2651a, 2669, 2670, 2671, 2672, 2673 to 2679a, 2680, 2680a, 2684, 2687 to 2690, 2692, 2695, 2696 to 2715, and 2715b to 2734 of this title and chapters 53 (§4301 et seq.), 53A (§4341 et seq.), and 53B (§4351 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2651 of this title and Tables.

AMENDMENTS

1994—Subsec. (c). Pub. L. 103–236, as amended by Pub. L. 103–415, added subsec. (c).

1985—Subsec. (a)(6), (7). Pub. L. 99–93, §112(a), added par. (6) and redesignated former par. (6) as (7).

1980—Subsec. (a)(1). Pub. L. 96–465, §2206(a)(10)(A), substituted "members of the Foreign Service" for "Foreign Service personnel".

Subsec. (a)(2). Pub. L. 96–465, §2206(a)(10)(B), substituted "members of the Foreign Service serving under limited appointments" for "Foreign Service Reserve officers".

Subsec. (a)(4). Pub. L. 96–465, §2206(a)(10)(C), substituted reference to the Foreign Service Act of 1980 for reference to the Foreign Service Act of 1946.

EFFECTIVE DATE OF 1985 AMENDMENT

Pub. L. 99–93, title I, §112(b), Aug. 16, 1985, 99 Stat. 411, provided that: "Authority provided by the amendment made by subsection (a) [amending this section] shall only apply with respect to funds appropriated after the date of the enactment of this Act [Aug. 16, 1985]."

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–465 effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

[1] *See References in Text note below.*

§2606. Audits of U.S. funds received by the United Nations High Commissioner for Refugees

(a) Program audits

Funds may not be available to the United Nations High Commissioner for Refugees (UNHCR) under this chapter or any other Act unless provision is made for—

(1) annual program audits to determine the use of UNHCR funds, including the use of such funds by implementing partners; and

(2) such audits are made available through the Department of State for inspection by the Comptroller General of the United States.

(b) First program audit

The first program audit pursuant to subsection (a)(1) shall begin not later than June 1, 1986.

(Pub. L. 87–510, §8, as added Pub. L. 99–93, title I, §113, Aug. 16, 1985, 99 Stat. 411; amended Pub. L. 101–246, title VII, §701, Feb. 16, 1990, 104 Stat. 74; Pub. L. 104–66, title I, §1111(a), Dec. 21, 1995, 109 Stat. 723.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this Act", meaning Pub. L. 87–510, June 28, 1962, 76 Stat. 121, as amended, known as the Migration and Refugee Assistance Act of 1962, which enacted this chapter, amended section 1104 of Title 8, Aliens and Nationality, repealed sections 1925(a), (c), (d), and 1951(c) of this title, enacted a provision set out as a note under section 2601 of this title, and amended a provision set out as a note under section 1182 of Title 8. For complete classification of this Act to the Code, see Short Title note set out under section 2601 of this title and Tables.

AMENDMENTS

1995—Subsecs. (b), (c). Pub. L. 104–66 redesignated subsec. (c) as (b) and struck out heading and text of former subsec. (b). Text read as follows: "The Comptroller General of the United States shall inspect each such audit and submit a report of that inspection to the Congress."

1990—Subsec. (a). Pub. L. 101–246 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "Funds may not be made available to the United Nations High Commissioner for Refugees under this chapter or any other Act unless by June 1, 1986, the High Commissioner provides for—

"(1) annual program audits by an independent consultant, as selected by the Executive Committee of the United Nations High Commissioner for Refugees, to determine the use of such funds, including audits of the use of such funds by private and voluntary organizations; and

"(2) such audits to be made available through the Executive Committee to the Department of State and for inspection by the Comptroller General of the United States."

CHAPTER 37—FOREIGN GIFTS AND DECORATIONS

Sec.

2621. Definitions.
2622 to 2624. Repealed.
2625. Gifts or decorations on deposit with State Department.
2626. Repealed.

§2621. Definitions

In this chapter—

(1) The term "person" includes every person who occupies an office or a position in the Government of the United States, its territories and possessions, the Canal Zone government, and

the government of the District of Columbia, or is a member of the Armed Forces of the United States, or a member of the family and household of any such person.

(2) The term "foreign government" includes every foreign government and every official, agent, or representative thereof.

(3) The term "gift" includes any present or thing, other than a decoration, tendered by or received from a foreign government.

(4) The term "decoration" includes any order, device, medal, badge, insignia, or emblem tendered by or received from a foreign government.

(Pub. L. 89–673, §2, Oct. 15, 1966, 80 Stat. 952.)

REPEAL

Section was repealed by Pub. L. 90–83, §10(b), Sept. 11, 1967, 81 Stat. 224, except insofar as it applies to section 2625 of this title.

SHORT TITLE

Pub. L. 89–673, §1, Oct. 15, 1966, 80 Stat. 952, which provided that Pub. L. 89–673, enacting this chapter, amending section 804 of this title, and repealing sections 114, 115, and 115a of former Title 5, Executive Departments and Government Officers and Employees, could be cited as the "Foreign Gifts and Decorations Act of 1966", was repealed by Pub. L. 90–83, §10(b), Sept. 11, 1967, 81 Stat. 224. See section 7342 of Title 5, Government Organization and Employees.

§§2622 to 2624. Repealed. Pub. L. 90–83, §10(b), Sept. 11, 1967, 81 Stat. 224

Section 2622, Pub. L. 89–673, §3, Oct. 15, 1966, 80 Stat. 952, prohibited request for or encouragement of a tender of a gift or decoration. See section 7342(b) of Title 5, Government Organization and Employees.

Section 2623, Pub. L. 89–673, §4, Oct. 15, 1966, 80 Stat. 952, permitted acceptance of a gift of minimal value. See section 7342(c) of Title 5.

Section 2624, Pub. L. 89–673, §5, Oct. 15, 1966, 80 Stat. 952, permitted acceptance of decorations tendered in recognition of active field service in time of combat operations. See section 7342(d) of Title 5.

§2625. Gifts or decorations on deposit with State Department

Any gift or decoration on deposit with the Department of State on October 15, 1966, shall, when approved by the Secretary of State and the appropriate department, agency, office, or other entity, be released to the donee or his legal representative. Such donee may, if authorized, be entitled to wear any decoration so approved. A gift or decoration not approved for release, because of any special or unusual circumstances involved, shall be deemed a gift to the United States and shall be deposited by the donee in accordance with the rules and regulations issued pursuant to this chapter.

(Pub. L. 89–673, §6, Oct. 15, 1966, 80 Stat. 952.)

§2626. Repealed. Pub. L. 90–83, §10(b), Sept. 11, 1967, 81 Stat. 224

Section, Pub. L. 89–673, §7, Oct. 15, 1966, 80 Stat. 952, authorized President to prescribe rules and regulations to carry out purposes of this chapter. See section 7342(e) of Title 5, Government Organization and Employees.

CHAPTER 38—DEPARTMENT OF STATE

Sec.

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2672b. Compensation of Alternate United States Commissioners; travel expenses and other allowances.

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2702. Malpractice protection.
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2708. Department of State rewards program.
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2713. Protection of historic and artistic furnishings of reception areas of the Harry S Truman Federal Building.
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2734. Reconstruction and stabilization.
2734a. Authorities related to personnel.
2734b. Report on diversity recruitment, employment, retention, and promotion.
2734c. Employee assignment restrictions.
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§2651. Establishment of Department

There shall be at the seat of government an executive department to be known as the "Department of State", and a Secretary of State, who shall be the head thereof.

(R.S. §199.)

CODIFICATION

R.S. §199 derived from acts July 27, 1789, ch. 4, §1, 1 Stat. 28; Sept. 15, 1789, ch. 14, §1, 1 Stat. 68.

Section was formerly classified to section 151 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, §1, Sept. 6, 1966, 80 Stat. 378.

EFFECTIVE DATE OF 1987 AMENDMENT

Pub. L. 100–204, title XIII, §1301, Dec. 22, 1987, 101 Stat. 1432, provided that: "Except as otherwise provided in this Act [see Short Title of 1987 Amendment note below], this Act shall take effect on the date of its enactment [Dec. 22, 1987]."

SHORT TITLE OF 2016 AMENDMENT

Pub. L. 114–323, §1(a), Dec. 16, 2016, 130 Stat. 1905, provided that: "This Act [see Tables for classification] may be cited as the 'Department of State Authorities Act, Fiscal Year 2017'."

SHORT TITLE OF 2013 AMENDMENT

Pub. L. 112–283, §1, Jan. 15, 2013, 126 Stat. 2492, provided that: "This Act [amending section 2708 of this title and enacting provisions set out as notes under section 2708 of this title] may be cited as the 'Department of State Rewards Program Update and Technical Corrections Act of 2012'."

SHORT TITLE OF 2004 AMENDMENT

Pub. L. 108–332, §1, Oct. 16, 2004, 118 Stat. 1282, provided that: "This Act [enacting section 2731 of this title, amending sections 2151n, 2304, and 6412 of this title, and enacting provisions set out as notes under sections 2151n and 2731 of this title] may be cited as the 'Global Anti-Semitism Review Act of 2004'."

SHORT TITLE OF 2002 AMENDMENT

Pub. L. 107–228, §1, Sept. 30, 2002, 116 Stat. 1350, provided that: "This Act [see Tables for classification] may be cited as the 'Foreign Relations Authorization Act, Fiscal Year 2003'."

Pub. L. 107–228, div. A, §101, Sept. 30, 2002, 116 Stat. 1355, provided that: "This division [see Tables for classification] may be cited as the 'Department of State Authorization Act, Fiscal Year 2003'."

SHORT TITLE OF 1999 AMENDMENT

Pub. L. 106–113, div. B, §1000(a)(7) [§1], Nov. 29, 1999, 113 Stat. 1536, 1501A–405, provided that: "This Act [H.R. 3427, as enacted by section 1000(a)(7) of Pub. L. 106–113, see Tables for classification] may be cited as the 'Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001'."

SHORT TITLE OF 1998 AMENDMENT

Pub. L. 105–277, div. G, subdiv. B, title XX, §2001, Oct. 21, 1998, 112 Stat. 2681–801, provided that: "This subdivision [see Tables for classification] may be cited as the 'Foreign Relations Authorization Act, Fiscal Years 1998 and 1999'."

SHORT TITLE OF 1994 AMENDMENT

Pub. L. 103–236, §1, Apr. 30, 1994, 108 Stat. 382, provided that: "This Act [see Tables for classification] may be cited as the 'Foreign Relations Authorization Act, Fiscal Years 1994 and 1995'."

SHORT TITLE OF 1991 AMENDMENT

Pub. L. 102–138, §1, Oct. 28, 1991, 105 Stat. 647, provided that: "This Act [enacting sections 269, 276c–4, 276l, 276m, 296a, 1475g, 1475h, 2075, 2652b, 2656g, 2656h, 2679b, 2680–1, 2686a, 2720, 2721, 2722, 2723, 2798, 4012a, 4351 to 4357, and 5601 to 5606 of this title and section 4613 of Title 50, War and National Defense, amending sections 277d–3, 290f, 294, 301, 1465ee, 1471, 1474, 1477c, 1928e, 2669, 2670, 2695, 2696, 2703, 2706, 2717, 2718, 2780, 2797b, 2797c, 2877, 2905, 3005, 3942, 3961, 3968, 4010, 4053, 4081, 4115, 4131, 4134, 4136, 4137, 4139, 4140, 4413, and 4852 of this title, sections 202 and 208 of Title 3, The President, sections 5315, 5523, 5551, 5922, 5923, and 5924 of Title 5, Government Organization and Employees, section 2051 of Title 19, Customs Duties, and section 4605 of Title 50, repealing section 4509 of this title and former sections 269 and 2075 of this title, enacting provisions set out as notes under this section,

sections 287e, 290f, 1475g, 2452, 2778, 4001, 4115, 4351, 4354, 4356, and 5601 of this title, sections 202 and 208 of Title 3, sections 5315, 5551, and 5561 of Title 5, and section 1182 of Title 8, Aliens and Nationality, amending provisions set out as notes under sections 287e, 2680, and 4021 of this title and section 5561 of Title 5, and repealing provisions set out as notes under this section and sections 287e, 1461, 2656, and 4010 of this title] may be cited as the 'Foreign Relations Authorization Act, Fiscal Years 1992 and 1993'."

SHORT TITLE OF 1990 AMENDMENT

Pub. L. 101–246, §1(a), Feb. 16, 1990, 104 Stat. 15, provided that: "This Act [enacting sections 1464a, 1464b, 1465aa to 1465ff, 1475f, 2414a, 2461, 2665a, 2678, 2715 to 2719, 2877a, 4027, 4141, 4141a to 4141c, 4863, and 4864 of this title, amending sections 277a, 277b, 277d–12, 290f, 300, 1461, 1465c, 1469, 1474, 1475e, 2456, 2460, 2606, 2656f, 2669, 2684, 2696, 2698, 2703, 2708, 2709, 2871, 2877, 3905, 3968, 4002, 4010, 4056, 4057, 4069a to 4069c, 4081, 4303, 4304, 4403, 4801, 4802, and 4852 of this title, sections 8345 and 9101 of Title 5, Government Organization and Employees, and section 1101 and 1182 of Title 8, Aliens and Nationality, repealing section 4192 of this title, enacting provisions set out as notes under this section, sections 287e, 1461, 1463, 1465aa, 1465c, 1469, 2151, 2456, 2460, 2656, 2715, 3941, 3968, 4001, 4140, 4171, 4301, and 4852 of this title, sections 5921 and 5928 of Title 5, and section 1102 of Title 8, amending provisions set out as notes under this section and sections 287, 2151, and 4851 of this title and section 1182 of Title 8, and repealing provisions set out as notes under sections 2414a and 2656 of this title] may be cited as the 'Foreign Relations Authorization Act, Fiscal Years 1990 and 1991'."

SHORT TITLE OF 1987 AMENDMENT

Pub. L. 100–204, §1(a), Dec. 22, 1987, 101 Stat. 1331, provided that: "This Act [enacting sections 288f–3, 1464, 2656f, 2664a, 2713, 4069a to 4069c, 4315, 4316, 4341 to 4343, and 5201 to 5203 of this title, amending sections 288h, 290j–1, 1469, 1471, 1475e, 1477c, 1627, 1928a, 1928b, 2151n, 2291, 2304, 2460, 2661, 2670, 2697, 2706, 2707, 2778, 2877, 3905, 3922a, 3927, 3941, 3942, 3946, 3949, 3961, 3965, 4001, 4010, 4023, 4137, 4173, 4302, 4303, 4305, 4403, 4412, 4413, 4831, 4834, 4851, 4861, and 4904 of this title, sections 5313, 5315, and 8332 of Title 5, Government Organization and Employees, section 1182 of Title 8, Aliens and Nationality, sections 2492 and 2605 of Title 19, Customs Duties, and section 1364 of Title 28, Judiciary and Judicial Procedure, enacting provisions set out as notes under this section, sections 287, 287e, 1461, 1463, 1471, 2601, 2656, 2680, 2697, 2707, 3922a, 3941 to 3943, 3946, 3965, 4041, 4301, 4315, 4316, 4341, 4802, 4851, and 5201 of this title, section 112b of Title 1, General Provisions, section 5313 of Title 5, sections 1182, 1201, and 1255a of Title 8, section 2901 of Title 15, Commerce and Trade, section 3181 of Title 18, Crimes and Criminal Procedure, section 2605 of Title 19, and section 1364 of Title 28, and amending provisions set out as notes under this section and sections 287, 287b, 287e, and 4021 of this title] may be cited as the 'Foreign Relations Authorization Act, Fiscal Years 1988 and 1989'."

SHORT TITLE OF 1985 AMENDMENT

Pub. L. 99–93, §1(a), Aug. 16, 1985, 99 Stat. 405, provided that: "This Act [enacting sections 1461–1a, 2592, 2606, 2709, 2710, 2883, 3922a, 3929a, 4309a, 4314, 4414, 4415, and 4701 to 4715 of this title, amending sections 290j–1, 1477c, 2357, 2589, 2601, 2605, 2652, 2669, 2685, 2704, 2871, 2875, 2877, 3930, 3945, 4084, 4301, 4302, 4304, 4305, 4403, and 4413 of this title, section 208 of Title 3, The President, sections 5314, 5315, and 5316 of Title 5, Government Organization and Employees, sections 2 and 11 of the Appendix to Title 5, and sections 1622 and 4336 of Title 50, War and National Defense, repealing sections 2666 and 2667 of this title, enacting provisions set out as notes under sections 287e, 1477c, 1928, 2291, 2605, 2656, 2669, 2697, 2875, 2877, 3943, 3945, 4021, and 4314 of this title, section 1182 of Title 8, Aliens and Nationality, section 3181 of Title 18, Crimes and Criminal Procedure, section 701 of Title 47, Telecommunications, and section 1701 of Title 50, amending provisions set out as notes under this section and sections 287 and 287e of this title, and repealing provisions set out as a note under section 3901 of this title] may be cited as the 'Foreign Relations Authorization Act, Fiscal Years 1986 and 1987'."

SHORT TITLE OF 1976 AMENDMENT

Pub. L. 94–350, §1, July 12, 1976, 90 Stat. 823, provided: "That this Act [enacting sections 817, 1065, 1076a, 1463, 1475a, 1928e, 2458a, 2661a, 2689, and 2690 of this title, amending sections 276e, 276i, 295, 889, 915, 1001, 1002, 1004, 1007, 1063, 1064, 1071, 1076, 1081, 1082, 1084, 1086, 1091, 1105, 1111, 1116, 1121, 1229, 1474, 1754, 2872, 2873, 2877, 2902, 2905, and 2906 of this title, repealing sections 1083, 1092, and 1094 of this title, and enacting provisions set out as notes under sections 801, 915, 1001, 1063, 1064, 1076, 1076a, 1086, 1091, 1121, 1229, and 2871 of this title] may be cited as the 'Foreign Relations Authorization Act, Fiscal Year 1977'."

SHORT TITLE OF 1975 AMENDMENT

Pub. L. 94–141, §1, Nov. 29, 1975, 89 Stat. 756, provided: "That this Act [enacting sections 276a–1, 1037 to 1037c, 2576, 2687, and 2688 of this title, amending sections 276, 276c, 295, 966, 991, 995, 1934, 2321d, 2551, 2562, 2585, 2589, 2590, 2601, 2666, 2679a, and 2791 of this title and section 5924 of Title 5, Government Organization and Employees, enacting provisions set out as notes under sections 1037a and 2679a of this title, amending provision set out as a note under section 287e, and repealing provision set out as a note under section 966 of this title] may be cited as the 'Foreign Relations Authorization Act, Fiscal Year 1976'."

SHORT TITLE OF 1974 AMENDMENT

Pub. L. 93–475, §1, Oct. 26, 1974, 88 Stat. 1439, provided: "That this Act [enacting sections 966, 2679a, 2680a, and 2686 of this title, amending sections 901a, 1439, 1476, and 2680 of this title and section 5924 of Title 5, Government Organization and Employees, and enacting provisions set out as notes under sections 901a, 966, and 2151 of this title] may be cited as the 'State Department/USIA Authorization Act, Fiscal Year 1975'."

SHORT TITLE OF 1973 AMENDMENT

Pub. L. 93–126, §1, Oct. 18, 1973, 87 Stat. 451, provided: "That this Act [enacting sections 287e–1, 901a, 2655a, and 2685 of this title and amending sections 276, 277d–28, 277d–29, 277d–31, 993, 1754, and 2823 of this title, section 194a of Title 2, The Congress, section 5924 of Title 5, Government Organization and Employees, and provisions set out as a note under section 214 of this title] may be cited as the 'Department of State Appropriations Authorization Act of 1973'."

SHORT TITLE OF 1972 AMENDMENT

Pub. L. 92–352, §1, July 13, 1972, 86 Stat. 489, provided: "That this Act [enacting sections 1474, 1475, 2291a, and 2821 to 2826 of this title and section 194a of Title 2, The Congress, amending sections 901, 1461, 1476, 2291, 2501a, 2502, 2589, 2652, 2653, and 2680 of this title, sections 5313, 5314, 5315, and 8331 of Title 5, Government Organization and Employees, and section 241 of former Title 31, Money and Finance, repealing section 2511 of this title, and enacting provisions set out as notes under sections 2511, 2571, and 2652 of this title, section 8331 of Title 5, and section 241 of former Title 31] may be cited as the 'Foreign Relations Authorization Act of 1972'."

SHORT TITLE

Act Aug. 1, 1956, ch. 841 (first sentence), as added by Pub. L. 102–138, title I, §111(2), Oct. 28, 1991, 105 Stat. 654, provided: "That this Act [enacting sections 2662, 2669 to 2672, 2673 to 2680a, 2684, 2687 to 2692, 2695 to 2723, 4301 to 4316, 4341 to 4343, and 4351 to 4357 of this title] may be cited as the 'State Department Basic Authorities Act of 1956'."

Act Aug. 1, 1956, ch. 841, title I, §48, formerly §33, as added Oct. 17, 1980, Pub. L. 96–465, title II, §2201(a), 94 Stat. 2157, and renumbered §34 and redesignated title I, Aug. 24, 1982, Pub. L. 97–241, title I, §117, title II, §202(a), 96 Stat. 279, 282; renumbered §35 and §36, Nov. 22, 1983, Pub. L. 98–164, title I, §§123, 124, 97 Stat. 1025; renumbered §37, Oct. 19, 1984, Pub. L. 98–533, title I, §102, 98 Stat. 2708; renumbered §38 and §39, Aug. 16, 1985, Pub. L. 99–93, title I, §§125(a), 128, 99 Stat. 415, 419; renumbered §40 and §41, Aug. 27, 1986, Pub. L. 99–399, title V, §§504(1), 506(1), 100 Stat. 871; renumbered §42, Dec. 22, 1987, Pub. L. 100–204, title I, §126(a)(1), 101 Stat. 1341; renumbered §43, Nov. 18, 1988, Pub. L. 100–690, title IV, §4603(1), 102 Stat. 4287; renumbered §44, §45, §46, §47, and §48, Feb. 16, 1990, Pub. L. 101–246, title I, §§115(c)(1), 117(1), 118(1), 119(1), 150(1), 104 Stat. 23, 25, 26, 42, which provided that act Aug. 1, 1956, ch. 841, was to be cited as the "State Department Basic Authorities Act of 1956", was repealed by Pub. L. 102–138, title I, §111(1), Oct. 28, 1991, 105 Stat. 654.

EMERGENCY PREPAREDNESS FUNCTIONS

For assignment of certain emergency preparedness functions to Secretary of State, see Parts 1, 2, and 13 of Ex. Ord. No. 12656, Nov. 18, 1988, 53 F.R. 47491, set out as a note under section 5195 of Title 42, The Public Health and Welfare.

ORDER OF SUCCESSION

For order of succession during any period when both Secretary and Deputy Secretary of State are unable to perform functions and duties of office of Secretary, see Ex. Ord. No. 13251, Dec. 28, 2001, 67 F.R. 1599, listed in a table under section 3345 of Title 5, Government Organization and Employees.

COMPLIANCE WITH CONGRESSIONAL BUDGET ACT

Pub. L. 101–246, title XI, §1101, Feb. 16, 1990, 104 Stat. 90, provided that:

"(a) LIMITATION ON SPENDING AUTHORITY.—Any new spending authority (within the meaning of section 401 of the Congressional Budget Act of 1974 [2 U.S.C. 651]) which is provided under this Act [see Short Title of 1990 Amendment note above] shall be effective for any fiscal year only to the extent or in such amounts as are provided in advance in appropriation Acts.

"(b) LIMITATION ON CONTRACT AUTHORITY.—Any authority provided by this Act to enter into contracts shall be effective only—

"(1) to the extent that the budget authority for the obligation to make outlays, which is created by the contract, has been provided in advance by an appropriation Act; or

"(2) to the extent or in such amounts as are provided in advance in appropriation Acts."

CHALLENGES TO APPOINTMENT AND CONTINUANCE IN OFFICE OF SECRETARY OF STATE FIRST APPOINTED AFTER MAY 3, 1980; CONSTITUTIONAL PROVISIONS GOVERNING COMPENSATION AND EMOLUMENTS

Pub. L. 96–241, §2, May 3, 1980, 94 Stat. 343, provided that:

"(a) Any person aggrieved by an action of the Secretary of State may bring a civil action in an appropriate United States district court to contest the constitutionality of the appointment and continuance in office of the Secretary of State on the ground that such appointment and continuance in office is in violation of article I, section 6, clause 2, of the Constitution. The United States district courts shall have exclusive jurisdiction, without regard to the sum or value of the matter in controversy, to determine the validity of such appointment and continuance in office.

"(b) Any action brought under this section shall be heard and determined by a panel of three judges in accordance with section 2284 of title 28, United States Code. Any review of the action of a court convened pursuant to such section shall be by petition of certiorari to the Supreme Court.

"(c) Any judge designated to hear any action brought under this section shall cause such action to be in every way expedited.

"(d) This section applies only with respect to the Secretary of State who is first appointed to that office after the enactment of this Act [May 3, 1980]."

DEFINITIONS

Pub. L. 114–323, §2, Dec. 16, 2016, 130 Stat. 1907, provided that: "In this Act [see Tables for classification]:

"(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term 'appropriate congressional committees' means—

"(A) the Committee on Foreign Relations of the Senate; and

"(B) the Committee on Foreign Affairs of the House of Representatives.

"(2) DEPARTMENT.—Unless otherwise specified, the term 'Department' means the Department of State.

"(3) FOREIGN SERVICE.—The term 'Foreign Service' has the meaning given such term in section 102 of the Foreign Service Act of 1980 (22 U.S.C. 3902).

"(4) INSPECTOR GENERAL.—Unless otherwise specified, the term 'Inspector General' means the Office of Inspector General of the Department of State and the Broadcasting Board of Governors.

"(5) PEACEKEEPING CREDITS.—The term 'peacekeeping credits' means the amounts by which United States assessed peacekeeping contributions exceed actual expenditures, apportioned to the United States, of peacekeeping operations by the United Nations during a United Nations peacekeeping fiscal year.

"(6) SECRETARY.—Unless otherwise specified, the term 'Secretary' means the Secretary of State."

Pub. L. 107–228, §3, Sept. 30, 2002, 116 Stat. 1355, provided that: "In this Act [see Tables for classification]:

"(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term 'appropriate congressional committees' means the Committee on Foreign Relations of the Senate and the Committee on International Relations [now Committee on Foreign Affairs] of the House of Representatives.

"(2) DEPARTMENT.—The term 'Department' means the Department of State.

"(3) SECRETARY.—Except as otherwise provided, the term 'Secretary' means the Secretary of State."

Pub. L. 106–113, div. B, §1000(a)(7) [§3], Nov. 29, 1999, 113 Stat. 1536, 1501A–409, provided that: "In this Act [see Short Title of 1999 Amendment note set out above]:

"(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—Except as otherwise provided in section 902(1) [113 Stat. 1501A–475], the term 'appropriate congressional committees' means the Committee on

International Relations [now Committee on Foreign Affairs] of the House of Representatives and the Committee on Foreign Relations of the Senate.

"(2) SECRETARY.—The term 'Secretary' means the Secretary of State."

§2651a. Organization of Department of State

(a) Secretary of State

(1) The Department of State shall be administered, in accordance with this Act and other provisions of law, under the supervision and direction of the Secretary of State (hereinafter referred to as the "Secretary").

(2) The Secretary, the Deputy Secretary of State, and the Deputy Secretary of State for Management and Resources shall be appointed by the President, by and with the advice and consent of the Senate.

(3)(A) Notwithstanding any other provision of law and except as provided in this section, the Secretary shall have and exercise any authority vested by law in any office or official of the Department of State. The Secretary shall administer, coordinate, and direct the Foreign Service of the United States and the personnel of the Department of State, except where authority is inherent in or vested in the President.

(B)(i) The Secretary shall not have the authority of the Inspector General or the Chief Financial Officer.

(ii) The Secretary shall not have any authority given expressly to diplomatic or consular officers.

(4) The Secretary is authorized to promulgate such rules and regulations as may be necessary to carry out the functions of the Secretary of State and the Department of State. Unless otherwise specified in law, the Secretary may delegate authority to perform any of the functions of the Secretary or the Department to officers and employees under the direction and supervision of the Secretary. The Secretary may delegate the authority to redelegate any such functions.

(b) Under Secretaries

(1) In general

There shall be in the Department of State not more than 6 Under Secretaries of State, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the rate provided for at level III of the Executive Schedule under section 5314 of title 5.

(2) Under Secretary for Arms Control and International Security

There shall be in the Department of State, among the Under Secretaries authorized by paragraph (1), an Under Secretary for Arms Control and International Security, who shall assist the Secretary and the Deputy Secretary in matters related to international security policy, arms control, and nonproliferation. Subject to the direction of the President, the Under Secretary may attend and participate in meetings of the National Security Council in his role as Senior Advisor to the President and the Secretary of State on Arms Control and Nonproliferation Matters.

(3) Under Secretary for Public Diplomacy

There shall be in the Department of State, among the Under Secretaries authorized by paragraph (1), an Under Secretary for Public Diplomacy, who shall have primary responsibility to assist the Secretary and the Deputy Secretary in the formation and implementation of United States public diplomacy policies and activities, including international educational and cultural exchange programs, information, and international broadcasting. The Under Secretary for Public Diplomacy shall—

(A) prepare an annual strategic plan for public diplomacy in collaboration with overseas posts and in consultation with the regional and functional bureaus of the Department;

(B) ensure the design and implementation of appropriate program evaluation methodologies;

(C) provide guidance to Department personnel in the United States and overseas who conduct

or implement public diplomacy policies, programs, and activities;

(D) assist the United States Agency for International Development and the Broadcasting Board of Governors to present the policies of the United States clearly and effectively; and

(E) submit statements of United States policy and editorial material to the Broadcasting Board of Governors for broadcast consideration.

(4) Nomination of Under Secretaries

Whenever the President submits to the Senate a nomination of an individual for appointment to a position in the Department of State that is described in paragraph (1), the President shall designate the particular Under Secretary position in the Department of State that the individual shall have.

(c) Assistant Secretaries

(1) In general

There shall be in the Department of State not more than 24 Assistant Secretaries of State who shall be compensated at the rate provided for at level IV of the Executive Schedule under section 5315 of title 5. Each Assistant Secretary of State shall be appointed by the President, by and with the advice and consent of the Senate, except that the appointments of the Assistant Secretary for Public Affairs and the Assistant Secretary for Administration shall not be subject to the advice and consent of the Senate.

(2) Assistant Secretary of State for Democracy, Human Rights, and Labor

(A) There shall be in the Department of State an Assistant Secretary of State for Democracy, Human Rights, and Labor who shall be responsible to the Secretary of State for matters pertaining to human rights and humanitarian affairs (including matters relating to prisoners of war and members of the United States Armed Forces missing in action) in the conduct of foreign policy and such other related duties as the Secretary may from time to time designate. The Secretary of State shall carry out the Secretary's responsibility under section 2304 of this title through the Assistant Secretary.

(B) The Assistant Secretary of State for Democracy, Human Rights, and Labor shall maintain continuous observation and review all matters pertaining to human rights and humanitarian affairs (including matters relating to prisoners of war and members of the United States Armed Forces missing in action) in the conduct of foreign policy including the following:

(i) Gathering detailed information regarding humanitarian affairs and the observance of and respect for internationally recognized human rights in each country to which requirements of sections 2151n and 2304 of this title are relevant.

(ii) Preparing the statements and reports to Congress required under section 2304 of this title.

(iii) Making recommendations to the Secretary of State and the Administrator of the Agency for International Development regarding compliance with sections 2151n and 2304 of this title, and as part of the Assistant Secretary's overall policy responsibility for the creation of United States Government human rights policy, advising the Administrator of the Agency for International Development on the policy framework under which section 2151n(e) projects are developed and consulting with the Administrator on the selection and implementation of such projects.

(iv) Performing other responsibilities which serve to promote increased observance of internationally recognized human rights by all countries.

(3) Nomination of Assistant Secretaries

Whenever the President submits to the Senate a nomination of an individual for appointment to a position in the Department of State that is described in paragraph (1), the President shall designate the regional or functional bureau or bureaus of the Department of State with respect to which the individual shall have responsibility.

(d) Other senior officials

In addition to officials of the Department of State who are otherwise authorized to be appointed by

the President, by and with the advice and consent of the Senate, and to be compensated at level IV of the Executive Schedule of [1] section 5315 of title 5 four other such appointments are authorized.

(e) Coordinator for Counterterrorism

(1) In general

There is within the office of the Secretary of State a Coordinator for Counterterrorism (in this paragraph referred to as the "Coordinator") who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) Duties

(A) In general

The Coordinator shall perform such duties and exercise such powers as the Secretary of State shall prescribe.

(B) Duties described

The principal duty of the Coordinator shall be the overall supervision (including policy oversight of resources) of international counterterrorism activities. The Coordinator shall be the principal adviser to the Secretary of State on international counterterrorism matters. The Coordinator shall be the principal counterterrorism official within the senior management of the Department of State and shall report directly to the Secretary of State.

(3) Rank and status of Ambassador

The Coordinator shall have the rank and status of Ambassador at Large.

(f) HIV/AIDS Response Coordinator

(1) In general

There shall be established within the Department of State in the immediate office of the Secretary of State a Coordinator of United States Government Activities to Combat HIV/AIDS Globally, who shall be appointed by the President, by and with the advice and consent of the Senate. The Coordinator shall report directly to the Secretary.

(2) Authorities and duties; definitions

(A) Authorities

The Coordinator, acting through such nongovernmental organizations (including faith-based and community-based organizations), partner country finance, health, and other relevant ministries, and relevant executive branch agencies as may be necessary and appropriate to effect the purposes of this section, is authorized—

(i) to operate internationally to carry out prevention, care, treatment, support, capacity development, and other activities for combatting HIV/AIDS;

(ii) to transfer and allocate funds to relevant executive branch agencies; and

(iii) to provide grants to, and enter into contracts with, nongovernmental organizations (including faith-based and community-based organizations), partner country finance, health, and other relevant ministries, to carry out the purposes of section.

(B) Duties

(i) In general

The Coordinator shall have primary responsibility for the oversight and coordination of all resources and international activities of the United States Government to combat the HIV/AIDS pandemic, including all programs, projects, and activities of the United States Government relating to the HIV/AIDS pandemic under the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 [22 U.S.C. 7601 et seq.] or any amendment made by that Act.

(ii) Specific duties

The duties of the Coordinator shall specifically include the following:

(I) Ensuring program and policy coordination among the relevant executive branch agencies and nongovernmental organizations, including auditing, monitoring, and evaluation of all such programs.

(II) Ensuring that each relevant executive branch agency undertakes programs primarily in those areas where the agency has the greatest expertise, technical capabilities, and potential for success.

(III) Avoiding duplication of effort.

(IV) Establishing an interagency working group on HIV/AIDS headed by the Global AIDS Coordinator and comprised of representatives from the United States Agency for International Development and the Department of Health and Human Services, for the purposes of coordination of activities relating to HIV/AIDS, including—

(aa) meeting regularly to review progress in partner countries toward HIV/AIDS prevention, treatment, and care objectives;

(bb) participating in the process of identifying countries to consider for increased assistance based on the epidemiology of HIV/AIDS in those countries, including clear evidence of a public health threat, as well as government commitment to address the HIV/AIDS problem, relative need, and coordination and joint planning with other significant actors;

(cc) assisting the Coordinator in the evaluation, execution, and oversight of country operational plans;

(dd) reviewing policies that may be obstacles to reaching targets set forth for HIV/AIDS prevention, treatment, and care; and

(ee) consulting with representatives from additional relevant agencies, including the National Institutes of Health, the Health Resources and Services Administration, the Department of Labor, the Department of Agriculture, the Millennium Challenge Corporation, the Peace Corps, and the Department of Defense.

(V) Coordinating overall United States HIV/AIDS policy and programs, including ensuring the coordination of relevant executive branch agency activities in the field, with efforts led by partner countries, and with the assistance provided by other relevant bilateral and multilateral aid agencies and other donor institutions to promote harmonization with other programs aimed at preventing and treating HIV/AIDS and other health challenges, improving primary health, addressing food security, promoting education and development, and strengthening health care systems.

(VI) Resolving policy, program, and funding disputes among the relevant executive branch agencies.

(VII) Holding annual consultations with nongovernmental organizations in partner countries that provide services to improve health, and advocating on behalf of the individuals with HIV/AIDS and those at particular risk of contracting HIV/AIDS, including organizations with members who are living with HIV/AIDS.

(VIII) Ensuring, through interagency and international coordination, that HIV/AIDS programs of the United States are coordinated with, and complementary to, the delivery of related global health, food security, development, and education.

(IX) Directly approving all activities of the United States (including funding) relating to combatting HIV/AIDS in each of Botswana, Cote d'Ivoire, Ethiopia, Guyana, Haiti, Kenya, Mozambique, Namibia, Nigeria, Rwanda, South Africa, Tanzania, Uganda, Vietnam, Zambia, and other countries designated by the President, which other designated countries may include those countries in which the United States is implementing HIV/AIDS programs as of May 27, 2003, and other countries in which the United States is implementing HIV/AIDS programs as part of its foreign assistance program. In designating additional countries under this subparagraph, the President shall give priority to those countries in which there is a high prevalence of HIV or risk of significantly increasing

incidence of HIV within the general population and inadequate financial means within the country.

(X) Working with partner countries in which the HIV/AIDS epidemic is prevalent among injection drug users to establish, as a national priority, national HIV/AIDS prevention programs.

(XI) Working with partner countries in which the HIV/AIDS epidemic is prevalent among individuals involved in commercial sex acts to establish, as a national priority, national prevention programs, including education, voluntary testing, and counseling, and referral systems that link HIV/AIDS programs with programs to eradicate trafficking in persons and support alternatives to prostitution.

(XII) Establishing due diligence criteria for all recipients of funds appropriated for HIV/AIDS assistance pursuant to the authorization of appropriations under section 7671 of this title and all activities subject to the coordination and appropriate monitoring, evaluation, and audits carried out by the Coordinator necessary to assess the measurable outcomes of such activities.

(XIII) Publicizing updated drug pricing data to inform the purchasing decisions of pharmaceutical procurement partners.

(C) Definitions

In this paragraph:

(i) AIDS

The term "AIDS" means acquired immune deficiency syndrome.

(ii) HIV

The term "HIV" means the human immunodeficiency virus, the pathogen that causes AIDS.

(iii) HIV/AIDS

The term "HIV/AIDS" means, with respect to an individual, an individual who is infected with HIV or living with AIDS.

(iv) Relevant executive branch agencies

The term "relevant executive branch agencies" means the Department of State, the United States Agency for International Development, the Department of Health and Human Services (including the Public Health Service), and any other department or agency of the United States that participates in international HIV/AIDS activities pursuant to the authorities of such department or agency or this Act.

(g) Qualifications of certain officers of the Department of State

(1) Officer having primary responsibility for personnel management

The officer of the Department of State with primary responsibility for assisting the Secretary with respect to matters relating to personnel in the Department of State, or that officer's principal deputy, shall have substantial professional qualifications in the field of human resource policy and management.

(2) Officer having primary responsibility for diplomatic security

The officer of the Department of State with primary responsibility for assisting the Secretary with respect to diplomatic security, or that officer's principal deputy, shall have substantial professional qualifications in the fields of (A) management, and (B) Federal law enforcement, intelligence, or security.

(3) Officer having primary responsibility for international narcotics and law enforcement

The officer of the Department of State with primary responsibility for assisting the Secretary with respect to international narcotics and law enforcement, or that officer's principal deputy, shall have substantial professional qualifications in the fields of (A) management, and (B) law

enforcement or international narcotics policy.

(Aug. 1, 1956, ch. 841, title I, §1, 70 Stat. 890; renumbered title I and amended Pub. L. 97–241, title II, §202(a), Aug. 24, 1982, 96 Stat. 282; Pub. L. 103–236, title I, §161(a), Apr. 30, 1994, 108 Stat. 402; Pub. L. 103–415, §1(f)(1), Oct. 25, 1994, 108 Stat. 4299; Pub. L. 105–277, div. G, subdiv. A, title XII, §1213, title XIII, §1313, subdiv. B, title XXIII, §§2301(a), 2303–2305(a)(1), (b)(1), (c), 2306, Oct. 21, 1998, 112 Stat. 2681–767, 2681–776, 2681–824, 2681–825, 2681–826; Pub. L. 106–553, §1(a)(2) [title IV, §404(a)], Dec. 21, 2000, 114 Stat. 2762, 2762A–96; Pub. L. 107–228, div. A, title III, §303, Sept. 30, 2002, 116 Stat. 1377; Pub. L. 108–25, title I, §102(a), May 27, 2003, 117 Stat. 721; Pub. L. 108–458, title VII, §7109(b)(1), Dec. 17, 2004, 118 Stat. 3793; Pub. L. 110–293, title I, §102, July 30, 2008, 122 Stat. 2933; Pub. L. 112–166, §2(j), Aug. 10, 2012, 126 Stat. 1286.)

REFERENCES IN TEXT

This Act, referred to in subsecs. (a)(1) and (f)(2)(C)(iv), is act Aug. 1, 1956, ch. 841, 70 Stat. 890, known as the State Department Basic Authorities Act of 1956, which enacted this section, sections 2669, 2670, 2671, 2672, 2673 to 2679a, 2680, 2680a, 2684, 2687 to 2690, 2692, 2695, 2696 to 2715, and 2715b to 2734 of this title, and chapters 53 (§4301 et seq.), 53A (§4341 et seq.), and 53B (§4351 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2651 of this title and Tables.

The United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003, referred to in subsec. (f)(2)(B)(i), is Pub. L. 108–25, May 27, 2003, 117 Stat. 711, which enacted chapter 83 and sections 262p–8 and 2151b–2 to 2151b–4 of this title, amended this section, sections 2151b and 2222 of this title, and section 242l of Title 42, The Public Health and Welfare, and enacted provisions set out as a note under section 7601 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 7601 of this title and Tables.

CODIFICATION

Section was formerly classified to section 2662 of this title.

Section was also formerly classified to section 170f of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, §1, Sept. 6, 1966, 80 Stat. 378.

AMENDMENTS

2012—Subsec. (c)(1). Pub. L. 112–166 struck out ", each of whom shall be appointed by the President, by and with the advice and consent of the Senate, and" after "Secretaries of State" and inserted at end "Each Assistant Secretary of State shall be appointed by the President, by and with the advice and consent of the Senate, except that the appointments of the Assistant Secretary for Public Affairs and the Assistant Secretary for Administration shall not be subject to the advice and consent of the Senate."

2008—Subsec. (f)(2)(A). Pub. L. 110–293, §102(1), which directed insertion of ", partner country finance, health, and other relevant ministries," after "community based organizations)" wherever appearing, was executed by making the insertion after "community-based organizations)" in introductory provisions and in cl. (iii), to reflect the probable intent of Congress.

Subsec. (f)(2)(B)(ii)(IV), (V). Pub. L. 110–293, §102(2)(A), (B), added subcls. (IV) and (V) and struck out former subcls. (IV) and (V) which read as follows:

"(IV) Ensuring coordination of relevant executive branch agency activities in the field.

"(V) Pursuing coordination with other countries and international organizations."

Subsec. (f)(2)(B)(ii)(VII), (VIII). Pub. L. 110–293, §102(2)(D), added subcls. (VII) and (VIII). Former subcls. (VII) and (VIII) redesignated (IX) and (XII), respectively.

Subsec. (f)(2)(B)(ii)(IX). Pub. L. 110–293, §102(2)(E), inserted "Vietnam," after "Uganda," and ", and other countries in which the United States is implementing HIV/AIDS programs as part of its foreign assistance program" after "May 27, 2003" and inserted at end "In designating additional countries under this subparagraph, the President shall give priority to those countries in which there is a high prevalence of HIV or risk of significantly increasing incidence of HIV within the general population and inadequate financial means within the country."

Pub. L. 110–293, §102(2)(C), redesignated subcl. (VII) as (IX).

Subsec. (f)(2)(B)(ii)(X), (XI). Pub. L. 110–293, §102(2)(F), added subcls. (X) and (XI).

Subsec. (f)(2)(B)(ii)(XII). Pub. L. 110–293, §102(2)(G), substituted "funds appropriated for HIV/AIDS assistance pursuant to the authorization of appropriations under section 7671 of this title" for "funds section".

Pub. L. 110–293, §102(2)(C), redesignated subcl. (VIII) as (XII).

Subsec. (f)(2)(B)(ii)(XIII). Pub. L. 110–293, §102(2)(H), added subcl. (XIII).

2004—Subsec. (b)(3). Pub. L. 108–458 inserted "The Under Secretary for Public Diplomacy shall—" at end and added subpars. (A) to (E).

2003—Subsecs. (f), (g). Pub. L. 108–25 added subsec. (f) and redesignated former subsec. (f) as (g).

2002—Subsecs. (f), (g). Pub. L. 107–228 added subsec. (f) and struck out former subsecs. (f) and (g), which related to the qualifications of officers having primary responsibility for personnel management and for diplomatic security.

2000—Subsec. (a)(2). Pub. L. 106–553 substituted ", the Deputy Secretary of State, and the Deputy Secretary of State for Management and Resources" for "and the Deputy Secretary of State".

1998—Subsec. (b). Pub. L. 105–277, §1213, designated existing provisions as par. (1), inserted par. heading, and added par. (2).

Subsec. (b)(1). Pub. L. 105–277, §2305(a)(1), substituted "6 Under Secretaries" for "5 Under Secretaries".

Subsec. (b)(3). Pub. L. 105–277, §1313, added par. (3).

Subsec. (b)(4). Pub. L. 105–277, §2306(a), added par. (4).

Subsec. (c)(1). Pub. L. 105–277, §2305(b)(1), substituted "24" for "20".

Subsec. (c)(3). Pub. L. 105–277, §2306(b), added par. (3).

Subsec. (d). Pub. L. 105–277, §2305(c), redesignated subsec. (e) as (d) and struck out heading and text of former subsec. (d). Text read as follows: "There shall be in the Department of State not more than 66 Deputy Assistant Secretaries of State."

Subsec. (e). Pub. L. 105–277, §2305(c)(2), redesignated subsec. (f) as (e). Former subsec. (e) redesignated (d).

Subsec. (f). Pub. L. 105–277, §2305(c)(2), redesignated subsec. (g) as (f). Former subsec. (f) redesignated (e).

Pub. L. 105–277, §2301(a), added subsec. (f).

Subsec. (g). Pub. L. 105–277, §2305(c)(2), redesignated subsec. (h) as (g). Former subsec. (g) redesignated (f).

Pub. L. 105–277, §2303, added subsec. (g).

Subsec. (h). Pub. L. 105–277, §2305(c)(2), redesignated subsec. (h) as (g).

Pub. L. 105–277, §2304, added subsec. (h).

1994—Pub. L. 103–236 amended section generally. Prior to amendment, section read as follows: "The Secretary of State is authorized to establish, maintain, and operate passport and despatch agencies."

Subsec. (a)(2). Pub. L. 103–415 inserted "and the Deputy Secretary of State" after "Secretary".

1982—Pub. L. 97–241 substituted "The Secretary" for "That the Secretary".

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112–166 effective 60 days after Aug. 10, 2012, and applicable to appointments made on and after that effective date, including any nomination pending in the Senate on that date, see section 6(a) of Pub. L. 112–166, set out as a note under section 113 of Title 6, Domestic Security.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 1213 of Pub. L. 105–277 effective Apr. 1, 1999, see section 1201 of Pub. L. 105–277, set out as an Effective Date note under section 6511 of this title.

Amendment by section 1313 of Pub. L. 105–277 effective Oct. 1, 1999, see section 1301 of Pub. L. 105–277, set out as an Effective Date note under section 6531 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103–236, title I, §161(b), Apr. 30, 1994, 108 Stat. 404, as amended by Pub. L. 103–415, §1(f)(2), Oct. 25, 1994, 108 Stat. 4300, provided that: "The amendments made by this section and section 162 [amending this section, sections 2151n, 2304, 2314, 2349aa–2, 2384, 2652b, 2655a, 2669, 2670, 2707, 2755, 4302 to 4305, 4308, 4801, 4802, 4806, 4821 to 4823, and 4852 of this title, sections 5314 and 5315 of Title 5, Government Organization and Employees, sections 1101, 1104, 1105, and 1521 to 1523 of Title 8, Aliens and Nationality, repealing sections 811a, 2652, 2652a, 2653 to 2655, 2658, 4803, and 4804 of this title and section 1525 of Title 8, and amending provisions set out as a note under section 113 of Title 10, Armed Forces] shall apply with respect to officials, offices, and bureaus of the Department of State when executive orders, regulations, or departmental directives implementing such amendments become effective, or 90 days after the date of enactment of this Act [Apr. 30, 1994], whichever comes earlier."

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–241, effective Oct. 1, 1982, see section 204 of Pub. L. 97–241, set out as an

Effective Date note under section 4301 of this title.

COORDINATOR OF UNITED STATES GOVERNMENT ACTIVITIES PROVIDING BASIC EDUCATION ASSISTANCE IN DEVELOPING COUNTRIES

Pub. L. 112–74, div. I, title VII, §7034(q)(2), Dec. 23, 2011, 125 Stat. 1217, provided that: "The position of Coordinator established pursuant to section 664 of division J of Public Law 110–161 [set out below] shall, within 45 days of enactment of this Act [Dec. 23, 2011] and notwithstanding the requirements of such section, be moved to the United States Agency for International Development (USAID): *Provided*, That the Coordinator shall hereafter be appointed by the USAID Administrator and shall report directly to the Administrator: *Provided further*, That the responsibilities of the Coordinator enumerated in the first sentence of section 664(c) shall remain in full force and effect: *Provided further*, That the limitation in the second sentence of such section shall hereafter no longer apply to the Coordinator."

Pub. L. 110–161, div. J, title VI, §664(b), (c), Dec. 26, 2007, 121 Stat. 2349, provided that:

"(b) COORDINATOR.—There shall be established within the Department of State in the immediate office of the Director of United States Foreign Assistance, a Coordinator of United States Government activities to provide basic education assistance in developing countries (hereinafter in this section referred to as the 'Coordinator').

"(c) RESPONSIBILITIES.—That [sic] the Coordinator shall have primary responsibility for the oversight and coordination of all resources and international activities of the United States Government that provide assistance in developing countries for basic education. The individual serving as the Coordinator may not hold any other position in the Federal Government during the individual's time of service as Coordinator."

[Pub. L. 111–117, div. F, title VII, §7064(a)(2), Dec. 16, 2009, 123 Stat. 3383, provided that: "There shall continue to be a Coordinator of United States Government Actions to Provide Basic Education Assistance in developing countries as established in section 664 of division J of Public Law 110–161 [set out above]."]

[Pub. L. 111–8, div. H, title VII, §7064(a)(2), Mar. 11, 2009, 123 Stat. 899, provided that: "There shall continue to be a Coordinator of United States government actions to provide basic education assistance in developing countries as established in section 664 of division J of Public Law 110–161 [set out above]."]

ADVISOR FOR ACTIVITIES RELATING TO INDIGENOUS PEOPLES INTERNATIONALLY

Pub. L. 112–74, div. I, title VII, §7034(q)(1), Dec. 23, 2011, 125 Stat. 1217, provided that: "The position of Advisor established pursuant to section 699B of division J of Public Law 110–161 [set out below] shall, within 45 days of enactment of this Act [Dec. 23, 2011] and notwithstanding the requirements of such section, be moved to the United States Agency for International Development (USAID): *Provided*, That the Advisor shall hereafter be appointed by the USAID Administrator and shall report directly to the Administrator: *Provided further*, That the responsibilities of the Advisor enumerated in section 699B(b) shall remain in full force and effect."

Pub. L. 110–161, div. J, title VI, §699B, Dec. 26, 2007, 121 Stat. 2369, provided that:

"(a) ADVISOR.—After consultation with the Committees on Appropriations and not later than 90 days after the enactment of this Act [Dec. 26, 2007], there shall be established within the Department of State in the immediate office of the Director of United States Foreign Assistance an Advisor for Activities Relating to Indigenous Peoples Internationally (hereinafter in this section referred to as the 'Advisor'), who shall be appointed by the Director. The Advisor shall report directly to the Director.

"(b) RESPONSIBILITIES.—The Advisor shall:

"(1) Advise the Director of United States Foreign Assistance and the Administrator of the United States Agency for International Development on matters relating to the rights and needs of indigenous peoples internationally and should represent the United States Government on such matters in meetings with foreign governments and multilateral institutions.

"(2) Provide for the oversight and coordination of all resources, programs, projects, and activities of the United States Government to protect the rights and address the needs of indigenous peoples internationally.

"(3) Develop and coordinate assistance strategies with specific goals, guidelines, benchmarks, and impact assessments (including support for local indigenous peoples' organizations).

"(c) FUNDS.—Of the funds appropriated by this Act under the heading 'Diplomatic and Consular Programs' [121 Stat. 2277], not less than $250,000 shall be made available for implementing the provisions of this section.

"(d) REPORT.—Not later than one year after the enactment of this Act [Dec. 26, 2007], the Secretary shall submit a report to the Committees on Appropriations describing progress made in implementing this section."

CONSULTATION

Pub. L. 108–458, title VII, §7109(b)(2), Dec. 17, 2004, 118 Stat. 3793, provided that: "The Under Secretary of State for Public Diplomacy, in carrying out the responsibilities described in section 1(b)(3) of such Act [22 U.S.C. 2651a(b)(3)] (as amended by paragraph (1)), shall consult with public diplomacy officers operating at United States overseas posts and in the regional bureaus of the Department of State."

OFFICE OF THE COORDINATOR FOR RECONSTRUCTION AND STABILIZATION

Pub. L. 108–447, div. B, title IV, §408, Dec. 8, 2004, 118 Stat. 2904, provided that: "There is established within the Department of State the Office of the Coordinator for Reconstruction and Stabilization: *Provided*, That the head of the Office shall be the Coordinator for Reconstruction and Stabilization, who shall report directly to the Secretary of State: *Provided further*, That the functions of the Office of the Coordinator for Reconstruction and Stabilization shall include—

"(1) cataloguing and monitoring the non-military resources and capabilities of Executive agencies (as that term is defined in section 105 of title 5, United States Code), State and local governments, and entities in the private and non-profit sectors that are available to address crises in countries or regions that are in, or are in transition from, conflict or civil strife;

"(2) monitoring political and economic instability worldwide to anticipate the need for mobilizing United States and international assistance for countries or regions described in paragraph (1);

"(3) assessing crises in countries or regions described in paragraph (1) and determining the appropriate non-military United States, including but not limited to demobilization, policing, human rights monitoring, and public information efforts;

"(4) planning for response efforts under paragraph (3);

"(5) coordinating with relevant Executive agencies the development of interagency contingency plans for such response efforts; and

"(6) coordinating the training of civilian personnel to perform stabilization and reconstruction activities in response to crises in such countries or regions described in paragraph (1)."

COMPREHENSIVE WORKFORCE PLAN

Pub. L. 107–228, div. A, title III, §301, Sept. 30, 2002, 116 Stat. 1376, required the Secretary of State to submit to the appropriate congressional committees, not later than 180 days after Sept. 30, 2002, a comprehensive workforce plan for the Department of State for the fiscal years 2003 through 2007, considering personnel needs in both the Civil Service and the Foreign Service and expected domestic and overseas personnel allocations.

"RIGHTSIZING" OVERSEAS POSTS

Pub. L. 107–228, div. A, title III, §302, Sept. 30, 2002, 116 Stat. 1376, provided that:

"(a) 'RIGHTSIZING' AT THE DEPARTMENT OF STATE.—

"(1) IN GENERAL.—The Secretary shall establish a task force within the Department on the issue of 'rightsizing' overseas posts.

"(2) PRELIMINARY REPORT.—Not later than 120 days after the date of the enactment of this Act [Sept. 30, 2002], the Secretary shall submit to the appropriate congressional committees a report that outlines the status, plans, and activities of the task force. In addition to such other information as the Secretary considers appropriate, the report shall include the following:

"(A) The objectives of the task force.

"(B) Measures for achieving the objectives under subparagraph (A).

"(C) Identification of the official of the Department with primary responsibility for the issue of 'rightsizing'.

"(D) The plans of the Department for the reallocation of staff and resources based on changing needs at overseas posts and in the metropolitan Washington, D.C., area.

"(3) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary shall submit to the appropriate congressional committees a report reviewing the activities and progress of the task force established under paragraph (1).

"(b) INTERAGENCY WORKING GROUP.—

"(1) ESTABLISHMENT.—The Secretary shall establish an interagency working group on the issue of 'rightsizing' the overseas presence of the United States Government.

"(2) PRELIMINARY REPORT.—Not later than 120 days after the date of the enactment of this Act [Sept. 30, 2002], the Secretary shall submit to the appropriate congressional committees a report which outlines the status, plans, and activities of the interagency working group. In addition to such other information as the Secretary considers appropriate, the report shall include the following:

"(A) The objectives of the working group.

"(B) Measures for achieving the objectives under subparagraph (A).

"(C) Identification of the official of each agency with primary responsibility for the issue of 'rightsizing'.

"(3) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the appropriate congressional committees a report reviewing the activities and progress of the working group established under paragraph (1)."

REPORT CONCERNING MINORITY EMPLOYMENT

Pub. L. 107–228, div. A, title III, §324, Sept. 30, 2002, 116 Stat. 1385, required the Secretary of State, on Apr. 1 of 2003 and 2004, to submit a comprehensive report to Congress, with respect to the preceding calendar year, concerning the employment of members of minority groups at the Department, including the Civil Service and the Foreign Service.

USE OF FUNDS AUTHORIZED FOR MINORITY RECRUITMENT

Pub. L. 107–228, div. A, title III, §325, Sept. 30, 2002, 116 Stat. 1386, provided that:

"(a) CONDUCT OF RECRUITMENT ACTIVITIES.—

"(1) IN GENERAL.—Amounts authorized to be appropriated for minority recruitment under section 111(1)(D) [probably means section 111(a)(1)(D) of Pub. L. 107–228, 116 Stat. 1356] shall be used only for activities directly related to minority recruitment, such as recruitment materials designed to target members of minority groups and the travel expenses of recruitment trips to colleges, universities, and other institutions or locations.

"(2) LIMITATION.—Amounts authorized to be appropriated for minority recruitment under section 111(1)(D) may not be used to pay salaries of employees of the Department.

"(b) RECRUITMENT ACTIVITIES AT ACADEMIC INSTITUTIONS.—The Secretary shall expand the recruitment efforts of the Department to include not less than 25 percent of the part B institutions (as defined under section 322 of the Higher Education Act of 1965 [20 U.S.C. 1061]) in the United States and not less than 25 percent of the Hispanic-serving institutions (as defined in section 502(a)(5) of such Act [20 U.S.C. 1101a(a)(5)]) in the United States.

"(c) EVALUATION OF RECRUITMENT EFFORTS.—The Secretary shall establish a database relating to efforts to recruit members of minority groups into the Foreign Service and the Civil Service and shall report to the appropriate congressional committees on the evaluation of efforts to recruit such individuals, including an analysis of the information collected in the database created under this subsection. Such report shall be included in each of the two reports required under section 324 [set out as a note above]."

STATE DEPARTMENT OFFICIAL FOR NORTHEASTERN EUROPE

Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title III, §302], Nov. 29, 1999, 113 Stat. 1536, 1501A–434, provided that: "The Secretary of State shall designate a senior-level official of the Department of State with responsibility for promoting regional cooperation in and coordinating United States policy toward Northeastern Europe."

SCIENCE AND TECHNOLOGY ADVISER TO SECRETARY OF STATE

Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title III, §303], Nov. 29, 1999, 113 Stat. 1536, 1501A–434, provided that:

"(a) DESIGNATION.—The Secretary of State shall designate a senior-level official of the Department of State as the Science and Technology Adviser to the Secretary of State (in this section referred to as the 'Adviser'). The Adviser shall have substantial experience in the area of science and technology. The Adviser shall report to the Secretary of State through the appropriate Under Secretary of State.

"(b) DUTIES.—The Adviser shall—

"(1) advise the Secretary of State, through the appropriate Under Secretary of State, on international science and technology matters affecting the foreign policy of the United States; and

"(2) perform such duties, exercise such powers, and have such rank and status as the Secretary of State shall prescribe."

TRANSITION; REAPPOINTMENT OF OFFICERS HOLDING OFFICE AS OF APRIL 30, 1994, NOT REQUIRED

Pub. L. 103–236, title I, §161(c), Apr. 30, 1994, 108 Stat. 404, provided that: "Any officer of the Department of State holding office on the date of the enactment of this Act [Apr. 30, 1994] shall not be

required to be reappointed to any other office, at the Department of State at the same level performing similar functions, as determined by the President, by reason of the enactment of the amendments made by this section and section 162 [see Effective Date of 1994 Amendment note above for classification]."

[Functions of President under section 161(c) of Pub. L. 103–236, set out above, delegated to Secretary of State by Memorandum of President of the United States, July 26, 1994, 59 F.R. 40205, set out as a note under section 2370a of this title.]

REFERENCES TO OFFICIALS AND OFFICES OF DEPARTMENT OF STATE WHOSE AUTHORITY IS VESTED IN SECRETARY OF STATE DEEMED REFERENCES TO SECRETARY OF STATE OR DEPARTMENT OF STATE

Pub. L. 103–236, title I, §161(d), Apr. 30, 1994, 108 Stat. 404, provided that: "Except as specifically provided in this Act [see Tables for classification], or the amendments made by this Act, a reference in any other provision of law to an official or office of the Department of State affected by the amendment made by subsection (a) [amending this section] (other than the Inspector General of the Department of State and the Chief Financial Officer of the Department of State) shall be deemed to be a reference to the Secretary of State or the Department of State, as may be appropriate."

OFFICE OF COORDINATOR FOR COUNTERTERRORISM

Pub. L. 103–236, title I, §161(e), Apr. 30, 1994, 108 Stat. 404, which established for not less than one year after Apr. 30, 1994, an Office of the Coordinator for Counterterrorism in the Department of State having the same responsibilities and functions as such office had as of Jan. 20, 1993, was repealed by Pub. L. 105–277, div. G, subdiv. B, title XXIII, §2301(b), Oct. 21, 1998, 112 Stat. 2681–824.

DEPUTY ASSISTANT SECRETARY FOR BURDENSHARING

Pub. L. 103–236, title I, §161(f), Apr. 30, 1994, 108 Stat. 404, as amended by Pub. L. 103–415, §1(f)(3), Oct. 25, 1994, 108 Stat. 4300, which conditioned availability of 1995 appropriations upon establishment of position within Department of State of Deputy Assistant Secretary for Burdensharing and set forth responsibilities of position, was repealed by Pub. L. 105–277, div. G, subdiv. B, title XXIII, §2302, Oct. 21, 1998, 112 Stat. 2681–825.

AUTHORIZATION TO REDELEGATE CERTAIN RESPONSIBILITIES VESTED IN THE PRESIDENT AND DELEGATED TO THE SECRETARY OF STATE

Memorandum of President of the United States, Nov. 4, 1997, 62 F.R. 60995, provided:

Memorandum for the Secretary of State

By the authority vested in me by the Constitution and laws of the United States, including section 301 of Title 3 of the United States Code, to the extent that you consider doing so appropriate to facilitate the consolidation of the Arms Control and Disarmament Agency and the Department of State, I hereby authorize you to redelegate to any officer of the executive branch any or all authorities vested in the President that are delegated to the Secretary of State by any act, order, determination, delegation of authority, regulation, or Executive order heretofore or hereinafter enacted or issued and that have been or may be redelegated to the Under Secretary of State for Arms Control and International Security Affairs.

You are authorized and directed to publish this memorandum in the Federal Register.

WILLIAM J. CLINTON.

[For abolition, transfer of functions, and treatment of references to United States Arms Control and Disarmament Agency, see section 6511 et seq. of this title.]

DEFINITIONS

For definitions of "Secretary", "Department", and "appropriate congressional committees" as used in sections 301, 302, 324, and 325 of Pub. L. 107–228, set out as notes above, see section 3 of Pub. L. 107–228, set out as a note under section 2651 of this title.

[1] *So in original. Probably should be "under".*

§§2652, 2652a. Repealed. Pub. L. 103–236, title I, §162(a), (b), Apr. 30, 1994, 108

Section 2652, May 26, 1949, ch. 143, §1, 63 Stat. 111; Feb. 7, 1953. ch. 2, 67 Stat. 4; Aug. 5, 1955, ch. 576, §1, 69 Stat. 536; June 30, 1958, Pub. L. 85–477, ch. V, §502(j)(1), 72 Stat. 274; July 18, 1958, Pub. L. 85–524, §1, 72 Stat. 363; July 13, 1972, Pub. L. 92–352, title I, §103(a)(1), 86 Stat. 490; Aug. 17, 1977, Pub. L. 95–105, title I, §109(c), 91 Stat. 847; Oct. 7, 1978, Pub. L. 95–426, title I, §114(a)(1), 92 Stat. 968; Aug. 16, 1985, Pub. L. 99–93, title I, §§115(a), 116(a), 99 Stat. 411; Aug. 27, 1986, Pub. L. 99–399, title I, §104(b), 100 Stat. 856, established positions in Department of State of Deputy Secretary of State, Under Secretary of State for Political Affairs, Under Secretary of State for Economic and Agricultural Affairs, Under Secretary of State for Management, and Assistant Secretaries of State.

Section 2652a, Pub. L. 95–426, title I, §115(a), Oct. 7, 1978, 92 Stat. 969, established position in Department of State of Assistant Secretary of State for International Narcotics Matters.

EFFECTIVE DATE OF REPEAL

Repeal applicable with respect to officials, offices, and bureaus of Department of State when executive orders, regulations, or departmental directives implementing the amendments by sections 161 and 162 of Pub. L. 103–236 become effective, or 90 days after Apr. 30, 1994, whichever comes earlier, see section 161(b) of Pub. L. 103–236, as amended, set out as an Effective Date of 1994 Amendment note under section 2651a of this title.

§2652b. Assistant Secretary of State for South Asian Affairs

(a) Establishment of position

There is established in the Department of State the position of Assistant Secretary of State for South Asian Affairs.

(b) Appointment

The Assistant Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

(c) Repealed. Pub. L. 103–236, title I, §162(c)(1), Apr. 30, 1994, 108 Stat. 405

(d) Repealed and Omitted

(1) Repealed. Pub. L. 103–236, title I, §162(c)(3), Apr. 30, 1994, 108 Stat. 405.

(2) Omitted.

(e) Implementation

In order to carry out this section, the Secretary of State shall reprogram the position of Deputy Assistant Secretary for South Asian Affairs.

(Pub. L. 102–138, title I, §122, Oct. 28, 1991, 105 Stat. 658; Pub. L. 103–236, title I, §162(c), Apr. 30, 1994, 108 Stat. 405.)

CODIFICATION

Section is comprised of section 122 of Pub. L. 102–138. Subsec. (d)(2) of section 122 of Pub. L. 102–138 enacted provisions set out as a note under section 5315 of Title 5, Government Organization and Employees.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–236, §162(c)(2), struck out ", which is in addition to the positions provided under section 2652 of this title" after "Asian Affairs".

Subsec. (c). Pub. L. 103–236, §162(c)(1), struck out subsec. (c) which read as follows: "The Assistant Secretary shall have responsibility within the Department of State with respect to India, Pakistan, Bangladesh, Sri Lanka, Nepal, Bhutan, Afghanistan, and the Maldives."

Subsec. (d)(1). Pub. L. 103–236, §162(c)(3), struck out par. (1) which amended section 5315 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–236 applicable with respect to officials, offices, and bureaus of Department of State when executive orders, regulations, or departmental directives implementing the amendments by

sections 161 and 162 of Pub. L. 103–236 become effective, or 90 days after Apr. 30, 1994, whichever comes earlier, see section 161(b) of Pub. L. 103–236, as amended, set out as a note under section 2651a of this title.

AUTHORITY OF SECRETARY OF STATE

Except as otherwise provided, Secretary of State to have and exercise any authority vested by law in any official or office of Department of State and references to such officials or offices deemed to refer to Secretary of State or Department of State, as appropriate, see section 2651a of this title and section 161(d) of Pub. L. 103–236, set out as a note under section 2651a of this title.

§2652c. Assistant Secretary of State for Verification and Compliance

(a) Designation of position

The Secretary of State shall designate one of the Assistant Secretaries of State authorized by section 2651a(c)(1) of this title as the Assistant Secretary of State for Verification and Compliance. The Assistant Secretary shall report to the Under Secretary of State for Arms Control and International Security.

(b) Directive governing the Assistant Secretary of State

(1) In general

Not later than 30 days after November 29, 1999, the Secretary of State shall issue a directive governing the position of the Assistant Secretary.

(2) Elements of the directive

The directive issued under paragraph (1) shall set forth, consistent with this section—

(A) the duties of the Assistant Secretary;

(B) the relationships between the Assistant Secretary and other officials of the Department of State;

(C) any delegation of authority from the Secretary of State to the Assistant Secretary; and

(D) such matters as the Secretary considers appropriate.

(c) Duties

(1) In general

The Assistant Secretary shall have as his principal responsibility the overall supervision (including oversight of policy and resources) within the Department of State of all matters relating to verification and compliance with international arms control, nonproliferation, and disarmament agreements or commitments.

(2) Participation of the Assistant Secretary

(A) Primary role

Except as provided in subparagraphs (B) and (C), the Assistant Secretary, or his designee, shall participate in all interagency groups or organizations within the executive branch of Government that assess, analyze, or review United States planned or ongoing policies, programs, or actions that have a direct bearing on verification or compliance matters, including interagency intelligence committees concerned with the development or exploitation of measurement or signals intelligence or other national technical means of verification.

(B) Requirement for designation

Subparagraph (A) shall not apply to groups or organizations on which the Secretary of State or the Undersecretary of State for Arms Control and International Security sits, unless such official designates the Assistant Secretary to attend in his stead.

(C) National security limitation

(i) Waiver by President

The President may waive the provisions of subparagraph (A) if inclusion of the Assistant

Secretary would not be in the national security interests of the United States.

(ii) Waiver by others

With respect to an interagency group or organization, or meeting thereof, working with exceptionally sensitive information contained in compartments under the control of the Director of Central Intelligence, the Secretary of Defense, or the Secretary of Energy, such Director or Secretary, as the case may be, may waive the provision of subparagraph (A) if inclusion of the Assistant Secretary would not be in the national security interests of the United States.

(iii) Transmission of waiver to Congress

Any waiver of participation under clause (i) or (ii) shall be transmitted in writing to the appropriate committees of Congress.

(3) Relationship to the intelligence community

The Assistant Secretary shall be the principal policy community representative to the intelligence community on verification and compliance matters.

(4) Reporting responsibilities

The Assistant Secretary shall have responsibility within the Department of State for—

(A) all reports required pursuant to section 2577 of this title;

(B) so much of the report required under paragraphs (4) through (6) of section 2593a(a) of this title as relates to verification or compliance matters;

(C) so much of the reports required under section 8003 of this title as relates to verification or compliance matters; and

(D) other reports being prepared by the Department of State as of November 29, 1999, relating to arms control, nonproliferation, or disarmament verification or compliance matters.

(Pub. L. 106–113, div. B, §1000(a)(7) [div. B, title XI, §1112], Nov. 29, 1999, 113 Stat. 1536, 1501A–486; Pub. L. 109–401, title I, §108, Dec. 18, 2006, 120 Stat. 2738.)

AMENDMENTS

2006—Subsec. (c)(4)(C), (D). Pub. L. 109–401 added subpar. (C) and redesignated former subpar. (C) as (D).

CHANGE OF NAME

Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108–458, set out as a note under section 3001 of Title 50, War and National Defense.

DEFINITIONS

Pub. L. 106–113, div. B, §1000(a)(7) [div. B, title XI, §1102], Nov. 29, 1999, 113 Stat. 1536, 1501A–485, provided that: "In this title [see Short Title of 1999 Amendment note set out under section 2551 of this title]:

"(1) APPROPRIATE COMMITTEES OF CONGRESS.—The term 'appropriate committees of Congress' means the Committee on International Relations [now Committee on Foreign Affairs] and the Permanent Select Committee on Intelligence of the House of Representatives and the Committee on Foreign Relations and the Select Committee on Intelligence of the Senate.

"(2) ASSISTANT SECRETARY.—The term 'Assistant Secretary' means the position of Assistant Secretary of State for Verification and Compliance designated under section 1112 [22 U.S.C. 2652c].

"(3) EXECUTIVE AGENCY.—The term 'Executive agency' has the meaning given the term in section 105 of title 5, United States Code.

"(4) INTELLIGENCE COMMUNITY.—The term 'intelligence community' has the meaning given the term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)) [now 50 U.S.C. 3003(4)].

"(5) START TREATY OR TREATY.—The term 'START Treaty' or 'Treaty' means the Treaty With the Union of Soviet Socialist Republics on the Reduction and Limitation of Strategic Offensive Arms, including all agreed statements, annexes, protocols, and memoranda, signed at Moscow on July 31, 1991.

"(6) START II TREATY.—The term 'START II Treaty' means the Treaty Between the United States of America and the Russian Federation on Further Reduction and Limitation of Strategic Offensive Arms, and related protocols and memorandum of understanding, signed at Moscow on January 3, 1993."

§§2653 to 2655. Repealed. Pub. L. 103–236, title I, §162(a), (p), Apr. 30, 1994, 108 Stat. 405, 410

Section 2653, acts May 26, 1949, ch. 143, §2, 63 Stat. 111; Aug. 5, 1955, ch. 576, §2, 69 Stat. 536; June 30, 1958, Pub. L. 85–477, ch. V, §502(j)(2), 72 Stat. 274; July 30, 1959, Pub. L. 86–117, 73 Stat. 265; Aug. 14, 1964, Pub. L. 88–426, title III, §305(14), 78 Stat. 424; July 13, 1972, Pub. L. 92–352, title I, §103(a)(2), 86 Stat. 490; Nov. 22, 1983, Pub. L. 98–164, title I, §125(a), 97 Stat. 1026, related to appointment and rank of Secretary of State and other officers of Department of State.

Section 2654, act May 24, 1924, ch. 182, §30, as added Feb. 23, 1931, ch. 276, §7, 46 Stat. 1214; amended Oct. 15, 1949, ch. 695, §6(d), 63 Stat. 881, related to office and appointment of legal adviser in Department of State.

Section 2655, act May 18, 1937, ch. 220, 50 Stat. 169, related to position and appointment of Counselor of Department of State.

EFFECTIVE DATE OF REPEAL

Repeal applicable with respect to officials, offices, and bureaus of Department of State when executive orders, regulations, or departmental directives implementing the amendments by sections 161 and 162 of Pub. L. 103–236 become effective, or 90 days after Apr. 30, 1994, whichever comes earlier, see section 161(b) of Pub. L. 103–236, as amended, set out as an Effective Date of 1994 Amendment note under section 2651a of this title.

§2655a. Bureau of Oceans and International Environmental and Scientific Affairs within Department of State; Assistant Secretary of State as head of Bureau

There is established within the Department of State a Bureau of Oceans and International Environmental and Scientific Affairs. There shall be an Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs, appointed by the President, by and with the advice and consent of the Senate, who shall be the head of the Bureau and who shall have responsibility for matters relating to oceans, environmental, scientific, fisheries, wildlife, and conservation affairs and for such other related duties as the Secretary may from time to time designate.

(Pub. L. 93–126, §9(a), formerly §9, Oct. 18, 1973, 87 Stat. 453, renumbered Pub. L. 93–312, §9, June 8, 1974, 88 Stat. 238; Pub. L. 103–236, title I, §162(q)(1), Apr. 30, 1994, 108 Stat. 410; Pub. L. 103–415, §1(f)(4)(B), Oct. 25, 1994, 108 Stat. 4300.)

AMENDMENTS

1994—Pub. L. 103–236, as amended by Pub. L. 103–415, substituted "There shall" for "In addition to the positions provided under section 2652 of this title, there shall" and inserted before period at end "and for such other related duties as the Secretary may from time to time designate".

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–236 applicable with respect to officials, offices, and bureaus of Department of State when executive orders, regulations, or departmental directives implementing the amendments by sections 161 and 162 of Pub. L. 103–236 become effective, or 90 days after Apr. 30, 1994, whichever comes earlier, see section 161(b) of Pub. L. 103–236, as amended, set out as a note under section 2651a of this title.

AUTHORITY OF SECRETARY OF STATE

Except as otherwise provided, Secretary of State to have and exercise any authority vested by law in any official or office of Department of State and references to such officials or offices deemed to refer to Secretary of State or Department of State, as appropriate, see section 2651a of this title and section 161(d) of Pub. L.

103–236, set out as a note under section 2651a of this title.

§2655b. Diplomatic presence overseas

(a) Purpose

The purpose of this section is to—

(1) elevate the stature given United States diplomatic initiatives relating to nonproliferation and political-military issues; and

(2) develop a group of highly specialized, technical experts with country expertise capable of administering the nonproliferation and political-military affairs functions of the Department.

(b) Authority

To carry out the purposes of subsection (a), the Secretary is authorized to establish the position of Counselor for Nonproliferation and Political Military Affairs in United States diplomatic missions overseas, to be filled by individuals who are career Civil Service officers or Foreign Service officers committed to follow-on assignments in the Nonproliferation Bureau or the Political Military Affairs Bureau of the Department.

(c) Training

After being selected to serve as Counselor, any person so selected shall spend not less than 10 months in language training courses at the Foreign Service Institute,[1] or in technical courses administered by the Department of Defense, the Department of Energy, or other appropriate departments and agencies of the United States, except that such requirement for training may be waived by the Secretary.

(Pub. L. 107–228, div. B, title XVI, §1604, Sept. 30, 2002, 116 Stat. 1460.)

CHANGE OF NAME

References to Foreign Service Institute considered to refer to George P. Shultz National Foreign Affairs Training Center, see section 1(b) of Pub. L. 107–132, set out as a note under section 4021 of this title.

DEFINITIONS

For definitions of "Department" and "Secretary" as used in this section, see section 3 of Pub. L. 107–228, set out as a note under section 2651 of this title.

[1] *See Change of Name note below.*

§2656. Management of foreign affairs

The Secretary of State shall perform such duties as shall from time to time be enjoined on or intrusted to him by the President relative to correspondences, commissions, or instructions to or with public ministers or consuls from the United States, or to negotiations with public ministers from foreign states or princes, or to memorials or other applications from foreign public ministers or other foreigners, or to such other matters respecting foreign affairs as the President of the United States shall assign to the Department, and he shall conduct the business of the Department in such manner as the President shall direct.

(R.S. §202.)

CODIFICATION

R.S. §202 derived from acts July 27, 1789, ch. 4, §1, 1 Stat. 28; Sept. 15, 1789, ch. 14, §1, 1 Stat. 68.

Section was formerly classified to section 156 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, §1, Sept. 6, 1966, 80 Stat. 378.

DELEGATION OF FUNCTIONS

Functions of President respecting certain facilities constructed and maintained on United States borders

delegated to Secretary of State, see Ex. Ord. No. 11423, Aug. 16, 1968, 33 F.R. 11741, set out as a note under section 301 of Title 3, The President.

PRESIDENTIAL DIRECTIVE

National Intelligence Authority and Central Intelligence Group, established by Presidential Directive, Feb. 1, 1946, 11 F.R. 1337, to coordinate Federal foreign intelligence activities, ceased to exist upon creation of Central Intelligence Agency; personnel, property and records of the group were transferred to the Agency; and unexpended funds of the group were made available to the Agency, by act July 26, 1947, ch. 343, title I, §102, 61 Stat. 497, formerly set out as section 403 of Title 50, War and National Defense. See Prior Provisions note under section 3023 of Title 50.

HUMAN RIGHTS SANCTIONS

Pub. L. 114–328, div. A, title XII, subtitle F, Dec. 23, 2016, 130 Stat. 2533, provided that:

"SEC. 1261. SHORT TITLE.

"This subtitle may be cited as the 'Global Magnitsky Human Rights Accountability Act'.

"SEC. 1262. DEFINITIONS.

"In this subtitle:

"(1) FOREIGN PERSON.—The term 'foreign person' has the meaning given that term in section 595.304 of title 31, Code of Federal Regulations (as in effect on the day before the date of the enactment of this Act [Dec. 23, 2016]).

"(2) Gross violations of internationally recognized human rights.—The term 'gross violations of internationally recognized human rights' has the meaning given that term in section 502B(d)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2304(d)(1)).

"(3) PERSON.—The term 'person' has the meaning given that term in section 591.308 of title 31, Code of Federal Regulations (as in effect on the day before the date of the enactment of this Act).

"(4) UNITED STATES PERSON.—The term 'United States person' has the meaning given that term in section 595.315 of title 31, Code of Federal Regulations (as in effect on the day before the date of the enactment of this Act).

"SEC. 1263. AUTHORIZATION OF IMPOSITION OF SANCTIONS.

"(a) IN GENERAL.—The President may impose the sanctions described in subsection (b) with respect to any foreign person the President determines, based on credible evidence—

"(1) is responsible for extrajudicial killings, torture, or other gross violations of internationally recognized human rights committed against individuals in any foreign country who seek—

"(A) to expose illegal activity carried out by government officials; or

"(B) to obtain, exercise, defend, or promote internationally recognized human rights and freedoms, such as the freedoms of religion, expression, association, and assembly, and the rights to a fair trial and democratic elections;

"(2) acted as an agent of or on behalf of a foreign person in a matter relating to an activity described in paragraph (1);

"(3) is a government official, or a senior associate of such an official, that is responsible for, or complicit in, ordering, controlling, or otherwise directing, acts of significant corruption, including the expropriation of private or public assets for personal gain, corruption related to government contracts or the extraction of natural resources, bribery, or the facilitation or transfer of the proceeds of corruption to foreign jurisdictions; or

"(4) has materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services in support of, an activity described in paragraph (3).

"(b) SANCTIONS DESCRIBED.—The sanctions described in this subsection are the following:

"(1) INADMISSIBILITY TO UNITED STATES.—In the case of a foreign person who is an individual—

"(A) ineligibility to receive a visa to enter the United States or to be admitted to the United States; or

"(B) if the individual has been issued a visa or other documentation, revocation, in accordance with section 221(i) of the Immigration and Nationality Act (8 U.S.C. 1201(i)), of the visa or other documentation.

"(2) BLOCKING OF PROPERTY.—

"(A) IN GENERAL.—The blocking, in accordance with the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), of all transactions in all property and interests in property of a

foreign person if such property and interests in property are in the United States, come within the United States, or are or come within the possession or control of a United States person.

"(B) INAPPLICABILITY OF NATIONAL EMERGENCY REQUIREMENT.—The requirements of section 202 of the International Emergency Economic Powers Act (50 U.S.C. 1701) shall not apply for purposes of this section.

"(C) EXCEPTION RELATING TO IMPORTATION OF GOODS.—

"(i) IN GENERAL.—The authority to block and prohibit all transactions in all property and interests in property under subparagraph (A) shall not include the authority to impose sanctions on the importation of goods.

"(ii) GOOD.—In this subparagraph, the term 'good' has the meaning given that term in section 16 of the Export Administration Act of 1979 (50 U.S.C. 4618) (as continued in effect pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.)).

"(c) CONSIDERATION OF CERTAIN INFORMATION IN IMPOSING SANCTIONS.—In determining whether to impose sanctions under subsection (a), the President shall consider—

"(1) information provided jointly by the chairperson and ranking member of each of the appropriate congressional committees; and

"(2) credible information obtained by other countries and nongovernmental organizations that monitor violations of human rights.

"(d) REQUESTS BY APPROPRIATE CONGRESSIONAL COMMITTEES.—

"(1) IN GENERAL.—Not later than 120 days after receiving a request that meets the requirements of paragraph (2) with respect to whether a foreign person has engaged in an activity described in subsection (a), the President shall—

"(A) determine if that person has engaged in such an activity; and

"(B) submit a classified or unclassified report to the chairperson and ranking member of the committee or committees that submitted the request with respect to that determination that includes—

"(i) a statement of whether or not the President imposed or intends to impose sanctions with respect to the person; and

"(ii) if the President imposed or intends to impose sanctions, a description of those sanctions.

"(2) REQUIREMENTS.—

"(A) REQUESTS RELATING TO HUMAN RIGHTS VIOLATIONS.—A request under paragraph (1) with respect to whether a foreign person has engaged in an activity described in paragraph (1) or (2) of subsection (a) shall be submitted to the President in writing jointly by the chairperson and ranking member of one of the appropriate congressional committees.

"(B) REQUESTS RELATING TO CORRUPTION.—A request under paragraph (1) with respect to whether a foreign person has engaged in an activity described in paragraph (3) or (4) of subsection (a) shall be submitted to the President in writing jointly by the chairperson and ranking member of—

"(i) one of the appropriate congressional committees of the Senate; and

"(ii) one of the appropriate congressional committees of the House of Representatives.

"(e) EXCEPTION TO COMPLY WITH UNITED NATIONS HEADQUARTERS AGREEMENT AND LAW ENFORCEMENT OBJECTIVES.—Sanctions under subsection (b)(1) shall not apply to an individual if admitting the individual into the United States would further important law enforcement objectives or is necessary to permit the United States to comply with the Agreement regarding the Headquarters of the United Nations, signed at Lake Success June 26, 1947, and entered into force November 21, 1947, between the United Nations and the United States, or other applicable international obligations of the United States.

"(f) ENFORCEMENT OF BLOCKING OF PROPERTY.—A person that violates, attempts to violate, conspires to violate, or causes a violation of a sanction described in subsection (b)(2) that is imposed by the President or any regulation, license, or order issued to carry out such a sanction shall be subject to the penalties set forth in subsections (b) and (c) of section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) to the same extent as a person that commits an unlawful act described in subsection (a) of that section.

"(g) TERMINATION OF SANCTIONS.—The President may terminate the application of sanctions under this section with respect to a person if the President determines and reports to the appropriate congressional committees not later than 15 days before the termination of the sanctions that—

"(1) credible information exists that the person did not engage in the activity for which sanctions were imposed;

"(2) the person has been prosecuted appropriately for the activity for which sanctions were imposed;

"(3) the person has credibly demonstrated a significant change in behavior, has paid an appropriate consequence for the activity for which sanctions were imposed, and has credibly committed to not engage

in an activity described in subsection (a) in the future; or

"(4) the termination of the sanctions is in the national security interests of the United States.

"(h) REGULATORY AUTHORITY.—The President shall issue such regulations, licenses, and orders as are necessary to carry out this section.

"(i) IDENTIFICATION OF SANCTIONABLE FOREIGN PERSONS.—The Assistant Secretary of State for Democracy, Human Rights, and Labor, in consultation with the Assistant Secretary of State for Consular Affairs and other bureaus of the Department of State, as appropriate, is authorized to submit to the Secretary of State, for review and consideration, the names of foreign persons who may meet the criteria described in subsection (a).

"(j) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term 'appropriate congressional committees' means—

"(1) the Committee on Banking, Housing, and Urban Affairs and the Committee on Foreign Relations of the Senate; and

"(2) the Committee on Financial Services and the Committee on Foreign Affairs of the House of Representatives.

"SEC. 1264. REPORTS TO CONGRESS.

"(a) IN GENERAL.—The President shall submit to the appropriate congressional committees, in accordance with subsection (b), a report that includes—

"(1) a list of each foreign person with respect to which the President imposed sanctions pursuant to section 1263 during the year preceding the submission of the report;

"(2) a description of the type of sanctions imposed with respect to each such person;

"(3) the number of foreign persons with respect to which the President—

"(A) imposed sanctions under section 1263(a) during that year; and

"(B) terminated sanctions under section 1263(g) during that year;

"(4) the dates on which such sanctions were imposed or terminated, as the case may be;

"(5) the reasons for imposing or terminating such sanctions; and

"(6) a description of the efforts of the President to encourage the governments of other countries to impose sanctions that are similar to the sanctions authorized by section 1263.

"(b) DATES FOR SUBMISSION.—

"(1) INITIAL REPORT.—The President shall submit the initial report under subsection (a) not later than 120 days after the date of the enactment of this Act [Dec. 23, 2016].

"(2) SUBSEQUENT REPORTS.—

"(A) IN GENERAL.—The President shall submit a subsequent report under subsection (a) on December 10, or the first day thereafter on which both Houses of Congress are in session, of—

"(i) the calendar year in which the initial report is submitted if the initial report is submitted before December 10 of that calendar year; and

"(ii) each calendar year thereafter.

"(B) CONGRESSIONAL STATEMENT.—Congress notes that December 10 of each calendar year has been recognized in the United States and internationally since 1950 as 'Human Rights Day'.

"(c) FORM OF REPORT.—

"(1) IN GENERAL.—Each report required by subsection (a) shall be submitted in unclassified form, but may include a classified annex.

"(2) EXCEPTION.—The name of a foreign person to be included in the list required by subsection (a)(1) may be submitted in the classified annex authorized by paragraph (1) only if the President—

"(A) determines that it is vital for the national security interests of the United States to do so;

"(B) uses the annex in a manner consistent with congressional intent and the purposes of this subtitle; and

"(C) not later than 15 days before submitting the name in a classified annex, provides to the appropriate congressional committees notice of, and a justification for, including the name in the classified annex despite any publicly available credible information indicating that the person engaged in an activity described in section 1263(a).

"(d) PUBLIC AVAILABILITY.—

"(1) IN GENERAL.—The unclassified portion of the report required by subsection (a) shall be made available to the public, including through publication in the Federal Register.

"(2) NONAPPLICABILITY OF CONFIDENTIALITY REQUIREMENT WITH RESPECT TO VISA RECORDS.—The President shall publish the list required by subsection (a)(1) without regard to the requirements of section 222(f) of the Immigration and Nationality Act (8 U.S.C. 1202(f)) with respect to confidentiality of records pertaining to the issuance or refusal of visas or permits to enter the United States.

"(e) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term 'appropriate congressional committees' means—

"(1) the Committee on Appropriations, the Committee on Banking, Housing, and Urban Affairs, the Committee on Foreign Relations, and the Committee on the Judiciary of the Senate; and

"(2) the Committee on Appropriations, the Committee on Financial Services, the Committee on Foreign Affairs, and the Committee on the Judiciary of the House of Representatives.

"SEC. 1265. SUNSET.

"(a) IN GENERAL.—The authority to impose sanctions under this subtitle shall terminate on the date that is 6 years after the date of the enactment of this Act [Dec. 23, 2016].

"(b) CONTINUATION IN EFFECT OF SANCTIONS.—Sanctions imposed under this subtitle on or before the date specified in subsection (a), and in effect as of such date, shall remain in effect until terminated in accordance with the requirements of section 1263(g)."

GLOBAL ENGAGEMENT CENTER

Pub. L. 114–328, div. A, title XII, §1287, Dec. 23, 2016, 130 Stat. 2546, provided that:

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2016], the Secretary of State, in coordination with the Secretary of Defense and the heads of other relevant Federal departments and agencies, shall establish within the Department of State a Global Engagement Center (in this section referred to as the 'Center').

"(2) PURPOSE.—The purpose of the Center shall be to lead, synchronize, and coordinate efforts of the Federal Government to recognize, understand, expose, and counter foreign state and non-state propaganda and disinformation efforts aimed at undermining United States national security interests.

"(b) FUNCTIONS.—The Center shall carry out the following functions:

"(1) Integrate interagency and international efforts to track and evaluate counterfactual narratives abroad that threaten the national security interests of the United States and United States allies and partner nations.

"(2) Analyze relevant information, data, analysis, and analytics from United States Government agencies, United States allies and partner nations, think tanks, academic institutions, civil society groups, and other nongovernmental organizations.

"(3) As needed, support the development and dissemination of fact-based narratives and analysis to counter propaganda and disinformation directed at the United States and United States allies and partner nations.

"(4) Identify current and emerging trends in foreign propaganda and disinformation in order to coordinate and shape the development of tactics, techniques, and procedures to expose and refute foreign misinformation and disinformation and proactively promote fact-based narratives and policies to audiences outside the United States.

"(5) Facilitate the use of a wide range of technologies and techniques by sharing expertise among Federal departments and agencies, seeking expertise from external sources, and implementing best practices.

"(6) Identify gaps in United States capabilities in areas relevant to the purpose of the Center and recommend necessary enhancements or changes.

"(7) Identify the countries and populations most susceptible to propaganda and disinformation based on information provided by appropriate interagency entities.

"(8) Administer the information access fund established pursuant to subsection (f).

"(9) Coordinate with United States allies and partner nations in order to amplify the Center's efforts and avoid duplication.

"(10) Maintain, collect, use, and disseminate records (as such term is defined in section 552a(a)(4) of title 5, United States Code) for research and data analysis of foreign state and non-state propaganda and disinformation efforts and communications related to public diplomacy efforts intended for foreign audiences. Such research and data analysis shall be reasonably tailored to meet the purposes of this paragraph and shall be carried out with due regard for privacy and civil liberties guidance and oversight.

"(c) HEAD OF CENTER.—

"(1) APPOINTMENT.—The head of the Center shall be an individual who is an official of the Federal Government, who shall be appointed by the President.

"(2) COMPLIANCE WITH PRIVACY AND CIVIL LIBERTIES LAWS.—The President shall designate a senior official to develop guidance for the Center relating to relevant privacy and civil liberties laws and to ensure compliance with such guidance.

"(d) EMPLOYEES OF THE CENTER.—

"(1) DETAILEES.—Any Federal Government employee may be detailed to the Center without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege for a period of not more than 3 years.

"(2) PERSONAL SERVICE CONTRACTORS.—The Secretary of State may hire United States citizens or aliens as personal services contractors for purposes of personnel resources of the Center, if—

"(A) the Secretary determines that existing personnel resources are insufficient;

"(B) the period in which services are provided by a personal services contractor, including options, does not exceed 3 years, unless the Secretary determines that exceptional circumstances justify an extension of up to one additional year;

"(C) not more than 50 United States citizens or aliens are employed as personal services contractors under the authority of this paragraph at any time; and

"(D) the authority of this paragraph is only used to obtain specialized skills or experience or to respond to urgent needs.

"(e) TRANSFER OF AMOUNTS AUTHORIZED.—

"(1) IN GENERAL.—If amounts authorized to be appropriated or otherwise made available to carry out the functions of the Center—

"(A) for fiscal year 2017 are less than $80,000,000, the Secretary of Defense is authorized to transfer, from amounts authorized to be appropriated by this Act [see Tables for classification] for the Department of Defense for fiscal year 2017, to the Secretary of State an amount, not to exceed $60,000,000, to be available to carry out the functions of the Center for fiscal year 2017; and

"(B) for fiscal year 2018 are less than $80,000,000, the Secretary of Defense is authorized to transfer, from amounts authorized to be appropriated by an Act authorizing funds for the Department of Defense for fiscal year 2018, to the Secretary of State an amount, not to exceed $60,000,000, to be available to carry out the functions of the Center for fiscal year 2018.

"(2) NOTICE REQUIREMENT.—The Secretary of Defense shall notify the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] of a proposed transfer under paragraph (1) not less than 15 days prior to making such transfer.

"(3) INAPPLICABILITY OF REPROGRAMMING REQUIREMENTS.—The authority to transfer amounts under paragraph (1) shall not be subject to any reprogramming requirement under any other provision of law.

"(f) INFORMATION ACCESS FUND.—

"(1) AUTHORITY FOR GRANTS.—The Center is authorized to provide grants or contracts of financial support to civil society groups, media content providers, nongovernmental organizations, federally funded research and development centers, private companies, or academic institutions for the following purposes:

"(A) To support local independent media who are best placed to refute foreign disinformation and manipulation in their own communities.

"(B) To collect and store examples in print, online, and social media, disinformation, misinformation, and propaganda directed at the United States and its allies and partners.

"(C) To analyze and report on tactics, techniques, and procedures of foreign information warfare with respect to disinformation, misinformation, and propaganda.

"(D) To support efforts by the Center to counter efforts by foreign entities to use disinformation, misinformation, and propaganda to influence the policies and social and political stability of the United States and United States allies and partner nations.

"(2) FUNDING AVAILABILITY AND LIMITATIONS.—The Secretary of State shall provide that each organization that applies to receive funds under this subsection is selected in accordance with the relevant existing regulations to ensure its bona fides, capability, and experience, and its compatibility with United States interests and objectives.

"(g) REPORTS.—

"(1) IN GENERAL.—Not later than one year after the date on which the Center is established, the Secretary of State shall submit to the appropriate congressional committees a report evaluating the success of the Center in carrying out its functions under subsection (b) and outlining steps to improve any areas of deficiency.

"(2) DEFINITION.—In this subsection, the term 'appropriate congressional committees' means—

"(A) the Committee on Foreign Relations, the Committee on Armed Services, the Committee on Homeland Security and Governmental Affairs, and the Committee on Appropriations of the Senate; and

"(B) the Committee on Foreign Affairs, the Committee on Armed Services, the Committee on Homeland Security, and the Committee on Appropriations of the House of Representatives.

"(h) LIMITATION.—None of the funds authorized to be appropriated or otherwise made available to carry out this section shall be used for purposes other than countering foreign propaganda and misinformation that threatens United States national security.

"(i) TERMINATION.—The Center shall terminate on the date that is 8 years after the date of the enactment of this Act [Dec. 23, 2016]."

STRATEGY FOR THE UNITED STATES RELATIONSHIP WITH SAUDI ARABIA

Pub. L. 110–53, title XX, §2043, Aug. 3, 2007, 121 Stat. 524, provided that:

"(a) CONGRESSIONAL FINDINGS.—Congress finds that:

"(1) The National Commission on Terrorist Attacks Upon the United States concluded that the Kingdom of Saudi Arabia has 'been a problematic ally in combating Islamic extremism. At the level of high policy, Saudi Arabia's leaders cooperated with American diplomatic initiatives aimed at the Taliban or Pakistan before 9/11. At the same time, Saudi Arabia's society was a place where al Qaeda raised money directly from individuals and through charities. It was the society that produced 15 of the 19 hijackers.'.

"(2) Saudi Arabia has an uneven record in the fight against terrorism, especially with respect to terrorist financing, support for radical madrassas, a lack of political outlets for its citizens, and restrictions on religious pluralism, that poses a threat to the security of the United States, the international community, and Saudi Arabia itself.

"(3) The National Commission on Terrorist Attacks Upon the United States concluded that the 'problems in the U.S.-Saudi relationship must be confronted, openly'. It recommended that the two countries build a relationship that includes a 'shared commitment to political and economic reform . . . and a shared interest in greater tolerance and cultural respect, translating into a commitment to fight the violent extremists who foment hatred'.

"(4) The United States has a national security interest in working with the Government of Saudi Arabia to combat international terrorists that operate within that country or that operate outside Saudi Arabia with the support of citizens of Saudi Arabia.

"(5) The United States and Saudi Arabia established a Strategic Dialogue in 2005, which provides a framework for the two countries to discuss a range of bilateral issues at high levels, including counterterrorism policy and political and economic reforms.

"(6) It is in the national security interest of the United States to support the Government of Saudi Arabia in undertaking a number of political and economic reforms, including increasing anti-terrorism operations conducted by law enforcement agencies, providing more political and religious rights to its citizens, increasing the rights of women, engaging in comprehensive educational reform, enhancing monitoring of charitable organizations, and promulgating and enforcing domestic laws and regulation on terrorist financing.

"(b) STATEMENT OF POLICY.—It is the policy of the United States—

"(1) to engage with the Government of Saudi Arabia to openly confront the issue of terrorism, as well as other problematic issues such as the lack of political freedoms;

"(2) to enhance counterterrorism cooperation with the Government of Saudi Arabia; and

"(3) to support the efforts of the Government of Saudi Arabia to make political, economic, and social reforms, including greater religious freedom, throughout the country.

"(c) PROGRESS IN COUNTERTERRORISM AND OTHER COOPERATION.—

"(1) REPORT.—Not later than 180 days after the date of the enactment of this Act [Aug. 3, 2007], the President shall transmit to the appropriate congressional committees a report that—

"(A) describes the long-term strategy of the United States—

"(i) to engage with the Government of Saudi Arabia to facilitate political, economic, and social reforms, including greater religious freedom, that will enhance the ability of the Government of Saudi Arabia to combat international terrorism; and

"(ii) to work with the Government of Saudi Arabia to combat terrorism, including through effective measures to prevent and prohibit the financing of terrorists by Saudi institutions and citizens; and

"(B) provides an assessment of the progress made by Saudi Arabia since 2001 on the matters described in subparagraph (A), including—

"(i) whether Saudi Arabia has become a party to the International Convention for the Suppression of the Financing of Terrorism; and

"(ii) the activities and authority of the Saudi Nongovernmental National Commission for

Relief and Charity Work Abroad.

"(2) FORM.—The report required by paragraph (1) shall be transmitted in unclassified form, but may include a classified annex, if necessary."

[For definition of "appropriate congressional committees" as used in section 2043 of Pub. L. 110–53, set out above, see section 2002 of Pub. L. 110–53, set out as a note under section 2151 of this title.]

[For assignment of functions of President under section 2043(c)(1) of Pub. L. 110–53, set out above, see Memorandum of President of the United States, Sept. 28, 2007, 72 F.R. 56871, set out as a note under section 2228 of this title.]

FINDINGS

Pub. L. 108–458, title VII, §7101, Dec. 17, 2004, 118 Stat. 3775, provided that: "Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

"(1) Long-term success in the war on terrorism demands the use of all elements of national power, including diplomacy, military action, intelligence, covert action, law enforcement, economic policy, foreign aid, public diplomacy, and homeland defense.

"(2) To win the war on terrorism, the United States must assign to economic and diplomatic capabilities the same strategic priority that is assigned to military capabilities.

"(3) The legislative and executive branches of the Government of the United States must commit to robust, long-term investments in all of the tools necessary for the foreign policy of the United States to successfully accomplish the goals of the United States.

"(4) The investments referred to in paragraph (3) will require increased funding to United States foreign affairs programs in general, and to priority areas as described in this title [see Tables for classification] in particular."

COMPREHENSIVE COALITION STRATEGY FOR FIGHTING TERRORISM

Pub. L. 108–458, title VII, §7117, Dec. 17, 2004, 118 Stat. 3799, provided that:

"(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

"(1) Almost every aspect of the counterterrorism strategy of the United States relies on international cooperation.

"(2) Since September 11, 2001, the number and scope of United States Government contacts with foreign governments concerning counterterrorism have expanded significantly, but such contacts have often been ad hoc and not integrated as a comprehensive and unified approach to counterterrorism.

"(b) IN GENERAL.—The Secretary of State is authorized in consultation with relevant United States Government agencies, to negotiate on a bilateral or multilateral basis, as appropriate, international agreements under which parties to an agreement work in partnership to address and interdict acts of international terrorism.

"(c) INTERNATIONAL CONTACT GROUP ON COUNTERTERRORISM.—

"(1) SENSE OF CONGRESS.—It is the sense of Congress that the President—

"(A) should seek to engage the leaders of the governments of other countries in a process of advancing beyond separate and uncoordinated national counterterrorism strategies to develop with those other governments a comprehensive multilateral strategy to fight terrorism; and

"(B) to that end, should seek to establish an international counterterrorism policy contact group with the leaders of governments providing leadership in global counterterrorism efforts and governments of countries with sizable Muslim populations, to be used as a ready and flexible international means for discussing and coordinating the development of important counterterrorism policies by the participating governments.

"(2) AUTHORITY.—The President is authorized to establish an international counterterrorism policy contact group with the leaders of governments referred to in paragraph (1) for the following purposes:

"(A) To meet annually, or more frequently as the President determines appropriate, to develop in common with such other governments important policies and a strategy that address the various components of international prosecution of the war on terrorism, including policies and a strategy that address military issues, law enforcement, the collection, analysis, and dissemination of intelligence, issues relating to interdiction of travel by terrorists, counterterrorism-related customs issues, financial issues, and issues relating to terrorist sanctuaries.

"(B) To address, to the extent (if any) that the President and leaders of other participating governments determine appropriate, long-term issues that can contribute to strengthening stability and security in the Middle East."

INTERNATIONAL AGREEMENTS TO TRACK AND CURTAIL TERRORIST TRAVEL THROUGH THE USE OF FRAUDULENTLY OBTAINED DOCUMENTS

Pub. L. 108–458, title VII, §7204, Dec. 17, 2004, 118 Stat. 3814, provided that:

"(a) FINDINGS.—Congress makes the following findings:

"(1) International terrorists travel across international borders to raise funds, recruit members, train for operations, escape capture, communicate, and plan and carry out attacks.

"(2) The international terrorists who planned and carried out the attack on the World Trade Center on February 26, 1993, the attack on the embassies of the United States in Kenya and Tanzania on August 7, 1998, the attack on the USS Cole on October 12, 2000, and the attack on the World Trade Center and the Pentagon on September 11, 2001, traveled across international borders to plan and carry out these attacks.

"(3) The international terrorists who planned other attacks on the United States, including the plot to bomb New York City landmarks in 1993, the plot to bomb the New York City subway in 1997, and the millennium plot to bomb Los Angeles International Airport on December 31, 1999, traveled across international borders to plan and carry out these attacks.

"(4) Many of the international terrorists who planned and carried out large-scale attacks against foreign targets, including the attack in Bali, Indonesia, on October 11, 2002, and the attack in Madrid, Spain, on March 11, 2004, traveled across international borders to plan and carry out these attacks.

"(5) Throughout the 1990s, international terrorists, including those involved in the attack on the World Trade Center on February 26, 1993, the plot to bomb New York City landmarks in 1993, and the millennium plot to bomb Los Angeles International Airport on December 31, 1999, traveled on fraudulent passports and often had more than 1 passport.

"(6) Two of the September 11, 2001, hijackers were carrying passports that had been manipulated in a fraudulent manner.

"(7) The National Commission on Terrorist Attacks Upon the United States, (commonly referred to as the 9/11 Commission), stated that 'Targeting travel is at least as powerful a weapon against terrorists as targeting their money.'.

"(b) INTERNATIONAL AGREEMENTS TO TRACK AND CURTAIL TERRORIST TRAVEL.—

"(1) INTERNATIONAL AGREEMENT ON LOST, STOLEN, OR FALSIFIED DOCUMENTS .—The President should lead efforts to track and curtail the travel of terrorists by supporting the drafting, adoption, and implementation of international agreements, and relevant United Nations Security Council resolutions to track and stop international travel by terrorists and other criminals through the use of lost, stolen, or falsified documents to augment United Nations and other international anti-terrorism efforts.

"(2) CONTENTS OF INTERNATIONAL AGREEMENT.—The President should seek, as appropriate, the adoption or full implementation of effective international measures to—

"(A) share information on lost, stolen, and fraudulent passports and other travel documents for the purposes of preventing the undetected travel of persons using such passports and other travel documents that were obtained improperly;

"(B) establish and implement a real-time verification system of passports and other travel documents with issuing authorities;

"(C) share with officials at ports of entry in any such country information relating to lost, stolen, and fraudulent passports and other travel documents;

"(D) encourage countries—

"(i) to criminalize—

"(I) the falsification or counterfeiting of travel documents or breeder documents for any purpose;

"(II) the use or attempted use of false documents to obtain a visa or cross a border for any purpose;

"(III) the possession of tools or implements used to falsify or counterfeit such documents;

"(IV) the trafficking in false or stolen travel documents and breeder documents for any purpose;

"(V) the facilitation of travel by a terrorist; and

"(VI) attempts to commit, including conspiracies to commit, the crimes specified in subclauses (I) through (V);

"(ii) to impose significant penalties to appropriately punish violations and effectively deter the crimes specified in clause (i); and

"(iii) to limit the issuance of citizenship papers, passports, identification documents, and similar documents to persons—

"(I) whose identity is proven to the issuing authority;

"(II) who have a bona fide entitlement to or need for such documents; and

"(III) who are not issued such documents principally on account of a disproportional payment made by

them or on their behalf to the issuing authority;

"(E) provide technical assistance to countries to help them fully implement such measures; and

"(F) permit immigration and border officials—

"(i) to confiscate a lost, stolen, or falsified passport at ports of entry;

"(ii) to permit the traveler to return to the sending country without being in possession of the lost, stolen, or falsified passport; and

"(iii) to detain and investigate such traveler upon the return of the traveler to the sending country.

"(3) INTERNATIONAL CIVIL AVIATION ORGANIZATION.—The United States shall lead efforts to track and curtail the travel of terrorists by supporting efforts at the International Civil Aviation Organization to continue to strengthen the security features of passports and other travel documents.

"(c) REPORT.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act [Dec. 17, 2004], and at least annually thereafter, the President shall submit to the appropriate congressional committees a report on progress toward achieving the goals described in subsection (b).

"(2) TERMINATION.—Paragraph (1) shall cease to be effective when the President certifies to the Committee on International Relations [now Committee on Foreign Affairs] of the House of Representatives and the Committee on Foreign Relations of the Senate that the goals described in subsection (b) have been fully achieved."

[Functions of President under subsec. (c) of section 7204 of Pub. L. 108–458, set out above, assigned to Secretary of State by section 1 of Memorandum of President of the United States, Apr. 21, 2005, 70 F.R. 48633, set out as a note under section 301 of title 3, The President.]

EAST TIMOR TRANSITION TO INDEPENDENCE

Pub. L. 107–228, div. A, title VI, subtitle C, Sept. 30, 2002, 116 Stat. 1399, provided that:

"SEC. 631. SHORT TITLE.

"This subtitle may be cited as the 'East Timor Transition to Independence Act of 2002'.

"SEC. 632. BILATERAL ASSISTANCE.

"(a) AUTHORITY.—The President, acting through the Administrator of the United States Agency for International Development, is authorized to—

"(1) support the development of civil society, including nongovernmental organizations in East Timor;

"(2) promote the development of an independent news media;

"(3) support job creation, including support for small business and microenterprise programs, environmental protection, sustainable development, development of East Timor's health care infrastructure, educational programs, and programs strengthening the role of women in society;

"(4) promote reconciliation, conflict resolution, and prevention of further conflict with respect to East Timor, including establishing accountability for past gross human rights violations;

"(5) support the voluntary and safe repatriation and reintegration of refugees into East Timor;

"(6) support political party development, voter education, voter registration, and other activities in support of free and fair elections in East Timor; and

"(7) promote the development of the rule of law.

"(b) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There is authorized to be appropriated to the President to carry out this section $25,000,000 for the fiscal year 2003.

"(2) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under paragraph (1) are authorized to remain available until expended.

"SEC. 633. MULTILATERAL ASSISTANCE.

"The Secretary of the Treasury shall instruct the United States executive director at each international financial institution to which the United States is a member to use the voice, vote, and influence of the United States to support economic and democratic development in East Timor.

"SEC. 634. TRADE AND INVESTMENT ASSISTANCE.

"(a) OPIC.—The President should initiate negotiations with the Government of East Timor to enter into a new agreement authorizing the Overseas Private Investment Corporation to carry out programs with respect to East Timor in order to expand United States investment in East Timor, emphasizing partnerships with local East Timorese enterprises.

"(b) TRADE AND DEVELOPMENT AGENCY.—

"(1) IN GENERAL.—The Director of the Trade and Development Agency is authorized to carry out projects in East Timor under section 661 of the Foreign Assistance Act of 1961 (22 U.S.C. 2421).

"(2) AUTHORIZATION OF APPROPRIATIONS.—

"(A) IN GENERAL.—There are authorized to be appropriated to the Trade and Development Agency to carry out this subsection $1,000,000 for fiscal year 2003.

"(B) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under subparagraph (A) are authorized to remain available until expended.

"(c) EXPORT-IMPORT BANK.—The Export-Import Bank of the United States should expand its activities in connection with exports to East Timor to the extent such activities are requested and to the extent there is a reasonable assurance of repayment.

"SEC. 635. GENERALIZED SYSTEM OF PREFERENCES.

"As soon as possible after the enactment of this Act [Sept. 30, 2002], the United States Trade Representative and the Commissioner of Customs should send an assessment team to East Timor to compile a list of duty-free eligible products so that the Government of East Timor can begin the process of applying for General System of Preference benefits.

"SEC. 636. AUTHORITY FOR RADIO BROADCASTING.

"The Broadcasting Board of Governors should broadcast to East Timor in an appropriate language or languages.

"SEC. 637. SECURITY ASSISTANCE FOR EAST TIMOR.

"(a) STUDY AND REPORT.—

"(1) STUDY.—The President shall conduct a study to determine—

"(A) the extent to which East Timor's security needs can be met by the transfer of excess defense articles under section 516 of the Foreign Assistance Act of 1961 [22 U.S.C. 2321j];

"(B) the extent to which international military education and training (IMET) assistance will enhance professionalism of the armed forces of East Timor, provide training in human rights, and promote respect for human rights and humanitarian law; and

"(C) the terms and conditions under which such defense articles or training, as appropriate, should be provided.

"(2) REPORT.—Not later than 180 days after the date of the enactment of this Act [Sept. 30, 2002], the President shall transmit to the appropriate congressional committees a report that contains the findings of the study conducted under paragraph (1).

"(b) AUTHORIZATION OF ASSISTANCE.—

"(1) IN GENERAL.—Beginning on the date on which Congress receives the report transmitted under subsection (a)(2), or the date on which Congress receives the certification transmitted under paragraph (2), whichever occurs later, the President is authorized—

"(A) to transfer excess defense articles under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j) to East Timor in accordance with such section; and

"(B) to provide military education and training under chapter 5 of part II of such Act (22 U.S.C. 2347 et seq.) for the armed forces of East Timor in accordance with such chapter.

"(2) CERTIFICATION.—A certification described in this paragraph is a certification that—

"(A) East Timor has established an independent armed forces; and

"(B) the assistance proposed to be provided pursuant to paragraph (1)—

"(i) is in the national security interests of the United States; and

"(ii) will promote both human rights in East Timor and the professionalization of the armed forces of East Timor.

"SEC. 638. REPORTING REQUIREMENT.

"(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act [Sept. 30, 2002], and every 12 months thereafter for the next five years, the Secretary shall prepare and transmit to the appropriate congressional committees a report that contains the information described in subsection (b).

"(b) INFORMATION.—The report required by subsection (a) shall include—

"(1) developments in East Timor's political and economic situation in the period covered by the report, including an evaluation of any elections which have occurred in East Timor and the refugee reintegration process in East Timor;

"(2) in the initial report, a 3-year plan for United States foreign assistance to East Timor in accordance with section 632, prepared by the Administrator of the United States Agency for International Development, which outlines the goals for United States foreign assistance to East Timor during the 3-year

period;

"(3) a description of the activities undertaken in East Timor by the International Bank for Reconstruction and Development, the Asian Development Bank, and other international financial institutions, and an evaluation of the effectiveness of these activities;

"(4) an assessment of the status of United States trade and investment relations with East Timor, including a detailed analysis of any trade and investment-related activity supported by the Overseas Private Investment Corporation, the Export-Import Bank of the United States, or the Trade and Development Agency during the period of time since the previous report;

"(5) a comprehensive study and report on local agriculture in East Timor, emerging opportunities for producing, processing, and exporting indigenous agricultural products, and recommendations for appropriate technical assistance from the United States; and

"(6) statistical data drawn from other sources on economic growth, health, education, and distribution of resources in East Timor."

[For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107–296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114–125, and section 802(b) of Pub. L. 114–125, set out as a note under section 211 of Title 6.]

[For definitions of "appropriate congressional committees" and "Secretary" as used in subtitle C of title VI of div. A of Pub. L. 107–228, set out above, see section 3 of Pub. L. 107–228, set out as a note under section 2651 of this title.]

PRESIDENTIAL CERTIFICATION AUTHORIZING SECURITY ASSISTANCE TO EAST TIMOR

Determination of President of the United States, No. 2003–19, Mar. 28, 2003, 68 F.R. 16167, provided:

Memorandum for the Secretary of State

Pursuant to the authority vested in me by the Constitution and laws of the United States, including section 637(b)(2) of the Foreign Relations Authorization Act, Fiscal Year 2003 [Pub. L. 107–228, §637(b)(2), set out above], I hereby certify that East Timor has established an independent armed forces; and that the provision to East Timor of military assistance in the form of excess defense articles and international military education and training is in the national security interests of the United States, and will promote both human rights in East Timor and the professionalization of the armed forces of East Timor.

You are hereby authorized and directed to report this certification, accompanying memorandum of justification [not set out in the Code], and report on East Timor security assistance to the Congress, and to arrange for the publication of this memorandum in the Federal Register.

GEORGE W. BUSH.

PACIFIC CHARTER COMMISSION

Pub. L. 106–570, title IV, Dec. 27, 2000, 114 Stat. 3047, known as the Pacific Charter Commission Act of 2000, provided for the establishment of the Pacific Charter Commission to promote United States foreign policy, support democratization, rule of law, and human rights, promote United States exports, assist in combating terrorism and spread of illicit narcotics, and advocate for United States diplomacy, all in the Asia-Pacific region, with authority to establish the Commission to expire Dec. 31, 2002, and termination of the Commission to occur not later than six years after the date of establishment.

RECORD OF WAR CRIMINALS AND SANCTIONED COUNTRIES, ENTITIES, AND MUNICIPALITIES; ROLE OF HUMAN RIGHTS ORGANIZATIONS AND GOVERNMENT AGENCIES

Pub. L. 106–429, §101(a) [title V, §564(e), (g), (j), (k)], Nov. 6, 2000, 114 Stat. 1900, 1900A–48 to 1900A–50, as amended by Pub. L. 112–74, div. I, title VII, §7034(n), Dec. 23, 2011, 125 Stat. 1217, provided that:

"(e) SANCTIONED COUNTRY, ENTITY, OR MUNICIPALITY.—A sanctioned country, entity, or municipality described in this section [114 Stat. 1900A–46] is one whose competent authorities have failed, as determined by the Secretary of State, to take necessary and significant steps to apprehend and transfer to the Tribunal all persons who have been publicly indicted by the Tribunal.

"(g) CURRENT RECORD OF WAR CRIMINALS AND SANCTIONED COUNTRIES, ENTITIES, AND

MUNICIPALITIES.—

"(1) IN GENERAL.—The Secretary of State shall establish and maintain a current record of the location, including the municipality, if known, of publicly indicted war criminals and a current record of sanctioned countries, entities, and municipalities.

"(2) INFORMATION OF THE DCI AND THE SECRETARY OF DEFENSE.—The Director of Central Intelligence and the Secretary of Defense should collect and provide to the Secretary of State information concerning the location, including the municipality, of publicly indicted war criminals.

"(3) INFORMATION OF THE TRIBUNAL.—The Secretary of State shall request that the Tribunal and other international organizations and governments provide the Secretary of State information concerning the location, including the municipality, of publicly indicted war criminals and concerning country, entity and municipality authorities known to have obstructed the work of the Tribunal.

"[(4) Repealed. Pub. L. 112–74, div. I, title VII, §7034(n), Dec. 23, 2011, 125 Stat. 1217.]

"(5) INFORMATION TO CONGRESS.—Upon the request of the chairman or ranking minority member of any of the appropriate congressional committees, the Secretary of State shall make available to that committee the information recorded under paragraph (1) in a report submitted to the committee in classified and unclassified form.

"(j) DEFINITIONS.—As used in this section—

"(1) COUNTRY.—The term 'country' means Bosnia-Herzegovina, Croatia, and Serbia.

"(2) ENTITY.—The term 'entity' refers to the Federation of Bosnia and Herzegovina, Kosova, Montenegro, and the Republika Srpska.

"(3) DAYTON AGREEMENT.—The term 'Dayton Agreement' means the General Framework Agreement for Peace in Bosnia and Herzegovina, together with annexes relating thereto, done at Dayton, November 10 through 16, 1995.

"(4) TRIBUNAL.—The term 'Tribunal' means the International Criminal Tribunal for the Former Yugoslavia.

"(k) ROLE OF HUMAN RIGHTS ORGANIZATIONS AND GOVERNMENT AGENCIES.—In carrying out this section, the Secretary of State, the Administrator of the Agency for International Development, and the executive directors of the international financial institutions shall consult with representatives of human rights organizations and all government agencies with relevant information to help prevent publicly indicted war criminals from benefiting from any financial or technical assistance or grants provided to any country or entity described in subsection (e)."

[Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108–458, set out as a note under section 3001 of Title 50, War and National Defense.]

Similar provisions were contained in the following prior appropriation act:

Pub. L. 106–113, div. B, §1000(a)(2) [title V, §566(e), (g), (j), (k)], Nov. 29, 1999, 113 Stat. 1535, 1501A–107 to 1501A–109.

REPORT CONCERNING FINANCIAL DISADVANTAGES FOR ADMINISTRATIVE AND TECHNICAL PERSONNEL

Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title III, §338], Nov. 29, 1999, 113 Stat. 1536, 1501A–443, provided findings regarding financial disadvantages of administrative and technical personnel posted to United States missions abroad who do not have diplomatic status and required related report to Congress by the Secretary of State not later than one year after Nov. 29, 1999.

PRISONER INFORMATION REGISTRY FOR THE PEOPLE'S REPUBLIC OF CHINA

Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title VIII, §873], Nov. 29, 1999, 113 Stat. 1536, 1501A–474, provided that:

"(a) REQUIREMENT.—The Secretary of State shall establish and maintain a registry which shall, to the extent practicable, provide information on all political prisoners, prisoners of conscience, and prisoners of faith in the People's Republic of China. The registry shall be known as the 'Prisoner Information Registry for the People's Republic of China'.

"(b) INFORMATION IN REGISTRY.—The registry required by subsection (a) shall include information on the charges, judicial processes, administrative actions, uses of forced labor, incidents of torture, lengths of imprisonment, physical and health conditions, and other matters associated with the incarceration of prisoners in the People's Republic of China referred to in that subsection.

"(c) AVAILABILITY OF FUNDS.—The Secretary may make a grant to nongovernmental organizations currently engaged in monitoring activities regarding political prisoners in the People's Republic of China in order to assist in the establishment and maintenance of the registry required by subsection (a)."

REPORT TO CONGRESS ON ACTIVITIES OF NORTH KOREAN ARMED FORCES

Pub. L. 104–208, div. A, title I, §101(c) [title V, §585], Sept. 30, 1996, 110 Stat. 3009–121, 3009–171, as amended by Pub. L. 107–228, div. B, title XIII, §1308(g)(1)(D), (2), Sept. 30, 2002, 116 Stat. 1441, which required the Secretary of State, in consultation with the Secretary of Defense, to provide semiannual reports relating to the military forces of the Democratic People's Republic of Korea, was repealed by Pub. L. 113–76, div. K, title VII, §7034(i), Jan. 17, 2014, 128 Stat. 514.

REPORTS TO WAR CRIMES TRIBUNAL FOR FORMER YUGOSLAVIA

Pub. L. 106–113, div. B, §1000(a)(2) [title V, §552], Nov. 29, 1999, 113 Stat. 1535, 1501A–99, provided in part: "That 60 days after the date of the enactment of this Act [Nov. 29, 1999], and every 180 days thereafter, the Secretary of State shall submit a report to the Committees on Appropriations describing the steps the United States Government is taking to collect information regarding allegations of genocide or other violations of international law in the former Yugoslavia and to furnish that information to the United Nations War Crimes Tribunal for the former Yugoslavia".

Similar provisions were contained in the following appropriation acts:

Pub. L. 106–429, §101(a) [title V, §552], Nov. 6, 2000, 114 Stat. 1900, 1900A–41.

Pub. L. 105–277, div. A, §101(d) [title V, §554], Oct. 21, 1998, 112 Stat. 2681–150, 2681–188.

Pub. L. 105–118, title V, §553, Nov. 26, 1997, 111 Stat. 2422.

Pub. L. 104–208, div. A, title I, §101(c) [title V, §555], Sept. 30, 1996, 110 Stat. 3009–121, 3009–160.

Pub. L. 104–107, title V, §556, Feb. 12, 1996, 110 Stat. 743.

Pub. L. 103–306, title V, §575, Aug. 23, 1994, 108 Stat. 1653.

REPORTING REQUIREMENTS ON OCCUPIED TIBET

Pub. L. 103–236, title V, §536, Apr. 30, 1994, 108 Stat. 481, provided that:

"(a) REPORT ON UNITED STATES-TIBET RELATIONS.—Because Congress has determined that Tibet is an occupied sovereign country under international law and that its true representatives are the Dalai Lama and the Tibetan Government in exile—

"(1) it is the sense of the Congress that the United States should seek to establish a dialogue with those recognized by Congress as the true representatives of the Tibetan people, the Dalai Lama, his representatives and the Tibetan Government in exile, concerning the situation in Tibet and the future of the Tibetan people and to expand and strengthen United States-Tibet cultural and educational relations, including promoting bilateral exchanges arranged directly with the Tibetan Government in exile; and

"(2) not later than 6 months after the date of enactment of this Act [Apr. 30, 1994], and every 12 months thereafter, the Secretary of State shall transmit to the Chairman of the Committee on Foreign Relations and the Speaker of the House of Representatives a report on the state of relations between the United States and those recognized by Congress as the true representatives of the Tibetan people, the Dalai Lama, his representatives and the Tibetan Government in exile, and on conditions in Tibet.

"(b) SEPARATE TIBET REPORTS.—

"(1) It is the sense of the Congress that whenever a report is transmitted to the Congress on a country-by-country basis there should be included in such report, where applicable, a separate report on Tibet listed alphabetically with its own state heading.

"(2) The reports referred to in paragraph (1) include, but are not limited to, reports transmitted under sections 116(d) and 502B(b) of the Foreign Assistance Act of 1961 [22 U.S.C. 2151n(d), 2304(b)] (relating to human rights)."

CAMBODIAN GENOCIDE

Pub. L. 103–236, title V, part D, Apr. 30, 1994, 108 Stat. 486, provided that:

"SEC. 571. SHORT TITLE.

"This part may be cited as the 'Cambodian Genocide Justice Act'.

"SEC. 572. POLICY.

"(a) IN GENERAL.—Consistent with international law, it is the policy of the United States to support efforts to bring to justice members of the Khmer Rouge for their crimes against humanity committed in Cambodia between April 17, 1975, and January 7, 1979.

"(b) SPECIFIC ACTIONS URGED.—To that end, the Congress urges the President—

"(1) to collect, or assist appropriate organizations and individuals to collect relevant data on crimes of genocide committed in Cambodia;

"(2) in circumstances which the President deems appropriate, to encourage the establishment of a national or international criminal tribunal for the prosecution of those accused of genocide in Cambodia; and

"(3) as necessary, to provide such national or international tribunal with information collected pursuant to paragraph (1).

"SEC. 573. ESTABLISHMENT OF STATE DEPARTMENT OFFICE.

"(a) ESTABLISHMENT.—(1) None of the funds authorized to be appropriated by this Act for 'Diplomatic and Consular Programs' shall be available for obligation or expenditure during fiscal years 1994 and 1995 unless, not later than 90 days after the date of enactment of this Act [Apr. 30, 1994], the Secretary of State has established within the Department of State under the Assistant Secretary for East Asia and Pacific Affairs (or any successor Assistant Secretary) the Office of Cambodian Genocide Investigation (hereafter in this part referred to as the 'Office').

"(2) The Office may carry out its activities inside or outside of Cambodia, except that not less than 75 percent of the funds made available for the Office and its activities shall be used to carry out activities within Cambodia.

"(b) PURPOSE.—The purpose of the Office shall be to support, through organizations and individuals with whom the Secretary of State may contract to carry out the operations of the Office, as appropriate, efforts to bring to justice members of the Khmer Rouge for their crimes against humanity committed in Cambodia between April 17, 1975, and January 7, 1979, including—

"(1) to investigate crimes against humanity committed by national Khmer Rouge leaders during that period;

"(2) to provide the people of Cambodia with access to documents, records, and other evidence held by the Office as a result of such investigation;

"(3) to submit the relevant data to a national or international penal tribunal that may be convened to formally hear and judge the genocidal acts committed by the Khmer Rouge; and

"(4) to develop the United States proposal for the establishment of an international criminal tribunal for the prosecution of those accused of genocide in Cambodia.

"(c) CONTRACTING AUTHORITY.—The Secretary of State shall, subject to the availability of appropriations, contract with appropriate individuals and organizations to carry out the purpose of the Office.

"(d) NOTIFICATION TO CONGRESS.—The Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives shall be notified of any exercise of the authority of section 34 of the State Department Basic Authorities Act of 1956 [22 U.S.C. 2706] with respect to the Office or any of its programs, projects, or activities at least 15 days in advance in accordance with procedures applicable to notifications under that section.

"SEC. 574. REPORTING REQUIREMENT.

"(a) IN GENERAL.—Beginning 6 months after the date of enactment of this Act [Apr. 30, 1994], and every 6 months thereafter, the President shall submit a report to the appropriate congressional committees—

"(1) that describes the activities of the Office, and sets forth new facts learned about past Khmer Rouge practices, during the preceding 6-month period; and

"(2) that describes the steps the President has taken during the preceding 6-month period to promote human rights, to support efforts to bring to justice the national political and military leadership of the Khmer Rouge, and to prevent the recurrence of human rights abuses in Cambodia through actions which are not related to United Nations activities in Cambodia.

"(b) DEFINITION.—For purposes of this section, the term 'appropriate congressional committees' means the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives."

[Functions of President under section 574 of Pub. L. 103–236, set out above, delegated to Secretary of State by Memorandum of President of the United States, July 26, 1994, 59 F.R. 40205, set out as a note under section 2370a of this title.]

BROADENING CULTURAL, GEOGRAPHIC, AND ETHNIC REPRESENTATION OF FOREIGN SERVICE AND DEPARTMENT OF STATE; PLAN

Pub. L. 101–246, title I, §153(a), (b), Feb. 16, 1990, 104 Stat. 43, as amended by Pub. L. 101–302, title III, §320(b)(2), May 25, 1990, 104 Stat. 247, required the Secretary of State to submit, not later than 120 days

after Feb. 16, 1990, and to implement, not later than Jan. 1, 1991, a plan to assure equal efforts in recruiting certain employees from different regions in the United States.

PROHIBITION ON USE OF FUNDS FOR POLITICAL PURPOSES

Pub. L. 100–204, title I, §109, Dec. 22, 1987, 101 Stat. 1339, provided that: "No funds authorized to be appropriated by this Act or by any other Act authorizing funds for any entity engaged in any activity concerning the foreign affairs of the United States shall be used—

"(1) for publicity or propaganda purposes designed to support or defeat legislation pending before Congress;

"(2) to influence in any way the outcome of a political election in the United States; or

"(3) for any publicity or propaganda purposes not authorized by Congress."

CONSULAR AND DIPLOMATIC POSTS ABROAD

Pub. L. 100–204, title I, §122, Dec. 22, 1987, 101 Stat. 1339, prohibited use of appropriated funds for closing United States consular or diplomatic posts abroad, or for paying expenses related to Bureau of Administration of Department of State if a post was closed after Jan. 1, 1987, and not reopened, provided funding for certain consulates, provided exceptions for prohibition on use of appropriated funds, permitted Secretary of State, in case of a sequestration order, to submit a report proposing a list of consular posts to be downgraded or closed in order to comply with sequestration order, and provided that the prohibitions were to be effective 180 days after Dec. 22, 1987, prior to repeal by Pub. L. 102–138, title I, §112(b), Oct. 28, 1991, 105 Stat. 655. See section 2720 of this title.

CLOSING OF DIPLOMATIC AND CONSULAR POSTS IN ANTIGUA AND BARBUDA

Pub. L. 100–204, title I, §123, Dec. 22, 1987, 101 Stat. 1339, directed that none of the funds made available for the Department of State for any fiscal year be used for expenses of maintaining a United States diplomatic or consular post in Antigua and Barbuda and provided that such prohibition take effect 60 days after Dec. 22, 1987, unless the President made a determination that such closing would not be in the national security interest of the United States and informed both the Chairman of the Senate Foreign Relations Committee and the House Foreign Affairs Committee of such determination, prior to repeal by Pub. L. 101–246, title I, §121, Feb. 16, 1990, 104 Stat. 27.

CLOSURE OF MISSION IN ANTIGUA AND BARBUDA NOT IN UNITED STATES INTERESTS

Determination of President of the United States, No. 88–9, Feb. 9, 1988, 53 F.R. 5749, provided:

Memorandum for the Secretary of State

In accordance with Section 123 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100–204) [set out above], I have determined that closure of the U.S. Diplomatic and Consular Mission in Antigua and Barbuda is not in the national security interests of the United States.

You are hereby authorized and directed to report this determination to the Congress, as required by law. This determination shall be published in the Federal Register.

RONALD REAGAN.

ASSIGNMENT OF DRUG ENFORCEMENT ADMINISTRATION AGENTS ABROAD

Pub. L. 100–204, title VIII, §801, Dec. 22, 1987, 101 Stat. 1397, provided that: "If the Secretary of State, in exercising his authority to establish overseas staffing levels for Federal agencies with activities abroad, authorizes the assignment of any Drug Enforcement Administration agent to a particular United States mission abroad, the Secretary shall authorize the assignment of at least two such agents to that mission."

WAIVER OF PROVISIONS OF PUBLIC LAW 100–204 DURING FISCAL YEARS 1988 AND 1989

Pub. L. 100–202, §101(a) [title III, §305], Dec. 22, 1987, 101 Stat. 1329, 1329–23, provided that: "The following sections of H.R. 1777 (the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 [Pub. L. 100–204]) are waived during Fiscal Years 1988 and 1989 in the event that H.R. 1777 is enacted into law: Sec. 122 [set out above], Sec. 151, and Sec. 204 [22 U.S.C. 1461 note]."

REPORT TO CONGRESS ON SOVIET BREACH OF DUTIES OBLIGATIONS TO UNITED STATES DIPLOMATS OR MISSIONS

Pub. L. 99–500, §101(b) [title III, §300], Oct. 18, 1986, 100 Stat. 1783–39, 1783–58, and Pub. L. 99–591, §101(b) [title III, §300], Oct. 30, 1986, 100 Stat. 3341–39, 3341–58, which required the Secretary of State to report every six months to the Speaker of the House of Representatives and the President of the Senate on failures by Soviet agencies to perform obligations to United States diplomats or United States missions to the

Soviet Union and on actions undertaken by the Department of State to redress these failures, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 127 of House Document No. 103–7.

RESPONSIBILITY OF UNITED STATES MISSIONS TO PROMOTE FREEDOM OF PRESS ABROAD

Pub. L. 99–93, title I, §138, Aug. 16, 1985, 99 Stat. 422, provided that:

"(a) RESPONSIBILITY.—The United States chief of mission to a foreign country in which there is not respect for freedom of the press shall actively promote respect for freedom of the press in that country.

"(b) DEFINITION.—As used in this section, the term 'respect for freedom of the press' means that a government—

"(1) allows foreign news correspondents into the country and does not subject them to harassment or restrictions;

"(2) allows nongovernment-owned press to operate in the country; and

"(3) does not subject the press in the country to systematic censorship."

EMERGENCY TELEPHONE SERVICE AT UNITED STATES CONSULAR OFFICES

Pub. L. 99–93, title I, §139, Aug. 16, 1985, 99 Stat. 422, provided that: "It is the sense of the Congress that the Secretary of State should ensure that all United States consular offices are equipped with 24-hour emergency telephone service through which United States citizens can contact a member of the staff of any such office. The Secretary should publicize the telephone number of each such service for the information of United States citizens. Not more than 90 days after the date of the enactment of this Act [Aug. 16, 1985], the Secretary shall submit a report to the Congress on steps taken in accordance with this section."

TORTURE BY FOREIGN GOVERNMENTS; UNITED STATES POLICY IN OPPOSITION; IMPLEMENTATION

Pub. L. 98–447, Oct. 4, 1984, 98 Stat. 1721, provided: "That the Congress reaffirms that it is the continuing policy of the United States Government to oppose the practice of torture by foreign governments through public and private diplomacy and, when necessary and appropriate, through the enactment and vigorous implementation of laws intended to reinforce United States policies with respect to torture. The United States Government opposes acts of torture wherever they occur, without regard to ideological or regional considerations, and will make every effort to work cooperatively with other governments and with nongovernmental organizations to combat the practice of torture worldwide.

"SEC. 2. (a) The President is requested—

"(1) to instruct the Permanent Representative of the United States to the United Nations to continue to raise the issue of torture practiced by governments; and

"(2) to continue to involve the United States Government in the formulation of international standards and effective implementing mechanisms, particularly the draft Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

"(b) In order to implement the policy expressed in the first section of this resolution, the Secretary of State is requested to issue formal instructions to each United States chief of mission regarding United States policy with respect to torture, including—

"(1) instructions—

"(A) to examine allegations of the practice of torture, particularly allegations concerning the existence of secret detention, extended incommunicado detention, and restrictions on access by family members, lawyers, and independent medical personnel to detainees; and

"(B) to forward such information as may be gathered, including information regarding any efforts made by the host government to reduce and eliminate the practice of torture, to the Assistant Secretary of State for Human Rights and Humanitarian Affairs for analysis in preparing the Department's annual country reports on human rights practices;

"(2) in the case of a chief of mission assigned to a country where torture is regularly practiced, instructions to report on a periodic basis as circumstances require to the Assistant Secretary of State for Human Rights and Humanitarian Affairs regarding efforts made by the respective United States diplomatic mission to implement United States policy with respect to combating torture;

"(3) instructions to meet with indigenous human rights monitoring groups knowledgeable about the practice of torture for the purpose of gathering information about such practice; and

"(4) instructions to express concern in individual cases of torture brought to the attention of a United States diplomatic mission including, whenever feasible, sending United States observers to trials when there is reason to believe that torture has been used against the accused.

"(c) The Secretary of Commerce should continue to enforce vigorously the current restrictions on the export of crime control equipment pursuant to the Export Administration Act of 1979 [50 U.S.C. 4601 et seq.].

"(d) The heads of the appropriate departments of the United States Government that furnish military and law enforcement training to foreign personnel, particularly personnel from countries where the practice of torture has been a documented concern, shall include in such training, when relevant, instruction regarding international human rights standards and the policy of the United States with respect to torture."

[Except as otherwise provided, Secretary of State to have and exercise any authority vested by law in any official or office of Department of State and references to such officials or offices deemed to refer to Secretary of State or Department of State, as appropriate, see section 2651a of this title and section 161(d) of Pub. L. 103–236, set out as a note under section 2651a of this title.]

UNITED STATES DIPLOMATIC RELATIONS WITH THE VATICAN

Pub. L. 98–164, title I, §134, Nov. 22, 1983, 97 Stat. 1029, provided that: "In order to provide for the establishment of United States diplomatic relations with the Vatican, the Act entitled 'An Act making Appropriations for the Consular and Diplomatic Expenses of the Government for the Year ending thirtieth June, eighteen hundred and sixty-eight, and for other purposes', approved February 28, 1867, is amended by repealing the following sentence (14 Stat. 413): 'And no money hereby or otherwise appropriated shall be paid for the support of an American legation at Rome, from and after the thirtieth day of June, eighteen hundred and sixty-seven.'."

REOPENING CERTAIN UNITED STATES CONSULATES

Pub. L. 97–241, title I, §103(b), (c), Aug. 24, 1982, 96 Stat. 273, as amended by Pub. L. 98–164, title I, §137, Nov. 22, 1983, 97 Stat. 1030; Pub. L. 103–236, title I, §139(8), Apr. 30, 1994, 108 Stat. 398, provided that:

"(b) None of the funds made available under this [Pub. L. 97–241] or any other Act for 'Administration of Foreign Affairs' may be used for the establishment or operation of any United States consulate that did not exist on the date of enactment of this Act [Aug. 24, 1982] (other than the consulates specified in subsection (c)) until all the United States consulates specified in subsection (c) have been reopened as required by section 108 of the Department of State Authorization Act, Fiscal Years 1980 and 1981 [section 108 of Pub. L. 96–60, set out as a note below], to the extent such reopening is authorized by the foreign government involved.

"(c) The consulates referred to in subsections (a) [section 103(a) of Pub. L. 97–241, which was not classified to the Code] and (b) of this section are the consulates in the following locations: Turin, Italy; Salzburg, Austria; Goteborg, Sweden; Bremen, Germany; Nice, France; Mandalay, Burma; and Brisbane, Australia."

UNITED STATES CONSULATES

Pub. L. 96–60, title I, §108, Aug. 15, 1979, 93 Stat. 397, provided that:

"(a) The following United States consulates shall not be closed or, if closed on the date of enactment of this Act [Aug. 15, 1979], shall be reopened as soon as possible after such date: Salzburg, Austria; Bremen, Germany; Nice, France; Turin, Italy; Goteborg, Sweden; Adana, Turkey; Tangier, Morocco; Mandalay, Burma; Brisbane, Australia; and Surabaya, Indonesia.

"(b) Personnel assigned to the consulates described in subsection (a) shall not be counted toward any personnel ceiling for the Department of State established by the Director of the Office of Management and Budget."

ACTION WITH REGARD TO INTERNATIONAL JOURNALISTIC FREEDOM

Pub. L. 95–426, title VI, §603, Oct. 7, 1978, 92 Stat. 985, as amended by Pub. L. 97–241, title V, §505(a)(2), Aug. 24, 1982, 96 Stat. 299, provided that:

"(a) The Congress finds that—

"(1) news dissemination and the free flow of information across national boundaries are vital to international understanding and to healthy relations among countries; and

"(2) recurring and reliable reports strongly indicate that in many countries foreign news correspondents are subject to governmental harassment and restriction, including the denial of access to legitimate news sources, the imposition of censorship, and detention, incarceration, and expulsion.

"(b) It is therefore the sense of the Congress that the President should—

"(1) advise the appropriate officials of any foreign government which subjects foreign news correspondents to harassment and restrictions that the United States considers such mistreatment a significant and potentially damaging factor in overall relations of the United States with such country; and

"(2) raise in appropriate international forums the issue of the treatment of foreign news correspondents,

with a view toward gaining multilateral support for the legitimate rights of such correspondents.

"(c) [Repealed. Pub. L. 97–241, title V, §505(a)(2), Aug. 24, 1982, 96 Stat. 299.]"

DIPLOMATIC RELATIONS WITH FOREIGN GOVERNMENT NOT INDICATION OF APPROVAL OF SUCH GOVERNMENT

Pub. L. 95–426, title VI, §607, Oct. 7, 1978, 92 Stat. 988, provided that: "The Congress finds that the conduct of diplomatic relations with a foreign government has as its principal purpose the discussion and negotiation with that government of outstanding issues and, like the recognition of a foreign government, does not in itself imply approval of that government or of the political-economic system it represents."

EXECUTIVE ORDER NO. 13584

Ex. Ord. No. 13584, Sept. 9, 2011, 76 F.R. 56945, which related to developing an integrated strategic counterterrorism communications initiative and establishing a temporary organization to support certain government-wide communications activities directed abroad, was revoked by Ex. Ord. No. 13721, §2, Mar. 17, 2016, 81 F.R. 14685, set out below.

EX. ORD. NO. 13721. DEVELOPING AN INTEGRATED GLOBAL ENGAGEMENT CENTER TO SUPPORT GOVERNMENT-WIDE COUNTERTERRORISM COMMUNICATIONS ACTIVITIES DIRECTED ABROAD AND REVOKING EXECUTIVE ORDER 13584

Ex. Ord. No. 13721, Mar. 14, 2016, 81 F.R. 14685, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 2656 of title 22, United States Code, and section 3161 of title 5, United States Code, it is hereby ordered as follows:

SECTION 1. *Establishment of the Global Engagement Center*. The Secretary of State (Secretary) shall establish the Global Engagement Center (Center) which shall lead the coordination, integration, and synchronization of Government-wide communications activities directed at foreign audiences abroad in order to counter the messaging and diminish the influence of international terrorist organizations, including the Islamic State of Iraq and the Levant (ISIL), al Qa'ida, and other violent extremists abroad, with specific responsibilities as set forth in section 3 of this order. The executive director of the Center shall be the Special Envoy and Coordinator for Global Engagement Communications (Coordinator), who shall report to the Secretary through the Under Secretary of State for Public Diplomacy.

SEC. 2. *Revocation*. Executive Order 13584 of September 9, 2011 (Developing an Integrated Strategic Counterterrorism Communications Initiative and Establishing a Temporary Organization to Support Certain Government-Wide Communications Activities Directed Abroad), is revoked.

SEC. 3. *Responsibilities Assigned to the Center*. Recognizing the need for innovation and new approaches to counter the messaging and diminish the influence of international terrorist organizations, including ISIL, al Qa'ida, and other violent extremists abroad, and in order to protect the vital national interests of the United States, while also recognizing the importance of protections for freedom of expression, including those under the First Amendment to the Constitution of the United States and international human rights obligations, the responsibilities and functions of the Center shall include the following:

(a) coordinating, integrating, and synchronizing all public communications of the United States Government directed toward foreign audiences abroad in order to counter the messaging and diminish the influence of international terrorist organizations and other violent extremists abroad;

(b) developing and promulgating throughout the executive branch, on the basis of rigorous research and modern data analysis, the U.S. strategic counterterrorism narratives, guidance, and associated communications strategies directed toward foreign audiences abroad in order to counter the messaging and diminish the influence of international terrorist organizations and other violent extremists abroad;

(c) consulting and engaging, in coordination with agencies and the Countering Violent Extremism Task Force, as appropriate, with a range of communications-related actors and entities, within the United States and abroad, including governments, private sector and civil society entities, in order to contribute to U.S. Government efforts to counter the communications-related radicalization to violence and recruitment activities of international terrorist organizations and other violent extremists abroad, while also building the capacity of partners to create resonant positive alternative narratives and to diminish the influence of such international terrorist organizations and other violent extremists abroad;

(d) identifying, engaging, employing, or acquiring the best available talent across the U.S. and from global private sectors, academia, and elsewhere to support the Center's mission;

(e) identifying shortfalls in any U.S. capabilities in any areas relevant to the Center's mission and implementing or recommending, as appropriate, necessary enhancements or changes; and

(f) developing, supporting, and sustaining networks of governmental and non-governmental partners, to

provide original content and disseminate messaging products to foreign audiences abroad and to create, develop, and sustain effective positive alternative narratives consistent with U.S. policy objectives.

SEC. 4. *Establishment of a Steering Committee*. The Secretary shall establish a Steering Committee composed of senior representatives of agencies relevant to the Center's mission to provide advice to the Secretary on the operations and strategic orientation of the Center and to ensure adequate support for the Center. The Steering Committee shall be chaired by the Under Secretary of State for Public Diplomacy. The Steering Committee shall include one senior representative designated by the head of each of the following agencies: the Department of Defense, the Department of Justice, the Department of Homeland Security, the Department of the Treasury, the Small Business Administration, the National Counterterrorism Center, the Joint Chiefs of Staff, the Counterterrorism Center of the Central Intelligence Agency, the Broadcast Board of Governors, and the United States Agency for International Development. Other agencies may be invited to participate in the Steering Committee at the discretion of the Chair.

SEC. 5. *Interagency Support*. Agencies are hereby directed, consistent with budget priorities and mission constraints, upon request by the Secretary and to the extent permitted by law and consistent with the need to protect intelligence and law enforcement sources, methods, operations, and investigations, to provide to the Center, and the Center is authorized to use, for the purpose of carrying out the responsibilities outlined in this order:

(a) details or assignments of personnel, which shall be based on reasonable requests in light of the need for specific domain expertise, and after consultation with the relevant agency to ensure that such requests align with their authorities and resources;

(b) the use of physical premises, equipment, and logistical or administrative support;

(c) relevant information, research, intelligence, and analysis; and

(d) such other resources and assistance as the Coordinator may request for the purpose of carrying out the responsibilities outlined in this order.

SEC. 6. *Establishment of a Temporary Organization*. (a) There is established within the Department of State, in accordance with section 3161 of title 5, United States Code, a temporary organization to be known as the Global Engagement Center Coordination Office (GECCO).

(b) The purpose of the GECCO shall be to perform the specific project of providing technical, marketing, management, and operational support to the Center in its efforts to build and maintain a network of partners outside the U.S. Government, including private sector entities and non-governmental organizations, and to develop research and analytics to enable measurement and evaluation of the activities of the Center and related activities conducted by other agencies.

(c) In carrying out the purposes set forth in subsection (b) of this section, the GECCO shall:

(i) provide technical, marketing, management, and operational support for the management of contracts, grants, and cooperative agreements;

(ii) assist the Center in building and maintaining partnerships with private sector entities, non-governmental organizations, and others as appropriate in support of the Center's mission;

(iii) design and develop sustained campaigns, in coordination with and primarily for use by private sector entities and non-governmental organizations, on specific areas of interest to foreign audiences abroad in support of the Center's mission;

(iv) conduct or commission baseline research to establish the basis for evaluation of the activities of the Center and related activities conducted by other agencies;

(v) develop analytical models and metrics, consistent with the Center's responsibilities, in order to enable measurement and evaluation of the activities of the Center in coordinating effective strategies to counter the messaging and diminish the influence of international terrorist organizations and other violent extremists abroad, and related activities conducted by other agencies; and

(vi) perform such other functions related to the specific project set forth in subsection (b) of this section as the Secretary may assign.

(d) The GECCO shall be headed by the Coordinator. Its staff may include, as determined by the Coordinator: (1) personnel with relevant expertise detailed on a non-reimbursable basis from other agencies; (2) senior and other technical advisers; (3) executive-level personnel; and (4) such other personnel as the Secretary may request to support the GECCO. To accomplish this mission, the heads of agencies shall, upon request, provide to the GECCO, on a non-reimbursable basis, assistance, services, and other support including but not limited to logistical and administrative support and details of personnel to the extent permitted by law. Non-reimbursable details to the GECCO shall be based on reasonable requests from the Coordinator in light of the need for specific expertise, and after consultation with the relevant agency, to the extent permitted by law.

(e) The GECCO shall terminate at the end of the maximum period permitted by section 3161(a)(1) of title

5, United States Code, unless sooner terminated by the Secretary consistent with section 3161(a)(2) of such title.

(f) The termination of the GECCO as required by subsection (e) of this section shall not be interpreted to imply the termination, attenuation or amendment of any other authority or provision of this order.

SEC. 7. *General Provisions*. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) authority granted by law to an agency, or the head thereof; or

(ii) functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA.

§2656a. Congressional declaration of findings of major significance of modern scientific and technological advances in foreign policy

The Congress finds that—

(1) the consequences of modern scientific and technological advances are of such major significance in United States foreign policy that understanding and appropriate knowledge of modern science and technology by officers and employees of the United States Government are essential in the conduct of modern diplomacy;

(2) many problems and opportunities for development in modern diplomacy lie in scientific and technological fields;

(3) in the formulation, implementation, and evaluation of the technological aspects of United States foreign policy, the United States Government should seek out and consult with both public and private industrial, academic, and research institutions concerned with modern technology; and

(4) the effective use of science and technology in international relations for the mutual benefit of all countries requires the development and use of the skills and methods of long-range planning.

(Pub. L. 95–426, title V, §501, Oct. 7, 1978, 92 Stat. 982.)

§2656b. Congressional declaration of policy regarding consequences of science and technology on conduct of foreign policy

In order to maximize the benefits and to minimize the adverse consequences of science and technology in the conduct of foreign policy, the Congress declares the following to be the policy of the United States:

(1) Technological opportunities, impacts, changes, and threats should be anticipated and assessed, and appropriate measures should be implemented to influence such technological developments in ways beneficial to the United States and other countries.

(2) The mutually beneficial applications of technology in bilateral and multilateral agreements and activities involving the United States and foreign countries or international organizations should be recognized and supported as an important element of United States foreign policy.

(3) The United States Government should implement appropriate measures to insure that individuals are trained in the use of science and technology as an instrument in international relations and that officers and employees of the United States Government engaged in formal and informal exchanges of scientific and technical information, personnel, and hardware are knowledgeable in international affairs.

(4) In recognition of the environmental and technological factors that change relations among countries and in recognition of the growing interdependence between the domestic and foreign policies and programs of the United States, United States foreign policy should be continually

reviewed by the executive and legislative branches of the Government to insure appropriate and timely application of science and technology to the conduct of United States foreign policy.

(5) Federally supported international science and technology agreements should be negotiated to ensure that—

(A) intellectual property rights are properly protected; and

(B) access to research and development opportunities and facilities, and the flow of scientific and technological information, are, to the maximum extent practicable, equitable and reciprocal.

(Pub. L. 95–426, title V, §502, Oct. 7, 1978, 92 Stat. 982; Pub. L. 100–418, title V, §5171(a), Aug. 23, 1988, 102 Stat. 1452.)

AMENDMENTS

1988—Par. (5). Pub. L. 100–418 added par. (5).

§2656c. Responsibilities of President

(a) Identification, evaluation and initiation of scientific and technological developments

The President, in consultation with the Director of the Office of Science and Technology Policy and other officials whom the President considers appropriate, shall—

(1) notwithstanding any other provision of law, insure that the Secretary of State is informed and consulted before any agency of the United States Government takes any major action, primarily involving science or technology, with respect to any foreign government or international organization;

(2) identify and evaluate elements of major domestic science and technology programs and activities of the United States Government with significant international implications;

(3) identify and evaluate international scientific or technological developments with significant implications for domestic programs and activities of the United States Government; and

(4) assess and initiate appropriate international scientific and technological activities which are based upon domestic scientific and technological activities of the United States Government and which are beneficial to the United States and foreign countries.

(b) Repealed. Pub. L. 104–66, title I, §1111(b), Dec. 21, 1995, 109 Stat. 723

(c) Disclosure of sensitive information

Except as otherwise provided by law, nothing in this section shall be construed as requiring the public disclosure of sensitive information relating to intelligence sources or methods or to persons engaged in monitoring scientific or technological developments for intelligence purposes.

(d) Availability to United States Trade Representative of information and recommendations

(1) The information and recommendations developed under subsection (b)(3) shall be made available to the United States Trade Representative for use in his consultations with Federal agencies pursuant to Executive orders pertaining to the transfer of science and technology.

(2) In providing such information and recommendations, the President shall utilize information developed by any Federal departments, agencies, or interagency committees as he may consider necessary.

(Pub. L. 95–426, title V, §503, Oct. 7, 1978, 92 Stat. 983; Pub. L. 100–418, title V, §5171(b), (c), Aug. 23, 1988, 102 Stat. 1453; Pub. L. 104–66, title I, §1111(b), Dec. 21, 1995, 109 Stat. 723.)

AMENDMENTS

1995—Subsec. (b). Pub. L. 104–66 struck out subsec. (b) which related to reports to Congress.

1988—Subsec. (b). Pub. L. 100–418, §5171(b)(1), (2), substituted "the Speaker of the House of Representatives and the Committees on Foreign Relations and Governmental Affairs of the Senate a report containing information and recommendations" for "Congress a report containing recommendations".

Subsec. (b)(3). Pub. L. 100–418, §5171(b)(3)–(5), added par. (3).

Subsec. (d). Pub. L. 100–418, §5171(c), added subsec. (d).

§2656d. Responsibilities of Secretary of State

(a) Coordination and oversight over science and technology agreements between United States and foreign countries, etc.

(1) In order to implement the policies set forth in section 2656b of this title, the Secretary of State (hereafter in this section referred to as the "Secretary") shall have primary responsibility for coordination and oversight with respect to all major science or science and technology agreements and activities between the United States and foreign countries, international organizations, or commissions of which the United States and one or more foreign countries are members.

(2) In coordinating and overseeing such agreements and activities, the Secretary shall consider (A) scientific merit; (B) equity of access as described in section 2656c(b) of this title; (C) possible commercial or trade linkages with the United States which may flow from the agreement or activity; (D) national security concerns; and (E) any other factors deemed appropriate.

(3) Prior to entering into negotiations on such an agreement or activity, the Secretary shall provide Federal agencies which have primary responsibility for, or substantial interest in, the subject matter of the agreement or activity, including those agencies responsible for—

(A) Federal technology management policies set forth by Public Law 96–517 and the Stevenson-Wydler Technology Innovation Act of 1980 [15 U.S.C. 3701 et seq.];

(B) national security policies;

(C) United States trade policies; and

(D) relevant Executive orders,

with an opportunity to review the proposed agreement or activity to ensure its consistency with such policies and Executive orders, and to ensure effective interagency coordination.

(b) Long-term contracts, grants, to obtain studies, etc., with respect to application of science and technology to foreign policy

The Secretary shall, to such extent or in such amounts as are provided in appropriation Acts, enter into long-term contracts, including contracts for the services of consultants, and shall make grants and take other appropriate measures in order to obtain studies, analyses, and recommendations from knowledgeable persons and organizations with respect to the application of science or technology to problems of foreign policy.

(c) Long-term and short-term contracts, grants, to train officers and employees in application of science and technology to problems of foreign policy

The Secretary shall, to such extent or in such amounts as are provided in appropriation Acts, enter into short-term and long-term contracts, including contracts for the services of consultants, and shall make grants and take other appropriate measures in order to obtain assistance from knowledgeable persons and organizations in training officers and employees of the United States Government, at all levels of the Foreign Service and Civil Service—

(1) in the application of science and technology to problems of United States foreign policy and international relations generally; and

(2) in the skills of long-range planning and analysis with respect to the scientific and technological aspects of United States foreign policy.

(d) Detached service for graduate studies

In obtaining assistance pursuant to subsection (c) in training personnel who are officers or employees of the Department of State, the Secretary may provide for detached service for graduate study at accredited colleges and universities.

(Pub. L. 95–426, title V, §504, Oct. 7, 1978, 92 Stat. 983; Pub. L. 97–241, title V, §505(a)(2), Aug. 24, 1982, 96 Stat. 299; Pub. L. 100–418, title V, §5171(d), Aug. 23, 1988, 102 Stat. 1453.)

REFERENCES IN TEXT

Public Law 96–517, referred to in subsec. (a)(3)(A), is Pub. L. 96–517, Dec. 12, 1980, 94 Stat. 3015, which enacted sections 200 to 211 and 301 to 307 of Title 35, Patents, amended section 1113 of Title 15, Commerce and Trade, sections 101 and 117 of Title 17, Copyrights, sections 41, 42, and 154 of Title 35, and sections 2186 and 5908 and former section 2457 of Title 42, The Public Health and Welfare, and enacted provisions set out as notes under sections 13 and 41 of Title 35. Section 2457 of Title 42 was repealed and restated as section 20135 of Title 51, National and Commercial Space Programs, by Pub. L. 111–314, §§3, 6, Dec. 18, 2010, 124 Stat. 3328, 3444. For complete classification of this Act to the Code, see Short Title of 1980 Amendment note set out under section 41 of Title 35 and Tables.

The Stevenson-Wydler Technology Innovation Act of 1980, referred to in subsec. (a)(3)(A), is Pub. L. 96–480, Oct. 21, 1980, 94 Stat. 2311, which is classified generally to chapter 63 (§3701 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 3701 of Title 15 and Tables.

AMENDMENTS

1988—Subsec. (a). Pub. L. 100–418 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "In order to implement the policy set forth in section 2656b of this title, the Secretary of State (hereafter in this section referred to as the 'Secretary') shall have primary responsibility for coordination and oversight with respect to all major science or science and technology agreements and activities between the United States and foreign countries, international organizations, or commissions of which the United States and one or more foreign countries are members."

1982—Subsec. (e). Pub. L. 97–241 struck out subsec. (e) which provided that not later than Jan. 20, 1979, the Secretary transmit to the Committee on Appropriations and the Committee on International Relations of the House of Representatives, and to the Committee on Appropriations and the Committee on Foreign Relations of the Senate, a report on the implementation of his responsibilities under this title, which report was to include an assessment of the personnel required in order to carry out such responsibilities, existing and planned programs for research and analysis to support long-range planning for the application of science and technology to foreign policy, existing and planned programs for training officers and employees of the United States Government pursuant to subsec. (c) of this section, and existing and planned programs to enter into long-term contracts with academic and other organizations for assistance in training and in obtaining studies, analyses, and recommendations with respect to the application of science or technology to problems of foreign policy.

MULTILATERAL AGREEMENT GOVERNING USE OF NUCLEAR-POWERED SATELLITES

Pub. L. 95–426, title VI, §608, Oct. 7, 1978, 92 Stat. 988, as amended by Pub. L. 97–241, title V, §505(a)(2), Aug. 24, 1982, 96 Stat. 299, provided that:

"(a) The Congress finds that—

"(1) no international regime governs the use of nuclear-powered satellites in space;

"(2) the unregulated use of such technology poses the possibility of catastrophic damage to human life and the global environment; and

"(3) this danger has been evidenced by mishaps encountered, despite certain precautions, by nuclear-powered satellites of both the United States and the Soviet Union.

"(b) It is therefore the sense of the Congress that the United States should take the initiative immediately in seeking a multilateral agreement governing the use of nuclear-powered satellites in space.

"(c) [Repealed. Pub. L. 97–241, title V, §505(a)(2), Aug. 24, 1982, 96 Stat. 299.]"

§2656e. Terrorism-related travel advisories

The Secretary of State shall promptly advise the Congress whenever the Department of State issues a travel advisory, or other public warning notice for United States citizens traveling abroad, because of a terrorist threat or other security concern.

(Pub. L. 99–399, title V, §505, Aug. 27, 1986, 100 Stat. 871.)

§2656f. Annual country reports on terrorism

(a) Requirement of annual country reports on terrorism

The Secretary of State shall transmit to the Speaker of the House of Representatives and the

Committee on Foreign Relations of the Senate, by April 30 of each year, a full and complete report providing—

(1)(A) detailed assessments with respect to each foreign country—

(i) in which acts of international terrorism occurred which were, in the opinion of the Secretary, of major significance;

(ii) about which the Congress was notified during the preceding five years pursuant to section 4605(j) of title 50; and

(iii) which the Secretary determines should be the subject of such report; and

(B) detailed assessments with respect to each foreign country whose territory is being used as a sanctuary for terrorists or terrorist organizations;

(2) all relevant information about the activities during the preceding year of any terrorist group, and any umbrella group under which such terrorist group falls, known to be responsible for the kidnapping or death of an American citizen during the preceding five years, any terrorist group known to have obtained or developed, or to have attempted to obtain or develop, weapons of mass destruction, any terrorist group known to be financed by countries about which Congress was notified during the preceding year pursuant to section 4605(j) of title 50, any group designated by the Secretary as a foreign terrorist organization under section 1189 of title 8, and any other known international terrorist group which the Secretary determines should be the subject of such report;

(3) with respect to each foreign country from which the United States Government has sought cooperation during the previous five years in the investigation or prosecution of an act of international terrorism against United States citizens or interests, information on—

(A) the extent to which the government of the foreign country is cooperating with the United States Government in apprehending, convicting, and punishing the individual or individuals responsible for the act; and

(B) the extent to which the government of the foreign country is cooperating in preventing further acts of terrorism against United States citizens in the foreign country; and

(4) with respect to each foreign country from which the United States Government has sought cooperation during the previous five years in the prevention of an act of international terrorism against such citizens or interests, the information described in paragraph (3)(B).

(b) Provisions to be included in report

The report required under subsection (a) should to the extent feasible include (but not be limited to)—

(1) with respect to subsection (a)(1)(A)—

(A) a review of major counterterrorism efforts undertaken by countries which are the subject of such report, including, as appropriate, steps taken in international fora;

(B) the response of the judicial system of each country which is the subject of such report with respect to matters relating to terrorism affecting American citizens or facilities, or which have, in the opinion of the Secretary, a significant impact on United States counterterrorism efforts, including responses to extradition requests; and

(C) significant support, if any, for international terrorism by each country which is the subject of such report, including (but not limited to)—

(i) political and financial support;

(ii) diplomatic support through diplomatic recognition and use of the diplomatic pouch;

(iii) providing sanctuary to terrorists or terrorist groups;

(iv) providing weapons of mass destruction, or assistance in obtaining or developing such weapons, to terrorists or terrorist groups; [1]

(v) the positions (including voting records) on matters relating to terrorism in the General Assembly of the United Nations and other international bodies and fora of each country which is the subject of such report;

(2) with respect to subsection (a)(1)(B)—

(A) the extent of knowledge by the government of the country with respect to terrorist activities in the territory of the country; and

(B) the actions by the country—

(i) to eliminate each terrorist sanctuary in the territory of the country;

(ii) to cooperate with United States antiterrorism efforts; and

(iii) to prevent the proliferation of and trafficking in weapons of mass destruction in and through the territory of the country;

(3) [2] with respect to subsection (a)(2), any—

(A) significant financial support provided by foreign governments to those groups directly, or provided in support of their activities;

(B) provisions of significant military or paramilitary training or transfer of weapons by foreign governments to those groups;

(C) efforts by those groups to obtain or develop weapons of mass destruction;

(D) provision of diplomatic recognition or privileges by foreign governments to those groups;

(E) provision by foreign governments of sanctuary from prosecution to these groups or their members responsible for the commission, attempt, or planning of an act of international terrorism; and

(F) efforts by the United States to eliminate international financial support provided to those groups directly or provided in support of their activities;

(4) [2] a strategy for addressing, and where possible eliminating, terrorist sanctuaries that shall include—

(A) a description of terrorist sanctuaries, together with an assessment of the priorities of addressing and eliminating such sanctuaries;

(B) an outline of strategies for disrupting or eliminating the security provided to terrorists by such sanctuaries;

(C) a description of efforts by the United States to work with other countries in bilateral and multilateral fora to address or eliminate terrorist sanctuaries and disrupt or eliminate the security provided to terrorists by such sanctuaries; and

(D) a description of long-term goals and actions designed to reduce the conditions that allow the formation of terrorist sanctuaries; and

(5) an update of the information contained in the report required to be transmitted to Congress under [3] 7120(b) of the 9/11 Commission Implementation Act of 2004.

(3) [4] to the extent practicable, complete statistical information on the number of individuals, including United States citizens and dual nationals, killed, injured, or kidnapped by each terrorist group during the preceding calendar year; and

(4) [4] an analysis, as appropriate, of trends in international terrorism, including changes in technology used, methods and targets of attack, demographic information on terrorists, and other appropriate information.

(c) Classification of report

(1) Except as provided in paragraph (2), the report required under subsection (a) shall, to the extent practicable, be submitted in an unclassified form and may be accompanied by a classified appendix.

(2) If the Secretary of State determines that the transmittal of the information with respect to a foreign country under paragraph (3) or (4) of subsection (a) in classified form would make more likely the cooperation of the government of the foreign country as specified in such paragraph, the Secretary may transmit the information under such paragraph in classified form.

(d) Definitions

As used in this section—

(1) the term "international terrorism" means terrorism involving citizens or the territory of more than 1 country;

(2) the term "terrorism" means premeditated, politically motivated violence perpetrated against noncombatant targets by subnational groups or clandestine agents;

(3) the term "terrorist group" means any group practicing, or which has significant subgroups which practice, international terrorism;

(4) the terms "territory" and "territory of the country" mean the land, waters, and airspace of the country; and

(5) the terms "terrorist sanctuary" and "sanctuary" mean an area in the territory of the country—

(A) that is used by a terrorist or terrorist organization—

(i) to carry out terrorist activities, including training, fundraising, financing, and recruitment; or

(ii) as a transit point; and

(B) the government of which expressly consents to, or with knowledge, allows, tolerates, or disregards such use of its territory and is not subject to a determination under—

(i) section 4605(j)(1)(A) of title 50;

(ii) section 2371(a) of this title; or

(iii) section 2780(d) of this title.

(e) Reporting period

(1) The report required under subsection (a) shall cover the events of the calendar year preceding the year in which the report is submitted.

(2) The report required by subsection (a) to be submitted by March 31, 1988, may be submitted no later than August 31, 1988.

(Pub. L. 100–204, title I, §140, Dec. 22, 1987, 101 Stat. 1347; Pub. L. 101–246, title I, §122, Feb. 16, 1990, 104 Stat. 27; Pub. L. 103–236, title I, §133(b)(1), Apr. 30, 1994, 108 Stat. 395; Pub. L. 104–208, div. A, title I, §101(c) [title V, §578], Sept. 30, 1996, 110 Stat. 3009–121, 3009–169; Pub. L. 108–458, title VII, §7102(d)(1)–(3), Dec. 17, 2004, 118 Stat. 3777, 3778; Pub. L. 108–487, title VII, §701(a), Dec. 23, 2004, 118 Stat. 3961.)

REFERENCES IN TEXT

[Section] 7120(b) of the 9/11 Commission Implementation Act of 2004, referred to in subsec. (b)(5), is section 7120(b) of Pub. L. 108–458, title VII, Dec. 17, 2004, 118 Stat. 3803, which is not classified to the Code.

AMENDMENTS

2004—Subsec. (a)(1). Pub. L. 108–458, §7102(d)(1), designated existing provisions as subpar. (A), redesignated former subpars. (A) to (C) as cls. (i) to (iii), respectively, of subpar. (A), and added subpar. (B).

Subsec. (a)(2). Pub. L. 108–487, §701(a)(1), inserted "any terrorist group known to have obtained or developed, or to have attempted to obtain or develop, weapons of mass destruction," after "during the preceding five years," and "any group designated by the Secretary as a foreign terrorist organization under section 1189 of title 8," after "section 2405(j) of the Appendix to title 50".

Subsec. (b)(1). Pub. L. 108–458, §7102(d)(2)(A)(i), substituted "subsection (a)(1)(A)" for "subsection (a)(1)" in introductory provisions.

Subsec. (b)(1)(C)(iv). Pub. L. 108–487, §701(a)(2)(A), added cl. (iv) and redesignated former cl. (iv) as (v).

Subsec. (b)(2). Pub. L. 108–458, §7102(d)(2)(A)(ii), (C), added par. (2). Former par. (2), relating to report provisions with respect to subsec. (a)(2), redesignated (3).

Subsec. (b)(3). Pub. L. 108–487, §701(a)(2)(C), added par. (3) relating to statistical information on individuals killed, injured, or kidnapped by terrorist groups.

Pub. L. 108–487, §701(a)(2)(B)(iii), which directed amendment of subsec. (b)(2)(F), as redesignated by Pub. L. 108–487, §701(a)(2)(B)(i), by substituting a semicolon for the period, was probably intended as an amendment to subpar. (F) of subsec. (b)(3) relating to report provisions with respect to subsec. (a)(2), as redesignated by Pub. L. 108–458, §7102(d)(2)(B), and Pub. L. 108–487, §701(a)(2)(B)(i), but could not be executed because of the amendment by Pub. L. 108–458, §7102(d)(2)(D). See below.

Pub. L. 108–458, §7102(d)(2)(B), (D), redesignated par. (2), relating to report provisions with respect to subsec. (a)(2), as (3) and substituted a semicolon for the period at end.

Subsec. (b)(3)(C) to (F). Pub. L. 108–487, §701(a)(2)(B)(i), (ii), which directed amendment of subsec. (b)(2) by adding subpar. (C) and redesignating former subpars. (C) to (E) as (D) to (F), respectively, was executed by making the amendment to subsec. (b)(3) relating to report provisions with respect to subsec. (a)(2) to reflect the probable intent of Congress and the redesignation of subsec. (b)(2) as (b)(3) by Pub. L. 108–458. See above.

Subsec. (b)(4). Pub. L. 108–487, §701(a)(2)(C), added par. (4) relating to analysis of trends in international terrorism.

Pub. L. 108–458, §7102(d)(2)(E), added par. (4) relating to strategy for addressing, and where possible eliminating, terrorist sanctuaries.

Subsec. (b)(5). Pub. L. 108–458, §7102(d)(2)(E), added par. (5).

Subsec. (d)(4), (5). Pub. L. 108–458, §7102(d)(3), added pars. (4) and (5).

1996—Subsec. (a)(3), (4). Pub. L. 104–208, §101(c) [title V, §578(1)], added pars. (3) and (4).

Subsec. (c). Pub. L. 104–208, §101(c) [title V, §578(2)], designated existing provisions as par. (1), realigned margins, substituted "Except as provided in paragraph (2), the report" for "The report", and added par. (2).

1994—Subsec. (b)(2)(E). Pub. L. 103–236 added subpar. (E).

1990—Subsec. (a). Pub. L. 101–246 substituted "April 30" for "March 31".

EFFECTIVE DATE OF 2004 AMENDMENTS

Pub. L. 108–487, title VII, §701(b), Dec. 23, 2004, 118 Stat. 3962, provided that: "The amendments made by subsection (a) [amending this section] shall apply beginning with the first report under section 140 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 [this section] that is submitted more than one year after the date of the enactment of this Act [Dec. 23, 2004]."

Pub. L. 108–487, title VIII, §801, Dec. 23, 2004, 118 Stat. 3962, provided that: "Except as otherwise expressly provided in this Act, this Act [enacting sections 1912, 3032, 3201 to 3205, 3221, 3523, and 3617 of Title 50, War and National Defense, amending this section and sections 1902, 1903, 1910, 1911, 3036, 3361, and 3519a of Title 50, enacting provisions set out as notes under this section, section 873 of Title 21, Food and Drugs, and sections 1902, 3001, 3032, 3036, 3106, and 3322 of Title 50, and amending provisions set out as a note under section 8331 of Title 5, Government Organization and Employees] (and the amendments made by this Act) shall take effect on the date of the enactment of this Act [Dec. 23, 2004]."

Pub. L. 108–458, title VII, §7102(d)(4), Dec. 17, 2004, 118 Stat. 3778, provided that: "The amendments made by this subsection [amending this section] apply with respect to the report required to be transmitted under section 140 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f), by April 30, 2006, and by April 30 of each subsequent year."

Amendment by Pub. L. 108–458 effective Dec. 17, 2004, notwithstanding any other provision of such Act, see section 7122 of Pub. L. 108–458, set out as a note under section 112a of Title 1, General Provisions.

TERRORIST SANCTUARIES

Pub. L. 108–458, title VII, §7102(a), (b), Dec. 17, 2004, 118 Stat. 3776, provided that:

"(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

"(1) Complex terrorist operations require locations that provide such operations sanctuary from interference by Government or law enforcement personnel.

"(2) A terrorist sanctuary existed in Afghanistan before September 11, 2001.

"(3) The terrorist sanctuary in Afghanistan provided direct and indirect value to members of al Qaeda who participated in the terrorist attacks on the United States on September 11, 2001, and in other terrorist operations.

"(4) Terrorist organizations have fled to some of the least governed and most lawless places in the world to find sanctuary.

"(5) During the 21st century, terrorists are often focusing on remote regions and failing states as locations to seek sanctuary.

"(b) SENSE OF CONGRESS ON UNITED STATES POLICY ON TERRORIST SANCTUARIES.—It is the sense of Congress that it should be the policy of the United States—

"(1) to identify foreign countries that are being used as terrorist sanctuaries;

"(2) to assess current United States resources and tools being used to assist foreign governments to eliminate such sanctuaries;

"(3) to develop and implement a coordinated strategy to prevent terrorists from using such foreign countries as sanctuaries; and

"(4) to work in bilateral and multilateral fora to elicit the cooperation needed to identify and address terrorist sanctuaries that may exist today, but, so far, remain unknown to governments."

REPORT ON TERRORIST ACTIVITY IN WHICH UNITED STATES CITIZENS WERE KILLED AND RELATED MATTERS

Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title VIII, §805], Nov. 29, 1999, 113 Stat. 1536, 1501A–470, as amended by Pub. L. 107–228, div. A, title II, §216(c), Sept. 30, 2002, 116 Stat. 1367, provided that:

"(a) IN GENERAL.—Not later than May 1, 2003, and not later than May 1, 2004, the Secretary of State shall prepare and submit a report, with a classified annex as necessary, to the appropriate congressional committees [Committee on Foreign Affairs of the House of Representatives and Committee on Foreign Relations of the Senate] regarding terrorist attacks in Israel, in territory administered by Israel, and in territory administered by the Palestinian Authority. The report shall contain the following information:

"(1) A list of formal commitments the Palestinian Authority has made to combat terrorism.

"(2) A list of terrorist attacks, occurring between September 13, 1993 and the date of the report, against United States citizens in Israel, in territory administered by Israel, or in territory administered by the Palestinian Authority, including—

"(A) a list of all citizens of the United States killed or injured in such attacks;

"(B) the date of each attack and the total number of people killed or injured in each attack;

"(C) the person or group claiming responsibility for the attack and where such person or group has found refuge or support;

"(D) a list of suspects implicated in each attack and the nationality of each suspect, including information on—

"(i) which suspects are in the custody of the Palestinian Authority and which suspects are in the custody of Israel;

"(ii) which suspects are still at large in areas controlled by the Palestinian Authority or Israel; and

"(iii) the whereabouts (or suspected whereabouts) of suspects implicated in each attack.

"(3) Of the suspects implicated in the attacks described in paragraph (2) and detained by Palestinian or Israeli authorities, information on—

"(A) the date each suspect was incarcerated;

"(B) whether any suspects have been released, the date of such release, and whether any released suspect was implicated in subsequent acts of terrorism; and

"(C) the status of each case pending against a suspect, including information on whether the suspect has been indicted, prosecuted, or convicted by the Palestinian Authority or Israel.

"(4) The policy of the Department of State with respect to offering rewards for information on terrorist suspects, including any information on whether a reward has been posted for suspects involved in terrorist attacks listed in the report.

"(5) A list of each request by the United States for assistance in investigating terrorist attacks listed in the report, a list of each request by the United States for the transfer of terrorist suspects from the Palestinian Authority and Israel since September 13, 1993, and the response to each request from the Palestinian Authority and Israel.

"(6) A description of efforts made by United States officials since September 13, 1993 to bring to justice perpetrators of terrorist acts against United States citizens as listed in the report.

"(7) A list of any terrorist suspects in these cases who are members of Palestinian police or security forces, the Palestine Liberation Organization, or any Palestinian governing body.

"(8) A list of all United States citizens killed or injured in terrorist attacks in Israel or in territory administered by Israel between 1950 and September 13, 1993, to include in each case, where such information is reasonably available, any stated claim of responsibility and the resolution or disposition of each case, except that this list shall be submitted only once with the initial report required under this section unless additional relevant information on these cases becomes available.

"(b) CONSULTATION WITH OTHER DEPARTMENTS.—The Secretary of State shall, in preparing the report required by this section, consult and coordinate with all other Government officials who have information necessary to complete the report. Nothing contained in this section shall require the disclosure, on a classified or unclassified basis, of information that would jeopardize sensitive sources and methods or other vital national security interests or jeopardize ongoing criminal investigations or proceedings.

"(c) INITIAL REPORT.—Except as provided in subsection (a)(8), the initial report filed under this section

shall cover the period between September 13, 1993 and the date of the report."

[1] *So in original. Probably should be followed by "and".*

[2] *So in original. Another par. (3) and par. (4) follow par. (5).*

[3] *So in original. The word "section" probably should appear.*

[4] *So in original. Another par. (3) and par. (4) precede par. (5).*

§2656g. Report on terrorist assets in United States

(a) Reports to Congress

Beginning 90 days after October 28, 1991, and every 365 days thereafter, the Secretary of the Treasury, in consultation with the Attorney General and appropriate investigative agencies, shall submit to the Committee on Foreign Relations and the Committee on Finance of the Senate and the Committee on Foreign Affairs and the Committee on Ways and Means of the House of Representatives a report describing the nature and extent of assets held in the United States by terrorist countries and any organization engaged in international terrorism. Each such report shall provide a detailed list and description of specific assets.

(b) Definitions

For purposes of this section—

(1) the term "terrorist countries", refers to countries designated by the Secretary of State under section 2780(d) of this title; and

(2) the term "international terrorism" has the meaning given such term in section 2656f(d) of this title.

(Pub. L. 102–138, title III, §304, Oct. 28, 1991, 105 Stat. 710; Pub. L. 103–236, title I, §133(b)(2), Apr. 30, 1994, 108 Stat. 396.)

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–236 substituted "Secretary of the Treasury, in consultation with the Attorney General and appropriate investigative agencies," for "Secretary of the Treasury" and inserted at end "Each such report shall provide a detailed list and description of specific assets."

§2656h. International credit reports

(a) Report on loan criteria

Not later than 90 days after October 28, 1991, the Assistant Secretary of State for Economic and Business Affairs, in consultation with the Secretary of the Treasury, shall submit to the Chairman of the Foreign Relations Committee of the Senate and the Speaker of the House of Representatives a report setting forth clear criteria for bilateral loans by which the United States can determine the likelihood of repayment by a country seeking to receive United States loans. The report should include the criteria used for—

(1) assessing country risk;

(2) projecting loan repayments; and

(3) estimating subsidy levels.

(b) Reports on loans

Beginning 180 days after the submission of the report in subsection (a) and annually thereafter, the Secretary of State, in consultation with the Secretary of the Treasury, shall submit a report to the Chairman of the Foreign Relations Committee of the Senate and the Speaker of the House of

Representatives showing actual repayments by country and by program to the United States Government for the previous 5 years and the scheduled repayments to the United States Government for the next 5 years.

(Pub. L. 102–138, title I, §197, Oct. 28, 1991, 105 Stat. 684.)

AUTHORITY OF SECRETARY OF STATE

Except as otherwise provided, Secretary of State to have and exercise any authority vested by law in any official or office of Department of State and references to such officials or offices deemed to refer to Secretary of State or Department of State, as appropriate, see section 2651a of this title and section 161(d) of Pub. L. 103–236, set out as a note under section 2651a of this title.

§2656i. Counterdrug and anticrime activities of Department of State

(a) Counterdrug and law enforcement strategy

(1) Requirement

Not later than 180 days after October 21, 1998, the Secretary of State shall establish, implement, and submit to Congress a comprehensive, long-term strategy to carry out the counterdrug responsibilities of the Department of State in a manner consistent with the National Drug Control Strategy. The strategy shall involve all elements of the Department in the United States and abroad.

(2) Objectives

In establishing the strategy, the Secretary shall—

(A) coordinate with the Office of National Drug Control Policy in the development of clear, specific, and measurable counterdrug objectives for the Department that support the goals and objectives of the National Drug Control Strategy;

(B) develop specific and, to the maximum extent practicable, quantifiable measures of performance relating to the objectives, including annual and long-term measures of performance, for purposes of assessing the success of the Department in meeting the objectives;

(C) assign responsibilities for meeting the objectives to appropriate elements of the Department;

(D) develop an operational structure within the Department that minimizes impediments to meeting the objectives;

(E) ensure that every United States ambassador or chief of mission is fully briefed on the strategy, and works to achieve the objectives; and

(F) ensure that—

(i) all budgetary requests and transfers of equipment (including the financing of foreign military sales and the transfer of excess defense articles) relating to international counterdrug efforts conforms with the objectives; and

(ii) the recommendations of the Department regarding certification determinations made by the President on March 1 as to the counterdrug cooperation, or adequate steps on its own, of each major illicit drug producing and drug trafficking country to achieve full compliance with the goals and objectives established by the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances also conform to meet such objectives.

(3) Reports

Not later than February 15 of each year subsequent to the submission of the strategy described in paragraph (1), the Secretary shall submit to Congress an update of the strategy. The update shall include—

(A) an outline of the proposed activities with respect to the strategy during the succeeding year, including the manner in which such activities will meet the objectives set forth in paragraph (2); and

(B) detailed information on how certification determinations described in paragraph (2)(F)

made the previous year affected achievement of the objectives set forth in paragraph (2) for the previous calendar year.

(4) Limitation on delegation

The Secretary shall designate an official in the Department who reports directly to the Secretary to oversee the implementation of the strategy throughout the Department.

(b) Information on international criminals

(1) Information system

The Secretary shall, in consultation with the heads of appropriate United States law enforcement agencies, including the Attorney General and the Secretary of the Treasury, take appropriate actions to establish an information system or improve existing information systems containing comprehensive information on serious crimes committed by foreign nationals. The information system shall be available to United States embassies and missions abroad for use in consideration of applications for visas for entry into the United States.

(2) Report

Not later than 180 days after October 21, 1998, the Secretary shall submit to the appropriate congressional committees a report on the actions taken under paragraph (1).

(c) Overseas coordination of counterdrug and anticrime programs, policy, and assistance

(1) Strengthening coordination

The responsibilities of every diplomatic mission of the United States shall include the strengthening of cooperation between and among the United States and foreign governmental entities and multilateral entities with respect to activities relating to international narcotics and crime.

(2) Designation of officers

(A) In general

Consistent with existing memoranda of understanding between the Department of State and other departments and agencies of the United States, including the Department of Justice, the chief of mission of every diplomatic mission of the United States shall designate an officer or officers within the mission to carry out the responsibility of the mission under paragraph (1), including the coordination of counterdrug, law enforcement, rule of law, and administration of justice programs, policy, and assistance. Such officer or officers shall report to the chief of mission, or the designee of the chief of mission, on a regular basis regarding activities undertaken in carrying out such responsibility.

(B) Reports

The chief of mission of every diplomatic mission of the United States shall submit to the Secretary on a regular basis a report on the actions undertaken by the mission to carry out such responsibility.

(3) Report to Congress

Not later than 180 days after October 21, 1998, the Secretary shall submit to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives a report on the status of any proposals for action or on action undertaken to improve staffing and personnel management at diplomatic missions of the United States in order to carry out the responsibility set forth in paragraph (1).

(Pub. L. 105–277, div. G, subdiv. B, title XXII, §2214, Oct. 21, 1998, 112 Stat. 2681–812.)

CHANGE OF NAME

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§2657. Custody of seals and property

The Secretary of State shall have the custody and charge of the seal of the Department of State, and of all the books, records, papers, furniture, fixtures, and other property which on June 22, 1874, remained in and appertained to the Department, or were thereafter acquired for it.

(R.S. §203.)

CODIFICATION

R.S. §203 derived from acts July 27, 1789, ch. 4, §§2, 4, 1 Stat. 29; Sept. 15, 1789, ch. 14, §7, 1 Stat. 69.

Section was formerly classified to section 158 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, §1, Sept. 6, 1966, 80 Stat. 378.

§2658. Repealed. Pub. L. 103–236, title I, §162(a), Apr. 30, 1994, 108 Stat. 405

Section, acts May 26, 1949, ch. 143, §4, 63 Stat. 111; Aug. 26, 1954, ch. 937, §544(c), as added July 18, 1956, ch. 627, §11(a), 70 Stat. 563; amended Aug. 14, 1957, Pub. L. 85–141, §11(b)(1), 71 Stat. 365, authorized Secretary of State to promulgate rules and regulations and delegate authority.

EFFECTIVE DATE OF REPEAL

Repeal applicable with respect to officials, offices, and bureaus of Department of State when executive orders, regulations, or departmental directives implementing the amendments by sections 161 and 162 of Pub. L. 103–236 become effective, or 90 days after Apr. 30, 1994, whichever comes earlier, see section 161(b) of Pub. L. 103–236, as amended, set out as an Effective Date of 1994 Amendment note under section 2651a of this title.

§2659. State statutes to be procured

The Secretary of State shall procure from time to time such of the statutes of the several States as may not be in his office.

(R.S. §206.)

CODIFICATION

R.S. §206 derived from act Sept. 23, 1789, No. 3, 1 Stat. 97.

Section was formerly classified to section 161 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, §1, Sept. 6, 1966, 80 Stat. 378.

ABOLITION OF FUNCTIONS

Section 161 of former Title 5, Executive Departments and Government Officers and Employees [now this section], under which the Secretary of State was required to procure, from time to time, such of the statutes of the several States as might not be in his office, was affected by Reorg. Plan No. 20 of 1950, 2(a), eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1272, set out in Appendix to Title 5, Government Organization and Employees, which abolished such prescribed duty. Such section 2(a) further provided, however, that such abolition should not limit the authority of the Secretary of State to procure copies of such State statutes as may be needed in the performance of his functions.

§2660. Copies of treaties furnished to Director of the Government Publishing Office

The Secretary of State shall furnish to the Director of the Government Publishing Office a correct copy of every treaty between the United States and any foreign government as soon as possible after it has been duly ratified and has been proclaimed by the President; and also of every postal convention made between the United States Postal Service, by and with the advice and consent of the President, on the part of the United States and foreign countries, as soon as possible after copies of such conventions have been transmitted to him by the United States Postal Service.

(R.S. §210; June 20, 1874, ch. 328, 18 Stat. 88; 1950 Reorg. Plan No. 20, §1, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1272; Pub. L. 91–375, §4(a), Aug. 12, 1970, 84 Stat. 773; Pub. L. 113–235, div. H, title I, §1301(d), Dec. 16, 2014, 128 Stat. 2537.)

CODIFICATION

R.S. §210 derived from acts Mar. 9, 1868, ch. 22, §1, 15 Stat. 40; June 8, 1872, ch. 335, §20, 17 Stat. 287.

Section was formerly classified to section 165 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, §1, Sept. 6, 1966, 80 Stat. 378.

Provisions of R.S. §210, act June 20, 1874, and 1950 Reorg. Plan No. 20, cited as credits to this section, insofar as related to duty of Administrator of General Services to furnish to Public Printer a correct copy of every Act and joint resolution, as soon as possible after its approval by President, or after it has become a law in accordance with the Constitution without such approval, were classified to section 191a of former Title 44, Public Printing and Documents, prior to repeal and reenactment as section 710 of Title 44 by Pub. L. 90–620, which enacted Title 44. Section 2(a) of Pub. L. 90–620 provided that the legislative purpose in enacting Title 44 was to restate without substantive change the laws replaced by revised Title 44. Because revised section 710 of Title 44 did not restate those provisions of R.S. §210 and act June 20, 1874, which appear in this section, this section is not considered as having been repealed by section 3 of Pub. L. 90–620.

CHANGE OF NAME

"Director of the Government Publishing Office" substituted for "Public Printer" in text on authority of section 1301(d) of Pub. L. 113–235, set out as a note under section 301 of Title 44, Public Printing and Documents.

TRANSFER OF FUNCTIONS

Reorg. Plan No. 20 of 1950, set out in the Appendix to Title 5, Government Organization and Employees, transferred various functions of Secretary of State to Administrator of General Services but excepted from transfer the functions of Secretary of State with respect to treaties and other international agreements under R.S. §210, as amended (this section).

"United States Postal Service" substituted in text for "Postmaster General" pursuant to section 4(a) of Pub. L. 91–375, set out as a note under section 201 of Title 39, Postal Service, which abolished office of Postmaster General of Post Office Department and transferred its functions to United States Postal Service.

§2661. Procurement of information for corporations, firms and individuals; expense of cablegrams and telephone service involved; appropriation

On and after May 15, 1936, whenever the Secretary of State, in his discretion, procures information on behalf of corporations, firms, and individuals, the expense of cablegrams and telephone service involved may be charged against the respective appropriations for the service utilized; and reimbursement therefor shall be required from those for whom the information was procured and, when made, be credited to the appropriation under which the expenditure was charged.

The Secretary of State is authorized to accept reimbursement from corporations, firms, and individuals for the expenses of travel, translation, printing, special experts, and other extraordinary expenses (including such expenses as salaries and other personnel expenses) incurred in pursuing a claim on their behalf against a foreign government or other foreign entity. Such reimbursements shall be credited to the appropriation account against which the expense was initially charged.

(May 15, 1936, ch. 405, 49 Stat. 1321; Pub. L. 100–204, title I, §142(b), Dec. 22, 1987, 101 Stat. 1350; Pub. L. 105–277, div. G, subdiv. B, title XXII, §2212(a), Oct. 21, 1998, 112 Stat. 2681–812.)

CODIFICATION

Section was formerly classified to section 169 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, §1, Sept. 6, 1966, 80 Stat. 378.

Section is from the Department of State Appropriation Act, 1937, act May 15, 1936.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following prior appropriation acts:
Mar. 22, 1935, ch. 39, 49 Stat. 76.

Apr. 7, 1934, ch. 104, title I, 48 Stat. 536.
Mar. 1, 1933, ch. 144, title I, 47 Stat. 1379.
July 1, 1932, ch. 361, title I, 47 Stat. 487.
Feb. 23, 1931, ch. 280, title I, 46 Stat. 1321.
Apr. 18, 1930, ch. 184, title I, 46 Stat. 174.

AMENDMENTS

1998—Pub. L. 105–277, in second par., inserted "(including such expenses as salaries and other personnel expenses)" after "extraordinary expenses".

1987—Pub. L. 100–204 inserted second par.

§2661a. Foreign contracts or arrangements; discrimination

Information should not be disseminated about opportunities for, and there should be no participation or other assistance by any officer or employee of the Department of State (including the Agency for International Development) in, the negotiation of any contract or arrangement with a foreign country, individual, or entity, if—

(1) any United States person (as defined in section 7701(a)(30) of title 26) is prohibited from entering into such contract or arrangement, or

(2) such contract or arrangement requires that any such person be excluded from participating in the implementation of such contract or arrangement,

on account of the race, religion, national origin, or sex of such person in the case of an individual or, in the case of a partnership, corporation, association, or other entity, any officer, employee, agent, director, or owner thereof.

(Pub. L. 94–350, title I, §121, July 12, 1976, 90 Stat. 829; Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095.)

AMENDMENTS

1986—Par. (1). Pub. L. 99–514 substituted "Internal Revenue Code of 1986" for "Internal Revenue Code of 1954", which for purposes of codification was translated as "title 26" thus requiring no change in text.

§2661b. Services provided to the press

In fiscal year 2001 and thereafter reimbursements for services provided to the press in connection with the travel of senior-level officials may be collected and credited to this appropriation and shall remain available until expended.

(Pub. L. 106–553, §1(a)(2) [title IV], Dec. 21, 2000, 114 Stat. 2762, 2762A–90.)

REFERENCES IN TEXT

This appropriation, referred to in text, probably means appropriations under the headings "DEPARTMENT OF STATE", "ADMINISTRATION OF FOREIGN AFFAIRS", and "DIPLOMATIC AND CONSULAR PROGRAMS" of the annual Department of State and Related Agency Appropriations Act.

§2662. Transferred

CODIFICATION

Section 2662, act Aug. 1, 1956, ch. 841, title I, §1 [part], 70 Stat. 890; as renumbered title I and amended Aug. 24, 1982, Pub. L. 97–241, title II, §202(a), 96 Stat. 282, which related to establishment, maintenance, and operation of passport and despatch agencies, was amended generally by Pub. L. 103–236 and transferred to section 2651a of this title.

Section was formerly classified to section 170f of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, §1, Sept. 6, 1966, 80 Stat. 378.

Similar provisions were contained in the following prior Department of State Appropriation Acts:
June 20, 1956, ch. 414, title I, 70 Stat. 299.
July 7, 1955, ch. 279, title I, 69 Stat. 264.
July 2, 1954, ch. 456, title I, 68 Stat. 413.
Aug. 5, 1953, ch. 328, title I, 67 Stat. 367.
July 10, 1952, ch. 651, title I, 66 Stat. 549.
Oct. 22, 1951, ch. 533, title I, 65 Stat. 576.
Sept. 6, 1950, ch. 896, title I, 64 Stat. 609.
July 20, 1949, ch. 354, title I, 63 Stat. 448.
June 3, 1948, ch. 400, title I, 62 Stat. 306.
July 9, 1947, ch. 211, title I, 61 Stat. 279.
See, also, the Codification note set out under section 2663 of this title.

§2663. Omitted

CODIFICATION

Section, act July 5, 1946, ch. 541, title I, 60 Stat. 450, 451, the Department of State Appropriation Act, 1947, related to compensation of personnel and rent and expenses of despatch agencies established by Secretary of State. See section 2662 of this title.

Section was formerly classified to section 153a of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, §1, Sept. 6, 1966, 80 Stat. 378.

Similar provisions were contained in the following prior Department of State Appropriation Acts:
May 21, 1945, ch. 129, title I, 59 Stat. 173.
June 28, 1944, ch. 294, title I, 58 Stat. 399.
July 1, 1943, ch. 182, title I, 57 Stat. 275.
July 2, 1942, ch. 472, title I, 56 Stat. 473.
June 28, 1941, ch. 258, title I, 55 Stat. 268.
May 14, 1940, ch. 189, title I, 54 Stat. 185.

§2664. Distribution of duties of officers, clerks, and employees

The Secretary of State may prescribe duties for the Assistant Secretaries and the clerks of bureaus, as well as for all the other employees in the department, and may make changes and transfers therein when, in his judgment, it becomes necessary.

(June 20, 1874, ch. 328, 18 Stat. 90; May 24, 1924, ch. 182, §30, as added Feb. 23, 1931, ch. 276, §7, 46 Stat. 1214.)

CODIFICATION

Section was formerly classified to section 154 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, §1, Sept. 6, 1966, 80 Stat. 378.

Provisions of this section which related to the Solicitor of the Department were omitted in view of act May 24, 1924, which abolished the office.

§2664a. Protection of Civil Service employees

(a) Findings

The Congress finds that—

(1) the effectiveness and efficiency of the Department of State is dependent not only on the contribution of Foreign Service employees but equally on the contribution of the 42 percent of the Department's employees who are employed under the Civil Service personnel system;

(2) the contribution of these Civil Service employees has been overlooked in the management of the Department and greater equality of promotion, training, and career enhancement opportunities should be accorded to the Civil Service employees of the Department; and

(3) a goal of the Foreign Service Act of 1980 [22 U.S.C. 3901 et seq.] was to strengthen the contribution made by Civil Service employees of the Department of State by creating a cadre of experienced specialists and managers in the Department to provide essential continuity.

(b) Equitable reduction of budget

The Secretary of State shall take all appropriate steps to assure that the burden of cuts in the budget for the Department is not imposed disproportionately or inequitably upon its Civil Service employees.

(c) Establishment of Office of the Ombudsman for Civil Service Employees

There is established in the Office of the Secretary of State the position of Ombudsman for Civil Service Employees. The position of Ombudsman for Civil Service Employees shall be a career reserved position within the Senior Executive Service. The Ombudsman for Civil Service Employees shall report directly to the Secretary of State and shall have the right to participate in all Management Council meetings to assure that the ability of the Civil Service employees to contribute to the achievement of the Department's mandated responsibilities and the career interests of those employees are adequately represented. The position of Ombudsman for Civil Service Employees shall be designated from one of the Senior Executive Service positions (as defined in section 3132(a)(2) of title 5) in existence on December 22, 1987.

(d) "Civil Service employees" defined

For purposes of this section, the term "Civil Service employees" means employees of the Federal Government except for members of the Foreign Service (as defined in section 103 of the Foreign Service Act of 1980 [22 U.S.C. 3903]).

(Pub. L. 100–204, title I, §172, Dec. 22, 1987, 101 Stat. 1359.)

REFERENCES IN TEXT

The Foreign Service Act of 1980, referred to in subsec. (a)(3), is Pub. L. 96–465, Oct. 17, 1980, 94 Stat. 2071, as amended, which is classified principally to chapter 52 (§3901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3901 of this title and Tables.

AUTHORITY OF SECRETARY OF STATE

Except as otherwise provided, Secretary of State to have and exercise any authority vested by law in any official or office of Department of State and references to such officials or offices deemed to refer to Secretary of State or Department of State, as appropriate, see section 2651a of this title and section 161(d) of Pub. L. 103–236, set out as a note under section 2651a of this title.

§2665. Personal services other than those provided for

There shall not be employed in the Department of State or in connection with said Department in the District of Columbia any personal services other than those which shall be specifically authorized or appropriated for.

(June 22, 1906, ch. 3514, 34 Stat. 402.)

CODIFICATION

Section was formerly classified to section 155 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, §1, Sept. 6, 1966, 80 Stat. 378.

§2665a. Foreign Service fellowships

The Secretary of State is authorized to establish a Foreign Service fellowship program at the Department of State. The Foreign Service fellowship program shall provide a fellowship, for not less than 4 months, for academics in the area of international affairs who are members of the faculty of institutions of higher education. Such program shall give priority consideration in the award of fellowships to individuals teaching in programs in international affairs which serve significant

numbers of students who are from cultural and ethnic groups which are underrepresented in the Foreign Service.

(Pub. L. 101–246, title I, §153(h), Feb. 16, 1990, 104 Stat. 44.)

§§2666, 2667. Repealed. Pub. L. 99–93, title I, §125(c), Aug. 16, 1985, 99 Stat. 417

Section 2666, acts June 28, 1955, ch. 199, §1, 69 Stat. 188; Nov. 29, 1975, Pub. L. 94–141, title IV, §406, 89 Stat. 770, authorized security officers of Department of State and Foreign Service to carry firearms. See section 2709 of this title.

Section 2667, act June 28, 1955, ch. 199, §2, as added Aug. 27, 1964, Pub. L. 88–493, §4, 78 Stat. 610, empowered security officers of Department of State and Foreign Service to make arrests without warrant. See section 2709(a)(5) of this title.

§2668. Requisitions for advances to pay lawful obligations

(a) Authorization; accounting

Notwithstanding the provisions of any other law the Secretary of State is authorized in his discretion to issue under the limitations and restrictions hereinafter established requisitions for advances of funds to disbursing officers of the Fiscal Service of the Treasury Department, under a "State account of advances" not to exceed the total amount of appropriations for the Department of State, the amounts so advanced to be used exclusively to pay upon proper vouchers obligations lawfully payable under the respective appropriations: *Provided*, That a separate "State account of advances" shall be established on the books of the Treasury Department relating to appropriations made to the Department of State for each fiscal year and that a "State account of advances" relating to the appropriations for one fiscal year shall not be used to pay vouchers pertaining to the appropriations of any other fiscal year. Expenditures from the amounts requisitioned under the "State account of advances" shall be charged to applicable appropriations on the books of the Treasury Department on the basis of transfer and counter warrants prepared in the State Department as of the close of each month and prior to audit, certification, or adjustment by the Government Accountability Office. The Government Accountability Office shall subsequently declare the sums finally due from the several appropriations upon audited vouchers according to law and shall certify the same to the Treasury Department which shall make the necessary adjustments between appropriations upon the basis of such audited settlements of the Government Accountability Office: *Provided further*, That such adjustments shall be reflected on the books of the Government in the month and fiscal year during which the audited settlements are certified to the Treasury.

(b) Removal of outstanding charges

A charge outstanding in the "State account of advances" shall be removed by crediting the account of advances and deducting the amount of the charge from an appropriation made available for advances to the Department of State when—

(1) relief has been granted or may be granted later to a disbursing official or agent of the Department operating under the account of advances and under a law having no provision for removing charges outstanding in the account of advances; or

(2) the charge has been—

(A) outstanding in the account of advances for 2 complete fiscal years; and

(B) certified by the Secretary of State to the Comptroller General as uncollectable.

(c) Financial liability of disbursing agent or official

Subsection (b) of this section does not affect the financial liability of a disbursing official or agent.

(Apr. 25, 1940, ch. 154, 54 Stat. 163; 1940 Reorg. Plan No. III, §1(a)(1), eff. June 30, 1940, 5 F.R. 2107, 54 Stat. 1231; Pub. L. 97–258, §2(e), Sept. 13, 1982, 96 Stat. 1059; Pub. L. 108–271, §8(b), July 7, 2004, 118 Stat. 814.)

CODIFICATION

Section was formerly classified to section 170 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, §1, Sept. 6, 1966, 80 Stat. 378.

AMENDMENTS

2004—Subsec. (a). Pub. L. 108–271 substituted "Government Accountability Office" for "General Accounting Office" wherever appearing.

1982—Pub. L. 97–258 redesignated existing provisions as subsec. (a) and added subsecs. (b) and (c).

TRANSFER OF FUNCTIONS

In subsec. (a), "Fiscal Service of the Treasury Department" substituted for "Division of Disbursement, Treasury Department" on authority of section 1(a)(1) of Reorg. Plan No. III of 1940, eff. June 30, 1940, 5 F.R. 2107, 54 Stat. 1231, set out in the Appendix to Title 5, Government Organization and Employees, which consolidated such division into the Fiscal Service of the Treasury Department. See section 306 of Title 31, Money and Finance.

§2668a. Disposition of trust funds received from foreign governments for citizens of United States

All moneys received by the Secretary of State from foreign governments and other sources, in trust for citizens of the United States or others, shall be deposited and covered into the Treasury.

The Secretary of State shall determine the amounts due claimants, respectively, from each of such trust funds, and certify the same to the Secretary of the Treasury, who shall, upon the presentation of the certificates of the Secretary of State, pay the amounts so found to be due.

Each of the trust funds covered into the Treasury as aforesaid is appropriated for the payment to the ascertained beneficiaries thereof of the certificates provided for in this section.

(Feb. 27, 1896, ch. 34, 29 Stat. 32.)

CODIFICATION

Section was formerly classified to section 547 of Title 31 prior to the general revision and enactment of Title 31, Money and Finance, by Pub. L. 97–258, §1, Sept. 13, 1982, 96 Stat. 877.

§2669. Printing and binding outside continental United States; settlement and payment of claims by foreign governments; employment of aliens; official functions and courtesies; purchase of uniforms; payment of tort claims; payment of assumed obligations in Germany; telecommunications services; security; special purpose passenger motor vehicles; pay obligations arising under international conventions or contracts; personal service contracts

The Secretary of State may use funds appropriated or otherwise available to the Secretary to—

(a) provide for printing and binding outside the States of the United States and the District of Columbia without regard to section 501 of title 44;

(b) for the purpose of promoting and maintaining friendly relations with foreign countries through the prompt settlement of certain claims, settle and pay any meritorious claim against the United States which is presented by a government of a foreign country for damage to or loss of real or personal property of, or personal injury to or death of, any national of such foreign country: *Provided*, That such claim is not cognizable under any other statute or international agreement of the United States and can be settled for not more than $15,000 or the foreign currency equivalent thereof;

(c) employ individuals or organizations, by contract, for services abroad, and individuals employed by contract to perform such services shall not by virtue of such employment be considered to be employees of the United States Government for purposes of any law administered by the Office of Personnel Management (except that the Secretary may determine the

applicability to such individuals of subsection (f) and of any other law administered by the Secretary concerning the employment of such individuals abroad); and such contracts are authorized to be negotiated, the terms of the contracts to be prescribed, and the work to be performed, where necessary, without regard to such statutory provisions as relate to the negotiation, making, and performance of contracts and performance of work in the United States;

(d) provide for official functions and courtesies;

(e) purchase uniforms;

(f) pay tort claims, in the manner authorized in the first paragraph of section 2672, as amended, of title 28, when such claims arise in foreign countries in connection with Department of State operations abroad;

(g) obtain services as authorized by section 3109 of title 5 at a rate not to exceed the maximum rate payable for GS–18 under section 5332 of such title 5;

(h) directly procure goods and services in the United States or abroad, solely for use by United States Foreign Service posts abroad when the Secretary of State, in accordance with guidelines established in consultation with the Administrator of General Services, determines that use of the Federal Acquisition Service or otherwise applicable Federal goods and services acquisition authority would not meet emergency overseas security requirements determined necessary by the Secretary, taking into account overseas delivery, installation, maintenance, or replacement requirements, except that the authority granted by this paragraph shall cease to be effective when the amendment made by section 2711 of the Competition in Contracting Act of 1984 takes effect and thereafter procurement by the Secretary of State for the purposes described in this paragraph shall be in accordance with section 3304(a)(2) of title 41;

(i) pay obligations assumed in Germany on or after June 5, 1945;

(j) provide telecommunications services;

(k) provide maximum physical security in Government-owned and leased properties and vehicles abroad;

(l) purchase special purpose passenger motor vehicles without regard to any price limitation otherwise established by law;

(m) pay obligations arising under international agreements, conventions, and binational contracts to the extent otherwise authorized by law;

(n) exercise the authority provided in subsection (c), upon the request of the Secretary of Defense or the head of any other department or agency of the United States, to enter into personal service contracts with individuals to perform services in support of the Department of Defense or such other department or agency, as the case may be; and

(o) make administrative corrections or adjustments to an employee's pay, allowances, or differentials, resulting from mistakes or retroactive personnel actions, as well as provide back pay and other categories of payments under section 5596 of title 5, as part of the settlement or compromise of administrative claims or grievances filed against the Department.

(Aug. 1, 1956, ch. 841, title I, §2, 70 Stat. 890; Pub. L. 86–624, §2, July 12, 1960, 74 Stat. 411; Pub. L. 86–707, title V, §511(a)(2), Sept. 6, 1960, 74 Stat. 800; Pub. L. 87–565, pt. IV, §402, Aug. 1, 1962, 76 Stat. 263; renumbered title I, Pub. L. 97–241, title II, §202(a), Aug. 24, 1982, 96 Stat. 282; Pub. L. 98–533, title III, §303(a), Oct. 19, 1984, 98 Stat. 2710; Pub. L. 99–93, title I, §§114, 118(a), Aug. 16, 1985, 99 Stat. 411, 412; Pub. L. 101–246, title I, §111, Feb. 16, 1990, 104 Stat. 21; Pub. L. 102–20, §4, Mar. 27, 1991, 105 Stat. 68; Pub. L. 102–138, title I, §120, Oct. 28, 1991, 105 Stat. 658; Pub. L. 103–236, title I, §§137, 162(k)(4), 180(b), Apr. 30, 1994, 108 Stat. 397, 409, 416; Pub. L. 107–107, div. A, title VIII, §833, Dec. 28, 2001, 115 Stat. 1191; Pub. L. 108–447, div. B, title IV, §413, Dec. 8, 2004, 118 Stat. 2906; Pub. L. 109–313, §2(c)(1), Oct. 6, 2006, 120 Stat. 1735.)

REFERENCES IN TEXT

The effective date of the amendment made by section 2711 of the Competition in Contracting Act of 1984, referred to in subsec. (h), is the effective date of section 2711 of title VII of Pub. L. 98–369, div. B, July 18, 1984, 98 Stat. 1175, 1203, which amended section 253 of former Title 41, Public Contracts, applicable with respect to any solicitation for bids or proposals issued after Mar. 31, 1985. See section 2751(a) of Pub. L. 98–369, set out as an Effective Date of 1984 Amendment note under section 2302 of Title 10, Armed Forces.

CODIFICATION

In subsec. (a), "section 501 of title 44" substituted for "section 11 of the Act of March 1, 1919 (44 U.S.C. 111)" on authority of Pub. L. 90–620, §2(b), Oct. 22, 1968, 82 Stat. 1305, the first section of which enacted Title 44, Public Printing and Documents.

In subsec. (h), "section 3304(a)(2) of title 41" substituted for "section 303(c)(2) of the Federal Property and Administrative Services Act of 1949" on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

Section was formerly classified to section 170g of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, §1, Sept. 6, 1966, 80 Stat. 378.

AMENDMENTS

2004—Subsec. (k). Pub. L. 108–447, §413(b)(1), which directed the striking out of "and", was executed by striking out "and" after semicolon, to reflect the probable intent of Congress.

Subsec. (l). Pub. L. 108–447, §413(b)(3), substituted semicolon for period at end.

Subsec. (m). Pub. L. 108–447, §413(b)(2), (3), transferred subsec. (m) to appear after subsec. (l) and substituted semicolon for period at end.

Subsec. (n). Pub. L. 108–447, §413(b)(4), substituted "; and" for period at end.

Subsec. (o). Pub. L. 108–447, §413(a), added subsec. (o).

2001—Subsec. (n). Pub. L. 107–107 added subsec. (n).

1994—Subsec. (c). Pub. L. 103–236, §§137, 180(b), which identically directed amendment of subsec. (c) by inserting before the period "; and such contracts are authorized to be negotiated, the terms of the contracts to be prescribed, and the work to be performed, where necessary, without regard to such statutory provisions as relate to the negotiation, making, and performance of contracts and performance of work in the United States", were executed by making the insertion before the semicolon at end to reflect the probable intent of Congress.

Subsecs. (l), (m). Pub. L. 103–236, §162(k)(4), redesignated subsec. (l) relating to paying obligations arising under international agreements, conventions, and binational contracts as (m).

1991—Subsec. (l). Pub. L. 102–138 added subsec. (l) relating to paying obligations arising under international agreements, conventions, and binational contracts.

Pub. L. 102–20 added subsec. (l) relating to purchase of special purpose passenger motor vehicles.

1990—Subsecs. (i) to (k). Pub. L. 101–246 added subsecs. (i) to (k).

1985—Pub. L. 99–93, §114, in provision preceding subsec. (a) substituted "may use funds appropriated or otherwise available to the Secretary to" for ", when funds are appropriated therefor, may".

Subsec. (c). Pub. L. 99–93, §118(a), inserted "for purposes of any law administered by the Office of Personnel Management (except that the Secretary may determine the applicability to such individuals of subsection (f) and of any other law administered by the Secretary concerning the employment of such individuals abroad)".

1984—Subsec. (c). Pub. L. 98–533, §303(a)(1), substituted "individuals or organizations" for "aliens" after "employ", and ", and individuals employed by contract to perform such services shall not by virtue of such employment be considered to be employees of the United States Government".

Subsecs. (g), (h). Pub. L. 98–533, §303(a)(2), added subsecs. (g) and (h).

1962—Subsec. (b). Pub. L. 87–565 added subsec. (b). A prior subsec. (b) was repealed by section 511(a)(2) of Pub. L. 86–707.

1960—Subsec. (a). Pub. L. 86–624 substituted "the States of the United States and the District of Columbia" for "the continental United States".

Subsec. (b). Pub. L. 86–707 repealed subsec. (b) which authorized the Secretary to pay the cost of transportation to and from a place of storage and the cost of storing the furniture and household and personal effects of an employee who is assigned to a post at which he is unable to use his furniture and effects, and is now covered by section 1136(4) of this title.

CHANGE OF NAME

"Federal Acquisition Service" substituted for "Federal Supply Service" in subsec. (h) on authority of section 2(c)(1) of Pub. L. 109–313, set out as a note under section 303 of Title 40, Public Buildings, Property, and Works.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by section 162(k)(4) of Pub. L. 103–236 applicable with respect to officials, offices, and bureaus of Department of State when executive orders, regulations, or departmental directives implementing

the amendments by sections 161 and 162 of Pub. L. 103–236 become effective, or 90 days after Apr. 30, 1994, whichever comes earlier, see section 161(b) of Pub. L. 103–236, as amended, set out as a note under section 2651a of this title.

EFFECTIVE DATE OF 1985 AMENDMENT

Pub. L. 99–93, title I, §118(b), Aug. 16, 1985, 99 Stat. 412, provided that: "Authority provided by the amendment made by subsection (a) [amending this section] shall only apply with respect to funds appropriated after the date of the enactment of this Act [Aug. 16, 1985]."

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

§2669–1. Payment of tort claims arising in connection with overseas operations

During the current fiscal year and hereafter, the Secretary of State shall have discretionary authority to pay tort claims in the manner authorized by section 2672 of title 28 when such claims arise in foreign countries in connection with the overseas operations of the Department of State.

(Pub. L. 105–277, div. A, §101(b) [title IV, §409], Oct. 21, 1998, 112 Stat. 2681–50, 2681–102.)

§2669a. Diplomatic Telecommunications Service

(a) Diplomatic Telecommunications Service financial management

In fiscal year 1995 and each succeeding fiscal year—

(1) the Secretary of State shall provide funds for the operation of the Diplomatic Telecommunications Service (DTS) in a sufficient amount to sustain the current level of support services being provided by the DTS, and no portion of such amount may be reprogrammed or transferred for any other purpose;

(2) all funds for the operation and enhancement of the DTS shall be directly available for use by the Diplomatic Telecommunications Service Program Office (DTS–PO); and

(3) the DTS–PO financial management officer shall be provided direct access to the Department of State financial management system to independently monitor and control the obligation and expenditure of all funds for the operation and enhancement of the DTS.

(b) DTS Policy Board

Within 60 days after August 26, 1994, the Secretary of State and the Director of the DTS–PO shall restructure the DTS Policy Board to provide for representation on the Board, during fiscal year 1995 and each succeeding fiscal year, by—

(1) the Director of the DTS–PO;

(2) the senior information management official from each agency currently serving on the Board;

(3) a senior career information management official from each of the Department of Commerce and the Defense Intelligence Agency; and

(4) a senior career information management official from each of 2 other Federal agencies served by the DTS, each of whom shall be appointed on a rotating basis by the Secretary of State and the Director of the DTS–PO for a 2-year term.

(c) DTS consolidation pilot program

(1) In general

The Secretary of State and the Director of the DTS–PO shall carry out a program under which total DTS consolidation will be completed before October 1, 1995, at not less than five embassies

of medium to large size.

(2) Pilot program requirements

Under the program required in paragraph (1)—

(A) each participating embassy shall be provided with a full range of integrated information services, including message, data, and voice, without additional charge;

(B) a combined transmission facility shall be established and jointly operated, with open access to all unclassified transmission equipment;

(C) an unclassified packet switch communication system shall be installed and shall serve all foreign affairs agencies associated with the embassy;

(D) separate classified transmission systems (including MERCURY) shall be terminated; and

(E) all foreign affairs agency systems requiring international communications capability shall obtain such capability solely through the DTS.

(3) Pilot program report

Not later than January 15, 1996, the Secretary of State and the Director of the DTS–PO shall submit to the Committees on Appropriations of the House and Senate a report describing the actions taken under the program required by this subsection. The report shall include a cost-benefit analysis for each embassy participating in the program.

(d) DTS planning report

Not later than January 15, 1995, the Secretary of State and the Director of the DTS–PO shall submit to the Committees on Appropriations a DTS planning report. The report shall include—

(1) a detailed plan for carrying out the pilot program required by subsection (c), including an estimate of the funds required for such purpose; and

(2) a comprehensive DTS strategy plan that contains detailed plans and schedules for—

(A) an overall DTS network configuration and security strategy;

(B) transition of the existing dedicated circuits and classified transmission systems to the unclassified packet switch communications system;

(C) provision of a basic level of voice service for all DTS customers;

(D) funding of new initiatives and of replacement of current systems;

(E) combining existing DTS network control centers, relay facilities, and overseas operations; and

(F) reducing the extensive reliance of DTS–PO on the full-time services of contractors.

(Pub. L. 103–317, title V, §507, Aug. 26, 1994, 108 Stat. 1766; Pub. L. 105–277, div. G, subdiv. A, title XIII, §1335(m), Oct. 21, 1998, 112 Stat. 2681–789.)

AMENDMENTS

1998—Subsec. (b)(3). Pub. L. 105–277 struck out ", the United States Information Agency," after "Department of Commerce".

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective Oct. 1, 1999, see section 1301 of Pub. L. 105–277, set out as an Effective Date note under section 6531 of this title.

§2669b. Reaffirming United States international telecommunications policy

(a) Procurement policy

It is the policy of the United States to foster and support procurement of goods and services from private, commercial companies.

(b) Implementation

In order to achieve the policy set forth in subsection (a), the Diplomatic Telecommunications Service Program Office (DTS–PO) shall—

(1) utilize full and open competition, to the maximum extent practicable, in the procurement of

telecommunications services, including satellite space segment, for the Department of State and each other Federal entity represented at United States diplomatic missions and consular posts overseas;

(2) make every effort to ensure and promote the participation in the competition for such procurement of commercial private sector providers of satellite space segment who have no ownership or other connection with an intergovernmental satellite organization; and

(3) implement the competitive procedures required by paragraphs (1) and (2) at the prime contracting level and, to the maximum extent practicable, the subcontracting level.

(Pub. L. 105–277, div. G, subdiv. B, title XXII, §2218, Oct. 21, 1998, 112 Stat. 2681–816.)

§2670. Insurance on motor vehicles in foreign countries; tie lines and teletype equipment; ice and drinking water; excise taxes on negotiable instruments; remains of deceased persons; relief, protection, and burial of seamen; acknowledgement of services of foreign vessels and aircraft; rentals and leases

The Secretary of State is authorized to—

(a) obtain insurance on official motor vehicles operated by the Department of State in foreign countries, and pay the expenses incident thereto;

(b) rent tie lines and teletype equipment;

(c) provide ice and drinking water for United States Embassies and Consulates abroad;

(d) pay excise taxes on negotiable instruments which are negotiated by the Department of State abroad;

(e) Omitted;

(f) pay expenses incident to the relief, protection, and burial of American seamen, and alien seamen from United States vessels in foreign countries and in the United States Territories and possessions;

(g) pay the expenses incurred in the acknowledgment of the services of officers and crews of foreign vessels and aircraft in rescuing American seamen, airmen, or citizens from shipwreck or other catastrophe abroad or at sea;

(h) rent or lease, for periods of less than ten years, such offices, buildings, grounds, and living quarters for the use of the Foreign Service abroad as he may deem necessary, and make payments therefor in advance;

(i) maintain, improve, and repair properties rented or leased pursuant to authority contained in subsection (h) of this section and furnish fuel, water, and utilities for such properties;

(j) provide emergency medical attention and dietary supplements, and other emergency assistance, for United States citizens incarcerated abroad or destitute United States citizens abroad who are unable to obtain such services otherwise, such assistance to be provided on a reimbursable basis to the extent feasible;

(k) subject to the availability of appropriated funds, obtain insurance on the historic and artistic articles of furniture, fixtures, and decorative objects which may from time-to-time be within the responsibility of the Fine Arts Committee of the Department of State for the Diplomatic Rooms of the Department;

(l) make payments in advance, of the United States share of necessary expenses for international fisheries commissions, from appropriations available for such purpose; and

(m) establish, maintain, and operate passport and dispatch agencies.

(Aug. 1, 1956, ch. 841, title I, §3, 70 Stat. 890; Pub. L. 95–45, §2, June 15, 1977, 91 Stat. 221; 1977 Reorg. Plan No. 2, §9(a)(7), 42 F.R. 62461, 91 Stat. 1639; Pub. L. 95–426, title I, §108(a), Oct. 7, 1978, 92 Stat. 966; renumbered title I, Pub. L. 97–241, title II, §202(a), Aug. 24, 1982, 96 Stat. 282; Pub. L. 100–204, title I, §126(b), Dec. 22, 1987, 101 Stat. 1342; Pub. L. 102–138, title I, §166, Oct. 28, 1991, 105 Stat. 676; Pub. L. 103–236, title I, §162(k)(3), Apr. 30, 1994, 108 Stat. 409.)

CODIFICATION

Section was formerly classified to section 170h of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, §1, Sept. 6, 1966, 80 Stat. 378.

Subsec. (e) of this section, relating to the payment of the actual expenses of preparing and transporting to their former homes the remains of persons, not United States Government employees, who die away from their homes while participating in international educational exchange activities under the jurisdiction of the Department of State, was omitted pursuant to Reorg. Plan No. 2 of 1977, §9(a)(7), 42 F.R. 62461, 91 Stat. 1639, set out under section 1461 of this title, effective on or before July 1, 1978, at such time as specified by the President, which abolished the functions of the Secretary of State under subsec. (e).

AMENDMENTS

1994—Subsec. (m). Pub. L. 103–236 added subsec. (m).

1991—Subsec. (l). Pub. L. 102–138 added subsec. (l).

1987—Subsec. (k). Pub. L. 100–204 added subsec. (k).

1978—Subsec. (j). Pub. L. 95–426 inserted "or destitute United States citizens abroad" after "incarcerated abroad".

1977—Subsec. (j). Pub. L. 95–45 added subsec. (j).

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–236 applicable with respect to officials, offices, and bureaus of Department of State when executive orders, regulations, or departmental directives implementing the amendments by sections 161 and 162 of Pub. L. 103–236 become effective, or 90 days after Apr. 30, 1994, whichever comes earlier, see section 161(b) of Pub. L. 103–236, as amended, set out as a note under section 2651a of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95–426, title I, §108(b), Oct. 7, 1978, 92 Stat. 966, provided that: "The amendment made by this section [amending this section] shall take effect on October 1, 1978."

§2671. Emergency expenditures

(a) Delegation of authority pertaining to certification of expenditures

The Secretary of State is authorized to—

(1) subject to subsection (b), make expenditures, from such amounts as may be specifically appropriated therefor, for unforeseen emergencies arising in the diplomatic and consular service and, to the extent authorized in appropriation Acts, funds expended for such purposes may be accounted for in accordance with section 3526(e) of title 31; and

(2) delegate to subordinate officials the authority vested in him by section 3526(e) of title 31 pertaining to certification of expenditures.

(b) Activities subject to expenditures

(1) Expenditures described under subsection (a) shall be made only for such activities as—

(A) serve to further the realization of foreign policy objectives;

(B) are a matter of urgency to implement;

(C) with respect to activities the expenditures for which are required to be certified under subsection (a), require confidentiality in the best interests of the conduct of foreign policy by the United States; and

(D) are not otherwise prohibited by law.

(2) Activities described in paragraph (1) include—

(A) the evacuation when their lives are endangered by war, civil unrest, or natural disaster of—

(i) United States Government employees and their dependents; and

(ii) private United States citizens or third-country nationals, on a reimbursable basis to the maximum extent practicable, with such reimbursements to be credited to the applicable Department of State appropriation and to remain available until expended, except that no reimbursement under this clause shall be paid that is greater than the amount the person

evacuated would have been charged for a reasonable commercial air fare immediately prior to the events giving rise to the evacuation;

(B) loans made to destitute citizens of the United States who are outside the United States and made to provide for the return to the United States of its citizens;

(C) visits by foreign chiefs of state or heads of government to the United States;

(D) travel of delegations representing the President at any inauguration or funeral of a foreign dignitary;

(E) travel of the President, the Vice President, or a Member of Congress to a foreign country, including advance arrangements, escort, and official entertainment;

(F) travel of the Secretary of State within the United States and outside the United States, including official entertainment;

(G) official representational functions of the Secretary of State and other principal officers of the Department of State;

(H) official functions outside the United States the expenses for which are not otherwise covered by amounts appropriated for representation allowances;

(I) investigations and apprehension of groups or individuals involved in fraudulent issuance of United States passports and visas; and

(J) gifts of nominal value given by the President, Vice President, or Secretary of State to a foreign dignitary.

(c) Annual confidential audit and report

The Inspector General of the Department of State shall conduct a periodic audit of the Department of State's emergency expenditures and prepare and transmit to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate an annual report indicating whether such expenditures were made in accordance with subsections (a) and (b) of this section.

(d) Repatriation loan program

With regard to the repatriation loan program, the Secretary of State shall—

(1) require the borrower to provide a verifiable address and social security number at the time of application;

(2) require a written loan agreement which includes a repayment schedule;

(3) bar passports from being issued or renewed for those individuals who are in default;

(4) refer any loan more than one year past due to the Department of Justice for litigation;

(5) obtain addresses from the Internal Revenue Service for all delinquent accounts which have social security numbers;

(6) report defaults to commercial credit bureaus as provided in section 3711(e) of title 31;

(7) be permitted to use any funds necessary to contract with commercial collection agencies, notwithstanding section 3718(c) [1] of title 31;

(8) charge interest on all loans as of May 1, 1983, with the rate of interest to be that set forth in section 3717(a) of title 31;

(9) assess charges, in addition to the interest provided for in paragraph (8), to cover the costs of processing and handling delinquent claims, as of May 1, 1983;

(10) assess a penalty charge, in addition to the interest provided for in paragraphs (8) and (9), of 6 per centum per year for failure to pay any portion of a debt more than ninety days past due; and

(11) implement the interest and penalty provisions in paragraphs (8), (9), and (10) for all current and future loans, regardless of whether the debts were incurred before or after May 1, 1983.

(Aug. 1, 1956, ch. 841, title I, §4, 70 Stat. 890; renumbered title I, Pub. L. 97–241, title II, §202(a), Aug. 24, 1982, 96 Stat. 282; Pub. L. 98–164, title I, §122(a), Nov. 22, 1983, 97 Stat. 1023; Pub. L. 103–236, title I, §125, Apr. 30, 1994, 108 Stat. 393; Pub. L. 104–316, title I, §115(g)(2)(D), Oct. 19, 1996, 110 Stat. 3835; Pub. L. 107–228, div. A, title II, §201, Sept. 30, 2002, 116 Stat. 1361.)

REFERENCES IN TEXT

Section 3718(c) of title 31, referred to in subsec. (d)(7), was renumbered section 3718(e) of title 31 by Pub.

L. 99–578, §1(1), Oct. 28, 1986, 100 Stat. 3305.

CODIFICATION

In subsec. (a), "section 3526(e) of title 31" substituted for "section 291 of the Revised Statutes (31 U.S.C. 107)" on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

Section was formerly classified to section 170i of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, §1, Sept. 6, 1966, 80 Stat. 378.

AMENDMENTS

2002—Subsec. (b)(2)(A). Pub. L. 107–228 amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "the evacuation of United States Government employees and their dependents and private United States citizens when their lives are endangered by war, civil unrest, or natural disaster;".

1996—Subsec. (d)(6). Pub. L. 104–316 substituted "section 3711(e)" for "section 3711(f)".

1994—Subsec. (c). Pub. L. 103–236 struck out "and the Foreign Service" after "Department of State" and substituted "a periodic" for "an annual confidential".

1983—Pub. L. 98–164 designated existing provisions as subsec. (a), redesignated former pars. (a) and (b) as pars. (1) and (2), respectively, in par. (1) inserted reference to subsec. (b), and added subsecs. (b) to (d).

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (c) of this section relating to transmitting an annual report to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 131 of House Document No. 103–7.

[1] *See References in Text note below.*

§2672. Participation in international activities; restriction; expenses

The Secretary of State is authorized to—

(a) provide for participation by the United States in international activities which arise from time to time in the conduct of foreign affairs for which provision has not been made by the terms of any treaty, convention, or special Act of Congress: *Provided*, That this subsection shall not be construed as granting authority to accept membership for the United States in any international organization, or to participate in the activities of any international organization for more than one year without approval by the Congress; and

(b) pay the expenses of participation in activities in which the United States participates by authority of subsection (a) of this section, including, but not limited to the following:

(1) Employment of aliens;

(2) Travel expenses without regard to the Standardized Government Travel Regulations and to the rates of per diem allowances in lieu of subsistence expenses under subchapter I of chapter 57 of title 5;

(3) Travel expenses of persons serving without compensation in an advisory capacity while away from their homes or regular places of business not in excess of those authorized for regular officers and employees traveling in connection with said international activities; and

(4) Rental of quarters by contract or otherwise.

(Aug. 1, 1956, ch. 841, title I, §5, 70 Stat. 891; renumbered title I, Pub. L. 97–241, title II, §202(a), Aug. 24, 1982, 96 Stat. 282.)

CODIFICATION

In subsec. (b)(2), "subchapter I of chapter 57 of title 5" substituted for "the Travel Expense Act of 1949, as amended (5 U.S.C. 835–842)," on authority of Pub. L. 89–554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

Section was formerly classified to section 170j of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, §1, Sept. 6, 1966, 80 Stat. 378.

§2672a. Alternate United States Commissioners for international fisheries commissions

In order to insure appropriate representation at meetings of international fisheries commissions, the Secretary of State, in consultation with the Secretary of Commerce or of the Interior as appropriate may designate from time to time Alternate United States Commissioners to the North Pacific Fur Seal Commission, the Inter-American Tropical Tuna Commission, the International Pacific Halibut Commission, the International Whaling Commission, the Commission for the Conservation of Shrimp in the Eastern Gulf of Mexico, the International Commission for the Conservation of Atlantic Tunas, and any similar commission (other than the International Commission for the Northwest Atlantic Fisheries and the International North Pacific Fisheries Commission) established pursuant to a convention between the United States and other governments. Alternate United States Commissioners may exercise, at any meeting of the respective Commission or of the United States Section thereof, all powers and duties of a United States Commissioner in the absence of a duly designated Commissioner for whatever reason. The number of such Alternate United States Commissioners that may be designated for any such meeting shall be limited to the number of authorized United States Commissioners that will not be present. In the event that there are Deputy United States Commissioners pursuant to the convention or statute, such Deputy United States Commissioners shall have precedence over any Alternate Commissioners so designated pursuant to this section.

(Pub. L. 92–471, title II, §201, Oct. 9, 1972, 86 Stat. 787; Pub. L. 99–659, title IV, §405(c), Nov. 14, 1986, 100 Stat. 3738.)

AMENDMENTS

1986—Pub. L. 99–659 struck out "the Great Lakes Fishery Commission," after "the International Pacific Halibut Commission,".

§2672b. Compensation of Alternate United States Commissioners; travel expenses and other allowances

Alternate United States Commissioners shall receive no compensation for their services. They may be paid travel expenses and per diem in lieu of subsistence at the rates authorized by section 5703 of title 5 when engaged in the performance of their duties.

(Pub. L. 92–471, title II, §202, Oct. 9, 1972, 86 Stat. 787.)

§2673. International Civil Aviation Organization; availability of funds for participation

The provisions of section 287e of this title, and regulations thereunder, applicable to expenses incurred pursuant to sections 287 to 287e of this title, may be applicable to the obligation and expenditure of funds in connection with United States participation in the International Civil Aviation Organization.

(Aug. 1, 1956, ch. 841, title I, §6, 70 Stat. 891; renumbered title I, Pub. L. 97–241, title II, §202(a), Aug. 24, 1982, 96 Stat. 282.)

CODIFICATION

Section was formerly classified to section 170k of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, §1, Sept. 6, 1966, 80 Stat. 378.

ANNUAL APPROPRIATIONS

Annual appropriations to meet the obligations of membership in various international organizations were

contained in acts listed in a note set out under section 269a of this title.

§2674. Availability of exchange allowances or proceeds derived from exchange or sale of motor vehicles

The exchange allowances or proceeds derived from the exchange or sale of passenger motor vehicles in possession of the Foreign Service abroad, in accordance with section 503 of title 40, shall be available without fiscal year limitation for replacement of an equal number of such vehicles.

(Aug. 1, 1956, ch. 841, title I, §7, 70 Stat. 891; renumbered title I, Pub. L. 97–241, title II, §202(a), Aug. 24, 1982, 96 Stat. 282.)

CODIFICATION

"Section 503 of title 40" substituted in text for "section 201(c) of the Act of June 30, 1949 (40 U.S.C. 481(c))" on authority of Pub. L. 107–217, §5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

Section was formerly classified to section 170l of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, §1, Sept. 6, 1966, 80 Stat. 378.

§2675. Allocation or transfer to other agencies of funds appropriated to Department of State; authority for expenditure of funds

The Secretary of State may allocate or transfer to any department, agency, or independent establishment of the United States Government (with the consent of the head of such department, agency, or establishment) any funds appropriated to the Department of State, for direct expenditure by such department, agency, or independent establishment for the purposes for which the funds were appropriated in accordance with authority granted in this Act or under authority governing the activities of such department, agency, or independent establishment.

(Aug. 1, 1956, ch. 841, title I, §8, 70 Stat. 891; renumbered title I, Pub. L. 97–241, title II, §202(a), Aug. 24, 1982, 96 Stat. 282; Pub. L. 98–164, title I, §121, Nov. 22, 1983, 97 Stat. 1023.)

REFERENCES IN TEXT

This Act, referred to in text, is act Aug. 1, 1956, ch. 841, 70 Stat. 890, known as the State Department Basic Authorities Act of 1956, which enacted sections 2651a, 2669, 2670, 2671, 2672, 2673 to 2679a, 2680, 2680a, 2684, 2687 to 2690, 2692, 2695, 2696 to 2715, and 2715b to 2734 of this title and chapters 53 (§4301 et seq.), 53A (§4341 et seq.), and 53B (§4351 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2651 of this title and Tables.

CODIFICATION

Section was formerly classified to section 170m of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, §1, Sept. 6, 1966, 80 Stat. 378.

AMENDMENTS

1983—Pub. L. 98–164 amended section generally, substituting provisions relating to allocation or transfer of funds and authority for expenditure of funds for provisions relating to transfer of funds.

§2676. Contracts in foreign countries

The Secretary of State is authorized to enter into contracts in foreign countries involving expenditures from funds appropriated or otherwise made available to the Department of State, without regard to the provisions of section 6306 of title 41: *Provided,* That nothing in this section shall be construed to waive the provisions of section 431 of title 18.

(Aug. 1, 1956, ch. 841, title I, §9, 70 Stat. 891; renumbered title I, Pub. L. 97–241, title II, §202(a), Aug. 24, 1982, 96 Stat. 282.)

CODIFICATION

In text, "section 6306 of title 41" substituted for "section 3741 of the Revised Statutes (41 U.S.C. 22)" on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

Section was formerly classified to section 170n of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, §1, Sept. 6, 1966, 80 Stat. 378.

§2677. Availability of funds for travel expenses and transportation of personal effects, household goods, or automobiles

Appropriated funds made available to the Department of State for expenses in connection with travel of personnel outside the continental United States, including travel of dependents and transportation of personal effects, household goods, or automobiles of such personnel shall be available for such expenses when any part of such travel or transportation begins in one fiscal year pursuant to travel orders issued in that year, notwithstanding the fact that such travel or transportation may not be completed during that same fiscal year.

(Aug. 1, 1956, ch. 841, title I, §10, 70 Stat. 891; renumbered title I, Pub. L. 97–241, title II, §202(a), Aug. 24, 1982, 96 Stat. 282.)

CODIFICATION

Section was formerly classified to section 170o of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, §1, Sept. 6, 1966, 80 Stat. 378.

§2678. Reduction in earmarks if appropriations are less than authorizations

If the amount appropriated (or made available in the event of a sequestration order issued pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99–177; [2 U.S.C. 900 et seq.])) for a fiscal year pursuant to any authorization of appropriations provided by an Act other than an appropriation Act is less than the authorization amount and a provision of that Act provides that a specified amount of the authorization amount shall be available only for a certain purpose, then the amount so specified shall be deemed to be reduced for that fiscal year to the amount which bears the same ratio to the specified amount as the amount appropriated (or made available in the event of sequestration) bears to the authorization amount.

(Aug. 1, 1956, ch. 841, title I, §11, as added Pub. L. 101–246, title I, §106, Feb. 16, 1990, 104 Stat. 20.)

REFERENCES IN TEXT

The Balanced Budget and Emergency Deficit Control Act of 1985, referred to in text, is title II of Pub. L. 99–177, Dec. 12, 1985, 99 Stat. 1038, as amended, which enacted chapter 20 (§900 et seq.) and sections 654 to 656 of Title 2, The Congress, amended sections 602, 622, 631 to 642, and 651 to 653 of Title 2, sections 1104 to 1106, and 1109 of Title 31, Money and Finance, and section 911 of Title 42, The Public Health and Welfare, repealed section 661 of Title 2, enacted provisions set out as notes under section 900 of Title 2 and section 911 of Title 42, and amended provisions set out as a note under section 621 of Title 2. For complete classification of this Act to the Code, see Short Title note set out under section 900 of Title 2 and Tables.

PRIOR PROVISIONS

A prior section 2678, acts Aug. 1, 1956, ch. 841, title I, §11, 70 Stat. 892; Sept. 8, 1960, Pub. L. 86–723, §50, 74 Stat. 847; renumbered title I, Aug. 24, 1982, Pub. L. 97–241, title II, §202(a), 96 Stat. 282; Oct. 19, 1984, Pub. L. 98–533, title III, §303(b), 98 Stat. 2711, related to use of Government-owned vehicles for security purposes for travel by the Deputy Secretary of State, prior to repeal by Pub. L. 99–550, §2(d), Oct. 27, 1986, 100 Stat. 3070.

§2679. Maximum rates of per diem in lieu of subsistence payable to foreign

participants in exchange of persons program or in program of furnishing technical information and assistance

The Secretary of State, with the approval of the Office of Management and Budget, shall prescribe the maximum rates of per diem in lieu of subsistence (or of similar allowances therefor) payable while away from their own countries to foreign participants in any exchange of persons program, or in any program of furnishing technical information and assistance, under the jurisdiction of any Government agency, and said rates may be fixed without regard to any provision of law in limitation thereof.

(Aug. 1, 1956, ch. 841, title I, §12, 70 Stat. 892; 1970 Reorg. Plan No. 2, §102, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085; renumbered title I, Pub. L. 97–241, title II, §202(a), Aug. 24, 1982, 96 Stat. 282.)

CODIFICATION

Section was formerly classified to section 170q of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, §1, Sept. 6, 1966, 80 Stat. 378.

TRANSFER OF FUNCTIONS

Functions vested by law (including reorganization plan) in Bureau of the Budget or Director of Bureau of the Budget transferred to President by section 101 of Reorg. Plan No. 2 of 1970, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085. Section 102 of Reorg. Plan No. 2 of 1970 redesignated Bureau of the Budget as Office of Management and Budget and offices of Director, Deputy Director, and Assistant Directors of Bureau of the Budget as Director, Deputy Director, and Assistant Directors, respectively, of Office of Management and Budget. Section 103 of Reorg. Plan No. 2 of 1970 transferred all records, property, personnel, and funds of Bureau to Office of Management and Budget. See Part I of Reorganization Plan No. 2 of 1970, set out in the Appendix to Title 5, Government Organization and Employees.

DELEGATION OF FUNCTIONS

Authority of Secretary of State under this section to prescribe certain maximum rates of per diem in lieu of subsistence (or of similar allowances therefor), without the approval, ratification, or other action of President, delegated to Secretary of State, see section 4 of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

§2679a. Procurement contracts

(a) Funding for periods not in excess of five years; conditions

Any contract for the procurement of property or services, or both, for the Department of State or the Foreign Service which is funded on the basis of annual appropriations may nevertheless be made for periods not in excess of 5 years when—

(1) appropriations are available and adequate for payment for the first fiscal year and for all potential cancellation costs; and

(2) the Secretary of State determines that—

(A) the need of the Government for the property or service being acquired over the period of the contract is reasonably firm and continuing;

(B) such a contract will serve the best interests of the United States by encouraging effective competition or promoting economies in performance and operation; and

(C) such a method of contracting will not inhibit small business participation.

(b) Cancellation of contracts

In the event that funds are not made available for the continuation of such a contract into a subsequent fiscal year, the contract shall be cancelled and any cancellation costs incurred shall be paid from appropriations originally available for the performance of the contract, appropriations currently available for the acquisition of similar property or services and not otherwise obligated, or appropriations made for such cancellation payments.

(Aug. 1, 1956, ch. 841, title I, §14, as added and renumbered title I, Pub. L. 97–241, title I, §121, title

II, §202(a), Aug. 24, 1982, 96 Stat. 280, 282.)

PRIOR PROVISIONS

A prior section 2679a, acts Aug. 1, 1956, ch. 841, §14, as added Oct. 26, 1974, Pub. L. 93–475, §10(a)–(d), 88 Stat. 1441; amended Nov. 29, 1975, Pub. L. 94–141, title IV, §407(a), 89 Stat. 771; Aug. 17, 1977, Pub. L. 95–105, title IV, §410(a), 91 Stat. 854, set forth provisions respecting death guaranties for certain Foreign Service personnel, prior to repeal by Pub. L. 96–465, title II, §2205(10), Oct. 17, 1980, 94 Stat. 2160. Repeal effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title. See section 3973 of this title.

Another prior section 14 of act Aug. 1, 1956, was classified to section 170s of former Title 5, Executive Departments and Government Officers and Employees, prior to repeal by Pub. L. 86–707, title V, §511(a)(2), Sept. 6, 1960, 74 Stat. 800. See section 5922(b) of Title 5, Government Organization and Employees.

§2679b. Prohibition against fraudulent use of "Made in America" labels

If it has been finally determined by a court or Federal agency that a person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, that person shall be ineligible to receive any contract or subcontract from the Department of State, pursuant to the debarment, suspension, and ineligibility procedures in subpart 9.4 of chapter 1 of title 48, Code of Federal Regulations.

(Pub. L. 102–138, title I, §195, Oct. 28, 1991, 105 Stat. 684.)

§2679c. Prohibition on discriminatory contracts

(a) Prohibition

(1) Except for real estate leases and as provided in subsection (b), the Department of State may not enter into any contract that expends funds appropriated to the Department of State for an amount in excess of the small purchase threshold (as defined in section 134 of title 41— [1]

(A) with a foreign person that complies with the Arab League boycott of Israel, or

(B) with any foreign or United States person that discriminates in the award of subcontracts on the basis of religion.

(2) For purposes of this section—

(A) a foreign person complies with the boycott of Israel by Arab League countries when that foreign person takes or knowingly agrees to take any action, with respect to the boycott of Israel by Arab League countries, which section 4607(a) of title 50 prohibits a United States person from taking, except that for purposes of this paragraph, the term "United States person" as used in subparagraphs (B) and (C) of section 4607(a)(1) of title 50 shall be deemed to mean "person"; and

(B) the term "foreign person" means any person other than a United States person as defined in section 4618(2) of title 50.

(3) For purposes of paragraph (1), a foreign person shall be deemed not to comply with the boycott of Israel by Arab League countries if that person, or the Secretary of State or his designee on the basis of available information, certifies that the person violates or otherwise does not comply with the boycott of Israel by Arab League countries by taking any actions prohibited by section 4607(a) of title 50. Certification by the Secretary of State or his designee may occur only 30 days after notice has been given to the Congress that this certification procedure will be utilized at a specific overseas mission.

(b) Waiver by Secretary of State

The Secretary of State may waive the requirements of this section on a country-by-country basis for a period not to exceed one year upon certification to the Congress by the Secretary that such

waiver is in the national interest and is necessary to carry on diplomatic functions of the United States. Each such certification shall include a detailed justification for the waiver with respect to each such country.

(c) Responses to contract solicitations

(1) Except as provided in paragraph (2) of this subsection, the Secretary of State shall ensure that any response to a solicitation for a bid or a request for a proposal, with respect to a contract covered by subsection (a), includes the following clause, in substantially the following form:

"ARAB LEAGUE BOYCOTT OF ISRAEL

"(a) DEFINITIONS.—As used in this clause—

"(1) the term 'foreign person' means any person other than a United States person as defined in paragraph (2); and

"(2) the term 'United States person' means any United States resident or national (other than an individual resident outside the United States and employed by other than a United States person), any domestic concern (including any permanent domestic establishment of any foreign concern), and any foreign subsidiary or affiliate (including any permanent foreign establishment) of any domestic concern which is controlled in fact by such domestic concern, as determined under regulations of the President.

"(b) CERTIFICATION.—By submitting this offer, the Offeror certifies that it is not—

"(1) taking or knowingly agreeing to take any action, with respect to the boycott of Israel by Arab League countries, which section 8(a) of the Export Administration Act of 1979 (50 U.S.C. App. 2407(a)) prohibits a United States person from taking; or

"(2) discriminating in the award of subcontracts on the basis of religion."

(2) An Offeror would not be required to include the certification required by paragraph (1), if the Offeror is deemed not to comply with the Arab League boycott of Israel by the Secretary of State or a designee on the basis of available information. Certification by the Secretary of State or a designee may occur only 30 days after notice has been given to the Congress that this certification procedure will be utilized at a specific overseas mission.

(3) The Secretary of State shall ensure that all State Department contract solicitations include a detailed explanation of the requirements of section 4607(a) of title 50.

(d) Review and termination

(1) The Department of State shall conduct reviews of the certifications submitted pursuant to this section for the purpose of assessing the accuracy of the certifications.

(2) Upon complaint of any foreign or United States person of a violation of the certification as required by this section, filed with the Secretary of State, the Department of State shall investigate such complaint, and if such complaint is found to be correct and a violation of the certification has been found, all contracts with such violator shall be terminated for default as soon as practicable, and, for a period of two years thereafter, the State Department shall not enter into any contracts with such a violator.

(Pub. L. 103–236, title V, §565, Apr. 30, 1994, 108 Stat. 484; Pub. L. 105–277, div. G, subdiv. A, title XIII, §1336(3), Oct. 21, 1998, 112 Stat. 2681–790.)

REFERENCES IN TEXT

Section 8(a) of the Export Administration Act of 1979 (50 U.S.C. App. 2407(a)), referred to in subsec. (c)(1) in the quoted clause, is section 8(a) of Pub. L. 96–72, Sept. 29, 1979, 93 Stat. 521, which was editorially transferred to section 4607(a) of Title 50, War and National Defense.

CODIFICATION

In subsec. (a)(1), "section 134 of title 41" substituted for "section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))" on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

1998—Subsec. (e). Pub. L. 105–277 struck out heading and text of subsec. (e). Text read as follows: "The provisions of this section shall apply to the United States Information Agency in the same manner and extent to which such provisions apply to the Department of State. In the application of this section to the United States Information Agency, the Director of the United States Information Agency or a designee shall have the authorities and responsibilities of the Secretary of State."

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective Oct. 1, 1999, see section 1301 of Pub. L. 105–277, set out as an Effective Date note under section 6531 of this title.

SHORT TITLE

Pub. L. 103–236, title V, §561, Apr. 30, 1994, 108 Stat. 483, provided that: "This part [part C (§§561–565) of title V of Pub. L. 103–236, enacting this section and provisions set out as a note under section 2751 of this title] may be cited as the 'Anti-Economic Discrimination Act of 1994'."

[1] *So in original. Probably should be "41)—".*

§2679d. Exemption from certain procurement protest procedures for noncompetitive contracting in emergency circumstances

A determination by the Department to use procedures other than competitive procedures under section 3304 of title 41 in order to meet emergency security requirements, as determined by the Secretary or the Secretary's designee, including physical security upgrades, protective equipment, and other immediate threat mitigation projects, shall not be subject to challenge by protest under either subchapter V of chapter 35 of title 31 or section 1491 of title 28.

(Pub. L. 114–323, title I, §115, Dec. 16, 2016, 130 Stat. 1911.)

DEFINITIONS

For definitions of "Department" and "Secretary" as used in this section, see section 2 of Pub. L. 114–323, set out as a note under section 2651 of this title.

§2680. Appropriations for State Department; information to congressional committees

(a)(1) Notwithstanding any provision of law enacted before October 26, 1974, no money appropriated to the Department of State under any law shall be available for obligation or expenditure with respect to any fiscal year commencing on or after July 1, 1972—

(A) unless the appropriation thereof has been authorized by law enacted on or after February 7, 1972; or

(B) in excess of an amount prescribed by law enacted on or after such date.

(2) To the extent that legislation enacted after the making of an appropriation to the Department of State authorizes the obligation or expenditure thereof the limitation contained in paragraph (1) shall have no effect.

(3) The provisions of this section—

(A) shall not be superseded except by a provision of law enacted after February 7, 1972, which specifically repeals, modifies, or supersedes the provisions of this section; and

(B) shall not apply to, or affect in any manner, permanent appropriations, trust funds, and other similar accounts administered by the Department as authorized by law.

(b) The Department of State shall keep the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives fully and currently informed with respect to all activities and responsibilities within the jurisdiction of these committees. Any Federal department, agency, or independent establishment shall furnish any information requested by either such committee relating to any such activity or responsibility.

(Aug. 1, 1956, ch. 841, title I, §15, 70 Stat. 892; Pub. L. 92–226, pt. IV, §407(b), Feb. 7, 1972, 86 Stat. 35; Pub. L. 92–352, title I, §102, July 13, 1972, 86 Stat. 490; Pub. L. 93–475, §11, Oct. 26, 1974, 88 Stat. 1442; H. Res. 163, Mar. 19, 1975; renumbered title I, Pub. L. 97–241, title II, §202(a), Aug. 24, 1982, 96 Stat. 282.)

CODIFICATION

Section was formerly classified to section 170t of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, §1, Sept. 6, 1966, 80 Stat. 378.

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–475 incorporated existing provisions into par. (1) preceding subpar. (A), and par. 3(B), added pars. (1)(A), (B), (2), and (3)(A), and substituted "enacted before October 26, 1974, no money appropriated to the Department of State under any law shall be available for obligation or expenditure with respect to any fiscal year commencing on or after July 1, 1972" of ", no appropriation shall be made to the Department of State under any law for any fiscal year commencing on or after July 1, 1972, unless previously authorized by legislation hereafter enacted by the Congress.", in par. (1) preceding subpar. (A), and "section" for "subsection" in par. (3).

1972—Subsec. (a). Pub. L. 92–352 inserted provisions that this subsection shall not apply to, or affect in any manner, permanent appropriations, trust funds, and other similar accounts administered by the Department as authorized by law.

Pub. L. 92–226 substituted provisions constituting subsecs. (a) and (b) and prohibiting any State Department appropriation on and after July 1, 1972, without a prior congressional legislative authorization, and requiring the State Department and Federal agencies to furnish information to congressional committees for former provisions constituting the entire section and authorizing and making appropriations available for the State Department.

FUNDING

Pub. L. 113–76, div. K, title VII, §7082(d)(1), (2), Jan. 17, 2014, 128 Stat. 567, provided that:

"(1) DIPLOMATIC AND CONSULAR PROGRAMS FUNDS.—Amounts made available to the Department of State pursuant to the sixth proviso under the heading 'Diplomatic and Consular Programs' in title I of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2008 (division J of Public Law 110–161) are authorized to be used by the Department of State to pay benefits or payments made available pursuant to this Act [div. K of Pub. L. 113–76].

"(2) AVAILABILITY.—To pay benefits or payments made available pursuant to this Act, the Secretary of State may merge with the amounts described in paragraph (1) unobligated balances of funds appropriated under the 'Diplomatic and Consular Programs' heading for fiscal year 2014 and subsequent fiscal years, up until the end of the fifth fiscal year after the fiscal year for which such funds were appropriated or otherwise made available."

FUTURE ASSISTANCE PROJECTIONS

Pub. L. 101–513, title V, §581, Nov. 5, 1990, 104 Stat. 2046, directed that the Congressional Presentation Documents of departments and agencies included within this Act should contain funding projections for each of its major program components for each of the three years following the year for which new budget or other authority was being requested and provided that the requirements of this section were effective for Congressional Presentation Documents submitted for fiscal year 1992.

REPORT ON EXPENDITURES MADE FROM APPROPRIATION FOR EMERGENCIES IN DIPLOMATIC AND CONSULAR SERVICE

Pub. L. 100–204, title I, §124, Dec. 22, 1987, 101 Stat. 1341, as amended by Pub. L. 102–138, title I, §114, Oct. 28, 1991, 105 Stat. 655, provided that: "The Secretary of State shall provide to the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives within 30 days after the end of each quarter of

the fiscal year a complete report, including amount, payee, and purpose, of all expenditures made from the appropriation for 'Emergencies in the Diplomatic and Consular Service' for that quarter. Items included in each such report concerning representation, official travel, and gifts shall be submitted in unclassified form."

INFORMATION-SHARING ARRANGEMENT BETWEEN DEPARTMENT OF STATE AND CONGRESSIONAL COMMITTEES

Pub. L. 95–426, title I, §122, Oct. 7, 1978, 92 Stat. 970, as amended by Pub. L. 97–241, title V, §505(a)(2), (b)(1), Aug. 24, 1982, 96 Stat. 299, provided that: "The Congress finds that—

"(1) international political, economic, and other studies prepared systematically by analysts of the Department of State as needed background information for executive branch policymakers could be similarly valuable to the Committee on International Relations [now Committee on Foreign Affairs] of the House of Representatives and the Committee on Foreign Relations of the Senate in fulfilling their responsibilities; and

"(2) a formal information-sharing arrangement between the Department of State and such congressional committees could therefore serve the national interest, provided that controls on dissemination are established which insure that neither the process of analysis nor necessary confidentiality is jeopardized."

CONGRESSIONAL PURPOSE RESPECTING LAWS RELATING TO DEPARTMENT OF STATE AND UNITED STATES INFORMATION AGENCY; FOREIGN RELATIONS; AND AUTHORIZATION OF APPROPRIATIONS

Pub. L. 92–226, title IV, §407(a), Feb. 7, 1972, 86 Stat. 35, provided that: "It is the purpose of this section [amending sections 1476, 2680, and 2684 of this title] to enable the Congress generally, and the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives in particular, to carry out the purposes and intent of the Legislative Reorganization Act of 1946 and 1970 [see Short Title notes set out under section 4301 of Title 2, The Congress], with respect to—

"(1) the analysis, appraisal, and evaluation of the application, administration, and execution of the laws relating to the Department of State and the United States Information Agency and of matters relating to the foreign relations of the United States; and

"(2) providing periodic authorizations of appropriations for that Department and Agency."

[For abolition of United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau), transfer of functions, and treatment of references thereto, see sections 6531, 6532, and 6551 of this title.]

§2680–1. Deadline for responses to questions from congressional committees

(a) In general

An officer or employee of the Department of State to whom a written or oral question is addressed by any member of a committee specified in subsection (b), acting within his official capacity, shall respond to such question within 21 days unless the Secretary of State submits a letter to such member explaining why a timely response cannot be made.

(b) Specified committees

The committees referred to in subsection (a) are the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives.

(Pub. L. 102–138, title I, §196, Oct. 28, 1991, 105 Stat. 684.)

§2680–2. Facilitating access to Department of State

(a) Procedures to facilitate access

The Department of State shall maintain procedures to ensure that the members and staff of the congressional committees of jurisdiction are granted easy access to the Department of State in the conduct of their duties.

(b) Parking

The Department of State shall also make available adequate parking for members and staff of the congressional committees of jurisdiction in order to facilitate attendance of meetings at the Department of State.

(Pub. L. 103–236, title I, §129, Apr. 30, 1994, 108 Stat. 394.)

§2680a. Compensation for disability or death

Section 1651 of title 42 shall not apply with respect to such contracts as the Secretary of State may determine which are contracts with persons employed to perform work for the Department of State or the Foreign Service on an intermittent basis for not more than 90 days in a calendar year.

(Aug. 1, 1956, ch. 841, title I, §16, as added and renumbered title I, Pub. L. 97–241, title I, §122, title II, §202(a), Aug. 24, 1982, 96 Stat. 281, 282.)

PRIOR PROVISIONS

A prior section 2680a, acts Aug. 1, 1956, ch. 841, §16, as added Oct. 26, 1974, Pub. L. 93–475, §12, 88 Stat. 1442; amended Oct. 7, 1978, Pub. L. 95–426, title I, §117, 92 Stat. 969, related to authority and responsibility of chiefs of mission, prior to repeal by Pub. L. 96–465, title II, §2205(10), Oct. 17, 1980, 94 Stat. 2160. Repeal effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title. See section 3927 of this title.

§2681. International broadcasting facilities; transfer to Department of State; acquisition of property

For the purpose of assuring continued operation of the facilities hereinafter described for international broadcasting as a means of achieving the objectives of the United States Information and Educational Exchange Act of 1948 [22 U.S.C. 1431 et seq.] under authority of that Act, the Reconstruction Finance Corporation, as successor to Defense Plant Corporation, shall transfer, without regard to the provisions of the Surplus Property Act of 1944, as amended, and without reimbursement or transfer of funds, to the Secretary of State (hereinafter referred to as the "Secretary") all of its right, title, and interest in and to the facilities known as Plancors 1805, 1985, and 1986 located in Butler County, Ohio, in the vicinity of Delano, California, and Dixon, California, respectively, together with the equipment and other property appurtenant thereto. For the purposes of sections 2681 to 2683 of this title, the Secretary is authorized to acquire property or rights or interests therein necessary or desirable for the operation of such facilities by purchase, lease, gift, transfer, condemnation, or otherwise.

(July 9, 1949, ch. 301, §1, 63 Stat. 408.)

REFERENCES IN TEXT

The United States Information and Educational Exchange Act of 1948, referred to in text, is act Jan. 27, 1948, ch. 36, 62 Stat. 6, as amended, which is classified generally to chapter 18 (§1431 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1431 of this title, and Tables.

The Surplus Property Act of 1944, referred to in text, is act Oct. 3, 1944, ch. 479, 58 Stat. 765, which was classified principally to sections 1611 to 1646 of the former Appendix to Title 50, War and National Defense, and was repealed effective July 1, 1949, with the exception of sections 1622, 1631, 1637, and 1641 of the former Appendix to Title 50, by act June 30, 1949, ch. 288, title VI, §602(a)(1), 63 Stat. 399, renumbered Sept. 5, 1950, ch. 849, §6(a), (b), 64 Stat. 583. Sections 1622 and 1641 were partially repealed by the 1949 act, and section 1622 was editorially reclassified and is set out as a note under section 545 of Title 40, Public Buildings, Property, and Works. Section 1622(g) was repealed and reenacted as sections 47151 to 47153 of Title 49, Transportation, by Pub. L. 103–272, §§1(d), 7(b), July 5, 1994, 108 Stat. 1278–1280, 1379. Section 1631 was repealed by act June 7, 1939, ch. 190, §6(e), as added by act July 23, 1946, ch. 590, 60 Stat. 599, and is covered by sections 98 et seq. of Title 50. Section 1637 was repealed by act June 25, 1948, ch. 645, §21, 62 Stat. 862, eff. Sept. 1, 1948, and is covered by section 3287 of Title 18, Crimes and Criminal Procedure. Provisions of section 1641 not repealed by the 1949 act were repealed by Pub. L. 87–256,

§111(a)(1), Sept. 21, 1961, 75 Stat. 538, and are covered by chapter 33 (§2451 et seq.) of this title. The provisions of the Surplus Property Act of 1944 originally repealed by the 1949 act are covered by provisions of the 1949 act which were classified to chapter 10 (§471 et seq.) of former Title 40, Public Buildings, Property, and Works, and which were repealed and reenacted by Pub. L. 107–217, §§1, 6(b), Aug. 21, 2002, 116 Stat. 1062, 1304, as chapters 1 to 11 of Title 40.

CODIFICATION

Section was formerly classified to section 170a of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, §1, Sept. 6, 1966, 80 Stat. 378.

ABOLITION OF RECONSTRUCTION FINANCE CORPORATION

Section 6(a) of Reorg. Plan No. 1 of 1957, eff. June 30, 1957, 22 F.R. 4633, 71 Stat. 647, set out as a note under section 601 of Title 15, Commerce and Trade, abolished the Reconstruction Finance Corporation.

§2682. Liquidation and disposal of broadcasting facilities

Whenever the Secretary finds that the operation of the facilities authorized by sections 2681 to 2683 of this title to be transferred is no longer necessary or desirable, he shall report such fact to Congress with his recommendations for the disposition of such facilities.

(July 9, 1949, ch. 301, §2, 63 Stat. 408.)

CODIFICATION

Section was formerly classified to section 170b of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, §1, Sept. 6, 1966, 80 Stat. 378.

§2683. Assumption of obligations of operation of broadcasting facilities

The Department of State shall assume all obligations of the Reconstruction Finance Corporation covering operations of said facilities, equipment, and appurtenant property outstanding at the date of transfer.

(July 9, 1949, ch. 301, §3, 63 Stat. 408.)

CODIFICATION

Section was formerly classified to section 170c of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, §1, Sept. 6, 1966, 80 Stat. 378.

ABOLITION OF RECONSTRUCTION FINANCE CORPORATION

Section 6(a) of Reorg. Plan No. 1 of 1957, eff. June 30, 1957, 22 F.R. 4633, 71 Stat. 647, set out as a note under section 601 of Title 15, Commerce and Trade, abolished the Reconstruction Finance Corporation.

§2684. Capital fund for Department of State to centralize reproduction, editorial, data processing, audiovisual and other services; maximum amount; operation of fund

(a) Establishment of fund

There is hereby established a working capital fund for the Department of State, which shall be available without fiscal year limitation, for expenses (including those authorized by the Foreign Service Act of 1980 [22 U.S.C. 3901 et seq.]) and equipment, necessary for maintenance and operation in the city of Washington and elsewhere of (1) central reproduction, editorial, data processing, audiovisual, library and administrative support services; (2) central services for supplies and equipment (including repairs); (3) such other administrative services as the Secretary, with the approval of the Office of Management and Budget, determines may be performed more advantageously and more economically as central services; and (4) medical and health care services.

Such fund shall also be available without fiscal year limitation to carry out the purposes of title II of this Act [22 U.S.C. 4301 et seq.] [1] The capital of the fund shall consist of the amount of the fair and reasonable value of such supply inventories, equipment, and other assets and inventories on order, pertaining to the services to be carried on by the fund, as the Secretary may transfer to the fund, less the related liabilities and unpaid obligations, together with any appropriations made for the purpose of providing capital. The fund shall be reimbursed, or credited with advance payments, from applicable appropriations and funds of the Department of State, other Federal agencies, and other sources authorized by law, for supplies and services at rates which will approximate the expense of operations, including accrual of annual leave and depreciation of plant and equipment of the fund. The fund shall also be credited with other receipts from sale or exchange of property or in payment for loss or damage to property held by the fund. There shall be transferred into the Treasury as miscellaneous receipts, as of the close of each fiscal year, earnings which the Secretary determines to be excess to the needs of the fund.

(b) Charges to fund; credit to appropriations

The current value of supplies returned to the working capital fund by a post, activity, or agency may be charged to the fund. The proceeds thereof shall, if otherwise authorized, be credited to current applicable appropriations and shall remain available for expenditures for the same purposes for which those appropriations are available. Credits may not be made to appropriations under this subsection as the result of capitalization of inventories.

(Aug. 1, 1956, ch. 841, title I, §13, as added Pub. L. 88–205, pt. IV, §405, Dec. 16, 1963, 77 Stat. 391; amended 1970 Reorg. Plan No. 2, §102, eff. July 1, 1970 35 F.R. 7959, 84 Stat. 2085; Pub. L. 92–226, pt. IV, §407(c), Feb. 7, 1972, 86 Stat. 35; Pub. L. 95–426, title I, §109(a), Oct. 7, 1978, 92 Stat. 966; Pub. L. 96–465, title II, §2201(b), Oct. 17, 1980, 94 Stat. 2157; renumbered title I and amended Pub. L. 97–241, title II, §§202(a), 203(a), Aug. 24, 1982, 96 Stat. 282, 290; Pub. L. 101–246, title I, §112, Feb. 16, 1990, 104 Stat. 21.)

REFERENCES IN TEXT

The Foreign Service Act of 1980, referred to in subsec. (a), is Pub. L. 96–465, Oct. 17, 1980, 94 Stat. 2071, as amended, which is classified principally to chapter 52 (§3901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3901 of this title and Tables.

Title II of this Act, referred to in subsec. (a), is title II of act Aug. 1, 1956, ch. 841, as added Aug. 24, 1982, Pub. L. 97–241, title II, §202(b), 96 Stat. 283, known as the Foreign Missions Act, which is classified principally to chapter 53 (§4301 et seq.) of this title. For complete classification of title II to the Code, see Short Title note set out under section 4301 of this title and Tables.

CODIFICATION

Section was formerly classified to section 170u of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, §1, Sept. 6, 1966, 80 Stat. 378.

AMENDMENTS

1990—Subsec. (a). Pub. L. 101–246 inserted "and" before "(4)", struck out "; and (5) services and supplies to carry out title II of this Act", and inserted provision that the fund also be available without fiscal year limitation to carry out the purposes of title II of this Act.

1982—Subsec. (a)(5). Pub. L. 97–241, §203(a), added cl. (5).

1980—Subsec. (a). Pub. L. 96–465 substituted "Foreign Service Act of 1980" for "Foreign Service Act of 1946, as amended".

1978—Pub. L. 95–426 designated existing provisions as subsec. (a), substituted "central services" for "central supply services" in cl. (2), struck out "and" at end of cl. (2), inserted "; and (4) medical and health care services", struck out "Not to exceed $750,000 in net assets shall be transferred to the fund for purposes of providing capital" after "for the purpose of providing capital", and added subsec. (b).

1972—Pub. L. 92–226 struck out last sentence authorizing appropriation of amounts necessary to provide capital for the fund. See section 2680 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–241 effective Oct. 1, 1982, see section 204 of Pub. L. 97–241, set out as an

Effective Date note under section 4301 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–465 effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95–426, title I, §109(b), Oct. 7, 1978, 92 Stat. 967, provided that: "The amendments made by this section [amending this section] shall take effect on October 1, 1978."

TRANSFER OF FUNCTIONS

Functions vested by law (including reorganization plan) in Bureau of the Budget or Director of Bureau of the Budget transferred to President by section 101 of Reorg. Plan No. 2, of 1970, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085. Section 102 of Reorg. Plan No. 2 of 1970 redesignated Bureau of the Budget as Office of Management and Budget and offices of Director, Deputy Director, and Assistant Directors of Bureau of the Budget as Director, Deputy Director, and Assistant Directors, respectively, of Office of Management and Budget. Section 103 of Reorg. Plan No. 2 of 1970 transferred all records, property, personnel, and funds of Bureau to Office of Management and Budget. See Part I of Reorganization Plan No. 2 of 1970, set out in the Appendix to Title 5, Government Organization and Employees.

[1] So in original. Probably should be followed by a period.

§2684a. Capital Investment Fund

(a) Establishment

There is established within the Department of State a Capital Investment Fund to provide for the procurement and enhancement of information technology and other related capital investments for the Department of State and to ensure the efficient management, coordination, operation, and utilization of such resources.

(b) Funding

Funds otherwise available for the purposes of subsection (a) may be deposited in such Fund.

(c) Availability

Amounts deposited into the Fund shall remain available until expended.

(d) Expenditures from Fund

Amounts deposited in the Fund shall be available for purposes of subsection (a).

(e) Reprogramming procedures

Funds credited to the Capital Investment Fund shall not be available for obligation or expenditure except in compliance with the procedures applicable to reprogramming notifications under section 2706 of this title.

(Pub. L. 103–236, title I, §135, Apr. 30, 1994, 108 Stat. 396; Pub. L. 105–277, div. G, subdiv. B, title XXII, §2209, Oct. 21, 1998, 112 Stat. 2681–811.)

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–277, §2209(1), inserted "and enhancement" after "procurement".

Subsec. (c). Pub. L. 105–277, §2209(2), substituted "shall" for "are authorized to".

Subsec. (d). Pub. L. 105–277, §2209(3), substituted "for purposes of subsection (a)" for "for expenditure to procure capital equipment and information technology".

Subsec. (e). Pub. L. 105–277, §2209(4), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: "Funds credited to the Capital Investment Fund shall be treated as a reprogramming of funds under section 2706 of this title and shall not be available for obligation or expenditure except in compliance with the procedures applicable to such reprogrammings."

§2685. Reimbursement for detailed State Department personnel

(a) An Executive agency to which any officer or employee of the Department of State is detailed, assigned, or otherwise made available, shall reimburse the Department for the salary and allowances of each such officer or employee for the period the officer or employee is so detailed, assigned, or otherwise made available. However, if the Department of State has an agreement with an Executive agency or agencies providing for the detailing, assigning, or otherwise making available, of substantially the same numbers of officers and employees between the Department and the Executive agency or agencies, and such numbers with respect to a fiscal year are so detailed, assigned, or otherwise made available, or if the period for which the officer or employee is so detailed, assigned, or otherwise made available does not exceed one year, or if the number of officers and employees so detailed, assigned, or otherwise made available at any one time does not exceed fifteen and the period of any such detail, assignment, or availability of an officer or employee does not exceed two years, no reimbursement shall be required to be made under this section. Officers and employees of the Department of State who are detailed, assigned, or otherwise made available to another Executive agency for a period of not to exceed one year shall not be counted toward any personnel ceiling for the Department of State established by the Director of the Office of Management and Budget.

(b) For purposes of this section, "Executive agency" has the same meaning given that term by section 105 of title 5.

(Pub. L. 93–126, §11, Oct. 18, 1973, 87 Stat. 453; Pub. L. 95–426, title I, §118, Oct. 7, 1978, 92 Stat. 969; Pub. L. 99–93, title I, §117, Aug. 16, 1985, 99 Stat. 412.)

AMENDMENTS

1985—Subsec. (a). Pub. L. 99–93 inserted "or if the number of officers and employees so detailed, assigned, or otherwise made available at any one time does not exceed fifteen and the period of any such detail, assignment, or availability of an officer or employee does not exceed two years," after "does not exceed one year,".

1978—Subsec. (a). Pub. L. 95–426 substituted "does not exceed one year" for "does not exceed ninety days", and inserted provision excepting from any personnel ceiling for the Department of State any officers and employees who are detailed, etc., to another Executive agency for a period of not to exceed one year.

§2686. Review of world-wide supply, demand, and price of basic raw and processed materials

It is the sense of the Congress that the Secretary of State should, and he is authorized to, establish within the Department of State a bureau which shall be responsible for continuously reviewing (1) the supply, demand, and price, throughout the world, of basic raw and processed materials (including agricultural commodities), and (2) the effect of United States Government programs and policies (including tax policy) in creating or alleviating, or assisting in creating or alleviating, shortages of such materials. In conducting such review, the bureau should obtain information with respect to—

(A) the supply, demand, and price of each such material in each major importing, exporting, and producing country and region of the world in order to understand long-term and short-term trends in the supply, demand, and price of such materials;

(B) projected imports and exports of such materials on a country-by-country basis;

(C) unusual patterns or changes in connection with the purchase or sale of such materials;

(D) a list of such materials in short supply and an estimate of the amount of shortage;

(E) international geological, geophysical, and political conditions which may affect the supply of such materials; and

(F) other matters that the Secretary considers appropriate in carrying out this section.

(Pub. L. 93–475, §14, Oct. 26, 1974, 88 Stat. 1443.)

§2686a. Appointment of Special Coordinator for water policy negotiations and water resources policy

(a) Designation

The Secretary of State shall designate a Special Coordinator—

(1) to coordinate the United States Government response to international water resource disputes and needs;

(2) to represent the United States Government, whenever appropriate, in multilateral fora in discussions concerning access to fresh water; and

(3) to formulate United States policy to assist in the resolution of international problems posed by the lack of fresh water supplies.

(b) Other responsibilities

The individual designated under subsection (a) may carry out the functions of subsection (a) in addition to other assigned responsibilities.

(Pub. L. 102–138, title I, §180, Oct. 28, 1991, 105 Stat. 682.)

AUTHORITY OF SECRETARY OF STATE

Except as otherwise provided, Secretary of State to have and exercise any authority vested by law in any official or office of Department of State and references to such officials or offices deemed to refer to Secretary of State or Department of State, as appropriate, see section 2651a of this title and section 161(d) of Pub. L. 103–236, set out as a note under section 2651a of this title.

§2687. Use of appropriated funds for unusual expenses of United States Representative to Organization of American States

The Secretary of State is authorized to use appropriated funds for unusual expenses similar to those authorized by section 5913 of title 5 incident to the operation and maintenance of the living quarters of the United States Representative to the Organization of American States.

(Aug. 1, 1956, ch. 841, title I, §17, as added Pub. L. 94–141, title I, §101(c), Nov. 29, 1975, 89 Stat. 756; renumbered title I, Pub. L. 97–241, title II, §202(a), Aug. 24, 1982, 96 Stat. 282.)

§2688. Ambassadors; criteria regarding selection and confirmation

It is the sense of the Congress that the position of United States ambassador to a foreign country should be accorded to men and women possessing clearly demonstrated competence to perform ambassadorial duties. No individual should be accorded the position of United States ambassador to a foreign country primarily because of financial contributions to political campaigns.

(Aug. 1, 1956, ch. 841, title I, §18, as added Pub. L. 94–141, title I, §104, Nov. 29, 1975, 89 Stat. 757; renumbered title I, Pub. L. 97–241, title II, §202(a), Aug. 24, 1982, 96 Stat. 282.)

§2689. American Sections, International Joint Commission, United States and Canada; funds for representation expenses and official entertainment within the United States

Each fiscal year (beginning with fiscal year 1977), the Secretary of State may use funds appropriated for the American Sections, International Joint Commission, United States and Canada, for representation expenses and official entertainment within the United States for such American Sections.

(Aug. 1, 1956, ch. 841, title I, §19, as added Pub. L. 94–350, title I, §104, July 12, 1976, 90 Stat. 824; amended Pub. L. 95–426, title I, §110(a), Oct. 7, 1978, 92 Stat. 967; renumbered title I, Pub. L.

97–241, title II, §202(a), Aug. 24, 1982, 96 Stat. 282.)

AMENDMENTS

1978—Pub. L. 95–426 struck out "not to exceed $1,500 of the" after "the Secretary of State may use".

EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95–426, title I, §110(b), Oct. 7, 1978, 92 Stat. 967, provided that: "The amendment made by this section [amending this section] shall take effect on October 1, 1978."

§2690. Foreign gifts; audit; reports to Congress

Any expenditure for any gift for any person of any foreign country which involves any funds made available to meet unforeseen emergencies arising in the Diplomatic and Consular Service shall be audited by the Comptroller General and reports thereon made to the Congress to such extent and at such times as he may determine necessary. The representatives of the Government Accountability Office shall have access to all books, accounts, records, reports, files, and all other papers, things, or property pertaining to such expenditure and necessary to facilitate the audit.

(Aug. 1, 1956, ch. 841, title I, §20, as added Pub. L. 94–350, title I, §116(a), July 12, 1976, 90 Stat. 827; renumbered title I, Pub. L. 97–241, title II, §202(a), Aug. 24, 1982, 96 Stat. 282; amended Pub. L. 108–271, §8(b), July 7, 2004, 118 Stat. 814.)

AMENDMENTS

2004—Pub. L. 108–271 substituted "Government Accountability Office" for "General Accounting Office".

§2691. Repealed. Pub. L. 101–649, title VI, §603(a)(18), Nov. 29, 1990, 104 Stat. 5084

Section, act Aug. 1, 1956, ch. 841, title I, §21, as added Aug. 17, 1977, Pub. L. 95–105, title I, §112, 91 Stat. 848; amended Oct. 7, 1978, Pub. L. 95–426, title I, §119, 92 Stat. 970; Aug. 15, 1979, Pub. L. 96–60, title I, §109, 93 Stat. 397; renumbered title I, Aug. 24, 1982, Pub. L. 97–241, title II, §202(a), 96 Stat. 282, related to compliance with the Helsinki Final Act in the granting of nonimmigrant visas to aliens who are excludible from the United States by reason of membership in or affiliation with a proscribed organization but who are otherwise admissible, and provided that this section not apply to representatives of labor organizations that are instruments of a totalitarian state or aliens connected with the Palestine Liberation Organization.

EFFECTIVE DATE OF REPEAL

Section repealed applicable to individuals entering United States on or after June 1, 1991, see section 601(e)(1) of Pub. L. 101–649, set out as an Effective Date of 1990 Amendment note under section 1101 of Title 8, Aliens and Nationality.

§2692. Compensation for persons participating in State Department proceedings; availability of funds

(a) The Secretary of State may compensate, pursuant to regulations which he shall prescribe, for the cost of participating in any proceeding or on any advisory committee or delegation of the Department of State, any organization or person—

(1) who is representing an interest which would not otherwise be adequately represented and whose participation is necessary for a fair determination of the issues taken as a whole; and

(2) who would otherwise be unable to participate in such proceeding or on such committee or delegation because such organization or person cannot afford to pay the costs of such participation.

(b) Of the funds appropriated for salaries and expenses for the Department of State, not to exceed

$250,000 shall be available in any fiscal year for compensation under this section to such organizations and persons.

(Aug. 1, 1956, ch. 841, title I, §22, as added Pub. L. 95–105, title I, §113(a), Aug. 17, 1977, 91 Stat. 848; renumbered title I, Pub. L. 97–241, title II, §202(a), Aug. 24, 1982, 96 Stat. 282.)

EFFECTIVE DATE

Pub. L. 95–105, title I, §113(b), Aug. 17, 1977, 91 Stat. 849, provided that: "Subsection (a) [enacting this section] shall become effective on October 1, 1977."

§2693. Repealed. Pub. L. 96–465, title II, §2205(3), Oct. 17, 1980, 94 Stat. 2160

Section, Pub. L. 95–105, title IV, §413, Aug. 17, 1977, 91 Stat. 856, related to employment of family members abroad in non-career positions. See sections 3951, 3968, and 4026 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

§2694. Limitation on purchase of gifts for foreign individuals; report to Speaker of the House and chairman of the Committee on Foreign Relations of the Senate

(1) After September 30, 1977, no appropriated funds, other than funds from the "Emergencies in the Diplomatic and Consular Service" account of the Department of State, may be used to purchase any tangible gift of more than minimal value (as defined in section 7342(a)(5) of title 5) for any foreign individual unless such gift has been approved by the Congress.

(2) Beginning October 1, 1977, the Secretary of State shall annually transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report containing details on (1) any gifts of more than minimal value purchased with appropriated funds which were given to a foreign individual during the previous fiscal year, and (2) any other gifts of more than minimal value given by the United States Government to a foreign individual which were not obtained using appropriated funds.

(Pub. L. 95–105, title V, §515(b), Aug. 17, 1977, 91 Stat. 866.)

§2695. Administrative services

(a) Agreements

Whenever the head of any Federal agency performing any foreign affairs functions (including, but not limited to, the Department of State, the Broadcasting Board of Governors, and the Agency for International Development) determines that administrative services performed in common by the Department of State and one or more other such agencies may be performed more advantageously and more economically on a consolidated basis, the Secretary of State and the heads of the other agencies concerned may, subject to the approval of the Director of the Office of Management and Budget, conclude an agreement which provides for the transfer to and consolidation within the Department or within one of the other agencies concerned of so much of the functions, personnel, property, records, and funds of the Department and of the other agencies concerned as may be necessary to enable the performance of those administrative services on a consolidated basis for the benefit of all agencies concerned. Agreements for consolidation of administrative services under this section shall provide for reimbursement or advances of funds from the agency receiving the service to the agency performing the service in amounts which will approximate the expense of providing administrative services for the serviced agency.

(b) Payment

(1) A Federal agency which obtains administrative services from the Department of State pursuant to an agreement authorized under subsection (a) shall make full and prompt payment for such services through advance of funds or reimbursement.

(2) The Secretary of State shall bill each Federal agency for amounts due for services provided pursuant to subsection (a). The Secretary shall notify a Federal agency which has not made full payment for services within 90 days after billing that services to the agency will be suspended or terminated if full payment is not made within 180 days after the date of notification. Except as provided under paragraph (3), the Secretary shall suspend or terminate services to a Federal agency which has not made full payment for services under this section 180 days after the date of notification. Any costs associated with a suspension or termination of services shall be the responsibility of, and shall be billed to, the Federal agency.

(3) The Secretary of State may waive the requirement for suspension or termination under paragraph (2) with respect to such services as the Secretary determines are necessary to ensure the protection of life and the safety of United States Government property. A waiver may be issued for a period not to exceed one year and may be renewed.

(Aug. 1, 1956, ch. 841, title I, §23, as added Pub. L. 95–426, title I, §111(a), Oct. 7, 1978, 92 Stat. 967; renumbered title I and amended Pub. L. 97–241, title II, §202(a), title III, §303(b), Aug. 24, 1982, 96 Stat. 282, 291; Pub. L. 102–138, title I, §118, Oct. 28, 1991, 105 Stat. 657; Pub. L. 105–277, div. G, subdiv. A, title XII, §1225(f), title XIII, §1335(l)(1), Oct. 21, 1998, 112 Stat. 2681–775, 2681–789.)

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–277, §1335(l)(1), substituted "Broadcasting Board of Governors" for "United States Information Agency".

Pub. L. 105–277, §1225(f), substituted "and the Agency for International Development" for "the Agency for International Development, and the Arms Control and Disarmament Agency".

1991—Pub. L. 102–138 inserted section catchline, designated existing provisions as subsec. (a) and inserted heading, and added subsec. (b).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 1225(f) of Pub. L. 105–277 effective Apr. 1, 1999, see section 1201 of Pub. L. 105–277, set out as an Effective Date note under section 6511 of this title.

Amendment by section 1335(l)(1) of Pub. L. 105–277 effective Oct. 1, 1999, see section 1301 of Pub. L. 105–277, set out as an Effective Date note under section 6531 of this title.

EFFECTIVE DATE

Pub. L. 95–426, title I, §111(b), Oct. 7, 1978, 92 Stat. 967, provided that: "The amendment made by this section [enacting this section] shall take effect on October 1, 1978."

§2695a. Foreign language services

(a) Surcharge for certain foreign language services

Notwithstanding any other provision of law, the Secretary of State is authorized to require the payment of an appropriate fee, surcharge, or reimbursement for providing other Federal agencies with foreign language translation and interpretation services.

(b) Use of funds

Funds collected under the authority of subsection (a) shall be deposited as an offsetting collection to any Department of State appropriation to recover the cost of providing translation or interpretation services in any foreign language. Such funds may remain available until expended.

(Pub. L. 103–236, title I, §193, Apr. 30, 1994, 108 Stat. 419.)

§2695b. Omitted

CODIFICATION

Section, Pub. L. 104–208, div. A, title I, §101(a) [title IV], Sept. 30, 1996, 110 Stat. 3009, 3009–46, which provided that in fiscal year 1998 a system was to be in place that allocated to each department and agency full cost of its presence outside of the United States, was from the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1997, and was not repeated in subsequent appropriation acts. Similar provisions were contained in the following prior appropriation act:

Pub. L. 104–134, title I, §101[(a)] [title IV], Apr. 26, 1996, 110 Stat. 1321, 1321–36; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327.

§2696. Nondiscretionary personnel costs, currency fluctuations, and other contingencies

(a) Additional appropriations

There are authorized to be appropriated for the Department of State, in addition to amounts otherwise authorized to be appropriated for the Department, such sums as may be necessary for any fiscal year for increases in salary, pay, retirement, and other employee benefits authorized by law.

(b) Appropriations authorization based on currency fluctuations

(1) In order to maintain the levels of program activity for the Department of State provided for each fiscal year by the annual authorizing legislation, there are authorized to be appropriated for the Department of State such sums as may be necessary to offset adverse fluctuations in foreign currency exchange rates, or overseas wage and price changes, which occur after November 30 of the earlier of—

(A) the calendar year which ended during the fiscal year preceding such fiscal year, or

(B) the calendar year which preceded the calendar year during which the authorization of appropriations for such fiscal year was enacted.

(2) In carrying out this subsection, there may be established a Buying Power Maintenance account.

(3) In order to eliminate substantial gains to the approved levels of overseas operations for the Department of State, the Secretary of State shall transfer to the Buying Power Maintenance account such amounts in any appropriation account under the heading "Administration of Foreign Affairs" as the Secretary determines are excessive to the needs of the approved level of operations under that appropriation account because of fluctuations in foreign currency exchange rates or changes in overseas wages and prices.

(4) In order to offset adverse fluctuations in foreign currency exchange rates or overseas wage and price changes, the Secretary of State may transfer from the Buying Power Maintenance account to any appropriation account under the heading "Administration of Foreign Affairs" such amounts as the Secretary determines are necessary to maintain the approved level of operations under that appropriation account.

(5) Funds transferred by the Secretary of State from the Buying Power Maintenance account to another account shall be merged with and be available for the same purpose, and for the same time period, as the funds in that other account. Funds transferred by the Secretary from another account to the Buying Power Maintenance account shall be merged with the funds in the Buying Power Maintenance account and shall be available for the purposes of that account until expended.

(6) Any restriction contained in an appropriation Act or other provision of law limiting the amounts available for the Department of State that may be obligated or expended shall be deemed to be adjusted to the extent necessary to offset the net effect of fluctuations in foreign currency exchange rates or overseas wage and price changes in order to maintain approved levels.

(7)(A) Subject to the limitations contained in this paragraph, not later than the end of the fifth fiscal year after the fiscal year for which funds are appropriated or otherwise made available for an

account under "Administration of Foreign Affairs", the Secretary of State may transfer any unobligated balance of such funds to the Buying Power Maintenance account.

(B) The balance of the Buying Power Maintenance account may not exceed $100,000,000 as a result of any transfer under this paragraph.

(C) Any transfer pursuant to this paragraph shall be treated as a reprogramming of funds under section 2706 of this title and shall be available for obligation or expenditure only in accordance with the procedures under such section.

(D) The authorities contained in this paragraph may be exercised only with respect to funds appropriated or otherwise made available after fiscal year 2008.

(c) Availability of appropriations until expended

Amounts authorized to be appropriated for a fiscal year for the Department of State or to the Secretary of State are authorized to be made available until expended.

(d) Accounts subject to percentage limitation

(1) Subject to paragraphs (2) and (3), funds authorized to be appropriated for any account of the Department of State in the Department of State Appropriations Act, for either fiscal year of any two-year authorization cycle may be appropriated for such fiscal year for any other account of the Department of State.

(2) Amounts appropriated for the "Diplomatic and Consular Programs" account may not exceed by more than 5 percent the amount specifically authorized to be appropriated for such account for a fiscal year. No other appropriations account may exceed by more than 10 percent the amount specifically authorized to be appropriated for such account for a fiscal year.

(3) The requirements and limitations of section 2680 of this title shall not apply to the appropriation of funds pursuant to this subsection.

(e) Availability of funds for twelve-month contracts to be performed in two fiscal years

Amounts authorized to be appropriated for a fiscal year for the Department of State or to the Secretary of State are authorized to be obligated for twelve-month contracts which are to be performed in two fiscal years, if the total amount for such contracts is obligated in the earlier fiscal year.

(Aug. 1, 1956, ch. 841, title I, §24, as added Pub. L. 96–60, title I, §105(a), Aug. 15, 1979, 93 Stat. 396; renumbered title I and amended Pub. L. 97–241, title I, §112(a), title II, §202(a), Aug. 24, 1982, 96 Stat. 277, 282; Pub. L. 101–246, title I, §107, Feb. 16, 1990, 104 Stat. 21; Pub. L. 102–138, title I, §117(a), (c), Oct. 28, 1991, 105 Stat. 656, 657; Pub. L. 103–236, title I, §122(a), Apr. 30, 1994, 108 Stat. 392; Pub. L. 110–252, title I, §1408(b), June 30, 2008, 122 Stat. 2342.)

AMENDMENTS

2008—Subsec. (b)(7)(D). Pub. L. 110–252 amended subpar. (D) generally. Prior to amendment, subpar. (D) read as follows: "The authorities contained in this section may only be exercised to such an extent and in such amounts as specifically provided for in advance in appropriations Acts."

1994—Subsec. (b)(7)(E). Pub. L. 103–236, §122(a)(1), struck out subpar. (E) which read as follows: "This paragraph shall cease to have effect after September 30, 1993."

Subsec. (d)(1). Pub. L. 103–236, §122(a)(2), substituted "either fiscal year" for "the second fiscal year" and "such fiscal year" for "such second fiscal year".

Subsec. (d)(2). Pub. L. 103–236, §122(a)(3), amended first sentence generally. Prior to amendment, first sentence read as follows: "Amounts appropriated for the 'Salaries and Expenses' and 'Acquisition and Maintenance of Buildings Abroad' accounts may not exceed by more than 5 percent the amounts specifically authorized to be appropriated for each such account for a fiscal year."

Subsec. (d)(4). Pub. L. 103–236, §122(a)(4), struck out par. (4) which read as follows: "This subsection shall cease to have effect after September 30, 1993."

1991—Subsec. (b)(7). Pub. L. 102–138, §117(a), added par. (7).

Subsec. (d). Pub. L. 102–138, §117(c), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: "Amounts authorized to be appropriated for the Department of State for a fiscal year for the 'Administration of Foreign Affairs' account, the 'International Organizations and Conferences' account, the 'International Commissions' account, or the 'Migration and Refugee Assistance' account may be appropriated

for that fiscal year for any other such account, except that the total amount appropriated for a fiscal year for any such account may not exceed by more than 10 percent the amount specifically authorized to be appropriated for that account for that fiscal year."

1990—Subsec. (e). Pub. L. 101–246 added subsec. (e).

1982—Subsec. (b). Pub. L. 97–241, §112(a), designated existing provision as par. (1), substituted provision authorizing appropriations to offset adverse fluctuations in foreign currency exchange rates and overseas wage and price changes which occur after Nov. 30 of the earlier of the calendar year which ended during the fiscal year preceding such fiscal year or the calendar year which preceded the calendar year during which the authorization of appropriations for such fiscal year was enacted, for provision authorizing appropriations to offset adverse fluctuations in foreign currency exchange rates occurring after Nov. 30 of the preceding fiscal year, and added pars. (2) to (6).

EFFECTIVE DATE

Pub. L. 96–60, title I, §105(b), Aug. 15, 1979, 93 Stat. 396, provided that: "The amendment made by subsection (a) [enacting this section] shall take effect on October 1, 1979."

§2697. Acceptance of gifts on behalf of United States

(a) Unconditional and conditional gifts

The Secretary of State may accept on behalf of the United States gifts made unconditionally by will or otherwise for the benefit of the Department of State (including the Foreign Service) or for the carrying out of any of its functions. Conditional gifts may be so accepted at the discretion of the Secretary, and the principal of and income from any such conditional gift shall be held, invested, reinvested, and used in accordance with its conditions, except that no gift shall be accepted which is conditioned upon any expenditure which will not be met by the gift or the income from the gift unless such expenditure has been approved by Act of Congress.

(b) Disposition

Any unconditional gift of money accepted under subsection (a), the income from any gift property held under subsection (c) or (d) (except income made available for expenditure under subsection (d)(2)), the net proceeds from the liquidation of gift property under subsection (c) or (d), and the proceeds of insurance on any gift property which are not used for its restoration, shall be deposited in the Treasury of the United States. Such funds are hereby appropriated and shall be held in trust by the Secretary of the Treasury for the benefit of the Department of State (including the Foreign Service). The Secretary of the Treasury may invest and reinvest such funds in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. Such funds and the income from such investments shall be available for expenditure in the operation of the Department of State (including the Foreign Service) and the performance of its functions, subject to the same examination and audit as is provided for appropriations made for the Foreign Service by the Congress, but shall not be expended for representational purposes at United States missions except in accordance with the conditions that apply to appropriated funds.

(c) Evidences of unconditional gift of intangible personal property

The evidences of any unconditional gift of intangible personal property (other than money) accepted under subsection (a), shall be deposited with the Secretary of the Treasury who may hold or liquidate them, except that they shall be liquidated upon the request of the Secretary of State whenever necessary to meet payments required in the operation of the Department of State (including the Foreign Service) or the performance of its functions.

(d) Use of real property or tangible personal property received unconditionally

(1) The Secretary of State shall hold any real property or any tangible personal property accepted unconditionally pursuant to subsection (a) and shall either use such property for the operation of the Department of State (including the Foreign Service) and the performance of its functions or lease or hire such property, except that any such property not required for the operation of the Department of State (including the Foreign Service) or the performance of its functions may be liquidated by the

Secretary of State whenever in the judgment of the Secretary of State the purposes of the gift will be served thereby. The Secretary of State may insure any property held under this subsection. Except as provided in paragraph (2), the Secretary shall deposit the income from any property held under this subsection with the Secretary of the Treasury as provided in subsection (b).

(2) The income from any real property or tangible personal property held under this subsection shall be available for expenditure at the discretion of the Secretary of State for the maintenance, preservation, or repair and insurance of such property and any proceeds from insurance may be used to restore the property insured.

(e) Taxation

For the purpose of Federal income, estate, and gift taxes, any gift, devise, or bequest accepted under this section shall be deemed to be a gift, devise, or bequest to and for the use of the United States.

(f) Availability of statutory authorities to Broadcasting Board and Administrator of AID

The authorities available to the Secretary of State under this section with respect to the Department of State shall be available to the Broadcasting Board of Governors and the Administrator of the Agency for International Development with respect to the Board and the Agency.

(Aug. 1, 1956, ch. 841, title I, §25, as added Pub. L. 96–465, title II, §2201(a), Oct. 17, 1980, 94 Stat. 2153; renumbered title I and amended Pub. L. 97–241, title II, §202(a), title III, §303(b), Aug. 24, 1982, 96 Stat. 282, 291; Pub. L. 100–204, title I, §125, Dec. 22, 1987, 101 Stat. 1341; Pub. L. 105–277, div. G, subdiv. A, title XIII, §1335(l)(2), title XIV, §1422(b)(3)(A), Oct. 21, 1998, 112 Stat. 2681–789, 2681–792.)

AMENDMENTS

1998—Subsec. (f). Pub. L. 105–277, §1422(b)(3)(A), substituted "Administrator of the Agency for International Development" for "Director of the United States International Development Cooperation Agency".

Pub. L. 105–277, §1335(l)(2), substituted "Broadcasting Board of Governors" for "Director of the United States Information Agency" and "with respect to the Board and the Agency" for "with respect to their respective agencies".

1987—Subsec. (b). Pub. L. 100–204 inserted ", but shall not be expended for representational purposes at United States missions except in accordance with the conditions that apply to appropriated funds" before period at end of last sentence.

CHANGE OF NAME

"Director of the United States Information Agency" substituted for "Director of the International Communication Agency" in subsec. (f), pursuant to section 303(b) of Pub. L. 97–241, set out as a note under section 1461 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 1335(l)(2) of Pub. L. 105–277 effective Oct. 1, 1999, see section 1301 of Pub. L. 105–277, set out as an Effective Date note under section 6531 of this title.

Amendment by section 1422(b)(3)(A) of Pub. L. 105–277 effective Apr. 1, 1999, see section 1401 of Pub. L. 105–277, set out as an Effective Date note under section 6561 of this title.

EFFECTIVE DATE

Section effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as a note under section 3901 of this title.

OFFICIAL RESIDENCE OF SECRETARY OF STATE

Pub. L. 100–204, title I, §132, Dec. 22, 1987, 101 Stat. 1344, provided that: "The Department of State shall not solicit or receive funds for the construction, purchase, lease or rental of, nor any gift or bequest of real property or any other property for the purpose of providing living quarters for the Secretary of State."

Pub. L. 99–93, title I, §130, Aug. 16, 1985, 99 Stat. 420, provided that:

"(a) CONGRESSIONAL REVIEW.—It is the sense of the Congress that the United States should not accept a gift of any house or other place of residence for the purpose of providing an official residence for the

Secretary of State unless the Congress has had an opportunity to review the proposed gift.

"(b) STUDY AND REPORT.—The Secretary of State shall conduct a study of any offer of a gift for the purpose of providing a place of official residence for the Secretary of State. Such study shall include an examination of the costs to the United States associated with accepting such gift, including the costs of acquisition, maintenance, security, and daily operation of a residence. The Secretary shall report the results of any study conducted under this section to the Committee on Foreign Affairs and the Committee on Public Works and Transportation [now Committee on Transportation and Infrastructure] of the House of Representatives and to the Committee on Foreign Relations and the Committee on Environment and Public Works of the Senate."

§2698. Procurement of legal services

(a) The Secretary of State may, without regard to section 3106 of title 5, authorize a principal officer of the Foreign Service to procure legal services whenever such services are required for the protection of the interests of the Government or to enable a member of the Service to carry on the member's work efficiently.

(b) The authority available to the Secretary of State under this section shall be available to the Broadcasting Board of Governors,[1] and the Administrator of the Agency for International Development with respect to the Board and the Agency.

(Aug. 1, 1956, ch. 841, title I, §26, as added Pub. L. 96–465, title II, §2201(a), Oct. 17, 1980, 94 Stat. 2154; renumbered title I, Pub. L. 97–241, title II, §202(a), Aug. 24, 1982, 96 Stat. 282; amended Pub. L. 101–246, title III, §303, Feb. 16, 1990, 104 Stat. 64; Pub. L. 105–277, div. G, subdiv. A, title XIII, §1335(l)(3), title XIV, §1422(b)(3)(B), Oct. 21, 1998, 112 Stat. 2681–789, 2681–792; Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title VIII, §802(a)], Nov. 29, 1999, 113 Stat. 1536, 1501A–468.)

AMENDMENTS

1999—Subsec. (b). Pub. L. 106–113 made technical correction to directory language of Pub. L. 105–277, §1422(b)(3)(B). See 1998 Amendment note below.

1998—Subsec. (b). Pub. L. 105–277, §1422(b)(3)(B), as amended by Pub. L. 106–113, substituted "Administrator of the Agency for International Development" for "Director of the United States International Development Cooperation Agency".

Pub. L. 105–277, §1335(l)(3), substituted "Broadcasting Board of Governors," for "Director of the United States Information Agency, the chairman of the Board for International Broadcasting," and "with respect to the Board and the Agency" for "with respect to their respective agencies".

1990—Subsec. (b). Pub. L. 101–246 substituted "United States Information Agency, the chairman of the Board for International Broadcasting," for "International Communication Agency".

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 1335(l)(3) of Pub. L. 105–277 effective Oct. 1, 1999, see section 1301 of Pub. L. 105–277, set out as an Effective Date note under section 6531 of this title.

Amendment by section 1422(b)(3)(B) of Pub. L. 105–277 effective Apr. 1, 1999, see section 1401 of Pub. L. 105–277, set out as an Effective Date note under section 6561 of this title.

EFFECTIVE DATE

Section effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as a note under section 3901 of this title.

[1] *So in original. The comma probably should not appear.*

§2699. Employment opportunities for family members

(a) In order to expand employment opportunities for family members of United States Government personnel assigned abroad, the Secretary of State shall seek to conclude such bilateral

and multilateral agreements as will facilitate the employment of such family members in foreign economies.

(b) Any member of a family of a member of the Foreign Service may accept gainful employment in a foreign country unless such employment—

(1) would violate any law of such country or of the United States; or

(2) could, as certified in writing by the United States chief of mission to such country, damage the interests of the United States.

(Aug. 1, 1956, ch. 841, title I, §27, as added Pub. L. 96–465, title II, §2201(a), Oct. 17, 1980, 94 Stat. 2154; renumbered title I, Pub. L. 97–241, title II, §202(a), Aug. 24, 1982, 96 Stat. 282.)

EFFECTIVE DATE

Section effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as a note under section 3901 of this title.

§2700. Use of vehicles

The Secretary of State may authorize the principal officer of a Foreign Service post to provide for the use of Government owned or leased vehicles located at that post for transportation of United States Government employees and their families when public transportation is unsafe or not available or when such use is advantageous to the Government.

(Aug. 1, 1956, ch. 841, title I, §28, as added Pub. L. 96–465, title II, §2201(a), Oct. 17, 1980, 94 Stat. 2154; renumbered title I, Pub. L. 97–241, title II, §202(a), Aug. 24, 1982, 96 Stat. 282.)

EFFECTIVE DATE

Section effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as a note under section 3901 of this title.

§2701. Educational facilities

Whenever the Secretary of State determines that educational facilities are not available, or that existing educational facilities are inadequate, to meet the needs of children of United States citizens stationed outside the United States who are engaged in carrying out Government activities, the Secretary may, in such manner as he deems appropriate and under such regulations as he may prescribe, establish, operate, and maintain primary schools, and school dormitories and related educational facilities for primary and secondary schools, outside the United States, make grants of funds for such purposes, or otherwise provide for such educational facilities. The authorities of the Foreign Service Buildings Act, 1926 [22 U.S.C. 292 et seq.], and of paragraphs (h) and (i) of section 2670 of this title, may be utilized by the Secretary in providing assistance for educational facilities. Such assistance may include physical security enhancements and hiring, transporting, and payment of teachers and other necessary personnel. Notwithstanding any other provision of law, where the child of a United States citizen employee of an agency of the United States Government who is stationed outside the United States attends an educational facility assisted by the Secretary of State under this section, the head of that agency is authorized to reimburse, or credit with advance payment, the Department of State for funds used in providing assistance to such educational facilities, by grant or otherwise, under this section.

(Aug. 1, 1956, ch. 841, title I, §29, as added Pub. L. 96–465, title II, §2201(a), Oct. 17, 1980, 94 Stat. 2154; renumbered title I, Pub. L. 97–241, title II, §202(a), Aug. 24, 1982, 96 Stat. 282; amended Pub. L. 105–277, div. G, subdiv. B, title XXII, §2201, Oct. 21, 1998, 112 Stat. 2681–804; Pub. L. 114–323, title I, §114, Dec. 16, 2016, 130 Stat. 1911.)

REFERENCES IN TEXT

The Foreign Service Buildings Act, 1926, referred to in text, is act May 7, 1926, ch. 250, 44 Stat. 403, as amended, which is classified generally to chapter 8 (§292 et seq.) of this title. For complete classification of

this Act to the Code, see section 299 of this title and Tables.

AMENDMENTS

2016—Pub. L. 114–323 inserted "physical security enhancements and" after "may include".

1998—Pub. L. 105–277 inserted at end "Notwithstanding any other provision of law, where the child of a United States citizen employee of an agency of the United States Government who is stationed outside the United States attends an educational facility assisted by the Secretary of State under this section, the head of that agency is authorized to reimburse, or credit with advance payment, the Department of State for funds used in providing assistance to such educational facilities, by grant or otherwise, under this section."

EFFECTIVE DATE

Section effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as a note under section 3901 of this title.

§2702. Malpractice protection

(a) Exclusiveness of designated remedies

The remedy—

(1) against the United States provided by sections 1346(b) and 2672 of title 28, or

(2) through proceedings for compensation or other benefits from the United States as provided by any other law, where the availability of such benefits precludes a remedy under such sections,

for damages for personal injury, including death, allegedly arising from malpractice or negligence of a physician, dentist, nurse, pharmacist, or paramedical (including medical and dental assistants and technicians, nursing assistants, and therapists) or other supporting personnel of the Department of State in furnishing medical care or related services, including the conducting of clinical studies or investigations, while in the exercise of his or her duties in or for the Department of State or any other Federal department, agency, or instrumentality shall be exclusive of any other civil action or proceeding by reason of the same subject matter against such physician, dentist, nurse, pharmacist, or paramedical or other supporting personnel (or his or her estate) whose act or omission gave rise to such claim.

(b) Defense of civil actions by United States; delivery of process; furnishing of copies of pleadings

The United States Government shall defend any civil action or proceeding brought in any court against any person referred to in subsection (a) of this section (or his or her estate) for any such damage or injury. Any such person against whom such civil action or proceeding is brought shall deliver, within such time after date of service or knowledge of service as may be determined by the Attorney General, all process served upon him or her or an attested true copy thereof to whomever was designated by the Secretary to receive such papers. Such person shall promptly furnish copies of the pleading and process therein to the United States attorney for the district embracing the place wherein the proceeding is brought, to the Attorney General, and to the Secretary.

(c) Removal of actions; remand or dismissal; suspension of limitations

Upon a certification by the Attorney General that the defendant was acting within the scope of his or her employment in or for the Department of State or any other Federal department, agency, or instrumentality at the time of the incident out of which the suit arose, any such civil action or proceeding commenced in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the United States of the district and division embracing the place wherein it is pending and the proceeding deemed a tort action brought against the United States under the provisions of title 28, and all references thereto. Should a United States district court determine on a hearing on a motion to remand held before a trial on the merits that the case so removed is one in which a remedy by suit within the meaning of subsection (a) of this section is not available against the United States, the case shall be remanded to the State court except that where

such remedy is precluded because of the availability of a remedy through proceedings for compensation or other benefits from the United States as provided by any other law, the case shall be dismissed, but in that event, the running of any limitation of time for commencing, or filing an application or claim in, such proceedings for compensation or other benefits shall be deemed to have been suspended during the pendency of the civil action or proceeding under this section.

(d) Compromise or settlement of claims

The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677 of title 28, and with the same effect.

(e) Inapplicability of section 2680(h) of title 28

For purposes of this section, the provisions of section 2680(h) of title 28, shall not apply to any tort enumerated therein arising out of negligence in the furnishing of medical care or related services, including the conducting of clinical studies or investigations.

(f) Holding harmless or providing for liability insurance

The Secretary may, to the extent he deems appropriate, hold harmless or provide liability insurance for any person to whom the immunity provisions of subsection (a) of this section apply, for damages for personal injury, including death, negligently caused by any such person while acting within the scope of his or her office or employment and as a result of the furnishing of medical care or related services, including the conducting of clinical studies or investigations, if such person is assigned to a foreign area or detailed for service with other than a Federal agency or institution, or if the circumstances are such as are likely to preclude the remedies of third persons against the United States provided by sections 1346(b) and 2672 of title 28, for such damage or injury.

(g) Medical care or related service within scope of employment

For purposes of this section, any medical care or related service covered by this section and performed abroad by a covered person at the direction or with the approval of the United States chief of mission or other principal representative of the United States in the area shall be deemed to be within the scope of employment of the individual performing the service.

(Aug. 1, 1956, ch. 841, title I, §30, as added Pub. L. 96–465, title II, §2201(a), Oct. 17, 1980, 94 Stat. 2155; renumbered title I, Pub. L. 97–241, title II, §202(a), Aug. 24, 1982, 96 Stat. 282.)

EFFECTIVE DATE

Section effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as a note under section 3901 of this title.

§2703. Services and facilities for employees at posts abroad

(a) Non-Government-operated services; applicability of other provisions of law

The Secretary of State may authorize and assist in the establishment, maintenance, and operation by civilian officers and employees of the Government of non-Government-operated services and facilities at posts abroad, including the furnishing of space, utilities, and properties owned or leased by the Government for use by its diplomatic, consular, and other missions and posts abroad. The provisions of the Foreign Service Buildings Act, 1926 (22 U.S.C. 292–300) and section 2684 of this title may be utilized by the Secretary in providing such assistance.

(b) Emergency commissary and mess services

The Secretary may establish and maintain emergency commissary or mess services in places abroad where, in the judgment of the Secretary, such services are necessary temporarily to insure the effective and efficient performance of official duties and responsibilities. Reimbursements incident to the maintenance and operation of commissary or mess service under this subsection shall be at not less than cost as determined by the Secretary and shall be used as working funds, except that an amount equal to the amount expended for such services shall be covered into the Treasury as miscellaneous receipts.

(c) Availability; duplication of facilities and services

Services and facilities established under this section shall be made available, insofar as practicable, to officers and employees of all agencies and their dependents who are stationed in the locality abroad, and, where determined by the Secretary to be appropriate due to exceptional circumstances, to United States citizens hired outside of the host country to serve as teaching staff for such dependents abroad. Such services and facilities shall not be established in localities where another agency operates similar services or facilities unless the Secretary determines that additional services or facilities are necessary. Other agencies shall to the extent practicable avoid duplicating the facilities and services provided or assisted by the Secretary under this section.

(d) Charges

Charges at any post abroad for a service or facility provided, authorized or assisted under this section shall be at the same rate for all civilian personnel of the Government serviced thereby, and all charges for supplies furnished to such a service or facility abroad by any agency shall be at the same rate as that charged by the furnishing agency to its comparable civilian services and facilities.

(e) Child care facilities

The Secretary of State may make grants to child care facilities, to offset in part the cost of such care, in Moscow and at no more than five other posts abroad where the Secretary determines that due to extraordinary circumstances such facilities are necessary to the efficient operation of the post. In making that determination, the Secretary shall take into account factors such as—

(1) whether Foreign Service spouses are encouraged to work at the post because—

(A) the number of members of the post is subject to a ceiling imposed by the receiving country; and

(B) Foreign Service nationals are not employed at the post; and

(2) whether local child care is available.

(Aug. 1, 1956, ch. 841, title I, §31, as added Pub. L. 96–465, title II, §2201(a), Oct. 17, 1980, 94 Stat. 2156; renumbered title I, Pub. L. 97–241, title II, §202(a), Aug. 24, 1982, 96 Stat. 282; amended Pub. L. 101–246, title I, §147, Feb. 16, 1990, 104 Stat. 38; Pub. L. 102–138, title I, §§121, 144, Oct. 28, 1991, 105 Stat. 658, 668; Pub. L. 103–236, title I, §124, Apr. 30, 1994, 108 Stat. 393.)

REFERENCES IN TEXT

The Foreign Service Buildings Act, 1926, referred to in subsec. (a), is act May 7, 1926, ch. 250, 44 Stat. 403, as amended, which is classified generally to chapter 8 (§292 et seq.) of this title. For complete classification of this Act to the Code, see section 299 of this title and Tables.

AMENDMENTS

1994—Subsec. (e). Pub. L. 103–236 substituted "The" for "For the fiscal years 1992 and 1993, the" in introductory provisions.

1991—Subsec. (c). Pub. L. 102–138, §144, inserted before period at end of first sentence ", and, where determined by the Secretary to be appropriate due to exceptional circumstances, to United States citizens hired outside of the host country to serve as teaching staff for such dependents abroad".

Subsec. (e). Pub. L. 102–138, §121, substituted "1992 and 1993" for "1990 and 1991" in introductory provisions.

1990—Subsec. (e). Pub. L. 101–246 added subsec. (e).

EFFECTIVE DATE

Section effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as a note under section 3901 of this title.

AUTHORITY TO PROVIDE ACCOMMODATION AND SUBSISTENCE TO INDIVIDUALS SERVING IN IRAQ AND AFGHANISTAN

Pub. L. 109–234, title I, §1602(e), June 15, 2006, 120 Stat. 442, provided that: "The Secretary of State may provide during any fiscal year, with or without reimbursement, accommodation and subsistence to personnel in Iraq and Afghanistan for whom the Chief of Mission is responsible."

§2704. Subsistence expenses

The Secretary of State may pay, without regard to section 5702 of title 5, subsistence expenses of (1) special agents of the Department of State who are on authorized protective missions, whether at or away from their duty stations, and (2) members of the Foreign Service and employees of the Department who are required to spend extraordinary amounts of time in travel status. The authorities available to the Secretary of State under this section with respect to the Department of State shall be available to the Broadcasting Board of Governors and the Administrator of the Agency for International Development with respect to their respective agencies, except that the authority of clause (2) shall be available with respect to those agencies only in the case of members of the Foreign Service and employees of the agency who are performing security-related functions abroad.

(Aug. 1, 1956, ch. 841, title I, §32, as added Pub. L. 96–465, title II, §2201(a), Oct. 17, 1980, 94 Stat. 2157; renumbered title I, Pub. L. 97–241, title II, §202(a), Aug. 24, 1982, 96 Stat. 282; amended Pub. L. 98–533, title III, §303(c), Oct. 19, 1984, 98 Stat. 2711; Pub. L. 99–93, title I, §125(b), Aug. 16, 1985, 99 Stat. 417; Pub. L. 105–277, div. G, subdiv. A, title XIII, §1335(l)(4), title XIV, §1422(b)(3)(C), Oct. 21, 1998, 112 Stat. 2681–789, 2681–792; Pub. L. 110–321, §3, Sept. 19, 2008, 122 Stat. 3535.)

AMENDMENTS

2008—Pub. L. 110–321 substituted "on authorized protective missions, whether at or away from their duty stations, and" for "on authorized protective missions, and".

1998—Pub. L. 105–277, §1422(b)(3)(C), substituted "Administrator of the Agency for International Development" for "Director of the United States International Development Cooperation Agency".

Pub. L. 105–277, §1335(l)(4), substituted "the Broadcasting Board of Governors" for "the Director of the United States Information Agency".

1985—Pub. L. 99–93 substituted "special agents" for "security officers".

1984—Pub. L. 98–533 inserted "The authorities available to the Secretary of State under this section with respect to the Department of State shall be available to the Director of the United States Information Agency and the Director of the United States International Development Cooperation Agency with respect to their respective agencies, except that the authority of clause (2) shall be available with respect to those agencies only in the case of members of the Foreign Service and employees of the agency who are performing security-related functions abroad."

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 1335(l)(4) of Pub. L. 105–277 effective Oct. 1, 1999, see section 1301 of Pub. L. 105–277, set out as an Effective Date note under section 6531 of this title.

Amendment by section 1422(b)(3)(C) of Pub. L. 105–277 effective Apr. 1, 1999, see section 1401 of Pub. L. 105–277, set out as an Effective Date note under section 6561 of this title.

EFFECTIVE DATE

Section effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as a note under section 3901 of this title.

§2705. Documentation of citizenship

The following documents shall have the same force and effect as proof of United States citizenship as certificates of naturalization or of citizenship issued by the Attorney General or by a court having naturalization jurisdiction:

(1) A passport, during its period of validity (if such period is the maximum period authorized by law), issued by the Secretary of State to a citizen of the United States.

(2) The report, designated as a "Report of Birth Abroad of a Citizen of the United States", issued by a consular officer to document a citizen born abroad. For purposes of this paragraph, the

term "consular officer" includes any United States citizen employee of the Department of State who is designated by the Secretary of State to adjudicate nationality abroad pursuant to such regulations as the Secretary may prescribe.

(Aug. 1, 1956, ch. 841, title I, §33, as added and renumbered title I, Pub. L. 97–241, title I, §117, title II, §202(a), Aug. 24, 1982, 96 Stat. 279, 282; amended Pub. L. 105–277, div. G, subdiv. B, title XXII, §2222(a), Oct. 21, 1998, 112 Stat. 2681–818.)

PRIOR PROVISIONS

A prior section 33 of act Aug. 1, 1956, was renumbered section 34 by section 117 of Pub. L. 97–241, and subsequently renumbered, and set out as a Short Title of 1956 Amendment note under section 2651 of this title, prior to repeal by Pub. L. 102–138, title I, §111(1), Oct. 28, 1991, 105 Stat. 654.

AMENDMENTS

1998—Par. (2). Pub. L. 105–277 inserted at end "For purposes of this paragraph, the term 'consular officer' includes any United States citizen employee of the Department of State who is designated by the Secretary of State to adjudicate nationality abroad pursuant to such regulations as the Secretary may prescribe."

RECORD OF PLACE OF BIRTH FOR TAIWANESE-AMERICANS

Pub. L. 103–236, title I, §132, Apr. 30, 1994, 108 Stat. 395, as amended by Pub. L. 103–415, §1(r), Oct. 25, 1994, 108 Stat. 4302, provided that: "For purposes of the registration of birth or certification of nationality or issuance of a passport of a United States citizen born in Taiwan, the Secretary of State shall permit the place of birth to be recorded as Taiwan."

§2706. Reprograming of funds; notice requirements

(a) In general

Unless the Committee on International Relations and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate are notified fifteen days in advance of the proposed reprograming, funds appropriated for the Department of State shall not be available for obligation or expenditure through any reprograming of funds—

(1) which creates new programs;

(2) which eliminates a program, project, or activity;

(3) which increases funds or personnel by any means for any project or activity for which funds have been denied or restricted by the Congress;

(4) which relocates an office or employees;

(5) which reorganizes offices, programs, or activities;

(6) which involves contracting out functions which had been performed by Federal employees; or

(7) which involves a reprograming in excess of $1,000,000 or 10 per centum, whichever is less, and which (A) augments existing programs, projects, or activities, (B) reduces by 10 per centum or more the funding for any existing program, project, activity, or personnel approved by the Congress, or (C) results from any general savings from a reduction in personnel which would result in a change in existing programs, activities, or projects approved by the Congress.

(b) Final 15 days in which funds available

Funds appropriated for the Department of State may not be available for obligation or expenditure through any reprogramming described in subsection (a) during the period which is the last 15 days in which such funds are available unless notice of such reprogramming is made before such period.

(c) Waiver

The Secretary of State may waive the notification requirement of subsection (a), if the Secretary determines that failure to do so would pose a substantial risk to human health or welfare. In the case of any waiver under this subsection, notification to the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on International Relations and the

Committee on Appropriations of the House of Representatives shall be provided as soon as practicable, but not later than 3 days after taking the action to which the notification requirement was applicable, and shall contain an explanation of the emergency circumstances.

(Aug. 1, 1956, ch. 841, title I, §34, as added Pub. L. 98–164, title I, §123, Nov. 22, 1983, 97 Stat. 1025; amended Pub. L. 100–204, title I, §121, Dec. 22, 1987, 101 Stat. 1339; Pub. L. 102–138, title I, §117(b), Oct. 28, 1991, 105 Stat. 657; Pub. L. 103–236, title I, §122(c), Apr. 30, 1994, 108 Stat. 392; Pub. L. 105–277, div. G, subdiv. B, title XXII, §2243, Oct. 21, 1998, 112 Stat. 2681–823.)

PRIOR PROVISIONS

A prior section 34 of act Aug. 1, 1956, was renumbered sections 35 and 36 by sections 123 and 124 of Pub. L. 98–164, and subsequently renumbered, and set out as a Short Title of 1956 Amendment note under section 2651 of this title, prior to repeal by Pub. L. 102–138, title I, §111(1), Oct. 28, 1991, 105 Stat. 654.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–277, §2243(1), in introductory provisions, substituted "International Relations and the Committee on Appropriations" for "Foreign Affairs" and inserted "and the Committee on Appropriations" after "Foreign Relations".

Subsec. (c). Pub. L. 105–277, §2243(2), added subsec. (c).

1994—Subsec. (a)(7). Pub. L. 103–236 substituted "$1,000,000" for "$500,000".

1991—Subsec. (a)(7). Pub. L. 102–138 substituted "$500,000" for "$250,000".

1987—Pub. L. 100–204 designated existing provisions as subsec. (a) and added subsec. (b).

CHANGE OF NAME

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§2706a. Rewards payments

The Secretary may transfer to and merge with "Emergencies in the Diplomatic and Consular Service" for rewards payments unobligated balances of funds appropriated under "Diplomatic and Consular Programs" for this fiscal year and for each fiscal year on and after December 26, 2007, at no later than the end of the fifth fiscal year after the fiscal year for which any such funds were appropriated or otherwise made available.

(Pub. L. 110–161, div. J, title I (part), Dec. 26, 2007, 121 Stat. 2278.)

REFERENCES IN TEXT

Secretary, referred to in text, means the Secretary of State.

§2707. International communications and information policy; duties of Secretary of State

(a) Repealed. Pub. L. 103–236, title I, §162(k)(1)(A), Apr. 30, 1994, 108 Stat. 408.

(b) The Secretary of State shall be responsible for formulation, coordination, and oversight of foreign policy related to international communications and information policy. The Secretary of State shall—

(1) exercise primary authority for the conduct of foreign policy with respect to such telecommunications functions, including the determination of United States positions and the conduct of United States participation in negotiations with foreign governments and international bodies. In exercising this responsibility, the Secretary shall coordinate with other agencies as appropriate, and, in particular, shall give full consideration to the authority vested by law or Executive order in the Federal Communications Commission, the Department of Commerce and the Office of the United States Trade Representative in this area;

(2) maintain continuing liaison with other executive branch agencies concerned with international communications and information policy and with the Federal Communications

Commission, as appropriate;

(3) in accordance with such authority as may be delegated by the President pursuant to Executive order, supervise and coordinate the activities of any senior interagency policymaking group on international telecommunications and information policy and chair such interagency meetings as may be necessary to coordinate actions on pending issues;; [1]

(4) coordinate the activities of, and assist as appropriate, interagency working level task forces and committees concerned with specific aspects of international communications and information policy;

(5) maintain liaison with the members and staffs of committees of the Congress concerned with international communications and information policy and provide testimony before such committees;

(6) maintain appropriate liaison with representatives of the private sector to keep informed of their interests and problems, meet with them, and provide such assistance as may be needed to ensure that matters of concern to the private sector are promptly considered by the Department or other executive branch agencies; and

(7) assist in arranging meetings of such public sector advisory groups as may be established to advise the Department of State and other executive branch agencies in connection with international communications and information policy issues.

(Aug. 1, 1956, ch. 841, title I, §35, as added Pub. L. 98–164, title I, §124, Nov. 22, 1983, 97 Stat. 1025; amended Pub. L. 100–204, title I, §173(a)(1), Dec. 22, 1987, 101 Stat. 1360; Pub. L. 103–236, title I, §162(k)(1), Apr. 30, 1994, 108 Stat. 408.)

PRIOR PROVISIONS

A prior section 35 of act Aug. 1, 1956, was renumbered section 36 by section 124 of Pub. L. 98–164, and subsequently renumbered, and set out as a Short Title of 1956 Amendment note under section 2651 of this title, prior to repeal by Pub. L. 102–138, title I, §111(1), Oct. 28, 1991, 105 Stat. 654.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–236, §162(k)(1)(A), struck out subsec. (a) which read as follows: "The Secretary of State shall assign responsibility for international communications and information policy matters within the Department of State to an appropriate Under Secretary of State (hereafter in this section referred to as the 'Under Secretary')."

Subsec. (b). Pub. L. 103–236, §162(k)(1)(B)(i), inserted introductory provisions and struck out former introductory provisions which read as follows: "The Secretary of State shall establish, within the Department of State, an Office of the Coordinator for International Communications and Information Policy, headed by a Coordinator who shall be responsible to the Under Secretary. The Coordinator shall be appointed by the President, by and with the advice and consent of the Senate, and shall have the rank of ambassador. The Coordinator shall be compensated at the annual rate of pay for positions authorized by section 5315 of title 5. The Coordinator shall be responsible, on behalf of the Under Secretary, for formulation, coordination, and oversight of international communications and information policy assigned to the Under Secretary. On behalf of the Under Secretary, the Coordinator shall—".

Subsec. (b)(1). Pub. L. 103–236, §162(k)(1)(B)(iv), added par. (1). Former par. (1) redesignated (2).

Subsec. (b)(2). Pub. L. 103–236, §162(k)(1)(B)(ii), (iii), (v), redesignated par. (1) as (2), struck out "with the bureaus and offices of the Department of State and" after "continuing liaison", inserted "and with the Federal Communications Commission, as appropriate" before semicolon, and struck out former par. (2) which read as follows: "in accordance with such authority as may be delegated by the President pursuant to Executive order, chair such agency and interagency meetings as may be necessary to coordinate actions on pending issues to ensure proper policy coordination;".

Subsec. (b)(3). Pub. L. 103–236, §162(k)(1)(B)(vi), substituted "any senior interagency policymaking group on international telecommunications and information policy and chair such interagency meetings as may be necessary to coordinate actions on pending issues;" for "the Senior Interagency Group on International Communications and Information Policy".

1987—Subsec. (b). Pub. L. 100–204 inserted after second sentence "The Coordinator shall be compensated at the annual rate of pay for positions authorized by section 5315 of title 5."

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–236 applicable with respect to officials, offices, and bureaus of Department of State when executive orders, regulations, or departmental directives implementing the amendments by sections 161 and 162 of Pub. L. 103–236 become effective, or 90 days after Apr. 30, 1994, whichever comes earlier, see section 161(b) of Pub. L. 103–236, as amended, set out as a note under section 2651a of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Pub. L. 100–204, title I, §173(b), Dec. 22, 1987, 101 Stat. 1360, provided that: "The amendments made by subsection (a) [amending this section and section 4303 of this title] shall take effect 30 days after the date of enactment of this Act [Dec. 22, 1987]."

EFFECT OF 1994 AMENDMENTS ON SCOPE OF AUTHORITY VESTED AS OF APRIL 30, 1994

Pub. L. 103–236, title I, §162(k)(2), Apr. 30, 1994, 108 Stat. 409, provided that: "Nothing in the amendments made by paragraph (1) [amending this section] affects the nature or scope of the authority that is on the date of enactment of this Act [Apr. 30, 1994] vested by law or Executive order in the Department of Commerce, the Office of the United States Trade Representative, the Federal Communications Commission, or any officer thereof."

NEW SPENDING AUTHORITY

Pub. L. 100–204, title I, §173(c), Dec. 22, 1987, 101 Stat. 1360, provided that: "Any new spending authority (as defined in section 401(c) of the Congressional Budget Act of 1974 [2 U.S.C. 651(c)]) provided by this section [amending sections 2707 and 4303 of this title] shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts."

[1] *So in original.*

§2708. Department of State rewards program

(a) Establishment

(1) In general

There is established a program for the payment of rewards to carry out the purposes of this section.

(2) Purpose

The rewards program shall be designed to assist in the prevention of acts of international terrorism, international narcotics trafficking, serious violations of international humanitarian law, transnational organized crime, and other related criminal acts.

(3) Implementation

The rewards program shall be administered by the Secretary of State, in consultation, as appropriate, with the Attorney General.

(b) Rewards authorized

In the sole discretion of the Secretary (except as provided in subsection (c)(2)) and in consultation, as appropriate, with the heads of other relevant departments or agencies, the Secretary may pay a reward to any individual who furnishes information leading to—

(1) the arrest or conviction in any country of any individual for the commission of an act of international terrorism against a United States person or United States property;

(2) the arrest or conviction in any country of any individual conspiring or attempting to commit an act of international terrorism against a United States person or United States property;

(3) the arrest or conviction in any country of any individual for committing, primarily outside the territorial jurisdiction of the United States, any narcotics-related offense if that offense involves or is a significant part of conduct that involves—

(A) a violation of United States narcotics laws such that the individual would be a major violator of such laws;

(B) the killing or kidnapping of—

(i) any officer, employee, or contract employee of the United States Government while such individual is engaged in official duties, or on account of that individual's official duties, in connection with the enforcement of United States narcotics laws or the implementing of United States narcotics control objectives; or

(ii) a member of the immediate family of any such individual on account of that individual's official duties, in connection with the enforcement of United States narcotics laws or the implementing of United States narcotics control objectives; or

(C) an attempt or conspiracy to commit any act described in subparagraph (A) or (B);

(4) the arrest or conviction in any country of any individual aiding or abetting in the commission of an act described in paragraph (1), (2), (3), (8), (9), or (10);

(5) the prevention, frustration, or favorable resolution of an act described in paragraph (1), (2), (3), (8), (9), or (10), including by dismantling an organization in whole or significant part;

(6) the identification or location of an individual who holds a key leadership position in a terrorist organization or transnational organized crime group;

(7) the disruption of financial mechanisms of a foreign terrorist organization or transnational organized crime group, including the use by such organization or group of illicit narcotics production or international narcotics trafficking—

(A) to finance acts of international terrorism or transnational organized crime; or

(B) to sustain or support any terrorist organization or transnational organized crime group;

(8) the arrest or conviction in any country of any individual for participating in, primarily outside the United States, transnational organized crime;

(9) the arrest or conviction in any country of any individual conspiring to participate in or attempting to participate in transnational organized crime; or

(10) the arrest or conviction in any country, or the transfer to or conviction by an international criminal tribunal (including a hybrid or mixed tribunal), of any foreign national accused of war crimes, crimes against humanity, or genocide, as defined under the statute of such tribunal.

(c) Coordination

(1) Procedures

To ensure that the payment of rewards pursuant to this section does not duplicate or interfere with the payment of informants or the obtaining of evidence or information, as authorized to the Department of Justice, the offering, administration, and payment of rewards under this section, including procedures for—

(A) identifying individuals, organizations, and offenses with respect to which rewards will be offered;

(B) the publication of rewards;

(C) the offering of joint rewards with foreign governments;

(D) the receipt and analysis of data; and

(E) the payment and approval of payment,

shall be governed by procedures developed by the Secretary of State, in consultation with the Attorney General.

(2) Prior approval of Attorney General required

Before making a reward under this section in a matter over which there is Federal criminal jurisdiction, the Secretary of State shall obtain the concurrence of the Attorney General.

(d) Funding

(1) Authorization of appropriations

Notwithstanding section 102 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99–93; 99 Stat. 408), but subject to paragraph (2), there are authorized to be

appropriated to the Department of State from time to time such amounts as may be necessary to carry out this section.

(2) Period of availability

Amounts appropriated under paragraph (1) shall remain available until expended.

(e) Limitations and certification

(1) Maximum amount

No reward paid under this section may exceed $25,000,000, except as personally authorized by the Secretary of State if he determines that offer or payment of an award of a larger amount is necessary to combat terrorism or defend the Nation against terrorist acts. Without first making such determination, the Secretary may authorize a reward of up to twice the amount specified in this paragraph for the capture or information leading to the capture of a leader of a foreign terrorist organization.

(2) Approval

A reward under this section of more than $100,000 may not be made without the approval of the Secretary.

(3) Certification for payment

Any reward granted under this section shall be approved and certified for payment by the Secretary.

(4) Nondelegation of authority

The authority to approve rewards of more than $100,000 set forth in paragraph (2) may not be delegated.

(5) Protection measures

If the Secretary determines that the identity of the recipient of a reward or of the members of the recipient's immediate family must be protected, the Secretary may take such measures in connection with the payment of the reward as he considers necessary to effect such protection.

(6) Forms of reward payment

The Secretary may make a reward under this section in the form of money, a nonmonetary item (including such items as automotive vehicles), or a combination thereof.

(f) Ineligibility

An officer or employee of any entity of Federal, State, or local government or of a foreign government who, while in the performance of his or her official duties, furnishes information described in subsection (b) shall not be eligible for a reward under this section.

(g) Reports

(1) Reports on payment of rewards

Not later than 30 days after the payment of any reward under this section, the Secretary shall submit a report to the appropriate congressional committees with respect to such reward. The report, which may be submitted in classified form if necessary, shall specify the amount of the reward paid, to whom the reward was paid, and the acts with respect to which the reward was paid. The report shall also discuss the significance of the information for which the reward was paid in dealing with those acts.

(2) Annual reports

Not later than 60 days after the end of each fiscal year, the Secretary shall submit a report to the appropriate congressional committees with respect to the operation of the rewards program. The report shall provide information on the total amounts expended during the fiscal year ending in that year to carry out this section, including amounts expended to publicize the availability of rewards.

(3) Advance notification for international criminal tribunal rewards

Not less than 15 days before publicly announcing that a reward may be offered for a particular foreign national accused of war crimes, crimes against humanity, or genocide, the Secretary of State shall submit to the appropriate congressional committees a report, which may be submitted in classified form if necessary, setting forth the reasons why the arrest or conviction of such foreign national is in the national interests of the United States.

(4) Reports on rewards authorized

Not less than 15 days after a reward is authorized under this section, the Secretary of State shall submit to the appropriate congressional committees a report, which may be submitted in classified form if necessary to protect intelligence sources and methods, detailing information about the reward, including the identity of the individual for whom the reward is being made, the amount of the reward, the acts with respect to which the reward is being made, and how the reward is being publicized.

(h) Publication regarding rewards offered by foreign governments

Notwithstanding any other provision of this section, in the sole discretion of the Secretary, the resources of the rewards program shall be available for the publication of rewards offered by foreign governments regarding acts of international terrorism which do not involve United States persons or property or a violation of the narcotics laws of the United States.

(i) Media surveys and advertisements

(1) Surveys conducted

For the purpose of more effectively disseminating information about the rewards program, the Secretary may use the resources of the rewards program to conduct media surveys, including analyses of media markets, means of communication, and levels of literacy, in countries determined by the Secretary to be associated with acts of international terrorism.

(2) Creation and purchase of advertisements

The Secretary may use the resources of the rewards program to create advertisements to disseminate information about the rewards program. The Secretary may base the content of such advertisements on the findings of the surveys conducted under paragraph (1). The Secretary may purchase radio or television time, newspaper space, or make use of any other means of advertisement, as appropriate.

(j) Determinations of Secretary

A determination made by the Secretary under this section shall be final and conclusive and shall not be subject to judicial review.

(k) Definitions

As used in this section:

(1) Act of international terrorism

The term "act of international terrorism" includes—

(A) any act substantially contributing to the acquisition of unsafeguarded special nuclear material (as defined in paragraph (8) of section 6305 of this title) or any nuclear explosive device (as defined in paragraph (4) of that section) by an individual, group, or non-nuclear-weapon state (as defined in paragraph (5) of that section); and

(B) any act, as determined by the Secretary, which materially supports the conduct of international terrorism, including the counterfeiting of United States currency or the illegal use of other monetary instruments by an individual, group, or country supporting international terrorism as determined for purposes of section 4605(j)(1)(A) of title 50.

(2) Appropriate congressional committees

The term "appropriate congressional committees" means the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

(3) Member of the immediate family

The term "member of the immediate family", with respect to an individual, includes—

(A) a spouse, parent, brother, sister, or child of the individual;

(B) a person with respect to whom the individual stands in loco parentis; and

(C) any person not covered by subparagraph (A) or (B) who is living in the individual's household and is related to the individual by blood or marriage.

(4) Rewards program

The term "rewards program" means the program established in subsection (a)(1).

(5) Transnational organized crime

The term "transnational organized crime" means—

(A) racketeering activity (as such term is defined in section 1961 of title 18) that involves at least one jurisdiction outside the United States; or

(B) any other criminal offense punishable by a term of imprisonment of at least four years under Federal, State, or local law that involves at least one jurisdiction outside the United States and that is intended to obtain, directly or indirectly, a financial or other material benefit.

(6) Transnational organized crime group

The term "transnational organized crime group" means a group of persons that includes one or more citizens of a foreign country, exists for a period of time, and acts in concert with the aim of engaging in transnational organized crime.

(7) United States narcotics laws

The term "United States narcotics laws" means the laws of the United States for the prevention and control of illicit trafficking in controlled substances (as such term is defined in section 802(6) of title 21).

(8) United States person

The term "United States person" means—

(A) a citizen or national of the United States; and

(B) an alien lawfully present in the United States.

(Aug. 1, 1956, ch. 841, title I, §36, as added Pub. L. 98–533, title I, §102, Oct. 19, 1984, 98 Stat. 2708; amended Pub. L. 99–399, title V, §502, Aug. 27, 1986, 100 Stat. 869; Pub. L. 100–690, title IV, §4602, Nov. 18, 1988, 102 Stat. 4287; Pub. L. 101–231, §13(a), Dec. 13, 1989, 103 Stat. 1963; Pub. L. 101–246, title X, §1001, Feb. 16, 1990, 104 Stat. 86; Pub. L. 103–236, title I, §133(a)(1), title VIII, §827, Apr. 30, 1994, 108 Stat. 395, 519; Pub. L. 104–134, title I, §101[(a)] [title IV, §406], Apr. 26, 1996, 110 Stat. 1321, 1321–45; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327; Pub. L. 105–277, div. G, subdiv. B, title XXII, §2202, Oct. 21, 1998, 112 Stat. 2681–805; Pub. L. 105–323, title I, §101, Oct. 30, 1998, 112 Stat. 3029; Pub. L. 107–56, title V, §502, Oct. 26, 2001, 115 Stat. 364; Pub. L. 108–447, div. B, title IV, §405(a)–(d), Dec. 8, 2004, 118 Stat. 2902, 2903; Pub. L. 110–181, div. A, title XII, §1255(a), Jan. 28, 2008, 122 Stat. 402; Pub. L. 112–283, §§3, 4, Jan. 15, 2013, 126 Stat. 2493, 2494; Pub. L. 114–323, title VII, §704(a)(1), (2), Dec. 16, 2016, 130 Stat. 1941.)

REFERENCES IN TEXT

Section 102 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987, referred to in subsec. (d)(1), is section 102 of Pub. L. 99–93, title I, Aug. 16, 1985, 99 Stat. 408, which is not classified to the Code.

PRIOR PROVISIONS

A prior section 36 of act Aug. 1, 1956, was renumbered section 37 by section 102 of Pub. L. 98–533, and subsequently renumbered, and set out as a Short Title of 1956 Amendment note under section 2651 of this title, prior to repeal by Pub. L. 102–138, title I, §111(1), Oct. 28, 1991, 105 Stat. 654.

AMENDMENTS

2016—Subsec. (b)(4), (5). Pub. L. 114–323, §704(a)(1), substituted "(9), or (10)" for "or (9)".

Subsec. (g)(4). Pub. L. 114–323, §704(a)(2)(A), added par. (4).

Subsec. (k)(2). Pub. L. 114–323, §704(a)(2)(B), substituted "Foreign Affairs" for "International Relations".

2013—Subsec. (a)(2). Pub. L. 112–283, §3(1), inserted "serious violations of international humanitarian law, transnational organized crime," after "international narcotics trafficking,".

Subsec. (b). Pub. L. 112–283, §3(2)(A), substituted "heads of other relevant departments or agencies" for "Attorney General" in introductory provisions.

Subsec. (b)(4), (5). Pub. L. 112–283, §3(2)(B), substituted "paragraph (1), (2), (3), (8), or (9)" for "paragraph (1), (2), or (3)".

Subsec. (b)(6). Pub. L. 112–283, §3(2)(C)(i), inserted "or transnational organized crime group" after "terrorist organization".

Subsec. (b)(7). Pub. L. 112–283, §3(2)(D)(i), substituted "or transnational organized crime group, including the use by such organization or group of illicit narcotics production or international narcotics trafficking" for ", including the use by the organization of illicit narcotics production or international narcotics trafficking" in introductory provisions.

Subsec. (b)(7)(A). Pub. L. 112–283, §3(2)(D)(ii), inserted "or transnational organized crime" after "international terrorism".

Subsec. (b)(7)(B). Pub. L. 112–283, §3(2)(D)(iii)(I), inserted "or transnational organized crime group" after "terrorist organization".

Subsec. (b)(8) to (10). Pub. L. 112–283, §3(2)(C)(ii), (D)(iii)(II), (E), added pars. (8) to (10).

Subsec. (e)(1). Pub. L. 112–283, §4, struck out at end "The Secretary shall authorize a reward of $50,000,000 for the capture or death or information leading to the capture or death of Osama bin Laden."

Subsec. (g)(3). Pub. L. 112–283, §3(3), added par. (3).

Subsec. (k)(5) to (8). Pub. L. 112–283, §3(4), added pars. (5) and (6) and redesignated former pars. (5) and (6) as (7) and (8), respectively.

2008—Subsec. (e)(1). Pub. L. 110–181 inserted at end "The Secretary shall authorize a reward of $50,000,000 for the capture or death or information leading to the capture or death of Osama bin Laden."

2004—Subsec. (b)(7). Pub. L. 108–447, §405(a), added par. (7).

Subsec. (e)(1). Pub. L. 108–447, §405(b), substituted "$25,000,000" for "$5,000,000", struck out period after "terrorist acts.", and inserted at end "Without first making such determination, the Secretary may authorize a reward of up to twice the amount specified in this paragraph for the capture or information leading to the capture of a leader of a foreign terrorist organization."

Subsec. (e)(6). Pub. L. 108–447, §405(c), added par. (6).

Subsecs. (i) to (k). Pub. L. 108–447, §405(d), added subsec. (i) and redesignated former subsecs. (i) and (j) as (j) and (k), respectively.

2001—Subsec. (b)(4). Pub. L. 107–56, §502(1)(A), struck out "or" at end.

Subsec. (b)(5). Pub. L. 107–56, §502(1)(B), substituted ", including by dismantling an organization in whole or significant part; or" for period at end.

Subsec. (b)(6). Pub. L. 107–56, §502(1)(C), added par. (6).

Subsec. (d)(2) to (4). Pub. L. 107–56, §502(2), redesignated par. (4) as (2) and struck out former pars. (2) and (3) which read as follows:

"(2) LIMITATION.—No amount of funds may be appropriated under paragraph (1) which, when added to the unobligated balance of amounts previously appropriated to carry out this section, would cause such amounts to exceed $15,000,000.

"(3) ALLOCATION OF FUNDS.—To the maximum extent practicable, funds made available to carry out this section should be distributed equally for the purpose of preventing acts of international terrorism and for the purpose of preventing international narcotics trafficking."

Subsec. (e)(1). Pub. L. 107–56, §502(3), inserted ", except as personally authorized by the Secretary of State if he determines that offer or payment of an award of a larger amount is necessary to combat terrorism or defend the Nation against terrorist acts." after "$5,000,000".

1998—Pub. L. 105–323 generally amended section substantially similar to general amendment by Pub. L. 105–277, except that the maximum reward in subsec. (e)(1) was increased from $2,000,000 to $5,000,000.

Pub. L. 105–277 generally amended section revising and restating provisions relating to Department of State program authorizing rewards for information relating to arrests or convictions with respect to international terrorism or drug trafficking.

1996—Subsec. (a)(1). Pub. L. 104–134 which directed substitution of "shall establish and publicize a program under which rewards may be paid" for "may pay a reward" in section 36(a)(1) of the State Department Authorities Act of 1956 was executed to subsec. (a)(1) of this section, section 36(a)(1) of the State Department Basic Authorities Act of 1956, to reflect the probable intent of Congress.

1994—Subsec. (a). Pub. L. 103–236, §827, designated existing provisions as par. (1), redesignated former pars. (1) to (3) as subpars. (A) to (C), respectively, and added par. (2).

Pub. L. 103–236, §133(a)(1), struck out "and is primarily outside the territorial jurisdiction of the United States" after "United States property" in concluding provisions.

1990—Subsec. (c). Pub. L. 101–246, which directed amendment of subsec. (c) by substituting "$2,000,000" for "$500,000", could not be executed because "$500,000" did not appear after execution of the amendment by Pub. L. 101–231. See 1989 Amendment note below.

1989—Subsec. (c). Pub. L. 101–231 substituted "$2,000,000" for "$500,000".

1988—Subsec. (g). Pub. L. 100–690 amended second sentence generally. Prior to amendment, second sentence read as follows: "In addition to the amount authorized by the preceding sentence, there are authorized to be appropriated $10,000,000 for fiscal year 1987 for 'Administration of Foreign Affairs' for use in paying rewards under this section, up to $5,000,000 of which may be used for rewards for information described in subsection (b)(1) of this section."

1986—Subsecs. (b), (c). Pub. L. 99–399, §502(a), added subsec. (b) and redesignated former subsec. (b) as (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 99–399, §502(a)(1), (c)(1), redesignated former subsec. (c) as (d), and substituted "subsection (a) of this section" for "this section". Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 99–399, §502(a)(1), redesignated former subsec. (d) as (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 99–399, §502(a)(1), (c)(2), redesignated former subsec. (e) as (f), and inserted "or (b)". Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 99–399, §502(a)(1), (b), redesignated former subsec. (f) as (g), and inserted provision authorizing up to $2,000,000 for rewards for information described in subsec. (b)(1) of this section and appropriating $10,000,000 for fiscal year 1987, of which up to $5,000,000 may be used for rewards for information described in subsec. (b)(1) of this section.

Subsecs. (h), (i). Pub. L. 99–399, §502(d), added subsecs. (h) and (i).

EFFECTIVE DATE OF 2016 AMENDMENT

Pub. L. 114–323, title VII, §704(a)(3), Dec. 16, 2016, 130 Stat. 1942, provided that: "The amendments made by paragraphs (1) and (2) [amending this section] take effect on the date of the enactment of this Act [Dec. 16, 2016] and apply with respect to any reward authorized under section 36 of the State Department Basic Authorities Act of 1956 [this section] (as so amended) on or after such date."

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by section 827 of Pub. L. 103–236 effective 60 days after Apr. 30, 1994, see section 831 of Pub. L. 103–236, set out as an Effective Date note under section 6301 of this title.

RULE OF CONSTRUCTION

Pub. L. 112–283, §5, Jan. 15, 2013, 126 Stat. 2494, provided that: "Nothing in this Act [amending this section and enacting provisions set out as notes under this section and section 2651 of this title] or the amendments made by this Act shall be construed as authorizing the use of activity precluded under the American Servicemembers' Protection Act of 2002 (title II of Public Law 107–206; 22 U.S.C. 7421 et seq.)."

FINDINGS; SENSE OF CONGRESS

Pub. L. 112–283, §2, Jan. 15, 2013, 126 Stat. 2492, provided that:

"(a) FINDINGS.—Congress makes the following findings:

"(1) The Department of State's existing rewards programs permit the payment of reward for information leading to the arrest or conviction of—

"(A) individuals who have committed, or attempted or conspired to commit, certain acts of international terrorism;

"(B) individuals who have committed, or attempted or conspired to commit, certain narcotics-related offenses; and

"(C) individuals who have been indicted by certain international criminal tribunals.

"(2) The Department of State considers the rewards program to be 'one of the most valuable assets the U.S. Government has in the fight against international terrorism'. Since the program's inception in 1984, the United States Government has rewarded over 60 people who provided actionable information that, according to the Department of State, prevented international terrorist attacks or helped convict individuals involved in terrorist attacks.

"(3) The program has been credited with providing information in several high-profile cases, including

the arrest of Ramzi Yousef, who was convicted in the 1993 bombing of the World Trade Center, the deaths of Uday and Qusay Hussein, who United States military forces located and killed in Iraq after receiving information about their locations, and the arrests or deaths of several members of the Abu Sayyaf group, believed to be responsible for the kidnappings and deaths of United States citizens and Filipinos in the Philippines.

"(b) SENSE OF CONGRESS.—It is the sense of Congress that the rewards program of the Department of State should be expanded in order to—

"(1) address the growing threat to important United States interests from transnational criminal activity, such as intellectual property rights piracy, money laundering, trafficking in persons, arms trafficking, and cybercrime; and

"(2) target other individuals indicted by international, hybrid, or mixed tribunals for genocide, war crimes, or crimes against humanity."

FUNDING

Pub. L. 112–283, §6, Jan. 15, 2013, 126 Stat. 2494, provided that: "The Secretary of State shall use amounts appropriated or otherwise made available to the Emergencies in the Diplomatic and Consular Services account of the Department of State to pay rewards authorized pursuant to this Act [amending this section and enacting provisions set out as notes under this section and section 2651 of this title] and to carry out other activities related to such rewards authorized under section 36 of the State Department Basic Authorities Act [of 1956] (22 U.S.C. 2708)."

REWARDS FOR INFORMATION CONCERNING INDIVIDUALS SOUGHT FOR SERIOUS VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW RELATING TO FORMER YUGOSLAVIA OR RWANDA

Pub. L. 105–323, title I, §102, Oct. 30, 1998, 112 Stat. 3032, as amended by Pub. L. 106–277, §1, Oct. 2, 2000, 114 Stat. 813; Pub. L. 107–228, div. A, title VI, §697(d), Sept. 30, 2002, 116 Stat. 1418, provided that:

"(a) AUTHORITY.—In the sole discretion of the Secretary of State (except as provided in subsection (b)(2)) and in consultation, as appropriate, with the Attorney General, the Secretary may pay a reward to any individual who furnishes information leading to—

"(1) the arrest or conviction in any country; or

"(2) the transfer to, or conviction by, the Special Court of Sierra Leone[,] the International Criminal Tribunal for the Former Yugoslavia or the International Criminal Tribunal for Rwanda,

of any individual who is the subject of an indictment confirmed by a judge of such tribunal for serious violations of international humanitarian law as defined under the statute of such tribunal.

"(b) PROCEDURES.—

"(1) To ensure that the payment of rewards pursuant to this section does not duplicate or interfere with the payment of informants or the obtaining of evidence or information, as authorized to the Department of Justice, subject to paragraph (3), the offering, administration, and payment of rewards under this section, including procedures for—

"(A) identifying individuals, organizations, and offenses with respect to which rewards will be offered;

"(B) the publication of rewards;

"(C) the offering of joint rewards with foreign governments;

"(D) the receipt and analysis of data; and

"(E) the payment and approval of payment,

shall be governed by procedures developed by the Secretary of State, in consultation with the Attorney General.

"(2) Before making a reward under this section in a matter over which there is Federal criminal jurisdiction, the Secretary of State shall obtain the concurrence of the Attorney General.

"(3) Rewards under this section shall be subject to any requirements or limitations that apply to rewards under section 36 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708) with respect to the ineligibility of government employees for rewards, maximum reward amount, and procedures for the approval and certification of rewards for payment.

"(c) REFERENCE.—(1) For the purposes of subsection (a), the statute of the International Criminal Tribunal for the Former Yugoslavia means the Annex to the Report of the Secretary General of the United Nations pursuant to paragraph 2 of Security Council Resolution 827 (1993) (S/25704).

"(2) For the purposes of subsection (a), the statute of the International Criminal Tribunal for Rwanda means the statute contained in the annex to Security Council Resolution 955 of November 8, 1994.

"(3) For the purposes of subsection (a), the Statute of the Special Court for Sierra Leone means the Statute contained in the Annex to the Agreement Between the United Nations and the Government of Sierra Leone on the Establishment of a Special Court for Sierra Leone.

"(d) DETERMINATION OF THE SECRETARY.—A determination made by the Secretary of State under this section shall be final and conclusive and shall not be subject to judicial review.

"(e) PRIORITY.—Rewards under this section may be paid from funds authorized to carry out section 36 of the State Department Basic Authorities Act of 1956 [22 U.S.C. 2708]. In the Administration and payment of rewards under the rewards program of section 36 of the State Department Basic Authorities Act of 1956, the Secretary of State shall ensure that priority is given for payments to individuals described in section 36 of that Act and that funds paid under this section are paid only after any and all due and payable demands are met under section 36 of that Act.

"(f) REPORTS.—The Secretary shall inform the appropriate committees of rewards paid under this section in the same manner as required by section 36(g) of the State Department Basic Authorities Act of 1956."

AVOIDING DUPLICATIVE AMENDMENTS

Pub. L. 101–231, §13(b), Dec. 13, 1989, 103 Stat. 1963, provided that: "If the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 [Pub. L. 101–246, Feb. 16, 1990, 104 Stat. 87], is enacted before this Act [Dec. 13, 1989], and that Act makes the same amendment as is described in subsection (a) [amending this section], then subsection (a) shall not take effect. If, however, this Act is enacted before the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991, and that Act would make the same amendment as is made by subsection (a), then that amendment as proposed to be made by that Act shall not take effect."

REWARDS FOR INTERNATIONAL TERRORISTS

Pub. L. 99–399, title V, §501, Aug. 27, 1986, 100 Stat. 869, provided that: "It is the sense of the Congress that the Secretary of State should more vigorously utilize the moneys available under section 36(a) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708(a); relating to rewards for information on international terrorism) to more effectively apprehend and prosecute international terrorists. It is further the sense of the Congress that the Secretary of State should consider widely publicizing the sizable rewards available under present law so that major international terrorist figures may be brought to justice."

§2708a. Award of Thomas Jefferson Star for Foreign Service

(a) Authority to award

The President, upon the recommendation of the Secretary, may award a Thomas Jefferson Star for Foreign Service to any member of the Foreign Service or any other civilian employee of the Government of the United States who, while employed at, or assigned permanently or temporarily to, an official mission overseas or while traveling abroad on official business, incurred a wound or other injury or an illness (whether or not the wound, other injury, or illness resulted in death)—

(1) as the person was performing official duties;

(2) as the person was on the premises of a United States mission abroad; or

(3) by reason of the person's status as a United States Government employee.

(b) Selection criteria

The Secretary shall prescribe the procedures for identifying and considering persons eligible for award of a Thomas Jefferson Star for Foreign Service and for selecting the persons to be recommended for the award.

(c) Award in the event of death

If a person selected for award of a Thomas Jefferson Star for Foreign Service dies before being presented the award, the award may be made and the star presented to the person's family or to the person's representative, as designated by the President.

(d) Form of award

The Secretary shall prescribe the design of the Thomas Jefferson Star for Foreign Service. The award may not include a stipend or any other cash payment.

(e) Funding

Any expenses incurred in awarding a person a Thomas Jefferson Star for Foreign Service may be paid out of appropriations available at the time of the award for personnel of the department or agency of the United States Government in which the person was employed when the person incurred the wound, injury, or illness upon which the award is based.

(Aug. 1, 1956, ch. 841, title I, §36A, as added Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title III, §321], Nov. 29, 1999, 113 Stat. 1536, 1501A–436; amended Pub. L. 107–228, div. A, title III, §311, Sept. 30, 2002, 116 Stat. 1377.)

AMENDMENTS

2002—Pub. L. 107–228 substituted "Thomas Jefferson Star for Foreign Service" for "Foreign Service star" in section catchline and wherever appearing in text.

§2709. Special agents

(a) General authority

Under such regulations as the Secretary of State may prescribe, special agents of the Department of State and the Foreign Service may—

(1) conduct investigations concerning—

(A) illegal passport or visa issuance or use;

(B) identity theft or document fraud affecting or relating to the programs, functions, or authorities of the Department of State; or

(C) Federal offenses committed within the special maritime and territorial jurisdiction of the United States (as defined in section 7(9) of title 18), except as such jurisdiction relates to the premises of United States military missions and related residences;

(2) obtain and execute search and arrest warrants, as well as obtain and serve subpoenas and summonses issued under the authority of the United States;

(3) protect and perform protective functions directly related to maintaining the security and safety of—

(A) heads of a foreign state, official representatives of a foreign government, and other distinguished visitors to the United States, while in the United States;

(B) the Secretary of State, Deputy Secretary of State, and official representatives of the United States Government, in the United States or abroad;

(C) members of the immediate family of persons described in subparagraph (A) or (B);

(D) foreign missions (as defined in section 4302(a)(4) [1] of this title) and international organizations (as defined in section 4309(b) of this title), within the United States;

(E) a departing Secretary of State for a period of up to 180 days after the date of termination of that individual's incumbency as Secretary of State, on the basis of a threat assessment; and

(F) an individual who has been designated by the President or President-elect to serve as Secretary of State, prior to that individual's appointment.[2]

(4) if designated by the Secretary and qualified, under regulations approved by the Attorney General, for the use of firearms, carry firearms for the purpose of performing the duties authorized by this section; and

(5) make arrests without warrant for any offense against the United States committed in their presence, or for any felony cognizable under the laws of the United States if they have reasonable grounds to believe that the person to be arrested has committed or is committing such felony.

(b) Agreements with Attorney General and Secretary of the Treasury and firearms regulations

(1) Agreement with Attorney General

The authority conferred by paragraphs (1) and (4) of subsection (a) shall be exercised subject to

an agreement between the Secretary and the Attorney General.

(2) Agreement with Attorney General and Secretary of the Treasury

The authority conferred by paragraphs (2) and (5) of subsection (a) shall be exercised subject to an agreement among the Secretary, the Attorney General, and the Secretary of the Treasury.

(3) Firearms regulations

The Secretary of State shall prescribe regulations, which shall be approved by the Attorney General, with respect to the carrying and use of firearms by special agents under this section.

(c) Secret Service not affected

Nothing in subsection (a)(3) shall be construed to preclude or limit in any way the authority of the United States Secret Service to provide protective services pursuant to section 3056 or 3056A of title 18 at a level commensurate with protective requirements as determined by the United States Secret Service. The Secretary of State, the Attorney General, and the Secretary of the Treasury shall enter into an interagency agreement with respect to their law enforcement functions.

(Aug. 1, 1956, ch. 841, title I, §37, as added Pub. L. 99–93, title I, §125(a), Aug. 16, 1985, 99 Stat. 415; amended Pub. L. 101–246, title I, §113, Feb. 16, 1990, 104 Stat. 22; Pub. L. 103–236, title I, §139(1), Apr. 30, 1994, 108 Stat. 397; Pub. L. 106–553, §1(a)(2) [title IV, §406, formerly §407], Dec. 21, 2000, 114 Stat. 2762, 2762A–97, renumbered Pub. L. 106–554, §1(a)(4) [div. A, §213(a)(5)], Dec. 21, 2000, 114 Stat. 2763, 2763A–180; Pub. L. 107–228, div. A, title II, §202(a), (b), Sept. 30, 2002, 116 Stat. 1362; Pub. L. 109–177, title VI, §605(e)(2)(A), Mar. 9, 2006, 120 Stat. 255; Pub. L. 114–323, title IV, §408(a), Dec. 16, 2016, 130 Stat. 1930.)

REFERENCES IN TEXT

Section 4302 of this title, referred to in subsec. (a)(3)(D), was subsequently amended, and section 4302(a)(4) no longer defines the term "foreign mission". However, such term is defined elsewhere in that section.

PRIOR PROVISIONS

A prior section 37 of act Aug. 1, 1956, was renumbered section 38 by section 125(a) of Pub. L. 99–93, and subsequently renumbered, and was set out as a Short Title of 1956 Amendment note under section 2651 of this title, prior to repeal by Pub. L. 102–138, title I, §111(1), Oct. 28, 1991, 105 Stat. 654.

AMENDMENTS

2016—Subsec. (a)(1). Pub. L. 114–323 amended par. (1) generally. Prior to amendment, par. (1) read as follows: "conduct investigations concerning illegal passport or visa issuance or use;".

2006—Subsec. (c). Pub. L. 109–177 substituted "section 3056 or 3056A of title 18" for "section 202 of title 3 or section 3056 of title 18".

2002—Subsec. (a)(2). Pub. L. 107–228, §202(a)(1), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "for the purpose of conducting such investigations—

"(A) obtain and execute search and arrest warrants,

"(B) make arrests without warrant for any offense concerning passport or visa issuance or use if the special agent has reasonable grounds to believe that the person has committed or is committing such offense, and

"(C) obtain and serve subpoenas and summonses issued under the authority of the United States;".

Subsec. (a)(3)(F). Pub. L. 107–228, §202(a)(2), inserted "or President-elect" after "President".

Subsec. (a)(5). Pub. L. 107–228, §202(a)(3), amended par. (5) generally. Prior to amendment, par. (5) read as follows: "arrest without warrant any person for a violation of section 111, 112, 351, 970, or 1028 of title 18—

"(A) in the case of a felony violation, if the special agent has reasonable grounds to believe that such person—

"(i) has committed or is committing such violation; and

"(ii) is in or is fleeing from the immediate area of such violation; and

"(B) in the case of a felony or misdemeanor violation, if the violation is committed in the presence of the special agent."

Subsec. (b). Pub. L. 107–228, §202(b), substituted "Agreements with Attorney General and Secretary of the Treasury and firearms regulations" for "Agreement with Attorney General and firearms regulations" in

heading, added pars. (1) and (2), struck out former par. (1), which related to agreement with the Attorney General, and redesignated former par. (2) as (3).

2000—Subsec. (a)(3)(E), (F). Pub. L. 106–553, as renumbered by Pub. L. 106–554, added subpars. (E) and (F).

1994—Subsec. (d). Pub. L. 103–236 struck out subsec. (d) which read as follows: "The Secretary of State shall transmit the regulations prescribed under this section to the Committee on Foreign Affairs and the Committee on the Judiciary of the House of Representatives and the Committee on Foreign Relations of the Senate not less than 20 days before the date on which such regulations take effect."

1990—Subsec. (a)(2). Pub. L. 101–246, §113(1), added subpar. (B) and redesignated former subpar. (B) as (C).

Subsec. (a)(5). Pub. L. 101–246, §113(2), amended introductory provisions generally, substituting "970, or 1028" for "911, 970, 1001, 1028, 1541, 1542, 1543, 1544, 1545, or 1546".

CONSTRUCTION

Pub. L. 114–323, title IV, §408(b), Dec. 16, 2016, 130 Stat. 1930, provided that: "Nothing in the amendment made by subsection (a) [amending this section] may be construed to limit the investigative authority of any Federal department or agency other than the Department [of State]."

TRANSFER OF FUNCTIONS

For transfer of the functions, personnel, assets, and obligations of the United States Secret Service, including the functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 381, 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

IMPLEMENTATION OF SEARCH, SEIZURE, SERVICE, AND ARREST AUTHORITY

Pub. L. 107–228, div. A, title II, §202(c), Sept. 30, 2002, 116 Stat. 1362, provided that:

"(1) The authority conferred by paragraphs (2) and (5) of section 37(a) of the State Department Basic Authorities Act of 1956 [22 U.S.C. 2709(a)(2), (5)], as amended by subsection (a), may not be exercised until the date on which the Secretary—

"(A) submits the agreement required by subsection (b)(2) of section 37 of such Act [22 U.S.C. 2709(b)(2)] to the appropriate congressional committees; and

"(B) publishes in the Federal Register a notice that the agreement has been submitted in accordance with the requirements of subparagraph (A).

"(2) The authority conferred by paragraphs (2) and (5) of subsection (a) of section 37 of the State Department Basic Authorities Act of 1956, as in effect on the day before the date of the enactment of this Act [Sept. 30, 2002], may continue to be exercised until the date on which the notice described in paragraph (1)(B) is published in the Federal Register."

[For definitions of "Secretary" and "appropriate congressional committees" as used in section 202(c) of Pub. L. 107–228, set out above, see section 3 of Pub. L. 107–228, set out as a note under section 2651 of this title.]

[1] See References in Text note below.

[2] So in original. The period probably should be a semicolon.

§2710. Expenses relating to participation in arbitrations of certain disputes

(a) International agreements

The Secretary of State may use funds available to the Secretary for the expenses of United States participation in arbitrations and other proceedings for the peaceful resolution of disputes under treaties or other international agreements.

(b) Contracts abroad

The Secretary of State may use funds available to the Secretary for the expenses of United States participation in arbitrations arising under contracts authorized by law for the performance of services

or acquisition of property, real or personal, abroad.

(c) Procurement of services

The Secretary of State may use competitive procedures or procedures other than competitive procedures to procure the services of experts for use in preparing or prosecuting a proceeding before an international tribunal or a claim by or against a foreign government or other foreign entity, whether or not the expert is expected to testify, or to procure personal and other support services for such proceedings or claims. The Secretary need not provide any written justification for the use of procedures other than competitive procedures when procuring such services under this subsection and need not furnish for publication in the Commerce Business Daily or otherwise any notice of solicitation or synopsis with respect to such procurement.

(d) International Litigation Fund

(1) Establishment

In order to provide the Department of State with a dependable, flexible, and adequate source of funding for the expenses of the Department related to preparing or prosecuting a proceeding before an international tribunal, or a claim by or against a foreign government or other foreign entity, there is established an International Litigation Fund (hereafter in this subsection referred to as the "ILF"). The ILF may be available without fiscal year limitation. Funds otherwise available to the Department for the purposes of this paragraph may be credited to the ILF.

(2) Reprogramming procedures

Funds credited to the ILF shall be treated as a reprogramming of funds under section 2706 of this title and shall not be available for obligation or expenditure except in compliance with the procedures applicable to such reprogrammings. This paragraph shall not apply to the transfer of funds under paragraph (3).

(3) Transfers of funds

Funds received by the Department of State from another agency of the United States Government or pursuant to the Department of State Appropriations Act of 1937 (49 Stat. 1321, 22 U.S.C. 2661) to meet costs of preparing or prosecuting a proceeding before an international tribunal, or a claim by or against a foreign government or other foreign entity, shall be credited to the ILF.

(4) Use of funds

Funds deposited in the ILF shall be available only for the purposes of paragraph (1).

(e) Retention of funds

(1) In general

To reimburse the expenses of the United States Government in preparing or prosecuting a proceeding before an international tribunal, or a claim against a foreign government or other foreign entity, the Secretary may retain 1.5 percent of any amount between $100,000 and $5,000,000, and one percent of any amount over $5,000,000, received per claim under section 2668a of this title.

(2) Treatment

Amounts retained under the authority of paragraph (1) shall be deposited into the fund under subsection (d).

(Aug. 1, 1956, ch. 841, title I, §38, as added Pub. L. 99–93, title I, §128, Aug. 16, 1985, 99 Stat. 419; amended Pub. L. 103–236, title I, §123, Apr. 30, 1994, 108 Stat. 392; Pub. L. 105–277, div. G, subdiv. B, title XXII, §2212(b), Oct. 21, 1998, 112 Stat. 2681–812; Pub. L. 107–228, div. A, title II, §203, Sept. 30, 2002, 116 Stat. 1362.)

REFERENCES IN TEXT

The Department of State Appropriations Act of 1937, referred to in subsec. (d)(3), probably means the

Department of State Appropriation Act, 1937, which is title I of act May 15, 1936, ch. 405, 49 Stat. 1309. Provisions relating to acceptance by the Secretary of State of reimbursement for expenses incurred in pursuing certain private claims against foreign governments were added to that act by Pub. L. 100–204, title I, §142(b), Dec. 22, 1987, 101 Stat. 1350, and are classified to section 2661 of this title.

Section 2668a of this title, referred to in subsec. (e)(1), was in the original "chapter 34 of the Act of February 27, 1896 (22 U.S.C. 2668a; 29 Stat. 32)". Section 2668a of this title contains the only provisions of the Act which are classified to the Code.

PRIOR PROVISIONS

A prior section 38 of act Aug. 1, 1956, was renumbered section 39 by section 128 of Pub. L. 99–93, and subsequently renumbered, and set out as a Short Title of 1956 Amendment note under section 2651 of this title, prior to repeal by Pub. L. 102–138, title I, §111(1), Oct. 28, 1991, 105 Stat. 654.

AMENDMENTS

2002—Subsec. (e). Pub. L. 107–228 added subsec. (e).

1998—Subsec. (c). Pub. L. 105–277 inserted "personal and" before "other support services" in first sentence.

1994—Subsecs. (c), (d). Pub. L. 103–236 added subsecs. (c) and (d).

§2711. Counterterrorism Protection Fund

(a) Authority

The Secretary of State may reimburse domestic and foreign persons, agencies, or governments for the protection of judges or other persons who provide assistance or information relating to terrorist incidents primarily outside the territorial jurisdiction of the United States. Before making a payment under this section in a matter over which there is Federal criminal jurisdiction, the Secretary shall advise and consult with the Attorney General.

(b) Authorization of appropriations

There are authorized to be appropriated to the Secretary of State for "Administration of Foreign Affairs" $1,000,000 for fiscal year 1986 and $1,000,000 for fiscal year 1987 for use in reimbursing persons, agencies, or governments under this section.

(c) Designation of Fund

Amounts made available under this section may be referred to as the "Counterterrorism Protection Fund".

(Aug. 1, 1956, ch. 841, title I, §39, as added Pub. L. 99–399, title V, §504(2), Aug. 27, 1986, 100 Stat. 871.)

PRIOR PROVISIONS

A prior section 39 of act Aug. 1, 1956, was renumbered section 40 by section 504(1) of Pub. L. 99–399, and subsequently renumbered, and set out as a Short Title of 1956 Amendment note under section 2651 of this title, prior to repeal by Pub. L. 102–138, title I, §111(1), Oct. 28, 1991, 105 Stat. 654.

§2712. Authority to control certain terrorism-related services

(a) Authority

The Secretary of State may, by regulation, impose controls on the provision of the services described in subsection (b) if the Secretary determines that provision of such services would aid and abet international terrorism.

(b) Services subject to control

The services subject to control under subsection (a) are the following:

(1) Serving in or with the security forces of a designated foreign government.

(2) Providing training or other technical services having a direct military, law enforcement, or

intelligence application, to or for the security forces of a designated foreign government.

Any regulations issued to impose controls on services described in paragraph (2) shall list the specific types of training and other services subject to the controls.

(c) Persons subject of controls

These services may be controlled under subsection (a) when they are provided within the United States by any individual or entity and when they are provided anywhere in the world by a United States person.

(d) Licenses

In carrying out subsection (a), the Secretary of State may require licenses, which may be revoked, suspended, or amended, without prior notice, whenever such action is deemed to be advisable.

(e) Definitions

(1) Designated foreign government

As used in this section, the term "designated foreign government" means a foreign government that the Secretary of State has determined, for purposes of section 4605(j)(1) of title 50, has repeatedly provided support for acts of international terrorism.

(2) Security forces

As used in this section, the term "security forces" means any military or paramilitary forces, any police or other law enforcement agency (including any police or other law enforcement agency at the regional or local level), and any intelligence agency of a foreign government.

(3) United States

As used in this section, the term "United States" includes any State, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and any territory or possession of the United States.

(4) United States person

As used in this section, the term "United States person" means any United States national, any permanent resident alien, and any sole proprietorship, partnership, company, association, or corporation organized under the laws of or having its principal place of business within the United States.

(f) Violations

(1) Penalties

Whoever willfully violates any regulation issued under this section shall be fined not more than $100,000 or five times the total compensation received for the conduct which constitutes the violation, whichever is greater, or imprisoned for not more than ten years, or both, for each such offense.

(2) Investigations

The Attorney General and the Secretary of the Treasury shall have authority to investigate violations of regulations issued under this section.

(g) Congressional oversight

(1) Review of regulations

Not less than 30 days before issuing any regulations under this section (including any amendments thereto), the Secretary of State shall transmit the proposed regulations to the Congress.

(2) Reports

Not less than once every six months, the Secretary of State shall report to the Congress concerning the number and character of licenses granted and denied during the previous reporting

period, and such other information as the Secretary may find to be relevant to the accomplishment of the objectives of this section.

(h) Relationship to other laws

The authority granted by this section is in addition to the authorities granted by any other provision of law.

(Aug. 1, 1956, ch. 841, title I, §40, as added Pub. L. 99–399, title V, §506(2), Aug. 27, 1986, 100 Stat. 871.)

PRIOR PROVISIONS

A prior section 40 of act Aug. 1, 1956, was renumbered section 41 by section 506(1) of Pub. L. 99–399, and subsequently renumbered, and set out as a Short Title of 1956 Amendment note under section 2651 of this title, prior to repeal by Pub. L. 102–138, title I, §111(1), Oct. 28, 1991, 105 Stat. 654.

§2713. Protection of historic and artistic furnishings of reception areas of the Harry S Truman Federal Building

(a) In general

The Secretary of State shall administer the historic and artistic articles of furniture, fixtures, and decorative objects of the reception areas of the Department of State by such means and measures as conform to the purposes of the reception areas, which include conserving those articles, fixtures, and objects and providing for their enjoyment in such manner and by such means as will leave them for the use of the American people. Nothing shall be done under this subsection which conflicts with the administration of the Department of State or with the use of the reception areas for official purposes of the United States Government.

(b) Disposition of historic and artistic items

(1) Items covered

Articles of furniture, fixtures, and decorative objects of the reception areas (and similar articles, fixtures, and objects acquired by the Secretary of State), when declared by the Secretary of State to be of historic or artistic interest, shall thereafter be considered to be the property of the Secretary in his or her official capacity and shall be subject to disposition solely in accordance with this subsection.

(2) Sale or trade

Whenever the Secretary of State determines that—

(A) any item covered by paragraph (1) is no longer needed for use or display in the reception areas, or

(B) in order to upgrade the reception areas, a better use of that article would be its sale or exchange,

the Secretary may, with the advice and concurrence of the Director of the National Gallery of Art, sell the item at fair market value or trade it, without regard to the requirements of chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41. The proceeds of any such sale may be credited to the unconditional gift account of the Department of State, and items obtained in trade shall be the property of the Secretary of State under this subsection.

(3) Smithsonian Institution

The Secretary of State may also lend items covered by paragraph (1), when not needed for use or display in the reception areas, to the Smithsonian Institution or a similar institution for care, repair, study, storage, or exhibition.

(c) "Reception areas" defined

For purposes of this section, the term "reception areas" means the areas of the Harry S Truman Federal Building, located at 2201 C Street, Northwest, Washington, District of Columbia, known as the Diplomatic Reception Rooms (eighth floor), the Secretary of State's offices (seventh floor), the Deputy Secretary of State's offices (seventh floor), and the seventh floor reception area.

(Aug. 1, 1956, ch. 841, title I, §41, as added Pub. L. 100–204, title I, §126(a)(2), Dec. 22, 1987, 101 Stat. 1341; amended Pub. L. 106–218, §2, June 20, 2000, 114 Stat. 345.)

CODIFICATION

In subsec. (b)(2), "chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41" substituted for "the Federal Property and Administrative Services Act of 1949" on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

PRIOR PROVISIONS

A prior section 41 of act Aug. 1, 1956, was renumbered section 42 by section 126(a)(1) of Pub. L. 100–204, and subsequently renumbered, and set out as a Short Title of 1956 Amendment note under section 2651 of this title, prior to repeal by Pub. L. 102–138, title I, §111(1), Oct. 28, 1991, 105 Stat. 654.

AMENDMENTS

2000—Pub. L. 106–218 substituted "Harry S Truman Federal Building" for "Department of State Building" in section catchline and in subsec. (c).

DESIGNATION OF DEPARTMENT OF STATE BUILDING AS HARRY S TRUMAN FEDERAL BUILDING

Pub. L. 106–218, June 20, 2000, 114 Stat. 345, provided that:

"SECTION 1. DESIGNATION.

"The Federal building located at 2201 C Street, Northwest, in the District of Columbia, currently headquarters for the Department of State, shall be known and designated as the 'Harry S Truman Federal Building'.

"SEC. 2. REFERENCES.

"Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the 'Harry S Truman Federal Building'."

§2714. Denial of passports to certain convicted drug traffickers

(a) Ineligibility for passport

(1) In general

A passport may not be issued to an individual who is convicted of an offense described in subsection (b) during the period described in subsection (c) if the individual used a passport or otherwise crossed an international border in committing the offense.

(2) Passport revocation

The Secretary of State shall revoke a passport previously issued to an individual who is ineligible to receive a passport under paragraph (1).

(b) Drug law offenses

(1) Felonies

Subsection (a) applies with respect to any individual convicted of a Federal drug offense, or a State drug offense, if the offense is a felony.

(2) Certain misdemeanors

Subsection (a) also applies with respect to an individual convicted of a Federal drug offense, or a State drug offense, if the offense is [1] misdemeanor, but only if the Secretary of State determines

that subsection (a) should apply with respect to that individual on account of that offense. This paragraph does not apply to an individual's first conviction for a misdemeanor which involves only possession of a controlled substance.

(c) Period of ineligibility

Subsection (a) applies during the period that the individual—

(1) is imprisoned, or is legally required to be imprisoned, as the result of the conviction for the offense described in subsection (b); or

(2) is on parole or other supervised release after having been imprisoned as the result of that conviction.

(d) Emergency and humanitarian exceptions

Notwithstanding subsection (a), the Secretary of State may issue a passport, in emergency circumstances or for humanitarian reasons, to an individual with respect to whom that subsection applies.

(e) Definitions

As used in this section—

(1) the term "controlled substance" has the same meaning as is provided in section 102 of the Controlled Substances Act (21 U.S.C. 802);

(2) the term "Federal drug offense" means a violation of—

(A) the Controlled Substances Act (21 U.S.C. 801 et seq.) or the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.);

(B) any other Federal law involving controlled substances; or

(C) subchapter II of chapter 53 of title 31 (commonly referred to as the "Bank Secrecy Act"), or section 1956 or section 1957 of title 18 (commonly referred to as the "Money Laundering Act"), if the Secretary of State determines that the violation is related to illicit production of or trafficking in a controlled substance;

(3) the term "felony" means a criminal offense punishable by death or imprisonment for more than one year;

(4) the term "imprisoned" means an individual is confined in or otherwise restricted to a jail-type institution, a half-way house, a treatment facility, or another institution, on a full or part-time basis, pursuant to the sentence imposed as the result of a conviction;

(5) the term "misdemeanor" means a criminal offense other than a felony;

(6) the term "State drug offense" means a violation of State law involving the manufacture, distribution, or possession of a controlled substance; and

(7) the term "State law" means the law of a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, or a territory or possession of the United States.

(Aug. 1, 1956, ch. 841, title I, §42, as added Pub. L. 100–690, title IV, §4603(2), Nov. 18, 1988, 102 Stat. 4287.)

REFERENCES IN TEXT

The Controlled Substances Act, referred to in subsec. (e)(2)(A), is title II of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1242, as amended, which is classified principally to subchapter I (§801 et seq.) of chapter 13 of Title 21, Food and Drugs. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 21 and Tables.

The Controlled Substances Import and Export Act, referred to in subsec. (e)(2)(A), is title III of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1285, as amended, which is classified principally to subchapter II (§951 et seq.) of chapter 13 of Title 21. For complete classification of this Act to the Code, see Short Title note set out under section 951 of Title 21 and Tables.

PRIOR PROVISIONS

A prior section 42 of act Aug. 1, 1956, was renumbered section 43 by section 4603(1) of Pub. L. 100–690, and subsequently renumbered, and set out as a Short Title of 1956 Amendment note under section 2651 of this

title, prior to repeal by Pub. L. 102–138, title I, §111(1), Oct. 28, 1991, 105 Stat. 654.

[1] *So in original. Probably should be followed by "a".*

§2714a. Revocation or denial of passport in case of certain unpaid taxes

(a) to (d) Omitted

(e) Authority to deny or revoke passport

(1) Denial

(A) In general

Except as provided under subparagraph (B), upon receiving a certification described in section 7345 of title 26 from the Secretary of the Treasury, the Secretary of State shall not issue a passport to any individual who has a seriously delinquent tax debt described in such section.

(B) Emergency and humanitarian situations

Notwithstanding subparagraph (A), the Secretary of State may issue a passport, in emergency circumstances or for humanitarian reasons, to an individual described in such subparagraph.

(2) Revocation

(A) In general

The Secretary of State may revoke a passport previously issued to any individual described in paragraph (1)(A).

(B) Limitation for return to United States

If the Secretary of State decides to revoke a passport under subparagraph (A), the Secretary of State, before revocation, may—

(i) limit a previously issued passport only for return travel to the United States; or

(ii) issue a limited passport that only permits return travel to the United States.

(3) Hold harmless

The Secretary of the Treasury, the Secretary of State, and any of their designees shall not be liable to an individual for any action with respect to a certification by the Commissioner of Internal Revenue under section 7345 of title 26.

(f) Revocation or denial of passport in case of individual without social security account number

(1) Denial

(A) In general

Except as provided under subparagraph (B), upon receiving an application for a passport from an individual that either—

(i) does not include the social security account number issued to that individual, or

(ii) includes an incorrect or invalid social security number willfully, intentionally, negligently, or recklessly provided by such individual,

the Secretary of State is authorized to deny such application and is authorized to not issue a passport to the individual.

(B) Emergency and humanitarian situations

Notwithstanding subparagraph (A), the Secretary of State may issue a passport, in emergency circumstances or for humanitarian reasons, to an individual described in subparagraph (A).

(2) Revocation

(A) In general

The Secretary of State may revoke a passport previously issued to any individual described in paragraph (1)(A).

(B) Limitation for return to United States

If the Secretary of State decides to revoke a passport under subparagraph (A), the Secretary of State, before revocation, may—

(i) limit a previously issued passport only for return travel to the United States; or

(ii) issue a limited passport that only permits return travel to the United States.

(g) Removal of certification from record when debt ceases to be seriously delinquent

If pursuant to subsection (c) or (e) of section 7345 of title 26 the Secretary of State receives from the Secretary of the Treasury a notice that an individual ceases to have a seriously delinquent tax debt, the Secretary of State shall remove from the individual's record the certification with respect to such debt.

(h) Omitted

(i) Effective date

The provisions of, and amendments made by, this section shall take effect on December 4, 2015.

(Pub. L. 114–94, div. C, title XXXII, §32101, Dec. 4, 2015, 129 Stat. 1729.)

REFERENCES IN TEXT

For the amendments made by this section, referred to in subsec. (i), see Codification note below.

CODIFICATION

Section is comprised of section 32101 of Pub. L. 114–94. Subsections (a) to (d) and (h) of section 32101 of Pub. L. 114–94 made the following amendments: subsection (a) enacted section 7345 of Title 26, Internal Revenue Code; subsection (b) amended sections 6320 and 6331 of Title 26; subsection (c) amended section 6103 of Title 26; subsection (d) amended section 7508 of Title 26; and subsection (h) amended the analysis for subchapter D of chapter 75 of Title 26.

§2715. Procedures regarding major disasters and incidents abroad affecting United States citizens

(a) Authority

In the case of a major disaster or incident abroad which affects the health and safety of citizens of the United States residing or traveling abroad, the Secretary of State shall provide prompt and thorough notification of all appropriate information concerning such disaster or incident and its effect on United States citizens to the next-of-kin of such individuals. Notification shall be provided through the most expeditious means available, including telephone communications, and shall include timely written notice. The Secretary, through the appropriate offices of the Department of State, shall act as a clearinghouse for up-to-date information for the next-of-kin and shall provide other services and assistance. Assistance shall include liaison with foreign governments and persons and with United States air carriers concerning arrangements for the preparation and transport to the United States of the remains of citizens who die abroad, as well as disposition of personal estates pursuant to section 2715c of this title.

(b) Definitions

For purposes of this section and sections 2715b and 2715c of this title, the term "consular officer" includes any United States citizen employee of the Department of State who is designated by the Secretary of State to perform consular services pursuant to such regulations as the Secretary may prescribe.

(Aug. 1, 1956, ch. 841, title I, §43, as added Pub. L. 101–246, title I, §115(c)(2), Feb. 16, 1990, 104 Stat. 23; amended Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title II, §235], Nov. 29, 1999, 113

Stat. 1536, 1501A–429.)

PRIOR PROVISIONS

A prior section 43 of act Aug. 1, 1956, was renumbered section 44 by section 115(c)(1) of Pub. L. 101–246, and subsequently renumbered, and set out as a Short Title of 1956 Amendment note under section 2651 of this title, prior to repeal by Pub. L. 102–138, title I, §111(1), Oct. 28, 1991, 105 Stat. 654.

AMENDMENTS

1999—Pub. L. 106–113 designated existing provisions as subsec. (a), inserted subsec. heading, substituted "disposition of personal estates pursuant to section 2715c of this title" for "disposition of personal effects", and added subsec. (b).

DEVELOPMENT OF STANDARDIZED PROCEDURES

Pub. L. 101–246, title I, §115(d), Feb. 16, 1990, 104 Stat. 23, provided that:

"(1) The Secretary of State shall enter into discussions with international air carriers and other appropriate entities to develop standardized procedures which will assist the Secretary in implementing the provisions of section 43 of the State Department Basic Authorities Act of 1956, as amended by subsection (c) [22 U.S.C. 2715].

"(2) The Secretary of State shall consider the feasibility of establishing a toll-free telephone number to facilitate inquiries by the next-of-kin in cases of major disasters or incidents abroad which affect the health and safety of citizens of the United States residing or traveling abroad."

§2715a. Provision of information on certain violent crimes abroad to victims and victims' families

(a) Sense of Congress

It is the sense of Congress that—

(1) it is in the national interests of the United States to provide information regarding the killing, abduction, torture, or other serious mistreatment of United States citizens abroad to the victims of such crimes, or the families of victims of such crimes if they are United States citizens; and

(2) the provision of such information is sufficiently important that the discharge of the responsibility for identifying and disseminating such information should be vested in a cabinet-level officer of the United States Government.

(b) Responsibility

The Secretary of State shall take appropriate actions to ensure that the United States Government takes all appropriate actions to—

(1) identify promptly information (including classified information) in the possession of the departments and agencies of the United States Government regarding the killing, abduction, torture, or other serious mistreatment of United States citizens abroad; and

(2) subject to subsection (c), promptly make such information available to—

(A) the victims of such crimes; or

(B) when appropriate, the family members of the victims of such crimes if such family members are United States citizens.

(c) Limitations

The Secretary shall work with the heads of appropriate departments and agencies of the United States Government in order to ensure that information relevant to a crime covered by subsection (b) is promptly reviewed and, to the maximum extent practicable, without jeopardizing sensitive sources and methods or other vital national security interests, or without jeopardizing an on-going criminal investigation or proceeding, made available under that subsection unless such disclosure is specifically prohibited by law.

(Pub. L. 105–107, title III, §307, Nov. 20, 1997, 111 Stat. 2252.)

§2715b. Notification of next of kin; reports of death

(a) In general

Whenever a United States citizen or national dies abroad, a consular officer shall endeavor to notify, or assist the Secretary of State in notifying, the next of kin or legal guardian as soon as possible, except that, in the case of death of any Peace Corps volunteer (within the meaning of section 2504(a) of this title), any member of the Armed Forces, any dependent of such a volunteer or member, or any Department of Defense employee, the consular officer shall assist the Peace Corps or the appropriate military authorities, as the case may be, in making such notifications.

(b) Reports of death or presumptive death

The consular officer may, for any United States citizen who dies abroad—

(1) in the case of a finding of death by the appropriate local authorities, issue a report of death or of presumptive death; or

(2) in the absence of a finding of death by the appropriate local authorities, issue a report of presumptive death.

(c) Implementing regulations

The Secretary of State shall prescribe such regulations as may be necessary to carry out this section.

(Aug. 1, 1956, ch. 841, title I, §43A, as added Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title II, §234(b)], Nov. 29, 1999, 113 Stat. 1536, 1501A–426.)

EFFECTIVE DATE

Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title II, §234(c)], Nov. 29, 1999, 113 Stat. 1536, 1501A–429, provided that: "The repeal and amendment made by this section [enacting this section and section 2715c of this title and repealing section 4195 of this title] shall take effect six months after the date of enactment of this Act [Nov. 29, 1999]."

ADMINISTRATIVE ASSISTANCE IN ARRANGEMENTS FOLLOWING DEATH OF UNITED STATES CITIZEN ABROAD

Pub. L. 95–426, title I, §121, Oct. 7, 1978, 92 Stat. 970, as amended by Pub. L. 97–241, title V, §505(a)(2), (b)(1), Aug. 24, 1982, 96 Stat. 299, provided that: "The Congress finds that the Department of State should, in the performance of its consular duties, render all reasonable administrative assistance to a United States citizen who is making necessary arrangements following the death of another United States citizen abroad."

§2715c. Conservation and disposition of estates

(a) Conservation of estates abroad

(1) Authority to act as conservator

Whenever a United States citizen or national dies abroad, a consular officer shall act as the provisional conservator of the portion of the decedent's estate located abroad and, subject to paragraphs (3), (4), and (5), shall—

(A) take possession of the personal effects of the decedent within his jurisdiction;

(B) inventory and appraise the personal effects of the decedent, sign the inventory, and annex thereto a certificate as to the accuracy of the inventory and appraised value of each article;

(C) when appropriate in the exercise of prudent administration, collect the debts due to the decedent in the officer's jurisdiction and pay from the estate the obligations owed by the decedent;

(D) sell or dispose of, as appropriate, in the exercise of prudent administration, all perishable items of property;

(E) sell, after reasonable public notice and notice to such next of kin as can be ascertained with reasonable diligence, such additional items of property as necessary to provide funds sufficient to pay the decedent's debts and property taxes in the country of death, funeral

expenses, and other expenses incident to the disposition of the estate;

(F) upon the expiration of the one-year period beginning on the date of death (or after such additional period as may be required for final settlement of the estate), if no claimant shall have appeared, after reasonable public notice and notice to such next of kin as can be ascertained with reasonable diligence, sell or dispose of the residue of the personal estate, except as provided in subparagraph (G), in the same manner as United States Government-owned foreign excess property;

(G) transmit to the custody of the Secretary of State in Washington, D.C. the proceeds of any sales, together with all financial instruments (including bonds, shares of stock, and notes of indebtedness), jewelry, heirlooms, and other articles of obvious sentimental value, to be held in trust for the legal claimant; and

(H) in the event that the decedent's estate includes an interest in real property located within the jurisdiction of the officer and such interest does not devolve by the applicable laws of intestate succession or otherwise, provide for title to the property to be conveyed to the Government of the United States unless the Secretary declines to accept such conveyance.

(2) Authority to act as administrator

Subject to paragraphs (3) and (4), a consular officer may act as administrator of an estate in exceptional circumstances if expressly authorized to do so by the Secretary of State.

(3) Exceptions

The responsibilities described in paragraphs (1) and (2) may not be performed to the extent that the decedent has left or there is otherwise appointed, in the country where the death occurred or where the decedent was domiciled, a legal representative, partner in trade, or trustee appointed to take care of his personal estate. If the decedent's legal representative shall appear at any time prior to transmission of the estate to the Secretary and demand the proceeds and effects being held by the consular officer, the officer shall deliver them to the representative after having collected any prescribed fee for the services performed under this section.

(4) Additional requirement

In addition to being subject to the limitations in paragraph (3), the responsibilities described in paragraphs (1) and (2) may not be performed unless—

(A) authorized by treaty provisions or permitted by the laws or authorities of the country wherein the death occurs, or the decedent is domiciled; or

(B) permitted by established usage in that country.

(5) Statutory construction

Nothing in this section supersedes or otherwise affects the authority of any military commander under title 10 with respect to the person or property of any decedent who died while under a military command or jurisdiction or the authority of the Peace Corps with respect to a Peace Corps volunteer or the volunteer's property.

(b) Disposition of estates by the Secretary of State

(1) Personal estates

(A) In general

After receipt of a personal estate pursuant to subsection (a), the Secretary may seek payment of all outstanding debts to the estate as they become due, may receive any balances due on such estate, may endorse all checks, bills of exchange, promissory notes, and other instruments of indebtedness payable to the estate for the benefit thereof, and may take such other action as is reasonably necessary for the conservation of the estate.

(B) Disposition as surplus United States property

If, upon the expiration of a period of 5 fiscal years beginning on October 1 after a consular officer takes possession of a personal estate under subsection (a), no legal claimant for such estate has appeared, title to the estate shall be conveyed to the United States, the property in the

estate shall be under the custody of the Department of State, and the Secretary shall dispose of the estate in the same manner as surplus United States Government-owned property is disposed or by such means as may be appropriate in light of the nature and value of the property involved. The expenses of sales shall be paid from the estate, and any lawful claim received thereafter shall be payable to the extent of the value of the net proceeds of the estate as a refund from the appropriate Treasury appropriations account.

(C) Transfer of proceeds

The net cash estate after disposition as provided in subparagraph (B) shall be transferred to the miscellaneous receipts account of the Treasury of the United States.

(2) Real property

(A) Designation as excess property

In the event that title to real property is conveyed to the Government of the United States pursuant to subsection (a)(1)(H) and is not required by the Department of State, such property shall be considered foreign excess property under title IV of the Federal Property and Administrative Services Act of 1949.[1]

(B) Treatment as gift

In the event that the Department requires such property, the Secretary of State shall treat such property as if it were an unconditional gift accepted on behalf of the Department of State under section 2697 of this title and section 300(a)(3) of this title.

(c) Losses in connection with the conservation of estates

(1) Authority to compensate

The Secretary is authorized to compensate the estate of any United States citizen who has died overseas for property—

(A) the conservation of which has been undertaken under section 2715 of this title or subsection (a) of this section; and

(B) that has been lost, stolen, or destroyed while in the custody of officers or employees of the Department of State.

(2) Liability

(A) Exclusion of personal liability after provision of compensation

Any such compensation shall be in lieu of personal liability of officers or employees of the Department of State.

(B) Liability to the Department

An officer or employee of the Department of State may be liable to the Department of State to the extent of any compensation provided under paragraph (1).

(C) Determinations of liability

The liability of any officer or employee of the Department of State to the Department for any payment made under subsection (a) shall be determined pursuant to the Department's procedures for determining accountability for United States Government property.

(d) Regulations

The Secretary of State may prescribe such regulations as may be necessary to carry out this section.

(Aug. 1, 1956, ch. 841, title I, §43B, as added Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title II, §234(b)], Nov. 29, 1999, 113 Stat. 1536, 1501A–427.)

REFERENCES IN TEXT

The Federal Property and Administrative Services Act of 1949, referred to in subsec. (b)(2)(A), is act June 30, 1949, ch. 288, 63 Stat. 377, as amended. Title IV of the Act, which was classified generally to subchapter

III (§511 et seq.) of chapter 10 of former Title 40, Public Buildings, Property, and Works, was repealed and reenacted by Pub. L. 107–217, §§1, 6(b), Aug. 21, 2002, 116 Stat. 1062, 1304, as chapter 7 (§701 et seq.) of Title 40, Public Buildings, Property, and Works.

EFFECTIVE DATE

Section effective six months after Nov. 29, 1999, see section 1000(a)(7) [title II, §234(c)] of Pub. L. 106–113, set out as a note under section 2715b of this title.

[1] *See References in Text note below.*

§2716. Debt collection

(a) Contract authority

(1) Subject to the availability of appropriations, the Secretary of State shall enter into contracts for collection services to recover indebtedness owed by a person, other than a foreign country, to the United States which arises out of activities of the Department of State and is delinquent by more than 90 days.

(2) Each contract entered into under this section shall provide that the person with whom the Secretary enters into such contract shall submit to the Secretary at least once every 180 days a status report on the success of the person in collecting debts. Section 3718 of title 31 shall apply to any such contract to the extent that such section is not inconsistent with this subsection.

(b) Disclosure of delinquent debt to credit reporting agencies

The Secretary of State shall, to the extent otherwise allowed by law, disclose to those credit reporting agencies to which the Secretary reports loan activity information concerning any debt of more than $100 owed by a person, other than a foreign country, to the United States which arises out of activities of the Department of State and is delinquent by more than 31 days.

(Aug. 1, 1956, ch. 841, title I, §44, as added Pub. L. 101–246, title I, §117(2), Feb. 16, 1990, 104 Stat. 25.)

PRIOR PROVISIONS

A prior section 44 of act Aug. 1, 1956, was renumbered section 45 by section 117(1) of Pub. L. 101–246, and subsequently renumbered, and set out as a Short Title of 1956 Amendment note under section 2651 of this title, prior to repeal by Pub. L. 102–138, title I, §111(1), Oct. 28, 1991, 105 Stat. 654.

§2717. Defense trade controls registration fees

For each fiscal year, 100 percent of the registration fees collected by the Office of Defense Trade Controls of the Department of State shall be credited to a Department of State account, to be available without fiscal year limitation. Fees credited to that account shall be available only for payment of expenses incurred for—

(1) contract personnel to assist in the evaluation of defense trade controls license applications, reduction in processing time for license applications, and improved monitoring of compliance with the terms of licenses;

(2) the automation of defense trade controls functions, including compliance and enforcement activities, and the processing of defense trade controls license applications, including the development, procurement, and utilization of computer equipment and related software; and

(3) the enhancement of defense trade export compliance and enforcement activities, including compliance audits of United States and foreign parties, the conduct of administrative proceedings, monitoring of end-uses in cases of direct commercial arms sales or other transfers, and cooperation in proceedings for enforcement of criminal laws related to defense trade export controls.

(Aug. 1, 1956, ch. 841, title I, §45, as added Pub. L. 101–246, title I, §118(2), Feb. 16, 1990, 104

Stat. 25; amended Pub. L. 102–138, title I, §126, Oct. 28, 1991, 105 Stat. 659; Pub. L. 105–261, div. A, title XV, §1513(b), Oct. 17, 1998, 112 Stat. 2174; Pub. L. 105–277, div. G, subdiv. B, title XXII, §2203, Oct. 21, 1998, 112 Stat. 2681–808.)

PRIOR PROVISIONS

A prior section 45 of act Aug. 1, 1956, was renumbered section 46 by section 118(1) of Pub. L. 101–246, and subsequently renumbered, and set out as a Short Title of 1956 Amendment note under section 2651 of this title, prior to repeal by Pub. L. 102–138, title I, §111(1), Oct. 28, 1991, 105 Stat. 654.

AMENDMENTS

1998—Pub. L. 105–277, which directed the amendment of subsec. (a) by striking out "and" at end of par. (1), substituting "functions, including compliance and enforcement activities," for "functions" in par. (2), substituting "; and" for period at end of par. (2), and adding par. (3), was executed by making the amendments to text of section to reflect the probable intent of Congress and the amendment by Pub. L. 105–261. See below.

Pub. L. 105–261 designated subsec. (a) as entire section, struck out former subsec. (a) heading "Defense trade controls registration fees", substituted "100 percent" for "$700,000", and struck out heading and text of subsec. (b). Text read as follows: "The authority contained in subsection (a) of this section shall be exercised to such extent and in such amounts as are to be provided in an appropriation Act."

1991—Pub. L. 102–138, §126(1), substituted "Defense trade controls registration fees" for "Munitions control registration fees" in section catchline.

Subsec. (a). Pub. L. 102–138, §126, substituted in heading "Defense trade controls registration fees" for "Munitions control registration fees" and in text "$700,000" for "$500,000", "Defense Trade Controls" for "Munitions Control", and "defense trade controls" for "munitions control" wherever appearing.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–261 effective as of Oct. 1, 1998, see section 1513(c)(2) of Pub. L. 105–261, set out in a Satellite Export Controls note under section 2778 of this title.

AUTHORITY OF SECRETARY OF STATE

Except as otherwise provided, Secretary of State to have and exercise any authority vested by law in any official or office of Department of State and references to such officials or offices deemed to refer to Secretary of State or Department of State, as appropriate, see section 2651a of this title and section 161(d) of Pub. L. 103–236, set out as a note under section 2651a of this title.

§2718. Fees received for use of Blair House

(a) Use of fees

Notwithstanding any other provision of law, funds received by the Department of State in connection with use of Blair House (including reimbursements and surcharges for services and goods provided and fees for use of Blair House facilities) may be credited to the appropriate appropriation account of the Department of State which is currently available. Such funds shall be available only for maintenance and other expenses of Blair House.

(b) Compliance with Budget Act

The authority of this section may be exercised only to such extent or in such amounts as are provided in advance in an appropriation Act.

(Aug. 1, 1956, ch. 841, title I, §46, as added Pub. L. 101–246, title I, §119(2), Feb. 16, 1990, 104 Stat. 26; amended Pub. L. 102–138, title I, §123, Oct. 28, 1991, 105 Stat. 659.)

REFERENCES IN TEXT

The Budget Act, referred to in subsec. (b) heading, probably means the Congressional Budget Act of 1974, titles I through IX of Pub. L. 93–344, July 12, 1974, 88 Stat. 297, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 621 of Title 2, The Congress, and Tables.

PRIOR PROVISIONS

A prior section 46 of act Aug. 1, 1956, was renumbered section 47 by section 119(1) of Pub. L. 101–246,

and subsequently renumbered, and set out as a Short Title of 1956 Amendment note under section 2651 of this title, prior to repeal by Pub. L. 102–138, title I, §111(1), Oct. 28, 1991, 105 Stat. 654.

AMENDMENTS

1991—Subsec. (a). Pub. L. 102–138 struck out "for the fiscal years 1990 and 1991," after "provision of law,".

§2719. Grants for training and education in international affairs

The Secretary of State may make grants to postsecondary educational institutions or students for the purpose of increasing the level of knowledge and awareness of and interest in employment with the Foreign Service, consistent with section 3905 of this title. To the extent possible, the Secretary shall give special emphasis to promoting such knowledge and awareness of, and interest in employment with, the Foreign Service among minority students. Any grants awarded shall be made pursuant to regulations to be established by the Secretary of State, which shall provide for a limit on the size of any specific grant and, regarding any grants to individuals, shall ensure that no grant recipient receives an amount of grants from one or more Federal programs which in the aggregate would exceed the cost of his or her education, and shall require satisfactory educational progress by grantees as a condition of eligibility for continued receipt of grant funds.

(Aug. 1, 1956, ch. 841, title I, §47, as added Pub. L. 101–246, title I, §150(2), Feb. 16, 1990, 104 Stat. 42.)

PRIOR PROVISIONS

A prior section 47 of act Aug. 1, 1956, was renumbered section 48 by section 150(1) of Pub. L. 101–246, and set out as a Short Title of 1956 Amendment note under section 2651 of this title, prior to repeal by Pub. L. 102–138, title I, §111(1), Oct. 28, 1991, 105 Stat. 654.

§2720. Closing of consular and diplomatic posts abroad

(a) Prohibited uses of funds

Except as provided under subsection (d) or in accordance with the procedures under subsections (b) and (c) of this section—

(1) no funds authorized to be appropriated to the Department of State shall be available to pay any expense related to the closing of any United States consular or diplomatic post abroad; and

(2) no funds authorized to be appropriated to the Department of State may be used to pay for any expense related to the Bureau of Administration of the Department of State (or to carrying out any of its functions) if any United States consular or diplomatic post is closed.

(b) Post closing notification

Not less than 45 days before the closing of any United States consular or diplomatic post abroad, the Secretary of State shall notify the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

(c) Reprogramming treatment

Amounts made available to pay any expense related to the closing of a consular or diplomatic post abroad shall be treated as a reprogramming of funds under section 2706 of this title and shall not be available for obligation or expenditure except in compliance with the procedures applicable to such reprogramming.

(d) Exceptions

The provisions of this section do not apply with respect to—

(1) any post closed because of a break or downgrading of diplomatic relations between the United States and the country in which the post is located; or

(2) any post closed because there is a real and present threat to United States diplomatic or

consular personnel in the city where the post is located, and a travel advisory warning against travel by United States citizens to that city has been issued by the Department of State.

(e) "Consular or diplomatic post" defined

As used in this section, the term "consular or diplomatic post" does not include a post to which only personnel of agencies other than the Department of State are assigned.

(Aug. 1, 1956, ch. 841, title I, §48, as added Pub. L. 102–138, title I, §112(a)(1), Oct. 28, 1991, 105 Stat. 654.)

PRIOR PROVISIONS

A prior section 48 of act Aug. 1, 1956, was set out as a Short Title of 1956 Amendment note under section 2651 of this title, prior to repeal by Pub. L. 102–138, title I, §111(1), Oct. 28, 1991, 105 Stat. 654.

Provisions similar to this section were contained in Pub. L. 100–204, title I, §122, Dec. 22, 1987, 101 Stat. 1339, and set out as a note under section 2656 of this title, prior to repeal by Pub. L. 102–138, title I, §112(b), Oct. 28, 1991, 105 Stat. 655.

AUTHORITY OF SECRETARY OF STATE

Except as otherwise provided, Secretary of State to have and exercise any authority vested by law in any official or office of Department of State and references to such officials or offices deemed to refer to Secretary of State or Department of State, as appropriate, see section 2651a of this title and section 161(d) of Pub. L. 103–236, set out as a note under section 2651a of this title.

§2721. Impermissible basis for denial of passports

A passport may not be denied issuance, revoked, restricted, or otherwise limited because of any speech, activity, belief, affiliation, or membership, within or outside the United States, which, if held or conducted within the United States, would be protected by the first amendment to the Constitution of the United States.

(Aug. 1, 1956, ch. 841, title I, §49, as added Pub. L. 102–138, title I, §113, Oct. 28, 1991, 105 Stat. 655.)

§2722. International meetings

(a) Authority to pay expenses

If the United States Government hosts an international meeting or conference in the United States, the Secretary of State is authorized to pay all reasonable expenses of such meeting or conference. Such expenses may include rental of quarters (by contract or otherwise) and personal services.

(b) Retention of reimbursements

To the extent provided in an appropriation Act, transfers of funds or other reimbursements for payments under subsection (a) are authorized to be retained and credited to the appropriate appropriation account of the Department of State which is available.

(Aug. 1, 1956, ch. 841, title I, §50, as added Pub. L. 102–138, title I, §119, Oct. 28, 1991, 105 Stat. 658.)

§2723. Denial of visas

(a) Report to Congress

(1) Denial of visas

The Secretary shall report, on a timely basis, to the appropriate committees of the Congress each time a consular post denies a visa on the grounds of terrorist activities or foreign policy. Such report shall set forth the name and nationality of each such person and a factual statement of the

basis for such denial.

(2) Visa issuance to inadmissible aliens

The Secretary shall, on a semiannual basis, submit to the appropriate committees of the Congress a report describing every instance during the period covered by the report in which a consular post or the Visa Office of the Department of State issued an immigrant or nonimmigrant visa to an alien who is inadmissible to the United States based upon terrorist activity or failed to object to the issuance of an immigrant or nonimmigrant visa to an alien notwithstanding any such ground of inadmissibility. The report shall set forth the name and nationality of the alien, the issuing post, and a brief factual statement of the basis for issuance of the visa or the failure to object. The report may be submitted in classified or unclassified form.

(b) Limitation

Information contained in such report may be classified to the extent necessary and shall protect intelligence sources and methods.

(c) Appropriate committees

For the purposes of this section the term "appropriate committees of the Congress" means the Committee on the Judiciary and the Committee on Foreign Affairs of the House of Representatives and the Committee on the Judiciary and the Committee on Foreign Relations of the Senate.

(Aug. 1, 1956, ch. 841, title I, §51, as added Pub. L. 102–138, title I, §127(a), Oct. 28, 1991, 105 Stat. 660; amended Pub. L. 107–228, div. A, title II, §231, Sept. 30, 2002, 116 Stat. 1372.)

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–228 designated existing provisions as par. (1), inserted par. (1) heading, and added par. (2).

§2724. Fees for commercial services

(a) Authority to charge fee

(1) Subject to paragraph (2), the Secretary of State is authorized to charge a fee to cover the actual or estimated cost of providing any person, firm or organization (other than agencies of the United States Government) with commercial services at posts abroad on matters within the authority of the Department of State.

(2) The authority of this section may be exercised only in countries where the Department of Commerce does not perform commercial services for which it collects fees.

(b) Use of fees

Funds collected under the authority of subsection (a) shall be deposited as an offsetting collection to any Department of State appropriation to recover the costs of providing commercial services. Funds deposited under this subsection shall remain available for obligation through September 30 of the fiscal year following the fiscal year in which the funds were deposited.

(Aug. 1, 1956, ch. 841, title I, §52, as added Pub. L. 103–236, title I, §136, Apr. 30, 1994, 108 Stat. 396; amended Pub. L. 105–277, div. G, subdiv. B, title XXII, §2204, Oct. 21, 1998, 112 Stat. 2681–808.)

AMENDMENTS

1998—Subsec. (b). Pub. L. 105–277 inserted at end "Funds deposited under this subsection shall remain available for obligation through September 30 of the fiscal year following the fiscal year in which the funds were deposited."

§2725. Fees for use of the George P. Shultz National Foreign Affairs Training Center

The Secretary is authorized to charge a fee for use of the George P. Shultz National Foreign Affairs Training Center of the Department of State. Amounts collected under this section (including reimbursements and surcharges) shall be deposited as an offsetting collection to any Department of State appropriation to recover the costs of such use and shall remain available for obligation until expended.

(Aug. 1, 1956, ch. 841, title I, §53, as added Pub. L. 105–277, div. G, subdiv. B, title XXII, §2205(b), Oct. 21, 1998, 112 Stat. 2681–809; amended Pub. L. 107–132, §2(a), Jan. 16, 2002, 115 Stat. 2412.)

AMENDMENTS

2002—Pub. L. 107–132 inserted "George P. Shultz" before "National Foreign Affairs Training Center" in section catchline and in text.

REPORTING ON PILOT PROGRAM

Pub. L. 105–277, div. G, subdiv. B, title XXII, §2205(c), Oct. 21, 1998, 112 Stat. 2681–809, required the Secretary of State to submit, two years after Oct. 21, 1998, a report to Congress on the number of persons taking advantage of the pilot program established under section 4021 of this title and this section, their business or government affiliations, the amount of fees collected, and the impact of the program on the primary mission of the National Foreign Affairs Training Center, prior to repeal by Pub. L. 107–228, div. A, title III, §318(3), Sept. 30, 2002, 116 Stat. 1380.

§2726. Fee for use of diplomatic reception rooms

The Secretary is authorized to charge a fee for use of the diplomatic reception rooms of the Department of State. Amounts collected under this section (including reimbursements and surcharges) shall be deposited as an offsetting collection to any Department of State appropriation to recover the costs of such use and shall remain available for obligation until expended.

(Aug. 1, 1956, ch. 841, title I, §54, as added Pub. L. 105–277, div. G, subdiv. B, title XXII, §2206, Oct. 21, 1998, 112 Stat. 2681–810.)

§2727. Accounting of collections in budget presentation documents

The Secretary shall include in the annual Congressional Presentation Document and the Budget in Brief a detailed accounting of the total collections received by the Department of State from all sources, including fee collections. Reporting on total collections shall also cover collections from the preceding fiscal year and the projected expenditures from all collections accounts.

(Aug. 1, 1956, ch. 841, title I, §55, as added Pub. L. 105–277, div. G, subdiv. B, title XXII, §2207, Oct. 21, 1998, 112 Stat. 2681–810.)

§2728. Crimes committed by diplomats

(a) Annual report concerning diplomatic immunity

(1) Report to Congress

180 days after October 21, 1998, and annually thereafter, the Secretary of State shall prepare and submit to the Congress, a report concerning diplomatic immunity entitled "Report on Cases Involving Diplomatic Immunity".

(2) Content of report

In addition to such other information as the Secretary of State may consider appropriate, the report under paragraph (1) shall include the following:

(A) The number of persons residing in the United States who enjoy full immunity from the criminal jurisdiction of the United States under laws extending diplomatic privileges and

immunities.

(B) Each case involving an alien described in subparagraph (A) in which an appropriate authority of a State, a political subdivision of a State, or the United States reported to the Department of State that the authority had reasonable cause to believe the alien committed a serious criminal offense within the United States, and any additional information provided to the Secretary relating to other serious criminal offenses that any such authority had reasonable cause to believe the alien committed before the period covered by the report. The Secretary may omit from such report any matter the provision of which the Secretary reasonably believes would compromise a criminal investigation or prosecution or which would directly compromise law enforcement or intelligence sources or methods.

(C) Each case described in subparagraph (B) in which the Secretary of State has certified that a person enjoys full immunity from the criminal jurisdiction of the United States under laws extending diplomatic privileges and immunities.

(D) The number of United States citizens who are residing in a receiving state and who enjoy full immunity from the criminal jurisdiction of such state under laws extending diplomatic privileges and immunities.

(E) Each case involving a United States citizen under subparagraph (D) in which the United States has been requested by the government of a receiving state to waive the immunity from criminal jurisdiction of the United States citizen.

(F) Whether the Secretary has made the notifications referred to in subsection (c) during the period covered by the report.

(3) Serious criminal offense defined

For the purposes of this section, the term "serious criminal offense" means—

(A) any felony under Federal, State, or local law;

(B) any Federal, State, or local offense punishable by a term of imprisonment of more than 1 year;

(C) any crime of violence as defined for purposes of section 16 of title 18; or

(D)(i) driving under the influence of alcohol or drugs;

(ii) reckless driving; or

(iii) driving while intoxicated.

(b) United States policy concerning reform of diplomatic immunity

It is the sense of the Congress that the Secretary of State should explore, in appropriate fora, whether states should enter into agreements and adopt legislation—

(1) to provide jurisdiction in the sending state to prosecute crimes committed in the receiving state by persons entitled to immunity from criminal jurisdiction under laws extending diplomatic privileges and immunities; and

(2) to provide that where there is probable cause to believe that an individual who is entitled to immunity from the criminal jurisdiction of the receiving state under laws extending diplomatic privileges and immunities committed a serious crime, the sending state will waive such immunity or the sending state will prosecute such individual.

(c) Notification of diplomatic corps

The Secretary should periodically notify each foreign mission of United States policies relating to criminal offenses committed by individuals with immunity from the criminal jurisdiction of the United States under laws extending diplomatic privileges and immunities.

(Aug. 1, 1956, ch. 841, title I, §56, as added Pub. L. 105–277, div. G, subdiv. B, title XXII, §2217, Oct. 21, 1998, 112 Stat. 2681–815.)

§2729. State Department records of overseas deaths of United States citizens from nonnatural causes

(a) Collection of information

The Secretary shall, to the maximum extent practicable, collect, with respect to each foreign country, the following information with respect to each United States citizen who dies in that country from a nonnatural cause on or after September 30, 2002:

(1) The date of death.

(2) The locality where the death occurred (including the state or province and municipality, if available).

(3) The cause of death, including information on the circumstances of the death, and including, if the death resulted from an act of terrorism, a statement disclosing that information.

(4) Such other information as the Secretary shall prescribe.

(b) Database

The Secretary shall establish and maintain a database containing the information collected under subsection (a).

(c) Public availability of information

Beginning three months after September 30, 2002, the Secretary, shall make available, on a country-by-country basis, on the Internet website of the Department's Bureau of Consular Affairs, the information from the database described in subsection (b) with respect to deaths occurring since September 30, 2002, or occurring during the preceding three calendar years, whichever period is shorter. The information shall be updated at least every six months.

(Aug. 1, 1956, ch. 841, title I, §57, as added Pub. L. 107–228, div. A, title II, §204, Sept. 30, 2002, 116 Stat. 1363.)

§2730. Prohibition on funding the involuntary return of refugees

(a) Prohibition

(1) In general

Except as provided in paragraph (2), none of the funds made available to the Department of State, or the United States Emergency Refugee and Migration Assistance Fund established in section 2601(c) of this title, may be available to effect the involuntary return by the United States of any person to a country in which the person has a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.

(2) Exception

The prohibition in paragraph (1) does not apply to the return of any person on grounds recognized as precluding protection as a refugee under the United Nations Convention Relating to the Status of Refugees of July 28, 1951, and the Protocol Relating to the Status of Refugees of January 31, 1967, subject to the reservations contained in the United States Senate resolution of advice and consent to ratification of the Protocol.

(b) Congressional notification required in all cases

None of the funds made available to the Department of State, or the United States Emergency Refugee and Migration Assistance Fund established in section 2601(c) of this title, may be available to effect the involuntary return by the United States of any person to any country unless the Secretary first notifies the appropriate congressional committees, except that, in the case of an emergency involving a threat to human life, the Secretary shall notify the appropriate congressional committees as soon as practicable.

(c) Statutory construction

Nothing in this section shall be construed as affecting activities of the Department of State that relate to removal proceedings under the Immigration and Nationality Act [8 U.S.C. 1101 et seq.] or extradition.

(d) Definitions

In this section:

(1) Appropriate congressional committees

The term "appropriate congressional committees" means the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

(2) To effect the involuntary return

The term "to effect the involuntary return" means to require, by means of physical force or circumstances amounting to a threat thereof, a person to return to a country against the person's will, regardless of whether the person is physically present in the United States and regardless of whether the United States acts directly or through an agent.

(Aug. 1, 1956, ch. 841, title I, §58, as added Pub. L. 107–228, div. A, title II, §241, Sept. 30, 2002, 116 Stat. 1373.)

REFERENCES IN TEXT

The Immigration and Nationality Act, referred to in subsec. (c), is act June 27, 1952, ch. 477, 66 Stat. 163, as amended, which is classified principally to chapter 12 (§1101 et seq.) of Title 8, Aliens and Nationality. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of Title 8 and Tables.

CHANGE OF NAME

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§2731. Monitoring and combating anti-Semitism

(a) Office to Monitor and Combat anti-Semitism

(1) Establishment of Office

The Secretary shall establish within the Department of State an Office to Monitor and Combat anti-Semitism (in this section referred to as the "Office").

(2) Head of Office

(A) Special Envoy for Monitoring and Combating anti-Semitism

The head of the Office shall be the Special Envoy for Monitoring and Combating anti-Semitism (in this section referred to as the "Special Envoy").

(B) Appointment of head of Office

The Secretary shall appoint the Special Envoy. If the Secretary determines that such is appropriate, the Secretary may appoint the Special Envoy from among officers and employees of the Department. The Secretary may allow such officer or employee to retain the position (and the responsibilities associated with such position) held by such officer or employee prior to the appointment of such officer or employee to the position of Special Envoy under this paragraph.

(b) Purpose of Office

Upon establishment, the Office shall assume the primary responsibility for—

(1) monitoring and combating acts of anti-Semitism and anti-Semitic incitement that occur in foreign countries;

(2) coordinating and assisting in the preparation of that portion of the report required by sections 2151n(d)(7) and 2304(b) of this title relating to an assessment and description of the nature and extent of acts of anti-Semitism and anti-Semitic incitement for inclusion in the annual Country Reports on Human Rights Practices; and

(3) coordinating and assisting in the preparation of that portion of the report required by section 6412(b)(1)(A)(iv) [1] of this title relating to an assessment and description of the nature and extent

of acts of anti-Semitism and anti-Semitic incitement for inclusion in the Annual Report on International Religious Freedom.

(c) Consultations

The Special Envoy shall consult with domestic and international nongovernmental organizations and multilateral organizations and institutions, as the Special Envoy considers appropriate to fulfill the purposes of this section.

(Aug. 1, 1956, ch. 841, title I, §59, as added Pub. L. 108–332, §5, Oct. 16, 2004, 118 Stat. 1284.)

REFERENCES IN TEXT

Section 6412(b)(1)(A)(iv) of this title, referred to in subsec. (b)(3), was redesignated section 6412(b)(1)(A)(vii) of this title by Pub. L. 114–281, title I, §102(a)(2)(B), Dec. 16, 2016, 130 Stat. 1429.

FINDINGS

Pub. L. 108–332, §2, Oct. 16, 2004, 118 Stat. 1282, provided that: "Congress makes the following findings:

"(1) Acts of anti-Semitism in countries throughout the world, including some of the world's strongest democracies, have increased significantly in frequency and scope over the last several years.

"(2) During the last 3 months of 2003 and the first 3 months of 2004, there were numerous instances of anti-Semitic violence around the world, including the following incidents:

"(A) In Putrajaya, Malaysia, on October 16, 2003, former Prime Minister Mahatir Mohammad told the 57 national leaders assembled for the Organization of the Islamic Conference that Jews 'rule the world by proxy', and called for a 'final victory' by the world's 1.3 billion Muslims, who, he said, 'cannot be defeated by a few million Jews.'.

"(B) In Istanbul, Turkey, on November 15, 2003, simultaneous car bombs exploded outside two synagogues filled with worshippers, killing 24 people and wounding more than 250 people.

"(C) In Australia on January 5, 2004, poison was used to ignite, and burn anti-Semitic slogans into, the lawns of the Parliament House in the state of Tasmania.

"(D) In St. Petersburg, Russia, on February 15, 2004, vandals desecrated approximately 50 gravestones in a Jewish cemetery, painting the stones with swastikas and anti-Semitic graffiti.

"(E) In Toronto, Canada, over the weekend of March 19 through March 21, 2004, vandals attacked a Jewish school, a Jewish cemetery, and area synagogues, painting swastikas and anti-Semitic slogans on the walls of a synagogue and on residential property in a nearby, predominantly Jewish, neighborhood.

"(F) In Toulon, France, on March 23, 2004, a Jewish synagogue and community center were set on fire.

"(3) Anti-Semitism in old and new forms is also increasingly emanating from the Arab and Muslim world on a sustained basis, including through books published by government-owned publishing houses in Egypt and other Arab countries.

"(4) In November 2002, state-run television in Egypt broadcast the anti-Semitic series entitled 'Horseman Without a Horse', which is based upon the fictitious conspiracy theory known as the Protocols of the Elders of Zion. The Protocols have been used throughout the last century by despots such as Adolf Hitler to justify violence against Jews.

"(5) In November 2003, Arab television featured an anti-Semitic series, entitled 'Ash-Shatat' (or 'The Diaspora'), which depicts Jewish people hatching a plot for Jewish control of the world.

"(6) The sharp rise in anti-Semitic violence has caused international organizations such as the Organization for Security and Cooperation in Europe (OSCE) to elevate, and bring renewed focus to, the issue, including the convening by the OSCE in June 2003 of a conference in Vienna dedicated solely to the issue of anti-Semitism.

"(7) The OSCE convened a conference again on April 28–29, 2004, in Berlin, to address the problem of anti-Semitism with the United States delegation led by former Mayor of New York City, Ed Koch.

"(8) The United States Government has strongly supported efforts to address anti-Semitism through bilateral relationships and interaction with international organizations such as the OSCE, the European Union, and the United Nations.

"(9) Congress has consistently supported efforts to address the rise in anti-Semitic violence. During the 107th Congress, both the Senate and the House of Representatives passed resolutions expressing strong concern with the sharp escalation of anti-Semitic violence in Europe and calling on the Department of State to thoroughly document the phenomenon.

"(10) Anti-Semitism has at times taken the form of vilification of Zionism, the Jewish national

movement, and incitement against Israel."

[1] *See References in Text note below.*

§2732. Public diplomacy responsibilities of the Department of State

(a) Integral component

The Secretary of State shall make public diplomacy an integral component in the planning and execution of United States foreign policy.

(b) Coordination and development of strategy

The Secretary shall make every effort to—

(1) coordinate, subject to the direction of the President, the public diplomacy activities of Federal agencies; and

(2) coordinate with the Broadcasting Board of Governors to—

(A) develop a comprehensive and coherent strategy for the use of public diplomacy resources; and

(B) develop and articulate long-term measurable objectives for United States public diplomacy.

(c) Objectives

The strategy developed pursuant to subsection (b) shall include public diplomacy efforts targeting developed and developing countries and select and general audiences, using appropriate media to properly explain the foreign policy of the United States to the governments and populations of such countries, with the objectives of increasing support for United States policies and providing news and information. The Secretary shall, through the most effective mechanisms, counter misinformation and propaganda concerning the United States. The Secretary shall continue to articulate the importance of freedom, democracy, and human rights as fundamental principles underlying United States foreign policy goals.

(d) Identification of United States foreign assistance

In cooperation with the United States Agency for International Development (USAID) and other public and private assistance organizations and agencies, the Secretary should ensure that information relating to foreign assistance provided by the United States, nongovernmental organizations, and private entities of the United States is disseminated widely, and particularly, to the extent practicable, within countries and regions that receive such assistance. The Secretary should ensure that, to the extent practicable, projects funded by USAID not involving commodities, including projects implemented by private voluntary organizations, are identified as provided by the people of the United States.

(Aug. 1, 1956, ch. 841, title I, §60, as added Pub. L. 108–458, title VII, §7109(a), Dec. 17, 2004, 118 Stat. 3792.)

§2733. Reemployment of annuitants under the Civil Service Retirement System and Federal Employees' Retirement System

(a) Authority

The Secretary of State may waive the application of section 8344 or 8468 of title 5 on a case-by-case basis, for employment of an annuitant in a position in the Department of State for which there is exceptional difficulty in recruiting or retaining a qualified employee, or when a temporary emergency hiring need exists.

(b) Procedures

The Secretary should prescribe procedures for the exercise of any authority under subsection (a), including criteria for any exercise of authority and procedures for a delegation of authority.

(c) Annuitants not treated as employees for purposes of retirement benefits

An employee for whom a waiver under this section is in effect shall not be considered an employee for purposes of subchapter III of chapter 83, or chapter 84 of title 5.

(Aug. 1, 1956, ch. 841, title I, §61, as added Pub. L. 109–234, title I, §1602(b)(1), June 15, 2006, 120 Stat. 441; amended Pub. L. 111–32, title XI, §1115(c)(2), June 24, 2009, 123 Stat. 1905; Pub. L. 114–323, title IV, §405(b), Dec. 16, 2016, 130 Stat. 1929.)

CODIFICATION

Pub. L. 109–234, title I, §1602(b)(1), June 15, 2006, 120 Stat. 441, which directed that this section be added at the end of title I of the Department of State Basic Authorities Act of 1956, was executed by adding this section at the end of title I of the State Department Basic Authorities Act of 1956, to reflect the probable intent of Congress.

AMENDMENTS

2016—Subsec. (a). Pub. L. 114–323 amended subsec. (a) generally. Prior to amendment, subsec. (a) related to authority of the Secretary of State to waive application of provisions of section 8344 or 8468 of title 5 on a case-by-case basis for employment of certain annuitants to facilitate the assignment of persons to Iraq, Pakistan, and Afghanistan or to posts vacated by members of the Service assigned to Iraq, Pakistan, and Afghanistan and terminated the Secretary's authority as of Oct. 1, 2010.

2009—Subsec. (a)(1). Pub. L. 111–32 inserted ", Pakistan," after "Iraq" in two places.

Subsec. (a)(2). Pub. L. 111–32 substituted "2010" for "2008".

EXTENSION OF AUTHORITY

Pub. L. 114–113, div. K, title VII, §7034(k)(5), Dec. 18, 2015, 129 Stat. 2765, provided that: "Section 61(a) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2733(a)) shall be applied by substituting 'September 30, 2016' for 'October 1, 2010' in paragraph (2)."

Prior extensions were contained in the following prior acts:

Pub. L. 113–235, div. J, title VII, §7034(l)(5), Dec. 16, 2014, 128 Stat. 2625.

Pub. L. 113–76, div. K, title VII, §7034(m)(5), Jan. 17, 2014, 128 Stat. 515.

Pub. L. 112–74, div. I, title VII, §7034(m)(5), Dec. 23, 2011, 125 Stat. 1216.

§2734. Reconstruction and stabilization

(a) Office of the Coordinator for Reconstruction and Stabilization

(1) Establishment

There is established within the Department of State the Office of the Coordinator for Reconstruction and Stabilization.

(2) Coordinator for Reconstruction and Stabilization

The head of the Office shall be the Coordinator for Reconstruction and Stabilization, who shall be appointed by the President, by and with the advice and consent of the Senate. The Coordinator shall report directly to the Secretary.

(3) Functions

The functions of the Office of the Coordinator for Reconstruction and Stabilization shall include the following:

(A) Monitoring, in coordination with relevant bureaus and offices of the Department of State and the United States Agency for International Development (USAID), political and economic instability worldwide to anticipate the need for mobilizing United States and international assistance for the reconstruction and stabilization of a country or region that is at risk of, in, or are [1] in transition from, conflict or civil strife.

(B) Assessing the various types of reconstruction and stabilization crises that could occur and

cataloging and monitoring the non-military resources and capabilities of agencies (as such term is defined in section 1603 of the Reconstruction and Stabilization Civilian Management Act of 2008) that are available to address such crises.

(C) Planning, in conjunction with USAID, to address requirements, such as demobilization, disarmament, rebuilding of civil society, policing, human rights monitoring, and public information, that commonly arise in reconstruction and stabilization crises.

(D) Coordinating with relevant agencies to develop interagency contingency plans and procedures to mobilize and deploy civilian personnel and conduct reconstruction and stabilization operations to address the various types of such crises.

(E) Entering into appropriate arrangements with agencies to carry out activities under this section and the Reconstruction and Stabilization Civilian Management Act of 2008.

(F) Identifying personnel in State and local governments and in the private sector who are available to participate in the Civilian Reserve Corps established under subsection (b) or to otherwise participate in or contribute to reconstruction and stabilization activities.

(G) Taking steps to ensure that training and education of civilian personnel to perform such reconstruction and stabilization activities is adequate and is carried out, as appropriate, with other agencies involved with stabilization operations.

(H) Taking steps to ensure that plans for United States reconstruction and stabilization operations are coordinated with and complementary to reconstruction and stabilization activities of other governments and international and nongovernmental organizations, to improve effectiveness and avoid duplication.

(I) Maintaining the capacity to field on short notice an evaluation team consisting of personnel from all relevant agencies to undertake on-site needs assessment.

(b) Response Readiness Corps

(1) Response Readiness Corps

The Secretary, in consultation with the Administrator of the United States Agency for International Development and the heads of other appropriate agencies of the United States Government, may establish and maintain a Response Readiness Corps (referred to in this section as the "Corps") to provide assistance in support of reconstruction and stabilization operations in countries or regions that are at risk of, in, or are in transition from, conflict or civil strife. The Corps shall be composed of active and standby components consisting of United States Government personnel, including employees of the Department of State, the United States Agency for International Development, and other agencies who are recruited and trained (and employed in the case of the active component) to provide such assistance when deployed to do so by the Secretary to support the purposes of this Act.

(2) Civilian Reserve Corps

The Secretary, in consultation with the Administrator of the United States Agency for International Development, may establish a Civilian Reserve Corps for which purpose the Secretary is authorized to employ and train individuals who have the skills necessary for carrying out reconstruction and stabilization activities, and who have volunteered for that purpose. The Secretary may deploy members of the Civilian Reserve Corps pursuant to a determination by the President under section 2368 of this title.

(3) Mitigation of domestic impact

The establishment and deployment of any Civilian Reserve Corps shall be undertaken in a manner that will avoid substantively impairing the capacity and readiness of any State and local governments from which Civilian Reserve Corps personnel may be drawn.

(c) Existing training and education programs

The Secretary shall ensure that personnel of the Department, and, in coordination with the Administrator of USAID, that personnel of USAID, make use of the relevant existing training and education programs offered within the Government, such as those at the Center for Stabilization and

Reconstruction Studies at the Naval Postgraduate School and the Interagency Training, Education, and After Action Review Program at the National Defense University.

(Aug. 1, 1956, ch. 841, title I, §62, as added Pub. L. 110–417, [div. A], title XVI, §1605, Oct. 14, 2008, 122 Stat. 4654.)

REFERENCES IN TEXT

The Reconstruction and Stabilization Civilian Management Act of 2008, referred to in subsec. (a)(3)(B), (E), is Pub. L. 110–417, [div. A], title XVI, Oct. 14, 2008, 122 Stat. 4652, which enacted this section, sections 2368 and 2734a of this title, and provisions set out as notes under sections 2151, 2368, and 2734a of this title. Section 1603 of the Act is set out as a note under section 2734a of this title. For complete classification of this Act to the Code, see Short Title of 2008 Amendment note set out under section 2151 of this title and Tables.

This Act, referred to in subsec. (b)(1), is act Aug. 1, 1956, ch. 841, 70 Stat. 890, known as the State Department Basic Authorities Act of 1956, which enacted sections 2651a, 2669, 2670, 2671, 2672, 2673 to 2679a, 2680, 2680a, 2684, 2687 to 2690, 2692, 2695, 2696 to 2715, and 2715b to 2734 of this title and chapters 53 (§4301 et seq.), 53A (§4341 et seq.), and 53B (§4351 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2651 of this title and Tables.

DEFINITIONS

For definitions of "Secretary", "agency", and "personnel" as used in this section, see section 1603 of Pub. L. 110–417, set out as a note under section 2734a of this title.

[1] So in original. Probably should be "is".

§2734a. Authorities related to personnel

(a) Extension of certain Foreign Service benefits

The Secretary, or the head of any agency with respect to personnel of that agency, may extend to any individuals assigned, detailed, or deployed to carry out reconstruction and stabilization activities pursuant to section 2734 of this title (as added by section 1605 [1] of this title), the benefits or privileges set forth in sections 3973, 4024, and 4081 of this title to the same extent and manner that such benefits and privileges are extended to members of the Foreign Service.

(b) Authority regarding details

The Secretary is authorized to accept details or assignments of any personnel, and any employee of a State or local government, on a reimbursable or nonreimbursable basis for the purpose of carrying out this title,[1] and the head of any agency is authorized to detail or assign personnel of such agency on a reimbursable or nonreimbursable basis to the Department of State for purposes of section 2734 of this title, as added by section 1605 [1] of this title.

(Pub. L. 110–417, [div. A], title XVI, §1606, Oct. 14, 2008, 122 Stat. 4656.)

REFERENCES IN TEXT

Section 1605 of this title, referred to in text, means section 1605 of title XVI of Pub. L. 110–417.

This title, the first time appearing in subsec. (b), means title XVI of Pub. L. 110–417, [div. A], Oct. 14, 2008, 122 Stat. 4652, known as the Reconstruction and Stabilization Civilian Management Act of 2008, which enacted this section, sections 2368 and 2734 of this title, and provisions set out as notes under this section and sections 2151 and 2368 of this title. For complete classification of this title to the Code, see Short Title of 2008 Amendment note set out under section 2151 of this title and Tables.

DEFINITIONS

Pub. L. 110–417, [div. A], title XVI, §1603, Oct. 14, 2008, 122 Stat. 4653, provided that: "In this title [enacting this section, sections 2368 and 2734 of this title, and provisions set out as notes under sections 2151 and 2368 of this title]:

"(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the United States Agency for International Development.

"(2) AGENCY.—The term 'agency' means any entity included in chapter 1 of title 5, United States Code.

"(3) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term 'appropriate congressional committees' means the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

"(4) DEPARTMENT.—Except as otherwise provided in this title, the term 'Department' means the Department of State.

"(5) PERSONNEL.—The term 'personnel' means individuals serving in any service described in section 2101 of title 5, United States Code, other than in the legislative or judicial branch.

"(6) SECRETARY.—The term 'Secretary' means the Secretary of State."

[1] *See References in Text note below.*

§2734b. Report on diversity recruitment, employment, retention, and promotion

(a) In general

The Secretary should provide oversight to the employment, retention, and promotion of traditionally underrepresented minority groups.

(b) Additional recruitment and outreach required

The Department should conduct recruitment activities that—

(1) develop and implement effective mechanisms to ensure that the Department is able effectively to recruit and retain highly qualified candidates from a wide diversity of institutions; and

(2) improve and expand recruitment and outreach programs at minority-serving institutions.

(c) Report

Not later than 180 days after December 16, 2016, and quadrennially thereafter, the Secretary shall submit to Congress a comprehensive report that describes the efforts, consistent with existing law, including procedures, effects, and results of the Department since the period covered by the prior such report, to promote equal opportunity and inclusion for all American employees in direct hire and personal service contractors status, particularly employees of the Foreign Service, including equal opportunity for all traditionally underrepresented minority groups.

(Pub. L. 114–323, title IV, §410, Dec. 16, 2016, 130 Stat. 1931.)

DEFINITIONS

For definitions of "Secretary", "Department", and "Foreign Service" as used in this section, see section 2 of Pub. L. 114–323, set out as a note under section 2651 of this title.

§2734c. Employee assignment restrictions

(a) Appeal of assignment restriction

The Secretary shall establish a right and process for employees to appeal any assignment restriction or preclusion.

(b) Certification

Upon full implementation of a right and process for employees to appeal an assignment restriction or preclusion under subsection (a), the Secretary shall submit to the appropriate congressional committee a report that—

(1) certifies that such process has been fully implemented;

(2) includes a detailed description of such process; and

(3) details the number and nature of assignment restrictions and preclusions for the previous 3 years.

(c) Notice

The Secretary shall—

(1) publish in the Foreign Affairs Manual information relating to the right and process established pursuant to subsection (a); and

(2) include a reference to such publication in the report required under subsection (b).

(Pub. L. 114–323, title IV, §414, Dec. 16, 2016, 130 Stat. 1932.)

CODIFICATION

Section is comprised of section 414 of Pub. L. 114–323. Subsec. (d) of section 414 of Pub. L. 114–323 amended section 3982 of this title.

DEFINITIONS

For definitions of "Secretary" and "appropriate congressional committee" as used in this section, see section 2 of Pub. L. 114–323, set out as a note under section 2651 of this title.

§2734d. Recruitment and retention of individuals who have lived, worked, or studied in predominantly Muslim countries or communities

(a) Findings

Congress finds that successful engagement, including robust public diplomacy, with predominantly Muslim countries and communities is critical for achieving United States foreign policy objectives.

(b) Sense of Congress

It is the sense of Congress that the Department should recruit more employees that have a personal background in, and thorough understating of, the cultures, languages, and history of the Middle East and wider Muslim world.

(c) Recruitment and retention of certain individuals

The Secretary shall make every effort to recruit and retain individuals that have lived, worked, or studied in predominantly Muslim countries or communities, including individuals who have studied at an Islamic institution of higher learning.

(Pub. L. 114–323, title VII, §713, Dec. 16, 2016, 130 Stat. 1945.)

DEFINITIONS

For definitions of "Department" and "Secretary" as used in this section, see section 2 of Pub. L. 114–323, set out as a note under section 2651 of this title.

§2735. Foreign relations exchange programs

(a) Authority

The Secretary may establish exchange programs under which officers or employees of the Department of State, including individuals appointed under title 5 and members of the Foreign Service (as defined in section 3903 of this title), may be assigned, for not more than 1 year, to a position with any foreign government or international entity that permits an employee to be assigned to a position with the Department of State.

(b) Salary and benefits

(1) Members of Foreign Service

During a period in which a member of the Foreign Service is participating in an exchange program authorized pursuant to subsection (a), such member shall be entitled to the salary and benefits to which such member would receive but for the assignment under this section.

(2) Non-Foreign Service employees of Department

An employee of the Department of State other than a member of the Foreign Service participating in an exchange program authorized pursuant to subsection (a) shall be treated in all respects as if detailed to an international organization pursuant to section 3343(c) of title 5.

(3) Foreign participants

The salary and benefits of an employee of a foreign government or international entity participating in an exchange program authorized pursuant to subsection (a) shall be paid by such government or entity during the period in which such employee is participating in such program, and shall not be reimbursed by the Department of State.

(c) Non-reciprocal assignment

The Secretary may authorize a non-reciprocal assignment of personnel pursuant to this section, with or without reimbursement from the foreign government or international entity for all or part of the salary and other expenses payable during such assignment, if such is in the interests of the United States.

(d) Rule of construction

Nothing in this section may be construed to authorize the appointment as an officer or employee of the United States of—

(1) an individual whose allegiance is to any country, government, or foreign or international entity other than to the United States; or

(2) an individual who has not met the requirements of sections 3331, 3332, 3333, and 7311 of title 5 or any other provision of law concerning eligibility for appointment as, and continuation of employment as, an officer or employee of the United States.

(Aug. 1, 1956, ch. 841, title I, §63, as added Pub. L. 114–323, title VII, §701(a), Dec. 16, 2016, 130 Stat. 1939.)

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SUBCHAPTER I—FOREIGN AND NATIONAL SECURITY POLICY OBJECTIVES AND RESTRAINTS

§2751. Need for international defense cooperation and military export controls; Presidential waiver; report to Congress; arms sales policy

As declared by the Congress in the Arms Control and Disarmament Act [22 U.S.C. 2551 et seq.], an ultimate goal of the United States continues to be a world which is free from the scourge of war and the dangers and burdens of armaments; in which the use of force has been subordinated to the rule of law; and in which international adjustments to a changing world are achieved peacefully. In furtherance of that goal, it remains the policy of the United States to encourage regional arms control and disarmament agreements and to discourage arms races.

The Congress recognizes, however, that the United States and other free and independent countries continue to have valid requirements for effective and mutually beneficial defense relationships in order to maintain and foster the environment of international peace and security essential to social, economic, and political progress. Because of the growing cost and complexity of defense equipment, it is increasingly difficult and uneconomic for any country, particularly a developing country, to fill all of its legitimate defense requirements from its own design and production base. The need for international defense cooperation among the United States and those friendly countries to which it is allied by mutual defense treaties is especially important, since the effectiveness of their armed forces to act in concert to deter or defeat aggression is directly related to the operational compatibility of their defense equipment.

Accordingly, it remains the policy of the United States to facilitate the common defense by entering into international arrangements with friendly countries which further the objective of applying agreed resources of each country to programs and projects of cooperative exchange of data, research, development, production, procurement, and logistics support to achieve specific national defense requirements and objectives of mutual concern. To this end, this chapter authorizes sales by the United States Government to friendly countries having sufficient wealth to maintain and equip their own military forces at adequate strength, or to assume progressively larger shares of the costs thereof, without undue burden to their economies, in accordance with the restraints and control measures specified herein and in furtherance of the security objectives of the United States and of the purposes and principles of the United Nations Charter.

It is the sense of the Congress that all such sales be approved only when they are consistent with the foreign policy interests of the United States, the purposes of the foreign assistance program of the United States as embodied in the Foreign Assistance Act of 1961, as amended [22 U.S.C. 2151 et seq.], the extent and character of the military requirement, and the economic and financial capability of the recipient country, with particular regard being given, where appropriate, to proper balance

among such sales, grant military assistance, and economic assistance as well as to the impact of the sales on programs of social and economic development and on existing or incipient arms races.

It shall be the policy of the United States to exert leadership in the world community to bring about arrangements for reducing the international trade in implements of war and to lessen the danger of outbreak of regional conflict and the burdens of armaments. United States programs for or procedures governing the export, sale, and grant of defense articles and defense services to foreign countries and international organizations shall be administered in a manner which will carry out this policy.

It is the sense of the Congress that the President should seek to initiate multilateral discussions for the purpose of reaching agreements among the principal arms suppliers and arms purchasers and other countries with respect to the control of the international trade in armaments. It is further the sense of Congress that the President should work actively with all nations to check and control the international sale and distribution of conventional weapons of death and destruction and to encourage regional arms control arrangements. In furtherance of this policy, the President should undertake a concerted effort to convene an international conference of major arms-supplying and arms-purchasing nations which shall consider measures to limit conventional arms transfers in the interest of international peace and stability.

It is the sense of the Congress that the aggregate value of defense articles and defense services—

(1) which are sold under section 2761 or section 2762 of this title; or

(2) which are licensed or approved for export under section 2778 of this title to, for the use, or for benefit of the armed forces, police, intelligence, or other internal security forces of a foreign country or international organization under a commercial sales contract;

in any fiscal year should not exceed current levels.

It is the sense of the Congress that the President maintain adherence to a policy of restraint in conventional arms transfers and that, in implementing this policy worldwide, a balanced approach should be taken and full regard given to the security interests of the United States in all regions of the world and that particular attention should be paid to controlling the flow of conventional arms to the nations of the developing world. To this end, the President is encouraged to continue discussions with other arms suppliers in order to restrain the flow of conventional arms to less developed countries.

(Pub. L. 90–629, ch. 1, §1, Oct. 22, 1968, 82 Stat. 1321; Pub. L. 91–672, §4, Jan. 12, 1971, 84 Stat. 2053; Pub. L. 93–189, §25(1), Dec. 17, 1973, 87 Stat. 729; Pub. L. 94–329, title II, §202, formerly §202(a), June 30, 1976, 90 Stat. 734, renumbered and amended Pub. L. 95–384, §§15(a), 29(c)(1)(A), Sept. 26, 1978, 92 Stat. 739, 747; Pub. L. 97–113, title VII, §734(a)(10), Dec. 29, 1981, 95 Stat. 1560.)

REFERENCES IN TEXT

The Arms Control and Disarmament Act, referred to in text, is Pub. L. 87–297, Sept. 26, 1961, 75 Stat. 631, as amended, which is classified generally to chapter 35 (§2551 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2551 of this title, and Tables.

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1321, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note below and Tables.

The Foreign Assistance Act of 1961, as amended, referred to in text, is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, which is classified principally to chapter 32 (§2151 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

REFERENCES TO FOREIGN MILITARY SALES ACT DEEMED REFERENCE TO ARMS EXPORT CONTROL ACT

Pub. L. 94–329, title II, §201(b), June 30, 1976, 90 Stat. 734, provided that: "Any reference to the Foreign Military Sales Act [see Short Title note below] shall be deemed to be a reference to the Arms Export Control Act."

REFERENCES TO PRESENT INSTEAD OF PAST PROVISIONS; SPECIFIC APPLICATION OF

OTHER PROVISIONS TO THIS CHAPTER

Pub. L. 90–629, ch. 4, §45(c), Oct. 22, 1968, 82 Stat. 1327, provided that: "References in law to the provisions of law repealed by subsection (a) of this section [repealing sections 2341 to 2343, 2344(b)(3), 2345, 2394(g), and 2399a of this title] shall hereafter [on and after Oct. 22, 1968] be deemed to be references to this Act [this chapter] or appropriate provisions of this Act. Except for the laws specified in section 44 [section 2793 of this title], no other provision of law shall be deemed to apply to this Act unless it refers specifically to this Act or refers generally to sales of defense articles and defense services under any Act."

AMENDMENTS

1981—Pub. L. 97–113 struck out paragraph which provided that it was the sense of Congress that sales and guaranties under sections 2761, 2762, 2763, and 2764 of this title not be approved where they would have had the effect of arming military dictators who were denying the growth of fundamental rights or social progress to their own people but allowing the President to waive this limitation when he determined it would be important to the security of the United States, and promptly so reported to the Speaker of the House of Representatives and the Committee on Foreign Relations in the Senate.

1978—Pub. L. 95–384, §15(a), inserted paragraph relating to adherence to a policy of restraint in conventional arms transfer.

1976—Pub. L. 94–329 substituted in last paragraph provision relating to a new statement of policy whereby the United States shall exert leadership in the reduction of international trade in arms, and in that regard, the President to initiate discussions and actively work with other nations with a view towards control of international trade in arms, for provisions relating to a reduction in the role of the United States in furnishing of defense articles and defense services to foreign countries and international organizations by decreasing sales, credit sales and guarantees of such articles and services.

1973—Pub. L. 93–189 inserted last paragraph relating to a reduction by the United States in the furnishing of defense articles and defense services to foreign countries.

1971—Pub. L. 91–672 substituted "denying the growth of fundamental rights or social progress" for "denying social progress" in last par.

EFFECTIVE DATE

Pub. L. 90–629, ch. 4, §41, Oct. 22, 1968, 82 Stat. 1326, provided that: "This Act [enacting this chapter, amending sections 2344, 2382, 2392, 2394, and 2403 of this title, repealing sections 2341 to 2343, 2345, and 2399a of this title, and enacting provisions set out as notes under this section and section 2341 of this title] shall take effect on July 1, 1968."

SHORT TITLE OF 2016 AMENDMENT

Pub. L. 114–123, §1, Feb. 18, 2016, 130 Stat. 117, provided that: "This Act [enacting provisions set out as a note under section 2753 of this title] may be cited as the 'United States-Jordan Defense Cooperation Act of 2015'."

SHORT TITLE OF 2010 AMENDMENT

Pub. L. 111–266, §1, Oct. 8, 2010, 124 Stat. 2797, provided that: "This Act [amending sections 2321h, 2753, 2755, 2761, 2765, 2776, 2778, 2779, 2779a, 2796a, and 2796b of this title and enacting provisions set out as notes under this section and section 2778 of this title] may be cited as the 'Security Cooperation Act of 2010'."

Pub. L. 111–266, title I, §101, Oct. 8, 2010, 124 Stat. 2797, provided that: "This title [amending sections 2753, 2755, 2765, 2776, 2778, 2779, and 2779a of this title and enacting provisions set out as notes under section 2778 of this title] may be cited as the 'Defense Trade Cooperation Treaties Implementation Act of 2010'."

SHORT TITLE OF 1999 AMENDMENT

Pub. L. 106–113, div. B, §1000(a)(7) [div. B, §1001], Nov. 29, 1999, 113 Stat. 1536, 1501A–485, provided that: "This division [div. B of H.R. 3427 as enacted by section 1000(a)(7) of Pub. L. 106–113, see Tables for classification] may be cited as the 'Arms Control, Nonproliferation, and Security Assistance Act of 1999'."

SHORT TITLE OF 1998 AMENDMENT

Pub. L. 105–194, §1, July 14, 1998, 112 Stat. 627, provided that: "This Act [amending section 2799aa–1 of this title and enacting provisions set out as notes under section 2799aa–1 of this title] may be cited as the 'Agriculture Export Relief Act of 1998'."

SHORT TITLE OF 1991 AMENDMENT

Pub. L. 102–228, §1, Dec. 12, 1991, 105 Stat. 1691, provided that: "This Act [enacting sections 2595b–1 and 2799 to 2799d of this title, amending sections 2581, 2589, 2595, and 2595c of this title, and enacting provisions set out as notes under section 2551 of this title] may be cited as the 'Conventional Forces in Europe Treaty Implementation Act of 1991'."

SHORT TITLE

Pub. L. 90–629, §1, Oct. 22, 1968, 82 Stat. 1320, as amended by Pub. L. 94–329, title II, §201(a), June 30, 1976, 90 Stat. 734, provided: "That this Act [enacting this chapter, amending sections 2382, 2392, 2394, and 2403 of this title, repealing sections 2341 to 2343, 2344, 2345, 2394, and 2399 of this title, and enacting provisions set out as notes under this section and section 2341 of this title] may be cited as the 'Arms Export Control Act'."

ENHANCING DEFENSE AND SECURITY COOPERATION WITH INDIA

Pub. L. 114–328, div. A, title XII, §1292, Dec. 23, 2016, 130 Stat. 2559, provided that:

"(a) ACTIONS.—

"(1) IN GENERAL.—The Secretary of Defense and Secretary of State should jointly take such actions as may be necessary to—

"(A) recognize India's status as a major defense partner of the United States;

"(B) designate an individual within the executive branch who has experience in defense acquisition and technology—

"(i) to reinforce and ensure, through interagency policy coordination, the success of the Framework for the United States-India Defense Relationship; and

"(ii) to help resolve remaining issues impeding United States-India defense trade, security cooperation, and co-production and co-development opportunities;

"(C) approve and facilitate the transfer of advanced technology, consistent with United States conventional arms transfer policy, to support combined military planning with India's military for missions such as humanitarian assistance and disaster relief, counter piracy, freedom of navigation, and maritime domain awareness missions, and to promote weapons systems interoperability;

"(D) strengthen the effectiveness of the U.S.-India Defense Trade and Technology Initiative and the durability of the Department of Defense's 'India Rapid Reaction Cell';

"(E) collaborate with the Government of India to develop mutually agreeable mechanisms to verify the security of defense articles, defense services, and related technology, such as appropriate cyber security and end use monitoring arrangements, consistent with United States export control laws and policy;

"(F) promote policies that will encourage the efficient review and authorization of defense sales and exports to India;

"(G) encourage greater government-to-government and commercial military transactions between the United States and India;

"(H) support the development and alignment of India's export control and procurement regimes with those of the United States and multilateral control regimes; and

"(I) continue to enhance defense and security cooperation with India in order to advance United States interests in the South Asia and greater Indo-Asia-Pacific regions.

"(2) REPORT.—Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2016], and annually thereafter, the Secretary of Defense and Secretary of State shall jointly submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and House of Representatives] and the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives a report on how the United States is supporting its defense relationship with India in relation to the actions described in paragraph (1).

"(b) BILATERAL COORDINATION.—To enhance cooperation and encourage military-to-military engagement between the United States and India, the Secretary of Defense should take appropriate actions to ensure that exchanges between senior military officers and senior civilian defense officials of the United States Government and the Government of India—

"(1) are at a level appropriate to enhance engagement between the militaries of the two countries for threat analysis, military doctrine, force planning, mutual security interests, logistical support, intelligence, tactics, techniques and procedures, humanitarian assistance, and disaster relief;

"(2) include exchanges of general and flag officers between the two countries;

"(3) enhance cooperative military operations, including maritime security, counter-piracy,

counter-terror cooperation, and domain awareness, in the Indo-Asia-Pacific region;

"(4) accelerate the development of combined military planning for missions such as those identified in subsection (a)(1)(C) or in paragraph (1) of this subsection, or other missions in the national security interests of both countries; and

"(5) solicit and recognize actions and efforts by India that would allow the United States to treat India as a major defense partner.

"(c) ASSESSMENT REQUIRED.—

"(1) IN GENERAL.—The Secretary of Defense and Secretary of State shall jointly, on an ongoing basis, conduct an assessment of the extent to which India possesses capabilities to support and carry out military operations of mutual interest to the United States and India, including an assessment of the defense export control regulations and policies that need appropriate modification, in recognition of India's capabilities and its status as a major defense partner.

"(2) USE OF ASSESSMENT.—The President shall ensure that the assessment described in paragraph (1) is used, consistent with United States conventional arms transfer policy, to inform the review by the United States of requests to export defense articles, defense services, or related technology to India under the Arms Export Control Act (22 U.S.C. 2751 et seq.), and to inform any regulatory and policy adjustments that may be appropriate."

REGISTRATION AND END-USE MONITORING OF DEFENSE ARTICLES AND DEFENSE SERVICES TRANSFERRED TO AFGHANISTAN AND PAKISTAN

Pub. L. 111–84, div. A, title XII, §1225, Oct. 28, 2009, 123 Stat. 2523, provided that:

"(a) PROGRAM REQUIRED.—

"(1) IN GENERAL.—The Secretary of Defense shall establish and carry out a program to provide for the registration and end-use monitoring of defense articles and defense services transferred to Afghanistan and Pakistan in accordance with the requirements under subsection (b) and to prohibit the retransfer of such defense articles and defense services without the consent of the United States. The program required under this subsection shall be limited to the transfer of defense articles and defense services—

"(A) pursuant to authorities other than the Arms Export Control Act [22 U.S.C. 2751 et seq.] or the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.]; and

"(B) using funds made available to the Department of Defense, including funds available pursuant to the Pakistan Counterinsurgency Fund.

"(2) PROHIBITION.—No defense articles or defense services that would be subject to the program required under this subsection may be transferred to—

"(A) the Government of Afghanistan or any other group, organization, citizen, or resident of Afghanistan, or

"(B) the Government of Pakistan or any other group, organization, citizen, or resident of Pakistan,

until the Secretary of Defense certifies to the specified congressional committees that the program required under this subsection has been established.

"(b) REGISTRATION AND END-USE MONITORING REQUIREMENTS.—The registration and end-use monitoring requirements under this subsection shall include the following:

"(1) A detailed record of the origin, shipping, and distribution of defense articles and defense services transferred to—

"(A) the Government of Afghanistan and other groups, organizations, citizens, and residents of Afghanistan; and

"(B) the Government of Pakistan and other groups, organizations, citizens, and residents of Pakistan.

"(2) The registration of the serial numbers of all small arms to be provided to—

"(A) the Government of Afghanistan and other groups, organizations, citizens, and residents of Afghanistan; and

"(B) the Government of Pakistan and other groups, organizations, citizens, and residents of Pakistan.

"(3) A program of end-use monitoring of lethal defense articles and defense services transferred to the entities and individuals described in subparagraphs (A) and (B) of paragraph (1).

"(c) REVIEW; EXEMPTION.—

"(1) REVIEW.—The Secretary of Defense shall periodically review the defense articles and defense services subject to the registration and end-use monitoring requirements under subsection (b) to determine

which defense articles and defense services, if any, should no longer be subject to such registration and end-use monitoring requirements. The Secretary of Defense shall submit to the specified congressional committees the results of each review conducted under this paragraph.

"(2) EXEMPTION.—The Secretary of Defense may exempt a defense article or defense service from the registration and end-use monitoring requirements under subsection (b) beginning on the date that is 30 days after the date on which the Secretary provides notice of the proposed exemption to the specified congressional committees. Such notice shall describe any controls to be imposed on such defense article or defense service, as the case may be, under any other provision of law.

"(d) DEFINITIONS.—In this section:

"(1) DEFENSE ARTICLE.—The term 'defense article' has the meaning given the term in section 644(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2403(d)).

"(2) DEFENSE SERVICE.—The term 'defense service' has the meaning given the term in section 644(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2403(f)).

"(3) SMALL ARM.—The term 'small arm' means—

"(A) a handgun or pistol;

"(B) a shoulder-fired weapon, including a sub-carbine, carbine, or rifle;

"(C) a light, medium, or heavy automatic weapon up to and including a .50 caliber machine gun;

"(D) a recoilless rifle up to and including 106mm;

"(E) a mortar up to and including 81mm;

"(F) a rocket launcher, man-portable;

"(G) a grenade launcher, rifle and shoulder fired; and

"(H) an individually-operated weapon which is portable or can be fired without special mounts or firing devices and which has potential use in civil disturbances and is vulnerable to theft.

"(4) SPECIFIED CONGRESSIONAL COMMITTEES.—The term 'specified congressional committees' means—

"(A) the Committee on Foreign Affairs and the Committee on Armed Services of the House of Representatives; and

"(B) the Committee on Foreign Relations and the Committee on Armed Services of the Senate.

"(e) EFFECTIVE DATE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), this section shall take effect 180 days after the date of the enactment of this Act [Oct. 28, 2009].

"(2) EXCEPTION.—The Secretary of Defense may delay the effective date of this section by an additional period of up to 120 days if the Secretary certifies in writing to the specified congressional committees for such additional period that it is in the vital interest of the United States to do so and includes in the certification a description of such vital interest."

TRACKING AND MONITORING OF DEFENSE ARTICLES PROVIDED TO THE GOVERNMENT OF IRAQ AND OTHER INDIVIDUALS AND GROUPS IN IRAQ

Pub. L. 110–181, div. A, title XII, §1228, Jan. 28, 2008, 122 Stat. 377, provided that:

"(a) EXPORT AND TRANSFER CONTROL POLICY.—The President shall implement a policy to control the export and transfer of defense articles into Iraq, including implementation of the registration and monitoring system under subsection (c).

"(b) REQUIREMENT TO IMPLEMENT CONTROL SYSTEM.—No defense articles may be provided to the Government of Iraq or any other group, organization, citizen, or resident of Iraq until the President certifies to the specified congressional committees that a registration and monitoring system meeting the requirements set forth in subsection (c) has been established.

"(c) REGISTRATION AND MONITORING SYSTEM.—The registration and monitoring system required under this subsection shall include—

"(1) the registration of the serial numbers of all small arms to be provided to the Government of Iraq or to other groups, organizations, citizens, or residents of Iraq;

"(2) a program of end-use monitoring of all lethal defense articles provided to such entities or individuals; and

"(3) a detailed record of the origin, shipping, and distribution of all defense articles transferred under the Iraq Security Forces Fund or any other security assistance program to such entities or individuals.

"(d) REVIEW; EXEMPTION.—

"(1) REVIEW.—The President shall periodically review the items subject to the registration and monitoring requirements under subsection (c) to determine what items, if any, should no longer be subject to such registration and monitoring requirements. The President shall transmit to the specified congressional

committees the results of each review conducted under this paragraph.

"(2) EXEMPTION.—The President may exempt an item from the registration and monitoring requirements under subsection (c) beginning on the date that is 30 days after the date on which the President provides notice of the proposed exemption to the specified congressional committees in accordance with the procedures applicable to reprogramming notifications under section 634A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–1(a)). Such notice shall describe any controls to be imposed on such item under any other provision of law.

"(e) DEFINITIONS.—In this section:

"(1) DEFENSE ARTICLE.—The term 'defense article' has the meaning given the term in section 644(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2403(d)).

"(2) SMALL ARMS.—The term 'small arms' means—

"(A) handguns;

"(B) shoulder-fired weapons;

"(C) light automatic weapons up to and including .50 caliber machine guns;

"(D) recoilless rifles up to and including 106mm;

"(E) mortars up to and including 81mm;

"(F) rocket launchers, man-portable;

"(G) grenade launchers, rifle and shoulder fired; and

"(H) individually-operated weapons which are portable or can be fired without special mounts or firing devices and which have potential use in civil disturbances and are vulnerable to theft.

"(3) SPECIFIED CONGRESSIONAL COMMITTEES.—The term 'specified congressional committees' means—

"(A) the Committee on Foreign Affairs and the Committee on Armed Services of the House of Representatives; and

"(B) the Committee on Foreign Relations, the Committee on Armed Services, and the Committee on Banking, Housing, and Urban Affairs of the Senate.

"(f) EFFECTIVE DATE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), this section shall take effect 180 days after the date of the enactment of this Act [Jan. 28, 2008].

"(2) EXCEPTION.—The President may delay the effective date of this section by an additional period of up to 90 days if the President certifies in writing to the specified congressional committees for such additional period that it is in the vital interest of the United States to do so and includes in the certification a description of such vital interest."

MAN-PORTABLE AIR DEFENSE SYSTEMS (MANPADS)

Pub. L. 109–472, §12, Jan. 11, 2007, 120 Stat. 3558, provided that:

"(a) STATEMENT OF POLICY.—Congress declares that it should be the policy of the United States to hold foreign governments accountable for knowingly transferring MANPADS to state-sponsors of terrorism or terrorist organizations.

"(b) DETERMINATION RELATING TO SANCTIONS.—

"(1) IN GENERAL.—If the President determines that a foreign government knowingly transfers MANPADS to a foreign government described in paragraph (2) or a terrorist organization, the President shall—

"(A) submit forthwith to the Committee on International Relations [now Committee on Foreign Affairs] of the House of Representatives and the Committee on Foreign Relations of the Senate a report containing such determination; and

"(B) impose forthwith on the transferring foreign government the sanctions described in subsection (c).

"(2) FOREIGN GOVERNMENT DESCRIBED.—A foreign government described in this paragraph is a foreign government that the Secretary of State has determined, for purposes of section 6(j) of the Export Administration Act of 1979 [50 U.S.C. 4605(j)], section 620A of the Foreign Assistance Act of 1961 [22 U.S.C. 2371], section 40 of the Arms Export Control Act [22 U.S.C. 2780], or any other provision of law, is a government that has repeatedly provided support for acts of international terrorism.

"(c) SANCTIONS DESCRIBED.—The sanctions referred to in subsection (b)(1)(B) are the following:

"(1) Termination of United States Government assistance to the transferring foreign government under the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.], except that such termination shall not apply in the case of humanitarian assistance.

"(2) Termination of United States Government—

"(A) sales to the transferring foreign government of any defense articles, defense services, or design and construction services; and

"(B) licenses for the export to the transferring foreign government of any item on the United States Munitions List.

"(3) Termination of all foreign military financing for the transferring foreign government.

"(d) WAIVER.—Notwithstanding any other provision of law, sanctions shall not be imposed on a transferring foreign government under this section if the President determines and certifies in writing to the Committee on International Relations [now Committee on Foreign Affairs] of the House of Representatives and the Committee on Foreign Relations of the Senate that the furnishing of the assistance, sales, licensing, or financing that would otherwise be suspended as a result of the imposition of such sanctions is important to the national security interests of the United States.

"(e) DEFINITIONS.—In this section:

"(1) DEFENSE ARTICLE.—The term 'defense article' has the meaning given the term in section 47(3) of the Arms Export Control Act [22 U.S.C. 2794(3)].

"(2) DEFENSE SERVICE.—The term 'defense service' has the meaning given the term in section 47(4) of the Arms Export Control Act [22 U.S.C. 2794(4)].

"(3) DESIGN AND CONSTRUCTION SERVICES.—The term 'design and construction services' has the meaning given the term in section 47(8) of the Arms Export Control Act [22 U.S.C. 2794(8)].

"(4) FOREIGN GOVERNMENT.—The term 'foreign government' includes any agency or instrumentality of a foreign government.

"(5) MANPADS.—The term 'MANPADS' means—

"(A) a surface-to-air missile system designed to be man-portable and carried and fired by a single individual; or

"(B) any other surface-to-air missile system designed to be operated and fired by more than one individual acting as a crew and portable by several individuals."

Pub. L. 108–458, title IV, §4026, Dec. 17, 2004, 118 Stat. 3724, provided that:

"(a) UNITED STATES POLICY ON NONPROLIFERATION AND EXPORT CONTROL.—

"(1) TO LIMIT AVAILABILITY AND TRANSFER OF MANPADS.—The President shall pursue, on an urgent basis, further strong international diplomatic and cooperative efforts, including bilateral and multilateral treaties, in the appropriate forum to limit the availability, transfer, and proliferation of MANPADSs worldwide.

"(2) TO LIMIT THE PROLIFERATION OF MANPADS.—The President is encouraged to seek to enter into agreements with the governments of foreign countries that, at a minimum, would—

"(A) prohibit the entry into force of a MANPADS manufacturing license agreement and MANPADS co-production agreement, other than the entry into force of a manufacturing license or co-production agreement with a country that is party to such an agreement;

"(B) prohibit, except pursuant to transfers between governments, the export of a MANPADS, including any component, part, accessory, or attachment thereof, without an individual validated license; and

"(C) prohibit the reexport or retransfer of a MANPADS, including any component, part, accessory, or attachment thereof, to a third person, organization, or government unless the written consent of the government that approved the original export or transfer is first obtained.

"(3) TO ACHIEVE DESTRUCTION OF MANPADS.—The President should continue to pursue further strong international diplomatic and cooperative efforts, including bilateral and multilateral treaties, in the appropriate forum to assure the destruction of excess, obsolete, and illicit stocks of MANPADSs worldwide.

"(4) REPORTING AND BRIEFING REQUIREMENT.—

"(A) PRESIDENT'S REPORT.—Not later than 180 days after the date of enactment of this Act [Dec. 17, 2004], the President shall transmit to the appropriate congressional committees a report that contains a detailed description of the status of diplomatic efforts under paragraphs (1), (2), and (3) and of efforts by the appropriate United States agencies to comply with the recommendations of the General Accounting Office [now Government Accountability Office] set forth in its report GAO–04–519, entitled 'Nonproliferation: Further Improvements Needed in U.S. Efforts to Counter Threats from Man-Portable Air Defense Systems'.

"(B) ANNUAL BRIEFINGS.—Annually after the date of submission of the report under subparagraph (A) and until completion of the diplomatic and compliance efforts referred to in subparagraph (A), the Secretary of State shall brief the appropriate congressional committees on the status of such efforts.

"(b) FAA AIRWORTHINESS CERTIFICATION OF MISSILE DEFENSE SYSTEMS FOR COMMERCIAL AIRCRAFT.—

"(1) IN GENERAL.—As soon as practicable, but not later than the date of completion of Phase II of the Department of Homeland Security's counter-man-portable air defense system (MANPADS) development and demonstration program, the Administrator of the Federal Aviation Administration shall establish a process for conducting airworthiness and safety certification of missile defense systems for commercial aircraft certified as effective and functional by the Department of Homeland Security. The process shall require a certification by the Administrator that such systems can be safely integrated into aircraft systems and ensure airworthiness and aircraft system integrity.

"(2) CERTIFICATION ACCEPTANCE.—Under the process, the Administrator shall accept the certification of the Department of Homeland Security that a missile defense system is effective and functional to defend commercial aircraft against MANPADSs.

"(3) EXPEDITIOUS CERTIFICATION.—Under the process, the Administrator shall expedite the airworthiness and safety certification of missile defense systems for commercial aircraft certified by the Department of Homeland Security.

"(4) REPORTS.—Not later than 90 days after the first airworthiness and safety certification for a missile defense system for commercial aircraft is issued by the Administrator, and annually thereafter until December 31, 2008, the Federal Aviation Administration shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report that contains a detailed description of each airworthiness and safety certification issued for a missile defense system for commercial aircraft.

"(c) PROGRAMS TO REDUCE MANPADS.—

"(1) IN GENERAL.—The President is encouraged to pursue strong programs to reduce the number of MANPADSs worldwide so that fewer MANPADSs will be available for trade, proliferation, and sale.

"(2) REPORTING AND BRIEFING REQUIREMENTS.—Not later than 180 days after the date of enactment of this Act [Dec. 17, 2004], the President shall transmit to the appropriate congressional committees a report that contains a detailed description of the status of the programs being pursued under subsection (a). Annually thereafter until the programs are no longer needed, the Secretary of State shall brief the appropriate congressional committees on the status of programs.

"(3) FUNDING.—There is authorized to be appropriated such sums as may be necessary to carry out this section.

"(d) MANPADS VULNERABILITY ASSESSMENTS REPORT.—

"(1) IN GENERAL.—Not later than one year after the date of enactment of this Act [Dec. 17, 2004], the Secretary of Homeland Security shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report describing the Department of Homeland Security's plans to secure airports and the aircraft arriving and departing from airports against MANPADSs attacks.

"(2) MATTERS TO BE ADDRESSED.—The Secretary's report shall address, at a minimum, the following:

"(A) The status of the Department's efforts to conduct MANPADSs vulnerability assessments at United States airports at which the Department is conducting assessments.

"(B) How intelligence is shared between the United States intelligence agencies and Federal, State, and local law enforcement to address the MANPADS threat and potential ways to improve such intelligence sharing.

"(C) Contingency plans that the Department has developed in the event that it receives intelligence indicating a high threat of a MANPADS attack on aircraft at or near United States airports.

"(D) The feasibility and effectiveness of implementing public education and neighborhood watch programs in areas surrounding United States airports in cases in which intelligence reports indicate there is a high risk of MANPADS attacks on aircraft.

"(E) Any other issues that the Secretary deems relevant.

"(3) FORMAT.—The report required by this subsection may be submitted in a classified format.

"(e) DEFINITIONS.—In this section, the following definitions apply:

"(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term 'appropriate congressional committees' means—

"(A) the Committee on Armed Services, the Committee on International Relations [now Committee on Foreign Affairs], and the Committee on Transportation and Infrastructure of the House of Representatives; and

"(B) the Committee on Armed Services, the Committee on Foreign Relations, and the Committee

on Commerce, Science, and Transportation of the Senate.

"(2) MANPADS.—The term 'MANPADS' means—

"(A) a surface-to-air missile system designed to be man-portable and carried and fired by a single individual; and

"(B) any other surface-to-air missile system designed to be operated and fired by more than one individual acting as a crew and portable by several individuals."

[Functions of President under subsecs. (a)(4)(A), (c)(2) of section 4026 of Pub. L. 108–458, set out above, assigned to Secretary of State by section 1 of Memorandum of President of the United States, Apr. 21, 2005, 70 F.R. 48633, set out as a note under section 301 of title 3, The President.]

BILATERAL EXCHANGES AND TRADE IN DEFENSE ARTICLES AND DEFENSE SERVICES BETWEEN THE UNITED STATES AND THE UNITED KINGDOM AND AUSTRALIA

Pub. L. 108–375, div. A, title XII, §1225, Oct. 28, 2004, 118 Stat. 2091, provided that:

"(a) POLICY.—It is the policy of Congress that bilateral exchanges and trade in defense articles and defense services between the United States and the United Kingdom and Australia are in the national security interest of the United States and that such exchanges and trade should be subjected to accelerated review and processing consistent with national security and the requirements of the Arms Export Control Act (22 U.S.C. 2751 et seq.).

"(b) REQUIREMENT.—The Secretary of State shall ensure that any license application submitted for the export of defense articles or defense services to Australia or the United Kingdom is expeditiously processed by the Department of State, in consultation with the Department of Defense, without referral to any other Federal department or agency, except where the item is classified or exceptional circumstances apply.

"(c) REGULATIONS.—The President shall ensure that regulations are prescribed to implement this section."

ELIGIBILITY OF PANAMA UNDER ARMS EXPORT CONTROL ACT

Pub. L. 104–164, title I, §154, July 21, 1996, 110 Stat. 1440, provided that: "The Government of the Republic of Panama shall be eligible to purchase defense articles and defense services under the Arms Export Control Act (22 U.S.C. 2751 et seq.), except as otherwise specifically provided by law."

REPORTS ON COUNTERPROLIFERATION ACTIVITIES AND PROGRAMS

Pub. L. 103–337, div. A, title XV, §1503, Oct. 5, 1994, 108 Stat. 2916; Pub. L. 104–201, div. A, title XIII, §1309(d), Sept. 23, 1996, 110 Stat. 2710; Pub. L. 106–65, div. A, title XV, §1504(c), Oct. 5, 1999, 113 Stat. 808; Pub. L. 107–314, div. A, title XII, §1208(b), (c), Dec. 2, 2002, 116 Stat. 2668; Pub. L. 110–181, div. A, title XII, §1256(d), Jan. 28, 2008, 122 Stat. 404, provided that:

"(a) BIENNIAL REPORT REQUIRED.—Not later than May 1 each odd-numbered year, the Secretary of Defense shall submit to Congress a report of the findings of the Counterproliferation Program Review Committee established by subsection (a) of the Review Committee charter.

"(b) CONTENT OF REPORT.—Each report under subsection (a) shall include the following:

"(1) A complete list, by specific program element, of the existing, planned, or newly proposed capabilities and technologies reviewed by the Review Committee pursuant to subsection (c) of the Review Committee charter.

"(2) A complete description of the requirements and priorities established by the Review Committee.

"(3) A comprehensive discussion of the near-term, mid-term, and long-term programmatic options formulated by the Review Committee for meeting requirements prescribed by the Review Committee and for eliminating deficiencies identified by the Review Committee, including the annual funding requirements and completion dates established for each such option.

"(4) An explanation of the recommendations made pursuant to subsection (c) of the Review Committee charter, together with a full discussion of the actions taken to implement such recommendations or otherwise taken on the recommendations.

"(5) A discussion and assessment of the status of each Review Committee recommendation during the two fiscal years preceding the fiscal year in which the report is submitted, including, particularly, the status of recommendations made during such preceding fiscal years that were reflected in the budget submitted to Congress pursuant to section 1105(a) of title 31, United States Code, in the fiscal year of the report.

"(6) Each specific Department of Energy program that the Secretary of Energy plans to develop to initial operating capability and each such program that the Secretary does not plan to develop to initial operating capability.

"(7) For each technology program scheduled to reach initial operational capability, a recommendation from the Chairman of the Joint Chiefs of Staff that represents the views of the commanders of the unified

and specified commands regarding the utility and requirement of the program.

"(8) A discussion of the limitations and impediments to the biological weapons counterproliferation efforts of the Department of Defense (including legal, policy, and resource constraints) and recommendations for the removal or mitigation of such impediments and for ways to make such efforts more effective.

"(c) FORMS OF REPORT.—Each such report shall be submitted in both unclassified and classified forms, including an annex to the classified report for special compartmented information programs, special access programs, and special activities programs.

"(d) REVIEW COMMITTEE CHARTER DEFINED.—For purposes of this section, the term 'Review Committee charter' means section 1605 of the National Defense Authorization Act for Fiscal Year 1994 [Pub. L. 103–160] (22 U.S.C. 2751 note).

"(e) TERMINATION OF REQUIREMENT.—The final report required under subsection (a) is the report for the year following the year in which the Counterproliferation Program Review Committee established under the Review Committee Charter ceases to exist."

ARAB LEAGUE BOYCOTT OF ISRAEL

Pub. L. 103–236, title V, §564, Apr. 30, 1994, 108 Stat. 484, as amended by Pub. L. 103–415, §1(l), Oct. 25, 1994, 108 Stat. 4301, provided that:

"(a) PROHIBITION.—No defense article or defense service may be sold or leased by the United States Government to any country or international organization that, as a matter of policy or practice, is known to have sent letters to United States firms requesting compliance with, or soliciting information regarding compliance with, the Arab League secondary or tertiary boycott of Israel, unless the President determines, and so certifies to the appropriate congressional committees, that that country or organization does not currently maintain a policy or practice of making such requests or solicitations.

"(b) WAIVER.—

"(1) 1-YEAR WAIVER.—On or after the effective date of this section, the President may waive, for a period of 1 year, the application of subsection (a) with respect to any country or organization if the President determines, and reports to the appropriate congressional committees, that—

"(A) such waiver is in the national interest of the United States, and such waiver will promote the objectives of this section to eliminate the Arab boycott; or

"(B) such waiver is in the national security interest of the United States.

"(2) EXTENSION OF WAIVER.—If the President determines that the further extension of a waiver will promote the objectives of this section, the President, upon notification of the appropriate congressional committees, may grant further extensions of such waiver for successive 12-month periods.

"(3) TERMINATION OF WAIVER.—The President may, at any time, terminate any waiver granted under this subsection.

"(c) DEFINITIONS.—As used in this section—

"(1) the term 'appropriate congressional committees' means the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives; and

"(2) the terms 'defense article' and 'defense service' have the meanings given to such terms by paragraphs (3) and (4), respectively, of section 47 of the Arms Export Control Act [22 U.S.C. 2794(3), (4)].

"(d) EFFECTIVE DATE.—This section shall take effect 1 year after the date of enactment of this Act [Apr. 30, 1994]."

[Memorandum of President of the United States, Apr. 24, 1997, 62 F.R. 24797, delegated to Secretary of State functions of President under section 564 of Public Law 103–236, set out above.]

[Certifications and determinations relating to suspension of application by President under section 564 of Pub. L. 103–236, set out above, were contained in the following:

[Determination of President of the United States, No. 96–23, Apr. 30, 1996, 61 F.R. 26029.

[Determination of President of the United States, No. 95–20, May 1, 1995, 60 F.R. 22245.]

COUNTERPROLIFERATION POLICY AND PROGRAMS OF UNITED STATES

Pub. L. 103–160, div. A, title XVI, §§1603, 1605, 1607, Nov. 30, 1993, 107 Stat. 1843, 1845, 1847, as amended by Pub. L. 103–337, div. A, title XV, §§1502, 1505(a), (b), Oct. 5, 1994, 108 Stat. 2914, 2919; Pub. L. 104–106, div. A, title XV, §1504(b), Feb. 10, 1996, 110 Stat. 513; Pub. L. 104–201, div. A, title XIII, §1309(a)–(c), Sept. 23, 1996, 110 Stat. 2710; Pub. L. 106–65, div. A, title XV, §1504(a), (b), Oct. 5, 1999, 113 Stat. 808; Pub. L. 107–314, div. A, title XII, §1208(a), (d), Dec. 2, 2002, 116 Stat. 2668; Pub. L. 109–163, div. A, title X, §1056(f), Jan. 6, 2006, 119 Stat. 3440; Pub. L. 110–181, div. A, title XII, §1256(a)–(c), Jan. 28, 2008, 122 Stat. 403; Pub. L. 112–239, div. A, title X, §1076(c)(1), Jan. 2, 2013, 126 Stat. 1949, provided that:

"SEC. 1603. STUDIES RELATING TO UNITED STATES COUNTERPROLIFERATION POLICY.

"(a) AUTHORIZATION TO CONDUCT STUDIES.—The Secretary of Defense may conduct studies and analysis programs in support of the counterproliferation policy of the United States.

"(b) COUNTERPROLIFERATION STUDIES.—Studies and analysis programs under this section may include programs intended to explore defense policy issues that might be involved in efforts to prevent and counter the proliferation of weapons of mass destruction and their delivery systems. Such efforts include—

"(1) enhancing United States military capabilities to deter and respond to terrorism, theft, and proliferation involving weapons of mass destruction;

"(2) cooperating in international programs to enhance military capabilities to deter and respond to terrorism, theft, and proliferation involving weapons of mass destruction; and

"(3) otherwise contributing to Department of Defense capabilities to deter, identify, monitor, and respond to such terrorism, theft, and proliferation involving weapons of mass destruction.

"(c) DESIGNATION OF COORDINATOR.—The Under Secretary of Defense for Policy, subject to the supervision and control of the Secretary of Defense, shall coordinate the policy studies and analysis of the Department of Defense on countering proliferation of weapons of mass destruction and their delivery systems.

"(d) REPORT.—Not later than April 30 of each year, the Secretary of Defense shall submit to the appropriate congressional committees a report on the activities carried out under subsection (a). Each report shall set forth for the twelve-month period ending on the last day of the month preceding the month in which the report is due the following:

"(1) A description of the studies and analysis carried out.

"(2) The amounts spent for such studies and analysis.

"(3) The organizations that conducted the studies and analysis.

"(4) An explanation of the extent to which such studies and analysis contribute to the counterproliferation policy of the United States and United States military capabilities to deter and respond to terrorism, theft, and proliferation involving weapons of mass destruction.

"(5) A description of the measures being taken to ensure that such studies and analysis within the Department of Defense are managed effectively and coordinated comprehensively.

"SEC. 1605. JOINT COMMITTEE FOR REVIEW OF COUNTERPROLIFERATION PROGRAMS OF THE UNITED STATES.

"(a) ESTABLISHMENT.—(1) There is hereby established a Counterproliferation Program Review Committee composed of the following members:

"(A) The Secretary of Defense.

"(B) The Secretary of Energy.

"(C) The Director of National Intelligence.

"(D) The Chairman of the Joint Chiefs of Staff.

"(E) The Secretary of State.

"(F) The Secretary of Homeland Security.

"(2) The Secretary of Defense shall chair the committee. The Secretary of Energy shall serve as the Vice Chairman of the committee.

"(3) A member of the committee may designate a representative to perform routinely the duties of the member. A representative shall be in a position of Deputy Assistant Secretary or a position equivalent to or above the level of Deputy Assistant Secretary. A representative of the Chairman of the Joint Chiefs of Staff shall be a person in a grade equivalent to that of Deputy Assistant Secretary of Defense.

"(4) The Secretary of Defense may delegate to the Under Secretary of Defense for Acquisition, Technology, and Logistics the performance of the duties of the Chairman of the committee. The Secretary of Energy may delegate to the Under Secretary of Energy responsible for national security programs of the Department of Energy the performance of the duties of the Vice Chairman of the committee.

"(5) The Assistant Secretary of Defense for Nuclear, Chemical, and Biological Defense Programs shall serve as executive secretary to the committee, except that during any period during which that position is vacant the Assistant Secretary of Defense for Strategy and Threat Reduction shall serve as the executive secretary.

"(b) PURPOSES OF THE COMMITTEE.—The purposes of the committee are as follows:

"(1) To optimize funding for, and ensure the development and deployment of—

"(A) highly effective technologies and capabilities for the detection, monitoring, collection, processing, analysis, and dissemination of information in support of United States counterproliferation policy and efforts, including efforts to stem the proliferation of weapons of mass destruction and to negate paramilitary and terrorist threats involving weapons of mass destruction; and

"(B) disabling technologies in support of such policy.

"(2) To identify and eliminate undesirable redundancies or uncoordinated efforts in the development and deployment of such technologies and capabilities.

"(3) To establish priorities for programs and funding.

"(4) To encourage and facilitate interagency and interdepartmental funding of programs in order to ensure necessary levels of funding to develop, operate, and field highly-capable systems.

"(5) To ensure that Department of Energy programs are integrated with the operational needs of other departments and agencies of the Government.

"(6) To ensure that Department of Energy national security programs include technology demonstrations and prototype development of equipment.

"(c) DUTIES.—The committee shall—

"(1) identify and review existing and proposed capabilities and technologies for support of United States nonproliferation policy and counterproliferation policy with regard to—

"(A) intelligence;

"(B) battlefield surveillance;

"(C) passive defenses;

"(D) active defenses; and

"(E) counterforce capabilities;

"(2) prescribe requirements and priorities for the development and deployment of highly effective capabilities and technologies;

"(3) identify deficiencies in existing capabilities and technologies;

"(4) formulate near-term, mid-term, and long-term programmatic options for meeting requirements established by the committee and eliminating deficiencies identified by the committee; and

"(5) assess each fiscal year the effectiveness of the committee actions during the preceding fiscal year, including, particularly, the status of recommendations made during such preceding fiscal year that were reflected in the budget submitted to Congress pursuant to section 1105(a) of title 31, United States Code, for the fiscal year following the fiscal year in which the assessment is made.

"(d) ACCESS TO INFORMATION.—The committee shall have access to information on all programs, projects, and activities of the Department of Defense, the Department of State, the Department of Energy, the Department of State, the Department of Homeland Security, the intelligence community, and the Arms Control and Disarmament Agency that are pertinent to the purposes and duties of the committee.

"(e) RECOMMENDATIONS.—The committee shall submit to the President and the heads of all appropriate departments and agencies of the Government such programmatic recommendations regarding existing, planned, or new programs as the committee considers appropriate to encourage funding for capabilities and technologies at the level necessary to support United States counterproliferation policy.

"(f) TERMINATION OF COMMITTEE.—The committee shall cease to exist at the end of September 30, 2013.

"SEC. 1607. DEFINITIONS.

"For purposes of this subtitle [subtitle A, §§1601–1607, of title XVI of div. A of Pub. L. 103–160, amending section 5859a of this title and enacting this note]:

"(1) The term 'appropriate congressional committees' means—

"(A) the Committee on Armed Services, the Committee on Appropriations, the Committee on Foreign Relations, and the Select Committee on Intelligence of the Senate; and

"(B) the Committee on Armed Services [now Committee on National Security], the Committee on Appropriations, the Committee on Foreign Affairs, and the Permanent Select Committee on Intelligence of the House of Representatives.

"(2) The term 'intelligence community' has the meaning given such term in section 3 of the National Security Act of 1947 (50 U.S.C. 401a) [now 50 U.S.C. 3003]."

[For abolition, transfer of functions, and treatment of references to United States Arms Control and Disarmament Agency, see section 6511 et seq. of this title.]

RESTRICTION ON ARMS SALES TO SAUDI ARABIA AND KUWAIT

Pub. L. 102–229, title I, §104, Dec. 12, 1991, 105 Stat. 1707, provided that:

"(a) No funds appropriated or otherwise made available by this or any other Act may be used in any fiscal year to conduct, support, or administer any sale of defense articles or defense services to Saudi Arabia or Kuwait until that country has paid in full, either in cash or in mutually agreed in-kind contributions, the following commitments made to the United States to support Operation Desert Shield/Desert Storm:

"(1) In the case of Saudi Arabia, $16,839,000,000.

"(2) In the case of Kuwait, $16,006,000,000.

"(b) For purposes of this section, the term 'any sale' means any sale with respect to which the President is required to submit a numbered certification to the Congress pursuant to the Arms Export Control Act [22 U.S.C. 2751 et seq.] on or after the effective date of this section.

"(c) This section shall take effect 120 days after the date of enactment of this joint resolution [Dec. 12, 1991].

"(d) Any military equipment of the United States, including battle tanks, armored combat vehicles, and artillery, included within the Conventional Forces in Europe Treaty definition of 'conventional armaments and equipment limited by the Treaty', which may be transferred to any other NATO country shall be subject to the notification procedures stated in section 523 of Public Law 101–513 [104 Stat. 2007] and in section 634A of the Foreign Assistance Act of 1961 [22 U.S.C. 2394–1]."

ANNUAL REPORT ON PROLIFERATION OF MISSILES AND ESSENTIAL COMPONENTS OF NUCLEAR, BIOLOGICAL, AND CHEMICAL WEAPONS

Pub. L. 102–190, div. A, title X, §1097, Dec. 5, 1991, 105 Stat. 1489, as amended by Pub. L. 104–106, div. A, title XV, §§1502(c)(3), 1504(d), Feb. 10, 1996, 110 Stat. 507, 514; Pub. L. 106–65, div. A, title X, §1067(9), Oct. 5, 1999, 113 Stat. 774, required the President to submit to Congress annual reports on transfers by any country of weapons, technology, or materials that can be used to deliver, manufacture, or weaponize nuclear, biological, or chemical weapons to any country (other than certain specified countries) seeking to acquire such weapons, technology, or materials, and specified time, coverage, contents and classification of such reports, prior to repeal by Pub. L. 107–228, div. B, title XIII, §1308(g)(1)(A), Sept. 30, 2002, 116 Stat. 1441.

CONVENTIONAL ARMS TRANSFERS

Pub. L. 99–83, title I, §129, Aug. 8, 1985, 99 Stat. 206, directed President, at the earliest possible date, in consultation with United States allies, to initiate discussions with the Soviet Union and France aimed at beginning multilateral negotiations to limit and control the transfer of conventional arms to less developed countries, and, within one year after Aug. 8, 1985, submit to Speaker of House of Representatives and chairman of Committee on Foreign Relations of Senate a report which specifies steps being taken to fulfill such requirements and which examines and analyzes, among specified matters, United States policies concerning the export of conventional arms, especially sophisticated weapons, and possible approaches to developing multilateral limitations on conventional arms sales.

TERMINATION OF NONRECURRING ACTIVITIES UNDER FOREIGN ASSISTANCE ACT OF 1961 AND THIS CHAPTER AND REMOVAL FROM LAW

Pub. L. 97–113, title VII, §734(c), Dec. 29, 1981, 95 Stat. 1561, provided that: "Except as otherwise explicitly provided by their terms, amendments to the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.] and the Arms Export Control Act [this chapter] which are applicable only to a single fiscal or calendar year or which require reports or other actions on a nonrecurring basis shall be deemed to have expired and shall be removed from law upon the expiration of the applicable time periods for the fulfillment of the required actions."

REPORT TO CONGRESS BY PRESIDENT ON MULTILATERAL DISCUSSIONS CONCERNING ARMS TRANSFER POLICY

Pub. L. 95–384, §15(b), Sept. 26, 1978, 92 Stat. 740, directed President, not later than Dec. 31, 1979, to transmit to Congress a detailed report assessing results and commenting on implications of multilateral discussion referred to in paragraph added to this section by section 15(a) of Pub. L. 95–384, relating to adherence to a policy of restraint in conventional arms transfer, prior to repeal by Pub. L. 97–113, title VII, §734(a)(12), Dec. 29, 1981, 95 Stat. 1560.

REPORT BY PRESIDENT ON REVIEW OF ARMS SALES CONTROLS ON NON-LETHAL ITEMS

Pub. L. 95–384, §25, Sept. 26, 1978, 92 Stat. 746, directed President, within 120 days after Sept. 26, 1978, to report in writing to Speaker of House of Representatives and chairman of Committee on Foreign Relations of Senate the results of the review conducted pursuant to Pub. L. 95–92, §27, Aug. 4, 1977, 91 Stat. 626, set out below, prior to repeal by Pub. L. 97–113, title VII, §734(a)(12), Dec. 29, 1981, 95 Stat. 1560.

REPORT BY PRESIDENT ON IMPACT OF FOREIGN ARMS SALES AND TRANSFERS TO FOREIGN GOVERNMENTS ON DEFENSE READINESS AND NATIONAL SECURITY OF UNITED STATES

Pub. L. 95–92, §23, Aug. 4, 1977, 91 Stat. 624, set forth provisions respecting Presidential report on impact of United States foreign arms sales and transfers on defense readiness and national security, prior to repeal by Pub. L. 95–384, §29(c)(2)(B), Sept. 26, 1978, 92 Stat. 747.

STUDY BY PRESIDENT OF NATIONAL SECURITY AND MILITARY IMPLICATIONS OF INTERNATIONAL TRANSFERS OF TECHNOLOGY; SCOPE OF STUDY; UTILIZATION OF EXECUTIVE DEPARTMENTS AND AGENCIES

Pub. L. 95–92, §24, Aug. 4, 1977, 91 Stat. 624, as amended by Pub. L. 97–113, title VII, §734(a)(13), Dec. 29, 1981, 95 Stat. 1560, directed President to conduct a comprehensive study of policies and practices of United States Government with respect to national security and military implications of international transfers of technology in order to determine whether such policies and practices should be changed, with President to utilize resources and expertise of Arms Control and Disarmament Agency, Department of State, Department of Defense, Department of Commerce, National Science Foundation, Office of Science and Technology Policy, and such other entities within the Executive branch as he deemed necessary.

STATEMENT OF POLICY REGARDING UNITED STATES ARMS SALES TO ISRAEL

Pub. L. 95–92, §26, Aug. 4, 1977, 91 Stat. 625, provided that: "In accordance with the historic special relationship between the United States and Israel and previous agreements and continuing understandings, the Congress joins with the President in reaffirming that a policy of restraint in United States arms transfers, including arms sales ceilings, shall not impair Israel's deterrent strength or undermine the military balance in the Middle East."

REVIEW BY PRESIDENT OF CATEGORIES AND ARMS SALES CONTROLS ON LETHAL AND NON-LETHAL ITEMS

Pub. L. 95–92, §27, Aug. 4, 1977, 91 Stat. 626, directed President to undertake a review of all regulations relating to arms control for the purpose of defining and categorizing lethal and non-lethal products and establishing the appropriate level of control for each category.

STUDY OF UNITED STATES ARMS SALES POLICIES AND PRACTICES BY PRESIDENT; REPORT TO CONGRESS

Pub. L. 94–329, title II, §202(b), June 30, 1976, 90 Stat. 735, set forth provisions respecting study and report to Congress of United States arms sales policies and practices, prior to repeal by Pub. L. 95–384, §29(c)(1)(A), Sept. 26, 1978, 92 Stat. 747.

PRESIDENTIAL REPORT REGARDING SALES OF EXCESS DEFENSE ARTICLES TO FOREIGN GOVERNMENTS AND INTERNATIONAL ORGANIZATIONS

Pub. L. 94–329, title II, §217, June 30, 1976, 90 Stat. 747, set forth provisions respecting report by the President of all sales under this chapter of excess defense articles to foreign governments and international organizations, prior to repeal by Pub. L. 95–384, §29(c)(1)(B), Sept. 26, 1978, 92 Stat. 747.

STUDY BY SECRETARIES OF STATE AND DEFENSE ON CONSEQUENCES OF ENACTMENT OF ARMS EXPORT CONTROL PROVISIONS

Pub. L. 94–329, title II, §218, June 30, 1976, 90 Stat. 748, set forth provisions respecting study by the Secretaries of State and Defense on consequences of enactment of arms export control provisions by title II of Pub. L. 94–329, prior to repeal by Pub. L. 95–384, §29(c)(1)(C), Sept. 26, 1978, 92 Stat. 747.

TOTAL NUMBER OF CREDITS TO BE EXTENDED BETWEEN JULY 1, 1976, AND SEPTEMBER 30, 1976

Pub. L. 94–329, title V, §506(b), June 30, 1976, 90 Stat. 764, provided that the total number of credits extended pursuant to this chapter, between July 1, 1976, and Sept. 30, 1976, not exceed an amount equal to one-fourth of the total amount of credits extended and guaranteed for fiscal year 1976.

ADDITIONAL MILITARY AND CIVILIAN PERSONNEL FOR DEPARTMENT OF DEFENSE

Pub. L. 94–329, title VI, §605(a), June 30, 1976, 90 Stat. 768, provided that: "Nothing in this Act [see Short Title of 1976 Amendment note set out under section 2151 of the title] is intended to authorize any additional military or civilian personnel for the Department of Defense for the purposes of this Act, the Foreign Assistance Act of 1961 [section 2151 et seq. of this title], or the Arms Export Control Act [this chapter]. Personnel levels authorized in statutes authorizing appropriations for military and civilian personnel of the Department of Defense shall be controlling over all military and civilian personnel of the Department of

Defense assigned to carry out functions under the Arms Export Control Act and the Foreign Assistance Act of 1961."

SALES TO THE MIDDLE EAST; REQUESTS FOR ADDITIONAL APPROPRIATIONS

Pub. L. 91–672, §5, Jan. 12, 1971, 84 Stat. 2053, provided that: "It is the sense of Congress that (1) the President should continue to press forward urgently with his efforts to negotiate with the Soviet Union and other powers a limitation on arms shipments to the Middle East, (2) the President should be supported in his position that arms will be made available and credits provided to Israel and other friendly states, to the extent that the President determines such assistance to be needed in order to meet threats to the security and independence of such states, and (3) if the authorization provided in the Foreign Military Sales Act, as amended [this chapter], should prove to be insufficient to effectuate this stated policy, the President should promptly submit to the Congress requests for an appropriate supplementary authorization and appropriation."

REVIEW OF MILITARY AID PROGRAMS AND EFFORTS FOR REGULATION OF CONVENTIONAL ARMS TRADE

Pub. L. 91–672, §6, Jan. 12, 1971, 84 Stat. 2053, provided that: "It is the sense of the Congress that—

"(1) the President should immediately institute a thorough and comprehensive review of the military aid programs of the United States, particularly with respect to the military assistance and sales operations of the Department of Defense, and

"(2) the President should take such actions as may be appropriate—

"(A) to initiate multilateral discussions among the United States, the Union of Soviet Socialist Republics, Great Britain, France, West Germany, Italy and other countries on the control of the worldwide trade in armaments,

"(B) to commence a general debate in the United Nations with respect to the control of the conventional arms trade, and

"(C) to use the power and prestige of his office to signify the intention of the United States to work actively with all nations to check and control the international sales and distribution of conventional weapons of death and destruction."

EXECUTIVE ORDER NO. 11501

Ex. Ord. No. 11501, Dec. 22, 1969, 34 F.R. 20169, as amended by Ex. Ord. No. 11685, Sept. 25, 1972, 37 F.R. 20155, which related to the administration of foreign military sales, was revoked by Ex. Ord. No. 11958, Jan. 18, 1977, 42 F.R. 4311, formerly set out below.

EXECUTIVE ORDER NO. 11958

Ex. Ord. No. 11958, Jan. 18, 1977, 42 F.R. 4311, as amended by Ex. Ord. No. 12118, Feb. 6, 1979, 44 F.R. 7939; Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673; Ex. Ord. No. 12210, Apr. 16, 1980, 45 F.R. 26313; Ex. Ord. No. 12321, Sept. 14, 1981, 46 F.R. 46109; Ex. Ord. No. 12365, May 24, 1982, 47 F.R. 22933; Ex. Ord. No. 12423, May 26, 1983, 48 F.R. 24025; Ex. Ord. No. 12560, May 24, 1986, 51 F.R. 19159; Ex. Ord. No. 12680, July 5, 1989, 54 F.R. 28995; Ex. Ord. No. 12738, §7, Dec. 14, 1990, 55 F.R. 52035; Ex. Ord. No. 13030, §2, Dec. 12, 1996, 61 F.R. 66187; Ex. Ord. No. 13091, §1, June 29, 1998, 63 F.R. 36153; Ex. Ord. No. 13118, §10(8), Mar. 31, 1999, 64 F.R. 16598; Ex. Ord. No. 13284, §13, Jan. 23, 2003, 68 F.R. 4076, which related to the administration of arms export controls, was revoked by Ex. Ord. No. 13637, §4, Mar. 8, 2013, 78 F.R. 16131, set out below.

EX. ORD. NO. 13637. ADMINISTRATION OF REFORMED EXPORT CONTROLS

Ex. Ord. No. 13637, Mar. 8, 2013, 78 F.R. 16129, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Arms Export Control Act, as amended (22 U.S.C. 2751 et seq.) (the "Act"), and section 301 of title 3, United States Code, it is hereby ordered as follows:

SECTION 1. *Delegation of Functions*. The following functions conferred upon the President by the Act, and related laws, are delegated as follows:

(a) Those under section 3 of the Act (22 U.S.C. 2753), with the exception of subsections (a)(1), (b), (c)(3), (c)(4), and (f) (22 U.S.C. 2753(a)(1), (b), (c)(3), (c)(4), and (f)), to the Secretary of State. The Secretary of State, in the implementation of the delegated functions under sections 3(a) and (d) of the Act (22 U.S.C. 2753(a) and (d)), is authorized to find, in the case of a proposed transfer of a defense article or related training or other defense service by a foreign country or international organization not otherwise eligible under section 3(a)(1) of the Act (22 U.S.C. 2753(a)(1)), whether the proposed transfer will strengthen the security of the United States and promote world peace.

(b) Those under section 5 (22 U.S.C. 2755) to the Secretary of State.

(c) Those under section 21 of the Act (22 U.S.C. 2761), with the exception of the last sentence of subsection (d) and all of subsection (i) (22 U.S.C. 2761(d) and (i)), to the Secretary of Defense.

(d) Those under sections 22(a), 29, 30, and 30A of the Act (22 U.S.C. 2762(a), 2769, 2770, and 2770a) to the Secretary of Defense.

(e) Those under section 23 of the Act (22 U.S.C. 2763), and under section 7069 of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2012 (Public Law 112–74, Division I) and any subsequently enacted provision of law that is the same or substantially the same, to the Secretary of Defense to be exercised in consultation with the Secretary of State and, other than the last sentence of section 23(a) (22 U.S.C. 2763(a)), in consultation with the Secretary of the Treasury, except that the President shall determine any rate of interest to be charged that is less than the market rate of interest.

(f) Those under sections 24 and 27 of the Act (22 U.S.C. 2764 and 2767) to the Secretary of Defense. The Secretary of Defense shall consult with the Secretary of State and the Secretary of the Treasury in implementing the delegated functions under section 24 (22 U.S.C. 2764) and with the Secretary of State in implementing the delegated functions under section 27 (22 U.S.C. 2767).

(g) Those under section 25 of the Act (22 U.S.C. 2765) to the Secretary of State. The Secretary of Defense shall assist the Secretary of State in the preparation of materials for presentation to the Congress under that section.

(h) Those under section 34 of the Act (22 U.S.C. 2774) to the Secretary of State. To the extent the standards and criteria for credit and guaranty transactions are based upon national security or financial policies, the Secretary of State shall obtain the prior concurrence of the Secretary of Defense and the Secretary of the Treasury, respectively.

(i) Those under section 35(a) of the Act (22 U.S.C. 2775(a)) to the Secretary of State.

(j) Those under sections 36(a) and 36(b)(1) of the Act (22 U.S.C. 2776(a) and (b)(1)), except with respect to the certification of an emergency as provided by subsection (b)(1) (22 U.S.C. 2776(b)(1)), to the Secretary of Defense. The Secretary of Defense, in the implementation of the delegated functions under sections 36(a) and (b)(1) (22 U.S.C. 2776(a) and (b)(1)), shall consult with the Secretary of State. With respect to those functions under sections 36(a)(5) and (6) (22 U.S.C. 2776(a)(5) and (6)), the Secretary of Defense shall consult with the Director of the Office of Management and Budget.

(k) Those under section 36(b)(1) with respect to the certification of an emergency as provided by subsection (b)(1) and under sections 36(c) and (d) of the Act (22 U.S.C. 2776(b)(1), (c), and (d)) to the Secretary of State.

(l) Those under section 36(f)(1) of the Act (22 U.S.C. 2776(f)(1)) to the Secretary of Defense.

(m) Those under sections 36(f)(2) and (f)(3) of the Act (22 U.S.C. 2776(f)(2) and (f)(3)) to the Secretary of State.

(n) Those under section 38 of the Act (22 U.S.C. 2778) to:

(i) the Secretary of State, except as otherwise provided in this subsection. Designations, including changes in designations, by the Secretary of State of items or categories of items that shall be considered as defense articles and defense services subject to export control under section 38 (22 U.S.C. 2778) shall have the concurrence of the Secretary of Defense. The authority to undertake activities to ensure compliance with established export conditions may be redelegated to the Secretary of Defense, or to the head of another executive department or agency as appropriate, who shall exercise such functions in consultation with the Secretary of State;

(ii) the Attorney General, to the extent they relate to the control of the permanent import of defense articles and defense services. In carrying out such functions, the Attorney General shall be guided by the views of the Secretary of State on matters affecting world peace, and the external security and foreign policy of the United States. Designations, including changes in designations, by the Attorney General of items or categories of items that shall be considered as defense articles and defense services subject to permanent import control under section 38 of the Act (22 U.S.C. 2778) shall be made with the concurrence of the Secretary of State and the Secretary of Defense and with notice to the Secretary of Commerce; and

(iii) the Department of State for the registration and licensing of those persons who engage in the business of brokering activities with respect to defense articles or defense services controlled either for purposes of export by the Department of State or for purposes of permanent import by the Department of Justice.

(o) Those under section 39(b) of the Act (22 U.S.C. 2779(b)) to the Secretary of State. In carrying out such functions, the Secretary of State shall consult with the Secretary of Defense as may be necessary to avoid interference in the application of Department of Defense regulations to sales made under section 22 of the Act (22 U.S.C. 2762).

(p) Those under the portion of section 40A of the Act added by Public Law 104–164 (22 U.S.C. 2785), to the Secretary of State insofar as they relate to commercial exports licensed under the Act, and to the Secretary

of Defense insofar as they relate to defense articles and defense services sold, leased, or transferred under the Foreign Military Sales Program.

(q) Those under the portion of section 40A of the Act added by the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132) (22 U.S.C. 2781), to the Secretary of State.

(r) Those under sections 42(c) and (f) of the Act (22 U.S.C. 2791(c) and (f)) to the Secretary of Defense. The Secretary of Defense shall obtain the concurrence of the Secretary of State and the Secretary of Commerce on any determination considered under the authority of section 42(c) of the Act (22 U.S.C. 2791(c)).

(s) Those under section 52(b) of the Act (22 U.S.C. 2795a(b)) to the Secretary of Defense.

(t) Those under sections 61 and 62(a) of the Act (22 U.S.C. 2796 and 2796a(a)) to the Secretary of Defense.

(u) Those under section 2(b)(6) of the Export-Import Bank Act of 1945, as amended (12 U.S.C. 635(b)(6)) to the Secretary of State.

SEC. 2. *Coordination*. (a) In addition to the specific provisions of section 1 of this order, the Secretary of State and the Secretary of Defense, in carrying out the functions delegated to them under this order, shall consult with each other and with the heads of other executive departments and agencies on matters pertaining to their responsibilities.

(b) Under the direction of the President and in accordance with section 2(b) of the Act (22 U.S.C. 2752(b)), the Secretary of State, taking into account other United States activities abroad, shall be responsible for the continuous supervision and general direction of sales and exports under the Act, including the negotiation, conclusion, and termination of international agreements, and determining whether there shall be a sale to a country and the amount thereof, and whether there shall be delivery or other performance under such sale or export, to the end that sales and exports are integrated with other United States activities and the foreign policy of the United States is best served thereby.

SEC. 3. *Allocation of Funds*. Funds appropriated to the President for carrying out the Act shall be deemed to be allocated to the Secretary of Defense without any further action of the President.

SEC. 4. *Revocation*. Executive Order 11958 of January 18, 1977, as amended, is revoked; except that, to the extent consistent with this order, all determinations, authorizations, regulations, rulings, certificates, orders, directives, contracts, agreements, and other actions made, issued, taken, or entered into under the provisions of Executive Order 11958, as amended, and not revoked, superseded, or otherwise made inapplicable, shall continue in full force and effect until amended, modified, or terminated by appropriate authority.

SEC. 5. *Delegation of Functions under the International Emergency Economic Powers Act*. [Amended Ex. Ord. No. 13222, listed in a table under section 1701 of Title 50, War and National Defense.]

SEC. 6. *General Provisions*. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA.

§2752. Coordination with foreign policy

(a) Noninfringement of powers or functions of Secretary of State

Nothing contained in this chapter shall be construed to infringe upon the powers or functions of the Secretary of State.

(b) Responsibility for supervision and direction of sales, leases, financing, cooperative projects, and exports

Under the direction of the President, the Secretary of State (taking into account other United States activities abroad, such as military assistance, economic assistance, and the food for peace program) shall be responsible for the continuous supervision and general direction of sales, leases, financing, cooperative projects, and exports under this chapter, including, but not limited to, determining—

(1) whether there will be a sale to or financing for a country and the amount thereof;

(2) whether there will be a lease to a country;
(3) whether there will be a cooperative project and the scope thereof; and
(4) whether there will be delivery or other performance under such sale, lease, cooperative project, or export,

to the end that sales, financing, leases, cooperative projects, and exports will be integrated with other United States activities and to the end that the foreign policy of the United States would be best served thereby.

(c) Coordination among representatives of United States

The President shall prescribe appropriate procedures to assure coordination among representatives of the United States Government in each country, under the leadership of the Chief of the United States Diplomatic Mission. The Chief of the diplomatic mission shall make sure that recommendations of such representatives pertaining to sales are coordinated with political and economic considerations, and his comments shall accompany such recommendations if he so desires.

(Pub. L. 90–629, ch. 1, §2, Oct. 22, 1968, 82 Stat. 1322; Pub. L. 94–329, title II, §212(a)(2), June 30, 1976, 90 Stat. 745; Pub. L. 97–113, title I, §109(b)(1), Dec. 29, 1981, 95 Stat. 1526; Pub. L. 99–83, title I, §115(b)(1), Aug. 8, 1985, 99 Stat. 201; Pub. L. 99–145, title XI, §1102(a)(2), (5), Nov. 8, 1985, 99 Stat. 710; Pub. L. 99–661, div. A, title XIII, §1342(e), Nov. 14, 1986, 100 Stat. 3991.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b), was in the original "this Act", meaning Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1321, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

AMENDMENTS

1986—Subsec. (b). Pub. L. 99–661 repealed section 1102(a)(2) of Pub. L. 99–145 and the amendments made by that section, and provided that this section shall apply as if that section had never been enacted. See 1985 Amendment note below.

1985—Subsec. (b). Pub. L. 99–83 amended subsec. (b) generally, substituting reference to the food for peace program for reference to food for freedom and adding financing and cooperative projects under this chapter to the list of responsibilities of the Secretary of State.

Pub. L. 99–145, §1102(a)(2), which enacted amendments similar to those provided in Pub. L. 99–83, was repealed. See 1986 Amendment note above and Repeals; Effective Date note below.

1981—Subsec. (b). Pub. L. 97–113 substituted "sales, leases," for "sales" in two places and "such sale, lease," for "such sale" and inserted "whether there shall be a lease to a country," after "whether there shall be a sale to a country and the amount thereof,".

1976—Subsec. (b). Pub. L. 94–329 inserted "and exports" after "sales" wherever appearing and "and whether there shall be delivery or other performance under such sale or export," after "thereof,".

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–83 effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as a note under section 2151–1 of this title.

REPEALS; EFFECTIVE DATE

Pub. L. 99–145, title XI, §1102(a)(5), Nov. 8, 1985, 99 Stat. 710, which provided for the repeal of the amendments made by §1102(a) of Pub. L. 99–145, effective as of the effective date of similar amendments by Pub. L. 99–83, was repealed by Pub. L. 99–661, div. A, title XIII, §1342(e), Nov. 14, 1986, 100 Stat. 3991.

§2753. Eligibility for defense services or defense articles

(a) Prerequisites for consent by President; report to Congress

No defense article or defense service shall be sold or leased by the United States Government under this chapter to any country or international organization, and no agreement shall be entered into for a cooperative project (as defined in section 2767 of this title), unless—

(1) the President finds that the furnishing of defense articles and defense services to such country or international organization will strengthen the security of the United States and promote world peace;

(2) the country or international organization shall have agreed not to transfer title to, or possession of, any defense article or related training or other defense service so furnished to it, or produced in a cooperative project (as defined in section 2767 of this title), to anyone not an officer, employee, or agent of that country or international organization (or the North Atlantic Treaty Organization or the specified member countries (other than the United States) in the case of a cooperative project) and not to use or permit the use of such article or related training or other defense service for purposes other than those for which furnished unless the consent of the President has first been obtained;

(3) the country or international organization shall have agreed that it will maintain the security of such article or service and will provide substantially the same degree of security protection afforded to such article or service by the United States Government; and

(4) the country or international organization is otherwise eligible to purchase or lease defense articles or defense services.

In considering a request for approval of any transfer of any weapon, weapons system, munitions, aircraft, military boat, military vessel, or other implement of war to another country, the President shall not give his consent under paragraph (2) to the transfer unless the United States itself would transfer the defense article under consideration to that country. In addition, the President shall not give his consent under paragraph (2) to the transfer of any significant defense articles on the United States Munitions List unless the foreign country requesting consent to transfer agrees to demilitarize such defense articles prior to transfer, or the proposed recipient foreign country provides a commitment in writing to the United States Government that it will not transfer such defense articles, if not demilitarized, to any other foreign country or person without first obtaining the consent of the President. The President shall promptly submit a report to the Speaker of the House of Representatives, the Committee on Foreign Affairs of the House of Representatives, and to the Committee on Foreign Relations of the Senate on the implementation of each agreement entered into pursuant to clause (2) of this subsection.

(b) Necessity of consent by President

The consent of the President under paragraph (2) of subsection (a) or under paragraph (1) of section 2314(a) of this title (as it relates to subparagraph (B) of such paragraph) shall not be required for the transfer by a foreign country or international organization of defense articles sold by the United States under this chapter if a treaty referred to in section 2778(j)(1)(C)(i) of this title permits such transfer without prior consent of the President, or if—

(1) such articles constitute components incorporated into foreign defense articles;

(2) the recipient is the government of a member country of the North Atlantic Treaty Organization, the Government of Australia, the Government of Japan, the Government of the Republic of Korea, the Government of Israel, or the Government of New Zealand;

(3) the recipient is not a country designated under section 2371 of this title;

(4) the United States-origin components are not—

(A) significant military equipment (as defined in section 2794(9) of this title);

(B) defense articles for which notification to Congress is required under section 2776(b) of this title; and

(C) identified by regulation as Missile Technology Control Regime items; and

(5) the foreign country or international organization provides notification of the transfer of the defense articles to the United States Government not later than 30 days after the date of such transfer.

(c) Termination of credits, guaranties or sales; report of violation by President; national security exception; conditions for reinstatement

(1)(A) No credits (including participations in credits) may be issued and no guaranties may be extended for any foreign country under this chapter as hereinafter provided, if such country uses defense articles or defense services furnished under this chapter, or any predecessor Act, in substantial violation (either in terms of quantities or in terms of the gravity of the consequences regardless of the quantities involved) of any agreement entered into pursuant to any such Act (i) by using such articles or services for a purpose not authorized under section 2754 of this title or, if such agreement provides that such articles or services may only be used for purposes more limited than those authorized under section 2754 of this title for a purpose not authorized under such agreement; (ii) by transferring such articles or services to, or permitting any use of such articles or services by, anyone not an officer, employee, or agent of the recipient country without the consent of the President; or (iii) by failing to maintain the security of such articles or services.

(B) No cash sales or deliveries pursuant to previous sales may be made with respect to any foreign country under this chapter as hereinafter provided, if such country uses defense articles or defense services furnished under this chapter, or any predecessor Act, in substantial violation (either in terms of quantity or in terms of the gravity of the consequences regardless of the quantities involved) of any agreement entered into pursuant to any such Act by using such articles or services for a purpose not authorized under section 2754 of this title or, if such agreement provides that such articles or services may only be used for purposes more limited than those authorized under section 2754 of this title, for a purpose not authorized under such agreement.

(2) The President shall report to the Congress promptly upon the receipt of information that a violation described in paragraph (1) of this subsection may have occurred.

(3)(A) A country shall be deemed to be ineligible under subparagraph (A) of paragraph (1) of this subsection, or both subparagraphs (A) and (B) of such paragraph in the case of a violation described in both such paragraphs, if the President so determines and so reports in writing to the Congress, or if the Congress so determines by joint resolution.

(B) Notwithstanding a determination by the President of ineligibility under subparagraph (B) of paragraph (1) of this subsection, cash sales and deliveries pursuant to previous sales may be made if the President certifies in writing to the Congress that a termination thereof would have significant adverse impact on United States security, unless the Congress adopts or has adopted a joint resolution pursuant to subparagraph (A) of this paragraph with respect to such ineligibility.

(4) A country shall remain ineligible in accordance with paragraph (1) of this subsection until such time as—

(A) the President determines that the violation has ceased; and

(B) the country concerned has given assurances satisfactory to the President that such violation will not recur.

(d) Submission of written certification to Congress; contents; classified material; effective date of consent; report to Congress; transfers not subject to procedures

(1) Subject to paragraph (5), the President may not give his consent under paragraph (2) of subsection (a) or under the third sentence of such subsection, or under section 2314(a)(1) or 2314(a)(4) of this title, to a transfer of any major defense equipment valued (in terms of its original acquisition cost) at $14,000,000 or more, or any defense article or related training or other defense service valued (in terms of its original acquisition cost) at $50,000,000 or more, unless the President submits to the Speaker of the House of Representatives, the Committee on Foreign Affairs of the House of Representatives, and the Committee on Foreign Relations of the Senate a written certification with respect to such proposed transfer containing—

(A) the name of the country or international organization proposing to make such transfer,

(B) a description of the article or service proposed to be transferred, including its acquisition cost,

(C) the name of the proposed recipient of such article or service,

(D) the reasons for such proposed transfer, and

(E) the date on which such transfer is proposed to be made.

Any certification submitted to Congress pursuant to this paragraph shall be unclassified, except

that information regarding the dollar value and number of articles or services proposed to be transferred may be classified if public disclosure thereof would be clearly detrimental to the security of the United States.

(2)(A) Except as provided in subparagraph (B), unless the President states in the certification submitted pursuant to paragraph (1) of this subsection that an emergency exists which requires that consent to the proposed transfer become effective immediately in the national security interests of the United States, such consent shall not become effective until 30 calendar days after the date of such submission and such consent shall become effective then only if the Congress does not enact, within such 30-day period, a joint resolution prohibiting the proposed transfer.

(B) In the case of a proposed transfer to the North Atlantic Treaty Organization, or any member country of such Organization, Japan, Australia, the Republic of Korea, Israel, or New Zealand, unless the President states in the certification submitted pursuant to paragraph (1) of this subsection that an emergency exists which requires that consent to the proposed transfer become effective immediately in the national security interests of the United States, such consent shall not become effective until fifteen calendar days after the date of such submission and such consent shall become effective then only if the Congress does not enact, within such fifteen-day period, a joint resolution prohibiting the proposed transfer.

(C) If the President states in his certification under subparagraph (A) or (B) that an emergency exists which requires that consent to the proposed transfer become effective immediately in the national security interests of the United States, thus waiving the requirements of that subparagraph, the President shall set forth in the certification a detailed justification for his determination, including a description of the emergency circumstances which necessitate immediate consent to the transfer and a discussion of the national security interests involved.

(D)(i) Any joint resolution under this paragraph shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

(ii) For the purpose of expediting the consideration and enactment of joint resolutions under this paragraph, a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

(3)(A) Subject to paragraph (5), the President may not give his consent to the transfer of any major defense equipment valued (in terms of its original acquisition cost) at $14,000,000 or more, or of any defense article or defense service valued (in terms of its original acquisition cost) at $50,000,000 or more, the export of which has been licensed or approved under section 2778 of this title or has been exempted from the licensing requirements of this chapter pursuant to a treaty referred to in section 2778(j)(1)(C)(i) of this title where such treaty does not authorize the transfer without prior United States Government approval, unless before giving such consent the President submits to the Speaker of the House of Representatives, the Committee on Foreign Affairs of the House of Representatives, and the Chairman of the Committee on Foreign Relations of the Senate a certification containing the information specified in subparagraphs (A) through (E) of paragraph (1). Such certification shall be submitted—

(i) at least 15 calendar days before such consent is given in the case of a transfer to a country which is a member of the North Atlantic Treaty Organization or Australia, Japan, the Republic of Korea, Israel, or New Zealand; and

(ii) at least 30 calendar days before such consent is given in the case of a transfer to any other country,

unless the President states in his certification that an emergency exists which requires that consent to the proposed transfer become effective immediately in the national security interests of the United States. If the President states in his certification that such an emergency exists (thus waiving the requirements of clause (i) or (ii), as the case may be, and of subparagraph (B)) the President shall set

forth in the certification a detailed justification for his determination, including a description of the emergency circumstances which necessitate that consent to the proposed transfer become effective immediately and a discussion of the national security interests involved.

(B) Consent to a transfer subject to subparagraph (A) shall become effective after the end of the 15-day or 30-day period specified in subparagraph (A)(i) or (ii), as the case may be, only if the Congress does not enact, within that period, a joint resolution prohibiting the proposed transfer.

(C)(i) Any joint resolution under this paragraph shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

(ii) For the purpose of expediting the consideration and enactment of joint resolutions under this paragraph, a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

(4) This subsection shall not apply—

(A) to transfers of maintenance, repair, or overhaul defense services, or of the repair parts or other defense articles used in furnishing such services, if the transfer will not result in any increase, relative to the original specifications, in the military capability of the defense articles and services to be maintained, repaired, or overhauled;

(B) to temporary transfers of defense articles for the sole purpose of receiving maintenance, repair, or overhaul; or

(C) to arrangements among members of the North Atlantic Treaty Organization or between the North Atlantic Treaty Organization and any of its member countries—

(i) for cooperative cross servicing, or

(ii) for lead-nation procurement if the certification transmitted to the Congress pursuant to section 2776(b) of this title with regard to such lead-nation procurement identified the transferees on whose behalf the lead-nation procurement was proposed.

(5) In the case of a transfer to a member country of the North Atlantic Treaty Organization (NATO) or Australia, Japan, the Republic of Korea, Israel, or New Zealand that does not authorize a new sales territory that includes any country other than such countries, the limitations on consent of the President set forth in paragraphs (1) and (3)(A) shall apply only if the transfer is—

(A) a transfer of major defense equipment valued (in terms of its original acquisition cost) at $25,000,000 or more; or

(B) a transfer of defense articles or defense services valued (in terms of its original acquisition cost) at $100,000,000 or more).[1]

(e) Transfers without consent of President; report to Congress

If the President receives any information that a transfer of any defense article, or related training or other defense service, has been made without his consent as required under this section or under section 2314 of this title, he shall report such information immediately to the Speaker of the House of Representatives, the Committee on Foreign Affairs of the House of Representatives, and the Committee on Foreign Relations of the Senate.

(f) Sales and leases to countries in breach of nuclear nonproliferation agreements and treaties

No sales or leases shall be made to any country that the President has determined is in material breach of its binding commitments to the United States under international treaties or agreements concerning the nonproliferation of nuclear explosive devices (as defined in section 6305(4) of this title) and unsafeguarded special nuclear material (as defined in section 6305(8) of this title).

(g) Unauthorized use of articles

Any agreement for the sale or lease of any article on the United States Munitions List entered into by the United States Government after November 29, 1999, shall state that the United States Government retains the right to verify credible reports that such article has been used for a purpose not authorized under section 2754 of this title or, if such agreement provides that such article may

only be used for purposes more limited than those authorized under section 2754 of this title, for a purpose not authorized under such agreement.

(Pub. L. 90–629, ch. 1, §3, Oct. 22, 1968, 82 Stat. 1322; Pub. L. 91–672, §1, Jan. 12, 1971, 84 Stat. 2053; Pub. L. 93–189, §25(2), Dec. 17, 1973, 87 Stat. 729; Pub. L. 93–559, §45(a)(1), Dec. 30, 1974, 88 Stat. 1813; Pub. L. 94–329, title II, §§203(a), 204(a), (b)(1), title III, §304(b), June 30, 1976, 90 Stat. 735, 736, 754, 755; Pub. L. 95–92, §§15–18, Aug. 4, 1977, 91 Stat. 622; Pub. L. 96–92, §11, Oct. 29, 1979, 93 Stat. 705; Pub. L. 96–533, title I, §101, Dec. 16, 1980, 94 Stat. 3131; Pub. L. 97–113, title I, §§101(a), 102(a), 109(b)(2), Dec. 29, 1981, 95 Stat. 1519, 1520, 1526; Pub. L. 99–83, title I, §115(b)(2), title V, §503(b), Aug. 8, 1985, 99 Stat. 201, 221; Pub. L. 99–145, title XI, §1102(a)(3), (5), Nov. 8, 1985, 99 Stat. 710; Pub. L. 99–247, §1(a), Feb. 12, 1986, 100 Stat. 9; Pub. L. 99–661, div. A, title XIII, §1342(e), Nov. 14, 1986, 100 Stat. 3991; Pub. L. 100–461, title V, §577, Oct. 1, 1988, 102 Stat. 2268–45; Pub. L. 101–222, §2(b), Dec. 12, 1989, 103 Stat. 1896; Pub. L. 103–236, title VIII, §822(a)(1), Apr. 30, 1994, 108 Stat. 511; Pub. L. 104–164, title I, §§141(a), (b), 142, July 21, 1996, 110 Stat. 1430, 1431, 1433; Pub. L. 106–113, div. B, §1000(a)(7) [div. B, title XII, §1225], Nov. 29, 1999, 113 Stat. 1536, 1501A–499; Pub. L. 107–228, div. B, title XIV, §1405(a)(1), Sept. 30, 2002, 116 Stat. 1456; Pub. L. 110–429, title II, §203(b)(1), (2), Oct. 15, 2008, 122 Stat. 4845; Pub. L. 111–266, title I, §§102(a), 104(a), title III, §301, Oct. 8, 2010, 124 Stat. 2797, 2799, 2804; Pub. L. 113–276, title II, §208(a)(1), Dec. 18, 2014, 128 Stat. 2992.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) to (d), was in the original "this Act", meaning Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1321, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

Section 601(b) of the International Security Assistance and Arms Export Control Act of 1976, referred to in subsec. (d)(2)(D)(i), (3)(C)(i), is section 601(b) of Pub. L. 94–329, June 30, 1976, 90 Stat. 729, which made provision for expedited procedures in the Senate, and is not classified to the Code.

AMENDMENTS

2014—Subsecs. (a), (d)(1), (3)(A), (e). Pub. L. 113–276 substituted "the Speaker of the House of Representatives, the Committee on Foreign Affairs of the House of Representatives, and" for "the Speaker of the House of Representatives and".

2010—Subsec. (b). Pub. L. 111–266, §102(a), inserted "a treaty referred to in section 2778(j)(1)(C)(i) of this title permits such transfer without prior consent of the President, or if" after "under this chapter if" in introductory provisions.

Subsec. (b)(2). Pub. L. 111–266, §301(2), inserted "the Government of Israel," before "or the Government of New Zealand".

Subsec. (d)(2)(B). Pub. L. 111–266, §301(1), inserted "Israel," before "or New Zealand".

Subsec. (d)(3)(A). Pub. L. 111–266, §104(a), inserted in introductory provisions "or has been exempted from the licensing requirements of this chapter pursuant to a treaty referred to in section 2778(j)(1)(C)(i) of this title where such treaty does not authorize the transfer without prior United States Government approval" after "approved under section 2778 of this title".

Subsec. (d)(3)(A)(i). Pub. L. 111–266, §301(1), inserted "Israel," before "or New Zealand".

Subsec. (d)(5). Pub. L. 111–266, §301(1), inserted "Israel," before "or New Zealand" in introductory provisions.

2008—Subsec. (b)(2). Pub. L. 110–429, §203(b)(2), inserted "the Government of the Republic of Korea," before "or the Government of New Zealand".

Subsec. (d)(2)(B), (3)(A)(i), (5). Pub. L. 110–429, §203(b)(1), inserted "the Republic of Korea," before "or New Zealand".

2002—Subsec. (d)(1), (3)(A). Pub. L. 107–228, §1405(a)(1)(A), substituted "Subject to paragraph (5), the President may not" for "The President may not" in introductory provisions.

Subsec. (d)(5). Pub. L. 107–228, §1405(a)(1)(B), added par. (5).

1999—Subsec. (g). Pub. L. 106–113 added subsec. (g).

1996—Subsec. (b). Pub. L. 104–164, §142, added subsec. (b).

Subsec. (d)(2)(A). Pub. L. 104–164, §141(a)(1), struck out ", as provided for in sections 2776(b)(2) and 2776(b)(3) of this title" after "joint resolution".

Subsec. (d)(2)(B). Pub. L. 104–164, §141(a)(2), substituted "joint resolution prohibiting the proposed

transfer" for "law prohibiting the proposed transfer".

Subsec. (d)(2)(C), (D). Pub. L. 104–164, §141(a)(3), added subpars. (C) and (D).

Subsec. (d)(3)(A). Pub. L. 104–164, §141(b), designated existing provisions as subpar. (A), struck out "at least 30 calendar days" before "before giving such consent the President", substituted "a certification" for "a report" after "Committee on Foreign Relations of the Senate", and substituted "Such certification shall be submitted—

"(i) at least 15 calendar days before such consent is given in the case of a transfer to a country which is a member of the North Atlantic Treaty Organization or Australia, Japan, or New Zealand; and

"(ii) at least 30 calendar days before such consent is given in the case of a transfer to any other country,

unless the President states in his certification that an emergency exists which requires that consent to the proposed transfer become effective immediately in the national security interests of the United States. If the President states in his certification that such an emergency exists (thus waiving the requirements of clause (i) or (ii), as the case may be, and of subparagraph (B)) the President shall set forth in the certification a detailed justification for his determination, including a description of the emergency circumstances which necessitate that consent to the proposed transfer become effective immediately and a discussion of the national security interests involved." for "Such consent shall become effective then only if the Congress does not enact, within a 30-day period, a joint resolution, as provided for in sections 2776(c)(2) and 2776(c)(3) of this title prohibiting the proposed transfer."

Subsec. (d)(3)(B), (C). Pub. L. 104–164, §141(b)(3), added subpars. (B) and (C).

1994—Subsec. (f). Pub. L. 103–236 added subsec. (f).

1989—Subsec. (f). Pub. L. 101–222 struck out subsec. (f) which directed termination of sales under this chapter to countries granting sanctuary to international terrorists. See section 2780 of this title.

1988—Subsec. (d)(2)(A). Pub. L. 100–461, §577(1), substituted "joint resolution, as provided for in sections 2776(b)(2) and 2776(b)(3) of this title" for "law".

Subsec. (d)(3). Pub. L. 100–461, §577(2), inserted at end "Such consent shall become effective then only if the Congress does not enact, within a 30-day period, a joint resolution, as provided for in sections 2776(c)(2) and 2776(c)(3) of this title prohibiting the proposed transfer."

1986—Subsec. (a). Pub. L. 99–661 repealed section 1102(a)(3) of Pub. L. 99–145 and the amendments made by that section, and provided that this section shall apply as if that section had never been enacted. See 1985 Amendments note below.

Subsec. (d)(2)(A). Pub. L. 99–247, §1(a)(1), substituted "enact, within such 30-day period, a law prohibiting" for "adopt, within such 30-day period, a concurrent resolution disapproving".

Subsec. (d)(2)(B). Pub. L. 99–247, §1(a)(2), substituted "enact, within such fifteen-day period, a law prohibiting" for "adopt, within such fifteen-day period, a concurrent resolution disapproving".

1985—Subsec. (a). Pub. L. 99–83, §115(b)(2), in introductory text and in par. (2) inserted provisions relating to cooperative projects, and in par. (3) inserted "or service" after "such article" in two places.

Pub. L. 99–145, §1102(a)(3), which enacted amendments similar to those provided in Pub. L. 99–83, §115(b)(2), was repealed. See 1986 Amendments note above and former section 1105(a)(5) of Pub. L. 99–145 set out as a Repeals; Effective Date note under section 2752 of this title.

Subsec. (f). Pub. L. 99–83, §503(b), struck out ", credits, and guaranties" and ", credits, or guaranties" wherever appearing in pars. (1) and (2).

1981—Subsec. (a). Pub. L. 97–113, §109(b)(2), substituted in introductory text "sold or leased" for "sold", and in par. (4) "purchase or lease" for "purchase".

Subsec. (d)(1). Pub. L. 97–113, §101(a)(1), substituted in introductory text ", or under section 2314(a)(1) or 2314(a)(4) of this title, to a transfer of any major defense equipment valued (in terms of its original acquisition cost) at $14,000,000 or more, or any defense article or related training or other defense service valued (in terms of its original acquisition cost) at $50,000,000 or more," for "to a transfer of a defense article, or related training or other defense service, sold under this chapter and may not give his consent to such a transfer under section 2314(a)(1) or (a)(4) of this title", in subpar. (B) "a description of the article or service proposed to be transferred, including its acquisition cost" for "a description of the defense article or related training or other defense service proposed to be transferred, including the original acquisition cost of such defense article or related training or other defense service", in subpar. (C) "article or service" for "defense article or related training or other defense service", and in provision following subpar. (E) "articles or services" for "defense articles, or related training or other defense services,".

Subsec. (d)(2). Pub. L. 97–113, §102(a), designated existing provisions as subpar. (A), substituted "Except as provided in subparagraph (B), unless" for "Unless", and added subpar. (B).

Subsec. (d)(3). Pub. L. 97–113, §101(a)(2), substituted "transfer of any major defense equipment valued (in

terms of its original acquisition cost) at $14,000,000 or more, or of any defense article or defense service valued (in terms of its original acquisition cost) at $50,000,000 or more" for "transfer to a third country of a defense article or a defense service valued (in terms of its original acquisition costs) at $25,000,000 or more, or of major defense equipment valued (in terms of its original acquisition costs) at $7,000,000 or more".

Subsec. (d)(4). Pub. L. 97–113, §101(a)(3), struck out subpar. (D), which provided that subsec. (d) of this section not apply to transfers to the North Atlantic Treaty Organization, any member country of such organization, Japan, Australia, or New Zealand, of any major defense equipment valued (in terms of its original acquisition cost) at less than $7,000,000 or of any defense article or related training or other defense service valued (in terms of its original acquisition cost) at less than $25,000,000.

1980—Subsec. (d)(1). Pub. L. 96–533, §101(a)(2)(A), substituted "pursuant to this paragraph" for "pursuant to this subsection".

Subsec. (d)(2). Pub. L. 96–533, §101(a)(2)(B), substituted "paragraph (1) of this subsection" for "this subsection".

Subsec. (d)(3). Pub. L. 96–533, §101(a)(1)(B), added par. (3). Former par. (3) redesignated (4).

Subsec. (d)(4). Pub. L. 96–533, §101(a)(1)(A), (b), redesignated former par. (3) as (4) and, in par (4) as so redesignated, added subpar. (D).

1979—Subsec. (d)(3)(C). Pub. L. 96–92 made subsec. (d) of this section inapplicable to arrangements between the North Atlantic Treaty Organization and any of its member countries, incorporated existing text in provisions designated cl. (i) and added cl. (ii).

1977—Subsec. (b). Pub. L. 95–92, §15, struck out subsec. (b) which related to prohibitions on sales, etc., to countries seizing or fining American fishing vessels for fishing in waters more than twelve miles from their coastlines.

Subsec. (d). Pub. L. 95–92, §§16, 17, redesignated existing provisions as par. (1), struck out ", 30 days prior to giving such consent," before "the President submits", redesignated pars. (1) to (5) as subpars. (A) to (E), respectively, and added pars. (2) and (3).

Subsec. (f). Pub. L. 95–92, §18, added subsec. (f).

1976—Subsec. (a). Pub. L. 94–329, §§203(a), 204(b)(1), inserted in par. (2) "or related training or other defense service" after "article" wherever appearing and struck out provisions following par. (4) relating to the President's notification of his consent to transfer war implements to another country, in writing, to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate indicating his justification for the transfer and the particular war implement transferred.

Subsec. (c). Pub. L. 94–329, §304(b)(1), provided that the President, by so stating in writing to Congress, or Congress, by joint resolution, terminate credits, guaranties or sales upon determining a violation, permitted cash sales and deliveries pursuant to previous sales to be made if the President certifies in writing to Congress that termination thereof would be adverse to national security unless Congress adopts or has adopted a joint resolution determining such eligibility, and specified conditions for reinstatement of eligibility.

Subsec. (d). Pub. L. 94–329, §§204(a), 304(b)(2), added subsec. (d). Former subsec. (d), which related to conditions for reinstatement after a determination of ineligibility, was repealed and is now covered by subsec. (c).

Subsec. (e). Pub. L. 94–329, §§204(a), 304(b)(2), added subsec. (e).

1974—Subsec. (d). Pub. L. 93–559 struck out first sentence provision respecting furnishing of sophisticated weapons to countries in violation of agreements pursuant to subsec. (a)(2) of this section, section 2314(a) of this title, or other similar provisions and substituted "in accordance with subsection (c) of this section" for "in accordance with this subsection".

1973—Subsec. (a). Pub. L. 93–189, §25(2)(A)–(C), in par. (2) inserted requirement not to use or permit the use of such articles for purposes other than those for which furnished, redesignated former par. (3) as (4), added a new par. (3), and following par. (4), as so redesignated, inserted provisions relating to Presidential consideration of requests prior to consent under par. (2).

Subsecs. (c), (d). Pub. L. 93–189, §25(2)(D), added subsecs. (c) and (d).

1971—Subsec. (b). Pub. L. 91–672 extended the retaliatory measures against countries seizing, taking custody or fining American vessels for fishing outside of twelve miles of their coast, to sales, credits, guaranties, and laid down a period of one year as the extent of such prohibition, and added assurances of future restraint received from such countries as an additional ground for waiver, and provided exception that the prohibition will not apply in cases governed by international agreements to which the United States is a party.

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–164, title I, §141(f), July 21, 1996, 110 Stat. 1433, provided that: "The amendments made by

this section [amending this section and sections 2776, 2796a, and 2796b of this title] apply with respect to certifications required to be submitted on or after the date of the enactment of this Act [July 21, 1996]."

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–236 effective 60 days after Apr. 30, 1994, see section 831 of Pub. L. 103–236, set out as an Effective Date note under section 6301 of this title.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–83 effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as a note under section 2151–1 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94–329, title II, §203(a), June 30, 1976, 90 Stat. 735, provided that the amendment made by that section is effective July 1, 1976.

DELEGATION OF FUNCTIONS

For delegation of certain functions of the President under this section, see section 1(a) of Ex. Ord. No. 13637, Mar. 8, 2013, 78 F.R. 16129, set out as a note under section 2751 of this title. Functions were previously delegated by Ex. Ord. No. 11958, which was formerly set out as a note under section 2751 of this title and was revoked, subject to a savings provision, by section 4 of Ex. Ord. No. 13637.

ENHANCED DEFENSE COOPERATION

Pub. L. 114–123, §5, Feb. 18, 2016, 130 Stat. 118, provided that:

"(a) IN GENERAL.—During the 3-year period beginning on the date of the enactment of this Act [Feb. 18, 2016], the Hashemite Kingdom of Jordan shall be treated as if it were a country listed in the provisions of law described in subsection (b) for purposes of applying and administering such provisions of law.

"(b) ARMS EXPORT CONTROL ACT.—The provisions of law described in this subsection are—

"(1) subsections (b)(2), (d)(2)(B), (d)(3)(A)(i), and (d)(5) of section 3 of the Arms Export Control Act (22 U.S.C. 2753);

"(2) subsections (e)(2)(A), (h)(1)(A), and (h)(2) of section 21 of such Act (22 U.S.C. 2761);

"(3) subsections (b)(1), (b)(2), (b)(6), (c), and (d)(2)(A) of section 36 of such Act (22 U.S.C. 2776);

"(4) section 62(c)(1) of such Act (22 U.S.C. 2796a(c)(1)); and

"(5) section 63(a)(2) of such Act (22 U.S.C. 2796b(a)(2))."

PILOT PROGRAM ON REPAIR, OVERHAUL, AND REFURBISHMENT OF DEFENSE ARTICLES FOR SALE OR TRANSFER TO ELIGIBLE FOREIGN COUNTRIES AND ENTITIES

Pub. L. 112–239, div. A, title XII, §1285, Jan. 2, 2013, 126 Stat. 2036, provided that:

"(a) PILOT PROGRAM AUTHORIZED.—The Secretary of Defense may carry out a pilot program to repair, overhaul, or refurbish in-stock defense articles in anticipation of the sale or transfer of such defense articles to eligible foreign countries or international organizations under law.

"(b) FUND FOR SUPPORT OF PROGRAM AUTHORIZED.—The Secretary of Defense may establish and administer a fund to be known as the 'Special Defense Repair Fund' (in this section referred to as the 'Fund') to support the program authorized by subsection (a).

"(c) CREDITS TO FUND.—

"(1) IN GENERAL.—Subject to paragraphs (2) and (3), the following shall be credited to the Fund:

"(A) Such amounts, not to exceed $50,000,000, from amounts authorized to be appropriated for overseas contingency operations for fiscal year 2013 as the Secretary of Defense considers appropriate, and reprogrammed under a reprogramming authority provided by another provision of this Act or by other law.

"(B) Notwithstanding section 114(c) of title 10, United States Code, any collection from the sale or transfer of defense articles from Department of Defense stocks repaired, overhauled, or refurbished with amounts from the Fund that are not intended to be replaced which sale or transfer is made pursuant to section 21(a)(1)(A) of the Arms Export Control Act (22 U.S.C. 2761(a)(1)(A)), the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), or another provision of law.

"(C) Notwithstanding section 37(a) of the Arms Export Control Act (22 U.S.C. 2777(a)), any cash payment from the sale or transfer of defense articles from Department of Defense stocks repaired, overhauled, or refurbished with amounts from the Fund that are intended to be replaced.

"(2) LIMITATION ON AMOUNTS CREDITABLE FROM SALE OR TRANSFER OF

ARTICLES.—

"(A) CREDITS IN CONNECTION WITH ARTICLES NOT TO BE REPLACED.—The amount credited to the Fund under paragraph (1)(B) in connection with a collection from the sale or transfer of defense articles may not exceed the cost incurred by the Department of Defense in repairing, overhauling, or refurbishing such defense articles under the program authorized by subsection (a).

"(B) CREDITS IN CONNECTION WITH ARTICLES TO BE REPLACED.—The amount credited to the Fund under paragraph (1)(C) in connection with a sale or transfer of defense articles may not exceed the amounts from the Fund used to repair, overhaul, or refurbish such defense articles.

"(3) LIMITATION ON SIZE OF FUND.—The total amount in the Fund at any time may not exceed $50,000,000.

"(4) TREATMENT OF AMOUNTS CREDITED.—Amounts credited to the Fund under this subsection shall be merged with amounts in the Fund, and shall remain available until expended.

"(5) AUTHORIZATION TO PURCHASE SERVICES FROM DOD WORKING CAPITAL FUND ACTIVITIES.—The Fund shall be considered an authorized customer of Department of Defense Working Capital Fund activities. Prices of goods and services sold by Working Capital Fund activities to the Fund shall reflect Foreign Military Sales pricing guidelines, as promulgated by the Department of Defense Financial Management Regulation, and other applicable guidelines.

"(d) NONAVAILABILITY OF AMOUNTS IN FUND FOR STORAGE, MAINTENANCE, AND RELATED COSTS.—Following the repair, overhaul, or refurbishment of defense articles under the program authorized by subsection (a), amounts in the Fund may not be used to pay costs of storage and maintenance of such defense articles or any other costs associated with the preservation or preparation for sale or transfer of such defense articles.

"(e) SALES OR TRANSFERS OF DEFENSE ARTICLES.—

"(1) IN GENERAL.—Any sale or transfer of defense articles repaired, overhauled, or refurbished under the program authorized by subsection (a) shall be in accordance with—

"(A) the Arms Export Control Act (22 U.S.C. 2751 et seq.);

"(B) the Foreign Assistance Act of 1961; or

"(C) another provision of law authorizing such sale or transfer.

"(2) SECRETARY OF STATE CONCURRENCE REQUIRED FOR CERTAIN SALES OR TRANSFERS TO FOREIGN COUNTRIES.—If the sale or transfer of defense articles occurs in accordance with a provision of law referred to in paragraph (1)(C) that does not otherwise require the concurrence of the Secretary of State for the sale or transfer, the sale or transfer may be made only with the concurrence of the Secretary of State.

"(f) TRANSFERS OF AMOUNTS.—

"(1) TRANSFER TO OTHER DEPARTMENT OF DEFENSE ACCOUNTS.—Amounts in the Fund may be transferred to any Department of Defense account for use in carrying out the program authorized by subsection (a). Any amount so transferred shall be merged with amounts in the account to which transferred, and shall be available for the same purposes and the same time period as amounts in the account to which transferred.

"(2) TRANSFER FROM OTHER DEPARTMENT OF DEFENSE ACCOUNTS.—Upon a determination by the Secretary of Defense with respect to an amount transferred under paragraph (1) that all or part of such transfer is not necessary for the purposes transferred, such amount may be transferred back to the Fund. Any amount so transferred shall be merged with amounts in the Fund, and shall remain available until expended.

"(g) CERTAIN EXCESS PROCEEDS TO BE CREDITED TO SPECIAL DEFENSE ACQUISITION FUND.—Any collection from the sale or transfer of defense articles that are not intended to be replaced in excess of the amount creditable to the Fund under subsection (c)(2)(A) shall be credited to the Special Defense Acquisition Fund established pursuant to chapter 5 of the Arms Export Control Act (22 U.S.C. 2795 et seq.).

"(h) MATERIEL EFFICIENCIES AND DUPLICATION.—In administering the program authorized by subsection (a), the Secretary of Defense shall ensure to the maximum extent possible that purchases made utilizing the Fund utilize existing Defense Logistics Agency contracts. The Secretary shall also ensure that none of the activities carried out under the program authorized by subsection (a) are duplicative in nature to those performed by other military departments or Defense Agencies.

"(i) CONDUCT BY PUBLIC OR PRIVATE SECTOR FACILITIES OR ENTITIES.—The repair, overhaul, and refurbishment of defense articles under the program authorized by subsection (a) may be conducted by a facility or entity in the public sector or the private sector, consistent with the requirements of chapter 146 of title 10, United States Code.

"(j) REPORTS.—

"(1) ANNUAL REPORT.—Not later than 45 days after the end of each fiscal year through the date of expiration specified in subsection (l), the Secretary of Defense shall submit to the appropriate congressional committees a report on the authorities under this section during such fiscal year. Each report shall include, for the fiscal year covered by such report, the following:

"(A) The types and quantities of defense articles repaired, overhauled, or refurbished under the program authorized by subsection (a).

"(B) The value of the repair, overhaul, or refurbishment performed under the program.

"(C) The amount of operation and maintenance funds credited to the Fund under subsection (c)(1)(A).

"(D) The amount of any collections from the sale or transfer of defense articles repaired, overhauled, or refurbished under the program that was credited to the Fund under subsection (c)(1)(B).

"(E) The amount of any cash payments from the sale or transfer of defense articles repaired, overhauled, or refurbished under the program that was credited to the Fund under subsection (c)(1)(C).

"(2) ASSESSMENT REPORT.—Not later than February 1, 2015, the Secretary of Defense shall submit to the appropriate congressional committees a report on the operation of the authorities in this section. The report shall include an assessment of the effectiveness of the authorities in meeting the objectives of the program authorized by subsection (a). At a minimum, the assessment shall address the following:

"(A) Cost efficiencies generated by utilization of the Fund.

"(B) Time efficiencies gained in the delivery of defense articles under the program.

"(C) An explanation of all amounts transferred to and from the Fund pursuant to subsection (f).

"(D) A detailed account of excess proceeds credited to the Special Defense Acquisition Fund pursuant to section (g).

"(E) A list of defense articles, by quantity and type, repaired under the program and an identification of the foreign countries or international organizations to which the repaired defense articles were sold or transferred.

"(3) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this subsection, the term 'appropriate congressional committees' means—

"(A) the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives]; and

"(B) the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives.

"(k) DEFENSE ARTICLE DEFINED.—In this section, the term 'defense article' has the meaning given that term in section 47(3) of the Arms Export Control Act (22 U.S.C. 2794(3)).

"(l) EXPIRATION OF AUTHORITY.—The authority to carry out the program authorized by subsection (a), and to use amounts in the Fund in support of the program, shall expire on September 30, 2015."

SECURITY COOPERATION WITH THE REPUBLIC OF KOREA

Pub. L. 110–429, title II, §203(a), Oct. 15, 2008, 122 Stat. 4844, provided that: "Congress makes the following findings:

"(1) Close and continuing defense cooperation between the United States and the Republic of Korea continues to be in the national security interest of the United States.

"(2) The Republic of Korea was designated a major non-NATO ally in 1987, the first such designation.

"(3) The Republic of Korea has been a major purchaser of United States defense articles and services through the Foreign Military Sales (FMS) program, totaling $6,900,000,000 in deliveries over the last 10 years.

"(4) Purchases of United States defense articles, services, and major defense equipment facilitate and increase the interoperability of Republic of Korea military forces with the United States Armed Forces.

"(5) Congress has previously enacted important, special defense cooperation arrangements for the Republic of Korea, as in the Act entitled 'An Act to authorize the transfer of items in the War Reserves Stockpile for Allies, Korea', approved December 30, 2005 (Public Law 109–159; 119 Stat. 2955), which authorized the President, notwithstanding section 514 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321h), to transfer to the Republic of Korea certain defense items to be included in a war reserve stockpile for that country.

"(6) Enhanced support for defense cooperation with the Republic of Korea is important to the national security of the United States, including through creation of a status in law for the Republic of Korea similar to the countries in the North Atlantic Treaty Organization, Japan, Australia, and New Zealand, with respect

to consideration by Congress of foreign military sales to the Republic of Korea."

REPORTING REQUIREMENTS

Pub. L. 105–277, div. A, §101(d) [title V, §594], Oct. 21, 1998, 112 Stat. 2681–150, 2681–215, as amended by Pub. L. 106–31, title V, §5002(c)–(e), May 21, 1999, 113 Stat. 109, provided that:

"(a) NOTIFICATION.—No less than 15 days prior to the export to any country identified pursuant to subparagraph (c) of any lethal defense article or service in the amount of $14,000,000 or less, the President shall provide a detailed notification to the Committees on Appropriations and Foreign Relations of the Senate and the Committees on Appropriations and International Relations [now Committee on Foreign Affairs] of the House of Representatives.

"(b) CONTENT OF NOTIFICATION.—A detailed notification transmitted pursuant to subsection (a) shall include the same type and quantity of information required of a notification submitted pursuant to section 36(b) of the Arms Export Control Act (22 U.S.C. 2776(b)).

"(c) COUNTRIES DEFINED.—This section shall apply to any country that is—

"(1) identified in section 520 of this Act [Pub. L. 105–277, 112 Stat. 2681–176], or a comparable provision in a subsequent appropriations Act; or

"(2) currently ineligible, in whole or in part, under an annual appropriations Act to receive funds for International Military Education and Training or under the Foreign Military Financing Program, excluding high-income countries as defined pursuant to section 546(b) of the Foreign Assistance Act of 1961 [22 U.S.C. 2347e(b)].

"(d) EXCLUSIONS.—Information reportable under title V of the National Security Act of 1947 [50 U.S.C. 3091 et seq.] is excluded from the requirements of this section."

[For delegation of functions of President under section 101(d) [title V, §594] of div. A of Pub. L. 105–277, set out above, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.]

ELIGIBILITY OF BALTIC STATES FOR NONLETHAL DEFENSE ARTICLES

Pub. L. 102–511, title IX, §906, Oct. 24, 1992, 106 Stat. 3356, provided that:

"(a) ELIGIBILITY.—Estonia, Latvia, and Lithuania shall each be eligible—

"(1) to purchase, or to receive financing for the purchase of, nonlethal defense articles—

"(A) under the Arms Export Control Act (22 U.S.C. 2751 et seq.), without regard to section 3(a)(1) of that Act [22 U.S.C. 2753(a)(1)], or

"(B) under section 503 of the Foreign Assistance Act of 1961 (22 U.S.C. 2311), without regard to the requirement in subsection (a) of that section for a Presidential finding; and

"(2) to receive nonlethal excess defense articles transferred under section 519 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321m), without regard to the restrictions in subsection (a) of that section.

"(b) DEFINITIONS.—As used in this section—

"(1) the term 'defense article' has the same meaning given to that term in section 47(3) of the Arms Export Control Act (22 U.S.C. 2794(3)); and

"(2) the term 'excess defense article' has the same meaning given to that term in section 644(g) of the Foreign Assistance Act of 1961 (22 U.S.C. 2403(g))."

[1] *So in original. The closing parenthesis probably should not appear.*

§2754. Purposes for which military sales or leases by the United States are authorized; report to Congress

Defense articles and defense services shall be sold or leased by the United States Government under this chapter to friendly countries solely for internal security, for legitimate self-defense, for preventing or hindering the proliferation of weapons of mass destruction and of the means of delivering such weapons, to permit the recipient country to participate in regional or collective arrangements or measures consistent with the Charter of the United Nations, or otherwise to permit the recipient country to participate in collective measures requested by the United Nations for the purpose of maintaining or restoring international peace and security, or for the purpose of enabling foreign military forces in less developed friendly countries to construct public works and to engage

in other activities helpful to the economic and social development of such friendly countries. It is the sense of the Congress that such foreign military forces should not be maintained or established solely for civic action activities and that such civic action activities not significantly detract from the capability of the military forces to perform their military missions and be coordinated with and form part of the total economic and social development effort: *Provided*, That none of the funds contained in this authorization shall be used to guarantee, or extend credit, or participate in an extension of credit in connection with any sale of sophisticated weapons systems, such as missile systems and jet aircraft for military purposes, to any underdeveloped country other than Greece, Turkey, Iran, Israel, the Republic of China, the Philippines and Korea unless the President determines that such financing is important to the national security of the United States and reports within thirty days each such determination to the Congress.

(Pub. L. 90–629, ch. 1, §4, Oct. 22, 1968, 82 Stat. 1322; Pub. L. 97–113, title I, §109(b)(3), Dec. 29, 1981, 95 Stat. 1526; Pub. L. 107–228, div. B, title XII, §1202(a), Sept. 30, 2002, 116 Stat. 1427.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1321, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

AMENDMENTS

2002—Pub. L. 107–228 inserted "for preventing or hindering the proliferation of weapons of mass destruction and of the means of delivering such weapons," after "legitimate self-defense," in first sentence.

1981—Pub. L. 97–113 substituted "sold or leased" for "sold" in first sentence.

§2755. Discrimination prohibited if based on race, religion, national origin, or sex

(a) Congressional declaration of policy

It is the policy of the United States that no sales should be made, and no credits (including participations in credits) or guaranties extended to or for any foreign country, the laws, regulations, official policies, or governmental practices of which prevent any United States person (as defined in section 7701(a)(30) of title 26) from participating in the furnishing of defense articles or defense services under this chapter on the basis of race, religion, national origin, or sex.

(b) Employment of personnel; required contractual provision

(1) No agency performing functions under this chapter shall, in employing or assigning personnel to participate in the performance of any such function, whether in the United States or abroad, take into account the exclusionary policies or practices of any foreign government where such policies or practices are based upon race, religion, national origin, or sex.

(2) Each contract entered into by any such agency for the performance of any function under this chapter shall contain a provision to the effect that no person, partnership, corporation, or other entity performing functions pursuant to such contract, shall, in employing or assigning personnel to participate in the performance of any such function, whether in the United States or abroad, take into account the exclusionary policies or practices of any foreign government where such policies or practices are based upon race, religion, national origin, or sex.

(c) Report by President; contents

The President shall promptly transmit reports to the Speaker of the House of Representatives, the Committee on Foreign Affairs of the House of Representatives, and the chairman of the Committee on Foreign Relations of the Senate concerning any instance in which any United States person (as defined in section 7701(a)(30) of title 26) is prevented by a foreign government on the basis of race, religion, national origin, or sex, from participating in the performance of any sale or licensed transaction under this chapter or any import or export under a treaty referred to in section

2778(j)(1)(C)(i) of this title. Such reports shall include (1) a description of the facts and circumstances of any such discrimination, (2) the response thereto on the part of the United States or any agency or employee thereof, and (3) the result of such response, if any.

(d) Congressional request for information from President; information required; 60 day period; failure to supply information; termination or restriction of sale

(1) Upon the request of the Committee on Foreign Relations of the Senate or the Committee on Foreign Affairs of the House of Representatives, the President shall, within 60 days after receipt of such request, transmit to both such committees a statement, prepared with the assistance of the Secretary of State, with respect to the country designated in such request, setting forth—

(A) all the available information about the exclusionary policies or practices of the government of such country when such policies or practices are based upon race, religion, national origin or sex and prevent any such person from participating in the performance of any sale or licensed transaction under this chapter;

(B) the response of the United States thereto and the results of such response;

(C) whether, in the opinion of the President, notwithstanding any such policies or practices—

(i) extraordinary circumstances exist which necessitate a continuation of such sale or licensed transaction, and, if so, a description of such circumstances and the extent to which such sale or licensed transaction should be continued (subject to such conditions as Congress may impose under this section), and

(ii) on all the facts it is in the national interest of the United States to continue such sale or licensed transaction; and

(D) such other information as such committee may request.

(2) In the event a statement with respect to a sale or licensed transaction is requested pursuant to paragraph (1) of this subsection but is not transmitted in accordance therewith within 60 days after receipt of such request, such sale or licensed transaction shall be suspended unless and until such statement is transmitted.

(3)(A) In the event a statement with respect to a sale or licensed transaction is transmitted under paragraph (1) of this subsection, the Congress may at any time thereafter adopt a joint resolution terminating or restricting such sale or licensed transaction.

(B) Any such resolution shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

(C) The term "certification", as used in section 601 of such Act, means, for the purposes of this paragraph, a statement transmitted under paragraph (1) of this subsection.

(Pub. L. 90–629, ch. 1, §5, as added Pub. L. 94–329, title III, §302(b), June 30, 1976, 90 Stat. 752; amended Pub. L. 95–105, title I, §109(a)(5), Aug. 17, 1977, 91 Stat. 846; Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 103–236, title I, §162(f), Apr. 30, 1994, 108 Stat. 405; Pub. L. 103–437, §9(a)(7), Nov. 2, 1994, 108 Stat. 4588; Pub. L. 111–266, title I, §104(b), Oct. 8, 2010, 124 Stat. 2799; Pub. L. 113–276, title II, §208(a)(1), Dec. 18, 2014, 128 Stat. 2992.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1321, as amended, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

Section 601(b) of the International Security Assistance and Arms Export Control Act of 1976, referred to in subsec. (d)(3)(B), (C), is section 601(b) of Pub. L. 94–329, June 30, 1976, 90 Stat. 729, which made provision for expedited procedures in the Senate, and was not classified to the Code.

AMENDMENTS

2014—Subsec. (c). Pub. L. 113–276 substituted "the Speaker of the House of Representatives, the Committee on Foreign Affairs of the House of Representatives, and" for "the Speaker of the House of Representatives and".

2010—Subsec. (c). Pub. L. 111–266 inserted "or any import or export under a treaty referred to in section

2778(j)(1)(C)(i) of this title" after "under this chapter".

1994—Subsec. (d)(1). Pub. L. 103–437 substituted "Foreign Affairs" for "International Relations" in introductory provisions.

Pub. L. 103–236 substituted "Secretary of State" for "Assistant Secretary of State for Human Rights and Humanitarian Affairs" in introductory provisions.

1986—Subsecs. (a), (c). Pub. L. 99–514 substituted "Internal Revenue Code of 1986" for "Internal Revenue Code of 1954", which for purposes of codification was translated as "title 26" thus requiring no change in text.

1977—Subsec. (d)(1). Pub. L. 95–105 substituted "Assistant Secretary of State" for "Coordinator" in introductory provisions.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–236 applicable with respect to officials, offices, and bureaus of Department of State when executive orders, regulations, or departmental directives implementing the amendments by sections 161 and 162 of Pub. L. 103–236 become effective, or 90 days after Apr. 30, 1994, whichever comes earlier, see section 161(b) of Pub. L. 103–236, as amended, set out as a note under section 2651a of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of the President under this section, see section 1(b) of Ex. Ord. No. 13637, Mar. 8, 2013, 78 F.R. 16129, set out as a note under section 2751 of this title. Functions were previously delegated by Ex. Ord. No. 11958, which was formerly set out as a note under section 2751 of this title and was revoked, subject to a savings provision, by section 4 of Ex. Ord. No. 13637.

§2756. Foreign intimidation and harassment of individuals in United States

No letters of offer may be issued, no credits or guarantees may be extended, and no export licenses may be issued under this chapter with respect to any country determined by the President to be engaged in a consistent pattern of acts of intimidation or harassment directed against individuals in the United States. The President shall report any such determination promptly to the Speaker of the House of Representatives, the Committee on Foreign Affairs of the House of Representatives, and to the chairman of the Committee on Foreign Relations of the Senate.

(Pub. L. 90–629, ch. 1, §6, as added Pub. L. 97–113, title I, §115, Dec. 29, 1981, 95 Stat. 1528; amended Pub. L. 113–276, title II, §208(a)(1), Dec. 18, 2014, 128 Stat. 2992.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1321, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

AMENDMENTS

2014—Pub. L. 113–276 substituted "the Speaker of the House of Representatives, the Committee on Foreign Affairs of the House of Representatives, and" for "the Speaker of the House of Representatives and".

SUBCHAPTER II—FOREIGN MILITARY SALES AUTHORIZATIONS

§2761. Sales from stocks

(a) Eligible countries or international organizations; basis of payment; valuation of certain defense articles

(1) The President may sell defense articles and defense services from the stocks of the Department of Defense and the Coast Guard to any eligible country or international organization if such country or international organization agrees to pay in United States dollars—

(A) in the case of a defense article not intended to be replaced at the time such agreement is entered into, not less than the actual value thereof;

(B) in the case of a defense article intended to be replaced at the time such agreement is entered into, the estimated cost of replacement of such article, including the contract or production costs less any depreciation in the value of such article; or

(C) in the case of the sale of a defense service, the full cost to the United States Government of furnishing such service, except that in the case of training sold to a purchaser who is concurrently receiving assistance under chapter 5 of part II of the Foreign Assistance Act of 1961 [22 U.S.C. 2347 et seq.] or to any high-income foreign country (as described in that chapter), only those additional costs that are incurred by the United States Government in furnishing such assistance.

(2) For purposes of subparagraph (A) of paragraph (1), the actual value of a naval vessel of 3,000 tons or less and 20 years or more of age shall be considered to be not less than the greater of the scrap value or fair value (including conversion costs) of such vessel, as determined by the Secretary of Defense.

(b) Time of payment

Except as provided by subsection (d) of this section, payment shall be made in advance or, if the President determines it to be in the national interest, upon delivery of the defense article or rendering of the defense service.

(c) Personnel performing defense services sold as prohibited from performing combat activities

(1) Personnel performing defense services sold under this chapter may not perform any duties of a combatant nature, including any duties related to training and advising that may engage United States personnel in combat activities, outside the United States in connection with the performance of those defense services.

(2) Within forty-eight hours of the existence of, or a change in status of significant hostilities or terrorist acts or a series of such acts, which may endanger American lives or property, involving a country in which United States personnel are performing defense services pursuant to this chapter or the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.], the President shall submit to the Speaker of the House of Representatives and to the President pro tempore of the Senate a report, in writing, classified if necessary, setting forth—

(A) the identity of such country;

(B) a description of such hostilities or terrorist acts; and

(C) the number of members of the United States Armed Forces and the number of United States civilian personnel that may be endangered by such hostilities or terrorist acts.

(d) Billings; interest after due date, rates of interest and extension of due date

If the President determines it to be in the national interest pursuant to subsection (b) of this section, billings for sales made under letters of offer issued under this section after June 30, 1976, may be dated and issued upon delivery of the defense article or rendering of the defense service and shall be due and payable upon receipt thereof by the purchasing country or international organization. Interest shall be charged on any net amount due and payable which is not paid within sixty days after the date of such billing. The rate of interest charged shall be a rate not less than a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding short-term obligations of the United States as of the last day of the month preceding the billing and shall be computed from the date of billing. The President may extend such sixty-day period to one hundred and twenty days if he determines that emergency requirements of the purchaser for acquisition of such defense articles or defense services exceed the ready availability to the purchaser of funds sufficient to pay the United States in full for them within such sixty-day period and submits that determination to the Congress together with a special emergency request for the authorization and appropriation of additional funds to finance such purchases under this chapter.

(e) Charges; reduction or waiver

(1) After September 30, 1976, letters of offer for the sale of defense articles or for the sale of defense services that are issued pursuant to this section or pursuant to section 2762 of this title shall include appropriate charges for—

(A) administrative services, calculated on an average percentage basis to recover the full estimated costs (excluding a pro rata share of fixed base operation costs) of administration of sales made under this chapter to all purchasers of such articles and services as specified in section 2792(b) of this title and section 2792(c) of this title;

(B) a proportionate amount of any nonrecurring costs of research, development, and production of major defense equipment (except for equipment wholly paid for either from funds transferred under section 503(a)(3) of the Foreign Assistance Act of 1961 [22 U.S.C. 2311(a)(3)] or from funds made available on a nonrepayable basis under section 2763 of this title); and

(C) the recovery of ordinary inventory losses associated with the sale from stock of defense articles that are being stored at the expense of the purchaser of such articles.

(2)(A) The President may reduce or waive the charge or charges which would otherwise be considered appropriate under paragraph (1)(B) for particular sales that would, if made, significantly advance United States Government interests in North Atlantic Treaty Organization standardization, standardization with the Armed Forces of Japan, Australia, the Republic of Korea, Israel, or New Zealand in furtherance of the mutual defense treaties between the United States and those countries, or foreign procurement in the United States under coproduction arrangements.

(B) The President may waive the charge or charges which would otherwise be considered appropriate under paragraph (1)(B) for a particular sale if the President determines that—

(i) imposition of the charge or charges likely would result in the loss of the sale; or

(ii) in the case of a sale of major defense equipment that is also being procured for the use of the Armed Forces, the waiver of the charge or charges would (through a resulting increase in the total quantity of the equipment purchased from the source of the equipment that causes a reduction in the unit cost of the equipment) result in a savings to the United States on the cost of the equipment procured for the use of the Armed Forces that substantially offsets the revenue foregone by reason of the waiver of the charge or charges.

(C) The President may waive, for particular sales of major defense equipment, any increase in a charge or charges previously considered appropriate under paragraph (1)(B) if the increase results from a correction of an estimate (reasonable when made) of the production quantity base that was used for calculating the charge or charges for purposes of such paragraph.

(3)(A) The President may waive the charges for administrative services that would otherwise be required by paragraph (1)(A) in connection with any sale to the North Atlantic Treaty Organization (NATO) Support Organization and its executive agencies in support of—

(i) a support partnership agreement; or

(ii) a NATO/SHAPE project.

(B) The Secretary of Defense may reimburse the fund established to carry out section 2792(b) of this title in the amount of the charges waived under subparagraph (A) of this paragraph. Any such reimbursement may be made from any funds available to the Department of Defense.

(C) As used in this paragraph—

(i) the term "weapon system partnership agreement" means an agreement between two or more member countries of the North Atlantic Treaty Organization (NATO) Support Organization and its executive agencies that—

(I) is entered into pursuant to the terms of the charter of that organization; and

(II) is for the common logistic support of activities common to the participating countries; and

(ii) the term "NATO/SHAPE project" means a common-funded project supported by allocated credits from North Atlantic Treaty Organization bodies or by host nations with NATO Infrastructure funds.

(f) Public inspection of contracts

Any contracts entered into between the United States and a foreign country under the authority of

this section or section 2762 of this title shall be prepared in a manner which will permit them to be made available for public inspection to the fullest extent possible consistent with the national security of the United States.

(g) North Atlantic Treaty Organization standardization agreements, similar agreements; reimbursement for costs; transmittal to Congress

The President may enter into North Atlantic Treaty Organization standardization agreements in carrying out section 814 of the Act of October 7, 1975 (Public Law 94–106), and may enter into similar agreements with countries which are major non-NATO allies, for the cooperative furnishing of training on bilateral or multilateral basis, if the financial principles of such agreements are based on reciprocity. Such agreements shall include reimbursement for all direct costs but may exclude reimbursement for indirect costs, administrative surcharges, and costs of billeting of trainees (except to the extent that members of the United States Armed Forces occupying comparable accommodations are charged for such accommodations by the United States). Each such agreement shall be transmitted promptly to the Speaker of the House of Representatives, the Committee on Foreign Affairs of the House of Representatives, and the Committees on Appropriations, Armed Services, and Foreign Relations of the Senate.

(h) Reciprocal quality assurance, inspection, contract administrative services, and contract audit defense services; catalog data and services

(1) The President is authorized to provide (without charge) quality assurance, inspection, contract administration services, and contract audit defense services under this section—

(A) in connection with the placement or administration of any contract or subcontract for defense articles, defense services, or design and construction services entered into after October 29, 1979, by, or under this chapter on behalf of, a foreign government which is a member of the North Atlantic Treaty Organization or the Governments of Australia, New Zealand, Japan, the Republic of Korea, or Israel, if such government provides such services in accordance with an agreement on a reciprocal basis, without charge, to the United States Government; or

(B) in connection with the placement or administration of any contract or subcontract for defense articles, defense services, or design and construction services pursuant to the North Atlantic Treaty Organization Security Investment program in accordance with an agreement under which the foreign governments participating in such program provide such services, without charge, in connection with similar contracts or subcontracts.

(2) In carrying out the objectives of this section, the President is authorized to provide cataloging data and cataloging services, without charge, to the North Atlantic Treaty Organization, to any member government of that Organization, or to the Governments of the Republic of Korea, Australia, New Zealand, Japan, or Israel if that Organization, member government, or the Governments of the Republic of Korea, Australia, New Zealand, Japan, or Israel provides such data and services in accordance with an agreement on a reciprocal basis, without charge, to the United States Government.

(i) Sales affecting combat readiness of Armed Forces; statement to Congress; limitation on delivery

(1) Sales of defense articles and defense services which could have significant adverse effect on the combat readiness of the Armed Forces of the United States shall be kept to an absolute minimum. The President shall transmit to the Speaker of the House of Representatives, the Committees on Foreign Affairs and Armed Services of the House of Representatives, and the Committees on Armed Services and Foreign Relations of the Senate on the same day a written statement giving a complete explanation with respect to any proposal to sell, under this section or under authority of subchapter II–B, any defense articles or defense services if such sale could have a significant adverse effect on the combat readiness of the Armed Forces of the United States. Each such statement shall be unclassified except to the extent that public disclosure of any item of information contained therein would be clearly detrimental to the security of the United States. Any necessarily classified

information shall be confined to a supplemental report. Each such statement shall include an explanation relating to only one such proposal to sell and shall set forth—

(A) the country or international organization to which the sale is proposed to be made;

(B) the amount of the proposed sale;

(C) a description of the defense article or service proposed to be sold;

(D) a full description of the impact which the proposed sale will have on the Armed Forces of the United States; and

(E) a justification for such proposed sale, including a certification that such sale is important to the security of the United States.

A certification described in subparagraph (E) shall take effect on the date on which such certification is transmitted and shall remain in effect for not to exceed one year.

(2) No delivery may be made under any sale which is required to be reported under paragraph (1) of this subsection unless the certification required to be transmitted by paragraph [1] (E) of paragraph (1) is in effect.

(j) Repealed. Pub. L. 104–106, div. A, title I, §112, Feb. 10, 1996, 110 Stat. 206

(k) Effect of sales of excess defense articles on national technology and industrial base

Before entering into the sale under this chapter of defense articles that are excess to the stocks of the Department of Defense, the President shall determine that the sale of such articles will not have an adverse impact on the national technology and industrial base and, particularly, will not reduce the opportunities of entities in the national technology and industrial base to sell new or used equipment to the countries to which such articles are transferred.

(l) Repair of defense articles

(1) In general

The President may acquire a repairable defense article from a foreign country or international organization if such defense article—

(A) previously was transferred to such country or organization under this chapter;

(B) is not an end item; and

(C) will be exchanged for a defense article of the same type that is in the stocks of the Department of Defense.

(2) Limitation

The President may exercise the authority provided in paragraph (1) only to the extent that the Department of Defense—

(A)(i) has a requirement for the defense article being returned; and

(ii) has available sufficient funds authorized and appropriated for such purpose; or

(B)(i) is accepting the return of the defense article for subsequent transfer to another foreign government or international organization pursuant to a letter of offer and acceptance implemented in accordance with this chapter; and

(ii) has available sufficient funds provided by or on behalf of such other foreign government or international organization pursuant to a letter of offer and acceptance implemented in accordance with this chapter.

(3) Requirement

(A) The foreign government or international organization receiving a new or repaired defense article in exchange for a repairable defense article pursuant to paragraph (1) shall, upon the acceptance by the United States Government of the repairable defense article being returned, be charged the total cost associated with the repair and replacement transaction.

(B) The total cost charged pursuant to subparagraph (A) shall be the same as that charged the United States Armed Forces for a similar repair and replacement transaction, plus an administrative surcharge in accordance with subsection (e)(1)(A) of this section.

(4) Relationship to certain other provisions of law

The authority of the President to accept the return of a repairable defense article as provided in subsection (a) shall not be subject to chapter 137 of title 10 or any other provision of law relating to the conclusion of contracts.

(m) Return of defense articles

(1) In general

The President may accept the return of a defense article from a foreign country or international organization if such defense article—

(A) previously was transferred to such country or organization under this chapter;

(B) is not significant military equipment (as defined in section 2794(9) of this title); and

(C) is in fully functioning condition without need of repair or rehabilitation.

(2) Limitation

The President may exercise the authority provided in paragraph (1) only to the extent that the Department of Defense—

(A)(i) has a requirement for the defense article being returned; and

(ii) has available sufficient funds authorized and appropriated for such purpose; or

(B)(i) is accepting the return of the defense article for subsequent transfer to another foreign government or international organization pursuant to a letter of offer and acceptance implemented in accordance with this chapter; and

(ii) has available sufficient funds provided by or on behalf of such other foreign government or international organization pursuant to a letter of offer and acceptance implemented in accordance with this chapter.

(3) Credit for transaction

Upon acquisition and acceptance by the United States Government of a defense article under paragraph (1), the appropriate Foreign Military Sales account of the provider shall be credited to reflect the transaction.

(4) Relationship to certain other provisions of law

The authority of the President to accept the return of a defense article as provided in paragraph (1) shall not be subject to chapter 137 of title 10 or any other provision of law relating to the conclusion of contracts.

(Pub. L. 90–629, ch. 2, §21, Oct. 22, 1968, 82 Stat. 1323; Pub. L. 94–329, title II, §§205, 206, June 30, 1976, 90 Stat. 736, 738; Pub. L. 95–384, §16, Sept. 26, 1978, 92 Stat. 740; Pub. L. 96–92, §12, Oct. 29, 1979, 93 Stat. 705; Pub. L. 96–533, title I, §§102, 103, 105(b)(1), 115(b)(2), Dec. 16, 1980, 94 Stat. 3132, 3134, 3140; Pub. L. 97–113, title I, §§103, 104, Dec. 29, 1981, 95 Stat. 1521; Pub. L. 97–392, §3, Dec. 29, 1982, 96 Stat. 1963; Pub. L. 98–473, title I, §101(1) [title III, §301], Oct. 12, 1984, 98 Stat. 1884, 1895; Pub. L. 99–83, title I, §§107(a), 108–111, Aug. 8, 1985, 99 Stat. 196, 197; Pub. L. 100–202, §101(e) [title V, §580], Dec. 22, 1987, 101 Stat. 1329–131, 1329–181; Pub. L. 100–456, div. A, title X, §1002, Sept. 29, 1988, 102 Stat. 2037; Pub. L. 101–165, title IX, §9104(c), Nov. 21, 1989, 103 Stat. 1152; Pub. L. 102–25, title VII, §705(d)(1), Apr. 6, 1991, 105 Stat. 120; Pub. L. 102–484, div. A, title I, §114, Oct. 23, 1992, 106 Stat. 2333; Pub. L. 103–236, title VII, §731(d), Apr. 30, 1994, 108 Stat. 503; Pub. L. 104–106, div. A, title I, §112, div. D, title XLIII, §4303(a), Feb. 10, 1996, 110 Stat. 206, 658; Pub. L. 104–164, title I, §§104(b)(1), 112(c)(2), 147(a)(3)(A), (b), 152(a), (b), July 21, 1996, 110 Stat. 1426, 1428, 1435, 1438, 1439; Pub. L. 104–201, div. B, title XXVIII, §2802(d)(2), Sept. 23, 1996, 110 Stat. 2787; Pub. L. 106–113, div. B, §1000(a)(7) [div. B, title XII, §1222], Nov. 29, 1999, 113 Stat. 1536, 1501A–498; Pub. L. 109–102, title V, §534(l)(1), (2), Nov. 14, 2005, 119 Stat. 2211; Pub. L. 110–429, title II, §203(b)(1), (3), (4), Oct. 15, 2008, 122 Stat. 4845; Pub. L. 111–266, title III, §301(1), Oct. 8, 2010, 124 Stat. 2804; Pub. L. 113–66, div. A, title XII, §1250(b), Dec. 26, 2013, 127 Stat. 926; Pub. L. 113–276, title II, §208(a)(1), (2), Dec. 18, 2014, 128 Stat. 2992, 2993.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1321, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

The Foreign Assistance Act of 1961, referred to in subsecs. (a)(1)(C) and (c)(2), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, which is classified principally to chapter 32 (§2151 et seq.) of this title. Chapter 5 of part II of such Act is classified generally to part V of subchapter II (§2347 et seq.) of chapter 32 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

Section 814 of the act of October 7, 1975 (Public Law 94–106), referred to in subsec. (g), is not classified to the Code.

CODIFICATION

Amendment by Pub. L. 98–473 is based on section 102 of S. 2346, Ninety-eighth Congress, as introduced in the Senate Feb. 27, 1984, which was enacted into permanent law by Pub. L. 98–473.

AMENDMENTS

2014—Subsec. (g). Pub. L. 113–276, §208(a)(1), substituted "the Speaker of the House of Representatives, the Committee on Foreign Affairs of the House of Representatives, and" for "the Speaker of the House of Representatives and".

Subsec. (i)(1). Pub. L. 113–276, §208(a)(2), inserted ", the Committees on Foreign Affairs and Armed Services of the House of Representatives," after "the Speaker of the House of Representatives" in introductory provisions.

2013—Subsec. (e)(3)(A). Pub. L. 113–66, §1250(b)(1), substituted "North Atlantic Treaty Organization (NATO) Support Organization and its executive agencies" for "Maintenance and Supply Agency of the North Atlantic Treaty Organization" in introductory provisions.

Subsec. (e)(3)(A)(i). Pub. L. 113–66, §1250(b)(2), substituted "support partnership agreement" for "weapon system partnership agreement".

Subsec. (e)(3)(C)(i). Pub. L. 113–66, §1250(b)(1), substituted "North Atlantic Treaty Organization (NATO) Support Organization and its executive agencies" for "Maintenance and Supply Agency of the North Atlantic Treaty Organization" in introductory provisions.

Subsec. (e)(3)(C)(i)(II). Pub. L. 113–66, §1250(b)(3), substituted "activities" for "a specific weapon system".

2010—Subsec. (e)(2)(A). Pub. L. 111–266 inserted "Israel," before "or New Zealand".

2008—Subsec. (e)(2)(A). Pub. L. 110–429, §203(b)(1), inserted "the Republic of Korea," before "or New Zealand".

Subsec. (h)(1)(A). Pub. L. 110–429, §203(b)(3), inserted "the Republic of Korea," before "or Israel".

Subsec. (h)(2). Pub. L. 110–429, §203(b)(4), substituted ", to any member government of that Organization, or to the Governments of the Republic of Korea, Australia, New Zealand, Japan, or Israel if that Organization, member government, or the Governments of the Republic of Korea, Australia, New Zealand, Japan, or Israel" for "or to any member government of that Organization if that Organization or member government".

2005—Subsec. (h)(1)(A). Pub. L. 109–102, §534(l)(1), inserted "or the Governments of Australia, New Zealand, Japan, or Israel" after "North Atlantic Treaty Organization".

Subsec. (h)(2). Pub. L. 109–102, §534(l)(2), which directed the substitution of ", to any member of that Organization, or to the Governments of Australia, New Zealand, Japan, or Israel if that Organization, member government, or the Governments of Australia, New Zealand, Japan, or Israel" for "or to any member government that Organization if that Organization or member government", could not be executed because the phrase "or to any member government that Organization if that Organization or member government" does not appear in text.

1999—Subsec. (a)(1). Pub. L. 106–113 inserted "and the Coast Guard" after "Department of Defense" in introductory provisions.

1996—Subsec. (a)(1)(C). Pub. L. 104–164, §112(c)(2), inserted "or to any high-income foreign country (as described in that chapter)".

Subsec. (e)(2). Pub. L. 104–106, §4303(a), designated existing provisions as subpar. (A) and added subpars. (B) and (C).

Subsec. (g). Pub. L. 104–164, §147(a)(3)(A), (b), substituted "similar agreements with countries" for "similar agreements with Japan, Australia, and New Zealand, and with other countries" in first sentence and struck out at end "As used in this subsection, the term 'major non-NATO allies' means those countries

designated as major non-NATO allies for purposes of section 2350a(i)(3) of title 10."

Subsec. (h)(1)(B). Pub. L. 104–201 substituted "Security Investment program" for "Infrastructure Program".

Subsec. (j). Pub. L. 104–106, §112, struck out heading and text of subsec. (j). Text read as follows:

"(1) Funds received from the sale of tanks under this section shall be available for the upgrading of tanks for fielding to the Army.

"(2) Funds received from the sale of infantry fighting vehicles or armored personnel carriers under this section shall be available for the upgrading of infantry fighting vehicles or armored personnel carriers for fielding to the Army.

"(3) Paragraphs (1) and (2) apply only to the extent provided in advance in appropriations Acts.

"(4) This subsection applies with respect to funds received from sales occurring after September 30, 1989."

Subsec. (k). Pub. L. 104–164, §104(b)(1), substituted "the President shall determine that the sale of such articles will not have an adverse impact on the national technology and industrial base and, particularly, will not reduce the opportunities of entities in the national technology and industrial base to sell new or used equipment to the countries to which such articles are transferred." for "the President shall first consider the effects of the sale of the articles on the national technology and industrial base, particularly the extent, if any, to which the sale reduces the opportunities of entities in the national technology and industrial base to sell new equipment to the country or countries to which the excess defense articles are sold."

Subsec. (l). Pub. L. 104–164, §152(a), added subsec. (l).

Subsec. (m). Pub. L. 104–164, §152(b), added subsec. (m).

1994—Subsec. (k). Pub. L. 103–236 added subsec. (k).

1992—Subsec. (j). Pub. L. 102–484 added subsec. (j).

1991—Subsec. (g). Pub. L. 102–25 substituted "section 2350a(i)(3) of title 10" for "section 2767a of this title".

1989—Subsec. (e)(1)(A). Pub. L. 101–165, §9104(c)(1), inserted reference to section 2792(b) and (c) of this title.

Subsec. (e)(1)(B). Pub. L. 101–165, §9104(c)(2), (3), redesignated subpar. (C) as (B) and inserted exception for equipment wholly paid for from funds transferred under the Foreign Assistance Act of 1961 or from funds made available under section 2763 of this title. Former subpar. (B), which included charges for any use of plant and production equipment in connection with defense articles, was struck out.

Subsec. (e)(1)(C), (D). Pub. L. 101–165, §9104(c)(3), redesignated subpar. (D) as (C). Former subpar. (C) redesignated (B).

Subsec. (e)(2). Pub. L. 101–165, §9104(c)(4), substituted reference to par. (1)(B) for reference to pars. (1)(B) and (1)(C).

1988—Subsec. (e)(3). Pub. L. 100–456 added par. (3).

1987—Subsec. (g). Pub. L. 100–202 inserted "and with other countries which are major non-NATO allies," after "New Zealand," and inserted last sentence defining "major non-NATO allies".

1985—Subsec. (a)(1). Pub. L. 99–83, §107(a)(1), (2), designated existing provisions as par. (1), and substituted "(A)", "(B)", and "(C)" for "(1)", "(2)", and "(3)", respectively.

Subsec. (a)(1)(C). Pub. L. 99–83, §108(a), inserted provisions relating to training sold to a purchaser receiving assistance under chapter 5 of part II of the Foreign Assistance Act of 1961.

Subsec. (a)(2). Pub. L. 99–83, §107(a)(3), added par. (2).

Subsec. (e)(1)(A). Pub. L. 99–83, §109, inserted provisions excluding pro rata share of fixed base operation costs.

Subsec. (g). Pub. L. 99–83, §108(b), added subsec. (g).

Subsec. (h)(1). Pub. L. 99–83, §§110, 111(1), (2), designated existing provisions as par. (1), inserted applicability to contract administrative services, and substituted "(A)" and "(B)" for "(1)" and "(2)", respectively.

Subsec. (h)(2). Pub. L. 99–83, §111(3), added par. (2).

1984—Subsec. (a)(3). Pub. L. 98–473 struck out "sold to a purchaser who is concurrently receiving assistance under chapter 5 of part II of the Foreign Assistance Act of 1961" after "in the case of training".

Subsec. (g). Pub. L. 98–473 struck out subsec. (g) which related to NATO standardization agreements and similar agreements with Japan, Australia, and New Zealand.

1982—Subsec. (i)(1). Pub. L. 97–392 inserted reference to proposals to sell under the authority of subchapter II–B.

1981—Subsec. (c)(2). Pub. L. 97–113, §103, substituted provision for a report within forty-eight hours of existence of or change in status of significant hostilities or terrorist acts or series of such acts, which may endanger American lives or property for provision for a report within 48 hours after outbreak of significant

hostilities and omitted provision for statement of relation between the defense services and hostilities in the country, the location and precise nature of personnel activities, and likelihood of personnel engagement in the hostilities.

Subsec. (e)(2). Pub. L. 97–113, §104, authorized reduction or waiver of charges for use and nonrecurring research, development, and production costs respecting sales significantly advancing United States interests in standardization with Armed Forces of Japan, Australia, or New Zealand in furtherance of the mutual defense treaties between the United States and those countries.

1980—Subsec. (a)(3). Pub. L. 96–533, §115(b)(2), included payment, in case of training sold to a purchaser currently receiving international military education and training assistance, of additional costs incurred by the United States Government in furnishing the training.

Subsec. (c). Pub. L. 96–533, §102, designated existing provision as par. (1), substituted "training and advising that may engage United States personnel in combat activities" for "training, advising, or otherwise providing assistance regarding combat activities", and added par. (2).

Subsec. (g). Pub. L. 96–533, §103, authorized the President to enter into standardization agreements with Japan, Australia, and New Zealand.

Subsec. (h). Pub. L. 96–533, §105(b)(1), substituted "defense articles, defense services, or design and construction services" for "defense articles or defense services" in two places.

1979—Subsecs. (h), (i). Pub. L. 96–92 added subsec. (h) and redesignated former subsec. (h) as (i).

1978—Subsec. (e)(1)(D). Pub. L. 95–384 added subpar. (D).

1976—Subsec. (a). Pub. L. 94–329, §205, designated existing provisions as subsec. (a) and substituted provisions authorizing President to sell defense articles and defense services from Department of Defense stocks to eligible countries and international organizations who agree to pay specified values for such articles and services in United States dollars, for provisions requiring that payment for defense articles and defense services from stocks be made in advance, or if in the best interest of the United States as determined by the President, within a reasonable period not to exceed 120 days after delivery of the articles or rendering of the services.

Subsecs. (b) to (h). Pub. L. 94–329, §§205, 206, added subsecs. (b) to (h).

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–106, div. D, title XLIII, §4303(b)–(d), Feb. 10, 1996, 110 Stat. 659, provided that:

"(b) CONDITIONS.—Subsection (a) [amending this section] shall be effective only if—

"(1) the President, in the budget of the President for fiscal year 1997, proposes legislation that if enacted would be qualifying offsetting legislation; and

"(2) there is enacted qualifying offsetting legislation.

"(c) EFFECTIVE DATE.—If the conditions in subsection (b) are met, then the amendments made by subsection (a) shall take effect on the date of the enactment of qualifying offsetting legislation [Sept. 23, 1996].

"(d) DEFINITIONS.—For purposes of this section:

"(1) The term 'qualifying offsetting legislation' means legislation that includes provisions that—

"(A) offset fully the estimated revenues lost as a result of the amendments made by subsection (a) for each of the fiscal years 1997 through 2005;

"(B) expressly state that they are enacted for the purpose of the offset described in subparagraph (A); and

"(C) are included in full on the PayGo scorecard.

"(2) The term 'PayGo scorecard' means the estimates that are made by the Director of the Congressional Budget Office and the Director of the Office of Management and Budget under section 252(d) of the Balanced Budget and Emergency Deficit Control Act of 1985 [2 U.S.C. 902(d)]."

[Qualifying offsetting legislation was enacted by Pub. L. 104–201, §3303, listed in a Materials in the National Defense Stockpile table under section 98d of Title 50, War and National Defense.]

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–83 effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as a note under section 2151–1 of this title.

REGULATIONS

Pub. L. 104–164, title I, §152(c), July 21, 1996, 110 Stat. 1439, provided that: "Under the direction of the President, the Secretary of Defense shall promulgate regulations to implement subsections (l) and (m) of section 21 of the Arms Export Control Act [22 U.S.C. 2761(l), (m)], as added by this section."

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

DELEGATION OF FUNCTIONS

For delegation of certain functions of the President under this section, see section 1(c) of Ex. Ord. No. 13637, Mar. 8, 2013, 78 F.R. 16129, set out as a note under section 2751 of this title. Functions were previously delegated by Ex. Ord. No. 11958, which was formerly set out as a note under section 2751 of this title and was revoked, subject to a savings provision, by section 4 of Ex. Ord. No. 13637.

INTERNATIONAL SALES PROCESS IMPROVEMENTS

Pub. L. 114–328, div. A, title XII, §1297, Dec. 23, 2016, 130 Stat. 2563, provided that:

"(a) PLAN REQUIRED.—Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2016], the Secretary of Defense shall develop a plan to improve the management and use of fees collected on transfer of defense articles and services via sale, lease, or grant to international customers under programs over which the Defense Security Cooperation Agency has administration responsibilities. The plan shall include options to use fees more effectively—

"(1) to improve the staffing and processes of the licensing review cycle at the Defense Technology Security Administration and other reviewing authorities; and

"(2) to maintain a cadre of contracting officers and acquisition officials who specialize in foreign military sales contracting.

"(b) PROCESS FOR GATHERING INPUT.—The Secretary of Defense shall establish a process for contractors to provide input, feedback, and adjudication of any differences regarding the appropriateness of governmental pricing and availability estimates prior to the delivery to potential foreign customers of formal responses to Letters of Request for Pricing and Availability."

[1] *So in original. Probably should be "subparagraph".*

§2762. Procurement for cash sales

(a) Authority of President; dependable undertaking by foreign country or international organization; interest rates

Except as otherwise provided in this section, the President may, without requirement for charge to any appropriation or contract authorization otherwise provided, enter into contracts for the procurement of defense articles or defense services for sale for United States dollars to any foreign country or international organization if such country or international organization provides the United States Government with a dependable undertaking (1) to pay the full amount of such contract which will assure the United States Government against any loss on the contract, and (2) to make funds available in such amounts and at such times as may be required to meet the payments required by the contract, and any damages and costs that may accrue from the cancellation of such contract, in advance of the time such payments, damages, or costs are due. Interest shall be charged on any net amount by which any such country or international organization is in arrears under all of its outstanding unliquidated dependable undertakings, considered collectively. The rate of interest charged shall be a rate not less than a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding short-term obligations of the United States as of the last day of the month preceding the net arrearage and shall be computed from the date of net arrearage.

(b) Issuance of letters of offer under emergency determination; availability of appropriations for payment

The President may, if he determines it to be in the national interest, issue letters of offer under this section which provide for billing upon delivery of the defense article or rendering of the defense

service and for payment within one hundred and twenty days after the date of billing. This authority may be exercised, however, only if the President also determines that the emergency requirements of the purchaser for acquisition of such defense articles and services exceed the ready availability to the purchaser of funds sufficient to make payments on a dependable undertaking basis and submits both determinations to the Congress together with a special emergency request for authorization and appropriation of additional funds to finance such purchases under this chapter. Appropriations available to the Department of Defense may be used to meet the payments required by the contracts for the procurement of defense articles and defense services and shall be reimbursed by the amounts subsequently received from the country or international organization to whom articles or services are sold.

(c) Applicability of Renegotiation Act of 1951

The provisions of the Renegotiation Act of 1951 do not apply to procurement contracts heretofore or hereafter entered into under this section, section 2769 of this title, or predecessor provisions of law.

(d) Competitive pricing

(1) Procurement contracts made in implementation of sales under this section for defense articles and defense services wholly paid for from funds made available on a nonrepayable basis shall be priced on the same costing basis with regard to profit, overhead, independent research and development, bid and proposal, and other costing elements, as is applicable to procurements of like items purchased by the Department of Defense for its own use.

(2) Direct costs associated with meeting additional or unique requirements of the purchaser shall be allowable under contracts described in paragraph (1). Loadings applicable to such direct costs shall be permitted at the same rates applicable to procurement of like items purchased by the Department of Defense for its own use.

(Pub. L. 90–629, ch. 2, §22, Oct. 22, 1968, 82 Stat. 1323; Pub. L. 93–189, §25(3), Dec. 17, 1973, 87 Stat. 730; Pub. L. 94–329, title II, §207, June 30, 1976, 90 Stat. 738; Pub. L. 95–384, §17, Sept. 26, 1978, 92 Stat. 740; Pub. L. 96–533, title I, §105(b)(2), Dec. 16, 1980, 94 Stat. 3134; Pub. L. 104–107, title V, §531A(a), Feb. 12, 1996, 110 Stat. 731; Pub. L. 106–113, div. B, §1000(a)(7) [div. B, title XII, §1223], Nov. 29, 1999, 113 Stat. 1536, 1501A–498.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original "this Act", meaning Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1321, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

The Renegotiation Act of 1951, referred to in subsec. (c), is act Mar. 23, 1951, ch. 15, 65 Stat. 7, as amended, which was classified principally to section 1211 et seq. of the former Appendix to Title 50, War and National Defense, prior to its omission from the Code.

AMENDMENTS

1999—Subsec. (d). Pub. L. 106–113 designated existing provisions as par. (1) and added par. (2).

1996—Subsec. (d). Pub. L. 104–107 added subsec. (d).

1980—Subsec. (c). Pub. L. 96–533 substituted "procurement contracts" for "contracts for the procurement of defense articles and defense services" and inserted reference to contracts entered into under section 2769 of this title.

1978—Subsec. (c). Pub. L. 95–384 added subsec. (c).

1976—Subsec. (a). Pub. L. 94–329, §207(a), inserted provisions requiring interest to be charged on any net amount a country or international organization is in arrears and the rate of interest to be determined by the Secretary of Treasury considering current average market yield of short-term obligations of United States on a particular day.

Subsec. (b). Pub. L. 94–329, §207(b), substituted provisions authorizing President to issue letters of offer with provisions for billing on delivery of article or rendering of service and payment within 120 days after billing date where President determines that emergency conditions exist, for provisions authorizing President

to accept a dependable undertaking of a foreign country or international organization with respect to sales of defense articles and services and to make payment within 120 days of delivery of article or rendering of service.

1973—Pub. L. 93–189 designated text preceding first proviso as subsec. (a) and inserted "Except as otherwise provided in this section," before "the President", designated first proviso as subsec. (b) and inserted reference to acceptance of a dependable undertaking of a foreign country or international organization, and struck out further provisions setting forth Presidential powers with respect to sales agreements with and payments by purchasing countries or international organizations.

EFFECTIVE DATE OF 1996 AMENDMENT; IMPLEMENTING REGULATIONS

Pub. L. 104–107, title V, §531A(b), Feb. 12, 1996, 110 Stat. 731, provided that: "Section 22(d) of the Arms Export Control Act [subsec. (d) of this section], as added by subsection (a)—

"(1) shall take effect on the 60th day following the date of the enactment of this Act [Feb. 12, 1996];

"(2) shall be applicable only to contracts made in implementation of sales made after such effective date; and

"(3) shall be implemented by revised procurement regulations, which shall be issued prior to such effective date."

DELEGATION OF FUNCTIONS

For delegation of functions of the President under subsec. (a) of this section, see section 1(d) of Ex. Ord. No. 13637, Mar. 8, 2013, 78 F.R. 16129, set out as a note under section 2751 of this title. Functions were previously delegated by Ex. Ord. No. 11958, which was formerly set out as a note under section 2751 of this title and was revoked, subject to a savings provision, by section 4 of Ex. Ord. No. 13637.

REQUIREMENT TO USE FIRM FIXED-PRICE CONTRACTS FOR FOREIGN MILITARY SALES

Pub. L. 114–328, div. A, title VIII, §830, Dec. 23, 2016, 130 Stat. 2282, provided that:

"(a) REQUIREMENT.—Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2016], the Secretary of Defense shall prescribe regulations to require the use of firm fixed-price contracts for foreign military sales.

"(b) EXCEPTIONS.—The regulations prescribed pursuant to subsection (a) shall include exceptions that may be exercised if the foreign country that is the counterparty to a foreign military sale—

"(1) has established in writing a preference for a different contract type; or

"(2) requests in writing that a different contract type be used for a specific foreign military sale.

"(c) WAIVER AUTHORITY.—The regulations prescribed pursuant to subsection (a) shall include a waiver that may be exercised by the Secretary of Defense or his designee if the Secretary or his designee determines on a case-by-case basis that a different contract type is in the best interest of the United States and American taxpayers.

"(d) PILOT PROGRAM FOR ACCELERATION OF FOREIGN MILITARY SALES.—

"(1) IN GENERAL.—The Secretary of Defense shall establish a pilot program to reform and accelerate the contracting and pricing processes associated with full rate production of major weapon systems for no more than 10 foreign military sales contracts by—

"(A) basing price reasonableness determinations on actual cost and pricing data for purchases of the same product for the Department of Defense; and

"(B) reducing the cost and pricing data to be submitted in accordance with section 2306a of title 10, United States Code.

"(2) EXPIRATION OF AUTHORITY.—Authority for the pilot program under this subsection expires on January 1, 2020."

PRIOR PROVISIONS

Provisions similar to those comprising subsec. (d)(2) of this section were contained in the following appropriation acts:

Pub. L. 106–113, div. B, §1000(a)(2) [title V, §556], Nov. 29, 1999, 113 Stat. 1535, 1501A–100.

Pub. L. 105–277, div. A, §101(d) [title V, §536], Oct. 21, 1998, 112 Stat. 2681–150, 2681–181.

Pub. L. 105–118, title V, §535, Nov. 26, 1997, 111 Stat. 2416.

Pub. L. 104–208, div. A, title I, §101(c) [title V, §533A], Sept. 30, 1996, 110 Stat. 3009–121, 3009–153.

Pub. L. 104–107, title V, §531A(c), Feb. 12, 1996, 110 Stat. 731.

§2763. Credit sales

(a) Financing procurement of defense articles and services, and design and construction services

The President is authorized to finance the procurement of defense articles, defense services, and design and construction services by friendly foreign countries and international organizations, on such terms and conditions as he may determine consistent with the requirements of this section. Notwithstanding any other provision of law, and subject to the regular notification requirements of the Committees on Appropriations, the authority of this section may be used to provide financing to Israel and Egypt for the procurement by leasing (including leasing with an option to purchase) of defense articles from United States commercial suppliers, not including Major Defense Equipment (other than helicopters and other types of aircraft having possible civilian application), if the President determines that there are compelling foreign policy or national security reasons for those defense articles being provided by commercial lease rather than by government-to-government sale under this chapter.

(b) Repayment period

The President shall require repayment in United States dollars within a period not to exceed twelve years after the loan agreement with the country or international organization is signed on behalf of the United States Government, unless a longer period is specifically authorized by statute for that country or international organization.

(c) Interest rate; definitions

(1) The President shall charge interest under this section at such rate as he may determine, except that such rate may not be less than 5 percent per year.

(2) For purposes of financing provided under this section—

(A) the term "concessional rate of interest" means any rate of interest which is less than market rates of interest; and

(B) the term "market rate of interest" means any rate of interest which is equal to or greater than the current average interest rate (as of the last day of the month preceding the financing of the procurement under this section) that the United States Government pays on outstanding marketable obligations of comparable maturity.

(d) Participations in credits

References in any law to credits extended under this section shall be deemed to include reference to participations in credits.

(e) Payments on account of prior credits or loans

(1) Funds made available to carry out this section may be used by a foreign country to make payments of principal and interest which it owes to the United States Government on account of credits previously extended under this section or loans previously guaranteed under section 2764 of this title, subject to paragraph (2).

(2) Funds made available to carry out this section may not be used for prepayment of principal or interest pursuant to the authority of paragraph (1).

(f) Audit of certain private firms

For each fiscal year, the Secretary of Defense, as requested by the Director of the Defense Security Assistance Agency, shall conduct audits on a nonreimbursable basis of private firms that have entered into contracts with foreign governments under which defense articles, defense services, or design and construction services are to be procured by such firms for such governments from financing under this section.

(g) Notification requirements with respect to cash flow financing

(1) For each country and international organization that has been approved for cash flow financing under this section, any letter of offer and acceptance or other purchase agreement, or any amendment thereto, for a procurement of defense articles, defense services, or design and construction services in

excess of $100,000,000 that is to be financed in whole or in part with funds made available under this chapter or the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.] shall be submitted to the congressional committees specified in section 634A(a) of the Foreign Assistance Act of 1961 [22 U.S.C. 2394–1(a)] in accordance with the procedures applicable to reprogramming notifications under that section.

(2) For purposes of this subsection, the term "cash flow financing" has the meaning given such term in subsection (d) of section 2765 of this title.

(h) Limitation on use of funds for direct commercial contracts

Of the amounts made available for a fiscal year to carry out this section, not more than $100,000,000 for such fiscal year may be made available for countries other than Israel and Egypt for the purpose of financing the procurement of defense articles, defense services, and design and construction services that are not sold by the United States Government under this chapter.

(Pub. L. 90–629, ch. 2, §23, Oct. 22, 1968, 82 Stat. 1324; Pub. L. 93–559, §45(a)(2), Dec. 30, 1974, 88 Stat. 1813; Pub. L. 94–329, title II, §208(a), June 30, 1976, 90 Stat. 739; Pub. L. 96–533, title I, §105(b)(3), Dec. 16, 1980, 94 Stat. 3134; Pub. L. 99–83, title I, §102, Aug. 8, 1985, 99 Stat. 195; Pub. L. 100–202, §101(e) [title V, §572], Dec. 22, 1987, 101 Stat. 1329–131, 1329–176; Pub. L. 101–513, title V, §580, Nov. 5, 1990, 104 Stat. 2045; Pub. L. 104–164, title I, §102(a)–(c), July 21, 1996, 110 Stat. 1422.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a), (g)(1), and (h), was in the original "this Act", meaning Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1321, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

The Foreign Assistance Act of 1961, referred to in subsec. (g)(1), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, which is classified principally to chapter 32 (§2151 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

AMENDMENTS

1996—Subsecs. (f) to (g). Pub. L. 104–164 added subsecs. (f) to (g).

1990—Subsec. (e). Pub. L. 101–513 added subsec. (e).

1987—Subsec. (a). Pub. L. 100–202 inserted sentence at end authorizing financing to Israel and Egypt for commercial leasing of defense articles, not including Major Defense Equipment, with exception for certain aircraft, upon a Presidential determination that there are compelling foreign policy or national defense reasons for such leasing.

1985—Pub. L. 99–83 amended section generally. Prior to amendment, section read as follows: "The President is authorized to finance procurements of defense articles, defense services, and design and construction services by friendly foreign countries and international organizations on terms requiring the payment to the United States Government in United States dollars of—

"(1) the value of such articles or services within a period not to exceed twelve years after the delivery of such articles or the rendering of such services; and

"(2) interest on the unpaid balance of that obligation for payment of the value of such articles or services, at a rate equivalent to the current average interest rate, as of the last day of the month preceding the financing of such procurement, that the United States Government pays on outstanding marketable obligations of comparable maturity, unless the President certifies to Congress that the national interest requires a lesser rate of interest and states in the certification the lesser rate so required and the justification therefor."

1980—Pub. L. 96–533 substituted "defense articles, defense services, and design and construction services" for "defense articles and defense services".

1976—Par. (1). Pub. L. 94–329 substituted "twelve years" for "ten years".

1974—Pub. L. 93–559 incorporated existing provisions in cl. (1) and added cl. (2).

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–83 effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as a note under section 2151–1 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94–329, title II, §208(b), June 30, 1976, 90 Stat. 739, provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to financing under agreements entered into on or after the date of enactment of this Act [June 30, 1976] for the procurement of defense articles to be delivered, or defense services to be rendered, after such date."

DELEGATION OF FUNCTIONS

For delegation of functions of the President under this section and section 7069 of div. I of Pub. L. 112–74 (see Similar Provisions note below), with certain conditions and exceptions, see section 1(e) of Ex. Ord. No. 13637, Mar. 8, 2013, 78 F.R. 16129, set out as a note under section 2751 of this title. Functions were previously delegated by Ex. Ord. No. 11958, which was formerly set out as a note under section 2751 of this title and was revoked, subject to a savings provision, by section 4 of Ex. Ord. No. 13637.

SIMILAR PROVISIONS

Provisions similar to those in last sentence of subsec. (a) of this section which were applicable to NATO and major non-NATO allies in addition to Israel and Egypt were contained in the following appropriation acts:

Pub. L. 112–74, div. I, title VII, §7069, Dec. 23, 2011, 125 Stat. 1253.
Pub. L. 111–117, div. F, title VII, §7083, Dec. 16, 2009, 123 Stat. 3400.
Pub. L. 111–8, div. H, title VII, §7085, Mar. 11, 2009, 123 Stat. 912.
Pub. L. 110–161, div. J, title VI, §610, Dec. 26, 2007, 121 Stat. 2316.
Pub. L. 109–102, title V, §510, Nov. 14, 2005, 119 Stat. 2198.
Pub. L. 108–447, div. D, title V, §510, Dec. 8, 2004, 118 Stat. 2993.
Pub. L. 108–199, div. D, title V, §510, Jan. 23, 2004, 118 Stat. 170.
Pub. L. 108–7, div. E, title V, §575, Feb. 20, 2003, 117 Stat. 210.
Pub. L. 107–115, title V, §580, Jan. 10, 2002, 115 Stat. 2170.
Pub. L. 106–429, §101(a) [title V, §589], Nov. 6, 2000, 114 Stat. 1900, 1900A–59.
Pub. L. 106–113, div. B, §1000(a)(2) [title V, §528], Nov. 29, 1999, 113 Stat. 1535, 1501A–90.
Pub. L. 105–277, div. A, §101(d) [title V, §529], Oct. 21, 1998, 112 Stat. 2681–150, 2681–178.
Pub. L. 105–118, title V, §528, Nov. 26, 1997, 111 Stat. 2413.
Pub. L. 104–208, div. A, title I, §101(c) [title V, §528], Sept. 30, 1996, 110 Stat. 3009–121, 3009–149.
Pub. L. 104–107, title V, §528, Feb. 12, 1996, 110 Stat. 730.
Pub. L. 103–306, title V, §530, Aug. 23, 1994, 108 Stat. 1635.
Pub. L. 103–87, title V, §530, Sept. 30, 1993, 107 Stat. 954.
Pub. L. 102–391, title V, §558, Oct. 6, 1992, 106 Stat. 1676.
Pub. L. 101–513, title V, §561, Nov. 5, 1990, 104 Stat. 2026.
Pub. L. 101–167, title V, §571, Nov. 21, 1989, 103 Stat. 1245.
Pub. L. 100–461, title V, §580, Oct. 1, 1988, 102 Stat. 2268–48.

§2764. Guaranties

(a) Guaranty against political and credit risks of nonpayment

The President may guarantee any individual, corporation, partnership, or other juridical entity doing business in the United States (excluding United States Government agencies other than the Federal Financing Bank) against political and credit risks of nonpayment arising out of their financing of credit sales of defense articles, defense services, and design and construction services to friendly countries and international organizations. Fees shall be charged for such guaranties.

(b) Sale of promissory notes of friendly countries and international organizations; guaranty of payment

The President may sell to any individual, corporation, partnership, or other juridical entity (excluding United States Government agencies other than the Federal Financing Bank) promissory notes issued by friendly countries and international organizations as evidence of their obligations to make repayments to the United States on account of credit sales financed under section 2763 of this title, and may guarantee payment thereof.

(c) Guaranty Reserve Fund; payment of guaranties; guaranty reserve below prescribed amount

Funds obligated under this section before December 16, 1980, which constitute a single reserve for the payment of claims under guaranties issued under this section shall remain available for expenditure for the purposes of this section on and after that date. That single reserve may, on and after August 8, 1985, be referred to as the "Guaranty Reserve Fund". Funds provided for necessary expenses to carry out the provisions of section 2763 of this title and of section 2311 of this title may be used to pay claims on the Guaranty Reserve Fund to the extent that funds in the Guaranty Reserve Fund are inadequate for that purpose. For purposes of any provision in this chapter or any other Act relating to a prohibition or limitation on the availability of funds under this chapter, whenever a guaranty is issued under this section, the principal amount of the loan so guaranteed shall be deemed to be funds made available for use under this chapter. Any guaranties issued hereunder shall be backed by the full faith and credit of the United States.

(Pub. L. 90–629, ch. 2, §24, Oct. 22, 1968, 82 Stat. 1324; Pub. L. 93–189, §25(4), Dec. 17, 1973, 87 Stat. 730; Pub. L. 93–559, §45(a)(3), (4), Dec. 30, 1974, 88 Stat. 1814; Pub. L. 96–533, title I, §§104(a), 105(b)(3), Dec. 16, 1980, 94 Stat. 3132, 3134; Pub. L. 99–83, title I, §106(b), (c), Aug. 8, 1985, 99 Stat. 196; Pub. L. 100–71, title I, July 11, 1987, 101 Stat. 409.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (c), was in the original "this Act", meaning Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1321, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

AMENDMENTS

1987—Subsec. (c). Pub. L. 100–71, which directed that the second par. be struck out and a new one-sentence par. be inserted, was executed to reflect the probable intent of Congress by substituting the new sentence for the third sentence which read as follows: "Funds authorized to be appropriated by section 2771(a) of this title to carry out this chapter which are allocated for credits at market rates of interest may be used to pay claims under such guarantees to the extent funds in the Guaranty Reserve Fund are inadequate for that purpose."

1985—Subsec. (c). Pub. L. 99–83 inserted provisions authorizing the single reserve to be termed the "Guaranty Reserve Fund", and substituted provisions relating to payment of claims under guarantees, for provisions relating to report to Congress respecting any payment of claims reducing the single reserve.

1980—Subsec. (a). Pub. L. 96–533, §105(b)(3), substituted "defense articles, defense services, and design and construction services" for "defense articles and defense services".

Subsec. (c). Pub. L. 96–533, §104(a), substituted provisions making funds obligated before Dec. 16, 1980 available for expenditure after such date for payment of guaranteed claims, requiring the President to report to Congress the reduction of the single reserve below $750,000,000 with recommendation for an appropriations authorization of additional funds and deeming the principal amount of a guaranteed loan to be funds made available for use under this chapter for purposes of any limitation on availability of funds for prior provisions for obligation of available funds in an amount equal to 10 per centum of principal amount of contractual liability related to a guaranty under this section, making such funds a single reserve for payment of guaranteed claims, and providing for transfer of any funds deobligated during any current fiscal year to the general fund of the Treasury.

1974—Subsecs. (a), (b). Pub. L. 93–559, §45(a)(3), inserted "other than the Federal Financing Bank" in parenthetical text.

Subsec. (c). Pub. L. 93–559, §45(a)(4), substituted "10" for "25" in two places.

1973—Subsec. (c). Pub. L. 93–189 substituted "to carry out this chapter" for "pursuant to section 2771 of this title" and inserted "principal amount of" before "contractual liability" wherever appearing.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–83 effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as a note under section 2151–1 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT; ADJUSTMENT OF OBLIGATIONS CHARGED AGAINST APPROPRIATIONS; CREDIT FOR FISCAL YEAR 1975 APPROPRIATIONS

Pub. L. 93–559, §45(b), Dec. 30, 1974, 88 Stat. 1815, provided that: "The amendment made by paragraph (4) of subsection (a) [amending this section] shall take effect on July 1, 1974. Obligations initially charged against appropriations made available for purposes authorized by section 31(a) of the Foreign Military Sales

Act [section 2771(a) of this title] after June 30, 1974, and prior to the enactment of this section [Dec. 30, 1974] in an amount equal to 25 per centum of the principal amount of contractual liability related to guaranties issued pursuant to section 24(a) of that Act [subsec. (a) of this section] shall be adjusted to reflect such amendment with proper credit to the appropriations made available in the fiscal year 1975 to carry out that Act [this chapter]."

DELEGATION OF FUNCTIONS

For delegation of functions of the President under this section, with certain conditions, see section 1(f) of Ex. Ord. No. 13637, Mar. 8, 2013, 78 F.R. 16129, set out as a note under section 2751 of this title. Functions were previously delegated by Ex. Ord. No. 11958, which was formerly set out as a note under section 2751 of this title and was revoked, subject to a savings provision, by section 4 of Ex. Ord. No. 13637.

FOREIGN MILITARY SALES DEBT REFORM

Pub. L. 102–145, §118, as added by Pub. L. 102–266, §102, Apr. 1, 1992, 106 Stat. 93, provided that the authority and conditions provided under the heading "Foreign Military Sales Debt Reform" in H.R. 2621, One Hundred Second Congress, 1st session, as passed by the House of Representatives on June 19, 1991, shall be applicable to funds appropriated by Pub. L. 102–145 (and are hereby enacted) in lieu of the authority and conditions provided under the heading "Foreign Military Sales Debt Reform" in Pub. L. 101–513 [set out below]. Provisions under the heading "Foreign Military Sales Debt Reform" in H.R. 2621, as referred to above, provided that: "Subsection (b) under the heading 'Foreign Military Sales Debt Reform' in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 [Pub. L. 100–202, §101(e) [title III, §301], set out below], is hereby repealed."

Pub. L. 101–513, title III, Nov. 5, 1990, 104 Stat. 1999, provided that: "Funds made available by the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 [Pub. L. 100–202, §101(e) [title III], set out below], for obligation and expenditure after October 1, 1988, subject to a Presidential budget request, under the heading 'Foreign Military Sales Debt Reform', subsection (b) 'Interest Rate Reduction' shall be available, subject to the same conditions and provisos, only after October 1, 1991." Similar provisions were contained in the following prior appropriation acts:

Pub. L. 101–167, title III, Nov. 21, 1989, 103 Stat. 1214.

Pub. L. 100–461, title III, Oct. 1, 1988, 102 Stat. 2268–18.

Pub. L. 100–202, §101(e) [title III], Dec. 22, 1987, 101 Stat. 1329–131, 1329–148, as amended by Pub. L. 101–167, title III, Nov. 21, 1989, 103 Stat. 1214; Pub. L. 102–145, §118, as added by Pub. L. 102–266, §102, Apr. 1, 1992, 106 Stat. 93, provided in part that:

"(a) REFINANCING.—Notwithstanding any other provision of law, the President is authorized during fiscal years 1988 through 1991 to transfer existing United States guaranties of outstanding Foreign Military Sales (FMS) credit debt, or to issue new guaranties, either of which would be applied to loans, bonds, notes or other obligations made or issued (as the case may be) by private United States financial institutions (the private lender) to finance the prepayment at par of the principal amounts maturing after September 30, 1989 of existing FMS loans bearing interest rates of eight percent or higher, and arrearages thereon. The loans, bonds, notes or other obligations are hereinafter referred to as the 'private loan': *Provided*, That such guaranties which are transferred or are made pursuant to paragraph (a) shall cover no more and no less than ninety percent of the private loan or any portion or derivative thereof plus unpaid accrued interest and arrearages, if any, outstanding at the time of guaranty transfer or extension: *Provided further*, That the total amount of the guaranty of the private loan cannot exceed ninety percent of the outstanding principal, unpaid accrued interest and arrearages, if any, at any time: *Provided further*, That of the total amount of the private loan, the ninety percent guaranteed portion of the private loan cannot be separated from the private loan at any time: *Provided further*, That no sums in addition to the payment of the outstanding principal amounts maturing after September 30, 1989 of the loan (or advance), plus unpaid accrued interest thereon, and arrearages, if any, shall be charged by the private lender or the Federal Financing Bank as a result of such prepayment against the borrower, the guarantor, or the Guaranty Reserve Fund (GRF), except that the private lender may include, in the interest rate charged, a standard fee to cover costs, such fee which will be set at prevailing market rates, and no guaranty fee shall be charged on guarantees transferred or issued pursuant to this provision: *Provided further*, That the terms of guaranties transferred or issued under this paragraph shall be exactly the same as the existing loans or guarantees, except as modified by this paragraph and including but not limited to the final maturity and principal and interest payment structure of the existing loans which shall not be altered, except that the repayments of the private loan issued debt may be consolidated into two payments per year: *Provided further*, That the private loan or guarantees transferred or issued pursuant to this paragraph shall be fully and

freely transferable, except that any guaranty transferred or extended shall cease to be effective if the private loan or any derivative thereof is to be used to provide significant support for any non-registered obligation: *Provided further*, That for purposes of sections 23 and 24 of the Arms Export Control Act (AECA) [22 U.S.C. 2763, 2764], the term 'defense services' shall be deemed to include the refinancing of FMS debt outstanding at the date of the enactment of this Act [Dec. 22, 1987]: *Provided further*, That not later than ninety days after the enactment of this Act, the Secretary of the Treasury (Secretary) shall issue regulations to carry out the purposes of this heading and that in issuing such regulations, the Secretary shall (1) facilitate the prepayment of loans and loan advances hereunder, (2) provide for full processing of each application within thirty days of its submission to the Secretary, and (3) except as provided in section 24(a) of the AECA, impose no restriction that increases the cost to borrowers of obtaining private financing for prepayment hereunder or that inhibits the ability of the borrower to enter into prepayment arrangements hereunder: *Provided further*, That the Secretary of State shall transmit to the Committee on Foreign Affairs of the House of Representatives, the Committee on Foreign Relations of the Senate, and the Committees on Appropriations of the House of Representatives and Senate, a copy of the text of any agreement entered into pursuant to this section not more than thirty days after its entry into force, together with a description of the transaction.

"[(b) Repealed. Pub. L. 102–145, §118, as added by Pub. L. 102–266, §102, Apr. 1, 1992, 106 Stat. 93.]

"(c) ARREARAGES.—(1) None of the funds provided pursuant to the Arms Export Control Act (relating to Foreign Military Sales credits) [22 U.S.C. 2751 et seq.] or pursuant to chapter 2 of part II of the Foreign Assistance Act (relating to the Military Assistance program) [22 U.S.C. 2311 et seq.] shall be made available to any country for which one or more loans is refinanced pursuant to paragraph (a) of this heading and which is in default for a period in excess of ninety days in payment of principal or interest on (A) any loan made to such country guaranteed by the United States pursuant to paragraph (a) of this heading, and (B) any other loan issued pursuant to the Arms Export Control Act outstanding on the date of enactment of this provision [Dec. 22, 1987].

"(2) In conjunction with any interest rate reduction pursuant to the authority provided in paragraph (b) of this heading, the President shall require the country to commit in writing that within two years of the effective date of the interest rate reduction it will be no more than ninety days in arrears on the repayment of principal and interest on all loans for which the interest rate is thus reduced and will remain no more than ninety days in arrears for the remaining life of all such loans. None of the funds provided pursuant to the Arms Export Control Act [22 U.S.C. 2751 et seq.] or chapter 2 of part II of the Foreign Assistance Act [22 U.S.C. 2311 et seq.] shall be made available to any country during any period in which it fails to comply with such commitment.

"(d) PURPOSES AND REPORTS.—The authorities of paragraphs (a) and (b) of this heading may be utilized by the President in efforts to negotiate base rights and base access agreements, and for other bilateral foreign policy matters: *Provided further*, That the Secretaries of Defense, State, and Treasury shall transmit to the Committee on Foreign Affairs of the House of Representatives, the Committee on Foreign Relations of the Senate, and the Committees on Appropriations of the House of Representatives and Senate a joint report detailing the United States financial and foreign policy purposes served by implementation of this authority on a country by country basis not later than March 1, 1989, and a second joint report not later than August 1, 1989."

§2765. Annual estimate and justification for sales program

(a) Report to Congress; contents

Except as provided in subsection (d) [1] of this section, no later than February 1 of each year, the President shall transmit to the appropriate congressional committees, as a part of the annual presentation materials for security assistance programs proposed for the next fiscal year, a report which sets forth—

(1) an arms sales proposal covering all sales and licensed commercial exports under this chapter, as well as exports pursuant to a treaty referred to in section 2778(j)(1)(C)(i) of this title, of major weapons or weapons-related defense equipment for $7,000,000 or more, or of any other weapons or weapons-related defense equipment for $25,000,000 or more, which are considered eligible for approval during the current calendar year, together with an indication of which sales and licensed commercial exports are deemed most likely actually to result in the issuance of a letter of offer or of an export license during such year;

(2) an estimate of the total amount of sales and licensed commercial exports, as well as exports

pursuant to a treaty referred to in section 2778(j)(1)(C)(i) of this title, expected to be made to each foreign nation from the United States;

(3) the United States national security considerations involved in expected sales or licensed commercial exports to each country, an analysis of the relationship between anticipated sales to each country and arms control efforts concerning such country and an analysis of the impact of such anticipated sales on the stability of the region that includes such country;

(4) an estimate with regard to the international volume of arms traffic to and from nations purchasing arms as set forth in paragraphs (1) and (2) of this subsection, together with best estimates of the sale and delivery of weapons and weapons-related defense equipment by all major arms suppliers to all major recipient countries during the preceding fiscal year;

(5)(A) an estimate of the aggregate dollar value and quantity of defense articles and defense services, military education and training, grant military assistance, and credits and guarantees, to be furnished by the United States to each foreign country and international organization in the next fiscal year; and

(B) for each country that is proposed to be furnished credits or guaranties under this chapter in the next fiscal year and that has been approved for cash flow financing (as defined in subsection (d) [1] of this section) in excess of $100,000,000 as of October 1 of the current fiscal year—

(i) the amount of such approved cash flow financing,

(ii) a description of administrative ceilings and controls applied, and

(iii) a description of the financial resources otherwise available to such country to pay such approved cash flow financing;

(6) an analysis and description of the services performed during the preceding fiscal year by officers and employees of the United States Government carrying out functions on a full-time basis under this chapter for which reimbursement is provided under section 2792(b) of this title or section 2761(a) of this title, including the number of personnel involved in performing such services;

(7) the total amount of funds in the reserve under section 2764(c) of this title at the end of the fiscal year immediately preceding the fiscal year in which a report under this section is made, together with an assessment of the adequacy of such total amount of funds as a reserve for the payment of claims under guarantees issued pursuant to section 2764 of this title in view of the current debt servicing capacity of borrowing countries, as reported to the Congress pursuant to section 634(a)(5) of the Foreign Assistance Act of 1961 [22 U.S.C. 2394(a)(5)];

(8) a list of all countries with respect to which findings made by the President pursuant to section 2753(a)(1) of this title are in effect on the date of such transmission;

(9) the progress made under the program of the Republic of Korea to modernize its armed forces, the role of the United States in mutual security efforts in the Republic of Korea and the military balance between the People's Republic of Korea and the Republic of Korea;

(10) the amount and nature of Soviet military assistance to the armed forces of Cuba during the preceding fiscal year and the military capabilities of those armed forces;

(11) the status of each loan and each contract of guaranty or insurance theretofore made under the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.], predecessor Acts, or any Act authorizing international security assistance, with respect to which there remains outstanding any unpaid obligation or potential liability; the status of each extension of credit for the procurement of defense articles or defense services, and of each contract of guaranty in connection with any such procurement, theretofore made under this chapter with respect to which there remains outstanding any unpaid obligation or potential liability;

(12)(A) a detailed accounting of all articles, services, credits, guarantees, or any other form of assistance furnished by the United States to each country and international organization, including payments to the United Nations, during the preceding fiscal year for the detection and clearance of landmines, including activities relating to the furnishing of education, training, and technical assistance for the detection and clearance of landmines; and

(B) for each provision of law making funds available or authorizing appropriations for demining

activities described in subparagraph (A), an analysis and description of the objectives and activities undertaken during the preceding fiscal year, including the number of personnel involved in performing such activities;

(13) a list of weapons systems that are significant military equipment (as defined in section 2794(9) of this title), and numbers thereof, that are believed likely to become available for transfer as excess defense articles during the next 12 months; and

(14) such other information as the President may deem necessary.

(b) Congressional request for additional information

Not later than thirty days following the receipt of a request made by any of the congressional committees described in subsection (e) for additional information with respect to any information submitted pursuant to subsection (a), the President shall submit such information to such committee.

(c) Submission of information in unclassified form or classified addendum with unclassified summary

The President shall make every effort to submit all of the information required by subsection (a) or (b) wholly in unclassified form. Whenever the President submits any such information in classified form, he shall submit such classified information in an addendum and shall also submit simultaneously a detailed summary, in unclassified form, of such classified information.

(d) [2] "Cash flow financing" defined

For the purposes of subsection (a)(5)(B) of this section, the term "cash flow financing" means the dollar amount of the difference between the total estimated price of a Letter of Offer and Acceptance or other purchase agreement that has been approved for financing under this chapter or under section 503(a)(3) of the Foreign Assistance Act of 1961 [22 U.S.C. 2311(a)(3)] and the amount of the financing that has been approved therefor; [3]

(d) [2] Transmission of information to Congress

The information required by subsection (a)(4) of this section shall be transmitted to the Congress no later than April 1 of each year.

(e) "Appropriate congressional committees" defined

As used in this section, the term "appropriate congressional committees" means the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives.

(Pub. L. 90–629, ch. 2, §25, as added Pub. L. 94–329, title II, §209(a), June 30, 1976, 90 Stat. 739; amended Pub. L. 95–384, §18, Sept. 26, 1978, 92 Stat. 740; Pub. L. 96–92, §§13, 14, Oct. 29, 1979, 93 Stat. 706; Pub. L. 96–533, title I, §§104(c), 107(d), Dec. 16, 1980, 94 Stat. 3133, 3137; Pub. L. 97–113, title VII, §732, Dec. 29, 1981, 95 Stat. 1557; Pub. L. 99–83, title I, §§112, 113, Aug. 8, 1985, 99 Stat. 198; Pub. L. 104–164, title I, §102(d), July 21, 1996, 110 Stat. 1423; Pub. L. 105–118, title V, §519, Nov. 26, 1997, 111 Stat. 2411; Pub. L. 107–228, div. B, title XII, §1232, Sept. 30, 2002, 116 Stat. 1433; Pub. L. 111–266, title I, §104(c), Oct. 8, 2010, 124 Stat. 2799; Pub. L. 113–276, title II, §208(a)(3), Dec. 18, 2014, 128 Stat. 2993.)

REFERENCES IN TEXT

Subsection (d) of this section, referred to in subsec. (a), preceding par. (1), probably means the subsec. (d) added by section 113(2) of Pub. L. 99–83, relating to transmittal of information to Congress.

This chapter, referred to in subsecs. (a)(1), (5)(B), (6) and (d), was in the original "this Act", and this chapter, referred to in subsec. (a)(11), was in the original "the Arms Export Control Act", both of which mean Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1321, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

Subsection (d) of this section, referred to in subsec. (a)(5)(B), probably means the subsec. (d) added by section 112(b) of Pub. L. 99–83, defining cash flow financing.

The Foreign Assistance Act of 1961, referred to in subsec. (a)(11), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, which is classified principally to chapter 32 (§2151 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

AMENDMENTS

2014—Subsec. (e). Pub. L. 113–276 substituted "Foreign Affairs" for "International Relations".

2010—Subsec. (a)(1). Pub. L. 111–266, §104(c)(1), inserted ", as well as exports pursuant to a treaty referred to in section 2778(j)(1)(C)(i) of this title," after "commercial exports under this chapter".

Subsec. (a)(2). Pub. L. 111–266, §104(c)(2), inserted ", as well as exports pursuant to a treaty referred to in section 2778(j)(1)(C)(i) of this title," after "commercial exports".

2002—Subsec. (a)(13), (14). Pub. L. 107–228 added par. (13) and redesignated former par. (13) as (14).

1997—Subsec. (a). Pub. L. 105–118, §519(1), substituted "appropriate congressional committees" for "Congress" in introductory provisions.

Subsec. (b). Pub. L. 105–118, §519(2), substituted "any of the congressional committees described in subsection (e)" for "the Committee on Foreign Relations of the Senate or the Committee on Foreign Affairs of the House of Representatives".

Subsec. (e). Pub. L. 105–118, §519(3), added subsec. (e).

1996—Subsec. (a)(12), (13). Pub. L. 104–164 added par. (12) and redesignated former par. (12) as (13).

1985—Subsec. (a). Pub. L. 99–83, §113(1), substituted "Except as provided in subsection (d) of this section, no" for "No".

Subsec. (a)(5). Pub. L. 99–83, §112(a), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (d). Pub. L. 99–83, §112(b), added subsec. (d) defining "cash flow financing".

Pub. L. 99–83, §113(2), added subsec. (d) relating to transmittal of information to Congress.

1981—Subsec. (a). Pub. L. 97–113, in provision preceding par. (1), required transmission of the report no later than Feb. 1 of each year and substituted provision for annual presentation materials for programs proposed for next fiscal year for provision for presentation materials for programs proposed for each fiscal year.

Subsec. (a)(1). Pub. L. 97–113 added par. (1) which incorporated provisions of former subsec. (d)(1) of this section. See subsec. (d) amendment note. Former par. (1) covered in par. (3).

Subsec. (a)(2). Pub. L. 97–113 added par. (2). Former par. (2), which required the report to contain an estimate of amount of credits and guaranties expected to be extended to each country under sections 2763 and 2764 of this title, covered in par. (5).

Subsec. (a)(3). Pub. L. 97–113 added par. (3) which incorporated provisions of former par. (1) requiring the report to contain an estimate of amounts of expected sales to each country under sections 2761 and 2762 of this title, including detailed explanations of foreign policy and United States national security considerations in expected sales to each country, and (5) requiring inclusion of an arms control impact statement for each purchasing country, covering (A) an analysis of the relationship between expected sales to each country and arms control efforts relating to that country, and (B) the impact of such expected sales on the stability of the region that included the purchasing country. Former par. (3) redesignated (7).

Subsec. (a)(4). Pub. L. 97–113 added par. (4) which incorporated provisions of former subsec. (e), which had required executive estimates of international arms traffic, including estimates on an annual basis of the sale and delivery of weapons and weapons-related defense equipment by all major arms suppliers to all major recipient countries during the preceding three years. Former par. (4) covered in par. (8).

Subsec. (a)(5). Pub. L. 97–113 added par. (5) which incorporated provisions of former par. (2) requiring the report to contain an estimate of amount of credits and guaranties expected to be extended to each country under sections 2763 and 2764 of this title. Former par. (5) covered in par. (3).

Subsec. (a)(6). Pub. L. 97–113 added par. (6).

Subsec. (a)(7). Pub. L. 97–113 redesignated former par. (3) as (7).

Subsec. (a)(8). Pub. L. 97–113 added par. (8), which incorporated provisions of former par. (4), requiring the report to contain a list of all findings in effect on date of its transmission made by the President pursuant to section 2753(a)(1) of this title, together with a full and complete justification for each finding, explaining how sales to each country with respect to which findings were made would strengthen the security of the United States and promote world peace.

Subsecs. (a)(9) to (12). Pub. L. 97–113 added pars. (9) to (12).

Subsec. (b). Pub. L. 97–113 substituted "Committee on Foreign Affairs" for "Committee on International Relations", and "with respect to any information" for "with respect to any estimate".

Subsec. (c). Pub. L. 97–113 substituted "Whenever the President" for "In the event the President".

Subsec. (d). Pub. L. 97–113 incorporated in subsec. (a) introductory text and subsec. (a)(1), provisions of former subsec. (d)(1) which had required transmission to the Speaker of the House and the chairman of the Senate Foreign Relations Committee the Arms Sales Proposal covering sales and licensed commercials exports under this chapter (other than such transactions to members of North Atlantic Treaty Organization,

Japan, Australia, and New Zealand) of major weapons or weapons-related defense equipment for $7,000,000 or more, or of any other weapons or similar equipment for $25,000,000 or more, which were eligible for approval during fiscal year beginning October 1 of such year and had required identification in the reports of sales and licensed commercial exports deemed most likely actually to result in issuance of a letter of offer or of an export license during such fiscal year, and subsec. (d)(2) which had required Presidential six month written notifications of Congress of any change in the Arms Sales Proposal for such fiscal year, together with reasons therefor.

Subsec. (e). Pub. L. 97–113 incorporated, in subsec. (a) introductory text and subsec. (a)(4), provisions of former subsec. (e) which had required transmission to Congress on or before Nov. 15 of each year executive estimates of international arms traffic, including estimates on an annual basis of the sale and delivery of weapons and weapons-related defense equipment by all major arms suppliers to all major recipient countries during the preceding three years.

1980—Subsec. (a)(3) to (5). Pub. L. 96–533, §104(c), added par. (3) and redesignated former pars. (3) and (4) as (4) and (5), respectively.

Subsec. (d)(1). Pub. L. 96–533, §107(d), included coverage of licensed commercial exports and substituted "letter of offer or of an export license" for "letter of offer".

1979—Subsec. (d). Pub. L. 96–92, §13(1)–(4), designated existing provision as par. (1), substituted "major weapons or weapons-related defense equipment" for "major defense equipment" and "weapons or weapons-related defense equipment" for "defense articles or defense services", required identification of sales likely to result in issuance of a letter of offer in the furnished reports, and added par. (2).

Subsec. (e). Pub. L. 96–92, §14, added subsec. (e).

1978—Subsec. (c). Pub. L. 95–384, §18(b), substituted "subsection (a) or (b)" for "this section".

Subsec. (d). Pub. L. 95–384, §18(a), added subsec. (d).

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–83 effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as a note under section 2151–1 of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of the President under this section, with certain conditions, see section 1(g) of Ex. Ord. No. 13637, Mar. 8, 2013, 78 F.R. 16129, set out as a note under section 2751 of this title. Functions were previously delegated by Ex. Ord. No. 11958, which was formerly set out as a note under section 2751 of this title and was revoked, subject to a savings provision, by section 4 of Ex. Ord. No. 13637.

[1] See References in Text note below.

[2] So in original. Two subsecs. (d) have been enacted.

[3] So in original. The semicolon probably should be a period.

§2766. Security assistance surveys

(a) Statement of findings and policy

The Congress finds that security assistance surveys prepared by the United States for foreign countries have had a significant impact on subsequent military procurement decisions of those countries. It is the policy of the United States that the results of security assistance surveys conducted by the United States clearly do not represent a commitment by the United States to provide any military equipment to any foreign country. Further, recommendations in such surveys should be consistent with the arms export control policy provided for in this chapter.

(b) Reporting requirements

As part of the quarterly report required by section 2776(a) of this title, the President shall include a list of all security assistance surveys authorized during the preceding calendar quarter, specifying the country with respect to which the survey was or will be conducted, the purpose of the survey, and the number of United States Government personnel who participated or will participate in the survey.

(c) Submission of surveys to Congress

Upon a request of the chairman of the Committee on Foreign Affairs of the House of Representatives or the chairman of the Committee on Foreign Relations of the Senate, the President shall submit to that committee copies of security assistance surveys conducted by United States Government personnel.

(d) "Security assistance surveys" defined

As used in this section, the term "security assistance surveys" means any survey or study conducted in a foreign country by United States Government personnel for the purpose of assessing the needs of that country for security assistance, and includes defense requirement surveys, site surveys, general surveys or studies, and engineering assessment surveys.

(Pub. L. 90–629, ch. 2, §26, as added Pub. L. 95–384, §19, Sept. 26, 1978, 92 Stat. 740; amended Pub. L. 99–83, title I, §114, Aug. 8, 1985, 99 Stat. 198; Pub. L. 103–437, §9(a)(7), Nov. 2, 1994, 108 Stat. 4588.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this Act", meaning Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1321, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

AMENDMENTS

1994—Subsec. (c). Pub. L. 103–437 substituted "Foreign Affairs" for "International Relations".

1985—Pub. L. 99–83, §114(a)(1), substituted "Security assistance" for "Defense requirement" in section catchline.

Subsecs. (a), (b). Pub. L. 99–83, §114(a)(2), substituted "security assistance" for "defense requirement" wherever appearing.

Subsec. (c). Pub. L. 99–83, §114(a)(2), (b), substituted "submit to that committee copies of security assistance surveys" for "grant that committee access to defense requirement surveys".

Subsec. (d). Pub. L. 99–83, §114(a)(3), added subsec. (d).

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–83 effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as a note under section 2151–1 of this title.

§2767. Authority of President to enter into cooperative projects with friendly foreign countries

(a) Authority of President

The President may enter into a cooperative project agreement with the North Atlantic Treaty Organization or with one or more member countries of that Organization.

(b) Definitions

As used in this section—

(1) the term "cooperative project", in the case of an agreement with the North Atlantic Treaty Organization or with one or more member countries of that Organization, means a jointly managed arrangement, described in a written agreement among the parties, which is undertaken in order to further the objectives of standardization, rationalization, and interoperability of the armed forces of North Atlantic Treaty Organization member countries and which provides—

(A) for one or more of the other participants to share with the United States the costs of research on and development, testing, evaluation, or joint production (including follow-on support) of certain defense articles;

(B) for concurrent production in the United States and in another member country of a defense article jointly developed in accordance with subparagraph (A); or

(C) for procurement by the United States of a defense article or defense service from another

member country or for procurement by the United States of munitions from the North Atlantic Treaty Organization or a subsidiary of such organization;

(2) the term "cooperative project", in the case of an agreement entered into under subsection (j), means a jointly managed arrangement, described in a written agreement among the parties, which is undertaken in order to enhance the ongoing multinational effort of the participants to improve the conventional defense capabilities of the participants and which provides—

(A) for one or more of the other participants to share with the United States the costs of research on and development, testing, evaluation, or joint production (including follow-on support) of certain defense articles;

(B) for concurrent production in the United States and in the country of another participant of a defense article jointly developed in accordance with subparagraph (A); or

(C) for procurement by the United States of a defense article or defense service from another participant to the agreement; and

(3) the term "other participant" means a participant in a cooperative project other than the United States.

(c) Agreements for equitable share of costs; limiting nature of agreements

Each agreement for a cooperative project shall provide that the United States and each of the other participants will contribute to the cooperative project its equitable share of the full cost of such cooperative project and will receive an equitable share of the results of such cooperative project. The full costs of such cooperative project shall include overhead costs, administrative costs, and costs of claims. The United States and the other participants may contribute their equitable shares of the full cost of such cooperative project in funds or in defense articles or defense services needed for such cooperative project. Military assistance and financing received from the United States Government may not be used by any other participant to provide its share of the cost of such cooperative project. Such agreements shall provide that no requirement shall be imposed by a participant for worksharing or other industrial or commercial compensation in connection with such agreement that is not in accordance with such agreement.

(d) Contractual or other obligation; preconditions

The President may enter into contracts or incur other obligations for a cooperative project on behalf of the other participants, without charge to any appropriation or contract authorization, if each of the other participants in the cooperative project agrees (1) to pay its equitable share of the contract or other obligation, and (2) to make such funds available in such amounts and at such times as may be required by the contract or other obligation and to pay any damages and costs that may accrue from the performance of or cancellation of the contract or other obligation in advance of the time such payments, damages, or costs are due.

(e) Waiver of charges; administrative surcharges

(1) For those cooperative projects entered into on or after the effective date [1] of the International Security and Development Cooperation Act of 1985, the President may reduce or waive the charge or charges which would otherwise be considered appropriate under section 2761(e) of this title in connection with sales under sections 2761 and 2762 of this title when such sales are made as part of such cooperative project, if the other participants agree to reduce or waive corresponding charges.

(2) Notwithstanding provisions of section 2761(e)(1)(A) and section 2792(b) of this title, administrative surcharges shall not be increased on other sales made under this chapter in order to compensate for reductions or waivers of such surcharges under this section. Funds received pursuant to such other sales shall not be available to reimburse the costs incurred by the United States Government for which reduction or waiver is approved by the President under this section.

(f) Transmission of numbered certification to Congress respecting proposed agreement; contents

Not less than 30 days before a cooperative project agreement is signed on behalf of the United

States, the President shall transmit to the Speaker of the House of Representatives, the Committee on Foreign Affairs of the House of Representatives, the chairman of the Committee on Foreign Relations of the Senate, and the chairman of the Committee on Armed Services of the Senate, a numbered certification with respect to such proposed agreement, setting forth—

(1) a detailed description of the cooperative project with respect to which the certification is made;

(2) an estimate of the quantity of the defense articles expected to be produced in furtherance of such cooperative project;

(3) an estimate of the full cost of the cooperative project, with an estimate of the part of the full cost to be incurred by the United States Government, including an estimate of the costs as a result of waivers of section [2] 2761(e)(1)(A) and 2792(b) of this title, for its participation in such cooperative project and an estimate of that part of the full costs to be incurred by the other participants;

(4) an estimate of the dollar value of the funds to be contributed by the United States and each of the other participants on behalf of such cooperative project;

(5) a description of the defense articles and defense services expected to be contributed by the United States and each of the other participants on behalf of such cooperative project;

(6) a statement of the foreign policy and national security benefits anticipated to be derived from such cooperative project; and

(7) to the extent known, whether it is likely that prime contracts will be awarded to particular prime contractors or that subcontracts will be awarded to particular subcontractors to comply with the proposed agreement.

(g) Reporting and certification requirements applicable

In the case of a cooperative project with a North Atlantic Treaty Organization country, section,[3] 2776(b) of this title shall not apply to sales made under section 2761 or 2762 of this title and to production and exports made pursuant to cooperative projects under this section, and section 2776(c) of this title shall not apply to the issuance of licenses or other approvals under section 2778 of this title, if such sales are made, such production and exports ensue, or such licenses or approvals are issued, as part of a cooperative project.

(h) Statutory provisions applicable to sales

The authority under this section is in addition to the authority under sections 2761 and 2762 of this title and under any other provision of law.

(i) Agreements entered into before October 1, 1985

(1) With the approval of the Secretary of State and the Secretary of Defense, a cooperative agreement which was entered into by the United States before the effective date [4] of the amendment to this section made by the International Security and Development Cooperation Act of 1985 and which meets the requirements of this section as so amended may be treated on and after such date as having been made under this section as so amended.

(2) Notwithstanding the amendment made [5] to this section made by the International Security and Development Cooperation Act of 1985, projects entered into under the authority of this section before the effective date [4] of that amendment may be carried through to conclusion in accordance with the terms of this section as in effect immediately before the effective date [4] of that amendment.

(j) Cooperative project agreements with friendly foreign countries not members of NATO

(1) The President may enter into a cooperative project agreement with any friendly foreign country not a member of the North Atlantic Treaty Organization under the same general terms and conditions as the President is authorized to enter into such an agreement with one or more member countries of the North Atlantic Treaty Organization if the President determines that the cooperative project agreement with such country would be in the foreign policy or national security interests of the United States.

(2) Omitted.

(Pub. L. 90–629, ch. 2, §27, as added Pub. L. 96–92, §15, Oct. 29, 1979, 93 Stat. 706; amended Pub. L. 99–83, title I, §115(a), Aug. 8, 1985, 99 Stat. 199; Pub. L. 99–145, title XI, §1102(a)(1), (5), Nov. 8, 1985, 99 Stat. 708, 710; Pub. L. 99–661, div. A, title XI, §1103(a), title XIII, §1342(e), Nov. 14, 1986, 100 Stat. 3962, 3991; Pub. L. 100–180, div. A, title X, §1022, Dec. 4, 1987, 101 Stat. 1144; Pub. L. 102–484, div. A, title VIII, §843(a), Oct. 23, 1992, 106 Stat. 2468; Pub. L. 113–276, title II, §208(a)(4), Dec. 18, 2014, 128 Stat. 2993.)

REFERENCES IN TEXT

The effective date of the International Security and Development Cooperation Act of 1985 and the effective date of the amendment to this section made by the International Security and Development Cooperation Act of 1985, referred to in subsecs. (e)(1) and (i), respectively, is October 1, 1985, see section 1301 of Pub. L. 99–83, set out as an Effective Date of 1985 Amendment note under section 2151–1 of this title.

This chapter, referred to in subsec. (e)(2), was in the original "this Act", meaning Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1321, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

The amendment made to this section made by the International Security and Development Cooperation Act of 1985, referred to in subsec. (i), means the general amendment of this section by section 115(a) of Pub. L. 99–83. See 1985 Amendment note below.

CODIFICATION

Subsec. (j)(2) of this section, which required the President to submit to certain committees of Congress an annual report specifying countries eligible, and criteria used to determine eligibility, for participation in cooperative project agreements under subsec. (j)(1) of this section, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 39 of House Document No. 103–7.

AMENDMENTS

2014—Subsec. (f). Pub. L. 113–276 inserted "the Committee on Foreign Affairs of the House of Representatives," after "the Speaker of the House of Representatives," in introductory provisions.

1992—Subsec. (c). Pub. L. 102–484 substituted "costs, administrative costs, and costs of claims" for "and administrative costs".

1987—Subsec. (b)(1)(C). Pub. L. 100–180 inserted "or for procurement by the United States of munitions from the North Atlantic Treaty Organization or a subsidiary of such organization" after "member country".

1986—Pub. L. 99–661, §1342(e), repealed section 1102(a)(1) of Pub. L. 99–145 and the amendments made by that section, and provided that this section shall apply as if that section had never been enacted. See 1985 Amendments note below.

Pub. L. 99–661, §1103(a)(2), substituted "Authority of President to enter into cooperative projects with friendly foreign countries" for "North Atlantic Treaty Organization cooperative projects" in section catchline.

Subsec. (b)(1). Pub. L. 99–661, §1103(a)(1)(A)(i), inserted ", in the case of an agreement with the North Atlantic Treaty Organization or with one or more member countries of that Organization," in introductory provisions.

Subsec. (b)(2), (3). Pub. L. 99–661, §1103(a)(1)(A)(ii)–(iv), added par. (2) and redesignated former par. (2) as (3).

Subsec. (f)(3). Pub. L. 99–661, §1103(a)(1)(B), inserted ", including an estimate of the costs as a result of waivers of section 2761(e)(1)(A) and 2792(b) of this title,".

Subsec. (g). Pub. L. 99–661, §1103(a)(1)(C), substituted "In the case of a cooperative project with a North Atlantic Treaty Organization country, section," for "Section".

Subsec. (j). Pub. L. 99–661, §1103(a)(1)(D), added subsec. (j).

1985—Pub. L. 99–83 amended section generally, substituting in subsec. (a) provisions relating to authority of the President, for provisions defining "cooperative project", substituting in subsec. (b) provisions defining "cooperative project" and "other participant", for provisions relating to reduction or waiver of charges, sales not subject to compensatory increases in administrative surcharges, and contribution requirements, substituting in subsec. (c) provisions relating to agreements for equitable share of costs and limiting the nature of such agreements, for provisions relating to transmission of numbered certification of proposed agreement, contents of such certification, and statutory provisions applicable to sales, and adding subsecs. (d) to (i).

Pub. L. 99–145, §1102(a)(1), which enacted a general amendment of this section similar to that provided in Pub. L. 99–83 was repealed. See 1986 Amendments note above and former section 1105(a)(5) of Pub. L. 99–145 set out as a Repeals; Effective Date note under section 2752 of this title.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–83 effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as a note under section 2151–1 of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of the President under this section, with certain conditions, see section 1(f) of Ex. Ord. No. 13637, Mar. 8, 2013, 78 F.R. 16129, set out as a note under section 2751 of this title. Functions were previously delegated by Ex. Ord. No. 11958, which was formerly set out as a note under section 2751 of this title and was revoked, subject to a savings provision, by section 4 of Ex. Ord. No. 13637.

ASSESSMENT OF RISK ASSOCIATED WITH DEVELOPMENT OF MAJOR WEAPON SYSTEMS TO BE PROCURED UNDER COOPERATIVE PROJECTS WITH FRIENDLY FOREIGN COUNTRIES

Pub. L. 112–81, div. A, title VIII, §836, Dec. 31, 2011, 125 Stat. 1508, provided that:

"(a) ASSESSMENT OF RISK REQUIRED.—

"(1) IN GENERAL.—Not later than two days after the President transmits a certification to Congress pursuant to section 27(f) of the Arms Export Control Act (22 U.S.C. 2767(f)) regarding a proposed cooperative project agreement that is expected to result in the award of a Department of Defense contract for the engineering and manufacturing development of a major weapon system, the Secretary of Defense shall submit to the Chairmen of the Committees on Armed Services of the Senate and the House of Representatives a report setting forth a risk assessment of the proposed cooperative project.

"(2) PREPARATION.—The Secretary shall prepare each report required by paragraph (1) in consultation with the Under Secretary of Defense for Acquisition, Technology, and Logistics, the Assistant Secretary of Defense for Research and Engineering, and the Director of Cost Assessment and Program Evaluation of the Department of Defense.

"(b) ELEMENTS.—The risk assessment on a cooperative project under subsection (a) shall include the following:

"(1) An assessment of the design, technical, manufacturing, and integration risks associated with developing and procuring the weapon system to be procured under the cooperative project.

"(2) A statement identifying any termination liability that would be incurred under the development contract to be entered into under subsection (a)(1), and a statement of the extent to which such termination liability would not be fully funded by appropriations available or sought in the fiscal year in which the agreement for the cooperative project is signed on behalf of the United States.

"(3) An assessment of the advisability of incurring any unfunded termination liability identified under paragraph (2) given the risks identified in the assessment under paragraph (1).

"(4) A listing of which, if any, requirements associated with the oversight and management of a major defense acquisition program (as prescribed under Department of Defense Instruction 5000.02 or related authorities) will be waived, or in any way modified, in carrying out the development contract to be entered into under [subsection] (a)(1), and a full explanation why such requirements need to be waived or modified.

"(c) DEFINITIONS.—In this section:

"(1) The term 'engineering and manufacturing development' has the meaning given that term in Department of Defense Instruction 5000.02.

"(2) The term 'major weapon system' has the meaning given that term in section 2379(f) of title 10, United States Code."

[1] See References in Text note below.

[2] So in original. Probably should be "sections".

[3] So in original. The comma probably should not appear.

[4] See References in Text note below.

[5] So in original. The word "made" probably should not appear.

§2767a. Repealed. Pub. L. 101–189, div. A, title IX, §931(d)(2), Nov. 29, 1989, 103 Stat. 1535

Section, Pub. L. 99–661, div. A, title XI, §1105, Nov. 14, 1986, 100 Stat. 3965; Pub. L. 100–456, div. A, title X, §1007, Sept. 29, 1988, 102 Stat. 2040, related to cooperative research and development with major non-NATO allies. See section 2350a of Title 10, Armed Forces.

§2768. Repealed. Pub. L. 104–106, div. A, title X, §1064(a), Feb. 10, 1996, 110 Stat. 445

Section, Pub. L. 90–629, ch. 2, §28, as added Pub. L. 96–92, §16(a), Oct. 29, 1979, 93 Stat. 708; amended Pub. L. 97–113, title I, §101(b), Dec. 29, 1981, 95 Stat. 1520; Pub. L. 100–461, title V, §588(a), Oct. 1, 1988, 102 Stat. 2268–51, related to reports on price and availability estimates.

SUBCHAPTER II–A—FOREIGN MILITARY CONSTRUCTION SALES

§2769. Foreign military construction sales

The President may sell design and construction services to any eligible foreign country or international organization if such country or international organization agrees to pay in United States dollars not less than the full cost to the United States Government of furnishing such services. Payment shall be made to the United States Government in advance of the performance of such services by officers or employees of the United States Government. The President may, without requirement for charge to any appropriation or contract authorization otherwise provided, enter into contracts for the procurement of design and construction services for sale under this section if such country or international organization provides the United States Government with a dependable undertaking (1) to pay the full amount of such contract which will assure the United States Government against any loss on the contract, and (2) to make funds available in such amounts and at such time as may be required to meet the payments required by the contract and any damages and costs that may accrue from the cancellation of such contract, in advance of the time such payments, damages, or costs are due.

(Pub. L. 90–629, ch. 2A, §29, as added Pub. L. 96–533, title I, §105(a), Dec. 16, 1980, 94 Stat. 3133.)

DELEGATION OF FUNCTIONS

For delegation of functions of the President under this section, see section 1(d) of Ex. Ord. No. 13637, Mar. 8, 2013, 78 F.R. 16129, set out as a note under section 2751 of this title. Functions were previously delegated by Ex. Ord. No. 11958, which was formerly set out as a note under section 2751 of this title and was revoked, subject to a savings provision, by section 4 of Ex. Ord. No. 13637.

SUBCHAPTER II–B—SALES TO UNITED STATES COMPANIES FOR INCORPORATION INTO END ITEMS

§2770. General authority

(a) Sale of defense articles and services by President to United States companies; restriction on performance of services; reimbursement credited to selling agency

Subject to the conditions specified in subsection (b) of this section, the President may, on a

negotiated contract basis, under cash terms (1) sell defense articles at not less than their estimated replacement cost (or actual cost in the case of services), or (2) procure or manufacture and sell defense articles at not less than their contract or manufacturing cost to the United States Government, to any United States company for incorporation into end items (and for concurrent or follow-on support) to be sold by such a company either (i) on a direct commercial basis to a friendly foreign country or international organization pursuant to an export license or approval under section 2778 of this title or (ii) in the case of ammunition parts subject to subsection (b) of this section, using commercial practices which restrict actual delivery directly to a friendly foreign country or international organization pursuant to approval under section 2778 of this title. The President may also sell defense services in support of such sales of defense articles, subject to the requirements of this subchapter: *Provided, however*, That such services may be performed only in the United States. The amount of reimbursement received from such sales shall be credited to the current applicable appropriation, fund, or account of the selling agency of the United States Government.

(b) Conditions of sale

Defense articles and defense services may be sold, procured and sold, or manufactured and sold, pursuant to subsection (a) of this section only if (1) the end item to which the articles apply is to be procured for the armed forces of a friendly country or international organization, (2) the articles would be supplied to the prime contractor as government-furnished equipment or materials if the end item were being procured for the use of the United States Armed Forces, and (3) the articles and services are available only from United States Government sources or are not available to the prime contractor directly from United States commercial sources at such times as may be required to meet the prime contractor's delivery schedule.

(c) "Defense articles" and "defense services" defined

For the purpose of this section, the terms "defense articles" and "defense services" mean defense articles and defense services as defined in section 2794(3) and (4) of this title.

(Pub. L. 90–629, ch. 2B, §30, as added Pub. L. 97–392, §1, Dec. 29, 1982, 96 Stat. 1962; amended Pub. L. 101–165, title IX, §9097, Nov. 21, 1989, 103 Stat. 1150.)

AMENDMENTS

1989—Subsec. (a). Pub. L. 101–165 inserted "either (i)" after "such a company" in first sentence and inserted before period at end of first sentence "or (ii) in the case of ammunition parts subject to subsection (b) of this section, using commercial practices which restrict actual delivery directly to a friendly foreign country or international organization pursuant to approval under section 2778 of this title".

DELEGATION OF FUNCTIONS

For delegation of functions of the President under this section, see section 1(d) of Ex. Ord. No. 13637, Mar. 8, 2013, 78 F.R. 16129, set out as a note under section 2751 of this title. Functions were previously delegated by Ex. Ord. No. 11958, which was formerly set out as a note under section 2751 of this title and was revoked, subject to a savings provision, by section 4 of Ex. Ord. No. 13637.

SUBCHAPTER II–C—EXCHANGE OF TRAINING AND RELATED SUPPORT

§2770a. Exchange of training and related support

(a) Authorization; eligibility; scope

Subject to subsection (b), the President may provide training and related support to military and civilian defense personnel of a friendly foreign country or an international organization. Such

training and related support shall be provided by a Secretary of a military department and may include the provision of transportation, food services, health services, and logistics and the use of facilities and equipment.

(b) Reciprocal arrangements; reimbursement

Training and related support may be provided under this section only pursuant to an agreement or other arrangement providing for the provision by the recipient foreign country or international organization, on a reciprocal basis, of comparable training and related support to military and civilian personnel under the jurisdiction of the Secretary of the military department providing the training and related support under this section. Such reciprocal training and related support must be provided within a reasonable period of time (which may not be more than one year) of the provision of training and related support by the United States. To the extent that a foreign country or international organization to which training and related support is provided under this section does not provide such comparable training and related support to the United States within a reasonable period of time, that country or international organization shall be required to reimburse the United States for the full costs of the training and related support provided by the United States.

(c) Regulations

Training and related support under this section shall be provided under regulations prescribed by the President.

(d) Report to Congress

Not later than February 1 of each year, the President shall submit to the Congress a report on the activities conducted pursuant to this section during the preceding fiscal year, including the estimated full costs of the training and related support provided by the United States to each country and international organization and the estimated value of the training and related support provided to the United States by that country or international organization.

(Pub. L. 90–629, ch. 2C, §30A, as added Pub. L. 99–83, title I, §116, Aug. 8, 1985, 99 Stat. 201.)

EFFECTIVE DATE

Section effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as an Effective Date of 1985 Amendment note under section 2151–1 of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of the President under this section, see section 1(d) of Ex. Ord. No. 13637, Mar. 8, 2013, 78 F.R. 16129, set out as a note under section 2751 of this title. Functions were previously delegated by Ex. Ord. No. 11958, which was formerly set out as a note under section 2751 of this title and was revoked, subject to a savings provision, by section 4 of Ex. Ord. No. 13637.

SUBCHAPTER III—MILITARY EXPORT CONTROLS

§2771. Military sales authorizations and ceilings

(a) Authorization for foreign military sales credit and guarantee program

There are authorized to be appropriated to the President to carry out this chapter $5,371,000,000 for fiscal year 1986 and $5,371,000,000 for fiscal year 1987. Credits may not be extended under section 2763 of this title in an amount, and loans may not be guaranteed under section 2764(a) of this title in a principal amount, which exceeds any maximum amount which may be established with respect to such credits or such loan guarantees in legislation appropriating funds to carry out this chapter. Unobligated balances of funds made available pursuant to this section are hereby authorized to be continued available by appropriations legislation to carry out this chapter.

(b) Aggregate ceilings on credit sales; availability at concessional rates of interest

(1) The total amount of credits extended under section 2763 of this title shall not exceed $5,371,000,000 for fiscal year 1986 and $5,371,000,000 for fiscal year 1987.

(2) Of the aggregate amount of financing provided under this section, not more than $553,900,000 for fiscal year 1986 and not more than $553,900,000 for fiscal year 1987 may be made available at concessional rates of interest. If a country is released from its contractual liability to repay the United States Government with respect to financing provided under this section, such financing shall not be considered to be financing provided at concessional rates of interest for purposes of the limitation established by this paragraph.

(c) Interest rates

Loans available under section 2763 of this title shall be provided at rates of interest that are not less than the current average market yield on outstanding marketable obligations of the United States of comparable maturities.

(Pub. L. 90–629, ch. 3, §31, Oct. 22, 1968, 82 Stat. 1324; Pub. L. 91–672, §2, Jan. 12, 1971, 84 Stat. 2053; Pub. L. 92–226, pt. IV, §401(a), (b), Feb. 7, 1972, 86 Stat. 32; Pub. L. 93–189, §25(5), (6), Dec. 17, 1973, 87 Stat. 730; Pub. L. 93–559, §45(a)(6), (7), Dec. 30, 1974, 88 Stat. 1815; Pub. L. 94–329, title II, §210(a)–(c)(1), June 30, 1976, 90 Stat. 740; Pub. L. 95–92, §19, Aug. 4, 1977, 91 Stat. 623; Pub. L. 95–384, §20, Sept. 26, 1978, 92 Stat. 741; Pub. L. 96–92, §17(a), Oct. 29, 1979, 93 Stat. 708; Pub. L. 96–533, title I, §§104(d), 105(b)(3), 106(a)–(c), Dec. 16, 1980, 94 Stat. 3133–3136; Pub. L. 97–113, title I, §105, Dec. 29, 1981, 95 Stat. 1521; Pub. L. 98–151, §101(b)(2), Nov. 14, 1983, 97 Stat. 969, 970; Pub. L. 99–83, title I, §101(a), (b), Aug. 8, 1985, 99 Stat. 193; Pub. L. 101–513, title V, §596(c), Nov. 5, 1990, 104 Stat. 2062; Pub. L. 104–164, title I, §§101, 104(b)(2)(C), July 21, 1996, 110 Stat. 1422, 1427.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this Act", meaning Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1321, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

AMENDMENTS

1996—Subsec. (c). Pub. L. 104–164, §101, amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: "For fiscal year 1986 and fiscal year 1987, the principal amount of credits provided under section 2763 of this title at market rates of interest with respect to Greece, the Republic of Korea, the Philippines, Portugal, Spain, Thailand, and Turkey shall (if and to the extent each country so desires) be repaid in not more than twenty years, following a grace period of ten years on repayment of principal."

Subsec. (d). Pub. L. 104–164, §104(b)(2)(C), struck out subsec. (d) which read as follows: "The aggregate acquisition cost to the United States of excess defense articles ordered by the President in any fiscal year after fiscal year 1976 for delivery to foreign countries or international organizations under the authority of chapter 2 of part II of the Foreign Assistance Act of 1961 or pursuant to sales under this chapter may not exceed $250,000,000 (exclusive of ships and their onboard stores and supplies transferred in accordance with law, and of any defense articles with respect to which the President submits a certification under section 2776(b) of this title.)."

1990—Subsec. (d). Pub. L. 101–513 inserted ", and of any defense articles with respect to which the President submits a certification under section 2776(b) of this title." after "law".

1985—Subsec. (a). Pub. L. 99–83, §101(a), substituted provisions authorizing appropriations of $5,371,000,000 for fiscal years 1986 and 1987, for provisions authorizing appropriations of $800,000,000 for fiscal years 1982 and 1983.

Subsec. (b). Pub. L. 99–83, §101(b), amended subsec. (b) generally, substituting provisions relating to maximum amount of credits authorized for fiscal years 1986 and 1987 and maximum amounts of such credits available at concessional rates of interest for such years, for provisions relating to maximum amounts of credits (or participations in credits) and loans guaranteed for fiscal years 1982 and 1983, and credit, etc., programs with respect to specific countries.

Subsec. (c). Pub. L. 99–83, §101(b), amended subsec. (c) generally, substituting provisions relating to extended repayment terms for credits provided for fiscal years 1986 and 1987, for provisions relating to funds made available for fiscal year 1984 to finance procurement of defense articles, etc., by Israel.

1983—Subsec. (b)(3). Pub. L. 98–151 amended par. (3) generally, substituting provisions authorizing not

less than $1,700,000,000 for fiscal year 1984 as available to Israel, of which not less than $850,000,000 shall be available as credits under section 2763 of this title, and provisions relating to availability of funds part of the total aggregate credit ceiling made available to Israel, for provisions authorizing not less than $1,400,000,000 for the fiscal years 1982 and 1983 as available to Israel, of which not less than $550,000,000 for each year shall be available as credits.

Subsec. (b)(5). Pub. L. 98–151 substituted "1984" for "1982 and for the fiscal year 1983".

Subsec. (b)(6). Pub. L. 98–151 amended par. (6) generally, inserting provisions relating to availability to Egypt for fiscal year 1984 of not less than $900,000,000 of the total principal amount of loans guaranteed, and substituting provisions authorizing not less than $465,000,000 for fiscal year 1984, for provisions authorizing not less than $200,000,000 for fiscal years 1982 and 1983.

Subsec. (c). Pub. L. 98–151 substituted provisions relating to applicability to fiscal year 1984, for provisions relating to applicability to fiscal years 1982 and 1983, and substituted "$850,000,000" for "$550,000,000".

1981—Subsec. (a). Pub. L. 97–113, §105(a), substituted "$800,000,000 for the fiscal year 1982 and $800,000,000 for the fiscal year 1983" for "$500,000,000 for the fiscal year 1981".

Subsec. (b). Pub. L. 97–113, §105(b), prescribed in par. (1) $800,000,000 limit on credits for fiscal years 1982 and 1983, striking out $500,000,000 limit for fiscal year 1981, in par. (2) $3,269,525,000 limit on total principal amount of guaranteed loans for fiscal years 1982 and 1983, striking out $2,616,000,000 limit for fiscal year 1981, and in par. (3) $1,400,000,000 minimum for Israel in fiscal years 1982 and 1983, the same sum made available for fiscal year 1981, including requirement of $550,000,000 minimum of such funds for such fiscal years as credits under section 2763 of this title, striking out requirement for Israeli use of $200,000,000 of available funds only for relocation costs from the Sinai, and added pars. (4) to (7).

Subsec. (c). Pub. L. 97–113, §105(c)(1)–(3), substituted "fiscal year 1982 and for the fiscal year 1983" for "fiscal year 1981", "$550,000,000" for "$500,000,000", and "each such year" for "such year".

1980—Subsec. (a). Pub. L. 96–533, §§104(d), 106(a), placed a limit on extension of credits and loan guaranties not to exceed amount established in appropriation of funds to carry out this chapter and substituted "$500,000,000 for the fiscal year 1981" for "$673,500,000 for the fiscal year 1980".

Subsec. (b). Pub. L. 96–533, §106(b), in revising subsec. (b), substituted par. (1) and (2) limits on amount of credits or participations in credits and loan guaranties for fiscal year 1981 in amounts of $500,000,000 and $2,616,000,000 for prior combined sum limited to $2,235,000,000 for fiscal year 1980 and substituted par. (3) earmarking minimum of $1,400,000,000 only for Israel for fiscal year 1981, including availability of $200,000,000 for costs associated with relocation of Israeli forces from the Sinai for prior prescription of minimum sum of $1,000,000,000 as available only for Israel.

Subsec. (c). Pub. L. 96–533, §§105(b)(3), 106(c), substituted "defense articles, defense services, and design and construction services" for "defense articles and defense services" in two places, "1981" for "1980" in two places, and "$500,000,000" for "one-half".

1979—Subsec. (a). Pub. L. 96–92, §17(a)(1), substituted "$673,500,000 for the fiscal year 1980" for "$682,000,000 for the fiscal year 1978 and $674,300,000 for the fiscal year 1979".

Subsec. (b). Pub. L. 96–92, §17(a)(2), substituted "$2,235,000,000 for the fiscal year 1980, of which" for "$2,152,350,000 for the fiscal year 1978 and $2,085,500,000 for the fiscal year 1979, of which amount for each such year".

Subsec. (c). Pub. L. 96–92, §17(a)(3), substituted "fiscal year 1980" for "fiscal year 1979".

Subsec. (d). Pub. L. 96–92, §17(a)(4), substituted "$250,000,000" for "$150,000,000".

1978—Subsec. (a). Pub. L. 95–384, §20(a), substituted "$682,000,000 for the fiscal year 1978 and $674,300,000 for the fiscal year 1979" for "$677,000,000 for the fiscal year 1978".

Subsec. (b). Pub. L. 95–384, §20(b), substituted "$2,152,350,000 for the fiscal year 1978 and $2,085,500,000 for the fiscal year 1979, of which amount for each such year" for "$2,102,350,000 for the fiscal year 1978, of which".

Subsec. (c). Pub. L. 95–384, §20(c), substituted "fiscal year 1979" for "fiscal year 1978".

Subsec. (d). Pub. L. 95–384, §20(d), substituted "$150,000,000" for "$100,000,000".

1977—Subsec. (a). Pub. L. 95–92, §19(1), substituted "$677,000,000 for the fiscal year 1978" for "$1,039,000,000 for the fiscal year 1976 and not to exceed $740,000,000 for the fiscal year 1977".

Subsec. (b). Pub. L. 95–92, §19(2), substituted "$2,102,350,000 for the fiscal year 1978" for "$2,374,700,000 for the fiscal year 1976, of which not less than $1,500,000,000 shall be available only for Israel, and shall not exceed $2,022,100,000 for the fiscal year 1977".

Subsec. (c). Pub. L. 95–92, §19(3), substituted "year 1978" for "years 1976 and 1977" and struck out "each" before "such year".

1976—Subsec. (a). Pub. L. 94–329, §210(a), substituted provisions authorizing appropriations not to

exceed $1,039,000,000 for the fiscal year 1976 and not to exceed $740,000,000 for the fiscal year 1977, for provisions authorizing appropriations not to exceed $405,000,000 for the fiscal year 1975.

Subsec. (b). Pub. L. 94–329, §210(b), substituted provisions setting out the foreign military sales credit ceiling of $2,374,700,000 for the fiscal year 1976, of which not less than $1,500,000,000 shall be available only for Israel, and $2,022,100,000 for the fiscal year 1977, of which not less than $1,000,000,000 shall be available only for Israel, for provisions setting out such ceiling of $872,500,000 for the fiscal year 1975, of which amount not less than $300,000,000 shall be available to Israel only, and struck out provisions relating to obligation of $100,000,000 for financing procurement of defense articles and services by Israel and for release of Israel from contractual liability to repay United States Government for the defense article and services so financed.

Subsecs. (c), (d). Pub. L. 94–329, §210(c)(1), added subsecs. (c) and (d).

1974—Subsec. (a). Pub. L. 93–559, §45(a)(6), substituted "$405,000,000 for the fiscal year 1975" for "$325,000,000 for the fiscal year 1974".

Subsec. (b). Pub. L. 93–559, §45(a)(7), substituted "$872,500,000 for the fiscal year 1975" for "$730,000,000 for the fiscal year 1974" and provided for obligation of $100,000,000 for financing procurement of defense articles and defense services by Israel and for release of Israel from contractual liability to repay the United States Government for the defense articles and defense services so financed.

1973—Subsec. (a). Pub. L. 93–189, §25(5), substituted provision authorizing appropriation of not more than $325,000,000 for the fiscal year 1974, for provision authorizing appropriation of not more than $400,000,000 for the fiscal year 1972.

Subsec. (b). Pub. L. 93–189, §25(6), substituted provisions setting out the foreign military sales credit ceiling of $730,000,000 for the fiscal year 1974, of which amount not less than $300,000,000 shall be made available to Israel, for provisions setting out such ceiling of $550,000,000 for the fiscal year 1972, of which amount not less than $300,000,000 shall be made available to Israel, and such amount to exclude credits covered by guaranties issued under section 2764(b) of this title.

1972—Subsec. (a). Pub. L. 92–226, §401(a), substituted provision authorizing appropriation of not more than $400,000,000 for the fiscal year 1972, for provisions authorizing appropriation of not more than $250,000,000 for each of the fiscal years 1970 and 1971.

Subsec. (b). Pub. L. 92–226, §401(b), substituted provisions setting out the foreign military sales credit ceiling of $550,000,000 for the fiscal year 1972, of which amount not less than $300,000,000 shall be made available to Israel, for provisions setting out such ceiling of $340,000,000 for the fiscal years 1970 and 1971.

1971—Subsec. (a). Pub. L. 91–672, §2(1), substituted provisions authorizing appropriation of not more than $250,000,000 for each of the fiscal years 1970 and 1971 for provisions authorizing appropriation of not more than $296,000,000 for the fiscal year 1969.

Subsec. (b). Pub. L. 91–672, §2(2), substituted provisions setting out the foreign military sales credit ceiling of $340,000,000 for the fiscal years 1970 and 1971 for provisions setting out such ceiling of $296,000,000 for the fiscal year 1969.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–83 effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as a note under section 2151–1 of this title.

CEILINGS ON LOANS FOR GREECE, SUDAN, AND TURKEY, FISCAL YEAR 1980; REPAYMENT PERIOD; GRACE PERIOD FOR REPAYMENT OF PRINCIPAL

Pub. L. 96–92, §17(b), Oct. 29, 1979, 93 Stat. 709, provided that: "Of the principal amount of loans guaranteed for the fiscal year 1980 under section 24 of the Arms Export Control Act [section 2764 of this title]—

"(1) with respect to Turkey, not to exceed $50,000,000,

"(2) with respect to Greece, not to exceed $42,000,000, and

"(3) with respect to Sudan, not to exceed $25,000,000,

shall be repaid in not less than 20 years, following a grace period of 10 years on repayment of principal."

§2772. Repealed. Pub. L. 102–429, title I, §112(e), Oct. 21, 1992, 106 Stat. 2195

Section, Pub. L. 90–629, ch. 3, §32, Oct. 22, 1968, 82 Stat. 1325, prohibited certain military export financing by Export-Import Bank.

§2773. Restraint in arms sales to Sub-Saharan Africa

It is the sense of the Congress that the problems of Sub-Saharan Africa are primarily those of economic development and that United States policy should assist in limiting the development of costly military conflict in that region. Therefore, the President shall exercise restraint in selling defense articles and defense services, and in providing financing for sales of defense articles and defense services, to countries in Sub-Saharan Africa.

(Pub. L. 90–629, ch. 3, §33, Oct. 22, 1968, 82 Stat. 1325; Pub. L. 91–672, §3, Jan. 12, 1971, 84 Stat. 2053; Pub. L. 92–226, pt. IV, §401(c), (d), Feb. 7, 1972, 86 Stat. 32; Pub. L. 93–189, §25(7)–(9), Dec. 17, 1973, 87 Stat. 731; Pub. L. 93–559, §45(a)(8), Dec. 30, 1974, 88 Stat. 1815; Pub. L. 96–92, §18, Oct. 29, 1979, 93 Stat. 709.)

AMENDMENTS

1979—Pub. L. 96–92 substituted provisions respecting restraint in arms sales to Sub-Saharan Africa for provisions imposing regional ceilings on foreign military sales to African countries and Presidential waiver and report thereof to Congress.

1974—Subsec. (a). Pub. L. 93–559, §45(a)(8)(A), (B), repealed subsec. (a) which prescribed a ceiling of $150,000,000 in each fiscal year on the total amount of military assistance, credits, participations in credits, guaranteed loans, and loans and sales under section 7307 of Title 10, for Latin American countries, and redesignated subsec. (b) as (a).

Subsec. (b). Pub. L. 93–559, §45(a)(8)(B), (C), added subsec. (b) and redesignated former subsec. (b) as (a).

1973—Subsec. (a). Pub. L. 93–189, §25(7), struck out reference to cash sales pursuant to sections 2761 and 2762 of this title reference to exclusion of credits covered by guaranties issued under section 2764(b) of this title, and reference to the face amount of contracts of guaranty issued under section 2764(a) and (b) of this title, inserted reference to the principal amount of loans guaranteed under section 2764(a) of this title, and substituted "$150,000,000" for "$100,000,000".

Subsec. (b). Pub. L. 93–189, §25(8), struck out reference to cash sales pursuant to sections 2761 and 2762 of this title, reference to exclusion of credits covered by guaranties issued under section 2764(b) of this title, and reference to the face amount of contracts of guaranty issued under section 2764(a) and (b) of this title, and inserted reference to the principal amount of loans guaranteed under section 2764(a) of this title.

Subsec. (c). Pub. L. 93–189, §25(9), struck out subsec. (c) which provided for Presidential waiver of limitations on amounts authorized under this section and set forth geographical limitations on the aggregate amounts of military assistance to be made available and percentage deviations from such ceiling amounts.

1972—Subsec. (a). Pub. L. 92–226, §401(c), substituted "$100,000,000" for "$75,000,000".

Subsec. (c). Pub. L. 92–226, §401(d), substituted provisions for waiver of limitations when overriding requirements of the national security of the United States justify waiver for prior provisions for such a waiver when important to the security of the United States, required a written report with reasons for findings and statement in detail of expenditures when in excess of applicable geographical limitations, and prescribed percentage limitation for exceeding aggregate of geographical ceiling limitation.

1971—Subsec. (a). Pub. L. 91–672, §3(1), made fiscal year 1969 ceiling of $75,000,000 for Latin American countries a continuing ceiling applicable in each fiscal year.

Subsec. (b). Pub. L. 91–672, §3(2), made fiscal year 1969 ceiling of $40,000,000 for African countries a continuing ceiling applicable in each fiscal year.

§2774. Foreign military sales credit standards

The President shall establish standards and criteria for credit and guaranty transactions under sections 2763 and 2764 of this title in accordance with the foreign, national security, and financial policies of the United States.

(Pub. L. 90–629, ch. 3, §34, Oct. 22, 1968, 82 Stat. 1325.)

DELEGATION OF FUNCTIONS

For delegation of functions of the President under this section, with certain conditions, see section 1(h) of Ex. Ord. No. 13637, Mar. 8, 2013, 78 F.R. 16129, set out as a note under section 2751 of this title. Functions were previously delegated by Ex. Ord. No. 11958, which was formerly set out as a note under section 2751 of this title and was revoked, subject to a savings provision, by section 4 of Ex. Ord. No. 13637.

§2775. Foreign military sales to less developed countries

(a) When the President finds that any economically less developed country is diverting development assistance furnished pursuant to the Foreign Assistance Act of 1961, as amended [22 U.S.C. 2151 et seq.], or sales under the Food for Peace Act, as amended [7 U.S.C. 1691 et seq.], to military expenditures, or is diverting its own resources to unnecessary military expenditures, to a degree which materially interferes with its development, such country shall be immediately ineligible for further sales and guarantees under sections 2761, 2762, 2763, and 2764 of this title, until the President is assured that such diversion will no longer take place.

(b) Repealed. Pub. L. 93–559, §45(a)(5), Dec. 30, 1974, 88 Stat. 1814.

(Pub. L. 90–629, ch. 3, §35, Oct. 22, 1968, 82 Stat. 1325; Pub. L. 93–559, §45(a)(5), Dec. 30, 1974, 88 Stat. 1814; Pub. L. 110–246, title III, §3001(b)(1)(A), (2)(T), June 18, 2008, 122 Stat. 1820, 1821.)

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, as amended, referred to in subsec. (a), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, which is classified principally to chapter 32 (§2151 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

The Food for Peace Act, as amended, referred to in subsec. (a), is act July 10, 1954, ch. 469, 68 Stat. 454, which is classified principally to chapter 41 (§1691 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 1691 of Title 7 and Tables.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–246 substituted "Food for Peace Act" for "Agricultural Trade Development and Assistance Act of 1954".

1974—Subsec. (b). Pub. L. 93–559 repealed subsec. (b) which provided for Presidential reports to Congress respecting sales and guaranties to less developed countries.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–246 effective May 22, 2008, see section 4(b) of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

DELEGATION OF FUNCTIONS

For delegation of functions of the President under subsec. (a) of this section, see section 1(i) of Ex. Ord. No. 13637, Mar. 8, 2013, 78 F.R. 16130, set out as a note under section 2751 of this title. Functions were previously delegated by Ex. Ord. No. 11958, which was formerly set out as a note under section 2751 of this title and was revoked, subject to a savings provision, by section 4 of Ex. Ord. No. 13637.

§2776. Reports and certifications to Congress on military exports

(a) Report by President; contents

The President shall transmit to the Speaker of the House of Representatives, the Committee on Foreign Affairs of the House of Representatives, and to the chairman of the Committee on Foreign Relations of the Senate not more than sixty days after the end of each quarter an unclassified report (except that any material which was transmitted in classified form under subsection (b)(1) or (c)(1) of this section may be contained in a classified addendum to such report, and any letter of offer referred to in paragraph (1) of this subsection may be listed in such addendum unless such letter of offer has been the subject of an unclassified certification pursuant to subsection (b)(1) of this section, and any information provided under paragraph (11) of this subsection may also be provided in a classified addendum) containing—

(1) a listing of all letters of offer to sell any major defense equipment for $1,000,000 or more under this chapter to each foreign country and international organization, by category, if such letters of offer have not been accepted or canceled;

(2) a listing of all such letters of offer that have been accepted during the fiscal year in which such report is submitted, together with the total value of all defense articles and defense services sold to each foreign country and international organization during such fiscal year;

(3) the cumulative dollar amounts, by foreign country and international organization, of sales credit agreements under section 2763 of this title and guaranty agreements under section 2764 of this title made during the fiscal year in which such report is submitted;

(4) a numbered listing of all licenses and approvals for the export to each foreign country and international organization during such fiscal year of commercially sold major defense equipment, by category, sold for $1,000,000 or more, together with the total value of all defense articles and defense services so licensed for each foreign country and international organization, setting forth with respect to the listed major defense equipment—

(A) the items to be exported under the license,

(B) the quantity and contract price of each such item to be furnished, and

(C) the name and address of the ultimate user of each such item;

(5) projections of the dollar amounts, by foreign country and international organization, of sales expected to be made under sections 2761 and 2762 of this title in the quarter of the fiscal year immediately following the quarter for which such report is submitted;

(6) a projection with respect to all sales expected to be made to each country and organization for the remainder of the fiscal year in which such report is transmitted;

(7) a description of each payment, contribution, gift, commission, or fee reported to the Secretary of State under section 2779 of this title, including (A) the name of the person who made such payment, contribution, gift, commission, or fee; (B) the name of any sales agent or other person to whom such payment, contribution, gift, commission, or fee was paid; (C) the date and amount of such payment, contribution, gift, commission, or fee; (D) a description of the sale in connection with which such payment, contribution, gift, commission, or fee was paid; and (E) the identification of any business information considered confidential by the person submitting it which is included in the report;

(8) a listing of each sale under section 2769 of this title during the quarter for which such report is made, specifying (A) the purchaser, (B) the United States Government department or agency responsible for implementing the sale, (C) an estimate of the dollar amount of the sale, and (D) a general description of the real property facilities to be constructed pursuant to such sale;

(9) a listing of the consents to third-party transfers of defense articles or defense services which were granted, during the quarter for which such report is submitted, for purposes of section 2753(a)(2) of this title, the regulations issued under section 2778 of this title, or section 2314(a)(1)(B) of this title, if the value (in terms of original acquisition cost) of the defense articles or defense services to be transferred is $1,000,000 or more;

(10) a listing of all munitions items (as defined in section 2780(l)(1) of this title) which were sold, leased, or otherwise transferred by the Department of Defense to any other department, agency, or other entity of the United States Government during the quarter for which such report is submitted (including the name of the recipient Government entity and a discussion of what that entity will do with those munitions items) if—

(A) the value of the munitions items was $250,000 or more; or

(B) the value of all munitions items transferred to that Government department, agency, or other entity during that quarter was $250,000 or more;

excluding munitions items transferred (i) for disposition or use solely within the United States, or (ii) for use in connection with intelligence activities subject to reporting requirements under title V of the National Security Act of 1947 ([50 U.S.C. 3091 et seq.]; relating to congressional oversight of intelligence activities);

(11) a report on all concluded government-to-government agreements regarding foreign coproduction of defense articles of United States origin and all other concluded agreements involving coproduction or licensed production outside of the United States of defense articles of

United States origin (including coproduction memoranda of understanding or agreement) that have not been previously reported under this subsection, which shall include—

(A) the identity of the foreign countries, international organizations, or foreign firms involved;

(B) a description and the estimated value of the articles authorized to be produced, and an estimate of the quantity of the articles authorized to be produced;

(C) a description of any restrictions on third-party transfers of the foreign-manufactured articles; and

(D) if any such agreement does not provide for United States access to and verification of quantities of articles produced overseas and their disposition in the foreign country, a description of alternative measures and controls incorporated in the coproduction or licensing program to ensure compliance with restrictions in the agreement on production quantities and third-party transfers; and

(12) a report on all exports of significant military equipment for which information has been provided pursuant to section 2778(i) of this title.

For each letter of offer to sell under paragraphs (1) and (2), the report shall specify (i) the foreign country or international organization to which the defense article or service is offered or was sold, as the case may be; (ii) the dollar amount of the offer to sell or the sale and the number of defense articles offered or sold, as the case may be; (iii) a description of the defense article or service offered or sold, as the case may be; and (iv) the United States Armed Force or other agency of the United States which is making the offer to sell or the sale, as the case may be.

(b) Letter of offer to sell defense articles, services, design and construction services, or major equipment; submission of numbered Presidential certification and additional statement; contents; emergency justification statement; enhancements or upgrades in sensitivity of technology or capability of major defense articles, equipment, or services

(1) Subject to paragraph (6), in the case of any letter of offer to sell any defense articles or services under this chapter for $50,000,000 or more, any design and construction services for $200,000,000 or more, or any major defense equipment for $14,000,000 or more, before such letter of offer is issued, the President shall submit to the Speaker of the House of Representatives, the Committee on Foreign Affairs of the House of Representatives, and to the chairman of the Committee on Foreign Relations of the Senate a numbered certification with respect to such offer to sell containing the information specified in clauses (i) through (iv) of subsection (a), or (in the case of a sale of design and construction services) the information specified in clauses (A) through (D) of paragraph (9) [1] of subsection (a), and a description, containing the information specified in paragraph (8) [1] of subsection (a), of any contribution, gift, commission, or fee paid or offered or agreed to be paid in order to solicit, promote, or otherwise to secure such letter of offer. Such numbered certifications shall also contain an item, classified if necessary, identifying the sensitivity of technology contained in the defense articles, defense services, or design and construction services, proposed to be sold, and a detailed justification of the reasons necessitating the sale of such articles or services in view of the sensitivity of such technology. In a case in which such articles or services listed on the Missile Technology Control Regime Annex are intended to support the design, development, or production of a Category I space launch vehicle system (as defined in section 2797c of this title), such report shall include a description of the proposed export and rationale for approving such export, including the consistency of such export with United States missile nonproliferation policy. Each such numbered certification shall contain an item indicating whether any offset agreement is proposed to be entered into in connection with such letter of offer to sell (if known on the date of transmittal of such certification). In addition, the President shall, upon the request of such committee or the Committee on Foreign Affairs of the House of Representatives, transmit promptly to both such committees a statement setting forth, to the extent specified in such request—

(A) a detailed description of the defense articles, defense services, or design and construction

services to be offered, including a brief description of the capabilities of any defense article to be offered;

(B) an estimate of the number of officers and employees of the United States Government and of United States civilian contract personnel expected to be needed in such country to carry out the proposed sale;

(C) the name of each contractor expected to provide the defense article, defense service, or design and construction service proposed to be sold and a description of any offset agreement with respect to such sale;

(D) an evaluation, prepared by the Secretary of State in consultation with the Secretary of Defense and the Director of Central Intelligence, of the manner, if any, in which the proposed sale would—

(i) contribute to an arms race;

(ii) support international terrorism;

(iii) increase the possibility of an outbreak or escalation of conflict;

(iv) prejudice the negotiation of any arms controls; or

(v) adversely affect the arms control policy of the United States;

(E) the reasons why the foreign country or international organization to which the sale is proposed to be made needs the defense articles, defense services, or design and construction services which are the subject of such sale and a description of how such country or organization intends to use such defense articles, defense services, or design and construction services;

(F) an analysis by the President of the impact of the proposed sale on the military stocks and the military preparedness of the United States;

(G) the reasons why the proposed sale is in the national interest of the United States;

(H) an analysis by the President of the impact of the proposed sale on the military capabilities of the foreign country or international organization to which such sale would be made;

(I) an analysis by the President of how the proposed sale would affect the relative military strengths of countries in the region to which the defense articles, defense services, or design and construction services which are the subject of such sale would be delivered and whether other countries in the region have comparable kinds and amounts of defense articles, defense services, or design and construction services;

(J) an estimate of the levels of trained personnel and maintenance facilities of the foreign country or international organization to which the sale would be made which are needed and available to utilize effectively the defense articles, defense services, or design and construction services proposed to be sold;

(K) an analysis of the extent to which comparable kinds and amounts of defense articles, defense services, or design and construction services are available from other countries;

(L) an analysis of the impact of the proposed sale on United States relations with the countries in the region to which the defense articles, defense services, or design and construction services which are the subject of such sale would be delivered;

(M) a detailed description of any agreement proposed to be entered into by the United States for the purchase or acquisition by the United States of defense articles, defense services, design and construction services, or defense equipment, or other articles, services, or equipment of the foreign country or international organization in connection with, or as consideration for, such letter of offer, including an analysis of the impact of such proposed agreement upon United States business concerns which might otherwise have provided such articles, services, or equipment to the United States, an estimate of the costs to be incurred by the United States in connection with such agreement compared with costs which would otherwise have been incurred, an estimate of the economic impact and unemployment which would result from entering into such proposed agreement, and an analysis of whether such costs and such domestic economic impact justify entering into such proposed agreement;

(N) the projected delivery dates of the defense articles, defense services, or design and construction services to be offered;

(O) a detailed description of weapons and levels of munitions that may be required as support for the proposed sale; and

(P) an analysis of the relationship of the proposed sale to projected procurements of the same item.

A certification transmitted pursuant to this subsection shall be unclassified, except that the information specified in clause (ii) and the details of the description specified in clause (iii) of subsection (a) may be classified if the public disclosure thereof would be clearly detrimental to the security of the United States, in which case the information shall be accompanied by a description of the damage to the national security that could be expected to result from public disclosure of the information. The letter of offer shall not be issued, with respect to a proposed sale to the North Atlantic Treaty Organization, any member country of such Organization, Japan, Australia, the Republic of Korea, Israel, or New Zealand, if the Congress, within fifteen calendar days after receiving such certification, or with respect to a proposed sale to any other country or organization, if the Congress within thirty calendar days after receiving such certification, enacts a joint resolution prohibiting the proposed sale, unless the President states in his certification that an emergency exists which requires such sale in the national security interests of the United States. If the President states in his certification that an emergency exists which requires the proposed sale in the national security interest of the United States, thus waiving the congressional review requirements of this subsection, he shall set forth in the certification a detailed justification for his determination, including a description of the emergency circumstances which necessitate the immediate issuance of the letter of offer and a discussion of the national security interests involved.

(2) Any such joint resolution shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976, except that for purposes of consideration of any joint resolution with respect to the North Atlantic Treaty Organization, any member country of such Organization, Japan, Australia, the Republic of Korea, Israel, or New Zealand, it shall be in order in the Senate to move to discharge a committee to which such joint resolution was referred if such committee has not reported such joint resolution at the end of five calendar days after its introduction.

(3) For the purpose of expediting the consideration and enactment of joint resolutions under this subsection, a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

(4) In addition to the other information required to be contained in a certification submitted to the Congress under this subsection, each such certification shall cite any quarterly report submitted pursuant to section 2768 [1] of this title which listed a price and availability estimate, or a request for the issuance of a letter of offer, which was a basis for the proposed sale which is the subject of such certification.

(5)(A) If, before the delivery of any major defense article or major defense equipment, or the furnishing of any defense service or design and construction service, sold pursuant to a letter of offer described in paragraph (1), the sensitivity of technology or the capability of the article, equipment, or service is enhanced or upgraded from the level of sensitivity or capability described in the numbered certification with respect to an offer to sell such article, equipment, or service, then, at least 45 days before the delivery of such article or equipment or the furnishing of such service, the President shall prepare and transmit to the chairman of the Committee on Foreign Affairs of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report—

(i) describing the manner in which the technology or capability has been enhanced or upgraded and describing the significance of such enhancement or upgrade; and

(ii) setting forth a detailed justification for such enhancement or upgrade.

(B) The provisions of subparagraph (A) apply to an article or equipment delivered, or a service furnished, within ten years after the transmittal to the Congress of a numbered certification with respect to the sale of such article, equipment, or service.

(C) Subject to paragraph (6), if the enhancement or upgrade in the sensitivity of technology or the capability of major defense equipment, defense articles, defense services, or design and construction services described in a numbered certification submitted under this subsection costs $14,000,000 or more in the case of any major defense equipment, $50,000,000 or more in the case of defense articles or defense services, or $200,000,000 or more in the case of design or construction services, then the President shall submit to the Speaker of the House of Representatives, the Committee on Foreign Affairs of the House of Representatives, and the chairman of the Committee on Foreign Relations of the Senate a new numbered certification which relates to such enhancement or upgrade and which shall be considered for purposes of this subsection as if it were a separate letter of offer to sell defense equipment, articles, or services, subject to all of the requirements, restrictions, and conditions set forth in this subsection. For purposes of this subparagraph, references in this subsection to sales shall be deemed to be references to enhancements or upgrades in the sensitivity of technology or the capability of major defense equipment, articles, or services, as the case may be.

(D) For the purposes of subparagraph (A), the term "major defense article" shall be construed to include electronic devices, which if upgraded, would enhance the mission capability of a weapons system.

(6) The limitation in paragraph (1) and the requirement in paragraph (5)(C) shall apply in the case of a letter of offer to sell to a member country of the North Atlantic Treaty Organization (NATO) or Australia, Japan, the Republic of Korea, Israel, or New Zealand that does not authorize a new sales territory that includes any country other than such countries only if the letter of offer involves—

(A) the sale of major defense equipment under this chapter for, or the enhancement or upgrade of major defense equipment at a cost of, $25,000,000 or more, as the case may be; and

(B) the sale of defense articles or services for, or the enhancement or upgrade of defense articles or services at a cost of, $100,000,000 or more, as the case may be; or

(C) the sale of design and construction services for, or the enhancement or upgrade of design and construction services at a cost of, $300,000,000 or more, as the case may be.

(c) Application for export license; submission of numbered Presidential certification and statement to Congress; contents; emergency circumstances; joint resolution; exception; notification of upgrades

(1) Subject to paragraph (5), in the case of an application by a person (other than with regard to a sale under section 2761 or section 2762 of this title) for a license for the export of any major defense equipment sold under a contract in the amount of $14,000,000 or more or of defense articles or defense services sold under a contract in the amount of $50,000,000 or more (or, in the case of a defense article that is a firearm controlled under category I of the United States Munitions List, $1,000,000 or more), before issuing such license the President shall transmit to the Speaker of the House of Representatives, the Committee on Foreign Affairs of the House of Representatives, and to the chairman of the Committee on Foreign Relations of the Senate an unclassified numbered certification with respect to such application specifying (A) the foreign country or international organization to which such export will be made, (B) the dollar amount of the items to be exported, and (C) a description of the items to be exported. Each such numbered certification shall also contain an item indicating whether any offset agreement is proposed to be entered into in connection with such export and a description of any such offset agreement. In addition, the President shall, upon the request of such committee or the Committee on Foreign Affairs of the House of Representatives, transmit promptly to both such committees a statement setting forth, to the extent specified in such request, a description of the capabilities of the items to be exported, an estimate of the total number of United States personnel expected to be needed in the foreign country concerned in connection with the items to be exported and an analysis of the arms control impact pertinent to such application, prepared in consultation with the Secretary of Defense and a description from the person who has submitted the license application of any offset agreement proposed to be entered into in connection with such export (if known on the date of transmittal of such statement). In a case in which such articles or services are listed on the Missile Technology Control Regime Annex and are intended to support the design, development, or production of a Category I space launch vehicle system (as defined in section 2797c of this title), such report shall include a description of the

proposed export and rationale for approving such export, including the consistency of such export with United States missile nonproliferation policy. A certification transmitted pursuant to this subsection shall be unclassified, except that the information specified in clause (B) and the details of the description specified in clause (C) may be classified if the public disclosure thereof would be clearly detrimental to the security of the United States, in which case the information shall be accompanied by a description of the damage to the national security that could be expected to result from public disclosure of the information.

(2) Unless the President states in his certification that an emergency exists which requires the proposed export in the national security interests of the United States, a license for export described in paragraph (1)—

(A) in the case of a license for an export to the North Atlantic Treaty Organization, any member country of that Organization or Australia, Japan, the Republic of Korea, Israel, or New Zealand, shall not be issued until at least 15 calendar days after the Congress receives such certification, and shall not be issued then if the Congress, within that 15-day period, enacts a joint resolution prohibiting the proposed export;

(B) in the case of a license for an export of a commercial communications satellite for launch from, and by nationals of, the Russian Federation, Ukraine, or Kazakhstan, shall not be issued until at least 15 calendar days after the Congress receives such certification, and shall not be issued then if the Congress, within that 15-day period, enacts a joint resolution prohibiting the proposed export; and

(C) in the case of any other license, shall not be issued until at least 30 calendar days after the Congress receives such certification, and shall not be issued then if the Congress, within that 30-day period, enacts a joint resolution prohibiting the proposed export.

If the President states in his certification that an emergency exists which requires the proposed export in the national security interests of the United States, thus waiving the requirements of subparagraphs (A) and (B) of this paragraph, he shall set forth in the certification a detailed justification for his determination, including a description of the emergency circumstances which necessitate the immediate issuance of the export license and a discussion of the national security interests involved.

(3)(A) Any joint resolution under this subsection shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

(B) For the purpose of expediting the consideration and enactment of joint resolutions under this subsection, a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

(4) The provisions of subsection (b)(5) shall apply to any equipment, article, or service for which a numbered certification has been transmitted to Congress pursuant to paragraph (1) in the same manner and to the same extent as that subsection applies to any equipment, article, or service for which a numbered certification has been transmitted to Congress pursuant to subsection (b)(1). For purposes of such application, any reference in subsection (b)(5) to "a letter of offer" or "an offer" shall be deemed to be a reference to "a contract".

(5) In the case of an application by a person (other than with regard to a sale under section 2761 or 2762 of this title) for a license for the export to a member country of the North Atlantic Treaty Organization (NATO) or Australia, Japan, the Republic of Korea, Israel, or New Zealand that does not authorize a new sales territory that includes any country other than such countries, the limitations on the issuance of the license set forth in paragraph (1) shall apply only if the license is for export of—

(A) major defense equipment sold under a contract in the amount of $25,000,000 or more; or

(B) defense articles or defense services sold under a contract in the amount of $100,000,000 or more.

(6) The President shall notify the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate at least 15 days prior to an export pursuant to a treaty referred to in section 2778(j)(1)(C)(i) of this title to which the provisions of paragraph (1) of this subsection would apply absent an exemption granted under section 2778(j)(1) of this title, for which purpose such notification shall contain information comparable to that specified in paragraph (1) of this subsection.

(d) Commercial technical assistance or manufacturing licensing agreements with non-North Atlantic Treaty Organization member countries; submission of Presidential certification; contents

(1) In the case of an approval under section 2778 of this title of a United States commercial technical assistance or manufacturing licensing agreement which involves the manufacture abroad of any item of significant combat equipment on the United States Munitions List, before such approval is given, the President shall submit a certification with respect to such proposed commercial agreement in a manner similar to the certification required under subsection (c)(1) containing comparable information, except that the last sentence of such subsection shall not apply to certifications submitted pursuant to this subsection.

(2) A certification under this subsection shall be submitted—

(A) at least 15 days before approval is given in the case of an agreement for or in a country which is a member of the North Atlantic Treaty Organization or Australia, Japan, the Republic of Korea, Israel, or New Zealand; and

(B) at least 30 days before approval is given in the case of an agreement for or in any other country;

unless the President states in his certification that an emergency exists which requires the immediate approval of the agreement in the national security interests of the United States.

(3) If the President states in his certification that an emergency exists which requires the immediate approval of the agreement in the national security interests of the United States, thus waiving the requirements of paragraph (4), he shall set forth in the certification a detailed justification for his determination, including a description of the emergency circumstances which necessitate the immediate approval of the agreement and a discussion of the national security interests involved.

(4) Approval for an agreement subject to paragraph (1) may not be given under section 2778 of this title if the Congress, within the 15-day or 30-day period specified in paragraph (2)(A) or (B), as the case may be, enacts a joint resolution prohibiting such approval.

(5)(A) Any joint resolution under paragraph (4) shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

(B) For the purpose of expediting the consideration and enactment of joint resolutions under paragraph (4), a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

(6) The President shall notify the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate at least 15 days prior to an export pursuant to a treaty referred to in section 2778(j)(1)(C)(i) of this title to which the provisions of paragraph (1) of this subsection would apply absent an exemption granted under section 2778(j)(1) of this title, for which purpose such notification shall contain information comparable to that specified in paragraph (1) of this subsection.

(e) Definitions

For purposes of this section—

(1) the term "offset agreement" means an agreement, arrangement, or understanding between a United States supplier of defense articles or defense services and a foreign country under which the supplier agrees to purchase or acquire, or to promote the purchase or acquisition by other

United States persons of, goods or services produced, manufactured, grown, or extracted, in whole or in part, in that foreign country in consideration for the purchase by the foreign country of defense articles or defense service from the supplier; and

(2) the term "United States person" means—

(A) an individual who is a national or permanent resident alien of the United States; and

(B) any corporation, business association, partnership, trust, or other juridical entity—

(i) organized under the laws of the United States or any State, district, territory, or possession thereof; or

(ii) owned or controlled in fact by individuals described in subparagraph (A).

(f) Publication of arms sales certifications

The President shall cause to be published in a timely manner in the Federal Register, upon transmittal to the Speaker of the House of Representatives, the Committee on Foreign Affairs of the House of Representatives, and to the chairman of the Committee on Foreign Relations of the Senate, the full unclassified text of—

(1) each numbered certification submitted pursuant to subsection (b);

(2) each notification of a proposed commercial sale submitted under subsection (c); and

(3) each notification of a proposed commercial technical assistance or manufacturing licensing agreement submitted under subsection (d).

(g) Confidentiality

Information relating to offset agreements provided pursuant to subparagraph (C) of the fifth sentence of subsection (b)(1) and the second sentence of subsection (c)(1) shall be treated as confidential information in accordance with section 4614(c) of title 50.

(h) Certification requirement relating to Israel's qualitative military edge

(1) In general

Any certification relating to a proposed sale or export of defense articles or defense services under this section to any country in the Middle East other than Israel shall include a determination that the sale or export of the defense articles or defense services will not adversely affect Israel's qualitative military edge over military threats to Israel.

(2) Requirements with respect to determination for major defense equipment

A determination under paragraph (1) relating to the sale or export of major defense equipment shall include—

(A) a detailed explanation of Israel's capacity to address the improved capabilities provided by such sale or export;

(B) a detailed evaluation of—

(i) how such sale or export alters the strategic and tactical balance in the region, including relative capabilities; and

(ii) Israel's capacity to respond to the improved regional capabilities provided by such sale or export;

(C) an identification of any specific new capacity, capabilities, or training that Israel may require to address the regional or country-specific capabilities provided by such sale or export; and

(D) a description of any additional United States security assurances to Israel made, or requested to be made, in connection with, or as a result of, such sale or export.

(3) Qualitative military edge defined

In this subsection, the term "qualitative military edge" means the ability to counter and defeat any credible conventional military threat from any individual state or possible coalition of states or from non-state actors, while sustaining minimal damages and casualties, through the use of superior military means, possessed in sufficient quantity, including weapons, command, control, communication, intelligence, surveillance, and reconnaissance capabilities that in their technical

characteristics are superior in capability to those of such other individual or possible coalition of states or non-state actors.

(i) Prior notification of shipment of arms

At least 30 days prior to a shipment of defense articles subject to the requirements of subsection (b) at the joint request of the Chairman and Ranking Member of the Committee on Foreign Relations of the Senate or the Committee on Foreign Affairs of the House of Representatives, the President shall provide notification of such pending shipment, in unclassified form, with a classified annex as necessary, to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives.

(Pub. L. 90–629, ch. 3, §36, Oct. 22, 1968, 82 Stat. 1326; Pub. L. 93–189, §25(10), Dec. 17, 1973, 87 Stat. 731; Pub. L. 93–559, §45(a)(5), Dec. 30, 1974, 88 Stat. 1814; Pub. L. 94–329, title II, §211(a), title VI, §604(a), June 30, 1976, 90 Stat. 740, 766; Pub. L. 95–384, §21, Sept. 26, 1978, 92 Stat. 741; Pub. L. 96–92, §§16(b), 19(a), (c), 20(b), Oct. 29, 1979, 93 Stat. 708–710; Pub. L. 96–533, title I, §§105(c), (d), 107(b), 109(f), Dec. 16, 1980, 94 Stat. 3134, 3136, 3138; Pub. L. 97–113, title I, §§101(c)–(e), 102(b), 109(d)(2), Dec. 29, 1981, 95 Stat. 1520, 1526; Pub. L. 99–83, title I, §§117, 118, title XII, §1209(c), Aug. 8, 1985, 99 Stat. 202, 203, 279; Pub. L. 99–247, §1(b), (c), Feb. 12, 1986, 100 Stat. 9; Pub. L. 101–222, §§3(b), 7, Dec. 12, 1989, 103 Stat. 1896, 1899; Pub. L. 103–236, title VII, §§732, 735(a), (b), Apr. 30, 1994, 108 Stat. 503, 505, 506; Pub. L. 103–437, §9(a)(7), Nov. 2, 1994, 108 Stat. 4588; Pub. L. 104–164, title I, §§141(c), (d), 155, July 21, 1996, 110 Stat. 1431, 1432, 1440; Pub. L. 104–201, div. A, title X, §1045(a), Sept. 23, 1996, 110 Stat. 2644; Pub. L. 105–277, div. G, subdiv. A, title XII, §1225(a)(1), Oct. 21, 1998, 112 Stat. 2681–773; Pub. L. 106–113, div. B, §1000(a)(7) [div. B, title XII, §§1224, 1245, title XIII, §§1301, 1302(b)], Nov. 29, 1999, 113 Stat. 1536, 1501A–498, 1501A–502, 1501A–510, 1501A–511; Pub. L. 106–280, title I, §102(c)(1), Oct. 6, 2000, 114 Stat. 849; Pub. L. 107–228, div. B, title XII, §§1205(a), 1262(c), title XIV, §1405(a)(2), Sept. 30, 2002, 116 Stat. 1427, 1434, 1457; Pub. L. 110–429, title II, §§201(d), 203(b)(1), Oct. 15, 2008, 122 Stat. 4843, 4845; Pub. L. 111–266, title I, §104(d), title III, §301(1), Oct. 8, 2010, 124 Stat. 2799, 2804; Pub. L. 113–276, title II, §§201, 208(a)(1), Dec. 18, 2014, 128 Stat. 2990, 2992; Pub. L. 113–296, §11(b), Dec. 19, 2014, 128 Stat. 4078.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(1) and (b)(1), (6)(A), was in the original "this Act", meaning Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1321, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

The National Security Act of 1947, referred to in subsec. (a)(10), is act July 26, 1947, ch. 343, 61 Stat. 495, which was formerly classified principally to chapter 15 (§401 et seq.) of Title 50, War and National Defense, prior to editorial reclassification in chapter 44 (§3001 et seq.) of Title 50. Title V of the National Security Act of 1947 is now classified generally to subchapter III (§3091 et seq.) of chapter 44 of Title 50. For complete classification of this Act to the Code, see Tables.

Paragraphs (8) and (9) of subsection (a), referred to in subsec. (b)(1), were redesignated as paragraphs (7) and (8), respectively, of subsection (a) by Pub. L. 107–228, div. B, title XII, §1262(c)(2), Sept. 30, 2002, 116 Stat. 1434.

Section 601(b) of the International Security Assistance and Arms Export Control Act of 1976, referred to in subsecs. (b)(2), (c)(3)(A), and (d)(5)(A), is section 601(b) of Pub. L. 94–329, June 30, 1976, 90 Stat. 729, which made provision for expedited procedures in the Senate, and was not classified to the Code.

Section 2768 of this title, referred to in subsec. (b)(4), was repealed by Pub. L. 104–106, div. A, title X, §1064(a), Feb. 10, 1996, 110 Stat. 445.

AMENDMENTS

2014—Subsecs. (a), (b)(1), (5)(C), (c)(1), (f). Pub. L. 113–276, §208(a)(1), substituted "the Speaker of the House of Representatives, the Committee on Foreign Affairs of the House of Representatives, and" for "the Speaker of the House of Representatives and".

Subsec. (h)(2), (3). Pub. L. 113–296 added par. (2) and redesignated former par. (2) as (3).

Subsec. (i). Pub. L. 113–276, §201, added subsec. (i).

2010—Subsec. (b). Pub. L. 111–266, §301(1), inserted "Israel," before "or New Zealand" in concluding provisions of par (1), in par. (2), and in introductory provisions of par. (6).

Subsec. (c). Pub. L. 111–266, §301(1), inserted "Israel," before "or New Zealand" in par. (2)(A) and in introductory provisions of par. (5).

Subsec. (c)(6). Pub. L. 111–266, §104(d)(1), added par. (6).

Subsec. (d)(2)(A). Pub. L. 111–266, §301(1), inserted "Israel," before "or New Zealand".

Subsec. (d)(6). Pub. L. 111–266, §104(d)(2), added par. (6).

2008—Subsecs. (b), (c), (d)(2)(A). Pub. L. 110–429, §203(b)(1), inserted "the Republic of Korea," before "or New Zealand" wherever appearing.

Subsec. (h). Pub. L. 110–429, §201(d), added subsec. (h).

2002—Subsec. (a)(7) to (13). Pub. L. 107–228, §1262(c), redesignated pars. (8) to (13) as (7) to (12), respectively, and struck out former par. (7) which read as follows: "an estimate of—

"(A) the number of United States military personnel, the number of United States Government civilian personnel, and the number of United States civilian contract personnel, who were in each foreign country at the end of that quarter, and

"(B) the number of members of each such category of personnel who were in each foreign country at any time during that quarter,

in implementation of sales and commercial exports under this chapter or of assistance under chapter 2, 5, 6, or 8 of part II of the Foreign Assistance Act of 1961, including both personnel assigned to the country and personnel temporarily in the country by detail or otherwise;".

Subsec. (b)(1). Pub. L. 107–228, §1405(a)(2)(A)(i), substituted "(1) Subject to paragraph (6), in the case of" for "(1) In the case of" in introductory provisions.

Subsec. (b)(5)(C). Pub. L. 107–228, §1405(a)(2)(A)(ii), substituted "Subject to paragraph (6), if" for "If".

Subsec. (b)(6). Pub. L. 107–228, §1405(a)(2)(A)(iii), added par. (6).

Subsec. (c)(1). Pub. L. 107–228, §1405(a)(2)(B)(i), substituted "(1) Subject to paragraph (5), in the case of" for "(1) In the case of".

Pub. L. 107–228, §1205(a), inserted "(or, in the case of a defense article that is a firearm controlled under category I of the United States Munitions List, $1,000,000 or more)" after "$50,000,000 or more".

Subsec. (c)(5). Pub. L. 107–228, §1405(a)(2)(B)(ii), added par. (5).

2000—Subsec. (c)(2)(B), (C). Pub. L. 106–280 added subpar. (B) and redesignated former subpar. (B) as (C).

1999—Subsec. (a)(13). Pub. L. 106–113, §1000(a)(7) [title XIII, §1302(b)], added par. (13).

Subsec. (b)(1). Pub. L. 106–113, §1000(a)(7) [title XIII, §1301(b)(1)], in sixth sentence, inserted before period at end ", in which case the information shall be accompanied by a description of the damage to the national security that could be expected to result from public disclosure of the information".

Subsec. (b)(1)(C). Pub. L. 106–113, §1000(a)(7) [title XII, §1245(a)(1)], substituted "and a description of any offset agreement with respect to such sale;" for "and a description from such contractor of any offset agreements proposed to be entered into in connection with such sale (if known on the date of transmittal of such statement);".

Subsec. (c)(1). Pub. L. 106–113, §1000(a)(7) [title XIII, §1301(b)(2)], in last sentence, inserted before period at end ", in which case the information shall be accompanied by a description of the damage to the national security that could be expected to result from public disclosure of the information".

Pub. L. 106–113, §1000(a)(7) [title XII, §1245(a)(2)], in second sentence, substituted "and a description of any such offset agreement" for "(if known on the date of transmittal of such certification)".

Subsec. (c)(4). Pub. L. 106–113, §1000(a)(7) [title XII, §1224], added par. (4).

Subsec. (e). Pub. L. 106–113, §1000(a)(7) [title XII, §1245(b)(1)], redesignated subsec. (e), relating to publication of arms sales certifications, as (f).

Subsec. (f). Pub. L. 106–113, §1000(a)(7) [title XIII, §1301(a)], which directed amendment of subsec. (e), relating to publication of arms sales certifications, by inserting "in a timely manner" after "to be published" and by substituting "the full unclassified text of—

"(1) each numbered certification submitted pursuant to subsection (b);

"(2) each notification of a proposed commercial sale submitted under subsection (c); and

"(3) each notification of a proposed commercial technical assistance or manufacturing licensing agreement submitted under subsection (d)." for "the full unclassified text of each numbered certification submitted pursuant to subsection (b) of this section and each notification of a proposed commercial sale submitted under subsection (c) of this section.", was executed by making the amendment in subsec. (f) to reflect the probable intent of Congress and the redesignation of that subsec. (e) as (f). See 1999 Amendment note below.

Pub. L. 106–113, §1000(a)(7) [title XII, §1245(b)(1)], redesignated subsec. (e), relating to publication of arms sales certifications, as (f).

Subsec. (g). Pub. L. 106–113, §1000(a)(7) [title XII, §1245(b)(2)], added subsec. (g).

1998—Subsec. (b)(1)(D). Pub. L. 105–277, in introductory provisions, substituted "Secretary of State in consultation with the Secretary of Defense and the Director of Central Intelligence" for "Director of the Arms Control and Disarmament Agency in consultation with the Secretary of State and the Secretary of Defense".

1996—Subsec. (a)(12). Pub. L. 104–201 added par. (12).

Subsec. (c)(2)(A), (B). Pub. L. 104–164, §141(c), amended subpars. (A) and (B) generally. Prior to amendment, subpars. (A) and (B) read as follows:

"(A) shall not be issued until at least 30 calendar days after the Congress receives such certification; and

"(B) shall not be issued then if the Congress, within such 30-day period, enacts a joint resolution prohibiting the proposed export, except that this subparagraph does not apply with respect to a license issued for an export to the North Atlantic Treaty Organization, any member country of that Organization, Japan, Australia, or New Zealand."

Subsec. (d). Pub. L. 104–164, §141(d), designated existing provisions as par. (1), struck out "for or in a country not a member of the North Atlantic Treaty Organization" after "manufacturing licensing agreement", and added pars. (2) to (5).

Subsec. (e). Pub. L. 104–164, §155, added subsec. (e) relating to publication of arms sales certifications.

1994—Subsec. (b)(1). Pub. L. 103–437 substituted "Foreign Affairs" for "International Relations".

Pub. L. 103–236, §§732(a)(1), 735(a), inserted after second sentence "In a case in which such articles or services listed on the Missile Technology Control Regime Annex are intended to support the design, development, or production of a Category I space launch vehicle system (as defined in section 2797c of this title), such report shall include a description of the proposed export and rationale for approving such export, including the consistency of such export with United States missile nonproliferation policy. Each such numbered certification shall contain an item indicating whether any offset agreement is proposed to be entered into in connection with such letter of offer to sell (if known on the date of transmittal of such certification)."

Subsec. (b)(1)(C). Pub. L. 103–236, §732(a)(2), inserted "and a description from such contractor of any offset agreements proposed to be entered into in connection with such sale" after "sold".

Subsec. (c)(1). Pub. L. 103–437 substituted "Foreign Affairs" for "International Relations".

Pub. L. 103–236, §735(b), which directed amendment of par. (1) by inserting after "in consultation with the Secretary of Defense." the following new sentence: "In a case in which such articles or services are listed on the Missile Technology Control Regime Annex and are intended to support the design, development, or production of a Category I space launch vehicle system (as defined in section 2797c of this title), such report shall include a description of the proposed export and rationale for approving such export, including the consistency of such export with United States missile nonproliferation policy.", was executed by making the insertion after "in consultation with the Secretary of Defense and a description from the person who has submitted the license application of any offset agreement proposed to be entered into in connection with such export (if known on the date of transmittal of such statement)." to reflect the probable intent of Congress and the intervening amendment by Pub. L. 103–236, §732(b)(2). See below.

Pub. L. 103–236, §732(b)(2), inserted "and a description from the person who has submitted the license application of any offset agreement proposed to be entered into in connection with such export (if known on the date of transmittal of such statement)" after "Secretary of Defense".

Pub. L. 103–236, §732(b)(1), inserted after first sentence "Each such numbered certification shall also contain an item indicating whether any offset agreement is proposed to be entered into in connection with such export (if known on the date of transmittal of such certification)."

Subsec. (e). Pub. L. 103–236, §732(c), added subsec. (e).

1989—Subsec. (a). Pub. L. 101–222, §7(b), inserted ", and any information provided under paragraph (11) of this subsection may also be provided in a classified addendum" after "(b)(1) of this section" in introductory provisions.

Subsec. (a)(10), (11). Pub. L. 101–222, §7(a), added pars. (10) and (11).

Subsec. (b)(1)(D)(ii) to (v). Pub. L. 101–222, §3(b), added cl. (ii) and redesignated former cls. (ii) through (iv) as (iii) through (v), respectively.

1986—Subsec. (b)(1). Pub. L. 99–247, §1(b)(1), substituted "enacts a joint resolution prohibiting" for "adopts a concurrent resolution stating that it objects to" in concluding provisions.

Subsec. (b)(2). Pub. L. 99–247, §1(b)(2), inserted "joint" before "resolution" in four places.

Subsec. (b)(3). Pub. L. 99–247, §1(b)(3), substituted "enactment of joint resolutions" for "adoption of concurrent resolutions" and "such joint resolution" for "such resolution".

Subsec. (c)(2)(B). Pub. L. 99–247, §1(c)(1), substituted "enacts a joint resolution prohibiting" for "adopts a concurrent resolution stating that it objects to".

Subsec. (c)(3)(A). Pub. L. 99–247, §1(c)(2), inserted "joint" before "resolution".

Subsec. (c)(3)(B). Pub. L. 99–247, §1(c)(3), substituted "enactment of joint resolutions" for "adoption of concurrent resolutions" and "such joint resolution" for "such resolution".

1985—Subsec. (a)(5). Pub. L. 99–83, §1209(c)(1), substituted "sales" for "cash sales" and struck out provisions relating to credits under section 2763 of this title and guaranty agreements under section 2764 of this title.

Subsec. (a)(6). Pub. L. 99–83, §1209(c)(2), substituted "sales expected to be made to" for "cash sales expected to be made and credits expected to be extended to".

Subsec. (a)(7). Pub. L. 99–83, §117, amended par. (7) generally. Prior to amendment, par. (7) read as follows: "an estimate of the number of officers and employees of the United States Government and of United States civilian contract personnel present in each such country at the end of that quarter for assignments in implementation of sales and commercial exports under this chapter;".

Subsec. (b)(1). Pub. L. 99–83, §118(1), inserted requirement respecting detailed justification of reasons for sale of sensitive articles or services.

Subsec. (b)(5). Pub. L. 99–83, §118(2), added par. (5).

1981—Subsec. (a)(10). Pub. L. 97–113, §109(d)(2), struck out par. (10) which required that Presidential report to Congress contain a listing (classified if necessary) of property valued at $1,000,000 or more which was leased, during the quarter for which a report was required, to a foreign government for a period of more than six months under section 2667 of title 10. See section 2796 et seq. of this title.

Subsec. (b)(1). Pub. L. 97–113, §§101(c), 102(b)(1), increased the certification requirement limits to $50,000,000 and $14,000,000 from $25,000,000 and $7,000,000 respecting offers to sell defense articles or services, and major defense equipment; and prescribed a fifteen-calendar-day period after receiving a certification for a concurrent resolution objecting to a proposed sale to the North Atlantic Treaty Organization, any member country of such Organization, Japan, Australia, or New Zealand, and made the existing thirty-calendar-day period applicable only with respect to a proposed sale to any other country or organization.

Subsec. (b)(2). Pub. L. 97–113, §102(b)(2), authorized a motion in the Senate for the discharge of the committee to which a resolution respecting the North Atlantic Treaty Organization, any member country of such Organization, Japan, Australia, or New Zealand was referred for failure to report the resolution at end of five calendar days after its introduction.

Subsec. (c)(1). Pub. L. 97–113, §101(d), increased sales contract limits to $14,000,000 and $50,000,000 from $7,000,000 and $25,000,000 respecting sales of major defense equipment and defense articles or services.

Subsec. (d). Pub. L. 97–113, §101(e), substituted "subsection (c)(1)" for "subsection (c)".

1980—Subsec. (a)(9), (10). Pub. L. 96–533, §§105(c), 109(f), added pars. (9) and (10).

Subsec. (b)(1). Pub. L. 96–533, §105(d), required certification respecting offer to sell any design and construction services for $200,000,000 or more, required such certification to contain the information specified in subsec. (a)(9)(A)–(D) of this section, required such certification to contain an item identifying the sensitivity of technology contained in the design and construction services, and made subpar. (A), (C), (E), (I)–(N) provisions applicable to design and construction services.

Subsec. (c). Pub. L. 96–533, §107(b), designated existing provisions as par. (1), struck out "not less than 30 days" before "before issuing such license", redesignated as cls. (A) to (C) former pars. (1) to (3), and substituted "clause (B)" and "clause (C)" for "paragraph (1)" and "paragraph (2)", respectively, and added pars. (2) and (3).

1979—Subsec. (a). Pub. L. 96–92, §19(a), increased to sixty from thirty days the period for submission of the President's report at end of each quarter and struck out par. (9) which required that the report contain an analysis and description of the services of Federal personnel under provisions relating to sales from stock, including numbers employed.

Subsec. (b)(1). Pub. L. 96–92, §§19(c), 20(b), required executive emergency justification statement and the numbered certifications to contain an item, classified if necessary, identifying the sensitivity of technology contained in the defense articles or defense services proposed to be sold.

Subsec. (b)(4). Pub. L. 96–92, §16(b), added par. (4).

1978—Subsec. (b)(1)(D), (N) to (P). Pub. L. 95–384 in subpar. (D) substituted provisions requiring an evaluation relating to the proposed sale to be prepared by the Director of the Arms Control and Disarmament Agency in consultation with the Secretary of State and the Secretary of Defense for provisions requiring an analysis of the arms control impact pertinent to the offer to sell prepared in consultation with the Secretary of Defense and added subpars. (N) to (P).

1976—Subsec. (a). Pub. L. 94–329, §§211(a), 604(a)(1), expanded existing provisions to provide for increased comprehensiveness of the quarterly reports on sales of defense articles or defense services, whether through governmental channels or commercial channels.

Subsec. (b). Pub. L. 94–329, §§211(a), 604(a)(2), increased from 20 days to 30 days the period allowed Congress to reject a proposed offer to sell defense articles or defense services and inserted provisions covering any major defense equipment for $7,000,000 or more, requiring additional information with respect to any letter of offer to sell defense articles or defense services if requested by Congress and requiring that a certification be transmitted pursuant to this subsection in unclassified form unless public disclosure would be detrimental to the United States.

Subsec. (c). Pub. L. 94–329, §211(a), substituted provisions relating to application by person for license for export of any major defense equipment sold and contracted for $7,000,000 or more or defense articles or defense services for $25,000,000 or more, requiring the President to transmit to Congress an unclassified numbered certification with respect to such application, for provisions construing this section as not modifying in any way section 1934 of this title.

Subsec. (d). Pub. L. 94–329, §211(a), added subsec. (d).

1974—Subsecs. (a), (b). Pub. L. 93–559 added subsecs. (a) and (b).

1973—Pub. L. 93–189 struck out subsec. (a) which required the Secretary of State to transmit to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate semiannual reports of all exports of significant defense articles on the United States munitions list to foreign governments, etc., and subsec. (b) which provided for the inclusion in the presentation material submitted to the Congress during consideration of amendments to this chapter or Acts appropriating funds under authority of this chapter annual tables showing the dollar value of cash and credit foreign military sales orders, commitments to order, etc.

CHANGE OF NAME

Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108–458, set out as a note under section 3001 of Title 50, War and National Defense.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective Apr. 1, 1999, see section 1201 of Pub. L. 105–277, set out as an Effective Date note under section 6511 of this title.

EFFECTIVE DATE OF 1996 AMENDMENTS

Pub. L. 104–201, title X, §1045(b), Sept. 23, 1996, 110 Stat. 2645, provided that: "Paragraph (12) of section 36(a) of the Arms Export Control Act [now 22 U.S.C. 2776(a)(11)], as added by subsection (a)(3), does not apply with respect to an agreement described in such paragraph entered into before the date of the enactment of this Act [Sept. 23, 1996]."

Amendment by section 141(c), (d) of Pub. L. 104–164 applicable with respect to certifications required to be submitted on or after July 21, 1996, see section 141(f) of Pub. L. 104–164, set out as a note under section 2753 of this title.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–83 effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as a note under section 2151–1 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94–329, title II, §211(b), June 30, 1976, 90 Stat. 744, provided that: "The amendment made by subsection (a) of this section [amending this section] shall apply with respect to letters of offer for which a certification is transmitted pursuant to section 36(b) of the Arms Export Control Act [subsec. (b) of this section] on or after the date of enactment of this Act [June 30, 1976] and to export licenses for which an application is filed under section 38 of such Act [section 2778 of this title] on or after such date."

Pub. L. 94–329, title VI, §604(c), June 30, 1976, 90 Stat. 768, provided that: "The amendments made by this section [amending this section and enacting section 2779 of this title] shall take effect sixty days after the date of enactment of this Act [June 30, 1976]."

DELEGATION OF FUNCTIONS

For delegation of certain functions of the President under this section, with certain conditions, see section 1(j)–(m) of Ex. Ord. No. 13637, Mar. 8, 2013, 78 F.R. 16130, set out as a note under section 2751 of this title.

Functions were previously delegated by Ex. Ord. No. 11958, which was formerly set out as a note under section 2751 of this title and was revoked, subject to a savings provision, by section 4 of Ex. Ord. No. 13637.

ASSESSMENT OF ISRAEL'S QUALITATIVE MILITARY EDGE OVER MILITARY THREATS

Pub. L. 110–429, title II, §201, Oct. 15, 2008, 122 Stat. 4843, as amended by Pub. L. 113–296, §11(a), Dec. 19, 2014, 128 Stat. 4078, provided that:

"(a) ASSESSMENT REQUIRED.—The President shall carry out an empirical and qualitative assessment on an ongoing basis of the extent to which Israel possesses a qualitative military edge over military threats to Israel. The assessment required under this subsection shall be sufficiently robust so as to facilitate comparability of data over concurrent years.

"(b) USE OF ASSESSMENT.—The President shall ensure that the assessment required under subsection (a) is used to inform the review by the United States of applications to sell defense articles and defense services under the Arms Export Control Act (22 U.S.C. 2751 et seq.) to countries in the Middle East.

"(c) REPORTS.—

"(1) INITIAL REPORT.—Not later than June 30, 2009, the President shall transmit to the appropriate congressional committees a report on the initial assessment required under subsection (a).

"(2) QUADRENNIAL REPORT.—Not later than four years after the date on which the President transmits the initial report under paragraph (1), and every four years thereafter, the President shall transmit to the appropriate congressional committees a report on the most recent assessment required under subsection (a).

"(3) BIENNIAL UPDATES.—Two years after the date on which each quadrennial report is transmitted to Congress, the President shall—

"(A) reevaluate the assessment required under subsection (a); and

"(B) inform and consult with the appropriate congressional committees on the results of the reevaluation conducted pursuant to subparagraph (A).

"(d) CERTIFICATION.—[Amended this section.]

"(e) DEFINITIONS.—In this section:

"(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term 'appropriate congressional committees' means the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

"(2) QUALITATIVE MILITARY EDGE.—The term 'qualitative military edge' has the meaning given the term in section 36(h) of the Arms Export Control Act, as added by subsection (d) of this section [22 U.S.C. 2776(h)]."

[Memorandum of President of the United States, June 8, 2009, 74 F.R. 28863, provided that the functions of the President in section 201(a) to (c) of Pub. L. 110–429, set out above, are delegated to the Secretary of State, in coordination with the Secretary of Defense.]

NATIONAL DISCLOSURE POLICY FOR SENSITIVE WEAPONS TECHNOLOGY; REPORT TO CONGRESS

Pub. L. 96–92, §20(a), Oct. 29, 1979, 93 Stat. 710, directed President to undertake a thorough review of interagency procedures and disclosure criteria used by United States in determining whether sensitive weapons technology will be transferred to other countries, and not later than Feb. 15, 1980 to transmit a report to Congress setting forth the results of such review, together with such recommendations as are necessary to improve the current disclosure system, prior to repeal by Pub. L. 97–113, title VII, §734(a)(11), Dec. 29, 1981, 95 Stat. 1560.

[1] *See References in Text note below.*

§2776a. Repealed. Pub. L. 112–81, div. A, title X, §1062(d)(4), Dec. 31, 2011, 125 Stat. 1585

Section, Pub. L. 109–364, div. A, title XII, §1231, Oct. 17, 2006, 120 Stat. 2430; Pub. L. 110–181, div. A, title X, §1063(c)(11), Jan. 28, 2008, 122 Stat. 323, required annual report on foreign sales of significant military equipment manufactured in the United States.

§2777. Fiscal provisions relating to foreign military sales credits

(a) Permissible uses of cash payments under sections 2761, 2762, 2763, and 2769

Cash payments received under sections 2761, 2762, and 2769 of this title and advances received under section 2763 of this title shall be available solely for payments to suppliers (including the military departments) and refunds to purchasers and shall not be available for financing credits and guaranties.

(b) Transfer of funds to miscellaneous receipts of Treasury

Amounts received from foreign governments and international organizations as repayments for credits extended pursuant to section 2763 of this title, amounts received from the disposition of instruments evidencing indebtedness under section 2764(b) of this title (excluding such portion of the sales proceeds as may be required at the time of disposition to be obligated as a reserve for payment of claims under guaranties issued pursuant to section 2764(b) of this title, which sums are made available for such obligations), and other collections (including fees and interest) shall be transferred to the miscellaneous receipts of the Treasury.

(c) Credit of funds to reserve under section 2764(c)

Notwithstanding the provisions of subsection (b), to the extent that any of the funds constituting the reserve under section 2764(c) of this title are paid out for a claim arising out of a loan guaranteed under section 2764 of this title, amounts received from a foreign government or international organization after the date of such payment, with respect to such claim, shall be credited to such reserve, shall be merged with the funds in such reserve, and shall be available for any purpose for which funds in such reserve are available.

(Pub. L. 90–629, ch. 3, §37, Oct. 22, 1968, 82 Stat. 1326; Pub. L. 93–189, §25(11), Dec. 17, 1973, 87 Stat. 731; Pub. L. 96–533, title I, §§104(b), 105(e)(1), Dec. 16, 1980, 94 Stat. 3133, 3135.)

AMENDMENTS

1980—Subsec. (a). Pub. L. 96–533, §105(e)(1), inserted reference to section 2769 of this title.
Subsec. (c). Pub. L. 96–533, §104(b), added subsec. (c).

1973—Subsec. (b). Pub. L. 93–189 inserted provisions relating to indebtedness under section 2764(b) of this title and exclusions of portions of the sales proceeds required at the time of disposition as a reserve for payment of claims under guaranties issued under section 2764(b) of this title.

§2778. Control of arms exports and imports

(a) Presidential control of exports and imports of defense articles and services, guidance of policy, etc.; designation of United States Munitions List; issuance of export licenses; negotiations information

(1) In furtherance of world peace and the security and foreign policy of the United States, the President is authorized to control the import and the export of defense articles and defense services and to provide foreign policy guidance to persons of the United States involved in the export and import of such articles and services. The President is authorized to designate those items which shall be considered as defense articles and defense services for the purposes of this section and to promulgate regulations for the import and export of such articles and services. The items so designated shall constitute the United States Munitions List.

(2) Decisions on issuing export licenses under this section shall take into account whether the export of an article would contribute to an arms race, aid in the development of weapons of mass destruction, support international terrorism, increase the possibility of outbreak or escalation of conflict, or prejudice the development of bilateral or multilateral arms control or nonproliferation agreements or other arrangements.

(3) In exercising the authorities conferred by this section, the President may require that any defense article or defense service be sold under this chapter as a condition of its eligibility for export, and may require that persons engaged in the negotiation for the export of defense articles and

services keep the President fully and currently informed of the progress and future prospects of such negotiations.

(b) Registration and licensing requirements for manufacturers, exporters, or importers of designated defense articles and defense services

(1)(A)(i) As prescribed in regulations issued under this section, every person (other than an officer or employee of the United States Government acting in an official capacity) who engages in the business of manufacturing, exporting, or importing any defense articles or defense services designated by the President under subsection (a)(1) shall register with the United States Government agency charged with the administration of this section, and shall pay a registration fee which shall be prescribed by such regulations. Such regulations shall prohibit the return to the United States for sale in the United States (other than for the Armed Forces of the United States and its allies or for any State or local law enforcement agency) of any military firearms or ammunition of United States manufacture furnished to foreign governments by the United States under this chapter or any other foreign assistance or sales program of the United States, whether or not enhanced in value or improved in condition in a foreign country. This prohibition shall not extend to similar firearms that have been so substantially transformed as to become, in effect, articles of foreign manufacture.

(ii)(I) As prescribed in regulations issued under this section, every person (other than an officer or employee of the United States Government acting in official capacity) who engages in the business of brokering activities with respect to the manufacture, export, import, or transfer of any defense article or defense service designated by the President under subsection (a)(1), or in the business of brokering activities with respect to the manufacture, export, import, or transfer of any foreign defense article or defense service (as defined in subclause (IV)), shall register with the United States Government agency charged with the administration of this section, and shall pay a registration fee which shall be prescribed by such regulations.

(II) Such brokering activities shall include the financing, transportation, freight forwarding, or taking of any other action that facilitates the manufacture, export, or import of a defense article or defense service.

(III) No person may engage in the business of brokering activities described in subclause (I) without a license, issued in accordance with this chapter, except that no license shall be required for such activities undertaken by or for an agency of the United States Government—

(aa) for use by an agency of the United States Government; or

(bb) for carrying out any foreign assistance or sales program authorized by law and subject to the control of the President by other means.

(IV) For purposes of this clause, the term "foreign defense article or defense service" includes any non-United States defense article or defense service of a nature described on the United States Munitions List regardless of whether such article or service is of United States origin or whether such article or service contains United States origin components.

(B) The prohibition under such regulations required by the second sentence of subparagraph (A) shall not extend to any military firearms (or ammunition, components, parts, accessories, and attachments for such firearms) of United States manufacture furnished to any foreign government by the United States under this chapter or any other foreign assistance or sales program of the United States if—

(i) such firearms are among those firearms that the Secretary of the Treasury is, or was at any time, required to authorize the importation of by reason of the provisions of section 925(e) of title 18 (including the requirement for the listing of such firearms as curios or relics under section 921(a)(13) of that title); and

(ii) such foreign government certifies to the United States Government that such firearms are owned by such foreign government.

(C) A copy of each registration made under this paragraph shall be transmitted to the Secretary of the Treasury for review regarding law enforcement concerns. The Secretary shall report to the President regarding such concerns as necessary.

(2) Except as otherwise specifically provided in regulations issued under subsection (a)(1), no defense articles or defense services designated by the President under subsection (a)(1) may be exported or imported without a license for such export or import, issued in accordance with this chapter and regulations issued under this chapter, except that no license shall be required for exports or imports made by or for an agency of the United States Government (A) for official use by a department or agency of the United States Government, or (B) for carrying out any foreign assistance or sales program authorized by law and subject to the control of the President by other means.

(3)(A) For each of the fiscal years 1988 and 1989, $250,000 of registration fees collected pursuant to paragraph (1) shall be credited to a Department of State account, to be available without fiscal year limitation. Fees credited to that account shall be available only for the payment of expenses incurred for—

(i) contract personnel to assist in the evaluation of munitions control license applications, reduce processing time for license applications, and improve monitoring of compliance with the terms of licenses; and

(ii) the automation of munitions control functions and the processing of munitions control license applications, including the development, procurement, and utilization of computer equipment and related software.

(B) The authority of this paragraph may be exercised only to such extent or in such amounts as are provided in advance in appropriation Acts.

(c) Criminal violations; punishment

Any person who willfully violates any provision of this section, section 2779 of this title, a treaty referred to in subsection (j)(1)(C)(i), or any rule or regulation issued under this section or section 2779 of this title, including any rule or regulation issued to implement or enforce a treaty referred to in subsection (j)(1)(C)(i) or an implementing arrangement pursuant to such treaty, or who willfully, in a registration or license application or required report, makes any untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein not misleading, shall upon conviction be fined for each violation not more than $1,000,000 or imprisoned not more than 20 years, or both.

(d) Repealed. Pub. L. 96–70, title III, §3303(a)(4), Sept. 27, 1979, 93 Stat. 499

(e) Enforcement powers of President

In carrying out functions under this section with respect to the export of defense articles and defense services, including defense articles and defense services exported or imported pursuant to a treaty referred to in subsection (j)(1)(C)(i), the President is authorized to exercise the same powers concerning violations and enforcement which are conferred upon departments, agencies and officials by subsections (c), (d), (e), and (g) of section 11 of the Export Administration Act of 1979 [50 U.S.C. 4610(c), (d), (e), and (g)], and by subsections (a) and (c) of section 12 of such Act [50 U.S.C. 4614(a) and (c)], subject to the same terms and conditions as are applicable to such powers under such Act [50 U.S.C. 4601 et seq.], except that section 11(c)(2)(B) of such Act shall not apply, and instead, as prescribed in regulations issued under this section, the Secretary of State may assess civil penalties for violations of this chapter and regulations prescribed thereunder and further may commence a civil action to recover such civil penalties, and except further that the names of the countries and the types and quantities of defense articles for which licenses are issued under this section shall not be withheld from public disclosure unless the President determines that the release of such information would be contrary to the national interest. Nothing in this subsection shall be construed as authorizing the withholding of information from the Congress. Notwithstanding section 11(c) of the Export Administration Act of 1979, the civil penalty for each violation involving controls imposed on the export of defense articles and defense services under this section may not exceed $500,000.

(f) Periodic review of items on Munitions List; exemptions

(1) The President shall periodically review the items on the United States Munitions List to determine what items, if any, no longer warrant export controls under this section. The results of such reviews shall be reported to the Speaker of the House of Representatives, the Committee on Foreign Affairs of the House of Representatives, and to the Committee on Foreign Relations and the Committee on Banking, Housing, and Urban Affairs of the Senate. The President may not remove any item from the Munitions List until 30 days after the date on which the President has provided notice of the proposed removal to the Committee on International Relations of the House of Representatives and to the Committee on Foreign Relations of the Senate in accordance with the procedures applicable to reprogramming notifications under section 2394–1(a) of this title. Such notice shall describe the nature of any controls to be imposed on that item under any other provision of law.

(2) The President may not authorize an exemption for a foreign country from the licensing requirements of this chapter for the export of defense items under subsection (j) or any other provision of this chapter until 30 days after the date on which the President has transmitted to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate a notification that includes—

(A) a description of the scope of the exemption, including a detailed summary of the defense articles, defense services, and related technical data covered by the exemption; and

(B) a determination by the Attorney General that the bilateral agreement concluded under subsection (j) requires the compilation and maintenance of sufficient documentation relating to the export of United States defense articles, defense services, and related technical data to facilitate law enforcement efforts to detect, prevent, and prosecute criminal violations of any provision of this chapter, including the efforts on the part of countries and factions engaged in international terrorism to illicitly acquire sophisticated United States defense items.

(3) Paragraph (2) shall not apply with respect to an exemption for Canada from the licensing requirements of this chapter for the export of defense items.

(4) Paragraph (2) shall not apply with respect to an exemption under subsection (j)(1) to give effect to a treaty referred to in subsection (j)(1)(C)(i) (and any implementing arrangements to such treaty), provided that the President promulgates regulations to implement and enforce such treaty under this section and section 2779 of this title.

(5)(A) Except as provided in subparagraph (B), the President shall take such actions as may be necessary to require that, at the time of export or reexport of any major defense equipment listed on the 600 series of the Commerce Control List contained in Supplement No. 1 to part 774 of subtitle B of title 15, Code of Federal Regulations, the major defense equipment will not be subsequently modified so as to transform such major defense equipment into a defense article.

(B) The President may authorize the transformation of any major defense equipment described in subparagraph (A) into a defense article if the President—

(i) determines that such transformation is appropriate and in the national interests of the United States; and

(ii) provides notice of such transformation to the chairman of the Committee on Foreign Affairs of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate consistent with the notification requirements of section 2776(b)(5)(A) of this title.

(C) In this paragraph, the term "defense article" means an item designated by the President pursuant to subsection (a)(1).

(6) The President shall ensure that any major defense equipment that is listed on the 600 series of the Commerce Control List contained in Supplement No. 1 to part 774 of subtitle B of title 15, Code of Federal Regulations, shall continue to be subject to the notification and reporting requirements of the following provisions of law:

(A) Section 2321j(f) of this title.

(B) Section 2415 of this title.

(C) Section 2753(d)(3)(A) of this title.

(D) Section 2765 of this title.
(E) Section 2776(b), (c), and (d) of this title.

(g) Identification of persons convicted or subject to indictment for violations of certain provisions

(1) The President shall develop appropriate mechanisms to identify, in connection with the export licensing process under this section—

(A) persons who are the subject of an indictment for, or have been convicted of, a violation under—

(i) this section,

(ii) section 11 of the Export Administration Act of 1979 (50 U.S.C. App. 2410) [50 U.S.C. 4610],

(iii) section 793, 794, or 798 of title 18 (relating to espionage involving defense or classified information) or section 2339A of such title (relating to providing material support to terrorists),

(iv) section 16 of the Trading with the Enemy Act (50 U.S.C. App. 16) [50 U.S.C. 4315],

(v) section 206 of the International Emergency Economic Powers Act (relating to foreign assets controls; 50 U.S.C. App. 1705) [50 U.S.C. 1705],

(vi) section 30A of the Securities Exchange Act of 1934 (15 U.S.C. 78dd–1) or section 104 of the Foreign Corrupt Practices Act (15 U.S.C. 78dd–2),

(vii) chapter 105 of title 18 (relating to sabotage),

(viii) section 4(b) of the Internal Security Act of 1950 (relating to communication of classified information; 50 U.S.C. 783(b)),

(ix) section 57, 92, 101, 104, 222, 224, 225, or 226 of the Atomic Energy Act of 1954 (42 U.S.C. 2077, 2122, 2131, 2134, 2272, 2274, 2275, and 2276),

(x) section 601 of the National Security Act of 1947 (relating to intelligence identities protection; [50 U.S.C. 3121]),

(xi) section 603(b) or (c) of the Comprehensive Anti-Apartheid Act of 1986 (22 U.S.C. 5113(b) and (c)), or

(xii) sections 3, 4, 5, and 6 of the Prevention of Terrorist Access to Destructive Weapons Act of 2004, relating to missile systems designed to destroy aircraft (18 U.S.C. 2332g), prohibitions governing atomic weapons (42 U.S.C. 2122), radiological dispersal devices (18 U.S.C. 2332h), and variola virus (18 U.S.C. 175c);

(B) persons who are the subject of an indictment or have been convicted under section 371 of title 18 for conspiracy to violate any of the statutes cited in subparagraph (A); and

(C) persons who are ineligible—

(i) to contract with,

(ii) to receive a license or other form of authorization to export from, or

(iii) to receive a license or other form of authorization to import defense articles or defense services from,

any agency of the United States Government.

(2) The President shall require that each applicant for a license to export an item on the United States Munitions List identify in the application all consignees and freight forwarders involved in the proposed export.

(3) If the President determines—

(A) that an applicant for a license to export under this section is the subject of an indictment for a violation of any of the statutes cited in paragraph (1),

(B) that there is reasonable cause to believe that an applicant for a license to export under this section has violated any of the statutes cited in paragraph (1), or

(C) that an applicant for a license to export under this section is ineligible to contract with, or to receive a license or other form of authorization to import defense articles or defense services from, any agency of the United States Government,

the President may disapprove the application. The President shall consider requests by the Secretary of the Treasury to disapprove any export license application based on these criteria.

(4) A license to export an item on the United States Munitions List may not be issued to a person—

(A) if that person, or any party to the export, has been convicted of violating a statute cited in paragraph (1), or

(B) if that person, or any party to the export, is at the time of the license review ineligible to receive export licenses (or other forms of authorization to export) from any agency of the United States Government,

except as may be determined on a case-by-case basis by the President, after consultation with the Secretary of the Treasury, after a thorough review of the circumstances surrounding the conviction or ineligibility to export and a finding by the President that appropriate steps have been taken to mitigate any law enforcement concerns.

(5) A license to export an item on the United States Munitions List may not be issued to a foreign person (other than a foreign government).

(6) The President may require a license (or other form of authorization) before any item on the United States Munitions List is sold or otherwise transferred to the control or possession of a foreign person or a person acting on behalf of a foreign person.

(7) The President shall, in coordination with law enforcement and national security agencies, develop standards for identifying high-risk exports for regular end-use verification. These standards shall be published in the Federal Register and the initial standards shall be published not later than October 1, 1988.

(8) Upon request of the Secretary of State, the Secretary of Defense and the Secretary of the Treasury shall detail to the office primarily responsible for export licensing functions under this section, on a nonreimbursable basis, personnel with appropriate expertise to assist in the initial screening of applications for export licenses under this section in order to determine the need for further review of those applications for foreign policy, national security, and law enforcement concerns.

(9) For purposes of this subsection—

(A) the term "foreign corporation" means a corporation that is not incorporated in the United States;

(B) the term "foreign government" includes any agency or subdivision of a foreign government, including an official mission of a foreign government;

(C) the term "foreign person" means any person who is not a citizen or national of the United States or lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act [8 U.S.C. 1101 et seq.], and includes foreign corporations, international organizations, and foreign governments;

(D) the term "party to the export" means—

(i) the president, the chief executive officer, and other senior officers of the license applicant;

(ii) the freight forwarders or designated exporting agent of the license application; and

(iii) any consignee or end user of any item to be exported; and

(E) the term "person" means a natural person as well as a corporation, business association, partnership, society, trust, or any other entity, organization, or group, including governmental entities.

(h) Judicial review of designation of items as defense articles or services

The designation by the President (or by an official to whom the President's functions under subsection (a) have been duly delegated), in regulations issued under this section, of items as defense articles or defense services for purposes of this section shall not be subject to judicial review.

(i) Report to Department of State

As prescribed in regulations issued under this section, a United States person to whom a license has been granted to export an item on the United States Munitions List shall, not later than 15 days after the item is exported, submit to the Department of State a report containing all shipment information, including a description of the item and the quantity, value, port of exit, and end-user and country of destination of the item.

(j) Requirements relating to country exemptions for licensing of defense items for export to foreign countries

(1) Requirement for bilateral agreement

(A) In general

The President may utilize the regulatory or other authority pursuant to this chapter to exempt a foreign country from the licensing requirements of this chapter with respect to exports of defense items only if the United States Government has concluded a binding bilateral agreement with the foreign country. Such agreement shall—

(i) meet the requirements set forth in paragraph (2); and

(ii) be implemented by the United States and the foreign country in a manner that is legally-binding under their domestic laws.

(B) Exception for Canada

The requirement to conclude a bilateral agreement in accordance with subparagraph (A) shall not apply with respect to an exemption for Canada from the licensing requirements of this chapter for the export of defense items.

(C) Exception for defense trade cooperation treaties

(i) In general

The requirement to conclude a bilateral agreement in accordance with subparagraph (A) shall not apply with respect to an exemption from the licensing requirements of this chapter for the export of defense items to give effect to any of the following defense trade cooperation treaties, provided that the treaty has entered into force pursuant to article II, section 2, clause 2 of the Constitution of the United States:

(I) The Treaty Between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland Concerning Defense Trade Cooperation, done at Washington and London on June 21 and 26, 2007 (and any implementing arrangement thereto).

(II) The Treaty Between the Government of the United States of America and the Government of Australia Concerning Defense Trade Cooperation, done at Sydney September 5, 2007 (and any implementing arrangement thereto).

(ii) Limitation of scope

The United States shall exempt from the scope of a treaty referred to in clause (i)—

(I) complete rocket systems (including ballistic missile systems, space launch vehicles, and sounding rockets) or complete unmanned aerial vehicle systems (including cruise missile systems, target drones, and reconnaissance drones) capable of delivering at least a 500 kilogram payload to a range of 300 kilometers, and associated production facilities, software, or technology for these systems, as defined in the Missile Technology Control Regime Annex Category I, Item 1;

(II) individual rocket stages, re-entry vehicles and equipment, solid or liquid propellant motors or engines, guidance sets, thrust vector control systems, and associated production facilities, software, and technology, as defined in the Missile Technology Control Regime Annex Category I, Item 2;

(III) defense articles and defense services listed in the Missile Technology Control Regime Annex Category II that are for use in rocket systems, as that term is used in such Annex, including associated production facilities, software, or technology;

(IV) toxicological agents, biological agents, and associated equipment, as listed in the

United States Munitions List (part 121.1 of chapter I of title 22, Code of Federal Regulations), Category XIV, subcategories (a), (b), (f)(1), (i), (j) as it pertains to (f)(1), (l) as it pertains to (f)(1), and (m) as it pertains to all of the subcategories cited in this paragraph;

(V) defense articles and defense services specific to the design and testing of nuclear weapons which are controlled under United States Munitions List Category XVI(a) and (b), along with associated defense articles in Category XVI(d) and technology in Category XVI(e);

(VI) with regard to the treaty cited in clause (i)(I), defense articles and defense services that the United States controls under the United States Munitions List that are not controlled by the United Kingdom, as defined in the United Kingdom Military List or Annex 4 to the United Kingdom Dual Use List, or any successor lists thereto; and

(VII) with regard to the treaty cited in clause (i)(II), defense articles for which Australian laws, regulations, or other commitments would prevent Australia from enforcing the control measures specified in such treaty.

(2) Requirements of bilateral agreement

A bilateral agreement referred to in paragraph (1)—

(A) shall, at a minimum, require the foreign country, as necessary, to revise its policies and practices, and promulgate or enact necessary modifications to its laws and regulations to establish an export control regime that is at least comparable to United States law, regulation, and policy requiring—

(i) conditions on the handling of all United States-origin defense items exported to the foreign country, including prior written United States Government approval for any reexports to third countries;

(ii) end-use and retransfer control commitments, including securing binding end-use and retransfer control commitments from all end-users, including such documentation as is needed in order to ensure compliance and enforcement, with respect to such United States-origin defense items;

(iii) establishment of a procedure comparable to a "watchlist" (if such a watchlist does not exist) and full cooperation with United States Government law enforcement agencies to allow for sharing of export and import documentation and background information on foreign businesses and individuals employed by or otherwise connected to those businesses; and

(iv) establishment of a list of controlled defense items to ensure coverage of those items to be exported under the exemption; and

(B) should, at a minimum, require the foreign country, as necessary, to revise its policies and practices, and promulgate or enact necessary modifications to its laws and regulations to establish an export control regime that is at least comparable to United States law, regulation, and policy regarding—

(i) controls on the export of tangible or intangible technology, including via fax, phone, and electronic media;

(ii) appropriate controls on unclassified information relating to defense items exported to foreign nationals;

(iii) controls on international arms trafficking and brokering;

(iv) cooperation with United States Government agencies, including intelligence agencies, to combat efforts by third countries to acquire defense items, the export of which to such countries would not be authorized pursuant to the export control regimes of the foreign country and the United States; and

(v) violations of export control laws, and penalties for such violations.

(3) Advance certification

Not less than 30 days before authorizing an exemption for a foreign country from the licensing requirements of this chapter for the export of defense items, the President shall transmit to the

Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate a certification that—

(A) the United States has entered into a bilateral agreement with that foreign country satisfying all requirements set forth in paragraph (2);

(B) the foreign country has promulgated or enacted all necessary modifications to its laws and regulations to comply with its obligations under the bilateral agreement with the United States; and

(C) the appropriate congressional committees will continue to receive notifications pursuant to the authorities, procedures, and practices of section 2776 of this title for defense exports to a foreign country to which that section would apply and without regard to any form of defense export licensing exemption otherwise available for that country.

(4) Definitions

In this section:

(A) Defense items

The term "defense items" means defense articles, defense services, and related technical data.

(B) Appropriate congressional committees

The term "appropriate congressional committees" means—

(i) the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives; and

(ii) the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

(k) Licensing of certain commerce-controlled items

(1) In general

A license or other approval from the Department of State granted in accordance with this section may also authorize the export of items subject to the Export Administration Regulations if such items are to be used in or with defense articles controlled on the United States Munitions List.

(2) Other requirements

The following requirements shall apply with respect to a license or other approval to authorize the export of items subject to the Export Administration Regulations under paragraph (1):

(A) Separate approval from the Department of Commerce shall not be required for such items if such items are approved for export under a Department of State license or other approval.

(B) Such items subject to the Export Administration Regulations that are exported pursuant to a Department of State license or other approval would remain under the jurisdiction of the Department of Commerce with respect to any subsequent transactions.

(C) The inclusion of the term "subject to the EAR" or any similar term on a Department of State license or approval shall not affect the jurisdiction with respect to such items.

(3) Definition

In this subsection, the term "Export Administration Regulations" means—

(A) the Export Administration Regulations as maintained and amended under the authority of the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.); or

(B) any successor regulations.

(Pub. L. 90–629, ch. 3, §38, as added Pub. L. 94–329, title II, §212(a)(1), June 30, 1976, 90 Stat. 744; amended Pub. L. 95–92, §20, Aug. 4, 1977, 91 Stat. 623; Pub. L. 96–70, title III, §3303(a)(4), Sept. 27, 1979, 93 Stat. 499; Pub. L. 96–72, §22(a), Sept. 29, 1979, 93 Stat. 535; Pub. L. 96–92, §21, Oct. 29, 1979, 93 Stat. 710; Pub. L. 96–533, title I, §107(a), (c), Dec. 16, 1980, 94 Stat. 3136; Pub. L. 97–113, title I, §§106, 107, Dec. 29, 1981, 95 Stat. 1522; Pub. L. 99–64, title I, §123(a), July 12, 1985, 99 Stat. 156; Pub. L. 99–83, title I, §119(a), (b), Aug. 8, 1985, 99 Stat. 203, 204; Pub. L. 100–202, §101(b) [title VIII, §8142(a)], Dec. 22, 1987, 101 Stat. 1329–43, 1329–88; Pub. L.

100–204, title XII, §1255, Dec. 22, 1987, 101 Stat. 1429; Pub. L. 101–222, §§3(a), 6, Dec. 12, 1989, 103 Stat. 1896, 1899; Pub. L. 103–236, title VII, §714(a)(1), Apr. 30, 1994, 108 Stat. 497; Pub. L. 104–164, title I, §§151(a), 156, July 21, 1996, 110 Stat. 1437, 1440; Pub. L. 105–277, div. G, subdiv. A, title XII, §1225(a)(2), Oct. 21, 1998, 112 Stat. 2681–773; Pub. L. 106–113, div. B, §1000(a)(7) [div. B, title XIII, §§1302(a), 1303, 1304], Nov. 29, 1999, 113 Stat. 1536, 1501A–510, 1501A–511; Pub. L. 106–280, title I, §102(a), (b), Oct. 6, 2000, 114 Stat. 846, 848; Pub. L. 107–228, div. B, title XIV, §1406, Sept. 30, 2002, 116 Stat. 1458; Pub. L. 108–458, title VI, §6910, Dec. 17, 2004, 118 Stat. 3774; Pub. L. 111–195, title I, §107(a)(2), July 1, 2010, 124 Stat. 1337; Pub. L. 111–266, title I, §§102(b)–103(c), Oct. 8, 2010, 124 Stat. 2797, 2799; Pub. L. 113–276, title II, §§204, 205, 208(a)(1), (3), (b)(1)(A), Dec. 18, 2014, 128 Stat. 2990–2993.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1321, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

The Export Administration Act of 1979, referred to in subsec. (e), is Pub. L. 96–72, Sept. 29, 1979, 93 Stat. 503, which is classified principally to chapter 56 (§4601 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Tables.

Section 104 of the Foreign Corrupt Practices Act (15 U.S.C. 78dd–2), referred to in subsec. (g)(1)(A)(vi), probably means section 104 of the Foreign Corrupt Practices Act of 1977, which is classified to section 78dd–2 of Title 15, Commerce and Trade.

Sections 3, 4, 5, and 6 of the Prevention of Terrorist Access to Destructive Weapons Act of 2004, referred to in subsec. (g)(1)(A)(xii), probably means sections 6903, 6904, 6905, and 6906, respectively, of Pub. L. 108–458, which enacted section 2332g of Title 18, Crimes and Criminal Procedure, amended sections 2122 and 2272 of Title 42, The Public Health and Welfare, and enacted sections 2332h and 175c of Title 18.

The Immigration and Nationality Act, referred to in subsec. (g)(9)(C), is act June 27, 1952, ch. 477, 66 Stat. 163, as amended, which is classified principally to chapter 12 (§1101 et seq.) of Title 8, Aliens and Nationality. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of Title 8 and Tables.

The International Emergency Economic Powers Act, referred to in subsec. (k)(3)(A), is title II of Pub. L. 95–223, Dec. 28, 1977, 91 Stat. 1626, which is classified generally to chapter 35 (§1701 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 50 and Tables.

REFERENCE TO SECTION 1934 OF THIS TITLE DEEMED REFERENCE TO THIS SECTION

Pub. L. 94–329, title II, §212(b)(1), June 30, 1976, 90 Stat. 745, provided in part that: "Any reference to such section [section 1934 of this title] shall be deemed to be a reference to section 38 of the Arms Export Control Act [this section] and any reference to licenses issued under section 38 of the Arms Export Control Act [this section] shall be deemed to include a reference to licenses issued under section 414 of the Mutual Security Act of 1954."

AMENDMENTS

2014—Subsec. (b)(1)(B), (C). Pub. L. 113–276, §208(b)(1)(A)(i), redesignated subpar. (B) relating to review by Secretary of the Treasury of munitions control registrations as (C).

Subsec. (f)(1). Pub. L. 113–276, §208(a)(1), substituted "the Speaker of the House of Representatives, the Committee on Foreign Affairs of the House of Representatives, and" for "the Speaker of the House of Representatives and".

Subsec. (f)(2). Pub. L. 113–276, §208(a)(3), substituted "Foreign Affairs" for "International Relations" in introductory provisions.

Subsec. (f)(5). Pub. L. 113–276, §205(a), added par. (5).

Subsec. (f)(6). Pub. L. 113–276, §205(b), added par. (6).

Subsec. (g)(1)(A)(xi). Pub. L. 113–276, §208(b)(1)(A)(ii)(I), substituted ", or" for "; or".

Subsec. (g)(1)(A)(xii). Pub. L. 113–276, §208(b)(1)(A)(ii)(II), substituted "sections" for "section" and "(18 U.S.C. 175c)" for "(18 U.S.C. 175b)".

Subsec. (j)(2). Pub. L. 113–276, §208(b)(1)(A)(iii), inserted "in" before "paragraph (1)" in introductory provisions.

Subsec. (j)(3), (4)(B)(i). Pub. L. 113–276, §208(a)(3), substituted "Foreign Affairs" for "International Relations".

Subsec. (k). Pub. L. 113–276, §204, added subsec. (k).

2010—Subsec. (c). Pub. L. 111–266, §103(a), substituted "this section, section 2779 of this title, a treaty referred to in subsection (j)(1)(C)(i), or any rule or regulation issued under this section or section 2779 of this title, including any rule or regulation issued to implement or enforce a treaty referred to in subsection (j)(1)(C)(i) or an implementing arrangement pursuant to such treaty" for "this section or section 2779 of this title, or any rule or regulation issued under either section".

Pub. L. 111–195 substituted "20 years" for "ten years".

Subsec. (e). Pub. L. 111–266, §103(b), substituted "defense services, including defense articles and defense services exported or imported pursuant to a treaty referred to in subsection (j)(1)(C)(i)," for "defense services,".

Subsec. (f)(4). Pub. L. 111–266, §103(c), added par. (4).

Subsec. (j)(1)(B). Pub. L. 111–266, §102(b)(1), inserted "for Canada" after "Exception" in heading.

Subsec. (j)(1)(C). Pub. L. 111–266, §102(b)(2), added subpar. (C).

2004—Subsec. (g)(1)(A)(xii). Pub. L. 108–458 added cl. (xii).

2002—Subsec. (f)(1). Pub. L. 107–228 substituted "The President may not remove any item from the Munitions List until 30 days after the date on which the President has provided notice of the proposed removal to the Committee on International Relations of the House of Representatives and to the Committee on Foreign Relations of the Senate in accordance with the procedures applicable to reprogramming notifications under section 2394–1(a) of this title. Such notice shall describe the nature of any controls to be imposed on that item under any other provision of law." for "Such a report shall be submitted at least 30 days before any item is removed from the Munitions List and shall describe the nature of any controls to be imposed on that item under the Export Administration Act of 1979."

2000—Subsec. (f). Pub. L. 106–280, §102(b), designated existing provisions as par. (1) and added pars. (2) and (3).

Subsec. (j). Pub. L. 106–280, §102(a), added subsec. (j).

1999—Subsec. (e). Pub. L. 106–113, §1000(a)(7) [title XIII, §1303], in first sentence, inserted "section 11(c)(2)(B) of such Act shall not apply, and instead, as prescribed in regulations issued under this section, the Secretary of State may assess civil penalties for violations of this chapter and regulations prescribed thereunder and further may commence a civil action to recover such civil penalties, and except further that" after "except that".

Subsec. (g)(1)(A)(iii). Pub. L. 106–113, §1000(a)(7) [title XIII, §1304], inserted "or section 2339A of such title (relating to providing material support to terrorists)" before comma at end.

Subsec. (i). Pub. L. 106–113, §1000(a)(7) [title XIII, §1302(a)], added subsec. (i).

1998—Subsec. (a)(2). Pub. L. 105–277 substituted "take into account" for "be made in coordination with the Director of the United States Arms Control and Disarmament Agency, taking into account the Director's assessment as to" and struck out at end "The Director of the Arms Control and Disarmament Agency is authorized, whenever the Director determines that the issuance of an export license under this section would be detrimental to the national security of the United States, to recommend to the President that such export license be disapproved."

1996—Subsec. (b)(1)(A). Pub. L. 104–164, §151(a), designated existing provisions of subpar. (A) as cl. (i) and added cl. (ii).

Subsec. (e). Pub. L. 104–164, §156, inserted before period at end of first sentence ", except that the names of the countries and the types and quantities of defense articles for which licenses are issued under this section shall not be withheld from public disclosure unless the President determines that the release of such information would be contrary to the national interest".

1994—Subsec. (a)(2). Pub. L. 103–236 amended par. (2) generally. Prior to amendment, par. (2) read as follows: "Decisions on issuing export licenses under this section shall be made in coordination with the Director of the United States Arms Control and Disarmament Agency and shall take into account the Director's opinion as to whether the export of an article will contribute to an arms race, support international terrorism, increase the possibility of outbreak or escalation of conflict, or prejudice the development of bilateral or multilateral arms control arrangements."

1989—Subsec. (a)(2). Pub. L. 101–222, §3(a), inserted "support international terrorism," after "arms race,".

Subsec. (h). Pub. L. 101–222, §6, added subsec. (h).

1987—Subsec. (b)(1). Pub. L. 100–204, §1255(b), designated existing provisions as subpar. (A) and added subpar. (B) relating to review by Secretary of the Treasury of munitions control registrations.

Pub. L. 100–202 designated existing provisions as subpar. (A) and added subpar. (B) relating to allowance of return to United States of certain military firearms, etc., under certain circumstances.

Subsec. (b)(3). Pub. L. 100–204, §1255(c), added par. (3).

Subsec. (g). Pub. L. 100–204, §1255(a), added subsec. (g).

1985—Subsec. (c). Pub. L. 99–83, §119(a), inserted "for each violation" before "not more" and substituted "$1,000,000" for "$100,000" and "ten" for "two".

Subsec. (e). Pub. L. 99–83, §119(b), inserted provisions relating to civil penalty for each violation.

Pub. L. 99–64 substituted "(g)" for "(f)".

1981—Subsec. (b)(3). Pub. L. 97–113, §106, struck out par. (3) which placed a $100,000,000 ceiling on commercial arms exports of major defense equipment to all countries other than NATO countries, Japan, Australia, and New Zealand.

Subsec. (f). Pub. L. 97–113, §107, added subsec. (f).

1980—Subsec. (a)(3). Pub. L. 96–533, §107(c), added par. (3).

Subsec. (b)(3). Pub. L. 96–533, §107(a), increased the limitation in the sale of major defense equipment exports to $100,000,000 from $35,000,000.

1979—Subsec. (b)(3). Pub. L. 96–92 increased the limitation in the sale of major defense equipment exports to $35,000,000 from $25,000,000.

Subsec. (d). Pub. L. 96–70 struck out subsec. (d) which provided that this section applies to and within the Canal Zone.

Subsec. (e). Pub. L. 96–72 substituted "subsections (c), (d), (e), and (f) of section 11 of the Export Administration Act of 1979, and by subsections (a) and (c) of section 12 of such Act" for "sections 6(c), (d), (e), and (f) and 7(a) and (c) of the Export Administration Act of 1969".

1977—Subsec. (b)(3). Pub. L. 95–92 inserted provisions relating to exceptions to prohibitions against issuance of licenses under this section and procedures applicable for implementation of such exceptions.

CHANGE OF NAME

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective Apr. 1, 1999, see section 1201 of Pub. L. 105–277, set out as an Effective Date note under section 6511 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–164, title I, §151(b), July 21, 1996, 110 Stat. 1438, provided that: "Section 38(b)(1)(A)(ii) of the Arms Export Control Act, as added by subsection (a) [22 U.S.C. 2778(b)(1)(A)(ii)], shall apply with respect to brokering activities engaged in beginning on or after 120 days after the enactment of this Act [July 21, 1996]."

EFFECTIVE DATE OF 1987 AMENDMENT

Pub. L. 100–202, §101(b) [title VIII, §8142(b)], Dec. 22, 1987, 101 Stat. 1329–43, 1329–88, provided that:

"(1) Except as provided in paragraphs (2) and (3), subparagraph (B) of section 38(b)(1) of the Arms Export Control Act [subsec. (b)(1)(B) of this section], as added by subsection (a), shall take effect at the end of the ninety-day period beginning on the date of the enactment of this Act [Dec. 22, 1987].

"(2)(A) Such subparagraph shall take effect on the date of the enactment of this Act [Dec. 22, 1987] with respect to any military firearms or ammunition (or components, parts, accessories and attachments for such firearms) with respect to which an import permit was issued by the Secretary of the Treasury on or after July 1, 1986, irrespective of whether such import permit was subsequently suspended, revoked, or withdrawn by the Secretary of the Treasury based on the application of section 38(b)(1) of the Arms Export Control Act [subsec. (b)(1) of this section] as in effect on the day before the date of the enactment of this Act.

"(B) In the case of an import permit described in subparagraph (A) which was suspended, revoked, or withdrawn by the Secretary of the Treasury during the period beginning on July 1, 1986, and ending on the date of the enactment of this Act [Dec. 22, 1987] under the conditions described in such subparagraph, such import permit shall be reinstated and reissued immediately upon the enactment of this Act, and in any event not later than ten days after the date of the enactment of this Act.

"(3) During the period preceding the revision of regulations issued under section 38(b)(1) of the Arms Export Control Act [subsec. (b)(1) of this section] to reflect the provisions of subparagraph (B) of such section, as added by subsection (a), such regulations may not be applied with respect to matters covered by paragraph (2) of this subsection so as to prohibit or otherwise restrict the importation of firearms described in that paragraph or in any other manner inconsistent with that paragraph, notwithstanding that such regulations have not yet been so revised: *Provided*, That this section shall not take effect if during the twenty day period beginning on the date of enactment of this section [Dec. 22, 1987] the Secretary of State, the Secretary of

Defense, or the Secretary of the Treasury notifies Congress that he has an objection to the intent of this section: *Provided further*, That the Attorney General shall, within the period of time stated in the first proviso, submit a certification to Congress indicating whether the enactment of this section will interfere with any ongoing criminal investigation with respect to this section. If a certification of criminal investigative interference or an objection to the intent of this section is made, as herein provided, no permit shall be issued to anyone."

EFFECTIVE DATE OF 1985 AMENDMENT

Pub. L. 99–83, title I, §119(c), Aug. 8, 1985, 99 Stat. 204, provided that: "This section [amending this section] shall take effect upon the date of enactment of this Act [Aug. 8, 1985] or October 1, 1985, whichever is later. The amendments made by this section apply with respect to violations occurring after the effective date of this section."

EFFECTIVE DATE OF 1979 AMENDMENTS

Amendment by Pub. L. 96–72 effective upon the expiration of the Export Administration Act of 1969, which terminated on Sept. 30, 1979, or upon any prior date which the Congress by concurrent resolution or the President by proclamation designated, see section 4621 of Title 50, War and National Defense, and Prior Provisions note set out under section 4616 of Title 50.

Amendment by Pub. L. 96–70 effective Oct. 1, 1979, see section 3304 of Pub. L. 96–70, set out as an Effective Date note under section 3601 of this title.

REGULATIONS

Pub. L. 111–266, title I, §106, Oct. 8, 2010, 124 Stat. 2802, provided that: "The President is authorized to issue regulations pursuant to the Arms Export Control Act (22 U.S.C. 2751 et seq.) to implement and enforce the Treaty Between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland Concerning Defense Trade Cooperation, done at Washington and London on June 21 and 26, 2007 (and any implementing arrangement thereto) and the Treaty Between the Government of the United States of America and the Government of Australia Concerning Defense Trade Cooperation, done at Sydney, September 5, 2007 (and any implementing arrangement thereto), consistent with other applicable provisions of the Arms Export Control Act, as amended by this Act [see Short Title of 2010 Amendment notes set out under section 2751 of this title], and with the terms of any resolution of advice and consent adopted by the Senate with respect to either treaty."

RULE OF CONSTRUCTION

Pub. L. 111–266, title I, §107, Oct. 8, 2010, 124 Stat. 2802, provided that: "Nothing in this title [see section 101 of Pub. L. 111–266, set out as a Short Title of 2010 Amendment note under section 2751 of this title], the Treaty Between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland Concerning Defense Trade Cooperation, done at Washington and London on June 21 and 26, 2007 (and any implementing arrangement thereto), the Treaty Between the Government of the United States of America and the Government of Australia Concerning Defense Trade Cooperation, done at Sydney, September 5, 2007 (and any implementing arrangement thereto), or in any regulation issued to implement either treaty, shall be construed to modify or supersede any provision of law or regulation other than the Arms Export Control Act (22 U.S.C. 2751 et seq.), as amended by this Act [see Short Title of 2010 Amendment notes set out under section 2751 of this title], and the International Traffic in Arms Regulations (subchapter M of chapter I of title 22, Code of Federal Regulations)."

DELEGATION OF FUNCTIONS

For delegation of functions of the President under this section, with certain conditions, see section 1(n) of Ex. Ord. No. 13637, Mar. 8, 2013, 78 F.R. 16130, set out as a note under section 2751 of this title. Functions were previously delegated by Ex. Ord. No. 11958, which was formerly set out as a note under section 2751 of this title and was revoked, subject to a savings provision, by section 4 of Ex. Ord. No. 13637.

SATELLITES AND RELATED ITEMS

Pub. L. 112–239, div. A, title XII, subtitle E, Jan. 2, 2013, 126 Stat. 2018, provided that:

"SEC. 1261. REMOVAL OF SATELLITES AND RELATED ITEMS FROM THE UNITED STATES MUNITIONS LIST.

"(a) REPEAL.—[Amended section 1513 of Pub. L. 105–261, set out in a note below.]

"(b) ADDITIONAL DETERMINATION AND REPORT.—Accompanying but separate from the submission to Congress of the first notification after the date of the enactment of this Act [Jan. 2, 2013] under

section 38(f) of the Arms Export Control Act (22 U.S.C. 2778(f)) relating to the removal of satellites and related items from the United States Munitions List, the President shall also submit to Congress—

"(1) a determination by the President that the removal of such satellites and items from the United States Munitions List is in the national security interests of the United States; and

"(2) a report identifying and analyzing any differences between—

"(A) the recommendations and draft regulations for controlling the export, re-export, and transfer of such satellites and related items that were submitted in the report to Congress required by section 1248 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84; 123 Stat. 2546); and

"(B) the final regulations under which the export, re-export, and transfer of such satellites and related items would continue to be controlled.

"(c) PROHIBITION.—

"(1) IN GENERAL.—Subject to paragraph (3), no satellites or related items that are made subject to the Export Administration Regulations (15 CFR part 730 et seq.) as a result of the enactment of subsection (a) of this section, whether or not enumerated on the Commerce Control List—

"(A) may be exported, re-exported, or transferred, directly or indirectly, to—

"(i) any government of a country described in paragraph (2); or

"(ii) any entity or person in or acting for or on behalf of such government, entity, or person; or

"(B) may be launched in a country described in paragraph (2) or as part of a launch vehicle owned, operated, or manufactured by the government of such country or any entity or person in or acting for or on behalf of such government, entity, or person.

"(2) COUNTRIES DESCRIBED.—The countries referred to in paragraph (1) are the following:

"(A) The People's Republic of China.

"(B) North Korea.

"(C) Any country that is a state sponsor of terrorism.

"(3) WAIVER.—The President may waive the prohibition in paragraph (1) on a case-by-case basis if not later than 30 days before doing so the President—

"(A) determines that it is in the national interest of the United States to do so; and

"(B) notifies the appropriate congressional committees of such determination.

"(d) PRESUMPTION OF DENIAL.—Any license or other authorization to export satellites and related items to a country with respect to which the United States maintains a comprehensive arms embargo shall be subject to a presumption of denial.

"(e) REPORT.—

"(1) IN GENERAL.—Not later than one year after the date of the enactment of this Act, and annually thereafter, the Director of National Intelligence, in consultation with the Secretary of State, shall submit to the appropriate congressional committees a report on efforts of state sponsors of terrorism, other foreign countries, or entities to illicitly acquire satellites and related items.

"(2) FORM.—The report required by paragraph (1) shall be submitted in unclassified form, but may contain a classified annex.

"SEC. 1262. REPORT ON LICENSES AND OTHER AUTHORIZATIONS TO EXPORT CERTAIN SATELLITES AND RELATED ITEMS.

"(a) IN GENERAL.—Not later than 60 days after the end of each calendar year through 2020, the President shall submit to the committees of Congress specified in subsection (b) a report summarizing all licenses and other authorizations to export satellites and related items that are subject to the Export Administration Regulations (15 CFR part 730 et seq.) as a result of the enactment of section 1261(a).

"(b) COMMITTEES OF CONGRESS SPECIFIED.—The committees of Congress specified in this subsection are—

"(1) the Committee on Foreign Relations, the Committee on Banking, Housing, and Urban Affairs, and the Select Committee on Intelligence of the Senate; and

"(2) the Committee on Foreign Affairs and the Permanent Select Committee on Intelligence of the House of Representatives.

"SEC. 1263. REPORT ON COUNTRY EXEMPTIONS FOR LICENSING OF EXPORTS OF CERTAIN SATELLITES AND RELATED ITEMS.

"(a) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act [Jan. 2, 2013], the Secretary of Commerce, in consultation with the Attorney General, the Secretary of Homeland Security, and the heads of other Federal departments and agencies as appropriate, shall submit to the appropriate

congressional committees a report that contains an assessment of the extent to which the terms and conditions of exemptions for foreign countries to the licensing requirements and other authorizations to export satellites and related items that are subject to the Export Administration Regulations (15 CFR part 730 et seq.) as a result of the enactment of section 1261(a) contain strong safeguards.

"(b) MATTERS TO BE INCLUDED.—The report required by subsection (a) shall include a description of the extent to which the terms and conditions of exemptions described in subsection (a), including other relevant laws, regulations, and practices, support law enforcement efforts to detect, prevent, and prosecute criminal, administrative, and other violations of any provision of the Export Administration Regulations (15 CFR part 730 et seq.), including efforts on the part of state sponsors of terrorism, organizations determined by the Secretary of State to have provided support for international terrorism, or other foreign countries, to acquire illicitly satellites and related items from the United States.

"SEC. 1264. END-USE MONITORING OF CERTAIN SATELLITES AND RELATED ITEMS.

"(a) IN GENERAL.—In order to ensure accountability with respect to the export of satellites and related items that become subject to the Export Administration Regulations (15 CFR part 730 et seq.) as a result of the enactment of section 1261(a), the President shall provide for the end-use monitoring of such satellites and related items.

"(b) REPORT.—Not later than 120 days after the date of the enactment of this Act [Jan. 2, 2013], the Secretary of Commerce, in consultation with the heads of other Federal departments and agencies as appropriate, shall submit to Congress a report describing the actions taken to implement this section, including identification of resource shortfalls or other constraints on effective end-use monitoring of satellites and related items described in subsection (a).

"SEC. 1265. INTERAGENCY REVIEW OF MODIFICATIONS TO CATEGORY XV OF THE UNITED STATES MUNITIONS LIST.

"(a) IN GENERAL.—Subject to section 38(f) of the Arms Export Control Act (22 U.S.C. 2778(f)), the President shall ensure that the Secretary of State, the Secretary of Defense, the Secretary of Commerce and, as appropriate, the Director of National Intelligence and the heads of other appropriate Federal departments and agencies, will review any removal or addition of an item to Category XV of the United States Munitions List (relating to spacecraft systems and associated equipment).

"(b) EFFECTIVE DATE.—The requirement of subsection (a) shall apply with respect to any item described in subsection (a) that is proposed to be removed or added to Category XV of the United States Munitions List on or after the date of the enactment of this Act [Jan. 2, 2013].

"SEC. 1266. RULES OF CONSTRUCTION.

"(a) IN GENERAL.—Subtitle B of title XV of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2173; 22 U.S.C. 2778 note) shall continue to apply to satellites and related items that are subject to the Export Administration Regulations (15 CFR part 730 et seq.) as a result of the enactment of section 1261(a).

"(b) ADDITIONAL RULE.—Nothing in this subtitle or any amendment made by this subtitle shall be construed as removing or limiting the authorities of the President under subsection (a) or (b) of section 1514 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2175; 22 U.S.C. 2778 note) with respect to defense articles and defense services that remain subject to the jurisdiction of the International Traffic in Arms Regulations.

"SEC. 1267. DEFINITIONS.

"In this subtitle:

"(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term 'appropriate congressional committees' means—

"(A) the Committee on Foreign Relations, the Committee on Banking, Housing, and Urban Affairs, the Committee on Armed Services, and the Select Committee on Intelligence of the Senate; and

"(B) the Committee on Foreign Affairs, the Committee on Armed Services, and the Permanent Select Committee on Intelligence of the House of Representatives.

"(2) STATE SPONSOR OF TERRORISM.—The term 'state sponsor of terrorism' means any country the government of which the Secretary of State has determined has repeatedly provided support for international terrorism pursuant to—

"(A) section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405) [now 50 U.S.C. 4605(j)] (as continued in effect under the International Emergency Economic Powers Act [50 U.S.C. 1701 et seq.]);

"(B) section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371);

"(C) section 40 of the Arms Export Control Act (22 U.S.C. 2780); or

"(D) any other provision of law.

"(3) UNITED STATES MUNITIONS LIST.—The term 'United States Munitions List' means the list referred to in section 38(a)(1) of the Arms Export Control Act (22 U.S.C. 2778(a)(1))."

[Memorandum of President of the United States, Oct. 28, 2013, 78 F.R. 71985, delegated to the Secretary of State, in consultation with the heads of other executive departments and agencies, the functions of the President under section 1261(b) of Pub. L. 112–239, set out above, and to the Secretary of Commerce the functions of the President under section 1262(a) of Pub. L. 112–239, set out above.]

LIMITATION ON IMPLEMENTING ARRANGEMENTS

Pub. L. 111–266, title I, §105, Oct. 8, 2010, 124 Stat. 2800, provided that:

"(a) IN GENERAL.—No amendment to an implementing arrangement concluded pursuant to a treaty referred to in section 38(j)(1)(C)(i) of the Arms Export Control Act, as added by this Act [22 U.S.C. 2778(j)(1)(C)(i)], shall enter into effect for the United States unless the Congress adopts, and there is enacted, legislation approving the entry into effect of that amendment for the United States.

"(b) COVERED AMENDMENTS.—

"(1) IN GENERAL.—The requirements specified in subsection (a) shall apply to any amendment other than an amendment that addresses an administrative or technical matter. The requirements in subsection (a) shall not apply to any amendment that solely addresses an administrative or technical matter.

"(2) U.S.-UK IMPLEMENTING ARRANGEMENT.—In the case of the Implementing Arrangement Pursuant to the Treaty Between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland Concerning Defense Trade Cooperation, signed at Washington February 14, 2008, amendments to which the requirements specified in subsection (a) apply shall include—

"(A) any amendment to section 2, paragraphs (1), (2), or (3) that modifies the criteria governing operations, programs, and projects to which the treaty applies;

"(B) any amendment to section 3, paragraphs (1) or (2) that modifies the criteria governing end-use requirements and the requirements for approved community members responding to United States Government solicitations;

"(C) any amendment to section 4, paragraph (4) that modifies the criteria for including items on the list of defense articles exempt from the treaty;

"(D) any amendment to section 4, paragraph (7) that modifies licensing and other applicable requirements relating to items added to the list of defense articles exempt from the scope of the treaty;

"(E) any amendment to section 7, paragraph (4) that modifies the criteria for eligibility in the approved community under the treaty for nongovernmental United Kingdom entities and facilities;

"(F) any amendment to section 7, paragraph (9) that modifies the conditions for suspending or removing a United Kingdom entity from the approved community under the treaty;

"(G) any amendment to section 7, paragraphs (11) or (12) that modifies the conditions under which individuals may be granted access to defense articles exported under the treaty;

"(H) any amendment to section 9, paragraphs (1), (3), (7), (8), (9), (12), or (13) that modifies the circumstances under which United States Government approval is required for the re-transfer or re-export of a defense article, or to exceptions to such requirement; and

"(I) any amendment to section 11, paragraph (4)(b) that modifies conditions of entry to the United Kingdom community under the treaty.

"(3) U.S.-AUSTRALIA IMPLEMENTING ARRANGEMENT.—In the case of the Implementing Arrangement Pursuant to the Treaty Between the Government of the United States of America and the Government of the [sic] Australia Concerning Defense Trade Cooperation, signed at Washington March 14, 2008, amendments to which the requirements specified in subsection (a) apply shall include—

"(A) any amendment to section 2, paragraphs (1), (2), or (3) that modifies the criteria governing operations, programs, and projects to which the treaty applies;

"(B) any amendment to section 3, paragraphs (1) or (2) that modifies the criteria governing end-use requirements and the requirements for approved community members responding to United States Government solicitations;

"(C) any amendment to section 4, paragraph (4) that modifies criteria for including items on the list of defense articles exempt from the scope of the treaty;

"(D) any amendment to section 4, paragraph (7) that modifies licensing and other applicable requirements relating to items added to the list of defense articles exempt from the scope of the treaty;

"(E) any amendment to section 6, paragraph (4) that modifies the criteria for eligibility in the

approved community under the treaty for nongovernmental Australian entities and facilities;

"(F) any amendment to section 6, paragraph (9) that modifies the conditions for suspending or removing an Australian entity from the Australia community under the treaty;

"(G) any amendment to section 6, paragraphs (11), (12), (13), or (14) that modifies the conditions under which individuals may be granted access to defense articles exported under the treaty;

"(H) any amendment to section 9, paragraphs (1), (2), (4), (7), or (8) that modifies the circumstances under which United States Government approval is required for the re-transfer or re-export of a defense article, or to exceptions to such requirement; and

"(I) any amendment to section 11, paragraph (6) that modifies conditions of entry to the Australian community under the treaty.

"(c) CONGRESSIONAL NOTIFICATION FOR OTHER AMENDMENTS TO IMPLEMENTING ARRANGEMENTS.—Not later than 15 days before any amendment to an implementing arrangement to which subsection (a) does not apply shall take effect, the President shall provide to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives a report containing—

"(1) the text of the amendment; and

"(2) an analysis of the amendment's effect, including an analysis regarding why subsection (a) does not apply."

[Memorandum of President of the United States, Feb. 20, 2013, 78 F.R. 13997, delegated to the Secretary of State (1) the function of the President to make all certifications, reports, and notifications to Congress prior to entry into force of the Treaty Between the Government of the United States of America and the Government of Australia Concerning Defense Trade Cooperation, as well as to provide annual reports thereafter, consistent with section 2 of the Senate Resolution of Advice and Consent to Ratification of the Treaty, dated Sept. 29, 2010, and (2) the responsibility of the President, under Pub. L. 111–266, to provide congressional notification of amendments to the implementing arrangements that are made pursuant to section 105(c) of Pub. L. 111–266, set out above.]

[Memorandum of President of the United States, Mar. 6, 2012, 77 F.R. 15231, delegated to the Secretary of State, in consultation with the heads of other executive departments and agencies, (1) the function of the President to make all certifications, reports, and notifications to Congress prior to entry into force of the Treaty Between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland Concerning Defense Trade Cooperation, as well as to provide annual reports thereafter, consistent with section 2 of the Senate Resolution of Advice and Consent to Ratification of the Treaty, dated Sept. 29, 2010, and (2) the responsibility of the President under Pub. L. 111–266, to provide congressional notification of amendments to the Implementing Arrangements that are made pursuant to section 105(c) of Pub. L. 111–266, set out above.]

INFORMATION MANAGEMENT PRIORITIES

Pub. L. 107–228, div. B, title XIV, §1403, Sept. 30, 2002, 116 Stat. 1453, provided that:

"(a) OBJECTIVE.—The Secretary shall establish a secure, Internet-based system for the filing and review of applications for export of Munitions List items.

"(b) ESTABLISHMENT OF AN ELECTRONIC SYSTEM.—Of the amount made available pursuant to section 1402 of this Act [116 Stat. 1453], $3,000,000 is authorized to be available to fully automate the Defense Trade Application System, and to ensure that the system—

"(1) is a secure, electronic system for the filing and review of Munitions List license applications;

"(2) is accessible by United States companies through the Internet for the purpose of filing and tracking their Munitions List license applications; and

"(3) is capable of exchanging data with—

"(A) the Export Control Automated Support System of the Department of Commerce;

"(B) the Foreign Disclosure and Technology Information System and the USXPORTS systems of the Department of Defense;

"(C) the Export Control System of the Central Intelligence Agency; and

"(D) the Proliferation Information Network System of the Department of Energy.

"(c) MUNITIONS LIST DEFINED.—In this section, the term 'Munitions List' means the United States Munitions List of defense articles and defense services controlled under section 38 of the Arms Export Control Act (22 U.S.C. 2778)."

[For definition of "Secretary" as used in section 1403 of Pub. L. 107–228, set out above, see section 3 of Pub. L. 107–228, set out as a note under section 2651 of this title.]

EFFECTIVE REGULATION OF SATELLITE EXPORT ACTIVITIES

Pub. L. 106–113, div. B, §1000(a)(7) [div. B, title XIII, §1309], Nov. 29, 1999, 113 Stat. 1536, 1501A–513, provided that:

"(a) LICENSING REGIME.—

"(1) ESTABLISHMENT.—The Secretary of State shall establish a regulatory regime for the licensing for export of commercial satellites, satellite technologies, their components, and systems which shall include expedited approval, as appropriate, of the licensing for export by United States companies of commercial satellites, satellite technologies, their components, and systems, to NATO allies and major non-NATO allies (as used within the meaning of section 644(q) of the Foreign Assistance Act of 1961 [22 U.S.C. 2403(q)]).

"(2) REQUIREMENTS.—For proposed exports to those nations which meet the requirements of paragraph (1), the regime should include expedited processing of requests for export authorizations that—

"(A) are time-critical, including a transfer or exchange of information relating to a satellite failure or anomaly in-flight or on-orbit;

"(B) are required to submit bids to procurements offered by foreign persons;

"(C) relate to the re-export of unimproved materials, products, or data; or

"(D) are required to obtain launch and on-orbit insurance.

"(3) ADDITIONAL REQUIREMENTS.—In establishing the regulatory regime under paragraph (1), the Secretary of State shall ensure that—

"(A) United States national security considerations and United States obligations under the Missile Technology Control Regime are given priority in the evaluation of any license; and

"(B) such time is afforded as is necessary for the Department of Defense, the Department of State, and the United States intelligence community to conduct a review of any license.

"(b) FINANCIAL AND PERSONNEL RESOURCES.—Of the funds authorized to be appropriated in section 101(1)(A) [113 Stat. 1501A–410], $9,000,000 is authorized to be appropriated for the Office of Defense Trade Controls of the Department of State for each of the fiscal years 2000 and 2001, to enable that office to carry out its responsibilities.

"(c) IMPROVEMENT AND ASSESSMENT.—The Secretary of State should, not later than 6 months after the date of the enactment of this Act [Nov. 29, 1999], submit to the Congress a plan for—

"(1) continuously gathering industry and public suggestions for potential improvements in the Department of State's export control regime for commercial satellites; and

"(2) arranging for the conduct and submission to Congress, not later than 15 months after the date of the enactment of this Act, of an independent review of the export control regime for commercial satellites as to its effectiveness at promoting national security and economic competitiveness."

PROLIFERATION AND EXPORT CONTROLS

Pub. L. 106–65, div. A, title XIV, §§1402–1405, 1408–1412, Oct. 5, 1999, 113 Stat. 798–804, as amended by Pub. L. 106–398, §1 [[div. A], title XII, §1204], Oct. 30, 2000, 114 Stat. 1654, 1654A–325; Pub. L. 107–107, div. A, title X, §1048(g)(8), Dec. 28, 2001, 115 Stat. 1228, provided that:

"SEC. 1402. ANNUAL REPORT ON TRANSFERS OF MILITARILY SENSITIVE TECHNOLOGY TO COUNTRIES AND ENTITIES OF CONCERN

"(a) ANNUAL REPORT.—Not later than March 30 of each year beginning in the year 2000 and ending in the year 2007, the President shall transmit to Congress a report on transfers to countries and entities of concern during the preceding calendar year of the most significant categories of United States technologies and technical information with potential military applications.

"(b) CONTENTS OF REPORT.—The report required by subsection (a) shall include, at a minimum, the following:

"(1) An assessment by the Director of Central Intelligence of efforts by countries and entities of concern to acquire technologies and technical information referred to in subsection (a) during the preceding calendar year.

"(2) An assessment by the Secretary of Defense, in consultation with the Joint Chiefs of Staff and the Director of Central Intelligence, of the cumulative impact of licenses granted by the United States for exports of technologies and technical information referred to in subsection (a) to countries and entities of concern during the preceding 5-calendar year period on—

"(A) the military capabilities of such countries and entities; and

"(B) countermeasures that may be necessary to overcome the use of such technologies and technical information.

"(3) An audit by the Inspectors General of the Departments of Defense, State, Commerce, and Energy, in consultation with the Director of Central Intelligence and the Director of the Federal Bureau of

Investigation, of the policies and procedures of the United States Government with respect to the export of technologies and technical information referred to in subsection (a) to countries and entities of concern.

"(4) The status of the implementation or other disposition of recommendations included in reports of audits by Inspectors General that have been set forth in a previous annual report under this section pursuant to paragraph (3).

"(c) ADDITIONAL REQUIREMENT FOR FIRST REPORT.—The first annual report required by subsection (a) shall include an assessment by the Inspectors General of the Departments of State, Defense, Commerce, and the Treasury and the Inspector General of the Central Intelligence Agency of the adequacy of current export controls and counterintelligence measures to protect against the acquisition by countries and entities of concern of United States technology and technical information referred to in subsection (a).

"(d) SUPPORT OF OTHER AGENCIES.—Upon the request of the officials responsible for preparing the assessments required by subsection (b), the heads of other departments and agencies shall make available to those officials all information necessary to carry out the requirements of this section.

"(e) CLASSIFIED AND UNCLASSIFIED REPORTS.—Each report required by this section shall be submitted in classified form and unclassified form.

"(f) DEFINITION.—As used in this section, the term 'countries and entities of concern' means—

"(1) any country the government of which the Secretary of State has determined, for purposes of section 6(j) of the Export Administration Act of 1979 [50 U.S.C. 4605(j)] or other applicable law, to have repeatedly provided support for acts of international terrorism;

"(2) any country that—

"(A) has detonated a nuclear explosive device (as defined in section 830(4) of the Nuclear Proliferation Prevention Act of 1994 (22 U.S.C. 6305(4))); and

"(B) is not a member of the North Atlantic Treaty Organization; and

"(3) any entity that—

"(A) is engaged in international terrorism or activities in preparation thereof; or

"(B) is directed or controlled by the government of a country described in paragraph (1) or (2).

"SEC. 1403. RESOURCES FOR EXPORT LICENSE FUNCTIONS

"(a) OFFICE OF DEFENSE TRADE CONTROLS.—

"(1) IN GENERAL.—The Secretary of State shall take the necessary steps to ensure that, in any fiscal year, adequate resources are allocated to the functions of the Office of Defense Trade Controls of the Department of State relating to the review and processing of export license applications so as to ensure that those functions are performed in a thorough and timely manner.

"(2) AVAILABILITY OF EXISTING APPROPRIATIONS.—The Secretary of State shall take the necessary steps to ensure that those funds made available under the heading 'Administration of Foreign Affairs, Diplomatic and Consular Programs' in title IV of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1999, as contained in the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105–277) [112 Stat. 2681–92] are made available, upon the enactment of this Act, to the Office of Defense Trade Controls of the Department of State to carry out the purposes of the Office.

"(b) DEFENSE THREAT REDUCTION AGENCY.—The Secretary of Defense shall take the necessary steps to ensure that, in any fiscal year, adequate resources are allocated to the functions of the Defense Threat Reduction Agency of the Department of Defense relating to the review of export license applications so as to ensure that those functions are performed in a thorough and timely manner.

"(c) UPDATING OF STATE DEPARTMENT REPORT.—Not later than March 1, 2000, the Secretary of State, in consultation with the Secretary of Defense and the Secretary of Commerce, shall transmit to Congress a report updating the information reported to Congress under section 1513(d)(3) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 [Pub. L. 105–261] (22 U.S.C. 2778 note).

"SEC. 1404. SECURITY IN CONNECTION WITH SATELLITE EXPORT LICENSING

"As a condition of the export license for any satellite to be launched in a country subject to section 1514 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 [Pub. L. 105–261] (22 U.S.C. 2778 note), the Secretary of State shall require the following:

"(1) That the technology transfer control plan required by section 1514(a)(1) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (22 U.S.C. 2778 note) be prepared by the Department of Defense and the licensee, and that the plan set forth enhanced security arrangements for the launch of the satellite, both before and during launch operations.

"(2) That each person providing security for the launch of that satellite—

"(A) report directly to the launch monitor with regard to issues relevant to the technology transfer control plan;

"(B) have received appropriate training in the International Trafficking in Arms Regulations (hereafter in this title [enacting this note and amending provisions set out as a note under section 4604 of Title 50, War and National Defense] referred to as 'ITAR').

"(C) have significant experience and expertise with satellite launches; and

"(D) have been investigated in a manner at least as comprehensive as the investigation required for the issuance of a security clearance at the level designated as 'Secret'.

"(3) That the number of such persons providing security for the launch of the satellite shall be sufficient to maintain 24-hour security of the satellite and related launch vehicle and other sensitive technology.

"(4) That the licensee agree to reimburse the Department of Defense for all costs associated with the provision of security for the launch of the satellite.

"SEC. 1405. REPORTING OF TECHNOLOGY TRANSMITTED TO PEOPLE'S REPUBLIC OF CHINA AND OF FOREIGN LAUNCH SECURITY VIOLATIONS

"(a) MONITORING OF INFORMATION.—The Secretary of Defense shall require that space launch monitors of the Department of Defense assigned to monitor launches in the People's Republic of China maintain records of all information authorized to be transmitted to the People's Republic of China with regard to each space launch that the monitors are responsible for monitoring, including copies of any documents authorized for such transmission, and reports on launch-related activities.

"(b) TRANSMISSION TO OTHER AGENCIES.—The Secretary of Defense shall ensure that records under subsection (a) are transmitted on a current basis to appropriate elements of the Department of Defense and to the Department of State, the Department of Commerce, and the Central Intelligence Agency.

"(c) RETENTION OF RECORDS.—Records described in subsection (a) shall be retained for at least the period of the statute of limitations for violations of the Arms Export Control Act [22 U.S.C. 2751 et seq.].

"(d) GUIDELINES.—The Secretary of Defense shall prescribe guidelines providing space launch monitors of the Department of Defense with the responsibility and the ability to report serious security violations, problems, or other issues at an overseas launch site directly to the headquarters office of the responsible Department of Defense component.

"SEC. 1408. ENHANCED MULTILATERAL EXPORT CONTROLS

"(a) NEW INTERNATIONAL CONTROLS.—The President shall seek to establish new enhanced international controls on technology transfers that threaten international peace and United States national security.

"(b) IMPROVED SHARING OF INFORMATION.—The President shall take appropriate actions to improve the sharing of information by nations that are major exporters of technology so that the United States can track movements of technology covered by the Wassenaar Arrangement and enforce technology controls and re-export requirements for such technology.

"(c) DEFINITION.—As used in this section, the term 'Wassenaar Arrangement' means the multilateral export control regime covering conventional armaments and sensitive dual-use goods and technologies that was agreed to by 33 co-founding countries in July 1996 and began operation in September 1996.

"SEC. 1409. ENHANCEMENT OF ACTIVITIES OF DEFENSE THREAT REDUCTION AGENCY

"(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Oct. 5, 1999], the Secretary of Defense shall prescribe regulations to—

"(1) authorize the personnel of the Defense Threat Reduction Agency (DTRA) who monitor satellite launch campaigns overseas to suspend such campaigns at any time if the suspension is required for purposes of the national security of the United States;

"(2) ensure that persons assigned as space launch campaign monitors are provided sufficient training and have adequate experience in the regulations prescribed by the Secretary of State known as the ITAR and have significant experience and expertise with satellite technology, launch vehicle technology, and launch operations technology;

"(3) ensure that adequate numbers of such monitors are assigned to space launch campaigns so that 24-hour, 7-day per week coverage is provided;

"(4) take steps to ensure, to the maximum extent possible, the continuity of service by monitors for the entire space launch campaign period (from satellite marketing to launch and, if necessary, completion of a launch failure analysis);

"(5) adopt measures designed to make service as a space launch campaign monitor an attractive career

opportunity;

"(6) allocate funds and other resources to the Agency at levels sufficient to prevent any shortfalls in the number of such personnel;

"(7) establish mechanisms in accordance with the provisions of section 1514(a)(2)(A) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2175; 22 U.S.C. 2778 note) that provide for—

"(A) the payment to the Department of Defense by the person or entity receiving the launch monitoring services concerned, before the beginning of a fiscal year, of an amount equal to the amount estimated to be required by the Department to monitor the launch campaigns during that fiscal year;

"(B) the reimbursement of the Department of Defense, at the end of each fiscal year, for amounts expended by the Department in monitoring the launch campaigns in excess of the amount provided under subparagraph (A); and

"(C) the reimbursement of the person or entity receiving the launch monitoring services if the amount provided under subparagraph (A) exceeds the amount actually expended by the Department of Defense in monitoring the launch campaigns;

"(8) review and improve guidelines on the scope of permissible discussions with foreign persons regarding technology and technical information, including the technology and technical information that should not be included in such discussions;

"(9) provide, in conjunction with other Federal agencies, on at least an annual basis, briefings to the officers and employees of United States commercial satellite entities on United States export license standards, guidelines, and restrictions, and encourage such officers and employees to participate in such briefings;

"(10) establish a system for—

"(A) the preparation and filing by personnel of the Agency who monitor satellite launch campaigns overseas of detailed reports of all relevant activities observed by such personnel in the course of monitoring such campaigns;

"(B) the systematic archiving of reports filed under subparagraph (A); and

"(C) the preservation of such reports in accordance with applicable laws; and

"(11) establish a counterintelligence program within the Agency as part of its satellite launch monitoring program.

"(b) ANNUAL REPORT ON IMPLEMENTATION OF SATELLITE TECHNOLOGY SAFEGUARDS.—(1) The Secretary of Defense and the Secretary of State shall each submit to Congress each year, as part of the annual report for that year under section 1514(a)(8) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 [Pub. L. 105–261, 22 U.S.C. 2778 note], the following:

"(A) A summary of the satellite launch campaigns and related activities monitored by the Defense Threat Reduction Agency during the preceding fiscal year.

"(B) A description of any license infractions or violations that may have occurred during such campaigns and activities.

"(C) A description of the personnel, funds, and other resources dedicated to the satellite launch monitoring program of the Agency during that fiscal year.

"(D) An assessment of the record of United States satellite makers in cooperating with Agency monitors, and in complying with United States export control laws, during that fiscal year.

"(2) Each report under paragraph (1) shall be submitted in classified form and unclassified form.

"SEC. 1410. TIMELY NOTIFICATION OF LICENSING DECISIONS BY THE DEPARTMENT OF STATE

"Not later than 180 days after the date of the enactment of this Act [Oct. 5, 1999], the Secretary of State shall prescribe regulations to provide timely notice to the manufacturer of a commercial satellite of United States origin of the final determination of the decision on the application for a license involving the overseas launch of such satellite.

"SEC. 1411. ENHANCED INTELLIGENCE CONSULTATION ON SATELLITE LICENSE APPLICATIONS

"(a) CONSULTATION DURING REVIEW OF APPLICATIONS.—The Secretary of State and Secretary of Defense, as appropriate, shall consult with the Director of Central Intelligence during the review of any application for a license involving the overseas launch of a commercial satellite of United States origin. The purpose of the consultation is to assure that the launch of the satellite, if the license is approved, will meet the requirements necessary to protect the national security interests of the United States.

"(b) ADVISORY GROUP.—(1) The Director of Central Intelligence shall establish within the intelligence community an advisory group to provide information and analysis to Congress, and to appropriate departments and agencies of the Federal Government, on the national security implications of granting

licenses involving the overseas launch of commercial satellites of United States origin.

"(2) The advisory group shall include technically-qualified representatives of the Central Intelligence Agency, the Defense Intelligence Agency, the National Security Agency, the National Air Intelligence Center, and the Department of State Bureau of Intelligence and Research and representatives of other elements of the intelligence community with appropriate expertise.

"(3) In addition to the duties under paragraph (1), the advisory group shall—

"(A) review, on a continuing basis, information relating to transfers of satellite, launch vehicle, or other technology or knowledge with respect to the course of the overseas launch of commercial satellites of United States origin; and

"(B) analyze the potential impact of such transfers on the space and military systems, programs, or activities of foreign countries.

"(4) The Director of the Nonproliferation Center of the Central Intelligence Agency shall serve as chairman of the advisory group.

"(5)(A) The advisory group shall, upon request (but not less often than annually), submit reports on the matters referred to in paragraphs (1) and (3) to the appropriate committees of Congress and to appropriate departments and agencies of the Federal Government.

"(B) The first annual report under subparagraph (A) shall be submitted not later than one year after the date of the enactment of this Act [Oct. 5, 1999].

"(c) INTELLIGENCE COMMUNITY DEFINED.—In this section, the term 'intelligence community' has the meaning given that term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)) [now 50 U.S.C. 3003(4)].

"SEC. 1412. INVESTIGATIONS OF VIOLATIONS OF EXPORT CONTROLS BY UNITED STATES SATELLITE MANUFACTURERS

"(a) NOTICE TO CONGRESS OF INVESTIGATIONS.—The President shall promptly notify the appropriate committees of Congress whenever an investigation is undertaken by the Department of Justice of—

"(1) an alleged violation of United States export control laws in connection with a commercial satellite of United States origin; or

"(2) an alleged violation of United States export control laws in connection with an item controlled under section 38 of the Arms Export Control Act (22 U.S.C. 2778) that is likely to cause significant harm or damage to the national security interests of the United States.

"(b) NOTICE TO CONGRESS OF CERTAIN EXPORT WAIVERS.—The President shall promptly notify the appropriate committees of Congress whenever an export waiver pursuant to section 902 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 [Pub. L. 101–246] (22 U.S.C. 2151 note) is granted on behalf of any United States person that is the subject of an investigation described in subsection (a). The notice shall include a justification for the waiver.

"(c) EXCEPTION.—The requirements in subsections (a) and (b) shall not apply if the President determines that notification of the appropriate committees of Congress under such subsections would jeopardize an on-going criminal investigation. If the President makes such a determination, the President shall provide written notification of such determination to the Speaker of the House of Representatives, the majority leader of the Senate, the minority leader of the House of Representatives, and the minority leader of the Senate. The notification shall include a justification for the determination.

"(d) IDENTIFICATION OF PERSONS SUBJECT TO INVESTIGATION.—The Secretary of State and the Attorney General shall develop appropriate mechanisms to identify, for the purposes of processing export licenses for commercial satellites, persons who are the subject of an investigation described in subsection (a).

"(e) PROTECTION OF CLASSIFIED AND OTHER SENSITIVE INFORMATION.—The appropriate committees of Congress shall ensure that appropriate procedures are in place to protect from unauthorized disclosure classified information, information relating to intelligence sources and methods, and sensitive law enforcement information that is furnished to those committees pursuant to this section.

"(f) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to modify or supersede any other requirement to report information on intelligence activities to Congress, including the requirement under section 501 of the National Security Act of 1947 (50 U.S.C. 413) [now 50 U.S.C. 3091].

"(g) DEFINITIONS.—As used in this section:

"(1) The term 'appropriate committees of Congress' means the following:

"(A) The Committee on Armed Services, the Committee on Foreign Relations, and the Select Committee on Intelligence of the Senate.

"(B) The Committee on Armed Services, the Committee on International Relations [now Committee on Foreign Affairs], and the Permanent Select Committee on Intelligence of the House of

Representatives.

"(2) The term 'United States person' means any United States resident or national (other than an individual resident outside the United States and employed by other than a United States person), any domestic concern (including any permanent domestic establishment of any foreign concern), and any foreign subsidiary or affiliate (including any permanent foreign establishment) of any domestic concern which is controlled in fact by such domestic concern, as determined under regulations of the President."

[Memorandum of President of the United States, Jan. 5, 2000, 65 F.R. 2279, delegated to Secretary of Defense the duties and responsibilities of the President under section 1402 of Public Law 106–65 and directed Department of Defense to prepare the report required by section 1402 with the assistance of Department of State, Department of Commerce, Department of Energy, Department of the Treasury, Director of Central Intelligence, and Federal Bureau of Investigation and to obtain concurrence on the report from Department of State, Department of Commerce, Director of Central Intelligence on behalf of Intelligence Community, Department of the Treasury, and Federal Bureau of Investigation prior to submission to Congress.]

[Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108–458, set out as a note under section 3001 of Title 50, War and National Defense.]

SATELLITE EXPORT CONTROLS

Pub. L. 105–261, div. A, title XV, subtitle B, Oct. 17, 1998, 112 Stat. 2173, as amended by Pub. L. 105–277, div. C, title I, §146(a), Oct. 21, 1998, 112 Stat. 2681–610; Pub. L. 112–239, div. A, title XII, §1261(a), Jan. 2, 2013, 126 Stat. 2018, provided that:

"SEC. 1511. SENSE OF CONGRESS.

"It is the sense of Congress that—

"(1) United States business interests must not be placed above United States national security interests;

"(2) United States foreign policy and the policies of the United States regarding commercial relations with other countries should affirm the importance of observing and adhering to the Missile Technology Control Regime (MTCR);

"(3) the United States should encourage universal observance of the Guidelines to the Missile Technology Control Regime;

"(4) the exportation or transfer of advanced communication satellites and related technologies from United States sources to foreign recipients should not increase the risks to the national security of the United States;

"(5) due to the military sensitivity of the technologies involved, it is in the national security interests of the United States that United States satellites and related items be subject to the same export controls that apply under United States law and practices to munitions;

"(6) the United States should not issue any blanket waiver of the suspensions contained in section 902 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101–246) [22 U.S.C. 2151 note], regarding the export of satellites of United States origin intended for launch from a launch vehicle owned by the People's Republic of China;

"(7) the United States should pursue policies that protect and enhance the United States space launch industry; and

"(8) the United States should not export to the People's Republic of China missile equipment or technology that would improve the missile or space launch capabilities of the People's Republic of China.

"SEC. 1512. CERTIFICATION OF EXPORTS OF MISSILE EQUIPMENT OR TECHNOLOGY TO CHINA.

"(a) CERTIFICATION.—The President shall certify to the Congress at least 15 days in advance of any export to the People's Republic of China of missile equipment or technology (as defined in section 74 of the Arms Export Control Act (22 U.S.C. 2797c)) that—

"(1) such export is not detrimental to the United States space launch industry; and

"(2) the missile equipment or technology, including any indirect technical benefit that could be derived from such export, will not measurably improve the missile or space launch capabilities of the People's Republic of China.

"(b) EXCEPTION.—The certification requirement contained in subsection (a) shall not apply to the export of inertial reference units and components in manned civilian aircraft or supplied as spare or replacement parts for such aircraft.

"SEC. 1513. SATELLITE CONTROLS UNDER THE UNITED STATES MUNITIONS LIST.

"[(a) Repealed. Pub. L. 112–239, div. A, title XII, §1261(a)(1), Jan. 2, 2013, 126 Stat. 2018.]

"(b) DEFENSE TRADE CONTROLS REGISTRATION FEES.—[Amended section 2717 of this title.]

"(c) EFFECTIVE DATE.—The amendments made by subsection (b) [amending section 2717 of this title] shall be effective as of October 1, 1998.

"(d) REPORT.—Not later than January 1, 1999, the Secretary of State, in consultation with the Secretary of Defense and the Secretary of Commerce, shall submit to Congress a report containing—

"(1) a detailed description of the plans of the Department of State to implement the requirements of this section, including any organizational changes that are required and any Executive orders or regulations that may be required;

"(2) an identification and explanation of any steps that should be taken to improve the license review process for exports of the satellites and related items described in subsection (a), including measures to shorten the timelines for license application reviews, and any measures relating to the transparency of the license review process and dispute resolution procedures;

"(3) an evaluation of the adequacy of resources available to the Department of State, including fiscal and personnel resources, to carry out the additional activities required by this section; and

"(4) any recommendations for additional actions, including possible legislation, to improve the export licensing process under the Arms Export Control Act [22 U.S.C. 2751 et seq.] for the satellites and related items described in subsection (a).

"SEC. 1514. NATIONAL SECURITY CONTROLS ON SATELLITE EXPORT LICENSING.

"(a) ACTIONS BY THE PRESIDENT.—Notwithstanding any other provision of law, the President shall take such actions as are necessary to implement the following requirements for improving national security controls in the export licensing of satellites and related items:

"(1) MANDATORY TECHNOLOGY CONTROL PLANS.—All export licenses shall require a technology transfer control plan approved by the Secretary of Defense and an encryption technology transfer control plan approved by the Director of the National Security Agency.

"(2) MANDATORY MONITORS AND REIMBURSEMENT.—

"(A) MONITORING OF PROPOSED FOREIGN LAUNCH OF SATELLITES.—In any case in which a license is approved for the export of a satellite or related items for launch in a foreign country, the Secretary of Defense shall monitor all aspects of the launch in order to ensure that no unauthorized transfer of technology occurs, including technical assistance and technical data. The costs of such monitoring services shall be fully reimbursed to the Department of Defense by the person or entity receiving such services. All reimbursements received under this subparagraph shall be credited to current appropriations available for the payment of the costs incurred in providing such services.

"(B) CONTENTS OF MONITORING.—The monitoring under subparagraph (A) shall cover, but not be limited to—

"(i) technical discussions and activities, including the design, development, operation, maintenance, modification, and repair of satellites, satellite components, missiles, other equipment, launch facilities, and launch vehicles;

"(ii) satellite processing and launch activities, including launch preparation, satellite transportation, integration of the satellite with the launch vehicle, testing and checkout prior to launch, satellite launch, and return of equipment to the United States;

"(iii) activities relating to launch failure, delay, or cancellation, including post-launch failure investigations; and

"(iv) all other aspects of the launch.

"(3) MANDATORY LICENSES FOR CRASH-INVESTIGATIONS.—In the event of the failure of a launch from a foreign country of a satellite of United States origin—

"(A) the activities of United States persons or entities in connection with any subsequent investigation of the failure are subject to the controls established under section 38 of the Arms Export Control Act [22 U.S.C. 2778], including requirements for licenses issued by the Secretary of State for participation in that investigation;

"(B) officials of the Department of Defense shall monitor all activities associated with the investigation to insure against unauthorized transfer of technical data or services; and

"(C) the Secretary of Defense shall establish and implement a technology transfer control plan for the conduct of the investigation to prevent the transfer of information that could be used by the foreign country to improve its missile or space launch capabilities.

"(4) MANDATORY NOTIFICATION AND CERTIFICATION.—All technology transfer control

plans for satellites or related items shall require any United States person or entity involved in the export of a satellite of United States origin or related items to notify the Department of Defense in advance of all meetings and interactions with any foreign person or entity providing launch services and require the United States person or entity to certify after the launch that it has complied with this notification requirement.

"(5) MANDATORY INTELLIGENCE COMMUNITY REVIEW.—The Secretary of Commerce and the Secretary of State shall provide to the Secretary of Defense and the Director of Central Intelligence copies of all export license applications and technical assistance agreements submitted for approval in connection with launches in foreign countries of satellites to verify the legitimacy of the stated end-user or end-users.

"(6) MANDATORY SHARING OF APPROVED LICENSES AND AGREEMENTS.—The Secretary of State shall provide copies of all approved export licenses and technical assistance agreements associated with launches in foreign countries of satellites to the Secretaries of Defense and Energy, the Director of Central Intelligence, and the Director of the Arms Control and Disarmament Agency.

"(7) MANDATORY NOTIFICATION TO CONGRESS ON LICENSES.—Upon issuing a license for the export of a satellite or related items for launch in a foreign country, the head of the department or agency issuing the license shall so notify Congress.

"(8) MANDATORY REPORTING ON MONITORING ACTIVITIES.—The Secretary of Defense shall provide to Congress an annual report on the monitoring of all launches in foreign countries of satellites of United States origin.

"(9) ESTABLISHING SAFEGUARDS PROGRAM.—The Secretary of Defense shall establish a program for recruiting, training, and maintaining a staff dedicated to monitoring launches in foreign countries of satellites and related items of United States origin.

"(b) EXCEPTION.—This section shall not apply to the export of a satellite or related items for launch in, or by nationals of, a country that is a member of the North Atlantic Treaty Organization or that is a major non-NATO ally of the United States.

"(c) EFFECTIVE DATE.—The President shall take the actions required by subsection (a) not later than 45 days after the date of the enactment of this Act [Oct. 17, 1998].

"SEC. 1515. REPORT ON EXPORT OF SATELLITES FOR LAUNCH BY PEOPLE'S REPUBLIC OF CHINA.

"(a) REQUIREMENT FOR REPORT.—Each report to Congress submitted pursuant to subsection (b) of section 902 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (22 U.S.C. 2151 note; Public Law 101–246) to waive the restrictions contained in subsection (a) of that section on the export to the People's Republic of China of any satellite of United States origin or related items shall be accompanied by a detailed justification setting forth the following:

"(1) A detailed description of all militarily sensitive characteristics integrated within, or associated with, the satellite.

"(2) An estimate of the number of United States civilian contract personnel expected to be needed in country to carry out the proposed satellite launch.

"(3)(A) A detailed description of the United States Government's plan to monitor the proposed satellite launch to ensure that no unauthorized transfer of technology occurs, together with an estimate of the number of officers and employees of the United States that are expected to be needed in country to carry out monitoring of the proposed satellite launch; and

"(B) the estimated cost to the Department of Defense of monitoring the proposed satellite launch and the amount of such cost that is to be reimbursed to the department.

"(4) The reasons why the proposed satellite launch is in the national security interest of the United States.

"(5) The impact of the proposed export on employment in the United States, including the number of new jobs created in the United States, on a State-by-State basis, as a direct result of the proposed export.

"(6) The number of existing jobs in the United States that would be lost, on a State-by-State basis, as a direct result of the proposed export not being licensed.

"(7) The impact of the proposed export on the balance of trade between the United States and the People's Republic of China and on reducing the current United States trade deficit with the People's Republic of China.

"(8) The impact of the proposed export on the transition of the People's Republic of China from a nonmarket economy to a market economy and the long-term economic benefit to the United States.

"(9) The impact of the proposed export on opening new markets to United States-made products through the purchase by the People's Republic of China of United States-made goods and services not

directly related to the proposed export.

"(10) The impact of the proposed export on reducing acts, policies, and practices that constitute significant trade barriers to United States exports or foreign direct investment in the People's Republic of China by United States nationals.

"(11) The increase that will result from the proposed export in the overall market share of the United States for goods and services in comparison to Japan, France, Germany, the United Kingdom, and Russia.

"(12) The impact of the proposed export on the willingness of the People's Republic of China to modify its commercial and trade laws, practices, and regulations to make United States-made goods and services more accessible to that market.

"(13) The impact of the proposed export on the willingness of the People's Republic of China to reduce formal and informal trade barriers and tariffs, duties, and other fees on United States-made goods and services entering that country.

"(b) MILITARILY SENSITIVE CHARACTERISTICS DEFINED.—In this section, the term 'militarily sensitive characteristics' includes antijamming capability, antennas, crosslinks, baseband processing, encryption devices, radiation-hardened devices, propulsion systems, pointing accuracy, kick motors, and other such characteristics as are specified by the Secretary of Defense.

"SEC. 1516. RELATED ITEMS DEFINED.

"In this subtitle, the term 'related items' means the satellite fuel, ground support equipment, test equipment, payload adapter or interface hardware, replacement parts, and non-embedded solid propellant orbit transfer engines described in the report submitted to Congress by the Department of State on February 6, 1998, pursuant to section 38(f) of the Arms Export Control Act (22 U.S.C. 2778(f))."

[Pub. L. 105–277, div. C, title I, §146(b), Oct. 21, 1998, 112 Stat. 2681–610, provided that: "The amendments made by this section [amending Pub. L. 105–261, §1512, set out above] shall take effect on the later of—

["(1) the enactment of this Act [Oct. 21, 1998]; or

["(2) the enactment of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 [Pub. L. 105–261; Oct. 17, 1998]."]

[Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108–458, set out as a note under section 3001 of Title 50, War and National Defense.]

[For abolition, transfer of functions, and treatment of references to United States Arms Control and Disarmament Agency, see section 6511 et seq. of this title.]

DELEGATION OF CERTIFICATIONS UNDER SECTION 1512 OF PUBLIC LAW 105–261

Determination of President of the United States, No. 2009–31, Sept. 29, 2009, 74 F.R. 50913, provided:

Memorandum for the Secretary of Commerce

By virtue of the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of Title 3, United States Code, I hereby delegate to you the functions of the President under section 1512 of the National Defense Authorization Act for Fiscal Year 1999 (NDAA).

In the performance of your responsibility under this memorandum, you shall consult, as appropriate, the heads of other executive departments and agencies.

You are authorized and directed to publish this determination in the Federal Register.

BARACK OBAMA.

LANDMINE EXPORT MORATORIUM

Pub. L. 102–484, div. A, title XIII, §1365, Oct. 23, 1992, 106 Stat. 2561, as amended by Pub. L. 103–160, div. A, title XI, §1182(c)(3), title XIV, §1423(c), Nov. 30, 1993, 107 Stat. 1772, 1832; Pub. L. 104–107, title V, §558, Feb. 12, 1996, 110 Stat. 743; Pub. L. 104–208, div. A, title I, §101(c) [title V, §556], Sept. 30, 1996, 110 Stat. 3009–121, 3009–161; Pub. L. 106–113, div. B, §1000(a)(2) [title V, §553], Nov. 29, 1999, 113 Stat. 1535, 1501A–99; Pub. L. 107–115, title V, §548, Jan. 10, 2002, 115 Stat. 2156; Pub. L. 110–161, div. J, title VI, §634(j), Dec. 26, 2007, 121 Stat. 2329, provided that:

"(a) FINDINGS.—The Congress makes the following findings:

"(1) Anti-personnel landmines, which are specifically designed to maim and kill people, have been used indiscriminately in dramatically increasing numbers, primarily in insurgencies in poor developing countries. Noncombatant civilians, including tens of thousands of children, have been the primary victims.

"(2) Unlike other military weapons, landmines often remain implanted and undiscovered after conflict has ended, causing untold suffering to civilian populations. In Afghanistan, Cambodia, Laos, Vietnam, and Angola, tens of millions of unexploded landmines have rendered whole areas uninhabitable. In Afghanistan, an estimated hundreds of thousands of people have been maimed and killed by landmines during the 14-year civil war. In Cambodia, more than 20,000 civilians have lost limbs and another 60 are being maimed each month from landmines.

"(3) Over 35 countries are known to manufacture landmines, including the United States. However, the United States is not a major exporter of landmines. During the past ten years the Department of State has approved ten licenses for the commercial export of anti-personnel landmines valued at $980,000, and during the past five years the Department of Defense has approved the sale of 13,156 anti-personnel landmines valued at $841,145.

"(4) The United States signed, but has not ratified, the 1981 Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed To Be Excessively Injurious or To Have Indiscriminate Effects. The Convention prohibits the indiscriminate use of landmines.

"(5) When it signed the Convention, the United States stated: 'We believe that the Convention represents a positive step forward in efforts to minimize injury or damage to the civilian population in time of armed conflict. Our signature of the Convention reflects the general willingness of the United States to adopt practical and reasonable provisions concerning the conduct of military operations, for the purpose of protecting noncombatants.'.

"(6) The President should submit the Convention to the Senate for its advice and consent to ratification, and the President should actively negotiate under United Nations auspices or other auspices an international agreement, or a modification of the Convention, to prohibit the sale, transfer or export of anti-personnel landmines. Such an agreement or modification would be an appropriate response to the end of the Cold War and the promotion of arms control agreements to reduce the indiscriminate killing and maiming of civilians.

"(7) The United States should set an example for other countries in such negotiations, by implementing a one-year moratorium on the sale, transfer or export of anti-personnel landmines.

"(b) STATEMENT OF POLICY.—(1) It shall be the policy of the United States to seek verifiable international agreements prohibiting the sale, transfer, or export, and further limiting the use, production, possession, and deployment of anti-personnel landmines.

"(2) It is the sense of the Congress that the President should actively seek to negotiate under United Nations auspices or other auspices an international agreement, or a modification of the Convention, to prohibit the sale, transfer, or export of anti-personnel landmines.

"(c) MORATORIUM ON TRANSFERS OF ANTI-PERSONNEL LANDMINES ABROAD.—During the 22 year period beginning on October 23, 1992—

"(1) no sale may be made or financed, no transfer may be made, and no license for export may be issued, under the Arms Export Control Act [22 U.S.C. 2751 et seq.], with respect to any anti-personnel landmine; and

"(2) no assistance may be provided under the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.], with respect to the provision of any anti-personnel landmine.

"(d) DEFINITION.—For purposes of this section, the term 'anti-personnel landmine' means—

"(1) any munition placed under, on, or near the ground or other surface area, or delivered by artillery, rocket, mortar, or similar means or dropped from an aircraft and which is designed to be detonated or exploded by the presence, proximity, or contact of a person;

"(2) any device or material which is designed, constructed, or adapted to kill or injure and which functions unexpectedly when a person disturbs or approaches an apparently harmless object or performs an apparently safe act;

"(3) any manually-emplaced munition or device designed to kill, injure, or damage and which is actuated by remote control or automatically after a lapse of time."

[Section 634(j) of title VI of div. J of Pub. L. 110–161, which directed the amendment of section 1365(c) of Pub. L. 102–484, set out above, by substituting "During the 22 year period beginning on October 23, 1992" for "During the 16 year period beginning on October 23, 1992" before the period at the end, was executed by making the substitution in the introductory provisions, to reflect the probable intent of Congress.]

[Section 1000(a)(2) [title V, §553] of div. B of Pub. L. 106–113, which directed the amendment of section 1365(c) of Pub. L. 102–484, set out above, by substituting "During the 11-year" for "During the five-year", was executed by making the substitution for "During the eight-year".]

ARMS TRANSFERS RESTRAINT POLICY FOR MIDDLE EAST AND PERSIAN GULF REGION

Pub. L. 102–138, title IV, Oct. 28, 1991, 105 Stat. 718, as amended by Pub. L. 114–323, title VII, §715(a)(2), Dec. 16, 2016, 130 Stat. 1946, provided that:

"SEC. 401. FINDINGS.

"The Congress finds that—

"(1) nations in the Middle East and Persian Gulf region, which accounted for over 40 percent of the international trade in weapons and related equipment and services during the decade of the 1980's, are the principal market for the worldwide arms trade;

"(2) regional instability, large financial resources, and the desire of arms-supplying governments to gain influence in the Middle East and Persian Gulf region, contribute to a regional arms race;

"(3) the continued proliferation of weapons and related equipment and services contribute further to a regional arms race in the Middle East and Persian Gulf region that is politically, economically, and militarily destabilizing;

"(4) the continued proliferation of unconventional weapons, including nuclear, biological, and chemical weapons, as well as delivery systems associated with those weapons, poses an urgent threat to security and stability in the Middle East and Persian Gulf region;

"(5) the continued proliferation of ballistic missile technologies and ballistic missile systems that are capable of delivering conventional, nuclear, biological, or chemical warheads undermines security and stability in the Middle East and Persian Gulf region;

"(6) future security and stability in the Middle East and Persian Gulf region would be enhanced by establishing a stable military balance among regional powers by restraining and reducing both conventional and unconventional weapons;

"(7) security, stability, peace, and prosperity in the Middle East and Persian Gulf region are important to the welfare of the international economy and to the national security interests of the United States;

"(8) future security and stability in the Middle East and Persian Gulf region would be enhanced through the development of a multilateral arms transfer and control regime similar to those of the Nuclear Suppliers' Group, the Missile Technology Control Regime, and the Australia Chemical Weapons Suppliers Group;

"(9) such a regime should be developed, implemented, and agreed to through multilateral negotiations, including under the auspices of the 5 permanent members of the United Nations Security Council;

"(10) confidence-building arms control measures such as the establishment of a centralized arms trade registry at the United Nations, greater multinational transparency on the transfer of defense articles and services prior to agreement or transfer, cooperative verification measures, advanced notification of military exercises, information exchanges, on-site inspections, and creation of a Middle East and Persian Gulf Conflict Prevention Center, are important to implement an effective multilateral arms transfer and control regime;

"(11) as an interim step, the United States should consider introducing, during the ongoing negotiations on confidence security-building measures at the Conference on Security and Cooperation in Europe (CSCE) [now the Organization for Security and Cooperation in Europe], a proposal regarding the international exchange of information, on an annual basis, on the sale and transfer of major military equipment, particularly to the Middle East and Persian Gulf region; and

"(12) such a regime should be applied to other regions with the ultimate objective of achieving an effective global arms transfer and control regime, implemented and enforced through the United Nations Security Council, that—

"(A) includes a linkage of humanitarian and developmental objectives with security objectives in Third World countries, particularly the poorest of the poor countries; and

"(B) encourages countries selling military equipment and services to consider the following factors before making conventional arms sales: the security needs of the purchasing countries, the level of defense expenditures by the purchasing countries, and the level of indigenous production of the purchasing countries.

"SEC. 402. MULTILATERAL ARMS TRANSFER AND CONTROL REGIME.

"(a) IMPLEMENTATION OF THE REGIME.—

"(1) CONTINUING NEGOTIATIONS.—The President shall continue negotiations among the 5 permanent members of the United Nations Security Council and commit the United States to a multilateral arms transfer and control regime for the Middle East and Persian Gulf region.

"(2) PROPOSING A TEMPORARY MORATORIUM DURING NEGOTIATIONS.—In the context of these negotiations, the President should propose to the 5 permanent members of the United Nations Security Council a temporary moratorium on the sale and transfer of major military equipment to nations in

the Middle East and Persian Gulf region until such time as the 5 permanent members agree to a multilateral arms transfer and control regime.

"(b) PURPOSE OF THE REGIME.—The purpose of the multilateral arms transfer and control regime should be—

"(1) to slow and limit the proliferation of conventional weapons in the Middle East and Persian Gulf region with the aim of preventing destabilizing transfers by—

"(A) controlling the transfer of conventional major military equipment;

"(B) achieving transparency among arms suppliers nations through advanced notification of agreement to, or transfer of, conventional major military equipment; and

"(C) developing and adopting common and comprehensive control guidelines on the sale and transfer of conventional major military equipment to the region;

"(2) to halt the proliferation of unconventional weapons, including nuclear, biological, and chemical weapons, as well as delivery systems associated with those weapons and the technologies necessary to produce or assemble such weapons;

"(3) to limit and halt the proliferation of ballistic missile technologies and ballistic missile systems that are capable of delivering conventional, nuclear, biological, or chemical warheads;

"(4) to maintain the military balance in the Middle East and Persian Gulf region through reductions of conventional weapons and the elimination of unconventional weapons; and

"(5) to promote regional arms control in the Middle East and Persian Gulf region.

"(c) ACHIEVING THE PURPOSES OF THE REGIME.—

"(1) CONTROLLING PROLIFERATION OF CONVENTIONAL WEAPONS.—In order to achieve the purposes described in subsection (b)(1), the United States should pursue the development of a multilateral arms transfer and control regime which includes—

"(A) greater information-sharing practices among supplier nations regarding potential arms sales to all nations of the Middle East and Persian Gulf region;

"(B) applying, for the control of conventional major military equipment, procedures already developed by the International Atomic Energy Agency, the Multilateral Coordinating Committee on Export Controls (COCOM), and the Missile Technology Control Regime (MTCR); and

"(C) other strict controls on the proliferation of conventional major military equipment to the Middle East and Persian Gulf region.

"(2) HALTING PROLIFERATION OF UNCONVENTIONAL WEAPONS.—In order to achieve the purposes described in subsections (b)(2) and (3), the United States should build on existing and future agreements among supplier nations by pursuing the development of a multilateral arms transfer and control regime which includes—

"(A) limitations and controls contained in the Enhanced Proliferation Control Initiative;

"(B) limitations and controls contained in the Missile Technology Control Regime (MTCR);

"(C) guidelines followed by the Australia Group on chemical and biological arms proliferation;

"(D) guidelines adopted by the Nuclear Suppliers Group (the London Group); and

"(E) other appropriate controls that serve to halt the flow of unconditional [unconventional] weapons to the Middle East and Persian Gulf region.

"(3) PROMOTION OF REGIONAL ARMS CONTROL AGREEMENTS.—In order to achieve the purposes described in subsections (b)(4) and (5), the United States should pursue with nations in the Middle East and Persian Gulf region—

"(A) the maintenance of the military balance within the region, while eliminating nuclear, biological, and chemical weapons and associated delivery systems, and ballistic missiles;

"(B) the implementation of confidence-building and security-building measures, including advance notification of certain ground and aerial military exercises in the Middle East and the Persian Gulf; and

"(C) other useful arms control measures.

"(d) MAJOR MILITARY EQUIPMENT.—As used in this title, the term 'major military equipment' means—

"(1) air-to-air, air-to-surface, and surface-to-surface missiles and rockets;

"(2) turbine-powered military aircraft;

"(3) attack helicopters;

"(4) main battle tanks;

"(5) submarines and major naval surface combatants;

"(6) nuclear, biological, and chemical weapons; and

"(7) such other defense articles and defense services as the President may determine.

"SEC. 403. LIMITATION ON UNITED STATES ARMS SALES TO THE REGION.

"Beginning 60 days after the date of enactment of the International Cooperation Act of 1991 [probably means H.R. 2508, which had not been enacted into law by the end of the first session of the 102d Congress] or the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 [Oct. 28, 1991], whichever is enacted first, no sale of any defense article or defense service may be made to any nation in the Middle East and Persian Gulf region, and no license may be issued for the export of any defense article or defense service to any nation in the Middle East and Persian Gulf region, unless the President—

"(1) certifies in writing to the relevant congressional committees that the President has undertaken good faith efforts to convene a conference for the establishment of an arms suppliers regime having elements described in section 402; and

"(2) submits to the relevant congressional committees a report setting forth a United States plan for leading the world community in establishing such a multilateral regime to restrict transfers of advanced conventional and unconventional arms to the Middle East and Persian Gulf region.

"[SEC. 404. REPEALED. PUB. L. 114–323, TITLE VII, §715(A)(2), DEC. 16, 2016, 130 STAT. 1946.]

"SEC. 405. RELEVANT CONGRESSIONAL COMMITTEES DEFINED.

"As used in this title, the term 'relevant congressional committees' means the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate."

[Ex. Ord. No. 12851, §3, June 11, 1993, 58 F.R. 33181, set out as a note under section 2797 of this title, delegated to Secretary of State, in consultation with Secretary of Defense and other agencies, certification and reporting functions of the President under sections 403 and 404 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993, Public Law 102–138, set out above.]

[Memorandum of President of the United States, Dec. 27, 1991, 56 F.R. 1069, delegated to Secretary of State, in consultation with heads of other executive agencies and departments, certification and reporting obligations of the President under sections 403 and 404 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993, Public Law 102–138, set out above.]

CONTINUATION OF EXPORT CONTROL REGULATIONS

Section 3 of Ex. Ord. No. 13222, Aug. 17, 2001, 66 F.R. 44025, listed in a table under section 1701 of Title 50, War and National Defense, provided that: "Provisions for administration of section 38(e) of the Arms Export Control Act (22 U.S.C. 2778(e)) may be made and shall continue in full force and effect until amended or revoked under the authority of section 203 of the Act (50 U.S.C. 1702). To the extent permitted by law, this order also shall constitute authority for the issuance and continuation in full force and effect of all rules and regulations by the President or his delegate, and all orders, licenses, and other forms of administrative actions issued, taken, or continued in effect pursuant thereto, relating to the administration of section 38(e)."

Prior provisions relating to issuance and continued effect of rules, regulations, orders, licenses, and other forms of administrative action relating to administration of subsec. (e) of this section were contained in the following:

Ex. Ord. No. 12924, §3, Aug. 19, 1994, 59 F.R. 43437, listed in a table under section 1701 of Title 50, prior to revocation by Ex. Ord. No. 13206, §1, Apr. 4, 2001, 66 F.R. 18397.

Ex. Ord. No. 12923, §3, June 30, 1994, 59 F.R. 34551, listed in a table under section 1701 of Title 50, prior to revocation by Ex. Ord. No. 12924, §4, Aug. 19, 1994, 59 F.R. 43438.

Ex. Ord. No. 12867, §3, Sept. 30, 1993, 58 F.R. 51747, listed in a table under section 1701 of Title 50.

Ex. Ord. No. 12730, §3, Sept. 30, 1990, 55 F.R. 40373, listed in a table under section 1701 of Title 50, prior to revocation by Ex. Ord. No. 12867, Sept. 30, 1993, 58 F.R. 51747.

Ex. Ord. No. 12525, §3, July 12, 1985, 50 F.R. 28757, listed in a table under section 1701 of Title 50.

Ex. Ord. No. 12470, §3, Mar. 30, 1984, 49 F.R. 13099, listed in a table under section 1701 of Title 50, prior to revocation by Ex. Ord. No. 12525, July 12, 1985, 50 F.R. 28757.

Ex. Ord. No. 12451, §3, Dec. 20, 1983, 48 F.R. 56563, listed in a table under section 1701 of Title 50.

Ex. Ord. No. 12444, §3, Oct. 14, 1983, 48 F.R. 48215, listed in a table under section 1701 of Title 50, prior to revocation by Ex. Ord. No. 12451, Dec. 20, 1983, 48 F.R. 56563.

§2778a. Exportation of uranium depleted in the isotope 235

Upon a finding that an export of uranium depleted in the isotope 235 is incorporated in defense articles or commodities solely to take advantage of high density or pyrophoric characteristics unrelated to its radioactivity, such exports shall be exempt from the provisions of the Atomic Energy

Act of 1954 [42 U.S.C. 2011 et seq.] and of the Nuclear Non-Proliferation Act of 1978 [22 U.S.C. 3201 et seq.] when such exports are subject to the controls established under the Arms Export Control Act [22 U.S.C. 2751 et seq.] or the Export Administration Act of 1979 [50 U.S.C. 4601 et seq.].

(Pub. L. 96–533, title I, §110, Dec. 16, 1980, 94 Stat. 3138.)

REFERENCES IN TEXT

The Atomic Energy Act of 1954, referred to in text, is act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, which is classified principally to chapter 23 (§2011 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 42 and Tables.

The Nuclear Non-Proliferation Act of 1978, referred to in text, is Pub. L. 95–242, Mar. 10, 1978, 92 Stat. 120, as amended, which is classified principally to chapter 47 (§3201 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3201 of this title and Tables.

The Arms Export Control Act, referred to in text, is Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1320, as amended, which is classified principally to this chapter (§2751 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

The Export Administration Act of 1979, referred to in text, is Pub. L. 96–72, Sept. 29, 1979, 93 Stat. 503, which is classified principally to chapter 56 (§4601 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was enacted as part of the International Security and Development Cooperation Act of 1980, and not as part of the Arms Export Control Act which comprises this chapter.

§2779. Fees of military sales agents

(a) Adequate and timely reports to Secretary of State; maintenance of records

In accordance with such regulations as he may prescribe, the Secretary of State shall require adequate and timely reporting on political contributions, gifts, commissions and fees paid, or offered or agreed to be paid, by any person in connection with—

(1) sales of defense articles or defense services under section 2762 of this title, or of design and construction services under section 2769 of this title;

(2) commercial sales of defense articles or defense services licensed or approved under section 2778 of this title; or

(3) exports of defense articles or defense services pursuant to a treaty referenced in section 2778(j)(1)(C)(i) of this title;

to or for the armed forces of a foreign country or international organization in order to solicit, promote, or otherwise to secure the conclusion of such sales. Such regulations shall specify the amounts and the kinds of payments, offers, and agreements to be reported, and the form and timing of reports, and shall require reports on the names of sales agents and other persons receiving such payments. The Secretary of State shall by regulation require such recordkeeping as he determines is necessary.

(b) Presidential regulation

The President may, by regulation, prohibit, limit, or prescribe conditions with respect to such contributions, gifts, commissions, and fees as he determines will be in furtherance of the purposes of this chapter.

(c) Allocation to contract; improper influence

No such contribution, gift, commission, or fee may be included, in whole or in part, in the amount paid under any procurement contract entered into under section 2762 or section 2769 of this title, unless the amount thereof is reasonable, allocable to such contract, and not made to a person who has solicited, promoted, or otherwise secured such sale, or has held himself out as being able to do so,

through improper influence. For the purposes of this section, "improper influence" means influence, direct or indirect, which induces or attempts to induce consideration or action by any employee or officer of a purchasing foreign government or international organization with respect to such purchase on any basis other than such consideration of merit as are involved in comparable United States procurements.

(d) Availability of records to Congress and Federal agencies

(1) All information reported to the Secretary of State and all records maintained by any person pursuant to regulations prescribed under this section shall be available, upon request, to any standing committee of the Congress or any subcommittee thereof and to any agency of the United States Government authorized by law to have access to the books and records of the person required to submit reports or to maintain records under this section.

(2) Access by an agency of the United States Government to records maintained under this section shall be on the same terms and conditions which govern the access by such agency to the books and records of the person concerned.

(Pub. L. 90–629, ch. 3, §39, as added Pub. L. 94–329, title VI, §604(b), June 30, 1976, 90 Stat. 767; amended Pub. L. 96–533, title I, §105(e)(2), Dec. 16, 1980, 94 Stat. 3135; Pub. L. 111–266, title I, §104(e), Oct. 8, 2010, 124 Stat. 2800.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original "this Act", meaning Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1321, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

AMENDMENTS

2010—Subsec. (a)(3). Pub. L. 111–266, which directed amendment of subsec. (a) by adding par. (3) at the end, was executed by adding par. (3) after par. (2) to reflect the probable intent of Congress.

1980—Subsec. (a)(1). Pub. L. 96–533, §105(e)(2)(A), inserted reference to sales of design and construction services under section 2769 of this title.

Subsec. (c). Pub. L. 96–533, §105(e)(2)(B), inserted reference to section 2769 of this title.

EFFECTIVE DATE

Section effective 60 days after June 30, 1976, see section 604(c) of Pub. L. 94–329, set out as note under section 2776 of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of the President under subsec. (b) of this section, with certain conditions, see section 1(o) of Ex. Ord. No. 13637, Mar. 8, 2013, 78 F.R. 16130, set out as a note under section 2751 of this title. Functions were previously delegated by Ex. Ord. No. 11958, which was formerly set out as a note under section 2751 of this title and was revoked, subject to a savings provision, by section 4 of Ex. Ord. No. 13637.

§2779a. Prohibition on incentive payments

(a) In general

No United States supplier of defense articles or services sold or licensed under this chapter or exported pursuant to a treaty referred to in section 2778(j)(1)(C)(i) of this title, nor any employee, agent, or subcontractor thereof, shall, with respect to the sale or export of any such defense article or defense service to a foreign country, make any incentive payments for the purpose of satisfying, in whole or in part, any offset agreement with that country.

(b) Civil penalties

Any person who violates the provisions of this section shall be subject to the imposition of civil penalties as provided for in this section.

(c) Presidential authority

In the enforcement of this section, the President is authorized to exercise the same powers

concerning violations and enforcement and imposition of civil penalties which are conferred upon departments, agencies and officials by subsections (c), (d), (e), and (f) of section 11 of the Export Administration Act of 1979 [50 U.S.C. 4610(c), (d), (e), (f)], and section 12(a) of such Act [50 U.S.C. 4614(a)], subject to the same terms and conditions as are applicable to such powers under that Act [50 U.S.C. 4601 et seq.], except that section 11(c)(2)(B) of such Act shall not apply, and instead, as prescribed in regulations issued under this section, the Secretary of State may assess civil penalties for violations of this chapter and regulations prescribed thereunder and further may commence a civil action to recover such civil penalties, and except further that notwithstanding section 11(c) of that Act, the civil penalty for each violation of this section may not exceed $500,000 or five times the amount of the prohibited incentive payment, whichever is greater.

(d) Definitions

For purposes of this section—

(1) the term "offset agreement" means an agreement, arrangement, or understanding between a United States supplier of defense articles or defense services and a foreign country under which the supplier agrees to purchase or acquire, or to promote the purchase or acquisition by other United States persons of, goods or services produced, manufactured, grown, or extracted, in whole or in part, in that foreign country in consideration for the purchase by the foreign country of defense articles or defense services from the supplier;

(2) the term "incentive payments" means direct monetary compensation made by a United States supplier of defense articles or defense services or by any employee, agent or subcontractor thereof to any other United States person to induce or persuade that United States person to purchase or acquire goods or services produced, manufactured, grown, or extracted, in whole or in part, in the foreign country which is purchasing those defense articles or services from the United States supplier; and

(3) the term "United States person" means—

(A) an individual who is a national or permanent resident alien of the United States; and

(B) any corporation, business association, partnership, trust, or other juridical entity—

(i) organized under the laws of the United States or any State, the District of Columbia, or any territory or possession of the United States; or

(ii) owned or controlled in fact by individuals described in subparagraph (A) or by an entity described in clause (i).

(Pub. L. 90–629, ch. 3, §39A, as added Pub. L. 103–236, title VII, §733, Apr. 30, 1994, 108 Stat. 504; amended Pub. L. 106–113, div. B, §1000(a)(7) [div. B, title XII, §1246, title XIII, §1303], Nov. 29, 1999, 113 Stat. 1536, 1501A–502, 1501A–511; Pub. L. 111–266, title I, §103(d), Oct. 8, 2010, 124 Stat. 2799.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (c), was in the original "this Act", meaning Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1321, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

The Export Administration Act of 1979, referred to in subsec. (c), is Pub. L. 96–72, Sept. 29, 1979, 93 Stat. 503, which is classified principally to chapter 56 (§4601 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, Tables.

AMENDMENTS

2010—Subsec. (a). Pub. L. 111–266 inserted "or exported pursuant to a treaty referred to in section 2778(j)(1)(C)(i) of this title" after "under this chapter".

1999—Subsec. (a). Pub. L. 106–113, §1000(a)(7) [title XII, §1246(a)], inserted "or licensed" after "sold" and "or export" after "sale".

Subsec. (c). Pub. L. 106–113, §1000(a)(7) [title XIII, §1303], inserted "section 11(c)(2)(B) of such Act shall not apply, and instead, as prescribed in regulations issued under this section, the Secretary of State may assess civil penalties for violations of this chapter and regulations prescribed thereunder and further may commence a civil action to recover such civil penalties, and except further that" after "except that".

Subsec. (d)(3)(B)(ii). Pub. L. 106–113, §1000(a)(7) [title XII, §1246(b)], inserted "or by an entity described

in clause (i)" after "subparagraph (A)".

DELEGATION OF FUNCTIONS

Functions of President under this section delegated to Secretary of State by Memorandum of President of the United States, July 26, 1994, 59 F.R. 40205, set out as a note under section 2370a of this title.

§2780. Transactions with countries supporting acts of international terrorism

(a) Prohibited transactions by United States Government

The following transactions by the United States Government are prohibited:

(1) Exporting or otherwise providing (by sale, lease or loan, grant, or other means), directly or indirectly, any munitions item to a country described in subsection (d) under the authority of this chapter, the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.], or any other law (except as provided in subsection (h)). In implementing this paragraph, the United States Government—

(A) shall suspend delivery to such country of any such item pursuant to any such transaction which has not been completed at the time the Secretary of State makes the determination described in subsection (d), and

(B) shall terminate any lease or loan to such country of any such item which is in effect at the time the Secretary of State makes that determination.

(2) Providing credits, guarantees, or other financial assistance under the authority of this chapter, the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.], or any other law (except as provided in subsection (h)), with respect to the acquisition of any munitions item by a country described in subsection (d). In implementing this paragraph, the United States Government shall suspend expenditures pursuant to any such assistance obligated before the Secretary of State makes the determination described in subsection (d). The President may authorize expenditures otherwise required to be suspended pursuant to the preceding sentence if the President has determined, and reported to the Congress, that suspension of those expenditures causes undue financial hardship to a supplier, shipper, or similar person and allowing the expenditure will not result in any munitions item being made available for use by such country.

(3) Consenting under section 2753(a) of this title, under section 505(a) of the Foreign Assistance Act of 1961 [22 U.S.C. 2314(a)], under the regulations issued to carry out section 2778 of this title, or under any other law (except as provided in subsection (h)), to any transfer of any munitions item to a country described in subsection (d). In implementing this paragraph, the United States Government shall withdraw any such consent which is in effect at the time the Secretary of State makes the determination described in subsection (d), except that this sentence does not apply with respect to any item that has already been transferred to such country.

(4) Providing any license or other approval under section 2778 of this title for any export or other transfer (including by means of a technical assistance agreement, manufacturing licensing agreement, or coproduction agreement) of any munitions item to a country described in subsection (d). In implementing this paragraph, the United States Government shall suspend any such license or other approval which is in effect at the time the Secretary of State makes the determination described in subsection (d), except that this sentence does not apply with respect to any item that has already been exported or otherwise transferred to such country.

(5) Otherwise facilitating the acquisition of any munitions item by a country described in subsection (d). This paragraph applies with respect to activities undertaken—

(A) by any department, agency, or other instrumentality of the Government,

(B) by any officer or employee of the Government (including members of the United States Armed Forces), or

(C) by any other person at the request or on behalf of the Government.

The Secretary of State may waive the requirements of the second sentence of paragraph (1), the second sentence of paragraph (3), and the second sentence of paragraph (4) to the extent that the

Secretary determines, after consultation with the Congress, that unusual and compelling circumstances require that the United States Government not take the actions specified in that sentence.

(b) Prohibited transactions by United States persons

(1) In general

A United States person may not take any of the following actions:

(A) Exporting any munitions item to any country described in subsection (d).

(B) Selling, leasing, loaning, granting, or otherwise providing any munitions item to any country described in subsection (d).

(C) Selling, leasing, loaning, granting, or otherwise providing any munitions item to any recipient which is not the government of or a person in a country described in subsection (d) if the United States person has reason to know that the munitions item will be made available to any country described in subsection (d).

(D) Taking any other action which would facilitate the acquisition, directly or indirectly, of any munitions item by the government of any country described in subsection (d), or any person acting on behalf of that government, if the United States person has reason to know that that action will facilitate the acquisition of that item by such a government or person.

(2) Liability for actions of foreign subsidiaries, etc.

A United States person violates this subsection if a corporation or other person that is controlled in fact by that United States person (as determined under regulations, which the President shall issue) takes an action described in paragraph (1) outside the United States.

(3) Applicability to actions outside the United States

Paragraph (1) applies with respect to actions described in that paragraph which are taken either within or outside the United States by a United States person described in subsection (l)(3)(A) or (B). To the extent provided in regulations issued under subsection (l)(3)(D), paragraph (1) applies with respect to actions described in that paragraph which are taken outside the United States by a person designated as a United States person in those regulations.

(c) Transfers to governments and persons covered

This section applies with respect to—

(1) the acquisition of munitions items by the government of a country described in subsection (d); and

(2) the acquisition of munitions items by any individual, group, or other person within a country described in subsection (d), except to the extent that subparagraph (D) of subsection (b)(1) provides otherwise.

(d) Countries covered by prohibition

The prohibitions contained in this section apply with respect to a country if the Secretary of State determines that the government of that country has repeatedly provided support for acts of international terrorism. For purposes of this subsection, such acts shall include all activities that the Secretary determines willfully aid or abet the international proliferation of nuclear explosive devices to individuals or groups, willfully aid or abet an individual or groups in acquiring unsafeguarded special nuclear material, or willfully aid or abet the efforts of an individual or group to use, develop, produce, stockpile, or otherwise acquire chemical, biological, or radiological weapons.

(e) Publication of determinations

Each determination of the Secretary of State under subsection (d) shall be published in the Federal Register.

(f) Rescission

(1) A determination made by the Secretary of State under subsection (d) may not be rescinded unless the President submits to the Speaker of the House of Representatives, the Committee on Foreign Affairs of the House of Representatives, and the chairman of the Committee on Foreign

Relations of the Senate—

(A) before the proposed rescission would take effect, a report certifying that—

(i) there has been a fundamental change in the leadership and policies of the government of the country concerned;

(ii) that government is not supporting acts of international terrorism; and

(iii) that government has provided assurances that it will not support acts of international terrorism in the future; or

(B) at least 45 days before the proposed rescission would take effect, a report justifying the rescission and certifying that—

(i) the government concerned has not provided any support for international terrorism during the preceding 6-month period; and

(ii) the government concerned has provided assurances that it will not support acts of international terrorism in the future.

(2)(A) No rescission under paragraph (1)(B) of a determination under subsection (d) may be made if the Congress, within 45 days after receipt of a report under paragraph (1)(B), enacts a joint resolution the matter after the resolving clause of which is as follows: "That the proposed rescission of the determination under section 40(d) of the Arms Export Control Act pursuant to the report submitted to the Congress on _____ is hereby prohibited.", the blank to be completed with the appropriate date.

(B) A joint resolution described in subparagraph (A) and introduced within the appropriate 45-day period shall be considered in the Senate and the House of Representatives in accordance with paragraphs (3) through (7) of section 8066(c) of the Department of Defense Appropriations Act (as contained in Public Law 98–473), except that references in such paragraphs to the Committees on Appropriations of the House of Representatives and the Senate shall be deemed to be references to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate, respectively.

(g) Waiver

The President may waive the prohibitions contained in this section with respect to a specific transaction if—

(1) the President determines that the transaction is essential to the national security interests of the United States; and

(2) not less than 15 days prior to the proposed transaction, the President—

(A) consults with the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate; and

(B) submits to the Speaker of the House of Representatives, the Committee on Foreign Affairs of the House of Representatives, and the chairman of the Committee on Foreign Relations of the Senate a report containing—

(i) the name of any country involved in the proposed transaction, the identity of any recipient of the items to be provided pursuant to the proposed transaction, and the anticipated use of those items;

(ii) a description of the munitions items involved in the proposed transaction (including their market value) and the actual sale price at each step in the transaction (or if the items are transferred by other than sale, the manner in which they will be provided);

(iii) the reasons why the proposed transaction is essential to the national security interests of the United States and the justification for such proposed transaction;

(iv) the date on which the proposed transaction is expected to occur; and

(v) the name of every United States Government department, agency, or other entity involved in the proposed transaction, every foreign government involved in the proposed transaction, and every private party with significant participation in the proposed transaction.

To the extent possible, the information specified in subparagraph (B) of paragraph (2) shall be

provided in unclassified form, with any classified information provided in an addendum to the report.

(h) Exemption for transactions subject to National Security Act reporting requirements

The prohibitions contained in this section do not apply with respect to any transaction subject to reporting requirements under title V of the National Security Act of 1947 ([50 U.S.C. 3091 et seq.]; relating to congressional oversight of intelligence activities).

(i) Relation to other laws

(1) In general

With regard to munitions items controlled pursuant to this chapter, the provisions of this section shall apply notwithstanding any other provision of law, other than section 614(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2364(a)).

(2) Section 614(a) waiver authority

If the authority of section 614(a) of the Foreign Assistance Act of 1961 [22 U.S.C. 2364(a)] is used to permit a transaction under that Act [22 U.S.C. 2151 et seq.] or this chapter which is otherwise prohibited by this section, the written policy justification required by that section shall include the information specified in subsection (g)(2)(B) of this section.

(j) Criminal penalty

Any person who willfully violates this section shall be fined for each violation not more than $1,000,000, imprisoned not more than 20 years, or both.

(k) Civil penalties; enforcement

In the enforcement of this section, the President is authorized to exercise the same powers concerning violations and enforcement which are conferred upon departments, agencies, and officials by sections 11(c), 11(e), 11(g), and 12(a) of the Export Administration Act of 1979 [50 U.S.C. 4610(c), (e), (g), 4614(a)] (subject to the same terms and conditions as are applicable to such powers under that Act [50 U.S.C. 4601 et seq.]), except that section 11(c)(2)(B) of such Act shall not apply, and instead, as prescribed in regulations issued under this section, the Secretary of State may assess civil penalties for violations of this chapter and regulations prescribed thereunder and further may commence a civil action to recover such civil penalties, and except further that, notwithstanding section 11(c) of that Act, the civil penalty for each violation of this section may not exceed $500,000.

(l) Definitions

As used in this section—

(1) the term "munitions item" means any item enumerated on the United States Munitions list [1] (without regard to whether the item is imported into or exported from the United States);

(2) the term "United States", when used geographically, means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and any territory or possession of the United States;

(3) the term "United States person" means—

(A) any citizen or permanent resident alien of the United States;

(B) any sole proprietorship, partnership, company, association, or corporation having its principal place of business within the United States or organized under the laws of the United States, any State, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, or any territory or possession of the United States;

(C) any other person with respect to that person's actions while in the United States; and

(D) to the extent provided in regulations issued by the Secretary of State, any person that is not described in subparagraph (A), (B), or (C) but—

(i) is a foreign subsidiary or affiliate of a United States person described in subparagraph (B) and is controlled in fact by that United States person (as determined in accordance with

those regulations), or

(ii) is otherwise subject to the jurisdiction of the United States,

with respect to that person's actions while outside the United States;

(4) the term "nuclear explosive device" has the meaning given that term in section 6305(4) of this title; and

(5) the term "unsafeguarded special nuclear material" has the meaning given that term in section 6305(8) of this title.

(Pub. L. 90–629, ch. 3, §40, as added Pub. L. 99–399, title V, §509(a), Aug. 27, 1986, 100 Stat. 874; amended Pub. L. 101–222, §2(a), Dec. 12, 1989, 103 Stat. 1892; Pub. L. 102–138, title III, §321, Oct. 28, 1991, 105 Stat. 710; Pub. L. 103–236, title VIII, §822(a)(2), Apr. 30, 1994, 108 Stat. 511; Pub. L. 106–113, div. B, §1000(a)(7) [div. B, title XIII, §1303], Nov. 29, 1999, 113 Stat. 1536, 1501A–511; Pub. L. 107–228, div. B, title XII, §1204, Sept. 30, 2002, 116 Stat. 1427; Pub. L. 111–195, title I, §107(a)(3), July 1, 2010, 124 Stat. 1337; Pub. L. 113–276, title II, §208(a)(1), Dec. 18, 2014, 128 Stat. 2992.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(1), (2), (i)(1), and (k), was in the original "this Act", and this chapter, referred to in subsec. (i)(2), was in the original "the Arms Export Control Act", both of which mean Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1321, as amended, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

The Foreign Assistance Act of 1961, referred to in subsecs. (a)(1), (2) and (i)(2), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, which is classified principally to chapter 32 (§2151 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

Section 40(d) of the Arms Export Control Act, referred to in subsec. (f)(2)(A), is classified to subsec. (d) of this section.

Paragraphs (3) through (7) of section 8066(c) of the Department of Defense Appropriations Act (as contained in Public Law 98–473), referred to in subsec. (f)(2)(B), is Pub. L. 98–473, title I, §101(h) [title VIII, §8066(c)(3)–(7)], Oct. 12, 1984, 98 Stat. 1904, 1936, 1937, which is not classified to the Code.

The National Security Act of 1947, referred to in subsec. (h), is act July 26, 1947, ch. 343, 61 Stat. 495, which was formerly classified principally to chapter 15 (§401 et seq.) of Title 50, War and National Defense, prior to editorial reclassification in chapter 44 (§3001 et seq.) of Title 50. Title V of the Act is now classified generally to subchapter III (§3091 et seq.) of chapter 44 of Title 50. For complete classification of this Act to the Code, see Tables.

The Export Administration Act of 1979, referred to in subsec. (k), is Pub. L. 96–72, Sept. 29, 1979, 93 Stat. 503, which is classified principally to chapter 56 (§4601 et seq.) of Title 50. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

2014—Subsecs. (f)(1), (g)(2)(B). Pub. L. 113–276 substituted "the Speaker of the House of Representatives, the Committee on Foreign Affairs of the House of Representatives, and" for "the Speaker of the House of Representatives and" in introductory provisions.

2010—Subsec. (j). Pub. L. 111–195 substituted "20 years" for "10 years".

2002—Subsec. (d). Pub. L. 107–228 substituted "groups," for "groups or" in second sentence and inserted before period at end ", or willfully aid or abet the efforts of an individual or group to use, develop, produce, stockpile, or otherwise acquire chemical, biological, or radiological weapons".

1999—Subsec. (k). Pub. L. 106–113 inserted "section 11(c)(2)(B) of such Act shall not apply, and instead, as prescribed in regulations issued under this section, the Secretary of State may assess civil penalties for violations of this chapter and regulations prescribed thereunder and further may commence a civil action to recover such civil penalties, and except further that" after "except that".

1994—Subsec. (d). Pub. L. 103–236, §822(a)(2)(A), inserted at end "For purposes of this subsection, such acts shall include all activities that the Secretary determines willfully aid or abet the international proliferation of nuclear explosive devices to individuals or groups or willfully aid or abet an individual or groups in acquiring unsafeguarded special nuclear material."

Subsec. (l). Pub. L. 103–236, §822(a)(2)(B), amended subsec. (l) by striking "and" after the semicolon in par. (2), substituting a semicolon for the period at the end of par. (3), and adding pars. (4) and (5).

1991—Subsec. (f). Pub. L. 102–138, §321, designated existing provisions as par. (1), redesignated former par. (1) as subpar. (A) and former subpars. (A) to (C) as cls. (i) to (iii), respectively, redesignated former par. (2) as subpar. (B) and former subpars. (A) and (B) as cls. (i) and (ii), respectively, and added par. (2). So much of Pub. L. 102–138, §321(1), as directed that subpar. (C) of former par. (2) be redesignated cl. (iii) of par. (1)(B), could not be executed because no such subpar. (C) had been enacted.

1989—Pub. L. 101–222 substituted "Transactions with" for "Exports to" in section catchline and amended text generally. Prior to amendment, text read as follows:

"(a) PROHIBITION.—Except as provided in subsection (b) of this section, items on the United States Munitions List may not be exported to any country which the Secretary of State has determined, for purposes of section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)(A)), has repeatedly provided support for acts of international terrorism.

"(b) WAIVER.—The President may waive the prohibition contained in subsection (a) of this section in the case of a particular export if the President determines that the export is important to the national interests of the United States and submits to the Congress a report justifying that determination and describing the proposed export. Any such waiver shall expire at the end of 90 days after it is granted unless the Congress enacts a law extending the waiver."

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–236 effective 60 days after Apr. 30, 1994, see section 831 of Pub. L. 103–236, set out as an Effective Date note under section 6301 of this title.

[1] So in original. Probably should be capitalized.

§2781. Transactions with countries not fully cooperating with United States antiterrorism efforts

(a) Prohibited transactions

No defense article or defense service may be sold or licensed for export under this chapter in a fiscal year to a foreign country that the President determines and certifies to Congress, by May 15 of the calendar year in which that fiscal year begins, is not cooperating fully with United States antiterrorism efforts.

(b) Waiver

The President may waive the prohibition set forth in subsection (a) with respect to a specific transaction if the President determines that the transaction is important to the national interests of the United States.

(Pub. L. 90–629, ch. 3, §40A, as added Pub. L. 104–132, title III, §330, Apr. 24, 1996, 110 Stat. 1258.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this Act", meaning Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1321, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

CODIFICATION

Another section 40A of Pub. L. 90–629 is classified to section 2785 of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of the President under this section, see section 1(q) of Ex. Ord. No. 13637, Mar. 8, 2013, 78 F.R. 16130, set out as a note under section 2751 of this title. Functions were previously delegated by Ex. Ord. No. 11958, which was formerly set out as a note under section 2751 of this title and was revoked, subject to a savings provision, by section 4 of Ex. Ord. No. 13637.

SUBCHAPTER III–A—END-USE MONITORING OF DEFENSE ARTICLES AND DEFENSE SERVICES

§2785. End-use monitoring of defense articles and defense services

(a) Establishment of monitoring program

(1) In general

In order to improve accountability with respect to defense articles and defense services sold, leased, or exported under this chapter or the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), the President shall establish a program which provides for the end-use monitoring of such articles and services.

(2) Requirements of program

To the extent practicable, such program—

(A) shall provide for the end-use monitoring of defense articles and defense services in accordance with the standards that apply for identifying high-risk exports for regular end-use verification developed under section 2778(g)(7) of this title (commonly referred to as the "Blue Lantern" program); and

(B) shall be designed to provide reasonable assurance that—

(i) the recipient is complying with the requirements imposed by the United States Government with respect to use, transfers, and security of defense articles and defense services; and

(ii) such articles and services are being used for the purposes for which they are provided.

(b) Conduct of program

In carrying out the program established under subsection (a), the President shall ensure that the program—

(1) provides for the end-use verification of defense articles and defense services that incorporate sensitive technology, defense articles and defense services that are particularly vulnerable to diversion or other misuse, or defense articles or defense services whose diversion or other misuse could have significant consequences; and

(2) prevents the diversion (through reverse engineering or other means) of technology incorporated in defense articles.

(c) Report to Congress

Not later than 6 months after July 21, 1996, and annually thereafter as a part of the annual congressional presentation documents submitted under section 634 of the Foreign Assistance Act of 1961 [22 U.S.C. 2394], the President shall transmit to the Congress a report describing the actions taken to implement this section, including a detailed accounting of the costs and number of personnel associated with the monitoring program and the numbers, range, and findings of end-use monitoring of United States transfers of small arms and light weapons.

(d) Third country transfers

For purposes of this section, defense articles and defense services sold, leased, or exported under this chapter or the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) includes defense articles and defense services that are transferred to a third country or other third party.

(Pub. L. 90–629, ch. 3A, §40A, as added Pub. L. 104–164, title I, §150(a), July 21, 1996, 110 Stat. 1436; amended Pub. L. 107–228, div. B, title XII, §1205(b), Sept. 30, 2002, 116 Stat. 1428.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(1) and (d), was in the original "this Act", meaning Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1321, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

The Foreign Assistance Act of 1961, referred to in subsecs. (a)(1) and (d), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, which is classified principally to chapter 32 (§2151 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

CODIFICATION

Another section 40A of Pub. L. 90–629 is classified to section 2781 of this title.

AMENDMENTS

2002—Subsec. (c). Pub. L. 107–228 inserted "and the numbers, range, and findings of end-use monitoring of United States transfers of small arms and light weapons" before period at end.

EFFECTIVE DATE

Pub. L. 104–164, title I, §150(b), July 21, 1996, 110 Stat. 1437, provided that: "Section 40A of the Arms Export Control Act, as added by subsection (a) [22 U.S.C. 2785], applies with respect to defense articles and defense services provided before or after the date of the enactment of this Act [July 21, 1996]."

DELEGATION OF FUNCTIONS

For delegation of functions of the President under this section, with certain conditions, see section 1(p) of Ex. Ord. No. 13637, Mar. 8, 2013, 78 F.R. 16130, set out as a note under section 2751 of this title. Functions were previously delegated by Ex. Ord. No. 11958, which was formerly set out as a note under section 2751 of this title and was revoked, subject to a savings provision, by section 4 of Ex. Ord. No. 13637.

SUBCHAPTER IV—GENERAL, ADMINISTRATIVE, AND MISCELLANEOUS PROVISIONS

§2791. General provisions

(a) Considerations in procurement outside United States

In carrying out this chapter, special emphasis shall be placed on procurement in the United States, but, subject to the provisions of subsection (b) of this section, consideration shall also be given to coproduction or licensed production outside the United States of defense articles of United States origin when such production best serves the foreign policy, national security, and economy of the United States. In evaluating any sale proposed to be made pursuant to this chapter, there shall be taken into consideration (A) the extent to which the proposed sale damages or infringes upon licensing arrangements whereby United States entities have granted licenses for the manufacture of the defense articles selected by the purchasing country to entities located in friendly foreign countries, which licenses result in financial returns to the United States, (B) the portion of the defense articles so manufactured which is of United States origin, and (C) whether, and the extent to which, such sale might contribute to an arms race, aid in the development of weapons of mass destruction, support international terrorism, increase the possibility of outbreak or escalation of conflict, or prejudice the development of bilateral or multilateral arms control or nonproliferation agreements or other arrangements.

(b) Information to Congress on credit sales and guaranties

No credit sale shall be extended under section 2763 of this title, and no guarantee shall be issued under section 2764 of this title, in any case involving coproduction or licensed, production outside the United States of any defense article of United States origin unless the Secretary of State shall, in advance of any such transaction, advise the appropriate committees of the Congress and furnish the Speaker of the House of Representatives and the President of the Senate with full information regarding the proposed transaction, including, but not limited to, a description of the particular

defense article or articles which would be produced under a license or coproduced outside the United States, the estimated value of such production or coproduction, and the probable impact of the proposed transaction on employment and production within the United States.

(c) Availability of funds for procurement outside United States

Funds made available under this chapter may be used for procurement outside the United States only if the President determines that such procurement will not result in adverse effects upon the economy of the United States or the industrial mobilization base, with special reference to any areas of labor surplus or to the net position of the United States in its balance of payments with the rest of the world, which outweigh the economic or other advantages to the United States of less costly procurement outside the United States.

(d) Responsibility of Secretary of Defense with respect to sales and guaranties

(1) With respect to sales and guaranties under sections 2761, 2762, 2763, 2764, 2769 and 2770 of this title, the Secretary of Defense shall, under the direction of the President, have primary responsibility for—

(A) the determination of military end-item requirements;

(B) the procurement of military equipment in a manner which permits its integration with service programs;

(C) the supervision of the training of foreign military personnel;

(D) the movement and delivery of military end-items; and

(E) within the Department of Defense, the performance of any other functions with respect to sales and guaranties.

(2) The establishment of priorities in the procurement, delivery, and allocation of military equipment shall, under the direction of the President, be determined by the Secretary of Defense.

(e) Revocation and suspension provisions of contracts for sale and export licenses; appropriations for refunds

(1) Each contract for sale entered into under sections 2761, 2762, 2769 and 2770 of this title, and each contract entered into under section 2767(d) of this title, shall provide that such contract may be canceled in whole or in part, or its execution suspended, by the United States at any time under unusual or compelling circumstances if the national interest so requires.

(2)(A) Each export license issued under section 2778 of this title shall provide that such license may be revoked, suspended, or amended by the Secretary of State, without prior notice, whenever the Secretary deems such action to be advisable.

(B) Nothing in this paragraph may be construed as limiting the regulatory authority of the President under this chapter.

(3) There are authorized to be appropriated from time to time such sums as may be necessary (A) to refund moneys received from purchasers under contracts of sale entered into under sections 2761, 2762, 2769 and 2770 of this title, or under contracts entered into under section 2767(d) of this title, that are canceled or suspended under this subsection to the extent such moneys have previously been disbursed to private contractors and United States Government agencies for work in progress, and (B) to pay such damages and costs that accrue from the corresponding cancellation or suspension of the existing procurement contracts or United States Government agency work orders involved.

(f) Use of civilian contract personnel in foreign countries

The President shall, to the maximum extent possible and consistent with the purposes of this chapter, use civilian contract personnel in any foreign country to perform defense services sold under this chapter.

(Pub. L. 90–629, ch. 4, §42, Oct. 22, 1968, 82 Stat. 1326; Pub. L. 92–226, pt. IV, §401(e), (f), Feb. 7, 1972, 86 Stat. 33; Pub. L. 94–141, title I, §150(b), Nov. 29, 1975, 89 Stat. 760; Pub. L. 94–329, title II, §213, title VI, §605(b), June 30, 1976, 90 Stat. 745, 768; Pub. L. 96–533, title I, §105(e)(3), Dec. 16, 1980, 94 Stat. 3135; Pub. L. 97–392, §2, Dec. 29, 1982, 96 Stat. 1963; Pub. L. 99–83, title I, §115(b)(3), Aug. 8, 1985, 99 Stat. 201; Pub. L. 99–145, title XI, §1102(a)(4), (5), Nov. 8, 1985, 99

Stat. 710; Pub. L. 99–661, div. A, title XIII, §1342(e), Nov. 14, 1986, 100 Stat. 3991; Pub. L. 103–236, title VII, §714(a)(2), Apr. 30, 1994, 108 Stat. 497; Pub. L. 105–277, div. G, subdiv. A, title XII, §1225(a)(3), Oct. 21, 1998, 112 Stat. 2681–773.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1321, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–277 struck out par. (1) designation, struck out "the assessment of the Director of the United States Arms Control and Disarmament Agency as to" after ", and (C)", and struck out par. (2) which read as follows: "Any proposed sale made pursuant to this chapter shall be approved only after consultation with the Director of the United States Arms Control and Disarmament Agency. The Director of the Arms Control and Disarmament Agency is authorized, whenever the Director determines that a sale under this section would be detrimental to the national security of the United States, to recommend to the President that such sale be disapproved."

1994—Subsec. (a). Pub. L. 103–236 designated existing provisions as par. (1), redesignated former cls. (1) to (3) as cls. (A) to (C), respectively, amended cl. (C) generally, and added par. (2). Prior to being amended generally, cl. (C) read as follows: "in coordination with the Director of the United States Arms Control and Disarmament Agency, the Director's opinion as to the extent to which such sale might contribute to an arms race, or increase the possibility of outbreak or escalation of conflict, or prejudice the development of bilateral or multilateral arms control arrangements."

1986—Subsec. (e)(1), (3). Pub. L. 99–661 repealed section 1102(a)(4) of Pub. L. 99–145 and the amendments made by that section, and provided that this section shall apply as if that section had never been enacted. See 1985 Amendments note below.

1985—Subsec. (e)(1), (3). Pub. L. 99–83 inserted reference to contracts under section 2767(d) of this title.

Pub. L. 99–145, §1102(a)(4), which enacted amendments similar to those provided in Pub. L. 99–83, was repealed. See 1986 Amendments note below and former section 1102(a)(5) of Pub. L. 99–145 set out as a Repeals; Effective Date note under section 2752 of this title.

1982—Subsecs. (d)(1), (e)(1), (3)(A). Pub. L. 97–392 substituted "2769 and 2770" for "and 2769".

1980—Subsecs. (d)(1), (e)(1), (3). Pub. L. 96–533, §105(e)(3), inserted reference to section 2769 of this title.

1976—Subsec. (e). Pub. L. 94–329, §213, added subsec. (e).

Subsec. (f). Pub. L. 94–329, §605(b), added subsec. (f).

1975—Subsec. (a)(3). Pub. L. 94–141 inserted provision relating to coordination with the Director of the United States Arms Control and Disarmament Agency.

1972—Subsec. (a). Pub. L. 92–226, §401(e), (f)(1), added cl. (3) and inserted ", subject to the provisions of subsection (b) of this section," before "consideration shall also be given", respectively.

Subsecs. (b) to (d). Pub. L. 92–226, §401(f)(2), added subsec. (b) and redesignated former subsecs. (b) and (c) as (c) and (d).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective Apr. 1, 1999, see section 1201 of Pub. L. 105–277, set out as an Effective Date note under section 6511 of this title.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–83 effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as a note under section 2151–1 of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of the President under subsecs. (c) and (f) of this section, with certain conditions, see section 1(r) of Ex. Ord. No. 13637, Mar. 8, 2013, 78 F.R. 16131, set out as a note under section 2751 of this title. Functions were previously delegated by Ex. Ord. No. 11958, which was formerly set out as a note under section 2751 of this title and was revoked, subject to a savings provision, by section 4 of Ex. Ord. No. 13637.

§2792. Administrative expenses

(a) Availability of funds

Funds made available under other law for the operations of United States Government agencies carrying out functions under this chapter shall be available for the administrative expenses incurred by such agencies under this chapter.

(b) Charges for administrative expenses and official reception and representation expenses

Charges for administrative services calculated under section 2761(e)(1)(A) of this title shall include recovery of administrative expenses and official reception and representation expenses incurred by any department or agency of the United States Government, including any mission or group thereof, in carrying out functions under this chapter when—

(1) such functions are primarily for the benefit of any foreign country;

(2) such expenses are not directly and fully charged to, and reimbursed from amounts received for, sale of defense services under section 2761(a) of this title; and

(3) such expenses are neither salaries of the Armed Forces of the United States nor represent unfunded estimated costs of civilian retirement and other benefits.

(c) Limitations on funds used for official reception and representation expenses

Not more than $86,500 of the funds derived from charges for administrative services pursuant to section 2761(e)(1)(A) of this title may be used each fiscal year for official reception and representation expenses.

(Pub. L. 90–629, ch. 4, §43, Oct. 22, 1968, 82 Stat. 1327; Pub. L. 94–329, title II, §214, June 30, 1976, 90 Stat. 746; Pub. L. 95–92, §7(d), Aug. 4, 1977, 91 Stat. 617; Pub. L. 96–92, §19(b), Oct. 29, 1979, 93 Stat. 709; Pub. L. 97–113, title VII, §734(a)(10), Dec. 29, 1981, 95 Stat. 1560; Pub. L. 99–83, title I, §120, Aug. 8, 1985, 99 Stat. 204; Pub. L. 101–165, title IX, §9104(b)(1), Nov. 21, 1989, 103 Stat. 1152; Pub. L. 107–228, div. B, title XII, §1203, Sept. 30, 2002, 116 Stat. 1427.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b), was in the original "this Act", meaning Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1321, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

AMENDMENTS

2002—Subsec. (c). Pub. L. 107–228 substituted "$86,500" for "$72,500".

1989—Subsec. (b)(3). Pub. L. 101–165 added par. (3).

1985—Subsec. (b). Pub. L. 99–83, §120(1), inserted "and official reception and representation expenses".

Subsec. (c). Pub. L. 99–83, §120(2), added subsec. (c).

1981—Subsec. (c). Pub. L. 97–113 struck out subsec. (c) which required a Presidential report to Congress no later than Jan. 15 of each year containing analysis and description of Federal personnel arms export control services performed previous fiscal year. See section 2765(a)(6) of this title.

1979—Subsec. (c). Pub. L. 96–92 added subsec. (c).

1977—Subsec. (b). Pub. L. 95–92 substituted provisions relating to criteria for recovery of charges for administrative expenses calculated under section 2761(e)(1)(A) of this title, for provisions relating to reimbursement from amounts received for sales under sections 2761 and 2762 of this title of administrative expenses incurred by a United States government department or agency in carrying out functions under this chapter for the benefit of any foreign country.

1976—Pub. L. 94–329 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–83 effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as a note under section 2151–1 of this title.

§2793. Other provisions unaffected

No provision of this chapter shall be construed as modifying in any way the provisions of the

Atomic Energy Act of 1954, as amended [42 U.S.C. 2011 et seq.], or section 7307 of title 10.

(Pub. L. 90–629, ch. 4, §44, Oct. 22, 1968, 82 Stat. 1327.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1321, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

The Atomic Energy Act of 1954, as amended, referred to in text, is act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, which is classified principally to chapter 23 (§2011 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 42 and Tables.

SPECIFIC APPLICATION OF OTHER PROVISIONS TO THIS CHAPTER

Except for laws specified in this section, other provisions inapplicable to this chapter without a specific reference thereto or to sales of defense articles and defense services under any Act, see section 45(c) of Pub. L. 90–629, set out as a note under section 2751 of this title.

§2794. Definitions

For purposes of this chapter, the term—

(1) "excess defense article" has the meaning provided by section 2403(g) of this title;

(2) "value" means, in the case of an excess defense article, except as otherwise provided in section 2761(a) of this title, not less than the greater of—

(A) the gross cost incurred by the United States Government in repairing, rehabilitating, or modifying such article, plus the scrap value; or

(B) the market value, if ascertainable;

(3) "defense article", except as provided in paragraph (7) of this section, means, with respect to a sale or transfer by the United States under the authority of this chapter or any other foreign assistance or sales program of the United States—

(A) any weapon, weapons system, munition, aircraft, vessel, boat, or other implement of war,

(B) any property, installation, commodity, material, equipment, supply, or goods used for the purposes of making military sales,

(C) any machinery, facility, tool, material, supply, or other item necessary for the manufacture, production, processing, repair, servicing, storage, construction, transportation, operation, or use of any article listed in this paragraph, and

(D) any component or part of any article listed in this paragraph,

but does not include merchant vessels or (as defined by the Atomic Energy Act of 1954 [42 U.S.C. 2011 et seq.]) source material (except uranium depleted in the isotope 235 which is incorporated in defense articles solely to take advantage of high density or pyrophoric characteristics unrelated to radioactivity), byproduct material, special nuclear material, production facilities, utilization facilities, or atomic weapons or articles involving Restricted Data;

(4) "defense service", except as provided in paragraph (7) of this section, means, with respect to a sale or transfer by the United States under the authority of this chapter or any other foreign assistance or sales program of the United States, any service, test, inspection, repair, training, publication, technical or other assistance, or defense information (as defined in section 2403(e) of this title), used for the purposes of making military sales, but does not include design and construction services under section 2769 of this title;

(5) "training" includes formal or informal instruction of foreign students in the United States or overseas by officers or employees of the United States, contract technicians, or contractors (including instruction at civilian institutions), or by correspondence courses, technical, educational, or information publications and media of all kinds, training aid, orientation, training exercise, and military advice to foreign military units and forces;

(6) "major defense equipment" means any item of significant military equipment on the United States Munitions List having a nonrecurring research and development cost of more than $50,000,000 or a total production cost of more than $200,000,000;

(7) "defense articles and defense services" means, with respect to commercial exports subject to the provisions of section 2778 of this title, those items designated by the President pursuant to subsection (a)(1) of such section;

(8) "design and construction services" means, with respect to sales under section 2769 of this title, the design and construction of real property facilities, including necessary construction equipment and materials, engineering services, construction contract management services relating thereto, and technical advisory assistance in the operation and maintenance of real property facilities provided or performed by any department or agency of the Department of Defense or by a contractor pursuant to a contract with such department or agency;

(9) "significant military equipment" means articles—

(A) for which special export controls are warranted because of the capacity of such articles for substantial military utility or capability; and

(B) identified on the United States Munitions List;

(10) "weapons of mass destruction" has the meaning provided by section 2302(1) of title 50; and

(11) "Sales territory" means a country or group of countries to which a defense article or defense service is authorized to be reexported.

(Pub. L. 90–629, ch. 4, §47, as added Pub. L. 93–189, §25(12), Dec. 17, 1973, 87 Stat. 731; amended Pub. L. 94–329, title II, §215, June 30, 1976, 90 Stat. 746; Pub. L. 96–92, §22, Oct. 29, 1979, 93 Stat. 710; Pub. L. 96–533, title I, §105(f), Dec. 16, 1980, 94 Stat. 3135; Pub. L. 99–83, title I, §107(b), title XII, §1211(b)(3), Aug. 8, 1985, 99 Stat. 197, 279; Pub. L. 104–164, title I, §144, July 21, 1996, 110 Stat. 1434; Pub. L. 107–228, div. B, title XII, §1202(b), title XIV, §1405(a)(4), Sept. 30, 2002, 116 Stat. 1427, 1458; Pub. L. 113–276, title II, §§207, 208(b)(1)(B), Dec. 18, 2014, 128 Stat. 2992, 2993.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1321, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

The Atomic Energy Act of 1954, as amended, referred to in par. (3), is act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, which is classified principally to chapter 23 (§2011 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 42 and Tables.

AMENDMENTS

2014—Par. (2). Pub. L. 113–276, §208(b)(1)(B), substituted "2761(a) of this title," for "2761(a) of this title,," in introductory provisions.

Par. (3). Pub. L. 113–276, §207(1), in introductory provisions, substituted "means, with respect to a sale or transfer by the United States under the authority of this chapter or any other foreign assistance or sales program of the United States—" for "includes—".

Par. (4). Pub. L. 113–276, §207(2), substituted "means, with respect to a sale or transfer by the United States under the authority of this chapter or any other foreign assistance or sales program of the United States," for "includes".

2002—Par. (10). Pub. L. 107–228, §1202(b), added par. (10).

Par. (11). Pub. L. 107–228, §1405(a)(4), added par. (11).

1996—Par. (9). Pub. L. 104–164 added par. (9).

1985—Par. (2). Pub. L. 99–83, §107(b), inserted ", except as otherwise provided in section 2761(a) of this title,".

Par. (6). Pub. L. 99–83, §1211(b)(3), substituted "military" for "combat".

1980—Par. (4). Pub. L. 96–533, §105(f)(1), excluded from term "defense service" design and construction services under section 2769 of this title.

Par. (8). Pub. L. 96–533, §105(f)(2)–(4), added par. (8).

1979—Par. (3). Pub. L. 96–92 defined "defense article" to include uranium depleted in the isotope 235 which is incorporated in defense articles solely to take advantage of high density or pyrophoric characteristics unrelated to radioactivity.

1976—Pars. (3) to (7). Pub. L. 94–329 added pars. (3) to (7).

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–83 effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as a note under section 2151–1 of this title.

SUBCHAPTER V—SPECIAL DEFENSE ACQUISITION FUND

§2795. Fund

(a) Establishment; purposes; special requirements and responsibilities; continuous orders for certain articles and services; articles for narcotics control purposes

(1) Under the direction of the President and in consultation with the Secretary of State, the Secretary of Defense shall establish a Special Defense Acquisition Fund (hereafter in this subchapter referred to as the "Fund"), to be used as a revolving fund separate from other accounts, under the control of the Department of Defense, to finance the acquisition of defense articles and defense service in anticipation of their transfer pursuant to this chapter, the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.], or as otherwise authorized by law, to eligible foreign countries and international organizations, and may acquire such articles and services with the funds in the Fund as he may determine. Acquisition under this subchapter of items for which the initial issue quantity requirements for United States Armed Forces have not been fulfilled and are not under current procurement contract shall be emphasized when compatible with security assistance requirements for the transfer of such items.

(2) Nothing in this subchapter may be construed to limit or impair any responsibilities conferred upon the Secretary of State or the Secretary of Defense under this chapter or the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.].

(3) The Fund may be used to keep on continuous order such defense articles and defense services as are assigned by the Department of Defense for integrated management by a single agency thereof for the common use of all military departments in anticipation of the transfer of similar defense articles and defense services to foreign countries and international organizations pursuant to this chapter, the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.], or other law.

(4) The Fund shall also be used to acquire defense articles that are particularly suited for use for narcotics control purposes and are appropriate to the needs of recipient countries, such as small boats, planes (including helicopters), and communications equipment.

(b) Collections in Fund

The Fund shall consist of—

(1) collections from sales made under letters of offer issued pursuant to section 2761(a)(1)(A) of this title representing the actual value of defense articles not intended to be replaced in stock,

(2) collections from sales representing the value of asset use charges (including contractor rental payments for United States Government-owned plant and production equipment) and charges for the proportionate recoupment of nonrecurring research, development, and production costs, and

(3) collections from sales made under letters of offer (or transfers made under the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.]) of defense articles and defense services acquired under this subchapter, representing the value of such items calculated in accordance with subparagraph (B) or (C) of section 2761(a)(1) of this title or section 2762 of this title or section 644(m) of the Foreign Assistance Act of 1961 [22 U.S.C. 2403(m)], as appropriate,

together with such funds as may be authorized and appropriated or otherwise made available for the purposes of the Fund.

(c) Amounts

(1) The size of the Fund may not exceed such dollar amount as is prescribed in section 114(c) of title 10. For purposes of this limitation, the size of the Fund is the amounts in the Fund plus the value (in terms of acquisition cost) of the defense articles acquired under this subchapter which have not been transferred from the Fund in accordance with this subchapter.

(2) Amounts in the Fund shall be available for obligation in any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.

(Pub. L. 90–629, ch. 5, §51, as added Pub. L. 97–113, title I, §108(a), Dec. 29, 1981, 95 Stat. 1522; amended Pub. L. 99–83, title I, §121, Aug. 8, 1985, 99 Stat. 204; Pub. L. 99–139, §1(a), Oct. 30, 1985, 99 Stat. 562; Pub. L. 99–433, title I, §110(h)(1), Oct. 1, 1986, 100 Stat. 1004; Pub. L. 101–231, §4, Dec. 13, 1989, 103 Stat. 1957; Pub. L. 104–164, title I, §145(b), July 21, 1996, 110 Stat. 1434.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(1) to (3), was in the original "this Act", meaning Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1321, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

The Foreign Assistance Act of 1961, referred to in subsecs. (a) and (b)(3), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, which is classified principally to chapter 32 (§2151 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

AMENDMENTS

1996—Subsec. (a)(4). Pub. L. 104–164 redesignated subpar. (A) as entire par. (4) and struck out subpar. (B) which read as follows: "Each report pursuant to section 2795b(a) of this title shall designate the defense articles that have been acquired or are to be acquired pursuant to this paragraph and the defense articles acquired under this subchapter that were transferred for use in narcotics control purposes."

1989—Subsec. (a)(4). Pub. L. 101–231 added par. (4).

1986—Subsec. (c)(1). Pub. L. 99–433 substituted "section 114(c)" for "section 138(g)".

1985—Subsec. (a)(3). Pub. L. 99–83, §121(a), added par. (3).

Subsec. (b). Pub. L. 99–139 amended subsec. (b) generally, so as to read similar to how it read prior to the amendment by Pub. L. 99–83.

Pub. L. 99–83 amended subsec. (b) to read as follows: "The Fund shall consist of collections from sales made under letters of offer, or transfers made under the Foreign Assistance Act of 1961, of defense articles and defense services acquired under this subchapter (representing the value of such items calculated in accordance with subparagraph (B) or (C) of section 2761(a)(1) of this title or section 2762 of this title or section 644(m) of the Foreign Assistance Act of 1961, as appropriate), together with such funds as may be authorized and appropriated or otherwise made available for the purposes of the Fund."

EFFECTIVE DATE OF 1985 AMENDMENTS

Pub. L. 99–139, §1(b), Oct. 30, 1985, 99 Stat. 562, provided that: "The amendment made by subsection (a) [amending this section] shall take effect as of October 1, 1985."

Amendment by Pub. L. 99–83 effective Oct. 1, 1985, see section 1301 of Pub. L. 99–83, set out as a note under section 2151–1 of this title.

§2795a. Use and transfer of items procured by Fund

(a) Authorization

No defense article or defense service acquired by the Secretary of Defense under this subchapter may be transferred to any foreign country or international organization unless such transfer is authorized by this chapter, the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.], or other law.

(b) Temporary use

The President may authorize the temporary use by the United States Armed Forces of defense articles and defense services acquired under this subchapter prior to their transfer to a foreign country or international organization, if such is necessary to meet national defense requirements and the United States Armed Forces bear the costs of operation and maintenance of such articles or services while in their use and the costs of restoration or replacement upon the termination of such use.

(c) Storage, maintenance and other costs

Except as provided in subsection (b) of this section, the Fund may be used to pay for storage, maintenance, and other costs related to the preservation and preparation for transfer of defense articles and defense services acquired under this subchapter prior to their transfer, as well as the administrative costs of the Department of Defense incurred in the acquisition of such items to the extent not reimbursed pursuant to section 2792(b) of this title.

(Pub. L. 90–629, ch. 5, §52, as added Pub. L. 97–113, title I, §108(a), Dec. 29, 1981, 95 Stat. 1523.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this Act", meaning Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1321, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

The Foreign Assistance Act of 1961, referred to in subsec. (a), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, which is classified principally to chapter 32 (§2151 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

DELEGATION OF FUNCTIONS

For delegation of functions of the President under subsec. (b) of this section, see section 1(s) of Ex. Ord. No. 13637, Mar. 8, 2013, 78 F.R. 16131, set out as a note under section 2751 of this title. Functions were previously delegated by Ex. Ord. No. 11958, which was formerly set out as a note under section 2751 of this title and was revoked, subject to a savings provision, by section 4 of Ex. Ord. No. 13637.

§2795b. Repealed. Pub. L. 104–164, title I, §145(a), July 21, 1996, 110 Stat. 1434

Section, Pub. L. 90–629, ch. 5, §53, as added Pub. L. 97–113, title I, §108(a), Dec. 29, 1981, 95 Stat. 1524; amended Pub. L. 99–433, title I, §110(h)(2), Oct. 1, 1986, 100 Stat. 1004, directed President to submit annual report to Congress on acquisitions of defense articles and services under this subchapter and required report to include estimate of likely procurements to be made through Special Defense Acquisition Fund.

SUBCHAPTER VI—LEASES OF DEFENSE ARTICLES AND LOAN AUTHORITY FOR COOPERATIVE RESEARCH AND DEVELOPMENT PURPOSES

§2796. Leasing authority

(a) Preconditions

The President may lease defense articles in the stocks of the Department of Defense to an eligible foreign country or international organization if—

(1) he determines that there are compelling foreign policy and national security reasons for providing such articles on a lease basis rather than on a sales basis under this chapter;

(2) he determines that the articles are not for the time needed for public use;

(3) the President first considers the effects of the lease of the articles on the national technology and industrial base, particularly the extent, if any, to which the lease reduces the opportunities of entities in the national technology and industrial base to sell new equipment to the country or

countries to which the articles are leased; and

(4) the country or international organization has agreed to pay in United States dollars all costs incurred by the United States Government in leasing such articles, including reimbursement for depreciation of such articles while leased, the costs of restoration or replacement if the articles are damaged while leased, and, if the articles are lost or destroyed while leased—

(A) in the event the United States intends to replace the articles lost or destroyed, the replacement cost (less any depreciation in the value) of the articles; or

(B) in the event the United States does not intend to replace the articles lost or destroyed, an amount not less than the actual value (less any depreciation in the value) specified in the lease agreement.

The requirement of paragraph (4) shall not apply to leases entered into for purposes of cooperative research or development, military exercises, or communications or electronics interface projects. The President may waive the requirement of paragraph (4) for reimbursement of depreciation for any defense article which has passed three-quarters of its normal service life if the President determines that to do so is important to the national security interest of the United States. The President may waive the requirement of paragraph (4) with respect to a lease which is made in exchange with the lessee for a lease on substantially reciprocal terms of defense articles for the Department of Defense, except that this waiver authority—

(A) may be exercised only if the President submits to the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate, in accordance with the regular notification procedures of those Committees, a detailed notification for each lease with respect to which the authority is exercised; and

(B) may be exercised only during the fiscal year [1] the current fiscal year and only with respect to one country, unless the Congress hereafter provides otherwise.

The preceding sentence does not constitute authorization of appropriations for payments by the United States for leased articles.

(b) Duration; termination

(1) Each lease agreement under this section shall be for a fixed duration which may not exceed (A) five years, and (B) a specified period of time required to complete major refurbishment work of the leased articles to be performed prior to the delivery of the leased articles, and shall provide that, at any time during the duration of the lease, the President may terminate the lease and require the immediate return of the leased articles.

(2) In this subsection, the term "major refurbishment work" means work for which the period of performance is 6 months or more.

(c) Applicable statutory authorities

Defense articles in the stocks of the Department of Defense may be leased or loaned to a foreign country or international organization only under the authority of this subchapter or chapter 2 of part II of the Foreign Assistance Act of 1961 [22 U.S.C. 2311 et seq.], and may not be leased to a foreign country or international organization under the authority of section 2667 of title 10.

(Pub. L. 90–629, ch. 6, §61, as added Pub. L. 97–113, title I, §109(a), Dec. 29, 1981, 95 Stat. 1524; amended Pub. L. 99–500, §147, Oct. 18, 1986, 100 Stat. 1783–351, and Pub. L. 99–591, §147, Oct. 30, 1986, 100 Stat. 3341–354; Pub. L. 100–202, §101(e) [title V, §556], Dec. 22, 1987, 101 Stat. 1329–131, 1329–170; Pub. L. 100–461, title V, §552, Oct. 1, 1988, 102 Stat. 2268–35; Pub. L. 101–167, title V, §550, Nov. 21, 1989, 103 Stat. 1235; Pub. L. 101–513, title V, §546, Nov. 5, 1990, 104 Stat. 2019; Pub. L. 102–145, §118, as added Pub. L. 102–266, §102, Apr. 1, 1992, 106 Stat. 93; Pub. L. 102–391, title V, §544, Oct. 6, 1992, 106 Stat. 1672; Pub. L. 103–87, title V, §524, Sept. 30, 1993, 107 Stat. 952; Pub. L. 103–236, title VII, §731(e), Apr. 30, 1994, 108 Stat. 503; Pub. L. 103–306, title V, §524, Aug. 23, 1994, 108 Stat. 1632; Pub. L. 104–107, title V, §524, Feb. 12, 1996, 110 Stat. 729; Pub. L. 104–164, title I, §§146, 153(a), July 21, 1996, 110 Stat. 1434, 1440; Pub. L.

104–208, div. A, title I, §101(c) [title V, §524], Sept. 30, 1996, 110 Stat. 3009–121, 3009–149; Pub. L. 105–118, title V, §524, Nov. 26, 1997, 111 Stat. 2412; Pub. L. 105–277, div. A, §101(d) [title V, §524], Oct. 21, 1998, 112 Stat. 2681–150, 2681–177; Pub. L. 107–228, div. B, title XII, §1233, Sept. 30, 2002, 116 Stat. 1433.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(1), was in the original "this Act", meaning Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1321, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

The Foreign Assistance Act of 1961, referred to in subsec. (c), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended. Chapter 2 of part II of that Act is classified generally to part II (§2311 et seq.) of subchapter II of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

CODIFICATION

Amendment by Pub. L. 102–145 is based on section 545 of H.R. 2621, One Hundred Second Congress, 1st Session, as passed by the House of Representatives on June 19, 1991, which was enacted into law by Pub. L. 102–145, §118, as added by Pub. L. 102–266, §102, Apr. 1, 1992, 106 Stat. 93. Section 118 of Pub. L. 102–145 provided that the authority and conditions provided in such section 545 shall be applicable to funds appropriated by Pub. L. 102–145 (and are hereby enacted) in lieu of the authority and conditions provided in section 546 of Pub. L. 101–513. See 1990, 1991, and 1992 Amendment notes below.

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

AMENDMENTS

2002—Subsec. (b). Pub. L. 107–228 designated existing provisions as par. (1), substituted "which may not exceed (A) five years, and (B) a specified period of time required to complete major refurbishment work of the leased articles to be performed prior to the delivery of the leased articles," for "of not to exceed five years", and added par. (2).

1998—Subsec. (a). Pub. L. 105–277 substituted "the current fiscal year" for "1998" in par. (B).

1997—Subsec. (a). Pub. L. 105–118 substituted "1998" for "1997" in par. (B).

1996—Subsec. (a). Pub. L. 104–164, §153(a), struck out ", or to any defense article which has passed three-quarters of its normal service life." after "electronics interface projects" in second sentence and inserted after second sentence "The President may waive the requirement of paragraph (4) for reimbursement of depreciation for any defense article which has passed three-quarters of its normal service life if the President determines that to do so is important to the national security interest of the United States."

Pub. L. 104–208 substituted "1997" for "1996" in par. (B).

Pub. L. 104–107 substituted "1996" for "1995" in par. (B).

Subsec. (a)(4). Pub. L. 104–164, §146, substituted "and, if the articles are lost or destroyed while leased—

"(A) in the event the United States intends to replace the articles lost or destroyed, the replacement cost (less any depreciation in the value) of the articles; or

"(B) in the event the United States does not intend to replace the articles lost or destroyed, an amount not less than the actual value (less any depreciation in the value) specified in the lease agreement" for "and the replacement cost (less any depreciation in the value) of the articles if the articles are lost or destroyed while leased".

1994—Subsec. (a). Pub. L. 103–306 substituted "1995" for "1994" in par. (B).

Pub. L. 103–236 struck out "and" at end of par. (2), added par. (3), redesignated former par. (3) as (4), and substituted "paragraph (4)" for "paragraph (3)" in two places in provisions following par. (4).

1993—Subsec. (a). Pub. L. 103–87 substituted "1994" for "1993" in par. (B).

1992—Subsec. (a). Pub. L. 102–391 substituted "1993" for "1992" in par. (B).

Pub. L. 102–266 added Pub. L. 102–145, §118. See 1991 Amendment note below.

1991—Subsec. (a). Pub. L. 102–145, §118, as added by Pub. L. 102–266, substituted "1992" for "1991" in par. (B). See Codification note above.

1990—Subsec. (a). Pub. L. 101–513 substituted "1991" for "1990" in par. (B).

1989—Subsec. (a). Pub. L. 101–167 substituted "1990" for "1989" in par. (B).

1988—Subsec. (a). Pub. L. 100–461 substituted "1989" for "1988" in par. (B).

1987—Subsec. (a). Pub. L. 100–202 substituted "1988" for "1987" in par. (B).

1986—Subsec. (a). Pub. L. 99–500 and Pub. L. 99–591 inserted provision authorizing the President to waive the requirements of par. (3) with respect to a lease which is made in exchange with the lessee for a lease

on substantially reciprocal terms of defense articles for the Department of Defense and providing exceptions to such waiver authority.

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–164, title I, §153(b), July 21, 1996, 110 Stat. 1440, provided that: "The third sentence of section 61(a) of the Arms Export Control Act, as added by subsection (a)(2) [22 U.S.C. 2796(a)], shall apply only with respect to a defense article leased on or after the date of the enactment of this Act [July 21, 1996]."

DELEGATION OF FUNCTIONS

For delegation of functions of the President under this section, see section 1(t) of Ex. Ord. No. 13637, Mar. 8, 2013, 78 F.R. 16131, set out as a note under section 2751 of this title. Functions were previously delegated by Ex. Ord. No. 11958, which was formerly set out as a note under section 2751 of this title and was revoked, subject to a savings provision, by section 4 of Ex. Ord. No. 13637.

[1] So in original. The words "the fiscal year" probably should not appear.

§2796a. Reports to Congress

(a) Written certification to Speaker of the House and chairmen of Congressional committees

Before entering into or renewing any agreement with a foreign country or international organization to lease any defense article under this subchapter, or to loan any defense article under chapter 2 of part II of the Foreign Assistance Act of 1961 [22 U.S.C. 2311 et seq.], for a period of one year or longer, the President shall transmit to the Speaker of the House of Representatives, the Committee on Foreign Affairs of the House of Representatives, and to the chairman of the Committee on Foreign Relations of the Senate and the chairman of the Committee on Armed Services of the Senate, a written certification which specifies—

(1) the country or international organization to which the defense article is to be leased or loaned;

(2) the type, quantity, and value (in terms of replacement cost) of the defense article to be leased or loaned;

(3) the terms and duration of the lease or loan; and

(4) a justification for the lease or loan, including an explanation of why the defense article is being leased or loaned rather than sold under this chapter.

(b) Waiver; determination of emergency

The President may waive the requirements of this section (and in the case of an agreement described in section 2796b of this title, may waive the provisions of that section) if he states in his certification, that an emergency exists which requires that the lease or loan be entered into immediately in the national security interests of the United States. If the President states in his certification that such an emergency exists, he shall set forth in the certification a detailed justification for his determination, including a description of the emergency circumstances which necessitate that the lease be entered into immediately and a discussion of the national security interests involved.

(c) Transmission of certification

The certification required by subsection (a) shall be transmitted—

(1) not less than 15 calendar days before the agreement is entered into or renewed in the case of an agreement with the North Atlantic Treaty Organization, any member country of that Organization or Australia, Japan, the Republic of Korea, Israel, or New Zealand; and

(2) not less than 30 calendar days before the agreement is entered into or renewed in the case of an agreement with any other organization or country.

(Pub. L. 90–629, ch. 6, §62, as added Pub. L. 97–113, title I, §109(a), Dec. 29, 1981, 95 Stat. 1525; amended Pub. L. 104–164, title I, §141(e)(1), July 21, 1996, 110 Stat. 1432; Pub. L. 110–429, title II, §203(b)(1), Oct. 15, 2008, 122 Stat. 4845; Pub. L. 111–266, title III, §301(1), Oct. 8, 2010, 124 Stat.

2804; Pub. L. 113–276, title II, §208(a)(4), Dec. 18, 2014, 128 Stat. 2993.)

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsec. (a), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended. Chapter 2 of part II of that Act is classified generally to part II (§2311 et seq.) of subchapter II of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

This chapter, referred to in subsec. (a)(4), was in the original "this Act", meaning Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1321, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

AMENDMENTS

2014—Subsec. (a). Pub. L. 113–276 inserted "the Committee on Foreign Affairs of the House of Representatives," after "the Speaker of the House of Representatives," in introductory provisions.

2010—Subsec. (c)(1). Pub. L. 111–266 inserted "Israel," before "or New Zealand".

2008—Subsec. (c)(1). Pub. L. 110–429 inserted "the Republic of Korea," before "or New Zealand".

1996—Subsec. (a). Pub. L. 104–164, §141(e)(1)(A), substituted "Before" for "Not less than 30 days before".

Subsec. (b). Pub. L. 104–164, §141(e)(1)(B), substituted "states in his certification" for "determines, and immediately reports to the Congress" and inserted at end "If the President states in his certification that such an emergency exists, he shall set forth in the certification a detailed justification for his determination, including a description of the emergency circumstances which necessitate that the lease be entered into immediately and a discussion of the national security interests involved."

Subsec. (c). Pub. L. 104–164, §141(e)(1)(C), added subsec. (c).

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–164 applicable with respect to certifications required to be submitted on or after July 21, 1996, see section 141(f) of Pub. L. 104–164, set out as a note under section 2753 of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of the President under subsec. (a) of this section, see section 1(t) of Ex. Ord. No. 13637, Mar. 8, 2013, 78 F.R. 16131, set out as a note under section 2751 of this title. Functions were previously delegated by Ex. Ord. No. 11958, which was formerly set out as a note under section 2751 of this title and was revoked, subject to a savings provision, by section 4 of Ex. Ord. No. 13637.

§2796b. Legislative review procedures

(a) Applicability

(1) Subject to paragraph (2), in the case of any agreement involving the lease under this subchapter, or the loan under chapter 2 of part II of the Foreign Assistance Act of 1961 [22 U.S.C. 2311 et seq.], to any foreign country or international organization for a period of one year or longer of any defense articles which are either (i) major defense equipment valued (in terms of its replacement cost less any depreciation in its value) at $14,000,000 or more, or (ii) defense articles valued (in terms of their replacement cost less any depreciation in their value) at $50,000,000 or more, the agreement may not be entered into or renewed if the Congress, within the 15-day or 30-day period specified in section 2796a(c)(1) or (2) of this title, as the case may be, enacts a joint resolution prohibiting the proposed lease or loan.

(2) In the case of an agreement described in paragraph (1) that is entered into with a member country of the North Atlantic Treaty Organization (NATO) or Australia, Japan, the Republic of Korea, Israel, or New Zealand, the limitations in paragraph (1) shall apply only if the agreement involves a lease or loan of—

(A) major defense equipment valued (in terms of its replacement cost less any depreciation in its value) at $25,000,000 or more; or

(B) defense articles valued (in terms of their replacement cost less any depreciation in their value) at $100,000,000 or more.

(b) Consideration of resolution

Any joint resolution under subsection (a) shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

(c) Highly privileged nature of resolution

For the purpose of expediting the consideration and enactment of joint resolutions under subsection (a), a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

(Pub. L. 90–629, ch. 6, §63, as added Pub. L. 97–113, title I, §109(a), Dec. 29, 1981, 95 Stat. 1525; amended Pub. L. 99–247, §1(d), Feb. 12, 1986, 100 Stat. 9; Pub. L. 104–164, title I, §141(e)(2), July 21, 1996, 110 Stat. 1433; Pub. L. 107–228, div. B, title XIV, §1405(a)(3), Sept. 30, 2002, 116 Stat. 1457; Pub. L. 110–429, title II, §203(b)(1), Oct. 15, 2008, 122 Stat. 4845; Pub. L. 111–266, title III, §301(1), Oct. 8, 2010, 124 Stat. 2804.)

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsec. (a)(1), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended. Chapter 2 of part II of that Act is classified generally to part II (§2311 et seq.) of subchapter II of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

Section 601(b) of the International Security Assistance and Arms Export Control Act of 1976, referred to in subsec. (b), is section 601(b) of Pub. L. 94–329, June 30, 1976, 90 Stat. 765, which made provision for expedited procedures in the Senate, and was not classified to the Code.

AMENDMENTS

2010—Subsec. (a)(2). Pub. L. 111–266 inserted "Israel," before "or New Zealand" in introductory provisions.

2008—Subsec. (a)(2). Pub. L. 110–429 inserted "the Republic of Korea," before "or New Zealand".

2002—Subsec. (a). Pub. L. 107–228 designated existing provisions as par. (1), substituted "Subject to paragraph (2), in the case of" for "In the case of", and added par. (2).

1996—Subsec. (a). Pub. L. 104–164 redesignated par. (1) as entire subsec. (a), substituted "the 15-day or 30-day period specified in section 2796a(c)(1) or (2) of this title, as the case may be" for "30 calendar days after receiving the certification with respect to that proposed agreement pursuant to section 2796a(a) of this title", and struck out par. (2) which read as follows: "This section shall not apply with respect to a loan or lease to the North Atlantic Treaty Organization, any member country of that Organization, Japan, Australia, or New Zealand."

1986—Subsec. (a)(1). Pub. L. 99–247, §1(d)(1), substituted "enacts a joint resolution prohibiting" for "adopts a concurrent resolution stating that it objects to".

Subsec. (b). Pub. L. 99–247, §1(d)(2), inserted "joint" before "resolution".

Subsec. (c). Pub. L. 99–247, §1(d)(3), substituted "enactment of joint resolutions" for "adoption of concurrent resolutions" and "such joint resolution" for "such resolution".

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–164 applicable with respect to certifications required to be submitted on or after July 21, 1996, see section 141(f) of Pub. L. 104–164, set out as a note under section 2753 of this title.

§2796c. Applicability of other statutory provisions

Any reference to sales of defense articles under this chapter in any provision of law restricting the countries or organizations to which such sales may be made shall be deemed to include a reference to leases of defense articles under this subchapter.

(Pub. L. 90–629, ch. 6, §64, as added Pub. L. 97–113, title I, §109(a), Dec. 29, 1981, 95 Stat. 1526.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 90–629, Oct. 22, 1968, 82

Stat. 1321, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

§2796d. Loan of materials, supplies, and equipment for research and development purposes

(a) Loan or gift transactions; written agreement; covered programs

(1) Except as provided in subsection (c), the Secretary of Defense may loan to a country that is a NATO or major non-NATO ally materials, supplies, or equipment for the purpose of carrying out a program of cooperative research, development, testing, or evaluation. The Secretary may accept as a loan or a gift from a country that is a NATO or major non-NATO ally materials, supplies, or equipment for such purpose.

(2) Each loan or gift transaction entered into by the Secretary under this section shall be provided for under the terms of a written agreement between the Secretary and the country concerned.

(3) A program of testing or evaluation for which the Secretary may loan materials, supplies, or equipment under this section includes a program of testing or evaluation conducted solely for the purpose of standardization, interchangeability, or technical evaluation if the country to which the materials, supplies, or equipment are loaned agrees to provide the results of the testing or evaluation to the United States without charge.

(b) Reimbursement of consumed materials, etc.

The materials, supplies, or equipment loaned to a country under this section may be expended or otherwise consumed in connection with any testing or evaluation program without a requirement for reimbursement of the United States if the Secretary—

(1) determines that the success of the research, development, test, or evaluation depends upon expending or otherwise consuming the materials, supplies, or equipment loaned to the country; and

(2) approves of the expenditure or consumption of such materials, supplies, or equipment.

(c) Prohibitions

The Secretary of Defense may not loan to a country under this section any material if the material is a strategic and critical material and if, at the time the loan is to be made, the quantity of the material in the National Defense Stockpile (provided for under section 98b of title 50) is less than the quantity of such material to be stockpiled, as determined by the President under section 98b(a) of title 50.

(d) "NATO ally" defined

For purposes of this section, the term "NATO ally" means a member country of the North Atlantic Treaty Organization (other than the United States).

(Pub. L. 90–629, ch. 6, §65, as added Pub. L. 100–456, div. A, title X, §1003(a), Sept. 29, 1988, 102 Stat. 2038; amended Pub. L. 102–25, title VII, §705(d)(2), Apr. 6, 1991, 105 Stat. 120; Pub. L. 104–164, title I, §147(a)(3)(B), July 21, 1996, 110 Stat. 1435.)

AMENDMENTS

1996—Subsec. (d). Pub. L. 104–164 struck out "or major non-NATO" after "NATO" and "or a foreign country other than a member nation of NATO designated as a major non-NATO ally under section 2350a(i)(3) of title 10" after "(other than the United States)".

1991—Subsec. (d). Pub. L. 102–25 substituted "section 2350a(i)(3) of title 10" for "section 2767a of this title".

SUBCHAPTER VII—CONTROL OF MISSILES AND MISSILE EQUIPMENT OR TECHNOLOGY

§2797. Licensing

(a) Establishment of list of controlled items

The Secretary of State, in consultation with the Secretary of Defense and the heads of other appropriate departments and agencies, shall establish and maintain, as part of the United States Munitions List, a list of all items on the MTCR Annex the export of which is not controlled under section 4605(l) of title 50.

(b) Referral of license applications

(1) A determination of the Secretary of State to approve a license for the export of an item on the list established under subsection (a) may be made only after the license application is referred to the Secretary of Defense.

(2) Within 10 days after a license is issued for the export of an item on the list established under subsection (a), the Secretary of State shall provide to the Secretary of Defense and the Secretary of Commerce the license application and accompanying documents issued to the applicant, to the extent that the relevant Secretary indicates the need to receive such application and documents.

(c) Information sharing

The Secretary of State shall establish a procedure for sharing information with appropriate officials of the intelligence community, as determined by the Director of Central Intelligence, and with other appropriate Government agencies, that will ensure effective monitoring of transfers of MTCR equipment or technology and other missile technology.

(d) Exports to space launch vehicle programs

Within 15 days after the issuance of a license (including any brokering license) for the export of items valued at less than $50,000,000 that are controlled under this chapter pursuant to United States obligations under the Missile Technology Control Regime and are goods or services that are intended to support the design, utilization, development, or production of a space launch vehicle system listed in Category I of the MTCR Annex, the Secretary shall transmit to the Congress a report describing the licensed export and rationale for approving such export, including the consistency of such export with United States missile nonproliferation policy. The requirement contained in the preceding sentence shall not apply to licenses for exports to countries that were members of the MTCR as of April 17, 1987.

(Pub. L. 90–629, ch. 7, §71, as added Pub. L. 101–510, div. A, title XVII, §1703, Nov. 5, 1990, 104 Stat. 1745; amended Pub. L. 103–236, title VII, §§714(a)(3)–(6), 735(c), Apr. 30, 1994, 108 Stat. 497, 506; Pub. L. 105–277, div. G, subdiv. A, title XII, §1225(a)(4)–(7), Oct. 21, 1998, 112 Stat. 2681–773; Pub. L. 106–280, title VII, §708(c), Oct. 6, 2000, 114 Stat. 863.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (d), was in the original "this Act", meaning Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1321, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

AMENDMENTS

2000—Subsec. (d). Pub. L. 106–280 substituted "Within 15 days after the issuance of a license (including any brokering license) for the export of items valued at less than $50,000,000 that are controlled under this chapter pursuant to United States obligations under the Missile Technology Control Regime and are goods or services that are intended to support the design, utilization, development, or production of a space launch vehicle system listed in Category I of the MTCR Annex," for "Within 15 days after the issuance of a license for the export of items valued at less than $14,000,000 that are controlled under this chapter pursuant to United States obligations under the Missile Technology Control Regime and intended to support the design, development, or production of a space launch vehicle system listed in Category I of the MTCR Annex,".

1998—Subsec. (a). Pub. L. 105–277, §1225(a)(4), struck out ", the Director of the Arms Control and Disarmament Agency," after "Secretary of Defense".

Subsec. (b)(1). Pub. L. 105–277, §1225(a)(5), struck out "and the Director of the United States Arms Control and Disarmament Agency" after "Secretary of Defense".

Subsec. (b)(2). Pub. L. 105–277, §1225(a)(6), substituted "and the Secretary of Commerce" for "the Secretary of Commerce, and the Director of the United States Arms Control and Disarmament Agency" and struck out "or the Director" after "the relevant Secretary".

Subsec. (c). Pub. L. 105–277, §1225(a)(7), struck out "with the Director of the United States Arms Control and Disarmament Agency," after "Director of Central Intelligence,".

1994—Subsec. (a). Pub. L. 103–236, §714(a)(3), inserted ", the Director of the Arms Control and Disarmament Agency," after "the Secretary of Defense".

Subsec. (b)(1). Pub. L. 103–236, §714(a)(4), inserted "and the Director of the United States Arms Control and Disarmament Agency" after "Secretary of Defense".

Subsec. (b)(2). Pub. L. 103–236, §714(a)(5), substituted ", the Secretary of Commerce, and the Director of the United States Arms Control and Disarmament Agency" for "and the Secretary of Commerce" and inserted "or the Director" after "relevant Secretary".

Subsec. (c). Pub. L. 103–236, §714(a)(6), inserted "with the Director of the United States Arms Control and Disarmament Agency," after "Director of Central Intelligence,".

Subsec. (d). Pub. L. 103–236, §735(c), added subsec. (d).

CHANGE OF NAME

Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108–458, set out as a note under section 3001 of Title 50, War and National Defense.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective Apr. 1, 1999, see section 1201 of Pub. L. 105–277, set out as an Effective Date note under section 6511 of this title.

DELEGATION OF FUNCTIONS

Memorandum of President of the United States, June 25, 1991, 56 F.R. 31041, which provided for delegation of certain functions of the President, was superseded by Ex. Ord. No. 12851, §7, June 11, 1993, 58 F.R. 33181, set out below.

POLICY AND SENSE OF CONGRESS ON NONPROLIFERATION OF BALLISTIC MISSILES

Pub. L. 108–375, div. A, title XII, §1212, Oct. 28, 2004, 118 Stat. 2087, provided that:

"(a) FINDINGS.—Congress makes the following findings:

"(1) Certain countries are seeking to acquire ballistic missiles and related technologies that could be used to attack the United States or place at risk United States interests, deployed members of the Armed Forces, and allies of the United States and other friendly foreign countries.

"(2) Certain countries continue to actively transfer or sell ballistic missile technologies in contravention of standards of behavior established by the United States and allies of the United States and other friendly foreign countries.

"(3) The spread of ballistic missiles and related technologies worldwide has been slowed by a combination of national and international export controls, forward-looking diplomacy, and multilateral interdiction activities to restrict the development and transfer of such missiles and technologies.

"(b) POLICY.—It is the policy of the United States to develop, support, and strengthen international accords and other cooperative efforts to curtail the proliferation of ballistic missiles and related technologies which could threaten the territory of the United States, allies of the United States and other friendly foreign countries, and deployed members of the Armed Forces of the United States with weapons of mass destruction.

"(c) SENSE OF CONGRESS.—It is the sense of Congress that—

"(1) the United States should vigorously pursue foreign policy initiatives aimed at eliminating, reducing, or retarding the proliferation of ballistic missiles and related technologies; and

"(2) the United States and the international community should continue to support and strengthen established international accords and other cooperative efforts, including United Nations Security Council Resolution 1540 (April 28, 2004) and the Missile Technology Control Regime, that are designed to eliminate, reduce, or retard the proliferation of ballistic missiles and related technologies."

MTCR REPORT TRANSMITTALS

Pub. L. 106–280, title VII, §704, Oct. 6, 2000, 114 Stat. 861, provided that: "For purposes of section 71(d) of the Arms Export Control Act (22 U.S.C. 2797(d)), the requirement that reports under that section shall be transmitted to the Congress shall be considered to be a requirement that such reports shall be transmitted to the Committee on International Relations [now Committee on Foreign Affairs] of the House of Representatives and the Committee on Foreign Relations and the Committee on Banking, Housing and Urban Affairs of the Senate."

REPORT ON MISSILE PROLIFERATION

Pub. L. 101–510, div. A, title XVII, §1704, Nov. 5, 1990, 104 Stat. 1749, directed President to submit to Congress reports on international transfers of aircraft which the Secretary had reason to believe may be intended to be used for delivery of nuclear, biological, or chemical weapons and international transfers of MTCR equipment or technology to any country seeking to acquire such equipment or technology, and which provided for contents of reports, countries excluded from such reports, classification of information, and definitions, prior to repeal by Pub. L. 102–190, div. A, title X, §1097(g), Dec. 5, 1991, 105 Stat. 1491.

EX. ORD. NO. 12851. ADMINISTRATION OF PROLIFERATION SANCTIONS, MIDDLE EAST ARMS CONTROL, AND RELATED CONGRESSIONAL REPORTING RESPONSIBILITIES

Ex. Ord. No. 12851, June 11, 1993, 58 F.R. 33181, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code; sections 1701–1703 of the National Defense Authorization Act for Fiscal Year 1991, Public Law 101–510 (50 U.S.C. App. 2402 note, 2405, 2410b [now 50 U.S.C. 4602 note, 4605, 4612]; 22 U.S.C. 2797–2797c); sections 303, 324 [105 Stat. 708, 711], and 401–405 [22 U.S.C. 2778 note] of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993, Public Law 102–138; sections 305–308 of the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991, Public Law 102–182 (50 U.S.C. App. 2410c [now 50 U.S.C. 4613]; 22 U.S.C. 2798, 5604–5606); sections 241 [105 Stat. 1326] and 1097 [former 22 U.S.C. 2751 note] of the National Defense Authorization Act for Fiscal Years 1992 and 1993, Public Law 102–190; and section 1364 of the National Defense Authorization Act for Fiscal Year 1993, Public Law 102–484 [106 Stat. 2561], I hereby order as follows:

SECTION 1. *Chemical and Biological Weapons Proliferation and Use Sanctions*. (a) *Chemical and Biological Weapons Proliferation*. The authority and duties vested in me by section 81 of the Arms Export Control Act, as amended ("AECA") (22 U.S.C. 2798), and section 11C of the Export Administration Act of 1979, as amended ("EAA") (50 U.S.C. App. 2410c) [now 50 U.S.C. 4613], are delegated to the Secretary of State, except that:

(1) The authority and duties vested in me to deny certain United States Government contracts, as provided in section 81(c)(1)(A) of the AECA and section 11C(c)(1)(A) of the EAA, pursuant to a determination made by the Secretary of State under section 81(a)(1) of the AECA or section 11C(a)(1) of the EAA, as well as the authority and duties vested in me to make the determinations provided for in section 81(c)(2) of the AECA and section 11C(c)(2) of the EAA are delegated to the Secretary of Defense. The Secretary of Defense shall notify the Secretary of the Treasury of determinations made pursuant to section 81(c)(2) of the AECA and section 11(c)(2) [11C(c)(2)] of the EAA.

(2) The authority and duties vested in me to prohibit certain imports as provided in section 81(c)(1)(B) of the AECA and section 11C(c)(1)(B) of the EAA, pursuant to a determination made by the Secretary of State under section 81(a)(1) of the AECA or section 11C(a)(1) of the EAA, and the obligation to implement the exceptions provided in section 81(c)(2) of the AECA and section 11C(c)(2) of the EAA, insofar as the exceptions affect imports of goods into the United States, are delegated to the Secretary of the Treasury.

(b) *Chemical and Biological Weapons Use*. The authority and duties vested in me by sections 306–308 of the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 (22 U.S.C. 5604–5606) are delegated to the Secretary of State, except that:

(1) The authority and duties vested in me to restrict certain imports as provided in section 307(b)(2)(D) [22 U.S.C. 5605(b)(2)(D)], pursuant to a determination made by the Secretary of State under section 307(b)(1), are delegated to the Secretary of the Treasury.

(2) The Secretary of State shall issue, transmit to the Congress, and notify the Secretary of the Treasury of, as appropriate, waivers based upon findings made pursuant to section 307(d)(1)(A)(ii).

(3) The authority and duties vested in me to prohibit certain exports as provided in section 307(a)(5) and section 307(b)(2)(C), pursuant to a determination made by the Secretary of State under section 306(a)(1) and section 307(b)(1), are delegated to the Secretary of Commerce.

(c) *Coordination Among Agencies*. The Secretaries designated in this section shall exercise all functions delegated to them by this section in consultation with the Secretary of State, the Secretary of Defense, the Secretary of the Treasury, the Secretary of Commerce, the Director of the Arms Control and Disarmament Agency, and other departments and agencies as appropriate, utilizing the appropriate interagency groups prior to any determination to exercise the prohibition authority delegated hereby.

SEC. 2. *Missile Proliferation Sanctions*. (a) *Arms Export Control Act*. The authority and duties vested in me by sections 72–73 of the AECA (22 U.S.C. 2797a–2797b) are delegated to the Secretary of State, except that:

(1) The authority and duties vested in me by section 72(a)(1) to make determinations with respect to violations by United States persons of the EAA [50 U.S.C. 4601 et seq.] are delegated to the Secretary of Commerce.

(2) The authority and duties vested in me to deny certain United States Government contracts as provided in sections 73(a)(2)(A)(i) and 73(a)(2)(B)(i), pursuant to a determination made by the Secretary of State under section 73(a)(1), as well as the authority and duties vested in me to make the findings provided in sections 72(c), 73(f), and 73(g)(1), are delegated to the Secretary of Defense. The Secretary of State shall issue, transmit to the Congress, and notify the Secretary of the Treasury of, as appropriate, any waivers based upon findings made pursuant to sections 72(c) and 73(f).

(3) The authority and duties vested in me to prohibit certain imports as provided in section 73(a)(2)(C), pursuant to a determination made by the Secretary of State under that section, and the obligation to implement the exceptions provided in section 73(g), are delegated to the Secretary of the Treasury.

(b) *Export Administration Act*. The authority and duties vested in me by section 11B of the EAA (50 U.S.C. App. 2410b) [now 50 U.S.C. 4612] are delegated to the Secretary of Commerce, except that:

(1) The authority and duties vested in me by sections 11B(a)(1)(A) (insofar as such section authorizes determinations with respect to violations by United States persons of the AECA [22 U.S.C. 2751 et seq.]), 11B(b)(1) (insofar as such section authorizes determinations regarding activities by foreign persons), and 11B(b)(5) are delegated to the Secretary of State.

(2) The authority and duties vested in me to make the findings provided in sections 11B(a)(3), 11B(b)(6), and 11B(b)(7)(A) are delegated to the Secretary of Defense. The Secretary of Commerce shall issue, transmit to the Congress, and notify the Secretary of the Treasury of, as appropriate, waivers based upon findings made pursuant to section 11B(a)(3). The Secretary of State shall issue, transmit to the Congress, and notify the Secretary of the Treasury of, as appropriate, waivers based upon findings made pursuant to section 11B(b)(6).

(3) The authority and duties vested in me to prohibit certain imports as provided in section 11B(b)(1), pursuant to a determination by the Secretary of State under that section, and the obligation to implement the exceptions provided in section 11B(b)(7), are delegated to the Secretary of the Treasury.

(c) *Reporting Requirements*. The authority and duties vested in me to make certain reports to the Congress as provided in section 1097 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 [former 22 U.S.C. 2751 note] and section 1364 of the National Defense Authorization Act for Fiscal Year 1993 [Pub. L. 102–484, 106 Stat. 2561] are delegated to the Secretary of State.

(d) *Coordination Among Agencies*. The Secretaries designated in this section shall exercise all functions delegated to them by this section in consultation with the Secretary of State, the Secretary of Defense, the Secretary of the Treasury, the Secretary of Commerce, the Director of the Arms Control and Disarmament Agency, and other departments and agencies as appropriate, utilizing the appropriate interagency groups prior to any determination to exercise prohibition authority delegated hereby.

SEC. 3. *Arms Control in the Middle East*. The certification and reporting functions vested in me by sections 403 and 404 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 [22 U.S.C. 2778 note], are delegated to the Secretary of State. The Secretary of State shall exercise these functions in consultation with the Secretary of Defense and other agencies as appropriate.

SEC. 4. *China and Weapons Proliferation*. The reporting functions regarding China and weapons proliferation vested in me by sections 303(a)(2) and 324 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 [Pub. L. 102–138, 105 Stat. 709, 711], are delegated to the Secretary of State. The Secretary of State shall exercise these functions in consultation with the Secretary of Defense and other agencies as appropriate.

SEC. 5. *Arrow Tactical Anti-Missile Program*. The authority and duties vested in me to make certain certifications as provided by section 241(b)(3)(C) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 [Pub. L. 102–190, 105 Stat. 1327] are delegated to the Secretary of State.

SEC. 6. *Delegations*. The functions delegated herein may be redelegated as appropriate. Regulations necessary to carry out the functions delegated herein may be issued as appropriate.

SEC. 7. *Priority*. This order supercedes the Memorandum of the President, "Delegation of Authority Regarding Missile Technology Proliferation," June 25, 1991. To the extent that this order is inconsistent with

any provisions of any prior Executive order or Presidential memorandum, this order shall control.

WILLIAM J. CLINTON.

[For abolition, transfer of functions, and treatment of references to United States Arms Control and Disarmament Agency, see section 6511 et seq. of this title.]

§2797a. Denial of transfer of missile equipment or technology by United States persons

(a) Sanctions

(1) If the President determines that a United States person knowingly—

(A) exports, transfers, or otherwise engages in the trade of any item on the MTCR Annex, in violation of the provisions of section 2778 of this title, section 4604 or 4605 of title 50 or any regulations or orders issued under any such provisions,

(B) conspires to or attempts to engage in such export, transfer, or trade, or

(C) facilitates such export, transfer, or trade by any other person,

then the President shall impose the applicable sanctions described in paragraph (2).

(2) The sanctions which apply to a United States person under paragraph (1) are the following:

(A) If the item on the MTCR Annex involved in the export, transfer, or trade is missile equipment or technology within category II of the MTCR Annex, then the President shall deny to such United States person for a period of 2 years—

(i) United States Government contracts relating to missile equipment or technology; and

(ii) licenses for the transfer of missile equipment or technology controlled under this chapter.

(B) If the item on the MTCR Annex involved in the export, transfer, or trade is missile equipment or technology within category I of the MTCR, then the President shall deny to such United States person for a period of not less than 2 years—

(i) all United States Government contracts, and

(ii) all export licenses and agreements for items on the United States Munitions List.

(b) Discretionary sanctions

In the case of any determination made pursuant to subsection (a), the President may pursue any penalty provided in section 2778(c) of this title.

(c) Presumption

In determining whether to apply sanctions under subsection (a) to a United States person involved in the export, transfer, or trade of an item on the MTCR Annex, it should be a rebuttable presumption that such item is designed for use in a missile listed in the MTCR Annex if the President determines that the final destination of the item is a country the government of which the Secretary of State has determined, for purposes of 4605(j)(1)(A) [1] of title 50, has repeatedly provided support for acts of international terrorism.

(d) Waiver

The President may waive the imposition of sanctions under subsection (a) with respect to a product or service if the President certifies to the Congress that—

(1) the product or service is essential to the national security of the United States; and

(2) such person is a sole source supplier of the product or service, the product or service is not available from any alternative reliable supplier, and the need for the product or service cannot be met in a timely manner by improved manufacturing processes or technological developments.

(Pub. L. 90–629, ch. 7, §72, as added Pub. L. 101–510, div. A, title XVII, §1703, Nov. 5, 1990, 104 Stat. 1745; amended Pub. L. 103–236, title VII, §734(a), Apr. 30, 1994, 108 Stat. 505.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(2)(A)(ii), was in the original "this Act", meaning Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1321, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

AMENDMENTS

1994—Subsecs. (c), (d). Pub. L. 103–236 added subsec. (c) and redesignated former subsec. (c) as (d).

DELEGATION OF FUNCTIONS

For delegation of certain functions of the President under this section, see Ex. Ord. No. 12851, §2(a), June 11, 1993, 58 F.R. 33181, set out as a note under section 2797 of this title.

[1] *So in original. Probably should be preceded by "section".*

§2797b. Transfers of missile equipment or technology by foreign persons

(a) Sanctions

(1) Subject to subsections (c) through (g),[1] if the President determines that a foreign person, after November 5, 1990, knowingly—

(A) exports, transfers, or otherwise engages in the trade of any MTCR equipment or technology that contributes to the acquisition, design, development, or production of missiles in a country that is not an MTCR adherent and would be, if it were United States-origin equipment or technology, subject to the jurisdiction of the United States under this chapter,

(B) conspires to or attempts to engage in such export, transfer, or trade, or

(C) facilitates such export, transfer, or trade by any other person,

or if the President has made a determination with respect to a foreign person under section 4612(b)(1) of title 50, then the President shall impose on that foreign person the applicable sanctions under paragraph (2).

(2) The sanctions which apply to a foreign person under paragraph (1) are the following:

(A) If the item involved in the export, transfer, or trade is within category II of the MTCR Annex, then the President shall deny, for a period of 2 years—

(i) United States Government contracts relating to missile equipment or technology; and

(ii) licenses for the transfer to such foreign person of missile equipment or technology controlled under this chapter.

(B) If the item involved in the export, transfer, or trade is within category I of the MTCR Annex, then the President shall deny, for a period of not less than 2 years—

(i) all United States Government contracts with such foreign person; and

(ii) licenses for the transfer to such foreign person of all items on the United States Munitions List.

(C) If, in addition to actions taken under subparagraphs (A) and (B), the President determines that the export, transfer, or trade has substantially contributed to the design, development, or production of missiles in a country that is not an MTCR adherent, then the President shall prohibit, for a period of not less than 2 years, the importation into the United States of products produced by that foreign person.

(b) Inapplicability with respect to MTCR adherents

(1) In general

Except as provided in paragraph (2), subsection (a) does not apply with respect to—

(A) any export, transfer, or trading activity that is authorized by the laws of an MTCR adherent, if such authorization is not obtained by misrepresentation or fraud; or

(B) any export, transfer, or trade of an item to an end user in a country that is an MTCR adherent.

(2) Limitation

Notwithstanding paragraph (1), subsection (a) shall apply to an entity subordinate to a government that engages in exports or transfers described in section 2295a(b)(3)(A) of this title.

(c) Effect of enforcement actions by MTCR adherents

Sanctions set forth in subsection (a) may not be imposed under this section on a person with respect to acts described in such subsection or, if such sanctions are in effect against a person on account of such acts, such sanctions shall be terminated, if an MTCR adherent is taking judicial or other enforcement action against that person with respect to such acts, or that person has been found by the government of an MTCR adherent to be innocent of wrongdoing with respect to such acts, and if the President certifies to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives that—

(1) for any judicial or other enforcement action taken by the MTCR adherent, such action has—

(A) been comprehensive; and

(B) been performed to the satisfaction of the United States; and

(2) with respect to any finding of innocence of wrongdoing, the United States is satisfied with the basis for such finding.

(d) Advisory opinions

The Secretary of State, in consultation with the Secretary of Defense and the Secretary of Commerce, may, upon the request of any person, issue an advisory opinion to that person as to whether a proposed activity by that person would subject that person to sanctions under this section. Any person who relies in good faith on such an advisory opinion which states that the proposed activity would not subject a person to such sanctions, and any person who thereafter engages in such activity, may not be made subject to such sanctions on account of such activity.

(e) Waiver and report to Congress

(1) In any case other than one in which an advisory opinion has been issued under subsection (d) stating that a proposed activity would not subject a person to sanctions under this section, the President may waive the application of subsection (a) to a foreign person if the President determines that such waiver is essential to the national security of the United States.

(2) In the event that the President decides to apply the waiver described in paragraph (1), the President shall so notify the Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives not less than 45 working days before issuing the waiver. Such notification shall include a report fully articulating the rationale and circumstances which led the President to apply the waiver.

(f) Presumption

In determining whether to apply sanctions under subsection (a) to a foreign person involved in the export, transfer, or trade of an item on the MTCR Annex, it should be a rebuttable presumption that such item is designed for use in a missile listed in the MTCR Annex if the President determines that the final destination of the item is a country the government of which the Secretary of State has determined, for purposes of 4605(j)(1)(A) [2] of title 50, has repeatedly provided support for acts of international terrorism.

(g) Additional waiver

The President may waive the imposition of sanctions under paragraph (1) on a person with respect to a product or service if the President certifies to the Congress that—

(1) the product or service is essential to the national security of the United States; and

(2) such person is a sole source supplier of the product or service, the product or service is not available from any alternative reliable supplier, and the need for the product or service cannot be

met in a timely manner by improved manufacturing processes or technological developments.

(h) Exceptions

The President shall not apply the sanction under this section prohibiting the importation of the products of a foreign person—

(1) in the case of procurement of defense articles or defense services—

(A) under existing contracts or subcontracts, including the exercise of options for production quantities to satisfy requirements essential to the national security of the United States;

(B) if the President determines that the person to which the sanctions would be applied is a sole source supplier of the defense articles and services, that the defense articles or services are essential to the national security of the United States, and that alternative sources are not readily or reasonably available; or

(C) if the President determines that such articles or services are essential to the national security of the United States under defense coproduction agreements or NATO Programs of Cooperation;

(2) to products or services provided under contracts entered into before the date on which the President publishes his intention to impose the sanctions; or

(3) to—

(A) spare parts,

(B) component parts, but not finished products, essential to United States products or production,

(C) routine services and maintenance of products, to the extent that alternative sources are not readily or reasonably available, or

(D) information and technology essential to United States products or production.

(Pub. L. 90–629, ch. 7, §73, as added Pub. L. 101–510, div. A, title XVII, §1703, Nov. 5, 1990, 104 Stat. 1746; amended Pub. L. 102–138, title III, §323(a), Oct. 28, 1991, 105 Stat. 711; Pub. L. 103–236, title VII, §§714(a)(7), 734(b), Apr. 30, 1994, 108 Stat. 497, 505; Pub. L. 104–106, div. A, title XIV, §1408(d), Feb. 10, 1996, 110 Stat. 494; Pub. L. 105–277, div. G, subdiv. A, title XII, §1225(a)(8), Oct. 21, 1998, 112 Stat. 2681–773; Pub. L. 106–113, div. B, §1000(a)(7) [div. B, title XI, §1136(b), (c)], Nov. 29, 1999, 113 Stat. 1536, 1501A–495; Pub. L. 113–276, title II, §208(a)(5), Dec. 18, 2014, 128 Stat. 2993.)

REFERENCES IN TEXT

Subsections (f) and (g), referred to in subsec. (a)(1), were redesignated subsecs. (g) and (h), respectively, by Pub. L. 103–236, title VII, §734(b)(1), Apr. 30, 1994, 108 Stat. 505.

This chapter, referred to in subsec. (a)(1)(A), (2)(A)(ii), was in the original "this Act", meaning Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1321, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

AMENDMENTS

2014—Subsec. (e)(2). Pub. L. 113–276 substituted "the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives" for "the Committee on National Security and the Committee on International Relations of the House of Representatives".

1999—Subsec. (b). Pub. L. 106–113, §1000(a)(7) [title XI, §1136(b)], designated existing provisions as par. (1), inserted par. heading, in introductory provisions, substituted "Except as provided in paragraph (2), subsection (a)" for "Subsection (a)", redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, and added par. (2).

Subsec. (c). Pub. L. 106–113, §1000(a)(7) [title XI, §1136(c)], inserted before period at end ", and if the President certifies to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives that—

"(1) for any judicial or other enforcement action taken by the MTCR adherent, such action has—

"(A) been comprehensive; and

"(B) been performed to the satisfaction of the United States; and

"(2) with respect to any finding of innocence of wrongdoing, the United States is satisfied with the basis for such finding".

1998—Subsec. (d). Pub. L. 105–277 substituted "and the Secretary of Commerce" for ", the Secretary of Commerce, and the Director of the United States Arms Control and Disarmament Agency".

1996—Subsec. (e)(2). Pub. L. 104–106 substituted "the Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on National Security and the Committee on International Relations of the House of Representatives" for "the Congress" and "45 working days" for "20 working days".

1994—Subsec. (d). Pub. L. 103–236, §714(a)(7), substituted ", the Secretary of Commerce, and the Director of the United States Arms Control and Disarmament Agency," for "and the Secretary of Commerce,".

Subsecs. (f) to (h). Pub. L. 103–236, §734(b), added subsec. (f) and redesignated former subsecs. (f) and (g) as (g) and (h), respectively.

1991—Subsec. (a)(1)(A). Pub. L. 102–138 inserted "acquisition," before "design,".

CHANGE OF NAME

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective Apr. 1, 1999, see section 1201 of Pub. L. 105–277, set out as an Effective Date note under section 6511 of this title.

DELEGATION OF FUNCTIONS

For delegation of certain functions of the President under this section, see Ex. Ord. No. 12851, §2(a), June 11, 1993, 58 F.R. 33181, set out as a note under section 2797 of this title.

SPACE COOPERATION WITH RUSSIAN PERSONS

Pub. L. 106–280, title VII, §708, Oct. 6, 2000, 114 Stat. 862, as amended by Pub. L. 109–112, §4(e)(2), Nov. 22, 2005, 119 Stat. 2370, provided that:

"(a) ANNUAL CERTIFICATION.—

"(1) REQUIREMENT.—The President shall submit each year to the appropriate committees of Congress [Committee on Foreign Relations of the Senate and Committee on Foreign Affairs of the House of Representatives], with respect to each Russian person described in paragraph (2), a certification that the reports required to be submitted to Congress during the preceding calendar year under section 2 of the Iran and Syria Nonproliferation Act (Public Law 106–178) [now Iran, North Korea, and Syria Nonproliferation Act] [50 U.S.C. 1701 note] do not identify that person on account of a transfer to Iran of goods, services, or technology described in section 2(a)(1)(B) of such Act.

"(2) APPLICABILITY.—The certification requirement under paragraph (1) applies with respect to each Russian person that, as of the date of the certification, is a party to an agreement relating to commercial cooperation on MTCR equipment or technology with a United States person pursuant to an arms export license that was issued at any time since January 1, 2000.

"(3) EXEMPTION.—No activity or transfer which specifically has been the subject of a Presidential determination pursuant to section 5(a)(1), (2), or (3) of the Iran and Syria Nonproliferation Act (Public Law 106–178) [now Iran, North Korea, and Syria Nonproliferation Act] [50 U.S.C. 1701 note] shall cause a Russian person to be considered as having been identified in the reports submitted during the preceding calendar year under section 2 of that Act for the purposes of the certification required under paragraph (1).

"(4) COMMENCEMENT AND TERMINATION OF REQUIREMENT.—

"(A) TIMES FOR SUBMISSION.—The President shall submit—

"(i) the first certification under paragraph (1) not later than 60 days after the date of the enactment of this Act [Oct. 6, 2000]; and

"(ii) each annual certification thereafter on the anniversary of the first submission.

"(B) TERMINATION OF REQUIREMENT.—No certification is required under paragraph (1) after termination of cooperation under the specific license, or 5 years after the date on which the first certification is submitted, whichever is the earlier date.

"(b) TERMINATION OF EXISTING LICENSES.—If, at any time after the issuance of a license under section 36(c) of the Arms Export Control Act [22 U.S.C. 2776(c)] relating to the use, development, or co-production of commercial rocket engine technology with a foreign person, the President determines that the foreign person has engaged in any action described in section 73(a)(1) of the Arms Export Control Act (22 U.S.C. 2797b(a)(1)) since the date the license was issued, the President may terminate the license.

"(c) REPORT ON EXPORT LICENSING OF MTCR ITEMS UNDER $50,000,000.—[Amended section 2797 of this title.]

"(d) DEFINITIONS.—In this section:

"(1) FOREIGN PERSON.—The term 'foreign person' has the meaning given the term in section 74(7) of the Arms Export Control Act (22 U.S.C. 2797c(7)).

"(2) MTCR EQUIPMENT OR TECHNOLOGY.—The term 'MTCR equipment or technology' has the meaning given the term in section 74(5) of the Arms Export Control Act (22 U.S.C. 2797c(5)).

"(3) PERSON.—The term 'person' has the meaning given the term in section 74(8) of the Arms Export Control Act (22 U.S.C. 2797c(8)).

"(4) UNITED STATES PERSON.—The term 'United States person' has the meaning given the term in section 74(6) of the Arms Export Control Act (22 U.S.C. 2797c(6))."

[1] *See References in Text note below.*

[2] *So in original. Probably should be preceded by "section".*

§2797b–1. Notification of admittance of MTCR adherents

(a) Policy report

Following any action by the United States that results in a country becoming a MTCR adherent, the President shall transmit promptly to the Congress a report which describes the rationale for such action, together with an assessment of that country's nonproliferation policies, practices, and commitments. Such report shall also include the text of any agreements or understandings between the United States and such country regarding the terms and conditions of the country's adherence to the MTCR.

(b) Intelligence assessment report

At such times that a report is transmitted pursuant to subsection (a), the Director of Central Intelligence shall promptly prepare and submit to the Congress a separate report containing any credible information indicating that the country described in subsection (a) has engaged in any activity identified under subparagraph (A), (B), or (C) of section 2797b(a)(1) of this title within the previous two years.

(Pub. L. 90–629, ch. 7, §73A, as added Pub. L. 103–236, title VII, §735(d), Apr. 30, 1994, 108 Stat. 506; amended Pub. L. 106–113, div. B, §1000(a)(7) [div. B, title XI, §1136(d)], Nov. 29, 1999, 113 Stat. 1536, 1501A–496.)

AMENDMENTS

1999—Pub. L. 106–113 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

CHANGE OF NAME

Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108–458, set out as a note under section 3001 of Title 50, War and National Defense.

DELEGATION OF FUNCTIONS

Functions of President under this section delegated to Secretary of State by Memorandum of President of the United States, July 26, 1994, 59 F.R. 40205, set out as a note under section 2370a of this title.

§2797b–2. Authority relating to MTCR adherents

Notwithstanding section 2797b(b) of this title, the President may take the actions under section 2797b(a)(2) of this title under the circumstances described in section 2797c(b)(2) of this title.

(Pub. L. 90–629, ch. 7, §73B, as added Pub. L. 106–113, div. B, §1000(a)(7) [div. B, title XI, §1137], Nov. 29, 1999, 113 Stat. 1536, 1501A–496).

§2797c. Definitions

(a) In general

For purposes of this subchapter—

(1) the term "missile" means a category I system as defined in the MTCR Annex, and any other unmanned delivery system of similar capability, as well as the specially designed production facilities for these systems;

(2) the term "Missile Technology Control Regime" or "MTCR" means the policy statement, between the United States, the United Kingdom, the Federal Republic of Germany, France, Italy, Canada, and Japan, announced on April 16, 1987, to restrict sensitive missile-relevant transfers based on the MTCR Annex, and any amendments thereto;

(3) the term "MTCR adherent" means a country that participates in the MTCR or that, pursuant to an international understanding to which the United States is a party, controls MTCR equipment or technology in accordance with the criteria and standards set forth in the MTCR;

(4) the term "MTCR Annex" means the Guidelines and Equipment and Technology Annex of the MTCR, and any amendments thereto;

(5) the terms "missile equipment or technology" and "MTCR equipment or technology" mean those items listed in category I or category II of the MTCR Annex;

(6) the term "United States person" has the meaning given that term in section 4618(2) of title 50;

(7) the term "foreign person" means any person other than a United States person;

(8)(A) the term "person" means a natural person as well as a corporation, business association, partnership, society, trust, any other nongovernmental entity, organization, or group, and any governmental entity operating as a business enterprise, and any successor of any such entity; and

(B) in the case of countries with non-market economies (excluding former members of the Warsaw Pact), the term "person" means—

(i) all activities of that government relating to the development or production of any missile equipment or technology; and

(ii) all activities of that government affecting the development or production of electronics, space systems or equipment, and military aircraft; and

(9) the term "otherwise engaged in the trade of" means, with respect to a particular export or transfer, to be a freight forwarder or designated exporting agent, or a consignee or end user of the item to be exported or transferred.

(b) International understanding defined

For purposes of subsection (a)(3), as it relates to any international understanding concluded with the United States after January 1, 2000, the term "international understanding" means—

(1) any specific agreement by a country not to export, transfer, or otherwise engage in the trade of any MTCR equipment or technology that contributes to the acquisition, design, development, or production of missiles in a country that is not an MTCR adherent and would be, if it were United States-origin equipment or technology, subject to the jurisdiction of the United States under this chapter; or

(2) any specific understanding by a country that, notwithstanding section 2797b(b) of this title, the United States retains the right to take the actions under section 2797b(a)(2) of this title in the case of any export or transfer of any MTCR equipment or technology that contributes to the acquisition, design, development, or production of missiles in a country that is not an MTCR adherent and would be, if it were United States-origin equipment or technology, subject to the jurisdiction of the United States under this chapter.

(Pub. L. 90–629, ch. 7, §74, as added Pub. L. 101–510, div. A, title XVII, §1703, Nov. 5, 1990, 104 Stat. 1748; amended Pub. L. 102–138, title III, §323(b), (c), Oct. 28, 1991, 105 Stat. 711; Pub. L. 106–113, div. B, §1000(a)(7) [div. B, title XI, §1136(a)], Nov. 29, 1999, 113 Stat. 1536, 1501A–495.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original "this Act", meaning Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1321, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

AMENDMENTS

1999—Pub. L. 106–113 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

1991—Par. (8)(B). Pub. L. 102–138, §323(b), substituted "countries with non-market economies (excluding former members of the Warsaw Pact)" for "countries where it may be impossible to identify a specific governmental entity referred to in subparagraph (A)".

Par. (8)(B)(ii). Pub. L. 102–138, §323(c), substituted "electronics, space systems or equipment, and military aircraft" for "aircraft, electronics, and space systems or equipment".

SUBCHAPTER VIII—CHEMICAL OR BIOLOGICAL WEAPONS PROLIFERATION

§2798. Sanctions against certain foreign persons

(a) Imposition of sanctions

(1) Determination by the President

Except as provided in subsection (b)(2), the President shall impose both of the sanctions described in subsection (c) if the President determines that a foreign person, on or after October 28, 1991, has knowingly and materially contributed—

(A) through the export from the United States of any goods or technology that are subject to the jurisdiction of the United States,

(B) through the export from any other country of any goods or technology that would be, if they were United States goods or technology, subject to the jurisdiction of the United States, or

(C) through any other transaction not subject to sanctions pursuant to the Export Administration Act of 1979 [50 U.S.C. 4601 et seq.],

to the efforts by any foreign country, project, or entity described in paragraph (2) to use, develop, produce, stockpile, or otherwise acquire chemical or biological weapons.

(2) Countries, projects, or entities receiving assistance

Paragraph (1) applies in the case of—

(A) any foreign country that the President determines has, at any time after January 1, 1980—

(i) used chemical or biological weapons in violation of international law;

(ii) used lethal chemical or biological weapons against its own nationals; or

(iii) made substantial preparations to engage in the activities described in clause (i) or (ii);

(B) any foreign country whose government is determined for purposes of section 6(j) of the Export Administration Act of 1979 [50 U.S.C. 4605(j)] to be a government that has repeatedly provided support for acts of international terrorism; or

(C) any other foreign country, project, or entity designated by the President for purposes of this section.

(3) Persons against whom sanctions are to be imposed

Sanctions shall be imposed pursuant to paragraph (1) on—

(A) the foreign person with respect to which the President makes the determination described in that paragraph;

(B) any successor entity to that foreign person;

(C) any foreign person that is a parent or subsidiary of that foreign person if that parent or subsidiary knowingly assisted in the activities which were the basis of that determination; and

(D) any foreign person that is an affiliate of that foreign person if that affiliate knowingly assisted in the activities which were the basis of that determination and if that affiliate is controlled in fact by that foreign person.

(b) Consultations with and actions by foreign government of jurisdiction

(1) Consultations

If the President makes the determinations described in subsection (a)(1) with respect to a foreign person, the Congress urges the President to initiate consultations immediately with the government with primary jurisdiction over that foreign person with respect to the imposition of sanctions pursuant to this section.

(2) Actions by government of jurisdiction

In order to pursue such consultations with that government, the President may delay imposition of sanctions pursuant to this section for a period of up to 90 days. Following these consultations, the President shall impose sanctions unless the President determines and certifies to the Congress that that government has taken specific and effective actions, including appropriate penalties, to terminate the involvement of the foreign person in the activities described in subsection (a)(1). The President may delay imposition of sanctions for an additional period of up to 90 days if the President determines and certifies to the Congress that that government is in the process of taking the actions described in the preceding sentence.

(3) Report to Congress

The President shall report to the Congress, not later than 90 days after making a determination under subsection (a)(1), on the status of consultations with the appropriate government under this subsection, and the basis for any determination under paragraph (2) of this subsection that such government has taken specific corrective actions.

(c) Sanctions

(1) Description of sanctions

The sanctions to be imposed pursuant to subsection (a)(1) are, except as provided in paragraph (2) of this subsection, the following:

(A) Procurement sanction

The United States Government shall not procure, or enter into any contract for the procurement of, any goods or services from any person described in subsection (a)(3).

(B) Import sanctions

The importation into the United States of products produced by any person described in subsection (a)(3) shall be prohibited.

(2) Exceptions

The President shall not be required to apply or maintain sanctions under this section—

(A) in the case of procurement of defense articles or defense services—

(i) under existing contracts or subcontracts, including the exercise of options for production quantities to satisfy United States operational military requirements;

(ii) if the President determines that the person or other entity to which the sanctions would otherwise be applied is a sole source supplier of the defense articles or services, that the defense articles or services are essential, and that alternative sources are not readily or

reasonably available; or

(iii) if the President determines that such articles or services are essential to the national security under defense coproduction agreements;

(B) to products or services provided under contracts entered into before the date on which the President publishes his intention to impose sanctions;

(C) to—

(i) spare parts,

(ii) component parts, but not finished products, essential to United States products or production, or

(iii) routine servicing and maintenance of products, to the extent that alternative sources are not readily or reasonably available;

(D) to information and technology essential to United States products or production; or

(E) to medical or other humanitarian items.

(d) Termination of sanctions

The sanctions imposed pursuant to this section shall apply for a period of at least 12 months following the imposition of sanctions and shall cease to apply thereafter only if the President determines and certifies to the Congress that reliable information indicates that the foreign person with respect to which the determination was made under subsection (a)(1) has ceased to aid or abet any foreign government, project, or entity in its efforts to acquire chemical or biological weapons capability as described in that subsection.

(e) Waiver

(1) Criterion for waiver

The President may waive the application of any sanction imposed on any person pursuant to this section, after the end of the 12-month period beginning on the date on which that sanction was imposed on that person, if the President determines and certifies to the Congress that such waiver is important to the national security interests of the United States.

(2) Notification of and report to Congress

If the President decides to exercise the waiver authority provided in paragraph (1), the President shall so notify the Congress not less than 20 days before the waiver takes effect. Such notification shall include a report fully articulating the rationale and circumstances which led the President to exercise the waiver authority.

(f) "Foreign person" defined

For the purposes of this section, the term "foreign person" means—

(1) an individual who is not a citizen of the United States or an alien admitted for permanent residence to the United States; or

(2) a corporation, partnership, or other entity which is created or organized under the laws of a foreign country or which has its principal place of business outside the United States.

(Pub. L. 90–629, ch. 8, §81, as added and amended Pub. L. 102–182, title III, §§305(b), 309(b)(2), Dec. 4, 1991, 105 Stat. 1250, 1258.)

REFERENCES IN TEXT

The Export Administration Act of 1979, referred to in subsec. (a)(1)(C), is Pub. L. 96–72, Sept. 29, 1979, 93 Stat. 503, which is classified principally to chapter 56 (§4601 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Tables.

PRIOR PROVISIONS

A prior subchapter VIII, consisting of former section 2798, as added by Pub. L. 102–138, title V, §505(b), Oct. 28, 1991, 105 Stat. 727, was substantially identical to subchapter VIII, as added by section 305(b) of Pub. L. 102–182, prior to repeal by Pub. L. 102–182, title III, §309(a), Dec. 4, 1991, 105 Stat. 1258.

AMENDMENTS

1991—Subsec. (a)(1). Pub. L. 101–182, §309(b)(2), substituted "October 28, 1991" for reference to the "date of the enactment of this section" which was enacted Dec. 4, 1991.

DELEGATION OF FUNCTIONS

For delegation of certain functions of the President under this section, see Ex. Ord. No. 12851, §1(a), June 11, 1993, 58 F.R. 33181, set out as a note under section 2797 of this title.

SUBCHAPTER IX—TRANSFER OF CERTAIN CFE TREATY-LIMITED EQUIPMENT TO NATO MEMBERS

§2799. Purpose

The purpose of this subchapter is to authorize the President to support, consistent with the CFE Treaty, a NATO equipment transfer program that will—

(1) enhance NATO's forces,

(2) increase NATO standardization and interoperability, and

(3) better distribute defense burdens within the NATO alliance.

(Pub. L. 90–629, ch. 9, §91, as added Pub. L. 102–228, §2, Dec. 12, 1991, 105 Stat. 1691.)

§2799a. CFE Treaty obligations

The authorities provided in this subchapter shall be exercised consistent with the obligations incurred by the United States in connection with the CFE Treaty.

(Pub. L. 90–629, ch. 9, §92, as added Pub. L. 102–228, §2, Dec. 12, 1991, 105 Stat. 1691.)

§2799b. Authorities

(a) General authority

The President may transfer to any NATO/CFE country, in accordance with NATO plans, defense articles—

(1) that are battle tanks, armoured combat vehicles, or artillery included within the CFE Treaty's definition of "conventional armaments and equipment limited by the Treaty";

(2) that were, as of the date of signature of the CFE Treaty, in the stocks of the Department of Defense and located in the CFE Treaty's area of application; and

(3) that the President determines are not needed by United States military forces within the CFE Treaty's area of application.

(b) Acceptance of NATO assistance in eliminating direct costs of transfers

In order to eliminate direct costs of facilitating transfers of defense articles under subsection (a), the United States may utilize services provided by NATO or any NATO/CFE country, including inspection, repair, or transportation services with respect to defense articles so transferred.

(c) Acceptance of NATO assistance in meeting certain United States obligations

In order to facilitate United States compliance with the CFE Treaty-mandated obligations for destruction of conventional armaments and equipment limited by the CFE Treaty, the United States may utilize services or funds provided by NATO or any NATO/CFE country.

(d) Authority to transfer on grant basis

Defense articles may be transferred under subsection (a) without cost to the recipient country.

(e) Third country transfers restrictions

For purposes of sections 2753(a)(2), 2753(a)(3), 2753(c), and 2753(d) of this title, defense articles transferred under subsection (a) shall be deemed to have been sold under this chapter.

(f) Maintenance of military balance in Eastern Mediterranean

The President shall ensure that transfers by the United States under subsection (a), taken together with transfers by other NATO/CFE countries in implementing the CFE Treaty, are of such valuations so as to be consistent with the United States policy, embodied in section 2373 of this title, of maintaining the military balance in the Eastern Mediterranean.

(g) Expiration of authority

(1) In general

Except as provided in paragraph (2), the authority of subsection (a) expires at the end of the 40-month period beginning on the date on which the CFE Treaty enters into force.

(2) Transition rule

Paragraph (1) does not apply with respect to a transfer of defense articles for which notification under section 2799c(a) of this title is submitted before the end of the period described in that paragraph.

(Pub. L. 90–629, ch. 9, §93, as added Pub. L. 102–228, §2, Dec. 12, 1991, 105 Stat. 1691.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (e), was in the original "this Act", meaning Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1321, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

DELEGATION OF FUNCTIONS

Memorandum of President of the United States, Feb. 13, 1992, 57 F.R. 6663, provided:

Memorandum for the Secretary of State and the Secretary of Defense

By virtue of the authority vested in me by the Constitution and laws of the United States of America, including section 301 of title 3 of the United States Code, I hereby delegate to the Secretary of Defense the functions vested in me by section 93(a) and section 94 of the Arms Export Control Act, as amended (the "Act") [22 U.S.C. 2799b(a), 2799c], and to the Secretary of State the functions vested in me by section 93(f) of the Act. Consistent with section 2 of the Act [22 U.S.C. 2752], transfers of defense articles under section 93(a) shall be subject to the policy direction of the Secretary of State, including the determination of whether such transfers shall occur.

The Secretary of State is authorized and directed to publish this memorandum in the Federal Register.

GEORGE BUSH.

§2799c. Notifications and reports to Congress

(a) Notifications

Not less than 15 days before transferring any defense articles pursuant to section 2799b(a) of this title, the President shall notify the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate in accordance with the procedures applicable to reprogramming notifications pursuant to section 2394–1 of this title.

(b) Annual reports

Not later than February 1 each year, the President shall submit to the Committee on Foreign Affairs and the Committee on Armed Services of the House of Representatives and the Committee on Foreign Relations and the Committee on Armed Services of the Senate a report that—

(1) lists all transfers made to each recipient NATO/CFE country by the United States under section 2799b(a) of this title during the preceding calendar year;

(2) describes how those transfers further the purposes described in paragraphs (1) through (3) of

section 2799 of this title; and

(3) lists, on a country-by-country basis, all transfers to another country of conventional armaments and equipment limited by the CFE Treaty—

(A) by each NATO/CFE country (other than the United States) in implementing the CFE Treaty, and

(B) by each country of the Eastern Group of States Parties in implementing the CFE Treaty.

(Pub. L. 90–629, ch. 9, §94, as added Pub. L. 102–228, §2, Dec. 12, 1991, 105 Stat. 1692; amended Pub. L. 103–199, title IV, §402(1), Dec. 17, 1993, 107 Stat. 2324.)

AMENDMENTS

1993—Subsec. (b)(3)(B). Pub. L. 103–199 substituted "country of the Eastern Group of States Parties" for "Warsaw Pact country".

DELEGATION OF FUNCTIONS

Functions of President under this section delegated to Secretary of Defense by Memorandum of President of the United States, Feb. 13, 1992, 57 F.R. 6663, set out as a note under section 2799b of this title.

§2799d. Definitions

As used in this subchapter—

(1) the term "CFE Treaty" means the Treaty on Conventional Armed Forces in Europe (signed at Paris, November 19, 1990);

(2) the term "conventional armaments and equipment limited by the CFE Treaty" has the same meaning as the term "conventional armaments and equipment limited by the Treaty" does under paragraph 1(J) of article II of the CFE Treaty;

(3) the term "NATO" means the North Atlantic Treaty Organization;

(4) the term "NATO/CFE country" means a member country of NATO that is a party to the CFE Treaty and is listed in paragraph 1(A) of article II of the CFE Treaty within the group of States Parties that signed or acceded to the Treaty of Brussels of 1948 or the Treaty of Washington of 1949 (the North Atlantic Treaty); and

(5) the term "country of the Eastern Group of States Parties" means a country that is listed in paragraph 1(A) of article II of the CFE Treaty within the group of States Parties that signed the Treaty of Warsaw of 1955 or a successor state to such a country.

(Pub. L. 90–629, ch. 9, §95, as added Pub. L. 102–228, §2, Dec. 12, 1991, 105 Stat. 1693; amended Pub. L. 103–199, title IV, §402(2), Dec. 17, 1993, 107 Stat. 2324.)

AMENDMENTS

1993—Par. (5). Pub. L. 103–199 substituted "country of the Eastern Group of States Parties" for "Warsaw Pact country" and inserted before period at end "or a successor state to such a country".

SUBCHAPTER X—NUCLEAR NONPROLIFERATION CONTROLS

§2799aa. Nuclear enrichment transfers

(a) Prohibitions; safeguards and management

Except as provided in subsection (b) of this section, no funds made available to carry out the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.] or this chapter may be used for the purpose of providing economic assistance (including assistance under chapter 4 of part II of the Foreign Assistance Act of 1961 [22 U.S.C. 2346 et seq.]), providing military assistance or grant military education and training, providing assistance under chapter 6 of part II of that Act [22 U.S.C. 2348 et seq.], or extending military credits or making guarantees, to any country which the President

determines delivers nuclear enrichment equipment, materials, or technology to any other country on or after August 4, 1977, or receives such equipment, materials, or technology from any other country on or after August 4, 1977, unless before such delivery—

(1) the supplying country and receiving country have reached agreement to place all such equipment, materials, or technology, upon delivery, under multilateral auspices and management when available; and

(2) the recipient country has entered into an agreement with the International Atomic Energy Agency to place all such equipment, materials, technology, and all nuclear fuel and facilities in such country under the safeguards system of such Agency.

(b) Certification by President of necessity of continued assistance; disapproval by Congress

(1) Notwithstanding subsection (a) of this section, the President may furnish assistance which would otherwise be prohibited under such subsection if he determines and certifies in writing to the Speaker of the House of Representatives, the Committee on Foreign Affairs of the House of Representatives, and the Committee on Foreign Relations of the Senate that—

(A) the termination of such assistance would have a serious adverse effect on vital United States interests; and

(B) he has received reliable assurances that the country in question will not acquire or develop nuclear weapons or assist other nations in doing so.

Such certification shall set forth the reasons supporting such determination in each particular case.

(2)(A) A certification under paragraph (1) of this subsection shall take effect on the date on which the certification is received by the Congress. However, if, within thirty calendar days after receiving this certification, the Congress enacts a joint resolution stating in substance that the Congress disapproves the furnishing of assistance pursuant to the certification, then upon the enactment of that resolution the certification shall cease to be effective and all deliveries of assistance furnished under the authority of that certification shall be suspended immediately.

(B) Any joint resolution under this paragraph shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

(Pub. L. 90–629, ch. 10, §101, as added Pub. L. 103–236, title VIII, §826(a), Apr. 30, 1994, 108 Stat. 515; amended Pub. L. 113–276, title II, §208(a)(1), Dec. 18, 2014, 128 Stat. 2992.)

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsec. (a), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, which is classified principally to chapter 32 (§2151 et seq.) of this title. Chapters 4 and 6 of part II of the Act are classified generally to parts IV (§2346 et seq.) and VI (§2348 et seq.), respectively, of subchapter II of chapter 32 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

This chapter, referred to in subsec. (a), was in the original "this Act", meaning Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1321, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

Section 601(b) of the International Security Assistance and Arms Export Control Act of 1976, referred to in subsec. (b)(2)(B), is section 601(b) of Pub. L. 94–329, title VI, June 30, 1976, 90 Stat. 765, which is not classified to the Code.

REFERENCES TO SECTIONS 2429 AND 2429A OF THIS TITLE DEEMED TO BE REFERENCES TO SECTIONS 2799AA AND 2799AA–1 OF THIS TITLE

Pub. L. 103–236, title VIII, §826(c), Apr. 30, 1994, 108 Stat. 519, provided that: "Any reference in law as of the date of enactment of this Act [Apr. 30, 1994] to section 669 or 670 of the Foreign Assistance Act of 1961 [former 22 U.S.C. 2429, 2429a] shall, after such date, be deemed to be a reference to section 101 or 102, as the case may be, of the Arms Export Control Act [22 U.S.C. 2799aa, 2799aa–1]."

AMENDMENTS

2014—Subsec. (b)(1). Pub. L. 113–276 substituted "the Speaker of the House of Representatives, the Committee on Foreign Affairs of the House of Representatives, and" for "the Speaker of the House of

Representatives and" in introductory provisions.

EFFECTIVE DATE

Subchapter effective 60 days after Apr. 30, 1994, see section 831 of Pub. L. 103–236, set out as a note under section 6301 of this title.

WAIVER OF SANCTIONS

Sanctions contained in this section waived in certain regards with respect to India by Determination of President of the United States, No. 2000–18, Mar. 16, 2000, 65 F.R. 16297, set out as a note under section 2799aa–1 of this title.

Sanctions contained in this section waived in certain regards with respect to India and Pakistan by Determination of President of the United States, No. 2000–4, Oct. 27, 1999, 64 F.R. 60649, set out as a note under section 2799aa–1 of this title.

§2799aa–1. Nuclear reprocessing transfers, illegal exports for nuclear explosive devices, transfers of nuclear explosive devices, and nuclear detonations

(a) Prohibitions on assistance to countries involved in transfer of nuclear reprocessing equipment, materials, or technology; exceptions; procedures applicable

(1) Except as provided in paragraph (2) of this subsection, no funds made available to carry out the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.] or this chapter may be used for the purpose of providing economic assistance (including assistance under chapter 4 of part II of the Foreign Assistance Act of 1961 [22 U.S.C. 2346 et seq.]), providing military assistance or grant military education and training, providing assistance under chapter 6 of part II of that Act [22 U.S.C. 2348 et seq.], or extending military credits or making guarantees, to any country which the President determines—

(A) delivers nuclear reprocessing equipment, materials, or technology to any other country on or after August 4, 1977, or receives such equipment, materials, or technology from any other country on or after August 4, 1977 (except for the transfer of reprocessing technology associated with the investigation, under international evaluation programs in which the United States participates, of technologies which are alternatives to pure plutonium reprocessing), or

(B) is a non-nuclear-weapon state which, on or after August 8, 1985, exports illegally (or attempts to export illegally) from the United States any material, equipment, or technology which would contribute significantly to the ability of such country to manufacture a nuclear explosive device, if the President determines that the material, equipment, or technology was to be used by such country in the manufacture of a nuclear explosive device.

For purposes of clause (B), an export (or attempted export) by a person who is an agent of, or is otherwise acting on behalf of or in the interests of, a country shall be considered to be an export (or attempted export) by that country.

(2) Notwithstanding paragraph (1) of this subsection, the President in any fiscal year may furnish assistance which would otherwise be prohibited under that paragraph if he determines and certifies in writing during that fiscal year to the Speaker of the House of Representatives, the Committee on Foreign Affairs of the House of Representatives, and the Committee on Foreign Relations of the Senate that the termination of such assistance would be seriously prejudicial to the achievement of United States nonproliferation objectives or otherwise jeopardize the common defense and security. The President shall transmit with such certification a statement setting forth the specific reasons therefor.

(3)(A) A certification under paragraph (2) of this subsection shall take effect on the date on which the certification is received by the Congress. However, if, within 30 calendar days after receiving this certification, the Congress enacts a joint resolution stating in substance that the Congress disapproves the furnishing of assistance pursuant to the certification, then upon the enactment of that resolution the certification shall cease to be effective and all deliveries of assistance furnished under the authority of that certification shall be suspended immediately.

(B) Any joint resolution under this paragraph shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

(b) Prohibitions on assistance to countries involved in transfer or use of nuclear explosive devices; exceptions; procedures applicable

(1) Except as provided in paragraphs (4), (5), and (6), in the event that the President determines that any country, after the effective date of part B of the Nuclear Proliferation Prevention Act of 1994—

(A) transfers to a non-nuclear-weapon state a nuclear explosive device,

(B) is a non-nuclear-weapon state and either—

(i) receives a nuclear explosive device, or

(ii) detonates a nuclear explosive device,

(C) transfers to a non-nuclear-weapon state any design information or component which is determined by the President to be important to, and known by the transferring country to be intended by the recipient state for use in, the development or manufacture of any nuclear explosive device, or

(D) is a non-nuclear-weapon state and seeks and receives any design information or component which is determined by the President to be important to, and intended by the recipient state for use in, the development or manufacture of any nuclear explosive device,

then the President shall forthwith report in writing his determination to the Congress and shall forthwith impose the sanctions described in paragraph (2) against that country.

(2) The sanctions referred to in paragraph (1) are as follows:

(A) The United States Government shall terminate assistance to that country under the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.], except for humanitarian assistance or food or other agricultural commodities.

(B) The United States Government shall terminate—

(i) sales to that country under this chapter of any defense articles, defense services, or design and construction services, and

(ii) licenses for the export to that country of any item on the United States Munitions List.

(C) The United States Government shall terminate all foreign military financing for that country under this chapter.

(D) The United States Government shall deny to that country any credit, credit guarantees, or other financial assistance by any department, agency, or instrumentality of the United States Government, except that the sanction of this subparagraph shall not apply—

(i) to any transaction subject to the reporting requirements of title V of the National Security Act of 1947 [50 U.S.C. 3091 et seq.] (relating to congressional oversight of intelligence activities),

(ii) to medicines, medical equipment, and humanitarian assistance, or

(iii) to any credit, credit guarantee, or financial assistance provided by the Department of Agriculture to support the purchase of food or other agricultural commodity.

(E) The United States Government shall oppose, in accordance with section 262d of this title, the extension of any loan or financial or technical assistance to that country by any international financial institution.

(F) The United States Government shall prohibit any United States bank from making any loan or providing any credit to the government of that country, except for loans or credits for the purpose of purchasing food or other agricultural commodities, which includes fertilizer.

(G) The authorities of section 4605 of title 50 shall be used to prohibit exports to that country of specific goods and technology (excluding food and other agricultural commodities), except that such prohibition shall not apply to any transaction subject to the reporting requirements of title V

of the National Security Act of 1947 [50 U.S.C. 3091 et seq.] (relating to congressional oversight of intelligence activities).

(3) As used in this subsection—

(A) the term "design information" means specific information that relates to the design of a nuclear explosive device and that is not available to the public; and

(B) the term "component" means a specific component of a nuclear explosive device.

(4)(A) Notwithstanding paragraph (1) of this subsection, the President may, for a period of not more than 30 days of continuous session, delay the imposition of sanctions which would otherwise be required under paragraph (1)(A) or (1)(B) of this subsection if the President first transmits to the Speaker of the House of Representatives, and to the chairman of the Committee on Foreign Relations of the Senate, a certification that he has determined that an immediate imposition of sanctions on that country would be detrimental to the national security of the United States. Not more than one such certification may be transmitted for a country with respect to the same detonation, transfer, or receipt of a nuclear explosive device.

(B) If the President transmits a certification to the Congress under subparagraph (A), a joint resolution which would permit the President to exercise the waiver authority of paragraph (5) of this subsection shall, if introduced in either House within thirty days of continuous session after the Congress receives this certification, be considered in the Senate in accordance with subparagraph (C) of this paragraph.

(C) Any joint resolution under this paragraph shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

(D) For purposes of this paragraph, the term "joint resolution" means a joint resolution the matter after the resolving clause of which is as follows: "That the Congress having received on ____ a certification by the President under section 102(b)(4) of the Arms Export Control Act with respect to ____, the Congress hereby authorizes the President to exercise the waiver authority contained in section 102(b)(5) of that Act.", with the date of receipt of the certification inserted in the first blank and the name of the country inserted in the second blank.

(5) Notwithstanding paragraph (1) of this subsection, if the Congress enacts a joint resolution under paragraph (4) of this subsection, the President may waive any sanction which would otherwise be required under paragraph (1)(A) or (1)(B) if he determines and certifies in writing to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate that the imposition of such sanction would be seriously prejudicial to the achievement of United States nonproliferation objectives or otherwise jeopardize the common defense and security. The President shall transmit with such certification a statement setting forth the specific reasons therefor.

(6)(A) In the event the President is required to impose sanctions against a country under paragraph (1)(C) or (1)(D), the President shall forthwith so inform such country and shall impose the required sanctions beginning 30 days after submitting to the Congress the report required by paragraph (1) unless, and to the extent that, there is enacted during the 30-day period a law prohibiting the imposition of such sanctions.

(B) Notwithstanding any other provision of law, the sanctions which are required to be imposed against a country under paragraph (1)(C) or (1)(D) shall not apply if the President determines and certifies in writing to the Committee on Foreign Relations and the Committee on Governmental Affairs of the Senate and the Committee on Foreign Affairs of the House of Representatives that the application of such sanctions against such country would have a serious adverse effect on vital United States interests. The President shall transmit with such certification a statement setting forth the specific reasons therefor.

(7) For purposes of this subsection, continuity of session is broken only by an adjournment of Congress sine die and the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of any period of time in which Congress is in continuous session.

(8) The President may not delegate or transfer his power, authority, or discretion to make or modify determinations under this subsection.

(c) "Non-nuclear-weapon state" defined

As used in this section, the term "non-nuclear-weapon state" means any country which is not a nuclear-weapon state, as defined in Article IX(3) of the Treaty on the Non-Proliferation of Nuclear Weapons.

(Pub. L. 90–629, ch. 10, §102, as added Pub. L. 103–236, title VIII, §826(a), Apr. 30, 1994, 108 Stat. 516; amended Pub. L. 105–194, §2(a)–(c), July 14, 1998, 112 Stat. 627; Pub. L. 113–276, title II, §208(a)(1), Dec. 18, 2014, 128 Stat. 2992.)

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsecs. (a)(1) and (b)(2)(A), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, which is classified principally to chapter 32 (§2151 et seq.) of this title. Chapters 4 and 6 of part II of the Act are classified generally to parts IV (§2346 et seq.) and VI (§2348 et seq.), respectively, of subchapter II of chapter 32 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

This chapter, referred to in subsecs. (a)(1) and (b)(2)(B)(i), (C), was in the original "this Act", meaning Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1321, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

Section 601(b) of the International Security Assistance and Arms Export Control Act of 1976, referred to in subsecs. (a)(3)(B) and (b)(4)(C), is section 601(b) of Pub. L. 94–329, title VI, June 30, 1976, 90 Stat. 765, which is not classified to the Code.

For effective date of part B of the Nuclear Proliferation Prevention Act of 1994 [part B of title VIII of Pub. L. 103–236], referred to in subsec. (b)(1), as 60 days after Apr. 30, 1994, see section 831 of Pub. L. 103–236, set out as an Effective Date note under section 6301 of this title.

The National Security Act of 1947, referred to in subsec. (b)(2)(D)(i), (G), is act July 26, 1947, ch. 343, 61 Stat. 495, which was formerly classified principally to chapter 15 (§401 et seq.) of Title 50, War and National Defense, prior to editorial reclassification in chapter 44 (§3001 et seq.) of Title 50. Title V of the Act is now classified generally to subchapter III (§3091 et seq.) of chapter 44 of Title 50. For complete classification of this Act to the Code, see Tables.

Section 102 of the Arms Export Control Act, referred to in subsec. (b)(4)(D), is classified to this section.

AMENDMENTS

2014—Subsec. (a)(2). Pub. L. 113–276 substituted "the Speaker of the House of Representatives, the Committee on Foreign Affairs of the House of Representatives, and" for "the Speaker of the House of Representatives and".

1998—Subsec. (b)(2)(D)(ii). Pub. L. 105–194, §2(c), inserted "medicines, medical equipment, and" after "to".

Subsec. (b)(2)(D)(iii). Pub. L. 105–194, §2(a), added cl. (iii).

Subsec. (b)(2)(F). Pub. L. 105–194, §2(b), inserted ", which includes fertilizer" before period at end.

CHANGE OF NAME

Committee on Governmental Affairs of Senate changed to Committee on Homeland Security and Governmental Affairs of Senate, effective Jan. 4, 2005, by Senate Resolution No. 445, One Hundred Eighth Congress, Oct. 9. 2004.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–194, §2(d), July 14, 1998, 112 Stat. 627, provided that: "The amendment made by subsection (a)(3) [amending this section] shall apply to any credit, credit guarantee, or other financial assistance provided by the Department of Agriculture before, on, or after the date of enactment of this Act [July 14, 1998] through September 30, 1999."

DELEGATION OF FUNCTIONS

Functions of President under subsec. (a)(2) of this section delegated to Secretary of State by section 1(a)(iii) of Ex. Ord. No. 13346, July 8, 2004, 69 F.R. 41905, set out as a note under section 301 of Title 3, The President.

WAIVER OF CERTAIN SANCTIONS AGAINST NORTH KOREA

Pub. L. 110–252, title I, §1405, June 30, 2008, 122 Stat. 2337, as amended by Pub. L. 113–188, title VIII, §801, Nov. 26, 2014, 128 Stat. 2020; Pub. L. 113–235, div. J, title VII, §7034(i), Dec. 16, 2014, 128 Stat. 2624, provided that:

"(a) WAIVER AUTHORITY.—

"(1) IN GENERAL.—Except as provided in subsection (b), the President may waive in whole or in part, with respect to North Korea, the application of any sanction contained in subparagraph (A), (B), (D) or (G) under section 102(b)(2) of the Arms Export Control Act (22 U.S.C. 2799aa–1(b)[(2)(A), (B), (D), (G)]), for the purpose of providing assistance related to—

"(A) the implementation and verification of the compliance by North Korea with its commitment, undertaken in the Joint Statement of September 19, 2005, to abandon all nuclear weapons and existing nuclear programs as part of the verifiable denuclearization of the Korean Peninsula; and

"(B) the elimination of the capability of North Korea to develop, deploy, transfer, or maintain weapons of mass destruction and their delivery systems.

"(2) LIMITATION.—The authority under paragraph (1) shall expire 5 years after the date of enactment of this Act [June 30, 2008].

"(b) EXCEPTIONS.—

"(1) LIMITED EXCEPTION RELATED TO CERTAIN SANCTIONS AND PROHIBITIONS.—The authority under subsection (a) shall not apply with respect to a sanction or prohibition under subparagraph (B) or (G) of section 102(b)(2) of the Arms Export Control Act [22 U.S.C. 2799aa–1(b) [(2)(B), (G)], unless the President determines and certifies to the appropriate congressional committees that—

"(A) all reasonable steps will be taken to assure that the articles or services exported or otherwise provided will not be used to improve the military capabilities of the armed forces of North Korea; and

"(B) such waiver is in the national security interests of the United States.

"(2) LIMITED EXCEPTION RELATED TO CERTAIN ACTIVITIES.—Unless the President determines and certifies to the appropriate congressional committees that using the authority under subsection (a) is vital to the national security interests of the United States, such authority shall not apply with respect to—

"(A) an activity described in subparagraph (A) of section 102(b)(1) of the Arms Export Control Act [22 U.S.C. 2799aa–1(b)(1)(A)] that occurs after September 19, 2005, and before the date of the enactment of this Act [June 30, 2008];

"(B) an activity described in subparagraph (C) of such section that occurs after September 19, 2005; or

"(C) an activity described in subparagraph (D) of such section that occurs after the date of enactment of this Act.

"(3) EXCEPTION RELATED TO CERTAIN ACTIVITIES OCCURRING AFTER DATE OF ENACTMENT.—The authority under subsection (a) shall not apply with respect to an activity described in subparagraph (A) or (B) of section 102(b)(1) of the Arms Export Control Act [22 U.S.C. 2799aa–1(b)(1)(A), (B)] that occurs after the date of the enactment of this Act.

"(4) LIMITED EXCEPTION RELATED TO LETHAL WEAPONS.—The authority under subsection (a) shall not apply with respect to any export of lethal defense articles that would be prevented by the application of section 102(b)(2) of the Arms Export Control Act [22 U.S.C. 2799aa–1(b)(2)]."

"(c) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term 'appropriate congressional committees' means—

"(1) the Committees on Appropriations, Armed Services, and Foreign Relations of the Senate; and

"(2) the Committees on Appropriations, Armed Services, and Foreign Affairs of the House of Representatives."

[Amendment of section 1405 of Pub. L. 110–252, set out above, by section 7034(i) of div. J of Pub. L. 113–235, which directed that subsec. (c) of section 1405 be repealed, was not executed to reflect the probable intent of Congress and the prior amendment by section 801 of Pub. L. 113–188, which struck out subsec. (c) and redesignated subsec. (d) as (c).]

EXEMPTION FOR RHINOCEROS, TIGER, ASIAN ELEPHANT, AND GREAT APE CONSERVATION PROGRAMS

Pub. L. 107–63, title I, Nov. 5, 2001, 115 Stat. 421, provided in part: "That funds made available under this Act [see Tables for classification], Public Law 106–291 [see Tables for classification], and Public Law 106–554 [see Tables for classification] and hereafter in annual appropriations Acts for rhinoceros, tiger, Asian elephant, and great ape conservation programs are exempt from any sanctions imposed against any country under section 102 of the Arms Export Control Act (22 U.S.C. 2799aa–1)."

Similar provisions were contained in the following prior appropriation acts:
Pub. L. 106–291, title I, Oct. 11, 2000, 114 Stat. 927.
Pub. L. 106–113, div. B, §1000(a)(3) [title I], Nov. 29, 1999, 113 Stat. 1535, 1501A–141.

WAIVER OF CERTAIN SANCTIONS AGAINST INDIA AND PAKISTAN

Pub. L. 106–79, title IX, §9001, Oct. 25, 1999, 113 Stat. 1283, as amended by Pub. L. 107–228, div. B, title XIV, §1405(b), Sept. 30, 2002, 116 Stat. 1458, provided that:

"(a) WAIVER AUTHORITY.—Except as provided in subsections (b) and (c) of this section, the President may waive, with respect to India and Pakistan, the application of any sanction contained in section 101 or 102 of the Arms Export Control Act (22 U.S.C. 2799aa or 22 U.S.C. 2799aa–1), section 2(b)(4) of the Export Import Bank Act of 1945 (12 U.S.C. 635(b)(4)), or section 620E(e) of the Foreign Assistance Act of 1961, as amended, (22 U.S.C. 2375(e)).

"(b) EXCEPTION.—The authority to waive the application of a sanction or prohibition (or portion thereof) under subsection (a) shall not apply with respect to a sanction or prohibition contained in subparagraph (B), (C), or (G) of section 102(b)(2) of the Arms Export Control Act [22 U.S.C. 2799aa–1(b)(2)(B), (C), (G)], unless the President determines, and so certifies to the Congress, that the application of the restriction would not be in the national security interests of the United States.

"(c) TERMINATION OF WAIVER.—The President may not exercise the authority of subsection (a), and any waiver previously issued under subsection (a) shall cease to apply, with respect to India or Pakistan, if that country detonates a nuclear explosive device after the date of the enactment of this Act [Oct. 25, 1999] or otherwise takes such action which would cause the President to report pursuant to section 102(b)(1) of the Arms Export Control Act [22 U.S.C. 2799aa–1(b)(1)].

"(d) TARGETED SANCTIONS.—

"(1) SENSE OF THE CONGRESS.—

"(A) it is the sense of the Congress that the broad application of export controls to nearly 300 Indian and Pakistani entities is inconsistent with the specific national security interests of the United States and that this control list requires refinement; and

"(B) export controls should be applied only to those Indian and Pakistani entities that make direct and material contributions to weapons of mass destruction and missile programs and only to those items that can contribute to such programs.

"(2) REPORTING REQUIREMENT.—Not later than 60 days after the date of the enactment of this Act [Oct. 25, 1999], the President shall submit both a classified and unclassified report to the appropriate congressional committees listing those Indian and Pakistani entities whose activities contribute to missile programs or weapons of mass destruction programs.

"(e) CONGRESSIONAL NOTIFICATION.—The issuance of a license for export of a defense article, defense service, or technology under the authority of this section shall be subject to the same requirements as are applicable to the export of items described in section 36(c) of the Arms Export Control Act (22 U.S.C. 2776(c)), including the transmittal of information and the application of congressional review procedures. The application of these requirements shall be subject to the dollar amount thresholds specified in that section.

"(f) REPEAL.—[Repealed section 101(a) [title IX] of div. A of Pub. L. 105–277, formerly set out below.]"

INDIA-PAKISTAN RELIEF

Pub. L. 105–277, div. A, §101(a) [title IX], Oct. 21, 1998, 112 Stat. 2681, 2681–40, known as the India-Pakistan Relief Act, provided for a one-year waiver of certain sanctions against India and Pakistan under the Arms Export Control Act, prior to repeal by Pub. L. 106–79, title IX, §9001(f), Oct. 25, 1999, 113 Stat. 1284, effective Oct. 21, 1999.

EFFECT ON EXISTING SANCTIONS

Pub. L. 105–194, §2(e), July 14, 1998, 112 Stat. 627, provided that: "Any sanction imposed under section 102(b)(1) of the Arms Export Control Act [subsec. (b)(1) of this section] before the date of the enactment of this Act [July 14, 1998] shall cease to apply upon that date with respect to the items described in the amendments made by subsections (b) and (c) [amending this section]. In the case of the amendment made by subsection (a)(3) [amending this section], any sanction imposed under section 102(b)(1) of the Arms Export Control Act before the date of the enactment of this Act shall not be in effect during the period beginning on that date and ending on September 30, 1999, with respect to the activities and items described in the amendment."

SANCTIONS AGAINST INDIA FOR DETONATION OF A NUCLEAR EXPLOSIVE DEVICE

Determination of President of the United States, No. 98–22, May 13, 1998, 63 F.R. 27665, provided a

determination that India, a non-nuclear-weapon state, detonated a nuclear explosive device on May 11, 1998, and imposed sanctions described in subsec. (b)(2) of this section.

SANCTIONS AGAINST PAKISTAN FOR DETONATION OF A NUCLEAR EXPLOSIVE DEVICE

Determination of President of the United States, No. 98–25, May 30, 1998, 63 F.R. 31881, provided a determination that Pakistan, a non-nuclear-weapon state, detonated a nuclear explosive device on May 28, 1998, and imposed sanctions described in subsec. (b)(2) of this section.

WAIVER OF CERTAIN SANCTIONS AGAINST INDIA AND PAKISTAN

Provisions relating to waiver of sanctions against India and Pakistan consistent with section 9001 of Pub. L. 106–79, set out as a note above, or section 101(a) [title IX, §902] of Pub. L. 105–277, formerly set out in a note above, were contained in the following:

Determination of President of the United States, No. 2001–28, Sept. 22, 2001, 66 F.R. 50095.

Determination of President of the United States, No. 2001–23, Aug. 9, 2001, 66 F.R. 44521.

Determination of President of the United States, No. 2001–11, Jan. 19, 2001, 66 F.R. 8503.

Determination of President of the United States, No. 2000–18, Mar. 16, 2000, 65 F.R. 16297.

Determination of President of the United States, No. 2000–4, Oct. 27, 1999, 64 F.R. 60649.

Determination of President of the United States, No. 99–7, Dec. 1, 1998, 34 Weekly Compilation of Presidential Documents 2402, Dec. 7, 1998.

§2799aa–2. "Nuclear explosive device" defined

As used in this subchapter, the term "nuclear explosive device" has the meaning given that term in section 6305(4) of this title.

(Pub. L. 90–629, ch. 10, §103, as added Pub. L. 103–236, title VIII, §826(a), Apr. 30, 1994, 108 Stat. 519.)

CHAPTER 40—INTERNATIONAL EXPOSITIONS

Sec.

2801. Congressional findings.
2802. Federal recognition.
2803. Federal participation.
2804. Establishment of standards and criteria; publication in the Federal Register.
2805. Withdrawal of Federal recognition or participation.
2806. Other provisions unaffected.
2807. Authorization of appropriations.

§2801. Congressional findings

The Congress finds that—

(a) international expositions, when properly organized, financed, and executed, have a significant impact on the economic growth of the region surrounding the exposition and, under appropriate international sanction, are important instruments of national policy, particularly in the exchange of ideas and the demonstration of cultural achievements between peoples;

(b) in view of the widely varying circumstances under which international expositions have developed in the United States, the different degrees to which the Federal Government has assisted and participated in such expositions, and the increasing number of proposals for future expositions, the national interest requires that Federal action concerning such expositions be given orderly consideration; and

(c) such orderly consideration is best achieved by the development of uniform standards, criteria, and procedures to establish the conditions under which the Government hereafter will (A) recognize international expositions proposed to be held in the United States, and (B) take part in

such expositions.

(Pub. L. 91–269, §1, May 27, 1970, 84 Stat. 271.)

§2802. Federal recognition

(a) Eligibility requirements

Any international exposition proposed to be held in the United States shall be eligible on application from its sponsors to receive the recognition of the Federal Government upon a finding of the President that recognition will be in the national interest. In making such a finding the President shall consider—

(1) a report by the Secretary of Commerce which shall include (A) an evaluation of purposes and reasons for the exposition, and (B) a determination that guaranteed financial and other support has been secured by the exposition from affected State and local governments and from business and civic leadership of the region and others in amounts sufficient in his judgment to assure the successful development and progress of the exposition;

(2) a report by the Secretary of State that the proposed exposition qualifies for consideration of registration by the Bureau of International Expositions (hereafter referred to as BIE); and

(3) such other evidence as the President may consider to be appropriate.

(b) Recognition and registration procedure; compliance with international convention; participation by States and foreign governments

Upon a finding by the President that an international exposition is eligible for Federal recognition, the President may take such measures recognizing the exposition as he deems proper, including, but not limited to—

(1) presenting of an official request by the United States for registration of the exposition by the BIE;

(2) providing for fulfillment of the requirements of the Convention of November 22, 1928, as amended, relating to international expositions; and

(3) extending invitations, by proclamation or by such other manner he deems proper, to the several States of the Union and to foreign governments to take part in the exposition, provided that he shall not extend such an invitation until he has been notified officially of BIE registration for the exposition.

(c) Report to Congress

The President shall report his actions under this section promptly to the Congress.

(Pub. L. 91–269, §2, May 27, 1970, 84 Stat. 271.)

§2803. Federal participation

(a) Congressional authorization; proposals

The Federal Government may participate in an international exposition proposed to be held in the United States only upon the authorization of the Congress. If the President finds that Federal participation is in the national interest, he shall transmit to the Congress his proposal for such participation, which proposal shall include—

(1) evidence that the international exposition has met the criteria for Federal recognition and, pursuant to section 2802 of this title, it has been so recognized;

(2) a statement that the international exposition has been registered by the BIE; and

(3) a plan prepared by the Secretary of Commerce in cooperation with other interested departments and agencies of the Federal Government for Federal participation in the exposition. The Secretary of Commerce shall include in such plan any documentation described in subsection

(b)(1)(A) of this section, a rendering of any design described in subsection (b)(1)(B) of this section, and any recommendation based on the determination under subsection (b)(1)(C) of this section.

(b) Construction of Federal pavilion

(1) In developing a plan under subsection (a)(3) of this section the Secretary of Commerce shall consider whether the plan should include the construction of a Federal pavilion. If the Secretary of Commerce determines that a Federal pavilion should be constructed, he shall request the Administrator of General Services (hereinafter in this section referred to as the "Administrator") to determine, in consultation with such Secretary, whether there is a federally endorsed need for a permanent structure in the area of the exposition. If the Administrator determines that any such need exists—

(A) the Administrator shall fully document such determination, including the identification of the need, and shall transmit such documentation to the Secretary of Commerce;

(B) the Secretary of Commerce, in consultation with the Administrator, shall design a pavilion which satisfies the federally endorsed needs for—

(i) participation in the exposition; and

(ii) permanent use of such pavilion after the termination of participation in the exposition; and

(C) the Secretary of Commerce shall determine whether the Federal Government should be deeded a satisfactory site for the Federal pavilion in fee simple, free of all liens and encumbrances, as a condition of participation in the exposition.

(2) Notwithstanding paragraph (1)(B) of this subsection, if the Secretary of Commerce, in consultation with the Administrator determines that no design of a Federal pavilion will satisfy both needs described in paragraph (1)(B) of this subsection, the Secretary shall design a temporary Federal pavilion.

(c) Authorization of appropriations for Federal pavilion

The enactment of a specific authorization of appropriations shall be required—

(1) to construct a Federal pavilion in accordance with the plan prepared pursuant to subsection (a)(3) of this section;

(2) if the Federal pavilion is not temporary, to modify such Federal pavilion after termination of participation in the exposition if modification is necessary to adapt such pavilion for use by the Federal Government to satisfy a need described in subsection (b)(1)(B)(ii) of this section; and

(3) if the Federal pavilion is temporary, to dismantle, demolish, or otherwise dispose of such Federal pavilion after termination of Federal participation in the exposition.

(d) Requisites and temporary nature of Federal pavilion

For the purposes of this section—

(1) a Federal pavilion shall be considered to satisfy both needs described in subsection (b)(1)(B) of this section if the Federal pavilion which satisfies the needs described in paragraph (1)(B)(i) of such subsection can be modified after completion of the exposition to satisfy the needs described in paragraph (1)(B)(ii) of such subsection, provided that such modification shall cost no more than the expense of demolition, dismantling, or other disposal, or if the cost is higher, it shall be no more than 50 per centum of the original cost of the construction of the pavilion; and

(2) a Federal pavilion is temporary if the Federal pavilion is designed to satisfy the minimum needs of the Federal Government described in subsection (b)(1)(B)(i) of this section and is intended for disposal by the Federal Government after the termination of participation in the exposition.

(Pub. L. 91–269, §3, May 27, 1970, 84 Stat. 272; Pub. L. 97–254, §16(a), Sept. 8, 1982, 96 Stat. 812.)

AMENDMENTS

1982—Subsec. (a). Pub. L. 97–254, §16(a)(1)–(3), designated existing provisions as subsec. (a), redesignated cls. (a) to (c) thereof as cls. (1) to (3) respectively, and in cl. (3) as so redesignated, substituted provisions requiring the Secretary of Commerce to include in a plan under this section any documentation, designs, or recommendations described in subsec. (b) of this section for provisions that the Secretary in developing a plan should consider whether there was a need for the construction of a Federal pavilion, and if so, that there could be included in the plan a recommendation that Government participation in the exposition be conditioned on its being deeded a satisfactory site for the pavilion and that the Secretary would seek the advice of the Administrator of the General Services Administration in carrying out the provisions of former subsec. (c).

Subsecs. (b) to (d). Pub. L. 97–254, §16(a)(4), added subsecs. (b) to (d).

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–254 effective Sept. 8, 1982, see Pub. L. 97–254, §15, Sept. 18, 1982, 96 Stat. 812.

§2804. Establishment of standards and criteria; publication in the Federal Register

(a) The Secretary of Commerce is hereby authorized and directed to establish and maintain standards, definitions, and criteria which are adequate to carry out the purposes of section 2802(a)(1) and section 2803(a) of this title; and

(b) Standards, definitions, and criteria established by the Secretary and such revisions in them as he may make from time to time shall be published in the Federal Register.

(Pub. L. 91–269, §4, May 27, 1970, 84 Stat. 272.)

§2805. Withdrawal of Federal recognition or participation

The President may withdraw Federal recognition or participation whenever he finds that continuing recognition or participation would be inconsistent with the national interest and with the purposes of this chapter.

(Pub. L. 91–269, §5, May 27, 1970, 84 Stat. 272.)

§2806. Other provisions unaffected

Nothing in this chapter shall affect or limit the authority of Federal departments and agencies to participate in international expositions or events otherwise authorized by law.

(Pub. L. 91–269, §6, May 27, 1970, 84 Stat. 272.)

§2807. Authorization of appropriations

There are authorized to be appropriated such sums, not to exceed $200,000 in any fiscal year, as may be necessary to carry out the purposes of this chapter.

(Pub. L. 91–269, §8, May 27, 1970, 84 Stat. 272.)

CHAPTER 41—STUDY COMMISSION RELATING TO FOREIGN POLICY

§§2821 to 2826. Omitted

CODIFICATION

Sections 2821 to 2826 expired, not later than the thirtieth day after June 30, 1975, pursuant to section 2823 of this title.

Section 2821, Pub. L. 92–352, title VI, §601, July 13, 1972, 86 Stat. 497, declared that it was the purpose of this chapter to establish a commission to make studies and recommendations directed at providing a more effective system for formulation and implementation of foreign policy.

Section 2822, Pub. L. 92–352, title VI, §602, July 13, 1972, 86 Stat. 497, established the commission, known as the Commission on the Organization of the Government for the Conduct of Foreign Policy.

Section 2823, Pub. L. 92–352, title VI, §603, July 13, 1972, 86 Stat. 497; Pub. L. 93–126, §4, Oct. 18, 1973, 87 Stat. 452, related to duties of the commission, required a comprehensive report be submitted to the President and to Congress not later than June 30, 1975, and provided that the commission cease to exist on the thirtieth day after the report was filed.

Section 2824, Pub. L. 92–352, title VI, §604, July 13, 1972, 86 Stat. 498, related to powers of the commission.

Section 2825, Pub. L. 92–352, title VI, §605, July 13, 1972, 86 Stat. 498, related to appointment and compensation of personnel and the services of experts and consultants.

Section 2826, Pub. L. 92–352, title VI, §606, July 13, 1972, 86 Stat. 499, authorized sums as necessary to carry out the provisions of this chapter.

CHAPTER 42—INTERNATIONAL ECONOMIC POLICY

§§2841 to 2849. Omitted

CODIFICATION

Sections 2841 to 2847, 2848, and 2849 expired Sept. 30, 1977, pursuant to section 2848 of this title.

Section 2841, Pub. L. 92–412, title II, §202, Aug. 29, 1972, 86 Stat. 646, related to congressional statement of purpose.

Section 2842, Pub. L. 92–412, title II, §203, Aug. 29, 1972, 86 Stat. 646, related to congressional findings and policy and the establishment and functions of the Council on International Economic Policy.

Section 2843, Pub. L. 92–412, title II, §204, Aug. 29, 1972, 86 Stat. 647, related to creation of Council on International Economic Policy in Executive Office of the President.

Section 2844, Pub. L. 92–412, title II, §205, Aug. 29, 1972, 86 Stat. 647; Pub. L. 93–121, §1, Oct. 4, 1973, 87 Stat. 447, related to membership of Council and designation of a chairman by President.

Section 2845, Pub. L. 92–412, title II, §206, Aug. 29, 1972, 86 Stat. 647, related to duties of Council.

Section 2846, Pub. L. 92–412, title II, §207, Aug. 29, 1972, 86 Stat. 648; Pub. L. 93–121, §4, Oct. 4, 1973, 87 Stat. 448, related to submittal to Congress and scope of International Economic Report and other supplementary reports.

Section 2847, Pub. L. 92–412, title II, §208, Aug. 29, 1972, 86 Stat. 649; Pub. L. 94–87, §1, Aug. 9, 1975, 89 Stat. 432, related to appointment and compensation of an Executive Director and staff personnel, procurement of temporary and intermittent services, and detail of agency personnel to Council.

Section 2847a, Pub. L. 93–121, §5, Oct. 4, 1973, 87 Stat. 448, related to appointment of an Executive Director under section 2847 of this title.

Section 2848, Pub. L. 92–412, title II, §209, Aug. 29, 1972, 86 Stat. 649; Pub. L. 93–121, §2, Oct. 4, 1973, 87 Stat. 447; Pub. L. 94–87, §2, Aug. 9, 1975, 89 Stat. 432, provided for expiration of this chapter on Sept. 30, 1977.

Section 2849, Pub. L. 92–412, title II, §210, Aug. 29, 1972, 86 Stat. 649; Pub. L. 93–121, §3, Oct. 4, 1973, 87 Stat. 448; Pub. L. 93–315, June 22, 1974, 88 Stat. 239; Pub. L. 94–87, §3, Aug. 9, 1975, 89 Stat. 432, related to authorization of appropriations.

SHORT TITLE

Pub. L. 94–412, title II, §201, Aug. 29, 1972, 86 Stat. 646, provided that this chapter be cited as the International Economic Policy Act of 1972.

DISCRIMINATORY TRADE PRACTICES AFFECTING UNITED STATES FOREIGN RELATIONS; REPORT TO CONGRESS

Pub. L. 95–426, title VI, §606, Oct. 7, 1978, 92 Stat. 987, provided that since those provisions of United States statutes which authorize or require suspension of or discrimination with respect to all trade between the United States and a particular foreign country and which effect, directly and significantly, the conduct of United States foreign relations should be periodically reevaluated by the President and Congress, and required the President, not later than Jan. 20, 1977, to transmit to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations and the chairmen of other appropriate committees of the Senate, a report which identifies all statutory provisions which provide for such discriminatory trade practices, evaluates each such practice, and recommends, in the form of draft legislation, amendments to those provisions the President certifies would in his judgment advance United States foreign policy interest.

EXECUTIVE ORDER NO. 11789

Ex. Ord. No. 11789, June 25, 1974, 39 F.R. 23183, as amended by Ex. Ord. No. 11808, Sept. 30, 1974, 39 F.R. 35563, which established the President's Committee on East-West Trade Policy, was revoked by Ex. Ord. No. 11846, Mar. 27, 1975, 40 F.R. 14291, set out as a note under section 2111 of Title 19, Customs Duties.

EXECUTIVE ORDER NO. 11808

Ex. Ord. No. 11808, Sept. 30, 1974, 39 F.R. 35563, as amended by Ex. Ord. No. 11865, June 16, 1975, 40 F.R. 25663, Ex. Ord. No. 11903, Feb. 2, 1976, 41 F.R. 4879, which established the President's Economic Policy Board, was revoked by Ex. Ord. No. 11975, Mar. 7, 1977, 42 F.R. 13267, formerly set out under this section.

CHAPTER 43—INTERNATIONAL BROADCASTING

§§2871 to 2877. Repealed. Pub. L. 103–236, title III, §310(e), Apr. 30, 1994, 108 Stat. 442

Section 2871, Pub. L. 93–129, §2, Oct. 19, 1973, 87 Stat. 457; Pub. L. 95–105, title III, §302(a), Aug. 17, 1977, 91 Stat. 851; Pub. L. 99–93, title III, §303(a), Aug. 16, 1985, 99 Stat. 434; Pub. L. 101–246, title III, §304, Feb. 16, 1990, 104 Stat. 64, provided congressional findings and declaration of purpose.

Section 2872, Pub. L. 93–129, §3, Oct. 19, 1973, 87 Stat. 457; Pub. L. 94–350, title III, §302(a), (b), July 12, 1976, 90 Stat. 832; Pub. L. 95–105, title III, §302(b), Aug. 17, 1977, 91 Stat. 851; Pub. L. 95–426, title III, §303, Oct. 7, 1978, 92 Stat. 976; Pub. L. 97–241, title IV, §403(b), Aug. 24, 1982, 96 Stat. 296, established Board for International Broadcasting.

Section 2873, Pub. L. 93–129, §4, Oct. 19, 1973, 87 Stat. 458; Pub. L. 94–350, title III, §302(c), July 12, 1976, 90 Stat. 833; Pub. L. 95–105, title III, §302(c), Aug. 17, 1977, 91 Stat. 851; Pub. L. 95–426, title III, §304(a), Oct. 7, 1978, 92 Stat. 976; Pub. L. 103–236, title III, §315(c), Apr. 30, 1994, 108 Stat. 445, provided for functions of Board.

Section 2874, Pub. L. 93–129, §5, Oct. 19, 1973, 87 Stat. 459; Pub. L. 95–105, title III, §302(d), Aug. 17, 1977, 91 Stat. 852; Pub. L. 95–426, title III, §305, Oct. 7, 1978, 92 Stat. 976, set forth recordkeeping requirements for RFE/RL, Incorporated.

Section 2875, Pub. L. 93–129, §6, Oct. 19, 1973, 87 Stat. 459; Pub. L. 99–93, title III, §305(a), Aug. 16, 1985, 99 Stat. 436, related to duties of Secretary of State to assist Board.

Section 2876, Pub. L. 93–129, §7, Oct. 19, 1973, 87 Stat. 459; Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095, authorized Board to receive and use contributions from public.

Section 2877, Pub. L. 93–129, §8, Oct. 19, 1973, 87 Stat. 460; Pub. L. 93–392, Aug. 28, 1974, 88 Stat. 781; Pub. L. 94–104, §1, Oct. 6, 1975, 89 Stat. 508; Pub. L. 94–350, title III, §301, July 12, 1976, 90 Stat. 832; Pub. L. 95–105, title III, §301, Aug. 17, 1977, 91 Stat. 851; Pub. L. 95–426, title III, §§301(a), 302, 306, Oct. 7, 1978, 92 Stat. 975, 976; Pub. L. 96–60, title III, §302, Aug. 15, 1979, 93 Stat. 402; Pub. L. 97–241, title I, §112(c), title IV, §402, Aug. 24, 1982, 96 Stat. 278, 296; Pub. L. 98–164, title III, §§302, 303, Nov. 22, 1983, 97 Stat. 1036; Pub. L. 99–93, title III, §§301(a), 302, Aug. 16, 1985, 99 Stat. 434; Pub. L. 100–204, title V, §§501(a), 502, Dec. 22, 1987, 101 Stat. 1383; Pub. L. 101–246, title III, §301(a), Feb. 16, 1990, 104 Stat. 63; Pub. L. 102–138, title II, §§241, 242, Oct. 28, 1991, 105 Stat. 704, authorized appropriations to carry out this chapter.

EFFECTIVE DATE OF REPEAL

Repeal effective Aug. 11, 1995, see section 6209(e) of this title.

SHORT TITLE

Pub. L. 93–129, §1, Oct. 19, 1973, 87 Stat. 456, provided that Pub. L. 93–129 (enacting this chapter) could be cited as the "Board for International Broadcasting Act of 1973", prior to repeal by Pub. L. 103–236, title III, §310(e), Apr. 30, 1994, 108 Stat. 442.

§2877a. Repealed. Pub. L. 101–302, title III, §320(a)(2), May 25, 1990, 104 Stat. 247

Section, Pub. L. 101–246, title III, §302, Feb. 16, 1990, 104 Stat. 63, provided that any funds appropriated for Board of International Broadcasting would not be available for obligation or expenditure unless such funds were appropriated pursuant to an authorization for appropriations or if such funds were appropriated in excess of authorized level of appropriations.

§§2878 to 2883. Repealed. Pub. L. 103–236, title III, §310(e), Apr. 30, 1994, 108 Stat. 442

Section 2878, Pub. L. 93–129, §9, as added Pub. L. 95–426, title III, §307, Oct. 7, 1978, 92 Stat. 977, required reciprocity in use of broadcasting facilities by Communist countries.

Section 2879, Pub. L. 93–129, §10, as added Pub. L. 96–60, title III, §303, Aug. 15, 1979, 93 Stat. 402, required preparation and submission of report to Congress on alternative plans to relocate activities of RFE/RL, Incorporated to United States territory.

Section 2880, Pub. L. 93–129, §11, as added Pub. L. 97–241, title IV, §403(a), Aug. 24, 1982, 96 Stat. 296, related to merger of Board for International Broadcasting and RFE/RL Board.

Section 2881, Pub. L. 93–129, §12, as added Pub. L. 98–164, title III, §304, Nov. 22, 1983, 97 Stat. 1036, authorized use of funds for benefits for certain retirees and surviving spouses of employees of RFE/RL.

Section 2882, Pub. L. 93–129, §13, as added Pub. L. 98–164, title III, §305(a), Nov. 22, 1983, 97 Stat. 1037, limited salary of RFE/RL President.

Section 2883, Pub. L. 93–129, §14, as added Pub. L. 99–93, title III, §303(b), Aug. 16, 1985, 99 Stat. 434, authorized use of funds for radio broadcasting to Afghanistan in the Dari and Pashto languages.

EFFECTIVE DATE OF REPEAL

Repeal effective Aug. 11, 1995, see section 6209(e) of this title.

CHAPTER 44—JAPAN-UNITED STATES FRIENDSHIP

Sec.

2901. Congressional statement of findings and declaration of purpose.
2902. Japan-United States Friendship Trust Fund.
2903. Japan-United States Friendship Commission.
2904. Functions of Commission.
2905. Administrative powers of Commission.
2906. Management of the Friendship Trust Fund.

§2901. Congressional statement of findings and declaration of purpose

(a) The Congress hereby finds that—

(1) the post-World War II evolution of the relationship between Japan and the United States to peacetime friendship and partnership is one of the most significant developments of the postwar period;

(2) the Agreement Between Japan and the United States of America Concerning the Ryukyu Islands and the Daito Islands, signed at Washington and Tokyo on June 17, 1971, is a major

achievement and symbol of the new relationship between the United States and Japan; and

(3) the continuation of close United States-Japan friendship and cooperation will make a vital contribution to the prospects for peace, prosperity, and security in Asia and the world.

(b) It is therefore the purpose of this chapter to provide for the use of an amount equal to a part of the total sum payable by Japan to the United States in connection with the reversion of Okinawa to Japanese administration and the remaining funds of the amount set aside in 1962 for educational and cultural exchange with Japan (known as the G.A.R.I.O.A. Account) to aid education and culture at the highest level in order to enhance reciprocal people-to-people understanding and to support the close friendship and mutuality of interests between the United States and Japan.

(Pub. L. 94–118, §2, Oct. 20, 1975, 89 Stat. 603.)

SHORT TITLE

Pub. L. 94–118, §1, Oct. 20, 1975, 89 Stat. 603, provided: "That this Act [enacting this chapter] may be cited as the 'Japan-United States Friendship Act'."

§2902. Japan-United States Friendship Trust Fund

(a) Establishment

There is established in the Treasury of the United States a trust fund to be known as the Japan-United States Friendship Trust Fund (hereafter referred to as the "Fund").

(b) Use of amounts in Fund for promotion of scholarly, cultural, and artistic activities between Japan and United States

Amounts in the Fund shall be used for the promotion of scholarly, cultural, and artistic activities between Japan and the United States, including—

(1) support for studies, including language studies, in institutions of higher education or scholarly research in Japan and the United States, designed to foster mutual understanding between Japan and the United States;

(2) support for major collections of Japanese books and publications in appropriate libraries located throughout the United States and similar support for collections of American books and publications in appropriate libraries located throughout Japan;

(3) support for programs in the arts in association with appropriate institutions in Japan and the United States;

(4) support for fellowships and scholarships at the graduate and faculty levels in Japan and the United States in accord with the purposes of this chapter;

(5) support for visiting professors and lecturers at colleges and universities in Japan and the United States; and

(6) support for other Japan-United States cultural and educational activities consistent with the purposes of this chapter.

(c) Use of amounts in Fund for administrative expenses of Japan-United States Friendship Commission

Amounts in the Fund may also be used to pay administrative expenses of the Japan-United States Friendship Commission, established by section 2903 of this title, as directed by that Commission.

(d) Authorization of appropriations; source of amounts

There is authorized to be appropriated to the Fund, for fiscal year 1976, an amount equal to 7.5 per centum of the total funds payable to the United States pursuant to the Agreement Between Japan and the United States of America Concerning the Ryukyu Islands and the Daito Islands, signed at Washington and Tokyo, June 17, 1971, including interest and proceeds accruing to the Fund from such funds in accordance with sections 2905(4) and 2906 of this title.

(e) Additional authorization of appropriations; source of amounts; subsequent use of

unappropriated portion of amounts authorized to be appropriated

(1) There is authorized to be appropriated to the Fund, for fiscal year 1976, in addition to the amount authorized to be appropriated by subsection (d) of this section, those funds available in United States accounts in Japan and transferred by the Government of Japan to the United States pursuant to the United States request made under article V of the agreement between the United States of America and Japan regarding the settlement of Postwar Economic Assistance to Japan, signed in Tokyo, January 9, 1962, and the exchange of notes of the same date (13 U.S.T. 1957; T.I.A.S. 5154) (the G.A.R.I.O.A. Account), including interest accruing to the G.A.R.I.O.A. Account and interest and proceeds accruing to the Fund from such funds in accordance with sections 2905(4) and 2906 of this title.

(2) The amount authorized to be appropriated by paragraph (1) of this subsection shall not include any amount required by law to be applied to United States participation in the International Ocean Exposition to be held in Okinawa, Japan.

(3) Any unappropriated portion of the amount authorized to be appropriated by subsection (d) of this section and paragraph (1) of this subsection for fiscal year 1976 may be appropriated in any subsequent fiscal year.

(Pub. L. 94–118, §3, Oct. 20, 1975, 89 Stat. 603; Pub. L. 94–350, title IV, §401(2), (3)(A), July 12, 1976, 90 Stat. 833.)

AMENDMENTS

1976—Subsecs. (d), (e)(1). Pub. L. 94–350 included interest and proceeds accruing to the Fund in accordance with sections 2905(4) and 2906 of this title.

§2903. Japan-United States Friendship Commission

(a) Establishment; composition

There is established a commission to be known as the Japan-United States Friendship Commission (hereafter referred to as the "Commission"). The Commission shall be composed of—

(1) the members of the United States Panel of the Joint Committee on United States-Japan Cultural and Educational Cooperation;

(2) two Members of the House of Representatives, to be appointed at the beginning of each Congress or upon the occurrence of a vacancy during a Congress by the Speaker of the House of Representatives;

(3) two Members of the Senate, to be appointed at the beginning of each Congress or upon the occurrence of a vacancy during a Congress by the President pro tempore of the Senate;

(4) the Chairman of the National Endowment for the Arts; and

(5) the Chairman of the National Endowment for the Humanities.

(b) Compensation and travel expenses

Members of the Commission who are not full-time officers or employees of the United States and who are not Members of Congress shall, while serving on business of the Commission, be entitled to receive compensation at rates fixed by the President, but not exceeding the rate specified at the time of such service for grade GS–18 in section 5332 of title 5, including traveltime; and while so serving away from their homes or regular places of business, all members of the Commission may be allowed travel expenses including per diem in lieu of subsistence, as authorized by section 5703 of title 5 for persons in Government service employed intermittently.

(c) Chairman; quorum; meetings

The Chairman of the United States Panel of the Joint Committee on United States-Japan Cultural and Educational Cooperation shall be the Chairman of the Commission. A majority of the members of the Commission shall constitute a quorum. The Commission shall meet at least twice in each year.

(Pub. L. 94–118, §4, Oct. 20, 1975, 89 Stat. 604.)

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

§2904. Functions of Commission

(a) Promotion of scholarly, cultural, and artistic activities; grants

The Commission is authorized to—

(1) develop and carry out programs at public or private institutions for the promotion of scholarly, cultural, and artistic activities in Japan and the United States consistent with the provisions of section 2902(b) of this title; and

(2) make grants to carry out such programs.

(b) Annual report

The Commission shall submit to the President and to the Congress an annual report of its activities under this chapter together with such recommendations as the Commission determines appropriate.

(Pub. L. 94–118, §5, Oct. 20, 1975, 89 Stat. 605.)

§2905. Administrative powers of Commission

In order to carry out its functions under this chapter, the Commission is authorized to—

(1) prescribe such regulations as it deems necessary governing the manner in which its functions shall be carried out;

(2) receive money and property donated, bequeathed, or devised, without condition or restriction other than that it be used for the purposes of this chapter; and to use, sell, or otherwise dispose of such property (including transfer to the Fund) for the purpose of carrying out the purposes of this chapter, and any such donation shall be exempt from any Federal income, State, or gift tax;

(3) in the discretion of the Commission, receive (and use, sell, or otherwise dispose of, in accordance with paragraph (2)) money and other property donated, bequeathed, or devised to the Commission with a condition or restriction, including a condition that the Commission use other funds of the Commission for the purposes of the gift, and any such donation shall be exempt from any Federal income, State, or gift tax;

(4) direct the Secretary of the Treasury to make expenditure of the income of the Fund, any amount of the contributions deposited in the Fund from nonappropriated sources pursuant to paragraph (2) or (3) of this section, and not to exceed 5 percent annually of the principal of the total amount appropriated to the Fund to carry out the purposes of this chapter, including the payment of Commission expenses if needed;

(5) appoint an Executive Director, without regard to the provisions of title 5 governing appointments in the competitive service, who shall be compensated at the rate provided for a GS–18 of the General Schedule of such title;

(6) obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, at rates for individuals not to exceed the rate specified at the time of such service for grade GS–18 in section 5332 of title 5;

(7) accept and utilize the services of voluntary and noncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of title 5;

(8) enter into contracts, grants, or other arrangements, or modifications thereof;

(9) make advances, progress, and other payments which the Commission deems necessary under this chapter;

(10) obtain such administrative support services and personnel as the Commission deems

necessary and appropriate to its needs; and

(11) transmit its official mail as penalty mail in the same manner and upon the same conditions as an officer of the United States other than a Member of Congress is permitted to transmit official mail as penalty mail under section 3202 of title 39.

(Pub. L. 94–118, §6, Oct. 20, 1975, 89 Stat. 605; Pub. L. 94–350, title IV, §401(1), July 12, 1976, 90 Stat. 833; Pub. L. 95–426, title VII, §703(a), Oct. 7, 1978, 92 Stat. 992; Pub. L. 97–241, title V, §503(a), Aug. 24, 1982, 96 Stat. 298; Pub. L. 102–138, title I, §167, Oct. 28, 1991, 105 Stat. 676; Pub. L. 105–277, div. A, §101(b) [title IV, §404(a)], Oct. 21, 1998, 112 Stat. 2681–50, 2681–101.)

AMENDMENTS

1998—Par. (4). Pub. L. 105–277 substituted "needed" for "needed, except that any amounts expended from amounts appropriated to the Fund under section 2902(e)(1) of this title shall be expended in Japan or for not more than 50 percent of administrative expenses in the United States".

1991—Par. (4). Pub. L. 102–138 inserted "or for not more than 50 percent of administrative expenses in the United States" after "Japan".

1982—Par. (4). Pub. L. 97–241 substituted ", any amount of the contributions deposited in the Fund from nonappropriated sources pursuant to paragraph (2) or (3) of this section, and not to exceed 5 percent annually of the principal of the total amount appropriated to the Fund" for "and not to exceed 5 per centum annually of the principal of the Fund".

1978—Par. (11). Pub. L. 95–426 added par. (11).

1976—Par. (10). Pub. L. 94–350 struck out "from the Secretary of State, on a reimbursable basis," after "obtain".

EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95–426, title VII, §703(b), Oct. 7, 1978, 92 Stat. 992, provided that: "The amendments made by this section [amending this section] shall take effect on October 1, 1978."

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

§2906. Management of the Friendship Trust Fund

(a) Constituent amounts

The Fund shall consist of—

(1) amounts appropriated under sections 2902(d) and (e)(1) of this title;

(2) any other amounts received by the Fund by way of gifts and donations; and

(3) interest and proceeds credited to it under subsection (b) of this section.

(b) Investments by Secretary of Treasury in authorized obligations; issuance of obligations and special obligations; conditions of acquisition

It shall be the duty of the Secretary of the Treasury (hereafter referred to as the "Secretary") to invest such portion of the Fund as is not, in the judgment of the Commission, required to meet current withdrawals. Such investment may be made only in interest-bearing obligations of the United States, in obligations guaranteed as to both principal and interest by the United States, in interest-bearing obligations of Japan, or in obligations guaranteed as to both principal and interest by Japan. For such purposes, the obligations may be acquired (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under chapter 31 of title 31, are hereby extended to authorize the issuance at par of special obligations exclusively to the Fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States issued during the preceding two years then forming part of the public debt; except that

where such average rate is not a multiple of one-eight of 1 per centum, the rate of interest of such special obligations shall be the multiple of one-eighth of 1 per centum next lower than such average rate. Such special obligations shall be issued only if the Secretary determines that the purchase of other interest-bearing obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States on original issue or at the market price, is not in the public interest.

(c) Sale of obligations; redemption of special obligations

Any obligation acquired by the Fund (except special obligations issued exclusively to the Fund) may be sold by the Secretary at the market price, and such special obligations may be redeemed at par plus accrued interest.

(d) Credit to Fund of interest on, and proceeds from sale or redemption of, any obligations held in Fund

The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to and form a part of the Fund.

(e) Payments for implementation of programs and necessary expenses of Commission; appropriation of amounts; exceptions

In accordance with section 2905(4) of this title, the Secretary shall pay out of the Fund such amounts, including expenses of the Commission, as the Commission considers necessary to carry out the provisions of this chapter; except that amounts in the Fund, other than amounts which have been appropriated and amounts received (including amounts earned as interest on, and proceeds from the sale or redemption of, obligations purchased with amounts received) by the Commission pursuant to sections 2905(2) and (3) of this title, shall be subject to the appropriation process.

(Pub. L. 94–118, §7, Oct. 20, 1975, 89 Stat. 606; Pub. L. 94–350, title IV, §401(3)(B), July 12, 1976, 90 Stat. 833; Pub. L. 97–241, title V, §503(b), Aug. 24, 1982, 96 Stat. 298; Pub. L. 105–277, div. A, §101(b) [title IV, §404(b)], Oct. 21, 1998, 112 Stat. 2681–50, 2681–101.)

CODIFICATION

In subsec. (b), "chapter 31 of title 31" substituted for "the Second Liberty Bond Act, as amended" on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

1998—Subsec. (b). Pub. L. 105–277 amended second sentence generally. Prior to amendment, second sentence read as follows: "Such investment of amounts authorized to be appropriated under section 2902(d) of this title may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States."

1982—Subsec. (e). Pub. L. 97–241 inserted "(including amounts earned as interest on, and proceeds from the sale or redemption of, obligations purchased with amounts received)" after "amounts received".

1976—Subsec. (b). Pub. L. 94–350 substituted "investment of amounts authorized to be appropriated under section 2902(d) of this title may be made" for "investment may be made" in second sentence.

CHAPTER 45—COMMISSION ON SECURITY AND COOPERATION IN EUROPE

Sec.

3001. Commission on Security and Cooperation in Europe; establishment.
3002. Function and duties of Commission.
3003. Commission membership.
3004. Testimony of witnesses, production of evidence; issuance of subpena; administration of oaths.
3005. Report relating to Commission on Security and Cooperation in Europe.

3006. Commission report to Congress; periodic reports; expenditure of appropriations.
3007. Appropriations for Commission.
3008. Commission staff.
3009. Printing and binding costs.

§3001. Commission on Security and Cooperation in Europe; establishment

There is established the Commission on Security and Cooperation in Europe (hereafter in this chapter referred to as the "Commission").

(Pub. L. 94–304, §1, June 3, 1976, 90 Stat. 661.)

§3002. Function and duties of Commission

The Commission is authorized and directed to monitor the acts of the signatories which reflect compliance with or violation of the articles of the Final Act of the Conference on Security and Cooperation in Europe, with particular regard to the provisions relating to human rights and Cooperation in Humanitarian Fields. The Commission is further authorized and directed to monitor and encourage the development of programs and activities of the United States Government and private organizations with a view toward taking advantage of the provisions of the Final Act to expand East-West economic cooperation and a greater interchange of people and ideas between East and West.

(Pub. L. 94–304, §2, June 3, 1976, 90 Stat. 661; Pub. L. 99–7, §2, Mar. 27, 1985, 99 Stat. 19.)

REFERENCES IN TEXT

The Final Act of the Conference on Security and Cooperation in Europe, referred to in text, means part four of the Helsinki Declaration which deals with follow-up to the Conference and possible steps to encourage compliance with its purposes and undertakings. The Declaration was signed on August 1, 1975 by the nine members of the European Economic Community and the 35 participants to the Conference included all the European States, both Communist (except Albania) and non-Communist, the United States, Canada, and several non-participating Mediterranean states. The Conference on Security and Cooperation in Europe is now called the Organization for Security and Cooperation in Europe.

AMENDMENTS

1985—Pub. L. 99–7 inserted "human rights and" after "relating to".

CHANGE OF NAME

The Conference on Security and Cooperation in Europe to be called the Organization for Security and Cooperation in Europe effective Jan. 1, 1995, pursuant to Ex. Ord. No. 13029, Dec. 3, 1996, 61 F.R. 64591.

EFFECTIVE DATE OF 1985 AMENDMENT

Pub. L. 99–7, §6, Mar. 27, 1985, 99 Stat. 20, provided that:

"(a) Except as provided in subsection (b), this Act and the amendments made by this Act [amending this section and sections 3003, 3007, and 3008 of this title and enacting provisions set out as a note under section 3003 of this title] shall take effect on the date of enactment of this Act [Mar. 27, 1985] or April 15, 1985, whichever is later.

"(b)(1) The amendment made by subsection (b) of the first section [amending section 3003 of this title] shall take effect on the first day of the One Hundredth Congress [which convenes in January 1987].

"(2) Subsection (d) of section 8 of the Act entitled 'An Act to establish a Commission on Security and Cooperation in Europe', approved June 3, 1976 (as added by section 5 of this Act) [section 3008(d) of this title], shall be effective as of June 3, 1976."

§3003. Commission membership

(a) Selection and appointment of members

The Commission shall be composed of twenty-one members as follows:

(1) Nine Members of the House of Representatives appointed by the Speaker of the House of Representatives. Five Members shall be selected from the majority party and four Members shall be selected, after consultation with the minority leader of the House, from the minority party.

(2) Nine Members of the Senate appointed by the President of the Senate. Five Members shall be selected from the majority party of the Senate, after consultation with the majority leader, and four Members shall be selected, after consultation with the minority leader of the Senate, from the minority party.

(3) One member of the Department of State appointed by the President of the United States.

(4) One member of the Department of Defense appointed by the President of the United States.

(5) One member of the Department of Commerce appointed by the President of the United States.

(b) Commission Chairman and Cochairman

There shall be a Chairman and a Cochairman of the Commission.

(c) Designation of Chairman

At the beginning of each odd-numbered Congress, the President of the Senate, on the recommendation of the majority leader, shall designate one of the Senate Members as Chairman of the Commission. At the beginning of each even-numbered Congress, the Speaker of the House of Representatives shall designate one of the House Members as Chairman of the Commission.

(d) Designation of Cochairman

At the beginning of each odd-numbered Congress, the Speaker of the House of Representatives shall designate one of the House Members as Cochairman of the Commission. At the beginning of each even-numbered Congress, the President of the Senate, on the recommendation of the majority leader, shall designate one of the Senate Members as Cochairman of the Commission.

(Pub. L. 94–304, §3, June 3, 1976, 90 Stat. 661; Pub. L. 99–7, §1(a), (b), Mar. 27, 1985, 99 Stat. 18.)

AMENDMENTS

1985—Subsecs. (a), (b). Pub. L. 99–7, §1(a), in amending section generally, designated existing provisions as subsec. (a) and added subsec. (b). Prior to amendment, section read as follows: "The Commission shall be composed of fifteen members as follows:

"(1) Six Members of the House of Representatives appointed by the Speaker of the House of Representatives. Four members shall be selected from the majority party and two shall be selected, after consultation with the minority leader of the House, from the minority party. The Speaker shall designate one of the House Members as chairman.

"(2) Six Members of the Senate appointed by the President of the Senate. Four members shall be selected from the majority party and two shall be selected after consultation with the minority leader of the Senate, from the minority party.

"(3) One member of the Department of State appointed by the President of the United States.

"(4) One member of the Defense Department appointed by the President of the United States.

"(5) One member of the Commerce Department appointed by the President of the United States."

Subsecs. (c), (d). Pub. L. 99–7, §1(b), added subsecs. (c) and (d).

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by section 1(a) of Pub. L. 99–7 effective Apr. 15, 1985, see section 6(a) of Pub. L. 99–7, set out as a note under section 3002 of this title.

Amendment by section 1(b) of Pub. L. 99–7 effective on first day of 100th Congress (which convenes in January 1987), see section 6(b)(1) of Pub. L. 99–7, set out as a note under section 3002 of this title.

DESIGNATION OF CHAIRMAN AND COCHAIRMAN FOR DURATION OF 99TH CONGRESS

Pub. L. 99–7, §1(c), Mar. 27, 1985, 99 Stat. 19, provided that: "On the effective date of this subsection [Apr. 15, 1985], the President of the Senate, on the recommendation of the majority leader, shall designate one of the Senate Members to serve as Chairman of the Commission for the duration of the Ninety-ninth Congress, and the Speaker of the House of Representatives shall designate one of the House Members to serve as Cochairman of the Commission for the duration of the Ninety-ninth Congress."

§3004. Testimony of witnesses, production of evidence; issuance of subpena; administration of oaths

In carrying out this chapter, the Commission may require, by subpena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents as it deems necessary. Subpenas may be issued over the signature of the Chairman of the Commission or any member designated by him, and may be served by any person designated by the Chairman or such member. The Chairman of the Commission, or any member designated by him, may administer oaths to any witness.

(Pub. L. 94–304, §4, June 3, 1976, 90 Stat. 661.)

§3005. Report relating to Commission on Security and Cooperation in Europe

In order to assist the Commission in carrying out its duties, the Secretary of State shall submit to the Commission an annual report discussing the overall United States policy objectives that are advanced through meetings of decision-making bodies of the Organization for Security and Cooperation in Europe (OSCE), the OSCE implementation review process, and other activities of the OSCE. The report shall also include a summary of specific United States policy objectives with respect to participating states where there is particular concern relating to the implementation of OSCE commitments or where an OSCE presence exists. Such summary shall address the role played by OSCE institutions, mechanisms, or field activities in achieving United States policy objectives. Each annual report shall cover the period from January 1 to December 31, shall be submitted not more than 90 days after the end of the reporting period, and shall be posted on the Internet website of the Department of State.

(Pub. L. 94–304, §5, June 3, 1976, 90 Stat. 661; Pub. L. 102–138, title I, §171, Oct. 28, 1991, 105 Stat. 679; Pub. L. 107–228, div. A, title II, §226, Sept. 30, 2002, 116 Stat. 1369.)

AMENDMENTS

2002—Pub. L. 107–228 amended section generally. Prior to amendment, section read as follows: "In order to assist the Commission in carrying out its duties, the President shall submit to the Commission an annual report,, which shall include (1) a detailed survey of actions by the signatories of the Final Act reflecting compliance with or violation of the provisions of the Final Act, and (2) a listing and description of present or planned programs and activities of the appropriate agencies of the executive branch and private organizations aimed at taking advantage of the provisions of the Final Act to expand East-West economic cooperation and to promote a greater interchange of people and ideas between East and West."

1991—Pub. L. 102–138, §171(2), which directed the striking out of "the first one to be submitted six months after June 3, 1976" after "report", was executed by striking that language after "report," to reflect the probable intent of Congress.

Pub. L. 102–138, §171(1), substituted "an annual report" for "a semiannual report".

DELEGATION OF FUNCTIONS

Memorandum of President of the United States, Feb. 10, 1992, 57 F.R. 5367, provided:

Memorandum for the Honorable James A. Baker, III, the Secretary of State

By virtue of the authority vested in me by the Constitution and laws of the United States of America, including section 301 of title 3 of the United States Code, I hereby delegate to you the functions vested in me by section 5 of Public Law 94–304 (22 U.S.C. 3005). The authority delegated by this memorandum may be further delegated within the Department of State.

You are authorized and directed to publish this memorandum in the Federal Register.

GEORGE BUSH.

§3006. Commission report to Congress; periodic reports; expenditure of

appropriations

The Commission is authorized and directed to report to the House of Representatives and the Senate with respect to the matters covered by this chapter on a periodic basis and to provide information to Members of the House and Senate as requested. For each fiscal year for which an appropriation is made the Commission shall submit to Congress a report on its expenditures under such appropriation.

(Pub. L. 94–304, §6, June 3, 1976, 90 Stat. 662.)

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103–7 (in which a report required under this section is listed on page 157), see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance.

§3007. Appropriations for Commission

(a) Authorization; disbursements

(1) There are authorized to be appropriated to the Commission for each fiscal year such sums as may be necessary to enable it to carry out its duties and functions. Appropriations to the Commission are authorized to remain available until expended.

(2) Appropriations to the Commission shall be disbursed on vouchers approved—

(A) jointly by the Chairman and the Cochairman, or

(B) by a majority of the members of the personnel and administration committee established pursuant to section 3008(a) of this title.

(b) Use of foreign currencies

For purposes of section 1754(b) of this title, the Commission shall be deemed to be a standing committee of the Congress and shall be entitled to use funds in accordance with such sections.

(c) Official reception and representational expenses

Not to exceed $6,000 of the funds appropriated to the Commission for each fiscal year may be used for official reception and representational expenses.

(d) Foreign travel for official purposes

Foreign travel for official purposes by Commission members and staff may be authorized by either the Chairman or the Cochairman.

(Pub. L. 94–304, §7, June 3, 1976, 90 Stat. 662; Pub. L. 94–534, Oct. 17, 1976, 90 Stat. 2495; Pub. L. 95–426, title VII, §702, Oct. 7, 1978, 92 Stat. 992; Pub. L. 96–60, title IV, §401, Aug. 15, 1979, 93 Stat. 403; Pub. L. 99–7, §§3, 4, Mar. 27, 1985, 99 Stat. 19.)

AMENDMENTS

1985—Subsec. (a). Pub. L. 99–7, §3, amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "There is authorized to be appropriated to the Commission for each fiscal year and to remain available until expended $550,000 to assist in meeting the expenses of the Commission for the purpose of carrying out the provisions of this chapter, such appropriation to be disbursed on voucher to be approved by the Chairman of the Commission."

Subsec. (d). Pub. L. 99–7, §4, added subsec. (d).

1979—Subsec. (c). Pub. L. 96–60 added subsec. (c).

1978—Subsec. (a). Pub. L. 95–426 substituted "$550,000" for "$350,000".

1976—Pub. L. 94–534 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–7 effective Apr. 15, 1985, see section 6(a) of Pub. L. 99–7, set out as a note under section 3002 of this title.

§3008. Commission staff

(a) Personnel and administration committee

The Commission shall have a personnel and administration committee composed of the Chairman, the Cochairman, the senior Commission member from the minority party in the House of Representatives, and the senior Commission member from the minority party in the Senate.

(b) Committee functions

All decisions pertaining to the hiring, firing, and fixing of pay of Commission staff personnel shall be by a majority vote of the personnel and administration committee, except that—

(1) the Chairman shall be entitled to appoint and fix the pay of the staff director, and the Cochairman shall be entitled to appoint and fix the pay of his senior staff person; and

(2) the Chairman and Cochairman each shall have the authority to appoint, with the approval of the personnel and administration committee, at least four professional staff members who shall be responsible to the Chairman or the Cochairman (as the case may be) who appointed them.

The personnel and administration committee may appoint and fix the pay of such other staff personnel as it deems desirable.

(c) Staff appointments

All staff appointments shall be made without regard to the provisions of title 5 governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and general schedule pay rates.

(d) Commission employees as congressional employees

(1) For purposes of pay and other employment benefits, rights, and privileges and for all other purposes, any employee of the Commission shall be considered to be a congressional employee as defined in section 2107 of title 5.

(2) For purposes of section 3304(c)(1) [1] of title 5, staff personnel of the Commission shall be considered as if they are in positions in which they are paid by the Secretary of the Senate or the Chief Administrative Officer of the House of Representatives.

(3) The provisions of paragraphs (1) and (2) of this subsection shall be effective as of June 3, 1976.

(Pub. L. 94–304, §8, June 3, 1976, 90 Stat. 662; Pub. L. 99–7, §5, Mar. 27, 1985, 99 Stat. 19; Pub. L. 104–186, title II, §218(3), Aug. 20, 1996, 110 Stat. 1747.)

REFERENCES IN TEXT

Section 3304(c) of title 5, referred to in subsec. (d)(2), was repealed and section 3304(d) was redesignated 3304(c) by Pub. L. 104–65, §16(a), (b), Dec. 19, 1995, 109 Stat. 703.

AMENDMENTS

1996—Subsec. (d)(2). Pub. L. 104–186 substituted "Chief Administrative Officer" for "Clerk".

1985—Subsecs. (a), (b). Pub. L. 99–7, in amending section generally, added subsecs. (a) and (b).

Subsec. (c). Pub. L. 99–7, in amending section generally, designated existing provisions as subsec. (c) and substituted "All staff appointments shall be made" for "The Commission may appoint and fix the pay of such staff personnel as it deems desirable,".

Subsec. (d). Pub. L. 99–7, in amending section generally, added subsec. (d).

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–7 effective Apr. 15, 1985, except for enactment of subsec. (d) which was effective June 3, 1976, see section 6(a), (b)(2) of Pub. L. 99–7, set out as a note under section 3002 of this title.

[1] *See References in Text note below.*

§3009. Printing and binding costs

For purposes of costs relating to printing and binding, including the costs of personnel detailed from the Government Publishing Office, the Commission shall be deemed to be a committee of the Congress.

(Pub. L. 94–304, §9, as added Pub. L. 99–190, §134, Dec. 19, 1985, 99 Stat. 1322; amended Pub. L. 113–235, div. H, title I, §1301(b), Dec. 16, 2014, 128 Stat. 2537.)

CHANGE OF NAME

"Government Publishing Office" substituted for "Government Printing Office" in text on authority of section 1301(b) of Pub. L. 113–235, set out as a note preceding section 301 of Title 44, Public Printing and Documents.

CHAPTER 46—INTERNATIONAL INVESTMENT AND TRADE IN SERVICES SURVEY

Sec.

3101. Congressional statement of findings and declaration of purpose.
3102. Definitions.
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§3101. Congressional statement of findings and declaration of purpose

(a) Findings

The Congress finds and declares that—

(1) the United States Government is presently authorized to collect limited amounts of information on United States investment abroad and foreign investment in the United States;

(2) international investment has increased rapidly within recent years;

(3) such investment significantly affects the economies of the United States and other nations;

(4) international efforts to obtain information on the activities of multinational enterprises and other international investors have accelerated recently;

(5) the potential consequences of international investment cannot be evaluated accurately because the United States Government lacks sufficient information on such investment and its actual or possible effects on the national security, commerce, employment, inflation, general welfare, and foreign policy of the United States;

(6) accurate and comprehensive information on international investment is needed by the Congress to develop an informed United States policy on such investment;

(7) United States service industries engaged in interstate and foreign commerce account for a substantial part of the labor force and gross national product of the United States economy, and such commerce is rapidly increasing;

(8) international trade and services is an important issue for international negotiations and deserves priority in the attention of governments, international agencies, negotiators, and the private sector; and

(9) existing estimates of international investment and trade in services, collected under existing legal authority, are limited in scope and are based on outdated statistical bases, reports, and information which are insufficient for policy formulation and decisionmaking.

(b) Purpose

It is therefore the purpose of this chapter to provide clear and unambiguous authority for the President to collect information on international investment and United States foreign trade in services, whether directly or by affiliates, including related information necessary for assessing the impact of such investment and trade, to authorize the collection and use of information on direct investments owned or controlled directly or indirectly by foreign governments or persons, and to provide analyses of such information to the Congress, the executive agencies, and the general public. It is the intent of the Congress that information which is collected from the public under this chapter be obtained with a minimum burden on business and other respondents and with no unnecessary duplication of effort, consistent with the national interest in obtaining comprehensive and reliable information on international investment and trade in services.

(c) Nonrestraint and nondeterrence of investment

Nothing in this chapter is intended to restrain or deter foreign investment in the United States, United States investment abroad, or trade in services.

(Pub. L. 94–472, §2, Oct. 11, 1976, 90 Stat. 2059; Pub. L. 98–573, title III, §306(b)(2), Oct. 30, 1984, 98 Stat. 3009; Pub. L. 101–533, §6(A)[(a)], Nov. 7, 1990, 104 Stat. 2348.)

AMENDMENTS

1990—Subsec. (b). Pub. L. 101–533 inserted "to authorize the collection and use of information on direct investments owned or controlled directly or indirectly by foreign governments or persons," after "the impact of such investment and trade," in first sentence.

1984—Subsec. (a)(7) to (9). Pub. L. 98–573, §306(b)(2)(A), added pars. (7) and (8), redesignated former par. (7) as (9), and inserted "and trade in services" after "international investment" in par. (9).

Subsec. (b). Pub. L. 98–573, §306(b)(2)(B), substituted "international investment and United States foreign trade in services, whether directly or by affiliates, including related information necessary for assessing the impact of such investment and trade," for "international investment", and "international investment and trade in services" for "international investment".

Subsec. (c). Pub. L. 98–573, §306(b)(2)(C), inserted reference to trade in services.

SHORT TITLE

Pub. L. 94–472, §1, Oct. 11, 1976, 90 Stat. 2059, as amended by Pub. L. 98–573, title III, §306(b)(1), Oct. 30, 1984, 98 Stat. 3009, provided that: "This Act [enacting this chapter] may be cited as the 'International Investment and Trade in Services Survey Act'."

EX. ORD. NO. 11961. INTERNATIONAL INVESTMENT AND TRADE IN SERVICES

Ex. Ord. No. 11961, Jan. 19, 1977, 42 F.R. 4321, as amended by Ex. Ord. No. 12013, Oct. 7, 1977, 42 F.R. 54931; Ex. Ord. No. 12318, Aug. 21, 1981, 46 F.R. 42833; Ex. Ord. No. 12518, June 3, 1985, 50 F.R. 23661, provided:

By virtue of the authority vested in me by the International Investment and Trade in Services Survey Act (90 Stat. 2059, 22 U.S.C. 3101) [this chapter], and section 301 of title 3 of the United States Code, and as President of the United States of America, it is hereby ordered as follows:

SECTION 1. All the functions vested in the President by the International Investment and Trade in Services Survey Act (90 Stat. 2059, 22 U.S.C. 3101) [this chapter], hereinafter referred to as the Act, are hereby delegated to the Director of the Office of Management and Budget, hereinafter referred to as the Director. The Director may, from time to time, designate other officers or agencies of the Federal Government to perform any or all of the functions hereby delegated to the Director, subject to such instructions, limitations, and directions as the Director deems appropriate.

SEC. 2. Subject to the provisions of section 1 of this order, and in the absence of any contrary delegation or direction by the Director, the Secretary of the Treasury, with respect to portfolio investment, shall perform the functions set forth in sections 4(a)(1), (2), (5) and 4(c) of the Act [22 U.S.C. 3103(a)(1), (2), (5) and (c)].

SEC. 3. Subject to the provisions of section 1 of this order, and in the absence of any contrary delegation or direction by the Director, the Secretary of Commerce, with respect to direct investment and trade in services, shall perform the functions set forth in sections 4(a)(1), (2), (4), (5) and 4(b) of the Act [22 U.S.C. 3103(a)(1), (2), (4), (5) and (b)].

SEC. 4. Subject to the provisions of section 1 of this order, and in the absence of any contrary delegation or direction by the Director, the Secretary of Commerce shall perform the function of making periodic reports to

the Committees of the Congress as set forth in Section 4(a)(3) of the Act [22 U.S.C. 3103(a)(3)].

§3102. Definitions

As used in this chapter, the term—

(1) "United States", when used in a geographic sense, means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, and all territories and possessions of the United States;

(2) "foreign", when used in a geographic sense, means that which is situated outside the United States or which belongs to or is characteristic of a country other than the United States;

(3) "person" means any individual, branch, partnership, associated group, association, estate, trust, corporation, or other organization (whether or not organized under the laws of any State), and any government (including a foreign government, the United States Government, a State or local government, and any agency, corporation, financial institution, or other entity or instrumentality thereof, including a government-sponsored agency);

(4) "United States person" means any person resident in the United States or subject to the jurisdiction of the United States;

(5) "foreign person" means any person resident outside the United States or subject to the jurisdiction of a country other than the United States;

(6) "business enterprise" means any organization, association, branch, or venture which exists for profitmaking purposes or to otherwise secure economic advantage, and any ownership of any real estate;

(7) "parent" means a person of one country who, directly or indirectly, owns or controls 10 per centum or more of the voting stock of an incorporated business enterprise, or an equivalent ownership interest in an unincorporated business enterprise, which is located outside that country;

(8) "affiliate" means a business enterprise located in one country which is directly or indirectly owned or controlled by a person of another country to the extent of 10 per centum or more of its voting stock for an incorporated business or an equivalent interest for an unincorporated business, including a branch;

(9) "international investment" means (A) the ownership or control, directly or indirectly, by contractual commitment or otherwise, by foreign persons of any interest in property in the United States, or of stock, other securities, or short- and long-term debt obligations of a United States person, and (B) the ownership or control, directly or indirectly, by contractual commitment or otherwise, by United States persons of any interest in property outside the United States, or of stock, other securities, or short-and long-term debt obligations of a foreign person;

(10) "direct investment" means the ownership or control, directly or indirectly, by one person of 10 per centum or more of the voting securities of an incorporated business enterprise or an equivalent interest in an unincorporated business enterprise; and

(11) "portfolio investment" means any international investment which is not direct investment.

(Pub. L. 94–472, §3, Oct. 11, 1976, 90 Stat. 2060.)

REFERENCES IN TEXT

For definition of Canal Zone, referred to in par. (1), see section 3602(b) of this title.

§3103. Presidential authority and duties

(a) Data collection program; studies and surveys; periodic report to Congressional committees; statistical information publication

The President shall, to the extent he deems necessary and feasible—

(1) conduct a regular data collection program to secure current information on international capital flows and other information related to international investment and trade in services, including (but not limited to) such information as may be necessary for computing and analyzing

the United States balance of payments, the employment and taxes of United States parents and affiliates, and the international investment and trade in services position of the United States;

(2) conduct such studies and surveys as may be necessary to prepare reports in a timely manner on specific aspects of international investment and trade in services which may have significant implications for the economic welfare and national security of the United States;

(3) study the adequacy of information, disclosure, and reporting requirements and procedures relating to international investment and trade in services; recommend necessary improvements in information recording, collection, and retrieval and in statistical analysis and presentation; and report periodically to the Committees on Finance [1] Foreign Relations [1] and Commerce of the Senate and the Committees on Ways and Means, Energy and Commerce, and Foreign Affairs of the House of Representatives on national and international developments with respect to laws and regulations affecting international investment and trade in services;

(4) conduct (not more frequently than once every five years and in addition to any other surveys conducted pursuant to paragraphs (1) and (2)) benchmark surveys with respect to trade in services between unaffiliated United States persons and foreign persons; and

(5) publish for the use of the general public and United States Government agencies periodic, regular, and comprehensive statistical information collected pursuant to this subsection and to the benchmark surveys conducted pursuant to subsections (b) and (c), including, with respect to foreign direct investment in the United States, information on ownership by foreign governments of United States affiliates by country, and tables, on an aggregated basis, of business enterprises the ownership or control of which by foreign persons is more than 50 percent of the voting securities or other evidences of ownership of such enterprises, and business enterprises the ownership or control of which by foreign persons is 50 percent or less of the voting securities or other evidences of ownership of such enterprises.

(b) Benchmark survey of United States direct investment abroad and foreign direct investment in United States

With respect to foreign direct investment in the United States, the President shall conduct a benchmark survey covering year 1980, a benchmark survey covering year 1987, and benchmark surveys covering every fifth year thereafter. With respect to United States direct investment abroad, the President shall conduct a benchmark survey covering year 1982, a benchmark survey covering year 1989, and benchmark surveys covering every fifth year thereafter. In conducting surveys pursuant to this subsection, the President shall, among other things and to the extent he determines necessary and feasible—

(1) identify the location, nature, and magnitude of, and changes in total investment by any parent in each of its affiliates and the financial transactions between any parent and each of its affiliates;

(2) obtain (A) information on the balance sheet of parents and affiliates and related financial data, (B) income statements, including the gross sales by primary line of business (with as much product line detail as is necessary and feasible) of parents and affiliates in each country in which they have significant operations, and (C) related information regarding trade (including trade in both goods and services) between a parent and each of its affiliates and between each parent or affiliate and any other person;

(3) collect employment data showing both the number of United States and foreign employees of each parent and affiliate and the levels of compensation, by country, industry, and skill level;

(4) obtain information on tax payments by parents and affiliates by country; and

(5) determine, by industry and country, the total dollar amount of research and development expenditures by each parent and affiliate, payments or other compensation for the transfer of technology between parents and their affiliates, and payments or other compensation received by parents or affiliates from the transfer of technology to other persons.

(c) Benchmark survey of foreign portfolio investment in United States and United States portfolio investment abroad; report to Congress

(1) The President shall conduct a comprehensive benchmark survey of foreign portfolio

investment in the United States at least once every five years and, for such purposes, shall (among other things and to the extent he determines necessary and feasible) determine the magnitude and aggregate value of portfolio investment, form of investments, types of investors, nationality of investors and recorded residence of foreign private holders, diversification of holdings by economic sector, and holders of record.

(2) In addition to the benchmark surveys conducted pursuant to paragraph (1), the President shall annually compile currently available data on United States portfolio investment abroad including items such as data on the magnitude and aggregate value of portfolio investment, form of investments, types of investors, nationality of investors and recorded residence of private holders, diversification of holdings by economic sector, and holders of record. The President shall submit an analysis of such data to the Congress not later than the first day of July of each year.

(d) Foreign agricultural and real property investment and land data system: study; submittal of findings and conclusions to Congress

The President shall conduct a study of the feasibility of establishing a system to monitor foreign direct investment in agricultural, rural, and urban real property, including the feasibility of establishing a nationwide multipurpose land data system, and shall submit his findings and conclusions to the Congress not later than two years after October 11, 1976.

(e) Report on cost of monitoring and compiling data on legislation enacted by foreign nations regulating and restricting foreign inward investment

The Secretary of Commerce shall prepare a report on the estimated cost of monitoring and compiling data on legislation enacted by the major trading partners of the United States, and such other foreign nations as the Secretary deems appropriate, which regulates or restricts foreign inward investment in such foreign nations.

(f) Reporting, recordkeeping, and documentation

Activities shall be conducted so that information obtained pursuant to this chapter shall be timely and useful in the development of policy with respect to international investment and trade in services. Reporting and recordkeeping requirements imposed under this chapter shall be designed in order to minimize costs to the extent feasible, consistent with effective enforcement and the compilation of information required by this chapter. Reporting, recordkeeping, and documentation requirements shall be periodically reviewed and revised in the light of developments in the field of information technology.

(g) Costs for collecting information

In collecting information under this chapter, the President shall give due regard to the costs incurred by persons supplying such information, as well as to the costs incurred by the Government, and shall insure that the information collected is only in such detail as is necessary to fulfill the stated purposes for which the information is being gathered.

(h) Bureau of Economic Analysis report

(1) The President, or the designee of the President responsible for monitoring the impact of foreign investment in the United States, coordinating implementation of United States policy on investment, and investigating foreign acquisitions under section 4565 of title 50, may request a report from the Bureau of Economic Analysis of the Department of Commerce. When such request is made in connection with an investigation under such section 4565, the report shall be provided within 14 days after the request is made. When such request is not made in connection with an investigation under such section 4565, the report shall be provided within 60 days after the request.

(2) A report requested under paragraph (1) shall contain the best available information on the extent of foreign direct investment in a given industry, including a breakdown of total investment in the industry, and any foreign government investment in the industry, by country of the foreign owner, and any other information that the Bureau of Economic Analysis or such designee of the

President considers relevant. The industry information provided shall be at the most detailed level available of Standard Industrial Classification, subject to the requirements of section 3104 of this title.

(Pub. L. 94–472, §4, Oct. 11, 1976, 90 Stat. 2060; Pub. L. 95–381, §2, Sept. 22, 1978, 92 Stat. 726; H. Res. 89, Feb. 5, 1979; Pub. L. 97–33, §§1–3, Aug. 7, 1981, 95 Stat. 170; Pub. L. 97–70, Oct. 26, 1981, 95 Stat. 1045; Pub. L. 98–573, title III, §306(b)(3), (4), Oct. 30, 1984, 98 Stat. 3010; Pub. L. 101–533, §6(b), (c), Nov. 7, 1990, 104 Stat. 2348.)

AMENDMENTS

1990—Subsec. (a)(5). Pub. L. 101–533, §6(b), inserted before period at end ", including, with respect to foreign direct investment in the United States, information on ownership by foreign governments of United States affiliates by country, and tables, on an aggregated basis, of business enterprises the ownership or control of which by foreign persons is more than 50 percent of the voting securities or other evidences of ownership of such enterprises, and business enterprises the ownership or control of which by foreign persons is 50 percent or less of the voting securities or other evidences of ownership of such enterprises".

Subsec. (h). Pub. L. 101–533, §6(c), added subsec. (h).

1984—Subsec. (a)(1), (2). Pub. L. 98–573, §306(b)(4)(A)(ii), inserted "and trade in services" after "international investment" wherever appearing.

Subsec. (a)(3). Pub. L. 98–573, §306(b)(3), (4)(A)(i)–(iii), inserted reference to the Committee on Finance of the Senate and the Committees on Ways and Means and Energy and Commerce of the House of Representatives, and substituted "presentation" for "presentation relating to international investment", inserted "and trade in services" after "international investment" in two places, and struck out "and" at end.

Subsec. (a)(4), (5). Pub. L. 98–573, §306(b)(4)(A)(iv), (v), added par. (4) and redesignated former par. (4) as (5).

Subsec. (b)(2)(C). Pub. L. 98–573, §306(b)(4)(B), inserted "(including trade in both goods and services)" after "regarding trade".

Subsec. (f). Pub. L. 98–573, §306(b)(4)(C), inserted "and trade in services" after "international investment".

1981—Subsec. (b). Pub. L. 97–70 substituted "year" for "calendar year" in five places in provisions preceding par. (1).

Pub. L. 97–33, §1, substituted "With respect to foreign direct investment in the United States, the President shall conduct a benchmark survey covering calendar year 1980, a benchmark survey covering calendar year 1987, and benchmark surveys covering every fifth calendar year thereafter. With respect to United States direct investment abroad, the President shall conduct a benchmark survey covering calendar year 1982, a benchmark survey covering calendar year 1989, and benchmark surveys covering every fifth year thereafter. In conducting surveys pursuant to this subsection, the President shall," for "With respect to the United States direct investment abroad and foreign direct investment in the United States, the President shall conduct a comprehensive benchmark survey at least once every five years and, for such purpose, shall," in provisions preceding par (1).

Subsec. (c)(2). Pub. L. 97–33, §2, substituted "the President shall annually compile currently available data on United States portfolio investment abroad including items such as data on the magnitude and aggregate value of portfolio investment, form of investments, types of investors, nationality of investors and recorded residence of private holders, diversification of holdings by economic sector, and holders of record. The President shall submit an analysis of such data to the Congress not later than the first day of July of each year" for "the President shall conduct a benchmark survey of United States portfolio investment abroad and, for such purpose, shall (among other things and to the extent he determines necessary and feasible) determine the magnitude and aggregate value of portfolio investment, form of investments, types of investors, nationality of investors and recorded residence of private holders, diversification of holdings by economic sector, and holders of record. The President shall complete such survey not later than the end of the five-year period beginning on October 11, 1976. After completion of such survey, the President shall report to the Congress on the feasibility and desirability of conducting, on a periodic basis, additional benchmark surveys of United States portfolio investment abroad. If he determines that such additional benchmark surveys are feasible and desirable, he may conduct such surveys".

Subsecs. (e) to (g). Pub. L. 97–33, §3, added subsec. (e) and redesignated subsecs. (e) and (f) as (f) and (g), respectively.

1979—Subsec. (a)(3). H. Res. 89 changed name of Committee on International Relations of the House of Representatives to Committee on Foreign Affairs.

1978—Subsec. (d). Pub. L. 95–381 substituted provisions setting forth requirements respecting interim and

final reports to Congress, for provisions requiring submission of findings and conclusions to Congress not later than two years after Oct. 11, 1976.

CHANGE OF NAME

Committee on Energy and Commerce of House of Representatives treated as referring to Committee on Commerce of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Commerce of House of Representatives changed to Committee on Energy and Commerce of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred to Committee on Financial Services of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (c)(2) of this section relating to submitting an analysis of compiled data to Congress each year, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 30 of House Document No. 103–7.

[1] *So in original. Probably should be followed by a comma.*

§3104. Rules and regulations

(a) Authorization

The authorities and responsibilities under this chapter may be exercised through such rules and regulations as may be necessary to carry out the purposes of this chapter.

(b) Recordkeeping and reports

Rules or regulations issued pursuant to this chapter may require any person subject to the jurisdiction of the United States—

(1) to maintain a complete record of any information (including journals or other books of original entry, minute books, stock transfer records, lists of shareholders, or financial statements) which is essential to carrying out the surveys and studies to be conducted under this chapter; and

(2) to furnish, under oath, any report containing information which is determined to be necessary to carry out the surveys and studies conducted under this chapter.

When a report under paragraph (2) is furnished under oath, such oath shall be by the officer of such person who is directly responsible for the maintenance and compilation of such information, and shall certify that the report was prepared in accordance with this chapter, is complete, and is to such officer's best knowledge and belief, substantially accurate, except in a case in which, in accordance with rules and regulations issued under this chapter, estimates have been provided because data are not available from customary accounting records or precise data could not be obtained without undue burden, and the data subject to such estimates has been noted in the report.

(c) Access to information; limitation

Access to information obtained under subsection (b)(2) of this section shall be available only to officials or employees designated to perform functions under this chapter, including consultants and persons working on contracts awarded pursuant to this chapter. Subject to the limitation of paragraph (1) of this subsection, the President may authorize the exchange between agencies or officials designated by him of information furnished by any person under this chapter as he deems necessary to carry out the purposes of this chapter. Nothing in this section shall be construed to require any Federal agency to disclose to any official exercising authority under this chapter any information or report collected under legal authority other than this chapter where disclosure is prohibited by law. Information collected pursuant to subsection (b)(2) may be used only—

(1) for analytical or statistical purposes within the United States Government; or

(2) for the purpose of a proceeding under subsection (e) of this section or under section 3105(b) or (c) of this title.

No official or employee designated to perform functions under this chapter, including consultants and persons working on contracts awarded pursuant to this chapter, may publish or make available to any other person any information collected pursuant to subsection (b)(2) in a manner that the person who furnished the information can be specifically identified except as provided in this section. No person can compel the submission or disclosure of any report or constituent part thereof collected pursuant to this chapter, or any copy of such report or constituent part thereof, without the prior written consent of the person who maintained or furnished such report under subsection (b) and without prior written consent of the customer, where the person who maintained or furnished such report included information identifiable as being derived from the records of such customer.

(d) Access to Bureau of Economic Analysis information

The Bureau of the Census of the Department of Commerce is authorized, for purposes of augmenting and improving the quality of data collected by the Bureau of the Census, to have, upon written request, access to data relating to business enterprises that is collected directly by the Bureau of Economic Analysis for purposes of this chapter. The Bureau of Labor Statistics of the Department of Labor is authorized, for purposes of augmenting and improving the data collected by the Bureau of Labor Statistics, to have access, upon written request, to selected identification information on business enterprises and data on international services transactions, that is collected directly by the Bureau of Economic Analysis for purposes of this chapter. Officers and employees of the Bureau of the Census and the Bureau of Labor Statistics shall, for purposes of subsection (c), be deemed to be officials or employees designated to perform functions under this chapter.

(e) Penalty

Any person who willfully violates subsection (c) or (d) shall, upon conviction, be fined not more than $10,000, in addition to any other penalty imposed by law.

(Pub. L. 94–472, §5, Oct. 11, 1976, 90 Stat. 2062; Pub. L. 98–573, title III, §306(b)(5), Oct. 30, 1984, 98 Stat. 3010; Pub. L. 101–533, §§6(d), (e), 7(a), Nov. 7, 1990, 104 Stat. 2349.)

AMENDMENTS

1990—Subsec. (b). Pub. L. 101–533, §7(a), inserted at end "When a report under paragraph (2) is furnished under oath, such oath shall be by the officer of such person who is directly responsible for the maintenance and compilation of such information, and shall certify that the report was prepared in accordance with this chapter, is complete, and is to such officer's best knowledge and belief, substantially accurate, except in a case in which, in accordance with rules and regulations issued under this chapter, estimates have been provided because data are not available from customary accounting records or precise data could not be obtained without undue burden, and the data subject to such estimates has been noted in the report."

Subsec. (c)(2). Pub. L. 101–533, §6(e)(1), substituted "subsection (e)" for "subsection (d)".

Subsec. (d). Pub. L. 101–533, §6(d)(2), added subsec. (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 101–533, §6(d)(1), (e)(2), redesignated subsec. (d) as (e) and inserted "or (d)" after "subsection (c)".

1984—Subsec. (b)(1), (2). Pub. L. 98–573 struck out "international investment" before "surveys".

§3105. Enforcement

(a) Civil penalty for failure to furnish information

Whoever fails to furnish any information required under this chapter, whether required to be furnished in the form of a report or otherwise, or to comply with any rule, regulation, order, or instruction promulgated under this chapter, shall be subject to a civil penalty of not less than $2,500, and not more than $25,000, in a proceeding brought under subsection (b) of this section.

(b) Civil action for failure to furnish information

Whenever it appears that any person has failed to furnish any information required under this chapter, whether required to be furnished in the form of a report or otherwise, or has failed to comply with any rule, regulation, order, or instruction promulgated under this chapter, a civil action may be

brought in an appropriate district court of the United States, or the appropriate United States court of any territory or other place subject to the jurisdiction of the United States, and such court may enter a restraining order or a permanent or temporary injunction commanding such person to furnish such information or to comply with such rule, regulation, order, or instruction, as the case may be, or impose the civil penalty provided in subsection (a) of this section, or both.

(c) Criminal penalty for failure to submit information

Whoever willfully fails to submit any information required under this chapter, whether required to be furnished in the form of a report or otherwise, or willfully violates any rule, regulation, order, or instruction promulgated under this chapter, upon conviction, shall be fined not more than $10,000 and, if an individual, may be imprisoned for not more than one year, or both, and any officer, director, employee, or agent of any corporation who knowingly participates in such violation, upon conviction, may be punished by a like fine, imprisonment, or both.

(Pub. L. 94–472, §6, Oct. 11, 1976, 90 Stat. 2063; Pub. L. 101–533, §7(b), Nov. 7, 1990, 104 Stat. 2349.)

AMENDMENTS

1990—Subsec. (a). Pub. L. 101–533 substituted "shall be subject to a civil penalty of not less than $2,500, and not more than $25,000," for "may be subject to a civil penalty not exceeding $10,000".

§3106. Use of experts and administrative support services

(a) Compensation and travel expenses

Any official designated by the President to carry out this chapter may procure the temporary or intermittent services of experts and consultants in accordance with the provisions of section 3109 of title 5. Persons so employed shall receive compensation at a rate not in excess of the maximum amount payable under such section. While away from his home or regular place of business and engaged in the performance of services in conjunction with the provisions of this chapter, any such person may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703(b) [1] of title 5 for persons in the Government service employed intermittently.

(b) Use of available Federal agency services, equipment, personnel, and facilities

Any official designated by the President to carry out this chapter may use, on a reimbursable basis when appropriate (as determined by the President), the available services, equipment, personnel, and facilities of any agency or instrumentality of the United States Government.

(Pub. L. 94–472, §7, Oct. 11, 1976, 90 Stat. 2064.)

REFERENCES IN TEXT

Section 5703 of title 5, referred to in subsec. (a), was amended generally by Pub. L. 94–22, §4, May 19, 1975, 89 Stat. 85, and, as so amended, does not contain a subsec. (b).

[1] *See References in Text note below.*

§3107. Consultations; creation of independent public advisory committees

Officials performing functions pursuant to this chapter shall secure balanced, diverse, and responsible views from qualified persons representing business, organized labor, and the academic community and may, where appropriate, create such independent public advisory committees as are necessary to carry out the purposes of this chapter.

(Pub. L. 94–472, §8, Oct. 11, 1976, 90 Stat. 2064; Pub. L. 95–381, §3, Sept. 22, 1978, 92 Stat. 726; Pub. L. 97–33, §4, Aug. 7, 1981, 95 Stat. 171.)

AMENDMENTS

1981—Pub. L. 97–33 struck out designation "(a)" before "Officials performing functions" and struck out subsec. (b) which provided that the President review the results of studies and surveys conducted pursuant to this chapter and report annually to the Committee on International Relations [Foreign Affairs] of the House of Representatives and the appropriate committees of the Senate on any trends or developments which might have had national policy implications and which in the President's opinion warranted the review of the respective committees.

1978—Subsec. (b). Pub. L. 95–381 substituted references to President, for references to Council on International Economic Policy.

EXECUTIVE ORDER NO. 11962

Ex. Ord. No. 11962, Jan. 19, 1977, 42 F.R. 4323, which established the President's Advisory Board on International Investment, was revoked by Ex. Ord. No. 12007, Aug. 22, 1977, 42 F.R. 42839, formerly set out as a note under section 14 of Appendix of Title 5, Government Organization and Employees.

§3108. Authorization of appropriations

To carry out this chapter, there are authorized to be appropriated $4,400,000 for the fiscal year ending September 30, 1980, $4,500,000 for the fiscal year ending September 30, 1981, $4,000,000 for the fiscal year ending September 30, 1982, and such sums as may be necessary for any subsequent fiscal years.

(Pub. L. 94–472, §9, Oct. 11, 1976, 90 Stat. 2064; Pub. L. 95–381, §1, Sept. 22, 1978, 92 Stat. 726; Pub. L. 96–72, §23(a), Sept. 29, 1979, 93 Stat. 536; Pub. L. 97–33, §5, Aug. 7, 1981, 95 Stat. 171.)

AMENDMENTS

1981—Pub. L. 97–33 inserted provisions authorizing appropriations of $4,000,000 for fiscal year ending Sept. 30, 1982, and such sums as might be necessary for any subsequent fiscal years.

1979—Pub. L. 96–72 substituted provisions authorizing appropriations of $4,400,000 for fiscal year ending Sept. 30, 1980, and $4,500,000 for fiscal year ending Sept. 30, 1981, for provisions authorizing appropriations of $4,000,000 for fiscal year ending Sept. 30, 1979.

1978—Pub. L. 95–381 increased authorization from $1,000,000 to $4,000,000, and struck out provisions authorizing appropriation of $1,000,000 for fiscal year ending Sept. 30, 1978.

EFFECTIVE DATE OF 1979 AMENDMENT

Pub. L. 96–72, §23(b), Sept. 29, 1979, 93 Stat. 536, provided that: "The amendment made by subsection (a) [amending this section] shall take effect on October 1, 1979."

EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95–381, §4, Sept. 22, 1978, 92 Stat. 726, provided that: "The amendment made by the first section of this Act [amending this section] shall take effect on October 1, 1978."

CHAPTER 46A—FOREIGN DIRECT INVESTMENT AND INTERNATIONAL FINANCIAL DATA

Sec.

3141. Congressional findings.
3142. Report by Secretary of Commerce.
3143. Reports by Government Accountability Office.
3144. Access to information; confidentiality.
3145. Construction of foreign direct investment and international financial data provisions.
3146. Definitions.

§3141. Congressional findings

The Congress makes the following findings:

(1) The United States Government collects substantial amounts of information from foreign owned or controlled business enterprises or affiliates operating in the United States.

(2) Additional analysis and presentation of this information is desirable to assist the public debate on the issue of foreign direct investments in the United States.

(3) Information collected from foreign owned or controlled firms by the Bureau of Economic Analysis has serious analytical limitations because it is largely collected on an "enterprise" basis that does not permit an adequate analysis by industry groupings.

(4) Statistical and analytic comparisons of the performance of foreign owned or controlled businesses operating within the United States with other business enterprises operating within the same industry can be accomplished under sections 3101(b) and 3104(c) of this title, and under Executive Order Numbered 11961, without the need to collect additional information, by sharing with other authorized Government agencies the employer identification numbers maintained by the Bureau of Economic Analysis.

(5) Public disclosures of confidential business information collected by the United States Government relating to international direct investment flows could cause serious damage to the accuracy of the statistical data base.

(6) The Government Accountability Office may have limited access to Government data on foreign direct investment.

(Pub. L. 101–533, §2, Nov. 7, 1990, 104 Stat. 2344; Pub. L. 108–271, §8(b), July 7, 2004, 118 Stat. 814.)

AMENDMENTS

2004—Par. (6). Pub. L. 108–271 substituted "Government Accountability Office" for "General Accounting Office".

REFERENCES IN TEXT

Executive Order Numbered 11961, referred to in par. (4), is set out as a note under section 3101 of this title.

SHORT TITLE

Pub. L. 101–533, §1, Nov. 7, 1990, 104 Stat. 2344, provided that: "This Act [enacting this chapter and section 401 of Title 13, Census, and amending sections 3101 and 3103 to 3105 of this title and section 9 of Title 13] may be cited as the 'Foreign Direct Investment and International Financial Data Improvements Act of 1990'."

§3142. Report by Secretary of Commerce

(a) Annual report on foreign direct investment in United States

Not later than 6 months after November 7, 1990, and not later than the end of each 1-year period occurring thereafter, the Secretary of Commerce shall submit to the Committee on Energy and Commerce, the Committee on Ways and Means, and the Committee on Foreign Affairs of the House of Representatives, to the Committee on Commerce, Science, and Transportation of the Senate, and to the Joint Economic Committee of the Congress a report on the role and significance of foreign direct investment in the United States. Such report shall address the history, scope, trends, market concentrations, and effects on the United States economy of such investment. In addition, the Secretary of Commerce shall, if requested by any such committee, appear before that committee to provide testimony with respect to any report under this subsection.

(b) Sources of data

In preparing each report under subsection (a), the Secretary of Commerce, or the Secretary's designees, shall consider information collected by—

(1) the Bureau of Economic Analysis under the International Investment and Trade in Services Survey Act (22 U.S.C. 3101 and following);

(2) the Bureau of the Census on industry, manufacturing, research and development, and trade, under title 13;

(3) the Bureau of Labor Statistics pertaining to information collected under the International Investment and Trade in Services Survey Act, but only to the extent that such information is in a form that cannot be associated with, or otherwise identify, directly or indirectly, a person, including any enterprise or establishment;

(4) the Secretary of Commerce or the Secretary's designee pursuant to section 2 [1] of Executive Order 11858 of May 7, 1975;

(5) the United States Department of Agriculture under the Agricultural Foreign Investment Disclosure Act of 1978 (7 U.S.C. 3501 and following);

(6) the Department of the Treasury under section 6039C of title 26, but only to the extent that such information is in a form that cannot be associated with, or otherwise identify, directly or indirectly, a person, including any enterprise or establishment;

(7) the Department of Energy under section 7267(8) of title 42, but only to the extent that such information is in a form that cannot be associated with, or otherwise identify, directly or indirectly, a person, including any enterprise or establishment;

(8) other Federal agencies not referred to in paragraphs (1) through (7), but only to the extent that such information is in a form that cannot be associated with, or otherwise identify, directly or indirectly, a person, including any enterprise or establishment;

(9) foreign governments and agencies thereof; and

(10) private sector sources.

(c) Analyses

(1) The analysis in each report prepared under subsection (a) shall, to the extent of available data, compare business enterprises controlled by foreign persons with other business enterprises in the United States with respect to employment, market share, value added, productivity, research and development, exports, imports, profitability, taxes paid, and investment incentives and services provided by State and local governments (including quasi-governmental entities).

(2) Each such analysis shall be done by significant industry sectors and geographical regions, except that information shall not be presented in a way in which any person, including any business enterprise or establishment, can be identified. The restriction contained in the preceding sentence on presentation of information does not apply to information that is obtained from foreign governments or agencies thereof and that has been published pursuant to the lawful disclosure of the information. To the extent that data are available, each such analysis shall include an analysis, together with current levels and trends, of the number and market share of business enterprises at least 10 percent of the voting securities or other evidences of ownership of which are owned or controlled by a foreign person, and of the number and market share of the establishments of such business enterprises, that are engaged substantially in the production or coproduction of any critical technologies identified in the most recent assessment prepared under section 2505 of title 10 or included in the most recent report submitted to the President under section 6683 [1] of title 42.

(Pub. L. 101–533, §3, Nov. 7, 1990, 104 Stat. 2344; Pub. L. 102–484, div. A, title X, §1054(f), Oct. 23, 1992, 106 Stat. 2503; Pub. L. 103–160, div. A, title XI, §1182(d)(2), Nov. 30, 1993, 107 Stat. 1773; Pub. L. 105–261, div. A, title X, §1069(d)(2), Oct. 17, 1998, 112 Stat. 2136.)

REFERENCES IN TEXT

The International Investment and Trade in Services Survey Act, referred to in subsec. (b)(1), (3), is Pub. L. 94–472, Oct. 11, 1976, 90 Stat. 2059, as amended, which is classified generally to chapter 46 (§3101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

Executive Order 11858, referred to in subsec. (b)(4), is set out as a note under section 4565 of Title 50, War and National Defense. Ex. Ord. No. 11858 was amended generally by Ex. Ord. No. 13456, §1, Jan. 23, 2008, 73 F.R. 4677, and, as so amended, section 2 no longer relates to the collection of information on foreign investment. However, similar provisions are now contained in section 9 of Ex. Ord. No. 11858.

The Agricultural Foreign Investment Disclosure Act of 1978, referred to in subsec. (b)(5), is Pub. L. 95–460, Oct. 14, 1978, 92 Stat. 1263, which is classified generally to chapter 66 (§3501 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 3501

of Title 7 and Tables.

Section 6683 of title 42, referred to in subsec. (c)(2), was omitted from the Code.

AMENDMENTS

1998—Subsec. (c)(2). Pub. L. 105–261 substituted "identified in the most recent assessment prepared under section 2505 of title 10" for "included in the most recent plan submitted to the Congress under section 2506 of title 10".

1993—Subsec. (c)(2). Pub. L. 103–160 substituted "section 2506" for "section 2522".

1992—Subsec. (c)(2). Pub. L. 102–484 substituted "section 2522" for "section 2368".

CHANGE OF NAME

Committee on Energy and Commerce of House of Representatives treated as referring to Committee on Commerce of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Commerce of House of Representatives changed to Committee on Energy and Commerce of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred to Committee on Financial Services of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

[1] *See References in Text note below.*

§3143. Reports by Government Accountability Office

(a) In general

The Comptroller General, to the extent permitted by law, including section 3144 of this title, is authorized to review the information described in section 3142(b) of this title for purposes of preparing the reports referred to in subsection (b) of this section. Nothing in this section authorizes disclosure of any individually identifiable data or information in any form that can be associated with or otherwise identify, directly or indirectly, any person, including any enterprise or establishment.

(b) Reports

Consistent with the provisions of this section, the Comptroller General may submit to the Committee on Energy and Commerce, the Committee on Ways and Means, and the Committee on Foreign Affairs of the House of Representatives, to the Committee on Commerce, Science, and Transportation of the Senate, and to the Joint Economic Committee of the Congress reports—

(1) analyzing reports issued by the Secretary of Commerce under section 3142 of this title;

(2) making recommendations for changes in the analysis done in the report due the following year under section 3142 of this title;

(3) making recommendations for improving the collection by respective Federal agencies of data on foreign direct investment in the United States, including use of private sector data, and improving survey questionnaires to obtain useful and consistent information that avoids unnecessary redundancy among Federal agencies;

(4) reviewing the status and processes for reconciliation of data exchanged as required by this Act and the amendments made by this Act, and making any recommendations for improving and augmenting international financial data;

(5) making recommendations for possible additional policy coordination within the executive branch affecting foreign direct investment in the United States; and

(6) making recommendations for improvement of the coverage, industry classification, and consistency among Federal agencies of their respective surveys.

(c) Other reviews and reports

(1) The Comptroller General may, to the extent permitted by law, including section 3104(c) of this title and section 3144 of this title, also review data and information at the Bureau of the Census, the Bureau of Labor Statistics, and the Bureau of Economic Analysis and from time to time report to the Committee on Energy and Commerce, the Committee on Ways and Means, and the Committee on

Foreign Affairs of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and to the Joint Economic Committee of the Congress.

(2) The Comptroller General shall, in carrying out paragraph (1), comply with procedures relating to access to and disclosure of data and information established within the Federal statistical agencies referred to in paragraph (1), and maintain any and all individually identifiable data and information at the statistical agency where the information is reviewed.

(d) Confidentiality; review by other agencies

In preparing any report under this section, the Comptroller General shall not—

(1) disclose any confidential business information or present any information in a way in which any person, including a business enterprise or establishment, can be identified; or

(2) combine, match, or use in any other way individually identifiable data or information maintained by any of the Federal statistical agencies referred to in subsection (c) with any other individually identifiable confidential data or information that is not collected by such statistical agencies.

Before issuing any such report, the Comptroller General shall in each instance submit the report to the head or heads of the agency or agencies from which confidential or identifiable information described in the preceding sentence was obtained. The agency or agencies concerned shall promptly review the report for the purpose of assuring that the confidentiality of such information and identity is maintained, and for any other purpose, and shall provide the Comptroller General with appropriate comments or other suggestions within 10 working days after receiving the report.

(e) Right of access

The access by the Comptroller General to information under this Act shall be in conformity with section 716 of title 31.

(Pub. L. 101–533, §4, Nov. 7, 1990, 104 Stat. 2346; Pub. L. 104–316, title I, §111(c), Oct. 19, 1996, 110 Stat. 3833; Pub. L. 108–271, §8(b), July 7, 2004, 118 Stat. 814.)

REFERENCES IN TEXT

This Act and the amendments made by this Act, referred to in subsecs. (b)(4) and (e), is Pub. L. 101–533, Nov. 7, 1990, 104 Stat. 2344, known as the Foreign Direct Investment and International Financial Data Improvements Act of 1990, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 3141 of this title and Tables.

AMENDMENTS

2004—Pub. L. 108–271 substituted "Government Accountability Office" for "General Accounting Office" in section catchline.

1996—Subsec. (a). Pub. L. 104–316, §111(c)(1), substituted "reports referred to in" for "report required under".

Subsec. (b). Pub. L. 104–316, §111(c)(2)(A), (D), substituted "Reports" for "Report" in heading, in introductory provisions substituted "Consistent with the provisions of this section, the Comptroller General may submit" for "Not later than 5 months after each report issued by the Secretary of Commerce under section 3142 of this title, the Comptroller General of the United States shall submit", and struck out closing provisions which read as follows: "Reports under this subsection shall be issued only with respect to the first 3 reports issued by the Secretary of Commerce under section 3142 of this title."

Pub. L. 104–316, §111(c)(2)(B), which directed that subsec. (b) be amended by substituting "Congress reports" for "Congress, a report", was executed in the introductory provisions by making the substitution for "Congress a report", to reflect the probable intent of Congress.

Subsec. (b)(1). Pub. L. 104–316, §111(c)(2)(C), substituted "reports issued by the Secretary of Commerce under section 3142 of this title" for "the report of the Secretary of Commerce".

CHANGE OF NAME

Committee on Energy and Commerce of House of Representatives treated as referring to Committee on Commerce of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Commerce of House of Representatives changed to Committee on Energy and Commerce of House of Representatives, and jurisdiction over matters relating to securities and

exchanges and insurance generally transferred to Committee on Financial Services of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

§3144. Access to information; confidentiality

(a) Confidentiality

(1) Those officers and employees who have access to information under this Act to which the provisions of section 9 of title 13 apply must have been sworn, as provided for in section 23(c) of such title, to observe the limitations imposed by section 9(a) of such title and to be subject to the provisions of section 214 of such title to the same extent as such section applies to officers or employees of the Bureau of the Census.

(2) Only those officers and employees who have sworn to observe the provisions of section 5(c) of the International Investment and Trade in Services Survey Act (22 U.S.C. 3104(c)) may have access under this Act to information to which such provisions apply, and such officers and employees are subject to the penalties for improper disclosure of such information provided in section 5(e) of that Act [22 U.S.C. 3104(e)] to the same extent as such section applies to officers or employees designated to perform functions under that Act [22 U.S.C. 3101 et seq.].

(3) Those officers and employees referred to in paragraphs (1) and (2) of this section [1] shall be subject to any other restriction or penalty imposed by law with respect to disclosure of information to which such officers or employees have access under this Act.

(b) Violations and penalties

Whoever is in possession of information made available to any department or agency by virtue of this Act or the amendments made by this Act and discloses the information in any form which can be associated with, or otherwise identify, any person, including any business enterprise or establishment, shall be fined not less than $2,500 nor more than $25,000 or imprisoned not more than 5 years, or both.

(c) Unlawful access

Whoever procures, by fraud, misrepresentation, or other unlawful act, access to information made available to any department or agency by virtue of this Act or the amendments made by this Act shall be fined not less than $2,500 nor more than $25,000 or imprisoned not more than 5 years, or both.

(d) Information immune from process

Information obtained under this Act shall be immune from legal process and shall not be used as evidence or for any purpose in any Federal, State, or local government action, suit, or other administrative or judicial proceeding except as necessary to enforce requirements imposed by law on the collection of information, to enforce the provisions of subsections (b) and (c).

(e) Implementation

(1) The Secretary of Commerce shall be responsible for the implementation of the exchange of information under this Act between the Bureau of the Census and the Bureau of Economic Analysis, and shall resolve any questions on access to information, data, or methodology that may arise between the Bureau of the Census and the Bureau of Economic Analysis, except that the Secretary shall not construe this section in a manner which would prevent the augmentation and improvement of the quality of international data collected under the International Investment and Trade in Services Survey Act [22 U.S.C. 3101 et seq.]. The Bureau of Economic Analysis and the Bureau of the Census shall agree in writing to the data to be shared under this Act.

(2) The Director of the Office of Management and Budget shall be responsible for the implementation of the exchange of information under this Act between the Bureau of Economic Analysis and the Bureau of Labor Statistics, and shall resolve any questions on access to information, data, or methodology that may arise between the Bureau of Economic Analysis and the Bureau of Labor Statistics, except that the Director shall not construe this section in a manner which

would prevent the augmentation and improvement of the quality of international data collected under the International Investment and Trade in Services Survey Act [22 U.S.C. 3101 et seq.].

(Pub. L. 101–533, §8, Nov. 7, 1990, 104 Stat. 2350.)

REFERENCES IN TEXT

This Act or the amendments made by this Act, referred to in text, is Pub. L. 101–533, Nov. 7, 1990, 104 Stat. 2344, known as the Foreign Direct Investment and International Financial Data Improvements Act of 1990, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 3141 of this title and Tables.

The International Investment and Trade in Services Survey Act, referred to in subsecs. (a)(2) and (e), is Pub. L. 94–472, Oct. 11, 1976, 90 Stat. 2059, as amended, which is classified generally to chapter 46 (§3101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

[1] *So in original. Probably should be "subsection".*

§3145. Construction of foreign direct investment and international financial data provisions

(a) In general

Nothing in this Act or the amendments made by this Act shall be construed to require any business enterprise or any of its officers, directors, shareholders, or employees, or any other person, to provide information beyond that which is required before November 7, 1990.

(b) Implementation

All departments and agencies implementing this Act and the amendments made by this Act shall, with respect to surveys or questionnaires used in such implementation—

(1) eliminate questions that are no longer necessary,

(2) cooperate with one another in order to ensure that questions asked are consistent among the departments and agencies, and

(3) develop new questions in order to obtain more refined statistics and analyses,

consistent with the purposes of the provisions of law amended by this Act and the Paperwork Reduction Act of 1980.[1]

(Pub. L. 101–533, §9, Nov. 7, 1990, 104 Stat. 2351.)

REFERENCES IN TEXT

This Act or the amendments made by this Act, referred to in text, is Pub. L. 101–533, Nov. 7, 1990, 104 Stat. 2344, known as the Foreign Direct Investment and International Financial Data Improvements Act of 1990, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 3141 of this title and Tables.

The Paperwork Reduction Act of 1980, referred to in subsec. (b), is Pub. L. 96–511, Dec. 11, 1980, 94 Stat. 2812, as amended, which was classified principally to chapter 35 (§3501 et seq.) of Title 44, Public Printing and Documents, prior to the general amendment of that chapter by Pub. L. 104–13, §2, May 22, 1995, 109 Stat. 163. For complete classification of this Act to the Code, see Short Title of 1980 Amendment note set out under section 101 of Title 44 and Tables.

[1] *See References in Text note below.*

§3146. Definitions

For purposes of this Act—

(1) the terms "foreign", "direct investment", "international investment", "United States",

"business enterprise", "foreign person", and "United States person" have the meanings given those terms in section 3102 of this title; and

(2) the term "foreign direct investment in the United States" means direct investment by foreign persons in any business enterprise that is a United States person.

(Pub. L. 101–533, §10, Nov. 7, 1990, 104 Stat. 2351.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 101–533, Nov. 7, 1990, 104 Stat. 2344, known as the Foreign Direct Investment and International Financial Data Improvements Act of 1990, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 3141 of this title and Tables.

CHAPTER 47—NUCLEAR NON-PROLIFERATION

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§3201. Congressional declaration of policy

The Congress finds and declares that the proliferation of nuclear explosive devices or of the direct capability to manufacture or otherwise acquire such devices poses a grave threat to the security interests of the United States and to continued international progress toward world peace and development. Recent events emphasize the urgency of this threat and the imperative need to increase the effectiveness of international safeguards and controls on peaceful nuclear activities to prevent proliferation. Accordingly, it is the policy of the United States to—

(a) actively pursue through international initiatives mechanisms for fuel supply assurances and the establishment of more effective international controls over the transfer and use of nuclear materials and equipment and nuclear technology for peaceful purposes in order to prevent

proliferation, including the establishment of common international sanctions;

(b) take such actions as are required to confirm the reliability of the United States in meeting its commitments to supply nuclear reactors and fuel to nations which adhere to effective non-proliferation policies by establishing procedures to facilitate the timely processing of requests for subsequent arrangements and export licenses;

(c) strongly encourage nations which have not ratified the Treaty on the Non-Proliferation of Nuclear Weapons to do so at the earliest possible date; and

(d) cooperate with foreign nations in identifying and adapting suitable technologies for energy production and, in particular, to identify alternative options to nuclear power in aiding such nations to meet their energy needs, consistent with the economic and material resources of those nations and environmental protection.

(Pub. L. 95–242, §2, Mar. 10, 1978, 92 Stat. 120.)

EFFECTIVE DATE

Pub. L. 95–242, title VI, §603(c), Mar. 10, 1978, 92 Stat. 152, provided that: "Except where otherwise provided, the provisions of this Act [see Short Title note below] shall take effect immediately upon enactment [Mar. 10, 1978] regardless of any requirement for the promulgation of regulations to implement such provisions."

SHORT TITLE

Pub. L. 95–242, §1, Mar. 10, 1978, 92 Stat. 120, provided: "That this Act [enacting this chapter and sections 2139a, 2141, 2153a to 2153e, 2153f, and 2155 to 2160a of Title 42, The Public Health and Welfare, amending sections 2074, 2075, 2077, 2094, 2139, and 2153 of Title 42, and enacting provisions set out as notes under sections 3201, 3222, and 3262 of this title and section 2139 of Title 42] may be cited as the 'Nuclear Non-Proliferation Act of 1978'."

NUCLEAR PROLIFERATION PREVENTION; EFFECTIVE AND TERMINATION DATES OF 1994 AMENDMENT

Title VIII of Pub. L. 103–236, Apr. 30, 1994, 108 Stat. 507, known as the Nuclear Proliferation Prevention Act of 1994, was amended by Pub. L. 104–164, title I, §157, July 21, 1996, 110 Stat. 1440. As so amended, title VIII has been primarily transferred to chapter 72 (§6301 et seq.) of this title. For complete classification of title VIII to the Code, see Short Title note set out under section 6301 of this title and Tables.

ADVOCACY AND ENCOURAGEMENT BY UNITED STATES OF NONPARTIES TO TREATY ON NON-PROLIFERATION OF NUCLEAR WEAPONS TO BECOME SIGNATORIES; REPORT TO CONGRESS

Pub. L. 96–53, title V, §507, Aug. 14, 1979, 93 Stat. 378, as amended by Pub. L. 97–113, title VII, §734(a)(3), Dec. 29, 1981, 95 Stat. 1560, provided that:

"(a) In accordance with the Nuclear Non-Proliferation Act of 1978 [see Short Title note above], the Congress strongly urges all nations which are not parties to the Treaty on Non-Proliferation of Nuclear Weapons to become parties to that treaty.

"(b) [Repealed. Pub. L. 97–113, title VII, §734(a)(3), Dec. 29, 1981, 95 Stat. 1560.]"

EX. ORD. NO. 12058. FUNCTIONS RELATING TO NUCLEAR NON-PROLIFERATION

Ex. Ord. No. 12058, May 11, 1978, 43 F.R. 20947, provided:

By virtue of the authority vested in me by the Nuclear Non-Proliferation Act of 1978 (Public Law 95–242, 92 Stat. 120, 22 U.S.C. 3201) [see Short Title note above] and the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.), and Section 301 of Title 3 of the United States Code, and as President of the United States of America, it is hereby ordered as follows:

SECTION 1. *Department of Energy*. The following functions vested in the President by the Nuclear Non-Proliferation Act of 1978 (92 Stat. 120, 22 U.S.C. 3201), hereinafter referred to as the Act, and by the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.), hereinafter referred to as the 1954 Act, are delegated or assigned to the Secretary of Energy:

(a) That function vested by Section 402(b) of the Act (92 Stat. 145, 42 U.S.C. 2153a).

(b) Those functions vested by Sections 131a(2)(G), 131b(1), and 131f(2) of the 1954 Act (92 Stat. 127, 42 U.S.C. 2160).

(c) That function vested by Section 131f(1)(A)(ii) of the 1954 Act [42 U.S.C. 2160(f)(1)(A)(ii)], to the extent it relates to the preparation of a detailed generic plan.

SEC. 2. *Department of State*. The Secretary of State shall be responsible for performing the following functions vested in the President:

(a) Those functions vested by Sections 104(a), 104(d), 105, 403, 404, 407, and 501 of the Act (92 Stat. 122, 123, 123, 146, 147, 148, and 148, 22 U.S.C. 3223(a), 3223(d), 3224, and 42 U.S.C. 2153b, 2153c, 2153e, and 22 U.S.C. 3261).

(b) That function vested by Section 128a(2) of the 1954 Act (92 Stat. 137, 42 U.S.C. 2157(a)(2)).

(c) That function vested by Section 601 of the Act [section 3281 of this title] to the extent it relates to the preparation of an annual report.

(d) The preparation of timely information and recommendations related to the President's functions vested by Sections 126, 128b, and 129 of the 1954 Act (92 Stat. 131, 137, and 138, 42 U.S.C. 2155, 2157, and 2158).

(e) That function vested by Section 131c of the 1954 Act (92 Stat. 129, 42 U.S.C. 2160(c)); except that, the Secretary shall not waive the 60-day requirement for the preparation of a Nuclear Non-Proliferation Assessment Statement for more than 60 days without the approval of the President.

SEC. 3. *Department of Commerce*. The Secretary of Commerce shall be responsible for performing the function vested in the President by Section 309(c) of the Act (92 Stat. 141, 42 U.S.C. 2139a).

SEC. 4. *Coordination*. In performing the functions assigned to them by this Order, the Secretary of Energy and the Secretary of State shall consult and coordinate their actions with each other and with the heads of other concerned agencies.

SEC. 5. *General Provisions*. (a) Executive Order No. 11902 of February 2, 1976, entitled "Procedures for an Export Licensing Policy as to Nuclear Materials and Equipment," is revoked.

(b) The performance of functions under either the Act or the 1954 Act shall not be delayed pending the development of procedures, even though as many as 120 days are allowed for establishing them. Except where it would be inconsistent to do so, such functions shall be carried out in accordance with procedures similar to those in effect immediately prior to the effective date of the Act.

JIMMY CARTER.

§3202. Congressional statement of purpose

It is the purpose of this chapter to promote the policies set forth above by—

(a) establishing a more effective framework for international cooperation to meet the energy needs of all nations and to ensure that the worldwide development of peaceful nuclear activities and the export by any nation of nuclear materials and equipment and nuclear technology intended for use in peaceful nuclear activities do not contribute to proliferation;

(b) authorizing the United States to take such actions as are required to ensure that it will act reliably in meeting its commitment to supply nuclear reactors and fuel to nations which adhere to effective non-proliferation policies;

(c) providing incentives to the other nations of the world to join in such international cooperative efforts and to ratify the Treaty; and

(d) ensuring effective controls by the United States over its exports of nuclear materials and equipment and of nuclear technology.

(Pub. L. 95–242, §3, Mar. 10, 1978, 92 Stat. 120.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 95–242, Mar. 10, 1978, 92 Stat. 120, known as the Nuclear Non-Proliferation Act of 1978. For complete classification of this Act to the Code, see Short Title note set out under section 3201 of this title and Tables.

§3203. Definitions

(a) As used in this chapter, the term—

(1) "Commission" means the Nuclear Regulatory Commission;

(2) "IAEA" means International Atomic Energy Agency;

(3) "nuclear materials and equipment" means source material, special nuclear material, production facilities, utilization facilities, and components, items or substances determined to have

significance for nuclear explosive purposes pursuant to subsection 109b [1] of the 1954 Act [42 U.S.C. 2139(b)];

(4) "physical security measures" means measures to reasonably ensure that source or special nuclear material will only be used for authorized purposes and to prevent theft and sabotage;

(5) "sensitive nuclear technology" means any information (including information incorporated in a production or utilization facility or important component part thereof) which is not available to the public and which is important to the design, construction, fabrication, operation or maintenance of a uranium enrichment or nuclear fuel reprocessing facility or a facility for the production of heavy water, but shall not include Restricted Data controlled pursuant to chapter 12 of the 1954 Act [42 U.S.C. 2161 et seq.];

(6) "1954 Act" means the Atomic Energy Act of 1954, as amended [42 U.S.C. 2011 et seq.]; and

(7) "the Treaty" means the Treaty on the Non-Proliferation of Nuclear Weapons.

(b) All other terms used in this chapter not defined in this section shall have the meanings ascribed to them by the 1954 Act, the Energy Reorganization Act of 1974 [42 U.S.C. 5801 et seq.], and the Treaty.

(Pub. L. 95–242, §4, Mar. 10, 1978, 92 Stat. 121; Pub. L. 105–277, div. G, subdiv. A, title XII, §1225(e)(1), Oct. 21, 1998, 112 Stat. 2681–775.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 95–242, Mar. 10, 1978, 92 Stat. 120, known as the Nuclear Non-Proliferation Act of 1978. For complete classification of this Act to the Code, see Short Title note set out under section 3201 of this title and Tables.

The Atomic Energy Act of 1954, as amended, referred to in subsec. (a)(5), (6), is act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, which is classified principally to chapter 23 (§2011 et seq.) of Title 42, The Public Health and Welfare. Chapter 12 of the 1954 Act is classified generally to subchapter XI (§2161 et seq.) of division A of chapter 23 of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 42 and Tables.

The Energy Reorganization Act of 1974, referred to in subsec. (b), is Pub. L. 93–438, Oct. 11, 1974, 88 Stat. 1233, which is classified principally to chapter 73 (§5801 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5801 of Title 42 and Tables.

AMENDMENTS

1998—Pub. L. 105–277 redesignated pars. (3) to (8) as (2) to (7), respectively, and struck out former par. (2) which read as follows: " 'Director' means the Director of the Arms Control and Disarmament Agency;".

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective Apr. 1, 1999, see section 1201 of Pub. L. 105–277, set out as an Effective Date note under section 6511 of this title.

[1] So in the original. Probably should be "section 109(b)".

SUBCHAPTER I—UNITED STATES INITIATIVES TO PROVIDE ADEQUATE NUCLEAR FUEL SUPPLY

§3221. Congressional declaration of policy

The United States, as a matter of national policy, shall take such actions and institute such measures as may be necessary and feasible to assure other nations and groups of nations that may seek to utilize the benefits of atomic energy for peaceful purposes that it will provide a reliable

supply of nuclear fuel to those nations and groups of nations which adhere to policies designed to prevent proliferation. Such nuclear fuel shall be provided under agreements entered into pursuant to section 2201 of title 42 or as otherwise authorized by law. The United States shall ensure that it will have available the capacity on a long-term basis to enter into new fuel supply commitments consistent with its non-proliferation policies and domestic energy needs. The Commission shall, on a timely basis, authorize the export of nuclear materials and equipment when all the applicable statutory requirements are met.

(Pub. L. 95–242, title I, §101, Mar. 10, 1978, 92 Stat. 121.)

EFFECTIVE DATE

Subchapter effective Mar. 10, 1978, except as otherwise provided and regardless of any requirements for the promulgation of implementing regulations, see section 603(c) of Pub. L. 95–242, set out as a note under section 3201 of this title.

§3222. Uranium enrichment capacity

The Secretary of Energy is directed to initiate construction planning and design, construction, and operation activities for expansion of uranium enrichment capacity, as elsewhere provided by law. Further the Secretary as well as the Nuclear Regulatory Commission and the Secretary of State are directed to establish and implement procedures which will ensure to the maximum extent feasible, consistent with this chapter, orderly processing of subsequent arrangements and export licenses with minimum time delay.

(Pub. L. 95–242, title I, §102, Mar. 10, 1978, 92 Stat. 122; Pub. L. 105–277, div. G, subdiv. A, title XII, §1225(e)(2), Oct. 21, 1998, 112 Stat. 2681–775.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 95–242, Mar. 10, 1978, 92 Stat. 120, known as the Nuclear Non-Proliferation Act of 1978. For complete classification of this Act to the Code, see Short Title note set out under section 3201 of this title and Tables.

AMENDMENTS

1998—Pub. L. 105–277 substituted "and the Secretary of State" for ", the Secretary of State, and the Director of the Arms Control and Disarmament Agency".

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective Apr. 1, 1999, see section 1201 of Pub. L. 105–277, set out as an Effective Date note under section 6511 of this title.

§3223. International undertakings

(a) Development of international approaches for meeting future worldwide nuclear fuel needs; international nuclear fuel authority

Consistent with section 3224 of this title, the President shall institute prompt discussions with other nations and groups of nations, including both supplier and recipient nations, to develop international approaches for meeting future worldwide nuclear fuel needs. In particular, the President is authorized and urged to seek to negotiate as soon as practicable with nations possessing nuclear fuel production facilities or source material, and such other nations and groups of nations, such as the IAEA, as may be deemed appropriate, with a view toward the timely establishment of binding international undertakings providing for—

(1) the establishment of an international nuclear fuel authority (INFA) with responsibility for providing agreed upon fuel services and allocating agreed upon quantities of fuel resources to ensure fuel supply on reasonable terms in accordance with agreements between INFA and supplier and recipient nations;

(2) a set of conditions consistent with subsection (d) under which international fuel assurances under INFA auspices will be provided to recipient nations, including conditions which will ensure that the transferred materials will not be used for nuclear explosive devices;

(3) devising, consistent with the policy goals set forth in section 2153b of title 42, feasible and environmentally sound approaches for the siting, development, and management under effective international auspices and inspection of facilities for the provision of nuclear fuel services, including the storage of special nuclear material;

(4) the establishment of repositories for the storage of spent nuclear reactor fuel under effective international auspices and inspection;

(5) the establishment of arrangements under which nations placing spent fuel in such repositories would receive appropriate compensation for the energy content of such spent fuel if recovery of such energy content is deemed necessary or desirable; and

(6) sanctions for violation of the provisions of or for abrogation of such binding international undertakings.

(b), (c) Omitted

(d) Adherence of nations to policies designed to prevent proliferation

The fuel assurances contemplated by this section shall be for the benefit of nations that adhere to policies designed to prevent proliferation. In negotiating the binding international undertakings called for in this section, the President shall, in particular, seek to ensure that the benefits of such undertakings are available to non-nuclear-weapon states only if such states accept IAEA safeguards on all their peaceful nuclear activities, do not manufacture or otherwise acquire any nuclear explosive device, do not establish any new enrichment or reprocessing facilities under their de facto or de jure control, and place any such existing facilities under effective international auspices and inspection.

(e) Report on progress of negotiations

The report required by section 3281 of this title shall include information on the progress made in any negotiations pursuant to this section.

(f) Congressional approval of non-treaty international undertakings; submission of proposals

(1) The President may not enter into any binding international undertaking negotiated pursuant to subsection (a) which is not a treaty until such time as such proposed undertaking has been submitted to the Congress and has been approved by concurrent resolution.

(2) The proposals prepared pursuant to subsection (b) shall be submitted to the Congress as part of an annual authorization Act for the Department of Energy.

(Pub. L. 95–242, title I, §104, Mar. 10, 1978, 92 Stat. 122.)

CODIFICATION

Subsec. (b) of this section, directed the President to submit to Congress not later than six months after Mar. 10, 1978, proposals for initial fuel assurances, including creation of an interim stockpile of uranium enriched to less than 20 percent in the uranium isotope 235 (low-enriched uranium) to be available for transfer pursuant to a sales arrangement to nations which adhere to strict policies designed to prevent proliferation when and if necessary to ensure continuity of nuclear fuel supply to such nations, which submission was to include proposals for the transfer of low-enriched uranium up to an amount sufficient to produce 100,000 MWe years of power from light water nuclear reactors, and also to include proposals for seeking contributions from other supplier nations to such an interim stockpile pending the establishment of INFA.

Subsec. (c) of this section, which directed the President, in the report required by section 103 of Pub. L. 95–242, title I, Mar. 10, 1978, 92 Stat. 122, formerly set out as a note under section 3222 of this title, to also address the desirability of and options for foreign participation, including investment, in new United States uranium enrichment facilities, the arrangements that would be required to implement such participation, and the commitments that would be required as a condition of such participation, was omitted in view of the omission of section 103 of Pub. L. 95–242.

DELEGATION OF FUNCTIONS

Secretary of State responsible for performing functions vested in President under subsecs. (a) and (d), see

section 2(a) of Ex. Ord. No. 12058, May 11, 1978, 43 F.R. 20947, set out as a note under section 3201 of this title.

§3224. Reevaluation of nuclear fuel cycle

The President shall take immediate initiatives to invite all nuclear supplier and recipient nations to reevaluate all aspects of the nuclear fuel cycle, with emphasis on alternatives to an economy based on the separation of pure plutonium or the presence of high enriched uranium, methods to deal with spent fuel storage, and methods to improve the safeguards for existing nuclear technology. The President shall, in the first report required by section 3281 of this title, detail the progress of such international reevaluation.

(Pub. L. 95–242, title I, §105, Mar. 10, 1978, 92 Stat. 123.)

DELEGATION OF FUNCTIONS

Secretary of State responsible for performing functions vested in President under this section, see section 2(a) of Ex. Ord. No. 12058, May 11, 1978, 43 F.R. 20947, set out as a note under section 3201 of this title.

§3224a. Studies and agreements by Secretary of Energy on multinational or international basis concerning spent fuel storage facilities and transportation systems; congressional consent; authorization of appropriations; limitations on use of funds; exceptions; special nuclear material for India

Department of Energy is hereby authorized to undertake studies, in cooperation with other nations, on a multinational or international basis designed to determine the general feasibility of expanding capacity of existing spent fuel storage facilities; to enter into agreements, subject to the consent of the Congress (by joint or concurrent resolution or legislation hereafter enacted), with other nations or groups of nations, for providing appropriate support to increase international or multinational spent fuel storage capacity; to conduct studies on the feasibility of establishing regional storage sites; and to conduct studies on international transportation and storage systems. For the purpose of carrying out the provisions of this section, there is included in subsection 101(20) of this Act authorization of appropriations in the amount of $20,000,000: *Provided*, That, notwithstanding any other provision of law, that none of the funds made available to the Secretary of Energy under any other authorization or appropriation Act shall be used, directly or indirectly, for the repurchase, transportation or storage of any foreign spent nuclear fuel (including any nuclear fuel irradiated in any nuclear power reactor located outside of the United States and operated by any foreign legal entity, government or nongovernment, regardless of the legal ownership or control of the fuel or the reactor, and regardless of the origin or licensing of the fuel or the reactor, but not including fuel irradiated in a research reactor, and not including fuel irradiated in a power reactor if the President determines that (1) use of funds for repurchase, transportation or storage of such fuel is required by an emergency situation, (2) it is in the interest of the common defense and security of the United States to take such action, and (3) he notifies the Congress of the determination and action, with a detailed explanation and justification thereof, as soon as possible) unless the President formally notifies, with the report information specified herein, the Committee on Energy and Natural Resources of the Senate and the Committee on Science, Space, and Technology of the House of Representatives of such use of funds thirty calendar days, during such time as either House of Congress is in session, before the commitment, expenditure, or obligation of such funds: *And provided further*, That, notwithstanding any other provision of law, that none of the funds appropriated pursuant to this Act or any other funds made available to the Secretary of Energy under any other authorization or appropriation Act shall be used, directly or indirectly, for the repurchase, transportation, or storage of any such foreign spent nuclear fuel for storage or other disposition, interim or permanent, in the United States, unless the use of the funds for that specific purpose has been (1) previously and expressly authorized by

Congress in legislation hereafter enacted, (2) previously and expressly authorized by a concurrent resolution, or (3) the President submits a plan for such use, with the report information specified herein, thirty days during which the Congress is in continuous session, as defined in the Impoundment Control Act of 1974 [2 U.S.C. 681 et seq.], prior to such use and neither House of Congress approves a resolution of disapproval of the plan prior to the expiration of the aforementioned thirty-day period. If such a resolution of disapproval has been introduced, but has not been reported by the Committee on or before the twentieth day after transmission of the Presidential message, a privileged motion shall be in order in the respective body to discharge the Committee from further consideration of the resolution and to provide for its immediate consideration, using the procedures specified for consideration of an impoundment resolution in section 1017 of the Impoundment Control Act of 1974 (31 U.S.C. 1407) [2 U.S.C. 688]. Any report or plan proposed under this proviso shall include information and any supporting documentation thereof relating to policy objectives, technical description and discussion, geographic information, cost data, justification and projections, legal and regulatory considerations, environmental impact information and any related bilateral or international agreements, arrangements or understandings: *And provided further*, That nothing contained in this section shall be construed in any executive branch action, administrative proceeding, regulatory proceeding, or legal proceeding as being intended to delay, modify, or reverse the Memorandum and Order of the Nuclear Regulatory Commission of June 28, 1977, for the issuance of License No. XSNM–845 to the agent-applicant for the Government of India and the subsequent export thereby licensed of the special nuclear material to be used as fuel for the Tarapur Atomic Power Station or any other order of the Nuclear Regulatory Commission to issue a license for the export of special nuclear material and subsequent exports thereby licensed, or any consideration by the Nuclear Regulatory Commission of a license application for the export of special nuclear material.

(Pub. L. 95–238, title I, §107, Feb. 25, 1978, 92 Stat. 55; Pub. L. 103–437, §9(c), Nov. 2, 1994, 108 Stat. 4588.)

REFERENCES IN TEXT

Section 101(20) of this Act, referred to in text, is section 101(20) of Pub. L. 95–238, title I, Feb. 25, 1978, 92 Stat. 48, which authorized appropriations for fuel cycle research and development and which was not classified to the Code. Pub. L. 95–238 is known as the Department of Energy Act of 1978—Civilian Applications.

The Impoundment Control Act of 1974, referred to in text, is parts A and B of title X of Pub. L. 93–344, July 12, 1974, 88 Stat. 332, as amended, which is classified principally to subchapters I (§681) and II (§682 et seq.) of chapter 17B of Title 2, The Congress. For complete classification of this Act to the Code, see Short Title note set out under section 681 of Title 2 and Tables.

CODIFICATION

Section was enacted as part of the Department of Energy Act of 1978—Civilian Applications, and not as part of the Nuclear Non-Proliferation Act of 1978 which comprises this chapter.

AMENDMENTS

1994—Pub. L. 103–437 substituted "Science, Space, and Technology" for "Science and Technology".

SUBCHAPTER II—UNITED STATES INITIATIVES TO STRENGTHEN THE INTERNATIONAL SAFEGUARDS SYSTEM

§3241. Congressional declaration of policy

The United States is committed to continued strong support for the principles of the Treaty on the Non-Proliferation of Nuclear Weapons, to a strengthened and more effective International Atomic Energy Agency and to a comprehensive safeguards system administered by the Agency to deter

proliferation. Accordingly, the United States shall seek to act with other nations to—

(a) continue to strengthen the safeguards program of the IAEA and, in order to implement this section, contribute funds, technical resources, and other support to assist the IAEA in effectively implementing safeguards;

(b) ensure that the IAEA has the resources to carry out the provisions of Article XII of the Statute of the IAEA;

(c) improve the IAEA safeguards system (including accountability) to ensure—

(1) the timely detection of a possible diversion of source or special nuclear materials which could be used for nuclear explosive devices;

(2) the timely dissemination of information regarding such diversion; and

(3) the timely implementation of internationally agreed procedures in the event of such diversion;

(d) ensure that the IAEA receives on a timely basis the data needed for it to administer an effective and comprehensive international safeguards program and that the IAEA provides timely notice to the world community of any evidence of a violation of any safeguards agreement to which it is a party; and

(e) encourage the IAEA, to the maximum degree consistent with the Statute, to provide nations which supply nuclear materials and equipment with the data needed to assure such nations of adherence to bilateral commitments applicable to such supply.

(Pub. L. 95–242, title II, §201, Mar. 10, 1978, 92 Stat. 124.)

EFFECTIVE DATE

Subchapter effective Mar. 10, 1978, except as otherwise provided and regardless of any requirements for the promulgation of implementing regulations, see section 603(c) of Pub. L. 95–242, set out as a note under section 3201 of this title.

§3242. Training program

The Department of Energy, in consultation with the Commission, shall establish and operate a safeguards and physical security training program to be made available to persons from nations and groups of nations which have developed or acquired, or may be expected to develop or acquire, nuclear materials and equipment for use for peaceful purposes. Any such program shall include training in the most advanced safeguards and physical security techniques and technology, consistent with the national security interests of the United States.

(Pub. L. 95–242, title II, §202, Mar. 10, 1978, 92 Stat. 124.)

§3243. Negotiations

The United States shall seek to negotiate with other nations and groups of nations to—

(1) adopt general principles and procedures, including common international sanctions, to be followed in the event that a nation violates any material obligation with respect to the peaceful use of nuclear materials and equipment or nuclear technology, or in the event that any nation violates the principles of the Treaty, including the detonation by a non-nuclear-weapon state of a nuclear explosive device; and

(2) establish international procedures to be followed in the event of diversion, theft, or sabotage of nuclear materials or sabotage of nuclear facilities, and for recovering nuclear materials that have been lost or stolen, or obtained or used by a nation or by any person or group in contravention of the principles of the Treaty.

(Pub. L. 95–242, title II, §203, Mar. 10, 1978, 92 Stat. 124.)

§3244. Actions to combat international nuclear terrorism

(a) Actions to be taken by President

The Congress hereby directs the President—

(1) to seek universal adherence to the Convention on the Physical Protection of Nuclear Material;

(2) to—

(A) conduct a review, enlisting the participation of all relevant departments and agencies of the Government, to determine whether the recommendations on Physical Protection of Nuclear Material published by the International Atomic Energy Agency are adequate to deter theft, sabotage, and the use of nuclear facilities and materials in acts of international terrorism, and

(B) transmit the results of this review to the Director-General of the International Atomic Energy Agency;

(3) to take, in concert with United States allies and other countries, such steps as may be necessary—

(A) to keep to a minimum the amount of weapons-grade nuclear material in international transit, and

(B) to ensure that when any such material is transported internationally, it is under the most effective means for adequately protecting it from acts or attempted acts of sabotage or theft by terrorist groups or nations; and

(4) to seek agreement in the United Nations Security Council to establish—

(A) an effective regime of international sanctions against any nation or subnational group which conducts or sponsors acts of international nuclear terrorism, and

(B) measures for coordinating responses to all acts of international nuclear terrorism, including measures for the recovery of stolen nuclear material and the clean-up of nuclear releases.

(b) Reports to Congress

The President shall report to the Congress annually, in the reports required by section 3281 of this title, on the progress made during the preceding year in achieving the objectives described in this section.

(Pub. L. 99–399, title VI, §601, Aug. 27, 1986, 100 Stat. 874.)

CODIFICATION

Section was enacted as part of the Omnibus Diplomatic Security and Antiterrorism Act of 1986, and not as part of the Nuclear Non-Proliferation Act of 1978 which comprises this chapter.

NUCLEAR TERRORISM PREVENTION

Pub. L. 110–181, div. C, title XXXI, subtitle D, Jan. 28, 2008, 122 Stat. 586, provided that:

"SEC. 3131. DEFINITIONS.

"In this subtitle:

"(1) The term 'Convention on the Physical Protection of Nuclear Material' means the Convention on the Physical Protection of Nuclear Material, signed at New York and Vienna March 3, 1980.

"(2) The term 'formula quantities of strategic special nuclear material' means uranium–235 (contained in uranium enriched to 20 percent or more in the U–235 isotope), uranium–233, or plutonium in any combination in a total quantity of 5,000 grams or more computed by the formula, grams = (grams contained U–235) + 2.5 (grams U–233 + grams plutonium), as set forth in the definitions of 'formula quantity' and 'strategic special nuclear material' in section 73.2 of title 10, Code of Federal Regulations.

"(3) The term 'Nuclear Non-Proliferation Treaty' means the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow July 1, 1968, and entered into force March 5, 1970 (21 UST 483).

"(4) The term 'nuclear weapon' means any device utilizing atomic energy, exclusive of the means for transporting or propelling the device (where such means is a separable and divisible part of the device), the

principal purpose of which is for use as, or for the development of, a weapon, a weapon prototype, or a weapon test device.

"SEC. 3132. SENSE OF CONGRESS ON THE PREVENTION OF NUCLEAR TERRORISM.

"It is the sense of Congress that—

"(1) the President should make the prevention of a nuclear terrorist attack on the United States a high priority;

"(2) the President should accelerate programs, requesting additional funding as appropriate, to prevent nuclear terrorism, including combating nuclear smuggling, securing and accounting for nuclear weapons, and eliminating, removing, or securing and accounting for formula quantities of strategic special nuclear material wherever such quantities may be;

"(3) the United States, together with the international community, should take a comprehensive approach to reducing the danger of nuclear terrorism, including by making additional efforts to identify and eliminate terrorist groups that aim to acquire nuclear weapons, to ensure that nuclear weapons worldwide are secure and accounted for and that formula quantities of strategic special nuclear material worldwide are eliminated, removed, or secure and accounted for to a degree sufficient to defeat the threat that terrorists and criminals have shown they can pose, and to increase the ability to find and stop terrorist efforts to manufacture nuclear explosives or to transport nuclear explosives and materials anywhere in the world;

"(4) within such a comprehensive approach, a high priority must be placed on ensuring that all nuclear weapons worldwide are secure and accounted for and that all formula quantities of strategic special nuclear material worldwide are eliminated, removed, or secure and accounted for; and

"(5) the International Atomic Energy Agency should be funded appropriately to fulfill its role in coordinating international efforts to protect nuclear material and to combat nuclear smuggling.

"SEC. 3133. MINIMUM SECURITY STANDARD FOR NUCLEAR WEAPONS AND FORMULA QUANTITIES OF STRATEGIC SPECIAL NUCLEAR MATERIAL.

"(a) POLICY.—It is the policy of the United States to work with the international community to take all possible steps to ensure that all nuclear weapons around the world are secure and accounted for and that all formula quantities of strategic special nuclear material are eliminated, removed, or secure and accounted for to a level sufficient to defeat the threats posed by terrorists and criminals.

"(b) INTERNATIONAL NUCLEAR SECURITY STANDARD.—It is the sense of Congress that, in furtherance of the policy described in subsection (a), and consistent with the requirement for 'appropriate effective' physical protection contained in United Nations Security Council Resolution 1540 (2004), as well as the Nuclear Non-Proliferation Treaty and the Convention on the Physical Protection of Nuclear Material, the President, in consultation with relevant Federal departments and agencies, should seek the broadest possible international agreement on a global standard for nuclear security that—

"(1) ensures that nuclear weapons and formula quantities of strategic special nuclear material are secure and accounted for to a sufficient level to defeat the threats posed by terrorists and criminals;

"(2) takes into account the limitations of equipment and human performance; and

"(3) includes steps to provide confidence that the needed measures have in fact been implemented.

"(c) INTERNATIONAL EFFORTS.—It is the sense of Congress that, in furtherance of the policy described in subsection (a), the President, in consultation with relevant Federal departments and agencies, should—

"(1) work with other countries and the International Atomic Energy Agency to assist as appropriate, and if necessary work to convince, the governments of any and all countries in possession of nuclear weapons or formula quantities of strategic special nuclear material to ensure that security is upgraded to meet the standard described in subsection (b) as rapidly as possible and in a manner that—

"(A) accounts for the nature of the terrorist and criminal threat in each such country; and

"(B) ensures that any measures to which the United States and any such country agree are sustained after United States and other international assistance ends;

"(2) ensure that United States financial and technical assistance is available, as appropriate, to countries for which the provision of such assistance would accelerate the implementation of, or improve the effectiveness of, such security upgrades; and

"(3) work with the governments of other countries to ensure that effective nuclear security rules, accompanied by effective regulation and enforcement, are put in place to govern all nuclear weapons and formula quantities of strategic special nuclear material around the world.

"SEC. 3134. ANNUAL REPORT.

"(a) IN GENERAL.—Not later than September 1 of each year through 2012, the President, in consultation

with relevant Federal departments and agencies, shall submit to Congress a report on the security of nuclear weapons and related equipment and formula quantities of strategic special nuclear material outside of the United States.

"(b) ELEMENTS.—The report required under subsection (a) shall include the following:

"(1) A section on the programs for the security and accounting of nuclear weapons and the elimination, removal, and security and accounting of formula quantities of strategic special nuclear material, established under section 3132(b) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (50 U.S.C. 2569(b)), which shall include the following:

"(A) A survey of the facilities and sites worldwide that contain nuclear weapons or related equipment, or formula quantities of strategic special nuclear material.

"(B) A list of such facilities and sites determined to be of the highest priority for security and accounting of nuclear weapons and related equipment, or the elimination, removal, or security and accounting of formula quantities of strategic special nuclear material, taking into account risk of theft from such facilities and sites, and organized by level of priority.

"(C) A prioritized plan, including measurable milestones, metrics, estimated timetables, and estimated costs of implementation, on the following:

"(i) The security and accounting of nuclear weapons and related equipment and the elimination, removal, or security and accounting of formula quantities of strategic special nuclear material at such facilities and sites worldwide.

"(ii) Ensuring that security upgrades and accounting reforms implemented at such facilities and sites worldwide, using the financial and technical assistance of the United States, are effectively sustained after such assistance ends.

"(iii) The role that international agencies and the international community have committed to play, together with a plan for securing international contributions.

"(D) An assessment of the progress made in implementing the plan described in subparagraph (C), including a description of the efforts of foreign governments to secure and account for nuclear weapons and related equipment and to eliminate, remove, or secure and account for formula quantities of strategic special nuclear material.

"(2) A section on efforts to establish and implement the international nuclear security standard described in section 3133(b) and related policies.

"(c) FORM.—The report may be submitted in classified form but shall include a detailed unclassified summary."

[Functions of President under section 3134 of Pub. L. 110–181, set out above, delegated to Secretary of Energy by Memorandum of President of the United States, July 21, 2010, 75 F.R. 43793.]

SUBCHAPTER III—UNITED STATES ASSISTANCE TO DEVELOPING COUNTRIES

§3261. Congressional declaration of policy; Presidential report to Congress

The United States shall endeavor to cooperate with other nations, international institutions, and private organizations in establishing programs to assist in the development of non-nuclear energy resources, to cooperate with both developing and industrialized nations in protecting the international environment from contamination arising from both nuclear and non-nuclear energy activities, and shall seek to cooperate with and aid developing countries in meeting their energy needs through the development of such resources and the application of non-nuclear technologies consistent with the economic factors, the material resources of those countries, and environmental protection. The United States shall additionally seek to encourage other industrialized nations and groups of nations to make commitments for similar cooperation and aid to developing countries. The President shall report annually to Congress on the level of other nations' and groups of nations' commitments under such program and the relation of any such commitments to United States efforts under this title. In cooperating with and providing such assistance to developing countries, the United States shall give priority to parties to the Treaty.

(Pub. L. 95–242, title V, §501, Mar. 10, 1978, 92 Stat. 148.)

EFFECTIVE DATE

Subchapter effective Mar. 10, 1978, except as otherwise provided and regardless of any requirements for the promulgation of implementing regulations, see section 603(c) of Pub. L. 95–242, set out as a note under section 3201 of this title.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in this section requiring the President to report annually to Congress, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 126 of House Document No. 103–7.

DELEGATION OF FUNCTIONS

Secretary of State responsible for performing functions vested in President under this section, see section 2(a) of Ex. Ord. No. 12058, May 11, 1978, 43 F.R. 20947, set out as a note under section 3201 of this title.

§3262. Programs

(a) Energy development programs

The United States shall initiate a program, consistent with the aims of section 3261 of this title, to cooperate with developing countries for the purpose of—

(1) meeting the energy needs required for the development of such countries;

(2) reducing the dependence of such countries on petroleum fuels, with emphasis given to utilizing solar and other renewable energy resources; and

(3) expanding the energy alternatives available to such countries.

(b) Energy assessments and cooperative projects

Such program shall include cooperation in evaluating the energy alternatives of developing countries, facilitating international trade in energy commodities, developing energy resources, and applying suitable energy technologies. The program shall include both general and country-specific energy assessments and cooperative projects in resource exploration and production, training, research and development.

(c) Exchange of scientists, technicians, and energy experts

As an integral part of such program, the Department of Energy, under the general policy guidance of the Department of State and in cooperation with the Agency for International Development and other Federal agencies as appropriate, shall initiate, as soon as practicable, a program for the exchange of United States scientists, technicians, and energy experts with those of developing countries to implement the purposes of this section.

(d) Authorization of appropriations

For the purposes of carrying out this section, there is authorized to be appropriated such sums as are contained in annual authorization Acts for the Department of Energy, including such sums which have been authorized for such purposes under previous legislation.

(e) Coordination with related United States activities abroad

Under the direction of the President, the Secretary of State shall ensure the coordination of the activities authorized by this subchapter with other related activities of the United States conducted abroad, including the programs authorized by sections 2151a(c), 2151d(a)(2),[1] and 2151q [1] of this title.

(Pub. L. 95–242, title V, §502, Mar. 10, 1978, 92 Stat. 149.)

REFERENCES IN TEXT

Section 2151d(a)(2) of this title, referred to in subsec. (e), which at the time of enactment of this section related to programs to increase energy production and conservation in developing countries, was deleted in the general amendment of section 2151d by Pub. L. 96–53, title I, §§104(b), 105, Aug. 14, 1979, 93 Stat. 360,

362. For provisions relating to cooperative programs with developing countries in energy production and conservation, see section 2151d(b)(2) of this title.

Section 2151q of this title, referred to in subsec. (e), was repealed by Pub. L. 96–533, title III, §304(g), Dec. 16, 1980, 94 Stat. 3147. See section 2151d(a)(2), (b)(2), (c) of this title.

FEASIBILITY OF EXPANDING COOPERATIVE ACTIVITIES INTO INTERNATIONAL COOPERATIVE EFFORT; PRESIDENTIAL REPORT TO CONGRESS NOT LATER THAN MARCH 10, 1979

Pub. L. 95–242, title V, §503, Mar. 10, 1978, 92 Stat. 149, directed President, not later than twelve months after Mar. 10, 1978, to report to Congress on feasibility of expanding cooperative activities established pursuant to subsec. (c) of this section into an international cooperative effort to include a scientific peace corps designed to encourage large numbers of technically trained volunteers to live and work in developing countries for varying periods of time for purpose of engaging in projects to aid in meeting the energy needs of such countries through search for and utilization of indigenous energy resources and application of suitable technology, including widespread utilization of renewable and unconventional energy technologies, and to also include in report a discussion of other mechanisms to conduct a coordinated international effort to develop, demonstrate, and encourage utilization of such technologies in developing countries.

[1] *See References in Text note below.*

SUBCHAPTER IV—EXECUTIVE REPORTING

§3281. Annual Presidential report to Congress on governmental efforts to prevent proliferation

(a) Review of Government activities; description of progress; assessment of impact of progress; determinations regarding non-nuclear-weapon states; counterproductiveness of policies

The President shall review all activities of Government departments and agencies relating to preventing proliferation and shall make a report to Congress in January of 1979 and annually in January of each year thereafter on the Government's efforts to prevent proliferation. This report shall include but not be limited to—

(1) a description of the progress made toward—

(A) negotiating the initiatives contemplated in sections 3223 and 3224 of this title;

(B) negotiating the international arrangements or other mutual undertakings contemplated in section 2153b of title 42;

(C) encouraging non-nuclear-weapon states that are not party to the Treaty to adhere to the Treaty or, pending such adherence, to enter into comparable agreements with respect to safeguards and to foreswear the development of any nuclear explosive devices, and discouraging nuclear exports to non-nuclear-weapon states which have not taken such steps;

(D) strengthening the safeguards of the IAEA as contemplated in section 3241 of this title; and

(E) renegotiating agreements for cooperation as contemplated in section 2153c(a) of title 42;

(2) an assessment of the impact of the progress described in paragraph (1) on the non-proliferation policy of the United States; an explanation of the precise reasons why progress has not been made on any particular point and recommendations with respect to appropriate measures to encourage progress; and a statement of what legislative modifications, if any, are necessary in his judgment to achieve the non-proliferation policy of the United States;

(3) a determination as to which non-nuclear-weapon states with which the United States has an agreement for cooperation in effect or under negotiation, if any, have—

(A) detonated a nuclear device; or

(B) refused to accept the safeguards of the IAEA on all of their peaceful nuclear activities; or

(C) refused to give specific assurances that they will not manufacture or otherwise acquire any nuclear explosive device; or

(D) engaged in activities involving source or special nuclear material and having direct significance for the manufacture or acquisition of nuclear explosive devices;

(4) an assessment of whether any of the policies set forth in this chapter have, on balance, been counterproductive from the standpoint of preventing proliferation;

(5) a description of the progress made toward establishing procedures to facilitate the timely processing of requests for subsequent arrangements and export licenses in order to enhance the reliability of the United States in meeting its commitments to supply nuclear reactors and fuel to nations which adhere to effective non-proliferation policies; [1]

(6) a description of the implementation of nuclear and nuclear-related dual-use export controls in the preceding calendar year, including a summary by type of commodity and destination of—

(A) all transactions for which—

(i) an export license was issued for any good controlled under section 2139a(c) of title 42;

(ii) an export license was issued under section 2139(b) of title 42;

(iii) approvals were issued under the Export Administration Act of 1979 [50 U.S.C. 4601 et seq.], or section 2139(b)(3) of title 42, for the retransfer of any item, technical data, component, or substance; or

(iv) authorizations were made as required by section 2077(b)(2) of title 42 to engage, directly or indirectly, in the production of special nuclear material;

(B) each instance in which—

(i) a sanction has been imposed under section 6301(a) of this title or section 6303 of this title or section 2799aa–1(b)(1) of this title;

(ii) sales or leases have been denied under section 2753(f) of this title or transactions prohibited by reason of acts relating to proliferation of nuclear explosive devices as described in section 2780(d) of this title;

(iii) a sanction has not been imposed by reason of section 6301(c)(2) of this title or the imposition of a sanction has been delayed under section 2799aa–1(b)(4) of this title; or

(iv) a waiver of a sanction has been made under—

(I) section 6301(f) of this title or section 6303 of this title,

(II) section 2375(d) of this title, or paragraph (5) or (6)(B) of section 2799aa–1(b) of this title,

(III) section 2780(g) of this title with respect to the last sentence of section 2780(d) of this title, or

(IV) section 2364 of this title with respect to section 2375 of this title or section 2753(f) of this title, the last sentence of section 2780(d) of this title, or 2799aa–1(b)(1) [2] of this title; and

(C) the progress of those independent states of the former Soviet Union that are non-nuclear-weapon states and of the Baltic states towards achieving the objective of applying full scope safeguards to all their peaceful nuclear activities.

Portions of the information required by paragraph (6) may be submitted in classified form, as necessary. Any such information that may not be published or disclosed under section 12(c)(1) of the Export Administration Act of 1979 [50 U.S.C. 4614(c)(1)] shall be submitted as confidential.

(b) Analysis of civil agreements for cooperation

In the first report required by this section, the President shall analyze each civil agreement for cooperation negotiated pursuant to section 2153 of title 42, and shall discuss the scope and adequacy of the requirements and obligations relating to safeguards and other controls therein.

(Pub. L. 95–242, title VI, §601, Mar. 10, 1978, 92 Stat. 150; Pub. L. 103–236, title VIII, §811, Apr.

30, 1994, 108 Stat. 507.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(4), was in the original "this Act", meaning Pub. L. 95–242, Mar. 10, 1978, 92 Stat. 120, known as the Nuclear Non-Proliferation Act of 1978. For complete classification of this Act to the Code, see Short Title note set out under section 3201 of this title and Tables.

The Export Administration Act of 1979, referred to in subsec. (a)(6)(A)(iii), is Pub. L. 96–72, Sept. 29, 1979, 93 Stat. 503, which is classified principally to chapter 56 (§4601 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–236 struck out "and" after the semicolon in par. (4), substituted a semicolon for the period in par. (5), and added par. (6) and concluding provisions.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–236 effective 60 days after Apr. 30, 1994, see section 831 of Pub. L. 103–236, set out as an Effective Date note under section 6301 of this title.

EFFECTIVE DATE

Subchapter effective Mar. 10, 1978, except as otherwise provided and regardless of any requirements for the promulgation of implementing regulations, see section 603(c) of Pub. L. 95–242, set out as a note under section 3201 of this title.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (a) of this section relating to the requirement that the President annually report to Congress on the Government's efforts to prevent proliferation, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 15 of House Document No. 103–7.

DELEGATION OF FUNCTIONS

For delegation of congressional reporting functions of President under subsec. (a) of this section, see section 1 of Ex. Ord. No. 13313, July 31, 2003, 68 F.R. 46073, set out as a note under section 301 of Title 3, The President.

[1] So in original. Probably should be "; and".

[2] So in original. Probably should be preceded by "section".

§3282. Reports by departments and agencies

(a) Reports by Nuclear Regulatory Commission and Department of Energy

The annual reports to the Congress by the Commission and the Department of Energy which are otherwise required by law shall also include views and recommendations regarding the policies and actions of the United States to prevent proliferation which are the statutory responsibility of those agencies. The Department's report shall include a detailed analysis of the proliferation implications of advanced enrichment and reprocessing techniques, advanced reactors, and alternative nuclear fuel cycles. This part of the report shall include a comprehensive version which includes any relevant classified information and a summary unclassified version.

(b) Additional reporting requirements

The reporting requirements of this subchapter are in addition to and not in lieu of any other reporting requirements under applicable law.

(c) Committees on Foreign Relations and Governmental Affairs of Senate and Committee on International Relations of House of Representatives to be kept informed

(1) The Department of State, the Department of Defense, the Department of Commerce, the

Department of Energy, the Commission, and, with regard to subparagraph (B), the Director of Central Intelligence, shall keep the Committees on Foreign Relations and Governmental Affairs of the Senate and the Committee on International Relations of the House of Representatives fully and currently informed with respect to—

(A) their activities to carry out the purposes and policies of this chapter and to otherwise prevent proliferation, including the proliferation of nuclear, chemical, or biological weapons, or their means of delivery; and

(B) the current activities of foreign nations which are of significance from the proliferation standpoint.

(2) For the purposes of this subsection with respect to paragraph (1)(B), the phrase "fully and currently informed" means the transmittal of credible information not later than 60 days after becoming aware of the activity concerned.

(d) Classified portions of reports

Any classified portions of the reports required by this chapter shall be submitted to the Senate Foreign Relations Committee and the House Foreign Affairs Committee.

(e) Omitted

(f) Access by Secretary of Defense to information regarding nuclear proliferation matters; applicability

(1) The Secretary of Defense shall have access, on a timely basis, to all information regarding nuclear proliferation matters which the Secretary of State or the Secretary of Energy has or is entitled to have. Such access shall include access to all communications, materials, documents, and records relating to nuclear proliferation matters.

(2) This subsection does not apply to any intradepartmental document of the Department of State or the Department of Energy, or any portion of such document, that is solely concerned with internal, confidential advice on policy concerning the conduct of interagency deliberations on nuclear proliferation matters.

(Pub. L. 95–242, title VI, §602, Mar. 10, 1978, 92 Stat. 151; Pub. L. 99–661, div. A, title XIII, §1370, Nov. 14, 1986, 100 Stat. 4004; Pub. L. 103–437, §9(a)(8), Nov. 2, 1994, 108 Stat. 4588; Pub. L. 105–277, div. G, subdiv. A, title XII, §1225(e)(6), Oct. 21, 1998, 112 Stat. 2681–775; Pub. L. 106–113, div. B, §1000(a)(7), [div. B, title XI, §1131], Nov. 29, 1999, 113 Stat. 1536, 1501A–492.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (c)(1)(A) and (d), was in the original "this Act", meaning Pub. L. 95–242, Mar. 10, 1978, 92 Stat. 120, known as the Nuclear Non-Proliferation Act of 1978. For complete classification of this Act to the Code, see Short Title note set out under section 3201 of this title and Tables.

CODIFICATION

Subsec. (e) directed that, three years after Mar. 10, 1978, the Comptroller General complete a study and report to Congress on the implementation and impact of this chapter on the nuclear non-proliferation policies, purposes, and objectives of this chapter, with such recommendations as deemed necessary to support the nuclear non-proliferation policies, purposes, and objectives of this chapter.

AMENDMENTS

1999—Subsec. (c). Pub. L. 106–113 amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: "The Department of State, the Department of Defense, the Department of Commerce, the Department of Energy, and the Commission shall keep the Committees on Foreign Relations and Governmental Affairs of the Senate and the Committee on Foreign Affairs of the House of Representatives fully and currently informed with respect to their activities to carry out the purposes and policies of this chapter and to otherwise prevent proliferation, and with respect to the current activities of foreign nations which are of significance from the proliferation standpoint."

1998—Subsec. (c). Pub. L. 105–277, §1225(e)(6)(A), struck out "the Arms Control and Disarmament Agency," after "the Department of Defense,".

Subsec. (e). Pub. L. 105–277, §1225(e)(6)(B), struck out "and the Director" after "and the Commission" in

subsec. (e), which had previously been omitted from the Code. See Codification note above.

1994—Subsecs. (c), (d). Pub. L. 103–437 substituted "Foreign Affairs" for "International Relations".

1986—Subsec. (c). Pub. L. 99–661, §1370(1), inserted "the Department of Defense,".

Subsec. (f). Pub. L. 99–661, §1370(2), added subsec. (f).

CHANGE OF NAME

Committee on Governmental Affairs of Senate changed to Committee on Homeland Security and Governmental Affairs of Senate, effective Jan. 4, 2005, by Senate Resolution No. 445, One Hundred Eighth Congress, Oct. 9, 2004.

Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108–458, set out as a note under section 3001 of Title 50, War and National Defense.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective Apr. 1, 1999, see section 1201 of Pub. L. 105–277, set out as an Effective Date note under section 6511 of this title.

PROVISION OF CERTAIN INFORMATION TO CONGRESS

Pub. L. 106–113, div. B, §1000(a)(7) [div. B, title XI, §1134], Nov. 29, 1999, 113 Stat. 1536, 1501A–494, provided that:

"(a) REQUIREMENT TO PROVIDE INFORMATION.—The head of each department and agency described in section 602(c) of the Nuclear Non-Proliferation Act of 1978 (22 U.S.C. 3282(c)) shall promptly provide information to the chairman and ranking minority member of the Committee on Foreign Relations of the Senate and the Committee on International Relations [now Committee on Foreign Affairs] of the House of Representatives in meeting the requirements of subsection (c) or (d) of section 602 of such Act [22 U.S.C. 3282(c), (d)].

"(b) ISSUANCE OF DIRECTIVES.—Not later than February 1, 2000, the Secretary of State, the Secretary of Defense, the Secretary of Commerce, the Secretary of Energy, the Director of Central Intelligence, and the Chairman of the Nuclear Regulatory Commission shall issue directives, which shall provide access to information, including information contained in special access programs, to implement their responsibilities under subsections (c) and (d) of section 602 of the Nuclear Non-Proliferation Act of 1978 (22 U.S.C. 3282(c) and (d)). Copies of such directives shall be forwarded promptly to the Committee on Foreign Relations of the Senate and the Committee on International Relations [now Committee on Foreign Affairs] of the House of Representatives upon the issuance of the directives."

CHAPTER 48—TAIWAN RELATIONS

Sec.

3301. Congressional findings and declaration of policy.
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§3301. Congressional findings and declaration of policy

(a) Findings

The President having terminated governmental relations between the United States and the governing authorities on Taiwan recognized by the United States as the Republic of China prior to January 1, 1979, the Congress finds that the enactment of this chapter is necessary—

(1) to help maintain peace, security, and stability in the Western Pacific; and

(2) to promote the foreign policy of the United States by authorizing the continuation of commercial, cultural, and other relations between the people of the United States and the people on Taiwan.

(b) Policy

It is the policy of the United States—

(1) to preserve and promote extensive, close, and friendly commercial, cultural, and other relations between the people of the United States and the people on Taiwan, as well as the people on the China mainland and all other peoples of the Western Pacific area;

(2) to declare that peace and stability in the area are in the political, security, and economic interests of the United States, and are matters of international concern;

(3) to make clear that the United States decision to establish diplomatic relations with the People's Republic of China rests upon the expectation that the future of Taiwan will be determined by peaceful means;

(4) to consider any effort to determine the future of Taiwan by other than peaceful means, including by boycotts or embargoes, a threat to the peace and security of the Western Pacific area and of grave concern to the United States;

(5) to provide Taiwan with arms of a defensive character; and

(6) to maintain the capacity of the United States to resist any resort to force or other forms of coercion that would jeopardize the security, or the social or economic system, of the people on Taiwan.

(c) Human rights

Nothing contained in this chapter shall contravene the interest of the United States in human rights, especially with respect to the human rights of all the approximately eighteen million inhabitants of Taiwan. The preservation and enhancement of the human rights of all the people on Taiwan are hereby reaffirmed as objectives of the United States.

(Pub. L. 96–8, §2, Apr. 10, 1979, 93 Stat. 14.)

EFFECTIVE DATE

Pub. L. 96–8, §18, Apr. 10, 1979, 93 Stat. 21, provided that: "This Act [enacting this chapter] shall be effective as of January 1, 1979."

SHORT TITLE

Pub. L. 96–8, §1, Apr. 10, 1979, 93 Stat. 14, provided that: "This Act [enacting this chapter] may be cited as the 'Taiwan Relations Act'."

EXECUTIVE ORDER NO. 12143

Ex. Ord. No. 12143, June 22, 1979, 44 F.R. 37191, which provided for facilitation of the maintenance of commercial, cultural, and other relations between the peoples of the United States and Taiwan, was superseded by Ex. Ord. No. 13014, Aug. 15, 1996, 61 F.R. 42963, set out below.

EX. ORD. NO. 13014. MAINTAINING UNOFFICIAL RELATIONS WITH THE PEOPLE ON TAIWAN

Ex. Ord. No. 13014, Aug. 15, 1996, 61 F.R. 42963, provided:

In light of the recognition of the People's Republic of China by the United States of America as the sole

legal government of China, and by the authority vested in me as President of the United States of America by the Taiwan Relations Act (Public Law 96-8, 22 U.S.C. 3301 *et seq*.) ("Act"), and section 301 of title 3, United States Code, in order to facilitate the maintenance of commercial, cultural, and other relations between the people of the United States and the people on Taiwan without official representation or diplomatic relations, it is hereby ordered as follows:

SECTION 1. *Delegation and Reservation of Functions.*

1–101. Exclusive of the functions otherwise delegated, or reserved to the President by this order, there are delegated to the Secretary of State ("Secretary") all functions conferred upon the President by the Act, including the authority under section 7(a) of the Act [22 U.S.C. 3306(a)] to specify which laws of the United States relative to the provision of consular services may be administered by employees of the American Institute on Taiwan ("Institute"). In carrying out these functions, the Secretary may redelegate his authority, and shall consult with other departments and agencies as he deems appropriate.

1–102. There are delegated to the Director of the Office of Personnel Management the functions conferred upon the President by paragraphs (1) and (2) of section 11(a) of the Act [22 U.S.C. 3310(a)]. These functions shall be exercised in consultation with the Secretary.

1–103. There are reserved to the President the functions conferred upon the President by section 3 [22 U.S.C. 3302], the second sentence of section 9(b) [22 U.S.C. 3308(b)], and the determinations specified in section 10(a) of the Act [22 U.S.C. 3309(a)].

SEC. 2. *Specification of Laws and Determinations.*

2–201. Pursuant to section 9(b) of the Act [22 U.S.C. 3308(b)], and in furtherance of the purposes of the Act, the procurement of services may be effected by the Institute without regard to the following provisions of law and limitations of authority as they may be amended from time to time:

(a) Sections 1301(d) and 1341 of title 31, United States Code, and section 3732 of the Revised Statutes (41 U.S.C. 11) to the extent necessary to permit the indemnification of contractors against unusually hazardous risks, as defined in Institute contracts, consistent, to the extent practicable, with section 52.228-7 of the Federal Acquisition Regulations;

(b) Section 3324 of title 31, United States Code;

(c) Sections 3709, 3710, and 3735 of the Revised Statutes, as amended (41 U.S.C. 5, 8, and 13);

(d) Section 2 of title III of the Act of March 3, 1933 (41 U.S.C. 10a);

(e) Title III of the Federal Property and Administrative Services Act of 1949, as amended (41 U.S.C. 251-260);

(f) The Contract Disputes Act of 1978, as amended (41 U.S.C. 601-613);

(g) Chapter 137 of title 10, United States Code (10 U.S.C. 2301-2316);

(h) The Act of May 11, 1954 (the "Anti-Wunderlich Act") (41 U.S.C. 321, 322); and

(i) Section (f) of 41 U.S.C. 423.

2–202. (a) With respect to cost-type contracts with the Institute under which no fee is charged or paid, amendments and modifications of such contracts may be made with or without consideration and may be utilized to accomplish the same things as any original contract could have accomplished, irrespective of the time or circumstances of the making, or the form of the contract amended or modified, or of the amending or modifying contract and irrespective of rights that may have accrued under the contractor [contract] the amendments or modifications thereof.

(b) With respect to contracts heretofore or hereafter made under the Act, other than those described in subsection (a) of this section, amendments and modifications of such contracts may be made with or without consideration and may be utilized to accomplish the same things as any original contract could have accomplished, irrespective of the time or circumstances of the making, or the form of the contract amended or modified, or of the amending or modifying contract, and irrespective of rights that may have accrued under the contract or the amendments or modifications thereof, if the Secretary determines in each case that such action is necessary to protect the foreign policy interests of the United States.

2–203. Pursuant to section 10(a) of the Act [22 U.S.C. 3309(a)], the Taipei Economic and Cultural Representative Office in the United States ("TECRO"), formerly the Coordination Council for North America Affairs ("CCNAA"), is determined to be the instrumentality established by the people on Taiwan having the necessary authority under the laws applied by the people on Taiwan to provide assurances and take other actions on behalf of Taiwan in accordance with the Act. Nothing contained in this determination or order shall affect, or be construed to affect, the continued validity of agreements, contracts, or other undertakings, of whatever kind or nature, entered into previously by CCNAA.

SEC. 3. *President's Memorandum of December 30, 1978.*

3–301. Agreements and arrangements referred to in paragraph (B) of President Carter's memorandum of December 30, 1978, entitled "Relations With the People on Taiwan" (44 FR 1075) shall, unless otherwise

terminated or modified in accordance with law, continue in force and be performed in accordance with the Act and this order.

SEC. 4. *General*. This order supersedes Executive Order No. 12143 of June 22, 1979.

WILLIAM J. CLINTON.

§3302. Implementation of United States policy with regard to Taiwan

(a) Defense articles and services

In furtherance of the policy set forth in section 3301 of this title, the United States will make available to Taiwan such defense articles and defense services in such quantity as may be necessary to enable Taiwan to maintain a sufficient self-defense capability.

(b) Determination of Taiwan's defense needs

The President and the Congress shall determine the nature and quantity of such defense articles and services based solely upon their judgment of the needs of Taiwan, in accordance with procedures established by law. Such determination of Taiwan's defense needs shall include review by United States military authorities in connection with recommendations to the President and the Congress.

(c) United States response to threats to Taiwan or dangers to United States interests

The President is directed to inform the Congress promptly of any threat to the security or the social or economic system of the people on Taiwan and any danger to the interests of the United States arising therefrom. The President and the Congress shall determine, in accordance with constitutional processes, appropriate action by the United States in response to any such danger.

(Pub. L. 96–8, §3, Apr. 10, 1979, 93 Stat. 15.)

CONSULTATION WITH CONGRESS WITH REGARD TO TAIWAN

Pub. L. 107–228, div. B, title XII, §1263, Sept. 30, 2002, 116 Stat. 1434, provided that: "Beginning 180 days after the date of enactment of this Act [Sept. 30, 2002], and every 180 days thereafter, the President shall provide detailed briefings to and consult with the appropriate congressional committees regarding the United States security assistance to Taiwan, including the provision of defense articles and defense services."

[For definitions of "appropriate congressional committees", "defense article", and "defense service" as used in section 1263 of Pub. L. 107–228, set out above, see section 3 of Pub. L. 107–228, set out as a note under section 2651 of this title and section 1002 of Pub. L. 107–228, set out as a note under section 2151 of this title.]

TRANSFER OF WAR RESERVE MATERIEL AND OTHER PROPERTY TO TAIWAN

Pub. L. 96–92, §23, Oct. 29, 1979, 93 Stat. 710, authorized President, during calendar year 1980, to transfer to Taiwan, under such terms and conditions as he may deem appropriate, United States war reserve materiel that was located on Taiwan on Jan. 1, 1979, and during calendar years 1979 and 1980, to transfer to Taiwan, under such terms and conditions as he may deem appropriate, rights of the United States in property (other than war reserve materiel) that was located on Taiwan on Jan. 1, 1979.

§3303. Application to Taiwan of laws and international agreements

(a) Application of United States laws generally

The absence of diplomatic relations or recognition shall not affect the application of the laws of the United States with respect to Taiwan, and the laws of the United States shall apply with respect to Taiwan in the manner that the laws of the United States applied with respect to Taiwan prior to January 1, 1979.

(b) Application of United States laws in specific and enumerated areas

The application of subsection (a) of this section shall include, but shall not be limited to, the following:

(1) Whenever the laws of the United States refer or relate to foreign countries, nations, states,

governments, or similar entities, such terms shall include and such laws shall apply with respect to Taiwan.

(2) Whenever authorized by or pursuant to the laws of the United States to conduct or carry out programs, transactions, or other relations with respect to foreign countries, nations, states, governments, or similar entities, the President or any agency of the United States Government is authorized to conduct and carry out, in accordance with section 3305 of this title, such programs, transactions, and other relations with respect to Taiwan (including, but not limited to, the performance of services for the United States through contracts with commercial entities on Taiwan), in accordance with the applicable laws of the United States.

(3)(A) The absence of diplomatic relations and recognition with respect to Taiwan shall not abrogate, infringe, modify, deny, or otherwise affect in any way any rights or obligations (including but not limited to those involving contracts, debts, or property interests of any kind) under the laws of the United States heretofore or hereafter acquired by or with respect to Taiwan.

(B) For all purposes under the laws of the United States, including actions in any court in the United States, recognition of the People's Republic of China shall not affect in any way the ownership of or other rights or interests in properties, tangible and intangible, and other things of value, owned or held on or prior to December 31, 1978, or thereafter acquired or earned by the governing authorities on Taiwan.

(4) Whenever the application of the laws of the United States depends upon the law that is or was applicable on Taiwan or compliance therewith, the law applied by the people on Taiwan shall be considered the applicable law for that purpose.

(5) Nothing in this chapter, nor the facts of the President's action in extending diplomatic recognition to the People's Republic of China, the absence of diplomatic relations between the people on Taiwan and the United States, or the lack of recognition by the United States, and attendant circumstances thereto, shall be construed in any administrative or judicial proceeding as a basis for any United States Government agency, commission, or department to make a finding of fact or determination of law, under the Atomic Energy Act of 1954 [42 U.S.C. 2011 et seq.] and the Nuclear Non-Proliferation Act of 1978 [22 U.S.C. 3201 et seq.], to deny an export license application or to revoke an existing export license for nuclear exports to Taiwan.

(6) For purposes of the Immigration and Nationality Act [8 U.S.C. 1101 et seq.], Taiwan may be treated in the manner specified in the first sentence of section 202(b) of that Act [8 U.S.C. 1152(b)].

(7) The capacity of Taiwan to sue and be sued in courts in the United States, in accordance with the laws of the United States, shall not be abrogated, infringed, modified, denied, or otherwise affected in any way by the absence of diplomatic relations or recognition.

(8) No requirement, whether expressed or implied, under the laws of the United States with respect to maintenance of diplomatic relations or recognition shall be applicable with respect to Taiwan.

(c) Treaties and other international agreements

For all purposes, including actions in any court in the United States, the Congress approves the continuation in force of all treaties and other international agreements, including multilateral conventions, entered into by the United States and the governing authorities on Taiwan recognized by the United States as the Republic of China prior to January 1, 1979, and in force between them on December 31, 1978, unless and until terminated in accordance with law.

(d) Membership in international financial institutions and other international organizations

Nothing in this chapter may be construed as a basis for supporting the exclusion or expulsion of Taiwan from continued membership in any international financial institution or any other international organization.

(Pub. L. 96–8, §4, Apr. 10, 1979, 93 Stat. 15.)

REFERENCES IN TEXT

The Atomic Energy Act of 1954, referred to in subsec. (b)(5), is act Aug. 1, 1946, ch. 724, as added by act

Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, which is classified principally to chapter 23 (§2011 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 42 and Tables.

The Nuclear Non-Proliferation Act of 1978, referred to in subsec. (b)(5), is Pub. L. 95–242, Mar. 10, 1978, 92 Stat. 120, which is classified principally to chapter 47 (§3201 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3201 of this title and Tables.

The Immigration and Nationality Act, referred to in subsec. (b)(6), is act June 27, 1952, ch. 477, 66 Stat. 163, as amended, which is classified principally to chapter 12 (§1101 et seq.) of Title 8, Aliens and Nationality. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of Title 8 and Tables.

CONCERNING THE PARTICIPATION OF TAIWAN IN THE INTERNATIONAL CIVIL AVIATION ORGANIZATION

Pub. L. 113–17, §1, July 12, 2013, 127 Stat. 480, directed the Secretary of State to develop a strategy to obtain observer status for Taiwan at the triennial International Civil Aviation Organization (ICAO) Assembly and other related meetings, activities, and mechanisms thereafter, to instruct the United States Mission to the ICAO to officially request observer status for Taiwan at such Assembly, meetings, activities, and mechanisms, to actively urge ICAO member states to support such observer status and participation for Taiwan, and to submit a report to Congress on the strategy developed by not later than 30 days after July 12, 2013.

SEMIANNUAL REPORTS ON UNITED STATES SUPPORT FOR MEMBERSHIP OR PARTICIPATION OF TAIWAN IN INTERNATIONAL ORGANIZATIONS

Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title VII, §704], Nov. 29, 1999, 113 Stat. 1536, 1501A–460, provided that:

"(a) REPORTS REQUIRED.—Not later than 60 days after the date of enactment of this Act [Nov. 29, 1999], and every 6 months thereafter for fiscal years 2000 and 2001, the Secretary of State shall submit to Congress a report in a classified and unclassified manner on the status of efforts by the United States Government to support—

"(1) the membership of Taiwan in international organizations that do not require statehood as a prerequisite to such membership; and

"(2) the appropriate level of participation by Taiwan in international organizations that may require statehood as a prerequisite to full membership.

"(b) REPORT ELEMENTS.—Each report under subsection (a) shall—

"(1) set forth a comprehensive list of the international organizations in which the United States Government supports the membership or participation of Taiwan;

"(2) describe in detail the efforts of the United States Government to achieve the membership or participation of Taiwan in each organization listed; and

"(3) identify the obstacles to the membership or participation of Taiwan in each organization listed, including a list of any governments that do not support the membership or participation of Taiwan in each such organization."

§3304. Overseas Private Investment Corporation

(a) Removal of per capita income restriction on Corporation activities with respect to investment projects on Taiwan

During the three-year period beginning on April 10, 1979, the $1,000 per capita income restriction in clause (2) of the second undesignated paragraph of section 2191 of this title shall not restrict the activities of the Overseas Private Investment Corporation in determining whether to provide any insurance, reinsurance, loans, or guaranties with respect to investment projects on Taiwan.

(b) Application by Corporation of other criteria

Except as provided in subsection (a) of this section, in issuing insurance, reinsurance, loans, or guaranties with respect to investment projects on Taiwan, the Overseas Private Insurance [1] Corporation shall apply the same criteria as those applicable in other parts of the world.

(Pub. L. 96–8, §5, Apr. 10, 1979, 93 Stat. 16.)

[1] *So in original. Probably should be "Investment".*

§3305. The American Institute in Taiwan

(a) Conduct of programs, transactions, or other relations with respect to Taiwan

Programs, transactions, and other relations conducted or carried out by the President or any agency of the United States Government with respect to Taiwan shall, in the manner and to the extent directed by the President, be conducted and carried out by or through—

(1) The American Institute in Taiwan, a nonprofit corporation incorporated under the laws of the District of Columbia, or

(2) such comparable successor nongovernmental entity as the President may designate,

(hereafter in this chapter referred to as the "Institute").

(b) Agreements or transactions relative to Taiwan entered into, performed, and enforced

Whenever the President or any agency of the United States Government is authorized or required by or pursuant to the laws of the United States to enter into, perform, enforce, or have in force an agreement or transaction relative to Taiwan, such agreement or transaction shall be entered into, performed, and enforced, in the manner and to the extent directed by the President, by or through the Institute.

(c) Preemption of laws, rules, regulations, or ordinances of District of Columbia, States, or political subdivisions of States

To the extent that any law, rule, regulation, or ordinance of the District of Columbia, or of any State or political subdivision thereof in which the Institute is incorporated or doing business, impedes or otherwise interferes with the performance of the functions of the Institute pursuant to this chapter, such law, rule, regulation, or ordinance shall be deemed to be preempted by this chapter.

(Pub. L. 96–8, §6, Apr. 10, 1979, 93 Stat. 17.)

§3306. Services to United States citizens on Taiwan

(a) Authorized services

The Institute may authorize any of its employees on Taiwan—

(1) to administer to or take from any person an oath, affirmation, affidavit, or deposition, and to perform any notarial act which any notary public is required or authorized by law to perform within the United States;

(2) To [1] act as provisional conservator of the personal estates of deceased United States citizens; and

(3) to assist and protect the interests of United States persons by performing other acts such as are authorized to be performed outside the United States for consular purposes by such laws of the United States as the President may specify.

(b) Acts by authorized employees

Acts performed by authorized employees of the Institute under this section shall be valid, and of like force and effect within the United States, as if performed by any other person authorized under the laws of the United States to perform such acts.

(Pub. L. 96–8, §7, Apr. 10, 1979, 93 Stat. 17.)

[1] *So in original. Probably should not be capitalized.*

§3307. Exemption from taxation

(a) United States, State, or local taxes

The Institute, its property, and its income are exempt from all taxation now or hereafter imposed by the United States (except to the extent that section 3310(a)(3) of this title requires the imposition of taxes imposed under chapter 21 of title 26, relating to the Federal Insurance Contributions Act) or by any State or local taxing authority of the United States.

(b) Charitable contributions; transfers for public, charitable, and religious uses; charitable and similar gifts

For purposes of title 26, the Institute shall be treated as an organization described in sections 170(b)(1)(A), 170(c), 2055(a), 2106(a)(2)(A), 2522(a), and 2522(b) of title 26.

(Pub. L. 96–8, §8, Apr. 10, 1979, 93 Stat. 17; Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095.)

REFERENCES IN TEXT

The Federal Insurance Contributions Act, referred to in subsec. (a), is act Aug. 16, 1954, ch. 736, §§3101, 3102, 3111, 3112, 3121 to 3128, 68A Stat. 415, as amended, which is classified generally to chapter 21 (§3101 et seq.) of Title 26, Internal Revenue Code. For complete classification of this Act to the Code, see section 3128 of Title 26 and Tables.

AMENDMENTS

1986—Pub. L. 99–514 substituted in subsecs. (a) and (b) "Internal Revenue Code of 1986" for "Internal Revenue Code of 1954", which for purposes of codification was translated as "title 26" thus requiring no change in text.

§3308. Activities of United States Government agencies

(a) Sale, loans, or lease of property; administrative and technical support functions and services

Any agency of the United States Government is authorized to sell, loan, or lease property (including interests therein) to, and to perform administrative and technical support functions and services for the operations of, the Institute upon such terms and conditions as the President may direct. Reimbursements to agencies under this subsection shall be credited to the current applicable appropriation of the agency concerned.

(b) Acquisition and acceptance of services

Any agency of the United States Government is authorized to acquire and accept services from the Institute upon such terms and conditions as the President may direct. Whenever the President determines it to be in furtherance of the purposes of this chapter, the procurement of services by such agencies from the Institute may be effected without regard to such laws of the United States normally applicable to the acquisition of services by such agencies as the President may specify by Executive order.

(c) Institute books and records; access; audit

Any agency of the United States Government making funds available to the Institute in accordance with this chapter shall make arrangements with the Institute for the Comptroller General of the United States to have access to the books and records of the Institute and the opportunity to audit the operations of the Institute.

(Pub. L. 96–8, §9, Apr. 10, 1979, 93 Stat. 18.)

§3309. Taiwan instrumentality

(a) Establishment of instrumentality; Presidential determination of necessary authority

Whenever the President or any agency of the United States Government is authorized or required by or pursuant to the laws of the United States to render or provide to or to receive or accept from Taiwan, any performance, communication, assurance, undertaking, or other action, such action shall, in the manner and to the extent directed by the President, be rendered or provided to, or received or accepted from, an instrumentality established by Taiwan which the President determines has the necessary authority under the laws applied by the people on Taiwan to provide assurances and take other actions on behalf of Taiwan in accordance with this chapter.

(b) Offices and personnel

The President is requested to extend to the instrumentality established by Taiwan the same number of offices and complement of personnel as were previously operated in the United States by the governing authorities on Taiwan recognized as the Republic of China prior to January 1, 1979.

(c) Privileges and immunities

Upon the granting by Taiwan of comparable privileges and immunities with respect to the Institute and its appropriate personnel, the President is authorized to extend with respect to the Taiwan instrumentality and its appropriate personnel, such privileges and immunities (subject to appropriate conditions and obligations) as may be necessary for the effective performance of their functions.

(Pub. L. 96–8, §10, Apr. 10, 1979, 93 Stat. 18.)

§3310. Employment of United States Government agency personnel

(a) Separation from Government service; reemployment or reinstatement upon termination of Institute employment; benefits

(1) Under such terms and conditions as the President may direct, any agency of the United States Government may separate from Government service for a specified period any officer or employee of that agency who accepts employment with the Institute.

(2) An officer or employee separated by an agency under paragraph (1) of this subsection for employment with the Institute shall be entitled upon termination of such employment to reemployment or reinstatement with such agency (or a successor agency) in an appropriate position with the attendant rights, privileges, and benefits with [1] the officer or employee would have had or acquired had he or she not been so separated, subject to such time period and other conditions as the President may prescribe.

(3) An officer or employee entitled to reemployment or reinstatement rights under paragraph (2) of this subsection shall, while continuously employed by the Institute with no break in continuity of service, continue to participate in any benefit program in which such officer or employee was participating prior to employment by the Institute, including programs for compensation for job-related death, injury, or illness; programs for health and life insurance; programs for annual, sick, and other statutory leave; and programs for retirement under any system established by the laws of the United States; except that employment with the Institute shall be the basis for participation in such programs only to the extent that employee deductions and employer contributions, as required, in payment for such participation for the period of employment with the Institute, are currently deposited in the program's or system's fund or depository. Death or retirement of any such officer or employee during approved service with the Institute and prior to reemployment or reinstatement shall be considered a death in or retirement from Government service for purposes of any employee or survivor benefits acquired by reason of service with an agency of the United States Government.

(4) Any officer or employee of an agency of the United States Government who entered into service with the Institute on approved leave of absence without pay prior to April 10, 1979, shall receive the benefits of this section for the period of such service.

(b) Employment of aliens on Taiwan

Any agency of the United States Government employing alien personnel on Taiwan may transfer such personnel, with accrued allowances, benefits, and rights, to the Institute without a break in

service for purposes of retirement and other benefits, including continued participation in any system established by the laws of the United States for the retirement of employees in which the alien was participating prior to the transfer to the Institute, except that employment with the Institute shall be creditable for retirement purposes only to the extent that employee deductions and employer contributions, as required, in payment for such participation for the period of employment with the Institute, are currently deposited in the system's fund or depository.

(c) Institute employees not deemed United States employees

Employees of the Institute shall not be employees of the United States and, in representing the Institute, shall be exempt from section 207 of title 18.

(d) Tax treatment of amounts paid Institute employees

(1) For purposes of sections 911 and 913 [2] of title 26, amounts paid by the Institute to its employees shall not be treated as earned income. Amounts received by employees of the Institute shall not be included in gross income, and shall be exempt from taxation, to the extent that they are equivalent to amounts received by civilian officers and employees of the Government of the United States as allowances and benefits which are exempt from taxation under section 912 of title 26.

(2) Except to the extent required by subsection (a)(3) of this section, service performed in the employ of the Institute shall not constitute employment for purposes of chapter 21 of title 26 and title II of the Social Security Act [42 U.S.C. 401 et seq.].

(Pub. L. 96–8, §11, Apr. 10, 1979, 93 Stat. 18; Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095.)

REFERENCES IN TEXT

Section 913 of title 26, referred to in subsec. (d)(1), was repealed by Pub. L. 97–34, title I, §112(a), Aug. 13, 1981, 95 Stat. 194.

Chapter 21 (§3101 et seq.) of title 26, referred to in subsec. (d)(2), is known as the Federal Insurance Contributions Act.

The Social Security Act, referred to in subsec. (d)(2), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title II of the Social Security Act is classified generally to subchapter II (§401 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

AMENDMENTS

1986—Subsec. (d)(1). Pub. L. 99–514 substituted "Internal Revenue Code of 1986" for "Internal Revenue Code of 1954", which for purposes of codification was translated as "title 26" thus requiring no change in text.

EX. ORD. NO. 13054. ELIGIBILITY OF CERTAIN OVERSEAS EMPLOYEES FOR NONCOMPETITIVE APPOINTMENTS

Ex. Ord. No. 13054, July 7, 1997, 62 F.R. 36965, as amended by Ex. Ord. No. 13062, §6, Sept. 29, 1997, 62 F.R. 51756, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including sections 3301 and 3302 of title 5 and section 301 of title 3 of the United States Code, and in order to permit certain overseas employees to acquire competitive status upon returning to the United States, it is hereby ordered as follows:

SECTION 1. A United States citizen who is a family member of a Federal civilian employee who has separated from Federal service to accept employment with the American Institute in Taiwan pursuant to section 11 of Public Law 96–8 (22 U.S.C. 3310(a)) may be appointed noncompetitively in a manner similar to noncompetitive appointments under Executive Order 12721 [5 U.S.C. 3301 note] and implementing regulations of the Office of Personnel Management to a competitive service position in the executive branch, provided such family member meets the qualifications and other requirements established by the Director of the Office of Personnel Management, including an appropriate period of satisfactory overseas employment with the American Institute in Taiwan.

SEC. 2. The Director of the Office of Personnel Management shall prescribe such regulations as may be necessary to implement this order.

SEC. 3. This order shall be effective upon publication in the Federal Register.

WILLIAM J. CLINTON.

[1] *So in original. Probably should be "which".*

[2] *See References in Text note below.*

§3310a. Commercial personnel at American Institute of Taiwan

The American Institute of Taiwan shall employ personnel to perform duties similar to those performed by personnel of the United States and Foreign Commercial Service. The number of individuals employed shall be commensurate with the number of United States personnel of the Commercial Service who are permanently assigned to the United States diplomatic mission to South Korea.

(Pub. L. 100–418, title II, §2201, Aug. 23, 1988, 102 Stat. 1327.)

CODIFICATION

Section was enacted as part of the Export Enhancement Act of 1988 and as part of the Omnibus Trade and Competitiveness Act of 1988, and not as part of the Taiwan Relations Act which comprises this chapter.

§3311. Reporting requirements

(a) Texts of agreements to be transmitted to Congress; secret agreements to be transmitted to Senate Foreign Relations Committee and House Foreign Affairs Committee

The Secretary of State shall transmit to the Congress the text of any agreement to which the Institute is a party. However, any such agreement the immediate public disclosure of which would, in the opinion of the President, be prejudicial to the national security of the United States shall not be so transmitted to the Congress but shall be transmitted to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives under an appropriate injunction of secrecy to be removed only upon due notice from the President.

(b) Agreements

For purposes of subsection (a), the term "agreement" includes—

(1) any agreement entered into between the Institute and the governing authorities on Taiwan or the instrumentality established by Taiwan; and

(2) any agreement entered into between the Institute and an agency of the United States Government.

(c) Congressional notification, review, and approval requirements and procedures

Agreements and transactions made or to be made by or through the Institute shall be subject to the same congressional notification, review, and approval requirements and procedures as if such agreements and transactions were made by or through the agency of the United States Government on behalf of which the Institute is acting.

(Pub. L. 96–8, §12, Apr. 10, 1979, 93 Stat. 20; Pub. L. 98–164, title X, §1011(a)(3), Nov. 22, 1983, 97 Stat. 1061.)

AMENDMENTS

1983—Subsec. (d). Pub. L. 98–164 struck out subsec. (d) which required the Secretary of State to make semi-annual reports respecting economic relations between the United States and Taiwan.

§3312. Rules and regulations

The President is authorized to prescribe such rules and regulations as he may deem appropriate to carry out the purposes of this chapter. During the three-year period beginning on January 1, 1979, such rules and regulations shall be transmitted promptly to the Speaker of the House of

Representatives and to the Committee on Foreign Relations of the Senate. Such action shall not, however, relieve the Institute of the responsibilities placed upon it by this chapter.

(Pub. L. 96–8, §13, Apr. 10, 1979, 93 Stat. 20.)

§3313. Congressional oversight

(a) Monitoring activities of Senate Foreign Relations Committee, House Foreign Affairs Committee, and other Congressional committees

The Committee on Foreign Affairs of the House of Representatives, the Committee on Foreign Relations of the Senate, and other appropriate committees of the Congress shall monitor—

(1) the implementation of the provisions of this chapter;

(2) the operation and procedures of the Institute;

(3) the legal and technical aspects of the continuing relationship between the United States and Taiwan; and

(4) the implementation of the policies of the United States concerning security and cooperation in East Asia.

(b) Committee reports to their respective Houses

Such committees shall report, as appropriate, to their respective Houses on the results of their monitoring.

(Pub. L. 96–8, §14, Apr. 10, 1979, 93 Stat. 20.)

§3314. Definitions

For purposes of this chapter—

(1) the term "laws of the United States" includes any statute, rule, regulation, ordinance, order, or judicial rule of decision of the United States or any political subdivision thereof; and

(2) the term "Taiwan" includes, as the context may require, the islands of Taiwan and the Pescadores, the people on those islands, corporations and other entities and associations created or organized under the laws applied on those islands, and the governing authorities on Taiwan recognized by the United States as the Republic of China prior to January 1, 1979, and any successor governing authorities (including political subdivisions, agencies, and instrumentalities thereof).

(Pub. L. 96–8, §15, Apr. 10, 1979, 93 Stat. 20.)

§3315. Authorization of appropriations

In addition to funds otherwise available to carry out the provisions of this chapter, there are authorized to be appropriated to the Secretary of State for the fiscal year 1980 such funds as may be necessary to carry out such provisions. Such funds are authorized to remain available until expended.

(Pub. L. 96–8, §16, Apr. 10, 1979, 93 Stat. 21.)

§3316. Severability

If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the remainder of the chapter and the application of such provision to any other person or circumstance shall not be affected thereby.

(Pub. L. 96–8, §17, Apr. 10, 1979, 93 Stat. 21.)

CHAPTER 49—SUPPORT OF PEACE TREATY BETWEEN EGYPT AND ISRAEL

SUBCHAPTER I—POLITICAL, ECONOMIC, AND TECHNOLOGICAL SUPPORT

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SUBCHAPTER I—POLITICAL, ECONOMIC, AND TECHNOLOGICAL SUPPORT

§3401. Congressional findings and declaration of policy

(a) Policy of support for peace treaty

It is the policy of the United States to support the peace treaty concluded between the Government of Egypt and the Government of Israel on March 26, 1979. This treaty is a significant step toward a full and comprehensive peace in the Middle East. The Congress urges the President to continue to exert every effort to bring about a comprehensive peace and to seek an end by all parties to the violence which could jeopardize this peace.

(b) Findings

The peace treaty between Egypt and Israel having been ratified, the Congress finds that the national interests of the United States are served—

(1) by authorizing the President to construct air bases in Israel to replace the Israeli air bases on the Sinai peninsula that are to be evacuated;

(2) by authorizing additional funds to finance procurements by Egypt and Israel through the fiscal year 1982 of defense articles and defense services for their respective security requirements; and

(3) by authorizing additional funds for economic assistance for Egypt in order to promote the economic stability and development of that country and to support the peace process in the Middle East.

(c) Other agreements, understandings, or commitments

The authorities contained in this subchapter to implement certain arrangements in support of the peace treaty between Egypt and Israel do not signify approval by the Congress of any other agreement, understanding, or commitment made by the executive branch.

(Pub. L. 96–35, §2, July 20, 1979, 93 Stat. 89.)

REFERENCES IN TEXT

This subchapter, referred to in subsec. (c), was in the original "this Act", meaning Pub. L. 96–35, July 20, 1979, 93 Stat. 89, as amended, known as the Special International Security Assistance Act of 1979, which enacted this subchapter and sections 2349, 2349a, and 2349b of this title. For complete classification of this Act to the Code, see Short Title note below and Tables.

SHORT TITLE

Pub. L. 96–35, §1, July 20, 1979, 93 Stat. 89, provided that: "This Act [enacting this subchapter and sections 2349, 2349a, and 2349b of this title] may be cited as the 'Special International Security Assistance Act of 1979'."

Pub. L. 97–132, §1, Dec. 29, 1981, 95 Stat. 1693, provided that: "This joint resolution [enacting subchapter II of this chapter] may be cited as the 'Multinational Force and Observers Participation Resolution'."

PEACE IN THE MIDDLE EAST

Pub. L. 96–533, title VII, §711, Dec. 16, 1980, 94 Stat. 3160, provided:

"(a) It is the sense of the Congress that all parties to the Arab-Israeli conflict need to reaffirm their unequivocal commitment to the peace process in order to achieve further progress toward a comprehensive settlement, to reinforce the principles of the Camp David accords, and to take actions to encourage parties not currently involved in the peace process to become active participants in peace efforts.

"(b) It is further the sense of the Congress that to further these goals (1) all parties to the conflict should accept Israel's unequivocal right to exist within secure and recognized borders; (2) the Governments of Israel and Egypt should maintain and strengthen their commitment to the process of normalization of relations and continue actions to support that commitment; (3) the Governments of Israel and Egypt should reaffirm their commitment to United Nations Resolution 242 and its applicability, in all its aspects, to territories under negotiations; and (4) the governments of countries in the Middle East should assure that their policies and actions are consistent with the objectives of achieving peace and of involving other parties in the peace process."

EGYPTIAN-ISRAELI CULTURAL, SCIENTIFIC, AND ECONOMIC RELATIONS

Pub. L. 96–60, title IV, §403, Aug. 15, 1979, 93 Stat. 403, provided that: "It is the sense of the Congress that it should be the policy of the United States to promote and encourage cultural, scientific, and economic relations between the Arab Republic of Egypt and the State of Israel."

§3402. Supplemental authorization of foreign military sales loan guaranties for Egypt and Israel

(a) Congressional findings; use of Arms Export Control Act procedures

The Congress finds that the legitimate defense interests of Israel and Egypt require a one time extraordinary assistance package due to Israel's phased withdrawal from the Sinai and Egypt's shift from reliance on Soviet weaponry. The authorizations contained in this section do not, however, constitute Congressional approval of the sale of any particular weapons system to either country. These sales will be reviewed under the normal procedures set forth in section 36(b) of the Arms Export Control Act [22 U.S.C. 2776(b)].

(b) Authorization of appropriation

In addition to amounts authorized to be appropriated for the fiscal year 1979 by section 31(a) of the Arms Export Control Act [22 U.S.C. 2771(a)], there is authorized to be appropriated to the President to carry out that Act [22 U.S.C. 2751 et seq.] $370,000,000 for the fiscal year 1979.

(c) Principal amounts of guaranteed loans

Funds made available pursuant to subsection (b) of this section may be used only for guaranties for Egypt and Israel pursuant to section 24(a) of the Arms Export Control Act [22 U.S.C. 2764(a)]. The principal amount of loans guaranteed with such funds may not exceed $3,700,000,000 of which $2,200,000,000 shall be available only for Israel and $1,500,000,000 shall be available only for

Egypt. The principal amount of such guaranteed loans shall be in addition to the aggregate ceiling authorized for the fiscal year 1979 by section 31(b) of the Arms Export Control Act [22 U.S.C. 2771(b)].

(d) Repayment schedule

Loans guaranteed with funds made available pursuant to subsection (b) of this section shall be on terms calling for repayment within a period of not less than thirty years, including an initial grace period of ten years on repayment of principal.

(e) Modification of terms of guaranteed loans

(1) The Congress finds that the Governments of Israel and Egypt each have an enormous external debt burden which may be made more difficult by virtue of the financing authorized by this section. The Congress further finds that, as a consequence of the impact of the debt burdens incurred by Israel and Egypt under such financing, it may become necessary in future years to modify the terms of the loans guaranteed with funds made available pursuant to this section.

(2) Repealed. Pub. L. 97–113, title VII, §734(a)(4), Dec. 29, 1981, 95 Stat. 1560.

(Pub. L. 96–35, §4, July 20, 1979, 93 Stat. 90; Pub. L. 97–113, title VII, §734(a)(4), Dec. 29, 1981, 95 Stat. 1560.)

REFERENCES IN TEXT

That Act, referred to in subsec. (b), means the Arms Export Control Act, Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1320, as amended, which is classified principally to chapter 39 (§2751 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

AMENDMENTS

1981—Subsec. (e)(2). Pub. L. 97–113 struck out par. (2) which required annual reports respecting economic conditions in Israel and Egypt and their external debt burdens, covered in provisions respecting external debt burdens of Egypt, Israel, and Turkey in section 723 of Pub. L. 97–113, title VII, Dec. 29, 1981, 95 Stat. 1552, not classified to the Code.

§3403. Supplemental authorization of economic support for Egypt

There is authorized to be appropriated to the President to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 [22 U.S.C. 2346 et seq.], $300,000,000 for the fiscal year 1979 for Egypt, in addition to amounts otherwise authorized to be appropriated for such chapter for the fiscal year 1979. The amounts appropriated pursuant to this section may be made available until expended.

(Pub. L. 96–35, §5, July 20, 1979, 93 Stat. 91.)

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in text, is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended. Chapter 4 of part II of the Foreign Assistance Act of 1961 is classified to part IV (§2346 et seq.) of subchapter II of chapter 32 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

§3404. Transfer of facilities of United States Sinai Field Mission to Egypt

The President is authorized to transfer to Egypt, on such terms and conditions as he may determine, such of the facilities and related property of the United States Sinai Field Mission as he may determine, upon the termination of the activities of the Sinai Field Mission in accordance with the terms of the peace treaty between Egypt and Israel.

(Pub. L. 96–35, §6, July 20, 1979, 93 Stat. 91.)

§3405. Contributions by other countries to support peace in the Middle East

(a) Presidential consultations with other countries

It is the sense of the Congress that other countries should give favorable consideration to providing support for the implementation of the peace treaty between Egypt and Israel. Therefore, the Congress requests that the President consult with other countries in order to (1) promote and develop an agreement for the establishment of a peace development fund whose purpose would be to underwrite the costs of implementing a Middle East peace, and (2) encourage investments in Israel and Egypt and other countries in the region should they join in Middle East peace agreements.

(b) Repealed. Pub. L. 97–113, title VII, §734(a)(4), Dec. 29, 1981, 95 Stat. 1560

(Pub. L. 96–35, §7, July 20, 1979, 93 Stat. 92; Pub. L. 97–113, title VII, §734(a)(4), Dec. 29, 1981, 95 Stat. 1560.)

AMENDMENTS

1981—Subsec. (b). Pub. L. 97–113 struck out subsec. (b) which required a Presidential report to Congress no later than Jan. 31, 1980, on United States efforts to encourage aid to Egypt and Israel.

§3406. Trilateral scientific and technological cooperation by Egypt, Israel, and United States

(a) Preparation for United States participation

It is the sense of the Congress that, in order to continue to build the structure of peace in the Middle East, the United States should be prepared to participate, at an appropriate time, in trilateral cooperative projects of a scientific and technological nature involving Egypt, Israel, and the United States.

(b) Plan development

Therefore, the President shall develop a plan to guide the participation of both United States Government agencies and private institutions in such projects. This plan shall identify—

(1) potential projects in a variety of areas appropriate for scientific and technological cooperation by the three countries, including agriculture, health, energy, the environment, education, and water resources;

(2) the resources which are available or which would be needed to implement such projects; and

(3) the means by which such projects would be implemented.

(Pub. L. 96–35, §8, July 20, 1979, 93 Stat. 92; Pub. L. 97–113, title VII, §734(a)(4), Dec. 29, 1981, 95 Stat. 1560.)

AMENDMENTS

1981—Subsec. (c). Pub. L. 97–113 struck out subsec. (c) which required Presidential report to Congress no later than twelve months after July 20, 1979, respecting trilateral cooperative projects between Egypt, Israel, and the United States.

§3407. Repealed. Pub. L. 97–113, title VII, §734(a)(4), Dec. 29, 1981, 95 Stat. 1560

Section, Pub. L. 96–35, §9, July 20, 1979, 93 Stat. 92, required submission of a Presidential report to Congress ninety days after July 20, 1979, respecting costs of implementation of the peace treaty between Egypt and Israel.

§3408. Non-proliferation of nuclear weapons

In accordance with the Nuclear Non-Proliferation Act of 1978 [22 U.S.C. 3201 et seq.], the Congress strongly encourages all countries in the Middle East which are not parties to the Treaty on the Non-Proliferation of Nuclear Weapons to become parties to that Treaty.

(Pub. L. 96–35, §10, July 20, 1979, 93 Stat. 93.)

REFERENCES IN TEXT

The Nuclear Non-Proliferation Act of 1978, referred to in text, is Pub. L. 95–242, Mar. 10, 1978, 92 Stat. 120, which is classified principally to chapter 47 (§3201 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3201 of this title and Tables.

SUBCHAPTER II—MULTINATIONAL FORCE AND OBSERVERS PARTICIPATION

§3421. Congressional declaration of policy

The Congress considers the establishment of the Multinational Force and Observers to be an essential stage in the development of a comprehensive settlement in the Middle East. The Congress enacts this subchapter with the hope and expectation that establishment of the Multinational Force and Observers will assist Egypt and Israel in fulfilling the Camp David accords and bringing about the establishment of a self-governing authority in order to provide full autonomy in the West Bank and Gaza.

(Pub. L. 97–132, §2, Dec. 29, 1981, 95 Stat. 1693.)

SHORT TITLE

For short title of Pub. L. 97–132, which enacted this subchapter, as the Multinational Force and Observers Participation Resolution, see section 1 of Pub. L. 97–132, set out as a note under section 3401 of this title.

§3422. Participation of United States personnel in the Multinational Force and Observers

(a) Participation by United States Armed Forces; maximum limit on the number of members

(1) Subject to the limitations contained in this subchapter, the President is authorized to assign, under such terms and conditions as he may determine, members of the United States Armed Forces to participate in the Multinational Force and Observers.

(2) The Congress declares that the participation of the military personnel of other countries in the Multinational Force and Observers is essential to maintain the international character of the peacekeeping function in the Sinai. Accordingly—

(A) before the President assigns or details members of the United States Armed Forces to the Multinational Force and Observers, he shall notify the Congress of the names of the other countries that have agreed to provide military personnel for the Multinational Force and Observers, the number of military personnel to be provided by each country, and the functions to be performed by such personnel; and

(B) if a country withdraws from the Multinational Force and Observers with the result that the military personnel of less than four foreign countries remain, every possible effort must be made by the United States to find promptly a country to replace that country.

(3) Members of the United States Armed Forces, and United States civilian personnel, who are assigned, detailed, or otherwise provided to the Multinational Force and Observers may perform only those functions or responsibilities which are specified for United Nations Forces and Observers in the Treaty of Peace and in accordance with the Protocol.

(4) The number of members of the United States Armed Forces who are assigned or detailed by the United States Government to the Multinational Force and Observers may not exceed one thousand two hundred at any one time.

(b) Participation by civilian personnel

Subject to the limitations contained in this subchapter, the President is authorized to provide, under such terms and conditions as he may determine, United States civilian personnel to participate as observers in the Multinational Force and Observers.

(c) Status of United States personnel

The status of United States Government personnel assigned to the Multinational Force and Observers under subsection (a)(1) or (b) of this section shall be as provided in section 2389 of this title.

(Pub. L. 97–132, §3, Dec. 29, 1981, 95 Stat. 1693.)

§3423. United States contributions to costs

(a) United States share of the costs

In accordance with the agreement set forth in the exchanges of letters between the United States and Egypt and between the United States and Israel which were signed on August 3, 1981, the United States share of the costs of the Multinational Force and Observers—

(1) shall not exceed 60 per centum of the budget for the expenses connected with the establishment and initial operation of the Multinational Force and Observers during the period ending September 30, 1982; and

(2) shall not exceed 331/3 per centum of the budget for the annual operating expenses of the Multinational Force and Observers for each financial year beginning after that date.

(b) Authorization of appropriations

(1) There are authorized to be appropriated to the President to carry out chapter 6 of part II of the Foreign Assistance Act of 1961 [22 U.S.C. 2348 et seq.], in addition to amounts otherwise available to carry out that chapter, $125,000,000 for the fiscal year 1982 for use in paying the United States contribution to the budget of the Multinational Force and Observers. Amounts appropriated under this subsection are authorized to remain available until expended.

(2) Expenditures made pursuant to section 138 of the joint resolution entitled "Joint resolution making continuing appropriations for the fiscal year 1982, and for other purposes", approved October 1, 1981 (Public Law 97–51), or pursuant to any subsequent corresponding provision applicable to the fiscal year 1982, shall be charged to the appropriation authorized by this subsection.

(c) Reimbursements to the United States

Unless required by law, reimbursements to the United States by the Multinational Force and Observers shall be on the basis of identifiable costs actually incurred as a result of requirements imposed by the Multinational Force and Observers, and shall not include administrative surcharges.

(Pub. L. 97–132, §4, Dec. 29, 1981, 95 Stat. 1694.)

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsec. (b)(1), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended. Chapter 6 of part II of the Foreign Assistance Act of 1961 is classified to part VI (§2348 et seq.) of subchapter II of chapter 32 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

Section 138 of the joint resolution entitled "Joint resolution making continuing appropriations for the fiscal year 1982, and for other purposes", approved October 1, 1981 (Public Law 97–51), referred to in subsec. (b)(2), is section 138 of Pub. L. 97–51, Oct. 1, 1981, 95 Stat. 967, which is not classified to the Code.

§3424. Nonreimbursed costs

(a) Administrative and technical support and services

Any agency of the United States Government is authorized to provide administrative and technical

support and services to the Multinational Force and Observers, without reimbursement and upon such terms and conditions as the President may direct, when the provision of such support or services would not result in significant incremental costs to the United States.

(b) Costs to be kept at minimum level

The provision by the United States to the Multinational Force and Observers under the authority of this subchapter or any other law of any property, support, or services, including the provision of military and civilian personnel under section 3422 of this title, on other than a reimbursable basis shall be kept to a minimum.

(c) Military training of armed forces of other countries

The President may provide military training to members of the armed forces of other countries participating in the Multinational Force and Observers.

(d) Contractors

(1) The United States may use contractors to provide logistical support to the Multinational Force and Observers under this section in lieu of providing such support through a logistical support unit comprised of members of the United States Armed Forces.

(2) Notwithstanding subsections (a) and (b) and section 3426(b) of this title, support by a contractor under this subsection may be provided without reimbursement whenever the President determines that such action enhances or supports the national security interests of the United States.

(Pub. L. 97–132, §5, Dec. 29, 1981, 95 Stat. 1695; Pub. L. 107–107, div. A, title XII, §1211, Dec. 28, 2001, 115 Stat. 1248.)

AMENDMENTS

2001—Subsec. (d). Pub. L. 107–107 added subsec. (d).

§3425. Reports to Congress

(a) Initial report

Not later than April 30, 1982, the President shall transmit to the Speaker of the House of Representatives, and to the chairman of the Committee on Foreign Relations of the Senate, a detailed written report with respect to the period ending two weeks prior to that date which contains the information specified in subsection (b).

(b) Annual report; content

Not later than January 15 of each year (beginning in 1983), the President shall transmit to the Speaker of the House of Representatives, and to the chairman of the Committee on Foreign Relations of the Senate, a written report which describes—

(1) the activities performed by the Multinational Force and Observers during the preceding year;

(2) the composition of the Multinational Force and Observers, including a description of the responsibilities and deployment of the military personnel of each participating country;

(3) All [1] costs incurred by the United States Government (including both normal and incremental costs), set forth by category, which are associated with the United States relationship with the Multinational Force and Observers and which were incurred during the preceding fiscal year (whether or not the United States was reimbursed for those costs), specifically including but not limited to—

(A) the costs associated with the United States units and personnel participating in the Multinational Force and Observers (including salaries, allowances, retirement and other benefits, transportation, housing, and operating and maintenance costs), and

(B) the identifiable costs relating to property, support, and services provided by the United States to the Multinational Force and Observers;

(4) the costs which the United States Government would have incurred in maintaining in the United States those United States units and personnel participating in the Multinational Force and Observers;

(5) amounts received by the United States Government from the Multinational Force and Observers as reimbursement;

(6) the types of property, support, or services provided to the Multinational Force and Observers by the United States Government, including identification of the types of property, support, or services provided on a nonreimbursable basis; and

(7) the results of any discussions with Egypt and Israel regarding the future of the Multinational Force and Observers and its possible reduction or elimination.

(c) Description, detail, and accuracy of reports

(1) The reports required by this section shall be as detailed as possible.

(2) The information pursuant to subsection (b)(3) shall, in the case of costs which are not identifiable, be set forth with reasonable accuracy.

(3) The information with respect to any administrative and technical support and services provided on a nonreimbursed basis under section 3424(a) of this title shall include a description of the types of support and services which have been provided and an estimate of both the total costs of such support and services and the incremental costs incurred by the United States with respect to such support and services.

(Pub. L. 97–132, §6, Dec. 29, 1981, 95 Stat. 1695.)

EX. ORD. NO. 12361. DELEGATION OF FUNCTIONS FOR MULTINATIONAL FORCE AND OBSERVERS REPORTS

Ex. Ord. No. 12361, Apr. 27, 1982, 47 F.R. 18313, provided:

By the authority vested in me as President of the United States of America by the Multinational Force and Observers Participation Resolution (Public Law 97–132, 95 Stat. 1693) [this subchapter] and Section 301 of Title 3 of the United States Code, it is hereby ordered as follows:

SECTION 1. *Delegation of Functions*. The reporting function conferred upon the President by Section 6 of the Multinational Force and Observers Participation Resolution (22 U.S.C. 3425) is delegated to the Secretary of State.

SEC. 2. *Interagency Coordination*. In the exercise of the function conferred on the Secretary of State by Section 1 of this Order, the Secretary of State shall consult with the Director of the Office of Management and Budget, the Secretary of Defense, the Director of the United States Arms Control and Disarmament Agency, the Assistant to the President for National Security Affairs, and the heads of other Executive agencies as appropriate.

RONALD REAGAN.

[For abolition, transfer of functions, and treatment of references to United States Arms Control and Disarmament Agency, see section 6511 et seq. of this title.]

[1] *So in original. Probably should not be capitalized.*

§3426. Statements of Congressional intent

(a) Disclaimer of Congressional approval of other agreements, understandings, or commitments

Nothing in this subchapter is intended to signify approval by the Congress of any agreement, understanding, or commitment made by the executive branch other than the agreement to participate in the Multinational Force and Observers as set forth in the exchanges of letters between the United States and Egypt and between the United States and Israel which were signed on August 3, 1981.

(b) Limitations on United States participation

The limitations contained in this subchapter with respect to United States participation in the Multinational Force and Observers apply to the exercise of the authorities provided by this subchapter or provided by any other provision of law. No funds appropriated by the Congress may be obligated or expended for any activity which is contrary to the limitations contained in this subchapter.

(c) War Powers Resolution

Nothing in this subchapter shall affect the responsibilities of the President or the Congress under the War Powers Resolution (Public Law 93–148) [50 U.S.C. 1541 et seq.].

(Pub. L. 97–132, §7, Dec. 29, 1981, 95 Stat. 1696.)

REFERENCES IN TEXT

The War Powers Resolution, referred to in subsec. (c), is Pub. L. 93–148, Nov. 7, 1973, 87 Stat. 555, which is classified generally to chapter 33 (§1541 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1541 of Title 50 and Tables.

§3427. Definitions

As used in this subchapter—

(1) the term "Multinational Force and Observers" means the Multinational Force and Observers established in accordance with the Protocol between Egypt and Israel signed on August 3, 1981, relating to the implementation of the security arrangements of the Treaty of Peace; and

(2) the term "Treaty of Peace" means the Treaty of Peace between the Arab Republic of Egypt and the State of Israel signed on March 26, 1979, including the Annexes thereto.

(Pub. L. 97–132, §8, Dec. 29, 1981, 95 Stat. 1697.)

CHAPTER 50—INSTITUTE FOR SCIENTIFIC AND TECHNOLOGICAL COOPERATION

Sec.

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§3501. Congressional statement of policy

As declared by Congress in the Foreign Assistant [1] Act of 1961 [22 U.S.C. 2151 et seq.], a principal objective of the foreign policy of the United States is the encouragement and sustained support of the people of developing countries in their efforts to acquire the knowledge and resources essential to development and to build the economic, political, and social institutions which will improve the quality of their lives. The Congress reaffirms the profound humanitarian and foreign policy concerns of the United States in the economic and social progress of the developing countries and in the alleviation of the worst physical manifestations of poverty in these countries.

In furtherance of that objective, the Congress recognizes that developing countries require extensive scientific and technological capacity in order to deal effectively with their development problems, relate to the industrialized nations, and constructively participate in the shaping of a stable world order.

It is therefore in the mutual interest of the United States and the developing countries to increase scientific and technological cooperation and jointly to support long-term research on critical problems that impede development and limit the efficient use of the world's human, natural, and capital resources.

(Pub. L. 96–53, title IV, §401, Aug. 14, 1979, 93 Stat. 371.)

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in text, is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, which is classified principally to chapter 32 (§2151 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

EFFECTIVE DATE

Chapter effective Oct. 1, 1979, see section 512(a) of Pub. L. 96–53, set out as an Effective Date of 1979 Amendment note under section 2151 of this title.

[1] So in original. Probably should be "Assistance".

§3502. Purposes and establishment; policy guidelines and objectives

(a) To strengthen the capacity of the people of developing countries to solve their development problems through scientific and technological innovation, to foster research on problems of development, and to facilitate scientific and technological cooperation with developing countries, the President is authorized to establish an Institute for Scientific and Technological Cooperation (hereafter in this chapter referred to as the "Institute"), which shall be subject to the foreign policy guidance of the Secretary of State.

(b) The Institute shall be guided by the policies set forth in sections 2151 and 2151–1 of this title and shall direct a substantial share of its resources to those objectives.

(Pub. L. 96–53, title IV, §402, Aug. 14, 1979, 93 Stat. 372.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this title", meaning title IV of Pub. L. 96–53, Aug. 14, 1979, 93 Stat. 371, which is classified principally to this chapter. For complete classification of title IV to the Code, see Tables.

§3503. Functions

(a) Assistance, support, etc., activities in United States and developing countries

In carrying out its purposes, the Institute shall—

(1) assist developing countries to strengthen their own scientific and technological capacity in order for them to undertake the research and experimentation necessary for development;

(2) support research, in the United States and in developing countries, on critical development problems, with emphasis on research relating to technologies which are labor-intensive or which do not generate additional unemployment or underemployment and with emphasis on those problems which are the greatest impediment to improvement in the lives of the majority of the poor;

(3) foster the exchange of scientists and other technological experts with developing countries, and other forms of exchange and communication to promote the joint solution of problems of mutual concern to the United States and developing countries;

(4) advise and assist other agencies of the United States Government in planning and executing

policies and programs of scientific and technological cooperation with developing countries;

(5) facilitate the participation of private United States institutions, businesses, and individuals in scientific and technological cooperation with developing countries; and

(6) gather, analyze, and disseminate information relevant to the scientific and technological needs of developing countries.

(b) Review of programs, projects, and other activities; objectives of review

In carrying out the functions specified in subsection (a), the Institute shall take particular care to review all of its programs, projects, and other activities to ensure that technologies which are developed, utilized, or promoted are assessed with regard to minimizing any new problems and that participants in such programs, projects, and activities are fully aware of the need for such review with respect to any technology-related activities for which the [1] are responsible.

(c) Presidential utilization of additional statutory authorities

For purposes of carrying out the functions of the Institute, the President may utilize, in addition to authorities conferred by this chapter, such authority contained in the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.], the Foreign Service Act of 1980 [22 U.S.C. 3901 et seq.], title V of the Foreign Relations Authorization Act, Fiscal Year 1979 [22 U.S.C. 2656a to 2656d], and title IV of the International Development and Food Assistance Act of 1978 [22 U.S.C. 2385a], as the President deems necessary.

(d) Consultation and cooperation with United States and foreign government agencies, and international organizations

The Institute shall carry out its functions in consultation and cooperation with the agencies of the United States Government, international organizations, and agencies of other governments engaged in promoting economic, social, and technological development in developing countries.

(e) Presidential promulgation of coordination procedures concerning other governmental activities

The President shall prescribe appropriate procedures to assure coordination of the activities of the Institute with other activities of the United States Government in furthering the use of science and technology in the cause of development.

(Pub. L. 96–53, title IV, §403, Aug. 14, 1979, 93 Stat. 372; Pub. L. 96–465, title II, §2206(a)(11), Oct. 17, 1980, 94 Stat. 2162.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (c), was in the original "this title", meaning title IV of Pub. L. 96–53, Aug. 14, 1979, 93 Stat. 371, which is classified principally to this chapter. For complete classification of title IV to the Code, see Tables.

The Foreign Assistance Act of 1961, referred to in subsec. (c), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, which is classified principally to chapter 32 (§2151 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

The Foreign Service Act of 1980, referred to in subsec. (c), is Pub. L. 96–465, Oct. 17, 1980, 94 Stat. 2071, as amended, which is classified principally to chapter 52 (§3901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3901 of this title and Tables.

The Foreign Relations Authorization Act, Fiscal Year 1979, referred to in subsec. (c), is Pub. L. 95–426, Oct. 7, 1978, 92 Stat. 963, as amended. Title V of the Act is classified generally to sections 2656a to 2656d of this title. For complete classification of this Act to the Code, see Tables.

The International Development and Food Assistance Act of 1978, referred to in subsec. (c), is Pub. L. 95–424, Oct. 6, 1978, 92 Stat. 937, as amended. Title IV of the International Development and Food Assistance Act of 1978 is classified to section 2385a of this title. For complete classification of this Act to the Code, see Short Title of 1978 Amendment note set out under section 2151 of this title and Tables.

AMENDMENTS

1980—Subsec. (c). Pub. L. 96–465 substituted reference to the Foreign Service Act of 1980 for reference to the Foreign Service Act of 1946.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–465 effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

[1] *So in original. Probably should be "they".*

§3504. General authorities; fiscal requirement for authorities

(a) To carry out the purposes and functions of the Institute, the President may—

(1) make and perform contracts and other agreements with any individual, institution, corporation, or other body of persons however designated, within or outside the United States, and with governments or government agencies, domestic or foreign;

(2) make advances, grants, and loans to any individual, institution, corporation, or other body of persons however designated, within or outside the United States, and to governments or government agencies, domestic or foreign;

(3) employ such personnel as necessary and fix their compensation;

(4) make provision for compensation, transportation, housing, subsistence (or per diem in lieu thereof), and health care or health and accident insurance for foreign nationals engaged in activities authorized by this chapter while they are away from their homes, without regard to the provisions of any other law;

(5) accept and use money, funds, property, and services of any kind by gift, devise, bequest, grant, or otherwise in furtherance of the purposes of the Institute;

(6) acquire by purchase, lease, loan, bequest, or gift and hold and dispose of by sale, lease, loan, or grant, real and personal property of all kinds;

(7) prescribe, amend, and repeal such rules and regulations as may be necessary to the conduct of the business of the Institute;

(8) utilize information, services, facilities, officers, and employees of any agency of the United States Government;

(9) establish a principal office in the United States and such other offices within or outside the United States, as may be necessary;

(10) make such expenditures as may be necessary for administering the provisions of this chapter;

(11) adopt, alter, and use an official seal for the Institute, which shall be judicially noticed; and

(12) take such other actions as may be necessary and incident to carrying out the functions of the Institute.

(b) Any authority provided by this section involving the expenditure of appropriated funds shall be effective for a fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

(Pub. L. 96–53, title IV, §404, Aug. 14, 1979, 93 Stat. 373.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(4), (10), was in the original "this title", meaning title IV of Pub. L. 96–53, Aug. 14, 1979, 93 Stat. 371, which is classified principally to this chapter. For complete classification of title IV to the Code, see Tables.

§3505. Director

(a) Appointment; compensation

There shall be a Director of the Institute (hereafter in this chapter referred to as the "Director") who shall be the chief executive officer of the Institute. The Director shall be appointed by the President, by and with the advice and consent of the Senate, and shall receive compensation at the

rate payable for level III of the Executive Schedule under section 5314 of title 5.

(b) Exercise of Presidential authority; delegation of authority

The President may exercise any authorities conferred upon him by this chapter through the Director or any other agency or officer of the United States Government as he shall direct. The Director or head of any such agency or any such officer may delegate to any of his subordinates authority to perform any of such functions.

(Pub. L. 96–53, title IV, §405, Aug. 14, 1979, 93 Stat. 373.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this title", meaning title IV of Pub. L. 96–53, Aug. 14, 1979, 93 Stat. 371, which is classified principally to this chapter. For complete classification of title IV to the Code, see Tables.

§3506. Deputy Director

(a) Appointment; compensation

A Deputy Director of the Institute shall be appointed by the President, by and with the advice and consent of the Senate. The Deputy Director shall receive compensation at the rate payable for level IV of the Executive Schedule under section 5315 of title 5.

(b) Duties and powers

The Deputy Director shall perform such duties and exercise such powers as the Director may prescribe.

(c) Additional positions; establishment by President; compensation

The President may establish up to two additional positions in the Institute to be compensated at the rate payable for level V of the Executive Schedule under section 5316 of title 5.

(Pub. L. 96–53, title IV, §406, Aug. 14, 1979, 93 Stat. 374.)

§3507. Council on International Scientific and Technological Cooperation

(a) Establishment

In order to further the purposes of the Institute, the President is authorized to establish a Council on International Scientific and Technological Cooperation (hereafter in this chapter referred to as the "Council").

(b) Functions

(1) The Council shall—

(A) advise the Director with respect to the policies, programs, planning, and procedures of the Institute;

(B) make recommendations to the Director on the use of the resources available to the Institute; and

(C) advise the Director on matters involving the activities of the Institute overseas and appropriate relationships with the private sector, within and outside the United States.

(2) The Council shall prepare an annual report setting forth the major recommendations made and advice given pursuant to paragraph (1) of this subsection.

(c) Advice to Director concerning selection, termination, or change in activities, and transfer of government programs and projects to Institute; review and recommendations respecting new programs and initiatives

The Director shall seek the advice of the Council before making any decision with respect to the

selection or termination of, or any significant change in, the areas and issues in which the Institute conducts its activities, and with respect to the transfer of specific programs and projects from any other Government agency to the Institute. The Council shall have the authority to review all new programs and initiatives before their implementation and to make recommendations with regard to the approval or disapproval of new programs and initiatives having a cost in excess of $500,000 or a duration greater than two years.

(d) Composition; Chairman; appointment, terms, etc., of members

The Council shall consist of up to twenty-five members appointed by the President, one of whom the President shall designate as Chairman. The members of the Council shall be appointed for terms of four years, except that the members first appointed shall be appointed for terms of one, two, three, or four years, as designated by the President at the time of their appointment, so that the terms of approximately one-fourth of the members of the Council expire in any year. The members of the Council shall be selected from among—

(1) citizens of the United States who are widely recognized for their broad knowledge of, or expertise in, science and technology, or their interest in the scientific and technological problems of developing countries;

(2) citizens of foreign countries who by their knowledge and expertise are capable of providing advice and guidance to the Institute on the application of science and technology to the problems of developing countries, except that not more than one-third of the membership of the Council shall consist of members who are citizens of foreign countries; and

(3) officials of the United States Government, except that not to exceed five members of the Council may be appointed under this paragraph, one of whom shall be the Secretary of State or his designee.

(e) Compensation, reimbursement, status, etc., of nongovernmental members

Members of the Council who are not officials of the United States Government shall be entitled to compensation, not to exceed the daily equivalent of the highest rate which may be paid to an employee under the General Schedule established by section 5332 of title 5, while in the performance of their duties under this chapter, and to reimbursement for expenses and per diem in lieu of subsistence while away from their homes or regular places of business in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5. Members of the Council who are not officials of the United States Government shall not be deemed officers, employees, or otherwise in the service or employment of the United States Government for any purpose, except that members of the Council who are United States citizens shall be deemed Government employees for the purposes of sections 202, 203, 205, 207, 208, and 209 of title 18.

(f) Executive and additional committees; membership, powers, etc., of Executive Committee

The Council may appoint from among its members an Executive Committee, and such other committees it deems necessary, to assist it in exercising its powers and functions. The Executive Committee shall consist of seven members, one of whom shall be the Chairman of the Council and not more than three of whom shall be employees of the United States Government. The Executive Committee shall exercise such powers and functions as are delegated to it by the Council.

(Pub. L. 96–53, title IV, §407, Aug. 14, 1979, 93 Stat. 374.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (e), was in the original "this title", meaning title IV of Pub. L. 96–53, Aug. 14, 1979, 93 Stat. 371, which is classified principally to this chapter. For complete classification of title IV to the Code, see Tables.

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101–509, set out in a note under

section 5376 of Title 5.

§3508. Fellowships

(a) Authorization; number; duration; renewal; criteria; foreign recipients; designation of recipients as Institute Fellows

The President is authorized to award up to twenty fellowships annually for periods up to two years, such awards to be renewable for an additional period not to exceed two years, to individuals who have demonstrated exceptional competence and ability in the fields of scientific, technological, economic, or social endeavor selected by the Institute for concentration. The awards shall be made so as to encompass a wide diversity of disciplines and backgrounds, and shall be made on the basis of criteria established by the President upon the advice of the Council. Up to ten of the awards in any year may be made to citizens of countries other than the United States. Individuals awarded fellowships shall be designated as Institute Fellows.

(b) Activities of Institute Fellows

The President may assign Institute Fellows to undertake such activities, in the United States or abroad, as will further the purposes of the Institute.

(c) Amount of awards; transportation, housing, etc., benefits

The amount of the awards made pursuant to this section shall be established by the President, but shall not in any case exceed the highest rate which may be paid to an employee under the General Schedule established by section 5332 of title 5. In addition, where appropriate, the President may make provisions for transportation, housing (when assigned outside country of residence), subsistence (or per diem in lieu thereof), and health care or health or accident insurance for Institute Fellows and their dependents while engaged in activities authorized by this chapter.

(d) Status of Institute Fellows

Except as provided otherwise in this section, Institute Fellows shall not be deemed employees or otherwise in the service or employment of the United States Government. Institute Fellows shall be considered employees for purposes of compensation of injuries under chapter 81 of title 5 and the tort claim provisions of chapter 171 of title 28. In addition, Institute Fellows who are United States citizens shall be considered Government employees for purposes of sections 202, 203, 205, 207, 208, and 209 of title 18.

(e) Admission into United States of alien participants in program

Alien participants in any program of the Institute, including Institute Fellows and their dependents, may be admitted to the United States, if otherwise qualified as non-immigrants under section 1101(a)(15) of title 8, for such time and under such conditions as may be prescribed by regulations promulgated by the Secretary of State and the Attorney General.

(Pub. L. 96–53, title IV, §408, Aug. 14, 1979, 93 Stat. 375.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (c), was in the original "this title", meaning title IV of Pub. L. 96–53, Aug. 14, 1979, 93 Stat. 371, which is classified principally to this chapter. For complete classification of title IV to the Code, see Tables.

ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of Title 8, Aliens and Nationality.

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government

Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

§3509. Conflict of interest; personnel and activities covered

Members of the Council and Institute Fellows shall avoid any action, in their activities with respect to the Institute, which might result in, or create the appearance of, a conflict of interest, including but not limited to—

(1) using their office or position for private gain;

(2) giving preferential treatment to any person;

(3) making recommendations or decisions relating to any activity authorized by this chapter in other than an impartial and independent manner;

(4) misusing Government property or official information obtained through their office or position which has not been made available to the general public; or

(5) affecting adversely the confidence of the public in the integrity of the Institute.

(Pub. L. 96–53, title IV, §409, Aug. 14, 1979, 93 Stat. 376.)

REFERENCES IN TEXT

This chapter, referred to in par. (3), was in the original "this title", meaning title IV of Pub. L. 96–53, Aug. 14, 1979, 93 Stat. 371, which is classified principally to this chapter. For complete classification of title IV to the Code, see Tables.

§3510. Authorization of appropriations

There are authorized to be appropriated to the President to carry out this chapter, in addition to funds otherwise available for such purpose, $12,000,000 for the fiscal year 1981. Funds appropriated under this section are authorized to remain available until expended.

(Pub. L. 96–53, title IV, §410, Aug. 14, 1979, 93 Stat. 376; amended Pub. L. 96–533, title III, §312, Dec. 16, 1980, 94 Stat. 3148.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this title", meaning title IV of Pub. L. 96–53, Aug. 14, 1979, 93 Stat. 371, which is classified principally to this chapter. For complete classification of title IV to the Code, see Tables.

AMENDMENTS

1980—Pub. L. 96–533 substituted appropriations authorization of $12,000,000 for fiscal year 1981 for such authorization of $23,750,000 for fiscal year 1980.

§3511. Repealed. Pub. L. 98–164, title X, §1011(a)(6), Nov. 22, 1983, 97 Stat. 1061

Section, Pub. L. 96–53, title IV, §411, Aug. 14, 1979, 93 Stat. 376, required the President to submit an annual report to Congress relating to the operations of the Institute during the preceding fiscal year, and set forth the contents of such report.

§3512. Repealed. Pub. L. 105–277, div. G, subdiv. A, title XIV, §1422(b)(5), Oct. 21, 1998, 112 Stat. 2681–793

Section, Pub. L. 96–53, title IV, §413, Aug. 14, 1979, 93 Stat. 377, related to establishment of Institute within International Development Cooperation Agency.

EFFECTIVE DATE OF REPEAL

Repeal effective Apr. 1, 1999, see section 1401 of Pub. L. 105–277, set out as an Effective Date note under

section 6561 of this title.

§3513. Expiration of statutory authorities

The authorities contained in this chapter shall expire on September 30, 1984.

(Pub. L. 96–53, title IV, §414, Aug. 14, 1979, 93 Stat. 377.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this title", meaning title IV of Pub. L. 96–53, Aug. 14, 1979, 93 Stat. 371, which is classified principally to this chapter. For complete classification of title IV to the Code, see Tables.

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§3601. Congressional statement of purpose

It is the purpose of this chapter to provide legislation necessary or desirable for the implementation of the Panama Canal Treaty of 1977 between the United States of America and the Republic of Panama and of the related agreements accompanying that Treaty.

(Pub. L. 96–70, §2, Sept. 27, 1979, 93 Stat. 455.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 96–70, Sept. 27, 1979, 93 Stat. 452, known as the Panama Canal Act of 1979, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note below and Tables.

EFFECTIVE DATE

Pub. L. 96–70, title III, §3304, Sept. 27, 1979, 93 Stat. 500, provided that: "Except as provided in sections 1231 [enacting section 3671 of this title and amending sections 5595, 5724a, and 8102 of Title 5, Government Organization and Employees], 1232 [enacting section 3672 of this title and provisions set out as a note under section 3672 of this title], 1241 [amending section 8336 of Title 5 and enacting provisions set out as notes under section 8336 of Title 5], 1242 [amending section 8339 of Title 5 and enacting provisions set out as notes under section 8339 of Title 5], 1261 [enacting section 3691 of this title and provisions set out as a note under section 3691 of this title], 1605 [enacting section 3795 of this title and provisions set out as a note under section 3795 of this title], 2203 [enacting section 3843 of this title and provisions set out as a note under section 3843 of this title], 2402 [enacting section 3852 of this title and provisions set out as a note under section 3852 of this title], 3101 [enacting section 3861 of this title], and 3201 [amending sections 1101 and 1182 of Title 8, Aliens and Nationality, and enacting provisions set out as notes under sections 1101 and 1182 of Title 8] of this Act, the preceding provisions of this Act [see Short Title note below] shall take effect on the date on which the Panama Canal Treaty of 1977 enters into force [Oct. 1, 1979]."

SHORT TITLE OF 1999 AMENDMENT

Pub. L. 106–65, div. C, title XXXV, §3501, Oct. 5, 1999, 113 Stat. 974, provided that: "This title [amending section 3714a of this title and enacting provisions set out as a note under section 3714a of this title] may be cited as the 'Panama Canal Commission Authorization Act for Fiscal Year 2000'."

SHORT TITLE OF 1997 AMENDMENT

Pub. L. 105–85, div. C, title XXXV, §3511(a), Nov. 18, 1997, 111 Stat. 2062, provided that: "This subtitle [subtitle B (§§3511–3550) of title XXXV of div. C of Pub. L. 105–85, enacting sections 3673, 3861, and 3862 of this title, amending sections 3602, 3612a, 3612b, 3613, 3620, 3622, 3642, 3650, 3652, 3656, 3657, 3658, 3661, 3662, 3664, 3671, 3681, 3701, 3712, 3714b, 3715c, 3731, 3751, 3752, 3771, 3772, 3776, and 3792 of this title and sections 5315, 5724, and 5724a of Title 5, Government Organization and Employees, repealing sections 3655, 3659, and 3665 of this title, and enacting provisions set out as notes under section 3650 of this title and section 5724 of Title 5] may be cited as the 'Panama Canal Transition Facilitation Act of 1997'."

SHORT TITLE OF 1996 AMENDMENTS

Pub. L. 104–201, div. C, title XXXV, §3521(a), Sept. 23, 1996, 110 Stat. 2860, provided that: "This subtitle [subtitle B (§§3521–3549) of title XXXV of div. C of Pub. L. 104–201, enacting sections 3714b and 3873 of this title, amending sections 3602, 3613, 3614, 3623, 3642, 3649 to 3653, 3657, 3658, 3663, 3664, 3671, 3682, 3712, 3713, 3721, 3723, 3731, 3741, 3751, 3777, and 3811 of this title and sections 3401, 5102, 5342, 5343, 5348, 5373, 5537, 5541, 5924, 6322, and 7901 of Title 5, Government Organization and Employees, repealing sections 3654, 3683, 3711, 3795, 3801, 3802, 3831, 3841 to 3844, 3851, 3852, and 3861 of this title, enacting provisions set out as notes under sections 3613, 3614, and 3652 of this title, and repealing provisions set out as notes under sections 3795 and 3843 of this title] may be cited as the 'Panama Canal Act Amendments of 1996'."

Pub. L. 104–106, div. C, title XXXV, §3521, Feb. 10, 1996, 110 Stat. 638, provided that: "This subtitle

[subtitle B (§§3521–3530) of title XXXV of div. C of Pub. L. 104–106, enacting sections 3612a and 3612b of this title and amending sections 3611, 3612, 3645, 3712, 3713, 3723, 3731, 3761, 3775, 3776, 3791, and 3794 of this title and section 9101 of Title 31, Money and Finance] may be cited as the 'Panama Canal Amendments Act of 1995'."

SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100–705, §1, Nov. 19, 1988, 102 Stat. 4685, provided that: "This Act [enacting sections 3715 to 3715d of this title, amending sections 3612, 3712, and 3731 of this title, and enacting provisions set out as a note under section 3612 of this title] may be cited as the 'Panama Canal Commission Compensation Fund Act of 1988'."

SHORT TITLE OF 1987 AMENDMENT

Pub. L. 100–203, title V, §5421, Dec. 22, 1987, 101 Stat. 1330–271, provided that: "This part [part 2 of subtitle E (§§5421–5429) of title V of Pub. L. 100–203, enacting section 3714 of this title, amending sections 3683, 3711, 3712, 3713, 3751, 3753, 3754, 3792, and 3793 of this title and section 8348 of Title 5, Government Organization and Employees, and enacting provisions set out as a note under section 3683 of this title] may be referred to as the 'Panama Canal Revolving Fund Act'."

SHORT TITLE OF 1985 AMENDMENT

Pub. L. 99–209, §1, Dec. 23, 1985, 99 Stat. 1716, provided that: "This Act [enacting section 3779 of this title, amending sections 3771, 3772, and 3774 to 3776 of this title, and enacting provisions set out as a note under section 3771 of this title] may be cited as the 'Panama Canal Amendments Act of 1985'."

SHORT TITLE

Pub. L. 96–70, §1, Sept. 27, 1979, 93 Stat. 452, provided that: "This Act [enacting this chapter, amending section 2778 of this title, sections 305, 5102, 5316, 5342, 5343, 5348, 5373, 5504, 5533, 5541, 5583, 5595, 5724a, 6301, 6322, 6323, 8102, 8146, 8335, 8336, 8339, 8348, 8701, and 8901 of Title 5, Government Organization and Employees, sections 1101 and 1182 of Title 8, Aliens and Nationality, section 213 of Title 29, Labor, sections 403, 3401, and 3682 of Title 39, Postal Service, and sections 191, 195, and 196 of Title 50, War and National Defense, repealing section 3402 of Title 39 and section 191b of Title 50, and enacting provisions set out as notes under sections 3601, 3602, 3672, 3691, 3795, 3843, and 3852 of this title, sections 8336 and 8339 of Title 5, and sections 1101 and 1182 of Title 8] may be cited as the 'Panama Canal Act of 1979'."

EX. ORD. NO. 12173. CONTINUING APPLICABILITY OF PANAMA CANAL REGULATIONS

Ex. Ord. No. 12173, Nov. 29, 1979, 44 F.R. 69271, as amended by Ex. Ord. No. 12203, Mar. 26, 1980, 45 F.R. 20451, provided:

By the authority vested in me as President of the United States of America by Section 301 of Title 3 of the United States Code, by the Panama Canal Code (76A Stat. 1), as amended, and by Public Law 96–70 (93 Stat. 452) [see Short Title note above], and in accordance with the rights granted to the United States of America by the Panama Canal Treaty of 1977 "to manage, operate, and maintain the Panama Canal, its complementary works, installations and equipment and to provide for the orderly transit of vessels through the Panama Canal," it is hereby ordered as follows:

1–101. All regulations that were adopted by the President or his delegates pursuant to former Title 2 of the Canal Zone Code (76A Stat. 6–50), repealed by Section 303(a)(1) [probably should be 3303(a)(1)] of Public Law 96–70, or actions taken pursuant thereto, that were in effect on September 30, 1979, and that address matters which the President is authorized to regulate pursuant to Public Law 96–70 [see Short Title note above], shall remain in effect unless or until amended, superseded, or otherwise terminated by the President or the Panama Canal Commission. This extension shall not apply to the extent that any such regulation or action is inconsistent with the provisions of the Panama Canal Treaty of 1977, its implementing agreements, or Public Law 96–70.

1–102. The Secretary of Defense shall exercise the powers and carry out the responsibilities vested in the President of the United States by the Panama Canal Code (76A Stat. 1), as amended, and Public Law 96–70 (93 Stat. 452), except for those powers and responsibilities vested in the President by Sections 1102(b), 1103, 1104, 1105(a), 1106(b), 1108, 1109(a), 1112(d), 1243(a)(1), 1321(c), 1344(b), 1504(b), 1601(a), 2206(b) and 3301 of Public Law 96–70 [sections 3612(b), 3613, 3614, 3615(a), 3616(b), 3618, 3619(a), 3622(d), 3681(a)(1), 3731(c), 3754(b), 3784(b), 3791(a), [former] 3844(b) and 3871 of this title]. This delegation shall be effective until May 15, 1980.

JIMMY CARTER.

EX. ORD. NO. 12215. DELEGATION OF PANAMA CANAL FUNCTIONS

Ex. Ord. No. 12215, May 27, 1980, 45 F.R. 36043, as amended by Ex. Ord. No. 12652, Sept. 19, 1988, 53 F.R. 36775, provided:

By the authority vested in me as President of the United States of America by the Panama Canal Code (76A Stat. 1), as amended, by the Panama Canal Act of 1979 (93 Stat. 452; 22 U.S.C. 3601 et seq.), and by Section 301 of Title 3 of the United States Code, it is hereby ordered as follows:

1–1. THE SECRETARY OF DEFENSE

1–101. The Secretary of Defense shall develop for the President's consideration an appropriate legislative proposal as required by Section 3(d) of the Panama Canal Act of 1979 (93 Stat. 456; 22 U.S.C. 3602(d)). The Secretary of Defense shall coordinate development of this proposal with the Secretary of State and the heads of other interested Executive agencies.

1–102. The function vested in the President by Section 1212(d)(1) of the Panama Canal Act of 1979 (93 Stat. 464; 22 U.S.C. 3652(d)(1)) to exclude employees of, or positions within, the Department of Defense from coverage under any provision of subchapter II, Chapter 2 of Title I of the Panama Canal Act of 1979 [22 U.S.C. 3651 et seq.], is delegated to the Secretary of Defense.

1–103. The function vested in the President by Section 1281(b) of Title 6 of the Panama Canal Code (76A Stat. 455; 6 P.C.C. 1281(b)), as amended, with respect to areas and installations made available to the United States pursuant to the Agreement in Implementation of Article IV of the Panama Canal Treaty of 1977 is delegated to the Secretary of Defense.

1–104. The function vested in the President by Section 1701 of the Panama Canal Act of 1979 (93 Stat. 492; 22 U.S.C. 3801), with respect to regulations applicable within the areas and installations made available to the United States pursuant to the Agreement in Implementation of Article IV of the Panama Canal Treaty of 1977, is delegated to the Secretary of Defense.

1–105. The functions vested in the President by Sections 1243(c)(1) and 2401 of the Panama Canal Act of 1979 (93 Stat. 474 and 495; 22 U.S.C. 3681(c)(1) and 3851) are delegated to the Secretary of Defense.

1–106. The functions vested in the President by Section 1502(a) of the Panama Canal Act of 1979 (93 Stat. 488; 22 U.S.C. 3782(a)) are delegated to the Secretary of Defense.

1–2. COORDINATION OF PAY AND EMPLOYMENT PRACTICES

1–201. In order to coordinate the policies and activities of agencies under subchapter II of Chapter 2 of Title I of the Panama Canal Act of 1979 (93 Stat. 463; 22 U.S.C. 3651 et seq.), each agency shall periodically consult with the Secretary of Defense with respect to the establishment of rates of pay, in order to develop compatible or unified systems for basic pay. In addition, each agency shall consult with the Secretary of Defense on such other matters as the Secretary may deem appropriate in order to develop compatible or unified employment practices.

1–202. The head of each agency shall, upon approval by the Secretary of Defense, adopt a schedule of basic pay pursuant to Section 1215 of the Panama Canal Act of 1979 (93 Stat. 465; 22 U.S.C. 3655) and adopt regulations governing other matters relating to pay and employment practices.

1–203. The authority vested in the President by Section 1223(a) of the Panama Canal Act of 1979 to coordinate the policies and activities of agencies (93 Stat. 467; 22 U.S.C. 3663(a)) is delegated to the Secretary of Defense. The Secretary shall exercise such functions in a manner which is in accord with the provisions of Sections 1–201 and 1–202 of this Order.

1–3. PANAMA CANAL COMMISSION

1–301. The functions vested in the President and delegated to the Secretary of Defense in this Section 1–3 of this Order shall be carried out by the Secretary of Defense, who shall, in carrying out the said functions, provide, by redelegation or otherwise, for their performance, in a manner consistent with paragraph 3 of Article III of the Panama Canal Treaty of 1977, by the Panama Canal Commission.

1–302. The authority of the President under Section 1104 of the Panama Canal Act of 1979 (93 Stat. 457; 22 U.S.C. 3614) to fix the compensation of and to define the authorities and duties of the Deputy Administrator and the Chief Engineer is delegated to the Secretary of Defense.

1–303. The functions vested in the President by Sections 1418, 1801, and 2206 of the Panama Canal Act of 1979 (93 Stat. 487, 492, and 494; 22 U.S.C. 3778, 3811, and 3844) are delegated to the Secretary of Defense.

1–304. The authority of the President under Section 1701 of the Panama Canal Act of 1979 (93 Stat. 492; 22 U.S.C. 3801) with respect to regulations applicable within the areas and installations made available to the United States pursuant to the Agreement in Implementation of Article III of the Panama Canal Treaty of 1977

is delegated to the Secretary of Defense.

1–305. The function vested in the President by Section 1281(b) of Title 6 of the Panama Canal Code (76A Stat. 455; 6 P.C.C. 1281(b)), as amended, with respect to areas and installations in the Republic of Panama made available to the United States pursuant to the Agreement in Implementation of Article III of the Panama Canal Treaty of 1977 is delegated to the Secretary of Defense.

1–306. The functions vested in the President by Sections 82 and 86 of Title 3 of the Panama Canal Code (76A Stat. 54 and 55; 3 P.C.C. 82 and 86), as amended, are delegated to the Secretary of Defense.

[1–307. Rescinded by Ex. Ord. No. 12652, Sept. 19, 1988, 53 F.R. 36775, eff. Jan. 1, 1989.]

1–308. Except to the extent heretofore delegated, the functions vested in the President pursuant to subchapter II of Chapter 2 of Title I of the Panama Canal Act of 1979 (93 Stat. 463) [22 U.S.C. 3651 et seq.] are hereby delegated to the Secretary of Defense.

1–4. OTHER AGENCIES

1–401. The functions vested in the President by Sections 1111 and 3301 of the Panama Canal Act of 1979 (93 Stat. 459 and 497; 22 U.S.C. 3621 and 3871), are delegated to the Secretary of State. The Secretary shall perform these functions in coordination with the Secretary of Defense.

1–402. The functions vested in the President by Sections 1112(d), 1344(b), and 1504(b) of the Panama Canal Act of 1979 (93 Stat. 460, 484, and 488; 22 U.S.C. 3622(d), 3754(b), and 3784(b)) are delegated to the Secretary of State.

1–403. The functions vested in the President by Section 1243(a)(1) of the Panama Canal Act of 1979 (93 Stat. 473; 22 U.S.C. 3681(a)(1)) are delegated to the Director of the Office of Personnel Management.

1–404. Paragraphs (22) and (23) of Section 1 of Executive Order No. 11609, as amended [set out as a note under section 301 of Title 3, The President], and Executive Order No. 11713 are revoked.

JIMMY CARTER.

§3602. Definitions

(a) References to Panama Canal Treaty of 1977 and related agreements

For purposes of this chapter—

(1) references to the Panama Canal Treaty of 1977 refer to the Panama Canal Treaty between the United States of America and the Republic of Panama, signed September 7, 1977; and

(2) references to the Panama Canal Treaty of 1977 and related agreements refer to the Panama Canal Treaty of 1977, the agreements relating to and implementing that Treaty, signed September 7, 1977, and the Agreement Between the United States of America and the Republic of Panama Concerning Air Traffic Control and Related Services, concluded January 8, 1979.

(b) Definitions

Subject to the provisions of subsection (c) of this section, for purposes of applying laws of the United States and regulations issued pursuant to such laws with respect to transactions, occurrences, or status on or after October 1, 1979—

(1) "Canal Zone" shall be deemed to refer to the areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements;

(2) "Canal Zone waters" and "waters of the Canal Zone" shall be deemed to refer to "Panama Canal waters" and "waters of the Panama Canal", respectively;

(3) "Government of the Canal Zone" or "Canal Zone Government" shall be deemed to refer to the United States of America;

(4) "Governor of the Canal Zone" or "Governor", wherever the reference is to the Governor of the Canal Zone, shall be deemed to refer to the Panama Canal Commission; and

(5) "Panama Canal Company" or "Company", wherever the reference is to the Panama Canal Company, shall be deemed to refer to the Panama Canal Commission.

(c) Applicability of subsection (b)

Any reference set forth in subsection (b) of this section shall apply except as otherwise provided in this chapter or unless (1) such reference is inconsistent with the provisions of this chapter, (2) in the

context in which a term is used such reference is clearly not intended, or (3) a term refers to a time before October 1, 1979.

(d) Definitions relating to Canal transition

For purposes of this chapter:

(1) The term "Canal Transfer Date" means December 31, 1999, such date being the date specified in the Panama Canal Treaty of 1977 for the transfer of the Panama Canal from the United States of America to the Republic of Panama.

(2) The term "Panama Canal Authority" means the entity created by the Republic of Panama to succeed the Panama Canal Commission as of the Canal Transfer Date.

(Pub. L. 96–70, §3, Sept. 27, 1979, 93 Stat. 455; Pub. L. 104–201, div. C, title XXXV, §§3522, 3548(c)(1), Sept. 23, 1996, 110 Stat. 2860, 2869; Pub. L. 105–85, div. C, title XXXV, §§3512, 3550(d)(1), (2)(A), Nov. 18, 1997, 111 Stat. 2063, 2074.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a), (c), and (d), was in the original "this Act", meaning Pub. L. 96–70, Sept. 27, 1979, 93 Stat. 452, known as the Panama Canal Act of 1979, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of this title and Tables.

REFERENCES TO CANAL ZONE CODE DEEMED REFERENCES TO PANAMA CANAL CODE

Pub. L. 96–70, title III, §3303(b), Sept. 27, 1979, 93 Stat. 499, provided that: "Those provisions of the Canal Zone Code not repealed by this Act are redesignated as the 'Panama Canal Code'. Any reference to the Canal Zone Code in those laws and regulations referred to in section 3(b) of this Act [subsec. (b) of this section] shall, subject to the provisions of such section, be deemed to refer to the [former] Panama Canal Code."

AMENDMENTS

1997—Subsec. (b). Pub. L. 105–85, §3550(d)(2)(A), substituted "October 1, 1979" for "the effective date of this Act".

Pub. L. 105–85, §3550(d)(1), substituted "laws of the United States and regulations issued pursuant to such laws" for "the Canal Zone Code or other laws of the United States and regulations issued pursuant to such Code or other laws" in introductory provisions.

Subsec. (c). Pub. L. 105–85, §3550(d)(2)(A), substituted "October 1, 1979" for "the effective date of this Act".

Subsec. (d). Pub. L. 105–85, §3512, added subsec. (d).

1996—Pub. L. 104–201, §3548(c)(1), struck out "and recommendation for legislation" after "Definitions" in section catchline.

Subsec. (b)(4) to (7). Pub. L. 104–201, §3522(1), inserted "and" at end of par. (4), substituted a period for semicolon at end of par. (5), and struck out pars. (6) and (7) which read as follows:

"(6) in chapter 57 of title 5 of the Canal Zone Code, 'hospitals' and 'Health Bureau' shall be deemed to refer, respectively, to the hospitals operated by the United States in the Republic of Panama, and to the organizational unit operating such hospitals; and

"(7) in chapter 57 of title 5 of the Canal Zone Code, in section 4784 of title 6 of such Code, and in section 2 of title 7 of such Code, 'health director' shall be deemed to refer to the senior official in charge of the hospitals operated by the United States in the Republic of Panama."

Subsec. (d). Pub. L. 104–201, §3522(2), struck out subsec. (d) which read as follows: "The President shall, within two years after October 1, 1979, submit to the Congress a request for legislation which would—

"(1) amend or repeal provisions of law which in their present form are applicable only during the transition period prescribed in Article XI of that Treaty,

"(2) repeal the Canal Zone Code, and

"(3) contain provisions considered necessary and appropriate in light of the experience as of that time under that Treaty."

SUBCHAPTER I—ADMINISTRATION AND REGULATIONS

PART 1—PANAMA CANAL COMMISSION

§3611. Establishment, purposes, offices, and residence of Commission

(a) For the purposes of managing, operating, and maintaining the Panama Canal and its complementary works, installations and equipment, and of conducting operations incident thereto, in accordance with the Panama Canal Treaty of 1977 and related agreements, the Panama Canal Commission (hereinafter in this chapter referred to as the "Commission") is established as a wholly owned government corporation (as that term is used in chapter 91 of title 31) within the executive branch of the Government of the United States. The authority of the President with respect to the Commission shall be exercised through the Secretary of Defense.

(b) The principal office of the Commission shall be located in the Republic of Panama in one of the areas made available for use of the United States under the Panama Canal Treaty of 1977 and related agreements, but the Commission may establish branch offices in such other places as it considers necessary or appropriate for the conduct of its business. Within the meaning of the laws of the United States relating to venue in civil actions, the Commission is an inhabitant and resident of the District of Columbia and the eastern judicial district of Louisiana.

(Pub. L. 96–70, title I, §1101, Sept. 27, 1979, 93 Stat. 456; Pub. L. 104–106, div. C, title XXXV, §3522(a), Feb. 10, 1996, 110 Stat. 638.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this Act", meaning Pub. L. 96–70, Sept. 27, 1979, 93 Stat. 452, known as the Panama Canal Act of 1979, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of this title and Tables.

AMENDMENTS

1996—Pub. L. 104–106 amended section generally. Prior to amendment, section read as follows: "There is established in the executive branch of the United States Government an agency to be known as the Panama Canal Commission (hereinafter in this chapter referred to as the 'Commission'). The Commission shall, under the general supervision of the Board established by section 3612 of this title, be responsible for the maintenance and operation of the Panama Canal and the facilities and appurtenances related thereto. The authority of the President with respect to the Commission shall be exercised through the Secretary of Defense."

RECOMMENDATIONS BY PRESIDENT ON CHANGES TO PANAMA CANAL COMMISSION STRUCTURE

Pub. L. 102–484, div. C, title XXXV, §3522, Oct. 23, 1992, 106 Stat. 2657, provided that:

"(a) REPORT.—The President shall conduct a study and, if warranted, develop a plan setting forth recommendations for such changes, if any, to the Panama Canal Commission for the operation of the Panama Canal during the period before the termination of the Panama Canal Treaty of 1977 as the President determines would facilitate and encourage the operation of the canal through an autonomous entity under the Government of Panama after the transfer of the canal on December 31, 1999, pursuant to the Panama Canal Treaty of 1977 and related agreements. The President shall submit the study and, if warranted, plan to Congress, together with a legislative proposal containing any changes to existing law required to implement the plan, not later than one year after the date of the enactment of this Act [Oct. 23, 1992].

"(b) PREPARATION OF PLAN.—Recommendations to the President for purposes of the study and plan required by subsection (a) shall be prepared with the participation of a representative of each of the following:

"(1) The Secretary of State.

"(2) The Secretary of Defense.

"(3) The Secretary of the Treasury.

"(4) The Secretary of Commerce.

"(5) The Secretary of Transportation.

"(6) The Panama Canal Commission.

"(c) PLAN TO BE CONSISTENT WITH PANAMA CANAL TREATY.—The study and, if warranted, plan submitted by the President pursuant to subsection (a) shall be consistent with the Panama Canal Treaty of 1977 and related agreements."

REPORT BY COMPTROLLER GENERAL ON CHANGES TO PANAMA CANAL COMMISSION STRUCTURE

Pub. L. 102–484, div. C, title XXXV, §3523, Oct. 23, 1992, 106 Stat. 2658, provided that:

"(a) REPORT.—The Comptroller General shall submit to Congress a report analyzing the effectiveness of the fiscal, operational, and management structure of the Panama Canal Commission and setting forth recommendations for such changes to that structure as the Comptroller General determines would, if implemented, enable the Commission to operate more efficiently and, thereby, serve as a model for the Government of Panama for the operation of the Panama Canal after the transfer of the Panama Canal on December 31, 1999, pursuant to the Panama Canal Treaty of 1977 and related agreements. The Comptroller General shall submit the report to Congress not later than one year after the date of the enactment of this Act [Oct. 23, 1992].

"(b) PREPARATION OF REPORT.—In developing the report required by subsection (a), the Comptroller General shall seek the views of each of the following:

"(1) The Secretary of State.

"(2) The Secretary of Defense.

"(3) The Secretary of the Treasury.

"(4) The Secretary of Commerce.

"(5) The Secretary of Transportation.

"(6) The Panama Canal Commission.

"(c) REPORT TO BE CONSISTENT WITH PANAMA CANAL TREATY.—The recommendations in the report submitted by the Comptroller General pursuant to subsection (a) shall be consistent with the Panama Canal Treaty of 1977 and related agreements."

§3612. Supervisory Board

(a) Composition of Board

The Commission shall be supervised by a Board composed of nine members, one of whom shall be an officer of the Department of Defense. The officer of the Department of Defense who shall serve on the Board shall be designated by the Secretary of Defense and may continue to serve on the Board only while continuing to serve as an officer of the Department of Defense. Not less than five members of the Board shall be nationals of the United States and the remaining members of the Board shall be nationals of the Republic of Panama. Three members of the Board who are nationals of the United States shall hold no other office in, and shall not be employed by, the Government of the United States, and shall be chosen for the independent perspective they can bring to the Commission's affairs. Members of the Board who are nationals of the United States shall cast their votes as directed by the the [1] officer of the Department of Defense designated by the Secretary of Defense to be a member of the Board.

(b) Membership of Board; appointing authority; compensation and travel expenses; compensation for non-Government Board members

The President shall appoint the members of the Board. The members of the Board who are United States nationals shall be appointed by and with the advice and consent of the Senate. Each member of the Board shall hold office at the pleasure of the President and, before assuming the duties of such office, shall take an oath to discharge faithfully the duties of his office. Members of the Board shall serve without compensation but shall be allowed travel or transportation expenses, including per diem in lieu of subsistence, in accordance with section 3617 of this title, except that, in addition to such travel or transportation expenses, members of the Board who hold no other office with either the Government of the United States or the Republic of Panama for which they receive pay are authorized to be compensated at the daily equivalent of the annual rate of basic pay in effect for level V of the Executive Schedule under section 5316 of title 5, for each day during which they are

traveling to or from or attending meetings of the Board as provided in subsection (c) of this section or, as authorized by the Chairman of the Board, while on official Panama Canal Commission business.

(c) Meetings; quorum; proxies

The Board shall hold meetings as provided in regulations adopted by the Commission and approved by the Secretary of Defense. A quorum for the transaction of business shall consist of a majority of the Board members of which a majority of those present are nationals of the United States. The Secretary of Defense, or the officer of the Department of Defense designated by the Secretary under subsection (a) of this section, may act by proxy for any other member of the Board if that other member authorizes the proxy in writing and signs the proxy. The proxy may be counted to establish a quorum and may be used by the Secretary of Defense, or the officer of the Department of Defense designated by the Secretary under subsection (a) of this section, to cast the vote of the absent Board member and to act for that member with all the powers that member would possess if present.

(Pub. L. 96–70, title I, §1102, Sept. 27, 1979, 93 Stat. 456; Pub. L. 98–217, Feb. 14, 1984, 98 Stat. 9; Pub. L. 99–223, §6, Dec. 28, 1985, 99 Stat. 1740; Pub. L. 100–203, title V, §5416, Dec. 22, 1987, 101 Stat. 1330–270; Pub. L. 100–705, §7, Nov. 19, 1988, 102 Stat. 4686; Pub. L. 101–510, div. C, title XXXV, §3504, Nov. 5, 1990, 104 Stat. 1846; Pub. L. 104–106, div. C, title XXXV, §3523, Feb. 10, 1996, 110 Stat. 638; Pub. L. 105–261, div. C, title XXXV, §3511(a), Oct. 17, 1998, 112 Stat. 2270.)

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–261 substituted "The Commission shall be supervised by a Board composed of nine members, one of whom shall be an officer of the Department of Defense. The officer of the Department of Defense who shall serve on the Board shall be designated by the Secretary of Defense and may continue to serve on the Board only while continuing to serve as an officer of the Department of Defense." for "The Commission shall be supervised by a Board composed of nine members, one of whom shall be the Secretary of Defense or an officer of the Department of Defense designated by the Secretary." and "the officer of the Department of Defense designated by the Secretary of Defense to be a member of the Board" for "Secretary of Defense or a designee of the Secretary of Defense".

1996—Subsec. (a). Pub. L. 104–106 added subsec. (a) and struck out former subsec. (a) which read as follows: "The Commission shall be supervised by a Board composed of nine members, one of whom shall be the Secretary of Defense or an officer of the Department of Defense designated by the Secretary. Not less than five members of the Board shall be nationals of the United States and the remaining members shall be nationals of the Republic of Panama. At least one of the members of the Board who are nationals of the United States shall be experienced and knowledgeable in the management or operation of an American-flag steamship line which has or had ships regularly transiting the Panama Canal, at least one other such member shall be experienced and knowledgeable in United States port operations or in the business of exporting or importing one of the regular commodities dependent on the Panama Canal as a transportation route, and at least one other such member shall be experienced and knowledgeable in labor matters in the United States. Three members of the Board shall hold no other office in or be employed by the Government of the United States. Members of the Board who are nationals of the United States shall cast their votes as directed by the Secretary of Defense or his designee."

1990—Subsec. (b). Pub. L. 101–510 substituted "level V of the Executive Schedule under section 5316" for "grade GS–18 of the General Schedule under section 5332".

1988—Subsec. (c). Pub. L. 100–705 struck out after third sentence "Only one proxy may be valid at any one time."

1987—Subsec. (b). Pub. L. 100–203 inserted before period at end "or, as authorized by the Chairman of the Board, while on official Panama Canal Commission business".

1985—Subsec. (b). Pub. L. 99–223 inserted provisions relating to compensation of members of the Board who hold no other office with either the Government of the United States or the Republic of Panama for which they receive pay.

1984—Subsec. (c). Pub. L. 98–217 inserted provisions under which the Secretary of Defense or the officer of the Department of Defense designated by the Secretary may act by proxy for other members of the Board.

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100–705, §10, Nov. 19, 1988, 102 Stat. 4687, provided that: "This Act [enacting sections 3715 to 3715d of this title, amending this section and sections 3712 and 3731 of this title, and enacting provisions set out as a note under section 3601 of this title] takes effect on October 1, 1988."

EFFECTIVE DATE OF 1985 AMENDMENT

Pub. L. 99–223, §8, Dec. 28, 1985, 99 Stat. 1740, provided that: "Section 5 and section 6 of the Act [enacting section 3650 of this title and amending this section and sections 3647 and 3731 of this title] shall be effective as of October 1, 1985."

[1] *So in original.*

§3612a. General powers of Commission

(a) Corporate seal

The Commission may adopt, alter, and use a corporate seal, which shall be judicially noticed.

(b) Bylaws

The Commission may by action of the Board of Directors adopt, amend, and repeal bylaws governing the conduct of its general business and the performance of the powers and duties granted to or imposed upon it by law.

(c) Suits by and against Commission

The Commission may sue and be sued in its corporate name, except that—

(1) the amenability of the Commission to suit is limited by Article VIII of the Panama Canal Treaty of 1977, section 3761 of this title, and otherwise by law;

(2) an attachment, garnishment, or similar process may not be issued against salaries or other moneys owed by the Commission to its employees except as provided by section 5520a of title 5 and sections 659, 661, and 662 [1] of title 42, or as otherwise specifically authorized by the laws of the United States; and

(3) the Commission is exempt from the payment of interest on claims and judgments.

(d) Contracts, leases, agreements, or other transactions

The Commission may enter into contracts, leases, agreements, or other transactions.

(e) Obligations and expenditures

The Commission—

(1) may determine the character of, and necessity for, its obligations and expenditures and the manner in which they shall be incurred, allowed, and paid; and

(2) may incur, allow, and pay its obligations and expenditures, subject to pertinent provisions of law generally applicable to Government corporations.

(f) Priority in payment of debts out of bankrupt estates

The Commission shall have the priority of the Government of the United States in the payment of debts out of bankrupt estates.

(g) Appointment of notaries public

(1) The Commission may appoint any United States citizen to have the general powers of a notary public to perform, on behalf of Commission employees and their dependents outside the United States, any notarial act that a notary public is required or authorized to perform within the United States. Unless an earlier expiration is provided by the terms of the appointment, any such appointment shall expire three months after the Canal Transfer Date.

(2) Every notarial act performed by a person acting as a notary under paragraph (1) shall be as valid, and of like force and effect within the United States, as if executed by or before a duly authorized and competent notary public in the United States.

(3) The signature of any person acting as a notary under paragraph (1), when it appears with the

title of that person's office, is prima facie evidence that the signature is genuine, that the person holds the designated title, and that the person is authorized to perform a notarial act.

(h) Limitations on authority

The authority of the Commission under this section and section 3612b of this title is subject to the Panama Canal Treaty of 1977 and related agreements, and to chapter 91 of title 31.

(Pub. L. 96–70, title I, §1102a, as added Pub. L. 104–106, div. C, title XXXV, §3524(a), Feb. 10, 1996, 110 Stat. 639; amended Pub. L. 105–85, div. C, title XXXV, §§3546, 3550(d)(3), Nov. 18, 1997, 111 Stat. 2073, 2074.)

REFERENCES IN TEXT

Sections 661 and 662 of title 42, referred to in subsec. (c)(2), were repealed by Pub. L. 104–193, title III, §362(b)(1), Aug. 22, 1994, 110 Stat. 2246.

AMENDMENTS

1997—Subsec. (g). Pub. L. 105–85, §3546(2), added subsec. (g). Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 105–85, §3550(d)(3), made technical amendment to reference in original act which appears in text as reference to section 3612b of this title.

Pub. L. 105–85, §3546(1), redesignated subsec. (g) as (h).

[1] *See References in Text note below.*

§3612b. Specific powers of Commission

(a) Panama Canal management, operation, and maintenance

The Commission may manage, operate, and maintain the Panama Canal.

(b) Establishment, maintenance, and operation of activities, facilities, and appurtenances

The Commission may construct or acquire, establish, maintain, and operate such activities, facilities, and appurtenances as necessary and appropriate for the accomplishment of the purposes of this chapter, including the following:

(1) Docks, wharves, piers, and other shoreline facilities.

(2) Shops and yards.

(3) Marine railways, salvage and towing facilities, fuel-handling facilities, and motor transportation facilities.

(4) Power systems, water systems, and a telephone system.

(5) Construction facilities.

(6) Living quarters and other buildings.

(7) Warehouses, storehouses, a printing plant, and manufacturing, processing, or service facilities in connection therewith.

(8) Recreational facilities.

(c) Use of United States mails

The Commission may use the United States mails in the same manner and under the same conditions as the executive departments of the Federal Government.

(d) Necessary or appropriate actions

The Commission may take such actions as are necessary or appropriate to carry out the powers specifically conferred upon it.

(e) Commercial activities

The Commission may conduct and promote commercial activities related to the management, operation, or maintenance of the Panama Canal. Any such commercial activity shall be carried out consistent with the Panama Canal Treaty of 1977 and related agreements.

(f) Donations

(1) The Commission may seek and accept donations of funds, property, and services from individuals, foundations, corporations, and other private and public entities for the purpose of carrying out its promotional activities.

(2) The Commission shall establish written guidelines setting forth the criteria to be used in determining whether the acceptance of funds, property, or services authorized by paragraph (1) would reflect unfavorably upon the ability of the Commission (or any employee of the Commission) to carry out its responsibilities or official duties in a fair and objective manner or would compromise the integrity or the appearance of the integrity of its programs or of any official in those programs.

(Pub. L. 96–70, title I, §1102b, as added Pub. L. 104–106, div. C, title XXXV, §3524(a), Feb. 10, 1996, 110 Stat. 639; amended Pub. L. 105–85, div. C, title XXXV, §3547, Nov. 18, 1997, 111 Stat. 2073; Pub. L. 105–261, div. C, title XXXV, §3505, Oct. 17, 1998, 112 Stat. 2268.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original "this Act", meaning Pub. L. 96–70, Sept. 27, 1979, 93 Stat. 452, known as the Panama Canal Act of 1979 which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of this title and Tables.

AMENDMENTS

1998—Subsec. (f). Pub. L. 105–261 added subsec. (f).

1997—Subsec. (e). Pub. L. 105–85 added subsec. (e).

§3613. Administrator

(a) Appointment

There shall be an Administrator of the Commission who shall be appointed by the President, by and with the advice and consent of the Senate, and shall hold office at the pleasure of the President.

(b) Compensation

The Administrator shall be paid compensation in an amount, established by the Board, not to exceed level III of the Executive Schedule.

(c) Authority for dual role

The Congress consents, for purposes of the 8th clause of article I, section 9 of the Constitution of the United States, to the acceptance by the individual serving as Administrator of the Commission of appointment by the Republic of Panama to the position of Administrator of the Panama Canal Authority. Such consent is effective only if that individual, while serving in both such positions, serves as Administrator of the Panama Canal Authority without compensation, except for payments by the Republic of Panama of travel and entertainment expenses, including per diem payments.

(d) Waiver of ethics and reporting requirements

If before the Canal Transfer Date the Republic of Panama appoints as the Administrator of the Panama Canal Authority the individual serving as the Administrator of the Commission and if that individual accepts the appointment—

(1) during any period during which that individual serves as both Administrator of the Commission and the Administrator of the Panama Canal Authority—

(A) the Foreign Agents Registration Act of 1938, as amended (22 U.S.C. 611 et seq.), shall not apply to that individual with respect to service as the Administrator of the Panama Canal Authority;

(B) that individual, with respect to participation in any particular matter as the Administrator of the Panama Canal Commission, is not subject to section 208(a) of title 18, insofar as that section would otherwise apply to that matter only because the matter will have a direct and predictable effect on the financial interest of the Panama Canal Authority;

(C) that individual is not subject to sections 203 and 205 of title 18, with respect to official acts performed as an agent or attorney for or otherwise representing the Panama Canal Authority; and

(D) that individual is not subject to sections 501(a) and 502(a)(4) of the Ethics in Government Act of 1978 (5 U.S.C. App.), with respect to compensation received for, and service in, the position of Administrator of the Panama Canal Authority; and

(2) effective upon termination of the individual's appointment as Administrator of the Panama Canal Commission at noon on the Canal Transfer Date, that individual is not subject to section 207 of title 18, with respect to acts done in carrying out official duties as Administrator of the Panama Canal Authority.

(Pub. L. 96–70, title I, §1103, Sept. 27, 1979, 93 Stat. 457; Pub. L. 104–201, div. C, title XXXV, §3523(a), Sept. 23, 1996, 110 Stat. 2860; Pub. L. 105–85, div. C, title XXXV, §3521, Nov. 18, 1997, 111 Stat. 2063.)

REFERENCES IN TEXT

Level III of the Executive Schedule, referred to in subsec. (b), is set out in section 5314 of Title 5, Government Organization and Employees.

The Foreign Agents Registration Act of 1938, referred to in subsec. (d)(1)(A), is act June 8, 1938, ch. 327, 52 Stat. 631, as amended, which is classified generally to subchapter II (§611 et seq.) of chapter 11 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 611 of this title and Tables.

Sections 501(a) and 502(a)(4) of the Ethics in Government Act of 1978, referred to in subsec. (d)(1)(D), are sections 501(a) and 502(a)(4) of Pub. L. 95–521, which are set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1997—Subsecs. (c), (d). Pub. L. 105–85 added subsecs. (c) and (d).

1996—Pub. L. 104–201 amended section generally. Prior to amendment, section read as follows: "There shall be an Administrator of the Commission, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall hold office at the pleasure of the President."

SAVINGS PROVISION

Pub. L. 104–201, div. C, title XXXV, §3523(b), Sept. 23, 1996, 110 Stat. 2860, provided that: "Nothing in this section [amending this section] (or section 3549(3) [section 3549 of Pub. L. 104–201 did not contain a par. (3) and is not classified to the Code]) shall be considered to affect—

"(1) the tenure of the individual serving as Administrator of the Commission on the day before subsection (a) takes effect [section 3523(a) of Pub. L. 104–201, effective Sept. 23, 1996]; or

"(2) until modified under section 1103(b) of the Panama Canal Act of 1979 [subsec. (b) of this section], as amended by subsection (a), the compensation of the individual so serving."

§3614. Deputy Administrator

(a) Appointment and duties

There shall be a Deputy Administrator of the Commission who shall be appointed by the President. The Deputy Administrator shall perform such duties as may be prescribed by the Board.

(b) Compensation

The Deputy Administrator shall be paid compensation at a rate of pay, established by the Board, which does not exceed the rate of basic pay in effect for level IV of the Executive Schedule, and, if eligible, shall be paid the overseas recruitment and retention differential provided for in section 3657 of this title.

(Pub. L. 96–70, title I, §1104, Sept. 27, 1979, 93 Stat. 457; Pub. L. 101–510, div. C, title XXXV, §3505, Nov. 5, 1990, 104 Stat. 1846; Pub. L. 104–201, div. C, title XXXV, §3524(a), Sept. 23, 1996, 110 Stat. 2860.)

REFERENCES IN TEXT

Level IV of the Executive Schedule, referred to in subsec. (b), is set out in section 5315 of Title 5, Government Organization and Employees.

AMENDMENTS

1996—Pub. L. 104–201 struck out "and Chief Engineer" after "Deputy Administrator" in section catchline and amended text generally. Prior to amendment, text read as follows:

"(a) There shall be a Deputy Administrator and a Chief Engineer of the Commission, both of whom shall be appointed by the President. The Deputy Administrator and the Chief Engineer shall perform such duties as may be prescribed by the President.

"(b) The Deputy Administrator and the Chief Engineer shall each be paid compensation at a rate of pay established by the President which does not exceed the rate of basic pay in effect for grade GS–18 of the General Schedule under section 5332 of title 5, and, if eligible, shall each be paid the overseas recruitment or retention differential provided for in section 3657 of this title."

1990—Subsec. (b). Pub. L. 101–510 inserted before period at end ", and, if eligible, shall each be paid the overseas recruitment or retention differential provided for in section 3657 of this title".

DELEGATION OF FUNCTIONS

Authority of President under this section to fix the compensation of and to define authorities and duties of Deputy Administrator delegated to Secretary of Defense, see section 1–302 of Ex. Ord. No. 12215, May 27, 1980, 45 F.R. 36044, set out as a note under section 3601 of this title.

SAVINGS PROVISION

Pub. L. 104–201, div. C, title XXXV, §3524(b), Sept. 23, 1996, 110 Stat. 2861, provided that: "Nothing in this section [amending this section] shall be considered to affect—

"(1) the tenure of the individual serving as Deputy Administrator of the Commission on the day before subsection (a) takes effect [section 3524(a) of Pub. L. 104–201, effective Sept. 23, 1996]; or

"(2) until modified under section 1104(b) of the Panama Canal Act of 1979 [subsec. (b) of this section], as amended by subsection (a), the compensation of the individual so serving."

§3615. Consultative Committee

(a) Designation and coordination

The President shall designate, and the Secretary of State shall coordinate the participation of, representatives of the United States to the Consultative Committee to be established under paragraph 7 of Article III of the Panama Canal Treaty of 1977.

(b) Functions

The Consultative Committee shall function as a diplomatic forum for the exchange of views between the United States and the Republic of Panama. The Committee shall advise the United States Government and the Government of the Republic of Panama on matters of policy affecting the operation of the Panama Canal. The Committee shall have no authority to direct the Commission or any other department or agency of the United States to initiate or withhold action.

(Pub. L. 96–70, title I, §1105, Sept. 27, 1979, 93 Stat. 457.)

§3616. Joint Commission on the Environment

(a) Establishment; composition

The United States and the Republic of Panama, in accordance with the Panama Canal Treaty of 1977, shall establish a Joint Commission on the Environment (hereinafter in this section referred to as the "Joint Commission") to be composed of not more than three representatives of the United States and three representatives of the Republic of Panama, or such other equivalent numbers of representatives as may be agreed upon by the Governments of the two countries. The United States members of the Joint Commission shall periodically review the implementation of the Panama Canal

Treaty of 1977 with respect to its impact on the environment and shall, jointly with the representatives of the Government of Panama, make recommendations to the United States Government and the Government of the Republic of Panama with respect to ways to avoid or mitigate adverse environmental impacts resulting from actions taken pursuant to such Treaty.

(b) Appointment; compensation and travel expenses

Representatives of the United States on the Joint Commission shall be appointed by the President and shall serve at the pleasure of the President. Such representatives shall serve without compensation but shall be allowed travel or transportation expenses, including per diem in lieu of subsistence, in accordance with section 3617 of this title.

(c) Protection of pay, seniority, or other rights or benefits of appointed or detailed Federal employees

Any Federal employee subject to the civil service laws and regulations who is detailed to serve with, or appointed by, the United States representatives on the Joint Commission shall not lose any pay, seniority, or other rights or benefits by reason of such detail or appointment.

(d) Compensation of necessary personnel

The United States representatives on the Joint Commission may, to such extent or in such amounts as are provided in advance in appropriation Acts, appoint and fix the compensation of such personnel as the representatives of the United States on the Joint Commission may consider necessary for the participation of the United States on the Joint Commission.

(e) Rules of procedure; establishment; approval

The United States representatives on the Joint Commission may, in cooperation with the representatives of the Republic of Panama on the Joint Commission, establish rules of procedure to be used by the Joint Commission in conducting its affairs, subject to the approval of such rules by the Governments of the United States and the Republic of Panama.

(Pub. L. 96–70, title I, §1106, Sept. 27, 1979, 93 Stat. 457.)

§3617. Travel expenses

While away from their homes, regular places of business, or official stations in performance of services under this part, members of the Board of the Commission and the representatives of the United States on the Consultative Committee referred to in section 3615 of this title and on the Joint Commission on the Environment referred to in section 3616 of this title shall be allowed travel or transportation expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5.

(Pub. L. 96–70, title I, §1107, Sept. 27, 1979, 93 Stat. 458.)

§3618. Defense of Panama Canal

In the event of an armed attack against the Panama Canal, or when, in the opinion of the President, conditions exist which threaten the security of the Canal, the Administrator of the Commission shall, upon the order of the President, comply with such directives as the United States military officer charged with the protection and defense of the Panama Canal may consider necessary in the exercise of his duties.

(Pub. L. 96–70, title I, §1108, Sept. 27, 1979, 93 Stat. 458.)

§3619. Joint sea level canal study

(a) Committee; appointment of representatives

The President shall appoint the representatives of the United States to any joint committee or body with the Republic of Panama to study the possibility of a sea level canal in the Republic of Panama pursuant to Article XII of the Panama Canal Treaty of 1977.

(b) Transmittal of study to President of Senate and Speaker of House of Representatives

Upon the completion of any joint study between the United States and the Republic of Panama concerning the feasibility of a sea level canal in the Republic of Panama pursuant to paragraph 1 of Article XII of the Panama Canal Treaty of 1977, the text of the study shall be transmitted by the President to the President of the Senate and to the Speaker of the House of Representatives.

(c) Congressional authorization respecting construction of sea level canal

No construction of a sea level canal by the United States in the Republic of Panama shall be undertaken except with express congressional authorization after submission of the study by the President as provided in subsection (b) of this section.

(Pub. L. 96–70, title I, §1109, Sept. 27, 1979, 93 Stat. 459.)

§3620. Authority of Ambassador; independence of Commission regarding its Panama Canal responsibilities

(a) Authority of Ambassador

The United States Ambassador to the Republic of Panama shall have full responsibility for the coordination of the transfer to the Republic of Panama of those functions that are to be assumed by the Republic of Panama pursuant to the Panama Canal Treaty of 1977 and related agreements.

(b) Independence of Commission regarding its Panama Canal responsibilities

(1) The Commission shall not be subject to the direction or supervision of the United States Chief of Mission in the Republic of Panama with respect to the responsibilities of the Commission for the operation, management, or maintenance of the Panama Canal, as established in this chapter or any other Act or in the Panama Canal Treaty of 1977 and related agreements, except that the Commission shall keep the Ambassador fully and currently informed with respect to all activities and operations of the Commission.

(2) Except as provided in paragraph (1) of this subsection, section 3927 of this title shall apply with respect to the activities of the Commission.

(c) Agreements for United States to provide post-transfer administrative services for certain employee benefits

(1) The Secretary of State may enter into one or more agreements to provide for the United States to furnish administrative services relating to the benefits described in paragraph (2) after December 31, 1999, and to establish appropriate procedures for providing advance funding for the services.

(2) The benefits referred to in paragraph (1) are the following:

(A) Pension, disability, and medical benefits provided by the Panama Canal Commission pursuant to section 3682 of this title.

(B) Compensation for work injuries covered by chapter 81 of title 5.

(Pub. L. 96–70, title I, §1110, Sept. 27, 1979, 93 Stat. 459; Pub. L. 105–85, div. C, title XXXV, §3550(d)(4), Nov. 18, 1997, 111 Stat. 2074; Pub. L. 105–261, div. C, title XXXV, §3506, Oct. 17, 1998, 112 Stat. 2269.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b)(1), was in the original "this Act", meaning Pub. L. 96–70, Sept. 27, 1979, 93 Stat. 452, known as the Panama Canal Act of 1979, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of this title and Tables.

AMENDMENTS

1998—Subsec. (c). Pub. L. 105–261 added subsec. (c).
1997—Subsec. (b)(2). Pub. L. 105–85 substituted "section 3927" for "section 2680a".

§3621. Security legislation

It is the sense of the Congress that the best interests of the United States require that the President enter into negotiations with the Republic of Panama for the purpose of arranging for the stationing of United States military forces, after the termination of the Panama Canal Treaty of 1977, in the area comprising the Canal Zone before October 1, 1979, and for the maintenance of installations and facilities, after the termination of such Treaty, for the use of United States military forces stationed in such area. The President shall report to the Congress in a timely manner the status of negotiations conducted pursuant to this section.

(Pub. L. 96–70, title I, §1111, Sept. 27, 1979, 93 Stat. 459.)

DELEGATION OF FUNCTIONS

Functions vested in President by this section delegated to Secretary of State who shall perform such functions in coordination with Secretary of Defense, see section 1–401 of Ex. Ord. No. 12215, May 27, 1980, 45 F.R. 36044, set out as a note under section 3601 of this title.

§3622. Code of conduct for Commission personnel

(a) Oath; compliance with laws of United States regarding duties and responsibilities of Federal employees

Before assuming the duties of his office or employment, each member of the Board of the Commission and each officer and employee of the Commission shall take an oath to discharge faithfully the duties of his office or employment. All employees of the Commission shall be subject to the laws of the United States regarding duties and responsibilities of Federal employees.

(b) Adoption of code of conduct; time limit; contents

Not later than 60 days after all the members of the Board of the Commission have been appointed, the Board shall adopt a code of conduct applicable to the persons referred to in subsection (a) of this section. The code of conduct shall contain provisions substantially equivalent to those contained in part 735 of title 5 of the Code of Federal Regulations on October 1, 1979. The code of conduct shall, at a minimum, contain provisions substantially equivalent to the following provisions of law:

(1) the provisions of chapter 11 of title 18, relating to bribery, graft, or conflicts of interest, as appropriate to the employees concerned;

(2) section 7352 of title 5;

(3) sections 207, 208, 285, 508, 641, 645, 1001, 1917, and 2071 of title 18;

(4) section 1343, 1344, and 1349(b) of title 31;

(5) the Ethics in Government Act of 1978 (92 Stat. 1824), as amended; and

(6) those provisions of the laws and regulations of the Republic of Panama which are substantially equivalent to those of the United States set forth in this subsection.

(c) Investigations by Commission respecting violations; recommendations for suspension

The Commission shall investigate any allegations regarding the violation of the code of conduct adopted pursuant to subsection (b) of this section. The Commission may recommend that the President suspend from the performance of his duties any member of the Board of the Commission or any officer or employee of the Commission, pending judicial proceedings by appropriate authorities concerning such allegations.

(d) Measures to insure compliance with code of conduct

The President shall negotiate suitable arrangements with the Republic of Panama whereby each nation shall agree to take all measures within its legal authority to assure that members of the Board

of the Commission comply with the code of conduct established pursuant to subsection (b) of this section. Without prejudice to such jurisdiction as the United States may have with respect to members of the Board, the provisions of law enumerated in subsection (b) of this section shall be enforced with respect to members of the Board only in accordance with such arrangements.

(e) Waiver of post-employment restrictions

(1) Section 207 of title 18 does not apply to a covered individual with respect to acts done in carrying out official duties as an officer or employee of the Panama Canal Authority.

(2) For purposes of paragraph (1), a covered individual is an officer or employee of the Panama Canal Authority who was an officer or employee of the Commission (other than the Administrator) and whose employment with the Commission terminated at noon on the Canal Transfer Date.

(3) This subsection is effective as of the Canal Transfer Date.

(f) Consent for acceptance of employment by Panama Canal Authority

(1) The Congress consents to the following persons accepting civil employment (and compensation for that employment) with the Panama Canal Authority for which the consent of the Congress is required by the last paragraph of section 9 of article I of the Constitution of the United States, relating to acceptance of emoluments, offices, or titles from a foreign government:

(A) Retired members of the uniformed services.

(B) Members of a reserve component of the armed forces.

(C) Members of the Commissioned Reserve Corps of the Public Health Service.

(2) The consent of the Congress under paragraph (1) is effective without regard to subsection (b) of section 908 of title 37 (relating to approval required for employment of Reserve and retired members by foreign governments).

(Pub. L. 96–70, title I, §1112, Sept. 27, 1979, 93 Stat. 459; Pub. L. 105–85, div. C, title XXXV, §§3522, 3550(d)(2)(A), Nov. 18, 1997, 111 Stat. 2064, 2074.)

REFERENCES IN TEXT

The Ethics in Government Act of 1978 (92 Stat. 1824), as amended, referred to in subsec. (b)(5), is Pub. L. 95–521, Oct. 26, 1978, 92 Stat. 1824, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 101 of Pub. L. 95–521 in the Appendix to Title 5, Government Organization and Employees, and Tables.

CODIFICATION

In subsec. (b)(4), "sections 1343, 1344, and 1349(b) of title 31" substituted for "section 5 of the Act of July 16, 1914 (31 U.S.C. 638a), as amended" on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

1997—Subsec. (b). Pub. L. 105–85, §3550(d)(2)(A), substituted "October 1, 1979" for "the effective date of this Act".

Subsecs. (e), (f). Pub. L. 105–85, §3522, added subsecs. (e) and (f).

DELEGATION OF FUNCTIONS

Functions vested in President by subsec. (d) of this section delegated to Secretary of State, see section 1–402 of Ex. Ord. No. 12215, May 27, 1980, 45 F.R. 36044, set out as a note under section 3601 of this title.

§3623. Office of Ombudsman

(a) Establishment; appointment of Ombudsman; functions

There is established within the Commission an Office of Ombudsman, to be directed by an Ombudsman, who shall be appointed by the Commission. It shall be the function of the Office of Ombudsman to receive individual complaints, grievances, requests, and suggestions of employees (and their dependents) of the Commission and other departments and agencies of the United States,

including the Smithsonian Institution, conducting operations before October 1, 1979, in the area then comprising the Canal Zone concerning administrative problems, inefficiencies, and conflicts caused within departments and agencies of the United States, including the Smithsonian Institution, as a result of the implementation of the Panama Canal Treaty of 1977 and related agreements.

(b) Authority to make findings, render assistance, and offer recommendations

The Ombudsman shall make findings and render assistance with respect to the complaints, grievances, requests, and suggestions submitted to the Office of Ombudsman, and shall make appropriate recommendations to the Commission or any other department or agency of the United States, including the Smithsonian Institution.

(c) Effect on procedures for grievances, appeals, or administrative matters under this chapter, in other provisions of law, or in Federal regulations

The establishment of the Office of Ombudsman shall not affect any procedures for grievances, appeals, or administrative matters in any other provision of this chapter, any other provision of law, or any Federal regulation.

(d) Termination date

The Office of Ombudsman shall terminate upon the termination of the Panama Canal Treaty of 1977.

(Pub. L. 96–70, title I, §1113, Sept. 27, 1979, 93 Stat. 460; Pub. L. 104–201, div. C, title XXXV, §3525, Sept. 23, 1996, 110 Stat. 2861.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (c), was in the original "this Act", meaning Pub. L. 96–70, Sept. 27, 1979, 93 Stat. 452, known as the Panama Canal Act of 1979, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of this title and Tables.

AMENDMENTS

1996—Subsecs. (d), (e). Pub. L. 104–201 redesignated subsec. (e) as (d) and struck out former subsec. (d) which read as follows: "The Ombudsman shall be a citizen of the United States."

PART 2—EMPLOYEES

SUBPART I—PANAMA CANAL COMMISSION PERSONNEL

§3641. Definitions

As used in this part—

(1) "Executive agency" has the meaning given that term in section 105 of title 5;

(2) "uniformed services" has the meaning given that term in section 2101(3) of title 5;

(3) "competitive service" has the meaning given that term in section 2102 of title 5; and

(4) "United States", when used in a geographic sense, means each of the several States and the District of Columbia.

(Pub. L. 96–70, title I, §1201, Sept. 27, 1979, 93 Stat. 461.)

EMPLOYMENT OF COMMISSION EMPLOYEES BY GOVERNMENT OF PANAMA

Pub. L. 103–160, div. C, title XXXV, §3504, Nov. 30, 1993, 107 Stat. 1965, provided that:

"(a) CONSENT OF CONGRESS.—Subject to subsection (b), the Congress consents to employees of the Panama Canal Commission who are not citizens of the United States accepting civil employment with

agencies and organizations affiliated with the Government of Panama (and compensation for that employment) for which the consent of Congress is required by the 8th clause of section 9 of article I of the Constitution of the United States, relating to acceptance of emolument, office, or title from a foreign State.

"(b) CONDITION.—Employees described in subsection (a) may accept employment described in such subsection (and compensation for that employment) only if the employment is approved by the designated agency ethics official of the Panama Canal Commission designated pursuant to the Ethics in Government Act of 1978 (5 U.S.C. App.), and by the Administrator of the Panama Canal Commission."

§3642. Appointment and compensation; duties

(a) Officers and employees

In accordance with this part, the Commission may appoint, fix the compensation of, and define the authority and duties of officers and employees (other than the Administrator and Deputy Administrator) necessary for the management, operation, and maintenance of the Panama Canal and its complementary works, installations, and equipment.

(b) Eligibility to serve as officer or employee of Commission

Individuals serving in any Executive agency (other than the Commission) or the Smithsonian Institution, including individuals in the uniformed services, may, if appointed under this section or section 3614 of this title, serve as officers or employees of the Commission.

(c) Salary protection

In the case of an individual who is an officer or employee of the Commission on November 17, 1997, and who has not had a break in service with the Commission since that date, the rate of basic pay for that officer or employee may not be less than the rate in effect for that officer or employee on that date except—

(1) as provided in a collective bargaining agreement;

(2) as a result of an adverse action against the officer or employee; or

(3) pursuant to a voluntary demotion.

(Pub. L. 96–70, title I, §1202, Sept. 27, 1979, 93 Stat. 461; Pub. L. 104–201, div. C, title XXXV, §3526, Sept. 23, 1996, 110 Stat. 2861; Pub. L. 105–85, div. C, title XXXV, §3523(b), Nov. 18, 1997, 111 Stat. 2065; Pub. L. 105–261, div. C, title XXXV, §3512(a)(1), Oct. 17, 1998, 112 Stat. 2271.)

AMENDMENTS

1998—Subsec. (c). Pub. L. 105–261, §3512(a)(1)(C), which directed substitution of "that date" for "the day before the date of enactment", was executed by making the substitution for "the day before that date of enactment" before "except" in introductory provisions to reflect the probable intent of Congress.

Pub. L. 105–261, §3512(a)(1)(A), (B), in introductory provisions, substituted "November 17, 1997," for "the day before the date of the enactment of the Panama Canal Transition Facilitation Act of 1997" and struck out "on or after that date" after "pay for that officer or employee".

1997—Subsec. (c). Pub. L. 105–85 added subsec. (c).

1996—Pub. L. 104–201 amended text generally. Prior to amendment, text read as follows:

"(a) In accordance with this part, the Panama Canal Commission may appoint without regard to the provisions of title 5, relating to appointments in the competitive service, fix the compensation of, and define the authority and duties of, officers, agents, attorneys, and employees (other than the Administrator, Deputy Administrator, and Chief Engineer) necessary for the management, operation, and maintenance of the Panama Canal and its complementary works, installations, and equipment.

"(b) Individuals serving in any Executive agency (other than the Commission) or the Smithsonian Institution, including individuals serving in the uniformed services, may, if appointed under this section or section 3613 or 3614 of this title, serve as officers or employees of the Commission."

§3643. Transfer of Federal employees

(a) Authority to enter into agreements; reemployment rights

The head of any agency may enter into agreements for the transfer or detail to the Commission of any employee of that agency serving under a permanent appointment. Any employee who so transfers or is so detailed shall, upon completion of the employee's tour of duty with the Commission, be entitled to reemployment with the agency from which the employee was transferred or detailed without loss of pay, seniority, or other rights or benefits to which the employee would have been entitled had the employee not been so transferred or been so detailed.

(b) "Agency" defined

For purposes of this section, the term "agency" means an Executive agency, the United States Postal Service, and the Smithsonian Institution.

(c) Regulations

The Office of Personnel Management shall prescribe regulations to carry out the purposes of this section.

(Pub. L. 96–70, title I, §1203, Sept. 27, 1979, 93 Stat. 461.)

§3644. Compensation of individuals in uniformed services

(a) Individual serving in a position in Commission

Except as provided in subsection (b) of this section, any individual who is serving in a position in the Commission and who is a member of a uniformed service shall continue to be paid basic pay by such uniformed service and shall not be paid by the Commission for the period of the service in the uniformed service involved.

(b) Individual appointed as Administrator, Deputy Administrator, or Chief Engineer

If the individual appointed as Administrator, Deputy Administrator, or Chief Engineer of the Commission is a member of a uniformed service, the amount of basic pay otherwise payable to the individual for service in that position shall be reduced, up to the amount of that basic pay, by the amount of the basic pay payable to the individual as a member of a uniformed service.

(c) Reimbursement to uniformed service

The Commission shall annually pay to each uniformed service amounts sufficient to reimburse that uniformed service for any basic pay paid by that uniformed service to any member of that service during any period of service in the Commission by the member.

(Pub. L. 96–70, title I, §1204, Sept. 27, 1979, 93 Stat. 461.)

§3645. Deduction from basic pay of amounts due for supplies or services

The Commission may deduct from the basic pay otherwise payable by the Commission to any officer or employee of the Commission any amount due from the officer or employee to the Commission or to any contractor of the Commission for transportation, board, supplies, or any other service. Any amount so deducted may be paid by the Commission to any contractor to whom it is due or may be credited by the Commission to any fund from which the Commission has expended such amount.

(Pub. L. 96–70, title I, §1205, Sept. 27, 1979, 93 Stat. 462; Pub. L. 104–106, div. C, title XXXV, §3529(1), Feb. 10, 1996, 110 Stat. 641.)

AMENDMENTS

1996—Pub. L. 104–106 substituted "fund" for "appropriation".

§§3646, 3647. Repealed. Pub. L. 105–261, div. C, title XXXV, §3507(a), Oct. 17,

Section 3646, Pub. L. 96–70, title I, §1206, Sept. 27, 1979, 93 Stat. 462, related to cost of living allowance.

Section 3647, Pub. L. 96–70, title I, §1207, Sept. 27, 1979, 93 Stat. 462; Pub. L. 99–223, §5(a), Dec. 28, 1985, 99 Stat. 1739, related to educational travel benefits.

EFFECTIVE DATE OF REPEAL

Pub. L. 105–261, div. C, title XXXV, §3507(a), Oct. 17, 1998, 112 Stat. 2269, provided that the repeals made by section 3507(a) are effective 11:59 p.m. (Eastern Standard Time), Dec. 30, 1999, and any right or condition of employment provided for in, or arising from, the repealed provisions is terminated.

§3648. Privileges and immunities of certain employees

The Secretary of Defense shall designate those officers and employees of the Commission and other individuals entitled to the privileges and immunities accorded under paragraph 3 of Article VIII of the Panama Canal Treaty of 1977. The Department of State shall furnish to the Republic of Panama a list of the names of such officers, employees, and other individuals and shall notify the Republic of Panama of any subsequent additions to or deletions from the list.

(Pub. L. 96–70, title I, §1208, Sept. 27, 1979, 93 Stat. 463.)

§3649. Applicability of certain benefits

Chapter 81 of title 5, relating to compensation for work injuries, chapters 83 and 84 of such title 5, relating to retirement, chapter 87 of such title 5, relating to life insurance, and chapter 89 of such title 5, relating to health insurance, are applicable to Commission employees, except any individual—

(1) who is not a citizen of the United States;

(2) whose initial appointment by the Commission occurs after October 1, 1979; and

(3) who is covered by the Social Security System of the Republic of Panama pursuant to any provision of the Panama Canal Treaty of 1977 and related agreements.

(Pub. L. 96–70, title I, §1209, Sept. 27, 1979, 93 Stat. 463; Pub. L. 104–201, div. C, title XXXV, §3527, Sept. 23, 1996, 110 Stat. 2861.)

AMENDMENTS

1996—Pub. L. 104–201 substituted "Applicability of certain benefits" for "Inapplicability of certain benefits to certain noncitizens" in section catchline and amended text generally. Prior to amendment, text was comprised of subsec. (a) of section 1209 of Pub. L. 96–70 which read as follows: "Chapter 81 of title 5, relating to compensation for work injuries, chapter 83 of such title 5, relating to civil service retirement, chapter 87 of such title 5, relating to life insurance, and chapter 89 of such title 5, relating to health insurance, are inapplicable to any individual—

"(1) who is not a citizen of the United States;

"(2) whose initial appointment by the Commission occurs after October 1, 1979; and

"(3) who is covered by the Social Security System of the Republic of Panama pursuant to any provision of the Panama Canal Treaty of 1977 and related agreements."

Prior to amendment, section 1209 also contained subsecs. (b) and (c) which amended sections 8701 and 8901 of Title 5, Government Organization and Employees.

§3650. Air transportation

(a) Notwithstanding any other provision of law (except subsection (b)), the Commission may contract with Panamanian carriers registered under the laws of the Republic of Panama to provide air transportation to officials and employees of the Commission who are citizens of the Republic of Panama.

(b) An official or employee of the Commission who is a citizen of the Republic of Panama may elect, for security or other reasons, to travel by an air carrier holding a certificate under section

41102 of title 49.

(Pub. L. 96–70, title I, §1210, as added Pub. L. 99–223, §5(b)(1), Dec. 28, 1985, 99 Stat. 1739; amended Pub. L. 104–201, div. C, title XXXV, §3528, Sept. 23, 1996, 110 Stat. 2861; Pub. L. 105–85, div. C, title XXXV, §3524(a)(1), (b), Nov. 18, 1997, 111 Stat. 2065.)

AMENDMENTS

1997—Pub. L. 105–85, §3524(b)(2), substituted "Air transportation" for "Travel and transportation" in section catchline.

Subsec. (a). Pub. L. 105–85, §3524(b)(1)(A), redesignated subsec. (d)(1) as subsec. (a) and substituted "subsection (b)" for "paragraph (2)".

Pub. L. 105–85, §3524(a)(1), struck out subsec. (a) which read as follows: "Subject to subsections (b) and (c) of this section, the Commission may pay travel and transportation expenses for employees in accordance with subchapter II of chapter 57 of title 5."

Subsec. (b). Pub. L. 105–85, §3524(b)(1)(B), redesignated subsec. (d)(2) as subsec. (b) and substituted "An official" for "Notwithstanding paragraph (1), an official" and "who is a citizen of the Republic of Panama" for "referred to in paragraph (1)".

Pub. L. 105–85, §3524(a)(1), struck out subsec. (b) which read as follows: "For an employee to whom section 3646 of this title applies, the Commission may pay travel and transportation expenses associated with vacation leave for the employee and the immediate family of the employee notwithstanding requirements regarding periods of service established by subchapter II of chapter 57 of title 5 or the regulations promulgated thereunder."

Subsec. (c). Pub. L. 105–85, §3524(a)(1), struck out subsec. (c) which read as follows: "For an employee to whom section 3646 of this title does not apply, the Commission may pay travel and transportation expenses associated with vacation leave for the employee and the immediate family of the employee notwithstanding requirements regarding a written agreement concerning the duration of a continuing service obligation established by subchapter II of chapter 57 of title 5 or the regulations promulgated thereunder."

Subsec. (d)(1). Pub. L. 105–85, §3524(b)(1)(A), redesignated subsec. (d)(1) as subsec. (a).

Subsec. (d)(2). Pub. L. 105–85, §3524(b)(1)(B), redesignated subsec. (d)(2) as subsec. (b).

1996—Pub. L. 104–201 struck out "expenses" after "transportation" in section catchline and amended text generally. Prior to amendment, text read as follows: "The Commission may pay the expenses of vacation leave travel for an employee of the Commission to whom section 3646 of this title applies and for transportation of employee's family from the employee's post of duty in Panama to the place of the employee's actual residence at the time of appointment to the post of duty. The authorization of expenses under this section shall be in accordance with subchapter II of chapter 57 of title 5 and the regulations issued under that subchapter, except that the Commission may prescribe required periods of service notwithstanding section 5722 of title 5 and the regulations issued under subchapter II of chapter 57 of such title."

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105–85, div. C, title XXXV, §3524(c), Nov. 18, 1997, 111 Stat. 2065, provided that: "The amendments made by this section [amending this section and section 3664 of this title] shall take effect on January 1, 1999."

EFFECTIVE DATE

Section effective Oct. 1, 1985, see section 8 of Pub. L. 99–223, set out as an Effective Date of 1985 Amendment note under section 3612 of this title.

SUBPART II—WAGE AND EMPLOYMENT PRACTICES

§3651. Definitions

As used in this subpart—

(1) "agency" means—

(A) the Commission, and

(B) any other Executive agency or the Smithsonian Institution, to the extent of any election in

effect under section 3652(b) of this title;

(2) "position" means a civilian position in the Commission, or in any other agency if a substantial portion of the duties and responsibilities are performed in the Republic of Panama; and

(3) "employee" means an individual serving in a position.

(Pub. L. 96–70, title I, §1211, Sept. 27, 1979, 93 Stat. 463; Pub. L. 104–201, div. C, title XXXV, §§3529, 3548(b)(1), Sept. 23, 1996, 110 Stat. 2862, 2869.)

AMENDMENTS

1996—Par. (1)(B). Pub. L. 104–201, §3548(b)(1), which directed substitution of "section 3652(b)" for "section 3652(B)(2)" could not be executed because the phrase "section 3652(B)(2)" did not appear after amendment by Pub. L. 104–201, §3529. See below.

Pub. L. 104–201, §3529, amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: "an Executive agency or the Smithsonian Institution, to the extent of any election in effect under section 3652(b)(2) of this title;".

§3652. Panama Canal Employment System; merit and other employment requirements

(a) Establishment; merit and other employment requirements

The Commission shall establish a Panama Canal Employment System and prescribe the regulations necessary for its administration. The Panama Canal Employment System shall—

(1) be established in accordance with and be subject to the provisions of the Panama Canal Treaty of 1977 and related agreements, the provisions of this part, and any other applicable provision of law;

(2) be based on the consideration of the merit of each employee or candidate for employment and the qualifications and fitness of the employee to hold the position concerned;

(3) conform, to the extent practicable and consistent with the provisions of this chapter, to the policies, principles, and standards applicable to the competitive service;

(4) in the case of employees who are citizens of the United States, provide for the appropriate interchange of those employees between positions under the Panama Canal Employment System and positions in the competitive service; and

(5) not be subject to the provisions of title 5, unless specifically made applicable by this chapter.

(b) Applicability to any Executive agency and Smithsonian Institution

(1) The head of any Executive agency (other than the Commission) and the Smithsonian Institution may elect to have the Panama Canal Employment System made applicable in whole or in part to personnel of that agency in the Republic of Panama.

(2) Any Executive agency (other than the Commission) and the Smithsonian Institution, to the extent of any election under paragraph (1), shall conduct its employment and pay practices relating to employees in accordance with the Panama Canal Employment System.

(3) Notwithstanding any other provision of this chapter, the Panama Canal Act Amendments of 1996 (subtitle B of title XXXV of Public Law 104–201; 110 Stat. 2860), or the Panama Canal Transition Facilitation Act of 1997 (subtitle B of title XXXV of Public Law 105–85; 110 [1] Stat. 2062), or the Panama Canal Commission Authorization Act for Fiscal Year 1999, this subpart, as in effect on September 22, 1996, shall continue to apply to an Executive agency or the Smithsonian Institution to the extent of an election under paragraph (1) by the head of the agency or the Institution, respectively.

(c) Exclusion of employees or positions from coverage

The Commission may exclude any employee or position from coverage under any provision of this subpart, other than the interchange rights extended under subsection (a)(4).

(Pub. L. 96–70, title I, §1212, Sept. 27, 1979, 93 Stat. 464; Pub. L. 104–201, div. C, title XXXV,

§3530(a), Sept. 23, 1996, 110 Stat. 2862; Pub. L. 105–85, div. C, title XXXV, §§3523(d), 3550(d)(5), Nov. 18, 1997, 111 Stat. 2065, 2074; Pub. L. 105–261, div. A, title XXXV, §§3507(c), 3512(a)(2), Oct. 17, 1998, 112 Stat. 2269, 2271.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(3), (5) and (b)(3), was in the original "this Act", meaning Pub. L. 96–70, Sept. 27, 1979, 93 Stat. 452, known as the Panama Canal Act of 1979, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of this title and Tables.

The Panama Canal Act Amendments of 1996, referred to in subsec. (b)(3), is subtitle B of title XXXV of div. C of Pub. L. 104–201, Sept. 23, 1996, 110 Stat. 2860. For complete classification of this Act to the Code, see Short Title of 1996 Amendment note set out under section 3601 of this title and Tables.

The Panama Canal Transition Facilitation Act of 1997, referred to in subsec. (b)(3), is subtitle B of title XXXV of div. C of Pub. L. 105–85, Nov. 18, 1997, 111 Stat. 2062. For complete classification of this Act to the Code, see Short Title of 1997 Amendment note set out under section 3601 of this title and Tables.

The Panama Canal Commission Authorization Act for Fiscal Year 1999, referred to in subsec. (b)(3), is title XXXV of div. C of Pub. L. 105–261, Oct. 17, 1998, 112 Stat. 2267, which amended this section and sections 3612, 3612b, 3620, 3642, 3657, 3664, 3671, 3723, 3731, 3751, 3771, 3772, 3776, 3779, and 3862 of this title, repealed sections 3646, 3647, and 3663 of this title, and enacted provisions set out as notes under section 3657 of this title. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1998—Subsec. (b)(3). Pub. L. 105–261, §3512(a)(2), inserted "the" after "by the head of".

Pub. L. 105–261, §3507(c), substituted "the Panama Canal Transition Facilitation Act of 1997 (subtitle B of title XXXV of Public Law 105–85; 110 Stat. 2062), or the Panama Canal Commission Authorization Act for Fiscal Year 1999" for "the Panama Canal Transition Facilitation Act of 1997".

1997—Subsec. (b)(3). Pub. L. 105–85, §3550(d)(5), substituted "as in effect on September 22, 1996" for "as last in effect before September 23, 1996".

Pub. L. 105–85, §3523(d), substituted ", the Panama Canal Act Amendments of 1996 (subtitle B of title XXXV of Public Law 104–201; 110 Stat. 2860), or the Panama Canal Transition Facilitation Act of 1997" for "or the Panama Canal Act Amendments of 1996".

1996—Pub. L. 104–201 amended section generally, substituting subsecs. (a) to (c) requiring the Commission to establish a Panama Canal Employment System for former subsecs. (a) to (d) requiring the President to establish such a System.

SAVINGS PROVISION

Pub. L. 104–201, div. C, title XXXV, §3530(b), Sept. 23, 1996, 110 Stat. 2863, provided that: "The Panama Canal Employment System and all elections, rules, regulations, and orders relating thereto, as last in effect before the amendment made by subsection (a) [amending this section] takes effect, shall continue in effect, according to their terms, until modified, terminated, or superseded under section 1212 of the Panama Canal Act of 1979 [this section], as amended by subsection (a)."

COORDINATION OF PAY AND EMPLOYMENT PRACTICES

For provisions requiring consultations with the Secretary of Defense for agencies under this subpart with respect to the establishment of rates of pay and other matters deemed appropriate by the Secretary in order to develop compatible or unified systems of basic pay and employment practices, see section 1–201 of Ex. Ord. No. 12215, May 27, 1980, 45 F.R. 36043, set out as a note under section 3601 of this title.

[1] So in original. Probably should be "111".

§3653. Employment standards

The Commission shall establish written standards for—

(1) determining the qualifications and fitness of employees and of candidates for employment in positions; and

(2) selecting individuals for appointment, promotion, or transfer to positions.

The standards shall conform to the provisions of this subpart, any regulations prescribed thereunder, and the Panama Canal Employment System.

(Pub. L. 96–70, title I, §1213, Sept. 27, 1979, 93 Stat. 464; Pub. L. 104–201, div. C, title XXXV, §3531, Sept. 23, 1996, 110 Stat. 2863.)

AMENDMENTS

1996—Pub. L. 104–201 substituted "The Commission" for "The head of each agency" in introductory provisions.

COORDINATION OF PAY AND EMPLOYMENT PRACTICES

For provisions requiring consultations with the Secretary of Defense for agencies under this subpart with respect to the establishment of rates of pay and other matters deemed appropriate by the Secretary in order to develop compatible or unified systems of basic pay and employment practices, see section 1–201 of Ex. Ord. No. 12215, May 27, 1980, 45 F.R. 36043, set out as a note under section 3601 of this title.

§3654. Repealed. Pub. L. 104–201, div. C, title XXXV, §3532, Sept. 23, 1996, 110 Stat. 2863

Section, Pub. L. 96–70, title I, §1214, Sept. 27, 1979, 93 Stat. 465, related to an interim, continuing application of Canal Zone Merit System, as in effect on Sept. 30, 1979, until Panama Canal Employment System was established and in effect.

§3655. Repealed. Pub. L. 105–85, div. C, title XXXV, §3523(a)(1), Nov. 18, 1997, 111 Stat. 2064

Section, Pub. L. 96–70, title I, §1215, Sept. 27, 1979, 93 Stat. 465, related to establishment and revision of basic pay.

§3656. Uniform application of standards and rates

The standards established pursuant to section 3653 of this title and the rates of basic pay established pursuant to section 3642 of this title shall be applied without regard to whether the employee or individual concerned is a citizen of the United States or a citizen of the Republic of Panama.

(Pub. L. 96–70, title I, §1216, Sept. 27, 1979, 93 Stat. 465; Pub. L. 105–85, div. C, title XXXV, §3523(c)(1), Nov. 18, 1997, 111 Stat. 2065.)

AMENDMENTS

1997—Pub. L. 105–85 substituted "section 3642" for "section 3655".

§3657. Recruitment and retention remuneration

(a) Repealed. Pub. L. 105–261, div. C, title XXXV, §3507(a), Oct. 17, 1998, 112 Stat. 2269

(b) Restriction

Any employee described in more than one paragraph of subsection (a) of this section may qualify for a recruitment or retention differential under only one of those paragraphs.

(c) Recruitment and relocation bonuses

(1) The Commission may pay a recruitment bonus to an individual who is newly appointed to a position with the Commission, or a relocation bonus to an employee of the Commission who must relocate to accept a position, if the Commission determines that the Commission would be likely, in the absence of such a bonus, to have difficulty in filling the position.

(2) A recruitment or relocation bonus may be paid to an employee under this subsection only if the employee enters into an agreement with the Commission to complete a period of employment established in the agreement. If the employee voluntarily fails to complete such period of employment or is separated from service in such employment as a result of an adverse action before the completion of such period, the employee shall repay the entire amount of the bonus.

(3) A recruitment or relocation bonus under this subsection may be paid as a lump sum. A bonus under this subsection may not be considered to be part of the basic pay of an employee.

(d) Retention bonuses

(1) The Commission may pay a retention bonus to an employee of the Commission if the Commission determines that—

(A) the employee has unusually high or unique qualifications and those qualifications make it essential for the Commission to retain the employee for a period specified by the Commission ending not later than the Canal Transfer Date, or the Commission otherwise has a special need for the services of the employee making it essential for the Commission to retain the employee for a period specified by the Commission ending not later than the Canal Transfer Date; and

(B) the employee would be likely to leave employment with the Commission before the end of that period if the retention bonus is not paid.

(2) A retention bonus under this subsection—

(A) shall be in a fixed amount;

(B) shall be paid on a pro rata basis (over the period specified by the Commission as essential for the retention of the employee), with such payments to be made at the same time and in the same manner as basic pay; and

(C) may not be considered to be part of the basic pay of an employee.

(3) A decision by the Commission to exercise or to not exercise the authority to pay a bonus under this subsection shall not be subject to review under any statutory procedure or any agency or negotiated grievance procedure except under any of the laws referred to in section 2302(d) of title 5.

(e) Limit on compensation

Additional compensation provided under this section may not exceed 25 percent of the rate of basic pay of the individual to whom the compensation is paid.

(Pub. L. 96–70, title I, §1217, Sept. 27, 1979, 93 Stat. 465; Pub. L. 104–201, div. C, title XXXV, §3533, Sept. 23, 1996, 110 Stat. 2863; Pub. L. 105–85, div. C, title XXXV, §3525(a), Nov. 18, 1997, 111 Stat. 2066; Pub. L. 105–261, div. C, title XXXV, §3507(a), Oct. 17, 1998, 112 Stat. 2269.)

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–261 struck out subsec. (a) which read as follows: "In addition to basic pay, additional compensation may be paid, in such amounts as the head of the agency concerned determines, as an overseas recruitment or retention differential to any individual who—

"(1) before October 1, 1979, was employed by the Panama Canal Company, by the Canal Zone Government, or by any other agency in the area then known as the Canal Zone;

"(2) is an employee who was recruited on or after October 1, 1979, outside of the Republic of Panama for placement in the Republic of Panama; or

"(3) is a medical doctor employed by the Department of Defense in the Republic of Panama or by the Commission;

if, in the judgment of the head of the agency concerned, the recruitment or retention of the individual is essential."

1997—Subsecs. (c), (d). Pub. L. 105–85, §3525(a)(3), added subsecs. (c) and (d). Former subsec. (c) redesignated (e).

Subsec. (e). Pub. L. 105–85, §3525(a)(1), (2), redesignated subsec. (c) as (e) and substituted "of the individual to whom the compensation is paid" for "for the same or similar work performed in the United States by individuals employed by the Government of the United States".

1996—Subsec. (d). Pub. L. 104–201 struck out subsec. (d) which read as follows: "Subchapter III of chapter 59 of title 5, relating to overseas differentials and allowances, shall not apply with respect to any

employee whose permanent duty station is in the Republic of Panama and who is employed by an agency."

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–261, div. C, title XXXV, §3507(a), Oct. 17, 1998, 112 Stat. 2269, provided that the amendment made by section 3507(a) striking out subsec. (a) of this section is effective 11:59 p.m. (Eastern Standard Time), Dec. 30, 1999, and any right or condition of employment provided for in, or arising from, subsec. (a) of this section is terminated.

SAVINGS PROVISION FOR BASIC PAY

Pub. L. 105–261, div. C, title XXXV, §3507(b), Oct. 17, 1998, 112 Stat. 2269, provided that: "Notwithstanding subsection (a) [amending this section and sections 3664, 3671, and 3731 of this title and repealing sections 3646 and 3647 of this title], benefits based on basic pay, as listed in paragraphs (1), (2), (3), (5), and (6) of section 1218 of the Panama Canal Act of 1979 [22 U.S.C. 3658(1), (2), (3), (5), (6)], shall be paid as if sections 1217(a) and 1231(a)(2)(A) and (B) of that Act [22 U.S.C. 3657(a), 3671(a)(2)(A), (B)] had been repealed effective 12:00 noon, December 31, 1999. The exception under the preceding sentence shall not apply to any pay for hours of work performed on December 31, 1999."

COORDINATION OF PAY AND EMPLOYMENT PRACTICES

For provisions requiring consultations with the Secretary of Defense for agencies under this subpart with respect to the establishment of rates of pay and other matters deemed appropriate by the Secretary in order to develop compatible or unified systems of basic pay and employment practices, see section 1–201 of Ex. Ord. No. 12215, May 27, 1980, 45 F.R. 36043, set out as a note under section 3601 of this title.

§3657a. Quarters allowances

(a) "Position" and "employee" defined

Notwithstanding paragraphs (2) and (3) of section 3651 of this title, as used in this section—

(1) "position" means a civilian position; and

(2) "employee" means an individual serving in a position in the Department of Defense whose permanent duty station is in the area which, before October 1, 1979, was known as the Canal Zone.

(b) Covered employees

Under regulations prescribed by or under authority of the President, the Department of Defense may grant a quarters allowance in the case of—

(1) any employee who is a citizen of the United States and who, before October 1, 1979, was employed by the Panama Canal Company, the Canal Zone Government, or any other agency, in the area then known as the Canal Zone; and

(2) any other employee who is a citizen of the United States and who (before, on, or after the effective date of this section) is or was recruited within the United States;

for whom adequate Government owned or leased quarters are not made available.

(c) Determination of amount

The amount of any quarters allowance granted to an employee under this section shall be determined in accordance with the regulations prescribed under subsection (b) of this section, except that such allowance for any period may not exceed the amount, if any, by which—

(1) the lesser of—

(A) the actual expenses for rent and utilities incurred by the employee during such period while occupying quarters other than Government owned or leased quarters; or

(B) the maximum amount which would be authorized for such employee with respect to such period under the Department of State Standardized Regulations (Government Civilians, Foreign Areas) if such employee were covered by those regulations;

exceeds

(2) the estimated total cost of rent and utilities which the employee would have been charged if Government owned or leased quarters had been provided on a rental basis during such period.

(d) Inapplicability of election under section 3652(b) of this title

The provisions of this section shall apply without regard to whether any election by the Department of Defense under section 3652(b) of this title is then in effect.

(Pub. L. 96–70, title I, §1217a, as added Pub. L. 98–600, §1(a), Oct. 30, 1984, 98 Stat. 3145.)

REFERENCES IN TEXT

For effective date of this section, referred to in subsec. (b)(2), see section 2 of Pub. L. 98–600, set out below.

EFFECTIVE DATE

Pub. L. 98–600, §2, Oct. 30, 1984, 98 Stat. 3146, provided that: "The amendments made by this Act [enacting this section] shall take effect on October 1, 1984, and shall apply with respect to utility costs incurred, and rent payable for any period beginning, on or after that date."

EX. ORD. NO. 12520. QUARTERS ALLOWANCE TO DEPARTMENT OF DEFENSE EMPLOYEES IN PANAMA

Ex. Ord. No. 12520, June 19, 1985, 50 F.R. 25683, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 1217a of the Panama Canal Act of 1979 (22 U.S.C. 3657a), it is hereby ordered as follows:

SECTION 1. The Secretary of Defense is authorized to prescribe the regulations referred to in section 1217a of the Panama Canal Act of 1979 [22 U.S.C. 3657a], relating to quarters allowances.

SEC. 2. The regulations prescribed under Section 1 shall be consistent with Article VII(4) of the Agreement in Implementation of Article IV of the Panama Canal Treaty and with all other relevant provisions of the Panama Canal Treaty and related agreements.

RONALD REAGAN.

§3658. Benefits based on basic pay

For the purpose of determining—

(1) amounts of compensation for disability or death under chapter 81 of title 5, relating to compensation for work injuries;

(2) benefits under subchapter III of chapter 83 or chapter 84 of title 5, relating to retirement;

(3) amounts of insurance under chapter 87 of title 5, relating to life insurance;

(4) amounts of overtime pay or other premium pay;

(5) annual leave benefits; and

(6) any other benefits related to basic pay;

the basic pay of each employee shall include the rate of basic pay established for his position under section 3642 of this title plus the amount of any additional compensation provided under section 3657(a) [1] of this title.

(Pub. L. 96–70, title I, §1218, Sept. 27, 1979, 93 Stat. 466; Pub. L. 104–201, div. C, title XXXV, §3534, Sept. 23, 1996, 110 Stat. 2863; Pub. L. 105–85, div. C, title XXXV, §3523(c)(2), Nov. 18, 1997, 111 Stat. 2065.)

REFERENCES IN TEXT

Section 3657(a) of this title, referred to in text, was repealed by Pub. L. 105–261, div. C, title XXXV, §3507(a), Oct. 17, 1998, 112 Stat. 2269.

AMENDMENTS

1997—Pub. L. 105–85, in concluding provisions, substituted "section 3642" for "section 3655" and "section 3657(a)" for "section 3657".

1996—Par. (2). Pub. L. 104–201 amended par. (2) generally. Prior to amendment, par. (2) read as follows:

"benefits under subchapter III of chapter 83 of title 5, relating to civil service retirement;".

COORDINATION OF PAY AND EMPLOYMENT PRACTICES

For provisions requiring consultations with the Secretary of Defense for agencies under this subpart with respect to the establishment of rates of pay and other matters deemed appropriate by the Secretary in order to develop compatible or unified systems of basic pay and employment practices, see section 1–201 of Ex. Ord. No. 12215, May 27, 1980, 45 F.R. 36043, set out as a note under section 3601 of this title.

[1] *See References in Text note below.*

§3659. Repealed. Pub. L. 105–85, div. C, title XXXV, §3523(a)(2), Nov. 18, 1997, 111 Stat. 2064

Section, Pub. L. 96–70, title I, §1219, Sept. 27, 1979, 93 Stat. 466, related to salary protection upon conversion of pay rate.

§3660. Review and adjustment of classifications, grades, and pay level

An employee may request at any time that the employee's agency—

(1) review the classification of the employee's position or the grade or pay level for the employee's position, or both; and

(2) revise or adjust that classification, grade or pay level, or both, as the case may be.

The request for review and revision or adjustment shall be submitted and adjudicated in accordance with the regularly established appeals procedures of the agency.

(Pub. L. 96–70, title I, §1220, Sept. 27, 1979, 93 Stat. 466.)

§3661. Panama Canal Board of Appeals; duties

(a) Subject to the provisions of this part, the Commission shall prescribe regulations establishing a Panama Canal Board of Appeals. The regulations shall provide for the number of members of the Board and their appointment, compensation, and terms of office, the selection of a Chairman of the Board, the appointment and compensation of the Board's employees, and other appropriate matters relating to the Board.

(b) The Board shall review and determine the appeals of employees in accordance with section 3662 of this title. The decisions of the Board shall conform to the provisions of this subpart.

(Pub. L. 96–70, title I, §1221, Sept. 27, 1979, 93 Stat. 466; Pub. L. 105–85, div. C, title XXXV, §3548, Nov. 18, 1997, 111 Stat. 2073.)

AMENDMENTS

1997—Subsec. (a). Pub. L. 105–85 substituted "Commission" for "President".

§3662. Appeals to Board; procedures

(a) Persons entitled to appeal; form; time

An employee may appeal to the Panama Canal Board of Appeals from an adverse determination made by an agency under section 3660 of this title. The appeal shall be made in writing within a reasonable time (as specified in regulations prescribed by, or under the authority of, the Commission) after the date of the transmittal by the agency to the employee of written notice of the adverse determination.

(b) Personal appearance

The Board may authorize, in connection with an appeal pursuant to subsection (a) of this section, a personal appearance before the Board by the employee, or by a representative of the employee designated for that purpose.

(c) Consideration of evidence; decision

After investigation and consideration of the evidence submitted, the Board shall—

(1) prepare a written decision on the appeal;

(2) transmit its decision to the agency concerned; and

(3) transmit copies of the decision to the employee concerned or to the designated representative.

(d) Finality of decision

The decision of the Board on any question or other matter relating to an appeal is final and conclusive. The agency concerned shall take action in accordance with the decision of the Board.

(Pub. L. 96–70, title I, §1222, Sept. 27, 1979, 93 Stat. 467; Pub. L. 105–85, div. C, title XXXV, §3548, Nov. 18, 1997, 111 Stat. 2073.)

AMENDMENTS

1997—Subsec. (a). Pub. L. 105–85 substituted "Commission" for "President".

§3663. Repealed. Pub. L. 105–261, div. C, title XXXV, §3508(a), Oct. 17, 1998, 112 Stat. 2269

Section, Pub. L. 96–70, title I, §1223, Sept. 27, 1979, 93 Stat. 467; Pub. L. 104–201, div. C, title XXXV, §3535, Sept. 23, 1996, 110 Stat. 2863, related to the Central Examining Office.

§3664. Applicability of title 5

The following provisions of title 5 apply to the Panama Canal Commission:

(1) Part I of title 5 (relating to agencies generally).

(2) Chapter 21 (relating to employee definitions).

(3) Section 2302(b)(8) (relating to whistleblower protection) and all provisions of title 5 relating to the administration or enforcement or any other aspect thereof, as identified in regulations prescribed by the Commission in consultation with the Office of Personnel Management.

(4) All provisions relating to preference eligibles.

(5) Section 5514 (relating to offset from salary).

(6) Section 5520a (relating to garnishments).

(7) Sections 5531–5535 (relating to dual pay and employment).

(8) Subchapter VI of chapter 55 (relating to accumulated and accrued leave).

(9) Subchapter IX of chapter 55 (relating to severance and back pay).

(10) Chapter 59 (relating to allowances).

(11) Repealed. Pub. L. 105–261, div. C, title XXXV, §3507(a), Oct. 17, 1998, 112 Stat. 2269.

(12) Section 6323 (relating to military leave; Reserves and National Guardsmen).

(13) Chapter 71 (relating to labor relations).

(14) Subchapters II and III of chapter 73 (relating to employment limitations and political activities, respectively) and all provisions of title 5 relating to the administration or enforcement or any other aspect thereof, as identified in regulations prescribed by the Commission in consultation with the Office of Personnel Management.

(15) Chapter 81 (relating to compensation for work injuries).

(16) Chapters 83 and 84 (relating to retirement).

(17) Chapter 85 (relating to unemployment compensation).

(18) Chapter 87 (relating to life insurance).

(19) Chapter 89 (relating to health insurance).

(Pub. L. 96–70, title I, §1224, Sept. 27, 1979, 93 Stat. 467; Pub. L. 104–201, div. C, title XXXV, §3536, Sept. 23, 1996, 110 Stat. 2864; Pub. L. 105–85, div. C, title XXXV, §3524(a)(2), Nov. 18, 1997, 111 Stat. 2065; Pub. L. 105–261, div. C, title XXXV, §3507(a), Oct. 17, 1998, 112 Stat. 2269.)

AMENDMENTS

1998—Par. (11). Pub. L. 105–261 struck out par. (11) which read as follows: "Chapter 63 (relating to leave for CONUS employees)."

1997—Pars. (10) to (20). Pub. L. 105–85 redesignated pars. (11) to (20) as (10) to (19), respectively, and struck out former par. (10) which read as follows: "Chapter 57 (relating to travel, transportation, and subsistence)."

1996—Pub. L. 104–201 substituted "title 5" for "certain laws" in section catchline and amended text generally. Prior to amendment, text read as follows: "This part does not affect the applicability of—

"(1) the provisions of title 5 which relate to preference eligibles;

"(2) the provisions of title 5 which relate to removal or suspension from the competitive service; and

"(3) the provisions of section 5544(a) of title 5 which relate to wage-board overtime and Sunday rates,

with respect to classes of employees who were covered by those provisions on September 27, 1979."

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–261, div. C, title XXXV, §3507(a), Oct. 17, 1998, 112 Stat. 2269, provided that the amendment made by section 3507(a) striking out par. (11) of this section is effective 11:59 p.m. (Eastern Standard Time), Dec. 30, 1999, and any right or condition of employment provided for in, or arising from, par. (11) of this section is terminated.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–85 effective Jan. 1, 1999, see section 3524(c) of Pub. L. 105–85, set out as a note under section 3650 of this title.

§3665. Repealed. Pub. L. 105–85, div. C, title XXXV, §3523(a)(3), Nov. 18, 1997, 111 Stat. 2065

Section, Pub. L. 96–70, title I, §1225(b), Sept. 27, 1979, 93 Stat. 468, related to minimum pay level and minimum annual increases.

SUBPART III—CONDITIONS OF EMPLOYMENT AND PLACEMENT

§3671. Transferred or reemployed employees

(a) Terms and conditions of employment

(1) With respect to any individual employed in the Panama Canal Company or the Canal Zone Government—

(A) who is transferred—

(i) to a position in the Commission; or

(ii) to a position in an Executive agency or in the Smithsonian Institution the permanent duty station of which is in the Republic of Panama (including the area known before October 1, 1979, as the Canal Zone); or

(B) who is separated by reason of a reduction in force on September 30, 1979, and is appointed to a position in the Commission before April 1, 1980;

the terms and conditions of employment set forth in paragraph (2) of this subsection shall be generally no less favorable, on or after the date of the transfer referred to in subparagraph (A) of this

paragraph or the date of the appointment referred to in subparagraph (B) of this paragraph, as the case may be, than the terms and conditions of employment with the Panama Canal Company and Canal Zone Government on September 30, 1979, or, in the case of a transfer described in subparagraph (A)(ii) of this paragraph which takes place before that date, on the date of the transfer.

(2) The terms and conditions of employment referred to in paragraph (1) of this subsection are the following:

(A), (B) Repealed. Pub. L. 105–261, div. C, title XXXV, §3507(a), Oct. 17, 1998, 112 Stat. 2269.

(C) premium pay and night differential;

(D) reinstatement and restoration rights;

(E) injury and death compensation benefits;

(F) to (H) Repealed. Pub. L. 105–261, div. C, title XXXV, §3507(a), Oct. 17, 1998, 112 Stat. 2269.

(I) reduction-in-force rights;

(J) an employee grievance system, and the right to appeal adverse and disciplinary actions and position classification actions;

(K) veterans' preference eligibility;

(L) holidays;

(M) saved pay provisions; and

(N) severance pay benefits.

(b) Break in service

Any individual described in subsection (a)(1)(B) of this section who would have met the service requirement for early retirement benefits under section 8336(i) or 8339(d)(2) of title 5 (as amended by sections 1241(a) and 1242 of this Act, respectively), but for a break in service of more than 3 days immediately after September 30, 1979, shall be considered to meet that requirement. Any break in service by any such individual for purposes of section 8332 of such title 5 during the period beginning September 30, 1979, and ending on the date of the appointment referred to in such subsection (a)(1)(B) shall be considered a period of creditable service under such section 8332 for such individual, except that such period shall not be taken into account for purposes of determining average pay (as defined in section 8331(4) of such title 5) and no deduction, contribution, or deposit shall be required for that period under section 8334 of such title 5.

(c) Applicability of sections 903(c) and 904(a)(2) of title 20; sabbaticals

(1) Section 903(c) of title 20 shall not apply with respect to any teacher who was employed by the Canal Zone Government school system on September 30, 1979, and who was transferred from such position to a teaching position which is under the Department of Defense Overseas Dependent School System and the permanent duty station of which is in the Republic of Panama, until the rates of basic compensation established under section 903(c) of title 20 equal or exceed the rates of basic compensation then in effect for teachers who were so transferred.

(2) Section 904(a)(2) of title 20 shall not apply with respect to any teacher who was employed by the Canal Zone Government school system on September 30, 1979, and who was transferred from such position to a teaching position which is under the Department of Defense Overseas Dependent School System and the permanent duty station of which is in the Republic of Panama.

(3)(A) The head of a department or agency of the United States may grant a sabbatical to any teacher to whom paragraph (1) of this subsection applies for not to exceed 11 months in order to permit the teacher to engage in study or uncompensated work experience which is in the United States and which will contribute to the teacher's development and effectiveness. Basic compensation shall be paid to teachers on sabbatical under this section in the same manner and to the same extent as basic compensation would have been paid to teachers on sabbatical while employed in the Canal Zone Government school system on September 30, 1979. A sabbatical shall not result in a loss of, or reduction in, leave to which the teacher is otherwise entitled, credit for time or service, or

performance or efficiency rating. The head of the department or agency may authorize in accordance with chapter 57 of title 5 such travel expenses (including per diem allowance) as the head of the department or agency may determine to be essential for the study or experience.

(B) A sabbatical under this paragraph may not be granted to any teacher—

(i) more than once in any 10-year period;

(ii) unless the teacher has completed 7 years of service as a teacher; and

(iii) if the teacher is eligible for voluntary retirement with a right to an immediate annuity.

(C)(i) Any teacher in a department or agency of the United States may be granted a sabbatical under this paragraph only if the teacher agrees, as a condition of accepting the sabbatical, to serve in the civil service upon the completion of the sabbatical for a period of two consecutive years.

(ii) Each agreement required under clause (i) of this subparagraph shall provide that in the event the teacher fails to carry out the agreement (except for good and sufficient reason as determined by the head of the department or agency that granted the sabbatical) the teacher shall be liable to the United States for payment of all expenses (including salary) of the sabbatical. The amount shall be treated as a debt due the United States.

(Pub. L. 96–70, title I, §1231(a)–(c), Sept. 27, 1979, 93 Stat. 468, 469; Pub. L. 104–201, div. C, title XXXV, §3537, Sept. 23, 1996, 110 Stat. 2864; Pub. L. 105–85, div. C, title XXXV, §3550(d)(2)(C), Nov. 18, 1997, 111 Stat. 2074; Pub. L. 105–261, div. C, title XXXV, §3507(a), Oct. 17, 1998, 112 Stat. 2269.)

REFERENCES IN TEXT

This Act, referred to in subsec. (b), is Pub. L. 96–70, Sept. 27, 1979, 93 Stat. 452, known as the Panama Canal Act of 1979, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of this title and Tables.

CODIFICATION

Section 1231(d) of Pub. L. 96–70 amended sections 5595, 5724a, and 8102 of Title 5, Government Organization and Employees.

AMENDMENTS

1998—Subsec. (a)(2)(A), (B). Pub. L. 105–261 struck out subpars. (A) and (B) which read as follows:

"(A) rates of basic pay;

"(B) tropical differential;".

Subsec. (a)(2)(F) to (H). Pub. L. 105–261 struck out subpars. (F) to (H) which read as follows:

"(F) leave and travel;

"(G) transportation and repatriation benefits;

"(H) group health and life insurance;".

1997—Subsec. (c)(3)(A). Pub. L. 105–85 substituted "September 30, 1979" for "the day before October 1, 1979".

1996—Subsec. (a)(3). Pub. L. 104–201 struck out par. (3) which read as follows:

"(3)(A) The provisions of this subsection shall take effect on September 27, 1979.

"(B) No spending authority (as described in section 651(c)(2)(C) of title 2) provided for under this subsection shall take effect before October 1, 1979.

"(C) Effective October 1, 1979, any individual who, but for subparagraph (B) of this paragraph, would have been entitled to one or more payments pursuant to this subsection for periods before October 1, 1979, shall be entitled, to the extent or in such amounts as are provided in advance in appropriation Acts, to a lump sum payment equal to the total amount of all such payments."

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–261, div. C, title XXXV, §3507(a), Oct. 17, 1998, 112 Stat. 2269, provided that the amendment made by section 3507(a) striking out subsec. (a)(2)(A), (B), and (F) to (H) of this section is effective 11:59 p.m. (Eastern Standard Time), Dec. 30, 1999, and any right or condition of employment provided for in, or arising from, subsec. (a)(2)(A), (B), and (F) to (H) of this section is terminated.

§3672. Placement

(a) Citizens separated from employment with Panama Canal Company or Canal Zone Government

Any citizen of the United States—

(1) who, on March 31, 1979, was an employee of the Panama Canal Company or the Canal Zone Government;

(2) who separates or is scheduled to separate on or after such date for any reason other than misconduct or delinquency; and

(3) who is not placed in another appropriate position in the Government of the United States in the Republic of Panama;

shall, upon the employee's request, be accorded appropriate assistance for placement in vacant positions in the Government of the United States in the United States.

(b) Citizens eliminated from employment with Executive agency or Canal Zone Government as a result of implementation of Panama Canal Treaty of 1977

Any citizen of the United States—

(1) who, on March 31, 1979, was employed in the Canal Zone as an employee of an Executive agency (other than the Panama Canal Company or the Canal Zone Government) or the Smithsonian Institution;

(2) whose position is eliminated as the result of the implementation of any provision of the Panama Canal Treaty of 1977 and related agreements; and

(3) who is not appointed to another appropriate position in the Government of the United States in the Republic of Panama;

shall, upon the employee's request, be accorded appropriate assistance for placement in vacant positions in the Government of the United States in the United States.

(c) Establishment and administration of program by Office of Personnel Management

The Office of Personnel Management shall establish and administer a Government-wide placement program for all eligible employees who request appointment to positions under this section.

(d) Effective date

The provisions of this section shall take effect on September 27, 1979.

(Pub. L. 96–70, title I, §1232, Sept. 27, 1979, 93 Stat. 470.)

§3673. Transition separation incentive payments

(a) In applying to the Commission and employees of the Commission the provisions of section 663 of the Treasury, Postal Service, and General Government Appropriations Act, 1997 (as contained in section 101(f) of division A of Public Law 104–208; 110 Stat. 3009–383), relating to voluntary separation incentives for employees of certain Federal agencies (in this section referred to as "section 663")—

(1) the term "employee" shall mean an employee of the Commission who has served in the Republic of Panama in a position with the Commission for a continuous period of at least three years immediately before the employee's separation under an appointment without time limitation and who is covered under the Civil Service Retirement System or the Federal Employees' Retirement System under subchapter III of chapter 83 or chapter 84, respectively, of title 5, other than—

(A) an employee described in any of subparagraphs (A) through (F) of subsection (a)(2) of section 663; or

(B) an employee of the Commission who, during the 24-month period preceding the date of

separation, has received a recruitment or relocation bonus under section 3657(c) of this title or who, within the 12-month period preceding the date of separation, received a retention bonus under section 3657(d) of this title;

(2) the strategic plan under subsection (b) of section 663 shall include (in lieu of the matter specified in subsection (b)(2) of that section)—

(A) the positions to be affected, identified by occupational category and grade level;

(B) the number and amounts of separation incentive payments to be offered; and

(C) a description of how such incentive payments will facilitate the successful transfer of the Panama Canal to the Republic of Panama;

(3) a separation incentive payment under section 663 may be paid to a Commission employee only to the extent necessary to facilitate the successful transfer of the Panama Canal by the United States of America to the Republic of Panama as required by the Panama Canal Treaty of 1977;

(4) such a payment—

(A) may be in an amount determined by the Commission not to exceed $25,000; and

(B) may be made (notwithstanding the limitation specified in subsection (c)(2)(D) of section 663) in the case of an eligible employee who voluntarily separates (whether by retirement or resignation) during the 90-day period beginning on November 18, 1997, or during the period beginning on October 1, 1998, and ending on December 31, 1998;

(5) in the case of not more than 15 employees who (as determined by the Commission) are unwilling to work for the Panama Canal Authority after the Canal Transfer Date and who occupy critical positions for which (as determined by the Commission) at least two years of experience is necessary to ensure that seasoned managers are in place on and after the Canal Transfer Date, such a payment (notwithstanding paragraph (4))—

(A) may be in an amount determined by the Commission not to exceed 50 percent of the basic pay of the employee; and

(B) may be made (notwithstanding the limitation specified in subsection (c)(2)(D) of section 663) in the case of such an employee who voluntarily separates (whether by retirement or resignation) during the 90-day period beginning on November 18, 1997; and

(6) the provisions of subsection (f) of section 663 shall not apply.

(b) A decision by the Commission to exercise or to not exercise the authority to pay a transition separation incentive under this section shall not be subject to review under any statutory procedure or any agency or negotiated grievance procedure except under any of the laws referred to in section 2302(d) of title 5.

(Pub. L. 96–70, title I, §1233, as added Pub. L. 105–85, div. C, title XXXV, §3526, Nov. 18, 1997, 111 Stat. 2067.)

REFERENCES IN TEXT

Section 663 of the Treasury, Postal Service, and General Government Appropriations Act, 1997 (as contained in section 101(f) of division A of Public Law 104–208; 110 Stat. 3009–383), referred to in subsec. (a), is set out as a note under section 5597 of Title 5, Government Organization and Employees.

SUBPART IV—RETIREMENT

§3681. Retirement under special treaty provisions

(a) Purchase of retirement equity; individuals entitled to participate

(1) Subject to subsection (b) of this section, and under such regulations as the President may prescribe, the Secretary of the Treasury shall pay to the Social Security System of the Republic of Panama, out of funds deposited in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund under section 8334(a)(2) of title 5, such sums of money as may be necessary to aid in the purchase of a retirement equity in such System for each individual who—

(A) meets the requirements of paragraph (2) of this subsection;

(B) is separated from employment in the Panama Canal Company, the Canal Zone Government, or the Commission by reason of the implementation of any provision of the Panama Canal Treaty of 1977 and related agreements; and

(C) becomes employed in a position covered by the Social Security System of the Republic of Panama through the transfer of a function or activity to the Republic of Panama from the United States or through a job placement assistance program.

(2) This subsection applies with respect to any individual only if the individual—

(A) has been credited with at least 5 years of civilian service under section 8332 of title 5, relating to creditable service for purposes of civil service retirement;

(B) is not eligible for an immediate retirement annuity under chapter 83 of title 5, relating to civil service retirement, and elects not to receive a deferred annuity under that chapter based on any portion of that service, and

(C) elects to withdraw from the Civil Service Retirement and Disability Fund the individual's entire lump-sum credit (as defined in section 8331(8) of title 5) and to transfer that amount to the Social Security System of the Republic of Panama pursuant to the special regime referred to in paragraph 3 of Article VIII of the Agreement in Implementation of Article III of the Panama Canal Treaty of 1977.

(b) Limitation on amount paid to Social Security System of Republic of Panama

The amount paid to the Social Security System of the Republic of Panama with respect to any individual under subsection (a) of this section shall not exceed the individual's entire lump-sum credit (as so defined).

(c) Purchase of nontransferable deferred annuity; employees entitled to participate

(1) Pursuant to paragraph 2(b) of Annex C to the Agreement in Implementation of Article IV of the Panama Canal Treaty of 1977, the President, or the President's designee, shall purchase from a source determined by the President to be appropriate, in accordance with such regulations as the President or the President's designee may prescribe, and to such extent or in such amounts as may be provided in advance in appropriation Acts, a nontransferable deferred annuity for the benefit of each employee of an agency or instrumentality of the Government of the United States in the Republic of Panama—

(A) who is not a citizen of the United States;

(B) who was employed on October 1, 1979, and during any period before that date by an agency or instrumentality of the Government of the United States at any permanent duty station in the Republic of Panama (including, with respect to employment before that date, the area then known as the Canal Zone);

(C) who, for any period of service with such agency or instrumentality before October 1, 1979, at any such permanent duty station was not covered, by reason of that service, by the United States Civil Service Retirement system or any other Federal retirement system providing benefits similar to those retirement benefits provided by the Social Security System of the Republic of Panama; and

(D) who, on October 1, 1979, is under a Federal retirement system and, on or before that date, has accrued in one or more agencies or instrumentalities of the United States a total of 5 years or more of service which—

(i) is creditable toward any Federal retirement system as in effect on October 1, 1979;

(ii) would have been creditable toward any such retirement system if the retirement system were in effect at the time of the service accrued by the employee; or

(iii) consists of any combination of service described in clauses (i) and (ii) of this subparagraph.

(2) The retirement annuity referred to in paragraph (1) of this subsection with respect to any employee will cover retroactively, from October 1, 1979, all periods of service, described in subparagraph (D) of that paragraph, by that employee at any permanent duty station in the Republic of Panama (including the area known before that date as the Canal Zone) in agencies and instrumentalities of the Government of the United States during which that employee was not covered by the United States Civil Service Retirement System or any other Federal retirement system providing benefits similar to those retirement benefits provided by the Social Security System of the Republic of Panama.

(Pub. L. 96–70, title I, §1243, Sept. 27, 1979, 93 Stat. 473; Pub. L. 105–85, div. C, title XXXV, §3550(d)(6), Nov. 18, 1997, 111 Stat. 2074.)

AMENDMENTS

1997—Subsec. (c)(2). Pub. L. 105–85 substituted "retroactively" for "retroactivity".

DELEGATION OF FUNCTIONS

Functions vested in President by subsec. (a)(1) delegated to Director of Office of Personnel Management and function vested in President by subsec. (c)(1) of this section delegated to Secretary of Defense, see sections 1–105 and 1–403 of Ex. Ord. No. 12215, May 27, 1980, 45 F.R. 36043, 36045, set out as a note under section 3601 of this title.

§3682. Administration of certain disability benefits

(a) Continuation of cash relief payments to employees under Act of July 8, 1937

(1) The Commission, or any other United States Government agency or private entity acting pursuant to an agreement with the Commission, under the Act entitled "An Act authorizing cash relief for certain employees of the Panama Canal not coming within the provisions of the Canal Zone Retirement Act", approved July 8, 1937 (50 Stat. 478; 68 Stat. 17), may continue the payments of cash relief to those individual former employees of the Canal Zone Government or Panama Canal Company or their predecessor agencies not coming within the scope of the former Canal Zone Retirement Act whose services were terminated prior to October 5, 1958, because of unfitness for further useful service by reason of mental or physical disability resulting from age or disease.

(2) Subject to subsection (b), cash relief under this subsection may not exceed $1.50 per month for each year of service of the employees so furnished relief, with a maximum of $45 per month, plus the amount of any cost-of-living increases in such cash relief granted before October 1, 1979, pursuant to section 181 of title 2 of the Canal Zone Code (as in effect on September 30, 1979), nor be paid to any employee who, at the time of termination for disability prior to October 5, 1958, had less than 10 years' service with the Canal Zone Government, the Panama Canal Company, or their predecessor agencies on the Isthmus of Panama.

(b) Additional amounts for relief under subsection (a)

An additional amount of $20 per month shall be paid to each person who receives payment of cash relief under subsection (a) of this section and shall be allowed without regard to the limitations contained therein.

(c) Increases in cash relief payments

Each cash relief payment made pursuant to this section shall be increased on the same effective date and by the same percent, adjusted to the nearest dollar, as civil service retirement annuities are increased under the cost-of-living adjustment provisions of section 8340(b) of title 5. Such increase shall apply only to cash relief payments made after October 1, 1979, as increased by annuity increases made after that date under such section 8340(b) of title 5.

(d) Cash relief payments to widows

The Commission may pay cash relief to the widow of any former employee of the Canal Zone Government or the Panama Canal Company who, until the time of his death, receives or has received cash relief under subsection (a) of this section, under section 181 of title 2 of the Canal Zone Code (as in effect on September 30, 1979), or under the Act of July 8, 1937, referred to in such subsection (a). The term "widow" as used in this subsection includes only the following:

(1) a woman legally married to such employee at the time of his termination for disability and at his death;

(2) a woman who, although not legally married to such former employee at the time of his termination, had resided continuously with him for at least five years immediately preceding the employee's termination under such circumstances as would at common law make the relationship a valid marriage and who continued to reside with him until his death; and

(3) a woman who has not remarried or assumed a common-law relationship with any other person.

Cash relief granted to such a widow shall not at any time exceed 50 percent of the rate at which cash relief, inclusive of any additional payment under subsection (b) of this section, would be payable to the former employee were he then alive.

(e) Applicability of subchapter III of chapter 83 of title 5

Subchapter III of chapter 83 of title 5 applies with respect to those individuals who were in the service of the Canal Zone Government or the Panama Canal Company on October 5, 1958, and who, except for the operation of section 13(a)(1) of the Act entitled "An Act to implement item 1 of a Memorandum of Understanding attached to the treaty of January 25, 1955, entered into by the Government of the United States of America and the Government of the Republic of Panama with respect to wage and employment practices of the Government of the United States of America in the Canal Zone", approved July 25, 1958 (72 Stat. 405), would have been within the classes of individuals subject to the Act of July 8, 1937, referred to in subsection (a) of this section.

(Pub. L. 96–70, title I, §1245, Sept. 27, 1979, 93 Stat. 475; Pub. L. 104–201, div. C, title XXXV, §§3538, 3548(c)(2), Sept. 23, 1996, 110 Stat. 2864, 2869.)

REFERENCES IN TEXT

The reference to the Act of July 8, 1937, in subsecs. (a)(1), (d), and (e), is act July 8, 1937, ch. 443, 50 Stat. 478, as amended, which was classified to section 1372 of Title 48, Territories and Insular Possessions, prior to repeal by Pub. L. 87–845, §26(b), Oct. 18, 1962, 76A Stat. 701.

The Canal Zone Code, referred to in subsec. (a)(2), was enacted by Pub. L. 87–845, §1, Oct. 18, 1962, 76A Stat. 1, redesignated the Panama Canal Code by Pub. L. 96–70, title III, §3303(b), Sept. 27, 1979, 93 Stat. 499, and repealed by Pub. L. 104–201, div. C, title XXXV, §3549, Sept. 23, 1996, 110 Stat. 2870.

Section 13(a)(1) of Act July 25, 1958, referred to in subsec. (e), probably means section 13(a) of Pub. L. 85–550, July 25, 1958, 72 Stat. 405, as amended, which is set out as a note under section 8331 of Title 5, Government Organization and Employees.

AMENDMENTS

1996—Pub. L. 104–201, §§3538, 3548(c)(2), amended section catchline to read "Administration of certain disability benefits".

Subsec. (a). Pub. L. 104–201, §3538, added subsec. (a) and struck out former subsec. (a) which read as follows: "The Commission, under the regulations prescribed by the President pursuant to the Act entitled 'An Act authorizing cash relief for certain employees of the Panama Canal not coming within the provisions of the Canal Zone Retirement Act', approved July 8, 1937, as amended (50 Stat. 478; 68 Stat. 17), may continue the payments of cash relief to those individual former employees of the Canal Zone Government or Panama Canal Company or their predecessor agencies not coming within the scope of the former Canal Zone Retirement Act whose services were terminated prior to October 5, 1958, because of unfitness for further useful service by reason of mental or physical disability resulting from age or disease. Subject to subsection (b) of this section, that cash relief may not exceed $1.50 per month for each year of service of the employees so furnished relief, with a maximum of $45 per month, plus the amount of any cost-of-living increases in such cash relief granted before October 1, 1979, pursuant to section 181 of title 2 of the Canal Zone Code (as in effect on September

30, 1979), nor be paid to any employee who, at the time of termination for disability prior to October 5, 1958, had less than 10 years' service with the Canal Zone Government, the Panama Canal Company, or their predecessor agencies on the Isthmus of Panama."

§3683. Repealed. Pub. L. 104–201, div. C, title XXXV, §3546(a)(6), Sept. 23, 1996, 110 Stat. 2868

Section, Pub. L. 96–70, title I, §1246, Sept. 27, 1979, 93 Stat. 476; Pub. L. 100–203, title V, §5428(a), Dec. 22, 1987, 101 Stat. 1330–274, authorized Commission to purchase artificial limbs or other appliances for persons who were injured in service of Isthmian Canal Commission or of Panama Canal before Sept. 7, 1916.

SUBPART V—APPLICATION TO RELATED PERSONNEL

§3691. Individuals considered employees

(a) Individuals considered employees for purposes of certain sections

For the purposes of sections 3646,[1] 3671, and 3672 of this title, including any amendment made by sections 1231, 1241, and 1242 of this Act, the United States Attorney for the District of the Canal Zone and the Assistant United States Attorneys and their clerical assistants, and the United States Marshal for the District of the Canal Zone and his deputies and clerical assistants shall be considered employees of the Commission.

(b) Individuals considered employees for certain purposes

For the purposes of this Act, including any amendment made by this Act, the Executive Director of the Canal Zone Civilian Personnel Policy Coordinating Board, the Manager, Central Examining Office, and their staffs shall be considered to have been employees of the Panama Canal Company with respect to service in those positions before October 1, 1979, and as employees of the Commission with respect to service in those positions on or after that date.

(Pub. L. 96–70, title I, §1261(a), (b), Sept. 27, 1979, 93 Stat. 476.)

REFERENCES IN TEXT

Section 3646 of this title, referred to in subsec. (a), was repealed by Pub. L. 105–261, div. C, title XXXV, §3507(a), Oct. 17, 1998, 112 Stat. 2269.

Section 1231 of this Act, referred to in subsec. (a), amended sections 5595, 5724a, and 8102 of Title 5, Government Organization and Employees.

Section 1241 of this Act, referred to in subsec. (a), amended section 8336 of Title 5 and enacted provisions set out as notes thereunder.

Section 1242 of this Act, referred to in subsec. (a), amended section 8339 of Title 5 and enacted provisions set out as notes thereunder.

This Act, referred to in subsec. (b), is Pub. L. 96–70, Sept. 27, 1979, 93 Stat. 452, known as the Panama Canal Act of 1979, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of this title and Tables.

EFFECTIVE DATE

Pub. L. 96–70, title I, §1261(c), Sept. 27, 1979, 93 Stat. 476, provided that: "The provisions of this section [enacting this section] shall take effect on the date of the enactment of this Act [Sept. 27, 1979]."

[1] *See References in Text note below.*

SUBPART VI—LABOR-MANAGEMENT RELATIONS

§3701. Labor-management relations

(a) Applicability of chapter 71 of title 5

Nothing in this chapter shall be construed to affect the applicability of chapter 71 of title 5, relating to labor-management and employee relations, with respect to the Commission or the operations of any other Executive agency conducted in that area of the Republic of Panama which, on September 30, 1979, was the Canal Zone, except that in applying those provisions—

(1) the definition of "employee" shall be applied without regard to clause (i) of section 7103(a)(2) of such title 5 which relates to nationality and citizenship;

(2) a unit shall be considered to be appropriate notwithstanding the fact that it includes any supervisor if that supervisor's position (or type of position) was, before October 1, 1979, represented before the Panama Canal Company by a labor organization that included employees who were not supervisors; and

(3) any negotiated grievance procedures under section 7121 of title 5, including any provisions relating to binding arbitration, shall, with respect to any personnel action to which subchapter II of chapter 75 of such title applies (as determined under section 7512 of such title), be available to the same extent and in the same manner as if employees of the Panama Canal Commission were not excluded from such subchapter under section 7511(b)(8) of such title.

(b) United States laws applicable

Labor-management and employee relations of the Commission, other Executive agencies, and the Smithsonian Institution, their employees, and organizations of those employees, in connection with operations conducted in that area of the Republic of Panama which, on September 30, 1979, was the Canal Zone, shall be governed and regulated solely by the applicable laws, rules, and regulations of the United States.

(c) Resolution of collective bargaining impasses

(1) This subsection applies to any matter that becomes the subject of collective bargaining between the Commission and the exclusive representative for any bargaining unit of employees of the Commission during the period beginning on November 18, 1997, and ending on the Canal Transfer Date.

(2)(A) The resolution of impasses resulting from collective bargaining between the Commission and any such exclusive representative during that period shall be conducted in accordance with such procedures as may be mutually agreed upon between the Commission and the exclusive representative (without regard to any otherwise applicable provisions of chapter 71 of title 5). Such mutually agreed upon procedures shall become effective upon transmittal by the Chairman of the Supervisory Board of the Commission to the Congress of notice of the agreement to use those procedures and a description of those procedures.

(B) The Federal Services Impasses Panel shall not have jurisdiction to resolve any impasse between the Commission and any such exclusive representative in negotiations over a procedure for resolving impasses.

(3) If the Commission and such an exclusive representative do not reach an agreement concerning a procedure for resolving impasses with respect to a bargaining unit and transmit notice of the agreement under paragraph (2) on or before July 1, 1998, the following shall be the procedure by which collective bargaining impasses between the Commission and the exclusive representative for that bargaining unit shall be resolved:

(A) If bargaining efforts do not result in an agreement, either party may timely request the Federal Mediation and Conciliation Service to assist in achieving an agreement.

(B) If an agreement is not reached within 45 days after the date on which either party requests the assistance of the Federal Mediation and Conciliation Service in writing (or within such shorter

period as may be mutually agreed upon by the parties), the parties shall be considered to be at an impasse and the Federal Mediation and Conciliation Service shall immediately notify the Federal Services Impasses Panel of the Federal Labor Relations Authority, which shall decide the impasse.

(C) If the Federal Services Impasses Panel fails to issue a decision within 90 days after the date on which notice under subparagraph (B) is received by the Panel (or within such shorter period as may be mutually agreed upon by the parties), the efforts of the Panel shall be terminated.

(D) In such a case, the Chairman of the Panel (or another member in the absence of the Chairman) shall immediately determine the matter by a drawing (conducted in such manner as the Chairman (or, in the absence of the Chairman, such other member) determines appropriate) between the last offer of the Commission and the last offer of the exclusive representative, with the offer chosen through such drawing becoming the binding resolution of the matter.

(4) In the case of a notice of agreement described in paragraph (2)(A) that is transmitted to the Congress as described in the second sentence of that paragraph after July 1, 1998, the impasse resolution procedures covered by that notice shall apply to any impasse between the Commission and the other party to the agreement that is unresolved on the date on which that notice is transmitted to the Congress.

(Pub. L. 96–70, title I, §1271, Sept. 27, 1979, 93 Stat. 476; Pub. L. 103–160, div. C, title XXXV, §3505, Nov. 30, 1993, 107 Stat. 1966; Pub. L. 105–85, div. C, title XXXV, §3527, Nov. 18, 1997, 111 Stat. 2068.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this Act", meaning Pub. L. 96–70, Sept. 27, 1979, 93 Stat. 452, known as the Panama Canal Act of 1979, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of this title and Tables.

AMENDMENTS

1997—Subsec. (c). Pub. L. 105–85 added subsec. (c).

1993—Subsec. (a)(3). Pub. L. 103–160 added par. (3).

EFFECTIVE DATE OF 1993 AMENDMENT

Pub. L. 103–160, div. C, title XXXV, §3506, Nov. 30, 1993, 107 Stat. 1966, provided that:

"(a) IN GENERAL.—Except as provided in subsection (b), this title [amending this section and enacting provisions set out as a note under section 3641 of this title] shall take effect as of October 1, 1993.

"(b) SPECIAL RULE.—Paragraph (3) of section 1271(a) of the Panama Canal Act of 1979 (22 U.S.C. 3701(a)), as added by section 3505(3), shall take effect on the date of the enactment of this Act [Nov. 30, 1993] and shall apply with respect to grievances arising on or after such date."

PART 3—FUNDS AND ACCOUNTS

SUBPART I—FUNDS

§3711. Repealed. Pub. L. 104–201, div. C, title XXXV, §3546(a)(8), Sept. 23, 1996, 110 Stat. 2868

Section, Pub. L. 96–70, title I, §1301, Sept. 27, 1979, 93 Stat. 477; Pub. L. 100–203, title V, §5428(e), Dec. 22, 1987, 101 Stat. 1330–274, directed that, on Oct. 1, 1979, unexpended balances of Canal Zone Government appropriations accounts be covered into general fund of Treasury, repealed any appropriations to which expenditures under such accounts had been chargeable before Oct. 1, 1979, and authorized Commission to pay claims or make payments chargeable to such accounts.

§3712. Panama Canal Revolving Fund

(a) Establishment

There is established in the Treasury of the United States a revolving fund to be known as "Panama Canal Revolving Fund". The Panama Canal Revolving Fund shall, subject to subsection (b), be available to the Commission to carry out the purposes, functions, and powers authorized by this chapter, including for the following purposes:

(1) The hire of passenger motor vehicles and aircraft.

(2) Uniforms or allowances therefor.

(3) Official receptions and representation expenses of the Board, the Secretary of the Commission, and the Administrator.

(4) The operation of guide services.

(5) A residence for the Administrator.

(6) Disbursements by the Administrator for employee and community projects.

(7) The procurement of expert and consultant services.

(8) Promotional activities, including the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, film, or other media presentation designed to promote the Panama Canal as a resource of the world shipping industry.

(9) The purchase and transportation to the Republic of Panama of passenger motor vehicles, including large, heavy-duty vehicles.

(10) Payment to the Panama Canal Authority, not later than the Canal Transfer Date, of such amount as is computed by the Commission to be the future amount of severance pay to be paid by the Panama Canal Authority to employees whose employment with the Authority is terminated, to the extent that such severance pay is attributable to periods of service performed with the Commission before the Canal Transfer Date (and assuming for purposes of such computation that the Panama Canal Authority, in paying severance pay to terminated employees, will provide for crediting of periods of service with the Commission).

(b) Tolls and other receipts into Panama Canal Revolving Fund; restriction on use of funds

(1) There shall be deposited in the Panama Canal Revolving Fund, on a continuing basis, toll receipts (other than amounts of toll receipts deposited into the Panama Canal Commission Dissolution Fund under section 3714a of this title) and all other receipts of the Commission. Except as provided in section 3713 of this title, no funds may be obligated or expended by the Commission in any fiscal year unless such obligation or expenditure has been specifically authorized by law.

(2) No funds may be authorized for the use of the Commission, or obligated or expended by the Commission in any fiscal year; in excess of—

(A) the amount of revenues deposited in the Panama Canal Revolving Fund and the Panama Canal Commission Dissolution Fund during such fiscal year; plus

(B) the amount of revenues deposited in the Panama Canal Revolving Fund before such fiscal year and remaining unobligated at the beginning of such fiscal year; plus

(C) the $100,000,000 borrowing authority provided for in section 3714 of this title.

Not later than 30 days after the end of each fiscal year, the Secretary of the Treasury shall report to the Congress the amount of revenues deposited in the Panama Canal Revolving Fund during such fiscal year.

(c) Authority of Commission to make deposits

With the approval of the Secretary of the Treasury, the Commission may deposit amounts in the Panama Canal Revolving Fund in any Federal Reserve bank, any depositary for public funds, or such other place and in such manner as the Commission and the Secretary may agree.

(d) Costs of implementation

(1) It is the sense of the Congress that the additional costs resulting from the implementation of the

Panama Canal Treaty of 1977 and related agreements should be kept to the absolute minimum level. To this end, the Congress declares appropriated costs of implementation to be borne by the taxpayers over the life of such Treaty should be kept to a level no greater than the March 1979 estimate of those costs ($870,700,000) presented to the Congress by the executive branch during consideration of this chapter by the Congress, less personnel retirement costs of $205,000,000, which were subtracted and charged to tolls, therefore resulting in net taxpayer cost of approximately $665,700,000, plus appropriate adjustments for inflation.

(2) It is further the sense of the Congress that the actual costs of implementation be consistent with the obligations of the United States to operate the Panama Canal safely and efficiently and keep it secure.

(e) Termination of Commission and Office of Transition Administration; transfer of Fund

(1) The Panama Canal Commission and the Office of Transition Administration (described in section 3504 of Public Law 106–65) shall terminate on October 1, 2004.

(2) Upon termination pursuant to paragraph (1), the Panama Canal Revolving Fund shall be transferred to the General Services Administration (GSA). GSA shall use the amounts in the Fund to make payments of any outstanding liabilities of the Commission, as well as any expenses associated with the termination of the Office of Transition Administration and the Commission. The fund shall be the exclusive source available for payment of any outstanding liabilities of the Commission.

(Pub. L. 96–70, title I, §1302, Sept. 27, 1979, 93 Stat. 477; Pub. L. 99–195, §1(a), Dec. 23, 1985, 99 Stat. 1349; Pub. L. 100–203, title V, §5422(a), (b)(1), Dec. 22, 1987, 101 Stat. 1330–271, 1330–272; Pub. L. 100–705, §9, Nov. 19, 1988, 102 Stat. 4687; Pub. L. 102–484, div. C, title XXXV, §3521(b)(1), Oct. 23, 1992, 106 Stat. 2657; Pub. L. 104–106, div. C, title XXXV, §3525, Feb. 10, 1996, 110 Stat. 640; Pub. L. 104–201, div. C, title XXXV, §3539, Sept. 23, 1996, 110 Stat. 2865; Pub. L. 105–85, div. C, title XXXV, §3528, Nov. 18, 1997, 111 Stat. 2069; Pub. L. 108–309, §121, Sept. 30, 2004, 118 Stat. 1140.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (d)(1), was in the original "this Act", meaning Pub. L. 96–70, Sept. 27, 1979, 93 Stat. 452, known as the Panama Canal Act of 1979 which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of this title and Tables.

Section 3504 of Public Law 106–65, referred to in subsec. (e)(1), is section 3504 of Pub. L. 106–65, div. C, title XXXV, Oct. 5, 1999, 113 Stat. 975, which amended section 3714a of this title and enacted provisions set out as a note under section 3714a of this title.

AMENDMENTS

2004—Subsec. (e). Pub. L. 108–309 added subsec. (e).

1997—Subsec. (a). Pub. L. 105–85, §3528(b)(1), substituted "for the following purposes:" for "for—" in introductory provisions.

Subsec. (a)(1) to (7). Pub. L. 105–85, §3528(b)(2), (3), capitalized initial letter of first word and substituted a period for the semicolon at end.

Subsec. (a)(8). Pub. L. 105–85, §3528(b)(2), (4), capitalized initial letter of first word and substituted "industry." for "industry; and".

Subsec. (a)(9). Pub. L. 105–85, §3528(b)(2), capitalized initial letter of first word.

Subsec. (a)(10). Pub. L. 105–85, §3528(a), added par. (10).

1996—Pub. L. 104–201 amended section generally, reenacting section catchline without change, revising and restating former subsecs. (a)(1), (c), (d), and (f) as subsecs. (a) to (d), and striking out provisions of former subsecs. (a)(2), (b), and (e), which related to termination of the Fund, transfer of funds, and congressional review of Commission budgets.

Subsec. (c)(1). Pub. L. 104–106, §3525(1)(A), struck out "and subject to paragraph (2)" after "section 3713 of this title".

Subsec. (c)(2), (3). Pub. L. 104–106, §3525(1)(B), (C), redesignated par. (3) as (2) and struck out former par. (2) which read as follows: "No funds may be obligated or expended by the Commission in any fiscal year for administrative expenses except to the extent or in such amounts as are provided in appropriations Acts."

Subsec. (e). Pub. L. 104–106, §3525(2), added subsec. (e) and struck out former subsec. (e) which read as

follows: "The Committee on Appropriations of each House of Congress shall review the annual budget of the Commission, including operations and capital expenditures."

1992—Subsec. (c)(1). Pub. L. 102–484, §3521(b)(1)(A), inserted "(other than amounts of toll receipts deposited into the Panama Canal Commission Dissolution Fund under section 3714a of this title)" after "toll receipts".

Subsec. (c)(3)(A). Pub. L. 102–484, §3521(b)(1)(B), inserted "and the Panama Canal Dissolution Fund" after "Panama Canal Revolving Fund".

1988—Subsecs. (e), (f). Pub. L. 100–705 redesignated subsec. (e), relating to costs of implementation, as (f).

1987—Pub. L. 100–203, §5422(b)(1), substituted "Panama Canal Revolving Fund" for "Panama Canal Commission Fund" in section catchline.

Subsecs. (a) to (d). Pub. L. 100–203, §5422(a), added subsecs. (a) to (d) and struck out former subsecs. (a) to (d) which related to termination of Panama Canal Company Fund on Oct. 1, 1979, subsequent deposit of tolls and other receipts into Panama Canal Commission Fund, restriction on use of funds, and authority of the Commission to enter into contracts, respectively.

Subsec. (e). Pub. L. 100–203, §5422(a), added subsec. (e), directing Appropriations Committee of each House to review annual budget of the Commission.

1985—Subsec. (b). Pub. L. 99–195 provided for deposit of interest receipts as miscellaneous receipts.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–705 effective Oct. 1, 1988, see section 10 of Pub. L. 100–705, set out as a note under section 3612 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Pub. L. 100–203, title V, §5429, Dec. 22, 1987, 101 Stat. 1330–275, provided that: "This part and the amendments made by this part [part 2 (§§5421–5429) of subtitle E of title V of Pub. L. 100–203, enacting section 3714 of this title, amending this section, sections 3683, 3711, 3713, 3751, 3753, 3754, 3792, and 3793 of this title, and section 8348 of Title 5, Government Organization and Employees, and enacting provisions set out as a note under section 3601 of this title] take effect on January 1, 1988."

EFFECTIVE DATE OF 1985 AMENDMENT

Pub. L. 99–195, §2, Dec. 23, 1985, 99 Stat. 1349, provided that: "The amendments made by this Act [amending this section and section 3793 of this title] shall apply only to tolls and other receipts of the Commission deposited in the Treasury on or after the date of the enactment of this Act [Dec. 23, 1985]."

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103–7 (in which a report required under subsec. (b) of this section is listed on page 142), see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance.

§3712a. Authority to lease office space

Notwithstanding section 210 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490),[1] the Commission is authorized to negotiate directly and enter into contracts for the lease of, and for improvements to, real property in the United States for use by the Commission as office space, on such terms as the Commission considers to be in the interest of the United States, and to make direct payments therefor.

(Pub. L. 100–203, title V, §5415, Dec. 22, 1987, 101 Stat. 1330–270.)

REFERENCES IN TEXT

Section 210 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490), referred to in text, was section 210 of act June 30, 1949, ch. 288, as amended, which was classified to section 490 of former Title 40, Public Buildings, Property, and Works, and was repealed and reenacted as sections 581 to 584, 588 and 589 and parts of sections 585 to 587 and 592 of Title 40, Public Buildings, Property, and Works, by Pub. L. 107–217, §§1, 6(b), Aug. 21, 2002, 116 Stat. 1062, 1304. For disposition of section 490 of former Title 40, see Table at beginning of Title 40.

CODIFICATION

Section was enacted as part of the Omnibus Budget Reconciliation Act of 1987, and not as part of the Panama Canal Act of 1979 which comprises this chapter.

[1] *See References in Text note below.*

§3713. Panama Canal emergency authority

If authorizing legislation described in section 3712(b)(1) of this title has not been enacted for a fiscal year, then the Commission may withdraw funds from the Panama Canal Revolving Fund in order to defray emergency expenses and to ensure the continuous, efficient, and safe operation of the Panama Canal, including expenses for capital projects. The authority of this section may be exercised only until authorizing legislation described in section 3712(b)(1) of this title is enacted, or for a period of 24 months after the end of the fiscal year for which such authorizing legislation was last enacted, whichever occurs first. Within 60 days after the end of any calendar quarter in which expenditures are made under this section, the Commission shall report such expenditures to the appropriate committees of the Congress.

(Pub. L. 96–70, title I, §1303, Sept. 27, 1979, 93 Stat. 478; Pub. L. 100–203, title V, §5423(a), (b)(1), Dec. 22, 1987, 101 Stat. 1330–273; Pub. L. 104–106, div. C, title XXXV, §3529(2), Feb. 10, 1996, 110 Stat. 642; Pub. L. 104–201, div. C, title XXXV, §3548(b)(2), Sept. 23, 1996, 110 Stat. 2869.)

AMENDMENTS

1996—Pub. L. 104–201 substituted "section 3712(b)(1)" for "section 3712(c)(1)" in two places.

Pub. L. 104–106 struck out "The authority of this section may not be used for administrative expenses." after "capital projects."

1987—Pub. L. 100–203 substituted "authority" for "Fund" in section catchline and amended text generally. Prior to amendment, text read as follows:

"(a) On October 1, 1979, the Secretary of the Treasury shall establish and thereafter shall maintain in the Treasury a fund to be known as the 'Panama Canal Emergency Fund'. There are authorized to be appropriated for deposit in such Fund (1) for the fiscal year beginning on October 1, 1979, $40,000,000, and (2) for any fiscal year beginning on or after October 1, 1980, such additional sums as may be specifically authorized by law for such fiscal year.

"(b) The Commission may make withdrawals from the Panama Canal Emergency Fund by check in order to defray emergency expenses and to insure the continuous, efficient, and safe operation of the Panama Canal, if funds appropriated for the operation and maintenance of the Canal are insufficient for such purposes. Any withdrawal from such Fund to cover increased costs attributable to unprogrammed increases in traffic may not be made in amounts greater than the revenues from such increased traffic. Such Fund shall not be available for payments to Panama under Article XIII of the Panama Canal Treaty of 1977. Any withdrawal from such fund or expenditure made under this subsection shall be reported forthwith by the Commission to the Congress and to the Office of Management and Budget."

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–203 effective Jan. 1, 1988, see section 5429 of Pub. L. 100–203, set out as a note under section 3712 of this title.

§3714. Borrowing authority

(a) Limitation on amount; issuance of notes and other obligations

The Panama Canal Commission may borrow from the Treasury, for any of the purposes of the Commission, not more than $100,000,000 outstanding at any time. For this purpose, the Commission may issue to the Secretary of the Treasury its notes or other obligations—

(1) which shall have maturities (of not later than December 31, 1999) agreed upon by the

Commission and the Secretary of the Treasury, and

(2) which may be redeemable at the option of the Commission before maturity.

(b) Restrictions on use

Amounts borrowed under this section shall not be available for payments to Panama under Article XIII of the Panama Canal Treaty of 1977.

(c) Effect on investment interest in Panama Canal

Amounts borrowed under this section shall increase the investment of the United States in the Panama Canal, and repayment of such amounts shall decrease such investment.

(d) Report to Congress

The Commission shall report to the Congress and to the Office of Management and Budget on each exercise of borrowing authority under this section.

(Pub. L. 96–70, title I, §1304, as added Pub. L. 100–203, title V, §5424(a), Dec. 22, 1987, 101 Stat. 1330–273.)

EFFECTIVE DATE

Section effective Jan. 1, 1988, see section 5429 of Pub. L. 100–203, set out as an Effective Date of 1987 Amendment note under section 3712 of this title.

§3714a. Dissolution of Commission

(a) Study and report

(1) The Commission shall conduct a study of—

(A) the costs associated with the dissolution of the Commission, including the composition, location, and costs of the office authorized to be established under subsection (b); and

(B) costs and liabilities incurred or administered by the Commission that will not be paid before the date of that dissolution.

(2) The Commission shall submit to the Congress, by not later than September 30, 1996, a report on the findings and conclusions of the study under this subsection. The report shall include an estimate of the period of time which may be required to close out the affairs of the Commission after the termination of the Panama Canal Treaty of 1977.

(b) Termination office

The Commission shall during fiscal year 1998 establish an office to close out the affairs of the Commission that are still pending after the termination of the Panama Canal Treaty of 1977.

(c) Panama Canal Commission Dissolution Fund

(1) There is established in the Treasury of the United States a fund to be known as the "Panama Canal Commission Dissolution Fund" (hereinafter in this section referred to as the "Fund"). The Fund shall be managed by the Commission until the termination of the Panama Canal Treaty of 1977 and by the office established under subsection (b) thereafter.

(2)(A) Subject to paragraph (5), the Fund shall be available after September 30, 1998, to pay—

(i) the costs of operating the office established under subsection (b); and

(ii) the costs and liabilities associated with dissolution of the Commission, including such costs incurred or identified after the termination of the Panama Canal Treaty of 1977.

(B) Payments from the Fund made during the period beginning on October 1, 1998, and ending with the termination of the Panama Canal Treaty of 1977 shall be subject to the approval of the Board provided for in section 3612 of this title.

(3) The Fund shall consist of—

(A) such amounts as may be deposited into the Fund by the Commission, from amounts collected as toll receipts, to pay the costs described in paragraph (2); and

(B) amounts credited to the Fund under paragraph (4).

(4)(A) The Secretary of the Treasury shall invest excess amounts in the Fund in public debt securities with maturities suitable to the needs of the Fund, as determined by the manager of the Fund.

(B) Securities invested under subparagraph (A) shall bear interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturity.

(C) Interest earned on securities invested under subparagraph (A) shall be credited to and form part of the Fund.

(5)(A) Amounts in the Fund may not be obligated or expended in any fiscal year unless the obligation or expenditure is specifically authorized by law.

(B) The office established by subsection (b) is authorized to expend or obligate funds from the Fund for the purposes enumerated in clauses (i) and (ii) of paragraph (2)(A) until October 1, 2004.

(6) The Fund shall terminate on October 1, 2004. Amounts in the Fund on that date shall be deposited in the general fund of the Treasury of the United States.

(Pub. L. 96–70, title I, §1305, as added Pub. L. 102–484, div. C, title XXXV, §3521(a), Oct. 23, 1992, 106 Stat. 2656; amended Pub. L. 106–65, div. C, title XXXV, §3504(a), Oct. 5, 1999, 113 Stat. 975.)

AMENDMENTS

1999—Subsec. (c)(5). Pub. L. 106–65 designated existing provisions as subpar. (A) and added subpar. (B).

OPERATION OF OFFICE OF TRANSITION ADMINISTRATION AND OVERSIGHT OF CLOSE-OUT ACTIVITIES

Pub. L. 106–65, div. C, title XXXV, §3504(b), (c), Oct. 5, 1999, 113 Stat. 975, provided that:

"(b) OPERATION OF THE OFFICE OF TRANSITION ADMINISTRATION.—

"(1) IN GENERAL.—The Panama Canal Act of 1979 (22 U.S.C. 3601 et seq.) shall continue to govern the Office of Transition Administration until October 1, 2004.

"(2) PROCUREMENT.—For purposes of exercising authority under the procurement laws of the United States, the director of the Office of Transition Administration shall have the status of the head of an agency.

"(3) OFFICES.—The Office of Transition Administration shall have offices in the Republic of Panama and in the District of Columbia. Section 1110(b)(1) of the Panama Canal Act of 1973 (22 U.S.C. 3620(b)(1)) does not apply to such office in the Republic of Panama.

"(4) OFFICE OF TRANSITION ADMINISTRATION DEFINED.—In this subsection the term 'Office of Transition Administration' means the office established under section 1305 of the Panama Canal Act of 1979 (22 U.S.C. 3714a) to close out the affairs of the Panama Canal Commission.

"(5) EFFECTIVE DATE.—This subsection shall be effective on and after the termination of the Panama Canal Treaty of 1977.

"(c) OVERSIGHT OF CLOSE-OUT ACTIVITIES.—The Panama Canal Commission shall enter into an agreement with the head of a department or agency of the Federal Government to supervise the close out of the affairs of the Commission under section 1305 of the Panama Canal Act of 1979 and to certify the completion of that function."

§3714b. Printing

(a) Sections 501 through 517 and 1101 through 1123 of title 44 shall not apply to direct purchase by the Commission for its use of printing, binding, and blank-book work in the Republic of Panama when the Commission determines that such direct purchase is in the best interest of the Government.

(b) This section shall not affect the Commission's authority, under chapter 5 of title 44, to operate a field printing plant.

(Pub. L. 96–70, title I, §1306, as added Pub. L. 104–201, div. C, title XXXV, §3540, Sept. 23, 1996, 110 Stat. 2866; amended Pub. L. 105–85, div. C, title XXXV, §3549, Nov. 18, 1997, 111 Stat. 2073.)

AMENDMENTS

1997—Subsec. (a). Pub. L. 105–85 substituted "Sections 501 through 517 and 1101 through 1123" for "Section 501".

§3715. Establishment of Compensation Fund

There is established in the Treasury of the United States the Panama Canal Commission Compensation Fund (hereafter in this Act referred to as the "Fund").

(Pub. L. 100–705, §2, Nov. 19, 1988, 102 Stat. 4685.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 100–705, Nov. 19, 1988, 102 Stat. 4685, known as the Panama Canal Commission Compensation Fund Act of 1988, which enacted sections 3715 to 3715d of this title, amended sections 3612, 3712, and 3731 of this title, and enacted provisions set out as notes under sections 3601 and 3612 of this title. For complete classification of this Act to the Code, see Short Title of 1988 Amendment note set out under section 3601 of this title and Tables.

CODIFICATION

Section was enacted as part of the Panama Canal Commission Compensation Fund Act of 1988, and not as part of the Panama Canal Act of 1979 which comprises this chapter.

EFFECTIVE DATE

Section effective Oct. 1, 1988, see section 10 of Pub. L. 100–705, set out as an Effective Date of 1988 Amendment note under section 3612 of this title.

§3715a. Operation of Fund

(a) Deposits to Fund

The Panama Canal Commission shall make deposits on a regular basis to the Fund, beginning on October 1, 1988, to accumulate an amount sufficient to defray the estimated total cost of liability for the workers' compensation benefits and other payments payable under chapter 81 of title 5 for the disability or death of employees of the Panama Canal Commission or any of its predecessor agencies on account of injuries sustained on or before December 31, 1999, except for those claims arising before, on, or after October 1, 1988, for which the Secretary of Labor has assumed fiscal responsibility.

(b) Calculation of amounts to be deposited

The amounts deposited under subsection (a) shall be based upon periodic actuarial studies conducted by experts or consultants whose services are procured by the Panama Canal Commission by contract. The amounts of such deposits shall take into consideration interest earnings in accordance with subsection (c) of this section and expected cost of living adjustments as provided in section 8146a of title 5, but not amounts payable by the Commission for continuation of pay pursuant to section 8118 of such title.

(c) Investment of amounts in Fund

The Secretary of the Treasury, upon the request of the Secretary of Labor, shall invest moneys in the Fund in public debt securities which shall bear interest at rates determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturity. Such interest shall be credited to and form a part of the Fund.

(Pub. L. 100–705, §3, Nov. 19, 1988, 102 Stat. 4685.)

CODIFICATION

Section was enacted as part of the Panama Canal Commission Compensation Fund Act of 1988, and not as

part of the Panama Canal Act of 1979 which comprises this chapter.

EFFECTIVE DATE

Section effective Oct. 1, 1988, see section 10 of Pub. L. 100–705, set out as an Effective Date of 1988 Amendment note under section 3612 of this title.

§3715b. Transfers from Fund for compensation benefits

The Secretary of the Treasury shall, upon request of the Secretary of Labor, transfer funds from the Fund to the Employees' Compensation Fund to reimburse the Employees' Compensation Fund for the total cost of workers' compensation benefits and other payments described in section 3715a(a) of this title that are provided on or after October 1, 1988.

(Pub. L. 100–705, §4, Nov. 19, 1988, 102 Stat. 4685.)

CODIFICATION

Section was enacted as part of the Panama Canal Commission Compensation Fund Act of 1988, and not as part of the Panama Canal Act of 1979 which comprises this chapter.

EFFECTIVE DATE

Section effective Oct. 1, 1988, see section 10 of Pub. L. 100–705, set out as an Effective Date of 1988 Amendment note under section 3612 of this title.

§3715c. Final evaluation of Fund; deficiency or surplus in Fund

(a) Final evaluation of Fund

By March 31, 1998, the Secretary of Labor shall, on the basis of an actuarial study conducted by experts or consultants whose services are procured by the Secretary of Labor by contract, make a final determination of the amounts estimated to be necessary to meet expenditures for workers' compensation benefits and other payments described in section 3715a(a) of this title, as calculated in accordance with the second sentence of section 3715a(b) of this title. Amounts in the Fund shall be used to pay for the final determination under this subsection.

(b) Deficiency or surplus in Fund

If amounts in the Fund are not sufficient to meet expenditures as determined by the Secretary of Labor under subsection (a) for workers' compensation benefits and other payments described in section 3715a(a) of this title, then amounts in the Panama Canal Revolving Fund not otherwise obligated shall be transferred to the Fund to make up the deficiency. Any amounts remaining in the Fund in excess of the final determination amount as described in subsection (a) shall be transferred to the Panama Canal Revolving Fund, and may be used to satisfy lawful obligations of the Revolving Fund arising on or before December 31, 1999.

(c) Continuity of Fund

(1) Amounts in the Fund (including amounts transferred as a result of the final determination made under subsection (a)) shall be maintained by the Secretary of the Treasury, shall be made available for transfer to the Employees' Compensation Fund in such amounts as are requested by the Secretary of Labor pursuant to section 3715b of this title, and may be discontinued only in accordance with paragraph (2).

(2) At such time as the Secretary of Labor certifies that no further liability exists for workers compensation benefits or other payments described in section 3715a(a) of this title, the Secretary of the Treasury may discontinue the Fund in the manner provided by law.

(Pub. L. 100–705, §5, Nov. 19, 1988, 102 Stat. 4686; Pub. L. 101–510, div. C, title XXXV, §3507, Nov. 5, 1990, 104 Stat. 1847; Pub. L. 105–85, div. C, title XXXV, §3545, Nov. 18, 1997, 111 Stat. 2072.)

CODIFICATION

Section was enacted as part of the Panama Canal Commission Compensation Fund Act of 1988, and not as part of the Panama Canal Act of 1979 which comprises this chapter.

AMENDMENTS

1997—Subsec. (a). Pub. L. 105–85 substituted "By March 31, 1998" for "Upon the termination of the Panama Canal Commission".

1990—Pub. L. 101–510, §3507(1), struck out "Upon the termination of the Panama Canal Commission:" before subsec. (a).

Subsec. (a). Pub. L. 101–510, §3507(2), substituted "Upon the termination of the Panama Canal Commission, the Secretary of Labor" for "The Secretary of Labor" and struck out at end "The Secretary of the Treasury shall, in accordance with such final determination, transfer from the Fund to the Employee Compensation Fund amounts sufficient to meet expenditures for workers compensation benefits and other payments described in section 3715a(a) of this title."

Subsec. (b). Pub. L. 101–510, §3507(3), inserted "under subsection (a)" after "Secretary of Labor" and struck out "Employees Compensation" before "Fund to make up".

Subsec. (c). Pub. L. 101–510, §3507(4), added subsec. (c).

EFFECTIVE DATE

Section effective Oct. 1, 1988, see section 10 of Pub. L. 100–705, set out as an Effective Date of 1988 Amendment note under section 3612 of this title.

§3715d. Continuation of benefits

The provisions of chapter 81 of title 5 shall, on or after October 1, 1988, continue to be the exclusive remedy, in accordance with section 8116 of such title, for the disability or death of any employee of the Panama Canal Commission, or any of its predecessor agencies, who is covered under such chapter, resulting from injuries sustained while in the performance of the employee's duty. The rights of any such employee for workers' compensation benefits shall be based only on the provisions of that chapter.

(Pub. L. 100–705, §6, Nov. 19, 1988, 102 Stat. 4686.)

CODIFICATION

Section was enacted as part of the Panama Canal Commission Compensation Fund Act of 1988, and not as part of the Panama Canal Act of 1979 which comprises this chapter.

EFFECTIVE DATE

Section effective Oct. 1, 1988, see section 10 of Pub. L. 100–705, set out as an Effective Date of 1988 Amendment note under section 3612 of this title.

SUBPART II—ACCOUNTING POLICIES AND AUDITS

§3721. Accounting policies

(a) Establishment and maintenance of accounts; specifications

The Commission shall establish and maintain its accounts pursuant to chapter 91 of title 31 and the provisions of this part. Such accounts shall specify all revenues received by the Commission, including tolls for the use of the Panama Canal, expenditures for capital replacement, expansion, and improvement, and all costs of maintenance and operation of the Panama Canal and of its complementary works, installations, and equipment, including depreciation, payments to the Republic of Panama under the Panama Canal Treaty of 1977, and interest on the investment of the United States calculated in accordance with section 3793 of this title.

(b) Regulations establishing the basis of accounting for assets

The Commission may issue regulations establishing the basis of accounting for the assets which are made available for the use of the Commission. Such regulations may provide for depreciation of the net replacement value of the assets which will ultimately require replacement to maintain the service capacity of the Panama Canal. Such regulations may also provide that depreciation of such assets be recorded ratably over their service lives.

(Pub. L. 96–70, title I, §1311, Sept. 27, 1979, 93 Stat. 479; Pub. L. 104–201, div. C, title XXXV, §3541(a), Sept. 23, 1996, 110 Stat. 2866.)

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–201 substituted "chapter 91 of title 31" for "the Accounting and Auditing Act of 1950 (31 U.S.C. 65 et seq.)".

§3722. Repealed. Pub. L. 104–66, title II, §2201(a), Dec. 21, 1995, 109 Stat. 732

Section, Pub. L. 96–70, title I, §1312, Sept. 27, 1979, 93 Stat. 479, related to annual reports to President and Congress.

§3723. Audits

(a) Financial transactions of Commission; access to books, accounts, etc.

Notwithstanding any other provision of law, and subject to subsection (c), financial transactions of the Commission shall be audited by the Comptroller General of the United States (hereinafter in this chapter referred to as the "Comptroller General"). In conducting any such audit, the appropriate representatives of the Comptroller General shall have access to all books, accounts, financial records, reports, files, and other papers, items, or property in use by the Commission and necessary to facilitate such audit, and such representatives shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians. Any such audit shall first be conducted with respect to the fiscal year in which this chapter becomes effective. An audit performed under this section is subject to the requirements of paragraphs (2), (3), and (5) of section 9105(a) of title 31.

(b) Omitted

(c) Independent auditors

At the discretion of the Board provided for in section 3612 of this title, the Commission may hire independent auditors to perform, in lieu of the Comptroller General, the audit and reporting functions prescribed in subsections (a) and (b).

(d) Examination and report on Commission's financial forecast

In addition to auditing the financial statements of the Commission, the Comptroller General (or the independent auditor if one is employed pursuant to subsection (c)) shall, in accordance with standards for an examination of a financial forecast established by the American Institute of Certified Public Accountants, examine and report on the Commission's financial forecast that it will be in a position to meet its financial liabilities on December 31, 1999.

(Pub. L. 96–70, title I, §1313, Sept. 27, 1979, 93 Stat. 479; Pub. L. 104–106, div. C, title XXXV, §3526(a), Feb. 10, 1996, 110 Stat. 640; Pub. L. 104–201, div. C, title XXXV, §§3541(b), 3546(a)(9), (b), Sept. 23, 1996, 110 Stat. 2867, 2868; Pub. L. 105–261, div. C, title XXXV, §3512(a)(3), Oct. 17, 1998, 112 Stat. 2271.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this Act", meaning Pub. L. 96–70, Sept. 27, 1979, 93 Stat. 452, known as the Panama Canal Act of 1979, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of this title

and Tables.

CODIFICATION

Subsec. (b) of this section, which required the Comptroller General, not later than six months after the end of each fiscal year, to submit to Congress a report of the audit conducted pursuant to subsec. (a) of this section, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 4 of House Document No. 103–7.

AMENDMENTS

1998—Subsecs. (a), (b), (d). Pub. L. 105–261 substituted "subsection (c)" for "subsection (d)".

1996—Pub. L. 104–106, §3526(a)(1), substituted "Audits" for "Audit by the Comptroller General of the United States" as section catchline.

Subsec. (a). Pub. L. 104–201, §3541(b), which directed substitution of "chapter 91 of title 31" for "the Accounting and Auditing Act of 1950 (31 U.S.C. 65 et seq.)", could not be executed because that phrase did not appear subsequent to amendment by Pub. L. 104–106, §3526(a)(2)(B). See below.

Pub. L. 104–106, §3526(a)(2), substituted "Notwithstanding any other provision of law, and subject to subsection (d), financial transactions" for "Financial transactions", struck out "pursuant to the Accounting and Auditing Act of 1950 (31 U.S.C. 65 et seq.)" after "as the 'Comptroller General')", substituted "conducting any such audit" for "conducting any audit pursuant to such Act" and "Any such audit shall first" for "An audit pursuant to such Act shall first", and inserted at end "An audit performed under this section is subject to the requirements of paragraphs (2), (3), and (5) of section 9105(a) of title 31."

Subsec. (b). Pub. L. 104–106, §3526(a)(3), substituted "Subject to subsection (d) of this section, the Comptroller General" for "The Comptroller General" in introductory provisions.

Subsec. (c). Pub. L. 104–201, §3546(b), redesignated subsec. (d) as (c).

Pub. L. 104–201, §3546(a)(9), struck out subsec. (c) which read as follows: "In conducting the audits and preparing the reports provided for in this section and in carrying out his other responsibilities pursuant to law, the Comptroller General shall, with respect to fiscal year 1980, take into account the problems inherent in converting the existing accounting system of the Panama Canal Company to conform to the requirements established in section 3721 of this title. Accordingly, the Comptroller General shall take no adverse action with respect to the Commission, nor shall any violation of sections 1341, 1342, and 1349–1351 and subchapter II of chapter 15 of title 31 be considered to have taken place, so long as the Commission is in substantial compliance with the requirements of this chapter. The Comptroller General shall make such recommendations to the Commission and to the Congress as he may consider appropriate to insure that full compliance with the financial controls provided for in chapter 91 of title 31 is achieved promptly."

Pub. L. 104–201, §3541(b), substituted "chapter 91 of title 31" for "the Accounting and Auditing Act of 1950 (31 U.S.C. 65 et seq.)".

Subsec. (d). Pub. L. 104–201, §3546(b), redesignated subsec. (e) as (d). Former subsec. (d) redesignated (c).

Pub. L. 104–106, §3526(a)(4), added subsec. (d).

Subsec. (e). Pub. L. 104–201, §3546(b), redesignated subsec. (e) as (d).

Pub. L. 104–106, §3526(a)(4), added subsec. (e).

SUBPART III—INTERAGENCY ACCOUNTS

§3731. Reimbursements

(a) Reimbursement of the Employees' Compensation Fund, Bureau of Employees' Compensation, Department of Labor, and other Government departments and agencies by Commission

The Commission shall reimburse the Employees' Compensation Fund, Bureau of Employee's Compensation, Department of Labor, for the benefit payments to the Commission's employees, and shall also reimburse other Government departments and agencies for payments of a similar nature made on its behalf.

(b) Reimbursement of Commission by Department of Defense

The Department of Defense shall reimburse the Commission for amounts expended by the Commission in maintaining defense facilities in standby condition for the Department of Defense.

(c) Designation of funds of Department of Defense or any other department or agency of United States to carry out purposes of this subsection

Notwithstanding any other provision of law, funds appropriated (for any fiscal year beginning after September 30, 1979) to or for the use of the Department of Defense, or to any other department or agency of the United States as may be designated by the President to carry out the purposes of this subsection, shall be available for—

(1) conducting the educational and health care activities, including kindergartens and college, carried out by the Canal Zone Government and the Panama Canal Company before October 1, 1979, and

(2) providing the services related thereto to the categories of persons to which such services were provided before October 1, 1979.

Notwithstanding any other provision of law, the Department of Defense, or any department or agency designated by the President to provide health care services to those categories of persons referred to in this subsection, shall provide such services to such categories of persons on a basis no less favorable than that applied to its own employees and their dependents.

(d) Reimbursement to departments or agencies furnishing services

Amounts expended for furnishing services referred to in subsection (c) of this section to persons eligible to receive them, less amounts payable by such persons, shall be fully reimbursable to the department or agency furnishing the services, except to the extent that such expenditures are the responsibility of that department or agency. The funds of the Commission shall be available for such reimbursements on behalf of—

(1) employees of the Commission, and

(2) other persons authorized to receive such services who are eligible to receive them pursuant to the Panama Canal Treaty of 1977 and related agreements.

The appropriations or funds of any other department or agency of the United States conducting operations in the Republic of Panama, including the Smithsonian Institution, shall be available for reimbursements on behalf of employees of such department or agency and their dependents.

(e) Repealed. Pub. L. 105–261, div. C, title XXXV, §3507(a), Oct. 17, 1998, 112 Stat. 2269

(f) Reimbursement of United States by Republic of Panama for salaries and other employment costs

For purposes of the reimbursement of the United States by the Republic of Panama for the salaries and other employment costs of employees of the Commission who are assigned to assist the Republic of Panama in the operation of activities which are transferred to that Government as a result of any provision of the Panama Canal Treaty of 1977 and related agreements, which reimbursement is provided for in paragraph 8 of Article 10 of that Treaty, the Commission shall be deemed to be the United States of America.

(g) Operation of Canal Zone College

Notwithstanding any other provision of law, the President, through the appropriate department or agency of the United States, shall, until January 1, 2000, operate the educational institution known as the "Canal Zone College". Such institution shall continue to provide, insofar as practicable, the level of services which it offered immediately before October 1, 1979.

(h) Prohibition of funds for uses other than Commission activities

Except as expressly provided in this chapter, funds available to the Panama Canal Commission may not be made available to any other agency as that term is defined in section 551 of title 5, nor may funds be authorized or appropriated for any function other than Panama Canal Commission

activities.

(Pub. L. 96–70, title I, §1321, Sept. 27, 1979, 93 Stat. 480; Pub. L. 99–223, §5(c), Dec. 28, 1985, 99 Stat. 1739; Pub. L. 100–705, §8, Nov. 19, 1988, 102 Stat. 4686; Pub. L. 102–484, div. C, title XXXV, §3512, Oct. 23, 1992, 106 Stat. 2655; Pub. L. 103–337, div. C, title XXXVI, §3604, Oct. 5, 1994, 108 Stat. 3112; Pub. L. 104–106, div. C, title XXXV, §3529(3), Feb. 10, 1996, 110 Stat. 642; Pub. L. 104–201, div. C, title XXXV, §3542, Sept. 23, 1996, 110 Stat. 2867; Pub. L. 105–85, div. C, title XXXV, §§3525(b), 3550(d)(2)(A), (B), Nov. 18, 1997, 111 Stat. 2066, 2074; Pub. L. 105–261, div. C, title XXXV, §3507(a), Oct. 17, 1998, 112 Stat. 2269.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (h), was in the original "this Act", meaning Pub. L. 96–70, Sept. 27, 1979, 93 Stat. 452, known as the Panama Canal Act of 1979, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of this title and Tables.

AMENDMENTS

1998—Subsec. (e). Pub. L. 105–261 struck out subsec. (e) which provided that appropriations or funds of the Commission or of any other department or agency of the United States conducting operations in the Republic of Panama were available to defray the cost of certain health care services and educational services.

1997—Subsec. (c)(1). Pub. L. 105–85, §3550(d)(2)(A), substituted "October 1, 1979" for "the effective date of this Act".

Subsec. (c)(2). Pub. L. 105–85, §3550(d)(2)(B), substituted "October 1, 1979" for "such effective date".

Subsec. (e)(2). Pub. L. 105–85, §3525(b), substituted ", to other Commission employees when determined by the Commission to be necessary for their recruitment or retention, and to other persons" for "and persons".

1996—Subsec. (d). Pub. L. 104–106 struck out "appropriations or" before "funds of the Commission" in introductory provisions.

Subsec. (e). Pub. L. 104–201 inserted concluding provisions "Notwithstanding the provisions relating to the availability of adequate schools contained in section 5924(4)(A) of title 5, the Commission shall by regulation determine the extent to which costs of educational services may be defrayed under this subsection."

1994—Subsec. (e)(2). Pub. L. 103–337 inserted "or the United States" after "schools in the Republic of Panama".

1992—Subsec. (e)(1). Pub. L. 102–484 inserted "provided by medical facilities licensed and approved by the Republic of Panama (and not operated by the United States)" after "health care services".

1988—Subsec. (h). Pub. L. 100–705 added subsec. (h).

1985—Subsec. (e). Pub. L. 99–223 amended subsec. (e) generally, striking out ", in accordance with subsection (d) of this section," after "shall be available" in provisions preceding par. (1) and inserting "employees of the Commission who are citizens of the United States and" in par. (2).

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–261, div. C, title XXXV, §3507(a), Oct. 17, 1998, 112 Stat. 2269, provided that the amendment made by section 3507(a) striking out subsec. (e) of this section is effective 11:59 p.m. (Eastern Standard Time), Dec. 30, 1999, and any right or condition of employment provided for in, or arising from, subsec. (e) of this section is terminated.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–705 effective Oct. 1, 1988, see section 10 of Pub. L. 100–705, set out as a note under section 3612 of this title.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–223 effective Oct. 1, 1985, see section 8 of Pub. L. 99–223, set out as a note under section 3612 of this title.

SUBPART IV—POSTAL MATTERS

§3741. Postal service

(a) Possession or administration of funds by Commission

The Commission shall take possession of and administer the funds of the Canal Zone postal service and shall assume its obligations.

(b) Expiration of responsibility for unpaid balances

Effective December 1, 1999, neither the Commission nor the United States Government shall be responsible for the distribution of any accumulated unpaid balances relating to Canal Zone postal-savings deposits, postal-savings certificates, and postal money orders.

(c) Mail addressed to Canal Zone from or through United States

Mail addressed to the Canal Zone from or through the continental United States may be routed by the United States Postal Service to the military post offices of the United States Armed Forces in the Republic of Panama. Such military post offices shall provide the required directory services and shall accept such mail to the extent permitted under the Panama Canal Treaty of 1977 and related agreements. The Commission shall furnish personnel, records, and other services to such military post offices to assure wherever appropriate the distribution, rerouting, or return of such mail.

(Pub. L. 96–70, title I, §1331, Sept. 27, 1979, 93 Stat. 481, 482; Pub. L. 104–201, div. C, title XXXV, §3543, Sept. 23, 1996, 110 Stat. 2867.)

AMENDMENTS

1996—Pub. L. 104–201 reenacted section catchline without change and amended text generally. Prior to amendment, text was comprised of subsecs. (a) to (d) of section 1331 of Pub. L. 96–70 which provided for discontinuation of postal service under former Canal Zone Code, savings provision, possession and administration of postal funds by Commission, and handling of mail addressed to the Canal Zone. Prior to amendment, section 1331 also contained a subsec. (e) which amended sections 403, 3401, 3402, and 3682 of Title 39, Postal Service.

SUBPART V—ACCOUNTS WITH REPUBLIC OF PANAMA

§3751. Payments to Republic of Panama

(a) Payments required under Panama Canal Treaty; annual audit

The Commission shall pay to the Republic of Panama those payments required under paragraph 5 of Article III and paragraph 4 of Article XIII of the Panama Canal Treaty of 1977. Payments made under paragraph 5 of Article III of such Treaty shall be audited annually by the Comptroller General and any overpayment, as determined in accordance with Understanding (1) incorporated in the Resolution of Ratification of the Panama Canal Treaty (adopted by the United States Senate on April 18, 1978), for the services described in that paragraph which are provided shall be refunded by the Republic of Panama or set off against amounts payable by the United States to the Republic of Panama under paragraph 5 of Article III of the Panama Canal Treaty of 1977.

(b) Excess operating revenues

In determining whether operating revenues exceed expenditures for the purpose of payments to the Republic of Panama under paragraph 4(c) of Article XIII of the Panama Canal Treaty of 1977, such operating revenues in a fiscal period shall be reduced by (1) all costs of such period as shown by the accounts established pursuant to section 3721 of this title, and (2) the cumulative sum from prior years (beginning with the year in which the Panama Canal Treaty of 1977 enters into force) of any excess of costs of the Panama Canal Commission over operating revenues.

(c) Retroactive taxation

The President shall not accede to any interpretation of paragraph 1 of Article IX of the Panama

Canal Treaty of 1977 which would permit the Republic of Panama to tax retroactively organizations and businesses operating, and citizens of the United States living, in the Canal Zone before October 1, 1979.

(d) Accumulated unpaid balances

Any accumulated unpaid balance under paragraph 4(c) of Article XIII of the Panama Canal Treaty of 1977 at the termination of such Treaty shall be payable only to the extent of any operating surplus in the last year of the Treaty's duration, and nothing in such paragraph may be construed as obligating the United States to pay after the date of the termination of the Treaty any such unpaid balance which has accrued before such date.

(e) Toll rates; payment of costs of operation and maintenance of canal with unexpended funds

As provided in section 3792(b) of this title, tolls shall not be prescribed at rates calculated to cover payments to the Republic of Panama pursuant to paragraph 4(c) of Article XIII of the Panama Canal Treaty of 1977. Moreover, no payments may be made to the Republic of Panama under paragraph 4(c) of Article XIII of the Panama Canal Treaty of 1977 unless unexpended funds are used to pay all costs of operation and maintenance of the canal, including but not limited to (1) operating expenses determined in accordance with generally accepted accounting principles, (2) payments to the Republic of Panama under paragraphs 4(a) and 4(b) of such Article XIII and under paragraph (5) of Article III of such Treaty, (3) amounts in excess of depreciation and amortization which are programed for plant replacement, expansion, and improvements, (4) payments to the Treasury of the United States under section 3793 of this title, (5) reimbursement to the Treasury of the United States for costs incurred by other departments and agencies of the United States in providing educational, health, and other services to the Commission, its employees and their dependents, and other categories of persons in accordance with section 3731 of this title, (6) any costs of Treaty implementation associated with the maintenance and operation of the Panama Canal, and (7) amounts programmed to meet working capital requirements.

(f) Prohibitions

The prohibitions contained in this section and in sections 3712(b) and 3783 of this title shall apply notwithstanding any other provision of law authorizing transfers of funds between accounts, reprograming of funds, use of funds for contingency purposes, or waivers of prohibitions.

(g) Exemption from automatic budget cuts

Notwithstanding any other provision of law, no reduction under any order issued pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985 shall apply to the Commission if the implementation of such an order would result in a payment to the Republic of Panama under paragraph 4(c) of article XIII of the Panama Canal Treaty of 1977 and this section.

(Pub. L. 96–70, title I, §1341, Sept. 27, 1979, 93 Stat. 482; Pub. L. 99–368, §6, Aug. 1, 1986, 100 Stat. 776; Pub. L. 100–203, title V, §5426, Dec. 22, 1987, 101 Stat. 1330–274; Pub. L. 104–201, div. C, title XXXV, §3548(b)(3), Sept. 23, 1996, 110 Stat. 2869; Pub. L. 105–85, div. C, title XXXV, §3550(d)(7), Nov. 18, 1997, 111 Stat. 2074; Pub. L. 105–261, div. C, title XXXV, §3512(b), Oct. 17, 1998, 112 Stat. 2271.)

REFERENCES IN TEXT

The Balanced Budget and Emergency Deficit Control Act of 1985, referred to in subsec. (g), is title II of Pub. L. 99–177, Dec. 12, 1985, 99 Stat. 1038, as amended, which enacted chapter 20 (§900 et seq.) and sections 654 to 656 of Title 2, The Congress, amended sections 602, 622, 631 to 642, and 651 to 653 of Title 2, sections 1104 to 1106, and 1109 of Title 31, Money and Finance, and section 911 of Title 42, The Public Health and Welfare, repealed section 661 of Title 2, enacted provisions set out as notes under section 900 of Title 2 and section 911 of Title 42, and amended provisions set out as a note under section 621 of Title 2. For complete classification of this Act to the Code, see Short Title note set out under section 900 of Title 2 and Tables.

AMENDMENTS

1998—Subsec. (f). Pub. L. 105–261 made technical correction to Pub. L. 104–201. See 1996 Amendment

note below.

1997—Subsec. (f). Pub. L. 105–85, which directed substitution of "sections 3712(b)" for "sections 3712(c)", could not be executed because the words "sections 3712(c)" did not appear subsequent to amendment by Pub. L. 104–201, as amended by Pub. L. 105–261. See 1996 and 1998 Amendments notes below and above.

1996—Subsec. (f). Pub. L. 104–201, as amended by Pub. L. 105–261, substituted "sections 3712(b)" for "sections 3712(c)".

1987—Subsec. (e)(7). Pub. L. 100–203 added cl. (7).

1986—Subsec. (g). Pub. L. 99–368 added subsec. (g).

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–261, div. C, title XXXV, §3512(b), Oct. 17, 1998, 112 Stat. 2271, provided that the amendment made by section 3512(b) is effective as of Sept. 23, 1996, and as if included in section 3548(b)(3) of the Panama Canal Act Amendments of 1996, Pub. L. 104–201, as enacted.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–203 effective Jan. 1, 1988, see section 5429 of Pub. L. 100–203, set out as a note under section 3712 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99–368, §7, Aug. 1, 1986, 100 Stat. 777, provided that: "The amendment made by section 6 [amending this section] shall take effect with respect to fiscal year 1986 and subsequent fiscal years."

§3752. Transactions with Republic of Panama

(a) Commission assistance on reimbursable basis

The Commission may, on a reimbursable basis, provide to the Republic of Panama materials, supplies, equipment, work, or services, including water and electric power, requested by the Republic of Panama, at such rates as may be agreed upon by the Commission and the Republic of Panama. Payment for such materials, supplies, equipment, work, or services may be made by direct payment by the Republic of Panama to the Commission or by offset against amounts due the Republic of Panama by the United States.

(b) Commission assistance on nonreimbursable basis

The Commission may provide office space, equipment, supplies, personnel, and other in-kind services to the Panama Canal Authority on a nonreimbursable basis.

(c) Other department of agency assistance on reimbursable basis

Any executive department or agency of the United States may, on a reimbursable basis, provide to the Panama Canal Authority materials, supplies, equipment, work, or services requested by the Panama Canal Authority, at such rates as may be agreed upon by that department or agency and the Panama Canal Authority.

(Pub. L. 96–70, title I, §1342, Sept. 27, 1979, 93 Stat. 483; Pub. L. 105–85, div. C, title XXXV, §3542, Nov. 18, 1997, 111 Stat. 2072.)

AMENDMENTS

1997—Pub. L. 105–85 designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

§3753. Disaster relief

If an emergency arises because of disaster or calamity by flood, hurricane, earthquake, fire, pestilence, or like cause, not foreseen or otherwise provided for, and occurring in the Republic of Panama in such circumstances as to constitute an actual or potential hazard to health, safety, security, or property in the areas and installations made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements, the Commission may expend funds available to the

Commission for such purpose, and utilize or furnish materials, supplies, equipment, and services for relief, assistance, and protection.

(Pub. L. 96–70, title I, §1343, Sept. 27, 1979, 93 Stat. 483; Pub. L. 100–203, title V, §5428(b), Dec. 22, 1987, 101 Stat. 1330–274.)

AMENDMENTS

1987—Pub. L. 100–203 substituted "funds available" for "available funds appropriated".

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–203 effective Jan. 1, 1988, see section 5429 of Pub. L. 100–203, set out as a note under section 3712 of this title.

§3754. Congressional restraints on property transfers and tax expenditures; formal apprisal of Panama

(a) The Congress enacts this section in the exercise of its authority under Article IV, section 3, clause 2 of the Constitution of the United States to dispose of and make necessary rules and regulations with respect to property of the United States.

(b) Prior to the transfer of property of the United States located in the Republic of Panama to the Republic of Panama pursuant to section 3784 of this title the President shall formally advise the Government of Panama that—

(1) in fulfilling its obligations under the Panama Canal Treaty of 1977, the United States shall make no payments to the Republic of Panama derived from tax revenues of the United States;

(2) the United States retains full discretion and authority to determine whether and the extent to which tax revenues of the United States may be expended in exercising United States rights and carrying out United States responsibilities under the Panama Canal Treaty of 1977 and related agreements;

(3) no tax revenues of the United States shall be made available for obligations and expenditure after October 1, 1979, for purposes of implementing the Panama Canal Treaty of 1977 and related agreements, unless hereafter specifically approved by the Congress through the authorization and appropriation process;

(4) the total amount expended by the Commission from funds available for the use of the Commission shall not exceed the total amount deposited in the Panama Canal Revolving Fund; and

(5) the foregoing paragraphs of this subsection do not apply to expenditures made by the United States in fulfilling United States obligations to transfer the remains of our honored dead from Mount Hope Cemetery in the former Canal Zone to an appropriate and dignified resting place in accordance with Reservation 3 to the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal.

(Pub. L. 96–70, title I, §1344, Sept. 27, 1979, 93 Stat. 484; Pub. L. 100–203, title V, §5428(c), Dec. 22, 1987, 101 Stat. 1330–274.)

AMENDMENTS

1987—Subsec. (b)(4). Pub. L. 100–203 substituted "available" for "appropriated to or" and "Panama Canal Revolving Fund" for "Panama Canal Commission Fund".

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–203 effective Jan. 1, 1988, see section 5429 of Pub. L. 100–203, set out as a note under section 3712 of this title.

DELEGATION OF FUNCTIONS

Functions vested in President by subsec. (b) delegated to Secretary of State, see section 1–402 of Ex. Ord. No. 12215, May 27, 1980, 45 F.R. 36044, set out as a note under section 3601 of this title.

PART 4—CLAIMS FOR INJURIES TO PERSONS OR PROPERTY

SUBPART I—GENERAL PROVISIONS

§3761. Settlement of claims generally

(a) Claims for injury to, or loss of, property or personal injury or death arising from operation of Panama Canal

Subject to the provisions of this part, the Commission may adjust and pay claims for injury to, or loss of, property or for personal injury or death, arising from the operation of the Panama Canal or related facilities and appurtenances.

(b) Limitation on amount of claims

The Commission may pay not more than $50,000 on any claim described in subsection (a).

(c) Source of award; release

An award made to a claimant under this section shall be payable out of any moneys made available to the Commission. The acceptance by the claimant of the award shall be final and conclusive on the claimant, and shall constitute a complete release by the claimant of his claim against the United States and against any employee of the United States acting in the course of his employment who is involved in the matter giving rise to the claim.

(d) Action for damages on claims cognizable under this part; action against officers or employees of United States for injuries resulting from acts outside scope of their employment

Except as provided in section 3776 of this title, no action for damages on claims cognizable under this part shall lie against the United States or the Commission, and no such action shall lie against any officer or employee of the United States. Neither this section nor section 3776 of this title shall preclude actions against officers or employees of the United States for injuries resulting from their acts outside the scope of their employment or not in the line of their duties, or from their acts committed with the intent to injure the person or property of another.

(e) Applicability of provisions of section 1346 and chapter 171 of title 28

The provisions of section 1346(b) of title 28 and the provisions of chapter 171 of such title shall not apply to claims cognizable under this part.

(Pub. L. 96–70, title I, §1401, Sept. 27, 1979, 93 Stat. 484; Pub. L. 100–203, title V, §5417(a), Dec. 22, 1987, 101 Stat. 1330–271; Pub. L. 104–106, div. C, title XXXV, §3529(4), Feb. 10, 1996, 110 Stat. 642.)

AMENDMENTS

1996—Subsec. (c). Pub. L. 104–106 struck out "appropriated for or" after "any moneys".

1987—Subsec. (b). Pub. L. 100–203 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "No claim for an amount exceeding $50,000 shall be adjusted and paid by the Commission under the provisions of this subpart."

SUBPART II—VESSEL DAMAGE

§3771. Injuries in locks of canal; adjustment and payment of claims

(a) Subject to section 3779(b) of this title and to subsection (b) of this section, the Commission shall promptly adjust and pay damages for injuries to vessels, or to the cargo, crew, or passengers of vessels, which may arise by reason of their passage through the locks of the Panama Canal when the injury was proximately caused by negligence or fault on the part of an officer or employee of the United States acting within the scope of his employment and in the line of his duties in connection with the operation of the Canal. If the negligence or fault of the vessel, master, crew, or passengers proximately contributed to the injury, the award of damages shall be diminished in proportion to the negligence or fault attributable to the vessel, master, crew, or passengers. Damages may not be allowed and paid for injuries to any protrusion beyond any portion of the hull of a vessel, whether it is permanent or temporary in character. A vessel is considered to be passing through the locks of the Canal, under the control of officers or employees of the United States, from the time the first towing line is made fast on board before entrance into the locks and until the towing lines are cast off upon, or immediately prior to, departure from the lock chamber. No payment for damages on a claim may be made under this section unless the claim is filed with the Commission within one year after the date of the injury or by November 18, 1998, whichever is later.

(b)(1) With respect to a claim under subsection (a) for damages for injuries to a vessel or its cargo, if, at the time the injuries were incurred, the navigation or movement of the vessel was not under the control of a Panama Canal pilot, the Commission may pay not more than $50,000 on the claim, unless the injuries were caused by another vessel under the control of a Panama Canal pilot.

(2) The provisions of subsections (c) through (e) of section 3761 of this title shall apply to any claim described in paragraph (1).

(Pub. L. 96–70, title I, §1411, Sept. 27, 1979, 93 Stat. 485; Pub. L. 99–209, §2(a), (b), Dec. 23, 1985, 99 Stat. 1716; Pub. L. 100–203, title V, §5417(b), Dec. 22, 1987, 101 Stat. 1330–271; Pub. L. 105–85, div. C, title XXXV, §3543(a), Nov. 18, 1997, 111 Stat. 2072; Pub. L. 105–261, div. C, title XXXV, §§3509(a)(1), 3512(a)(4), Oct. 17, 1998, 112 Stat. 2269, 2271.)

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–261 inserted "to section 3779(b) of this title and" after "Subject" in first sentence and substituted "by November 18, 1998" for "November 18, 1997".

1997—Subsec. (a). Pub. L. 105–85 substituted "within one year after the date of the injury or November 18, 1997," for "within 2 years after the date of the injury, or within 1 year after December 23, 1985,".

1987—Subsec. (b)(1). Pub. L. 100–203 substituted "pay not more than $50,000 on the claim" for "adjust and pay the claim only if the amount of the claim does not exceed $50,000".

1985—Subsec. (a). Pub. L. 99–209, §2(a), designated existing provisions as subsec. (a), substituted "Subject to subsection (b) of this section, the" for "The", substituted "the Panama Canal when the injury was proximately caused by negligence or fault on the part of an officer or employee of the United States acting within the scope of his employment and in the line of his duties in connection with the operation of the Canal" for "The Panama Canal under the control of officers or employees of the United States", struck out provision that damages could not be paid where the injury was proximately caused by the negligence or fault of the vessel, master, crew, or passengers, and inserted provision that no payment for damages on a claim may be made under this section unless the claim is filed with the Commission within 2 years after the date of the injury, or within 1 year after Dec. 23, 1985, whichever is later.

Subsec. (b). Pub. L. 99–209, §2(b), added subsec. (b).

EFFECTIVE DATE OF 1985 AMENDMENT

Pub. L. 99–209, §7, Dec. 23, 1985, 99 Stat. 1718, provided that:

"(a) RETROACTIVE APPLICABILITY.—The amendments made by subsections (a) and (c) of section 2 [amending this section and section 3772 of this title], and the amendments made by sections 4 and 5 of this Act [amending sections 3775 and 3776 of this title], shall apply to any claim arising on or after October 1, 1979.

"(b) FUTURE APPLICABILITY.—

"(1) SECTIONS 3 AND 6.—The amendments made by sections 3 [amending section 3774 of this title] and 6 [enacting section 3779 of this title] of this Act shall apply to any claim arising on or after the date of the enactment of this Act [Dec. 23, 1985].

"(2) SECTION 2(b).—The amendment made by subsection (b) of section 2 [amending this section] shall apply to any claim arising from an incident occurring on or after the date of the enactment of this Act

[Dec. 23, 1985]."

§3772. Injuries outside locks

Subject to section 3779(b) of this title, the Commission shall promptly adjust and pay damages for injuries to vessels, or to the cargo, crew, or passengers of vessels which may arise by reason of their presence in the Panama Canal, or waters adjacent thereto, other than the locks, when the injury was proximately caused by negligence or fault on the part of an officer or employee of the United States acting within the scope of his employment and in the line of his duties in connection with the operation of the Canal. If the negligence or fault of the vessel, master, crew, or passengers proximately contributed to the injury, the award of damages shall be diminished in proportion to the negligence or fault attributable to the vessel, master, crew, or passengers. In the case of a vessel which is required by or pursuant to regulations prescribed pursuant to section 3811 of this title to have a Panama Canal pilot on duty aboard, damages may not be adjusted and paid for injuries to the vessel, or its cargo, crew, or passengers, incurred while the vessel was underway and in motion, unless at the time the injuries were incurred the navigation or movement of the vessel was under the control of a Panama Canal pilot. No payment for damages on a claim may be made under this section unless the claim is filed with the Commission within one year after the date of the injury or by November 18, 1998, whichever is later.

(Pub. L. 96–70, title I, §1412, Sept. 27, 1979, 93 Stat. 485; Pub. L. 99–209, §2(c), Dec. 23, 1985, 99 Stat. 1716; Pub. L. 105–85, div. C, title XXXV, §3543(a), Nov. 18, 1997, 111 Stat. 2072; Pub. L. 105–261, div. C, title XXXV, §§3509(a)(2), 3512(a)(4), Oct. 17, 1998, 112 Stat. 2270, 2271.)

AMENDMENTS

1998—Pub. L. 105–261 substituted "Subject to section 3779(b) of this title, the Commission" for "The Commission" in first sentence and "by November 18, 1998" for "November 18, 1997".

1997—Pub. L. 105–85 substituted "within one year after the date of the injury or November 18, 1997," for "within 2 years after the date of the injury, or within 1 year after December 23, 1985,".

1985—Pub. L. 99–209 struck out provisions limiting the amount of the claim to $120,000, and inserted provision that no payment for damages on a claim may be made under this section unless the claim is filed with the Commission within 2 years after the date of the injury, or within 1 year after Dec. 23, 1985, whichever is later.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–209 applicable to any claim arising on or after Oct. 1, 1979, see section 7(a) of Pub. L. 99–209, set out as a note under section 3771 of this title.

§3773. Measure of damages generally

In determining the amount of the award of damages for injuries to a vessel for which the Commission is determined to be liable, there may be included—

(1) the actual or estimated cost of repairs;

(2) charter hire actually lost by the owners, or charter hire actually paid, depending upon the terms of the charter party, for the time the vessel is undergoing repairs;

(3) maintenance of the vessel and wages of the crew, if they are found to be actual additional expenses or losses incurred outside of the charter hire; and

(4) other expenses which are definitely and accurately shown to have been incurred necessarily and by reason of the accident or injuries.

Agent's fees, or commissions, or other incidental expenses of similar character, or any items which are indefinite, indeterminable, speculative, or conjectural may not be allowed. The Commission shall be furnished such vouchers, receipts, or other evidence as may be necessary in support of any item of a claim. If a vessel is not operated under charter but by the owner directly, evidence shall be secured

if available as to the sum for which vessels of the same size and class can be chartered in the market. If the charter value cannot be determined, the value of the vessel to its owners in the business in which it was engaged at the time of the injuries shall be used as a basis for estimating the damages for the vessel's detention; and the books of the owners showing the vessel's earnings about the time of the accident or injuries shall be considered as evidence of probable earnings during the time of detention. If the books are unavailable, such other evidence shall be furnished as may be necessary.

(Pub. L. 96–70, title I, §1413, Sept. 27, 1979, 93 Stat. 486.)

§3774. Delays for which no responsibility is assumed

The Commission is not responsible, and may not consider any claim, for demurrage or delays caused by—

(1) landslides or other natural causes;

(2) necessary construction or maintenance work on Canal locks, terminals, or equipment;

(3) obstruction arising from accidents;

(4) time necessary for admeasurement;

(5) congestion of traffic;

(6) investigation of a marine accident that is conducted within 24 hours after the accident occurs, except that any liability of the Commission beyond that 24-hour period shall be limited to the extent to which the accident was caused, or contributed to, by the negligence of an employee of the Commission acting within the scope of the employee's official duties; or

(7) except as specially set forth in this subpart, any other cause.

(Pub. L. 96–70, title I, §1414, Sept. 27, 1979, 93 Stat. 486; Pub. L. 99–209, §3, Dec. 23, 1985, 99 Stat. 1717.)

AMENDMENTS

1985—Par. (6). Pub. L. 99–209 amended par. (6) generally. Prior to amendment, par. (6) read as follows: "time necessary for investigation of marine accidents; or".

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–209 applicable to any claim arising on or after Dec. 23, 1985, see section 7(b)(1) of Pub. L. 99–209, set out as a note under section 3771 of this title.

§3775. Settlement of claims

The Commission, by mutual agreement, compromise, or otherwise, may adjust and determine the amounts of the respective awards of damages pursuant to this subpart. Such amounts may be paid only out of money allotted for the maintenance and operation of the Panama Canal. Acceptance by a claimant of the amount awarded to him shall be deemed to be in full settlement of such claim against the Government of the United States.

(Pub. L. 96–70, title I, §1415, Sept. 27, 1979, 93 Stat. 486; Pub. L. 99–209, §4, Dec. 23, 1985, 99 Stat. 1717; Pub. L. 104–106, div. C, title XXXV, §3529(5), Feb. 10, 1996, 110 Stat. 642.)

AMENDMENTS

1996—Pub. L. 104–106 struck out "appropriated or" after "out of money" in second sentence.

1985—Pub. L. 99–209 struck out the subsec. (a) designation, substituted "The Commission, by" for "Subject to subsection (b) of this section, the Commission, by" and "Such amounts may be paid only out of money appropriated or allotted for the maintenance and operation of the Panama Canal" for "Such amounts shall be payable promptly out of any moneys appropriated or allotted for the maintenance and operation of the Panama Canal", and struck out subsec. (b) which provided that the Commission could not adjust and pay any claim for damages for injuries arising by reason of the presence of the vessel in the Panama Canal or adjacent waters outside the locks where the amount of the claim exceeded $120,000 but had to submit the claim to the Congress in a special report containing the material facts and the recommendation of the Commission thereon.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–209 applicable to any claim arising on or after Oct. 1, 1979, see section 7(a) of Pub. L. 99–209, set out as a note under section 3771 of this title.

§3776. Actions on claims

Subject to section 3779(b) of this title, a claimant for damages pursuant to section 3771(a) or 3772 of this title who considers himself aggrieved by the findings, determination, or award of the Commission in reference to his claim may bring an action on the claim against the Commission in the United States District Court for the Eastern District of Louisiana. Subject to the provisions of this part and of applicable regulations issued pursuant to section 3811 of this title relative to navigation of the Panama Canal and adjacent waters, such actions shall proceed and be heard by the court without a jury according to the principles of law and rules of practice obtaining generally in like cases between a private party and a department or agency of the United States. Any judgment obtained against the Commission in an action under this subpart may be paid only out of money allotted for the maintenance and operation of the Panama Canal. An action for damages cognizable under this section shall not otherwise lie against the United States or the Commission, nor in any other court, than as provided in this section; nor may it lie against any officer or employee of the United States or of the Commission. Any action on a claim under this section shall be barred unless the action is brought within 180 days after the date on which the Commission mails to the claimant written notification of the Commission's final determination with respect to the claim or by May 17, 1998, whichever is later. Attorneys appointed by the Commission shall represent the Commission in any action arising under this subpart.

(Pub. L. 96–70, title I, §1416, Sept. 27, 1979, 93 Stat. 487; Pub. L. 99–209, §5, Dec. 23, 1985, 99 Stat. 1717; Pub. L. 104–106, div. C, title XXXV, §3529(6), Feb. 10, 1996, 110 Stat. 642; Pub. L. 105–85, div. C, title XXXV, §3543(b), Nov. 18, 1997, 111 Stat. 2072; Pub. L. 105–261, div. C, title XXXV, §§3509(a)(3), 3512(a)(5), Oct. 17, 1998, 112 Stat. 2270, 2271.)

AMENDMENTS

1998—Pub. L. 105–261 substituted "Subject to section 3779(b) of this title, a claimant" for "A claimant" in first sentence and "by May 17, 1998" for "November 18, 1997".

1997—Pub. L. 105–85 substituted "180 days" for "one year" and "claim or November 18, 1997," for "claim, or within one year after December 23, 1985,".

1996—Pub. L. 104–106 struck out "appropriated or" after "out of money" in third sentence.

1985—Pub. L. 99–209 substituted "section 3771(a) or 3772 of this title" for "section 3771 of this title", substituted "may be paid only out out money" for "shall be paid out of any moneys", and inserted provisions that any action on a claim under this section shall be barred unless the action is brought within one year after the date on which the Commission mails to the claimant written notification of the Commission's final determination with respect to the claim, or within one year after Dec. 23, 1985, whichever is later, and that attorneys appointed by the Commission shall represent the Commission in any action arising under this subpart.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–209 applicable to any claim arising on or after Oct. 1, 1979, see section 7(a) of Pub. L. 99–209, set out as a note under section 3771 of this title.

§3777. Investigation of accident or injury giving rise to claim

Notwithstanding any other provision of law, a claim may not be considered under this subpart, or an action for damages lie thereon, unless, prior to the departure from the Panama Canal of the vessel involved—

(1) an investigation of the accident or injury giving rise to the claim has been completed, which shall include a hearing by the Board of Local Inspectors of the Commission; and

(2) the basis for the claim has been laid before the Commission.

(Pub. L. 96–70, title I, §1417, Sept. 27, 1979, 93 Stat. 487; Pub. L. 104–201, div. C, title XXXV, §3544, Sept. 23, 1996, 110 Stat. 2867.)

AMENDMENTS

1996—Par. (1). Pub. L. 104–201 amended par. (1) generally. Prior to amendment, par. (1) read as follows: "an investigation by the competent authorities of the accident or injury giving rise to the claim has been completed; and".

§3778. Board of local inspectors

(a) The President shall provide for the establishment of a Board of Local Inspectors of the Panama Canal Commission which shall perform, in accordance with regulations prescribed by the President—

(1) the investigations required by section 3777 of this title; and

(2) such other duties with respect to marine matters as may be assigned by the President.

(b) In conducting any investigation pursuant to subsection (a) of this section, the Board of Local Inspectors established pursuant to such subsection may summon witnesses, administer oaths, and require the production of books and papers necessary for such investigation.

(Pub. L. 96–70, title I, §1418, Sept. 27, 1979, 93 Stat. 487.)

DELEGATION OF FUNCTIONS

Functions vested in President by this section delegated to Secretary of Defense, see section 1–303 of Ex. Ord. No. 12215, May 27, 1980, 45 F.R. 36044, set out as a note under section 3601 of this title.

§3779. Insurance

(a) The Commission is authorized to purchase insurance to protect the Commission against major and unpredictable revenue losses or expenses arising from catastrophic marine accidents or other unpredictable events.

(b)(1) The Commission may by regulation require as a condition of transit through the Panama Canal or presence in the Panama Canal or waters adjacent thereto that any potential claimant under section 3771 or 3772 of this title be covered by insurance against the types of injuries described in those sections. The amount of insurance so required shall be specified in those regulations, but may not exceed $1,000,000.

(2) In a claim under section 3771 or 3772 of this title for which the Commission has required insurance under this subsection, the Commission's liability shall be limited to the amount of damages in excess of the amount of insurance required by the Commission.

(3) In regulations under this subsection, the Commission may prohibit consideration or payment by it of claims presented by or on behalf of an insurer or subrogee of a claimant in a case for which the Commission has required insurance under this subsection.

(Pub. L. 96–70, title I, §1419, as added Pub. L. 99–209, §6(a), Dec. 23, 1985, 99 Stat. 1717; amended Pub. L. 100–203, title V, §5414, Dec. 22, 1987, 101 Stat. 1330–270; Pub. L. 105–261, div. C, title XXXV, §3509(b), Oct. 17, 1998, 112 Stat. 2270.)

AMENDMENTS

1998—Pub. L. 105–261 designated existing provisions as subsec. (a) and added subsec. (b).

1987—Pub. L. 100–203 inserted "or other unpredictable events" after "marine accidents".

EFFECTIVE DATE

Section applicable to any claim arising on or after Dec. 23, 1985, see section 7(b)(1) of Pub. L. 99–209, set out as an Effective Date of 1985 Amendment note under section 3771 of this title.

PART 5—PUBLIC PROPERTY

§3781. Assets and liabilities of Panama Canal Company

All property and other assets of the Panama Canal Company shall revert to the United States on October 1, 1979, and, except as otherwise provided by law, the United States shall assume the liabilities, including contractual obligations, of the Panama Canal Company then outstanding. The Commission may use such property, facilities, and records of the Panama Canal Company as are necessary to carry out its functions.

(Pub. L. 96–70, title I, §1501, Sept. 27, 1979, 93 Stat. 487.)

§3782. Transfers and cross-servicing between agencies

(a) Transfers of facilities, buildings, structures, improvements, stocks and equipment located in the Republic of Panama

In the interest of economy and maximum efficiency in the utilization of property and facilities of the United States, there are authorized to be transferred between departments and agencies of the United States, with or without reimbursement, such facilities, buildings, structures, improvements, stock, and equipment located in the Republic of Panama, and used for their activities therein, as may be mutually agreed upon by the departments and agencies involved and approved by the President of the United States or his designee.

(b) Cross-servicing agreements

The Commission may enter into cross-servicing agreements with any other department or agency of the United States for the use of facilities, furnishing of services, or performance of functions.

(c) Transfer of records to Government of Republic of Panama

The Commission, any department or agency of the United States, or any United States court in the Republic of Panama is authorized to transfer to the Government of the Republic of Panama any record of such Commission, department, agency, or court, or copy thereof, including any record acquired from the Canal Zone Government or Panama Canal Company (including any vital statistics record), to any other department, agency, or court of the United States if such action is determined by the Commission, the head of the department or agency concerned, or the judge of the court concerned to be in the interest of the United States. Transfer of any record or copy thereof under this section to the Government of the Republic of Panama shall be made under the coordination of and with the approval of the United States Ambassador to the Republic of Panama.

(d) Applicability to Smithsonian Institution

The provisions of this section shall apply to the Smithsonian Institution.

(Pub. L. 96–70, title I, §1502, Sept. 27, 1979, 93 Stat. 488.)

DELEGATION OF FUNCTIONS

Functions vested in President by subsec. (a) of this section delegated to Secretary of Defense, see section 1–106 of Ex. Ord. No. 12215, May 27, 1980, 45 F.R. 36043, set out as a note under section 3601 of this title.

§3783. Disposition of property of United States

No property of the United States located in the Republic of Panama may be disposed of except pursuant to law enacted by the Congress.

(Pub. L. 96–70, title I, §1503, Sept. 27, 1979, 93 Stat. 488.)

§3784. Transfer of property to Republic of Panama

(a) Conveyance of Panama Railroad

(1) On October 1, 1979, the Secretary of State may convey to the Republic of Panama the Panama Railroad and such property located in the area which, immediately before such date, comprised the Canal Zone and which is not within the land and water areas the use of which is made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements.

(2) Property transferred pursuant to paragraph (1) of this subsection may not include buildings and other facilities, except housing, located outside such areas, the use of which is retained by the United States pursuant to the Panama Canal Treaty of 1977 and related agreements.

(b) Transfer of certain property pursuant to Panama Canal Treaty of 1977; report to Congress

With respect to the transfer of all other property (not described in subsection (a)(1) of this section) to be transferred in accordance with the terms of the Panama Canal Treaty of 1977 and related agreements, the Secretary of State may convey such property from time to time in accordance with the terms of such Treaty and related agreements. Before the transfer of any such property, the President must submit a written report to the Congress—

(1) precisely identifying and describing the particular property to be transferred;

(2) certifying the state of compliance by the Republic of Panama with such Treaty and related agreements; and

(3) setting forth the reasons for the conveyance being made at the particular time.

(c) Restriction on transfer of Panama Canal and certain other property

The Panama Canal, and such other property referred to in paragraph 2(d) of Article XIII of the Panama Canal Treaty of 1977 that has not been previously transferred in accordance with paragraphs 2(a), 2(b), and 2(c) of such Article, shall not be transferred to the Republic of Panama prior to December 31, 1999.

(Pub. L. 96–70, title I, §1504, Sept. 27, 1979, 93 Stat. 488; Pub. L. 99–223, §7, Dec. 28, 1985, 99 Stat. 1740.)

AMENDMENTS

1985—Subsec. (b). Pub. L. 99–223 substituted "Before" for "At least 180 days before".

DELEGATION OF FUNCTIONS

Functions vested in President by subsec. (b) delegated to Secretary of State, see section 1–402 of Ex. Ord. No. 12215, May 27, 1980, 45 F.R. 36044, set out as a note under section 3601 of this title.

PART 6—TOLLS FOR USE OF PANAMA CANAL

§3791. Prescription of measurement rules and rates of tolls

The Commission may, subject to the provisions of this chapter, prescribe and from time to time change—

(1) the rules for the measurement of vessels for the Panama Canal; and

(2) the tolls that shall be levied for use of the Panama Canal.

(Pub. L. 96–70, title I, §1601, Sept. 27, 1979, 93 Stat. 489; Pub. L. 104–106, div. C, title XXXV, §3527, Feb. 10, 1996, 110 Stat. 641.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 96–70, Sept. 27, 1979, 93 Stat. 452, known as the Panama Canal Act of 1979, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of this title and

Tables.

AMENDMENTS

1996—Pub. L. 104–106 reenacted section catchline without change and amended text generally. Prior to amendment, text read as follows:

"(a) The President is authorized, subject to the provisions of this part, to prescribe and from time to time change—

"(1) the rules for the measurement of vessels for the Panama Canal; and

"(2) the tolls that shall be levied for the use of the Canal.

"(b) Such rules of measurement and tolls prevailing on October 1, 1979, shall continue in effect until changed as provided in this part."

§3792. Bases of tolls

(a) Tolls based on net vessel tons and on displacement tonnage

Tolls on merchant vessels, army and navy transports, colliers, tankers, hospital ships, and supply ships shall be based on net vessel tons of one hundred cubic feet each of actual earning capacity, or its equivalent, determined in accordance with the rules for the measurement of vessels for the Panama Canal, and tolls on other floating craft shall be based on displacement tonnage. The tolls on vessels in ballast without passengers or cargo may be less than the tolls for vessels with passengers or cargo. Tolls for small vessels (including yachts), as defined by the Commission, may be set at rates determined by the Commission without regard to the preceding provisions of this subsection.

(b) Toll rates prescribed to cover all costs of operation and maintenance of Panama Canal

Tolls shall be prescribed at rates calculated to produce revenues to cover as nearly as practicable all costs of maintaining and operating the Panama Canal (including costs authorized to be paid from the Panama Canal Dissolution Fund under section 3714a(c) of this title), together with the facilities and appurtenances related thereto, including unrecovered costs incurred on or after October 1, 1979, interest, depreciation, working capital, payments to the Republic of Panama pursuant to paragraph 5 of Article III and paragraph 4(a) and (b) of Article XIII of the Panama Canal Treaty of 1977, and capital for plant replacement, expansion, and improvements. Tolls shall not be prescribed at rates calculated to produce revenues sufficient to cover payments to the Republic of Panama pursuant to paragraph 4(c) of Article XIII of the Panama Canal Treaty of 1977.

(c) Payment of tolls by vessels of United States

Vessels operated by the United States, including vessels of war and auxiliary vessels, and ocean-going training ships owned by the United States and operated by State nautical schools, shall pay tolls.

(d) Levy of tolls

The levy of tolls is subject to the provisions of section 1 of Article III of the treaty between the United States of America and Great Britain signed November 18, 1901, of Article I of the treaty between the United States of America and the Republic of Colombia signed April 6, 1914, and of Articles II, III, and VI of the Treaty Concerning Permanent Neutrality and Operation of the Panama Canal, between the United States of America and the Republic of Panama, signed September 7, 1977.

(Pub. L. 96–70, title I, §1602, Sept. 27, 1979, 93 Stat. 489; Pub. L. 100–203, title V, §5427, Dec. 22, 1987, 101 Stat. 1330–274; Pub. L. 102–484, div. C, title XXXV, §§3513, 3521(b)(2), Oct. 23, 1992, 106 Stat. 2655, 2657; Pub. L. 105–85, div. C, title XXXV, §3544, Nov. 18, 1997, 111 Stat. 2072.)

AMENDMENTS

1997—Subsec. (a). Pub. L. 105–85 substituted "and supply ships" for "supply ships, and yachts" and inserted at end "Tolls for small vessels (including yachts), as defined by the Commission, may be set at rates determined by the Commission without regard to the preceding provisions of this subsection."

1992—Subsec. (a). Pub. L. 102–484, §3513, inserted ", or its equivalent," after "earning capacity".

Subsec. (b). Pub. L. 102–484, §3521(b)(2), substituted "Panama Canal (including costs authorized to be paid from the Panama Canal Dissolution Fund under section 3714a(c) of this title)" for "Panama Canal".

1987—Subsec. (b). Pub. L. 100–203 inserted "working capital," after "depreciation,".

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–203 effective Jan. 1, 1988, see section 5429 of Pub. L. 100–203, set out as a note under section 3712 of this title.

§3793. Interest on investments

(a) Calculation of interest

For purposes of sections 3721 and 3792 of this title, interest shall be computed, at a rate determined by the Secretary of the Treasury, on the investment of the United States in the Panama Canal as shown in the accounts of the Panama Canal Company at the close of business on the day preceding October 1, 1979, and as adjusted in accordance with subsections (b) and (c) of this section. Capital investment for interest purposes shall not include any interest during construction.

(b) Increases and decreases in investment of United States

The investment of the United States described in subsection (a) of this section—

(1) shall be increased by—

(A) the amount of expenditures from the Panama Canal Revolving Fund,,[1] and

(B) the value of property transferred to the Commission by any other department or agency of the United States, as determined in accordance with subsection (c) of this section; and

(2) shall be decreased by—

(A) the amount of the funds deposited in the Panama Canal Revolving Fund,

(B) the value of property transferred to the Republic of Panama pursuant to this chapter or any other Act on or after October 1, 1979, and

(C) the value of property transferred by the Commission to any other department or agency of the United States.

(c) Value of property transferred to Commission

The value of property transferred to the Commission by any other department or agency of the United States shall be determined by the Director of the Office of Management and Budget. In computing such value, such Director shall give due consideration to the cost and probable earning power of the transferred property, or the usable value to the Commission if clearly less than cost, and shall make adequate provisions for depreciation, obsolescence, and other determinable decreases in value. Insofar as practicable, the value of such transferred property shall exclude any portion of such value properly allocable to national defense.

(d) Payment and deposit of interest

The Panama Canal Commission shall pay to the Treasury of the United States interest on the investment of the United States, as determined under this section. Such interest shall be deposited in the general fund of the Treasury.

(Pub. L. 96–70, title I, §1603, Sept. 27, 1979, 93 Stat. 490; Pub. L. 99–195, §1(b), Dec. 23, 1985, 99 Stat. 1349; Pub. L. 100–203, title V, §5425(a), Dec. 22, 1987, 101 Stat. 1330–274.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b)(2)(B), was in the original "this Act", meaning Pub. L. 96–70, Sept. 27, 1979, 93 Stat. 452, known as the Panama Canal Act of 1979, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of this title and Tables.

AMENDMENTS

1987—Subsec. (b)(1)(A). Pub. L. 100–203, §5425(a)(1), substituted "the Panama Canal Revolving Fund,"

for "appropriations to the Commission made on or after October 1, 1979".

Subsec. (b)(2)(A). Pub. L. 100–203, §5425(a)(2), substituted "deposited in the Panama Canal Revolving Fund" for "covered into the Panama Canal Commission Fund pursuant to section 3712 of this title".

Subsec. (d). Pub. L. 100–203, §5425(a)(3), added subsec. (d).

1985—Subsec. (b)(2)(A). Pub. L. 99–195 substituted "Panama Canal Commission Fund" for "Treasury".

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–203 effective Jan. 1, 1988, see section 5429 of Pub. L. 100–203, set out as a note under section 3712 of this title.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–195 applicable only to tolls and other receipts of the Commission deposited in the Treasury on or after Dec. 23, 1985, see section 2 of Pub. L. 99–195, set out as a note under section 3712 of this title.

[1] *So in original.*

§3794. Procedures

(a) Publication of notice of proposed changes in rules of measurement and rates of tolls in Federal Register; participation by interested parties; availability of analysis

The Commission shall publish in the Federal Register notice of any proposed change in the rules of measurement or rates of tolls referred to in section 3791 of this title. The Commission shall give interested parties an opportunity to participate in the proceedings through submission of written data, views, or arguments, and participation in a public hearing to be held not less than 30 days after the date of publication of the notice. The notice shall include the substance of the proposed change and a statement of the time, place, and nature of the proceedings. At the time of publication of such notice, the Commission shall make available to the public an analysis showing the basis and justification for the proposed change, which, in the case of a change in rates of tolls, shall indicate the conformity of the existing and proposed rates of tolls with the requirements of section 3792 of this title, and the Commission's adherence to the requirement for full consideration of the following factors set forth in Understanding (1) incorporated in the Resolution of Ratification of the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal (adopted by the United States Senate on March 16, 1978):

(1) the costs of operating and maintaining the Panama Canal;

(2) the competitive position of the use of the Canal in relation to other means of transportation;

(3) the interests of the United States and the Republic of Panama in maintaining their domestic fleets;

(4) the impact of such a change in rates of tolls on the various geographical areas of each of the two countries; and

(5) the interests of both countries in maximizing their international commerce.

(b) Revision of proposed rules of measurement or rates of tolls

After consideration of the relevant matter presented, the Commission may revise the proposed rules of measurement or rates of tolls, as the case may be, except that, in the case of rates of tolls, if such revision proposes rates greater than those originally proposed, a new analysis of the proposed rates shall be made available to the public, and a new notice of the revised proposal shall be published in the Federal Register apprising interested persons of the opportunity to participate further in the proceedings through submission of written data, views, or arguments, and participation in a public hearing to be held not less than 30 days after the date of publication of the new notice. The procedure set forth in this subsection shall be followed for any subsequent revision of the proposed rates of tolls by the Commission which proposes rates higher than those in the preceding proposal.

(c) Publication of notice of changes in rules of measurement and rates of tolls in Federal

Register

After the proceedings have been conducted pursuant to subsections (a) and (b), the Commission may change the rules of measurement or rates of tolls, as the case may be. The Commission shall publish notice of any such change in the Federal Register not less than 30 days before the effective date of the change.

(d) Judicial review

Action to change the rules of measurement for the Panama Canal or the rates of tolls for the use of the Canal pursuant to this part shall be subject to judicial review in accordance with chapter 7 of title 5.

(Pub. L. 96–70, title I, §1604, Sept. 27, 1979, 93 Stat. 490; Pub. L. 104–106, div. C, title XXXV, §3528, Feb. 10, 1996, 110 Stat. 641.)

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–106, §3528(1), substituted "3791" for "3791(a)".

Subsec. (c). Pub. L. 104–106, §3528(2), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: "After the proceedings have been conducted pursuant to subsections (a) and (b) of this section, the Commission shall publish in the Federal Register a notice of the changes in the rules of measurement or rates of tolls, as the case may be, to be recommended to the President."

Subsec. (d). Pub. L. 104–106, §3528(3), redesignated subsec. (f) as (d) and struck out former subsec. (d) which read as follows: "Upon publication of the notice pursuant to subsection (c) of this section, the Commission shall forward a complete record of the proceedings, with the recommendation of the Commission, to the President for his consideration. The President may approve, disapprove, or modify any or all of the changes in the rules of measurement or rates of tolls recommended by the Commission."

Subsec. (e). Pub. L. 104–106, §3528(3), struck out subsec. (e) which read as follows: "Rules of measurement or rates of tolls prescribed by the President pursuant to this part shall take effect on a date prescribed by the President which is not less than 30 days after the President publishes such rules or rates in the Federal Register."

Subsec. (f). Pub. L. 104–106, §3528(3), redesignated subsec. (f) as (d).

§3795. Repealed. Pub. L. 104–201, div. C, title XXXV, §3546(a)(1), Sept. 23, 1996, 110 Stat. 2867

Section, Pub. L. 96–70, title I, §1605(a), Sept. 27, 1979, 93 Stat. 491, related to change in tolls for fiscal year beginning Oct. 1, 1979.

EFFECTIVE DATE

Pub. L. 96–70, title I, §1605(b), Sept. 27, 1979, 93 Stat. 492, provided that this section was to take effect on Sept. 27, 1979, prior to repeal by Pub. L. 104–201, div. C, title XXXV, §3546(a)(1), Sept. 23, 1996, 110 Stat. 2867.

PART 7—GENERAL REGULATIONS

§§3801, 3802. Repealed. Pub. L. 104–201, div. C, title XXXV, §3546(a)(2), (3), Sept. 23, 1996, 110 Stat. 2867

Section 3801, Pub. L. 96–70, title I, §1701, Sept. 27, 1979, 93 Stat. 492, related to authority of President to prescribe regulations applicable within areas and installations made available for operation and protection of Panama Canal.

Section 3802, Pub. L. 96–70, title I, §1702, Sept. 27, 1979, 93 Stat. 492, related to authority of Commission to prescribe regulations applicable within areas and installations made available for operation and protection of Panama Canal.

PART 8—SHIPPING AND NAVIGATION

SUBPART I—OPERATION OF CANAL

§3811. Operating regulations

The Commission may prescribe, and from time to time amend, regulations governing—

(1) the operation of the Panama Canal;

(2) the navigation of the harbors and other waters of the Panama Canal and areas adjacent thereto, including the ports of Balboa and Cristobal;

(3) the passage and control of vessels through the Panama Canal or any part thereof, including the locks and approaches thereto;

(4) pilotage in the Panama Canal or the approaches thereto through the adjacent waters; and

(5) the licensing of officers or other operators of vessels navigating the waters of the Panama Canal and areas adjacent thereto, including the ports of Balboa and Cristobal.

(Pub. L. 96–70, title I, §1801, Sept. 27, 1979, 93 Stat. 492; Pub. L. 104–201, div. C, title XXXV, §3545, Sept. 23, 1996, 110 Stat. 2867.)

AMENDMENTS

1996—Pub. L. 104–201 substituted "Commission" for "President" in introductory provisions.

SUBPART II—INSPECTION OF VESSELS

§3821. Vessels subject to inspection

With the exception of private vessels merely transiting the Panama Canal, and of public vessels of all nations, vessels navigating the waters of the Panama Canal shall be subject to an annual inspection of hulls, boilers, machinery, equipment, and passenger accommodations.

(Pub. L. 96–70, title I, §1811, Sept. 27, 1979, 93 Stat. 492.)

§3822. Foreign vessels

With respect to a foreign vessel of a country which has inspection laws approximating those of the United States, any such vessel having an unexpired certificate of inspection duly issued by the authorities of such country shall not be subject to an inspection other than that necessary to determine whether the vessel, its boilers, and its lifesaving equipment are as stated in the certificate of inspection. A certificate of inspection may not be accepted as evidence of lawful inspection under this section unless similar privileges are granted to vessels of the United States under the laws of the country to which the vessel belongs.

(Pub. L. 96–70, title I, §1812, Sept. 27, 1979, 93 Stat. 493.)

§3823. Regulations governing inspection

The Commission shall prescribe, and from time to time may amend, regulations concerning the inspection of vessels conforming as nearly as practicable to the laws and regulations governing

marine inspection by the United States Coast Guard.

(Pub. L. 96–70, title I, §1813, Sept. 27, 1979, 93 Stat. 493.)

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

SUBCHAPTER II—TREATY TRANSITION PERIOD

PART 1—LAWS CONTINUED IN FORCE

§3831. Repealed. Pub. L. 104–201, div. C, title XXXV, §3546(a)(4), Sept. 23, 1996, 110 Stat. 2868

Section, Pub. L. 96–70, title II, §2101, Sept. 27, 1979, 93 Stat. 493, related to continuation in force of Canal Zone Code and other laws, regulations, and administrative authority of the United States for purpose of exercise of law enforcement and judicial jurisdiction during transition period.

PART 2—COURTS

§§3841 to 3844. Repealed. Pub. L. 104–201, div. C, title XXXV, §3546(a)(4), Sept. 23, 1996, 110 Stat. 2868

Section 3841, Pub. L. 96–70, title II, §2201, Sept. 27, 1979, 93 Stat. 493, related to continuing jurisdiction during transition period of United States District Court for the District of the Canal Zone and magistrates' courts under the Canal Zone Code.

Section 3842, Pub. L. 96–70, title II, §2202, Sept. 27, 1979, 93 Stat. 494, related to division and terms of United States District Court for the District of the Canal Zone.

Section 3843, Pub. L. 96–70, title II, §2203(a), Sept. 27, 1979, 93 Stat. 494, related to extension of terms of office of district judge, magistrate, United States attorney, and United States marshal.

Section 3844, Pub. L. 96–70, title II, §2206, Sept. 27, 1979, 93 Stat. 494, related to continuing operation during transition period of two magistrates' courts established under Canal Zone Code.

EFFECTIVE DATE

Pub. L. 96–70, title II, §2203(b), Sept. 27, 1979, 93 Stat. 494, provided that section 3843 of this title was to take effect on Sept. 27, 1979, prior to repeal by Pub. L. 104–201, div. C, title XXXV, §3546(a)(4), Sept. 23, 1996, 110 Stat. 2868.

PART 3—TRANSITION AUTHORITY

§§3851, 3852. Repealed. Pub. L. 104–201, div. C, title XXXV, §3546(a)(4), Sept.

Section 3851, Pub. L. 96–70, title II, §2401, Sept. 27, 1979, 93 Stat. 495, related to vesting of authority in the President during transition period.

Section 3852, Pub. L. 96–70, title II, §2402, Sept. 27, 1979, 93 Stat. 495, related to commitment of prisoners to custody of Attorney General or Commission.

SUBCHAPTER III—GENERAL PROVISIONS

PART 1—PROCUREMENT

PRIOR PROVISIONS

A prior part 1, consisting of section 3861, related to cemeteries, prior to repeal by Pub. L. 104–201, div. C, title XXXV, §3546(a)(5), Sept. 23, 1996, 110 Stat. 2868.

§3861. Procurement system

(a) Panama Canal Acquisition Regulation

(1) The Commission shall establish by regulation a comprehensive procurement system. The regulation shall be known as the "Panama Canal Acquisition Regulation" (in this section referred to as the "Regulation") and shall provide for the procurement of goods and services by the Commission in a manner that—

(A) applies the fundamental operating principles and procedures in the Federal Acquisition Regulation;

(B) uses efficient commercial standards of practice; and

(C) is suitable for adoption and uninterrupted use by the Republic of Panama after the Canal Transfer Date.

(2) The Regulation shall contain provisions regarding the establishment of the Panama Canal Board of Contract Appeals described in section 3862 of this title.

(b) Supplement to Regulation

The Commission shall develop a Supplement to the Regulation (in this section referred to as the "Supplement") that identifies both the provisions of Federal law applicable to procurement of goods and services by the Commission and the provisions of Federal law waived by the Commission under subsection (c).

(c) Waiver authority

(1) Subject to paragraph (2), the Commission shall determine which provisions of Federal law should not apply to procurement by the Commission and may waive those laws for purposes of the Regulation and Supplement.

(2) For purposes of paragraph (1), the Commission may not waive—

(A) chapter 21 of title 41;

(B) chapter 71 of title 41, other than section 7104(b) of title 41; or

(C) civil rights, environmental, or labor laws.

(d) Consultation with Administrator for Federal Procurement Policy

In establishing the Regulation and developing the Supplement, the Commission shall consult with the Administrator for Federal Procurement Policy.

(e) Effective date

The Regulation and the Supplement shall take effect on the date of publication in the Federal Register, or January 1, 1999, whichever is earlier.

(Pub. L. 96–70, title III, §3101, as added Pub. L. 105–85, div. C, title XXXV, §3541, Nov. 18, 1997, 111 Stat. 2070.)

CODIFICATION

In subsec. (c)(2)(A), "chapter 21 of title 41" substituted for "section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423)" on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

In subsec. (c)(2)(B), "chapter 71 of title 41, other than section 7104(b) of title 41" substituted for "the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.), other than section 10(a) of such Act (41 U.S.C. 609(a))" on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

PRIOR PROVISIONS

A prior section 3861, Pub. L. 96–70, title III, §3101, Sept. 27, 1979, 93 Stat. 496, related to disinterment, transportation, and reinterment of remains, prior to repeal by Pub. L. 104–201, div. C, title XXXV, §3546(a)(5), Sept. 23, 1996, 110 Stat. 2868.

§3862. Panama Canal Board of Contract Appeals

(a) Establishment

(1) The Secretary of Defense, in consultation with the Commission, may establish a board of contract appeals, to be known as the Panama Canal Board of Contract Appeals, in accordance with sections 7105(a), (c) to (e), (g), 7106(a), and 7107(a) of title 41. Except as otherwise provided by this section, the Panama Canal Board of Contract Appeals (in this section referred to as the "Board") shall be subject to chapter 71 of title 41 in the same manner as any other agency board of contract appeals established under that chapter.

(2) The Board shall consist of three members. At least one member of the Board shall be licensed to practice law in the Republic of Panama. Individuals appointed to the Board shall take an oath of office, the form of which shall be prescribed by the Secretary of Defense.

(3) Compensation for members of the Board of Contract Appeals shall be established by the Commission's supervisory board. The annual compensation established for members may not exceed the rate of basic pay established for level IV of the Executive Schedule under section 5315 of title 5. The compensation of a member may not be reduced during the member's term of office from the level established at the time of the appointment of the member.

(b) Exclusive jurisdiction to decide appeals

Notwithstanding section 7104(b)(1) of title 41 or any other provision of law, the Board shall have exclusive jurisdiction to decide an appeal from a decision of a contracting officer under section 7105(e) of title 41.

(c) Exclusive jurisdiction to decide protests

The Board shall decide protests submitted to it under this subsection by interested parties in accordance with subchapter V [1] of title 31. Notwithstanding section 3556 of that title, section 1491(b) of title 28, and any other provision of law, the Board shall have exclusive jurisdiction to decide such protests. For purposes of this subsection—

(1) except as provided in paragraph (2), each reference to the Comptroller General in sections 3551 through 3555 of title 31, is deemed to be a reference to the Board;

(2) the reference to the Comptroller General in section 3553(d)(3)(C)(ii) of such title is deemed to be a reference to both the Board and the Comptroller General;

(3) the report required by paragraph (1) of section 3554(e) of such title shall be submitted to the Comptroller General as well as the committees listed in such paragraph;

(4) the report required by paragraph (2) of such section shall be submitted to the Comptroller

General as well as Congress; and

(5) section 3556 of such title shall not apply to the Board, but nothing in this subsection shall affect the right of an interested party to file a protest with the appropriate contracting officer.

(d) Procedures

The Board shall prescribe such procedures as may be necessary for the expeditious decision of appeals and protests under subsections (b) and (c).

(e) Commencement

The Board shall begin to function as soon as it has been established and has prescribed procedures under subsection (d).

(f) Transition

The Board shall have jurisdiction under subsections (b) and (c) over any appeals and protests filed on or after the date on which the Board begins to function. Any appeals and protests filed before such date shall remain before the forum in which they were filed.

(g) Other functions

The Board may perform functions similar to those described in this section for such other matters or activities of the Commission as the Commission may determine and in accordance with regulations prescribed by the Commission.

(Pub. L. 96–70, title III, §3102, as added Pub. L. 105–85, div. C, title XXXV, §3541, Nov. 18, 1997, 111 Stat. 2071; amended Pub. L. 105–261, div. C, title XXXV, §3510, Oct. 17, 1998, 112 Stat. 2270.)

CODIFICATION

In subsec. (a)(1), "sections 7105(a), (c) to (e), (g), 7106(a), and 7107(a) of title 41" substituted for "section 8 of the Contract Disputes Act of 1978 (41 U.S.C. 607)", "chapter 71 of title 41" substituted for "the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.)", and "that chapter" substituted for "that Act" on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

In subsec. (b), "section 7104(b)(1) of title 41" substituted for "section 10(a)(1) of the Contract Disputes Act of 1978 (41 U.S.C. 609(a)(1))" and "section 7105(e) of title 41" substituted for "section 8(d) of such Act (41 U.S.C. 607(d))" on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–261, §3510(a)(1), substituted "may" for "shall" in first sentence.

Subsec. (a)(3). Pub. L. 105–261, §3510(a)(2), added par. (3).

Subsec. (e). Pub. L. 105–261, §3510(b), struck out ", but not later than January 1, 1999" before period at end.

[1] *So in original. Probably should be "subchapter V of chapter 35".*

PART 2—ADMINISTRATION

§3871. Annual report

Until the termination of the Panama Canal Treaty of 1977, the President shall report annually on the status of the exercise of the rights and responsibilities of the United States under that Treaty. Such report shall include a discussion of the following:

(1) The actions taken by the Government of the Republic of Panama with respect to the living conditions of persons who resided in the Canal Zone before October 1, 1979, and who continue to reside in those areas made available to the United States under the Agreement in Implementation of Article III of the Panama Canal Treaty.

(2) The terms, conditions, and charges for land-use licenses within the canal operating areas specified in the Agreement in Implementation of Article III of the Panama Canal Treaty.

(3) The condition of former employees (and their dependents) of the Panama Canal Company and the Canal Zone Government who reside in the Republic of Panama on or after October 1, 1979.

(Pub. L. 96–70, title III, §3301, Sept. 27, 1979, 93 Stat. 497.)

DELEGATION OF FUNCTIONS

Functions vested in President by this section delegated to Secretary of State who shall perform such function in coordination with Secretary of Defense pursuant to section 1–401 of Ex. Ord. No. 12215, May 27, 1980, 45 F.R. 36044, set out as a note under section 3601 of this title.

REPORT TO CONGRESS ON CONDITION OF PANAMA CANAL AND CANAL OPERATIONS

Pub. L. 100–203, title V, §5418, Dec. 22, 1987, 101 Stat. 1330–271, provided that: "Out of the funds authorized to be appropriated by this part [part 1, §§5411 to 5418, of subtitle E of Pub. L. 100–203], the Commission shall prepare and submit to the Congress a report on—

"(1) the condition of the Panama Canal and potential adverse effects on United States shipping and commerce;

"(2) the effect on canal operations of the military forces under General Noriega; and

"(3) the Commission's evaluation of the effect on canal operations if the Panamanian Government continues to withhold its consent to major factors in the United States Senate's ratification of the Panama Canal Treaties."

§3872. Notification requirements

The Panama Canal Commission shall provide written advance notification to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Armed Services of the Senate regarding—

(1) any proposed change in the rates of tolls for use of the Panama Canal;

(2) any payment estimated to be due the Republic of Panama under paragraph 4(c) of Article XIII of the Panama Canal Treaty of 1977, as provided by section 3751 of this title; and

(3) the initiation of any major capital acquisition or construction project exceeding $10,000,000 unless the proposed acquisition or project was included in the budget estimates submitted to Congress for the fiscal year in which the acquisition or project is to be undertaken.

(Pub. L. 101–189, div. C, title XXXV, §3503, Nov. 29, 1989, 103 Stat. 1689.)

CODIFICATION

Section enacted as part of the Panama Canal Commission Authorization Act, Fiscal Year 1990, and as part of the National Defense Authorization Act for Fiscal Years 1990 and 1991, and not as part of the Panama Canal Act of 1979 which comprises this chapter.

ABOLITION OF HOUSE COMMITTEE ON MERCHANT MARINE AND FISHERIES

Committee on Merchant Marine and Fisheries of House of Representatives abolished and its jurisdiction transferred by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995. Committee on Merchant Marine and Fisheries of House of Representatives treated as referring to Committee on National Security of House of Representatives [now Committee on Armed Services of House of Representatives] in case of provisions relating to interoceanic canals, Merchant Marine Academy and State Maritime Academies, or national security aspects of merchant marine by section 1(b)(3) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress.

§3873. Exemption from Metric Conversion Act of 1975

The Commission is exempt from the provisions of the Metric Conversion Act of 1975 (15 U.S.C. 205a et seq.).

(Pub. L. 96–70, title III, §3302, as added Pub. L. 104–201, div. C, title XXXV, §3547, Sept. 23,

1996, 110 Stat. 2868.)

REFERENCES IN TEXT

The Metric Conversion Act of 1975, referred to in section catchline and text, is Pub. L. 94–168, Dec. 23, 1975, 89 Stat. 1007, as amended, which is classified generally to subchapter II (§205a et seq.) of chapter 6 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 205a of Title 15 and Tables.

PRIOR PROVISIONS

A prior section 3302 of Pub. L. 96–70, title III, Sept. 27, 1979, 93 Stat. 498, amended sections 305, 5102, 5316, 5342, 5343, 5348, 5373, 5504, 5533, 5541, 5583, 6301, 6323, 8146, and 8335 of Title 5, Government Organization and Employees, and sections 191, 195, and 196 of Title 50, War and National Defense, prior to general amendment by Pub. L. 104–201, div. C, title XXXV, §3547, Sept. 23, 1996, 110 Stat. 2868.

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CODIFICATION

Provisions of this chapter are derived from the Foreign Service Act of 1946, former section 801 et seq. of this title, and related and miscellaneous provisions as follows:

New	*Old*
3901	801
3902	802
3903	861
3904	841
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3921	811a

3922	1224, 2385, 2506
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3926	842, 843
3927	2680a
3928	811a, 821
3929	2384 note
3930	826
3931	827
3941	910, 922, 939, 1234
3942	901, 911, 961
3943	922, 929, 936, 946, 951
3944	900, 901a, 902
3945	906
3946	911, 929
3947	911, 912
3948	915
3949	922, 936
3950	928
3951	889 note, 2693
3952	907, 908, 924, 938, 1231
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3964	868
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3966	995, 1017
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3968	889, 2693
3969	873, 890
3970	889
3971	876, 877
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4045	1071, 1086
4046	1076
4047	1076a
4048	1081
4049	1082
4050	1084
4051	1006
4052	1001, 1002
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4055	1086
4056	1091
4057	1093
4058	1101
4059	1103
4060	1004, 1104
4061	1105
4062	1106
4063	1111
4064	1112
4065	1116
4066	1121
4067	1065
4081	966, 1136, 1138, 1157
4082	1137
4083	1148
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4085	1131
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4139	1037b
4140	1037c
4151–4159	
4171–4173	
4191–4215	1171–1195
4216	1197

4217	1198
4218–4222	1200–1204
4223	99
4224–4226	812–814

FOREIGN COMMERCIAL SERVICE

For authority of Secretary of Commerce to establish a Foreign Commercial Service in Department of Commerce, see section 1–104 of Ex. Ord. No. 12188, Jan. 2, 1980, 45 F.R. 991, as amended, set out as a note under section 2171 of Title 19, Customs Duties.

SUBCHAPTER I—GENERAL PROVISIONS

§3901. Congressional findings and objectives

(a) The Congress finds that—

(1) a career foreign service, characterized by excellence and professionalism, is essential in the national interest to assist the President and the Secretary of State in conducting the foreign affairs of the United States;

(2) the scope and complexity of the foreign affairs of the Nation have heightened the need for a professional foreign service that will serve the foreign affairs interests of the United States in an integrated fashion and that can provide a resource of qualified personnel for the President, the Secretary of State, and the agencies concerned with foreign affairs;

(3) the Foreign Service of the United States, established under the Act of May 24, 1924 (commonly known as the Rogers Act) and continued by the Foreign Service Act of 1946, must be preserved, strengthened, and improved in order to carry out its mission effectively in response to the complex challenges of modern diplomacy and international relations;

(4) the members of the Foreign Service should be representative of the American people, aware of the principles and history of the United States and informed of current concerns and trends in American life, knowledgeable of the affairs, cultures, and languages of other countries, and available to serve in assignments throughout the world; and

(5) the Foreign Service should be operated on the basis of merit principles.

(b) The objective of this chapter is to strengthen and improve the Foreign Service of the United States by—

(1) assuring, in accordance with merit principles, admission through impartial and rigorous examination, acquisition of career status only by those who have demonstrated their fitness through successful completion of probationary assignments, effective career development, advancement and retention of the ablest, and separation of those who do not meet the requisite standards of performance;

(2) fostering the development and vigorous implementation of policies and procedures, including affirmative action programs, which will facilitate and encourage (A) entry into and advancement in the Foreign Service by persons from all segments of American society, and (B) equal opportunity and fair and equitable treatment for all without regard to political affiliation, race, color, religion, national origin, sex, marital status, age, or handicapping condition;

(3) providing for more efficient, economical, and equitable personnel administration through a simplified structure of Foreign Service personnel categories and salaries;

(4) establishing a statutory basis for participation by the members of the Foreign Service, through their elected representatives, in the formulation of personnel policies and procedures which affect their conditions of employment, and maintaining a fair and effective system for the resolution of individual grievances that will ensure the fullest measure of due process for the members of the Foreign Service;

(5) minimizing the impact of the hardships, disruptions, and other unusual conditions of service abroad upon the members of the Foreign Service, and mitigating the special impact of such conditions upon their families;

(6) providing salaries, allowances, and benefits that will permit the Foreign Service to attract and retain qualified personnel as well as a system of incentive payments and awards to encourage and reward outstanding performance;

(7) establishing a Senior Foreign Service which is characterized by strong policy formulation capabilities, outstanding executive leadership qualities, and highly developed functional, foreign language, and area expertise;

(8) improving Foreign Service managerial flexibility and effectiveness;

(9) increasing efficiency and economy by promoting maximum compatibility among the agencies authorized by law to utilize the Foreign Service personnel system, as well as compatibility between the Foreign Service personnel system and other personnel systems of the Government; and

(10) otherwise enabling the Foreign Service to serve effectively the interests of the United States and to provide the highest caliber of representation in the conduct of foreign affairs.

(Pub. L. 96–465, title I, §101, Oct. 17, 1980, 94 Stat. 2074.)

REFERENCES IN TEXT

Act of May 24, 1924 (commonly known as the Rogers Act), referred to in subsec. (a)(3), is act May 24, 1924, ch. 182, 43 Stat. 140, as amended, which was classified generally to section 1 et seq. of this title and was repealed in large part by section 1131 of title XI of act Aug. 13, 1946, ch. 957, 60 Stat. 1037, known as the Foreign Service Act of 1946, which generally revised the laws relating to the administration of the Foreign Service (see below). For complete classification of Act May 24, 1924 to the Code, see Tables.

The Foreign Service Act of 1946, referred to in subsec. (a)(3), is act Aug. 13, 1946, ch. 957, titles I to X, 60 Stat. 999, as amended, which was classified principally to chapter 14 (§801 et seq.) of this title, and was repealed by Pub. L. 96–465, title II, §2205(1), Oct. 17, 1980, 94 Stat. 2159, the Foreign Service Act of 1980, as part of the general revision of the laws relating to the administration of the Foreign Service. For complete classification of the 1946 Act to the Code prior to its repeal, see Tables.

This chapter, referred to in subsec. (b), was in the original "this Act", meaning Pub. L. 96–465, Oct. 17, 1980, 94 Stat. 2071, as amended, known as the Foreign Service Act of 1980, which is classified principally to this chapter (§3901 et seq.). For complete classification of this Act to the Code, see Short Title note set out below and Tables.

EFFECTIVE DATE

Pub. L. 96–465, title II, §2403, Oct. 17, 1980, 94 Stat. 2169, as amended by Pub. L. 99–93, title I, §119(b), Aug. 16, 1985, 99 Stat. 412, provided that:

"(a) Except as otherwise provided, this Act [see Short Title note set out below] shall take effect on February 15, 1981.

"(b) Personnel actions may be taken on and after the effective date of this Act on the basis of any then current Foreign Service evaluation cycle as if this Act [see Short Title note set out below] had been in effect at the beginning of that cycle.

"[(c) Repealed. Pub. L. 99–93, title I, §119(b), Aug. 16, 1985, 99 Stat. 412, eff. Oct. 1, 1985]

"(d)(1) Section 812 of this Act [section 4052 of this title], and the repeal of sections 631 and 632 of the Foreign Service Act of 1946 [sections 1001 and 1002 of this title] and section 625(k) of the Foreign Assistance Act of 1961 [section 2385(k) of this title], shall be effective as of the date of enactment of this Act [Oct. 17, 1980].

"(2) For purposes of implementing section 2101 [section 4151 of this title], sections 402(a) and 403 [sections 3962(a) and 3963 of this title] shall be effective as of the date of enactment of this Act [Oct. 17, 1980].

"(e)(1) The provisions of chapter 8 of title I [subchapter VIII of this chapter] regarding the rights of former spouses to any annuity under section 814(a) [section 4054(a) of this title] shall apply in the case of any individual who after the effective date of this Act becomes a former spouse of an individual who separates from the Service after such date.

"(2) Except to the extent provided in section 2109 [section 4159 of this title], the provisions of such chapter [subchapter VIII of this chapter] regarding the rights of former spouses to receive survivor annuities under chapter 8 [subchapter VIII of this chapter] shall apply in the case of any individual who after the effective date

of this Act becomes a former spouse of a participant or former participant in the Foreign Service Retirement and Disability System."

SHORT TITLE OF 2007 AMENDMENT

Pub. L. 110–50, §1, July 30, 2007, 121 Stat. 261, provided that: "This Act [amending section 4064 of this title] may be cited as the 'Passport Backlog Reduction Act of 2007'."

SHORT TITLE OF 1998 AMENDMENT

Pub. L. 105–382, §1, Nov. 13, 1998, 112 Stat. 3406, provided that: "This Act [amending sections 4044 to 4046, 4052, 4071a, and 4071d of this title and enacting provisions set out as a note under section 4044 of this title] may be cited as the 'Department of State Special Agents Retirement Act of 1998'."

SHORT TITLE OF 1986 AMENDMENT

Pub. L. 99–335, title IV, §401(a), June 6, 1986, 100 Stat. 609, provided that: "This title [enacting sections 4068 and 4071 to 4071k of this title, amending sections 4041 to 4049, 4054 to 4056, 4058, 4060, 4061, 4063, 4064, 4066, and 4067 of this title, and enacting provisions set out as a note under section 4046 of this title] may be cited as the 'Foreign Service Pension System Act of 1986'."

SHORT TITLE

Pub. L. 96–465, §1, Oct. 17, 1980, 94 Stat. 2071, provided that: "This Act [enacting this chapter, sections 2697 to 2704 of this title, and sections 3597, 5927, and 5928 of Title 5, Government Organization and Employees, amending sections 285a, 287, 287e, 287n, 290a, 290g–l, 1928, 2021, 2024, 2056, 2385, 2389, 2391, 2454, 2504, 2506, 2512 to 2514, 2582, 2588, 2605, 2684, 3503 and 4223 of this title, sections 3323, 5102, 5301, 5303, 5304, 5313, 5522, 5523, 5541, 5595, 5596, 5724, 5727, 5924, 5925, 6301, 6304, 6305, 7103, 8332, and 8501 of Title 5, and Reorg. Plan No. 2 of 1939 set out in the Appendix to Title 5, sections 1765a and 1766c of Title 7, Agriculture, section 2002 of Title 10, Armed Forces, section 906 of Title 20, Education, sections 104, 170, 912, and 2055 of Title 26, Internal Revenue Code, section 822a of former Title 31, Money and Finance, section 405a of Title 37, Pay and Allowances of the Uniformed Services, former section 235 of Title 38, Veterans' Benefits, and section 5055 of Title 42, The Public Health and Welfare, repealing subchapters I to X of chapter 14 (§801 et seq.) of this title and sections 1221 to 1234, 2679a, 2680a, and 2693 of this title, enacting provisions set out as notes under this section and section 2651 of this title, and repealing provisions set out as notes under sections 801, 808, 811a, 886, 889, 912, 913, 936, 1002, 1076, 1079d, 1229, and 2384 of this title] may be cited as the 'Foreign Service Act of 1980'."

EXECUTIVE ORDER NO. 11636

Ex. Ord. No. 11636, Dec. 17, 1971, 36 F.R. 24901, as amended by Ex. Ord. No. 12027, Dec. 5, 1977, 42 F.R. 61851; Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055; Ex. Ord. No. 12128, Apr. 4, 1979, 44 F.R. 20625, which related to employee-management relations in the Foreign Service of the United States, was revoked by Ex. Ord. No. 12292, §10(j), Feb. 23, 1981, 46 F.R. 13967, set out below.

EX. ORD. NO. 12292. CONFORMANCE OF EXISTING EXECUTIVE ORDERS TO CHANGES RESULTING FROM THE FOREIGN SERVICE ACT OF 1980

Ex. Ord. No. 12292, Feb. 23, 1981, 46 F.R. 13967, provided:

By the authority vested in me as President by the Constitution and laws of the United States of America, including the Foreign Service Act of 1980 (94 Stat. 2071; 22 U.S.C. 3901 et seq.), and in order to conform existing Executive Orders to changes resulting from that Act, it is hereby ordered as follows:

SECTION 1. Section 1(k) of Executive Order No. 9154, as amended, is amended by inserting immediately before the period at the end thereof a comma and the words "or under authority of section 303 of the Foreign Service Act of 1980 (22 U.S.C. 3943)".

SEC. 2. Section 1 of Executive Order No. 10471 is amended as follows:

(a) strike out "section 202(c) of the Annual and Sick Leave Act of 1951, as added by the act of July 2, 1953, Public Law 102, 83rd Congress" and insert in lieu thereof "section 6305(b) of title 5 of the United States Code";

(b) strike out "said section 202(c)(2)" and insert in lieu thereof "said section 6305(b)";

(c) strike out "section 411 of the Foreign Service Act of 1946" and insert in lieu thereof "section 401 of the Foreign Service Act of 1980 (22 U.S.C. 3961)".

SEC. 3. Section 2 of Executive Order No. 10624, as amended, is amended as follows:

(a) In clause (1), strike out "Title II of the Overseas Differentials and Allowances Act" and insert in lieu thereof "subchapter III of chapter 59 of title 5 of the United States Code";

(b) Clause (2) is amended to read as follows: "so much of the authority vested in the Secretary of State by chapter 9 of Title I of the Foreign Service Act of 1980 [22 U.S.C. 4081 et seq.], as relates to allowances and benefits under the said chapter 9 of title I;"

SEC. 4. Executive Order No. 10903 is amended as follows:

(a) In the preamble, strike out "section 303 of the Foreign Service Act of 1946 (22 U.S.C. 843),";

(b) In section 1(a) strike out "section 111(3) of the Overseas Differentials and Allowances Act (74 Stat. 792)" and insert in lieu thereof "section 5921(3) of title 5, United States Code,";

(c) In Section 1(b):

(1) strike out "Title II of the Overseas Differentials and Allowances Act" and insert in lieu thereof "subchapter III of chapter 59 of title 5 of the United States Code,";

(2) strike out "202, 203, and 221(4)(B) of that Act" and insert in lieu thereof "5922(b), 5922(c), and 5924(4)(B) of that title";

(3) strike out "Title II of the Act" and insert in lieu thereof "said subchapter".

(d) In Section 1(c), strike out "section 22 of the Administrative Expenses Act of 1946 (added by section 311(a) of the Overseas Differentials and Allowances Act)" and insert in lieu thereof "section 5913 of title 5 of the United States Code".

(e) In Section 1(e):

(1) strike out "235(a)(2)" and insert in lieu thereof "235(2)"; and

(2) strike out "section 901 of the Foreign Service Act of 1946, as amended" and insert in lieu thereof "section 905 of the Foreign Service Act of 1980 (22 U.S.C. 4085)".

(f) strike out paragraphs (d) and (f) of Section 1 and redesignate paragraphs (e) and (g) thereof as paragraphs (d) and (e), respectively.

SEC. 5. Executive Order No. 11034 is amended by striking out in Section 5(c) after "provided by section" all that follows in that sentence and inserting in lieu thereof "310 of the Foreign Service Act of 1980 (22 U.S.C. 3950).".

SEC. 6. Executive Order No. 11219 is amended as follows:

(a) Section 1 is amended by striking out "officer or employee" and inserting in lieu thereof "member";

(b) Section 1(b) is amended by inserting after "as amended," "the Foreign Service Act of 1980," [this chapter] and by striking out "that Act" and inserting in lieu thereof "the latter Act";

(c) Section 5 is amended by striking out "an officer or employee in" and inserting in lieu thereof "a member of" and by inserting after "as amended," "the Foreign Service Act of 1980," [this chapter] and by striking out "that Act" and inserting in lieu thereof "the latter Act".

SEC. 7. Executive Order No. 12137 is amended as follows:

(a) Section 1–111 is amended by striking out "1946, as amended" and inserting in lieu thereof "1980" [this chapter].

(b) Section 1–401 is amended by striking out "528 of the Foreign Service Act of 1946 (22 U.S.C. 928)" and inserting in lieu thereof, "310 of the Foreign Service Act of 1980 (22 U.S.C. 3950)".

SEC. 8. Executive Order No. 12163 is amended as follows:

(a) Section 1–201(a)(14) is revoked.

(b) Section 1–201(b) is amended by inserting "and" after "602(q)," and by striking out "and 625(k)(1)";

(c) Section 1–602(a) is amended by striking out "625(d)(1)" each time it appears and inserting in lieu thereof "625(d)".

(d) Section 1–602(b) is amended by striking out "section 528 of the Foreign Service Act of 1946" and inserting in lieu thereof "section 310 of the Foreign Service Act of 1980 (22 U.S.C. 3950)".

(e) Section 1–603 is amended by striking out after "allowances", all that follows through "Foreign Service Act of 1946 (22 U.S.C. 801 et seq.)," and inserting in lieu thereof "authorized for a chief of mission as defined in section 102(a)(3) of the Foreign Service Act of 1980 (22 U.S.C. 3902(a)(3)),".

SEC. 9. Executive Order No. 12228 is amended as follows:

(a) Section 1–102(c)(1) is amended by striking out "Section 911(9) of the Foreign Service Act of 1946, as amended (22 U.S.C. 1136(9))" and inserting in lieu thereof "Section 901(6) of the Foreign Service Act of 1980 (22 U.S.C. 4081(6))";

(b) Section 1–103 is amended by striking out "Foreign Service Act of 1946, as amended" and inserting in lieu thereof "Foreign Service Act of 1980" [this chapter].

SEC. 10. The following are hereby revoked:

(a) Executive Order No. 9452 of June 26, 1944;

(b) Executive Order No. 9799 of November 8, 1946;

(c) Executive Order No. 9837 of March 27, 1947;

(d) Executive Order No. 9932 of February 27, 1948;

(e) Executive Order No. 10249 of June 4, 1951;
(f) Section 2 of Executive Order No. 10477 of August 1, 1953 [22 U.S.C. 1472 note];
(g) Executive Order No. 10897 of December 2, 1960;
(h) Part III of Executive Order No. 11264 of December 31, 1965, as amended [22 U.S.C. 3930 note];
(i) Sections 1, 3, and 5 of Executive Order No. 11434 of November 8, 1968;
(j) Executive Order No. 11636 of December 17, 1971;
(k) Executive Order No. 12066 of June 29, 1978;
(l) Executive Order No. 12145 of July 18, 1979;
(m) Section 1–104(b) of Executive Order No. 12188 of January 2, 1980 [19 U.S.C. 2171 note].
SEC. 11. This Order shall be effective as of February 15, 1981.

RONALD REAGAN.

EX. ORD. NO. 12293. ADMINISTRATION OF FOREIGN SERVICE

Ex. Ord. No. 12293, Feb. 23, 1981, 46 F.R. 13969, as amended by Ex. Ord. No. 12363, May 21, 1982, 47 F.R. 22497; Ex. Ord. No. 12388, Oct. 14, 1982, 47 F.R. 46245; Ex. Ord. No. 12536, Oct. 9, 1985, 50 F.R. 41477; Ex. Ord. No. 13118, §10(4), Mar. 31, 1999, 64 F.R. 16598; Ex. Ord. No. 13325, Jan. 23, 2004, 69 F.R. 4217; Ex. Ord. No. 13374, Mar. 14, 2005, 70 F.R. 12961, provided:

By the authority vested in me as President by the Constitution and laws of the United States of America, including the Foreign Service Act of 1980 (94 Stat. 2071, 22 U.S.C. 3901 et seq.), Section 202 of the Revised Statutes (22 U.S.C. 2656), and Section 301 of Title 3 of the United States Code, and in order to provide for the administration of the Foreign Service of the United States, it is hereby ordered as follows:

SECTION 1. There are hereby delegated to the Secretary of State those functions vested in the President by Sections 205, 401(a), 502(c), 613, and 801 of the Foreign Service Act of 1980, hereinafter referred to as the Act (22 U.S.C. 3925, 3942(a)(1), 3892(c) [3982(c)], 4013, and 4041).

SEC. 2. The Secretary of State shall, in accord with Section 205 of the Act (22 U.S.C. 3925), consult with the Secretary of Agriculture, the Secretary of Commerce, the Director of the United States Information Agency, the Administrator of the United States Agency for International Development, the Director of the Office of Personnel Management, and the Director of the Office of Management and Budget, in order to ensure compatibility between the Foreign Service personnel system and other government personnel systems.

SEC. 3. The Secretary of State shall make recommendations to the President through the Director of the Office of Management and Budget whenever action is appropriate under Section 827 of the Act (22 U.S.C. 4067) to maintain existing conformity between the Civil Service Retirement and Disability System and the Foreign Service Retirement and Disability System.

SEC. 4. Pursuant to section 402 of the Foreign Service Act [of 1980] (22 U.S.C. 3962), and subject to any restrictions therein, there are established the following salary classes with titles for the Senior Foreign Service, at the following ranges of basic rates of pay:

(a) Career Minister

Range from 100 percent of the minimum rate of basic pay for senior-level positions under 5 U.S.C. 5376 to 100 percent of the rate payable for level II of the Executive Schedule.

(b) Minister-Counselor

Range from 100 percent of the minimum rate of basic pay for senior-level positions under 5 U.S.C. 5376 to 107 percent of the rate payable for level III of the Executive Schedule.

(c) Counselor

Range from 100 percent of the minimum rate of basic pay for senior-level positions under 5 U.S.C. 5376 to 102 percent of the rate payable for level III of the Executive Schedule.

SEC. 5. There is hereby delegated to the Secretary of State, without further action by the President, the authority vested in the President by Section 2107 of the Act [22 U.S.C. 4157] to the extent necessary to implement the provisions of Section 2101 of the Act [22 U.S.C. 4151], relating to pay and benefits pending conversion.

SEC. 6. (a) Pursuant to Section 211 of the Act (22 U.S.C. 3931), there is established in the Department of State the Board of Examiners for the Foreign Service.

(b) The Board shall be appointed by, and in accordance with regulations prescribed by, the Secretary of State, except that not less than five shall be career members of the Foreign Service and not less than seven shall be appointed as follows.

(1) not less than five shall be appointed by the heads of the agencies utilizing the Foreign Service personnel system;

(2) not less than one shall be a representative appointed by the Director of the Office of Personnel

Management; and

(3) not less than one shall be a representative appointed by the Secretary of Labor.

(c) The Secretary of State shall designate from among the members of the Board a Chairman who is a member of the Service.

(d) The Secretary of State shall provide all necessary administrative services and facilities for the Board.

SEC. 7. For the purpose of ensuring the accuracy of information used in the administration of the Foreign Service Retirement and Disability System, the Secretary of State may request from the Secretary of Defense and the Administrator of Veterans Affairs such information as the Secretary deems necessary. To the extent permitted by law: (a) The Secretary of Defense shall provide information on retired or retainer pay provided under Title 10, United States Code; and, (b) the Administrator of Veterans Affairs shall provide information on pensions or compensation provided under Title 38 of the United States Code. The Secretary, in consultation with the officials from whom information is requested, shall ensure that information made available under this Order is used only for the purpose authorized.

SEC. 8. The first seven Sections of this Order shall be effective as of February 15, 1981.

SEC. 9. (a) Pursuant to Section 210 of the Act there is established in the Department of State the Board of the Foreign Service (22 U.S.C. 3930).

(b) The Board shall be composed of the designated number of representatives of the heads of the following agencies:

(1) Department of State, four members, at least three of whom must be career members of the Senior Foreign Service;

(2) United States Information Agency, two members, one of whom must be a career member of the Senior Foreign Service;

(3) United States Agency for International Development, two members, one of whom must be a career member of the Senior Foreign Service;

(4) Department of Agriculture, two members, one of whom must be a career member of the Senior Foreign Service;

(5) Department of Commerce, two members, one of whom must be a career member of the Senior Foreign Service;

(6) Department of Labor, one member;

(7) Office of Personnel Management, one member;

(8) Office of Management and Budget, one member; and,

(9) Equal Employment Opportunity Commission, one member;

(c) The membership of the Board shall be selected from among officials who are knowledgeable in matters concerning the management of the Foreign Service. Except for the career members of the Senior Foreign Service from the Department of Agriculture, the Department of Commerce, the United States Information Agency, and the United States Agency for International Development, the members of the Board shall be selected from among those who have the rank of Assistant Secretary or higher or a position of comparable responsibility.

(d) The Secretary of State may from time to time request the heads of other agencies to designate representatives to participate in the functions of the Board on a regular or occasional basis.

(e) The Secretary of State shall provide all necessary administrative services and facilities for the Board.

SEC. 10. Pursuant to Section 202(a)(2)(B) and (a)(3)(B) of the Act (22 U.S.C. 3922(a)(2)(B), (a)(3)(B)), it is hereby determined to be necessary, in order to enable the Department of Agriculture and the Department of Commerce to carry out functions which require service abroad, for the respective Secretaries, in consultation with the Office of Personnel Management and the Office of Management and Budget, to be able to utilize the Foreign Service personnel system with respect to personnel of the following:

(a) The Animal and Plant Health Inspection Service of the Department of Agriculture, not to exceed 125 positions, without the prior approval of the Director of the Office of Personnel Management;

(b) The United States Travel and Tourism Administration, and the International Trade Administration of the Department of Commerce, not to exceed 30 positions without the prior approval of the Director of the Office of Personnel Management, and providing that assignments to such positions be administered consistent with policies of the Foreign Commercial Service established under Executive Order No. 12188 [19 U.S.C. 2171 note].

[For abolition of United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau), transfer of functions, and treatment of references thereto, see sections 6531, 6532, and 6551 of this title.]

§3902. Definitions

As used in this chapter, the term—

(1) "abroad" means all areas not included within the United States;

(2) "agency" means an agency as defined in section 552(e) [1] of title 5;

(3) "chief of mission" means the principal officer in charge of a diplomatic mission of the United States or of a United States office abroad which is designated by the Secretary of State as diplomatic in nature, including any individual assigned under section 3982(c) of this title to be temporarily in charge of such a mission or office;

(4) "Department" means the Department of State, except that with reference to the exercise of functions under this chapter with respect to another agency authorized by law to utilize the Foreign Service personnel system, such term means that other agency;

(5) "employee" (except as provided in section 4102(8) of this title) means, when used with respect to an agency or to the Government generally, an officer or employee (including a member of the Service) or a member of the Armed Forces of the United States, the commissioned corps of the Public Health Service, or the commissioned corps of the National Oceanic and Atmospheric Administration;

(6) "function" includes any duty, obligation, power, authority, responsibility, right, privilege, discretion, or activity;

(7) "Government" means the Government of the United States;

(8) "merit principles" means the principles set out in section 2301(b) of title 5;

(9) "principal officer" means the officer in charge of a diplomatic mission, consular mission (other than a consular agency), or other Foreign Service post;

(10) "Secretary" means the Secretary of State, except that (subject to section 3921 of this title) with reference to the exercise of functions under this Act with respect to any agency authorized by law to utilize the Foreign Service personnel system, such term means the head of that agency;

(11) "Service" or "Foreign Service" means the Foreign Service of the United States; and

(12) "United States", when used in a geographic sense, means the several States and the District of Columbia.

(Pub. L. 96–465, title I, §102, Oct. 17, 1980, 94 Stat. 2075; Pub. L. 98–164, title I, §130(a), Nov. 22, 1983, 97 Stat. 1027.)

REFERENCES IN TEXT

Section 552(e) of title 5, referred to in par. (2), was redesignated section 552(f) of title 5 by section 1802(b) of Pub. L. 99–570.

AMENDMENTS

1983—Pub. L. 98–164 struck out "(a)" before "As used in this chapter", and struck out subsec. (b) which provided that references to Foreign Service officers in any provision be deemed to refer to, with respect to the United States Information Agency, Foreign Service Information officers.

[1] *See References in Text note below.*

§3903. Members of Service

The following are the members of the Service:

(1) Chiefs of mission, appointed under section 3942(a)(1) of this title or assigned under section 3982(c) of this title.

(2) Ambassadors at large, appointed under section 3942(a)(1) of this title.

(3) Members of the Senior Foreign Service, appointed under section 3942(a)(1) or 3943 of this title, who are the corps of leaders and experts for the management of the Service and the performance of its functions.

(4) Foreign Service officers, appointed under section 3942(a)(1) of this title, who have general

responsibility for carrying out the functions of the Service.

(5) Foreign Service personnel, United States citizens appointed under section 3943 of this title, who provide skills and services required for effective performance by the Service.

(6) Foreign national employees, foreign nationals appointed under section 3943 of this title, who provide clerical, administrative, technical, fiscal, and other support at Foreign Service posts abroad.

(7) Consular agents, appointed under section 3943 of this title by the Secretary of State, who provide consular and related services as authorized by the Secretary of State at specified locations abroad where no Foreign Service posts are situated.

(Pub. L. 96–465, title I, §103, Oct. 17, 1980, 94 Stat. 2076.)

§3904. Functions of Service

Members of the Service shall, under the direction of the Secretary—

(1) represent the interests of the United States in relation to foreign countries and international organizations, and perform the functions relevant to their appointments and assignments, including (as appropriate) functions under the Vienna Convention on Diplomatic Relations, the Vienna Convention on Consular Relations, other international agreements to which the United States is a party, the laws of the United States, and orders, regulations, and directives issued pursuant to law;

(2) provide guidance for the formulation and conduct of programs and activities of the Department and other agencies which relate to the foreign relations of the United States; and

(3) perform functions on behalf of any agency or other Government establishment (including any establishment in the legislative or judicial branch) requiring their services.

(Pub. L. 96–465, title I, §104, Oct. 17, 1980, 94 Stat. 2076.)

§3905. Personnel actions

(a) Merit principles; "personnel action" defined

(1) All personnel actions with respect to career members and career candidates in the Service (including applicants for career candidate appointments) shall be made in accordance with merit principles.

(2) For purposes of paragraph (1), the term "personnel action" means—

(A) any appointment, promotion, assignment (including assignment to any position or salary class), award of performance pay or special differential, within-class salary increase, separation, or performance evaluation, and

(B) any decision, recommendation, examination, or ranking provided for under this chapter which relates to any action referred to in subparagraph (A).

(b) Rules and regulations; discrimination; reprisals for disclosure of information; submission of reports, evaluations, or recommendations; freedom from prohibited personnel practices

The Secretary shall administer the provisions of this chapter and shall prescribe such regulations as may be necessary to ensure that members of the Service, as well as applicants for appointments in the Service—

(1) are free from discrimination on the basis of race, color, religion, sex, national origin, age, handicapping condition, marital status, geographic or educational affiliation within the United States, or political affiliation, as prohibited under section 2302(b)(1) of title 5;

(2) are free from reprisal for—

(A) a disclosure of information by a member or applicant which the member or applicant reasonably believes evidences—

(i) a violation of any law, rule, or regulation, or

(ii) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety,

if such disclosure is not specifically prohibited by law and if such information is not specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs; or

(B) a disclosure to the Special Counsel of the Merit Systems Protection Board, or to the Inspector General of an agency (including the Inspector General of the Department of State and the Foreign Service) or another employee designated by the head of the agency to receive such disclosures, of information which the member or applicant reasonably believes evidences—

(i) a violation of any law, rule, or regulation, or

(ii) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety;

(3) are free to submit to officials of the Service and the Department any report, evaluation, or recommendation, including the right to submit such report, evaluation, or recommendation through a separate dissent channel, whether or not the views expressed therein are in accord with approved policy, unless the report, evaluation, or recommendation was submitted with the knowledge that it was false or with willful disregard for its truth or falsity; and

(4) are free from any personnel practice prohibited by section 2302 of title 5.

(c) Withholding or disclosure of information to Congress

This section shall not be construed as authorizing the withholding of information from the Congress or the taking of any action against a member of the Service who discloses information to the Congress.

(d) Minority recruitment program

(1) The Secretary shall establish a minority recruitment program for the Service consistent with section 7201 of title 5.

(2) Omitted.

(e) Applicability to other judicial or statutory rights or remedies

This section shall not be construed to extinguish or lessen any effort to achieve equal employment opportunity through affirmative action or any right or remedy available to any employee or applicant for employment in the civil service under—

(1) section 2000e–16 of title 42, prohibiting discrimination on the basis of race, color, religion, sex, or national origin;

(2) sections 631 and 633a of title 29, prohibiting discrimination on the basis of age;

(3) section 206(d) of title 29, prohibiting discrimination on the basis of sex;

(4) sections 791 and 794a of title 29, prohibiting discrimination on the basis of handicapping condition; or

(5) any provision of law, rule, or regulation prohibiting discrimination on the basis of marital status or political affiliation.

(Pub. L. 96–465, title I, §105, Oct. 17, 1980, 94 Stat. 2077; Pub. L. 100–204, title I, §185(a), Dec. 22, 1987, 101 Stat. 1365; Pub. L. 101–246, title I, §153(d), Feb. 16, 1990, 104 Stat. 43.)

CODIFICATION

Subsec. (d)(2) of this section, which required the Secretary to transmit at least once annually to the Chairman of the Committee on Foreign Relations of the Senate and the Speaker of the House of Representatives the Department's reports on equal employment opportunity, affirmative action, and minority recruitment programs, which reports are required by law, regulation, or directive to be submitted to the Equal Employment Opportunity Commission (EEOC) or the Office of Personnel Management (OPM), terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 129 of House Document No. 103–7.

AMENDMENTS

1990—Subsec. (b)(1). Pub. L. 101–246 inserted "geographic or educational affiliation within the United States," after "marital status,".

1987—Subsec. (d)(2). Pub. L. 100–204 amended par. (2) generally. Prior to amendment, par. (2) read as follows: "Not later than January 31 of each year, the Secretary shall transmit to each House of the Congress a report, signed by the Secretary, on the activities of the Secretary under paragraph (1). Such report shall include any affirmative action plans submitted by the Secretary under section 2000e–16 of title 42 and any data necessary to evaluate the effectiveness of the program under paragraph (1) for the preceding fiscal year, together with recommendations for administrative or legislative action the Secretary considers appropriate."

SUBCHAPTER II—MANAGEMENT OF SERVICE

§3921. Administration by Secretary of State

(a) Under the direction of the President, the Secretary of State shall administer and direct the Service and shall coordinate its activities with the needs of the Department of State and other agencies.

(b) The Secretary of State alone among the heads of agencies utilizing the Foreign Service personnel system shall perform the functions expressly vested in the Secretary of State by this chapter.

(Pub. L. 96–465, title I, §201, Oct. 17, 1980, 94 Stat. 2078.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original "this Act", meaning Pub. L. 96–465, Oct. 17, 1980, 94 Stat. 2071, as amended, known as the Foreign Service Act of 1980, which is classified principally to this chapter (§3901 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 3901 of this title and Tables.

§3922. Utilization of Foreign Service personnel system by other agencies

(a)(1) The Broadcasting Board of Governors and the Administrator of the Agency for International Development may utilize the Foreign Service personnel system with respect to their respective agencies in accordance with this chapter.

(2) The Secretary of Agriculture may utilize the Foreign Service personnel system in accordance with this chapter—

(A) with respect to personnel of the Foreign Agricultural Service, and

(B) with respect to other personnel of the Department of Agriculture to the extent the President determines to be necessary in order to enable the Department of Agriculture to carry out functions which require service abroad.

(3) The Secretary of Commerce may utilize the Foreign Service personnel system in accordance with this chapter—

(A) with respect to the personnel performing functions transferred to the Department of Commerce from the Department of State by Reorganization Plan Numbered 3 of 1979, and

(B) with respect to other personnel of the Department of Commerce to the extent the President determines to be necessary in order to enable the Department of Commerce to carry out functions which require service abroad.

(4)(A) Whenever (and to the extent) the Secretary of State considers it in the best interests of the United States Government, the Secretary of State may authorize the head of any agency or other Government establishment (including any establishment in the legislative or judicial branch) to appoint under section 3943 of this title individuals described in subparagraph (B) as members of the Service and to utilize the Foreign Service personnel system with respect to such individuals under such regulations as the Secretary of State may prescribe.

(B) The individuals referred to in subparagraph (A) are individuals eligible for employment abroad under section 3951(a) of this title.

(b) Subject to section 3921(b) of this title—

(1) the agency heads referred to in subsection (a), and

(2) the head of any other agency (to the extent authority to utilize the Foreign Service personnel system is granted to such agency head under any other chapter),

shall in the case of their respective agencies exercise the functions vested in the Secretary by this chapter.

(Pub. L. 96–465, title I, §202, Oct. 17, 1980, 94 Stat. 2078; Pub. L. 97–241, title III, §303(b), Aug. 24, 1982, 96 Stat. 291; Pub. L. 105–277, div. G, subdiv. A, title XIII, §1335(k)(1), title XIV, §1422(b)(4)(A), Oct. 21, 1998, 112 Stat. 2681–789, 2681–793; Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title III, §332], Nov. 29, 1999, 113 Stat. 1536, 1501A–439.)

REFERENCES IN TEXT

Reorganization Plan Numbered 3 of 1979, referred to in subsec. (a)(3)(A), is Reorg. Plan No. 3 of 1979, 44 F.R. 69273, 93 Stat. 1381, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1999—Subsec. (a)(4). Pub. L. 106–113 added par. (4).

1998—Subsec. (a)(1). Pub. L. 105–277, §1422(b)(4)(A), substituted "Administrator of the Agency for International Development" for "Director of the United States International Development Cooperation Agency".

Pub. L. 105–277, §1335(k)(1), substituted "Broadcasting Board of Governors" for "Director of the United States Information Agency".

CHANGE OF NAME

"Director of the United States Information Agency" substituted for "Director of the International Communication Agency" in subsec. (a)(1), pursuant to section 303(b) of Pub. L. 97–241, set out as a note under section 1461 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 1335(k)(1) of Pub. L. 105–277 effective Oct. 1, 1999, see section 1301 of Pub. L. 105–277, set out as an Effective Date note under section 6531 of this title.

Amendment by section 1422(b)(4) of Pub. L. 105–277 effective Apr. 1, 1999, see section 1401 of Pub. L. 105–277, set out as an Effective Date note under section 6561 of this title.

EXERCISE OF CERTAIN FUNCTIONS BY BOARD OF THE FOREIGN SERVICE AND BOARD OF EXAMINERS FOR THE FOREIGN SERVICE

The Board of the Foreign Service and the Board of Examiners for the Foreign Service were authorized to exercise with respect to Foreign Service personnel of the Department of Commerce, functions delegated to them by Ex. Ord. No. 11264, set out as a note under section 3930 of this title, respecting Foreign Service personnel of the Department of State, see section 1–104(c) of Ex. Ord. No. 12188, Jan. 2, 1980, 45 F.R. 991, set out as a note under section 2171 of Title 19, Customs Duties.

EX. ORD. NO. 10522. AUTHORITY OF THE DIRECTOR OF THE UNITED STATES INFORMATION AGENCY

Ex. Ord. No. 10522, Mar. 26, 1954, 19 F.R. 1689, provided:

SECTION 1. The Director of the United States Information Agency is hereby authorized to carry out the functions of the Board of the Foreign Service, provided for by the Foreign Service Act of 1946 (60 Stat. 999) [this chapter], with respect to personnel appointed or assigned for service in the United States Information Agency under the provisions of such Act, as amended [this chapter]: *Provided*, That nothing herein contained shall be construed as transferring to the said Director any function of the said Board relating to any Foreign Service Officer.

SEC. 2. The Director of the United States Information Agency is hereby authorized to prescribe such regulations and issue such orders and instructions, not inconsistent with law, as may be necessary or desirable for carrying out his functions under section 1 of this order.

[For abolition of United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau), transfer of functions, and treatment of references thereto, see sections 6531, 6532, and 6551 of this title.]

§3922a. Representation of minorities and women in Foreign Service

(a) Development of program

The head of each agency utilizing the Foreign Service personnel system shall develop, consistent with section 7201 of title 5, a plan designed to increase significantly the number of members of minority groups and women in the Foreign Service in that agency.

(b) Emphasis on mid-levels

Each plan developed pursuant to this section shall, consistent with section 7201 of title 5, place particular emphasis on achieving significant increases in the numbers of minority group members and women who are in the mid-levels of the Foreign Service.

(Pub. L. 99–93, title I, §152, Aug. 16, 1985, 99 Stat. 428; Pub. L. 100–204, title I, §185(c)(3), Dec. 22, 1987, 101 Stat. 1366.)

CODIFICATION

Section was enacted as part of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987, and not as part of the Foreign Service Act of 1980 which comprises this chapter.

AMENDMENTS

1987—Subsec. (c). Pub. L. 100–204 struck out subsec. (c) which read as follows: "The head of each agency utilizing the Foreign Service personnel system shall report annually to the Congress on the plan developed pursuant to this section as part of the report required to be submitted pursuant to section 3905(d)(2) of this title. Subsequent reports pursuant to that section shall include reports on the implementation of these plans, giving particular attention to the progress being made in increasing, through advancement and promotion, the numbers of members of minority groups and women in the mid-levels of the Foreign Service."

REPORT CONCERNING MINORITIES AND THE FOREIGN SERVICE

Pub. L. 105–277, div. G, subdiv. B, title XXIII, §2318, Oct. 21, 1998, 112 Stat. 2681–829, provided that: "The Secretary of State shall during each of calendar years 1998 and 1999 submit a report to the Congress concerning minorities and the Foreign Service officer corps. In addition to such other information as is relevant to this issue, the report shall include the following data for the last preceding examination and promotion cycles for which such information is available (reported in terms of real numbers and percentages and not as ratios):

"(1) The numbers and percentages of all minorities taking the written Foreign Service examination.

"(2) The numbers and percentages of all minorities successfully completing and passing the written Foreign Service examination.

"(3) The numbers and percentages of all minorities successfully completing and passing the oral Foreign Service examination.

"(4) The numbers and percentages of all minorities entering the junior officers class of the Foreign Service.

"(5) The numbers and percentages of all minority Foreign Service officers at each grade.

"(6) The numbers of and percentages of minorities promoted at each grade of the Foreign Service officer corps."

MID-LEVEL WOMEN AND MINORITY PLACEMENT PROGRAM

Pub. L. 103–236, title I, §178, Apr. 30, 1994, 108 Stat. 414, provided that:

"(a) PURPOSE.—It is the purpose of this section to promote the acquisition and retention of highly qualified, trained, and experienced women and minority personnel within the Foreign Service, to provide the maximum opportunity for the Foreign Service to meet staffing needs and to acquire the services of experienced and talented women and minority personnel, and to help alleviate the impact of downsizing,

reduction-in-force, and budget restrictions occurring in the defense and national security-related agencies of the United States.

"(b) ESTABLISHMENT.—For each of the fiscal years 1994 and 1995, the Secretary of State shall to the maximum extent practicable appoint to the Foreign Service qualified women and minority applicants who are participants in the priority placement program of the Department of Defense, the Department of Defense out-placement referral program, the Office of Personnel Management Automated Applicant Referral System, or the Office of Personnel Management Interagency Placement Program. The Secretary shall make such appointments through the mid-level entry program of the Department of State under section 306 of the Foreign Service Act of 1980 [22 U.S.C. 3946].

"(c) REPORT.—Not later than 180 days after the date of enactment of this Act [Apr. 30, 1994], the Secretary of State shall prepare and submit a report concerning the implementation of subsection (a) to the Chairman of the Committee on Foreign Relations of the Senate and the Speaker of the House of Representatives. Such report shall include recommendations on methods to improve implementation of the purpose of this section."

WOMEN AND MINORITIES IN FOREIGN SERVICE

Pub. L. 100–204, title I, §183, Dec. 22, 1987, 101 Stat. 1364, provided that:

"(a) FINDINGS.—The Congress finds that the Department of State and other Foreign Service agencies have not been successful in their efforts—

"(1) to recruit and retain members of minority groups in order to increase significantly the number of members of minority groups in the Foreign Service; and

"(2) to provide adequate career advancement for women and members of minority groups in order to increase significantly the numbers of women and members of minority groups in the senior levels of the Foreign Service.

"(b) A MORE REPRESENTATIVE FOREIGN SERVICE.—The Secretary of State and the head of each of the other agencies utilizing the Foreign Service personnel system—

"(1) shall substantially increase their efforts to implement effectively the plans required by section 152(a) of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 [22 U.S.C. 3922a(a)], so that the Foreign Service becomes truly representative of the American people throughout all levels of the Foreign Service; and

"(2) shall ensure that those plans effectively address the need to promote increased numbers of qualified women and members of minority groups into the senior levels of the Foreign Service.

"(c) DEPARTMENT OF STATE HIRING PRACTICES OF MINORITIES AND WOMEN.—The Secretary of State shall include annually as part of the report required to be submitted pursuant to section 105(d)(2) of the Foreign Service Act of 1980 [former 22 U.S.C. 3905(d)(2)]—

"(1) a report on the progress made at the Assistant Secretary and Bureau level of the Department of State in increasing the presence of minorities and women at all levels in the Foreign Service and Civil Service workforces of the Department of State, and

"(2) the specific actions taken to address the lack of Hispanic Americans, Asian Americans, and Native Americans in the Senior Executive Service and Senior Foreign Service of the Department of State."

§3922b. Public diplomacy training

(a) Statement of policy

The following should be the policy of the United States:

(1) The Foreign Service should recruit individuals with expertise and professional experience in public diplomacy.

(2) United States chiefs of mission should have a prominent role in the formulation of public diplomacy strategies for the countries and regions to which they are assigned and should be accountable for the operation and success of public diplomacy efforts at their posts.

(3) Initial and subsequent training of Foreign Service officers should be enhanced to include information and training on public diplomacy and the tools and technology of mass communication.

(b) Personnel

(1) Qualifications

In the recruitment, training, and assignment of members of the Foreign Service, the Secretary of State—

(A) should emphasize the importance of public diplomacy and applicable skills and techniques;

(B) should consider the priority recruitment into the Foreign Service, including at middle-level entry, of individuals with expertise and professional experience in public diplomacy, mass communications, or journalism; and

(C) shall give special consideration to individuals with language facility and experience in particular countries and regions.

(2) Languages of special interest

The Secretary of State shall seek to increase the number of Foreign Service officers proficient in languages spoken in countries with predominantly Muslim populations. Such increase should be accomplished through the recruitment of new officers and incentives for officers in service.

(Pub. L. 108–458, title VII, §7110, Dec. 17, 2004, 118 Stat. 3793.)

CODIFICATION

Section is comprised of section 7110 of Pub. L. 108–458. Subsec. (c) of section 7110 of Pub. L. 108–458 amended section 4003 of this title.

Section was enacted as part of the Intelligence Reform and Terrorism Prevention Act of 2004, and also as part of the 9/11 Commission Implementation Act of 2004, and not as part of the Foreign Service Act of 1980 which comprises this chapter.

§3922c. Integration of foreign economic policy

(a) In general

The Secretary, in conjunction with the Under Secretary of Economic Growth, Energy, and the Environment, shall establish—

(1) foreign economic policy priorities for each regional bureau, including for individual countries, as appropriate; and

(2) policies and guidance for integrating such foreign economic policy priorities throughout the Department.

(b) Deputy Assistant Secretary

Within each regional bureau of the Department, the Secretary shall task an existing Deputy Assistant Secretary with appropriate training and background in economic and commercial affairs with the responsibility for economic matters and interests within the responsibilities of each such regional bureau, including the integration of the foreign economic policy priorities established pursuant to subsection (a).

(c) Training

The Secretary shall establish curriculum at the George P. Shultz National Foreign Affairs Training Center to develop the practical foreign economic policy expertise and skill sets of Foreign Service officers, including by making available distance-learning courses in commercial, economic, and business affairs, including in the following:

(1) The global business environment.

(2) The economics of development.

(3) Development and infrastructure finance.

(4) Current trade and investment agreements negotiations.

(5) Implementing existing multilateral and World Trade Organization agreements, and United States trade and investment agreements.

(6) Best practices for customs and export procedures.

(7) Market analysis and global supply chain management.

(Pub. L. 114–323, title IV, §406, Dec. 16, 2016, 130 Stat. 1929.)

CODIFICATION

Section was enacted as part of the Department of State Authorities Act, Fiscal Year 2017, and not as part of the Foreign Service Act of 1980 which comprises this chapter.

DEFINITIONS

For definitions of "Secretary", "Department", and "Foreign Service" as used in this section, see section 2 of Pub. L. 114–323, set out as a note under section 2651 of this title.

§3923. Compatibility among agencies utilizing Foreign Service personnel system

(a) The Service shall be administered to the extent practicable in a manner that will assure maximum compatibility among the agencies authorized by law to utilize the Foreign Service personnel system. To this end, the other heads of such agencies shall consult regularly with the Secretary of State.

(b) Nothing in this subchapter shall be construed as diminishing the authority of the head of any agency authorized by law to utilize the Foreign Service personnel system.

(Pub. L. 96–465, title I, §203, Oct. 17, 1980, 94 Stat. 2079.)

§3924. Uniform and consolidated administration of Service

The Secretary shall on a continuing basis consider the need for uniformity of personnel policies and procedures and for consolidation (in accordance with section 2695 of this title) of personnel functions among agencies utilizing the Foreign Service personnel system. Where feasible, the Secretary of State shall encourage (in consultation with the other heads of such agencies) the development of uniform policies and procedures and consolidated personnel functions.

(Pub. L. 96–465, title I, §204, Oct. 17, 1980, 94 Stat. 2079.)

§3925. Compatibility between Foreign Service and other Government personnel systems

The Service shall be administered to the extent practicable in conformity with general policies and regulations of the Government. The Secretary shall consult with the Director of the Office of Personnel Management, the Director of the Office of Management and Budget, and the heads of such other agencies as the President shall determine, in order to assure compatibility of the Foreign Service personnel system with other Government personnel systems to the extent practicable.

(Pub. L. 96–465, title I, §205, Oct. 17, 1980, 94 Stat. 2079.)

DELEGATION OF FUNCTIONS

Functions of President under this section delegated to Secretary of State, see section 1 of Ex. Ord. No. 12293, Feb. 23, 1981, 46 F.R. 13969, set out as a note under section 3901 of this title.

CONSULTATION WITH OTHER FEDERAL DEPARTMENTS AND AGENCIES

For authority for the Secretary of State to consult with the Secretary of Agriculture, the Secretary of Commerce, the Director of the United States Information Agency, the Administrator of the United States Agency for International Development, the Director of the Office of Personnel Management, and the Director of the Office of Management and Budget to ensure compatibility between the Foreign Service personnel system and other government personnel systems, see section 2 of Ex. Ord. No. 12293, Feb. 23, 1981, 46 F.R. 13969, as amended, set out as note under section 3901 of this title.

§3926. Regulations; delegation of functions

(a) The Secretary may prescribe such regulations as the Secretary deems appropriate to carry out

functions under this chapter.

(b) The Secretary may delegate functions under this chapter which are vested in the Secretary to any employee of the Department or any member of the Service.

(Pub. L. 96–465, title I, §206, Oct. 17, 1980, 94 Stat. 2079.)

REGULATIONS REGARDING FOREIGN LANGUAGE COMPETENCE WITHIN FOREIGN SERVICE

Pub. L. 103–236, title I, §191(a), Apr. 30, 1994, 108 Stat. 418, as amended by Pub. L. 103–415, §1(u), Oct. 25, 1994, 108 Stat. 4302, provided that: "Not later than 180 days after the date of enactment of this Act [Apr. 30, 1994], the Secretary of State shall promulgate regulations—

"(1) establishing hiring preferences for Foreign Service Officer candidates competent in languages, with priority preference given to those languages in which the Department of State has a deficit;

"(2) establishing a standard that employees will not receive long-term training in more than 3 languages, and requiring that employees achieve full professional proficiency (S4/R4) in 1 language as a condition for training in a third, with exceptions for priority needs of the service at the discretion of the Director General;

"(3) requiring that employees receiving long-term training in a language, or hired with a hiring preference for a language, serve at least 2 tours in jobs requiring that language, with exceptions for certain limited-use languages and priority needs of the service at the discretion of the Director General;

"(4) requiring that significant consideration be given to foreign language competence and use in the evaluation, assignment, and promotion of all Foreign Service Officers of the Department of State, the Agency for International Development, and the United States Information Agency;

"(5) requiring the identification of appropriate Washington, D.C. metropolitan area positions as language-designated; and

"(6) requiring remedial training and suspension of language differential payments for employees receiving such payments who have failed to maintain required levels of proficiency."

[For abolition of United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau), transfer of functions, and treatment of references thereto, see sections 6531, 6532, and 6551 of this title.]

§3927. Chief of mission

(a) Duties

Under the direction of the President, the chief of mission to a foreign country—

(1) shall have full responsibility for the direction, coordination, and supervision of all Government executive branch employees in that country (except for Voice of America correspondents on official assignment and employees under the command of a United States area military commander); and

(2) shall keep fully and currently informed with respect to all activities and operations of the Government within that country, and shall insure that all Government executive branch employees in that country (except for Voice of America correspondents on official assignment and employees under the command of a United States area military commander) comply fully with all applicable directives of the chief of mission.

(b) Duties of agencies with employees in foreign countries

Any executive branch agency having employees in a foreign country shall keep the chief of mission to that country fully and currently informed with respect to all activities and operations of its employees in that country, and shall insure that all of its employees in that country (except for Voice of America correspondents on official assignment and employees under the command of a United States area military commander) comply fully with all applicable directives of the chief of mission.

(c) Promotion of United States goods and services

Each chief of mission to a foreign country shall have as a principal duty the promotion of United States goods and services for export to such country.

(Pub. L. 96–465, title I, §207, Oct. 17, 1980, 94 Stat. 2079; Pub. L. 97–241, title I, §123, Aug. 24,

1982, 96 Stat. 281; Pub. L. 100–204, title I, §136, Dec. 22, 1987, 101 Stat. 1345; Pub. L. 107–228, div. A, title V, §505(b), Sept. 30, 2002, 116 Stat. 1393.)

AMENDMENTS

2002—Subsecs. (a)(1), (2), (b). Pub. L. 107–228 inserted "Voice of America correspondents on official assignment and" after "except for".

1987—Subsec. (a). Pub. L. 100–204, §136(1), (2), inserted "executive branch" after "Government" in par. (1) and after second reference to "Government" in par. (2).

Subsec. (b). Pub. L. 100–204, §136(3), inserted "executive branch" after "Any".

1982—Subsec. (c). Pub. L. 97–241 added subsec. (c).

§3927a. Review by chief of mission

(a) Review of staff element under chief of mission authority; approval; process

The Secretary of State shall require each chief of mission to review, not less than once every 5 years, every staff element under chief of mission authority, including staff from other departments or agencies of the United States, and recommend approval or disapproval of each staff element. Each such review shall be conducted pursuant to a process established by the President for determining appropriate staffing at diplomatic missions and overseas constituent posts (commonly referred to as the "NSDD–38 process").

(b) Actions by Secretary of State

The Secretary of State, as part of the process established by the President referred to in subsection (a), shall take actions to carry out the recommendations made in each such review.

(Pub. L. 108–447, div. B, title IV, §409, Dec. 8, 2004, 118 Stat. 2904; Pub. L. 112–74, div. I, title VII, §7034(n), Dec. 23, 2011, 125 Stat. 1217.)

CODIFICATION

Section was enacted as part of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2005, and also as part of the Consolidated Appropriations Act, 2005, and not as part of the Foreign Service Act of 1980 which comprises this chapter.

AMENDMENTS

2011—Subsec. (c). Pub. L. 112–74 struck out subsec. (c). Prior to amendment, text read as follows: "Not later than 1 year after December 8, 2004, and annually thereafter, the Secretary of State shall submit a report on such reviews that occurred during the previous 12 months, together with the Secretary's recommendations regarding such reviews to the appropriate committees of Congress, the heads of all affected departments or agencies, and the Inspector General of the Department of State."

§3928. Director General of Foreign Service

The President shall appoint, by and with the advice and consent of the Senate, a Director General of the Foreign Service, who shall be a current or former career member of the Foreign Service. The Director General should assist the Secretary of State in the management of the Service and perform such functions as the Secretary of State may prescribe.

(Pub. L. 96–465, title I, §208, Oct. 17, 1980, 94 Stat. 2080; Pub. L. 103–236, title I, §163, Apr. 30, 1994, 108 Stat. 411.)

AMENDMENTS

1994—Pub. L. 103–236 amended section generally. Prior to amendment, section read as follows: "There shall be a Director General of the Foreign Service, who shall be appointed by the President, by and with the advice and consent of the Senate, from among the career members of the Senior Foreign Service. The Director General shall assist the Secretary of State in the management of the Service and shall perform such functions as the Secretary of State may prescribe."

§3929. Inspector General

(a) Appointment; supervision by Secretary of State; prohibition against interference by State Department with certain duties; inspections, audits, and other functions; removal from office

(1) There shall be an Inspector General of the Department of State and the Foreign Service, who shall be appointed by the President, by and with the advice and consent of the Senate, without regard to political affiliation from among individuals exceptionally qualified for the position by virtue of their integrity and their demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations, or their knowledge and experience in the conduct of foreign affairs. The Inspector General shall report to and be under the general supervision of the Secretary of State. Neither the Secretary of State nor any other officer of the Department shall prevent or prohibit the Inspector General from initiating, carrying out, or completing any audit or investigation, or from issuing any subpena during the course of any audit or investigation. The Inspector General shall periodically (at least every 5 years) inspect and audit the administration of activities and operations of each Foreign Service post and each bureau and other operating unit of the Department of State, and shall perform such other functions as the Secretary of State may prescribe, except that the Secretary of State shall not assign to the Inspector General any general program operating responsibilities.

(2) The Inspector General may be removed from office by the President. The President shall communicate the reasons for any such removal to both Houses of Congress.

(b) Subject matter of inspections, investigations, and audits

Inspections, investigations, and audits conducted by or under the direction of the Inspector General shall include the systematic review and evaluation of the administration of activities and operations of Foreign Service posts and bureaus and other operating units of the Department of State, including an examination of—

(1) whether financial transactions and accounts are properly conducted, maintained, and reported;

(2) whether resources are being used and managed with the maximum degree of efficiency, effectiveness, and economy;

(3) whether the administration of activities and operations meets the requirements of applicable laws and regulations and, specifically, whether such administration is consistent with the requirements of section 3905 of this title;

(4) whether there exist instances of fraud or other serious problems, abuses, or deficiencies, and whether adequate steps for detection, correction, and prevention have been taken; and

(5) whether policy goals and objectives are being effectively achieved and whether the interests of the United States are being accurately and effectively represented.

(c) Policies and procedures governing inspection and audit activities; coordination and cooperation with Comptroller General; report to Attorney General on criminal law violations; provision of information to employees; conduct of investigations

(1) The Inspector General shall develop and implement policies and procedures for the inspection and audit activities carried out under this section. These policies and procedures shall be consistent with the general policies and guidelines of the Government for inspection and audit activities and shall comply with the standards established by the Comptroller General of the United States for audits of Government agencies, organizations, programs, activities, and functions.

(2) In carrying out the duties and responsibilities established under this section, the Inspector General shall give particular regard to the activities of the Comptroller General of the United States with a view toward insuring effective coordination and cooperation.

(3) In carrying out the duties and responsibilities established under this section, the Inspector General shall report expeditiously to the Attorney General whenever the Inspector General has reasonable grounds to believe there has been a violation of Federal criminal law.

(4) The Inspector General shall develop and provide to employees—

(A) information detailing their rights to counsel; and

(B) guidelines describing in general terms the policies and procedures of the Office of Inspector General with respect to individuals under investigation other than matters exempt from disclosure under other provisions of law.

(5) INVESTIGATIONS.—

(A) CONDUCT OF INVESTIGATIONS.—In conducting investigations of potential violations of Federal criminal law or Federal regulations, the Inspector General shall—

(i) abide by professional standards applicable to Federal law enforcement agencies; and

(ii) make every reasonable effort to permit each subject of an investigation an opportunity to provide exculpatory information.

(B) FINAL REPORTS OF INVESTIGATIONS.—In order to ensure that final reports of investigations are thorough and accurate, the Inspector General shall—

(i) make every reasonable effort to ensure that any person named in a final report of investigation has been afforded an opportunity to refute any allegation of wrongdoing or assertion with respect to a material fact made regarding that person's actions;

(ii) include in every final report of investigation any exculpatory information, as well as any inculpatory information, that has been discovered in the course of the investigation.

(6) REQUIRED REPORTING OF ALLEGATIONS AND INVESTIGATIONS AND INSPECTOR GENERAL AUTHORITY.—

(A) IN GENERAL.—The head of a bureau, post, or other office of the Department of State (in this paragraph referred to as a "Department entity") shall submit to the Inspector General a report of any allegation of—

(i) waste, fraud, or abuse in a Department program or operation;

(ii) criminal or serious misconduct on the part of a Department employee at the FS–1, GS–15, or GM–15 level or higher;

(iii) criminal misconduct on the part of a Department employee; and

(iv) serious, noncriminal misconduct on the part of any Department employee who is authorized to carry a weapon, make arrests, or conduct searches, such as conduct that, if proved, would constitute perjury or material dishonesty, warrant suspension as discipline for a first offense, or result in loss of law enforcement authority.

(B) DEADLINE.—The head of a Department entity shall submit to the Inspector General a report of an allegation described in subparagraph (A) not later than 5 business days after the date on which the head of such Department entity is made aware of such allegation.

(d) Reports by Inspector General and Secretary of State

(1) The Inspector General shall keep the Secretary of State fully and currently informed, by means of the reports required by paragraphs (2) and (3) and otherwise, concerning fraud and other serious problems, abuses, and deficiencies relating to the administration of activities and operations administered or financed by the Department of State.

(2) The Inspector General shall, not later than April 30 of each year, prepare and furnish to the Secretary of State an annual report summarizing the activities of the Inspector General. Such report shall include—

(A) a description of significant problems, abuses, and deficiencies relating to the administration of activities and operations of Foreign Service posts, and bureaus and other operating units of the Department of State, which were disclosed by the Inspector General within the reporting period;

(B) a description of the recommendations for corrective action made by the Inspector General during the reporting period with respect to significant problems, abuses, or deficiencies described pursuant to subparagraph (A);

(C) an identification of each significant recommendation described in previous annual reports

on which corrective action has not been completed;

(D) a summary of matters referred to prosecutive authorities and the prosecutions and convictions which have resulted;

(E) a listing of each audit report completed by the Inspector General during the reporting period; and

(F) a notification, which may be included, if necessary, in the classified portion of the report, of any instance in a case that was closed during the period covered by the report when the Inspector General decided not to afford an individual the opportunity described in subsection (c)(5)(B)(i) to refute any allegation and the rationale for denying such individual that opportunity.

The Secretary of State shall transmit a copy of such annual report within 30 days after receiving it to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives and to other appropriate committees, together with a report of the Secretary of State containing any comments which the Secretary of State deems appropriate. Within 60 days after transmitting such reports to those committees, the Secretary of State shall make copies of them available to the public upon request and at a reasonable cost.

(3) The Inspector General shall report immediately to the Secretary of State whenever the Inspector General becomes aware of particularly serious or flagrant problems, abuses, or deficiencies relating to the administration of activities and operations of Foreign Service posts or bureaus or other operating units of the Department of State. The Secretary of State shall transmit any such report to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives and to other appropriate committees within 7 days after receiving it, together with a report by the Secretary of State containing any comments the Secretary of State deems appropriate.

(4) Nothing in this subsection shall be construed to authorize the public disclosure by any individual of any information which is—

(A) specifically prohibited from disclosure by any other provision of law; or

(B) specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs.

(e) Applicability of powers and responsibilities under other statutory provisions; assignment of Service employees to Inspector General; participation in formal interviews

(1) The Inspector General shall have the same authority in carrying out the provisions of this section as is granted under section 6 of the Inspector General Act of 1978 to each Inspector General of an establishment (as defined in section 11(2) of such Act) for carrying out the provisions of that Act, and the responsibilities of other officers of the Government to the Inspector General shall be the same as the responsibilities of the head of an agency or establishment under section 6(b) and (c) of such Act.

(2) At the request of the Inspector General, employees of the Department and members of the Service may be assigned as employees of the Inspector General. The individuals so assigned and individuals appointed pursuant to paragraph (1) shall be responsible solely to the Inspector General, and the Inspector General or his or her designee shall prepare the performance evaluation reports for such individuals.

(3) The Inspector General shall ensure that only officials from the Office of the Inspector General may participate in formal interviews or other formal meetings with the individual who is the subject of an investigation, other than an intelligence-related or sensitive undercover investigation, or except in those situations when the Inspector General has a reasonable basis to believe that such notice would cause tampering with witnesses, destroying evidence, or endangering the lives of individuals, unless that individual receives prior adequate notice regarding participation by officials of any other agency, including the Department of Justice, in such interviews or meetings.

(f) Reception and investigation of complaints or information; disclosure of identity of informer

(1) The Inspector General may receive and investigate complaints or information from a member of the Service or employee of the Department concerning the possible existence of an activity

constituting a violation of laws or regulations, constituting mismanagement, gross waste of funds, or abuse of authority, or constituting a substantial and specific danger to public health or safety.

(2) The Inspector General shall not, after receipt of a complaint or information from a member of the Service or employee of the Department, disclose the identity of such individual without the consent of such individual, unless the Inspector General determines such disclosure is unavoidable during the course of the investigation.

(g) Review of activities and operations of chiefs of mission

Under the general supervision of the Secretary of State, the Inspector General may review activities and operations performed under the direction, coordination, and supervision of chiefs of mission for the purpose of ascertaining their consonance with the foreign policy of the United States and their consistency with the responsibilities of the Secretary of State and the chief of mission.

(Pub. L. 96–465, title I, §209, Oct. 17, 1980, 94 Stat. 2080; Pub. L. 99–399, title IV, §413(a)(6), Aug. 27, 1986, 100 Stat. 868; Pub. L. 99–529, title IV, §405, Oct. 24, 1986, 100 Stat. 3020; Pub. L. 105–277, div. G, subdiv. B, title XXII, §2208(a), (b), Oct. 21, 1998, 112 Stat. 2681–810; Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title III, §339(a), (b)], Nov. 29, 1999, 113 Stat. 1536, 1501A–443; Pub. L. 114–323, title II, §203, Dec. 16, 2016, 130 Stat. 1916.)

REFERENCES IN TEXT

The Inspector General Act of 1978, referred to in subsec. (e)(1), is Pub. L. 95–452, Oct. 12, 1978, 92 Stat. 1101, as amended, which is set out in Title 5, Appendix, Government Organization and Employees.

AMENDMENTS

2016—Subsec. (c)(6). Pub. L. 114–323 added par. (6).

1999—Subsec. (c)(5). Pub. L. 106–113, §1000(a)(7) [div. A, title III, §339(a)], added par. (5).

Subsec. (d)(2)(F). Pub. L. 106–113, §1000(a)(7) [div. A, title III, §339(b)], added subpar. (F).

1998—Subsec. (c)(4). Pub. L. 105–277, §2208(a), added par. (4).

Subsec. (e)(3). Pub. L. 105–277, §2208(b), added par. (3).

1986—Subsec. (a)(1). Pub. L. 99–529 repealed §413(a)(6) of Pub. L. 99–399 and reenacted last sentence which had been struck out by Pub. L. 99–399.

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title III, §339(e)], Nov. 29, 1999, 113 Stat. 1536, 1501A–444, provided that: "The amendments made by this section [amending this section] shall apply to cases opened on or after the date of the enactment of this Act [Nov. 29, 1999]."

CONSTRUCTION OF 1999 AMENDMENT

Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title III, §339(c)], Nov. 29, 1999, 113 Stat. 1536, 1501A–444, provided that: "Nothing in the amendments made by this section [amending this section] may be construed to modify—

"(1) section 209(d)(4) of the Foreign Service Act of 1980 (22 U.S.C. 3929(d)(4));

"(2) section 7(b) of the Inspector General Act of 1978 (5 U.S.C. app.);

"(3) the Privacy Act of 1974 (5 U.S.C. 552a);

"(4) the provisions of section 2302(b)(8) of title 5 (relating to whistleblower protection);

"(5) rule 6(e) of the Federal Rules of Criminal Procedure [18 U.S.C. App.] (relating to the protection of grand jury information); or

"(6) any statute or executive order pertaining to the protection of classified information."

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (d)(2) of this section relating to the requirement that the Secretary of State transmit a copy of the annual report furnished by the Inspector General, together with any comments which the Secretary deems appropriate, to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives and to other appropriate committees, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 129 of House Document No. 103–7.

NO GRIEVANCE OR RIGHT OF ACTION

Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title III, §339(d)], Nov. 29, 1999, 113 Stat. 1536, 1501A–444,

provided that: "A failure to comply with the amendments made by this section [amending this section] shall not give rise to any private right of action in any court or to an administrative complaint or grievance under any law."

§3929a. Abolishment of Inspector General of Department of State and Foreign Service

Notwithstanding section 3929 of this title, the Inspector General of the Department of State and the Foreign Service is hereby abolished.

(Pub. L. 99–93, title I, §150(b), Aug. 16, 1985, 99 Stat. 427; Pub. L. 99–399, title IV, §413(c), Aug. 27, 1986, 100 Stat. 868.)

CODIFICATION

Section was enacted as part of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987, and not as part of the Foreign Service Act of 1980 which comprises this chapter.

Another subsec. (c) of section 413 of Pub. L. 99–399 is classified to section 4861(c) of this title.

AMENDMENTS

1986—Pub. L. 99–399 substituted provision abolishing the Inspector General of the Department of State and the Foreign Service for provision limiting the authority of the Inspector General to such functions as necessary to carry out section 3929(g) of this title.

§3930. Board of Foreign Service

The President shall establish a Board of the Foreign Service to advise the Secretary of State on matters relating to the Service, including furtherance of the objectives of maximum compatibility among agencies authorized by law to utilize the Foreign Service personnel system and compatibility between the Foreign Service personnel system and the other personnel systems of the Government. The Board of the Foreign Service shall be chaired by an individual appointed by the President and shall include one or more representatives of the Department of State, the Broadcasting Board of Governors, the Agency for International Development, the Department of Agriculture, the Department of Commerce, the Department of Labor, the Office of Personnel Management, the Office of Management and Budget, the Equal Employment Opportunity Commission, and such other agencies as the President may designate.

(Pub. L. 96–465, title I, §210, Oct. 17, 1980, 94 Stat. 2082; Pub. L. 97–241, title III, §303(b), Aug. 24, 1982, 96 Stat. 291; Pub. L. 99–93, title I, §153, Aug. 16, 1985, 99 Stat. 428; Pub. L. 105–277, div. G, subdiv. A, title XIII, §1335(k)(2), title XIV, §1422(b)(4)(B), Oct. 21, 1998, 112 Stat. 2681–789, 2681–793.)

AMENDMENTS

1998—Pub. L. 105–277, §1422(b)(4)(B), substituted "Agency for International Development" for "United States International Development Cooperation Agency".

Pub. L. 105–277, §1335(k)(2), substituted "Broadcasting Board of Governors" for "United States Information Agency".

1985—Pub. L. 99–93 substituted "shall be chaired by an individual appointed by the President" for "shall be chaired by a career member of the Senior Foreign Service designated by the Secretary of State".

CHANGE OF NAME

"United States Information Agency" substituted in text for "International Communication Agency" pursuant to section 303(b) of Pub. L. 97–241, set out as a note under section 1461 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 1335(k)(2) of Pub. L. 105–277 effective Oct. 1, 1999, see section 1301 of Pub. L. 105–277, set out as an Effective Date note under section 6531 of this title.

Amendment by section 1422(b)(4)(B) of Pub. L. 105–277 effective Apr. 1, 1999, see section 1401 of Pub.

L. 105–277, set out as an Effective Date note under section 6561 of this title.

EXECUTIVE ORDER NO. 11264

Ex. Ord. No. 11264, Dec. 31, 1965, 31 F.R. 67, as amended by Ex. Ord. No. 11434, Nov. 8, 1968, 33 F.R. 16485; Ex. Ord. No. 11636, Dec. 17, 1971, 36 F.R. 24901; Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055; Ex. Ord. No. 12292, Feb. 23, 1981, 46 F.R. 13967, which provided for the establishment, functions, etc., of the Board of the Foreign Service and Board of Examiners for the Foreign Service, was revoked by Ex. Ord. No. 12363, May 21, 1982, 47 F.R. 22497. See sections 6 and 9 of Ex. Ord. No. 12293, as amended, set out as a note under section 3901 of this title.

EXECUTIVE ORDER NO. 11434

Ex. Ord. No. 11434, Nov. 8, 1968, 33 F.R. 16485, as amended by Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055; Ex. Ord. No. 12292, Feb. 23, 1981, 46 F.R. 13967, which related to administration of foreign service personnel systems, was revoked by Ex. Ord. No. 12553, Feb. 25, 1986, 51 F.R. 7237.

§3931. Board of Examiners

(a) Establishment; membership; chairman

The President shall establish a Board of Examiners for the Foreign Service to develop, and supervise the administration of, examinations prescribed under section 3941(b) of this title to be given to candidates for appointment in the Service. The Board shall consist of 15 members appointed by the President (no fewer than 5 of whom shall be appointed from among individuals who are not Government employees and who shall be qualified for service on the Board by virtue of their knowledge, experience, or training in the fields of testing or equal employment opportunity). The Board shall include representatives of agencies utilizing the Foreign Service personnel system and representatives of other agencies which have responsibility for employment testing. The Board shall be chaired by a member of the Board, designated by the President, who is a member of the Service.

(b) Review of examinations; report to Secretary of State

The Board of Examiners shall periodically review the examinations prescribed under section 3941(b) of this title in order to determine—

(1) whether any such examination has an adverse impact on the hiring, promotion, or other employment opportunity of members of any race, sex, or ethnic group;

(2) methods of minimizing any such adverse impact;

(3) alternatives to any examinations which have such an adverse impact; and

(4) whether such examinations are valid in relation to job performance.

The Board of Examiners shall annually report its findings under this subsection to the Secretary of State and shall furnish to the Secretary of State its recommendations for improvements in the development, use, and administration of the examinations prescribed under section 3941(b) of this title.

(c) Vacancies

Any vacancy or vacancies on the Board shall not impair the right of the remaining members to exercise the full powers of the Board.

(Pub. L. 96–465, title I, §211, Oct. 17, 1980, 94 Stat. 2083.)

ESTABLISHMENT OF BOARD OF EXAMINERS

For establishment of the Board of Examiners for the Foreign Service and appointment of its members, see section 6 of Ex. Ord. No. 12293, Feb. 23, 1981, 46 F.R. 13970, set out as note under section 3901 of this title.

SUBCHAPTER III—APPOINTMENTS

§3941. General provisions

(a) Citizenship requirement

Only citizens of the United States may be appointed to the Service, other than for service abroad as a consular agent or as a foreign national employee.

(b) Examinations

The Secretary shall prescribe, as appropriate, written, oral, physical, foreign language, and other examinations for appointment to the Service (other than as a chief of mission or ambassador at large).

(c) Veteran or disabled veteran

The fact that an applicant for appointment as a Foreign Service officer candidate is a veteran or disabled veteran shall be considered an affirmative factor in making such appointments. As used in this subsection, the term "veteran or disabled veteran" means an individual who is a preference eligible under subparagraph (A), (B), or (C) of section 2108(3) of title 5.

(d) Career and noncareer appointments

(1) Members of the Service serving under career appointments are career members of the Service. Members of the Service serving under limited appointments are either career candidates or noncareer members of the Service.

(2) Chiefs of mission, ambassadors at large, and ministers serve at the pleasure of the President.

(3) An appointment as a Foreign Service officer is a career appointment. Foreign Service employees serving as career candidates or career members of the Service shall not represent to the income tax authorities of the District of Columbia or any other State or locality that they are exempt from income taxation on the basis of holding a Presidential appointment subject to Senate confirmation or that they are exempt on the basis of serving in an appointment whose tenure is at the pleasure of the President.

(Pub. L. 96–465, title I, §301, Oct. 17, 1980, 94 Stat. 2083; Pub. L. 100–204, title I, §179(a), Dec. 22, 1987, 101 Stat. 1362.)

AMENDMENTS

1987—Subsec. (d)(3). Pub. L. 100–204 inserted sentence at end relating to exemption from income taxation.

EFFECTIVE DATE OF 1987 AMENDMENT

Pub. L. 100–204, title I, §179(b), Dec. 22, 1987, 101 Stat. 1363, provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to tax years beginning after December 31, 1987."

STUDY OF FOREIGN SERVICE EXAMINATION

Pub. L. 101–246, title I, §153(g), Feb. 16, 1990, 104 Stat. 44, provided that: "The Secretary of State shall enter into a contract with a private organization for a comprehensive review and evaluation of the Foreign Service examination. Such review and evaluation shall—

"(1) identify any cultural, racial, ethnic, and sexual bias;

"(2) evaluate the ability of the examination to measure an individual's aptitude for and potential in the Foreign Service;

"(3) consider the relevance of the Foreign Service examination to the work of a Foreign Service officer;

"(4) make recommendations for the removal of any element of bias in the examination; and

"(5) make recommendations for improvements to achieve an examination free of any bias.

Not more than 18 months after the date of the enactment of this Act [Feb. 16, 1990], the Secretary of State shall prepare and submit a report to the Congress which contains the findings of such review and evaluation, together with the comments of the Secretary and measures which the Secretary has initiated to respond to any adverse findings of such review. Such report shall take into consideration the current efforts by the Department of State to review its Foreign Service examination."

§3942. Appointments by the President

(a)(1) The President may, by and with the advice and consent of the Senate, appoint an individual as a chief of mission, as an ambassador at large, as an ambassador, as a minister, as a career member of the Senior Foreign Service, or as a Foreign Service officer.

(2)(A) The President may, by and with the advice and consent of the Senate, confer the personal rank of career ambassador upon a career member of the Senior Foreign Service in recognition of especially distinguished service over a sustained period.

(B)(i) Subject to the requirement of clause (ii), the President may confer the personal rank of ambassador or minister on an individual in connection with a special mission for the President of a temporary nature not exceeding six months in duration.

(ii) The President may confer such personal rank only if, prior to such conferral, he transmits to the Committee on Foreign Relations of the Senate a written report setting forth—

(I) the necessity for conferring such rank,

(II) the dates during which such rank will be held,

(III) the justification for not submitting the proposed conferral of personal rank to the Senate as a nomination for advice and consent to appointment, and

(IV) all relevant information concerning any potential conflict of interest which the proposed recipient of such personal rank may have with regard to the special mission.

Such report shall be transmitted not less than 30 days prior to conferral of the personal rank of ambassador or minister except in cases where the President certifies in his report that urgent circumstances require the immediate conferral of such rank.

(C) An individual upon whom a personal rank is conferred under subparagraph (A) or (B) shall not receive any additional compensation solely by virtue of such personal rank.

(3) Except as provided in paragraph (2)(B) of this subsection or in clause 3, section 2, article II of the Constitution (relating to recess appointments), an individual may not be designated as ambassador or minister, or be designated to serve in any position with the title of ambassador or minister, without the advice and consent of the Senate.

(b) If a member of the Service is appointed to any position in the executive branch by the President, by and with the advice and consent of the Senate, or by the President alone, the period of service in that position by the member shall be regarded as an assignment under subchapter V and the member shall not, by virtue of the acceptance of such assignment, lose his or her status as a member of the Service. A member of the Senior Foreign Service who accepts such an assignment may elect to continue to receive the salary of his or her salary class, to remain eligible for performance pay under subchapter IV, and to receive the leave to which such member is entitled under subchapter I of chapter 63, title 5, as a member of the Senior Foreign Service, in lieu of receiving the salary and leave (if any) of the position to which the member is appointed by the President.

(Pub. L. 96–465, title I, §302, Oct. 17, 1980, 94 Stat. 2084; Pub. L. 100–204, title I, §177(b), Dec. 22, 1987, 101 Stat. 1362; Pub. L. 102–138, title I, §§141, 142(a), Oct. 28, 1991, 105 Stat. 667.)

AMENDMENTS

1991—Subsec. (a)(1). Pub. L. 102–138, §141, inserted "as an ambassador," after "ambassador at large,".

Subsec. (b). Pub. L. 102–138, §142(a), substituted "may elect to continue to receive the salary of his or her salary class, to remain eligible for performance pay under subchapter IV, and to receive the leave to which such member is entitled under subchapter I of chapter 63, title 5, as a member of the Senior Foreign Service, in lieu of receiving the salary and leave (if any) of the position to which the member is appointed by the President" for "shall receive the salary and leave (if any) of the position to which the member is appointed by the President and shall not be eligible for performance pay under subchapter IV of this chapter".

1987—Subsec. (b). Pub. L. 100–204 substituted "shall receive the salary and leave (if any) of the position to which the member is appointed by the President and shall not be eligible for performance pay under subchapter IV of this chapter." for "may elect to continue to receive the salary of his or her salary class, to

remain eligible for performance pay under subchapter IV of this chapter, and to receive the leave to which such member is entitled under subchapter I of chapter 63 of title 5 as a member of the Senior Foreign Service, in lieu of receiving the salary and leave (if any) of the position to which the member is appointed by the President."

EFFECTIVE DATE OF 1987 AMENDMENT

Pub. L. 100–204, title I, §177(c), Dec. 22, 1987, 101 Stat. 1362, provided that: "The amendments made by subsections (a) and (b) [amending this section and section 3961 of this title] shall not apply to the salary of any individual serving under a Presidential appointment under section 302 of the Foreign Service Act of 1980 [this section] immediately before the date of the enactment of this Act [Dec. 22, 1987] during the period such individual continues to serve in such position."

DELEGATION OF FUNCTIONS

Functions of President under subsec. (a)(1) delegated to Secretary of State, see section 1 of Ex. Ord. No. 12293, Feb. 23, 1981, 46 F.R. 13969, set out as a note under section 3901 of this title.

EXECUTIVE ORDER NO. 10062

Ex. Ord. No. 10062, June 6, 1949, 14 F.R. 2695, as amended by act Aug. 10, 1949, ch. 412, §12(a), 63 Stat. 591; Ex. Ord. No. 10144, July 21, 1950, 15 F.R. 4705, eff. June 6, 1949, which established the position of United States High Commissioner for Germany, was revoked by Ex. Ord. No. 10608, May 5, 1955, 20 F.R. 3093, set out below.

EX. ORD. NO. 10608. UNITED STATES AUTHORITY AND FUNCTIONS IN GERMANY

Ex. Ord. No. 10608, May 5, 1955, 20 F.R. 3093, as amended by Ex. Ord. No. 12608, Sept. 9, 1987, 52 F.R. 34617, provided:

By virtue of the authority vested in me by the Constitution and the statutes, including the Foreign Service Act of 1980 (94 Stat. 2071), as amended [this chapter], and as President of the United States and Commander in Chief of the armed forces of the United States, it is ordered as follows:

1. Executive Order No. 10062 of June 6, 1949, and Executive Order No. 10144 of July 21, 1950, amending that order, are hereby revoked, and the position of United States High Commissioner for Germany, established by that order, is hereby abolished.

2. The Chief of the United States Diplomatic Mission to the Federal Republic of Germany, hereinafter referred to as the Chief of Mission, shall have supreme authority, except as otherwise provided herein, with respect to all responsibilities, duties, and governmental functions of the United States in all Germany. The Chief of Mission shall exercise his authority under the supervision of the Secretary of State and subject to ultimate direction by the President.

3. The United States Military Commander having area responsibility in Germany, hereinafter referred to as the Commander, shall have authority with respect to all military responsibilities, duties, and functions of the United States in all Germany, including the command, security, and stationing of United States forces in Germany, the assertion and exercise of their rights and discharge of their obligations therein, and emergency measures which he may consider essential for their protection or the accomplishment of his mission. The Commander may delegate the authority conferred upon him. If action by the Commander or any representative of the Commander, pursuant to the authority herein conferred, affects the foreign policy of the United States or involves relations or negotiations with non-military German authorities, such action shall be taken only after consultation with and agreement by the Chief of Mission or pursuant to procedures previously agreed to between the Chief of Mission and the Commander or his representative. Either the Chief of Mission or the Commander may raise with the other any question which he believes requires such consultation. If agreement is not reached between them, any differences may be referred to the Department of State and the Department of Defense for resolution.

4. The Chief of Mission and the Commander or his designated representatives shall, to the fullest extent consistent with their respective missions, render assistance and support to each other in carrying out the agreements and policies of the United States.

5. With regard to the custody, care, and execution of sentences and disposition (including pardon, clemency, parole, or release) of war criminals confined or hereafter to be confined in Germany as a result of conviction by military tribunals (A) the Chief of Mission shall share the four-power responsibility in the case of persons convicted by the International Military Tribunal, (B) the Chief of Mission shall exercise responsibility in the case of persons convicted by military tribunals established by the United States Military Governor pursuant to Control Council Law No. 10, and (C) the Commander shall exercise responsibility in the case of persons convicted by other military tribunals established by United States Military Commanders in

Germany and elsewhere. The Commanders shall, on request of the Chief of Mission, take necessary measures for carrying into execution any sentences adjudged against such persons in category (B) as to whom the Chief of Mission has responsibility and control. Transfer of custody of persons in categories (B) and (C) to the Federal Republic of Germany as provided in the Convention on the Settlement of Matters Arising Out of the War and Occupation shall terminate the responsibility of the Chief of Mission and the Commander with respect to such persons to the extent that the responsibility of the United States for them is thereupon terminated pursuant to the provisions of the said Convention.

6. If major differences arise over matters affecting the United States Forces in Germany, such differences may be referred to the Department of State and the Department of Defense for resolution.

7. This order shall become effective on the date that the Convention on Relations between the Three Powers and the Federal Republic of Germany and related Conventions, as amended, come into force.

EXECUTIVE ORDER NO. 11970

Ex. Ord. No. 11970, Feb. 5, 1977, 42 F.R. 7919, establishing the Presidential Advisory Board on Ambassadorial Appointments, was revoked by Ex. Ord. No. 12299, Mar. 17, 1981, 46 F.R. 17751.

Term of the Presidential Advisory Board on Ambassadorial Appointments extended until Dec. 31, 1980, see Ex. Ord. No. 12110, Dec. 28, 1978, 44 F.R. 1069, formerly set out as a note under section 14 of the Appendix to Title 5, Government Organization and Employees.

§3943. Appointments by the Secretary

The Secretary may appoint the members of the Service (other than the members of the Service who are in the personnel categories specified in section 3942(a) of this title) in accordance with this chapter and such regulations as the Secretary may prescribe.

(Pub. L. 96–465, title I, §303, Oct. 17, 1980, 94 Stat. 2085.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 96–465, Oct. 17, 1980, 94 Stat. 2071, as amended, known as the Foreign Service Act of 1980, which is classified principally to this chapter (§3901 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 3901 of this title and Tables.

PROHIBITION ON CERTAIN EMPLOYMENT AT UNITED STATES DIPLOMATIC AND CONSULAR MISSIONS IN COMMUNIST COUNTRIES

Pub. L. 100–204, title I, §157, Dec. 22, 1987, 101 Stat. 1354, provided that:

"(a) PROHIBITION.—After September 30, 1990, no national of a Communist country may be employed as a foreign national employee in any area of a United States diplomatic or consular facility in any Communist country where classified materials are maintained.

"(b) DEFINITION.—As used in this section, the term 'Communist country' means a country listed in section 620(f) of the Foreign Assistance Act of 1961 [22 U.S.C. 2370(f)].

"(c) ADDITIONAL FUNDS FOR HIRING UNITED STATES CITIZENS.—The Congress expresses its willingness to provide additional funds to the Department of State for the expenses of employing United States nationals to replace the individuals dismissed by reason of subsection (a).

"(d) REPORT AND REQUEST FOR FUNDS.—As a part of the Department of State's authorization request for fiscal years 1990 and 1991, the Secretary of State, in consultation with the heads of all relevant agencies, shall submit—

"(1) a report, which shall include—

"(A) a feasibility study of the implementation of this section; and

"(B) an analysis of the impact of the implementation of this section on the budget of the Department of State; and

"(2) a request for funds necessary for the implementation of this section pursuant to the findings and conclusions specified in the report under paragraph (1).

"(e) WAIVER.—The President may waive this section—

"(1) if funds are not specifically authorized and appropriated to carry out this section; or

"(2) the President determines that it is in the national security interest of the United States to continue to employ foreign service nationals.

The President shall notify the appropriate committees of Congress each time he makes the waiver conferred

on him by this section."

SOVIET EMPLOYEES AT UNITED STATES DIPLOMATIC AND CONSULAR MISSIONS IN THE SOVIET UNION

Pub. L. 99–93, title I, §136, Aug. 16, 1985, 99 Stat. 421, provided that:

"(a) LIMITATION.—To the maximum extent practicable, citizens of the Soviet Union shall not be employed as foreign national employees at United States diplomatic or consular missions in the Soviet Union after September 30, 1986.

"(b) REPORT.—Should the President determine that the implementation of subsection (a) poses undue practical or administrative difficulties, he is requested to submit a report to the Congress describing the number and type of Soviet foreign national employees he wishes to retain at or in proximity to United States diplomatic and consular posts in the Soviet Union, the anticipated duration of their continued employment, the reasons for their continued employment, and the risks associated with the retention of these employees."

EMPLOYMENT OF SOVIET NATIONALS AT U.S. DIPLOMATIC AND CONSULAR MISSIONS IN SOVIET UNION

Determination of President of the United States, No. 92–4, Oct. 24, 1991, 56 F.R. 56567, provided:

Memorandum for the Secretary of State

By the authority vested in me by the Constitution and laws of the United States, including section 301 of title 3 of the United States Code and section 136 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99–93) ("the Act") [set out as a note above], I hereby determine that implementation of section 136(a) of the Act poses undue practical and administrative difficulties. Consistent with this determination, you are authorized to employ Soviet nationals in nonsensitive areas of the New Embassy Compound in Moscow under strict monitoring by cleared Americans. Further, I delegate to you the responsibility vested in me by section 136(b) of the Act to report to the Congress on circumstances relevant to this determination. Such responsibility may be redelegated within the Department of State.

You are authorized and directed to report this determination to the Congress and to publish it in the Federal Register.

GEORGE BUSH.

§3944. Chiefs of Mission

(a) Qualifications; preference for career members; political contributions as factor in appointment; demonstrated competency report

(1) An individual appointed or assigned to be a chief of mission should possess clearly demonstrated competence to perform the duties of a chief of mission, including, to the maximum extent practicable, a useful knowledge of the principal language or dialect of the country in which the individual is to serve, and knowledge and understanding of the history, the culture, the economic and political institutions, and the interests of that country and its people.

(2) Given the qualifications specified in paragraph (1), positions as chief of mission should normally be accorded to career members of the Service, though circumstances will warrant appointments from time to time of qualified individuals who are not career members of the Service.

(3) Contributions to political campaigns should not be a factor in the appointment of an individual as a chief of mission.

(4) The President shall provide the Committee on Foreign Relations of the Senate, with each nomination for an appointment as a chief of mission, a report on the demonstrated competence of that nominee to perform the duties of the position in which he or she is to serve.

(b) Furnishing of information by Secretary; political campaign contributions report

(1) In order to assist the President in selecting qualified candidates for appointment or assignment as chiefs of mission, the Secretary of State shall from time to time furnish the President with the names of career members of the Service who are qualified to serve as chiefs of mission, together with pertinent information about such members.

(2) Each individual nominated by the President to be a chief of mission, ambassador at large, or minister shall, at the time of nomination, file with the Committee on Foreign Relations of the Senate

and the Speaker of the House of Representatives a report of contributions made by such individual and by members of his or her immediate family during the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination. The report shall be verified by the oath of the nominee, taken before any individual authorized to administer oaths. The chairman of the Committee on Foreign Relations of the Senate shall have each such report printed in the Congressional Record. As used in this paragraph, the term "contribution" has the same meaning given such term by section 30101(8) of title 52, and the term "immediate family" means the spouse of the nominee, and any child, parent, grandparent, brother, or sister of the nominee and the spouses of any of them.

(Pub. L. 96–465, title I, §304, Oct. 17, 1980, 94 Stat. 2085; Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title II, §208(b)], Nov. 29, 1999, 113 Stat. 1536, 1501A–422.)

AMENDMENTS

1999—Subsec. (c). Pub. L. 106–113 struck out subsec. (c) which read as follows: "Within 6 months after assuming the position, the chief of mission to a foreign country shall submit, to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives, a report describing his or her own foreign language competence and the foreign language competence of the mission staff in the principal language or other dialect of that country."

PUBLIC AVAILABILITY OF REPORTS ON NOMINEES TO BE CHIEFS OF MISSION

Pub. L. 114–323, title VII, §712, Dec. 16, 2016, 130 Stat. 1945, provided that: "Not later than 7 days after submitting the report required under section 304(a)(4) of the Foreign Service Act of 1980 (22 U.S.C. 3944(a)(4)) to the Committee on Foreign Relations of the Senate, the President shall make the report available to the public, including by posting the report on the website of the Department [of State] in a conspicuous manner and location."

§3945. Senior Foreign Service

(a) Salary class

Appointment to the Senior Foreign Service shall be to a salary class established under section 3962 of this title, and not to a position.

(b) Limited appointment

An individual may not be given a limited appointment in the Senior Foreign Service if that appointment would cause the number of members of the Senior Foreign Service serving under limited appointments to exceed 5 percent of the total number of members of the Senior Foreign Service, except that (1) members of the Senior Foreign Service assigned to the Peace Corps shall be excluded in the calculation and application of this limitation, and (2) members of the Senior Foreign Service serving under limited appointments with reemployment rights under section 3950 of this title as career appointees in the Senior Executive Service shall be considered to be career members of the Senior Foreign Service for purposes of this subsection.

(c) Appointments by Secretary of Commerce

(1) Appointments to the Senior Foreign Service by the Secretary of Commerce shall be excluded in the calculation and application of the limitation in subsection (b).

(2) Except as provided in paragraph (3), no more than one individual (other than an individual with reemployment rights under section 3950 of this title as a career appointee in the Senior Executive Service) may serve under a limited appointment in the Senior Foreign Service in the Department of Commerce at any time.

(3) The Secretary of Commerce may appoint an individual to a limited appointment in the Senior Foreign Service for a specific position abroad if—

(A) no career member of the Service who has the necessary qualifications is available to serve in the position; and

(B) the individual appointed has unique qualifications for the specific position.

(d) Recertification process

The Secretary shall by regulation establish a recertification process for members of the Senior Foreign Service that is equivalent to the recertification process for the Senior Executive Service under section 3393a of title 5.[1]

(Pub. L. 96–465, title I, §305, Oct. 17, 1980, 94 Stat. 2086; Pub. L. 99–93, title I, §119(a), Aug. 16, 1985, 99 Stat. 412; Pub. L. 101–194, title V, §506(c)(1), Nov. 30, 1989, 103 Stat. 1759; Pub. L. 101–280, §6(d)(3), May 4, 1990, 104 Stat. 160.)

REFERENCES IN TEXT

Section 3393a of title 5, referred to in subsec. (d), was repealed by Pub. L. 107–296, title XIII, §1321(a)(1)(B), Nov. 25, 2002, 116 Stat. 2296.

AMENDMENTS

1990—Subsec. (d). Pub. L. 101–280 made technical correction to Pub. L. 101–194. See 1989 Amendment note below.

1989—Subsec. (d). Pub. L. 101–194, as amended by Pub. L. 101–280, added subsec. (d).

1985—Subsec. (c). Pub. L. 99–93 added subsec. (c).

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101–194 effective Jan. 1, 1991, see section 506(d) of Pub. L. 101–194, set out as a note under section 3151 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1985 AMENDMENT

Pub. L. 99–93, title I, §119(c), Aug. 16, 1985, 99 Stat. 412, provided that: "The amendments made by subsections (a) and (b) [amending this section and provisions set out as a note under section 3901 of this title] shall take effect on October 1, 1985."

EFFECTIVE DATE

Section effective Feb. 15, 1981, with an exception that appointments to the Senior Foreign Service by the Secretary of Commerce shall be excluded in the calculation and limitation in subsec. (b) of this section until Oct. 1, 1985, which was repealed by section 119(b) of Pub. L. 99–93, see section 2403 of Pub. L. 96–465, set out as a note under section 3901 of this title.

PLACEMENT OF SENIOR FOREIGN SERVICE PERSONNEL

Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title III, §324], Nov. 29, 1999, 113 Stat. 1536, 1501A–437, required the Director General of the Foreign Service to submit a report on the first day of each fiscal quarter to the appropriate congressional committees containing the number of members of the Senior Foreign Service, the number of vacant positions designated for such members, and the number of those members not assigned to positions, prior to repeal by Pub. L. 107–228, div. A, title VI, §671(4), Sept. 30, 2002, 116 Stat. 1407.

[1] *See References in Text note below.*

§3946. Career appointments

(a) Trial period under limited appointment

Before receiving a career appointment in the Service, an individual shall first serve under a limited appointment as a career candidate for a trial period of service prescribed by the Secretary. During such trial period of service, the Secretary shall decide whether—

(1) to offer a career appointment to the candidate under section 3943 of this title, or

(2) to recommend to the President that the candidate be given a career appointment under section 3942 of this title.

(b) Decisions by Secretary

Decisions by the Secretary under subsection (a) shall be based upon the recommendations of boards, established by the Secretary and composed entirely or primarily of career members of the

Service, which shall evaluate the fitness and aptitude of career candidates for the work of the Service.

(c) Foreign Service Grievance Board decisions

Nothing in this section shall be construed to limit the authority of the Secretary or the Foreign Service Grievance Board under section 4137 of this title.

(Pub. L. 96–465, title I, §306, Oct. 17, 1980, 94 Stat. 2086; Pub. L. 100–204, title I, §181(c), Dec. 22, 1987, 101 Stat. 1363.)

AMENDMENTS

1987—Subsec. (c). Pub. L. 100–204 added subsec. (c).

EFFECTIVE DATE OF 1987 AMENDMENT

Pub. L. 100–204, title I, §181(e), Dec. 22, 1987, 101 Stat. 1364, provided that: "The amendments made by this section [amending this section and sections 4010 and 4137 of this title] shall not apply with respect to any grievance in which the Board has issued a final decision pursuant to section 1107 of the Foreign Service Act of 1980 (22 U.S.C. 4137) before the date of enactment of this Act [Dec. 22, 1987]."

§3947. Entry levels for Foreign Service officer candidates

A career candidate for appointment as a Foreign Service officer may not be initially assigned under section 3964 of this title to a salary class higher than class 4 in the Foreign Service Schedule unless—

(1) the Secretary determines in an individual case that assignment to a higher salary class is warranted because of the qualifications (including foreign language competence) and experience of the candidate and the needs of the Service; or

(2) at the time such initial assignment is made, the candidate is serving under a career appointment in the Service and is receiving a salary at a rate equal to or higher than the minimum rate payable for class 4 in the Foreign Service Schedule.

(Pub. L. 96–465, title I, §307, Oct. 17, 1980, 94 Stat. 2086.)

§3948. Recall and reappointment of career members

(a) Retired career members

Whenever the Secretary determines that the needs of the Service so require, the Secretary may recall any retired career member of the Service for active duty in the same personnel category as that member was serving at the time of retirement. A retired career member may be recalled under this section to any appropriate salary class or rate, except that a retired career member of the Senior Foreign Service may not be recalled to a salary class higher than the one in which the member was serving at the time of retirement unless appointed to such higher class by the President, by and with the advice and consent of the Senate.

(b) Former career members

Former career members of the Service may be reappointed under section 3942(a)(1) or 3943 of this title, without regard to section 3946 of this title, in a salary class which is appropriate in light of the qualifications and experience of the individual being reappointed.

(Pub. L. 96–465, title I, §308, Oct. 17, 1980, 94 Stat. 2086.)

USAID OVERSEAS PROGRAM

Pub. L. 114–113, div. K, title VII, §7057(a)–(e), Dec. 18, 2015, 129 Stat. 2803, 2804, provided that:

"(a) AUTHORITY.—Up to $93,000,000 of the funds made available in title III of this Act [title III of div. K of Pub. L. 114–113, 129 Stat. 2716] pursuant to or to carry out the provisions of part I of the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.], including funds appropriated under the heading 'Assistance for Europe, Eurasia and Central Asia', may be used by the United States Agency for International

Development (USAID) to hire and employ individuals in the United States and overseas on a limited appointment basis pursuant to the authority of sections 308 and 309 of the Foreign Service Act of 1980 [22 U.S.C. 3948, 3949].

"(b) RESTRICTIONS.—

"(1) The number of individuals hired in any fiscal year pursuant to the authority contained in subsection (a) may not exceed 175.

"(2) The authority to hire individuals contained in subsection (a) shall expire on September 30, 2017.

"(c) CONDITIONS.—The authority of subsection (a) should only be used to the extent that an equivalent number of positions that are filled by personal services contractors or other non-direct hire employees of USAID, who are compensated with funds appropriated to carry out part I of the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.], including funds appropriated under the heading 'Assistance for Europe, Eurasia and Central Asia', are eliminated.

"(d) PROGRAM ACCOUNT CHARGED.—The account charged for the cost of an individual hired and employed under the authority of this section shall be the account to which the responsibilities of such individual primarily relate: *Provided*, That funds made available to carry out this section may be transferred to, and merged with, funds appropriated by this Act in title II [title II of div. K of Pub. L. 114–113, 129 Stat. 2715] under the heading 'Operating Expenses'.

"(e) FOREIGN SERVICE LIMITED EXTENSIONS.—Individuals hired and employed by USAID, with funds made available in this Act [div. K of Pub. L. 114–113, 129 Stat. 2705] or prior Acts making appropriations for the Department of State, foreign operations, and related programs, pursuant to the authority of section 309 of the Foreign Service Act of 1980 [22 U.S.C. 3949], may be extended for a period of up to 4 years notwithstanding the limitation set forth in such section."

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 113–235, div. J, title VII, §7057(a)–(e), Dec. 16, 2014, 128 Stat. 2664, 2665.

Pub. L. 113–76, div. K, title VII, §7057(a)–(e), Jan. 17, 2014, 128 Stat. 549.

Pub. L. 112–74, div. I, title VII, §7057(a)–(e), Dec. 23, 2011, 125 Stat. 1244.

Pub. L. 111–117, div. F, title VII, §7059(a)–(g), Dec. 16, 2009, 123 Stat. 3380, 3381.

Pub. L. 111–8, div. H, title VII, §7059(a)–(g), Mar. 11, 2009, 123 Stat. 896.

Pub. L. 110–161, div. J, title VI, §676, Dec. 26, 2007, 121 Stat. 2357.

Pub. L. 109–102, title V, §577, Nov. 14, 2005, 119 Stat. 2231.

Pub. L. 108–447, div. D, title V, §588, Dec. 8, 2004, 118 Stat. 3034.

Pub. L. 108–199, div. D, title V, §525, Jan. 23, 2004, 118 Stat. 176, provided that: "Funds appropriated by this and subsequent appropriations Acts to carry out the provisions of part I of the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.], including funds appropriated under the heading 'Assistance for Eastern Europe and the Baltic States', may be made available to employ individuals overseas on a limited appointment basis pursuant to the authority of sections 308 and 309 of the Foreign Service Act of 1980 [22 U.S.C. 3948, 3949]: *Provided*, That in fiscal years 2004, 2005, and 2006 the authority of this section may be used to hire not more than 85 individuals in each such year."

§3949. Limited appointments

(a) A limited appointment in the Service, including an appointment of an individual who is an employee of an agency, may not exceed 5 years in duration and, except as provided in subsections (b) and (c), may not be extended or renewed. A limited appointment in the Service which is limited by its terms to a period of one year or less is a temporary appointment.

(b) A limited appointment may be extended for continued service—

(1) as a consular agent;

(2) in accordance with section 3951(a) of this title;

(3) as a career candidate, if—

(A) continued service is determined appropriate to remedy a matter that would be cognizable as a grievance under subchapter XI; or

(B) the individual is serving in the uniformed services (as defined in section 4303 of title 38) and the limited appointment expires in the course of such service;

(4) as a career employee in another Federal personnel system serving in a Foreign Service position on detail from another agency;

(5) as a foreign national employee;

(6) in exceptional circumstances if the Secretary determines the needs of the Service require the extension of—

(A) a limited noncareer appointment for a period not to exceed 1 year; or

(B) a limited appointment of a career candidate for the minimum time needed to resolve a grievance, claim, investigation, or complaint not otherwise provided for in this section.

(c)(1) Except as provided in paragraph (2) noncareer employees who have served for 5 consecutive years under a limited appointment under this section may be reappointed to a subsequent noncareer limited appointment if there is at least a 1-year break in service before such new appointment.

(2) The Secretary may waive the 1-year break requirement under paragraph (1) in cases of special need.

(Pub. L. 96–465, title I, §309, Oct. 17, 1980, 94 Stat. 2086; Pub. L. 100–204, title I, §176, Dec. 22, 1987, 101 Stat. 1361; Pub. L. 103–236, title I, §180(a)(1), Apr. 30, 1994, 108 Stat. 415; Pub. L. 103–415, §1(hh), Oct. 25, 1994, 108 Stat. 4303; Pub. L. 114–323, title IV, §409, Dec. 16, 2016, 130 Stat. 1930.)

AMENDMENTS

2016—Subsec. (a). Pub. L. 114–323, §409(1), substituted "subsections (b) and (c)" for "subsection (b)".

Subsec. (b)(3). Pub. L. 114–323, §409(2)(A), substituted "if—" for "if", inserted subpar. (A) designation before "continued service", and added subpar. (B).

Subsec. (b)(6). Pub. L. 114–323, §409(2)(B)–(D), added par. (6).

Subsec. (c). Pub. L. 114–323, §409(3), added subsec. (c).

1994—Subsec. (b)(5). Pub. L. 103–236, as amended by Pub. L. 103–415, added par. (5).

1987—Pub. L. 100–204 designated existing provisions as subsec. (a), substituted "subsection (b)" for "section 3951(a) of this title", and added subsec. (b).

§3950. Reemployment rights following limited appointment

Any employee of an agency who accepts a limited appointment in the Service with the consent of the head of the agency in which the employee is employed shall be entitled, upon the termination of such limited appointment, to be reemployed in accordance with section 3597 of title 5.

(Pub. L. 96–465, title I, §310, Oct. 17, 1980, 94 Stat. 2087.)

ENTITLEMENT TO BENEFITS FOR SERVICES PERFORMED OUTSIDE UNITED STATES; SERVICE EXCEEDING THIRTY MONTHS

Persons appointed, employed, or assigned after May 19, 1959, under former section 1787(c) of this title or section 2385(d) of this title for the purpose of performing functions under the Mutual Security Act of 1954 (see Short Title note set out under section 1754 of this title) and the Foreign Assistance Act of 1961 (section 2151 et seq. of this title) outside the United States shall not, unless otherwise agreed by the agency in which such benefits may be exercised, be entitled to the benefits provided for by this section in cases in which their service under the appointment, employment, or assignment exceeds thirty months. See Ex. Ord. No. 12163, §1–602(b), Sept. 29, 1979, 44 F.R. 56677, as amended, set out as a note under section 2381 of this title.

§3951. United States citizens hired abroad

(a) Appointment of family members

The Secretary, under section 3943 of this title, may appoint United States citizens, who are family members of government employees assigned abroad or are hired for service at their post of residence, for employment in positions customarily filled by Foreign Service officers, Foreign Service personnel, and foreign national employees.

(b) Family nexus as affirmative hiring factor

The fact that an applicant for employment in a position referred to in subsection (a) is a family member of a Government employee assigned abroad shall be considered an affirmative factor in employing such person.

(c) Compensation of family and non-family member employees

(1) Non-family members employed under this section for service at their post of residence shall be paid in accordance with local compensation plans established under section 3968 of this title.

(2) Family members employed under this section shall be paid in accordance with the Foreign Service Schedule or the salary rates established under section 3967 of this title.

(3) In exceptional circumstances, non-family members may be paid in accordance with the Foreign Service Schedule or the salary rates established under section 3967 of this title, if the Secretary determines that the national interest would be served by such payments.

(d) Non-family member employees ineligible for certain benefits

Nonfamily member United States citizens employed under this section shall not be eligible by reason of such employment for benefits under subchapter VIII of this chapter, or under chapters [1] 83 or 84 of title 5.

(Pub. L. 96–465, title I, §311, Oct. 17, 1980, 94 Stat. 2087; Pub. L. 103–236, title I, §180(a)(2), Apr. 30, 1994, 108 Stat. 415; Pub. L. 103–415, §1(h)(1), Oct. 25, 1994, 108 Stat. 4300.)

AMENDMENTS

1994—Pub. L. 103–415 substituted "United States citizens hired abroad" for "Employment of family members of Government employees" as section catchline and inserted "by reason of such employment" after "eligible" in subsec. (d).

Pub. L. 103–236 amended section generally. Prior to amendment, section read as follows:

"(a) The Secretary, when employing individuals abroad in positions to which career members of the Service are not customarily assigned (including, when continuity over a long term is not a significant consideration, vacant positions normally filled by foreign national employees), shall give equal consideration to employing available qualified family members of members of the Service or of other Government employees assigned abroad. Family members so employed shall serve under renewable limited appointments in the Service and may be paid either in accordance with the Foreign Service Schedule or a local compensation plan established under section 3968 of this title.

"(b) Employment of family members in accordance with this section may not be used to avoid fulfilling the need for full-time career positions."

[1] *So in original. Probably should be "chapter".*

§3952. Diplomatic and consular missions

(a) Recommendations by Secretary of State; appointment by President; vice consul; performance of official functions under commission

The Secretary of State may recommend to the President that a member of the Service who is a citizen of the United States be commissioned as a diplomatic or consular officer or both. The President may, by and with the advice and consent of the Senate, commission such member of the Service as a diplomatic or consular officer or both. The Secretary of State may commission as a vice consul a member of the Service who is a citizen of the United States. All official functions performed by a diplomatic or consular officer, including a vice consul, shall be performed under such a commission.

(b) Function of commissioned Service members

Members of the Service commissioned under this section may, in accordance with their commissions, perform any function which any category of diplomatic officer (other than a chief of mission) or consular officer is authorized by law to perform.

(c) Limits of consular districts

The Secretary of State shall define the limits of consular districts.

(Pub. L. 96–465, title I, §312, Oct. 17, 1980, 94 Stat. 2087.)

SUBCHAPTER IV—COMPENSATION

§3961. Salaries of chiefs of mission

(a) Except as provided in section 3942(b) of this title, each chief of mission shall receive a salary, as determined by the President, at one of the annual rates payable for levels II through V of the Executive Schedule under sections 5313 through 5316 of title 5, except that the total compensation, exclusive of danger pay, for any chief of mission shall be subject to the limitation on certain payments under section 5307 of title 5 or the limitation under section 3962(a)(3) of this title, whichever is higher.

(b) The salary of a chief of mission shall commence upon the effective date of appointment to that position. The official services of a chief of mission are not terminated by the appointment of a successor, but shall continue for such additional period, not to exceed 50 days after relinquishment of charge of the mission, as the Secretary of State may determine. During that period, the Secretary of State may require the chief of mission to perform such functions as the Secretary of State deems necessary in the interest of the Government.

(Pub. L. 96–465, title I, §401, Oct. 17, 1980, 94 Stat. 2087; Pub. L. 100–204, title I, §177(a), Dec. 22, 1987, 101 Stat. 1362; Pub. L. 102–138, title I, §142(b), Oct. 28, 1991, 105 Stat. 668; Pub. L. 108–447, div. B, title IV, §412(c), Dec. 8, 2004, 118 Stat. 2905.)

AMENDMENTS

2004—Subsec. (a). Pub. L. 108–447, which directed the substitution of "shall be subject to the limitation on certain payments under section 5307 of title 5 or the limitation under section 3962(a)(3) of this title, whichever is higher" for "shall not exceed the annual rate of pay payable for level I of such Executive Schedule", was executed by making the substitution for "shall not exceed the annual rate payable for level I of such Executive Schedule" to reflect the probable intent of Congress.

1991—Subsec. (a). Pub. L. 102–138 substituted "Except as provided in section 3942(b) of this title, each" for "Each" and "level I of such" for "level II of such".

1987—Subsec. (a). Pub. L. 100–204 substituted "Each chief" for "Except as provided in section 3942(b) of this title, each chief", and inserted before period at end ", except that the total compensation, exclusive of danger pay, for any chief of mission shall not exceed the annual rate payable for level II of such Executive Schedule".

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–204 not applicable to salary of any individual serving under Presidential appointment under section 3942 of this title immediately before Dec. 22, 1987, during the period such individual continues to serve in such position, see section 177(c) of Pub. L. 100–204, set out as a note under section 3942 of this title.

§3962. Salaries of Senior Foreign Service members

(a) Prescription by President; basic salary rates; adjustments; determinations by Secretary

(1) The President shall prescribe salary classes for the Senior Foreign Service and shall prescribe an appropriate title for each class. The President shall also prescribe ranges of basic salary rates for each class. Except as provided in paragraph (3), basic salary rates for the Senior Foreign Service may not exceed the maximum rate or be less than the minimum rate of basic pay payable for the Senior Executive Service under section 5382 of title 5.

(2) The Secretary shall determine which basic salary rate within the ranges prescribed by the

President under paragraph (1) shall be paid to each member of the Senior Foreign Service based on individual performance, contribution to the mission of the Department, or both, as determined under a rigorous performance management system. Except as provided in regulations prescribed by the Secretary and, to the extent possible, consistent with regulations governing the Senior Executive Service, the Secretary may adjust the basic salary rate of a member of the Senior Foreign Service not more than once during any 12-month period.

(3) Upon a determination by the Secretary that the Senior Foreign Service performance appraisal system, as designed and applied, makes meaningful distinctions based on relative performance—

(A) the maximum rate of basic pay payable for the Senior Foreign Service shall be level II of the Executive Schedule; and

(B) the applicable aggregate pay cap shall be equivalent to the aggregate pay cap set forth in section 5307(d)(1) of title 5 for members of the Senior Executive Service.

(b) Career appointees in Senior Executive Service accepting limited appointment in Senior Foreign Service; adjustment

(1) An individual who is a career appointee in the Senior Executive Service receiving basic pay at one of the rates payable under section 5382 of title 5 and who accepts a limited appointment in the Senior Foreign Service in a salary class for which the basic salary rate is less than such basic rate of pay, shall be paid a salary at his or her former basic rate of pay (with adjustments as provided in paragraph (2)) until the salary for his or her salary class in the Senior Foreign Service equals or exceeds the salary payable to such individual under this subsection.

(2) The salary paid to an individual under this subsection shall be adjusted by 50 percent of each adjustment, which takes effect after the appointment of such individual to the Senior Foreign Service, in the basic rate of pay at which that individual was paid under section 5382 of title 5 immediately prior to such appointment.

(Pub. L. 96–465, title I, §402, Oct. 17, 1980, 94 Stat. 2087; Pub. L. 97–241, title I, §124, Aug. 24, 1982, 96 Stat. 281; Pub. L. 108–447, div. B, title IV, §412(a), Dec. 8, 2004, 118 Stat. 2905.)

REFERENCES IN TEXT

Level II of the Executive Schedule, referred to in subsec. (a)(3)(A), is set out in section 5313 of Title 5, Government Organization and Employees.

AMENDMENTS

2004—Subsec. (a)(1). Pub. L. 108–447, §412(a)(1), substituted "The President shall also prescribe ranges of basic salary rates for each class. Except as provided in paragraph (3), basic salary rates for the Senior Foreign Service may not exceed the maximum rate or be less than the minimum rate of basic pay payable for the Senior Executive Service under section 5382 of title 5." for "The President shall also prescribe one or more basic salary rates for each class. Basic salary rates for the Senior Foreign Service may not exceed the maximum rate or be less than the minimum rate of basic pay payable for the Senior Executive Service under section 5382 of title 5, and shall be adjusted at the same time and in the same manner as rates of basic pay are adjusted for the Senior Executive Service."

Subsec. (a)(2), (3). Pub. L. 108–447, §412(a)(2), added pars. (2) and (3) and struck out former par. (2) which read as follows: "The Secretary shall determine which of the basic salary rates prescribed by the President under paragraph (1) for any salary class shall be paid to each member of the Senior Foreign Service who is appointed to that class. The Secretary may adjust the basic salary rate of a member of the Senior Foreign Service not more than once during any 12-month period."

1982—Subsec. (a). Pub. L. 97–241 designated existing provisions as par. (1), inserted provision authorizing the President to prescribe one or more basic salary rates for each class, and added par. (2).

EFFECTIVE DATE

Section effective Feb. 15, 1981, except that subsec. (a), for purposes of implementing section 4151 of this title, is effective Oct. 17, 1980, see section 2403(a) and (d)(2) of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

ESTABLISHMENT OF SALARY CLASSES WITH TITLES FOR SENIOR FOREIGN SERVICE

For establishment of salary classes with titles for the Senior Foreign Service, at basic rates of pay equivalent

to that established from time to time for the Senior Executive Service under section 5382 of Title 5, Government Organization and Employees, see section 4 of Ex. Ord. No. 12293, Feb. 23, 1981, 46 F.R. 13969, set out as a note under section 3901 of this title.

§3963. Foreign Service Schedule

The President shall establish a Foreign Service Schedule which shall consist of 9 salary classes and which shall apply to members of the Service who are citizens of the United States and for whom salary rates are not otherwise provided for by this subchapter. The maximum salary rate for the highest class established under this section, which shall be designated class 1, may not exceed the maximum rate of basic pay prescribed for GS–15 of the General Schedule under section 5332 of title 5. Salary rates established under this section shall be adjusted in accordance with section 5303 of title 5.

(Pub. L. 96–465, title I, §403, Oct. 17, 1980, 94 Stat. 2088; Pub. L. 101–509, title V, §529 [title I, §101(b)(1)], Nov. 5, 1990, 104 Stat. 1427, 1439.)

AMENDMENTS

1990—Pub. L. 101–509 substituted "section 5303" for "subchapter I of chapter 53".

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–509 effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title I, §305] of Pub. L. 101–509, set out as a note under section 5301 of Title 5, Government Organization and Employees.

EFFECTIVE DATE

Section effective Feb. 15, 1981, except that for purposes of implementing section 4151 of this title it is effective Oct. 17, 1980, see section 2403(a) and (d)(2) of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

EXECUTIVE ORDER NO. 12249

Ex. Ord. No. 12249, Oct. 25, 1980, 45 F.R. 71347, which provided for a Foreign Service Schedule, was superseded by Ex. Ord. No. 12330, Oct. 15, 1981, 46 F.R. 50921, formerly set out as a note under section 5332 of Title 5, Government Organization and Employees.

ADJUSTMENT OF FOREIGN SERVICE SCHEDULE

For adjustment of Foreign Service Schedule pay rates under this section, see the executive order detailing the adjustment of certain rates of pay set out as a note under section 5332 of Title 5, Government Organization and Employees.

§3964. Assignments to salary class

(a) The Secretary shall assign all Foreign Service officers and Foreign Service personnel (other than Foreign Service personnel who are paid in accordance with section 3967 of this title or section 3968 of this title) to appropriate salary classes in the Foreign Service Schedule.

(b)(1) The salary class to which a member of the Service is assigned under this section shall not be affected by the assignment of the member to a position classified under subchapter V.

(2) Except as authorized by subchapter I of chapter 35 of title 5, changes in the salary class of a member of the Senior Foreign Service or a member of the Service assigned to a salary class in the Foreign Service Schedule shall be made only in accordance with subchapter VI. The Secretary shall prescribe regulations (which shall be consistent with the relevant provisions of subchapter VI of chapter 53 of title 5 and with the regulations prescribed to carry out such provisions) providing for retention of pay by members of the Service in cases in which reduction-in-force procedures are applied.

(Pub. L. 96–465, title I, §404, Oct. 17, 1980, 94 Stat. 2088; Pub. L. 103–236, title I, §180(a)(3), Apr. 30, 1994, 108 Stat. 415.)

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–236 struck out "who are family members of Government employees paid in accordance with a local compensation plan established under" after "section 3967 of this title or".

§3965. Performance pay

(a) Eligibility; additional lump sum payment; excessive compensation not precluding award

Subject to subsection (e), members of the Senior Foreign Service who are serving—

(1) under career or career candidate appointments, or

(2) under limited appointments with reemployment rights under section 3950 of this title as career appointees in the Senior Executive Service,

shall be eligible to compete for performance pay in accordance with this section. Performance pay shall be paid in a lump sum and shall be in addition to the basic salary prescribed under section 3962 of this title and any other award. The fact that a member of the Senior Foreign Service competing for performance pay would, as a result of the payment of such performance pay, receive compensation exceeding the compensation of any other member of the Service shall not preclude the award or its payment.

(b) Criteria; limitations

Awards of performance pay shall take into account the criteria established by the Office of Personnel Management for performance awards under section 5384 of title 5 and rank awards under section 4507 of title 5. Awards of performance pay under this section shall be subject to the following limitations:

(1) Not more than 33 percent of the members of the Senior Foreign Service may receive performance pay in any fiscal year.

(2) Except as provided in paragraph (3), performance pay for a member of the Senior Foreign Service may not exceed 20 percent of the annual rate of basic salary for that member.

(3) Not more than 6 percent of the members of the Senior Foreign Service may receive performance pay in any fiscal year in an amount which exceeds the percentage limitation specified in paragraph (2). Payments under this paragraph to a member of the Senior Foreign Service may not exceed, in any fiscal year, the percentage of basic pay established under section 4507(e)(1) of title 5 for a Meritorious Executive, except that payments of the percentage of the basic pay established under section 4507(e)(2) of such title for Distinguished Executives may be made in any fiscal year to up to 1 percent of the members of the Senior Foreign Service.

(4) Any award under this section shall be subject to the limitation on certain payments under section 5307 of title 5, or the limitation under section 3962(a)(3) of this title, whichever is higher.

(5) The Secretary of State shall prescribe regulations, consistent with section 5582 of title 5, under which payment under this section shall be made in the case of any individual whose death precludes payment under paragraph (4) of this subsection.

(c) Determination of amount by Secretary; distribution on basis of selection board recommendations

The Secretary shall determine the amount of performance pay available under subsection (b)(2) each year for distribution among the members of the Senior Foreign Service and shall distribute performance pay to particular individuals on the basis of recommendations by selection boards established under section 4002 of this title.

(d) Recommendations for meritorious or distinguished service awards

The President may grant awards of performance pay under subsection (b)(3) on the basis of annual recommendations by the Secretary of State of members of the Senior Foreign Service who are nominated by their agencies as having performed especially meritorious or distinguished service. Such service in the promotion of internationally recognized human rights, including the right to

freedom of religion, shall serve as a basis for granting awards under this section. Recommendations by the Secretary of State under this subsection shall be made on the basis of recommendations by special interagency selection boards established by the Secretary of State for the purpose of reviewing and evaluating the nominations of agencies.

(e) Recognition in lieu of award

Notwithstanding any other provision of law, the Secretary of State may provide for recognition of the meritorious or distinguished service of any member of the Foreign Service described in subsection (a) (including any member of the Senior Foreign Service) by means other than an award of performance pay in lieu of making such an award under this section.

(Pub. L. 96–465, title I, §405, Oct. 17, 1980, 94 Stat. 2088; Pub. L. 100–204, title I, §175(b), Dec. 22, 1987, 101 Stat. 1361; Pub. L. 103–236, title I, §173(d), Apr. 30, 1994, 108 Stat. 412; Pub. L. 105–277, div. G, subdiv. B, title XXIII, §2311(a), Oct. 21, 1998, 112 Stat. 2681–826; Pub. L. 105–292, title V, §504(a), Oct. 27, 1998, 112 Stat. 2811; Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title III, §323], Nov. 29, 1999, 113 Stat. 1536, 1501A–437; Pub. L. 107–228, div. A, title III, §312(a), Sept. 30, 2002, 116 Stat. 1378; Pub. L. 108–447, div. B, title IV, §412(b), Dec. 8, 2004, 118 Stat. 2905.)

AMENDMENTS

2004—Subsec. (b)(4). Pub. L. 108–447 inserted ", or the limitation under section 3962(a)(3) of this title, whichever is higher" before period at end.

2002—Subsec. (b)(3). Pub. L. 107–228 inserted second sentence and struck out former second sentence which read as follows: "Payments under this paragraph to a member of the Senior Foreign Service may not exceed $10,000 in any fiscal year, except that payments of up to $20,000 in any fiscal year may be made under this paragraph to up to 1 percent of the members of the Senior Foreign Service."

1999—Subsec. (b)(1). Pub. L. 106–113 substituted "33" for "50".

1998—Subsec. (a). Pub. L. 105–277, §2311(a)(1), substituted "Subject to subsection (e), members" for "Members" in introductory provisions.

Subsec. (d). Pub. L. 105–292 inserted "Such service in the promotion of internationally recognized human rights, including the right to freedom of religion, shall serve as a basis for granting awards under this section." after first sentence.

Subsec. (e). Pub. L. 105–277, §2311(a)(2), added subsec. (e).

1994—Subsec. (b)(4). Pub. L. 103–236 amended par. (4) generally. Prior to amendment, par. (4) read as follows: "The total amount of basic salary plus performance pay received in any fiscal year by any member of the Senior Foreign Service may not exceed the salary payable for level I of the Executive Schedule under section 5312 of title 5 as in effect at the end of that fiscal year. Any amount which is not paid to a member of the Senior Foreign Service during a fiscal year because of this limitation shall be paid to that individual in a lump sum at the beginning of the following fiscal year. Any amount paid under this authority during a fiscal year shall be taken into account for purposes of applying the limitation in the first sentence of this subparagraph with respect to such fiscal year."

1987—Subsec. (b)(4), (5). Pub. L. 100–204 inserted at end of par. (4) "Any amount which is not paid to a member of the Senior Foreign Service during a fiscal year because of this limitation shall be paid to that individual in a lump sum at the beginning of the following fiscal year. Any amount paid under this authority during a fiscal year shall be taken into account for purposes of applying the limitation in the first sentence of this subparagraph with respect to such fiscal year." and added par. (5).

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107–228, div. A, title III, §312(b), Sept. 30, 2002, 116 Stat. 1378, provided that: "The amendment made by subsection (a) [amending this section] shall take effect October 1, 2002."

SENIOR FOREIGN SERVICE PERFORMANCE PAY

Pub. L. 103–236, title I, §173(a)–(c), Apr. 30, 1994, 108 Stat. 412, as amended by Pub. L. 103–415, §1(gg), Oct. 25, 1994, 108 Stat. 4303, provided that:

"(a) PROHIBITION ON AWARDS.—Notwithstanding any other provision of law, the Secretary of State may not award or pay performance payments for fiscal years 1994 and 1995 under section 405 of the Foreign Service Act of 1980 (22 U.S.C. 3965), unless the Secretary awards or pays performance awards to other Federal employees for such fiscal years.

"(b) AWARDS IN SUBSEQUENT FISCAL YEARS.—The Secretary may not make a performance award or payment in any fiscal year after a fiscal year referred to in subsection (a) for the purpose of providing an individual with a performance award or payment to which the individual would otherwise have been entitled in a fiscal year referred to in such subsection but for the prohibition described in such subsection.

"(c) APPLICATION TO USIA, AID, AND ACDA.—Subsections (a) and (b) shall apply to the United States Information Agency, the Agency for International Development, and the United States Arms Control and Disarmament Agency in the same manner as such subsections apply to the Department of State, except that the Director of the United States Information Agency, the Administrator of the Agency for International Development, and the Director of the United States Arms Control and Disarmament Agency shall be subject to the limitations and authority of the Secretary of State under subsections (a) and (b) for their respective agencies."

[For abolition of United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau), transfer of functions, and treatment of references thereto, see sections 6531, 6532, and 6551 of this title, and for abolition, transfer of functions, and treatment of references to United States Arms Control and Disarmament Agency, see section 6511 et seq. of this title.]

REVIEW OF PERFORMANCE PAY PROGRAMS

Pub. L. 100–204, title I, §175(a), Dec. 22, 1987, 101 Stat. 1361, provided that:

"(1) SUSPENSION OF AWARDS DURING REVIEW.—During the period beginning on the date of enactment of this Act [Dec. 22, 1987], and ending on the date on which the Inspector General of the Department of State reports to the Congress pursuant to paragraph (2), performance pay may not be awarded under section 405 of the Foreign Service Act of 1980 (22 U.S.C. 3965) to any member of the Senior Foreign Service in the Department of State.

"(2) REVIEW BY INSPECTOR GENERAL.—The Inspector General of the Department of State shall conduct a complete and thorough review of—

"(A) the procedures in the Department of State under which performance pay recipients are chosen to determine whether the procedures and award determinations are free from bias and reflect fair standards; and

"(B) the adequacy of the criteria and the equity of the criteria actually applied in making those awards. The review should be conducted in accordance with generally accepted Government auditing standards. The Inspector General shall report the results of this review to the Secretary of State and to the Congress no later than May 1, 1988.

"(3) REPORT BY SECRETARY OF STATE.—No later than 60 days after the report of the Inspector General is submitted to the Secretary of State under paragraph (2), the Secretary shall submit to the Congress a report containing the comments of the Secretary on the report of the Inspector General and describing the actions taken and proposed to be taken by the Secretary as a result of the report."

§3966. Within-class salary increases

(a) Time period; limitation

Any member of the Service receiving a salary under the Foreign Service Schedule shall be advanced to the next higher salary step in the member's class at the beginning of the first applicable pay period following the completion by that member of a period of—

(1) 52 calendar weeks of service in each of salary steps 1 through 9, and

(2) 104 calendar weeks of service in each of salary steps 10 through 13,

unless the performance of the member during that period is found in a review by a selection board established under section 4002 of this title to fall below the standards of performance for his or her salary class.

(b) Additional increase for meritorious service

The Secretary may grant, on the basis of especially meritorious service, to any member of the Service receiving an increase in salary under subsection (a), an additional salary increase to any higher step in the salary class in which the member is serving.

(Pub. L. 96–465, title I, §406, Oct. 17, 1980, 94 Stat. 2089.)

§3967. Salaries for Foreign Service personnel abroad who perform routine duties

(a) The Secretary may establish salary rates at rates lower than those established for the Foreign Service Schedule for the Foreign Service personnel described in subsection (b). The rates established under this subsection may be no less than the then applicable minimum wage rate specified in section 206(a)(1) of title 29.

(b) The Secretary may pay Foreign Service personnel who are recruited abroad, who are not available or are not qualified for assignment to another Foreign Service post, and who perform duties of a more routine nature than are generally performed by Foreign Service personnel assigned to class 9 in the Foreign Service Schedule, in accordance with the salary rates established under subsection (a).

(Pub. L. 96–465, title I, §407, Oct. 17, 1980, 94 Stat. 2090.)

§3968. Local compensation plans

(a) Establishment; rates of pay; leaves of absence; supplemental payments; transfer from Civil Service Retirement and Disability Fund

(1) The Secretary shall establish compensation (including position classification) plans for foreign national employees of the Service and United States citizens employed under section 3951(c)(1) of this title. To the extent consistent with the public interest, each compensation plan shall be based upon prevailing wage rates and compensation practices (including participation in local social security plans) for corresponding types of positions in the locality of employment, except that such compensation plans shall provide for payment of wages to United States citizens at a rate which is no less than the then applicable minimum wage rate specified in section 206(a)(1) of title 29. Any compensation plan established under this section may include provision for (A) leaves of absence with pay for employees in accordance with prevailing law and employment practices in the locality of employment without regard to any limitation contained in section 6310 of title 5, (B) programs for voluntary transfers of such leave and voluntary leave banks, which shall, to the extent practicable, be established in a manner consistent with the provisions of subchapters III and IV, respectively, of chapter 63 of title 5, and (C) payments by the Government and employees to (i) a trust or other fund in a financial institution in order to finance future benefits for employees, including provision for retention in the fund of accumulated interest and dividends for the benefit of covered employees; or (ii) a Foreign Service National Savings Fund established in the Treasury of the United States, which (I) shall be administered by the Secretary, at whose direction the Secretary of the Treasury shall invest amounts not required for the current needs of the Fund; and (II) shall be public monies, which are authorized to be appropriated and remain available without fiscal year limitation to pay benefits, to be invested in public debt obligations bearing interest at rates determined by the Secretary of the Treasury taking into consideration current average market yields on outstanding marketable obligations of the United States of comparable maturity, and to pay administrative expenses. For United States citizens under a compensation plan, the Secretary shall define those allowances and benefits provided under United States law which shall be included as part of the total compensation package, notwithstanding any other provision of law, except that this section shall not be used to override United States minimum wage requirements, or any provision of the Social Security Act [42 U.S.C. 301 et seq.] or title 26.

(2) The Secretary may make supplemental payments to any civil service annuitant who is a former foreign national employee of the Service (or who is receiving an annuity as a survivor of a former foreign national employee of the Service) in order to offset exchange rate losses, if the annuity being paid such annuitant is based on—

(A) a salary that was fixed in a foreign currency that has appreciated in value in terms of the United States dollar; and

(B) service in a country in which (as determined by the Secretary) the average retirement benefits being received by individuals who retired from competitive local organizations are

superior to the local currency value of civil service annuities plus any other retirement benefits payable to foreign national employees who retired during similar time periods and after comparable careers with the Government.

(3)(A) Whenever a foreign national employee so elects during a one-year period established by the Secretary of State with respect to each post abroad, the Secretary of the Treasury (at the direction of the Secretary of State) shall transfer such employee's interest in the Civil Service Retirement and Disability Fund to a trust or other local retirement plan certified by the United States Government under a local compensation plan established for foreign national employees pursuant to this section (excluding local social security plans).

(B) For purposes of subparagraph (A), the phrase "employee's interest in the Civil Service Retirement and Disability Fund" means the total contributions of the employee and the employing agency with respect to such employee, pursuant to sections 8331(8) and 8334(a)(1) of title 5, respectively, plus interest at the rate provided in section 8334(e)(3) of such title.

(C) Any such transfer shall void any annuity rights or entitlement to lump-sum credit under subchapter III of chapter 83 of such title.

(b) Employment programs

For the purpose of performing functions abroad, any agency or other Government establishment (including any establishment in the legislative or judicial branch) may administer employment programs for its employees who are foreign nationals, are United States citizens employed in the Service abroad who were hired while residing abroad, or are family members of Government employees assigned abroad, in accordance with the applicable provisions of this chapter.

(c) Regulations

The Secretary of State may prescribe regulations governing the establishment and administration of local compensation plans under this section by all agencies and other Government establishments.

(Pub. L. 96–465, title I, §408, Oct. 17, 1980, 94 Stat. 2090; Pub. L. 98–164, title I, §127(a), Nov. 22, 1983, 97 Stat. 1026; Pub. L. 101–246, title I, §141(a), Feb. 16, 1990, 104 Stat. 35; Pub. L. 102–138, title I, §§148, 152, Oct. 28, 1991, 105 Stat. 670, 672; Pub. L. 103–236, title I, §180(a)(4), Apr. 30, 1994, 108 Stat. 415; Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title III, §322], Nov. 29, 1999, 113 Stat. 1536, 1501A–436; Pub. L. 107–228, div. A, title III, §313, Sept. 30, 2002, 116 Stat. 1378.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (a)(1), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended, which is classified generally to chapter 7 (§301 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

This chapter, referred to in subsec. (b), was in the original "this Act", meaning Pub. L. 96–465, Oct. 17, 1980, 94 Stat. 2071, as amended, known as the Foreign Service Act of 1980, which is classified principally to this chapter (§3901 et. seq.). For complete classification of this Act to the Code, see Short Title note set out under section 3901 of this title and Tables.

AMENDMENTS

2002—Subsec. (a)(1). Pub. L. 107–228 in third sentence substituted "payments by the Government and employees to (i) a trust or other fund in a financial institution in order to finance future benefits for employees, including provision for retention in the fund of accumulated interest and dividends for the benefit of covered employees; or (ii) a Foreign Service National Savings Fund established in the Treasury of the United States, which (I) shall be administered by the Secretary, at whose direction the Secretary of the Treasury shall invest amounts not required for the current needs of the Fund; and (II) shall be public monies, which are authorized to be appropriated and remain available without fiscal year limitation to pay benefits, to be invested in public debt obligations bearing interest at rates determined by the Secretary of the Treasury taking into consideration current average market yields on outstanding marketable obligations of the United States of comparable maturity, and to pay administrative expenses." for "payments by the Government and employees to a trust or other fund in a financial institution in order to finance future benefits for employees, including provision for retention in the fund of accumulated interest for the benefit of covered employees."

1999—Subsec. (a)(1). Pub. L. 106–113, in last sentence, struck out "(A) provide such citizens with a total

compensation package (including wages, allowances, benefits, and other employer payments, such as for social security) that has the equivalent cost to that received by foreign national employees occupying a similar position at that post and (B)" after "Secretary shall" and substituted "the total compensation package" for "this total compensation package".

1994—Subsec. (a)(1). Pub. L. 103–236, §180(a)(4)(D), inserted at end "For United States citizens under a compensation plan, the Secretary shall (A) provide such citizens with a total compensation package (including wages, allowances, benefits, and other employer payments, such as for social security) that has the equivalent cost to that received by foreign national employees occupying a similar position at that post and (B) define those allowances and benefits provided under United States law which shall be included as part of this total compensation package, notwithstanding any other provision of law, except that this section shall not be used to override United States minimum wage requirements, or any provision of the Social Security Act or title 26."

Pub. L. 103–236, §180(a)(4)(B), (C), in second sentence struck out "employed in the Service abroad who were hired while residing abroad and to those family members of Government employees who are paid in accordance with such plans" after "United States citizens" and in third sentence struck out "foreign national" before "employees" wherever appearing.

Pub. L. 103–236, §180(a)(4)(A), inserted first sentence and struck out former first sentence which read as follows: "The Secretary shall establish compensation (including position classification) plans for foreign national employees of the Service, United States citizens employed in the Service abroad who were hired while residing abroad, and for United States citizens employed in the Service abroad who are family members of Government employees."

1991—Subsec. (a)(1). Pub. L. 102–138, §152(a), inserted "United States citizens employed in the Service abroad who were hired while residing abroad," after "employees of the Service," and "to United States citizens employed in the Service abroad who were hired while residing abroad and" after "payment of wages".

Pub. L. 102–138, §148, added cl. (B) and redesignated former cl. (B) as (C).

Subsec. (b). Pub. L. 102–138, §152(b), inserted ", are United States citizens employed in the Service abroad who were hired while residing abroad," after "foreign nationals".

1990—Subsec. (a)(3). Pub. L. 101–246 added par. (3).

1983—Subsec. (a)(1). Pub. L. 98–164 designated existing provisions as cl. (A) and added cl. (B).

DATE OF TRANSFER FROM CIVIL SERVICE RETIREMENT AND DISABILITY FUND

Pub. L. 101–246, title I, §141(c), Feb. 16, 1990, 104 Stat. 35, provided that: "The transfer of an employee's interest in the Civil Service Retirement and Disability Fund shall occur after October 1, 1990."

FOREIGN NATIONAL PAY PLANS

Pub. L. 96–60, title I, §107(a), Aug. 15, 1979, 93 Stat. 397, provided that: "It is the sense of the Congress that the Secretary of State should—

"(1) improve coordination between the Department of State and the Department of Defense and other departments and agencies of the United States operating outside the United States with respect to foreign national pay systems and wage schedules to the extent that—

"(A) joint wage surveys and compatible pay schedules are adopted in countries where two or more departments or agencies of the United States directly employ foreign nationals, and

"(B) Department of Defense wage rates are included in wage surveys of the Department of State where the Department of Defense operates under indirect-hire arrangements;

"(2) monitor the establishment of wage rates outside the United States more closely to insure that United States missions—

"(A) operate under salary schedules that reflect private sector average pay or average pay ranges,

"(B) include the cost of severance in making pay adjustments, and

"(C) survey jobs in the private sector which represent as closely as possible the work force of the mission; and

"(3) substitute, whenever possible, prevailing local retirement plans for civil service retirement with respect to the retirement of foreign nationals employed by the United States."

§3968a. Locally-employed staff wages

(a) Market-responsive staff wages

Not later than 180 days after December 16, 2016, and periodically thereafter, the Secretary shall

establish and implement a prevailing wage rates goal for positions in the local compensation plan, as described in section 3968 of this title, at each diplomatic post that—

(1) is based on the specific recruiting and retention needs of each such post and local labor market conditions, as determined annually; and

(2) is not less than the 50th percentile of the prevailing wage for comparable employment in the labor market surrounding each such post.

(b) Exception

The prevailing wage rate goal established under subsection (a) shall not apply if compliance with such subsection would be inconsistent with applicable United States law, the law in the locality of employment, or the public interest.

(c) Recordkeeping requirement

The analytical assumptions underlying the calculation of wage levels at each diplomatic post under subsection (a), and the data upon which such calculation is based—

(1) shall be filed electronically and retained for not less than 5 years; and

(2) shall be made available to the appropriate congressional committees upon request.

(Pub. L. 114–323, title IV, §401, Dec. 16, 2016, 130 Stat. 1926.)

CODIFICATION

Section was enacted as part of the Department of State Authorities Act, Fiscal Year 2017, and not as part of the Foreign Service Act of 1980 which comprises this chapter.

DEFINITIONS

For definitions of "Secretary" and "appropriate congressional committees" as used in this section, see section 2 of Pub. L. 114–323, set out as a note under section 2651 of this title.

§3969. Salaries of consular agents

The Secretary of State shall establish the salary rate for each consular agent. Such salary rate shall be established after taking into account the workload of the consular agency and the prevailing wage rates in the locality where the agency is located, except that, in the case of a consular agent who is a citizen of the United States, the salary rate may not be less than the then applicable minimum wage rate specified in section 206(a)(1) of title 29.

(Pub. L. 96–465, title I, §409, Oct. 17, 1980, 94 Stat. 2091.)

§3970. Compensation for imprisoned foreign national employees

(a) Eligibility; rates of compensation; terms and conditions of payment; applicability of powers under other statutory provisions

The head of any agency or other Government establishment (including any in the legislative or judicial branch) may compensate any current or former foreign national employee, or any foreign national who is or was employed under a personal services contract, who is or has been imprisoned by a foreign government if the Secretary of State (or, in the case of a foreign national employed by the Central Intelligence Agency, the Director of Central Intelligence) determines that such imprisonment is the result of the employment of the foreign national by the United States. Such compensation may not exceed the amount that the agency head determines approximates the salary and other benefits to which the foreign national would have been entitled had he or she been employed during the period of such imprisonment. Such compensation may be paid under such terms and conditions as the Secretary of State deems appropriate. For purposes of this section, an agency head shall have the same powers with respect to imprisoned foreign nationals who are or were employed by the agency as an agency head has under subchapter VII of chapter 55 of title 5 to the extent that such powers are consistent with this section.

(b) Time spent imprisoned considered as period of employment

Any period of imprisonment of a current or former foreign national employee which is compensable under this section shall be considered for purposes of any other employee benefit to be a period of employment by the Government, except that a period of imprisonment shall not be creditable—

(1) for purposes of subchapter III of chapter 83 of title 5, unless it is expressly creditable under that subchapter; or

(2) for purposes of subchapter I of chapter 81 of title 5, unless the individual was employed by the Government at the time of his or her imprisonment.

(c) Time of filing of claims

No compensation or other benefit shall be awarded under this section unless a claim therefor is filed within 3 years after—

(1) the termination of the period of imprisonment giving rise to the claim, or

(2) the date of the claimant's first opportunity thereafter to file such a claim, as determined by the appropriate agency head.

(d) Regulations

The Secretary of State may prescribe regulations governing payments under this section by all agencies and other Government establishments.

(Pub. L. 96–465, title I, §410, Oct. 17, 1980, 94 Stat. 2091.)

CHANGE OF NAME

Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108–458, set out as a note under section 3001 of Title 50, War and National Defense.

§3971. Temporary service as principal officer

For such time (in excess of such minimum period as the Secretary of State may establish) as any member of the Service is temporarily in charge of a Foreign Service post during the absence or incapacity of the principal officer, that member shall receive, in addition to the basic salary paid to the member and notwithstanding sections 5535 and 5536 of title 5, an amount equal to that portion (which the Secretary of State may determine to be appropriate) of the difference between such salary and the basic salary provided for the principal officer, or, if there is no principal officer, for the former principal officer.

(Pub. L. 96–465, title I, §411, Oct. 17, 1980, 94 Stat. 2091.)

§3972. Special differentials

(a) Additional work requirements

The Secretary may pay special differentials, in addition to compensation otherwise authorized, to Foreign Service officers who are required because of the nature of their assignments to perform additional work on a regular basis in substantial excess of normal requirements.

(b) Salary limitations

The Inspector General of the United States Agency for International Development (USAID) shall limit the payment of special differentials to USAID Foreign Service criminal investigators to levels at which the aggregate of basic pay and special differential for any pay period would equal, for such criminal investigators, the bi-weekly pay limitations on premium pay regularly placed on other

criminal investigators within the Federal law enforcement community. This provision shall be retroactive to January 1, 2013.

(c) Compensatory time off

Nothing in this chapter, or in subchapter V of chapter 55 of title 5 shall preclude the granting of compensatory time off for Foreign Service officers.

(Pub. L. 96–465, title I, §412, Oct. 17, 1980, 94 Stat. 2092; Pub. L. 103–236, title I, §139(6), Apr. 30, 1994, 108 Stat. 398; Pub. L. 114–323, title II, §206, Dec. 16, 2016, 130 Stat. 1917.)

AMENDMENTS

2016—Subsec. (b). Pub. L. 114–323 added subsec. (b).

1994—Subsec. (b). Pub. L. 103–236 struck out subsec. (b) which read as follows: "Before implementing any proposal to limit either the number of Foreign Service officers who may receive a special differential under subsection (a) of this section or the amounts of such special differentials, the Secretary shall submit such proposal to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives."

§3973. Death gratuities

(a) Criteria; amount; payment deemed gift

The Secretary may provide for payment of a gratuity to the surviving dependents of any Foreign Service employee, who dies as a result of injuries sustained in the performance of duty abroad, in an amount equal to one year's salary at level II of the Executive Schedule under section 5313 of title 5 at the time of death, except that for employees compensated under local compensation plans established under section 3968 of this title the amount shall be equal to the greater of either one year's salary at the time of death, or one year's basic salary at the highest step of the highest grade on the local compensation plan from which the employee was being paid at the time of death. Any death gratuity payment made under this section shall be held to have been a gift and shall be in addition to any other benefit payable from any source.

(b) Other executive agencies

The head of an executive agency shall, pursuant to guidance issued under subsection (c), make a death gratuity payment authorized by this section to the survivors of any employee of that agency or of an individual in a special category serving in an uncompensated capacity for that agency, as identified in guidance issued under subsection (c), who dies as a result of injuries sustained in the performance of duty abroad while subject to the authority of the chief of mission pursuant to section 3927 of this title.

(c) Guidance

Not later than 60 days after January 17, 2014, the Secretary shall, in consultation with the heads of other relevant executive agencies, issue guidance with criteria for determining eligibility for, and order of payments to, survivors and beneficiaries of any employee or of an individual in a special category serving in an uncompensated capacity for that agency who dies as a result of injuries sustained in the performance of duty while subject to the authority of the chief of mission pursuant to section 3927 of this title.

(d) Eligibility to elect monthly compensation as condition to payment

A death gratuity payment shall be made under this section only if the survivor entitled to payment under subsection (c) is entitled to elect monthly compensation under section 8133 of title 5, because the death resulted from an injury (excluding a disease proximately caused by the employment) sustained in the performance of duty, without regard to whether such survivor elects to waive compensation under such section 8133.

(e) Definitions

As used in this section—

(1) the term "Foreign Service employee" means any member of the Service or United States representative to an international organization or commission; and

(2) each of the terms "widow", "widower", "child", and "parent" shall have the same meaning given each such term by section 8101 of title 5.

(Pub. L. 96–465, title I, §413, Oct. 17, 1980, 94 Stat. 2092; Pub. L. 113–76, div. K, title VII, §7082(a), Jan. 17, 2014, 128 Stat. 565.)

AMENDMENTS

2014—Subsec. (a). Pub. L. 113–76, §7082(a)(1), substituted "at level II of the Executive Schedule under section 5313 of title 5, United States Code, at the time of death, except that for employees compensated under local compensation plans established under section 3968 of this title the amount shall be equal to the greater of either one year's salary at the time of death, or one year's basic salary at the highest step of the highest grade on the local compensation plan from which the employee was being paid at the time of death" for "at the time of death".

Subsec. (b). Pub. L. 113–76, §7082(a)(2), (3), added subsec. (b) and redesignated former subsec. (b) as (d). Former subsec. (d) redesignated (e).

Subsec. (c). Pub. L. 113–76, §7082(a)(4), amended subsec. (c) generally. Prior to amendment, text read as follows: "A death gratuity payment under this section shall be made as follows:

"(1) First, to the widow or widower.

"(2) Second, to the child, or children in equal shares, if there is no widow or widower.

"(3) Third, to the dependent parent, or dependent parents in equal shares, if there is no widow, widower, or child.

"If there is no survivor entitled to payment under this subsection, no payment shall be made."

Subsecs. (d), (e). Pub. L. 113–76, §7082(a)(2), redesignated subsecs. (b) and (d) as (d) and (e), respectively.

EFFECTIVE DATE OF 2014 AMENDMENT

Pub. L. 113–76, div. K, title VII, §7082(c), Jan. 17, 2014, 128 Stat. 567, provided that: "Notwithstanding any other provision of law, sections 413, 415, and 416 of the Foreign Service Act of 1980 [22 U.S.C. 3973, 3975, 3976], as amended or added by this section, shall apply in the case of a Foreign Service employee or executive branch employee subject to the authority of the chief of mission pursuant to section 207 of the Foreign Service Act (22 U.S.C. 3927), serving at a United States diplomatic or consular mission abroad, who died on or after April 18, 1983, as a result of injuries sustained in an act of terrorism, as defined in section 140(d) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 [probably means "1988 and 1989"] (22 U.S.C. 2656f(d))."

§3974. Border equalization pay adjustment

(a) In general

An employee who regularly commutes from the employee's place of residence in the continental United States to an official duty station in Canada or Mexico shall receive a border equalization pay adjustment equal to the amount of comparability payments under section 5304 of title 5 that the employee would receive if the employee were assigned to an official duty station within the United States locality pay area closest to the employee's official duty station.

(b) Employee defined

For purposes of this section, the term "employee" means a person who—

(1) is an "employee" as defined under section 2105 of title 5; and

(2) is employed by the Department of State, the United States Agency for International Development, or the International Joint Commission of the United States and Canada (established under Article VII of the treaty signed January 11, 1909) (36 Stat. 2448), except that the term shall not include members of the Service (as specified in section 3903 of this title).

(c) Treatment as basic pay

An equalization pay adjustment paid under this section shall be considered to be part of basic pay for the same purposes for which comparability payments are considered to be part of basic pay under section 5304 of title 5.

(d) Regulations

The heads of the agencies referred to in subsection (b)(2) may prescribe regulations to carry out this section.

(Pub. L. 96–465, title I, §414, as added Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title III, §333(a)], Nov. 29, 1999, 113 Stat. 1536, 1501A–439.)

§3975. Group life insurance supplement applicable to those killed in terrorist attacks

(a) Foreign Service employees

(1) In general

Notwithstanding the amounts specified in chapter 87 of title 5, a Foreign Service employee who dies as a result of injuries sustained while on duty abroad because of an act of terrorism, as defined in section 2656f(d) of this title, shall be eligible for a special payment of $400,000, which shall be in addition to any employer provided life insurance policy coverage. In the case of an employee compensated under a local compensation plan established under section 3968 of this title, the amount of such payment shall be determined by regulations implemented by the Secretary of State and shall be no greater than $400,000.

(2) Designation of beneficiary

A payment made under paragraph (1) shall be made in accordance with the guidance issued under section 3973(c) of this title.

(b) Other executive agencies

The head of an executive agency shall provide the additional payment authorized by this section, consistent with the provisions set forth in subsection (a), with respect to any employee of that agency or of an individual in a special category serving in an uncompensated capacity for that agency who dies as a result of injuries sustained while on duty abroad because of an act of terrorism, as defined in section 2656f(d) of this title, while subject to the authority of the chief of mission pursuant to section 3927 of this title.

(Pub. L. 96–465, title I, §415, as added Pub. L. 113–76, div. K, title VII, §7082(b)(1), Jan. 17, 2014, 128 Stat. 565; amended Pub. L. 114–113, div. K, title VII, §7034(d)(5)(A), Dec. 18, 2015, 129 Stat. 2763.)

REFERENCES IN TEXT

Section 2656f(d) of this title, referred to in subsecs. (a)(1) and (b), was in the original "section 140(d) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999", and was translated as meaning "section 140(d) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989", to reflect the probable intent of Congress.

AMENDMENTS

2015—Subsec. (a)(1). Pub. L. 114–113 substituted "a special payment of $400,000, which shall be in addition to any employer provided life insurance policy coverage" for "a payment from the United States in an amount that, when added to the amount of the employee's employer-provided group life insurance policy coverage (if any), equals $400,000".

EFFECTIVE DATE

Section applicable in the case of a Foreign Service or executive branch employee subject to the authority of the chief of mission pursuant to section 3927 of this title, serving at a United States diplomatic or consular mission abroad, who died on or after April 18, 1983, as a result of injuries from an act of terrorism, as defined in section 2656f(d) of this title, see section 7082(c) of Pub. L. 113–76, set out as an Effective Date of 2014 Amendment note under section 3973 of this title.

APPLICABILITY

Pub. L. 114–113, div. K, title VII, §7034(d)(5)(B), Dec. 18, 2015, 129 Stat. 2763, provided that: "The insurance benefit under section 415 of the Foreign Service Act of 1980 (22 U.S.C. 3975), as amended by subparagraph (A), shall be applicable to eligible employees who die as a result of injuries sustained while on duty abroad because of an act of terrorism, as defined in section 140(d) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (22 U.S.C. 2656f(d)), anytime on or after April 18, 1983."

§3976. Survivors' and dependents' educational assistance

(a) Foreign Service employees

The Secretary shall, pursuant to guidance issued under section 3973(c) of this title, provide educational assistance to a beneficiary of any United States national Foreign Service employee who dies while on duty abroad as a result of an act of terrorism, as defined in section 2656f(d) of this title, to meet, in whole or in part, the expenses incurred by the beneficiary in pursuing a program of education at an educational institution, including subsistence, tuition, fees, supplies, books, equipment, and other educational costs.

(b) Other executive agencies

The head of an executive agency shall, pursuant to guidance issued under section 3973(c) of this title provide educational assistance authorized by this section to a beneficiary of any employee of that agency who dies as a result of an act of terrorism or terrorism, as defined in section 2656f(d) of this title, while on duty abroad and subject to the authority of the chief of mission pursuant to section 3927 of this title.

(c) Amount of assistance

Educational assistance under this section may be made available up to the amounts provided for in section 3532 of title 38, as adjusted by section 3564 of title 38, and for an aggregate period not in excess of 48 months.

(d) Program of education and educational institution defined

For purposes of this section, the terms "program of education" and "educational institution" have the meanings given the terms in section 3501 of title 38.

(Pub. L. 96–465, title I, §416, as added Pub. L. 113–76, div. K, title VII, §7082(b)(1), Jan. 17, 2014, 128 Stat. 566.)

REFERENCES IN TEXT

Section 2656f(d) of this title, referred to in subsecs. (a) and (b), was in the original "section 140(d) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999", and was translated as meaning "section 140(d) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989", to reflect the probable intent of Congress.

EFFECTIVE DATE

Section applicable in the case of a Foreign Service or executive branch employee subject to the authority of the chief of mission pursuant to section 3927 of this title, serving at a United States diplomatic or consular mission abroad, who died on or after April 18, 1983, as a result of injuries from an act of terrorism, as defined in section 2656f(d) of this title, see section 7082(c) of Pub. L. 113–76, set out as an Effective Date of 2014 Amendment note under section 3973 of this title.

SUBCHAPTER V—CLASSIFICATION OF POSITIONS AND ASSIGNMENTS

§3981. Authority of Secretary

The Secretary shall designate and classify positions in the Department and at Foreign Service posts which are to be occupied by members of the Service (other than by chiefs of mission and

ambassadors at large). Positions designated under this section are excepted from the competitive service. Position classifications under this section shall be established, without regard to chapter 51 of title 5, in relation to the salaries established under subchapter IV. In classifying positions at Foreign Service posts abroad, the Secretary shall give appropriate weight to job factors relating to service abroad and to the compensation practices applicable to United States citizens employed abroad by United States corporations.

(Pub. L. 96–465, title I, §501, Oct. 17, 1980, 94 Stat. 2092.)

§3982. Assignments to Foreign Service positions

(a) Positions assignable; basis for assignment

(1) The Secretary (with the concurrence of the agency concerned) may assign a member of the Service to any position classified under section 3981 of this title in which that member is eligible to serve (other than as chief of mission or ambassador at large), and may assign a member from one such position to another such position as the needs of the Service may require.

(2) In making assignments under paragraph (1), the Secretary shall assure that a member of the Service is not assigned to or prohibited from being assigned to a position at a post in a particular geographic area on the basis of the race, ethnicity, or religion of that member.

(b) Filling of positions by members of Service; employment of members of State Department and other agencies

Positions designated as Foreign Service positions normally shall be filled by the assignment of members of the Service to those positions. Subject to that limitation—

(1) Foreign Service positions may be filled by the assignment for specified tours of duty of employees of the Department and, under interagency agreements, employees of other agencies; and

(2) Senior Foreign Service positions may also be filled by other members of the Service.

(c) Charge d'affaires

The President may assign a career member of the Service to serve as charge d'affaires or otherwise as the head of a mission (or as the head of a United States office abroad which is designated under section 3902(a)(3) [1] of this title by the Secretary of State as diplomatic in nature) for such period as the public interest may require.

(d) Competitive ability with respect to chief of mission positions and for assignments outside areas of specialization

The Secretary of State, in conjunction with the heads of the other agencies utilizing the Foreign Service personnel system, shall implement policies and procedures to insure that Foreign Service officers and members of the Senior Foreign Service of all agencies are able to compete for chief of mission positions and have opportunities on an equal basis to compete for assignments outside their areas of specialization.

(Pub. L. 96–465, title I, §502, Oct. 17, 1980, 94 Stat. 2093; Pub. L. 98–164, title I, §130(b), Nov. 22, 1983, 97 Stat. 1027; Pub. L. 114–323, title IV, §414(d), Dec. 16, 2016, 130 Stat. 1933.)

REFERENCES IN TEXT

Section 3902(a)(3) of this title, referred to in subsec. (c), was redesignated section 3902(3) of this title pursuant to Pub. L. 98–164, which struck out the designation "(a)" and subsec. (b) of section 3902.

AMENDMENTS

2016—Subsec. (a)(2). Pub. L. 114–323 inserted "or prohibited from being assigned to" after "assigned to" and struck out "exclusively" before "on the basis".

1983—Subsec. (d). Pub. L. 98–164 added subsec. (d).

DELEGATION OF FUNCTIONS

Functions of President under subsec. (c) delegated to Secretary of State, see section 1 of Ex. Ord. No. 12293, Feb. 23, 1981, 46 F.R. 13969, set out as a note under section 3901 of this title.

REPORT RESPECTING POLICIES AND PROCEDURES ADOPTED TO IMPROVE COMPETITIVE ABILITY OF PERSONNEL

Pub. L. 98–164, title I, §130(c), Nov. 22, 1983, 97 Stat. 1028, directed Secretary of State, not later than one year after Nov. 22, 1983, to submit a report to Speaker of House of Representatives and chairman of Committee on Foreign Relations of Senate describing policies and procedures adopted pursuant to the amendment made by section 130(b) of Pub. L. 98–164, adding subsec. (d) of this section, prior to repeal by Pub. L. 103–236, title I, §139(10), Apr. 30, 1994, 108 Stat. 398.

[1] *See References in Text note below.*

§3983. Assignments to non-Service and other positions

(a) Positions assignable

The Secretary may (with the concurrence of the agency, organization, or other body concerned) assign a member of the Service for duty—

(1) in a non-Foreign Service (including Senior Executive Service) position in the Department or another agency, or with an international organization, international commission, or other international body;

(2) with a domestic or international trade, labor, agricultural, scientific, or other conference, congress, or gathering;

(3) for special instruction, training, or orientation at or with a public or private organization; and

(4) in the United States (or in any territory or possession of the United States or in the Commonwealth of Puerto Rico), with a State or local government, a public or private nonprofit organization (including an educational institution), or a Member or office of the Congress.

(b) Salary; travel and other expenses

(1) The salary of a member of the Service assigned under this section shall be the higher of the salary which that member would receive but for the assignment under this section or the salary of the position to which that member is assigned.

(2) The salary of a member of the Service assigned under this section shall be paid from appropriations made available for the payment of salaries and expenses of the Service. Such appropriations may be reimbursed for all or any part of the costs of salaries and other benefits for members assigned under this section.

(3) A member of the Service assigned under subsection (a)(4) to a Member or office of the Congress shall be deemed to be an employee of the House of Representatives or the Senate, as the case may be, for purposes of payment of travel and other expenses.

(c) Length of assignment

Except as otherwise provided in subsection (d)(5), assignments under this section may not exceed four years of continuous service for any member of the Service unless the Secretary approves an extension of such period for that member because of special circumstances.

(d) Assignment to the American Institute in Taiwan

(1) The Secretary may assign a member of the Service, or otherwise detail an employee of the Department, for duty at the American Institute in Taiwan, if the Secretary determines that to do so is in the national interest of the United States.

(2) The head of any other department or agency of the United States may, with the concurrence of the Secretary, detail an employee of that department or agency to the American Institute in Taiwan, if the Secretary determines that to do so is in the national interest of the United States.

(3) In this subsection, the term "employee" does not include—

(A) a noncareer appointee, limited term appointee, or limited emergency appointee (as such

terms are defined in section 3132(a) of title 5) in the Senior Executive Service; or

(B) an employee in a position that has been excepted from the competitive service by reason of its confidential, policy-determining, policy-making, or policy-advocating character.

(4) An assignment or detail under this subsection may be made with or without reimbursement from the American Institute in Taiwan.

(5) The period of an assignment or detail under this subsection shall not exceed a total of 6 years, except that the Secretary (or any other head of a department or agency of the United States, with the concurrence of the Secretary) may extend the period of an assignment or detail for an additional period of not more than 6 years.

(Pub. L. 96–465, title I, §503, Oct. 17, 1980, 94 Stat. 2093; Pub. L. 107–228, div. A, title III, §326, Sept. 30, 2002, 116 Stat. 1386.)

AMENDMENTS

2002—Subsec. (c). Pub. L. 107–228, §326(2), substituted "Except as otherwise provided in subsection (d)(5), assignments" for "Assignments".

Subsec. (d). Pub. L. 107–228, §326(1), added subsec. (d).

§3984. Service in United States and abroad

(a) Obligation to serve abroad; length of stay in United States

Career members of the Service shall be obligated to serve abroad and shall be expected to serve abroad for substantial portions of their careers. The Secretary shall establish by regulation limitations upon assignments of members of the Service within the United States. A member of the Service may not be assigned to duty within the United States for any period of continuous service exceeding eight years unless the Secretary approves an extension of such period for that member because of special circumstances.

(b) Intermittent duty within United States

Consistent with the needs of the Service, the Secretary shall seek to assign each career member of the Service who is a citizen of the United States (other than those employed in accordance with section 3951 of this title) to duty within the United States at least once during each period of fifteen years that the member is in the Service.

(c) Sabbaticals

The Secretary may grant a sabbatical to a career member of the Senior Foreign Service for not to exceed eleven months in order to permit the member to engage in study or uncompensated work experience which will contribute to the development and effectiveness of the member. A sabbatical may be granted under this subsection under conditions specified by the Secretary in light of the provisions of section 3396(c) of title 5, which apply to sabbaticals granted to members of the Senior Executive Service.

(Pub. L. 96–465, title I, §504, Oct. 17, 1980, 94 Stat. 2094; Pub. L. 103–236, title I, §180(a)(5), Apr. 30, 1994, 108 Stat. 416.)

AMENDMENTS

1994—Subsec. (b). Pub. L. 103–236 inserted "(other than those employed in accordance with section 3951 of this title)" after "citizen of the United States".

§3985. Temporary details

A period of duty of not more than six months in duration by a member of the Service shall be considered a temporary detail and shall not be considered an assignment within the meaning of this subchapter.

(Pub. L. 96–465, title I, §505, Oct. 17, 1980, 94 Stat. 2094.)

SUBCHAPTER VI—PROMOTION AND RETENTION

§4001. Promotions

(a) Method of promotion

Career members of the Senior Foreign Service are promoted by appointment under section 3942(a) of this title to a higher salary class in the Senior Foreign Service. Members of the Senior Foreign Service serving under career candidate appointments or noncareer appointments are promoted by appointment under section 3943 of this title to a higher salary class in the Senior Foreign Service. Foreign Service officers, and Foreign Service personnel who are assigned to a class in the Foreign Service Schedule, are promoted by appointment under section 3942(a) of this title as career members of the Senior Foreign Service or by assignment under section 3964 of this title to a higher salary class in the Foreign Service Schedule.

(b) Recommendations and rankings of selection boards

Except as provided in section 4006(a) of this title, promotions of—

(1) members of the Senior Foreign Service, and

(2) members of the Service assigned to a salary class in the Foreign Service Schedule (including promotions of such members into the Senior Foreign Service),

shall be based upon the recommendations and rankings of selection boards established under section 4002 of this title, except that the Secretary may by regulation specify categories of career members, categories of career candidates, and other members of the Service assigned to salary classes in the Foreign Service Schedule who may receive promotions on the basis of satisfactory performance.

(c) Eligibility; request for promotion; time of consideration; withdrawal of request; basis for decision; affidavits

(1) Promotions into the Senior Foreign Service shall be recommended by selection boards only from among career members of the Service assigned to class 1 in the Foreign Service Schedule who request that they be considered for promotion into the Senior Foreign Service. The Secretary shall prescribe the length of the period after such a request is made (within any applicable time in class limitation established under section 4007(a) of this title) during which such members may be considered by selection boards for entry into the Senior Foreign Service. A request by a member for consideration for promotion into the Senior Foreign Service under this subsection may be withdrawn by the member, but if it is withdrawn, that member may not thereafter request consideration for promotion into the Senior Foreign Service.

(2) Decisions by the Secretary on the numbers of individuals to be promoted into and retained in the Senior Foreign Service shall be based upon a systematic long-term projection of personnel flows and needs designed to provide—

(A) a regular, predictable flow of recruitment in the Service;

(B) effective career development patterns to meet the needs of the Service; and

(C) a regular, predictable flow of talent upward through the ranks and into the Senior Foreign Service.

(3) The affidavit requirements of sections 3332 and 3333(a) of title 5 shall not apply with respect to a member of the Service who has previously complied with those requirements and who subsequently is promoted by appointment to any class in the Senior Foreign Service without a break in service.

(4), (5) Repealed. Pub. L. 114–323, title VII, §715(b)(5), Dec. 16, 2016, 130 Stat. 1946.

(6)(A) The promotion of any individual joining the Service on or after January 1, 2017, to the Senior Foreign Service shall be contingent upon such individual completing at least one tour in—

(i) a global affairs bureau; or

(ii) a global affairs position.

(B) The requirements under subparagraph (A) shall not apply if the Secretary certifies that the individual proposed for promotion to the Senior Foreign Service—

(i) has met all other requirements applicable to such promotion; and

(ii) was unable to complete a tour in a global affairs bureau or global affairs position because there was not a reasonable opportunity for such individual to be assigned to such a position.

(C) In this paragraph—

(i) the term "global affairs bureau" means any bureau of the Department that is under the responsibility of—

(I) the Under Secretary for Economic Growth, Energy, and Environment;

(II) the Under Secretary for Arms Control and International Security Affairs;

(III) the Under Secretary for Management;

(IV) the Assistant Secretary for International Organization Affairs;

(V) the Under Secretary for Public Diplomacy and Public Affairs; or

(VI) the Under Secretary for Civilian, Security, Democracy, and Human Rights; and

(ii) the term "global affairs position" means any position funded with amounts appropriated to the Department under the heading "Diplomatic Policy and Support".

(Pub. L. 96–465, title I, §601, Oct. 17, 1980, 94 Stat. 2094; Pub. L. 100–204, title I, §185(b), Dec. 22, 1987, 101 Stat. 1366; Pub. L. 103–236, title I, §180(a)(6), Apr. 30, 1994, 108 Stat. 416; Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title III, §326], Nov. 29, 1999, 113 Stat. 1536, 1501A–437; Pub. L. 114–291, §6, Dec. 16, 2016, 130 Stat. 1498; Pub. L. 114–323, title IV, §403, title VII, §715(b)(5), Dec. 16, 2016, 130 Stat. 1927, 1946.)

AMENDMENTS

2016—Subsec. (c)(4). Pub. L. 114–323, §715(b)(5), struck out par. (4) which read as follows: "Not later than March 1, 2001, and every four years thereafter, the Secretary of State shall submit a report to the Speaker of the House of Representatives and to the Committee on Foreign Relations of the Senate which shall include a workforce plan for the subsequent five years, including projected personnel needs, by grade and by skill. Each such plan shall include for each category the needs for foreign language proficiency, geographic and functional expertise, and specialist technical skills. Each workforce plan shall specifically account for the training needs of Foreign Service personnel and shall delineate an intake program of generalist and specialist Foreign Service personnel to meet projected future requirements."

Pub. L. 114–291 substituted "include a workforce plan" for "include the following:

"(A) A description of the steps taken and planned in furtherance of—

"(i) maximum compatibility among agencies utilizing the Foreign Service personnel system, as provided for in section 3923 of this title, and

"(ii) the development of uniform policies and procedures and consolidated personnel functions, as provided for in section 3924 of this title.

"(B) A workforce plan".

Subsec. (c)(5). Pub. L. 114–323, §715(b)(5), struck out par. (5) which read as follows: "If there are substantial modifications to any workforce plan under paragraph (4)(B) during any year in which a report under paragraph (4) is not required, a supplemental annual notification shall be submitted in the same manner as reports are required to be submitted under paragraph (4)."

Subsec. (c)(6). Pub. L. 114–323, §403, added par. (6).

1999—Subsec. (c)(4), (5). Pub. L. 106–113 added pars. (4) and (5) and struck out former par. (4), which required report not later than Mar. 1 of each year, describing steps taken and planned in furtherance of

compatibility and development of uniform procedures and consolidated personnel functions, specifying upper and lower limits planned for recruitment, retention, and advancement of members, and specifying numbers of members assigned to positions more than one grade higher or lower than the member.

1994—Subsec. (b). Pub. L. 103–236, which directed amendment of par. (2) by striking "and" the last place it appears and by inserting "and other members of the Service" after "categories of career candidates,", was executed by striking "and" after "categories of career members," and making the insertion in concluding provisions below par. (2), to reflect the probable intent of Congress.

1987—Subsec. (c)(4). Pub. L. 100–204 added par. (4).

REPORTS ELIMINATED

Pub. L. 104–66, title II, §2241, Dec. 21, 1995, 109 Stat. 733, which provided that reports required under section 4001(c)(4) of this title would not cover activities of the United States Information Agency, was repealed by Pub. L. 105–277, div. G, subdiv. A, title XIII, §1336(5), Oct. 21, 1998, 112 Stat. 2681–790.

LANGUAGE TRAINING IN FOREIGN SERVICE

Pub. L. 102–138, title I, §155, Oct. 28, 1991, 105 Stat. 675, as amended by Pub. L. 105–277, div. G, subdiv. A, title XIII, §1335(q), Oct. 21, 1998, 112 Stat. 2681–789, provided that: "The Department of State and the Department of Commerce shall ensure that the precepts for promotion of Foreign Service employees provide that end-of-training reports for employees in full-time language training shall be weighed as heavily as the annual employee efficiency reports, in order to ensure that employees in language training are not disadvantaged in the promotion process."

FOREIGN SERVICE PROMOTION PANELS

Pub. L. 101–246, title I, §163, Feb. 16, 1990, 104 Stat. 47, as amended by Pub. L. 107–132, §1(b), Jan. 16, 2002, 115 Stat. 2412, provided that: "It is the sense of the Congress that, to the greatest extent possible, Foreign Service promotion panels should—

"(1) only promote candidates to the Senior Foreign Service who have demonstrated foreign language proficiency in at least one language at the General Professional Speaking Proficiency level, as defined by the George P. Shultz National Foreign Affairs Training Center;

"(2) strive for the objective stipulated in the Foreign Service Manual 'to be able to use two foreign languages at a minimum professional level of proficiency of S–3/R–3, which is the general professional speaking proficiency level'; and

"(3) have at least one person on each Foreign Service promotion panel who has attained at least the General Professional Speaking Proficiency level in one language level."

LANGUAGE PROFICIENCY IN EMPLOYEE EVALUATION REPORT

Pub. L. 101–246, title I, §164, Feb. 16, 1990, 104 Stat. 47, required revision of employee and officer evaluation reports for Foreign Service officers of Department of State and Agency for International Development to include separate assessment of employee's effectiveness in using foreign language and required that precedence in promotion be given to officers achieving certain levels of proficiency in foreign language, prior to repeal by Pub. L. 103–236, title I, §191(b), Apr. 30, 1994, 108 Stat. 418. See section 191(a) of Pub. L. 103–236, set out as a note under section 3926 of this title.

§4002. Establishment of selection boards

(a) Evaluation of performance; recommendations

The Secretary shall establish selection boards to evaluate the performance of members of the Senior Foreign Service and members of the Service assigned to a salary class in the Foreign Service Schedule. Selection boards shall, in accordance with precepts prescribed by the Secretary, rank the members of a salary class on the basis of relative performance and may make recommendations for—

(1) promotions in accordance with section 4001 of this title;

(2) awards of performance pay under section 3965(c) of this title;

(3) denials of within-class step increases under section 3966(a) of this title;

(4) offer or renewal of limited career extensions under section 4007(b) of this title; and

(5) such other actions as the Secretary may prescribe by regulation.

(b) Public members; appointment of women and minority groups

All selection boards established under this section shall include public members. The Secretary shall assure that a substantial number of women and members of minority groups are appointed to each selection board established under this section.

(c) Disqualification for service on foreign service selection boards

No public members appointed pursuant to this section may be, at the time of their appointment or during their appointment, an agent of a foreign principal (as defined by section 611(b) of this title) or a lobbyist for a foreign entity (as defined in section 1602(6) of title 2) or receive income from a government of a foreign country.

(Pub. L. 96–465, title I, §602, Oct. 17, 1980, 94 Stat. 2095; Pub. L. 101–246, title I, §142, Feb. 16, 1990, 104 Stat. 36; Pub. L. 104–65, §12(c), Dec. 19, 1995, 109 Stat. 701.)

AMENDMENTS

1995—Subsec. (c). Pub. L. 104–65 inserted "or a lobbyist for a foreign entity (as defined in section 1602(6) of title 2)" before "or receive income".

1990—Subsec. (c). Pub. L. 101–246 added subsec. (c).

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104–65 effective Jan. 1, 1996, except as otherwise provided, see section 24 of Pub. L. 104–65, set out as an Effective Date note under section 1601 of Title 2, The Congress.

§4003. Recommendations and rankings

(a) Recommendations and rankings by selection boards shall be based upon records of the character, ability, conduct, quality of work, industry, experience, dependability, usefulness, and general performance of members of the Service. Such records may include reports prepared by or on behalf of the Inspector General of the Department of State and the Foreign Service, performance evaluation reports of supervisors, records of commendations, reports of language test scores from the George P. Shultz National Foreign Affairs Training Center, awards, reprimands, and other disciplinary actions, and (with respect to members of the Senior Foreign Service) records of current and prospective assignments.

(b) Precepts for selection boards shall include a description of the needs of the Service for performance requirements, skills, and qualities, which are to be considered in recommendations for promotion. The precepts for selection boards responsible for recommending promotions into and within the Senior Foreign Service shall emphasize performance which demonstrates the strong policy formulation capabilities, executive leadership qualities, and highly developed functional and area expertise, which are required for the Senior Foreign Service. The precepts for selection boards shall include, whether the member of the Service or the member of the Senior Foreign Service, as the case may be, has demonstrated—

(1) a willingness and ability to explain United States policies in person and through the media when occupying positions for which such willingness and ability is, to any degree, an element of the member's duties, or

(2) other experience in public diplomacy.

(Pub. L. 96–465, title I, §603, Oct. 17, 1980, 94 Stat. 2095; Pub. L. 107–132, §1(b), Jan. 16, 2002, 115 Stat. 2412; Pub. L. 108–458, title VII, §7110(c), Dec. 17, 2004, 118 Stat. 3794.)

AMENDMENTS

2004—Subsec. (b). Pub. L. 108–458 inserted at end "The precepts for selection boards shall include, whether the member of the Service or the member of the Senior Foreign Service, as the case may be, has demonstrated—" and pars. (1) and (2).

2002—Subsec. (a). Pub. L. 107–132 substituted "George P. Shultz National Foreign Affairs Training Center" for "Foreign Service Institute".

§4004. Records

(a) The records described in section 4003(a) of this title shall be maintained in accordance with regulations prescribed by the Secretary. Except to the extent that they pertain to the receipt, disbursement, and accounting for public funds, such records shall be confidential and subject to inspection only by the President, the Secretary, such employees of the Government as may be authorized by law or assigned by the Secretary to work on such records, the legislative and appropriations committees of the Congress charged with considering legislation and appropriations for the Service, and representatives duly authorized by such committees. Access to such records relating to a member of the Service shall be granted to such member, upon written request.

(b) Notwithstanding subsection (a), any record of disciplinary action that includes a suspension of more than five days taken against a member of the Service, including any correction of that record under section 4137(b)(1) of this title, shall remain a part of the personnel records until the member is tenured as a career member of the Service or next promoted.

(Pub. L. 96–465, title I, §604, Oct. 17, 1980, 94 Stat. 2096; Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title III, §327(a)], Nov. 29, 1999, 113 Stat. 1536, 1501A–438.)

AMENDMENTS

1999—Pub. L. 106–113, in section catchline, substituted "Records" for "Confidentiality of records", designated existing provisions as subsec. (a), and added subsec. (b).

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title III, §327(b)], Nov. 29, 1999, 113 Stat. 1536, 1501A–438, provided that: "The amendments made by this section [amending this section] apply to all disciplinary actions initiated on or after the date of enactment of this Act [Nov. 29, 1999]."

§4005. Implementation of selection board recommendations

(a) Recommendations for promotion made by selection boards shall be submitted to the Secretary in rank order by salary class or in rank order by specialization within a salary class. The Secretary shall make promotions and, with respect to career appointments into or within the Senior Foreign Service, shall make recommendations to the President for promotions, in accordance with the rankings of the selection boards.

(b) Notwithstanding subsection (a), in special circumstances set forth by regulation, the Secretary may remove the name of an individual from the rank order list submitted by a selection board or delay the promotion of an individual named in such a list.

(Pub. L. 96–465, title I, §605, Oct. 17, 1980, 94 Stat. 2096.)

§4006. Other bases for promoting or increasing pay

(a) The Secretary may pursuant to a recommendation of the Foreign Service Grievance Board, an equal employment opportunity appeals examiner, or the Special Counsel of the Merit Systems Protection Board, and shall pursuant to a decision or order of the Merit Systems Protection Board—

(1) recommend to the President a promotion of a member of the Service under section 3942(a) of this title;

(2) promote a member of the Service under section 3943 of this title;

(3) grant performance pay to a member of the Senior Foreign Service under section 3965(c) of this title; or

(4) grant a within-class salary increase under section 3966 of this title to a member of the Service who is assigned to a salary class in the Foreign Service Schedule.

(b) In implementing subsection (a) of this section and in cases in which the Secretary has exercised the authority of section 4005(b) of this title, the Secretary may, in special circumstances set

forth by regulation, make retroactive promotions, grant performance pay, make retroactive within-class salary increases, and recommend retroactive promotions by the President.

(Pub. L. 96–465, title I, §606, Oct. 17, 1980, 94 Stat. 2096.)

§4007. Retirement for expiration of time in class

(a) Maximum time

(1) The Secretary shall, by regulation, establish maximum time in class limitations for—

(A) career members of the Senior Foreign Service,

(B) Foreign Service officers, and

(C) other career members of the Service who are in such occupational categories as may be designated by the Secretary and who are assigned to salary classes in the Foreign Service Schedule to which Foreign Service officers may also be assigned.

(2) Maximum time in class limitations under this subsection (which may not be less than 3 years for career members of the Senior Foreign Service) may apply with respect to the time a member may remain in a single salary class or in a combination of salary classes.

(3) The Secretary may, by regulation, increase or decrease any maximum time in class established under this subsection as the needs of the Service may require. If maximum time in class is decreased, the Secretary shall provide any member of the Service who is in a category and salary class subject to the new time in class limitation an opportunity to remain in class (notwithstanding the new limitation) for a period which is at least as long as the shorter of—

(A) the period which the member would have been permitted to remain in class but for the decrease in maximum time in class, or

(B) such minimum period as the Secretary determines is necessary to provide members of the Service who are in the same category and salary class as that member a reasonable opportunity to be promoted into the next higher class or combination of classes, as the case may be.

(b) Limited career extension

Members of the Service whose maximum time in class under subsection (a) expires—

(1) after they have attained the highest salary class for their respective occupational categories, or

(2) in the case of members of the Senior Foreign Service, while they are in salary classes designated by the Secretary,

may continue to serve only under limited extentions of their career appointments. Such limited extensions may not exceed 5 years in duration and may be granted and renewed by the Secretary in accordance with the recommendations of selection boards established under section 4002 of this title. Members of the Service serving under such limited career extensions shall continue to be career members of the Service.

(c) Members subject to retirement; reception of retirement benefits

Any member of the Service—

(1) whose maximum time in class under subsection (a) expires and who is not promoted to a higher class or combination of classes, as the case may be, or

(2) whose limited career extension under subsection (b) expires and is not renewed,

shall be retired from the Service and receive benefits in accordance with section 4009 of this title, subject to any career extension under subsection (d) of this section.

(d) Extensions

Notwithstanding any other provision of this section—

(1) the career appointment of a member of the Service whose maximum time in class under

subsection (a) expires, or whose limited career extension under subsection (b) expires, while that member is occupying a position to which he or she was appointed by the President, by and with the advice and consent of the Senate, shall be extended until the appointment to that position is terminated; and

(2) if the Secretary determines it to be in the public interest, the Secretary may extend temporarily the career appointment of a career member of the Service whose maximum time in class or limited career extension expires, but in no case may any extension under this paragraph exceed one year and such extensions may be granted only in special circumstances.

(Pub. L. 96–465, title I, §607, Oct. 17, 1980, 94 Stat. 2096.)

§4008. Retirement based on failure to meet standard of performance

(a) The Secretary shall prescribe regulations concerning the standards of performance to be met by career members of the Service who are citizens of the United States. Whenever a selection board review indicates that the performance of such a career member of the Service may not meet the standards of performance for his or her class, the Secretary shall provide for administrative review of the performance of the member. The review shall include an opportunity for the member to be heard.

(b) In any case where the administrative review conducted under subsection (a) substantiates that a career member of the Service has failed to meet the standards of performance for his or her class, the member shall be retired from the Service and receive benefits in accordance with section 4009 of this title.

(Pub. L. 96–465, title I, §608, Oct. 17, 1980, 94 Stat. 2097.)

§4009. Retirement benefits

(a) Entitlement

A member of the Service—

(1) who is retired under section 4007(c)(2) of this title; or

(2) who is retired under section 4007(c)(1) or 4008(b) or 4010a of this title—

(A) after becoming eligible for voluntary retirement under section 4051 of this title or any other applicable provision of chapter 84 of title 5, or

(B) from the Senior Foreign Service or while assigned to class 1 in the Foreign Service Schedule,

shall receive retirement benefits in accordance with section 4046 of this title or section 4071d of this title, as appropriate.

(b) Computation of amount; refund; death of member

Any member of the Service (other than a member to whom subsection (a) applies) who is retired under section 4007(c)(1) or 4008(b) or 4010a of this title shall receive—

(1) one-twelfth of a year's salary at his or her then current salary rate for each year of service and proportionately for a fraction of a year, but not exceeding a total of one year's salary at his or her then current salary rate, payable without interest from the Foreign Service Retirement and Disability Fund in 3 equal installments, such installments to be paid on January 1 of each of the first 3 calendar years beginning after the retirement of the member (except that in special cases, the Secretary of State may accelerate or combine such installments); and

(2)(A) for those participants in the Foreign Service Retirement and Disability System, a refund as provided in section 4055 of this title of the contributions made by the member to the Foreign Service Retirement and Disability Fund, except that in lieu of such refund a member who has at least 5 years of service credit toward retirement under the Foreign Service Retirement and

Disability System (excluding military and naval service) may elect to receive an annuity, computed under section 4046 of this title, commencing at age 60; and (B) for those participants in the Foreign Service Pension System, benefits as provided in section 4071 of this title.

In the event that a member of the Service has elected to receive retirement benefits under paragraph (2) and dies before reaching age 60 (for participants in the Foreign Service Retirement and Disability System) or age 62 (for participants in the Foreign Service Pension System), his or her death shall be considered a death in service within the meaning of section 4049 of this title.

(Pub. L. 96–465, title I, §609, Oct. 17, 1980, 94 Stat. 2098; Pub. L. 103–236, title I, §181(a)(3), Apr. 30, 1994, 108 Stat. 417; Pub. L. 105–277, div. G, subdiv. B, title XXIII, §2312(a), Oct. 21, 1998, 112 Stat. 2681–827.)

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–277, §2312(a)(2), inserted "or section 4071d of this title, as appropriate" after "section 4046 of this title" in concluding provisions.

Subsec. (a)(2)(A). Pub. L. 105–277, §2312(a)(1), inserted "or any other applicable provision of chapter 84 of title 5" after "section 4051 of this title".

Subsec. (b). Pub. L. 105–277, §2312(a)(4), inserted "(for participants in the Foreign Service Retirement and Disability System) or age 62 (for participants in the Foreign Service Pension System)" after "age 60" in concluding provisions.

Subsec. (b)(2). Pub. L. 105–277, §2312(a)(3), designated existing provisions as subpar. (A), inserted "for those participants in the Foreign Service Retirement and Disability System," before "a refund", and added subpar. (B).

1994—Subsecs. (a)(2), (b). Pub. L. 103–236 inserted "or 4010a" after "4008(b)".

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–277, div. G, subdiv. B, title XXIII, §2312(c), Oct. 21, 1998, 112 Stat. 2681–827, provided that:

"(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [amending this section and section 4071d of this title] shall take effect on the date of the enactment of this Act [Oct. 21, 1998].

"(2) EXCEPTIONS.—The amendments made by paragraphs (2) and (3) of subsection (a) and paragraphs (1)(A) and (2) of subsection (b) [amending this section and section 4071d of this title] shall apply with respect to any actions taken under section 611 of the Foreign Service Act of 1980 [22 U.S.C. 4010a] on or after January 1, 1996."

SPECIAL ANNUITY FOR CERTAIN FOREIGN SERVICE OFFICERS

Pub. L. 95–105, title IV, §411, Aug. 17, 1977, 91 Stat. 855, as amended by Pub. L. 95–426, title IV, §412(b), Oct. 7, 1978, 92 Stat. 981, provided that:

"(a) Subject to the conditions established in subsection (b), any Foreign Service officer—

"(1) who was retired under section 633(a)(1) of the Foreign Service Act of 1946 [former section 1003(a)(1) of this title, see section 4007(a) of this title] before the date of enactment of this section, [Aug. 17, 1977];

"(2) who was not in class 1, 2, or 3 at the time of retirement;

"(3) who was 40 years of age or older at the time of retirement; and

"(4) who had at least 20 years of service, exclusive of credit for unused sick leave, creditable for purposes of section 821 of such Act [former section 1076 of this title, see section 4046 of this title] at the time of retirement;

shall be entitled to receive retirement benefits in accordance with the provisions of such section 821 [former section 1076 of this title, see section 4046 of this title] in lieu of any retirement benefits which the officer may be entitled to elect under section 634(b)(2) of such Act [former section 1004(b)(2) of this title, see subsec. (b)(2) of this section]. Such retirement benefits shall be paid from the Foreign Service Retirement and Disability Fund and shall be effective on the date the officer reaches age 50, the date of enactment of this section [Aug. 17, 1977], or October 1, 1977, whichever date is latest.

"(b) Retirement benefits may not be paid under this section unless (1) any refund of contributions paid to the officer under section 634(b)(2) of the Foreign Service Act of 1946 [former section 1004(b)(2) of this title, see subsec. (b)(2) of this section] is repaid to the Foreign Service Retirement and Disability Fund, with interest, in accordance with sections 811(d) and (f) of such Act [former section 1071(d) and (f) of this title, see

section 4045(d) and (f) of this title]; and (2) the service forming the basis for such retirement benefits is not used as the basis for any other retirement benefits under any retirement system.

"(c) In the event that an officer who is entitled to retirement benefits under this section dies before reaching the age of fifty, but after the date of enactment of this section [Aug. 17, 1977], his or her death shall be considered a death in service within the meaning of section 832 of the Foreign Service Act of 1946 [former section 1082 of this title, see section 4049 of this title], except that no survivor's annuity (other than a survivor's annuity which would be payable under the first complete sentence in section 634(b)(2) of such Act [former section 1004(b)(2) of this title, see subsec. (b)(2) of this section] but for the enactment of this section) shall become effective before October 1, 1977.

"(d) An officer entitled to retirement benefits under this section may make the election described in section 821(b) or (f), as appropriate, of the Foreign Service Act of 1946 [former section 1076(b) or (f) of this title, see section 4046(b) and (f) of this title] at any time before reaching the age of fifty or before the end of the sixty-day period beginning on the date of enactment of this section [Aug. 17, 1977], whichever is later."

§4010. Separation for cause; suspension

(a) Authorization of Secretary; right to hearing; attorneys fees and backpay; leave without pay

(1) The Secretary may decide to separate any member from the Service for such cause as will promote the efficiency of the Service.

(2)(A) Except as provided in subparagraph (B), whenever the Secretary decides under paragraph (1) to separate, on the basis of misconduct, any member of the Service (other than a United States citizen employed under section 3951 of this title who is not a family member) who either—

(i) is serving under a career appointment, or

(ii) is serving under a limited appointment,

the member may not be separated from the Service until the member receives a hearing before the Foreign Service Grievance Board and the Board decides that cause for separation has been established, unless the member waives, in writing, the right to such a hearing, or the member's appointment has expired, whichever is sooner.

(B) The right to a hearing in subparagraph (A) does not apply in the case of an individual who has been convicted of a crime for which a sentence of imprisonment of more than one year may be imposed.

(3) If the Board decides that cause for separation has not been established, the Board may direct the Department to pay reasonable attorneys' fees to the extent and in the manner provided by section 4137(b)(5) of this title. The hearing provided under this paragraph shall be conducted in accordance with the hearing procedures applicable to grievances under section 4136 of this title and shall be in lieu of any other administrative procedure authorized or required by this or any other Act. Section 4140 of this title shall apply to proceedings under this paragraph.

(4) Notwithstanding the hearing required by paragraph (2), at the time that the Secretary decides to separate a member of the Service for cause, the member shall be placed on leave without pay. If the member does not waive the right to a hearing, and the Board decides that cause for separation has not been established, the member shall be reinstated with back pay.

(b) Refund of contributions to Fund; annuity election

Any participant in the Foreign Service Retirement and Disability System who is separated under subsection (a) shall be entitled to receive a refund as provided in section 4055 of this title of the contributions made by the participant to the Foreign Service Retirement and Disability Fund. Except in cases where the Secretary determines that separation was based in whole or in part on the ground of disloyalty to the United States, a participant who has at least 5 years of service credit toward retirement under the Foreign Service Retirement and Disability System (excluding military and naval service) may elect, in lieu of such refund, to an annuity, computed under section 4046 of this title, commencing at age 60.

(c) Suspension

(1) In order to promote the efficiency of the Service, the Secretary may suspend a member of the Service when—

(A) the member's security clearance is suspended; or

(B) there is reasonable cause to believe that the member has committed a crime for which a sentence of imprisonment may be imposed.

(2) Any member of the Service for whom a suspension is proposed under this subsection shall be entitled to—

(A) written notice stating the specific reasons for the proposed suspension;

(B) a reasonable time to respond orally and in writing to the proposed suspension;

(C) obtain at such member's own expense representation by an attorney or other representative; and

(D) a final written decision, including the specific reasons for such decision, as soon as practicable.

(3) Any member suspended under this subsection may file a grievance in accordance with the procedures applicable to grievances under subchapter XI of this chapter.

(4) If a grievance is filed pursuant to paragraph (3)—

(A) the review by the Foreign Service Grievance Board shall be limited to a determination of whether the provisions of paragraphs (1) and (2) have been fulfilled; and

(B) the Board may not exercise the authority provided under section 4136(8) of this title.

(5) In this subsection:

(A) The term "reasonable time" means—

(i) with respect to a member of the Service assigned to duty in the United States, 15 days after receiving notice of the proposed suspension; and

(ii) with respect to a member of the Service assigned to duty outside the United States, 30 days after receiving notice of the proposed suspension.

(B) The terms "suspend" and "suspension" mean placing a member of the Foreign Service in a temporary status without duties.

(Pub. L. 96–465, title I, §610, Oct. 17, 1980, 94 Stat. 2098; Pub. L. 100–204, title I, §181(d), Dec. 22, 1987, 101 Stat. 1364; Pub. L. 101–167, title V, §586(b), Nov. 21, 1989, 103 Stat. 1252; Pub. L. 101–246, title I, §143, Feb. 16, 1990, 104 Stat. 36; Pub. L. 102–138, title I, §143(a), Oct. 28, 1991, 105 Stat. 668; Pub. L. 103–415, §1(h)(2), Oct. 25, 1994, 108 Stat. 4300; Pub. L. 105–277, div. G, subdiv. B, title XXIII, §2313, Oct. 21, 1998, 112 Stat. 2681–827; Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title III, §328], Nov. 29, 1999, 113 Stat. 1536, 1501A–438; Pub. L. 107–228, div. A, title III, §314(a), Sept. 30, 2002, 116 Stat. 1378; Pub. L. 114–323, title IV, §415(a), Dec. 16, 2016, 130 Stat. 1933.)

AMENDMENTS

2016—Pub. L. 114–323, §415(a)(1), substituted "Separation for cause; suspension" for "Separation for cause" in section catchline.

Subsec. (c). Pub. L. 114–323, §415(a)(2), added subsec. (c).

2002—Subsec. (a)(1). Pub. L. 107–228, §314(a)(1), inserted "decide to" after "may".

Subsec. (a)(2) to (6). Pub. L. 107–228, §314(a)(2), (3), added pars. (2) to (4) and struck out former pars. (2) to (6) which related to the rights of members of the Service to hearings before the Foreign Service Grievance Board prior to being separated from the Service, suspensions from the Service pending final resolution of the underlying matter, procedural rights of suspended members, review of suspensions by the Board, and leave without pay pending final resolution for members recommended for separation.

1999—Subsec. (a)(6). Pub. L. 106–113 added par. (6).

1998—Subsec. (a)(2). Pub. L. 105–277, in first sentence, substituted "Except in the case of an individual who has been convicted of a crime for which a sentence of imprisonment of more than 1 year may be imposed, a member" for "A member".

1994—Subsec. (a)(2). Pub. L. 103–415 inserted "(other than a United States citizen employed under section 3951 of this title who is not a family member)" after "A member of the Service".

1991—Subsec. (a)(3). Pub. L. 102–138, §143(a)(1), substituted "a member has been convicted of a crime" for "there is reasonable cause to believe that a member has committed a crime".

Subsec. (a)(4)(A). Pub. L. 102–138, §143(a)(2), substituted "suspension" for "suspension, including the grounds for reasonable cause to believe a crime has been committed".

Subsec. (a)(5). Pub. L. 102–138, §143(a)(3), substituted "the conviction requirements of subsection (a)(3) of this section have been fulfilled" for "there exists reasonable cause to believe a crime has been committed for which a sentence of imprisonment may be imposed".

1990—Subsec. (a)(2). Pub. L. 101–246 inserted before period at end of first sentence "or, notwithstanding section 4136(8) of this title, unless the member has been convicted of a crime related to the cause for separation, subject to reinstatement with back pay (for any period during which separation for cause had not been established by such a hearing) if such conviction is reversed on appeal" and inserted sentence at end that section 4140 of this title apply to proceedings under this paragraph.

1989—Subsec. (a)(3) to (5). Pub. L. 101–167 added pars. (3) to (5).

1987—Subsec. (a)(2). Pub. L. 100–204 inserted after first sentence "If such cause is not established at such hearing, the Grievance Board shall have the authority to direct the Department to pay reasonable attorneys fees to the extent and in the manner provided by section 4137(b)(5) of this title."

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–204 not applicable with respect to any grievance in which the Board has issued a final decision pursuant to section 4137 of this title before Dec. 22, 1987, see section 181(e) of Pub. L. 100–204, set out as a note under section 3946 of this title.

EXPEDITED SEPARATION OUT

Pub. L. 105–277, div. G, subdiv. B, title XXIII, §2311(b), Oct. 21, 1998, 112 Stat. 2681–826, provided that:

"(1) SEPARATION OF LOWEST RANKED FOREIGN SERVICE MEMBERS.—Not later than 90 days after the date of enactment of this Act [Oct. 21, 1998], the Secretary of State shall develop and implement procedures to identify, and recommend for separation, any member of the Foreign Service ranked by promotion boards of the Department of State in the bottom 5 percent of his or her class for 2 or more of the 5 years preceding the date of enactment of this Act (in this subsection referred to as the 'years of lowest ranking') if the rating official for such member was not the same individual for any two of the years of lowest ranking.

"(2) SPECIAL INTERNAL REVIEWS.—In any case where the member was evaluated by the same rating official in any 2 of the years of lowest ranking, an internal review of the member's file shall be conducted to determine whether the member should be considered for action leading to separation.

"(3) PROCEDURES.—The Secretary of State shall develop procedures for the internal reviews required under paragraph (2)."

DEFINITION OF "REASONABLE CAUSE"

Pub. L. 101–167, title V, §586(c), Nov. 21, 1989, 103 Stat. 1252, provided that for purposes of amendments by section 586(a) and (b) of Pub. L. 101–167, which amended this section and section 4136 of this title, reasonable cause to believe that a member has committed a crime for which a sentence of imprisonment may be imposed was to be defined as a member of the Service having been convicted of, and sentence of imprisonment having been imposed for, a job-related crime, prior to repeal by Pub. L. 102–138, title I, §143(c), Oct. 28, 1991, 105 Stat. 668.

§4010a. Reductions in force

(a) Authorization and regulations

The Secretary may conduct reductions in force and shall prescribe regulations for the separation of members of the Service holding a career or career candidate appointment under subchapter III of this chapter, under such reductions in force which give due effect to the following:

(1) Organizational changes.

(2) Documented employee knowledge, skills, or competencies.

(3) Tenure of employment.

(4) Documented employee performance.

(5) Military preference, subject to section 3501(a)(3) of title 5.

(b) Applicability of retirement benefits

The provisions of section 4009 of this title shall be applicable to any member of the Service holding a career or career candidate appointment under subchapter III of this chapter, who is separated under the provisions of this section.

(c) Grievance procedure

An employee against whom action is taken under this section may elect either to file a grievance under subchapter XI or to appeal to the Merit Systems Protection Board under procedures prescribed by the Board. Grievances under subchapter XI shall be limited to cases of reprisal, interference in the conduct of an employee's official duties, or similarly inappropriate use of the authority of this section.

(Pub. L. 96–465, title I, §611, as added Pub. L. 103–236, title I, §181(a)(2), Apr. 30, 1994, 108 Stat. 417; amended Pub. L. 103–415, §1(ii), Oct. 25, 1994, 108 Stat. 4303.)

PRIOR PROVISIONS

A prior section 611 of Pub. L. 96–465 was renumbered section 612 and is classified to section 4011 of this title.

AMENDMENTS

1994—Pub. L. 103–415 made technical amendment relating to style of section catchline.

EMPLOYMENT ASSISTANCE REFERRAL SYSTEM FOR CERTAIN MEMBERS OF FOREIGN SERVICE

Pub. L. 103–236, title I, §179, Apr. 30, 1994, 108 Stat. 415, as amended by Pub. L. 103–415, §1(g), Oct. 25, 1994, 108 Stat. 4300, provided that:

"(a) REFERRAL SYSTEM.—Certain members of the Foreign Service (as described in subsection (b)), may participate in the Office of Personnel Management's Interagency Placement programs or any successor program. Such members of the Foreign Service shall be treated in the same manner as employees participating in such a program as of the effective date of this Act [Apr. 30, 1994].

"(b) CERTAIN MEMBERS OF THE FOREIGN SERVICE.—For purposes of this section, the term 'members of the Foreign Service' means any individuals holding career or career candidate appointments under chapter 3 of the Foreign Service Act of 1980 [22 U.S.C. 3941 et seq.]."

CONSULTATION WITH DIRECTOR OF OFFICE OF PERSONNEL MANAGEMENT PRIOR TO PRESCRIBING REGULATIONS FOR REDUCTIONS IN FORCE

Pub. L. 103–236, title I, §181(c), Apr. 30, 1994, 108 Stat. 418, as amended by Pub. L. 103–415, §1(i), Oct. 25, 1994, 108 Stat. 4301, provided that: "The Secretary of State (or in the case of any other agency authorized by law to utilize the Foreign Service personnel system, the head of that agency) shall consult with the Director of the Office of Personnel Management before prescribing regulations for reductions in force under section 611 of the Foreign Service Act of 1980 [22 U.S.C. 4010a] (as added by subsection (a) of this section), and shall publish such regulations."

§4011. Termination of limited appointments

Except as provided in section 4010(a)(2) of this title, the Secretary may terminate at any time the appointment of any member of the Service serving under a limited appointment who is in the Senior Foreign Service, who is assigned to a salary class in the Foreign Service Schedule or who is paid in accordance with section 3967 of this title or is a United States citizen paid under a compensation plan under section 3968 of this title.

(Pub. L. 96–465, title I, §612, formerly §611, Oct. 17, 1980, 94 Stat. 2099; renumbered §612 and amended Pub. L. 103–236, title I, §§180(a)(7), 181(a)(1), Apr. 30, 1994, 108 Stat. 416.)

PRIOR PROVISIONS

A prior section 612 of Pub. L. 96–465 was renumbered section 613 and is classified to section 4012 of this

title.

AMENDMENTS

1994—Pub. L. 103–236, §180(a)(7), substituted "or who is paid in accordance with section 3967 of this title or is a United States citizen paid under a compensation plan under section 3968 of this title." for ", or who is a family member of a Government employee serving under a local compensation plan established under section 3968 of this title."

§4012. Termination of appointments of consular agents and foreign national employees

(a) The Secretary of State may terminate at any time the appointment of any consular agent in light of the criteria and procedures normally followed in the locality in similar circumstances.

(b) The Secretary may terminate at any time the appointment of any foreign national employee in light of the criteria and procedures normally followed in the locality in similar circumstances.

(Pub. L. 96–465, title I, §613, formerly §612, Oct. 17, 1980, 94 Stat. 2099; renumbered §613, Pub. L. 103–236, title I, §181(a)(1), Apr. 30, 1994, 108 Stat. 416.)

PRIOR PROVISIONS

A prior section 613 of Pub. L. 96–465 was renumbered section 614 and is classified to section 4013 of this title.

§4012a. Foreign national employees separation pay

(a) Establishment

There is established in the Treasury of the United States a fund to provide separation pay for foreign national employees of agencies of the United States Government, other than the Department of Defense.

(b) Funding

There shall be deposited in such account—

(1) all amounts previously obligated for accrued separation pay of foreign national employees of such agencies of the United States Government; and

(2) amounts obligated for fiscal years after 1991 by such agencies for the current and future costs of separation pay of foreign national employees.

(c) Availability

Amounts shall be deposited in the fund annually and are authorized to be available until expended.

(d) Expenditures from fund

Amounts deposited in the fund shall be available for expenditure to make separation payments to foreign national employees in countries in which such pay is legally authorized.

(Pub. L. 102–138, title I, §151, Oct. 28, 1991, 105 Stat. 672.)

CODIFICATION

Section was enacted as part of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993, and not as part of the Foreign Service Act of 1980 which comprises this chapter.

§4013. Foreign Service awards

The President shall establish a system of awards to confer appropriate recognition of outstanding contributions to the Nation by members of the Service. The awards system established under this section shall provide for presentation by the President and by the Secretary of medals or other

suitable commendations for performance in the course of or beyond the call of duty which involves distinguished, meritorious service to the Nation, including extraordinary valor in the face of danger to life or health. Distinguished, meritorious service in the promotion of internationally recognized human rights, including the right to freedom of religion, shall serve as a basis for granting awards under this section.

(Pub. L. 96–465, title I, §614, formerly §613, Oct. 17, 1980, 94 Stat. 2099; renumbered §614, Pub. L. 103–236, title I, §181(a)(1), Apr. 30, 1994, 108 Stat. 416; amended Pub. L. 105–292, title V, §504(b), Oct. 27, 1998, 112 Stat. 2811.)

AMENDMENTS

1998—Pub. L. 105–292 inserted at end "Distinguished, meritorious service in the promotion of internationally recognized human rights, including the right to freedom of religion, shall serve as a basis for granting awards under this section."

DELEGATION OF FUNCTIONS

Functions of President under this section delegated to Secretary of State, see section 1 of Ex. Ord. No. 12293, Feb. 23, 1981, 46 F.R. 13969, set out under section 3901 of this title.

THE RICHARD C. HOLBROOKE AWARD FOR DIPLOMACY

Memorandum of President of the United States, Dec. 22, 2010, 77 F.R. 75507, provided:

Memorandum for the Secretary of State

To honor the legacy of one of America's greatest diplomats and to reaffirm our commitment to diplomacy, I hereby direct you to establish the Richard C. Holbrooke Award for Diplomacy, to be awarded annually. You are authorized to take all necessary steps to establish an appropriate award program under the auspices of your department to recognize distinguished Americans who have made especially meritorious contributions to diplomacy.

Sixty days prior to presenting the award, you shall present to me a list of nominees, from which I will select up to five individuals or groups of individuals to receive this award. In preparing your list of nominees, you may consider the recommendations of appropriate individuals and groups, coordinate your nominations in consultation with other executive agencies as appropriate, and may include recommendations for posthumous awards.

You are authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

SUBCHAPTER VII—CAREER DEVELOPMENT, TRAINING, AND ORIENTATION

§4021. Institution for training

(a) Institution or center for training

The Secretary of State shall maintain and operate an institution or center for training (hereinafter in this subchapter referred to as the "institution"), originally established under section 701 of the Foreign Service Act of 1946, in order to promote career development within the Service and to provide necessary training and instruction in the field of foreign relations to members of the Service and to employees of the Department and of other agencies. The institution shall be headed by a Director, who shall be appointed by the Secretary of State. The institution shall be designated the "George P. Shultz National Foreign Affairs Training Center" [1]

(b) Provision of training

To the extent practicable, the Secretary of State shall provide training under this subchapter which meets the needs of all agencies, and other agencies shall avoid duplicating the facilities and training provided by the Secretary of State through the institution and otherwise.

(c) Training and instruction to citizens of Trust Territory of the Pacific Islands

Training and instruction may be provided at the Institute [2] for not to exceed sixty citizens of the Trust Territory of the Pacific Islands in order to prepare them to serve as members of the foreign services of the Federated States of Micronesia, the Marshall Islands, and Palau. The authority of this subsection shall expire when the Compact of Free Association is approved by the Congress.

(d) Training and instruction of employees of foreign governments

(1) The Secretary of State is authorized to provide for special professional foreign affairs training and instruction of employees of foreign governments through the institution.

(2) Training and instruction under paragraph (1) shall be on a reimbursable or advance-of-funds basis. Such reimbursements or advances to the Department of State may be provided by an agency of the United States Government or by a foreign government and shall be credited to the currently available applicable appropriation account.

(3) In making such training available to employees of foreign governments, priority consideration should be given to officials of newly emerging democratic nations and then to such other countries as the Secretary determines to be in the national interest of the United States.

(e) Training or services for United States person

(1) The Secretary may provide appropriate training or related services, except foreign language training, through the institution to any United States person (or any employee or family member thereof) that is engaged in business abroad.

(2) The Secretary may provide job-related training or related services, including foreign language training, through the institution to a United States person under contract to provide services to the United States Government or to any employee thereof that is performing such services.

(3) Training under this subsection may be provided only to the extent that space is available and only on a reimbursable or advance-of-funds basis. Reimbursements and advances shall be credited to the currently available applicable appropriation account.

(4) Training and related services under this subsection is authorized only to the extent that it will not interfere with the institution's primary mission of training employees of the Department and of other agencies in the field of foreign relations.

(5) In this subsection, the term "United States person" means—

(A) any individual who is a citizen or national of the United States; or

(B) any corporation, company, partnership, association, or other legal entity that is 50 percent or more beneficially owned by citizens or nationals of the United States.

(f) Programs for Members of Congress or the Judiciary

(1) The Secretary is authorized to provide, on a reimbursable basis, training programs to Members of Congress or the Judiciary.

(2) Employees of the legislative branch and employees of the judicial branch may participate, on a reimbursable basis, in training programs offered by the institution.

(3) Reimbursements collected under this subsection shall be credited to the currently available applicable appropriation account.

(4) Training under this subsection is authorized only to the extent that it will not interfere with the institution's primary mission of training employees of the Department and of other agencies in the field of foreign relations.

(g) Applicability of section 4024 of this title

The authorities of section 4024 of this title shall apply to training and instruction provided under this section.

(Pub. L. 96–465, title I, §701, Oct. 17, 1980, 94 Stat. 2099; Pub. L. 98–164, title I, §126, Nov. 22, 1983, 97 Stat. 1026; Pub. L. 103–236, title I, §126(2), (3), Apr. 30, 1994, 108 Stat. 393, 394; Pub. L. 103–415, §1(y), Oct. 25, 1994, 108 Stat. 4302; Pub. L. 105–277, div. G, subdiv. B, title XXII, §2205(a)(1), (3), Oct. 21, 1998, 112 Stat. 2681–808, 2681–809; Pub. L. 107–132, §1(a), Jan. 16, 2002, 115 Stat. 2412; Pub. L. 107–228, div. A, title III, §318(2), Sept. 30, 2002, 116 Stat. 1379.)

REFERENCES IN TEXT

Section 701 of the Foreign Service Act of 1946, referred to in subsec. (a), which was classified to section 1041 of this title, was repealed by Pub. L. 96–465, title II, §2205(1), Oct. 17, 1980, 94 Stat. 2159.

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–132 inserted at end "The institution shall be designated the 'George P. Shultz National Foreign Affairs Training Center' ".

Subsecs. (d)(4) to (g). Pub. L. 107–228 repealed Pub. L. 105–277, §2205(a)(3). See 1998 Amendment notes below.

1998—Subsec. (d)(4). Pub. L. 105–277, §2205(a)(3)(B), which directed the redesignation of subsec. (g) as (d)(4), effective Oct. 1, 2002, was repealed by Pub. L. 107–228, effective Sept. 30, 2002.

Pub. L. 105–277, §2205(a)(1)(A), redesignated subsec. (d)(4) as (g).

Subsecs. (e), (f). Pub. L. 105–277, §2205(a)(3)(A), which directed the striking out of subsecs. (e) and (f), effective Oct. 1, 2002, was repealed by Pub. L. 107–228, effective Sept. 30, 2002.

Pub. L. 105–277, §2205(a)(1)(B), added subsecs. (e) and (f).

Subsec. (g). Pub. L. 105–277, §2205(a)(3)(B), which directed the redesignation of subsec. (g) as (d)(4), effective Oct. 1, 2002, was repealed by Pub. L. 107–228, effective Sept. 30, 2002.

Pub. L. 105–277, §2205(a)(1)(A), redesignated subsec. (d)(4) as (g).

1994—Pub. L. 103–415 made technical amendment relating to style of section catchline.

Pub. L. 103–236, §126(2)(A), substituted "Institution for training" for "Foreign Service Institute" as section catchline.

Subsec. (a). Pub. L. 103–236, §126(2)(B), inserted heading, substituted "an institution or center for training (hereinafter in this subchapter referred to as the 'institution')" for "the Foreign Service Institute (hereinafter in this subchapter referred to as the 'Institute'),", and substituted "institution shall" for "Institute shall".

Subsec. (b). Pub. L. 103–236, §126(3), substituted "institution" for "Institute".

Subsec. (d). Pub. L. 103–236, §126(2)(C), added subsec. (d).

1983—Subsec. (c). Pub. L. 98–164 added subsec. (c).

CHANGE OF NAME

Pub. L. 107–132, §1(b), Jan. 16, 2002, 115 Stat. 2412, provided that: "Any reference in any provision of law to the National Foreign Affairs Training Center or the Foreign Service Institute shall be considered to be a reference to the 'George P. Shultz National Foreign Affairs Training Center'."

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–277, div. G, subdiv. B, title XXII, §2205(a)(2), Oct. 21, 1998, 112 Stat. 2681–809, provided that: "The amendments made by paragraph (1) [amending this section] shall take effect on October 1, 1998."

Pub. L. 105–277, div. G, subdiv. B, title XXII, §2205(a)(3), Oct. 21, 1998, 112 Stat. 2681–809, which provided that the amendment made by section 2205(a)(3) was effective Oct. 1, 2002, was repealed by Pub. L. 107–228, div. A, title III, §318(2), Sept. 30, 2002, 116 Stat. 1379.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

DESIGNATION OF FOREIGN LANGUAGE RESOURCES COORDINATOR

Pub. L. 103–236, title I, §192, Apr. 30, 1994, 108 Stat. 419, provided that:

"(a) POLICY.—It is the sense of the Congress that—

"(1) the Department of State, by virtue of the Secretary's overall responsibility under section 701(a) of the Foreign Service Act of 1980 (22 U.S.C. 4011(a) [22 U.S.C. 4021(a)]) for training and instruction in the field of foreign relations to meet the needs of all Federal agencies, should take the lead in this interagency effort; and

"(2) in order to promote efficiency and quality in the training provided by the Secretary of State and other Federal agencies, the Secretary should call upon other agencies to share in the joint management and coordination of Federal foreign language resources.

"(b) FOREIGN LANGUAGE RESOURCES COORDINATOR.—

"(1) The Secretary of State should appoint a Foreign Language Resources Coordinator (in this subsection referred to as the 'Coordinator') who shall be responsible—

"(A) for coordinating the efforts of the appropriate agencies of Government—

"(i) to strengthen mechanisms for sharing of foreign language resources; and

"(ii) to identify Federal foreign language resource requirements in the areas of diplomacy, military preparedness, international security, and other foreign policy objectives; and

"(B) for making recommendations to the Secretary of State as to which Federal foreign language assets, if any, should be made available to the private sector in support of national global economic competitiveness goals.

"(2) All appropriate United States Government agencies maintaining and utilizing Federal foreign language training and related resources shall cooperate fully with any Coordinator."

FOREIGN SERVICE INSTITUTE FACILITIES

Pub. L. 99–93, title I, §123, Aug. 16, 1985, 99 Stat. 413, as amended by Pub. L. 100–204, title I, §135, Dec. 22, 1987, 101 Stat. 1345; Pub. L. 102–138, title I, §124, Oct. 28, 1991, 105 Stat. 659; Pub. L. 105–277, div. G, subdiv. B, title XXII, §2219(a)(3), Oct. 21, 1998, 112 Stat. 2681–817, provided that:

"(a) PURPOSE.—The purpose of this section is to promote comprehensive training to meet the foreign relations and national security objectives of the United States and to provide facilities designed for that purpose to assure cost efficient training.

"(b) CONSTRUCTION OF TRAINING FACILITIES.—The Administrator of General Services may construct a consolidated training facility for the Foreign Service Institute on a site made available by the Secretary of State or acquired by the Administrator of General Services. Such site shall be located outside the District of Columbia but within reasonable proximity to the Department of State. The Administrator of General Services may carry out this subsection only to the extent that funds are provided in advance in appropriation Acts to the Department of State and are transferred to the Administrator of General Services for carrying out this section.

"(c) USE OF FUNDS.—(1)(A) Of amounts authorized to be appropriated to the Department of State for fiscal years 1986 and 1987 for 'Administration of Foreign Affairs' by section 101(1) [Pub. L. 99–93, §101(1), which is not classified to the Code], a total of not to exceed $11,000,000 may be transferred by the Secretary of State to the Administrator of General Services for carrying out feasibility studies, site acquisition, and design, architectural, and engineering planning under subsection (b) of this section.

"(B) Of the amounts authorized to be appropriated to the Department of State for fiscal years beginning after September 30, 1987, the Secretary of State may transfer a total not to exceed $11,000,000 for 'Administration of Foreign Affairs' to the Administrator of General Services for carrying out feasibility studies, site preparation, and design, architectural, and engineering planning under subsection (b).

"(2) Of amounts authorized to be appropriated to the Department of State for fiscal years beginning after September 30, 1987, for 'Administration of Foreign Affairs', a total not to exceed $70,000,000 may be transferred by the Secretary of State to the Administrator of General Services for carrying out construction under subsection (b) of this section.

"(3) Funds may not be obligated for construction of a facility under this section before the end of the period of 30 days of continuous session of Congress beginning on the date on which plans and estimates developed to carry out this section are submitted to the Committees on Foreign Affairs and Public Works and Transportation of the House of Representatives and the Committees on Foreign Relations and Environment and Public Works of the Senate. In determining days of continuous session of Congress for purposes of this paragraph—

"(A) continuity of session is broken only by an adjournment of Congress sine die; and

"(B) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the determination.

If both Houses of Congress are not in session on the day any plans and estimates are submitted to such committees, such submittal shall be deemed to have been submitted on the first succeeding day on which both Houses are in session. If all such committees do not receive a submittal on the same day, such period shall not begin until the date on which all such committees have received it.

"(d) JURISDICTION AND CUSTODY.—The facility constructed under this section and the site of such facility shall be under jurisdiction and in the custody of the Administrator of General Services.

"(e) OPERATION, MAINTENANCE, SECURITY, ALTERATION, AND REPAIR.—(1) The Administrator of General Services shall delegate, in accordance with section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486) [see 40 U.S.C. 121 and Historical and Revision notes thereunder] and section 15 of the Public Buildings Act of 1959 (40 U.S.C. 614) [now 40 U.S.C. 3315], to the Secretary of State responsibility for the operation, maintenance, and security of and alterations and repairs to the facility constructed pursuant to this section, provided the facility is used by the Secretary for the purposes authorized by this section.

"[(2) Repealed. Pub. L. 105–277, div. G, subdiv. B, title XXII, §2219(a)(3), Oct. 21, 1998, 112 Stat.

2681–817.]

"(f) EXEMPTION FROM PAYMENT OF CHARGES.—(1) Except as provided in paragraph (2), the Department of State shall be exempt from the charges required by section 210(j) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(j)) [now 40 U.S.C. 586(a), (b)] for the use of the facility constructed under this section for the Foreign Service Institute.

"(2) The Administrator of General Services shall charge the Department of State under such section 210(j) for the costs of any operation, maintenance, repairs, or alterations of such facility carried out by the Administrator of General Services."

LANGUAGE TRAINING FOR FAMILY MEMBERS OF FOREIGN SERVICE PERSONNEL

Pub. L. 95–105, title IV, §414, Aug. 17, 1977, 91 Stat. 857, as amended by Pub. L. 97–241, title V, §505(a)(3), (b)(1), Aug. 24, 1982, 96 Stat. 299, provided that: "It is the sense of Congress that, in order to increase the effectiveness of United States diplomatic representation abroad, the Secretary of State should make greater use of his authority under section 701 of the Foreign Service Act of 1946 [former section 1041 of this title] in order to increase the language training opportunities available to the family members of Foreign Service personnel."

[1] So in original. Probably should be followed by a period.

[2] So in original. Probably should be "institution".

§4022. Foreign language requirements

(a) In general

The Secretary shall establish foreign language proficiency requirements for members of the Service who are to be assigned abroad in order that Foreign Service posts abroad will be staffed by individuals having a useful knowledge of the language or dialect common to the country in which the post is located.

(b) Training

The Secretary of State shall arrange for appropriate language training of members of the Service by the institution or otherwise in order to assist in meeting the requirements established under subsection (a).

(c) Report

Not later than January 31 of each year, the Director General of the Foreign Service shall submit a report to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives summarizing the number of positions in each overseas mission requiring foreign language competence that—

(1) became vacant during the previous fiscal year; and

(2) were filled by individuals having the required foreign language competence.

(Pub. L. 96–465, title I, §702, Oct. 17, 1980, 94 Stat. 2099; Pub. L. 103–236, title I, §126(3), Apr. 30, 1994, 108 Stat. 394; Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title II, §208(a)], Nov. 29, 1999, 113 Stat. 1536, 1501A–422; Pub. L. 107–228, div. A, title III, §327, Sept. 30, 2002, 116 Stat. 1387.)

AMENDMENTS

2002—Subsec. (c). Pub. L. 107–228 substituted "January 31" for "March 31" in introductory provisions and "fiscal year" for "calendar year" in par. (1).

1999—Subsec. (c). Pub. L. 106–113 added subsec. (c).

1994—Subsec. (b). Pub. L. 103–236 substituted "institution" for "Institute".

CHANGE OF NAME

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§4023. Career development program

(a) Establishment; primary attention and emphasis

The Secretary shall establish a professional development program to assure that members of the Service obtain the skills and knowledge required at the various stages of their careers. With regard to Foreign Service officers, primary attention shall be given to training for career candidate officers and for midcareer officers, both after achieving tenure and as they approach eligibility for entry to the Senior Foreign Service, to enhance and broaden their qualifications for more senior levels of responsibility in the Service. Training for other members of the Service shall emphasize programs designed to enhance their particular skills and expert knowledge, including development of the management skills appropriate to their occupational categories.

(b) Primary direction for Junior Foreign Service officer training and midcareer training

Junior Foreign Service officer training shall be directed primarily toward providing expert knowledge in the basic functions of analysis and reporting as well as in consular, administrative, and linguistic skills relevant to the full range of future job assignments. Midcareer training shall be directed primarily toward development and perfection of management, functional, negotiating, and policy development skills to prepare the officers progressively for more senior levels of responsibility.

(c) Purpose; completion of training as condition for placement or appointment

At each stage the program of professional development should be designed to provide members of the Service with the opportunity to acquire skills and knowledge relevant to clearly established professional standards of expected performance. Career candidates should satisfactorily complete candidate training prior to attainment of career status. Members of the Service should satisfactorily complete midcareer training before appointment to the Senior Foreign Service.

(d) University degree credit

In formulating programs under this section, the Secretary should establish a system to provide, insofar as possible, credit toward university degrees for successful completion of courses comparable to graduate-level, university courses.

(e) Institutions conducting training

Training provided under this section shall be conducted by the Department and by other governmental and nongovernmental institutions as the Secretary may consider appropriate.

(Pub. L. 96–465, title I, §703, Oct. 17, 1980, 94 Stat. 2100; Pub. L. 100–204, title I, §185(c)(1), Dec. 22, 1987, 101 Stat. 1366.)

AMENDMENTS

1987—Subsec. (f). Pub. L. 100–204 struck out subsec. (f) which related to report to Congress and President.

§4024. Functions of Secretary

(a) Nature and correlation of training and instruction; encouragement of complementary programs; employment of personnel; acquisition of property and equipment

In the exercise of functions under this subchapter, the Secretary of State may—

(1) provide for the general nature of the training and instruction to be furnished by the institution, including functional and geographic area specializations;

(2) correlate training and instruction furnished by the institution with courses given at other Government institutions and at private institutions which furnish training and instruction useful in the field of foreign affairs;

(3) encourage and foster programs complementary to those furnished by the institution,

including through grants and other gratuitous assistance to nonprofit institutions cooperating in any of the programs under this subchapter;

(4)(A) employ in accordance with the civil service laws such personnel as may be necessary to carry out the provisions of this subchapter, and

(B) if and to the extent determined to be necessary by the Secretary of State, obtain without regard to the provisions of law governing appointments in the competitive service, by appointment or contract (subject to the availability of appropriations), the services of individuals to serve as education and training specialists, including language instructors and linguists, and other specialists who perform work directly relating to the design, delivery, oversight, or coordination of training delivered by the institution (including, in the absence of suitably qualified United States citizens, qualified individuals who are not citizens of the United States); and

(5) acquire such real and personal property and equipment as may be necessary for the establishment, maintenance, and operation of the facilities necessary to carry out the provisions of this subchapter without regard to sections 3101(a) and (c), 3104, 3106, 3301(b)(2), and 6101 of title 41.

(b) Payment of salary, tuition, and other expenses; special monetary or other incentives

In furtherance of the objectives of this chapter, the Secretary may—

(1) pay the tuition and other expenses of members of the Service and employees of the Department who are assigned or detailed in accordance with law for special instruction or training, including orientation, language, and career development training;

(2) pay the salary (excluding premium pay or any special differential under section 3972 of this title) of members of the Service selected and assigned for training; and

(3) provide special monetary or other incentives to encourage members of the Service to acquire or retain proficiency in foreign languages or special abilities needed in the Service.

(c) Orientation and training for family members

The Secretary may provide to family members of members of the Service or of employees of the Department or other agencies, in anticipation of their assignment abroad or while abroad—

(1) appropriate orientation and language training; and

(2) functional training for anticipated prospective employment under section 3951 of this title.

(d) Training and certification for employees performing consular functions

(1) Before a United States citizen employee (other than a diplomatic or consular officer of the United States) may be designated by the Secretary of State, pursuant to regulation, to perform a consular function abroad, the United States citizen employee shall—

(A) be required to complete successfully a program of training essentially equivalent to the training that a consular officer who is a member of the Foreign Service would receive for purposes of performing such function; and

(B) be certified by an appropriate official of the Department of State to be qualified by knowledge and experience to perform such function.

(2) As used in this subsection, the term "consular function" includes the issuance of visas, the performance of notarial and other legalization functions, the adjudication of passport applications, the adjudication of nationality, and the issuance of citizenship documentation.

(Pub. L. 96–465, title I, §704, Oct. 17, 1980, 94 Stat. 2100; Pub. L. 97–241, title I, §125(1), Aug. 24, 1982, 96 Stat. 281; Pub. L. 103–236, title I, §126(3), Apr. 30, 1994, 108 Stat. 394; Pub. L. 105–277, div. G, subdiv. B, title XXII, §2222(f), Oct. 21, 1998, 112 Stat. 2681–819; Pub. L. 114–323, title IV, §407, Dec. 16, 2016, 130 Stat. 1930.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original "this Act", meaning Pub. L. 96–465, Oct. 17, 1980, 94 Stat. 2071, as amended, known as the Foreign Service Act of 1980, which is classified principally to this chapter (§3901 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 3901 of this title and Tables.

CODIFICATION

In subsec. (a)(5), "sections 3101(a) and (c), 3104, 3106, 3301(b)(2), and 6101 of title 41" substituted for "section 3709 of the Revised Statutes of the United States (41 U.S.C. 5) and section 302 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 252)" on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

2016—Subsec. (a)(4)(B). Pub. L. 114–323 substituted "education and training specialists, including language instructors and linguists, and other specialists who perform work directly relating to the design, delivery, oversight, or coordination of training delivered by the institution" for "language instructors, linguists, and other academic and training specialists".

1998—Subsec. (d). Pub. L. 105–277 added subsec. (d).

1994—Subsec. (a)(1) to (3). Pub. L. 103–236 substituted "institution" for "Institute".

1982—Subsec. (b)(2). Pub. L. 97–241 substituted "section 3972 of this title" for "section 3971 of this title".

§4025. Training grants

(a) Family members attending approved programs of study; limitations

To facilitate training provided to members of families of Government employees under this subchapter, the Secretary may make grants (by advance payment or by reimbursement) to family members attending approved programs of study. No such grant may exceed the amount actually expended for necessary costs incurred in conjunction with such attendance.

(b) Compensation for individuals unable to participate in language training furnished by Government

If a member of the Service who is assigned abroad, or a member of his or her family, is unable to participate in language training furnished by the Government through the institution or otherwise, the Secretary may compensate that individual for all or part of the costs of language training, related to the assignment abroad, which is undertaken at a public or private institution.

(Pub. L. 96–465, title I, §705, Oct. 17, 1980, 94 Stat. 2101; Pub. L. 103–236, title I, §126(3), Apr. 30, 1994, 108 Stat. 394.)

AMENDMENTS

1994—Subsec. (b). Pub. L. 103–236 substituted "institution" for "Institute" after "through the".

§4026. Career counseling

(a) Facilitation of transition from Service

In order to facilitate their transition from the Service, the Secretary may provide (by contract or otherwise, subject to the availability of appropriations) professional career counseling, advice, and placement assistance to members of the Service, and to former members of the Service who were assigned to receive counseling and assistance under this subsection before they were separated from the Service, other than those separated for cause. Career counseling and related services provided pursuant to this chapter shall not be construed to permit an assignment that consists primarily of paid time to conduct a job search and without other substantive duties for more than one month.

(b) Facilitation of employment of spouses of members; establishment of family liaison office

(1) The Secretary may facilitate the employment of spouses of members of the Service by—

(A) providing regular career counseling for such spouses;

(B) maintaining a centralized system for cataloging their skills and the various governmental and nongovernmental employment opportunities available to them; and

(C) otherwise assisting them in obtaining employment.

(2) The Secretary shall establish a family liaison office to carry out this subsection and such other functions as the Secretary may determine.

(Pub. L. 96–465, title I, §706, Oct. 17, 1980, 94 Stat. 2101; Pub. L. 105–277, div. G, subdiv. B, title XXIII, §2314(a), Oct. 21, 1998, 112 Stat. 2681–827.)

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–277 inserted at end "Career counseling and related services provided pursuant to this chapter shall not be construed to permit an assignment that consists primarily of paid time to conduct a job search and without other substantive duties for more than one month."

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–277, div. G, subdiv. B, title XXIII, §2314(b), Oct. 21, 1998, 112 Stat. 2681–828, provided that: "The amendment made by subsection (a) [amending this section] shall be effective 180 days after the date of the enactment of this Act [Oct. 21, 1998]."

AUTHORITY OF SECRETARY OF STATE

Except as otherwise provided, Secretary of State to have and exercise any authority vested by law in any official or office of Department of State and references to such officials or offices deemed to refer to Secretary of State or Department of State, as appropriate, see section 2651a of this title and section 161(d) of Pub. L. 103–236, set out as a note under section 2651a of this title.

§4027. Visiting Scholars Program

(a) Establishment of program

There is authorized to be established at the institution a program whereby selected scholars would participate fully in the educational and training activities of the institution. This program may be referred to as the "Visiting Scholars Program".

(b) Selection and appointment of scholars

(1) Scholars participating in the Visiting Scholars Program shall be selected by a five-member board described in subsection (c).

(2) Each visiting scholar shall serve a term of one year, except that such term may be extended for one additional one-year period.

(c) Establishment of selection board

The board referred to in subsection (b) shall be composed of the Director of the institution, who shall serve as chairperson, and four other members appointed by the Secretary of State.

(Pub. L. 96–465, title I, §707, as added Pub. L. 101–246, title I, §144(a), Feb. 16, 1990, 104 Stat. 36; amended Pub. L. 103–236, title I, §126(3), Apr. 30, 1994, 108 Stat. 394.)

AMENDMENTS

1994—Subsecs. (a), (c). Pub. L. 103–236 substituted "institution" for "Foreign Service Institute" and "Institute" in subsec. (a) and "institution" for "Foreign Service Institute" in subsec. (c).

§4028. Training for Foreign Service officers

(a) Human rights, religious freedom, and human trafficking training

(1) In general

The Secretary of State, with the assistance of other relevant officials, such as the Ambassador at Large for International Religious Freedom appointed under section 6411(b) of this title, the Director of the Office to Monitor and Combat Trafficking, and the director of the George P. Shultz

National Foreign Affairs Training Center, shall establish as part of the standard training provided after January 1, 1999, for officers of the Service, including chiefs of mission, instruction in the field of internationally recognized human rights. Such training shall include—

(A) instruction on international documents and United States policy in human rights, which shall be mandatory for all members of the Service having reporting responsibilities relating to human rights and for chiefs of mission;

(B) instruction on the internationally recognized right to freedom of religion, the nature, activities, and beliefs of different religions, and the various aspects and manifestations of violations of religious freedom; and

(C) instruction on international documents and United States policy on trafficking in persons, including provisions of the Trafficking Victims Protection Act of 2000 (division A of Public Law 106–386; 22 U.S.C. 7101 et seq.) which may affect the United States bilateral relationships.

(2) Religious freedom training

(A) In general

In carrying out the training required under paragraph (1)(B), the Director of the George P. Shultz National Foreign Affairs Training Center shall, not later than the one year after December 16, 2016, conduct training on religious freedom for all Foreign Service officers, including all entry level officers, all officers prior to departure for posting outside the United States, and all outgoing deputy chiefs of mission and ambassadors. Such training shall be included in—

(i) the A–100 course attended by all Foreign Service officers;

(ii) the courses required of every Foreign Service officer prior to a posting outside the United States, with segments tailored to the particular religious demography, religious freedom conditions, and United States strategies for advancing religious freedom, in each receiving country; and

(iii) the courses required of all outgoing deputy chiefs of mission and ambassadors.

(B) Development of curriculum

In carrying out the training required under paragraph (1)(B), the Ambassador at Large for International Religious Freedom, in coordination with the Director of the George P. Shultz National Foreign Affairs Training Center and other Federal officials, as appropriate, and in consultation with the United States Commission on International Religious Freedom established under section 6431(a) of this title, shall make recommendations to the Secretary of State regarding a curriculum for the training of United States Foreign Service officers under paragraph (1)(B) on the scope and strategic value of international religious freedom, how violations of international religious freedom harm fundamental United States interests, how the advancement of international religious freedom can advance such interests, how United States international religious freedom policy should be carried out in practice by United States diplomats and other Foreign Service officers, and the relevance and relationship of international religious freedom to United States defense, diplomacy, development, and public affairs efforts. The Secretary of State should ensure the availability of sufficient resources to develop and implement such curriculum.

(C) Information sharing

The curriculum and training materials developed under this paragraph shall be shared with the United States Armed Forces and other Federal departments and agencies with personnel who are stationed overseas, as appropriate, to provide training on—

(i) United States religious freedom policies;

(ii) religious traditions;

(iii) religious engagement strategies;

(iv) religious and cultural issues; and

(v) efforts to counter violent religious extremism.

(b) Refugees

The Secretary of State shall provide sessions on refugee law and adjudications and on religious persecution to each individual seeking a commission as a United States consular officer. The Secretary shall also ensure that any member of the Service who is assigned to a position that may be called upon to assess requests for consideration for refugee admissions, including any consular officer, has completed training on refugee law and refugee adjudications in addition to the training required in this section.

(c) Child soldiers

The Secretary of State, with the assistance of other relevant officials, shall establish as part of the standard training provided for chiefs of mission, deputy chiefs of mission, and other officers of the Service who are or will be involved in the assessment of child soldier use or the drafting of the annual Human Rights Report instruction on matters related to child soldiers, and the substance of the Child Soldiers Prevention Act of 2008.

(Pub. L. 96–465, title I, §708, as added and amended Pub. L. 105–292, title I, §104, title VI, §602(b), Oct. 27, 1998, 112 Stat. 2795, 2812; Pub. L. 107–132, §2(b), Jan. 16, 2002, 115 Stat. 2412; Pub. L. 109–164, title I, §104(d), Jan. 10, 2006, 119 Stat. 3565; Pub. L. 110–457, title IV, §406, Dec. 23, 2008, 122 Stat. 5091; Pub. L. 114–281, title I, §103(a), Dec. 16, 2016, 130 Stat. 1430.)

REFERENCES IN TEXT

The Trafficking Victims Protection Act of 2000, referred to in subsec. (a)(1)(C), is div. A of Pub. L. 106–386, Oct. 28, 2000, 114 Stat. 1466, which is classified principally to chapter 78 (§7101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 7101 of this title and Tables.

The Child Soldiers Prevention Act of 2008, referred to in subsec. (c), is title IV of Pub. L. 110–457, Dec. 23, 2008, 122 Stat. 5087, which is classified principally to sections 2370c to 2370c–2 of this title. For complete classification of this Act to the Code, see Short Title of 2008 Amendment note set out under section 2151 of this title and Tables.

AMENDMENTS

2016—Subsec. (a). Pub. L. 114–281, §103(a)(1), inserted subsec. heading, designated existing provisions as par. (1) and inserted par. heading, redesignated former pars. (1) to (3) as subpars. (A) to (C), respectively, and added par. (2).

Subsecs. (b), (c). Pub. L. 114–281, §103(a)(2), (3), inserted headings.

2008—Subsec. (c). Pub. L. 110–457 added subsec. (c).

2006—Subsec. (a). Pub. L. 109–164 inserted ", the Director of the Office to Monitor and Combat Trafficking," after "section 6411(b) of this title" in introductory provisions and added par. (3).

2002—Subsec. (a). Pub. L. 107–132 inserted "George P. Shultz" after "director of the" in introductory provisions.

1998—Pub. L. 105–292, §602(b), designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–457 effective 180 days after Dec. 23, 2008, see section 407 of Pub. L. 110–457, set out as an Effective Date note under section 2370c of this title.

§4029. Increased training in multilateral diplomacy

(1) Statement of policy

It shall be the policy of the United States that training courses should be established for Foreign Service Officers and civil service employees of the State Department, including appropriate chiefs of mission, on the conduct of multilateral diplomacy, including the conduct of negotiations at international organizations and multilateral institutions, negotiating skills that are required at multilateral settings, coalition-building techniques, and lessons learned from previous United States multilateral negotiations.

(2) Personnel

(A) In general

The Secretary shall ensure that the training described in paragraph (1) is provided at various stages of the career of members of the Service.

(B) Actions of the Secretary

The Secretary shall ensure that—

(i) officers of the Service receive training on the conduct of diplomacy at international organizations and other multilateral institutions and at broad-based multilateral negotiations of international instruments as part of their training upon entry into the Service; and

(ii) officers of the Service, including chiefs of mission, who are assigned to United States missions representing the United States to international organizations and other multilateral institutions or who are assigned in Washington, D.C., to positions that have as their primary responsibility formulation of policy toward such organizations and institutions or toward participation in broad-based multilateral negotiations of international instruments, receive specialized training in the areas described in paragraph (1) prior to beginning of service for such assignment or, if receiving such training at that time is not practical, within the first year of beginning such assignment.

(3) Training for civil service employees

The Secretary shall ensure that employees of the Department of State who are members of the civil service and who are assigned to positions described in paragraph (2) receive training described in paragraph (1) prior to the beginning of service for such assignment or, if receiving such training at such time is not practical, within the first year of beginning such assignment.

(Pub. L. 108–458, title VII, §7111(c), Dec. 17, 2004, 118 Stat. 3795.)

CODIFICATION

Section was enacted as part of the Intelligence Reform and Terrorism Prevention Act of 2004, and also as part of the 9/11 Commission Implementation Act of 2004, and not as part of the Foreign Service Act of 1980 which comprises this chapter.

SUBCHAPTER VIII—FOREIGN SERVICE RETIREMENT AND DISABILITY

PART I—FOREIGN SERVICE RETIREMENT AND DISABILITY SYSTEM

§4041. Administration

In accordance with such regulations as the President may prescribe, the Secretary of State shall administer the Foreign Service Retirement and Disability System (hereinafter in this part referred to as the "System"), originally established pursuant to section 18 of the Act of May 24, 1924 (43 Stat. 144).

(Pub. L. 96–465, title I, §801, Oct. 17, 1980, 94 Stat. 2102; Pub. L. 99–335, title IV, §402(a)(2), June 6, 1986, 100 Stat. 609.)

REFERENCES IN TEXT

Section 18 of the Act of May 24, 1924 (43 Stat. 144), referred to in text, which was classified to section 21 of this title, was repealed by act Aug. 13, 1946, ch. 957, title XI, §1131(44), 60 Stat. 1038.

AMENDMENTS

1986—Pub. L. 99–335 substituted "part" for "subchapter".

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–335 effective Jan. 1, 1987, see section 702(a) of Pub. L. 99–335, set out as an Effective Date note under section 8401 of Title 5, Government Organization and Employees.

EFFECTIVE DATE

Subchapter effective Feb. 15, 1981, except regarding the rights of former spouses to any annuity under section 4054(a) of this title or except to the extent provided in section 4159 of this title, regarding rights of former spouses to receive survivor annuities under this subchapter, see section 2403(a) and (e) of Pub. L. 96–465, set out as a note under section 3901 of this title.

DELEGATION OF FUNCTIONS

Functions of President under this section delegated to Secretary of State, see section 1 of Ex. Ord. No. 12293, Feb. 23, 1981, 46 F.R. 13969, set out as a note under section 3901 of this title.

TERMINATION OF RETIREMENT BENEFITS FOR FOREIGN NATIONAL EMPLOYEES ENGAGING IN HOSTILE INTELLIGENCE ACTIVITIES

Pub. L. 100–204, title I, §158, Dec. 22, 1987, 101 Stat. 1355, provided that:

"(a) TERMINATION.—The Secretary of State shall exercise the authorities available to him to ensure that the United States does not provide, directly or indirectly, any retirement benefits of any kind to any present or former foreign national employee of a United States diplomatic or consular post against whom the Secretary has convincing evidence that such employee has engaged in intelligence activities directed against the United States. To the extent practicable, the Secretary shall provide due process in implementing this section.

"(b) WAIVER.—The Secretary of State may waive the applicability of subsection (a) on a case-by-case basis with respect to an employee if he determines that it is vital to the national security of the United States to do so and he reports such waiver to the appropriate committees of the Congress."

TEMPORARY RETIREMENT CONTRIBUTIONS AND PROCEDURES FOR CERTAIN PARTICIPANTS

For temporary provisions providing modified contributions and procedures for members of the Service participating in the Foreign Service Retirement and Disability System who are also required to pay employment taxes relating to benefits under title II of the Social Security Act, 42 U.S.C. 401 et seq., until they are covered by a new Government retirement system or Jan. 1, 1986, whichever is earlier, see title II of Pub. L. 98–168, set out as a note under section 8331 of Title 5, Government Organization and Employees.

§4042. Maintenance of Fund

The Secretary of the Treasury shall maintain the special fund known as the Foreign Service Retirement and Disability Fund (hereinafter in this part referred to as the "Fund"), originally created by section 18 of the Act of May 24, 1924 (43 Stat. 144).

(Pub. L. 96–465, title I, §802, Oct. 17, 1980, 94 Stat. 2102; Pub. L. 99–335, title IV, §402(a)(2), June 6, 1986, 100 Stat. 609.)

REFERENCES IN TEXT

Section 18 of the Act of May 24, 1924 (43 Stat. 144), referred to in text, which was classified to section 21 of this title, was repealed by act Aug. 13, 1946, ch. 957, title XI, §1131(44), 60 Stat. 1038.

AMENDMENTS

1986—Pub. L. 99–335 substituted "part" for "subchapter".

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–335 effective Jan. 1, 1987, see section 702(a) of Pub. L. 99–335, set out as an Effective Date note under section 8401 of Title 5, Government Organization and Employees.

§4043. Participants

(a) Career appointees or candidates; chiefs of mission

Except as provided in subsection (d), the following members of the Service (hereinafter in this part referred to as "participants") shall be entitled to the benefits of the System:

(1) Every member who is serving under a career appointment or as a career candidate under section 3946 of this title—

(A) in the Senior Foreign Service, or

(B) assigned to a salary class in the Foreign Service Schedule.

(2) Every chief of mission, who is not a participant under paragraph (1), who—

(A) has served as chief of mission for an aggregate period of 20 years or more, and

(B) has paid into the Fund a special contribution for each year of such service in accordance with section 4045 of this title.

(b) Executive branch appointees

Any otherwise eligible member of the Service who is appointed to a position in the executive branch by the President, by and with the advice and consent of the Senate, or by the President alone, shall not by virtue of the acceptance of such appointment cease to be eligible to participate in the System.

(c) Binational Center Grantees

In addition to the individuals who are participants in the System under subsection (a), any individual who was appointed as a Binational Center Grantee and who completed at least 5 years of satisfactory service as such a grantee or under any other appointment under the Foreign Service Act of 1946 may become a participant in the System, and shall receive credit for such service if an appropriate special contribution is made to the Fund in accordance with section 4045(d) or (f) of this title.

(d) Exclusion

An individual subject to the Foreign Service Pension System (described in part II) is not a participant in this System.

(Pub. L. 96–465, title I, §803, Oct. 17, 1980, 94 Stat. 2102; Pub. L. 99–335, title IV, §§402(a)(2), 414, June 6, 1986, 100 Stat. 609, 614.)

REFERENCES IN TEXT

The Foreign Service Act of 1946, referred to in subsec. (c), is act Aug. 13, 1946, ch. 957, titles I to X, 60 Stat. 999, as amended, which was classified principally to chapter 14 (§801 et seq.) of this title, and was repealed by Pub. L. 96–465, title II, 2205(1), Oct. 17, 1980, 94 Stat. 2159.

AMENDMENTS

1986—Subsec. (a). Pub. L. 99–335, §§402(a)(2), 414(1), substituted "Except as provided in subsection (d), the" for "The" and "part" for "subchapter" in provisions preceding par. (1).

Subsec. (d). Pub. L. 99–335, §414(2), added subsec. (d).

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–335 effective Jan. 1, 1987, see section 702(a) of Pub. L. 99–335, set out as an Effective Date note under section 8401 of Title 5, Government Organization and Employees.

§4044. Definitions

As used in this part, unless otherwise specified, the term—

(1) "annuitant" means any individual, including a former participant or survivor, who meets all requirements for an annuity from the Fund under this chapter or any other Act and who has filed a claim for such annuity;

(2) "child" means an individual—

(A) who—

(i) is an offspring or adopted child of the participant,

(ii) is a stepchild or recognized natural child of the participant and who received more than one-half support from the participant, or

(iii) lived with the participant, for whom a petition of adoption was filed by the participant, and who is adopted by the surviving spouse of the participant after the death of the participant;

(B) who is unmarried; and

(C) who—

(i) is under the age of 18 years,

(ii) is a student under the age of 22 years (for purposes of this clause, an individual whose 22d birthday occurs before July 1 or after August 31 of the calendar year in which that birthday occurs, and while the individual is a student, is deemed to become 22 years of age on the first July 1 which occurs after that birthday), or

(iii) is incapable of self-support because of a physical or mental disability which was incurred before the individual reached the age of 18 years;

(3) "court" means any court of any State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Northern Mariana Islands, or the Virgin Islands, and any Indian court as defined by section 1301(3) of title 25;

(4) "court order" means any court decree of divorce or annulment, or any court order or court approved property settlement agreement incident to any court decree of divorce or annulment;

(5) "Foreign Service normal cost" means the level percentage of payroll required to be deposited in the Fund to meet the cost of benefits payable under the System (computed in accordance with generally accepted actuarial practice on an entry-age basis) less the value of retirement benefits earned under another retirement system for Government employees and less the cost of credit allowed for military and naval service;

(6) "former spouse" means a former wife or husband of a participant or former participant who was married to such participant for not less than 10 years during periods of service by that participant which are creditable under section 4056 of this title;

(7) "Fund balance" means the sum of—

(A) the investments of the Fund calculated at par value, plus

(B) the cash balance of the Fund on the books of the Treasury;

(8) "lump-sum credit" means the compulsory and special contributions to the credit of a participant or former participant in the Fund plus interest on such contributions at 4 percent a year compounded annually to December 31, 1976, and after such date, for a participant who separates from the Service after completing at least 1 year of civilian service and before completing 5 years of such service, at the rate of 3 percent per year to the date of separation (except that interest shall not be paid for a fractional part of a month in the total service or on compulsory and special contributions from an annuitant for recall service or other service performed after the date of separation which forms the basis for annuity);

(9) "military and naval service" means honorable active service—

(A) in the Armed Forces of the United States,

(B) in the Regular or Reserve Corps of the Public Health Service after June 30, 1960, or

(C) as a commissioned officer of the National Oceanic and Atmospheric Administration, or a predecessor organization, after June 30, 1961,

but does not include service in the National Guard except when ordered to active duty in the service of the United States;

(10) "pro rata share", in the case of any former spouse of any participant or former participant, means a percentage which is equal to the percentage that (A) the number of years during which the former spouse was married to the participant during the creditable service (creditable under part I

or II) of that participant is of (B) the total number of years of such creditable service (creditable under part I or II);

(11) "spousal agreement" means any written agreement between—

(A) a participant or former participant; and

(B) his or her spouse or former spouse;

(12) "student" means a child regularly pursuing a full-time course of study or training in residence in a high school, trade school, technical or vocational institute, junior college, college, university, or comparable recognized educational institution (for purposes of this paragraph, a child who is a student shall not be deemed to have ceased to be a student during any period between school years, semesters, or terms if the period of nonattendance does not exceed 5 calendar months and if the child shows to the satisfaction of the Secretary of State that he or she has a bona fide intention of continuing to pursue his or her course of study during the school year, semester, or term immediately following such period);

(13) "surviving spouse" means the surviving wife or husband of a participant or annuitant who was married to the participant or annuitant for at least 9 months immediately preceding his or her death or is a parent of a child born of the marriage, except that the requirement for at least 9 months of marriage shall be deemed satisfied in any case in which the participant or annuitant dies within the applicable 9-month period, if—

(A) the death of such participant or annuitant was accidental; or

(B) the surviving spouse of such individual had been previously married to the individual and subsequently divorced and the aggregate time married is at least 9 months;

(14) "unfunded liability" means the estimated excess of the present value of all benefits payable from the Fund under this part over the sum of—

(A) the present value of deductions to be withheld from the future basic salary of participants and of future agency contributions to be made on their behalf, plus

(B) the present value of Government payments to the Fund under section 4061 of this title, plus

(C) the Fund balance as of the date the unfunded liability is determined; and

(15) "special agent" means an employee of the Department of State with a primary skill code of 2501—

(A) the duties of whose position—

(i) are primarily—

(I) the investigation, apprehension, or detention of individuals suspected or convicted of offenses against the criminal laws of the United States; or

(II) the protection of persons pursuant to section 2709(a)(3) of this title against threats to personal safety; and

(ii) are sufficiently rigorous that employment opportunities should be limited to young and physically vigorous individuals, as determined by the Secretary of State pursuant to section 4823 of this title;

(B) performing duties described in subparagraph (A) before, on, or after November 13, 1998; or

(C) transferred directly to a position which is supervisory or administrative in nature after performing duties described in subparagraph (A) for at least 3 years.

(Pub. L. 96–465, title I, §804, Oct. 17, 1980, 94 Stat. 2102; Pub. L. 99–335, title IV, §§402(a)(2), (3), 403, 404(a), June 6, 1986, 100 Stat. 609, 610; Pub. L. 100–238, title II, §211, Jan. 8, 1988, 101 Stat. 1773; Pub. L. 105–382, §2(a)(1), Nov. 13, 1998, 112 Stat. 3406.)

REFERENCES IN TEXT

This chapter, referred to in par. (1), was in the original "this Act", meaning Pub. L. 96–465, Oct. 17, 1980, 94 Stat. 2071, as amended, known as the Foreign Service Act of 1980, which is classified principally to this chapter (§3901 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 3901 of this title and Tables.

AMENDMENTS

1998—Par. (15). Pub. L. 105–382 added par. (15).

1988—Par. (13). Pub. L. 100–238, §211(1), which directed the amendment of par. (13) by striking out ", in the case of death in service or marriage after retirement," was executed by striking out ", in the case of a death in service or marriage after retirement," after "annuitant who", as the probable intent of Congress.

Pub. L. 100–238, §211(2), (3), substituted "9 months" for "one year" and inserted before semicolon at end ", except that the requirement for at least 9 months of marriage shall be deemed satisfied in any case in which the participant or annuitant dies within the applicable 9-month period, if—

"(A) the death of such participant or annuitant was accidental; or

"(B) the surviving spouse of such individual had been previously married to the individual and subsequently divorced and the aggregate time married is at least 9 months".

1986—Pub. L. 99–335, §402(a)(2), substituted "part" for "subchapter" in provision preceding par. (1).

Par. (3). Pub. L. 99–335, §403, substituted ", the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Northern Mariana Islands, or the Virgin Islands, and any Indian court as defined in section 1301(3) of title 25" for "or of the District of Columbia".

Par. (10). Pub. L. 99–335, §404(a), inserted "(creditable under part I or II)" after "creditable service" in two places.

Par. (14). Pub. L. 99–335, §402(a)(3), inserted "under this part" after "payable from the Fund" in provision preceding subpar. (A).

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–382, §4, Nov. 13, 1998, 112 Stat. 3409, as amended by Pub. L. 106–554, §1(a)(4) [div. B, title I, §145(a)], Dec. 21, 2000, 114 Stat. 2763, 2763A–250, provided that:

"(a) IN GENERAL.—Except as provided in subsection (b), this Act [amending this section and sections 4045, 4046, 4052, 4071a, and 4071d of this title and enacting provisions set out as a note under section 3901 of this title] and the amendments made by this Act—

"(1) shall take effect on the date of the enactment of this Act [Nov. 13, 1998]; and

"(2) shall apply with respect to—

"(A) any individual first appointed on or after that date as a special agent who will have any portion of such individual's annuity computed in conformance with section 806(a)(6) of the Foreign Service Act [of 1980] [22 U.S.C. 4046(a)(6)]; and

"(B) any individual making an election under subsection (b), subject to the provisions of such subsection.

"(b) ELECTION FOR CURRENT PARTICIPANTS.—

"(1) ELIGIBILITY.—An election under this subsection may be made by any currently employed participant or participant who was serving as of January 1, 1997 under chapter 8 of the Foreign Service Act of 1980 [22 U.S.C. 4041 et seq.] who is serving or has served as a special agent, or by a survivor of a special agent who was eligible to make an election under this section.

"(2) EFFECT OF AN ELECTION.—

"(A) IN GENERAL.—If an individual makes an election under this subsection, the amendments made by this Act [amending this section and sections 4045, 4046, 4052, 4071a, and 4071d of this title] shall become applicable with respect to such individual, subject to subparagraph (B).

"(B) TREATMENT OF PRIOR SERVICE.—

"(i) SPECIAL CONTRIBUTION.—An individual may, after making the election under this subsection, make a special contribution up to the full amount of the difference between the contributions actually deducted from pay for prior service and the deductions that would have been required if the amendments made by this Act had then been in effect. Any special contributions under this clause shall be computed under regulations based on section 805(d) of the Foreign Service Act of 1980 [22 U.S.C. 4045(d)] (as amended by section 2), including provisions relating to the computation of interest.

"(ii) ACTUARIAL REDUCTION.—

"(I) RULE IF THE SPECIAL CONTRIBUTION IS PAID.—If the full amount of the special contribution under clause (i) is paid, no reduction under this clause shall apply.

"(II) RULE IF LESS THAN THE ENTIRE AMOUNT IS PAID.—If no special contribution under clause (i) is paid, or if less than the entire amount of such special contribution is paid, the recomputed annuity shall be reduced by an amount sufficient to make up the actuarial present value of the shortfall.

"(c) REGULATIONS AND NOTICE.—Not later than 6 months after the date of the enactment of this Act [Nov. 13, 1998], the Secretary of State—

"(1) shall promulgate such regulations as may be necessary to carry out this Act; and

"(2) shall take measures reasonably designed to provide notice to participants as to any rights they might have under this Act.

"(d) ELECTION DEADLINE.—An election under subsection (b) must be made not later than 90 days after the date on which the relevant notice under subsection (c)(2) is provided.

"(e) DEFINITION.—For purposes of this section, the term 'special agent' has the meaning given such term under section 804(15) of the Foreign Service Act of 1980 (22 U.S.C. 4044(15)), as amended by section 2(a)."

[Pub. L. 106–554, §1(a)(4) [div. B, title I, §145(b)], Dec. 21, 2000, 114 Stat. 2763, 2763A–250, provided that: "The amendment made by this section [amending section 4 of Pub. L. 105–382, set out above] shall take effect on January 1, 2001."]

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–238 effective 90 days after Jan. 8, 1988, see section 261(a) of Pub. L. 100–238, set out as a note under section 4054 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–335 effective Jan. 1, 1987, see section 702(a) of Pub. L. 99–335, set out as an Effective Date note under section 8401 of Title 5, Government Organization and Employees.

§4045. Contributions to Fund

(a) Rates and sources; deposits in Fund

(1) Except as otherwise provided in this section, 7.25 percent of the basic salary received by each participant shall be deducted from the salary and contributed to the Fund for the payment of annuities, cash benefits, refunds, and allowances. The contribution by the employing agency shall be a percentage of basic salary equal to the percentage in effect under section 7001(d)(1) of the Balanced Budget Act of 1997 (Public Law 105–33; 22 U.S.C. 4045 note), and section 505(h) of the Department of Transportation and Related Agencies Appropriations Act, 2001 (as enacted by Public Law 106–346; 114 Stat. 1356A–54), plus .25 percent of basic salary, and shall be made from the appropriations or fund used for payment of the salary of the participant. The employing agency shall deposit in the Fund the amounts deducted and withheld from basic salary and the amounts contributed by the employing agency.

(2) Notwithstanding the percentage limitation contained in paragraph (1) of this subsection—

(A) the employing agency shall deduct and withhold from the basic pay of a Foreign Service criminal investigator/inspector of the Office of the Inspector General, Agency for International Development, who is qualified to have his annuity computed in the same manner as that of a law enforcement officer pursuant to section 8339(d) of title 5, an amount equal to that to be withheld from a law enforcement officer pursuant to section 8334(a)(1) of title 5, plus an amount equal to .25 percent of basic pay. The amounts so deducted shall be contributed to the Fund for the payment of annuities, cash benefits, refunds, and allowances. An equal amount shall be contributed by the employing agency from the appropriations or fund used for payment of the salary of the participant. The employing agency shall deposit in the Fund the amount deducted and withheld from basic salary and amounts contributed by the employing agency.

(B) The employing agency shall deduct and withhold from the basic pay of a Foreign Service criminal investigator/inspector of the Office of the Inspector General, Agency for International Development, who is qualified to have his annuity computed pursuant to section 8415(e) of title 5, an amount equal to that to be withheld from a law enforcement officer pursuant to section 8422(a)(2)(B) [1] of title 5, plus an amount equal to .25 percent of basic pay. The amounts so

deducted shall be contributed to the Fund for the payment of annuities, cash benefits, refunds, and allowances. An equal amount shall be contributed by the employing agency from the appropriations or fund used for payment of the salary of the participant. The employing agency shall deposit in the Fund the amounts deducted and withheld from basic salary and amounts contributed by the employing agency.

(3) For service as a special agent, paragraph (1) shall be applied by substituting for "7 percent" the percentage that applies to law enforcement officers under section 8334(a)(1) of title 5, plus .25 percent.

(b) Consent to deduction; discharge and acquittance of claims and demands

Each participant shall be deemed to consent and agree to such deductions from basic salary. Payment less such deductions shall be a full and complete discharge and acquittance of all claims and demands whatsoever for all regular services during the period covered by such payment, except the right to the benefits to which the participant shall be entitled under this chapter, notwithstanding any law, rule, or regulation affecting the salary of the individual.

(c) Transfer of contributions from other Government retirement fund

(1) If a member of the Service who is under another retirement system for Government employees becomes a participant in the System by direct transfer, the total contributions and deposits of that member that would otherwise be refundable on separation (except voluntary contributions), including interest thereon, shall be transferred to the Fund effective as of the date such member becomes a participant in the System. Each such member shall be deemed to consent to the transfer of such funds, and such transfer shall be a complete discharge and acquittance of all claims and demands against the other Government retirement fund on account of service rendered by such member prior to becoming a participant in the System.

(2) A member of the Service whose contributions are transferred to the Fund pursuant to paragraph (1) shall not be required to make additional contributions for periods of service for which required contributions were made to the other Government retirement fund; nor shall any refund be made to any such member on account of contributions made during any period to the other Government retirement fund at a higher rate than that fixed by subsection (d).

(d) Contribution for civilian service; creditability of interim service

(1) Any participant credited with civilian service after July 1, 1924—

(A) for which no retirement contributions, deductions, or deposits have been made, or

(B) for which a refund of such contributions, deductions, or deposits has been made which has not been redeposited,

may make a special contribution to the Fund. Special contributions for purposes of subparagraph (A) shall equal the following percentages of basic salary received for such service:

	Percent of basic salary
Time of service:	
July 1, 1924, through October 15, 1960, inclusive	5
October 16, 1960, through December 31, 1969, inclusive	6½
January 1, 1970, through December 31, 1998, inclusive	7
January 1, 1999, through December 31, 1999, inclusive	7.25
January 1, 2000, through December 31, 2000, inclusive	7.4
After December 31, 2000	7

Special contributions for refunds under subparagraph (B) shall equal the amount of the refund received by the participant.

(2) Notwithstanding paragraph (1), a special contribution for prior nondeposit service as a

National Guard technician which would be creditable toward retirement under subchapter III of chapter 83 of title 5, and for which a special contribution has not been made, shall be equal to the special contribution for such service computed in accordance with the schedule in paragraph (1) multiplied by the percentage of such service that is creditable under section 4056 of this title.

(3) Special contributions under this subsection shall include interest computed from the midpoint of each service period included in the computation, or from the date refund was paid, to the date of payment of the special contribution or commencing date of annuity, whichever is earlier. [2] Interest shall be compounded at the annual rate of 4 percent to December 31, 1976, and 3 percent thereafter. No interest shall be charged on special contributions for any period of separation from Government service which began before October 1, 1956. Special contributions may be paid in installments (including by allotment of pay) when authorized by the Secretary of State.

(4) Notwithstanding the preceding provisions of this subsection and any provision of section 206(b)(3) of the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983, the percentage of basic pay required under this subsection in the case of a participant described in section 4071b(c) of this title shall, with respect to any covered service (as defined by section 203(a)(3) of such Act) performed by such individual after December 31, 1983, and before January 1, 1987, be equal to 1.3 percent.

(5) Notwithstanding paragraph (1), a special contribution for past service as a Foreign Service criminal investigator/inspector of the Office of the Inspector General, Agency for International Development which would have been creditable toward retirement under either section 8336(c) or 8412(d) of title 5, and for which a special contribution has not been made shall be equal to the difference between the amount actually contributed pursuant to either this section or section 4071e of this title and the amount that should have been contributed pursuant to either section 8334 or 8422 of title 5.

(6) Subject to paragraph (4) and subsection (h), for purposes of applying this subsection with respect to prior service as a special agent, the percentages of basic pay set forth in section 8334(c) of title 5, with respect to a law enforcement officer, shall apply instead of the percentages set forth in paragraph (1).

(e) Contribution for military or naval service

(1) Subject to paragraph (5), each participant who has performed military or naval service before the date of separation on which the entitlement to any annuity under this part is based may pay to the Secretary a special contribution equal to 7 percent of the amount of the basic pay paid under section 204 of title 37, to the participant for each period of military or naval service after December 1956. The amount of such payments shall be based on such evidence of basic pay for military service as the participant may provide or if the Secretary determines sufficient evidence has not been so provided to adequately determine basic pay for military or naval service, such payment shall be based upon estimates of such basic pay provided to the Department under paragraph (4).

(2) Any deposit made under paragraph (1) of this subsection more than two years after the later of—

(A) October 17, 1983, or

(B) the date on which the participant making the deposit first became a participant in a Federal staff retirement system for civilian employees,—

shall include interest on such amount computed and compounded annually beginning on the date of the expiration of the two-year period. The interest rate that is applicable in computing interest in any year under this paragraph shall be equal to the interest rate that is applicable for such year under subsection (d) of this section.

(3) Any payment received by the Secretary under this section shall be remitted to the Fund.

(4) The Secretary of Defense, the Secretary of Transportation, the Secretary of Commerce, or the Secretary of Health and Human Services, as appropriate, shall furnish such information to the Secretary as the Secretary may determine to be necessary for the administration of this subsection.

(5) Effective with respect to any period of military or naval service after December 31, 1998, the

percentage of basic pay under section 204 of title 37 payable under paragraph (1) shall be equal to the same percentage as would be applicable under section 8334(c) of title 5 for that same period for service as an employee.

(f) Exemption for certain military or naval service

Contributions shall only be required to obtain credit for periods of military or naval service to the extent provided under subsection (e) and section 4056(a) of this title, except that credit shall be allowed in the absence of contributions to individuals of Japanese ancestry under section 4056 of this title for periods of internment during World War II.

(g) Time of payment; offset against initial annuity accruals

A participant or survivor may make a special contribution at any time before receipt of annuity and may authorize payment by offset against initial annuity accruals.

(h) Computation of contributions for participants with certain creditable civilian service

Effective with respect to pay periods beginning after December 31, 1986, in administering this section with respect to a participant described in section 4071b(c) of this title whose service is employment for the purposes of title II of the Social Security Act [42 U.S.C. 401 et seq.] and chapter 21 of title 26, contributions to the Fund and interest thereon shall be computed as if section 8334(k) of title 5 were applicable.

(Pub. L. 96–465, title I, §805, Oct. 17, 1980, 94 Stat. 2104; Ex. Ord. No. 12446, §4(a), Oct. 17, 1983, 48 F.R. 48444; Pub. L. 99–335, title IV, §§402(a)(2), 405, June 6, 1986, 100 Stat. 609, 610; Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 100–238, title II, §212, Jan. 8, 1988, 101 Stat. 1773; Pub. L. 102–499, §4(a), (b), Oct. 24, 1992, 106 Stat. 3265; Pub. L. 105–33, title VII, §7001(d)(2)(C), (D), Aug. 5, 1997, 111 Stat. 660, 661; Pub. L. 105–382, §2(b), (c), Nov. 13, 1998, 112 Stat. 3407; Pub. L. 106–346, §101(a) [title V, §505(d)(2)], Oct. 23, 2000, 114 Stat. 1356, 1356A–53; Pub. L. 107–228, div. A, title III, §322(a)(2), Sept. 30, 2002, 116 Stat. 1384; Pub. L. 112–96, title V, §5001(c)(2)(D), Feb. 22, 2012, 126 Stat. 200.)

AMENDMENT OF SECTION

Section 1(a) and (c) of Ex. Ord. No. 12446, Oct. 17, 1983, 48 F.R. 48443, set out as a note under section 4067 of this title, provided that the second sentence of subsec. (d)(3) of this section, applicable (i) to contributions for civilian service performed on or after the first day of Nov. 1983, (ii) to contributions for prior refunds to participants for which application is received by the employing agency on and after such first day of Nov. 1983, and (iii) to excess contributions under section 4055(h) of this title and voluntary contributions under section 4065(a) of this title from the first day of Nov. 1983, is deemed to be amended to provide that interest shall be compounded at the annual rate of 3 percent per annum through December 31, 1984, and thereafter at a rate equal to the overall average yield to the Fund during the preceding fiscal year from all obligations purchased by the Secretary of the Treasury during such fiscal year under section 4059 of this title, as determined by the Secretary of the Treasury.

REFERENCES IN TEXT

Section 505(h) of the Department of Transportation and Related Agencies Appropriations Act, 2001, referred to in subsec. (a)(1), is section 101(a) [title V, §505(h)] of Pub. L. 106–346, which is set out as a note below.

Section 8422(a)(2) of title 5, referred to in subsec. (a)(2)(B), was amended by Pub. L. 105–33, title VII, §7001(b)(1)(A), Aug. 5, 1997, 111 Stat. 657, by striking out par. (2) and adding a new par. (2). As so amended, section 8422(a)(2)(B) of Title 5, Government Organization and Employees, no longer specifies the amount to be withheld from the basic pay of a law enforcement officer. However, provisions relating to the amount to be withheld from the basic pay of a law enforcement officer are contained elsewhere in section 8422.

Sections 206(b)(3) and 203(a)(3) of the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983, referred to in subsec. (d)(4), are set out as a note under section 8331 of Title 5, Government Organization and Employees.

The Social Security Act, referred to in subsec. (h), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended.

Title II of the Social Security Act is classified generally to subchapter II (§401 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

AMENDMENTS

2012—Subsec. (a)(2)(B). Pub. L. 112–96 substituted "section 8415(e)" for "section 8415(d)".

2002—Subsec. (a)(1). Pub. L. 107–228, §322(a)(2)(C), which directed amendment of par. (1) by substituting "employing agency" for "Department" wherever appearing, was executed by making the substitution in two places in the last sentence but not in the second sentence where "Department" appears before "of Transportation and Related Agencies Appropriations Act, 2001", to reflect the probable intent of Congress.

Pub. L. 107–228, §322(a)(2)(A), substituted "7.25 percent" for "7 percent" and "The contribution by the employing agency shall be a percentage of basic salary equal to the percentage in effect under section 7001(d)(1) of the Balanced Budget Act of 1997 (Public Law 105–33; 22 U.S.C. 4045 note), and section 505(h) of the Department of Transportation and Related Agencies Appropriations Act, 2001 (as enacted by Public Law 106–346; 114 Stat. 1356A–54), plus .25 percent of basic salary, and shall be made" for "An equal amount shall be contributed by the Department".

Subsec. (a)(2)(A), (B). Pub. L. 107–228, §322(a)(2)(C), substituted "employing agency" for "Department" wherever appearing.

Pub. L. 107–228, §322(a)(2)(B), which directed amendment of subpars. (A) and (B) by inserting ", plus an amount equal to .25 percent of basic pay" at end of first sentence, was executed by making the insertion before the period at end of first sentence to reflect the probable intent of Congress.

Subsec. (a)(3). Pub. L. 107–228, §322(a)(2)(D), which directed amendment of par. (3) by inserting ", plus .25 percent" at the end of the first sentence, was executed by making the insertion before the period at end of first sentence, to reflect the probable intent of Congress.

2000—Subsec. (d)(1). Pub. L. 106–346, in table in concluding provisions, substituted item relating to service period after December 31, 2000, for items relating to service periods January 1, 2001, through December 31, 2002; and after December 31, 2002.

1998—Subsec. (a)(1). Pub. L. 105–382, §2(b)(2), substituted "Except as otherwise provided in this section," for "Except as provided in subsection (h) of this section,".

Subsec. (a)(3). Pub. L. 105–382, §2(b)(1), added par. (3).

Subsec. (d)(6). Pub. L. 105–382, §2(c), added par. (6).

1997—Subsec. (d)(1). Pub. L. 105–33, §7001(d)(2)(C), in table in concluding provisions, inserted items relating to service periods January 1, 1970, through December 31, 1998; January 1, 1999, through December 31, 1999; January 1, 2000, through December 31, 2000; January 1, 2001, through December 31, 2002; and after December 31, 2002, and struck out former item relating to service period on and after January 1, 1970.

Subsec. (e)(1). Pub. L. 105–33, §7001(d)(2)(D)(i), substituted "Subject to paragraph (5), each" for "Each".

Subsec. (e)(5). Pub. L. 105–33, §7001(d)(2)(D)(ii), added par. (5).

1992—Subsec. (a). Pub. L. 102–499, §4(a), designated existing provisions as par. (1) and added par. (2).

Subsec. (d)(5). Pub. L. 102–499, §4(b), added par. (5).

1988—Subsec. (d)(1). Pub. L. 100–238, in concluding provisions, substituted "Fund. Special contributions for purposes of subparagraph (A) shall equal" for "Fund equal to" and inserted "Special contributions for refunds under subparagraph (B) shall equal the amount of the refund received by the participant."

1986—Subsec. (a). Pub. L. 99–335, §405(a)(1), inserted "Except as provided in subsection (h) of this section," before "7 percent".

Subsec. (d)(4). Pub. L. 99–335, §405(b), added par. (4).

Subsec. (e)(1). Pub. L. 99–335, §402(a)(2), substituted "part" for "subchapter".

Subsec. (h). Pub. L. 99–514 substituted "Internal Revenue Code of 1986" for "Internal Revenue Code of 1954", which for purposes of codification was translated as "title 26" thus requiring no change in text.

Pub. L. 99–335, §405(a)(2), added subsec. (h).

1983—Subsecs. (e) to (g). Ex. Ord. No. 12446 added subsecs. (e) and (f), struck out former subsec. (e), and redesignated former subsec. (f) as (g). Prior to amendment, subsec. (e) read as follows: "Contributions shall not be required for any period of military and naval service or for any period for which credit is allowed to individuals of Japanese ancestry under section 4056 of this title for periods of internment during World War II."

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107–228, div. A, title III, §322(c)(2), Sept. 30, 2002, 116 Stat. 1385, provided that: "The

amendments made by subsections (a)(2) [amending this section] and (b)(2) [amending section 4071e of this title] shall take effect with the first pay period beginning on or after the date that is 90 days after the date of enactment of this Act [Sept. 30, 2002]."

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–346 effective upon the close of calendar year 2000 and applicable thereafter, see section 101(a) [title V, §505(i)] of Pub. L. 106–346, set out as a note under section 8334 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–382 effective Nov. 13, 1998, with provisions relating to applicability with respect to certain individuals, see section 4 of Pub. L. 105–382, as amended, set out as a note under section 4044 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–33 effective Oct. 1, 1997, see section 7001(f) of Pub. L. 105–33, set out as a note under section 8334 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–238 effective 90 days after Jan. 8, 1988, see section 261(a) of Pub. L. 100–238, set out as a note under section 4054 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–335 effective Jan. 1, 1987, see section 702(a) of Pub. L. 99–335, set out as an Effective Date note under section 8401 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Ex. Ord. No. 12446 effective Oct. 17, 1983, see section 4(e) of Ex. Ord. No. 12446, set out under section 4067 of this title.

FOREIGN SERVICE RETIREMENT AND DISABILITY SYSTEM CONTRIBUTIONS, DEDUCTIONS, AND WITHHOLDINGS

Pub. L. 106–346, §101(a) [title V, §505(h)], Oct. 23, 2000, 114 Stat. 1356, 1356A–54, provided that: "Notwithstanding any provision of section 805(a) of the Foreign Service Act of 1980 (22 U.S.C. 4045(a)), during the period beginning on October 1, 2002, through December 31, 2002, each agency employing a participant in the Foreign Service Retirement and Disability System shall contribute to the Foreign Service Retirement and Disability Fund—

"(1) 7.5 percent of the basic pay of each participant covered under section 805(a)(1) of such Act participating in the Foreign Service Retirement and Disability System; and

"(2) 8 percent of the basic pay of each participant covered under paragraph (2) or (3) of section 805(a) of such Act participating in the Foreign Service Retirement and Disability System,

in lieu of the agency contribution otherwise required under section 805(a) of such Act."

Pub. L. 105–33, title VII, §7001(d)(1)–(2)(B), Aug. 5, 1997, 111 Stat. 659, 660, as amended by Pub. L. 106–346, §101(a) [title V, §505(d)(1)], Oct. 23, 2000, 114 Stat. 1356, 1356A–53, provided that:

"(1) AGENCY CONTRIBUTIONS.—Notwithstanding section 805(a)(1) and (2) of the Foreign Service Act of 1980 (22 U.S.C. 4045(a)(1) and (2)), during the period beginning on October 1, 1997, through September 30, 2002, each agency employing a participant in the Foreign Service Retirement and Disability System shall contribute to the Foreign Service Retirement and Disability Fund—

"(A) 8.51 percent of the basic pay of each participant covered under section 805(a)(1) of such Act participating in the Foreign Service Retirement and Disability System; and

"(B) 9.01 percent of the basic pay of each participant covered under section 805(a)(2) of such Act participating in the Foreign Service Retirement and Disability System;

in lieu of the agency contribution otherwise required under section 805(a)(1) and (2) of such Act.

"(2) INDIVIDUAL DEDUCTIONS, WITHHOLDINGS, AND DEPOSITS.—

"(A) IN GENERAL.—Notwithstanding section 805(a)(1) of the Foreign Service Act of 1980 (22 U.S.C. 4045(a)(1)), beginning on January 1, 1999, through December 31, 2000, the amount withheld and deducted from the basic pay of a participant in the Foreign Service Retirement and Disability System shall be as follows:

"7.25	January 1, 1999, to December 31, 1999.
"7.4	January 1, 2000, to December 31, 2000.

"(B) FOREIGN SERVICE CRIMINAL INVESTIGATORS/INSPECTORS OF THE OFFICE OF THE INSPECTOR GENERAL, AGENCY FOR INTERNATIONAL DEVELOPMENT.—Notwithstanding section 805(a)(2) of the Foreign Service Act of 1980 (22 U.S.C. 4045(a)(2)), beginning on January 1, 1999, through December 31, 2000, the amount withheld and deducted from the basic pay of an eligible Foreign Service criminal investigator/inspector of the Office of the Inspector General, Agency for International Development participating in the Foreign Service Retirement and Disability System shall be as follows:

"7.75	January 1, 1999, to December 31, 1999.
"7.9	January 1, 2000, to December 31, 2000."

[1] *See References in Text note below.*

[2] *See Amendment of Section note below.*

§4046. Computation of annuities

(a) [1] Measurements; reduction for special contributions; Foreign Service investigator/inspectors

(1) The annuity of a participant shall be equal to 2 percent of his or her average basic salary for the highest 3 consecutive years of service multiplied by the number of years, not exceeding 35, of service credit obtained in accordance with sections 4056 and 4057 of this title, except that the highest 3 years of service shall be used in computing the annuity of any participant who serves an assignment in a position, as described in section 3942(b) of this title, to which the participant was appointed by the President and whose continuity of service in that position is interrupted prior to retirement by appointment or assignment to any other position determined by the Secretary of State to be of comparable importance. In determining the aggregate period of service upon which the annuity is to be based, the fractional part of a month, if any, shall not be counted. The annuity shall be reduced by 10 percent of any special contribution described in section 4045(d) of this title which is due for service for which no contributions were made and which remains unpaid unless the participant elects to eliminate the service involved for purposes of annuity computation.

(2) Notwithstanding the percentage limitation contained in paragraph (1) of this subsection—

(A) utilizing the definition of average pay contained in section 8331(4) of title 5, the annuity of a Foreign Service criminal investigator/inspector of the Office of the Inspector General, Agency for International Development, who was appointed to a law enforcement position, as defined in section 8331(20) of title 5, prior to January 1, 1984, and would have been eligible to retire pursuant to section 8336(c) of that title, after attaining 50 years of age and completing 20 years as a law enforcement officer had the employee remained in the civil service shall be computed in the same manner as that of a law enforcement officer pursuant to section 8339(d) of that title, except as provided in paragraph (3); and

(B) the annuity of a Foreign Service criminal investigator/inspector of such office, who was appointed to a law enforcement position as defined in section 8401(17) of that title on or after January 1, 1984, and who would have been eligible to retire pursuant to section 8412(d) of that

title, after attaining 50 years of age and completing 20 years of service as such a law enforcement officer, had the employee remained in the civil service, shall be computed in the same manner as that of a law enforcement officer pursuant to section 8415(e) of that title.

(3) The annuity of a Foreign Service investigator/inspector of the Office of the Inspector General, Agency for International Development, appointed to a law enforcement position prior to January 1, 1984, who exercised election rights under section 4071i of this title, shall be computed as follows: for the period prior to election the annuity shall be computed in accordance with section 8339(d) of title 5; for the period following election the annuity shall be computed in accordance with section 8415(e) of that title.

(4) All service in a law enforcement position, as defined in section 8331(20) or 8401(17) of that title, as applicable, in any agency or combination of agencies shall be included in the computation of time for purposes of this paragraph.

(5) The annuity of a Foreign Service criminal investigator/inspector of the Office of the Inspector General of the Agency for International Development who has not completed 20 years of service as a law enforcement officer, as defined in section 8331(20) or 8401(17) of that title, shall be computed in accordance with paragraph (1).

(6)(A) The annuity of a special agent under this part shall be computed under paragraph (1) except that, in the case of a special agent described in subparagraph (B), paragraph (1) shall be applied by substituting for "2 percent"—

(i) the percentage under subparagraph (A) of section 8339(d)(1) of title 5 for so much of the participant's total service as is specified thereunder; and

(ii) the percentage under subparagraph (B) of section 8339(d)(1) of title 5 for so much of the participant's total service as is specified thereunder.

(B) A special agent described in this subparagraph is any such agent or former agent who—

(i)(I) retires voluntarily or involuntarily under section 4007, 4008, 4010a, 4051, 4052, or 4053 of this title, under conditions authorizing an immediate annuity, other than for cause on charges of misconduct or delinquency, or retires for disability under section 4048 of this title; and

(II) at the time of retirement—

(aa) if voluntary, is at least 50 years of age and has completed at least 20 years of service as a special agent; or

(bb) if involuntary or disability, has completed at least 20 years of service as a special agent; or

(ii) dies in service after completing at least 20 years of service as a special agent, when an annuity is payable under section 4049 of this title.

(C) For purposes of subparagraph (B), included with the years of service performed by an individual as a special agent shall be any service performed by such individual as a law enforcement officer (within the meaning of section 8331(20) or section 8401(17) of title 5), or a member of the Capitol Police.

(7) In the case of a special agent who becomes or became subject to part II—

(A) for purposes of paragraph (6)(B), any service performed by the individual as a special agent (whether under this part or under part II), as a law enforcement officer (within the meaning of section 8331(20) or section 8401(17) of title 5), or as a member of the Capitol Police shall be creditable; and

(B) if the individual satisfies paragraph (6)(B), the portion of such individual's annuity which is attributable to service under the Foreign Service Retirement and Disability System or the Civil Service Retirement System shall be computed in conformance with paragraph (6).

(8) For purposes of paragraphs (2), (3), (4), and (6) of this subsection, the term "basic pay" includes pay as provided in accordance with section 3972 of this title or section 5545(c)(2) of title 5.

(9) For purposes of any annuity computation under this subsection, the basic salary or basic pay of any member of the Service whose official duty station is outside the continental United States shall be considered to be the salary or pay that would have been paid to the member had the member's official duty station been Washington, D.C., including locality-based comparability payments under section 5304 of title 5 that would have been payable to the member if the member's official duty station had been Washington, D.C.

(b) Married participants

(1)(A) Except to the extent provided otherwise under a written election under subparagraph (B) or (C), if at the time of retirement a participant or former participant is married (or has a former spouse who has not remarried before attaining age 60), the participant shall receive a reduced annuity and provide a survivor annuity for his or her spouse under this subsection or former spouse under section 4054(b) of this title, or a combination of such annuities, as the case may be.

(B) At the time of retirement, a married participant or former participant and his or her spouse may jointly elect in writing to waive a survivor annuity for that spouse under this section (or under section 4054(b) of this title if the spouse later qualifies as a former spouse under section 4044(6) of this title), or to reduce such survivor annuity under this section (or section 4054(b) of this title) by designating a portion of the annuity of the participant as the base for the survivor benefit. In the event the marriage is dissolved following an election for such a reduced annuity and the spouse qualifies as a former spouse, the base used in calculating any annuity of the former spouse under section 4054(b) of this title may not exceed the portion of the participant's annuity designated under this subparagraph.

(C) If a participant or former participant has a former spouse, the participant and such former spouse may jointly elect by spousal agreement under section 4060(b)(1) of this title to waive a survivor annuity under section 4054(b) of this title for that former spouse if the election is made (i) before the end of the 24-month period after the divorce or annulment involving that former spouse becomes final or (ii) at the time of retirement, whichever occurs first.

(D) The Secretary of State may prescribe regulations under which a participant or former participant may make an election under subparagraph (B) or (C) without the participant's spouse or former spouse if the participant establishes to the satisfaction of the Secretary of State that the participant does not know, and has taken all reasonable steps to determine, the whereabouts of the spouse or former spouse.

(2) The annuity of a participant or former participant providing a survivor benefit under this section (or section 4054(b) of this title), excluding any portion of the annuity not designated or committed as a base for any survivor annuity, shall be reduced by 2½ percent of the first $3,600 plus 10 percent of any amount over $3,600. The reduction under this paragraph shall be calculated before any reduction under section 4054(a)(5) of this title.

(3)(A) If a former participant entitled to receive a reduced annuity under this subsection dies and is survived by a spouse, a survivor annuity shall be paid to the surviving spouse equal to 55 percent of the full amount of the participant's annuity computed under subsection (a), or 55 percent of any lesser amount elected as the base for the survivor benefit under paragraph (1)(B).

(B) Notwithstanding subparagraph (A), the amount of the annuity calculated under subparagraph (A) for a surviving spouse in any case in which there is also a surviving former spouse of the participant who qualifies for an annuity under section 4054(b) of this title may not exceed 55 percent of the portion (if any) of the base for survivor benefits which remains available under section 4054(b)(4)(B) of this title.

(C) An annuity payable from the Fund under this part to a surviving spouse under this paragraph shall commence on the day after the participant dies and shall terminate on the last day of the month before the surviving spouse's death or remarriage before attaining age 60. If such a survivor annuity is terminated because of remarriage, it shall be restored at the same rate commencing on the date such remarriage is terminated if any lump sum paid upon termination of the annuity is returned to the Fund.

(c) Surviving children

(1) If an annuitant who was a participant dies and is survived by a spouse or a former spouse who is the natural or adoptive parent of a surviving child of the annuitant and by a child or children, in addition to the annuity payable to the surviving spouse, there shall be paid to or on behalf of each child an annuity equal to the smaller of—

(A) $900, or

(B) $2,700 divided by the number of children.

(2) If an annuitant who was a participant dies and is not survived by a spouse or a former spouse who is the natural or adoptive parent of a surviving child of the annuitant but by a child or children, each surviving child shall be paid an annuity equal to the smaller of—

(A) $1,080, or

(B) $3,240 divided by the number of children.

(3) The amounts specified in this subsection are subject to—

(A) cost-of-living adjustments as specified under section 4066(c)(3) of this title, and

(B) the minimum specified in subsection (l)(2) of this section.

(d) Recomputation for remaining children

On the death of the surviving spouse or former spouse or termination of the annuity of a child, the annuity of any other child or children shall be recomputed and paid as though the spouse, former spouse, or child had not survived the participant. If the annuity to a surviving child who has not been receiving an annuity is initiated or resumed, the annuities of any other children shall be recomputed and paid from that date as though the annuities to all currently eligible children in the family were then being initiated.

(e) Payment period for child

The annuity payable to a child under subsection (c) or (d) shall begin on the day after the participant dies, or if the child is not then qualified, on the first day of the month in which the child becomes eligible. The annuity of a child shall terminate on the last day of the month which precedes the month in which eligibility ceases.

(f) Unmarried participants

At the time of retirement an unmarried participant who does not have a former spouse for whose benefit a reduction is made under subsection (b) may elect to receive a reduced annuity and to provide for an annuity equal to 55 percent of the reduced annuity payable after his or her death to a beneficiary whose name is designated in writing to the Secretary of State. The annuity payable to a participant making such election shall be reduced by 10 percent of an annuity computed under subsection (a) and by 5 percent of an annuity so computed for each full 5 years the designated beneficiary is younger than the retiring participant, but such total reduction shall not exceed 40 percent. No such election of a reduced annuity payable to a beneficiary shall be valid until the participant has satisfactorily passed a physical examination as prescribed by the Secretary of State. The annuity payable to a beneficiary under this subsection shall begin on the day after the annuitant dies and shall terminate on the last day of the month preceding the death of the beneficiary. An annuity which is reduced under this subsection (or any similar prior provision of law) shall, effective the first day of the month following the death of the beneficiary named under this subsection, be recomputed and paid as if the annuity had not been so reduced.

(g) Marriage after retirement

A participant or former participant who was unmarried at retirement and who later marries may, within one year after such marriage, irrevocably elect in writing to receive a reduced annuity and to provide a survivor annuity for the spouse (if such spouse qualifies as a surviving spouse under section 4044(13) of this title). Receipt by the Secretary of State of notice of an election under this subsection voids prospectively any election previously made under subsection (f). The reduction in annuity required by an election under this subsection shall be computed and the amount of the survivor annuity shall be determined in accordance with subsections (b)(2) and (3). The annuity

reduction or recomputation shall be effective the first day of the month beginning one year after the date of marriage.

(h) Election of benefits

A surviving spouse or surviving former spouse of any participant or former participant shall not become entitled to a survivor annuity or to the restoration of a survivor annuity payable from the Fund under this part unless the survivor elects to receive it instead of any other survivor annuity to which he or she may be entitled under this or any other retirement system for Government employees on the basis of a marriage to someone other than that participant.

(i) Reversion to retired status

(1) Any married annuitant who reverts to retired status with entitlement to a supplemental annuity under section 4063 of this title shall, unless the annuitant and his or her spouse jointly elect in writing to the contrary at that time, have the supplemental annuity reduced by 10 percent to provide a supplemental survivor annuity for his or her spouse. Such supplemental survivor annuity shall be equal to 55 percent of the supplemental annuity of the annuitant and shall be payable to a surviving spouse to whom the annuitant was married at the time of reversion to retired status or whom the annuitant subsequently married.

(2) The Secretary of State shall issue regulations to provide for the application of paragraph (1) of this subsection and of section 4063 of this title in any case in which an annuitant has a former spouse who was married to the participant at any time during a period of recall service and who qualifies for an annuity under this part.

(j) Recomputation upon dissolution of marriage; election after remarriage

An annuity which is reduced under this section or any similar prior provision of law to provide a survivor benefit for a spouse shall, if the marriage of the participant to such spouse is dissolved, be recomputed and paid for each full month during which an annuitant is not married (or is remarried if there is no election in effect under the following sentence) as if the annuity had not been so reduced, subject to any reduction required to provide a survivor benefit under section 4054(b) or (c) of this title. Upon remarriage the retired participant may irrevocably elect, by means of a signed writing received by the Secretary within one year after such remarriage, to receive during such marriage a reduction in annuity for the purpose of allowing an annuity for the new spouse of the annuitant in the event such spouse survives the annuitant. Such reduction shall be equal to the reduction in effect immediately before the dissolution of the previous marriage (unless such reduction is adjusted under section 4054(b)(5) of this title), and shall be effective the first day of the first month beginning one year after the date of remarriage. A survivor annuity elected under this subsection shall be treated in all respects as a survivor annuity under subsection (b).

(k) Informing of rights by Secretary

The Secretary of State shall, on an annual basis—

(1) inform each participant of his or her right of election under subsections (g) and (j); and

(2) to the maximum extent practicable, inform spouses or former spouses of participants or former participants of their rights under this section and section 4054 of this title.

(l) Repealed. Pub. L. 100–238, title II, §217(c)(1), Jan. 8, 1988, 101 Stat. 1775

(m) Offset of Social Security benefits

The retirement, disability, or survivor annuity payable to any person based on the service of an individual subject to section 4045(h) of this title beginning with the first day of the month for which such person first becomes—

(1) eligible for an annuity under this part based on the service of such individual, and

(2) entitled, or would, upon proper application, be entitled to old age, disability, or survivor benefits under title II of the Social Security Act [42 U.S.C. 401 et seq.], based on the service of such individual under this part,

shall be computed as if section 8349 of title 5 were applicable.

(n) 18-month period to elect survivor annuity

(1)(A) A participant—

(i) who, at the time of retirement, is married; and

(ii) who elects at such time (in accordance with subsection (b)) to waive a survivor annuity,

may, during the 18-month period beginning on the date of the retirement of such participant, elect to have a reduction under subsection (b) made in the annuity of the participant (or in such portion thereof as the participant may designate) in order to provide a survivor annuity for the spouse of such participant.

(B) A participant—

(i) who, at the time of retirement, is married, and

(ii) who at such time designates (in accordance with subsection (b)) that a limited portion of the annuity of such participant is to be used as the base for a survivor annuity,

may, during the 18-month period beginning on the date of the retirement of such participant, elect to have a greater portion of the annuity of such participant so used.

(2)(A) An election under subparagraph (A) or (B) of paragraph (1) of this subsection shall not be considered effective unless the amount specified in subparagraph (B) of this paragraph is deposited into the Fund before the expiration of the applicable 18-month period under paragraph (1).

(B) The amount to be deposited with respect to an election under this subsection is an amount equal to the sum of—

(i) the additional cost to the System which is associated with providing a survivor annuity under subsection (b) of this section and results from such election taking into account (I) the difference (for the period between the date on which the annuity of the former participant commences and the date of the election) between the amount paid to such former participant under this part and the amount which would have been paid if such election had been made at the time the participant or former participant applied for the annuity, and (II) the costs associated with providing the later election; and

(ii) interest on the additional cost determined under clause (i)(I) of this subparagraph computed using the interest rate specified or determined under section 4045(d)(3) of this title for the calendar year in which the amount to be deposited is determined.

(3) An election by a participant under this subsection voids prospectively any election previously made in the case of such participant under subsection (b).

(4) An annuity which is reduced in connection with an election under this subsection shall be reduced by the same percentage reductions as were in effect at the time of the retirement of the participant whose annuity is so reduced.

(5) Rights and obligations resulting from the election of a reduced annuity under this subsection shall be the same as the rights and obligations which would have resulted had the participant involved elected such annuity at the time of retiring.

(Pub. L. 96–465, title I, §806, Oct. 17, 1980, 94 Stat. 2106; Pub. L. 99–335, title IV, §§402(a)(2), (3), 406, 407, June 6, 1986, 100 Stat. 609–611; Pub. L. 99–556, title IV, §402, Oct. 27, 1986, 100 Stat. 3136; Pub. L. 100–238, title II, §§213, 214(a), 217(c)(1), Jan. 8, 1988, 101 Stat. 1774, 1775; Pub. L. 101–513, title V, §587(a), Nov. 5, 1990, 104 Stat. 2055; Pub. L. 102–499, §4(d), Oct. 24, 1992, 106 Stat. 3266; Pub. L. 105–382, §2(d)(1)–(3)(A), Nov. 13, 1998, 112 Stat. 3407, 3408; Pub. L. 107–228, div. A, title III, §322(a)(1), Sept. 30, 2002, 116 Stat. 1383; Pub. L. 112–96, title V, §5001(c)(2)(E), Feb. 22, 2012, 126 Stat. 200.)

AMENDMENT OF SECTION

Section 1(b) and (c) of Ex. Ord. No. 12446, Oct. 17, 1983, 48 F.R. 48443, set out as a note under section 4067 of this title, provided that subsection (a) of this section, applicable (i) to contributions for civilian service performed on or after the first day of Nov. 1983, (ii) to contributions for prior refunds to participants for which application is received by the employing agency on and after such

first day of Nov. 1983, and (iii) to excess contributions under section 4055(h) of this title and voluntary contributions under section 4065(a) of this title from the first day of Nov. 1983, is deemed to be amended to exclude from the computation of creditable civilian service under section 4056(a) of this title any period of civilian service for which retirement deductions or contributions have not been made under section 4045(d) of this title unless—

(1) the participant makes a contribution for such period as provided in such section 4045(d) of this title; or

(2) no contribution is required for such service as provided under section 4045(f) of this title as deemed to be amended by this Order, or under any other statute.

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (m)(2), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title II of the Social Security Act is classified generally to subchapter II (§401 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

AMENDMENTS

2012—Subsec. (a)(2)(B), (3). Pub. L. 112–96 substituted "section 8415(e)" for "section 8415(d)".

2002—Subsec. (a)(9). Pub. L. 107–228 added par. (9).

1998—Subsec. (a)(6). Pub. L. 105–382, §2(d)(1), added par. (6). Former par. (6) redesignated (7).

Subsec. (a)(7). Pub. L. 105–382, §2(d)(2)(B), added par. (7). Former par. (7) redesignated (8).

Subsec. (a)(8). Pub. L. 105–382, §2(d)(2)(A), (3)(A), redesignated par. (7) as (8) and substituted "(4), and (6)" for "and (4)".

1992—Subsec. (a)(6). Pub. L. 102–499 substituted "section 5545(c)(2)" for "section 5545(a)(2)".

1990—Subsec. (a). Pub. L. 101–513 designated existing provisions as par. (1) and added pars. (2) to (6).

1988—Subsec. (b)(1)(C). Pub. L. 100–238, §213(a), substituted "24-month" for "12-month".

Subsec. (c)(1), (2). Pub. L. 100–238, §214(a)(1), inserted "or a former spouse who is the natural or adoptive parent of a surviving child of the annuitant" after "survived by a spouse".

Subsec. (d). Pub. L. 100–238, §214(a)(2), amended first sentence generally. Prior to amendment, first sentence read as follows: "If a surviving spouse dies or the annuity of a child is terminated, the annuities of any remaining children shall be recomputed and paid as though such spouse or child had not survived the participant."

Subsec. (i)(2). Pub. L. 100–238, §213(b), substituted "this part" for "section 4054(b) of this title".

Subsec. (l). Pub. L. 100–238, §217(c)(1), struck out subsec. (l) which set minimum rates for annuities paid under this part.

1986—Subsecs. (b)(3)(C), (h). Pub. L. 99–335, §402(a)(3), inserted "under this part" after "payable from the Fund".

Subsec. (l)(1), (2). Pub. L. 99–335, §402(a)(2), substituted "part" for "subchapter".

Subsec. (m). Pub. L. 99–556, §402, amended subsec. (m) generally. Prior to amendment, subsec. (m) read as follows: "The annuity or survivor annuity payable to any individual subject to section 4045(h) of this title beginning with the first month for which such individual both—

"(1) attains the minimum age for old-age benefits under title II of the Social Security Act, and

"(2) first becomes entitled, or would upon proper application become entitled, for disability or survivor benefits under title II of the Social Security Act based on the service of any individual under this part, shall be computed as if section 8349 of title 5 were applicable."

Pub. L. 99–335, §406, added subsec. (m).

Subsec. (n). Pub. L. 99–335, §407, added subsec. (n).

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107–228, div. A, title III, §322(c)(1), Sept. 30, 2002, 116 Stat. 1385, provided that: "The amendments made by subsections (a)(1) [amending this section] and (b)(1) [amending section 4071d of this title] shall apply to service performed on or after the first day of the first pay period beginning on or after the date that is 90 days after the date of enactment of this Act [Sept. 30, 2002]."

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–382 effective Nov. 13, 1998, with provisions relating to applicability with respect to certain individuals, see section 4 of Pub. L. 105–382, as amended, set out as a note under section 4044 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–238 effective 90 days after Jan. 8, 1988, see section 261(a) of Pub. L. 100–238, set out as a note under section 4054 of this title.

EFFECTIVE DATE OF 1986 AMENDMENTS

Pub. L. 99–556, title IV, §408, Oct. 27, 1986, 100 Stat. 3139, provided that: "This title and the amendments made by this title [enacting section 4069 of this title and amending this section and sections 4064, 4071c, 4071d, and 4071j of this title] shall take effect on January 1, 1987. The amendment made by section 403 [amending section 4064 of this title] shall apply to any individual in a reemployed status on or after January 1, 1987."

Amendment by Pub. L. 99–335 effective Jan. 1, 1987, see section 702(a) of Pub. L. 99–335, set out as an Effective Date note under section 8401 of Title 5, Government Organization and Employees.

Pub. L. 99–335, title IV, §417, June 6, 1986, 100 Stat. 622, provided that:

"(a) REGULATIONS.—Notwithstanding section 702 of this Act [5 U.S.C. 8401 note], the authority of the Secretary of State to issue regulations under subchapter II of title 8 [probably means subchapter II of chapter 8 of title I] of the Foreign Service Act of 1980 [part II of this subchapter] shall take effect on the date of enactment of this Act [June 6, 1986].

"(b) 18-MONTH PERIOD TO ELECT SURVIVOR ANNUITY.—(1) Notwithstanding section 702 of this Act, the amendment made by section 407 [enacting subsec. (n) of this section] shall take effect 3 months after the date of enactment of this Act.

"(2)(A) Subject to subparagraph (B), the amendment made by section 407 shall apply with respect to participants and former participants who retire before, on, or after such amendment first takes effect.

"(B) For the purpose of applying the provisions of paragraph (1) of section 806(n) of the Foreign Service Act of 1980 (as added by section 407) to former participants who retire before the date on which the amendment first takes effect—

"(i) the period referred to in subparagraph (A) or (B) of such paragraph (as the case may be) shall be considered to begin on the date on which such amendment first becomes effective; and

"(ii) the amount referred to in paragraph (2) of such section 806(n) shall be computed without regard to the provisions of subparagraph (B)(ii) of such paragraph (relating to interest).

"(3) For purposes of this subsection, the term 'participant' has the meaning given that term in section 803 of the Foreign Service Act of 1980 (22 U.S.C. 4043)."

ELECTION TO PROVIDE SURVIVOR ANNUITY FOR CERTAIN SPOUSES ACQUIRED BEFORE EFFECTIVE DATE OF FOREIGN SERVICE ACT OF 1980

Pub. L. 100–238, title II, §203, Jan. 8, 1988, 101 Stat. 1769, provided that:

"(a) ELECTION.—A former participant who married his or her current spouse before the effective date of the Foreign Service Act of 1980 [see Effective Date note set out under section 3901 of this title] and who married such spouse after retirement under the Foreign Service Retirement and Disability System and who was unable to provide a survivor annuity for such spouse because—

"(1) the participant was married at the time of retirement and elected not to provide a survivor annuity for that spouse at the time of retirement, or

"(2) subject to subsection (e), the participant failed to notify the Secretary of State of the participant's post-retirement marriage within one year after the marriage,

may make the election described in subsection (b).

"(b) ELECTION DESCRIBED.—

"(1) The election referred to in subsection (a) is an election in writing—

"(A) to provide for a survivor annuity for such spouse under section 806(g) of the Foreign Service Act of 1980 (22 U.S.C. 4046(g));

"(B) to have his or her annuity reduced under section 806(b)(2) of such Act; and

"(C) to deposit in the Foreign Service Retirement and Disability Fund an amount determined by the Secretary of State, as nearly as may be administratively feasible, to reflect the amount by which such participant's annuity would have been reduced had the election been continuously in effect since the annuity commenced, plus interest computed under paragraph (2).

"(2) For the purposes of paragraph (1), the annual rate of interest shall be 6 percent for each year during which the annuity would have been reduced if the election had been in effect on and after the date the annuity commenced.

"(c) OFFSET.—If the participant does not make the deposit referred to in subsection (b)(1)(C), the Secretary of State shall collect such amount by offset against such participant's annuity, up to a maximum of

25 percent of the net annuity otherwise payable to such participant. Such participant is deemed to consent to such offset.

"(d) NOTICE.—The Secretary of State shall provide for notice to the general public of the right to make an election under this section.

"(e) PROOF OF ATTEMPTED ELECTION.—In any case in which subsection (a)(2) applies, the retired employee or Member shall provide the Secretary of State with such documentation as the Secretary of State shall decide is appropriate, to show that such participant attempted to elect a reduced annuity with survivor benefit for his or her current spouse and that such election was rejected by the Secretary of State because it was untimely filed.

"(f) DEPOSIT.—A deposit required by this subsection may be made by the surviving spouse of the participant.

"(g) LIMITATION.—The election authorized in subsection (a) may only be made within one year after the date of enactment of this title [Jan. 8, 1988] in accordance with procedures prescribed by the Secretary of State.

"(h) DEFINITIONS.—For the purposes of this section, the terms 'participant' and 'surviving spouse' have the same meaning given such terms in subchapter I of chapter 8 of the Foreign Service Act of 1980 [this part]."

[1] *See Amendment of Section note below.*

§4047. Payment of annuity

(a) Commencement of annuity

(1) Except as otherwise provided in paragraph (2), the annuity of a participant who has met the eligibility requirements for an annuity shall commence on the first day of the month after—

(A) separation from the Service occurs; or

(B) pay ceases and the service and age requirements for entitlement to annuity are met.

(2) The annuity of—

(A) a participant who is retired and is eligible for benefits under section 4009(a) of this title or a participant who is retired under section 4053 of this title or is otherwise involuntarily separated from the Service, except by removal for cause on charges of misconduct or delinquency,

(B) a participant retiring under section 4048 of this title due to a disability, and

(C) a participant who serves 3 days or less in the month of retirement—

shall commence on the day after separation from the Service or the day after pay ceases and the requirements for entitlement to annuity are met.

(b) Survivor's annuity; application; proof of eligibility; payment to estate

The annuity to a survivor shall become effective as otherwise specified but shall not be paid until the survivor submits an application for such annuity, supported by such proof of eligibility as the Secretary of State may require. If such application or proof of eligibility is not submitted during the lifetime of an otherwise eligible individual, no annuity shall be due or payable to his or her estate.

(c) Waiver

An individual entitled to annuity from the Fund may decline to accept all or any part of the annuity by submitting a signed waiver to the Secretary of State. The waiver may be revoked in writing at any time. Payment of the annuity waived may not be made for the period during which the waiver was in effect.

(d) Recovery of overpayment

Recovery of overpayments under this part may not be made from an individual when, in the judgment of the Secretary of State, the individual is without fault and recovery would be against equity and good conscience or administratively infeasible.

(e) Alternate forms of annuities

(1) The Secretary of State shall prescribe regulations under which any participant who has a life-threatening affliction or other critical medical condition may, at the time of retiring under this part (other than under section 4048 of this title), elect annuity benefits under this section instead of any other benefits under this part (including survivor benefits) based on the service of the participant.

(2) Subject to paragraph (3), the Secretary of State shall by regulation provide for such alternative forms of annuities as the Secretary considers appropriate, except that among the alternatives offered shall be—

(A) an alternative which provides for—

(i) payment of the lump-sum credit (excluding interest) to the participant; and

(ii) payment of an annuity to the participant for life; and

(B) in the case of a participant who is married at the time of retirement, an alternative which provides for—

(i) payment of the lump-sum credit (excluding interest) to the participant; and

(ii) payment of an annuity to the participant for life, with a survivor annuity payable for the life of a surviving spouse.

(3) Each alternative provided for under paragraph (2) shall, to the extent practicable, be designed such that the total value of the benefits provided under such alternative (including any lump-sum credit) is actuarially equivalent to the value of the annuity which would otherwise be provided the participant under this part, as computed under section 4046(a) of this title.

(4) A participant who, at the time of retiring under this part—

(A) is married, shall be ineligible to make an election under this section unless a waiver is made under section 4046(b)(1)(B) of this title; or

(B) has a former spouse, shall be ineligible to make an election under this section if the former spouse is entitled to benefits under this part (based on the service of the participant) unless a waiver has been made under section 4046(b)(1)(C) of this title.

(5) A participant who is married at the time of retiring under this part and who makes an election under this section may, during the 18-month period beginning on the date of retirement, make the election provided for under section 4046(n) of this title, subject to the deposit requirement thereunder.

(6) Notwithstanding any other provision of law, any lump-sum credit provided pursuant to an election under this subsection shall not preclude an individual from receiving any other benefits under this subsection.

(Pub. L. 96–465, title I, §807, Oct. 17, 1980, 94 Stat. 2109; Ex. Ord. No. 12446, §3(a), Oct. 17, 1983, 48 F.R. 48443; Pub. L. 99–335, title IV, §§402(a)(2), 408, June 6, 1986, 100 Stat. 609, 612; Pub. L. 103–66, title XI, §11002(b), Aug. 10, 1993, 107 Stat. 409.)

AMENDMENTS

1993—Subsec. (e)(1). Pub. L. 103–66 substituted "any participant who has a life-threatening affliction or other critical medical condition" for "a participant".

1986—Subsec. (d). Pub. L. 99–335, §402(a)(2), substituted "part" for "subchapter".

Subsec. (e). Pub. L. 99–335, §408, added subsec. (e).

1983—Subsec. (a). Ex. Ord. No. 12446 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "Except as otherwise provided, the annuity of a former participant who has met the eligibility requirements for an annuity shall commence on the day after separation from the Service or on the day after pay ceases. The annuity of a former participant who is entitled to a deferred annuity under this chapter shall become effective on the day he or she attains age 60."

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–66 effective Oct. 1, 1994, and applicable with respect to any annuity commencing on or after that date, see section 11002(d) of Pub. L. 103–66, set out as a note under section

8343a of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–335 effective Jan. 1, 1987, see section 702(a) of Pub. L. 99–335, set out as an Effective Date note under section 8401 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Ex. Ord. No. 12446 effective 30 days after Oct. 17, 1983, see section 3(b) of Ex. Ord. No. 12446, set out under section 4067 of this title.

§4048. Retirement for disability or incapacity

(a) Causes; service credit

Any participant who has at least 5 years of service credit toward retirement under the System (excluding military and naval service) and who becomes totally disabled or incapacitated for useful and efficient service by reason of disease, illness, or injury (not due to vicious habits, intemperance, or willful conduct of the participant) shall, upon his or her own application or upon order of the Secretary, be retired on an annuity computed as prescribed in section 4046 of this title. If the disabled or incapacitated participant has less than 20 years of service credit toward retirement under the System at the time of retirement, his or her annuity shall be computed on the assumption that the participant has had 20 years of service, except that the additional service credit that may accrue to a participant under this sentence shall in no case exceed the difference between his or her age at the time of retirement and age 60.

However, if a participant retiring under this section is receiving retired pay or retainer pay for military service (except that specified in section 8332(c)(1) or (2) of title 5) or Department of Veterans Affairs pension or compensation in lieu of such retired or retainer pay, the annuity of that participant shall be computed under this part excluding extra credit authorized by this subsection and excluding credit for military service from that computation. If the amount of the annuity so computed, plus the retired or retainer pay which is received, or which would be received but for the application of the limitation in section 5532 [1] of title 5 or the Department of Veterans Affairs pension or compensation in lieu of such retired pay or retainer pay, is less than the annuity that would be payable under this part in the absence of the previous sentence, an amount equal to the difference shall be added to the annuity computed under this part.

(b) Physical examination; reinstatement or reappointment upon recovery; fees and expenses; duration and suspension of annuity

Before being retired under this section, the participant shall be given a physical examination by one or more duly qualified physicians or surgeons designated by the Secretary of State to conduct examinations. Disability or incapacity shall be determined by the Secretary of State on the basis of the advice of such physicians or surgeons. Unless the disability or incapacity is permanent, like examinations shall be made annually until the annuitant has attained age 60. If the Secretary of State determines on the basis of the advice of one or more duly qualified physicians or surgeons conducting such examinations that an annuitant has recovered to the extent that he or she can return to duty, the annuitant may apply for reinstatement or reappointment in the Service within 1 year from the date recovery is determined. Upon application, the Secretary shall reinstate such recovered annuitant in the class in which the annuitant was serving at time of retirement, or the Secretary may, taking into consideration the age, qualifications, and experience of such annuitant, and the present class of his or her contemporaries in the Service, appoint or recommend that the President appoint the annuitant to a higher class. Payment of the annuity shall continue until a date 6 months after the date of the examination showing recovery or until the date of reinstatement or reappointment in the Service, whichever is earlier. Fees for examinations under this section, together with reasonable traveling and other expenses incurred in order to submit to examination, shall be paid out of the

Fund. If the annuitant fails to submit to examination as required under this subsection, payment of the annuity shall be suspended until continuance of the disability or incapacity is satisfactorily established.

(c) Benefits upon discontinuance of annuity

If a recovered annuitant whose annuity is discontinued is for any reason not reinstated or reappointed in the Service, he or she shall be considered to have been separated within the meaning of section 4050 of this title as of the date of retirement for disability or incapacity and shall, after the discontinuance of the annuity, be entitled to the benefits of that section or of section 4055 of this title, except that he or she may elect voluntary retirement if eligible under section 4051 of this title.

(d) Election of benefits; concurrent benefits allowed

No participant shall be entitled to receive an annuity under this part and compensation for injury or disability to himself or herself under subchapter I of chapter 81 of title 5, covering the same period of time, except that a participant may simultaneously receive both an annuity under this section and scheduled disability payments under section 8107 of title 5. This subsection shall not bar the right of any claimant to the greater benefit conferred by either this part or subchapter I of such chapter 8 [2] for any part of the same period of time. Neither this subsection nor any provision of subchapter I of such chapter 8 [2] shall be construed to deny the right of any participant to receive an annuity under this part and to receive concurrently any payment under subchapter I of such chapter 8 [2] by reason of the death of any other individual.

(e) Lump sum disability payments

Notwithstanding any other law, the right of any individual entitled to an annuity under this part shall not be affected because such person has received an award of compensation in a lump sum under section 8135 of title 5, except that where such annuity is payable on account of the same disability for which compensation under such section has been paid, so much of such compensation as has been paid for any period extended beyond the date such annuity becomes effective, as determined by the Secretary of Labor, shall be refunded to the Department of Labor, to be paid into the Federal Employees' Compensation Fund. Before such individual receives such annuity, he or she shall—

(1) refund to the Department of Labor the amount representing such commuted payments for such extended period, or

(2) authorize the deduction of such amount from the annuity payable under this part, which amount shall be transmitted to the Department of Labor for reimbursement to such Fund.

Deductions from such annuity may be made from accrued and accruing payments, or may be prorated against and paid from accruing payments in such manner as the Secretary of Labor shall determine, whenever the Secretary of Labor finds that the financial circumstances of the annuitant warrant deferred refunding.

(f) Time of filing application; waiver

A claim may be allowed under this section only if the application is filed with the Secretary of State before the participant is separated from the Service or within one year thereafter. This time limitation may be waived by the Secretary of State for a participant who at the date of separation from the Service or within one year thereafter is mentally incompetent, if the application is filed with the Secretary of State within one year from the date of restoration of the participant to competency or the appointment of a fiduciary, whichever is earlier.

(Pub. L. 96–465, title I, §808, Oct. 17, 1980, 94 Stat. 2110; Ex. Ord. No. 12289, §2, Feb. 14, 1981, 46 F.R. 12693; Pub. L. 99–335, title IV, §402(a)(2), (b), June 6, 1986, 100 Stat. 609; Pub. L. 100–238, title II, §215(a), Jan. 8, 1988, 101 Stat. 1774; Pub. L. 102–54, §13(h)(2), June 13, 1991, 105 Stat. 275.)

REFERENCES IN TEXT

Section 5532 of title 5, referred to in subsec. (a), was repealed by Pub. L. 106–65, div. A, title VI, §651(a)(1), Oct. 5, 1999, 113 Stat. 664.

AMENDMENTS

1991—Subsec. (a). Pub. L. 102–54 substituted "Department of Veterans Affairs" for "Veterans' Administration" in two places in second par.

1988—Subsecs. (a), (b). Pub. L. 100–238 substituted "60" for "65".

1986—Subsec. (a). Pub. L. 99–335, §402(a)(2), substituted "part" for "subchapter" in three places.

Subsec. (d). Pub. L. 99–335, §402(b)(1), substituted "subchapter I of such chapter 8" for "such subchapter" in three places and "part" for "chapter" in three places.

Subsec. (e). Pub. L. 99–335, §402(b)(2), substituted "part" for "chapter" in two places.

1981—Subsec. (a). Ex. Ord. No. 12289 added second par. relating to computation of annuity for participant retiring under this section and receiving retired or retainer pay.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–238 effective 90 days after Jan. 8, 1988, see section 261(a) of Pub. L. 100–238, set out as a note under section 4054 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–335 effective Jan. 1, 1987, see section 702(a) of Pub. L. 99–335, set out as an Effective Date note under section 8401 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Ex. Ord. No. 12289 effective Feb. 15, 1981, see section 3 of Ex. Ord. No. 12289, set out under section 4067 of this title.

[1] See References in Text note below.

[2] So in original. Probably should be chapter "81".

§4049. Death in service

(a) Lump-sum credit

If a participant dies and no claim for annuity is payable under this part, the lump-sum credit shall be paid in accordance with section 4055 of this title.

(b) Surviving spouse

If a participant who has at least 18 months of civilian service credit toward retirement under the System dies before retirement or other separation from the Service and is survived by a spouse or former spouse qualifying for an annuity under section 4054(b) of this title, such surviving spouse shall be entitled to an annuity equal to 55 percent of the annuity computed in accordance with subsections (e) and (g) of this section and section 4046(a) of this title and any surviving former spouse shall be entitled to an annuity under section 4054(b) of this title as if the participant died after being entitled to an annuity under this part. If the participant had less than 3 years creditable civilian service at the time of death, the survivor annuity shall be computed on the basis of the average salary for the entire period of such service.

(c) Surviving spouse or former spouse, and children

If a participant who has at least 18 months of civilian service credit toward retirement under the System dies before retirement or other separation from the Service and is survived by a spouse or a former spouse who is the natural or adoptive parent of a surviving child of the annuitant, and a child or children, each surviving child shall be entitled to an annuity computed in accordance with subsections (c)(1) and (d) of section 4046 of this title.

(d) Surviving children

If a participant who has at least 18 months of civilian service credit toward retirement under the

System dies before retirement or other separation from the Service and is not survived by a spouse, or a former spouse who is the natural or adoptive parent of a surviving child of the annuitant, but by a child or children, each surviving child shall be entitled to an annuity computed in accordance with subsections (c)(2) and (d) of section 4046 of this title.

(e) Service credit; presumption of qualification

If, at the time of his or her death, the participant had less than 20 years of service credit toward retirement under the System, the annuity payable in accordance with subsection (b) shall be computed in accordance with section 4046 of this title on the assumption he or she has had 20 years of service, except that the additional service credit that may accrue to a deceased participant under this subsection shall in no case exceed the difference between his or her age on the date of death and age 60. In all cases arising under this subsection or subsection (b), (c), (d), or (g), it shall be assumed that the deceased participant was qualified for retirement on the date of death.

(f) Recall service

If an annuitant entitled to a reduced annuity dies in service after being recalled under section 3948 of this title and is survived by a spouse or former spouse entitled to a survivor annuity based on the service of such annuitant, such survivor annuity shall be computed as if the recall service had otherwise terminated on the day of death and the annuity of the deceased had been resumed in accordance with section 4063 of this title. If such death occurs after the annuitant had completed sufficient recall service to attain eligibility for a supplemental annuity, a surviving spouse or surviving former spouse who was married to the participant at any time during a period of recall service shall be entitled to elect, in addition to any other benefits and in lieu of a refund of retirement contributions made during the recall service, a supplemental survivor annuity computed and paid under section 4046(i) of this title as if the recall service had otherwise terminated. If the annuitant had completed sufficient recall service to attain eligibility to have his or her annuity determined anew, a surviving spouse or such a surviving former spouse may elect, in lieu of any other survivor benefit under this subchapter, to have the rights of the annuitant redetermined and to receive a survivor annuity computed under subsection (b) on the basis of the total service of the annuitant.

(g) Limitation on surviving spouse's annuity

Notwithstanding subsection (b), if the participant or former participant had a former spouse qualifying for an annuity under section 4054(b) of this title, the annuity of the spouse under this section shall be subject to the limitation of section 4046(b)(3)(B) of this title.

(h) Commencement, termination, and resumption of annuities

Annuities that become payable under this section shall commence, terminate, and be resumed in accordance with subsection (b)(4), (e), or (h) of section 4046 of this title, as appropriate.

(Pub. L. 96–465, title I, §809, Oct. 17, 1980, 94 Stat. 2111; Pub. L. 99–335, title IV, §402(a)(2), (c), June 6, 1986, 100 Stat. 609; Pub. L. 100–238, title II, §§214(b), 215(b), Jan. 8, 1988, 101 Stat. 1774.)

AMENDMENTS

1988—Subsecs. (c), (d). Pub. L. 100–238, §214(b), inserted "or a former spouse who is the natural or adoptive parent of a surviving child of the annuitant," after "spouse".

Subsec. (e). Pub. L. 100–238, §215(b), substituted "60" for "65".

1986—Subsec. (a). Pub. L. 99–335, §402(c), substituted "part" for "chapter".

Subsec. (b). Pub. L. 99–335, §402(a)(2), substituted "part" for "subchapter".

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–238 effective 90 days after Jan. 8, 1988, see section 261(a) of Pub. L. 100–238, set out as a note under section 4054 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–335 effective Jan. 1, 1987, see section 702(a) of Pub. L. 99–335, set out as an Effective Date note under section 8401 of Title 5, Government Organization and Employees.

§4050. Discontinued service retirement

Any participant who voluntarily separates from the Service after obtaining at least 5 years of service credit toward retirement under the System (excluding military and naval service) may upon separation from the Service or at any time prior to becoming eligible for an annuity elect to have his or her contributions to the Fund returned in accordance with section 4055 of this title, or to leave his or her contributions in the Fund and receive an annuity, computed under section 4046 of this title, commencing at age 60.

(Pub. L. 96–465, title I, §810, Oct. 17, 1980, 94 Stat. 2112.)

§4051. Voluntary retirement

Any participant who is at least 50 years of age and has 20 years of creditable service, including at least 5 years of service credit toward retirement under the System (excluding military and naval service), may on his or her own application and with the consent of the Secretary be retired from the Service and receive retirement benefits in accordance with section 4046 of this title. The Secretary shall withhold consent for retirement under this section by any participant who has not been a member of the Service for 5 years. Any participant who voluntarily separates from the Service before completing 5 years in the System and who, on the date of separation, would be eligible for an annuity, based on a voluntary separation, under section 8336 or 8338 of title 5, if the participant had been covered under the Civil Service Retirement System rather than subject to this subchapter while a member of the Service, may receive an annuity under section 8336 or 8338, notwithstanding section 8333(b) of title 5, if all contributions transferred to the Fund under section 4045(c)(1) of this title, as well as all contributions withheld from the participant's pay or contributed by the employer, and deposited into the Fund during the period he or she was subject to this subchapter, including interest on these amounts, are transferred to the Civil Service Retirement and Disability Fund effective on the date the participant separates from the Service.

(Pub. L. 96–465, title I, §811, Oct. 17, 1980, 94 Stat. 2112; Pub. L. 100–238, title II, §216, Jan. 8, 1988, 101 Stat. 1774.)

AMENDMENTS

1988—Pub. L. 100–238 inserted last two sentences relating to withholding consent to retirement and to certain participants who voluntarily separate from the Service before completing 5 years in the System.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–238 effective 90 days after Jan. 8, 1988, see section 261(a) of Pub. L. 100–238, set out as a note under section 4054 of this title.

§4052. Mandatory retirement

(a)(1) Except as provided in subsection (b), any participant shall be retired from the Service at the end of the month in which the participant has reached age 65 and has at least 5 years of service credit toward retirement under the System (excluding military and naval service), and shall receive retirement benefits in accordance with section 4046 of this title.

(2) Notwithstanding paragraph (1)—

(A) an individual described in section 4(a)(2) of the Department of State Special Agents Retirement Act of 1998 who is otherwise eligible for immediate retirement under this subchapter; or

(B) a Foreign Service criminal investigator/inspector of the Office of Inspector General of the Agency for International Development who would have been eligible for retirement pursuant to either section 8336(c) or 8412(d) of title 5, as applicable, had the employee remained in civil service,

shall be separated from the Service on the last day of the month in which such individual under subparagraph (A) or such Foreign Service criminal investigator/inspector under subparagraph (B) attains 57 years of age or completes 20 years of service if then over that age. If the head of the agency judges that the public interest so requires, that agency head may exempt such an employee from automatic separation under this subsection until that employee attains 60 years of age. The employing office shall notify the employee in writing of the date of separation at least 60 days before that date. Action to separate the employee is not effective without the consent of the employee, until the last day of the month in which the 60-day notice expires.

(b)(1) Any participant who is otherwise required to retire under subsection (a) while occupying a position to which he or she was appointed by the President, by and with the advice and consent of the Senate, may continue to serve until that appointment is terminated.

(2) Whenever the Secretary determines it to be in the public interest, any participant who is otherwise required to retire under subsection (a) may be retained on active service for a period not to exceed 5 years.

(3) Any participant who completes a period of service authorized by this subsection shall be retired at the end of the month in which such authorized service is completed.

(Pub. L. 96–465, title I, §812, Oct. 17, 1980, 94 Stat. 2113; Pub. L. 101–513, title V, §587(b), Nov. 5, 1990, 104 Stat. 2056; Pub. L. 102–499, §4(c), Oct. 24, 1992, 106 Stat. 3265; Pub. L. 105–382, §3, Nov. 13, 1998, 112 Stat. 3408.)

REFERENCES IN TEXT

Section 4(a)(2) of the Department of State Special Agents Retirement Act of 1998, referred to in subsec. (a)(2)(A), is section 4(a)(2) of Pub. L. 105–382, which is set out as a note under section 4044 of this title.

AMENDMENTS

1998—Subsec. (a)(2). Pub. L. 105–382 amended first sentence generally. Prior to amendment, first sentence read as follows: "Notwithstanding paragraph (1), a Foreign Service criminal investigator/inspector of the Office of Inspector General of the Agency for International Development who would have been eligible for retirement pursuant to either section 8336(c) or 8412(d) of title 5, as applicable, had the employee remained in civil service, shall be separated from the Service on the last day of the month in which that Foreign Service criminal investigator/inspector attains 57 years of age or completes 20 years of service if then over that age."

1992—Subsec. (a)(2). Pub. L. 102–499 substituted "57" for "55".

1990—Subsec. (a). Pub. L. 101–513 designated existing provisions as par. (1) and added par. (2).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–382 effective Nov. 13, 1998, with provisions relating to applicability with respect to certain individuals, see section 4 of Pub. L. 105–382, as amended, set out as a note under section 4044 of this title.

§4053. Reassignment and retirement of former Presidential appointees

(a) Reassignment or retirement of participants not eligible for retirement

A participant, who completes an assignment under section 3942(b) of this title in a position to which the participant was appointed by the President, and is not otherwise eligible for retirement—

(1) shall be reassigned within 90 days after the termination of such assignment and any period of authorized leave, or

(2) if the Secretary of State determines that reassignment is not in the interest of the Foreign Service, shall be retired from the Service and receive retirement benefits in accordance with section 4046 or 4071d of this title, as appropriate.

(b) Retirement of participants eligible for retirement

A participant who completes an assignment under section 3942(b) of this title in a position to which the participant was appointed by the President and is eligible for retirement and is not reassigned within 90 days after the termination of such assignment and any period of authorized

leave, shall be retired from the Service and receive retirement benefits in accordance with section 4046 of this title or section 4071d of this title, as appropriate.

(c) Retirement of reemployed participants

A participant who is retired under subsection (a)(2) and is subsequently employed by the United States Government, thereafter, shall be eligible to retire only under the terms of the applicable retirement system.

(Pub. L. 96–465, title I, §813, Oct. 17, 1980, 94 Stat. 2113; Pub. L. 102–138, title I, §149, Oct. 28, 1991, 105 Stat. 670; Pub. L. 103–236, title I, §174, Apr. 30, 1994, 108 Stat. 413.)

AMENDMENTS

1994—Pub. L. 103–236 added subsecs. (a) to (c) and struck out former subsecs. (a) to (c) which read as follows:

"(a) Except as provided under subsection (b) of this section, a participant, who completes an assignment under section 3942(b) of this title in a position to which he or she was appointed by the President, shall be offered reassignment within 90 days after the termination of such assignment and any period of authorized leave.

"(b) Subsection (a) of this section shall not apply with respect to a participant, if the Secretary of State determines that reassignment of the participant is not in the interest of the United States and the Foreign Service.

"(c) A participant who is not reassigned under subsection (a) of this section shall be retired from the Service and receive retirement benefits in accordance with section 4046 or 4071d of this title, as appropriate."

1991—Pub. L. 102–138 inserted "Reassignment and" in section catchline and amended text generally. Prior to amendment, text read as follows: "If a participant completes an assignment under section 3942(b) of this title in a position to which he or she was appointed by the President and has not been reassigned within 3 months after the termination of such assignment (plus any period of authorized leave), the participant shall be retired from the Service and receive retirement benefits in accordance with section 4046 of this title."

§4054. Former spouses

(a) Living Service members

(1) Unless otherwise expressly provided by any spousal agreement or court order under section 4060(b)(1) of this title, a former spouse of a participant or former participant is entitled to an annuity if such former spouse was married to the participant for at least 10 years during service of the participant which is creditable under this subchapter with at least 5 of such years occurring while the participant was a member of the Foreign Service and—

(A) if married to the participant throughout the creditable service of the participant, equal to 50 percent of the annuity of the participant; or

(B) if not married to the participant throughout such creditable service, equal to that former spouse's pro rata share of 50 percent of such annuity.

For the purposes of this paragraph, the term "creditable service" means service which is creditable under part I or II.

(2) A former spouse shall not be qualified for an annuity under this subsection if before the commencement of that annuity the former spouse remarries before becoming 60 years of age.

(3) The annuity of a former spouse under this subsection commences on the later of the day the participant upon whose service the annuity is based becomes entitled to an annuity under this part or the first day of the month in which the divorce or annulment involved becomes final. The annuity of such former spouse and the right thereto terminate on—

(A) the last day of the month before the former spouse dies or remarries before 60 years of age; or

(B) the date the annuity of the participant terminates (except in the case of an annuity subject to paragraph (5)(B)).

(4) No spousal agreement or court order under section 4060(b)(1) of this title involving any participant may provide for an annuity or any combination of annuities under this subsection which exceeds the annuity of the participant, nor may any such court order relating to an annuity under this subsection be given effect if it is issued more than 24 months after the date the divorce or annulment involved becomes final.

(5)(A) The annuity payable to any participant shall be reduced by the amount of an annuity under this subsection paid to any former spouse based upon the service of that participant. Such reduction shall be disregarded in calculating the survivor annuity for any spouse, former spouse, or other survivor under this part, and in calculating any reduction in the annuity of the participant to provide survivor benefits under subsection (b) or section 4046(b)(3) of this title.

(B) If any annuitant whose annuity is reduced under subparagraph (A) is recalled to service under section 3948 of this title, or reinstated or reappointed in the Service in the case of a recovered disability annuitant or if any annuitant is reemployed as provided for under section 4064 of this title, the salary of that annuitant shall be reduced by the same amount as the annuity would have been reduced if it had continued. Amounts equal to the reductions under this subparagraph shall be deposited in the Treasury of the United States to the credit of the Fund.

(6) Notwithstanding paragraph (3), in the case of any former spouse of a disability annuitant—

(A) the annuity of that former spouse shall commence on the date the participant would qualify on the basis of his or her creditable service for an annuity under this part (other than a disability annuity) or the date the disability annuity begins, whichever is later, and

(B) the amount of the annuity of the former spouse shall be calculated on the basis of the annuity for which the participant would otherwise so qualify.

(7) An annuity under this subsection shall be treated the same as a survivor annuity under subsection (b) for purposes of section 4046(h) of this title or any comparable provision of law.

(b) Deceased Service members

(1) Subject to any election under section 4046(b)(1)(C) of this title and unless otherwise expressly provided by any spousal agreement or court order under section 4060(b)(1) of this title, if a former participant who is entitled to receive an annuity is survived by a former spouse, the former spouse shall be entitled to a survivor annuity—

(A) if married to the participant throughout the creditable service of the participant, equal to 55 percent of the full amount of the participant's annuity, as computed under section 4046(a) of this title; or

(B) if not married to the participant throughout such creditable service, equal to that former spouse's pro rata share of 55 percent of the full amount of such annuity.

For the purposes of this paragraph, the term "creditable service" means service which is creditable under part I or II.

(2) A former spouse shall not be qualified for an annuity under this subsection if before the commencement of that annuity the former spouse remarries before becoming 60 years of age.

(3) An annuity payable from the Fund under this part to a surviving former spouse under this subsection shall commence on the day after the annuitant dies and shall terminate on the last day of the month before the former spouse's death or remarriage before attaining age 60. If such a survivor annuity is terminated because of remarriage, it shall be restored at the same rate commencing on the date such remarriage is terminated if any lump sum paid upon termination of the annuity is returned to the Fund.

(4)(A) The maximum survivor annuity or combination of survivor annuities under this section (and section 4046(b)(3) of this title) with respect to any participant or former participant may not exceed 55 percent of the full amount of the participant's annuity, as calculated under section 4046(a) of this title.

(B) Once a survivor annuity has been provided for under this subsection for any former spouse, a survivor annuity may thereafter be provided for under this subsection (or section 4046(b)(3) of this title) with respect to a participant or former participant only for that portion (if any) of the maximum

available which is not committed for survivor benefits for any former spouse whose prospective right to such annuity has not terminated by reason of death or remarriage.

(C) After the death of a participant or former participant, a court order under section 4060(b)(1) of this title may not adjust the amount of the annuity of any former spouse under this section.

(5)(A) For each full month after a former spouse of a participant or former participant dies or remarries before attaining age 60, the annuity of the participant, if reduced to provide a survivor annuity for that former spouse, shall be recomputed and paid as if the annuity had not been so reduced, unless an election is in effect under subparagraph (B).

(B) Subject to paragraph (4)(B), the participant may elect in writing within one year after receipt of notice of the death or remarriage of the former spouse to continue the reduction in order to provide a higher survivor annuity under section 4046(b)(3) of this title for any spouse of the participant.

(c) Additional survivor annuity

(1) In the case of any participant or former participant providing a survivor annuity benefit under subsection (b) for a former spouse—

(A) such participant may elect, or

(B) a spousal agreement or court order under section 4060(b)(1) of this title may provide for,

an additional survivor annuity under this subsection for any other former spouse or spouse surviving the participant, if the participant satisfactorily passes a physical examination as prescribed by the Secretary of State.

(2) Neither the total amount of survivor annuity or annuities under this subsection with respect to any participant or former participant, nor the survivor annuity or annuities for any one surviving spouse or former spouse of such participant under this section and section 4046 of this title, shall exceed 55 percent of the full amount of the participant's annuity, as computed under section 4046(a) of this title.

(3)(A) In accordance with regulations which the Secretary of State shall prescribe, the participant involved may provide for any annuity under this subsection—

(i) by a reduction in the annuity or an allotment from the salary of the participant,

(ii) by a lump sum payment or installment payments to the Fund, or

(iii) by any combination thereof.

(B) The present value of the total amount to accrue to the Fund under subparagraph (A) to provide any annuity under this subsection shall be actuarially equivalent in value to such annuity, as calculated upon such tables of mortality as may from time to time be prescribed for this purpose by the Secretary of State.

(C) If a former spouse predeceases the participant or remarries before attaining age 60 (or, in the case of a spouse, the spouse does not qualify as a former spouse upon dissolution of the marriage)—

(i) if an annuity reduction or salary allotment under subparagraph (A) is in effect for that spouse or former spouse, the annuity shall be recomputed and paid as if it had not been reduced or the salary allotment terminated, as the case may be, and

(ii) any amount accruing to the Fund under subparagraph (A) shall be refunded, but only to the extent that such amount may have exceeded the actuarial cost of providing benefits under this subsection for the period such benefits were provided, as determined under regulations prescribed by the Secretary of State.

(D) Under regulations prescribed by the Secretary of State, an annuity shall be recomputed (or salary allotment terminated or adjusted), and a refund provided (if appropriate), in a manner comparable to that provided under subparagraph (C), in order to reflect a termination or reduction of future benefits under this subsection for a spouse in the event a former spouse of the participant dies or remarries before attaining age 60 and an increased annuity is provided for that spouse in accordance with this part.

(4) An annuity payable under this subsection to a spouse or former spouse shall commence on the

day after the participant dies and shall terminate on the last day of the month before the former spouse's death or remarriage before attaining age 60.

(5) Section 4066 of this title shall not apply to any annuity under this subsection, unless authorized under regulations prescribed by the Secretary of State.

(Pub. L. 96–465, title I, §814, Oct. 17, 1980, 94 Stat. 2113; Pub. L. 97–241, title I, §125(2), Aug. 24, 1982, 96 Stat. 282; Pub. L. 99–335, title IV, §§402(a)(2), (3), 404(b), June 6, 1986, 100 Stat. 609, 610; Pub. L. 100–238, title II, §217(a), (b), (c)(2), Jan. 8, 1988, 101 Stat. 1775.)

AMENDMENTS

1988—Subsec. (a)(1). Pub. L. 100–238, §217(a), which directed the amendment of par. (1) by inserting "if such former spouse was married to the participant for at least 10 years during service of the participant which is creditable under this subchapter with at least 5 of such years occurring while the participant was a member of the Foreign Service and" after "annuity", was executed by inserting the new language after "annuity" in introductory provisions, as the probable intent of Congress.

Subsec. (a)(4). Pub. L. 100–238, §217(b), substituted "24" for "12".

Subsec. (d). Pub. L. 100–238, §217(c)(2), struck out subsec. (d) which read as follows: "Section 4046(l) of this title shall not apply—

"(1) to any annuity payable under subsection (a) or (b) of this section to any former spouse if the amount of that annuity varies by reason of a spousal agreement or court order under section 4060(b)(1) of this title, or an election under section 4046(b)(1)(B) of this title, from the amount which would be calculated under subsection (a)(1) or (b)(1) of this section, as the case may be, in the absence of such spousal agreement, court order, or election; and

"(2) to any annuity payable under subsection (c) of this section."

1986—Subsec. (a)(1). Pub. L. 99–335, §404(b)(1), inserted provision defining "creditable service" as service creditable under part I or II of this subchapter.

Subsec. (a)(3), (5)(A), (6)(A). Pub. L. 99–335, §402(a)(2), substituted "part" for "subchapter".

Subsec. (b)(1). Pub. L. 99–335, §404(b)(2), inserted provision defining "creditable service" as service creditable under part I or II of this subchapter.

Subsec. (b)(3). Pub. L. 99–335, §402(a)(3), inserted "under this part" after "payable from the Fund".

Subsec. (c)(3)(D). Pub. L. 99–335, §402(a)(2), substituted "part" for "subchapter".

1982—Subsec. (a)(3). Pub. L. 97–241 substituted "or the first" for "on the first" in provision preceding subpar. (A).

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100–238, title II, §261, Jan. 8, 1988, 101 Stat. 1776, provided that:

"(a) IN GENERAL.—Except as provided in subsection (b), this title and the amendments made by this title [enacting sections 4069–1 to 4069c–1 of this title, amending this section and sections 4044 to 4046, 4048, 4049, 4051, 4055, 4066, 4071a, 4071c, and 4084 of this title, and enacting provisions set out as a note under section 4046 of this title] shall take effect 90 days after the date of enactment of this title [Jan. 8, 1988].

"(b) EXCEPTIONS.—

"(1) The amendments made by section 202 [enacting section 4069–1 of this title] shall apply to any individual who, on or after the date of enactment of this title [Jan. 8, 1988], is married to a participant or former participant.

"(2) The amendment made by section 217(a) [amending this section] shall not apply with respect to the former spouse of a participant or former participant who is subject to subchapter I of chapter 8 of the Foreign Service Act of 1980 [this part] if, on the date of enactment of this title [Jan. 8, 1988], that former spouse—

"(A) was the spouse of that participant or former participant; or

"(B) is entitled to an annuity under section 814 of the Foreign Service Act of 1980 [this section] pursuant to the divorce or annulment of the marriage to that participant or former participant.

"(c) DEFINITIONS.—For the purpose of this section, the terms 'participant' and 'former participant' have the same meaning as such terms in chapter 8 of the Foreign Service Act of 1980 [this subchapter]."

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–335 effective Jan. 1, 1987, see section 702(a) of Pub. L. 99–335, set out as an Effective Date note under section 8401 of Title 5, Government Organization and Employees.

§4055. Lump-sum payments

(a) Requirements for payment

(1) A participant is entitled to be paid a lump-sum credit if the participant—

(A) is separated from the Service for at least 31 consecutive days, or is transferred to a position in which the participant is not subject to this subchapter and remains in such a position for at least 31 consecutive days;

(B) files an application with the Secretary of State for payment of the lump-sum credit;

(C) is not reemployed in a position in which the participant is subject to this subchapter at the time the participant files the application;

(D) will not become eligible to receive an annuity under this part within 31 days after filing the application; and

(E) has notified any spouse or former spouse the participant may have of the application for payment in accordance with regulations prescribed by the Secretary of State.

Such regulations may provide for waiver of subparagraph (E) under circumstances described in section 4046(b)(1)(D) of this title.

(2) Such lump-sum credit shall be paid to the participant and to any former spouse of the participant in accordance with subsection (i).

(b) Recall service; return of contributions

Whenever an annuitant becomes separated from the Service following a period of recall service without becoming eligible for a supplemental or recomputed annuity under section 4063 of this title, the compulsory contributions of the annuitant to the Fund for such service, together with any special contributions the annuitant may have made for other service performed after the date of separation from the Service which forms the basis for annuity, shall be returned to the annuitant (and any former spouse of the annuitant who was married to the participant during the period of recall service, in accordance with subsection (i)).

(c) Difference between annuity and lump-sum credit

If all annuity rights under this part based on the service of a deceased participant or annuitant terminate before the total annuity paid equals the lump-sum credit to which the participant or annuitant is entitled, the difference shall be paid in accordance with subsection (f).

(d) Lack of eligible survivors

If a participant or former participant dies and is not survived by an individual eligible for an annuity under this part or by such an individual or individuals all of whose annuity rights terminate before a claim for survivor annuity is filed, the lump-sum credit to which the participant or annuitant is entitled shall be paid in accordance with subsection (f).

(e) Death of annuitant who was former participant

If an annuitant who was a former participant dies, any annuity accrued and unpaid shall be paid in accordance with subsection (f).

(f) Order of precedence for payments

Payments under subsections (c) through (e) shall be paid in the following order of precedence to individuals surviving the participant and alive on the date entitlement to the payment arises, upon the establishment of a valid claim therefor, and such payment shall be a bar to recovery by any other person:

(1) To the beneficiary or beneficiaries last designated by the participant before or after retirement in a signed and witnessed writing filed with the Secretary of State prior to the death of the participant, for which purpose a designation, change, or cancellation of beneficiary in a will or other document which is not so executed and filed shall have no force or effect.

(2) If there is no such beneficiary, to the surviving wife or husband of the participant.

(3) If none of the above, to the child (without regard to the definition in section 4044(2) of this

title) or children of the participant (including adopted and natural children but not stepchildren) and descendants of deceased children by representation.

(4) If none of the above, to the parents of the participant or the survivor of them.

(5) If none of the above, to the duly appointed executor or administrator of the estate of the participant.

(6) If none of the above, to such other next of kin of the participant as may be determined in the judgment of the Secretary of State to be legally entitled to such payment, except that no payment shall be made under this paragraph until after the expiration of 30 days after the death of the participant or annuitant.

(g) Death of survivor annuitant

Annuity accrued and unpaid on the death of a survivor annuitant shall be paid in the following order of precedence, and the payment bars recovery by any other person:

(1) To the duly appointed executor or administrator of the estate of the survivor annuitant.

(2) If there is no such executor or administrator, to such person as may be determined by the Secretary of State (after the expiration of 30 days from the date of death of the survivor annuitant) to be entitled under the laws of the domicile of the survivor annuitant at the time of death.

(h) Amount of credit

[1] Amounts deducted and withheld from basic salary of a participant under section 4045 of this title from the beginning of the first pay period after the participant has completed 35 years of service computed under section 4056 of this title (excluding service credit for unused sick leave under section 4056(b) of this title), together with interest on the amounts at the rate of 3 percent a year compounded annually from the date of the deduction to the date of retirement or death, shall be applied toward any special contribution due under section 4045(d) of this title), and any balance not so required shall be refunded in a lump sum to the participant after separation or, in the event of a death in service, to a beneficiary in the order of precedence specified in subsection (f).

(i) Former spouses

Unless otherwise expressly provided by any spousal agreement or court order under section 4060(b)(1) of this title, the amount of a participant's or former participant's lump-sum credit payable to a former spouse of that participant shall be—

(1) if the former spouse was married to the participant throughout the period of creditable service of the participant, 50 percent of the lump-sum credit to which such participant would be entitled in the absence of this subsection, or

(2) if such former spouse was not married to the participant throughout such creditable service, an amount equal to such former spouse's pro rata share of 50 percent of such lump-sum credit.

The lump-sum credit of the participant shall be reduced by the amount of the lump-sum credit payable to the former spouse. For the purposes of this subsection, the term "creditable service" means service which is creditable under part I or II.

(Pub. L. 96–465, title I, §815, Oct. 17, 1980, 94 Stat. 2116; Pub. L. 99–335, title IV, §§402(a)(2), 404(c), 413, June 6, 1986, 100 Stat. 609, 610, 614; Pub. L. 100–238, title II, §218, Jan. 8, 1988, 101 Stat. 1775.)

AMENDMENT OF SECTION

Section 1(a) and (c) of Ex. Ord. No. 12446, Oct. 17, 1983, 48 F.R. 48443, set out as a note under section 4067 of this title, provided that the first sentence of subsection (h) of this section, applicable (i) to contributions for civilian service performed on or after the first day of Nov. 1983, (ii) to contributions for prior refunds to participants for which application is received by the employing agency on and after such first day of Nov. 1983, and (iii) to excess contributions under section 4055(h) of this title and voluntary contributions under section 4065(a) of this title from the first day of Nov. 1983, is deemed to be amended to provide that interest shall be compounded at the annual rate of 3 percent per annum through December 31, 1984, and thereafter at a rate equal to the

overall average yield to the Fund during the preceding fiscal year from all obligations purchased by the Secretary of the Treasury during such fiscal year under section 4059 of this title, as determined by the Secretary of the Treasury.

AMENDMENTS

1988—Subsec. (a). Pub. L. 100–238 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "Whenever a participant becomes separated from the Service without becoming eligible for an annuity or a deferred annuity under this subchapter, a lump-sum credit shall be paid to the participant (and to any former spouse of the participant, in accordance with subsection (i) of this section). A participant who becomes subject to part II of this subchapter shall be entitled to payment of the lump-sum credit if, and to the extent that, such lump-sum credit relates to service of a type described in clauses (i) through (iii) of section 302(a)(1)(C) of the Federal Employees' Retirement System Act of 1986."

1986—Subsec. (a). Pub. L. 99–335, §413, inserted provision relating to payment of a lump-sum credit for a participant who becomes subject to part II of this subchapter.

Subsecs. (c), (d). Pub. L. 99–335, §402(a)(2), substituted "part" for "subchapter".

Subsec. (i). Pub. L. 99–335, §404(c), inserted provision defining "creditable service" as service creditable under part I or II of this subchapter.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–238 effective 90 days after Jan. 8, 1988, see section 261(a) of Pub. L. 100–238, set out as a note under section 4054 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–335 effective Jan. 1, 1987, see section 702(a) of Pub. L. 99–335, set out as an Effective Date note under section 8401 of Title 5, Government Organization and Employees.

[1] *See Amendment of Section note below.*

§4056. Creditable service

(a) Applicability of civil service provisions

(1) [1] Except as otherwise specified by law, all periods of civilian and military and naval service, and all other periods through the date of final separation of a participant from the Service that the Secretary of State determines would be creditable toward retirement under the Civil Service Retirement and Disability System (as determined in accordance with section 8332 of title 5), shall be creditable for purposes of this part. Conversely, any such service performed after December 31, 1976, that would not be creditable under specified conditions under section 8332 of title 5, shall be excluded under this part under the same conditions.

(2) The service of an individual who first becomes a participant on or after October 17, 1983, without any credit under this section for civilian service performed prior to October 1, 1982, shall include credit for:

(A) each period of military or naval service performed before January 1, 1957, and

(B) each period of military or naval service performed after December 31, 1956, and before the separation on which the entitlement to annuity under this part is based, only if a deposit (with interest if any is required) is made with respect to that period, as provided in section 4045(e) of this title.

(3) The service of an individual who first became a participant on or after October 17, 1983, with credit under this section for civilian service performed prior to October 1982, shall include credit for each period of military or naval service performed before the date of the separation on which the entitlement to an annuity under this part is based, subject, in the case of military or naval service performed after December 1956, to subsection (j).

(4) The service of an individual who first became a participant before October 17, 1983, shall include credit for each period of military or naval service performed before the date of the separation

on which the entitlement to an annuity under this part is based, subject, in the case of military or naval service performed after December 1976, to subsection (j).

(b) Unused sick leave credit

In computing any annuity under this part, the total service of a participant who retires on an immediate annuity or who dies leaving a survivor or survivors entitled to annuity includes (without regard to the 35-year limitation imposed by section 4046(a) of this title) the days of unused sick leave to the credit of the participant, except that these days shall not be counted in determining average basic salary or annuity eligibility under this part. A contribution to the Fund shall not be required from a participant for this service credit.

(c) Service with other Government agency when on approved leave without pay; arrangement for payment of retirement deductions and agency contributions; special contribution

(1) A participant who enters on approved leave without pay to serve as a full-time officer or employee of an organization composed primarily of Government employees may, within 60 days after entering on that leave without pay, file with the employing agency an election to receive full retirement credit for such periods of leave without pay and arrange to pay concurrently into the Fund through the employing agency, amounts equal to the retirement deductions and agency contributions on the Foreign Service salary rate that would be applicable if the participant were in a pay status. If the election and all payments provided by this subsection are not made for the periods of such leave without pay occurring after November 7, 1976, the participant may not receive any credit for such periods of leave without pay occurring after such date.

(2) A participant may make a special contribution for any period or periods of approved leave without pay while serving before November 7, 1976, as a full-time officer or employee of an organization composed primarily of Government employees. Any such contribution shall be based upon the suspended Foreign Service salary rate and shall be computed in accordance with section 4045 of this title. A participant who makes such contributions shall be allowed full retirement credit for the period or periods of leave without pay. If this contribution is not made, up to 6 months' retirement credit shall be allowed for such periods of leave without pay each calendar year.

(d) Special contribution in repayment of refund of retirement contributions

[2] A participant who has received a refund of retirement contributions (which has not been repaid) under this or any other retirement system for Government employees covering service which may be creditable may make a special contribution for such service under section 4045 of this title. Credit may not be allowed for service covered by the refund unless the special contribution is made.

(e) Civilian service under other Government retirement system

No credit in annuity computation shall be allowed for any period of civilian service for which a participant made retirement contributions to another retirement system for Government employees unless—

(1) the right to any annuity under the other system which is based on such service is waived, and

(2) a special contribution is made under section 4045 of this title covering such service.

(f) Service in military during period of war or national emergency

A participant who during a period of war, or national emergency proclaimed by the President or declared by the Congress, leaves the Service to enter the military service is deemed, for the purpose of this part, as not separated from the Service unless the participant applies for and receives a lump-sum payment under section 4055 of this title. However, the participant is deemed to be separated from the Service after the expiration of 5 years of such military service.

(g) Recomputation of annuity for participants of Japanese ancestry interned during World War II

(1) An annuity or survivor annuity based on the service of a participant of Japanese ancestry who would be eligible under section 8332(l) of title 5, for credit for civilian service for periods of

internment during World War II shall, upon application to the Secretary of State, be recomputed to give credit for that service. Any such recomputation of an annuity shall apply with respect to months beginning more than 30 days after the date on which application for such recomputation is received by the Secretary of State.

(2) The Secretary of State shall take such action as may be necessary and appropriate to inform individuals entitled to have any service credited or annuity recomputed under this subsection of their entitlement to such credit or recomputation.

(3) The Secretary of State shall, on request, assist any individual referred to in paragraph (1) in obtaining from any agency or other Government establishment information necessary to verify the entitlement of the individual to have any service credited or any annuity recomputed under this subsection.

(4) Any agency or other Government establishment shall, upon request, furnish to the Secretary of State any information it possesses with respect to the internment or other detention, as described in section 8332(l) of title 5, of any participant.

(h) Service as employees of Member or office of Congress while on approved leave without pay

A participant who, while on approved leave without pay, serves as a full-time paid employee of a Member or office of the Congress shall continue to make contributions to the Fund based upon the Foreign Service salary rate that would be in effect if the participant were in a pay status. The participant's employing office in the Congress shall make a matching contribution (from the appropriation or fund which is used for payment of the salary of the participant) to the Treasury of the United States to the credit of the Fund. All periods of service for which full contributions to the Fund are made under this subsection shall be counted as creditable service for purposes of this part and shall not, unless all retirement credit is transferred, be counted as creditable service under any other Government retirement system.

(i) Former spouses

(1) Service of a participant shall be considered creditable service for purposes of applying provisions of this part relating to former spouses if such service would be creditable—

(A) under subsection (c)(1) or (2) but for the fact an election was not made under subsection (c)(1) or a special contribution was not made under subsection (c)(2), and

(B) under subsection (d) but for the fact that a refund of contributions has not been repaid unless the former spouse received under this part a portion of the lump sum (or a spousal agreement or court order provided otherwise).

(2) A former spouse shall not be considered as married to a participant for periods assumed to be creditable service under section 4048(a) of this title or section 4049(e) of this title.

(j) Redetermination of credit for military and naval service

(1) Except as otherwise provided by statute or Executive Order, section 8332(j) of title 5, relating to redetermination of credit for military and naval service, shall be applied to annuities payable under this part. The Secretary of State shall redetermine service, and may request and obtain information from the Secretary of Health and Human Services, as the Office of Personnel Management is directed or authorized to do in section 8332(j).

(2) Section 8332(j) of title 5 shall not apply with respect to:

(A) the service of any individual who first became a participant on or after October 17, 1983, without any credit under this section for civilian service performed prior to October 1982; or

(B) any military or naval service performed prior to 1957 by an individual who first became a participant on or after October 17, 1983, with credit under this section for civilian service performed prior to October 1982, or any period of military or naval service performed after 1956 with respect to which the participant has made a contribution (with interest if any is required) under section 4045(e) of this title; or

(C) any military or naval service performed prior to 1977 by any individual who first became a participant before October 17, 1983, or any period of military or naval service performed after

1976 with respect to which the participant has made a contribution (with interest if any is required) under section 4045(e) of this title.

(Pub. L. 96–465, title I, §816, Oct. 17, 1980, 94 Stat. 2118; Ex. Ord. No. 12446, §4(b), (c), Oct. 17, 1983, 48 F.R. 48444, 48445; Pub. L. 99–335, title IV, §402(a)(2), June 6, 1986, 100 Stat. 609; Pub. L. 101–246, title I, §145(a), Feb. 16, 1990, 104 Stat. 36.)

AMENDMENT OF SECTION

Section 5 of Ex. Ord. No. 12446, Oct. 17, 1983, 48 F.R. 48445, set out as a note under section 4067 of this title, provided that:

"(a) Section 816(a) of the Act (22 U.S.C. 4056(a)) is deemed to be further amended so that the provisions of section 8332(j) of Title 5 of the United States Code, relating to credit for military service, shall not apply with respect to any individual who is entitled to an annuity under such Act [this chapter] on or before the date of approval of this Order [Oct. 17, 1983], or who is entitled to an annuity based on a separation from service occurring on or before such date.

"(b) Subject to subsection (c), in any case in which an individual described in subsection (a) is also entitled to old-age or survivors insurance benefits under section 202 of the Social Security Act [42 U.S.C. 402] (or would be entitled to such benefits upon filing application therefor), the amount of the annuity to which such individual is entitled under chapter 8 of the Act [this subchapter] (after taking into account subsection (a)) which is payable for any month shall be reduced by an amount determined by multiplying the amount of such old-age or survivors insurance benefit for the determination month by a fraction—

"(1) the numerator of which is the total of the wages (within the meaning of section 209 of the Social Security Act [42 U.S.C. 409]) for service referred to in section 210(1) of such Act [42 U.S.C. 410] (relating to service in the uniformed services) and deemed additional wages (within the meaning of section 229 of such Act [42 U.S.C. 429]) of such individual credited for years after 1956 and before the calendar year in which the determination month occurs, up to the contribution and benefit base determined under section 230 of the Social Security Act [42 U.S.C. 430] (or other applicable maximum annual amount referred to in section 215(e)(1) of such Act [42 U.S.C. 415(e)(1)]) for each such year, and

"(2) the denominator of which is the total of all wages deemed additional wages described in paragraph (1) of this subsection plus all other wages (within the meaning of section 209 of the Social Security Act [42 U.S.C. 409]) and all self-employment income (within the meaning of section 211(b) of such Act [42 U.S.C. 411(b)]) of such individual credited for years after 1936 and before the calendar year in which the determination month occurs, up to the contribution and benefit base (or such other amount referred to in such section 215(e)(1) of such Act [42 U.S.C. 415(e)(1)]) for each such year.

"(c) Subsection (b) shall not reduce the annuity of any individual below the amount of the annuity which would be payable under chapter 8 of the Act [this subchapter] to the individual for the determination month if section 8332(j) of Title 5 of the United States Code applied to the individual for such month.

"(d) For purposes of this section, the term 'determination month' means—

"(1) the first month the individual described in subsection (a) is entitled to old-age or survivors insurance benefits under section 202 of the Social Security Act [42 U.S.C. 402] (or would be entitled to such benefits upon filing application therefor); or

"(2) the first day of the month following the month in which this Order is issued [Oct. 1983] in the case of any individual so entitled to such benefits for such month.

"(e) The preceding provisions of this section shall take effect with respect to any annuity payment payable under chapter 8 of the Act [this subchapter] for calendar months beginning after the date of this Order [Oct. 17, 1983].

"(f) The Secretary of Health and Human Services shall furnish such information to the Secretary

of State as may be necessary to carry out the preceding provisions of this section."

Section 1(b) and (c) of Ex. Ord. No. 12446 provided that subsection (d) of this section, applicable (i) to contributions for civilian service performed on or after the first day of Nov. 1983, (ii) to contributions for prior refunds to participants for which application is received by the employing agency on and after such first day of Nov. 1983, and (iii) to excess contributions under section 4055(h) of this title and voluntary contributions under section 4065(a) of this title from the first day of Nov. 1983, is deemed to be amended to exclude from the computation of creditable civilian service under subsec. (a) of this section any period of civilian service for which retirement deductions or contributions have not been made under section 4045(d) of this title unless—

(1) the participant makes a contribution for such period as provided in such section 4045(d) of this title; or

(2) no contribution is required for such service as provided under section 4045(f) of this title as deemed to be amended by this Order, or under any other statute.

AMENDMENTS

1990—Subsec. (i)(2). Pub. L. 101–246 amended par. (2) generally. Prior to amendment, par. (2) read as follows: "A former spouse shall not be considered as married to a participant—

"(A) for periods assumed to be creditable service under section 4048(a) of this title or section 4049(e) of this title, or

"(B) for any extra period of creditable service provided under section 4057 of this title for service of a participant at an unhealthful post unless the former spouse resided with the participant at that post during that period."

1986—Subsecs. (a), (b), (f), (h), (i)(1), (j)(1). Pub. L. 99–335 substituted "part" for "subchapter" wherever appearing.

1983—Subsec. (a). Ex. Ord. No. 12446, §4(b), designated existing provisions as par. (1) and added pars. (2) to (4).

Subsec. (j). Ex. Ord. No. 12446, §4(c), added subsec. (j).

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–335 effective Jan. 1, 1987, see section 702(a) of Pub. L. 99–335, set out as an Effective Date note under section 8401 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by section 4 of Ex. Ord. No. 12446 effective Oct. 17, 1983, see section 4(e) of Ex. Ord. No. 12446, set out under section 4067 of this title.

[1] *See Amendment of Section note below.*

[2] *See Amendment of Section note below.*

§4057. Extra credit for service at unhealthful posts

The Secretary of State may from time to time establish a list of places which by reason of climatic or other extreme conditions are to be classed as unhealthful posts. Each year of duty at such posts, inclusive of regular leaves of absence, shall be counted as one and a half years in computing the length of the service of a participant for the purpose of retirement, fractional months being considered as full months in computing such service. No such extra credit for service at such unhealthful posts shall be credited to any participant who is paid a differential under section 5925 or 5928 of title 5 for such service. Such extra credit may not be used to determine the eligibility of a person to qualify as a former spouse under this part, or to compute the pro rata share under section 4044(10) of this title. No extra credit for service at unhealthful posts may be given under this section for any service as part of a tour of duty, or extension thereof, beginning on or after February 16, 1990.

(Pub. L. 96–465, title I, §817, Oct. 17, 1980, 94 Stat. 2120; Pub. L. 101–246, title I, §145(b), Feb. 16, 1990, 104 Stat. 37.)

AMENDMENTS

1990—Pub. L. 101–246 inserted provisions at end that extra credit not be used to determine eligibility to qualify as former spouse under this part or to compute the pro rata share under section 4044(10) of this title and that no extra credit for service at unhealthful posts be given under this section for any service as part of a tour of duty, or extension thereof, beginning on or after Feb. 16, 1990.

§4058. Estimate of appropriations needed

The Secretary of the Treasury shall prepare the estimates of the annual appropriations required to be made to the Fund, and shall make actuarial valuations of the System at intervals of not more than five years. The Secretary of State may expend from money to the credit of the Fund an amount not exceeding $5,000 per year for the incidental expenses necessary in administering the provisions of this part, including actuarial advice.

(Pub. L. 96–465, title I, §818, Oct. 17, 1980, 94 Stat. 2120; Pub. L. 99–335, title IV, §402(a)(2), June 6, 1986, 100 Stat. 609.)

AMENDMENTS

1986—Pub. L. 99–335 substituted "part" for "subchapter".

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–335 effective Jan. 1, 1987, see section 702(a) of Pub. L. 99–335, set out as an Effective Date note under section 8401 of Title 5, Government Organization and Employees.

§4059. Investment of Fund

The Secretary of the Treasury shall invest from time to time in interest-bearing securities of the United States such portions of the Fund as in the judgment of the Secretary of the Treasury may not be immediately required for the payment of annuities, cash benefits, refunds, and allowances. The income derived from such investments shall constitute a part of the Fund.

(Pub. L. 96–465, title I, §819, Oct. 17, 1980, 94 Stat. 2120.)

§4060. Assignment and attachment of moneys

(a) Annuities and severance pay benefits

(1) An individual entitled to an annuity from the Fund may make allotments or assignments of amounts from such annuity for such purposes as the Secretary of State in his or her sole discretion considers appropriate.

(2) Notwithstanding section 3727 of title 31 or any other law, a member of the Service who is entitled to receive benefits under section 4009(b)(1) of this title may assign to any person the whole or any part of those benefits. Any such assignment shall be on a form approved by the Secretary of the Treasury and a copy of such assignment form shall be deposited with the Secretary of the Treasury by the member executing the assignment.

(b) Participants or annuitants having former spouses

(1)(A) In the case of any participant or annuitant who has a former spouse who is covered by a court order or who is a party to a spousal agreement—

(i) any right of the former spouse to any annuity under section 4054(a) of this title in connection with any retirement or disability annuity of the participant, and the amount of any such annuity;

(ii) any right of the former spouse to a survivor annuity under section 4054(b) or (c) of this title, and the amount of any such annuity; and

(iii) any right of the former spouse to any payment of a lump-sum credit under section 4055(a) or (b) of this title;

shall be determined in accordance with that spousal agreement or court order, if and to the extent expressly provided for in the terms of that spousal agreement or court order.

(B) This paragraph shall not apply in the case of any spousal agreement or court order which, as determined by the Secretary of State—

(i) would provide for a survivor annuity for a spouse or any former spouse of a participant with respect to which there has not been an annuity reduction (or a salary reduction or payment under section 4054(c)(3) of this title); or

(ii) is otherwise inconsistent with the requirements of this part.

(2) Except with respect to obligations between participants and former spouses, payments under this part which would otherwise be made to a participant or annuitant based upon his or her service shall be paid (in whole or in part) by the Secretary of State to another individual to the extent expressly provided for in the terms of any order or any court decree of legal separation, or the terms of any court order or court-approved property settlement agreement incident to any court decree of legal separation.

(3) Paragraphs (1) and (2) shall apply only to payments made under this part for periods beginning after the date of receipt by the Secretary of State of written notice of such decree, order, or agreement, and such additional information and such documentation as the Secretary of State may require.

(4) Any payment under this subsection to an individual bars recovery by any other individual.

(5) The 10-year requirement of section 4044(b)(6) of this title, or any other provision of this part, shall not be construed to affect the rights any spouse or individual formerly married to a participant or annuitant may have, under any law or rule of law of any State or the District of Columbia, with respect to an annuity of a participant or annuitant under this part.

(c) Applicability of other provisions of law or remedies

None of the moneys mentioned in this part shall be assignable either in law or equity, except under subsection (a) or (b) of this section, or subject to execution, levy, attachment, garnishment, or other legal process, except as otherwise may be provided by Federal law.

(Pub. L. 96–465, title I, §820, Oct. 17, 1980, 94 Stat. 2120; Pub. L. 99–335, title IV, §402(a)(2), June 6, 1986, 100 Stat. 609.)

CODIFICATION

In subsec. (a)(2), "section 3727 of title 31" substituted for "section 3477 of the Revised Statutes of the United States (31 U.S.C. 203)" on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

1986—Subsecs. (b)(1)(B)(ii), (2), (3), (5), (c). Pub. L. 99–335 substituted "this part" for "this subchapter" wherever appearing.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–335 effective Jan. 1, 1987, see section 702(a) of Pub. L. 99–335, set out as an Effective Date note under section 8401 of Title 5, Government Organization and Employees.

§4061. Payments for future benefits

(a) Statutes deemed to authorize appropriations to Fund to finance unfunded liability

Any statute which authorizes—

(1) new or liberalized benefits payable from the Fund under this part, including annuity increases other than under section 4065 of this title;

(2) extension of the benefits of the System to new groups of employees; or
(3) increases in salary on which benefits are computed;

is deemed to authorize appropriations to the Fund to finance the unfunded liability created by that statute, in 30 equal annual installments with interest computed at the rate used in the then most recent valuation of the System and with the first payment thereof due as of the end of the fiscal year in which each new or liberalized benefit, extension of benefits, or increase in salary is effective.

(b) Authorization of appropriations to Fund

There is authorized to be appropriated to the Fund for each fiscal year an amount equal to the amount of the Foreign Service normal cost for that year which is not met by contributions to the Fund under section 4045(a) of this title.

(Pub. L. 96–465, title I, §821, Oct. 17, 1980, 94 Stat. 2121; Pub. L. 99–335, title IV, §402(a)(3), June 6, 1986, 100 Stat. 609.)

AMENDMENTS

1986—Subsec. (a)(1). Pub. L. 99–335 inserted "under this part" after "payable from the Fund".

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–335 effective Jan. 1, 1987, see section 702(a) of Pub. L. 99–335, set out as an Effective Date note under section 8401 of Title 5, Government Organization and Employees.

§4062. Unfunded liability obligations

(a) Notice of interest and military service credit

At the end of each fiscal year, the Secretary of State shall notify the Secretary of the Treasury of the amount equivalent to—

(1) interest on the unfunded liability computed for that year at the interest rate used in the then most recent valuation of the System, and

(2) that portion of disbursement for annuities for that year which the Secretary of State estimates is attributable to credit allowed for military and naval service, less an amount determined by the Secretary of State to be appropriate to reflect the value of the deposits made to the credit of the Fund under section 4045(e) of this title.

(b) Credit to Fund

Before closing the accounts for each fiscal year, the Secretary of the Treasury shall credit such amounts to the Fund, as a Government contribution, out of any money in the Treasury of the United States not otherwise appropriated.

(c) Reports to Congress

Requests for appropriations to the Fund under section 4061(b) of this title shall include reports to the Congress on the sums credited to the Fund under this section.

(Pub. L. 96–465, title I, §822, Oct. 17, 1980, 94 Stat. 2121; Ex. Ord. No. 12446, §4(d), Oct. 17, 1983, 48 F.R. 48445.)

AMENDMENTS

1983—Subsec. (a)(2). Ex. Ord. No. 12446 inserted ", less an amount determined by the Secretary of State to be appropriate to reflect the value of the deposits made to the credit of the Fund under section 4045(e) of this title".

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Ex. Ord. No. 12446 effective Oct. 17, 1983, see section 4(e) of Ex. Ord. No. 12446, set out under section 4067 of this title.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103–7 (in which a report required under subsec. (c) of this section is listed on page 127), see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance.

§4063. Annuity adjustment for recall service

(a) Full salary in lieu of annuity; contributions to Fund; resumption of annuity with cost-of-living adjustment

Any annuitant recalled to duty in the Service under section 3948(a) of this title shall, while so serving, be entitled in lieu of annuity to the full salary of the class in which serving. During such service the recalled annuitant shall make contributions to the Fund in accordance with section 4045 of this title. On the day following termination of the recall service, the former annuity shall be resumed, adjusted by any cost-of-living increases under section 4065 of this title that became effective during the recall period.

(b) Refund of contributions to Fund; election for supplemental annuity or determination of annuity anew; prior service counted as recall service

If the recall service lasts less than one year, the contributions of the annuitant to the Fund during recall service shall be refunded in accordance with section 4055 of this title. If the recall service lasts more than one year, the annuitant may, in lieu of such refund, elect a supplemental annuity computed under section 4046 of this title on the basis of service credit and average salary earned during the recall period irrespective of the number of years of service credit previously earned. If the recall service continues for at least 5 years, the annuitant may elect to have his or her annuity determined anew under section 4046 of this title in lieu of any other benefits under this section. Any annuitant who is recalled under section 3948 of this title may upon written application count as recall service any prior service that is creditable under section 4056 of this title that was performed after the separation upon which his or her annuity is based.

(c) Annuitant subject to Foreign Service Pension System

If an annuitant becomes subject to part II of this subchapter by reason of recall service—

(1) subsections (a) and (b) shall not apply to such annuitant; and

(2) section 4064 of this title shall apply to the recall service as if such service were reemployment.

(Pub. L. 96–465, title I, §823, Oct. 17, 1980, 94 Stat. 2122; Pub. L. 99–335, title IV, §409, June 6, 1986, 100 Stat. 612.)

AMENDMENTS

1986—Subsec. (c). Pub. L. 99–335 added subsec. (c).

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–335 effective Jan. 1, 1987, see section 702(a) of Pub. L. 99–335, set out as an Effective Date note under section 8401 of Title 5, Government Organization and Employees.

§4064. Reemployment

(a) Termination of annuity; coverage under same retirement system or another contributory retirement system; rights and benefits

(1)(A) [1] Except in the case of an annuitant who makes an election under subsection (b) or in the case of a waiver under subsection (g), if any former participant, who has retired and is receiving an annuity under this part or part II of this subchapter, becomes employed in an appointive or elective

position in the Government, payment of any annuity under either part to the annuitant shall terminate effective on the date of the employment and the reemployment service shall be covered service under the rules of the system under which the appointment is made.

(B) If the annuity of an individual is terminated under subparagraph (A) and that individual becomes covered under the same retirement system from which that annuity is terminated, that individual shall be entitled to a redetermination of rights under that system upon termination of the employment.

(C) If the annuity is terminated and the individual becomes covered under another contributory retirement system for Government employees pursuant to paragraph (A), the individual shall be entitled to benefits under the rules of that system. In addition, the individual shall be entitled to a resumption of any annuity terminated by reason of the employment.

(b) Part-time, intermittent, or temporary employment; election to continue receiving annuity; reduction in amount of annuity; resumption of full annuity

(1) A participant who is entitled to an annuity under this part or part II of this subchapter and becomes employed in an appointive or elective position in the Government on a part-time, intermittent, or temporary basis may elect to continue to receive either or both annuities as provided in this subsection.

(2) The total annuity payable under this subchapter to an annuitant making an election under paragraph (1) shall be reduced during the part-time, intermittent, or temporary employment referred to in paragraph (1) as necessary to meet the requirements of paragraph (3).

(3)(A) The sum of—

(i) the total annuity payable under this subchapter to an annuitant making an election under paragraph (1), and

(ii) the annual rate of pay payable to the annuitant during the part-time, intermittent, or temporary employment referred to in paragraph (1),

may not exceed, in any calendar year, the amount described in subparagraph (B).

(B) The amount referred to in subparagraph (A) is the greater of—

(i) the highest annual rate of basic pay which is payable during such year for full-time employment in the position in which the annuitant is employed, or

(ii) the basic pay the annuitant was entitled to receive under this chapter on the date of retirement from the Service.

(C) For purposes of this section, the term "annuity" means the annuity earned by the reemployed member based on his or her service irrespective of whether or not the amount payable is reduced by the amount of an annuity payable under section 4054 or 4060(b) of this title.

(4) Upon termination of the part-time, intermittent, or temporary employment referred to in paragraph (1), payment of the full annuity of an annuitant who has made an election under paragraph (1) of this subsection shall resume.

(c) Amount of annuity on resumption; amount resulting from redetermination of rights

The amount of annuity which has been terminated or reduced under this section by reason of the reemployment of the annuitant and is resumed under this section shall be the amount of the annuity which would have been payable if the annuitant had not accepted the reemployment. The amount of an annuity resulting from a redetermination of rights pursuant to subsection (a) shall not be less than the amount of an annuity resumed under the previous sentence.

(d) Annuity rights to be determined under this section

The annuity rights of any participant who is reemployed in the Government shall be determined under this section instead of section 8468 of title 5.

(e) Notice; direct payment of salary

When any such retired participant is reemployed, the employer shall send a notice of such reemployment to the Secretary of State, together with all pertinent information relating to such

employment, and shall pay directly to such participant the salary of the position in which he or she is serving.

(f) Recovery of overpayment

In the event of any overpayment under this section, such overpayment shall be recovered by withholding the amount involved from the salary payable to such reemployed participant or from any other moneys, including annuity payments, payable under this subchapter.

(g) Waiver of annuity limitations

(1) The Secretary of State may waive the application of subsections (a) through (d) on a case-by-case basis for an annuitant reemployed on a temporary basis, or grant authority to the head of an Executive agency to waive the application of subsections (a) through (d) on a case-by-case basis for an annuitant reemployed on a temporary basis—

(A) if, and for so long as, such waiver is necessary due to an emergency involving a direct threat to life or property or other unusual circumstances;

(B) if the annuitant is employed in a position for which there is exceptional difficulty in recruiting or retaining a qualified employee; or

(C)(i) to provide assistance to consular posts with a substantial backlog of visa applications; or

(ii) to provide assistance to meet the demand resulting from the passport and travel document requirements set forth in section 7209(b) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 8 U.S.C. 1185 note), including assistance related to the investigation of fraud in connection with an application for a passport.

(2) The Secretary should prescribe procedures for the exercise of any authority under paragraph (1)(B), including criteria for any exercise of authority and procedures for a delegation of authority.

(h) Effects of waiver

A reemployed annuitant as to whom a waiver under subsection (g) is in effect shall not be considered a participant for purposes of this part or part II, or an employee for purposes of chapter 83 or 84 of title 5.

(Pub. L. 96–465, title I, §824, Oct. 17, 1980, 94 Stat. 2122; Pub. L. 99–335, title IV, §§402(a)(2), 410, June 6, 1986, 100 Stat. 609, 613; Pub. L. 99–556, title IV, §403, Oct. 27, 1986, 100 Stat. 3136; Pub. L. 105–277, div. C, title I, §103, Oct. 21, 1998, 112 Stat. 2681–585; Pub. L. 109–234, title I, §1602(a), June 15, 2006, 120 Stat. 440; Pub. L. 109–289, div. B, title II, §20941, as added Pub. L. 110–5, §2, Feb. 15, 2007, 121 Stat. 46; Pub. L. 110–50, §2, July 30, 2007, 121 Stat. 261; Pub. L. 110–321, §1, Sept. 19, 2008, 122 Stat. 3535; Pub. L. 111–32, title XI, §1115(c)(1), June 24, 2009, 123 Stat. 1905; Pub. L. 114–323, title IV, §405(a), Dec. 16, 2016, 130 Stat. 1929.)

AMENDMENTS

2016—Subsec. (g)(1)(B). Pub. L. 114–323, §405(a)(1), struck out "to facilitate the assignment of persons to Iraq, Pakistan, and Afghanistan or to posts vacated by members of the Service assigned to Iraq, Pakistan, and Afghanistan," before "if the annuitant".

Subsec. (g)(2), (3). Pub. L. 114–323, §405(a)(2), (3), redesignated par. (3) as (2) and struck out former par. (2) which read as follows:

"(2)(A) The authority of the Secretary to waive the application of subsections (a) through (d) for an annuitant pursuant to subparagraph (B) of paragraph (1), or to grant authority to the head of an Executive agency to waive the application of such subsections to an annuitant under such subparagraph, shall terminate on October 1, 2010. An annuitant reemployed pursuant to such authority prior to such termination date may be employed for a period ending not later than one year after such date.

"(B) The authority of the Secretary to waive the application of subsections (a) through (d) for an annuitant pursuant to subparagraph (C)(i) of paragraph (1) shall terminate on September 30, 2009.

"(C) The authority of the Secretary to waive the application of subsections (a) through (d) for an annuitant pursuant to subparagraph (C)(ii) of paragraph (1) shall terminate on September 30, 2009."

2009—Subsec. (g)(1)(B). Pub. L. 111–32 inserted ", Pakistan," after "Iraq" in two places.

Subsec. (g)(2). Pub. L. 111–32, §1115(c)(1), which directed amendment of subsec. (g)(2) by substituting "2010" for "2009", was executed by making the substitution in subpar. (A) only, to reflect the probable intent

of Congress.

2008—Subsec. (g)(2)(A), (B). Pub. L. 110–321 substituted "2009" for "2008".

2007—Subsec. (g)(1). Pub. L. 109–289, §20941(1)(A), as added by Pub. L. 110–5, substituted "The Secretary" for "To facilitate the assignment of persons to Iraq and Afghanistan or to posts vacated by members of the Service assigned to Iraq and Afghanistan, the Secretary" in introductory provisions.

Subsec. (g)(1)(B). Pub. L. 109–289, §20941(1)(B), as added by Pub. L. 110–5, substituted "to facilitate the assignment of persons to Iraq and Afghanistan or to posts vacated by members of the Service assigned to Iraq and Afghanistan, if" for "if".

Subsec. (g)(1)(C). Pub. L. 110–50, §2(1), added subpar. (C).

Subsec. (g)(2). Pub. L. 110–50, §2(2), designated existing provisions as subpar. (A) and added subpars. (B) and (C).

Pub. L. 109–289, §20941(2), as added by Pub. L. 110–5, substituted "such subparagraph" for "subparagraphs (A) or (B) of such paragraph".

Subsec. (g)(3). Pub. L. 109–289, §20941(3), as added by Pub. L. 110–5, substituted "paragraph (1)(B)" for "paragraph (1)".

2006—Subsec. (g). Pub. L. 109–234 amended subsec. (g) generally. Prior to amendment, subsec. (g) read as follows: "The Secretary of State may waive the application of the paragraphs (a) through (d) of this section, on a case-by-case basis, for an annuitant reemployed on a temporary basis, but only if, and for so long as, the authority is necessary due to an emergency involving a direct threat to life or property or other unusual circumstances."

1998—Pub. L. 105–277, which directed amendment of section 824 of the Foreign Service Act, in subsec. (a)(1)(A), by inserting "or in the case of a waiver under subsection (g)" after "subsection (b)", and by adding subsecs. (g) and (h), was executed to this section, which is section 824 of the Foreign Service Act of 1980, to reflect the probable intent of Congress.

1986—Subsec. (a). Pub. L. 99–335, §410, amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "Notwithstanding any other law, any member of the Service who has retired and is receiving an annuity under this part, and who is reemployed in the Government service in any part-time or full-time appointive position, shall be entitled to receive the salary of the position in which he or she is serving plus so much of the annuity payable under this part which when combined with such salary does not exceed during any calendar year the basic salary the member was entitled to receive under this chapter on the date of retirement from the Service. Any such reemployed member of the Service who receives salary during any calendar year in excess of the maximum amount which he or she may be entitled to receive under this subsection shall be entitled to such salary in lieu of benefits under this part."

Pub. L. 99–335, §402(a)(2), substituted "this part" for "this subchapter" in three places.

Subsec. (b). Pub. L. 99–335, §410, amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "When any such retired member of the Service is reemployed, the employer shall send a notice of such reemployment to the Secretary of State, together with all pertinent information relating to such employment, and shall pay directly to such member the salary of the position in which he or she is serving."

Subsec. (b)(3). Pub. L. 99–556, §403, amended par. (3) generally. Prior to amendment, par. (3) read as follows: "The sum of—

"(A) the total annuity payable under this subchapter to an annuitant making an election under paragraph (1), and

"(B) the annual rate of pay payable to the annuitant during the part-time, intermittent, or temporary employment referred to in paragraph (1),

may not exceed, in any calendar year, the highest annual rate of pay which is payable during such year for full-time employment in the position in which the annuitant is employed."

Subsec. (c). Pub. L. 99–335, §410, amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: "In the event of any overpayment under this section, such overpayment shall be recovered by withholding the amount involved from the salary payable to such reemployed member of the Service or from any other moneys, including annuity payments, payable under this part."

Pub. L. 99–335, §402(a)(2), substituted "this part" for "this subchapter".

EFFECTIVE DATE OF 1986 AMENDMENTS

Amendment by Pub. L. 99–556 effective Jan. 1, 1987, and applicable to any individual in a reemployed status on or after that date, see section 408 of Pub. L. 99–556, set out as a note under section 4046 of this title.

Amendment by Pub. L. 99–335 effective Jan. 1, 1987, see section 702(a) of Pub. L. 99–335, set out as an Effective Date note under section 8401 of Title 5, Government Organization and Employees.

EXTENSION OF AUTHORITY

Pub. L. 114–113, div. K, title VII, §7034(k)(4), Dec. 18, 2015, 129 Stat. 2764, provided that: "Section 824(g) of the Foreign Service Act of 1980 (22 U.S.C. 4064(g)) shall be applied by substituting 'September 30, 2016' for 'October 1, 2010' in paragraph (2)."

Prior extensions were contained in the following prior acts:

Pub. L. 113–235, div. J, title VII, §7034(l)(4), Dec. 16, 2014, 128 Stat. 2625.

Pub. L. 113–76, div. K, title VII, §7034(m)(4), Jan. 17, 2014, 128 Stat. 515.

Pub. L. 112–74, div. I, title VII, §7034(m)(4), Dec. 23, 2011, 125 Stat. 1216.

[1] *So in original. No par. (2) has been enacted.*

§4065. Voluntary contribution account

(a) Composition; election and return

[1] The voluntary contribution account shall be the sum of unrefunded amounts voluntarily contributed prior to February 15, 1981, by any participant or former participant under any prior law authorizing such contributions to the Fund, plus interest compounded at the rate of 3 percent per year to the date of separation from the Service or (in case of participant or former participant separated with entitlement to a deferred annuity) to the date the voluntary contribution account is claimed, the commencing date fixed for the deferred annuity, or the date of death, whichever is earlier. Effective on the date the participant becomes eligible for an annuity or a deferred annuity and at the election of the participant, his or her account shall be—

(1) returned in a lump sum;

(2) used to purchase an additional life annuity;

(3) used to purchase an additional life annuity for the participant and to provide for a cash payment on his or her death to a beneficiary whose name shall be notified in writing to the Secretary of State by the participant; or

(4) used to purchase an additional life annuity for the participant and a life annuity commencing on his or her death payable to a beneficiary whose name shall be notified in writing to the Secretary of State by the participant, with a guaranteed return to the beneficiary or his or her legal representative of an amount equal to the cash payment referred to in paragraph (3).

(b) Computation of benefits

The benefits provided by subsection (a)(2), (3), or (4) shall be actuarially equivalent in value to the payment provided for by subsection (a)(1) and shall be calculated upon such tables of mortality as may be from time to time prescribed for this purpose by the Secretary of the Treasury.

(c) Lump-sum payment; time; order of precedence

A voluntary contribution account shall be paid in a lump sum following receipt of an application therefor from a present or former participant if application is filed prior to payment of any additional annuity. If not sooner paid, the account shall be paid at such time as the participant separates from the Service for any reason without entitlement to an annuity or a deferred annuity or at such time as a former participant dies or withdraws compulsory contributions to the Fund. In case of death, the account shall be paid in the order of precedence specified in section 4055(f) of this title.

(Pub. L. 96–465, title I, §825, Oct. 17, 1980, 94 Stat. 2122.)

AMENDMENT OF SECTION

Section 1(a) and (c) of Ex. Ord. No. 12446, Oct. 17, 1983, 48 F.R. 48443, set out as a note under section 4067 of this title, provided that the first sentence of subsection (a) of this section, applicable (i) to contributions for civilian service performed on or after the first day of Nov. 1983, (ii) to contributions for prior refunds to participants for which application is received by the employing agency on and after such first day of Nov. 1983, and (iii) to excess contributions under section 4055(h) of this title and voluntary contributions under section 4065(a) of this title from the first day of Nov. 1983, is deemed to be amended to provide that interest shall be compounded at the annual

rate of 3 percent per annum through December 31, 1984, and thereafter at a rate equal to the overall average yield to the Fund during the preceding fiscal year from all obligations purchased by the Secretary of the Treasury during such fiscal year under section 4059 of this title, as determined by the Secretary of the Treasury.

CODIFICATION

In subsec. (a), "February 15, 1981" substituted for "the effective date of this Act" pursuant to section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

[1] *See Amendment of Section note below.*

§4066. Cost-of-living adjustment of annuities

(a) Effective date

A cost-of-living annuity increase shall become effective under this section on the effective date of each such increase under section 8340(b) of title 5. Each such increase shall be applied to each annuity payable from the Fund under this part which has a commencing date not later than the effective date of the increase.

(b) Applicability of increases under other provisions of law

Each annuity increase under this section shall be identical to the corresponding percentage increase under section 8340(b) of title 5.

(c) Eligibility for increases

Eligibility for an annuity increase under this section shall be governed by the commencing date of each annuity payable from the Fund under this part as of the effective date of an increase except as follows:

(1) The first increase (if any) made under this section to an annuity which is payable from the Fund to a participant or to the surviving spouse or former spouse of a deceased participant who died in service or a deceased annuitant whose annuity was not increased under this section, shall be equal to the product (adjusted to the nearest 1/10 of 1 percent) of—

(A) 1/12 of the applicable percent change computed under subsection (b) of this section, multiplied by

(B) the number of months (counting any portion of a month as a month)—

(i) for which the annuity was payable from the Fund before the effective date of the increase, or

(ii) in the case of a surviving spouse or former spouse of a deceased annuitant whose annuity has not been so increased, since the annuity was first payable to the deceased annuitant.

(2) Effective from its commencing date, an annuity payable from the Fund under this part to the survivor of an annuitant, except a child entitled to an annuity under section 4046(c) of this title or section 4049(c) or (d) of this title, shall be increased by the total percentage increase the annuitant was receiving under this section at death.

(3) For purposes of computing or recomputing an annuity to a child under section 4046(c) or (d) of this title or section 4049(c) or (d) of this title, the items $900, $1,080, $2,700, and $3,240 appearing in section 4046(c) of this title shall be increased by the total percentage increases by which corresponding amounts are being increased under section 8340 of title 5 on the date the annuity of the child becomes effective.

(d) Exclusion of additional annuity purchased after retirement by voluntary contribution

No increase in annuity provided by this section shall be computed on any additional annuity purchased at retirement by voluntary contributions.

(e) Rounding off of amount; minimum increases

The monthly installment of annuity after adjustment under this section shall be rounded to the next lowest dollar, except such installment shall after adjustment reflect an increase of at least $1.

(f) Rate of increase for surviving spouses of annuitants electing reduced annuity

Effective from its commencing date, there shall be an increase of 10 percent in the annuity of each surviving spouse whose entitlement to annuity resulted from the death of an annuitant who, prior to October 1, 1976, elected a reduced annuity in order to provide a spouse's survivor annuity.

(g) Maximum annuity

(1) An annuity shall not be increased by reason of any adjustment under this section to an amount which exceeds the greater of—

(A) the maximum pay rate payable for class FS–1 under section 3963 of this title, 30 days before the effective date of the adjustment under this section; or

(B) the final pay (or average pay, if higher) of the former participant with respect to whom the annuity is paid, increased by the overall annual average percentage adjustments (compounded) in rates of pay of the Foreign Service Schedule under such section 3963 of this title during the period—

(i) beginning on the date the annuity commenced (or, in the case of a survivor of the retired participant, the date the participant's annuity commenced), and

(ii) ending on the effective date of the adjustment under this section.

(2) For the purposes of paragraph (1) of this subsection, "pay" means the rate of salary or basic pay as payable under any provision of law, including any provision of law limiting the expenditure of appropriated funds.

(Pub. L. 96–465, title I, §826, Oct. 17, 1980, 94 Stat. 2123; Ex. Ord. No. 12289, §1, Feb. 14, 1981, 46 F.R. 12693; Ex. Ord. No. 12446, §§2(a), 6(a), Oct. 17, 1983, 48 F.R. 48443, 48446; Pub. L. 99–335, title IV, §402(a)(3), June 6, 1986, 100 Stat. 609; Pub. L. 100–238, title II, §219, Jan. 8, 1988, 101 Stat. 1775.)

AMENDMENTS

1988—Subsec. (c)(1). Pub. L. 100–238 amended par. (1) generally. Prior to amendment, par. (1) read as follows: "The first increase (if any) made under this section to an annuity which is payable from the Fund under this part to a participant or to the surviving spouse of a deceased participant who dies in service shall be equal to the product (adjusted to the nearest 1/10 of 1 percent) of—

"(a) 1/6 of the applicable percent change determined under subsection (b) of this section, multiplied by

"(b) the number of full months for which the annuity was payable from the Fund under this part before the effective date of the increase (counting any portion of a month as a full month).

In the administration of this paragraph, the number of days of unused sick leave to the credit of a participant or deceased participant on the effective date of the then last preceding general annuity increase under this section shall be deemed to be equal to the number of days of unused sick leave to his or her credit on the day of separation from the Service."

1986—Subsecs. (a), (c). Pub. L. 99–335 inserted "under this part" after "payable from the Fund" wherever appearing.

1983—Subsec. (e). Ex. Ord. No. 12446, §2(a), substituted "rounded to the next lowest" for "fixed at the nearest".

Subsec. (g). Ex. Ord. No. 12446, §6(a), added subsec. (g).

1981—Subsec. (c)(1). Ex. Ord. No. 12289 amended first sentence of par. (1) generally. Prior to amendment, first sentence read as follows: "An annuity (except a deferred annuity) payable from the Fund to a participant who retires and receives an immediate annuity, or to a surviving spouse or former spouse of a deceased participant who dies in service or who dies after being separated with benefits under section 4009(b)(2) of this title, which has a commencing date after the effective date of the then last preceding general annuity increase under this section shall not be less than the annuity which would have been payable if the commencing date of such annuity had been the effective date of such last preceding increase."

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–238 effective 90 days after Jan. 8, 1988, see section 261(a) of Pub. L. 100–238, set out as a note under section 4054 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–335 effective Jan. 1, 1987, see section 702(a) of Pub. L. 99–335, set out as an Effective Date note under section 8401 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by section 2(a) Ex. Ord. No. 12446 effective with respect to any adjustment or redetermination of any annuity made on or after Oct. 17, 1983, see section 2(b) of Ex. Ord. No. 12446, set out under section 4067 of this title.

Amendment by section 6 of Ex. Ord. No. 12446 applicable to any adjustment occurring on or after Apr. 1, 1983 under this section to any annuity payable from the Foreign Service Retirement and Disability Fund, whether such annuity has a commencing date before, on, or after Oct. 17, 1983, but shall not cause any annuity to be reduced below the rate that is payable on Oct. 17, 1983, see section 6(b) of Ex. Ord. No. 12446, set out under section 4067 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Ex. Ord. No. 12289 effective Feb. 15, 1981, see section 3 of Ex. Ord. No. 12289, set out under section 4067 of this title.

DELAY IN COST-OF-LIVING ADJUSTMENTS DURING FISCAL YEARS 1994, 1995, AND 1996

Any cost-of-living increase scheduled to take effect during fiscal year 1994, 1995, or 1996 under this section delayed until first day of third calendar month after date such increase would otherwise take effect, see section 11001 of Pub. L. 103–66, set out as a note under section 8340 of Title 5, Government Organization and Employees.

§4067. Compatibility between retirement systems

(a) Civil Service and Foreign Service Retirement Systems

In order to maintain existing conformity between the Civil Service Retirement and Disability System under subchapter III of chapter 83 of title 5, and the Foreign Service Retirement and Disability System, whenever a law of general applicability is enacted which—

(1) affects the treatment of current or former participants, annuitants, or survivors under the Civil Service Retirement and Disability System; and

(2) affects treatment which, immediately prior to the enactment of such law, was substantially identical to the treatment accorded to participants, former participants, annuitants, or survivors under the Foreign Service Retirement and Disability System;

such law shall be extended in accordance with subsection (b) to the Foreign Service Retirement and Disability System so that it applies in like manner with respect to participants, former participants, annuitants, or survivors under that System.

(b) Regulations to implement prescribed by Executive order

The President shall by Executive order prescribe regulations to implement this section and may make such extension retroactive to a date no earlier than the effective date of the provision of law applicable to the Civil Service Retirement and Disability System. Any provision of an Executive order issued under this section shall modify, supersede, or render inapplicable, as the case may be, to the extent inconsistent therewith—

(1) all provisions of law enacted prior to the effective date of that provision of the Executive order, and

(2) any prior provision of an Executive order issued under this section.

(c) Federal Employees' Retirement and Foreign Service Pension Systems

The President shall maintain, under the same conditions and in the same manner as provided in subsections (a) and (b) existing conformity between the Federal Employees' Retirement System

provided in chapter 84 of title 5 and the Foreign Service Pension System provided in part II of this subchapter.

(Pub. L. 96–465, title I, §827, Oct. 17, 1980, 94 Stat. 2124; Pub. L. 99–335, title IV, §411, June 6, 1986, 100 Stat. 614.)

AMENDMENTS

1986—Subsec. (c). Pub. L. 99–335 added subsec. (c).

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–335 effective Jan. 1, 1987, see section 702(a) of Pub. L. 99–335, set out as an Effective Date note under section 8401 of Title 5, Government Organization and Employees.

REFERENCE TO VETERANS' ADMINISTRATION DEEMED REFERENCE TO DEPARTMENT OF VETERANS AFFAIRS

Pub. L. 102–54, §13(h)(2), June 13, 1991, 105 Stat. 275, provided that: "Any reference to the Veterans' Administration in any regulation prescribed or Executive order issued pursuant to section 827(a) of the Foreign Service Act of 1980 (22 U.S.C. 4067(a)) shall be deemed to be a reference to the Department of Veterans Affairs."

CONSTRUCTION OF SECTION WITH CIVIL SERVICE RETIREMENT SPOUSE EQUITY ACT OF 1984

This section not applicable with respect to either the amendments made by section 2 of Pub. L. 98–615 or the provisions of section 4 of Pub. L. 98–615 relating to equitable treatment under the Civil Service Retirement System for former spouses, except that, notwithstanding section 4(h) of Pub. L. 98–615, this section applicable with respect to sections 8339(j) and 8341(e) and (h) of Title 5, Government Organization and Employees, and section 4 (except subsec. (b)) of Pub. L. 98–615 to the extent that those sections apply to a qualified former wife or husband, see section 4069–1 of this title and section 4(h) of Pub. L. 98–615, set out as an Effective Date of 1984 Amendment note under section 8341 of Title 5.

RECOMMENDATIONS BY SECRETARY OF STATE TO PRESIDENT

For authority for the Secretary of State to make recommendations to the President through the Director of the Office of Management and Budget whenever action is appropriate under this section to maintain existing conformity between the Civil Service Retirement and Disability System and the Foreign Service Retirement and Disability System, see section 3 of Ex. Ord. No. 12293, Feb. 23, 1981, 46 F.R. 13969, set out as a note under section 3901 of this title.

EX. ORD. NO. 12289. CONFORMING THE FOREIGN SERVICE AND CIVIL SERVICE RETIREMENT AND DISABILITY SYSTEMS

Ex. Ord. No. 12289, Feb. 14, 1981, 46 F.R. 12693, as amended by Pub. L. 102–54, §13(h)(2), June 13, 1991, 105 Stat. 275, provided:

By the authority vested in me as President of the United States of America by Section 827 of the Foreign Service Act of 1980 (22 U.S.C. 4067), and in order to conform further the Foreign Service Retirement and Disability System to the Civil Service Retirement and Disability System, it is hereby ordered as follows:

SECTION 1. (a) Section 826(c) of the Foreign Service Act of 1980 (22 U.S.C. 4066(c)) is deemed to be amended by striking out the first sentence of paragraph (1) thereof, and inserting in lieu thereof the following sentence:

"(1) The first increase (if any) made under this section to an annuity which is payable from the Fund to a participant or to the surviving spouse of a deceased participant who dies in service shall be equal to the product (adjusted to the nearest 1/10 of 1 percent) of—

"(a) 1/6 of the applicable percent change determined under Subsection (b) of this Section, multiplied by

"(b) the number of full months for which the annuity was payable from the Fund before the effective date of the increase (counting any portion of a month as a full month).".

SEC. 2. Section 808(a) of the Foreign Service Act of 1980 (22 U.S.C. 4048(a)) is deemed to be amended by adding at the end thereof the following:

"However, if a participant retiring under this section is receiving retired pay or retainer pay for military service (except that specified in Section 8332(c)(1) or (2) of title 5 of the United States Code) or Department of Veterans Affairs pension or compensation in lieu of such retired or retainer pay, the annuity of that

participant shall be computed under this chapter excluding extra credit authorized by this subsection and excluding credit for military service from that computation. If the amount of the annuity so computed, plus the retired or retainer pay which is received, or which would be received but for the application of the limitation in Section 5532 of title 5 of the United States Code, or the Department of Veterans Affairs pension or compensation in lieu of such retired pay or retainer pay, is less than the annuity that would be payable under this chapter in the absence of the previous sentence, an amount equal to the difference shall be added to the annuity computed under this chapter.".

SEC. 3. The amendments to be deemed made by this Order shall take effect as of February 15, 1981.

EX. ORD. NO. 12446. CONFORMING THE FOREIGN SERVICE AND CIVIL SERVICE RETIREMENT AND DISABILITY SYSTEMS

Ex. Ord. No. 12446, Oct. 17, 1983, 48 F.R. 48443, provided:

By the authority vested in me as President of the United States of America by Section 827 of the Foreign Service Act of 1980 (22 U.S.C. 4067) (hereafter referred to as "the Act" [this chapter]), and in order to conform further the Foreign Service Retirement and Disability System to the Civil Service Retirement and Disability System, it is hereby ordered as follows:

SECTION 1. *Interest Rates, Deposits, Refunds, and Redeposits*. (a) The second sentence of Section 805(d)(3) of the Act (22 U.S.C. 4045(d)(3)), the first sentence of Section 815(h) (22 U.S.C. 4055(h)), and the first sentence of Section 825(a) (22 U.S.C. 4065(a)), are deemed to be amended to provide that interest shall be compounded at at the annual rate of 3 percent per annum through December 31, 1984, and thereafter at a rate equal to the overall average yield to the Fund during the preceding fiscal year from all obligations purchased by the Secretary of the Treasury during such fiscal year under section 819 [22 U.S.C. 4059], as determined by the Secretary of the Treasury.

(b) Sections 806(a) and 816(d) of the Act (22 U.S.C. 4046(a) and 4056(d)) are deemed to be amended to exclude from the computation of creditable civilian service under section 816(a) of the Act any period of civilian service for which retirement deductions or contributions have not been made under section 805(d) [22 U.S.C. 4045] of the Act unless—

(1) the participant makes a contribution for such period as provided in such section 805(d); or

(2) no contribution is required for such service as provided under section 805(f) of the Act as deemed to be amended by this Order, or under any other statute.

(c) The amendments deemed to be made by section 1 of this Order shall apply (i) to contributions for civilian service performed on or after the first day of the month following issuance of this Order [Oct. 17, 1983], (ii) to contributions for prior refunds to participants for which application is received by the employing agency on and after such first day of the month, and (iii) to excess contributions under section 815(h) [22 U.S.C. 4055(h)] and voluntary contributions under section 825(a) [22 U.S.C. 4065(a)] from the first day of the month following issuance of this Order.

SEC. 2. *Rounding Down of Annuities*. (a) Section 826(e) of the Act (22 U.S.C. 4066(e)) is deemed to be amended by striking out "fixed at the nearest" and inserting in lieu thereof "rounded to the next lowest".

(b) The amendment deemed to be made by section 2(a) of this Order shall be effective with respect to any adjustment or redetermination of any annuity made on or after the date of this Order [Oct. 17, 1983].

SEC. 3. *Later Commencement Date For Certain Annuities.*

(a) Section 807(a) of the Act (22 U.S.C. 4047(a)) is deemed to be amended to read as follows:

"(a)(1) Except as otherwise provided in paragraph (2), the annuity of a participant who has met the eligibility requirements for an annuity shall commence on the first day of the month after—

"(A) separation from the Service occurs; or

"(B) pay ceases and the service and age requirements for entitlement to annuity are met.

"(2) The annuity of—

"(A) a participant who is retired and is eligible for benefits under section 609(a) [22 U.S.C. 4009(a)] or a participant who is retired under section 813 [22 U.S.C. 4053] or is otherwise involuntarily separated from the Service, except by removal for cause on charges of misconducted or delinquency.

"(B) a participant retiring under section 808 [22 U.S.C. 4048] due to a disability, and

"(C) a participant who serves 3 days or less in the month of retirement—

shall commence on the day after separation from the Service or the day after pay ceases and the requirements for entitlement to annuity are met.".

(b) The amendment deemed to be made by paragraph 3(a) of this Order shall become effective thirty days after the effective date of this Order [Oct. 17, 1983].

SEC. 4. *Credit For Military Service*. (a) Section 805 of the Act (22 U.S.C. 4045) is deemed to be amended—

(i) by striking out subsection (e) and substituting the following subsection in lieu thereof:

"(e)(1) Each participant who has performed military or naval service before the date of separation on which the entitlement to any annuity under this chapter is based may pay to the Secretary a special contribution equal to 7 percent of the amount of the basic pay paid under section 204 of title 37 of the United States Code, to the participant for each period of military or naval service after December 1956. The amount of such payments shall be based on such evidence of basic pay for military service as the participant may provide or if the Secretary determines sufficient evidence has not been so provided to adequately determine basic pay for military or naval service, such payment shall be based upon estimates of such basic pay provided to the Department under paragraph (4).

"(2) Any deposit made under paragraph (1) of this subsection more than two years after the later of—

"(A) the effective date of this Order, or

"(B) the date on which the participant making the deposit first became a participant in a Federal staff retirement system for civilian employees,—

shall include interest on such amount computed and compounded annually beginning on the date of the expiration of the two-year period. The interest rate that is applicable in computing interest in any year under this paragraph shall be equal to the interest rate that is applicable for such year under subsection (d) of this section.

"(3) Any payment received by the Secretary under this section shall be remitted to the Fund.

"(4) The Secretary of Defense, the Secretary of Transportation, the Secretary of Commerce, or the Secretary of Health and Human Services, as appropriate, shall furnish such information to the Secretary as the Secretary may determine to be necessary for the administration of this subsection.

"(f) Contributions shall only be required to obtain credit for periods of military or naval service to the extent provided under section 805(e) [22 U.S.C. 4045(e)] and section 816(a) [22 U.S.C. 4056(a)], except that credit shall be allowed in the absence of contributions to individuals of Japanese ancestry under section 816 [22 U.S.C. 4056] for periods of internment during World War II."; and—

(ii) by redesignating subsection (f) as subsection (g).

(b) Section 816(a) of the Act (22 U.S.C. 4056(a)) is deemed to be amended by adding "(1)" after "(a)" and by adding the following new paragraphs at the end thereof:

"(2) The service of an individual who first becomes a participant on or after the date of this Order without any credit under section 816 for civilian service performed prior to October 1, 1982, shall include credit for:

"(A) each period of military or naval service performed before January 1, 1957, and

"(B) each period of military or naval service performed after December 31, 1956, and before the separation on which the entitlement to annuity under this chapter is based, only if a deposit (with interest if any is required) is made with respect to that period, as provided in section 805(e) [22 U.S.C. 4045(e)].

"(3) The service of an individual who first became a participant on or after the date of this Order with credit under section 816 [22 U.S.C. 4056] for civilian service performed prior to October 1982, shall include credit for each period of military or naval service performed before the date of the separation on which the entitlement to an annuity under this chapter is based, subject, in the case of military or naval service performed after December 1956, to section 816(j) [22 U.S.C. 4056(j)], as deemed to be added by this Order.

"(4) The service of an individual who first became a participant before the date of this Order shall include credit for each period of military or naval service performed before the date of the separation on which the entitlement to an annuity under this chapter is based, subject, in the case of military or naval service performed after December 1976, to section 816(j) [22 U.S.C. 4056(j)], as deemed to be added by this Order";

(c) Section 816 of the Act (22 U.S.C. 4056) is deemed to be further amended by adding a new subsection (j) at the end thereof to read as follows:

"(1) Except as otherwise provided by statute or Executive Order, Section 8332(j) of Title 5, United States Code, relating to redetermination of credit for military and naval service, shall be applied to annuities payable under this chapter. The Secretary of State shall redetermine service, and may request and obtain information from the Secretary of Health and Human Services, as the Office of Personnel Management is directed or authorized to do in Section 8332(j).

"(2) Section 8332(j) of Title 5, United States Code, shall not apply with respect to:

"(A) the service of any individual who first became a participant on or after the date of this Order without any credit under section 816 [22 U.S.C. 4056] for civilian service performed prior to October 1982; or

"(B) any military or naval service performed prior to 1957 by an individual who first became a participant on or after the date of this Order with credit under section 816 [22 U.S.C. 4056] for civilian service performed prior to October 1982, or any period of military or naval service performed after 1956 with respect to which the participant has made a contribution (with interest if any is required) under section 805(e) [22 U.S.C. 4045(e)]; or

"(C) any military or naval service performed prior to 1977 by any individual who first became a participant before the date of this Order or any period of military or naval service performed after 1976 with respect to which the participant has made a contribution (with interest if any is required) under section 805(e) [22 U.S.C. 4045(e)]."

(d) Section 822(a) of the Act (22 U.S.C. 4062(a)) is deemed to be amended by striking out the period at the end thereof and inserting in lieu thereof: ", less an amount determined by the Secretary of State to be appropriate to reflect the value of the deposits made to the credit of the Fund under section 805(e).".

(e) The amendments deemed to be made by Section 4 of this Order shall be effective on the date of this Order [Oct. 17, 1983].

SEC. 5. *Recomputation at Age 62 of Credit for Military Service of Current Annuitants*. (a) Section 816(a) of the Act (22 U.S.C. 4056(a)) is deemed to be further amended so that the provisions of section 8332(j) of Title 5 of the United States Code, relating to credit for military service, shall not apply with respect to any individual who is entitled to an annuity under such Act [this chapter] on or before the date of approval of this order [Oct. 17, 1983], or who is entitled to an annuity based on a separation from service occurring on or before such date.

(b) Subject to subsection (c), in any case in which an individual described in subsection (a) is also entitled to old-age or survivors insurance benefits under section 202 of the Social Security Act [42 U.S.C. 402] (or would be entitled to such benefits upon filing application therefor), the amount of the annuity to which such individual is entitled under chapter 8 of the Act [this subchapter] (after taking into account subsection (a)) which is payable for any month shall be reduced by an amount determined by multiplying the amount of such old-age or survivors insurance benefit for the determination month by a fraction—

(1) the numerator of which is the total of the wages (within the meaning of section 209 of the Social Security Act [42 U.S.C. 409]) for service referred to in section 210(1) of such Act [42 U.S.C. 410] (relating to service in the uniformed services) and deemed additional wages (within the meaning of section 229 of such Act [42 U.S.C. 429]) of such individual credited for years after 1956 and before the calendar year in which the determination month occurs, up to the contribution and benefit base determined under section 230 of the Social Security Act [42 U.S.C. 415(e)(1)]) (or other applicable maximum annual amount referred to in section 215(e)(1) of such Act [42 U.S.C. 409]) for each such year, and

(2) the denominator of which is the total of all wages deemed additional wages described in paragraph (1) of this subsection plus all other wages (within the meaning of section 209 of the Social Security Act [42 U.S.C. 409]) and all self-employment income (within the meaning of section 211(b) of such Act [42 U.S.C. 411(b)]) of such individual credited for years after 1936 and before the calendar year in which the determination month occurs, up to the contribution and benefit base (or such other amount referred to in such section 215(e)(1) of such Act [42 U.S.C. 415(e)(1)]) for each such year.

(c) Subsection (b) shall not reduce the annuity of any individual below the amount of the annuity which would be payable under chapter 8 of the Act [this subchapter] to the individual for the determination month if section 8332(j) of Title 5 of the United States Code applied to the individual for such month.

(d) For purposes of this section, the term "determination month" means—

(1) the first month the individual described in subsection (a) is entitled to old-age or survivors insurance benefits under section 202 of the Social Security Act [42 U.S.C. 402] (or would be entitled to such benefits upon filing application therefor); or

(2) the first day of the month following the month in which this Order is issued [Oct. 17, 1983] in the case of any individual so entitled to such benefits for such month.

(e) The preceding provisions of this section shall take effect with respect to any annuity payment payable under chapter 8 of the Act [this subchapter] for calendar months beginning after the date of this Order [Oct. 17, 1983].

(f) The Secretary of Health and Human Services shall furnish such information to the Secretary of State as may be necessary to carry out the preceding provisions of this section.

SEC. 6. *General Limitation on Cost-of-Living Adjustment for Annuities*. (a) Section 826 of the Act (22 U.S.C. 4066) is deemed to be amended to add at the end thereof the following new subsection:

"(g)(1) An annuity shall not be increased by reason of any adjustment under this section to an amount which exceeds the greater of—

"(A) the maximum pay rate payable for class FS–1 under section 403, 30 days before the effective date of the adjustment under this section; or

"(B) the final pay (or average pay, if higher) of the former participant with respect to whom the annuity is paid, increased by the overall annual average percentage adjustments (compounded) in rates of pay of the Foreign Service Schedule under such section 403 during the period—

"(i) beginning on the date the annuity commenced (or, in the case of a survivor of the retired participant, the

date the participant's annuity commenced), and

"(ii) ending on the effective date of the adjustment under this section.

"(2) For the purposes of paragraph (1) of this subsection, 'pay' means the rate of salary or basic pay as payable under any provision of law, including any provision of law limiting the expenditure of appropriated funds.".

(b) The amendment made by subsection (a) of this Section shall not cause any annuity to be reduced below the rate that is payable on the date of approval of this Order [Oct. 17, 1983], but shall apply to any adjustment occurring on or after April 1, 1983 under Section 826 of the Act [22 U.S.C. 4066] to any annuity payable from the Foreign Service Retirement and Disability Fund, whether such annuity has a commencing date before, on, or after the date of this Order.

RONALD REAGAN.

EX. ORD. NO. 13105. OPEN ENROLLMENT SEASON FOR PARTICIPANTS IN THE FOREIGN SERVICE RETIREMENT AND DISABILITY SYSTEM AND THE CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

Ex. Ord. No. 13105, Nov. 2, 1998, 63 F.R. 60201, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 827 of the Foreign Service Act of 1980 (22 U.S.C. 4067) and section 292 of the Central Intelligence Agency Retirement Act of 1964 (50 U.S.C. 2141), and in order to conform further the Foreign Service Retirement and Disability System and the Central Intelligence Agency Retirement and Disability System to the Civil Service Retirement and Disability System, it is hereby ordered as follows:

SECTION 1. In conjunction with section 860 of the Foreign Service Act of 1980 (22 U.S.C. 4071i), the Secretary of State shall issue regulations providing for an open enrollment period from November 1, 1998, to April 30, 1999, during which employee participants in the Foreign Service Retirement and Disability System may elect to become subject to the Foreign Service Pension System.

SEC. 2. In conjunction with section 307(a) of the Central Intelligence Agency Retirement Act of 1964 (50 U.S.C. 2157(a)), the Director shall provide for an open enrollment period from November 1, 1998, to April 30, 1999, during which employee participants in the Central Intelligence Agency Retirement and Disability System may elect to become subject to the Federal Employees' Retirement System, comparable to the election for civil service employees provided for by the Federal Employees' Retirement System Open Enrollment Act of 1997, Public Law 105–61 [5 U.S.C. 8331 note].

WILLIAM J. CLINTON.

EX. ORD. NO. 13297. APPLYING THE FEDERAL PHYSICIANS COMPARABILITY ALLOWANCE AMENDMENTS OF 2000 TO PARTICIPANTS IN THE FOREIGN SERVICE RETIREMENT AND DISABILITY SYSTEM, THE FOREIGN SERVICE PENSION SYSTEM, AND THE CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

Ex. Ord. No. 13297, Apr. 23, 2003, 68 F.R. 22565, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 827 of the Foreign Service Act of 1980 (22 U.S.C. 4067), section 292 of the Central Intelligence Agency Retirement Act of 1964 (50 U.S.C. 2141), and section 301 of title 3, United States Code, and in order to conform the Foreign Service Retirement and Disability System, the Foreign Service Pension System, and the Central Intelligence Agency Retirement and Disability System to the Civil Service Retirement System, it is hereby ordered as follows:

SECTION 1. *Foreign Service Retirement and Disability System*. (a) The following provisions of the Federal Physicians Comparability Allowance Amendments of 2000 (Public Law 106–571) [see Tables for classification] shall apply to the Foreign Service Retirement and Disability System, subchapter I of chapter 8 of the Foreign Service Act of 1980 [22 U.S.C. 4041 et seq.], as amended:

(i) Section 3(a) of Public Law 106–571 [amending section 8331 of Title 5, Government Organization and Employees] to provide that any amount received under section 5948 of title 5, United States Code (physicians comparability allowance), be included in the definition of basic pay; and

(ii) Section 3(b) of Public Law 106–571 [amending sections 8331 and 8339 of Title 5] to provide for the inclusion of the physicians comparability allowance in the computation of an annuity under the same rules that apply with respect to the Civil Service Retirement System.

(b) The Secretary of State shall issue regulations that reflect the application of sections 3(a) and 3(b) of Public Law 106–571 to the Foreign Service Retirement and Disability System. Such regulations shall provide that the foregoing provisions be retroactive to December 28, 2000.

SEC. 2. *Foreign Service Pension System*. (a) The following provisions of the Federal Physicians Comparability Allowance Amendments of 2000 (Public Law 106–571) shall apply to the Foreign Service Pension System, subchapter II of chapter 8 of the Foreign Service Act of 1980 [22 U.S.C. 4071 et seq.], as amended:

(i) Section 3(a) of Public Law 106–571 to provide that any amount received under section 5948 of title 5, United States Code (physicians comparability allowance), be included in the definition of basic pay; and

(ii) Section 3(c) of Public Law 106–571 [amending sections 8401 and 8415 of Title 5] to provide for the inclusion of the physicians comparability allowance in the computation of an annuity under the same rules that apply with respect to the Federal Employees Retirement System.

(b) The Secretary of State shall issue regulations that reflect the application of sections 3(a) and 3(c) of Public Law 106–571 to the Foreign Service Pension System. Such regulations shall provide that the foregoing provisions be retroactive to December 28, 2000.

SEC. 3. *Central Intelligence Agency Retirement and Disability System.*

(a) The following provisions of the Federal Physicians Comparability Allowance Amendments of 2000 (Public Law 106–571) shall apply to the Central Intelligence Agency Retirement and Disability System, title II of the Central Intelligence Agency Retirement Act of 1964 [50 U.S.C. 2011 et seq.], as amended:

(i) Section 3(a) of Public Law 106–571 to provide that any amount received under section 5948 of title 5, United States Code (physicians comparability allowance), be included in the definition of basic pay; and

(ii) Section 3(b) of Public Law 106–571 to provide for the inclusion of the physicians comparability allowance in the computation of an annuity under the same rules that apply with respect to the Civil Service Retirement System.

(b) The Director of Central Intelligence shall issue regulations to reflect the application of sections 3(a) and 3(b) of Public Law 106–571 to the Central Intelligence Agency Retirement and Disability System. Such regulations shall provide that the foregoing provisions be retroactive to December 28, 2000.

SEC. 4. *Judicial Review*. This order is not intended to create, nor does it create any right, benefit, or privilege, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, employees, or any other person.

GEORGE W. BUSH.

§4068. Remarriage

Notwithstanding any other provision of this part, any benefit payable under this part to a surviving spouse, former spouse, or surviving former spouse that would otherwise terminate or be lost if the individual remarried before 60 years of age, shall not terminate or be lost if the remarriage occurred on or after November 8, 1984, and the individual was 55 years of age or over on the date of the remarriage.

(Pub. L. 96–465, title I, §828, as added Pub. L. 99–335, title IV, §412, June 6, 1986, 100 Stat. 614.)

EFFECTIVE DATE

Section effective Jan. 1, 1987, see section 702(a) of Pub. L. 99–335, set out as a note under section 8401 of Title 5, Government Organization and Employees.

§4069. Thrift Savings Fund participation

Participants in this System shall be deemed to be employees for the purposes of section 8351 of title 5. Any reference in such section 8351 or in subchapter III of chapter 84 of such title 5 to retirement or separation under subchapter III of chapter 83 or chapter 84 of such title 5 shall be deemed to be references to retirement or separation under part I or II of this subchapter with similar benefits or entitlements with respect to participants under such part I or II, respectively.

(Pub. L. 96–465, title I, §829, as added Pub. L. 99–556, title IV, §404(a), Oct. 27, 1986, 100 Stat. 3137.)

EFFECTIVE DATE

Section effective Jan. 1, 1987, see section 408 of Pub. L. 99–556, set out as an Effective Date of 1986 Amendment note under section 4046 of this title.

§4069–1. Qualified former wives and husbands

(a) Construction with provisions relating to compatibility between retirement systems; effective dates

Notwithstanding section 4(h) of the Civil Service Retirement Spouse Equity Act of 1984, section 4067 of this title shall apply with respect to section 8339(j), section 8341(e), and section 8341(h) of title 5, and section 4 (except for subsection (b)) of the Civil Service Retirement Spouse Equity Act of 1984 to the extent that those sections apply to a qualified former wife or husband. For the purposes of this section any reference in the Civil Service Retirement Spouse Equity Act of 1984 to the effective date of that Act shall be deemed to be a reference to the effective date of this section.

(b) Payments to other persons as provided in court order or spousal agreement

(1) Payments pursuant to this section which would otherwise be made to a participant or former participant based upon his service shall be paid (in whole or in part) by the Secretary of State to another person if and to the extent expressly provided for in the terms of any court order or spousal agreement. Any payment under this paragraph to a person bars recovery by any other person.

(2) Paragraph (1) shall only apply to payments made by the Secretary of State under this subchapter after the date of receipt by the Secretary of State of written notice of such court order or spousal agreement and such additional information and documentation as the Secretary of State may prescribe.

(c) "Qualified former wife or husband" defined

For the purposes of this section, the term "qualified former wife or husband" means a former wife or husband of an individual if—

(1) such individual performed at least 18 months of civilian service creditable under this subchapter; and

(2) the former wife or husband was married to such individual for at least 9 months but not more than 10 years.

(d) Promulgation of regulations

Regulations issued pursuant to section 4067 of this title to implement this section shall be submitted to the Committee on Post Office and Civil Service and the Committee on Foreign Affairs of the House of Representatives and the Committee on Governmental Affairs and the Committee on Foreign Relations of the Senate. Such regulations shall not take effect until 60 days after the date on which such regulations are submitted to the Congress.

(Pub. L. 96–465, title I, §830, as added Pub. L. 100–238, title II, §202(a), Jan. 8, 1988, 101 Stat. 1768.)

REFERENCES IN TEXT

The Civil Service Retirement Spouse Equity Act of 1984, referred to in subsec. (a), is Pub. L. 98–615, Nov. 8, 1984, 98 Stat. 3195, as amended. Section 4 of that Act is set out as a note under section 8341 of Title 5, Government Organization and Employees. For complete classification of this Act to the Code, see Short Title of 1984 Amendment note set out under section 8331 of Title 5 and Tables.

For effective date of this section, referred to in subsec. (a), see Effective Date note set out below.

CODIFICATION

Another section 830 of the Foreign Service Act of 1980 was enacted by Pub. L. 100–204 and is classified to section 4069a of this title.

CHANGE OF NAME

Committee on Governmental Affairs of Senate changed to Committee on Homeland Security and Governmental Affairs of Senate, effective Jan. 4, 2005, by Senate Resolution No. 445, One Hundred Eighth Congress, Oct. 9. 2004.

EFFECTIVE DATE

Section applicable to any individual who, on or after Jan. 8, 1988, is married to a participant or former participant, see section 261(b)(1) of Pub. L. 100–238, set out as an Effective Date of 1988 Amendment note under section 4054 of this title.

ABOLITION OF HOUSE COMMITTEE ON POST OFFICE AND CIVIL SERVICE

Committee on Post Office and Civil Service of House of Representatives abolished by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995. References to Committee on Post Office and Civil Service treated as referring to Committee on Government Reform and Oversight of House of Representatives, see section 1(b) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Government Reform and Oversight of House of Representatives changed to Committee on Government Reform of House of Representatives by House Resolution No. 5, One Hundred Sixth Congress, Jan. 6, 1999. Committee on Government Reform of House of Representatives changed to Committee on Oversight and Government Reform of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§4069a. Retirement benefits for certain former spouses

(a) Eligibility; percentage of benefits

Any individual who was a former spouse of a participant or former participant on February 14, 1981, shall be entitled, to the extent or in such amounts as are provided in advance in appropriations Acts, and except to the extent such former spouse is disqualified under subsection (b), to benefits—

(1) if married to the participant throughout the creditable service of the participant, equal to 50 percent of the benefits of the participant; or

(2) if not married to the participant throughout such creditable service, equal to that former spouse's pro rata share of 50 percent of such benefits.

(b) Disqualification

A former spouse shall not be entitled to benefits under this section if—

(1) the former spouse remarries before age 55; or

(2) the former spouse was not married to the participant at least 10 years during service of the participant which is creditable under this subchapter with at least 5 years occurring while the participant was a member of the Foreign Service.

(c) Period of entitlement; construction with other provisions; application approval and payment

(1) The entitlement of a former spouse to benefits under this section—

(A) shall commence on the later of—

(i) the day the participant upon whose service the benefits are based becomes entitled to benefits under this subchapter; or

(ii) the first day of the month in which the divorce or annulment involved becomes final; and

(B) shall terminate on the earlier of—

(i) the last day of the month before the former spouse dies or remarries before 55 years of age; or

(ii) the date the benefits of the participant terminates.

(2) Notwithstanding paragraph (1), in the case of any former spouse of a disability annuitant—

(A) the benefits of the former spouse shall commence on the date the participant would qualify on the basis of his or her creditable service for benefits under this subchapter (other than a disability annuity) or the date the disability annuity begins, whichever is later, and

(B) the amount of benefits of the former spouse shall be calculated on the basis of benefits for which the participant would otherwise so qualify.

(3) Benefits under this section shall be treated the same as an annuity under section 4054(a)(7) of

this title for purposes of section 4046(h) of this title or any comparable provision of law.

(4)(A) Benefits under this section shall not be payable unless appropriate written application is provided to the Secretary, complete with any supporting documentation which the Secretary may by regulation require, within 30 months after December 22, 1987. The Secretary may waive the 30-month application requirement under this subparagraph in any case in which the Secretary determines that the circumstances so warrant.

(B) Upon approval of an application provided under subparagraph (A), the appropriate benefits shall be payable to the former spouse with respect to all periods before such approval during which the former spouse was entitled to such benefits under this section, but in no event shall benefits be payable under this section with respect to any period before December 22, 1987.

(d) "Benefits" defined

For the purposes of this section, the term "benefits" means—

(1) with respect to a participant or former participant subject to this part, the annuity of the participant or former participant; and

(2) with respect to a participant or former participant subject to part II, the benefits of the participant or former participant under that part.

(e) Effect of section on annuity

Nothing in this section shall be construed to impair, reduce, or otherwise affect the annuity or the entitlement to an annuity of a participant or former participant under this subchapter.

(f) Former spouses of United States Information Agency and Agency for International Development employees

Any individual who on February 14, 1981, was an otherwise qualified former spouse pursuant to this section, but who was married to a former Foreign Service employee of the United States Information Agency or of the Agency for International Development, shall be entitled to benefits under this section if—

(1) the former employee retired from the Civil Service Retirement and Disability System on a date before his employing agency could legally participate in the Foreign Service Retirement and Disability System; and

(2) the marriage included at least five years during which the employee was assigned overseas.

(Pub. L. 96–465, title I, §830, as added Pub. L. 100–204, title I, §188(a), Dec. 22, 1987, 101 Stat. 1369; amended Pub. L. 101–246, title I, §146(a), Feb. 16, 1990, 104 Stat. 37.)

CODIFICATION

Another section 830 of the Foreign Service Act of 1980 was enacted by Pub. L. 100–238 and is classified to section 4069–1 of this title.

AMENDMENTS

1990—Subsec. (f). Pub. L. 101–246 added subsec. (f).

TRANSFER OF FUNCTIONS

United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau) abolished and functions transferred to Secretary of State, see sections 6531 and 6532 of this title.

§4069a–1. Retirement benefits for certain former spouses

(a) Eligibility; percentage of benefits

Any individual who was a former spouse of a participant or former participant on February 14, 1981, shall be entitled, to the extent of available appropriations, and except to the extent such former spouse is disqualified under subsection (b), to benefits—

(1) if married to the participant throughout the creditable service of the participant, equal to 50 percent of the benefits of the participant; or

(2) if not married to the participant throughout such creditable service, equal to that former spouse's pro rata share of 50 percent of such benefits.

(b) Disqualification

A former spouse shall not be entitled to benefits under this section if—

(1) the former spouse remarries before age 55; or

(2) the former spouse was not married to the participant at least 10 years during service of the participant which is creditable under this subchapter with at least 5 years occurring while the participant was a member of the Foreign Service.

(c) Period of entitlement; construction with other provisions; application approval and payment

(1) The entitlement of a former spouse to benefits under this section—

(A) shall commence on the later of—

(i) the day the participant upon whose service the benefits are based becomes entitled to benefits under this subchapter; or

(ii) the first day of the month in which the divorce or annulment involved becomes final; and

(B) shall terminate on the earlier of—

(i) the last day of the month before the former spouse dies or remarries before 55 years of age; or

(ii) the date of the benefits of the participant terminates.

(2) Notwithstanding paragraph (1), in the case of any former spouse of a disability annuitant—

(A) the benefits of the former spouse shall commence on the date the participant would qualify on the basis of his or her creditable service for benefits under this subchapter (other than a disability annuity) or the date the disability annuity begins, whichever is later, and

(B) the amount of benefits of the former spouse shall be calculated on the basis of benefits for which the participant would otherwise so qualify.

(3) Benefits under this section shall be treated the same as an annuity under section 4054(a)(7) of this title for purposes of section 4046(h) of this title or any comparable provision of law.

(4)(A) Benefits under this section shall not be payable unless appropriate written application is provided to the Secretary, complete with any supporting documentation which the Secretary may by regulation require, within 30 months after the effective date of this section. The Secretary may waive the 30-month application requirement under this subparagraph in any case in which the Secretary determines that the circumstances so warrant.

(B) Upon approval of an application provided under subparagraph (A), the appropriate benefits shall be payable to the former spouse with respect to all periods before such approval during which the former spouse was entitled to such benefits under this section, but in no event shall benefits be payable under this section with respect to any period before the effective date of this section.

(d) "Benefits" defined

For the purpose of this section, the term "benefits" means—

(1) with respect to a participant or former participant subject to this part, the annuity of the participant or former participant; and

(2) with respect to a participant or former participant subject to part II, the benefits of the participant or former participant under that part.

(e) Effect of section on annuity

Nothing in this section shall be construed to impair, reduce, or otherwise affect the annuity or the entitlement to an annuity of a participant or former participant under this subchapter.

(Pub. L. 96–465, title I, §831, as added Pub. L. 100–238, title II, §204(a), Jan. 8, 1988, 101 Stat. 1770.)

REFERENCES IN TEXT

For the effective date of this section, referred to in subsec. (c)(4), see Effective Date note set out below.

CODIFICATION

Another section 831 of the Foreign Service Act of 1980 was enacted by Pub. L. 100–204 and is classified to section 4069b of this title.

EFFECTIVE DATE

Section effective 90 days after Jan. 8, 1988, see section 261(a) of Pub. L. 100–238, set out as an Effective Date of 1988 Amendment note under section 4054 of this title.

§4069b. Survivor benefits for certain former spouses

(a) Eligibility; amount of annuity

Any individual who was a former spouse of a participant or former participant on February 14, 1981, shall be entitled, to the extent or in such amounts as are provided in advance in appropriations Acts, and except to the extent such former spouse is disqualified under subsection (b), to a survivor annuity equal to 55 percent of the greater of—

(1) the full amount of the participant's or former participant's annuity, as computed under this subchapter; or

(2) the full amount of what such annuity as so computed would be if the participant or former participant had not withdrawn a lump-sum portion of contributions made with respect to such annuity.

(b) Election by former spouse

If an election has been made with respect to such former spouse under section 4159 or 4046(f) of this title, then the survivor annuity under subsection (a) of such former spouse shall be equal to the full amount of the participant's or former participant's annuity referred to in subsection (a) less the amount of such election.

(c) Disqualification

A former spouse shall not be entitled to a survivor annuity under this section if—

(1) the former spouse remarries before age 55; or

(2) the former spouse was not married to the participant at least 10 years during service of the participant which is creditable under this subchapter with at least 5 years occurring while the participant was a member of the Foreign Service.

(d) Period of entitlement; application approval and payment

(1) The entitlement of a former spouse to a survivor annuity under this section—

(A) shall commence—

(i) in the case of a former spouse of a participant or former participant who is deceased as of December 22, 1987, beginning on December 22, 1987; and

(ii) in the case of any other former spouse, beginning on the later of—

(I) the date that the participant or former participant to whom the former spouse was married dies; or

(II) December 22, 1987; and

(B) shall terminate on the last day of the month before the former spouse's death or remarriage before attaining the age 55.

(2)(A) A survivor annuity under this section shall not be payable unless appropriate written application is provided to the Secretary, complete with any supporting documentation which the Secretary may by regulation require, within 30 months after December 22, 1987. The Secretary may waive the 30-month application requirement under this subparagraph in any case in which the Secretary determines that the circumstances so warrant.

(B) Upon approval of an application provided under subparagraph (A), the appropriate survivor annuity shall be payable to the former spouse with respect to all periods before such approval during which the former spouse was entitled to such annuity under this section, but in no event shall a survivor annuity be payable under this section with respect to any period before December 22, 1987.

(e) Promulgation of regulations; notification of rights

The Secretary shall—

(1) as soon as possible, but not later than 60 days after December 22, 1987, issue such regulations as may be necessary to carry out this section; and

(2) to the extent practicable, and as soon as possible, inform each individual who was a former spouse of a participant or former participant on February 14, 1981, of any rights which such individual may have under this section.

(f) Effect of section on annuity

Nothing in this section shall be construed to impair, reduce, or otherwise affect the annuity or the entitlement to an annuity of a participant or former participant under this subchapter.

(g) Former spouses of United States Information Agency and Agency for International Development employees

Any individual who on February 14, 1981, was an otherwise qualified former spouse pursuant to this section, but who was married to a former Foreign Service employee of the United States Information Agency or of the Agency of International Development, shall be entitled to benefits under this section if—

(1) the former employee retired from the Civil Service Retirement and Disability System on a date before his employing agency could legally participate in the Foreign Service Retirement and Disability System; and

(2) the marriage included at least five years during which the employee was assigned overseas.

(Pub. L. 96–465, title I, §831, as added Pub. L. 100–204, title I, §188(a), Dec. 22, 1987, 101 Stat. 1370; amended Pub. L. 101–246, title I, §146(b), Feb. 16, 1990, 104 Stat. 37.)

CODIFICATION

Another section 831 of the Foreign Service Act of 1980 was enacted by Pub. L. 100–238 and is classified to section 4069a–1 of this title.

AMENDMENTS

1990—Subsec. (g). Pub. L. 101–246 added subsec. (g).

TRANSFER OF FUNCTIONS

United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau) abolished and functions transferred to Secretary of State, see sections 6531 and 6532 of this title.

§4069b–1. Survivor benefits for certain former spouses

(a) Eligibility; amount of annuity

Any individual who was a former spouse of a participant or former participant on February 14, 1981, shall be entitled, to the extent of available appropriations, and except to the extent such former spouse is disqualified under subsection (b), to a survivor annuity equal to 55 percent of the greater of—

(1) the full amount of the participant's or former participant's annuity, as computed under this subchapter; or

(2) the full amount of what such annuity as so computed would be if the participant or former participant had not withdrawn a lump-sum portion of contributions made with respect to such annuity.

(b) Election by former spouse

If an election has been made with respect to such former spouse under section 4159 or 4046(f) of this title, then the survivor annuity under subsection (a) of such former spouse shall be equal to the full amount of the participant's or former participant's annuity referred to in subsection (a) less the amount of such election.

(c) Disqualification

A former spouse shall not be entitled to a survivor annuity under this section if—

(1) the former spouse remarries before age 55; or

(2) the former spouse was not married to the participant at least 10 years during service of the participant which is creditable under this subchapter with at least 5 years occurring while the participant was a member of the Foreign Service.

(d) Period of entitlement; application approval and payment

(1) The entitlement of a former spouse to a survivor annuity under this section—

(A) shall commence—

(i) in the case of a former spouse of a participant or former participant who is deceased as of the effective date of this section, beginning on such date; and

(ii) in the case of any other former spouse, beginning on the later of—

(I) the date that the participant or former participant to whom the former spouse was married dies; or

(II) the effective date of this section; and

(B) shall terminate on the last day of the month before the former spouse's death or remarriage before attaining the age 55.

(2)(A) A survivor annuity under this section shall not be payable unless appropriate written application is provided to the Secretary, complete with any supporting documentation which the Secretary may by regulation require, within 30 months after the effective date of this section. The Secretary may waive the 30-month application requirement under this subparagraph in any case in which the Secretary determines that the circumstances so warrant.

(B) Upon approval of an application provided under subparagraph (A), the appropriate survivor annuity shall be payable to the former spouse with respect to all periods before such approval during which the former spouse was entitled to such annuity under this section, but in no event shall a survivor annuity be payable under this section with respect to any period before the effective date of this section.

(e) Promulgation of regulations; notification of rights

The Secretary shall—

(1) as soon as possible, but not later than 60 days after the effective date of this section, issue such regulations as may be necessary to carry out this section; and

(2) to the extent practicable, and as soon as possible, inform each individual who was a former spouse of a participant or former participant on February 14, 1981, of any rights which such individual may have under this section.

(f) Effect of section on annuity

Nothing in this section shall be construed to impair, reduce, or otherwise affect the annuity or the entitlement to an annuity of a participant or former participant under this subchapter.

(Pub. L. 96–465, title I, §832, as added Pub. L. 100–238, title II, §204(a), Jan. 8, 1988, 101 Stat. 1771.)

REFERENCES IN TEXT

For the effective date of this section, referred to in subsecs. (d)(1)(A)(i), (ii)(II), (2) and (e)(1), see Effective Date note set out below.

CODIFICATION

Another section 832 of the Foreign Service Act of 1980 was enacted by Pub. L. 100–204 and is classified to section 4069c of this title.

EFFECTIVE DATE

Section effective 90 days after Jan. 8, 1988, see section 261(a) of Pub. L. 100–238, set out as an Effective Date of 1988 Amendment note under section 4054 of this title.

§4069c. Health benefits for certain former spouses

(a) Eligibility

Except as provided in subsection (c)(1), any individual—

(1) formerly married to an employee or former employee of the Foreign Service, whose marriage was dissolved by divorce or annulment before May 7, 1985;

(2) who, at any time during the 18-month period before the divorce or annulment became final, was covered under a health benefits plan as a member of the family of such employee or former employee; and

(3) who was married to such employee for not less than 10 years during periods of government service by such employee, is eligible for coverage under a health benefits plan in accordance with the provisions of this section.

(b) Prerequisites for enrollment; notification of rights

(1) Any individual eligible for coverage under subsection (a) may enroll in a health benefits plan for self alone or for self and family if, before the expiration of the 6-month period beginning on December 22, 1987, and in accordance with such procedures as the Director of the Office of Personnel Management shall by regulation prescribe, such individual—

(A) files an election for such enrollment; and

(B) arranges to pay currently into the Employees Health Benefits Fund under section 8909 of title 5 an amount equal to the sum of the employee and agency contributions payable in the case of an employee enrolled under chapter 89 of such title in the same health benefits plan and with the same level of benefits.

(2) The Secretary shall, as soon as possible, take all steps practicable—

(A) to determine the identity and current address of each former spouse eligible for coverage under subsection (a); and

(B) to notify each such former spouse of that individual's rights under this section.

(3) The Secretary shall waive the 6-month limitation set forth in paragraph (1) in any case in which the Secretary determines that the circumstances so warrant.

(c) Disqualification

(1) Any former spouse who remarries before age 55 is not eligible to make an election under subsection (b)(1).

(2) Any former spouse enrolled in a health benefits plan pursuant to an election under subsection (b)(1) may continue the enrollment under the conditions of eligibility which the Director of the Office of Personnel Management shall by regulation prescribe, except that any former spouse who remarries before age 55 shall not be eligible for continued enrollment under this section after the end of the 31-day period beginning on the date of remarriage.

(d) Prohibition on coverage by more than one plan

No individual may be covered by a health benefits plan under this section during any period in which such individual is enrolled in a health benefits plan under any other authority, nor may any individual be covered under more than one enrollment under this section.

(e) "Health benefits plan" defined

For purposes of this section the term "health benefits plan" means an approved health benefits plan under chapter 89 of title 5.

(f) Former spouses of United States Information Agency and Agency for International Development employees

Any individual who on February 14, 1981, was an otherwise qualified former spouse pursuant to subsections (a), (b), and (c) of this section, but who was married to a former Foreign Service employee of the United States Information Agency or of the Agency for International Development, shall be entitled to benefits under this section if—

(1) the former employee retired from the Civil Service Retirement and Disability System on a date before his employing agency could legally participate in the Foreign Service Retirement and Disability System; and

(2) the marriage included at least five years during which the employee was assigned overseas.

(Pub. L. 96–465, title I, §832, as added Pub. L. 100–204, title I, §188(a), Dec. 22, 1987, 101 Stat. 1371; amended Pub. L. 101–246, title I, §146(c), Feb. 16, 1990, 104 Stat. 37.)

CODIFICATION

Another section 832 of the Foreign Service Act of 1980 was enacted by Pub. L. 100–238 and is classified to section 4069b–1 of this title.

AMENDMENTS

1990—Subsec. (f). Pub. L. 101–246 added subsec. (f).

TRANSFER OF FUNCTIONS

United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau) abolished and functions transferred to Secretary of State, see sections 6531 and 6532 of this title.

§4069c–1. Health benefits for certain former spouses

(a) Eligibility

Except as provided in subsection (c)(1), any individual—

(1) formerly married to an employee or former employee of the Foreign Service, whose marriage was dissolved by divorce or annulment before May 7, 1985;

(2) who, at any time during the 18-month period before the divorce or annulment became final, was covered under a health benefits plan as a member of the family of such employee or former employee; and

(3) who was married to such employee for not less than 10 years during periods of government service by such employee, is eligible for coverage under a health benefits plan in accordance with the provisions of this section.

(b) Prerequisites for enrollment; notification of rights

(1) Any individual eligible for coverage under subsection (a) may enroll in a health benefits plan for self alone or for self and family if, before the expiration of the 6-month period beginning on the effective date of this section, and in accordance with such procedures as the Director of the Office of Personnel Management shall by regulation prescribe, such individual—

(A) files an election for such enrollment; and

(B) arranges to pay currently into the Employees Health Benefits Fund under section 8909 of title 5 an amount equal to the sum of the employee and agency contributions payable in the case of an employee enrolled under chapter 89 of such title in the same health benefits plan and with the same level of benefits.

(2) The Secretary shall, as soon as possible, take all steps practicable—

(A) to determine the identity and current address of each former spouse eligible for coverage

under subsection (a); and

(B) to notify each such former spouse of that individual's rights under this section.

(3) The Secretary shall waive the 6-month limitation set forth in paragraph (1) in any case in which the Secretary determines that the circumstances so warrant.

(c) Disqualification

(1) Any former spouse who remarries before age 55 is not eligible to make an election under subsection (b)(1).

(2) Any former spouse enrolled in a health benefits plan pursuant to an election under subsection (b)(1) may continue the enrollment under the conditions of eligibility which the Director of the Office of Personnel Management shall by regulation prescribe, except that any former spouse who remarries before age 55 shall not be eligible for continued enrollment under this section after the end of the 31-day period beginning on the date of remarriage.

(d) Prohibition on coverage by more than one plan

No individual may be covered by a health benefits plan under this section during any period in which such individual is enrolled in a health benefits plan under any other authority, nor may any individual be covered under more than one enrollment under this section.

(e) "Health benefits plan" defined

For purposes of this section the term "health benefits plan" means an approved health benefits plan under chapter 89 of title 5.

(Pub. L. 96–465, title I, §833, as added Pub. L. 100–238, title II, §204(a), Jan. 8, 1988, 101 Stat. 1772.)

REFERENCES IN TEXT

For the effective date of this section, referred to in subsec. (b)(1), see Effective Date note set out below.

EFFECTIVE DATE

Section effective 90 days after Jan. 8, 1988, see section 261(a) of Pub. L. 100–238, set out as an Effective Date of 1988 Amendment note under section 4054 of this title.

PART II—FOREIGN SERVICE PENSION SYSTEM

§4071. Establishment; application of Federal Employees' Retirement System to Foreign Service Pension System participants

(a) There is hereby established a Foreign Service Pension System.

(b) Except as otherwise specifically provided in this part or any other provision of law, the provisions of chapter 84 of title 5 shall apply to all participants in the Foreign Service Pension System and such participants shall be treated in all respects similar to persons whose participation in the Federal Employees' Retirement System provided in that chapter is required.

(Pub. L. 96–465, title I, §851, as added Pub. L. 99–335, title IV, §415, June 6, 1986, 100 Stat. 615.)

EFFECTIVE DATE

Part effective Jan. 1, 1987, see section 702(a) of Pub. L. 99–335, set out as a note under section 8401 of Title 5, Government Organization and Employees.

§4071a. Definitions

As used in this part, unless otherwise specified—

(1) the term "court order" has the same meaning given in section 4044(4) of this title;
(2) the term "Fund" means the Foreign Service Retirement and Disability Fund maintained by the Secretary of the Treasury pursuant to section 4042 of this title;
(3) the term "lump-sum credit" means the unrefunded amount consisting of—
(A) retirement deductions made from the basic pay of a participant under section 4071e of this title (or under section 204 of the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983);
(B) amounts deposited by a participant under section 4071c of this title to obtain credit under this System for prior civilian or military service; and
(C) interest on the deductions and deposits which, for any calendar year, shall be equal to the overall average yield to the Fund during the preceding fiscal year from all obligations purchased by the Secretary of the Treasury during such fiscal year under section 4059 of this title, as determined by the Secretary of the Treasury (compounded annually); but does not include interest—
(i) if the service covered thereby aggregates 1 year or less; or
(ii) for a fractional part of a month in the total service;

(4) the term "normal cost" means the entry-age normal cost of the provisions of the System which relate to the Fund, computed by the Secretary of State in accordance with generally accepted actuarial practice and standards (using dynamic assumptions) and expressed as a level percentage of aggregate basic pay;
(5) the term "participant" means a person who participates in the Foreign Service Pension System;
(6) the term "pro rata share" in the case of any former spouse of any participant or former participant means the percentage which is equal to the percentage that (A) the number of years during which the former spouse was married to the participant during the service of the participant which is creditable under this subchapter is of (B) the total number of years of such service, disregarding extra credit under section 4057 of this title;
(7) the term "revised annuity participant" means any individual who—
(A) on December 31, 2012—
(i) is not a participant;
(ii) is not performing service which is creditable service under section 4071c of this title; and
(iii) has less than 5 years creditable service under section 4071c of this title; and

(B) after December 31, 2012, and before January 1, 2014, becomes a participant performing service which is creditable service under section 4071c of this title;

(8) the term "further revised annuity participant" means any individual who—
(A) on December 31, 2013—
(i) is not a participant;
(ii) is not performing service which is creditable service under section 4071c of this title; and
(iii) has less than 5 years creditable service under section 4071c of this title; and

(B) after December 31, 2013, becomes a participant performing service which is creditable service under section 4071c of this title;

(9) the term "supplemental liability" means the estimated excess of—
(A) the actuarial present value of all future benefits payable from the Fund under this part based on the service of participants or former participants, over
(B) the sum of—
(i) the actuarial present value of (I) deductions to be withheld from the future basic pay of

participants pursuant to section 4071e of this title and (II) contributions for past civilian and military service;

(ii) the actuarial present value of future contributions to be made pursuant to section 4071f of this title;

(iii) the Fund balance as of the date the supplemental liability is determined, to the extent that such balance is attributable—

(I) to the System, or

(II) to the contributions made under the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983 (5 U.S.C. 8331 note); and

(iv) any other appropriate amount, as determined by the Secretary of State in accordance with generally accepted actuarial practices and principles;

(10) the term "System" means the Foreign Service Pension System; and

(11) the term "special agent" has the same meaning given in section 4044(15) of this title.

(Pub. L. 96–465, title I, §852, as added Pub. L. 99–335, title IV, §415, June 6, 1986, 100 Stat. 615; amended Pub. L. 100–238, title II, §241, Jan. 8, 1988, 101 Stat. 1776; Pub. L. 105–382, §2(a)(2), Nov. 13, 1998, 112 Stat. 3406; Pub. L. 112–96, title V, §5002(a), Feb. 22, 2012, 126 Stat. 200; Pub. L. 113–67, div. A, title IV, §402(a), Dec. 26, 2013, 127 Stat. 1185.)

REFERENCES IN TEXT

The Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983, referred to in pars. (3)(A) and (7)(B)(iii)(II), is title II of Pub. L. 98–168, Nov. 29, 1983, 97 Stat. 1106, as amended, which is set out as a note under section 8331 of Title 5, Government Organization and Employees.

AMENDMENTS

2013—Par. (7)(B). Pub. L. 113–67, §402(a)(2), inserted "and before January 1, 2014," after "after December 31, 2012,".

Pars. (8) to (11). Pub. L. 113–67, §402(a)(1), added par. (8) and redesignated former pars. (8) to (10) as (9) to (11), respectively.

2012—Pars. (7) to (10). Pub. L. 112–96 added par. (7) and redesignated former pars. (7) to (9) as (8) to (10), respectively.

1998—Par. (9). Pub. L. 105–382 added par. (9).

1988—Pars. (3) to (8). Pub. L. 100–238 added par. (3) and redesignated former pars. (3) to (7) as (4) to (8), respectively.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–382 effective Nov. 13, 1998, with provisions relating to applicability with respect to certain individuals, see section 4 of Pub. L. 105–382, as amended, set out as a note under section 4044 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–238 effective 90 days after Jan. 8, 1988, see section 261(a) of Pub. L. 100–238, set out as a note under section 4054 of this title.

§4071b. Participants

(a) Covered members

Except for persons excluded by subsection (b), (c), or (d), all members of the Foreign Service, any of whose service after December 31, 1983, is employment for the purpose of title II of the Social Security Act [42 U.S.C. 401 et seq.] and chapter 21 of title 26, who would, but for this section, be participants in the Foreign Service Retirement and Disability System pursuant to section 4043 of this title shall instead be participants in the Foreign Service Pension System.

(b) Exclusion of participants in Foreign Service Retirement and Disability System

Members of the Service who were participants in the Foreign Service Retirement and Disability System on or before December 31, 1983, and who have not had a break in service in excess of one year since that date, are not made participants in the System by this section, without regard to whether they are subject to title II of the Social Security Act [42 U.S.C. 401 et seq.].

(c) Exclusion of individuals with certain creditable civilian service

Individuals who become members of the Service after having completed at least 5 years of civilian service creditable under part I of this subchapter, subchapter III of chapter 83 of title 5 (the Civil Service Retirement System), or title II of the Central Intelligence Agency Retirement Act (50 U.S.C. 2011 et seq.) (determined without regard to any deposit or redeposit requirement under any such part, subchapter, or title, any requirement that the individual become subject to such part, subchapter, or title after performing the service involved, or any requirement that the individual give notice in writing to the official by whom such individual is paid of such individual's desire to become subject to such part, subchapter, or title) are not participants in the System, except to the extent provided for under title III of the Federal Employees' Retirement System Act of 1986 pursuant to an election under such title to become subject to this part (under regulations issued by the Secretary of State pursuant to section 4071i of this title).

(d) Exclusion of temporary or intermittent employees

The Secretary may exclude from the operation of this part any member of the Foreign Service, or group of members, whose employment is temporary or intermittent, except a member whose employment is part-time career appointment or career candidate appointment under section 3946 of this title.

(Pub. L. 96–465, title I, §853, as added Pub. L. 99–335, title IV, §415, June 6, 1986, 100 Stat. 616; amended Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 103–178, title II, §204(b)(1), Dec. 3, 1993, 107 Stat. 2033.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsecs. (a) and (b), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title II of the Social Security Act is classified generally to subchapter II (§401 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

The Central Intelligence Agency Retirement Act, referred to in subsec. (c), is Pub. L. 88–643, as revised generally by Pub. L. 102–496, title VIII, §802, Oct. 24, 1992, 106 Stat. 3196. Title II of the Act is classified generally to subchapter II (§2011 et seq.) of chapter 38 of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 2001 of Title 50 and Tables.

The Federal Employees' Retirement System Act of 1986, referred to in subsec. (c), is Pub. L. 99–335, June 6, 1986, 100 Stat. 514. Title III of the Federal Employees' Retirement System Act of 1986 amended sections 3121 and 6103 of Title 26, Internal Revenue Code, section 1005 of Title 39, Postal Service, and section 410 of Title 42, The Public Health and Welfare, enacted provisions set out as notes under sections 8331, 8401, 8432, and 8472 of Title 5, Government Organization and Employees, and section 6103 of Title 26, and amended provisions set out as a note under section 8331 of Title 5. For complete classification of this Act to the Code, see Short Title note set out under section 8401 of Title 5 and Tables.

AMENDMENTS

1993—Subsec. (c). Pub. L. 103–178 substituted "the Central Intelligence Agency Retirement Act (50 U.S.C. 2011 et seq.)" for "the Central Intelligence Agency Retirement Act of 1964 for Certain Employees".

1986—Subsec. (a). Pub. L. 99–514 substituted "Internal Revenue Code of 1986" for "Internal Revenue Code of 1954", which for purposes of codification was translated as "title 26" thus requiring no change in text.

§4071c. Creditable service

(a) Service included

For purposes of this part, creditable service of a participant includes—

(1) service as a participant after December 31, 1986;

(2) service with respect to which deductions and withholdings under section 204(a)(2) of the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983 have been made; and

(3) except as provided in subsection (b), any civilian service performed before January 1, 1989 (other than service under paragraph (1) or (2)), which, but for the amendment made by section 414 of the Federal Employees' Retirement System Act of 1986, would be creditable under part I (determined without regard to any deposit or redeposit requirement under such part, subchapter III of chapter 83 of title 5 (the Civil Service Retirement System), or title II of the Central Intelligence Agency Retirement Act (50 U.S.C. 2011 et seq.), any requirement that the individual become subject to such part, subchapter, or title after performing the service involved, or any requirement that the individual give notice in writing to the official by whom such individual is paid of such individual's desire to become subject to such part, subchapter, or title).

(b) Refund of retirement deductions; retirement deduction not made; required deposit; computation of interest

(1) A participant who has received a refund of retirement deductions under part I with respect to any service described in subsection (a)(3) may not be allowed credit for such service under this part unless such participant deposits into the Fund an amount equal to 1.3 percent of basic pay for such service, with interest.

(2) A participant may not be allowed credit under this part for any service described in subsection (a)(3) for which retirement deductions under part I have not been made, unless such participant deposits into the Fund an amount equal to 1.3 percent of basic pay for such service, with interest.

(3) Interest under paragraph (1) or (2) shall be computed in accordance with section 4045(d) of this title and regulations issued by the Secretary of State.

(c) Volunteer service; required payment

(1) Credit shall be given under this System to a participant for a period of prior satisfactory service as—

(A) a volunteer or volunteer leader under the Peace Corps Act (22 U.S.C. 2501 et seq.),

(B) a volunteer under part A of title VIII of the Economic Opportunity Act of 1964, or

(C) a full-time volunteer for a period of service of at least 1 year's duration under part A, B,[1] or C of title I of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 et seq.),

if the participant makes a payment to the Fund equal to 3 percent of pay received for the volunteer service; except, the amount to be paid for volunteer service beginning on January 1, 1999, through December 31, 2000, shall be as follows:

3.25	January 1, 1999, to December 31, 1999.
3.4	January 1, 2000, to December 31, 2000.

(2) The amount of such payments shall be determined in accordance with regulations of the Secretary of State consistent with regulations for making corresponding determinations under chapter 83, title 5, together with interest determined under regulations issued by the Secretary of State.

(d) Prior service under other retirement system; waiver of credit and payment into Fund

Credit shall be given under this System to a participant for a period of prior service under the Federal Employees' Retirement System (described in chapter 84 of title 5) or under title III of the Central Intelligence Agency Retirement Act (50 U.S.C. 2151 et seq.) if the participant waives credit

under the other retirement system and makes a payment to the Fund equal to the amount which was deducted and withheld from the individual's basic pay under the other retirement system during the prior creditable service under the other retirement system together with interest on such amount computed in accordance with regulations issued by the Secretary of State.

(e) Employees of Members or offices of Congress

A participant who, while on approved leave without pay, serves as a full-time paid employee of a Member or office of the Congress shall continue to make contributions to the Fund based upon the Foreign Service salary rate that would be in effect if the participant were in a pay status. The participant's employing Member or office in the Congress shall make a contribution (from the appropriation or fund which is used for payment of the salary of the participant) determined under section 4071f(a) of this title to the Treasury of the United States to the credit of the Fund. All periods of service for which full contributions to the Fund are made under this subsection shall be counted as creditable service for purposes of this part and shall not, unless all retirement credit is transferred, be counted as creditable service under any other Government retirement system.

(Pub. L. 96–465, title I, §854, as added Pub. L. 99–335, title IV, §415, June 6, 1986, 100 Stat. 616; amended Pub. L. 99–556, title IV, §405, Oct. 27, 1986, 100 Stat. 3137; Pub. L. 100–238, title II, §242, Jan. 8, 1988, 101 Stat. 1776; Pub. L. 103–178, title II, §204(b)(2), Dec. 3, 1993, 107 Stat. 2033; Pub. L. 105–33, title VII, §7001(e)(1)(B), Aug. 5, 1997, 111 Stat. 661; Pub. L. 106–346, §101(a) [title V, §505(e)(2)], Oct. 23, 2000, 114 Stat. 1356, 1356A–54.)

REFERENCES IN TEXT

Section 204(a)(2) of the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983, referred to in subsec. (a)(2), is section 204(a)(2) of Pub. L. 98–168, which is set out as a note under section 8331 of Title 5, Government Organization and Employees.

Section 414 of the Federal Employees' Retirement System Act of 1986, referred to in subsec. (a)(3), is section 414 of Pub. L. 99–335, title IV, June 6, 1986, 100 Stat. 614, which amended section 4043 of this title.

The Central Intelligence Agency Retirement Act, referred to in subsecs. (a)(3) and (d), is Pub. L. 88–643, as revised generally by Pub. L. 102–496, title VIII, §802, Oct. 24, 1992, 106 Stat. 3196. Titles II and III of the Act are classified generally to subchapters II (§2011 et seq.) and III (§2151 et seq.), respectively, of chapter 38 of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 2001 of Title 50 and Tables.

The Peace Corps Act, referred to in subsec. (c)(1)(A), is Pub. L. 87–293, Sept. 22, 1961, 75 Stat. 612, as amended, which is classified principally to chapter 34 (§2501 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2501 of this title and Tables.

The Economic Opportunity Act of 1964, referred to in subsec. (c)(1)(B), is Pub. L. 88–452, Aug. 20, 1964, 73 Stat. 508, as amended. Part A of title VIII of the Act is part A of title VIII of Pub. L. 88–452, as added by Pub. L. 90–222, title I, §110, Dec. 23, 1967, 81 Stat. 722, which was classified generally to part A (§2992 et seq.) of subchapter VIII of chapter 34 of Title 42, The Public Health and Welfare, prior to its repeal by Pub. L. 93–113, title VI, §603, Oct. 1, 1973, 87 Stat. 417. See sections 4951 et seq., 5042(13)(A), and 5055 of Title 42.

The Domestic Volunteer Service Act of 1973, referred to in subsec. (c)(1)(C), is Pub. L. 93–113, Oct. 1, 1973, 87 Stat. 394. Parts A and C of title I of the Act are classified generally to parts A (§4951 et seq.) and C (§4991 et seq.), respectively, of subchapter I of chapter 66 of Title 42, The Public Health and Welfare. Part B of title I of the Act, which had been classified generally to part B (§4971 et seq.) of subchapter I of chapter 66 of Title 42, was repealed by Pub. L. 111–13, title II, §2121, Apr. 21, 2009, 123 Stat. 1584. For complete classification of this Act to the Code, see Short Title note set out under section 4950 of Title 42 and Tables.

AMENDMENTS

2000—Subsec. (c)(1). Pub. L. 106–346, in concluding provisions, substituted "December 31, 2000" for "December 31, 2002", and in table in concluding provisions, struck out item at end relating to service period January 1, 2001, to December 31, 2002.

1997—Subsec. (c). Pub. L. 105–33 amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: "Credit shall be given under this System to a participant for a period of prior satisfactory service as—

"(1) a volunteer or volunteer leader under the Peace Corps Act (22 U.S.C. 2501 et seq.),

"(2) a volunteer under part A of title VIII of the Economic Opportunity Act of 1964, or

"(3) a full-time volunteer for a period of service of at least one year's duration under part A, B, or C of

title I of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 et seq.),
if the participant makes a payment to the Fund equal to 3 percent of pay received for the volunteer service (as determined in accordance with regulations of the Secretary of State consistent with regulations for making corresponding determinations under chapter 83, title 5) together with interest determined under regulations issued by the Secretary of State."

1993—Subsec. (a)(3). Pub. L. 103–178, §204(b)(1), substituted "the Central Intelligence Agency Retirement Act (50 U.S.C. 2011 et seq.)" for "the Central Intelligence Agency Retirement Act of 1964 for Certain Employees".

Subsec. (d). Pub. L. 103–178, §204(b)(2)(B), substituted "the Central Intelligence Agency Retirement Act (50 U.S.C. 2151 et seq.)" for "the Central Intelligence Agency Retirement Act of 1964 for Certain Employees".

1988—Subsec. (e). Pub. L. 100–238 struck out "matching" after "shall make a" and inserted "determined under section 4071f(a) of this title" after "participant)".

1986—Subsec. (d). Pub. L. 99–556, §405(a), which directed that subsec. (d) be amended by substituting "which was deducted and withheld from the individual's basic pay under the other retirement system" for "which would have been deducted from pay under section 4071c(a) of this title had the individual been a participant", was executed by making the substitution for "which would have been deducted from pay under section 4071e(a) of this title had the individual been a participant", as the probable intent of Congress.

Subsec. (e). Pub. L. 99–556, §405(b), added subsec. (e).

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–346 effective upon the close of calendar year 2000 and applicable thereafter, see section 101(a) [title V, §505(i)] of Pub. L. 106–346, set out as a note under section 8334 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–33 effective Oct. 1, 1997, see section 7001(f) of Pub. L. 105–33, set out as a note under section 8334 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–238 effective 90 days after Jan. 8, 1988, see section 261(a) of Pub. L. 100–238, set out as a note under section 4054 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–556 effective Jan. 1, 1987, see section 408 of Pub. L. 99–556, set out as a note under section 4046 of this title.

IMPACT OF AMENDMENTS BY PUB. L. 105–33 ON AGENCY CONTRIBUTIONS

Pub. L. 105–33, title VII, §7001(e)(2), Aug. 5, 1997, 111 Stat. 662, provided that: "Agency contributions under section 857 of the Foreign Service Act of 1980 (22 U.S.C. 4071f) shall not be reduced as a result of the amendments made under paragraph (1) of this subsection [amending this section and section 4071e of this title]."

[1] *See References in Text note below.*

§4071d. Entitlement to annuity

(a) Retirement conditions; definitions

(1) Any participant may be retired under the conditions specified in section 4051 of this title and shall be retired under the conditions specified in sections 4052 and 4053 of this title and receive benefits under this part.

(2) For the purposes of this subsection—

(A) the term "participant", as used in the sections referred to in paragraph (1), means a participant in the Foreign Service Pension System; and

(B) the term "System", as used in those sections, means the Foreign Service Pension System.

(3) For purposes of any annuity computation under this subsection, the average pay (as used in section 8414 [1] of title 5) of any member of the Service whose official duty station is outside the continental United States shall be considered to be the salary that would have been paid to the member had the member's official duty station been Washington, D.C., including locality-based comparability payments under section 5304 of title 5 that would have been payable to the member if the member's official duty station had been Washington, D.C.

(b) Voluntary or mandatory retirement with authorization for immediate annuity; computation of annuity

(1) Any participant who retires voluntarily or mandatorily under section 4007, 4008, 4010a, 4051, 4052, or 4053 of this title under conditions authorizing an immediate annuity for participants in the Foreign Service Retirement and Disability System or for participants in the Foreign Service Pension System, and who has completed at least 5 years as a member of the Foreign Service, shall be entitled to an immediate annuity computed under paragraph (2).

(2) An annuity under paragraph (1) shall be computed—

(A) in accordance with section 8415(e)(1) of title 5 for all service while a participant in this System and for prior service creditable under this part not otherwise counted as—

(i) a member of the Service,

(ii) an employee of the Central Intelligence Agency entitled to retirement credit under title II of the Central Intelligence Agency Retirement Act (50 U.S.C. 2011 et seq.) or under section 302(a) or 303(b) of that Act (50 U.S.C. 2152(a), 2153(b)), or

(iii) a participant as a Member of Congress, a congressional employee, law enforcement officer, firefighter, or air traffic controller in the Civil Service Retirement System under subchapter III of chapter 83, title 5, or in the Federal Employees' Retirement System under chapter 84 of title 5; and

(B) at the rate stated in section 8415(a) of title 5 for all other service creditable under this System including service in excess of 20 years otherwise creditable under paragraph (A).

(3) Any participant who is involuntarily retired or separated under section 4007, 4008, 4010, or 4010a of this title and who would if a participant under part I, become eligible for a refund of contributions or a deferred annuity under part I, shall, in lieu thereof, receive benefits for an involuntary separation under this part.

(4) A disability annuity under this part required to be redetermined under section 8452(b) of title 5, or computed under section 8452(c) or (d) of such title 5, shall be recomputed or computed using the formula in subsection (b)(2)(A) of this section rather than section 8415 of such title 5 (as stated in section 8452(b)(2)(A) and 8452(c) and (d) of such title). Such annuity shall also be computed in accordance with the preceding sentence if, as of the day on which such annuity commences or is restored, the annuitant satisfies the age and service requirements for entitlement to an immediate annuity under section 4051 of this title.

(5) A former participant entitled to a deferred annuity under section 8413(b) of title 5 shall not be subject to section 8415(g)(1) of such title 5 if the former participant has 20 years of service creditable under this part and is at least 50 years of age as of the date on which the annuity is to commence.

(6)(A) The amount of a survivor annuity for a widow or widower of a participant or former participant shall be 50 percent of an annuity computed for the deceased under this part rather than under section 8415 of such title 5 (as stated in sections 8442(a)(1), (b)(1)(B), and (c)(2) of such title).

(B) Any calculation for a widow or widower of a participant or former participant under section 8442(f)(2)(A) shall be based on an "assumed FSRDS annuity" rather than an "assumed CSRS annuity" as stated in such section. For the purpose of this subparagraph, the term "assumed FSRDS annuity" means the amount of the survivor annuity to which the widow or widower would be entitled under part I based on the service of the deceased annuitant determined under section 8442(f)(5) of such title 5.

(c) Annuity supplement

A participant who is entitled to an immediate annuity under subsection (b) shall be entitled to receive an annuity supplement while the annuitant is under 62 years of age. The annuity supplement shall be based on the total creditable service of the annuitant and shall be computed in accordance with sections 8421(b) and 8421a of title 5 as if the participant were a law enforcement officer retired under section 8412(d) of such title.

(d) Separation for cause based on disloyalty

Any participant who is separated for cause under section 4010 of this title shall not be entitled to an annuity under this System when the Secretary determines that the separation was based in whole or in part on disloyalty to the United States.

(Pub. L. 96–465, title I, §855, as added Pub. L. 99–335, title IV, §415, June 6, 1986, 100 Stat. 617; amended Pub. L. 99–556, title IV, §406, Oct. 27, 1986, 100 Stat. 3138; Pub. L. 103–178, title II, §204(b)(3), Dec. 3, 1993, 107 Stat. 2033; Pub. L. 105–277, div. G, subdiv. B, title XXIII, §2312(b), Oct. 21, 1998, 112 Stat. 2681–827; Pub. L. 105–382, §2(d)(3)(B), Nov. 13, 1998, 112 Stat. 3408; Pub. L. 107–228, div. A, title III, §322(b)(1), Sept. 30, 2002, 116 Stat. 1384; Pub. L. 112–96, title V, §5001(c)(2)(F), Feb. 22, 2012, 126 Stat. 200.)

REFERENCES IN TEXT

Section 8414 of title 5, referred to in subsec. (a)(3), does not contain the term "average pay". Section 8415 of title 5 relates to annuity computation, and section 8401 of title 5 defines "average pay".

The Central Intelligence Agency Retirement Act, referred to in subsec. (b)(2)(A)(ii), is Pub. L. 88–643, as revised generally by Pub. L. 102–496, title VIII, §802, Oct. 24, 1992, 106 Stat. 3196. Title II of the Act is classified generally to subchapter II (§2011 et seq.) of chapter 38 of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 2001 of Title 50 and Tables.

AMENDMENTS

2012—Subsec. (b)(2)(A). Pub. L. 112–96, §5001(c)(2)(F)(i), substituted "section 8415(e)(1)" for "section 8415(d)(1)" in introductory provisions.

Subsec. (b)(5). Pub. L. 112–96, §5001(c)(2)(F)(ii), substituted "section 8415(g)(1)" for "section 8415(f)(1)".

2002—Subsec. (a)(3). Pub. L. 107–228 added par. (3).

1998—Subsec. (b)(1). Pub. L. 105–277, §2312(b)(1)(A), and Pub. L. 105–382 amended par. (1) identically, inserting "4010a," after "4008,".

Pub. L. 105–277, §2312(b)(1)(C), substituted "Service, shall" for "Service shall".

Pub. L. 105–277, §2312(b)(1)(B), inserted "or for participants in the Foreign Service Pension System," after "Retirement and Disability System".

Subsec. (b)(3). Pub. L. 105–382, which directed the insertion of "4010a," after "4008," in par. (3), was not executed to reflect the probable intent of Congress and the amendment by Pub. L. 105–277, §2312(b)(2). See below.

Pub. L. 105–277, §2312(b)(2), substituted "4010, or 4010a" for "or 4010".

1993—Subsec. (b)(2)(A)(ii). Pub. L. 103–178 substituted "under title II of the Central Intelligence Agency Retirement Act (50 U.S.C. 2011 et seq.) or under section 302(a) or 303(b) of that Act (50 U.S.C. 2152(a), 2153(b))" for "under title II of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees or under section 302(a) or 303(b) of that Act".

1986—Subsec. (b)(1). Pub. L. 99–556, §406(a), substituted "as a member of the Foreign Service" for "of service subject to this subchapter".

Subsec. (b)(2). Pub. L. 99–556, §406(b), amended par. (2) by substituting subpars. (A) and (B) for former subpars. (A) to (C). Prior to amendment, subpars. (A) to (C) read as follows:

"(A) for all service earned while a participant in this System, at the rate stated in section 8415(d) of title 5; and

"(B) for all service earned while a participant in another retirement system creditable under section 4071c(d) of this title, at the rate which would have been applicable to the individual had that individual remained a participant in the other system; and

"(C) for all volunteer service creditable under section 4071c(c) of this title, at the rate stated in section 8415(a) of title 5."

Subsec. (b)(3) to (6). Pub. L. 99–556, §406(c), added pars. (3) to (6).

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–228 applicable to service performed on or after the first day of the first pay period beginning on or after the date that is 90 days after Sept. 30, 2002, see section 322(c)(1) of Pub. L. 107–228, set out as a note under section 4046 of this title.

EFFECTIVE DATE OF 1998 AMENDMENTS

Amendment by Pub. L. 105–382 effective Nov. 13, 1998, with provisions relating to applicability with respect to certain individuals, see section 4 of Pub. L. 105–382, as amended, set out as a note under section 4044 of this title.

Amendment by Pub. L. 105–277 effective Oct. 21, 1998, except that amendment made by section 2312(b)(1)(A), (2) of Pub. L. 105–277 applicable with respect to any actions taken under section 4010a of this title on or after Jan. 1, 1996, see section 2312(c) of Pub. L. 105–277, set out as a note under section 4009 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–556 effective Jan. 1, 1987, see section 408 of Pub. L. 99–556, set out as a note under section 4046 of this title.

[1] *See References in Text note below.*

§4071e. Deductions and withholdings from pay

(a) Basic pay

(1) The employing agency shall deduct and withhold from the basic pay of each participant the applicable percentage of basic pay specified in paragraph (2) of this subsection minus the percentage then in effect under section 3101(a) of title 26 (relating to the rate of tax for old age, survivors, and disability insurance).

(2)(A) The applicable percentage for a participant other than a revised annuity participant or a further revised annuity participant shall be as follows:

7.5	Before January 1, 1999.
7.75	January 1, 1999, to December 31, 1999.
7.9	January 1, 2000, to December 31, 2000.
7.55	After January 11, 2003.

(B) The applicable percentage for a revised annuity participant shall be as follows:

9.85	After December 31, 2012

(C) The applicable percentage for a further revised annuity participant shall be as follows:

11.15	After December 31, 2013.

(b) Consent to deductions; discharge of claims

Each participant is deemed to consent and agree to the deductions under subsection (a). Notwithstanding any law or regulation affecting the pay of a participant, payment less such deductions is a full and complete discharge and acquittance of all claims and demands for regular services during the period covered by the payment, except the right to any benefits under this part based on the service of the participant.

(c) Deposit of amounts

Amounts deducted and withheld under this section shall be deposited in the Treasury of the United States to the credit of the Fund under such procedures as the Comptroller General of the United States may prescribe.

(d) Entry on individual retirement records

Under such regulations as the Secretary of State may issue, amounts deducted under subsection (a) shall be entered on individual retirement records.

(Pub. L. 96–465, title I, §856, as added Pub. L. 99–335, title IV, §415, June 6, 1986, 100 Stat. 618; amended Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 105–33, title VII, §7001(e)(1)(A), Aug. 5, 1997, 111 Stat. 661; Pub. L. 106–346, §101(a) [title V, §505(e)(1)], Oct. 23, 2000, 114 Stat. 1356, 1356A–53; Pub. L. 107–228, div. A, title III, §322(b)(2), Sept. 30, 2002, 116 Stat. 1384; Pub. L. 112–96, title V, §5002(b), Feb. 22, 2012, 126 Stat. 200; Pub. L. 113–67, div. A, title IV, §402(b), Dec. 26, 2013, 127 Stat. 1185.)

AMENDMENTS

2013—Subsec. (a)(2)(A). Pub. L. 113–67, §402(b)(1), inserted "or a further revised annuity participant" after "revised annuity participant".

Subsec. (a)(2)(C). Pub. L. 113–67, §402(b)(2), added subpar. (C).

2012—Subsec. (a)(2). Pub. L. 112–96 designated existing provisions as subpar. (A), substituted "The applicable percentage for a participant other than a revised annuity participant" for "The applicable percentage under this subsection", and added subpar. (B).

2002—Subsec. (a)(2). Pub. L. 107–228, in table, substituted item relating to applicable percentage after January 11, 2003, for item relating to applicable percentage after December 31, 2000.

2000—Subsec. (a)(2). Pub. L. 106–346, in table, substituted item relating to applicable percentage after December 31, 2000, for items relating to applicable percentages from January 1, 2001, to December 31, 2002; and after December 31, 2002.

1997—Subsec. (a). Pub. L. 105–33 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "The employing agency shall deduct and withhold from basic pay of each participant a percentage of basic pay equal to 7½ percent minus the percentage then in effect under section 3101(a) of title 26 (relating to the rate of tax for old age, survivors and disability insurance)."

1986—Subsec. (a). Pub. L. 99–514 substituted "Internal Revenue Code of 1986" for "Internal Revenue Code of 1954", which for purposes of codification was translated as "title 26" thus requiring no change in text.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–228 effective with the first pay period beginning on or after the date that is 90 days after Sept. 30, 2002, see section 322(c)(2) of Pub. L. 107–228, set out as a note under section 4045 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–346 effective upon the close of calendar year 2000 and applicable thereafter, see section 101(a) [title V, §505(i)] of Pub. L. 106–346, set out as a note under section 8334 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–33 effective Oct. 1, 1997, see section 7001(f) of Pub. L. 105–33, set out as a note under section 8334 of Title 5, Government Organization and Employees.

§4071f. Government contributions

(a) Each agency employing any participant shall contribute to the Fund the amount computed in a manner similar to that used under section 8423(a) of title 5 pursuant to determinations of the normal cost percentage for the Foreign Service Pension System by the Secretary of State.

(b)(1) The Secretary of State shall compute the amount of the supplemental liability of the Fund as of the close of each fiscal year beginning after September 30, 1987. The amount of any such supplemental liability shall be amortized in 30 equal annual installments with interest computed at the rate used in the most recent valuation of the System.

(2) At the end of each fiscal year, the Secretary of State shall notify the Secretary of the Treasury of the amount of the installment computed under this subsection for such year.

(3) Before closing the accounts for a fiscal year, the Secretary of the Treasury shall credit to the Fund, as a Government contribution, out of any money in the Treasury of the United States not otherwise appropriated, the amount under paragraph (2) of this subsection for such year.

(c)(1) Subject to paragraphs (2) and (3), for purposes of any period in any year beginning after December 31, 2013, the normal-cost percentage under this section shall be determined and applied as if section 402(b) of the Bipartisan Budget Act of 2013 had not been enacted.

(2) Any contributions under this section in excess of the amounts which (but for paragraph (1)) would otherwise have been payable shall be applied toward reducing the unfunded liability of the Foreign Service Retirement and Disability System.

(3) After the unfunded liability of the Foreign Service Retirement and Disability System has been eliminated, as determined by the Secretary of State, Government contributions under this section shall be determined and made disregarding this subsection.

(Pub. L. 96–465, title I, §857, as added Pub. L. 99–335, title IV, §415, June 6, 1986, 100 Stat. 618; amended Pub. L. 113–67, div. A, title IV, §402(c), Dec. 26, 2013, 127 Stat. 1185.)

REFERENCES IN TEXT

Section 402(b) of the Bipartisan Budget Act of 2013, referred to in subsec. (c)(1), is section 402(b) of div. A of Pub. L. 113–67, which amended section 4071e of this title.

AMENDMENTS

2013—Subsec. (c). Pub. L. 113–67 added subsec. (c).

§4071g. Cost-of-living adjustments

Cost-of-living adjustments for annuitants under this System shall be granted under procedures in section 8462 of title 5 in the same manner as such adjustments are made for annuitants referred to in subsection (c)(3)(B)(ii) of such section.

(Pub. L. 96–465, title I, §858, as added Pub. L. 99–335, title IV, §415, June 6, 1986, 100 Stat. 619.)

DELAY IN COST-OF-LIVING ADJUSTMENTS DURING FISCAL YEARS 1994, 1995, AND 1996

Any cost-of-living increase scheduled to take effect during fiscal year 1994, 1995, or 1996 under this section delayed until first day of third calendar month after date such increase would otherwise take effect, see section 11001 of Pub. L. 103–66, set out as a note under section 8340 of Title 5, Government Organization and Employees.

§4071h. General and administrative provisions

(a) Administration by Secretary of State; issuance of regulations

The Secretary of State shall administer the Foreign Service Pension System except for matters relating to the Thrift Savings Plan provided in subchapters III and VII of chapter 84 of title 5. The

Secretary of State shall, with respect to the Foreign Service Pension System, perform the functions and exercise the authority vested in the Office of Personnel Management or the Director of such Office by such chapter 84 and may issue regulations for such purposes.

(b) Appeal of determinations

Determinations of the Secretary of State under the Foreign Service Pension System which, if made by the Office of Personnel Management under chapter 84 of title 5 or the Director of such Office, would be appealable to the Merit Systems Protection Board shall, instead, be appealable to the Foreign Service Grievance Board, except that determinations of disability for participants shall be based upon the standards in section 4048 of this title (other than the exclusion for vicious habits, intemperance, or willful misconduct) and subject to review in the same manner as under that section.

(c) Periodic valuations by Secretary of the Treasury

At least every 5 years, the Secretary of the Treasury shall prepare periodic valuations of the Foreign Service Pension System and shall advise the Secretary of State of (1) the normal cost of the System, (2) the supplemental liability of the System, and (3) the amounts necessary to finance the costs of the System.

(Pub. L. 96–465, title I, §859, as added Pub. L. 99–335, title IV, §415, June 6, 1986, 100 Stat. 619.)

§4071i. Transition provisions

The Secretary of State shall issue regulations providing for the transition from the Foreign Service Retirement and Disability System to the Foreign Service Pension System in a manner comparable to the transition of employees subject to subchapter III of chapter 83 of title 5 (the Civil Service Retirement System) to the Federal Employees' Retirement System. For this and related purposes, references made to participation in subchapter III of chapter 83 of title 5 (the Civil Service Retirement System), the Social Security Act [42 U.S.C. 301 et seq.], and title 26 shall be deemed to refer to participation in the Foreign Service Pension System or the Foreign Service Retirement and Disability System, as appropriate.

(Pub. L. 96–465, title I, §860, as added Pub. L. 99–335, title IV, §415, June 6, 1986, 100 Stat. 619; amended Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095.)

REFERENCES IN TEXT

The Social Security Act, referred to in text, is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended, which is classified generally to chapter 7 (§301 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

AMENDMENTS

1986—Pub. L. 99–514 substituted "Internal Revenue Code of 1986" for "Internal Revenue Code of 1954", which for purposes of codification was translated as "title 26" thus requiring no change in text.

§4071j. Former spouses

(a) Entitlement to share in benefits; conditions; remarriage; payments as income to former spouse; disability annuitants; election regarding method of payment; maximum amount payable

(1)(A) Unless otherwise expressly provided by any spousal agreement or court order governing disposition of benefits under this part, a former spouse of a participant or former participant is entitled, during the period described in subparagraph (B), to a share (determined under paragraph (2)) of all benefits otherwise payable to such participant under this part if such former spouse was married to the participant for at least 10 years during service of the participant which is creditable under this subchapter with at least 5 of such years occurring while the participant was a member of the Foreign Service.

(B) The period referred to in subparagraph (A) is the period which begins on the first day of the month following the month in which the divorce or annulment becomes final and ends on the last day of the month before the former spouse dies or remarries before 55 years of age.

(2) The share referred to in paragraph (1) equals—

(A) 50 percent, if such former spouse was married to the participant throughout the actual years of service of the participant which are creditable under this subchapter; or

(B) a pro rata share of 50 percent, if such former spouse was not married to the participant throughout such creditable service.

(3) A former spouse shall not be qualified for any benefit under this subsection if, before the commencement of any benefit, the former spouse remarries before becoming 55 years of age.

(4)(A) For purposes of title 26, payments to a former spouse under this section shall be treated as income to the former spouse and not to the participant.

(B) Any reduction in payments to a participant or former participant as a result of payments to a former spouse under this subsection shall be disregarded in calculating—

(i) the survivor annuity for any spouse, former spouse, or other survivor under this part, and

(ii) any reduction in the annuity of the participant to provide survivor benefits under this part.

(5) Notwithstanding subsection (a)(1), in the case of any former spouse of a disability annuitant—

(A) the annuity of the former spouse shall commence on the date the participant would qualify, on the basis of his or her creditable service, for an annuity under this subchapter (other than a disability annuity) or the date the disability annuity begins, whichever is later, and

(B) the amount of the annuity of the former spouse shall be calculated on the basis of the annuity for which the participant would otherwise so qualify.

(6)(A) Except as provided in subparagraph (B), any former spouse who becomes entitled to receive any benefit under this part which would otherwise be payable to a participant or former participant shall be entitled to make any election regarding method of payment to such former spouse that such participant would have otherwise been entitled to elect, and the participant may elect an alternate method for the remaining share of such benefits. Such elections shall not increase the actuarial present value of benefits expected to be paid under this part.

(B) A former spouse may not elect a method of payment under subchapter II, chapter 84 of title 5, providing for payment of a survivor annuity to any survivor of the former spouse.

(7) The maximum amount payable to any former spouse pursuant to this subsection shall be the difference, if any, between 50 percent of the total benefits authorized to be paid to a former participant by this part, disregarding any apportionment of these benefits to others, and the aggregate amount payable to all others at any one time.

(b) Entitlement to survivor benefits; determination of share; disqualification upon remarriage

(1) Unless otherwise expressly provided for by any spousal agreement or court order governing survivorship benefits under this part to a former spouse married to a participant or former participant for the periods specified in subsection (a)(1)(A), such former spouse is entitled to a share, determined under subsection (b)(2), of all survivor benefits that would otherwise be payable under this part to an eligible surviving spouse of the participant.

(2) The share referred to in subsection (b)(1) equals—

(A) 100 percent if such former spouse was married to the participant throughout the entire period of service of the participant which is creditable under this subchapter; or

(B) a pro rata share of 100 percent if such former spouse was not married to the participant throughout such creditable service.

(3) A former spouse shall not be qualified for any benefit under this subsection if, before the commencement of any benefit, the former spouse remarries before becoming 55 years of age.

(c) Diminution of entitlement of former spouse prohibited

A participant or former participant may not make any election or modification of election under section 8417, 8418, or 8433 of title 5 or other section relating to the participant's account in the Thrift Savings Plan or annuity under the basic plan that would diminish the entitlement of a former spouse to any benefit granted to the former spouse by this section or in a current spousal agreement.

(d) Transfer of participant from Foreign Service Retirement and Disability System; determination of benefit share

If a member becomes a participant under this part after qualifying for benefits under part I and, at the time of transfer, has a former spouse entitled to benefits under part I which are determined under section 4054 or 4055 of this title (as determined by the Secretary of State) and are similar in amount to a pro rata share division under section 4054 or 4055 of this title and the service of the member as a participant under this part is not recognized in determining that pro rata share, then subsections (a) and (b) of this section shall not apply to such former spouse. Otherwise, subsections (a) and (b) of this section shall apply.

(e) Death of participant entitled to deferred annuity; spousal agreement; payment of survivor annuity

If a participant dies after completing at least 18 months of service or a former participant dies entitled to a deferred annuity, but before becoming eligible to receive the annuity, and such participant or former participant has left with the Secretary of State a spousal agreement promising a share of a survivor annuity under subchapter IV, chapter 84, title 5, to a former spouse, such survivor annuity shall be paid under the terms of this part as if the survivor annuity had been ordered by a court.

(Pub. L. 96–465, title I, §861, as added Pub. L. 99–335, title IV, §415, June 6, 1986, 100 Stat. 619; amended Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 99–556, title IV, §407, Oct. 27, 1986, 100 Stat. 3139.)

AMENDMENTS

1986—Subsec. (a)(4)(A). Pub. L. 99–514 substituted "Internal Revenue Code of 1986" for "Internal Revenue Code of 1954", which for purposes of codification was translated as "title 26" thus requiring no change in text.

Subsec. (b)(3). Pub. L. 99–556 added par. (3).

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–556 effective Jan. 1, 1987, see section 408 of Pub. L. 99–556, set out as a note under section 4046 of this title.

§4071k. Spousal agreements

A spousal agreement is any written agreement (properly authenticated as determined by the Secretary of State) between a participant or former participant and his or her spouse or former spouse on file with the Secretary of State. A spousal agreement shall be consistent with the terms of this chapter and applicable regulations and, if executed at the time a participant or former participant is currently married, shall be approved by such current spouse. It may be used to fix the level of benefits payable under this part to a spouse or former spouse.

(Pub. L. 96–465, title I, §862, as added Pub. L. 99–335, title IV, §415, June 6, 1986, 100 Stat. 621.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 96–465, Oct. 17, 1980, 94 Stat. 2071, as amended, known as the Foreign Service Act of 1980, which is classified principally to this chapter (§3901 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 3901 of this title and Tables.

SUBCHAPTER IX—TRAVEL, LEAVE, AND OTHER BENEFITS

§4081. Travel and related expenses

The Secretary may pay the travel and related expenses of members of the Service and their families, including costs or expenses incurred for—

(1) proceeding to and returning from assigned posts of duty;

(2) authorized or required home leave;

(3) family members to accompany, precede, or follow a member of the Service to a place of temporary duty;

(4) representational travel within the country to which the member of the Service is assigned or, when not more than one family member participates, outside such country;

(5) obtaining necessary medical care for an illness, injury, or medical condition while abroad in a locality where there is no suitable person or facility to provide such care (without regard to those laws and regulations limiting or restricting the furnishing or payment of transportation and traveling expenses), as well as expenses for—

(A) an attendant or attendants for a member of the Service or a family member who is too ill to travel unattended or for a family member who is too young to travel alone, and

(B) a family member incapable of caring for himself or herself if he or she remained at the post at which the member of the Service is serving;

(6) rest and recuperation travel of members of the Service who are United States citizens, and members of their families, while serving at locations abroad specifically designated by the Secretary for purposes of this paragraph, to—

(A) other locations abroad having different social, climatic, or other environmental conditions than those at the post at which the member of the Service is serving, or

(B) locations in the United States or its territories, including American Samoa, the Commonwealth of Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, and the United States Virgin Islands;

except that, unless the Secretary otherwise specifies in extraordinary circumstances, travel expenses under this paragraph shall be limited to the cost for a member of the Service, and for each member of the family of the member, of 1 round trip during any continuous 2-year tour and of 2 round trips during any continuous 3-year tour;

(7) removal of the family members of a member of the Service, and the furniture and household and personal effects (including automobiles) of the family, from a Foreign Service post where there is imminent danger because of the prevalence of disturbed conditions, and the return of such individuals, furniture, and effects to such post upon the cessation of such conditions, or to such other Foreign Service post as may in the meantime have become the post to which the member of the Service has been reassigned;

(8) trips by a member of the Service, and members of his or her family, for purposes of family visitation in situations where the family of the member is prevented by official order from accompanying the member to, or has been ordered from, the assigned post of the member because of imminent danger due to the prevalence of disturbed conditions, except that—

(A) with respect to any such member whose family is located in the United States, the Secretary may pay the costs and expenses for not to exceed two round trips in a 12-month period; and

(B) with respect to any such member whose family is located abroad, the Secretary may pay such costs and expenses for trips in a 12-month period as do not exceed the cost of 2 round trips (at less than first class) to the District of Columbia;

(9) roundtrip travel to or from an employee's post of assignment for purposes of family visitation in emergency situations involving personal hardship, except that payment for travel by

family members to an employee's post of assignment may be authorized under this paragraph only where the family of the member is prevented by official order from residing at such post.[1]

(10) preparing and transporting to the designated home in the United States or to a place not more distant, the remains of a member of the Service, or of a family member of a member of the Service, who dies abroad or while in travel status or, if death occurs in the United States, transport of the remains to the designated home in the United States or to a place not more distant;

(11) transporting the furniture and household and personal effects of a member of the Service (and of his or her family) to successive posts of duty and, on separation of a member from the Service, to the place where the member will reside (or if the member has died, to the place where his or her family will reside);

(12) packing and unpacking, transporting to and from a place of storage, and storing the furniture and household and personal effects of a member of the Service (and of his or her family)—

(A) when the member is absent from his or her post of assignment under orders or is assigned to a Foreign Service post to which such furniture and household and personal effects cannot be taken or at which they cannot be used, or when it is in the public interest or more economical to authorize storage;

(B) in connection with an assignment of the member to a new post, except that costs and expenses may be paid under this subparagraph only for the period beginning on the date of departure from his or her last post or (in the case of a new member) on the date of departure from the place of residence of the member and ending on the earlier of the date which is 3 months after arrival of the member at the new post or the date on which the member establishes residence quarters, except that in extraordinary circumstances the Secretary may extend this period for not more than an additional 90 days; and

(C) in connection with separation of the member from the Service, except that costs or expenses may not be paid under this subparagraph for storing furniture and household and personal effects for more than 3 months, except that in extraordinary circumstances the Secretary may extend this period for not more than an additional 90 days;

(13) transporting, for or on behalf of a member of the Service, a privately owned motor vehicle in any case in which the Secretary determines that water, rail, or air transportation of the motor vehicle is necessary or expedient for all or any part of the distance between points of origin and destination, but transportation may be provided under this paragraph for only one motor vehicle of a member during any 48-month period while the member is continuously serving abroad, except that another motor vehicle may be so transported as a replacement for such motor vehicle if such replacement—

(A) is determined, in advance, by the Secretary to be necessary for reasons beyond the control of the member and in the interest of the Government, or

(B) is incident to a reassignment when the cost of transporting the replacement motor vehicle does not exceed the cost of transporting the motor vehicle that is replaced;

(14) the travel and relocation of members of the Service, and members of their families, assigned to or within the United States (or any territory or possession of the United States or the Commonwealth of Puerto Rico), including assignments under subchapter VI of chapter 33 of title 5 (notwithstanding section 3375(a) of such title, if an agreement similar to that required by section 3375(b) of such title is executed by the member of the Service); and

(15) 1 round-trip per year for each child below age 21 of a member of the Service assigned abroad—

(A) to visit the member abroad if the child does not regularly reside with the member and the member is not receiving an education allowance or educational travel allowance for the child under section 5924(4) of title 5; or

(B) to visit the other parent of the child if the other parent resides in a country other than the country to which the member is assigned and the child regularly resides with the member and

does not regularly attend school in the country in which the other parent resides,

except that a payment under this paragraph may not exceed the cost of round-trip travel between the post to which the member is assigned and the residence of the other parent, or between the post to which the member is assigned and the residence of the child if the child does not reside with a parent.

(Pub. L. 96–465, title I, §901, Oct. 17, 1980, 94 Stat. 2124; Pub. L. 101–246, title I, §148, Feb. 16, 1990, 104 Stat. 38; Pub. L. 102–138, title I, §§145, 146, Oct. 28, 1991, 105 Stat. 668, 669; Pub. L. 107–228, div. A, title III, §§315(a), 328, Sept. 30, 2002, 116 Stat. 1379, 1387; Pub. L. 109–234, title I, §1602(d)(1), June 15, 2006, 120 Stat. 442; Pub. L. 110–321, §2(1), Sept. 19, 2008, 122 Stat. 3535.)

AMENDMENTS

2008—Par. (6)(B). Pub. L. 110–321 inserted "or its territories, including American Samoa, the Commonwealth of Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, and the United States Virgin Islands" after "United States".

2006—Par. (6). Pub. L. 109–234, which directed amendment of section 901(6) of the Foreign Service Act by striking out "unbroken by home leave" wherever appearing, was executed by striking out those words after "2-year tour" and "3-year tour" in concluding provisions of par. (6) of this section, which is section 901 of the Foreign Service Act of 1980, to reflect the probable intent of Congress.

2002—Par. (8). Pub. L. 107–228, §315(a), substituted "Service, and members of his or her family," for "Service".

Par. (15). Pub. L. 107–228, §328, in concluding provisions, substituted "residence of the other parent, or between the post to which the member is assigned and the residence of the child if the child does not reside with a parent" for "port of entry in the contiguous 48 States which is nearest to that post".

1991—Par. (10). Pub. L. 102–138, §146, inserted before semicolon "or, if death occurs in the United States, transport of the remains to the designated home in the United States or to a place not more distant".

Par. (12)(B). Pub. L. 102–138, §145(1), inserted before semicolon ", except that in extraordinary circumstances the Secretary may extend this period for not more than an additional 90 days".

Par. (12)(C). Pub. L. 102–138, §145(2), inserted before semicolon ", except that in extraordinary circumstances the Secretary may extend this period for not more than an additional 90 days".

1990—Par. (9). Pub. L. 101–246 amended par. (9) generally. Prior to amendment, par. (9) read as follows: "round-trip travel from a location abroad for purposes of family visitation in emergency situations involving personal hardship;".

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107–228, div. A, title III, §315(c), Sept. 30, 2002, 116 Stat. 1379, provided that: "The amendment made by subsection (a) [amending this section] shall take effect on the date on which guidance for implementation of such amendment is issued by the Secretary." [Guidance in the form of a State Department cable was issued Nov. 5, 2002.]

[For definition of "Secretary" as used in section 315(c) of Pub. L. 107–228, set out above, see section 3 of Pub. L. 107–228, set out as a note under section 2651 of this title.]

PROMULGATION OF GUIDANCE

Pub. L. 107–228, div. A, title III, §315(b), Sept. 30, 2002, 116 Stat. 1379, provided that: "The Secretary shall promulgate guidance for the implementation of the amendment made by subsection (a) [amending this section] to ensure its implementation in a manner which does not substantially increase the total amount of travel expenses paid or reimbursed by the Department for travel under section 901 of the Foreign Service Act of 1980 (22 U.S.C. 4081)."

[For definitions of "Secretary" and "Department" as used in section 315(b) of Pub. L. 107–228, set out above, see section 3 of Pub. L. 107–228, set out as a note under section 2651 of this title.]

[1] So in original. The period probably should be a semicolon.

§4082. Loan of household effects

The Secretary may, as a means of eliminating transportation costs, provide members of the

Service with basic household furnishing and equipment for use on a loan basis in personally owned or leased residences.

(Pub. L. 96–465, title I, §902, Oct. 17, 1980, 94 Stat. 2127.)

§4083. Required leave

(a) Criteria; length of continuous service

The Secretary may order a member of the Service (other than a member employed under section 3951 of this title) who is a citizen of the United States to take a leave of absence under section 6305 of title 5 (without regard to the introductory clause of subsection (a) of that section), upon completion by that member of 12 months of continuous service abroad. The Secretary shall order on such a leave of absence a member of the Service (other than a member employed under section 3951 of this title) who is a citizen of the United States as soon as possible after completion by that member of 3 years of continuous service abroad.

(b) Place leave may be taken

Leave ordered under this section may be taken in the United States or its territories, including American Samoa, the Commonwealth of Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, and the United States Virgin Islands.

(c) Availability for work or duties in Department

While on a leave of absence ordered under this section, the services of any member of the Service shall be available for such work or duties in the Department or elsewhere as the Secretary may prescribe, but the time of such work or duties shall not be counted as leave.

(Pub. L. 96–465, title I, §903, Oct. 17, 1980, 94 Stat. 2127; Pub. L. 103–236, title I, §180(a)(8), Apr. 30, 1994, 108 Stat. 416; Pub. L. 109–234, title I, §1602(d)(2), June 15, 2006, 120 Stat. 442; Pub. L. 110–321, §2(2), Sept. 19, 2008, 122 Stat. 3535.)

AMENDMENTS

2008—Subsec. (b). Pub. L. 110–321 substituted "or its territories, including American Samoa, the Commonwealth of Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, and the United States Virgin Islands" for ", its territories and possessions, or the Commonwealth of Puerto Rico".

2006—Subsec. (a). Pub. L. 109–234, which directed substitution of "12 months" for "18 months" in section 903(a) of the Foreign Service Act, was executed to subsec. (a) of this section, which is section 903 of the Foreign Service Act of 1980, to reflect the probable intent of Congress.

1994—Subsec. (a). Pub. L. 103–236 inserted "(other than a member employed under section 3951 of this title)" after "member of the Service" in two places.

§4084. Health care program

(a) Establishment

The Secretary of State shall establish a health care program to promote and maintain the physical and mental health of members of the Service, and (when incident to service abroad) other designated eligible Government employees, and members of the families of such members and employees.

(b) Services provided

Any such health care program may include (1) medical examinations for applicants for employment, (2) medical examinations and inoculations or vaccinations, and other preventive and remedial care and services as necessary, for members of the Service and employees of the Department who are citizens of the United States and for members of their families, (3) health education and disease prevention programs for all employees, and (4) examinations necessary in

order to establish disability or incapacity of participants in the Foreign Service Retirement and Disability System or Foreign Service Pension System or to provide survivor benefits under subchapter VIII.

(c) Facilities; employment of personnel

The Secretary of State may establish health care facilities and provide for the services of physicians, nurses, or other health care personnel at Foreign Service posts abroad at which, in the opinion of the Secretary of State, a sufficient number of Government employees are assigned to warrant such facilities or services.

(d) Costs of treatment

If an individual eligible for health care under this section incurs an illness, injury, or medical condition which requires treatment while assigned to a post abroad or located overseas pursuant to Government authorization, the Secretary may pay the cost of such treatment.

(e) Death or separation of member

Health care may be provided under this section to a member of the Service or other designated eligible Government employee after the separation of such member or employee from Government service. Health care may be provided under this section to a member of the family of a member of the Service or of a designated eligible Government employee after the separation from Government service or the death of such member of the Service or employee or after dissolution of the marriage.

(f) Review; medical care contracts

The Secretary of State shall review on a continuing basis the health care program provided for in this section. Whenever the Secretary of State determines that all or any part of such program can be provided for as well and as cheaply in other ways, the Secretary may, for such individuals, locations, and conditions as the Secretary of State deems appropriate, contract for health care pursuant to such arrangements as the Secretary deems appropriate.

(g) Retention of medical reimbursements

Reimbursements paid to the Department of State for funding the costs of medical care abroad for employees and eligible family members shall be credited to the currently available applicable appropriation account. Such reimbursements shall be available for obligation and expenditure during the fiscal year in which they are received or for such longer period of time as may be provided in law.

(Pub. L. 96–465, title I, §904, Oct. 17, 1980, 94 Stat. 2127; Pub. L. 99–93, title I, §122, Aug. 16, 1985, 99 Stat. 413; Pub. L. 100–238, title II, §243, Jan. 8, 1988, 101 Stat. 1776; Pub. L. 107–228, div. A, title III, §316, Sept. 30, 2002, 116 Stat. 1379; Pub. L. 109–140, §2, Dec. 22, 2005, 119 Stat. 2650.)

AMENDMENTS

2005—Subsec. (g). Pub. L. 109–140 added subsec. (g).

2002—Subsec. (b). Pub. L. 107–228 substituted "families, (3) health education and disease prevention programs for all employees, and (4)" for "families, and (3)".

1988—Subsec. (b). Pub. L. 100–238 inserted "or Foreign Service Pension System" after "System".

1985—Subsec. (a). Pub. L. 99–93, §122(1), substituted "shall" for "may".

Subsec. (b). Pub. L. 99–93, §122(2), inserted ", and other preventive and remedial care and services as necessary,".

Subsec. (d). Pub. L. 99–93, §122(3), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: "If an individual eligible for health care under this section incurs an illness, injury, or medical condition while abroad which requires hospitalization or similar treatment, the Secretary may pay all or part of the cost of such treatment. Limitations on such payments established by regulation may be waived whenever the Secretary determines that the illness, injury, or medical condition clearly was caused or materially aggravated by the fact that the individual concerned is or has been located abroad."

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–238 effective 90 days after Jan. 8, 1988, see section 261(a) of Pub. L. 100–238,

set out as a note under section 4054 of this title.

§4085. Entertainment and representation expenses

Notwithstanding section 5536 of title 5, the Secretary may provide for official receptions and may pay entertainment and representational expenses (including expenses of family members) to enable the Department and the Service to provide for the proper representation of the United States and its interests. In carrying out this section, the Secretary shall, to the maximum extent practicable, provide for the use of United States products, including American wine.

(Pub. L. 96–465, title I, §905, Oct. 17, 1980, 94 Stat. 2128.)

§4086. Entitlement to vote in a State in a Federal election; preconditions; applicability

(a) Except as provided in subsection (b) and in such manner as shall be otherwise authorized by a State or other jurisdiction within the territory of the United States, a member of the Service residing outside the United States shall, in addition to any entitlement to vote in a State in a Federal election under section 3 of the Overseas Citizens Voting Rights Act (42 U.S.C. 1973dd–1), be entitled to vote in a Federal election in the State in which such member was last domiciled immediately before entering the Service if such member—

(1) makes an election of that State;

(2) notifies that State of such election and notifies any other States in which he or she is entitled to vote of such election; and

(3) otherwise meets the requirements of such Act [42 U.S.C. 1973dd et seq.].

(b) The provisions of subsection (a) shall apply only to an individual who becomes a member of the Service on or after November 22, 1983, and shall not apply to an individual who registers to vote in a State in which he is entitled to vote under section 3 of Overseas Citizens Voting Rights Act [42 U.S.C. 1973dd–1].

(Pub. L. 96–465, title I, §906, as added Pub. L. 98–164, title I, §129(a), Nov. 22, 1983, 97 Stat. 1027.)

REFERENCES IN TEXT

The Overseas Citizens Voting Rights Act, referred to in text, probably means the Overseas Citizens Voting Rights Act of 1975, Pub. L. 94–203, Jan. 2, 1976, 89 Stat. 1142, which was classified generally to subchapter I–E (§1973dd et seq.) of chapter 20 of Title 42, The Public Health and Welfare, and which was repealed by Pub. L. 99–410, title II, §203, Aug. 28, 1986, 100 Stat. 930.

SUBCHAPTER X—LABOR-MANAGEMENT RELATIONS

§4101. Congressional findings and policy

The Congress finds that—

(1) experience in both private and public employment indicates that the statutory protection of the right of workers to organize, bargain collectively, and participate through labor organizations of their own choosing in decisions which affect them—

(A) safeguards the public interest,

(B) contributes to the effective conduct of public business, and

(C) facilitates and encourages the amicable settlement of disputes between workers and their employers involving conditions of employment;

(2) the public interest demands the highest standards of performance by members of the Service and the continuous development and implementation of modern and progressive work practices to facilitate improved performance and efficiency; and

(3) the unique conditions of Foreign Service employment require a distinct framework for the development and implementation of modern, constructive, and cooperative relationships between management officials and organizations representing members of the Service.

Therefore, labor organizations and collective bargaining in the Service are in the public interest and are consistent with the requirement of an effective and efficient Government. The provisions of this subchapter should be interpreted in a manner consistent with the requirement of an effective and efficient Government.

(Pub. L. 96–465, title I, §1001, Oct. 17, 1980, 94 Stat. 2128.)

§4102. Definitions

As used in this subchapter, the term—

(1) "Authority" means the Federal Labor Relations Authority, described in section 7104(a) of title 5;

(2) "Board" means the Foreign Service Labor Relations Board, established by section 4106(a) of this title;

(3) "collective bargaining" means the performance of the mutual obligation of the management representative of the Department and of the exclusive representative of employees to meet at reasonable times and to consult and bargain in a good-faith effort to reach agreement with respect to the conditions of employment affecting employees, and to execute, if requested by either party, a written document incorporating any collective bargaining agreement reached, but this obligation does not compel either party to agree to a proposal or to make a concession;

(4) "collective bargaining agreement" means an agreement entered into as a result of collective bargaining under the provisions of this subchapter;

(5) "conditions of employment" means personnel policies, practices, and matters, whether established by regulation or otherwise, affecting working conditions, but does not include policies, practices, and matters—

(A) relating to political activities prohibited abroad or prohibited under subchapter III of chapter 73 of title 5;

(B) relating to the designation or classification of any position under section 3981 of this title;

(C) to the extent such matters are specifically provided for by Federal statute; or

(D) relating to Government-wide or multiagency responsibility of the Secretary affecting the rights, benefits, or obligations of individuals employed in agencies other than those which are authorized to utilize the Foreign Service personnel system;

(6) "confidential employee" means an employee who acts in a confidential capacity with respect to an individual who formulates or effectuates management policies in the field of labor-management relations;

(7) "dues" means dues, fees, and assessments;

(8) "employee" means—

(A) a member of the Service who is a citizen of the United States, wherever serving, other than a management official, a confidential employee, a consular agent, a member of the Service who is a United States citizen (other than a family member) employed under section 3951 of this title, or any individual who participates in a strike in violation of section 7311 of title 5; or

(B) a former member of the Service as described in subparagraph (A) whose employment has ceased because of an unfair labor practice under section 4115 of this title and who has not obtained any other regular and substantially equivalent employment, as determined under

regulations prescribed by the Board;

(9) "exclusive representative" means any labor organization which is certified as the exclusive representative of employees under section 4111 of this title;

(10) "General Counsel" means the General Counsel of the Authority;

(11) "labor organization" means an organization composed in whole or in part of employees, in which employees participate and pay dues, and which has as a purpose dealing with the Department concerning grievances (as defined in section 4131 of this title) and conditions of employment, but does not include—

(A) an organization which, by its constitution, bylaws, tacit agreement among its members, or otherwise, denies membership because of race, color, creed, national origin, sex, age, preferential or nonpreferential civil service status, political affiliation, marital status, or handicapping condition;

(B) an organization which advocates the overthrow of the constitutional form of government of the United States;

(C) an organization sponsored by the Department; or

(D) an organization which participates in the conduct of a strike against the Government or any agency thereof or imposes a duty or obligation to conduct, assist, or participate in such a strike;

(12) "management official" means an individual who—

(A) is a chief of mission or principal officer;

(B) is serving in a position to which appointed by the President, by and with the advice and consent of the Senate, or by the President alone;

(C) occupies a position which in the sole judgment of the Secretary is of comparable importance to the offices mentioned in subparagraph (A) or (B);

(D) is serving as a deputy to any individual described by subparagraph (A), (B), or (C);

(E) is assigned to carry out functions of the Inspector General of the Department of State and the Foreign Service under section 3929 of this title; or

(F) is engaged in the administration of this subchapter or in the formulation of the personnel policies and programs of the Department;

(13) "Panel" means the Foreign Service Impasse Disputes Panel, established by section 4110(a) of this title; and

(14) "person" means an individual, a labor organization, or an agency to which this subchapter applies.

(Pub. L. 96–465, title I, §1002, Oct. 17, 1980, 94 Stat. 2129; Pub. L. 103–236, title I, §180(a)(9), Apr. 30, 1994, 108 Stat. 416.)

AMENDMENTS

1994—Par. (8)(A). Pub. L. 103–236 inserted "a member of the Service who is a United States citizen (other than a family member) employed under section 3951 of this title,".

§4103. Application

(a) Departments and agencies affected

This subchapter applies only with respect to the Department of State, the Broadcasting Board of Governors, the Agency for International Development, the Department of Agriculture, and the Department of Commerce.

(b) Exclusion of subdivisions

The President may by Executive order exclude any subdivision of the Department from coverage under this subchapter if the President determines that—

(1) the subdivision has as a primary function intelligence, counterintelligence, investigative, or national security work, and

(2) the provisions of this subchapter cannot be applied to that subdivision in a manner consistent with national security requirements and considerations.

(c) Suspension of provisions

The President may by Executive order suspend any provision of this subchapter with respect to any post, bureau, office, or activity of the Department, if the President determines in writing that the suspension is necessary in the interest of national security because of an emergency.

(Pub. L. 96–465, title I, §1003, Oct. 17, 1980, 94 Stat. 2130; Pub. L. 97–241, title III, §303(b), Aug. 24, 1982, 96 Stat. 291; Pub. L. 105–277, div. G, subdiv. A, title XIII, §1335(k)(3), title XIV, §1422(b)(4)(C), Oct. 21, 1998, 112 Stat. 2681–789, 2681–793.)

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–277, §1422(b)(4)(C), substituted "Agency for International Development" for "United States International Development Cooperation Agency".

Pub. L. 105–277, §1335(k)(3), substituted "Broadcasting Board of Governors" for "United States Information Agency".

CHANGE OF NAME

"United States Information Agency" substituted for "International Communication Agency" in subsec. (a), pursuant to section 303(b) of Pub. L. 97–241, set out as a note under section 1461 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 1335(k)(3) of Pub. L. 105–277 effective Oct. 1, 1999, see section 1301 of Pub. L. 105–277, set out as an Effective Date note under section 6531 of this title.

Amendment by section 1422(b)(4)(C) of Pub. L. 105–277 effective Apr. 1, 1999, see section 1401 of Pub. L. 105–277, set out as an Effective Date note under section 6561 of this title.

§4104. Employee rights

(a) Every employee has the right to form, join, or assist any labor organization, or to refrain from any such activity, freely and without fear of penalty or reprisal. Each employee shall be protected in the exercise of such right.

(b) Except as otherwise provided under this subchapter, such right includes the right—

(1) to act for a labor organization in the capacity of a representative and, in that capacity, to present the views of the labor organization to the Secretary and other officials of the Government, including the Congress, or other appropriate authorities; and

(2) to engage in collective bargaining with respect to conditions of employment through representatives chosen by employees under this subchapter.

(Pub. L. 96–465, title I, §1004, Oct. 17, 1980, 94 Stat. 2130.)

§4105. Management rights

(a) Subject to subsection (b), nothing in this subchapter shall affect the authority of any management official of the Department, in accordance with applicable law—

(1) to determine the mission, budget, organization, and internal security practices of the Department, and the number of individuals in the Service or in the Department;

(2) to hire, assign, direct, lay off, and retain individuals in the Service or in the Department, to suspend, remove, or take other disciplinary action against such individuals, and to determine the number of members of the Service to be promoted and to remove the name of or delay the promotion of any member in accordance with regulations prescribed under section 4005(b) of this title;

(3) to conduct reductions in force, and to prescribe regulations for the separation of employees

pursuant to such reductions in force conducted under section 4010a of this title;

(4) to assign work, to make determinations with respect to contracting out, and to determine the personnel by which the operations of the Department shall be conducted;

(5) to fill positions from any appropriate source;

(6) to determine the need for uniform personnel policies and procedures between or among the agencies to which this subchapter applies; and

(7) to take whatever actions may be necessary to carry out the mission of the Department during emergencies.

(b) Nothing in this section shall preclude the Department and the exclusive representative from negotiating—

(1) at the election of the Department, on the numbers, types, and classes of employees or positions assigned to any organizational subdivision, work project, or tour of duty, or on the technology, methods, and means of performing work;

(2) procedures which management officials of the Department will observe in exercising any function under this section; or

(3) appropriate arrangements for employees adversely affected by the exercise of any function under this section by such management officials.

(Pub. L. 96–465, title I, §1005, Oct. 17, 1980, 94 Stat. 2131; Pub. L. 103–236, title I, §181(b), Apr. 30, 1994, 108 Stat. 417; Pub. L. 103–415, §1(jj)(2), Oct. 25, 1994, 108 Stat. 4303.)

AMENDMENTS

1994—Subsec. (a)(3) to (7). Pub. L. 103–236, as amended by Pub. L. 103–415, added par. (3) and redesignated former pars. (3) to (6) as (4) to (7), respectively.

§4106. Foreign Service Labor Relations Board

(a) Establishment; composition

There is established within the Federal Labor Relations Authority the Foreign Service Labor Relations Board. The Board shall be composed of 3 members, 1 of whom shall be the Chairman of the Authority, who shall be the Chairperson of the Board. The remaining 2 members shall be appointed by the Chairperson of the Board from nominees approved in writing by the agencies to which this subchapter applies, and the exclusive representative (if any) of employees in each such agency. In the event of inability to obtain agreement on a nominee, the Chairperson shall appoint the remaining 2 members from among individuals the Chairperson considers knowledgeable in labor-management relations and the conduct of foreign affairs.

(b) Chairperson serving concurrently as Chairman of Authority; length of terms; designation of alternate Chairperson

The Chairperson shall serve on the Board while serving as Chairman of the Authority. Of the 2 original members of the Board other than the Chairperson, one shall be appointed for a 2-year term and one shall be appointed for a 3-year term. Thereafter, each member of the Board other than the Chairperson shall be appointed for a term of 3 years, except that an individual appointed to fill a vacancy occurring before the end of a term shall be appointed for the unexpired term of the member replaced. The Chairperson may at any time designate an alternate Chairperson from among the members of the Authority.

(c) Vacancies

A vacancy on the Board shall not impair the right of the remaining members to exercise the full powers of the Board.

(d) Holding other Government offices or positions; compensation

The members of the Board, other than the Chairperson, may not hold another office or position in the Government except as authorized by law, and shall receive compensation at the daily equivalent

of the rate payable for level V of the Executive Schedule under section 5316 of title 5 for each day they are performing their duties (including traveltime).

(e) Removal of members

The Chairperson may remove any other Board member, upon written notice, for corruption, neglect of duty, malfeasance, or demonstrated incapacity to perform his or her functions, established at a hearing, except where the right to a hearing is waived in writing.

(Pub. L. 96–465, title I, §1006, Oct. 17, 1980, 94 Stat. 2131.)

§4107. Functions of Foreign Service Labor Relations Board

(a) General provisions

The Board shall—

(1) supervise or conduct elections and determine whether a labor organization has been selected as the exclusive representative by a majority of employees who cast valid ballots and otherwise administer the provisions of this subchapter relating to the according of exclusive recognition to a labor organization;

(2) resolve complaints of alleged unfair labor practices;

(3) resolve issues relating to the obligation to bargain in good faith;

(4) resolve disputes concerning the effect, the interpretation, or a claim of breach of a collective bargaining agreement, in accordance with section 4114 of this title; and

(5) take any action considered necessary to administer effectively the provisions of this subchapter.

(b) Consistency or precedence of decisions under other provisions of law

Decisions of the Board under this subchapter shall be consistent with decisions rendered by the Authority under chapter 71 of title 5, other than in cases in which the Board finds that special circumstances require otherwise. Decisions of the Board under this subchapter shall not be construed as precedent by the Authority, or any court or other authority, for any decision under chapter 71 of title 5.

(c) Implementation

In order to carry out its functions under this subchapter—

(1) the Board shall by regulation adopt procedures to apply in the administration of this subchapter; and

(2) the Board may—

(A) adopt other regulations concerning its functions under this subchapter;

(B) conduct appropriate inquiries wherever persons subject to this subchapter are located;

(C) hold hearings;

(D) administer oaths, take the testimony or deposition of any individual under oath, and issue subpenas;

(E) require the Department or a labor organization to cease and desist from violations of this subchapter and require it to take any remedial action the Board considers appropriate to carry out this subchapter; and

(F) consistent with the provisions of this subchapter, exercise the functions the Authority has under chapter 71 of title 5 to the same extent and in the same manner as is the case with respect to persons subject to chapter 71 of such title.

(Pub. L. 96–465, title I, §1007, Oct. 17, 1980, 94 Stat. 2132.)

§4108. Functions of General Counsel

The General Counsel may—

(1) investigate alleged unfair labor practices under this subchapter,
(2) file and prosecute complaints under this subchapter, and
(3) exercise such other powers of the Board as the Board may prescribe.

(Pub. L. 96–465, title I, §1008, Oct. 17, 1980, 94 Stat. 2133.)

§4109. Judicial review and enforcement

(a) Persons entitled to maintain action; time of filing; venue

Except as provided in section 4114(d) of this title, any person aggrieved by a final order of the Board may, during the 60-day period beginning on the date on which the order was issued, institute an action for judicial review of such order in the United States Court of Appeals for the District of Columbia.

(b) Enforcement of order; temporary relief or restraining order

The Board may petition the United States Court of Appeals for the District of Columbia for the enforcement of any order of the Board under this subchapter and for any appropriate temporary relief or restraining order.

(c) Applicability of other provisions of law

Subsection (c) of section 7123 of title 5 shall apply to judicial review and enforcement of actions by the Board in the same manner that it applies to judicial review and enforcement of actions of the Authority under chapter 71 of title 5.

(d) Unfair labor practices

The Board may, upon issuance of a complaint as provided in section 4116 of this title charging that any person has engaged in or is engaging in an unfair labor practice, petition the United States District Court for the District of Columbia, for appropriate temporary relief (including a restraining order). Upon the filing of the petition, the court shall cause notice thereof to be served upon the person, and thereupon shall have jurisdiction to grant any temporary relief (including a temporary restraining order) it considers just and proper. A court shall not grant any temporary relief under this section if it would interfere with the ability of the Department to carry out its essential functions or if the Board fails to establish probable cause that an unfair labor practice is being committed.

(Pub. L. 96–465, title I, §1009, Oct. 17, 1980, 94 Stat. 2133.)

§4110. Foreign Service Impasse Disputes Panel

(a) Establishment; composition

There is established within the Federal Labor Relations Authority the Foreign Service Impasse Disputes Panel, which shall assist in resolving negotiating impasses arising in the course of collective bargaining under this subchapter. The Chairperson shall select the Panel from among individuals the Chairperson considers knowledgeable in labor-management relations or the conduct of foreign affairs. The Panel shall be composed of 5 members, as follows:

(1) 2 members of the Service (other than a management official, a confidential employee, or a labor organization official);
(2) one individual employed by the Department of Labor;
(3) one member of the Federal Service Impasses Panel; and
(4) one public member who does not hold any other office or position in the Government.

The Chairperson of the Board shall set the terms of office for Panel members and determine who shall chair the Panel.

(b) Compensation; travel expenses

Panel members referred to in subsection (a)(3) and (4) shall receive compensation for each day they are performing their duties (including traveltime) at the daily equivalent of the maximum rate payable for grade GS–18 of the General Schedule under section 5332 of title 5, except that the member who is also a member of the Federal Service Impasses Panel shall not be entitled to pay under this subsection for any day for which he or she receives pay under section 7119(b)(4) [1] of title 5. Members of the Panel shall be entitled to travel expenses as provided under section 5703 of title 5.

(c) Impasse investigation and settlement; hearings and other actions upon failure to settle; notice; binding nature of action

(1) The Panel or its designee shall promptly investigate any impasse presented to it by a party. The Panel shall consider the impasse and shall either—

(A) recommend to the parties to the negotiation procedures for the resolution of the impasse; or

(B) assist the parties in resolving the impasse through whatever methods and procedures, including factfinding and recommendations, it may consider appropriate to accomplish the purpose of this section.

(2) If the parties do not arrive at a settlement after assistance by the Panel under paragraph (1), the Panel may—

(A) hold hearings;

(B) administer oaths, take the testimony or deposition of any individual under oath, and issue subpenas as provided in section 7132 of title 5; and

(C) take whatever action is necessary and not inconsistent with this subchapter to resolve the impasse.

(3) Notice of any final action of the Panel under this section shall be promptly served upon the parties, and the action shall be binding on such parties during the term of the collective bargaining agreement unless the parties agree otherwise.

(Pub. L. 96–465, title I, §1010, Oct. 17, 1980, 94 Stat. 2133.)

REFERENCES IN TEXT

Section 7119(b)(4) of title 5, referred to in subsec. (b), probably means section 7119(c)(4) of Title 5, Government Organization and Employees.

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

[1] *See References in Text note below.*

§4111. Exclusive recognition

(a) Secret ballot election; majority vote

The Department shall accord exclusive recognition to a labor organization if the organization has been selected as the representative, in a secret ballot election, by a majority of the employees in a unit who cast valid ballots in the election.

(b) Investigation of petition; hearing; supervision of election; certification of results; length of time between elections

If a petition is filed with the Board—

(1) by any person alleging—

(A) in the case of a unit for which there is no exclusive representative, that 30 percent of the

employees in the unit wish to be represented for the purpose of collective bargaining by an exclusive representative, or

(B) in the case of a unit for which there is an exclusive representative, that 30 percent of the employees in the unit alleged that the exclusive representative is no longer the representative of the majority of the employees in the unit; or

(2) by any person seeking clarification of, or an amendment to, a certification then in effect or a matter relating to representation;

the Board shall investigate the petition, and if it has reasonable cause to believe that a question of representation exists, it shall provide an opportunity for a hearing (for which a transcript shall be kept) after reasonable notice. If the Board finds on the record of the hearing that a question of representation exists, the Board shall supervise or conduct an election on the question by secret ballot and shall certify the results thereof. An election under this subsection shall not be conducted in any unit within which a valid election under this subsection has been held during the preceding 12 calendar months or with respect to which a labor organization has been certified as the exclusive representative during the preceding 24 calendar months.

(c) Intervention of labor organizations; placement on ballot

A labor organization which—

(1) has been designated by at least 10 percent of the employees in the unit; or

(2) is the exclusive representative of the employees involved;

may intervene with respect to a petition filed pursuant to subsection (b) and shall be placed on the ballot of any election under subsection (b) with respect to the petition.

(d) Eligibility to vote; regulations; choices on ballot; preferential voting; certification as exclusive representative

(1) The Board shall determine who is eligible to vote in any election under this section and shall establish regulations governing any such election, which shall include regulations allowing employees eligible to vote the opportunity to choose—

(A) from labor organizations on the ballot, that labor organization which the employees wish to have represent them; or

(B) not to be represented by a labor organization.

(2) In any election in which more than two choices are on the ballot, the regulations of the Board shall provide for preferential voting. If no choice receives a majority of first preferences, the Board shall distribute to the two choices having the most first preferences the preferences as between those two of the other valid ballots cast. The choice receiving a majority of preferences shall be declared the winner. A labor organization which is declared the winner of the election shall be certified by the Board as the exclusive representative.

(e) Submission of required material

A labor organization seeking exclusive recognition shall submit to the Board and to the Department a roster of its officers and representatives, a copy of its constitution and bylaws, and a statement of its objectives.

(f) Grounds for denial of exclusive recognition status

Exclusive recognition shall not be accorded to a labor organization—

(1) if the Board determines that the labor organization is subject to corrupt influence or influences opposed to democratic principles; or

(2) in the case of a petition filed under subsection (b)(1)(A), if there is not credible evidence that at least 30 percent of the employees wish to be represented for the purpose of collective bargaining by the labor organization seeking exclusive recognition.

(g) Waiver of hearings; consent elections

Nothing in this section shall be construed to prohibit the waiving of hearings by stipulation for the purpose of a consent election in conformity with regulations and rules or decisions of the Board.

(Pub. L. 96–465, title I, §1011, Oct. 17, 1980, 94 Stat. 2134.)

§4112. Employees represented

The employees of the Department shall constitute a single and separate worldwide bargaining unit, from which there shall be excluded—

(1) employees engaged in personnel work in other than a purely clerical capacity; and

(2) employees engaged in criminal or national security investigations or who audit the work of individuals to insure that their functions are discharged honestly and with integrity.

(Pub. L. 96–465, title I, §1012, Oct. 17, 1980, 94 Stat. 2135.)

§4113. Representation rights and duties

(a) Negotiation of collective bargaining agreements; nondiscriminatory representation

A labor organization which has been accorded exclusive recognition is the exclusive representative of, and is entitled to act for, and negotiate collective bargaining agreements covering, all employees in the unit described in section 4112 of this title. An exclusive representative is responsible for representing the interests of all employees in that unit without discrimination and without regard to labor organization membership.

(b) Places of representation

(1) An exclusive representative shall be given the opportunity to be represented at—

(A) any formal discussion between one or more representatives of the Department and one or more employees in the unit (or their representatives), concerning any grievance (as defined in section 4131 of this title) or any personnel policy or practice or other general condition of employment; and

(B) any examination of an employee by a Department representative in connection with an investigation if—

(i) the employee reasonably believes that the examination may result in disciplinary action against the employee, and

(ii) the employee requests such representation.

(2) The Department shall annually inform employees of their rights under paragraph (1)(B).

(c) Duty to bargain in good faith; determination of techniques assisting negotiation

The Department and the exclusive representative, through appropriate representatives, shall meet and negotiate in good faith for the purposes of arriving at a collective bargaining agreement. In addition, the Department and the exclusive representative may determine appropriate techniques, consistent with the provisions of section 4110 of this title, to assist in any negotiation.

(d) Applicability to other employee rights or remedies

The rights of an exclusive representative under this section shall not preclude an employee from—

(1) being represented by an attorney or other representative of the employee's own choosing, other than the exclusive representative, in any grievance proceeding under subchapter XI; or

(2) exercising grievance or appeal rights established by law, rule, or regulation.

(e) Obligations included in good faith bargaining

The duty of the Department and the exclusive representative to negotiate in good faith shall include the obligation—

(1) to approach the negotiations with a sincere resolve to reach a collective bargaining

agreement;

(2) to be represented at the negotiations by duly authorized representatives prepared to discuss and negotiate on any condition of employment;

(3) to meet at reasonable times and convenient places as frequently as may be necessary and to avoid unnecessary delays;

(4) for the Department to furnish to the exclusive representative, or its authorized representative, upon request and to the extent not prohibited by law, data—

(A) which is normally maintained by the Department in the regular course of business;

(B) which is reasonably available and necessary for full and proper discussion, understanding, and negotiation of subjects within the scope of collective bargaining; and

(C) which does not constitute guidance, advice, counsel, or training provided for management officials or confidential employees, relating to collective bargaining;

(5) to negotiate jointly with respect to conditions of employment applicable to employees in more than one of the agencies authorized to utilize the Foreign Service personnel system, as determined by the heads of such agencies; and

(6) if agreement is reached, to execute, upon the request of any party to the negotiation, a written document embodying the agreed terms, and to take the steps necessary to implement the agreement.

(f) Approval of agreement by Secretary; effective date; binding effect

(1) An agreement between the Department and the exclusive representative shall be subject to approval by the Secretary.

(2) The Secretary shall approve the agreement within 30 days after the date of the agreement unless the Secretary finds in writing that the agreement is contrary to applicable law, rule, or regulation.

(3) Unless the Secretary disapproves the agreement by making a finding under paragraph (2), the agreement shall take effect after 30 days from its execution and shall be binding on the Department and the exclusive representative subject to all applicable laws, orders, and regulations.

(g) Consultation by Department with exclusive representative

The Department shall consult with the exclusive representative with respect to Government-wide or multiagency matters affecting the rights, benefits, or obligations of individuals employed in agencies not authorized to utilize the Foreign Service personnel system. The exclusive representative shall be informed of any change proposed by the Department with respect to such matters, and shall be permitted reasonable time to present its views and recommendations regarding such change. The Department shall consider the views and recommendations of the exclusive representative before taking final action on any such change, and shall provide the exclusive representative a written statement of the reasons for taking the final action.

(Pub. L. 96–465, title I, §1013, Oct. 17, 1980, 94 Stat. 2135.)

§4114. Resolution of implementation disputes

(a) Grievance procedure

Any dispute between the Department and the exclusive representative concerning the effect, interpretation, or a claim of breach of a collective bargaining agreement shall be resolved through procedures negotiated by the Department and the exclusive representative. Any procedures negotiated under this section shall—

(1) be fair and simple,

(2) provide for expeditious processing, and

(3) include provision for appeal to the Foreign Service Grievance Board by either party of any dispute not satisfactorily settled.

(b) Review by Foreign Service Labor Relations Board

Either party to an appeal under subsection (a)(3) may file with the Board an exception to the action of the Foreign Service Grievance Board in resolving the implementation dispute. If, upon review, the Board finds that the action is deficient—

(1) because it is contrary to any law, rule, or regulation; or

(2) on other grounds similar to those applied by Federal courts in private sector labor-management relations;

the Board may take such action and make such recommendations concerning the Foreign Service Grievance Board action as it considers necessary, consistent with applicable laws, rules, and regulations.

(c) Time of filing exceptions; finality and binding nature of action

If no exception to a Foreign Service Grievance Board action is filed under subsection (b) within 30 days after such action is communicated to the parties, such action shall become final and binding and shall be implemented by the parties.

(d) Judicial review

Resolutions of disputes under this section shall not be subject to judicial review.

(Pub. L. 96–465, title I, §1014, Oct. 17, 1980, 94 Stat. 2137.)

§4115. Unfair labor practices

(a) Department of State

It shall be an unfair labor practice for the Department—

(1) to interfere with, restrain, or coerce any employee in the exercise by the employee of any right under this subchapter;

(2) to encourage or discourage membership in any labor organization by discrimination in connection with hiring, tenure, promotion, or other conditions of employment;

(3) to sponsor, control, or otherwise assist any labor organization, other than to furnish upon request customary and routine services and facilities on an impartial basis to labor organizations having equivalent status;

(4) to discipline or otherwise discriminate against an employee because the employee has filed a complaint or petition, or has given any information, affidavit, or testimony under this subchapter;

(5) to refuse to consult or negotiate in good faith with a labor organization, as required under this subchapter;

(6) to fail or refuse to cooperate in impasse procedures and impasse decisions, as required under this subchapter;

(7) to enforce any rule or regulation (other than a rule or regulation implementing section 2302 of title 5) which is in conflict with an applicable collective bargaining agreement if the agreement was in effect before the date the rule or regulation was prescribed; or

(8) to fail or refuse otherwise to comply with any provision of this subchapter.

(b) Labor organizations

It shall be an unfair labor practice for a labor organization—

(1) to interfere with, restrain, or coerce any employee in the exercise by the employee of any right under this subchapter;

(2) to cause or attempt to cause the Department to discriminate against any employee in the exercise by the employee of any right under this subchapter;

(3) to coerce, discipline, fine, or attempt to coerce a member of the labor organization as punishment or reprisal, or for the purpose of hindering or impeding the member's work performance or productivity as an employee or the discharge of the member's functions as an employee;

(4) to discriminate against an employee with regard to the terms and conditions of membership in the labor organization on the basis of race, color, creed, national origin, sex, age preferential or nonpreferential civil service status, political affiliation, marital status, or handicapping condition;

(5) to refuse to consult or negotiate in good faith with the Department, as required under this subchapter;

(6) to fail or refuse to cooperate in impasse procedures and impasse decisions, as required under this subchapter;

(7)(A) to call, or participate in, a strike, work stoppage, or slowdown, or to picket the Department in a labor-management dispute (except that any such picketing in the United States which does not interfere with the Department's operations shall not be an unfair labor practice); or

(B) to condone any unfair labor practice described in subparagraph (A) by failing to take action to prevent or stop such activity;

(8) to deny membership to any employee in the unit represented by the labor organization except—

(A) for failure to tender dues uniformly required as a condition of acquiring and retaining membership, or

(B) in the exercise of disciplinary procedures consistent with the organization's constitution or bylaws and this subchapter; or

(9) to fail or refuse otherwise to comply with any provision of this subchapter.

(c) Personal views, arguments, opinions, or statements

The expression of any personal view, argument, or opinion, or the making of any statement, which—

(1) publicizes the fact of a representational election and encourages employees to exercise their right to vote in such an election;

(2) corrects the record with respect to any false or misleading statement made by any person; or

(3) informs employees of the Government's policy relating to labor-management relations and representation,

if the expression contains no threat of reprisal or force or promise of benefit and was not made under coercive conditions shall not—

(A) constitute an unfair labor practice under this subchapter, or

(B) constitute grounds for the setting aside of any election conducted under this subchapter.

(d) Election of remedies

Issues which can properly be raised under an appeals procedure may not be raised as unfair labor practices prohibited under this section. Except for matters wherein, under section 4139(a)(2) of this title, an employee has an option of using the grievance procedure under subchapter XI or an appeals procedure, issues which can be raised under section 4114 of this title or subchapter XI may, in the discretion of the aggrieved party, be raised either under such section or subchapter or else raised as an unfair labor practice under this section, but may not be raised both under this section and under section 4114 of this title or subchapter XI.

(Pub. L. 96–465, title I, §1015, Oct. 17, 1980, 94 Stat. 2137; Pub. L. 102–138, title I, §153(d)(2), Oct. 28, 1991, 105 Stat. 674.)

AMENDMENTS

1991—Subsec. (d). Pub. L. 102–138 substituted "section 4139(a)(2)" for "section 4139(b)".

EFFECTIVE DATE OF 1991 AMENDMENT

Pub. L. 102–138, title I, §153(f), Oct. 28, 1991, 105 Stat. 674, provided that: "The amendments made by this section [amending this section and sections 4131, 4134, 4137, 4139, and 4140 of this title] shall not apply with respect to any grievance (within the meaning of section 1101 of the Act [22 U.S.C. 4131], as amended by this section) arising before the date of enactment of this Act [Oct. 28, 1991]."

§4116. Prevention of unfair labor practices

(a) Investigation by General Counsel; issuance of complaint; statement of reasons

If the Department or labor organization is charged by any person with having engaged in or engaging in an unfair labor practice, the General Counsel shall investigate the charge and may issue and cause to be served upon the Department or labor organization a complaint. In any case in which the General Counsel does not issue a complaint because the charge fails to state an unfair labor practice, the General Counsel shall provide the person making the charge a written statement of the reasons for not issuing a complaint.

(b) Notice in complaint

Any complaint under subsection (a) shall contain a notice—

(1) of the charge;

(2) that a hearing will be held before the Board (or any member thereof or before an individual employed by the Board and designated for such purpose); and

(3) of the time and place fixed for the hearing.

(c) Answer; personal appearance

The labor organization or Department involved shall have the right to file an answer to the original and any amended complaint and to appear in person or otherwise and give testimony at the time and place fixed in the complaint for the hearing.

(d) Time of filing of charges

(1) Except as provided in paragraph (2), no complaint shall be issued based on any alleged unfair labor practice which occurred more than 6 months before the filing of the charge with the Board.

(2) If the General Counsel determines that the person filing any charge was prevented from filing the charge during the 6-month period referred to in paragraph (1) by reason of—

(A) any failure of the Department or labor organization against which the charge is made to perform a duty owed to the person, or

(B) any concealment which prevented discovery of the alleged unfair labor practice during the 6-month period,

the General Counsel may issue a complaint based on the charge if the charge was filed during the 6-month period beginning on the day of the discovery by the person of the alleged unfair labor practice.

(e) Regulations providing for resolution through informal methods

The General Counsel may prescribe regulations providing for informal methods by which the alleged unfair labor practice may be resolved prior to the issuance of a complaint.

(f) Hearing

The Board (or any member thereof or any individual employed by the Board and designated for such purpose) shall conduct a hearing on the complaint not earlier than 5 days after the date on which the complaint is served. In the discretion of the individual or individuals conducting the hearing, any person involved may be allowed to intervene in the hearing and to present testimony. Any such hearing shall, to the extent practicable, be conducted in accordance with the provisions of subchapter II of chapter 5 of title 5, except that the parties shall not be bound by rules of evidence, whether statutory, common law, or adopted by a court. A transcript shall be kept of the hearing. After such a hearing the Board, in its discretion, may upon notice receive further evidence or hear argument.

(g) Findings of fact relative to issuance of orders; backpay

If the Board (or any member thereof or any individual employed by the Board and designated for such purpose) determines after any hearing on a complaint under subsection (f) that the preponderance of the evidence received demonstrates that the Department or labor organization

named in the complaint has engaged in or is engaging in an unfair labor practice, then the individual or individuals conducting the hearing shall state in writing their findings of fact and shall issue and cause to be served on the Department or labor organization an order—

(1) to cease and desist from any such unfair labor practice in which the Department or labor organization is engaged;

(2) requiring the parties to renegotiate a collective bargaining agreement in accordance with the order of the Board and requiring that the agreement, as amended, be given retroactive effect;

(3) requiring reinstatement of an employee with backpay in accordance with section 5596 of title 5; or

(4) including any combination of the actions described in paragraphs (1) through (3) or such other action as will carry out the purpose of this subchapter.

If any such order requires reinstatement of an employee with backpay, backpay may be required of the Department (as provided in section 5596 of title 5) or of the labor organization, as the case may be, which is found to have engaged in the unfair labor practice involved.

(h) Findings of fact requiring dismissal of complaint

If the individual or individuals conducting the hearing determine that the preponderance of the evidence received fails to demonstrate that the Department or labor organization named in the complaint has engaged in or is engaging in an unfair labor practice, the individual or individuals shall state in writing their findings of fact and shall issue an order dismissing the complaint.

(Pub. L. 96–465, title I, §1016, Oct. 17, 1980, 94 Stat. 2139.)

§4117. Standards of conduct for labor organizations

(a) Freedom from corrupt influences and influences opposed to basic democratic principles

The Department shall accord recognition only to a labor organization that is free from corrupt influences and influences opposed to basic democratic principles. Except as provided in subsection (b), an organization is not required to prove that it is free from such influences if it is subject to a governing requirement adopted by the organization or by a national or international labor organization or federation of labor organizations with which it is affiliated, or in which it participates, containing explicit and detailed provisions to which it subscribes calling for—

(1) the maintenance of democratic procedures and practices, including—

(A) provisions for periodic elections to be conducted subject to recognized safeguards, and

(B) provisions defining and securing the right of individual members to participate in the affairs of the organization, to receive fair and equal treatment under the governing rules of the organization, and to receive fair process in disciplinary proceedings;

(2) the exclusion from office in the organization of persons affiliated with Communist or other totalitarian movements and persons identified with corrupt influences;

(3) the prohibition of business or financial interests on the part of organization officers and agents which conflict with their duty to the organization and its members; and

(4) the maintenance of fiscal integrity in the conduct of the affairs of the organization, including provisions for accounting and financial controls and regular financial reports or summaries to be made available to members.

(b) Furnishing of information

A labor organization may be required to furnish evidence of its freedom from corrupt influences opposed to basic democratic principles if there is reasonable cause to believe that—

(1) the organization has been suspended or expelled from, or is subject to other sanction by, a parent labor organization, or federation of organizations with which it has been affiliated, because it has demonstrated an unwillingness or inability to comply with governing requirements comparable in purpose to those required by subsection (a); or

(2) the organization is in fact subject to influences that would preclude recognition under this subchapter.

(c) Reports; bonding of officials and other employees; compliance with trusteeship and election standards

A labor organization which has or seeks recognition as a representative of employees under this subchapter shall file financial and other reports with the Assistant Secretary of Labor for Labor Management Relations, provide for bonding of officials and others employed by the organization, and comply with trusteeship and election standards.

(d) Regulations; filing of complaints; cease and desist orders

The Assistant Secretary of Labor shall prescribe such regulations as are necessary to carry out this section. Such regulations shall conform generally to the principles applied to labor organizations in the private sector. Complaints of violations of this section shall be filed with the Assistant Secretary. In any matter arising under this section, the Assistant Secretary may require a labor organization to cease and desist from violations of this section and require it to take such actions as the Assistant Secretary considers appropriate to carry out the policies of this section.

(e) Participation in labor organizations restricted

(1) Notwithstanding any other provision of this subchapter—

(A) participation in the management of a labor organization for purposes of collective bargaining or acting as a representative of a labor organization for such purposes is prohibited under this subchapter—

(i) on the part of any management official or confidential employee;

(ii) on the part of any individual who has served as a management official or confidential employee during the preceding two years; or

(iii) on the part of any other employee if the participation or activity would result in a conflict of interest or apparent conflict of interest or would otherwise be incompatible with law or with the official functions of such employee; and

(B) service as a management official or confidential employee is prohibited on the part of any individual having participated in the management of a labor organization for purposes of collective bargaining or having acted as a representative of a labor organization during the preceding two years.

(2) For the purposes of paragraph (1)(A)(ii) and paragraph (1)(B), the term "management official" does not include—

(A) any chief of mission;

(B) any principal officer or deputy principal officer;

(C) any administrative or personnel officer abroad; or

(D) any individual described in section 4102(12)(B), (C), or (D) of this title who is not involved in the administration of this subchapter or in the formulation of the personnel policies and programs of the Department.

(f) Willful and intentional violations

If the Board finds that any labor organization has willfully and intentionally violated section 4115(b)(7) of this title by omission or commission with regard to any strike, work stoppage, slowdown, the Board shall—

(1) revoke the exclusive recognition status of the labor organization, which shall then immediately cease to be legally entitled and obligated to represent employees in the unit; or

(2) take any other appropriate disciplinary action.

(Pub. L. 96–465, title I, §1017, Oct. 17, 1980, 94 Stat. 2140; Pub. L. 103–236, title I, §171, Apr. 30, 1994, 108 Stat. 411; Pub. L. 105–277, div. G, subdiv. B, title XXIII, §2315, Oct. 21, 1998, 112 Stat. 2681–828.)

AMENDMENTS

1998—Subsec. (e)(2). Pub. L. 105–277 amended par. (2) generally. Prior to amendment, par. (2) read as follows: "For the purposes of paragraph (1)(A)(ii) and paragraph (1)(B), the term 'management official' shall not include chiefs of mission, principal officers and their deputies, and administrative and personnel officers abroad."

1994—Subsec. (e). Pub. L. 103–236 amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: "This subchapter does not authorize participation in the management of a labor organization or acting as a representative of a labor organization by a management official, a confidential employee, or any other employee if the participation or activity would result in a conflict or apparent conflict of interest or would otherwise be incompatible with law or with the official functions of such management official or such employee."

§4118. Administrative provisions

(a) Assignment for deduction of dues

If the Department has received from any individual a written assignment which authorizes the Department to deduct from the salary of that individual amounts for the payment of regular and periodic dues of the exclusive representative, the Department shall honor the assignment. Any such assignment shall be made at no cost to the exclusive representative or the individual. Except as provided in subsection (b), any such assignment may not be revoked for a period of one year from its execution.

(b) Termination of assignment for deduction of dues

An assignment for deduction of dues shall terminate when—

(1) the labor organization ceases to be the exclusive representative;

(2) the individual ceases to receive a salary from the Department as a member of the Service; or

(3) the individual is suspended or expelled from membership in the exclusive representative.

(c) Negotiations with uncertified labor organizations

During any period when no labor organization is certified as the exclusive representative of employees in the Department, the Department shall have the duty to negotiate with a labor organization which has filed a petition under section 4111(b)(1)(A) of this title alleging that 10 percent of the employees in the Department have membership in the organization if the Board has determined that the petition is valid. Negotiations under this subsection shall be concerned solely with the deduction of dues of the labor organization from the salary of the individuals who are members of the labor organization and who make a voluntary allotment for that purpose. Any agreement between the Department and a labor organization under this subsection shall terminate upon the certification of an exclusive representative of any employees to whom the agreement applies.

(d) Official time usage

The following provisions shall apply to the use of official time:

(1) Any employee representing an exclusive representative in the negotiation of a collective bargaining agreement under this subchapter shall be authorized official time for such purposes, including attendance at impasse proceedings, during the time the employee otherwise would be in a duty status. The number of employees for whom official time is authorized under this paragraph shall not exceed the number of individuals designated as representing the Department for such purposes.

(2) Any activities performed by any employee relating to the internal business of the labor organization, including the solicitation of membership, elections of labor organization officials, and collection of dues, shall be performed during the time the employee is in a nonduty status.

(3) Except as provided in paragraph (1), the Board shall determine whether any employee participating for, or on behalf of, a labor organization in any phase of proceedings before the Board shall be authorized official time for such purpose during the time the employee would

otherwise be in a duty status.

(4) Except as provided in paragraphs (1), (2), and (3), any employee representing an exclusive representative, or engaged in any other matter covered by this subchapter, shall be granted official time in any amount the Department and the exclusive representative agree to be reasonable, necessary, and in the public interest.

(Pub. L. 96–465, title I, §1018, Oct. 17, 1980, 94 Stat. 2141.)

SUBCHAPTER XI—GRIEVANCES

§4131. Definitions and applicability

(a)(1) Except as provided in subsection (b), for purposes of this subchapter, the term "grievance" means any act, omission, or condition subject to the control of the Secretary which is alleged to deprive a member of the Service who is a citizen of the United States (other than a United States citizen employed under section 3951 of this title who is not a family member) of a right or benefit authorized by law or regulation or which is otherwise a source of concern or dissatisfaction to the member, including—

(A) separation of the member allegedly contrary to laws or regulations, or predicated upon alleged inaccuracy, omission, error, or falsely prejudicial character of information in any part of the official personnel record of the member;

(B) other alleged violation, misinterpretation, or misapplication of applicable laws, regulations, or published policy affecting the terms and conditions of the employment or career status of the member;

(C) allegedly wrongful disciplinary action against the member;

(D) dissatisfaction with respect to the working environment of the member;

(E) alleged inaccuracy, omission, error, or falsely prejudicial character of information in the official personnel record of the member which is or could be prejudicial to the member;

(F) action alleged to be in the nature of reprisal or other interference with freedom of action in connection with participation by the member in procedures under this subchapter;

(G) alleged denial of an allowance, premium pay, or other financial benefit to which the member claims entitlement under applicable laws or regulations; and

(H) any discrimination prohibited by—

(i) section 2000e–16 of title 42,

(ii) section 206(d) of title 29,

(iii) section 791 of title 29,

(iv) sections 631 and 633a of title 29, or

(v) any rule, regulation, or policy directive prescribed under any provision of law described in clauses (i) through (iv).

(2) The scope of grievances described in paragraph (1) may be modified by written agreement between the Department and the labor organization accorded recognition as the exclusive representative under subchapter X (hereinafter in this subchapter referred to as the "exclusive representative").

(b) For purposes of this subchapter, the term "grievance" does not include—

(1) an individual assignment of a member under subchapter V, other than an assignment alleged to be contrary to law or regulation;

(2) the judgment of a selection board established under section 4002 of this title, a tenure board established under section 3946(b) of this title, or any other equivalent body established by laws or regulations which similarly evaluates the performance of members of the Service on a comparative basis;

(3) the expiration of a limited appointment, the termination of a limited appointment under section 4011 of this title, or the denial of a limited career extension or of a renewal of a limited career extension under section 4007(b) of this title; or

(4) any complaint or appeal where a specific statutory hearing procedure exists, except as provided in section 4139(a)(2) of this title.

Nothing in this subsection shall exclude any act, omission, or condition alleged to violate any law, rule, regulation, or policy directive referred to in subsection (a)(1)(H) from such term.

(c) This subchapter applies only with respect to the Department of State, Broadcasting [1] Board of Governors, the Agency for International Development, the Department of Agriculture, and the Department of Commerce.

(Pub. L. 96–465, title I, §1101, Oct. 17, 1980, 94 Stat. 2142; Pub. L. 97–241, title III, §303(b), Aug. 24, 1982, 96 Stat. 291; Pub. L. 102–138, title I, §153(a), Oct. 28, 1991, 105 Stat. 673; Pub. L. 103–236, title I, §§180(a)(10), 181(a)(4)(A), Apr. 30, 1994, 108 Stat. 416, 417; Pub. L. 105–277, div. G, subdiv. A, title XIII, §1335(k)(4), title XIV, §1422(b)(4)(D), Oct. 21, 1998, 112 Stat. 2681–789, 2681–793.)

AMENDMENTS

1998—Subsec. (c). Pub. L. 105–277, §1422(b)(4)(D), substituted "Agency for International Development" for "United States International Development Cooperation Agency".

Pub. L. 105–277, §1335(k)(4), substituted "Broadcasting Board of Governors," for "the United States Information Agency,".

1994—Subsec. (a)(1). Pub. L. 103–236, §180(a)(10), inserted "(other than a United States citizen employed under section 3951 of this title who is not a family member)" after "citizen of the United States" in introductory provisions.

Subsec. (b)(3). Pub. L. 103–236, §181(a)(4), made technical amendment to reference to section 4011 of this title to reflect renumbering of corresponding section of original act.

1991—Subsec. (a)(1)(H). Pub. L. 102–138, §153(a)(1), added subpar. (H).

Subsec. (b). Pub. L. 102–138, §153(a)(2), in par. (4), substituted "section 4139(a)(2)" for "section 4139(b)" and inserted at end "Nothing in this subsection shall exclude any act, omission, or condition alleged to violate any law, rule, regulation, or policy directive referred to in subsection (a)(1)(H) from such term."

CHANGE OF NAME

"United States Information Agency" substituted for "International Communication Agency" in subsec. (c), pursuant to section 303(b) of Pub. L. 97–241, set out as a note under section 1461 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 1335(k)(4) of Pub. L. 105–277 effective Oct. 1, 1999, see section 1301 of Pub. L. 105–277, set out as an Effective Date note under section 6531 of this title.

Amendment by section 1422(b)(4)(D) of Pub. L. 105–277 effective Apr. 1, 1999, see section 1401 of Pub. L. 105–277, set out as an Effective Date note under section 6561 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–138 not applicable with respect to any grievance, within the meaning of this section, arising before Oct. 28, 1991, see section 153(f) of Pub. L. 102–138, set out as a note under section 4115 of this title.

[1] So in original. Probably should be "the Broadcasting".

§4132. Grievances concerning former members or their survivors

Within the time limitations of section 4134 of this title, a former member of the Service or the surviving spouse (or, if none, another member of the family) of a deceased member or former member of the Service may file a grievance under this subchapter only with respect to allegations described in section 4131(a)(1)(G) of this title.

(Pub. L. 96–465, title I, §1102, Oct. 17, 1980, 94 Stat. 2143.)

§4133. Freedom of action

(a) Nature of protection

Any individual filing a grievance under this subchapter (hereinafter in this subchapter referred to as the "grievant"), and any witness, labor organization, or other person involved in a grievance proceeding, shall be free from any restraint, interference, coercion, harassment, discrimination, or reprisal in those proceedings or by virtue of them.

(b) Right to representation

(1) The grievant has the right to a representative of his or her own choosing at every stage of the proceedings under this subchapter.

(2) In any case where the grievant is a member of a bargaining unit represented by an exclusive representative, but is not represented in the grievance by that exclusive representative, the exclusive representative shall have the right to appear during the grievance proceedings.

(3) The grievant, and any representative of the grievant who is a member of the Service or employee of the Department, shall be granted reasonable periods of administrative leave to prepare and present the grievance and to attend proceedings under this subchapter.

(c) Administrative leave for witnesses

Any witness who is a member of the Service or employee of the Department shall be granted reasonable periods of administrative leave to appear and testify at any proceedings under this subchapter.

(d) Records

(1) No record of—

(A) a determination by the Secretary to reject a recommendation of the Foreign Service Grievance Board,

(B) a finding by the Grievance Board against the grievant, or

(C) the fact that a grievance proceeding is pending or has been held,

shall be entered in the personnel records of the grievant (except by order of the Grievance Board as a remedy for the grievance) or those of any other individual connected with the grievance. Nothing in this subsection shall prevent a grievant from placing a rebuttal to accompany a record of disciplinary action in such grievant's personnel records nor prevent the Department from including a response to such rebuttal, including documenting those cases in which the Board has reviewed and upheld the discipline.

(2) The Department shall maintain records pertaining to grievances under appropriate safeguards to preserve confidentiality.

(3) The Foreign Service Grievance Board may enforce compliance with the requirements of paragraphs (1) and (2).

(e) Expedition of security clearance procedures

The Department will use its best endeavors to expedite security clearance procedures whenever necessary to assure a fair and prompt resolution of a grievance.

(Pub. L. 96–465, title I, §1103, Oct. 17, 1980, 94 Stat. 2143; Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title III, §329], Nov. 29, 1999, 113 Stat. 1536, 1501A–438.)

AMENDMENTS

1999—Subsec. (d)(1). Pub. L. 106–113 inserted at end "Nothing in this subsection shall prevent a grievant from placing a rebuttal to accompany a record of disciplinary action in such grievant's personnel records nor prevent the Department from including a response to such rebuttal, including documenting those cases in which the Board has reviewed and upheld the discipline."

§4134. Time limitations

(a) Limitations period

A grievance is forever barred under this subchapter unless it is filed with the Department not later than two years after the occurrence giving rise to the grievance or, in the case of a grievance with respect to the grievant's rater or reviewer, one year after the date on which the grievant ceased to be subject to rating or review by that person, but in no case more than three years after the occurrence giving rise to the grievance. There shall be excluded from the computation of any such period any time during which, as determined by the Foreign Service Grievance Board, the grievant was unaware of the grounds for the grievance and could not have discovered such grounds through reasonable diligence.

(b) Failure of Department to resolve grievance; grievance filed with Foreign Service Grievance Board

If a grievance is not resolved under Department procedures (which have been negotiated with the exclusive representative, if any) within ninety days after it is filed with the Department, the grievant or the exclusive representative (on behalf of a grievant who is a member of the bargaining unit) shall be entitled to file a grievance with the Foreign Service Grievance Board for its consideration and resolution.

(c) Grievances based on alleged discrimination

(1) In applying subsection (a) with respect to an alleged violation of a law, rule, regulation, or policy directive referred to in section 4131(a)(1)(H) of this title, the reference to "2 years" shall be deemed to read "180 days", subject to paragraph (2).

(2) If the occurrence or occurrences giving rise to the grievance are alleged to have occurred while the grievant was assigned to a post abroad, the 180-day period provided for under paragraph (1) shall not commence until the earlier of—

(A) the date as of which the grievant is no longer assigned to such post; or

(B) the expiration of the 18-month period beginning on the date of the occurrence giving rise to the grievance or the last such occurrence, as the case may be.

(Pub. L. 96–465, title I, §1104, Oct. 17, 1980, 94 Stat. 2144; Pub. L. 102–138, title I, §153(b), Oct. 28, 1991, 105 Stat. 673; Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title III, §330(a), (b)], Nov. 29, 1999, 113 Stat. 1536, 1501A–438; Pub. L. 107–228, div. A, title III, §317, Sept. 30, 2002, 116 Stat. 1379.)

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–228 substituted "but in no case more than three years" for "but in no case less than two years".

1999—Subsec. (a). Pub. L. 106–113, §1000(a)(7) [div. A, title III, §330(a)], in first sentence, substituted "not later than two years after the occurrence giving rise to the grievance or, in the case of a grievance with respect to the grievant's rater or reviewer, one year after the date on which the grievant ceased to be subject to rating or review by that person, but in no case less than two years after the occurrence giving rise to the grievance." for "within a period of 3 years after the occurrence or occurrences giving rise to the grievance or such shorter period as may be agreed to by the Department and the exclusive representative."

Subsec. (c)(1). Pub. L. 106–113, §1000(a)(7) [div. A, title III, §330(b)], substituted " '2 years' " for " '3 years' ".

1991—Subsec. (a). Pub. L. 102–138, §153(b)(1), inserted "under this subchapter" before "unless".

Subsec. (c). Pub. L. 102–138, §153(b)(2), added subsec. (c).

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title III, §330(c)], Nov. 29, 1999, 113 Stat. 1536, 1501A–438, provided that: "The amendments made by this section [amending this section] shall take effect 180 days after the date of enactment of this Act [Nov. 29, 1999] and shall apply to grievances which arise on or after such effective date."

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–138 not applicable with respect to any grievance, within the meaning of section 4131 of this title, arising before Oct. 28, 1991, see section 153(f) of Pub. L. 102–138, set out as a note under section 4115 of this title.

§4135. Foreign Service Grievance Board

(a) Establishment; composition

There is established the Foreign Service Grievance Board (hereinafter in this subchapter referred to as the "Board"). The Board shall consist of no fewer than 5 members who shall be independent, distinguished citizens of the United States, well known for their integrity, who are not employees of the Department or members of the Service.

(b) Appointment and selection of nominees; length of terms; vacancies

The Chairperson and other members of the Board shall be appointed by the Secretary of State, from nominees approved in writing by the agencies to which this subchapter applies and the exclusive representative (if any) for each such agency. Each member of the Board shall be appointed for a term of 2 years, subject to renewal with the same written approvals required for initial appointment. In the event of a vacancy on the Board, an appointment for the unexpired term may be made by the Secretary of State in accordance with the procedures specified in this section. In the event of inability to obtain agreement on a nominee, each such agency and exclusive representative shall select 2 nominees and shall, in an order determined by lot, in turn strike a name from a list of such nominees until only one name remains. For purposes of this section, the nominee whose name remains shall be deemed to be approved in writing by each such agency head and exclusive representative.

(c) Compensation

Members of the Board who are not employees of the Government shall be paid for each day they are performing their duties (including traveltime) at the daily equivalent of the maximum rate payable for grade GS–18 of the General Schedule under section 5332 of title 5.

(d) Removal

The Secretary of State may, upon written notice, remove a Board member for corruption, neglect of duty, malfeasance, or demonstrated incapacity to perform his or her functions, established at a hearing (unless the right to a hearing is waived in writing by the Board member).

(e) Administrative services; payment of expenses; assignment as staff employees of Board; performance evaluation reports; records

The Board may obtain facilities, services, and supplies through the general administrative services of the Department of State. All expenses of the Board, including necessary costs of the travel and travel-related expenses of a grievant, shall be paid out of funds appropriated to the Department for obligation and expenditure by the Board. At the request of the Board, employees of the Department and members of the Service may be assigned as staff employees for the Board. Within the limits of appropriated funds, the Board may appoint and fix the compensation of such other employees as the Board considers necessary to carry out its functions. The individuals so appointed or assigned shall be responsible solely to the Board, and the Board shall prepare the performance evaluation reports for such individuals. The records of the Board shall be maintained by the Board and shall be separate from all other records of the Department of State under appropriate safeguards to preserve confidentiality.

(f) Report

(1) Not later than March 1 of each year, the Chairman of the Foreign Service Grievance Board shall prepare a report summarizing the activities of the Board during the previous calendar year. The report shall include—

(A) the number of cases filed;

(B) the types of cases filed;

(C) the number of cases on which a final decision was reached, as well as data on the outcome of cases, whether affirmed, reversed, settled, withdrawn, or dismissed;

(D) the number of oral hearings conducted and the length of each such hearing;

(E) the number of instances in which interim relief was granted by the Board; and

(F) data on the average time for consideration of a grievance, from the time of filing to a decision of the Board.

(2) The report required under paragraph (1) shall be submitted to the Director General of the Foreign Service and the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

(Pub. L. 96–465, title I, §1105, Oct. 17, 1980, 94 Stat. 2144; Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title III, §331], Nov. 29, 1999, 113 Stat. 1536, 1501A–439.)

AMENDMENTS

1999—Subsec. (f). Pub. L. 106–113 added subsec. (f).

CHANGE OF NAME

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

§4136. Foreign Service Grievance Board procedures

The Board may adopt regulations concerning its organization and procedures. Such regulations shall include provision for the following:

(1) The Board shall conduct a hearing at the request of a grievant in any case which involves—

(A) disciplinary action or the retirement of a grievant from the Service under section 4007 or 4008 of this title, or

(B) issues which, in the judgment of the Board, can best be resolved by a hearing or presentation of oral argument.

(2) The grievant, the representatives of the grievant, the exclusive representative (if the grievant is a member of the bargaining unit represented by the exclusive representative), and the representatives of the Department are entitled to be present at the hearing. The Board may, after considering the views of the parties and any other individuals connected with the grievance, decide that a hearing should be open to others. Testimony at a hearing shall be given under oath, which any Board member or individual designated by the Board shall have authority to administer.

(3) Each party (including an exclusive representative appearing in the proceedings) shall be entitled to examine and cross-examine witnesses at the hearing or by deposition and to serve interrogatories upon another party and have such interrogatories answered by the other party unless the Board finds such interrogatory irrelevant, immaterial, or unduly repetitive. Upon request of the Board, or upon a request of the grievant deemed relevant and material by the Board, an agency shall promptly make available at the hearing or by deposition any witness under its control, supervision, or responsibility, except that if the Board determines that the presence of such witness at the hearing is required for just resolution of the grievance, then the witness shall be made available at the hearing, with necessary costs and travel expenses paid by the Department.

(4) During any hearing held by the Board, any oral or documentary evidence may be received,

but the Board shall exclude any irrelevant, immaterial, or unduly repetitious evidence, as determined under section 556 of title 5.

(5) A verbatim transcript shall be made of any hearing and shall be part of the record of proceedings.

(6) In those grievances in which the Board does not hold a hearing, the Board shall afford to each party the opportunity to review and to supplement, by written submissions, the record of proceedings prior to the decision by the Board. The decision of the Board shall be based exclusively on the record of proceedings.

(7) The Board may act by or through panels or individual members designated by the Chairperson, except that hearings within the continental United States shall be held by panels of at least three members unless the parties agree otherwise. References in this subchapter to the Board shall be considered to be references to a panel or member of the Board where appropriate. All members of the Board shall act as impartial individuals in considering grievances.

(8) If the Board determines that the Department is considering the involuntary separation of the grievant (other than an involuntary separation for cause under section 4010(a) of this title), disciplinary action against the grievant, or recovery from the grievant of alleged overpayment of salary, expenses, or allowances, which is related to a grievance pending before the Board and that such action should be suspended, the Department shall suspend such action until the date which is one year after such determination or until the Board has ruled upon the grievance, whichever comes first. The Board shall extend the one-year limitation under the preceding sentence and the Department shall continue to suspend such action, if the Board determines that the agency or the Board is responsible for the delay in the resolution of the grievance. The Board may also extend the 1-year limit if it determines that the delay is due to the complexity of the case, the unavailability of witnesses or to circumstances beyond the control of the agency, the Board or the grievant. Notwithstanding such suspension of action, the head of the agency concerned or a chief of mission or principal officer may exclude the grievant from official premises or from the performance of specified functions when such exclusion is determined in writing to be essential to the functioning of the post or office to which the grievant is assigned.

(9) The Board may reconsider any decision upon presentation of newly discovered or previously unavailable material evidence.

(Pub. L. 96–465, title I, §1106, Oct. 17, 1980, 94 Stat. 2145; Pub. L. 101–167, title V, §586(a), Nov. 21, 1989, 103 Stat. 1252; Pub. L. 102–138, title I, §143(b), Oct. 28, 1991, 105 Stat. 668; Pub. L. 103–236, title I, §§177(a), 181(a)(4)(B), Apr. 30, 1994, 108 Stat. 414, 417; Pub. L. 107–228, div. A, title III, §314(b), Sept. 30, 2002, 116 Stat. 1379; Pub. L. 109–140, §5, Dec. 22, 2005, 119 Stat. 2652.)

AMENDMENTS

2005—Par. (8). Pub. L. 109–140 inserted "the involuntary separation of the grievant (other than an involuntary separation for cause under section 4010(a) of this title)," after "considering" and substituted "the grievant, or" for "the grievant or".

2002—Par. (8). Pub. L. 107–228, in first sentence, struck out "the involuntary separation of the grievant," before "disciplinary action" and substituted "grievant or" for "grievant, or", and struck out last sentence which read as follows: "Notwithstanding the first sentence of this paragraph, the Board's authority to suspend such action shall not extend to instances where the Secretary, or his designee, has exercised his authority under subsection (a)(3) of section 4010 of this title or with respect to any action which would delay the separation of an employee pursuant to a reduction in force conducted under section 4010a of this title."

1994—Par. (8). Pub. L. 103–236, §181(a)(4)(B), inserted before period at end "or with respect to any action which would delay the separation of an employee pursuant to a reduction in force conducted under section 4010a of this title".

Pub. L. 103–236, §177(a), substituted "until the date which is one year after such determination or until the Board has ruled upon the grievance, whichever comes first. The Board shall extend the one-year limitation under the preceding sentence and the Department shall continue to suspend such action, if the Board determines that the agency or the Board is responsible for the delay in the resolution of the grievance. The

Board may also extend the 1-year limit if it determines that the delay is due to the complexity of the case, the unavailability of witnesses or to circumstances beyond the control of the agency, the Board or the grievant." for "until the Board has ruled upon the grievance."

1991—Par. (8). Pub. L. 102–138 substituted "exercised his authority under subsection (a)(3) of section 4010 of this title" for "determined that there is reasonable cause to believe that a grievant has committed a job-related crime for which a sentence of imprisonment may be imposed and has taken action to suspend the grievant without pay pending a final resolution of the underlying matter".

1989—Par. (8). Pub. L. 101–167 inserted at end "Notwithstanding the first sentence of this paragraph, the Board's authority to suspend such action shall not extend to instances where the Secretary, or his designee, has determined that there is reasonable cause to believe that a grievant has committed a job-related crime for which a sentence of imprisonment may be imposed and has taken action to suspend the grievant without pay pending a final resolution of the underlying matter."

§4137. Foreign Service Grievance Board decisions

(a) Record; findings of fact and statement of reasons

Upon completion of its proceedings, the Board shall expeditiously decide the grievance on the basis of the record of proceedings. In each case the decision of the Board shall be in writing, and shall include findings of fact and a statement of the reasons for the decision of the Board.

(b) Authority of Department upon finding of meritorious grievance

If the Board finds that the grievance is meritorious, the Board shall have the authority to direct the Department—

(1) to correct any official personnel record relating to the grievant which the Board finds to be inaccurate or erroneous, to have an omission, or to contain information of a falsely prejudicial character;

(2) to reverse a decision denying the grievant compensation or any other perquisite of employment authorized by laws or regulations when the Board finds that such decision was arbitrary, capricious, or contrary to laws or regulations;

(3) to retain in the Service a member whose separation would be in consequence of the matter by which the member is aggrieved;

(4) to reinstate the grievant, and to grant the grievant back pay in accordance with section 5596(b)(1) of title 5;

(5) to pay reasonable attorney fees to the grievant to the same extent and in the same manner as such fees may be required by the Merit Systems Protection Board under section 7701(g) of title 5; and

(6) to take such other remedial action as may be appropriate under procedures agreed to by the Department and the exclusive representative (if any).

(c) Finality of decisions; judicial review

Except as provided in subsection (d), decisions of the Board under this subchapter shall be final, subject only to judicial review as provided in section 4140 of this title.

(d) Recommendations

(1) If the Board finds that the grievance is meritorious and that remedial action should be taken that relates directly to promotion, tenure or assignment of the grievant or to other remedial action not otherwise provided for in this section, or if the Board finds that the evidence before it warrants disciplinary action against any employee of the Department or member of the Service, it shall make an appropriate recommendation to the Secretary. The Secretary shall make a written decision on the recommendation of the Board within 30 days after receiving the recommendation. The Secretary shall implement the recommendation of the Board except to the extent that, in a decision made within that 30-day period, the Secretary rejects the recommendation in whole or in part on the basis of a determination that implementation of the recommendation would be contrary to law or would adversely affect the foreign policy or national security of the United States. If the Secretary rejects the recommendation in whole or in part, the decision shall specify the reasons for such action.

Pending the decision of the Secretary, there shall be no ex parte communication concerning the grievance between the Secretary and any person involved in the proceedings of the Board. The Secretary shall, however, have access to the entire record of the proceedings of the Board.

(2) A recommendation under paragraph (1) shall, for purposes of section 4140 of this title, be considered a final action upon the expiration of the 30-day period referred to in such paragraph, except to the extent that it is rejected by the Secretary by an appropriate written decision.

(3)(A) If the Secretary makes a written decision under paragraph (1) rejecting a recommendation in whole or in part on the basis of a determination that implementing such recommendation would be contrary to law, the Secretary shall, within the 30-day period referred to in such paragraph—

(i) submit a copy of such decision to the Board; and

(ii) request that the Board reconsider its recommendation or, if less than the entirety is rejected, that the Board reconsider the portion rejected.

(B)(i) Within 30 days after receiving a request under subparagraph (A), the Board shall, after reviewing the Secretary's decision, make a recommendation to the Secretary either confirming, modifying, or vacating its original recommendation or, if less than the entirety was rejected, the portion involved.

(ii) Reconsideration under this subparagraph shall be limited to the question of whether implementing the Board's original recommendation, either in whole or in part, as applicable, would be contrary to law.

(C) A recommendation made under subparagraph (B) shall be considered a final action for purposes of section 4140 of this title, and shall be implemented by the Secretary.

(e) Record of grievances; copy to committee of Congress; right of review

(1) The Board shall maintain records of all grievances awarded in favor of the grievant in which the grievance concerns gross misconduct by a supervisor. Subject to paragraph (2), the Committee on Foreign Relations of the Senate shall be provided with a copy of the grievance decision whenever such a supervisor is nominated for any position requiring the advice and consent of the Senate and the Board shall provide access to the entire record of any proceedings of the Board concerning such a grievance decision to any Member of the Committee on Foreign Relations upon a request by the Chairman or Ranking Minority Member of such committee.

(2)(A) Except as provided in subparagraph (B), all decisions, proceedings, and other records disclosed pursuant to paragraph (1) shall be treated as confidential and may be disclosed only to Committee members and appropriate staff.

(B) Whenever material is provided to the Committee or a Member thereof pursuant to paragraph (1), the Board shall, at the same time, provide a copy of all such material to the supervisor who is the subject of such material.

(C) A supervisor who is the subject of records disclosed to the committee [1] pursuant to this subsection shall have the right to review such record and provide comments to the Committee concerning such record. Such comments shall be treated in a confidential manner.

(f) Alleged discrimination; substantive law to be applied

The Board shall, with respect to any grievance based on an alleged violation of a law, rule, regulation, or policy directive referred to in section 4131(a)(1)(H) of this title, apply the substantive law that would be applied by the Equal Employment Opportunity Commission if a charge or claim alleging discrimination under such law, rule, regulation, or policy directive had been filed with the commission.[1]

(Pub. L. 96–465, title I, §1107, Oct. 17, 1980, 94 Stat. 2146; Pub. L. 100–204, title I, §§181(a), (b), 182, Dec. 22, 1987, 101 Stat. 1363, 1364; Pub. L. 102–138, title I, §153(c), Oct. 28, 1991, 105 Stat. 673.)

AMENDMENTS

1991—Subsec. (f). Pub. L. 102–138 added subsec. (f).

1987—Subsec. (d). Pub. L. 100–204, §181(a), (b), designated existing provisions as par. (1), inserted

", tenure" after "promotion" in first sentence, and added pars. (2) and (3).

Subsec. (e). Pub. L. 100–204, §182, added subsec. (e).

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–138 not applicable with respect to any grievance, within the meaning of section 4131 of this title, arising before Oct. 28, 1991, see section 153(f) of Pub. L. 102–138, set out as a note under section 4115 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–204 not applicable with respect to any grievance in which the Board has issued a final decision pursuant to this section before Dec. 22, 1987, see section 181(e) of Pub. L. 100–204, set out as a note under section 3946 of this title.

[1] *So in original. Probably should be capitalized.*

§4138. Access to records

(a) Review by Foreign Service Grievance Board of decision denying access

If a grievant is denied access to any agency record prior to or during the consideration of the grievance by the Department, the grievant may raise such denial before the Board in connection with the grievance.

(b) Access by Foreign Service Grievance Board; relevant and material records; adverse effect on national security or foreign policy

In considering a grievance, the Board shall have access to any agency record as follows:

(1)(A) The Board shall request access to any agency record which the grievant requests to substantiate the grievance if the Board determines that such record may be relevant and material to the grievance.

(B) The Board may request access to any other agency record which the Board determines may be relevant and material to the grievance.

(2) Any agency shall make available to the Board any agency record requested under paragraph (1) unless the head or deputy head of such agency personally certifies in writing to the Board that disclosure of the record to the Board and the grievant would adversely affect the foreign policy or national security of the United States or that such disclosure is prohibited by law. If such a certification is made with respect to any record, the agency shall supply to the Board a summary or extract of such record unless the reasons specified in the preceding sentence preclude such a summary or extract.

(c) Access by grievant

If the Board determines that an agency record, or a summary or extract of a record, made available to the Board under subsection (b) is relevant and material to the grievance, the agency concerned shall make such record, summary, or extract, as the case may be, available to the grievant.

(d) Denial of access as factor in determination of grievance

In considering a grievance, the Board may take into account the fact that the grievant or the Board was denied access to an agency record which the Board determines is or may be relevant and material to the grievance.

(e) Proceedings and decisions of Foreign Service Grievance Board

The grievant in any case decided by the Board shall have access to the record of the proceedings and the decision of the Board.

(Pub. L. 96–465, title I, §1108, Oct. 17, 1980, 94 Stat. 2147.)

§4139. Relationship to other remedies

(a)(1) A grievant may not file a grievance with the Board if the grievant has formally requested, prior to filing a grievance, that the matter or matters which are the basis of the grievance be considered or resolved and relief be provided under another provision of law, regulation, or Executive order, other than under section 1214 or 1221 of title 5, and the matter has been carried to final decision under such provision on its merits or is still under consideration.

(2) If a grievant is not prohibited from filing a grievance under paragraph (1), the grievant may file with the Board a grievance which is also eligible for consideration, resolution, and relief under chapter 12 of title 5 or a regulation or Executive order other than under this subchapter. An election of remedies under this subsection shall be final upon the acceptance of jurisdiction by the Board.

(3) This subsection shall not apply to any grievance with respect to which subsection (b) applies.

(b)(1) With respect to a grievance based on an alleged violation of a law, rule, regulation, or policy directive referred to in section 4131(a)(1)(H) of this title, a grievant may either—

(A) file a grievance under this subchapter, or

(B) initiate in writing a proceeding under another provision of law, regulation, or Executive order that authorizes relief,

but not both.

(2) A grievant shall be considered to have exercised the option under paragraph (1) as soon as the grievant timely either—

(A) files a grievance under this subchapter, or

(B) initiates in writing a proceeding under such other provision of law, regulation, or Executive order.

(Pub. L. 96–465, title I, §1109, Oct. 17, 1980, 94 Stat. 2148; Pub. L. 101–12, §9(a)(3), Apr. 10, 1989, 103 Stat. 35; Pub. L. 102–138, title I, §153(d)(1), Oct. 28, 1991, 105 Stat. 673.)

AMENDMENTS

1991—Subsec. (a). Pub. L. 102–138, §153(d)(1)(A), (B), redesignated former subsec. (a) as par. (1), redesignated former subsec. (b) as par. (2) of subsec. (a) and substituted "paragraph (1)" for "subsection (a) of this section" and "under this subsection" for "under this section", and added par. (3).

Subsec. (b). Pub. L. 102–138, §153(d)(1)(C), added subsec. (b). Former subsec. (b) redesignated (a)(2).

1989—Subsec. (a). Pub. L. 101–12 substituted "1214 or 1221" for "1206".

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–138 not applicable with respect to any grievance, within the meaning of section 4131 of this title, arising before Oct. 28, 1991, see section 153(f) of Pub. L. 102–138, set out as a note under section 4115 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101–12 effective 90 days following Apr. 10, 1989, see section 11 of Pub. L. 101–12, set out as a note under section 1201 of Title 5, Government Organization and Employees.

§4140. Judicial review

(a) Any aggrieved party may obtain judicial review of a final action of the Secretary or the Board on any grievance in the district courts of the United States in accordance with the standards set forth in chapter 7 of title 5, if the request for judicial review is filed not later than 180 days after the final action of the Secretary or the Board (or in the case of an aggrieved party who is posted abroad at the time of the final action of the Secretary or the Board, if the request for judicial review is filed not later than 180 days after the aggrieved party's return to the United States). Section 706 of title 5 shall apply without limitation or exception. This subsection shall not apply to any grievance with respect to which subsection (b) applies.

(b)(1) For purposes of this subsection, the term "aggrieved party" means a grievant.

(2) With respect to a grievance based on an alleged violation of a law, rule, regulation, or policy

directive referred to in section 4131(a)(1)(H) of this title, judicial review of whether the act, omission, or condition that is the basis of the grievance violates such law, rule, regulation, or policy directive may be obtained by an aggrieved party only if such party commences a civil action, not later than 90 days after such party receives notice of the final action of the Secretary or the Board, in an appropriate district court of the United States for de novo review.

(Pub. L. 96–465, title I, §1110, Oct. 17, 1980, 94 Stat. 2148; Pub. L. 102–138, title I, §153(e), Oct. 28, 1991, 105 Stat. 674; Pub. L. 103–236, title I, §177(b), Apr. 30, 1994, 108 Stat. 414.)

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–236 inserted before period at end of first sentence ", if the request for judicial review is filed not later than 180 days after the final action of the Secretary or the Board (or in the case of an aggrieved party who is posted abroad at the time of the final action of the Secretary or the Board, if the request for judicial review is filed not later than 180 days after the aggrieved party's return to the United States)".

1991—Pub. L. 102–138 designated existing provisions as subsec. (a), inserted provision that subsec. (a) not apply to any grievance with respect to which subsec. (b) applies, and added subsec. (b).

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–138 not applicable with respect to any grievance, within the meaning of section 4131 of this title, arising before Oct. 28, 1991, see section 153(f) of Pub. L. 102–138, set out as a note under section 4115 of this title.

JUDICIAL REVIEW OF CERTAIN FOREIGN SERVICE GRIEVANCES

Pub. L. 101–246, title I, §152, Feb. 16, 1990, 104 Stat. 42, provided that: "For the purposes of judicial review under section 1110 of the Foreign Service Act of 1980 [22 U.S.C. 4140], any recommendation made by the Foreign Service Grievance Board with respect to the tenure of a grievant which was reviewed by the Secretary of State before the date of enactment of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 [Dec. 22, 1987], shall be considered to be a final action of the Department of State, and any such recommendation shall be considered to have been made within the authority of the Foreign Service Grievance Board."

SUBCHAPTER XI–A—FOREIGN SERVICE INTERNSHIP PROGRAM

§4141. Statement of policy; objectives

(a) Statement of policy

Consistent with the findings of section 3901 of this title, the Foreign Service of the United States should be representative of the American people. In order to facilitate and encourage the entry into the Foreign Service of individuals who meet the rigorous requirements of the Service, while ensuring a Foreign Service system which reflects the cultural and ethnic diversity of the United States, intensive recruitment efforts are mandated. This is particularly true for Native Americans, African Americans, and Hispanic Americans, where other affirmative action and equal opportunity efforts have not been successful in attracting the ablest applicants for entry into the Foreign Service. The United States remains committed to equal opportunity and to a Foreign Service system operated on the basis of merit principles.

(b) Objectives

The objective of this subchapter is to strengthen and improve the Foreign Service of the United States through the establishment of a Foreign Service Internship Program. The program shall promote the Foreign Service as a viable and rewarding career opportunity for qualified individuals who reflect the cultural and ethnic diversity of the United States through a highly selective internship program for students enrolled in institutions of higher education.

(Pub. L. 96–465, title I, §1201, as added Pub. L. 101–246, title I, §149(b), Feb. 16, 1990, 104 Stat.

39.)

§4141a. Foreign Service Internship Program

(a) Establishment

In consultation with the heads of other agencies utilizing the Foreign Service system, the Secretary of State shall establish a Foreign Service internship program to carry out the objectives of this subchapter in accordance with the provisions of this subchapter.

(b) Foreign Service Internship Program

The program shall introduce interns to the practice of diplomacy and the unique rewards of the Foreign Service. The program shall consist of three successive summer internships of not less than eight weeks duration in each year to be completed over the course of not more than four years. Special emphasis shall be given to preparing the intern for the Foreign Service examination process. In each year not less than 10 interns shall enter the program.

(c) Eligibility to participate

(1) Students enrolled full-time in institutions of higher education from groups which are underrepresented in the Foreign Service in terms of the cultural and ethnic diversity of the Foreign Service and for whom equal opportunity and affirmative action recruitment efforts have not been successful in achieving balanced representation in appointments to the Foreign Service shall be eligible to be interns in programs under this subchapter.

(2) An intern shall have successfully completed not less than one academic year of study at an institution of higher education to be admitted to the program. In each succeeding year of participation an intern shall have completed an additional year of undergraduate or graduate study and shall maintain an exemplary record of academic achievement.

(3) In selecting interns, the Secretary shall consider only the ablest students of superior ability selected on the basis of demonstrated achievement and exceptional promise whose academic records reflect the requisite standards of performance necessary for the Foreign Service.

(d) Summer internships

(1) The primary focus of the first internship shall be the study of international relations, the functions of the Department of State and other agencies which utilize the Foreign Service system, and the nature of the Foreign Service. The internship shall be held in Washington, District of Columbia, at the Department of State. As appropriate, the Secretary shall utilize the personnel and facilities of the George P. Shultz National Foreign Affairs Training Center.

(2) The second internship shall be, principally, an assignment to a specific bureau of the Department of State. Emphasis shall be on providing insight into the economic and political functional areas.

(3) The third internship shall be an assignment to a United States mission abroad in the political or economic area.

(4) The first and second internships may include a detail to the Congress.

(e) Administration

The Secretary of State shall determine the academic requirements, other selection criteria, and standards for successful completion of each internship period. The Secretary shall be responsible for the design, implementation, and operation of the program.

(f) Mentors

Each intern shall be assigned a career Foreign Service officer as a mentor. The mentor shall act as a counselor and advisor throughout each summer internship and as a personal Foreign Service contact throughout the period of participation in the program. In the assignment of mentors, the Secretary shall give preference to Foreign Service officers who volunteer for such assignment and who may be role models for the interns.

(g) Compensation

Interns shall be compensated at a rate determined by the Secretary which shall not be less than the compensation of comparable summer interns at the Department of State. As determined by the Secretary, for the purposes of travel, housing, health insurance, and other appropriate benefits, interns shall be considered employees of the Foreign Service during each internship period.

(h) Study of Foreign Service examination

The Secretary of State shall study the feasibility of administering the Foreign Service examination in separate segments over several years. Not later than 180 days after February 16, 1990, the Secretary shall submit a report summarizing the findings of such a study to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

(Pub. L. 96–465, title I, §1202, as added Pub. L. 101–246, title I, §149(b), Feb. 16, 1990, 104 Stat. 40; amended Pub. L. 107–132, §1(b), Jan. 16, 2002, 115 Stat. 2412.)

CODIFICATION

February 16, 1990, referred to in subsec. (h), was in the original "the date of the enactment of this Act", which was translated as meaning the date of enactment of Pub. L. 101–246, which enacted this subchapter, to reflect the probable intent of Congress.

AMENDMENTS

2002—Subsec. (d)(1). Pub. L. 107–132 substituted "George P. Shultz National Foreign Affairs Training Center" for "Foreign Service Institute".

§4141b. Report to Congress

Together with the annual submission required under section 3905(d)(2) [1] of this title, the Secretary of State shall submit a report to the Congress concerning the implementation of the program established under this subchapter. Such report accompanied by such other information as the Secretary considers appropriate, shall include specific information concerning the completion rates of interns in the program, interns who took the Foreign Service examination, interns who passed the examination, former interns appointed to the Foreign Service, assignments of former interns, and the advancement of former interns through the Foreign Service System.[2]

(Pub. L. 96–465, title I, §1203, as added Pub. L. 101–246, title I, §149(b), Feb. 16, 1990, 104 Stat. 41.)

REFERENCES IN TEXT

Section 3905(d)(2) of this title, referred to in text, was omitted from the Code.

[1] See References in Text note below.

[2] So in original. Probably should not be capitalized.

§4141c. Authorization of appropriations

Of the amounts authorized to be appropriated by section 101(a)(1) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991, $100,000 for the fiscal year 1990 and $150,000 for the fiscal year 1991 shall be available only to carry out this subchapter. Sums appropriated for the purposes of this subchapter are authorized to remain available until expended.

(Pub. L. 96–465, title I, §1204, as added Pub. L. 101–246, title I, §149(b), Feb. 16, 1990, 104 Stat. 41.)

REFERENCES IN TEXT

Section 101(a)(1) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991, referred to in text, is section 101(a)(1) of Pub. L. 101–246, title I, Feb. 16, 1990, 104 Stat. 18, which is not classified to the Code.

SUBCHAPTER XII—TRANSITION

§4151. Pay and benefits pending conversion

Until converted under the provisions of this subchapter, any individual who is in the Foreign Service before February 15, 1981, and is serving under an appointment as a Foreign Service officer, Foreign Service information officer, Foreign Service Reserve officer with limited or unlimited tenure, or Foreign Service staff officer or employee, shall be treated for purposes of salary, allowances, and other matters as if such individual had been converted under section 4152 or 4153 of this title, as the case may be, on February 15, 1981, except that any adjustment of salary under this section shall take effect—

(1) in the case of an individual who is in the Foreign Service on October 17, 1980, on the first day of the first pay period which begins on or after October 1, 1980, and

(2) in the case of an individual who is appointed to the Foreign Service after October 17, 1980, on the date such appointment becomes effective.

(Pub. L. 96–465, title II, §2101, Oct. 17, 1980, 94 Stat. 2148.)

CODIFICATION

"February 15, 1981" substituted in text for "the effective date of this Act" pursuant to section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

§4152. Conversion to Foreign Service Schedule

(a) Not later than 120 days after February 15, 1981, the Secretary shall, in accordance with section 4156 of this title, convert to the appropriate class in the Foreign Service Schedule established under section 3963 of this title those individuals in the Foreign Service who are serving immediately before February 15, 1981, under appointments at or below class 3 of the schedule established under section 412 or 414 of the Foreign Service Act of 1946, or at any class in the schedule established under section 415 of such Act, as—

(1) Foreign Service officers, or

(2) Foreign Service Reserve officers with limited or unlimited tenure, and Foreign Service staff officers or employees, who the Secretary determines are available for worldwide assignment.

(b) Not later than 3 years after February 15, 1981, Foreign Service Reserve officers and staff officers and employees who the Secretary determines under subsection (a)(2) are not available for worldwide assignment shall also be converted, in accordance with section 4156 of this title, to the appropriate class in the Foreign Service Schedule established under section 3963 of this title if—

(1) the Secretary certifies that there is a need for their services in the Foreign Service; and

(2) they agree in writing to accept availability for worldwide assignment as a condition of continued employment.

(Pub. L. 96–465, title II, §2102, Oct. 17, 1980, 94 Stat. 2148.)

REFERENCES IN TEXT

Sections 412, 414 and 415 of the Foreign Service Act of 1946, referred to in subsec. (a), which were classified to sections 867, 869 and 870, respectively, of this title, were repealed by Pub. L. 96–465, title II, §2205(1), Oct. 17, 1980, 94 Stat. 2159.

CODIFICATION

In subsecs. (a) and (b), "February 15, 1981" substituted for "the effective date of this Act" pursuant to section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

§4153. Conversion to Senior Foreign Service

(a) Criteria; application less than 120 days after effective date of Foreign Service Act of 1980

Foreign Service officers and Foreign Service Reserve officers with limited or unlimited tenure who, immediately before February 15, 1981, are serving under appointments at class 2 or a higher class of the schedule established under section 412 or 414 of the Foreign Service Act of 1946 may at any time within 120 days after such date submit to the Secretary a written request for appointment to the Senior Foreign Service.

(b) Limited appointment

Except as provided in subsection (d), if a request is submitted under subsection (a) by a Foreign Service Reserve officer with limited tenure, the Secretary shall grant to such officer a limited appointment to the Senior Foreign Service in the appropriate class established under section 3962 of this title.

(c) Career appointment

If a request is submitted under subsection (a) by a Foreign Service officer or, except as provided in subsection (d), a Foreign Service Reserve officer with unlimited tenure, the Secretary shall recommend to the President a career appointment of such officer, by and with the advice and consent of the Senate, to the Senior Foreign Service in the appropriate class established under section 3962 of this title.

(d) Availability for worldwide assignment

If the Secretary determines that a Foreign Service Reserve officer with limited or unlimited tenure who submits a request under subsection (a) is not available for worldwide assignment, an appointment under subsection (b) or a recommendation for appointment under subsection (c) shall be made only if—

(1) the Secretary certifies that there is a need for the services of such officer in the Senior Foreign Service; and

(2) such officer agrees in writing to accept availability for worldwide assignment as a condition of continued employment.

(e) Application more than 120 days after effective date of Foreign Service Act of 1980

If a Foreign Service officer or a Foreign Service Reserve officer who is eligible to submit a request under subsection (a) submits a written request for appointment to the Senior Foreign Service to the Secretary more than 120 days after February 15, 1981, and before the end of the 3-year period beginning on February 15, 1981, the Secretary (in the case of a Foreign Service Reserve officer with limited tenure) may grant a limited appointment to, or (in the case of a Foreign Service officer or Foreign Service Reserve officer with unlimited tenure) may recommend to the President a career appointment of, the requesting officer to the appropriate class established under section 3962 of this title, subject to the conditions specified in subsection (d) and such other conditions as the Secretary may prescribe consistent with the provisions of subchapter VI of this chapter relating to promotion into the Senior Foreign Service.

(f) Forced conversion

Any officer of the Foreign Service who is eligible to submit a request under subsection (a) and—

(1) who does not submit a request under subsection (a), or

(2) who submits such a request more than 120 days after February 15, 1981, and is not appointed to the Senior Foreign Service for any reason other than failure to meet the conditions specified in subsection (d),

may not remain in the Foreign Service for more than 3 years after February 15, 1981. During such period, the officer shall be subject to the provisions of subchapters I to XI of this chapter applicable to members of the Senior Foreign Service, except that such officer shall not be eligible to compete for performance pay under section 3965 of this title, and shall not be eligible for a limited career extension as described in section 4007(b) of this title. Upon separation from the Service, any such officer who is a participant in the Foreign Service Retirement and Disability System shall be entitled to retirement benefits on the same basis as a member retired from the Senior Foreign Service under section 4007(c)(1) of this title, and section 4009(a)(2)(B) of this title shall be deemed to apply to such officer.

(Pub. L. 96–465, title II, §2103, Oct. 17, 1980, 94 Stat. 2149; Pub. L. 98–164, title I, §128, Nov. 22, 1983, 97 Stat. 1027.)

REFERENCES IN TEXT

Sections 412 and 414 of the Foreign Service Act of 1946, referred to in subsec. (a), which were classified to sections 867 and 869, respectively, of this title, were repealed by Pub. L. 96–465, title II, §2205(1), Oct. 17, 1980, 94 Stat. 2159.

CODIFICATION

In subsecs. (a), (e), and (f), "February 15, 1981" substituted for "the effective date of this Act" and "such effective date" pursuant to section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

AMENDMENTS

1983—Subsec. (f). Pub. L. 98–164 substituted provisions relating to applicability of sections 4007(c)(1) and 4009(a)(2)(B) of this title, for provisions relating to applicability of subchapter VIII of this chapter.

§4154. Conversion from Foreign Service

(a) Individuals serving under appointment

In the case of any individual in the Foreign Service who, immediately before February 15, 1981, is serving under an appointment described in section 4152(a) or 4153(a) of this title and who is not converted under section 4152 or section 4153 of this title because such individual does not meet the conditions specified in section 4152(b) or 4153(d) of this title, the Secretary shall, not later than 3 years after February 15, 1981, provide that—

(1) the position such individual holds shall be subject to chapter 51 and subchapter III of chapter 53 of title 5;

(2) such individual shall be appointed to such position without competitive examination; and

(3) such position shall be considered to be in the competitive service so long as the individual continues to hold that position;

except that any such individual who meets the eligibility requirements for the Senior Executive Service and who elects to join that Service shall be converted by the Secretary to the Senior Executive Service in the appropriate rate of basic pay established under section 5382 of title 5.

(b) United States Information Agency individuals

In the case of individuals in the Foreign Service in the United States Information Agency who immediately before October 17, 1980, are covered by a collective bargaining agreement between the Agency and the exclusive representative of those individuals, the 3-year period referred to in subsection (a) shall begin on July 1, 1981.

(c) Department of State security officers

The three-year period referred to in subsection (a) shall be extended for an additional period not to exceed one year from November 22, 1983, in the case of Department of State security officers who are members of the Service and who were initially ineligible for conversion under that subsection

because they were available for worldwide assignment and there was a need for their services in the Service, but as to whom subsequent events require the services of these members (and of those later employed who are similarly situated) only or primarily for domestic functions.

(Pub. L. 96–465, title II, §2104, Oct. 17, 1980, 94 Stat. 2150; Pub. L. 97–241, title III, §303(b), Aug. 24, 1982, 96 Stat. 291; Pub. L. 98–164, title I, §132, Nov. 22, 1983, 97 Stat. 1028.)

CODIFICATION

In subsec. (a), "February 15, 1981" substituted for "the effective date of this Act" pursuant to section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

In subsec. (c), "November 22, 1983" was in the original "the date of enactment of this section" which was translated as meaning the date of enactment of this subsection, as the probable intent of Congress.

AMENDMENTS

1983—Subsec. (c). Pub. L. 98–164 added subsec. (c).

CHANGE OF NAME

"United States Information Agency" substituted for "International Communication Agency" in subsec. (b), pursuant to section 303(b) of Pub. L. 97–241, set out as a note under section 1461 of this title. United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau) abolished and functions transferred to Secretary of State, see sections 6531 and 6532 of this title.

§4155. Conversion of certain positions in Department of Agriculture

(a) Designation and classification of positions to be occupied; notice

Not later than 15 days after February 15, 1981, the Secretary of Agriculture shall—

(1) designate and classify under section 3981 of this title those positions in the Foreign Agricultural Service under the General Schedule described in section 5332 of title 5 which the Secretary of Agriculture determines are to be occupied by career members of the Foreign Service, and

(2) provide written notice to individuals holding those positions of such designation and classification of the personnel category under section 3903 of this title which will apply to such individual.

(b) Election to convert

Each employee serving in a position at the time it is designated under subsection (a) shall, not later than 120 days after notice of such designation, elect—

(1) to accept conversion to the Foreign Service, in which case such employee shall be converted in accordance with the provisions of subsection (c); or

(2) to decline conversion to the Foreign Service and have the provisions of subsection (d) apply.

(c) Recommendations for appointment

(1) The Secretary of Agriculture shall recommend to the President for appointment to the appropriate class (as determined under paragraph (2)), by and with the advice and consent of the Senate, those employees who elect conversion under subsection (a)(1).

(2) The Secretary of Agriculture shall appoint as Foreign Service personnel those employees who elect to accept conversion and who are not eligible for appointment under paragraph (1).

(d) Results of declining to convert

Any employee who declines conversion under subsection (b)(2) shall for so long as that employee continues to hold the designated position be deemed to be a member of the Foreign Service for purposes of allowances, differentials, and similar benefits (as determined by the Secretary of Agriculture).

(Pub. L. 96–465, title II, §2105, Oct. 17, 1980, 94 Stat. 2150.)

CODIFICATION

In subsec. (a), "February 15, 1981" substituted for "the effective date of this Act" pursuant to section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

§4156. Preservation of status and benefits

(a) Conversion to class, grade, or step corresponding to level prior to conversion; reduction in position or salary; conversion from Foreign Service under section 4154 of this title

(1) Every individual who is converted under this subchapter shall be converted to the class or grade and pay rate that most closely corresponds to the class or grade and step at which the individual was serving immediately before conversion. No conversion under this subchapter shall cause any individual to incur a reduction in his or her class, grade, or basic rate of salary.

(2) An individual converted under section 4154 of this title to a position in the competitive service shall be entitled to have that position, or any other position to which the individual is subsequently assigned (other than at the request of the individual), be considered for all purposes as at the grade which corresponds to the class in which the individual served immediately before conversion so long as the individual continues to hold that position.

(b) Participation in Foreign Service Retirement and Disability System

(1) Any participant in the Foreign Service Retirement and Disability System who would, but for this paragraph, participate in the Civil Service Retirement and Disability System by virtue of conversion under this subchapter shall remain a participant in the Foreign Service Retirement and Disability System for 120 days after participation in the Foreign Service Retirement and Disability System would otherwise cease. During such 120-day period, the individual may elect in writing to continue to participate in the Foreign Service Retirement and Disability System instead of the Civil Service Retirement and Disability System so long as he or she is employed in an agency which is authorized to utilize the Foreign Service personnel system. If such an election is not made, the individual shall then be covered by the Civil Service Retirement and Disability System and contributions made by the participant to the Foreign Service Retirement and Disability Fund shall be transferred to the Civil Service Retirement and Disability Fund.

(2) Any Foreign Service Reserve officer with limited tenure who has reemployment rights to a personnel category in the Foreign Service in which he or she would be a participant in the Foreign Service Retirement and Disability System and who would, but for this paragraph, continue to participate in the Civil Service Retirement and Disability System by virtue of conversion under section 4154 of this title may elect, during the 120-day period beginning on the date of such conversion, to become a participant in the Foreign Service Retirement and Disability System so long as he or she is employed in an agency which is authorized to utilize the Foreign Service personnel system. If such an election is made, the individual shall be transferred to the Foreign Service Retirement and Disability System and contributions made by that individual to the Civil Service Retirement and Disability Fund shall be transferred to the Foreign Service Retirement and Disability Fund.

(c) Conversion to type of appointment corresponding in tenure to that prior to conversion

Individuals who are converted under this subchapter shall be converted to the type of appointment which corresponds most closely in tenure to the type of appointment under which they were serving immediately prior to such conversion, except that this subchapter shall not operate to extend the duration of any limited appointment or previously applicable time in class.

(d) Reappointment resulting from enactment of Foreign Service Act of 1980

Any individual who on February 15, 1981, is serving—

(1) under an appointment in the Foreign Service, or

(2) in any other office or position continued by this chapter, may continue to serve under such appointment, subject to the provisions of this chapter, and need not be reappointed by virtue of the enactment of this chapter.

(e) Deferment of retirement provisions

Any individual in the Foreign Service—

(1) who is serving under a career appointment on October 17, 1980, and

(2) who was not subject to section 633(a)(2) of the Foreign Service Act of 1946 immediately before February 15, 1981,

may not be retired under section 4008 of this title until 10 years after February 15, 1981, or when such individual first becomes eligible for an immediate annuity under subchapter VIII of this chapter, whichever occurs first.

(Pub. L. 96–465, title II, §2106, Oct. 17, 1980, 94 Stat. 2151.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (d), was in the original "this Act", meaning Pub. L. 96–465, Oct. 17, 1980, 94 Stat. 2071, as amended, known as the Foreign Service Act of 1980, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 3901 of this title and Tables.

Section 633(a)(2) of the Foreign Service Act of 1946, referred to in subsec. (e)(2), which was classified to section 1003(a)(2) of this title, was repealed by Pub. L. 96–465, title II, §2205(1), Oct. 17, 1980, 94 Stat. 2159.

CODIFICATION

In subsecs. (d) and (e), "February 15, 1981" substituted for "the effective date of this Act" pursuant to section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

§4157. Regulations

Under the direction of the President, the Secretary shall prescribe regulations for the implementation of this subchapter.

(Pub. L. 96–465, title II, §2107, Oct. 17, 1980, 94 Stat. 2152.)

DELEGATION OF FUNCTIONS

Authority of President under this section to extent necessary to implement provisions of section 4151 of this title, relating to pay and benefits pending conversion, delegated to Secretary of State, see section 5 of Ex. Ord. No. 12293, Feb. 23, 1981, 46 F.R. 13969, set out as a note under section 3901 of this title.

§4158. Authority of other agencies

The heads of agencies other than the Department of State which utilize the Foreign Service personnel system shall perform functions under this subchapter in accordance with regulations prescribed by the Secretary of State under section 4157 of this title. Such agency heads shall consult with the Secretary of State in the exercise of such functions.

(Pub. L. 96–465, title II, §2108, Oct. 17, 1980, 94 Stat. 2152.)

§4159. Survivor benefits for certain former spouses

(a) Eligible participants; election of benefits

Any participant or former participant in the Foreign Service Retirement and Disability System who on February 15, 1981, has a former spouse may, by a spousal agreement, elect to receive a reduced annuity and provide a survivor annuity for such former spouse under section 4054(b) of this title.

(b) Time of election

(1) If the participant or former participant has not retired under such system on or before February

15, 1981, an election under this section may be made at any time before retirement.

(2) If the participant or former participant has retired under such system on or before February 15, 1981, an election under this section may be made within such period after February 15, 1981, as the Secretary of State may prescribe.

(3) For purposes of applying subchapter VIII of this chapter, any such election shall be treated the same as if it were a spousal agreement under section 4060(b)(1) of this title.

(c) Portion of annuity as basis for benefits

An election under this section may provide for a survivor benefit based on all or any portion of that part of the annuity of the participant which is not designated or committed as a base for survivor benefits for a spouse or any other former spouse of the participant. The participant and his or her spouse may make an election under section 4046(b)(1)(B) of this title prior to the time of retirement for the purpose of allowing an election to be made under this section.

(d) Amount of reduction; effective date

The amount of the reduction in the participant's annuity shall be determined in accordance with section 4046(b)(2) of this title. Such reduction shall be effective as of—

(1) the commencing date of the participant's annuity, in the case of an election under subsection (b)(1), or

(2) February 15, 1981, in the case of an election under subsection (b)(2).

(e) Definitions

For purposes of this section, the terms "former spouse", "participant", and "spousal agreement" have the meanings given such terms in sections 4043 and 4044 of this title.

(Pub. L. 96–465, title II, §2109, Oct. 17, 1980, 94 Stat. 2152.)

SUBCHAPTER XIII—MISCELLANEOUS

§4171. Model foreign language competence posts

(a) Designation of posts; time of designation and implementation; determination of competency standards

In order to carry out the purposes of section 4022 of this title and to help ascertain the relationship between foreign language competence and the effectiveness of representation of the United States abroad, the Secretary of State shall designate as model foreign language competence posts at least two Foreign Service posts in countries where English is not the common language. Such designation shall be made no later than October 1, 1981, and shall be implemented so that no later than October 1, 1983, each Government employee permanently assigned to those posts shall possess an appropriate level of competence in the language common to the country where the post is located. The Secretary of State shall determine appropriate levels of language competence for employees assigned to those posts by reference to the nature of their functions and the standards employed by the George P. Shultz National Foreign Affairs Training Center.

(b) Continuation; report to Congress concerning operation of posts and advantages of meeting competency requirements

The posts designated under subsection (a) shall continue as model foreign language competence posts at least until September 30, 1985. The Secretary of State shall submit no later than January 31, 1986, a report to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate describing the operation of such posts and the costs, advantages and disadvantages associated with meeting the foreign language competence requirements of this section.

(c) Exceptions; report to Congress

The Secretary of State may authorize exceptions to the requirements of this section if he determines that unanticipated exigencies so require.

(Pub. L. 96–465, title II, §2207, Oct. 17, 1980, 94 Stat. 2163; Pub. L. 103–236, title I, §139(7), (25), Apr. 30, 1994, 108 Stat. 398, 399; Pub. L. 107–132, §1(b), Jan. 16, 2002, 115 Stat. 2412.)

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–132 substituted "George P. Shultz National Foreign Affairs Training Center" for "Foreign Service Institute".

1994—Subsec. (c). Pub. L. 103–236, §139(7), (25), amended subsec. (c) identically, striking out at end "Such exceptions shall be annually reported to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate."

EXPANSION OF MODEL FOREIGN LANGUAGE COMPETENCE POSTS

Pub. L. 101–246, title I, §161, Feb. 16, 1990, 104 Stat. 46, as amended by Pub. L. 101–302, title III, §320(b)(3), May 25, 1990, 104 Stat. 247; Pub. L. 105–277, div. G, subdiv. A, title XXII, §2219(a)(1), Oct. 21, 1998, 112 Stat. 2681–817; Pub. L. 107–132, §1(b), Jan. 16, 2002, 115 Stat. 2412, provided that:

"(a) DESIGNATION OF POSTS.—In order to carry out the purposes of section 702 of the Foreign Service Act of 1980 [22 U.S.C. 4022], and in light of the positive report issued on March 28, 1986, by the Department of State, as required by section 2207 of the Foreign Service Act of 1980 [22 U.S.C. 4171], the Secretary of State shall designate as model foreign language competence posts a minimum of six Foreign Service posts, representing the Department of State's five geographic bureaus, in countries where English is not the common language. Such designation shall be made not later than 120 days after the date of enactment of this Act [Feb. 16, 1990], and shall be implemented so that not later than October 1, 1991, in the case of non-hard language posts, and October 1, 1992, in the case of hard language posts, each Government employee permanently assigned to those posts shall possess an appropriate level of competence in the language common to the country where the post is located. The Secretary of State shall determine appropriate levels of language competence for employees assigned to those posts by reference to the nature of their functions and the standards employed by the George P. Shultz National Foreign Affairs Training Center.

"(b) 'HARD LANGUAGE COUNTRY' POST TO BE DESIGNATED.—At least one of the posts designated under subsection (a) shall be in a 'hard language' country, as identified in the report to the Under Secretary of State for Management of May 12, 1986, entitled 'Hard Language Proficiency in the Foreign Service'. Such post shall be in one of the countries where the official or principal language is Arabic, Chinese, Japanese, or Russian.

"(c) TERMINATION DATE.—The posts designated under subsection (a) shall continue as model foreign language posts at least until September 30, 1993, in the case of non-hard language posts, and September 30, 1994, in the case of hard language posts.

"(d) EXEMPTION AUTHORITY.—The Secretary of State may authorize exceptions to the requirements of this section if—

"(1) he determines that unanticipated exigencies so require; and

"(2) he immediately reports such exceptions to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives.

"(e) EXCLUDED POSTS.—The posts designated under subsection (a) may not include Dakar, Senegal, or Montevideo, Uruguay. The report required under subsection (c) shall include progress made in these posts in maintaining the high foreign language standards achieved under the initial pilot program.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section."

§4172. Savings provisions

(a) Determinations, authorizations, etc., under authority of Foreign Service Act of 1946 and grievances, claims, or appeals filed and pending on effective date of this chapter

All determinations, authorizations, regulations, orders, agreements, exclusive recognition of an organization or other actions made, issued, undertaken, entered into, or taken under the authority of the Foreign Service Act of 1946 or any other law repealed, modified, or affected by this chapter shall continue in full force and effect until modified, revoked, or superseded by appropriate authority. Any grievances, claims, or appeals which were filed or made under any such law and are pending

resolution on February 15, 1981, shall continue to be governed by the provisions repealed, modified, or affected by this chapter.

(b) Increase in annuity or other right to benefits

This chapter shall not affect any increase in annuity or other right to benefits, which was provided by any provision amended or repealed by this chapter, with respect to any individual who became entitled to such benefit prior to February 15, 1981.

(c) Cross references

References in law to provisions of the Foreign Service Act of 1946 or other law superseded by this chapter shall be deemed to include reference to the corresponding provisions of this chapter.

(Pub. L. 96–465, title II, §2401, Oct. 17, 1980, 94 Stat. 2168.)

REFERENCES IN TEXT

The Foreign Service Act of 1946, referred to in subsecs. (a) and (c), is act Aug. 13, 1946, ch. 957, titles I to X, 60 Stat. 999, as amended, which was classified principally to chapter 14 (§801 et seq.) of this title, and was repealed by Pub. L. 96–465, title II, §2205(1), Oct. 17, 1980, 94 Stat. 2159.

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 96–465, Oct. 17, 1980, 94 Stat. 2071, as amended, known as the Foreign Service Act of 1980, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 3901 of this title and Tables.

CODIFICATION

In subsecs. (a) and (b), "February 15, 1981" substituted for "the effective date of this Act" pursuant to section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of this title.

§4173. Congressional oversight of implementation

(a), (b) Repealed. Pub. L. 100–204, title I, §185(c)(2), Dec. 22, 1987, 101 Stat. 1366

(c) Consultation with agency representatives

The Secretary shall consult, in accordance with the procedures set out in section 4113(g) of this title, with the exclusive representative (if any) of members of the Foreign Service in each agency specified in section 4103(a) of this title with respect to steps to be taken in implementing this chapter and reported under section 4001(c)(4) [1] of this title. To that end, each such exclusive representative will have timely access to all relevant information at each stage. Each such report shall include the views of each such exclusive representative on any and all aspects of the report and the information contained in such report.

(Pub. L. 96–465, title II, §2402, Oct. 17, 1980, 94 Stat. 2168; Pub. L. 100–204, title I, §185(c)(2), Dec. 22, 1987, 101 Stat. 1366.)

REFERENCES IN TEXT

Section 4001(c)(4) of this title, referred to in subsec. (c), was repealed by Pub. L. 114–323, title VII, §715(b)(5), Dec. 16, 2016, 130 Stat. 1946.

AMENDMENTS

1987—Subsecs. (a), (b). Pub. L. 100–204 struck out subsec. (a) which related to report by Secretary of State and its contents and subsec. (b) which related to annual supplemental report and its contents.

Subsec. (c). Pub. L. 100–204 substituted "under section 4001(c)(4) of this title" for "under this section".

[1] *See Reference in Text note below.*

SUBCHAPTER XIV—POWERS, DUTIES AND LIABILITIES OF

CONSULAR OFFICERS GENERALLY

CODIFICATION

Subchapter was not enacted as a part of the Foreign Service Act of 1980 which comprises this chapter.

§4191. General application of provisions to consular officers

The various provisions of title 18 of the Revised Statutes which are expressed in terms of general application to any particular classes of consular officers, shall be deemed to apply as well to all other classes of such officers and to such other United States citizen employees of the Department of State as may be designated by the Secretary of State pursuant to such regulations as the Secretary may prescribe, so far as may be consistent with the subject matter of the same and with the treaties of the United States.

(R.S. §1689; Pub. L. 105–277, div. G, subdiv. B, title XXII, §2222(b), Oct. 21, 1998, 112 Stat. 2681–818.)

REFERENCES IN TEXT

Title 18 of the Revised Statutes, referred to in text, was in the original "this Title", meaning title 18 of the Revised Statutes, consisting of R.S. §§1674 to 1752, and insofar as classified to the Code, is classified to sections 4191, 4193 to 4197, 4200, 4202, 4204, 4205, 4207 to 4214, and 4216 to 4221 of this title. For complete classification of R.S. §§1674 to 1752 to the Code, see Tables.

CODIFICATION

R.S. §1689 derived from act Aug. 18, 1856, ch. 127, §31, 11 Stat. 64.
Section was not enacted as part of the Foreign Service Act of 1980 which comprises this chapter.
Section was formerly classified to section 1171 of this title, and prior thereto to section 53 of this title.

AMENDMENTS

1998—Pub. L. 105–277 inserted "and to such other United States citizen employees of the Department of State as may be designated by the Secretary of State pursuant to such regulations as the Secretary may prescribe" after "such officers".

§4192. Repealed. Pub. L. 101–246, title I, §123, Feb. 16, 1990, 104 Stat. 27

Section, R.S. §4082, related to solemnization of marriages by consular officers of the United States in a foreign country.

CODIFICATION

Pub. L. 101–246, §123, which directed the repeal of section 31 of the Act of June 22, 1860 (12 Stat. 79; 22 U.S.C. 4192), was executed as though repealing section 4082 of the Revised Statutes, which is classified to this section, to reflect the probable intent of Congress. Section 31 of the Act of June 22, 1860, was restated in section 4082 of the Revised Statutes and repealed by section 5596 of the Revised Statutes.

§4193. Protests

Consuls and vice consuls shall have the right, in the ports or places to which they are severally appointed, of receiving the protests or declarations which captains, masters, crews, passengers, or merchants, who are citizens of the United States, may respectively choose to make there; and also such as any foreigner may choose to make before them relative to the personal interest of any citizen of the United States.

(R.S. §1707; June 25, 1948, ch. 646, §39, 62 Stat. 992.)

CODIFICATION

R.S. §1707 derived from act Apr. 14, 1792, ch. 24, §2, 1 Stat. 255.

Section was not enacted as part of the Foreign Service Act of 1980 which comprises this chapter.

Section was formerly classified to section 1173 of this title, and prior thereto to section 73 of this title.

AMENDMENTS

1948—Act June 25, 1948, repealed second sentence relating to authenticated copies of consular acts received as evidence.

EFFECTIVE DATE OF 1948 AMENDMENT

Act June 25, 1948, ch. 646, §38, 62 Stat. 992, provided that the amendment made by that act is effective Sept. 1, 1948.

§4194. Lists and returns of seamen and vessels, etc.

Every consular officer shall keep a detailed list of all seamen and mariners shipped and discharged by him, specifying their names and the names of the vessels on which they are shipped and from which they are discharged, and the payments, if any, made on account of each so discharged; also of the number of the vessels arrived and departed, the amounts of their registered tonnage, and the number of their seamen and mariners, and of those who are protected, and whether citizens of the United States or not, and as nearly as possible the nature and value of their cargoes, and where produced, and shall make returns of the same, with their accounts and other returns, to the Secretary of Commerce.

(R.S. §1708; Feb. 14, 1903, ch. 552, §10, 32 Stat. 829; Mar. 4, 1913, ch. 141, §1, 37 Stat. 736.)

CODIFICATION

R.S. §1708 derived from act Aug. 18, 1856, ch. 127, §27, 11 Stat. 62.

Act Feb. 14, 1903, substituted "Secretary of Commerce and Labor" for "Secretary of the Treasury". Act Mar. 4, 1913, substituted "Secretary of Commerce" for "Secretary of Commerce and Labor".

Section was not enacted as part of the Foreign Service Act of 1980 which comprises this chapter.

Section was formerly classified to section 1174 of this title, and prior thereto to section 74 of this title.

TRANSFER OF FUNCTIONS

Certain shipping and navigation functions of Secretary of Commerce transferred to Commandant of Coast Guard and Commissioner of Customs by Reorg. Plan No. 3 of 1946, §§101 to 104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097, 1098 set out in the Appendix to Title 5, Government Organization and Employees.

Functions of all officers of Department of the Treasury [which included Commandant of Coast Guard and Commissioner of Customs], and functions of all agencies and employees of Department, transferred, with certain exceptions, to Secretary of the Treasury, with power vested in him to authorize their performance or performance of any of his functions, by any of such officers, agencies, and employees, by Reorg. Plan No. 26 of 1950, §§1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5. Coast Guard was generally a service in Department of the Treasury but such Plan excepted, from transfer, functions of Coast Guard, and of Commandant thereof, when Coast Guard was operating as a part of Navy under section 3 of Title 14, Coast Guard.

Coast Guard transferred to Department of Transportation and functions, powers, and duties, relating to Coast Guard, of Secretary of the Treasury and of other offices and officers of Department of the Treasury transferred to Secretary of Transportation by Pub. L. 89–670, §6(b)(1), Oct. 15, 1966, 80 Stat. 931. Section 6(b)(2) of Pub. L. 89–670, however, provided that notwithstanding such transfer of functions, Coast Guard shall operate as part of Navy in time of war or when President directs as provided in section 3 of Title 14. See section 108 of Title 49, Transportation.

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§4195. Repealed. Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title II, §234(a)],

Section, R.S. §1709; Mar. 3, 1911, ch. 223, 36 Stat. 1083; June 10, 1921, ch. 18, title III, §304, 42 Stat. 24; July 12, 1940, ch. 618, 54 Stat. 758; Pub. L. 99–653, §21, Nov. 14, 1986, 100 Stat. 3658; Pub. L. 100–525, §8(p), Oct. 24, 1988, 102 Stat. 2618; Pub. L. 104–316, title II, §202(i), Oct. 19, 1996, 110 Stat. 3843, related to estates of United States citizens who died within or were domiciled at time of death within jurisdiction of consular or diplomatic officers and directed that Secretary of State act as conservator.

EFFECTIVE DATE OF REPEAL

Repeal effective six months after Nov. 29, 1999, see section 1000(a)(7) [div. A, title II, §234(c)] of Pub. L. 106–113, set out as an Effective Date note under section 2715b of this title.

§4196. Notification of death of decedent; transmission of inventory of effects

For the information of the representative of the deceased, the consular officer, or, if no consular officer is present, a diplomatic officer, in the settlement of his estate shall immediately notify his death in one of the gazettes published in the consular district, and also to the Secretary of State, that the same may be notified in the State to which the deceased belonged; and he shall, as soon as may be, transmit to the Secretary of State an inventory of the effects of the deceased taken as before directed.

(R.S. §1710; July 12, 1940, ch. 618, 54 Stat. 760.)

CODIFICATION

R.S. §1710 derived from act Apr. 14, 1792, ch. 24, §2, 1 Stat. 255.
Section was not enacted as part of the Foreign Service Act of 1980 which comprises this chapter.
Section was formerly classified to section 1176 of this title, and prior thereto to section 76 of this title.

AMENDMENTS

1940—Act July 12, 1940, substituted "the consular officer, or, if no consular officer is present, a diplomatic officer," for "the consul or vice-consul,".

§4197. Following testamentary directions; assistance to testamentary appointee

When a citizen of the United States dies in a foreign country and leaves, by any lawful testamentary disposition, special directions for the custody and management, by the consular officer, or in his absence a diplomatic officer, within whose jurisdiction the death occurred, of the personal property in the foreign country which he possessed at the time of death, such officer shall, so far as the laws of the foreign country permit, strictly observe such directions if not contrary to the laws of the United States. If such citizen has named, by any lawful testamentary disposition, any other person than a consular officer or diplomatic officer to take charge of and manage such property, it shall be the duty of the officer, whenever required by the person so named, to give his official aid in whatever way may be practicable to facilitate the proceedings of such person in the lawful execution of his trust, and, so far as the laws of the country or treaty provisions permit, to protect the property of the deceased from any interference by the authorities of the country where such citizen died. To this end it shall be the duty of the consular officer, or if no consular officer is present a diplomatic officer, to safeguard the decedent's property by placing thereon his official seal and to break and remove such seal only upon the request of the person designated by the deceased to take charge of and manage his property.

(R.S. §1711; July 12, 1940, ch. 618, 54 Stat. 760.)

CODIFICATION

R.S. §1711 derived from act Aug. 18, 1856, ch. 127, §28, 11 Stat. 63.
Section was not enacted as part of the Foreign Service Act of 1980 which comprises this chapter.
Section was formerly classified to section 1177 of this title, and prior thereto to section 77 of this title.

AMENDMENTS

1940—Act July 12, 1940, amended section generally.

§4198. Bond as administrator or guardian; action on bond

No consular officer of the United States shall accept an appointment from any foreign state as administrator, guardian, or to any other office or trust for the settlement or conservation of estates of deceased persons or of their heirs or of persons under legal disabilities, without executing a bond, with security, to be approved by the Secretary of State, and in a penal sum to be fixed by him and in such form as he may prescribe, conditioned for the true and faithful performance of all his duties according to law and for the true and faithful accounting for delivering, and paying over to the persons thereto entitled of all moneys, goods, effects, and other property which shall come to his hands or to the hands of any other person to his use as such administrator, guardian, or in other fiduciary capacity. Said bond shall be deposited with the Secretary of the Treasury. In case of a breach of any such bond, any person injured by the failure of such officer faithfully to discharge the duties of his said trust according to law, may institute, in his own name and for his sole use, a suit upon said bond and thereupon recover such damages as shall be legally assessed, with costs of suit, for which execution may issue in due form; but if such party fails to recover in the suit, judgment shall be rendered and execution may issue against him for costs in favor of the defendant; and the United States shall in no case be liable for the same. The said bond shall remain, after any judgment rendered thereon, as a security for the benefit of any person injured by a breach of the condition of the same until the whole penalty has been recovered.

(June 30, 1902, ch. 1331, §1, 32 Stat. 546.)

CODIFICATION

Section was not enacted as part of the Foreign Service Act of 1980 which comprises this chapter.
Section was formerly classified to section 1178 of this title, and prior thereto to section 78 of this title.

§4199. Penalty for failure to give bond and for embezzlement

Every consular officer who accepts any appointment to any office of trust mentioned in section 4198 of this title without first having complied with the provisions thereof by due execution of a bond as therein required, or who shall willfully fail or neglect to account for, pay over, and deliver any money, property, or effects so received to any person lawfully entitled thereto, after having been requested by the latter, his representative or agent so to do, shall be deemed guilty of embezzlement and shall be punishable by imprisonment for not more than five years and by a fine of not more than $5,000.

(June 30, 1902, ch. 1331, §2, 32 Stat. 547.)

CODIFICATION

Section was not enacted as part of the Foreign Service Act of 1980 which comprises this chapter.
Section was formerly classified to section 1179 of this title, and prior thereto to section 79 of this title.

§4200. Certification of invoices generally

No consular officer shall certify any invoice unless he is satisfied that the person making oath thereto is the person he represents himself to be, that he is a credible person, and that the statements made under such oath are true; and he shall, thereupon, by his certificate, state that he was so satisfied.

(R.S. §1715.)

CODIFICATION

R.S. §1715 derived from act Aug. 18, 1856, ch. 127, §27, 11 Stat. 62.
Section was not enacted as part of the Foreign Service Act of 1980 which comprises this chapter.
Section was formerly classified to section 1180 of this title, and prior thereto to section 83 of this title.

§4201. Fees for certification of invoices

Fees for the consular certification of invoices shall be, and they are, included with the fees for official services for which the President is authorized by section 4219 of this title to prescribe rates or tariffs.

(Apr. 5, 1906, ch. 1366, §9, 34 Stat. 101.)

CODIFICATION

Section was not enacted as part of the Foreign Service Act of 1980 which comprises this chapter.
A further provision of section 9 of act Apr. 5, 1906, repealed R.S. §2851, which provided for certification of invoices of imported merchandise by the collector of the post, and R.S. §1721, which prescribed a fee of one dollar to be charged by the consul-general for the British North American provinces, for certifying invoices of goods not exceeding $100 in value.
Section was formerly classified to section 1181 of this title, and prior thereto to section 84 of this title.

§4202. Exaction of excessive fees for verification of invoices; penalty

The fee provided by law for the verification of invoices by consular officers shall, when paid, be held to be a full payment for furnishing blank forms of declaration to be signed by the shipper, and for making, signing, and sealing the certificate of the consular officer thereto; and any consular officer who, under pretense of charging for blank forms, advice, or clerical services in the preparation of such declaration or certificate, charges or receives any fee greater in amount than that provided by law for the verification of invoices, or who demands or receives for any official services, or who allows any clerk or subordinate to receive for any such service, any fee or reward other than the fee provided by law for such service, shall be punishable by imprisonment for not more than one year, or by a fine of not more than $2,000, and shall be removed from his office.

(R.S. §1716.)

CODIFICATION

R.S. §1716 derived from act Mar. 3, 1869, ch. 125, §3, 15 Stat. 321.
Section was not enacted as part of the Foreign Service Act of 1980 which comprises this chapter.
Section was formerly classified to section 1182 of this title, and prior thereto to section 85 of this title.

§4203. Destruction of old invoices

The Secretary of State is authorized to cause, from time to time, the destruction of invoices that have been filed in the consular offices for a period of more than five years.

(Feb. 24, 1903, ch. 753, 32 Stat. 854.)

CODIFICATION

Section was not enacted as part of the Foreign Service Act of 1980 which comprises this chapter.
Section was formerly classified to section 1183 of this title, and prior thereto to section 86 of this title.

§4204. Restriction as to certificate for goods from countries adjacent to United States

No consular officer of the United States shall grant a certificate for goods, wares, or merchandise shipped from countries adjacent to the United States which have passed a consulate after purchase

for shipment.

(R.S. §1717.)

CODIFICATION

R.S. §1717 derived from act Feb. 22, 1873, ch. 184, §3, 17 Stat. 474.
Section was not enacted as part of the Foreign Service Act of 1980 which comprises this chapter.
Section was formerly classified to section 1184 of this title, and prior thereto to section 87 of this title.

§4205. Retention of papers of American vessels until payment of demands and wages

All consular officers are authorized and required to retain in their possession all the papers of vessels of the United States, which shall be deposited with them as directed by law, till payment shall be made of all demands and wages on account of such vessels.

(R.S. §1718.)

CODIFICATION

R.S. §1718 derived from act Aug. 18, 1856, ch. 127, §28, 11 Stat. 63.
Section was not enacted as part of the Foreign Service Act of 1980 which comprises this chapter.
Section was formerly classified to section 1185 of this title, and prior thereto to section 88 of this title.

§4206. Fees for services to American vessels or seamen prohibited

No fees named in the tariff of consular fees prescribed by order of the President shall be charged or collected by consular officers for the official services to American vessels and seamen. Consular officers shall furnish the master of every such vessel with an itemized statement of such services performed on account of said vessel, with the fee so prescribed for each service, and make a detailed report to the Secretary of the Treasury of such services and fees, under such regulations as the Secretary of State may prescribe.

(June 26, 1884, ch. 121, §12, 23 Stat. 56.)

CODIFICATION

Section was not enacted as part of the Foreign Service Act of 1980 which comprises this chapter.
Provisions of section 12 of act June 26, 1884 (this section), permitting the Secretary of the Treasury to allow consular officers who are paid in whole or in part by fees such compensation for their services as they would have received but for the prohibition in this section were superseded by section 4223 of this title and were omitted, as was a provision of said section appropriating a sum sufficient for the payment of the compensation herein mentioned.
Section was formerly classified to section 1186 of this title, and prior thereto to section 89 of this title.

§4207. Profits from dealings with discharged seamen; prohibition

No consular officer, nor any person under any consular officer shall make any charge or receive, directly or indirectly, any compensation, by way of commission or otherwise, for receiving or disbursing the wages or extra wages to which any seaman or mariner is entitled who is discharged in any foreign country, or for any money advanced to any such seaman or mariner who seeks relief from any consulate; nor shall any consular officer, or any person under any consular officer, be interested, directly or indirectly, in any profit derived from clothing, boarding or otherwise supplying or sending home any such seaman or mariner. Such prohibition as to profit, however, shall not be construed to relieve or prevent any such officer who is the owner of or otherwise interested in any vessel of the United States from transporting in such vessel any such seaman or mariner, or from receiving or being interested in such reasonable allowance as may be made for such transportation by law.

(R.S. §1719; Apr. 5, 1906, ch. 1366, §3, 34 Stat. 100.)

CODIFICATION

R.S. §1719 derived from act Aug. 18, 1856, ch. 127, §20, 11 Stat. 59.

Reference to "commercial agency" was omitted in view of the abolition of the grade of commercial agent by act Apr. 5, 1906.

Section was not enacted as part of the Foreign Service Act of 1980 which comprises this chapter.

Section was formerly classified to section 1187 of this title, and prior thereto to section 90 of this title.

§4208. Valuation of foreign coins in payment of fees

Consuls, vice consuls, and consular agents in the Dominion of Canada, in the collection of official fees, shall receive foreign moneys at the rate given in the Treasury schedule of the value of foreign coins.

(R.S. §1722.)

CODIFICATION

R.S. §1722 derived from act Mar. 3, 1869, ch. 125, §3, 15 Stat. 321.

Provisions of R.S. §1722 that no consul, vice consul, or consular agent in the Dominion of Canada shall be allowed tonnage fees for any services, actual or constructive, rendered any vessel owned and registered in the United States that may touch at a Canadian port, were omitted as superseded by section 12 of act June 26, 1884, ch. 121, 23 Stat. 56, which is classified to section 4206 of this title.

Section was not enacted as part of the Foreign Service Act of 1980 which comprises this chapter.

Section was formerly classified to section 1188 of this title, and prior thereto to section 91 of this title.

§4209. Exaction of excessive fees generally; penalty of treble amount

Whenever any consular officer collects, or knowingly allows to be collected for any service, any other or greater fees than are allowed by law for such service, he shall, besides his liability to refund the same, be liable to pay to the person by whom or in whose behalf the same are paid, treble the amount of the unlawful charge so collected, as a penalty, to be recovered with costs, in any proper form of action, by such person for his own use. And in any such case the Secretary of the Treasury may retain, out of the compensation of such officer, the amount of such overcharge and of such penalty, and charge the same to such officer in account, and may thereupon refund such unlawful charge, and pay such penalty to the person entitled to the same if he shall think proper so to do.

(R.S. §1723.)

CODIFICATION

R.S. §1723 derived from act Aug. 18, 1856, ch. 127, §17, 11 Stat. 58.

Section was not enacted as part of the Foreign Service Act of 1980 which comprises this chapter.

Section was formerly classified to section 1189 of this title, and prior thereto to section 92 of this title.

§4210. Liability for uncollected fees

Every consul general, consul, or vice consul appointed to perform the duty of any such officer, who omits to collect any fees which he is entitled to charge for any official service, shall be liable to the United States therefor, as if he had collected the same; unless, upon good cause shown therefor, the Secretary of the Treasury shall think proper to remit the same.

(R.S. §1724; Apr. 5, 1906, ch. 1366, §3, 34 Stat. 100.)

CODIFICATION

R.S. §1724 derived from act Aug. 18, 1856, ch. 127, §18, 11 Stat. 58.

References to "commercial agent" and "vice-commercial agent" were omitted in view of the abolition of the grade of commercial agent by act Apr. 5, 1906.

Section was not enacted as part of the Foreign Service Act of 1980 which comprises this chapter.
Section was formerly classified to section 1190 of this title, and prior thereto to section 93 of this title.

§4211. Returns as to fees by officers compensated by fees

All consular agents, as are allowed for their compensation the whole or any part of the fees which they may collect, shall make returns in such manner as the Government Accountability Office shall prescribe, of all such fees as they or any person in their behalf so collect.

(R.S. §1725; July 31, 1894, ch. 174, §5, 28 Stat. 206; Apr. 5, 1906, ch. 1366, §3, 34 Stat. 100; June 10, 1921, ch. 18, title III, §304, 42 Stat. 24; Pub. L. 108–271, §8(b), July 7, 2004, 118 Stat. 814.)

CODIFICATION

R.S. §1725 derived from act Aug. 18, 1856, ch. 127, §18, 11 Stat. 58.
References to "commercial agents" and "vice-commercial agents" were omitted in view of the abolition of the grade of commercial agent by act Apr. 5, 1906.
Section was not enacted as part of the Foreign Service Act of 1980 which comprises this chapter.
Section was formerly classified to section 1191 of this title, and prior thereto to section 94 of this title.

TRANSFER OF FUNCTIONS

"Government Accountability Office" substituted in text for "General Accounting Office" pursuant to section 8(b) of Pub. L. 108–271, set out as a note under section 702 of Title 31, Money and Finance, which redesignated the General Accounting Office and any references thereto as the Government Accountability Office. Previously, "General Accounting Office" substituted in text for "Comptroller of the Treasury" pursuant to act June 10, 1921, which transferred all powers and duties conferred upon Comptroller, six auditors, and certain other officers of the Treasury to General Accounting Office. See section 701 et seq. of Title 31. Previously, functions of Secretary of State under this section transferred to Comptroller of the Treasury by act July 31, 1894.

§§4212 to 4214. Repealed. Pub. L. 105–277, div. G, subdiv. B, title XXII, §2223, Oct. 21, 1998, 112 Stat. 2681–819

Section 4212, R.S. §§1726, 1727, required receipts for fees collected for consular services.
Section 4213, R.S. §1727, required registry of fees.
Section 4214, R.S. §1728; June 28, 1955, ch. 196, 69 Stat. 187, required full transcript and certification of register.

§4215. Notarial acts, oaths, affirmations, affidavits, and depositions; fees

Every consular officer of the United States is required, whenever application is made to him therefor, within the limits of his consulate, to administer to or take from any person any oath, affirmation, affidavit, or deposition, and to perform any other notarial act which any notary public is required or authorized by law to do within the United States; and for every such notarial act performed he shall charge in each instance the appropriate fee prescribed by the President under section 4219 of this title.

(Apr. 5, 1906, ch. 1366, §7, 34 Stat. 101; Pub. L. 103–236, title I, §127(b), Apr. 30, 1994, 108 Stat. 394; Pub. L. 103–415, §1(mm)(1), Oct. 25, 1994, 108 Stat. 4303.)

CODIFICATION

Section was not enacted as part of the Foreign Service Act of 1980 which comprises this chapter.
Section was formerly classified to section 1195 of this title, and prior thereto to section 98 of this title.

AMENDMENTS

1994—Pub. L. 103–415 struck out sentence inserted at end by Pub. L. 103–236. See below.
Pub. L. 103–236 inserted at end "Pursuant to such regulations as the Secretary of State may prescribe, the

Secretary may designate any other employee of the Department of State who is a citizen of the United States to perform any notarial function authorized to be performed by a consular officer of the United States under this Act."

§4216. Posting rates of fees

It shall be the duty of all consular officers at all times to keep posted up in their offices, respectively, in a conspicuous place, and subject to the examination of all persons interested therein, a copy of such rates or tariffs as shall be in force.

(R.S. §1731.)

CODIFICATION

R.S. §1731 derived from act Aug. 18, 1856, ch. 127, §16, 11 Stat. 57.

Section was not enacted as part of the Foreign Service Act of 1980 which comprises this chapter.

Section was formerly classified to section 1197 of this title, and prior thereto to section 101 of this title.

§4217. Embezzlement of fees or of effects of American citizens

Every consular officer who willfully neglects to render true and just quarterly accounts and returns of the business of his office, and of moneys received by him for the use of the United States, or who neglects to pay over any balance of said moneys due to the United States at the expiration of any quarter, before the expiration of the next succeeding quarter, or who shall receive money, property, or effects belonging to a citizen of the United States and shall not within a reasonable time after demand made upon him by the Secretary of State or by such citizen, his executor, administrator, or legal representative, account for and pay over all moneys, property, and effects, less his lawful fees, due to such citizen, shall be deemed guilty of embezzlement, and shall be punishable by imprisonment for not more than five years, and by a fine of not more than $2,000.

(R.S. §1734; Dec. 21, 1898, ch. 36, §3, 30 Stat. 771.)

CODIFICATION

R.S. §1734 derived from act Mar. 3, 1869, ch. 125, §5, 15 Stat. 322.

Section was not enacted as part of the Foreign Service Act of 1980 which comprises this chapter.

Section was formerly classified to section 1198 of this title, and prior thereto to section 102 of this title.

§4218. False certificate as to ownership of property

If any consul or vice consul falsely and knowingly certifies that property belonging to foreigners is property belonging to citizens of the United States, he shall be punishable by imprisonment for not more than three years, and by a fine of not more than $10,000.

(R.S. §1737; Apr. 5, 1906, ch. 1366, §3, 34 Stat. 100.)

CODIFICATION

R.S. §1737 derived from act Feb. 22, 1803, ch. 9, §7, 2 Stat. 204.

References to "commercial agent" and "vice-commercial agent" were omitted in view of the abolition of the grade of commercial agent by act Apr. 5, 1906.

Section was not enacted as part of the Foreign Service Act of 1980 which comprises this chapter.

Section was formerly classified to section 1200 of this title, and prior thereto to section 104 of this title.

§4219. Regulation of fees by President

The President is authorized to prescribe, from time to time, the rates or tariffs of fees to be charged for official services, and to designate what shall be regarded as official services, besides such as are expressly declared by law, in the business of the several embassies, legations, and consulates, and to

adapt the same, by such differences as may be necessary or proper, to each embassy, legation, or consulate; and it shall be the duty of all officers and persons connected with such embassies, legations, and consulates to collect for such official services such and only such fees as may be prescribed for their respective embassies, legations, and consulates, and such rates or tariffs shall be reported annually to Congress.

(R.S. §1745; Apr. 5, 1906, ch. 1366, §3, 34 Stat. 100.)

CODIFICATION

R.S. §1745 derived from act Aug. 18, 1856, ch. 127, §16, 11 Stat. 57.

References to "commercial agencies" and "commercial agency" were omitted in view of the abolition of the grade of commercial agent by act Apr. 5, 1906.

Section was not enacted as part of the Foreign Service Act of 1980 which comprises this chapter.

Section was formerly classified to section 1201 of this title, and prior thereto to section 127 of this title.

EX. ORD. NO. 10718. DELEGATION OF AUTHORITY TO SECRETARY OF STATE

Ex. Ord. No. 10718, June 27, 1957, 22 F.R. 4632, provided:

SECTION 1. There is hereby delegated to the Secretary of State the authority vested in the President by section 1745 of the Revised Statutes of the United States (22 U.S.C. 1201) [this section] to prescribe, from time to time, the rates or tariffs of fees to be charged for official services, and to designate what shall be regarded as official services, besides such as are expressly declared by law, in the business of the several embassies, legations, and consulates, and to adapt the same, by such differences as may be necessary or proper, to each embassy, legation, or consulate.

SEC. 2. This order shall not operate to amend, supersede, or terminate any rates or tariffs of fees, designations, or adaptations prescribed or made under authority of the said section 1745 [this section] and in force immediately prior to the issuance of this order; but authority to amend, supersede, or terminate the same, and to prescribe regulations necessary or desirable for the implementation of rates or tariffs of fees, designations, or adaptions heretofore or hereafter prescribed or made, shall be deemed to be included within the authority delegated by section 1 of this order.

SEC. 3. The rates or tariffs of fees and the regulations prescribed and any other actions taken by the Secretary of State under authority of this order shall be published in the Federal Register.

DWIGHT D. EISENHOWER.

§4220. Medium for payment of fees

All fees collected by diplomatic and consular officers for and in behalf of the United States shall be collected in the coin of the United States, or at its representative value in exchange.

(R.S. §1746.)

CODIFICATION

R.S. §1746 derived from act Aug. 18, 1856, ch. 127, §30, 11 Stat. 63.

Section was not enacted as part of the Foreign Service Act of 1980 which comprises this chapter.

Section was formerly classified to section 1202 of this title, and prior thereto to section 128 of this title.

§4221. Depositions and notarial acts; perjury

Every secretary of embassy or legation and consular officer is authorized, whenever he is required or deems it necessary or proper so to do, at the post, port, place, or within the limits of his embassy, legation, or consulate, to administer to or take from any person an oath, affirmation, affidavit, or deposition, and to perform any notarial act which any notary public is required or authorized by law to do within the United States. At any post, port, or place where there is no consular officer, the Secretary of State may authorize any other officer or employee of the United States Government who is a United States citizen serving overseas, including any contract employee of the United States Government, to perform such acts, and any such contractor so authorized shall not be considered to be a consular officer. Every such oath, affirmation, affidavit, deposition, and notarial act

administered, sworn, affirmed, taken, had, or done, by or before any such officer, when certified under his hand and seal of office, shall be as valid, and of like force and effect within the United States, to all intents and purposes, as if administered, sworn, affirmed, taken, had, or done, by or before any other person within the United States duly authorized and competent thereto. If any person shall willfully and corruptly commit perjury, or by any means procure any person to commit perjury in any such oath, affirmation, affidavit, or deposition, within the intent and meaning of any Act of Congress now or hereafter made, such offender may be charged, proceeded against, tried, convicted, and dealt with in any district of the United States, in the same manner, in all respects, as if such offense had been committed in the United States, before any officer duly authorized therein to administer or take such oath, affirmation, affidavit, or deposition, and shall be subject to the same punishment and disability therefor as are or shall be prescribed by any such act for such offense; and any document purporting to have affixed, impressed, or subscribed thereto, or thereon the seal and signature of the officer administering or taking the same in testimony thereof, shall be admitted in evidence without proof of any such seal or signature being genuine or of the official character of such person; and if any person shall forge any such seal or signature, or shall tender in evidence any such document with a false or counterfeit seal or signature thereto, knowing the same to be false or counterfeit, he shall be deemed and taken to be guilty of a misdemeanor and on conviction shall be imprisoned not exceeding three years nor less than one year, and fined, in a sum not to exceed $3,000, and may be charged, proceeded against, tried, convicted, and dealt with therefor in the district where he may be arrested or in custody. Pursuant to such regulations as the Secretary of State may prescribe, the Secretary may designate any other employee of the Department of State who is a citizen of the United States to perform any notarial function authorized to be performed by a consular officer of the United States under this Act.

(R.S. §1750; Apr. 5, 1906, ch. 1366, §3, 34 Stat. 100; Pub. L. 103–415, §1(mm)(2), Oct. 25, 1994, 108 Stat. 4304; Pub. L. 105–277, div. G, subdiv. B, title XXII, §2222(c)(1), Oct. 21, 1998, 112 Stat. 2681–818.)

REFERENCES IN TEXT

This Act, referred to in text, probably means the act of Aug. 18, 1856, ch. 127, 11 Stat. 52, as amended. That act was incorporated into the Revised Statutes as R.S. §§208, 211, 1674 to 1676, 1680, 1685 to 1687, 1689, 1690, 1692, 1695, 1697, 1699, 1700, 1701, 1703, 1706, 1708, 1711, 1713, 1715, 1718, 1719, 1730, 1731, 1735, 1738 to 1741, 1743 to 1748, 1750 to 1752, 4207, 4213, 4580, 4581, 4583, and 4584. For complete classification of those sections of the Revised Statutes to the Code, see Tables.

CODIFICATION

R.S. §1750 derived from act Aug. 18, 1856, ch. 127, §24, 11 Stat. 61.

Reference to "commercial agency" was omitted in view of the abolition of the grade of commercial agent by act Apr. 5, 1906.

Section was not enacted as part of the Foreign Service Act of 1980 which comprises this chapter.

Section was formerly classified to section 1203 of this title, and prior thereto to section 131 of this title.

AMENDMENTS

1998—Pub. L. 105–277 inserted after first sentence "At any post, port, or place where there is no consular officer, the Secretary of State may authorize any other officer or employee of the United States Government who is a United States citizen serving overseas, including any contract employee of the United States Government, to perform such acts, and any such contractor so authorized shall not be considered to be a consular officer."

1994—Pub. L. 103–415, which directed amendment of section 24 of the Act of August 18, 1856 (11 Stat. 61, 22 U.S.C. 4221) by inserting at end "Pursuant to such regulations as the Secretary of State may prescribe, the Secretary may designate any other employee of the Department of State who is a citizen of the United States to perform any notarial function authorized to be performed by a consular officer of the United States under this Act.", was executed to this section, which is section 1750 of the Revised Statutes, to reflect the probable intent of Congress. Section 24 of the Act of Aug. 18, 1856, was restated in section 1750 of the Revised Statutes and repealed by section 5596 of the Revised Statutes.

§4222. Authentication of documents of State of Vatican City by consular officer in Rome

Until the United States shall have consular officer resident in the State of the Vatican City, a copy of any document of record or on file in a public office of said State of the Vatican City, certified by the lawful custodian of such document, may be authenticated, as provided in section 1741 of title 28, by a consular officer of the United States resident in the city of Rome, Kingdom of Italy, and such document or record shall, when so certified and authenticated, be admissible in evidence in any court of the United States.

(June 20, 1936, ch. 640, §6A, as added June 25, 1938, ch. 682, 52 Stat. 1163.)

CODIFICATION

"Section 1741 of title 28" substituted in text for "section 6 of this Act [28 U.S.C. 695e]" on authority of act June 25, 1948, ch. 646, 62 Stat. 869, section 1 of which enacted Title 28, Judiciary and Judicial Procedure.

Section was not enacted as part of the Foreign Service Act of 1980 which comprises this chapter.

Section was formerly classified to section 1204 of this title, and prior thereto to section 695e–1 of Title 28.

§4223. General duty to account for fees

All fees, official or unofficial, received by any officer in the Consular Service for services rendered in connection with the duties of his office or as a consular officer, including fees for notarial services, and fees for taking depositions, executing commissions or letters rogatory, settling estates, receiving or paying out moneys, caring for or disposing of property, shall be accounted for and paid into the Treasury of the United States, and the sole and only compensation of such officers shall be by salaries fixed by law. And vice-consuls, in addition to such compensation as they may be entitled to receive as consuls or clerks, may receive such portion of the salaries of the consul-general or consuls for whom they act as shall be provided by regulation.

(Apr. 5, 1906, ch. 1366, §8, 34 Stat. 101; Feb. 5, 1915, ch. 23, §§3, 6, 38 Stat. 805, 806; May 24, 1924, ch. 182, §11, 43 Stat. 142; Aug. 13, 1946, ch. 957, title XI, §1131(26), 60 Stat. 1037.)

CODIFICATION

Compensation provisions pertaining to the positions of vice-consuls-general, deputy consuls-general, and deputy consuls were omitted from this section on the authority of act Feb. 5, 1915.

Section was not enacted as a part of the Foreign Service Act of 1980 which comprises this chapter.

Section was formerly classified to section 99 of this title.

AMENDMENTS

1946—Act Aug. 13, 1946, struck out "but this shall not apply to consular agents, who shall be paid one-half of the fees received in their offices, up to a maximum sum of one thousand dollars in any one year, the other half being accounted for and paid into the Treasury of the United States."

EFFECTIVE DATE OF 1946 AMENDMENT

Amendment by act Aug. 13, 1946, effective three months after Aug. 13, 1946.

REPEALS

Act Aug. 13, 1946, ch. 957, title XI, §1131(26), 60 Stat. 1037, cited as a credit to this section, was repealed by Pub. L. 96–465, title II, §2205(1), Oct. 17, 1980, 94 Stat. 2159.

§4224. Fees; accounting; stamps

The provisions of sections 1196 [1] and 4223 of this title, relative to official fees and the method of accounting therefor shall apply to diplomatic officers below the grade of minister and to consular officers.

(May 24, 1924, ch. 182, §18, formerly §11, 43 Stat. 142, renumbered and amended Feb. 23, 1931,

ch. 276, §7, 46 Stat. 1209.)

REFERENCES IN TEXT

Section 1196 of this title, referred to in text, was repealed by act June 28, 1955, ch. 196, 69 Stat. 187.

CODIFICATION

Section was not enacted as part of the Foreign Service Act of 1980 which comprises this chapter.
Section was formerly classified to section 812 of this title, and prior thereto to section 13 of this title.

AMENDMENTS

1931—Act Feb. 23, 1931, substituted "shall apply to diplomatic officers below the grade of minister and to consular officers" for "shall include both branches of the Foreign Service".

EFFECTIVE DATE OF 1931 AMENDMENT

Act May 24, 1924, ch. 182, §37, as added act Feb. 23, 1931, ch. 276, §7, 46 Stat. 1217, provided: "That this Act [see Tables for classification] shall take effect on July 1, 1931."

[1] *See References in Text note below.*

§4225. Fiscal districts; establishment; district accounting and disbursing offices; personnel; duties

The President is authorized, whenever the necessity for such offices with a view to effecting economies in accounting procedure is apparent, to prescribe certain fiscal districts or areas and to establish within each such district as a part of the Department of State service, a district accounting and disbursing office to exercise control over the accounts and returns of all diplomatic missions and consular offices within the district in such manner as the President may direct. To each such office may be assigned the administrative accounting responsibility for receipts and expenditures of the diplomatic missions and consular offices within the district. Each district office shall be in charge of an accountable officer, to whom all fees, and other official monies, received by any diplomatic, consular, or Foreign Service officer may be accounted for, under such rules and regulations as may be prescribed by the Secretary of State, all such fees and monies, or the residue thereof after the payment of salaries, allowances, and current expenses of the diplomatic missions and consular offices within the district, to be paid by the district accounting and disbursing officer into the Treasury of the United States. Such district accounting and disbursing officers accountable for public monies may entrust monies to other officers for the purpose of having them make disbursements as his agent, and the officer to whom the monies are entrusted, as well as the officer who entrusts the monies to him, shall be held pecuniarily responsible therefor to the United States. All diplomatic, consular or Foreign Service officers on duty within the area covered by such district offices may be required to render accounts of their disbursements to the officer in charge of such district office to be included in his accounts.

Provided further, That the Secretary of State is authorized to appoint such district accounting and disbursing officers and their assistants in the same manner as clerks in diplomatic missions and consular offices are appointed.

Section 3522 of title 31, and any other existing statutes, in so far as they conflict with this section are hereby amended.

(May 24, 1924, ch. 182, §35, as added Feb. 23, 1931, ch. 276, §7, 46 Stat. 1216; amended Pub. L. 92–310, title II, §227(b), June 6, 1972, 86 Stat. 207.)

CODIFICATION

"Section 3522 of title 31" substituted in text for "Section 3622 of the Revised Statutes of the United States (U.S.C., title 31, sec. 496)", on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

Section was not enacted as part of the Foreign Service Act of 1980 which comprises this chapter.

Section was formerly classified to section 813 of this title, and prior thereto to section 23k of this title.

AMENDMENTS

1972—Pub. L. 92–310 struck out provisions which required district accounting and disbursing officers and their agents to be bonded.

EFFECTIVE DATE

Section effective July 1, 1931, see section 7 of act Feb. 23, 1931, set out as an Effective Date of 1931 Amendment note under section 4224 of this title.

TRANSFER OF FUNCTIONS

Function of disbursement of moneys of the United States of any agency (with certain exceptions) transferred to Treasury Department by Ex. Ord. No. 6166, §4, June 10, 1933, set out as a note under section 901 of Title 5, Government Organization and Employees. Section 4 of Ex. Ord. No. 6166 was repealed by Pub. L .97–258, §5(b), Sept. 13, 1982, 96 Stat. 1086, the first section of which enacted Title 31, Money and Finance. See section 3321 of Title 31.

§4226. Fees and official monies from diplomatic missions, consular offices and district accounting and disbursing offices; disposition

All fees and other official monies received by diplomatic missions or consular offices or by the district accounting and disbursing offices provided in section 4225 of this title, may be transmitted through the Department of State for deposit in the United States Treasury, or may be used in payment of salaries, allowances, and current expenses of said missions and offices, under such rules and regulations as the President may from time to time prescribe; the residue, if any, to be transmitted through the Department of State for deposit in the United States Treasury. Section 3302(b) of title 31 is hereby amended.

(May 24, 1924, ch. 182, §36, as added Feb. 23, 1931, ch. 276, §7, 46 Stat. 1216.)

CODIFICATION

"Section 3302(b) of title 31" substituted in text for "Section 3617 of the Revised Statutes of the United States (U.S.C., title 31, sec. 484)", on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

Section was not enacted as part of the Foreign Service Act of 1980 which comprises this chapter.

Section was formerly classified to section 814 of this title, and prior thereto to section 23l of this title.

EFFECTIVE DATE

Section effective July 1, 1931, see section 7 of act Feb. 23, 1931, set out as an Effective Date of 1931 Amendment note under section 4224 of this title.

CHAPTER 53—AUTHORITIES RELATING TO THE REGULATION OF FOREIGN MISSIONS

Sec.

4301. Congressional declaration of findings and policy.
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§4301. Congressional declaration of findings and policy

(a) Findings

The Congress finds that the operation in the United States of foreign missions and public international organizations and the official missions to such organizations, including the permissible scope of their activities and the location and size of their facilities, is a proper subject for the exercise of Federal jurisdiction.

(b) Policy

The Congress declares that it is the policy of the United States to support the secure and efficient operation of United States missions abroad, to facilitate the secure and efficient operation in the United States of foreign missions and public international organizations and the official missions to such organizations, and to assist in obtaining appropriate benefits, privileges, and immunities for those missions and organizations and to require their observance of corresponding obligations in accordance with international law.

(c) Treatment of foreign missions in United States

The treatment to be accorded to a foreign mission in the United States shall be determined by the Secretary after due consideration of the benefits, privileges, and immunities provided to missions of the United States in the country or territory represented by that foreign mission, as well as matters relating to the protection of the interests of the United States.

(Aug. 1, 1956, ch. 841, title II, §201, as added Pub. L. 97–241, title II, §202(b), Aug. 24, 1982, 96 Stat. 283; amended Pub. L. 99–93, title I, §127(a), Aug. 16, 1985, 99 Stat. 418.)

AMENDMENTS

1985—Subsec. (c). Pub. L. 99–93 inserted ", as well as matters relating to the protection of the interests of the United States".

EFFECTIVE DATE

Pub. L. 97–241, title II, §204, Aug. 24, 1982, 96 Stat. 291, provided that: "The amendments made by this title [see Short Title note below] shall take effect on October 1, 1982."

SHORT TITLE OF 1983 AMENDMENT

Pub. L. 98–164, title VI, §601, Nov. 22, 1983, 97 Stat. 1042, provided that: "This title [enacting section 4304a of this title, amending sections 254e and 4303 of this title, and enacting provisions set out as a note under section 4303 of this title] may be cited as the 'Foreign Missions Amendments Act of 1983'."

SHORT TITLE

Pub. L. 97–241, title II, §201, Aug. 24, 1982, 96 Stat. 282, provided that: "This title [enacting this chapter, amending sections 254a, 254b, 254c, 2662, and 2684 of this title and section 1364 of Title 28, Judiciary and Judicial Procedure, and enacting provisions set out as a note under this section] may be cited as the 'Foreign Missions Act'."

UNITED STATES DEPARTMENT OF STATE FREEDOM OF EXPRESSION

Pub. L. 100–204, title I, §133, Dec. 22, 1987, 101 Stat. 1344, provided that:

"(a) FINDING.—Congress finds that the United States Department of State, on September 15, 1987, declared itself to be a temporary foreign diplomatic mission for the purpose of denying free speech to American citizens who planned to protest the tyranny of the Soviet regime.

"(b) PROHIBITION.—It is not in the national security interest of the United States for the Department of State to declare, and it shall not declare, itself to be a foreign diplomatic mission."

UNITED STATES-SOVIET RECIPROCITY IN MATTERS RELATING TO EMBASSIES

Pub. L. 101–246, title I, §134, Feb. 16, 1990, 104 Stat. 33, authorized Secretary of State to allow Soviet mission to United States to occupy, on a reciprocal basis, a consulate facility in United States, provided that United States mission in Kiev would be able to occupy an interim facility intended for conduct of unclassified activities, and required Secretary of State to submit to Congress a long-term plan for acquiring secure permanent facilities for United States mission in Kiev, prior to repeal by Pub. L. 103–199, title V, §502(c)(1), Dec. 17, 1993, 107 Stat. 2326.

Pub. L. 100–204, title I, §153(a)–(d), Dec. 22, 1987, 101 Stat. 1353, authorized Secretary of State to obtain full cooperation of Soviet government, on a reciprocal basis, in areas of diplomatic and consular finance, access to goods, and use of real property and prohibited Secretary of State from allowing Soviet mission to United States to occupy any new consulate in United States until United States mission in Kiev was able to occupy secure permanent facilities, prior to repeal by Pub. L. 103–199, title V, §502(e)(1), Dec. 17, 1993, 107 Stat. 2326. Section 153(d) of Pub. L. 100–204 was also repealed by Pub. L. 103–236, title I, §139(15), Apr. 30, 1994, 108 Stat. 398.

§4302. Definitions

(a) For purposes of this chapter—

(1) "benefit" (with respect to a foreign mission) means any acquisition, or authorization for an acquisition, in the United States by or for a foreign mission, including the acquisition of—

(A) real property by purchase, lease, exchange, construction, or otherwise,

(B) public services, including services relating to customs, importation, and utilities, and the processing of applications or requests relating to public services,

(C) supplies, maintenance, and transportation,

(D) locally engaged staff on a temporary or regular basis,

(E) travel and related services,

(F) protective services, and

(G) financial and currency exchange services,

and includes such other benefits as the Secretary may designate;

(2) "chancery" means the principal offices of a foreign mission used for diplomatic or related purposes, and annexes to such offices (including ancillary offices and support facilities), and includes the site and any building on such site which is used for such purposes;

(3) "foreign mission" means any mission to or agency or entity in the United States which is involved in the diplomatic, consular, or other activities of, or which is substantially owned or effectively controlled by—

(A) a foreign government, or

(B) an organization (other than an international organization, as defined in section 4309(b) of this title) representing a territory or political entity which has been granted diplomatic or other official privileges and immunities under the laws of the United States or which engages in some aspect of the conduct of the international affairs of such territory or political entity,

including any real property of such a mission and including the personnel of such a mission;

(4) "real property" includes any right, title, or interest in or to, or the beneficial use of, any real property in the United States, including any office or other building;

(5) "Secretary" means the Secretary of State;

(6) "sending State" means the foreign government, territory, or political entity represented by a foreign mission; and

(7) "United States" means, when used in a geographic sense, the several States, the District of

Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

(b) Determinations with respect to the meaning and applicability of the terms used in subsection (a) shall be committed to the discretion of the Secretary.

(Aug. 1, 1956, ch. 841, title II, §202, as added Pub. L. 97–241, title II, §202(b), Aug. 24, 1982, 96 Stat. 283; amended Pub. L. 99–93, title I, §127(b), Aug. 16, 1985, 99 Stat. 418; Pub. L. 99–569, title VII, §701, Oct. 27, 1986, 100 Stat. 3204; Pub. L. 100–204, title I, §153(e), Dec. 22, 1987, 101 Stat. 1353; Pub. L. 103–236, title I, §162(o)(1), Apr. 30, 1994, 108 Stat. 409.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this title", meaning title II of act Aug. 1, 1956, ch. 841, as added Aug. 24, 1982, Pub. L. 97–241, title II, §202(b), 96 Stat. 283, known as the Foreign Missions Act, which is classified principally to this chapter. For complete classification of title II to the Code, see Short Title note set out under section 4301 of this title and Tables.

AMENDMENTS

1994—Subsec. (a)(3) to (8). Pub. L. 103–236 struck out par. (3) and redesignated former pars. (4) to (8) as (3) to (7), respectively. Prior to amendment, par. (3) read as follows: " 'Director' means the Director of the Office of Foreign Missions established pursuant to section 4303(a) of this title;".

1987—Subsec. (a)(1)(G). Pub. L. 100–204 added subpar. (G).

1986—Subsec. (a)(4). Pub. L. 99–569 amended par. (4) generally, substituting "which is involved in the diplomatic, consular, or other activities of, or which is substantially owned or effectively controlled by" for "involving diplomatic, consular, or other governmental activities of".

1985—Subsec. (a)(4). Pub. L. 99–93 substituted "mission to or agency in" for "official mission to" in introductory provisions, and inserted "or which engages in some aspect of the conduct of the international affairs of such territory or political entity" before the comma at end of subpar. (B).

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–236 applicable with respect to officials, offices, and bureaus of Department of State when executive orders, regulations, or departmental directives implementing the amendments by sections 161 and 162 of Pub. L. 103–236 become effective, or 90 days after Apr. 30, 1994, whichever comes earlier, see section 161(b) of Pub. L. 103–236, as amended, set out as a note under section 2651a of this title.

§4303. Authorities of Secretary of State

The Secretary shall carry out the following functions:

(1) Assist agencies of Federal, State, and municipal government with regard to ascertaining and according benefits, privileges, and immunities to which a foreign mission may be entitled.

(2) Provide or assist in the provision of benefits for or on behalf of a foreign mission in accordance with section 4304 of this title.

(3) As determined by the Secretary, dispose of property acquired in carrying out the purposes of this chapter.[1]

(4) As determined by the Secretary, designate an office within the Department of State to carry out the purposes of this chapter.[1] If such an office is established, the President may appoint, by and with the advice and consent of the Senate, a Director, with the rank of ambassador. Of the Director and the next most senior person in the office, one should be an individual who has served in the Foreign Service and the other should be an individual who has served in the United States intelligence community.

(5) Perform such other functions as the Secretary may determine necessary in furtherance of the policy of this chapter.

(Aug. 1, 1956, ch. 841, title II, §203, as added Pub. L. 97–241, title II, §202(b), Aug. 24, 1982, 96 Stat. 284; amended Pub. L. 98–164, title VI, §604(a), (b), Nov. 22, 1983, 97 Stat. 1043, 1044; Pub. L. 98–618, title VI, §601(c), Nov. 8, 1984, 98 Stat. 3303; Pub. L. 100–204, title I, §173(a)(2), Dec.

22, 1987, 101 Stat. 1360; Pub. L. 101–246, title I, §116(a), Feb. 16, 1990, 104 Stat. 24; Pub. L. 103–236, title I, §162(o)(2), Apr. 30, 1994, 108 Stat. 409.)

REFERENCES IN TEXT

This chapter, referred to in pars. (3) and (4), was in the original "this Act" and was translated as reading "this title" meaning title II of act Aug. 1, 1956, ch. 841, as added Aug. 24, 1982, Pub. L. 97–241, title II, §202(b), 96 Stat. 283, known as the Foreign Missions Act, which is classified principally to this chapter. For complete classification of title II to the Code, see Short Title note set out under section 4301 of this title and Tables.

AMENDMENTS

1994—Pub. L. 103–236 amended section generally. Prior to amendment, section required Secretary of State to establish Office of Foreign Missions in Department of State, provided for Director and Deputy Director of Office, and specified their powers and duties.

1990—Subsec. (c)(3), (4). Pub. L. 101–246 added par. (3) and redesignated former par. (3) as (4).

1987—Subsec. (a). Pub. L. 100–204 inserted sentence at end relating to compensation of Director.

1984—Subsec. (a). Pub. L. 98–618, §601(c)(1), struck out requirements that Director be an individual with: minimum of ten years service in the Foreign Service, significant administrative experience, and service in countries wherein the United States has had significant problems in assuring secure and efficient operations of its missions as result of the actions of other countries.

Subsec. (b). Pub. L. 98–618, §601(c)(2), substituted requirement of prior complementary service of the Director and Deputy Director in the Foreign Service and the Intelligence Community for requirement that Deputy Director must have served in the Intelligence Community.

1983—Subsec. (a). Pub. L. 98–164, §604(a), inserted provisions respecting rank, and experience required of the Director, and substituted provision requiring appointment by the President by and with the advice and consent of the Senate, for provision requiring appointment by the Secretary.

Subsecs. (b), (c). Pub. L. 98–164, §604(b), added subsec. (b) and redesignated former subsec. (b) as (c).

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–236 applicable with respect to officials, offices, and bureaus of Department of State when executive orders, regulations, or departmental directives implementing the amendments by sections 161 and 162 of Pub. L. 103–236 become effective, or 90 days after Apr. 30, 1994, whichever comes earlier, see section 161(b) of Pub. L. 103–236, as amended, set out as a note under section 2651a of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–204 effective 30 days after Dec. 22, 1987, see section 173(b) of Pub. L. 100–204, set out as a note under section 2707 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98–618, title VI, §601(d), Nov. 8, 1984, 98 Stat. 3303, provided that: "The amendments made by subsection (c) [amending this section] shall apply only with respect to any appointment of a Director or Deputy Director of the Office of Foreign Missions, as the case may be, after the date of the enactment of this section [Nov. 8, 1984]."

EFFECTIVE DATE OF 1983 AMENDMENT

Pub. L. 98–164, title VI, §604(c), Nov. 22, 1983, 97 Stat. 1044, provided that: "The amendments made by this section [amending this section] shall apply with respect to any Director of the Office of Foreign Missions, and to any Deputy Director of the Office of Foreign Missions, appointed after the date of enactment of this Act [Nov. 22, 1983]."

NEW SPENDING AUTHORITY

Any new spending authority provided by amendment by section 173(a)(2) of Pub. L. 100–204 effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts, see section 173(c) of Pub. L. 100–204, set out as a note under section 2707 of this title.

[1] *See References in Text note below.*

§4304. Provision of benefits

(a) Request by foreign mission; terms and conditions as approved by Secretary

Upon the request of a foreign mission, benefits may be provided to or for that foreign mission by or through the Secretary on such terms and conditions as the Secretary may approve.

(b) Benefits through Secretary as mandatory; compliance with terms and conditions

If the Secretary determines that such action is reasonably necessary on the basis of reciprocity or otherwise—

(1) to facilitate relations between the United States and a sending State,

(2) to protect the interests of the United States,

(3) to adjust for costs and procedures of obtaining benefits for missions of the United States abroad,

(4) to assist in resolving a dispute affecting United States interests and involving a foreign mission or sending State, or

(5) subject to subsection (f), to implement an exchange of property between the Government of the United States and the government of a foreign country, such property to be used by each government in the respective receiving state for, or in connection with, diplomatic or consular establishments,

then the Secretary may require a foreign mission (A) to obtain benefits from or through the Secretary on such terms and conditions as the Secretary may approve, or (B) to forego the acceptance, use, or relation of any benefit or to comply with such terms and conditions as the Secretary may determine as a condition to the execution or performance in the United States of any contract or other agreement, the acquisition, retention, or use of any real property, or the application for or acceptance of any benefit (including any benefit from or authorized by any Federal, State, or municipal governmental authority, or any entity providing public services).

(c) Surcharge or fee; waiver of recourse

Terms and conditions established by the Secretary under this section may include—

(1) a requirement to pay to the Secretary a surcharge or fee, and

(2) a waiver by a foreign mission (or any assignee of or person deriving rights from a foreign mission) of any recourse against any governmental authority, any entity providing public services, any employee or agent of such an authority or entity, or any other person, in connection with any action determined by the Secretary to be undertaken in furtherance of this chapter.

(d) Agent for waiver of recourse

For purposes of effectuating a waiver of recourse which is required under this section, the Secretary may designate any officer of the Department of State as the agent of a foreign mission (or of any assignee of or person deriving rights from a foreign mission). Any such waiver by an officer so designated shall for all purposes (including any court or administrative proceeding) be deemed to be a waiver by the foreign mission (or the assignee of or other person deriving rights from a foreign mission).

(e) Secret Service protection

Nothing in this chapter shall be deemed to preclude or limit in any way the authority of the United States Secret Service to provide protective services pursuant to section 3056 or 3056A of title 18 at a level commensurate with protective requirements as determined by the United States Secret Service.

(f) In-kind exchange of properties with foreign government; transfer of funds; reciprocal agreement; regulations

(1) Upon a determination in each specific case by the Secretary of State or the Secretary's designee that the purpose of the Foreign Service Buildings Act, 1926 [22 U.S.C. 292 et seq.], can best be met on the basis of an in-kind exchange of properties with a foreign country pursuant to subsection (b)(5), the Secretary of State may transfer funds made available under the heading "Acquisition and

Maintenance of Buildings Abroad" (including funds held in the Foreign Service Buildings Fund) for such purpose to the Working Capital Fund, as provided in section 4308(h)(1) of this title. Except for funds that may be provided by a foreign government for the purchase of property, only funds transferred under the preceding sentence may be used for the purposes of subsection (b)(5).

(2) The Secretary of State may acquire property in the United States for the purposes of subsection (b)(5) only in the context of a specific reciprocal agreement with a specified foreign government. Property acquired by the United States in the foreign country through such an exchange shall benefit the United States at least to the same extent as the property acquired in the United States benefits the foreign government.

(3) The Secretary of State shall prescribe regulations for the implementation of any in-kind exchange of properties pursuant to subsection (b)(5).

(4) At least 15 days before entering into any reciprocal agreement for the exchange of property with another foreign government, the Secretary of State shall notify the Committee on Foreign Affairs and the Committee on Public Works and Transportation of the House of Representatives and the Committee on Foreign Relations of the Senate.

(5)(A) Proceeds from the disposition of properties acquired pursuant to this subsection shall be credited to the Foreign Service Buildings Fund (referred to in section 9 of the Foreign Service Buildings Act, 1926 [22 U.S.C. 300]).

(B) The authority to spend proceeds received under subparagraph (A) may be exercised only to such extent or in such amounts as are provided in advance in an appropriation Act.

(Aug. 1, 1956, ch. 841, title II, §204, as added Pub. L. 97–241, title II, §202(b), Aug. 24, 1982, 96 Stat. 284; amended Pub. L. 99–93, title I, §§126(b), 127(c), Aug. 16, 1985, 99 Stat. 418; Pub. L. 101–246, title I, §116(b), Feb. 16, 1990, 104 Stat. 24; Pub. L. 103–236, title I, §162(o)(3), Apr. 30, 1994, 108 Stat. 410; Pub. L. 103–415, §1(cc), Oct. 25, 1994, 108 Stat. 4302; Pub. L. 109–177, title VI, §605(d)(2), (e)(2)(B), Mar. 9, 2006, 120 Stat. 255.)

REFERENCES IN TEXT

The Foreign Service Buildings Act, 1926, referred to in subsec. (f)(1), is act May 7, 1926, ch. 250, 44 Stat. 403, as amended, which is classified generally to chapter 8 (§292 et seq.) of this title. For complete classification of this Act to the Code, see section 299 of this title and Tables.

AMENDMENTS

2006—Subsec. (e). Pub. L. 109–177, §605(e)(2)(B), substituted "section 3056 or 3056A of title 18" for "section 202 of title 3 or section 3056 of title 18".

Pub. L. 109–177, §605(d)(2), which directed amendment of section 204(e) of the State Department Basic Authorities Act by substituting "sections 3056 or 3056A" for "section 202 of title 3 or section 3056", was not executed, because this section is section 204 of the State Department Basic Authorities Act of 1956 and because of the amendment by Pub. L. 105–277, §605(e)(2)(B). See note above.

1994—Subsecs. (a) to (c)(1). Pub. L. 103–236, §162(o)(3)(A), substituted "Secretary on such terms" for "Director on such terms" in subsecs. (a) and (b) and "Secretary" for "Director" in subsec. (c)(1).

Subsec. (d). Pub. L. 103–236, §162(o)(3)(B), as amended by Pub. L. 103–415, substituted "any officer" for "the Director or any other officer".

1990—Subsec. (b)(5). Pub. L. 101–246, §116(b)(1), added par. (5).

Subsec. (f). Pub. L. 101–246, §116(b)(2), added subsec. (f).

1985—Subsec. (b). Pub. L. 99–93, §127(c), inserted "to forego the acceptance, use, or relation of any benefit or" after "(B)" in provisions following par. (4).

Subsec. (e). Pub. L. 99–93, §126(b), substituted "chapter" for "section" and was executed by making the substitution to first reference to "section" as the probable intent of Congress.

CHANGE OF NAME

Committee on Public Works and Transportation of House of Representatives treated as referring to Committee on Transportation and Infrastructure of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–236 applicable with respect to officials, offices, and bureaus of Department of

State when executive orders, regulations, or departmental directives implementing the amendments by sections 161 and 162 of Pub. L. 103–236 become effective, or 90 days after Apr. 30, 1994, whichever comes earlier, see section 161(b) of Pub. L. 103–236, as amended, set out as a note under section 2651a of this title.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by section 126(b) of Pub. L. 99–93 effective Oct. 1, 1985, see section 126(e) of Pub. L. 99–93, set out as an Effective Date note under section 4314 of this title.

TRANSFER OF FUNCTIONS

For transfer of the functions, personnel, assets, and obligations of the United States Secret Service, including the functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 381, 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§4304a. Enforcement of compliance with liability insurance requirements

(a) Notice to Secretary by head of foreign mission of lapse or termination of coverage; report to Secretary by head of foreign mission respecting motor vehicles, vessels and aircraft registered in United States

(1) The head of a foreign mission shall notify promptly the Secretary of the lapse or termination of any liability insurance coverage held by a member of the mission, by a member of the family of such member, or by an individual described in section 19 of the Convention on Privileges and Immunities of the United Nations of February 13, 1946.

(2) Not later than February 1 of each year, the head of each foreign mission shall prepare and transmit to the Secretary a report including a list of motor vehicles, vessels, and aircraft registered in the United States by members of the mission, members of the families of such members, individuals described in section 19 of the Convention on Privileges and Immunities of the United Nations of February 13, 1946, and by the mission itself. Such list shall set forth for each such motor vehicle, vessel, or aircraft—

(A) the jurisdiction in which it is registered;
(B) the name of the insured;
(C) the name of the insurance company;
(D) the insurance policy number and the extent of insurance coverage; and
(E) such other information as the Secretary may prescribe.

(b) Surcharge or fee covering unsatisfied part of judgment; preconditions for imposition

Whenever the Secretary finds that a member of a foreign mission, a member of the family of such member, or an individual described in section 19 of the Convention on Privileges and Immunities of the United Nations of February 13, 1946—

(1) is at fault for personal injury, death, or property damage arising out of the operation of a motor vehicle, vessel, or aircraft in the United States,
(2) is not covered by liability insurance, and
(3) has not satisfied a court-rendered judgment against him or is not legally liable,

the Secretary shall impose a surcharge or fee on the foreign mission of which such member or individual is a part, amounting to the unsatisfied portion of the judgment rendered against such member or individual or, if there is no court-rendered judgment, an estimated amount of damages incurred by the victim. The payment of any such surcharge or fee shall be available only for compensation of the victim or his estate.

(c) Definitions

For purposes of this section—

(1) the term "head of a foreign mission" has the same meaning as is ascribed to the term "head of a mission" in Article 1 of the Vienna Convention on Diplomatic Relations of April 18, 1961

(T.I.A.S. numbered 7502; 23 U.S.T. 3227); and

(2) the terms "members of a mission" and "family" have the same meanings as is ascribed to them by paragraphs (1) and (2) of section 254a of this title.

(Aug. 1, 1956, ch. 841, title II, §204A, as added Pub. L. 98–164, title VI, §603, Nov. 22, 1983, 97 Stat. 1042; amended Pub. L. 103–236, title I, §162(o)(4), Apr. 30, 1994, 108 Stat. 410.)

AMENDMENTS

1994—Subsecs. (a), (b). Pub. L. 103–236 substituted "Secretary" for "Director" wherever appearing.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–236 applicable with respect to officials, offices, and bureaus of Department of State when executive orders, regulations, or departmental directives implementing the amendments by sections 161 and 162 of Pub. L. 103–236 become effective, or 90 days after Apr. 30, 1994, whichever comes earlier, see section 161(b) of Pub. L. 103–236, as amended, set out as a note under section 2651a of this title.

§4304b. Crimes committed by diplomats

(a) Annual report concerning diplomatic immunity

(1) Report to Congress

The Secretary of State shall prepare and submit to the Congress, annually, a report concerning diplomatic immunity entitled "Report on Cases Involving Diplomatic Immunity".

(2) Content of report

In addition to such other information as the Secretary of State may consider appropriate, the report under paragraph (1) shall include the following:

(A) The number of persons residing in the United States who enjoy full immunity from the criminal jurisdiction of the United States under laws extending diplomatic privileges and immunities.

(B) Each case involving an alien described in subparagraph (A) in which an appropriate authority of a State, a political subdivision of a State, or the United States reported to the Department of State that the authority had reasonable cause to believe the alien committed a serious criminal offense within the United States, and any additional information provided to the Secretary relating to other serious criminal offenses that any such authority had reasonable cause to believe the alien committed before the period covered by the report. The Secretary may omit from such report any matter the provision of which the Secretary reasonably believes would compromise a criminal investigation or prosecution or which would directly compromise law enforcement or intelligence sources or methods.

(C) Each case described in subparagraph (B) in which the Secretary of State has certified that a person enjoys full immunity from the criminal jurisdiction of the United States under laws extending diplomatic privileges and immunities.

(D) The number of United States citizens who are residing in a receiving state and who enjoy full immunity from the criminal jurisdiction of such state under laws extending diplomatic privileges and immunities.

(E) Each case involving a United States citizen under subparagraph (D) in which the United States has been requested by the government of a receiving state to waive the immunity from criminal jurisdiction of the United States citizen.

(F) Whether the Secretary has made the notifications referred to in subsection (c) during the period covered by the report.

(3) "Serious criminal offense" defined

For the purposes of this section, the term "serious criminal offense" means—

(A) any felony under Federal, State, or local law;

(B) any Federal, State, or local offense punishable by a term of imprisonment of more than 1

year;

(C) any crime of violence as defined for purposes of section 16 of title 18; or

(D)(i) driving under the influence of alcohol or drugs;

(ii) reckless driving; or

(iii) driving while intoxicated.

(b) United States policy concerning reform of diplomatic immunity

It is the sense of the Congress that the Secretary of State should explore, in appropriate fora, whether states should enter into agreements and adopt legislation—

(1) to provide jurisdiction in the sending state to prosecute crimes committed in the receiving state by persons entitled to immunity from criminal jurisdiction under laws extending diplomatic privileges and immunities; and

(2) to provide that where there is probable cause to believe that an individual who is entitled to immunity from the criminal jurisdiction of the receiving state under laws extending diplomatic privileges and immunities committed a serious crime, the sending state will waive such immunity or the sending state will prosecute such individual.

(c) Notification of diplomatic corps

The Secretary should periodically notify each foreign mission of United States policies relating to criminal offenses committed by individuals with immunity from the criminal jurisdiction of the United States under laws extending diplomatic privileges and immunities.

(Aug. 1, 1956, ch. 841, title II, §204B, as added Pub. L. 105–375, §1, Nov. 12, 1998, 112 Stat. 3385.)

CODIFICATION

Section 1 of Pub. L. 105–375, which directed amendment of title I of the State Department Basic Authorities Act of 1956 by adding this section after section 204A, was executed by adding this section after section 204A of title II of the State Department Basic Authorities Act of 1956, to reflect the probable intent of Congress.

§4305. Property of foreign missions

(a) Proposed acquisition, sale, or other disposition

(1) The Secretary shall require any foreign mission, including any mission to an international organization (as defined in section 4309(b)(2) of this title), to notify the Secretary prior to any proposed acquisition, or any proposed sale or other disposition, of any real property by or on behalf of such mission. The foreign mission (or other party acting on behalf of the foreign mission) may initiate or execute any contract, proceeding, application, or other action required for the proposed action—

(A) only after the expiration of the 60-day period beginning on the date of such notification (or after the expiration of such shorter period as the Secretary may specify in a given case); and

(B) only if the mission is not notified by the Secretary within that period that the proposal has been disapproved; however, the Secretary may include in such a notification such terms and conditions as the Secretary may determine appropriate in order to remove the disapproval.

(2) For purposes of this section, "acquisition" includes any acquisition or alteration of, or addition to, any real property or any change in the purpose for which real property is used by a foreign mission.

(b) Divesture

The Secretary may require any foreign mission to divest itself of, or forgo the use of, any real property determined by the Secretary—

(1) not to have been acquired in accordance with this section;

(2) to exceed limitations placed on real property available to a United States mission in the

sending State; or

(3) where otherwise necessary to protect the interests of the United States.

(c) Cessation of diplomatic, consular, and other governmental activities in United States; protecting power or other agent; disposition of property

If a foreign mission has ceased conducting diplomatic, consular, and other governmental activities in the United States and has not designated a protecting power or other agent approved by the Secretary to be responsible for the property of that foreign mission, the Secretary—

(1) until the designation of a protecting power or other agent approved by the Secretary, may protect and preserve any property of that foreign mission; and

(2) may dispose of such property at such time as the Secretary may determine after the expiration of the one-year period beginning on the date that the foreign mission ceased those activities, and may remit to the sending State the net proceeds from such disposition.

(d) Protection from future hostile intelligence activities in United States

(1) After December 22, 1987, real property in the United States may not be acquired (by sale, lease, or other means) by or on behalf of the foreign mission of a foreign country described in paragraph (4) if, in the judgment of the Secretary of Defense (after consultation with the Secretary of State), the acquisition of that property might substantially improve the capability of that country to intercept communications involving United States Government diplomatic, military, or intelligence matters.

(2) After December 22, 1987, real property in the United States may not be acquired (by sale, lease, or other means) by or on behalf of the foreign mission of a foreign country described in paragraph (4) if, in the judgment of the Director of the Federal Bureau of Investigation (after consultation with the Secretary of State), the acquisition of that property might substantially improve the capability of that country to engage in intelligence activities directed against the United States Government, other than the intelligence activities described in paragraph (1).

(3) The Secretary of State shall inform the Secretary of Defense and the Director of the Federal Bureau of Investigation immediately upon notice being given pursuant to subsection (a) of this section of a proposed acquisition of real property by or on behalf of the foreign mission of a foreign country described in paragraph (4).

(4) For the purposes of this subsection, the term "foreign country" means—

(A) any country listed as a Communist country in section 2370(f) of this title;

(B) any country determined by the Secretary of State, for purposes of section 4605(j) of title 50, to be a country which has repeatedly provided support for acts of international terrorism; and

(C) any other country which engages in intelligence activities in the United States which are adverse to the national security interests of the United States.

(5) As used in this section, the term "substantially improve" shall not be construed to prevent the establishment of a foreign mission by a country which, on December 22, 1987—

(A) does not have a mission in the United States, or

(B) with respect to a city in the United States, did not maintain a mission in that city.

(Aug. 1, 1956, ch. 841, title II, §205, as added Pub. L. 97–241, title II, §202(b), Aug. 24, 1982, 96 Stat. 285; amended Pub. L. 99–93, title I, §127(d), (e), Aug. 16, 1985, 99 Stat. 418; Pub. L. 100–204, title I, §161, Dec. 22, 1987, 101 Stat. 1356; Pub. L. 103–236, title I, §162(o)(5), Apr. 30, 1994, 108 Stat. 410.)

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–236, §162(o)(5)(A), substituted "Secretary prior to" for "Director prior to" in introductory provisions.

Subsec. (c)(2). Pub. L. 103–236, §162(o)(5)(B), struck out "authorize the Director to" before "dispose of".

1987—Subsec. (d). Pub. L. 100–204 added subsec. (d).

1985—Subsec. (a)(1). Pub. L. 99–93, §127(e), substituted "shall" for "may" and inserted ", including any mission to an international organization (as defined in section 4309(b)(2) of this title)," after "foreign mission" in first sentence, and substituted "The" for "If such a notification is required, the" in second sentence.

Subsec. (b)(3). Pub. L. 99–93, §127(d), added par. (3).

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–236 applicable with respect to officials, offices, and bureaus of Department of State when executive orders, regulations, or departmental directives implementing the amendments by sections 161 and 162 of Pub. L. 103–236 become effective, or 90 days after Apr. 30, 1994, whichever comes earlier, see section 161(b) of Pub. L. 103–236, as amended, set out as a note under section 2651a of this title.

§4306. Location of foreign missions in the District of Columbia

(a) Section as governing location, replacement, or expansion

The location, replacement, or expansion of chanceries in the District of Columbia shall be subject to this section.

(b) Acceptable areas; limitations and conditions

(1) A chancery shall be permitted to locate as a matter of right in any area which is zoned commercial, industrial, waterfront, or mixed-use (CR).

(2) A chancery shall also be permitted to locate—

(A) in any area which is zoned medium-high or high density residential, and

(B) in any other area, determined on the basis of existing uses, which includes office or institutional uses, including but not limited to any area zoned mixed-use diplomatic or special purpose,

subject to disapproval by the District of Columbia Board of Zoning Adjustment in accordance with this section.

(3) In each of the areas described in paragraphs (1) and (2), the limitations and conditions applicable to chanceries shall not exceed those applicable to other office or institutional uses in that area.

(c) Filing of application with Board of Zoning Adjustment; publication of notice; public participation; final determination

(1) If a foreign mission wishes to locate a chancery in an area described in subsection (b)(2), or wishes to appeal an administrative decision relating to a chancery based in whole or in part upon any zoning map or regulation, it shall file an application with the Board of Zoning Adjustment which shall publish notice of that application in the District of Columbia Register.

(2) Regulations issued to carry out this section shall provide appropriate opportunities for participation by the public in proceedings concerning the location, replacement, or expansion of chanceries.

(3) A final determination concerning the location, replacement, or expansion of a chancery shall be made not later than six months after the date of the filing of an application with respect to such location, replacement, or expansion. Such determination shall not be subject to the administrative proceedings of any other agency or official except as provided in this chapter.

(d) Criteria for determination

Any determination concerning the location of a chancery under subsection (b)(2), or concerning an appeal of an administrative decision with respect to a chancery based in whole or in part upon any zoning regulation or map, shall be based solely on the following criteria:

(1) The international obligation of the United States to facilitate the provision of adequate and secure facilities for foreign missions in the Nation's Capital.

(2) Historic preservation, as determined by the Board of Zoning Adjustment in carrying out this section; and in order to ensure compatibility with historic landmarks and districts, substantial compliance with District of Columbia and Federal regulations governing historic preservation shall be required with respect to new construction and to demolition of or alteration to historic landmarks.

(3) The adequacy of off-street or other parking and the extent to which the area will be served by public transportation to reduce parking requirements, subject to such special security requirements as may be determined by the Secretary, after consultation with Federal agencies authorized to perform protective services.

(4) The extent to which the area is capable of being adequately protected, as determined by the Secretary, after consultation with Federal agencies authorized to perform protective services.

(5) The municipal interest, as determined by the Mayor of the District of Columbia.

(6) The Federal interest, as determined by the Secretary.

(e) Consistency of regulations, proceedings, and other actions; review and comment by National Planning Commission

(1) Regulations, proceedings, and other actions of the National Capital Planning Commission, the Zoning Commission for the District of Columbia, and the Board of Zoning Adjustment affecting the location, replacement, or expansion of chanceries shall be consistent with this section (including the criteria set out in subsection (d)) and shall reflect the policy of this chapter.

(2) Proposed actions of the Zoning Commission concerning implementation of this section shall be referred to the National Capital Planning Commission for review and comment.

(f) Rule-making nature of proceedings

Regulations issued to carry out this section shall provide for proceedings of a rule-making and not of an adjudicatory nature.

(g) Compliance with District of Columbia building and related codes

The Secretary shall require foreign missions to comply substantially with District of Columbia building and related codes in a manner determined by the Secretary to be not inconsistent with the international obligations of the United States.

(h) Approval of Board of Zoning Adjustment or Zoning Commission not required

Approval by the Board of Zoning Adjustment or the Zoning Commission or, except as provided in section 4305 of this title, by any other agency or official is not required—

(1) for the location, replacement, or expansion of a chancery to the extent that authority to proceed, or rights or interests, with respect to such location, replacement, or expansion were granted to or otherwise acquired by the foreign mission before October 1, 1982; or

(2) for continuing use of a chancery by a foreign mission to the extent that the chancery was being used by a foreign mission on October 1, 1982.

(i) Membership on Zoning Commission and Board of Zoning Adjustment

(1) The President may designate the Secretary of Defense, the Secretary of the Interior, or the Administrator of General Services (or such alternate as such official may from time to time designate) to serve as a member of the Zoning Commission in lieu of the Director of the National Park Service whenever the President determines that the Zoning Commission is performing functions concerning the implementation of this section.

(2) Whenever the Board of Zoning Adjustment is performing functions regarding an application by a foreign mission with respect to the location, expansion, or replacement of a chancery—

(A) the representative from the Zoning Commission shall be the Director of the National Park Service or if another person has been designated under paragraph (1) of this subsection, the person so designated; and

(B) the representative from the National Capital Planning Commission shall be the Executive Director of that Commission.

(j) Application of other laws

Provisions of law (other than this chapter) applicable with respect to the location, replacement, or expansion of real property in the District of Columbia shall apply with respect to chanceries only to the extent that they are consistent with this section.

(Aug. 1, 1956, ch. 841, title II, §206, as added Pub. L. 97–241, title II, §202(b), Aug. 24, 1982, 96

Stat. 286.)

§4307. Preemption

Notwithstanding any other law, no act of any Federal agency shall be effective to confer or deny any benefit with respect to any foreign mission contrary to this chapter. Nothing in section 4302, 4303, 4304, or 4305 of this title may be construed to preempt any State or municipal law or governmental authority regarding zoning, land use, health, safety, or welfare, except that a denial by the Secretary involving a benefit for a foreign mission within the jurisdiction of a particular State or local government shall be controlling.

(Aug. 1, 1956, ch. 841, title II, §207, as added Pub. L. 97–241, title II, §202(b), Aug. 24, 1982, 96 Stat. 288.)

§4308. General provisions

(a) Issuance of regulations

The Secretary may issue such regulations as the Secretary may determine necessary to carry out the policy of this chapter.

(b) Discharge of obligation; liability

Compliance with any regulation, instruction, or direction issued by the Secretary under this chapter shall to the extent thereof be a full acquittance and discharge for all purposes of the obligation of the person making the same. No person shall be held liable in any court or administrative proceeding for or with respect to anything done or omitted in good faith in connection with the administration of, or pursuant to and in reliance on, this chapter, or any regulation, instruction, or direction issued by the Secretary under this chapter.

(c) Use of employees from other Federal agencies; experts and consultants

For purposes of administering this chapter—

(1) the Secretary may accept details and assignments of employees of Federal agencies to the Department of State on a reimbursable or nonreimbursable basis (with any such reimbursements to be credited to the appropriations made available for the salaries and expenses of officers and employees of the employing agency); and

(2) the Secretary may, to the extent necessary to obtain services without delay, exercise his authority to employ experts and consultants under section 3109 of title 5 without requiring compliance with such otherwise applicable requirements for that employment as the Secretary may determine, except that such employment shall be terminated after 60 days if by that time those requirements are not complied with.

(d) Contracts and subcontracts for supplies and services; advertisement; factors considered

Contracts and subcontracts for supplies or services, including personal services, made by or on behalf of the Secretary shall be made after advertising, in such manner and at such times as the Secretary shall determine to be adequate to ensure notice and opportunity for competition, except that advertisement shall not be required when (1) the Secretary determines that it is impracticable or will not permit timely performance to obtain bids by advertising, or (2) the aggregate amount involved in a purchase of supplies or procurement of services does not exceed $10,000. Such contracts and subcontracts may be entered into without regard to laws and regulations otherwise applicable to solicitation, negotiation, administration, and performance of government contracts. In awarding contracts, the Secretary may consider such factors as relative quality and availability of supplies or services and the compatibility of the supplies or services with implementation of this chapter.

(e) Transfer or loan of property to or from Department of State

The head of any Federal agency may, for purposes of this chapter—

(1) transfer or loan any property to, and perform administrative and technical support functions and services for the operations of, the Department of State (with reimbursements to agencies under this paragraph to be credited to the current applicable appropriation of the agency concerned); and

(2) acquire and accept services from the Department of State, including (whenever the Secretary determines it to be in furtherance of the purposes of this chapter) acquisitions without regard to laws normally applicable to the acquisition of services by such agency.

(f) Attachment, execution, etc., of assets

Assets of or under the control of the Department of State, wherever situated, which are used by or held for the use of a foreign mission shall not be subject to attachment, execution, injunction, or similar process, whether intermediate or final.

(g) Discretion of Secretary

Except as otherwise provided, any determination required under this chapter shall be committed to the discretion of the Secretary.

(h) Transfer and credit of funds

(1) In order to implement this chapter, the Secretary may transfer to the working capital fund established by section 2684 of this title such amounts available to the Department of State as may be necessary.

(2) All revenues, including proceeds from gifts and donations, received by the Secretary in carrying out this chapter may be credited to the working capital fund established by section 2684 of this title and shall be available for purposes of this chapter in accordance with that section.

(3) Only amounts transferred or credited to the working capital fund established by section 2684 of this title may be used in carrying out the functions of the Secretary or the Director under this chapter.

(Aug. 1, 1956, ch. 841, title II, §208, as added Pub. L. 97–241, title II, §202(b), Aug. 24, 1982, 96 Stat. 288; amended Pub. L. 103–236, title I, §162(o)(6), Apr. 30, 1994, 108 Stat. 410.)

AMENDMENTS

1994—Subsec. (c)(1). Pub. L. 103–236, §162(o)(6)(B), substituted "Department of State" for "Office of Foreign Missions".

Subsec. (d). Pub. L. 103–236, §162(o)(6)(A), substituted "behalf of the Secretary" for "behalf of the Director".

Subsecs. (e), (f). Pub. L. 103–236, §162(o)(6)(B), substituted "Department of State" for "Office of Foreign Missions" wherever appearing.

Subsec. (h)(2). Pub. L. 103–236, §162(o)(6)(C), struck out "Director or the" after "received by the".

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–236 applicable with respect to officials, offices, and bureaus of Department of State when executive orders, regulations, or departmental directives implementing the amendments by sections 161 and 162 of Pub. L. 103–236 become effective, or 90 days after Apr. 30, 1994, whichever comes earlier, see section 161(b) of Pub. L. 103–236, as amended, set out as a note under section 2651a of this title.

§4309. Application to public international organizations and official missions to such organizations

(a) Determination by Secretary

The Secretary may make section 4306 of this title, or any other provision of this chapter, applicable with respect to an international organization to the same extent that it is applicable with respect to a foreign mission if the Secretary determines that such application is necessary to carry out the policy set forth in section 4301(b) of this title and to further the objectives set forth in section 4304(b) of this title.

(b) "International organization" defined

For purposes of this section, "international organization" means—

(1) a public international organization designated as such pursuant to the International Organizations Immunities Act (22 U.S.C. 288—288f–2) or a public international organization created pursuant to a treaty or other international agreement as an instrument through or by which two or more foreign governments engage in some aspect of their conduct of international affairs; and

(2) an official mission (other than a United States mission) to such a public international organization,

including any real property of such an organization or mission and including the personnel of such an organization or mission.

(Aug. 1, 1956, ch. 841, title II, §209, as added Pub. L. 97–241, title II, §202(b), Aug. 24, 1982, 96 Stat. 289.)

REFERENCES IN TEXT

The International Organizations Immunities Act, referred to in subsec. (b)(1), is act Dec. 29, 1945, ch. 652, title I, 59 Stat. 669, as amended, which is classified principally to subchapter XVIII (§288 et seq.) of chapter 7 of this title. For complete classification of that Act to the Code, see Short Title note set out under section 288 of this title and Tables.

§4309a. United States responsibilities for employees of the United Nations

(a) Findings

The Congress finds that—

(1) pursuant to the Agreement Between the United States and the United Nations Regarding the Headquarters of the United Nations (authorized by Public Law 80–357 (22 U.S.C. 287 note)), the United States has accepted—

(A) the obligation to permit and to facilitate the right of individuals, who are employed by or are authorized by the United Nations to conduct official business in connection with that organization or its agencies, to enter into and exit from the United States for purposes of conducting official activities within the United Nations Headquarters District, subject to regulation as to points of entry and departure; and

(B) the implied obligation to permit and to facilitate the acquisition of facilities in order to conduct such activities within or in proximity to the United Nations Headquarters District, subject to reasonable regulation including regulation of the location and size of such facilities; and

(2) taking into account paragraph (1) and consistent with the obligation of the United States to facilitate the functioning of the United Nations, the United States has no additional obligation to permit the conduct of any other activities, including nonofficial activities, by such individuals outside of the United Nations Headquarters District.

(b) Activities of United Nations employees

(1) The conduct of any activities, or the acquisition of any benefits (as defined in section 4301(a)(1) of this title), outside the United Nations Headquarters District by any individual employed by, or authorized by the United Nations to conduct official business in connection with, that organization or its agencies, or by any person or agency acting on behalf thereof, may be permitted or denied or subject to reasonable regulation, as determined to be in the best interests of the United States and pursuant to this chapter.

(2) Repealed. Pub. L. 103–236, title I, §139(26), Apr. 30, 1994, 108 Stat. 399.

(c) Reports

The Secretary shall report to the Congress—

(1) not later than 30 days after August 16, 1985, on the plans of the Secretary for implementing this section; and

(2) not later than 6 months thereafter, on the actions taken pursuant to those plans.

(d) United States nationals

This section shall not apply with respect to any United States national.

(e) "United Nations Headquarters District" defined

For purposes of this section, the term "United Nations Headquarters District" means the area within the United States which is agreed to by the United Nations and the United States to constitute such a district, together with such other areas as the Secretary of State may approve from time to time in order to permit effective functioning of the United Nations or missions to the United Nations.

(Aug. 1, 1956, ch. 841, title II, §209A, as added Pub. L. 99–93, title I, §141, Aug. 16, 1985, 99 Stat. 423; amended Pub. L. 103–236, title I, §139(26), Apr. 30, 1994, 108 Stat. 399.)

REFERENCES IN TEXT

Public Law 80–357, referred to in subsec. (a)(1), is act Aug. 4, 1947, ch. 482, 61 Stat. 756, which is set out as a note under section 287 of this title.

AMENDMENTS

1994—Subsec. (b)(2). Pub. L. 103–236 struck out par. (2) which read as follows: "The Secretary shall apply to those employees of the United Nations Secretariat who are nationals of a foreign country or members of a foreign mission all terms, limitations, restrictions, and conditions which are applicable pursuant to this chapter to the members of that country's mission or of any other mission to the United Nations unless the Secretary determines and reports to the Congress that national security and foreign policy circumstances require that this paragraph be waived in specific circumstances."

§4310. Privileges and immunities

Nothing in this chapter shall be construed to limit the authority of the United States to carry out its international obligations, or to supersede or limit immunities otherwise available by law. No act or omission by any foreign mission, public international organization, or official mission to such an organization, in compliance with this chapter shall be deemed to be an implied waiver of any immunity otherwise provided for by law.

(Aug. 1, 1956, ch. 841, title II, §210, as added Pub. L. 97–241, title II, §202(b), Aug. 24, 1982, 96 Stat. 290.)

§4311. Enforcement

(a) Benefits to foreign missions contrary to this chapter; standing of United States to bring action for compliance

It shall be unlawful for any person to make available any benefits to a foreign mission contrary to this chapter. The United States, acting on its own behalf or on behalf of a foreign mission, has standing to bring or intervene in an action to obtain compliance with this chapter, including any action for injunctive or other equitable relief.

(b) Advice of Secretary concerning transactions with foreign missions

Upon the request of any Federal agency, any State or local government agency, or any business or other person that proposes to enter into a contract or other transaction with a foreign mission, the Secretary shall advise whether the proposed transaction is prohibited by any regulation or determination of the Secretary under this chapter.

(Aug. 1, 1956, ch. 841, title II, §211, as added Pub. L. 97–241, title II, §202(b), Aug. 24, 1982, 96

Stat. 290.)

§4312. Presidential guidelines

The authorities granted to the Secretary pursuant to the provisions of this chapter shall be exercised in accordance with procedures and guidelines approved by the President.

(Aug. 1, 1956, ch. 841, title II, §212, as added Pub. L. 97–241, title II, §202(b), Aug. 24, 1982, 96 Stat. 290.)

§4313. Severability

If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the remainder of this chapter and the application of such provision to any other person or circumstance shall not be affected thereby.

(Aug. 1, 1956, ch. 841, title II, §213, as added Pub. L. 97–241, title II, §202(b), Aug. 24, 1982, 96 Stat. 290.)

§4314. Extraordinary protective services

(a) General authority

The Secretary may provide extraordinary protective services for foreign missions directly, by contract, or through State or local authority to the extent deemed necessary by the Secretary in carrying out this chapter, except that the Secretary may not provide under this section any protective services for which authority exists to provide such services under subsections (a)(7) and (d) of section 3056A of title 18.

(b) Requirement of extraordinary circumstances

The Secretary may provide funds to a State or local authority for protective services under this section only if the Secretary has determined that a threat of violence, or other circumstances, exists which requires extraordinary security measures which exceed those which local law enforcment [1] agencies can reasonably be expected to take.

(c) Repealed. Pub. L. 103–236, title I, §139(2), Apr. 30, 1994, 108 Stat. 397

(d) Restrictions on use of funds

Of the funds made available for obligation under this section in any fiscal year—

(1) not more than 20 percent may be obligated for protective services within any single State during that year; and

(2) not less than 15 percent shall be retained as a reserve for protective services provided directly by the Secretary or for expenditures in local jurisdictions not otherwise covered by an agreement for protective services under this section.

The limitations on funds available for obligation in this subsection shall not apply to unobligated funds during the final quarter of any fiscal year.

(e) Period of agreement with State or local authority

Any agreement with a State or local authority for the provision of protective services under this section shall be for a period of not to exceed 90 days in any calendar year, but such agreements may be renewed after review by the Secretary.

(f) Requirement for appropriations

Contracts may be entered into in carrying out this section only to such extent or in such amounts as are provided in advance in appropriation Acts.

(g) Working capital fund

Amounts used to carry out this section shall not be subject to section 4308(h) of this title.

(Aug. 1, 1956, ch. 841, title II, §214, as added Pub. L. 99–93, title I, §126(a), Aug. 16, 1985, 99 Stat. 417; amended Pub. L. 103–236, title I, §139(2), Apr. 30, 1994, 108 Stat. 397; Pub. L. 109–177, title VI, §605(d)(3), (e)(2)(C), Mar. 9, 2006, 120 Stat. 255.)

AMENDMENTS

2006—Subsec. (a). Pub. L. 109–177, §605(e)(2)(C), substituted "subsections (a)(7) and (d) of section 3056A of title 18" for "sections 202(7) and 208 of title 3".

Pub. L. 109–177, §605(d)(3), which directed amendment of section 214(a) of the State Department Basic Authorities Act by substituting "section 3056A(a)(7) and (d) of title 18" for "sections 202(8) and 208 of title 3", was not executed because this section, which is section 214 of the State Department Basic Authorities Act of 1956, did not contain the words "sections 202(8) and 208 of title 3" and because of the amendment by Pub. L. 109–177, §605(e)(2)(C). See note above.

1994—Subsec. (c). Pub. L. 103–236 struck out subsec. (c) which read as follows: "Funds may be obligated under this section only after regulations to implement this section have been issued by the Secretary after consultation with appropriate committees of the Congress."

EFFECTIVE DATE

Pub. L. 99–93, title I, §126(e), Aug. 16, 1985, 99 Stat. 418, provided that: "The amendments made by this section [enacting this section and amending section 4304 of this title and section 208 of Title 3, The President] shall take effect on October 1, 1985."

[1] *So in original. Probably should be "enforcement".*

§4315. Use of foreign mission in manner incompatible with its status as foreign mission

(a) Establishment of limitation on certain uses

A foreign mission may not allow an unaffiliated alien the use of any premise of that foreign mission which is inviolable under United States law (including any treaty) for any purpose which is incompatible with its status as a foreign mission, including use as a residence.

(b) Temporary lodging

For the purposes of this section, the term "residence" does not include such temporary lodging as may be permitted under regulations issued by the Secretary.

(c) Waiver

The Secretary may waive subsection (a) with respect to all foreign missions of a country (and may revoke such a waiver) 30 days after providing written notification of such a waiver, together with the reasons for such waiver (or revocation of such a waiver), to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

(d) Report

Not later than 180 days after December 22, 1987, the Secretary of State shall submit a report to the Congress concerning the implementation of this section and shall submit such other reports to the Congress concerning changes in implementation as may be necessary.

(e) Definitions

For the purposes of this section—

(1) the term "foreign mission" includes any international organization as defined in section 4309(b) of this title; and

(2) the term "unaffiliated alien" means, with respect to a foreign country, an alien who—

(A) is admitted to the United States as a nonimmigrant, and

(B) is not a member, or a family member of a member, of a foreign mission of that foreign country.

(Aug. 1, 1956, ch. 841, title II, §215, as added Pub. L. 100–204, title I, §128(a), Dec. 22, 1987, 101 Stat. 1343.)

CODIFICATION

December 22, 1987, referred to in subsec. (d), was in the original "the date of the enactment of this Act", which was translated as meaning the date of enactment of Pub. L. 100–204, which enacted this section, to reflect the probable intent of Congress.

EFFECTIVE DATE

Pub. L. 100–204, title I, §128(b), Dec. 22, 1987, 101 Stat. 1343, provided that:

"(1) Except as provided in paragraph (2), the amendment made by subsection (a) [enacting this section] shall apply to any foreign mission beginning on the date of enactment of this Act [Dec. 22, 1987].

"(2)(A) The amendment made by subsection (a) shall apply beginning 6 months after the date of enactment of this Act with respect to any nonimmigrant alien who is using a foreign mission as a residence or a place of business on the date of enactment of this Act.

"(B) The Secretary of State may delay the effective date provided for in subparagraph (A) for not more than 6 months with respect to any nonimmigrant alien if the Secretary finds that a hardship to that alien would result from the implementation of subsection (a)."

§4316. Application of travel restrictions to personnel of certain countries and organizations

(a) Requirement for restrictions

The Secretary shall apply the same generally applicable restrictions to the travel while in the United States of the individuals described in subsection (b) as are applied under this chapter to the members of the missions of the Soviet Union in the United States.

(b) Individuals subject to restrictions

The restrictions required by subsection (a) shall be applied with respect to those individuals who (as determined by the Secretary) are—

(1) the personnel of an international organization, if the individual is a national of any foreign country whose government engages in intelligence activities in the United States that are harmful to the national security of the United States;

(2) the personnel of a mission to an international organization, if that mission is the mission of a foreign government that engages in intelligence activities in the United States that are harmful to the national security of the United States; or

(3) the family members or dependents of an individual described in paragraphs (1) and (2);

and who are not nationals or permanent resident aliens of the United States.

(c) Waivers

The Secretary, after consultation with the Director of Central Intelligence and the Director of the Federal Bureau of Investigation, may waive application of the restrictions required by subsection (a) if the Secretary determines that the national security and foreign policy interests of the United States so require.

(d) Repealed. Pub. L. 103–236, title I, §139(3), Apr. 30, 1994, 108 Stat. 397

(e) Definitions

For purposes of this section—

(1) the term "generally applicable restrictions" means any limitations on the radius within which unrestricted travel is permitted and obtaining travel services through the auspices of the Office of Foreign Missions for travel elsewhere, and does not include any restrictions which unconditionally

prohibit the members of missions of the Soviet Union in the United States from traveling to designated areas of the United States and which are applied as a result of particular factors in relations between the United States and the Soviet Union.[1]

(2) the term "international organization" means an organization described in section 4309(b)(1) of this title; and

(3) the term "personnel" includes—

(A) officers, employees, and any other staff member, and

(B) any individual who is retained under contract or other arrangement to serve functions similar to those of an officer, employee, or other staff member.

(Aug. 1, 1956, ch. 841, title II, §216, as added Pub. L. 100–204, title I, §162(a), Dec. 22, 1987, 101 Stat. 1357; amended Pub. L. 103–236, title I, §139(3), Apr. 30, 1994, 108 Stat. 397.)

AMENDMENTS

1994—Subsec. (d). Pub. L. 103–236 struck out heading and text of subsec. (d). Text read as follows: "The Secretary shall transmit to the Select Committee on Intelligence and the Committee on Foreign Relations of the Senate, and to the Permanent Select Committee on Intelligence and the Committee on Foreign Affairs of the House of Representatives, not later than six months after December 22, 1987, and not later than every six months thereafter, a report on the actions taken by the Secretary in carrying out this section during the previous six months."

CHANGE OF NAME

Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108–458, set out as a note under section 3001 of Title 50, War and National Defense.

EFFECTIVE DATE

Pub. L. 100–204, title I, §162(b), Dec. 22, 1987, 101 Stat. 1358, provided that: "Subsection (a) of the section enacted by this section [this section] shall take effect 90 days after the date of enactment of this Act [Dec. 22, 1987]."

AUTHORITY OF SECRETARY OF STATE

Except as otherwise provided, Secretary of State to have and exercise any authority vested by law in any official or office of Department of State and references to such officials or offices deemed to refer to Secretary of State or Department of State, as appropriate, see section 2651a of this title and section 161(d) of Pub. L. 103–236, set out as a note under section 2651a of this title.

[1] So in original. The period probably should be a semicolon.

CHAPTER 53A—DISPOSITION OF PERSONAL PROPERTY ABROAD

Sec.

4341. Definitions.
4342. Limitations on disposition of personal property.
4343. Regulations.

§4341. Definitions

For purposes of this chapter, the following terms have the following meanings:

(1) The term "employee" means an individual who is under the jurisdiction of a chief of mission to a foreign country (as provided under section 3927 of this title) and who is—

(A) an employee as defined by section 2105 of title 5;

(B) an officer or employee of the United States Postal Service or of the Postal Regulatory

Commission;

(C) a member of a uniformed service who is not under the command of an area military commander; or

(D) an expert or consultant as authorized pursuant to section 3109 of title 5 with the United States or any agency, department, or establishment thereof; but is not a national or permanent resident of the foreign country in which employed.

(2) The term "contractor" means—

(A) an individual employed by personal services contract pursuant to section 2669(c) of this title, section 2396(a)(3) of this title, or pursuant to other similar authority, including, in the case of an organization performing services under such authority, an individual involved in the performance of such services; and

(B) such other individuals or firms providing goods or services by contract as are designated by regulations issued pursuant to section 4343 of this title;

but does not include a contractor with or under the supervision of an area military commander.

(3) The term "charitable contribution" means a contribution or gift as defined in section 170(c) of title 26, or other similar contribution or gift to a bona fide charitable foreign entity as determined pursuant to regulations or policies issued pursuant to section 4343 of this title.

(4) The term "chief of mission" has the meaning given such term by section 3902(3) of this title.

(5) The term "foreign country" means any country or territory, excluding the United States, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, American Samoa, Guam, the Virgin Islands, and other territories or possessions of the United States.

(6) The term "personal property" means any item of personal property, including automobiles, computers, boats, audio and video equipment, and any other items acquired for personal use, but excluding items of minimal value as determined by regulation or policy issued pursuant to section 4343 of this title.

(7) The term "profit" means any proceeds (including cash and other valuable consideration but not including amounts of such proceeds given as charitable contributions) for the sale, disposition, or assignment of personal property in excess of the basis for such property. For purposes of this chapter, basis shall include initial price, inland and overseas transportation costs (if not reimbursed by the United States Government), shipping insurance, taxes, customs fees, duties or other charges, and capital improvements, but shall not include insurance on an item while in use, or maintenance and related costs. For purposes of computing profit, proceeds and costs shall be valued in United States dollars at the time of receipt or payment, at a rate of exchange as determined by regulation or policy issued pursuant to section 4343 of this title.

(Aug. 1, 1956, ch. 841, title III, §301, as added Pub. L. 100–204, title I, §186(a), Dec. 22, 1987, 101 Stat. 1366; amended Pub. L. 109–435, title VI, §604(f), Dec. 20, 2006, 120 Stat. 3242.)

AMENDMENTS

2006—Par. (1)(B). Pub. L. 109–435 substituted "Postal Regulatory Commission" for "Postal Rate Commission".

EFFECTIVE DATE

Pub. L. 100–204, title I, §186(b), Dec. 22, 1987, 101 Stat. 1368, provided that: "This section [enacting this chapter] shall take effect 180 days after the date of enactment of this Act [Dec. 22, 1987]."

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§4342. Limitations on disposition of personal property

(a) General rule

Except as authorized under subsection (b), employees or members of their family shall not sell, assign, or otherwise dispose of personal property within a foreign country which was imported into or purchased within that foreign country and which, by virtue of the official status of the employee, was exempt from import limitation, customs duties, or taxes which would otherwise apply.

(b) Approval by chief of mission

The chief of mission to a foreign country, or a designee of such chief of mission, is authorized to approve within that foreign country sales, assignment, or other dispositions of property by employees under the chief of mission's jurisdiction (as described in section 3927 of this title) to the extent that such sale, assignment, or other disposition is in accordance with regulations and policies, rules, and procedures issued pursuant to section 4343 of this title.

(c) Violation

Violation of this section, or other importation, sale, or other disposition of personal property within a foreign country which violates its laws or regulations or governing international law and is prohibited by regulations and policies, rules, and procedures issued pursuant to section 4343 of this title, shall be grounds for disciplinary action against an employee.

(Aug. 1, 1956, ch. 841, title III, §302, as added Pub. L. 100–204, title I, §186(a), Dec. 22, 1987, 101 Stat. 1368.)

§4343. Regulations

(a) Issuance; purpose

The Secretary of State may issue regulations to carry out the purposes of this chapter. The primary purpose of such regulations and related policies, rules, and procedures shall be to assure that employees and members of their families do not profit personally from sales or other transactions with persons who are not themselves entitled to exemption from import restrictions, duties, or taxes.

(b) Contractors

Such regulations shall require that, to the extent contractors enjoy importation or tax privileges in a foreign country because of their contractual relationship to the United States Government, after the effective date of this chapter contracting agencies shall include provisions in their contracts to carry out the purpose of this chapter.

(c) Chief of mission

In order to ensure that due account is taken of local conditions, including applicable laws, markets, exchange rate factors, and accommodation exchange facilities, such regulations may authorize the chief of mission to each foreign country to establish more detailed policies, rules, or procedures for the application of this chapter within that country to employees under the chief of mission's jurisdiction.

(Aug. 1, 1956, ch. 841, title III, §303, as added Pub. L. 100–204, title I, §186(a), Dec. 22, 1987, 101 Stat. 1368.)

REFERENCES IN TEXT

For the effective date of this chapter, referred to in subsec. (b), as being 180 days after Dec. 22, 1987, see section 186(b) of Pub. L. 100–204 set out as an Effective Date note under section 4341 of this title.

CHAPTER 53B—FOREIGN RELATIONS OF THE UNITED STATES HISTORICAL SERIES

Sec.

4351. General authority and contents of publication.

4352. Responsibility for preparation of FRUS series.
4353. Procedures for identifying records for FRUS series; declassification, revisions, and summaries.
4354. Declassification of State Department records.
4355. Relationship to Privacy Act and Freedom of Information Act.
4356. Advisory Committee.
4357. Definitions.

§4351. General authority and contents of publication

(a) Charter of publication

The Department of State shall continue to publish the "Foreign Relations of the United States historical series" (hereafter in this chapter referred to as the "FRUS series"), which shall be a thorough, accurate, and reliable documentary record of major United States foreign policy decisions and significant United States diplomatic activity. Volumes of this publication shall include all records needed to provide a comprehensive documentation of the major foreign policy decisions and actions of the United States Government, including the facts which contributed to the formulation of policies and records providing supporting and alternative views to the policy position ultimately adopted.

(b) Editing principles

The editing of records for preparation of the FRUS series shall be guided by the principles of historical objectivity and accuracy. Records shall not be altered and deletions shall not be made without indicating in the published text that a deletion has been made. The published record shall omit no facts which were of major importance in reaching a decision, and nothing shall be omitted for the purpose of concealing a defect of policy.

(c) Deadline for publication of records

The Secretary of State shall ensure that the FRUS series shall be published not more than 30 years after the events recorded.

(Aug. 1, 1956, ch. 841, title IV, §401, as added Pub. L. 102–138, title I, §198(a), Oct. 28, 1991, 105 Stat. 685.)

COMPLIANCE WITH DEADLINE FOR PUBLICATION OF FRUS SERIES; NOTIFICATION TO CONGRESSIONAL COMMITTEES ON FAILURE TO COMPLY; FINAL DEADLINE

Pub. L. 102–138, title I, §198(c)(2), Oct. 28, 1991, 105 Stat. 691, provided that:

"(A) In order to come into compliance with section 401(c) of the State Department Basic Authorities Act of 1956 [22 U.S.C. 4351(c)] (as amended by this section) the Secretary of State shall ensure that, by the end of the 3-year period beginning on the date of the enactment of this Act [Oct. 28, 1991], all volumes of the Foreign Relations of the United States historical series (FRUS) for the years that are more than 30 years before the end of that 3-year period have been published.

"(B) If the Secretary cannot reasonably meet the requirements of subparagraph (A), the Secretary shall notify the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives and describe how the Department of State plans to meet the requirements of subparagraph (A). In no event shall volumes subject to subparagraph (A) be published later than 5 years after the date of the enactment of this Act."

§4352. Responsibility for preparation of FRUS series

(a) In general

(1)(A) The Historian of the Department of State shall be responsible for the preparation of the FRUS series, including the selection of records, in accordance with the provisions of this chapter.

(B) The Advisory Committee on Historical Diplomatic Documentation shall review records, and shall advise and make recommendations to the Historian concerning all aspects of preparation and

publication of the FRUS series, including, in accordance with the procedures contained in section 4353 of this title, the review and selection of records for inclusion in volumes of the series.

(2) Other departments, agencies, and other entities of the United States Government shall cooperate with the Office of the Historian by providing full and complete access to the records pertinent to United States foreign policy decisions and actions and by providing copies of selected records in accordance with the procedures developed under section 4353 of this title, except that no access to any record, and no provision of any copy of a record, shall be required in the case of any record that was prepared less than 26 years before the date of a request for such access or copy made by the Office of the Historian.

(b) National Archives and Records Administration

Notwithstanding any other provision of this chapter, the requirement for the National Archives and Records Administration to provide access to, and copies of, records to the Department of State for the FRUS series shall be governed by chapter 21 of title 44, by any agreement concluded between the Department of State and the National Archives and Records Administration, and, in the case of Presidential records, by section 2204 of such title.

(Aug. 1, 1956, ch. 841, title IV, §402, as added Pub. L. 102–138, title I, §198(a), Oct. 28, 1991, 105 Stat. 685.)

AUTHORITY OF SECRETARY OF STATE

Except as otherwise provided, Secretary of State to have and exercise any authority vested by law in any official or office of Department of State and references to such officials or offices deemed to refer to Secretary of State or Department of State, as appropriate, see section 2651a of this title and section 161(d) of Pub. L. 103–236, set out as a note under section 2651a of this title.

§4353. Procedures for identifying records for FRUS series; declassification, revisions, and summaries

(a) Development of procedures

Not later than 180 days after October 28, 1991, each department, agency, or other entity of the United States Government engaged in foreign policy formulation, execution, or support shall develop procedures for its historical office (or a designated individual in the event that there is no historical office)—

(1) to coordinate with the State Department's Office of the Historian in selecting records for possible inclusion in the FRUS series;

(2) to permit full access to the original, unrevised records by such individuals holding appropriate security clearances as have been designated by the Historian as liaison to that department, agency, or entity, for purposes of this chapter, and by members of the Advisory Committee; and

(3) to permit access to specific types of records not selected for inclusion in the FRUS series by the individuals identified in paragraph (2) when requested by the Historian in order to confirm that records selected by that department, agency, or entity accurately represent the policymaking process reflected in the relevant part of the FRUS series.

(b) Declassification review

(1) Subject to the provisions of this subsection, records selected by the Historian for inclusion in the FRUS series shall be submitted to the respective originating agency for declassification review in accordance with that agency's procedures for such review, except that such declassification review shall be completed by the originating agency within 120 days after such records are submitted for review. If the originating agency determines that any such record is not declassifiable because of a continuing need to protect sources and methods for the collection of intelligence information or to protect other sensitive national security information, then the originating agency shall attempt to make such deletions in the text as will make the record declassifiable.

(2) If the Historian determines that the meaning of the records proposed for inclusion in a volume of the FRUS series would be so altered or changed by deletions made under paragraph (1) that publication in that condition could be misleading or lead to an inaccurate or incomplete historical record, then the Historian shall take steps to achieve a satisfactory resolution of the problem with the originating agency. Within 60 days of receiving a proposed solution from the Historian, the originating agency shall furnish the Historian a written response agreeing to the solution or explaining the reasons for the alteration or deletion.

(3) The Historian shall inform the Advisory Committee of any failure by an originating agency to complete its declassification review of a record within 120 days and of any steps taken under paragraph (2).

(4) If the Advisory Committee determines that the meaning of the records proposed for inclusion in a volume of the FRUS series would be so altered or changed by deletions made under paragraph (1), or if the Advisory Committee determines as a result of inspection of other documents under subsection (a)(3) that the selection of documents could be misleading or lead to an inaccurate or incomplete historical record, then the Advisory Committee shall so advise the Secretary of State and submit recommendations to resolve the issue.

(5)(A) The Advisory Committee shall have full and complete access to the original text of any record in which deletions have been made. In the event that the head of any originating agency considers it necessary to deny access by the Advisory Committee to the original text of any record, that agency head shall promptly notify the Advisory Committee in writing, describing the nature of the record in question and the justification for withholding that record.

(B) The Historian shall provide the Advisory Committee with a complete list of the records described in subparagraph (A).

(6) If a record is deleted in whole or in part as a result of review under this subsection then a note to that effect shall be inserted at the appropriate place in the FRUS volume.

(Aug. 1, 1956, ch. 841, title IV, §403, as added Pub. L. 102–138, title I, §198(a), Oct. 28, 1991, 105 Stat. 686.)

AUTHORITY OF SECRETARY OF STATE

Except as otherwise provided, Secretary of State to have and exercise any authority vested by law in any official or office of Department of State and references to such officials or offices deemed to refer to Secretary of State or Department of State, as appropriate, see section 2651a of this title and section 161(d) of Pub. L. 103–236, set out as a note under section 2651a of this title.

§4354. Declassification of State Department records

(a) Deadline for declassification

(1) Except as provided in subsection (b), each classified record of permanent historical value (as determined by the Secretary of State and the Archivist of the United States) which was published, issued, or otherwise prepared by the Department of State (or any officer or employee thereof acting in an official capacity) shall be declassified not later than 30 years after the record was prepared, shall be transferred to the National Archives and Records Administration, and shall be made available at the National Archives for public inspection and copying.

(2) Nothing in this subsection may be construed to require the declassification of a record wholly prepared by a foreign government.

(b) Exempted records

Subsection (a) shall not apply to any record (or portion thereof) the publication of which the Secretary of State, in coordination with any agency that originated information in the records, determines—

(1) would compromise weapons technology important to the national defense of the United States or reveal sensitive information relating to the design of United States or foreign military equipment or relating to United States cryptologic systems or activities;

(2) would disclose the names or identities of living persons who provided confidential information to the United States and would pose a substantial risk of harm to such persons;

(3) would demonstrably impede current diplomatic negotiations or other ongoing official activities of the United States Government or would demonstrably impair the national security of the United States; or

(4) would disclose matters that are related solely to the internal personnel rules and practices of the Department of State or are contained in personnel, medical, or similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(c) Review

(1) The Advisory Committee shall review—

(A) the State Department's declassification procedures,

(B) all guidelines used in declassification, including those guidelines provided to the National Archives and Records Administration which are in effect on October 28, 1991, and

(C) by random sampling, records representative of all Department of State records published, issued, or otherwise prepared by the Department of State that remain classified after 30 years.

(2) In the event that the Secretary of State considers it necessary to deny access to records under paragraph (1)(C), the Secretary shall notify the Advisory Committee in writing, describing the nature of the records in question and the justification for withholding them.

(d) Annual reports by the Advisory Committee

The Advisory Committee shall annually submit to the Secretary of State and to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives a report setting forth its findings from the review conducted under subsection (c).

(e) Annual reports by the Secretary

(1) In general

Not later than March 1 of each year, the Secretary shall submit a report to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives on the compliance of the Department of State with the provisions of this chapter, including—

(A) the volumes published in the previous calendar year;

(B) the degree to which the Department is not in compliance with the deadline set forth in section 4351(c) of this title; and

(C) the factors relevant to the inability of the Department to comply with the provisions of this chapter, including section 4351(c) of this title.

(2) Form of reports

Each report required to be submitted by paragraph (1) shall be submitted in unclassified form, together with a classified annex if necessary.

(Aug. 1, 1956, ch. 841, title IV, §404, as added Pub. L. 102–138, title I, §198(a), Oct. 28, 1991, 105 Stat. 687; amended Pub. L. 107–228, div. A, title II, §205, Sept. 30, 2002, 116 Stat. 1363.)

AMENDMENTS

2002—Subsec. (d). Pub. L. 107–228, §205(a), substituted "Annual reports by the Advisory Committee" for "Reporting requirement" in heading and inserted "and to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives" after "Secretary of State" in text.

Subsec. (e). Pub. L. 107–228, §205(b), substituted "Annual reports by the Secretary" for "Report to Congress" in heading and amended text generally. Prior to amendment, text read as follows: "Not later than 180 days after October 28, 1991, the Secretary of State shall prepare and submit a written report to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate on factors relevant to compliance with this section, and the procedures to be used for implementing the requirements of this section."

CHANGE OF NAME

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

COMPLIANCE WITH DECLASSIFICATION OF STATE DEPARTMENT RECORDS; NOTIFICATION TO CONGRESSIONAL COMMITTEES ON INABILITY TO COMPLY; FINAL DEADLINE

Pub. L. 102–138, title I, §198(c)(1), Oct. 28, 1991, 105 Stat. 691, provided that: "The Secretary of State shall ensure that the requirements of section 404 of the State Department Basic Authorities Act of 1956 [22 U.S.C. 4354] (as amended by this section) are met not later than one year after the date of enactment of this Act [Oct. 28, 1991]. If the Secretary cannot reasonably meet the requirements of such section, he shall so notify the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives, and describe how the Department of State intends to meet the requirements of that section. In no event shall full compliance with the requirements of such section take place later than 2 years after the date of enactment of this Act."

§4355. Relationship to Privacy Act and Freedom of Information Act

(a) Privacy Act

Nothing in this chapter may be construed as requiring the public disclosure of records or portions of records protected under section 552a of title 5 (relating to the privacy of personal records).

(b) Freedom of Information Act

(1) Except as provided in paragraph (2), no record (or portion thereof) shall be excluded from publication in the FRUS series under section 4353 of this title, or exempted from the declassification requirement of section 4354 of this title, solely by virtue of the application of section 552(b) of title 5 (relating to the exemption of certain matters from freedom of information requirements).

(2) Records described in section 1202(f) of title 8 (relating to visa records) shall be excluded from publication in the FRUS series under section 4353 of this title and, to the extent applicable, exempted from the declassification requirement of section 4354 of this title.

(Aug. 1, 1956, ch. 841, title IV, §405, as added Pub. L. 102–138, title I, §198(a), Oct. 28, 1991, 105 Stat. 688.)

§4356. Advisory Committee

(a) Establishment

(1) There is established on a permanent basis the Advisory Committee on Historical Diplomatic Documentation for the Department of State. The activities of the Advisory Committee shall be coordinated by the Office of the Historian of the Department of State.

(2) The Advisory Committee shall be composed of 9 members and an executive secretary. The Historian shall serve as executive secretary.

(3)(A) The members of the Advisory Committee shall be appointed by the Secretary of State from among distinguished historians, political scientists, archivists, international lawyers, and other social scientists who have a demonstrable record of substantial research pertaining to the foreign relations of the United States. No officer or employee of the United States Government shall be appointed to the Advisory Committee.

(B)(i) Six members of the Advisory Committee shall be appointed from lists of individuals nominated by the American Historical Association, the Organization of American Historians, the American Political Science Association, Society of American Archivists, the American Society of International Law, and the Society for Historians of American Foreign Relations. One member shall be appointed from each list.

(ii) If an organization does not submit a list of nominees under clause (i) in a timely fashion, the Secretary of State shall make an appointment from among the nominees on other lists.

(b) Terms of service for appointments

(1) Except as provided in paragraph (2), members of the Advisory Committee shall be appointed for terms of three years.

(2) Of the members first appointed, as designated by the Secretary of State at the time of their appointment (after consultation with the appropriate organizations) three shall be appointed for terms of one year, three shall be appointed for terms of two years, and three shall be appointed for terms of three years.

(3) Each term of service under paragraph (1) shall begin on September 1 of the year in which the appointment is made.

(4) A vacancy in the membership of the Advisory Committee shall be filled in the same manner as provided under this subsection to make the original appointment. A member appointed to fill a vacancy occurring before the expiration of a term shall serve for the remainder of that term. A member may continue to serve when his or her term expires until a successor is appointed. A member may be appointed to a new term upon the expiration of his or her term.

(c) Selection of chairperson

The Advisory Committee shall select, from among its members, a chairperson to serve a term of 1 year. A chairperson may be reelected upon expiration of his or her term as chairperson.

(d) Meetings

A majority of the members of the Advisory Committee shall constitute a quorum. The Advisory Committee shall meet at least quarterly or as frequently as may be necessary to carry out its duties.

(e) Security clearances

(1) All members of the Advisory Committee shall be granted the necessary security clearances, subject to the standard procedures for granting such clearances.

(2) For purposes of any law or regulation governing access to classified records, a member of the Advisory Committee seeking access under this paragraph to a record shall be deemed to have a need to know.

(f) Compensation

(1) Members of the Advisory Committee—

(A) shall each receive compensation at a rate of not to exceed the daily equivalent of the annual rate of basic pay payable for positions at GS–15 of the General Schedule under section 5332 of title 5 for each day such member is engaged in the actual performance of the duties of the Advisory Committee; and

(B) shall be allowed travel expenses, including per diem in lieu of subsistence at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, while away from their homes or regular places of business in the performance of services of the Advisory Committee.

(2) The Secretary of State is authorized to provide for necessary secretarial and staff assistance for the Advisory Committee.

(3) The Federal Advisory Committee Act shall not apply to the Advisory Committee to the extent that the provisions of this chapter are inconsistent with that Act.

(Aug. 1, 1956, ch. 841, title IV, §406, as added Pub. L. 102–138, title I, §198(a), Oct. 28, 1991, 105 Stat. 688.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (f)(3), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

TERMINATION OF PREVIOUS ADVISORY COMMITTEE ON HISTORICAL DIPLOMATIC DOCUMENTATION

Pub. L. 102–138, title I, §198(b), Oct. 28, 1991, 105 Stat. 691, provided that: "The Advisory Committee on

Historical Documentation for the Department of State established before the date of enactment of this Act [Oct. 28, 1991] shall terminate on such date."

§4357. Definitions

For purposes of this chapter—

(1) the term "Advisory Committee" means the Advisory Committee on Historical Diplomatic Documentation for the Department of State;

(2) the term "Historian" means the Historian of the Department of State or any successor officer of the Department of State responsible for carrying out the functions of the Office of the Historian, Bureau of Public Affairs, of the Department of State, as in effect on October 28, 1991;

(3) the term "originating agency" means, with respect to a record, the department, agency, or entity of the United States (or any officer or employee thereof of acting in his official capacity) that originates, develops, publishes, issues, or otherwise prepares that record or receives that record from outside the United States Government; and

(4) the term "record" includes any written material (including any document, memorandum, correspondence, statistical data, book, or other papers), map, photograph, machine readable material, or other documentary material, regardless of physical form or characteristics, made or received by an agency of the United States Government under Federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Government or because of the informational value in them, and such term does not include library or museum material made or acquired and preserved solely for reference or exhibition purposes, any extra copy of a document preserved only for convenience of reference, or any stocks of publications or of processed documents.

(Aug. 1, 1956, ch. 841, title IV, §407, as added Pub. L. 102–138, title I, §198(a), Oct. 28, 1991, 105 Stat. 690.)

AUTHORITY OF SECRETARY OF STATE

Except as otherwise provided, Secretary of State to have and exercise any authority vested by law in any official or office of Department of State and references to such officials or offices deemed to refer to Secretary of State or Department of State, as appropriate, see section 2651a of this title and section 161(d) of Pub. L. 103–236, set out as a note under section 2651a of this title.

CHAPTER 54—PRIVATE ORGANIZATION ASSISTANCE

SUBCHAPTER I—THE ASIA FOUNDATION

Sec.

4401. Findings.
4402. Grants; authorization; purposes; terms and conditions; deposit of interest.
4403. Funding.

SUBCHAPTER II—NATIONAL ENDOWMENT FOR DEMOCRACY

4411. Findings; statement of purposes.
4412. Grants to the Endowment.
4413. Eligibility of the Endowment for grants.
4414. Requirements relating to the Endowment and its grantees.
4415. Freedom of information.
4416. Retention of interest.

SUBCHAPTER I—THE ASIA FOUNDATION

§4401. Findings

The Congress finds that—

(1) The Asia Foundation, a private nonprofit corporation incorporated in 1954 in the State of California, has long been active in promoting Asian-American friendship and cooperation and in lending encouragement and assistance to Asians in their own efforts to develop more open, more just, and more democratic societies;

(2) The Asia Foundation's commitment to strengthening indigenous Asian institutions which further stable national development, constructive social change, equitable economic growth, and cooperative international relationships is fully consistent with and supportive of long-term United States interests in Asia;

(3) The Asia Foundation, as a private organization, is able to conduct programs in response to Asian initiatives that would be difficult or impossible for an official United States instrumentality, and it is in a position in Asia to respond quickly and flexibly to meet new opportunities;

(4) in recognition of the valuable contributions of The Asia Foundation to long-range United States foreign policy interests, the United States Government has, through a variety of agencies, provided financial support for The Asia Foundation; and

(5) it is in the interest of the United States, and the further strengthening of Asian-American friendship and cooperation, to establish a more permanent mechanism for United States Government financial support for the ongoing activities of The Asia Foundation, while preserving the independent character of the Foundation.

(Pub. L. 98–164, title IV, §402, Nov. 22, 1983, 97 Stat. 1038.)

SHORT TITLE

Pub. L. 98–164, title IV, §401, Nov. 22, 1983, 97 Stat. 1038, provided that: "This title [enacting this subchapter] may be cited as 'The Asia Foundation Act'."

For short title of title V of Pub. L. 98–164, which enacted subchapter II of this chapter, as the "National Endowment for Democracy Act", see section 501 of Pub. L. 98–164, set out as a Short Title note under section 4411 of this title.

§4402. Grants; authorization; purposes; terms and conditions; deposit of interest

(a) The Secretary of State shall make an annual grant to The Asia Foundation with the funds made available under section 4403 of this title. Such grants shall be in general support of the Foundation's programs and operations. The terms and conditions of grants pursuant to this section shall be set forth in a grant agreement between the Secretary of State and The Asia Foundation.

(b) If funds made available to The Asia Foundation pursuant to this subchapter or pursuant to any other provision of law are, with the permission of the head of the Federal agency making the funds available, invested by the Foundation or any of its subgrantees pending disbursement, the resulting interest is not required to be deposited in the United States Treasury if that interest is used for the purposes for which the funds were made available.

(Pub. L. 98–164, title IV, §403, Nov. 22, 1983, 97 Stat. 1038.)

§4403. Funding

There is authorized to be appropriated to the Secretary of State $15,000,000 for the fiscal year 2003 for grants to The Asia Foundation pursuant to this subchapter.

(Pub. L. 98–164, title IV, §404, Nov. 22, 1983, 97 Stat. 1039; Pub. L. 99–93, title IV, §401, Aug. 16, 1985, 99 Stat. 437; Pub. L. 100–204, title VI, §601, Dec. 22, 1987, 101 Stat. 1383; Pub. L. 101–246, title V, §501, Feb. 16, 1990, 104 Stat. 73; Pub. L. 105–277, div. G, subdiv. B, title XXI, §2103, Oct. 21, 1998, 112 Stat. 2681–803; Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title I, §105], Nov. 29, 1999, 113 Stat. 1536, 1501A–414; Pub. L. 107–228, div. A, title I, §116, Sept. 30, 2002, 116 Stat. 1360.)

AMENDMENTS

2002—Pub. L. 107–228 amended section generally. Prior to amendment, section read as follows: "There are authorized to be appropriated to the Secretary of State $15,000,000 for each of the fiscal years 2000 and 2001 for grants to The Asia Foundation pursuant to this subchapter."

1999—Pub. L. 106–113 amended section generally. Prior to amendment, section read as follows: "There are authorized to be appropriated to the Secretary of State $10,000,000 for each of the fiscal years 1998 and 1999 for grants to The Asia Foundation pursuant to this subchapter."

1998—Pub. L. 105–277 amended section generally. Prior to amendment, section read as follows:

"(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of State $13,900,000 for the fiscal year 1990 and $18,000,000 for the fiscal year 1991 for grants to The Asia Foundation pursuant to this subchapter.

"(b) ALLOCATION OF FUNDS.—Of amounts authorized to be appropriated under subsection (a) of this section, $1,324,000 for the fiscal year 1990 and $1,324,000 for the fiscal year 1991 shall be available only for the expansion of programs and services (including the establishment of a field office) for Oceania, comprised of Polynesia, Micronesia, and Melanesia."

1990—Pub. L. 101–246 amended section generally. Prior to amendment, section read as follows: "There is authorized to be appropriated to the Secretary of State $13,700,000 for the fiscal year 1988 and $15,000,000 for the fiscal year 1989 for grants to the Asia Foundation pursuant to this subchapter."

1987—Pub. L. 100–204 amended section generally. Prior to amendment, section read as follows: "There are authorized to be appropriated to the Secretary of State $10,500,000 for each of the fiscal years 1986 and 1987 for grants to The Asia Foundation pursuant to this subchapter."

1985—Pub. L. 99–93 amended section generally, substituting "$10,500,000 for each of the fiscal years 1986 and 1987" for "$5,000,000 for the fiscal year 1983, $10,000,000 for the fiscal year 1984, and $10,000,000 for the fiscal year 1985".

SUBCHAPTER II—NATIONAL ENDOWMENT FOR DEMOCRACY

§4411. Findings; statement of purposes

(a) The Congress finds that there has been established in the District of Columbia a private, nonprofit corporation known as the National Endowment for Democracy (hereafter in this subchapter referred to as the "Endowment") which is not an agency or establishment of the United States Government.

(b) The purposes of the Endowment, as set forth in its articles of incorporation, are—

(1) to encourage free and democratic institutions throughout the world through private sector initiatives, including activities which promote the individual rights and freedoms (including internationally recognized human rights) which are essential to the functioning of democratic institutions;

(2) to facilitate exchanges between United States private sector groups (especially the two major American political parties, labor, and business) and democratic groups abroad;

(3) to promote United States nongovernmental participation (especially through the two major American political parties, labor, business, and other private sector groups) in democratic training programs and democratic institution-building abroad;

(4) to strengthen democratic electoral processes abroad through timely measures in cooperation with indigenous democratic forces;

(5) to support the participation of the two major American political parties, labor, business, and other United States private sector groups in fostering cooperation with those abroad dedicated to the cultural values, institutions, and organizations of democratic pluralism; and

(6) to encourage the establishment and growth of democratic development in a manner consistent both with the broad concerns of United States national interests and with the specific requirements of the democratic groups in other countries which are aided by programs funded by the Endowment.

(Pub. L. 98–164, title V, §502, Nov. 22, 1983, 97 Stat. 1039.)

SHORT TITLE

Pub. L. 98–164, title V, §501, Nov. 22, 1983, 97 Stat. 1039, provided that: "This title [enacting this subchapter] may be cited as the 'National Endowment for Democracy Act'."

§4412. Grants to the Endowment

(a) Authorization; funding; grant agreement

The Director of the United States Information Agency shall make an annual grant to the Endowment to enable the Endowment to carry out its purposes as specified in section 4411(b) of this title. Such grants shall be made with funds specifically appropriated for grants to the Endowment or with funds appropriated to the Agency for the "Salaries and Expenses" account. Such grants shall be made pursuant to a grant agreement between the Director and the Endowment which requires that grant funds will only be used for activities which the Board of Directors of the Endowment determines are consistent with the purposes described in section 4411(b) of this title, that the Endowment will allocate funds in accordance with subsection (e) of this section, and that the Endowment will otherwise comply with the requirements of this subchapter. The grant agreement may not require the Endowment to comply with requirements other than those specified in this subchapter.

(b) Implementation of purposes

Funds so granted may be used by the Endowment to carry out the purposes described in section 4411(b) of this title, and otherwise applicable limitations on the purposes for which funds appropriated to the United States Information Agency may be used shall not apply to funds granted to the Endowment.

(c) Status of Endowment

Nothing in this subchapter shall be construed to make the Endowment an agency or establishment of the United States Government or to make the members of the Board of Directors of the Endowment, or the officers or employees of the Endowment, officers or employees of the United States.

(d) Oversight procedures applicable

The Endowment and its grantees shall be subject to the appropriate oversight procedures of the Congress.

(e) Amounts to Free Trade Union Institute and National Chamber Foundation

Of the amounts made available to the Endowment for each of the fiscal years 1984 and 1985 to carry out programs in furtherance of the purposes of this Act—

(1) not less than $13,800,000 shall be for the Free Trade Union Institute; and

(2) not less than $2,500,000 shall be to support private enterprise development programs of the National Chamber Foundation.

(f) Independent labor unions

Nothing in this subchapter shall preclude the Endowment from making grants to independent labor unions.

(Pub. L. 98–164, title V, §503, Nov. 22, 1983, 97 Stat. 1040; Pub. L. 100–204, title II, §212, Dec. 22, 1987, 101 Stat. 1376.)

REFERENCES IN TEXT

This Act, referred to in subsec. (e), is Pub. L. 98–164, Nov. 22, 1983, 97 Stat. 1017. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1987—Subsec. (f). Pub. L. 100–204 added subsec. (f).

TRANSFER OF FUNCTIONS

United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau) abolished and functions transferred to Secretary of State, see sections 6531 and 6532 of this title.

§4413. Eligibility of the Endowment for grants

(a) Compliance with statutory requirements

Grants may be made to the Endowment under this subchapter only if the Endowment agrees to comply with the requirements specified in this section and elsewhere in this subchapter.

(b) Funding for private sector groups and covered programs only

(1) The Endowment may only provide funding for programs of private sector groups and may not carry out programs directly.

(2) The Endowment may provide funding only for programs which are consistent with the purposes set forth in section 4411(b) of this title.

(c) Compensation, etc., for officers and employees of Endowment

(1) Officers of the Endowment may not receive any salary or other compensation from any source, other than the Endowment, for services rendered during the period of their employment by the Endowment.

(2) If an individual who is an officer or employee of the United States Government serves as a member of the Board of Directors or as an officer or employee of the Endowment, that individual may not receive any compensation or travel expenses in connection with services performed for the Endowment.

(d) Prohibitions respecting financial matters

(1) The Endowment shall not issue any shares of stock or declare or pay any dividends.

(2) No part of the assets of the Endowment shall inure to the benefit of any member of the Board, any officer or employee of the Endowment, or any other individual, except as salary or reasonable compensation for services.

(e) Audit of accounts; reporting requirements

(1) The accounts of the Endowment shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants or independent licensed public accountants certified or licensed by a regulatory authority of a State or other political subdivision of the United States. The audits shall be conducted at the place or places where the accounts of the Endowment are normally kept. All books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Endowment and necessary to facilitate the audits shall be made available to the person or persons conducting the audits; and full facilities for verifying transactions with any assets held by depositories, fiscal agents, and custodians shall be afforded to such person or persons.

(2) The report of each such independent audit shall be included in the annual report required by subsection (h). The audit report shall set forth the scope of the audit and include such statements as are necessary to present fairly the Endowment's assets and liabilities, surplus or deficit, with an analysis of the changes therein during the year, supplemented in reasonable detail by a statement of the Endowment's income and expenses during the year, and a statement of the application of funds, together with the independent auditor's opinion of those statements.

(f) Audit of financial transactions; reporting requirements

(1) The financial transactions of the Endowment for each fiscal year may be audited by the Government Accountability Office in accordance with such principles and procedures and under such rules and regulations as may be prescribed by the Comptroller General of the United States.

Any such audit shall be conducted at the place or places where accounts of the Endowment are normally kept. The representatives of the Government Accountability Office shall have access to all books, accounts, records, reports, files, and all other papers, things, or property belonging to or in use by the Endowment pertaining to its financial transactions and necessary to facilitate the audit; and they shall be afforded full facilities for verifying transactions with any assets held by depositories, fiscal agents, and custodians. All such books, accounts, records, reports, files, papers, and property of the Endowment shall remain in the possession and custody of the Endowment.

(2) A report of each such audit shall be made by the Comptroller General to the Congress. The report to the Congress shall contain such comments and information as the Comptroller General may deem necessary to inform the Congress of the financial operations and condition of the Endowment, together with such recommendations with respect thereto as he may deem advisable. The report shall also show specifically any program, expenditure, or other financial transaction or undertaking observed in the course of the audit, which, in the opinion of the Comptroller General, has been carried on or made contrary to the requirements of this subchapter. A copy of each report shall be furnished to the President and to the Endowment at the time submitted to the Congress.

(g) Audits by United States Information Agency

The financial transactions of the Endowment for each fiscal year shall be audited by the United States Information Agency under the conditions set forth in subsection (f)(1).

(h) Recordkeeping requirements; audit and examination of books, etc.

(1) The Endowment shall ensure that each recipient of assistance provided through the Endowment under this subchapter keeps separate bank accounts or separate self-balancing ledger accounts with respect to such assistance and such records as may be reasonably necessary to fully disclose the amount and the disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(2) The Endowment shall ensure that it, or any of its duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance provided through the Endowment under this subchapter. The Comptroller General of the United States or any of his duly authorized representatives shall also have access thereto for such purpose.

(i) Annual report; contents; testimony respecting report

Not later than February 1 of each year, the Endowment shall submit an annual report for the preceding fiscal year to the President for transmittal to the Congress. The report shall include a comprehensive and detailed report of the Endowment's operations, activities, financial condition, and accomplishments under this subchapter and may include such recommendations as the Endowment deems appropriate. The Board members and officers of the Endowment shall be available to testify before appropriate committees of the Congress with respect to such report, the report of any audit made by the Comptroller General pursuant to subsection (f), or any other matter which any such committee may determine.

(j) Grantee; conflict of interest

After January 31, 1993, no member of the Board of the Endowment may be a member of the board of directors or an officer of any grantee of the National Endowment for Democracy which receives more than 5 percent of the funds of the Endowment for any fiscal year.

(Pub. L. 98–164, title V, §504, Nov. 22, 1983, 97 Stat. 1040; Pub. L. 99–93, title II, §210(b), (d), Aug. 16, 1985, 99 Stat. 432; Pub. L. 100–204, title II, §211, Dec. 22, 1987, 101 Stat. 1376; Pub. L. 102–138, title II, §§211(d), 215, Oct. 28, 1991, 105 Stat. 695, 697; Pub. L. 103–236, title II, §228, Apr. 30, 1994, 108 Stat. 423; Pub. L. 108–271, §8(b), July 7, 2004, 118 Stat. 814.)

AMENDMENTS

2004—Subsec. (f)(1). Pub. L. 108–271 substituted "Government Accountability Office" for "General

Accounting Office" in two places.

1994—Subsec. (h)(1). Pub. L. 103–236 substituted "bank accounts or separate self-balancing ledger accounts" for "accounts".

1991—Subsec. (g). Pub. L. 102–138, §211(d), substituted "shall" for "may also" before "be audited".

Subsec. (j). Pub. L. 102–138, §215, added subsec. (j).

1987—Subsec. (h)(1). Pub. L. 100–204 inserted "separate accounts with respect to such assistance and" after "keeps".

1985—Subsecs. (g) to (i). Pub. L. 99–93 added subsec. (g), redesignated existing subsecs. (g) and (h) as (h) and (i), respectively, and in subsec. (i) substituted "February 1" for "December 31".

TRANSFER OF FUNCTIONS

United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau) abolished and functions transferred to Secretary of State, see sections 6531 and 6532 of this title.

§4414. Requirements relating to the Endowment and its grantees

(a) Partisan politics

(1) Funds may not be expended, either by the Endowment or by any of its grantees, to finance the campaigns of candidates for public office.

(2) No funds granted by the Endowment may be used to finance activities of the Republican National Committee or the Democratic National Committee.

(3) No grants may be made to any institute, foundation, or organization engaged in partisan activities on behalf of the Republican or Democratic National Committee, on behalf of any candidate for public office, or on behalf of any political party in the United States.

(b) Consultation with Department of State

The Endowment shall consult with the Department of State on any overseas program funded by the Endowment prior to the commencement of the activities of that program.

(Pub. L. 98–164, title V, §505, as added Pub. L. 99–93, title II, §210(a), Aug. 16, 1985, 99 Stat. 431.)

§4415. Freedom of information

(a) Compliance with Freedom of Information Act

Notwithstanding the fact that the Endowment is not an agency or establishment of the United States Government, the Endowment shall fully comply with all of the provisions of section 552 of title 5.

(b) Publication in Federal Register

For purposes of complying pursuant to subsection (a) with section 552(a)(1) of such title, the Endowment shall make available to the Director of the United States Information Agency such records and other information as the Director determines may be necessary for such purposes. The Director shall cause such records and other information to be published in the Federal Register.

(c) Review by United States Information Agency

(1) In the event that the Endowment determines not to comply with a request for records under section 552, the Endowment shall submit a report to the Director of the United States Information Agency explaining the reasons for not complying with such request.

(2) If the Director approves the determination not to comply with such request, the United States Information Agency shall assume full responsibility, including financial responsibility, for defending the Endowment in any litigation relating to such request.

(3) If the Director disapproves the determination not to comply with such request, the Endowment shall comply with such request.

(Pub. L. 98–164, title V, §506, as added Pub. L. 99–93, title II, §210(a), Aug. 16, 1985, 99 Stat. 432.)

TRANSFER OF FUNCTIONS

United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau) abolished and functions transferred to Secretary of State, see sections 6531 and 6532 of this title.

§4416. Retention of interest

Notwithstanding any other provision of law, with the approval of the National Endowment for Democracy, grant funds made available by the National Endowment for Democracy may be deposited in interest-bearing accounts pending disbursement, and any interest which accrues may be retained by the grantee without returning such interest to the Treasury of the United States and interest earned may be obligated and expended for the purposes for which the grant was made without further appropriation.

(Pub. L. 105–277, div. G, subdiv. B, title XXIV, §2411, Oct. 21, 1998, 112 Stat. 2681–831.)

CODIFICATION

Section was enacted as part of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999, and also as part of the Foreign Affairs Reform and Restructuring Act of 1998 and the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999, and not as part of the National Endowment for Democracy Act which comprises this subchapter.

CHAPTER 55—RESEARCH AND TRAINING FOR EASTERN EUROPE AND INDEPENDENT STATES OF FORMER SOVIET UNION

Sec.

4501. Findings and declarations.
4502. "Institution of higher education" and "Advisory Committee" defined.
4503. Establishment of Advisory Committee.
4504. Authority to make payments; purposes.
4505. Applications; payments to eligible institutions.
4506. Repealed.
4507. Federal control of education prohibited.
4508. Allocation of funds.
4509. Repealed.

§4501. Findings and declarations

The Congress finds and declares that—

(1) factual knowledge, independently verified, about the countries of Eastern Europe and the independent states of the former Soviet Union is of the utmost importance for the national security of the United States, for the furtherance of our national interests in the conduct of foreign relations, and for the prudent management of our domestic affairs;

(2) the development and maintenance of knowledge about the countries of Eastern Europe and the independent states of the former Soviet Union depends upon the national capability for advanced research by highly trained and experienced specialists, available for service in and out of Government;

(3) certain essential functions are necessary to ensure the existence of that knowledge and the capability to sustain it, including—

(A) graduate training;

(B) advanced research;

(C) public dissemination of research data, methods, and findings;

(D) contact and collaboration among Government and private specialists; and

(E) firsthand experience of the countries of Eastern Europe and the independent states of the former Soviet Union by American specialists, including on site conduct of advanced training and research to the extent practicable; and

(4) it is in the national interest for the United States Government to provide a stable source of financial support for the functions described in this section and to supplement the financial support for those functions which is currently being furnished by Federal, State, local, regional, and private agencies, organizations, and individuals, and thereby to stabilize the conduct of these functions on a national scale, consistently, and on a long range unclassified basis.

(Pub. L. 98–164, title VIII, §802, Nov. 22, 1983, 97 Stat. 1047; Pub. L. 103–199, title III, §302(3), Dec. 17, 1993, 107 Stat. 2322.)

AMENDMENTS

1993—Pars. (1), (2), (3)(E). Pub. L. 103–199 substituted "countries of Eastern Europe and the independent states of the former Soviet Union" for "Soviet Union and Eastern European countries".

SHORT TITLE

Pub. L. 98–164, title VIII, §801, Nov. 22, 1983, 97 Stat. 1047, as amended by Pub. L. 103–199, title III, §302(2), Dec. 17, 1993, 107 Stat. 2322, provided that: "This title [enacting this chapter] may be cited as the 'Research and Training for Eastern Europe and the Independent States of the Former Soviet Union Act of 1983'."

DEFINITIONS

In pars. (1), (2), and (3)(E), independent states of the former Soviet Union has the meaning given in section 5801 of this title, see section 3 of Pub. L. 103–199, set out as a note under section 5801 of this title.

§4502. "Institution of higher education" and "Advisory Committee" defined

As used in this chapter—

(1) the term "institution of higher education" has the same meaning given such term in section 1001 of title 20; and

(2) the term "Advisory Committee" means the Advisory Committee for Studies of Eastern Europe and the Independent States of the Former Soviet Union established by section 4503(a) of this title.

(Pub. L. 98–164, title VIII, §803, Nov. 22, 1983, 97 Stat. 1048; Pub. L. 103–199, title III, §302(4), Dec. 17, 1993, 107 Stat. 2322; Pub. L. 105–244, title I, §102(a)(7)(C), Oct. 7, 1998, 112 Stat. 1619.)

AMENDMENTS

1998—Par. (1). Pub. L. 105–244, which directed substitution of "section 1001" for "section 1141(a)" in section 803(1) of the Soviet-Eastern European Research and Training Act of 1983, was executed to this section, which is section 803 of the Research and Training for Eastern Europe and the Independent States of the Former Soviet Union Act of 1983, to reflect the probable intent of Congress, and the change in the short title of that Act. See section 801 of Pub. L. 98–164, set out as a Short Title note under section 4501 of this title.

1993—Par. (2). Pub. L. 103–199 substituted "Advisory Committee for Studies of Eastern Europe and the Independent States of the Former Soviet Union" for "Soviet-Eastern European Studies Advisory Committee".

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of Title 20, Education.

§4503. Establishment of Advisory Committee

(a) Establishment; composition; Chairman

There is established within the Department of State the Advisory Committee for Studies of Eastern Europe and the Independent States of the Former Soviet Union which shall be composed of the Secretary of State, the Secretary of Defense, the Secretary of Education, the Librarian of Congress, the President of the American Association for the Advancement of Slavic Studies, and the President of the Association of American Universities. The Secretary of State shall be the Chairman.

(b) Meetings; quorum

The Advisory Committee shall meet at the call of the Chairman and shall hold at least one meeting each year. Three members of the Advisory Committee shall constitute a quorum.

(c) Technical and clerical assistance

The Secretary of State may detail personnel of the Department of State to provide technical and clerical assistance to the Advisory Committee in carrying out its functions under this chapter.

(d) Functions

The Advisory Committee shall recommend grant policies for the advancement of the objectives of this chapter. In proposing recipients for grants under this chapter, the Advisory Committee shall give the highest priority to national organizations with an interest and expertise in conducting research and training concerning the countries of Eastern Europe and the independent states of the former Soviet Union and in disseminating the results of such research. In making its recommendations, the Advisory Committee shall emphasize the development of a stable, long-term research program.

(Pub. L. 98–164, title VIII, §804, Nov. 22, 1983, 97 Stat. 1048; Pub. L. 103–199, title III, §302(5), Dec. 17, 1993, 107 Stat. 2322.)

AMENDMENTS

1993—Pub. L. 103–199, §302(5)(A), substituted "Establishment of Advisory Committee" for "Establishment of the Soviet-Eastern European Studies Advisory Committee" in section catchline.

Subsec. (a). Pub. L. 103–199, §302(5)(B), substituted "Advisory Committee for Studies of Eastern Europe and the Independent States of the Former Soviet Union" for "Soviet-Eastern European Studies Advisory Committee".

Subsec. (d). Pub. L. 103–199, §302(5)(C), substituted "the countries of Eastern Europe and the independent states of the former Soviet Union" for "Soviet and Eastern European countries".

TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

DEFINITIONS

In subsec. (d), independent states of the former Soviet Union has the meaning given in section 5801 of this title, see section 3 of Pub. L. 103–199, set out as a note under section 5801 of this title.

§4504. Authority to make payments; purposes

(a) The Secretary of State, after consultation with the Advisory Committee, shall make payments, in accordance with the provisions of this section, out of funds made available to carry out this chapter.

(b)(1) One part of the payments made in each fiscal year shall be used to conduct a national research program at the postdoctoral or equivalent level, such program to include—

(A) the dissemination of information about the research program and the solicitation of

proposals for research contracts from American institutions of higher education and not-for-profit corporations, such contracts to contain shared-cost provisions; and

(B) the awarding of contracts for such research projects as the respective institution determines will best serve to carry out the purposes of this chapter after reviewing proposals submitted under subparagraph (A).

(2) One part of the payments made in each fiscal year shall be used—

(A) to establish and carry out a program of graduate, postdoctoral, and teaching fellowships for advanced training in studies on the countries of Eastern Europe and the independent states of the former Soviet Union and related studies, such program—

(i) to be coordinated with the research program described in paragraph (1);

(ii) to be conducted, on a shared-cost basis, at American institutions of higher education; and

(iii) to include—

(I) the dissemination of information on the fellowship program and the solicitation of applications for fellowships from qualified institutions of higher education and qualified individuals; and

(II) the awarding of such fellowships as the respective institution determines will best serve to carry out the purposes of this chapter after reviewing applications submitted under subclause (I); and

(B) to disseminate research, data, and findings on studies on the countries of Eastern Europe and the independent states of the former Soviet Union and related fields in such a manner and to such extent as the respective institution determines will best serve to carry out the purposes of this chapter.

(3) One part of the payments made in each fiscal year shall be used—

(A) to provide fellowship and research support for American specialists in the independent states of the former Soviet Union and the countries of Eastern Europe and related fields to conduct advanced research with particular emphasis upon the use of data on those states and countries; and

(B) to conduct seminars, conferences, and other similar workshops designed to facilitate research collaboration between Government and private specialists in the independent states of the former Soviet Union and the countries of Eastern Europe and related fields.

(4) One part of the payments made in each fiscal year shall be used to conduct specialized programs in advanced training and research on a reciprocal basis in the independent states of the former Soviet Union and the countries of Eastern Europe designed to facilitate access for American specialists to research institutes, personnel, archives, documentation, and other research and training resources located in those states and countries.

(5) One part of the payments made in each fiscal year shall be used to support training in the languages of the independent states of the former Soviet Union and the countries of Eastern Europe. Such payments shall include grants to individuals to pursue such training and to summer language institutes operated by institutions of higher education. Preference shall be given for Russian language studies and, as appropriate, studies of other languages of the independent states of the former Soviet Union.

(6) Payments may be made to carry out other research and training in studies on the countries of Eastern Europe and the independent states of the former Soviet Union not otherwise described in this section.

(Pub. L. 98–164, title VIII, §805, Nov. 22, 1983, 97 Stat. 1048; Pub. L. 103–199, title III, §302(6), Dec. 17, 1993, 107 Stat. 2323.)

AMENDMENTS

1993—Subsec. (b)(2)(A), (B). Pub. L. 103–199, §302(6)(A), substituted "studies on the countries of Eastern Europe and the independent states of the former Soviet Union" for "Soviet and Eastern European studies".

Subsec. (b)(3)(A). Pub. L. 103–199, §302(6)(B), (C), substituted "independent states of the former Soviet Union and the countries of Eastern Europe and related fields" for "fields of Soviet and Eastern European studies and related studies" and "those states and countries" for "the Soviet Union and Eastern European countries".

Subsec. (b)(3)(B). Pub. L. 103–199, §302(6)(B), which directed the substitution of "independent states of the former Soviet Union and the countries of Eastern Europe and related fields" for "fields of Soviet and Eastern European studies and related studies", was executed by making the substitution for "fields of Soviet and East European studies and related studies", to reflect the probable intent of Congress.

Subsec. (b)(4). Pub. L. 103–199, §302(6)(D), substituted "independent states of the former Soviet Union" for "Union of Soviet Socialist Republics" and "those states and countries" for "the Union of Soviet Socialist Republics and Eastern European countries".

Subsec. (b)(5). Pub. L. 103–199, §302(6)(E), substituted "training in the languages of the independent states of the former Soviet Union and the countries of Eastern Europe" for "language training in Russian and Eastern European languages" and inserted before period at end "and, as appropriate, studies of other languages of the independent states of the former Soviet Union".

Subsec. (b)(6). Pub. L. 103–199, §302(6)(A), substituted "studies on the countries of Eastern Europe and the independent states of the former Soviet Union" for "Soviet and Eastern European studies".

DEFINITIONS

In subsec. (b)(2)–(6), independent states of the former Soviet Union has the meaning given in section 5801 of this title, see section 3 of Pub. L. 103–199, set out as a note under section 5801 of this title.

§4505. Applications; payments to eligible institutions

(a) Any institution seeking funding under this chapter shall prepare and submit an application to the Secretary of State once each fiscal year. Each such application shall—

(1) provide a description of the purposes for which the payments will be used in accordance with section 4504 of this title; and

(2) provide such fiscal control and such accounting procedures as may be necessary (A) to ensure a proper accounting of Federal funds paid under this chapter, and (B) to ensure the verification of the costs of the continuing education and research programs conducted under this chapter.

(b) Payments under this chapter may be made in installments, in advance, or by way of reimbursement, with necessary adjustments on account of overpayments and underpayments.

(Pub. L. 98–164, title VIII, §806, Nov. 22, 1983, 97 Stat. 1050.)

§4506. Repealed. Pub. L. 112–74, div. I, title VII, §7034(n), Dec. 23, 2011, 125 Stat. 1217

Section, Pub. L. 98–164, title VIII, §807, Nov. 22, 1983, 97 Stat. 1050, required Secretary of State to submit annual report on activities of institutions receiving assistance under this chapter.

§4507. Federal control of education prohibited

Nothing contained in this chapter may be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction or research, administration, or personnel of any educational institution.

(Pub. L. 98–164, title VIII, §808, Nov. 22, 1983, 97 Stat. 1050.)

§4508. Allocation of funds

Of the funds authorized to be appropriated by section 102(1) of this Act—

(1) up to $5,000,000 for the fiscal year 1984 shall be available to carry out this chapter; and

(2) $5,000,000 for the fiscal year 1985 shall be available only to carry out this chapter.

(Pub. L. 98–164, title VIII, §809, Nov. 22, 1983, 97 Stat. 1050.)

REFERENCES IN TEXT

Section 102(1) of this Act, referred to in text, is section 102(1) of Pub. L. 98–164, title I, Nov. 22, 1983, 97 Stat. 1017, which is not classified to the Code.

§4509. Repealed. Pub. L. 102–138, title II, §209, Oct. 28, 1991, 105 Stat. 694

Section, Pub. L. 98–164, title VIII, §810, Nov. 22, 1983, 97 Stat. 1051, provided that provisions of this chapter were to cease to be effective at end of ten-year period beginning on Nov. 22, 1983.

CHAPTER 56—UNITED STATES INSTITUTE OF PEACE

Sec.

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§4601. Congressional declaration of findings and purposes

(a) The Congress finds and declares that—

(1) a living institution embodying the heritage, ideals, and concerns of the American people for peace would be a significant response to the deep public need for the Nation to develop fully a range of effective options, in addition to armed capacity, that can leash international violence and manage international conflict;

(2) people throughout the world are fearful of nuclear war, are divided by war and threats of war, are experiencing social and cultural hostilities from rapid international change and real and perceived conflicts over interests, and are diverted from peace by the lack of problem-solving skills for dealing with such conflicts;

(3) many potentially destructive conflicts among nations and peoples have been resolved constructively and with cost efficiency at the international, national, and community levels through proper use of such techniques as negotiation, conciliation, mediation, and arbitration;

(4) there is a national need to examine the disciplines in the social, behavioral, and physical sciences and the arts and humanities with regard to the history, nature, elements, and future of peace processes, and to bring together and develop new and tested techniques to promote peaceful economic, political, social, and cultural relations in the world;

(5) existing institutions providing programs in international affairs, diplomacy, conflict resolution, and peace studies are essential to further development of techniques to promote peaceful resolution of international conflict, and the peacemaking activities of people in such institutions, government, private enterprise, and voluntary associations can be strengthened by a

national institution devoted to international peace research, education and training, and information services;

(6) there is a need for Federal leadership to expand and support the existing international peace and conflict resolution efforts of the Nation and to develop new comprehensive peace education and training programs, basic and applied research projects, and programs providing peace information;

(7) the Commission on Proposals for the National Academy of Peace and Conflict Resolution, created by the Education Amendments of 1978, recommended establishing an academy as a highly desirable investment to further the Nation's interest in promoting international peace;

(8) an institute strengthening and symbolizing the fruitful relation between the world of learning and the world of public affairs, would be the most efficient and immediate means for the Nation to enlarge its capacity to promote the peaceful resolution of international conflicts; and

(9) the establishment of such an institute is an appropriate investment by the people of this Nation to advance the history, science, art, and practice of international peace and the resolution of conflicts among nations without the use of violence.

(b) It is the purpose of this chapter to establish an independent, nonprofit, national institute to serve the people and the Government through the widest possible range of education and training, basic and applied research opportunities, and peace information services on the means to promote international peace and the resolution of conflicts among the nations and peoples of the world without recourse to violence.

(Pub. L. 98–525, title XVII, §1702, Oct. 19, 1984, 98 Stat. 2649.)

REFERENCES IN TEXT

The Education Amendments of 1978, referred to in subsec. (a)(7), is Pub. L. 95–561, Nov. 1, 1978, 92 Stat. 2143, as amended. Part B (§§1511–1519) of title XV of Pub. L. 95–561, which provided for the Commission on Proposals for the National Academy of Peace and Conflict Resolution, was set out as a note under section 1123 of Title 20, Education. For complete classification of this Act to the Code, see Short Title of 1978 Amendment note under section 6301 of Title 20 and Tables.

SHORT TITLE

Pub. L. 98–525, title XVII, §1701, Oct. 19, 1984, 98 Stat. 2649, provided that: "This title [enacting this chapter] may be cited as the 'United States Institute of Peace Act'."

§4602. Definitions

As used in this chapter, the term—

(1) "Institute" means the United States Institute of Peace established by this chapter; and

(2) "Board" means the Board of Directors of the Institute.

(Pub. L. 98–525, title XVII, §1703, Oct. 19, 1984, 98 Stat. 2651.)

§4603. United States Institute of Peace

(a) Establishment

There is hereby established the United States Institute of Peace.

(b) Status; restrictions

The Institute is an independent nonprofit corporation and an organization described in section 170(c)(2)(B) of title 26. The Institute does not have the power to issue any shares of stock or to declare or pay any dividends.

(c) Establishment and functions of an "Endowment of the United States Institute for Peace"

As determined by the Board, the Institute may establish, under the laws of the District of

Columbia, a legal entity which is capable of receiving, holding, and investing public funds for purposes in furtherance of the Institute under this chapter. The Institute may designate such legal entity as the "Endowment of the United States Institute for Peace".

(d) Liability for acts within scope of authority

The Institute is liable for the acts of its directors, officers, employees, and agents when acting within the scope of their authority.

(e) Trade name and trademark rights; vested rights protected; condition for use of Federal identity

(1) The Institute has the sole and exclusive right to use and to allow or refuse others the use of the terms "United States Institute of Peace", "Jennings Randolph Program for International Peace", "Spark M. Matsunaga Medal of Peace", and "Endowment of the United States Institute of Peace" and the use of any official United States Institute of Peace emblem, badge, seal, and other mark of recognition or any colorable simulation thereof. No powers or privileges hereby granted shall interfere or conflict with established or vested rights secured as of September 1, 1981.

(2) Notwithstanding any other provision of this chapter, the Institute may use "United States" or "U.S." or any other reference to the United States Government or Nation in its title or in its corporate seal, emblem, badge, or other mark of recognition or colorable simulation thereof in any fiscal year only if there is an authorization of appropriations for the Institute for such fiscal year provided by law.

(Pub. L. 98–525, title XVII, §1704, Oct. 19, 1984, 98 Stat. 2651; Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 101–520, title III, §319(b), Nov. 5, 1990, 104 Stat. 2285.)

AMENDMENTS

1990—Subsec. (e)(1). Pub. L. 101–520 inserted reference to Spark M. Matsunaga Medal of Peace.

1986—Subsec. (b). Pub. L. 99–514 substituted "Internal Revenue Code of 1986" for "Internal Revenue Code of 1954", which for purposes of codification was translated as "title 26" thus requiring no change in text.

§4604. Powers and duties

(a) District of Columbia nonprofit-corporative powers

The Institute may exercise the powers conferred upon a nonprofit corporation by the District of Columbia Nonprofit Corporation Act consistent with this chapter, except for section 5(o) of the District of Columbia Nonprofit Corporation Act.

(b) Description of specific activities

The Institute, acting through the Board, may—

(1) establish a Jennings Randolph Program for International Peace and appoint, for periods up to two years, scholars and leaders in peace from the United States and abroad to pursue scholarly inquiry and other appropriate forms of communication on international peace and conflict resolution and, as appropriate, provide stipends, grants, fellowships, and other support to the leaders and scholars;

(2) enter into formal and informal relationships with other institutions, public and private, for purposes not inconsistent with this chapter;

(3) establish a Jeannette Rankin Research Program on Peace to conduct research and make studies, particularly of an interdisciplinary or of a multidisciplinary nature, into the causes of war and other international conflicts and the elements of peace among the nations and peoples of the world, including peace theories, methods, techniques, programs, and systems, and into the experiences of the United States and other nations in resolving conflicts with justice and dignity and without violence as they pertain to the advancement of international peace and conflict resolution, placing particular emphasis on realistic approaches to past successes and failures in the

quest for peace and arms control and utilizing to the maximum extent possible United States Government documents and classified materials from the Department of State, the Department of Defense, and the intelligence community;

(4) develop programs to make international peace and conflict resolution research, education, and training more available and useful to persons in government, private enterprise, and voluntary associations, including the creation of handbooks and other practical materials;

(5) provide, promote, and support peace education and research programs at graduate and postgraduate levels;

(6) conduct training, symposia, and continuing education programs for practitioners, policymakers, policy implementers, and citizens and noncitizens directed to developing their skills in international peace and conflict resolution;

(7) develop, for publication or other public communication, and disseminate, the carefully selected products of the Institute;

(8) establish a clearinghouse and other means for disseminating information, including classified information that is properly safeguarded, from the field of peace learning to the public and to government personnel with appropriate security clearances;

(9) secure directly, upon request of the president of the Institute to the head of any Federal department or agency and in accordance with section 552 of title 5 (relating to freedom of information), information necessary to enable the Institute to carry out the purposes of this chapter if such release of the information would not unduly interfere with the proper functioning of a department or agency, including classified information if the Institute staff and members of the Board who have access to such classified information obtain appropriate security clearances from the Department of Defense and the Department of State; and

(10) establish the Spark M. Matsunaga Scholars Program, which shall include the provision of scholarships and educational programs in international peace and conflict management and related fields for outstanding secondary school students and the provision of scholarships to outstanding undergraduate students, with program participants and recipients of such scholarships to be known as "Spark M. Matsunaga Scholars".

(c) Annual award of Spark M. Matsunaga Medal of Peace

(1)(A) The Institute, acting through the Board, may each year make an award to such person or persons who it determines to have contributed in extraordinary ways to peace among the nations and peoples of the world, giving special attention to contributions that advance society's knowledge and skill in peacemaking and conflict management. The award shall include the public presentation to such person or persons of the Spark M. Matsunaga Medal of Peace and a cash award in an amount of not to exceed $25,000 for any recipient.

(B)(i) The Secretary of the Treasury shall strike the Spark M. Matsunaga Medal of Peace with suitable emblems, devices, and inscriptions which capture the goals for which the Medal is presented. The design of the medals shall be determined by the Secretary of the Treasury in consultation with the Board and the Commission of Fine Arts.

(ii) The Spark M. Matsunaga Medal of Peace shall be struck in bronze and in the size determined by the Secretary of the Treasury in consultation with the Board.

(iii) The appropriate account of the Treasury of the United States shall be reimbursed for costs incurred in carrying out this subparagraph out of funds appropriated pursuant to section 4609(a)(1) of this title.

(2) The Board shall establish an advisory panel composed of persons eminent in peacemaking, diplomacy, public affairs, and scholarship, and such advisory panel shall advise the Board during its consideration of the selection of the recipient of the award.

(3) The Institute shall inform the Committee on Foreign Relations and the Committee on Labor and Human Resources of the Senate and the Committee on Foreign Affairs and the Committee on Education and Labor of the House of Representatives about the selection procedures it intends to follow, together with any other matters relevant to making the award and emphasizing its prominence and significance.

(d) Description of extension and outreach activities

The Institute may undertake extension and outreach activities under this chapter by making grants and entering into contracts with institutions of postsecondary, community, secondary, and elementary education (including combinations of such institutions), with public and private educational, training, or research institutions (including the American Federation of Labor-the Congress of Industrial Organizations) and libraries, and with public departments and agencies (including State and territorial departments of education and of commerce). No grant may be made to an institution unless it is a nonprofit or official public institution, and at least one-fourth of the Institute's annual appropriations shall be paid to such nonprofit and official public institutions. A grant or contract may be made to—

(1) initiate, strengthen, and support basic and applied research on international peace and conflict resolution;

(2) promote and advance the study of international peace and conflict resolution by educational, training, and research institutions, departments, and agencies;

(3) educate the Nation about and educate and train individuals in peace and conflict resolution theories, methods, techniques, programs, and systems;

(4) assist the Institute in its publication, clearinghouse, and other information services programs;

(5) assist the Institute in the study of conflict resolution between free trade unions and Communist-dominated organizations in the context of the global struggle for the protection of human rights; and

(6) promote the other purposes of this chapter.

(e) Services for Federal agencies

The Institute may respond to the request of a department or agency of the United States Government to investigate, examine, study, and report on any issue within the Institute's competence, including the study of past negotiating histories and the use of classified materials.

(f) Contracts for operation of Institute

The Institute may enter into personal service and other contracts for the proper operation of the Institute.

(g) Personnel; administrative assistance

The Institute may fix the duties of its officers, employees, and agents, and establish such advisory committees, councils, or other bodies, as the efficient administration of the business and purposes of the Institute may require.

(h) Grants and contracts; gifts and contributions; domestic and foreign restrictions

(1) Except as provided in paragraphs (2) and (3), the Institute may obtain grants and contracts, including contracts for classified research for the Department of State, the Department of Defense, the Arms Control and Disarmament Agency, and the intelligence community, and receive gifts and contributions from government at all levels.

(2) The Institute and the legal entity described in section 4603(c) of this title may not accept any gift, contribution or grant from a foreign government, any agency or instrumentality of such government, any international organization, or any corporation or other legal entity in which natural persons who are nationals of a foreign country own, directly or indirectly, more than 50 percent of the outstanding capital stock or other beneficial interest in such legal entity.

(3) Notwithstanding any other provision of this chapter, the Institute and the legal entity described in section 4603(c) of this title may not obtain any grant or contract or receive any gift or contribution from any private agency, organization, corporation or other legal entity, institution, or individual, except such Institute or legal entity may accept such a gift or contribution to—

(A) purchase, lease for purchase, or otherwise acquire, construct, improve, furnish, or maintain a suitable permanent headquarters, any related facility, or any site or sites for such facilities for the Institute and the legal entity described in section 4603(c) of this title; or

(B) provide program-related hospitality, including such hospitality connected with the

presentation of the Spark M. Matsunaga Medal of Peace.

(i) Fees for periodicals and other materials

The Institute may charge and collect subscription fees and develop, for publication or other public communication, and disseminate, periodicals and other materials.

(j) Participation fees and costs

The Institute may charge and collect fees and other participation costs from persons and institutions participating in the Institute's direct activities authorized in subsection (b).

(k) Civil actions

The Institute may sue and be sued, complain, and defend in any court of competent jurisdiction.

(l) Corporate mark of recognition and colorable simulations

The Institute may adopt, alter, use, and display a corporate seal, emblem, badge, and other mark of recognition and colorable simulations thereof.

(m) General authority

The Institute may do any and all lawful acts and things necessary or desirable to carry out the objectives and purposes of this chapter.

(n) Legislative influencing-activity prohibition; communications or testimony of personnel

The Institute shall not itself undertake to influence the passage or defeat of any legislation by the Congress of the United States or by any State or local legislative bodies, or by the United Nations, except that personnel of the Institute may testify or make other appropriate communication when formally requested to do so by a legislative body, a committee, or a member thereof.

(o) Administrative services from General Services Administration

The Institute may obtain administrative support services from the Administrator of General Services and use all sources of supply and services of the General Services Administration on a reimbursable basis.

(Pub. L. 98–525, title XVII, §1705, Oct. 19, 1984, 98 Stat. 2651; Pub. L. 100–50, §25, June 3, 1987, 101 Stat. 363; Pub. L. 100–418, title VI, §6272, Aug. 23, 1988, 102 Stat. 1523; Pub. L. 101–520, title III, §319(a), Nov. 5, 1990, 104 Stat. 2284; Pub. L. 102–325, title XV, §1554(b), (c), July 23, 1992, 106 Stat. 839; Pub. L. 105–244, title IX, §931(1), Oct. 7, 1998, 112 Stat. 1834; Pub. L. 110–315, title IX, §921(a), Aug. 14, 2008, 122 Stat. 3456.)

REFERENCES IN TEXT

The District of Columbia Nonprofit Corporation Act, referred to in subsec. (a), is Pub. L. 87–569, Aug. 6, 1962, 76 Stat. 265, as amended, which is not classified to the Code.

AMENDMENTS

2008—Subsec. (b)(3). Pub. L. 110–315 struck out "the Arms Control and Disarmament Agency," after "Defense,".

1998—Subsec. (f). Pub. L. 105–244, §931(1)(A), inserted "personal service and other" after "may enter into".

Subsec. (o). Pub. L. 105–244, §931(1)(B), inserted "and use all sources of supply and services of the General Services Administration" after "Services".

1992—Subsec. (b)(10). Pub. L. 102–325, §1554(b), added par. (10).

Subsec. (h)(2). Pub. L. 102–325, §1554(c)(1), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "The Institute may not accept any gift, contribution, or grant from, or enter into any contract with, a foreign government, any agency or instrumentality of such government, any international organization, or any foreign national, except that the Institute may accept the payment of tuition by foreign nationals for instruction provided by the Institute. For purposes of this paragraph, the term—

"(A) 'foreign national' means—

"(i) a natural person who is a citizen of a foreign country or who owes permanent allegiance to a foreign country; and

"(ii) a corporation or other legal entity in which natural persons who are nationals of a foreign

country own, directly or indirectly, more than 50 percent of the outstanding capital stock or other beneficial interest in such legal entity; and

"(B) 'person' means a natural person, partnership, association, other unincorporated body, or corporation."

Subsec. (h)(3). Pub. L. 102–325, §1554(c)(2), substituted at end "individual, except such Institute or legal entity may accept such a gift or contribution to—" for "individual." and added subpars. (A) and (B).

1990—Subsec. (b)(9), (10). Pub. L. 101–520, §319(a)(1), redesignated par. (10) as (9) and struck out former par. (9) which read as follows: "recommend to the Congress the establishment of a United States Medal of Peace to be awarded under such procedures as the Congress may determine, except that no person associated with the Institute may receive the United States Medal of Peace; and".

Subsecs. (c) to (o). Pub. L. 101–520, §319(a)(2), (3), added subsec. (c) and redesignated former subsecs. (c) to (n) as (d) to (o), respectively.

1988—Subsec. (b)(3). Pub. L. 100–418 made technical amendment to directory language of Pub. L. 100–50, see 1987 Amendment note below.

1987—Subsec. (b)(3). Pub. L. 100–50, as amended by Pub. L. 100–418, inserted "establish a Jeannette Rankin Research Program on Peace to" before "conduct research".

CHANGE OF NAME

Committee on Labor and Human Resources of Senate changed to Committee on Health, Education, Labor, and Pensions of Senate by Senate Resolution No. 20, One Hundred Sixth Congress, Jan. 19, 1999.

Committee on Education and Labor of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Twelfth Congress, Jan. 5, 2011.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of Title 20, Education.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of Title 20, Education.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of Title 20, Education.

TRANSFER OF FUNCTIONS

United States Arms Control and Disarmament Agency abolished and functions transferred to Secretary of State, see sections 6511 and 6512 of this title.

§4605. Board of Directors

(a) Vested powers

The powers of the Institute shall be vested in a Board of Directors unless otherwise specified in this chapter.

(b) Membership

The Board shall consist of fifteen voting members as follows:

(1) The Secretary of State (or if the Secretary so designates, another officer of the Department of State who was appointed with the advice and consent of the Senate).

(2) The Secretary of Defense (or if the Secretary so designates, another officer of the Department of Defense who was appointed with the advice and consent of the Senate).

(3) The president of the National Defense University (or if the president so designates, the vice president of the National Defense University).

(4) Twelve individuals appointed by the President, by and with the advice and consent of the Senate.

(c) Political affiliation

Not more than eight voting members of the Board (including members described in paragraphs (1) through (4) of subsection (b)) may be members of the same political party.

(d) Qualifications

(1) Each individual appointed to the Board under subsection (b)(4) shall have appropriate practical or academic experience in peace and conflict resolution efforts of the United States.

(2) Officers and employees of the United States Government may not be appointed to the Board under subsection (b)(4).

(e) Term of office: commencement and termination, interim and remainder service, limitation

(1) Members of the Board appointed under subsection (b)(4) shall be appointed to four year terms, except that—

(A) the term of six of the members initially appointed shall be two years, as designated by the President at the time of their nomination;

(B) a member may continue to serve until his or her successor is appointed; and

(C) a member appointed to replace a member whose term has not expired shall be appointed to serve the remainder of that term.

(2) The terms of the members of the Board initially appointed under subsection (b)(4) shall begin on January 20, 1985, and subsequent terms shall begin upon the expiration of the preceding term, regardless of when a member is appointed to fill that term.

(3) The President may not nominate an individual for appointment to the Board under subsection (b)(4) prior to January 20, 1985, but shall submit the names of eleven nominees for initial Board membership under subsection (b)(4) not later than ninety days after that date. If the Senate rejects such a nomination or if such a nomination is withdrawn, the President shall submit the name of a new nominee within fifteen days.

(4) An individual appointed as a member of the Board under subsection (b)(4) may not be appointed to more than two terms on the Board.

(5) The term of a member of the Board shall not commence until the member is confirmed by the Senate and sworn in as a member of the Board.

(f) Removal from office

A member of the Board appointed under subsection (b)(4) may be removed by the President—

(1) in consultation with the Board, for conviction of a felony, malfeasance in office, persistent neglect of duties, or inability to discharge duties;

(2) upon the recommendation of eight voting members of the Board; or

(3) upon the recommendation of a majority of the members of the Committee on Foreign Affairs and the Committee on Education and Labor of the House of Representatives and a majority of the members of the Committee on Foreign Relations and the Committee on Labor and Human Resources of the Senate.

A recommendation made in accordance with paragraph (2) may be made only pursuant to action taken at a meeting of the Board, which may be closed pursuant to the procedures of subsection (h)(3). Only members who are present may vote. A record of the vote shall be maintained. The President shall be informed immediately by the Board of the recommendation.

(g) Conflict of interests

No member of the Board may participate in any decision, action, or recommendation with respect to any matter which directly and financially benefits the member or pertains specifically to any public body or any private or nonprofit firm or organization with which the member is then formally associated or has been formally associated within a period of two years, except that this subsection shall not be construed to prohibit an ex officio member of the Board from participation in actions of the Board which pertain specifically to the public body of which that member is an officer.

(h) Meetings; Chairman; Vice Chairman; quorum; notice in Federal Register; closure

Meetings of the Board shall be conducted as follows:

(1) The President shall stipulate by name the nominee who shall be the first Chairman of the Board. The first Chairman shall serve for a term of three years. Thereafter, the Board shall elect a Chairman every three years from among the directors appointed by the President under subsection (b)(4) and may elect a Vice Chairman if so provided by the Institute's bylaws.

(2) The Board shall meet at least semiannually, at any time pursuant to the call of the Chairman or as requested in writing to the Chairman by at least five members of the Board. A majority of the members of the Board shall constitute a quorum for any Board meeting.

(3) All meetings of the Board shall be open to public observation and shall be preceded by reasonable public notice. Notice in the Federal Register shall be deemed to be reasonable public notice for purposes of the preceding sentence. In exceptional circumstances, the Board may close those portions of a meeting, upon a majority vote of its members present and with the vote taken in public session, which are likely to disclose information likely to affect adversely any ongoing peace proceeding or activity or to disclose information or matters exempted from public disclosure pursuant to subsection (c) of section 552b of title 5.

(i) Compensation

A director appointed by the President under subsection (b)(4) shall be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule under section 5332 of title 5 for each day during which the director is engaged in the performance of duties as a member of the Board.

(j) Travel expenses

While away from his home or regular place of business in the performance of duties for the Institute, a director shall be allowed travel expenses, including a per diem in lieu of subsistence, not to exceed the expenses allowed persons employed intermittently in Government service under section 5703(b) [1] of title 5.

(Pub. L. 98–525, title XVII, §1706, Oct. 19, 1984, 98 Stat. 2654; Pub. L. 105–277, div. G, subdiv. A, title XII, §1225(c)(1), Oct. 21, 1998, 112 Stat. 2681–773; Pub. L. 110–315, title IX, §921(b)(1), Aug. 14, 2008, 122 Stat. 3456.)

REFERENCES IN TEXT

Section 5703 of title 5, referred to in subsec. (j), was amended generally by Pub. L. 94–22, §4, May 19, 1975, 89 Stat. 85, and, as so amended, does not contain a subsec. (b).

AMENDMENTS

2008—Pub. L. 110–315, §921(b)(1)(A), substituted "(b)(4)" for "(b)(5)" wherever appearing.

Subsec. (e)(5). Pub. L. 110–315, §921(b)(1)(B), added par. (5).

1998—Subsec. (b)(3). Pub. L. 105–277, §1225(c)(1), redesignated par. (4) as (3) and struck out former par. (3) which read as follows: "The Director of the Arms Control and Disarmament Agency (or if the Director so designates, another officer of that Agency who was appointed with the advice and consent of the Senate)."

Subsec. (b)(4), (5). Pub. L. 105–277, §1225(c)(1)(B), (C), redesignated par. (5) as (4) and substituted "Twelve" for "Eleven". Former par. (4) redesignated (3).

CHANGE OF NAME

Committee on Labor and Human Resources of Senate changed to Committee on Health, Education, Labor, and Pensions of Senate by Senate Resolution No. 20, One Hundred Sixth Congress, Jan. 19, 1999.

Committee on Education and Labor of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Twelfth Congress, Jan. 5, 2011.

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–315, title IX, §921(b)(2), Aug. 14, 2008, 122 Stat. 3456, provided that: "The amendments made by paragraph (1) [amending this section] shall take effect as if enacted on June 1, 2007, and shall apply to any member of the Board of Directors of the Institute of Peace confirmed by the Senate and sworn in as a

member of the Board of Directors on or after such date."

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective Apr. 1, 1999, see section 1201 of Pub. L. 105–277, set out as an Effective Date note under section 6511 of this title.

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

[1] *See References in Text note below.*

§4606. Officers and employees

(a) Appointment, compensation and status of president of Institute and other officers

The Board shall appoint the president of the Institute and such other officers as the Board determines to be necessary. The president of the Institute shall be a nonvoting ex officio member of the Board. All officers shall serve at the pleasure of the Board. The president shall be appointed for an explicit term of years. Notwithstanding any other provision of law limiting the payment of compensation, the president and other officers appointed by the Board shall be compensated at rates determined by the Board, but no greater than that payable for level I of the Executive Schedule under chapter 53 of title 5.

(b) Authorization of activities

Subject to the provisions of section 4604(h)(3) of this title, the Board shall authorize the president and any other officials or employees it designates to receive and disburse public moneys, obtain and make grants, enter into contracts, establish and collect fees, and undertake all other activities necessary for the efficient and proper functioning of the Institute.

(c) Appointment, compensation and status of personnel

The president, subject to Institute's bylaws and general policies established by the Board, may appoint, fix the compensation of, and remove such employees of the Institute as the president determines necessary to carry out the purposes of the Institute. In determining employee rates of compensation, the president shall be governed by the provisions of title 5 relating to classification and General Schedule pay rates.

(d) Assignment of Federal officers or employees to the Institute

(1) The president may request the assignment of any Federal officer or employee to the Institute by an appropriate department, agency, or congressional official or Member of Congress and may enter into an agreement for such assignment, if the affected officer or employee agrees to such assignment and such assignment causes no prejudice to the salary, benefits, status, or advancement within the department, agency, or congressional staff of such officer or employee.

(2) The Secretary of State, the Secretary of Defense, and the Director of Central Intelligence each may assign officers and employees of his respective department or agency, on a rotating basis to be determined by the Board, to the Institute if the affected officer or employee agrees to such assignment and such assignment causes no prejudice to the salary, benefits, status, or advancement within the respective department or agency of such officer or employee.

(e) Dual compensation restriction

No officer or full-time employee of the Institute may receive any salary or other compensation for services from any source other than the Institute during the officer's or employee's period of employment by the Institute, except as authorized by the Board.

(f) Federal employment status only for stated purposes

(1) Officers and employees of the Institute shall not be considered officers and employees of the Federal Government except for purposes of the provisions of title 28, which relate to Federal tort claims liability, and the provisions of title 5, which relate to compensation and benefits, including the following provisions: chapter 51 (relating to classification); subchapters I and III of chapter 53 (relating to pay rates); subchapter I of chapter 81 (relating to compensation for work injuries); chapter 83 (relating to civil service retirement); chapter 87 (relating to life insurance); and chapter 89 (relating to health insurance). The Institute shall make contributions at the same rates applicable to agencies of the Federal Government under the provisions of title 5 referred to in this section.

(2) The Institute shall not make long-term commitments to employees that are inconsistent with rules and regulations applicable to Federal employees.

(g) Distributions prohibited during life or upon dissolution or liquidation of Institute or legal entity; compensation for services or expenses

No part of the financial resources, income, or assets of the Institute or of any legal entity created by the Institute shall inure to any agent, employee, officer, or director or be distributable to any such person during the life of the corporation or upon dissolution or final liquidation. Nothing in this section may be construed to prevent the payment of reasonable compensation for services or expenses to the directors, officers, employees, and agents of the Institute in amounts approved in accordance with the provisions of this chapter.

(h) Loans prohibition; joint and several liability

The Institute shall not make loans to its directors, officers, employees, or agents, or to any legal entity created by the Institute. A director, officer, employee, or agent who votes for or assents to the making of a loan or who participates in the making of a loan shall be jointly and severally liable to the Institute for the amount of the loan until repayment thereof.

(Pub. L. 98–525, title XVII, §1707, Oct. 19, 1984, 98 Stat. 2656; Pub. L. 100–569, title III, §301(b), Oct. 31, 1988, 102 Stat. 2864; Pub. L. 101–520, title III, §319(c), Nov. 5, 1990, 104 Stat. 2285; Pub. L. 105–277, div. G, subdiv. A, title XII, §1225(c)(2), Oct. 21, 1998, 112 Stat. 2681–773.)

REFERENCES IN TEXT

Level I of the Executive Schedule, referred to in subsec. (a), is set out in section 5312 of Title 5, Government Organization and Employees.

The provisions of title 5 relating to classification and General Schedule pay rates, referred to in subsec. (c), are set out in chapter 51 (§5101 et seq.) and subchapter III (§5331 et seq.) of chapter 53 of Title 5.

AMENDMENTS

1998—Subsec. (d)(2). Pub. L. 105–277, which directed the amendment of par. (2) by striking out ", Director of the Arms Control and Disarmament Agency", was executed by striking out ", the Director of the Arms Control and Disarmament Agency" after "Secretary of Defense", to reflect the probable intent of Congress.

1990—Subsec. (b). Pub. L. 101–520 substituted "4604(h)(3)" for "4604(g)(3)".

1988—Subsec. (f)(2). Pub. L. 100–569 struck out first sentence which read as follows: "No Federal funds shall be used to pay for private fringe benefit programs."

CHANGE OF NAME

Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108–458, set out as a note under section 3001 of Title 50, War and National Defense.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective Apr. 1, 1999, see section 1201 of Pub. L. 105–277, set out as an Effective Date note under section 6511 of this title.

§4607. Procedures and records

(a) Monitoring and evaluation of programs

The Institute shall monitor and evaluate and provide for independent evaluation if necessary of programs supported in whole or in part under this chapter to ensure that the provisions of this chapter and the bylaws, rules, regulations, and guidelines promulgated pursuant to this chapter are adhered to.

(b) Suspension procedures

The Institute shall prescribe procedures to ensure that grants, contracts, and financial support under this chapter are not suspended unless the grantee, contractor, or person or entity receiving financial support has been given reasonable notice and opportunity to show cause why the action should not be taken.

(c) Selection considerations

In selecting persons to participate in Institute activities, the Institute may consider a person's practical experience or equivalency in peace study and activity as well as other formal requirements.

(d) Accounts of receipts and disbursements; financial reports

The Institute shall keep correct and complete books and records of account, including separate and distinct accounts of receipts and disbursements of Federal funds. The Institute's annual financial report shall identify the use of such funding and shall present a clear description of the full financial situation of the Institute.

(e) Minutes of proceedings

The Institute shall keep minutes of the proceedings of its Board and of any committees having authority under the Board.

(f) Record and inspection of required items

The Institute shall keep a record of the names and addresses of its Board members; copies of this chapter, of any other Acts relating to the Institute, and of all Institute bylaws, rules, regulations, and guidelines; required minutes of proceedings; a record of all applications and proposals and issued or received contracts and grants; and financial records of the Institute. All items required by this subsection may be inspected by any Board member or the member's agent or attorney for any proper purpose at any reasonable time.

(g) Audits

The accounts of the Institute shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants or independent licensed public accountants, certified or licensed by a regulatory authority of a State or other political subdivision of the United States. The audit shall be conducted at the place or places where the accounts of the Institute are normally kept. All books, accounts, financial records, files, and other papers, things, and property belonging to or in use by the Institute and necessary to facilitate the audit shall be made available to the person or persons conducting the audit, and full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians shall be afforded to such person or persons.

(h) Report of audit to Congress; copies for public

The Institute shall provide a report of the audit to the President and to each House of Congress no later than six months following the close of the fiscal year for which the audit is made. The report shall set forth the scope of the audit and include such statements, together with the independent auditor's opinion of those statements, as are necessary to present fairly the Institute's assets and liabilities, surplus or deficit, with reasonable detail, including a statement of the Institute's income

and expenses during the year, including a schedule of all contracts and grants requiring payments in excess of $5,000 and any payments of compensation, salaries, or fees at a rate in excess of $5,000 per year. The report shall be produced in sufficient copies for the public.

(i) Freedom of information provisions applicable

The Institute and its directors, officers, employees, and agents shall be subject to the provisions of section 552 of title 5 (relating to freedom of information).

(Pub. L. 98–525, title XVII, §1708, Oct. 19, 1984, 98 Stat. 2657; Pub. L. 108–7, div. G, title V, §515, Feb. 20, 2003, 117 Stat. 345.)

AMENDMENTS

2003—Subsec. (g). Pub. L. 108–7 struck out "on or before December 31, 1970" after "political subdivision of the United States".

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (h) of this section relating to providing a report of the audit to each House of Congress, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 207 of House Document No. 103–7.

§4608. Independence and limitations

(a) Nothing in this chapter may be construed as limiting the authority of the Office of Management and Budget to review and submit comments on the Institute's budget request at the time it is transmitted to the Congress.

(b) No political test or political qualification may be used in selecting, appointing, promoting, or taking any other personnel action with respect to any officer, employee, agent, or recipient of Institute funds or services or in selecting or monitoring any grantee, contractor, person, or entity receiving financial assistance under this chapter.

(Pub. L. 98–525, title XVII, §1709, Oct. 19, 1984, 98 Stat. 2659.)

§4609. Funding

(a) Authorization of appropriations

(1) In general

For the purpose of carrying out this chapter, there are authorized to be appropriated such sums as may be necessary for fiscal years 2009 through 2014.

(2) Availability

Funds appropriated pursuant to the authority of paragraph (1) shall remain available until expended.

(b) Transfer of unobligated funds; reports of use of funds to Congress and President

The Board of Directors may transfer to the legal entity authorized to be established under section 4603(c) of this title any funds not obligated or expended from appropriations to the Institute for a fiscal year, and such funds shall remain available for obligation or expenditure for the purposes of such legal entity without regard to fiscal year limitations. Any use by such legal entity of appropriated funds shall be reported to each House of the Congress and to the President of the United States.

(c) Contractual authority

Any authority provided by this chapter to enter into contracts shall be effective for a fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

(d) Extension

Any authorization of appropriations made for the purposes of carrying out this chapter shall be extended in the same manner as applicable programs are extended under section 1226a of title 20.

(Pub. L. 98–525, title XVII, §1710, Oct. 19, 1984, 98 Stat. 2659; Pub. L. 99–498, title XVI, §1601(a)(1), (b), Oct. 17, 1986, 100 Stat. 1612; Pub. L. 100–569, title III, §301[(a)], Oct. 31, 1988, 102 Stat. 2863; Pub. L. 102–325, title XV, §1554(a), July 23, 1992, 106 Stat. 839; Pub. L. 103–208, §2(k)(14), Dec. 20, 1993, 107 Stat. 2486; Pub. L. 105–244, title IX, §931(2), Oct. 7, 1998, 112 Stat. 1834; Pub. L. 110–315, title IX, §921(c), Aug. 14, 2008, 122 Stat. 3456.)

AMENDMENTS

2008—Subsec. (a)(1). Pub. L. 110–315, §921(c)(1), substituted "to be appropriated such sums as may be necessary for fiscal years 2009 through 2014" for "to be appropriated $15,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years".

Subsec. (d). Pub. L. 110–315, §921(c)(2), added subsec. (d).

1998—Subsec. (a)(1). Pub. L. 105–244 substituted "1999" for "1993" and "4" for "6".

1993—Subsec. (a)(1). Pub. L. 103–208 substituted "6" for "4" before "succeeding fiscal years".

1992—Subsec. (a). Pub. L. 102–325 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows:

"(1) For the purpose of carrying out this chapter (except for paragraph (9) of section 4604(b) of this title), there are authorized to be appropriated $10,000,000 for fiscal year 1989; $10,000,000 for fiscal year 1990; $10,000,000 for fiscal year 1991; $15,000,000 for fiscal year 1992; and $15,000,000 for fiscal year 1993.

"(2) Funds appropriated pursuant to paragraph (1) are authorized to remain available until expended."

1988—Subsec. (a). Pub. L. 100–569 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "For the purpose of carrying out this chapter (except for paragraph (9) of section 4604(b) of this title), there are authorized to be appropriated $6,000,000 for the fiscal year 1987 and $10,000,000 for the fiscal year 1988. Amounts appropriated under this section are authorized to remain available to the Institute until expended."

1986—Subsec. (a). Pub. L. 99–498 substituted "fiscal year 1987" for "fiscal year 1985", "fiscal year 1988" for "fiscal year 1986", and "Amounts appropriated under this section are authorized to remain available to the Institute until expended" for "Moneys appropriated for the fiscal year 1985 shall remain available to the Institute through the fiscal year 1986".

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of Title 20, Education.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of Title 20, Education.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of Title 20, Education.

EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99–498, title XVI, §1601(a)(2), Oct. 17, 1986, 100 Stat. 1612, provided that: "The amendments made by paragraph (1) [amending this section] shall take effect on October 1, 1986."

§4610. Dissolution or liquidation

Upon dissolution or final liquidation of the Institute or of any legal entity created pursuant to this chapter, all income and assets of the Institute or other legal entity shall revert to the United States Treasury.

(Pub. L. 98–525, title XVII, §1711, Oct. 19, 1984, 98 Stat. 2659.)

§4611. Biennial reports to President and Congress; comments, findings, and recommendations; Congressional Committee hearings

Beginning two years after October 19, 1984, and at intervals of two years thereafter, the Chairman of the Board shall prepare and transmit to the Congress and the President a report detailing the progress the Institute has made in carrying out the purposes of this chapter during the preceding two-year period. The President may prepare and transmit to the Congress within a reasonable time after the receipt of such report the written comments and recommendations of the appropriate agencies of the United States with respect to the contents of such report and their recommendations with respect to any legislation which may be required concerning the Institute. After receipt of such report by the Congress, the Committee on Foreign Affairs and the Committee on Education and Labor of the House of Representatives and the Committee on Foreign Relations and the Committee on Labor and Human Resources of the Senate may hold hearings to review the findings and recommendations of such report and the written comments received from the President.

(Pub. L. 98–525, title XVII, §1712, Oct. 19, 1984, 98 Stat. 2659; Pub. L. 105–244, title IX, §931(3), Oct. 7, 1998, 112 Stat. 1834.)

AMENDMENTS

1998—Pub. L. 105–244 substituted "President may prepare" for "President shall prepare" and "may hold hearings" for "shall hold hearings".

CHANGE OF NAME

Committee on Labor and Human Resources of Senate changed to Committee on Health, Education, Labor, and Pensions of Senate by Senate Resolution No. 20, One Hundred Sixth Congress, Jan. 19, 1999.

Committee on Education and Labor of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Twelfth Congress, Jan. 5, 2011.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of Title 20, Education.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in this section relating to the requirement that every two years the Chairman of the Board transmit to Congress a report detailing the progress the Institute has made in carrying out the purposes of this chapter, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 207 of House Document No. 103–7.

CHAPTER 57—UNITED STATES SCHOLARSHIP PROGRAM FOR DEVELOPING COUNTRIES

Sec.

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§4701. Statement of purpose

The purpose of this chapter is to establish an undergraduate scholarship program designed to bring students of limited financial means from developing countries to the United States for study at United States institutions of higher education.

(Pub. L. 99–93, title VI, §601, Aug. 16, 1985, 99 Stat. 439.)

§4702. Congressional findings and declaration of policy

The Congress finds and declares that—

(1) it is in the national interest for the United States Government to provide a stable source of financial support to give students in developing countries the opportunity to study in the United States, in order to improve the range and quality of educational alternatives, increase mutual understanding, and build lasting links between those countries and the United States;

(2) providing scholarships to foreign students to study in the United States has proven over time to be an effective means of creating strong bonds between the United States and the future leadership of developing countries and, at the same time, assists countries substantially in their development efforts;

(3) study in United States institutions by foreign students enhances trade and economic relationships by providing strong English language skills and establishing professional and business contacts;

(4) students from families of limited financial means have, in the past, largely not had the opportunity to study in the United States, and scholarship programs sponsored by the United States have made no provision for identifying, preparing, or supporting such students for study in the United States;

(5) it is essential that the United States citizenry develop its knowledge and understanding of the developing countries and their languages, cultures, and socioeconomic composition as these areas assume an ever larger role in the world community;

(6) an undergraduate scholarship program for students of limited financial means from developing countries to study in the United States would complement current assistance efforts in the areas of advanced education and training of people of developing countries in such disciplines as are required for planning and implementation of public and private development activities;

(7) the National Bipartisan Commission on Central America has recommended a program of 10,000 United States Government-sponsored scholarships to bring Central American students to the United States, which program would involve careful targeting to encourage participation by young people from all social and economic classes, would maintain existing admission standards by providing intensive English and other training, and would encourage graduates to return to their home countries after completing their education; and

(8) it is also in the interest of the United States, as well as peaceful cooperation in the Western Hemisphere, that particular attention be given to the students of the Caribbean region.

(Pub. L. 99–93, title VI, §602, Aug. 16, 1985, 99 Stat. 439; Pub. L. 103–199, title III, §305, Dec. 17, 1993, 107 Stat. 2324.)

AMENDMENTS

1993—Pars. (6) to (10). Pub. L. 103–199 redesignated pars. (8) to (10) as (6) to (8), respectively, and struck out former pars. (6) and (7) which read as follows:

"(6) the number of United States Government-sponsored scholarships for students in developing countries has been exceeded as much as twelve times in a given year by the number of scholarships offered by

Soviet-bloc governments to students in developing countries, and this disparity entails the serious long-run cost of having so many of the potential future leaders of the developing world educated in Soviet-bloc countries;

"(7) from 1972 through 1982 the Soviet Union and Eastern European governments collectively increased their education exchange programs to Latin America and the Caribbean by 205 percent while those of the United States declined by 52 percent;".

§4703. Scholarship program authority

(a) In general

The President, acting through the United States Information Agency, shall provide scholarships (including partial assistance) for undergraduate study at United States institutions of higher education by citizens and nationals of developing countries who have completed their secondary education and who would not otherwise have an opportunity to study in the United States due to financial limitations.

(b) Form of scholarship; forgiveness of loan repayment

To encourage students to use their training in their countries of origin, each scholarship pursuant to this section shall be in the form of a loan with all repayment to be forgiven upon the student's prompt return to his or her country of origin for a period which is at least one year longer than the period spent studying in the United States. If the student is granted asylum in the United States pursuant to section 1158 of title 8 or is admitted to the United States as a refugee pursuant to section 1157 of title 8, half of the repayment shall be forgiven.

(c) Consultation

Before allocating any of the funds made available to carry out this chapter, the President shall consult with United States institutions of higher education, educational exchange organizations, United States missions in developing countries, and the governments of participating countries on how to implement the guidelines specified in section 4704 of this title.

(d) "Institution of higher education" defined

For purposes of this chapter, the term "institution of higher education" has the same meaning as given to such term by section 1001 of title 20.

(Pub. L. 99–93, title VI, §603, Aug. 16, 1985, 99 Stat. 440; Pub. L. 105–244, title I, §102(a)(7)(D), Oct. 7, 1998, 112 Stat. 1619.)

AMENDMENTS

1998—Subsec. (d). Pub. L. 105–244 substituted "section 1001" for "section 1141(a)".

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of Title 20, Education.

TRANSFER OF FUNCTIONS

United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau) abolished and functions transferred to Secretary of State, see sections 6531 and 6532 of this title.

§4704. Guidelines

The scholarship program under this chapter shall be carried out in accordance with the following guidelines:

(1) Consistent with section 2460(b) [1] of this title, all programs created pursuant to this chapter shall be nonpolitical and balanced, and shall be administered in keeping with the highest standards of academic integrity.

(2) United States missions shall design ways to identify promising students who are in secondary educational institutions, or who have completed their secondary education, for study in the United States. In carrying out this paragraph, the United States mission in a country shall consult with Peace Corps volunteers and staff assigned to that country and with private and voluntary organizations with a proven record of providing development assistance to developing countries.

(3) United States missions shall develop and strictly implement specific economic need criteria. Scholarships under this chapter may only be provided to students who meet the economic need criteria.

(4) The program shall utilize educational institutions in the United States and in developing countries to help participants in the programs acquire necessary skills in English and other appropriate education training.

(5) Each participant from a developing country shall be selected on the basis of academic and leadership potential and the economic, political, and social development needs of such country. Such needs shall be determined by each United States mission in consultation with the government of the respective country. Scholarship opportunities shall emphasize fields that are critical to the development of the participant's country, including agriculture, civil engineering, communications, social science, education, public and business administration, health, nutrition, environmental studies, population and family planning, and energy.

(6) The program shall be flexible in order to take advantage of different training and educational opportunities offered by universities, postsecondary vocational training schools, and community colleges in the United States.

(7) The program shall be flexible with respect to the number of years of undergraduate education financed but in no case shall students be brought to the United States for a period less than one year.

(8) Adequate allowance shall be made in the scholarship for the purchase of books and related educational material relevant to the program of study.

(9) Further allowance shall be made to provide adequate opportunities for professional, academic, and cultural enrichment for scholarship recipients.

(10) The program shall, to the maximum extent practicable, offer equal opportunities for both male and female students to study in the United States.

(11) The United States Information Agency shall recommend to each student, who receives a scholarship under this chapter for study at a college or university, that the student enroll in a course on the classics of American political thought or which otherwise emphasizes the ideas, principles, and documents upon which the United States was founded.

(Pub. L. 99–93, title VI, §604, Aug. 16, 1985, 99 Stat. 440.)

REFERENCES IN TEXT

Section 2460(b) of this title, referred to in par. (1), was redesignated section 2460(c) of this title by Pub. L. 101–246, title II, §204(a)(2)(A), Feb. 16, 1990, 104 Stat. 50.

TRANSFER OF FUNCTIONS

United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau) abolished and functions transferred to Secretary of State, see sections 6531 and 6532 of this title.

[1] See References in Text note below.

§4705. Authority to enter into agreements

The President may enter into agreements with foreign governments in furtherance of the purposes of this chapter. Such agreements may provide for the creation or continuation of binational or multinational educational and cultural foundations and commissions for the purposes of

administering programs under this chapter.

(Pub. L. 99–93, title VI, §605, Aug. 16, 1985, 99 Stat. 441.)

§4706. Policy regarding other international educational programs

(a) AID-funded programs

The Congress urges the administrator of the agency primarily responsible for administering part I of the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.], in implementing programs authorized under that part, to increase assistance for undergraduate scholarships for students of limited financial means from developing countries to study in the United States at United States institutions of higher education. To the maximum extent practicable, such scholarship assistance shall be furnished in accordance with the guidelines contained in section 4704 of this title.

(b) USIA-funded postgraduate study in the United States

The Congress urges the Director of the United States Information Agency to expand opportunities for students of limited financial means from developing countries to receive financial assistance for postgraduate study at United States institutions of higher education.

(c) Study by Americans in developing countries

The Congress urges the President to take such steps as are necessary to expand the opportunities for Americans from all economic classes to study in developing countries.

(Pub. L. 99–93, title VI, §606, Aug. 16, 1985, 99 Stat. 442.)

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsec. (a), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424. Part I of the Act is classified generally to subchapter I (§2151 et seq.) of chapter 32 of this title. For provisions deeming references to subchapter I to include parts IV (§2346 et seq.), VI (§2348 et seq.), and VIII (§2349aa et seq.) of subchapter II of chapter 32, see section 202(b) of Pub. L. 92–226, set out as a note under section 2346 of this title, and sections 2348c and 2349aa–5 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

TRANSFER OF FUNCTIONS

United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau) abolished and functions transferred to Secretary of State, see sections 6531 and 6532 of this title.

§4707. Establishment and maintenance of counseling services

(a) Counseling services abroad

For the purpose of assisting foreign students in choosing fields of study, selecting appropriate institutions of higher education, and preparing for their stay in the United States, the President may make suitable arrangements for counseling and orientation services abroad.

(b) Counseling services in the United States

For the purposes of assisting foreign students in making the best use of their opportunities while attending United States institutions of higher education, and assisting such students in directing their talents and initiative into channels which will make them more effective leaders upon return to their native lands, the President may make suitable arrangements (by contract or otherwise) for the establishment and maintenance of adequate counseling services at United States institutions of higher education which are attended by foreign students.

(Pub. L. 99–93, title VI, §607, Aug. 16, 1985, 99 Stat. 442.)

§4708. J. William Fulbright Foreign Scholarship Board

The J. William Fulbright Foreign Scholarship Board shall advise and assist the President in the discharge of the scholarship program carried out pursuant to this chapter, in accordance with the guidelines set forth in section 4704 of this title. The President may provide for such additional secretarial and staff assistance for the Board as may be required to carry out this chapter.

(Pub. L. 99–93, title VI, §608, Aug. 16, 1985, 99 Stat. 442; Pub. L. 101–246, title II, §204(c), Feb. 16, 1990, 104 Stat. 50.)

AMENDMENTS

1990—Pub. L. 101–246 substituted "J. William Fulbright Foreign Scholarship Board" for "Board of Foreign Scholarships" in section catchline and in text.

§4709. General authorities

(a) Public and private sector contributions

The public and private sectors in the United States and in the developing countries shall be encouraged to contribute to the costs of the scholarship program financed under this chapter.

(b) Utilization of returning program participants

The President shall seek to engage the public and private sectors of developing countries in programs to maximize the utilization of recipients of scholarships under this chapter upon their return to their own countries.

(c) Promotion abroad of scholarship program

The President may provide for publicity and promotion abroad of the scholarship program provided for in this chapter.

(d) Increasing United States understanding of developing countries

The President shall encourage United States institutions of higher education, which are attended by students from developing countries who receive scholarships under this chapter, to provide opportunities for United States citizens attending those institutions to develop their knowledge and understanding of the developing countries, and the languages and cultures of those countries, represented by those foreign students.

(e) Other activities to promote improved understanding

Funds allocated by the United States Information Agency, or the agency primarily responsible for carrying out part I of the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.], for scholarships in accordance with this chapter shall be available to enhance the educational training and capabilities of the people of Latin America and the Caribbean and to promote better understanding between the United States and Latin America and the Caribbean through programs of cooperation, study, training, and research. Such funds may be used for program and administrative costs for institutions carrying out such programs.

(Pub. L. 99–93, title VI, §609, Aug. 16, 1985, 99 Stat. 442.)

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsec. (e), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424. Part I of the Act is classified generally to subchapter I (§2151 et seq.) of chapter 32 of this title. For provisions deeming references to subchapter I to include parts IV (§2346 et seq.), VI (§2348 et seq.), and VIII (§2349aa et seq.) of subchapter II of chapter 32, see section 202(b) of Pub. L. 92–226, set out as a note under section 2346 of this title, and sections 2348c and 2349aa–5 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

TRANSFER OF FUNCTIONS

United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau) abolished and functions transferred to Secretary of State, see sections 6531 and 6532 of

this title.

§4710. English teaching, textbooks, and other teaching materials

Wherever adequate facilities or materials are not available to carry out the purposes of paragraph (4) of section 4704 of this title in the participant's country and the President determines that the purposes of this chapter are best served by providing the preliminary training in the participant's country, the President may (by purchase, contract, or other appropriate means) provide the necessary materials and instructors to achieve such purpose.

(Pub. L. 99–93, title VI, §610, Aug. 16, 1985, 99 Stat. 443.)

§4711. Repealed. Pub. L. 103–236, title I, §139(13), Apr. 30, 1994, 108 Stat. 398

Section, Pub. L. 99–93, title VI, §611, Aug. 16, 1985, 99 Stat. 443, required annual report to Congress on activities and expenditures pursuant to this chapter.

§4712. Funding of scholarships for fiscal year 1986 and fiscal year 1987

(a) Central American undergraduate scholarship program

The undergraduate scholarship program financed by the United States Information Agency for students from Central America for fiscal year 1986 and fiscal year 1987 shall be conducted in accordance with this chapter.

(b) Scholarships for students from other developing countries

Any funds appropriated to the United States Information Agency for fiscal year 1986 or fiscal year 1987 for any purpose (other than funds appropriated for educational exchange programs under section 2452(a)(1) of this title [1] may be used to carry out this chapter with respect to students from developing countries outside Central America.

(Pub. L. 99–93, title VI, §612, Aug. 16, 1985, 99 Stat. 443.)

TRANSFER OF FUNCTIONS

United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau) abolished and functions transferred to Secretary of State, see sections 6531 and 6532 of this title.

[1] So in original. Probably should be followed by a closing parenthesis.

§4713. Latin American exchanges

Of any funds authorized to be appropriated for activities authorized by this chapter, not less than 25 percent shall be allocated to fund grants and exchanges to Latin America and the Caribbean.

(Pub. L. 99–93, title VI, §613, Aug. 16, 1985, 99 Stat. 444.)

§4714. Feasibility study of training programs in sizable Hispanic populations

No later than December 15, 1985, the Director of the United States Information Agency and the Administrator of the Agency for International Development shall report jointly, to the chairman of the Committee on Foreign Relations of the Senate and the chairman of the Committee on Foreign Affairs of the House of Representatives, on the feasibility of greater utilization in those two agencies' scholarship and participant training programs of the United States universities in States bordering

Latin American and Caribbean [1] which are located in areas characterized by the presence of sizable Hispanic populations.

(Pub. L. 99–93, title VI, §614, Aug. 16, 1985, 99 Stat. 444.)

TRANSFER OF FUNCTIONS

United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau) abolished and functions transferred to Secretary of State, see sections 6531 and 6532 of this title.

[1] So in original. Probably should be "Latin America and the Caribbean".

§4715. Compliance with Congressional Budget Act

Any authority provided by this chapter to enter into contracts shall be effective only—

(1) to the extent that the budget authority for the obligation to make outlays, which is created by the contract, has been provided in advance by an appropriation Act; or

(2) to the extent or in such amounts as are provided in advance in appropriation Acts.

(Pub. L. 99–93, title VI, §615, Aug. 16, 1985, 99 Stat. 444.)

REFERENCES IN TEXT

The Congressional Budget Act, referred to in section catchline, probably means the Congressional Budget Act of 1974, titles I through IX of Pub. L. 93–344, July 12, 1974, 88 Stat. 297, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 621 of Title 2, The Congress, and Tables.

CHAPTER 58—DIPLOMATIC SECURITY

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SUBCHAPTER I—GENERALLY

§4801. Findings and purposes

(a) Findings

The Congress finds and declares that—

(1) the United States has a crucial stake in the presence of United States Government personnel representing United States interests abroad;

(2) conditions confronting United States Government personnel and missions abroad are fraught with security concerns which will continue for the foreseeable future; and

(3) the resources now available to counter acts of terrorism and protect and secure United States Government personnel and missions abroad, as well as foreign officials and missions in the United States, are inadequate to meet the mounting threat to such personnel and facilities.

(b) Purposes

The purposes of this chapter are—

(1) to set forth the responsibility of the Secretary of State with respect to the security of diplomatic operations in the United States and abroad;

(2) to maximize coordination by the Department of State with Federal, State, and local agencies and agencies of foreign governments in order to enhance security programs;

(3) to promote strengthened security measures and to provide for the accountability of United States Government personnel with security-related responsibilities;

(4) to set forth the responsibility of the Secretary of State with respect to the safe and efficient evacuation of United States Government personnel, their dependents, and private United States citizens when their lives are endangered by war, civil unrest, or natural disaster; and

(5) to provide authorization of appropriations for the Department of State to carry out its responsibilities in the area of security and counterterrorism, and in particular to finance the acquisition and improvements of United States Government missions abroad, including real property, buildings, facilities, and communications, information, and security systems.

(Pub. L. 99–399, title I, §102, Aug. 27, 1986, 100 Stat. 855; Pub. L. 101–246, title I, §115(a), Feb. 16, 1990, 104 Stat. 22; Pub. L. 103–236, title I, §162(g)(1), Apr. 30, 1994, 108 Stat. 406.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original "titles I through IV", meaning titles I through IV of Pub. L. 99–399, Aug. 27, 1986, 100 Stat. 855, known as the Diplomatic Security Act, which are classified principally to this chapter. For complete classification of titles I through IV of Pub. L. 99–399 to the Code, see

Short Title note set out below and Tables.

AMENDMENTS

1994—Subsec. (b)(2) to (6). Pub. L. 103–236 struck out par. (2) and redesignated pars. (3) to (6) as (2) to (5), respectively. Prior to amendment, par. (2) read as follows: "to provide for an Assistant Secretary of State to head the Bureau of Diplomatic Security of the Department of State, and to set forth certain provisions relating to the Diplomatic Security Service of the Department of State;".

1990—Subsec. (b)(5), (6). Pub. L. 101–246 added par. (5) and redesignated former par. (5) as (6).

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–236 applicable with respect to officials, offices, and bureaus of Department of State when executive orders, regulations, or departmental directives implementing the amendments by sections 161 and 162 of Pub. L. 103–236 become effective, or 90 days after Apr. 30, 1994, whichever comes earlier, see section 161(b) of Pub. L. 103–236, as amended, set out as a note under section 2651a of this title.

SHORT TITLE OF 1999 AMENDMENT

Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title VI, §601], Nov. 29, 1999, 113 Stat. 1536, 1501A–451, provided that: "This title [enacting section 4865 of this title, amending section 4831 of this title, and enacting provisions set out as notes under section 4865 of this title] may be cited as the 'Secure Embassy Construction and Counterterrorism Act of 1999'."

SHORT TITLE

Pub. L. 99–399, §1, Aug. 27, 1986, 100 Stat. 853, provided that: "This Act [enacting this chapter and sections 2656e, 2711, 2712, 2780, 3244, and 4901 to 4904 of this title, sections 5569 and 5570 of Title 5, Government Organization and Employees, sections 1051, 1095, and 2181 to 2185 of Title 10, Armed Forces, section 2331 of Title 18, Crimes and Criminal Procedure, section 1226 of Title 33, Navigation and Navigable Waters, sections 559 and 1013 of Title 37, Pay and Allowances of the Uniformed Services, sections 2160b, 2160c, and 2169 of Title 42, The Public Health and Welfare, and sections 1801 to 1809 of Title 46, Appendix, Shipping, amending sections 300, 2151a, 2349aa–2, 2349aa–4, 2349aa–7, 2502, 2652, 2708, 3929, and 3929a of this title, section 208 of Title 3, The President, sections 5315 and 6325 of Title 5, sections 2 and 11 of the Inspector General Act of 1978, Pub. L. 95–452, set out in the Appendix to Title 5, sections 793, 794, and 3671 of Title 18, and section 4605 of Title 50, War and National Defense, enacting provisions set out as notes under sections 2708 and 4901 of this title, section 5569 of Title 5, sections 133, 1051, 1095, and 2181 of Title 10, section 559 of Title 37, section 2169 of Title 42, and section 1801 of Title 46, Appendix, and amending a provision set out as a note under section 2651 of this title] may be cited as the 'Omnibus Diplomatic Security and Antiterrorism Act of 1986'."

Pub. L. 99–399, title I, §101, Aug. 27, 1986, 100 Stat. 855, provided that: "Titles I through IV of this Act [enacting this chapter and amending sections 300, 2349aa–4, 2652, 3929, and 3929a of this title, section 208 of Title 3, The President, section 5315 of Title 5, Government Organization and Employees, and sections 2 and 11 of the Inspector General Act of 1978, Pub. L. 95–452, set out in the Appendix to Title 5] may be cited as the 'Diplomatic Security Act'."

§4802. Responsibility of Secretary of State

(a) Security functions

(1) The Secretary of State shall develop and implement (in consultation with the heads of other Federal agencies having personnel or missions abroad where appropriate and within the scope of the resources made available) policies and programs, including funding levels and standards, to provide for the security of United States Government operations of a diplomatic nature and foreign government operations of a diplomatic nature in the United States. Such policies and programs shall include—

(A) protection of all United States Government personnel on official duty abroad (other than Voice of America correspondents on official assignment and those personnel under the command of a United States area military commander) and their accompanying dependents;

(B) establishment and operation of security functions at all United States Government missions abroad (other than facilities or installations subject to the control of a United States area military

commander);

(C) establishment and operation of security functions at all Department of State facilities in the United States; and

(D) protection of foreign missions, international organizations, and foreign officials and other foreign persons in the United States, as authorized by law.

(2) Security responsibilities shall include the following:

(A) Former Office of Security functions

Functions and responsibilities exercised by the Office of Security, Department of State, before November 11, 1985.

(B) Security and protective operations

(i) Establishment and operation of post security and protective functions abroad.

(ii) Development and implementation of communications, computer, and information security.

(iii) Emergency planning.

(iv) Establishment and operation of local guard services abroad.

(v) Supervision of the United States Marine Corps security guard program.

(vi) Liaison with American overseas private sector security interests.

(vii) Protection of foreign missions and international organizations, foreign officials, and diplomatic personnel in the United States, as authorized by law.

(viii) Protection of the Secretary of State and other persons designated by the Secretary of State, as authorized by law.

(ix) Physical protection of Department of State facilities, communications, and computer and information systems in the United States.

(x) Conduct of investigations relating to protection of foreign officials and diplomatic personnel and foreign missions in the United States, suitability for employment, employee security, illegal passport and visa issuance or use, and other investigations, as authorized by law.

(xi) Carrying out the rewards program for information concerning international terrorism authorized by section 2708(a) [1] of this title.

(xii) Performance of other security, investigative, and protective matters as authorized by law.

(C) Counterterrorism planning and coordination

Development and coordination of counterterrorism planning, emergency action planning, threat analysis programs, and liaison with other Federal agencies to carry out this paragraph.

(D) Security technology

Development and implementation of technical and physical security programs, including security-related construction, radio and personnel security communications, armored vehicles, computer and communications security, and research programs necessary to develop such measures.

(E) Diplomatic courier service

Management of the diplomatic courier service.

(F) Personnel training

Development of facilities, methods, and materials to develop and upgrade necessary skills in order to carry out this section.

(G) Foreign government training

Management and development of antiterrorism assistance programs to assist foreign government security training which are administered by the Department of State under chapter 8 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2349aa et seq.).

(b) Overseas evacuations

The Secretary of State shall develop and implement policies and programs to provide for the safe

and efficient evacuation of United States Government personnel, dependents, and private United States citizens when their lives are endangered. Such policies shall include measures to identify high risk areas where evacuation may be necessary and, where appropriate, providing staff to United States Government missions abroad to assist in those evacuations. In carrying out these responsibilities, the Secretary shall—

(1) develop a model contingency plan for evacuation of personnel, dependents, and United States citizens from foreign countries;

(2) develop a mechanism whereby United States citizens can voluntarily request to be placed on a list in order to be contacted in the event of an evacuation, or which, in the event of an evacuation, can maintain information on the location of United States citizens in high risk areas submitted by their relatives;

(3) assess the transportation and communications resources in the area being evacuated and determine the logistic support needed for the evacuation; and

(4) develop a plan for coordinating communications between embassy staff, Department of State personnel, and families of United States citizens abroad regarding the whereabouts of those citizens.

(c) Oversight of posts abroad

The Secretary of State shall—

(1) have full responsibility for the coordination of all United States Government personnel assigned to diplomatic or consular posts or other United States missions abroad pursuant to United States Government authorization (except for facilities, installations, or personnel under the command of a United States area military commander) [2]

(2) establish appropriate overseas staffing levels for all such posts or missions for all Federal agencies with activities abroad (except for personnel and activities under the command of a United States area military commander or regional inspector general offices under the jurisdiction of the inspector [3] General, Agency for International Development).

(d) Federal agency

As used in this subchapter and subchapter III, the term "Federal agency" includes any department or agency of the United States Government.

(Pub. L. 99–399, title I, §103, Aug. 27, 1986, 100 Stat. 856; Pub. L. 100–202, §101(e) [title II, §201], Dec. 22, 1987, 101 Stat. 1329–131, 1329–141; Pub. L. 100–461, title II, §201, Oct. 1, 1988, 102 Stat. 2268–10; Pub. L. 101–246, title I, §115(b), Feb. 16, 1990, 104 Stat. 22; Pub. L. 103–236, title I, §162(g)(2), Apr. 30, 1994, 108 Stat. 406; Pub. L. 103–415, §1(f)(4)(A)(i), Oct. 25, 1994, 108 Stat. 4300; Pub. L. 107–228, div. A, title V, §505(a), Sept. 30, 2002, 116 Stat. 1393.)

REFERENCES IN TEXT

Section 2708 of this title, referred to in subsec. (a)(2)(B)(xi), was amended generally by Pub. L. 105–323, title I, §101, Oct. 30, 1998, 112 Stat. 3029, and, as so amended, provisions authorizing awards, formerly contained in section 2708(a), are now contained in section 2708(b).

The Foreign Assistance Act of 1961, referred to in subsec. (a)(2)(G), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended. Chapter 8 of part II of the Act is classified generally to part VIII (§2349aa et seq.) of subchapter II of chapter 32 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

AMENDMENTS

2002—Subsec. (a)(1)(A). Pub. L. 107–228 inserted "Voice of America correspondents on official assignment and" after "abroad (other than".

1994—Subsec. (a). Pub. L. 103–415 substituted "operation" for "operations" in par. (2)(B)(i).

Pub. L. 103–236 designated existing provisions as par. (1), redesignated former pars. (1) to (4) as subpars. (A) to (D), respectively, and added par. (2).

1990—Subsecs. (b) to (d). Pub. L. 101–246 added subsec. (b) and redesignated former subsecs. (b) and (c) as (c) and (d), respectively.

1988—Subsec. (b)(2). Pub. L. 100–461 inserted "or regional inspector general offices under the jurisdiction

of the inspector General, Agency for International Development" after "commander", and substituted a period for "; and" at end.

Subsec. (b)(3). Pub. L. 100–461 struck out par. (3) which read as follows: "establish, notwithstanding any other provision of law, appropriate overseas staffing levels of the Regional Offices of the Inspector General of the Agency for International Development in effective consultation with the Inspector General of the Agency: *Provided*, That the authority of the Secretary of State shall be exercised only by the Secretary and shall not be delegated to a subordinate officer of the Department of State: *Provided further*, That the Inspector General must report to the appropriate committees of both Houses of the Congress within thirty days the denial by the Secretary of State of a request by the Inspector General to increase or reduce an existing position level of a regional office: *Provided further*, That the total number of positions authorized for the Office of the Inspector General in Washington and overseas shall be determined by the Inspector General within the limitation of the appropriations level provided."

1987—Subsec. (b)(3). Pub. L. 100–202 added par. (3).

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–236 applicable with respect to officials, offices, and bureaus of Department of State when executive orders, regulations, or departmental directives implementing the amendments by sections 161 and 162 of Pub. L. 103–236 become effective, or 90 days after Apr. 30, 1994, whichever comes earlier, see section 161(b) of Pub. L. 103–236, as amended, set out as a note under section 2651a of this title.

DIRECT REPORTING

Pub. L. 114–323, title I, §103, Dec. 16, 2016, 130 Stat. 1909, provided that: "The Assistant Secretary for Diplomatic Security shall report directly to the Secretary [of State], without being required to obtain the approval or concurrence of any other official of the Department [of State], as threats and circumstances require."

MARINE CORPS SECURITY GUARD PROGRAM

Pub. L. 114–323, title I, §131, Dec. 16, 2016, 130 Stat. 1914, provided that:

"(a) IN GENERAL.—Pursuant to the responsibility of the Secretary [of State] for diplomatic security under section 103 of the Diplomatic Security Act (22 U.S.C. 4802; enacted as part of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (Public Law 99–399)), the Secretary, in consultation with the Secretary of Defense, shall conduct an annual review of the Marine Corps Security Guard Program, including the following:

"(1) An evaluation of whether the size and composition of the Marine Corps Security Guard Program is adequate to meet global diplomatic security requirements.

"(2) An assessment of whether the Marine Corps security guards are appropriately deployed among United States embassies, consulates, and other diplomatic facilities to respond to evolving security developments and potential threats to United States interests abroad.

"(3) An assessment of the mission objectives of the Marine Corps Security Guard Program and the procedural rules of engagement to protect diplomatic personnel under the Program.

"(b) REPORTING REQUIREMENT.—Not later than 180 days after the date of the enactment of this Act [Dec. 16, 2016] and annually thereafter for 3 years, the Secretary, in consultation with the Secretary of Defense, shall submit to the Committee on Foreign Affairs, the Committee on Armed Services, and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations, the Committee on Armed Services, and the Committee on Appropriations of the Senate an unclassified report, with a classified annex as necessary, that addresses the requirements specified in subsection (a).

CONGRESSIONAL NOTIFICATION AND BRIEFING REQUIREMENT ON ORDERED EVACUATIONS OF UNITED STATES EMBASSIES AND CONSULATES INVOLVING SUPPORT PROVIDED BY THE DEPARTMENT OF DEFENSE

Pub. L. 114–92, div. A, title X, §1091, Nov. 25, 2015, 129 Stat. 1018, provided that:

"(a) NOTIFICATION REQUIREMENT.—The Secretary of Defense and the Secretary of State shall provide notification to the appropriate congressional committees as soon as practicable upon the initiation of an ordered evacuation of a United States embassy or consulate involving support provided by the Department of Defense.

"(b) BRIEFING REQUIREMENT.—The Secretary of Defense and the Secretary of State shall provide a briefing to the appropriate congressional committees not later than 15 days after the initiation of an ordered evacuation of a United States embassy or consulate involving support provided by the Department of Defense.

"(c) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term

'appropriate congressional committees' means—

"(1) the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives]; and

"(2) the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives."

PERSONNEL SECURITY PROGRAM FOR EMBASSIES IN HIGH INTELLIGENCE THREAT COUNTRIES

Pub. L. 100–204, title I, §155, Dec. 22, 1987, 101 Stat. 1353, provided that:

"(a) SPECIAL SECURITY PROGRAM.—The Secretary of State shall develop and implement, within three months after the date of enactment of this Act [Dec. 22, 1987], a special personnel security program for personnel of the Department of State assigned to United States diplomatic and consular posts in high intelligence threat countries who are responsible for security at those posts and for any individuals performing guard functions at those posts. Such program shall include—

"(1) selection criteria and screening to ensure suitability for assignment to high intelligence threat countries;

"(2) counterintelligence awareness and related training;

"(3) security reporting and command arrangements designed to counter intelligence threats; and

"(4) length of duty criteria and policies regarding rest and recuperative absences.

"(b) REPORT TO CONGRESS.—Not later than 6 months after the date of enactment of this subsection [Dec. 22, 1987], the Secretary of State shall report to the Congress on the special personnel security program required by subsection (a).

"(c) DEFINITION.—As used in subsection (a), the term 'high intelligence threat country' means—

"(1) a country listed as a Communist country in section 620(f) of the Foreign Assistance Act of 1961 [22 U.S.C. 2370(f)]; and

"(2) any other country designated as a high intelligence threat country for purposes of this section by the Secretary of State, the Secretary of Defense, the Director of Central Intelligence, or the Director of the Federal Bureau of Investigation."

[Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108–458, set out as a note under section 3001 of Title 50, War and National Defense.]

[1] See References in Text note below.

[2] So in original. Probably should be followed by "; and".

[3] So in original. Probably should be capitalized.

§4803. Designation of high risk, high threat posts

(a) Initial designation

Not later than 30 days after December 16, 2016, the Department of State shall submit to the appropriate congressional committees a report, in classified form, that contains a list of diplomatic and consular posts designated as high risk, high threat posts.

(b) Designations before opening or reopening posts

Before opening or reopening a diplomatic or consular post, the Secretary shall determine if such post should be designated as a high risk, high threat post.

(c) Designating existing posts

The Secretary shall regularly review existing diplomatic and consular posts to determine if any such post should be designated as a high risk, high threat post if conditions at such post or the surrounding security environment require such a designation.

(d) Definitions

In this section:

(1) Appropriate congressional committees

The term "appropriate congressional committees" means the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

(2) High risk, high threat post

The term "high risk, high threat post" means a United States diplomatic or consular post or other United States mission abroad, as determined by the Secretary, that, among other factors—

(A) is located in a country—

(i) with high to critical levels of political violence and terrorism; and

(ii) the government of which lacks the ability or willingness to provide adequate security; and

(B) has mission physical security platforms that fall below the Department of State's established standards.

(Pub. L. 99–399, title I, §104, as added Pub. L. 114–323, title I, §101(a), Dec. 16, 2016, 130 Stat. 1907.)

PRIOR PROVISIONS

A prior section 4803, Pub. L. 99–399, title I, §104(a), Aug. 27, 1986, 100 Stat. 856, established Bureau of Diplomatic Security in Department of State, prior to repeal by Pub. L. 103–236, title I, §162(g)(3), Apr. 30, 1994, 108 Stat. 407.

A prior section 104 of Pub. L. 99–399, enacted this section, and amended former section 2652 of this title and section 5315 of Title 5, Government Organization and Employees, prior to repeal by Pub. L. 103–236, title I, §162(g)(3), Apr. 30, 1994, 108 Stat. 407.

§4804. Briefings on embassy security

(a) Briefing

The Secretary shall provide monthly briefings to the appropriate congressional committees on—

(1) any plans to open or reopen a high risk, high threat post, including—

(A) the importance and appropriateness of the objectives of the proposed post to the national security of the United States, and the type and level of security threats such post could encounter;

(B) working plans to expedite the approval and funding for establishing and operating such post, implementing physical security measures, providing necessary security and management personnel, and the provision of necessary equipment;

(C) security "tripwires" that would determine specific action, including enhanced security measures or evacuation of such post, based on the improvement or deterioration of the local security environment; and

(D) in coordination with the Secretary of Defense, an evaluation of available United States military assets and operational plans to respond to such posts in extremis;

(2) personnel staffing and rotation cycles at high risk, high threat posts;

(3) the current security posture at posts of particular concern as determined by such committees; and

(4) the progress towards implementation of the provisions specified in title I of the Department of State Authorities Act, Fiscal Year 2017.

(b) Congressional notification

(1) In general

Except as provided in paragraph (2), not later than 30 days before opening or reopening a high risk, high threat post, the Secretary shall notify the appropriate congressional committees of the decision to open or reopen such post.

(2) Emergency circumstances

If the Secretary determines that the national security interests of the United States require the opening or reopening of a high risk, high threat post in fewer than 30 days, then as soon as possible, but not later than 48 hours before such opening or reopening, the Secretary shall transmit to the appropriate congressional committees a notification detailing the decision to open or reopen such post, the nature of the critical national security interests at stake, and the circumstances that prevented the normal 30-day notice under paragraph (1).

(c) Appropriate congressional committees

In this section, the term "appropriate congressional committees" means—

(1) the Committee on Foreign Affairs, the Committee on Armed Services, the Permanent Select Committee on Intelligence, and the Committee on Appropriations of the House of Representatives; and

(2) the Committee on Foreign Relations, the Committee on Armed Services, the Select Committee on Intelligence, and the Committee on Appropriations of the Senate.

(Pub. L. 99–399, title I, §105, as added Pub. L. 114–323, title I, §101(a), Dec. 16, 2016, 130 Stat. 1908.)

REFERENCES IN TEXT

Title I of the Department of State Authorities Act, Fiscal Year 2017, referred to in subsec. (a)(4), is title I of Pub. L. 114–323, Dec. 16, 2016, 130 Stat. 1907, which enacted this section and sections 304, 2679d, 4803, and 4866 to 4868 of this title, amended sections 292, 295, 2701, 4834, 4864, and 4865 of this title, enacted provisions set out as notes under sections 4802 and 4834 of this title, and amended provisions set out as a note under section 4865 of this title.

PRIOR PROVISIONS

A prior section 4804, Pub. L. 99–399, title I, §105, Aug. 27, 1986, 100 Stat. 856, set out responsibilities of Assistant Secretary of State for Diplomatic Security, prior to repeal by Pub. L. 103–236, title I, §162(g)(4), Apr. 30, 1994, 108 Stat. 407.

§4805. Cooperation of other Federal agencies

(a) Assistance

In order to facilitate fulfillment of the responsibilities described in section 4802(a) of this title, other Federal agencies shall cooperate (through agreements) to the maximum extent possible with the Secretary of State. Such agencies may, with or without reimbursement, provide assistance to the Secretary, perform security inspections, provide logistical support relating to the differing missions and facilities of other Federal agencies, and perform other overseas security functions as may be authorized by the Secretary. Specifically, the Secretary may agree to delegate operational control of overseas security functions of other Federal agencies to the heads of such agencies, subject to the Secretary's authority as set forth in section 4802(a) of this title. The agency head receiving such delegated authority shall be responsible to the Secretary in the exercise of the delegated operational control.

(b) Other agencies

Nothing contained in this chapter shall be construed to limit or impair the authority or responsibility of any other Federal, State, or local agency with respect to law enforcement, domestic security operations, or intelligence activities as defined in Executive Order 12333.

(c) Certain lease arrangements

The Administrator of General Services is authorized to lease (to such extent or in such amounts as

are provided in appropriation Acts) such amount of space in the United States as may be necessary for the Department of State to accommodate the personnel required to carry out this subchapter. The Department of State shall pay for such space at the rate established by the Administrator of General Services for space and related services.

(Pub. L. 99–399, title I, §106, Aug. 27, 1986, 100 Stat. 857.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original "titles I through IV", meaning titles I through IV of Pub. L. 99–399, Aug. 27, 1986, 100 Stat. 855, known as the Diplomatic Security Act, which are classified principally to this chapter. For complete classification of titles I through IV of Pub. L. 99–399 to the Code, see Short Title note set out under section 4801 of this title and Tables.

Executive Order 12333, referred to in subsec. (b), is Ex. Ord. No. 12333, Dec. 4, 1981, 46 F.R. 59941, which is set out as a note under section 3001 of Title 50, War and National Defense.

§4806. Protection of foreign consulates

The Secretary of State shall take into account security considerations in making determinations with respect to accreditation of all foreign consular personnel in the United States.

(Pub. L. 99–399, title I, §107, Aug. 27, 1986, 100 Stat. 858; Pub. L. 103–236, title I, §162(g)(5), Apr. 30, 1994, 108 Stat. 407.)

AMENDMENTS

1994—Pub. L. 103–236 substituted "The Secretary of State shall take into account security considerations" for "The Chief of Protocol of the Department of State shall consult with the Assistant Secretary of Diplomatic Security".

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–236 applicable with respect to officials, offices, and bureaus of Department of State when executive orders, regulations, or departmental directives implementing the amendments by sections 161 and 162 of Pub. L. 103–236 become effective, or 90 days after Apr. 30, 1994, whichever comes earlier, see section 161(b) of Pub. L. 103–236, as amended, set out as a note under section 2651a of this title.

§4807. Establishment of Visa and Passport Security Program in the Department of State

(a) Establishment

There is established, within the Bureau of Diplomatic Security of the Department of State, the Visa and Passport Security Program (in this section referred to as the "Program").

(b) Preparation of strategic plan

(1) In general

The Assistant Secretary for Diplomatic Security, in coordination with the appropriate officials of the Bureau of Consular Affairs, the coordinator for counterterrorism, the National Counterterrorism Center, and the Department of Homeland Security, and consistent with the strategy mandated by section 7201,[1] shall ensure the preparation of a strategic plan to target and disrupt individuals and organizations, within the United States and in foreign countries, that are involved in the fraudulent production, distribution, use, or other similar activity—

(A) of a United States visa or United States passport;

(B) of documents intended to help fraudulently procure a United States visa or United States passport, or other documents intended to gain unlawful entry into the United States; or

(C) of passports and visas issued by foreign countries intended to gain unlawful entry into the United States.

(2) Emphasis

The strategic plan shall—

(A) focus particular emphasis on individuals and organizations that may have links to domestic terrorist organizations or foreign terrorist organizations (as such term is defined in section 1189 of title 8);

(B) require the development of a strategic training course under the Antiterrorism Assistance Training (ATA) program of the Department of State (or any successor or related program) under chapter 8 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2349aa et seq.) (or other relevant provisions of law) to train participants in the identification of fraudulent documents and the forensic detection of such documents which may be used to obtain unlawful entry into the United States; and

(C) determine the benefits and costs of providing technical assistance to foreign governments to ensure the security of passports, visas, and related documents and to investigate, arrest, and prosecute individuals who facilitate travel by the creation of false passports and visas, documents to obtain such passports and visas, and other types of travel documents.

(c) Program

(1) Individual in charge

(A) Designation

The Assistant Secretary for Diplomatic Security shall designate an individual to be in charge of the Program.

(B) Qualification

The individual designated under subparagraph (A) shall have expertise and experience in the investigation and prosecution of visa and passport fraud.

(2) Program components

The Program shall include the following:

(A) Analysis of methods

Analyze, in coordination with other appropriate government agencies, methods used by terrorists to travel internationally, particularly the use of false or altered travel documents to illegally enter foreign countries and the United States, and consult with the Bureau of Consular Affairs and the Secretary of Homeland Security on recommended changes to the visa issuance process that could combat such methods, including the introduction of new technologies into such process.

(B) Identification of individuals and documents

Identify, in cooperation with the Human Trafficking and Smuggling Center, individuals who facilitate travel by the creation of false passports and visas, documents used to obtain such passports and visas, and other types of travel documents, and ensure that the appropriate agency is notified for further investigation and prosecution or, in the case of such individuals abroad for which no further investigation or prosecution is initiated, ensure that all appropriate information is shared with foreign governments in order to facilitate investigation, arrest, and prosecution of such individuals.

(C) Identification of foreign countries needing assistance

Identify foreign countries that need technical assistance, such as law reform, administrative reform, prosecutorial training, or assistance to police and other investigative services, to ensure passport, visa, and related document security and to investigate, arrest, and prosecute individuals who facilitate travel by the creation of false passports and visas, documents used to obtain such passports and visas, and other types of travel documents.

(D) Inspection of applications

Randomly inspect visa and passport applications for accuracy, efficiency, and fraud,

especially at high terrorist threat posts, in order to prevent a recurrence of the issuance of visas to those who submit incomplete, fraudulent, or otherwise irregular or incomplete applications.

(d) Report

Not later than 90 days after the date on which the strategy required under section 7201 [1] is submitted to Congress, the Assistant Secretary for Diplomatic Security shall submit to Congress a report containing—

(1) a description of the strategic plan prepared under subsection (b); and

(2) an evaluation of the feasibility of establishing civil service positions in field offices of the Bureau of Diplomatic Security to investigate visa and passport fraud, including an evaluation of whether to allow diplomatic security agents to convert to civil service officers to fill such positions.

(Pub. L. 108–458, title VII, §7218, Dec. 17, 2004, 118 Stat. 3833.)

REFERENCES IN TEXT

Section 7201, referred to in subsecs. (b)(1) and (d), is section 7201 of Pub. L. 108–458, which enacted section 1776 of Title 8, Aliens and Nationality, and provisions set out as notes under section 1776 of Title 8 and sections 3024 and 3056 of Title 50, War and National Defense.

The Foreign Assistance Act of 1961, referred to in subsec. (b)(2)(B), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended. Chapter 8 of part II of the Act is classified generally to part VIII (§2349aa et seq.) of subchapter II of chapter 32 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

CODIFICATION

Section was enacted as part of the Intelligence Reform and Terrorism Prevention Act of 2004, and also as part of the 9/11 Commission Implementation Act of 2004, and not as part of the Diplomatic Security Act which comprises this chapter.

[1] *See References in Text note below.*

SUBCHAPTER II—PERSONNEL

§4821. Diplomatic Security Service

The Secretary of State may establish a Diplomatic Security Service, which shall perform such functions as the Secretary may determine.

(Pub. L. 99–399, title II, §201, Aug. 27, 1986, 100 Stat. 858; Pub. L. 103–236, title I, §162(g)(7), Apr. 30, 1994, 108 Stat. 407.)

AMENDMENTS

1994—Pub. L. 103–236 amended section generally. Prior to amendment, section read as follows: "There shall be, within the Bureau of Diplomatic Security, the Diplomatic Security Service. The Diplomatic Security Service shall perform such functions as may be assigned to it by the Secretary of State."

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–236 applicable with respect to officials, offices, and bureaus of Department of State when executive orders, regulations, or departmental directives implementing the amendments by sections 161 and 162 of Pub. L. 103–236 become effective, or 90 days after Apr. 30, 1994, whichever comes earlier, see section 161(b) of Pub. L. 103–236, as amended, set out as a note under section 2651a of this title.

§4822. Director of Diplomatic Security Service

Any such Diplomatic Security Service should be headed by a Director designated by the Secretary

of State. The Director should be a career member of the Senior Foreign Service or the Senior Executive Service and should be qualified for the position by virtue of demonstrated ability in the areas of security, law enforcement, management, and public administration. Experience in management or operations abroad should be considered an affirmative factor in the selection of the Director.

(Pub. L. 99–399, title II, §202, Aug. 27, 1986, 100 Stat. 858; Pub. L. 103–236, title I, §162(g)(8), Apr. 30, 1994, 108 Stat. 407.)

AMENDMENTS

1994—Pub. L. 103–236 substituted "Any such" for "The" in first sentence, struck out last sentence which read as follows: "The Director shall act under the supervision and direction of the Assistant Secretary for Diplomatic Security.", and directed the substitution of "should" for "shall" in first, third, and fourth sentences, which was executed to first, second, and third sentences to reflect the probable intent of Congress and the striking out of last sentence which also was the fourth sentence. See H.Rept. 103–126, pp. 168, 169.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–236 applicable with respect to officials, offices, and bureaus of Department of State when executive orders, regulations, or departmental directives implementing the amendments by sections 161 and 162 of Pub. L. 103–236 become effective, or 90 days after Apr. 30, 1994, whichever comes earlier, see section 161(b) of Pub. L. 103–236, as amended, set out as a note under section 2651a of this title.

§4823. Special agents

Special agent positions shall be filled in accordance with the provisions of the Foreign Service Act of 1980 (22 U.S.C. 3901 et seq.) and title 5. In filling such positions, the Secretary of State shall actively recruit women and members of minority groups. The Secretary of State shall prescribe the qualifications required for assignment or appointment to such positions. The qualifications may include minimum and maximum entry age restrictions and other physical standards and shall incorporate such standards as may be required by law in order to perform security functions, to bear arms, and to exercise investigatory, warrant, arrest, and such other authorities as are available by law to special agents of the Department of State and the Foreign Service.

(Pub. L. 99–399, title II, §203, Aug. 27, 1986, 100 Stat. 858; Pub. L. 103–236, title I, §162(g)(9), Apr. 30, 1994, 108 Stat. 407.)

REFERENCES IN TEXT

The Foreign Service Act of 1980, referred to in text, is Pub. L. 96–465, Oct. 17, 1980, 94 Stat. 2071, as amended, which is classified principally to chapter 52 (§3901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3901 of this title and Tables.

AMENDMENTS

1994—Pub. L. 103–236 amended section catchline to read "Special agents" and in text substituted "Special agent positions" for "Positions in the Diplomatic Security Service" and "The qualifications" for "In the case of positions designated for special agents, the qualifications".

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–236 applicable with respect to officials, offices, and bureaus of Department of State when executive orders, regulations, or departmental directives implementing the amendments by sections 161 and 162 of Pub. L. 103–236 become effective, or 90 days after Apr. 30, 1994, whichever comes earlier, see section 161(b) of Pub. L. 103–236, as amended, set out as a note under section 2651a of this title.

§4824. Contracting authority

The Secretary of State is authorized to employ individuals or organizations by contract to carry out the purposes of this Act, and individuals employed by contract to perform such services shall not by virtue of such employment be considered to be employees of the United States Government for

purposes of any law administered by the Office of Personnel Management (except that the Secretary may determine the applicability to such individuals of any law administered by the Secretary concerning the employment of such individuals); and such contracts are authorized to be negotiated, the terms of the contracts to be prescribed, and the work to be performed, where necessary, without regard to such statutory provisions as relate to the negotiation, making and performance of contracts and performance of work in the United States.

(Pub. L. 99–399, title II, §206, as added Pub. L. 105–277, div. C, title I, §104, Oct. 21, 1998, 112 Stat. 2681–586.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 99–399, Aug. 27, 1986, 100 Stat. 853, known as the Omnibus Diplomatic Security and Antiterrorism Act of 1986. For complete classification of this Act to the Code, see Short Title note set out under section 4801 of this title and Tables.

SUBCHAPTER III—PERFORMANCE AND ACCOUNTABILITY

§4831. Accountability Review Boards

(a) In general

(1) Convening a Board

Except as provided in paragraphs (2) and (3), in any case of serious injury, loss of life, or significant destruction of property at, or related to, a United States Government mission abroad, and in any case of a serious breach of security involving intelligence activities of a foreign government directed at a United States Government mission abroad, which is covered by the provisions of this chapter (other than a facility or installation subject to the control of a United States area military commander), the Secretary of State shall convene an Accountability Review Board (in this subchapter referred to as the "Board"). The Secretary shall not convene a Board where the Secretary determines that a case clearly involves only causes unrelated to security.

(2) Department of Defense facilities and personnel

The Secretary of State is not required to convene a Board in the case of an incident described in paragraph (1) that involves any facility, installation, or personnel of the Department of Defense with respect to which the Secretary has delegated operational control of overseas security functions to the Secretary of Defense pursuant to section 4805 of this title. In any such case, the Secretary of Defense shall conduct an appropriate inquiry. The Secretary of Defense shall report the findings and recommendations of such inquiry, and the action taken with respect to such recommendations, to the Secretary of State and Congress.

(3) Facilities in Afghanistan and Iraq

(A) Limited exemptions from requirement to convene Board

The Secretary of State is not required to convene a Board in the case of an incident that—

(i) involves serious injury, loss of life, or significant destruction of property at, or related to, a United States Government mission in Afghanistan or Iraq; and

(ii) occurs during the period beginning on October 1, 2005, and ending on September 30, 2009.

(B) Reporting requirements

In the case of an incident described in subparagraph (A), the Secretary shall—

(i) promptly notify the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate of the incident;

(ii) conduct an inquiry of the incident; and

(iii) upon completion of the inquiry required by clause (ii), submit to each such Committee a report on the findings and recommendations related to such inquiry and the actions taken with respect to such recommendations.

(b) Deadlines for convening Boards

(1) In general

Except as provided in paragraph (2), the Secretary of State shall convene a Board not later than 60 days after the occurrence of an incident described in subsection (a)(1), except that such 60-day period may be extended for one additional 60-day period if the Secretary determines that the additional period is necessary for the convening of the Board.

(2) Delay in cases involving intelligence activities

With respect to breaches of security involving intelligence activities, the Secretary of State may delay the establishment of a Board if, after consultation with the chairman of the Select Committee on Intelligence of the Senate and the chairman of the Permanent Select Committee on Intelligence of the House of Representatives, the Secretary determines that the establishment of a Board would compromise intelligence sources or methods. The Secretary shall promptly advise the chairmen of such committees of each determination pursuant to this paragraph to delay the establishment of a Board.

(c) Notification to Congress

Whenever the Secretary of State convenes a Board, the Secretary shall promptly inform the chairman of the Committee on Foreign Relations of the Senate and the Speaker of the House of Representatives—

(1) that a Board has been convened;

(2) of the membership of the Board; and

(3) of other appropriate information about the Board.

(Pub. L. 99–399, title III, §301, Aug. 27, 1986, 100 Stat. 859; Pub. L. 100–204, title I, §156(a), Dec. 22, 1987, 101 Stat. 1354; Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title VI, §608], Nov. 29, 1999, 113 Stat. 1536, 1501A–458; Pub. L. 109–140, §3, Dec. 22, 2005, 119 Stat. 2650.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(1), was in the original "titles I through IV", meaning titles I through IV of Pub. L. 99–399, Aug. 27, 1986, 100 Stat. 855, known as the Diplomatic Security Act, which is classified principally to this chapter. For complete classification of titles I through IV of Pub. L. 99–399 to the Code, see Short Title note set out under section 4801 of this title and Tables.

AMENDMENTS

2005—Subsec. (a)(1). Pub. L. 109–140, §3(1), substituted "paragraphs (2) and (3)" for "paragraph (2)".
Subsec. (a)(3). Pub. L. 109–140, §3(2), added par. (3).

1999—Pub. L. 106–113 substituted "Review Boards" for "review" in section catchline and amended text generally. Prior to amendment, text read as follows: "In any case of serious injury, loss of life, or significant destruction of property at or related to a United States Government mission abroad, and in any case of a serious breach of security involving intelligence activities of a foreign government directed at a United States Government mission abroad, which is covered by the provisions of this chapter (other than a facility or installation subject to the control of a United States area military commander), the Secretary of State shall convene an Accountability Review Board (hereafter in this subchapter referred to as the 'Board'). With respect to breaches of security involving intelligence activities, the Secretary of State may delay establishing an Accountability Review Board if, after consultation with the Chairman of the Select Committee on Intelligence of the Senate and the Chairman of the Permanent Select Committee on Intelligence of the House of Representatives, the Secretary determines that doing so would compromise intelligence sources and methods. The Secretary shall promptly advise the Chairmen of such committees of each determination pursuant to this section to delay the establishment of an Accountability Review Board. The Secretary shall not convene a Board where the Secretary determines that a case clearly involves only causes unrelated to security."

1987—Pub. L. 100–204 inserted ", and in any case of a serious breach of security involving intelligence activities of a foreign government directed at a United States Government mission abroad," after "mission

abroad" in first sentence, and inserted after first sentence "With respect to breaches of security involving intelligence activities, the Secretary of State may delay establishing an Accountability Review Board if, after consultation with the Chairman of the Select Committee on Intelligence of the Senate and the Chairman of the Permanent Select Committee on Intelligence of the House of Representatives, the Secretary determines that doing so would compromise intelligence sources and methods. The Secretary shall promptly advise the Chairmen of such committees of each determination pursuant to this section to delay the establishment of an Accountability Review Board."

CHANGE OF NAME

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

CONTINUATION OF REVIEW BOARDS FOR FACILITIES IN AFGHANISTAN AND IRAQ

Pub. L. 114–113, div. K, title VII, §7034(k)(2), Dec. 18, 2015, 129 Stat. 2764, provided that: "The authority provided by section 301(a)(3) of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (22 U.S.C. 4831(a)(3)) shall remain in effect for facilities in Afghanistan through September 30, 2016, except that the notification and reporting requirements contained in such section shall include the Committees on Appropriations."

Prior continuations were contained in the following prior acts:
Pub. L. 113–235, div. J, title VII, §7034(l)(2), Dec. 16, 2014, 128 Stat. 2625.
Pub. L. 113–76, div. K, title VII, §7034(m)(2), Jan. 17, 2014, 128 Stat. 515.
Pub. L. 112–74, div. I, title VII, §7034(m)(2), Dec. 23, 2011, 125 Stat. 1216.
Pub. L. 111–117, div. F, title VII, §7034(r), Dec. 16, 2009, 123 Stat. 3363.

§4832. Accountability Review Board

(a) Membership

A Board shall consist of five members, 4 appointed by the Secretary of State, and 1 appointed by the Director of Central Intelligence. The Secretary of State shall designate the Chairperson of the Board. Members of the Board who are not Federal officers or employees shall each be paid at a rate not to exceed the maximum rate of basic pay payable for level GS–18 of the General Schedule for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Board. Members of the Board who are Federal officers or employees shall receive no additional pay by reason of such membership.

(b) Facilities, services, supplies, and staff

(1) Supplied by Department of State

A Board shall obtain facilities, services, and supplies through the Department of State. All expenses of the Board, including necessary costs of travel, shall be paid by the Department of State. Travel expenses authorized under this paragraph shall be paid in accordance with subchapter I of chapter 57 of title 5 or other applicable law.

(2) Detail

At the request of a Board, employees of the Department of State or other Federal agencies, members of the Foreign Service, or members of the uniformed services may be temporarily assigned, with or without reimbursement, to assist the Board.

(3) Experts and consultants

A Board may employ and compensate (in accordance with section 3109 of title 5) such experts and consultants as the Board considers necessary to carry out its functions. Experts and consultants so employed shall be responsible solely to the Board.

(Pub. L. 99–399, title III, §302, Aug. 27, 1986, 100 Stat. 859.)

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government

Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

CHANGE OF NAME

Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108–458, set out as a note under section 3001 of Title 50, War and National Defense.

§4833. Procedures

(a) Evidence

(1) United States Government personnel and contractors

(A) With respect to any individual described in subparagraph (B), a Board may—

(i) administer oaths and affirmations;

(ii) require that depositions be given and interrogatories answered; and

(iii) require the attendance and presentation of testimony and evidence by such individual.

Failure of any such individual to comply with a request of the Board shall be grounds for disciplinary action by the head of the Federal agency in which such individual is employed or serves, or in the case of a contractor, debarment.

(B) The individuals referred to in subparagraph (A) are—

(i) employees as defined by section 2105 of title 5 (including members of the Foreign Service);

(ii) members of the uniformed services as defined by section 101(3) of title 37;

(iii) employees of instrumentalities of the United States; and

(iv) individuals employed by any person or entity under contract with agencies or instrumentalities of the United States Government to provide services, equipment, or personnel.

(2) Other persons

With respect to a person who is not described in paragraph (1)(B), a Board may administer oaths and affirmations and require that depositions be given and interrogatories answered.

(3) Subpoenas

(A) The Board may issue a subpoena for the attendance and testimony of any person (other than a person described in clause (i), (ii), or (iii) of paragraph (1)(B)) and the production of documentary or other evidence from any such person if the Board finds that such a subpoena is necessary in the interests of justice for the development of relevant evidence.

(B) In the case of contumacy or refusal to obey a subpoena issued under this paragraph, a court of the United States within the jurisdiction of which a person is directed to appear or produce information, or within the jurisdiction of which the person is found, resides, or transacts business, may upon application of the Attorney General, issue to such person an order requiring such person to appear before the Board to give testimony or produce information as required by the subpoena.

(C) Subpoenaed witnesses shall be paid the same fee and mileage allowances which are paid subpoenaed witnesses in the courts of the United States.

(b) Confidentiality

A Board shall adopt for administrative proceedings under this subchapter such procedures with respect to confidentiality as may be deemed necessary, including procedures relating to the conduct of closed proceedings or the submission and use of evidence in camera, to ensure in particular the protection of classified information relating to national defense, foreign policy, or intelligence matters. The Director of Central Intelligence shall establish the level of protection required for

intelligence information and for information relating to intelligence personnel, including standards for secure storage.

(c) Records

Records pertaining to administrative proceedings under this subchapter shall be separated from all other records of the Department of State and shall be maintained under appropriate safeguards to preserve confidentiality and classification of information. Such records shall be prohibited from disclosure to the public until such time as a Board completes its work and is dismissed. The Department of State shall turn over to the Director of Central Intelligence intelligence information and information relating to intelligence personnel which shall then become records of the Central Intelligence Agency. After that time, only such exemptions from disclosure under section 552(b) of title 5 (relating to freedom of information), as apply to other records of the Department of State, and to any information transmitted under section 4834(c) of this title to the head of a Federal agency or instrumentality, shall be available for the remaining records of the Board.

(d) Status of Boards

The provisions of the Federal Advisory Committee Act (5 U.S.C. App. 1 et seq.) and section 552b of title 5 (relating to open meetings) shall not apply to any Board.

(Pub. L. 99–399, title III, §303, Aug. 27, 1986, 100 Stat. 859.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (d), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

CHANGE OF NAME

Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108–458, set out as a note under section 3001 of Title 50, War and National Defense.

§4834. Findings and recommendations by a Board

(a) Findings

A Board convened in any case shall examine the facts and circumstances surrounding the serious injury, loss of life, or significant destruction of property at or related to a United States Government mission abroad or surrounding the serious breach of security involving intelligence activities of a foreign government directed at a United States Government mission abroad (as the case may be) and shall make written findings determining—

(1) the extent to which the incident or incidents with respect to which the Board was convened was security related;

(2) whether the security systems and security procedures at that mission were adequate;

(3) whether the security systems and security procedures were properly implemented;

(4) the impact of intelligence and information availability; and

(5) such other facts and circumstances which may be relevant to the appropriate security management of United States missions abroad.

(b) Program recommendations

A Board shall submit its findings (which may be classified to the extent deemed necessary by the Board) to the Secretary of State, together with recommendations as appropriate to improve the security and efficiency of any program or operation which the Board has reviewed.

(c) Personnel recommendations

If a Board finds reasonable cause to believe that an individual described in section 4833(a)(1)(B)

of this title has engaged in misconduct or unsatisfactorily performed the duties of employment of that individual, and such misconduct or unsatisfactory performance has significantly contributed to the serious injury, loss of life, or significant destruction of property, or the serious breach of security that is the subject of the Board's examination as described in subsection (a), the Board shall—

(1) notify the individual concerned,

(2) transmit the findings of reasonable cause, together with all information relevant to such findings, to the head of the appropriate Federal agency or instrumentality, and

(3) recommend that such agency or instrumentality initiate an appropriate investigatory or disciplinary action.

In determining whether an individual has engaged in misconduct or unsatisfactorily performed the duties of employment of that individual as described in this subsection, the Board shall take into account any standard of conduct, law, rule, regulation, contract, or order which is pertinent.

(d) Reports

(1) Program recommendations

In any case in which a Board transmits recommendations to the Secretary of State under subsection (b), the Secretary shall, not later than 90 days after the receipt of such recommendations, submit a report to the Congress on each such recommendation and the action taken with respect to that recommendation.

(2) Personnel recommendations

In any case in which a Board transmits a finding of reasonable cause under subsection (c), the head of the Federal agency or instrumentality receiving the information shall review the evidence and recommendations and shall, not later than 30 days after the receipt of that finding, transmit to the Congress a report specifying—

(A) the nature of the case and a summary of the evidence transmitted by the Board; and

(B) the decision by the Federal agency or instrumentality to take disciplinary or other appropriate action against that individual or the reasons for deciding not to take disciplinary or other action with respect to that individual.

(Pub. L. 99–399, title III, §304, Aug. 27, 1986, 100 Stat. 861; Pub. L. 100–204, title I, §156(b), Dec. 22, 1987, 101 Stat. 1354; Pub. L. 114–323, title I, §104(a), Dec. 16, 2016, 130 Stat. 1909.)

AMENDMENTS

2016—Subsec. (c). Pub. L. 114–323, §104(a)(3), in concluding provisions, substituted "has engaged in misconduct or unsatisfactorily performed the duties of employment of that individual as described in this subsection" for "has breached a duty of that individual" and struck out "to the performance of the duties of that individual" after "pertinent".

Pub. L. 114–323, §104(a)(1), in introductory provisions, substituted "If" for "Whenever" and "has engaged in misconduct or unsatisfactorily performed the duties of employment of that individual, and such misconduct or unsatisfactory performance has significantly contributed to the serious injury, loss of life, or significant destruction of property, or the serious breach of security that is the subject of the Board's examination as described in subsection (a)" for "has breached the duty of that individual".

Subsec. (c)(2). Pub. L. 114–323, §104(a)(2), substituted "findings" for "finding" in two places.

1987—Subsec. (a). Pub. L. 100–204 inserted "or surrounding the serious breach of security involving intelligence activities of a foreign government directed at a United States Government mission abroad (as the case may be)" after first reference to "mission abroad".

EFFECTIVE DATE OF 2016 AMENDMENT

Pub. L. 114–323, title I, §104(b), Dec. 16, 2016, 130 Stat. 1910, provided that: "The amendments made by subsection (a) [amending this section] shall apply with respect to any Accountability Review Board that is convened under section 301 of the Diplomatic Security Act (22 U.S.C. 4831) on or after the date of the enactment of this Act [Dec. 16, 2016]."

§4835. Relation to other proceedings

Nothing in this subchapter shall be construed to create administrative or judicial review remedies or rights of action not otherwise available by law, nor shall any provision of this subchapter be construed to deprive any person of any right or legal defense which would otherwise be available to that person under any law, rule, or regulation.

(Pub. L. 99–399, title III, §305, Aug. 27, 1986, 100 Stat. 862.)

SUBCHAPTER IV—DIPLOMATIC SECURITY PROGRAM

§4851. Authorization

(a) Diplomatic security program

(1) In general

In addition to amounts otherwise available for such purposes, the following amounts are authorized to be appropriated for fiscal years 1986 and 1987, for the Department of State to carry out diplomatic security construction, acquisition, and operations pursuant to the Department of State's Supplemental Diplomatic Security Program, as justified to the Congress for the respective fiscal year for "Administration of Foreign Affairs", as follows:

(A) For "Salaries and Expenses", $308,104,000.

(B) For "Acquisition and Maintenance of Buildings Abroad", $857,806,000.

(C) For "Counterterrorism Research and Development", $15,000,000.

(2) Omitted

(3) Repealed. Pub. L. 103–236, title I, §101(c), Apr. 30, 1994, 108 Stat. 388

(4) Allocation of amounts authorized to be appropriated

Amounts authorized to be appropriated by this subsection, and by the amendment made by paragraph (2), shall be allocated as provided in the table entitled "Diplomatic Security Program" relating to this section which appears in the Joint Explanatory Statement of the Committee of Conference to accompany H.R. 4151 of the 99th Congress (the Omnibus Diplomatic Security and Antiterrorism Act of 1986).

(b) Notification to authorizing Committees of requests for appropriations

In any fiscal year, whenever the Secretary of State submits to the Congress a request for appropriations to carry out the program described in subsection (a), the Secretary shall notify the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate of such request, together with a justification of each item listed in such request.

(c) Repealed. Pub. L. 103–236, title I, §122(b), Apr. 30, 1994, 108 Stat. 392

(d) Prohibition on reallocations of authorizations

Section 2696(d) of this title shall not apply with respect to any amounts authorized to be appropriated under this section.

(e) Security requirements of other foreign affairs agencies

Based solely on security requirements and within the total amount of funds available for security, the Secretary of State shall ensure that an equitable level of funding is provided for the security requirements of other foreign affairs agencies.

(f) Insufficiency of funds

In the event that sufficient funds are not available in any fiscal year for all of the diplomatic

security construction, acquisition, and operations pursuant to the Department of State's Supplemental Diplomatic Security Program, as justified to the Congress for such fiscal year, the Secretary of State shall report to the Congress the effect that the insufficiency of funds will have with respect to the Department of State and each of the other foreign affairs agencies.

(g) Allocation of funds for certain security programs

Of the amount of funds authorized to be appropriated by subsection (a)(1)(A), $34,537,000 shall be available to the Secretary of State only for the protection of classified office equipment, the expansion of information systems security, and the hiring of American systems managers and operators for computers at high threat locations.

(h) Furniture, furnishings, and equipment

(1) Use of existing furniture, furnishings, and equipment

If physically possible, facilities constructed or acquired pursuant to subsection (a) shall be furnished and equipped with the furniture, furnishings, and equipment that were being used in the facilities being replaced, rather than with newly acquired furniture, furnishings, and equipment.

(2) Omitted

(3) Repealed. Pub. L. 103–236, title I, §122(b), Apr. 30, 1994, 108 Stat. 392

(Pub. L. 99–399, title IV, §401, Aug. 27, 1986, 100 Stat. 862; Pub. L. 100–204, title I, §101(c), Dec. 22, 1987, 101 Stat. 1336; Pub. L. 103–236, title I, §§101(c), 122(b), Apr. 30, 1994, 108 Stat. 388, 392.)

REFERENCES IN TEXT

The amendment made by paragraph (2), referred to in subsec. (a)(4), is the amendment made by section 401(a)(2) of Pub. L. 99–399 to section 2349aa–4 of this title.

H.R. 4151 of the 99th Congress (the Omnibus Diplomatic Security and Antiterrorism Act of 1986), referred to in subsec. (a)(4), as enacted into law, is Pub. L. 99–399, Aug. 27, 1986, 100 Stat. 853. The Joint Explanatory Statement of the Committee of Conference to accompany H.R. 4151 is set forth in H. Rept. No. 99–783, 99th Congress.

CODIFICATION

Section is comprised of section 401 of Pub. L. 99–399. Subsecs. (a)(2) and (h)(2) of section 401 of Pub. L. 99–399 amended sections 2349aa–4 and 300, respectively, of this title.

AMENDMENTS

1994—Subsec. (a)(3). Pub. L. 103–236, §101(c), struck out heading and text of par. (3). Text read as follows: "There is authorized to be appropriated for the Department of State for 'Acquisition and Maintenance of Buildings Abroad' for each of the fiscal years 1988 through 1990, $417,962,000 to carry out diplomatic security construction, acquisition, and operations pursuant to the Department of State's Supplemental Diplomatic Security Program. Authorizations of appropriations under this paragraph shall remain available until the appropriations are made."

Subsec. (c). Pub. L. 103–236, §122(b), struck out heading and text of subsec. (c). Text read as follows: "Amounts made available for capital projects pursuant to subsection (a) of this section shall be treated as a reprogramming of funds under section 2706 of this title and shall not be available for obligation or expenditure except in compliance with the procedures applicable to such reprogramming."

Subsec. (h)(3). Pub. L. 103–236, §122(b), struck out heading and text of par. (3). Text read as follows: "Amounts made available for furniture, furnishings, and equipment pursuant to subsection (a) of this section shall be treated as a reprogramming of funds under section 2706 of this title and shall not be available for obligation or expenditure except in compliance with the procedures applicable to such reprogramming."

1987—Subsec. (a)(3). Pub. L. 100–204 inserted sentence at end providing that authorizations of appropriations under this paragraph remain available until appropriations are made.

EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103–236, title I, §101(c), Apr. 30, 1994, 108 Stat. 388, provided that the amendment made by that section is effective Oct. 1, 1995.

CONSTRUCTION SECURITY CERTIFICATION

Pub. L. 100–204, title I, §160, Dec. 22, 1987, 101 Stat. 1356, as amended by Pub. L. 101–246, title I, §135, Feb. 16, 1990, 104 Stat. 33, provided that:

"(a) CERTIFICATION.—Before undertaking any new construction or major renovation project in any foreign facility intended for the storage of classified materials or the conduct of classified activities, or approving occupancy of a similar facility for which construction or major renovation began before the effective date of this section [Dec. 22, 1987], the Secretary of State, after consultation with the Director of Central Intelligence, shall certify to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate that—

"(1) appropriate and adequate steps have been taken to ensure the security of the construction project (including an evaluation of how all security-related factors with respect to such project are being addressed);

"(2) the facility resulting from such project incorporates—

"(A) adequate measures for protecting classified information and national security-related activities; and

"(B) adequate protection for the personnel working in the diplomatic facility; and

"(3) a plan has been put into place for the continued evaluation and maintenance of adequate security at such facility, which plan shall specify the physical security methods and technical countermeasures necessary to ensure secure operations, including any personnel requirements for such purposes.

"(b) AVAILABILITY OF DOCUMENTATION.—All documentation with respect to a certification referred to in subsection (a) and any dissenting views thereto shall be available, in an appropriately classified form, to the Chairman of the Committee on Foreign Affairs of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate.

"(c) DIRECTOR OF CENTRAL INTELLIGENCE.—The Director of Central Intelligence shall provide to the Secretary of State such assistance with respect to the implementation of this section as the Secretary of State may request.

"(d) DISSENTING VIEWS.—If the Director of Central Intelligence disagrees with the Secretary of State with respect to any project certification made pursuant to subsection (a), the Director shall submit in writing disagreeing views to the Secretary of State."

[Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108–458, set out as a note under section 3001 of Title 50, War and National Defense.]

REPORT TO CONGRESS ON OBLIGATION OF FUNDS

Pub. L. 100–459, title III, §302, Oct. 1, 1988, 102 Stat. 2207, provided that: "The Secretary of State shall report to the appropriate committees of the Congress on the obligation of funds provided for diplomatic security and related expenses every month."

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 100–202, §101(a) [title III, §302], Dec. 22, 1987, 101 Stat. 1329, 1329–23.

Pub. L. 99–500, §101(b) [title III, §302], Oct. 18, 1986, 100 Stat. 1783–39, 1783–60, and Pub. L. 99–591, §101(b) [title III, §302], Oct. 30, 1986, 100 Stat. 3341–39, 3341–60.

§4852. Diplomatic construction program

(a) Preference for United States contractors

Notwithstanding section 302 of this title, and where adequate competition exists, only United States persons and qualified United States joint venture persons may—

(1) bid on a diplomatic construction or design project which has an estimated total project value exceeding $10,000,000; and

(2) bid on a diplomatic construction or design project which involves technical security, unless the project involves low-level technology, as determined by the Secretary of State.

(b) Exception

Subsection (a) shall not apply with respect to any diplomatic construction or design project in a foreign country whose statutes prohibit the use of United States contractors on such projects. The exception contained in this subsection shall only become effective with respect to a foreign country 30 days after the Secretary of State certifies to the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate what specific actions he has taken to urge such foreign country to permit the use of United States contractors on such projects, and what actions he shall take with respect to that country as authorized by title II of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4301 et seq.; commonly referred to as the "Foreign Missions Act").

(c) Definitions

For the purposes of this section—

(1) the term "adequate competition" means with respect to a construction or design project, the presence of two or more qualified bidders submitting responsive bids for that project;

(2) the term "United States person" means a person which—

(A) is incorporated or legally organized under the laws of the United States, including State, the District of Columbia, and local laws;

(B) has its principal place of business in the United States;

(C) has been incorporated or legally organized in the United States—

(i) for more than 5 years before the issuance date of the invitation for bids or request for proposals with respect to a construction project under subsection (a)(1); and

(ii) for more than 2 years before the issuance date of the invitation for bids or request for proposals with respect to a construction or design project which involves physical or technical security under subsection (a)(2);

(D) has performed within the United States or at a United States diplomatic or consular establishment abroad administrative and technical, professional, or construction services similar in complexity, type of construction, and value to the project being bid;

(E) with respect to a construction project under subsection (a)(1), has achieved total business volume equal to or greater than the value of the project being bid in 3 years of the 5-year period before the date specified in subparagraph (C)(i);

(F)(i) employs United States citizens in at least 80 percent of its principal management positions in the United States,

(ii) employs United States citizens in more than half of its permanent, full-time positions in the United States, and

(iii) will employ United States citizens in at least 80 percent of the supervisory positions on the foreign buildings office project site; and

(G) has the existing technical and financial resources in the United States to perform the contract; and

(3) the term "qualified United States joint venture person" means a joint venture in which a United States person or persons owns at least 51 percent of the assets of the joint venture.

(d) American minority contractors

Not less than 10 percent of the amount appropriated pursuant to section 4851(a) of this title for diplomatic construction or design projects each fiscal year shall be allocated to the extent practicable for contracts with American minority contractors.

(e) American small business contractors

Not less than 10 percent of the amount appropriated pursuant to section 4851(a) of this title for diplomatic construction or design projects each fiscal year shall be allocated to the extent practicable for contracts with American small business contractors.

(f) Limitation on subcontracting

With respect to a diplomatic construction project, a prime contractor may not subcontract more

than 50 percent of the total value of its contract for that project.

(Pub. L. 99–399, title IV, §402, Aug. 27, 1986, 100 Stat. 864; Pub. L. 101–246, title I, §132, Feb. 16, 1990, 104 Stat. 32; Pub. L. 102–138, title I, §131, Oct. 28, 1991, 105 Stat. 662; Pub. L. 103–236, title I, §162(g)(10), Apr. 30, 1994, 108 Stat. 407; Pub. L. 107–228, div. A, title II, §206(b), Sept. 30, 2002, 116 Stat. 1364.)

REFERENCES IN TEXT

Title II of the State Department Basic Authorities Act of 1956, referred to in subsec. (b), is title II of act Aug. 1, 1956, ch. 841, as added Aug. 24, 1982, Pub. L. 97–241, title II, §202(b), 96 Stat. 283, known as the Foreign Missions Act, which is classified principally to chapter 53 (§4301 et seq.) of this title. For complete classification of title II to the Code, see Short Title note set out under section 4301 of this title and Tables.

AMENDMENTS

2002—Subsec. (c)(2)(D). Pub. L. 107–228 inserted "or at a United States diplomatic or consular establishment abroad" after "United States".

1994—Subsec. (a)(2). Pub. L. 103–236 substituted "Secretary of State" for "Assistant Secretary for Diplomatic Security".

1991—Subsec. (a)(1). Pub. L. 102–138, §131(1), substituted "$10,000,000" for "$5,000,000".

Subsec. (a)(2). Pub. L. 102–138, §131(2), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "bid on a diplomatic construction or design project which involves physical or technical security, unless the project—

"(A) involves nonsophisticated, low-level technology, as determined by the Assistant Secretary for Diplomatic Security;

"(B) is for the design or construction of a facility that does not process or store classified material; and

"(C) does not exceed a total value of $500,000."

1990—Subsec. (a)(2). Pub. L. 101–246 amended par. (2) generally. Prior to amendment, par. (2) read as follows: "bid on a diplomatic construction or design project which involves physical or technical security."

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–236 applicable with respect to officials, offices, and bureaus of Department of State when executive orders, regulations, or departmental directives implementing the amendments by sections 161 and 162 of Pub. L. 103–236 become effective, or 90 days after Apr. 30, 1994, whichever comes earlier, see section 161(b) of Pub. L. 103–236, as amended, set out as a note under section 2651a of this title.

CONSTRUCTION OF UNITED STATES EMBASSY IN OTTAWA

Pub. L. 101–246, title I, §125, Feb. 16, 1990, 104 Stat. 27, provided that: "Section 402(a) of the Diplomatic Security Act (22 U.S.C. 4852(a)) shall not apply to the construction or renovation of the United States Embassy in Ottawa, Canada."

§4853. Security requirements for contractors

Not later than 90 days after August 27, 1986, the Secretary of State shall issue regulations to—

(1) strengthen the security procedures applicable to contractors and subcontractors involved in any way with any diplomatic construction or design project; and

(2) permit a contractor or subcontractor to have access to any design or blueprint relating to such a project only in accordance with those procedures.

(Pub. L. 99–399, title IV, §403, Aug. 27, 1986, 100 Stat. 865.)

§4854. Qualifications of persons hired for diplomatic construction program

In carrying out the diplomatic construction program referred to in section 4851(a) of this title, the Secretary of State shall employ as professional staff (by appointment, contract, or otherwise) only those persons with a demonstrated specialized background in the fields of construction, construction law, or contract management. In filling such positions, the Secretary shall actively recruit women and members of minority groups.

(Pub. L. 99–399, title IV, §404, Aug. 27, 1986, 100 Stat. 865.)

§4855. Cost overruns

Any amount required to complete any capital project described in the Department of State's Supplemental Diplomatic Security Program, as justified to the Congress for the respective fiscal year, which is in excess of the amount made available for that project pursuant to section 4851(a)(1) or (3) [1] shall be treated as a reprogramming of funds under section 2706 of this title and shall not be available for obligation or expenditure except in compliance with the procedures applicable to such reprogrammings.

(Pub. L. 99–399, title IV, §405, Aug. 27, 1986, 100 Stat. 865.)

REFERENCES IN TEXT

Section 4851(a)(3) of this title, referred to in text, was repealed by Pub. L. 103–236, title I, §101(c), Apr. 30, 1994, 108 Stat. 388.

[1] *See References in Text note below.*

§4856. Efficiency in contracting

(a) Bonuses and penalties

The Director of the Office of Foreign Buildings shall provide for a contract system of bonuses and penalties for the diplomatic construction program funded pursuant to the authorizations of appropriations provided in this subchapter. Not later than 3 months after August 27, 1986, the Director shall submit a report to the Congress on the implementation of this section.

(b) Surety bonds and guarantees

The Director of the Office of Foreign Buildings shall require each person awarded a contract for work under the diplomatic construction program to post a surety bond or guarantee, in such amount as the Director may determine, to assure performance under such contract.

(Pub. L. 99–399, title IV, §406, Aug. 27, 1986, 100 Stat. 866; Pub. L. 109–472, §8, Jan. 11, 2007, 120 Stat. 3556.)

REFERENCES IN TEXT

This subchapter, referred to in subsec. (a), was in the original "this title", meaning title IV of Pub. L. 99–399, which enacted this subchapter and amended sections 300, 2349aa–4, 3929, and 3929a of this title, former section 208 of Title 3, The President, section 5315 of Title 5, Government Organization and Employees, and sections 2 and 11 of the Inspector General Act of 1978, Pub. L. 95–452, set out in the Appendix to Title 5. For complete classification of title IV of Pub. L. 99–399 to the Code, see Tables.

AMENDMENTS

2007—Subsec. (c). Pub. L. 109–472 struck out subsec. (c). Text read as follows: "No person doing business with Libya may be eligible for any contract awarded pursuant to this Act."

AUTHORITY OF SECRETARY OF STATE

Except as otherwise provided, Secretary of State to have and exercise any authority vested by law in any official or office of Department of State and references to such officials or offices deemed to refer to Secretary of State or Department of State, as appropriate, see section 2651a of this title and section 161(d) of Pub. L. 103–236, set out as a note under section 2651a of this title.

§4857. Advisory Panel on Overseas Security

Not later than 90 days after August 27, 1986, the Secretary of State shall submit a report to the

Congress on the implementation of the 91 recommendations contained in the final report of the Advisory Panel on Overseas Security. If any such recommendation has been rejected, the Secretary shall provide the reasons why that recommendation was rejected.

(Pub. L. 99–399, title IV, §407, Aug. 27, 1986, 100 Stat. 866.)

§4858. Training to improve perimeter security at United States diplomatic missions abroad

(a) Training

It is the sense of Congress that the President should use the authority under chapter 8 of title II of the Foreign Assistance Act of 1961 [22 U.S.C. 2349aa et seq.] (relating to antiterrorism assistance) to improve perimeter security of United States diplomatic missions abroad.

(b) Repealed. Pub. L. 103–236, title I, §139(20), Apr. 30, 1994, 108 Stat. 398; Pub. L. 103–415, §1(c), Oct. 25, 1994, 108 Stat. 4299

(Pub. L. 99–399, title IV, §408, Aug. 27, 1986, 100 Stat. 866; Pub. L. 103–236, title I, §139(20), Apr. 30, 1994, 108 Stat. 398; Pub. L. 103–415, §1(c), Oct. 25, 1994, 108 Stat. 4299.)

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsec. (a), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended. Chapter 8 of title II of that Act probably means chapter 8 of part II of that Act, which is classified generally to part VIII (§2349aa et seq.) of subchapter II of chapter 32 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

AMENDMENTS

1994—Subsec. (b). Pub. L. 103–236, as amended by Pub. L. 103–415, struck out heading and text of subsec. (b). Text read as follows: "Not later than October 1 of each year, the President shall submit a report to the Congress on the progress and problems of improving perimeter security of United States diplomatic missions abroad."

§4859. Protection of public entrances of United States diplomatic missions abroad

The Secretary of State shall install and maintain a walk-through metal detector or other advanced screening system at public entrances of each United States diplomatic mission abroad.

(Pub. L. 99–399, title IV, §409, Aug. 27, 1986, 100 Stat. 866.)

§4860. Reimbursement of Department of the Treasury

The Secretary of State shall reimburse the appropriate appropriations account of the Department of the Treasury out of funds appropriated pursuant to section 4851(a)(1) of this title for the actual costs incurred by the United States Secret Service, as agreed to by the Secretary of the Treasury, for providing protection for the spouses of foreign heads of state during fiscal years 1986 and 1987.

(Pub. L. 99–399, title IV, §411, Aug. 27, 1986, 100 Stat. 867.)

TRANSFER OF FUNCTIONS

For transfer of the functions, personnel, assets, and obligations of the United States Secret Service, including the functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 381, 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§4861. Inspector General for Department of State

(a) Direction to establish

The Congress directs the Secretary of State to proceed immediately to establish an Office of Inspector General of the Department of State not later than October 1, 1986. Not later than January 31, 1987, the Secretary of State shall submit a report to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives on the progress in establishing that office. Such report shall include an accounting of the obligation of funds for fiscal year 1987 for that office.

(b) Duties and responsibilities

The Inspector General of the Department of State (as established by the amendment made by section 150(a) of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987) is authorized to perform all duties and responsibilities, and to exercise the authorities, stated in section 3929 of this title and in the Inspector General Act of 1978.

(c) Earmark

Of the amounts made available for fiscal year 1987 for salaries and expenses under the heading "Administration of Foreign Affairs", not less than $6,500,000 shall be used for the sole purpose of establishing and maintaining the Office of Inspector General of the Department of State.

(d) Limitation on appointment

No career member of the Foreign Service, as defined by section 3903 of this title, may be appointed Inspector General of the Department of State.

(Pub. L. 99–399, title IV, §413, Aug. 27, 1986, 100 Stat. 867; Pub. L. 100–204, title I, §134, Dec. 22, 1987, 101 Stat. 1344.)

REFERENCES IN TEXT

The amendment made by section 150(a) of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987, referred to in subsec. (b), is the amendment made by section 150(a) of Pub. L. 99–93, title I, Aug. 16, 1985, 99 Stat. 427, to sections 2 and 11 of the Inspector General Act of 1978. See note below.

The Inspector General Act of 1978, referred to in subsec. (b), is Pub. L. 95–452, Oct. 12, 1978, 92 Stat. 1101, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

CODIFICATION

Section is comprised of section 413 of Pub. L. 99–399, as amended. Subsec. (e), formerly subsec. (a)(5), of section 413 amended section 5315 of Title 5, Government Organization and Employees. A former subsec. (a)(6) of section 413, which amended section 3929 of this title, was repealed by Pub. L. 99–529, title IV, §405, Oct. 24, 1986, 100 Stat. 3020. Another subsec. (c) of section 413 amended section 3929a of this title.

AMENDMENTS

1987—Pub. L. 100–204 struck out former subsec. (a) designation and heading "Inspector General of Department of State", redesignated former pars. (1) to (5) as subsecs. (a) to (e), respectively, and struck out former subsec. (b) which related to establishment of the Office of Policy and Program Review. See Codification note above.

EVALUATION OF POLICIES AND PROCEDURES OF DEPARTMENT OF STATE ON PROTECTION OF CLASSIFIED INFORMATION AT DEPARTMENT HEADQUARTERS

Pub. L. 107–306, title VIII, §832, Nov. 27, 2002, 116 Stat. 2431, provided that:

"(a) EVALUATION REQUIRED.—Not later than December 31 of 2002, 2003, and 2004, the Inspector General of the Department of State shall conduct an evaluation of the policies and procedures of the Department on the protection of classified information at the Headquarters of the Department, including compliance with the directives of the Director of Central Intelligence (DCIDs) regarding the storage and handling of Sensitive Compartmented Information (SCI) material.

"(b) ANNUAL REPORT.—Except as provided in subsection (c), not later than February 1 of 2003, 2004, and 2005, the Inspector General shall submit to the following committees a report on the evaluation conducted under subsection (a) during the preceding year:

"(1) The congressional intelligence committees.

"(2) The Committee on Foreign Relations of the Senate and the Committee on International Relations [now Committee on Foreign Affairs] of the House of Representatives.

"(c) EXCEPTION.—The date each year for the submittal of a report under subsection (b) may be postponed in accordance with section 507(d) of the National Security Act of 1947 [50 U.S.C. 3106(d)], as added by section 811 of this Act.

"(d) CONGRESSIONAL INTELLIGENCE COMMITTEES DEFINED.—In this section, the term 'congressional intelligence committees' means—

"(1) the Select Committee on Intelligence of the Senate; and

"(2) the Permanent Select Committee on Intelligence of the House of Representatives."

[Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108–458, set out as a note under section 3001 of Title 50, War and National Defense.]

§4862. Prohibition on use of funds for facilities in Israel, Jerusalem, or West Bank

None of the funds authorized to be appropriated by this Act may be obligated or expended for site acquisition, development, or construction of any facility in Israel, Jerusalem, or the West Bank.

(Pub. L. 99–399, title IV, §414, Aug. 27, 1986, 100 Stat. 868.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 99–399, Aug. 27, 1986, 100 Stat. 853, known as the Omnibus Diplomatic Security and Antiterrorism Act of 1986. For complete classification of this Act to the Code, see Short Title note set out under section 4801 of this title and Tables.

§4863. Use of cleared personnel to ensure secure maintenance and repair of diplomatic facilities abroad

(a) Policies and regulations

The Secretary of State shall develop and implement policies and regulations to provide for the use of persons who have been granted an appropriate United States security clearance to ensure that the security of areas intended for the storage of classified materials or the conduct of classified activities in a United States diplomatic mission or consular post abroad is not compromised in the performance of maintenance and repair services in those areas.

(b) Study and report

The Secretary of State shall conduct a study of the feasibility and necessity of requiring that, in the case of certain United States diplomatic facilities abroad, no contractor shall be hired to perform maintenance or repair services in an area intended for the storage of classified materials or the conduct of classified activities unless such contractor has been granted an appropriate United States security clearance. Such study shall include, but is not limited to, United States facilities located in Cairo, New Delhi, Riyadh, and Tokyo. Not later than 180 days after February 16, 1990, the Secretary of State shall report the results of such study to the Chairman of the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives.

(Pub. L. 99–399, title IV, §415, as added Pub. L. 101–246, title I, §133(a), Feb. 16, 1990, 104 Stat. 32.)

§4864. Increased participation of United States contractors in local guard

contracts abroad under diplomatic security program

(a) Findings

The Congress makes the following findings:

(1) State Department policy concerning the advertising of security contracts at Foreign Service buildings has been inconsistent over the years. In many cases, diplomatic and consular posts abroad have been given the responsibility to determine the manner in which the private sector was notified concerning an invitation for bids or a request for proposals with respect to a local guard contract. Some United States foreign missions have only chosen to advertise locally the availability of a local security guard contract abroad.

(2) As a result, many United States security firms that provide local guard services abroad have been unaware that local guard contracts were available for bidding abroad and such firms have been disadvantaged as a result.

(3) Undoubtedly, United States security firms would be interested in bidding on more local guard contracts abroad if such firms knew of the opportunity to bid on such contracts.

(b) Objective

It is the objective of this section to improve the efficiency of the local guard programs abroad administered by the Bureau of Diplomatic Security of the Department of State and to ensure maximum competition for local guard contracts abroad concerning Foreign Service buildings.

(c) Participation of United States contractors in local guard contracts abroad

With respect to local guard contracts for a Foreign Service building which exceed $250,000 and are entered into after February 16, 1990, the Secretary of State shall—

(1) establish procedures to ensure that all solicitations for such contracts are adequately advertised in the Commerce and Business Daily;

(2) absent compelling reasons, award such contracts through the competitive process;

(3) in evaluating proposals for such contracts, award contracts to the technically acceptable firm offering the lowest evaluated price, except that proposals of United States persons and qualified United States joint venture persons (as defined in subsection (d)) shall be evaluated by reducing the bid price by 10 percent;

(4) in countries where contract denomination and/or payment in local currencies constitutes a barrier to competition by United States firms—

(A) allow solicitations to be bid in United States dollars; and

(B) allow contracts awarded to United States firms to be paid in United States dollars;

(5) ensure that United States diplomatic and consular posts assist United States firms in obtaining local licenses and permits; and

(6) establish procedures to ensure that appropriate measures are taken by diplomatic and consular post management to assure that United States persons and qualified United States joint venture persons are not disadvantaged during the solicitation and bid evaluation process.

(d) Definitions

For the purposes of this section—

(1) the term "United States person" means a person which—

(A) is incorporated or legally organized under the laws of the United States, including the laws of any State, locality, or the District of Columbia;

(B) has its principal place of business in the United States;

(C) has been incorporated or legally organized in the United States for more than 2 years before the issuance date of the invitation for bids or request for proposals with respect to the contract under subsection (c);

(D) has performed within the United States or overseas security services similar in complexity to the contract being bid;

(E) with respect to the contract under subsection (c), has achieved a total business volume equal to or greater than the value of the project being bid in 3 years of the 5-year period before

the date specified in subparagraph (C);

(F)(i) employs United States citizens in at least 80 percent of its principal management positions in the United States; and

(ii) employs United States citizens in more than half of its permanent, full-time positions in the United States; and

(G) has the existing technical and financial resources in the United States to perform the contract;

(2) the term "qualified United States joint venture person" means a joint venture in which a United States person or persons owns at least 51 percent of the assets of the joint venture;

(3) the term "Foreign Service building" means any building or grounds of the United States which is in a foreign country and is under the jurisdiction and control of the Secretary of State, including residences of United States personnel assigned overseas under the authority of the Ambassador; and

(4) the term "barrier to local competition" means—

(A) conditions of extreme currency volatility;

(B) restrictions on repatriation of profits;

(C) multiple exchange rates which significantly disadvantage United States firms;

(D) government restrictions inhibiting the free convertibility of foreign exchange; or

(E) conditions of extreme local political instability.

(e) United States minority contractors

Not less than 10 percent of the amount of funds obligated for local guard contracts for Foreign Service buildings subject to subsection (c) shall be allocated to the extent practicable for contracts with United States minority small business contractors.

(f) United States small business contractors

Not less than 10 percent of the amount of funds obligated for local guard contracts for Foreign Service buildings subject to subsection (c) shall be allocated to the extent practicable for contracts with United States small business contractors.

(g) Limitation of subcontracting

With respect to local guard contracts subject to subsection (c), a prime contractor may not subcontract more than 50 percent of the total value of its contract for that project.

(h) Award of local guard and protective service contracts

In evaluating proposals for local guard contracts under this section, the Secretary of State may award such contracts on the basis of best value as determined by a cost-technical tradeoff analysis (as described in Federal Acquisition Regulation part 15.101) and, with respect to such contracts for posts that are not high risk, high threat posts (as such term is defined in section 4803 of this title), subject to congressional notification 15-days prior to any such award.

(Pub. L. 101–246, title I, §136, Feb. 16, 1990, 104 Stat. 33; Pub. L. 103–236, title I, §141, Apr. 30, 1994, 108 Stat. 401; Pub. L. 105–277, div. G, subdiv. B, title XXII, §2210, Oct. 21, 1998, 112 Stat. 2681–811; Pub. L. 114–323, title I, §112, Dec. 16, 2016, 130 Stat. 1910.)

CODIFICATION

Section was enacted as part of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991, and not as part of the Diplomatic Security Act which comprises this chapter.

AMENDMENTS

2016—Subsec. (h). Pub. L. 114–323 added subsec. (h).

1998—Subsec. (c)(3). Pub. L. 105–277, §2210(1), amended par. (3) generally. Prior to amendment, par. (3) read as follows: "in evaluating and scoring proposals for such contracts, award not less than 60 percent of the total points on the basis of technical factors and subfactors;".

Subsec. (c)(5). Pub. L. 105–277, §2210(2), inserted "and" at end.

Subsec. (c)(6). Pub. L. 105–277, §2210(3), substituted period for "; and" at end.

Subsec. (c)(7). Pub. L. 105–277, §2210(4), struck out par. (7) which read as follows: "give preference to United States persons and qualified United States joint venture persons where such persons are price competitive to the non-United States persons bidding on the contract, are properly licensed by the host government, and are otherwise qualified to carry out all the terms of the contract."

1994—Subsec. (c). Pub. L. 103–236, §141(1), added pars. (2) to (5), redesignated former pars. (2) and (3) as (6) and (7), respectively, and in par. (6) struck out "due to their distance from the post" after "evaluation process".

Subsec. (d)(1)(D). Pub. L. 103–236, §141(2)(A), substituted "or" for "and".

Subsec. (d)(4). Pub. L. 103–236, §141(2)(B)–(D), added par. (4).

AUTHORITY OF SECRETARY OF STATE

Except as otherwise provided, Secretary of State to have and exercise any authority vested by law in any official or office of Department of State and references to such officials or offices deemed to refer to Secretary of State or Department of State, as appropriate, see section 2651a of this title and section 161(d) of Pub. L. 103–236, set out as a note under section 2651a of this title.

§4865. Security requirements for United States diplomatic facilities

(a) In general

The following security requirements shall apply with respect to United States diplomatic facilities and specified personnel:

(1) Threat assessment

(A) Emergency Action Plan

The Emergency Action Plan (EAP) of each United States mission shall address the threat of large explosive attacks from vehicles and from complex attacks (as such term is defined in section 4866 of this title), and the safety of employees during such an explosive attack or such a complex attack. Such plan shall be reviewed and updated annually.

(B) Security Environment Threat List

The Security Environment Threat List shall contain a section that addresses potential acts of international terrorism against United States diplomatic facilities based on threat identification criteria that emphasize the threat of transnational terrorism and include the local security environment, host government support, and other relevant factors such as cultural realities. Such plan shall be reviewed and updated every six months.

(2) Site selection

(A) In general

In selecting a site for any new United States diplomatic facility abroad, the Secretary shall ensure that all United States Government personnel at the post (except those under the command of an area military commander) will be located on the site.

(B) Waiver authority

(i) In general

Subject to clause (ii), the Secretary of State may waive subparagraph (A) if the Secretary, together with the head of each agency employing personnel that would not be located at the site, determine that security considerations permit and it is in the national interest of the United States.

(ii) Chancery or consulate building

(I) Authority not delegable

The Secretary may not delegate the waiver authority under clause (i) with respect to a chancery or consulate building.

(II) Congressional notification

Not less than 15 days prior to implementing the waiver authority under clause (i) with respect to a chancery or consulate building, the Secretary shall notify the appropriate congressional committees in writing of the waiver and the reasons for the determination.

(iii) Report to Congress

The Secretary shall submit to the appropriate congressional committees an annual report of all waivers under this subparagraph.

(3) Perimeter distance

(A) Requirement

Each newly acquired United States diplomatic facility shall be sited not less than 100 feet from the perimeter of the property on which the facility is to be situated.

(B) Waiver authority

(i) In general

Subject to clause (ii), the Secretary of State may waive subparagraph (A) if the Secretary determines that security considerations permit and it is in the national interest of the United States.

(ii) Chancery or consulate building

(I) Authority not delegable

The Secretary may not delegate the waiver authority under clause (i) with respect to a chancery or consulate building.

(II) Congressional notification

Not less than 15 days prior to implementing the waiver authority under subparagraph (A) with respect to a chancery or consulate building, the Secretary shall notify the appropriate congressional committees in writing of the waiver and the reasons for the determination.

(iii) Report to Congress

The Secretary shall submit to the appropriate congressional committees an annual report of all waivers under this subparagraph.

(4) Crisis management training

(A) Training of headquarters staff

The appropriate personnel of the Department of State headquarters staff shall undertake crisis management training for mass casualty and mass destruction incidents relating to diplomatic facilities for the purpose of bringing about a rapid response to such incidents from Department of State headquarters in Washington, D.C.

(B) Training of personnel abroad

A program of appropriate instruction in crisis management shall be provided to personnel at United States diplomatic facilities abroad at least on an annual basis.

(5) Diplomatic security training

Not later than six months after November 29, 1999, the Secretary of State shall—

(A) develop annual physical fitness standards for all diplomatic security agents to ensure that the agents are prepared to carry out all of their official responsibilities; and

(B) provide for an independent evaluation by an outside entity of the overall adequacy of current new agent, in-service, and management training programs to prepare agents to carry out the full scope of diplomatic security responsibilities, including preventing attacks on United States personnel and facilities.

(6) State Department support

(A) Foreign Emergency Support Team

The Foreign Emergency Support Team (FEST) of the Department of State shall receive sufficient support from the Department, including—

(i) conducting routine training exercises of the FEST;

(ii) providing personnel identified to serve on the FEST as a collateral duty;

(iii) providing personnel to assist in activities such as security, medical relief, public affairs, engineering, and building safety; and

(iv) providing such additional support as may be necessary to enable the FEST to provide support in a post-crisis environment involving mass casualties and physical damage.

(B) FEST aircraft

(i) Replacement aircraft

The President shall develop a plan to replace on a priority basis the current FEST aircraft funded by the Department of Defense with a dedicated, capable, and reliable replacement aircraft and backup aircraft to be operated and maintained by the Department of Defense.

(ii) Report

Not later than 60 days after November 29, 1999, the President shall submit a report to the appropriate congressional committees describing the aircraft selected pursuant to clause (i) and the arrangements for the funding, operation, and maintenance of such aircraft.

(iii) Authority to lease aircraft to respond to a terrorist attack abroad

Subject to the availability of appropriations, when the Attorney General of the Department of Justice exercises the Attorney General's authority to lease commercial aircraft to transport equipment and personnel in response to a terrorist attack abroad if there have been reasonable efforts to obtain appropriate Department of Defense aircraft and such aircraft are unavailable, the Attorney General shall have the authority to obtain indemnification insurance or guarantees if necessary and appropriate.

(7) Rapid response procedures

The Secretary of State shall enter into a memorandum of understanding with the Secretary of Defense setting out rapid response procedures for mobilization of personnel and equipment of their respective departments to provide more effective assistance in times of emergency with respect to United States diplomatic facilities, including at high risk, high threat posts (as such term is defined in section 4803 of this title), including options for the deployment of additional military personnel or equipment to bolster security and rapid deployment of armed or surveillance assets in response to an attack.

(8) Storage of emergency equipment and records

All United States diplomatic facilities shall have emergency equipment and records required in case of an emergency situation stored at an off-site facility.

(b) Statutory construction

Nothing in this section alters or amends existing security requirements not addressed by this section.

(Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title VI, §606], Nov. 29, 1999, 113 Stat. 1536, 1501A–454; Pub. L. 114–323, title I, §102, Dec. 16, 2016, 130 Stat. 1909).

CODIFICATION

Section was enacted as part of the Secure Embassy Construction and Counterterrorism Act of 1999, and also as part of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001, and not as part of the Diplomatic Security Act which comprises this chapter.

AMENDMENTS

2016—Subsec. (a)(1)(A). Pub. L. 114–323, §102(1), inserted "and from complex attacks (as such term is defined in section 4866 of this title)," after "attacks from vehicles" and "or such a complex attack" after "an

explosive attack".

Subsec. (a)(7). Pub. L. 114–323, §102(2), inserted before period at end ", including at high risk, high threat posts (as such term is defined in section 4803 of this title), including options for the deployment of additional military personnel or equipment to bolster security and rapid deployment of armed or surveillance assets in response to an attack".

DELEGATION OF AUTHORITY

Memorandum of President of the United States, July 17, 2000, 65 F.R. 45511, provided:

Memorandum for the Secretary of Defense

By the authority vested in me by the Constitution and laws of the United States of America, I hereby delegate to the Secretary of Defense the responsibility of the President, under section 606 of the Foreign Relations Authorization Act for Fiscal Years 2000 and 2001 (Public Law 106–113) [22 U.S.C. 4865], to submit the required report to the Congress.

You are hereby authorized and directed to publish this delegation in the Federal Register.

WILLIAM J. CLINTON.

INCLUSION OF SENSITIVE COMPARTMENTED INFORMATION FACILITIES IN UNITED STATES DIPLOMATIC FACILITIES IN CUBA

Pub. L. 114–113, div. M, title V, §513, Dec. 18, 2015, 129 Stat. 2926, provided that:

"(a) RESTRICTED ACCESS SPACE REQUIREMENT.—Each United States diplomatic facility in Cuba in which classified information will be processed or in which classified communications occur that, after the date of the enactment of this Act [Dec. 18, 2015], is constructed or undergoes a major construction upgrade shall be constructed to include a sensitive compartmented information facility.

"(b) NATIONAL SECURITY WAIVER.—The Secretary of State may waive the requirement under subsection (a) if the Secretary—

"(1) determines that such waiver is in the national security interest of the United States; and

"(2) submits a written justification for such waiver to the appropriate congressional committees not later than 90 days before exercising such waiver.

"(c) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term 'appropriate congressional committees' means—

"(1) the congressional intelligence committees [Select Committee on Intelligence of the Senate and Permanent Select Committee on Intelligence of the House of Representatives];

"(2) the Committee on Foreign Relations and the Committee on Appropriations of the Senate; and

"(3) the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives."

INCLUSION OF SENSITIVE COMPARTMENTED INFORMATION FACILITIES IN UNITED STATES DIPLOMATIC FACILITIES IN THE RUSSIAN FEDERATION AND ADJACENT COUNTRIES

Pub. L. 113–293, title III, §314, Dec. 19, 2014, 128 Stat. 4002, provided that:

"(a) SENSITIVE COMPARTMENTED INFORMATION FACILITY REQUIREMENT.—Each United States diplomatic facility that, after the date of the enactment of this Act [Dec. 19, 2014], is constructed in, or undergoes a construction upgrade in, the Russian Federation, any country that shares a land border with the Russian Federation, or any country that is a former member of the Soviet Union shall be constructed to include a Sensitive Compartmented Information Facility.

"(b) NATIONAL SECURITY WAIVER.—The Secretary of State may waive the requirement under subsection (a) if the Secretary determines that such waiver is in the national security interest of the United States and submits a written justification to the appropriate congressional committees not later than 180 days before exercising such waiver.

"(c) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term 'appropriate congressional committees' means—

"(1) the congressional intelligence committees [Select Committee on Intelligence of the Senate and Permanent Select Committee on Intelligence of the House of Representatives];

"(2) the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Appropriations of the Senate; and

"(3) the Committee on Armed Services, the Committee on Foreign Affairs, and the Committee on Appropriations of the House of Representatives."

CAPITAL SECURITY COST SHARING

Pub. L. 109–364, div. A, title III, §357, Oct. 17, 2006, 120 Stat. 2163, provided that:

"(a) RECONCILIATION REQUIRED.—For each fiscal year, the Secretary of Defense shall reconcile (1) the estimate of overseas presence of the Secretary of Defense under subsection (b) for that fiscal year, with (2) the determination of the Secretary of State under section 604(e)(1) of the Secure Embassy Construction and Counterterrorism Act of 1999 [Pub. L. 106–113] (22 U.S.C. 4865 note) of the total overseas presence of the Department of Defense for that fiscal year.

"(b) ANNUAL ESTIMATE OF OVERSEAS PRESENCE.—Not later than February 1 of each year, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] an estimate of the total number of Department of Defense overseas personnel subject to chief of mission authority pursuant to section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927) during the fiscal year that begins on October 1 of that year."

FINDINGS

Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title VI, §602], Nov. 29, 1999, 113 Stat. 1536, 1501A–451, provided that: "Congress makes the following findings:

"(1) On August 7, 1998, the United States embassies in Nairobi, Kenya, and in Dar es Salaam, Tanzania, were destroyed by simultaneously exploding bombs. The resulting explosions killed 220 persons and injured more than 4,000 others. Twelve Americans and 40 Kenyan and Tanzanian employees of the United States Foreign Service were killed in the attack.

"(2) The United States personnel in both Dar es Salaam and Nairobi showed leadership and personal courage in their response to the attacks. Despite the havoc wreaked upon the embassies, staff in both embassies provided rapid response in locating and rescuing victims, providing emergency assistance, and quickly restoring embassy operations during a crisis.

"(3) The bombs are believed to have been set by individuals associated with Osama bin Laden, leader of a known transnational terrorist organization. In February 1998, bin Laden issued a directive to his followers that called for attacks against United States interests anywhere in the world.

"(4) Threats continue to be made against United States diplomatic facilities.

"(5) Accountability Review Boards were convened following the bombings, as required by Public Law 99–399 [see Tables for classification], chaired by Admiral William J. Crowe, United States Navy (Ret.) (in this section referred to as the 'Crowe panels').

"(6) The conclusions of the Crowe panels were strikingly similar to those stated by the Commission chaired by Admiral Bobby Ray Inman, which issued an extensive embassy security report in 1985.

"(7) The Crowe panels issued a report setting out many problems with security at United States diplomatic facilities, in particular the following:

"(A) The United States Government has devoted inadequate resources to security against terrorist attacks.

"(B) The United States Government places too low a priority on security concerns.

"(8) The result has been a failure to take adequate steps to prevent tragedies such as the bombings in Kenya and Tanzania.

"(9) The Crowe panels found that there was an institutional failure on the part of the Department of State to recognize threats posed by transnational terrorism and vehicular bombs.

"(10) Responsibility for ensuring adequate resources for security programs is widely shared throughout the United States Government, including Congress. Unless the vulnerabilities identified by the Crowe panels are addressed in a sustained and financially realistic manner, the lives and safety of United States employees in diplomatic facilities will continue to be at risk from further terrorist attacks.

"(11) Although service in the Foreign Service or other United States Government positions abroad can never be completely without risk, the United States Government must take all reasonable steps to minimize security risks."

AUTHORIZATIONS OF APPROPRIATIONS

Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title VI, §604], Nov. 29, 1999, 113 Stat. 1536, 1501A–453, as amended by Pub. L. 107–228, div. A, title I, §111(a)(3)(B), Sept. 30, 2002, 116 Stat. 1356; Pub. L. 108–447, div. B, title VI, §629, Dec. 8, 2004, 118 Stat. 2920; Pub. L. 112–74, div. I, title VII, §7004(e), Dec. 23, 2011, 125 Stat. 1194; Pub. L. 114–323, title I, §111(b), Dec. 16, 2016, 130 Stat. 1910, provided that:

"(a) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts otherwise authorized to be appropriated by this or any other Act, there are authorized to be appropriated for 'Embassy Security, Construction and Maintenance'—

"(1) for fiscal year 2000, $900,000,000;

"(2) for fiscal year 2001, $900,000,000;
"(3) for fiscal year 2002, $900,000,000;
"(4) for fiscal year 2003, $1,000,000,000; and
"(5) for fiscal year 2004, $900,000,000.

"(b) PURPOSES.—Funds made available under the 'Embassy Security, Construction, and Maintenance' account may be used only for the purposes of—

"(1) the acquisition of United States diplomatic facilities and, if necessary, any residences or other structures located in close physical proximity to such facilities, or

"(2) the provision of major security enhancements to United States diplomatic facilities,

to the extent necessary to bring the United States Government into compliance with all requirements applicable to the security of United States diplomatic facilities, including the relevant requirements set forth in section 606 [22 U.S.C. 4865].

"(c) AVAILABILITY OF AUTHORIZATIONS.—Authorizations of appropriations under subsection (a) shall remain available until the appropriations are made.

"(d) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to subsection (a) are authorized to remain available until expended.

"(e) CAPITAL SECURITY COST SHARING.—

"(1) AUTHORITY.—Notwithstanding any other provision of law, all agencies with personnel overseas subject to chief of mission authority pursuant to section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927) shall participate and provide funding in advance for their share of costs of providing, maintaining, repairing, and renovating safe, secure United States diplomatic facilities, without offsets, on the basis of the total overseas presence of each agency as determined annually by the Secretary of State in consultation with such agency. Amounts advanced by such agencies to the Department of State shall be credited to the Embassy Security, Construction and Maintenance account, and remain available until expended.

"(2) IMPLEMENTATION.—Implementation of this subsection shall be carried out in a manner that encourages right-sizing of each agency's overseas presence. A project to construct a diplomatic facility of the United States may not include office space or other accommodations for an employee of a Federal department or agency to the extent that the Secretary of State determines that such department or agency has not provided to the Department of State the full amount of funding required under paragraph (1), notwithstanding any authorization and appropriation of relevant funds by Congress.

"(3) EXCLUSION.—For purposes of this subsection 'agency' does not include the Marine Security Guard."

OBLIGATIONS AND EXPENDITURES

Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title VI, §605], Nov. 29, 1999, 113 Stat. 1536, 1501A–453, as amended by Pub. L. 112–74, div. I, title VII, §7034(n), Dec. 23, 2011, 125 Stat. 1217, provided that:

"(a) REPORT AND PRIORITY OF OBLIGATIONS.—

"(1) REPORT.—Not later than February 1 of the year 2000 and each of the four subsequent years, the Secretary of State shall submit a classified report to the appropriate congressional committees identifying each diplomatic facility or each diplomatic or consular post composed of such facilities that is a priority for replacement or for any major security enhancement because of its vulnerability to terrorist attack (by reason of the terrorist threat and the current condition of the facility). The report shall list such facilities in groups of 20. The groups shall be ranked in order from most vulnerable to least vulnerable to such an attack.

"(2) PRIORITY ON USE OF FUNDS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), funds authorized to be appropriated by section 604 [set out as a note above] for a particular project may be used only for those facilities which are listed in the first four groups described in paragraph (1).

"(B) EXCEPTION.—Funds authorized to be made available by section 604 may only be used for facilities which are not in the first 4 groups described in paragraph (1), if the Congress authorizes or appropriates funds for such a diplomatic facility or the Secretary of State notifies the appropriate congressional committees that such funds will be used for a facility in accordance with the procedures applicable to a reprogramming of funds under section 34(a) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2706(a)).

"(b) PROHIBITION ON TRANSFER OF FUNDS.—None of the funds authorized to be appropriated by section 604 may be transferred to any other account."

DEFINITIONS

For definitions of the terms "Secretary" and "appropriate congressional committees" used in this section and

in section 1000(a)(7) [div. A, title VI, §605] of Pub. L. 106–113, set out as a note above, see section 1000(a)(7) [§3] of Pub. L. 106–113, set out as a note under section 2651 of this title.

Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title VI, §603], Nov. 29, 1999, 113 Stat. 1536, 1501A–452, provided that: "In this title [enacting this section, amending section 4831 of this title, and enacting provisions set out as notes above], the terms 'United States diplomatic facility' and 'diplomatic facility' mean any chancery, consulate, or other office notified to the host government as diplomatic or consular premises in accordance with the Vienna Conventions on Diplomatic and Consular Relations, or otherwise subject to a publicly available bilateral agreement with the host government (contained in the records of the United States Department of State) that recognizes the official status of the United States Government personnel present at the facility."

§4866. Security training for personnel assigned to a high risk, high threat post

(a) In general

Individuals assigned permanently to or who are in long-term temporary duty status as designated by the Secretary of State at a high risk, high threat post shall receive security training described in subsection (b) on a mandatory basis in order to prepare such individuals for living and working at such posts.

(b) Security training described

Security training referred to in subsection (a)—

(1) is training to improve basic knowledge and skills; and

(2) may include—

(A) an ability to recognize, avoid, and respond to potential terrorist situations, including a complex attack;

(B) conducting surveillance detection;

(C) providing emergency medical care;

(D) ability to detect the presence of improvised explosive devices;

(E) minimal firearms familiarization; and

(F) defensive driving maneuvers.

(c) Effective date

The requirements of this section shall take effect upon December 16, 2016.

(d) Definitions

In this section and section 4867 of this title:

(1) Complex attack

The term "complex attack" has the meaning given such term by the North Atlantic Treaty Organization, as follows: "An attack conducted by multiple hostile elements which employ at least two distinct classes of weapon systems (i.e., indirect fire and direct fire, improvised explosive devices, and surface to air fire).".

(2) High risk, high threat post

The term "high risk, high threat post" has the meaning given such term in section 4803 of this title.

(Pub. L. 99–399, title IV, §416, as added Pub. L. 114–323, title I, §121(a), Dec. 16, 2016, 130 Stat. 1913.)

§4867. Security management training for officials assigned to a high risk, high threat post

(a) In general

Officials described in subsection (c) who are assigned to a high risk, high threat post shall receive

security training described in subsection (b) on a mandatory basis in order to improve the ability of such officials to make security-related management decisions.

(b) Security training described

Security training referred to in subsection (a) may include—

(1) development of skills to better evaluate threats;

(2) effective use of security resources to mitigate such threats; and

(3) improved familiarity of available security resources.

(c) Officials described

Officials referred to in subsection (a) are the following:

(1) Members of the Senior Foreign Service appointed under section 3942(a)(1) or 3943 of this title or members of the Senior Executive Service (as such term is described in section 3132(a)(2) of title 5).

(2) Foreign Service officers appointed under section 3942(a)(1) of this title holding a position in classes FS–1 or FS–2.

(3) Foreign Service Specialists appointed by the Secretary under section 3943 of this title holding a position in classes FS–1 or FS–2.

(4) Individuals holding a position in grades GS–14 or GS–15.

(5) Personal services contractors and other contractors serving in positions or capacities similar to the officials described in paragraphs (1) through (4).

(d) Effective date

The requirements of this section shall take effect beginning on the date that is 1 year after December 16, 2016.

(Pub. L. 99–399, title IV, §417, as added Pub. L. 114–323, title I, §121(a), Dec. 16, 2016, 130 Stat. 1913.)

§4868. Assignment of personnel at high risk, high threat posts

The Secretary to the extent practicable shall station key personnel for sustained periods of time at high risk, high threat posts (as such term is defined in section 4803 of this title) in order to—

(1) establish institutional knowledge and situational awareness that would allow for a fuller familiarization of the local political and security environment in which such posts are located; and

(2) ensure that necessary security procedures are implemented.

(Pub. L. 114–323, title I, §117, Dec. 16, 2016, 130 Stat. 1912.)

REFERENCES IN TEXT

Section 4803 of this title, referred to in text, was in the original "section 104 of the Omnibus Diplomatic Security and Antiterrorism Act of 1986, as added by section 401 of this Act" and was translated as reading "section 104 of the Omnibus Diplomatic Security and Antiterrorism Act of 1986, as added by section 101(a) of this Act", meaning section 104 of Pub. L. 99–399, as added by section 101(a) of Pub. L. 114–323, which is classified to section 4803 of this title.

CODIFICATION

Section was enacted as part of the Department of State Authorities Act, Fiscal Year 2017, and not as part of the Diplomatic Security Act which comprises this chapter.

DEFINITIONS

For definition of "Secretary" as used in this section, see section 2 of Pub. L. 114–323, set out as a note under section 2651 of this title.

CHAPTER 59—FASCELL FELLOWSHIP PROGRAM

Sec.
4901. Fellowship program for temporary service at United States missions abroad.
4902. Fellowship Board.
4903. Fellowships.
4904. Secretary of State.

§4901. Fellowship program for temporary service at United States missions abroad

(a) Establishment

There is hereby established a fellowship program pursuant to which the Secretary of State will provide fellowships to United States citizens while they serve, for a period of between one and two years, in positions which would otherwise be held by foreign national employees at United States diplomatic or consular missions abroad.

(b) Designation of fellowships

Fellowships under this chapter shall be known as "Fascell Fellowships".

(c) Purpose of fellowships

Fellowships under this chapter shall be provided in order to allow the recipient (hereafter in this chapter referred to as a "Fellow") to serve on a short-term basis at a United States diplomatic or consular mission abroad in order to obtain first hand exposure to that country, including (as appropriate) independent study in that country's area studies or languages.

(d) Individuals who may receive a fellowship

To receive a fellowship under this chapter, an individual must be a United States citizen who is an undergraduate or graduate student, a teacher, scholar, or other academic, or an other individual, who has expertise in international affairs, foreign languages, or career and professional experience or interest in international affairs, and who has a working knowledge of the principal language of the country in which he or she would serve.

(e) Women and members of minority groups

In carrying out this section, the Secretary of State shall actively recruit women and members of minority groups.

(Pub. L. 99–399, title X, §1002, Aug. 27, 1986, 100 Stat. 893; Pub. L. 101–454, §9(b), Oct. 24, 1990, 104 Stat. 1065; Pub. L. 103–199, title III, §303, Dec. 17, 1993, 107 Stat. 2323.)

AMENDMENTS

1993—Pub. L. 103–199 substituted "abroad" for "in the Soviet Union and Eastern Europe" in section catchline.

1990—Subsec. (a). Pub. L. 101–454, §9(b)(1), substituted "which would otherwise be" for "formerly" and "abroad" for "in the Soviet Union or Eastern European countries".

Subsec. (c). Pub. L. 101–454, §9(b)(2), substituted "abroad" for "in the Soviet Union or an Eastern European country" and "that country's" for "Soviet or Eastern European".

Subsec. (d). Pub. L. 101–454, §9(b)(3), substituted "international affairs, foreign languages, or career and professional experience or interest in international affairs," for "Soviet or Eastern European area studies or languages".

SHORT TITLE OF 1990 AMENDMENT

Pub. L. 101–454, §9(a), Oct. 24, 1990, 104 Stat. 1065, provided that: "This section [amending this section and sections 4902 and 4904 of this title, and enacting provisions set out as a note under section 4902 of this title] may be cited as the 'Fascell Fellowship Amendments Act of 1990'."

SHORT TITLE

Pub. L. 99–399, title X, §1001, Aug. 27, 1986, 100 Stat. 893, provided that: "This title [enacting this chapter] may be cited as the 'Fascell Fellowship Act'."

§4902. Fellowship Board

(a) Establishment and function

There is hereby established a Fellowship Board (hereafter in this chapter referred to as the "Board"), which shall select the individuals who will be eligible to serve as Fellows.

(b) Membership

The Board shall consist of 7 members as follows:

(1) A senior official of the Department of State (who shall be the chair of the Board), designated by the Secretary of State.

(2) An officer or employee of the Department of Commerce, designated by the Secretary of Commerce.

(3) Five academic specialists in international affairs or foreign languages, appointed by the Secretary of State (in consultation with the chairman and ranking minority member of the Committee on Foreign Affairs of the House of Representatives and the chairman and ranking minority [1] of the Committee on Foreign Relations of the Senate).

(c) Meetings

The Board shall meet at least once each year to select the individuals who will be eligible to serve as Fellows.

(d) Compensation and per diem

Members of the Board shall receive no compensation on account of their service on the Board, but while away from their homes or regular places of business in the performance of their duties under this chapter, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5.

(Pub. L. 99–399, title X, §1003, Aug. 27, 1986, 100 Stat. 893; Pub. L. 101–454, §9(c)(1), Oct. 24, 1990, 104 Stat. 1066; Pub. L. 105–277, div. G, subdiv. A, title XIII, §1335(f), Oct. 21, 1998, 112 Stat. 2681–788.)

AMENDMENTS

1998—Subsec. (b). Pub. L. 105–277, §1335(f)(1), substituted "7 members" for "9 members" in introductory provisions.

Subsec. (b)(3), (4). Pub. L. 105–277, §1335(f)(2)–(4), redesignated par. (4) as (3), substituted "Five" for "Six", and struck out former par. (3) which read as follows: "An officer or employee of the United States Information Agency, designated by the Director of that Agency."

1990—Subsec. (b)(4). Pub. L. 101–454 substituted "international affairs or foreign languages," for "Soviet or Eastern European area studies or languages,".

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective Oct. 1, 1999, see section 1301 of Pub. L. 105–277, set out as an Effective Date note under section 6531 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101–454, §9(c)(2), Oct. 24, 1990, 104 Stat. 1066, provided that: "The amendment made by paragraph (1) [amending this section] shall apply only to appointments to the Fascell Fellowship Board after the date of the enactment of this section [Oct. 24, 1990] and shall not affect the service of members of such board on the date of the enactment of this section."

[1] *So in original. Probably should be followed by "member".*

§4903. Fellowships

(a) Number

Up to 100 fellowships may be provided under this chapter each year. Not less than 15 shall be provided during fiscal year 1993.

(b) Remuneration and period

The Board shall determine, taking into consideration the position in which each Fellow will serve and his or her experience and expertise—

(1) the amount of remuneration the Fellow will receive for his or her service under this chapter, and

(2) the period of the fellowship, which shall be between one and two years.

(c) Training

Each Fellow may be given appropriate training at the George P. Shultz National Foreign Affairs Training Center or other appropriate institution.

(d) Housing and transportation

The Secretary of State shall, pursuant to regulations—

(1) provide housing for each Fellow while the Fellow is serving abroad, including (where appropriate) housing for family members; and

(2) pay the costs and expenses incurred by each Fellow in traveling between the United States and the country in which the Fellow serves, including (where appropriate) travel for family members.

(e) Effective date

Subsection (d) of this section shall not take effect until October 1, 1986.

(Pub. L. 99–399, title X, §1004, Aug. 27, 1986, 100 Stat. 894; Pub. L. 102–511, title VIII, §804(a), Oct. 24, 1992, 106 Stat. 3353; Pub. L. 107–132, §1(b), Jan. 16, 2002, 115 Stat. 2412.)

AMENDMENTS

2002—Subsec. (c). Pub. L. 107–132 substituted "George P. Shultz National Foreign Affairs Training Center" for "Foreign Service Institute".

1992—Subsec. (a). Pub. L. 102–511 inserted at end "Not less than 15 shall be provided during fiscal year 1993."

FUNDING

Pub. L. 102–511, title VIII, §804(b), Oct. 24, 1992, 106 Stat. 3353, provided that: "In addition to the funds made available pursuant to section 1005(c) of that Act [22 U.S.C. 4904(c)], funds authorized to be appropriated by chapter 11 of part I of the Foreign Assistance Act of 1961 [22 U.S.C. 2295 et seq.] may be used in carrying out the amendment made by subsection (a) [amending this section] with respect to missions in the independent states of the former Soviet Union."

§4904. Secretary of State

(a) Determinations

The Secretary of State shall determine which of the individuals selected by the Board will serve at each United States diplomatic or consular mission abroad and the position in which each will serve.

(b) Authorities

Fellows may be employed—

(1) under a temporary appointment in the civil service;

(2) under a limited appointment in the Foreign Service; or

(3) by contract under the provisions of section 2669(c) of this title.

(c) Funding

Funds appropriated to the Department of State for "Salaries and Expenses" shall be used for the expenses incurred in carrying out this chapter.

(Pub. L. 99–399, title X, §1005, Aug. 27, 1986, 100 Stat. 894; Pub. L. 100–204, title I, §187, Dec. 22, 1987, 101 Stat. 1368; Pub. L. 101–454, §9(d), Oct. 24, 1990, 104 Stat. 1066.)

AMENDMENTS

1990—Subsec. (a). Pub. L. 101–454 substituted "abroad" for "in the Soviet Union or Eastern Europe".

1987—Subsec. (b). Pub. L. 100–204 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "Such service shall be in accordance with the relevant authorities of the Foreign Service Act of 1980, the State Department Basic Authorities Act of 1956, and title 5."

CHAPTER 60—ANTI-APARTHEID PROGRAM

§5001. Repealed. Pub. L. 103–149, §4(a)(2), Nov. 23, 1993, 107 Stat. 1505

Section, Pub. L. 99–440, §3, Oct. 2, 1986, 100 Stat. 1087; Pub. L. 99–631, §1(a)(2), Nov. 7, 1986, 100 Stat. 3515; Pub. L. 103–149, §4(a)(3)(A), Nov. 23, 1993, 107 Stat. 1505, defined terms for purposes of this chapter.

EFFECTIVE DATE OF REPEAL

Repeal effective June 8, 1994, date on which President certified to Congress that interim government, elected on nonracial basis through free and fair elections, had taken office in South Africa, see section 4(a)(2) of Pub. L. 103–149, set out in a Repeal of Chapter; South African Democratic Transition Support note below.

SHORT TITLE

Pub. L. 99–440, §1, Oct. 2, 1986, 100 Stat. 1086, provided that Pub. L. 99–440, which enacted this chapter and sections 2151o and 2346d of this title, amended sections 2151c and 2151n of this title and section 635 of Title 12, Banks and Banking, and enacted provisions set out as a note under section 2346d of this title, could be cited as the "Comprehensive Anti-Apartheid Act of 1986", prior to repeal by Pub. L. 103–149, §4(a)(2), Nov. 23, 1993, 107 Stat. 1505.

REPEAL OF CHAPTER; SOUTH AFRICAN DEMOCRATIC TRANSITION SUPPORT

Pub. L. 103–149, Nov. 23, 1993, 107 Stat. 1503, provided that:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'South African Democratic Transition Support Act of 1993'.

"SEC. 2. FINDINGS.

"The Congress makes the following findings:

"(1) After decades of apartheid, South Africa has entered a new era which presents a historic opportunity for a transition to a peaceful, stable, and democratic future.

"(2) The United States policy of economic sanctions toward the apartheid government of South Africa, as expressed in the Comprehensive Anti-Apartheid Act of 1986 [22 U.S.C. 5001 et seq.], helped bring about reforms in that system of government and has facilitated the establishment of a nonracial government.

"(3) Through broad and open negotiations, the parties in South Africa have reached a landmark agreement on the future of their country. This agreement includes the establishment of a Transitional Executive Council and the setting of a date for nonracial elections.

"(4) The international community has a vital interest in supporting the transition from apartheid toward nonracial democracy.

"(5) The success of the transition in South Africa is crucial to the stability and economic development of the southern African region.

"(6) Nelson Mandela of the African National Congress and other representative leaders in South Africa have declared that the time has come when the international community should lift all economic sanctions against South Africa.

"(7) In light of recent developments, the continuation of these economic sanctions is detrimental to persons disadvantaged by apartheid.

"(8) Those calling for the lifting of economic sanctions against South Africa have made clear that they do not seek the immediate termination of the United Nations-sponsored special sanctions relating to arms transfers, nuclear cooperation, and exports of oil. The Ad Hoc Committee on Southern Africa of the

Organization of African Unity, for example, has urged that the oil embargo established pursuant to a 1986 General Assembly resolution be lifted after the establishment and commencement of the work of the Transitional Executive Council.

"SEC. 3. UNITED STATES POLICY.

"It is the sense of the Congress that—

"(1) the United States should—

"(A) strongly support the Transitional Executive Council in South Africa,

"(B) encourage rapid progress toward the establishment of a nonracial democratic government in South Africa, and

"(C) support a consolidation of democracy in South Africa through democratic elections for an interim government and a new nonracial constitution;

"(2) the United States should continue to provide assistance to support the transition to a nonracial democracy in South Africa, and should urge international financial institutions and other donors to also provide such assistance;

"(3) to the maximum extent practicable, the United States should consult closely with international financial institutions, other donors, and South African entities on a coordinated strategy to support the transition to a nonracial democracy in South Africa;

"(4) in order to provide ownership and managerial opportunities, professional advancement, training, and employment for disadvantaged South Africans and to respond to the historical inequities created under apartheid, the United States should—

"(A) promote the expansion of private enterprise and free markets in South Africa,

"(B) encourage the South African private sector to take a special responsibility and interest in providing such opportunities, advancement, training, and employment for disadvantaged South Africans,

"(C) encourage United States private sector investment in and trade with South Africa,

"(D) urge United States investors to develop a working partnership with representative organs of South African civil society, particularly churches and trade unions, in promoting responsible codes of corporate conduct and other measures to address the historical inequities created under apartheid;

"(5) the United States should urge the Government of South Africa to liberalize its trade and investment policies to facilitate the expansion of the economy, and to shift resources to meet the needs of disadvantaged South Africans;

"(6) the United States should promote cooperation between South Africa and other countries in the region to foster regional stability and economic growth; and

"(7) the United States should demonstrate its support for an expedited transition to, and should adopt a long term policy beneficial to the establishment and perpetuation of, a nonracial democracy in South Africa.

"SEC. 4. REPEAL OF APARTHEID SANCTIONS LAWS AND OTHER MEASURES DIRECTED AT SOUTH AFRICA.

"(a) COMPREHENSIVE ANTI-APARTHEID ACT.—

"(1) IN GENERAL.—All provisions of the Comprehensive Anti-Apartheid Act of 1986 (22 U.S.C. 5001 and following) are repealed as of the date of enactment of this Act [Nov. 23, 1993], except for the sections specified in paragraph (2).

"(2) EFFECTIVE DATE OF REPEAL OF CODE OF CONDUCT REQUIREMENTS.—Sections 1, 3, 203(a), 203(b), 205, 207, 208, 601, 603, and 604 of the Comprehensive Anti-Apartheid Act of 1986 [22 U.S.C. 5001 note, 5001, 5031(a), (b), 5032, 5034, 5035, 5111, 5113, 5114] are repealed as of the date on which the President certifies to the Congress that an interim government, elected on a nonracial basis through free and fair elections, has taken office in South Africa. [A Presidential message to Congress dated June 8, 1994, set out in 30 Weekly Compilation of Presidential Documents 1258, June 13, 1994, certified that interim government, elected on nonracial basis through free and fair elections, had taken office in South Africa.]

"(3) CONFORMING AMENDMENTS.—(A) Section 3 of the Comprehensive Anti-Apartheid Act of 1986 [22 U.S.C. 5001] is amended by striking paragraphs (2) through (4) and paragraphs (7) through (9), by inserting 'and' at the end of paragraph (5), and by striking '; and' at the end of paragraph (6) and inserting a period.

"(B) The following provisions of the Foreign Assistance Act of 1961 that were enacted by the Comprehensive Anti-Apartheid Act of 1986 are repealed: subsections (e)(2), (f), and (g) of section 116 (22 U.S.C. 2151n); section 117 (22 U.S.C. 2151o), relating to assistance for disadvantaged South Africans; and section 535 (22 U.S.C. 2346d). Section 116(e)(1) of the Foreign Assistance Act of 1961 is amended by striking '(1)'.

"(b) OTHER PROVISIONS.—The following provisions are repealed or amended as follows:

"(1) Subsections (c) and (d) of section 802 of the International Security and Development Cooperation Act of 1985 (99 Stat. 261) is repealed.

"(2) Section 211 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (99 Stat. 432) is repealed, and section 1(b) of that Act is amended by striking the item in the table of contents relating to section 211.

"(3) Sections 1223 and 1224 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (101 Stat. 1415) is repealed, and section 1(b) of that Act is amended by striking the items in the table of contents relating to sections 1223 and 1224.

"(4) Section 362 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (105 Stat. 716) is repealed, and section 2 of that Act is amended by striking the item in the table of contents relating to section 362.

"(5) Section 2(b)(9) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(9)) is repealed.

"(6) Section 43 of the Bretton Woods Agreements Act (22 U.S.C. 286aa) is amended by repealing subsection (b) and by striking '(a)'.

"(7) Section 330 of H.R. 5205 of the 99th Congress (Department of Transportation and Related Agencies Appropriations Act, 1987) (22 U.S.C. 5056a) as incorporated by reference in section 101(l) of Public Law 99–500 and Public Law 99–591, and made effective as if enacted into law by section 106 of Public Law 100–202, is repealed.

"(8)(A) Section 901(j)(2)(C) of the Internal Revenue Code of 1986 (26 U.S.C. 901(j)(2)(C)) is repealed.

"(B) Subparagraph (A) shall not be construed as affecting any of the transitional rules contained in Revenue Ruling 92–62 which apply by reason of the termination of the period for which section 901(j) of the Internal Revenue Code of 1986 was applicable to South Africa.

"(9) The table in section 502(b) of the Trade Act of 1974 (19 U.S.C. 2462(b)) is amended by striking 'Republic of South Africa'.

"(c) SANCTIONS MEASURES ADOPTED BY STATE OR LOCAL GOVERNMENTS OR PRIVATE ENTITIES.—

"(1) POLICY REGARDING RESCISSION.—The Congress urges all State or local governments and all private entities in the United States that have adopted any restriction on economic interactions with South Africa, or any policy discouraging such interaction, to rescind such restriction or policy.

"(2) REPEAL OF PROVISIONS RELATING TO WITHHOLDING FEDERAL FUNDS.—Effective October 1, 1995, the following provisions are repealed:

"(A) The undesignated paragraph entitled 'STATE AND LOCAL ANTI-APARTHEID POLICIES' in chapter IX of the Dire Emergency Supplemental Appropriations and Transfers, Urgent Supplementals, and Correcting Enrollment Errors Act of 1989 (22 U.S.C. 5117).

"(B) Section 210 of the Urgent Supplemental Appropriations Act, 1986 (100 Stat. 749).

"(d) CONTINUATION OF UN SPECIAL SANCTIONS.—It is the sense of the Congress that the United States should continue to respect United Nations Security Council resolutions on South Africa, including the resolution providing for a mandatory embargo on arms sales to South Africa and the resolutions relating to the import of arms, restricting exports to the South African military and police, and urging states to refrain from nuclear cooperation that would contribute to the manufacture and development by South Africa of nuclear weapons or nuclear devices.

"SEC. 5. UNITED STATES ASSISTANCE FOR THE TRANSITION TO A NONRACIAL DEMOCRACY.

"(a) IN GENERAL.—The President is authorized and encouraged to provide assistance under chapter 10 of part I of the Foreign Assistance Act of 1961 [22 U.S.C. 2293 et seq.] (relating to the Development Fund for Africa) or chapter 4 of part II of that Act [22 U.S.C. 2346 et seq.] (relating to the Economic Support Fund) to support the transition to nonracial democracy in South Africa. Such assistance shall—

"(1) focus on building the capacity of disadvantaged South Africans to take their rightful place in the political, social, and economic systems of their country;

"(2) give priority to working with and through South African nongovernmental organizations whose leadership and staff represent the majority population and which have the support of the disadvantaged communities being served by such organizations;

"(3) in the case of education programs—

"(A) be used to increase the capacity of South African institutions to better serve the needs of individuals disadvantaged by apartheid;

"(B) emphasize education within South Africa to the extent that assistance takes the form of scholarships for disadvantaged South African students; and

"(C) fund nontraditional training activities;

"(4) support activities to prepare South Africa for elections, including voter and civic education programs, political party building, and technical electoral assistance;

"(5) support activities and entities, such as the Peace Accord structures, which are working to end the violence in South Africa; and

"(6) support activities to promote human rights, democratization, and a civil society.

"(b) GOVERNMENT OF SOUTH AFRICA.—

"(1) LIMITATION ON ASSISTANCE.—Except as provided in paragraph (2), assistance provided in accordance with this section may not be made available to the Government of South Africa, or organizations financed and substantially controlled by that government, unless the President certifies to the Congress that an interim government that was elected on a nonracial basis through free and fair elections has taken office in South Africa.

"(2) EXCEPTIONS.—Notwithstanding paragraph (1), assistance may be provided for—

"(A) the Transitional Executive Council;

"(B) South African higher education institutions, particularly those traditionally disadvantaged by apartheid policies; and

"(C) any other organization, entity, or activity if the President determines that the assistance would promote the transition to nonracial democracy in South Africa.

Any determination under subparagraph (C) should be based on consultations with South African individuals and organizations representative of the majority population in South Africa (particularly consultations through the Transitional Executive Council) and consultations with the appropriate congressional committees.

"(c) INELIGIBLE ORGANIZATIONS.—

"(1) ACTS OF VIOLENCE.—An organization that has engaged in armed struggle or other acts of violence shall not be eligible for assistance provided in accordance with this section unless that organization is committed to a suspension of violence in the context of progress toward nonracial democracy.

"(2) VIEWS INCONSISTENT WITH DEMOCRACY AND FREE ENTERPRISE.—Assistance provided in accordance with this section may not be made available to any organization that has espoused views inconsistent with democracy and free enterprise unless such organization is engaged actively and positively in the process of transition to a nonracial democracy and such assistance would advance the United States objective of promoting democracy and free enterprise in South Africa.

"SEC. 6. UNITED STATES INVESTMENT AND TRADE.

"(a) TAX TREATY.—The President should begin immediately to negotiate a tax treaty with South Africa to facilitate United States investment in that country.

"(b) OPIC.—The President should immediately initiate negotiations with the Government of South Africa for an agreement authorizing the Overseas Private Investment Corporation to carry out programs with respect to South Africa in order to expand United States investment in that country.

"(c) TRADE AND DEVELOPMENT AGENCY.—In carrying out section 661 of the Foreign Assistance Act of 1961 [22 U.S.C. 2421], the Director of the Trade and Development Agency should provide additional funds for activities related to projects in South Africa.

"(d) EXPORT-IMPORT BANK.—The Export-Import Bank of the United States should expand its activities in connection with exports to South Africa.

"(e) PROMOTING DISADVANTAGED ENTERPRISES.—

"(1) INVESTMENT AND TRADE PROGRAMS.—Each of the agencies referred to in subsections (b) through (d) should take active steps to encourage the use of its programs to promote business enterprises in South Africa that are majority-owned by South Africans disadvantaged by apartheid.

"(2) UNITED STATES GOVERNMENT PROCUREMENT.—To the extent not inconsistent with the obligations of the United States under any international agreement, the Secretary of State and the head of any other department or agency of the United States carrying out activities in South Africa shall, to the maximum extent practicable, in procuring goods or services, make affirmative efforts to assist business enterprises having more than 50 percent beneficial ownership by South African blacks or other nonwhite South Africans, notwithstanding any law relating to the making or performance of, or the expenditure of funds for, United States Government contracts.

"SEC. 7. INFORMATION AND EDUCATIONAL EXCHANGE PROGRAMS.

"The Director of the United States Information Agency should use the authorities of the United States Information and Educational Exchange Act of 1948 [22 U.S.C. 1431 et seq.] to promote the development of a nonracial democracy in South Africa.

"SEC. 8. OTHER COOPERATIVE AGREEMENTS.

"In addition to the actions specified in the preceding sections of this Act, the President should seek to conclude cooperative agreements with South Africa on a range of issues, including cultural and scientific issues.

"SEC. 9. INTERNATIONAL FINANCIAL INSTITUTIONS AND OTHER DONORS.

"(a) IN GENERAL.—The President should encourage other donors, particularly Japan and the European Community countries, to expand their activities in support of the transition to nonracial democracy in South Africa.

"(b) INTERNATIONAL FINANCIAL INSTITUTIONS.—The Secretary of the Treasury should instruct the United States Executive Director of each relevant international financial institution, including the International Bank for Reconstruction and Development and the International Development Association, to urge that institution to initiate or expand its lending and other financial assistance activities to South Africa in order to support the transition to nonracial democracy in South Africa.

"(c) TECHNICAL ASSISTANCE.—The Secretary of the Treasury should instruct the United States Executive Director of each relevant international financial institution to urge that institution to fund programs to initiate or expand technical assistance to South Africa for the purpose of training the people of South Africa in government management techniques.

"SEC. 10. CONSULTATION WITH SOUTH AFRICANS.

"In carrying out this Act, the President should consult closely with South African individuals and organizations representative of the majority population in South Africa (particularly consultations through the Transitional Executive Council) and others committed to abolishing the remnants of apartheid."

[For abolition of United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau), transfer of functions, and treatment of references thereto, see sections 6531, 6532, and 6551 of this title.]

NON-FEDERAL RESTRICTIONS AND REGULATIONS

House Resolution 549, Ninety-ninth Congress, Sept. 12, 1986, provided: "That in passing the bill, H.R. 4868, as amended by the Senate [enacted into law as Pub. L. 99–440], it is not the intent of the House of Representatives that the bill limit, preempt, or affect, in any fashion, the authority of any State or local government or the District of Columbia or of any Commonwealth, territory, or possession of the United States or political subdivision thereof to restrict or otherwise regulate any financial or commercial activity respecting South Africa."

§5002. Repealed. Pub. L. 103–149, §4(a)(1), Nov. 23, 1993, 107 Stat. 1504

Section, Pub. L. 99–440, §4, Oct. 2, 1986, 100 Stat. 1089, related to purpose of this chapter.

SUBCHAPTER I—POLICY OF UNITED STATES WITH RESPECT TO ENDING APARTHEID

§§5011 to 5020. Repealed. Pub. L. 103–149, §4(a)(1), Nov. 23, 1993, 107 Stat. 1504

Section 5011, Pub. L. 99–440, title I, §101, Oct. 2, 1986, 100 Stat. 1089, stated United States policy toward Government of South Africa.

Section 5012, Pub. L. 99–440, title I, §102, Oct. 2, 1986, 100 Stat. 1090; Pub. L. 99–631, §1(a)(3), Nov. 7, 1986, 100 Stat. 3515, stated United States policy toward African National Congress, Pan African Congress, and their affiliates.

Section 5013, Pub. L. 99–440, title I, §103, Oct. 2, 1986, 100 Stat. 1090; Pub. L. 99–631, §1(a)(4), Nov. 7, 1986, 100 Stat. 3515, stated United States policy toward victims of apartheid.

Section 5014, Pub. L. 99–440, title I, §104, Oct. 2, 1986, 100 Stat. 1091; Pub. L. 99–631, §1(a)(5), Nov. 7, 1986, 100 Stat. 3515, stated United States policy toward other countries in Southern Africa.

Section 5015, Pub. L. 99–440, title I, §105, Oct. 2, 1986, 100 Stat. 1091; Pub. L. 99–631, §1(a)(6), Nov. 7,

1986, 100 Stat. 3516, stated sense of Congress as to Presidential discussions with "frontline" African states.

Section 5016, Pub. L. 99–440, title I, §106, Oct. 2, 1986, 100 Stat. 1092; Pub. L. 99–631, §1(a)(7), Nov. 7, 1986, 100 Stat. 3516, stated United States policy toward negotiated settlement.

Section 5017, Pub. L. 99–440, title I, §107, Oct. 2, 1986, 100 Stat. 1093, stated congressional findings and policy toward international cooperation on measures to end apartheid.

Section 5018, Pub. L. 99–440, title I, §108, Oct. 2, 1986, 100 Stat. 1093, stated sense of Congress relating to "necklacing".

Section 5019, Pub. L. 99–440, title I, §109, Oct. 2, 1986, 100 Stat. 1093; Pub. L. 99–631, §1(a)(8), Nov. 7, 1986, 100 Stat. 3516, stated sense of Congress that United States Ambassador should meet with Nelson Mandela.

Section 5020, Pub. L. 99–440, title I, §110, Oct. 2, 1986, 100 Stat. 1093, stated congressional findings and sense of Congress relating to recruitment and training of black South Africans by United States employers.

SUBCHAPTER II—MEASURES TO ASSIST VICTIMS OF APARTHEID

§§5031, 5032. Repealed. Pub. L. 103–149, §4(a)(2), Nov. 23, 1993, 107 Stat. 1505

Section 5031, Pub. L. 99–440, title II, §203, Oct. 2, 1986, 100 Stat. 1095; Pub. L. 103–149, §4(a)(1), Nov. 23, 1993, 107 Stat. 1504, related to expansion of participation of black and other nonwhite South Africans in economy of South Africa.

Section 5032, Pub. L. 99–440, title II, §205, Oct. 2, 1986, 100 Stat. 1096, related to labor practices of United States Government in South Africa.

EFFECTIVE DATE OF REPEAL

Repeal effective June 8, 1994, date on which President certified to Congress that interim government, elected on nonracial basis through free and fair elections, had taken office in South Africa, see section 4(a)(2) of Pub. L. 103–149, set out in a Repeal of Chapter; South African Democratic Transition Support note under section 5001 of this title.

§5033. Repealed. Pub. L. 103–149, §4(a)(1), Nov. 23, 1993, 107 Stat. 1504

Section, Pub. L. 99–440, title II, §206, Oct. 2, 1986, 100 Stat. 1097, directed Secretary of State to provide housing assistance to employees of the United States who are victims of apartheid.

§§5034, 5035. Repealed. Pub. L. 103–149, §4(a)(2), Nov. 23, 1993, 107 Stat. 1505

Section 5034, Pub. L. 99–440, title II, §207, Oct. 2, 1986, 100 Stat. 1097; Pub. L. 99–631, §1(a)(9), Nov. 7, 1986, 100 Stat. 3516, related to employment practices of United States nationals in South Africa.

Section 5035, Pub. L. 99–440, title II, §208, Oct. 2, 1986, 100 Stat. 1097; Pub. L. 99–631, §1(a)(10), Nov. 7, 1986, 100 Stat. 3516, related to Code of Conduct for Americans in South Africa.

EFFECTIVE DATE OF REPEAL

Repeal effective June 8, 1994, date on which President certified to Congress that interim government, elected on nonracial basis through free and fair elections, had taken office in South Africa, see section 4(a)(2) of Pub. L. 103–149, set out in a Repeal of Chapter; South African Democratic Transition Support note under section 5001 of this title.

§§5036 to 5039. Repealed. Pub. L. 103–149, §4(a)(1), Nov. 23, 1993, 107 Stat. 1504

Section 5036, Pub. L. 99–440, title II, §209, Oct. 2, 1986, 100 Stat. 1098, prohibited assistance under this chapter to certain groups.

Section 5037, Pub. L. 99–440, title II, §210, Oct. 2, 1986, 100 Stat. 1098, authorized President to use Emergency Reserve for African Famine Relief to meet food shortages in southern Africa.

Section 5038, Pub. L. 99–440, title II, §211, Oct. 2, 1986, 100 Stat. 1098, prohibited assistance under this chapter, chapter 32 of this title, or any other law to any person or group engaging in "necklacing".

Section 5039, Pub. L. 99–440, title II, §212, Oct. 2, 1986, 100 Stat. 1098; Pub. L. 99–631, §1(a)(11), Nov. 7, 1986, 100 Stat. 3516, related to participation of South Africa in agricultural export credit and promotion programs conducted by Secretary of Agriculture.

SUBCHAPTER III—MEASURES BY UNITED STATES TO UNDERMINE APARTHEID

§§5051 to 5072. Repealed. Pub. L. 103–149, §4(a)(1), (b)(7), Nov. 23, 1993, 107 Stat. 1504, 1505

Section 5051, Pub. L. 99–440, title III, §301, Oct. 2, 1986, 100 Stat. 1099, prohibited importation of krugerrands.

Section 5052, Pub. L. 99–440, title III, §302, Oct. 2, 1986, 100 Stat. 1099, prohibited importation of military articles.

Section 5053, Pub. L. 99–440, title III, §303, Oct. 2, 1986, 100 Stat. 1099; Pub. L. 99–631, §1(a)(12), Nov. 7, 1986, 100 Stat. 3516, prohibited importation of products from parastatal organizations.

Section 5054, Pub. L. 99–440, title III, §304, Oct. 2, 1986, 100 Stat. 1099, prohibited computer exports to South Africa.

Section 5055, Pub. L. 99–440, title III, §305, Oct. 2, 1986, 100 Stat. 1100, prohibited loans to Government of South Africa.

Section 5056, Pub. L. 99–440, title III, §306, Oct. 2, 1986, 100 Stat. 1100; Pub. L. 99–631, §1(a)(13), Nov. 7, 1986, 100 Stat. 3516, prohibited air transportation with South Africa.

Section 5056a, Pub. L. 99–500, §101(l), Oct. 18, 1986, 100 Stat. 1783–308, and Pub. L. 99–591, §101(l), Oct. 30, 1986, 100 Stat. 3341–308; Pub. L. 100–202, §106, Dec. 22, 1987, 101 Stat. 1329–433, related to prohibition on landing rights of South African aircraft.

Section 5057, Pub. L. 99–440, title III, §307, Oct. 2, 1986, 100 Stat. 1101, prohibited nuclear trade with South Africa.

Section 5058, Pub. L. 99–440, title III, §308, Oct. 2, 1986, 100 Stat. 1102, related to bank accounts of Government of South Africa.

Section 5059, Pub. L. 99–440, title III, §309, Oct. 2, 1986, 100 Stat. 1102; Pub. L. 99–631, §1(a)(14), Nov. 7, 1986, 100 Stat. 3516; Pub. L. 100–418, title I, §1214(n), Aug. 23, 1988, 102 Stat. 1158, prohibited importation of uranium, coal, and textiles from South Africa.

Section 5060, Pub. L. 99–440, title III, §310, Oct. 2, 1986, 100 Stat. 1102, prohibited new investment in South Africa.

Section 5061, Pub. L. 99–440, title III, §311, Oct. 2, 1986, 100 Stat. 1103, provided for termination of this subchapter and sections 5091(c) and 5094(b) of this title, if the Government of South Africa met five specific conditions. See Ex. Ord. No. 12769, July 10, 1991, 56 F.R. 31855, formerly set out below.

Section 5062, Pub. L. 99–440, title III, §312, Oct. 2, 1986, 100 Stat. 1103; Pub. L. 99–631, §1(a)(15), Nov. 7, 1986, 100 Stat. 3517, stated United States policy toward violence and terrorism in South Africa.

Section 5063, Pub. L. 99–440, title III, §313, Oct. 2, 1986, 100 Stat. 1104; Pub. L. 99–631, §1(a)(16), Nov. 7, 1986, 100 Stat. 3517, provided for termination of tax treaty and protocol.

Section 5064, Pub. L. 99–440, title III, §314, Oct. 2, 1986, 100 Stat. 1104; Pub. L. 99–631, §1(a)(17), Nov. 7, 1986, 100 Stat. 3517, prohibited procurement by United States Government from South Africa.

Section 5065, Pub. L. 99–440, title III, §315, Oct. 2, 1986, 100 Stat. 1104, prohibited promotion of United States tourism in South Africa.

Section 5066, Pub. L. 99–440, title III, §316, Oct. 2, 1986, 100 Stat. 1104, prohibited United States Government assistance to, investment in, or subsidy for trade with, South Africa.

Section 5067, Pub. L. 99–440, title III, §317, Oct. 2, 1986, 100 Stat. 1104; Pub. L. 99–631, §1(a)(18), Nov. 7, 1986, 100 Stat. 3517, prohibited exportation of items on United States Munitions List to South Africa.

Section 5068, Pub. L. 99–440, title III, §318, Oct. 2, 1986, 100 Stat. 1105; Pub. L. 99–631, §1(a)(19), Nov. 7, 1986, 100 Stat. 3517, provided notification procedures for proposed export of items on United States Munitions List.

Section 5069, Pub. L. 99–440, title III, §319, Oct. 2, 1986, 100 Stat. 1105; Pub. L. 99–631, §1(a)(20), Nov. 7, 1986, 100 Stat. 3517, prohibited importation of South African agricultural products and food.

Section 5070, Pub. L. 99–440, title III, §320, Oct. 2, 1986, 100 Stat. 1105; Pub. L. 99–631, §1(a)(21), Nov. 7, 1986, 100 Stat. 3517, prohibited importation of iron and steel from South Africa.

Section 5071, Pub. L. 99–440, title III, §321, Oct. 2, 1986, 100 Stat. 1105; Pub. L. 99–631, §1(a)(22), Nov. 7, 1986, 100 Stat. 3518, prohibited exportation of crude oil and petroleum products to South Africa.

Section 5072, Pub. L. 99–440, title III, §322, Oct. 2, 1986, 100 Stat. 1105; Pub. L. 99–631, §1(a)(23), Nov. 7, 1986, 100 Stat. 3518, prohibited cooperation with armed forces of South Africa.

§5072a. Repealed. Pub. L. 103–359, title III, §304, Oct. 14, 1994, 108 Stat. 3426

Section, Pub. L. 99–569, title I, §107, Oct. 27, 1986, 100 Stat. 3191, restricted intelligence agencies from cooperating with Government of South Africa.

§5073. Repealed. Pub. L. 103–149, §4(a)(1), Nov. 23, 1993, 107 Stat. 1504

Section, Pub. L. 99–440, title III, §323(a), Oct. 2, 1986, 100 Stat. 1105, prohibited importation of South African sugar products.

SUBCHAPTER IV—MULTILATERAL MEASURES TO UNDERMINE APARTHEID

§§5081 to 5083. Repealed. Pub. L. 103–149, §4(a)(1), Nov. 23, 1993, 107 Stat. 1504

Section 5081, Pub. L. 99–440, title IV, §401, Oct. 2, 1986, 100 Stat. 1106; Pub. L. 99–631, §1(a)(24), Nov. 7, 1986, 100 Stat. 3518, related to negotiating authority of President to reach agreements on multilateral measures to undermine apartheid.

Section 5082, Pub. L. 99–440, title IV, §402, Oct. 2, 1986, 100 Stat. 1107; Pub. L. 99–631, §1(a)(25), Nov. 7, 1986, 100 Stat. 3518, authorized President to limit imports from foreign countries benefitting from sanctions or prohibitions imposed under this chapter.

Section 5083, Pub. L. 99–440, title IV, §403, Oct. 2, 1986, 100 Stat. 1107, related to private right of action.

SUBCHAPTER V—FUTURE POLICY TOWARD SOUTH AFRICA

§§5091 to 5099. Repealed. Pub. L. 103–149, §4(a)(1), Nov. 23, 1993, 107 Stat. 1504

Section 5091, Pub. L. 99–440, title V, §501, Oct. 2, 1986, 100 Stat. 1108; Pub. L. 99–631, §1(a)(26), Nov. 7, 1986, 100 Stat. 3518, related to imposition of additional measures against Government of South Africa.

Section 5092, Pub. L. 99–440, title V, §502, Oct. 2, 1986, 100 Stat. 1109; Pub. L. 99–631, §1(a)(27), Nov. 7, 1986, 100 Stat. 3518, related to lifting of prohibitions contained in this chapter.

Section 5093, Pub. L. 99–440, title V, §503, Oct. 2, 1986, 100 Stat. 1109, related to study of health conditions in "homelands" areas of South Africa.

Section 5094, Pub. L. 99–440, title V, §504, Oct. 2, 1986, 100 Stat. 1109, related to report on imports of strategic and critical materials from South Africa.

Section 5095, Pub. L. 99–440, title V, §505, Oct. 2, 1986, 100 Stat. 1109; Pub. L. 99–631, §1(a)(28), Nov. 7, 1986, 100 Stat. 3518, related to study and report on economy of southern Africa.

Section 5096, Pub. L. 99–440, title V, §506, Oct. 2, 1986, 100 Stat. 1110, related to report on relations between other industrialized democracies and South Africa.

Section 5097, Pub. L. 99–440, title V, §507, Oct. 2, 1986, 100 Stat. 1110, related to study and report on deposit accounts of South African nationals in United States banks.

Section 5098, Pub. L. 99–440, title V, §508, Oct. 2, 1986, 100 Stat. 1110, related to study and report on violation of international embargo on sale and export of military articles to South Africa.

Section 5099, Pub. L. 99–440, title V, §509, Oct. 2, 1986, 100 Stat. 1111, related to report on Communist activities in South Africa.

§5100. Repealed. Pub. L. 102–182, §4, Dec. 4, 1991, 105 Stat. 1234

Section, Pub. L. 99–440, title V, §510, Oct. 2, 1986, 100 Stat. 1111; Pub. L. 99–631, §1(a)(29), Nov. 7, 1986, 100 Stat. 3518, prohibited importation of Soviet gold coins.

§5101. Repealed. Pub. L. 103–149, §4(a)(1), Nov. 23, 1993, 107 Stat. 1504

Section, Pub. L. 99–440, title V, §512, Oct. 2, 1986, 100 Stat. 1112; Pub. L. 99–631, §1(a)(30), Nov. 7, 1986, 100 Stat. 3519, related to report on African National Congress.

SUBCHAPTER VI—ENFORCEMENT AND ADMINISTRATIVE PROVISIONS

§5111. Repealed. Pub. L. 103–149, §4(a)(2), Nov. 23, 1993, 107 Stat. 1505

Section, Pub. L. 99–440, title VI, §601, Oct. 2, 1986, 100 Stat. 1112, authorized President to issue rules, regulations, licenses, and orders as necessary to carry out this chapter.

EFFECTIVE DATE OF REPEAL

Repeal effective June 8, 1994, date on which President certified to Congress that interim government, elected on nonracial basis through free and fair elections, had taken office in South Africa, see section 4(a)(2) of Pub. L. 103–149, set out in a Repeal of Chapter; South African Democratic Transition Support note under section 5001 of this title.

§5112. Repealed. Pub. L. 103–149, §4(a)(1), Nov. 23, 1993, 107 Stat. 1504

Section, Pub. L. 99–440, title VI, §602, Oct. 2, 1986, 100 Stat. 1112; Pub. L. 99–631, §1(a)(31), Nov. 7, 1986, 100 Stat. 3519, related to congressional priority procedures for consideration of certain joint resolutions under this chapter.

§§5113, 5114. Repealed. Pub. L. 103–149, §4(a)(2), Nov. 23, 1993, 107 Stat. 1505

Section 5113, Pub. L. 99–440, title VI, §603, Oct. 2, 1986, 100 Stat. 1114, related to enforcement of this chapter and penalties for noncompliance.

Section 5114, Pub. L. 99–440, title VI, §604, Oct. 2, 1986, 100 Stat. 1115, provided that this chapter applied to persons undertaking transactions or activities with intent to evade this chapter.

EFFECTIVE DATE OF REPEAL

Repeal effective June 8, 1994, date on which President certified to Congress that interim government, elected on nonracial basis through free and fair elections, had taken office in South Africa, see section 4(a)(2) of Pub. L. 103–149, set out in a Repeal of Chapter; South African Democratic Transition Support note under section 5001 of this title.

§§5115, 5116. Repealed. Pub. L. 103–149, §4(a)(1), Nov. 23, 1993, 107 Stat. 1504

Section 5115, Pub. L. 99–440, title VI, §605, Oct. 2, 1986, 100 Stat. 1115, related to construction of this

chapter.

Section 5116, Pub. L. 99–440, title VI, §606, Oct. 2, 1986, 100 Stat. 1115, related to penalties for application of State and local anti-apartheid laws to certain State and local government contracts.

§5117. Repealed. Pub. L. 103–149, §4(c)(2)(A), Nov. 23, 1993, 107 Stat. 1506

Section, Pub. L. 101–45, title I, June 30, 1989, 103 Stat. 110, related to State and local anti-apartheid policies.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1995, see section §4(c)(2)(A) of Pub. L. 103–149, set out in a Repeal of Chapter; South African Democratic Transition Support note under section 5001 of this title.

CHAPTER 61—ANTI-TERRORISM—PLO

Sec.

5201. Findings; determinations.
5202. Prohibitions regarding PLO.
5203. Enforcement.

§5201. Findings; determinations

(a) Findings

The Congress finds that—

(1) Middle East terrorism accounted for 60 percent of total international terrorism in 1985;

(2) the Palestine Liberation Organization (hereafter in this chapter referred to as the "PLO") was directly responsible for the murder of an American citizen on the Achille Lauro cruise liner in 1985, and a member of the PLO's Executive Committee is under indictment in the United States for the murder of that American citizen;

(3) the head of the PLO has been implicated in the murder of a United States Ambassador overseas;

(4) the PLO and its constituent groups have taken credit for, and been implicated in, the murders of dozens of American citizens abroad;

(5) the PLO covenant specifically states that "armed struggle is the only way to liberate Palestine, thus it is an overall strategy, not merely a tactical phase";

(6) the PLO rededicated itself to the "continuing struggle in all its armed forms" at the Palestine National Council meeting in April 1987; and

(7) the Attorney General has stated that "various elements of the Palestine Liberation Organization and its allies and affiliates are in the thick of international terror".

(b) Determinations

Therefore, the Congress determines that the PLO and its affiliates are a terrorist organization and a threat to the interests of the United States, its allies, and to international law and should not benefit from operating in the United States.

(Pub. L. 100–204, title X, §1002, Dec. 22, 1987, 101 Stat. 1406.)

EFFECTIVE DATE AND TERMINATION

Pub. L. 100–204, title X, §1005, Dec. 22, 1987, 101 Stat. 1407, provided that:

"(a) EFFECTIVE DATE.—Provisions of this title [enacting this chapter] shall take effect 90 days after the date of enactment of this Act [Dec. 22, 1987].

"(b) TERMINATION.—The provisions of this title shall cease to have effect if the President certifies in writing to the President pro tempore of the Senate and the Speaker of the House that the Palestine Liberation Organization, its agents, or constituent groups thereof no longer practice or support terrorist actions anywhere

in the world."

SHORT TITLE

Pub. L. 100–204, title X, §1001, Dec. 22, 1987, 101 Stat. 1406, provided that: "This title [enacting this chapter] may be cited as the 'Anti-Terrorism Act of 1987'."

§5202. Prohibitions regarding PLO

It shall be unlawful, if the purpose be to further the interests of the Palestine Liberation Organization or any of its constituent groups, any successor to any of those, or any agents thereof, on or after the effective date of this chapter—

(1) to receive anything of value except informational material from the PLO or any of its constituent groups, any successor thereto, or any agents thereof;

(2) to expend funds from the PLO or any of its constituent groups, any successor thereto, or any agents thereof; or

(3) notwithstanding any provision of law to the contrary, to establish or maintain an office, headquarters, premises, or other facilities or establishments within the jurisdiction of the United States at the behest or direction of, or with funds provided by the Palestine Liberation Organization or any of its constituent groups, any successor to any of those, or any agents thereof.

(Pub. L. 100–204, title X, §1003, Dec. 22, 1987, 101 Stat. 1407.)

REFERENCES IN TEXT

For the effective date of this chapter, referred to in text, as being 90 days after Dec. 22, 1987, see section 1005 of Pub. L. 100–204, set out as an Effective Date note under section 5201 of this title.

DELEGATION OF CERTAIN FUNCTIONS AND AUTHORITIES

Memorandum of President of the United States, July 21, 2010, 75 F.R. 43795, provided:

Memorandum for the Secretary of State

By the authority vested in me as President by the Constitution and the laws of the United States, including section 301 of title 3, United States Code, I hereby delegate to you the following functions and authorities:

• The function to make the specified reports to the Congress under 22 U.S.C. 2291–4(c).

• The function and authority to waive the provisions of section 1003 of Public Law 100–204 (22 U.S.C. 5202) upon making certain determinations and certifications under section 7034(b) of the Consolidated Appropriations Act, 2010 (Public Law 111–117) and any subsequently enacted provision of law that is the same or substantially the same.

You are authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

§5203. Enforcement

(a) Attorney General

The Attorney General shall take the necessary steps and institute the necessary legal action to effectuate the policies and provisions of this chapter.

(b) Relief

Any district court of the United States for a district in which a violation of this chapter occurs shall have authority, upon petition of relief by the Attorney General, to grant injunctive and such other equitable relief as it shall deem necessary to enforce the provisions of this chapter.

(Pub. L. 100–204, title X, §1004, Dec. 22, 1987, 101 Stat. 1407.)

CHAPTER 62—INTERNATIONAL FINANCIAL POLICY

SUBCHAPTER I—EXCHANGE RATES AND INTERNATIONAL ECONOMIC POLICY COORDINATION

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SUBCHAPTER I—EXCHANGE RATES AND INTERNATIONAL ECONOMIC POLICY COORDINATION

§5301. Short title

This subchapter may be cited as the "Exchange Rates and International Economic Policy Coordination Act of 1988".

(Pub. L. 100–418, title III, §3001, Aug. 23, 1988, 102 Stat. 1372.)

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original "this subtitle", meaning subtitle A (§§3001–3006) of title III of Pub. L. 100–418, Aug. 23, 1988, 102 Stat. 1372, which is classified principally to this subchapter. For complete classification of subtitle A to the Code, see Tables.

§5302. Findings

The Congress finds that—

(1) the macroeconomic policies, including the exchange rate policies, of the leading industrialized nations require improved coordination and are not consistent with long-term economic growth and financial stability;

(2) currency values have a major role in determining the patterns of production and trade in the world economy;

(3) the rise in the value of the dollar in the early 1980's contributed substantially to our current trade deficit;

(4) exchange rates among major trading nations have become increasingly volatile and a pattern of exchange rates has at times developed which contribute to substantial and persistent imbalances in the flow of goods and services between nations, imposing serious strains on the world trading system and frustrating both business and government planning;

(5) capital flows between nations have become very large compared to trade flows, respond at times quickly and dramatically to policy and economic changes, and, for these reasons, contribute significantly to uncertainty in financial markets, the volatility of exchange rates, and the development of exchange rates which produce imbalances in the flow of goods and services between nations;

(6) policy initiatives by some major trading nations that manipulate the value of their currencies in relation to the United States dollar to gain competitive advantage continue to create serious competitive problems for United States industries;

(7) a more stable exchange rate for the dollar at a level consistent with a more appropriate and sustainable balance in the United States current account should be a major focus of national economic policy;

(8) procedures for improving the coordination of macroeconomic policy need to be strengthened considerably; and

(9) under appropriate circumstances, intervention by the United States in foreign exchange markets as part of a coordinated international strategic intervention effort could produce more orderly adjustment of foreign exchange markets and, in combination with necessary macroeconomic policy changes, assist adjustment toward a more appropriate and sustainable balance in current accounts.

(Pub. L. 100–418, title III, §3002, Aug. 23, 1988, 102 Stat. 1372.)

§5303. Statement of policy

It is the policy of the United States that—

(1) the United States and the other major industrialized countries should take steps to continue the process of coordinating monetary, fiscal, and structural policies initiated in the Plaza Agreement of September 1985;

(2) the goal of the United States in international economic negotiations should be to achieve macroeconomic policies and exchange rates consistent with more appropriate and sustainable balances in trade and capital flows and to foster price stability in conjunction with economic growth;

(3) the United States, in close coordination with the other major industrialized countries should, where appropriate, participate in international currency markets with the objective of producing more orderly adjustment of foreign exchange markets and, in combination with necessary macroeconomic policy changes, assisting adjustment toward a more appropriate and sustainable balance in current accounts; and

(4) the accountability of the President for the impact of economic policies and exchange rates on trade competitiveness should be increased.

(Pub. L. 100–418, title III, §3003, Aug. 23, 1988, 102 Stat. 1373.)

§5304. International negotiations on exchange rate and economic policies

(a) Multilateral negotiations

The President shall seek to confer and negotiate with other countries—

(1) to achieve—

(A) better coordination of macroeconomic policies of the major industrialized nations; and

(B) more appropriate and sustainable levels of trade and current account balances, and exchange rates of the dollar and other currencies consistent with such balances; and

(2) to develop a program for improving existing mechanisms for coordination and improving the functioning of the exchange rate system to provide for long-term exchange rate stability consistent with more appropriate and sustainable current account balances.

(b) Bilateral negotiations

The Secretary of the Treasury shall analyze on an annual basis the exchange rate policies of foreign countries, in consultation with the International Monetary Fund, and consider whether countries manipulate the rate of exchange between their currency and the United States dollar for purposes of preventing effective balance of payments adjustments or gaining unfair competitive advantage in international trade. If the Secretary considers that such manipulation is occurring with respect to countries that (1) have material global current account surpluses; and (2) have significant bilateral trade surpluses with the United States, the Secretary of the Treasury shall take action to initiate negotiations with such foreign countries on an expedited basis, in the International Monetary Fund or bilaterally, for the purpose of ensuring that such countries regularly and promptly adjust the rate of exchange between their currencies and the United States dollar to permit effective balance of payments adjustments and to eliminate the unfair advantage. The Secretary shall not be required to initiate negotiations in cases where such negotiations would have a serious detrimental impact on vital national economic and security interests; in such cases, the Secretary shall inform the chairman and the ranking minority member of the Committee on Banking, Housing, and Urban Affairs of the Senate and of the Committee on Banking, Finance and Urban Affairs of the House of Representatives of his determination.

(Pub. L. 100–418, title III, §3004, Aug. 23, 1988, 102 Stat. 1373.)

CHANGE OF NAME

Committee on Banking, Finance and Urban Affairs of House of Representatives treated as referring to Committee on Banking and Financial Services of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Banking and Financial Services of House of Representatives abolished and replaced by Committee on Financial Services of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred from Committee on Energy and Commerce of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

NEGOTIATIONS ON CURRENCY EXCHANGE RATES

Pub. L. 100–418, title I, §1124, Aug. 23, 1988, 102 Stat. 1146, provided that:

"(a) FINDINGS.—The Congress finds that—

"(1) the benefit of trade concessions can be adversely affected by misalignments in currency, and

"(2) misalignments in currency caused by government policies intended to maintain an unfair trade advantage tend to nullify and impair trade concessions.

"(b) NEGOTIATIONS.—Whenever, in the course of negotiating a trade agreement under this subtitle [subtitle A (§§1101 to 1125) of title I of Pub. L. 100–418, see Tables for classification], the President is advised by the Secretary of the Treasury that a foreign country that is a party to the negotiations satisfies the criteria for initiating bilateral currency negotiations listed in section 3004(b) of this Act [22 U.S.C. 5304(b)], the Secretary of the Treasury shall take action to initiate bilateral currency negotiations on an expedited basis with such foreign country."

§5305. Reporting requirements

(a) Reports required

In furtherance of the purpose of this chapter, the Secretary, after consultation with the Chairman of the Board, shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, on or before October 15 of each year, a written report on international economic policy, including

exchange rate policy. The Secretary shall provide a written update of developments six months after the initial report. In addition, the Secretary shall appear, if requested, before both committees to provide testimony on these reports.

(b) Contents of report

Each report submitted under subsection (a) shall contain—

(1) an analysis of currency market developments and the relationship between the United States dollar and the currencies of our major trade competitors;

(2) an evaluation of the factors in the United States and other economies that underlie conditions in the currency markets, including developments in bilateral trade and capital flows;

(3) a description of currency intervention or other actions undertaken to adjust the actual exchange rate of the dollar;

(4) an assessment of the impact of the exchange rate of the United States dollar on—

(A) the ability of the United States to maintain a more appropriate and sustainable balance in its current account and merchandise trade account;

(B) production, employment, and noninflationary growth in the United States;

(C) the international competitive performance of United States industries and the external indebtedness of the United States;

(5) recommendations for any changes necessary in United States economic policy to attain a more appropriate and sustainable balance in the current account;

(6) the results of negotiations conducted pursuant to section 5304 of this title;

(7) key issues in United States policies arising from the most recent consultation requested by the International Monetary Fund under article IV of the Fund's Articles of Agreement; and

(8) a report on the size and composition of international capital flows, and the factors contributing to such flows, including, where possible, an assessment of the impact of such flows on exchange rates and trade flows.

(Pub. L. 100–418, title III, §3005(a), (b), Aug. 23, 1988, 102 Stat. 1374.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this title", meaning title III of Pub. L. 100–418, Aug. 23, 1988, 102 Stat. 1372, which enacted this chapter and section 262q of this title, amended sections 225a, 635, 635i–3, 1843, and 3912, of Title 12, Banks and Banking, and enacted provisions set out as notes under section 262q of this title and sections 635, 635i–3, and 1841 of Title 12. For complete classification of title III to the Code, see Tables.

CHANGE OF NAME

Committee on Banking, Finance and Urban Affairs of House of Representatives treated as referring to Committee on Banking and Financial Services of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Banking and Financial Services of House of Representatives abolished and replaced by Committee on Financial Services of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred from Committee on Energy and Commerce of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

§5306. Definitions

As used in this subchapter:

(1) Secretary

The term "Secretary" means the Secretary of the Treasury.

(2) Board

The term "Board" means the Board of Governors of the Federal Reserve System.

(Pub. L. 100–418, title III, §3006, Aug. 23, 1988, 102 Stat. 1375.)

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original "this subtitle", meaning subtitle A (§§3001–3006) of title III of Pub. L. 100–418, Aug. 23, 1988, 102 Stat. 1372, which is classified principally to this subchapter. For complete classification of subtitle A to the Code, see Tables.

SUBCHAPTER II—INTERNATIONAL DEBT

PART A—FINDINGS, PURPOSES, AND STATEMENT OF POLICY

§5321. Short title

This subchapter may be cited as the "International Debt Management Act of 1988".

(Pub. L. 100–418, title III, §3101, Aug. 23, 1988, 102 Stat. 1375.)

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original "this subtitle", meaning subtitle B (§§3101–3123) of title III of Pub. L. 100–418, Aug. 23, 1988, 102 Stat. 1375, which is classified principally to this subchapter. For complete classification of subtitle B to the Code, see Tables.

§5322. Findings

The Congress finds that—

(1) the international debt problem threatens the safety and soundness of the international financial system, the stability of the international trading system, and the economic development of the debtor countries;

(2) orderly reduction of international trade imbalances requires very substantial growth in all parts of the world economy, particularly in the developing countries;

(3) growth in developing countries with substantial external debts has been significantly constrained over the last several years by a combination of high debt service obligations and insufficient new flows of financial resources to these countries;

(4) substantial interest payment outflows from debtor countries, combined with inadequate net new capital inflows, have produced a significant net transfer of financial resources from debtor to creditor countries;

(5) negative resource transfers at present levels severely depress both investment and growth in the debtor countries, and force debtor countries to reduce imports and expand exports in order to meet their debt service obligations;

(6) current adjustment policies in debtor countries, which depress domestic demand and increase production for export, help to depress world commodity prices and limit the growth of export markets for United States industries;

(7) the United States has borne a disproportionate share of the burden of absorbing increased exports from debtor countries, while other industrialized countries have increased their imports from developing countries only slightly;

(8) current approaches to the debt problem should not rely solely on new lending as a solution to the debt problem, and should focus on other financing alternatives including a reduction in current debt service obligations;

(9) new international mechanisms to improve the management of the debt problem and to expand the range of financing options available to developing countries should be explored; and

(10) industrial countries with strong current account surpluses have a disproportionate share of the world's capital resources, and bear an additional responsibility for contributing to a viable

long-term solution to the debt problem.

(Pub. L. 100–418, title III, §3102, Aug. 23, 1988, 102 Stat. 1375.)

§5323. Purposes

The purposes of this subchapter are—

(1) to expand the world trading system and raise the level of exports from the United States to the developing countries in order to reduce the United States trade deficit and foster economic expansion and an increase in the standard of living throughout the world;

(2) to alleviate the current international debt problem in order to make the debt situation of developing countries more manageable and permit the resumption of sustained growth in those countries; and

(3) to increase the stability of the world financial system and ensure the safety and soundness of United States depository institutions.

(Pub. L. 100–418, title III, §3103, Aug. 23, 1988, 102 Stat. 1376.)

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original "this subtitle", meaning subtitle B (§§3101–3123) of title III of Pub. L. 100–418, Aug. 23, 1988, 102 Stat. 1375, which is classified principally to this subchapter. For complete classification of subtitle B to the Code, see Tables.

§5324. Statement of policy

It is the policy of the United States that—

(1) increasing growth in the developing world is a major goal of international economic policy;

(2) it is necessary to broaden the range of options in dealing with the debt problem to include improved mechanisms to restructure existing debt;

(3) active consideration of a new multilateral authority to improve the management of the debt problem and to share the burdens of adjustment more equitably must be undertaken; and

(4) countries with strong current account surpluses bear a major responsibility for providing the financial resources needed for growth in the developing world.

(Pub. L. 100–418, title III, §3104, Aug. 23, 1988, 102 Stat. 1376.)

PART B—INTERNATIONAL DEBT MANAGEMENT AUTHORITY

§5331. International initiative

(a) Directive

(1) Study

The Secretary of the Treasury shall study the feasibility and advisability of establishing the International Debt Management Authority described in this section.

(2) Explanation of determinations

If the Secretary of the Treasury determines that initiation of international discussions with regard to such authority would (A) result in material increase in the discount at which sovereign debt is sold, (B) materially increase the probability of default on such debt, or (C) materially enhance the likelihood of debt service failure or disruption, the Secretary shall include in his interim reports to the Congress an explanation in detail of the reasons for such determination.

(3) Initiation of discussions

Unless such a determination is made, the Secretary of the Treasury shall initiate discussions with such industrialized and developing countries as the Secretary may determine to be appropriate with the intent to negotiate the establishment of the International Debt Management Authority, which would undertake to—

(A) purchase sovereign debt of less developed countries from private creditors at an appropriate discount;

(B) enter into negotiations with the debtor countries for the purpose of restructuring the debt in order to—

(i) ease the current debt service burden on the debtor countries; and

(ii) provide additional opportunities for economic growth in both debtor and industrialized countries; and

(C) assist the creditor banks in the voluntary disposition of their Third World loan portfolio.

(b) Objectives

In any discussions initiated under subsection (a), the Secretary should include the following specific proposals:

(1) That any loan restructuring assistance provided by such an authority to any debtor nation should involve substantial commitments by the debtor to (A) economic policies designed to improve resource utilization and minimize capital flight, and (B) preparation of an economic management plan calculated to provide sustained economic growth and to allow the debtor to meet its restructured debt obligations.

(2) That support for such an authority should come from industrialized countries, and that greater support should be expected from countries with strong current account surpluses.

(3) That such an authority should have a clearly defined close working relationship with the International Monetary Fund and the International Bank for Reconstruction and Development and the various regional development banks.

(4) That such an authority should be designed to operate as a self-supporting entity, requiring no routine appropriation of resources from any member government, and to function subject to the prohibitions contained in the first sentence of section 5332(a) of this title.

(5) That such an authority should have a defined termination date and a clear proposal for the restoration of creditworthiness to debtor countries within this timeframe.

(c) Interim reports

At the end of the 6-month period beginning on August 23, 1988, and at the end of the 12-month period beginning on August 23, 1988, the Secretary of the Treasury shall submit a report on the progress being made on the study or in discussions described in subsection (a) to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs and the Committee on Foreign Relations of the Senate, and shall consult with such committees after submitting each such report.

(d) Final report

On the conclusion of the study or of discussions described in subsection (a), the Secretary shall transmit a report containing a detailed description thereof to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs and the Committee on Foreign Relations of the Senate, together with such recommendations for legislation which the Secretary may determine to be necessary or appropriate for the establishment of the International Debt Management Authority.

(Pub. L. 100–418, title III, §3111, Aug. 23, 1988, 102 Stat. 1376.)

CHANGE OF NAME

Committee on Banking, Finance and Urban Affairs of House of Representatives treated as referring to Committee on Banking and Financial Services of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Banking and Financial Services of House of Representatives abolished and replaced by Committee on Financial Services of House of

Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred from Committee on Energy and Commerce of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

§5332. Actions to facilitate creation of Authority

(a) In general

No funds, appropriations, contributions, callable capital, financial guarantee, or any other financial support or obligation or contingent support or obligation on the part of the United States Government may be used for the creation, operation, or support of the International Debt Management Authority specified in section 5331 of this title, without the express approval of the Congress through subsequent law, nor shall any expenses associated with such authority, either directly or indirectly, accrue to any United States person without the consent of such person. Except as restricted in the preceding sentence, the Secretary of the Treasury shall review all potential resources available to the multilateral financial institutions which could be used to support the creation of the International Debt Management Authority. In the course of this review, the Secretary shall direct—

(1) the United States Executive Director of the International Monetary Fund to determine the amount of, and alternative methods by which, gold stock of the Fund which, subject to action by its Board of Governors, could be pledged as collateral to obtain financing for the activities of the authority specified in section 5331 of this title; and

(2) the United States Executive Director to the International Bank for Reconstruction and Development to determine the amount of, and alternative methods by which, liquid assets controlled by such Bank and not currently committed to any loan program which, subject to action by its Board of Governors, could be pledged as collateral for obtaining financing for the activities of the authority specified in section 5331 of this title.

The Secretary of the Treasury shall include a report on the results of the review in the first report submitted under section 5331(c) of this title.

(b) Construction of section

Subsection (a) shall not be construed to affect any provision of the Articles of Agreement of the International Monetary Fund or of the International Bank for Reconstruction and Development or any agreement entered into under either of such Agreements.

(Pub. L. 100–418, title III, §3112, Aug. 23, 1988, 102 Stat. 1378.)

§5333. IMF-World Bank review

(a) IMF review

The United States Executive Director of the International Monetary Fund shall request the management of the International Monetary Fund to prepare a review and analysis of the debt burden of the developing countries, with particular attention to alternatives for dealing with the debt problem including new lending instruments, rescheduling and refinancing of existing debt, securitization and debt conversion techniques, discounted debt repurchases, and the International Debt Management Authority described in section 5331 of this title no later than 1 year after August 23, 1988.

(b) World Bank review

The United States Executive Director to the International Bank for Reconstruction and Development shall request the management of the International Bank for Reconstruction and Development to prepare a review and analysis of the debt burden of the developing countries, with particular attention to alternatives for dealing with the debt problem including new lending

instruments, rescheduling and refinancing of existing debt, securitization and debt conversion techniques, discounted debt repurchases, and the International Debt Management Authority described in section 5331 of this title no later than 1 year after August 23, 1988.

(Pub. L. 100–418, title III, §3113, Aug. 23, 1988, 102 Stat. 1378.)

SUBCHAPTER III—PRIMARY DEALERS

§5341. Short title

This subchapter may be cited as the "Primary Dealers Act of 1988".

(Pub. L. 100–418, title III, §3501, Aug. 23, 1988, 102 Stat. 1386.)

§5342. Requirement of national treatment in underwriting government debt instruments

(a) Findings

The Congress finds that—

(1) United States companies can successfully compete in foreign markets if they are given fair access to such markets;

(2) a trade surplus in services could offset the deficit in manufactured goods and help lower the overall trade deficit significantly;

(3) in contrast to the barriers faced by United States firms in Japan, Japanese firms generally have enjoyed access to United States financial markets on the same terms as United States firms; and

(4) United States firms seeking to compete in Japan face or have faced a variety of discriminatory barriers effectively precluding such firms from fairly competing for Japanese business, including—

(A) limitations on membership on the Tokyo Stock Exchange;

(B) high fixed commission rates (ranging as high as 80 percent) which must be paid to members of the exchange by nonmembers for executing trades;

(C) unequal opportunities to participate in and act as lead manager for equity and bond underwritings;

(D) restrictions on access to automated teller machines;

(E) arbitrarily applied employment requirements for opening branch offices;

(F) long delays in processing applications and granting approvals for licenses to operate; and

(G) restrictions on foreign institutions' participation in Ministry of Finance policy advisory councils.

(b) Designation of certain persons as primary dealers prohibited

(1) General rule

Neither the Board of Governors of the Federal Reserve System nor the Federal Reserve Bank of New York may designate, or permit the continuation of any prior designation of, any person of a foreign country as a primary dealer in government debt instruments if such foreign country does not accord to United States companies the same competitive opportunities in the underwriting and distribution of government debt instruments issued by such country as such country accords to domestic companies of such country.

(2) Certain prior acquisitions excepted

Paragraph (1) shall not apply to the continuation of the prior designation of a company as a

primary dealer in government debt instruments if—

(A) such designation occurred before July 31, 1987; and

(B) before July 31, 1987—

(i) control of such company was acquired from a person (other than a person of a foreign country) by a person of a foreign country; or

(ii) in conjunction with a person of a foreign country, such company informed the Federal Reserve Bank of New York of the intention of such person to acquire control of such company.

(c) Exception for countries having or negotiating bilateral agreements with United States

Subsection (b) shall not apply to any person of a foreign country if—

(1) that country, as of January 1, 1987, was negotiating a bilateral agreement with the United States under the authority of section 2112(b)(4)(A) of title 19; or

(2) that country has a bilateral free trade area agreement with the United States which entered into force before January 1, 1987.

(d) "Person of a foreign country" defined

For purposes of this section, a person is a "person of a foreign country" if that person, or any other person which directly or indirectly owns or controls that person, is a resident of that country, is organized under the laws of that country, or has its principal place of business in that country.

(e) Effective date

This section shall take effect 12 months after August 23, 1988.

(Pub. L. 100–418, title III, §3502, Aug. 23, 1988, 102 Stat. 1386.)

SUBCHAPTER IV—FINANCIAL REPORTS

§5351. Short title

This subchapter may be cited as the "Financial Reports Act of 1988".

(Pub. L. 100–418, title III, §3601, Aug. 23, 1988, 102 Stat. 1387.)

§5352. Quadrennial reports on foreign treatment of United States financial institutions

Not less frequently than every 4 years, beginning December 1, 1990, the Secretary of the Treasury, in conjunction with the Secretary of State, the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Securities and Exchange Commission, and the Department of Commerce, shall report to the Congress on (1) the foreign countries from which foreign financial services institutions have entered into the business of providing financial services in the United States, (2) the kinds of financial services which are being offered, (3) the extent to which foreign countries deny national treatment to United States banking organizations and securities companies, and (4) the efforts undertaken by the United States to eliminate such discrimination. The report shall focus on those countries in which there are significant denials of national treatment which impact United States financial firms. The report shall also describe the progress of discussions pursuant to section 5353 of this title.

(Pub. L. 100–418, title III, §3602, Aug. 23, 1988, 102 Stat. 1387.)

§5353. Fair trade in financial services

(a) Discussions

When advantageous the President or his designee shall conduct discussions with the governments of countries that are major financial centers, aimed at:

(1) ensuring that United States banking organizations and securities companies have access to foreign markets and receive national treatment in those markets;

(2) reducing or eliminating barriers to, and other distortions of, international trade in financial services;

(3) achieving reasonable comparability in the types of financial services permissible for financial service companies; and

(4) developing uniform supervisory standards for banking organizations and securities companies, including uniform capital standards.

(b) Consultation before discussions

Before entering into those discussions, the President or his designee shall consult with the committees of jurisdiction in the Senate and the House of Representatives.

(c) Recommendations

After completing those discussions and after consultation with the committees of jurisdiction, the President shall transmit to the Congress any recommendations that have emerged from those discussions. Any recommendations for changes in United States financial laws or practices shall be accompanied by a description of the changes in foreign financial laws or practices that would accompany action by the Congress, and by an explanation of the benefits that would accrue to the United States from adoption of the recommendations.

(d) Construction of section

Nothing in this section may be construed as prior approval of any legislation which may be necessary to implement any recommendations resulting from discussions under this section.

(Pub. L. 100–418, title III, §3603, Aug. 23, 1988, 102 Stat. 1387.)

DELEGATION OF FUNCTIONS

Functions of President under this section delegated to Secretary of the Treasury by section 1 of Ex. Ord. No. 12781, Nov. 20, 1991, 56 F.R. 59203, set out as a note under section 301 of Title 3, The President.

§5354. Banks loan loss reserves

The Federal Reserve Board shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a report on the issues raised by including loan loss reserves as part of banks' primary capital for regulatory purposes by March 31, 1989. Such report shall include a review of the treatment of loan loss reserves and the composition of primary capital of banks in other major industrialized countries, and shall include an analysis as to whether loan loss reserves should continue to be counted as primary capital for regulatory purposes.

(Pub. L. 100–418, title III, §3604, Aug. 23, 1988, 102 Stat. 1388.)

CHANGE OF NAME

Committee on Banking, Finance and Urban Affairs of House of Representatives treated as referring to Committee on Banking and Financial Services of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Banking and Financial Services of House of Representatives abolished and replaced by Committee on Financial Services of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred from Committee on Energy and Commerce of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

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5493. Administrative expenses of Agency for International Development.
5494. Relation of provisions of this chapter to certain provisions of appropriations acts.
5495. Certain uses of excess foreign currencies.

§5401. Support for East European Democracy (SEED) Program

(a) SEED Program

The United States shall implement, beginning in fiscal year 1990, a concerted Program of Support for East European Democracy (which may also be referred to as the "SEED Program"). The SEED Program shall be comprised of diverse undertakings designed to provide cost-effective assistance to

those countries of Eastern Europe that have taken substantive steps toward institutionalizing political democracy and economic pluralism.

(b) Objectives of SEED assistance

The President should ensure that the assistance provided to East European countries pursuant to this chapter is designed—

(1) to contribute to the development of democratic institutions and political pluralism characterized by—

(A) the establishment of fully democratic and representative political systems based on free and fair elections,

(B) effective recognition of fundamental liberties and individual freedoms, including freedom of speech, religion, and association,

(C) termination of all laws and regulations which impede the operation of a free press and the formation of political parties,

(D) creation of an independent judiciary, and

(E) establishment of non-partisan military, security, and police forces;

(2) to promote the development of a free market economic system characterized by—

(A) privatization of economic entities,

(B) establishment of full rights to acquire and hold private property, including land and the benefits of contractual relations,

(C) simplification of regulatory controls regarding the establishment and operation of businesses,

(D) dismantlement of all wage and price controls,

(E) removal of trade restrictions, including on both imports and exports,

(F) liberalization of investment and capital, including the repatriation of profits by foreign investors;

(G) tax policies which provide incentives for economic activity and investment,

(H) establishment of rights to own and operate private banks and other financial service firms, as well as unrestricted access to private sources of credit, and

(I) access to a market for stocks, bonds, and other instruments through which individuals may invest in the private sector; and

(3) not to contribute any substantial benefit—

(A) to Communist or other political parties or organizations which are not committed to respect for the democratic process, or

(B) to the defense or security forces of any member country of the Warsaw Pact.

(c) SEED Actions

Assistance and other activities under the SEED Program (which may be referred to as "SEED Actions") shall include activities such as the following:

(1) Leadership in the World Bank and International Monetary Fund

United States leadership in supporting—

(A) loans by the International Bank for Reconstruction and Development and its affiliated institutions in the World Bank group that are designed to modernize industry, agriculture, and infrastructure, and

(B) International Monetary Fund programs designed to stimulate sound economic growth.

(2) Currency stabilization loans

United States leadership in supporting multilateral agreement to provide government-to-government loans for currency stabilization where such loans can reduce inflation and thereby foster conditions necessary for the effective implementation of economic reforms.

(3) Debt reduction and rescheduling

Participation in multilateral activities aimed at reducing and rescheduling a country's international debt, when reduction and deferral of debt payments can assist the process of political and economic transition.

(4) Agricultural assistance

Assistance through the grant and concessional sale of food and other agricultural commodities and products when such assistance can ease critical shortages but not inhibit agricultural production and marketing in the recipient country.

(5) Enterprise Funds

Grants to support private, nonprofit "Enterprise Funds", designated by the President pursuant to law and governed by a Board of Directors, which undertake loans, grants, equity investments, feasibility studies, technical assistance, training, and other forms of assistance to private enterprise activities in the Eastern European country for which the Enterprise Fund so is designated.

(6) Labor market-oriented technical assistance

Technical assistance programs directed at promoting labor market reforms and facilitating economic adjustment.

(7) Technical training

Programs to provide technical skills to assist in the development of a market economy.

(8) Peace Corps

Establishment of Peace Corps programs.

(9) Support for indigenous credit unions

Support for the establishment of indigenous credit unions.

(10) Generalized System of Preferences

Eligibility for trade benefits under the Generalized System of Preferences.

(11) Normal trade relations

The granting of temporary or permanent nondiscriminatory treatment to the products of an East European country through the application of the criteria and procedures established by section 2432 of title 19 (commonly referred to as the "Jackson-Vanik amendment").

(12) Overseas Private Investment Corporation

Programs of the Overseas Private Investment Corporation.

(13) Export-Import Bank programs

Programs of the Export-Import Bank of the United States.

(14) Trade and Development Program activities

Trade and Development Agency activities under the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.].

(15) Investment treaties

Negotiation of bilateral investment treaties.

(16) Special tax treatment of below-market loans

Exempting bonds from Internal Revenue Code [title 26] rules relating to below-market loans.

(17) Exchange activities

Expanded exchange activities under the Fulbright, International Visitors, and other programs conducted by the United States Information Agency.

(18) Cultural centers

Contributions toward the establishment of reciprocal cultural centers that can facilitate educational and cultural exchange and expanded understanding of Western social democracy.

(19) Sister institutions

Establishment of sister institution programs between American and East European schools and universities, towns and cities, and other organizations in such fields as medicine and health care, business management, environmental protection, and agriculture.

(20) Scholarships

Scholarships to enable students to study in the United States.

(21) Science and technology exchanges

Grants for the implementation of bilateral agreements providing for cooperation in science and technology exchange.

(22) Assistance for democratic institutions

Assistance designed to support the development of legal, legislative, electoral, journalistic, and other institutions of free, pluralist societies.

(23) Environmental assistance

Environmental assistance directed at overcoming crucial deficiencies in air and water quality and other determinants of a healthful society.

(24) Medical assistance

Medical assistance specifically targeted to overcome severe deficiencies in pharmaceuticals and other basic health supplies.

(25) Encouragement for private investment and voluntary assistance

Encouraging private investment and voluntary private assistance, using a variety of means including a SEED Information Center System and the provision by the Department of Defense of transportation for private nonfinancial contributions.

(Pub. L. 101–179, §2, Nov. 28, 1989, 103 Stat. 1299; Pub. L. 102–549, title II, §202(e), Oct. 28, 1992, 106 Stat. 3658; Pub. L. 105–206, title V, §5003(b)(6), July 22, 1998, 112 Stat. 790.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original "this Act", meaning Pub. L. 101–179, Nov. 28, 1989, 103 Stat. 1298, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

The Foreign Assistance Act of 1961, referred to in subsec. (c)(14), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, which is classified principally to chapter 32 (§2151 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

AMENDMENTS

1998—Subsec. (c)(11). Pub. L. 105–206 in heading substituted "Normal trade relations" for "Most favored nation trade status" and in text struck out "(commonly referred to as 'most favored nation status')" after "nondiscriminatory treatment".

1992—Subsec. (c)(14). Pub. L. 102–549 substituted "Agency" for "Program".

SHORT TITLE

Pub. L. 101–179, §1(a), Nov. 28, 1989, 103 Stat. 1298, provided that: "This Act [enacting this chapter and section 2185 of this title, amending sections 2184 and 2199 of this title, section 1757 of Title 12, Banks and Banking, and section 2462 of Title 19, Customs Duties, enacting provisions set out as notes under sections 2185, 2199, and 2421 of this title, section 635 of Title 12, and section 7872 of Title 26, Internal Revenue Code, and amending provisions set out as a note under section 7872 of Title 26] may be cited as the 'Support for East European Democracy (SEED) Act of 1989'."

TRANSFER OF FUNCTIONS

United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau) abolished and functions transferred to Secretary of State, see sections 6531 and 6532 of this title.

EX. ORD. NO. 12703. SUPPORT FOR EAST EUROPEAN DEMOCRACY (SEED) PROGRAM

Ex. Ord. No. 12703, Feb. 20, 1990, 55 F.R. 6351, as amended by Ex. Ord. No. 13118, §10(2), Mar. 31, 1999, 64 F.R. 16598, provided:

By the authority vested in me as President by the Constitution and laws of the United States of America, including the Support for East European Democracy (SEED) Act (P.L. 101–179, hereinafter referred to as the "Act") [22 U.S.C. 5401 et seq.] and section 301 of Title 3 of the United States Code, it is hereby ordered as follows:

SECTION 1. *SEED Program Coordinator*. The functions conferred by Title VII of the Act [22 U.S.C. 5471 et seq.] relating to reports to the Congress are hereby delegated to the Coordinator of the SEED Program. The Coordinator is authorized to assign responsibility for particular aspects of the reports to appropriate agencies.

Sec. 2. *Department of State*. The functions conferred upon the President by section 201 of the Act [22 U.S.C. 5421] relating to Enterprise Funds for Poland and Hungary are hereby delegated to the Secretary of State.

SEC. 3. *Department of Commerce*. The functions conferred upon the President by section 602 of the Act [22 U.S.C. 5462] regarding the establishment of a SEED Information Center System in cooperation with the Governments of Poland and Hungary are hereby delegated to the Secretary of Commerce. This authority is to be exercised in consultation with the SEED Program Coordinator and in consultation with other agencies as appropriate.

SEC. 4. *Department of the Treasury*. The functions conferred upon the President by section 104 of the Act [22 U.S.C. 5414] regarding debt reduction of certain East European countries are hereby delegated to the Secretary of the Treasury. The Secretary shall consult, as appropriate, with other relevant agencies in exercising the functions herein delegated.

GEORGE BUSH.

§5402. Scope of authority

(a) General authorization

The President is authorized to conduct activities for any East European country that are similar to any activity authorized by this chapter to be conducted in Poland or Hungary (excluding those authorized by section 5412 of this title or the amendments made by sections 301 and 304) if such similar activities would effectively promote a transition to market-oriented democracy.

(b) Administration of justice programs

In order to strengthen the administration of justice in East European countries, the President may exercise the same authorities with respect to those countries as are available under section 2346c of this title, subject to the limitations and requirements of that section, other than subsection (c) and the last two sentences of subsection (e).

(c) "East European country" defined

For purposes of this chapter, the term "East European country" includes Albania, Bulgaria, the Czech and Slovak Federal Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, and states that were part of the former Socialist Federal Republic of Yugoslavia.

(Pub. L. 101–179, §3, as added Pub. L. 102–511, title IX, §903(a), Oct. 24, 1992, 106 Stat. 3355.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (c), was in the original "this Act", meaning Pub. L. 101–179, Nov. 28, 1989, 103 Stat. 1298, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 5401 of this title and Tables.

Sections 301 and 304, referred to in subsec. (a), are sections 301 and 304 of Pub. L. 101–179, title III, Nov. 28, 1989, 103 Stat. 1311, 1312. Section 301 amended section 2462 of Title 19, Customs Duties. Section 304 enacted section 2185 of this title, amended section 2184 of this title, and enacted provisions set out as a note under section 2185 of this title.

SUBCHAPTER I—STRUCTURAL ADJUSTMENT

§5411. Multilateral support for structural adjustment in Poland and Hungary

(a) Multilateral assistance for Poland and Hungary

(1) In general

To the extent that Poland and Hungary continue to evolve toward pluralism and democracy and to develop and implement comprehensive economic reform programs, the United States Government shall take the leadership in mobilizing international financial institutions, in particular the International Monetary Fund and the International Bank for Reconstruction and Development and its affiliated institutions in the World Bank group, to provide timely and appropriate resources to help Poland and Hungary.

(2) World Bank structural adjustment loan for Poland

In furtherance of paragraph (1), the Secretary of the Treasury shall direct the United States Executive Director of the International Bank for Reconstruction and Development to urge expeditious approval and disbursement by the Bank of a structural adjustment loan to Poland in an appropriate amount in time to facilitate the implementation of major economic reforms scheduled for early 1990, including the termination of energy, export, and agricultural subsidies and wage indexation.

(b) Stabilization assistance, debt relief, and agricultural assistance for Poland

To the extent that Poland continues to evolve toward pluralism and democracy and to develop and implement comprehensive economic reform programs, the United States Government shall do the following:

(1) Stabilization assistance

The United States Government, in conjunction with other member governments of the Organization of Economic Cooperation and Development (OECD) and international financial institutions (including the International Monetary Fund), shall support the implementation of a plan of the Government of Poland to attack hyperinflation and other structural economic problems, address pressing social problems, carry out comprehensive economic reform, and relieve immediate and urgent balance of payments requirements in Poland, through the use of mechanisms such as—

(A) the Exchange Stabilization Fund pursuant to section 5302 of title 31 and in accordance with established Department of the Treasury policies and procedures; and

(B) the authority provided in section 5412(c) of this title.

(2) Debt relief

The United States Government—

(A) shall urge all members of the "Paris Club" of creditor governments and other creditor governments to adopt, and participate in, a generous and early rescheduling program for debts owed by the Government of Poland; and

(B) in coordination with other creditor governments, shall seek to expedite consultations between the Government of Poland and its major private creditors in order to facilitate a rescheduling and reduction of payments due on debt owed to such creditors in a manner consistent with the international debt policy announced by the Secretary of the Treasury on March 10, 1989.

(3) Agricultural assistance

The United States Government shall provide agricultural assistance for Poland in accordance with section 5413 of this title.

(Pub. L. 101–179, title I, §101, Nov. 28, 1989, 103 Stat. 1302.)

§5412. Stabilization assistance for Poland

(a) Immediate emergency assistance

To the extent that the ongoing International Monetary Fund review of the Polish economy projects a probable balance of payments shortage for the fourth quarter of 1989, the United States Government, in carrying out paragraph (1) of section 5411(b) of this title—

(1) should work closely with the European Community and international financial institutions to determine the extent of emergency assistance required by Poland for the fourth quarter of 1989, and

(2) should consider extending a bridge loan to relieve immediate and urgent balance of payments requirements using the Exchange Stabilization Fund in accordance with paragraph (1)(A) of section 5411(b) of this title.

(b) Immediate, multilateral response to Poland's economic stabilization needs

In furtherance of section 5411(b)(1) of this title, the President, acting in coordination with the European Community, should seek to ensure that the industrialized democracies undertake an immediate, multilateral effort to respond to Poland's request for $1,000,000,000 to support its economic stabilization program.

(c) Additional authority to provide stabilization assistance

(1) Authority

In order to carry out paragraph (1) of section 5411(b) of this title, the President is authorized to furnish assistance for Poland, notwithstanding any other provision of law, to assist in the urgent stabilization of the Polish economy and ultimately to promote longer-term economic growth and stability, based on movement toward free market principles. Such assistance may be provided for balance of payments support (including commodity import programs), support for private sector development, or for other activities to further efforts to develop a free market-oriented economy in Poland.

(2) Authorization of appropriations

For purposes of providing the assistance authorized by this subsection, there are authorized to be appropriated $200,000,000 for fiscal year 1990 to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 and following; relating to the economic support fund), in addition to amounts otherwise available for such purposes.

(Pub. L. 101–179, title I, §102, Nov. 28, 1989, 103 Stat. 1303.)

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsec. (c)(2), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended. Chapter 4 of part II of the Foreign Assistance Act of 1961 is classified to part IV (§2346 et seq.) of subchapter II of chapter 32 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

§5413. Agricultural assistance

(a) Agricultural assistance strategy

(1) United States assistance

A principal component of the SEED Program shall be the provision by the United States of food and other agricultural commodities and products to alleviate crucial shortages that may be created in an East European country by the transition from state-directed controls to a free market economy.

(2) Assistance from other countries

In order to ensure the necessary quantity and diversity of agricultural assistance for that purpose, the United States shall take all appropriate steps to encourage parallel efforts by the

European Community and other agricultural surplus countries.

(3) Avoiding disincentives to private agricultural production and marketing

In participating in such multilateral agricultural assistance, the United States shall seek to strike a balance wherein agricultural commodities and products are supplied in such quantities as will be effective in overcoming severe shortages and dampening inflation but without impeding the development of incentives for private agricultural production and marketing in the recipient country.

(b) Agricultural assistance for Poland

Pursuant to section 5411(b)(3) of this title, the United States Government—

(1) shall make available to Poland, in coordination with the European Community, United States agricultural assistance—

(A) to alleviate immediate food shortages (such assistance to be specifically targeted toward elements of the Polish population most vulnerable to hunger and malnutrition, in particular the infirm, the elderly, and children), and

(B) to facilitate the transition from state-directed controls to a free market economy, while avoiding disincentives to domestic agricultural production and reform; and

(2) in order to ensure the necessary quantity and diversity of such agricultural assistance, shall take all appropriate steps to encourage parallel efforts by the European Community and other agricultural surplus countries.

(c) FY 1990 minimum level of agricultural assistance for Poland

In carrying out subsection (b) of this section, the level of assistance for Poland for fiscal year 1990 under section 1431(b) of title 7, the Food for Peace Act (7 U.S.C. 1691 and following), and section 1736o of title 7 should not be less than $125,000,000. Such assistance—

(1) to the maximum extent practicable, shall be provided through nongovernmental organizations; and

(2) shall emphasize feed grains.

(d) Consistency with budget requirements

Subsection (c) should not be construed to authorize or require any budgetary obligations or outlays that are inconsistent with House Concurrent Resolution 106 of the 101st Congress (setting forth the congressional budget for the United States Government for fiscal year 1990).

(Pub. L. 101–179, title I, §103, Nov. 28, 1989, 103 Stat. 1303; Pub. L. 110–246, title III, §3001(b)(1)(A), (2)(U), June 18, 2008, 122 Stat. 1820, 1821.)

REFERENCES IN TEXT

The Food for Peace Act, referred to in subsec. (c), is act July 10, 1954, ch. 469, 68 Stat. 454, which is classified generally to chapter 41 (§1691 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 1691 of Title 7 and Tables.

House Concurrent Resolution 106 of the 101st Congress, referred to in subsec. (d), is H. Con. Res. 106, May 18, 1989, 103 Stat. 2450, which is not classified to the Code.

AMENDMENTS

2008—Subsec. (c). Pub. L. 110–246 substituted "Food for Peace Act" for "Agricultural Trade Development and Assistance Act of 1954" in introductory provisions.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–246 effective May 22, 2008, see section 4(b) of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

§5414. Debt-for-equity swaps and other special techniques

(a) Reduction of debt burden

The President shall take all appropriate actions to explore and encourage innovative approaches to the reduction of the government-to-government and commercial debt burden of East European countries which have taken substantive steps toward political democracy and economic pluralism.

(b) Authority for discounted sales of debt

Notwithstanding any other provision of law, the President may undertake the discounted sale, to private purchasers, of United States Government debt obligations of an East European country which has taken substantive steps toward political democracy and economic pluralism, subject to subsection (c).

(c) Condition

An obligation may be sold under subsection (b) only if the sale will facilitate so-called debt-for-equity or debt-for-development swaps wherein such newly privatized debt is exchanged by the new holder of the obligation for—

(1) local currencies, policy commitments, or other assets needed for development or other economic activities, or

(2) for an equity interest in an enterprise theretofore owned by the particular East European government.

(Pub. L. 101–179, title I, §104, Nov. 28, 1989, 103 Stat. 1304.)

DELEGATION OF FUNCTIONS

Functions of President under this section delegated to Secretary of the Treasury by section 4 of Ex. Ord. No. 12703, Feb. 20, 1990, 55 F.R. 6351, set out as a note under section 5401 of this title.

SUBCHAPTER II—PRIVATE SECTOR DEVELOPMENT

§5421. Enterprise Funds for Poland and Hungary

(a) Purposes

The purposes of this section are to promote—

(1) development of the Polish and Hungarian private sectors, including small businesses, the agricultural sector, and joint ventures with United States and host country participants, and

(2) policies and practices conducive to private sector development in Poland and Hungary,

through loans, grants, equity investments, feasibility studies, technical assistance, training, insurance, guarantees, and other measures.

(b) Authorization of appropriations

To carry out the purposes specified in subsection (a), there are authorized to be appropriated to the President—

(1) $240,000,000 to support the Polish-American Enterprise Fund; and

(2) $60,000,000 to support the Hungarian-American Enterprise Fund.

Such amounts are authorized to be made available until expended.

(c) Nonapplicability of other laws

The funds appropriated under subsection (b) may be made available to the Polish-American Enterprise Fund and the Hungarian-American Enterprise Fund and used for the purposes of this section notwithstanding any other provision of law.

(d) Designation of Enterprise Funds

(1) Designation

The President is authorized to designate two private, nonprofit organizations as eligible to receive funds and support pursuant to this section upon determining that such organizations have been established for the purposes specified in subsection (a). For purposes of this chapter, the organizations so designated shall be referred to as the Polish-American Enterprise Fund and the Hungarian-American Enterprise Fund (hereinafter in this section referred to as the "Enterprise Funds").

(2) Consultation with Congress

The President shall consult with the leadership of each House of Congress before designating an organization pursuant to paragraph (1).

(3) Board of Directors

(A) Each Enterprise Fund shall be governed by a Board of Directors comprised of private citizens of the United States, and citizens of the respective host country, who have demonstrated experience and expertise in those areas of private sector development in which the Enterprise Fund is involved.

(B) A majority of the members of the Board of Directors of each Enterprise Fund shall be United States citizens.: [1] *Provided*, That, as to Enterprise Funds established with respect to more than one host country, such Enterprise Fund may, in lieu of the appointment of citizens of the host countries to its Board of Directors, establish an advisory council for the host region comprised of citizens of each of the host countries or establish separate advisory councils for each of the host countries (hereinafter in this section referred to as the "Advisory Councils"), with which the Enterprise Fund's policies and proposed activities and such host country citizens shall satisfy the experience and expertise requirements of this clause.

(C) A host country citizen who is not committed to respect for democracy and a free market economy may not serve as a member of the Board of Directors of an Enterprise Fund.

(4) Eligibility of Enterprise Funds for grants

Grants may be made to an Enterprise Fund under this section only if the Enterprise Fund agrees to comply with the requirements specified in this section.

(5) Private character of Enterprise Funds

Nothing in this section shall be construed to make an Enterprise Fund an agency or establishment of the United States Government, or to make the officers, employees, or members of the Board of Directors of an Enterprise Fund officers or employees of the United States for purposes of title 5.

(e) Grants to Enterprise Funds

Funds appropriated to the President pursuant to subsection (b) shall be granted to the Enterprise Funds by the Agency for International Development to enable the Enterprise Funds to carry out the purposes specified in subsection (a) and for the administrative expenses of each Enterprise Fund.

(f) Eligible programs and projects

(1) In general

The Enterprise Funds may provide assistance pursuant to this section only for programs and projects which are consistent with the purposes set forth in subsection (a).

(2) Employee stock ownership plans

Funds available to the Enterprise Funds may be used to encourage the establishment of Employee Stock Ownership Plans (ESOPs) in Poland and Hungary.

(3) Indigenous credit unions

Funds available to the Enterprise Funds may be used for technical and other assistance to support the development of indigenous credit unions in Poland and Hungary. As used in this paragraph, the term "credit union" means a member-owned, nonprofit, cooperative depository institution—

(A) which is formed to permit individuals in the field of membership specified in such institution's charter to pool their savings, lend the savings to one another, and own the organization where they save, borrow, and obtain related financial services; and

(B) whose members are united by a common bond and democratically operate the institution.

(4) Telecommunications modernization in Poland

The Polish-American Enterprise Fund may use up to $25,000,000 for grants for projects providing for the early introduction in Poland of modern telephone systems and telecommunications technology, which are crucial in establishing the conditions for successful transition to political democracy and economic pluralism.

(5) Economic foundation of NSZZ Solidarno

Funds available to the Polish-American Enterprise Fund may be used to support the Economic Foundation of NSZZ Solidarno.

(g) Matters to be considered by Enterprise Funds

In carrying out this section, each Enterprise Fund shall take into account such considerations as internationally recognized worker rights and other internationally recognized human rights, environmental factors, United States economic and employment effects, and the likelihood of commercial viability of the activity receiving assistance from the Enterprise Fund.

(h) Retention of interest

An Enterprise Fund may hold funds granted to it pursuant to this section in interest-bearing accounts, prior to the disbursement of such funds for purposes specified in subsection (a), and may retain for such program purposes any interest earned on such deposits without returning such interest to the Treasury of the United States and without further appropriation by the Congress.

(i) Use of United States private venture capital

In order to maximize the effectiveness of the activities of the Enterprise Funds, each Enterprise Fund may conduct public offerings or private placements for the purpose of soliciting and accepting United States venture capital which may be used, separately or together with funds made available pursuant to this section, for any lawful investment purpose that the Board of Directors of the Enterprise Fund may determine in carrying out this section. Financial returns on Enterprise Fund investments that include a component of private venture capital may be distributed, at such times and in such amounts as the Board of Directors of the Enterprise Fund may determine, to the investors of such capital.

(j) Financial instruments for individual investment in Poland

In order to maximize the effectiveness of the activities of the Polish-American Enterprise Fund, that Enterprise Fund should undertake all possible efforts to establish financial instruments that will enable individuals to invest in the private sectors of Poland and that will thereby have the effect of multiplying the impact of United States grants to that Enterprise Fund.

(k) Nonapplicability of other laws

Executive branch agencies may conduct programs and activities and provide services in support of the activities of the Enterprise Funds notwithstanding any other provision of law.

(l) Limitation on payments to Enterprise Fund personnel

(1) No part of the funds of an Enterprise Fund shall inure to the benefit of any board member, officer, or employee of such Enterprise Fund, except as salary or reasonable compensation for services subject to paragraph (2).

(2) An Enterprise Fund shall not pay compensation for services to—

(A) any board member of the Enterprise Fund, except for services as a board member; or

(B) any firm, association, or entity in which a board member of the Enterprise Fund serves as partner, director, officer, or employee.

(3) Nothing in paragraph (2) shall preclude payment for services performed before the date of

enactment of this subsection nor for arrangements approved by the grantor and notified in writing to the Committees on Appropriations.

(m) Independent private audits

The accounts of each Enterprise Fund shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants or independent licensed public accountants certified or licensed by a regulatory authority of a State or other political subdivision of the United States. The report of each such independent audit shall be included in the annual report required by this section.

(n) GAO audits

The financial transactions undertaken pursuant to this section by each Enterprise Fund may be audited by the Government Accountability Office in accordance with such principles and procedures and under such rules and regulations as may be prescribed by the Comptroller General of the United States, so long as the Enterprise Fund is in receipt of United States Government grants.

(o) Recordkeeping requirements

The Enterprise Funds shall ensure—

(1) that each recipient of assistance provided through the Enterprise Funds under this section keeps—

(A) separate accounts with respect to such assistance;

(B) such records as may be reasonably necessary to disclose fully the amount and the disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources; and

(C) such other records as will facilitate an effective audit; and

(2) that the Enterprise Funds, or any of their duly authorized representatives, have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance provided through the Enterprise Funds under this section.

(p) Annual reports

Each Enterprise Fund shall publish an annual report, which shall include a comprehensive and detailed description of the Enterprise Fund's operations, activities, financial condition, and accomplishments under this section for the preceding fiscal year. This report shall be published not later than January 31 each year, beginning in 1991.

(Pub. L. 101–179, title II, §201, Nov. 28, 1989, 103 Stat. 1305; Pub. L. 104–107, title II, [(v)], Feb. 12, 1996, 110 Stat. 714; Pub. L. 105–118, title V, §588, Nov. 26, 1997, 111 Stat. 2438; Pub. L. 108–271, §8(b), July 7, 2004, 118 Stat. 814.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (d)(1), was in the original "this Act", meaning Pub. L. 101–179, Nov. 28, 1989, 103 Stat. 1298, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 5401 of this title and Tables.

The date of enactment of this subsection, referred to in subsec. (l)(3), probably means the date of enactment of Pub. L. 105–118 which amended subsec. (l) generally and was approved Nov. 26, 1997.

AMENDMENTS

2004—Subsec. (n). Pub. L. 108–271 substituted "Government Accountability Office" for "General Accounting Office".

1997—Subsec. (l). Pub. L. 105–118, which directed the general amendment of section 201(l) of the Support for East European Democracy Act, was executed by amending heading and text of section 201(l) of the Support for East European Democracy (SEED) Act of 1989, subsec. (l) of this section, generally, to reflect the probable intent of Congress. Prior to amendment, text read as follows: "No part of the funds of either Enterprise Fund shall inure to the benefit of any board member, officer, or employee of such Enterprise Fund, except as salary or reasonable compensation for services."

1996—Subsec. (d)(3)(B). Pub. L. 104–107 inserted at end ": *Provided*, That, as to Enterprise Funds established with respect to more than one host country, such Enterprise Fund may, in lieu of the appointment of citizens of the host countries to its Board of Directors, establish an advisory council for the host region comprised of citizens of each of the host countries or establish separate advisory councils for each of the host countries (hereinafter in this section referred to as the 'Advisory Councils'), with which the Enterprise Fund's policies and proposed activities and such host country citizens shall satisfy the experience and expertise requirements of this clause."

DELEGATION OF FUNCTIONS

Functions of President under this section relating to Enterprise Funds for Poland and Hungary delegated to Secretary of State by section 2 of Ex. Ord. No. 12703, Feb. 20, 1990, 55 F.R. 6351, as amended, set out as a note under section 5401 of this title.

[1] *So in original.*

§5422. Labor market transition in Poland and Hungary

(a) Technical assistance

The Secretary of Labor (hereinafter in this section referred to as the "Secretary"), in consultation with representatives of labor and business in the United States, shall—

(1) provide technical assistance to Poland and Hungary for the implementation of labor market reforms; and

(2) provide technical assistance to Poland and Hungary to facilitate adjustment during the period of economic transition and reform.

(b) Types of technical assistance authorized

In carrying out subsection (a), the Secretary is authorized to provide technical assistance regarding policies and programs for training and retraining, job search and employment services, unemployment insurance, occupational safety and health protection, labor-management relations, labor statistics, analysis of productivity constraints, entrepreneurial support for small businesses, market-driven systems of wage and income determinations, job creation, employment security, the observance of internationally recognized worker rights (including freedom of association and the right to organize and bargain collectively), and other matters that the Secretary may deem appropriate regarding free labor markets and labor organizations.

(c) Administrative authorities

In carrying out subsection (a), the Secretary is authorized to do the following:

(1) Solicit and accept in the name of the Department of Labor, and employ or dispose of in furtherance of the purposes of this section, any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise. Gifts and donations of property which are no longer required for the discharge of the purposes of this section shall be reported to the Administrator of General Services for transfer, donation, or other disposal in accordance with chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41.

(2) Solicit and accept voluntary and uncompensated services notwithstanding section 1342 of title 31. A volunteer under this paragraph shall not be deemed to be an employee of the United States except for the purposes of—

(A) the tort claims provisions of title 28, and

(B) subchapter I of chapter 81 of title 5, relating to compensation for work injuries.

(3) Enter into arrangements or agreements with appropriate departments, agencies, and establishments of Poland and Hungary.

(4) Enter into arrangements or agreements with appropriate private and public sector United States parties, and international organizations.

(d) Consultation with appropriate officers

In carrying out the responsibilities established by this section, the Secretary shall seek information and advice from, and consult with, appropriate officers of the United States.

(e) Consultation with labor and business representatives

For purposes of this section, consultation between the Secretary and United States labor and business representatives shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

(f) Delegation of responsibilities

The Secretary shall delegate the authority to carry out the programs authorized by this section to the head of the Bureau of International Labor Affairs of the Department of Labor.

(g) Authorization of appropriations

There are authorized to be appropriated to the Department of Labor for the 3-year period beginning October 1, 1989, to carry out this section—

(1) $4,000,000 for technical assistance to Poland; and

(2) $1,000,000 for technical assistance to Hungary.

(Pub. L. 101–179, title II, §202, Nov. 28, 1989, 103 Stat. 1308.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (e), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

CODIFICATION

In subsec. (c)(1), "chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41" substituted for "the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 and following)" on authority of Pub. L. 107–217, §5(c), Aug. 21, 2002, 116 Stat. 1303, which Act enacted Title 40, Public Buildings, Property, and Works, and Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

§5423. Technical training for private sector development in Poland and Hungary

(a) Technical training program

The Agency for International Development shall develop and implement a program for extending basic agribusiness, commercial, entrepreneurial, financial, scientific, and technical skills to the people of Poland and Hungary to enable them to better meet their needs and develop a market economy. This program shall include management training and agricultural extension activities.

(b) Participation by Enterprise Funds and other agencies and organizations

In carrying out subsection (a), the Agency for International Development may utilize the Polish-American Enterprise Fund and the Hungarian-American Enterprise Fund and other appropriate Government and private agencies, programs, and organizations such as—

(1) the Department of Agriculture;

(2) the Farmer-to-Farmer Program under section 1736(a)(1) and (2) of title 7;

(3) the International Executive Service Corps;

(4) the Foundation for the Development of Polish Agriculture;

(5) the World Council of Credit Unions; and

(6) other United States, Polish, and Hungarian private and voluntary organizations and private sector entities.

(c) Nonapplicability of other provisions of law

Assistance provided pursuant to subsection (a) under the authorities of part I of the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.] may be provided notwithstanding any other provision of law.

(d) Authorization of appropriations

For purposes of implementing this section, there are authorized to be appropriated $10,000,000 for the 3-year period beginning October 1, 1989, to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 and following; relating to development assistance), in addition to amounts otherwise available for such purposes.

(e) Limitation with respect to Farmer-to-Farmer Program

Any activities carried out pursuant to this chapter through the Farmer-to-Farmer Program under section 1736(a)(1) and (2) of title 7 shall be funded with funds authorized to be appropriated by this chapter and local currencies made available under section 5425 of this title, and shall not be funded with funds made available pursuant to section 1107 of the Food Security Act of 1985 (7 U.S.C. 1736 note) or a similar, subsequent provision of law.

(Pub. L. 101–179, title II, §203, Nov. 28, 1989, 103 Stat. 1309; Pub. L. 110–246, title III, §3001(b)(1)(A), (2)(U), June 18, 2008, 122 Stat. 1820, 1821.)

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsecs. (c) and (d), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424. Part I of the Foreign Assistance Act of 1961 is classified generally to subchapter I (§2151 et seq.) of chapter 32 of this title. Chapter 1 of part I of the Foreign Assistance Act of 1961 is classified generally to part I (§2151 et seq.) of subchapter I of chapter 32 of this title. For provisions deeming references to subchapter I to include parts IV (§2346 et seq.), VI (§2348 et seq.), and VIII (§2349aa et seq.) of subchapter II of chapter 32, see section 202(b) of Pub. L. 92–226, set out as a note under section 2346 of this title, and sections 2348c and 2349aa–5 of this title. For provisions deeming references to part I of subchapter I to include a reference to section 2293 of this title, see section 2293(d)(1) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

This chapter, referred to in subsec. (e), was in the original "this Act", meaning Pub. L. 101–179, Nov. 28, 1989, 103 Stat. 1298, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 5401 of this title and Tables.

Section 1107 of the Food Security Act of 1985, referred to in subsec. (e), is section 1107 of Pub. L. 99–198, which is set out as a note under section 1736 of Title 7, Agriculture.

AMENDMENTS

2008—Subsecs. (b)(2), (e). Pub. L. 110–246 made technical amendment to reference in original act which appears in text as reference to section 1736(a)(1) and (2) of title 7.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–246 effective May 22, 2008, see section 4(b) of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

§5424. Peace Corps programs in Poland and Hungary

There are authorized to be appropriated to carry out programs in Poland and Hungary under the Peace Corps Act [22 U.S.C. 2501 et seq.], $6,000,000 for the 3-year period beginning October 1, 1989, in addition to amounts otherwise available for such purposes. Such programs shall include the use of Peace Corps volunteers—

(1) to provide English language training, and

(2) to extend the technical skills described in section 5423(a) of this title to the people of Poland and Hungary, using the Associate Volunteer Program to the extent practicable.

(Pub. L. 101–179, title II, §204, Nov. 28, 1989, 103 Stat. 1310.)

REFERENCES IN TEXT

The Peace Corps Act, referred to in text, is Pub. L. 87–293, Sept. 22, 1961, 75 Stat. 612, as amended, which is classified principally to chapter 34 (§2501 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2501 of this title and Tables.

§5425. Use of Polish currency generated by agricultural assistance

(a) Additional assistance for Poland

A portion of the agricultural commodities described in subsection (c) may be made available and sold or bartered in Poland to generate local currencies to be used—

(1) to complement the assistance for Poland authorized by sections 5413(b), 5421, and 5423 of this title, and

(2) to support the activities of the joint commission established pursuant to section 2226 of the American Aid to Poland Act of 1988 (7 U.S.C. 1431 note),

notwithstanding section 1431(b)(7) of title 7 or any other provision of law.

(b) Emphasis on agricultural development

The uses of local currencies generated under this section should emphasize the development of agricultural infrastructure, agriculture-related training, and other aspects of agricultural development in Poland.

(c) Commodities subject to requirements

Subsection (a) applies with respect to agricultural commodities made available for Poland for fiscal years 1990, 1991, and 1992 under section 1431(b) of title 7, the Food for Peace Act (7 U.S.C. 1691 and following), and section 1736o of title 7.

(d) Other uses not precluded

The uses of agricultural commodities and local currencies specified in subsection (a) are in addition to other uses authorized by law.

(Pub. L. 101–179, title II, §205, Nov. 28, 1989, 103 Stat. 1310; Pub. L. 110–246, title III, §3001(b)(1)(A), (2)(U), June 18, 2008, 122 Stat. 1820, 1821.)

REFERENCES IN TEXT

Section 2226 of the American Aid to Poland Act of 1988, referred to in subsec. (a)(2), is section 2226 of Pub. L. 100–418, which is set out as a note under section 1431 of Title 7, Agriculture.

The Food for Peace Act, referred to in subsec. (c), is act July 10, 1954, ch. 469, 68 Stat. 454, which is classified generally to chapter 41 (§1691 et seq.) of Title 7. For complete classification of this Act to the Code, see Short Title note set out under section 1691 of Title 7 and Tables.

AMENDMENTS

2008—Subsec. (c). Pub. L. 110–246 substituted "Food for Peace Act" for "Agricultural Trade Development and Assistance Act of 1954".

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–246 effective May 22, 2008, see section 4(b) of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

§5426. United States policy of private financial support for Polish and Hungarian credit unions

(a) In general

In order to facilitate the development of indigenous credit unions in Poland and Hungary, it is the policy of the United States that—

(1) United States citizens, financial institutions (other than federally insured depository institutions), and other persons may make contributions and loans to, make capital deposits in, and provide other forms of financial and technical assistance to credit unions in Poland and Hungary; and

(2) federally insured depository institutions may provide technical assistance to credit unions in Poland and Hungary, to the extent that the provision of such assistance is prudent and not

inconsistent with safe and sound banking practice.

(b) Omitted

(c) Definitions

For purposes of subsection (a)—

(1) the term "credit union" means a member-owned, nonprofit, cooperative depository institution—

(A) which is formed to permit individuals in the field of membership specified in such institution's charter to pool their savings, lend the savings to one another, and own the organization where they save, borrow, and obtain related financial services; and

(B) whose members are united by a common bond and democratically operate the institution; and

(2) the term "federally insured depository institution" means—

(A) any insured depository institution (as defined in section 1813(c)(2) of title 12); and

(B) any insured credit union (as defined in section 1752(7) of title 12).

(Pub. L. 101–179, title II, §206, Nov. 28, 1989, 103 Stat. 1310.)

CODIFICATION

Section is comprised of section 206 of Pub. L. 101–179. Subsec. (b) of section 206 of Pub. L. 101–179 amended section 1757 of Title 12, Banks and Banking.

SUBCHAPTER III—EDUCATIONAL, CULTURAL, AND SCIENTIFIC ACTIVITIES

§5441. Educational and cultural exchanges and sister institutions programs with Poland and Hungary

(a) Educational and cultural exchanges

(1) Support for expanded U.S. participation

The United States should expand its participation in educational and cultural exchange activities with Poland and Hungary, using the full array of existing government-funded and privately-funded programs, with particular emphasis on the J. William Fulbright Educational Exchange Program, the International Visitors Program, the Samantha Smith Memorial Exchange Program, the exchange programs of the National Academy of Sciences, youth and student exchanges through such private organizations as The Experiment in International Living, The American Field Service Committee, and Youth for Understanding, and research exchanges sponsored by the International Research and Exchanges Board (IREX).

(2) Emphasis on skills in business and economics

The United States should place particular emphasis on expanding its participation in educational exchange activities that will assist in developing the skills in business and economics that are necessary for the development of a free market economy in Poland and Hungary.

(b) Binational Fulbright commissions

The United States should take all appropriate action to establish binational Fulbright commissions with Poland and Hungary in order to facilitate and enhance academic and scholarly exchanges with those countries.

(c) Reciprocal cultural centers

The President should consider the establishment of reciprocal cultural centers in Poland and the

United States and in Hungary and the United States to facilitate government-funded and privately-funded cultural exchanges.

(d) Sister institutions programs

The President shall act to encourage the establishment of "sister institution" programs between American and Polish organizations and between American and Hungarian organizations, including such organizations as institutions of higher education, cities and towns, and organizations in such fields as medicine and health care, business management, environmental protection, and agricultural research and marketing.

(e) Authorization of appropriations

To enable the United States Information Agency to support the activities described in this section, there are authorized to be appropriated $12,000,000 for the 3-year period beginning October 1, 1989, in addition to amounts otherwise available for such purposes.

(Pub. L. 101–179, title IV, §401, Nov. 28, 1989, 103 Stat. 1314.)

TRANSFER OF FUNCTIONS

United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau) abolished and functions transferred to Secretary of State, see sections 6531 and 6532 of this title.

§5442. Poland-Hungary scholarship partnership

(a) Establishment of scholarship program

The Administrator of the Agency for International Development is authorized to establish and administer a program of scholarship assistance, in cooperation with State governments, universities, community colleges, and businesses, to provide scholarships to enable students from Poland and Hungary to study in the United States.

(b) Emphasis on business and economics

The scholarship program provided for in this section shall emphasize scholarships to enable students from Poland and Hungary to study business and economics in the United States. Such scholarships may be provided for study in programs that range from the standard management courses to more specialized assistance in commercial banking and the creation of a stock market.

(c) Grants to States

In carrying out this section, the Administrator may make grants to States to provide scholarship assistance for undergraduate or graduate degree programs, and training programs of one year or longer, in study areas related to the critical development needs of Poland and Hungary.

(d) Consultation with States

The Administrator shall consult with the participating States with regard to the educational opportunities available within each State and on the assignment of scholarship recipients.

(e) Federal share

The Federal share for each year for which a State receives payments under this section shall not be more than 50 percent.

(f) Non-Federal share

The non-Federal share of payments under this section may be in cash, including the waiver of tuition or the offering of in-State tuition or housing waivers or subsidies, or in-kind fairly evaluated, including the provision of books or supplies.

(g) Forgiveness of scholarship assistance

The obligation of any recipient to reimburse any entity for any or all scholarship assistance provided under this section shall be forgiven upon the recipient's prompt return to Poland or

Hungary, as the case may be, for a period which is at least one year longer than the period spent studying in the United States with scholarship assistance.

(h) Private sector participation

To the maximum extent practicable, each participating State shall enlist the assistance of the private sector to enable the State to meet the non-Federal share of payments under this section. Wherever appropriate, each participating State shall encourage the private sector to offer internships or other opportunities consistent with the purposes of this section to students receiving scholarships under this section.

(i) Funding

Grants to States pursuant to this section shall be made with funds made available to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 and following; relating to development assistance) or chapter 4 of part II of that Act (22 U.S.C. 2346 and following; relating to the economic support fund). In addition to amounts otherwise available for such purpose under those chapters, there are authorized to be appropriated $10,000,000 for the 3-year period beginning October 1, 1989, for use in carrying out this section.

(j) Restrictions not applicable

Prohibitions on the use of foreign assistance funds for assistance for Poland and Hungary shall not apply with respect to the funds made available to carry out this section.

(k) "State" defined

As used in this section, the term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

(Pub. L. 101–179, title IV, §402, Nov. 28, 1989, 103 Stat. 1315.)

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsec. (i), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended. Chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961 are classified generally to part I (§2151 et seq.) of subchapter I and part IV (§2346 et seq.) of subchapter II, respectively, of chapter 32 of this title. For provisions deeming references to part I of subchapter I to include a reference to section 2293 of this title, see section 2293(d)(1) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§5443. Science and technology exchange with Poland and Hungary

(a) Agreement with Poland

There are authorized to be appropriated to the Secretary of State for purposes of continuing to implement the 1987 United States-Polish science and technology agreement—

(1) $1,500,000 for fiscal year 1990,
(2) $2,000,000 for fiscal year 1991, and
(3) $2,000,000 for fiscal year 1992.

(b) Agreement with Hungary

There are authorized to be appropriated to the Secretary of State for purposes of implementing the 1989 United States-Hungarian science and technology agreement—

(1) $500,000 for fiscal year 1990,
(2) $1,000,000 for fiscal year 1991, and
(3) $1,000,000 for fiscal year 1992.

(c) Definition of agreements being funded

For purposes of this section—

(1) the term "1987 United States-Polish science and technology agreement" refers to the agreement concluded in 1987 by the United States and Poland, entitled "Agreement Between the Government of the United States of America and the Polish People's Republic on Cooperation in Science and Technology and Its Funding", together with annexes relating thereto; and

(2) the term "1989 United States-Hungarian science and technology agreement" refers to the agreement concluded in 1989 by the United States and Hungary, entitled "Agreement Between the Government of the United States of America and the Government of the Hungarian People's Republic for Scientific and Technology Cooperation", together with annexes relating thereto.

(Pub. L. 101–179, title IV, §403, Nov. 28, 1989, 103 Stat. 1316.)

SUBCHAPTER IV—OTHER ASSISTANCE PROGRAMS

§5451. Assistance in support of democratic institutions in Poland and Hungary

(a) Authorization of assistance

In addition to amounts otherwise available for such purposes, there are authorized to be appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 and following; relating to the economic support fund) $12,000,000 for the 3-year period beginning October 1, 1989, which shall be available only for the support of democratic institutions and activities in Poland and Hungary.

(b) Nonapplicability of other laws

Assistance may be provided under this section notwithstanding any other provision of law.

(Pub. L. 101–179, title V, §501, Nov. 28, 1989, 103 Stat. 1317.)

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsec. (a), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended. Chapter 4 of part II of the Foreign Assistance Act of 1961 is classified to part IV (§2346 et seq.) of subchapter II of chapter 32 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

§5452. Environmental initiatives for Poland and Hungary

(a) Priority for control of pollution

The Congress recognizes the severe pollution problems affecting Poland and Hungary and the serious health problems which ensue from such pollution. The Congress therefore directs that a high priority be given in the implementation of assistance to Poland and Hungary to the control of pollution and the restoration of the natural resource base on which a sustainable, healthy economy depends.

(b) EPA activities generally

In addition to specific authorities contained in any of the environmental statutes administered by the Environmental Protection Agency, the Administrator of that Agency (hereinafter in this section referred to as the "Administrator") is authorized to undertake such educational, policy training, research, and technical and financial assistance, monitoring, coordinating, and other activities as the Administrator may deem appropriate, either alone or in cooperation with other United States or foreign agencies, governments, or public or private institutions, in protecting the environment in Poland and Hungary.

(c) EPA activities in Poland

The Administrator shall cooperate with Polish officials and experts to—

(1) establish an air quality monitoring network in the Krakow metropolitan area as a part of Poland's national air monitoring network; and

(2) improve both water quality and the availability of drinking water in the Krakow metropolitan area.

(d) EPA activities in Hungary

The Administrator shall work with other United States and Hungarian officials and private parties to establish and support a regional center in Budapest for facilitating cooperative environmental activities between governmental experts and public and private organizations from the United States and Eastern and Western Europe.

(e) Funding of EPA activities

To enable the Environmental Protection Agency to carry out subsections (b), (c), and (d), there are authorized to be appropriated $10,000,000 for the 3-year period beginning October 1, 1989, to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 and following; relating to development assistance) or chapter 4 of Part [1] II of that Act (22 U.S.C. 2346 and following; relating to the economic support fund). These funds may be used to carry out those subsections notwithstanding any provision of law relating to the use of foreign assistance funds.

(f) Department of Energy activities relating to fossil fuels

(1) Clean coal

The Secretary of Energy shall cooperate with Polish officials and experts to retrofit a coal-fired commercial powerplant in the Krakow, Poland, region with advanced clean coal technology that has been successfully demonstrated at a comparably scaled powerplant in the United States. Such retrofit shall be carried out by one or more United States companies using United States technology and equipment manufactured in the United States. The Secretary may vest title in any property acquired under this paragraph in an entity other than the United States.

(2) Equipment assessment

The Secretary of Energy shall cooperate with Polish officials and experts and companies within the United States to assess and develop the capability within Poland to manufacture or modify boilers, furnaces, smelters, or other equipment that will enable industrial facilities within Poland to use fossil fuels cleanly. The Secretary may vest title in any property acquired under this paragraph in an entity other than the United States.

(3) Authorization of appropriations

To carry out paragraphs (1) and (2) of this subsection, there are authorized to be appropriated $30,000,000 for the 3-year period beginning October 1, 1989. Not more than $10,000,000 of the funds appropriated under this paragraph may be used to carry out the requirements of paragraph (1).

(g) Priority for efficient energy use

In view of the high energy usage per unit of output in Hungary and Poland, the Secretary of Energy shall give high priority to assisting officials of Poland and Hungary in improving the efficiency of their energy use, through emphasis on such measures as efficient motors, lights, gears, and appliances and improvements in building insulation and design.

(h) Alternative investments in energy in Hungary

It is the sense of the Congress that the Executive branch should work with the Government of Hungary to achieve environmentally safe alternative investments in energy efficiency, particularly with regard to projects along the Danube River.

(Pub. L. 101–179, title V, §502, Nov. 28, 1989, 103 Stat. 1317.)

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsec. (e), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended. Chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961 are classified generally to part I (§2151 et seq.) of subchapter I and part IV (§2346 et seq.) of subchapter II, respectively, of chapter 32 of this title. For provisions deeming references to part I of subchapter I to include a reference to section 2293 of this title, see section 2293(d)(1) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

[1] *So in original. Probably should not be capitalized.*

§5453. Medical supplies, hospital equipment, and medical training for Poland

(a) Authorization of assistance

In addition to amounts otherwise available for such purposes, there are authorized to be appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 and following; relating to the economic support fund) $4,000,000 for the 3-year period beginning October 1, 1989, which shall be available only—

(1) for providing medical supplies and hospital equipment to Poland through private and voluntary organizations, including for the expenses of purchasing, transporting, and distributing such supplies and equipment, and

(2) for training of Polish medical personnel.

(b) Nonapplicability of other laws

Assistance may be provided under this section notwithstanding any other provision of law, other than—

(1) section 104(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b(f); relating to the prohibition on the use of funds for abortions and involuntary sterilizations), and

(2) any provision of the annual Foreign Operations, Export Financing, and Related Programs Appropriations Act that relates to abortion.

(Pub. L. 101–179, title V, §503, Nov. 28, 1989, 103 Stat. 1318.)

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsec. (a), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended. Chapter 4 of part II of the Foreign Assistance Act of 1961 is classified to part IV (§2346 et seq.) of subchapter II of chapter 32 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

The Foreign Operations, Export Financing, and Related Programs Appropriations Act, referred to in subsec. (b)(2), is for fiscal year 1990, Pub. L. 101–167, Nov. 21, 1989, 103 Stat. 1195. For complete classification of this and other Foreign Operations, Export Financing, and Related Programs Appropriations Acts to the Code, see Tables.

SUBCHAPTER V—ADDITIONAL SEED PROGRAM ACTIONS

§5461. Policy coordination of SEED Program

The President shall designate, within the Department of State, a SEED Program coordinator who shall be directly responsible for overseeing and coordinating all programs described in this chapter and all other activities that the United States Government conducts in furtherance of the purposes of this chapter.

(Pub. L. 101–179, title VI, §601, Nov. 28, 1989, 103 Stat. 1319.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 101–179, Nov. 28, 1989, 103 Stat. 1298, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 5401 of this title and Tables.

§5462. SEED Information Center System

(a) Establishment

The President shall establish a SEED Information Center System, using existing Executive branch agencies and acting in cooperation with the Government of Poland and the Government of Hungary.

(b) Functions

(1) In general

The SEED Information Center System shall serve as a central clearinghouse mechanism for information relating to—

(A) business needs and opportunities in Eastern Europe, and

(B) voluntary assistance to countries in Eastern Europe.

(2) Private enterprise development

The SEED Information Center System shall be organized, among other purposes, to encourage—

(A) the submission of economically sound proposals to the Polish-American Enterprise Fund and Hungarian-American Enterprise Fund, and

(B) other sources of finance for the development of private enterprise in Eastern Europe.

(c) Location

The SEED Information Center System shall be based jointly in Washington, District of Columbia; Warsaw, Poland; and Budapest, Hungary; and should it become appropriate, the capitals of other East European countries.

(Pub. L. 101–179, title VI, §602, Nov. 28, 1989, 103 Stat. 1319.)

DELEGATION OF FUNCTIONS

Functions of President under this section delegated to Secretary of Commerce by section 3 of Ex. Ord. No. 12703, Feb. 20, 1990, 55 F.R. 6351, set out as a note under section 5401 of this title.

§5463. Encouraging voluntary assistance for Poland and Hungary

(a) Encouraging private contributions

It is the sense of the Congress that the President should take all possible steps to encourage across the Nation a massive outpouring of private contributions of money and nonperishable foods, to be collected by civic, religious, school, and youth organizations, for assistance to Poland and to refugees from Romania who are in Hungary.

(b) Transportation to Poland of private contributions

In further [1] of subsection (a), the President—

(1) using all available authorities, including section 402 of title 10 (relating to transportation of humanitarian relief supplies), should use resources of the Department of Defense (including the National Guard) to transport nonfinancial private contributions to Poland,[2]

(2) should request additional authorities as needed for the use of those resources for that purpose; and

(3) should encourage maximum participation by such recognized private and voluntary organizations as the Polish-American Congress in the transportation of nonfinancial private contributions to Poland.

(Pub. L. 101–179, title VI, §603, Nov. 28, 1989, 103 Stat. 1319.)

[1] *So in original. Probably should be "furtherance".*

[2] *So in original. The comma probably should be a semicolon.*

§5464. Economic and commercial officers at United States embassies and missions in Poland and Hungary

It is the sense of the Congress that, to the extent practicable—

(1) the United States Embassy in Budapest, Hungary, should be assigned one additional economic and commercial officer;

(2) the United States Embassy in Warsaw, Poland, should be assigned one additional economic officer and one additional commercial officer;

(3) the United States Trade Center in Warsaw, Poland, should be assigned one additional economic and commercial officer; and

(4) the United States mission in Krakow, Poland, should be assigned one additional economic and commercial officer.

(Pub. L. 101–179, title VI, §604, Nov. 28, 1989, 103 Stat. 1320.)

SUBCHAPTER VI—REPORTS TO CONGRESS

§5471. Report on initial steps taken by United States and on Poland's requirement for agricultural assistance

(a) Initial report

Not later than 60 days after November 28, 1989, the President shall submit a report to the Congress—

(1) describing the steps taken by the United States Government pursuant to subchapter I, in particular sections [1] 5412(a) and (b) of this title;

(2) assessing Poland's requirements for additional agricultural assistance during fiscal year 1990 and its requirements for agricultural assistance during fiscal years 1991 and 1992; and

(3) specifying how much agricultural assistance the President proposes be provided by the United States to meet those requirements.

(b) Updating assessments

As additional information becomes available, the President shall provide to the Congress revised assessments of Poland's requirements for agricultural assistance during fiscal years 1991 and 1992, specifying how much agricultural assistance the President proposes be provided by the United States to meet those requirements.

(Pub. L. 101–179, title VII, §701, Nov. 28, 1989, 103 Stat. 1320.)

DELEGATION OF FUNCTIONS

Functions of President under this subchapter relating to reports to Congress delegated to Coordinator of the SEED Program by section 1 of Ex. Ord. No. 12703, Feb. 20, 1990, 55 F.R. 6351, set out as a note under section 5401 of this title.

[1] *So in original. Probably should be "section".*

§5472. Report on confidence building measures by Poland and Hungary

Not later than 180 days after November 28, 1989, the President shall submit a report to the Congress identifying—

(1) the confidence building measures Poland and Hungary could undertake to facilitate the negotiation of agreements, including bilateral customs and technology transfer agreements, that would encourage greater direct private sector investment in that country; and

(2) the confidence building measures Poland and Hungary could undertake with respect to the treatment accorded those countries under the Export Administration Act of 1979 [50 U.S.C. 4601 et seq.].

(Pub. L. 101–179, title VII, §702, Nov. 28, 1989, 103 Stat. 1320.)

REFERENCES IN TEXT

The Export Administration Act of 1979, referred to in par. (2), is Pub. L. 96–72, Sept. 29, 1979, 93 Stat. 503, which is classified principally to chapter 56 (§4601 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Tables.

§5473. Report on environmental problems in Poland and Hungary

The first report submitted pursuant to section 5474 of this title shall include the following:

(1) Assessment of problems

An overall assessment of the environmental problems facing Poland and Hungary, including—

(A) a relative ranking of the severity of the problems and their effects on both human health and the general environment;

(B) a listing of the geographical areas of each country that have suffered the heaviest environmental damage, and a description of the source and scope of the damage; and

(C) an assessment of the environmental performance of leading industrial polluters in those countries and the expected effect on pollution levels of industrial modernization.

(2) Priorities and costs for action

An analysis of the priorities that Poland and Hungary should each assign in addressing its environmental problems, and an estimate of the capital and human resources required to undertake a comprehensive program of environmental protection in that country.

(3) Role of United States and multilateral assistance

A statement of strategy for United States assistance for the next 5 years to address environmental problems in Poland and Hungary, including—

(A) recommendations for appropriate levels and forms of bilateral financial and technical assistance;

(B) recommendations concerning United States participation in cooperative multilateral undertakings;

(C) an assessment of the feasibility of debt-for-nature swaps as a technique of environmental protection in each country; and

(D) recommendations for minimizing further environmental damage to Krakow, and for the protection and restoration of historic sites in that city.

(Pub. L. 101–179, title VII, §703, Nov. 28, 1989, 103 Stat. 1321.)

§5474. Annual SEED Program report

(a) Findings

The Congress finds that—

(1) in order to provide the President with maximum flexibility and opportunity for innovation in

implementation of the SEED Program, this chapter sets forth general goals and modalities for the support of democracy and economic pluralism in Eastern Europe;

(2) prompt United States action in devising specific measures to achieve the goals outlined in this chapter will be crucial in generating the public awareness, and the international commitment, necessary for United States leadership of a successful multilateral program of assistance in Eastern Europe; and

(3) clear-cut delineation of such United States actions at an early date is integral to United States leadership of this effort.

(b) Initial SEED Program report

Accordingly, the first report pursuant to subsection (c) [1] shall be a comprehensive report that includes a full description of all SEED Actions taken pursuant to each provision of this chapter since November 28, 1989.

(Pub. L. 101–179, title VII, §704, Nov. 28, 1989, 103 Stat. 1321; Pub. L. 112–74, div. I, title VII, §7034(n), Dec. 23, 2011, 125 Stat. 1217.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 101–179, Nov. 28, 1989, 103 Stat. 1298, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 5401 of this title and Tables.

Subsection (c), referred to in subsec. (b), was repealed by Pub. L. 112–74, div. I, title VII, §7034(n), Dec. 23, 2011, 125 Stat. 1217.

AMENDMENTS

2011—Subsec. (c). Pub. L. 112–74 struck out subsec. (c), which required President to submit annual SEED Program report.

[1] *See References in Text note below.*

§5475. Omitted

CODIFICATION

Section, Pub. L. 101–179, title VII, §705, Nov. 28, 1989, 103 Stat. 1322, which required the President to submit to appropriate committees of Congress an annual report on the extent of espionage activities against the United States and other member countries of the North Atlantic Treaty Organization by operatives of the government of any East European country that was receiving assistance under this chapter, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 33 of House Document No. 103–7.

§5476. Notifications to Congress regarding assistance

Section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–1; relating to reprogramming notifications) applies with respect to obligations of funds made available under that Act [22 U.S.C. 2151 et seq.] to carry out this chapter, notwithstanding any other provision of this chapter.

(Pub. L. 101–179, title VII, §706, Nov. 28, 1989, 103 Stat. 1322.)

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in text, is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, which is classified principally to chapter 32 (§2151 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 101–179, Nov. 28, 1989, 103 Stat. 1298, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 5401 of this title and Tables.

SUBCHAPTER VII—MISCELLANEOUS PROVISIONS

§5491. Suspension of SEED assistance

The President should suspend all assistance to an East European country pursuant to this chapter if the President determines, and reports to the Congress, that—

(1) that country is engaged in international activities directly and fundamentally contrary to United States national security interests;

(2) the president or any other government official of that country initiates martial law or a state of emergency for reasons other than to respond to a natural disaster or a foreign invasion; or

(3) any member who was elected to that country's parliament has been removed from that office or arrested through extraconstitutional processes.

(Pub. L. 101–179, title VIII, §801, Nov. 28, 1989, 103 Stat. 1322.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 101–179, Nov. 28, 1989, 103 Stat. 1298, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 5401 of this title and Tables.

§5492. Declaration of the Republic of Hungary

(a) Findings

The Congress finds that—

(1) on October 23, 1989, in a public ceremony in Budapest, the acting President of Hungary declared the Hungarian state to be an independent, democratic Republic of Hungary;

(2) this public ceremony was held on the 33d anniversary of Hungary's 1956 revolution that was bloodily suppressed by Soviet troops;

(3) this public ceremony was held in the same Kossuth Square where the first mass rally of the 1956 revolution was held;

(4) as a further symbol of Hungary's faithfulness to the legacy of the revolution of 1956, the declaration by the acting President was made from the same balcony from which Imre Nagy, the martyred Prime Minister of the revolutionary government of 1956, addressed the citizens of Budapest 33 years before;

(5) the heroic revolt and freedom fight of the Hungarian people in 1956 was an inspirational event, reminding a generation of Americans of the sacrifices people are willing to undertake as the price of liberty; and

(6) the present efforts of the Hungarian people to validate the legacy of the revolution of 1956 by establishing a free, independent, and prosperous Hungary have gained the sympathy and admiration of the American people.

(b) Congressional declarations

The Congress—

(1) congratulates the people of Hungary on the declaration of a Republic of Hungary committed to democratic principles; and

(2) expresses its desire to enhance the friendly relations between the people of Hungary and the people of the United States and between their respective governments.

(Pub. L. 101–179, title VIII, §802, Nov. 28, 1989, 103 Stat. 1322.)

§5493. Administrative expenses of Agency for International Development

For the purpose of paying administrative expenses incurred in connection with carrying out its functions under this chapter, the Agency for International Development may use up to $500,000 each fiscal year of the funds made available to the Agency under this chapter.

(Pub. L. 101–179, title VIII, §803, Nov. 28, 1989, 103 Stat. 1323.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 101–179, Nov. 28, 1989, 103 Stat. 1298, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 5401 of this title and Tables.

ADMINISTRATIVE EXPENSES OF AGENCY FOR INTERNATIONAL DEVELOPMENT FOR FISCAL YEAR 1991; SUPERSEDURE OF SECTION

Pub. L. 101–513, title II, (d), Nov. 5, 1990, 104 Stat. 1994, provided that: "Up to $1,000,000 of the funds appropriated under this heading ["Assistance for Eastern Europe"] may be used for the administrative expenses incurred by the Agency for International Development in connection with administering programs for Eastern Europe: *Provided*, That the authority of this subsection shall supersede for fiscal year 1991 the provisions of section 803 of the Support for East European Democracy (SEED) Act of 1989 [22 U.S.C. 5493].

§5494. Relation of provisions of this chapter to certain provisions of appropriations acts

Any provision of the annual Foreign Operations, Export Financing, and Related Programs Appropriations Act that provides that assistance for Poland or Hungary under that Act may be provided "notwithstanding any other provision of law" shall not supersede any otherwise applicable provision of this chapter. This section shall not, however, be construed to apply with respect to section 599C(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (or a corresponding provision of a subsequent such appropriations Act.

(Pub. L. 101–179, title VIII, §804, Nov. 28, 1989, 103 Stat. 1323.)

REFERENCES IN TEXT

The Foreign Operations, Export Financing, and Related Programs Appropriations Act, referred to in text, is for fiscal year 1990, Pub. L. 101–167, Nov. 21, 1989, 103 Stat. 1195. Section 599C(b) of the 1990 Act, 103 Stat. 1261, is not classified to the Code. For complete classification of this and other Foreign Operations, Export Financing, and Related Appropriations Acts to the Code, see Tables.

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 101–179, Nov. 28, 1989, 103 Stat. 1298, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 5401 of this title and Tables.

§5495. Certain uses of excess foreign currencies

(a) Authority to use

During fiscal year 1990, the Administrator of the Agency for International Development may use, for the purposes described in subsection (b), such sums of foreign currencies described in subsection (c) as the Administrator may determine, subject to subsection (f).

(b) Purposes for which currency may be used

Foreign currencies may be used under this section—

(1) for the same purposes for which assistance may be provided under part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 and following; relating to economic assistance), and

(2) for the support of any institution providing education for a significant number of United States nationals (who may include members of the United States Armed Forces or the Foreign Service or dependents of such members).

(c) Currencies which may be used

The foreign currencies which may be used under this section are United States-owned excess foreign currencies that are in excess of amounts necessary for satisfaction of preexisting commitments to use such currencies for other purposes specified by law.

(d) Where currencies may be used

Foreign currencies may be used under this section in the country where such currencies are held or in other foreign countries.

(e) Nonapplicability of other provisions of law

Foreign currencies may be used under this section notwithstanding section 1306 of title 31 or any other provision of law.

(f) Requirement for appropriations action

The authority of this section may be exercised only to such extent or in such amount as may be provided in advance in an appropriation Act.

(Pub. L. 101–179, title VIII, §805, Nov. 28, 1989, 103 Stat. 1323.)

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsec. (b)(1), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424. Part I of the Act is classified generally to subchapter I (§2151 et seq.) of chapter 32 of this title. For provisions deeming references to subchapter I to include parts IV (§2346 et seq.), VI (§2348 et seq.), and VIII (§2349aa et seq.) of subchapter II of chapter 32, see section 202(b) of Pub. L. 92–226, set out as a note under section 2346 of this title, and sections 2348c and 2349aa–5 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

CHAPTER 64—UNITED STATES RESPONSE TO TERRORISM AFFECTING AMERICANS ABROAD

Sec.

5501. International negotiations concerning aviation security.
5502. Coordinator for Counterterrorism.
5503. Department of State notification of families of victims.
5504. Designation of State Department-family liaison and toll-free family communications system.
5505. Disaster training for State Department personnel.
5506. Department of State responsibilities and procedures at international disaster site.
5507. Recovery and disposition of remains and personal effects.
5508. Assessment of Lockerbie experience.
5509. Official Department of State recognition.
5510. United States Government compensation for victims of terrorism.
5511. Overseas Security Electronic Bulletin Board.
5512. Antiterrorism measures.
5513. Proposal for consideration by International Civil Aviation Organization.

§5501. International negotiations concerning aviation security

(a) United States policy

It is the policy of the United States—

(1) to seek bilateral agreements to achieve United States aviation security objectives with foreign governments;

(2) to continue to press vigorously for security improvements through the Foreign Airport Security Act [1] and the foreign airport assessment program; and

(3) to continue to work through the International Civil Aviation Organization to improve aviation security internationally.

(b) Negotiations for aviation security

(1) The Department of State, in consultation with the Department of Transportation, shall be responsible for negotiating requisite aviation security agreements with foreign governments concerning the implementation of United States rules and regulations which affect the foreign operations of United States air carriers, foreign air carriers, and foreign international airports. The Secretary of State is directed to enter, expeditiously, into negotiations for bilateral and multilateral agreements—

(A) for enhanced aviation security objectives;

(B) to implement the Foreign Airport Security Act [1] and the foreign airport assessment program to the fullest extent practicable; and

(C) to achieve improved availability of passenger manifest information.

(2) A principal objective of bilateral and multilateral negotiations with foreign governments and the International Civil Aviation Organization shall be improved availability of passenger manifest information.

(Pub. L. 101–604, title II, §201, Nov. 16, 1990, 104 Stat. 3081.)

REFERENCES IN TEXT

No act with the title Foreign Airport Security Act, referred to in subsecs. (a)(2) and (b)(1)(B), has been enacted. The Foreign Airport Security Act probably means part B (§§551–559) of title V of Pub. L. 99–83, Aug. 8, 1985, 99 Stat. 222. For complete classification of part B to the Code, see Tables.

CONGRESSIONAL FINDINGS

Pub. L. 101–604, §2, Nov. 16, 1990, 104 Stat. 3066, provided that: "Congress finds that—

"(1) the safety and security of passengers of United States air carriers against terrorist threats should be given the highest priority by the United States Government;

"(2) the report of the President's Commission on Aviation Security and Terrorism, dated May 15, 1990, found that current aviation security systems are inadequate to provide such protection;

"(3) the United States Government should immediately take steps to ensure fuller compliance with existing laws and regulations relating to aviation security;

"(4) the United States Government should work through the International Civil Aviation Organization and directly with foreign governments to enhance aviation security of foreign carriers and at foreign airports;

"(5) the United States Government should ensure that enhanced security measures are fully implemented by both United States and foreign air carriers;

"(6) all nations belonging to the Summit Seven should promptly amend the Bonn Declaration to extend sanctions for all terrorist acts, including attacks against airports and air carrier ticket offices;

"(7) the United States Government, in bilateral negotiations with foreign governments, should emphasize upgrading international aviation security objectives;

"(8) the United States Government should have in place a mechanism by which the Government notifies the public, on a case-by-case basis and through the application of a uniform national standard, of certain credible threats to civil aviation security;

"(9) the United States Government has a special obligation to United States victims of acts of terrorism directed against this Nation and should provide prompt assistance to the families of such victims and assure that fair and prompt compensation is provided to such victims and their families;

"(10) the United States should work with other nations to treat as outlaws state sponsors of terrorism, isolating such sponsors politically, economically, and militarily;

"(11) the United States must develop a clear understanding that state-sponsored terrorism threatens United States values and interests, and that active measures are needed to counter more effectively the terrorist threat; and

"(12) the United States must have the national will to take every feasible action to prevent, counter, and respond to terrorist activities."

[1] *See References in Text note below.*

§5502. Coordinator for Counterterrorism

The Coordinator for Counterterrorism shall be responsible for the coordination of international aviation security for the Department of State.

(Pub. L. 101–604, title II, §202, Nov. 16, 1990, 104 Stat. 3082.)

§5503. Department of State notification of families of victims

(a) Department of State policy

It is the policy of the Department of State pursuant to section 2715 of this title to directly and promptly notify the families of victims of aviation disasters abroad concerning citizens of the United States directly affected by such a disaster, including timely written notice. The Secretary of State shall ensure that such notification by the Department of State is carried out notwithstanding notification by any other person.

(b) Department of State guidelines

Not later than 60 days after November 16, 1990, the Secretary of State shall issue such regulations, guidelines, and circulars as are necessary to ensure that the policy under subsection (a) is fully implemented.

(Pub. L. 101–604, title II, §204, Nov. 16, 1990, 104 Stat. 3083.)

§5504. Designation of State Department-family liaison and toll-free family communications system

(a) Designation of State Department-family liaison

Not later than 60 days after November 16, 1990, the Secretary of State shall issue such rules and guidelines as are necessary to provide that in the event of an aviation disaster directly involving United States citizens abroad, if possible, the Department of State will assign a specific individual, and an alternate, as the Department of State liaison for the family of each such citizen.

(b) Toll-free communications system

In the establishment of the Department of State toll-free communications system to facilitate inquiries concerning the affect of any disaster abroad on United States citizens residing or traveling abroad, the Secretary of State shall ensure that a toll-free telephone number is reserved for the exclusive use of the families of citizens who have been determined to be directly involved in any such disaster.

(Pub. L. 101–604, title II, §205, Nov. 16, 1990, 104 Stat. 3083.)

§5505. Disaster training for State Department personnel

(a) Additional training

The Secretary of State shall institute a supplemental program of training in disaster management for all consular officers.

(b) Training improvements

(1) In expanding the training program under subsection (a), the Secretary of State shall consult with death and bereavement counselors concerning the particular demands posed by aviation tragedies and terrorist activities.

(2) In providing such additional training under subsection (a) the Secretary of State shall consider supplementing the current training program through—

(A) providing specialized training to create a team of "disaster specialists" to deploy immediately in a crisis; or

(B) securing outside experts to be brought in during the initial phases to assist consular personnel.

(Pub. L. 101–604, title II, §206, Nov. 16, 1990, 104 Stat. 3084.)

§5506. Department of State responsibilities and procedures at international disaster site

(a) Dispatch of senior State Department official to site

Not later than 60 days after November 16, 1990, the Secretary of State shall issue such rules and guidelines as are necessary to provide that in the event of an international disaster, particularly an aviation tragedy, directly involving significant numbers of United States citizens abroad not less than one senior officer from the Bureau of Consular Affairs of the Department of State shall be dispatched to the site of such disaster.

(b) Criteria for Department of State staffing at disaster site

Not later than 60 days after November 16, 1990, the Secretary of State shall promulgate criteria for Department of State staffing of disaster sites abroad. Such criteria shall define responsibility for staffing decisions and shall consider the deployment of crisis teams under subsection (d). The Secretary of State shall promptly issue such rules and guidelines as are necessary to implement criteria developed pursuant to this subsection.

(c) State Department ombudsman

Not later than 60 days after November 16, 1990, the Secretary of State shall issue such rules and guidelines as are necessary to provide that in the event of an international aviation disaster involving significant numbers of United States citizens abroad not less than one officer or employee of the Department of State shall be dispatched to the disaster site to provide on-site assistance to families who may visit the site and to act as an ombudsman in matters involving the foreign local government authorities and social service agencies.

(d) Crisis teams

Not later than 60 days after November 16, 1990, the Secretary of State shall promulgate procedures for the deployment of a "crisis team", which may include public affairs, forensic, and bereavement experts, to the site of any international disaster involving United States citizens abroad to augment in-country Embassy and consulate staff. The Secretary of State shall promptly issue such rules and guidelines as are necessary to implement procedures developed pursuant to this subsection.

(Pub. L. 101–604, title II, §207, Nov. 16, 1990, 104 Stat. 3084.)

AUTHORITY OF SECRETARY OF STATE

Except as otherwise provided, Secretary of State to have and exercise any authority vested by law in any official or office of Department of State and references to such officials or offices deemed to refer to Secretary of State or Department of State, as appropriate, see section 2651a of this title and section 161(d) of Pub. L. 103–236, set out as a note under section 2651a of this title.

§5507. Recovery and disposition of remains and personal effects

It is the policy of the Department of State (pursuant to section 2715 of this title) to provide liaison with foreign governments and persons and with United States air carriers concerning arrangements for the preparation and transport to the United States of the remains of citizens who die abroad, as well as the disposition of personal effects. The Secretary of State shall ensure that regulations and

guidelines of the Department of State reflect such policy and that such assistance is rendered to the families of United States citizens who are killed in terrorist incidents and disasters abroad.

(Pub. L. 101–604, title II, §208, Nov. 16, 1990, 104 Stat. 3085.)

§5508. Assessment of Lockerbie experience

(a) Assessment

The Secretary of State shall compile an assessment of the Department of State response to the Pan American Airways Flight 103 aviation disaster over Lockerbie, Scotland, on December 21, 1988.

(b) Guidelines

The Secretary of State shall establish, based on the assessment compiled under subsection (a) and other relevant factors, guidelines for future Department of State responses to comparable disasters and shall distribute such guidelines to all United States diplomatic and consular posts abroad.

(Pub. L. 101–604, title II, §209, Nov. 16, 1990, 104 Stat. 3085.)

§5509. Official Department of State recognition

Not later than 60 days after November 16, 1990, the Secretary of State shall promulgate guidelines for appropriate ceremonies or other official expressions of respect and support for the families of United States citizens who are killed through acts of terrorism abroad.

(Pub. L. 101–604, title II, §210, Nov. 16, 1990, 104 Stat. 3085.)

§5510. United States Government compensation for victims of terrorism

(a) Compensation

The President shall submit to the Congress, not later than one year after November 16, 1990, recommendations on whether or not legislation should be enacted to authorize the United States to provide monetary and tax relief as compensation to United States citizens who are victims of terrorism.

(b) Board

The President may establish a board to develop criteria for compensation and to recommend changes to existing laws to establish a single comprehensive approach to victim compensation for terrorist acts.

(c) Income tax benefit for victims of Lockerbie terrorism

(1) In general

Subject to paragraph (2), in the case of any individual whose death was a direct result of the Pan American Airways Flight 103 terrorist disaster over Lockerbie, Scotland, on December 21, 1988, any tax imposed by subtitle A of title 26 shall not apply—

(A) with respect to the taxable year which includes December 21, 1988, and

(B) with respect to the prior taxable year.

(2) Limitation

In no case may the tax benefit pursuant to paragraph (1) for any taxable year, for any individual, exceed an amount equal to 28 percent of the annual rate of basic pay at Level V of the Executive Schedule of the United States as of December 21, 1988.

(Pub. L. 101–604, title II, §211, Nov. 16, 1990, 104 Stat. 3085.)

REFERENCES IN TEXT

Level V of the Executive Schedule, referred to in subsec. (c)(2), is set out in section 5316 of Title 5, Government Organization and Employees.

§5511. Overseas Security Electronic Bulletin Board

Not later than 60 days after November 16, 1990, the Secretary of State shall issue such rules and regulations as may be necessary to establish, under the Bureau of Consular Affairs, an electronic bulletin board accessible to the general public. Such bulletin board shall contain all information, updated daily, which is available on the Overseas Security Electronic Bulletin Board of the Bureau of Diplomatic Security.

(Pub. L. 101–604, title II, §212, Nov. 16, 1990, 104 Stat. 3086.)

AUTHORITY OF SECRETARY OF STATE

Except as otherwise provided, Secretary of State to have and exercise any authority vested by law in any official or office of Department of State and references to such officials or offices deemed to refer to Secretary of State or Department of State, as appropriate, see section 2651a of this title and section 161(d) of Pub. L. 103–236, set out as a note under section 2651a of this title.

§5512. Antiterrorism measures

(a) Guidelines for international aviation travelers

For the purpose of notifying the public, the Secretary of State, in consultation with the Secretary of Transportation, shall develop and publish guidelines for thwarting efforts by international terrorists to enlist the unwitting assistance of international aviation travelers in terrorist activities. Notices concerning such guidelines shall be posted and prominently displayed domestically and abroad in international airports.

(b) Development of international standards

The Secretary of State and the Secretary of Transportation in all appropriate fora, particularly talks and meetings related to international civil aviation, shall enter into negotiations with other nations for the establishment of international standards regarding guidelines for thwarting efforts by international terrorists to enlist the unwitting assistance of international aviation travelers in terrorist activities.

(c) Publication of rewards for terrorism-related information

For the purpose of notifying the public, the Secretary of State shall publish the availability of United States Government rewards for information on international terrorist-related activities, including rewards available under section 2708(a) [1] of this title and chapter 204 of title 18. To the extent appropriate and feasible, notices making such publication shall be posted and prominently displayed domestically and abroad in international airports.

(d) Sense of Congress

It is the sense of Congress that the Secretary of Transportation should take appropriate measures to utilize and train properly the officers and employees of other United States Government agencies who have functions at international airports in the United States and abroad in the detection of explosives and firearms which could be a threat to international civil aviation.

(Pub. L. 101–604, title II, §214, Nov. 16, 1990, 104 Stat. 3087.)

REFERENCES IN TEXT

Section 2708 of this title, referred to in subsec. (c), was amended generally by Pub. L. 105–323, title I, §101, Oct. 30, 1998, 112 Stat. 3029, and, as so amended, provisions authorizing awards, formerly contained in section 2708(a), are now contained in section 2708(b).

[1] *See References in Text note below.*

§5513. Proposal for consideration by International Civil Aviation Organization

Not later than 60 days after November 16, 1990, the Secretary of State, in consultation with the Secretary of Transportation, shall propose to the International Civil Aviation Organization the establishment of a comprehensive aviation security program which shall include (1) training for airport security personnel, (2) grants for security equipment acquisition for certain nations, and (3) expansion of the appropriate utilization of canine teams in the detection of explosive devices in all airport areas, including use in passenger screening areas and nonpublic baggage assembly and processing areas.

(Pub. L. 101–604, title II, §215, Nov. 16, 1990, 104 Stat. 3087.)

CHAPTER 65—CONTROL AND ELIMINATION OF CHEMICAL AND BIOLOGICAL WEAPONS

Sec.

5601. Purposes.
5602. Multilateral efforts.
5603. United States export controls.
5604. Determinations regarding use of chemical or biological weapons.
5605. Sanctions against use of chemical or biological weapons.
5606. Repealed.

PRIOR PROVISIONS

A prior chapter 65, enacted by Pub. L. 102–138, title V, Oct. 28, 1991, 105 Stat. 722, contained provisions substantially identical to those enacted by Pub. L. 102–182, title III, Dec. 4, 1991, 105 Stat. 1245, prior to repeal by Pub. L. 102–182, title III, §309(a), Dec. 4, 1991, 105 Stat. 1258.

§5601. Purposes

The purposes of this chapter are—

(1) to mandate United States sanctions, and to encourage international sanctions, against countries that use chemical or biological weapons in violation of international law or use lethal chemical or biological weapons against their own nationals, and to impose sanctions against companies that aid in the proliferation of chemical and biological weapons;

(2) to support multilaterally coordinated efforts to control the proliferation of chemical and biological weapons;

(3) to urge continued close cooperation with the Australia Group and cooperation with other supplier nations to devise ever more effective controls on the transfer of materials, equipment, and technology applicable to chemical or biological weapons production; and

(4) to require Presidential reports on efforts that threaten United States interests or regional stability by Iran, Iraq, Syria, Libya, and others to acquire the materials and technology to develop, produce, stockpile, deliver, transfer, or use chemical or biological weapons.

(Pub. L. 102–182, title III, §302, Dec. 4, 1991, 105 Stat. 1245.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this title", meaning title III of Pub. L. 102–182, Dec. 4, 1991, 105 Stat. 1245, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note below and Tables.

SHORT TITLE

Pub. L. 102–182, title III, §301, Dec. 4, 1991, 105 Stat. 1245, provided that: "This title [enacting this chapter, section 2798 of this title, and section 4613 of Title 50, War and National Defense, amending sections

2798 and 5604 of this title and sections 4605 and 4613 of Title 50, and repealing provisions which enacted this chapter, section 2798 of this title, and section 4613 of Title 50, and which amended section 4605 of Title 50] may be cited as the 'Chemical and Biological Weapons Control and Warfare Elimination Act of 1991'."

Pub. L. 102–138, title V, §501, Oct. 28, 1991, 105 Stat. 722, which provided that title V of Pub. L. 102–138, which enacted this chapter, section 2798 of this title, and section 4613 of Title 50, War and National Defense, and amended section 4605 of Title 50, was to be cited as the "Chemical and Biological Weapons Control and Warfare Elimination Act of 1991", was repealed by Pub. L. 102–182, title III, §309(a), Dec. 4, 1991, 105 Stat. 1258.

MATTERS RELATING TO THE CONTROL OF BIOLOGICAL WEAPONS

Pub. L. 106–113, div. B, §1000(a)(7) [div. B, title XI, chapter 2], Nov. 29, 1999, 113 Stat. 1536, 1501A–490, provided that:

"SEC. 1121. SHORT TITLE.

"This chapter may be cited as the 'National Security and Corporate Fairness under the Biological Weapons Convention Act'.

"SEC. 1122. DEFINITIONS.

"In this chapter:

"(1) BIOLOGICAL WEAPONS CONVENTION.—The term 'Biological Weapons Convention' means the 1972 Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction.

"(2) COMPLIANCE PROTOCOL.—The term 'compliance protocol' means that segment of a bilateral or multilateral agreement that enables investigation of questions of compliance entailing written data or visits to facilities to monitor compliance.

"(3) INDUSTRY.—The term 'industry' means any corporate or private sector entity engaged in the research, development, production, import, and export of peaceful pharmaceuticals and bio-technological and related products.

"SEC. 1123. FINDINGS.

"Congress makes the following findings:

"(1) The threat of biological weapons and their proliferation is one of the greatest national security threats facing the United States.

"(2) The threat of biological weapons and materials represents a serious and increasing danger to people around the world.

"(3) Biological weapons are relatively inexpensive to produce, can be made with readily available expertise and equipment, do not require much space to make and can therefore be readily concealed, do not require unusual raw materials or materials not readily available for legitimate purposes, do not require the maintenance of stockpiles, or can be delivered with low-technology mechanisms, and can effect widespread casualties even in small quantities.

"(4) Unlike other weapons of mass destruction, biological materials capable of use as weapons can occur naturally in the environment and are also used for medicinal or other beneficial purposes.

"(5) Biological weapons are morally reprehensible, prompting the United States Government to halt its offensive biological weapons program in 1969, subsequently destroy its entire biological weapons arsenal, and maintain henceforth only a robust defensive capacity.

"(6) The Senate gave its advice and consent to ratification of the Biological Weapons Convention in 1974.

"(7) The Director of the Arms Control and Disarmament Agency explained, at the time of the Senate's consideration of the Biological Weapons Convention, that the treaty contained no verification provisions because verification would be 'difficult'.

"(8) A compliance protocol has now been proposed to strengthen the 1972 Biological Weapons Convention.

"(9) The resources needed to produce, stockpile, and store biological weapons are the same as those used in peaceful industry facilities to discover, develop, and produce medicines.

"(10) The raw materials of biological agents are difficult to use as an indicator of an offensive military program because the same materials occur in nature or can be used to produce a wide variety of products.

"(11) Some biological products are genetically manipulated to develop new commercial products, optimizing production and ensuring the integrity of the product, making it difficult to distinguish between legitimate commercial activities and offensive military activities.

"(12) Only a small culture of a biological agent and some growth medium are needed to produce a

large amount of biological agents with the potential for offensive purposes.

"(13) The United States pharmaceutical and biotechnology industries are a national asset and resource that contribute to the health and well-being of the American public as well as citizens around the world.

"(14) One bacterium strain can represent a large proportion of a company's investment in a pharmaceutical product and thus its potential loss during an arms control monitoring activity could conceivably be worth billions of dollars.

"(15) Biological products contain proprietary genetic information.

"(16) The proposed compliance regime for the Biological Weapons Convention entails new data reporting and investigation requirements for industry.

"(17) A compliance regime which contributes to the control of biological weapons and materials must have a reasonable chance of success in reducing the risk of production, stockpiling, or use of biological weapons while protecting the reputations, intellectual property, and confidential business information of legitimate companies.

"SEC. 1124. TRIAL INVESTIGATIONS AND TRIAL VISITS.

"(a) NATIONAL SECURITY TRIAL INVESTIGATIONS AND TRIAL VISITS.—The President shall conduct a series of national security trial investigations and trial visits, both during and following negotiations to develop a compliance protocol to the Biological Weapons Convention, with the objective of ensuring that the compliance procedures of the protocol are effective and adequately protect the national security of the United States. These trial investigations and trial visits shall be conducted at such sites as United States Government facilities, installations, and national laboratories.

"(b) UNITED STATES INDUSTRY TRIAL INVESTIGATIONS AND TRIAL VISITS.—The President shall take all appropriate steps to conduct or sponsor a series of United States industry trial investigations and trial visits, both during and following negotiations to develop a compliance protocol to the Biological Weapons Convention, with the objective of ensuring that the compliance procedures of the protocol are effective and adequately protect the national security and the concerns of affected United States industries and research institutions. These trial investigations and trial visits shall be conducted at such sites as academic institutions, vaccine production facilities, and pharmaceutical and biotechnology firms in the United States.

"(c) PARTICIPATION BY DEFENSE DEPARTMENT AND OTHER APPROPRIATE PERSONNEL .—The Secretary of Defense and, as appropriate, the Director of the Federal Bureau of Investigation shall make available specialized personnel to participate—

"(1) in each trial investigation or trial visit conducted pursuant to subsection (a); and

"(2) in each trial investigation or trial visit conducted pursuant to subsection (b), except for any investigation or visit in which the host facility requests that such personnel not participate,

for the purpose of assessing the information security implications of such investigation or visit. The Secretary of Defense, in coordination with the Director of the Federal Bureau of Investigation, shall add to the report required by subsection (d)(2) a classified annex containing an assessment of the risk to proprietary and classified information posed by any investigation or visit procedures in the compliance protocol.

"(d) STUDY.—

"(1) IN GENERAL.—The President shall conduct a study on the need for investigations and visits under the compliance protocol to the Biological Weapons Convention, including—

"(A) an assessment of risks to national security and United States industry and research institutions of such on-site activities; and

"(B) an assessment of the monitoring results that can be expected from such investigations and visits.

"(2) REPORT.—Not later than the date on which a compliance protocol to the Biological Weapons Convention is submitted to the Senate for its advice and consent to ratification, the President shall submit to the Committee on Foreign Relations of the Senate a report, in both unclassified and classified form, setting forth—

"(A) the findings of the study conducted pursuant to paragraph (1); and

"(B) the results of trial investigations and trial visits conducted pursuant to subsections (a) and (b)."

§5602. Multilateral efforts

(a) Multilateral controls on proliferation

It is the policy of the United States to seek multilaterally coordinated efforts with other countries

to control the proliferation of chemical and biological weapons. In furtherance of this policy, the United States shall—

(1) promote agreements banning the transfer of missiles suitable for armament with chemical or biological warheads;

(2) set as a top priority the early conclusion of a comprehensive global agreement banning the use, development, production, and stockpiling of chemical weapons;

(3) seek and support effective international means of monitoring and reporting regularly on commerce in equipment, materials, and technology applicable to the attainment of a chemical or biological weapons capability; and

(4) pursue and give full support to multilateral sanctions pursuant to United Nations Security Council Resolution 620, which declared the intention of the Security Council to give immediate consideration to imposing "appropriate and effective" sanctions against any country which uses chemical weapons in violation of international law.

(b) Multilateral controls on chemical agents, precursors, and equipment

It is also the policy of the United States to strengthen efforts to control chemical agents, precursors, and equipment by taking all appropriate multilateral diplomatic measures—

(1) to continue to seek a verifiable global ban on chemical weapons at the 40 nation Conference on Disarmament in Geneva;

(2) to support the Australia Group's objective to support the norms and restraints against the spread and the use of chemical warfare, to advance the negotiation of a comprehensive ban on chemical warfare by taking appropriate measures, and to protect the Australia Group's domestic industries against inadvertent association with supply of feedstock chemical equipment that could be misused to produce chemical weapons;

(3) to implement paragraph (2) by proposing steps complementary to, and not mutually exclusive of, existing multilateral efforts seeking a verifiable ban on chemical weapons, such as the establishment of—

(A) a harmonized list of export control rules and regulations to prevent relative commercial advantage and disadvantages accruing to Australia Group members,

(B) liaison officers to the Australia Group's coordinating entity from within the diplomatic missions,

(C) a close working relationship between the Australia Group and industry,

(D) a public unclassified warning list of controlled chemical agents, precursors, and equipment,

(E) information-exchange channels of suspected proliferants,

(F) a "denial" list of firms and individuals who violate the Australia Group's export control provisions, and

(G) broader cooperation between the Australia Group and other countries whose political commitment to stem the proliferation of chemical weapons is similar to that of the Australia Group; and

(4) to adopt the imposition of stricter controls on the export of chemical agents, precursors, and equipment and to adopt tougher multilateral sanctions against firms and individuals who violate these controls or against countries that use chemical weapons.

(Pub. L. 102–182, title III, §303, Dec. 4, 1991, 105 Stat. 1245.)

§5603. United States export controls

The President shall—

(1) use the authorities of the Arms Export Control Act [22 U.S.C. 2751 et seq.] to control the export of those defense articles and defense services, and

(2) use the authorities of the Export Administration Act of 1979 [50 U.S.C. 4601 et seq.] to control the export of those goods and technology,

that the President determines would assist the government of any foreign country in acquiring the capability to develop, produce, stockpile, deliver, or use chemical or biological weapons.

(Pub. L. 102–182, title III, §304(a), Dec. 4, 1991, 105 Stat. 1246.)

REFERENCES IN TEXT

The Arms Export Control Act, referred to in par. (1), is Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1320, as amended, which is classified principally to chapter 39 (§2751 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

The Export Administration Act of 1979, referred to in par. (2), is Pub. L. 96–72, Sept. 29, 1979, 93 Stat. 503, which is classified principally to chapter 56 (§4601 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Tables.

§5604. Determinations regarding use of chemical or biological weapons

(a) Determination by President

(1) When determination required; nature of determination

Whenever persuasive information becomes available to the executive branch indicating the substantial possibility that, on or after October 28, 1991, the government of a foreign country has made substantial preparation to use or has used chemical or biological weapons, the President shall, within 60 days after the receipt of such information by the executive branch, determine whether that government, on or after October 28, 1991, has used chemical or biological weapons in violation of international law or has used lethal chemical or biological weapons against its own nationals. Section 5605 of this title applies if the President determines that that government has so used chemical or biological weapons.

(2) Matters to be considered

In making the determination under paragraph (1), the President shall consider the following:

(A) All physical and circumstantial evidence available bearing on the possible use of such weapons.

(B) All information provided by alleged victims, witnesses, and independent observers.

(C) The extent of the availability of the weapons in question to the purported user.

(D) All official and unofficial statements bearing on the possible use of such weapons.

(E) Whether, and to what extent, the government in question is willing to honor a request from the Secretary General of the United Nations to grant timely access to a United Nations fact-finding team to investigate the possibility of chemical or biological weapons use or to grant such access to other legitimate outside parties.

(3) Determination to be reported to Congress

Upon making a determination under paragraph (1), the President shall promptly report that determination to the Congress. If the determination is that a foreign government had used chemical or biological weapons as described in that paragraph, the report shall specify the sanctions to be imposed pursuant to section 5605 of this title.

(b) Congressional requests; report

(1) Request

The Chairman of the Committee on Foreign Relations of the Senate (upon consultation with the ranking minority member of such committee) or the Chairman of the Committee on Foreign Affairs of the House of Representatives (upon consultation with the ranking minority member of such committee) may at any time request the President to consider whether a particular foreign government, on or after December 4, 1991, has used chemical or biological weapons in violation of international law or has used lethal chemical or biological weapons against its own nationals.

(2) Report to Congress

Not later than 60 days after receiving such a request, the President shall provide to the Chairman of the Committee on Foreign Relations of the Senate and the Chairman of the Committee on Foreign Affairs of the House of Representatives a written report on the information held by the executive branch which is pertinent to the issue of whether the specified government, on or after December 4, 1991, has used chemical or biological weapons in violation of international law or has used lethal chemical or biological weapons against its own nationals. This report shall contain an analysis of each of the items enumerated in subsection (a)(2).

(Pub. L. 102–182, title III, §§306, 309(b)(3), Dec. 4, 1991, 105 Stat. 1252, 1259.)

AMENDMENTS

1991—Subsec. (a)(1). Pub. L. 101–182, §309(b)(3), substituted "October 28, 1991" for reference to the "date of the enactment of this title", meaning the date of the enactment of title V of Pub. L. 101–182 which was enacted Dec. 4, 1991. "October 28, 1991", the second time appearing, was substituted for "such date of enactment" for purposes of codification.

DELEGATION OF FUNCTIONS

Functions of President under this section delegated to Secretary of State, with certain exceptions, by section 1(b) of Ex. Ord. No. 12851, June 11, 1993, 58 F.R. 33181, set out as a note under section 2797 of this title.

§5605. Sanctions against use of chemical or biological weapons

(a) Initial sanctions

If, at any time, the President makes a determination pursuant to section 5604(a)(1) of this title with respect to the government of a foreign country, the President shall forthwith impose the following sanctions:

(1) Foreign assistance

The United States Government shall terminate assistance to that country under the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.], except for urgent humanitarian assistance and food or other agricultural commodities or products.

(2) Arms sales

The United States Government shall terminate—

(A) sales to that country under the Arms Export Control Act [22 U.S.C. 2751 et seq.] of any defense articles, defense services, or design and construction services, and

(B) licenses for the export to that country of any item on the United States Munitions List.

(3) Arms sales financing

The United States Government shall terminate all foreign military financing for that country under the Arms Export Control Act.

(4) Denial of United States Government credit or other financial assistance

The United States Government shall deny to that country any credit, credit guarantees, or other financial assistance by any department, agency, or instrumentality of the United States Government, including the Export-Import Bank of the United States.

(5) Exports of national security-sensitive goods and technology

The authorities of section 4605 of title 50 shall be used to prohibit the export to that country of any goods or technology on that part of the control list established under section 4604(c)(1) of title 50.

(b) Additional sanctions if certain conditions not met

(1) Presidential determination

Unless, within 3 months after making a determination pursuant to section 5604(a)(1) of this title with respect to a foreign government, the President determines and certifies in writing to the

Congress that—

(A) that government is no longer using chemical or biological weapons in violation of international law or using lethal chemical or biological weapons against its own nationals,

(B) that government has provided reliable assurances that it will not in the future engage in any such activities, and

(C) that government is willing to allow on-site inspections by United Nations observers or other internationally recognized, impartial observers, or other reliable means exist, to ensure that that government is not using chemical or biological weapons in violation of international law and is not using lethal chemical or biological weapons against its own nationals,

then the President, after consultation with the Congress, shall impose on that country the sanctions set forth in at least 3 of subparagraphs (A) through (F) of paragraph (2).

(2) Sanctions

The sanctions referred to in paragraph (1) are the following:

(A) Multilateral development bank assistance

The United States Government shall oppose, in accordance with section 262d of this title, the extension of any loan or financial or technical assistance to that country by international financial institutions.

(B) Bank loans

The United States Government shall prohibit any United States bank from making any loan or providing any credit to the government of that country, except for loans or credits for the purpose of purchasing food or other agricultural commodities or products.

(C) Further export restrictions

The authorities of section 4605 of title 50 shall be used to prohibit exports to that country of all other goods and technology (excluding food and other agricultural commodities and products).

(D) Import restrictions

Restrictions shall be imposed on the importation into the United States of articles (which may include petroleum or any petroleum product) that are the growth, product, or manufacture of that country.

(E) Diplomatic relations

The President shall use his constitutional authorities to downgrade or suspend diplomatic relations between the United States and the government of that country.

(F) Presidential action regarding aviation

(i)(I) The President is authorized to notify the government of a country with respect to which the President has made a determination pursuant to section 5604(a)(1) of this title of his intention to suspend the authority of foreign air carriers owned or controlled by the government of that country to engage in foreign air transportation to or from the United States.

(II) Within 10 days after the date of notification of a government under subclause (I), the Secretary of Transportation shall take all steps necessary to suspend at the earliest possible date the authority of any foreign air carrier owned or controlled, directly or indirectly, by that government to engage in foreign air transportation to or from the United States, notwithstanding any agreement relating to air services.

(ii)(I) The President may direct the Secretary of State to terminate any air service agreement between the United States and a country with respect to which the President has made a determination pursuant to section 5604(a)(1) of this title, in accordance with the provisions of that agreement.

(II) Upon termination of an agreement under this clause, the Secretary of Transportation shall take such steps as may be necessary to revoke at the earliest possible date the right of any

foreign air carrier owned, or controlled, directly or indirectly, by the government of that country to engage in foreign air transportation to or from the United States.

(iii) The Secretary of Transportation may provide for such exceptions from clauses (i) and (ii) as the Secretary considers necessary to provide for emergencies in which the safety of an aircraft or its crew or passengers is threatened.

(iv) For purposes of this subparagraph, the terms "air transportation", "air carrier", "foreign air carrier", and "foreign air transportation" have the meanings such terms have under section 40102(a) of title 49.

(c) Removal of sanctions

The President shall remove the sanctions imposed with respect to a country pursuant to this section if the President determines and so certifies to the Congress, after the end of the 12-month period beginning on the date on which sanctions were initially imposed on that country pursuant to subsection (a), that—

(1) the government of that country has provided reliable assurances that it will not use chemical or biological weapons in violation of international law and will not use lethal chemical or biological weapons against its own nationals;

(2) that government is not making preparations to use chemical or biological weapons in violation of international law or to use lethal chemical or biological weapons against its own nationals;

(3) that government is willing to allow on-site inspections by United Nations observers or other internationally recognized, impartial observers to verify that it is not making preparations to use chemical or biological weapons in violation of international law or to use lethal chemical or biological weapons against its own nationals, or other reliable means exist to verify that it is not making such preparations; and

(4) that government is making restitution to those affected by any use of chemical or biological weapons in violation of international law or by any use of lethal chemical or biological weapons against its own nationals.

(d) Waiver

(1) Criteria for waiver

The President may waive the application of any sanction imposed with respect to a country pursuant to this section—

(A) if—

(i) in the case of any sanction other than a sanction specified in subsection (b)(2)(D) (relating to import restrictions) or (b)(2)(E) (relating to the downgrading or suspension of diplomatic relations), the President determines and certifies to the Congress that such waiver is essential to the national security interests of the United States, and if the President notifies the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives of his determination and certification at least 15 days before the waiver takes effect, in accordance with the procedures applicable to reprogramming notifications under section 634A of the Foreign Assistance Act of 1961 [22 U.S.C. 2394–1], or

(ii) in the case of any sanction specified in subsection (b)(2)(D) (relating to import restrictions), the President determines and certifies to the Congress that such waiver is essential to the national security interest of the United States, and if the President notifies the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives of his determination and certification at least 15 days before the waiver takes effect; or

(B) if the President determines and certifies to the Congress that there has been a fundamental change in the leadership and policies of the government of that country, and if the President notifies the Congress at least 20 days before the waiver takes effect.

(2) Report

In the event that the President decides to exercise the waiver authority provided in paragraph (1) with respect to a country, the President's notification to the Congress under such paragraph shall include a report fully articulating the rationale and circumstances which led the President to exercise that waiver authority, including a description of the steps which the government of that country has taken to satisfy the conditions set forth in paragraphs (1) through (4) of subsection (c).

(e) Contract sanctity

(1) Sanctions not applied to existing contracts

(A) A sanction described in paragraph (4) or (5) of subsection (a) or in any of subparagraphs (A) through (D) of subsection (b)(2) shall not apply to any activity pursuant to any contract or international agreement entered into before the date of the presidential determination under section 5604(a)(1) of this title unless the President determines, on a case-by-case basis, that to apply such sanction to that activity would prevent the performance of a contract or agreement that would have the effect of assisting a country in using chemical or biological weapons in violation of international law or in using lethal chemical or biological weapons against its own nationals.

(B) The same restrictions of subsection (p) of section 4605 of title 50, as that subsection is so redesignated by section 304(b) of this title, which are applicable to exports prohibited under section 4605 of title 50, shall apply to exports prohibited under subsection (a)(5) or (b)(2)(C) of this section. For purposes of this subparagraph, any contract or agreement the performance of which (as determined by the President) would have the effect of assisting a foreign government in using chemical or biological weapons in violation of international law or in using lethal chemical or biological weapons against its own nationals shall be treated as constituting a breach of the peace that poses a serious and direct threat to the strategic interest of the United States, within the meaning of subparagraph (A) of section 4605(p) of title 50.

(2) Sanctions applied to existing contracts

The sanctions described in paragraphs (1), (2), and (3) of subsection (a) shall apply to contracts, agreements, and licenses without regard to the date the contract or agreement was entered into or the license was issued (as the case may be), except that such sanctions shall not apply to any contract or agreement entered into or license issued before the date of the presidential determination under section 5604(a)(1) of this title if the President determines that the application of such sanction would be detrimental to the national security interests of the United States.

(Pub. L. 102–182, title III, §307, Dec. 4, 1991, 105 Stat. 1254.)

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsec. (a)(1), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, which is classified principally to chapter 32 (§2151 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

The Arms Export Control Act, referred to in subsec. (a)(2)(A), (3), is Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1320, as amended, which is classified principally to chapter 39 (§2751 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

Section 304(b) of this title, referred to in subsec. (e)(1)(B), is section 304(b) of Pub. L. 102–182, title III, Dec. 4, 1991, 105 Stat. 1246, which amended section 4605 of Title 50, War and National Defense.

CODIFICATION

In subsec. (b)(2)(F)(iv), "section 40102(a) of title 49" substituted for "section 101 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301)" on authority of Pub. L. 103–272, §6(b), July 5, 1994, 108 Stat. 1378, the first section of which enacted subtitles II, III, and V to X of Title 49, Transportation.

DELEGATION OF FUNCTIONS

Functions of President under this section delegated to Secretary of State, with certain exceptions, by section 1(b) of Ex. Ord. No. 12851, June 11, 1993, 58 F.R. 33181, set out as a note under section 2797 of this title.

§5606. Repealed. Pub. L. 107–228, div. B, title XIII, §1308(g)(1)(B), Sept. 30, 2002, 116 Stat. 1441

Section, Pub. L. 102–182, title III, §308, Dec. 4, 1991, 105 Stat. 1257, related to Presidential reporting requirements.

CHAPTER 66—UNITED STATES-HONG KONG POLICY

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§5701. Findings and declarations

The Congress makes the following findings and declarations:

(1) The Congress recognizes that under the 1984 Sino-British Joint Declaration:

(A) The People's Republic of China and the United Kingdom of Great Britain and Northern Ireland have agreed that the People's Republic of China will resume the exercise of sovereignty over Hong Kong on July 1, 1997. Until that time, the United Kingdom will be responsible for the administration of Hong Kong.

(B) The Hong Kong Special Administrative Region of the People's Republic of China, beginning on July 1, 1997, will continue to enjoy a high degree of autonomy on all matters other than defense and foreign affairs.

(C) There is provision for implementation of a "one country, two systems" policy, under which Hong Kong will retain its current lifestyle and legal, social, and economic systems until at least the year 2047.

(D) The legislature of the Hong Kong Special Administrative Region will be constituted by elections, and the provisions of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, as applied to Hong Kong, shall remain in force.

(E) Provision is made for the continuation in force of agreements implemented as of June 30, 1997, and for the ability of the Hong Kong Special Administrative Region to conclude new agreements either on its own or with the assistance of the Government of the People's Republic of China.

(2) The Congress declares its wish to see full implementation of the provisions of the Joint Declaration.

(3) The President has announced his support for the policies and decisions reflected in the Joint Declaration.

(4) Hong Kong plays an important role in today's regional and world economy. This role is reflected in strong economic, cultural, and other ties with the United States that give the United States a strong interest in the continued vitality, prosperity, and stability of Hong Kong.

(5) Support for democratization is a fundamental principle of United States foreign policy. As such, it naturally applies to United States policy toward Hong Kong. This will remain equally true after June 30, 1997.

(6) The human rights of the people of Hong Kong are of great importance to the United States and are directly relevant to United States interests in Hong Kong. A fully successful transition in the exercise of sovereignty over Hong Kong must safeguard human rights in and of themselves. Human rights also serve as a basis for Hong Kong's continued economic prosperity.

(Pub. L. 102–383, §2, Oct. 5, 1992, 106 Stat. 1448.)

SHORT TITLE

Pub. L. 102–383, §1, Oct. 5, 1992, 106 Stat. 1448, provided that: "This Act [enacting this chapter] may be cited as the 'United States-Hong Kong Policy Act of 1992'."

§5702. Definitions

For purposes of this chapter—

(1) the term "Hong Kong" means, prior to July 1, 1997, the British Dependent Territory of Hong Kong, and on and after July 1, 1997, the Hong Kong Special Administrative Region of the People's Republic of China;

(2) the term "Joint Declaration" means the Joint Declaration of the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the People's Republic of China on the Question of Hong Kong, done at Beijing on December 19, 1984; and

(3) the term "laws of the United States" means provisions of law enacted by the Congress.

(Pub. L. 102–383, §3, Oct. 5, 1992, 106 Stat. 1449.)

SUBCHAPTER I—POLICY

§5711. Bilateral ties between United States and Hong Kong

It is the sense of the Congress that the following, which are based in part on the relevant provisions of the Joint Declaration, should be the policy of the United States with respect to its bilateral relationship with Hong Kong:

(1) The United States should play an active role, before, on, and after July 1, 1997, in maintaining Hong Kong's confidence and prosperity, Hong Kong's role as an international financial center, and the mutually beneficial ties between the people of the United States and the people of Hong Kong.

(2) The United States should actively seek to establish and expand direct bilateral ties and agreements with Hong Kong in economic, trade, financial, monetary, aviation, shipping, communications, tourism, cultural, sport, and other appropriate areas.

(3) The United States should seek to maintain, after June 30, 1997, the United States consulate-general in Hong Kong, together with other official and semi-official organizations, such as the United States Information Agency American Library.

(4) The United States should invite Hong Kong to maintain, after June 30, 1997, its official and semi-official missions in the United States, such as the Hong Kong Economic & Trade Office, the Office of the Hong Kong Trade Development Council, and the Hong Kong Tourist Association.

The United States should invite Hong Kong to open and maintain other official or semi-official missions to represent Hong Kong in those areas in which Hong Kong is entitled to maintain relations on its own, including economic, trade, financial, monetary, aviation, shipping, communications, tourism, cultural, and sport areas.

(5) The United States should recognize passports and travel documents issued after June 30, 1997, by the Hong Kong Special Administrative Region.

(6) The resumption by the People's Republic of China of the exercise of sovereignty over Hong Kong after June 30, 1997, should not affect treatment of Hong Kong residents who apply for visas to visit or reside permanently in the United States, so long as such treatment is consistent with the Immigration and Nationality Act [8 U.S.C. 1101 et seq.].

(Pub. L. 102–383, title I, §101, Oct. 5, 1992, 106 Stat. 1449.)

REFERENCES IN TEXT

The Immigration and Nationality Act, referred to in par. (6), is act June 27, 1952, ch. 477, 66 Stat. 163, as amended, which is classified principally to chapter 12 (§1101 et seq.) of Title 8, Aliens and Nationality. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of Title 8 and Tables.

TRANSFER OF FUNCTIONS

United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau) abolished and functions transferred to Secretary of State, see sections 6531 and 6532 of this title.

§5712. Participation in multilateral organizations, rights under international agreements, and trade status

It is the sense of the Congress that the following, which are based in part on the relevant provisions of the Joint Declaration, should be the policy of the United States with respect to Hong Kong after June 30, 1997:

(1) The United States should support Hong Kong's participation in all appropriate multilateral conferences, agreements, and organizations in which Hong Kong is eligible to participate.

(2) The United States should continue to fulfill its obligations to Hong Kong under international agreements, so long as Hong Kong reciprocates, regardless of whether the People's Republic of China is a party to the particular international agreement, unless and until such obligations are modified or terminated in accordance with law.

(3) The United States should respect Hong Kong's status as a separate customs territory, and as a WTO member country (as defined in section 3501(10) of title 19), whether or not the People's Republic of China participates in the World Trade Organization (as defined in section 3501(8) of title 19).

(Pub. L. 102–383, title I, §102, Oct. 5, 1992, 106 Stat. 1450; Pub. L. 106–36, title I, §1002(e), June 25, 1999, 113 Stat. 133.)

AMENDMENTS

1999—Par. (3). Pub. L. 106–36 substituted "WTO member country (as defined in section 3501(10) of title 19)" for "contracting party to the General Agreement on Tariffs and Trade" and "World Trade Organization (as defined in section 3501(8) of title 19)" for "latter organization".

§5713. Commerce between United States and Hong Kong

It is the sense of the Congress that the following, which are based in part on the relevant provisions of the Joint Declaration, are and should continue after June 30, 1997, to be the policy of the United States with respect to commerce between the United States and Hong Kong:

(1) The United States should seek to maintain and expand economic and trade relations with

Hong Kong and should continue to treat Hong Kong as a separate territory in economic and trade matters, such as import quotas and certificates of origin.

(2) The United States should continue to negotiate directly with Hong Kong to conclude bilateral economic agreements.

(3) The United States should continue to treat Hong Kong as a territory which is fully autonomous from the United Kingdom and, after June 30, 1997, should treat Hong Kong as a territory which is fully autonomous from the People's Republic of China with respect to economic and trade matters.

(4) The United States should continue to grant the products of Hong Kong nondiscriminatory trade treatment by virtue of Hong Kong's membership in the General Agreement on Tariffs and Trade.

(5) The United States should recognize certificates of origin for manufactured goods issued by the Hong Kong Special Administrative Region.

(6) The United States should continue to allow the United States dollar to be freely exchanged with the Hong Kong dollar.

(7) United States businesses should be encouraged to continue to operate in Hong Kong, in accordance with applicable United States and Hong Kong law.

(8) The United States should continue to support access by Hong Kong to sensitive technologies controlled under the agreement of the Coordinating Committee for Multilateral Export Controls (commonly referred to as "COCOM") for so long as the United States is satisfied that such technologies are protected from improper use or export.

(9) The United States should encourage Hong Kong to continue its efforts to develop a framework which provides adequate protection for intellectual property rights.

(10) The United States should negotiate a bilateral investment treaty directly with Hong Kong, in consultation with the Government of the People's Republic of China.

(11) The change in the exercise of sovereignty over Hong Kong should not affect ownership in any property, tangible or intangible, held in the United States by any Hong Kong person.

(Pub. L. 102–383, title I, §103, Oct. 5, 1992, 106 Stat. 1450; Pub. L. 105–206, title V, §5003(b)(7), July 22, 1998, 112 Stat. 790.)

AMENDMENTS

1998—Par. (4). Pub. L. 105–206 struck out "(commonly referred to as 'most-favored-nation status')" after "nondiscriminatory trade treatment".

§5714. Transportation

It is the sense of the Congress that the following, which are based in part on the relevant provisions of the Joint Declaration, should be the policy of the United States after June 30, 1997, with respect to transportation from Hong Kong:

(1) Recognizing Hong Kong's position as an international transport center, the United States should continue to recognize ships and airplanes registered in Hong Kong and should negotiate air service agreements directly with Hong Kong.

(2) The United States should continue to recognize ships registered by Hong Kong.

(3) United States commercial ships, in accordance with applicable United States and Hong Kong law, should remain free to port in Hong Kong.

(4) The United States should continue to recognize airplanes registered by Hong Kong in accordance with applicable laws of the People's Republic of China.

(5) The United States should recognize licenses issued by the Hong Kong to Hong Kong airlines.

(6) The United States should recognize certificates issued by the Hong Kong to United States air carriers for air service involving travel to, from, or through Hong Kong which does not involve travel to, from, or through other parts of the People's Republic of China.

(7) The United States should negotiate at the appropriate time directly with the Hong Kong

Special Administrative Region, acting under authorization from the Government of the People's Republic of China, to renew or amend all air service agreements existing on June 30, 1997, and to conclude new air service agreements affecting all flights to, from, or through the Hong Kong Special Administrative Region which do not involve travel to, from, or through other parts of the People's Republic of China.

(8) The United States should make every effort to ensure that the negotiations described in paragraph (7) lead to procompetitive air service agreements.

(Pub. L. 102–383, title I, §104, Oct. 5, 1992, 106 Stat. 1451.)

§5715. Cultural and educational exchanges

It is the sense of the Congress that the following, which are based in part on the relevant provisions of the Joint Declaration, are and should continue after June 30, 1997, to be the policy of the United States with respect to cultural and educational exchanges with Hong Kong:

(1) The United States should seek to maintain and expand United States-Hong Kong relations and exchanges in culture, education, science, and academic research. The United States should encourage American participation in bilateral exchanges with Hong Kong, both official and unofficial.

(2) The United States should actively seek to further United States-Hong Kong cultural relations and promote bilateral exchanges, including the negotiating and concluding of appropriate agreements in these matters.

(3) Hong Kong should be accorded separate status as a full partner under the Fulbright Academic Exchange Program (apart from the United Kingdom before July 1, 1997, and apart from the People's Republic of China thereafter), with the continuation or establishment of a Fulbright Commission or functionally equivalent mechanism.

(4) The United States should actively encourage Hong Kong residents to visit the United States on nonimmigrant visas for such purposes as business, tourism, education, and scientific and academic research, in accordance with applicable United States and Hong Kong laws.

(5) Upon the request of the Legislative Council of Hong Kong, the Librarian of Congress, acting through the Congressional Research Service, should seek to expand educational and informational ties with the Council.

(Pub. L. 102–383, title I, §105, Oct. 5, 1992, 106 Stat. 1452.)

SUBCHAPTER II—STATUS OF HONG KONG IN UNITED STATES LAW

§5721. Continued application of United States law

(a) In general

Notwithstanding any change in the exercise of sovereignty over Hong Kong, the laws of the United States shall continue to apply with respect to Hong Kong, on and after July 1, 1997, in the same manner as the laws of the United States were applied with respect to Hong Kong before such date unless otherwise expressly provided by law or by Executive order under section 5722 of this title.

(b) International agreements

For all purposes, including actions in any court in the United States, the Congress approves the continuation in force on and after July 1, 1997, of all treaties and other international agreements, including multilateral conventions, entered into before such date between the United States and Hong Kong, or entered into before such date between the United States and the United Kingdom and applied to Hong Kong, unless or until terminated in accordance with law. If in carrying out this

subchapter, the President determines that Hong Kong is not legally competent to carry out its obligations under any such treaty or other international agreement, or that the continuation of Hong Kong's obligations or rights under any such treaty or other international agreement is not appropriate under the circumstances, such determination shall be reported to the Congress in accordance with section 5731 of this title.

(Pub. L. 102–383, title II, §201, Oct. 5, 1992, 106 Stat. 1452.)

§5722. Presidential order

(a) Presidential determination

On or after July 1, 1997, whenever the President determines that Hong Kong is not sufficiently autonomous to justify treatment under a particular law of the United States, or any provision thereof, different from that accorded the People's Republic of China, the President may issue an Executive order suspending the application of section 5721(a) of this title to such law or provision of law.

(b) Factor for consideration

In making a determination under subsection (a) with respect to the application of a law of the United States, or any provision thereof, to Hong Kong, the President should consider the terms, obligations, and expectations expressed in the Joint Declaration with respect to Hong Kong.

(c) Publication in Federal Register

Any Executive order issued under subsection (a) shall be published in the Federal Register and shall specify the law or provision of law affected by the order.

(d) Termination of suspension

An Executive order issued under subsection (a) may be terminated by the President with respect to a particular law or provision of law whenever the President determines that Hong Kong has regained sufficient autonomy to justify different treatment under the law or provision of law in question. Notice of any such termination shall be published in the Federal Register.

(Pub. L. 102–383, title II, §202, Oct. 5, 1992, 106 Stat. 1453.)

§5723. Rules and regulations

The President is authorized to prescribe such rules and regulations as the President may deem appropriate to carry out this chapter.

(Pub. L. 102–383, title II, §203, Oct. 5, 1992, 106 Stat. 1453.)

§5724. Consultation with Congress

In carrying out this subchapter, the President shall consult appropriately with the Congress.

(Pub. L. 102–383, title II, §204, Oct. 5, 1992, 106 Stat. 1453.)

SUBCHAPTER III—REPORTING PROVISIONS

§5731. Reporting requirement

Not later than March 31, 1993, March 31, 1995, March 31, 1996, March 31, 1997, March 31, 1998, March 31, 1999, March 31, 2000, March 31, 2001, March 31, 2002, March 31, 2003, March 31, 2004, March 31, 2005, and March 31, 2006 the Secretary of State shall transmit to the Speaker of

the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report on conditions in Hong Kong of interest to the United States. This report shall cover (in the case of the initial report) the period since October 5, 1992, or (in the case of subsequent reports) the period since the most recent report pursuant to this section and shall describe—

(1) significant developments in United States relations with Hong Kong, including a description of agreements that have entered into force between the United States and Hong Kong;

(2) other matters, including developments related to the change in the exercise of sovereignty over Hong Kong, affecting United States interests in Hong Kong or United States relations with Hong Kong;

(3) the nature and extent of United States-Hong Kong cultural, education, scientific, and academic exchanges, both official and unofficial;

(4) the laws of the United States with respect to which the application of section 5721(a) of this title has been suspended pursuant to section 5722(a) of this title or with respect to which such a suspension has been terminated pursuant to section 5722(d) of this title, and the reasons for the suspension or termination, as the case may be;

(5) treaties and other international agreements with respect to which the President has made a determination described in the last sentence of section 5721(b) of this title, and the reasons for each such determination;

(6) significant problems in cooperation between Hong Kong and the United States in the area of export controls;

(7) the development of democratic institutions in Hong Kong; and

(8) the nature and extent of Hong Kong's participation in multilateral forums.

(Pub. L. 102–383, title III, §301, Oct. 5, 1992, 106 Stat. 1453; Pub. L. 104–107, title V, §576(a), Feb. 12, 1996, 110 Stat. 750; Pub. L. 107–115, title V, §586(a), Jan. 10, 2002, 115 Stat. 2173.)

AMENDMENTS

2002—Pub. L. 107–115 substituted "March 31, 2000, March 31, 2001, March 31, 2002, March 31, 2003, March 31, 2004, March 31, 2005, and March 31, 2006" for "and March 31, 2000," in introductory provisions.

1996—Subsec. (a). Pub. L. 104–107 inserted "March 31, 1996," after "March 31, 1995," in introductory provisions.

EXTENSION OF REPORTING TIME

Pub. L. 107–115, title V, §586(b), Jan. 10, 2002, 115 Stat. 2173, provided that: "The requirement in section 301 of the United States-Hong Kong Policy Act [22 U.S.C. 5731], as amended by subsection (a), that a report under that section shall be transmitted not later than March 31, 2001, shall be considered satisfied by the transmittal of such report by August 7, 2001."

REPORT ON SINO-BRITISH JOINT DECLARATION ON QUESTION OF HONG KONG

Pub. L. 104–208, div. A, title I, §101(c) [title V, §571], Sept. 30, 1996, 110 Stat. 3009–121, 3009–167, which directed that the additional report required to be submitted during 1997 under this section include detailed information on the status of, and other developments affecting, implementation of the Sino-British Joint Declaration on the Question of Hong Kong, was from the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997, and was not repeated in subsequent appropriations acts. Similar provisions were contained in the following prior appropriation act:

Pub. L. 104–107, title V, §576(b), Feb. 12, 1996, 110 Stat. 750.

§5732. Separate part of country reports

Whenever a report is transmitted to the Congress on a country-by-country basis there shall be included in such report, where applicable, a separate subreport on Hong Kong under the heading of the state that exercises sovereignty over Hong Kong. The reports to which this section applies include the reports transmitted under—

(1) sections 2151n(d) and 2304(b) of this title (relating to human rights);

(2) section 2241 of title 19 (relating to trade barriers); and

(3) section 4711 [1] of title 15 (relating to economic policy and trade practices).

(Pub. L. 102–383, title III, §302, Oct. 5, 1992, 106 Stat. 1454.)

REFERENCES IN TEXT

Section 4711 of title 15, referred to in par. (3), was repealed by Pub. L. 107–228, div. A, title VI, §671(1), Sept. 30, 2002, 116 Stat. 1407.

[1] *See References in Text note below.*

CHAPTER 67—FREEDOM FOR RUSSIA AND EMERGING EURASIAN DEMOCRACIES AND OPEN MARKETS SUPPORT

Sec.

5801. Definition of independent states.

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SUBCHAPTER V—SPACE TRADE AND COOPERATION

5871. Facilitating discussions regarding acquisition of space hardware, technology, and services from former Soviet Union.
5872. Office of Space Commerce.
5873. Report to Congress.
5874. Definitions.

§5801. Definition of independent states

For purposes of this Act, the terms "independent states of the former Soviet Union" and "independent states" mean the following: Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan.

(Pub. L. 102–511, §3, Oct. 24, 1992, 106 Stat. 3321.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 102–511, Oct. 24, 1992, 106 Stat. 3320, as amended, known as the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992 and also as the FREEDOM Support Act. For complete classification of this Act to the Code, see Short Title note below and Tables.

SHORT TITLE OF 2012 AMENDMENT

Pub. L. 112–82, §1, Jan. 3, 2012, 125 Stat. 1863, provided that: "This Act [amending provisions set out as a note under section 5811 of this title] may be cited as the 'Belarus Democracy and Human Rights Act of 2011'."

SHORT TITLE OF 2007 AMENDMENT

Pub. L. 109–480, §1, Jan. 12, 2007, 120 Stat. 3666, provided that: "This Act [enacting and amending provisions set out as notes under section 5811 of this title] may be cited as the 'Belarus Democracy Reauthorization Act of 2006'."

SHORT TITLE OF 1993 AMENDMENT

Pub. L. 103–199, §1, Dec. 17, 1993, 107 Stat. 2317, provided that: "This Act [amending sections 295, 2301, 2364, 2370, 2460, 2461, 2578, 2591, 2592, 2595, 2799c, 2799d, 4501 to 4504, 4702, and 4901 of this title, section 4101 of Title 15, Commerce and Trade, sections 1151 and 1152 of Title 16, Conservation, section 951 of Title 18, Crimes and Criminal Procedure, and sections 783, 4601, and 4602 of Title 50, War and National Defense, repealing sections 254c–2, 2592a, and 2592b of this title, sections 781, 782, 784, 785, 788 to 795, and 798 of Title 50, and former section 2403–1 of the former Appendix to Title 50, enacting provisions set out as notes under this section, sections 113 and 2431 of Title 10, Armed Forces, and section 4602 of Title 50, amending provisions set out as notes under section 4501 of this title, section 113 of Title 10, section 2901 of Title 15, and section 1003 of former Title 40, Public Buildings, Property, and Works, and repealing provisions set out as notes under sections 287, 2151, 2293, 2458, and 4301 of this title, section 1307 of Title 19, Customs Duties, and section 781 of Title 50] may be cited as the 'Act For Reform In Emerging New Democracies and Support and Help for Improved Partnership with Russia, Ukraine, and Other New Independent States' or as the 'FRIENDSHIP Act'."

SHORT TITLE

Pub. L. 102–511, §1, Oct. 24, 1992, 106 Stat. 3320, provided that: "This Act [enacting this chapter and sections 282m, 282n, 286e–1l, 286e–5b, 286e–13, 286ll, 286mm, 288j, 2295 to 2295c, and 5402 of this title, amending sections 262d, 2370, 2507, and 4903 of this title and sections 1736o, 3293, 5602, 5621, 5622, and 5651 of Title 7, Agriculture, enacting provisions set out as notes under sections 2295a, 2452, 2753, 4903, and 5812 of this title, section 5621 of Title 7, and section 955 of Title 18, Crimes and Criminal Procedure, amending provisions set out as notes under section 2452 of this title, section 5622 of Title 7, and sections 1157 and 1255 of Title 8, Aliens and Nationality, and repealing provisions set out as a note under section 2452 of this title] may be cited as the 'Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992' or the 'FREEDOM Support Act'."

POLICY OF FRIENDSHIP AND COOPERATION

Pub. L. 103–199, title I, §§101–103, Dec. 17, 1993, 107 Stat. 2318, 2319, provided that:

"SEC. 101. STATEMENT OF PURPOSE.

"The purpose of this Act [see Short Title of 1993 Amendment note above] is to amend or repeal numerous statutory provisions that restrict or otherwise impede normal relations between the United States and the Russian Federation, Ukraine, and the other independent states of the former Soviet Union. All of the statutory provisions amended or repealed by this Act were relevant and appropriate at the time of enactment, but with the end of the Cold War, they have become obsolete. It is not the purpose of this Act to rewrite or erase history, or to forget those who suffered in the past from the injustices or repression of communist regimes in

the Soviet Union, but rather to update United States law to reflect changed international circumstances and to demonstrate for reformers and democrats in the independent states of the former Soviet Union the resolve of the people of the United States to support the process of democratic and economic reform and to conduct business with those states in a new spirit of friendship and cooperation.

"SEC. 102. FINDINGS.

"The Congress finds and declares as follows:

"(1) The Vancouver Declaration issued by President Clinton and President Yeltsin in April 1993 marked a new milestone in the development of the spirit of cooperation and partnership between the United States and Russia. The Congress affirms its support for the principles contained in the Vancouver Declaration.

"(2) The Vancouver Declaration underscored that—

"(A) a dynamic and effective partnership between the United States and Russia is vital to the success of Russia's historic transformation;

"(B) the rapid integration of Russia into the community of democratic nations and the world economy is important to the national interest of the United States; and

"(C) cooperation between the United States and Russia is essential to the peaceful resolution of international conflicts and the promotion of democratic values, the protection of human rights, and the solution of global problems such as environmental pollution, terrorism, and narcotics trafficking.

"(3) The Congress enacted the FREEDOM Support Act (Public Law 102–511) [see Short Title note above], as well as other legislation such as the Soviet Nuclear Threat Reduction Act of 1991 (title II of Public Law 102–228) [22 U.S.C. 2551 note] and the Former Soviet Union Demilitarization Act of 1992 (title XIV of Public Law 102–484) [22 U.S.C. 5901 et seq.], to help meet the historic opportunities and challenges presented by the transformation that has taken place, and is continuing to take place, in what once was the Soviet Union.

"(4) The process of reform in Russia, Ukraine, and the other independent states of the former Soviet Union is ongoing. The holding of a referendum in Russia on April 25, 1993, that was free and fair, and that reflected the support of the Russian people for the process of continued and strengthened democratic and economic reform, represents an important and encouraging hallmark in this ongoing process.

"(5) There remain in force many United States laws that are relics of the Cold War, and repeals or revisions of these provisions can play an important role in efforts to foster and strengthen the bonds of trust and friendship, as well as mutually beneficial trade and economic relations, between the United States and Russia, the United States and Ukraine, and the United States and the other independent states of the former Soviet Union.

"SEC. 103. STATUTORY PROVISIONS THAT HAVE BEEN APPLICABLE TO THE SOVIET UNION.

"(a) IN GENERAL.—There are numerous statutory provisions that were enacted in the context of United States relations with a country, the Soviet Union, that are fundamentally different from the relations that now exist between the United States and Russia, between the United States and Ukraine, and between the United States and the other independent states of the former Soviet Union.

"(b) EXTENT OF SUCH PROVISIONS.—Many of the provisions referred to in subsection (a) imposed limitations specifically with respect to the Soviet Union, and its constituent republics, or utilized language that reflected the tension that existed between the United States and the Soviet Union at the time of their enactment. Other such provisions did not refer specifically to the Soviet Union, but nonetheless were directed (or may be construed as having been directed) against the Soviet Union on the basis of the relations that formerly existed between the United States and the Soviet Union, particularly in its role as the leading communist country.

"(c) FINDINGS AND AFFIRMATION.—The Congress finds and affirms that provisions such as those described in this section, including—

"(1) section 216 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4316),

"(2) sections 136 [22 U.S.C. 3943 note] and 804 [99 Stat. 449] of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99–93),

"(3) section 1222 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100–204; 101 Stat. 1411 [1414]),

"(4) the Multilateral Export Control Enhancement Amendments Act (50 [App.] U.S.C. 2410 note, et seq.) [probably means former 50 U.S.C. App. 2410a note, see Short Title of 1988 Amendment note now set out under section 4601 of Title 50, War and National Defense],

"(5) the joint resolution providing for the designation of 'Captive Nations Week' (Public Law 86–90) [73 Stat. 212],

"(6) the Communist Control Act of 1954 (Public Law 83–637) [see Short Title note set out under section 781 of Title 50],

"(7) provisions in the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), including sections 101(a)(40), 101(e)(3), and 313(a)(3) [8 U.S.C. 1101(a)(40), (e)(3), 1424(a)(3)],

"(8) section 2 of the joint resolution entitled 'A joint resolution to promote peace and stability in the Middle East', approved March 9, 1957 (Public Law 85–7) [22 U.S.C. 1961 et seq.], and

"(9) section 43 of the Bretton Woods Agreements Act (22 U.S.C. 286aa),

should not be construed as being directed against Russia, Ukraine, or the other independent states of the former Soviet Union, connoting an adversarial relationship between the United States and the independent states, or signifying or implying in any manner unfriendliness toward the independent states."

DEFINITIONS FOR PUB. L. 103–199

Pub. L. 103–199, §3, Dec. 17, 1993, 107 Stat. 2318, provided that: "As used in this Act [see Short Title of 1993 Amendment note above] (including the amendments made by this Act), the terms 'independent states of the former Soviet Union' and 'independent states' have the meaning given those terms by section 3 of the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992 (22 U.S.C. 5801)."

SUBCHAPTER I—GENERAL PROVISIONS

§5811. Findings

The Congress finds that—

(1) recent developments in Russia and the other independent states of the former Soviet Union present an historic opportunity for a transition to a peaceful and stable international order and the integration of the independent states of the former Soviet Union into the community of democratic nations;

(2) the entire international community has a vital interest in the success of this transition, and the dimension of the problems now faced in the independent states of the former Soviet Union makes it imperative for donor countries and institutions to provide the expertise and support necessary to ensure continued progress on economic and political reforms;

(3) the United States is especially well-positioned because of its heritage and traditions to make a substantial contribution to this transition by building on current technical cooperation, medical, and food assistance programs, by assisting in the development of democratic institutions, and by fostering conditions that will encourage the United States business community to engage in trade and investment;

(4) failure to meet the opportunities presented by these developments could threaten United States national security interests and jeopardize substantial savings in United States defense that these developments have made possible;

(5) the independent states of the former Soviet Union face unprecedented environmental problems that jeopardize the quality of life and the very existence of not only their own peoples but also the peoples of other countries, and it is incumbent on the international community to assist the independent states in addressing these problems and in promoting sustainable use of resources and development;

(6) the success of United States assistance for the independent states of the former Soviet Union depends on—

(A) effective coordination of United States efforts with similar activities of friendly and allied donor countries and of international financial institutions, and

(B) reciprocal commitments by the governments of the independent states to work toward the creation of democratic institutions and an environment hospitable to foreign investment based upon the rule of law, including negotiation of bilateral and multilateral agreements on open trade and investment, adoption of commercial codes, establishment of transparency in

regulatory and other governmental decision making, and timely payment of obligations carried over from previous governmental entities; and

(7) trade and investment opportunities in the independent states of the former Soviet Union will generate employment and other economic benefits for the United States as the economies of the independent states of the former Soviet Union begin to realize their enormous potential as both customers and suppliers.

(Pub. L. 102–511, title I, §101, Oct. 24, 1992, 106 Stat. 3321.)

SERGEI MAGNITSKY RULE OF LAW ACCOUNTABILITY

Pub. L. 112–208, title IV, Dec. 14, 2012, 126 Stat. 1502, provided that:

"SEC. 401. SHORT TITLE.

"This title may be cited as the 'Sergei Magnitsky Rule of Law Accountability Act of 2012'.

"SEC. 402. FINDINGS; SENSE OF CONGRESS.

"(a) FINDINGS.—Congress finds the following:

"(1) The United States aspires to a mutually beneficial relationship with the Russian Federation based on respect for human rights and the rule of law, and supports the people of the Russian Federation in their efforts to realize their full economic potential and to advance democracy, human rights, and the rule of law.

"(2) The Russian Federation—

"(A) is a member of the United Nations, the Organization for Security and Co-operation in Europe, the Council of Europe, and the International Monetary Fund;

"(B) has ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Covenant on Civil and Political Rights, and the United Nations Convention against Corruption; and

"(C) is bound by the legal obligations set forth in the European Convention on Human Rights.

"(3) States voluntarily commit themselves to respect obligations and responsibilities through the adoption of international agreements and treaties, which must be observed in good faith in order to maintain the stability of the international order. Human rights are an integral part of international law, and lie at the foundation of the international order. The protection of human rights, therefore, particularly in the case of a country that has incurred obligations to protect human rights under an international agreement to which it is a party, is not left exclusively to the internal affairs of that country.

"(4) Good governance and anti-corruption measures are instrumental in the protection of human rights and in achieving sustainable economic growth, which benefits both the people of the Russian Federation and the international community through the creation of open and transparent markets.

"(5) Systemic corruption erodes trust and confidence in democratic institutions, the rule of law, and human rights protections. This is the case when public officials are allowed to abuse their authority with impunity for political or financial gains in collusion with private entities.

"(6) The Russian nongovernmental organization INDEM has estimated that bribes by individuals and businesses in the Russian Federation amount to hundreds of billions of dollars a year, an increasing share of the country's gross domestic product.

"(7) Sergei Leonidovich Magnitsky died on November 16, 2009, at the age of 37, in Matrosskaya Tishina Prison in Moscow, Russia, and is survived by a mother, a wife, and 2 sons.

"(8) On July 6, 2011, Russian President Dimitry Medvedev's Human Rights Council announced the results of its independent investigation into the death of Sergei Magnitsky. The Human Rights Council concluded that Sergei Magnitsky's arrest and detention was illegal; he was denied access to justice by the courts and prosecutors of the Russian Federation; he was investigated by the same law enforcement officers whom he had accused of stealing Hermitage Fund companies and illegally obtaining a fraudulent $230,000,000 tax refund; he was denied necessary medical care in custody; he was beaten by 8 guards with rubber batons on the last day of his life; and the ambulance crew that was called to treat him as he was dying was deliberately kept outside of his cell for one hour and 18 minutes until he was dead. The report of the Human Rights Council also states the officials falsified their accounts of what happened to Sergei Magnitsky and, 18 months after his death, no officials had been brought to trial for his false arrest or the crime he uncovered. The impunity continued in April 2012, when Russian authorities dropped criminal charges against Larisa Litvinova, the head doctor at the prison where Magnitsky died.

"(9) The systematic abuse of Sergei Magnitsky, including his repressive arrest and torture in custody by officers of the Ministry of the Interior of the Russian Federation that Mr. Magnitsky had implicated in

the embezzlement of funds from the Russian Treasury and the misappropriation of 3 companies from his client, Hermitage Capital Management, reflects how deeply the protection of human rights is affected by corruption.

"(10) The politically motivated nature of the persecution of Mr. Magnitsky is demonstrated by—

"(A) the denial by all state bodies of the Russian Federation of any justice or legal remedies to Mr. Magnitsky during the nearly 12 full months he was kept without trial in detention; and

"(B) the impunity since his death of state officials he testified against for their involvement in corruption and the carrying out of his repressive persecution.

"(11) The Public Oversight Commission of the City of Moscow for the Control of the Observance of Human Rights in Places of Forced Detention, an organization empowered by Russian law to independently monitor prison conditions, concluded on December 29, 2009, 'A man who is kept in custody and is being detained is not capable of using all the necessary means to protect either his life or his health. This is a responsibility of a state which holds him captive. Therefore, the case of Sergei Magnitsky can be described as a breach of the right to life. The members of the civic supervisory commission have reached the conclusion that Magnitsky had been experiencing both psychological and physical pressure in custody, and the conditions in some of the wards of Butyrka can be justifiably called torturous. The people responsible for this must be punished.'.

"(12) Sergei Magnitsky's experience, while particularly illustrative of the negative effects of official corruption on the rights of an individual citizen, appears to be emblematic of a broader pattern of disregard for the numerous domestic and international human rights commitments of the Russian Federation and impunity for those who violate basic human rights and freedoms.

"(13) The second trial, verdict, and sentence against former Yukos executives Mikhail Khodorkovsky and Platon Lebedev evoke serious concerns about the right to a fair trial and the independence of the judiciary in the Russian Federation. The lack of credible charges, intimidation of witnesses, violations of due process and procedural norms, falsification or withholding of documents, denial of attorney-client privilege, and illegal detention in the Yukos case are highly troubling. The Council of Europe, Freedom House, and Amnesty International, among others, have concluded that they were charged and imprisoned in a process that did not follow the rule of law and was politically influenced. Furthermore, senior officials of the Government of the Russian Federation, including First Deputy Prime Minister Igor Shuvalov, have acknowledged that the arrest and imprisonment of Khodorkovsky were politically motivated.

"(14) According to Freedom House's 2011 report entitled 'The Perpetual Battle: Corruption in the Former Soviet Union and the New EU Members', '[t]he highly publicized cases of Sergei Magnitsky, a 37-year-old lawyer who died in pretrial detention in November 2009 after exposing a multimillion-dollar fraud against the Russian taxpayer, and Mikhail Khodorkovsky, the jailed business magnate and regime critic who was sentenced at the end of 2010 to remain in prison through 2017, put an international spotlight on the Russian state's contempt for the rule of law * * *. By silencing influential and accomplished figures such as Khodorkovsky and Magnitsky, the Russian authorities have made it abundantly clear that anyone in Russia can be silenced.'.

"(15) The tragic and unresolved murders of Nustap Abdurakhmanov, Maksharip Aushev, Natalya Estemirova, Akhmed Hadjimagomedov, Umar Israilov, Paul Klebnikov, Anna Politkovskaya, Saihadji Saihadjiev, and Magomed Y. Yevloyev, the death in custody of Vera Trifonova, the disappearances of Mokhmadsalakh Masaev and Said-Saleh Ibragimov, the torture of Ali Israilov and Islam Umarpashaev, the near-fatal beatings of Mikhail Beketov, Oleg Kashin, Arkadiy Lander, and Mikhail Vinyukov, and the harsh and ongoing imprisonment of Mikhail Khodorkovsky, Alexei Kozlov, Platon Lebedev, and Fyodor Mikheev further illustrate the grave danger of exposing the wrongdoing of officials of the Government of the Russian Federation, including Chechen leader Ramzan Kadyrov, or of seeking to obtain, exercise, defend, or promote internationally recognized human rights and freedoms.

"(b) SENSE OF CONGRESS.—It is the sense of Congress that the United States should continue to strongly support, and provide assistance to, the efforts of the Russian people to establish a vibrant democratic political system that respects individual liberties and human rights, including by enhancing the provision of objective information through all relevant media, such as Radio Liberty and the internet. The Russian Government's suppression of dissent and political opposition, the limitations it has imposed on civil society and independent media, and the deterioration of economic and political freedom inside Russia are of profound concern to the United States Government and to the American people.

"SEC. 403. DEFINITIONS.

"In this title:

"(1) ADMITTED; ALIEN.—The terms 'admitted' and 'alien' have the meanings given those terms in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101).

"(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term 'appropriate congressional committees' means—

"(A) the Committee on Armed Services, the Committee on Financial Services, the Committee on Foreign Affairs, the Committee on Homeland Security, and the Committee on the Judiciary of the House of Representatives; and

"(B) the Committee on Armed Services, the Committee on Banking, Housing, and Urban Affairs, the Committee on Foreign Relations, the Committee on Homeland Security and Governmental Affairs, and the Committee on the Judiciary of the Senate.

"(3) FINANCIAL INSTITUTION.—The term 'financial institution' has the meaning given that term in section 5312 of title 31, United States Code.

"(4) UNITED STATES PERSON.—The term 'United States person' means—

"(A) a United States citizen or an alien lawfully admitted for permanent residence to the United States; or

"(B) an entity organized under the laws of the United States or of any jurisdiction within the United States, including a foreign branch of such an entity.

"SEC. 404. IDENTIFICATION OF PERSONS RESPONSIBLE FOR THE DETENTION, ABUSE, AND DEATH OF SERGEI MAGNITSKY AND OTHER GROSS VIOLATIONS OF HUMAN RIGHTS.

"(a) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act [Dec. 14, 2012], the President shall submit to the appropriate congressional committees a list of each person who the President determines, based on credible information—

"(1) is responsible for the detention, abuse, or death of Sergei Magnitsky, participated in efforts to conceal the legal liability for the detention, abuse, or death of Sergei Magnitsky, financially benefitted from the detention, abuse, or death of Sergei Magnitsky, or was involved in the criminal conspiracy uncovered by Sergei Magnitsky;

"(2) is responsible for extrajudicial killings, torture, or other gross violations of internationally recognized human rights committed against individuals seeking—

"(A) to expose illegal activity carried out by officials of the Government of the Russian Federation; or

"(B) to obtain, exercise, defend, or promote internationally recognized human rights and freedoms, such as the freedoms of religion, expression, association, and assembly, and the rights to a fair trial and democratic elections, in Russia; or

"(3) acted as an agent of or on behalf of a person in a matter relating to an activity described in paragraph (1) or (2).

"(b) UPDATES.—The President shall submit to the appropriate congressional committees an update of the list required by subsection (a) as new information becomes available.

"(c) FORM.—

"(1) IN GENERAL.—The list required by subsection (a) shall be submitted in unclassified form.

"(2) EXCEPTION.—The name of a person to be included in the list required by subsection (a) may be submitted in a classified annex only if the President—

"(A) determines that it is vital for the national security interests of the United States to do so;

"(B) uses the annex in such a manner consistent with congressional intent and the purposes of this Act; and

"(C) 15 days prior to submitting the name in a classified annex, provides to the appropriate congressional committees notice of, and a justification for, including or continuing to include each person in the classified annex despite any publicly available credible information indicating that the person engaged in an activity described in paragraph (1), (2), or (3) of subsection (a).

"(3) CONSIDERATION OF DATA FROM OTHER COUNTRIES AND NONGOVERNMENTAL ORGANIZATIONS.—In preparing the list required by subsection (a), the President shall consider information provided by the chairperson and ranking member of each of the appropriate congressional committees and credible data obtained by other countries and nongovernmental organizations, including organizations inside Russia, that monitor the human rights abuses of the Government of the Russian Federation.

"(4) PUBLIC AVAILABILITY.—The unclassified portion of the list required by subsection (a) shall be made available to the public and published in the Federal Register.

"(d) REMOVAL FROM LIST.—A person may be removed from the list required by subsection (a) if the President determines and reports to the appropriate congressional committees not less than 15 days prior to the removal of the person from the list that—

"(1) credible information exists that the person did not engage in the activity for which the person was

added to the list;

"(2) the person has been prosecuted appropriately for the activity in which the person engaged; or

"(3) the person has credibly demonstrated a significant change in behavior, has paid an appropriate consequence for the activities in which the person engaged, and has credibly committed to not engage in the types of activities specified in paragraphs (1) through (3) of subsection (a).

"(e) REQUESTS BY CHAIRPERSON AND RANKING MEMBER OF APPROPRIATE CONGRESSIONAL COMMITTEES.—

"(1) IN GENERAL.—Not later than 120 days after receiving a written request from the chairperson and ranking member of one of the appropriate congressional committees with respect to whether a person meets the criteria for being added to the list required by subsection (a), the President shall submit a response to the chairperson and ranking member of the committee which made the request with respect to the status of the person.

"(2) FORM.—The President may submit a response required by paragraph (1) in classified form if the President determines that it is necessary for the national security interests of the United States to do so.

"(3) REMOVAL.—If the President removes from the list required by subsection (a) a person who has been placed on the list at the request of the chairperson and ranking member of one of the appropriate congressional committees, the President shall provide the chairperson and ranking member with any information that contributed to the removal decision. The President may submit such information in classified form if the President determines that such is necessary for the national security interests of the United States.

"(f) NONAPPLICABILITY OF CONFIDENTIALITY REQUIREMENT WITH RESPECT TO VISA RECORDS.—The President shall publish the list required by subsection (a) without regard to the requirements of section 222(f) of the Immigration and Nationality Act (8 U.S.C. 1202(f)) with respect to confidentiality of records pertaining to the issuance or refusal of visas or permits to enter the United States.

"SEC. 405. INADMISSIBILITY OF CERTAIN ALIENS.

"(a) INELIGIBILITY FOR VISAS.—An alien is ineligible to receive a visa to enter the United States and ineligible to be admitted to the United States if the alien is on the list required by section 404(a).

"(b) CURRENT VISAS REVOKED.—The Secretary of State shall revoke, in accordance with section 221(i) of the Immigration and Nationality Act (8 U.S.C. 1201(i)), the visa or other documentation of any alien who would be ineligible to receive such a visa or documentation under subsection (a) of this section.

"(c) WAIVER FOR NATIONAL SECURITY INTERESTS.—

"(1) IN GENERAL.—The Secretary of State may waive the application of subsection (a) or (b) in the case of an alien if—

"(A) the Secretary determines that such a waiver—

"(i) is necessary to permit the United States to comply with the Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations, signed June 26, 1947, and entered into force November 21, 1947, or other applicable international obligations of the United States; or

"(ii) is in the national security interests of the United States; and

"(B) prior to granting such a waiver, the Secretary provides to the appropriate congressional committees notice of, and a justification for, the waiver.

"(2) TIMING FOR CERTAIN WAIVERS.—Notification under subparagraph (B) of paragraph (1) shall be made not later than 15 days prior to granting a waiver under such paragraph if the Secretary grants such waiver in the national security interests of the United States in accordance with subparagraph (A)(ii) of such paragraph.

"(d) REGULATORY AUTHORITY.—The Secretary of State shall prescribe such regulations as are necessary to carry out this section.

"SEC. 406. FINANCIAL MEASURES.

"(a) FREEZING OF ASSETS.—

"(1) IN GENERAL.—The President shall exercise all powers granted by the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) (except that the requirements of section 202 of such Act (50 U.S.C. 1701) shall not apply) to the extent necessary to freeze and prohibit all transactions in all property and interests in property of a person who is on the list required by section 404(a) of this Act if such property and interests in property are in the United States, come within the United States, or are or come within the possession or control of a United States person.

"(2) EXCEPTION.—Paragraph (1) shall not apply to persons included on the classified annex under section 404(c)(2) if the President determines that such an exception is vital for the national security interests

of the United States.

"(b) WAIVER FOR NATIONAL SECURITY INTERESTS.—The Secretary of the Treasury may waive the application of subsection (a) if the Secretary determines that such a waiver is in the national security interests of the United States. Not less than 15 days prior to granting such a waiver, the Secretary shall provide to the appropriate congressional committees notice of, and a justification for, the waiver.

"(c) ENFORCEMENT.—

"(1) PENALTIES.—A person that violates, attempts to violate, conspires to violate, or causes a violation of this section or any regulation, license, or order issued to carry out this section shall be subject to the penalties set forth in subsections (b) and (c) of section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) to the same extent as a person that commits an unlawful act described in subsection (a) of such section.

"(2) REQUIREMENTS FOR FINANCIAL INSTITUTIONS.—Not later than 120 days after the date of the enactment of this Act [Dec. 14, 2012], the Secretary of the Treasury shall prescribe or amend regulations as needed to require each financial institution that is a United States person and has within its possession or control assets that are property or interests in property of a person who is on the list required by section 404(a) if such property and interests in property are in the United States to certify to the Secretary that, to the best of the knowledge of the financial institution, the financial institution has frozen all assets within the possession or control of the financial institution that are required to be frozen pursuant to subsection (a).

"(d) REGULATORY AUTHORITY.—The Secretary of the Treasury shall issue such regulations, licenses, and orders as are necessary to carry out this section.

"SEC. 407. REPORT TO CONGRESS.

"Not later than one year after the date of the enactment of this Act [Dec. 14, 2012] and annually thereafter, the Secretary of State and the Secretary of the Treasury shall submit to the appropriate congressional committees a report on—

"(1) the actions taken to carry out this title, including—

"(A) the number of persons added to or removed from the list required by section 404(a) during the year preceding the report, the dates on which such persons have been added or removed, and the reasons for adding or removing them; and

"(B) if few or no such persons have been added to that list during that year, the reasons for not adding more such persons to the list; and

"(2) efforts by the executive branch to encourage the governments of other countries to impose sanctions that are similar to the sanctions imposed under this title."

[Memorandum of President of the United States, Apr. 5, 2013, 78 F.R. 22763, delegated the functions conferred upon the President by sections 404(a), 404(b), and 404(d), with respect to the determinations provided for therein; 404(c)(3); 404(c)(4), consistent with section 404(f); and 406(a)(1) of Pub. L. 112–208, set out above, to the Secretary of the Treasury, in consultation with the Secretary of State, and delegated the functions and authorities in sections 404(a), 404(b), and 404(d), with respect to the submission of the list, updates, and reports described in those respective sections, 404(c)(2), 404(e), and 406(a)(2) of Pub. L. 112–208 to the Secretary of State, in consultation with the Secretary of the Treasury.]

BELARUS DEMOCRACY

Pub. L. 108–347, Oct. 20, 2004, 118 Stat. 1383, as amended by Pub. L. 109–480, §§2–4(c)(1), 5–8, Jan. 12, 2007, 120 Stat. 3666–3672; Pub. L. 112–82, §§2–6, Jan. 3, 2012, 125 Stat. 1863–1867, provided that:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Belarus Democracy Act of 2004'.

"SEC. 2. FINDINGS.

"Congress finds the following:

"(1) The Government of Belarus has engaged in a pattern of clear and uncorrected violations of human rights and fundamental freedoms.

"(2) The Government of Belarus has engaged in a pattern of clear and uncorrected violations of basic principles of democratic governance, including through a series of fundamentally flawed presidential and parliamentary elections undermining the legitimacy of executive and legislative authority in that country.

"(3) The Government of Belarus has subjected thousands of pro-democratic political activists to harassment, beatings, and jailings, particularly as a result of their attempts to peacefully exercise their right to freedom of assembly and association.

"(4) The Government of Belarus has attempted to maintain a monopoly over the country's information

space, targeting independent media, including independent journalists, for systematic reprisals and elimination, while suppressing the right to freedom of speech and expression of those dissenting from the dictatorship of Aleksandr Lukashenka, and adopted laws restricting the media, including the Internet, in a manner inconsistent with international human rights agreements.

"(5) The Government of Belarus continues a systematic campaign of harassment, repression, and closure of nongovernmental organizations, including independent trade unions and entrepreneurs, and this crackdown has created a climate of fear that inhibits the development of civil society and social solidarity.

"(6) The Government of Belarus has subjected leaders and members of select ethnic and religious minorities to harassment, including the imposition of heavy fines and denying permission to meet for religious services, sometimes by selective enforcement of the 2002 Belarus religion law.

"(7) The Government of Belarus has attempted to silence dissent by persecuting human rights and pro-democracy activists with threats, firings, expulsions, beatings and other forms of intimidation, and restrictions on freedom of movement and prohibition of international travel.

"(8) The dictator of Belarus, Aleksandr Lukashenka, established himself in power by orchestrating an illegal and unconstitutional referendum that enabled him to impose a new constitution, abolishing the duly elected parliament, the 13th Supreme Soviet, installing a largely powerless National Assembly, extending his term in office, and removing applicable term limits.

"(9) The Government of Belarus has failed to make a convincing effort to solve the cases of disappeared opposition figures Yuri Zakharenka, Viktor Gonchar, and Anatoly Krasovsky and journalist Dmitry Zavadsky, even though credible allegations and evidence links top officials of the Government to these disappearance[s].

"(10) The Government of Belarus has restricted freedom of expression on the Internet by requiring Internet Service Providers to maintain data on Internet users and the sites they view and to provide such data to officials upon request, and by creating a government body with the authority to require Internet Service Providers to block Web sites.

"(11) On December 19, 2010, the Government of Belarus conducted a presidential election that failed to meet the standards of the Organization for Security and Cooperation in Europe (OSCE) for democratic elections.

"(12) After the December 19, 2010, presidential election the Government of Belarus responded to opposition protests by beating scores of protestors and detaining more than 600 peaceful protestors.

"(13) After the December 19, 2010, presidential election the Government of Belarus jailed seven of the nine opposition presidential candidates and abused the process of criminal prosecution to persecute them.

"(14) After the December 19, 2010, presidential election, the Government of Belarus disrupted independent broadcast and Internet media, and engaged in repressive actions against independent journalists.

"(15) After the December 19, 2010, presidential election, Belarusian security services and police conducted raids targeting civil society groups, individual pro-democracy activists, and independent media.

"(16) After the December 19, 2010, presidential election, Belarusian officials refused to extend the mandate of the OSCE Office in Minsk.

"(17) After the December 19, 2010, presidential election, opposition candidates and activists have been persecuted and detainees have been physically mistreated, and denied access to family, defense counsel, medical treatment, and open legal proceedings.

"(18) After the December 19, 2010, presidential election, lawyers representing those facing criminal charges related to the post-election protest have been subjected to the revocation of licenses, disbarment, and other forms of pressure.

"(19) After the December 19, 2010, presidential election, the Government of Belarus has convicted political detainees to harsh prison sentences.

"(20) After the December 19, 2010, presidential election, the United States expanded its visa ban list, imposed additional financial sanctions on certain state-owned enterprises, and initiated preparations to freeze the assets of several individuals in Belarus. The European Union imposed targeted travel and financial sanctions on an expanded list of officials of the Government of Belarus.

"(21) After the December 19, 2010, presidential election, the United States fully restored sanctions against Belarus's largest state-owned petroleum and chemical conglomerate and all of its subsidiaries.

"(22) After the December 19, 2010, presidential election, the United States has engaged in assistance efforts to provide legal and humanitarian assistance to those facing repression and preserving access to independent information, and has pledged resources to support human rights advocates, trade unions, youth and environmental groups, business associations, think-tanks, democratic political parties and movements, independent journalists, newspapers and electronic media operating both inside Belarus and broadcasting

from its neighbors, and to support access of Belarusian students to independent higher education and expand exchange programs for business and civil society leaders.

"(23) The Department of State, the Department of the Treasury, and other executive branch agencies have heretofore made effective use of this Act to promote the purposes of this Act, as stated in section 3 of this Act.

"SEC. 3. STATEMENT OF POLICY.

"It is the policy of the United States to—

"(1) condemn the conduct of the December 19, 2010, presidential election and crackdown on opposition candidates, political leaders, and activists, civil society representatives, and journalists;

"(2) continue to call for the immediate release without preconditions of all political prisoners in Belarus, including all those individuals detained in connection with the December 19, 2010, presidential election;

"(3) continue to support the aspirations of the people of Belarus for democracy, human rights, and the rule of law;

"(4) continue to support the aspirations of the people of Belarus to preserve the independence and sovereignty of their country;

"(5) continue to support the growth of democratic movements and institutions in Belarus, which empower the people of Belarus to end tyranny in their country;

"(6) continue to refuse to accept the results of the fundamentally flawed December 19, 2010, presidential election held in Belarus, and to support calls for new presidential and parliamentary elections, conducted in a manner that is free and fair according to OSCE standards;

"(7) continue to call for the fulfillment by the Belarusian government of Belarus's freely undertaken obligations as an OSCE participating state;

"(8) continue to call for a full accounting of the disappearances of opposition leaders and journalists in Belarus, including Victor Gonchar, Anatoly Krasovsky, Yuri Zakharenka, and Dmitry Zavadsky, and the prosecution of those individuals who are in any way responsible for the disappearance of those opposition leaders and journalists;

"(9) continue to work closely with the European Union and other countries and international organizations, to promote the conditions necessary for the integration of Belarus into the European family of democracies;

"(10) call on the International Ice Hockey Federation to suspend its plan to hold the 2014 International World Ice Hockey championship in Minsk until the Government of Belarus releases all political prisoners; and

"(11) remain open to reevaluating United States policy toward Belarus as warranted by demonstrable progress made by the Government of Belarus consistent with the aims of this Act as stated in this section.

"SEC. 4. ASSISTANCE TO PROMOTE DEMOCRACY AND CIVIL SOCIETY IN BELARUS.

"(a) PURPOSES OF ASSISTANCE.—The assistance under this section shall be available for the following purposes:

"(1) To assist the people of the Republic of Belarus in their pursuit of freedom, democracy, and human rights and in their aspiration to join the European community of democracies.

"(2) To encourage free, fair, and transparent presidential, parliamentary, and local elections in Belarus, conducted in a manner consistent with internationally accepted standards and under the supervision of internationally recognized observers and independent domestic observers.

"(3) To assist in the development of a democratic political culture and civil society in Belarus.

"(b) AUTHORIZATION FOR ASSISTANCE.—To carry out the purposes of subsection (a), the President is authorized to furnish assistance and other support for the activities described in subsection (c), to be provided primarily for indigenous Belarusian groups that are committed to the support of democratic processes.

"(c) ACTIVITIES SUPPORTED.—Activities that may be supported by assistance under subsection (b) include—

"(1) expanding independent radio and television broadcasting to and within Belarus;

"(2) facilitating the development of independent broadcast, print, and Internet media working within Belarus and from locations outside the country and supported by nonstate-controlled printing facilities;

"(3) aiding the development of civil society through assistance to nongovernmental organizations promoting democracy and supporting human rights, including youth groups, entrepreneurs, and independent trade unions;

"(4) supporting the work of human rights defenders;

"(5) enhancing the development of democratic political parties;

"(6) assisting the promotion of free, fair, and transparent electoral processes;

"(7) enhancing international exchanges and advanced professional training programs for leaders and members of the democratic forces in skill areas central to the development of civil society; and

"(8) other activities consistent with the purposes of this Act.

"(d) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to the President to carry out this section such sums as may be necessary for each of the fiscal years 2007 and 2008.

"(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to the authorization of appropriations under paragraph (1) are authorized to remain available until expended.

"SEC. 5. RADIO, TELEVISION, AND INTERNET BROADCASTING TO BELARUS.

"It is the sense of Congress that the President should support radio, television, and Internet broadcasting to the people of Belarus in languages spoken in Belarus, by Radio Free Europe/Radio Liberty, the Voice of America, European Radio for Belarus, and Belsat.

"SEC. 6. SANCTIONS AGAINST THE GOVERNMENT OF BELARUS.

"(a) APPLICATION OF SANCTIONS.—The sanctions described in subsections (c) through (f) should apply with respect to the Republic of Belarus until the President determines and certifies to the appropriate congressional committees that the Government of Belarus has made significant progress in meeting the conditions described in subsection (b).

"(b) CONDITIONS.—The conditions referred to in subsection (a) are the following:

"(1) The release of individuals in Belarus who have been jailed based on political or religious beliefs or expression, including those individuals jailed based on political beliefs or expression in connection with repression that attended the presidential election of December 19, 2010.

"(2) The withdrawal of politically motivated legal charges against all opposition activists and independent journalists in Belarus, including politically motivated legal charges made in connection with repression that attended the presidential election of December 19, 2010.

"(3) A full accounting of the disappearances of opposition leaders and journalists in Belarus, including Victor Gonchar, Anatoly Krasovsky, Yuri Zakharenka, and Dmitry Zavadsky, and the prosecution of those individuals who are in any way responsible for their disappearances.

"(4) The cessation of all forms of harassment and repression against the independent media, independent trade unions, nongovernmental organizations, youth groups, religious organizations (including their leadership and members), and the political opposition in Belarus.

"(5) The prosecution of senior leadership of the Government of Belarus responsible for the administration of fraudulent elections and violations of human rights, including violations of human rights committed in connection with the presidential election of December 19, 2010.

"(6) A full accounting of the embezzlement of state assets by senior leadership of the Government of Belarus, their family members, and other associates.

"(7) The holding of free, fair and transparent presidential and parliamentary elections in Belarus consistent with OSCE standards and under the supervision of OSCE observers and independent domestic observers.

"(c) DENIAL OF ENTRY INTO THE UNITED STATES OF SENIOR LEADERSHIP OF THE GOVERNMENT OF BELARUS.—Notwithstanding any other provision of law, the President may exercise the authority under section 212(f) of the Immigration and Nationality Act (8 U.S.C. 1182(f)) to deny the entry into the United States of any alien who—

"(1) holds a position in the senior leadership of the Government of Belarus;

"(2) is an immediate family member of a person inadmissible under paragraph (1);

"(3) through his or her business dealings with senior leadership of the Government of Belarus derives significant financial benefit from policies or actions, including electoral fraud, human rights abuses, or corruption, that undermine or injure democratic institutions or impede the transition to democracy in Belarus;

"(4) is a member of any branch of the security or law enforcement services of Belarus and has participated in the violent crackdown on opposition leaders, journalists, and peaceful protestors that occurred in connection with the presidential election of December 19, 2010; or

"(5) is a member of any branch of the security or law enforcement services of Belarus and has participated in the persecution or harassment of religious groups, human rights defenders, democratic opposition groups, or independent media or journalists.

"(d) PROHIBITION ON LOANS AND INVESTMENT.—

"(1) UNITED STATES GOVERNMENT FINANCING.—It is the sense of Congress that no loan, credit guarantee, insurance, financing, or other similar financial assistance should be extended by any agency of the Government of the United States (including the Export-Import Bank of the United States and the Overseas Private Investment Corporation) to the Government of Belarus, except with respect to the provision of humanitarian goods and agricultural or medical products.

"(2) TRADE AND DEVELOPMENT AGENCY.—It is the sense of Congress that no funds available to the Trade and Development Agency should be available for activities of the Agency in or for Belarus.

"(e) MULTILATERAL FINANCIAL ASSISTANCE.—The Secretary of the Treasury should instruct the United States Executive Director at each international financial institution of which the United States is a member to use the voice and vote of the United States to oppose any extension by those institutions of any financial assistance (including any technical assistance or grant) of any kind to the Government of Belarus, except for loans and assistance that serve humanitarian needs.

"(f) BLOCKING OF ASSETS AND OTHER PROHIBITED ACTIVITIES.—

"(1) BLOCKING OF ASSETS.—It is the sense of Congress that the President should block all property and interests in property, including all commercial, industrial, or public utility undertakings or entities, that, on or after the date of the enactment of the Belarus Democracy Reauthorization Act of 2006 [Jan. 12, 2007]—

"(A) are owned, in whole or in part, by the Government of Belarus, or by any member or family member closely linked to any member of the senior leadership of the Government of Belarus, or any person who through his or her business dealings with senior leadership of the Government of Belarus derives significant financial benefit from policies or actions, including electoral fraud, human rights abuses, or corruption, that undermine or injure democratic institutions or impede the transition to democracy in Belarus; and

"(B) are in the United States, or in the possession or control of the Government of the United States or of any United States financial institution, including any branch or office of such financial institution that is located outside the United States.

"(2) PROHIBITED ACTIVITIES.—Activities prohibited by reason of the blocking of property and interests in property under paragraph (1) should include—

"(A) payments or transfers of any property, or any transactions involving the transfer of anything of economic value by any United States person, to the Government of Belarus, to any person or entity acting for or on behalf of, or owned or controlled, directly or indirectly, by that government, or to any member of the senior leadership of the Government of Belarus;

"(B) the export or reexport to any entity owned, controlled, or operated by the Government of Belarus, directly or indirectly, of any goods, technology, or services, either—

"(i) by a United States person; or

"(ii) involving the use of any air carrier or a vessel documented under the laws of the United States; and

"(C) the performance by any United States person of any contract, including a contract providing a loan or other financing, in support of an industrial, commercial, or public utility operated, controlled, or owned by the Government of Belarus.

"(3) PAYMENT OF EXPENSES.—All expenses incident to the blocking and maintenance of property blocked under paragraph (1) should be charged to the owners or operators of such property. Such expenses may not be paid from blocked funds.

"(4) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to prohibit any contract or other financial transaction with any private or nongovernmental organization or business in Belarus.

"(5) EXCEPTIONS.—Paragraphs (1) and (2) do not apply to—

"(A) assistance authorized under section 4 or 5 of this Act; or

"(B) medicine, medical equipment or supplies, food, as well as any other form of humanitarian assistance provided to Belarus as relief in response to a humanitarian crisis.

"(6) PENALTIES.—Any person who violates any prohibition or restriction imposed under this subsection should be subject to the penalties under section 6 [206] of the International Emergency Economic Powers Act (50 U.S.C. 1705) to the same extent as for a violation under that Act [50 U.S.C. 1701 et seq.].

"(7) DEFINITIONS.—In this subsection:

"(A) AIR CARRIER.—The term 'air carrier' has the meaning given that term in section 40102 of title 49, United States Code.

"(B) UNITED STATES PERSON.—The term 'United States person' means—

"(i) any United States citizen or alien admitted for permanent residence to the United States;
"(ii) any entity organized under the laws of the United States; and
"(iii) any person in the United States.

"SEC. 7. MULTILATERAL COOPERATION.

"It is the sense of Congress that the President should continue to seek the support of other countries, particularly European countries, for a comprehensive, multilateral strategy to further the purposes of this Act, including, as appropriate, encouraging other countries to take measures with respect to the Republic of Belarus that are similar to measures described in this Act.

"SEC. 8. REPORT.

"(a) REPORT.—Not later than 90 days after the date of the enactment of the Belarus Democracy and Human Rights Act of 2011 [Pub. L. 112–82, approved Jan. 3, 2012], and not later than 1 year thereafter, the President shall transmit to the appropriate congressional committees a report that describes, with respect to the preceding 12-month period, and to the extent practicable the following:

"(1) The sale or delivery or provision of weapons or weapons-related technologies or weapons-related training from the Republic of Belarus to any country, the government of which the Secretary of State has determined, for purposes of section 6(j)(1) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)) [now 50 U.S.C. 4605(j)(1)], has repeatedly provided support for acts of international terrorism.

"(2) An identification of each country described in paragraph (1) and a detailed description of the weapons or weapons-related technologies or weapons-related training involved in the sale or delivery or provision.

"(3) An identification of the goods, services, credits, or other consideration received by Belarus in exchange for the weapons or weapons-related technologies or weapons-related training described in paragraph (1).

"(4) The personal assets and wealth of Aleksandr Lukashenka and other senior leadership of the Government of Belarus.

"(5) The cooperation of the Government of Belarus with any foreign government or organization for purposes related to the censorship or surveillance of the Internet, or the purchase or receipt by the Government of Belarus of any technology or training from any foreign government or organization for purposes related to the censorship or surveillance of the Internet.

"(b) FORM.—A report transmitted pursuant to subsection (a) shall be in unclassified form but may contain a classified annex.

"SEC. 9. DEFINITIONS.

"In this Act:

"(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term 'appropriate congressional committees' means the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

"(2) OSCE.—The term 'OSCE' means the Organization for Security and Cooperation in Europe.

"(3) SENIOR LEADERSHIP OF THE GOVERNMENT OF BELARUS.—The term 'senior leadership of the Government of Belarus' includes—

"(A) the President, Prime Minister, Deputy Prime Ministers, government ministers, Chairmen of State Committees, governors, heads of state enterprises, and members of the Presidential Administration of Belarus;

"(B) any official of the Government of Belarus who—

"(i) is personally and substantially involved in the suppression of freedom in Belarus, including judges, prosecutors, and heads of professional associations and educational institutions; or

"(ii) is otherwise engaged in public corruption in Belarus; and

"(C) any other individual determined by the Secretary of State (or the Secretary's designee) to be personally and substantially involved in the formulation or execution of the policies of the Government of Belarus that are in contradiction of internationally recognized human rights standards."

[Pub. L. 109–480, §4(c)(2), Jan. 12, 2007, 120 Stat. 3668, provided that: "The amendment made by paragraph (1) [amending section 4(d)(1) of Pub. L. 108–347, set out in the note above] shall not be construed to affect the availability of funds appropriated pursuant to the authorization of appropriations under section 4(d) of the Belarus Democracy Act of 2004 [Pub. L. 108–347] (as redesignated) before the date of the enactment of this Act [Jan. 12, 2007]."]

[Memorandum of President of the United States, Apr. 24, 2012, 77 F.R. 33945, delegated the reporting functions conferred upon the President by section 8 of Pub. L. 108–347, set out above, to the Secretary of

State.]

PRESIDENTIAL REPORT ON FUNDING FOR NEW INDEPENDENT STATES OF FORMER SOVIET UNION

Pub. L. 103–306, title II, Aug. 23, 1994, 108 Stat. 1617, provided in part that: "(o) The report required by subsection (d) under the heading 'Assistance for the New Independent States of the Former Soviet Union', contained in Public Law 102–391 [set out below], shall be updated at least annually and shall also contain a listing of all grants and contracts issued from funds appropriated annually for the new independent states of the former Soviet Union, to include for each grant and contract (1) a description of its purpose, (2) its amount, and (3) the country where the grant or contract funds are to be expended."

Pub. L. 102–391, title III, Oct. 6, 1992, 106 Stat. 1650, provided in part that: "(d) REPORTS.—The President shall submit a report to the Committees on Appropriations containing the amount of funds obligated and expended for each project and subproject funded from amounts appropriated under this heading for the new independent states of the former Soviet Union. The report required by this subsection shall be submitted to the Committees on Appropriations no later than January 1, 1993, and an update of this report shall be submitted by the President to those Committees no later than July 1, 1993."

§5812. Program coordination, implementation, and oversight

(a) Coordination

The President shall designate, within the Department of State, a coordinator who shall be responsible for—

(1) designing an overall assistance and economic cooperation strategy for the independent states of the former Soviet Union;

(2) ensuring program and policy coordination among agencies of the United States Government in carrying out the policies set forth in this Act (including the amendments made by this Act and chapter 12 of part I of the Foreign Assistance Act of 1961 [22 U.S.C. 2296 et seq.]);

(3) pursuing coordination with other countries and international organizations with respect to assistance to independent states;

(4) ensuring that United States assistance programs for the independent states are consistent with this Act (including the amendments made by this Act and chapter 12 of part I of the Foreign Assistance Act of 1961 [22 U.S.C. 2296 et seq.]);

(5) ensuring proper management, implementation, and oversight by agencies responsible for assistance programs for the independent states; and

(6) resolving policy and program disputes among United States Government agencies with respect to United States assistance for the independent states.

(b) Export promotion activities

Consistent with subsection (a), coordination of activities related to the promotion of exports of United States goods and services to the independent states of the former Soviet Union shall continue to be primarily the responsibility of the Secretary of Commerce, in the Secretary's role as Chair of the Trade Promotion Coordination Committee.

(c) International economic activities

Consistent with subsection (a), coordination of activities relating to United States participation in international financial institutions and relating to organization of multilateral efforts aimed at currency stabilization, currency convertibility, debt reduction, and comprehensive economic reform programs shall continue to be primarily the responsibility of the Secretary of the Treasury, in the Secretary's role as Chair of the National Advisory Council on International Monetary and Financial Policies and as the United States Governor of the international financial institutions.

(d) Accountability for funds

Any agency managing and implementing an assistance program for the independent states of the former Soviet Union shall be accountable for any funds made available to it for such program.

(Pub. L. 102–511, title I, §102, Oct. 24, 1992, 106 Stat. 3322; Pub. L. 106–113, div. B, §1000(a)(2)

[title V, §596(c)], Nov. 29, 1999, 113 Stat. 1535, 1501A–126.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a)(2), (4), is Pub. L. 102–511, Oct. 24, 1992, 106 Stat. 3320, as amended, known as the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992 and also as the FREEDOM Support Act. For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

The Foreign Assistance Act of 1961, referred to in subsec. (a)(2), (4), is Pub. L. 87-195, Sept. 4, 1961, 75 Stat. 424, as amended. Chapter 12 of part I of the Act is classified generally to part XII [§2296 et seq.] of subchapter I of chapter 32 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

AMENDMENTS

1999—Subsec. (a)(2), (4). Pub. L. 106–113 substituted "this Act and chapter 12 of part I of the Foreign Assistance Act of 1961)" for "this Act)".

RUSSIAN AND UKRAINIAN BUSINESS MANAGEMENT EDUCATION

Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title IV, subtitle B], Nov. 29, 1999, 113 Stat. 1536, 1501A–448, provided that:

"SEC. 421. PURPOSE.

"The purpose of this subtitle is to establish a training program in Russia and Ukraine for nationals of those countries to obtain skills in business administration, accounting, and marketing, with special emphasis on instruction in business ethics and in the basic terminology, techniques, and practices of those disciplines, to achieve international standards of quality, transparency, and competitiveness.

"SEC. 422. DEFINITIONS.

"In this subtitle:

"(1) DISTANCE LEARNING.—The term 'distance learning' means training through computers, interactive videos, teleconferencing, and videoconferencing between and among students and teachers.

"(2) ELIGIBLE ENTERPRISE.—The term 'eligible enterprise' means—

"(A) in the case of Russia—

"(i) a business concern operating in Russia that employs Russian nationals in Russia; or

"(ii) a private enterprise that is being formed or operated by former officers of the Russian armed forces in Russia; and

"(B) in the case of Ukraine—

"(i) a business concern operating in Ukraine that employs Ukrainian nationals in Ukraine; or

"(ii) a private enterprise that is being formed or operated by former officers of the Ukrainian armed forces in Ukraine.

"(3) ELIGIBLE NATIONAL.—The term 'eligible national' means the employee of an eligible enterprise who is employed in the program country.

"(4) PROGRAM.—The term 'program' means the program of technical assistance established under section 423.

"(5) PROGRAM COUNTRY.—The term 'program country' means—

"(A) Russia in the case of any eligible enterprise operating in Russia that receives technical assistance under the program; or

"(B) Ukraine in the case of any eligible enterprise operating in Ukraine that receives technical assistance under the program.

"SEC. 423. AUTHORIZATION FOR TRAINING PROGRAM AND INTERNSHIPS.

"(a) TRAINING PROGRAM.—

"(1) IN GENERAL.—The President is authorized to establish a program of technical assistance to provide the training described in section 421 to eligible enterprises.

"(2) IMPLEMENTATION.—Training shall be carried out by United States nationals having expertise in business administration, accounting, and marketing or by eligible nationals who have been trained under the program. Such training may be carried out—

"(A) in the offices of eligible enterprises, at business schools or institutes, or at other locations in the program country, including facilities of the armed forces of the program country, educational institutions, or in the offices of trade or industry associations, with special consideration given to locations where similar training opportunities are limited or nonexistent; or

"(B) by 'distance learning' programs originating in the United States or in European branches of United States institutions.

"(b) INTERNSHIPS WITH UNITED STATES DOMESTIC BUSINESS CONCERNS.—Authorized program costs may include the travel expenses and appropriate in-country business English language training, if needed, of eligible nationals who have completed training under the program to undertake short-term internships with business concerns in the United States.

"SEC. 424. APPLICATIONS FOR TECHNICAL ASSISTANCE.

"(a) PROCEDURES.—

"(1) IN GENERAL.—Each eligible enterprise that desires to receive training for its employees and managers under this subtitle shall submit an application to the clearinghouse under subsection (c), at such time, in such manner, and accompanied by such additional information as may reasonably be required.

"(2) JOINT APPLICATIONS.—A consortium of eligible enterprises may file a joint application under the provisions of paragraph (1).

"(b) CONTENTS.—An application under subsection (a) may be approved only if the application—

"(1) is for an individual or individuals employed in an eligible enterprise or enterprises applying under the program;

"(2) describes the level of training for which assistance under this subtitle is sought;

"(3) provides evidence that the eligible enterprise meets the general policies adopted for the administration of this subtitle;

"(4) provides assurances that the eligible enterprise will pay a share of the costs of the training, which share may include in-kind contributions; and

"(5) provides such additional assurances as are determined to be essential to ensure compliance with the requirements of this subtitle.

"(c) CLEARINGHOUSE.—A clearinghouse shall be established or designated in each program country to manage and execute the program in that country. The clearinghouse shall screen applications, provide information regarding training and teachers, monitor performance of the program, and coordinate appropriate post-program follow-on activities.

"SEC. 425. RESTRICTIONS NOT APPLICABLE.

"Prohibitions on the use of foreign assistance funds for assistance for the Russian Federation or for Ukraine shall not apply with respect to the funds made available to carry out this subtitle.

"SEC. 426. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—There is authorized to be appropriated $10,000,000 for the fiscal year 2000 and $10,000,000 for the fiscal year 2001 to carry out this subtitle.

"(b) AVAILABILITY OF FUNDS.—Amounts appropriated under subsection (a) are authorized to remain available until expended."

RESTRICTION ON ASSISTANCE TO AZERBAIJAN

Pub. L. 107–115, title II [(g)(2)–(6)], Jan. 10, 2002, 115 Stat. 2129, provided that:

"(2) The President may waive section 907 of the FREEDOM Support Act [Pub. L. 102–511, set out below] if he determines and certifies to the Committees on Appropriations that to do so—

"(A) is necessary to support United States efforts to counter international terrorism; or

"(B) is necessary to support the operational readiness of United States Armed Forces or coalition partners to counter international terrorism; or

"(C) is important to Azerbaijan's border security; and

"(D) will not undermine or hamper ongoing efforts to negotiate a peaceful settlement between Armenia and Azerbaijan or be used for offensive purposes against Armenia.

"(3) The authority of paragraph (2) may only be exercised through December 31, 2002.

"(4) The President may extend the waiver authority provided in paragraph (2) on an annual basis on or after December 31, 2002 if he determines and certifies to the Committees on Appropriations in accordance with the provisions of paragraph (2).

"(5) The Committees on Appropriations shall be consulted prior to the provision of any assistance made available pursuant to paragraph (2).

"(6) Within 60 days of any exercise of the authority under paragraph (2) the President shall send a report to the appropriate congressional committees specifying in detail the following—

"(A) the nature and quantity of all training and assistance provided to the Government of Azerbaijan pursuant to paragraph (2);

"(B) the status of the military balance between Azerbaijan and Armenia and the impact of United

States assistance on that balance; and

"(C) the status of negotiations for a peaceful settlement between Armenia and Azerbaijan and the impact of United States assistance on those negotiations."

[Functions of President under subsecs. (g)(4) and (6) of title II of Pub. L. 107–115, set out above, delegated to Secretary of State by section 1–100(a)(13) of Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.]

Pub. L. 102–511, title IX, §907, Oct. 24, 1992, 106 Stat. 3357, provided that: "United States assistance under this or any other Act (other than assistance under title V of this Act [22 U.S.C. 5851 et seq.]) may not be provided to the Government of Azerbaijan until the President determines, and so reports to the Congress, that the Government of Azerbaijan is taking demonstrable steps to cease all blockades and other offensive uses of force against Armenia and Nagorno-Karabakh."

SUPPORT FOR MACROECONOMIC STABILIZATION IN INDEPENDENT STATES OF FORMER SOVIET UNION

Pub. L. 102–511, title X, §1004, Oct. 24, 1992, 106 Stat. 3360, provided that:

"(a) IN GENERAL.—In order to promote macroeconomic stabilization and the integration of the independent states of the former Soviet Union into the international financial system, enhance the opportunities for trade, improve the climate for foreign investment, and strengthen the process of transformation of the former socialist economies into free enterprise systems and thereby progressively enhance the well-being of the citizens of these states, the United States should in appropriate circumstances take a leading role in organizing and supporting multilateral efforts at macroeconomic stabilization and debt rescheduling, conditioned on the appropriate development and implementation of comprehensive economic reform programs.

"(b) CURRENCY STABILIZATION.—In furtherance of the purposes and consistent with the conditions described in subsection (a), the Congress expresses its support for United States participation, in sums of up to $3,000,000,000, in a currency stabilization fund or funds for the independent states of the former Soviet Union.

"(c) STUDY OF THE NEED FOR AND FEASIBILITY OF A CURRENCY STABILIZATION FUND FOR UKRAINE.—The Secretary of the Treasury shall instruct the United States Executive Director of the International Monetary Fund to use the voice and vote of the United States to urge the Fund to conduct a study of the need for and feasibility of a currency stabilization fund for Ukraine, and, if it is found that such a fund is needed and is feasible, which considers and makes recommendations with respect to the economic and policy conditions required for the success of such a fund."

REPORT ON DEBT OF FORMER SOVIET UNION HELD BY COMMERCIAL FINANCIAL INSTITUTIONS

Pub. L. 102–511, title X, §1007, Oct. 24, 1992, 106 Stat. 3361, directed Secretary of the Treasury, using information available from the International Monetary Fund, the International Bank for Reconstruction and Development, and other appropriate international financial institutions, to report to Congress, not later than one year after Oct. 24, 1992, on the debt incurred by the former Soviet Union that is held by commercial financial institutions outside the independent states of the former Soviet Union that are obligated on such debt.

EX. ORD. NO. 12884. DELEGATION OF FUNCTIONS UNDER FREEDOM SUPPORT ACT AND RELATED PROVISIONS OF FOREIGN OPERATIONS, EXPORT FINANCING AND RELATED PROGRAMS APPROPRIATIONS ACT

Ex. Ord. No. 12884, Dec. 1, 1993, 58 F.R. 64099, as amended by Ex. Ord. No. 13030, §3, Dec. 12, 1996, 61 F.R. 66187; Pub. L. 105–277, div. G, subdiv. A, title XIV, §1422(a)(4), Oct. 21, 1998, 112 Stat. 2681–792; Ex. Ord. No. 13118, §10(1), Mar. 31, 1999, 64 F.R. 16598, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the FREEDOM Support Act (Public Law 102–511) (the "Act") [22 U.S.C. 5801 et seq.], the Foreign Assistance Act of 1961, as amended (the "Foreign Assistance Act") [22 U.S.C. 2151 et seq.], the Foreign Operations, Export Financing and Related Programs Appropriations Act, 1993 (Public Law 102–391) [see Tables for classification], and section 301 of title 3, United States Code, it is hereby ordered as follows:

SECTION 1. *Secretary of State*. (a) There are delegated to the Secretary of State the functions conferred upon the President by:

(1) section 907 of the Act [set out above];

(2) paragraphs (1), (2), (3), and (5) of section 498A(b) of the Foreign Assistance Act [22 U.S.C. 2295a(b)(1), (2), (3), (5)];

(3) paragraph (1) of section 498A(C) of the Foreign Assistance Act [22 U.S.C. 2295a(c)(1)] and the

requirement to make reports under that section regarding determinations under that paragraph; and

(4) section 599B of Public Law 102–391 [106 Stat. 1697].

(b) The Secretary of State may at any time exercise any function delegated to the Coordinator under this order or otherwise assigned to the Coordinator.

SEC. 2. *Coordinator*. There are delegated to the Coordinator designated in accordance with section 102 of the Act [22 U.S.C. 5812] the functions conferred upon the President by:

(a) [former] section 104 of the Act [22 U.S.C. 5814], and the Coordinator is authorized to assign responsibility for particular aspects of the reports described in that section to the heads of appropriate agencies;

(b) section 301 of the Act [22 U.S.C. 5821], insofar as it relates to determinations and directives;

(c) section 498A(a), section 498B(c), and section 498B(g) of the Foreign Assistance Act [22 U.S.C. 2295a(a), 2295b(c), (g)]; and

(d) paragraph (2) of section 498A(c) of the Foreign Assistance Act [22 U.S.C. 2295a(c)(2)] and the requirement to make reports under that section regarding determinations under that paragraph.

SEC. 3. *Secretary of State-Additional Functions*. There are delegated to the Secretary of State the functions conferred upon the President by:

(a) sections 301(a) and 307 of the Act [22 U.S.C. 5821(a), 5827], except insofar as provided otherwise in section 2(b) of this order;

(b) section 498 and section 498C(b)(2) of the Foreign Assistance Act [22 U.S.C. 2295, 2295c(b)(2)];

(c) paragraph (3) of section 498A(c) of the Foreign Assistance Act [22 U.S.C. 2295a(c)(3)] and the requirement to make reports under that section regarding determinations under that paragraph;

(d) subsection (d) under the heading "Assistance for the New Independent States of the Former Soviet Union" contained in Title II of Public Law 102–391 [106 Stat. 1650]; and

(e) section 592 of Public Law 102–391 [106 Stat. 1691], except to the extent otherwise provided in section 5(b) of this order.

SEC. 4. *Secretary of Agriculture*. There are delegated to the Secretary of Agriculture the functions conferred upon the President by section 807(d) of the Act [22 U.S.C. 2452 note].

SEC. 5. *Other Agencies*. The functions conferred upon the President by:

(a) sections 498B(h) and 498B(i) of the Foreign Assistance Act [22 U.S.C. 2295b(h), (i)] are delegated to the head of the agency that is responsible for administering the particular program or activity with respect to which the authority is to be exercised; and

(b) the third proviso in section 592 of Public Law 102–391 [106 Stat. 1691] are delegated to the head of each agency that is responsible for administering relevant programs or activities.

SEC. 6. *General*. (a) the [sic] functions described in sections 4 and 5 of this order shall be exercised subject to the authority of the Coordinator under section 102(a) of the Act [22 U.S.C. 5812(a)] or otherwise.

(b) As used in this order, the word "function" includes any duty, obligations, power, authority, responsibility, right, privilege, discretion, or activity.

(c) Functions delegated under this order shall be construed as excluded from the functions delegated under section 1–102(a) of Executive Order No. 12163, as amended [22 U.S.C. 2381 note].

(d) Any officer to whom functions are delegated or otherwise assigned under this order may, to the extent consistent with law, redelegate such functions and authorize their successive redelegation.

WILLIAM J. CLINTON.

[Section 3 of Ex. Ord. No. 12884, set out above, was to cease to be effective pursuant to Pub. L. 105–277, div. G, subdiv. A, title XIV, §1422(a)(4), Oct. 21, 1998, 112 Stat. 2681–792.]

WAIVER OF RESTRICTION ON ASSISTANCE TO AZERBAIJAN

Determination of President of the United States, No. 2005–18, Jan. 13, 2005, 70 F.R. 3853, provided:

Memorandum for the Secretary of State

Pursuant to the authority contained in title II of the Kenneth M. Ludden Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002 (Public Law 107–115) [see title II [(g)(2)–(6)] of Pub. L. 107–115, set out as a note above], I hereby determine and certify that extending the waiver of section 907 of the FREEDOM Support Act of 1992 (Public Law 102–511) [set out as a note above]:

- is necessary to support United States efforts to counter international terrorism;
- is necessary to support the operational readiness of United States Armed Forces or coalition partners to counter international terrorism;
- is important to Azerbaijan's border security; and
- will not undermine or hamper ongoing efforts to negotiate a peaceful settlement between Armenia and

Azerbaijan or be used for offensive purposes against Armenia.

Accordingly, I hereby extend the waiver of section 907 of the FREEDOM Support Act.

You are authorized and directed to notify the Congress of this determination and to arrange for its publication in the Federal Register.

GEORGE W. BUSH.

Prior waivers of section 907 of Pub. L. 102–511 were contained in the following:
Determination of President of the United States, No. 2004–18, Dec. 30, 2003, 69 F.R. 2057.
Determination of President of the United States, No. 2003–12, Jan. 17, 2003, 68 F.R. 3803.
Determination of President of the United States, No. 2002–06, Jan. 25, 2002, 67 F.R. 5921.

§5813. Report on overall assistance and economic cooperation strategy

(a) Requirement for submission

As soon as practicable after October 24, 1992, the coordinator designated pursuant to section 5812(a) of this title shall submit to the Congress a report on the overall assistance and economic cooperation strategy for the independent states of the former Soviet Union that is required to be developed pursuant to paragraph (1) of that section.

(b) Assistance plan

The report submitted pursuant to subsection (a) shall include a plan specifying—

(1) the amount of the funds authorized to be appropriated for fiscal year 1993 by chapter 11 of part I of the Foreign Assistance Act of 1961 [22 U.S.C. 2295 et seq.] proposed to be allocated for each of the categories of activities authorized by section 498 of that Act [22 U.S.C. 2295] and to carry out section 5821 of this title (relating to American Business Centers), section 5823 of this title (relating to export promotion activities and capital projects), and subchapter III of this chapter (relating to the Democracy Corps);

(2) the amount of other funds made available for fiscal year 1993 to carry out the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.] proposed to be allocated for assistance under that Act for the independent states of the former Soviet Union; and

(3) the amount of funds available for fiscal year 1993 under the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.] that are proposed to be made to each agency to carry out activities for the independent states under that Act or this Act.

(Pub. L. 102–511, title I, §103, Oct. 24, 1992, 106 Stat. 3323.)

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsec. (b), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, which is classified principally to chapter 32 (§2151 et seq.) of this title. Chapter 11 of part I of the Act is classified generally to part XI (§2295 et seq.) of subchapter I of chapter 32 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

This Act, referred to in subsec. (b)(3), is Pub. L. 102–511, Oct. 24, 1992, 106 Stat. 3320, as amended, known as the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992 and also as the FREEDOM Support Act. For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

§5814. Repealed. Pub. L. 112–74, div. I, title VII, §7034(n), Dec. 23, 2011, 125 Stat. 1217

Section, Pub. L. 102–511, title I, §104, Oct. 24, 1992, 106 Stat. 3324; Pub. L. 106–113, div. B, §1000(a)(2) [title V, §596(d)], Nov. 29, 1999, 113 Stat. 1535, 1501A–126, required annual report on United States assistance for the independent states of the former Soviet Union.

RESTRICTIONS ON ASSISTANCE FOR NEW INDEPENDENT STATES OF FORMER SOVIET UNION; REPORT TO CONGRESS

Pub. L. 103–87, title V, §560(g), Sept. 30, 1993, 107 Stat. 967, which related to restrictions on availability of funds to new independent states of the former Soviet Union and Secretary of State's annual report, was repealed by Pub. L. 112–74, div. I, title VII, §7034(n), Dec. 23, 2011, 125 Stat. 1217.

Similar provisions relating to nonavailability of funds to any government of the new independent states of the former Soviet Union if that government directs any action in violation of the territorial integrity or national sovereignty of any other new independent state, were contained in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2006, Pub. L. 109–102, title V, §517(a), Nov. 14, 2005, 119 Stat. 2201, and were repeated in provisions of subsequent appropriations acts which are not set out in the Code. Similar provisions were also contained in the following prior appropriations acts:

Pub. L. 108–447, div. D, title V, §517(a), Dec. 8, 2004, 118 Stat. 2996.
Pub. L. 108–199, div. D, title V, §517(b), Jan. 23, 2004, 118 Stat. 173.
Pub. L. 108–7, div. E, title V, §517(b), Feb. 20, 2003, 117 Stat. 185.
Pub. L. 107–115, title V, §517(b), Jan. 10, 2002, 115 Stat. 2144.
Pub. L. 106–429, §101(a) [title V, §517(b)], Nov. 6, 2000, 114 Stat. 1900, 1900A–27.
Pub. L. 106–113, div. B, §1000(a)(2) [title V, §517(b)], Nov. 29, 1999, 113 Stat. 1535, 1501A–86.
Pub. L. 105–277, div. A, §101(d) [title V, §517(b)], Oct. 21, 1998, 112 Stat. 2681–150, 2681–174.
Pub. L. 105–118, title II, [(c)], Nov. 26, 1997, 111 Stat. 2395.
Pub. L. 104–208, div. A, title I, §101(c) [title II, [(d)]], Sept. 30, 1996, 110 Stat. 3009–121, 3009–130.
Pub. L. 104–107, title II, [(d)], Feb. 12, 1996, 110 Stat. 712.
Pub. L. 103–306, title II, Aug. 23, 1994, 108 Stat. 1616.

SUBCHAPTER II—BUSINESS AND COMMERCIAL DEVELOPMENT

§5821. American Business Centers

(a) Establishment

The President is authorized and encouraged to establish American Business Centers in the independent states of the former Soviet Union receiving assistance under chapter 11 of part I of the Foreign Assistance Act of 1961 [22 U.S.C. 2295 et seq.] where the President determines that such centers can be cost-effective in promoting the objectives described in section 498 of that Act [22 U.S.C. 2295] and United States economic interests and in establishing commercial partnerships between the people of the United States and the peoples of the independent states.

(b) Environmental business centers and agribusiness centers

For purposes of this section, the term "American Business Centers" includes the following:

(1) Environmental business centers in those independent states that offer promising market possibilities for the export of United States environmental goods and services. To the maximum extent practicable, these environmental business centers should be established as a component of other centers.

(2) Agribusiness centers that include the participation of private United States agribusinesses or agricultural cooperatives, private nonprofit organizations, State universities and land grant colleges, and financial institutions, that make appropriate contributions of equipment, materials, and personnel for the operation of such centers. The purposes of these agribusiness centers shall be—

(A) to enhance the ability of farmers and other agribusiness practitioners in the independent states to better meet the needs of the people of the independent states;

(B) to assist the transition from a command and control system in agriculture to a free market system; and

(C) to facilitate the demonstration and use of United States agricultural equipment and technology.

(c) Additional policy guidance

To the maximum extent possible, and consistent with the particular purposes of the specific types of centers, the President should direct that—

(1) the American Business Centers established pursuant to this section place special emphasis on assistance to United States small- and medium-sized businesses to facilitate their entry into the commercial markets of the independent states;

(2) such centers offer office space, business facilities, and market analysis services to United States firms, trade associations, and State economic development offices on a user-fee basis that minimizes the cost of operating such centers;

(3) such centers serve as a repository for commercial, legal, and technical information, including environmental and export control information;

(4) such centers identify existing or potential counterpart businesses or organizations that may require specific technical coordination or assistance;

(5) such centers be established in several sites in the independent states; and

(6) host countries be asked to make appropriate contributions of real estate and personnel for the establishment and operation of such centers.

(d) Funding

(1) Reimbursement agreement

Not later than 90 days after October 24, 1992, the Administrator of the Agency for International Development shall conclude a reimbursement agreement with the Secretary of Commerce for the Department of Commerce's services in establishing and operating American Business Centers pursuant to this section.

(2) Authorization of appropriations

Of the amount authorized to be appropriated to carry out chapter 11 of part I of the Foreign Assistance Act of 1961 [22 U.S.C. 2295 et seq.], up to $12,000,000 for fiscal year 1993 are authorized to be appropriated to carry out this section, in addition to amounts otherwise available for such purpose.

(Pub. L. 102–511, title III, §301, Oct. 24, 1992, 106 Stat. 3332.)

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsecs. (a) and (d)(2), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended. Chapter 11 of part I of the Act is classified generally to part XI (§2295 et seq.) of subchapter I of chapter 32 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

DELEGATION OF FUNCTIONS

Functions of President under subsec. (a) delegated to Secretary of State except that functions of President under this section, insofar as relating to determinations and directives, delegated to Coordinator, see sections 2(b) and 3(a) of Ex. Ord. No. 12884, Dec. 1, 1993, 58 F.R. 64099, as amended, set out as a note under section 5812 of this title.

§5822. Business and Agriculture Advisory Council

(a) Establishment

The President is authorized to establish an advisory council to be known as the Independent States Business and Agriculture Advisory Council (hereinafter in this section referred to as the "Council")—

(1) to consult with and advise the President periodically regarding programs of assistance for the independent states of the former Soviet Union; and

(2) to evaluate, and consult periodically with the President regarding, the adequacy of bilateral and multilateral assistance programs that would facilitate exports by United States companies to, and investments by United States companies in, the independent states.

(b) Membership

The Council should consist of 15 members, appointed by the President, who are drawn from United States companies reflecting diverse businesses and perspectives that have experience and expertise in dealing with the independent states of the former Soviet Union. The President should designate one such member to serve as Chair of the Council. Five such members should be appointed upon the recommendation of the Speaker and the Minority Leader of the House of Representatives and 5 should be appointed upon the recommendation of the Majority Leader and Minority Leader of the Senate. Members of the Council shall receive no compensation from the United States Government by reason of their service on the Council.

(c) Staff

Upon request of the Chair of the Council, the head of any United States Government agency may detail, on a nonreimbursable basis, any of the personnel of such agency to the Council to assist the Council.

(Pub. L. 102–511, title III, §302, Oct. 24, 1992, 106 Stat. 3333.)

TERMINATION OF ADVISORY COUNCILS

Advisory councils established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a council established by Congress, its duration is otherwise provided for by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§5823. Funding for export promotion activities and capital projects

(a) Allocation of A.I.D. funds

The President is encouraged to use a portion of the funds made available for the independent states of the former Soviet Union under chapter 11 of part I of the Foreign Assistance Act of 1961 [22 U.S.C. 2295 et seq.]—

(1) to fund the export promotion, finance, and related activities carried out pursuant to subsection (b)(1), including activities relating to the export of intermediary goods; and

(2) to fund capital projects, including projects for telecommunications, environmental cleanup, power production, and energy related projects.

(b) Export promotion, finance, and related activities

The Secretary of Commerce, as Chair of the Trade Promotion Coordination Committee, should, in conjunction with other members of that committee, design and implement programs to provide adequate commercial and technical assistance to United States businesses seeking markets in the independent states of the former Soviet Union, including the following:

(1) Increasing the United States and Foreign Commercial Service presence in the independent states, in particular in the Russian Far Eastern cities of Vladivostok and Khabarovsk.

(2) Preparing profiles of export opportunities for United States businesses in the independent states and providing other technical assistance.

(3) Utilizing the Market Development Cooperator Program under section 4723 of title 15.

(4) Developing programs specifically for the purpose of assisting small- and medium-sized businesses in entering commercial markets of the independent states. In carrying out this paragraph, the Secretary of Commerce, to the extent possible, should work directly with private sector organizations with proven experience in trade and economic relations with the independent states.

(5) Supporting projects undertaken by the United States business community on the basis of partnership, joint venture, contractual, or other cooperative agreements with appropriate entities in the independent states.

(6) Supporting export finance programs, feasibility studies, political risk insurance, and other related programs through increased funding and flexibility in the implementation of such programs.

(7) Supporting the Business Information Service (BISNIS) and its related programs.

(Pub. L. 102–511, title III, §303, Oct. 24, 1992, 106 Stat. 3333.)

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsec. (a), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended. Chapter 11 of part I of the Act is classified generally to part XI (§2295 et seq.) of subchapter I of chapter 32 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

§5824. Interagency working group on energy of the Trade Promotion Coordinating Committee

The Trade Promotion Coordinating Committee should utilize its interagency working group on energy to assist United States energy sector companies to develop a long-term strategy for penetrating the energy market in the independent states of the former Soviet Union. The working group should—

(1) work with officials from the independent states in creating an environment conducive to United States energy investment;

(2) help to coordinate assistance to United States companies involved with projects to clean up former Soviet nuclear weapons sites and commercial nuclear waste; and

(3) work with representatives from United States business and industry involved with the energy sector to help facilitate the identification of business opportunities, including the promotion of oil, gas, and clean coal technology and products, energy efficiency, and the formation of joint ventures between United States companies and companies of the independent nations.

(Pub. L. 102–511, title III, §304, Oct. 24, 1992, 106 Stat. 3334.)

§5825. Repealed. Pub. L. 104–66, title I, §1021(e), Dec. 21, 1995, 109 Stat. 713

Section, Pub. L. 102–511, title III, §305, Oct. 24, 1992, 106 Stat. 3335, directed Secretary of Commerce to submit to Congress annual reports describing implementation of business and commercial development provisions, analyzing programs of other industrialized countries, and examining trade practices of other Organization for Economic Cooperation and Development nations.

§5826. Policy on combatting tied aid practices

Should the Secretary of the Treasury determine that foreign countries are engaged in tied aid practices with respect to any of the independent states of the former Soviet Union that violate the 1991 Helsinki agreement of the Organization for Economic Cooperation and Development, the President should give priority attention to combatting such practices.

(Pub. L. 102–511, title III, §306, Oct. 24, 1992, 106 Stat. 3335.)

§5827. Technical assistance for Russian Far East

(a) Authorization

The President is authorized to provide technical assistance, through an American university in a region which received nonstop air service to and from the Russian Far East as of July 1, 1992, to facilitate the development of United States business opportunities, free markets, and democratic institutions in the Russian Far East.

(b) Authorization of appropriations

There are authorized to be appropriated $2,000,000 to carry out subsection (a).

(Pub. L. 102–511, title III, §307, Oct. 24, 1992, 106 Stat. 3335.)

DELEGATION OF FUNCTIONS

For delegation of certain functions of President under this section, see section 3(a) of Ex. Ord. No. 12884, Dec. 1, 1993, 58 F.R. 64099, as amended, set out as a note under section 5812 of this title.

§5828. Funding for OPIC programs

(a) Authority to make additional funds available

Funds authorized to be appropriated for fiscal year 1993 to carry out chapter 11 of part I of the Foreign Assistance Act of 1961 [22 U.S.C. 2295 et seq.] may be made available to cover costs incurred by the Overseas Private Investment Corporation in carrying out programs with respect to the independent states of the former Soviet Union under title IV of chapter 2 of part I of that Act (22 U.S.C. 2191 and following), in addition to amounts otherwise available for that purpose.

(b) Enactment of OPIC Authorization Act

The authority of subsection (a) shall cease to be effective upon the enactment of the Overseas Private Investment Corporation Act Amendments Act of 1992.

(Pub. L. 102–511, title III, §308, Oct. 24, 1992, 106 Stat. 3335.)

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsec. (a), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended. Chapter 11 of part I of the Act is classified generally to part II (§2295 et seq.) of subchapter I of chapter 32 of this title. Title IV of chapter 2 of part I of the Act is classified generally to subpart IV (§2191 et seq.) of part II of subchapter I of chapter 32 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

The Overseas Private Investment Corporation Act Amendments Act of 1992, referred to in subsec. (b), probably means the Overseas Private Investment Corporation Amendments Act of 1992, which was title I of H.R. 4996, 102d Congress, as passed by the House of Representatives. H.R. 4996 was enacted into law as Pub. L. 102–549 and title I was significantly revised and no longer contained provisions designating it as the Overseas Private Investment Corporation Amendments Act of 1992.

SUBCHAPTER III—THE DEMOCRACY CORPS

§5841. Authorization for establishment of Democracy Corps

(a) Establishment; purpose

The President is authorized to provide for the establishment of the Democracy Corps as a private nonprofit organization, incorporated in the District of Columbia, whose purpose shall be to maintain a presence in the independent states of the former Soviet Union as described in subsection (c).

(b) Board of Directors

The Board of Directors of the Democracy Corps shall have not more than 10 members, appointed by the President. Individuals appointed to the Board—

(1) shall, individually or through the organizations they represent, have experience and expertise appropriate to carrying out the purpose of the Democracy Corps, including involvement either with activities of the type described in subsection (d) or in the independent states;

(2) shall be United States citizens; and

(3) may not be officers or employees of the United States Government or Members of

Congress.

(c) Grants to Democracy Corps; purpose

The Administrator is authorized to make an annual grant to the Democracy Corps with the funds made available pursuant to this section. The purpose of such grants shall be to enable the Democracy Corps to maintain a presence in independent states of the former Soviet Union that will assist at the local level in the development of—

(1) institutions of democratic governance (including judicial, electoral, legislative, and administrative processes), and

(2) the nongovernmental organizations of a civil society (including charitable, educational, trade union, business, professional, voluntary, community, and other civic organizations),

by mobilizing the expertise of the American people to provide practical assistance through "on the ground" person-to-person advice, technical assistance, and small grants to indigenous individuals and indigenous entities, in accordance with subsection (d).

(d) Activities

The Democracy Corps shall be required to carry out its purpose through the placement within the independent states of teams of United States citizens with appropriate expertise and knowledge. Under guidelines developed by the Board, these teams shall assist indigenous individuals and entities in the independent states that are involved in the development of the institutions and organizations referred to in paragraphs (1) and (2) of subsection (c) by—

(1) providing advice and technical assistance;

(2) making small grants (which in most cases should not exceed $5,000) to such individuals and entities to assist the development of those institutions and organizations;

(3) identifying other sources of assistance; and

(4) operating local centers to serve as information, logistical, and educational centers and otherwise encourage cooperation and effectiveness by those involved in the development of democratic institutions, a market-oriented economy, and a civil society in the independent states.

These local centers may be designated as "Democracy Houses" or given another appropriate appellation.

(e) Grant agreement

Grants under this section shall be made pursuant to a grant agreement requiring the Democracy Corps to comply with the requirements specified in this section and with such other terms and conditions as the Administrator may require, which shall include requirements regarding consultation with the coordinator designated pursuant to section 5812(a) of this title, conflicts of interest, and accountability for funds, including a requirement for annual independent audits.

(f) Coordination

The Democracy Corps shall be required to—

(1) coordinate its activities pursuant to this section with the programs and activities of other entities operating in or providing assistance to the independent states of the former Soviet Union in support of the development of democratic institutions, a market-oriented economy, and a civil society; and

(2) ensure that its activities pursuant to this section are designed to avoid duplication with activities carried out under other United States Government foreign assistance and international information, educational, cultural, and exchange programs.

(g) Prohibition on campaign financing

Funds made available to the Democracy Corps under this section may not be expended by the Democracy Corps, or any recipient of a grant from the Democracy Corps, to finance the campaigns of candidates for public office.

(h) Freedom of information

(1) In general

Notwithstanding the fact that the Democracy Corps is not an agency or establishment of the United States Government, the Democracy Corps shall be required to comply fully with all of the provisions of section 552 of title 5.

(2) Publication in Federal Register

For purposes of complying pursuant to paragraph (1) with section 552(a)(1) of title 5, the Democracy Corps shall make available to the Administrator such records and other information as the Administrator determines may be necessary for such purposes. The Administrator shall cause such records and other information to be published in the Federal Register.

(3) AID review

In the event that the Democracy Corps determines not to comply with a request for records under section 552 of title 5, the Democracy Corps shall submit a report to the Administrator explaining the reasons for not complying with such request. If the Administrator approves such determination, the Agency for International Development shall assume full responsibility, including financial responsibility, for defending the Democracy Corps in any litigation relating to such request. If the Administrator disapproves such determination, the Democracy Corps shall be required to comply with such request.

(i) Annual reports

The Board shall be required to submit to the Administrator and the Congress, not later than January 31 each year, a comprehensive report on the activities of the Democracy Corps. Each such report shall list each grant made by the Democracy Corps under subsection (d)(2) during the preceding fiscal year, specifying the grantee and the amount of the grant.

(j) Authorization of appropriations

Of the amount authorized to be appropriated to carry out chapter 11 of part I of the Foreign Assistance Act of 1961 [22 U.S.C. 2295 et seq.], up to $15,000,000 for fiscal year 1993 are authorized to be appropriated for grants to the Democracy Corps under this section, in addition to amounts otherwise available for such purpose.

(k) Sunset provision

Grants may not be made to the Democracy Corps under this section after the end of fiscal year 1997.

(l) Definitions

As used in this section—

(1) the term "Administrator" means the Administrator of the Agency for International Development; and

(2) the term "Board" means the Board of Directors of the Democracy Corps.

(Pub. L. 102–511, title IV, §401, Oct. 24, 1992, 106 Stat. 3335.)

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsec. (j), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended. Chapter 11 of part I of the Act is classified generally to part XI (§2295 et seq.) of subchapter I of chapter 32 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

SUBCHAPTER IV—NONPROLIFERATION AND DISARMAMENT PROGRAMS AND ACTIVITIES

§5851. Findings

The Congress finds that it is in the national security interest of the United States—

(1) to facilitate, on a priority basis—

(A) the transportation, storage, safeguarding, and destruction of nuclear and other weapons of mass destruction of the independent states of the former Soviet Union;

(B) the prevention of proliferation of weapons of mass destruction and destabilizing conventional weapons of the independent states, and the establishment of verifiable safeguards against the proliferation of such weapons;

(C) the prevention of diversion of weapons-related scientific expertise of the former Soviet Union to terrorist groups or third countries; and

(D) other efforts designed to reduce the military threat from the former Soviet Union;

(2) to support the conversion of the massive defense-related industry and equipment of the independent states of the former Soviet Union for civilian purposes and uses; and

(3) to expand military-to-military contacts between the United States and the independent states.

(Pub. L. 102–511, title V, §501, Oct. 24, 1992, 106 Stat. 3338.)

§5852. Eligibility

Funds may be obligated for a fiscal year for assistance or other programs or activities for an independent state of the former Soviet Union under sections 5853 and 5854 of this title only if the President has certified to the Congress, during that fiscal year, that such independent state is committed to—

(1) making a substantial investment of its resources for dismantling or destroying such weapons of mass destruction, if that independent state has an obligation under a treaty or other agreement to destroy or dismantle any such weapons;

(2) forgoing any military modernization program that exceeds legitimate defense requirements and forgoing the replacement of destroyed weapons of mass destruction;

(3) forgoing any use in new nuclear weapons of fissionable or other components of destroyed nuclear weapons; and

(4) facilitating United States verification of any weapons destruction carried out under section 5853(a) or 5854(a) of this title or section 212 of the Soviet Nuclear Threat Reduction Act of 1991 (title II of Public Law 102–228; 22 U.S.C. 2551 note).

(Pub. L. 102–511, title V, §502, Oct. 24, 1992, 106 Stat. 3338.)

REFERENCES IN TEXT

Section 212 of the Soviet Nuclear Threat Reduction Act of 1991, referred to in par. (4), is section 212 of Pub. L. 102–228, title II, Dec. 12, 1991, 105 Stat. 1693, which was set out in a note under section 2551 of this title, and was repealed by Pub. L. 113–291, div. A, title XIII, §1351(1), Dec. 19, 2014, 128 Stat. 3606.

DELEGATION OF AUTHORITY

Memorandum of President of the United States, Dec. 30, 1992, 58 F.R. 3193, provided:

Memorandum for the Secretary of State, the Secretary of Defense [and] the Director, Office of Management & Budget

By the authority vested in me by the Constitution and the laws of the United States of America, including section 301 of title 3 of the United States Code, I hereby delegate:

1. to the Secretary of State the authority and duty vested in the President under section 1412(d) of the Former Soviet Union Demilitarization Act of 1992 (title XIV of the National Defense Authorization Act for Fiscal Year 1993, Public Law 102–484) [former 22 U.S.C. 5902(d)] and section 502 of the Freedom Support Act (Public Law 102–511 [22 U.S.C. 5852].

2. to the Secretary of Defense the authorities and duties vested in the President under sections 1412(a), 1431, and 1432 of Public Law 102–484 [22 U.S.C. former 5902(a), former 5921, 5922] and sections 503 and 508 of Public Law 102–511 [22 U.S.C. 5853, 5858].

The Secretary of Defense shall not exercise authority delegated by paragraph 2 hereof with respect to any

former Soviet republic unless the Secretary of State has exercised his authority and performed the duty delegated by paragraph 1 hereof with respect to that former Soviet Republic. The Secretary of Defense shall not obligate funds in the exercise of authority delegated by paragraph 2 hereof unless the Director of the Office of Management and Budget has determined that expenditures during fiscal year 1993 pursuant to such obligation shall be counted against the defense category of discretionary spending limits for that fiscal year (as defined in section 601(a)(2) of the Congressional Budget Act of 1974 [2 U.S.C. 665(a)(2)]) for purposes of Part C of the Balanced Budget and Emergency Deficit Control Act of 1985 [2 U.S.C. 900 et seq.].

The Secretary of State is directed to publish this memorandum in the Federal Register.

GEORGE BUSH.

INAPPLICABILITY TO COOPERATIVE THREAT REDUCTION PROGRAMS

Pub. L. 110–181, div. A, title XIII, §1304(b), Jan. 28, 2008, 122 Stat. 413, provided that: "Section 502 of the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992 (22 U.S.C. 5852) shall not apply to any Cooperative Threat Reduction program."

DEFINITION OF COOPERATIVE THREAT REDUCTION PROGRAMS FOR PURPOSES OF PUB. L. 110–181

Pub. L. 110–181, div. A, title XIII, §1301(a), Jan. 28, 2008, 122 Stat. 410, provided that: "For purposes of section 301 [122 Stat. 53] and other provisions of this Act [see Tables for classification], Cooperative Threat Reduction programs are the programs specified in section 1501(b) of the National Defense Authorization Act for Fiscal Year 1997 [Pub. L. 104–201] ([former] 50 U.S.C. 2362 note), as amended by section 1303 of this Act."

§5853. Nonproliferation and disarmament activities in independent states

(a) Authorization

The President is authorized to promote bilateral and multilateral nonproliferation and disarmament activities—

(1) by supporting the dismantlement and destruction of nuclear, biological, and chemical weapons, their delivery systems, and conventional weapons of the independent states of the former Soviet Union;

(2) by supporting bilateral and multilateral efforts to halt the proliferation of nuclear, biological, and chemical weapons, their delivery systems, related technologies, and other weapons of the independent states, including activities such as—

(A) the storage, transportation, and safeguarding of such weapons, and

(B) the purchase, barter, or other acquisition of such weapons or materials derived from such weapons;

(3) by establishing programs for safeguarding against the proliferation of nuclear, biological, chemical, and other weapons of the independent states;

(4) by establishing programs for preventing diversion of weapons-related scientific and technical expertise of the independent states to terrorist groups or to third countries;

(5) by establishing science and technology centers in the independent states for the purpose of engaging weapons scientists and engineers of the independent states (in particular those who were previously involved in the design and production of nuclear, biological, and chemical weapons) in productive, nonmilitary undertakings; and

(6) by establishing programs for facilitating the conversion of military technologies and capabilities and defense industries of the former Soviet Union into civilian activities.

(b) Funding priorities

Priority in carrying out this section shall be given to the activities described in paragraphs (1) through (5) of subsection (a).

(c) Use of defense funds

(1) Authorization

In recognition of the direct contributions to the national security interests of the United States of the programs and activities authorized by subsection (a), the President is authorized to make available for use in carrying out those programs and activities, in addition to amounts otherwise available for such purposes, funds made available pursuant to sections 108 and 109 of Public Law 102–229 or under the amendments made by section 506(a) of this Act.

(2) Limitation

Funds described in paragraph (1) may not be obligated for programs and activities under subsection (a) unless the Director of the Office of Management and Budget has determined that expenditures during fiscal year 1993 pursuant to such obligation shall be counted against the defense category of the discretionary spending limits for that fiscal year (as defined in section 665(a)(2) [1] of title 2) for purposes of part C of the Balanced Budget and Emergency Deficit Control Act of 1985 [2 U.S.C. 900 et seq.].

(Pub. L. 102–511, title V, §503, Oct. 24, 1992, 106 Stat. 3338.)

REFERENCES IN TEXT

Sections 108 and 109 of Public Law 102–229, referred to in subsec. (c)(1), are sections 108 and 109 of Pub. L. 102–229, title I, Dec. 12, 1991, 105 Stat. 1708, which are not classified to the Code.

Section 506(a) of this Act, referred to in subsec. (c)(1), is section 506(a) of Pub. L. 102–511, which was classified to section 5856(a) of this title and was omitted from the Code. Section 506(a) directed amendment of section 221 of Pub. L. 102–228, which was set out in a note under section 2551 of this title, but did not become effective pursuant to section 5856(c) of this title and was repealed by Pub. L. 113–291, div. A, title XIII, §1351(1), Dec. 19, 2014, 128 Stat. 3606.

Section 665 of title 2, referred to in subsec. (c)(2), was repealed by Pub. L. 105–33, title X, §10118(a), Aug. 5, 1997, 111 Stat. 695.

The Balanced Budget and Emergency Deficit Control Act of 1985, referred to in subsec. (c)(2), is title II of Pub. L. 99–177, Dec. 12, 1985, 99 Stat. 1038. Part C of the Act is classified generally to subchapter I (§900 et seq.) of chapter 20 of Title 2, The Congress. For complete classification of this Act to the Code, see Short Title note set out under section 900 of Title 2 and Tables.

DELEGATION OF AUTHORITY

Authority of President under this section delegated to Secretary of Defense by section 2 of Memorandum of President of the United States, Dec. 30, 1992, 58 F.R. 3193, set out as a note under section 5852 of this title.

TRANSFER OF FUNDING FOR SCIENCE AND TECHNOLOGY CENTERS IN THE FORMER SOVIET UNION

Pub. L. 106–113, div. B, §1000(a)(7) [div. B, title XI, §1138], Nov. 29, 1999, 113 Stat. 1536, 1501A–496, provided that:

"(a) AUTHORIZATION.—For fiscal year 2001 and subsequent fiscal years, funds made available under 'Nonproliferation, Antiterrorism, Demining, and Related Programs' accounts in annual foreign operations appropriations Acts are authorized to be available for science and technology centers in the independent states of the former Soviet Union assisted under section 503(a)(5) of the FREEDOM Support Act (22 U.S.C. 5853(a)(5)) or section 1412(b)(5) [former 22 U.S.C. 5902(b)(5)] of the Former Soviet Union Demilitarization Act of 1992 (title XIV of Public Law 102–484; 22 U.S.C. 5901 et seq.), including the use of those and other funds by any Federal agency having expertise and programs related to the activities carried out by those centers, including the Departments of Agriculture, Commerce, and Health and Human Services and the Environmental Protection Agency.

"(b) AVAILABILITY OF FUNDS.—Amounts made available under any provision of law for the activities described in subsection (a) shall be available until expended and may be used notwithstanding any other provision of law."

RESEARCH AND EXCHANGE ACTIVITIES BY SCIENCE AND TECHNOLOGY CENTERS

Pub. L. 106–113, div. B, §1000(a)(7) [div. B, title XI, §1139], Nov. 29, 1999, 113 Stat. 1536, 1501A–496, provided that:

"(a) IN GENERAL.—Support for science and technology centers in the independent states of the former Soviet Union, as authorized by section 503(a)(5) of the FREEDOM Support Act (22 U.S.C. 5853(a)(5)) and section 1412(b) [former 22 U.S.C. 5902(b)] of the Former Soviet Union Demilitarization Act of 1992 (title

XIV of Public Law 102–484, 22 U.S.C. 5901 et seq.), is authorized for activities described in subsection (b) to support the redirection of former Soviet weapons scientists, especially those with expertise in weapons of mass destruction (nuclear, radiological, chemical, biological), missile and other delivery systems, and other advanced technologies with military applications.

"(b) ACTIVITIES SUPPORTED.—Activities supported under subsection (a) include—

"(1) any research activity involving the participation of former Soviet weapons scientists and civilian scientists and engineers, if the participation of the weapons scientists predominates; and

"(2) any program of international exchanges that would provide former Soviet weapons scientists exposure to, and the opportunity to develop relations with, research and industry partners."

[1] *See References in Text note below.*

§5854. Nonproliferation and disarmament fund

(a) Authorization

The President is authorized to promote bilateral and multilateral nonproliferation and disarmament activities—

(1) by supporting the dismantlement and destruction of nuclear, biological, and chemical weapons, their delivery systems, and conventional weapons;

(2) by supporting bilateral and multilateral efforts to halt the proliferation of nuclear, biological, and chemical weapons, their delivery systems, related technologies, and other weapons, including activities such as—

(A) the storage, transportation, and safeguarding of such weapons, and

(B) the purchase, barter, or other acquisition of such weapons or materials derived from such weapons;

(3) by establishing programs for safeguarding against the proliferation of nuclear, biological, chemical, and other weapons of the independent states of the former Soviet Union;

(4) by establishing programs for preventing diversion of weapons-related scientific and technical expertise of the independent states to terrorist groups or to third countries;

(5) by establishing science and technology centers in the independent states for the purpose of engaging weapons scientists and engineers of the independent states (in particular those who were previously involved in the design and production of nuclear, biological, and chemical weapons) in productive, nonmilitary undertakings; and

(6) by establishing programs for facilitating the conversion of military technologies and capabilities and defense industries of the former Soviet Union into civilian activities.

(b) Funding priorities

Priority in carrying out this section shall be given to the activities described in paragraphs (1) through (5) of subsection (a).

(c) Use of security assistance funds

(1) Authorization

In recognition of the direct contributions to the national security interests of the United States of the programs and activities authorized by subsection (a), the President is authorized to make available for use in carrying out those programs and activities, in addition to amounts otherwise available for such purposes, up to $100,000,000 of security assistance funds for fiscal year 1993.

(2) "Security assistance funds" defined

As used in paragraph (1), the term "security assistance funds" means funds made available for assistance under chapter 4 of part II of the Foreign Assistance Act of 1961 [22 U.S.C. 2346 et seq.] (relating to the Economic Support Fund) or assistance under section 2763 of this title (relating to the "Foreign Military Financing Program").

(3) Exemption from certain restrictions

Section 531(e) of the Foreign Assistance Act of 1961 [22 U.S.C. 2346(e)], and any provision that corresponds to section 510 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (relating to the prohibition on financing exports of nuclear equipment, fuel, and technology), shall not apply with respect to funds used pursuant to this subsection.

(Pub. L. 102–511, title V, §504, Oct. 24, 1992, 106 Stat. 3339.)

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsec. (c)(2), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended. Chapter 4 of part II of the Act is classified to part IV (§2346 et seq.) of subchapter II of chapter 32 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

Section 510 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991, referred to in subsec. (c)(3), is section 510 of Pub. L. 101–513, title V, Nov. 5, 1991, 104 Stat. 2003, which is not classified to the Code.

DELEGATION OF AUTHORITY WITH RESPECT TO ALLOCATION AND ADMINISTRATION OF NONPROLIFERATION AND DISARMAMENT FUND

Memorandum of President of the United States, Apr. 21, 1994, 59 F.R. 21619, provided:

Memorandum for the Secretary of State [and] the Secretary of Defense

By the authority vested in me as President by the Constitution and the laws of the United States of America, including sections 504 and 508 [22 U.S.C. 5854, 5858] of the FREEDOM Support Act (Public Law 102–511) (the "Act"), title III of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1994 (Public Law 103–87) [107 Stat. 941] and section 301 of title 3 of the United States Code, it is hereby ordered as follows:

1. The authorities and duties vested in the President under section 504 of the Act [22 U.S.C. 5854] are hereby delegated to the Secretary of State. These authorities and duties shall be exercised in consultation with the Secretary of Defense and other appropriate agencies. The Secretary of State may, to the extent consistent with law, redelegate such authorities and duties and authorize their successive redelegation.

2. Notwithstanding the Presidential Memorandum of December 30, 1992 [22 U.S.C. 5852 note] (Delegation of Responsibilities under Title XIV of Public Law 102–484 and Title V of Public Law 102–511), the Secretary of State is hereby delegated the duties vested in the President under section 508 of the Act [22 U.S.C. 5858] insofar as those duties relate to notice of and reports on obligations and activities under section 504 of the Act [22 U.S.C. 5854].

3. Funds appropriated or otherwise made available to the President for a "Nonproliferation and Disarmament Fund" authorized under section 504 of the Act [22 U.S.C. 5854] shall be deemed to be allocated to the Secretary of State without any further action of the President. Such funds may be reallocated or transferred as appropriate by the Secretary of State to any agency or part thereof for obligation or expenditure consistent with applicable law.

The Secretary of State is authorized and directed to publish this memorandum in the Federal Register.

WILLIAM J. CLINTON.

§5855. Limitations on defense conversion authorities

Notwithstanding any other provision of law (including any other provision of this Act), funds may not be obligated in any fiscal year for purposes of facilitating the conversion of military technologies and capabilities and defense industries of the former Soviet Union into civilian activities, as authorized by sections 5853(a)(6) and 5854(a)(6) of this title or any other provision of law, unless the President has previously obligated in the same fiscal year an amount equal to or greater than that amount of funds for defense conversion and defense transition activities in the United States. For purposes of this section, the term "defense conversion and defense transition activities in the United States" means those United States Government funded programs whose primary purpose is to assist United States private sector defense workers, United States companies that manufacture or otherwise provide defense goods or services, or United States communities adversely affected by reductions in

United States defense spending, such as programs funded through the Office of Economic Adjustment in the Department of Defense or through the Economic Development Administration.

(Pub. L. 102–511, title V, §505, Oct. 24, 1992, 106 Stat. 3340; Pub. L. 105–277, div. A, §101(f) [title IV, §405(d)(20)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–422.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 102–511, Oct. 24, 1992, 106 Stat. 3320, as amended, known as the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992 and also as the FREEDOM Support Act. For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

AMENDMENTS

1998—Pub. L. 105–277 substituted "or through" for ", through the Defense Conversion Adjustment Program (as authorized by the Job Training Partnership Act), or through" in last sentence.

§5856. Soviet weapons destruction

(a), (b) Omitted

(c) Avoidance of duplicative amendments

The amendments made by this section shall not be effective if the National Defense Authorization Act for Fiscal Year 1993 enacts an amendment to section 221(a) of the Soviet Nuclear Threat Reduction Act of 1991 that authorizes the transfer of an amount that is the same or greater than the amount that is authorized by the amendment made by subsection (a)(1) of this section and enacts amendments identical to those in subsections (a)(2) and (b) of this section. If that Act enacts such amendments, sections 5853 and 5858 of this title shall be deemed to apply with respect to the funds made available under such amendments.

(Pub. L. 102–511, title V, §506, Oct. 24, 1992, 106 Stat. 3341.)

REFERENCES IN TEXT

For the amendments made by this section, referred to in subsec. (c), see Codification note below.

The National Defense Authorization Act for Fiscal Year 1993, referred to in subsec. (c), is Pub. L. 102–484, Oct. 23, 1992, 106 Stat. 2315. For complete classification of this Act to the Code, see Tables. See, also, Codification note below.

Section 221(a) of the Soviet Nuclear Threat Reduction Act of 1991, referred to in subsec. (c), was section 221(a) of Pub. L. 102–228, which was set out in a note under section 2551 of this title prior to repeal by Pub. L. 113–291, div. A, title XIII, §1351(1), Dec. 19, 2014, 128 Stat. 3606. See Codification note below.

CODIFICATION

Section is comprised of section 506 of Pub. L. 102–511. Subsec. (a) of this section directed the amendment of section 221 of Pub. L. 102–228, which was set out in a note under section 2551 of this title and was repealed by Pub. L. 113–291, div. A, title XIII, §1351(1), Dec. 19, 2014, 128 Stat. 3606. Subsec. (b) of this section directed the amendment of sections 108 and 109 of Pub. L. 102–229, which are not classified to the Code. Because of amendments by section 1421(a)(2)(B), (3) and (b) of Pub. L. 102–484, div. A, title XIV, Oct. 23, 1992, 106 Stat. 2565, to section 221 of Pub. L. 102–228 and sections 108 and 109 of Pub. L. 102–229, the amendments directed by subsecs. (a) and (b) of this section did not take effect pursuant to subsec. (c) of this section.

§5857. Waiver of certain provisions

(a) In general

Funds made available for fiscal year 1993 under sections 5853 and 5854 of this title to provide assistance or otherwise carry out programs and activities with respect to the independent states of the former Soviet Union under those sections may be used notwithstanding any other provision of law,

other than the provisions cited in subsection (b).

(b) Exceptions

Subsection (a) does not apply with respect to—

(1) this subchapter; and

(2) section 1341 of title 31 (commonly referred to as the "Anti-Deficiency Act"), the Congressional Budget and Impoundment Control Act of 1974, the Balanced Budget and Emergency Deficit Control Act of 1985, and the Budget Enforcement Act of 1990.

(Pub. L. 102–511, title V, §507, Oct. 24, 1992, 106 Stat. 3341.)

REFERENCES IN TEXT

The Congressional Budget and Impoundment Control Act of 1974, referred to in subsec. (b)(2), is Pub. L. 93–344, July 12, 1974, 88 Stat. 297, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 621 of Title 2, The Congress, and Tables.

The Balanced Budget and Emergency Deficit Control Act of 1985, referred to in subsec. (b)(2), is title II of Pub. L. 99–177, Dec. 12, 1985, 99 Stat. 1038, as amended, which enacted chapter 20 (§900 et seq.) and sections 654 to 656 of Title 2, amended sections 602, 622, 631 to 642, and 651 to 653 of Title 2, sections 1104 to 1106, and 1109 of Title 31, Money and Finance, and section 911 of Title 42, The Public Health and Welfare, repealed section 661 of Title 2, enacted provisions set out as notes under section 900 of Title 2 and section 911 of Title 42, and amended provisions set out as a note under section 621 of Title 2. For complete classification of this Act to the Code, see Short Title note set out under section 900 of Title 2 and Tables.

The Budget Enforcement Act of 1990, referred to in subsec. (b)(2), is title XIII of Pub. L. 101–508, Nov. 5, 1990, 104 Stat. 1388–573. For complete classification of this Act to the Code, see Short Title of 1990 Amendment note set out under section 900 of Title 2 and Tables.

§5858. Notice and reports to Congress

(a) Notice of proposed obligations

Not less than 15 days before obligating any funds under section 5853 or 5854 of this title or the amendments made by section 506(a),[1] the President shall transmit to the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the appropriate congressional committees a report on the proposed obligation. Each such report shall specify—

(1) the account, budget activity, and particular program or programs from which the funds proposed to be obligated are to be derived and the amount of the proposed obligations; and

(2) the activities and forms of assistance for which the President plans to obligate such funds.

(b) Semiannual report

Not later than April 30, 1993, and not later than October 30, 1993, the President shall transmit to the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the appropriate congressional committees a report on the activities carried out under sections 5853 and 5854 of this title and the amendments made by section 506(a).[1] Each such report shall set forth, for the preceding 6-month period and cumulatively, the following:

(1) The amounts expended for such activities and the purposes for which they were expended.

(2) The source of the funds obligated for such activities, specified by program.

(3) A description of the participation of all United States Government departments and agencies in such activities.

(4) A description of the activities carried out and the forms of assistance provided.

(5) Such other information as the President considers appropriate to fully inform the Congress concerning the operation of the programs and activities carried out under sections 5853 and 5854 of this title and the amendments made by section 506(a).[1]

(c) Appropriate congressional committees

As used in this section—

(1) the term "appropriate congressional committees" means—

(A) the Committee on Foreign Relations of the Senate, the Committee on Foreign Affairs of the House of Representatives, and the Committees on Appropriations of the House and the Senate, wherever the account, budget activity, or program is funded from appropriations made under the international affairs budget function (150);

(B) the Committees on Armed Services and the Committees on Appropriations of the Senate and the House of Representatives, wherever the account, budget activity, or program is funded from appropriations made under the national defense budget function (050); and

(2) the committee to which the specified activities of section 5853(a) or 5854(a) of this title or subtitle B [1] of the Soviet Nuclear Threat Reduction Act of 1991 (as the case may be), if the subject of separate legislation, would be referred, under the rules of the respective House of Congress.

(Pub. L. 102–511, title V, §508, Oct. 24, 1992, 106 Stat. 3342.)

REFERENCES IN TEXT

Section 506(a), referred to in subsecs. (a) and (b), is section 506(a) of Pub. L. 102–511, which was classified to section 5856(a) of this title and was omitted from the Code. Section 506(a) directed amendment of section 221 of Pub. L. 102–228, which was set out in a note under section 2551 of this title, but did not become effective, pursuant to section 5856(c) of this title. Section 221 of Pub. L. 102–228 was repealed by Pub. L. 113–291, div. A, title XIII, §1351(1), Dec. 19, 2014, 128 Stat. 3606.

The Soviet Nuclear Threat Reduction Act of 1991, referred to in subsec. (c)(2), is title II of Pub. L. 102–228, Dec. 12, 1991, 105 Stat. 1693. The reference to subtitle B of the Act probably means part B of the Act because title II of Pub. L. 102–228 does not contain a subtitle B. Part B was set out in a note under section 2551 of this title and was comprised of sections 211 and 212, which were repealed, respectively, by Pub. L. 110–181, div. A, title XIII, §1304(a)(1)(A), Jan. 28, 2008, 122 Stat. 412, and Pub. L. 113–291, div. A, title XIII, §1351(1), Dec. 19, 2014, 128 Stat. 3606. For complete classification of this Act to the Code, see Tables.

DELEGATION OF FUNCTIONS

For delegation of certain functions of the President under this section, see Memorandum of President of the United States, Apr. 21, 1994, 59 F.R. 21619, set out as a note under section 5854 of this title.

Authority of President under this section delegated to Secretary of Defense by section 2 of Memorandum of President of the United States, Dec. 30, 1992, 58 F.R. 3193, set out as a note under section 5852 of this title.

[1] *See References in Text note below.*

§5859. International nonproliferation initiative

(a) to (e) Omitted

(f) Avoidance of duplicative authorizations

This section shall not apply if the National Defense Authorization Act for Fiscal Year 1993 enacts the same authorities and requirements as are contained in this section and authorizes the appropriation of the same (or a greater) amount to carry out such authorities.

(Pub. L. 102–511, title V, §509, Oct. 24, 1992, 106 Stat. 3343.)

REFERENCES IN TEXT

The National Defense Authorization Act for Fiscal Year 1993, referred to in subsec. (f), is Pub. L. 102–484, Oct. 23, 1992, 106 Stat. 2315. For complete classification of this Act to the Code, see Tables. See Codification note below.

CODIFICATION

Section is comprised of section 509 of Pub. L. 102–511. Subsecs. (a) to (e) were omitted pursuant to subsec. (f) because section 1505 of the National Defense Authorization Act for Fiscal Year 1993, Pub. L. 102–484, which is classified to section 5859a of this title, enacted the same authorities and requirements as contained in subsecs. (a) to (e) and authorized the appropriation of the same or a greater amount to carry out such authorities.

§5859a. International nonproliferation initiative

(a) Assistance for international nonproliferation activities

Subject to the limitations and requirements provided in this section, the Secretary of Defense, under the guidance of the President, may provide assistance to support international nonproliferation activities.

(b) Activities for which assistance may be provided

Activities for which assistance may be provided under this section are activities such as the following:

(1) Activities carried out by international organizations that are designed to ensure more effective safeguards against proliferation and more effective verification of compliance with international agreements on nonproliferation.

(2) Activities of the Department of Defense in support of the United Nations Special Commission on Iraq (or any successor organization).

(3) Collaborative international nuclear security and nuclear safety projects to combat the threat of nuclear theft, terrorism, or accidents, including joint emergency response exercises, technical assistance, and training.

(4) Efforts to improve international cooperative monitoring of nuclear, biological, chemical, and missile proliferation through technical projects and improved information sharing.

(c) Form of assistance

(1) Assistance under this section may include funds and in-kind contributions of supplies, equipment, personnel, training, and other forms of assistance.

(2) Assistance under this section may be provided to international organizations in the form of funds only if the amount in the "Contributions to International Organizations" account of the Department of State is insufficient or otherwise unavailable to meet the United States fair share of assessments for international nuclear nonproliferation activities.

(3) No amount may be obligated for an expenditure under this section unless the Director of the Office of Management and Budget determines that the expenditure will be counted as discretionary spending in the national defense budget function (function 050).

(4) No assistance may be furnished under this section unless the Secretary of Defense determines and certifies to the Congress 30 days in advance that the provision of such assistance—

(A) is in the national security interest of the United States; and

(B) will not adversely affect the military preparedness of the United States.

(5) The authority to provide assistance under this section in the form of funds may be exercised only to the extent and in the amounts provided in advance in appropriations Act.

(d) Sources of assistance

(1) Funds provided as assistance under this section for any fiscal year shall be derived from amounts made available to the Department of Defense for that fiscal year. Funds provided as assistance under this section for a fiscal year may also be derived from balances in working capital accounts of the Department of Defense.

(2) Supplies and equipment provided as assistance under this section may be provided, by loan or donation, from existing stocks of the Department of Defense and the Department of Energy.

(3) The total amount of the assistance provided in the form of funds under this section, including funds used for activities of the Department of Defense in support of the United Nations Special Commission on Iraq, may not exceed $25,000,000 for fiscal year 1994, $20,000,000 for fiscal year 1995, $15,000,000 for fiscal year 1996, $15,000,000 for fiscal year 1997, or $15,000,000 for fiscal year 1998.

(4)(A) In the event of a significant unforeseen development related to the activities of the United Nations Special Commission on Iraq (or any successor organization) for which the Secretary of

Defense determines that financial assistance under this section is required at a level which would result in the total amount of assistance provided under this section during the then-current fiscal year exceeding the amount of any limitation provided by law on the total amount of such assistance for that fiscal year, the Secretary of Defense may provide such assistance with respect to that fiscal year notwithstanding that limitation. Funds for such purpose may be derived from any funds available to the Department of Defense for that fiscal year.

(B) Financial assistance may be provided under subparagraph (A) only after the Secretary of Defense provides notice in writing to the committees of Congress named in subsection (e)(2) of the significant unforeseen development and of the Secretary's intent to provide assistance in excess of the limitation for that fiscal year. However, if the Secretary determines in any case that under the specific circumstances of that case advance notice is not possible, such notice shall be provided as soon as possible and not later than 15 days after the date on which the assistance is provided. Any notice under this subparagraph shall include a description of the development, the amount of assistance provided or to be provided, and the source of the funds for that assistance.

(e) Quarterly report

(1) Not later than 30 days after the end of each quarter of a fiscal year during which the authority of the Secretary of Defense to provide assistance under this section is in effect, the Secretary of Defense shall transmit to the committees of Congress named in paragraph (2) a report of the activities to reduce the proliferation threat carried out under this section. Each report shall set forth (for the preceding quarter and cumulatively)—

(A) the amounts spent for such activities and the purposes for which they were spent;

(B) a description of the participation of the Department of Defense and the Department of Energy and the participation of other Government agencies in those activities; and

(C) a description of the activities for which the funds were spent.

(2) The committees of Congress to which reports under paragraph (1) are to be transmitted are—

(A) the Committee on Armed Services, the Committee on Appropriations, and the Committee on Foreign Relations of the Senate; and

(B) the Committee on Armed Services, the Committee on Appropriations, the Committee on International Relations, and the Committee on Commerce of the House of Representatives.

(f) Termination of authority

The authority of the Secretary of Defense to provide assistance under this section terminates at the close of fiscal year 2003.

(Pub. L. 102–484, div. A, title XV, §1505, Oct. 23, 1992, 106 Stat. 2569; Pub. L. 103–160, div. A, title XI, §1182(c)(5), title XVI, §1602, Nov. 30, 1993, 107 Stat. 1772, 1843; Pub. L. 103–337, div. A, title X, §1070(c)(1), title XV, §1501, Oct. 5, 1994, 108 Stat. 2857, 2914; Pub. L. 104–106, div. A, title XIV, §1403, title XV, §1502(c)(2)(B), Feb. 10, 1996, 110 Stat. 489, 507; Pub. L. 104–201, div. A, title XIII, §1301, Sept. 23, 1996, 110 Stat. 2700; Pub. L. 105–85, div. A, title XIII, §1308, Nov. 18, 1997, 111 Stat. 1956; Pub. L. 105–261, div. A, title XV, §1531(b), Oct. 17, 1998, 112 Stat. 2180; Pub. L. 106–65, div. A, title X, §1067(8), title XV, §1505(b), (c), Oct. 5, 1999, 113 Stat. 774, 808; Pub. L. 106–398, §1 [[div. A], title XII, §1201(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–324; Pub. L. 107–107, div. A, title XII, §1203(b), Dec. 28, 2001, 115 Stat. 1246; Pub. L. 107–314, div. A, title XII, §1204(b), Dec. 2, 2002, 116 Stat. 2664.)

CODIFICATION

Section was enacted as part of the Weapons of Mass Destruction Control Act of 1992 and also as part of the National Defense Authorization Act for Fiscal Year 1993, and not as part of the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992 or Freedom Support Act which comprises this chapter.

AMENDMENTS

2002—Subsec. (f). Pub. L. 107–314 substituted "2003" for "2002".

2001—Subsec. (f). Pub. L. 107–107 substituted "2002" for "2001".

2000—Subsec. (f). Pub. L. 106–398 substituted "2001" for "2000".

1999—Subsec. (b)(2). Pub. L. 106–65, §1505(c)(1), inserted "(or any successor organization)" after "United Nations Special Commission on Iraq".

Subsec. (d)(4)(A). Pub. L. 106–65, §1505(c)(2)(A), in first sentence, inserted "(or any successor organization)" after "United Nations Special Commission on Iraq" and substituted "the amount of any limitation provided by law on the total amount of such assistance for that fiscal year, the Secretary of Defense may provide such assistance with respect to that fiscal year notwithstanding that limitation." for "the amount specified with respect to that year under paragraph (3), the Secretary of Defense may provide such assistance notwithstanding the limitation with respect to that fiscal year under paragraph (3)."

Subsec. (d)(4)(B). Pub. L. 106–65, §1505(c)(2)(B), struck out "under paragraph (3)" after "for that fiscal year".

Subsec. (e)(2)(B). Pub. L. 106–65, §1067(8), substituted "Committee on Armed Services" for "Committee on National Security".

Subsec. (f). Pub. L. 106–65, §1505(b), substituted "2000" for "1999".

1998—Subsec. (f). Pub. L. 105–261 substituted "1999" for "1998".

1997—Subsec. (d)(3). Pub. L. 105–85, §1308(1), struck out "or" after "fiscal year 1996," and inserted ", or $15,000,000 for fiscal year 1998" before period at end.

Subsec. (f). Pub. L. 105–85, §1308(2), substituted "1998" for "1997".

1996—Subsec. (a). Pub. L. 104–106, §1403(a)(1), struck out "during fiscal years 1994 and 1995" before "the Secretary of Defense".

Subsec. (b)(2). Pub. L. 104–106, §1403(b)(1), substituted "the Department of Defense" for "the On-Site Inspection Agency".

Subsec. (c)(3). Pub. L. 104–106, §1403(b)(2), substituted "will be counted as discretionary spending in the national defense budget function (function 050)." for "will be counted against the defense category of the discretionary spending limits for fiscal year 1993 (as defined in section 665(a)(2) of title 2) for purposes of part C of the Balanced Budget and Emergency Deficit Control Act of 1985."

Subsec. (d)(1). Pub. L. 104–106, §1403(c)(1)(A), (B), substituted "for any fiscal year shall be derived from amounts made available to the Department of Defense for that fiscal year." for "for fiscal year 1994 shall be derived from amounts made available to the Department of Defense for fiscal year 1994. Funds provided as assistance under this section for fiscal year 1995 shall be derived from amounts made available to the Department of Defense for fiscal year 1995." and struck out "referred to in this paragraph" after "for a fiscal year".

Subsec. (d)(3). Pub. L. 104–201, §1301(a)(1), struck out "or" after "fiscal year 1995," and inserted ", or $15,000,000 for fiscal year 1997" before period at end.

Pub. L. 104–106, §1403(b)(1), (c)(2), struck out "may not exceed $$25,000,000 for fiscal year 1994 or $20,000,000 for fiscal year 1995" after "under this section", substituted "the Department of Defense" for "the On-Site Inspection Agency", and inserted before period at end ", may not exceed $25,000,000 for fiscal year 1994, $20,000,000 for fiscal year 1995, or $15,000,000 for fiscal year 1996".

Subsec. (d)(4). Pub. L. 104–201, §1301(b), added par. (4).

Subsec. (e)(1). Pub. L. 104–106, §1403(a)(2), substituted "a fiscal year during which the authority of the Secretary of Defense to provide assistance under this section is in effect" for "fiscal years 1994 and 1995".

Subsec. (e)(2)(B). Pub. L. 104–106, §1502(c)(2)(B), substituted "the Committee on National Security, the Committee on Appropriations, the Committee on International Relations, and the Committee on Commerce" for "the Committee on Armed Services, the Committee on Appropriations, the Committee on Foreign Affairs, and the Committee on Energy and Commerce".

Subsec. (f). Pub. L. 104–201, §1301(a)(2), substituted "1997" for "1996".

Pub. L. 104–106, §1403(a)(3), added subsec. (f).

1994—Subsec. (a). Pub. L. 103–337, §1501(a)(1), substituted "fiscal years 1994 and 1995" for "fiscal year 1994".

Subsec. (b)(1). Pub. L. 103–337, §1501(b)(1), substituted "international organizations" for "the International Atomic Energy Agency (IAEA)", struck out "nuclear" after "safeguards against", and substituted "effective verification" for "aggressive verification" and "international agreements on nonproliferation" for "the Treaty on the Non-Proliferation of Nuclear Weapons, done on July 1, 1968".

Subsec. (b)(4). Pub. L. 103–337, §1501(b)(2), substituted "nuclear, biological, chemical, and missile proliferation through technical projects and improved information sharing" for "nuclear proliferation through joint technical projects and improved intelligence sharing".

Subsec. (d)(1). Pub. L. 103–337, §1501(c)(1), inserted "for fiscal year 1994" after "under this section" and substituted "fiscal year 1994. Funds provided as assistance under this section for fiscal year 1995 shall be

derived from amounts made available to the Department of Defense for fiscal year 1995. Funds provided as assistance under this section for a fiscal year referred to in this paragraph may also be derived" for "fiscal year 1994 or".

Subsec. (d)(3). Pub. L. 103–337, §1501(c)(2), inserted "for fiscal year 1994 or $20,000,000 for fiscal year 1995".

Subsec. (e)(1). Pub. L. 103–337, §1501(a), substituted "fiscal years 1994 and 1995" for "fiscal year 1994".

Subsec. (e)(2). Pub. L. 103–337, §1070(c)(1), which directed amendment of subsec. (e)(2) by striking out "and under subsection (d)(4) of this section" effective as of Oct. 23, 1992, and as if included in the National Defense Authorization Act for Fiscal Year 1993 (Pub. L. 102–484), as enacted, was executed to subsec. (e)(2) as amended by Pub. L. 103–160, §1182(c)(5), to reflect the probable intent of Congress. See 1993 Amendment note below.

1993—Subsecs. (a), (d)(1). Pub. L. 103–160, §1602(a), substituted "fiscal year 1994" for "fiscal year 1993".

Subsec. (d)(3). Pub. L. 103–160, §1602(b)(2), struck out at end "Of such amount, not more than $20,000,000 may be used for the activities of the On-Site Inspection Agency in support of the United Nations Special Commission on Iraq."

Pub. L. 103–160, §1602(b)(1), substituted "$25,000,000, including funds used for activities of the On-Site Inspection Agency in support of the United Nations Special Commission on Iraq" for "40,000,000".

Subsec. (d)(4). Pub. L. 103–160, §1602(c), struck out par. (4) which read as follows: "Not less than 30 days before obligating any funds to provide assistance under this section, the Secretary of Defense shall transmit to the committees of Congress named in subsection (e)(2) of this section a report on the proposed obligation. Each such report shall specify—

"(A) the account, budget activity, and particular program or programs from which the funds proposed to be obligated are to be derived and the amount of the proposed obligation; and

"(B) the activities and forms of assistance for which the Secretary of Defense plans to obligate the funds."

Subsec. (e)(1). Pub. L. 103–160, §1602(a), substituted "fiscal year 1994" for "fiscal year 1993".

Subsec. (e)(2). Pub. L. 103–160, §1182(c)(5), substituted "(d)(4)" for "(d)(2)" in introductory provisions.

CHANGE OF NAME

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

Committee on Commerce of House of Representatives changed to Committee on Energy and Commerce of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred to Committee on Financial Services of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103–337, div. A, title X, §1070(c), Oct. 5, 1994, 108 Stat. 2857, provided in part that the amendment made by that section is effective as of Oct. 23, 1992, and as if included in the National Defense Authorization Act for Fiscal Year 1993, Pub. L. 102–484, as enacted.

§5860. Report on special nuclear materials

Not later than 180 days after October 24, 1992, the Secretary of State shall prepare, in consultation with the Secretary of Defense and the Secretary of Energy, and shall transmit to the Congress a report on the possible alternatives for the ultimate disposition of special nuclear materials of the former Soviet Union. This report shall include—

(1) a cost-benefit analysis comparing (A) the relative merits of the indefinite storage and safeguarding of such materials in the independent states of the former Soviet Union and (B) its acquisition by the United States by purchase, barter, or other means;

(2) a discussion of relevant issues such as the protection of United States uranium producers from dumping, the relative vulnerability of these stocks of special nuclear materials to illegal proliferation, and the potential electrical and other savings associated with their being made available in the fuel cycle in the United States; and

(3) a discussion of how highly enriched uranium stocks could be diluted for reactor fuel.

(Pub. L. 102–511, title V, §510, Oct. 24, 1992, 106 Stat. 3344.)

§5861. Research and Development Foundation

(a) Establishment

The Director of the National Science Foundation (hereinafter in this section referred to as the "Director") is authorized to establish an endowed, nongovernmental, nonprofit foundation (hereinafter in this section referred to as the "Foundation") in consultation with the Director of the National Institute of Standards and Technology.

(b) Purposes

The purposes of the Foundation shall be the following:

(1) To provide productive research and development opportunities within the independent states of the former Soviet Union that offer scientists and engineers alternatives to emigration and help prevent the dissolution of the technological infrastructure of the independent states.

(2) To advance defense conversion by funding civilian collaborative research and development projects between scientists and engineers in the United States and in the independent states of the former Soviet Union.

(3) To assist in the establishment of a market economy in the independent states of the former Soviet Union by promoting, identifying, and partially funding joint research, development, and demonstration ventures between United States businesses and scientists, engineers, and entrepreneurs in those independent states.

(4) To provide a mechanism for scientists, engineers, and entrepreneurs in the independent states of the former Soviet Union to develop an understanding of commercial business practices by establishing linkages to United States scientists, engineers, and businesses.

(5) To provide access for United States businesses to sophisticated new technologies, talented researchers, and potential new markets within the independent states of the former Soviet Union.

(c) Functions

In carrying out its purposes, the Foundation shall—

(1) promote and support joint research and development projects for peaceful purposes between scientists and engineers in the United States and independent states of the former Soviet Union on subjects of mutual interest; and

(2) seek to establish joint nondefense industrial research, development, and demonstration activities through private sector linkages which may involve participation by scientists and engineers in the university or academic sectors, and which shall include some contribution from industrial participants.

(d) Funding

(1) Use of certain Department of Defense funds

(A) To the extent funds appropriated to carry out subtitle E of title XIV of the National Defense Authorization Act for Fiscal Year 1993 [22 U.S.C. 5931] (relating to joint research and development programs with the independent states of the former Soviet Union) are otherwise available for such purpose, such funds may be made available to the Director for use by the Director in establishing the endowment of the Foundation and otherwise carrying out this section.

(B) For each fiscal year after fiscal year 1993, not more than 50 percent of the funds made available to the Foundation by the United States Government may be funds appropriated in the national defense budget function (function 050).

(2) Contribution to endowment by participating independent states

As a condition of participation in the Foundation, an independent state of the former Soviet Union must make a minimum contribution to the endowment of the Foundation, as determined by the Director, which shall reflect the ability of the independent state to make a financial contribution and its expected level of participation in the Foundation's programs.

(3) Debt conversions

To the extent provided in advance by appropriations Acts, local currencies or other assets resulting from government-to-government debt conversions may be made available to the Foundation. For purposes of this paragraph, the term "debt conversion" means an agreement whereby a country's government-to-government or commercial external debt burden is exchanged by the holder for local currencies, policy commitments, other assets, or other economic activities, or for an equity interest in an enterprise theretofore owned by the debtor government.

(4) Local currencies

In addition to other uses provided by law, and subject to agreement with the foreign government, local currencies generated by United States assistance programs may be made available to the Foundation.

(5) Investment of Government assistance

The Foundation may invest any revenue provided to it through United States Government assistance, and any interest earned on such investment may be used only for the purpose for which the assistance was provided.

(6) Other funds from Government and nongovernmental sources

The Foundation may accept such other funds as may be provided to it by Government agencies or nongovernmental entities.

(Pub. L. 102–511, title V, §511, Oct. 24, 1992, 106 Stat. 3345.)

REFERENCES IN TEXT

Subtitle E of title XIV of the National Defense Authorization Act for Fiscal Year 1993, referred to in subsec. (d)(1), is subtitle E of title XIV of div. A of Pub. L. 102–484, Oct. 23, 1992, 106 Stat. 2566, which is classified generally to subchapter IV (§5931) of chapter 68 of this title.

SUBCHAPTER V—SPACE TRADE AND COOPERATION

§5871. Facilitating discussions regarding acquisition of space hardware, technology, and services from former Soviet Union

(a) Expedited review

Any request for a license or other approval described in subsection (c) that is submitted to any United States Government agency by the National Aeronautics and Space Administration, any of its contractors, or any other person shall be considered on an expedited basis by that agency and any other agency involved in an applicable interagency review process.

(b) Notice to Congress if license denied

If any United States Government agency denies a request for a license or other approval described in subsection (c), that agency shall immediately notify the designated congressional committees. Each such notification shall include a statement of the reasons for the denial.

(c) Description of discussions

This section applies to a request for any license or other approval that may be necessary to conduct discussions with an independent state of the former Soviet Union with respect to the possible acquisition of any space hardware, space technology, or space service for integration into—

(1) United States space projects that have been approved by the Congress, or

(2) commercial space ventures,

including discussions relating to technical evaluation of such hardware, technology, or service.

(Pub. L. 102–511, title VI, §601, Oct. 24, 1992, 106 Stat. 3346.)

§5872. Office of Space Commerce

(a) Trade missions

The Office of Space Commerce of the Department of Commerce is authorized and encouraged to conduct one or more trade missions to appropriate independent states of the former Soviet Union for the purpose of familiarizing United States aerospace industry representatives with space hardware, space technologies, and space services that may be available from the independent states, and with the business practices and overall business climate in the independent states.

(b) Monitoring negotiations

The Office of Space Commerce—

(1) shall monitor the progress of any discussions described in section 5871(c)(1) of this title that are being conducted; and

(2) shall advise the Administrator of the National Aeronautics and Space Administration as to the impact on United States industry of each potential acquisition of space hardware, space technology, or space services from the independent states of the former Soviet Union, specifically including any anticompetitive issues the Office may observe.

(Pub. L. 102–511, title VI, §602, Oct. 24, 1992, 106 Stat. 3347.)

§5873. Report to Congress

Within one year after October 24, 1992, the President shall submit to the designated congressional committees a report describing—

(1) the opportunities for increased space-related trade with the independent states of the former Soviet Union;

(2) a technology procurement plan for identifying and evaluating all unique space hardware, space technology, and space services available to the United States from the independent states;

(3) specific space hardware, space technology, and space services that have been, or could be, the subject of discussions described in section 5871(c) of this title;

(4) the trade missions carried out pursuant to section 5872(a) of this title, including the private participation in and the results of such missions;

(5) any barriers, regulatory or practical, that inhibit space-related trade between the United States and independent states, including any such barriers in either the United States or the independent states; and

(6) any anticompetitive issues raised during the course of negotiations, as observed pursuant to section 5872(b) of this title.

(Pub. L. 102–511, title VI, §603, Oct. 24, 1992, 106 Stat. 3347.)

§5874. Definitions

For purposes of this subchapter—

(1) the term "contractor" means a National Aeronautics and Space Administration contractor to the extent that the acquisition of space hardware, space technology, or space services from the independent states of the former Soviet Union may be relevant to the contractor's responsibilities under the contract; and

(2) the term "designated congressional committees" means the Committee on Science, Space, and Technology and the Committee on Foreign Affairs of the House of Representatives and the Committee on Commerce, Science, and Transportation and the Committee on Foreign Relations of the Senate.

(Pub. L. 102–511, title VI, §604, Oct. 24, 1992, 106 Stat. 3348.)

CHAPTER 68—DEMILITARIZATION OF FORMER SOVIET UNION

SUBCHAPTER I—FINDINGS AND PROGRAM AUTHORITY

Sec.
5901. Demilitarization of independent states of former Soviet Union.
5902. Repealed.

SUBCHAPTER II—ADMINISTRATIVE AND FUNDING AUTHORITIES

5911. Administration of demilitarization programs.

SUBCHAPTER III—REPORTING REQUIREMENTS

5921. Repealed.
5922. Quarterly reports on programs.

SUBCHAPTER IV—JOINT RESEARCH AND DEVELOPMENT PROGRAMS

5931. Programs with states of former Soviet Union.

SUBCHAPTER I—FINDINGS AND PROGRAM AUTHORITY

§5901. Demilitarization of independent states of former Soviet Union

The Congress finds that it is in the national security interest of the United States—

(1) to facilitate, on a priority basis—

(A) the transportation, storage, safeguarding, and destruction of nuclear and other weapons of the independent states of the former Soviet Union, including the safe and secure storage of fissile materials, dismantlement of missiles and launchers, and the elimination of chemical and biological weapons capabilities;

(B) the prevention of proliferation of weapons of mass destruction and their components and destabilizing conventional weapons of the independent states of the former Soviet Union, and the establishment of verifiable safeguards against the proliferation of such weapons;

(C) the prevention of diversion of weapons-related scientific expertise of the former Soviet Union to terrorist groups or third countries; and

(D) other efforts designed to reduce the military threat from the former Soviet Union;

(2) to support the demilitarization of the massive defense-related industry and equipment of the independent states of the former Soviet Union and conversion of such industry and equipment to civilian purposes and uses; and

(3) to expand military-to-military contacts between the United States and the independent states of the former Soviet Union.

(Pub. L. 102–484, div. A, title XIV, §1411, Oct. 23, 1992, 106 Stat. 2563.)

SHORT TITLE

Pub. L. 102–484, div. A, title XIV, §1401, Oct. 23, 1992, 106 Stat. 2563, provided that: "This title [enacting this chapter and amending provisions set out as a note under section 2551 of this title] may be cited as the 'Former Soviet Union Demilitarization Act of 1992'."

POLICY ON REDUCTION OF RUSSIAN NUCLEAR FORCES

Pub. L. 106–38, §3, July 22, 1999, 113 Stat. 205, provided that: "It is the policy of the United States to seek continued negotiated reductions in Russian nuclear forces."

NUCLEAR WEAPONS REDUCTION

Pub. L. 102–484, div. A, title XIII, §1321, Oct. 23, 1992, 106 Stat. 2549, provided that:

"(a) FINDINGS.—The Congress makes the following findings:

"(1) On February 1, 1992, the President of the United States and the President of the Russian Federation agreed in a Joint Statement that 'Russia and the United States do not regard each other as potential adversaries' and stated further that, 'We will work to remove any remnants of cold war hostility, including taking steps to reduce our strategic arsenals'.

"(2) In the Treaty on the Non-Proliferation of Nuclear Weapons, in exchange for the non-nuclear-weapon states agreeing not to seek a nuclear weapons capability nor to assist other non-nuclear-weapon states in doing so, the United States agreed to seek the complete elimination of all nuclear weapons worldwide, as declared in the preamble to the Treaty, which states that it is a goal of the parties to the Treaty to 'facilitate the cessation of the manufacture of nuclear weapons, the liquidation of all their existing stockpiles, and the elimination from national arsenals of nuclear weapons and the means of their delivery' as well as in Article VI of the Treaty, which states that 'each of the parties to the Treaty undertakes to pursue negotiations in good faith on effective measures relating to the cessation of the nuclear arms race at an early date and to nuclear disarmament'.

"(3) Carrying out a policy of seeking further significant and continuous reductions in the nuclear arsenals of all countries, besides reducing the likelihood of the proliferation of nuclear weapons and increasing the likelihood of a successful extension and possible strengthening of the Treaty on the Non-Proliferation of Nuclear Weapons in 1995, when the Treaty is scheduled for review and possible extension, has additional benefits to the national security of the United States, including—

"(A) a reduced risk of accidental enablement and launch of a nuclear weapon, and

"(B) a defense cost savings which could be reallocated for deficit reduction or other important national needs.

"(4) The Strategic Arms Reduction Talks (START) Treaty and the agreement by the President of the United States and the President of the Russian Federation on June 17, 1992, to reduce the strategic nuclear arsenals of each country to a level between 3,000 and 3,500 weapons are commendable intermediate stages in the process of achieving the policy goals described in paragraphs (1) and (2).

"(5) The current international era of cooperation provides greater opportunities for achieving worldwide reduction and control of nuclear weapons and material than any time since the emergence of nuclear weapons 50 years ago.

"(6) It is in the security interests of both the United States and the world community for the President and the Congress to begin the process of reducing the number of nuclear weapons in every country through multilateral agreements and other appropriate means.

"(7) In a 1991 study, a committee of the National Academy of Sciences concluded that: 'The appropriate new levels of nuclear weapons cannot be specified at this time, but it seems reasonable to the committee that U.S. strategic forces could in time be reduced to 1,000–2,000 nuclear warheads, provided that such a multilateral agreement included appropriate levels and verification measures for the other nations that possess nuclear weapons. This step would require successful implementation of our proposed post-START U.S.-Soviet reductions, related confidence-building measures in all the countries involved, and multilateral security cooperation in areas such as conventional force deployments and planning.'.

"(b) UNITED STATES POLICY.—It shall be the goal of the United States—

"(1) to encourage and facilitate the denuclearization of Ukraine, Byelarus, and Kazakhstan, as agreed upon in the Lisbon ministerial meeting of May 23, 1992;

"(2) to rapidly complete and submit for ratification by the United States the treaty incorporating the agreement of June 17, 1992, between the United States and the Russian Federation to reduce the number of strategic nuclear weapons in each country's arsenal to a level between 3,000 and 3,500;

"(3) to facilitate the ability of the Russian Federation, Ukraine, Byelarus, and Kazakhstan to implement agreed mutual reductions under the START Treaty, and under the Joint Understanding of June 16–17, 1992 between the United States and the Russian Federation, on an accelerated timetable, so that all such reductions can be completed by the year 2000;

"(4) to build on the agreement reached in the Joint Understanding of June 16–17, 1992, by entering into multilateral negotiations with the Russian Federation, the United Kingdom, France, and the People's Republic of China, and, at an appropriate point in that process, enter into negotiations with other nuclear armed states in order to reach subsequent stage-by-stage agreements to achieve further reductions in the number of nuclear weapons in all countries;

"(5) to continue and extend cooperative discussions with the appropriate authorities of the former Soviet military on means to maintain and improve secure command and control over nuclear forces;

"(6) in consultation with other member countries of the North Atlantic Treaty Organization and other allies, to initiate discussions to bring tactical nuclear weapons into the arms control process; and

"(7) to ensure that the United States assistance to securely transport and store, and ultimately dismantle, former Soviet nuclear weapons and missiles for such weapons is being properly and effectively utilized.

"(c) ANNUAL REPORT.—By February 1 of each year, the President shall submit to the Congress a report on—

"(1) the actions that the United States has taken, and the actions the United States plans to take during the next 12 months, to achieve each of the goals set forth in paragraphs (1) through (6) of subsection (b); and

"(2) the actions that have been taken by the Russian Federation, by other former Soviet republics, and by other countries to achieve those goals.

Each such report shall be submitted in unclassified form, with a classified appendix if necessary."

§5902. Repealed. Pub. L. 113–291, div. A, title XIII, §1351(2), Dec. 19, 2014, 128 Stat. 3606

Section, Pub. L. 102–484, div. A, title XIV, §1412, Oct. 23, 1992, 106 Stat. 2563, authorized the President to establish and conduct programs to assist the demilitarization of the independent states of the former Soviet Union.

SUBCHAPTER II—ADMINISTRATIVE AND FUNDING AUTHORITIES

§5911. Administration of demilitarization programs

(a) Funding

(1) In recognition of the direct contributions to the national security interests of the United States of the activities specified in section 5902 of this title, funds transferred under sections 108 and 109 of Public Law 102–229 (105 Stat. 1708) are authorized to be made available to carry out this chapter. Of the amount available to carry out this chapter—

(A) not more than $40,000,000 may be made available for programs referred to in section 5902(b)(4) of this title relating to demilitarization of defense industries;

(B) not more than $15,000,000 may be made available for programs referred to in section 5902(b)(6) of this title relating to military-to-military contacts;

(C) not more than $25,000,000 may be made available for joint research development programs pursuant to section 5931 of this title;

(D) not more than $10,000,000 may be made available for the study, assessment, and identification of nuclear waste disposal activities by the former Soviet Union in the Arctic region;

(E) not more than $25,000,000 may be made available for Project PEACE; and

(F) not more than $10,000,000 may be made available for the Volunteers Investing in Peace and Security (VIPS) program under chapter 89 [1] of title 10.

(2), (3) Omitted.

(b) Omitted

(Pub. L. 102–484, div. A, title XIV, §1421, Oct. 23, 1992, 106 Stat. 2564.)

REFERENCES IN TEXT

Sections 108 and 109 of Public Law 102–229 (105 Stat. 1708), referred to in subsec. (a)(1), are not classified to the Code.

Chapter 89 of title 10, referred to in subsec. (a)(1)(F), was repealed by Pub. L. 104–106, div. A, title X, §1061(a)(1), Feb. 10, 1996, 110 Stat. 442.

CODIFICATION

Section is comprised of section 1421 of Pub. L. 102–484. Subsec. (a)(2) and (3) of section 1421 of Pub. L. 102–484 amended section 221 of Pub. L. 102–228, which was set out in a note under section 2551 of this title and was repealed by Pub. L. 113–291, div. A, title XIII, §1351(1), Dec. 19, 2014, 128 Stat. 3606. Subsec. (b) of section 1421 of Pub. L. 102–484 amended sections 108 and 109 of Pub. L. 102–229, which are not classified to the Code.

[1] *See References in Text note below.*

SUBCHAPTER III—REPORTING REQUIREMENTS

§5921. Repealed. Pub. L. 113–291, div. A, title XIII, §1351(2), Dec. 19, 2014, 128 Stat. 3606

Section, Pub. L. 102–484, div. A, title XIV, §1431, Oct. 23, 1992, 106 Stat. 2565, required the President to submit a report to Congress prior to obligating any funds for programs under this chapter.

§5922. Quarterly reports on programs

Not later than 30 days after the end of the last fiscal year quarter of fiscal year 1992 and not later than 30 days after the end of each fiscal year quarter of fiscal year 1993, the President shall transmit to the Congress a report on the activities carried out under this chapter. Each such report shall set forth, for the preceding fiscal year quarter and cumulatively, the following:

(1) The amounts expended for such activities and the purposes for which they were expended.

(2) The source of the funds obligated for such activities, specified by program.

(3) A description of the participation of all United States Government departments and agencies and the United States private sector in such activities.

(4) A description of the activities carried out under this chapter and the forms of assistance provided under this chapter, including, with respect to proposed industrial demilitarization projects, additional information on the progress toward demilitarization of facilities and the conversion of the demilitarized facilities to civilian activities.

(5) Such other information as the President considers appropriate to fully inform the Congress concerning the operation of the programs authorized under this chapter.

(Pub. L. 102–484, div. A, title XIV, §1432, Oct. 23, 1992, 106 Stat. 2566.)

DELEGATION OF AUTHORITY

Authority of President under this section delegated to Secretary of Defense by section 2 of Memorandum of President of the United States, Dec. 30, 1992, 58 F.R. 3193, set out as a note under section 5852 of this title.

SUBCHAPTER IV—JOINT RESEARCH AND DEVELOPMENT PROGRAMS

§5931. Programs with states of former Soviet Union

The Congress encourages the Secretary of Defense to participate actively in joint research and development programs with the independent states of the former Soviet Union through the nongovernmental foundation established for this purpose by section 5861 of this title. To that end, the Secretary of Defense may spend those funds authorized in section 5911(a)(1)(C) of this title for support, technical cooperation, in-kind assistance, and other activities with the following purposes:

(1) To advance defense conversion by funding civilian collaborative research and development projects between scientists and engineers in the United States and in the independent states of the former Soviet Union.

(2) To assist the establishment of a market economy in the independent states of the former Soviet Union by promoting, identifying, and partially funding joint research, development, and demonstration ventures between United States businesses and scientists, engineers, and entrepreneurs in those independent states.

(3) To provide a mechanism for scientists, engineers, and entrepreneurs in the independent states of the former Soviet Union to develop an understanding of commercial business practices by establishing linkages to United States scientists, engineers, and businesses.

(4) To provide access for United States businesses to sophisticated new technologies, talented researchers, and potential new markets within the independent states of the former Soviet Union.

(5) To provide productive research and development opportunities within the independent states of the former Soviet Union that offer scientists and engineers alternatives to emigration and help prevent proliferation of weapons technologies and the dissolution of the technological infrastructure of those states.

(Pub. L. 102–484, div. A, title XIV, §1441, Oct. 23, 1992, 106 Stat. 2566; Pub. L. 103–160, div. A, title XI, §1182(c)(4), Nov. 30, 1993, 107 Stat. 1772.)

AMENDMENTS

1993—Pub. L. 103–160 made technical amendment to reference to section 5861 of this title to correct reference to corresponding section of original Act.

CHAPTER 68A—COOPERATIVE THREAT REDUCTION WITH STATES OF FORMER SOVIET UNION

Sec.

5951. Findings on cooperative threat reduction.
5952, 5953. Repealed.
5954. Funding for fiscal year 1994.
5955 to 5957. Repealed.
5958. Authorization for additional fiscal year 1993 assistance to independent states of the former Soviet Union.
5959 to 5961. Repealed.
5961a. Requirement for on-site managers.
5962 to 5965. Repealed.

§5951. Findings on cooperative threat reduction

The Congress finds that it is in the national security interest of the United States for the United States to do the following:

(1) Facilitate, on a priority basis, the transportation, storage, safeguarding, and elimination of nuclear and other weapons of the independent states of the former Soviet Union, including—

(A) the safe and secure storage of fissile materials derived from the elimination of nuclear weapons;

(B) the dismantlement of (i) intercontinental ballistic missiles and launchers for such missiles, (ii) submarine-launched ballistic missiles and launchers for such missiles, and (iii) heavy bombers; and

(C) the elimination of chemical, biological and other weapons capabilities.

(2) Facilitate, on a priority basis, the prevention of proliferation of weapons (and components of weapons) of mass destruction and destabilizing conventional weapons of the independent states of

the former Soviet Union and the establishment of verifiable safeguards against the proliferation of such weapons and components.

(3) Facilitate, on a priority basis, the prevention of diversion of weapons-related scientific expertise of the independent states of the former Soviet Union to terrorist groups or third world countries.

(4) Support (A) the demilitarization of the defense-related industry and equipment of the independent states of the former Soviet Union, and (B) the conversion of such industry and equipment to civilian purposes and uses.

(5) Expand military-to-military and defense contacts between the United States and the independent states of the former Soviet Union.

(Pub. L. 103–160, div. A, title XII, §1202, Nov. 30, 1993, 107 Stat. 1777.)

SHORT TITLE OF 2003 AMENDMENT

Pub. L. 108–136, div. C, title XXXVI, §3601, Nov. 24, 2003, 117 Stat. 1822, provided that: "This title [enacting provisions set out as notes under this section and sections 1928, 5959, and 6321 of this title] may be cited as the 'Nuclear Security Initiative Act of 2003'."

SHORT TITLE

Pub. L. 103–160, div. A, title XII, §1201, Nov. 30, 1993, 107 Stat. 1777, provided that: "This title [enacting this chapter] may be cited as the 'Cooperative Threat Reduction Act of 1993'."

CONGRESSIONAL NOTIFICATION

Pub. L. 113–66, div. A, title XII, §1246(c)(3), Dec. 26, 2013, 127 Stat. 924, as amended by Pub. L. 113–291, div. A, title XII, §1243(3), Dec. 19, 2014, 128 Stat. 3564, which required that the Secretary of Defense notify certain congressional committees of the Secretary's intent to provide the Russian Federation with any sensitive missile defense information not less than 7 days prior to the provision of such information, including an explanation of the reasons for providing the information and the reasons why providing the information would not compromise United States national security, was repealed by Pub. L. 114–92, div. A, title XVI, §1671(b)(1), Nov. 25, 2015, 129 Stat. 1130.

BRIEFINGS TO CONGRESSIONAL COMMITTEES

Pub. L. 113–66, div. A, title XII, §1251(b), Dec. 26, 2013, 127 Stat. 926, provided that: "Prior to signing an executive agreement with the Russian Federation relating to ballistic missile defense, the President, or the President's designee, shall brief the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] and the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives on the objectives and contents of the executive agreement."

SENSE OF CONGRESS ON AGREEMENTS BETWEEN THE UNITED STATES AND THE RUSSIAN FEDERATION ON NUCLEAR ARMS, MISSILE DEFENSE SYSTEMS, AND LONG-RANGE CONVENTIONAL STRIKE SYSTEMS

Pub. L. 112–239, div. A, title XII, §1282, Jan. 2, 2013, 126 Stat. 2034, as amended by Pub. L. 114–92, div. A, title X, §1076(c), Nov. 25, 2015, 129 Stat. 998, provided that: "It is the sense of Congress that any agreement between the United States and the Russian Federation related to nuclear arms, missile defense systems, or long-range conventional strike systems obligating the United States to reduce or limit the Armed Forces or armaments of the United States in any militarily significant manner may be made only pursuant to the treaty-making power of the President as set forth in Article II, section 2, clause 2 of the Constitution of the United States."

SHARING OF CLASSIFIED UNITED STATES BALLISTIC MISSILE DEFENSE INFORMATION WITH THE RUSSIAN FEDERATION

Pub. L. 112–81, div. A, title XII, §1244, Dec. 31, 2011, 125 Stat. 1646, provided that:

"(a) NOTIFICATION.—No classified United States ballistic missile defense information may be made available to the Russian Federation unless, 60 days prior to any instance in which the United States Government plans to provide such information to the Russian Federation, the President provides notification thereof to the appropriate congressional committees.

"(b) ELEMENTS OF NOTIFICATION.—Each notification provided pursuant to subsection (a) shall include the following:

"(1) A detailed description of the classified United States ballistic missile defense information to be provided.

"(2) An explanation of the national security interest in providing the information to the Russian Federation and any provisions for reciprocal sharing by the Russian Federation with the United States on its defensive systems.

"(3) A certification that providing the information is consistent with United States national disclosure policy as of the date of enactment of this Act [Dec. 31, 2011] and that the decision to provide the information was made pursuant to a national disclosure policy review.

"(4) If applicable, a detailed explanation of whether any exceptions to national disclosure policy were required in order to provide the information to the Russian Federation and why such exceptions were required.

"(5) A certification that adequate measures are in place to protect the information from unauthorized disclosure. The certification shall include a description of the manner in which the information will be protected from unauthorized sharing or transfer to third parties as well as an analysis of the risks to the capabilities of the United States ballistic missile defense system if the information is shared or transferred to an unauthorized third party.

"(c) FORM.—Each notification provided pursuant to subsection (a) shall be submitted in unclassified form, but may include a classified annex.

"(d) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—For the purposes of this section, the term 'appropriate congressional committees' means—

"(1) the Committee on Armed Services and the Committee on Foreign Relations of the Senate; and

"(2) the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives.

"(e) CLASSIFIED UNITED STATES BALLISTIC MISSILE DEFENSE INFORMATION DEFINED .—For the purposes of this section, the term 'classified United States ballistic missile defense information' means information related to United States ballistic missile defenses that is classified as of, or after, the date of enactment of this Act [Dec. 31, 2011]."

ESTABLISHMENT OF INTERPARLIAMENTARY THREAT REDUCTION WORKING GROUP

Pub. L. 108–136, div. C, title XXXVI, §3622, Nov. 24, 2003, 117 Stat. 1824, provided that:

"(a) ESTABLISHMENT OF WORKING GROUP.—There is hereby established a working group to be known as the 'Threat Reduction Working Group' as an interparliamentary group of the Congress of the United States and the legislature of the Russian Federation.

"(b) PURPOSE OF WORKING GROUP.—The purpose of the working group established by subsection (a) shall be to explore means to enhance cooperation between the United States and the Russian Federation with respect to nuclear nonproliferation and security and such other issues related to reducing the dangers of weapons of mass destruction as the members of the working group consider appropriate.

"(c) MEMBERSHIP.—(1) The majority leader of the Senate, after consultation with the minority leader of the Senate, shall appoint not more than 10 Senators to the working group established by subsection (a).

"(2) The Speaker of the House of Representatives, after consultation with the minority leader of the House of Representatives, shall appoint not more than 30 Members of the House to the working group."

TRANSFER TO NATIONAL NUCLEAR SECURITY ADMINISTRATION OF DEPARTMENT OF DEFENSE'S COOPERATIVE THREAT REDUCTION PROGRAM RELATING TO ELIMINATION OF WEAPONS GRADE PLUTONIUM PRODUCTION IN RUSSIA

Pub. L. 107–314, div. C, title XXXI, §3151, Dec. 2, 2002, 116 Stat. 2736, as amended by Pub. L. 108–375, div. C, title XXXI, §3135, Oct. 28, 2004, 118 Stat. 2170, provided that:

"(a) TRANSFER OF PROGRAM.—There are hereby transferred to the Administrator for Nuclear Security the following:

"(1) The program, within the Cooperative Threat Reduction program of the Department of Defense, relating to the elimination of weapons grade plutonium production in Russia.

"(2) All functions, powers, duties, and activities of that program performed before the date of the enactment of this Act [Dec. 2, 2002] by the Department of Defense.

"(b) TRANSFER OF ASSETS.—(1) Notwithstanding any restriction or limitation in law on the availability of Cooperative Threat Reduction funds specified in paragraph (2), so much of the property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with the program transferred by subsection (a) are transferred to the Administrator for use in connection with the program transferred.

"(2) The Cooperative Threat Reduction funds specified in this paragraph are the following:

"(A) Fiscal year 2002 Cooperative Threat Reduction funds, as specified in section 1301(b) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1254; 22 U.S.C. 5952 note).

"(B) Fiscal year 2001 Cooperative Threat Reduction funds, as specified in section 1301(b) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–339; 22 U.S.C. 5959 note).

"(C) Fiscal year 2000 Cooperative Threat Reduction funds, as specified in section 1301(b) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 792; 22 U.S.C. 5952 note).

"(c) AVAILABILITY OF TRANSFERRED FUNDS.—(1) Notwithstanding any restriction or limitation in law on the availability of Cooperative Threat Reduction funds specified in subsection (b)(2), the Cooperative Threat Reduction funds transferred under subsection (b) for the program referred to in subsection (a) shall be available for activities as follows:

"(A) To design and construct, refurbish, or both, fossil fuel energy plants in Russia that provide alternative sources of energy to the energy plants in Russia that produce weapons grade plutonium.

"(B) To carry out limited safety upgrades of not more than three energy plants in Russia that produce weapons grade plutonium, provided that such upgrades do not extend the life of those plants.

"(2) Amounts available under paragraph (1) for activities referred to in that paragraph shall remain available for obligation for three fiscal years.

"(d) LIMITATION.—(1) Of the amounts authorized to be appropriated by this title or any other Act for the program referred to in subsection (a), the Administrator for Nuclear Security may not obligate any funds for construction, or obligate or expend more than $100,000,000 for that program, until 30 days after the later of—

"(A) the date on which the Administrator submits to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives], the Committee on International Relations [now Committee on Foreign Affairs] of the House of Representatives, and the Committee on Foreign Relations of the Senate, a copy of an agreement or agreements entered into between the United States Government and the Government of the Russian Federation to shut down the three plutonium-producing reactors in Russia as specified under paragraph (2); and

"(B) the date on which the Administrator submits to the committees specified in subparagraph (A) a report on a plan to achieve international participation in the program referred to in subsection (a), including cost sharing.

"(2) The agreement (or agreements) under paragraph (1)(A) shall contain—

"(A) a commitment to shut down the three plutonium-producing reactors;

"(B) the date on which each such reactor will be shut down;

"(C) a schedule and milestones for each such reactor to complete the shutdown of such reactor by the date specified under subparagraph (B);

"(D) a schedule and milestones for refurbishment or construction of fossil fuel energy plants to be undertaken by the Government of the Russian Federation in support of the program;

"(E) an arrangement for access to sites and facilities necessary to meet such schedules and milestones;

"(F) an arrangement for audit and examination procedures in order to evaluate progress in meeting such schedules and milestones; and

"(G) any cost sharing arrangements between the United States Government and the Government of the Russian Federation in undertaking activities under such agreement (or agreements).

"(e) INTERNATIONAL PARTICIPATION IN PROGRAM.—(1) In order to achieve international participation in the program referred to in subsection (a), the Secretary of Energy may, in consultation with the Secretary of State, enter into one or more agreements with any person, foreign government, or other international organization that the Secretary considers appropriate for the contribution of funds by such person, government, or organization for purposes of the program.

"(2) Notwithstanding section 3302 of title 31, United States Code, and subject to paragraphs (3) and (4), the Secretary may retain and utilize any amounts contributed by a person, government, or organization under an agreement under paragraph (1) for purposes of the program without further appropriation and without fiscal year limitation.

"(3) The Secretary may not utilize under paragraph (2) any amount contributed under an agreement under paragraph (1) until 30 days after the date on which the Secretary notifies the congressional defense

committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] of the intent to utilize such amount, including the source of such amount and the proposed purpose for which such amount will be utilized.

"(4) If any amount contributed under paragraph (1) has not been utilized within five years of receipt under that paragraph, the Secretary shall return such amount to the person, government, or organization contributing such amount under that paragraph.

"(5) Not later than 30 days after the receipt of any amount contributed under paragraph (1), the Secretary shall submit to the congressional defense committees a notice of the receipt of such amount.

"(6) Not later than October 31 each year, the Secretary shall submit to the congressional defense committees a report on the receipt and utilization of amounts under this subsection during the preceding fiscal year. Each report for a fiscal year shall set forth—

"(A) a statement of any amounts received under this subsection, including the source of each such amount; and

"(B) a statement of any amounts utilized under this subsection, including the purpose for which such amounts were utilized.

"(7) The authority of the Secretary to accept and utilize amounts under this subsection shall expire on December 31, 2011."

ACCELERATED DISPOSITION OF HIGHLY ENRICHED URANIUM

Pub. L. 107–314, div. C, title XXXI, §3157, Dec. 2, 2002, 116 Stat. 2740, provided that:

"(a) PROGRAM ON ACCELERATED DISPOSITION OF HEU AUTHORIZED.—(1) The Secretary of Energy may carry out a program to pursue with the Russian Federation options for blending highly enriched uranium so that the concentration of U–235 in such uranium is below 20 percent.

"(2) The options pursued under paragraph (1) shall include expansion of the Material Consolidation and Conversion program of the Department of Energy to include—

"(A) additional facilities for the blending of highly enriched uranium; and

"(B) additional centralized secure storage facilities for highly enriched uranium designated for blending.

"(3) Any site selected for the storage of uranium or blended material under paragraph (2)(B) shall undergo complete materials protection, control, and accounting upgrades before the commencement of the storage of uranium or blended material at such site under the program.

"(b) CONSTRUCTION WITH HEU DISPOSITION AGREEMENT.—Nothing in this section may be construed as terminating, modifying, or otherwise affecting requirements for the disposition of highly enriched uranium under the Agreement Between the Government of the United States of America and the Government of the Russian Federation Concerning the Disposition of Highly Enriched Uranium Extracted from Nuclear Weapons, signed at Washington on February 18, 1993.

"(c) LIMITATION ON RELEASE FOR SALE OF BLENDED URANIUM.—Uranium blended under this section may not be released for sale until the earlier of—

"(1) January 1, 2014; or

"(2) the date on which the Secretary certifies that such uranium can be absorbed into the global market without undue disruption to the uranium mining, conversion, and enrichment industry in the United States.

"(d) AMOUNT FOR ACTIVITIES.—Of the amount to be appropriated by section 3101(a)(2) [116 Stat. 2729] for the Department of Energy for the National Nuclear Security Administration for defense nuclear nonproliferation, up to $10,000,000 may be available for carrying out this section."

PLAN FOR ACCELERATED RETURN OF WEAPONS-USABLE NUCLEAR MATERIALS

Pub. L. 107–314, div. C, title XXXI, §3160, Dec. 2, 2002, 116 Stat. 2742, provided that:

"(a) PLAN FOR ACCELERATED RETURN.—The Secretary of Energy shall work with the Russian Federation to develop a plan to accelerate the return to Russia of all weapons-usable nuclear materials located in research reactors and other facilities outside Russia that were supplied by the former Soviet Union.

"(b) FUNDING AND SCHEDULES.—As part of the plan under subsection (a), the Secretary shall identify the funding and schedules required to assist the research reactors and facilities referred to in that subsection in—

"(1) transferring highly enriched uranium to Russia; and

"(2) upgrading the materials protection, control, and accounting procedures at such research reactors and facilities until the weapons-usable nuclear materials in such reactors and facilities are returned in accordance with that subsection.

"(c) COORDINATION.—The provision of assistance under subsection (b) shall be closely coordinated with the International Atomic Energy Agency."

PLAN FOR SECURING NUCLEAR WEAPONS, MATERIAL, AND EXPERTISE OF THE STATES OF THE FORMER SOVIET UNION

Pub. L. 107–107, div. A, title XII, §1205, Dec. 28, 2001, 115 Stat. 1247, as amended by Pub. L. 107–314, div. A, title XII, §1205, Dec. 2, 2002, 116 Stat. 2664, provided that:

"(a) PLAN REQUIRED.—Not later than June 15, 2002, the President shall submit to Congress a plan, that has been developed in coordination with all relevant Federal agencies—

"(1) for cooperating with Russia on disposing, as soon as practicable, of nuclear weapons and weapons-usable nuclear material in Russia that Russia does not retain in its nuclear arsenals;

"(2) for assisting Russia in downsizing its nuclear weapons research and production complex;

"(3) for cooperating with the other states of the former Soviet Union on disposing, as soon as practicable, of all nuclear weapons and weapons-usable nuclear material in such states; and

"(4) for preventing the outflow from the states of the former Soviet Union of scientific expertise that could be used for developing nuclear weapons, other weapons of mass destruction, and delivery systems for such weapons.

"(b) CONTENT OF PLAN.—The plan required by subsection (a) shall include the following:

"(1) Specific goals and measurable objectives for programs that are designed to carry out the objectives described in subsection (a).

"(2) Criteria for success for such programs, and a strategy for eventual termination of United States contributions to such programs and assumption of the ongoing support of those programs by others.

"(3) A description of any administrative and organizational changes necessary to improve the coordination and effectiveness of such programs. In particular, the plan shall include consideration of the creation of an interagency committee that would have primary responsibilities within the executive branch for—

"(A) monitoring United States nonproliferation efforts in the states of the former Soviet Union;

"(B) coordinating the implementation of United States policy with respect to such efforts; and

"(C) recommending to the President integrated policies, budget options, and private sector and international contributions for such programs.

"(4) An estimate of the cost of carrying out such programs.

"(c) CONSULTATION.—In developing the plan required by subsection (a), the President—

"(1) is encouraged to consult with the relevant states of the former Soviet Union regarding the practicality of various options; and

"(2) shall consult with the majority and minority leadership of the appropriate committees of Congress.

"(d) ANNUAL REPORT ON IMPLEMENTATION OF PLAN.—(1) Not later than January 31, 2003, and each year thereafter, the President shall submit to Congress a report on the implementation of the plan required by subsection (a) during the preceding year.

"(2) Each report under paragraph (1) shall include—

"(A) a discussion of progress made during the year covered by such report in the matters of the plan required by subsection (a);

"(B) a discussion of consultations with foreign nations, and in particular the Russian Federation, during such year on joint programs to implement the plan;

"(C) a discussion of cooperation, coordination, and integration during such year in the implementation of the plan among the various departments and agencies of the United States Government, as well as private entities that share objectives similar to the objectives of the plan; and

"(D) any recommendations that the President considers appropriate regarding modifications to law or regulations, or to the administration or organization of any Federal department or agency, in order to improve the effectiveness of any programs carried out during such year in the implementation of the plan."

[Functions of President under section 1205(d) of Pub. L. 107–107, set out above, delegated to Secretary of State by Memorandum of President of the United States, Nov. 2, 2005, 70 F.R. 72055.]

RUSSIAN NONSTRATEGIC NUCLEAR ARMS

Pub. L. 106–65, div. A, title XIII, §1312, Oct. 5, 1999, 113 Stat. 796, as amended by Pub. L. 106–398, §1 [[div. A], title XIII, §1308(g)(3)], Oct. 30, 2000, 114 Stat. 1654, 1654A–343, provided that: "It is the sense of Congress that—

"(1) it is in the interest of Russia to fully implement the Presidential Nuclear Initiatives announced in 1991 and 1992 by then-President of the Soviet Union Gorbachev and then-President of Russia Yeltsin;

"(2) the President of the United States should call on Russia to match the unilateral reductions in the United States inventory of tactical nuclear weapons, which have reduced the inventory by nearly 90 percent; and

"(3) if the re-certification under section 1310 [113 Stat. 795] is made, the President should emphasize the continued interest of the United States in working cooperatively with Russia to reduce the dangers associated with Russia's tactical nuclear arsenal."

LIMITATION ON USE OF FUNDS FOR CHEMICAL WEAPONS DESTRUCTION ACTIVITIES IN RUSSIA

Pub. L. 105–261, div. A, title XIII, §1304, Oct. 17, 1998, 112 Stat. 2163, provided that:

"(a) LIMITATION.—Subject to the limitation in section 1405(b) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1961), no funds authorized to be appropriated for Cooperative Threat Reduction programs under this Act [see Tables for classification] or any other Act may be obligated or expended for chemical weapons destruction activities in Russia (including activities for the planning, design, or construction of a chemical weapons destruction facility or for the dismantlement of an existing chemical weapons production facility) until the President submits to Congress a written certification described in subsection (b).

"(b) PRESIDENTIAL CERTIFICATION.—A certification under this subsection is either of the following certifications by the President:

"(1) A certification that—

"(A) Russia is making reasonable progress toward the implementation of the Bilateral Destruction Agreement;

"(B) the United States and Russia have made substantial progress toward the resolution, to the satisfaction of the United States, of outstanding compliance issues under the Wyoming Memorandum of Understanding and the Bilateral Destruction Agreement; and

"(C) Russia has fully and accurately declared all information regarding its unitary and binary chemical weapons, chemical weapons facilities, and other facilities associated with chemical weapons.

"(2) A certification that the national security interests of the United States could be undermined by a policy of the United States not to carry out chemical weapons destruction activities under Cooperative Threat Reduction programs for which funds are authorized to be appropriated under this Act or any other Act for fiscal year 1999.

"(c) DEFINITIONS.—In this section:

"(1) The term 'Bilateral Destruction Agreement' means the Agreement Between the United States of America and the Union of Soviet Socialist Republics on Destruction and Non-production of Chemical Weapons and on Measures to Facilitate the Multilateral Convention on Banning Chemical Weapons signed on June 1, 1990.

"(2) The term 'Wyoming Memorandum of Understanding' means the Memorandum of Understanding Between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics Regarding a Bilateral Verification Experiment and Data Exchange Related to Prohibition on Chemical Weapons, signed at Jackson Hole, Wyoming, on September 23, 1989."

[Memorandum of President of the United States, July 16, 1999, 64 F.R. 40503, delegated to Secretary of Defense authority of President under section 1304(b)(2) of Public Law 105–261, set out above.]

Similar provisions were contained in the following prior authorization acts:

Pub. L. 105–85, div. A, title XIV, §1406, Nov. 18, 1997, 111 Stat. 1961.

Pub. L. 104–106, div. A, title XII, §1209, Feb. 10, 1996, 110 Stat. 472.

CONGRESSIONAL REPORTS ON COOPERATIVE THREAT REDUCTION PROGRAMS

Pub. L. 104–106, div. A, title XII, §§1201, 1205, 1206, Feb. 10, 1996, 110 Stat. 469, 470, 471, as amended by Pub. L. 104–201, div. A, title XIV, §1431, Sept. 23, 1996, 110 Stat. 2726; Pub. L. 106–65, div. A, title X, §1067(6), title XIII, §1311, Oct. 5, 1999, 113 Stat. 774, 796; Pub. L. 106–398, §1 [[div. A], title XIII, §1308(g)(1)(C)], Oct. 30, 2000, 114 Stat. 1654, 1654A–343; Pub. L. 113–291, div. A, title XIII, §1351(4), Dec. 19, 2014, 128 Stat. 3607, provided that:

"SEC. 1201. SPECIFICATION OF COOPERATIVE THREAT REDUCTION PROGRAMS.

"(a) IN GENERAL.—For purposes of section 301 [110 Stat. 245] and other provisions of this Act [see Tables for classification], Cooperative Threat Reduction programs are the programs specified in subsection (b).

"(b) SPECIFIED PROGRAMS.—The programs referred to in subsection (a) are the following programs with respect to states of the former Soviet Union:

"(1) Programs to facilitate the elimination, and the safe and secure transportation and storage, of nuclear, chemical, and other weapons, fissile material suitable for use in nuclear weapons, and their delivery vehicles.

"(2) Programs to facilitate the safe and secure storage of fissile materials derived from the elimination of nuclear weapons.

"(3) Programs to prevent the proliferation of weapons, weapons components, and weapons-related technology and expertise.

"(4) Programs to expand military-to-military and defense contacts.

"[SEC. 1205. REPEALED. PUB. L. 113–291, DIV. A, TITLE XIII, §1351(4), DEC. 19, 2014, 128 STAT. 3607.]

"[SEC. 1206. REPEALED. PUB. L. 106–398, §1 [[DIV. A], TITLE XIII, §1308(G)(1)(C)], OCT. 30, 2000, 114 STAT. 1654, 1654A–343.]"

CONDITION ON ASSISTANCE TO RUSSIA FOR CONSTRUCTION OF PLUTONIUM STORAGE FACILITY

Pub. L. 103–160, div. A, title XVI, §1612, Nov. 30, 1993, 107 Stat. 1850, provided:

"(a) LIMITATION.—Until a certification under subsection (b) is made, no funds may be obligated or expended by the United States for the purpose of assisting the Ministry of Atomic Energy of Russia to construct a storage facility for surplus plutonium from dismantled weapons.

"(b) CERTIFICATION OF RUSSIA'S COMMITMENT TO HALT CHEMICAL SEPARATION OF WEAPON-GRADE PLUTONIUM.—The prohibition in subsection (a) shall cease to apply upon a certification by the President to Congress that Russia—

"(1) is committed to halting the chemical separation of weapon-grade plutonium from spent nuclear fuel; and

"(2) is taking all practical steps to halt such separation at the earliest possible date.

"(c) SENSE OF CONGRESS ON PLUTONIUM POLICY.—It is the sense of Congress that a key objective of the United States with respect to the nonproliferation of nuclear weapons should be to obtain a clear and unequivocal commitment from the Government of Russia that it will (1) cease all production and separation of weapon-grade plutonium, and (2) halt chemical separation of plutonium produced in civil nuclear power reactors.

"(d) REPORT.—Not later than June 1, 1994, the President shall submit to Congress a report on the status of efforts by the United States to secure the commitments and achieve the objective described in subsections (b) and (c). The President shall include in the report a discussion of the status of joint efforts by the United States and Russia to replace any remaining Russian plutonium production reactors with alternative power sources or to convert such reactors to operation with alternative fuels that would permit their operation without generating weapon-grade plutonium."

[Memorandum of President of the United States, Mar. 10, 1994, 59 F.R. 14079, delegated to Secretary of State authority and duty of President under section 1612(b) and (d) of Public Law 103–160 set out above.]

§§5952, 5953. Repealed. Pub. L. 113–291, div. A, title XIII, §1351(3), Dec. 19, 2014, 128 Stat. 3607

Section 5952, Pub. L. 103–160, div. A, title XII, §1203, Nov. 30, 1993, 107 Stat. 1778; Pub. L. 107–314, div. A, title XIII, §1306(c), formerly §1306(e), Dec. 2, 2002, 116 Stat. 2673, renumbered §1306(c), Pub. L. 109–163, div. A, title XIII, §1303(2), Jan. 6, 2006, 119 Stat. 3474; Pub. L. 110–53, title XVIII, §1811(2), Aug. 3, 2007, 121 Stat. 492; Pub. L. 110–181, div. A, title XIII, §1304(a)(2), Jan. 28, 2008, 122 Stat. 412, related to authority for programs to facilitate cooperative threat reduction.

Section 5953, Pub. L. 103–160, div. A, title XII, §1204, Nov. 30, 1993, 107 Stat. 1779, authorized designation of Demilitarization Enterprise Fund.

UTILIZATION OF CONTRIBUTIONS TO THE COOPERATIVE THREAT REDUCTION PROGRAM

Pub. L. 111–84, div. A, title XIII, §1303, Oct. 28, 2009, 123 Stat. 2557, as amended by Pub. L. 113–66, div. A, title XIII, §1303, Dec. 26, 2013, 127 Stat. 931, which authorized the Secretary of Defense, through Dec. 31, 2018, to enter into agreements with any person (including a foreign government, international organization, multinational entity, or any other entity) under which the person would contribute funds for activities conducted under the Cooperative Threat Reduction Program, was repealed by Pub. L. 113–291, div. A, title XIII, §1351(12)(A), Dec. 19, 2014, 128 Stat. 3607.

COOPERATIVE THREAT REDUCTION DEFENSE AND MILITARY CONTACTS PROGRAM

Pub. L. 111–84, div. A, title XIII, §1306(a), Oct. 28, 2009, 123 Stat. 2560, which set out standards for the administration of the Defense and Military Contacts Program under the Cooperative Threat Reduction Program, was repealed by Pub. L. 113–291, div. A, title XIII, §1351(12)(C), Dec. 19, 2014, 128 Stat. 3607.

LIMITED WAIVER OF RESTRICTIONS ON USE OF FUNDS FOR THREAT REDUCTION IN STATES OF THE FORMER SOVIET UNION

Pub. L. 107–314, div. A, title XIII, §1306(a)–(d), Dec. 2, 2002, 116 Stat. 2673, as amended by Pub. L. 109–163, div. A, title XIII, §1303(1), Jan. 6, 2006, 119 Stat. 3474, which authorized the President to waive the restrictions and eligibility requirements set out in former section 5952(d) of this title for the obligation and expenditure of funds under that section for assistance to an independent state of the former Soviet Union, was repealed by Pub. L. 113–291, div. A, title XIII, §1351(10), Dec. 19, 2014, 128 Stat. 3607.

REQUIREMENT TO CONSIDER USE OF REVENUE GENERATED BY ACTIVITIES CARRIED OUT UNDER COOPERATIVE THREAT REDUCTION PROGRAMS

Pub. L. 107–107, div. A, title XIII, §1304, Dec. 28, 2001, 115 Stat. 1255, which required that the Secretary of Defense consider the use of revenue generated by activities carried out under Cooperative Threat Reduction programs in negotiating and executing contracts with Russia to carry out such programs, was repealed by Pub. L. 113–291, div. A, title XIII, §1351(9), Dec. 19, 2014, 128 Stat. 3607.

LIMITATION ON USE OF FUNDS FOR CERTAIN PURPOSES

Pub. L. 107–314, div. A, title XIII, §1305, Dec. 2, 2002, 116 Stat. 2673, which prohibited the use of funds appropriated for Cooperative Threat Reduction programs for the design, planning, or construction of a second wing for a storage facility for Russian fissile material, was repealed by Pub. L. 113–291, div. A, title XIII, §1351(10), Dec. 19, 2014, 128 Stat. 3607.

Pub. L. 106–398, §1 [[div. A], title XIII, §1303], Oct. 30, 2000, 114 Stat. 1654, 1654A–340, which prohibited the obligation or expenditure of funds appropriated for Cooperative Threat Reduction programs for the elimination of conventional weapons or the delivery vehicles primarily intended to deliver such weapons, was repealed by Pub. L. 113–291, div. A, title XIII, §1351(8)(A), Dec. 19, 2014, 128 Stat. 3607.

Pub. L. 106–398, §1 [[div. A], title XIII, §1304], Oct. 30, 2000, 114 Stat. 1654, 1654A–340, as amended by Pub. L. 107–107, div. A, title XIII, §1305(b), Dec. 28, 2001, 115 Stat. 1255, which limited the use of funds appropriated for Cooperative Threat Reduction programs for the planning, design, or construction of the first wing for the storage facility for Russian fissile material referred to in section 1302(a)(5) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (114 Stat. 1654–339) to not more than $412,600,000, was repealed by Pub. L. 113–291, div. A, title XIII, §1351(8)(A), Dec. 19, 2014, 128 Stat. 3607.

REQUIREMENT TO SUBMIT SUMMARY OF AMOUNTS REQUESTED BY PROJECT CATEGORY

Pub. L. 105–261, div. A, title XIII, §1307, Oct. 17, 1998, 112 Stat. 2165, as amended by Pub. L. 108–375, div. A, title XIII, §1304, Oct. 28, 2004, 118 Stat. 2094, which required that the Secretary of Defense submit to Congress an annual descriptive summary of the appropriations requested for Cooperative Threat Reduction programs and the obligation or expenditure of such appropriations for the previous fiscal year, was repealed by Pub. L. 113–291, div. A, title XIII, §1351(6), Dec. 19, 2014, 128 Stat. 3607.

§5954. Funding for fiscal year 1994

(a) Authorization of appropriations

Funds authorized to be appropriated under section 301(21) [1] shall be available for cooperative threat reduction with states of the former Soviet Union under this chapter.

(b) Limitations

(1) Not more than $15,000,000 of the funds referred to in subsection (a) may be made available for programs authorized in subsection (b)(6) of section 5952 [1] of this title.

(2) Not more than $20,000,000 of such funds may be made available for programs authorized in subsection (b)(7) of section 5952 [1] of this title.

(3) Not more than $40,000,000 of such funds may be made available for grants to the

Demilitarization Enterprise Fund designated pursuant to section 5953 [1] of this title and for related administrative expenses.

(c) Authorization of extension of availability of prior year funds

To the extent provided in appropriations Acts, the authority to transfer funds of the Department of Defense provided in section 9110(a) of the Department of Defense Appropriations Act, 1993 (Public Law 102–396; 106 Stat. 1928), and in section 108 of Public Law 102–229 (105 Stat. 1708) shall continue to be in effect during fiscal year 1994.

(Pub. L. 103–160, div. A, title XII, §1205, Nov. 30, 1993, 107 Stat. 1781.)

REFERENCES IN TEXT

Section 301(21), referred to in subsec. (a), means section 301(21) of Pub. L. 103–160, div. A, title III, Nov. 30, 1993, 107 Stat. 1616, which is not classified to the Code.

Sections 5952 and 5953 of this title, referred to in subsec. (b), were repealed by Pub. L. 113–291, div. A, title XIII, §1351(3), Dec. 19, 2014, 128 Stat. 3607.

Section 9110(a) of the Department of Defense Appropriations Act, 1993, referred to in subsec. (c), is section 9110(a) of Pub. L. 102–396, title IX, Oct. 6, 1992, 106 Stat. 1928, which is not classified to the Code.

Section 108 of Public Law 102–229, referred to in subsec. (c), is section 108 of Pub. L. 102–229, title I, Dec. 12, 1991, 105 Stat. 1708, as amended, which is not classified to the Code.

[1] *See References in Text note below.*

§5955. Repealed. Pub. L. 113–291, div. A, title XIII, §1351(3), Dec. 19, 2014, 128 Stat. 3607

Section, Pub. L. 103–160, div. A, title XII, §1206, Nov. 30, 1993, 107 Stat. 1781, related to prior notice to Congress of obligation of funds for cooperative threat reduction programs.

§5956. Repealed. Pub. L. 106–398, §1 [[div. A], title XIII, §1308(g)(1)(A)], Oct. 30, 2000, 114 Stat. 1654, 1654A–343

Section, Pub. L. 103–160, div. A, title XII, §1207, Nov. 30, 1993, 107 Stat. 1782; Pub. L. 103–337, div. A, title XII, §§1202, 1208(b), Oct. 5, 1994, 108 Stat. 2882, 2887; Pub. L. 104–106, div. A, title XV, §1504(a)(7), Feb. 10, 1996, 110 Stat. 513, required submission of semiannual report.

§5957. Repealed. Pub. L. 113–291, div. A, title XIII, §1351(3), Dec. 19, 2014, 128 Stat. 3607

Section, Pub. L. 103–160, div. A, title XII, §1208, Nov. 30, 1993, 107 Stat. 1782, defined "appropriate congressional committees" for this chapter.

§5958. Authorization for additional fiscal year 1993 assistance to independent states of the former Soviet Union

(a) Authorization of appropriations

There is hereby authorized to be appropriated for fiscal year 1993 for "Operation and Maintenance, Defense Agencies" the additional sum of $979,000,000, to be available for the purposes of providing assistance to the independent states of the former Soviet Union.

(b) Authorization of transfer of funds

The Secretary of Defense may, to the extent provided in appropriations Acts, transfer from the

account "Operation and Maintenance, Defense Agencies" for fiscal year 1993 a sum not to exceed the amount appropriated pursuant to the authorization in subsection (a) to—

(1) other accounts of the Department of Defense for the purpose of providing assistance to the independent states of the former Soviet Union; or

(2) appropriations available to the Department of State and other agencies of the United States Government for the purpose of providing assistance to the independent states of the former Soviet Union for programs that the President determines will increase the national security of the United States.

(c) Administrative provisions

(1) Amounts transferred under subsection (b) shall be available subject to the same terms and conditions as the appropriations to which transferred.

(2) The authority to make transfers pursuant to this section is in addition to any other transfer authority of the Department of Defense.

(d) Coordination of programs

The President shall coordinate the programs described in subsection (b) with those authorized in the other provisions of this chapter and in the provisions of the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992 (Public Law 102–511) so as to optimize the contribution such programs make to the national interests of the United States.

(Pub. L. 103–160, div. A, title XII, §1209, Nov. 30, 1993, 107 Stat. 1782.)

REFERENCES IN TEXT

The Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992, referred to in subsec. (d), is Pub. L. 102–511, Oct. 24, 1992, 106 Stat. 3320, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

§5959. Repealed. Pub. L. 113–291, div. A, title XIII, §1351(8)(C), Dec. 19, 2014, 128 Stat. 3607

Section, Pub. L. 106–398, §1 [[div. A], title XIII, §1308], Oct. 30, 2000, 114 Stat. 1654, 1654A–341; Pub. L. 107–107, div. A, title XIII, §§1307, 1309, Dec. 28, 2001, 115 Stat. 1256, 1257; Pub. L. 107–314, div. A, title XIII, §1304(a), Dec. 2, 2002, 116 Stat. 2672; Pub. L. 108–136, div. A, title X, §1045(c)(2), Nov. 24, 2003, 117 Stat. 1613; Pub. L. 109–163, div. A, title XIII, §1305, Jan. 6, 2006, 119 Stat. 3474; Pub. L. 111–84, div. A, title XIII, §1306(b), Oct. 28, 2009, 123 Stat. 2560; Pub. L. 111–383, div. A, title X, §1075(d)(20), Jan. 7, 2011, 124 Stat. 4374; Pub. L. 112–81, div. A, title X, §1066(d), Dec. 31, 2011, 125 Stat. 1589, required reports on activities and assistance under cooperative threat reduction programs.

§§5960, 5961. Repealed. Pub. L. 113–291, div. A, title XIII, §1351(11), Dec. 19, 2014, 128 Stat. 3607

Section 5960, Pub. L. 108–136, div. A, title XIII, §1303, Nov. 24, 2003, 117 Stat. 1659, related to limitation on use of funds for Cooperative Threat Reduction programs until certain permits obtained.

Section 5961, Pub. L. 108–136, div. A, title XIII, §1305, Nov. 24, 2003, 117 Stat. 1660, related to requirement to appoint on-site managers before obligating any Cooperative Threat Reduction funds for certain projects.

§5961a. Requirement for on-site managers

(a) On-site manager requirement

Before obligating any defense nuclear nonproliferation funds for a project described in subsection (b), the Secretary of Energy shall appoint one on-site manager for that project. The manager shall be appointed from among employees of the Federal Government.

(b) Projects covered

Subsection (a) applies to a project—

(1) to be located in a state of the former Soviet Union;

(2) which involves dismantlement, destruction, or storage facilities, or construction of a facility; and

(3) with respect to which the total contribution by the Department of Energy is expected to exceed $50,000,000.

(c) Duties of on-site manager

The on-site manager appointed under subsection (a) shall—

(1) develop, in cooperation with representatives from governments of countries participating in the project, a list of those steps or activities critical to achieving the project's disarmament or nonproliferation goals;

(2) establish a schedule for completing those steps or activities;

(3) meet with all participants to seek assurances that those steps or activities are being completed on schedule; and

(4) suspend United States participation in a project when a non-United States participant fails to complete a scheduled step or activity on time, unless directed by the Secretary of Energy to resume United States participation.

(d) Authority to manage more than one project

(1) Subject to paragraph (2), an employee of the Federal Government may serve as on-site manager for more than one project, including projects at different locations.

(2) If such an employee serves as on-site manager for more than one project in a fiscal year, the total cost of the projects for that fiscal year may not exceed $150,000,000.

(e) Steps or activities

Steps or activities referred to in subsection (c)(1) are those activities that, if not completed, will prevent a project from achieving its disarmament or nonproliferation goals, including, at a minimum, the following:

(1) Identification and acquisition of permits (as defined in subsection (g)).

(2) Verification that the items, substances, or capabilities to be dismantled, secured, or otherwise modified are available for dismantlement, securing, or modification.

(3) Timely provision of financial, personnel, management, transportation, and other resources.

(f) Notification to Congress

In any case in which the Secretary of Energy directs an on-site manager to resume United States participation in a project under subsection (c)(4), the Secretary shall concurrently notify Congress of such direction.

(g) Permit defined

In this section, the term "permit" means any local or national permit for development, general construction, environmental, land use, or other purposes that is required in the state of the former Soviet Union in which the project is being or is proposed to be carried out.

(h) Effective date

This section shall take effect six months after November 24, 2003.

(Pub. L. 108–136, div. C, title XXXI, §3125, Nov. 24, 2003, 117 Stat. 1748.)

CODIFICATION

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 2004, and not as part of the Cooperative Threat Reduction Act of 1993 which comprises this chapter.

§§5962, 5963. Repealed. Pub. L. 113–291, div. A, title XIII, §1351(11), Dec. 19,

2014, 128 Stat. 3607

Section 5962, Pub. L. 108–136, div. A, title XIII, §1307, Nov. 24, 2003, 117 Stat. 1661, related to annual certifications on use of facilities being constructed for Cooperative Threat Reduction projects or activities.

Section 5963, Pub. L. 108–136, div. A, title XIII, §1308, Nov. 24, 2003, 117 Stat. 1662; Pub. L. 110–53, title XVIII, §1811(4), Aug. 3, 2007, 121 Stat. 493; Pub. L. 110–181, div. A, title XIII, §1305, Jan. 28, 2008, 122 Stat. 413, related to authority to use Cooperative Threat Reduction funds outside the former Soviet Union.

§§5964, 5965. Repealed. Pub. L. 113–291, div. A, title XIII, §1351(12)(B), Dec. 19, 2014, 128 Stat. 3607

Section 5964, Pub. L. 111–84, div. A, title XIII, §1304, Oct. 28, 2009, 123 Stat. 2558, related to metrics for the Cooperative Threat Reduction Program.

Section 5965, Pub. L. 111–84, div. A, title XIII, §1305, Oct. 28, 2009, 123 Stat. 2559, related to Cooperative Threat Reduction Program authority for urgent threat reduction activities.

CHAPTER 69—CUBAN DEMOCRACY

Sec.

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§6001. Findings

The Congress makes the following findings:

(1) The government of Fidel Castro has demonstrated consistent disregard for internationally accepted standards of human rights and for democratic values. It restricts the Cuban people's exercise of freedom of speech, press, assembly, and other rights recognized by the Universal Declaration of Human Rights adopted by the General Assembly of the United Nations on December 10, 1948. It has refused to admit into Cuba the representative of the United Nations Human Rights Commission appointed to investigate human rights violations on the island.

(2) The Cuban people have demonstrated their yearning for freedom and their increasing opposition to the Castro government by risking their lives in organizing independent, democratic activities on the island and by undertaking hazardous flights for freedom to the United States and other countries.

(3) The Castro government maintains a military-dominated economy that has decreased the well-being of the Cuban people in order to enable the government to engage in military interventions and subversive activities throughout the world and, especially, in the Western Hemisphere. These have included involvement in narcotics trafficking and support for the FMLN guerrillas in El Salvador.

(4) There is no sign that the Castro regime is prepared to make any significant concessions to democracy or to undertake any form of democratic opening. Efforts to suppress dissent through intimidation, imprisonment, and exile have accelerated since the political changes that have occurred in the former Soviet Union and Eastern Europe.

(5) Events in the former Soviet Union and Eastern Europe have dramatically reduced Cuba's

external support and threaten Cuba's food and oil supplies.

(6) The fall of communism in the former Soviet Union and Eastern Europe, the now universal recognition in Latin America and the Caribbean that Cuba provides a failed model of government and development, and the evident inability of Cuba's economy to survive current trends, provide the United States and the international democratic community with an unprecedented opportunity to promote a peaceful transition to democracy in Cuba.

(7) However, Castro's intransigence increases the likelihood that there could be a collapse of the Cuban economy, social upheaval, or widespread suffering. The recently concluded Cuban Communist Party Congress has underscored Castro's unwillingness to respond positively to increasing pressures for reform either from within the party or without.

(8) The United States cooperated with its European and other allies to assist the difficult transitions from Communist regimes in Eastern Europe. Therefore, it is appropriate for those allies to cooperate with United States policy to promote a peaceful transition in Cuba.

(Pub. L. 102–484, div. A, title XVII, §1702, Oct. 23, 1992, 106 Stat. 2575.)

EFFECTIVE DATE

Pub. L. 102–484, div. A, title XVII, §1712, Oct. 23, 1992, 106 Stat. 2581, provided that: "This title [enacting this chapter, amending section 4315 of Title 50, War and National Defense, and enacting provisions set out as a note below] shall take effect on the date of the enactment of this Act [Oct. 23, 1992]."

SHORT TITLE

Pub. L. 102–484, div. A, title XVII, §1701, Oct. 23, 1992, 106 Stat. 2575, provided that: "This title [enacting this chapter, amending section 4315 of Title 50, War and National Defense, and enacting provisions set out as a note above] may be cited as the 'Cuban Democracy Act of 1992'."

EX. ORD. NO. 12854. IMPLEMENTATION OF CUBAN DEMOCRACY ACT

Ex. Ord. No. 12854, July 4, 1993, 58 F.R. 36587, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Trading with the Enemy Act, as amended (50 U.S.C. App. 1–6, 7–39, 41–44)) [now 50 U.S.C. 4301 et seq.], the Cuban Democracy Act of 1992 (Public Law 102–484, sections 1701–1712, October 23, 1992, 106 Stat. 2575) (the "Act") [22 U.S.C. 6001 et seq.], and section 301 of title 3, United States Code,

I, WILLIAM J. CLINTON, President of the United States of America, hereby order:

SECTION 1. *Implementation of the Act*. All agencies are hereby directed to take all appropriate measures within their authority, including the promulgation of rules and regulations, to carry out the provisions of the Act.

SEC. 2. *Functions of the Department of State*. The Secretary of State shall be responsible for implementing sections 1704, 1707, and 1708 of the Act [22 U.S.C. 6003, 6006, 6007]. Responsibility for transmitting the certification required by section 1707 and the report required by section 1708 of the Act is delegated to the Secretary of State.

SEC. 3. *Functions of the Department of the Treasury*. Except as provided in section 4 of this order, the Secretary of the Treasury shall be responsible for implementing sections 1705(b)–(e) and 1706 [22 U.S.C. 6004(b)–(e), 6005] of the Act, to the extent that these sections pertain to transactions with Cuba.

SEC. 4. *Functions of the Department of Commerce*. The Secretary of Commerce shall be responsible for implementing sections 1705(b)–(e) of the Act, to the extent that these sections pertain to the exportation to Cuba from the United States or from a third country of goods and technology subject to the jurisdiction of the Department of Commerce.

SEC. 5. *Consultation*. In consultation with the Secretary of State, the Secretary of the Treasury and the Secretary of Commerce are hereby authorized to take such actions, including the promulgation of rules and regulations, as may be necessary to carry out the purposes of the Act and this order.

SEC. 6. Nothing in this order shall be deemed to affect any functions vested by law in the Federal Communications Commission.

SEC. 7. *Effective Date*. This order shall be effective immediately.

WILLIAM J. CLINTON.

§6002. Statement of policy

It should be the policy of the United States—

(1) to seek a peaceful transition to democracy and a resumption of economic growth in Cuba through the careful application of sanctions directed at the Castro government and support for the Cuban people;

(2) to seek the cooperation of other democratic countries in this policy;

(3) to make clear to other countries that, in determining its relations with them, the United States will take into account their willingness to cooperate in such a policy;

(4) to seek the speedy termination of any remaining military or technical assistance, subsidies, or other forms of assistance to the Government of Cuba from any of the independent states of the former Soviet Union;

(5) to continue vigorously to oppose the human rights violations of the Castro regime;

(6) to maintain sanctions on the Castro regime so long as it continues to refuse to move toward democratization and greater respect for human rights;

(7) to be prepared to reduce the sanctions in carefully calibrated ways in response to positive developments in Cuba;

(8) to encourage free and fair elections to determine Cuba's political future;

(9) to request the speedy termination of any military or technical assistance, subsidies, or other forms of assistance to the Government of Cuba from the government of any other country; and

(10) to initiate immediately the development of a comprehensive United States policy toward Cuba in a post-Castro era.

(Pub. L. 102–484, div. A, title XVII, §1703, Oct. 23, 1992, 106 Stat. 2576.)

§6003. International cooperation

(a) Cuban trading partners

The President should encourage the governments of countries that conduct trade with Cuba to restrict their trade and credit relations with Cuba in a manner consistent with the purposes of this chapter.

(b) Sanctions against countries assisting Cuba

(1) Sanctions

The President may apply the following sanctions to any country that provides assistance to Cuba:

(A) The government of such country shall not be eligible for assistance under the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.] or assistance or sales under the Arms Export Control Act [22 U.S.C. 2751 et seq.].

(B) Such country shall not be eligible, under any program, for forgiveness or reduction of debt owed to the United States Government.

(2) "Assistance to Cuba" defined

For purposes of paragraph (1), the term "assistance to Cuba"—

(A) means assistance to or for the benefit of the Government of Cuba that is provided by grant, concessional sale, guaranty, or insurance, or by any other means on terms more favorable than that generally available in the applicable market, whether in the form of a loan, lease, credit, or otherwise, and such term includes subsidies for exports to Cuba and favorable tariff treatment of articles that are the growth, product, or manufacture of Cuba;

(B) includes an exchange, reduction, or forgiveness of Cuban debt owed to a foreign country in return for a grant of an equity interest in a property, investment, or operation of the Government of Cuba (including the government of any political subdivision of Cuba, and any agency or instrumentality of the Government of Cuba) or of a Cuban national; and

(C) does not include—

(i) donations of food to nongovernmental organizations or individuals in Cuba, or

(ii) exports of medicines or medical supplies, instruments, or equipment that would be permitted under section 6004(c) of this title.

As used in this paragraph, the term "agency or instrumentality of the Government of Cuba" means an agency or instrumentality of a foreign state as defined in section 1603(b) of title 28, with each reference in such section to "a foreign state" deemed to be a reference to "Cuba".

(3) Applicability of section

This section, and any sanctions imposed pursuant to this section, shall cease to apply at such time as the President makes and reports to the Congress a determination under section 6007(a) of this title.

(Pub. L. 102–484, div. A, title XVII, §1704, Oct. 23, 1992, 106 Stat. 2576; Pub. L. 104–114, title I, §102(f), Mar. 12, 1996, 110 Stat. 793.)

REPEAL OF SECTION

Pub. L. 104–114, title II, §204(d)(3), Mar. 12, 1996, 110 Stat. 810, provided that on date on which President submits determination under section 6063(c)(3) of this title that democratically elected government in Cuba is in power, this section is repealed.

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsec. (b)(1)(A), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, which is classified principally to chapter 32 (§2151 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

The Arms Export Control Act, referred to in subsec. (b)(1)(A), is Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1320, as amended, which is classified principally to chapter 39 (§2751 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

AMENDMENTS

1996—Subsec. (b)(2). Pub. L. 104–114, §102(f), added subpar. (B), redesignated former subpar. (B) as (C), and inserted concluding provisions "As used in this paragraph, the term 'agency or instrumentality of the Government of Cuba' means an agency or instrumentality of a foreign state as defined in section 1603(b) of title 28, with each reference in such section to 'a foreign state' deemed to be a reference to 'Cuba'."

§6004. Support for Cuban people

(a) Provisions of law affected

The provisions of this section apply notwithstanding any other provision of law, including section 2370(a) of this title, and notwithstanding the exercise of authorities, before October 23, 1992, under section 5(b) of the Trading With the Enemy Act [50 U.S.C. 4305(b)], the International Emergency Economic Powers Act [50 U.S.C. 1701 et seq.], or the Export Administration Act of 1979 [50 U.S.C. 4601 et seq.].

(b) Donations of food

Nothing in this or any other Act shall prohibit donations of food to nongovernmental organizations or individuals in Cuba.

(c) Exports of medicines and medical supplies

Exports of medicines or medical supplies, instruments, or equipment to Cuba shall not be restricted—

(1) except to the extent such restrictions would be permitted under section 5(m) of the Export Administration Act of 1979 [50 U.S.C. App. 2404(m)] or section 203(b)(2) of the International Emergency Economic Powers Act [50 U.S.C. 1702(b)(2)];

(2) except in a case in which there is a reasonable likelihood that the item to be exported will be used for purposes of torture or other human rights abuses;

(3) except in a case in which there is a reasonable likelihood that the item to be exported will be

reexported; and

(4) except in a case in which the item to be exported could be used in the production of any biotechnological product.

(d) Requirements for certain exports

(1) Onsite verifications

(A) Subject to subparagraph (B), an export may be made under subsection (c) only if the President determines that the United States Government is able to verify, by onsite inspections and other appropriate means, that the exported item is to be used for the purposes for which it was intended and only for the use and benefit of the Cuban people.

(B) Subparagraph (A) does not apply to donations to nongovernmental organizations in Cuba of medicines for humanitarian purposes.

(2) Licenses

Exports permitted under subsection (c) shall be made pursuant to specific licenses issued by the United States Government.

(e) Telecommunications services and facilities

(1) Telecommunications services

Telecommunications services between the United States and Cuba shall be permitted.

(2) Telecommunications facilities

Telecommunications facilities are authorized in such quantity and of such quality as may be necessary to provide efficient and adequate telecommunications services between the United States and Cuba.

(3) Licensing of payments to Cuba

(A) The President may provide for the issuance of licenses for the full or partial payment to Cuba of amounts due Cuba as a result of the provision of telecommunications services authorized by this subsection, in a manner that is consistent with the public interest and the purposes of this chapter, except that this paragraph shall not require any withdrawal from any account blocked pursuant to regulations issued under section 5(b) of the Trading With the Enemy Act [50 U.S.C. 4305(b)].

(B) If only partial payments are made to Cuba under subparagraph (A), the amounts withheld from Cuba shall be deposited in an account in a banking institution in the United States. Such account shall be blocked in the same manner as any other account containing funds in which Cuba has any interest, pursuant to regulations issued under section 5(b) of the Trading With the Enemy Act.

(4) Authority of Federal Communications Commission

Nothing in this subsection shall be construed to supersede the authority of the Federal Communications Commission.

(5) Prohibition on investment in domestic telecommunications services

Nothing in this subsection shall be construed to authorize the investment by any United States person in the domestic telecommunications network within Cuba. For purposes of this paragraph, an "investment" in the domestic telecommunications network within Cuba includes the contribution (including by donation) of funds or anything of value to or for, and the making of loans to or for, such network.

(6) Reports to Congress

The President shall submit to the Congress on a semiannual basis a report detailing payments made to Cuba by any United States person as a result of the provision of telecommunications services authorized by this subsection.

(f) Direct mail delivery to Cuba

The United States Postal Service shall take such actions as are necessary to provide direct mail service to and from Cuba, including, in the absence of common carrier service between the 2 countries, the use of charter service providers.

(g) Assistance to support democracy in Cuba

The United States Government may provide assistance, through appropriate nongovernmental organizations, for the support of individuals and organizations to promote nonviolent democratic change in Cuba.

(Pub. L. 102–484, div. A, title XVII, §1705, Oct. 23, 1992, 106 Stat. 2577; Pub. L. 104–114, title I, §102(g), Mar. 12, 1996, 110 Stat. 793.)

AMENDMENT OF SECTION

Pub. L. 104–114, title II, §204(d)(3), Mar. 12, 1996, 110 Stat. 810, provided that on date on which President submits determination under section 6063(c) of this title that democratically elected government in Cuba is in power, this section is amended by repealing subsection (d).

REFERENCES IN TEXT

The International Emergency Economic Powers Act, referred to in subsec. (a), is title II of Pub. L. 95–223, Dec. 28, 1977, 91 Stat. 1626, which is classified generally to chapter 35 (§1701 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 50 and Tables.

The Export Administration Act of 1979, referred to in subsec. (a), is Pub. L. 96–72, Sept. 29, 1979, 93 Stat. 503, which is classified principally to chapter 56 (§4601 et seq.) of Title 50. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1996—Subsec. (e)(5), (6). Pub. L. 104–114, §102(g), added pars. (5) and (6).

DELEGATION OF FUNCTIONS

For delegation of congressional reporting functions of President under subsec. (e) of this section, see section 1 of Ex. Ord. No. 13313, July 31, 2003, 68 F.R. 46075, set out as a note under section 301 of Title 3, The President.

§6005. Sanctions

(a) Prohibition on certain transactions between certain United States firms and Cuba

(1) Prohibition

Notwithstanding any other provision of law, no license may be issued for any transaction described in section 515.559 of title 31, Code of Federal Regulations, as in effect on July 1, 1989.

(2) Applicability to existing contracts

Paragraph (1) shall not affect any contract entered into before October 23, 1992.

(b) Prohibitions on vessels

(1) Vessels engaging in trade

Beginning on the 61st day after October 23, 1992, a vessel which enters a port or place in Cuba to engage in the trade of goods or services may not, within 180 days after departure from such port or place in Cuba, load or unload any freight at any place in the United States, except pursuant to a license issued by the Secretary of the Treasury.

(2) Vessels carrying goods or passengers to or from Cuba

Except as specifically authorized by the Secretary of the Treasury, a vessel carrying goods or passengers to or from Cuba or carrying goods in which Cuba or a Cuban national has any interest may not enter a United States port.

(3) Inapplicability of ship stores general license

No commodities which may be exported under a general license described in section 771.9 of title 15, Code of Federal Regulations, as in effect on May 1, 1992, may be exported under a general license to any vessel carrying goods or passengers to or from Cuba or carrying goods in which Cuba or a Cuban national has an interest.

(4) Definitions

As used in this subsection—

(A) the term "vessel" includes every description of water craft or other contrivance used, or capable of being used, as a means of transportation in water, but does not include aircraft;

(B) the term "United States" includes the territories and possessions of the United States and the customs waters of the United States (as defined in section 1401 of title 19; and

(C) the term "Cuban national" means a national of Cuba, as the term "national" is defined in section 515.302 of title 31, Code of Federal Regulations, as of August 1, 1992.

(c) Restrictions on remittances to Cuba

The President shall establish strict limits on remittances to Cuba by United States persons for the purpose of financing the travel of Cubans to the United States, in order to ensure that such remittances reflect only the reasonable costs associated with such travel, and are not used by the Government of Cuba as a means of gaining access to United States currency.

(d) Clarification of applicability of sanctions

The prohibitions contained in subsections (a), (b), and (c) shall not apply with respect to any activity otherwise permitted by section 6004 of this title or section 6006 of this title or any activity which may not be regulated or prohibited under section 5(b)(4) of the Trading With the Enemy Act [50 U.S.C. 4305(b)(4)].

(Pub. L. 102–484, div. A, title XVII, §1706, Oct. 23, 1992, 106 Stat. 2578.)

REPEAL OF SECTION

Pub. L. 104–114, title II, §204(d)(3), Mar. 12, 1996, 110 Stat. 810, provided that on date on which President submits determination under section 6063(c)(3) of this title that democratically elected government in Cuba is in power, this section is repealed.

§6006. Policy toward a transitional Cuban Government

Food, medicine, and medical supplies for humanitarian purposes should be made available for Cuba under the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.] and the Food for Peace Act [7 U.S.C. 1691 et seq.] if the President determines and certifies to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate that the government in power in Cuba—

(1) has made a public commitment to hold free and fair elections for a new government within 6 months and is proceeding to implement that decision;

(2) has made a public commitment to respect, and is respecting, internationally recognized human rights and basic democratic freedoms; and

(3) is not providing weapons or funds to any group, in any other country, that seeks the violent overthrow of the government of that country.

(Pub. L. 102–484, div. A, title XVII, §1707, Oct. 23, 1992, 106 Stat. 2579; Pub. L. 110–246, title III, §3001(b)(1)(A), (2)(V), June 18, 2008, 122 Stat. 1820, 1821.)

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in text, is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, which is classified principally to chapter 32 (§2151 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

The Food for Peace Act, referred to in text, is act July 10, 1954, ch. 469, 68 Stat. 454, which is classified generally to chapter 41 (§1691 et seq.) of Title 7, Agriculture. For complete classification of this Act to the

Code, see Short Title note set out under section 1691 of Title 7 and Tables.

AMENDMENTS

2008—Pub. L. 110–246 substituted "Food for Peace Act" for "Agricultural Trade Development and Assistance Act of 1954" in introductory provisions.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–246 effective May 22, 2008, see section 4(b) of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

§6007. Policy toward a democratic Cuban Government

(a) Waiver of restrictions

The President may waive the requirements of section 6005 of this title if the President determines and reports to the Congress that the Government of Cuba—

(1) has held free and fair elections conducted under internationally recognized observers;

(2) has permitted opposition parties ample time to organize and campaign for such elections, and has permitted full access to the media to all candidates in the elections;

(3) is showing respect for the basic civil liberties and human rights of the citizens of Cuba;

(4) is moving toward establishing a free market economic system; and

(5) has committed itself to constitutional change that would ensure regular free and fair elections that meet the requirements of paragraph (2).

(b) Policies

If the President makes a determination under subsection (a), the President shall take the following actions with respect to a Cuban Government elected pursuant to elections described in subsection (a):

(1) To encourage the admission or reentry of such government to international organizations and international financial institutions.

(2) To provide emergency relief during Cuba's transition to a viable economic system.

(3) To take steps to end the United States trade embargo of Cuba.

(Pub. L. 102–484, div. A, title XVII, §1708, Oct. 23, 1992, 106 Stat. 2580.)

§6008. Existing claims not affected

Except as provided in section 6004(a) of this title, nothing in this chapter affects the provisions of section 2370(a)(2) of this title.

(Pub. L. 102–484, div. A, title XVII, §1709, Oct. 23, 1992, 106 Stat. 2580.)

§6009. Enforcement

(a) Enforcement authority

The authority to enforce this chapter shall be carried out by the Secretary of the Treasury. The Secretary of the Treasury shall exercise the authorities of the Trading With the Enemy Act [50 U.S.C. 4301 et seq.] in enforcing this chapter. In carrying out this subsection, the Secretary of the Treasury shall take the necessary steps to ensure that activities permitted under section 6004 of this title are carried out for the purposes set forth in this chapter and not for purposes of the accumulation by the Cuban Government of excessive amounts of United States currency or the accumulation of excessive profits by any person or entity.

(b) Authorization of appropriations

There are authorized to be appropriated to the Secretary of the Treasury such sums as may be

necessary to carry out this chapter.

(c) Omitted

(d) Applicability of penalties

The penalties set forth in section 16 of the Trading With the Enemy Act [50 U.S.C. 4315] shall apply to violations of this chapter to the same extent as such penalties apply to violations under that Act [50 U.S.C. 4301 et seq.].

(e) Office of Foreign Assets Control

The Department of the Treasury shall establish and maintain a branch of the Office of Foreign Assets Control in Miami, Florida, in order to strengthen the enforcement of this chapter.

(Pub. L. 102–484, div. A, title XVII, §1710, Oct. 23, 1992, 106 Stat. 2580.)

REFERENCES IN TEXT

The Trading With the Enemy Act, referred to in subsecs. (a) and (d), is act Oct. 6, 1917, ch. 106, 40 Stat. 411, which is classified to chapter 53 (§4301 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section is comprised of section 1710 of Pub. L. 102–484. Subsec. (c) of section 1710 of Pub. L. 102–484 amended section 4315 of Title 50, War and National Defense.

§6010. "United States person" defined

As used in this chapter, the term "United States person" means any United States citizen or alien admitted for permanent residence in the United States, and any corporation, partnership, or other organization organized under the laws of the United States.

(Pub. L. 102–484, div. A, title XVII, §1711, Oct. 23, 1992, 106 Stat. 2581.)

CHAPTER 69A—CUBAN LIBERTY AND DEMOCRATIC SOLIDARITY (LIBERTAD)

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§6021. Findings

The Congress makes the following findings:

(1) The economy of Cuba has experienced a decline of at least 60 percent in the last 5 years as a result of—

(A) the end of its subsidization by the former Soviet Union of between 5 billion and 6 billion dollars annually;

(B) 36 years of communist tyranny and economic mismanagement by the Castro government;

(C) the extreme decline in trade between Cuba and the countries of the former Soviet bloc; and

(D) the stated policy of the Russian Government and the countries of the former Soviet bloc to conduct economic relations with Cuba on strictly commercial terms.

(2) At the same time, the welfare and health of the Cuban people have substantially deteriorated as a result of this economic decline and the refusal of the Castro regime to permit free and fair democratic elections in Cuba.

(3) The Castro regime has made it abundantly clear that it will not engage in any substantive political reforms that would lead to democracy, a market economy, or an economic recovery.

(4) The repression of the Cuban people, including a ban on free and fair democratic elections, and continuing violations of fundamental human rights, have isolated the Cuban regime as the only completely nondemocratic government in the Western Hemisphere.

(5) As long as free elections are not held in Cuba, the economic condition of the country and the welfare of the Cuban people will not improve in any significant way.

(6) The totalitarian nature of the Castro regime has deprived the Cuban people of any peaceful means to improve their condition and has led thousands of Cuban citizens to risk or lose their lives in dangerous attempts to escape from Cuba to freedom.

(7) Radio Marti and Television Marti have both been effective vehicles for providing the people

of Cuba with news and information and have helped to bolster the morale of the people of Cuba living under tyranny.

(8) The consistent policy of the United States towards Cuba since the beginning of the Castro regime, carried out by both Democratic and Republican administrations, has sought to keep faith with the people of Cuba, and has been effective in sanctioning the totalitarian Castro regime.

(9) The United States has shown a deep commitment, and considers it a moral obligation, to promote and protect human rights and fundamental freedoms as expressed in the Charter of the United Nations and in the Universal Declaration of Human Rights.

(10) The Congress has historically and consistently manifested its solidarity and the solidarity of the American people with the democratic aspirations of the Cuban people.

(11) The Cuban Democracy Act of 1992 [22 U.S.C. 6001 et seq.] calls upon the President to encourage the governments of countries that conduct trade with Cuba to restrict their trade and credit relations with Cuba in a manner consistent with the purposes of that Act.

(12) Amendments to the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.] made by the FREEDOM Support Act require that the President, in providing economic assistance to Russia and the emerging Eurasian democracies, take into account the extent to which they are acting to "terminate support for the communist regime in Cuba, including removal of troops, closing military facilities, and ceasing trade subsidies and economic, nuclear, and other assistance".

(13) The Cuban Government engages in the illegal international narcotics trade and harbors fugitives from justice in the United States.

(14) The Castro government threatens international peace and security by engaging in acts of armed subversion and terrorism such as the training and supplying of groups dedicated to international violence.

(15) The Castro government has utilized from its inception and continues to utilize torture in various forms (including by psychiatry), as well as execution, exile, confiscation, political imprisonment, and other forms of terror and repression, as means of retaining power.

(16) Fidel Castro has defined democratic pluralism as "pluralistic garbage" and continues to make clear that he has no intention of tolerating the democratization of Cuban society.

(17) The Castro government holds innocent Cubans hostage in Cuba by no fault of the hostages themselves solely because relatives have escaped the country.

(18) Although a signatory state to the 1928 Inter-American Convention on Asylum and the International Covenant on Civil and Political Rights (which protects the right to leave one's own country), Cuba nevertheless surrounds embassies in its capital by armed forces to thwart the right of its citizens to seek asylum and systematically denies that right to the Cuban people, punishing them by imprisonment for seeking to leave the country and killing them for attempting to do so (as demonstrated in the case of the confirmed murder of over 40 men, women, and children who were seeking to leave Cuba on July 13, 1994).

(19) The Castro government continues to utilize blackmail, such as the immigration crisis with which it threatened the United States in the summer of 1994, and other unacceptable and illegal forms of conduct to influence the actions of sovereign states in the Western Hemisphere in violation of the Charter of the Organization of American States and other international agreements and international law.

(20) The United Nations Commission on Human Rights has repeatedly reported on the unacceptable human rights situation in Cuba and has taken the extraordinary step of appointing a Special Rapporteur.

(21) The Cuban Government has consistently refused access to the Special Rapporteur and formally expressed its decision not to "implement so much as one comma" of the United Nations Resolutions appointing the Rapporteur.

(22) The United Nations General Assembly passed Resolution 47–139 on December 18, 1992, Resolution 48–142 on December 20, 1993, and Resolution 49–200 on December 23, 1994, referencing the Special Rapporteur's reports to the United Nations and condemning violations of human rights and fundamental freedoms in Cuba.

(23) Article 39 of Chapter VII of the United Nations Charter provides that the United Nations

Security Council "shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken . . ., to maintain or restore international peace and security.".

(24) The United Nations has determined that massive and systematic violations of human rights may constitute a "threat to peace" under Article 39 and has imposed sanctions due to such violations of human rights in the cases of Rhodesia, South Africa, Iraq, and the former Yugoslavia.

(25) In the case of Haiti, a neighbor of Cuba not as close to the United States as Cuba, the United States led an effort to obtain and did obtain a United Nations Security Council embargo and blockade against that country due to the existence of a military dictatorship in power less than 3 years.

(26) United Nations Security Council Resolution 940 of July 31, 1994, subsequently authorized the use of "all necessary means" to restore the "democratically elected government of Haiti", and the democratically elected government of Haiti was restored to power on October 15, 1994.

(27) The Cuban people deserve to be assisted in a decisive manner to end the tyranny that has oppressed them for 36 years, and the continued failure to do so constitutes ethically improper conduct by the international community.

(28) For the past 36 years, the Cuban Government has posed and continues to pose a national security threat to the United States.

(Pub. L. 104–114, §2, Mar. 12, 1996, 110 Stat. 786.)

REFERENCES IN TEXT

The Cuban Democracy Act of 1992, referred to in par. (11), is title XVII of div. A of Pub. L. 102–484, Oct. 23, 1992, 106 Stat. 2575, which is classified principally to chapter 69 (§6001 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6001 of this title and Tables.

The Foreign Assistance Act of 1961, referred to in par. (12), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, which is classified principally to chapter 32 (§2151 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

The FREEDOM Support Act, referred to in par. (12), is Pub. L. 102–511, Oct. 24, 1992, 106 Stat. 3320, as amended, also known as the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992. For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

SHORT TITLE

Pub. L. 104–114, §1(a), Mar. 12, 1996, 110 Stat. 785, provided that: "This Act [enacting this chapter and sections 1643l and 1643m of this title, amending sections 2295a, 2295b, 2370, 6003, and 6004 of this title, section 1611 of Title 28, Judiciary and Judicial Procedure, and section 4315 of Title 50, War and National Defense, repealing sections 1465 to 1465f, 1465aa to 1465ff, 6003, and 6005 of this title, amending provisions set out as a note under section 1446g of Title 7, Agriculture, and repealing provisions set out as notes under sections 1465, 1465c, and 1465aa of this title] may be cited as the 'Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996'."

§6022. Purposes

The purposes of this chapter are—

(1) to assist the Cuban people in regaining their freedom and prosperity, as well as in joining the community of democratic countries that are flourishing in the Western Hemisphere;

(2) to strengthen international sanctions against the Castro government;

(3) to provide for the continued national security of the United States in the face of continuing threats from the Castro government of terrorism, theft of property from United States nationals by the Castro government, and the political manipulation by the Castro government of the desire of Cubans to escape that results in mass migration to the United States;

(4) to encourage the holding of free and fair democratic elections in Cuba, conducted under the supervision of internationally recognized observers;

(5) to provide a policy framework for United States support to the Cuban people in response to the formation of a transition government or a democratically elected government in Cuba; and

(6) to protect United States nationals against confiscatory takings and the wrongful trafficking in property confiscated by the Castro regime.

(Pub. L. 104–114, §3, Mar. 12, 1996, 110 Stat. 788.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 104–114, Mar. 12, 1996, 110 Stat. 785, known as the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 6021 of this title and Tables.

§6023. Definitions

As used in this chapter, the following terms have the following meanings:

(1) Agency or instrumentality of a foreign state

The term "agency or instrumentality of a foreign state" has the meaning given that term in section 1603(b) of title 28.

(2) Appropriate congressional committees

The term "appropriate congressional committees" means the Committee on International Relations and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

(3) Commercial activity

The term "commercial activity" has the meaning given that term in section 1603(d) of title 28.

(4) Confiscated

As used in subchapters I and III, the term "confiscated" refers to—

(A) the nationalization, expropriation, or other seizure by the Cuban Government of ownership or control of property, on or after January 1, 1959—

(i) without the property having been returned or adequate and effective compensation provided; or

(ii) without the claim to the property having been settled pursuant to an international claims settlement agreement or other mutually accepted settlement procedure; and

(B) the repudiation by the Cuban Government of, the default by the Cuban Government on, or the failure of the Cuban Government to pay, on or after January 1, 1959—

(i) a debt of any enterprise which has been nationalized, expropriated, or otherwise taken by the Cuban Government;

(ii) a debt which is a charge on property nationalized, expropriated, or otherwise taken by the Cuban Government; or

(iii) a debt which was incurred by the Cuban Government in satisfaction or settlement of a confiscated property claim.

(5) Cuban Government

(A) The term "Cuban Government" includes the government of any political subdivision of Cuba, and any agency or instrumentality of the Government of Cuba.

(B) For purposes of subparagraph (A), the term "agency or instrumentality of the Government of Cuba" means an agency or instrumentality of a foreign state as defined in section 1603(b) of title 28, with each reference in such section to "a foreign state" deemed to be a reference to "Cuba".

(6) Democratically elected government in Cuba

The term "democratically elected government in Cuba" means a government determined by the

President to have met the requirements of section 6066 of this title.

(7) Economic embargo of Cuba

The term "economic embargo of Cuba" refers to—

(A) the economic embargo (including all restrictions on trade or transactions with, and travel to or from, Cuba, and all restrictions on transactions in property in which Cuba or nationals of Cuba have an interest) that was imposed against Cuba pursuant to section 2370(a) of this title, section 4305(b) of title 50, the Cuban Democracy Act of 1992 (22 U.S.C. 6001 and following), or any other provision of law; and

(B) the restrictions imposed by section 902(c) of the Food Security Act of 1985.

(8) Foreign national

The term "foreign national" means—

(A) an alien; or

(B) any corporation, trust, partnership, or other juridical entity not organized under the laws of the United States, or of any State, the District of Columbia, or any commonwealth, territory, or possession of the United States.

(9) Knowingly

The term "knowingly" means with knowledge or having reason to know.

(10) Official of the Cuban Government or the ruling political party in Cuba

The term "official of the Cuban Government or the ruling political party in Cuba" refers to any member of the Council of Ministers, Council of State, central committee of the Communist Party of Cuba, or the Politburo of Cuba, or their equivalents.

(11) Person

The term "person" means any person or entity, including any agency or instrumentality of a foreign state.

(12) Property

(A) The term "property" means any property (including patents, copyrights, trademarks, and any other form of intellectual property), whether real, personal, or mixed, and any present, future, or contingent right, security, or other interest therein, including any leasehold interest.

(B) For purposes of subchapter III of this chapter, the term "property" does not include real property used for residential purposes unless, as of March 12, 1996—

(i) the claim to the property is held by a United States national and the claim has been certified under title V of the International Claims Settlement Act of 1949 [22 U.S.C. 1643 et seq.]; or

(ii) the property is occupied by an official of the Cuban Government or the ruling political party in Cuba.

(13) Traffics

(A) As used in subchapter III, and except as provided in subparagraph (B), a person "traffics" in confiscated property if that person knowingly and intentionally—

(i) sells, transfers, distributes, dispenses, brokers, manages, or otherwise disposes of confiscated property, or purchases, leases, receives, possesses, obtains control of, manages, uses, or otherwise acquires or holds an interest in confiscated property,

(ii) engages in a commercial activity using or otherwise benefiting from confiscated property, or

(iii) causes, directs, participates in, or profits from, trafficking (as described in clause (i) or (ii)) by another person, or otherwise engages in trafficking (as described in clause (i) or (ii)) through another person,

without the authorization of any United States national who holds a claim to the property.

(B) The term "traffics" does not include—

(i) the delivery of international telecommunication signals to Cuba;

(ii) the trading or holding of securities publicly traded or held, unless the trading is with or by a person determined by the Secretary of the Treasury to be a specially designated national;

(iii) transactions and uses of property incident to lawful travel to Cuba, to the extent that such transactions and uses of property are necessary to the conduct of such travel; or

(iv) transactions and uses of property by a person who is both a citizen of Cuba and a resident of Cuba, and who is not an official of the Cuban Government or the ruling political party in Cuba.

(14) Transition government in Cuba

The term "transition government in Cuba" means a government that the President determines is a transition government consistent with the requirements and factors set forth in section 6065 of this title.

(15) United States national

The term "United States national" means—

(A) any United States citizen; or

(B) any other legal entity which is organized under the laws of the United States, or of any State, the District of Columbia, or any commonwealth, territory, or possession of the United States, and which has its principal place of business in the United States.

(Pub. L. 104–114, §4, Mar. 12, 1996, 110 Stat. 789.)

REFERENCES IN TEXT

This chapter, referred to in introductory provisions, was in the original "this Act", meaning Pub. L. 104–114, Mar. 12, 1996, 110 Stat. 785, known as the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 6021 of this title and Tables.

Subchapters I and III of this chapter, referred to in pars. (4), (12)(B), and (13)(A), were in the original references to titles I and III, meaning titles I and III of Pub. L. 104–114, Mar. 12, 1996, 110 Stat. 791, 814. Title I of Pub. L. 104–114 enacted subchapter I (§6031 et seq.) of this chapter, amended sections 2295a, 2295b, 6003, and 6004 of this title and section 4315 of Title 50, War and National Defense, and repealed subchapters V–A (§1465 et seq.) and V–B (1465aa et seq.) of chapter 18 of this title. Title III of Pub. L. 104–114 enacted subchapter III (§6081 et seq.) of this chapter and sections 1643l and 1643m of this title and amended section 1611 of Title 28, Judiciary and Judicial Procedure. For complete classification of titles I and III to the Code, see Tables.

The Cuban Democracy Act of 1992, referred to in par. (7)(A), is title XVII of div. A of Pub. L. 102–484, Oct. 23, 1992, 106 Stat. 2575, which is classified principally to chapter 69 (§6001 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6001 of this title and Tables.

Section 902(c) of the Food Security Act of 1985, referred to in par. (7)(B), is section 902(c) of Pub. L. 99–198, title IX, Dec. 23, 1985, 99 Stat. 1443, which was set out as a note under former section 1446g of Title 7, Agriculture.

The International Claims Settlement Act of 1949, referred to in par. (12)(B)(i), is act Mar. 10, 1950, ch. 54, 64 Stat. 12, as amended. Title V of the Act is classified generally to subchapter V (§1643 et seq.) of chapter 21 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1621 of this title and Tables.

CHANGE OF NAME

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§6024. Severability

If any provision of this chapter or the amendments made by this chapter or the application thereof to any person or circumstance is held invalid, the remainder of this chapter, the amendments made by this chapter, or the application thereof to other persons not similarly situated or to other

circumstances shall not be affected by such invalidation.

(Pub. L. 104–114, §5, Mar. 12, 1996, 110 Stat. 791.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 104–114, Mar. 12, 1996, 110 Stat. 785, known as the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 6021 of this title and Tables.

SUBCHAPTER I—STRENGTHENING INTERNATIONAL SANCTIONS AGAINST THE CASTRO GOVERNMENT

§6031. Statement of policy

It is the sense of the Congress that—

(1) the acts of the Castro government, including its massive, systematic, and extraordinary violations of human rights, are a threat to international peace;

(2) the President should advocate, and should instruct the United States Permanent Representative to the United Nations to propose and seek within the Security Council, a mandatory international embargo against the totalitarian Cuban Government pursuant to chapter VII of the Charter of the United Nations, employing efforts similar to consultations conducted by United States representatives with respect to Haiti;

(3) any resumption of efforts by any independent state of the former Soviet Union to make operational any nuclear facilities in Cuba, and any continuation of intelligence activities by such a state from Cuba that are targeted at the United States and its citizens will have a detrimental impact on United States assistance to such state; and

(4) in view of the threat to the national security posed by the operation of any nuclear facility, and the Castro government's continuing blackmail to unleash another wave of Cuban refugees fleeing from Castro's oppression, most of whom find their way to United States shores, further depleting limited humanitarian and other resources of the United States, the President should do all in his power to make it clear to the Cuban Government that—

(A) the completion and operation of any nuclear power facility, or

(B) any further political manipulation of the desire of Cubans to escape that results in mass migration to the United States,

will be considered an act of aggression which will be met with an appropriate response in order to maintain the security of the national borders of the United States and the health and safety of the American people.

(Pub. L. 104–114, title I, §101, Mar. 12, 1996, 110 Stat. 791.)

§6032. Enforcement of economic embargo of Cuba

(a) Policy

(1) Restrictions by other countries

The Congress hereby reaffirms section 1704(a) of the Cuban Democracy Act of 1992 [22 U.S.C. 6003(a)], which states that the President should encourage foreign countries to restrict trade and credit relations with Cuba in a manner consistent with the purposes of that Act [22 U.S.C. 6001 et seq.].

(2) Sanctions on other countries

The Congress further urges the President to take immediate steps to apply the sanctions described in section 1704(b)(1) of that Act [22 U.S.C. 6003(b)(1)] against countries assisting Cuba.

(b) Diplomatic efforts

The Secretary of State should ensure that United States diplomatic personnel abroad understand and, in their contacts with foreign officials, are communicating the reasons for the United States economic embargo of Cuba, and are urging foreign governments to cooperate more effectively with the embargo.

(c) Existing regulations

The President shall instruct the Secretary of the Treasury and the Attorney General to enforce fully the Cuban Assets Control Regulations set forth in part 515 of title 31, Code of Federal Regulations.

(d) Omitted

(e) Denial of visas to certain Cuban nationals

It is the sense of the Congress that the President should instruct the Secretary of State and the Attorney General to enforce fully existing regulations to deny visas to Cuban nationals considered by the Secretary of State to be officers or employees of the Cuban Government or of the Communist Party of Cuba.

(f), (g) Omitted

(h) Codification of economic embargo

The economic embargo of Cuba, as in effect on March 1, 1996, including all restrictions under part 515 of title 31, Code of Federal Regulations, shall be in effect on March 12, 1996, and shall remain in effect, subject to section 6064 of this title.

(Pub. L. 104–114, title I, §102, Mar. 12, 1996, 110 Stat. 792.)

REFERENCES IN TEXT

The Cuban Democracy Act of 1992, referred to in subsec. (a), is title XVII of div. A of Pub. L. 102–484, Oct. 23, 1992, 106 Stat. 2575, which is classified principally to chapter 69 (§6001 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6001 of this title and Tables.

CODIFICATION

Section is comprised of section 102 of Pub. L. 104–114. Subsec. (d) of section 102 of Pub. L. 104–114 amended section 4315 of Title 50, War and National Defense. Subsecs. (f) and (g) of section 102 of Pub. L. 104–114 amended sections 6003 and 6004 of this title, respectively.

§6033. Prohibition against indirect financing of Cuba

(a) Prohibition

Notwithstanding any other provision of law, no loan, credit, or other financing may be extended knowingly by a United States national, a permanent resident alien, or a United States agency to any person for the purpose of financing transactions involving any confiscated property the claim to which is owned by a United States national as of March 12, 1996, except for financing by the United States national owning such claim for a transaction permitted under United States law.

(b) Suspension and termination of prohibition

(1) Suspension

The President is authorized to suspend the prohibition contained in subsection (a) upon a determination made under section 6063(c)(1) of this title that a transition government in Cuba is in power.

(2) Termination

The prohibition contained in subsection (a) shall cease to apply on the date on which the economic embargo of Cuba terminates as provided in section 6064 of this title.

(c) Penalties

Violations of subsection (a) shall be punishable by such civil penalties as are applicable to violations of the Cuban Assets Control Regulations set forth in part 515 of title 31, Code of Federal Regulations.

(d) Definitions

As used in this section—

(1) the term "permanent resident alien" means an alien lawfully admitted for permanent residence into the United States; and

(2) the term "United States agency" has the meaning given the term "agency" in section 551(1) of title 5.

(Pub. L. 104–114, title I, §103, Mar. 12, 1996, 110 Stat. 794.)

§6034. United States opposition to Cuban membership in international financial institutions

(a) Continued opposition to Cuban membership in international financial institutions

(1) In general

Except as provided in paragraph (2), the Secretary of the Treasury shall instruct the United States executive director of each international financial institution to use the voice and vote of the United States to oppose the admission of Cuba as a member of such institution until the President submits a determination under section 6063(c)(3) of this title that a democratically elected government in Cuba is in power.

(2) Transition government

Once the President submits a determination under section 6063(c)(1) of this title that a transition government in Cuba is in power—

(A) the President is encouraged to take steps to support the processing of Cuba's application for membership in any international financial institution, subject to the membership taking effect after a democratically elected government in Cuba is in power, and

(B) the Secretary of the Treasury is authorized to instruct the United States executive director of each international financial institution to support loans or other assistance to Cuba only to the extent that such loans or assistance contribute to a stable foundation for a democratically elected government in Cuba.

(b) Reduction in United States payments to international financial institutions

If any international financial institution approves a loan or other assistance to the Cuban Government over the opposition of the United States, then the Secretary of the Treasury shall withhold from payment to such institution an amount equal to the amount of the loan or other assistance, with respect to either of the following types of payment:

(1) The paid-in portion of the increase in capital stock of the institution.

(2) The callable portion of the increase in capital stock of the institution.

(c) "International financial institution" defined

For purposes of this section, the term "international financial institution" means the International Monetary Fund, the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Multilateral Investment Guaranty Agency, and the Inter-American Development Bank.

(Pub. L. 104–114, title I, §104, Mar. 12, 1996, 110 Stat. 794.)

§6035. United States opposition to termination of suspension of Cuban Government from participation in Organization of American States

The President should instruct the United States Permanent Representative to the Organization of American States to oppose and vote against any termination of the suspension of the Cuban Government from participation in the Organization until the President determines under section 6063(c)(3) of this title that a democratically elected government in Cuba is in power.

(Pub. L. 104–114, title I, §105, Mar. 12, 1996, 110 Stat. 795.)

§6036. Assistance by independent states of former Soviet Union for Cuban Government

(a) Reporting requirement

Not later than 90 days after March 12, 1996, the President shall submit to the appropriate congressional committees a report detailing progress toward the withdrawal of personnel of any independent state of the former Soviet Union (within the meaning of section 5801 of this title), including advisers, technicians, and military personnel, from the Cienfuegos nuclear facility in Cuba.

(b), (c) Omitted

(d) Facilities at Lourdes, Cuba

(1) Disapproval of credits

The Congress expresses its strong disapproval of the extension by Russia of credits equivalent to $200,000,000 in support of the intelligence facility at Lourdes, Cuba, in November 1994.

(2) Omitted

(Pub. L. 104–114, title I, §106, Mar. 12, 1996, 110 Stat. 795.)

CODIFICATION

Section is comprised of section 106 of Pub. L. 104–114. Subsecs. (b), (c), and (d)(2) of section 106 of Pub. L. 104–114 amended sections 2295a and 2295b of this title.

§6037. Television broadcasting to Cuba

(a) Conversion to UHF

The Director of the International Broadcasting Bureau shall implement a conversion of television broadcasting to Cuba under the Television Marti Service to ultra high frequency (UHF) broadcasting.

(b) Periodic reports

Not later than 45 days after March 12, 1996, and every three months thereafter until the conversion described in subsection (a) is fully implemented, the Director of the International Broadcasting Bureau shall submit a report to the appropriate congressional committees on the progress made in carrying out subsection (a).

(c) Termination of broadcasting authorities

Upon transmittal of a determination under section 6063(c)(3) of this title, the Television Broadcasting to Cuba Act (22 U.S.C. 1465aa and following) and the Radio Broadcasting to Cuba Act (22 U.S.C. 1465 and following) are repealed.

(Pub. L. 104–114, title I, §107, Mar. 12, 1996, 110 Stat. 798; Pub. L. 105–277, div. G, subdiv. A, title XIII, §1335(r), Oct. 21, 1998, 112 Stat. 2681–790.)

REFERENCES IN TEXT

The Television Broadcasting to Cuba Act, referred to in subsec. (c), is part D of title II of Pub. L. 101–246, Feb. 16, 1990, 104 Stat. 58, as amended, which is classified principally to subchapter V–B (§1465aa et seq.) of chapter 18 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1465aa of this title and Tables.

The Radio Broadcasting to Cuba Act, referred to in subsec. (c), is Pub. L. 98–111, Oct. 4, 1983, 97 Stat. 749, as amended, which is classified generally to subchapter V–A (§1465 et seq.) of chapter 18 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1465 of this title and Tables.

AMENDMENTS

1998—Subsecs. (a), (b). Pub. L. 105–277 substituted "Director of the International Broadcasting Bureau" for "Director of the United States Information Agency".

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective Oct. 1, 1999, see section 1301 of Pub. L. 105–277, set out as an Effective Date note under section 6531 of this title.

§6038. Reports on commerce with, and assistance to, Cuba from other foreign countries

(a) Reports required

Not later than 90 days after March 12, 1996, and by January 1 of each year thereafter until the President submits a determination under section 6063(c)(1) of this title, the President shall submit a report to the appropriate congressional committees on commerce with, and assistance to, Cuba from other foreign countries during the preceding 12-month period.

(b) Contents of reports

Each report required by subsection (a) shall, for the period covered by the report, contain the following, to the extent such information is available:

(1) A description of all bilateral assistance provided to Cuba by other foreign countries, including humanitarian assistance.

(2) A description of Cuba's commerce with foreign countries, including an identification of Cuba's trading partners and the extent of such trade.

(3) A description of the joint ventures completed, or under consideration, by foreign nationals and business firms involving facilities in Cuba, including an identification of the location of the facilities involved and a description of the terms of agreement of the joint ventures and the names of the parties that are involved.

(4) A determination as to whether or not any of the facilities described in paragraph (3) is the subject of a claim against Cuba by a United States national.

(5) A determination of the amount of debt of the Cuban Government that is owed to each foreign country, including—

(A) the amount of debt exchanged, forgiven, or reduced under the terms of each investment or operation in Cuba involving foreign nationals; and

(B) the amount of debt owed the foreign country that has been exchanged, forgiven, or reduced in return for a grant by the Cuban Government of an equity interest in a property, investment, or operation of the Cuban Government or of a Cuban national.

(6) A description of the steps taken to assure that raw materials and semifinished or finished goods produced by facilities in Cuba involving foreign nationals do not enter the United States market, either directly or through third countries or parties.

(7) An identification of countries that purchase, or have purchased, arms or military supplies from Cuba or that otherwise have entered into agreements with Cuba that have a military application, including—

(A) a description of the military supplies, equipment, or other material sold, bartered, or

exchanged between Cuba and such countries,

(B) a listing of the goods, services, credits, or other consideration received by Cuba in exchange for military supplies, equipment, or material, and

(C) the terms or conditions of any such agreement.

(Pub. L. 104–114, title I, §108, Mar. 12, 1996, 110 Stat. 798.)

DELEGATION OF FUNCTIONS

For delegation of congressional reporting functions of President under subsec. (a) of this section, see section 1 of Ex. Ord. No. 13313, July 31, 2003, 68 F.R. 46075, set out as a note under section 301 of Title 3, The President.

§6039. Authorization of support for democratic and human rights groups and international observers

(a) Authorization

Notwithstanding any other provision of law (including section 6032 of this title), except for section 2394–1 of this title and comparable notification requirements contained in any Act making appropriations for foreign operations, export financing, and related programs, the President is authorized to furnish assistance and provide other support for individuals and independent nongovernmental organizations to support democracy-building efforts for Cuba, including the following:

(1) Published and informational matter, such as books, videos, and cassettes, on transitions to democracy, human rights, and market economies, to be made available to independent democratic groups in Cuba.

(2) Humanitarian assistance to victims of political repression, and their families.

(3) Support for democratic and human rights groups in Cuba.

(4) Support for visits and permanent deployment of independent international human rights monitors in Cuba.

(b) OAS emergency fund

(1) For support of human rights and elections

The President shall take the necessary steps to encourage the Organization of American States to create a special emergency fund for the explicit purpose of deploying human rights observers, election support, and election observation in Cuba.

(2) Action of other member states

The President should instruct the United States Permanent Representative to the Organization of American States to encourage other member states of the Organization to join in calling for the Cuban Government to allow the immediate deployment of independent human rights monitors of the Organization throughout Cuba and on-site visits to Cuba by the Inter-American Commission on Human Rights.

(3) Voluntary contributions for fund

Notwithstanding section 2227 of this title or any other provision of law limiting the United States proportionate share of assistance to Cuba by any international organization, the President should provide not less than $5,000,000 of the voluntary contributions of the United States to the Organization of American States solely for the purposes of the special fund referred to in paragraph (1).

(c) Denial of funds to Cuban Government

In implementing this section, the President shall take all necessary steps to ensure that no funds or other assistance is provided to the Cuban Government.

(Pub. L. 104–114, title I, §109, Mar. 12, 1996, 110 Stat. 799.)

§6040. Importation safeguard against certain Cuban products

(a) Prohibition on import of and dealings in Cuban products

The Congress notes that section 515.204 of title 31, Code of Federal Regulations, prohibits the entry of, and dealings outside the United States in, merchandise that—

(1) is of Cuban origin;

(2) is or has been located in or transported from or through Cuba; or

(3) is made or derived in whole or in part of any article which is the growth, produce, or manufacture of Cuba.

(b) Effect of NAFTA

The Congress notes that United States accession to the North American Free Trade Agreement does not modify or alter the United States sanctions against Cuba. The statement of administrative action accompanying that trade agreement specifically states the following:

(1) "The NAFTA rules of origin will not in any way diminish the Cuban sanctions program. . . . Nothing in the NAFTA would operate to override this prohibition.".

(2) "Article 309(3) [of the NAFTA] permits the United States to ensure that Cuban products or goods made from Cuban materials are not imported into the United States from Mexico or Canada and that United States products are not exported to Cuba through those countries.".

(c) Restriction of sugar imports

The Congress notes that section 902(c) of the Food Security Act of 1985 (Public Law 99–198) requires the President not to allocate any of the sugar import quota to a country that is a net importer of sugar unless appropriate officials of that country verify to the President that the country does not import for reexport to the United States any sugar produced in Cuba.

(d) Assurances regarding sugar products

Protection of essential security interests of the United States requires assurances that sugar products that are entered, or withdrawn from warehouse for consumption, into the customs territory of the United States are not products of Cuba.

(Pub. L. 104–114, title I, §110, Mar. 12, 1996, 110 Stat. 800.)

REFERENCES IN TEXT

Section 902(c) of the Food Security Act of 1985, referred to in subsec. (c), is section 902(c) of Pub. L. 99–198, which is set out as a note under section 1446g of Title 7, Agriculture.

§6041. Withholding of foreign assistance from countries supporting Juragua nuclear plant in Cuba

(a) Findings

The Congress makes the following findings:

(1) President Clinton stated in April 1993 that the United States opposed the construction of the Juragua nuclear power plant because of the concerns of the United States about Cuba's ability to ensure the safe operation of the facility and because of Cuba's refusal to sign the Nuclear Non-Proliferation Treaty or ratify the Treaty of Tlatelolco.

(2) Cuba has not signed the Treaty on the Non-Proliferation of Nuclear Weapons or ratified the Treaty of Tlatelolco, the latter of which establishes Latin America and the Caribbean as a nuclear weapons-free zone.

(3) The State Department, the Nuclear Regulatory Commission, and the Department of Energy have expressed concerns about the construction and operation of Cuba's nuclear reactors.

(4) In a September 1992 report to the Congress, the General Accounting Office outlined concerns among nuclear energy experts about deficiencies in the nuclear plant project in Juragua,

near Cienfuegos, Cuba, including—

(A) a lack in Cuba of a nuclear regulatory structure;

(B) the absence in Cuba of an adequate infrastructure to ensure the plant's safe operation and requisite maintenance;

(C) the inadequacy of training of plant operators;

(D) reports by a former technician from Cuba who, by examining with x-rays weld sites believed to be part of the auxiliary plumbing system for the plant, found that 10 to 15 percent of those sites were defective;

(E) since September 5, 1992, when construction on the plant was halted, the prolonged exposure to the elements, including corrosive salt water vapor, of the primary reactor components; and

(F) the possible inadequacy of the upper portion of the reactors' dome retention capability to withstand only 7 pounds of pressure per square inch, given that normal atmospheric pressure is 32 pounds per square inch and United States reactors are designed to accommodate pressures of 50 pounds per square inch.

(5) The United States Geological Survey claims that it had difficulty determining answers to specific questions regarding earthquake activity in the area near Cienfuegos because the Cuban Government was not forthcoming with information.

(6) The Geological Survey has indicated that the Caribbean plate, a geological formation near the south coast of Cuba, may pose seismic risks to Cuba and the site of the power plant, and may produce large to moderate earthquakes.

(7) On May 25, 1992, the Caribbean plate produced an earthquake numbering 7.0 on the Richter scale.

(8) According to a study by the National Oceanic and Atmospheric Administration, summer winds could carry radioactive pollutants from a nuclear accident at the power plant throughout all of Florida and parts of the States on the coast of the Gulf of Mexico as far as Texas, and northern winds could carry the pollutants as far northeast as Virginia and Washington, D.C.

(9) The Cuban Government, under dictator Fidel Castro, in 1962 advocated the Soviets' launching of nuclear missiles to the United States, which represented a direct and dangerous provocation of the United States and brought the world to the brink of a nuclear conflict.

(10) Fidel Castro over the years has consistently issued threats against the United States Government, most recently that he would unleash another perilous mass migration from Cuba upon the enactment of this chapter.

(11) Despite the various concerns about the plant's safety and operational problems, a feasibility study is being conducted that would establish a support group to include Russia, Cuba, and third countries with the objective of completing and operating the plant.

(b) Withholding of foreign assistance

(1) In general

Notwithstanding any other provision of law, the President shall withhold from assistance allocated, on or after March 12, 1996, for any country an amount equal to the sum of assistance and credits, if any, provided on or after March 12, 1996, by that country or any entity in that country in support of the completion of the Cuban nuclear facility at Juragua, near Cienfuegos, Cuba.

(2) Exceptions

The requirement of paragraph (1) to withhold assistance shall not apply with respect to—

(A) assistance to meet urgent humanitarian needs, including disaster and refugee relief;

(B) democratic political reform or rule of law activities;

(C) the creation of private sector or nongovernmental organizations that are independent of government control;

(D) the development of a free market economic system;

(E) assistance for the purposes described in the Cooperative Threat Reduction Act of 1993

(title XII of Public Law 103–160) [22 U.S.C. 5951 et seq.]; or

(F) assistance under the secondary school exchange program administered by the United States Information Agency.

(3) "Assistance" defined

As used in paragraph (1), the term "assistance" means assistance under the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.], credits, sales, guarantees of extensions of credit, and other assistance under the Arms Export Control Act [22 U.S.C. 2751 et seq.], assistance under titles I and III of the Food for Peace Act [7 U.S.C. 1701 et seq., 1727 et seq.], assistance under the FREEDOM Support Act, and any other program of assistance or credits provided by the United States to other countries under other provisions of law.

(Pub. L. 104–114, title I, §111, Mar. 12, 1996, 110 Stat. 800; Pub. L. 110–246, title III, §3001(b)(1)(A), (2)(W), June 18, 2008, 122 Stat. 1820, 1821.)

REFERENCES IN TEXT

Upon the enactment of this chapter, referred to in subsec. (a)(10), means the date of enactment of Pub. L. 104–114, which was approved Mar. 12, 1996.

The Cooperative Threat Reduction Act of 1993, referred to in subsec. (b)(2)(E), is title XII of div. A of Pub. L. 103–160, Nov. 30, 1993, 107 Stat. 1777, which is classified generally to chapter 68A (§5951 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5951 of this title and Tables.

The Foreign Assistance Act of 1961, referred to in subsec. (b)(3), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, which is classified principally to chapter 32 (§2151 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

The Arms Export Control Act, referred to in subsec. (b)(3), is Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1320, as amended, which is classified principally to chapter 39 (§2751 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

The Food for Peace Act, referred to in subsec. (b)(3), is act July 10, 1954, ch. 469, 68 Stat. 454. Titles I and III of the Act are classified generally to subchapters II (§1701 et seq.) and III–A (§1727 et seq.), respectively, of chapter 41 of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 1691 of Title 7 and Tables.

The FREEDOM Support Act, referred to in subsec. (b)(3), is Pub. L. 102–511, Oct. 24, 1992, 106 Stat. 3320, as amended, also known as the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992. For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

AMENDMENTS

2008—Subsec. (b)(3). Pub. L. 110–246 substituted "Food for Peace Act" for "Agricultural Trade Development and Assistance Act of 1954".

CHANGE OF NAME

General Accounting Office redesignated Government Accountability Office by section 8 of Pub. L. 108–271, set out as a note under section 702 of Title 31, Money and Finance.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–246 effective May 22, 2008, see section 4(b) of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

TRANSFER OF FUNCTIONS

United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau) abolished and functions transferred to Secretary of State, see sections 6531 and 6532 of this title.

§6042. Reinstitution of family remittances and travel to Cuba

It is the sense of the Congress that the President should—

(1)(A) before considering the reinstitution of general licenses for family remittances to Cuba,

insist that, prior to such reinstitution, the Cuban Government permit the unfettered operation of small businesses fully empowered with the right to hire others to whom they may pay wages and to buy materials necessary in the operation of the businesses, and with such other authority and freedom as are required to foster the operation of small businesses throughout Cuba; and

(B) if licenses described in subparagraph (A) are reinstituted, require a specific license for remittances described in subparagraph (A) in amounts of more than $500; and

(2) before considering the reinstitution of general licenses for travel to Cuba by individuals resident in the United States who are family members of Cuban nationals who are resident in Cuba, insist on such actions by the Cuban Government as abrogation of the sanction for departure from Cuba by refugees, release of political prisoners, recognition of the right of association, and other fundamental freedoms.

(Pub. L. 104–114, title I, §112, Mar. 12, 1996, 110 Stat. 802.)

§6043. Expulsion of criminals from Cuba

The President shall instruct all United States Government officials who engage in official contacts with the Cuban Government to raise on a regular basis the extradition of or rendering to the United States all persons residing in Cuba who are sought by the United States Department of Justice for crimes committed in the United States.

(Pub. L. 104–114, title I, §113, Mar. 12, 1996, 110 Stat. 803.)

§6044. News bureaus in Cuba

(a) Establishment of news bureaus

The President is authorized to establish and implement an exchange of news bureaus between the United States and Cuba, if the exchange meets the following conditions:

(1) The exchange is fully reciprocal.

(2) The Cuban Government agrees not to interfere with the establishment of news bureaus or with the movement in Cuba of journalists of any United States-based news organizations, including Radio Marti and Television Marti.

(3) The Cuban Government agrees not to interfere with decisions of United States-based news organizations with respect to individuals assigned to work as journalists in their news bureaus in Cuba.

(4) The Department of the Treasury is able to ensure that only accredited journalists regularly employed with a news gathering organization travel to Cuba under this subsection.

(5) The Cuban Government agrees not to interfere with the transmission of telecommunications signals of news bureaus or with the distribution within Cuba of publications of any United States-based news organization that has a news bureau in Cuba.

(b) Assurance against espionage

In implementing this section, the President shall take all necessary steps to ensure the safety and security of the United States against espionage by Cuban journalists it believes to be working for the intelligence agencies of the Cuban Government.

(c) Fully reciprocal

As used in subsection (a)(1), the term "fully reciprocal" means that all news services, news organizations, and broadcasting services, including such services or organizations that receive financing, assistance, or other support from a governmental or official source, are permitted to establish and operate a news bureau in the United States and Cuba.

(Pub. L. 104–114, title I, §114, Mar. 12, 1996, 110 Stat. 803.)

§6045. Effect of chapter on lawful United States Government activities

Nothing in this chapter prohibits any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency, or of an intelligence agency, of the United States.

(Pub. L. 104–114, title I, §115, Mar. 12, 1996, 110 Stat. 803.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 104–114, Mar. 12, 1996, 110 Stat. 785, known as the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 6021 of this title and Tables.

§6046. Condemnation of Cuban attack on American aircraft

(a) Findings

The Congress makes the following findings:

(1) Brothers to the Rescue is a Miami-based humanitarian organization engaged in searching for and aiding Cuban refugees in the Straits of Florida, and was engaged in such a mission on Saturday, February 24, 1996.

(2) The members of Brothers to the Rescue were flying unarmed and defenseless planes in a mission identical to hundreds they have flown since 1991 and posed no threat whatsoever to the Cuban Government, the Cuban military, or the Cuban people.

(3) Statements by the Cuban Government that Brothers to the Rescue has engaged in covert operations, bombing campaigns, and commando operations against the Government of Cuba have no basis in fact.

(4) The Brothers to the Rescue aircraft notified air traffic controllers as to their flight plans, which would take them south of the 24th parallel and close to Cuban airspace.

(5) International law provides a nation with airspace over the 12-mile territorial sea.

(6) The response of Fidel Castro's dictatorship to Saturday's afternoon flight was to scramble 2 fighter jets from a Havana airfield.

(7) At approximately 3:24 p.m., the pilot of one of the Cuban MiGs received permission and proceeded to shoot down one Brothers to the Rescue airplane more than 6 miles north of the Cuban exclusion zone, or 18 miles from the Cuban coast.

(8) Approximately 7 minutes later, the pilot of the Cuban fighter jet received permission and proceeded to shoot down the second Brothers to the Rescue airplane almost 18.5 miles north of the Cuban exclusion zone, or 30.5 miles from the Cuban coast.

(9) The Cuban dictatorship, if it truly felt threatened by the flight of these unarmed aircraft, could have and should have pursued other peaceful options as required by international law.

(10) The response chosen by Fidel Castro, the use of lethal force, was completely inappropriate to the situation presented to the Cuban Government, making such actions a blatant and barbaric violation of international law and tantamount to cold-blooded murder.

(11) There were no survivors of the attack on these aircraft, and the crew of a third aircraft managed to escape this criminal attack by Castro's Air Force.

(12) The crew members of the destroyed planes, Pablo Morales, Carlos Costa, Mario de la Pena, and Armando Alejandre, were United States citizens from Miami flying with Brothers to the Rescue on a voluntary basis.

(13) It is incumbent upon the United States Government to protect the lives and livelihoods of United States citizens as well as the rights of free passage and humanitarian missions.

(14) This premeditated act took place after a week-long wave of repression by the Cuban Government against Concilio Cubano, an umbrella organization of human rights activists, dissidents, independent economists, and independent journalists, among others.

(15) The wave of repression against Concilio Cubano, whose membership is committed to peaceful democratic change in Cuba, included arrests, strip searches, house arrests, and in some

cases sentences to more than 1 year in jail.

(b) Statements by Congress

(1) The Congress strongly condemns the act of terrorism by the Castro regime in shooting down the Brothers to the Rescue aircraft on February 24, 1996.

(2) The Congress extends its condolences to the families of Pablo Morales, Carlos Costa, Mario de la Pena, and Armando Alejandre, the victims of the attack.

(3) The Congress urges the President to seek, in the International Court of Justice, indictment for this act of terrorism by Fidel Castro.

(Pub. L. 104–114, title I, §116, Mar. 12, 1996, 110 Stat. 803.)

SUBCHAPTER II—ASSISTANCE TO FREE AND INDEPENDENT CUBA

§6061. Policy toward transition government and democratically elected government in Cuba

The policy of the United States is as follows:

(1) To support the self-determination of the Cuban people.

(2) To recognize that the self-determination of the Cuban people is a sovereign and national right of the citizens of Cuba which must be exercised free of interference by the government of any other country.

(3) To encourage the Cuban people to empower themselves with a government which reflects the self-determination of the Cuban people.

(4) To recognize the potential for a difficult transition from the current regime in Cuba that may result from the initiatives taken by the Cuban people for self-determination in response to the intransigence of the Castro regime in not allowing any substantive political or economic reforms, and to be prepared to provide the Cuban people with humanitarian, developmental, and other economic assistance.

(5) In solidarity with the Cuban people, to provide appropriate forms of assistance—

(A) to a transition government in Cuba;

(B) to facilitate the rapid movement from such a transition government to a democratically elected government in Cuba that results from an expression of the self-determination of the Cuban people; and

(C) to support such a democratically elected government.

(6) Through such assistance, to facilitate a peaceful transition to representative democracy and a market economy in Cuba and to consolidate democracy in Cuba.

(7) To deliver such assistance to the Cuban people only through a transition government in Cuba, through a democratically elected government in Cuba, through United States Government organizations, or through United States, international, or indigenous nongovernmental organizations.

(8) To encourage other countries and multilateral organizations to provide similar assistance, and to work cooperatively with such countries and organizations to coordinate such assistance.

(9) To ensure that appropriate assistance is rapidly provided and distributed to the people of Cuba upon the institution of a transition government in Cuba.

(10) Not to provide favorable treatment or influence on behalf of any individual or entity in the selection by the Cuban people of their future government.

(11) To assist a transition government in Cuba and a democratically elected government in Cuba to prepare the Cuban military forces for an appropriate role in a democracy.

(12) To be prepared to enter into negotiations with a democratically elected government in Cuba either to return the United States Naval Base at Guantanamo to Cuba or to renegotiate the present

agreement under mutually agreeable terms.

(13) To consider the restoration of diplomatic recognition and support the reintegration of the Cuban Government into Inter-American organizations when the President determines that there exists a democratically elected government in Cuba.

(14) To take steps to remove the economic embargo of Cuba when the President determines that a transition to a democratically elected government in Cuba has begun.

(15) To assist a democratically elected government in Cuba to strengthen and stabilize its national currency.

(16) To pursue trade relations with a free, democratic, and independent Cuba.

(Pub. L. 104–114, title II, §201, Mar. 12, 1996, 110 Stat. 805.)

§6062. Assistance for Cuban people

(a) Authorization

(1) In general

The President shall develop a plan for providing economic assistance to Cuba at such time as the President determines that a transition government or a democratically elected government in Cuba (as determined under section 6063(c) of this title) is in power.

(2) Effect on other laws

Assistance may be provided under this section subject to an authorization of appropriations and subject to the availability of appropriations.

(b) Plan for assistance

(1) Development of plan

The President shall develop a plan for providing assistance under this section—

(A) to Cuba when a transition government in Cuba is in power; and

(B) to Cuba when a democratically elected government in Cuba is in power.

(2) Types of assistance

Assistance under the plan developed under paragraph (1) may, subject to an authorization of appropriations and subject to the availability of appropriations, include the following:

(A) Transition government

(i) Except as provided in clause (ii), assistance to Cuba under a transition government shall, subject to an authorization of appropriations and subject to the availability of appropriations, be limited to—

(I) such food, medicine, medical supplies and equipment, and assistance to meet emergency energy needs, as is necessary to meet the basic human needs of the Cuban people; and

(II) assistance described in subparagraph (C).

(ii) Assistance in addition to assistance under clause (i) may be provided, but only after the President certifies to the appropriate congressional committees, in accordance with procedures applicable to reprogramming notifications under section 634A of the Foreign Assistance Act of 1961 [22 U.S.C. 2394–1], that such assistance is essential to the successful completion of the transition to democracy.

(iii) Only after a transition government in Cuba is in power, freedom of individuals to travel to visit their relatives without any restrictions shall be permitted.

(B) Democratically elected government

Assistance to a democratically elected government in Cuba may, subject to an authorization of appropriations and subject to the availability of appropriations, consist of economic

assistance in addition to assistance available under subparagraph (A), together with assistance described in subparagraph (C). Such economic assistance may include—

(i) assistance under chapter 1 of part I [22 U.S.C. 2151 et seq.] (relating to development assistance), and chapter 4 of part II [22 U.S.C. 2346 et seq.] (relating to the economic support fund), of the Foreign Assistance Act of 1961;

(ii) assistance under the Food for Peace Act [7 U.S.C. 1691 et seq.];

(iii) financing, guarantees, and other forms of assistance provided by the Export-Import Bank of the United States;

(iv) financial support provided by the Overseas Private Investment Corporation for investment projects in Cuba;

(v) assistance provided by the Trade and Development Agency;

(vi) Peace Corps programs; and

(vii) other appropriate assistance to carry out the policy of section 6061 of this title.

(C) Military adjustment assistance

Assistance to a transition government in Cuba and to a democratically elected government in Cuba shall also include assistance in preparing the Cuban military forces to adjust to an appropriate role in a democracy.

(c) Strategy for distribution

The plan developed under subsection (b) shall include a strategy for distributing assistance under the plan.

(d) Distribution

Assistance under the plan developed under subsection (b) shall be provided through United States Government organizations and nongovernmental organizations and private and voluntary organizations, whether within or outside the United States, including humanitarian, educational, labor, and private sector organizations.

(e) International efforts

The President shall take the necessary steps—

(1) to seek to obtain the agreement of other countries and of international financial institutions and multilateral organizations to provide to a transition government in Cuba, and to a democratically elected government in Cuba, assistance comparable to that provided by the United States under this chapter; and

(2) to work with such countries, institutions, and organizations to coordinate all such assistance programs.

(f) Communication with Cuban people

The President shall take the necessary steps to communicate to the Cuban people the plan for assistance developed under this section.

(g) Report to Congress

Not later than 180 days after March 12, 1996, the President shall transmit to the appropriate congressional committees a report describing in detail the plan developed under this section.

(h) Report on trade and investment relations

(1) Report to Congress

The President, following the transmittal to the Congress of a determination under section 6063(c)(3) of this title that a democratically elected government in Cuba is in power, shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate and the appropriate congressional committees a report that describes—

(A) acts, policies, and practices which constitute significant barriers to, or distortions of, United States trade in goods or services or foreign direct investment with respect to Cuba;

(B) policy objectives of the United States regarding trade relations with a democratically elected government in Cuba, and the reasons therefor, including possible—

(i) reciprocal extension of nondiscriminatory trade treatment (most-favored-nation treatment);

(ii) designation of Cuba as a beneficiary developing country under title V of the Trade Act of 1974 [19 U.S.C. 2461 et seq.] (relating to the Generalized System of Preferences) or as a beneficiary country under the Caribbean Basin Economic Recovery Act [19 U.S.C. 2701 et seq.], and the implications of such designation with respect to trade with any other country that is such a beneficiary developing country or beneficiary country or is a party to the North American Free Trade Agreement; and

(iii) negotiations regarding free trade, including the accession of Cuba to the North American Free Trade Agreement;

(C) specific trade negotiating objectives of the United States with respect to Cuba, including the objectives described in section 3317(b)(5) of title 19; and

(D) actions proposed or anticipated to be undertaken, and any proposed legislation necessary or appropriate, to achieve any of such policy and negotiating objectives.

(2) Consultation

The President shall consult with the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate and the appropriate congressional committees and shall seek advice from the appropriate advisory committees established under section 135 of the Trade Act of 1974 [19 U.S.C. 2155] regarding the policy and negotiating objectives and the legislative proposals described in paragraph (1).

(Pub. L. 104–114, title II, §202, Mar. 12, 1996, 110 Stat. 806; Pub. L. 110–246, title III, §3001(b)(1)(A), (2)(W), June 18, 2008, 122 Stat. 1820, 1821.)

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsec. (b)(2)(B)(i), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended. Chapter 1 of part I and chapter 4 of part II of the Act are classified generally to part I (§2151 et seq.) of subchapter I and part IV (§2346 et seq.) of subchapter II, respectively, of chapter 32 of this title. For provisions deeming references to part I of subchapter I to include a reference to section 2293 of this title, see section 2293(d)(1) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

The Food for Peace Act, referred to in subsec. (b)(2)(B)(ii), is act July 10, 1954, ch. 469, 68 Stat. 454, which is classified generally to chapter 41 (§1691 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 1691 of Title 7 and Tables.

This chapter, referred to in subsec. (e)(1), was in the original "this Act", meaning Pub. L. 104–114, Mar. 12, 1996, 110 Stat. 785, known as the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 6021 of this title and Tables.

The Trade Act of 1974, referred to in subsec. (h)(1)(B)(ii), is Pub. L. 93–618, Jan. 3, 1975, 88 Stat. 1978, as amended. Title V of the Act is classified generally to subchapter V (§2461 et seq.) of chapter 12 of Title 19, Customs Duties. For complete classification of this Act to the Code, see section 2101 of Title 19 and Tables.

The Caribbean Basin Economic Recovery Act, referred to in subsec. (h)(1)(B)(ii), is title II of Pub. L. 98–67, Aug. 5, 1983, 97 Stat. 384, which is classified principally to chapter 15 (§2701 et seq.) of Title 19. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of Title 19 and Tables.

AMENDMENTS

2008—Subsec. (b)(2)(B)(ii). Pub. L. 110–246 substituted "Food for Peace Act" for "Agricultural Trade Development and Assistance Act of 1954".

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–246 effective May 22, 2008, see section 4(b) of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

§6063. Coordination of assistance program; implementation and reports to Congress; reprogramming

(a) Coordinating official

The President shall designate a coordinating official who shall be responsible for—

(1) implementing the strategy for distributing assistance described in section 6062(b) of this title;

(2) ensuring the speedy and efficient distribution of such assistance; and

(3) ensuring coordination among, and appropriate oversight by, the agencies of the United States that provide assistance described in section 6062(b) of this title, including resolving any disputes among such agencies.

(b) United States-Cuba council

Upon making a determination under subsection (c)(3) that a democratically elected government in Cuba is in power, the President, after consultation with the coordinating official, is authorized to designate a United States-Cuba council—

(1) to ensure coordination between the United States Government and the private sector in responding to change in Cuba, and in promoting market-based development in Cuba; and

(2) to establish periodic meetings between representatives of the United States and Cuban private sectors for the purpose of facilitating bilateral trade.

(c) Implementation of plan; reports to Congress

(1) Implementation with respect to transition government

Upon making a determination that a transition government in Cuba is in power, the President shall transmit that determination to the appropriate congressional committees and shall, subject to an authorization of appropriations and subject to the availability of appropriations, commence the delivery and distribution of assistance to such transition government under the plan developed under section 6062(b) of this title.

(2) Reports to Congress

(A) The President shall transmit to the appropriate congressional committees a report setting forth the strategy for providing assistance described in section 6062(b)(2)(A) and (C) of this title to the transition government in Cuba under the plan of assistance developed under section 6062(b) of this title, the types of such assistance, and the extent to which such assistance has been distributed in accordance with the plan.

(B) The President shall transmit the report not later than 90 days after making the determination referred to in paragraph (1), except that the President shall transmit the report in preliminary form not later than 15 days after making that determination.

(3) Implementation with respect to democratically elected government

The President shall, upon determining that a democratically elected government in Cuba is in power, submit that determination to the appropriate congressional committees and shall, subject to an authorization of appropriations and subject to the availability of appropriations, commence the delivery and distribution of assistance to such democratically elected government under the plan developed under section 6062(b) of this title.

(4) Annual reports to Congress

Not later than 60 days after the end of each fiscal year, the President shall transmit to the appropriate congressional committees a report on the assistance provided under the plan developed under section 6062(b) of this title, including a description of each type of assistance, the amounts expended for such assistance, and a description of the assistance to be provided under the plan in the current fiscal year.

(d) Reprogramming

Any changes in the assistance to be provided under the plan developed under section 6062(b) of

this title may not be made unless the President notifies the appropriate congressional committees at least 15 days in advance in accordance with the procedures applicable to reprogramming notifications under section 2394–1 of this title.

(Pub. L. 104–114, title II, §203, Mar. 12, 1996, 110 Stat. 809.)

§6064. Termination of economic embargo of Cuba

(a) Presidential actions

Upon submitting a determination to the appropriate congressional committees under section 6063(c)(1) of this title that a transition government in Cuba is in power, the President, after consultation with the Congress, is authorized to take steps to suspend the economic embargo of Cuba and to suspend the right of action created in section 6082 of this title with respect to actions thereafter filed against the Cuban Government, to the extent that such steps contribute to a stable foundation for a democratically elected government in Cuba.

(b) Suspension of certain provisions of law

In carrying out subsection (a), the President may suspend the enforcement of—

(1) section 2370(a) of this title;

(2) section 2370(f) of this title with respect to the "Republic of Cuba";

(3) sections 6003, 6004(d), and 6005 of this title;

(4) section 902(c) of the Food Security Act of 1985; and

(5) the prohibitions on transactions described in part 515 of title 31, Code of Federal Regulations.

(c) Additional Presidential actions

Upon submitting a determination to the appropriate congressional committees under section 6063(c)(3) of this title that a democratically elected government in Cuba is in power, the President shall take steps to terminate the economic embargo of Cuba, including the restrictions under part 515 of title 31, Code of Federal Regulations.

(d) Conforming amendments

On the date on which the President submits a determination under section 6063(c)(3) of this title—

(1) section 2370(a) of this title is repealed;

(2) section 2370(f) of this title is amended by striking "Republic of Cuba";

(3) sections 6003, 6004(d), and 6005 of this title are repealed; and

(4) section 902(c) of the Food Security Act of 1985 is repealed.

(e) Review of suspension of economic embargo

(1) Review

If the President takes action under subsection (a) to suspend the economic embargo of Cuba, the President shall immediately so notify the Congress. The President shall report to the Congress no less frequently than every 6 months thereafter, until he submits a determination under section 6063(c)(3) of this title that a democratically elected government in Cuba is in power, on the progress being made by Cuba toward the establishment of such a democratically elected government. The action of the President under subsection (a) shall cease to be effective upon the enactment of a joint resolution described in paragraph (2).

(2) Joint resolutions

For purposes of this subsection, the term "joint resolution" means only a joint resolution of the 2 Houses of Congress, the matter after the resolving clause of which is as follows: "That the Congress disapproves the action of the President under section 204(a) of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 to suspend the economic embargo of Cuba, notice of which was submitted to the Congress on ____.", with the blank space being filled with the appropriate date.

(3) Referral to committees

Joint resolutions introduced in the House of Representatives shall be referred to the Committee on International Relations and joint resolutions introduced in the Senate shall be referred to the Committee on Foreign Relations.

(4) Procedures

(A) Any joint resolution shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

(B) For the purpose of expediting the consideration and enactment of joint resolutions, a motion to proceed to the consideration of any joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

(C) Not more than 1 joint resolution may be considered in the House of Representatives and the Senate in the 6-month period beginning on the date on which the President notifies the Congress under paragraph (1) of the action taken under subsection (a), and in each 6-month period thereafter.

(Pub. L. 104–114, title II, §204, Mar. 12, 1996, 110 Stat. 810.)

REFERENCES IN TEXT

Section 902(c) of the Food Security Act of 1985, referred to in subsecs. (b)(4) and (d)(4), is section 902(c) of Pub. L. 99–198, which is set out as a note under section 1446g of Title 7, Agriculture.

Section 204(a) of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996, referred to in subsec. (e)(2), is subsec. (a) of this section.

Section 601(b) of the International Security Assistance and Arms Export Control Act of 1976, referred to in subsec. (e)(4)(A), is section 601(b) of Pub. L. 94–329, title VI, June 30, 1976, 90 Stat. 765, which is not classified to the Code.

CHANGE OF NAME

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§6065. Requirements and factors for determining transition government

(a) Requirements

For the purposes of this chapter, a transition government in Cuba is a government that—

(1) has legalized all political activity;

(2) has released all political prisoners and allowed for investigations of Cuban prisons by appropriate international human rights organizations;

(3) has dissolved the present Department of State Security in the Cuban Ministry of the Interior, including the Committees for the Defense of the Revolution and the Rapid Response Brigades; and

(4) has made public commitments to organizing free and fair elections for a new government—

(A) to be held in a timely manner within a period not to exceed 18 months after the transition government assumes power;

(B) with the participation of multiple independent political parties that have full access to the media on an equal basis, including (in the case of radio, television, or other telecommunications media) in terms of allotments of time for such access and the times of day such allotments are given; and

(C) to be conducted under the supervision of internationally recognized observers, such as the Organization of American States, the United Nations, and other election monitors;

(5) has ceased any interference with Radio Marti or Television Marti broadcasts;

(6) makes public commitments to and is making demonstrable progress in—

(A) establishing an independent judiciary;

(B) respecting internationally recognized human rights and basic freedoms as set forth in the Universal Declaration of Human Rights, to which Cuba is a signatory nation;

(C) allowing the establishment of independent trade unions as set forth in conventions 87 and 98 of the International Labor Organization, and allowing the establishment of independent social, economic, and political associations;

(7) does not include Fidel Castro or Raul Castro; and

(8) has given adequate assurances that it will allow the speedy and efficient distribution of assistance to the Cuban people.

(b) Additional factors

In addition to the requirements in subsection (a), in determining whether a transition government in Cuba is in power, the President shall take into account the extent to which that government—

(1) is demonstrably in transition from a communist totalitarian dictatorship to representative democracy;

(2) has made public commitments to, and is making demonstrable progress in—

(A) effectively guaranteeing the rights of free speech and freedom of the press, including granting permits to privately owned media and telecommunications companies to operate in Cuba;

(B) permitting the reinstatement of citizenship to Cuban-born persons returning to Cuba;

(C) assuring the right to private property; and

(D) taking appropriate steps to return to United States citizens (and entities which are 50 percent or more beneficially owned by United States citizens) property taken by the Cuban Government from such citizens and entities on or after January 1, 1959, or to provide equitable compensation to such citizens and entities for such property;

(3) has extradited or otherwise rendered to the United States all persons sought by the United States Department of Justice for crimes committed in the United States; and

(4) has permitted the deployment throughout Cuba of independent and unfettered international human rights monitors.

(Pub. L. 104–114, title II, §205, Mar. 12, 1996, 110 Stat. 811.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this Act", meaning Pub. L. 104–114, Mar. 12, 1996, 110 Stat. 785, known as the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 6021 of this title and Tables.

§6066. Requirements for determining democratically elected government

For purposes of this chapter, a democratically elected government in Cuba, in addition to meeting the requirements of section 6065(a) of this title, is a government which—

(1) results from free and fair elections—

(A) conducted under the supervision of internationally recognized observers; and

(B) in which—

(i) opposition parties were permitted ample time to organize and campaign for such elections; and

(ii) all candidates were permitted full access to the media;

(2) is showing respect for the basic civil liberties and human rights of the citizens of Cuba;

(3) is substantially moving toward a market-oriented economic system based on the right to own and enjoy property;

(4) is committed to making constitutional changes that would ensure regular free and fair elections and the full enjoyment of basic civil liberties and human rights by the citizens of Cuba;

(5) has made demonstrable progress in establishing an independent judiciary; and

(6) has made demonstrable progress in returning to United States citizens (and entities which are 50 percent or more beneficially owned by United States citizens) property taken by the Cuban Government from such citizens and entities on or after January 1, 1959, or providing full compensation for such property in accordance with international law standards and practice.

(Pub. L. 104–114, title II, §206, Mar. 12, 1996, 110 Stat. 812.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 104–114, Mar. 12, 1996, 110 Stat. 785, known as the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 6021 of this title and Tables.

§6067. Settlement of outstanding United States claims to confiscated property in Cuba

(a) Report to Congress

Not later than 180 days after March 12, 1996, the Secretary of State shall provide a report to the appropriate congressional committees containing an assessment of the property dispute question in Cuba, including—

(1) an estimate of the number and amount of claims to property confiscated by the Cuban Government that are held by United States nationals in addition to those claims certified under section 1643f of this title;

(2) an assessment of the significance of promptly resolving confiscated property claims to the revitalization of the Cuban economy;

(3) a review and evaluation of technical and other assistance that the United States could provide to help either a transition government in Cuba or a democratically elected government in Cuba establish mechanisms to resolve property questions;

(4) an assessment of the role and types of support the United States could provide to help resolve claims to property confiscated by the Cuban Government that are held by United States nationals who did not receive or qualify for certification under section 1643f of this title; and

(5) an assessment of any areas requiring legislative review or action regarding the resolution of property claims in Cuba prior to a change of government in Cuba.

(d) [1] Sense of Congress

It is the sense of the Congress that the satisfactory resolution of property claims by a Cuban Government recognized by the United States remains an essential condition for the full resumption of economic and diplomatic relations between the United States and Cuba.

(Pub. L. 104–114, title II, §207, Mar. 12, 1996, 110 Stat. 813.)

[1] *So in original. No subsec. (b) or (c) has been enacted.*

SUBCHAPTER III—PROTECTION OF PROPERTY RIGHTS OF UNITED STATES NATIONALS

§6081. Findings

The Congress makes the following findings:

(1) Individuals enjoy a fundamental right to own and enjoy property which is enshrined in the United States Constitution.

(2) The wrongful confiscation or taking of property belonging to United States nationals by the Cuban Government, and the subsequent exploitation of this property at the expense of the rightful owner, undermines the comity of nations, the free flow of commerce, and economic development.

(3) Since Fidel Castro seized power in Cuba in 1959—

(A) he has trampled on the fundamental rights of the Cuban people; and

(B) through his personal despotism, he has confiscated the property of—

(i) millions of his own citizens;

(ii) thousands of United States nationals; and

(iii) thousands more Cubans who claimed asylum in the United States as refugees because of persecution and later became naturalized citizens of the United States.

(4) It is in the interest of the Cuban people that the Cuban Government respect equally the property rights of Cuban nationals and nationals of other countries.

(5) The Cuban Government is offering foreign investors the opportunity to purchase an equity interest in, manage, or enter into joint ventures using property and assets some of which were confiscated from United States nationals.

(6) This "trafficking" in confiscated property provides badly needed financial benefit, including hard currency, oil, and productive investment and expertise, to the current Cuban Government and thus undermines the foreign policy of the United States—

(A) to bring democratic institutions to Cuba through the pressure of a general economic embargo at a time when the Castro regime has proven to be vulnerable to international economic pressure; and

(B) to protect the claims of United States nationals who had property wrongfully confiscated by the Cuban Government.

(7) The United States Department of State has notified other governments that the transfer to third parties of properties confiscated by the Cuban Government "would complicate any attempt to return them to their original owners".

(8) The international judicial system, as currently structured, lacks fully effective remedies for the wrongful confiscation of property and for unjust enrichment from the use of wrongfully confiscated property by governments and private entities at the expense of the rightful owners of the property.

(9) International law recognizes that a nation has the ability to provide for rules of law with respect to conduct outside its territory that has or is intended to have substantial effect within its territory.

(10) The United States Government has an obligation to its citizens to provide protection against wrongful confiscations by foreign nations and their citizens, including the provision of private remedies.

(11) To deter trafficking in wrongfully confiscated property, United States nationals who were the victims of these confiscations should be endowed with a judicial remedy in the courts of the United States that would deny traffickers any profits from economically exploiting Castro's wrongful seizures.

(Pub. L. 104–114, title III, §301, Mar. 12, 1996, 110 Stat. 814.)

§6082. Liability for trafficking in confiscated property claimed by United States nationals

(a) Civil remedy

(1) Liability for trafficking

(A) Except as otherwise provided in this section, any person that, after the end of the 3-month period beginning on the effective date of this subchapter, traffics in property which was

confiscated by the Cuban Government on or after January 1, 1959, shall be liable to any United States national who owns the claim to such property for money damages in an amount equal to the sum of—

(i) the amount which is the greater of—

(I) the amount, if any, certified to the claimant by the Foreign Claims Settlement Commission under the International Claims Settlement Act of 1949 [22 U.S.C. 1621 et seq.], plus interest;

(II) the amount determined under section 6083(a)(2) of this title, plus interest; or

(III) the fair market value of that property, calculated as being either the current value of the property, or the value of the property when confiscated plus interest, whichever is greater; and

(ii) court costs and reasonable attorneys' fees.

(B) Interest under subparagraph (A)(i) shall be at the rate set forth in section 1961 of title 28, computed by the court from the date of confiscation of the property involved to the date on which the action is brought under this subsection.

(2) Presumption in favor of the certified claims

There shall be a presumption that the amount for which a person is liable under clause (i) of paragraph (1)(A) is the amount that is certified as described in subclause (I) of that clause. The presumption shall be rebuttable by clear and convincing evidence that the amount described in subclause (II) or (III) of that clause is the appropriate amount of liability under that clause.

(3) Increased liability

(A) Any person that traffics in confiscated property for which liability is incurred under paragraph (1) shall, if a United States national owns a claim with respect to that property which was certified by the Foreign Claims Settlement Commission under title V of the International Claims Settlement Act of 1949 [22 U.S.C. 1643 et seq.], be liable for damages computed in accordance with subparagraph (C).

(B) If the claimant in an action under this subsection (other than a United States national to whom subparagraph (A) applies) provides, after the end of the 3-month period described in paragraph (1) notice to—

(i) a person against whom the action is to be initiated, or

(ii) a person who is to be joined as a defendant in the action,

at least 30 days before initiating the action or joining such person as a defendant, as the case may be, and that person, after the end of the 30-day period beginning on the date the notice is provided, traffics in the confiscated property that is the subject of the action, then that person shall be liable to that claimant for damages computed in accordance with subparagraph (C).

(C) Damages for which a person is liable under subparagraph (A) or subparagraph (B) are money damages in an amount equal to the sum of—

(i) the amount determined under paragraph (1)(A)(ii), and

(ii) 3 times the amount determined applicable under paragraph (1)(A)(i).

(D) Notice to a person under subparagraph (B)—

(i) shall be in writing;

(ii) shall be posted by certified mail or personally delivered to the person; and

(iii) shall contain—

(I) a statement of intention to commence the action under this section or to join the person as a defendant (as the case may be), together with the reasons therefor;

(II) a demand that the unlawful trafficking in the claimant's property cease immediately; and

(III) a copy of the summary statement published under paragraph (8).

(4) Applicability

(A) Except as otherwise provided in this paragraph, actions may be brought under paragraph (1) with respect to property confiscated before, on, or after March 12, 1996.

(B) In the case of property confiscated before March 12, 1996, a United States national may not bring an action under this section on a claim to the confiscated property unless such national acquires ownership of the claim before March 12, 1996.

(C) In the case of property confiscated on or after March 12, 1996, a United States national who, after the property is confiscated, acquires ownership of a claim to the property by assignment for value, may not bring an action on the claim under this section.

(5) Treatment of certain actions

(A) In the case of a United States national who was eligible to file a claim with the Foreign Claims Settlement Commission under title V of the International Claims Settlement Act of 1949 [22 U.S.C. 1643 et seq.] but did not so file the claim, that United States national may not bring an action on that claim under this section.

(B) In the case of any action brought under this section by a United States national whose underlying claim in the action was timely filed with the Foreign Claims Settlement Commission under title V of the International Claims Settlement Act of 1949 but was denied by the Commission, the court shall accept the findings of the Commission on the claim as conclusive in the action under this section.

(C) A United States national, other than a United States national bringing an action under this section on a claim certified under title V of the International Claims Settlement Act of 1949, may not bring an action on a claim under this section before the end of the 2-year period beginning on March 12, 1996.

(D) An interest in property for which a United States national has a claim certified under title V of the International Claims Settlement Act of 1949 may not be the subject of a claim in an action under this section by any other person. Any person bringing an action under this section whose claim has not been so certified shall have the burden of establishing for the court that the interest in property that is the subject of the claim is not the subject of a claim so certified.

(6) Inapplicability of act of state doctrine

No court of the United States shall decline, based upon the act of state doctrine, to make a determination on the merits in an action brought under paragraph (1) .

(7) Licenses not required

(A) Notwithstanding any other provision of law, an action under this section may be brought and may be settled, and a judgment rendered in such action may be enforced, without obtaining any license or other permission from any agency of the United States, except that this paragraph shall not apply to the execution of a judgment against, or the settlement of actions involving, property blocked under the authorities of section 4305(b) of title 50, that were being exercised on July 1, 1977, as a result of a national emergency declared by the President before such date, and are being exercised on March 12, 1996.

(B) Notwithstanding any other provision of law, and for purposes of this subchapter only, any claim against the Cuban Government shall not be deemed to be an interest in property the transfer of which to a United States national required before March 12, 1996, or requires after March 12, 1996, a license issued by, or the permission of, any agency of the United States.

(8) Publication by Attorney General

Not later than 60 days after March 12, 1996, the Attorney General shall prepare and publish in the Federal Register a concise summary of the provisions of this subchapter, including a statement of the liability under this subchapter of a person trafficking in confiscated property, and the remedies available to United States nationals under this subchapter.

(b) Amount in controversy

An action may be brought under this section by a United States national only where the amount in

controversy exceeds the sum or value of $50,000, exclusive of interest, costs, and attorneys' fees. In calculating $50,000 for purposes of the preceding sentence, the applicable amount under subclause (I), (II), or (III) of subsection (a)(1)(A)(i) may not be tripled as provided in subsection (a)(3).

(c) Procedural requirements

(1) In general

Except as provided in this subchapter, the provisions of title 28 and the rules of the courts of the United States apply to actions under this section to the same extent as such provisions and rules apply to any other action brought under section 1331 of title 28.

(2) Service of process

In an action under this section, service of process on an agency or instrumentality of a foreign state in the conduct of a commercial activity, or against individuals acting under color of law, shall be made in accordance with section 1608 of title 28.

(d) Enforceability of judgments against Cuban Government

In an action brought under this section, any judgment against an agency or instrumentality of the Cuban Government shall not be enforceable against an agency or instrumentality of either a transition government in Cuba or a democratically elected government in Cuba.

(e) Omitted

(f) Election of remedies

(1) Election

Subject to paragraph (2)—

(A) any United States national that brings an action under this section may not bring any other civil action or proceeding under the common law, Federal law, or the law of any of the several States, the District of Columbia, or any commonwealth, territory, or possession of the United States, that seeks monetary or nonmonetary compensation by reason of the same subject matter; and

(B) any person who brings, under the common law or any provision of law other than this section, a civil action or proceeding for monetary or nonmonetary compensation arising out of a claim for which an action would otherwise be cognizable under this section may not bring an action under this section on that claim.

(2) Treatment of certified claimants

(A) In the case of any United States national that brings an action under this section based on a claim certified under title V of the International Claims Settlement Act of 1949 [22 U.S.C. 1643 et seq.]—

(i) if the recovery in the action is equal to or greater than the amount of the certified claim, the United States national may not receive payment on the claim under any agreement entered into between the United States and Cuba settling claims covered by such title, and such national shall be deemed to have discharged the United States from any further responsibility to represent the United States national with respect to that claim;

(ii) if the recovery in the action is less than the amount of the certified claim, the United States national may receive payment under a claims agreement described in clause (i) but only to the extent of the difference between the amount of the recovery and the amount of the certified claim; and

(iii) if there is no recovery in the action, the United States national may receive payment on the certified claim under a claims agreement described in clause (i) to the same extent as any certified claimant who does not bring an action under this section.

(B) In the event some or all actions brought under this section are consolidated by judicial or other action in such manner as to create a pool of assets available to satisfy the claims in such actions, including a pool of assets in a proceeding in bankruptcy, every claimant whose claim in

an action so consolidated was certified by the Foreign Claims Settlement Commission under title V of the International Claims Settlement Act of 1949 [22 U.S.C. 1643 et seq.] shall be entitled to payment in full of its claim from the assets in such pool before any payment is made from the assets in such pool with respect to any claim not so certified.

(g) Deposit of excess payments by Cuba under claims agreement

Any amounts paid by Cuba under any agreement entered into between the United States and Cuba settling certified claims under title V of the International Claims Settlement Act of 1949 [22 U.S.C. 1643 et seq.] that are in excess of the payments made on such certified claims after the application of subsection (f) shall be deposited into the United States Treasury.

(h) Termination of rights

(1) In general

All rights created under this section to bring an action for money damages with respect to property confiscated by the Cuban Government—

(A) may be suspended under section 6064(a) of this title; and

(B) shall cease upon transmittal to the Congress of a determination of the President under section 6063(c)(3) of this title that a democratically elected government in Cuba is in power.

(2) Pending suits

The suspension or termination of rights under paragraph (1) shall not affect suits commenced before the date of such suspension or termination (as the case may be), and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if the suspension or termination had not occurred.

(i) Imposition of filing fees

The Judicial Conference of the United States shall establish a uniform fee that shall be imposed upon the plaintiff or plaintiffs in each action brought under this section. The fee should be established at a level sufficient to recover the costs to the courts of actions brought under this section. The fee under this subsection is in addition to any other fees imposed under title 28.

(Pub. L. 104–114, title III, §302, Mar. 12, 1996, 110 Stat. 815.)

REFERENCES IN TEXT

For the effective date of this subchapter, referred to in subsec. (a)(1)(A), as Aug. 1, 1996, or date determined pursuant to suspension authority of President see section 6085 of this title.

The International Claims Settlement Act of 1949, referred to in subsecs. (a)(1)(A)(i)(I), (3)(A), (5), (f)(2), and (g), is act Mar. 10, 1950, ch. 54, 64 Stat. 12, as amended, which is classified generally to chapter 21 (§1621 et seq.) of this title. Title V of the Act is classified generally to subchapter V (§1643 et seq.) of chapter 21 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1621 of this title and Tables.

This subchapter, referred to in subsecs. (a)(7)(B), (8) and (c)(1), was in the original "this title", meaning title III of Pub. L. 104–114, Mar. 12, 1996, 110 Stat. 814, which enacted this subchapter and sections 1643l and 1643m of this title and amended section 1611 of Title 28, Judiciary and Judicial Procedure. For complete classification of title III to the Code, see Tables.

CODIFICATION

Section is comprised of section 302 of Pub. L. 104–114. Subsec. (e) of section 302 of Pub. L. 104–114 amended section 1611 of Title 28, Judiciary and Judicial Procedure.

§6083. Proof of ownership of claims to confiscated property

(a) Evidence of ownership

(1) Conclusiveness of certified claims

In any action brought under this subchapter, the court shall accept as conclusive proof of ownership of an interest in property a certification of a claim to ownership of that interest that has

been made by the Foreign Claims Settlement Commission under title V of the International Claims Settlement Act of 1949 (22 U.S.C. 1643 and following).

(2) Claims not certified

If in an action under this subchapter a claim has not been so certified by the Foreign Claims Settlement Commission, the court may appoint a special master, including the Foreign Claims Settlement Commission, to make determinations regarding the amount and ownership of the claim. Such determinations are only for evidentiary purposes in civil actions brought under this subchapter and do not constitute certifications under title V of the International Claims Settlement Act of 1949.

(3) Effect of determinations of foreign or international entities

In determining the amount or ownership of a claim in an action under this subchapter, the court shall not accept as conclusive evidence any findings, orders, judgments, or decrees from administrative agencies or courts of foreign countries or international organizations that declare the value of or invalidate the claim, unless the declaration of value or invalidation was found pursuant to binding international arbitration to which the United States or the claimant submitted the claim.

(b) Omitted

(c) Rule of construction

Nothing in this chapter or in section 514 of the International Claims Settlement Act of 1949 [22 U.S.C. 1643l], as added by subsection (b), shall be construed—

(1) to require or otherwise authorize the claims of Cuban nationals who became United States citizens after their property was confiscated to be included in the claims certified to the Secretary of State by the Foreign Claims Settlement Commission for purposes of future negotiation and espousal of claims with a friendly government in Cuba when diplomatic relations are restored; or

(2) as superseding, amending, or otherwise altering certifications that have been made under title V of the International Claims Settlement Act of 1949 [22 U.S.C. 1643 et seq.] before March 12, 1996.

(Pub. L. 104–114, title III, §303, Mar. 12, 1996, 110 Stat. 819.)

REFERENCES IN TEXT

The International Claims Settlement Act of 1949, referred to in subsecs. (a)(1), (2) and (c)(2), is act Mar. 10, 1950, ch. 54, 64 Stat. 12, as amended. Title V of the Act is classified generally to subchapter V (§1643 et seq.) of chapter 21 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1621 of this title and Tables.

This chapter, referred to in subsec. (c), was in the original "this Act", meaning Pub. L. 104–114, Mar. 12, 1996, 110 Stat. 785, known as the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 6021 of this title and Tables.

CODIFICATION

Section is comprised of section 303 of Pub. L. 104–114. Subsec. (b) of section 303 of Pub. L. 104–114 enacted section 1643l of this title.

§6084. Limitation of actions

An action under section 6082 of this title may not be brought more than 2 years after the trafficking giving rise to the action has ceased to occur.

(Pub. L. 104–114, title III, §305, Mar. 12, 1996, 110 Stat. 821.)

§6085. Effective date

(a) In general

Subject to subsections (b) and (c), this subchapter and the amendments made by this subchapter shall take effect on August 1, 1996.

(b) Suspension authority

(1) Suspension authority

The President may suspend the effective date under subsection (a) for a period of not more than 6 months if the President determines and reports in writing to the appropriate congressional committees at least 15 days before such effective date that the suspension is necessary to the national interests of the United States and will expedite a transition to democracy in Cuba.

(2) Additional suspensions

The President may suspend the effective date under subsection (a) for additional periods of not more than 6 months each, each of which shall begin on the day after the last day of the period during which a suspension is in effect under this subsection, if the President determines and reports in writing to the appropriate congressional committees at least 15 days before the date on which the additional suspension is to begin that the suspension is necessary to the national interests of the United States and will expedite a transition to democracy in Cuba.

(c) Other authorities

(1) Suspension

After this subchapter and the amendments of this subchapter have taken effect—

(A) no person shall acquire a property interest in any potential or pending action under this subchapter; and

(B) the President may suspend the right to bring an action under this subchapter with respect to confiscated property for a period of not more than 6 months if the President determines and reports in writing to the appropriate congressional committees at least 15 days before the suspension takes effect that such suspension is necessary to the national interests of the United States and will expedite a transition to democracy in Cuba.

(2) Additional suspensions

The President may suspend the right to bring an action under this subchapter for additional periods of not more than 6 months each, each of which shall begin on the day after the last day of the period during which a suspension is in effect under this subsection, if the President determines and reports in writing to the appropriate congressional committees at least 15 days before the date on which the additional suspension is to begin that the suspension is necessary to the national interests of the United States and will expedite a transition to democracy in Cuba.

(3) Pending suits

The suspensions of actions under paragraph (1) shall not affect suits commenced before the date of such suspension, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if the suspension had not occurred.

(d) Rescission of suspension

The President may rescind any suspension made under subsection (b) or (c) upon reporting to the appropriate congressional committees that doing so will expedite a transition to democracy in Cuba.

(Pub. L. 104–114, title III, §306, Mar. 12, 1996, 110 Stat. 821.)

REFERENCES IN TEXT

This subchapter, referred to in subsecs. (a) and (c)(1), was in the original "this title", meaning title III of Pub. L. 104–114, Mar. 12, 1996, 110 Stat. 814, which enacted this subchapter and sections 1643l and 1643m of this title and amended section 1611 of Title 28, Judiciary and Judicial Procedure. For complete classification of title III to the Code, see Tables.

DELEGATION OF AUTHORITY TO SUSPEND THE PROVISIONS OF TITLE III OF THE CUBAN LIBERTY AND DEMOCRATIC SOLIDARITY (LIBERTAD) ACT OF 1996

Memorandum of President of the United States, Jan. 31, 2013, 78 F.R. 9573, provided:

Memorandum for the Secretary of State

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3 of the United States Code, I hereby delegate to you the authority to suspend the provisions of title III of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (Public Law 104–114; 22 U.S.C. 6021–6091), as authorized by section 306(c)(2) of the Act.

You are authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

SUBCHAPTER IV—EXCLUSION OF CERTAIN ALIENS

§6091. Exclusion from United States of aliens who have confiscated property of United States nationals or who traffic in such property

(a) Grounds for exclusion

The Secretary of State shall deny a visa to, and the Attorney General shall exclude from the United States, any alien who the Secretary of State determines is a person who, after March 12, 1996—

(1) has confiscated, or has directed or overseen the confiscation of, property a claim to which is owned by a United States national, or converts or has converted for personal gain confiscated property, a claim to which is owned by a United States national;

(2) traffics in confiscated property, a claim to which is owned by a United States national;

(3) is a corporate officer, principal, or shareholder with a controlling interest of an entity which has been involved in the confiscation of property or trafficking in confiscated property, a claim to which is owned by a United States national; or

(4) is a spouse, minor child, or agent of a person excludable under paragraph (1), (2), or (3).

(b) Definitions

As used in this section, the following terms have the following meanings:

(1) Confiscated; confiscation

The terms "confiscated" and "confiscation" refer to—

(A) the nationalization, expropriation, or other seizure by the Cuban Government of ownership or control of property—

(i) without the property having been returned or adequate and effective compensation provided; or

(ii) without the claim to the property having been settled pursuant to an international claims settlement agreement or other mutually accepted settlement procedure; and

(B) the repudiation by the Cuban Government of, the default by the Cuban Government on, or the failure of the Cuban Government to pay—

(i) a debt of any enterprise which has been nationalized, expropriated, or otherwise taken by the Cuban Government;

(ii) a debt which is a charge on property nationalized, expropriated, or otherwise taken by the Cuban Government; or

(iii) a debt which was incurred by the Cuban Government in satisfaction or settlement of a confiscated property claim.

(2) Traffics

(A) Except as provided in subparagraph (B), a person "traffics" in confiscated property if that person knowingly and intentionally—

(i)(I) transfers, distributes, dispenses, brokers, or otherwise disposes of confiscated property,

(II) purchases, receives, obtains control of, or otherwise acquires confiscated property, or

(III) improves (other than for routine maintenance), invests in (by contribution of funds or anything of value, other than for routine maintenance), or begins after March 12, 1996, to manage, lease, possess, use, or hold an interest in confiscated property,

(ii) enters into a commercial arrangement using or otherwise benefiting from confiscated property, or

(iii) causes, directs, participates in, or profits from, trafficking (as described in clause (i) or (ii)) by another person, or otherwise engages in trafficking (as described in clause (i) or (ii)) through another person,

without the authorization of any United States national who holds a claim to the property.

(B) The term "traffics" does not include—

(i) the delivery of international telecommunication signals to Cuba;

(ii) the trading or holding of securities publicly traded or held, unless the trading is with or by a person determined by the Secretary of the Treasury to be a specially designated national;

(iii) transactions and uses of property incident to lawful travel to Cuba, to the extent that such transactions and uses of property are necessary to the conduct of such travel; or

(iv) transactions and uses of property by a person who is both a citizen of Cuba and a resident of Cuba, and who is not an official of the Cuban Government or the ruling political party in Cuba.

(c) Exemption

This section shall not apply where the Secretary of State finds, on a case by case basis, that the entry into the United States of the person who would otherwise be excluded under this section is necessary for medical reasons or for purposes of litigation of an action under subchapter III.

(d) Effective date

(1) In general

This section applies to aliens seeking to enter the United States on or after March 12, 1996.

(2) Trafficking

This section applies only with respect to acts within the meaning of "traffics" that occur on or after March 12, 1996.

(Pub. L. 104–114, title IV, §401, Mar. 12, 1996, 110 Stat. 822.)

REFERENCES IN TEXT

Subchapter III, referred to in subsec. (c), was in the original "title III", meaning title III of Pub. L. 104–114, Mar. 12, 1996, 110 Stat. 814, which enacted subchapter III of this chapter and sections 1643l and 1643m of this title and amended section 1611 of Title 28, Judiciary and Judicial Procedure. For complete classification of title III to the Code, see Tables.

REPORTS ON DETERMINATIONS UNDER TITLE IV OF THE LIBERTAD ACT

Pub. L. 105–277, div. G, subdiv. B, title XXVIII, §2802, Oct. 21, 1998, 112 Stat. 2681–845, as amended by Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title II, §209(b)], Nov. 29, 1999, 113 Stat. 1536, 1501A–423; Pub. L. 107–228, div. A, title II, §216(b), Sept. 30, 2002, 116 Stat. 1366, provided that:

"(a) REPORTS REQUIRED.—Not later than 30 days after the date of the enactment of this Act [Oct. 21, 1998] and every 3 months thereafter during the period ending September 30, 2003, the Secretary of State shall submit to the appropriate congressional committees [Committee on Foreign Affairs of the House of Representatives and Committee on Foreign Relations of the Senate] a report on the implementation of section 401 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (22 U.S.C. 6091). Each report shall include—

"(1) an unclassified list, by economic sector, of the number of entities then under review pursuant to that section;

"(2) an unclassified list of all entities and a classified list of all individuals that the Secretary of State has determined to be subject to that section;

"(3) an unclassified list of all entities and a classified list of all individuals that the Secretary of State

has determined are no longer subject to that section;

"(4) an explanation of the status of the review underway for the cases referred to in paragraph (1); and

"(5) an unclassified explanation of each determination of the Secretary of State under section 401(a) of that Act and each finding of the Secretary under section 401(c) of that Act—

"(A) since the date of the enactment of this Act, in the case of the first report under this subsection; and

"(B) in the preceding 3-month period, in the case of each subsequent report.

"(b) PROTECTION OF IDENTITY OF CONCERNED ENTITIES.—In preparing the report under subsection (a), the names of entities shall not be identified under paragraph (1) or (4)."

CHAPTER 70—MANSFIELD FELLOWSHIP PROGRAM

Sec.

6101. Establishment of Fellowship Program.
6102. Program requirements.
6103. Separation of Government personnel during fellowships.
6104. Mansfield Fellows on detail from Government service.
6105. Liability for repayments.
6106. Definitions.

§6101. Establishment of Fellowship Program

(a) Establishment

(1) There is hereby established the "Mike Mansfield Fellowship Program" pursuant to which the Director of the United States Information Agency will make grants, subject to the availability of appropriations, to the Mansfield Center for Pacific Affairs to award fellowships to eligible United States citizens for periods of 2 years each (or, pursuant to section 6102(5)(C) of this title, for such shorter period of time as the Center may determine based on a Fellow's level of proficiency in the Japanese language or knowledge of the political economy of Japan) as follows:

(A) During the first year each fellowship recipient will study the Japanese language as well as Japan's political economy.

(B) During the second year each fellowship recipient will serve as a fellow in a parliamentary office, ministry, or other agency of the Government of Japan or, subject to the approval of the Center, a nongovernmental Japanese institution associated with the interests of the fellowship recipient, and the agency of the United States Government from which the fellow originated, consistent with the purposes of this chapter.

(2) Fellowships under this chapter may be known as "Mansfield Fellowships", and individuals awarded such fellowships may be known as "Mansfield Fellows".

(b) Eligibility of Center for grants

Grants may be made to the Center under this section only if the Center agrees to comply with the requirements of section 6102 of this title.

(c) International agreement

The Director of the United States Information Agency should enter into negotiations for an agreement with the Government of Japan for the purpose of placing fellows in the Government of Japan.

(d) Private sources

The Center is authorized to accept, use, and dispose of gifts or donations of services or property in carrying out the fellowship program, subject to the review and approval of the Director of the United States Information Agency.

(e) Use of Federal facilities

The George P. Shultz National Foreign Affairs Training Center is authorized and encouraged to assist, on a reimbursable basis, in carrying out Japanese language training by the Center through the provision of teachers, classroom space, teaching materials, and facilities, to the extent that such provision is not detrimental to the Institute's carrying out its other responsibilities under law.

(Pub. L. 103–236, title II, §252, Apr. 30, 1994, 108 Stat. 428; Pub. L. 107–132, §1(b), Jan. 16, 2002, 115 Stat. 2412.)

AMENDMENTS

2002—Subsec. (e). Pub. L. 107–132 substituted "George P. Shultz National Foreign Affairs Training Center" for "National Foreign Affairs Training Center".

SHORT TITLE

Pub. L. 103–236, title II, §251, Apr. 30, 1994, 108 Stat. 428, provided that: "This part [part C (§§251–257) of title II of Pub. L. 103–236, enacting this chapter] may be cited as the 'Mike Mansfield Fellowship Act'."

TRANSFER OF FUNCTIONS

United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau) abolished and functions transferred to Secretary of State, see sections 6531 and 6532 of this title.

§6102. Program requirements

The program established under this chapter shall comply with the following requirements:

(1) United States citizens who are eligible for fellowships under this chapter shall be employees of the Federal Government having at least two years experience in any branch of the Government, a strong career interest in United States-Japan relations, and a demonstrated commitment to further service in the Federal Government, and such other qualifications as are determined by the Center.

(2) Not more than 10 fellowships may be awarded each year of which not more than 3 shall be awarded to individuals who are not detailed employees of the Government.

(3)(A) Fellows shall agree to maintain satisfactory progress in language training and appropriate behavior in Japan, as determined by the Center, as a condition of continued receipt of Federal funds.

(B) Fellows who are not detailees shall agree to return to the Federal Government for further employment for a period of at least 2 years following the end of their fellowships, unless, in the determination of the Center, the fellow is unable (for reasons beyond the fellow's control and after receiving assistance from the Center as provided in paragraph (8)) to find reemployment for such period.

(4) During the period of the fellowship, the Center shall provide—

(A) to each fellow who is not a detailee a stipend at a rate of pay equal to the rate of pay that individual was receiving when he or she entered the program, plus a cost-of-living adjustment calculated at the same rate of pay, and for the same period of time, for which such adjustments were made to the salaries of individuals occupying competitive positions in the civil service during the same period as the fellowship; and

(B) to each fellow (including detailees) certain allowances and benefits as that individual would have been entitled to, but for his or her separation from Government service, as a United States Government civilian employee overseas under the Standardized Regulations (Government Civilians, Foreign Areas) of the Department of State, as follows: a living quarters allowance to cover the higher cost of housing in Japan, a post allowance to cover the significantly higher costs of living in Japan, an education allowance to assist parents in providing their children with educational services ordinarily provided without charge by United

States public schools, moving expenses of up to $1,000 for personal belongings of fellows and their families in their move to Japan and one-round-trip economy-class airline ticket to Japan for each fellow and the fellow's immediate family.

(5)(A) For the first year of each fellowship, the Center shall provide fellows with intensive Japanese language training in the Washington, D.C., area, as well as courses in the political economy of Japan.

(B) Such training shall be of the same quality as training provided to Foreign Service officers before they are assigned to Japan.

(C) The Center may waive any or all of the training required by subparagraph (A) to the extent that a fellow has Japanese language skills or knowledge of Japan's political economy, and the 2-year fellowship period shall be shortened to the extent such training is less than one year.

(6) Any fellow who is not a detailee who does not comply with the requirements of this section shall reimburse the United States Information Agency for the Federal funds expended for the Fellow's participation in the fellowship, together with interest on such funds (calculated at the prevailing rate), as follows:

(A) Full reimbursement for noncompliance with paragraph (3)(A) or (9).

(B) Pro rata reimbursement for noncompliance with paragraph (3)(B) for any period the fellow is reemployed by the Federal Government that is less than the period specified in paragraph (3)(B), at a rate equal to the amount the fellow received during the final year of the fellowship for the same period of time, including any allowances and benefits provided under paragraph (4).

(7) The Center shall select fellows based solely on merit. The Center shall make positive efforts to recruit candidates reflecting the cultural, racial, and ethnic diversity of the United States.

(8) The Center shall assist, to the extent possible, any fellow who is not a detailee in finding employment in the Federal Government if such fellow was not able, at the end of the fellowship, to be reemployed in the agency from which he or she separated to become a fellow.

(9) No fellow may engage in any intelligence or intelligence-related activity on behalf of the United States Government.

(10) The financial records of the Center shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants or independent licensed public accountants, certified or licensed by a regulatory authority of a State or other political subdivision of the United States. The audit shall be conducted at the place or places where the financial records of the Center are normally kept. All books, financial records, files, and other papers, things, and property belonging to or in use by the Center and necessary to facilitate the audit shall be made available to the person or persons conducting the audit, and full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians shall be afforded to such person or persons.

(11) The Center shall provide a report of the audit to the Director of the United States Information Agency no later than six months following the close of the fiscal year for which the audit is made. The report shall set forth the scope of the audit and include such statements, together with the independent auditor's opinion of those statements, as are necessary to present fairly the Center's assets and liabilities, surplus or deficit, with reasonable detail, including a statement of the Center's income and expenses during the year, including a schedule of all contracts and grants requiring payments in excess of $5,000 and any payments of compensation, salaries, or fees at a rate in excess of $5,000 per year. The report shall be produced in sufficient copies for the public.

(Pub. L. 103–236, title II, §253, Apr. 30, 1994, 108 Stat. 428.)

TRANSFER OF FUNCTIONS

United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau) abolished and functions transferred to Secretary of State, see sections 6531 and 6532 of this title.

§6103. Separation of Government personnel during fellowships

(a) Separation

Under such terms and conditions as the agency head may direct, any agency of the United States Government may separate from Government service for a specified period any officer or employee of that agency who accepts a fellowship under the program established by this chapter and is not detailed under section 6104 of this title.

(b) Reemployment

Any fellow who is not a detailee, at the end of the fellowship, is entitled to be reemployed in the same manner as if covered by section 3582 of title 5.

(c) Rights and benefits

Notwithstanding section 8347(o), 8713, or 8914 of title 5 and in accordance with regulations of the Office of Personnel Management, an employee, while serving as a fellow who is not a detailee, is entitled to the same rights and benefits as if covered by section 3582 of title 5. The Center shall reimburse the employing agency for any costs incurred under section 3582 of title 5.

(d) Compliance with Budget Act

Funds are available under this section to the extent and in the amounts provided in appropriation Acts.

(Pub. L. 103–236, title II, §254, Apr. 30, 1994, 108 Stat. 430.)

§6104. Mansfield Fellows on detail from Government service

(a) In general

(1) An agency head may detail, for a period of not more than 2 years, an employee of the agency who has been awarded a Mansfield Fellowship, to the Center.

(2) Each fellow who is detailed under this section shall enter into a written agreement with the Federal Government before receiving a fellowship that the fellow will—

(A) continue in the service of the fellow's agency at the end of the fellowship for a period of at least 2 years unless the fellow is involuntarily separated from the service of such agency; and

(B) pay to the United States Information Agency any additional expenses incurred by the Federal Government in connection with the fellowship if the fellow is voluntarily separated from service with the fellow's agency before the end of the period for which the fellow has agreed to continue in the service of such agency.

(3) The payment agreed to under paragraph (2)(B) may not be required of a fellow who leaves the service of such agency to enter into the service of another agency in any branch of the United States Government unless the head of the agency that authorized the fellowship notifies the employee before the effective date of entry into the service of the other agency that payment will be required under this section.

(b) Status as Government employee

A fellow detailed under subsection (a) is deemed, for the purpose of preserving allowances, privileges, rights, seniority, and other benefits, an employee of the agency from which detailed, and is entitled to pay, allowances, and benefits from funds available to that agency. The authorization and payment of such allowances and other benefits from appropriations available therefore [1] is deemed to comply with section 5536 of title 5.

(c) Reimbursement

Fellows may be detailed under subsection (a) without reimbursement to the United States by the

Center.

(d) Allowances and benefits

A fellow detailed under subsection (a) may be paid by the Center for allowances and benefits listed in section 6102(4)(B) of this title.

(Pub. L. 103–236, title II, §255, Apr. 30, 1994, 108 Stat. 431.)

TRANSFER OF FUNCTIONS

United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau) abolished and functions transferred to Secretary of State, see sections 6531 and 6532 of this title.

[1] *So in original. Probably should be "therefor".*

§6105. Liability for repayments

If any fellow fails to fulfill the fellow's agreement to pay the United States Information Agency for the expenses incurred by the United States Information Agency in connection with the fellowship, a sum equal to the amount of the expenses of the fellowship shall be recoverable by the United States Information Agency from the fellow (or a legal representative) by—

(1) setoff against accrued pay, compensation, amount of retirement credit, or other amount due the fellow from the Federal Government; and

(2) such other method as is provided by law for the recovery of amounts owing to the Federal Government.

(Pub. L. 103–236, title II, §256, Apr. 30, 1994, 108 Stat. 432.)

TRANSFER OF FUNCTIONS

United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau) abolished and functions transferred to Secretary of State, see sections 6531 and 6532 of this title.

§6106. Definitions

For purposes of this chapter—

(1) the term "agency of the United States Government" includes any agency of the legislative branch and any court of the judicial branch as well as any agency of the executive branch;

(2) the term "agency head" means—

(A) in the case of the executive branch of Government or an agency of the legislative branch other than the House of Representatives or the Senate, the head of the respective agency;

(B) in the case of the judicial branch of Government, the chief judge of the respective court;

(C) in the case of the Senate, the President pro tempore, in consultation with the Majority Leader and Minority Leader of the Senate; and

(D) in the case of the House of Representatives, the Speaker of the House, in consultation with the Majority Leader and Minority Leader of the House;

(3) the term "Center" means the Mansfield Center for Pacific Affairs; and

(4) the term "detailee" means an employee of an agency of the United States Government on assignment or loan to the Mansfield Center for Pacific Affairs without a change of position from the agency by which he or she is employed.

(Pub. L. 103–236, title II, §257, Apr. 30, 1994, 108 Stat. 432.)

CHAPTER 71—UNITED STATES INTERNATIONAL BROADCASTING

Sec.
6201. Congressional findings and declaration of purposes.
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§6201. Congressional findings and declaration of purposes

The Congress makes the following findings and declarations:

(1) It is the policy of the United States to promote the right of freedom of opinion and expression, including the freedom "to seek, receive, and impart information and ideas through any media and regardless of frontiers," in accordance with Article 19 of the Universal Declaration of Human Rights.

(2) Open communication of information and ideas among the peoples of the world contributes to international peace and stability and the promotion of such communication is in the interests of the United States.

(3) It is in the interest of the United States to support broadcasting to other nations consistent with the requirements of this chapter.

(4) The continuation of existing United States international broadcasting, and the creation of a new broadcasting service to the people of the People's Republic of China and other countries of Asia which lack adequate sources of free information, would enhance the promotion of information and ideas, while advancing the goals of United States foreign policy.

(5) The reorganization and consolidation of United States international broadcasting will achieve important economies and strengthen the capability of the United States to use broadcasting to support freedom and democracy in a rapidly changing international environment.

(Pub. L. 103–236, title III, §302, Apr. 30, 1994, 108 Stat. 432.)

REFERENCES IN TEXT

This chapter, referred to in par. (3), was in the original "this title", meaning title III of Pub. L. 103–236, Apr. 30, 1994, 108 Stat. 432, known as the United States International Broadcasting Act of 1994, which is classified principally to this chapter. For complete classification of title III to the Code, see Short Title note set out below and Tables.

SHORT TITLE OF 2009 AMENDMENT

Pub. L. 111–84, div. A, title XII, §1261, Oct. 28, 2009, 123 Stat. 2553, as amended by Pub. L. 111–383, div. A, title X, §1075(d)(19), Jan. 7, 2011, 124 Stat. 4374, provided that: "This subtitle [subtitle D (§§1261–1266) of title XII of div. A of Pub. L. 111–84, enacting provisions set out as notes under section 6204 of this title] may be cited as the 'Victims of Iranian Censorship Act' or the 'VOICE Act'."

SHORT TITLE OF 2002 AMENDMENT

Pub. L. 107–148, §1, Mar. 11, 2002, 116 Stat. 64, provided that: "This Act [enacting section 6215 of this title] may be cited as the 'Radio Free Afghanistan Act'."

SHORT TITLE

Pub. L. 103–236, title III, §301, Apr. 30, 1994, 108 Stat. 432, provided that: "This title [enacting this chapter, amending sections 1465b, 1465c, and 2873 of this title and section 5315 of Title 5, Government Organization and Employees, and repealing sections 1463, 2871 to 2877, and 2878 to 2883 of this title and provisions set out as a note under section 2871 of this title] may be cited as the 'United States International Broadcasting Act of 1994'."

§6202. Standards and principles

(a) Broadcasting standards

United States international broadcasting shall—

(1) be consistent with the broad foreign policy objectives of the United States;

(2) be consistent with the international telecommunications policies and treaty obligations of the United States;

(3) not duplicate the activities of private United States broadcasters;

(4) not duplicate the activities of government supported broadcasting entities of other democratic nations;

(5) be conducted in accordance with the highest professional standards of broadcast journalism;

(6) be based on reliable information about its potential audience;

(7) be designed so as to effectively reach a significant audience; and

(8) promote respect for human rights, including freedom of religion.

(b) Broadcasting principles

United States international broadcasting shall include—

(1) news which is consistently reliable and authoritative, accurate, objective, and comprehensive;

(2) a balanced and comprehensive projection of United States thought and institutions, reflecting the diversity of United States culture and society;

(3) clear and effective presentation of the policies of the United States Government and responsible discussion and opinion on those policies, including editorials, broadcast by the Voice of America, which present the views of the United States Government;

(4) the capability to provide a surge capacity to support United States foreign policy objectives during crises abroad;

(5) programming to meet needs which remain unserved by the totality of media voices available to the people of certain nations;

(6) information about developments in each significant region of the world;

(7) a variety of opinions and voices from within particular nations and regions prevented by censorship or repression from speaking to their fellow countrymen;

(8) reliable research capacity to meet the criteria under this section;

(9) adequate transmitter and relay capacity to support the activities described in this section; and

(10) training and technical support for independent indigenous media through government agencies or private United States entities.

(c) Voice of America broadcasts

The long-range interests of the United States are served by communicating directly with the peoples of the world by radio. To be effective, the Voice of America must win the attention and respect of listeners. These principles will therefore govern Voice of America (VOA) broadcasts:

(1) VOA will serve as a consistently reliable and authoritative source of news. VOA news will be accurate, objective, and comprehensive.

(2) VOA will represent America, not any single segment of American society, and will therefore present a balanced and comprehensive projection of significant American thought and

institutions.

(3) VOA will present the policies of the United States clearly and effectively, and will also present responsible discussions and opinion on these policies.

(Pub. L. 103–236, title III, §303, Apr. 30, 1994, 108 Stat. 433; Pub. L. 103–415, §1(p), Oct. 25, 1994, 108 Stat. 4301; Pub. L. 105–277, div. G, subdiv. A, title XIII, §1323(d), Oct. 21, 1998, 112 Stat. 2681–778; Pub. L. 105–292, title V, §502, Oct. 27, 1998, 112 Stat. 2811.)

AMENDMENTS

1998—Subsec. (a)(8). Pub. L. 105–292 added par. (8).

Subsec. (b)(3). Pub. L. 105–277, §1323(d)(1), which directed amendment of par. (3) by inserting ", including editorials, broadcast by the Voice of America, which present the views of the United States Government" after "policies", was executed by making insertion after "policies" the second time it appears to reflect the probable intent of Congress.

Subsec. (b)(4) to (10). Pub. L. 105–277, §1323(d)(2), (3), added par. (4) and redesignated former pars. (4) to (9) as (5) to (10), respectively.

1994—Subsec. (c). Pub. L. 103–415 added subsec. (c).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective Oct. 1, 1999, see section 1301 of Pub. L. 105–277, set out as an Effective Date note under section 6531 of this title.

BROADCASTING INFORMATION ON STATES

Pub. L. 105–277, div. G, subdiv. B, title XXIV, §2420, Oct. 21, 1998, 112 Stat. 2681–835, provided that:

"(a) IN GENERAL.—The Voice of America shall devote programming each day to broadcasting information on the individual States of the United States. The broadcasts shall include—

"(1) information on the products, tourism, and cultural and educational facilities of each State;

"(2) information on the potential for trade with each State; and

"(3) discussions with State officials with respect to the matters described in paragraphs (1) and (2).

"(b) REPORT.—Not later than one year after the date of enactment of this Act [Oct. 21, 1998], the Broadcasting Board of Governors of the United States Information Agency shall submit a report to Congress detailing the actions that have been taken to carry out subsection (a).

"(c) STATE DEFINED.—In this section, the term 'State' means any of the several States of the United States, the District of Columbia, or any commonwealth or territory of the United States."

§6203. Establishment of the Chief Executive Officer of the Broadcasting Board of Governors

(a) Continued existence within Executive branch

The Broadcasting Board of Governors shall continue to exist within the Executive branch of Government as an entity described in section 104 of title 5.

(b) Chief Executive Officer

(1) In general

The head of the Broadcasting Board of Governors shall be a Chief Executive Officer, who shall be appointed by the President, by and with the advice and consent of the Senate. Notwithstanding any other provision of law, until such time as a Chief Executive Officer is appointed and has qualified, the current or acting Chief Executive Officer appointed by the Board may continue to serve and exercise the authorities and powers under this chapter.

(2) Term

The first Chief Executive Officer appointed pursuant to paragraph (1) shall serve for an initial term of three years.

(3) Compensation

A Chief Executive Officer appointed pursuant to paragraph (1) shall be compensated at the

annual rate of basic pay for level III of the Executive Schedule under section 5314 of title 5.

(c) Termination of Director of International Broadcasting Bureau

Effective on December 23, 2016, the position of the Director of the International Broadcasting Bureau shall be terminated, and all of the responsibilities, offices, authorities, and immunities of the Director or the Board under this or any other chapter or authority before such date of enactment shall be transferred or available to, assumed by, or overseen by the Chief Executive Officer, as head of the Board.

(d) Immunity from civil liability

Notwithstanding any other provision of law, all limitations on liability that apply to the Chief Executive Officer shall also apply to members of the boards of directors of RFE/RL, Inc., Radio Free Asia, the Middle East Broadcasting Networks, or any organization that consolidates such entities when such members are acting in their official capacities.

(Pub. L. 103–236, title III, §304, Apr. 30, 1994, 108 Stat. 434; Pub. L. 105–277, div. G, subdiv. A, title XIII, §§1322, 1323(b), (c), Oct. 21, 1998, 112 Stat. 2681–777, 2681–778; Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title V, §§502, 504], Nov. 29, 1999, 113 Stat. 1536, 1501A–451; Pub. L. 114–328, div. A, title XII, §1288(1), Dec. 23, 2016, 130 Stat. 2548.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (b)(1) and (c), was in the original "this Act", and was translated as reading "this title", meaning title III of Pub. L. 103–236, Apr. 30, 1994, 108 Stat. 432, known as the United States International Broadcasting Act of 1994, which is classified principally to this chapter, to reflect the probable intent of Congress. For complete classification of title III to the Code, see Short Title note set out under section 6201 of this title and Tables.

December 23, 2016, referred to in subsec. (c), was in the original "the date of the enactment of this section", which was translated as meaning the date of enactment of Pub. L. 114–328, which amended this section generally, to reflect the probable intent of Congress.

AMENDMENTS

2016—Pub. L. 114–328 amended section generally. Prior to amendment, section related to the continued existence within the Executive branch, retention of existing Board members, Inspector General authorities, composition, term, selection, compensation, decisions, and immunity from civil liability of the Broadcasting Board of Governors.

1999—Subsec. (b)(2). Pub. L. 106–113, §1000(a)(7) [div. A, title V, §502(2)], which directed amendment of par. (2) by inserting ", subject to the advice and consent of the Senate" at end, was executed by making the insertion before period at end, to reflect the probable intent of Congress.

Pub. L. 106–113, §1000(a)(7) [div. A, title V, §502(1)], substituted "appoint" for "designate".

Subsec. (g). Pub. L. 106–113, §1000(a)(7) [div. A, title V, §504], added subsec. (g).

1998—Subsec. (a). Pub. L. 105–277, §1322, amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: "There is hereby established within the United States Information Agency a Broadcasting Board of Governors (hereafter in this chapter referred to as the 'Board')."

Subsec. (b). Pub. L. 105–277, §1323(b), substituted "Secretary of State" for "Director of the United States Information Agency" wherever appearing.

Subsec. (c). Pub. L. 105–277, §1323(b), (c), in first sentence, substituted "Secretary of State" for "Director of the United States Information Agency", and in last sentence, substituted "no Secretary of State" for "no Director of the United States Information Agency" and "Acting Secretary of State" for "acting Director of the agency".

Subsec. (e). Pub. L. 105–277, §1323(b), substituted "Secretary of State" for "Director of the United States Information Agency".

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective Oct. 1, 1999, see section 1301 of Pub. L. 105–277, set out as an Effective Date note under section 6531 of this title.

§6204. Authorities of Board

(a) Authorities

The Chief Executive Officer shall have the following authorities:

(1) To direct and supervise all broadcasting activities conducted pursuant to this chapter, the Radio Broadcasting to Cuba Act [22 U.S.C. 1465 et seq.],,[1] the Television Broadcasting to Cuba Act [22 U.S.C. 1465aa et seq.], and Worldnet Television, except as provided in section 6205(b) of this title.

(2) To review and evaluate the mission and operation of, and to assess the quality, effectiveness, and professional integrity of, all such activities within the context of the broad foreign policy objectives of the United States.

(3) To ensure that United States international broadcasting is conducted in accordance with the standards and principles contained in section 6202 of this title.

(4) To review, evaluate, and determine, at least annually, after consultation with the Secretary of State, the addition or deletion of language services.

(5) To make and supervise grants and cooperative agreements for broadcasting and related activities in furtherance of the purposes of this chapter and on behalf of other agencies, accordingly.

(6) To allocate funds appropriated for international broadcasting activities among the various elements of the Board and grantees, subject to reprogramming notification requirements in law for the reallocation of funds.

(7) To review engineering activities to ensure that all broadcasting elements receive the highest quality and cost-effective delivery services.

(8) To undertake such studies as may be necessary to identify areas in which broadcasting activities under its authority could be made more efficient and economical.

(9) To submit to the President and the Congress an annual report which summarizes and evaluates activities under this chapter, the Radio Broadcasting to Cuba Act [22 U.S.C. 1465 et seq.], and the Television Broadcasting to Cuba Act [22 U.S.C. 1465aa et seq.]. Each annual report shall place special emphasis on the assessment described in paragraph (2).

(10) To the extent considered necessary to carry out the functions of the Chief Executive Officer, procure, rent, or lease supplies, services, and other property for journalism, media, production, and broadcasting, and related support services, notwithstanding any other provision of law relating to such acquisition, rental, or lease, and under the same terms and conditions as authorized under section 501(b) of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1461(b)), and for multiyear contracts and leases for periods of up to 20 years subject to the requirements of subsections (b) through (f) of section 3903 of title 41.

(11) To appoint such personnel for the Chief Executive Officer as the Chief Executive Officer may determine to be necessary, which shall not be subject to the provisions of title 5 governing appointments in the competitive service, and to fix their compensation in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(12) To obligate and expend, for official reception and representation expenses, such amount as may be made available through appropriations (which for each of the fiscal years 1998 and 1999 may not exceed the amount made available to the Chief Executive Officer and the International Broadcasting Bureau for such purposes for fiscal year 1997).

(13) To make available in the annual report required by paragraph (9) information on funds expended on administrative and managerial services by the Board and by grantees and the steps the Chief Executive Officer has taken to reduce unnecessary overhead costs for each of the broadcasting services.

(14) The Chief Executive Officer may provide for the use of United States Government transmitter capacity for transmission or relay of Radio Free Asia or any other grantee authorized under this chapter.

(15)(A) To procure personal services at rates not to exceed the daily equivalent of the rate provided for positions classified above grade GS–15 of the General Schedule under section 5108 of title 5.

(B) To allow those providing such services, while away from their homes or their regular places of business, travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of title 5 for persons in the Government service employed intermittently, while so employed.

(16) To procure, pursuant to section 1535 of title 31 (commonly known as the "Economy Act"), such goods and services from other departments or agencies for the Chief Executive Officer and the International Broadcasting Bureau as the Chief Executive Officer determines are appropriate.

(17) To utilize the provisions of titles III, IV, V, VII, VIII, IX, and X of the United States Information and Educational Exchange Act of 1948 [22 U.S.C. 1431 et seq.], and section 6 of Reorganization Plan Number 2 of 1977, as in effect on the day before the effective date of title XIII of the Foreign Affairs Agencies Consolidation Act of 1998, to the extent the Chief Executive Officer considers necessary in carrying out the provisions and purposes of this chapter.

(18) To utilize the authorities of any other statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding that had been available to the Director of the United States Information Agency, the Chief Executive Officer, or the Chief Executive Officer [2] before the effective date of title XIII of the Foreign Affairs Consolidation Act of 1998 for carrying out the broadcasting activities covered by this chapter.

(19)(A) To provide for the payment of primary and secondary school expenses for dependents of personnel stationed in the Commonwealth of the Northern Mariana Islands (CNMI) at a cost not to exceed expenses authorized by the Department of Defense for such schooling for dependents of members of the Armed Forces stationed in the Commonwealth, if the Chief Executive Officer determines that schools available in the Commonwealth are unable to provide adequately for the education of the dependents of such personnel.

(B) To provide transportation for dependents of such personnel between their places of residence and those schools for which expenses are provided under subparagraph (A), if the Chief Executive Officer determines that such schools are not accessible by public means of transportation.

(20) Notwithstanding any other provision of law, including section 6207(a) of this title, to condition, if appropriate, any grant or cooperative agreement to RFE/RL, Inc., Radio Free Asia, or the Middle East Broadcasting Networks, or any organization that is established through the consolidation of such entities, on authority to determine membership of their respective boards, and the consolidation of such grantee entities into a single grantee organization under terms and conditions established by the Board.

(21) To redirect or reprogram funds within the scope of any grant or cooperative agreement, or between grantees, as necessary (and not later than 15 days before any such redirection of funds between language services, to notify the Committee on Appropriations and the Committee on Foreign Affairs of the House of Representatives and the Committee on Appropriations and the Committee on Foreign Relations of the Senate regarding such redirection), and to condition grants or cooperative agreements, if appropriate, on such grants or cooperative agreements or any similar amendments as authorized under section 6207(a) of this title, including authority to name and replace the board of any grantee authorized under this chapter, including with Federal officials, to meet the purposes of this chapter.

(22) To change the name of the Board pursuant to congressional notification 60 days prior to any such change.

(b) Professional independence of broadcasters

The Secretary of State and the Chief Executive Officer, in carrying out their functions, shall respect the professional independence and integrity of the Board, its broadcasting services, and the grantees of the Board.

(Pub. L. 103–236, title III, §305, Apr. 30, 1994, 108 Stat. 435; Pub. L. 103–415, §1(s)(1), Oct. 25, 1994, 108 Stat. 4302; Pub. L. 105–277, div. G, subdiv. A, title XIII, §1323(e)–(i), Oct. 21, 1998, 112 Stat. 2681–778, 2681–779; Pub. L. 107–228, div. A, title V, §507(1), Sept. 30, 2002, 116 Stat. 1394; Pub. L. 109–140, §8, Dec. 22, 2005, 119 Stat. 2652; Pub. L. 114–328, div. A, title XII, §1288(2), Dec. 23, 2016, 130 Stat. 2549.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(1), (9), (17), (18) and (c), was in the original "this title", meaning title III of Pub. L. 103–236, Apr. 30, 1994, 108 Stat. 432, known as the United States International Broadcasting Act of 1994, which is classified principally to this chapter. For complete classification of title III to the Code, see Short Title note set out under section 6201 of this title and Tables.

This chapter, referred to in subsec. (a)(5), (14), (21), was in the original "this Act", and was translated as reading "this title", meaning title III of Pub. L. 103–236, to reflect the probable intent of Congress. See above.

The Radio Broadcasting to Cuba Act, referred to in subsec. (a)(1), (9), is Pub. L. 98–111, Oct. 4, 1983, 97 Stat. 749, as amended, which is classified generally to subchapter V–A (§1465 et seq.) of chapter 18 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1465 of this title and Tables.

The Television Broadcasting to Cuba Act, referred to in subsec. (a)(1), (9), is part D of title II of Pub. L. 101–246, Feb. 16, 1990, 104 Stat. 58, as amended, which is classified principally to subchapter V–B (§1465aa et seq.) of chapter 18 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1465aa of this title and Tables.

The United States Information and Educational Exchange Act of 1948, referred to in subsec. (a)(17), is act Jan. 27, 1948, ch. 36, 62 Stat. 6, as amended, which is classified generally to chapter 18 (§1431 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1431 of this title and Tables.

Section 6 of Reorganization Plan Number 2 of 1977, referred to in subsec. (a)(17), which was set out under section 1461 of this title, was repealed by Pub. L. 105–277, div. G, subdiv. A, title XIII, §1336(6), Oct. 21, 1998, 112 Stat. 2681–790.

For the effective date of title XIII of the Foreign Affairs Agencies Consolidation Act of 1998, referred to in subsec. (a)(17), (18), meaning the effective date of title XIII of subdiv. A of div. G of Pub. L. 105–277, see section 1301 of Pub. L. 105–277, set out as a note under section 6531 of this title.

CODIFICATION

Section is comprised of section 305 of Pub. L. 103–236. Subsec. (e) of section 305 of Pub. L. 103–236 amended sections 1465b and 1465c of this title.

AMENDMENTS

2016—Subsec. (a). Pub. L. 114–328, §1288(2)(A)(i), substituted "Chief Executive Officer" for "Board" in introductory provisions.

Subsec. (a)(1). Pub. L. 114–328, §1288(2)(A)(ii), inserted "direct and" before "supervise".

Subsec. (a)(5). Pub. L. 114–328, §1288(2)(A)(iii), inserted "and cooperative agreements" after "grants" and substituted "in furtherance of the purposes of this chapter and on behalf of other agencies, accordingly" for "in accordance with sections 6207 and 6208 of this title".

Subsec. (a)(6). Pub. L. 114–328, §1288(2)(A)(iv), substituted "Board" for "International Broadcasting Bureau" and struck out "subject to the limitations in sections 6207 and 6208 of this title and" before "subject to reprogramming".

Subsec. (a)(10). Pub. L. 114–328, §1288(2)(A)(i), (v), substituted "Chief Executive Officer" for "Board", inserted ", rent, or lease" after "procure", and substituted "property for journalism, media, production, and broadcasting, and related support services, notwithstanding any other provision of law relating to such acquisition, rental, or lease, and under the same terms and conditions as authorized under section 501(b) of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1461(b)), and for multiyear contracts and leases for periods of up to 20 years subject to the requirements of subsections (b) through (f) of section 3903 of title 41" for "personal property".

Subsec. (a)(11). Pub. L. 114–328, §1288(2)(A)(i), (vi), struck out "staff" before "personnel" and substituted "for the Chief Executive Officer" for "for the Board", "as the Chief Executive Officer" for "as the Board", and "which shall not be subject" for "subject".

Subsec. (a)(12). Pub. L. 114–328, §1288(2)(A)(i), substituted "Chief Executive Officer" for "Board".

Subsec. (a)(13). Pub. L. 114–328, §1288(2)(A)(vii), substituted "Board" for "Bureau" and "Chief Executive Officer has taken" for "Board has taken".

Subsec. (a)(14). Pub. L. 114–328, §1288(2)(A)(i), (viii), substituted "Chief Executive Officer" for "Board" and inserted "transmission or" before "relay" and "or any other grantee authorized under this chapter" after "Radio Free Asia".

Subsec. (a)(15)(A). Pub. L. 114–328, §1288(2)(A)(ix), struck out "temporary and intermittent" after "To procure" and "to the same extent as is authorized by section 3109 of title 5," after "personal services".

Subsec. (a)(16). Pub. L. 114–328, §1288(2)(A)(i), (x), substituted "for the Chief Executive Officer" for "for the Board" and "Chief Executive Officer determines" for "Board determines".

Subsec. (a)(17). Pub. L. 114–328, §1288(2)(A)(i), substituted "Chief Executive Officer" for "Board".

Subsec. (a)(18). Pub. L. 114–328, §1288(2)(A)(i), (xi), substituted "Agency, the Chief Executive Officer" for "Agency, the Bureau" and "or the Chief Executive Officer" for "or the Board".

Subsec. (a)(19). Pub. L. 114–328, §1288(2)(A)(i), substituted "Chief Executive Officer" for "Board" in subpars. (A) and (B).

Subsec. (a)(20) to (22). Pub. L. 114–328, §1288(2)(A)(xii), added pars. (20) to (22).

Subsecs. (b) to (d). Pub. L. 114–328, §1288(2)(B)–(D), redesignated subsec. (d) as (b), substituted "and the Chief Executive Officer" for "and the Board" and "Board" for "International Broadcasting Bureau", and struck out former subsecs. (b) and (c) which related to delegation of authority and broadcasting budgets, respectively.

2005—Subsec. (a)(19). Pub. L. 109–140 added par. (19).

2002—Subsec. (a)(4). Pub. L. 107–228 substituted "annually," for "annually,,".

1998—Subsec. (a)(1). Pub. L. 105–277, §1323(e)(1), struck out "direct and" after "To" and substituted ", the Television Broadcasting to Cuba Act, and Worldnet Television, except as provided in section 6205(b) of this title" for "and the Television Broadcasting to Cuba Act".

Subsec. (a)(4). Pub. L. 105–277, §1323(e)(2), inserted ", after consultation with the Secretary of State," after "annually,".

Subsec. (a)(9). Pub. L. 105–277, §1323(e)(3), struck out ", through the Director of the United States Information Agency," after "the Congress" and inserted at end "Each annual report shall place special emphasis on the assessment described in paragraph (2)."

Subsec. (a)(12). Pub. L. 105–277, §1323(e)(4), substituted "1998 and 1999" for "1994 and 1995" and "to the Board and the International Broadcasting Bureau for such purposes for fiscal year 1997" for "to the Board for International Broadcasting for such purposes for fiscal year 1993".

Subsec. (a)(15) to (18). Pub. L. 105–277, §1323(e)(5), added pars. (15) to (18).

Subsec. (b). Pub. L. 105–277, §1323(f), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 105–277, §1323(g), (h), struck out "(1)" before "The Director", struck out "the Director of the United States Information Agency for the consideration of the Director as a part of the Agency's budget submission to" before "the Office of Management and Budget", and struck out par. (2) which read as follows: "The Director of the United States Information Agency shall include in the Agency's submission to the Office of Management and Budget the comments and recommendations of the Board concerning the proposed broadcasting budget."

Pub. L. 105–277, §1323(f)(1), redesignated subsec. (b) as (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 105–277, §1323(i), amended heading and text of subsec. (d) generally. Prior to amendment, text read as follows: "The Director of the United States Information Agency and the Board, in carrying out their functions, shall respect the professional independence and integrity of the International Broadcasting Bureau, its broadcasting services, and grantees."

Pub. L. 105–277, §1323(f)(1), redesignated subsec. (c) as (d).

Pub. L. 105–277, §1323(f)(1), redesignated subsec. (d) as (e). See Codification note above.

1994—Subsec. (a)(14). Pub. L. 103–415 substituted "relay of Radio" for "relay to Radio".

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective Oct. 1, 1999, see section 1301 of Pub. L. 105–277, set out as an Effective Date note under section 6531 of this title.

EXPANSION OF FARSI LANGUAGE PROGRAMMING

Pub. L. 111–84, div. A, title XII, §1262, Oct. 28, 2009, 123 Stat. 2553, provided that:

"(a) INTERNATIONAL BROADCASTING OPERATIONS FUND.—In addition to amounts otherwise authorized for the Broadcasting Board of Governors' International Broadcasting Operations Fund, there is authorized to be appropriated $15,000,000 to expand Farsi language programming and to provide for the dissemination of accurate and independent information to the Iranian people through radio, television, Internet, cellular telephone, short message service, and other communications.

"(b) BROADCASTING CAPITAL IMPROVEMENTS FUND.—In addition to amounts otherwise authorized for the Broadcasting Board of Governors' Broadcasting Capital Improvements Fund, there is authorized to be appropriated $15,000,000 to expand transmissions of Farsi language programs to Iran.

"(c) USE OF AMOUNTS.—In pursuit of the objectives described in subsections (a) and (b), amounts in the International Broadcasting Operations Fund and the Capital Improvements Fund may be used to—

"(1) develop additional transmission capability for Radio Farda and the Persian News Network to

counter ongoing efforts to jam transmissions, including through additional shortwave and medium wave transmissions, satellite, and Internet mechanisms;

"(2) develop additional proxy server capability and anti-censorship software to counter efforts to block Radio Farda and Persian News Network Web sites;

"(3) develop technologies to counter efforts to block SMS text message exchange over cellular phone networks;

"(4) expand program coverage and analysis by Radio Farda and the Persian News Network, including the development of broadcast platforms and programs, on the television, radio and Internet, for enhanced interactivity with and among the people of Iran;

"(5) hire, on a permanent or short-term basis, additional staff for Radio Farda and the Persian News Network; and

"(6) develop additional Internet-based, Farsi-language television programming, including a Farsi-language, Internet-based news channel."

IRANIAN ELECTRONIC EDUCATION, EXCHANGE, AND MEDIA FUND

Pub. L. 111–84, div. A, title XII, §1263, Oct. 28, 2009, 123 Stat. 2553, provided that:

"(a) ESTABLISHMENT.—There is established in the Treasury of the United States the Iranian Electronic Education, Exchange, and Media Fund (referred to in this section as the 'Fund'), consisting of amounts appropriated to the Fund pursuant to subsection (f).

"(b) ADMINISTRATION.—The Fund shall be administered by the Secretary of State.

"(c) OBJECTIVE.—The objective of the Fund shall be to support the development of technologies, including Internet Web sites, that will aid the ability of the Iranian people to—

"(1) gain access to and share information;

"(2) exercise freedom of speech, freedom of expression, and freedom of assembly through the Internet and other electronic media;

"(3) engage in Internet-based education programs and other exchanges between Americans and Iranians; and

"(4) counter efforts—

"(A) to block, censor, and monitor the Internet; and

"(B) to disrupt or monitor cellular phone networks or SMS text exchanges.

"(d) USE OF AMOUNTS.—In pursuit of the objective described in subsection (c), amounts in the Fund may be used for grants to United States or foreign universities, nonprofit organizations, or companies for targeted projects that advance the purpose of the Fund, including projects that—

"(1) develop Farsi-language versions of existing social-networking Web sites;

"(2) develop technologies, including Internet-based applications, to counter efforts—

"(A) to block, censor, and monitor the Internet; and

"(B) to disrupt or monitor cellular phone networks or SMS text message exchanges;

"(3) develop Internet-based, distance learning programs for Iranian students at United States universities; and

"(4) promote Internet-based, people-to-people educational, professional, religious, or cultural exchanges and dialogues between United States citizens and Iranians.

"(e) TRANSFERS.—Amounts in the Fund may be transferred to the United States Agency for International Development, the Broadcasting Board of Governors, or any other agency of the Federal Government to the extent that such amounts are used to carry out activities that will further the objective described in subsection (c).

"(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $20,000,000 to the Fund."

BUYING POWER MAINTENANCE ACCOUNT

Pub. L. 110–252, title I, §1408(c), June 30, 2008, 122 Stat. 2342, provided that: "The Broadcasting Board of Governors may transfer funds into its Buying Power Maintenance Account, notwithstanding the requirement that such funds be provided in advance in appropriations Acts. The authority in this subsection may be exercised only with respect to funds appropriated or otherwise made available after fiscal year 2008."

PILOT PROJECT FOR TRANSCRIPTION OF CERTAIN PROGRAMMING INTO ENGLISH

Pub. L. 110–53, title XX, §2032, Aug. 3, 2007, 121 Stat. 516, provided that:

"(a) TRANSCRIPTION OF PERSIAN AND ARABIC LANGUAGE BROADCASTS.—Not later than 90 days after the date of the enactment of this Act [Aug. 3, 2007], the Broadcasting Board of Governors shall initiate a pilot project to transcribe into the English language news and information programming broadcast by

Radio Farda, Radio Sawa, the Persian Service of the Voice of America, and Alhurra.

"(b) RANDOM SAMPLING; PUBLIC AVAILABILITY.—The transcription required under subsection (a) shall consist of a random sampling of such programming. The transcripts shall be available to Congress and the public on the Internet site of the Board.

"(c) REPORT.—Not later than May 1, 2008, the Chairman of the Broadcasting Board of Governors shall submit to the Committee on Foreign Affairs of the House of Representatives and Committee on Foreign Relations of the Senate a report on the feasibility and utility of continuing the pilot project required under subsection (a).

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the 'International Broadcasting Operations' account of the Broadcasting Board of Governors $2,000,000 for fiscal year 2008 to carry out the pilot project required under subsection (a)."

[1] *So in original.*

[2] *So in original. See 2016 Amendment note below.*

§6205. Establishment of the International Broadcasting Advisory Board

(a) In general

Except as provided in subsection (b)(2), the International Broadcasting Advisory Board (referred to in this section as the "Advisory Board") shall consist of five members, including the Secretary of State, appointed by the President and in accordance with subsection (d), to advise the Chief Executive Officer of the Broadcasting Board of Governors, as appropriate.

(b) Retention of existing BBG Board Members

(1) In general

The presidentially appointed and Senate-confirmed members of the Board of the Broadcasting Board of Governors who are serving on unexpired terms as of December 23, 2016, shall—

(A) constitute the first Advisory Board; and

(B) hold office for the remainder of their original terms of office without reappointment to the Advisory Board.

(2) Effect of additional members

If, on December 23, 2016, more than five members described in subsection (a) are serving their original terms of office on the Broadcasting Board of Governors, each such member may serve on the Advisory Board for a period equal to the time remaining on each such member's respective term without reappointment.

(c) Terms of office

(1) In general

Except as provided in paragraph (2), the term of office of each member of the Advisory Board appointed pursuant to subsection (a) shall be three years.

(2) Vacancies

If a vacancy on the Advisory Board occurs before the expiration of the term of the member who created such vacancy—

(A) the President shall appoint a new member to fill such vacancy in accordance with subsection (d); and

(B) the member appointed pursuant to such subsection shall serve for the remainder of such term.

(3) Service beyond term prohibited

Members may not serve beyond the term for which they were appointed.

(d) Selection of the Board

In identifying individuals for appointment to the Advisory Board under subsection (a), the President shall appoint United States citizens—

(1) who, with the exception of the Secretary of State, are not regular, full-time employees of the United States Government; and

(2) distinguished in the fields of public diplomacy, mass communications, print, broadcast or digital media, or foreign affairs, of whom—

(A) one individual should be appointed from among a list of at least three individuals submitted by the Chair of the Committee on Foreign Affairs of the House of Representatives;

(B) one individual should be appointed from among a list of at least three individuals submitted by the Ranking Member of the Committee on Foreign Affairs of the House of Representatives;

(C) one individual should be appointed from among a list of at least three individuals submitted by the Chair of the Committee on Foreign Relations of the Senate; and

(D) one individual should be appointed from among a list of at least three individuals submitted by the Ranking Member of the Committee on Foreign Relations of the Senate.

(e) Functions of the Board

The members of the Advisory Board shall perform the following advisory functions:

(1) To provide the Chief Executive Officer of the Broadcasting Board of Governors with counsel and recommendations for improving the effectiveness and efficiency of the agency and its programming.

(2) To meet with the Chief Executive Officer at least twice annually and at additional meetings at the request of the Chief Executive Officer.

(3) To report periodically or upon request to the congressional committees specified in subsection (d)(2) regarding its counsel and recommendations for improving the effectiveness and efficiency of the Broadcasting Board of Governors and its programming.

(4) To obtain information from the Chief Executive Officer, as needed, for the purposes of fulfilling the functions described in this subsection.

(f) Compensation

Members of the Advisory Board, including the Secretary of State, may not receive any fee, salary, or remuneration of any kind for their service as members.

(Pub. L. 103–236, title III, §306, Apr. 30, 1994, 108 Stat. 436; Pub. L. 105–277, div. G, subdiv. A, title XIII, §1323(j), Oct. 21, 1998, 112 Stat. 2681–780; Pub. L. 114–328, div. A, title XII, §1288(3), Dec. 23, 2016, 130 Stat. 2551.)

REFERENCES IN TEXT

December 23, 2016, referred to in subsec. (b), was in the original "the date of the enactment of this section", which was translated as meaning the date of enactment of Pub. L. 114–328, which amended this section generally, to reflect the probable intent of Congress.

AMENDMENTS

2016—Pub. L. 114–328 amended section generally. Prior to amendment section related to the role of the Secretary of State in international broadcasting.

1998—Pub. L. 105–277, §1323(j)(1), substituted "Role of Secretary of State" for "Foreign policy guidance" in section catchline.

Subsec. (a). Pub. L. 105–277, §1323(j)(2)–(4), designated existing provisions as subsec. (a), inserted heading, substituted "State" for "State, acting through the Director of the United States Information Agency,", and inserted before period at end ", as the Secretary may deem appropriate".

Subsec. (b). Pub. L. 105–277, §1323(j)(5), added subsec. (b).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective Oct. 1, 1999, see section 1301 of Pub. L. 105–277, set out as an Effective Date note under section 6531 of this title.

§6206. Repealed. Pub. L. 114–328, div. A, title XII, §1288(4), Dec. 23, 2016, 130 Stat. 2552

Section, Pub. L. 103–236, title III, §307, Apr. 30, 1994, 108 Stat. 436; Pub. L. 105–277, div. G, subdiv. A, title XIII, §1323(k), Oct. 21, 1998, 112 Stat. 2681–780, related to the International Broadcasting Bureau.

PERSONAL SERVICES CONTRACTING PILOT PROGRAM

Pub. L. 107–228, div. A, title V, §504, Sept. 30, 2002, 116 Stat. 1393, as amended by Pub. L. 109–140, §6, Dec. 22, 2005, 119 Stat. 2652; Pub. L. 109–472, §9, Jan. 11, 2007, 120 Stat. 3556; Pub. L. 110–161, div. J, title VI, §634(r), Dec. 26, 2007, 121 Stat. 2330; Pub. L. 110–321, §5, Sept. 19, 2008, 122 Stat. 3536, provided that:

"(a) IN GENERAL.—The Director of the International Broadcasting Bureau (in this section referred to as the 'Director') may establish a pilot program (in this section referred to as the 'program') for the purpose of hiring United States citizens or aliens as personal services contractors, without regard to Civil Service and classification laws, for service in the United States as broadcasters and other broadcasting specialists in the International Broadcasting Bureau to respond to new or emerging broadcast needs or to augment broadcast services.

"(b) CONDITIONS.—The Director is authorized to use the authority of subsection (a) subject to the following conditions:

"(1) The Director determines that existing personnel resources are insufficient and the need is not of permanent duration.

"(2) The Director approves each employment of a personal services contractor.

"(3) The contract length, including options, may not exceed 2 years, unless the Director makes a finding that exceptional circumstances justify an extension of up to one additional year.

"(4) Not more than a total of 60 United States citizens or aliens are employed at any one time as personal services contractors under the program.

"(c) TERMINATION OF AUTHORITY.—The authority to award personal services contracts under the pilot program authorized by this section shall terminate on December 31, 2009. A contract entered into prior to the termination date under this subsection may remain in effect for a period not to exceed 6 months after such termination date."

[Pub. L. 114–113, div. K, title I, Dec. 18, 2015, 129 Stat. 2712, provided in part: "That the authority provided by section 504(c) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228; 22 U.S.C. 6206 note) shall remain in effect through September 30, 2016".]

[Pub. L. 113–235, div. J, title I, Dec. 16, 2014, 128 Stat. 2580, provided in part: "That the authority provided by section 504(c) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228; 22 U.S.C. 6206 note) shall remain in effect through September 30, 2015".]

[Pub. L. 113–76, div. K, title I, Jan. 17, 2014, 128 Stat. 471, provided in part: "That the authority provided by section 504(c) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228; 22 U.S.C. 6206 note) shall remain in effect through September 30, 2014".]

[Pub. L. 112–74, div. I, title I, Dec. 23, 2011, 125 Stat. 1171, provided in part: "That the authority provided by section 504(c) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228; 22 U.S.C. 6206 note) shall remain in effect through September 30, 2012".]

[Pub. L. 111–117, div. F, title I, Dec. 16, 2009, 123 Stat. 3318, provided in part: "That the authority provided by section 504(c) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228; 22 U.S.C. 6206 note) shall remain in effect through September 30, 2010".]

§6207. Limits on grants for Radio Free Europe and Radio Liberty

(a) Board of RFE/RL, Incorporated

The Board may not make any grant to RFE/RL, Incorporated, unless the certificate of incorporation of RFE/RL, Incorporated, has been amended to provide that—

(1) the Board of Directors of RFE/RL, Incorporated, shall consist of the members authorized under section 6204(a)(20) of this title; and

(2) such Board of Directors shall make all major policy determinations governing the operation of RFE/RL, Incorporated, and shall appoint and fix the compensation of such managerial officers and employees of RFE/RL, Incorporated, as it considers necessary to carry out the purposes of the

grant provided under this chapter.

(b) Location of principal place of business

(1) The Board may not make any grant to RFE/RL, Incorporated unless the headquarters of RFE/RL, Incorporated and its senior administrative and managerial staff are in a location which ensures economy, operational effectiveness, and accountability to the Board.

(2) Not later than 90 days after confirmation of all members of the Board, the Board shall provide a report to Congress on the number of administrative, managerial, and technical staff of RFE/RL, Incorporated who will be located within the metropolitan area of Washington, D.C., and the number of employees whose principal place of business will be located outside the metropolitan area of Washington, D.C.

(c) Limitation on grant amounts

The total amount of grants made for the operating costs of RFE/RL, Incorporated, may not exceed $85,000,000 in fiscal year 2003.

(d) Alternative grantee

If the Chief Executive Officer determines at any time that RFE/RL, Incorporated is not carrying out the functions described in this section in an effective and economical manner, the Board may award the grant to carry out such functions to another entity.

(e) Not a Federal agency or instrumentality

Nothing in this chapter may be construed to make RFE/RL, Incorporated a Federal agency or instrumentality.

(f) Authority

Grants authorized under section 6204 of this title for RFE/RL, Incorporated, shall be available to make annual grants for the purpose of carrying out similar functions as were carried out by RFE/RL, Incorporated, on the day before April 30, 1994, with respect to Radio Free Europe and Radio Liberty, consistent with section 2 of the Board for International Broadcasting Act of 1973 [22 U.S.C. 2871], as in effect on such date.

(g) Grant agreement

Grants to RFE/RL, Incorporated, by the Board shall only be made in compliance with a grant agreement. The grant agreement shall establish guidelines for such grants. The grant agreement shall include the following provisions—

(1) that a grant be used only for activities which the Board determines are consistent with the purposes of subsection (f);

(2) that RFE/RL, Incorporated, shall otherwise comply with the requirements of this section;

(3) that failure to comply with the requirements of this section may result in suspension or termination of a grant without further obligation by the Board or the United States;

(4) that duplication of language services and technical operations between RFE/RL, Incorporated and the [1] any other grantee of the Board be reduced to the extent appropriate, as determined by the Chief Executive Officer; and

(5) that RFE/RL, Incorporated, justify in detail each proposed expenditure of grant funds, and that such funds may not be used for any other purpose unless the Board gives its prior written approval.

(h) Prohibited uses of grant funds

No grant funds provided under this section may be used for the following purposes:

(1)(A) Except as provided in subparagraph (B) or (C), to pay any salary or other compensation, or enter into any contract providing for the payment of salary or compensation in excess of the rates established for comparable positions under title 5 or the foreign relations laws of the United States, except that no employee may be paid a salary or other compensation in excess of the rate of pay payable for level IV of the Executive Schedule under section 5315 of title 5.

(B) Salary and other compensation limitations under subparagraph (A) shall not apply prior to

October 1, 1995, with respect to any employee covered by a union agreement requiring a salary or other compensation in excess of such limitations.

(C) Notwithstanding the limitations under subparagraph (A), grant funds provided under this section may be used by RFE/RL, Incorporated, to pay up to three employees employed in Washington, D.C., salary or other compensation not to exceed the rate of pay payable for level III of the Executive Schedule under section 5314 of title 5.

(2) For any activity for the purpose of influencing the passage or defeat of legislation being considered by Congress.

(3) To enter into a contract or obligation to pay severance payments for voluntary separation for employees hired after December 1, 1990, except as may be required by United States law or the laws of the country where the employee is stationed.

(4) For first class travel for any employee of RFE/RL, Incorporated, or the relative of any employee.

(5) To compensate freelance contractors without the approval of the Board.

(i) Report on management practices

Effective not later than March 31 and September 30 of each calendar year, the Inspector General of the Department of State and the Foreign Service shall submit to the Board and the Congress a report on management practices of RFE/RL, Incorporated, under this section. The Inspector General of the Department of State and the Foreign Service shall establish a special unit within the Inspector General's office to monitor and audit the activities of RFE/RL, Incorporated, and shall provide for on-site monitoring of such activities.

(j) Audit authority

(1) Such financial transactions of RFE/RL, Incorporated, as relate to functions carried out under this section may be audited by the Government Accountability Office in accordance with such principles and procedures and under such rules and regulations as may be prescribed by the Comptroller General of the United States. Any such audit shall be conducted at the place or places where accounts of RFE/RL, Incorporated, are normally kept.

(2) Representatives of the Government Accountability Office shall have access to all books, accounts, records, reports, files, papers, and property belonging to or in use by RFE/RL, Incorporated pertaining to such financial transactions and necessary to facilitate an audit. Such representatives shall be afforded full facilities for verifying transactions with any assets held by depositories, fiscal agents, and custodians. All such books, accounts, records, reports, files, papers, and property of RFE/RL, Incorporated, shall remain in the possession and custody of RFE/RL, Incorporated.

(3) Notwithstanding any other provision of law and upon repeal of the Board for International Broadcasting Act [22 U.S.C. 2871 et seq.], the Inspector General of the Department of State and the Foreign Service is authorized to exercise the authorities of the Inspector General Act of 1978 with respect to RFE/RL, Incorporated.

(Pub. L. 103–236, title III, §308, Apr. 30, 1994, 108 Stat. 437; Pub. L. 105–277, div. G, subdiv. A, title XIII, §§1314(d), 1323(l)(1), Oct. 21, 1998, 112 Stat. 2681–777, 2681–780; Pub. L. 107–228, div. A, title V, §§501, 502, Sept. 30, 2002, 116 Stat. 1392; Pub. L. 108–271, §8(b), July 7, 2004, 118 Stat. 814; Pub. L. 114–328, div. A, title XII, §1288(5), Dec. 23, 2016, 130 Stat. 2552.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(2) and (e), was in the original "this title", meaning title III of Pub. L. 103–236, Apr. 30, 1994, 108 Stat. 432, known as the United States International Broadcasting Act of 1994, which is classified principally to this chapter. For complete classification of title III to the Code, see Short Title note set out under section 6201 of this title and Tables.

The foreign relations laws of the United States, referred to in subsec. (h)(1)(A), are classified generally to this title.

The Board for International Broadcasting Act, referred to in subsecs. (f) and (j)(3), is Pub. L. 93–129, Oct. 19, 1973, 87 Stat. 456, as amended, which was classified generally to chapter 43 (§2871 et seq.) of this title prior to repeal by Pub. L. 103–236, title III, §310(e), Apr. 30, 1994, 108 Stat. 442. See section 6209(e) of this title.

The Inspector General Act of 1978, referred to in subsec. (j)(3), is Pub. L. 95–452, Oct. 12, 1978, 92 Stat. 1101, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

2016—Subsec. (a)(1). Pub. L. 114–328, §1288(5)(A), which directed substitution of "authorized under section 6204(a)(20) of this title" for "of the Broadcasting Board of Governors established under section 6203 of this title and no other members", was executed by making the substitution for "of the Broadcasting Board of Governors established under section 6203 of this title and of no other members", to reflect the probable intent of Congress.

Subsec. (d). Pub. L. 114–328, §1288(5)(B), amended subsec. (d) generally. Prior to amendment, text read as follows: "If the Board determines at any time that RFE/RL, Incorporated, is not carrying out the functions described in section 6208 of this title in an effective and economical manner, the Board may award the grant to carry out such functions to another entity after soliciting and considering applications from eligible entities in such manner and accompanied by such information as the Board may reasonably require."

Subsec. (g)(4). Pub. L. 114–328, §1288(5)(C), substituted "any other grantee of the Board" for "International Broadcasting Bureau" and "by the Chief Executive Officer" for "by the Board".

Subsec. (i). Pub. L. 114–328, §1288(5)(D), struck out par. (1) designation before "Effective".

2004—Subsec. (j)(1), (2). Pub. L. 108–271 substituted "Government Accountability Office" for "General Accounting Office".

2002—Subsec. (c). Pub. L. 107–228, §501, amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: "The total amount of grants made by the Board for the operating costs of Radio Free Europe and Radio Liberty may not exceed $75,000,000 for any fiscal year after fiscal year 1995."

Subsec. (h)(1)(A). Pub. L. 107–228, §502(2), substituted "subparagraph (B) or (C)," for "subparagraph (B),".

Subsec. (h)(1)(C). Pub. L. 107–228, §502(1), added subpar. (C).

1998—Subsec. (i)(1). Pub. L. 105–277, §1314(d), substituted "Inspector General of the Department of State and the Foreign Service" for "Inspector General of the United States Information Agency" in two places and struck out ", the Director of the United States Information Agency," after "shall submit to the Board".

Subsec. (j)(3). Pub. L. 105–277, §1314(d)(1), substituted "Inspector General of the Department of State and the Foreign Service" for "Inspector General of the United States Information Agency".

Subsecs. (k), (l). Pub. L. 105–277, §1323(l)(1), struck out subsecs. (k) and (l), which listed conditions placed upon plan for relocation of offices or operations of RFE/RL, Incorporated from Munich, Germany, and required report to Congress on classification of personnel not later than 90 days after confirmation of all members of Board, respectively.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective Oct. 1, 1999, see section 1301 of Pub. L. 105–277, set out as an Effective Date note under section 6531 of this title.

LIAISON WITH RFE/RL, INCORPORATED; REPRESENTATION AT BOARD MEETINGS

Pub. L. 99–93, title III, §305(b), Aug. 16, 1985, 99 Stat. 436, provided that: "The Secretary of State shall—

"(1) establish an office within the United States Consulate in Munich, Federal Republic of Germany, which shall be responsible for the daily liaison operations of the Department of State with RFE/RL, Incorporated; and

"(2) be represented by an observer at each meeting of the Board for International Broadcasting and of the Board of Directors of RFE/RL, Incorporated."

[1] *So in original. The word "the" probably should not appear.*

§6208. Radio Free Asia

(a) Authority

(1) Grants authorized under section 6204 of this title shall be available to make annual grants for the purpose of carrying out radio broadcasting to Asia.

(2) Such broadcasting service shall be referred to as "Radio Free Asia".

(b) Functions

Radio Free Asia shall—

(1) provide accurate and timely information, news, and commentary about events in Asia and elsewhere; and

(2) be a forum for a variety of opinions and voices from within Asian nations whose people do not fully enjoy freedom of expression.

(c) Grant agreement

Any grant agreement or grants under this section shall be subject to the following limitations and restrictions:

(1) The Board may not make any grant to Radio Free Asia unless the headquarters of Radio Free Asia and its senior administrative and managerial staff are in a location which ensures economy, operational effectiveness, and accountability to the Board.

(2) Any grant agreement under this section shall require that any contract entered into by Radio Free Asia shall specify that all obligations are assumed by Radio Free Asia and not by the United States Government.

(3) Any grant agreement shall require that any lease agreements entered into by Radio Free Asia shall be, to the maximum extent possible, assignable to the United States Government.

(4) Grants made for the operating costs of Radio Free Asia may not exceed $30,000,000 in each of the fiscal years 2000 and 2001.

(5) Grants awarded under this section shall be made pursuant to a grant agreement which requires that grant funds be used only for activities consistent with this section, and that failure to comply with such requirements shall permit the grant to be terminated without fiscal obligation to the United States.

(d) Limitations on administrative and managerial costs

It is the sense of the Congress that administrative and managerial costs for operation of Radio Free Asia should be kept to a minimum and, to the maximum extent feasible, should not exceed the costs that would have been incurred if Radio Free Asia had been operated as a Federal entity rather than as a grantee.

(e) Assessment of effectiveness of Radio Free Asia

Not later than 3 years after the date on which initial funding is provided for the purpose of operating Radio Free Asia, the Board shall submit to the appropriate congressional committees a report on—

(1) whether Radio Free Asia is technically sound and cost-effective,

(2) whether Radio Free Asia consistently meets the standards for quality and objectivity established by this chapter,

(3) whether Radio Free Asia is received by a sufficient audience to warrant its continuation,

(4) the extent to which such broadcasting is already being received by the target audience from other credible sources; and

(5) the extent to which the interests of the United States are being served by maintaining broadcasting of Radio Free Asia.

(f) Notification and consultation regarding displacement of Voice of America broadcasting

(1) Notification

The Board shall notify the appropriate congressional committees before—

(A) entering into any agreements for the utilization of Voice of America transmitters, equipment, or other resources that will significantly reduce the broadcasting activities of the Voice of America in Asia or any other region in order to accommodate the broadcasting activities of Radio Free Asia; or

(B) entering into any agreements in regard to the utilization of Radio Free Asia transmitters, equipment, or other resources that will significantly reduce the broadcasting activities of Radio Free Asia.

(2) Consultation

The Chief Executive Officer of the Board shall consult with such committees on the impact of any such reduction in Voice of America broadcasting activities or Radio Free Asia broadcasting activities.

(g) Alternative grantee

If the Chief Executive Officer determines at any time that Radio Free Asia is not carrying out the functions described in this section in an effective and economical manner, the Board may award the grant to carry out such functions to another entity.

(h) Not a Federal agency or instrumentality

Nothing in this chapter may be construed to make Radio Free Asia a Federal agency or instrumentality.

(Pub. L. 103–236, title III, §309, Apr. 30, 1994, 108 Stat. 439; Pub. L. 103–415, §1(s)(2), Oct. 25, 1994, 108 Stat. 4302; Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title V, §501], Nov. 29, 1999, 113 Stat. 1536, 1501A–450; Pub. L. 110–321, §4, Sept. 19, 2008, 122 Stat. 3535; Pub. L. 111–71, §1, Oct. 9, 2009, 123 Stat. 2058; Pub. L. 111–202, §3, July 13, 2010, 124 Stat. 1374; Pub. L. 114–323, title VII, §703(a), Dec. 16, 2016, 130 Stat. 1941; Pub. L. 114–328, div. A, title XII, §1288(6), Dec. 23, 2016, 130 Stat. 2553.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (e)(2) and (h), was in the original "this title", meaning title III of Pub. L. 103–236, Apr. 30, 1994, 108 Stat. 432, known as the United States International Broadcasting Act of 1994, which is classified principally to this chapter. For complete classification of title III to the Code, see Short Title note set out under section 6201 of this title and Tables.

AMENDMENTS

2016—Subsec. (a)(1). Pub. L. 114–323, §703(a)(1), substituted "Asia." for "the following countries: The People's Republic of China, Burma, Cambodia, Laos, North Korea, Tibet, and Vietnam."

Subsec. (b)(1). Pub. L. 114–323, §703(a)(2), struck out "the respective countries of" before "Asia".

Subsec. (f)(2). Pub. L. 114–328, §1288(6)(A), substituted "Chief Executive Officer of the Board" for "Chairman of the Board".

Subsecs. (g), (h). Pub. L. 114–328, §1288(6)(B), (C), added subsec. (g) and redesignated former subsec. (g) as (h).

2010—Subsec. (c)(2). Pub. L. 111–202, §3(1), struck out ", and shall further specify that funds to carry out the activities of Radio Free Asia may not be available after September 30, 2010" after "Government".

Subsecs. (f) to (h). Pub. L. 111–202, §3(2)–(4), redesignated subsecs. (g) and (h) as (f) and (g), respectively, designated first sentence of subsec. (f) as par. (1), inserted heading, inserted subpar. (A) designation before "entering into any agreements for the utilization of Voice of America", added subpar. (B), designated second sentence of subsec. (f) as par. (2), inserted heading, inserted "or Radio Free Asia broadcasting activities" before period at end, and struck out former subsec. (f) which related to sunset provisions.

2009—Subsec. (f). Pub. L. 111–71 substituted "2010" for "2009".

2008—Subsec. (c)(2). Pub. L. 110–321 substituted "2010" for "2009".

1999—Subsec. (c). Pub. L. 106–113, §1000(a)(7) [div. A, title V, §501(1), (2)], redesignated subsec. (d) as (c) and struck out heading and text of former subsec. (c), which required the Board, through the Director of the United States Information Agency, to submit to Congress a detailed plan for the establishment and operation of Radio Free Asia prior to the awarding of a grant to carry out this section.

Subsec. (c)(1). Pub. L. 106–113, §1000(a)(7) [div. A, title V, §501(3)(A)], struck out "(A)" after "(1)" and struck out subpar. (B) which read as follows: "Not later than 90 days after confirmation of all members of the Board, the Board shall provide a report to Congress on the number of administrative, managerial, and technical staff of Radio Free Asia who will be located within the metropolitan area of Washington, D.C., and the number of employees whose principal place of business will be located outside the metropolitan area of Washington, D.C."

Subsec. (c)(2). Pub. L. 106–113, §1000(a)(7) [div. A, title V, §501(3)(B)], substituted "September 30, 2009" for "September 30, 1999".

Subsec. (c)(4). Pub. L. 106–113, §1000(a)(7) [div. A, title V, §501(3)(C)], substituted "$30,000,000 in each of the fiscal years 2000 and 2001" for "$22,000,000 in any fiscal year".

Subsec. (c)(5), (6). Pub. L. 106–113, §1000(a)(7) [div. A, title V, §501(3)(D), (E)], redesignated par. (6) as

(5) and struck out former par. (5) which read as follows: "The total amount of grant funds made available for one-time capital costs of Radio Free Asia may not exceed $8,000,000."

Subsecs. (d), (e). Pub. L. 106–113, §1000(a)(7) [div. A, title V, §501(2)], redesignated subsecs. (e) and (f) as (d) and (e), respectively. Former subsec. (d) redesignated (c).

Subsec. (f). Pub. L. 106–113, §1000(a)(7) [div. A, title V, §501(4)], reenacted subsec. heading without change and amended text generally. Prior to amendment, text read as follows: "The Board may not make any grant for the purpose of operating Radio Free Asia after September 30, 1998, unless the President of the United States determines in the President's fiscal year 1999 budget submission that continuation of funding for Radio Free Asia for 1 additional year is in the interest of the United States."

Pub. L. 106–113, §1000(a)(7) [div. A, title V, §501(2)], redesignated subsec. (g) as (f). Former subsec. (f) redesignated (e).

Subsecs. (g) to (i). Pub. L. 106–113, §1000(a)(7) [div. A, title V, §501(2)], redesignated subsecs. (h) and (i) as (g) and (h), respectively. Former subsec. (g) redesignated (f).

1994—Subsec. (d)(1)(B). Pub. L. 103–415 inserted "of all members" after "confirmation".

FINDINGS

Pub. L. 111–202, §1, July 13, 2010, 124 Stat. 1373, provided that: "Congress finds the following:

"(1) Radio Free Asia (referred to in this Act [amending this section] as 'RFA')—

"(A) was authorized under section 309 of the United States International Broadcasting Act of 1994 (22 U.S.C. 6208);

"(B) was incorporated as a private, non-profit corporation in March 1996 in the hope that its operations would soon be obviated by the global advancement of democracy; and

"(C) is headquartered in Washington, DC, with additional offices in Bangkok, Hong Kong, Phnom Penh, Seoul, Ankara, and Taipei.

"(2) RFA broadcasts serve as substitutes for indigenous free media in regions lacking free media outlets.

"(3) The mission of RFA is 'to provide accurate and timely news and information to Asian countries whose governments prohibit access to a free press' in order to enable informed decisionmaking by the people within Asia.

"(4) RFA provides daily broadcasts of news, commentary, analysis, and cultural programming to Asian countries in several languages, including—

"(A) 12 hours per day in Mandarin;

"(B) 8 hours per day in 3 Tibetan dialects, Uke, Kham, and Amdo;

"(C) 4 hours per day in Korean and Burmese;

"(D) 2 hours per day in Cantonese, Vietnamese, Laotian, Khmer (Cambodian), and Uyghur; and

"(E) 1½ hours per week in Wu (local Shanghai dialect).

"(5) The governments of the countries targeted for these broadcasts have consistently denied and blocked attempts at Medium Wave and FM transmissions into their countries, forcing RFA to rely on Shortwave broadcasts and the Internet.

"(6) RFA has provided continuous online news to its Asian audiences since 2004, although some countries—

"(A) routinely and aggressively block RFA's website;

"(B) monitor access to RFA's website; and

"(C) discourage online users by making it illegal to access RFA's website.

"(7) Despite these attempts, RFA has successfully managed to reach its online audiences through proxies, cutting-edge software, and active republication and repostings by its audience.

"(8) RFA also provides forums for local opinions and experiences through message boards, podcasts, web logs (blogs), cell phone-distributed newscasts, and new media, including Facebook, Flickr, Twitter, and YouTube.

"(9) Freedom House has documented that freedom of the press is in decline in nearly every region of the world, particularly in Asia, where none of the countries served by RFA have increased their freedom of the press during the past 5 years.

"(10) In fiscal year 2010, RFA is operating on a $37,000,000 budget, less than $400,000 of which is available to fund Internet censorship circumvention.

"(11) Congress currently provides grant funding for RFA's operations on a fiscal year basis."

§6209. Broadcast entities reporting to Chief Executive Officer

(a) Consolidation of grantee organizations

(1) In general

The Chief Executive Officer, subject to the regular notification procedures of the Committee on Appropriations and the Committee on Foreign Affairs of the House of Representatives and the Committee on Appropriations and the Committee on Foreign Relations of the Senate, who is authorized to incorporate a grantee, may condition annual grants to RFE/RL, Inc., Radio Free Asia, and the Middle East Broadcasting Networks on the consolidation of such grantees into a single, consolidated private, non-profit corporation (in accordance with section 501(c)(3) of title 26 and exempt from tax under section 501(a) of such title), in such a manner and under such terms and conditions as determined by the Chief Executive Officer, which may broadcast and provide news and information to audiences wherever the agency may broadcast, for activities that the Chief Executive Officer determines are consistent with the purposes of this chapter, including the terms and conditions of subsections (g)(5), (h), (i), and (j) of section 6207 of this title, except that the Agency may select any name for such a consolidated grantee.

(2) Special rule

No State or political subdivision of a State may establish, enforce, or continue in effect any provision of law or legal requirement that is different from, or is in conflict with, any requirement or authority applicable under this chapter relating to the consolidation, incorporation, structure, or dissolution of any grantee under this chapter.

(b) Mission

The consolidated grantee established under subsection (a) shall—

(1) counter state-sponsored propaganda which undermines the national security or foreign policy interests of the United States and its allies;

(2) provide uncensored local and regional news and analysis to people in societies where a robust, indigenous, independent, and free media does not exist;

(3) help countries improve their indigenous capacity to enhance media professionalism and independence, and develop partnerships with local media outlets, as appropriate; and

(4) promote unrestricted access to uncensored sources of information, especially via the internet, and use all effective and efficient mediums of communication to reach target audiences.

(c) Federal status

Nothing in this or any other Act, or any action taken pursuant to this or any other Act, may be construed to make such a consolidated grantee described in subsection (a) or RFE/RL, Inc., Radio Free Asia, or the Middle East Broadcasting Networks or any other grantee or entity provided funding by the agency a Federal agency or instrumentality. Employees or staff of such grantees or entities may not be Federal employees. For purposes of this section and this chapter, the term "grant" includes agreements under section 6305 of title 31, and the term "grantee" includes recipients of such agreements.

(d) Leadership of grantee organizations

Officers and directors of RFE/RL Inc., Radio Free Asia, and the Middle East Broadcasting Networks or any organization that is established through the consolidation of such entities, or authorized under this chapter, shall serve at the pleasure of and may be named by the Chief Executive Officer of the Board.

(e) Maintenance of the existing individual grantee brands

RFE/RL, Incorporated, Radio Free Asia, and the Middle East Broadcasting Networks, Incorporated should remain brand names under which news and related programming and content may be disseminated by the consolidated grantee. Additional brands may be created as necessary.

(Pub. L. 103–236, title III, §310, as added Pub. L. 114–328, div. A, title XII, §1288(7), Dec. 23, 2016, 130 Stat. 2553.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a), (c), and (d), was in the original "this Act", and was translated as reading "this title", meaning title III of Pub. L. 103–236, Apr. 30, 1994, 108 Stat. 432, known as the United States International Broadcasting Act of 1994, which is classified principally to this chapter, to reflect the probable intent of Congress. For complete classification of title III to the Code, see Short Title note set out under section 6201 of this title and Tables.

PRIOR PROVISIONS

A prior section 6209, Pub. L. 103–236, title III, §310, Apr. 30, 1994, 108 Stat. 442, related to transition of transfer of functions from Board for International Broadcasting to United States Information Agency, Board, or Bureau, prior to repeal by Pub. L. 105–277, div. G, subdiv. A, title XIII, §§1301, 1323(l)(2), Oct. 21, 1998, 112 Stat. 2681–776, 2681–780, effective Oct. 1, 1999.

§6209a. Inspector General authorities

(a) In general

The Inspector General of the Department of State and the Foreign Service shall exercise the same authorities with respect to the Broadcasting Board of Governors as the Inspector General exercises under the Inspector General Act of 1978 [5 U.S.C. App.] and section 3929 of this title with respect to the Department of State.

(b) Respect for journalistic integrity of broadcasters

The Inspector General of the Department of State and the Foreign Service shall respect the journalistic integrity of all the broadcasters covered by this chapter and may not evaluate the philosophical or political perspectives reflected in the content of broadcasts.

(Pub. L. 103–236, title III, §310A, as added Pub. L. 114–328, div. A, title XII, §1288(7), Dec. 23, 2016, 130 Stat. 2554.)

REFERENCES IN TEXT

The Inspector General Act of 1978, referred to in subsec. (a), is Pub. L. 95–452, Oct. 12, 1978, 92 Stat. 1101, which is set out in the Appendix to Title 5, Government Organization and Employees.

This chapter, referred to in subsec. (b), was in the original "this Act", and was translated as reading "this title", meaning title III of Pub. L. 103–236, Apr. 30, 1994, 108 Stat. 432, known as the United States International Broadcasting Act of 1994, which is classified principally to this chapter, to reflect the probable intent of Congress. For complete classification of title III to the Code, see Short Title note set out under section 6201 of this title and Tables.

§6209b. Role of the Secretary of State in foreign policy guidance

To assist the Board in carrying out its functions, the Chief Executive Officer shall regularly consult with and seek from the Secretary of State guidance on foreign policy issues.

(Pub. L. 103–236, title III, §310B, as added Pub. L. 114–328, div. A, title XII, §1288(7), Dec. 23, 2016, 130 Stat. 2554.)

§6210. Preservation of American jobs

It is the sense of the Congress that the Director of the United States Information Agency and the Chairman of the Board for International Broadcasting should, in developing the plan for consolidation and reorganization of overseas international broadcasting services, limit, to the maximum extent feasible, consistent with the purposes of the consolidation, elimination of any United States-based positions and should affirmatively seek to transfer as many positions as possible to the United States.

(Pub. L. 103–236, title III, §311, Apr. 30, 1994, 108 Stat. 444.)

TRANSFER OF FUNCTIONS

United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau) abolished and functions transferred to Secretary of State, see sections 6531 and 6532 of this title.

§6211. The continuing mission of Radio Free Europe and Radio Liberty broadcasts

It is the sense of Congress that Radio Free Europe and Radio Liberty should continue to broadcast to the peoples of Central Europe, Eurasia, and the Persian Gulf until such time as—

(1) a particular nation has clearly demonstrated the successful establishment and consolidation of democratic rule; and

(2) its domestic media which provide balanced, accurate, and comprehensive news and information, is firmly established and widely accessible to the national audience, thus making redundant broadcasts by Radio Free Europe or Radio Liberty.

At such time as a particular nation meets both of these conditions, RFE/RL should phase out broadcasting to that nation.

(Pub. L. 103–236, title III, §312, Apr. 30, 1994, 108 Stat. 444; Pub. L. 106–113, §1000(a)(7) [div. A, title V, §503], Nov. 29, 1999, 113 Stat. 1536, 1501A–451.)

AMENDMENTS

1999—Pub. L. 106–113 amended section catchline and text generally, substituting present provisions for provisions which set forth sense of Congress that funding of Radio Free Europe and Radio Liberty be privatized not later than Dec. 31, 1999, directed President to submit analysis and recommendation for achieving this objective with his annual budget submission, and directed Board for International Broadcasting to submit to appropriate congressional committees not later than 120 days after Apr. 30, 1994, report on steps being taken to transfer RFE/RL Research Institute, and periodic progress reports until such transfer would be achieved.

PROGRAMMING TO UKRAINE AND NEIGHBORING REGIONS: FINDINGS AND DECLARATIONS

Pub. L. 113–96, §1, Apr. 3, 2014, 128 Stat. 1098, provided that:

"(a) Congress finds and declares the following:

"(1) The Russian Government has deliberately blocked the Ukrainian people's access to uncensored sources of information and has provided alternative news and information that is both inaccurate and inflammatory;

"(2) United States international programming exists to advance the United States interests and values by presenting accurate and comprehensive news and information, which is the foundation for democratic governance;

"(3) The opinions and views of the Ukrainian people, especially those people located in the eastern regions and Crimea, are not being accurately represented in Russian dominated mass media;

"(4) Russian forces have seized more than five television stations in Crimea and taken over transmissions, switching to a 24/7 Russian propaganda format; this increase in programming augments the already robust pro-Russian programming to Ukraine;

"(5) United States international programming has the potential to combat this anti-democratic propaganda.

"(b) PROGRAMMING.—Radio Free Europe/Radio Liberty (RFE/RL), Incorporated, and the Voice of America service to Ukraine and neighboring regions shall—

"(1) provide news and information that is accessible, credible, and accurate;

"(2) emphasize investigative and analytical journalism to highlight inconsistencies and misinformation provided by Russian or pro-Russian media outlets;

"(3) prioritize programming to areas where access to uncensored sources of information is limited or non-existent, especially populations serviced by Russian supported media outlets;

"(4) increase the number of reporters and organizational presence in eastern Ukraine, especially in Crimea;

"(5) promote democratic processes, respect for human rights, freedom of the press, and territorial sovereignty; and

"(6) take necessary preparatory steps to continue and increase programming and content that promotes democracy and government transparency in Russia.

"(c) PROGRAMMING SURGE.—RFE/RL, Incorporated, and Voice of America programming to Ukraine and neighboring regions shall—

"(1) prioritize programming to eastern Ukraine, including Crimea, and Moldova, and to ethnic and linguistic Russian populations, as well as to Tatar minorities;

"(2) prioritize news and information that directly contributes to the target audiences' understanding of political and economic developments in Ukraine and Moldova, including countering misinformation that may originate from other news outlets, especially Russian supported news outlets;

"(3) provide programming content 24 hours a day, seven days a week to target populations, using all available and effective distribution outlets, including—

"(A) at least 8 weekly hours of total original television and video content in Ukrainian, Russian, and Tatar languages, not inclusive of live video streaming coverage of breaking news, to be distributed on satellite, digital, and through regional television affiliates by the Voice of America; and

"(B) at least 14 weekly hours the total audio content in Ukrainian, Russian, and Tatar languages to be distributed on satellite, digital, and through regional radio affiliates of RFE/RL, Incorporated;

"(4) expand the use, audience, and audience engagement of mobile news and multimedia platforms by RFE/RL, Incorporated, and the Voice of America, including through Internet-based social networking platforms; and

"(5) partner with private sector broadcasters and affiliates to seek and start co-production for new, original content, when possible, to increase distribution.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for fiscal year 2014, in addition to funds otherwise made available for such purposes, up to $10,000,000 to carry out programming in the Ukrainian, Balkan, Russian, and Tatar language services of RFE/RL, Incorporated, and the Voice of America, for the purpose of bolstering existing United States programming to the people of Ukraine and neighboring regions, and increasing programming capacity and jamming circumvention technology to overcome any disruptions to service.

"(e) REPORT.—Not later than 15 days after the date of the enactment of this Act [Apr. 3, 2014], the Broadcasting Board of Governors shall submit to the Committees on Foreign Affairs and Appropriations of the House of Representatives and the Committees on Foreign Relations and Appropriations of the Senate a detailed report on plans to increase broadcasts pursuant to subsections (a) and (b)."

§6212. Requirement for authorization of appropriations

(a) Limitation on obligation and expenditure of funds

Notwithstanding any other provision of law, for the fiscal year 1994 and for each subsequent fiscal year, any funds appropriated for the purposes of broadcasting subject to supervision of the Board shall not be available for obligation or expenditure—

(1) unless such funds are appropriated pursuant to an authorization of appropriations; or

(2) in excess of the authorized level of appropriations.

(b) Subsequent authorization

The limitation under subsection (a) shall not apply to the extent that an authorization of appropriations is enacted after such funds are appropriated.

(c) Application

The provisions of this section—

(1) may not be superseded, except by a provision of law which specifically repeals, modifies, or supersedes the provisions of this section; and

(2) shall not apply to, or affect in any manner, permanent appropriations, trust funds, and other similar accounts which are authorized by law and administered under or pursuant to this chapter.

(Pub. L. 103–236, title III, §313, Apr. 30, 1994, 108 Stat. 444; Pub. L. 107–228, div. A, title V, §507(2), Sept. 30, 2002, 116 Stat. 1394.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (c)(2), was in the original "this title", meaning title III of Pub. L. 103–236, Apr. 30, 1994, 108 Stat. 432, known as the United States International Broadcasting Act of 1994, which is classified principally to this chapter. For complete classification of title III to the Code, see Short Title note set out under section 6201 of this title and Tables.

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–228 struck out "the direction and" after "broadcasting subject to" in introductory provisions.

CONTINUED AVAILABILITY OF FUNDS FOLLOWING REPEAL OF BOARD FOR INTERNATIONAL BROADCASTING ACT OF 1973

Pub. L. 103–317, title V, Aug. 26, 1994, 108 Stat. 1771, provided in part: "That on the date upon which the Board for International Broadcasting Act of 1973 (22 U.S.C. 2871, et seq.) is repealed, as provided for by section 310(e) of the Foreign Relations Authorization Act, fiscal years 1994 and 1995 (Public Law 103–236; 108 Stat. 442) [22 U.S.C. 6209(e)], funds made available for expenses of the Board for International Broadcasting shall be made available until expended only for expenses necessary to enable the Broadcasting Board of Governors to carry out the authorities provided in section 305(a) of Public Law 103–236 [22 U.S.C. 6204(a)], including the appointment of staff personnel as authorized by section 305(a)(11) of Public Law 103–236: *Provided further*, That such amounts appropriated to the Board for International Broadcasting in fiscal year 1994 as are certified by the Office of Management and Budget to the Congress as gains due to the fluctuation of foreign currency, may be used in fiscal year 1995 and thereafter either to offset foreign currency losses or to offset unfunded RFE/RL costs associated with the implementation of Public Law 103–236 [see Tables for classification]: *Provided further*, That obligated but unexpended balances appropriated in fiscal year 1990 to fund planned transmitter modernization expenses may be expended in fiscal year 1995 for unfunded RFE/RL costs associated with the implementation of Public Law 103–236".

§6213. Definitions

For the purposes of this chapter—

(1) the term "appropriate congressional committees" means the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives;

(4) [1] the terms "Board" and "Chief Executive Officer of the Board" mean the Broadcasting Board of Governors and the position, respectively, authorized in accordance with this chapter;

(3) the term "RFE/RL, Incorporated" includes—

(A) the corporation having the corporate title described in section 6206(b)(3) [2] of this title; and

(B) any alternative grantee described in section 6206(e) [3] of this title; and

(4) the term "salary or other compensation" includes any deferred compensation or pension payments, any payments for expenses for which the recipient is not obligated to itemize, and any payments for personnel services provided to an employee of RFE/RL, Incorporated.

(Pub. L. 103–236, title III, §314, Apr. 30, 1994, 108 Stat. 445; Pub. L. 114–328, div. A, title XII, §1288(8), Dec. 23, 2016, 130 Stat. 2554.)

REFERENCES IN TEXT

This chapter, referred to in introductory provisions, was in the original "this title", meaning title III of Pub. L. 103–236, Apr. 30, 1994, 108 Stat. 432, known as the United States International Broadcasting Act of 1994, which is classified principally to this chapter. For complete classification of title III to the Code, see Short Title note set out under section 6201 of this title and Tables.

This chapter, referred to in the first par. (4), was in the original "this Act", and was translated as reading "this title", meaning title III of Pub. L. 103–236, to reflect the probable intent of Congress. See above.

Section 6206 of this title, referred to in par. (3), which related to the International Broadcasting Bureau and did not contain a subsec. (b)(3), was repealed by Pub. L. 114–328, div. A, title XII, §1288(4), Dec. 23, 2016,

130 Stat. 2552.

AMENDMENTS

2016—Pars. (2) to (4). Pub. L. 114–328 redesignated par. (2) as (3) and par. (3) as (4) defining "salary or other compensation" and added par. (4) defining "Board" and "Chief Executive Officer of the Board" after par. (1).

[1] *So in original. Probably should be designated as par. (2).*

[2] *See References in Text note below.*

[3] *So in original. Probably should be section "6207(d)".*

§6214. Relocation costs

Notwithstanding any other provision of law, funds derived from the sale of real property assets of RFE/RL in Munich, Germany, may be retained, obligated, and expended to meet one-time costs associated with the consolidation of United States Government broadcasting activities in accordance with this chapter, including the costs of relocating RFE/RL offices and operations.

(Pub. L. 103–236, title III, §315(d), as added Pub. L. 103–415, §1(ll), Oct. 25, 1994, 108 Stat. 4303.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this title", meaning title III of Pub. L. 103–236, Apr. 30, 1994, 108 Stat. 432, known as the United States International Broadcasting Act of 1994, which is classified principally to this chapter. For complete classification of title III to the Code, see Short Title note set out under section 6201 of this title and Tables.

§6215. Establishment of Radio Free Afghanistan

(a) Requirement of a detailed plan

Not later than 15 days after March 11, 2002, RFE/RL, Incorporated, shall submit to the Broadcasting Board of Governors a report setting forth a detailed plan for the provision by RFE/RL, Incorporated, of surrogate broadcasting services in the Dari and Pashto languages to Afghanistan. Such broadcasting services shall be known as "Radio Free Afghanistan".

(b) Grant authority

(1) In general

Effective 15 days after March 11, 2002, or the date on which the report required by subsection (a) is submitted, whichever is later, the Broadcasting Board of Governors is authorized to make grants to support Radio Free Afghanistan.

(2) Supersedes existing limitation on total annual grant amounts

Grants made to RFE/RL, Incorporated, during the fiscal year 2002 for support of Radio Free Afghanistan may be made without regard to section 308(c) of the United States International Broadcasting Act of 1994 (22 U.S.C. 6207(c)).

(c) Available authorities

In addition to the authorities in this section, the authorities applicable to carry out United States Government broadcasting activities under the United States Information and Educational Exchange Act of 1948 [22 U.S.C. 1431 et seq.], the United States International Broadcasting Act of 1994 [22 U.S.C. 6201 et seq.], the Foreign Affairs Reform and Restructuring Act of 1998, and other provisions of law consistent with such purpose may be used to carry out the grant authority of subsection (b).

(d) Standards; oversight

Radio Free Afghanistan shall adhere to the same standards of professionalism and accountability, and shall be subject to the same oversight mechanisms, as other services of RFE/RL, Incorporated.

(Pub. L. 107–148, §2, Mar. 11, 2002, 116 Stat. 64.)

REFERENCES IN TEXT

The United States Information and Educational Exchange Act of 1948, referred to in subsec. (c), is act Jan. 27, 1948, ch. 36, 62 Stat. 6, as amended, which is classified generally to chapter 18 (§1431 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1431 of this title, and Tables.

The United States International Broadcasting Act of 1994, referred to in subsec. (c), is title III of Pub. L. 103–236, Apr. 30, 1994, 108 Stat. 432, as amended, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 6201 of this title and Tables.

The Foreign Affairs Reform and Restructuring Act of 1998, referred to in subsec. (c), is division G of Pub. L. 105–277, Oct. 21, 1998, 112 Stat. 2681–761, as amended. For complete classification of division G to the Code, see Short Title note set out under section 6501 of this title and Tables.

CODIFICATION

Section was enacted as part of the Radio Free Afghanistan Act, and not as part of the United States International Broadcasting Act of 1994 which comprises this chapter.

§6216. Special authority for surge capacity

(a) Emergency authority

(1) In general

Whenever the President determines it to be important to the national interests of the United States and so certifies to the appropriate congressional committees, the President, on such terms and conditions as the President may determine, is authorized to direct any department, agency, or other entity of the United States to furnish the Broadcasting Board of Governors with such assistance outside the United States as may be necessary to provide international broadcasting activities of the United States with a surge capacity to support United States foreign policy objectives during a crisis abroad.

(2) Supersedes existing law

The authority of paragraph (1) shall supersede any other provision of law.

(3) Surge capacity defined

In this subsection, the term "surge capacity" means the financial and technical resources necessary to carry out broadcasting activities in a geographical area during a crisis abroad.

(4) Duration

The President is authorized to exercise the authority provided in subsection (a)(1) for a period of up to six months, which may be renewed for one additional six month period.

(b) Authorization of appropriations

(1) In general

There are authorized to be appropriated to the President such sums as may be necessary for the President to carry out this section, except that no such amount may be appropriated which, when added to amounts previously appropriated for such purpose but not yet obligated, would cause such amounts to exceed $25,000,000.

(2) Availability of funds

Amounts appropriated pursuant to the authorization of appropriations in this subsection are authorized to remain available until expended.

(3) Designation of appropriations

Amounts appropriated pursuant to the authorization of appropriations in this subsection may be referred to as the "United States International Broadcasting Surge Capacity Fund".

(c) Report

The annual report submitted to the President and Congress by the Broadcasting Board of Governors under section 6204(a)(9) of this title shall provide a detailed description of any activities carried out under this section.

(Pub. L. 103–236, title III, §316, as added Pub. L. 110–53, title XX, §2031(c), Aug. 3, 2007, 121 Stat. 516.)

FINDING; SENSE OF CONGRESS

Pub. L. 110–53, title XX, §2031(a), (b), Aug. 3, 2007, 121 Stat. 515, provided that:

"(a) FINDING.—Congress finds that the report of the National Commission on Terrorist Attacks Upon the United States stated that 'Recognizing that Arab and Muslim audiences rely on satellite television and radio, the government has begun some promising initiatives in television and radio broadcasting to the Arab world, Iran, and Afghanistan. These efforts are beginning to reach large audiences. The Broadcasting Board of Governors has asked for much larger resources. It should get them.'.

"(b) SENSE OF CONGRESS.—It is the sense of Congress that—

"(1) the United States needs to improve its communication of information and ideas to people in foreign countries, particularly in countries with significant Muslim populations; and

"(2) public diplomacy should reaffirm the paramount commitment of the United States to democratic principles, including preserving the civil liberties of all the people of the United States, including Muslim-Americans."

CHAPTER 72—NUCLEAR PROLIFERATION PREVENTION

SUBCHAPTER I—SANCTIONS FOR NUCLEAR PROLIFERATION

Sec.

6301. Imposition of procurement sanction on persons engaging in export activities that contribute to proliferation.

6302. Role of international financial institutions.

6303. Prohibition on assisting nuclear proliferation through provision of financing.

6304. Reporting on demarches.

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SUBCHAPTER II—INTERNATIONAL ATOMIC ENERGY AGENCY

6321. Bilateral and multilateral initiatives.

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6324. Definitions.

SUBCHAPTER I—SANCTIONS FOR NUCLEAR PROLIFERATION

§6301. Imposition of procurement sanction on persons engaging in export activities that contribute to proliferation

(a) Determination by President

(1) In general

Except as provided in subsection (b)(2), the President shall impose the sanction described in subsection (c) if the President determines in writing that, on or after the effective date of this subchapter, a foreign person or a United States person has materially and with requisite knowledge contributed, through the export from the United States or any other country of any goods or

technology (as defined in section 6305(2) of this title), to the efforts by any individual, group, or non-nuclear-weapon state to acquire unsafeguarded special nuclear material or to use, develop, produce, stockpile, or otherwise acquire any nuclear explosive device.

(2) Persons against which the sanction is to be imposed

The sanction shall be imposed pursuant to paragraph (1) on—

(A) the foreign person or United States person with respect to which the President makes the determination described in that paragraph;

(B) any successor entity to that foreign person or United States person;

(C) any foreign person or United States person that is a parent or subsidiary of that person if that parent or subsidiary materially and with requisite knowledge assisted in the activities which were the basis of that determination; and

(D) any foreign person or United States person that is an affiliate of that person if that affiliate materially and with requisite knowledge assisted in the activities which were the basis of that determination and if that affiliate is controlled in fact by that person.

(3) Other sanctions available

The sanction which is required to be imposed for activities described in this subsection is in addition to any other sanction which may be imposed for the same activities under any other provision of law.

(4) Definition

For purposes of this subsection, the term "requisite knowledge" means situations in which a person "knows", as "knowing" is defined in section 78dd–2 of title 15.

(b) Consultation with and actions by foreign government of jurisdiction

(1) Consultations

If the President makes a determination described in subsection (a)(1) with respect to a foreign person, the Congress urges the President to initiate consultations immediately with the government with primary jurisdiction over that foreign person with respect to the imposition of the sanction pursuant to this section.

(2) Actions by government of jurisdiction

In order to pursue such consultations with that government, the President may delay imposition of the sanction pursuant to this section for up to 90 days. Following these consultations, the President shall impose the sanction unless the President determines and certifies in writing to the Congress that that government has taken specific and effective actions, including appropriate penalties, to terminate the involvement of the foreign person in the activities described in subsection (a)(1). The President may delay the imposition of the sanction for up to an additional 90 days if the President determines and certifies in writing to the Congress that that government is in the process of taking the actions described in the preceding sentence.

(3) Report to Congress

Not later than 90 days after making a determination under subsection (a)(1), the President shall submit to the Committee on Foreign Relations and the Committee on Governmental Affairs of the Senate and the Committee on Foreign Affairs of the House of Representatives a report on the status of consultations with the appropriate government under this subsection, and the basis for any determination under paragraph (2) of this subsection that such government has taken specific corrective actions.

(c) Sanction

(1) Description of sanction

The sanction to be imposed pursuant to subsection (a)(1) is, except as provided in paragraph (2) of this subsection, that the United States Government shall not procure, or enter into any contract for the procurement of, any goods or services from any person described in subsection (a)(2).

(2) Exceptions

The President shall not be required to apply or maintain the sanction under this section—

(A) in the case of procurement of defense articles or defense services—

(i) under existing contracts or subcontracts, including the exercise of options for production quantities to satisfy requirements essential to the national security of the United States;

(ii) if the President determines in writing that the person or other entity to which the sanction would otherwise be applied is a sole source supplier of the defense articles or services, that the defense articles or services are essential, and that alternative sources are not readily or reasonably available; or

(iii) if the President determines in writing that such articles or services are essential to the national security under defense coproduction agreements;

(B) to products or services provided under contracts entered into before the date on which the President publishes his intention to impose the sanction;

(C) to—

(i) spare parts which are essential to United States products or production;

(ii) component parts, but not finished products, essential to United States products or production; or

(iii) routine servicing and maintenance of products, to the extent that alternative sources are not readily or reasonably available;

(D) to information and technology essential to United States products or production; or

(E) to medical or other humanitarian items.

(d) Advisory opinions

Upon the request of any person, the Secretary of State may, in consultation with the Secretary of Defense, issue in writing an advisory opinion to that person as to whether a proposed activity by that person would subject that person to the sanction under this section. Any person who relies in good faith on such an advisory opinion which states that the proposed activity would not subject a person to such sanction, and any person who thereafter engages in such activity, may not be made subject to such sanction on account of such activity.

(e) Termination of sanction

The sanction imposed pursuant to this section shall apply for a period of at least 12 months following the imposition of the sanction and shall cease to apply thereafter only if the President determines and certifies in writing to the Congress that—

(1) reliable information indicates that the foreign person or United States person with respect to which the determination was made under subsection (a)(1) has ceased to aid or abet any individual, group, or non-nuclear-weapon state in its efforts to acquire unsafeguarded special nuclear material or any nuclear explosive device, as described in that subsection; and

(2) the President has received reliable assurances from the foreign person or United States person, as the case may be, that such person will not, in the future, aid or abet any individual, group, or non-nuclear-weapon state in its efforts to acquire unsafeguarded special nuclear material or any nuclear explosive device, as described in subsection (a)(1).

(f) Waiver

(1) Criterion for waiver

The President may waive the application of the sanction imposed on any person pursuant to this section, after the end of the 12-month period beginning on the date on which that sanction was imposed on that person, if the President determines and certifies in writing to the Congress that the continued imposition of the sanction would have a serious adverse effect on vital United States interests.

(2) Notification of and report to Congress

If the President decides to exercise the waiver authority provided in paragraph (1), the President shall so notify the Congress not less than 20 days before the waiver takes effect. Such notification shall include a report fully articulating the rationale and circumstances which led the President to exercise the waiver authority.

(Pub. L. 103–236, title VIII, §821, Apr. 30, 1994, 108 Stat. 508.)

REFERENCES IN TEXT

For the effective date of this subchapter, referred to in subsec. (a)(1), as 60 days after Apr. 30, 1994, see section 831 of Pub. L. 103–236, set out as an Effective Date note below.

CHANGE OF NAME

Committee on Governmental Affairs of Senate changed to Committee on Homeland Security and Governmental Affairs of Senate, effective Jan. 4, 2005, by Senate Resolution No. 445, One Hundred Eighth Congress, Oct. 9, 2004.

EFFECTIVE DATE

Pub. L. 103–236, title VIII, §831, Apr. 30, 1994, 108 Stat. 522, provided that: "The provisions of this part [part B (§§821–831) of title VIII of Pub. L. 103–236, enacting this subchapter and sections 2799aa to 2799aa–2 of this title, amending sections 262d, 2295a, 2295b, 2375, 2429a–1, 2593a, 2708, 2753, and 2780 of this title, section 635 of Title 12, Banks and Banking, and section 2160c of Title 42, The Public Health and Welfare, repealing sections 2429 and 2429a of this title, and enacting provisions set out as a note under section 2799aa of this title], and the amendments made by this part, shall take effect 60 days after the date of the enactment of this Act [Apr. 30, 1994]."

SHORT TITLE

Pub. L. 103–236, title VIII, §801, Apr. 30, 1994, 108 Stat. 507, provided that: "This title [enacting this chapter and sections 2799aa to 2799aa–2 of this title, amending sections 262d, 2295a, 2295b, 2375, 2429a–1, 2593a, 2708, 2753, 2780, and 3281 of this title, section 635 of Title 12, Banks and Banking, and section 2160c of Title 42, The Public Health and Welfare, repealing sections 2429 and 2429a of this title, and enacting provisions set out as notes under this section and section 2799aa of this title] may be cited as the 'Nuclear Proliferation Prevention Act of 1994'."

TERMINATION UPON ENACTMENT OF NEXT FOREIGN RELATIONS ACT

Pub. L. 103–236, title VIII, §851, Apr. 30, 1994, 108 Stat. 525, which provided that on date of enactment of first Foreign Relations Authorization Act that was enacted after enactment of Pub. L. 103–236, the provisions of parts A (amending section 3281 of this title) and B (see Effective Date note above) of title VIII of Pub. L. 103–236 were to cease to be effective, the amendments made by those parts were to be repealed, and any provision of law repealed by those parts was to be reenacted, was itself repealed by Pub. L. 104–164, title I, §157(a), July 21, 1996, 110 Stat. 1440.

ASSIGNMENT OF CERTAIN FUNCTIONS RELATING TO PROCUREMENT SANCTIONS ON PERSONS ENGAGING IN EXPORT ACTIVITIES THAT CONTRIBUTE TO PROLIFERATION

Memorandum of President of the United States, Mar. 5, 2007, 72 F.R. 11283, provided:

Memorandum for the Secretary of State[,] the Secretary of the Treasury[,] the Secretary of Defense[,] the Secretary of Commerce[, and] the Director of National Intelligence

By the authority vested in me as President by the Constitution and laws of the United States, including section 301 of title 3, United States Code, the functions of the President under section 821 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 6301) are assigned to the Secretary of State, except that the function of the President under section 821(c)(2)(A) is assigned to the Secretary of Defense.

In the performance of their respective functions under this memorandum, the Secretaries of State and Defense shall, as appropriate, consult each other, the Secretaries of the Treasury and Commerce, and the heads of other departments and agencies.

The Secretary of State is authorized and directed to publish this memorandum in the Federal Register.

GEORGE W. BUSH.

§6302. Role of international financial institutions

The Secretary of the Treasury shall instruct the United States executive director to each of the international financial institutions described in section 262d(a) of this title to use the voice and vote of the United States to oppose any use of the institution's funds to promote the acquisition of unsafeguarded special nuclear material or the development, stockpiling, or use of any nuclear explosive device by any non-nuclear-weapon state.

(Pub. L. 103–236, title VIII, §823(a), Apr. 30, 1994, 108 Stat. 512.)

§6303. Prohibition on assisting nuclear proliferation through provision of financing

(a) "Prohibited activity" defined

For purposes of this section, the term "prohibited activity" means the act of knowingly, materially, and directly contributing or attempting to contribute, through the provision of financing, to—

(1) the acquisition of unsafeguarded special nuclear material; or

(2) the use, development, production, stockpiling, or other acquisition of any nuclear explosive device,

by any individual, group, or non-nuclear-weapon state.

(b) Prohibition

To the extent that the United States has jurisdiction to prohibit such activity by such person, no United States person and no foreign person may engage in any prohibited activity.

(c) Presidential determination and order with respect to United States and foreign persons

If the President determines,,[1] that a United States person or a foreign person has engaged in a prohibited activity (without regard to whether subsection (b) applies), the President shall, by order, impose the sanctions described in subsection (d) on such person.

(d) Sanctions

The following sanctions shall be imposed pursuant to any order issued under subsection (c) with respect to any United States person or any foreign person:

(1) Ban on dealings in Government finance

(A) Designation as primary dealer

Neither the Board of Governors of the Federal Reserve System nor the Federal Reserve Bank of New York may designate, or permit the continuation of any prior designation of, the person as a primary dealer in United States Government debt instruments.

(B) Service as depositary

The person may not serve as a depositary for United States Government funds.

(2) Restrictions on operations

The person may not, directly or indirectly—

(A) commence any line of business in the United States in which the person was not engaged as of the date of the order; or

(B) conduct business from any location in the United States at which the person did not conduct business as of the date of the order.

(e) Consultation with and actions by foreign government of jurisdiction

(1) Consultations

If the President makes a determination under subsection (c) with respect to a foreign person, the

Congress urges the President to initiate consultations immediately with any appropriate foreign government with respect to the imposition of any sanction pursuant to this section.

(2) Actions by government of jurisdiction

(A) Suspension of period for imposing sanctions

In order to pursue consultations described in paragraph (1) with any government referred to in such paragraph, the President may delay, for up to 90 days, the effective date of an order under subsection (c) imposing any sanction.

(B) Coordination with activities of foreign government

Following consultations described in paragraph (1), the order issued by the President under subsection (c) imposing any sanction on a foreign person shall take effect unless the President determines, and certifies in writing to the Congress, that the government referred to in paragraph (1) has taken specific and effective actions, including the imposition of appropriate penalties, to terminate the involvement of the foreign person in any prohibited activity.

(C) Extension of period

After the end of the period described in subparagraph (A), the President may delay, for up to an additional 90 days, the effective date of an order issued under subsection (b) imposing any sanction on a foreign person if the President determines, and certifies in writing to the Congress, that the appropriate foreign government is in the process of taking actions described in subparagraph (B).

(3) Report to Congress

Before the end of the 90-day period beginning on the date on which an order is issued under subsection (c), the President shall submit to the Congress a report on—

(A) the status of consultations under this subsection with the government referred to in paragraph (1); and

(B) the basis for any determination under paragraph (2) that such government has taken specific corrective actions.

(f) Termination of sanctions

Any sanction imposed on any person pursuant to an order issued under subsection (c) shall—

(1) remain in effect for a period of not less than 12 months; and

(2) cease to apply after the end of such 12-month period only if the President determines, and certifies in writing to the Congress, that—

(A) the person has ceased to engage in any prohibited activity; and

(B) the President has received reliable assurances from such person that the person will not, in the future, engage in any prohibited activity.

(g) Waiver

The President may waive the continued application of any sanction imposed on any person pursuant to an order issued under subsection (c) if the President determines, and certifies in writing to the Congress, that the continued imposition of the sanction would have a serious adverse effect on the safety and soundness of the domestic or international financial system or on domestic or international payments systems.

(h) Enforcement action

The Attorney General may bring an action in an appropriate district court of the United States for injunctive and other appropriate relief with respect to—

(1) any violation of subsection (b); or

(2) any order issued pursuant to subsection (c).

(i) "Knowingly" defined

(1) In general

For purposes of this section, the term "knowingly" means the state of mind of a person with

respect to conduct, a circumstance, or a result in which—

(A) such person is aware that such person is engaging in such conduct, that such circumstance exists, or that such result is substantially certain to occur; or

(B) such person has a firm belief that such circumstance exists or that such result is substantially certain to occur.

(2) Knowledge of the existence of a particular circumstance

If knowledge of the existence of a particular circumstance is required for an offense, such knowledge is established if a person is aware of a high probability of the existence of such circumstance, unless the person actually believes that such circumstance does not exist.

(j) Scope of application

This section shall apply with respect to prohibited activities which occur on or after the date this subchapter takes effect.

(Pub. L. 103–236, title VIII, §824, Apr. 30, 1994, 108 Stat. 512; Pub. L. 104–164, title I, §157(b), July 21, 1996, 110 Stat. 1440.)

REFERENCES IN TEXT

For the date this subchapter takes effect, referred to in subsec. (j), as 60 days after Apr. 30, 1994, see section 831 of Pub. L. 103–236, set out as an Effective Date note under section 6301 of this title.

AMENDMENTS

1996—Subsec. (c). Pub. L. 104–164, §157(b)(1), struck out "in writing after opportunity for a hearing on the record" after "If the President determines,".

Subsec. (e). Pub. L. 104–164, §157(b)(2), (3), redesignated subsec. (f) as (e) and struck out heading and text of former subsec. (e). Text read as follows: "Any determination of the President under subsection (c) of this section shall be subject to judicial review in accordance with chapter 7 of part I of title 5."

Subsecs. (f) to (k). Pub. L. 104–164, §157(b)(3), redesignated subsecs. (g) to (k) as (f) to (j), respectively. Former subsec. (f) redesignated (e).

[1] *So in original.*

§6304. Reporting on demarches

(1) It is the sense of the Congress that the Department of State should, in the course of implementing its reporting responsibilities under section 3282(c) of this title, include a summary of demarches that the United States has issued or received from foreign governments with respect to activities which are of significance from the proliferation standpoint.

(2) For purposes of this section, the term "demarche" means any official communication by one government to another, by written or oral means, intended by the originating government to express—

(A) a concern over a past, present, or possible future action or activity of the recipient government, or of a person within the jurisdiction of that government, contributing to the global spread of unsafeguarded special nuclear material or of nuclear explosive devices;

(B) a request for the recipient government to counter such action or activity; or

(C) both the concern and request described in subparagraphs (A) and (B).

(Pub. L. 103–236, title VIII, §828(b), Apr. 30, 1994, 108 Stat. 520.)

§6305. Definitions

For purposes of this subchapter—

(1) the term "foreign person" means—

(A) an individual who is not a citizen of the United States or an alien admitted for permanent

residence to the United States; or

(B) a corporation, partnership, or other nongovernment entity which is created or organized under the laws of a foreign country or which has its principal place of business outside the United States;

(2) the term "goods or technology" means—

(A) nuclear materials and equipment and sensitive nuclear technology (as such terms are defined in section 3203 of this title), all export items designated by the President pursuant to section 2139a(c) of title 42, and all technical assistance requiring authorization under section 2077(b) of title 42, and

(B) in the case of exports from a country other than the United States, any goods or technology that, if exported from the United States, would be goods or technology described in subparagraph (A);

(3) the term "IAEA safeguards" means the safeguards set forth in an agreement between a country and the International Atomic Energy Agency, as authorized by Article III(A)(5) of the Statute of the International Atomic Energy Agency;

(4) the term "nuclear explosive device" means any device, whether assembled or disassembled, that is designed to produce an instantaneous release of an amount of nuclear energy from special nuclear material that is greater than the amount of energy that would be released from the detonation of one pound of trinitrotoluene (TNT);

(5) the term "non-nuclear-weapon state" means any country which is not a nuclear-weapon state, as defined by Article IX (3) of the Treaty on the Non-Proliferation of Nuclear Weapons, signed at Washington, London, and Moscow on July 1, 1968;

(6) the term "special nuclear material" has the meaning given that term in section 2014(aa) of title 42;

(7) the term "United States person" means—

(A) an individual who is a citizen of the United States or an alien admitted for permanent residence to the United States; or

(B) a corporation, partnership, or other nongovernment entity which is not a foreign person; and

(8) the term "unsafeguarded special nuclear material" means special nuclear material which is held in violation of IAEA safeguards or not subject to IAEA safeguards (excluding any quantity of material that could, if it were exported from the United States, be exported under a general license issued by the Nuclear Regulatory Commission).

(Pub. L. 103–236, title VIII, §830, Apr. 30, 1994, 108 Stat. 521.)

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original a reference to this part, meaning part B of title VIII of Pub. L. 103–236, which is classified principally to this subchapter. For complete classification of part B to the Code, see Effective Date note set out under section 6301 of this title and Tables.

SUBCHAPTER II—INTERNATIONAL ATOMIC ENERGY AGENCY

§6321. Bilateral and multilateral initiatives

It is the sense of the Congress that in order to maintain and enhance international confidence in the effectiveness of IAEA safeguards and in other multilateral undertakings to halt the global proliferation of nuclear weapons, the United States should seek to negotiate with other nations and groups of nations, including the IAEA Board of Governors and the Nuclear Suppliers Group, to—

(1) build international support for the principle that nuclear supply relationships must require purchasing nations to agree to full-scope international safeguards;

(2) encourage each nuclear-weapon state within the meaning of the Treaty to undertake a comprehensive review of its own procedures for declassifying information relating to the design or production of nuclear explosive devices and to investigate any measures that would reduce the risk of such information contributing to nuclear weapons proliferation;

(3) encourage the deferral of efforts to produce weapons-grade nuclear material for large-scale commercial uses until such time as safeguards are developed that can detect, on a timely and reliable basis, the diversion of significant quantities of such material for nuclear explosive purposes;

(4) pursue greater financial support for the implementation and improvement of safeguards from all IAEA member nations with significant nuclear programs, particularly from those nations that are currently using or planning to use weapons-grade nuclear material for commercial purposes;

(5) arrange for the timely payment of annual financial contributions by all members of the IAEA, including the United States;

(6) pursue the elimination of international commerce in highly enriched uranium for use in research reactors while encouraging multilateral cooperation to develop and to use low-enriched alternative nuclear fuels;

(7) oppose efforts by non-nuclear-weapon states to develop or use unsafeguarded nuclear fuels for purposes of naval propulsion;

(8) pursue an international open skies arrangement that would authorize the IAEA to operate surveillance aircraft and would facilitate IAEA access to satellite information for safeguards verification purposes;

(9) develop an institutional means for IAEA member nations to share intelligence material with the IAEA on possible safeguards violations without compromising national security or intelligence sources or methods;

(10) require any exporter of a sensitive nuclear facility or sensitive nuclear technology to a non-nuclear-weapon state to notify the IAEA prior to export and to require safeguards over that facility or technology, regardless of its destination; and

(11) seek agreement among the parties to the Treaty to apply IAEA safeguards in perpetuity and to establish new limits on the right to withdraw from the Treaty.

(Pub. L. 103–236, title VIII, §841, Apr. 30, 1994, 108 Stat. 522.)

PROMOTION OF DISCUSSIONS ON NUCLEAR AND RADIOLOGICAL SECURITY AND SAFETY BETWEEN THE INTERNATIONAL ATOMIC ENERGY AGENCY AND THE ORGANIZATION FOR ECONOMIC COOPERATION AND DEVELOPMENT

Pub. L. 108–136, div. C, title XXXVI, §3631, Nov. 24, 2003, 117 Stat. 1825, provided that:

"(a) SENSE OF CONGRESS REGARDING INITIATION OF DIALOGUE BETWEEN THE IAEA AND THE OECD.—It is the sense of Congress that—

"(1) the United States should seek to initiate discussions between the International Atomic Energy Agency and the Organization for Economic Cooperation and Development for the purpose of exploring issues of nuclear and radiological security and safety, including the creation of new sources of revenue (including debt reduction) for states to provide nuclear security; and

"(2) the discussions referred to in paragraph (1) should also provide a forum to explore possible sources of funds in support of the G–8 Global Partnership Against the Spread of Weapons and Materials of Mass Destruction.

"(b) CONTINGENT REPORT.—(1) Except as provided in paragraph (2), the President shall, not later than 12 months after the date of the enactment of this Act [Nov. 24, 2003], submit to Congress a report on—

"(A) the efforts made by the United States to initiate the discussions described in subsection (a);

"(B) the results of those efforts; and

"(C) any plans for further discussions and the purposes of such discussions.

"(2) Paragraph (1) shall not apply if no efforts referred to in paragraph (1)(A) have been made."

§6322. IAEA internal reforms

In order to promote the early adoption of reforms in the implementation of the safeguards responsibilities of the IAEA, the Congress urges the President to negotiate with other nations and groups of nations, including the IAEA Board of Governors and the Nuclear Suppliers Group, to—

(1) improve the access of the IAEA within nuclear facilities that are capable of producing, processing, or fabricating special nuclear material suitable for use in a nuclear explosive device;

(2)(A) facilitate the IAEA's efforts to meet and to maintain its own goals for detecting the diversion of nuclear materials and equipment, giving particular attention to facilities in which there are bulk quantities of plutonium; and

(B) if it is not technically feasible for the IAEA to meet those detection goals in a particular facility, require the IAEA to declare publicly that it is unable to do so;

(3) enable the IAEA to issue fines for violations of safeguards procedures, to pay rewards for information on possible safeguards violations, and to establish a "hot line" for the reporting of such violations and other illicit uses of weapons-grade nuclear material;

(4) establish safeguards at facilities engaged in the manufacture of equipment or material that is especially designated or prepared for the processing, use, or production of special fissionable material or, in the case of non-nuclear-weapon states, of any nuclear explosive device;

(5) establish safeguards over nuclear research and development activities and facilities;

(6) implement special inspections of undeclared nuclear facilities, as provided for under existing safeguards procedures, and seek authority for the IAEA to conduct challenge inspections on demand at suspected nuclear sites;

(7) expand the scope of safeguards to include tritium, uranium concentrates, and nuclear waste containing special fissionable material, and increase the scope of such safeguards on heavy water;

(8) revise downward the IAEA's official minimum amounts of nuclear material ("significant quantity") needed to make a nuclear explosive device and establish these amounts as national rather than facility standards;

(9) expand the use of full-time resident IAEA inspectors at sensitive fuel cycle facilities;

(10) promote the use of near real time material accountancy in the conduct of safeguards at facilities that use, produce, or store significant quantities of special fissionable material;

(11) develop with other IAEA member nations an agreement on procedures to expedite approvals of visa applications by IAEA inspectors;

(12) provide the IAEA the additional funds, technical assistance, and political support necessary to carry out the goals set forth in this subsection; [1] and

(13) make public the annual safeguards implementation report of the IAEA, establishing a public registry of commodities in international nuclear commerce, including dual-use goods, and creating a public repository of current nuclear trade control laws, agreements, regulations, and enforcement and judicial actions by IAEA member nations.

(Pub. L. 103–236, title VIII, §842, Apr. 30, 1994, 108 Stat. 523.)

[1] *So in original. Probably should be "section;".*

§6323. Reporting requirement

(a) Report required

The President shall, in the report required by section 3281(a) of this title, describe—

(1) the steps he has taken to implement sections 6321 and 6322 of this title, and

(2) the progress that has been made and the obstacles that have been encountered in seeking to meet the objectives set forth in sections 6321 and 6322 of this title.

(b) Contents of report

Each report under paragraph (1) [1] shall describe—

(1) the bilateral and multilateral initiatives that the President has taken during the period since April 30, 1994, in pursuit of each of the objectives set forth in sections 6321 and 6322 of this title;

(2) any obstacles that have been encountered in the pursuit of those initiatives;

(3) any additional initiatives that have been proposed by other countries or international organizations to strengthen the implementation of IAEA safeguards;

(4) all activities of the Federal Government in support of the objectives set forth in sections 6321 and 6322 of this title;

(5) any recommendations of the President on additional measures to enhance the effectiveness of IAEA safeguards; and

(6) any initiatives that the President plans to take in support of each of the objectives set forth in sections 6321 and 6322 of this title.

(Pub. L. 103–236, title VIII, §843, Apr. 30, 1994, 108 Stat. 524.)

[1] *So in original. Probably should be "subsection (a) of this section".*

§6324. Definitions

As used in this subchapter—

(1) the term "highly enriched uranium" means uranium enriched to 20 percent or more in the isotope U–235;

(2) the term "IAEA" means the International Atomic Energy Agency;

(3) the term "near real time material accountancy" means a method of accounting for the location, quantity, and disposition of special fissionable material at facilities that store or process such material, in which verification of peaceful use is continuously achieved by means of frequent physical inventories and the use of in-process instrumentation;

(4) the term "special fissionable material" has the meaning given that term by Article XX(1) of the Statute of the International Atomic Energy Agency, done at the Headquarters of the United Nations on October 26, 1956;

(5) the term "the Treaty" means the Treaty on the Non-Proliferation of Nuclear Weapons, signed at Washington, London, and Moscow on July 1, 1968; and

(6) the terms "IAEA safeguards", "non-nuclear-weapon state", "nuclear explosive device", and "special nuclear material" have the meanings given those terms in section 6305 of this title.

(Pub. L. 103–236, title VIII, §844, Apr. 30, 1994, 108 Stat. 524.)

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§6401. Findings; policy

(a) Findings

Congress makes the following findings:

(1) The right to freedom of religion undergirds the very origin and existence of the United States. Many of our Nation's founders fled religious persecution abroad, cherishing in their hearts and minds the ideal of religious freedom. They established in law, as a fundamental right and as a pillar of our Nation, the right to freedom of religion. From its birth to this day, the United States has prized this legacy of religious freedom and honored this heritage by standing for religious freedom and offering refuge to those suffering religious persecution.

(2) Freedom of religious belief and practice is a universal human right and fundamental freedom articulated in numerous international instruments, including the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Helsinki Accords, the Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion

or Belief, the United Nations Charter, and the European Convention for the Protection of Human Rights and Fundamental Freedoms.

(3) Article 18 of the Universal Declaration of Human Rights recognizes that "Everyone has the right to freedom of thought, conscience, and religion. This right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship, and observance.". Article 18(1) of the International Covenant on Civil and Political Rights recognizes that "Everyone shall have the right to freedom of thought, conscience, and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice, and teaching". The freedom of thought, conscience, and religion is understood to protect theistic and non-theistic beliefs and the right not to profess or practice any religion. Governments have the responsibility to protect the fundamental rights of their citizens and to pursue justice for all. Religious freedom is a fundamental right of every individual, regardless of race, sex, country, creed, or nationality, and should never be arbitrarily abridged by any government.

(4) The right to freedom of religion is under renewed and, in some cases, increasing assault in many countries around the world. More than one-half of the world's population lives under regimes that severely restrict or prohibit the freedom of their citizens to study, believe, observe, and freely practice the religious faith of their choice. Religious believers and communities suffer both government-sponsored and government-tolerated violations of their rights to religious freedom. Among the many forms of such violations are state-sponsored slander campaigns, confiscations of property, desecration of cemeteries, surveillance by security police, including by special divisions of "religious police", severe prohibitions against construction and repair of places of worship, denial of the right to assemble and relegation of religious communities to illegal status through arbitrary registration laws, prohibitions against the pursuit of education or public office, and prohibitions against publishing, distributing, or possessing religious literature and materials. A policy or practice of routinely denying applications for visas for religious workers in a country can be indicative of a poor state of religious freedom in that country.

(5) Even more abhorrent, religious believers in many countries face such severe and violent forms of religious persecution as detention, torture, beatings, forced marriage, rape, imprisonment, enslavement, mass resettlement, and death merely for the peaceful belief in, change of or practice of their faith. In many countries, religious believers are forced to meet secretly, and religious leaders are targeted by national security forces and hostile mobs.

(6) Though not confined to a particular region or regime, religious persecution and the specific targeting of non-theists, humanists, and atheists because of their beliefs is often particularly widespread, systematic, and heinous under totalitarian governments and in countries with militant, politicized religious majorities and in regions where non-state actors exercise significant political power and territorial control.

(7) Congress has recognized and denounced acts of religious persecution through the adoption of the following resolutions:

(A) House Resolution 515 of the One Hundred Fourth Congress, expressing the sense of the House of Representatives with respect to the persecution of Christians worldwide.

(B) Senate Concurrent Resolution 71 of the One Hundred Fourth Congress, expressing the sense of the Senate regarding persecution of Christians worldwide.

(C) House Concurrent Resolution 102 of the One Hundred Fourth Congress, expressing the sense of the House of Representatives concerning the emancipation of the Iranian Baha'i community.

(b) Policy

(1) In general

The following shall be the policy of the United States:

(A) To condemn violations of religious freedom, and to promote, and to assist other governments in the promotion of, the fundamental right to freedom of religion.

(B) To seek to channel United States security and development assistance to governments other than those found to be engaged in gross violations of the right to freedom of religion, as set forth in the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.], in the International Financial Institutions Act of 1977, and in other formulations of United States human rights policy.

(C) To be vigorous and flexible, reflecting both the unwavering commitment of the United States to religious freedom and the desire of the United States for the most effective and principled response, in light of the range of violations of religious freedom by a variety of persecuting regimes, and the status of the relations of the United States with different nations.

(D) To work with foreign governments that affirm and protect religious freedom, in order to develop multilateral documents and initiatives to combat violations of religious freedom and promote the right to religious freedom abroad.

(E) Standing for liberty and standing with the persecuted, to use and implement appropriate tools in the United States foreign policy apparatus, including diplomatic, political, commercial, charitable, educational, and cultural channels, to promote respect for religious freedom by all governments and peoples.

(2) Evolving policies and coordinated diplomatic responses

Because the promotion of international religious freedom protects human rights, advances democracy abroad, and advances United States interests in stability, security, and development globally, the promotion of international religious freedom requires new and evolving policies and diplomatic responses that—

(A) are drawn from the expertise of the national security agencies, the diplomatic services, and other governmental agencies and nongovernmental organizations; and

(B) are coordinated across and carried out by the entire range of Federal agencies.

(Pub. L. 105–292, §2, Oct. 27, 1998, 112 Stat. 2788; Pub. L. 113–154, §2, Aug. 8, 2014, 128 Stat. 1827; Pub. L. 114–281, §2(a), (b), Dec. 16, 2016, 130 Stat. 1426, 1427.)

REFERENCES IN TEXT

House Concurrent Resolution 102, referred to in subsec. (a)(7)(C), is H. Con. Res. 102, June 26, 1996, 110 Stat. 4483, which is not classified to the Code.

The Foreign Assistance Act of 1961, referred to in subsec. (b)(1)(B), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, which is classified principally to chapter 32 (§2151 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

The International Financial Institutions Act of 1977, referred to in subsec. (b)(1)(B), probably means the International Financial Institutions Act, Pub. L. 95–118, Oct. 3, 1977, 91 Stat. 1067, as amended, which enacted sections 262c, 262d, 262e to 262g–3, 262m to 262p–12, 262r to 262t, 282i, 284n, 285s, 285t, 286e–1f, and 290g–10 of this title, repealed sections 283y, 284m, and 290g–9 of this title, and enacted provisions set out as notes under sections 262c and 282i of this title. For complete classification of this Act to the Code, see Short Title of 1977 Amendment note set out under section 261 of this title and Tables.

AMENDMENTS

2016—Subsec. (a)(3). Pub. L. 114–281, §2(a)(1), inserted "The freedom of thought, conscience, and religion is understood to protect theistic and non-theistic beliefs and the right not to profess or practice any religion." before "Governments have the responsibility".

Subsec. (a)(4). Pub. L. 114–281, §2(a)(2), inserted at end "A policy or practice of routinely denying applications for visas for religious workers in a country can be indicative of a poor state of religious freedom in that country."

Subsec. (a)(6). Pub. L. 114–281, §2(a)(3), inserted "and the specific targeting of non-theists, humanists, and atheists because of their beliefs" after "religious persecution" and "and in regions where non-state actors exercise significant political power and territorial control" before period at end.

Subsec. (b). Pub. L. 114–281, §2(b), designated existing provisions as par. (1) and inserted heading, substituted "The following shall be the policy of the United States:" for "It shall be the policy of the United States, as follows:", redesignated former pars. (1) to (5) as subpars. (A) to (E), respectively, and added par. (2).

2014—Subsec. (a)(4). Pub. L. 113–154 inserted "desecration of cemeteries," after "confiscations of

property,".

SHORT TITLE OF 2016 AMENDMENT

Pub. L. 114–281, §1(a), Dec. 16, 2016, 130 Stat. 1426, provided that: "This Act [enacting sections 6442a, 6473a, 6482, and 6483 of this title and amending this section and sections 4028, 6402, 6411, 6412, 6417, 6442, 6444, 6447, 6448, and 6474 of this title] may be cited as the 'Frank R. Wolf International Religious Freedom Act'."

SHORT TITLE OF 2015 AMENDMENT

Pub. L. 114–71, §1, Oct. 16, 2015, 129 Stat. 563, provided that: "This Act [enacting section 6433a of this title, amending sections 6435 and 6436 of this title, and enacting provisions set out as a note under section 6432 of this section] may be cited as the 'United States Commission on International Religious Freedom Reauthorization Act of 2015'."

SHORT TITLE OF 2011 AMENDMENT

Pub. L. 112–75, §1, Dec. 23, 2011, 125 Stat. 1272, provided that: "This Act [amending sections 6431, 6432b, 6435, 6435a, and 6436 of this title and enacting provisions set out as a note under section 6432b of this title] may be cited as the 'United States Commission on International Religious Freedom Reform and Reauthorization Act of 2011'."

SHORT TITLE

Pub. L. 105–292, §1(a), Oct. 27, 1998, 112 Stat. 2787, provided that: "This Act [enacting this chapter and section 4028 of this title, amending sections 262d, 2151n, 2304, 2452, 3965, 4013, 4028, and 6202 of this title, sections 1157 and 1182 of Title 8, Aliens and Nationality, and section 402 of Title 50, War and National Defense, and enacting provisions set out as notes under section 2151n of this title and section 1182 of Title 8] may be cited as the 'International Religious Freedom Act of 1998'."

FINDINGS RELATING TO PUB. L. 113–154

Pub. L. 113–154, §1, Aug. 8, 2014, 128 Stat. 1827, provided that: "Congress finds the following:

"(1) Cemeteries are sacred sites that are of great spiritual, cultural, and historical significance to many religious and ethnic groups.

"(2) Congress is committed to protecting and preserving the heritage and sacred sites of national, religious, and ethnic groups, which includes cemeteries in the United States and abroad.

"(3) Cemeteries around the world have and continue to be defaced or destroyed as a direct result of their affiliation with a particular religious or spiritual group.

"(4) Such attacks constitute an assault on the fundamental right to freedom of religion, and are especially egregious when sponsored or tolerated by the local or national governments in the countries in which such offenses occur."

§6402. Definitions

In this chapter:

(1) Ambassador at Large

The term "Ambassador at Large" means the Ambassador at Large for International Religious Freedom appointed under section 6411(b) of this title.

(2) Annual Report

The term "Annual Report" means the Annual Report on International Religious Freedom described in section 6412(b) of this title.

(3) Appropriate congressional committees

The term "appropriate congressional committees" means—

(A) the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives; and

(B) in the case of any determination made with respect to the taking of President [1] action under paragraphs (9) through (15) of section 6445(a) of this title, the term includes the committees described in subparagraph (A) and, where appropriate, the Committee on Banking

and Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(4) Commensurate action

The term "commensurate action" means action taken by the President under section 6445(b) of this title.

(5) Commission

The term "Commission" means the United States Commission on International Religious Freedom established in section 6431(a) of this title.

(6) Country Reports on Human Rights Practices

The term "Country Reports on Human Rights Practices" means the annual reports required to be submitted by the Department of State to Congress under sections 2151n(d) and 2304(b) of this title.

(7) Executive Summary

The term "Executive Summary" means the Executive Summary to the Annual Report, as described in section 6412(b)(1)(F) of this title.

(8) Government or foreign government

The term "government" or "foreign government" includes any agency or instrumentality of the government.

(9) Human Rights Reports

The term "Human Rights Reports" means all reports submitted by the Department of State to Congress under sections 2151n and 2304 of this title.

(10) Institution of higher education

The term "institution of higher education" has the meaning given that term in section 1001 of title 20.

(11) Non-state actor

The term "non-state actor" means a nonsovereign entity that—

(A) exercises significant political power and territorial control;

(B) is outside the control of a sovereign government; and

(C) often employs violence in pursuit of its objectives.

(12) Office

The term "Office" means the Office on International Religious Freedom established in section 6411(a) of this title.

(13) Particularly severe violations of religious freedom

The term "particularly severe violations of religious freedom" means systematic, ongoing, egregious violations of religious freedom, including violations such as—

(A) torture or cruel, inhuman, or degrading treatment or punishment;

(B) prolonged detention without charges;

(C) causing the disappearance of persons by the abduction or clandestine detention of those persons; or

(D) other flagrant denial of the right to life, liberty, or the security of persons.

(14) Special Adviser

The term "Special Adviser" means the Special Adviser to the President on International Religious Freedom described in section 3021(i) of title 50.[2]

(15) Special Watch List

The term "Special Watch List" means the Special Watch List described in section 6442(b)(1)(A)(iii) of this title.

(16) Violations of religious freedom

The term "violations of religious freedom" means violations of the internationally recognized right to freedom of religion and religious belief and practice, as set forth in the international instruments referred to in section 6401(a)(2) of this title and as described in section 6401(a)(3) of this title, including violations such as—

(A) arbitrary prohibitions on, restrictions of, or punishment for—

(i) assembling for peaceful religious activities such as worship, preaching, and prayer, including arbitrary registration requirements;

(ii) speaking freely about one's religious beliefs;

(iii) changing one's religious beliefs and affiliation;

(iv) not professing a particular religion, or any religion;

(v) possession and distribution of religious literature, including Bibles; or

(vi) raising one's children in the religious teachings and practices of one's choice; or

(B) any of the following acts if committed on account of an individual's conscience, non-theistic views, or religious belief or practice: detention, interrogation, imposition of an onerous financial penalty, forced labor, forced mass resettlement, imprisonment, forced religious conversion, forcibly compelling non-believers or non-theists to recant their beliefs or to convert, beating, torture, mutilation, rape, enslavement, murder, and execution.

(Pub. L. 105–292, §3, Oct. 27, 1998, 112 Stat. 2790; Pub. L. 114–281, §3, Dec. 16, 2016, 130 Stat. 1427.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 105–292, Oct. 27, 1998, 112 Stat. 2787, known as the International Religious Freedom Act of 1998, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 6401 of this title and Tables.

Section 3021(i) of title 50, referred to in par. (14), was redesignated section 3021(k) by Pub. L. 110–53, title XVIII, §1841(g)(1), Aug. 3, 2007, 121 Stat. 500.

AMENDMENTS

2016—Pars. (10) to (14). Pub. L. 114–281, §3(2), (3), added pars. (10) and (11) and redesignated former pars. (10) to (12) as (12) to (14), respectively. Former par. (13) redesignated (16).

Par. (15). Pub. L. 114–281, §3(4), added par. (15).

Par. (16). Pub. L. 114–281, §3(1), redesignated par. (13) as (16).

Par. (16)(A)(iv) to (vi). Pub. L. 114–281, §3(5)(A), added cl. (iv) and redesignated former cls. (iv) and (v) as (v) and (vi), respectively.

Par. (16)(B). Pub. L. 114–281, §3(5)(B), inserted "conscience, non-theistic views, or" after "an individual's" and "forcibly compelling non-believers or non-theists to recant their beliefs or to convert," after "forced religious conversion,".

CHANGE OF NAME

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

Committee on Banking and Financial Services of House of Representatives abolished and replaced by Committee on Financial Services of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred from Committee on Energy and Commerce of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

[1] So in original. Probably should be "Presidential".

[2] See References in Text note below.

SUBCHAPTER I—DEPARTMENT OF STATE ACTIVITIES

§6411. Office on International Religious Freedom; Ambassador at Large for International Religious Freedom

(a) Establishment of Office

There is established within the Department of State an Office on International Religious Freedom that shall be headed by the Ambassador at Large for International Religious Freedom appointed under subsection (b).

(b) Appointment

The Ambassador at Large shall be appointed by the President, by and with the advice and consent of the Senate, and shall report directly to the Secretary of State.

(c) Duties

The Ambassador at Large shall have the following responsibilities:

(1) In general

The primary responsibilities of the Ambassador at Large shall be to—

(A) advance the right to freedom of religion abroad, to denounce the violation of that right, and to recommend appropriate responses by the United States Government when this right is violated; and

(B) integrate United States international religious freedom policies and strategies into the foreign policy efforts of the United States.

(2) Advisory role

The Ambassador at Large shall be a principal adviser to the President and the principal adviser to the Secretary of State regarding matters affecting religious freedom abroad and, with advice from the Commission on International Religious Freedom, shall make recommendations regarding—

(A) the policies of the United States Government toward governments that violate freedom of religion or that fail to ensure the individual's right to religious belief and practice; and

(B) policies to advance the right to religious freedom abroad.

(3) Diplomatic representation

Subject to the direction of the President and the Secretary of State, the Ambassador at Large is authorized to represent the United States in matters and cases relevant to religious freedom abroad in—

(A) contacts with foreign governments, intergovernmental organizations, and specialized agencies of the United Nations, the Organization on Security and Cooperation in Europe, and other international organizations of which the United States is a member;

(B) multilateral conferences and meetings relevant to religious freedom abroad; and

(C) contacts with nongovernmental organizations that have an impact on the state of religious freedom in their respective societies or regions, or internationally.

(4) Coordination responsibilities

In order to promote religious freedom as an interest of United States foreign policy, the Ambassador at Large—

(A) shall coordinate international religious freedom policies across all programs, projects, and activities of the United States; and

(B) should participate in any interagency processes on issues in which the promotion of international religious freedom policy can advance United States national security interests, including in democracy promotion, stability, security, and development globally.

(5) Reporting responsibilities

The Ambassador at Large shall have the reporting responsibilities described in section 6412 of this title.

(d) Funding

The Secretary of State shall provide the Ambassador at Large with such funds as may be necessary for the hiring of appropriate staff for the Office, including full-time equivalent positions and other temporary staff positions needed to compile, edit, and manage the Annual Report under the direct supervision of the Ambassador at Large, and for the conduct of investigations by the Office and for necessary travel to carry out this chapter. The Secretary of State should provide the Ambassador at Large with sufficient funding to carry out the duties described in this section, including, as necessary, representation funds. On the date on which the President's annual budget request is submitted to Congress, the Secretary shall submit an annual report to the appropriate congressional committees that includes a report on staffing levels for the International Religious Freedom Office.

(Pub. L. 105–292, title I, §101, Oct. 27, 1998, 112 Stat. 2791; Pub. L. 114–281, title I, §101(a), Dec. 16, 2016, 130 Stat. 1428.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (d), was in the original "this Act", meaning Pub. L. 105–292, Oct. 27, 1998, 112 Stat. 2787, known as the International Religious Freedom Act of 1998, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 6401 of this title and Tables.

AMENDMENTS

2016—Subsec. (b). Pub. L. 114–281, §101(a)(1), inserted before period at end ", and shall report directly to the Secretary of State".

Subsec. (c)(1). Pub. L. 114–281, §101(a)(2)(A), substituted "responsibilities" for "responsibility", inserted dash after "shall be to", designated remainder of existing provisions as subpar. (A), substituted "; and" for period at end, and added subpar. (B).

Subsec. (c)(2). Pub. L. 114–281, §101(a)(2)(B), inserted "the principal adviser to" before "the Secretary of State" in introductory provisions.

Subsec. (c)(3)(C). Pub. L. 114–281, §101(a)(2)(C), added subpar. (C).

Subsec. (c)(4), (5). Pub. L. 114–281, §101(a)(2)(D), (E), added par. (4) and redesignated former par. (4) as (5).

Subsec. (d). Pub. L. 114–281, §101(a)(3), substituted "appropriate staff for the Office, including full-time equivalent positions and other temporary staff positions needed to compile, edit, and manage the Annual Report under the direct supervision of the Ambassador at Large, and for the conduct of investigations by the Office and for necessary travel to carry out this chapter. The Secretary of State should provide the Ambassador at Large with sufficient funding to carry out the duties described in this section, including, as necessary, representation funds. On the date on which the President's annual budget request is submitted to Congress, the Secretary shall submit an annual report to the appropriate congressional committees that includes a report on staffing levels for the International Religious Freedom Office." for "staff for the Office, for the conduct of investigations by the Office, and for necessary travel to carry out the provisions of this section."

NEAR EAST AND SOUTH CENTRAL ASIA RELIGIOUS FREEDOM

Pub. L. 113–161, Aug. 8, 2014, 128 Stat. 1855, provided that:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Near East and South Central Asia Religious Freedom Act of 2014'.

"SEC. 2. SPECIAL ENVOY TO PROMOTE RELIGIOUS FREEDOM OF RELIGIOUS MINORITIES IN THE NEAR EAST AND SOUTH CENTRAL ASIA.

"(a) APPOINTMENT.—The President may appoint a Special Envoy to Promote Religious Freedom of Religious Minorities in the Near East and South Central Asia (in this Act referred to as the 'Special Envoy') within the Department of State. The Special Envoy shall have the rank of ambassador and shall hold the office at the pleasure of the President.

"(b) QUALIFICATIONS.—The Special Envoy should be a person of recognized distinction in the field of

human rights and religious freedom and with expertise in the Near East and South Central Asia.

"SEC. 3. DUTIES.

"(a) IN GENERAL.—The Special Envoy shall carry out the following duties:

"(1) Promote the right of religious freedom of religious minorities in the countries of the Near East and the countries of South Central Asia, denounce the violation of such right, and recommend appropriate responses by the United States Government when such right is violated.

"(2) Monitor and combat acts of religious intolerance and incitement targeted against religious minorities in the countries of the Near East and the countries of South Central Asia.

"(3) Work to ensure that the unique needs of religious minority communities in the countries of the Near East and the countries of South Central Asia are addressed, including the economic and security needs of such communities.

"(4) Work with foreign governments of the countries of the Near East and the countries of South Central Asia to address laws that are discriminatory toward religious minority communities in such countries.

"(5) Coordinate and assist in the preparation of that portion of the report required by sections 116(d) and 502B(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n(d) and 2304(b)) relating to the nature and extent of religious freedom of religious minorities in the countries of the Near East and the countries of South Central Asia.

"(6) Coordinate and assist in the preparation of that portion of the report required by section 102(b) of the International Religious Freedom Act of 1998 (22 U.S.C. 6412(b)) relating to the nature and extent of religious freedom of religious minorities in the countries of the Near East and the countries of South Central Asia.

"(b) COORDINATION.—In carrying out the duties under subsection (a), the Special Envoy shall, to the maximum extent practicable, coordinate with the Assistant Secretary of State for Population, Refugees and Migration, the Ambassador at Large for International Religious Freedom, the United States Commission on International Religious Freedom, and other relevant Federal agencies and officials.

"SEC. 4. DIPLOMATIC REPRESENTATION.

"Subject to the direction of the President and the Secretary of State, the Special Envoy is authorized to represent the United States in matters and cases relevant to religious freedom in the countries of the Near East and the countries of South Central Asia in—

"(1) contacts with foreign governments, intergovernmental organizations, and specialized agencies of the United Nations, the Organization of Security and Cooperation in Europe, and other international organizations of which the United States is a member; and

"(2) multilateral conferences and meetings relevant to religious freedom in the countries of the Near East and the countries of South Central Asia.

"SEC. 5. CONSULTATIONS.

"The Special Envoy shall consult with domestic and international nongovernmental organizations and multilateral organizations and institutions, as the Special Envoy considers appropriate to fulfill the purposes of this Act.

"SEC. 6. SUNSET.

"This Act shall cease to be effective beginning on October 1, 2019.

"SEC. 7. FUNDING.

"Of the amounts appropriated or otherwise made available to the Secretary of State for 'Diplomatic and Consular Programs' for fiscal years 2015 through 2019, the Secretary of State is authorized to provide to the Special Envoy $1,000,000 for each such fiscal year for the hiring of staff, the conduct of investigations, and necessary travel to carry out the provisions of this Act."

§6412. Reports

(a) Portions of annual Human Rights Reports

The Ambassador at Large shall assist the Secretary of State in preparing those portions of the Human Rights Reports that relate to freedom of religion and freedom from discrimination based on religion and those portions of other information provided Congress under sections 2151n and 2304

of this title that relate to the right to freedom of religion.

(b) Annual Report on International Religious Freedom

(1) Deadline for submission

On May 1 of each year or the first day thereafter on which the appropriate House of Congress is in session, the Secretary of State, with the assistance of the Ambassador at Large, and taking into consideration the recommendations of the Commission, shall prepare and transmit to Congress an Annual Report on International Religious Freedom supplementing the most recent Human Rights Reports by providing additional detailed information with respect to matters involving international religious freedom. Each Annual Report shall contain the following:

(A) Status of religious freedom

A description of the status of religious freedom in each foreign country, including—

(i) trends toward improvement in the respect and protection of the right to religious freedom and trends toward deterioration of such right;

(ii) violations of religious freedom engaged in or tolerated by the government of that country;

(iii) particularly severe violations of religious freedom engaged in or tolerated by the government of that country as well as the routine denial of visa applications for religious workers;

(iv) particularly severe violations of religious freedom in that country if such country does not have a functioning government or the government of such country does not control its territory;

(v) the identification of prisoners, to the extent possible, in that country pursuant to section 6417(d) of this title;

(vi) any action taken by the government of that country to censor religious content, communications, or worship activities online, including descriptions of the targeted religious group, the content, communication, or activities censored, and the means used; and

(vii) wherever applicable, an assessment and description of the nature and extent of acts of anti-Semitism and anti-Semitic incitement that occur in that country during the preceding year, including—

(I) acts of physical violence against, or harassment of, Jewish people, acts of violence against, or vandalism of, Jewish community institutions, and instances of propaganda in government and nongovernment media that incite such acts; and

(II) the actions taken by the government of that country to respond to such violence and attacks or to eliminate such propaganda or incitement, to enact and enforce laws relating to the protection of the right to religious freedom of Jewish people, and to promote anti-bias and tolerance education.

(B) Violations of religious freedom

An assessment and description of the nature and extent of violations of religious freedom in each foreign country, including persecution of one religious group by another religious group, religious persecution by governmental and nongovernmental entities, persecution targeted at individuals or particular denominations or entire religions, persecution of lawyers, politicians, or other human rights advocates seeking to defend the rights of members of religious groups or highlight religious freedom violations, prohibitions on ritual animal slaughter or male infant circumcision, the existence of government policies violating religious freedom, including policies that discriminate against particular religious groups or members of such groups, policies that ban or restrict the public manifestation of religious belief and the peaceful involvement of religious groups or their members in the political life of each such foreign country, and the existence of government policies concerning—

(i) limitations or prohibitions on, or lack of availability of, openly conducted, organized religious services outside of the premises of foreign diplomatic missions or consular posts; and

(ii) the forced religious conversion of minor United States citizens who have been abducted or illegally removed from the United States, and the refusal to allow such citizens to be returned to the United States.

(C) United States policies

A detailed description of United States actions, diplomatic and political coordination efforts, and other policies in support of religious freedom in each foreign country engaging in or tolerating violations of religious freedom, including a description of the measures and policies implemented during the preceding 12 months by the United States under titles I, IV, and V of this Act in opposition to violations of religious freedom and in support of international religious freedom.

(D) International agreements in effect

A description of any binding agreement with a foreign government entered into by the United States under section 6441(b) or 6442(c) of this title.

(E) Training and guidelines of Government personnel

A description of—

(i) the training described in section 6472(a) and (b) of this title and section 6473(b) and (c) of this title on violations of religious freedom provided to immigration judges and consular, refugee, immigration, and asylum officers; and

(ii) the development and implementation of the guidelines described in sections 6472(c) and 6473(a) of this title.

(F) Executive Summary

An Executive Summary to the Annual Report highlighting the status of religious freedom in certain foreign countries and including the following:

(i) Countries in which the United States is actively promoting religious freedom

An identification of foreign countries in which the United States is actively promoting religious freedom. This section of the report shall include a description of United States actions taken to promote the internationally recognized right to freedom of religion and oppose violations of such right under title IV and title V of this Act during the period covered by the Annual Report. Any country designated as a country of particular concern for religious freedom under section 6442(b)(1)(A)(ii) of this title shall be included in this section of the report. Any country in which a non-state actor designated as an entity of particular concern for religious freedom under section 6442a of this title is located shall be included in this section of the report.

(ii) Countries of significant improvement in religious freedom

An identification of foreign countries the governments of which have demonstrated significant improvement in the protection and promotion of the internationally recognized right to freedom of religion during the period covered by the Annual Report. This section of the report shall include a description of the nature of the improvement and an analysis of the factors contributing to such improvement, including actions taken by the United States under this chapter.

(2) Classified addendum

If the Secretary of State determines that it is in the national security interests of the United States or is necessary for the safety of individuals to be identified in the Annual Report or is necessary to further the purposes of this chapter, any information required by paragraph (1), including measures or actions taken by the United States, may be summarized in the Annual Report or the Executive Summary and submitted in more detail in a classified addendum to the Annual Report or the Executive Summary.

(c) Preparation of reports regarding violations of religious freedom

(1) Standards and investigations

The Secretary of State shall ensure that United States missions abroad maintain a consistent reporting standard and thoroughly investigate reports of violations of the internationally recognized right to freedom of religion.

(2) Contacts with nongovernmental organizations

In compiling data and assessing the respect of the right to religious freedom for the Human Rights Reports, the Annual Report on International Religious Freedom, and the Executive Summary, United States mission personnel shall, as appropriate, seek out and maintain contacts with religious and human rights nongovernmental organizations, with the consent of those organizations, including receiving reports and updates from such organizations and, when appropriate, investigating such reports.

(Pub. L. 105–292, title I, §102, Oct. 27, 1998, 112 Stat. 2792; Pub. L. 107–228, div. A, title VI, §681(a), Sept. 30, 2002, 116 Stat. 1408; Pub. L. 108–332, §6(b), Oct. 16, 2004, 118 Stat. 1285; Pub. L. 114–281, title I, §102(a), Dec. 16, 2016, 130 Stat. 1429.)

REFERENCES IN TEXT

Titles I, IV, and V of this Act, referred to in subsec. (b)(1)(C), (F)(i), are titles I, IV, and V of Pub. L. 105–292, Oct. 27, 1998, 112 Stat. 2791, 2800, 2811. Titles I and IV are classified principally to this subchapter (§6411 et seq.) and subchapter III (§6441 et seq.) of this chapter, respectively. Title V amended sections 2151n, 2452, 3965, 4013, and 6202 of this title and enacted provisions set out as a note under section 2151n of this title. For complete classification of titles I, IV, and V to the Code, see Tables.

This chapter, referred to in subsec. (b)(1)(F)(ii), (2), was in the original "this Act", meaning Pub. L. 105–292, Oct. 27, 1998, 112 Stat. 2787, known as the International Religious Freedom Act of 1998, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 6401 of this title and Tables.

CODIFICATION

Section is comprised of section 102 of Pub. L. 105–292. Subsec. (d) of section 102 of Pub. L. 105–292 amended sections 2151n and 2304 of this title.

AMENDMENTS

2016—Subsec. (b)(1). Pub. L. 114–281, §102(a)(1), substituted "May 1" for "September 1" in introductory provisions.

Subsec. (b)(1)(A)(iii). Pub. L. 114–281, §102(a)(2)(A), substituted "as well as the routine denial of visa applications for religious workers;" for "; and".

Subsec. (b)(1)(A)(iv) to (vii). Pub. L. 114–281, §102(a)(2)(B), (C), added cls. (iv) to (vi) and redesignated former cl. (iv) as (vii).

Subsec. (b)(1)(B). Pub. L. 114–281, §102(a)(3), in introductory provisions, inserted "persecution of lawyers, politicians, or other human rights advocates seeking to defend the rights of members of religious groups or highlight religious freedom violations, prohibitions on ritual animal slaughter or male infant circumcision," after "entire religions," and "policies that ban or restrict the public manifestation of religious belief and the peaceful involvement of religious groups or their members in the political life of each such foreign country," after "such groups,".

Subsec. (b)(1)(C). Pub. L. 114–281, §102(a)(4), substituted "A detailed description of United States actions, diplomatic and political coordination efforts, and other" for "A description of United States actions and".

Subsec. (b)(1)(F)(i). Pub. L. 114–281, §102(a)(5), substituted "section 6442(b)(1)(A)(ii) of this title" for "section 6442(b)(1) of this title" and inserted at end "Any country in which a non-state actor designated as an entity of particular concern for religious freedom under section 6442a of this title is located shall be included in this section of the report."

2004—Subsec. (b)(1)(A)(iv). Pub. L. 108–332 added cl. (iv).

2002—Subsec. (b)(1)(B). Pub. L. 107–228 inserted "including policies that discriminate against particular religious groups or members of such groups," after "the existence of government policies violating religious freedom,".

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108–332 applicable beginning with the first report under sections 2151n(d),

2304(b), and 6412(b) of this title submitted more than 180 days after Oct. 16, 2004, see section 6(c) of Pub. L. 108–332, set out as a note under section 2151n of this title.

ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of Title 8, Aliens and Nationality.

§6413. Establishment of religious freedom Internet site

In order to facilitate access by nongovernmental organizations (NGOs) and by the public around the world to international documents on the protection of religious freedom, the Secretary of State, with the assistance of the Ambassador at Large, shall establish and maintain an Internet site containing major international documents relating to religious freedom, the Annual Report, the Executive Summary, and any other documentation or references to other sites as deemed appropriate or relevant by the Ambassador at Large.

(Pub. L. 105–292, title I, §103, Oct. 27, 1998, 112 Stat. 2795.)

§6414. High-level contacts with nongovernmental organizations

United States chiefs of mission shall seek out and contact religious nongovernmental organizations to provide high-level meetings with religious nongovernmental organizations where appropriate and beneficial. United States chiefs of mission and Foreign Service officers abroad shall seek to meet with imprisoned religious leaders where appropriate and beneficial.

(Pub. L. 105–292, title I, §105, Oct. 27, 1998, 112 Stat. 2795.)

§6415. Programs and allocations of funds by United States missions abroad

It is the sense of the Congress that—

(1) United States diplomatic missions in countries the governments of which engage in or tolerate violations of the internationally recognized right to freedom of religion should develop, as part of annual program planning, a strategy to promote respect for the internationally recognized right to freedom of religion; and

(2) in allocating or recommending the allocation of funds or the recommendation of candidates for programs and grants funded by the United States Government, United States diplomatic missions should give particular consideration to those programs and candidates deemed to assist in the promotion of the right to religious freedom.

(Pub. L. 105–292, title I, §106, Oct. 27, 1998, 112 Stat. 2796.)

§6416. Equal access to United States missions abroad for conducting religious activities

(a) In general

Subject to this section, the Secretary of State shall permit, on terms no less favorable than that accorded other nongovernmental activities unrelated to the conduct of the diplomatic mission, access to the premises of any United States diplomatic mission or consular post by any United States citizen seeking to conduct an activity for religious purposes.

(b) Timing and location

The Secretary of State shall make reasonable accommodations with respect to the timing and location of such access in light of—

(1) the number of United States citizens requesting the access (including any particular religious concerns regarding the time of day, date, or physical setting for services);

(2) conflicts with official activities and other nonofficial United States citizen requests;

(3) the availability of openly conducted, organized religious services outside the premises of the mission or post;

(4) availability of space and resources; and

(5) necessary security precautions.

(c) Discretionary access for foreign nationals

The Secretary of State may permit access to the premises of a United States diplomatic mission or consular post to foreign nationals for the purpose of attending or participating in religious activities conducted pursuant to this section.

(Pub. L. 105–292, title I, §107, Oct. 27, 1998, 112 Stat. 2796.)

§6417. Prisoner lists and issue briefs on religious freedom concerns

(a) Sense of Congress

To encourage involvement with religious freedom concerns at every possible opportunity and by all appropriate representatives of the United States Government, it is the sense of the Congress that officials of the executive branch of Government should promote increased advocacy on such issues during meetings between foreign dignitaries and executive branch officials or Members of Congress.

(b) Prisoner lists and issue briefs on religious freedom concerns

The Secretary of State, in consultation with the Ambassador at Large, the Assistant Secretary of State for Democracy, Human Rights and Labor, United States chiefs of mission abroad, regional experts, and nongovernmental human rights and religious groups, shall prepare and maintain issue briefs on religious freedom, on a country-by-country basis, consisting of lists of persons believed to be imprisoned, detained, or placed under house arrest for their religious activities, religious freedom advocacy, or efforts to protect and advance the universally recognized right to the freedom of religion, together with brief evaluations and critiques of the policies of the respective country restricting religious freedom. In considering the inclusion of names of prisoners on such lists, the Secretary of State shall exercise appropriate discretion, including concerns regarding the safety, security, and benefit to such prisoners.

(c) Availability of information

The Secretary shall make available religious freedom issue briefs under subsection (b) to executive branch officials and Members of Congress in anticipation of bilateral contacts with foreign leaders, both in the United States and abroad.

(d) Victims list maintained by the United States Commission on International Religious Freedom

(1) In general

The Commission shall make publicly available, to the extent practicable, online and in official publications, lists of persons it determines are imprisoned or detained, have disappeared, been placed under house arrest, been tortured, or subjected to forced renunciations of faith for their religious activity or religious freedom advocacy by the government of a foreign country that the Commission recommends for designation as a country of particular concern for religious freedom under section 6442(b)(1)(A)(ii) of this title or by a non-state actor that the Commission recommends for designation as an entity of particular concern for religious freedom under section 6442a of this title and include as much publicly available information as practicable on the conditions and circumstances of such persons.

(2) Discretion

In compiling lists under paragraph (1), the Commission shall exercise all appropriate discretion,

including consideration of the safety and security of, and benefit to, the persons who may be included on the lists and the families of such persons.

(Pub. L. 105–292, title I, §108, Oct. 27, 1998, 112 Stat. 2796; Pub. L. 114–281, title I, §104, Dec. 16, 2016, 130 Stat. 1432.)

AMENDMENTS

2016—Subsec. (b). Pub. L. 114–281, §104(1), substituted "activities, religious freedom advocacy, or efforts to protect and advance the universally recognized right to the freedom of religion," for "faith,".

Subsec. (c). Pub. L. 114–281, §104(2), substituted "make available" for ", as appropriate, provide".

Subsec. (d). Pub. L. 114–281, §104(3), added subsec. (d).

SUBCHAPTER II—COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM

§6431. Establishment and composition

(a) In general

There is established the United States Commission on International Religious Freedom.

(b) Membership

(1) Appointment

The Commission shall be composed of—

(A) the Ambassador at Large, who shall serve ex officio as a nonvoting member of the Commission; and

(B) Nine [1] other members, who shall be United States citizens who are not being paid as officers or employees of the United States, and who shall be appointed as follows:

(i) Three members of the Commission shall be appointed by the President.

(ii) Three members of the Commission shall be appointed by the President pro tempore of the Senate, of which two of the members shall be appointed upon the recommendation of the leader in the Senate of the political party that is not the political party of the President, and of which one of the members shall be appointed upon the recommendation of the leader in the Senate of the other political party.

(iii) Three members of the Commission shall be appointed by the Speaker of the House of Representatives, of which two of the members shall be appointed upon the recommendation of the leader in the House of the political party that is not the political party of the President, and of which one of the members shall be appointed upon the recommendation of the leader in the House of the other political party.

(2) Selection

(A) In general

Members of the Commission shall be selected among distinguished individuals noted for their knowledge and experience in fields relevant to the issue of international religious freedom, including foreign affairs, direct experience abroad, human rights, and international law.

(B) Security clearances

Each member of the Commission shall be required to obtain a security clearance.

(3) Time of appointment

The appointments required by paragraph (1) shall be made not later than 120 days after October 27, 1998.

(c) Terms

(1) In general

The term of office of each member of the Commission shall be 2 years. An individual, including any member appointed to the Commission prior to December 23, 2011, shall not serve more than 2 terms as a member of the Commission under any circumstance. For any member serving on the Commission on such date who has completed at least 2 full terms on the Commission, such member's term shall expire 90 days after such date. A member of the Commission may not serve after the expiration of that member's term.

(2) Establishment of staggered terms

(A) In general

Notwithstanding paragraph (1), members of the Commission appointed to serve on the Commission during the period May 15, 2003, through May 14, 2005, shall be appointed to terms in accordance with the provisions of this paragraph.

(B) Presidential appointments

Of the three members of the Commission appointed by the President under subsection (b)(1)(B)(i), two shall be appointed to a 1-year term and one shall be appointed to a 2-year term.

(C) Appointments by the President pro tempore of the Senate

Of the three members of the Commission appointed by the President pro tempore of the Senate under subsection (b)(1)(B)(ii), one of the appointments made upon the recommendation of the leader in the Senate of the political party that is not the political party of the President shall be appointed to a 1-year term, and the other two appointments under such clause shall be 2-year terms.

(D) Appointments by the Speaker of the House of Representatives

Of the three members of the Commission appointed by the Speaker of the House of Representatives under subsection (b)(1)(B)(iii), one of the appointments made upon the recommendation of the leader in the House of the political party that is not the political party of the President shall be to a 1-year term, and the other two appointments under such clause shall be 2-year terms.

(E) Appointments to 1-year terms

The term of each member of the Commission appointed to a 1-year term shall be considered to have begun on May 15, 2003, and shall end on May 14, 2004, regardless of the date of the appointment to the Commission. Each vacancy which occurs upon the expiration of the term of a member appointed to a 1-year term shall be filled by the appointment of a successor to a 2-year term.

(F) Appointments to 2-year terms

Each appointment of a member to a two-year term shall identify the member succeeded thereby, and each such term shall end on May 14 of the year that is at least two years after the expiration of the previous term, regardless of the date of the appointment to the Commission.

(3) Ineligibility for reappointment

If a member of the Commission attends, by being physically present or by conference call, less than 75 percent of the meetings of the Commission during one of that member's terms on the Commission, the member shall not be eligible for reappointment to the Commission.

(d) Election of Chair

At the first meeting of the Commission after May 30 of each year, a majority of the members of the Commission present and voting shall elect the Chair of the Commission. No member of the Commission is eligible to be elected as Chair of the Commission for a second, consecutive term.

(e) Quorum

Six voting members of the Commission shall constitute a quorum for purposes of transacting

business.

(f) Meetings

Each year, within 15 days, or as soon as practicable, after the issuance of the Country Report on Human Rights Practices, the Commission shall convene. The Commission shall otherwise meet at the call of the Chair or, if no Chair has been elected for that calendar year, at the call of six voting members of the Commission.

(g) Vacancies

Any vacancy of the Commission shall not affect its powers, but shall be filled in the manner in which the original appointment was made. A member may serve after the expiration of that member's term until a successor has taken office. Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term.

(h) Administrative support

The Administrator of General Services shall provide to the Commission on a reimbursable basis (or, in the discretion of the Administrator, on a nonreimbursable basis) such administrative support services as the Commission may request to carry out the provisions of this subchapter.

(i) Funding

Members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5 while away from their homes or regular places of business in the performance of services for the Commission. Members of the Commission are subject to the requirements set forth in chapters 300 through 304 of title 41, Code of Federal Regulations (commonly known as the "Federal Travel Regulation") and the Department of State Standardized Regulations governing authorized travel at government expense, including regulations concerning the mode of travel, lodging and per diem expenditures, reimbursement payments, and expense reporting and documentation requirements.

(Pub. L. 105–292, title II, §201, Oct. 27, 1998, 112 Stat. 2797; Pub. L. 106–55, §§1(a), 2(b), Aug. 17, 1999, 113 Stat. 401, 406; Pub. L. 107–228, div. A, title VI, §681(b)–(d), Sept. 30, 2002, 116 Stat. 1408, 1409; Pub. L. 112–75, §2, Dec. 23, 2011, 125 Stat. 1272.)

AMENDMENTS

2011—Subsec. (c)(1). Pub. L. 112–75, §2(a)(1), added par. (1) and struck out former par. (1) which read as follows: "The term of office of each member of the Commission shall be 2 years. The term of each member of the Commission appointed to the first two-year term of the Commission shall be considered to have begun on May 15, 1999, and shall end on May 14, 2001, regardless of the date of appointment to the Commission. The term of each member of the Commission appointed to the second two-year term of the Commission shall begin on May 15, 2001, and shall end on May 14, 2003, regardless of the date of appointment to the Commission. In the case in which a vacancy in the membership of the Commission is filled during a two-year term of the Commission, such membership on the Commission shall terminate at the end of that two-year term of the Commission. Members of the Commission shall be eligible for reappointment to a second term."

Subsec. (c)(3). Pub. L. 112–75, §2(a)(2), added par. (3).

Subsec. (d). Pub. L. 112–75, §2(b), inserted at end "No member of the Commission is eligible to be elected as Chair of the Commission for a second, consecutive term."

Subsec. (i). Pub. L. 112–75, §2(c), inserted at end "Members of the Commission are subject to the requirements set forth in chapters 300 through 304 of title 41, Code of Federal Regulations (commonly known as the 'Federal Travel Regulation') and the Department of State Standardized Regulations governing authorized travel at government expense, including regulations concerning the mode of travel, lodging and per diem expenditures, reimbursement payments, and expense reporting and documentation requirements."

2002—Subsec. (c)(2). Pub. L. 107–228, §681(b), added par. (2).

Subsec. (d). Pub. L. 107–228, §681(c), substituted "after May 30 of each" for "in each calendar".

Subsec. (g). Pub. L. 107–228, §681(d), inserted at end "A member may serve after the expiration of that member's term until a successor has taken office. Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term."

1999—Pub. L. 106–55, §1(a)(2), which directed amendment of section by inserting after first sentence "The term of each member of the Commission appointed to the first two-year term of the Commission shall be considered to have begun on May 15, 1999, and shall end on May 14, 2001, regardless of the date of appointment to the Commission. The term of each member of the Commission appointed to the second two-year term of the Commission shall begin on May 15, 2001, and shall end on May 14, 2003, regardless of the date of appointment to the Commission. In the case in which a vacancy in the membership of the Commission is filled during a two-year term of the Commission, such membership on the Commission shall terminate at the end of that two-year term of the Commission.", was executed by making the insertion after the first sentence of subsec. (c)(1) to reflect the probable intent of Congress.

Subsec. (b)(1)(B)(iii). Pub. L. 106–55, §2(b), substituted "Three" for "three".

Subsec. (c). Pub. L. 106–55, §1(a)(1), designated existing provisions as par. (1) and inserted par. heading.

Subsec. (h). Pub. L. 106–55, §1(a)(3), amended heading and text of subsec. (h) generally. Prior to amendment, text read as follows: "The Secretary of State shall assist the Commission by providing to the Commission such staff and administrative services of the Office as may be necessary and appropriate for the Commission to perform its functions. Any employee of the executive branch of Government may be detailed to the Commission without reimbursement to the agency of that employee and such detail shall be without interruption or loss of civil service status or privilege."

[1] So in original. Probably should not be capitalized.

§6432. Duties of Commission

(a) In general

The Commission shall have as its primary responsibility—

(1) the annual and ongoing review of the facts and circumstances of violations of religious freedom presented in the Country Reports on Human Rights Practices, the Annual Report, and the Executive Summary, as well as information from other sources as appropriate; and

(2) the making of policy recommendations to the President, the Secretary of State, and Congress with respect to matters involving international religious freedom.

(b) Policy review and recommendations in response to violations

The Commission, in evaluating United States Government policies in response to violations of religious freedom, shall consider and recommend options for policies of the United States Government with respect to each foreign country the government of which has engaged in or tolerated violations of religious freedom, including particularly severe violations of religious freedom, including diplomatic inquiries, diplomatic protest, official public protest demarche of protest, condemnation within multilateral fora, delay or cancellation of cultural or scientific exchanges, delay or cancellation of working, official, or state visits, reduction of certain assistance funds, termination of certain assistance funds, imposition of targeted trade sanctions, imposition of broad trade sanctions, and withdrawal of the chief of mission.

(c) Policy review and recommendations in response to progress

The Commission, in evaluating the United States Government policies with respect to countries found to be taking deliberate steps and making significant improvement in respect for the right of religious freedom, shall consider and recommend policy options, including private commendation, diplomatic commendation, official public commendation, commendation within multilateral fora, an increase in cultural or scientific exchanges, or both, termination or reduction of existing Presidential actions, an increase in certain assistance funds, and invitations for working, official, or state visits.

(d) Effects on religious communities and individuals

Together with specific policy recommendations provided under subsections (b) and (c), the Commission shall also indicate its evaluation of the potential effects of such policies, if implemented, on the religious communities and individuals whose rights are found to be violated in the country in question.

(e) Monitoring

The Commission shall, on an ongoing basis, monitor facts and circumstances of violations of religious freedom, in consultation with independent human rights groups and nongovernmental organizations, including churches and other religious communities, and make such recommendations as may be necessary to the appropriate officials and offices in the United States Government.

(Pub. L. 105–292, title II, §202, Oct. 27, 1998, 112 Stat. 2798; Pub. L. 106–55, §1(b)(1), Aug. 17, 1999, 113 Stat. 401.)

AMENDMENTS

1999—Subsec. (f). Pub. L. 106–55 struck out heading and text of subsec. (f). Text read as follows: "The Commission may, for the purpose of carrying out its duties under this subchapter, hold hearings, sit and act at times and places in the United States, take testimony, and receive evidence as the Commission considers advisable to carry out the purposes of this chapter."

SENSE OF CONGRESS

Pub. L. 114–71, §2, Oct. 16, 2015, 129 Stat. 563, provided that: "It is the sense of the Congress that the United States Commission on International Religious Freedom—

"(1) was created by Congress to independently assess and to accurately and unflinchingly describe threats to religious freedom around the world; and

"(2) in carrying out its prescribed duties, should use its authorized powers to ensure that efforts by the United States to advance religious freedom abroad are timely, appropriate to the circumstances, prudent, and effective."

§6432a. Powers of the Commission

(a) Hearings and sessions

The Commission may, for the purpose of carrying out its duties under this subchapter, hold hearings, sit and act at times and places in the United States, take testimony and receive evidence as the Commission considers advisable to carry out the purposes of this chapter.

(b) Information from Federal agencies

The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this section. Upon request of the Chairperson of the Commission, the head of such department or agency shall furnish such information to the Commission, subject to applicable law.

(c) Postal services

The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) Administrative procedures

The Commission may adopt such rules and regulations, relating to administrative procedure, as may be reasonably necessary to enable it to carry out the provisions of this subchapter.

(e) Views of the Commission

The Members of the Commission may speak in their capacity as private citizens. Statements on behalf of the Commission shall be issued in writing over the names of the Members. The Commission shall in its written statements clearly describe its statutory authority, distinguishing that authority from that of appointed or elected officials of the United States Government. Oral statements, where practicable, shall include a similar description.

(f) Travel

The Members of the Commission may, with the approval of the Commission, conduct such travel as is necessary to carry out the purpose of this subchapter. Each trip must be approved by a majority of the Commission. This provision shall not apply to the Ambassador-at-Large, whose travel shall

not require approval by the Commission.

(Pub. L. 105–292, title II, §203, as added Pub. L. 106–55, §1(b)(3), Aug. 17, 1999, 113 Stat. 401.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this Act", meaning Pub. L. 105–292, Oct. 27, 1998, 112 Stat. 2787, known as the International Religious Freedom Act of 1998, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 6401 of this title and Tables.

PRIOR PROVISIONS

A prior section 203 of Pub. L. 105–292 was renumbered section 205 and is classified to section 6433 of this title.

§6432b. Commission personnel matters

(a) In general

The Commission may, without regard to the civil service laws and regulations, appoint and terminate an Executive Director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The decision to employ or terminate an Executive Director shall be made by an affirmative vote of at least six of the nine members of the Commission.

(b) Compensation

The Commission may fix the compensation of the Executive Director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5 relating to classification of positions and General Schedule pay rates, except that the rate of pay for the Executive Director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(c) Professional staff

The Commission and the Executive Director shall hire Commission staff on the basis of professional and nonpartisan qualifications. Commissioners may not individually hire staff of the Commission. Staff shall serve the Commission as a whole and may not be assigned to the particular service of a single Commissioner or a specified group of Commissioners. This subsection does not prohibit staff personnel from assisting individual members of the Commission with particular needs related to their duties.

(d) Staff and services of other Federal agencies

(1) Department of State

The Secretary of State shall assist the Commission by providing on a reimbursable or nonreimbursable basis to the Commission such staff and administrative services as may be necessary and appropriate to perform its functions.

(2) Other Federal agencies

Upon the request of the Commission, the head of any Federal department or agency may detail, on a reimbursable or nonreimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its functions under this subchapter. The detail of any such personnel shall be without interruption or loss of civil service or Foreign Service status or privilege.

(e) Security clearances

The Executive Director shall be required to obtain a security clearance. The Executive Director may request, on a needs-only basis and in order to perform the duties of the Commission, that other personnel of the Commission be required to obtain a security clearance. The level of clearance shall be the lowest necessary to appropriately perform the duties of the Commission.

(f) Cost

The Commission shall reimburse all appropriate Government agencies for the cost of obtaining clearances for members of the commission,[1] for the executive [1] director,[1] and for any other personnel.

(g) Application of antidiscrimination laws

For purposes of providing remedies and procedures to address alleged violations of rights and protections that pertain to employment discrimination, family and medical leave, fair labor standards, employee polygraph protection, worker adjustment and retraining, veterans' employment and reemployment, intimidation or reprisal, protections under the Americans with Disabilities Act of 1990 [42 U.S.C. 12101 et seq.], occupational safety and health, labor-management relations, and rights and protections that apply to employees whose pay is disbursed by the Secretary of the Senate or the Chief Administrative Officer of the House of Representatives, all employees of the Commission shall be treated as employees whose pay is disbursed by the Secretary of the Senate or the Chief Administrative Officer of the House of Representatives and the Commission shall be treated as an employing office of the Senate or the House of Representatives.

(Pub. L. 105–292, title II, §204, as added Pub. L. 106–55, §1(b)(3), Aug. 17, 1999, 113 Stat. 402; amended Pub. L. 112–75, §3(a), Dec. 23, 2011, 125 Stat. 1273.)

REFERENCES IN TEXT

The Americans with Disabilities Act of 1990, referred to in subsec. (g), is Pub. L. 101–336, July 26, 1990, 104 Stat. 327, which is classified principally to chapter 126 (§12101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 204 of Pub. L. 105–292 was renumbered section 206 and is classified to section 6434 of this title.

AMENDMENTS

2011—Subsec. (g). Pub. L. 112–75 added subsec. (g).

PENDING CLAIMS

Pub. L. 112–75, §3(b), Dec. 23, 2011, 125 Stat. 1273, provided that: "Any administrative or judicial claim or action pending on the date of the enactment of this Act [Dec. 23, 2011] may be maintained under section 204(g) of the International Religious Freedom Act of 1998 [22 U.S.C. 6432b(g)], as added by subsection (a)."

[1] So in original. Probably should be capitalized.

§6433. Report of Commission

(a) In general

Not later than May 1 of each year, the Commission shall submit a report to the President, the Secretary of State, and Congress setting forth its recommendations for United States policy options based on its evaluations under section 6432 of this title.

(b) Classified form of report

The report may be submitted in classified form, together with a public summary of recommendations, if the classification of information would further the purposes of this chapter.

(c) Individual or dissenting views

Each member of the Commission may include the individual or dissenting views of the member.

(Pub. L. 105–292, title II, §205, formerly §203, Oct. 27, 1998, 112 Stat. 2799; renumbered §205, Pub. L. 106–55, §1(b)(2), Aug. 17, 1999, 113 Stat. 401.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original "this Act", meaning Pub. L. 105–292, Oct. 27, 1998, 112 Stat. 2787, known as the International Religious Freedom Act of 1998, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 6401 of this title and Tables.

PRIOR PROVISIONS

A prior section 205 of Pub. L. 105–292 was renumbered section 207 and is classified to section 6435 of this title.

§6433a. Strategic plan

(a) Definitions

In this section:

(1) Appropriate congressional committees

The term "appropriate congressional committees" means—

(A) the Committee on Foreign Relations of the Senate;

(B) the Committee on Foreign Affairs of the House of Representatives;

(C) the Committee on Appropriations of the Senate; and

(D) the Committee on Appropriations of the House of Representatives.

(2) Commission

The term "Commission" means the United States Commission on International Religious Freedom established under section 6431 of this title.

(3) Commissioner

The term "Commissioner" means a member of the Commission.

(4) Vice Chair

The term "Vice Chair" means the Vice Chair of the Commission who was appointed to such position by an elected official from the political party that is different from the political party of the elected official who appointed the Chair of the Commission.

(b) Strategic policy and organizational review planning process

Not later than 60 days after October 16, 2015, and not less frequently than biennially thereafter, the Chair and Vice Chair of the Commission, in coordination with the Commissioners, the Ambassador-at-Large for International Religious Freedom, Commission staff, and others jointly selected by the Chair and Vice Chair, shall carry out a strategic policy and organizational review planning process that includes—

(1) a review of the duties set forth in section 6432 of this title and the powers set forth in section 6432a of this title;

(2) the preparation of a written description of prioritized actions that the Commission is required to complete to fulfill the strategic plan required under subsection (d);

(3) a review of the scope, content, and timing of the Commission's annual report and any required changes; and

(4) a review of the personnel policies set forth in section 6432b of this title and any required changes to such policies.

(c) Unanimous agreement

(1) In general

To the greatest extent possible, the Chair, Vice Chair, and all of the Commissioners shall ensure that this section is implemented in a manner that results in unanimous agreement among the Commissioners with regard to—

(A) the strategic policy and organizational review planning process required under subsection

(b); and

(B) the strategic plan required under subsection (d).

(2) Alternative approval process

If unanimous agreement under paragraph (1) is not possible, items for inclusion in the strategic plan may, at the joint discretion of the Chair and Vice Chair, be approved by an affirmative vote of—

(A) a majority of Commissioners appointed by an elected official from the political party of the President; and

(B) a majority of Commissioners appointed by an elected official from the political party that is not the party of the President.

(d) Submission of strategic plan

Not later than 180 days after October 16, 2015, and not less frequently than biennially thereafter, the Chair and Vice Chair of the Commission shall jointly submit, to the appropriate congressional committees, a written strategic plan that includes—

(1) a description of prioritized actions for the Commission for a period of time to be specified by the Commissioners;

(2) a description of any changes the Commission considers necessary with regard to the scope, content, and timing of the Commission's annual report;

(3) a description of any changes the Commission considers necessary with regard to personnel matters; and

(4) the Commission's funding requirements for the period covered by the strategic plan.

(e) Pending issues

The strategic plan required under subsection (d) may identify any issues or proposals that have not yet been resolved by the Commission.

(f) Implementation of personnel provisions and annual report

Notwithstanding section [1] 6432b(a) and 6533(a) of this title, the Commission is authorized to implement provisions related to personnel and the Commission's annual report that are included in the strategic plan submitted pursuant to this section.

(g) Congressional oversight

Upon request, the Commission shall—

(1) make available for inspection any information and documents requested by the appropriate congressional committees; and

(2) respond to any requests to provide testimony before the appropriate congressional committees.

(Pub. L. 114–71, §4, Oct. 16, 2015, 129 Stat. 563.)

CODIFICATION

Section was enacted as part of the United States Commission on International Religious Freedom Reauthorization Act of 2015, and not as part of the International Religious Freedom Act of 1998 which comprises this chapter.

[1] So in original. Probably should be "sections".

§6434. Applicability of other laws

The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(Pub. L. 105–292, title II, §206, formerly §204, Oct. 27, 1998, 112 Stat. 2799; renumbered §206, Pub. L. 106–55, §1(b)(2), Aug. 17, 1999, 113 Stat. 401.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in text, is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

PRIOR PROVISIONS

A prior section 206 of Pub. L. 105–292 was renumbered section 209 and is classified to section 6436 of this title.

§6435. Authorization of appropriations

(a) In general

There are authorized to be appropriated to the Commission $3,500,000 for each of the fiscal years 2016 to 2019 to carry out the provisions of this chapter and section 6433a of this title.

(b) Availability of funds

Amounts authorized to be appropriated under subsection (a) shall remain available until the earlier of—

(1) the date on which they have been expended; or

(2) the date on which the Commission is terminated under section 6436 of this title.

(c) Limitation

In each fiscal year, the Commission shall only be authorized to expend amounts that have been appropriated pursuant to subsection (a) if the Commission—

(1) complies with the requirements set forth in section 6433a of this title; and

(2) submits the annual financial report required under section 6435a(e) of this title to the appropriate congressional committees.

(Pub. L. 105–292, title II, §207, formerly §205, Oct. 27, 1998, 112 Stat. 2800; renumbered §207 and amended Pub. L. 106–55, §1(b)(2), (4), Aug. 17, 1999, 113 Stat. 401, 403; Pub. L. 107–228, div. A, title VI, §681(e), Sept. 30, 2002, 116 Stat. 1409; Pub. L. 112–75, §4, Dec. 23, 2011, 125 Stat. 1273; Pub. L. 113–271, §1(1), Dec. 18, 2014, 128 Stat. 2951; Pub. L. 114–71, §5, Oct. 16, 2015, 129 Stat. 565.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this Act", meaning Pub. L. 105–292, Oct. 27, 1998, 112 Stat. 2787, known as the International Religious Freedom Act of 1998, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 6401 of this title and Tables.

AMENDMENTS

2015—Pub. L. 114–71 amended section generally. Prior to amendment, section authorized appropriations for fiscal years 2012 through 2015.

2014—Subsec. (a). Pub. L. 113–271 substituted "2015" for "2014".

2011—Subsec. (a). Pub. L. 112–75 substituted "for each of the fiscal years 2012 through 2014" for "for the fiscal year 2003".

2002—Subsec. (a). Pub. L. 107–228 inserted "for the fiscal year 2003" after "$3,000,000".

1999—Subsec. (a). Pub. L. 106–55, §1(b)(4), substituted "to carry out the provisions of this subchapter" for "for each of the fiscal years 1999 and 2000 to carry out the provisions of this subchapter."

EFFECTIVE DATE OF 2014 AMENDMENT

Pub. L. 113–271, §2, Dec. 18, 2014, 128 Stat. 2951, provided that: "The amendments made by this Act [amending this section and section 6436 of this title] shall take effect as if enacted on December 10, 2014."

§6435a. Standards of conduct and disclosure

(a) Cooperation with nongovernmental organizations, the Department of State, and Congress

The Commission shall seek to effectively and freely cooperate with all entities engaged in the

promotion of religious freedom abroad, governmental and nongovernmental, in the performance of the Commission's duties under this subchapter.

(b) Conflict of interest and antinepotism

(1) Member affiliations

Except as provided in paragraph (3), in order to ensure the independence and integrity of the Commission, the Commission may not compensate any nongovernmental agency, project, or person related to or affiliated with any member of the Commission, whether in that member's direct employ or not. Staff employed by the Commission may not serve in the employ of any nongovernmental agency, project, or person related to or affiliated with any member of the Commission while employed by the Commission.

(2) Staff compensation

Staff of the Commission may not receive compensation from any other source for work performed in carrying out the duties of the Commission while employed by the Commission.

(3) Exception

(A) In general

Subject to subparagraph (B), paragraph (1) shall not apply to payments made for items such as conference fees or the purchase of periodicals or other similar expenses, if such payments would not cause the aggregate value paid to any agency, project, or person for a fiscal year to exceed $250.

(B) Limitation

Notwithstanding subparagraph (A), the Commission shall not give special preference to any agency, project, or person related to or affiliated with any member of the Commission.

(4) Definitions

In this subsection, the term "affiliated" means the relationship between a member of the Commission and—

(A) an individual who holds the position of officer, trustee, partner, director, or employee of an agency, project, or person of which that member, or relative of that member of,[1] the Commission is an officer, trustee, partner, director, or employee; or

(B) a nongovernmental agency or project of which that member, or a relative of that member, of the Commission is an officer, trustee, partner, director, or employee.

(c) Contract authority

(1) In general

Subject to the availability of appropriations, the Commission may contract with and compensate Government agencies or persons for the conduct of activities necessary to the discharge of its functions under this subchapter. Any such person shall be hired without interruption or loss of civil service or Foreign Service status or privilege. The Commission may procure temporary and intermittent services under the authority of section 3109(b) of title 5, except that the Commission may not expend more than $250,000 in any fiscal year to procure such services.

(2) Expert study

In the case of a study requested under section 6474 [2] of this title, the Commission may, subject to the availability of appropriations, contract with experts and shall provide the funds for such a study. The Commission shall not be required to provide the funds for that part of the study conducted by the Comptroller General of the United States.

(d) Gifts

(1) In general

In order to preserve its independence, the Commission may not accept, use, or dispose of gifts

or donations of services or property. An individual Commissioner or employee of the Commission may not, in his or her capacity as a Commissioner or employee, knowingly accept, use or dispose of gifts or donations of services or property, unless he or she in good faith believes such gifts or donations to have a value of less than $50 and a cumulative value during a calendar year of less than $100.

(2) Exceptions

This subsection shall not apply to the following:

(A) Gifts provided on the basis of a personal friendship with a Commissioner or employee, unless the Commissioner or employee has reason to believe that the gift was provided because of the Commissioner's position and not because of the personal friendship.

(B) Gifts provided on the basis of a family relationship.

(C) The acceptance of training, invitations to attend or participate in conferences or such other events as are related to the conduct of the duties of the Commission, or food or refreshment associated with such activities.

(D) Items of nominal value or gifts of estimated value of $10 or less.

(E) De minimis gifts provided by a foreign leader or state, not exceeding a value of $260. Gifts believed by Commissioners to be in excess of $260, but which would create offense or embarrassment to the United States Government if refused, shall be accepted and turned over to the United States Government in accordance with the Foreign Gifts and Decorations Act of 1966 and the rules and regulations governing such gifts provided to Members of Congress.

(F) Informational materials such as documents, books, videotapes, periodicals, or other forms of communications.

(G) Goods or services provided by any agency or component of the Government of the United States, including any commission established under the authority of such Government.

(e) Annual financial report

In addition to providing the reports required under section 6432 of this title, the Commission shall provide, each year no later than January 1, to the Committees on Foreign Affairs and Appropriations of the House of Representatives, and to the Committees on Foreign Relations and Appropriations of the Senate, a financial report detailing and identifying its expenditures for the preceding fiscal year.

(Pub. L. 105–292, title II, §208, as added Pub. L. 106–55, §1(b)(5), Aug. 17, 1999, 113 Stat. 403; amended Pub. L. 107–228, div. A, title VI, §681(f), Sept. 30, 2002, 116 Stat. 1409; Pub. L. 112–75, §5, Dec. 23, 2011, 125 Stat. 1273.)

REFERENCES IN TEXT

Section 6474 of this title, referred to in subsec. (c)(2), was in the original a reference to section 605 of Pub. L. 105–292, which was renumbered section 606 by Pub. L. Pub. L. 114–281, title V, §501(1), Dec. 16, 2016, 130 Stat. 1437.

The Foreign Gifts and Decorations Act of 1966, referred to in subsec. (d)(2)(E), is Pub. L. 89–673, Oct. 15, 1966, 80 Stat. 952, as amended, which was classified principally to chapter 37 (§2621 et seq.) of this title. The Act was substantially repealed, except for provisions which are classified to section 2625 of this title, and with limited applicability, to section 2621 of this title, and was restated in section 7342 of Title 5, Government Organization and Employees, by Pub. L. 90–83, §10(b), Sept. 11, 1967, 91 Stat. 224. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

2011—Subsec. (c)(1). Pub. L. 112–75, §5(1), substituted "$250,000" for "$100,000".

Subsec. (e). Pub. L. 112–75, §5(2), substituted "Foreign Affairs" for "International Relations".

2002—Subsec. (c)(1). Pub. L. 107–228 substituted "The Commission may procure temporary and intermittent services under the authority of section 3109(b) of title 5, except that the Commission may not expend more than $100,000 in any fiscal year to procure such services." for "The Commission may not procure temporary and intermittent services under section 3109(b) of title 5 or under other contracting authority other than that allowed under this subchapter."

[1] *So in original. The comma probably should follow "member".*

[2] *See References in Text note below.*

§6436. Termination

The Commission shall terminate on September 30, 2019.

(Pub. L. 105–292, title II, §209, formerly §206, Oct. 27, 1998, 112 Stat. 2800; renumbered §209 and amended Pub. L. 106–55, §1(b)(2), (c), Aug. 17, 1999, 113 Stat. 401, 405; Pub. L. 107–228, div. A, title VI, §681(g), Sept. 30, 2002, 116 Stat. 1409; Pub. L. 112–75, §6, Dec. 23, 2011, 125 Stat. 1273; Pub. L. 113–271, §1(2), Dec. 18, 2014, 128 Stat. 2951; Pub. L. 114–71, §3, Oct. 16, 2015, 129 Stat. 563.)

AMENDMENTS

2015—Pub. L. 114–71 substituted "September 30, 2019" for "September 30, 2015".
2014—Pub. L. 113–271 substituted "September 30, 2015" for "September 30, 2014".
2011—Pub. L. 112–75 substituted "September 30, 2014" for "September 30, 2011".
2002—Pub. L. 107–228 substituted "September 30, 2011" for "May 14, 2003".
1999—Pub. L. 106–55, §1(c), which directed substitution of "on May 14, 2003" for "4 years after the initial appointment of all the Commissioners", was executed by making the substitution for "4 years after the initial appointment of all of the Commissioners", to reflect the probable intent of Congress.

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113–271 effective as if enacted on Dec. 10, 2014, see section 2 of Pub. L. 113–271, set out as a note under section 6435 of this title.

EXTENSION OF TERMINATION DATE

Pub. L. 112–74, div. I, title I, Dec. 23, 2011, 125 Stat. 1173, provided in part: "That section 209 of the International Religious Freedom Act of 1998 (22 U.S.C. 6436) shall be applied by substituting 'September 30, 2012' for 'September 30, 2011' ".

SUBCHAPTER III—PRESIDENTIAL ACTIONS

PART A—TARGETED RESPONSES TO VIOLATIONS OF RELIGIOUS FREEDOM ABROAD

§6441. Presidential actions in response to violations of religious freedom

(a) Response to violations of religious freedom

(1) In general

(A) United States policy

It shall be the policy of the United States—

(i) to oppose violations of religious freedom that are or have been engaged in or tolerated by the governments of foreign countries; and

(ii) to promote the right to freedom of religion in those countries through the actions described in subsection (b).

(B) Requirement of Presidential action

For each foreign country the government of which engages in or tolerates violations of

religious freedom, the President shall oppose such violations and promote the right to freedom of religion in that country through the actions described in subsection (b).

(2) Basis of actions

Each action taken under paragraph (1)(B) shall be based upon information regarding violations of religious freedom, as described in the latest Country Reports on Human Rights Practices, the Annual Report and Executive Summary, and on any other evidence available, and shall take into account any findings or recommendations by the Commission with respect to the foreign country.

(b) Presidential actions

(1) In general

Subject to paragraphs (2) and (3), the President, in consultation with the Secretary of State, the Ambassador at Large, the Special Adviser, and the Commission, shall, as expeditiously as practicable in response to the violations described in subsection (a) by the government of a foreign country—

(A) take one or more of the actions described in paragraphs (1) through (15) of section 6445(a) of this title (or commensurate action in substitution thereto) with respect to such country; or

(B) negotiate and enter into a binding agreement with the government of such country, as described in section 6445(c) of this title.

(2) Deadline for actions

Not later than September 1 of each year, the President shall take action under any of paragraphs (1) through (15) of section 6445(a) of this title (or commensurate action in substitution thereto) with respect to each foreign country the government of which has engaged in or tolerated violations of religious freedom at any time since September 1 of the preceding year, except that in the case of action under any of paragraphs (9) through (15) of section 6445(a) of this title (or commensurate action in substitution thereto)—

(A) the action may only be taken after the requirements of sections 6443 and 6444 of this title have been satisfied; and

(B) the September 1 limitation shall not apply.

(3) Authority for delay of Presidential actions

The President may delay action under paragraph (2) described in any of paragraphs (9) through (15) of section 6445(a) of this title (or commensurate action in substitution thereto) if he determines and certifies to Congress that a single, additional period of time, not to exceed 90 days, is necessary pursuant to the same provisions applying to countries of particular concern for religious freedom under section 6442(c)(3) of this title.

(c) Implementation

(1) In general

In carrying out subsection (b), the President shall—

(A) take the action or actions that most appropriately respond to the nature and severity of the violations of religious freedom;

(B) seek to the fullest extent possible to target action as narrowly as practicable with respect to the agency or instrumentality of the foreign government, or specific officials thereof, that are responsible for such violations; and

(C) when appropriate, make every reasonable effort to conclude a binding agreement concerning the cessation of such violations in countries with which the United States has diplomatic relations.

(2) Guidelines for Presidential actions

In addition to the guidelines under paragraph (1), the President, in determining whether to take a Presidential action under paragraphs (9) through (15) of section 6445(a) of this title (or commensurate action in substitution thereto), shall seek to minimize any adverse impact on—

(A) the population of the country whose government is targeted by the Presidential action or actions; and

(B) the humanitarian activities of United States and foreign nongovernmental organizations in such country.

(Pub. L. 105–292, title IV, §401, Oct. 27, 1998, 112 Stat. 2800.)

DELEGATION OF RESPONSIBILITIES UNDER THE INTERNATIONAL RELIGIOUS FREEDOM ACT OF 1998

Memorandum of President of the United States, Aug. 17, 1999, 64 F.R. 47345, provided:

Memorandum for the Secretary of State

By the authority vested in me by the Constitution and the laws of the United States of America, including section 301 of title 3 of the United States Code, I hereby delegate to the Secretary of State the functions and authorities vested in the President by title IV, subtitle I (sections 401–409) of the International Religious Freedom Act of 1998 [22 U.S.C. 6441 et seq.] (Public Law 105–292) (the "Act").

Any reference in this memorandum to any act shall be deemed to be a reference to such act as amended from time to time.

The functions delegated by this memorandum may be delegated within the Department of State.

You are authorized and directed to publish this memorandum in the Federal Register.

WILLIAM J. CLINTON.

§6442. Presidential actions in response to particularly severe violations of religious freedom

(a) Response to particularly severe violations of religious freedom

(1) United States policy

It shall be the policy of the United States—

(A) to oppose particularly severe violations of religious freedom that are or have been engaged in or tolerated by the governments of foreign countries; and

(B) to promote the right to freedom of religion in those countries through the actions described in subsection (c).

(2) Requirement of Presidential action

Whenever the President determines that the government of a foreign country has engaged in or tolerated particularly severe violations of religious freedom, the President shall oppose such violations and promote the right to religious freedom through one or more of the actions described in subsection (c).

(b) Designations of countries of particular concern for religious freedom

(1) Annual review

(A) In general

Not later than 90 days after the date on which each Annual Report is submitted under section 6412(b) of this title, the President shall—

(i) review the status of religious freedom in each foreign country to determine whether the government of that country has engaged in or tolerated particularly severe violations of religious freedom in each such country during the preceding 12 months or longer;

(ii) designate each country the government of which has engaged in or tolerated violations described in clause (i) as a country of particular concern for religious freedom; and

(iii) designate each country that engaged in or tolerated severe violations of religious freedom during the previous year, but does not meet, in the opinion of the President at the time of publication of the Annual Report, all of the criteria described in section 6402(15) of this title for designation under clause (ii) as being placed on a "Special Watch List".

(B) Basis of review

Each review conducted under subparagraph (A) shall be based upon information contained in the latest Country Reports on Human Rights Practices, the Annual Report, and on any other evidence available and shall take into account any findings or recommendations by the Commission with respect to the foreign country.

(C) Implementation

Any review under subparagraph (A) of a foreign country may take place singly or jointly with the review of one or more countries and may take place at any time before the date on which each Annual Report is submitted under section 6412(b) of this title.

(2) Determinations of responsible parties

For the government of each country designated as a country of particular concern for religious freedom under paragraph (1)(A), the President shall seek to determine the agency or instrumentality thereof and the specific officials thereof that are responsible for the particularly severe violations of religious freedom engaged in or tolerated by that government in order to appropriately target Presidential actions under this section in response.

(3) Congressional notification

(A) In general

Whenever the President designates a country as a country of particular concern for religious freedom under paragraph (1)(A)(ii), the President, not later than 90 days after such designation, shall submit to the appropriate congressional committees—

(i) the designation of the country, signed by the President;

(ii) the identification, if any, of responsible parties determined under paragraph (2); and

(iii) a description of the actions taken under subsection (c), the purposes of the actions taken, and the effectiveness of the actions taken.

(B) Removal of designation

A country that is designated as a country of particular concern for religious freedom under paragraph (1)(A)(ii) shall retain such designation until the President determines and reports to the appropriate congressional committees that the country should no longer be so designated.

(4) Effect on designation as country of particular concern

The presence or absence of a country from the Special Watch List in any given year shall not preclude the designation of such country as a country of particular concern for religious freedom under paragraph (1)(A)(ii) in any such year.

(c) Presidential actions with respect to countries of particular concern for religious freedom

(1) In general

Subject to paragraphs (2), (3), (4), and (5) with respect to each country of particular concern for religious freedom designated under subsection (b)(1)(A), the President shall, after the requirements of sections 6443 and 6444 of this title have been satisfied, but not later than 90 days (or 180 days in case of a delay under paragraph (3)) after the date of designation of the country under that subsection, carry out one or more of the following actions under subparagraph (A) or subparagraph (B):

(A) Presidential actions

One or more of the Presidential actions described in paragraphs (9) through (15) of section 6445(a) of this title, as determined by the President.

(B) Commensurate actions

Commensurate action in substitution to any action described in subparagraph (A).

(2) Substitution of binding agreements

(A) In general

In lieu of carrying out action under paragraph (1), the President may conclude a binding

agreement with the respective foreign government as described in section 6445(c) of this title. The existence of a binding agreement under this paragraph with a foreign government may be considered by the President prior to making any determination or taking any action under this subchapter.

(B) Statutory construction

Nothing in this paragraph may be construed to authorize the entry of the United States into an agreement covering matters outside the scope of violations of religious freedom.

(3) Authority for delay of Presidential actions

If, on or before the date that the President is required (but for this paragraph) to take action under paragraph (1), the President determines and certifies to Congress that a single, additional period of time not to exceed 90 days is necessary—

(A) for a continuation of negotiations that have been commenced with the government of that country to bring about a cessation of the violations by the foreign country;

(B) for a continuation of multilateral negotiations into which the United States has entered to bring about a cessation of the violations by the foreign country;

(C)(i) for a review of corrective action taken by the foreign country after designation of such country as a country of particular concern; or

(ii) in anticipation that corrective action will be taken by the foreign country during the 90-day period,

then the President shall not be required to take action until the expiration of that period of time.

(4) Exception for ongoing Presidential action under this chapter

The President shall not be required to take action pursuant to this subsection in the case of a country of particular concern for religious freedom, if with respect to such country—

(A) the President has taken action pursuant to this chapter in a preceding year;

(B) such action is in effect at the time the country is designated as a country of particular concern for religious freedom under this section; and

(C) the President reports to Congress the information described in section 6444(a)(1), (2), (3), and (4) of this title regarding the actions in effect with respect to the country.

(5) Exception for ongoing, multiple, broad-based sanctions in response to human rights violations

At the time the President determines a country to be a country of particular concern, if that country is already subject to multiple, broad-based sanctions imposed in significant part in response to human rights abuses, and such sanctions are ongoing, the President may determine that one or more of these sanctions also satisfies the requirements of this subsection. In a report to Congress pursuant to section 6444(a)(1), (2), (3), and (4) of this title, and, as applicable, to section 6448 of this title, the President shall designate the specific sanction or sanctions that the President determines satisfy the requirements under this subsection and include a description of the impact of such sanction or sanctions on each country. The sanctions so designated shall remain in effect subject to section 6449 of this title.

(d) Statutory construction

A determination under this chapter, or any amendment made by this chapter, that a foreign country has engaged in or tolerated particularly severe violations of religious freedom shall not be construed to require the termination of assistance or other activities with respect to that country under any other provision of law, including section 2151n or 2304 of this title.

(Pub. L. 105–292, title IV, §402, Oct. 27, 1998, 112 Stat. 2802; Pub. L. 106–55, §2(a), Aug. 17, 1999, 113 Stat. 405; Pub. L. 114–281, title III, §302, Dec. 16, 2016, 130 Stat. 1434.)

REFERENCES IN TEXT

This subchapter, referred to in subsec. (c)(2)(A), was in the original "this title", meaning title IV of Pub. L.

105–292, Oct. 27, 1998, 112 Stat. 2800, which is classified principally to this subchapter. For complete classification of title IV to the Code, see Tables.

This chapter, referred to in subsecs. (c)(4) and (d), was in the original "this Act", meaning Pub. L. 105–292, Oct. 27, 1998, 112 Stat. 2787, known as the International Religious Freedom Act of 1998, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 6401 of this title and Tables.

AMENDMENTS

2016—Subsec. (b)(1)(A). Pub. L. 114–281, §302(1)(A)(i), amended subpar. (A) generally. Prior to amendment, text read as follows: "Not later than September 1 of each year, the President shall review the status of religious freedom in each foreign country to determine whether the government of that country has engaged in or tolerated particularly severe violations of religious freedom in that country during the preceding 12 months or since the date of the last review of that country under this subparagraph, whichever period is longer. The President shall designate each country the government of which has engaged in or tolerated violations described in this subparagraph as a country of particular concern for religious freedom."

Subsec. (b)(1)(C). Pub. L. 114–281, §302(1)(A)(ii), substituted "before the date on which each Annual Report is submitted under section 6412(b) of this title" for "prior to September 1 of the respective year".

Subsec. (b)(3). Pub. L. 114–281, §302(1)(B), amended par. (3) generally. Prior to amendment, text read as follows: "Whenever the President designates a country as a country of particular concern for religious freedom under paragraph (1)(A), the President shall, as soon as practicable after the designation is made, transmit to the appropriate congressional committees—

"(A) the designation of the country, signed by the President; and

"(B) the identification, if any, of responsible parties determined under paragraph (2)."

Subsec. (b)(4). Pub. L. 114–281, §302(1)(C), added par. (4).

Subsec. (c)(5). Pub. L. 114–281, §302(2), substituted "the President shall designate the specific sanction or sanctions that the President determines satisfy the requirements under this subsection and include a description of the impact of such sanction or sanctions on each country." for "the President must designate the specific sanction or sanctions which he determines satisfy the requirements of this subsection."

1999—Subsec. (c)(1). Pub. L. 106–55, §2(a)(1), substituted "(4), and (5)" for "and (4)" in introductory provisions.

Subsec. (c)(4). Pub. L. 106–55, §2(a)(2)(A), inserted "under this chapter" after "Exception for ongoing Presidential action" in heading.

Subsec. (c)(4)(B) to (D), (5). Pub. L. 106–55, §2(a)(2)(B)–(D), inserted "and" at end of subpar. (B), substituted period for "; and" at end of subpar. (C), redesignated subpar. (D) as par. (5), inserted par. heading, and substituted "At the time" for "at the time".

§6442a. Non-state actor designations

(a) In general

The President, concurrent with the annual foreign country review required under section 402(b)(1)(A) of the International Religious Freedom Act of 1998 (22 U.S.C. 6442(b)(1)(A)), shall—

(1) review and identify any non-state actors operating in any such reviewed country or surrounding region that have engaged in particularly severe violations of religious freedom; and

(2) designate, in a manner consistent with such Act [22 U.S.C. 6401 et seq.], each such non-state actor as an entity of particular concern for religious freedom.

(b) Report

Whenever the President designates a non-state actor under subsection (a) as an entity of particular concern for religious freedom, the President, as soon as practicable after the designation is made, shall submit a report to the appropriate congressional committees that describes the reasons for such designation.

(c) Actions

The President should take specific actions, when practicable, to address severe violations of religious freedom of non-state actors that are designated under subsection (a)(2).

(d) Department of State annual report

The Secretary of State should include information detailing the reasons the President designated a non-state actor as an entity of particular concern for religious freedom under subsection (a) in the Annual Report required under section 102(b)(1) of the International Religious Freedom Act of 1998 (22 U.S.C. 6412(b)(1)).

(e) Sense of Congress

It is the sense of Congress that—

(1) the Secretary of State should work with Congress and the U.S. Commission on International Religious Freedom—

(A) to create new political, financial, and diplomatic tools to address severe violations of religious freedom by non-state actors; and

(B) to update the actions the President can take under section 405 of the International Religious Freedom Act of 1998 (22 U.S.C. 6445);

(2) governments must ultimately be held accountable for the abuses that occur in their territories; and

(3) any actions the President takes after designating a non-state actor as an entity of particular concern should also involve high-level diplomacy with the government of the country in which the non-state actor is operating.

(f) Determinations of responsible parties

In order to appropriately target Presidential actions under the International Religious Freedom Act of 1998 (22 U.S.C. 6401 et seq.), the President, with respect to each non-state actor designated as an entity of particular concern for religious freedom under subsection (a), shall seek to determine, to the extent practicable, the specific officials or members that are responsible for the particularly severe violations of religious freedom engaged in or tolerated by such non-state actor.

(g) Definitions

In this section, the terms "appropriate congressional committees", "non-state actor", and "particularly severe violations of religious freedom" have the meanings given such terms in section 3 of the International Religious Freedom Act of 1998 (22 U.S.C. 6402), as amended by section 3 of this Act.

(Pub. L. 114–281, title III, §301, Dec. 16, 2016, 130 Stat. 1433.)

REFERENCES IN TEXT

The International Religious Freedom Act of 1998, referred to in subsecs. (a)(2) and (f), is Pub. L. 105–292, Oct. 27, 1998, 112 Stat. 2787, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 6401 of this title and Tables.

Section 3 of this Act, referred to in subsec. (g), means section 3 of Pub. L. 114–281, which amended section 6402 of this title.

CODIFICATION

Section was enacted as part of the Frank R. Wolf International Religious Freedom Act, and not as part of the International Religious Freedom Act of 1998 which comprises this chapter.

§6443. Consultations

(a) In general

As soon as practicable after the President decides to take action under section 6441 of this title in response to violations of religious freedom and the President decides to take action under paragraphs (9) through (15) of section 6445(a) of this title (or commensurate action in substitution thereto) with respect to that country, or not later than 90 days after the President designates a country as a country of particular concern for religious freedom under section 6442 of this title, as the case may be, the President shall carry out the consultations required in this section.

(b) Duty to consult with foreign governments prior to taking Presidential actions

(1) In general

The President shall—

(A) request consultation with the government of such country regarding the violations giving rise to designation of that country as a country of particular concern for religious freedom or to Presidential action under section 6441 of this title; and

(B) if agreed to, enter into such consultations, privately or publicly.

(2) Use of multilateral fora

If the President determines it to be appropriate, such consultations may be sought and may occur in a multilateral forum, but, in any event, the President shall consult with appropriate foreign governments for the purposes of achieving a coordinated international policy on actions that may be taken with respect to a country described in subsection (a), prior to implementing any such action.

(3) Election of nondisclosure of negotiations to public

If negotiations are undertaken or an agreement is concluded with a foreign government regarding steps to cease the pattern of violations by that government, and if public disclosure of such negotiations or agreement would jeopardize the negotiations or the implementation of such agreement, as the case may be, the President may refrain from disclosing such negotiations and such agreement to the public, except that the President shall inform the appropriate congressional committees of the nature and extent of such negotiations and any agreement reached.

(c) Duty to consult with humanitarian organizations

The President should consult with appropriate humanitarian and religious organizations concerning the potential impact of United States policies to promote freedom of religion in countries described in subsection (a).

(d) Duty to consult with United States interested parties

The President shall, as appropriate, consult with United States interested parties as to the potential impact of intended Presidential action or actions in countries described in subsection (a) on economic or other interests of the United States.

(Pub. L. 105–292, title IV, §403, Oct. 27, 1998, 112 Stat. 2804.)

§6444. Report to Congress

(a) In general

Subject to subsection (b), not later than 90 days after the President decides to take action under section 6441 of this title in response to violations of religious freedom and the President decides to take action under paragraphs (9) through (15) of section 6445(a) of this title (or commensurate action in substitution thereto) with respect to that country, or not later than 90 days after the President designates a country as a country of particular concern for religious freedom under section 6442 of this title, as the case may be, the President shall submit a report to Congress containing the following:

(1) Identification of Presidential actions

An identification of the Presidential action or actions described in paragraphs (9) through (15) of section 6445(a) of this title (or commensurate action in substitution thereto) to be taken with respect to the foreign country.

(2) Description of violations

A description of the violations giving rise to the Presidential action or actions to be taken.

(3) Purpose of Presidential actions

A description of the purpose of the Presidential action or actions.

(4) Evaluation

(A) Description

An evaluation, in consultation with the Secretary of State, the Ambassador at Large, the Commission, the Special Adviser, the parties described in section 6443(c) and (d) of this title, and whoever else the President deems appropriate, of—

(i) the impact upon the foreign government;

(ii) the impact upon the population of the country;

(iii) the impact upon the United States economy and other interested parties; and

(iv) the impact on the advancement of United States interests in democracy, human rights, and security, and a description of policy tools being applied in the country, including programs that target democratic stability, economic growth, and counterterrorism.

(B) Authority to withhold disclosure

The President may withhold part or all of such evaluation from the public but shall provide the entire evaluation to Congress.

(5) Statement of policy options

A statement that noneconomic policy options designed to bring about cessation of the particularly severe violations of religious freedom have reasonably been exhausted, including the consultations required in section 6443 of this title.

(6) Description of multilateral negotiations

A description of multilateral negotiations sought or carried out, if appropriate and applicable.

(b) Delay in transmittal of report

If, on or before the date that the President is required (but for this subsection) to submit a report under subsection (a) to Congress, the President determines and certifies to Congress that a single, additional period of time not to exceed 90 days is necessary pursuant to section 6441(b)(3) or 6442(c)(3) of this title, then the President shall not be required to submit the report to Congress until the expiration of that period of time.

(Pub. L. 105–292, title IV, §404, Oct. 27, 1998, 112 Stat. 2805; Pub. L. 114–281, title III, §303, Dec. 16, 2016, 130 Stat. 1435.)

AMENDMENTS

2016—Subsec. (a)(4)(A)(iv). Pub. L. 114–281 added cl. (iv).

§6445. Description of Presidential actions

(a) Description of Presidential actions

Except as provided in subsection (d), the Presidential actions referred to in this subsection are the following:

(1) A private demarche.

(2) An official public demarche.

(3) A public condemnation.

(4) A public condemnation within one or more multilateral fora.

(5) The delay or cancellation of one or more scientific exchanges.

(6) The delay or cancellation of one or more cultural exchanges.

(7) The denial of one or more working, official, or state visits.

(8) The delay or cancellation of one or more working, official, or state visits.

(9) The withdrawal, limitation, or suspension of United States development assistance in accordance with section 2151n of this title.

(10) Directing the Export-Import Bank of the United States, the Overseas Private Investment

Corporation, or the Trade and Development Agency not to approve the issuance of any (or a specified number of) guarantees, insurance, extensions of credit, or participations in the extension of credit with respect to the specific government, agency, instrumentality, or official found or determined by the President to be responsible for violations under section 6441 or 6442 of this title.

(11) The withdrawal, limitation, or suspension of United States security assistance in accordance with section 2304 of this title.

(12) Consistent with section 262d of this title, directing the United States executive directors of international financial institutions to oppose and vote against loans primarily benefiting the specific foreign government, agency, instrumentality, or official found or determined by the President to be responsible for violations under section 6441 or 6442 of this title.

(13) Ordering the heads of the appropriate United States agencies not to issue any (or a specified number of) specific licenses, and not to grant any other specific authority (or a specified number of authorities), to export any goods or technology to the specific foreign government, agency, instrumentality, or official found or determined by the President to be responsible for violations under section 6441 or 6442 of this title, under—

(A) the Export Administration Act of 1979 [50 U.S.C. 4601 et seq.];

(B) the Arms Export Control Act [22 U.S.C. 2751 et seq.];

(C) the Atomic Energy Act of 1954 [42 U.S.C. 2011 et seq.]; or

(D) any other statute that requires the prior review and approval of the United States Government as a condition for the export or reexport of goods or services.

(14) Prohibiting any United States financial institution from making loans or providing credits totaling more than $10,000,000 in any 12-month period to the specific foreign government, agency, instrumentality, or official found or determined by the President to be responsible for violations under section 6441 or 6442 of this title.

(15) Prohibiting the United States Government from procuring, or entering into any contract for the procurement of, any goods or services from the foreign government, entities, or officials found or determined by the President to be responsible for violations under section 6441 or 6442 of this title.

(b) Commensurate action

Except as provided in subsection (d), the President may substitute any other action authorized by law for any action described in paragraphs (1) through (15) of subsection (a) if such action is commensurate in effect to the action substituted and if the action would further the policy of the United States set forth in section 6401(b) of this title. The President shall seek to take all appropriate and feasible actions authorized by law to obtain the cessation of the violations. If commensurate action is taken, the President shall report such action, together with an explanation for taking such action, to the appropriate congressional committees.

(c) Binding agreements

The President may negotiate and enter into a binding agreement with a foreign government that obligates such government to cease, or take substantial steps to address and phase out, the act, policy, or practice constituting the violation of religious freedom. The entry into force of a binding agreement for the cessation of the violations shall be a primary objective for the President in responding to a foreign government that has engaged in or tolerated particularly severe violations of religious freedom.

(d) Exceptions

Any action taken pursuant to subsection (a) or (b) may not prohibit or restrict the provision of medicine, medical equipment or supplies, food, or other humanitarian assistance.

(Pub. L. 105–292, title IV, §405, Oct. 27, 1998, 112 Stat. 2806.)

REFERENCES IN TEXT

The Export Administration Act of 1979, referred to in subsec. (a)(13)(A), is Pub. L. 96–72, Sept. 29, 1979,

93 Stat. 503, which is classified principally to chapter 56 (§4601 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Tables.

The Arms Export Control Act, referred to in subsec. (a)(13)(B), is Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1320, as amended, which is classified principally to chapter 39 (§2751 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

The Atomic Energy Act of 1954, referred to in subsec. (a)(13)(C), is act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, which is classified principally to chapter 23 (§2011 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 42 and Tables.

§6446. Effects on existing contracts

The President shall not be required to apply or maintain any Presidential action under this part—

(1) in the case of procurement of defense articles or defense services—

(A) under existing contracts or subcontracts, including the exercise of options for production quantities, to satisfy requirements essential to the national security of the United States;

(B) if the President determines in writing and so reports to Congress that the person or other entity to which the Presidential action would otherwise be applied is a sole source supplier of the defense articles or services, that the defense articles or services are essential, and that alternative sources are not readily or reasonably available; or

(C) if the President determines in writing and so reports to Congress that such articles or services are essential to the national security under defense coproduction agreements; or

(2) to products or services provided under contracts entered into before the date on which the President publishes his intention to take the Presidential action.

(Pub. L. 105–292, title IV, §406, Oct. 27, 1998, 112 Stat. 2808.)

§6447. Presidential waiver

(a) In general

Subject to subsection (c), the President may waive, for a single, 180-day period, the application of any of the actions described in paragraphs (9) through (15) of section 6445(a) of this title (or commensurate action in substitution thereto) with respect to a country, if the President determines and so reports to the appropriate congressional committees that—

(1) the exercise of such waiver authority would further the purposes of this chapter; or

(2) the important national interest of the United States requires the exercise of such waiver authority.

(b) Additional authority

Subject to subsection (c), the President may waive, for any additional specified period of time after the 180-day period described in subsection (a), the application of any of the actions described in paragraphs (9) through (15) of section 6445(a) of this title (or a commensurate substitute action) with respect to a country, if the President determines and reports to the appropriate congressional committees that—

(1) the respective foreign government has ceased the violations giving rise to the Presidential action; or

(2) the important national interest of the United States requires the exercise of such waiver authority.

(c) Congressional notification

Not later than the date of the exercise of a waiver under subsection (a) or (b), the President shall notify the appropriate congressional committees of the waiver or the intention to exercise the waiver, together with a detailed justification thereof.

(d) Sense of Congress

It is the sense of Congress that—

(1) ongoing and persistent waivers of the application of any of the actions described in paragraphs (9) through (15) of section 6445(a) of this title (or commensurate substitute action) with respect to a country do not fulfill the purposes of this chapter; and

(2) because the promotion of religious freedom is an important interest of United States foreign policy, the President, the Secretary of State, and other executive branch officials, in consultation with Congress, should seek to find ways to address existing violations, on a case-by-case basis, through the actions described in section 6445 of this title or other commensurate substitute action.

(Pub. L. 105–292, title IV, §407, Oct. 27, 1998, 112 Stat. 2808; Pub. L. 114–281, title III, §304, Dec. 16, 2016, 130 Stat. 1435.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(1) and (d)(1), was in the original "this Act", meaning Pub. L. 105–292, Oct. 27, 1998, 112 Stat. 2787, known as the International Religious Freedom Act of 1998, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 6401 of this title and Tables.

AMENDMENTS

2016—Subsec. (a). Pub. L. 114–281, §304(1)(A), (B), in introductory provisions, substituted "subsection (c)" for "subsection (b)" and inserted ", for a single, 180-day period," after "may waive".

Subsec. (a)(1) to (3). Pub. L. 114–281, §304(1)(C), (D), redesignated pars. (2) and (3) as (1) and (2), respectively, and struck out former par. (1) which read as follows: "the respective foreign government has ceased the violations giving rise to the Presidential action;".

Subsec. (b). Pub. L. 114–281, §304(3), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 114–281, §304(2), (4), redesignated subsec. (b) as (c) and inserted "or (b)" after "subsection (a)".

Subsec. (d). Pub. L. 114–281, §304(5), added subsec. (d).

§6448. Publication in Federal Register

(a) In general

Subject to subsection (b), the President shall cause to be published in the Federal Register the following:

(1) Determinations of governments, officials, and entities of particular concern

Any designation of a country of particular concern for religious freedom under section 6442(b)(1) of this title, together with, when applicable and to the extent practicable, the identities of the officials or entities determined to be responsible for the violations under section 6442(b)(2) of this title. Any designation of a non-state actor as an entity of particular concern for religious freedom under section 6442a of this title and, if applicable and to the extent practicable, the identities of individuals determined to be responsible for violations described in subsection (f) of such section.

(2) Presidential actions

A description of any Presidential action under paragraphs (9) through (15) of section 6445(a) of this title (or commensurate action in substitution thereto) and the effective date of the Presidential action.

(3) Delays in transmittal of Presidential action reports

Any delay in transmittal of a Presidential action report, as described in section 6444(b) of this title.

(4) Waivers

Any waiver under section 6447 of this title.

(b) Limited disclosure of information

The President may limit publication of information under this section in the same manner and to the same extent as the President may limit the publication of findings and determinations described in section 2414(c) of this title, if the President determines that the publication of information under this section—

(1) would be harmful to the national security of the United States; or

(2) would not further the purposes of this chapter.

(Pub. L. 105–292, title IV, §408, Oct. 27, 1998, 112 Stat. 2808; Pub. L. 114–281, title III, §305, Dec. 16, 2016, 130 Stat. 1436.)

AMENDMENTS

2016—Subsec. (a)(1). Pub. L. 114–281 inserted at end "Any designation of a non-state actor as an entity of particular concern for religious freedom under section 6442a of this title and, if applicable and to the extent practicable, the identities of individuals determined to be responsible for violations described in subsection (f) of such section."

REFERENCES IN TEXT

This chapter, referred to in subsec. (b)(2), was in the original "this Act", meaning Pub. L. 105–292, Oct. 27, 1998, 112 Stat. 2787, known as the International Religious Freedom Act of 1998, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 6401 of this title and Tables.

§6449. Termination of Presidential actions

Any Presidential action taken under this chapter with respect to a foreign country shall terminate on the earlier of the following dates:

(1) Termination date

Within 2 years of the effective date of the Presidential action unless expressly reauthorized by law.

(2) Foreign government actions

Upon the determination by the President, in consultation with the Commission, and certification to Congress that the foreign government has ceased or taken substantial and verifiable steps to cease the particularly severe violations of religious freedom.

(Pub. L. 105–292, title IV, §409, Oct. 27, 1998, 112 Stat. 2809.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 105–292, Oct. 27, 1998, 112 Stat. 2787, known as the International Religious Freedom Act of 1998, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 6401 of this title and Tables.

§6450. Preclusion of judicial review

No court shall have jurisdiction to review any Presidential determination or agency action under this chapter or any amendment made by this chapter.

(Pub. L. 105–292, title IV, §410, Oct. 27, 1998, 112 Stat. 2809.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 105–292, Oct. 27, 1998, 112 Stat. 2787, known as the International Religious Freedom Act of 1998, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 6401 of this title and Tables.

PART B—STRENGTHENING EXISTING LAW

§6461. Exports of certain items used in particularly severe violations of religious freedom

(a) Mandatory licensing

Notwithstanding any other provision of law, the Secretary of Commerce, with the concurrence of the Secretary of State, shall include on the list of crime control and detection instruments or equipment controlled for export and reexport under section 4605(n) of title 50 or under any other provision of law, items being exported or reexported to countries of particular concern for religious freedom that the Secretary of Commerce, with the concurrence of the Secretary of State, and in consultation with appropriate officials including the Assistant Secretary of State for Democracy, Human Rights and Labor and the Ambassador at Large, determines are being used or are intended for use directly and in significant measure to carry out particularly severe violations of religious freedom.

(b) Licensing ban

The prohibition on the issuance of a license for export of crime control and detection instruments or equipment under section 2304(a)(2) of this title shall apply to the export and reexport of any item included pursuant to subsection (a) on the list of crime control instruments.

(Pub. L. 105–292, title IV, §423, Oct. 27, 1998, 112 Stat. 2810.)

SUBCHAPTER IV—REFUGEE, ASYLUM, AND CONSULAR MATTERS

§6471. Use of Annual Report

The Annual Report, together with other relevant documentation, shall serve as a resource for immigration judges and consular, refugee, and asylum officers in cases involving claims of persecution on the grounds of religion. Absence of reference by the Annual Report to conditions described by the alien shall not constitute the sole grounds for a denial of the alien's claim.

(Pub. L. 105–292, title VI, §601, Oct. 27, 1998, 112 Stat. 2812.)

ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of Title 8, Aliens and Nationality.

§6472. Reform of refugee policy

(a), (b) Omitted

(c) Guidelines for refugee-processing posts

(1) Guidelines for addressing hostile biases

The Attorney General and the Secretary of State shall develop and implement guidelines that address potential biases in personnel of the Immigration and Naturalization Service and of the Department of State that are hired abroad and involved with duties which could constitute an effective barrier to a refugee claim if such personnel carries a bias against the claimant on the

grounds of religion, race, nationality, membership in a particular social group, or political opinion. The subject matter of this training should be culturally sensitive and tailored to provide a nonbiased, nonadversarial atmosphere for the purpose of refugee adjudications.

(2) Guidelines for refugee-processing posts in establishing agreements with United States Government-designated refugee processing entities

The Attorney General and the Secretary of State shall develop and implement guidelines to ensure uniform procedures for establishing agreements with United States Government-designated refugee processing entities and personnel, and uniform procedures for such entities and personnel responsible for preparing refugee case files for use by the Immigration and Naturalization Service during refugee adjudications. These procedures should ensure, to the extent practicable, that case files prepared by such entities accurately reflect information provided by the refugee applicants and that genuine refugee applicants are not disadvantaged or denied refugee status due to faulty case file preparation.

(3) Guidelines for preventing persons with potential biases from participating in determinations

Not later than 120 days after November 29, 1999, the Secretary of State (after consultation with the Attorney General) shall issue guidelines to ensure that persons with potential biases against any refugee applicant, including persons employed by, or otherwise subject to influence by, governments known to be involved in persecution on account of religion, race, nationality, membership in a particular social group, or political opinion, shall not in any way be used in processing determinations of refugee status, including interpretation of conversations or examination of documents presented by such applicants.

(d) Annual consultation

The President shall include in each annual report on proposed refugee admissions under section 1157(d) of title 8 information about religious persecution of refugee populations eligible for consideration for admission to the United States. The Secretary of State shall include information on religious persecution of refugee populations in the formal testimony presented to the Committees on the Judiciary of the House of Representatives and the Senate during the consultation process under section 1157(e) of title 8.

(Pub. L. 105–292, title VI, §602, Oct. 27, 1998, 112 Stat. 2812; Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title II, §253], Nov. 29, 1999, 113 Stat. 1536, 1501A–432.)

CODIFICATION

Section is comprised of section 602 of Pub. L. 105–292. Subsec. (a) of section 602 of Pub. L. 105–292 amended section 1157 of Title 8, Aliens and Nationality. Subsec. (b) of section 602 of Pub. L. 105–292 amended section 4028 of this title.

AMENDMENTS

1999—Subsec. (c)(1). Pub. L. 106–113, §1000(a)(7) [div. A, title II, §253(a)], inserted "and of the Department of State" after "Service".

Subsec. (c)(3). Pub. L. 106–113, §1000(a)(7) [div. A, title II, §253(b)], added par. (3).

ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of Title 8, Aliens and Nationality.

§6473. Reform of asylum policy

(a) Guidelines

The Attorney General and the Secretary of State shall develop guidelines to ensure that persons with potential biases against individuals on the grounds of religion, race, nationality, membership in

a particular social group, or political opinion, including interpreters and personnel of airlines owned by governments known to be involved in practices which would meet the definition of persecution under international refugee law, shall not in any manner be used to interpret conversations between aliens and inspection or asylum officers.

(b) Training for asylum and immigration officers

The Attorney General, in consultation with the Secretary of State, the Ambassador at Large, and other relevant officials such as the Director of the George P. Shultz National Foreign Affairs Training Center, shall provide training to all officers adjudicating asylum cases, and to immigration officers performing duties under section 1225(b) of title 8, on the nature of religious persecution abroad, including country-specific conditions, instruction on the internationally recognized right to freedom of religion, instruction on methods of religious persecution practiced in foreign countries, and applicable distinctions within a country in the treatment of various religious practices and believers.

(c) Training for immigration judges

The Executive Office of Immigration Review of the Department of Justice shall incorporate into its initial and ongoing training of immigration judges training on the extent and nature of religious persecution internationally, including country-specific conditions, and including use of the Annual Report. Such training shall include governmental and nongovernmental methods of persecution employed, and differences in the treatment of religious groups by such persecuting entities.

(Pub. L. 105–292, title VI, §603, Oct. 27, 1998, 112 Stat. 2813; Pub. L. 107–132, §1(b), Jan. 16, 2002, 115 Stat. 2412.)

AMENDMENTS

2002—Subsec. (b). Pub. L. 107–132 substituted "George P. Shultz National Foreign Affairs Training Center" for "National Foreign Affairs Training Center".

ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of Title 8, Aliens and Nationality.

§6473a. Designated persons list for particularly severe violations of religious freedom

(a) List

(1) In general

The Secretary of State, in coordination with the Ambassador at Large and in consultation with relevant government and nongovernment experts, shall establish and maintain a list of foreign individuals to whom a consular post has denied a visa on the grounds of particularly severe violations of religious freedom under section 1182(a)(2)(G) of this title, or who are subject to financial sanctions or other measures for particularly severe violations of freedom religion.

(2) Reference

The list required under paragraph (1) shall be known as the "Designated Persons List for Particularly Severe Violations of Religious Freedom".

(b) Report

(1) In general

The Secretary of State shall submit a report to the appropriate congressional committees that contains the list required under subsection (a), including, with respect to each foreign individual on the list—

(A) the name of the individual and a description of the particularly severe violation of

religious freedom committed by the individual;

(B) the name of the country or other location in which such violation took place; and

(C) a description of the actions taken pursuant to this chapter or any other Act or Executive order in response to such violation.

(2) Submission and updates

The Secretary of State shall submit to the appropriate congressional committees—

(A) the initial report required under paragraph (1) not later than 180 days after December 16, 2016; and

(B) updates to the report every 180 days thereafter and as new information becomes available.

(3) Form

The report required under paragraph (1) should be submitted in unclassified form but may contain a classified annex.

(4) Definition

In this subsection, the term "appropriate congressional committees" means—

(A) the Committee on Foreign Relations of the Senate;

(B) the Committee on Appropriations of the Senate;

(C) the Committee on Banking, Housing, and Urban Affairs of the Senate;

(D) the Committee on Foreign Affairs of the House of Representatives;

(E) the Committee on Appropriations of the House of Representatives; and

(F) the Committee on Financial Services of the House of Representatives.

(Pub. L. 105–292, title VI, §605, as added Pub. L. 114–281, title V, §501(2), Dec. 16, 2016, 130 Stat. 1437.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b)(1)(C), was in the original "this Act", meaning Pub. L. 105–292, Oct. 27, 1998, 112 Stat. 2787, known as the International Religious Freedom Act of 1998, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 6401 of this title and Tables.

PRIOR PROVISIONS

A prior section 605 of Pub. L. 105–292 was renumbered section 606 and is classified to section 6474 of this title.

§6474. Studies on effect of expedited removal provisions on asylum claims

(a) Studies

(1) Commission request for participation by experts on refugee and asylum issues

If the Commission so requests, the Attorney General shall invite experts designated by the Commission, who are recognized for their expertise and knowledge of refugee and asylum issues, to conduct a study, in cooperation with the Comptroller General of the United States, to determine whether immigration officers described in paragraph (2) are engaging in any of the conduct described in such paragraph.

(2) Duties of Comptroller General

The Comptroller General of the United States shall conduct a study alone or, upon request by the Commission, in cooperation with experts designated by the Commission, to determine whether immigration officers performing duties under section 1225(b) of title 8 with respect to aliens who may be eligible to be granted asylum are engaging in any of the following conduct:

(A) Improperly encouraging such aliens to withdraw their applications for admission.

(B) Incorrectly failing to refer such aliens for an interview by an asylum officer for a

determination of whether they have a credible fear of persecution (within the meaning of section 1225(b)(1)(B)(v) of title 8).

(C) Incorrectly removing such aliens to a country where they may be persecuted.

(D) Detaining such aliens improperly or in inappropriate conditions.

(b) Reports

(1) Participation by experts

In the case of a Commission request under subsection (a), the experts designated by the Commission under that subsection may submit a report to the committees described in paragraph (2). Such report may be submitted with the Comptroller General's report under subsection (a)(2) or independently.

(2) Duties of Comptroller General

Not later than September 1, 2000, the Comptroller General of the United States shall submit to the Committees on the Judiciary of the House of Representatives and the Senate, the Committee on International Relations of the House of Representatives, and the Committee on Foreign Relations of the Senate a report containing the results of the study conducted under subsection (a)(2). If the Commission requests designated experts to participate with the Comptroller General in the preparation and submission of the report, the Comptroller General shall grant the request.

(c) Access to proceedings

(1) In general

Except as provided in paragraph (2), to facilitate the studies and reports, the Attorney General shall permit the Comptroller General of the United States and, in the case of a Commission request under subsection (a), the experts designated under subsection (a) to have unrestricted access to all stages of all proceedings conducted under section 1225(b) of title 8.

(2) Exceptions

Paragraph (1) shall not apply in cases in which the alien objects to such access, or the Attorney General determines that the security of a particular proceeding would be threatened by such access, so long as any restrictions on the access of experts designated by the Commission under subsection (a) do not contravene international law.

(Pub. L. 105–292, title VI, §606, formerly §605, Oct. 27, 1998, 112 Stat. 2814; renumbered §606, Pub. L. 114–281, title V, §501(1), Dec. 16, 2016, 130 Stat. 1437.)

CHANGE OF NAME

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

SUBCHAPTER V—MISCELLANEOUS PROVISIONS

§6481. Business codes of conduct

(a) Congressional finding

Congress recognizes the increasing importance of transnational corporations as global actors, and their potential for providing positive leadership in their host countries in the area of human rights.

(b) Sense of Congress

It is the sense of the Congress that transnational corporations operating overseas, particularly those corporations operating in countries the governments of which have engaged in or tolerated violations of religious freedom, as identified in the Annual Report, should adopt codes of conduct—

(1) upholding the right to freedom of religion of their employees; and

(2) ensuring that a worker's religious views and peaceful practices of belief in no way affect, or be allowed to affect, the status or terms of his or her employment.

(Pub. L. 105–292, title VII, §701, Oct. 27, 1998, 112 Stat. 2815.)

§6482. Voluntary codes of conduct for United States institutions of higher education outside the United States

(a) Finding

Congress recognizes the enduring importance of United States institutions of higher education worldwide—

(1) for their potential for shaping positive leadership and new educational models in host countries; and

(2) for their emphasis on teaching universally recognized rights of free inquiry and academic freedom.

(b) Sense of Congress

It is the sense of Congress that United States institutions of higher education operating campuses outside the United States or establishing any educational entities with foreign governments, particularly with or in countries the governments of which engage in or tolerate severe violations of religious freedom as identified in the Annual Report, should seek to adopt a voluntary code of conduct for operating in such countries that should—

(1) uphold the right of freedom of religion of their employees and students, including the right to manifest that religion peacefully as protected in international law;

(2) ensure that the religious views and peaceful practice of religion in no way affect, or be allowed to affect, the status of a worker's or faculty member's employment or a student's enrollment; and

(3) make every effort in all negotiations, contracts, or memoranda of understanding engaged in or constructed with a foreign government to protect academic freedom and the rights enshrined in the United Nations Declaration of Human Rights.

(Pub. L. 105–292, title VII, §702, as added Pub. L. 114–281, title VI, §601, Dec. 16, 2016, 130 Stat. 1438.)

§6483. Sense of Congress regarding national security strategy to promote religious freedom through United States foreign policy

It is the sense of Congress that the annual national security strategy report of the President required under section 3043 of title 50—

(1) should promote international religious freedom as a foreign policy and national security priority; and

(2) should articulate that promotion of the right to freedom of religion is a strategy that—

(A) protects other, related human rights, and advances democracy outside the United States; and

(B) makes clear its importance to United States foreign policy goals of stability, security, development, and diplomacy;

(3) should be a guide for the strategies and activities of relevant Federal agencies; and

(4) should inform the Department of Defense quadrennial defense review under section 118 [1] of title 10 and the Department of State Quadrennial Diplomacy and Development Review.

(Pub. L. 105–292, title VII, §703, as added Pub. L. 114–281, title VI, §601, Dec. 16, 2016, 130 Stat. 1439.)

REFERENCES IN TEXT

Section 118 of title 10, referred to in par. (4), was repealed by Pub. L. 114–328, div. A, title IX, §941(b)(1), Dec. 23, 2016, 130 Stat. 2367. For provisions related to national defense strategy similar to those contained in former section 118 prior to repeal, see section 113(g) of Title 10, Armed Forces.

[1] *See References in Text note below.*

CHAPTER 74—FOREIGN AFFAIRS AGENCIES CONSOLIDATION

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SUBCHAPTER I—GENERAL PROVISIONS

§6501. Purposes

The purposes of this chapter are—

(1) to strengthen—

(A) the coordination of United States foreign policy; and

(B) the leading role of the Secretary of State in the formulation and articulation of United States foreign policy;

(2) to consolidate and reinvigorate the foreign affairs functions of the United States within the Department of State by—

(A) abolishing the United States Arms Control and Disarmament Agency, the United States Information Agency, and the United States International Development Cooperation Agency, and transferring the functions of these agencies to the Department of State while preserving the special missions and skills of these agencies;

(B) transferring certain functions of the Agency for International Development to the Department of State; and

(C) providing for the reorganization of the Department of State to maximize the efficient use of resources, which may lead to budget savings, eliminated redundancy in functions, and improvement in the management of the Department of State;

(3) to ensure that programs critical to the promotion of United States national interests be maintained;

(4) to assist congressional efforts to balance the Federal budget and reduce the Federal debt;

(5) to ensure that the United States maintains effective representation abroad within budgetary restraints; and

(6) to encourage United States foreign affairs agencies to maintain a high percentage of the best qualified, most competent United States citizens serving in the United States Government.

(Pub. L. 105–277, div. G, subdiv. A, title XI, §1102, Oct. 21, 1998, 112 Stat. 2681–765.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this subdivision", meaning subdiv. A of div. G of Pub. L. 105–277, Oct. 21, 1998, 112 Stat. 2681–765, known as the Foreign Affairs Agencies Consolidation Act of 1998. For complete classification of this subdivision to the Code, see Short Title note below and Tables.

SHORT TITLE

Pub. L. 105–277, div. G, §1001, Oct. 21, 1998, 112 Stat. 2681–761, provided that: "This division [see

Tables for classification] may be cited as the 'Foreign Affairs Reform and Restructuring Act of 1998'."

Pub. L. 105–277, div. G, subdiv. A, title XI, §1101, Oct. 21, 1998, 112 Stat. 2681–765, provided that: "This subdivision [see Tables for classification] may be cited as the 'Foreign Affairs Agencies Consolidation Act of 1998'."

§6502. Definitions

In this chapter:

(1) ACDA

The term "ACDA" means the United States Arms Control and Disarmament Agency.

(2) AID

The term "AID" means the United States Agency for International Development.

(3) Agency; Federal agency

The term "agency" or "Federal agency" means an Executive agency as defined in section 105 of title 5.

(4) Appropriate congressional committees

The term "appropriate congressional committees" means the Committee on International Relations and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

(5) Covered agency

The term "covered agency" means any of the following agencies: ACDA, USIA, IDCA, and AID.

(6) Department

The term "Department" means the Department of State.

(7) Function

The term "function" means any duty, obligation, power, authority, responsibility, right, privilege, activity, or program.

(8) IDCA

The term "IDCA" means the United States International Development Cooperation Agency.

(9) Office

The term "office" includes any office, administration, agency, institute, unit, organizational entity, or component thereof.

(10) Secretary

The term "Secretary" means the Secretary of State.

(11) USIA

The term "USIA" means the United States Information Agency.

(Pub. L. 105–277, div. G, subdiv. A, title XI, §1103, Oct. 21, 1998, 112 Stat. 2681–766.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this subdivision", meaning subdiv. A of div. G of Pub. L. 105–277, Oct. 21, 1998, 112 Stat. 2681–765, known as the Foreign Affairs Agencies Consolidation Act of 1998. For complete classification of this subdivision to the Code, see Short Title note set out under section 6501 of this title and Tables.

CHANGE OF NAME

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§6503. Report on budgetary cost savings resulting from reorganization

The Secretary of State shall submit a report, together with the congressional presentation document for the budget of the Department of State for each of the fiscal years 2000 and 2001, to the appropriate congressional committees describing the total anticipated and achieved cost savings in budget outlays and budget authority related to the reorganization implemented under this chapter, including cost savings by each of the following categories:

(1) Reductions in personnel.

(2) Administrative consolidation, including procurement.

(3) Program consolidation.

(4) Consolidation of real properties and leases.

(Pub. L. 105–277, div. G, subdiv. A, title XI, §1104, Oct. 21, 1998, 112 Stat. 2681–767.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this subdivision", meaning subdiv. A of div. G of Pub. L. 105–277, Oct. 21, 1998, 112 Stat. 2681–765, known as the Foreign Affairs Agencies Consolidation Act of 1998. For complete classification of this subdivision to the Code, see Short Title note set out under section 6501 of this title and Tables.

SUBCHAPTER II—UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY

PART A—ABOLITION AND TRANSFER OF FUNCTIONS

§6511. Abolition of United States Arms Control and Disarmament Agency

The United States Arms Control and Disarmament Agency is abolished.

(Pub. L. 105–277, div. G, subdiv. A, title XII, §1211, Oct. 21, 1998, 112 Stat. 2681–767.)

EFFECTIVE DATE

Pub. L. 105–277, div. G, subdiv. A, title XII, §1201, Oct. 21, 1998, 112 Stat. 2681–767, provided that: "This title [see Tables for classification], and the amendments made by this title, shall take effect on the earlier of—

"(1) April 1, 1999; or

"(2) the date of abolition [Apr. 1, 1999] of the United States Arms Control and Disarmament Agency pursuant to the reorganization plan described in section 1601 [22 U.S.C. 6601]."

§6512. Transfer of functions to Secretary of State

There are transferred to the Secretary of State all functions of the Director of the United States Arms Control and Disarmament Agency, and all functions of the United States Arms Control and Disarmament Agency and any office or component of such agency, under any statute, reorganization plan, Executive order, or other provision of law, as of the day before the effective date of this subchapter.

(Pub. L. 105–277, div. G, subdiv. A, title XII, §1212, Oct. 21, 1998, 112 Stat. 2681–767.)

REFERENCES IN TEXT

For the effective date of this subchapter, referred to in text, meaning the effective date of title XII of subdiv. A of div. G of Pub. L. 105–277, see section 1201 of Pub. L. 105–277, set out as a note under section 6511 of

this title.

PART B—MISCELLANEOUS PROVISIONS

§6521. References

Except as otherwise provided in section 1223 or 1225, any reference in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding to—

(1) the Director of the United States Arms Control and Disarmament Agency, the Director of the Arms Control and Disarmament Agency, or any other officer or employee of the United States Arms Control and Disarmament Agency or the Arms Control and Disarmament Agency shall be deemed to refer to the Secretary of State; or

(2) the United States Arms Control and Disarmament Agency or the Arms Control and Disarmament Agency shall be deemed to refer to the Department of State.

(Pub. L. 105–277, div. G, subdiv. A, title XII, §1221, Oct. 21, 1998, 112 Stat. 2681–768.)

REFERENCES IN TEXT

Section 1223, referred to in text, is section 1223 of title XII of subdiv. A of div. G of Pub. L. 105–277, which amended sections 2551, 2552, 2567, 2568, 2571 to 2574, 2576, 2577, 2578, 2579, 2581, 2584, 2593a, 2593b, 2595, 2595a, 2595b–1, and 2595c of this title.

Section 1225, referred to in text, is section 1225 of title XII of subdiv. A of div. G of Pub. L. 105–277, which amended sections 2321d, 2695, 2776, 2778, 2791, 2797, 2797b, 3203, 3222, 3282, 4605, and 4606 of this title, section 194a of Title 2, The Congress, sections 2077, 2139, 2139a, 2141, 2153, 2155, 2156a, 2160, and 2160a of Title 42, The Public Health and Welfare, and section 40118 of Title 49, Transportation.

SUBCHAPTER III—UNITED STATES INFORMATION AGENCY

PART A—ABOLITION AND TRANSFER OF FUNCTIONS

§6531. Abolition of United States Information Agency

The United States Information Agency (other than the Broadcasting Board of Governors and the International Broadcasting Bureau) is abolished.

(Pub. L. 105–277, div. G, subdiv. A, title XIII, §1311, Oct. 21, 1998, 112 Stat. 2681–776.)

EFFECTIVE DATE

Pub. L. 105–277, div. G, subdiv. A, title XIII, §1301, Oct. 21, 1998, 112 Stat. 2681–776, provided that: "This title [see Tables for classification], and the amendments made by this title, shall take effect on the earlier of—

"(1) October 1, 1999; or

"(2) the date of abolition [Oct. 1, 1999] of the United States Information Agency pursuant to the reorganization plan described in section 1601 [22 U.S.C. 6601]."

§6532. Transfer of functions

(a) In general

There are transferred to the Secretary of State all functions of the Director of the United States Information Agency and all functions of the United States Information Agency and any office or component of such agency, under any statute, reorganization plan, Executive order, or other provision of law, as of the day before the effective date of this subchapter.

(b) Exception

Subsection (a) does not apply to the Broadcasting Board of Governors, the International Broadcasting Bureau, or any function performed by the Board or the Bureau.

(Pub. L. 105–277, div. G, subdiv. A, title XIII, §1312, Oct. 21, 1998, 112 Stat. 2681–776.)

REFERENCES IN TEXT

For the effective date of this subchapter, referred to in subsec. (a), meaning the effective date of title XIII of subdiv. A of div. G of Pub. L. 105–277, see section 1301 of Pub. L. 105–277, set out as a note under section 6531 of this title.

§6533. Abolition of Office of Inspector General of United States Information Agency and transfer of functions

(a) Abolition of Office

The Office of Inspector General of the United States Information Agency is abolished.

(b) to (d) Omitted

(e) Transfer of functions

There are transferred to the Office of the Inspector General of the Department of State and the Foreign Service the functions that the Office of Inspector General of the United States Information Agency exercised before the effective date of this subchapter (including all related functions of the Inspector General of the United States Information Agency).

(Pub. L. 105–277, div. G, subdiv. A, title XIII, §1314, Oct. 21, 1998, 112 Stat. 2681–776.)

REFERENCES IN TEXT

For the effective date of this subchapter, referred to in subsec. (e), meaning the effective date of title XIII of subdiv. A of div. G of Pub. L. 105–277, see section 1301 of Pub. L. 105–277, set out as a note under section 6531 of this title.

CODIFICATION

Section is comprised of section 1314 of Pub. L. 105–277. Subsec. (b) of section 1314 of Pub. L. 105–277 amended section 11 of the Inspector General Act of 1978, set out in the Appendix to Title 5, Government Organization and Employees, and subsecs. (c) and (d) of section 1314 of Pub. L. 105–277 amended section 5315 of Title 5 and section 6207 of this title, respectively.

PART B—INTERNATIONAL BROADCASTING

§6541. Congressional findings and declaration of purpose

Congress finds that—

(1) it is the policy of the United States to promote the right of freedom of opinion and expression, including the freedom "to seek, receive, and impart information and ideas through any media and regardless of frontiers", in accordance with Article 19 of the Universal Declaration of Human Rights;

(2) open communication of information and ideas among the peoples of the world contributes to international peace and stability, and the promotion of such communication is in the interests of

the United States;

(3) it is in the interest of the United States to support broadcasting to other nations consistent with the requirements of this part and the United States International Broadcasting Act of 1994 [22 U.S.C. 6201 et seq.]; and

(4) international broadcasting is, and should remain, an essential instrument of United States foreign policy.

(Pub. L. 105–277, div. G, subdiv. A, title XIII, §1321, Oct. 21, 1998, 112 Stat. 2681–777.)

REFERENCES IN TEXT

This part, referred to in par. (3), was in the original "this chapter", meaning chapter 3 (§§1321–1328) of title XIII of subdiv. A of div. G of Pub. L. 105–277, Oct. 21, 1998, 112 Stat. 2681–777. For complete classification of chapter 3 to the Code, see Tables.

The United States International Broadcasting Act of 1994, referred to in par. (3), is title III of Pub. L. 103–236, Apr. 30, 1994, 108 Stat. 432, as amended, which is classified principally to chapter 71 (§6201 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6201 of this title and Tables.

§6542. Transfer of broadcasting related funds, property, and personnel

(a) Transfer and allocation of property and appropriations

(1) In general

The assets, liabilities (including contingent liabilities arising from suits continued with a substitution or addition of parties under section 6543(d) of this title), contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available in connection with the functions and offices of USIA transferred to the Broadcasting Board of Governors by this part shall be transferred to the Broadcasting Board of Governors for appropriate allocation.

(2) Additional transfers

In addition to the transfers made under paragraph (1), there shall be transferred to the Chairman of the Broadcasting Board of Governors the assets, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds, as determined by the Secretary, in concurrence with the Broadcasting Board of Governors, to support the functions transferred by this part.

(b) Transfer of personnel

Notwithstanding any other provision of law—

(1) except as provided in subsection (c), all personnel and positions of USIA employed or maintained to carry out the functions transferred by this part to the Broadcasting Board of Governors shall be transferred to the Broadcasting Board of Governors at the same grade or class and the same rate of basic pay or basic salary rate and with the same tenure held immediately preceding transfer; and

(2) the personnel and positions of USIA, as determined by the Secretary of State, with the concurrence of the Broadcasting Board of Governors and the Director of USIA, to support the functions transferred by this part shall be transferred to the Broadcasting Board of Governors, including the International Broadcasting Bureau, at the same grade or class and the same rate of basic pay or basic salary rate and with the same tenure held immediately preceding transfer.

(c) Transfer and allocation of property, appropriations, and personnel associated with Worldnet

USIA personnel responsible for carrying out interactive dialogs with foreign media and other similar overseas public diplomacy programs using the Worldnet television broadcasting system, and funds associated with such personnel, shall be transferred to the Department of State in accordance with the provisions of subchapter VI of this chapter.

(d) Incidental transfers

The Director of the Office of Management and Budget, when requested by the Broadcasting Board of Governors, is authorized to make such incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with functions and offices transferred from USIA, as may be necessary to carry out the provisions of this section.

(Pub. L. 105–277, div. G, subdiv. A, title XIII, §1326, Oct. 21, 1998, 112 Stat. 2681–782.)

REFERENCES IN TEXT

This part, referred to in subsecs. (a) and (b), was in the original "this chapter", meaning chapter 3 (§§1321–1328) of title XIII of subdiv. A of div. G of Pub. L. 105–277, Oct. 21, 1998, 112 Stat. 2681–777. For complete classification of chapter 3 to the Code, see Tables.

§6543. Savings provisions

(a) Continuing legal force and effect

All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, registrations, privileges, and other administrative actions—

(1) that have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official thereof, or by a court of competent jurisdiction, in the performance of functions exercised by the Broadcasting Board of Governors of the United States Information Agency on the day before the effective date of this subchapter, and

(2) that are in effect at the time this subchapter takes effect, or were final before the effective date of this subchapter and are to become effective on or after the effective date of this subchapter,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Broadcasting Board of Governors, or other authorized official, a court of competent jurisdiction, or by operation of law.

(b) Pending proceedings

(1) In general

The provisions of this part, or amendments made by this part, shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending before the Broadcasting Board of Governors of the United States Information Agency at the time this subchapter takes effect, with respect to functions exercised by the Board as of the effective date of this subchapter but such proceedings and applications shall be continued.

(2) Orders, appeals, and payments

Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this part had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law.

(3) Statutory construction

Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this part had not been enacted.

(c) Nonabatement of proceedings

No suit, action, or other proceeding commenced by or against any officer in the official capacity of such individual as an officer of the Broadcasting Board of Governors, or any commission or

component thereof, shall abate by reason of the enactment of this part. No cause of action by or against the Broadcasting Board of Governors, or any commission or component thereof, or by or against any officer thereof in the official capacity of such officer, shall abate by reason of the enactment of this part.

(d) Continuation of proceedings with substitution of parties

(1) Substitution of parties

If, before the effective date of this subchapter, USIA or the Broadcasting Board of Governors, or any officer thereof in the official capacity of such officer, is a party to a suit which is related to the functions transferred by this part, then effective on such date such suit shall be continued with the Broadcasting Board of Governors or other appropriate official of the Board substituted or added as a party.

(2) Liability of the Board

The Board shall participate in suits continued under paragraph (1) where the Broadcasting Board of Governors or other appropriate official of the Board is added as a party and shall be liable for any judgments or remedies in those suits or proceedings arising from the exercise of the functions transferred by this part to the same extent that USIA would have been liable if such judgment or remedy had been rendered on the day before the abolition of USIA.

(e) Administrative actions relating to promulgation of regulations

Any administrative action relating to the preparation or promulgation of a regulation by the Broadcasting Board of Governors relating to a function exercised by the Board before the effective date of this subchapter may be continued by the Board with the same effect as if this part had not been enacted.

(f) References

Reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or relating to the Broadcasting Board of Governors of the United States Information Agency with regard to functions exercised before the effective date of this subchapter, shall be deemed to refer to the Board.

(Pub. L. 105–277, div. G, subdiv. A, title XIII, §1327, Oct. 21, 1998, 112 Stat. 2681–783.)

REFERENCES IN TEXT

For the effective date of this subchapter, referred to in subsecs. (a), (b)(1), (d)(1), (e), and (f), meaning the effective date of title XIII of subdiv. A of div. G of Pub. L. 105–277, see section 1301 of Pub. L. 105–277, set out as a note under section 6531 of this title.

This part, referred to in subsecs. (b) to (e), was in the original "this chapter", meaning chapter 3 (§§1321–1328) of title XIII of subdiv. A of div. G of Pub. L. 105–277, Oct. 21, 1998, 112 Stat. 2681–777. For complete classification of chapter 3 to the Code, see Tables.

§6544. Report on privatization of RFE/RL, Incorporated

Not later than March 1 of each year, the Broadcasting Board of Governors shall submit to the appropriate congressional committees a report on the progress of the Board and of RFE/RL, Incorporated, on any steps taken to further the policy declared in section 6211(a) of this title. The report under this subsection shall include the following:

(1) Efforts by RFE/RL, Incorporated, to terminate individual language services.

(2) A detailed description of steps taken with regard to section 6211(a) of this title.

(3) An analysis of prospects for privatization over the coming year.

(4) An assessment of the extent to which United States Government funding may be appropriate in the year 2000 and subsequent years for surrogate broadcasting to the countries to which RFE/RL, Incorporated, broadcast during the year. This assessment shall include an analysis of the environment for independent media in those countries, noting the extent of government control of the media, the ability of independent journalists and news organizations to operate, relevant

domestic legislation, level of government harassment and efforts to censor, and other indications of whether the people of such countries enjoy freedom of expression.

(Pub. L. 105–277, div. G, subdiv. A, title XIII, §1328, Oct. 21, 1998, 112 Stat. 2681–784.)

PART C—CONFORMING AMENDMENTS

§6551. References

(a) In general

Except as otherwise provided in this chapter, any reference in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding to—

(1) the Director of the United States Information Agency or the Director of the International Communication Agency shall be deemed to refer to the Secretary of State; and

(2) the United States Information Agency, USIA, or the International Communication Agency shall be deemed to refer to the Department of State.

(b) Continuing references to USIA or Director

Subsection (a) shall not apply to section 4069a(f), 4069b(g), or 4069c(f) of this title.

(Pub. L. 105–277, div. G, subdiv. A, title XIII, §1331, Oct. 21, 1998, 112 Stat. 2681–785.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this subdivision", meaning subdiv. A of div. G of Pub. L. 105–277, Oct. 21, 1998, 112 Stat. 2681–765, known as the Foreign Affairs Agencies Consolidation Act of 1998. For complete classification of this subdivision to the Code, see Short Title note set out under section 6501 of this title and Tables.

Section 4069a(f), 4069b(g), or 4069c(f) of this title, referred to in subsec. (b), was in the original "section 146(a), (b), or (c) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991" meaning section 146(a), (b), (c) of Pub. L. 101–246, title I, Feb. 16, 1990, 104 Stat. 37, which amended sections 830, 831, and 832, respectively, of the Foreign Service Act of 1980, by adding subsecs. (f), (g), and (f), respectively, to those sections which are classified to sections 4069a(f), 4069b(g), and 4069c(f) of this title.

§6552. Application of certain laws

(a) Application to functions of Department of State

Section 1461 of this title, section 1461–1 of this title, and section 1461–1a of this title shall not apply to public affairs and other information dissemination functions of the Secretary of State as carried out prior to any transfer of functions pursuant to this chapter.

(b) Application to functions transferred to Department of State

Section 1461 of this title, section 1461–1 of this title, and section 1461–1a of this title shall apply only to public diplomacy programs of the Director of the United States Information Agency as carried out prior to any transfer of functions pursuant to this chapter to the same extent that such programs were covered by these provisions prior to such transfer.

(c) Limitation on use of funds

(1) Except as provided in section 1461 of this title and section 1461–1a of this title, funds specifically authorized to be appropriated for such public diplomacy programs, identified as public diplomacy funds in any Congressional Presentation Document described in subsection (e), or reprogrammed for public diplomacy purposes, shall not be used to influence public opinion in the United States, and no program material prepared using such funds shall be distributed or disseminated in the United States.

(2) CONSTRUCTION.—Nothing in paragraph (1) may be construed (A) to interfere with the integration of administrative resources between public diplomacy and other functions of the Department of State or to prevent the occasional performance of functions other than public diplomacy by officials or employees of the Department of State who are primarily assigned to public diplomacy, provided there is no substantial resulting diminution in the amount of resources devoted to public diplomacy below the amounts described in paragraph (1), or (B) to supersede reprogramming procedures.

(d) Reporting requirements

The report submitted pursuant to section 6601(f) of this title shall include a detailed statement of the manner in which the special mission of public diplomacy carried out by USIA prior to the transfer of functions under this chapter shall be preserved within the Department of State, including the planned duties and responsibilities of any new bureaus that will perform such public diplomacy functions. Such report shall also include the best available estimates of—

(1) the amounts expended by the Department of State for public affairs programs during fiscal year 1998, and on the personnel and support costs for such programs;

(2) the amounts expended by USIA for its public diplomacy programs during fiscal year 1998, and on the personnel and support costs for such programs; and

(3) the amounts, including funds to be transferred from USIA and funds appropriated to the Department, that will be allocated for the programs described in paragraphs (1) and (2), respectively, during the fiscal year in which the transfer of functions from USIA to the Department occurs.

(e) Congressional Presentation Document

The Department of State's Congressional Presentation Document for fiscal year 2000 and each fiscal year thereafter shall include—

(1) the aggregated amounts that the Department will spend on such public diplomacy programs and on costs of personnel for such programs, and a detailed description of the goals and purposes for which such funds shall be expended; and

(2) the amount of funds allocated to and the positions authorized for such public diplomacy programs, including bureaus to be created upon the transfer of functions from USIA to the Department.

(Pub. L. 105–277, div. G, subdiv. A, title XIII, §1333, Oct. 21, 1998, 112 Stat. 2681–785; Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title III, §304], Nov. 29, 1999, 113 Stat. 1536, 1501A–434.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a), (b), and (d), was in the original "this subdivision", meaning subdiv. A of div. G of Pub. L. 105–277, Oct. 21, 1998, 112 Stat. 2681–765, known as the Foreign Affairs Agencies Consolidation Act of 1998. For complete classification of this subdivision to the Code, see Short Title note set out under section 6501 of this title and Tables.

AMENDMENTS

1999—Subsec. (c). Pub. L. 106–113 designated existing provisions as par. (1), inserted ", identified as public diplomacy funds in any Congressional Presentation Document described in subsection (e), or reprogrammed for public diplomacy purposes," after "diplomacy programs", and added par. (2).

§6553. Sunset of United States Advisory Commission on Public Diplomacy

The United States Advisory Commission on Public Diplomacy, established under section 1469 of this title and section 8 of Reorganization Plan Numbered 2 of 1977, shall continue to exist and operate under such provisions of law until October 1, 2020.

(Pub. L. 105–277, div. G, subdiv. A, title XIII, §1334, Oct. 21, 1998, 112 Stat. 2681–786; Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title IV, §404(a)], Nov. 29, 1999, 113 Stat. 1536, 1501A–446; Pub. L. 107–77, title IV, §407(a), Nov. 28, 2001, 115 Stat. 790; Pub. L. 109–108, title IV, §410,

Nov. 22, 2005, 119 Stat. 2327; Pub. L. 110–21, §1, May 2, 2007, 121 Stat. 87; Pub. L. 111–70, §1, Oct. 9, 2009, 123 Stat. 2057; Pub. L. 112–239, div. A, title XII, §1280(d)(1), Jan. 2, 2013, 126 Stat. 2033; Pub. L. 114–323, title VII, §702(a), Dec. 16, 2016, 130 Stat. 1940.)

REFERENCES IN TEXT

Section 8 of Reorganization Plan Numbered 2 of 1977, referred to in text, is set out as a note under section 1461 of this title and in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

2016—Pub. L. 114–323 substituted "October 1, 2020" for "October 1, 2015".
2013—Pub. L. 112–239 substituted "October 1, 2015" for "October 1, 2010".
2009—Pub. L. 111–70 substituted "October 1, 2010" for "October 1, 2009".
2007—Pub. L. 110–21 substituted "October 1, 2009" for "October 1, 2006".
2005—Pub. L. 109–108 substituted "October 1, 2006" for "October 1, 2005".
2001—Pub. L. 107–77 substituted "October 1, 2005" for "October 1, 2001".
1999—Pub. L. 106–113 amended section catchline and text generally, substituting present provisions for provisions which had abolished the United States Advisory Commission on Public Diplomacy, repealed section 1469 of this title, and amended Reorganization Plan No. 2 of 1977.

EFFECTIVE DATE OF 2016 AMENDMENT

Pub. L. 114–323, title VII, §702(b), Dec. 16, 2016, 130 Stat. 1940, provided that: "The amendment made by subsection (a) [amending this section] shall take effect as of October 1, 2016. Any lapse in powers, authorities, or responsibilities of the United States Advisory Commission on Public Diplomacy from the period beginning on October 1, 2016, and ending on the date of the enactment of this Act [Dec. 16, 2016], shall be deemed to have not so lapsed."

EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 112–239, div. A, title XII, §1280(d)(2), Jan. 2, 2013, 126 Stat. 2033, provided that: "The amendment made by paragraph (1) [amending this section] shall take effect on October 1, 2010."

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107–77, title IV, §407(b), Nov. 28, 2001, 115 Stat. 790, provided that: "The amendment made by subsection (a) [amending this section] shall take effect as if included in the enactment of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 [H.R. 3427, as enacted by Pub. L. 106-113, div. B, §1000(a)(7)]."

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title IV, §404(b)], Nov. 29, 1999, 113 Stat. 1536, 1501A–447, provided that: "The amendment made by subsection (a) [amending this section] shall take effect as if included in the enactment of the Foreign Affairs Reform and Restructuring Act of 1998 [Pub. L. 105–277, div. G, see Short Title note set out under section 6501 of this title]."

CONTINUATION OF UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY

Pub. L. 114–113, div. K, title VII, §7034(k)(12), Dec. 18, 2015, 129 Stat. 2766, provided that: "Section 1334 of the Foreign Affairs Reform and Restructuring Act of 1998 (22 U.S.C. 6553) shall be applied by substituting 'September 30, 2016' for 'October 1, 2015'."

SUBCHAPTER IV—UNITED STATES INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

PART A—ABOLITION AND TRANSFER OF FUNCTIONS

§6561. Abolition of United States International Development Cooperation Agency

(a) In general

Except for the components specified in subsection (b), the United States International Development Cooperation Agency (including the Institute for Scientific and Technological Cooperation) is abolished.

(b) AID and OPIC exempted

Subsection (a) does not apply to the Agency for International Development or the Overseas Private Investment Corporation.

(Pub. L. 105–277, div. G, subdiv. A, title XIV, §1411, Oct. 21, 1998, 112 Stat. 2681–790.)

EFFECTIVE DATE

Pub. L. 105–277, div. G, subdiv. A, title XIV, §1401, Oct. 21, 1998, 112 Stat. 2681–790, provided that: "This title [see Tables for classification], and the amendments made by this title, shall take effect on the earlier of—

"(1) April 1, 1999; or

"(2) the date of abolition [Apr. 1, 1999] of the United States International Development Cooperation Agency pursuant to the reorganization plan described in section 1601 [22 U.S.C. 6601]."

§6562. Transfer of functions and authorities

(a) Allocation of funds

(1) Allocation to the Secretary of State

Funds made available under the categories of assistance deemed allocated to the Director of the International Development Cooperation Agency under section 1–801 of Executive Order No. 12163 (22 U.S.C. 2381 note) as of October 1, 1997, shall be allocated to the Secretary of State on and after the effective date of this subchapter without further action by the President.

(2) Procedures for reallocations or transfers

The Secretary of State may allocate or transfer as appropriate any funds received under paragraph (1) in the same manner as previously provided for the Director of the International Development Cooperation Agency under section 1–802 of that Executive Order, as in effect on October 1, 1997.

(b) With respect to Overseas Private Investment Corporation

There are transferred to the Administrator of the Agency for International Development all functions of the Director of the United States International Development Cooperation Agency as of the day before the effective date of this subchapter with respect to the Overseas Private Investment Corporation.

(c) Other activities

The authorities and functions transferred to the United States International Development Cooperation Agency or the Director of that Agency by section 6 of Reorganization Plan Numbered 2 of 1979 shall, to the extent such authorities and functions have not been repealed, be transferred to those agencies or heads of agencies, as the case may be, in which those authorities and functions were vested by statute as of the day before the effective date of such reorganization plan.

(Pub. L. 105–277, div. G, subdiv. A, title XIV, §1412, Oct. 21, 1998, 112 Stat. 2681–790.)

REFERENCES IN TEXT

Executive Order No. 12163, referred to in subsec. (a), is Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, which is set out as a note under section 2381 of this title. Section 1–801 of Ex. Ord. No. 12163 was deleted in the general amendment of Part 1–8 of Ex. Ord. No. 12163 by Ex. Ord. No. 13118, §8,

Mar. 31, 1999, 64 F.R. 16597.

For the effective date of this subchapter, referred to in subsecs. (a)(1) and (b), meaning the effective date of title XIV of subdiv. A of div. G of Pub. L. 105–277, see section 1401 of Pub. L. 105–277, set out as a note under section 6561 of this title.

Reorganization Plan Numbered 2 of 1979, referred to in subsec. (c), is Reorg. Plan No. 2 of 1979, 44 F.R. 41165, 93 Stat. 1378, effective Oct. 1, 1979, pursuant to Ex. Ord. No. 12163, which was set out as a note under section 2381 of this title, prior to repeal by Pub. L. 105–277, div. G, subdiv. A, title XIV, §§1401, 1422(a)(1), Oct. 21, 1998, 112 Stat. 2681–790, 2681–792.

§6563. Status of AID

(a) In general

Unless abolished pursuant to the reorganization plan submitted under section 6601 of this title, and except as provided in section 6562 of this title, there is within the Executive branch of Government the United States Agency for International Development as an entity described in section 104 of title 5.

(b) Retention of officers

Nothing in this section shall require the reappointment of any officer of the United States serving in the Agency for International Development of the United States International Development Cooperation Agency as of the day before the effective date of this subchapter.

(Pub. L. 105–277, div. G, subdiv. A, title XIV, §1413, Oct. 21, 1998, 112 Stat. 2681–791.)

REFERENCES IN TEXT

For the effective date of this subchapter, referred to in subsec. (b), meaning the effective date of title XIV of subdiv. A of div. G of Pub. L. 105–277, see section 1401 of Pub. L. 105–277, set out as a note under section 6561 of this title.

PART B—MISCELLANEOUS PROVISIONS

§6571. References

Except as otherwise provided in this chapter, any reference in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding to the United States International Development Cooperation Agency (IDCA) or to the Director or any other officer or employee of IDCA—

(1) insofar as such reference relates to any function or authority transferred under section 6562(a) of this title, shall be deemed to refer to the Secretary of State;

(2) insofar as such reference relates to any function or authority transferred under section 6562(b) of this title, shall be deemed to refer to the Administrator of the Agency for International Development;

(3) insofar as such reference relates to any function or authority transferred under section 6562(c) of this title, shall be deemed to refer to the head of the agency to which such function or authority is transferred under such section; and

(4) insofar as such reference relates to any function or authority not transferred by this subchapter, shall be deemed to refer to the President or such agency or agencies as may be specified by Executive order.

(Pub. L. 105–277, div. G, subdiv. A, title XIV, §1421, Oct. 21, 1998, 112 Stat. 2681–791.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this subdivision", meaning subdiv. A of div. G of Pub.

L. 105–277, Oct. 21, 1998, 112 Stat. 2681–765, known as the Foreign Affairs Agencies Consolidation Act of 1998. For complete classification of this subdivision to the Code, see Short Title note set out under section 6501 of this title and Tables.

This subchapter, referred to in par. (4), was in the original "this title", meaning title XIV of subdiv. A of div. G of Pub. L. 105–277, Oct. 21, 1998, 112 Stat. 2681–790. For complete classification of title XIV to the Code, see Tables.

SUBCHAPTER V—AGENCY FOR INTERNATIONAL DEVELOPMENT

PART A—REORGANIZATION AND TRANSFER OF FUNCTIONS

§6581. Reorganization of Agency for International Development

(a) In general

The Agency for International Development shall be reorganized in accordance with this chapter and the reorganization plan transmitted pursuant to section 6601 of this title.

(b) Functions to be transferred

The reorganization of the Agency for International Development shall provide, at a minimum, for the transfer to and consolidation with the Department of State of the following functions of AID:

(1) The Press office.

(2) Certain administrative functions.

(Pub. L. 105–277, div. G, subdiv. A, title XV, §1511, Oct. 21, 1998, 112 Stat. 2681–793.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this subdivision", meaning subdiv. A of div. G of Pub. L. 105–277, Oct. 21, 1998, 112 Stat. 2681–765, known as the Foreign Affairs Agencies Consolidation Act of 1998. For complete classification of this subdivision to the Code, see Short Title note set out under section 6501 of this title and Tables.

EFFECTIVE DATE

Pub. L. 105–277, div. G, subdiv. A, title XV, §1501, Oct. 21, 1998, 112 Stat. 2681–793, provided that: "This title [enacting this subchapter], and the amendments made by this title, shall take effect on the earlier of—

"(1) April 1, 1999; or

"(2) the date of reorganization [Apr. 1, 1999] of the Agency for International Development pursuant to the reorganization plan described in section 1601 [22 U.S.C. 6601]."

PART B—AUTHORITIES OF SECRETARY OF STATE

§6591. "United States assistance" defined

In this part, the term "United States assistance" means development and other economic assistance, including assistance made available under the following provisions of law:

(1) Chapter 1 of part I of the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.] (relating to development assistance).

(2) Chapter 4 of part II of the Foreign Assistance Act of 1961 [22 U.S.C. 2346 et seq.] (relating to the economic support fund).

(3) Chapter 10 of part I of the Foreign Assistance Act of 1961 [22 U.S.C. 2293 et seq.] (relating to the Development Fund for Africa).

(4) Chapter 11 of part I of the Foreign Assistance Act of 1961 [22 U.S.C. 2295 et seq.] (relating to assistance for the independent states of the former Soviet Union).

(5) The Support for East European Democracy Act (22 U.S.C. 5401 et seq.).

(Pub. L. 105–277, div. G, subdiv. A, title XV, §1521, Oct. 21, 1998, 112 Stat. 2681–794.)

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in pars. (1) to (4), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended. Chapters 1, 10, and 11 of part I of the Act are classified generally to parts I (§2151 et seq.), X (§2293 et seq.), and XI (§2295 et seq.), respectively, of subchapter I of chapter 32 of this title. Chapter 4 of part II of the Act is classified generally to part IV (§2346 et seq.) of subchapter II of chapter 32 of this title. For provisions deeming references to part I of subchapter I to include a reference to section 2293 of this title, see section 2293(d)(1) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

The Support for East European Democracy Act, referred to in par. (5), probably means the Support for East European Democracy (SEED) Act of 1989, Pub. L. 101–179, Nov. 28, 1989, 103 Stat. 1298, as amended, which is classified principally to chapter 63 (§5401 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5401 of this title and Tables.

§6592. Administrator of AID reporting to Secretary of State

The Administrator of the Agency for International Development, appointed pursuant to section 2384(a) of this title, shall report to and be under the direct authority and foreign policy guidance of the Secretary of State.

(Pub. L. 105–277, div. G, subdiv. A, title XV, §1522, Oct. 21, 1998, 112 Stat. 2681–794.)

§6593. Assistance programs coordination and oversight

(a) Authority of Secretary of State

(1) In general

Under the direction of the President, the Secretary of State shall coordinate all United States assistance in accordance with this section, except as provided in paragraphs (2) and (3).

(2) Export promotion activities

Coordination of activities relating to promotion of exports of United States goods and services shall continue to be primarily the responsibility of the Secretary of Commerce.

(3) International economic activities

Coordination of activities relating to United States participation in international financial institutions and relating to organization of multilateral efforts aimed at currency stabilization, currency convertibility, debt reduction, and comprehensive economic reform programs shall continue to be primarily the responsibility of the Secretary of the Treasury.

(4) Authorities and powers of the Secretary of State

The powers and authorities of the Secretary provided in this part are in addition to the powers and authorities provided to the Secretary under any other Act, including section 101(b) and section 622(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151(b), 2382(c)).

(b) Coordination activities

Coordination activities of the Secretary of State under subsection (a) shall include—

(1) approving an overall assistance and economic cooperation strategy;

(2) ensuring program and policy coordination among agencies of the United States Government in carrying out the policies set forth in the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et

seq.], the Arms Export Control Act [22 U.S.C. 2751 et seq.], and other relevant assistance Acts;

(3) pursuing coordination with other countries and international organizations; and

(4) resolving policy, program, and funding disputes among United States Government agencies.

(c) Statutory construction

Nothing in this section may be construed to lessen the accountability of any Federal agency administering any program, project, or activity of United States assistance for any funds made available to the Federal agency for that purpose.

(d) Authority to provide personnel of Agency for International Development

The Administrator of the Agency for International Development is authorized to detail to the Department of State on a nonreimbursable basis such personnel employed by the Agency as the Secretary of State may require to carry out this section.

(Pub. L. 105–277, div. G, subdiv. A, title XV, §1523, Oct. 21, 1998, 112 Stat. 2681–794.)

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsec. (b)(2), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, which is classified principally to chapter 32 (§2151 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

The Arms Export Control Act, referred to in subsec. (b)(2), is Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1320, as amended, which is classified principally to chapter 39 (§2751 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

SUBCHAPTER VI—TRANSITION

PART A—REORGANIZATION PLAN

§6601. Reorganization plan and report

(a) Submission of plan and report

Not later than 60 days after October 21, 1998, the President shall transmit to the appropriate congressional committees a reorganization plan and report regarding—

(1) the abolition of the United States Arms Control and Disarmament Agency, the United States Information Agency, and the United States International Development Cooperation Agency in accordance with this chapter;

(2) with respect to the Agency for International Development, the consolidation and streamlining of the Agency and the transfer of certain functions of the Agency to the Department in accordance with section 6581 of this title;

(3) the termination of functions of each covered agency as may be necessary to effectuate the reorganization under this chapter, and the termination of the affairs of each agency abolished under this chapter;

(4) the transfer to the Department of the functions and personnel of each covered agency consistent with the provisions of this chapter; and

(5) the consolidation, reorganization, and streamlining of the Department in connection with the transfer of such functions and personnel in order to carry out such functions.

(b) Covered agencies

The agencies covered by this section are the following:

(1) The United States Arms Control and Disarmament Agency.

(2) The United States Information Agency.

(3) The United States International Development Cooperation Agency.
(4) The Agency for International Development.

(c) Plan elements

The plan transmitted under subsection (a) shall contain, consistent with this chapter, such elements as the President deems appropriate, including elements that—

(1) identify the functions of each covered agency that will be transferred to the Department under the plan;

(2) specify the steps to be taken by the Secretary of State to reorganize internally the functions of the Department, including the consolidation of offices and functions, that will be required under the plan in order to permit the Department to carry out the functions transferred to it under the plan;

(3) specify the funds available to each covered agency that will be transferred to the Department as a result of the transfer of functions of such agency to the Department;

(4) specify the proposed allocations within the Department of unexpended funds transferred in connection with the transfer of functions under the plan; and

(5) specify the proposed disposition of the property, facilities, contracts, records, and other assets and liabilities of each covered agency in connection with the transfer of the functions of such agency to the Department.

(d) Reorganization plan of Agency for International Development

In addition to applicable provisions of subsection (c), the reorganization plan transmitted under this section for the Agency for International Development—

(1) may provide for the abolition of the Agency for International Development and the transfer of all its functions to the Department of State; or

(2) in lieu of the abolition and transfer of functions under paragraph (1)—

(A) shall provide for the transfer to and consolidation within the Department of the functions set forth in section 6581 of this title; and

(B) may provide for additional consolidation, reorganization, and streamlining of AID, including—

(i) the termination of functions and reductions in personnel of AID;

(ii) the transfer of functions of AID, and the personnel associated with such functions, to the Department; and

(iii) the consolidation, reorganization, and streamlining of the Department upon the transfer of such functions and personnel in order to carry out the functions transferred.

(e) Modification of plan

The President may, on the basis of consultations with the appropriate congressional committees, modify or revise any part of the plan transmitted under subsection (a) until that part of the plan becomes effective in accordance with subsection (g).

(f) Report

The report accompanying the reorganization plan for the Department and the covered agencies submitted pursuant to this section shall describe the implementation of the plan and shall include—

(1) a detailed description of—

(A) the actions necessary or planned to complete the reorganization,

(B) the anticipated nature and substance of any orders, directives, and other administrative and operational actions which are expected to be required for completing or implementing the reorganization, and

(C) any preliminary actions which have been taken in the implementation process;

(2) the number of personnel and positions of each covered agency (including civil service personnel, Foreign Service personnel, and detailees) that are expected to be transferred to the Department, separated from service with such agency, or eliminated under the plan, and a projected schedule for such transfers, separations, and terminations;

(3) the number of personnel and positions of the Department (including civil service personnel, Foreign Service personnel, and detailees) that are expected to be transferred within the Department, separated from service with the Department, or eliminated under the plan, and a projected schedule for such transfers, separations, and terminations;

(4) a projected schedule for completion of the implementation process; and

(5) recommendations, if any, for legislation necessary to carry out changes made by this chapter relating to personnel and to incidental transfers.

(g) Effective date

(1) In general

The reorganization plan described in this section, including any modifications or revisions of the plan under subsection (e), shall become effective on the earlier of the date for the respective covered agency specified in paragraph (2) or the date announced by the President under paragraph (3).

(2) Statutory effective dates

The effective dates under this paragraph for the reorganization plan described in this section are the following:

(A) April 1, 1999, with respect to functions of the Agency for International Development described in section 6581 of this title.

(B) April 1, 1999, with respect to the abolition of the United States Arms Control and Disarmament Agency and the United States International Development Cooperation Agency.

(C) October 1, 1999, with respect to the abolition of the United States Information Agency.

(3) Effective date by Presidential determination

An effective date under this paragraph for a reorganization plan described in this section is such date as the President shall determine to be appropriate and announce by notice published in the Federal Register, which date may be not earlier than 90 calendar days after the President has transmitted the reorganization plan to the appropriate congressional committees pursuant to subsection (a).

(4) Statutory construction

Nothing in this subsection may be construed to require the transfer of functions, personnel, records, balance of appropriations, or other assets of a covered agency on a single date.

(5) Supersedes existing law

Paragraph (1) shall apply notwithstanding section 905(b) of title 5.

(h) Publication

The reorganization plan described in this section shall be printed in the Federal Register after the date upon which it first becomes effective.

(Pub. L. 105–277, div. G, subdiv. A, title XVI, §1601, Oct. 21, 1998, 112 Stat. 2681–795.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(1), (3), (4), (c), and (f)(5), was in the original "this subdivision", meaning subdiv. A of div. G of Pub. L. 105–277, Oct. 21, 1998, 112 Stat. 2681–765, known as the Foreign Affairs Agencies Consolidation Act of 1998. For complete classification of this subdivision to the Code, see Short Title note set out under section 6501 of this title and Tables.

DELEGATION OF THE FUNCTIONS VESTED IN THE PRESIDENT BY SECTIONS 1601(E) AND 1601(G) OF THE FOREIGN AFFAIRS REFORM AND RESTRUCTURING ACT OF 1998, AS ENACTED IN PUBLIC LAW 105–277

Memorandum of President of the United States, Mar. 31, 1999, 64 F.R. 17079, provided:

Memorandum for the Secretary of State

By the authority vested in me by the Constitution and laws of the United States, including section 301 of title 3 of the United States Code, I hereby delegate to you the functions vested in the President by sections 1601(e) and 1601(g) of the Foreign Affairs Reform and Restructuring Act of 1998, as enacted in Public Law

105–277 [22 U.S.C. 6601(e), (g)].

The functions delegated by this memorandum may be redelegated as appropriate.

You are authorized and directed to publish this memorandum in the Federal Register.

WILLIAM J. CLINTON.

PART B—REORGANIZATION AUTHORITY

§6611. Reorganization authority

(a) In general

The Secretary is authorized, subject to the requirements of this chapter, to allocate or reallocate any function transferred to the Department under any subchapter of this chapter, and to establish, consolidate, alter, or discontinue such organizational entities within the Department as may be necessary or appropriate to carry out any reorganization under this chapter, but this subsection does not authorize the Secretary to modify the terms of any statute that establishes or defines the functions of any bureau, office, or officer of the Department.

(b) Requirements and limitations on reorganization plan

The reorganization plan transmitted under section 6601 of this title may not have the effect of—

(1) creating a new executive department;

(2) continuing a function beyond the period authorized by law for its exercise or beyond the time when it would have terminated if the reorganization had not been made;

(3) authorizing a Federal agency to exercise a function which is not authorized by law at the time the plan is transmitted to Congress;

(4) creating a new Federal agency which is not a component or part of an existing executive department or independent agency; or

(5) increasing the term of an office beyond that provided by law for the office.

(Pub. L. 105–277, div. G, subdiv. A, title XVI, §1611, Oct. 21, 1998, 112 Stat. 2681–798.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this subdivision", meaning subdiv. A of div. G of Pub. L. 105–277, Oct. 21, 1998, 112 Stat. 2681–765, known as the Foreign Affairs Agencies Consolidation Act of 1998. For complete classification of this subdivision to the Code, see Short Title note set out under section 6501 of this title and Tables.

§6612. Transfer and allocation of appropriations

(a) In general

Except as otherwise provided in this chapter, the assets, liabilities (including contingent liabilities arising from suits continued with a substitution or addition of parties under section 6615(e) of this title), contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available in connection with the functions and offices, or portions thereof, transferred by any subchapter of this chapter shall be transferred to the Secretary for appropriate allocation.

(b) Limitation on use of transferred funds

Except as provided in subsection (c), unexpended and unobligated funds transferred pursuant to any subchapter of this chapter shall be used only for the purposes for which the funds were originally authorized and appropriated.

(c) Funds to facilitate transition

(1) Congressional notification

Funds transferred pursuant to subsection (a) may be available for the purposes of reorganization subject to notification of the appropriate congressional committees in accordance with the procedures applicable to a reprogramming of funds under section 2706 of this title.

(2) Transfer authority

Funds in any account appropriated to the Department of State may be transferred to another such account for the purposes of reorganization, subject to notification of the appropriate congressional committees in accordance with the procedures applicable to a reprogramming of funds under section 2706 of this title. The authority in this paragraph is in addition to any other transfer authority available to the Secretary of State and shall expire September 30, 2000.

(Pub. L. 105–277, div. G, subdiv. A, title XVI, §1612, Oct. 21, 1998, 112 Stat. 2681–798.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b), was in the original "this subdivision", meaning subdiv. A of div. G of Pub. L. 105–277, Oct. 21, 1998, 112 Stat. 2681–765, known as the Foreign Affairs Agencies Consolidation Act of 1998. For complete classification of this subdivision to the Code, see Short Title note set out under section 6501 of this title and Tables.

§6613. Transfer, appointment, and assignment of personnel

(a) Transfer of personnel from ACDA and USIA

Except as otherwise provided in subchapter III—

(1) not later than the date of abolition of ACDA, all personnel and positions of ACDA, and

(2) not later than the date of abolition of USIA, all personnel and positions of USIA,

shall be transferred to the Department of State at the same grade or class and the same rate of basic pay or basic salary rate and with the same tenure held immediately preceding transfer.

(b) Transfer of personnel from AID

Except as otherwise provided in subchapter III, not later than the date of transfer of any function of AID to the Department of State under this chapter, all AID personnel performing such functions and all positions associated with such functions shall be transferred to the Department of State at the same grade or class and the same rate of basic pay or basic salary rate and with the same tenure held immediately preceding transfer.

(c) Assignment authority

The Secretary, for a period of not more than 6 months commencing on the effective date of the transfer to the Department of State of personnel under subsections (a) and (b), is authorized to assign such personnel to any position or set of duties in the Department of State regardless of the position held or duties performed by such personnel prior to transfer, except that, by virtue of such assignment, such personnel shall not have their grade or class or their rate of basic pay or basic salary rate reduced, nor their tenure changed. In carrying out the reorganization under this Act, the Secretary shall ensure that the advances made in increasing the number and status of women and minorities within the foreign affairs agencies of the Federal Government, in terms of representation within the agencies as well as relative rank, are not undermined by discrimination within the newly reorganized Department of State. The Secretary shall consult with the relevant exclusive representatives (as defined in section 4102 of this title and in section 7103 of title 5) with regard to the exercise of this authority. This subsection does not authorize the Secretary to assign any individual to any position that by law requires appointment by the President, by and with the advice and consent of the Senate.

(d) Superseding other provisions of law

Subsections (a) through (c) shall be exercised notwithstanding any other provision of law.

(Pub. L. 105–277, div. G, subdiv. A, title XVI, §1613, Oct. 21, 1998, 112 Stat. 2681–799; Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title III, §341], Nov. 29, 1999, 113 Stat. 1536, 1501A–444.)

REFERENCES IN TEXT

Subchapter III, referred to in subsecs. (a) and (b), was in the original "title XIII", meaning title XIII of subdiv. A of div. G of Pub. L. 105–277, Oct. 21, 1998, 112 Stat. 2681–776. For complete classification of title XIII of div. G of this Act to the Code, see Tables.

This chapter, referred to in subsec. (b), was in the original "this subdivision", meaning subdiv. A of div. G of Pub. L. 105–277, Oct. 21, 1998, 112 Stat. 2681–765, known as the Foreign Affairs Agencies Consolidation Act of 1998. For complete classification of this subdivision to the Code, see Short Title note set out under section 6501 of this title and Tables.

This Act, referred to in subsec. (c), probably means division G of Pub. L. 105–277, Oct. 21, 1998, 112 Stat. 2681–761, as amended, known as the Foreign Affairs Reform and Restructuring Act of 1998. For complete classification of division G to the Code, see Short Title note set out under section 6501 of this title and Tables.

Section 4102 of this title, referred to in subsec. (c), was in the original "section 1002 of the Foreign Service Act", and was translated as meaning section 1002 of the Foreign Service Act of 1980 to reflect the probable intent of Congress.

AMENDMENTS

1999—Subsec. (c). Pub. L. 106–113 inserted after first sentence "In carrying out the reorganization under this Act, the Secretary shall ensure that the advances made in increasing the number and status of women and minorities within the foreign affairs agencies of the Federal Government, in terms of representation within the agencies as well as relative rank, are not undermined by discrimination within the newly reorganized Department of State.".

§6614. Incidental transfers

The Director of the Office of Management and Budget, when requested by the Secretary, is authorized to make such incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, as may be necessary to carry out the provisions of any subchapter of this chapter. The Director of the Office of Management and Budget, in consultation with the Secretary, shall provide for the termination of the affairs of all entities terminated by this chapter and for such further measures and dispositions as may be necessary to effectuate the purposes of any subchapter of this chapter.

(Pub. L. 105–277, div. G, subdiv. A, title XVI, §1614, Oct. 21, 1998, 112 Stat. 2681–799.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this subdivision", meaning subdiv. A of div. G of Pub. L. 105–277, Oct. 21, 1998, 112 Stat. 2681–765, known as the Foreign Affairs Agencies Consolidation Act of 1998. For complete classification of this subdivision to the Code, see Short Title note set out under section 6501 of this title and Tables.

§6615. Savings provisions

(a) Continuing legal force and effect

All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, registrations, privileges, and other administrative actions—

(1) that have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official thereof, or by a court of competent jurisdiction, in the performance of functions that are transferred under any subchapter of this chapter; and

(2) that are in effect as of the effective date of such subchapter, or were final before the effective date of such subchapter and are to become effective on or after the effective date of such

subchapter,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Secretary, or other authorized official, a court of competent jurisdiction, or by operation of law.

(b) Pending proceedings

(1) In general

The provisions of any subchapter of this chapter shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending on the effective date of any subchapter of this chapter before any Federal agency, commission, or component thereof, functions of which are transferred by any subchapter of this chapter. Such proceedings and applications, to the extent that they relate to functions so transferred, shall be continued.

(2) Orders, appeals, payments

Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this chapter had not been enacted. Orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by the Secretary, by a court of competent jurisdiction, or by operation of law.

(3) Statutory construction

Nothing in this chapter shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this chapter had not been enacted.

(4) Regulations

The Secretary is authorized to promulgate regulations providing for the orderly transfer of proceedings continued under this subsection to the Department.

(c) No effect on judicial or administrative proceedings

Except as provided in subsection (e) and section 6543(d) of this title—

(1) the provisions of this chapter shall not affect suits commenced prior to the effective dates of the respective subchapters of this chapter; and

(2) in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this chapter had not been enacted.

(d) Nonabatement of proceedings

No suit, action, or other proceeding commenced by or against any officer in the official capacity of such individual as an officer of any Federal agency, or any commission or component thereof, functions of which are transferred by any subchapter of this chapter, shall abate by reason of the enactment of this chapter. No cause of action by or against any Federal agency, or any commission or component thereof, functions of which are transferred by any subchapter of this chapter, or by or against any officer thereof in the official capacity of such officer shall abate by reason of the enactment of this chapter.

(e) Continuation of proceeding with substitution of parties

If, before the effective date of any subchapter of this chapter, any Federal agency, or officer thereof in the official capacity of such officer, is a party to a suit, and under this chapter any function of such department, agency, or officer is transferred to the Secretary or any other official of the Department, then effective on such date such suit shall be continued with the Secretary or other appropriate official of the Department substituted or added as a party.

(f) Reviewability of orders and actions under transferred functions

Orders and actions of the Secretary in the exercise of functions transferred under any subchapter of this chapter shall be subject to judicial review to the same extent and in the same manner as if

such orders and actions had been by the Federal agency or office, or part thereof, exercising such functions immediately preceding their transfer. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function transferred by any subchapter of this chapter shall apply to the exercise of such function by the Secretary.

(Pub. L. 105–277, div. G, subdiv. A, title XVI, §1615, Oct. 21, 1998, 112 Stat. 2681–800.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this subdivision", meaning subdiv. A of div. G of Pub. L. 105–277, Oct. 21, 1998, 112 Stat. 2681–765, known as the Foreign Affairs Agencies Consolidation Act of 1998. For complete classification of this subdivision to the Code, see Short Title note set out under section 6501 of this title and Tables.

The effective dates of the respective subchapters of this chapter, referred to in subsecs. (a)(2), (b)(1), (c)(1), and (e), was in the original, references to the effective dates of the respective titles of this subdivision, meaning the effective dates of titles XI to XVI of subdiv. A of div. G of Pub. L. 105–277, Oct. 21, 1998, 112 Stat. 765. Titles XI and XVI of subdiv. A of div. G of Pub. L. 105–277 are effective Oct. 21, 1998. For the effective dates of titles XII, XIII, XIV, and XV of subdiv. A of div. G of Pub. L. 105–277, see sections 1201, 1301, 1401, and 1501, respectively, of div. G of Pub. L. 105–277, set out as notes under sections 6511, 6531, 6561, and 6581, respectively, of this title.

§6616. Authority of Secretary of State to facilitate transition

Notwithstanding any provision of this chapter, the Secretary of State, with the concurrence of the head of the appropriate Federal agency exercising functions transferred under this chapter, may transfer the whole or part of such functions prior to the effective dates established in this chapter, including the transfer of personnel and funds associated with such functions.

(Pub. L. 105–277, div. G, subdiv. A, title XVI, §1616, Oct. 21, 1998, 112 Stat. 2681–801.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this subdivision", meaning subdiv. A of div. G of Pub. L. 105–277, Oct. 21, 1998, 112 Stat. 2681–765, known as the Foreign Affairs Agencies Consolidation Act of 1998. For complete classification of this subdivision to the Code, see Short Title note set out under section 6501 of this title and Tables.

§6617. Final report

Not later than January 1, 2001, the President, in consultation with the Secretary of the Treasury and the Director of the Office of Management and Budget, shall submit to the appropriate congressional committees a report which provides a final accounting of the finances and operations of the agencies abolished under this chapter.

(Pub. L. 105–277, div. G, subdiv. A, title XVI, §1617, Oct. 21, 1998, 112 Stat. 2681–801.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this subdivision", meaning subdiv. A of div. G of Pub. L. 105–277, Oct. 21, 1998, 112 Stat. 2681–765, known as the Foreign Affairs Agencies Consolidation Act of 1998. For complete classification of this subdivision to the Code, see Short Title note set out under section 6501 of this title and Tables.

CHAPTER 75—CHEMICAL WEAPONS CONVENTION IMPLEMENTATION

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§6701. Definitions

In this chapter:

(1) Chemical weapon

The term "chemical weapon" means the following, together or separately:

(A) A toxic chemical and its precursors, except where intended for a purpose not prohibited under this chapter as long as the type and quantity is consistent with such a purpose.

(B) A munition or device, specifically designed to cause death or other harm through toxic properties of those toxic chemicals specified in subparagraph (A), which would be released as a result of the employment of such munition or device.

(C) Any equipment specifically designed for use directly in connection with the employment of munitions or devices specified in subparagraph (B).

(2) Chemical Weapons Convention; Convention

The terms "Chemical Weapons Convention" and "Convention" mean the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, opened for signature on January 13, 1993.

(3) Key component of a binary or multicomponent chemical system

The term "key component of a binary or multicomponent chemical system" means the precursor which plays the most important role in determining the toxic properties of the final product and reacts rapidly with other chemicals in the binary or multicomponent system.

(4) National of the United States

The term "national of the United States" has the same meaning given such term in section 1101(a)(22) of title 8.

(5) Organization

The term "Organization" means the Organization for the Prohibition of Chemical Weapons.

(6) Person

The term "person", except as otherwise provided, means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, any State or any political subdivision thereof, or any political entity within a State, any foreign government or nation or any agency, instrumentality or political subdivision of any such government or nation, or other entity located in the United States.

(7) Precursor

(A) In general

The term "precursor" means any chemical reactant which takes part at any stage in the production by whatever method of a toxic chemical. The term includes any key component of a binary or multicomponent chemical system.

(B) List of precursors

Precursors which have been identified for the application of verification measures under Article VI of the Convention are listed in schedules contained in the Annex on Chemicals of the Chemical Weapons Convention.

(8) Purposes not prohibited by this chapter

The term "purposes not prohibited by this chapter" means the following:

(A) Peaceful purposes

Any peaceful purpose related to an industrial, agricultural, research, medical, or pharmaceutical activity or other activity.

(B) Protective purposes

Any purpose directly related to protection against toxic chemicals and to protection against chemical weapons.

(C) Unrelated military purposes

Any military purpose of the United States that is not connected with the use of a chemical weapon and that is not dependent on the use of the toxic or poisonous properties of the chemical weapon to cause death or other harm.

(D) Law enforcement purposes

Any law enforcement purpose, including any domestic riot control purpose and including imposition of capital punishment.

(9) Technical Secretariat

The term "Technical Secretariat" means the Technical Secretariat of the Organization for the Prohibition of Chemical Weapons established by the Chemical Weapons Convention.

(10) Schedule 1 chemical agent

The term "Schedule 1 chemical agent" means any of the following, together or separately:

(A) O-Alkyl (C_{10}, incl. cycloalkyl) alkyl

(Me, Et, n-Pr or i-Pr)-phosphonofluoridates
(e.g. Sarin: O-Isopropyl methylphosphonofluoridate Soman: O-Pinacolyl methylphosphonofluoridate).

(B) O-Alkyl (C_{10}, incl. cycloalkyl) N,N-dialkyl

(Me, Et, n-Pr or i-Pr)-phosphoramidocyanidates
(e.g. Tabun: O-Ethyl N,N-dimethyl phosphoramidocyanidate).

(C) O-Alkyl (H or C_{10}, incl. cycloalkyl) S-2-dialkyl
(Me, Et, n-Pr or i-Pr)-aminoethyl alkyl
(Me, Et, n-Pr or i-Pr) phosphonothiolates and corresponding alkylated or protonated salts
(e.g. VX: O-Ethyl S-2-diisopropylaminoethyl methyl phosphonothiolate).

(D) Sulfur mustards:
2-Chloroethylchloromethylsulfide
Mustard gas: (Bis(2-chloroethyl)sulfide [1]
Bis(2-chloroethylthio)methane
Sesquimustard: 1,2-Bis(2-chloroethylthio)ethane
1,3-Bis(2-chloroethylthio)-n-propane
1,4-Bis(2-chloroethylthio)-n-butane
1,5-Bis(2-chloroethylthio)-n-pentane
Bis(2-chloroethylthiomethyl)ether
O-Mustard: Bis(2-chloroethylthioethyl)ether.

(E) Lewisites:
Lewisite 1: 2-Chlorovinyldichloroarsine
Lewisite 2: Bis(2-chlorovinyl)chloroarsine
Lewisite 3: Tris(2-clorovinyl)arsine.

(F) Nitrogen mustards:
HN1: Bis(2-chloroethyl)ethylamine
HN2: Bis(2-chloroethyl)methylamine
HN3: Tris(2-chloroethyl)amine.

(G) Saxitoxin.
(H) Ricin.
(I) Alkyl (Me, Et, n-Pr or i-Pr) phosphonyldifluorides
e.g. DF: Methylphosphonyldifluoride.

(J) O-Alkyl (H or C_{10}, incl. cycloalkyl)O-2-dialkyl
(Me, Et, n-Pr or i-Pr)-aminoethyl alkyl
(Me, Et, n-Pr or i-Pr) phosphonites and corresponding alkylated or protonated salts
e.g. QL: O-Ethyl O-2-diisopropylaminoethyl methylphosphonite.

(K) Chlorosarin: O-Isopropyl methylphosphonochloridate.
(L) Chlorosoman: O-Pinacolyl methylphosphonochloridate.

(11) Schedule 2 chemical agent

The term "Schedule 2 chemical agent" means the following, together or separately:
(A) Amiton: O,O-Diethyl S-[2-(diethylamino)ethyl]
phosphorothiolate and corresponding alkylated or protonated salts.

(B) PFIB: 1,1,3,3,3-Pentafluoro-2-(trifluoromethyl)-1-propene.
(C) BZ: 3-Quinuclidinyl benzilate
(D) Chemicals, except for those listed in Schedule 1, containing a phosphorus atom to which is bonded one methyl, ethyl or propyl (normal or iso) group but not further carbon atoms,
e.g. Methylphosphonyl dichloride Dimethyl methylphosphonate
Exemption: Fonofos: O-Ethyl S-phenyl ethylphosphonothiolothionate.

(E) N,N-Dialkyl (Me, Et, n-Pr or i-Pr) phosphoramidic dihalides.
(F) Dialkyl (Me, Et, n-Pr or i-Pr) N,N-dialkyl (Me, Et, n-Pr or i-Pr)-phosphoramidates.

(G) arsenic trichloride.
(H) 2,2-Diphenyl-2-hydroxyacetic acid.
(I) Quinuclidine-3-ol.
(J) N,N-Dialkyl (Me, Et, n-Pr or i-Pr) aminoethyl-2-chlorides and corresponding protonated salts.
(K) N,N-Dialkyl (Me, Et, n-Pr or i-Pr) aminoethane-2-ols and corresponding protonated salts
Exemptions: N,N-Dimethylaminoethanol and corresponding protonated salts N,N-Diethylaminoethanol and corresponding protonated salts.
(L) N,N-Dialkyl (Me, Et, n-Pr or i-Pr) aminoethane-2-thiols and corresponding protonated salts.
(M) Thiodiglycol: Bis(2-hydroxyethyl)sulfide.
(N) Pinacolyl alcohol: 3,3-Dimethylbutane-2-ol.

(12) Schedule 3 chemical agent

The term "Schedule 3 chemical agent" means any of the following, together or separately:
(A) Phosgene: carbonyl dichloride.
(B) Cyanogen chloride.
(C) Hydrogen cyanide.
(D) Chloropicrin: trichloronitromethane.
(E) Phosphorous oxychloride.
(F) Phosphorous trichloride.
(G) Phosphorous pentachloride.
(H) Trimethyl phosphite.
(I) Triethyl phosphite.
(J) Dimethyl phosphite.
(K) Diethyl phosphite.
(L) Sulfur monochloride.
(M) Sulfur dichloride.
(N) Thionyl chloride.
(O) Ethyldiethanolamine.
(P) Methyldiethanolamine.
(Q) Triethanolamine.

(13) Toxic chemical

(A) In general

The term "toxic chemical" means any chemical which through its chemical action on life processes can cause death, temporary incapacitation or permanent harm to humans or animals. The term includes all such chemicals, regardless of their origin or of their method of production, and regardless of whether they are produced in facilities, in munitions or elsewhere.

(B) List of toxic chemicals

Toxic chemicals which have been identified for the application of verification measures under Article VI of the Convention are listed in schedules contained in the Annex on Chemicals of the Chemical Weapons Convention.

(14) United States

The term "United States" means the several States of the United States, the District of Columbia, and the commonwealths, territories, and possessions of the United States and includes all places under the jurisdiction or control of the United States, including—
(A) any of the places within the provisions of paragraph (41) [2] of section 40102 of title 49;
(B) any civil aircraft of the United States or public aircraft, as such terms are defined in paragraphs (17) and (37),[2] respectively, of section 40102 of title 49; and
(C) any vessel of the United States, as such term is defined in section 70502(b) of title 46.

(15) Unscheduled discrete organic chemical

The term "unscheduled discrete organic chemical" means any chemical not listed on any schedule contained in the Annex on Chemicals of the Convention that belongs to the class of chemical compounds consisting of all compounds of carbon, except for its oxides, sulfides, and metal carbonates.

(Pub. L. 105–277, div. I, §3, Oct. 21, 1998, 112 Stat. 2681–856.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act" and was translated as reading "this division", meaning div. I of Pub. L. 105–277, Oct. 21, 1998, 112 Stat. 2681–856, known as the Chemical Weapons Convention Implementation Act of 1998, to reflect the probable intent of Congress. For complete classification of division I to the Code, see Short Title note set out below and Tables.

Paragraphs (17), (37), and (41) of section 40102 of title 49, referred to in par. (14)(A) and (B), probably were originally meant to refer to paragraphs (17), (37), and (41) of subsection (a) of section 40102 of title 49. Paragraphs (37) and (41) were subsequently redesignated as (41) and (46), respectively, by Pub. L. 108–176, title II, §225(a)(1), (3), Dec. 12, 2003, 117 Stat. 2528.

CODIFICATION

In par. 14(C), "section 70502(b) of title 46" substituted for "section 3(b) of the Maritime Drug Enforcement Act, as amended (46 U.S.C., App. sec. 1903(b))", meaning section 3(b) of the Maritime Drug Law Enforcement Act, on authority of Pub. L. 109–304, §18(c), Oct. 6, 2006, 120 Stat. 1709, which Act enacted section 70502 of Title 46, Shipping.

SHORT TITLE

Pub. L. 105–277, div. I, §1, Oct. 21, 1998, 112 Stat. 2681–856, provided that: "This Division [enacting this chapter, sections 229 to 229F of Title 18, Crimes and Criminal Procedure, and section 436 of Title 41, Public Contracts, amending section 362 of Title 11, Bankruptcy, and section 2332a of Title 18, repealing section 2332c of Title 18 and section 1520 of Title 50, War and National Defense, and enacting provisions set out as a note under section 229 of Title 18] may be cited as the 'Chemical Weapons Convention Implementation Act of 1998'."

REGULATIONS

Regulations, orders, or directives to implement this chapter to be issued, amended, or revised by Departments of State and Commerce, and other agencies as appropriate, see section 3 of Ex. Ord. No. 13128, June 25, 1999, 64 F.R. 34703, set out as a note under section 6711 of this title.

DELEGATION OF FUNCTIONS

For delegation of functions under this chapter, see section 5 of Ex. Ord. No. 13128, June 25, 1999, 64 F.R. 34703, set out as a note under section 6711 of this title.

[1] So in original. Probably should not be preceded by an open parenthesis.

[2] See References in Text note below.

SUBCHAPTER I—GENERAL PROVISIONS

§6711. Designation of United States National Authority

(a) Designation

Pursuant to paragraph 4 of Article VII of the Chemical Weapons Convention, the President shall designate the Department of State to be the United States National Authority.

(b) Purposes

The United States National Authority shall—

(1) serve as the national focal point for effective liaison with the Organization for the

Prohibition of Chemical Weapons and other States Parties to the Convention; and

(2) implement the provisions of this chapter in coordination with an interagency group designated by the President consisting of the Secretary of Commerce, Secretary of Defense, Secretary of Energy, the Attorney General, and the heads of agencies considered necessary or advisable by the President.

(c) Director

The Secretary of State shall serve as the Director of the United States National Authority.

(d) Powers

The Director may utilize the administrative authorities otherwise available to the Secretary of State in carrying out the responsibilities of the Director set forth in this chapter.

(e) Implementation

The President is authorized to implement and carry out the provisions of this chapter and the Convention and shall designate through Executive order which agencies of the United States shall issue, amend, or revise the regulations in order to implement this chapter and the provisions of the Convention. The Director of the United States National Authority shall report to the Congress on the regulations that have been issued, implemented, or revised pursuant to this section.

(Pub. L. 105–277, div. I, title I, §101, Oct. 21, 1998, 112 Stat. 2681–860.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (b)(2), (d), and (e), was in the original "this Act" and was translated as reading "this division", meaning div. I of Pub. L. 105–277, Oct. 21, 1998, 112 Stat. 2681–856, known as the Chemical Weapons Convention Implementation Act of 1998, to reflect the probable intent of Congress. For complete classification of division I to the Code, see Short Title note set out under section 6701 of this title and Tables.

EX. ORD. NO. 13128. IMPLEMENTATION OF THE CHEMICAL WEAPONS CONVENTION AND THE CHEMICAL WEAPONS CONVENTION IMPLEMENTATION ACT

Ex. Ord. No. 13128, June 25, 1999, 64 F.R. 34703, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Chemical Weapons Convention Implementation Act of 1998 [22 U.S.C. 6701 et seq.] (as enacted in Division I of Public Law 105–277) (the Act), the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*), the National Emergencies Act (50 U.S.C. 1601 *et seq.*), and section 301 of title 3, United States Code, and in order to facilitate implementation of the Act and the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction (the "Convention"), it is hereby ordered as follows:

SECTION 1. The Department of State shall be the United States National Authority (the "USNA") for purposes of the Act and the Convention.

SEC. 2. The USNA shall coordinate the implementation of the provisions of the Act and the Convention with an interagency group consisting of the Secretary of Defense, the Attorney General, the Secretary of Commerce, the Secretary of Energy, and the heads of such other agencies or departments, or their designees, I may consider necessary or advisable.

SEC. 3. The Departments of State and Commerce, and other agencies as appropriate, each shall issue, amend, or revise regulations, orders, or directives as necessary to implement the Act and U.S. obligations under Article VI and related provisions of the Convention. Regulations under section 401(a) of the Act [22 U.S.C. 6741(a)] shall be issued by the Department of Commerce by a date specified by the USNA, which shall review and approve these regulations, in coordination with the interagency group designated in section 2 of this order, prior to their issuance.

SEC. 4. The Secretary of Commerce is authorized:

(a) to obtain and execute warrants pursuant to section 305 of the Act [22 U.S.C. 6725] for the purposes of conducting inspections of facilities subject to the regulations issued by the Department of Commerce pursuant to section 3 of this order;

(b) to suspend or revoke export privileges pursuant to section 211 of the Act [18 U.S.C. 229 note]; and

(c) to carry out all functions with respect to proceedings under section 501(a) of the Act [22 U.S.C. 6761(a)] and to issue regulations with respect thereto, except for those functions that the Act specifies are to be performed by the Secretary of State or the USNA.

SEC. 5. The Departments of State, Defense, Commerce, and Energy, and other agencies as appropriate, are authorized to carry out, consistent with the Act and in accordance with subsequent directives, appropriate functions that are not otherwise assigned in the Act and are necessary to implement the provisions of the Convention and the Act.

SEC. 6. The Departments of State, Defense, Commerce, and Energy, and other agencies, as appropriate, are authorized to provide assistance to facilities not owned or operated by the U.S. Government, or contracted for use by or for the U.S. Government, in meeting reporting requirements and in preparing the facilities for possible inspection pursuant to the Convention.

SEC. 7. The USNA, in coordination with the interagency group designated in section 2 of this order, is authorized to determine whether disclosure of confidential business information pursuant to section 404(c) of the Act [22 U.S.C. 6744(c)] is in the national interest. Disclosure will not be permitted if contrary to national security or law enforcement needs.

SEC. 8. In order to take additional steps with respect to the proliferation of weapons of mass destruction and means of delivering them and the national emergency described and declared in Executive Order 12938 of November 14, 1994 [listed in a table under section 1701 of Title 50, War and National Defense], as amended by Executive Order 13094 of July 30, 1998, section 3 of Executive Order 12938, as amended, is amended to add a new subsection (e) to read as follows:

> "(e) the Secretary of Commerce shall impose and enforce such restrictions on the importation of chemicals into the United States as may be necessary to carry out the requirements of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction."

SEC. 9. Any investigation emanating from a possible violation of this order, or of any license, order, or regulation issued pursuant to this order, involving or revealing a possible violation of 18 U.S.C. section 229 shall be referred to the Federal Bureau of Investigation (FBI), which shall coordinate with the referring agency and other appropriate agencies. The FBI shall timely notify the referring agency and other appropriate agencies of any action it takes on such referrals.

SEC. 10. Nothing in this order shall create any right or benefit, substantive or procedural, enforceable by any party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

SEC. 11. (a) This order shall take effect at 12:01 a.m. eastern daylight time, June 26, 1999.

(b) This order shall be transmitted to the Congress and published in the Federal Register.

WILLIAM J. CLINTON.

§6712. No abridgement of constitutional rights

No person may be required, as a condition for entering into a contract with the United States or as a condition for receiving any benefit from the United States, to waive any right under the Constitution for any purpose related to this chapter or the Convention.

(Pub. L. 105–277, div. I, title I, §102, Oct. 21, 1998, 112 Stat. 2681–861.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act" and was translated as reading "this division", meaning div. I of Pub. L. 105–277, Oct. 21, 1998, 112 Stat. 2681–856, known as the Chemical Weapons Convention Implementation Act of 1998, to reflect the probable intent of Congress. For complete classification of division I to the Code, see Short Title note set out under section 6701 of this title and Tables.

§6713. Civil liability of United States

(a) Claims for taking of property

(1) Jurisdiction of courts of the United States

(A) United States Court of Federal Claims

The United States Court of Federal Claims shall, subject to subparagraph (B), have jurisdiction of any civil action or claim against the United States for any taking of property without just compensation that occurs by reason of the action of any officer or employee of the

Organization for the Prohibition of Chemical Weapons, including any member of an inspection team of the Technical Secretariat, or by reason of the action of any officer or employee of the United States pursuant to this chapter or the Convention. For purposes of this subsection, action taken pursuant to or under the color of this chapter or the Convention shall be deemed to be action taken by the United States for a public purpose.

(B) District courts

The district courts of the United States shall have original jurisdiction, concurrent with the United States Court of Federal Claims, of any civil action or claim described in subparagraph (A) that does not exceed $10,000.

(2) Notification

Any person intending to bring a civil action pursuant to paragraph (1) shall notify the United States National Authority of that intent at least one year before filing the claim in the United States Court of Federal Claims. Action on any claim filed during that one-year period shall be stayed. The one-year period following the notification shall not be counted for purposes of any law limiting the period within which the civil action may be commenced.

(3) Initial steps by United States Government to seek remedies

During the period between a notification pursuant to paragraph (2) and the filing of a claim covered by the notification in the United States Court of Federal Claims, the United States National Authority shall pursue all diplomatic and other remedies that the United States National Authority considers necessary and appropriate to seek redress for the claim including, but not limited to, the remedies provided for in the Convention and under this chapter.

(4) Burden of proof

In any civil action under paragraph (1), the plaintiff shall have the burden to establish a prima facie case that, due to acts or omissions of any official of the Organization or any member of an inspection team of the Technical Secretariat taken under the color of the Convention, proprietary information of the plaintiff has been divulged or taken without authorization. If the United States Court of Federal Claims finds that the plaintiff has demonstrated such a prima facie case, the burden shall shift to the United States to disprove the plaintiff's claim. In deciding whether the plaintiff has carried its burden, the United States Court of Federal Claims shall consider, among other things—

(A) the value of proprietary information;

(B) the availability of the proprietary information;

(C) the extent to which the proprietary information is based on patents, trade secrets, or other protected intellectual property;

(D) the significance of proprietary information; and

(E) the emergence of technology elsewhere a reasonable time after the inspection.

(b) Tort liability

The district courts of the United States shall have exclusive jurisdiction of civil actions for money damages for any tort under the Constitution or any Federal or State law arising from the acts or omissions of any officer or employee of the United States or the Organization, including any member of an inspection team of the Technical Secretariat, taken pursuant to or under color of the Convention or this chapter.

(c) Waiver of sovereign immunity of United States

In any action under subsection (a) or (b), the United States may not raise sovereign immunity as a defense.

(d) Authority for cause of action

(1) United States actions in United States district court

Notwithstanding any other law, the Attorney General of the United States is authorized to bring an action in the United States District Court for the District of Columbia against any foreign

nation for money damages resulting from that nation's refusal to provide indemnification to the United States for any liability imposed on the United States by virtue of the actions of an inspector of the Technical Secretariat who is a national of that foreign nation acting at the direction or the behest of that foreign nation.

(2) United States actions in courts outside the United States

The Attorney General is authorized to seek any and all available redress in any international tribunal for indemnification to the United States for any liability imposed on the United States by virtue of the actions of an inspector of the Technical Secretariat, and to seek such redress in the courts of the foreign nation from which the inspector is a national.

(3) Actions brought by individuals and businesses

Notwithstanding any other law, any national of the United States, or any business entity organized and operating under the laws of the United States, may bring a civil action in a United States District Court for money damages against any foreign national or any business entity organized and operating under the laws of a foreign nation for an unauthorized or unlawful acquisition, receipt, transmission, or use of property by or on behalf of such foreign national or business entity as a result of any tort under the Constitution or any Federal or State law arising from acts or omissions by any officer or employee of the United States or any member of an inspection team of the Technical Secretariat taken pursuant to or under the color of the Convention or this chapter.

(e) Recoupment

(1) Policy

It is the policy of the United States to recoup all funds withdrawn from the Treasury of the United States in payment for any tort under Federal or State law or taking under the Constitution arising from the acts or omissions of any foreign person, officer, or employee of the Organization, including any member of an inspection team of the Technical Secretariat, taken under color of the Chemical Weapons Convention or this chapter.

(2) Sanctions on foreign companies

(A) Imposition of sanctions

The sanctions provided in subparagraph (B) shall be imposed for a period of not less than ten years upon—

(i) any foreign person, officer, or employee of the Organization, including any member of an inspection team of the Technical Secretariat, for whose actions or omissions the United States has been held liable for a tort or taking pursuant to this chapter; and

(ii) any foreign person or business entity organized and operating under the laws of a foreign nation which knowingly assisted, encouraged or induced, in any way, a foreign person described in clause (i) to publish, divulge, disclose, or make known in any manner or to any extent not authorized by the Convention any United States confidential business information.

(B) Sanctions

(i) Arms export transactions

The United States Government shall not sell to a person described in subparagraph (A) any item on the United States Munitions List and shall terminate sales of any defense articles, defense services, or design and construction services to a person described in subparagraph (A) under the Arms Export Control Act [22 U.S.C. 2751 et seq.].

(ii) Sanctions under Export Administration Act of 1979

The authorities under section 6 of the Export Administration Act of 1979 [50 U.S.C. 4605] shall be used to prohibit the export of any goods or technology on the control list established pursuant to section 5(c)(1) of that Act [50 U.S.C. 4604(c)(1)] to a person described in

subparagraph (A).

(iii) International financial assistance

The United States shall oppose any loan or financial or technical assistance by international financial institutions in accordance with section 262d of this title to a person described in subparagraph (A).

(iv) Export-Import Bank transactions

The United States shall not give approval to guarantee, insure, or extend credit, or to participate in the extension of credit to a person described in subparagraph (A) through the Export-Import Bank of the United States.

(v) Private bank transactions

Regulations shall be issued to prohibit any United States bank from making any loan or providing any credit to a person described in subparagraph (A).

(vi) Blocking of assets

The President shall take all steps necessary to block any transactions in any property subject to the jurisdiction of the United States in which a person described in subparagraph (A) has any interest whatsoever, for the purpose of recouping funds in accordance with the policy in paragraph (1).

(vii) Denial of landing rights

Landing rights in the United States shall be denied to any private aircraft or air carrier owned by a person described in subparagraph (A) except as necessary to provide for emergencies in which the safety of the aircraft or its crew or passengers is threatened.

(3) Sanctions on foreign governments

(A) Imposition of sanctions

Whenever the President determines that persuasive information is available indicating that a foreign country has knowingly assisted, encouraged or induced, in any way, a person described in paragraph (2)(A) to publish, divulge, disclose, or make known in any manner or to any extent not authorized by the Convention any United States confidential business information, the President shall, within 30 days after the receipt of such information by the executive branch of Government, notify the Congress in writing of such determination and, subject to the requirements of paragraphs (4) and (5), impose the sanctions provided under subparagraph (B) for a period of not less than five years.

(B) Sanctions

(i) Arms export transactions

The United States Government shall not sell a country described in subparagraph (A) any item on the United States Munitions List, shall terminate sales of any defense articles, defense services, or design and construction services to that country under the Arms Export Control Act [22 U.S.C. 2751 et seq.], and shall terminate all foreign military financing for that country under the Arms Export Control Act.

(ii) Denial of certain licenses

Licenses shall not be issued for the export to the sanctioned country of any item on the United States Munitions List or commercial satellites.

(iii) Denial of assistance

No appropriated funds may be used for the purpose of providing economic assistance, providing military assistance or grant military education and training, or extending military credits or making guarantees to a country described in subparagraph (A).

(iv) Sanctions under Export Administration Act of 1979

The authorities of section 6 of the Export Administration Act of 1979 [50 U.S.C. 4605] shall be used to prohibit the export of any goods or technology on the control list established pursuant to section 5(c)(1) of that Act [50 U.S.C. 4604(c)(1)] to a country described in subparagraph (A).

(v) International financial assistance

The United States shall oppose any loan or financial or technical assistance by international financial institutions in accordance with section 262d of this title to a country described in subparagraph (A).

(vi) Termination of assistance under Foreign Assistance Act of 1961

The United States shall terminate all assistance to a country described in subparagraph (A) under the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.], except for urgent humanitarian assistance.

(vii) Private bank transactions

The United States shall not give approval to guarantee, insure, or extend credit, or participate in the extension of credit through the Export-Import Bank of the United States to a country described in subparagraph (A).

(viii) Private bank transactions

Regulations shall be issued to prohibit any United States bank from making any loan or providing any credit to a country described in subparagraph (A).

(ix) Denial of landing rights

Landing rights in the United States shall be denied to any air carrier owned by a country described in subparagraph (A), except as necessary to provide for emergencies in which the safety of the aircraft or its crew or passengers is threatened.

(4) Suspension of sanctions upon recoupment by payment

Sanctions imposed under paragraph (2) or (3) may be suspended if the sanctioned person, business entity, or country, within the period specified in that paragraph, provides full and complete compensation to the United States Government, in convertible foreign exchange or other mutually acceptable compensation equivalent to the full value thereof, in satisfaction of a tort or taking for which the United States has been held liable pursuant to this chapter.

(5) Waiver of sanctions on foreign countries

The President may waive some or all of the sanctions provided under paragraph (3) in a particular case if he determines and certifies in writing to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate that such waiver is necessary to protect the national security interests of the United States. The certification shall set forth the reasons supporting the determination and shall take effect on the date on which the certification is received by the Congress.

(6) Notification to Congress

Not later than five days after sanctions become effective against a foreign person pursuant to this chapter, the President shall transmit written notification of the imposition of sanctions against that foreign person to the chairmen and ranking members of the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate.

(f) Sanctions for unauthorized disclosure of United States confidential business information

The Secretary of State shall deny a visa to, and the Attorney General shall exclude from the United States any alien who, after October 21, 1998—

(1) is, or previously served as, an officer or employee of the Organization and who has willfully published, divulged, disclosed, or made known in any manner or to any extent not authorized by the Convention any United States confidential business information coming to him in the course of his employment or official duties, or by reason of any examination or investigation of any

return, report, or record made to or filed with the Organization, or any officer or employee thereof, such practice or disclosure having resulted in financial loses [1] or damages to a United States person and for which actions or omissions the United States has been found liable of a tort or taking pursuant to this chapter;

(2) traffics in United States confidential business information, a proven claim to which is owned by a United States national;

(3) is a corporate officer, principal, shareholder with a controlling interest of an entity which has been involved in the unauthorized disclosure of United States confidential business information, a proven claim to which is owned by a United States national; or

(4) is a spouse, minor child, or agent of a person excludable under paragraph (1), (2), or (3).

(g) "United States confidential business information" defined

In this section, the term "United States confidential business information" means any trade secrets or commercial or financial information that is privileged and confidential—

(1) including—

(A) data described in section 6724(e)(2) of this title,

(B) any chemical structure,

(C) any plant design process, technology, or operating method,

(D) any operating requirement, input, or result that identifies any type or quantity of chemicals used, processed, or produced, or

(E) any commercial sale, shipment, or use of a chemical, or

(2) as described in section 552(b)(4) of title 5,

and that is obtained—

(i) from a United States person; or

(ii) through the United States Government or the conduct of an inspection on United States territory under the Convention.

(Pub. L. 105–277, div. I, title I, §103, Oct. 21, 1998, 112 Stat. 2681–861.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act" and was translated as reading "this division", meaning div. I of Pub. L. 105–277, Oct. 21, 1998, 112 Stat. 2681–856, known as the Chemical Weapons Convention Implementation Act of 1998, to reflect the probable intent of Congress. For complete classification of division I to the Code, see Short Title note set out under section 6701 of this title and Tables.

The Arms Export Control Act, referred to in subsec. (e)(2)(B)(i), (3)(B)(i), is Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1320, as amended, which is classified principally to chapter 39 (§2751 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

The Foreign Assistance Act of 1961, referred to in subsec. (e)(3)(B)(vi), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, which is classified principally to chapter 32 (§2151 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

CHANGE OF NAME

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

[1] So in original. Probably should be "losses".

SUBCHAPTER II—INSPECTIONS

§6721. Definitions

(a) In general

In this subchapter, the terms "challenge inspection", "plant site", "plant", "facility agreement", "inspection team", and "requesting state party" have the meanings given those terms in Part I of the Annex on Implementation and Verification of the Chemical Weapons Convention. The term "routine inspection" means an inspection, other than an "initial inspection", undertaken pursuant to Article VI of the Convention.

(b) "Judge of the United States" defined

In this subchapter, the term "judge of the United States" means a judge or magistrate judge of a district court of the United States.

(Pub. L. 105–277, div. I, title III, §301, Oct. 21, 1998, 112 Stat. 2681–872.)

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original "this title", meaning title III of div. I of Pub. L. 105–277, Oct. 21, 1998, 112 Stat. 2681–872, which enacted this subchapter and section 436 of former Title 41, Public Contracts. For complete classification of title III to the Code, see Tables. For disposition of sections of former Title 41, see Disposition Table preceding section 101 of Title 41.

§6722. Facility agreements

(a) Authorization of inspections

Inspections by the Technical Secretariat of plants, plant sites, or other facilities or locations for which the United States has a facility agreement with the Organization shall be conducted in accordance with the facility agreement. Any such facility agreement may not in any way limit the right of the owner or operator of the facility to withhold consent to an inspection request.

(b) Types of facility agreements

(1) Schedule 2 facilities

The United States National Authority shall ensure that facility agreements for plants, plant sites, or other facilities or locations that are subject to inspection pursuant to paragraph 4 of Article VI of the Convention are concluded unless the owner, operator, occupant, or agent in charge of the facility and the Technical Secretariat agree that such an agreement is not necessary.

(2) Schedule 3 facilities

The United States National Authority shall ensure that facility agreements are concluded for plants, plant sites, or other facilities or locations that are subject to inspection pursuant to paragraph 5 or 6 of Article VI of the Convention if so requested by the owner, operator, occupant, or agent in charge of the facility.

(c) Notification requirements

The United States National Authority shall ensure that the owner, operator, occupant, or agent in charge of a facility prior to the development of the agreement relating to that facility is notified and, if the person notified so requests, the person may participate in the preparations for the negotiation of such an agreement. To the maximum extent practicable consistent with the Convention, the owner and the operator, occupant or agent in charge of a facility may observe negotiations of the agreement between the United States and the Organization concerning that facility.

(d) Content of facility agreements

Facility agreements shall—

(1) identify the areas, equipment, computers, records, data, and samples subject to inspection;

(2) describe the procedures for providing notice of an inspection to the owner, occupant, operator, or agent in charge of a facility;

(3) describe the timeframes for inspections; and

(4) detail the areas, equipment, computers, records, data, and samples that are not subject to inspection.

(Pub. L. 105–277, div. I, title III, §302, Oct. 21, 1998, 112 Stat. 2681–872.)

§6723. Authority to conduct inspections

(a) Prohibition

No inspection of a plant, plant site, or other facility or location in the United States shall take place under the Convention without the authorization of the United States National Authority in accordance with the requirements of this subchapter.

(b) Authority

(1) Technical Secretariat inspection teams

Any duly designated member of an inspection team of the Technical Secretariat may inspect any plant, plant site, or other facility or location in the United States subject to inspection pursuant to the Convention.

(2) United States Government representatives

The United States National Authority shall coordinate the designation of employees of the Federal Government (and, in the case of an inspection of a United States Government facility, the designation of contractor personnel who shall be led by an employee of the Federal Government) to accompany members of an inspection team of the Technical Secretariat and, in doing so, shall ensure that—

(A) a special agent of the Federal Bureau of Investigation, as designated by the Federal Bureau of Investigation, accompanies each inspection team visit pursuant to paragraph (1);

(B) no employee of the Environmental Protection Agency or the Occupational Safety and Health Administration accompanies any inspection team visit conducted pursuant to paragraph (1); and

(C) the number of duly designated representatives shall be kept to the minimum necessary.

(3) Objections to individuals serving as inspectors

(A) In general

In deciding whether to exercise the right of the United States under the Convention to object to an individual serving as an inspector, the President shall give great weight to his reasonable belief that—

(i) such individual is or has been a member of, or a participant in, any group or organization that has engaged in, or attempted or conspired to engage in, or aided or abetted in the commission of, any terrorist act or activity;

(ii) such individual has committed any act or activity which would be a felony under the laws of the United States; or

(iii) the participation of such individual as a member of an inspection team would pose a risk to the national security or economic well-being of the United States.

(B) Not subject to judicial review

Any objection by the President to an individual serving as an inspector, whether made pursuant to this section or otherwise, shall not be reviewable in any court.

(c) Exception

The requirement under subsection (b)(2)(A) shall not apply to inspections of United States chemical weapons destruction facilities (as used within the meaning of part IV(C)(13) of the Verification Annex to the Convention).

(Pub. L. 105–277, div. I, title III, §303, Oct. 21, 1998, 112 Stat. 2681–873; Pub. L. 106–280, title III, §305, Oct. 6, 2000, 114 Stat. 854; Pub. L. 107–107, div. A, title XII, §1204(a), Dec. 28, 2001, 115

Stat. 1247.)

AMENDMENTS

2001—Subsec. (b)(2). Pub. L. 107–107 inserted "(and, in the case of an inspection of a United States Government facility, the designation of contractor personnel who shall be led by an employee of the Federal Government)" after "designation of employees of the Federal Government" in introductory provisions.

2000—Subsec. (c). Pub. L. 106–280 added subsec. (c).

PROTECTION OF UNITED STATES COMPANIES

Pub. L. 106–113, div. B, §1000(a)(7) [div. B, title XI, §1117], Nov. 29, 1999, 113 Stat. 1536, 1501A–489, provided that:

"(a) REIMBURSEMENT.—During the 2-year period beginning on the date of the enactment of this Act [Nov. 29, 1999], the United States National Authority (as designated pursuant to section 101 of the Chemical Weapons Convention Implementation Act of 1998 [22 U.S.C. 6711] (as contained in division I of Public Law 105–277)) shall, upon request of the Director of the Federal Bureau of Investigation, reimburse the Federal Bureau of Investigation for all costs incurred by the Bureau for such period in connection with implementation of section 303(b)(2)(A) of that Act [22 U.S.C. 6723(b)(2)(A)], except that such reimbursement may not exceed $2,000,000 for such 2-year period.

"(b) REPORT.—Not later than 180 days prior to the expiration of the 2-year period described in subsection (a), the Director of the Federal Bureau of Investigation shall prepare and submit to the Committee on International Relations [now Committee on Foreign Affairs] of the House of Representatives and the Committee on Foreign Relations of the Senate a report on how activities under section 303(b)(2)(A) of the Chemical Weapons Convention Implementation Act of 1998 [22 U.S.C. 6723(b)(2)(A)] will be fully funded and implemented by the Federal Bureau of Investigation notwithstanding the expiration of the 2-year period described in subsection (a)."

§6724. Procedures for inspections

(a) Types of inspections

Each inspection of a plant, plant site, or other facility or location in the United States under the Convention shall be conducted in accordance with this section and section 6725 of this title, except where other procedures are provided in a facility agreement entered into under section 6722 of this title.

(b) Notice

(1) In general

An inspection referred to in subsection (a) may be made only upon issuance of an actual written notice by the United States National Authority to the owner and to the operator, occupant, or agent in charge of the premises to be inspected.

(2) Time of notification

The notice for a routine inspection shall be submitted to the owner and to the operator, occupant, or agent in charge within six hours of receiving the notification of the inspection from the Technical Secretariat or as soon as possible thereafter. Notice for a challenge inspection shall be provided at any appropriate time determined by the United States National Authority. Notices may be posted prominently at the plant, plant site, or other facility or location if the United States is unable to provide actual written notice to the owner, operator, or agent in charge of the premises.

(3) Content of notice

(A) In general

The notice under paragraph (1) shall include all appropriate information supplied by the Technical Secretariat to the United States National Authority concerning—

(i) the type of inspection;

(ii) the basis for the selection of the plant, plant site, or other facility or location for the

type of inspection sought;

(iii) the time and date that the inspection will begin and the period covered by the inspection; and

(iv) the names and titles of the inspectors.

(B) Special rule for challenge inspections

In the case of a challenge inspection pursuant to Article IX of the Convention, the notice shall also include all appropriate evidence or reasons provided by the requesting state party to the Convention for seeking the inspection.

(4) Separate notices required

A separate notice shall be provided for each inspection, except that a notice shall not be required for each entry made during the period covered by the inspection.

(c) Credentials

The head of the inspection team of the Technical Secretariat and the accompanying employees of the Federal Government (and, in the case of an inspection of a United States Government facility, any accompanying contractor personnel) shall display appropriate identifying credentials to the owner, operator, occupant, or agent in charge of the premises before the inspection is commenced.

(d) Timeframe for inspections

Consistent with the provisions of the Convention, each inspection shall be commenced and completed with reasonable promptness and shall be conducted at reasonable times, within reasonable limits, and in a reasonable manner.

(e) Scope

(1) In general

Except as provided in a warrant issued under section 6725 of this title or a facility agreement entered into under section 6722 of this title, an inspection conducted under this subchapter may extend to all things within the premises inspected (including records, files, papers, processes, controls, structures and vehicles) related to whether the requirements of the Convention applicable to such premises have been complied with.

(2) Exception

Unless required by the Convention, no inspection under this subchapter shall extend to—

(A) financial data;

(B) sales and marketing data (other than shipment data);

(C) pricing data;

(D) personnel data;

(E) research data;

(F) patent data;

(G) data maintained for compliance with environmental or occupational health and safety regulations; or

(H) personnel and vehicles entering and personnel and personal passenger vehicles exiting the facility.

(f) Sampling and safety

(1) In general

The Director of the United States National Authority is authorized to require the provision of samples to a member of the inspection team of the Technical Secretariat in accordance with the provisions of the Convention. The owner or the operator, occupant or agent in charge of the premises to be inspected shall determine whether the sample shall be taken by representatives of the premises or the inspection team or other individuals present. No sample collected in the United States pursuant to an inspection permitted by this chapter may be transferred for analysis to any laboratory outside the territory of the United States.

(2) Compliance with regulations

In carrying out their activities, members of the inspection team of the Technical Secretariat and representatives of agencies or departments accompanying the inspection team shall observe safety regulations established at the premises to be inspected, including those for protection of controlled environments within a facility and for personal safety.

(g) Coordination

The appropriate representatives of the United States, as designated, if present, shall assist the owner and the operator, occupant or agent in charge of the premises to be inspected in interacting with the members of the inspection team of the Technical Secretariat.

(Pub. L. 105–277, div. I, title III, §304, Oct. 21, 1998, 112 Stat. 2681–874; Pub. L. 107–107, div. A, title XII, §1204(b), Dec. 28, 2001, 115 Stat. 1247.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (f)(1), was in the original "this Act" and was translated as reading "this division", meaning div. I of Pub. L. 105–277, Oct. 21, 1998, 112 Stat. 2681–856, known as the Chemical Weapons Convention Implementation Act of 1998, to reflect the probable intent of Congress. For complete classification of division I to the Code, see Short Title note set out under section 6701 of this title and Tables.

AMENDMENTS

2001—Subsec. (c). Pub. L. 107–107 substituted "Federal Government (and, in the case of an inspection of a United States Government facility, any accompanying contractor personnel)" for "Federal government".

§6725. Warrants

(a) In general

The United States Government shall seek the consent of the owner or the operator, occupant, or agent in charge of the premises to be inspected prior to any inspection referred to in section 6724(a) of this title. If consent is obtained, a warrant is not required for the inspection. The owner or the operator, occupant, or agent in charge of the premises to be inspected may withhold consent for any reason or no reason. After providing notification pursuant to subsection (b), the United States Government may seek a search warrant from a United States magistrate judge. Proceedings regarding the issuance of a search warrant shall be conducted ex parte, unless otherwise requested by the United States Government.

(b) Routine inspections

(1) Obtaining administrative search warrants

For any routine inspection conducted on the territory of the United States pursuant to Article VI of the Convention, where consent has been withheld, the United States Government shall first obtain an administrative search warrant from a judge of the United States. The United States Government shall provide to the judge of the United States all appropriate information supplied by the Technical Secretariat to the United States National Authority regarding the basis for the selection of the plant site, plant, or other facility or location for the type of inspection sought. The United States Government shall also provide any other appropriate information available to it relating to the reasonableness of the selection of the plant, plant site, or other facility or location for the inspection.

(2) Content of affidavits for administrative search warrants

The judge of the United States shall promptly issue a warrant authorizing the requested inspection upon an affidavit submitted by the United States Government showing that—

(A) the Chemical Weapons Convention is in force for the United States;

(B) the plant site, plant, or other facility or location sought to be inspected is required to report data under subchapter III of this chapter and is subject to routine inspection under the Convention;

(C) the purpose of the inspection is—

(i) in the case of any facility owned or operated by a non-Government entity related to Schedule 1 chemical agents, to verify that the facility is not used to produce any Schedule 1 chemical agent except for declared chemicals; quantities of Schedule 1 chemicals produced, processed, or consumed are correctly declared and consistent with needs for the declared purpose; and Schedule 1 chemicals are not diverted or used for other purposes;

(ii) in the case of any facility related to Schedule 2 chemical agents, to verify that activities are in accordance with obligations under the Convention and consistent with the information provided in data declarations; and

(iii) in the case of any facility related to Schedule 3 chemical agents and any other chemical production facility, to verify that the activities of the facility are consistent with the information provided in data declarations;

(D) the items, documents, and areas to be searched and seized;

(E) in the case of a facility related to Schedule 2 or Schedule 3 chemical agents or unscheduled discrete organic chemicals, the plant site has not been subject to more than 1 routine inspection in the current calendar year, and, in the case of facilities related to Schedule 3 chemical agents or unscheduled discrete organic chemicals, the inspection will not cause the number of routine inspections in the United States to exceed 20 in a calendar year;

(F) the selection of the site was made in accordance with procedures established under the Convention and, in particular—

(i) in the case of any facility owned or operated by a non-Government entity related to Schedule 1 chemical agents, the intensity, duration, timing, and mode of the requested inspection is based on the risk to the object and purpose of the Convention by the quantities of chemical produced, the characteristics of the facility and the nature of activities carried out at the facility, and the requested inspection, when considered with previous such inspections of the facility undertaken in the current calendar year, shall not exceed the number reasonably required based on the risk to the object and purpose of the Convention as described above;

(ii) in the case of any facility related to Schedule 2 chemical agents, the Technical Secretariat gave due consideration to the risk to the object and purpose of the Convention posed by the relevant chemical, the characteristics of the plant site and the nature of activities carried out there, taking into account the respective facility agreement as well as the results of the initial inspections and subsequent inspections; and

(iii) in the case of any facility related to Schedule 3 chemical agents or unscheduled discrete organic chemicals, the facility was selected randomly by the Technical Secretariat using appropriate mechanisms, such as specifically designed computer software, on the basis of two weighting factors: (I) equitable geographical distribution of inspections; and (II) the information on the declared sites available to the Technical Secretariat, related to the relevant chemical, the characteristics of the plant site, and the nature of activities carried out there;

(G) the earliest commencement and latest closing dates and times of the inspection; and

(H) the duration of inspection will not exceed time limits specified in the Convention unless agreed by the owner, operator, or agent in charge of the plant.

(3) Content of warrants

A warrant issued under paragraph (2) shall specify the same matters required of an affidavit under that paragraph. In addition to the requirements for a warrant issued under this paragraph, each warrant shall contain, if known, the identities of the representatives of the Technical Secretariat conducting the inspection and the observers of the inspection and, if applicable, the identities of the representatives of agencies or departments of the United States accompanying those representatives.

(4) Challenge inspections

(A) Criminal search warrant

For any challenge inspection conducted on the territory of the United States pursuant to Article IX of the Chemical Weapons Convention, where consent has been withheld, the United States Government shall first obtain from a judge of the United States a criminal search warrant based upon probable cause, supported by oath or affirmation, and describing with particularity the place to be searched and the person or things to be seized.

(B) Information provided

The United States Government shall provide to the judge of the United States—

(i) all appropriate information supplied by the Technical Secretariat to the United States National Authority regarding the basis for the selection of the plant site, plant, or other facility or location for the type of inspection sought;

(ii) any other appropriate information relating to the reasonableness of the selection of the plant, plant site, or other facility or location for the inspection;

(iii) information concerning—

(I) the duration and scope of the inspection;

(II) areas to be inspected;

(III) records and data to be reviewed; and

(IV) samples to be taken;

(iv) appropriate evidence or reasons provided by the requesting state party for the inspection;

(v) any other evidence showing probable cause to believe that a violation of this chapter has occurred or is occurring; and

(vi) the identities of the representatives of the Technical Secretariat on the inspection team and the Federal Government employees accompanying the inspection team.

(C) Content of warrant

The warrant shall specify—

(i) the type of inspection authorized;

(ii) the purpose of the inspection;

(iii) the type of plant site, plant, or other facility or location to be inspected;

(iv) the areas of the plant site, plant, or other facility or location to be inspected;

(v) the items, documents, data, equipment, and computers that may be inspected or seized;

(vi) samples that may be taken;

(vii) the earliest commencement and latest concluding dates and times of the inspection; and

(viii) the identities of the representatives of the Technical Secretariat on the inspection teams and the Federal Government employees accompanying the inspection team.

(Pub. L. 105–277, div. I, title III, §305, Oct. 21, 1998, 112 Stat. 2681–875.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b)(4)(B)(v), was in the original "this Act" and was translated as reading "this division", meaning div. I of Pub. L. 105–277, Oct. 21, 1998, 112 Stat. 2681–856, known as the Chemical Weapons Convention Implementation Act of 1998, to reflect the probable intent of Congress. For complete classification of division I to the Code, see Short Title note set out under section 6701 of this title and Tables.

DELEGATION OF FUNCTIONS

For authority of Secretary of Commerce to obtain and execute certain warrants pursuant to this section, see section 4 of Ex. Ord. No. 13128, June 25, 1999, 64 F.R. 34703, set out as a note under section 6711 of this title.

§6726. Prohibited acts relating to inspections

It shall be unlawful for any person willfully to fail or refuse to permit entry or inspection, or to disrupt, delay, or otherwise impede an inspection, authorized by this chapter.

(Pub. L. 105–277, div. I, title III, §306, Oct. 21, 1998, 112 Stat. 2681–878.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act" and was translated as reading "this division", meaning div. I of Pub. L. 105–277, Oct. 21, 1998, 112 Stat. 2681–856, known as the Chemical Weapons Convention Implementation Act of 1998, to reflect the probable intent of Congress. For complete classification of division I to the Code, see Short Title note set out under section 6701 of this title and Tables.

§6727. National security exception

Consistent with the objective of eliminating chemical weapons, the President may deny a request to inspect any facility in the United States in cases where the President determines that the inspection may pose a threat to the national security interests of the United States.

(Pub. L. 105–277, div. I, title III, §307, Oct. 21, 1998, 112 Stat. 2681–878.)

§6728. Annual report on inspections

(a) In general

Not later than one year after October 21, 1998, and annually thereafter, the President shall submit a report in classified and unclassified form to the appropriate congressional committees on inspections made under the Convention during the preceding year.

(b) Content of reports

Each report shall contain the following information for the reporting period:

(1) The name of each company or entity subject to the jurisdiction of the United States reporting data pursuant to subchapter III of this chapter.

(2) The number of inspections under the Convention conducted on the territory of the United States.

(3) The number and identity of inspectors conducting any inspection described in paragraph (2) and the number of inspectors barred from inspection by the United States.

(4) The cost to the United States for each inspection described in paragraph (2).

(5) The total costs borne by United States business firms in the course of inspections described in paragraph (2).

(6) A description of the circumstances surrounding inspections described in paragraph (2), including instances of possible industrial espionage and misconduct of inspectors.

(7) The identity of parties claiming loss of trade secrets, the circumstances surrounding those losses, and the efforts taken by the United States Government to redress those losses.

(8) A description of instances where inspections under the Convention outside the United States have been disrupted or delayed.

(c) "Appropriate congressional committees" defined

The term "appropriate congressional committees" means the Committee on the Judiciary, the Committee on Foreign Relations, and the Select Committee on Intelligence of the Senate and the Committee on the Judiciary, the Committee on International Relations, and the Permanent Select Committee on Intelligence of the House of Representatives.

(Pub. L. 105–277, div. I, title III, §309, Oct. 21, 1998, 112 Stat. 2681–879.)

CHANGE OF NAME

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

DELEGATION OF FUNCTIONS

For delegation of congressional reporting functions of President under this section, see section 1 of Ex. Ord.

No. 13313, July 31, 2003, 68 F.R. 46074, set out as a note under section 301 of Title 3, The President.

§6729. United States assistance in inspections at private facilities

(a) Assistance in preparation for inspections

At the request of an owner of a facility not owned or operated by the United States Government, or contracted for use by or for the United States Government, the Secretary of Defense may assist the facility to prepare the facility for possible inspections pursuant to the Convention.

(b) Reimbursement requirement

(1) In general

Except as provided in paragraph (2), the owner of a facility provided assistance under subsection (a) shall reimburse the Secretary for the costs incurred by the Secretary in providing the assistance.

(2) Exception

In the case of assistance provided under subsection (a) to a facility owned by a person described in subsection (c), the United States National Authority shall reimburse the Secretary for the costs incurred by the Secretary in providing the assistance.

(c) Owners covered by United States National Authority reimbursements

Subsection (b)(2) applies in the case of assistance provided to the following:

(1) Small business concerns

A small business concern as defined in section 632 of title 15.

(2) Domestic producers of Schedule 3 or unscheduled discrete organic chemicals

Any person located in the United States that—

(A) does not possess, produce, process, consume, import, or export any Schedule 1 or Schedule 2 chemical; and

(B) in the calendar year preceding the year in which the assistance is to be provided, produced—

(i) more than 30 metric tons of Schedule 3 or unscheduled discrete organic chemicals that contain phosphorous, sulfur, or fluorine; or

(ii) more than 200 metric tons of unscheduled discrete organic chemicals.

(Pub. L. 105–277, div. I, title III, §310, Oct. 21, 1998, 112 Stat. 2681–880.)

SUBCHAPTER III—REPORTS

§6741. Reports required by United States National Authority

(a) Regulations on recordkeeping

(1) Requirements

The United States National Authority shall ensure that regulations are prescribed that require each person located in the United States who produces, processes, consumes, exports, or imports, or proposes to produce, process, consume, export, or import, a chemical substance that is subject to the Convention to—

(A) maintain and permit access to records related to that production, processing, consumption, export, or import of such substance; and

(B) submit to the Director of the United States National Authority such reports as the United

States National Authority may reasonably require to provide to the Organization, pursuant to subparagraph 1(a) of the Annex on Confidentiality of the Convention, the minimum amount of information and data necessary for the timely and efficient conduct by the Organization of its responsibilities under the Convention.

(2) Rulemaking

The Director of the United States National Authority shall ensure that regulations pursuant to this section are prescribed expeditiously.

(b) Coordination

(1) Avoidance of duplication

To the extent feasible, the United States Government shall not require the submission of any report that is unnecessary or duplicative of any report required by or under any other law. The head of each Federal agency shall coordinate the actions of that agency with the heads of the other Federal agencies in order to avoid the imposition of duplicative reporting requirements under this chapter or any other law.

(2) Definition

As used in paragraph (1), the term "Federal agency" has the meaning given the term "agency" in section 551(1) of title 5.

(Pub. L. 105–277, div. I, title IV, §401, Oct. 21, 1998, 112 Stat. 2681–880.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b)(1), was in the original "this Act" and was translated as reading "this division", meaning div. I of Pub. L. 105–277, Oct. 21, 1998, 112 Stat. 2681–856, known as the Chemical Weapons Convention Implementation Act of 1998, to reflect the probable intent of Congress. For complete classification of division I to the Code, see Short Title note set out under section 6701 of this title and Tables.

REGULATIONS

Regulations under subsec. (a) to be issued by Department of Commerce by a date specified by Department of State as United States National Authority (USNA) and to be reviewed and approved by USNA in coordination with an interagency group, see section 3 of Ex. Ord. No. 13128, June 25, 1999, 64 F.R. 34703, set out as a note under section 6711 of this title.

§6742. Prohibition relating to low concentrations of Schedules 2 and 3 chemicals

(a) Prohibition

Notwithstanding any other provision of this chapter, no person located in the United States shall be required to report on, or to submit to, any routine inspection conducted for the purpose of verifying the production, possession, consumption, exportation, importation, or proposed production, possession, consumption, exportation, or importation of any substance that contains less than—

(1) 10 percent concentration of a Schedule 2 chemical; or

(2) 80 percent concentration of a Schedule 3 chemical.

(b) Standard for measurement of concentration

The percent concentration of a chemical in a substance shall be measured on the basis of volume or total weight, which measurement yields the lesser percent.

(Pub. L. 105–277, div. I, title IV, §402, Oct. 21, 1998, 112 Stat. 2681–881.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this Act" and was translated as reading "this division", meaning div. I of Pub. L. 105–277, Oct. 21, 1998, 112 Stat. 2681–856, known as the Chemical Weapons Convention Implementation Act of 1998, to reflect the probable intent of Congress. For complete classification of division I to the Code, see Short Title note set out under section 6701 of this title and Tables.

§6743. Prohibition relating to unscheduled discrete organic chemicals and coincidental byproducts in waste streams

(a) [1] Prohibition

Notwithstanding any other provision of this chapter, no person located in the United States shall be required to report on, or to submit to, any routine inspection conducted for the purpose of verifying the production, possession, consumption, exportation, importation, or proposed production, possession, consumption, exportation, or importation of any substance that is—

(1) an unscheduled discrete organic chemical; and

(2) a coincidental byproduct of a manufacturing or production process that is not isolated or captured for use or sale during the process and is routed to, or escapes, from the waste stream of a stack, incinerator, or wastewater treatment system or any other waste stream.

(Pub. L. 105–277, div. I, title IV, §403, Oct. 21, 1998, 112 Stat. 2681–881.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act" and was translated as reading "this division", meaning div. I of Pub. L. 105–277, Oct. 21, 1998, 112 Stat. 2681–856, known as the Chemical Weapons Convention Implementation Act of 1998, to reflect the probable intent of Congress. For complete classification of division I to the Code, see Short Title note set out under section 6701 of this title and Tables.

[1] So in original. No subsec. (b) has been enacted.

§6744. Confidentiality of information

(a) Freedom of Information Act exemption for certain Convention information

Except as provided in subsection (b) or (c), any confidential business information, as defined in section 6713(g) of this title, reported to, or otherwise acquired by, the United States Government under this chapter or under the Convention shall not be disclosed under section 552(a) of title 5.

(b) Exceptions

(1) Information for the Technical Secretariat

Information shall be disclosed or otherwise provided to the Technical Secretariat or other states parties to the Chemical Weapons Convention in accordance with the Convention, in particular, the provisions of the Annex on the Protection of Confidential Information.

(2) Information for Congress

Information shall be made available to any committee or subcommittee of Congress with appropriate jurisdiction upon the written request of the chairman or ranking minority member of such committee or subcommittee, except that no such committee or subcommittee, and no member and no staff member of such committee or subcommittee, shall disclose such information or material except as otherwise required or authorized by law.

(3) Information for enforcement actions

Information shall be disclosed to other Federal agencies for enforcement of this chapter or any other law, and shall be disclosed or otherwise provided when relevant in any proceeding under this chapter or any other law, except that disclosure or provision in such a proceeding shall be made in such manner as to preserve confidentiality to the extent practicable without impairing the proceeding.

(c) Information disclosed in national interest

(1) Authority

The United States Government shall disclose any information reported to, or otherwise required

by the United States Government under this chapter or the Convention, including categories of such information, that it determines is in the national interest to disclose and may specify the form in which such information is to be disclosed.

(2) Notice of disclosure

(A) Requirement

If any Department or agency of the United States Government proposes pursuant to paragraph (1) to publish or disclose or otherwise provide information exempt from disclosure under subsection (a), the United States National Authority shall, unless contrary to national security or law enforcement needs, provide notice of intent to disclose the information—

(i) to the person that submitted such information; and

(ii) in the case of information about a person received from another source, to the person to whom that information pertains.

The information may not be disclosed until the expiration of 30 days after notice under this paragraph has been provided.

(B) Proceedings on objections

In the event that the person to which the information pertains objects to the disclosure, the agency shall promptly review the grounds for each objection of the person and shall afford the objecting person a hearing for the purpose of presenting the objections to the disclosure. Not later than 10 days before the scheduled or rescheduled date for the disclosure, the United States National Authority shall notify such person regarding whether such disclosure will occur notwithstanding the objections.

(d) Criminal penalty for wrongful disclosure

Any officer or employee of the United States, and any former officer or employee of the United States, who by reason of such employment or official position has obtained possession of, or has access to, information the disclosure or other provision of which is prohibited by subsection (a), and who, knowing that disclosure or provision of such information is prohibited by such subsection, willfully discloses or otherwise provides the information in any manner to any person (including any person located outside the territory of the United States) not authorized to receive it, shall be fined under title 18 or imprisoned for not more than five years, or both.

(e) Criminal forfeiture

The property of any person who violates subsection (d) shall be subject to forfeiture to the United States in the same manner and to the same extent as is provided in section 229C [1] of title 18.

(f) International inspectors

The provisions of this section shall also apply to employees of the Technical Secretariat.

(Pub. L. 105–277, div. I, title IV, §404, Oct. 21, 1998, 112 Stat. 2681–882.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a), (b)(3), and (c)(1), was in the original "this Act" and was translated as reading "this division", meaning div. I of Pub. L. 105–277, Oct. 21, 1998, 112 Stat. 2681–856, known as the Chemical Weapons Convention Implementation Act of 1998, to reflect the probable intent of Congress. For complete classification of division I to the Code, see Short Title note set out under section 6701 of this title and Tables.

[1] So in original. Probably should be section "229B".

§6745. Recordkeeping violations

It shall be unlawful for any person willfully to fail or refuse—

(1) to establish or maintain any record required by this chapter or any regulation prescribed under this chapter;

(2) to submit any report, notice, or other information to the United States Government in accordance with this chapter or any regulation prescribed under this chapter; or

(3) to permit access to or copying of any record that is exempt from disclosure under this chapter or any regulation prescribed under this chapter.

(Pub. L. 105–277, div. I, title IV, §405, Oct. 21, 1998, 112 Stat. 2681–883.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act" and was translated as reading "this division", meaning div. I of Pub. L. 105–277, Oct. 21, 1998, 112 Stat. 2681–856, known as the Chemical Weapons Convention Implementation Act of 1998, to reflect the probable intent of Congress. For complete classification of division I to the Code, see Short Title note set out under section 6701 of this title and Tables.

SUBCHAPTER IV—ENFORCEMENT

§6761. Penalties

(a) Civil

(1) Penalty amounts

(A) Prohibited acts relating to inspections

Any person that is determined, in accordance with paragraph (2), to have violated section 6726 of this title shall be required by order to pay a civil penalty in an amount not to exceed $25,000 for each such violation. For purposes of this paragraph, each day such a violation of section 6726 of this title continues shall constitute a separate violation of that section.

(B) Recordkeeping violations

Any person that is determined, in accordance with paragraph (2), to have violated section 6745 of this title shall be required by order to pay a civil penalty in an amount not to exceed $5,000 for each such violation.

(2) Hearing

(A) In general

Before imposing an order described in paragraph (1) against a person under this subsection for a violation of section 6726 or 6745 of this title, the Secretary of State shall provide the person or entity with notice and, upon request made within 15 days of the date of the notice, a hearing respecting the violation.

(B) Conduct of hearing

Any hearing so requested shall be conducted before an administrative law judge. The hearing shall be conducted in accordance with the requirements of section 554 of title 5. If no hearing is so requested, the Secretary of State's imposition of the order shall constitute a final and unappealable order.

(C) Issuance of orders

If the administrative law judge determines, upon the preponderance of the evidence received, that a person or entity named in the complaint has violated section 6726 or 6745 of this title, the administrative law judge shall state his findings of fact and issue and cause to be served on such person or entity an order described in paragraph (1).

(D) Factors for determination of penalty amounts

In determining the amount of any civil penalty, the administrative law judge shall take into account the nature, circumstances, extent, and gravity of the violation or violations and, with respect to the violator, the ability to pay, effect on ability to continue to do business, any history of prior such violations, the degree of culpability, the existence of an internal compliance program, and such other matters as justice may require.

(3) Administrative appellate review

The decision and order of an administrative law judge shall become the final agency decision and order of the head of the United States National Authority unless, within 30 days, the head of the United States National Authority modifies or vacates the decision and order, with or without conditions, in which case the decision and order of the head of the United States National Authority shall become a final order under this subsection.

(4) Offsets

The amount of the civil penalty under a final order of the United States National Authority may be deducted from any sums owed by the United States to the person.

(5) Judicial review

A person adversely affected by a final order respecting an assessment may, within 30 days after the date the final order is issued, file a petition in the Court of Appeals for the District of Columbia Circuit or for any other circuit in which the person resides or transacts business.

(6) Enforcement of orders

If a person fails to comply with a final order issued under this subsection against the person or entity—

(A) after the order making the assessment has become a final order and if such person does not file a petition for judicial review of the order in accordance with paragraph (5), or

(B) after a court in an action brought under paragraph (5) has entered a final judgment in favor of the United States National Authority,

the Secretary of State shall file a suit to seek compliance with the order in any appropriate district court of the United States, plus interest at currently prevailing rates calculated from the date of expiration of the 30-day period referred to in paragraph (5) or the date of such final judgment, as the case may be. In any such suit, the validity and appropriateness of the final order shall not be subject to review.

(b) Criminal

Any person who knowingly violates any provision of section 6726 or 6745 of this title, shall, in addition to or in lieu of any civil penalty which may be imposed under subsection (a) for such violation, be fined under title 18, imprisoned for not more than one year, or both.

(Pub. L. 105–277, div. I, title V, §501, Oct. 21, 1998, 112 Stat. 2681–883.)

DELEGATION OF FUNCTIONS

For authority of Secretary of Commerce to carry out certain functions with respect to proceedings under subsec. (a), and to issue regulations with respect thereto, see section 4 of Ex. Ord. No. 13128, June 25, 1999, 64 F.R. 34703, set out as a note under section 6711 of this title.

§6762. Specific enforcement

(a) Jurisdiction

The district courts of the United States shall have jurisdiction over civil actions to—

(1) restrain any violation of section 6726 or 6745 of this title; and

(2) compel the taking of any action required by or under this chapter or the Convention.

(b) Civil actions

(1) In general

A civil action described in subsection (a) may be brought—

(A) in the case of a civil action described in subsection (a)(1), in the United States district court for the judicial district in which any act, omission, or transaction constituting a violation of section 6726 or 6745 of this title occurred or in which the defendant is found or transacts business; or

(B) in the case of a civil action described in subsection (a)(2), in the United States district court for the judicial district in which the defendant is found or transacts business.

(2) Service of process

In any such civil action process may be served on a defendant wherever the defendant may reside or may be found, whether the defendant resides or may be found within the United States or elsewhere.

(Pub. L. 105–277, div. I, title V, §502, Oct. 21, 1998, 112 Stat. 2681–885.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(2), was in the original "this Act" and was translated as reading "this division", meaning div. I of Pub. L. 105–277, Oct. 21, 1998, 112 Stat. 2681–856, known as the Chemical Weapons Convention Implementation Act of 1998, to reflect the probable intent of Congress. For complete classification of division I to the Code, see Short Title note set out under section 6701 of this title and Tables.

§6763. Expedited judicial review

(a) Civil action

Any person or entity subject to a search under this chapter may file a civil action challenging the constitutionality of any provision of this chapter. Notwithstanding any other provision of law, during the full calendar year of, and the two full calendar years following October 21, 1998, the district court shall accord such a case a priority in its disposition ahead of all other civil actions except for actions challenging the legality and conditions of confinement.

(b) En banc review

Notwithstanding any other provision of law, during the full calendar year of, and the two full calendar years following October 21, 1998, any appeal from a final order entered by a district court in an action brought under subsection (a) shall be heard promptly by the full Court of Appeals sitting en banc.

(Pub. L. 105–277, div. I, title V, §503, Oct. 21, 1998, 112 Stat. 2681–885.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this Act" and was translated as reading "this division", meaning div. I of Pub. L. 105–277, Oct. 21, 1998, 112 Stat. 2681–856, known as the Chemical Weapons Convention Implementation Act of 1998, to reflect the probable intent of Congress. For complete classification of division I to the Code, see Short Title note set out under section 6701 of this title and Tables.

SUBCHAPTER V—MISCELLANEOUS PROVISIONS

§6771. Prohibition

(a) In general

Neither the Secretary of Defense nor any other officer or employee of the United States may, directly or by contract—

(1) conduct any test or experiment involving the use of any chemical or biological agent on a

civilian population; or

(2) use human subjects for the testing of chemical or biological agents.

(b) Construction

Nothing in subsection (a) may be construed to prohibit actions carried out for purposes not prohibited by this chapter (as defined in section 6701(8) of this title).

(c) "Biological agent" defined

In this section, the term "biological agent" means any micro-organism (including bacteria, viruses, fungi, rickettsiae or protozoa), pathogen, or infectious substance, or any naturally occurring, bio-engineered or synthesized component of any such micro-organism, pathogen, or infectious substance, whatever its origin or method of production, capable of causing—

(1) death, disease, or other biological malfunction in a human, an animal, a plant, or another living organism;

(2) deterioration of food, water, equipment, supplies, or materials of any kind; or

(3) deleterious alteration of the environment.

(Pub. L. 105–277, div. I, title VI, §602, Oct. 21, 1998, 112 Stat. 2681–886.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original "this Act" and was translated as reading "this division", meaning div. I of Pub. L. 105–277, Oct. 21, 1998, 112 Stat. 2681–856, known as the Chemical Weapons Convention Implementation Act of 1998, to reflect the probable intent of Congress. For complete classification of division I to the Code, see Short Title note set out under section 6701 of this title and Tables.

CHAPTER 76—ASSISTANCE TO COUNTRIES WITH LARGE POPULATIONS HAVING HIV/AIDS

Sec.

6801. Definitions.

6802. Findings and purposes.

SUBCHAPTER I—UNITED STATES ASSISTANCE

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§6801. Definitions

In this chapter:

(1) AIDS

The term "AIDS" means the acquired immune deficiency syndrome.

(2) Association

The term "Association" means the International Development Association.

(3) Bank

The term "Bank" or "World Bank" means the International Bank for Reconstruction and Development.

(4) HIV

The term "HIV" means the human immunodeficiency virus, the pathogen which causes AIDS.

(5) HIV/AIDS

The term "HIV/AIDS" means, with respect to an individual, an individual who is infected with HIV or living with AIDS.

(Pub. L. 106–264, title I, §102, Aug. 19, 2000, 114 Stat. 749.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this title", meaning title I of Pub. L. 106–264, Aug. 19, 2000, 114 Stat. 748, which is classified principally to this chapter. For complete classification of title I to the Code, see Short Title note set out below and Tables.

SHORT TITLE

Pub. L. 106–264, §1, Aug. 19, 2000, 114 Stat. 748, provided that: "This Act [enacting this chapter, amending sections 2151b, 2222, 2293, 2367 and 2395 of this title, and enacting provisions set out as notes under this section and sections 2151 and 2151b of this title] may be cited as the 'Global AIDS and Tuberculosis Relief Act of 2000'."

Pub. L. 106–264, title I, §101, Aug. 19, 2000, 114 Stat. 749, provided that: "This title [enacting this chapter and amending sections 2151b, 2222 and 2293 of this title] may be cited as the 'Global AIDS Research and Relief Act of 2000'."

§6802. Findings and purposes

(a) Findings

Congress makes the following findings:

(1) According to the Surgeon General of the United States, the epidemic of human immunodeficiency virus/acquired immune deficiency syndrome (HIV/AIDS) will soon become the worst epidemic of infectious disease in recorded history, eclipsing both the bubonic plague of the 1300's and the influenza epidemic of 1918–1919 which killed more than 20,000,000 people worldwide.

(2) According to the Joint United Nations Programme on HIV/AIDS (UNAIDS), more than 34,300,000 people in the world today are living with HIV/AIDS, of which approximately 95 percent live in the developing world.

(3) UNAIDS data shows that among children age 14 and under worldwide, more than 3,800,000 have died from AIDS, more than 1,300,000 are living with the disease; and in 1 year alone—1999—an estimated 620,000 became infected, of which over 90 percent were babies born to HIV-positive women.

(4) Although sub-Saharan Africa has only 10 percent of the world's population, it is home to more than 24,500,000—roughly 70 percent—of the world's HIV/AIDS cases.

(5) Worldwide, there have already been an estimated 18,800,000 deaths because of HIV/AIDS, of which more than 80 percent occurred in sub-Saharan Africa.

(6) The gap between rich and poor countries in terms of transmission of HIV from mother to child has been increasing. Moreover, AIDS threatens to reverse years of steady progress of child survival in developing countries. UNAIDS believes that by the year 2010, AIDS may have increased mortality of children under 5 years of age by more than 100 percent in regions most affected by the virus.

(7) According to UNAIDS, by the end of 1999, 13,200,000 children have lost at least one parent to AIDS, including 12,100,000 children in sub-Saharan Africa, and are thus considered AIDS

orphans.

(8) At current infection and growth rates for HIV/AIDS, the National Intelligence Council estimates that the number of AIDS orphans worldwide will increase dramatically, potentially increasing threefold or more in the next 10 years, contributing to economic decay, social fragmentation, and political destabilization in already volatile and strained societies. Children without care or hope are often drawn into prostitution, crime, substance abuse, or child soldiery.

(9) Donors must focus on adequate preparations for the explosion in the number of orphans and the burden they will place on families, communities, economies, and governments. Support structures and incentives for families, communities, and institutions which will provide care for children orphaned by HIV/AIDS, or for the children who are themselves afflicted by HIV/AIDS, will be essential.

(10) The 1999 annual report by the United Nations Children's Fund (UNICEF) states "[t]he number of orphans, particularly in Africa, constitutes nothing less than an emergency, requiring an emergency response" and that "finding the resources needed to help stabilize the crisis and protect children is a priority that requires urgent action from the international community.".

(11) The discovery of a relatively simple and inexpensive means of interrupting the transmission of HIV from an infected mother to the unborn child—namely with nevirapine (NVP), which costs US$4 a tablet—has created a great opportunity for an unprecedented partnership between the United States Government and the governments of Asian, African and Latin American countries to reduce mother-to-child transmission (also known as "vertical transmission") of HIV.

(12) According to UNAIDS, if implemented this strategy will decrease the proportion of orphans that are HIV-infected and decrease infant and child mortality rates in these developing regions.

(13) A mother-to-child antiretroviral drug strategy can be a force for social change, providing the opportunity and impetus needed to address often long-standing problems of inadequate services and the profound stigma associated with HIV-infection and the AIDS disease. Strengthening the health infrastructure to improve mother-and-child health, antenatal, delivery and postnatal services, and couples counseling generates enormous spillover effects toward combating the AIDS epidemic in developing regions.

(14) United States Census Bureau statistics show life expectancy in sub-Saharan Africa falling to around 30 years of age within a decade, the lowest in a century, and project life expectancy in 2010 to be 29 years of age in Botswana, 30 years of age in Swaziland, 33 years of age in Namibia and Zimbabwe, and 36 years of age in South Africa, Malawi, and Rwanda, in contrast to a life expectancy of 70 years of age in many of the countries without a high prevalence of AIDS.

(15) A January 2000 United States National Intelligence Estimate (NIE) report on the global infectious disease threat concluded that the economic costs of infectious diseases—especially HIV/AIDS—are already significant and could reduce GDP by as much as 20 percent or more by 2010 in some sub-Saharan African nations.

(16) According to the same NIE report, HIV prevalence among militias in Angola and the Democratic Republic of the Congo are estimated at 40 to 60 percent, and at 15 to 30 percent in Tanzania.

(17) The HIV/AIDS epidemic is of increasing concern in other regions of the world, with UNAIDS estimating that there are more than 5,600,000 cases in South and South-east Asia, that the rate of HIV infection in the Caribbean is second only to sub-Saharan Africa, and that HIV infections have doubled in just 2 years in the former Soviet Union.

(18) Despite the discouraging statistics on the spread of HIV/AIDS, some developing nations—such as Uganda, Senegal, and Thailand—have implemented prevention programs that have substantially curbed the rate of HIV infection.

(19) AIDS, like all diseases, knows no national boundaries, and there is no certitude that the scale of the problem in one continent can be contained within that region.

(20) Accordingly, United States financial support for medical research, education, and disease containment as a global strategy has beneficial ramifications for millions of Americans and their

families who are affected by this disease, and the entire population which is potentially susceptible.

(b) Purposes

The purposes of this chapter are to—

(1) help prevent human suffering through the prevention, diagnosis, and treatment of HIV/AIDS; and

(2) help ensure the viability of economic development, stability, and national security in the developing world by advancing research to—

(A) understand the causes associated with HIV/AIDS in developing countries; and

(B) assist in the development of an AIDS vaccine.

(Pub. L. 106–264, title I, §103, Aug. 19, 2000, 114 Stat. 749.)

SUBCHAPTER I—UNITED STATES ASSISTANCE

§6811. Coordinated donor strategy for support and education of orphans in sub-Saharan Africa

(a) Statement of policy

It is in the national interest of the United States to assist in mitigating the burden that will be placed on sub-Saharan African social, economic, and political institutions as these institutions struggle with the consequences of a dramatically increasing AIDS orphan population, many of whom are themselves infected by HIV and living with AIDS. Effectively addressing that burden and its consequences in sub-Saharan Africa will require a coordinated multidonor strategy.

(b) Development of strategy

The President shall coordinate the development of a multidonor strategy to provide for the support and education of AIDS orphans and the families, communities, and institutions most affected by the HIV/AIDS epidemic in sub-Saharan Africa.

(c) Definition

In this section, the term "HIV/AIDS" means, with respect to an individual, an individual who is infected with the human immunodeficiency virus (HIV), the pathogen that causes the acquired immune deficiency virus (AIDS), or living with AIDS.

(Pub. L. 106–264, title I, §113, Aug. 19, 2000, 114 Stat. 753.)

§6812. African crisis response initiative and HIV/AIDS training

(a) Findings

Congress finds that—

(1) the spread of HIV/AIDS constitutes a threat to security in Africa;

(2) civil unrest and war may contribute to the spread of the disease to different parts of the continent;

(3) the percentage of soldiers in African militaries who are infected with HIV/AIDS is unknown, but estimates range in some countries as high as 40 percent; and

(4) it is in the interests of the United States to assist the countries of Africa in combating the spread of HIV/AIDS.

(b) Education on the prevention of the spread of AIDS

In undertaking education and training programs for military establishments in African countries,

the United States shall ensure that classroom training under the African Crisis Response Initiative includes military-based education on the prevention of the spread of AIDS.

(Pub. L. 106–264, title I, §114, Aug. 19, 2000, 114 Stat. 754.)

SUBCHAPTER II—WORLD BANK AIDS TRUST FUND

PART A—ESTABLISHMENT OF THE FUND

§6821. Establishment

(a) Negotiations for establishment of Trust Fund

The Secretary of the Treasury shall seek to enter into negotiations with the World Bank or the Association, in consultation with the Administrator of the United States Agency for International Development and other United States Government agencies, and with the member nations of the World Bank or the Association and with other interested parties, for the establishment within the World Bank of—

(1) the World Bank AIDS Trust Fund (in this subchapter referred to as the "Trust Fund") in accordance with the provisions of this part; and

(2) the Advisory Board to the Trust Fund in accordance with section 6824 of this title.

(b) Purpose

The purpose of the Trust Fund should be to use contributed funds to—

(1) assist in the prevention and eradication of HIV/AIDS and the care and treatment of individuals infected with HIV/AIDS; and

(2) provide support for the establishment of programs that provide health care and primary and secondary education for children orphaned by the HIV/AIDS epidemic.

(c) Composition

(1) In general

The Trust Fund should be governed by a Board of Trustees, which should be composed of representatives of the participating donor countries to the Trust Fund. Individuals appointed to the Board should have demonstrated knowledge and experience in the fields of public health, epidemiology, health care (including delivery systems), and development.

(2) United States representation

(A) In general

Upon the effective date of this paragraph, there shall be a United States member of the Board of Trustees, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall have the qualifications described in paragraph (1).

(B) Effective and termination dates

(i) Effective date

This paragraph shall take effect upon the date the Secretary of the Treasury certifies to Congress that an agreement establishing the Trust Fund and providing for a United States member of the Board of Trustees is in effect.

(ii) Termination date

The position established by subparagraph (A) is abolished upon the date of termination of the Trust Fund.

(Pub. L. 106–264, title I, §121, Aug. 19, 2000, 114 Stat. 754.)

§6822. Grant authorities

(a) Program objectives

(1) In general

In carrying out the purpose of section 6821(b) of this title, the Trust Fund, acting through the Board of Trustees, should provide only grants, including grants for technical assistance to support measures to build local capacity in national and local government, civil society, and the private sector to lead and implement effective and affordable HIV/AIDS prevention, education, treatment and care services, and research and development activities, including access to affordable drugs.

(2) Activities supported

Among the activities the Trust Fund should provide grants for should be—

(A) programs to promote the best practices in prevention, including health education messages that emphasize risk avoidance such as abstinence;

(B) measures to ensure a safe blood supply;

(C) voluntary HIV/AIDS testing and counseling;

(D) measures to stop mother-to-child transmission of HIV/AIDS, including through diagnosis of pregnant women, access to cost-effective treatment and counseling, and access to infant formula or other alternatives for infant feeding;

(E) programs to provide for the support and education of AIDS orphans and the families, communities, and institutions most affected by the HIV/AIDS epidemic;

(F) measures for the deterrence of gender-based violence and the provision of post-exposure prophylaxis to victims of rape and sexual assault; and

(G) incentives to promote affordable access to treatments against AIDS and related infections.

(3) Implementation of program objectives

In carrying out the objectives of paragraph (1), the Trust Fund should coordinate its activities with governments, civil society, nongovernmental organizations, the Joint United Nations Program on HIV/AIDS (UNAIDS), the International Partnership Against AIDS in Africa, other international organizations, the private sector, and donor agencies working to combat the HIV/AIDS crisis.

(b) Priority

In providing grants under this section, the Trust Fund should give priority to countries that have the highest HIV/AIDS prevalence rate or are at risk of having a high HIV/AIDS prevalence rate.

(c) Eligible grant recipients

Governments and nongovernmental organizations should be eligible to receive grants under this section.

(d) Prohibition

The Trust Fund should not make grants for the purpose of project development associated with bilateral or multilateral bank loans.

(Pub. L. 106–264, title I, §122, Aug. 19, 2000, 114 Stat. 755.)

§6823. Administration

(a) Appointment of an Administrator

The Board of Trustees, in consultation with the appropriate officials of the Bank, should appoint an Administrator who should be responsible for managing the day-to-day operations of the Trust

Fund.

(b) Authority to solicit and accept contributions

The Trust Fund should be authorized to solicit and accept contributions from governments, the private sector, and nongovernmental entities of all kinds.

(c) Accountability of funds and criteria for programs

As part of the negotiations described in section 6821(a) of this title, the Secretary of the Treasury shall, consistent with subsection (d)—

(1) take such actions as are necessary to ensure that the Bank or the Association will have in effect adequate procedures and standards to account for and monitor the use of funds contributed to the Trust Fund, including the cost of administering the Trust Fund; and

(2) seek agreement on the criteria that should be used to determine the programs and activities that should be assisted by the Trust Fund.

(d) Selection of projects and recipients

The Board of Trustees should establish—

(1) criteria for the selection of projects to receive support from the Trust Fund;

(2) standards and criteria regarding qualifications of recipients of such support;

(3) such rules and procedures as may be necessary for cost-effective management of the Trust Fund; and

(4) such rules and procedures as may be necessary to ensure transparency and accountability in the grant-making process.

(e) Transparency of operations

The Board of Trustees should ensure full and prompt public disclosure of the proposed objectives, financial organization, and operations of the Trust Fund.

(Pub. L. 106–264, title I, §123, Aug. 19, 2000, 114 Stat. 756.)

§6824. Advisory Board

(a) In general

There should be an Advisory Board to the Trust Fund.

(b) Appointments

The members of the Advisory Board should be drawn from—

(1) a broad range of individuals with experience and leadership in the fields of development, health care (especially HIV/AIDS), epidemiology, medicine, biomedical research, and social sciences; and

(2) representatives of relevant United Nations agencies and nongovernmental organizations with on-the-ground experience in affected countries.

(c) Responsibilities

The Advisory Board should provide advice and guidance to the Board of Trustees on the development and implementation of programs and projects to be assisted by the Trust Fund and on leveraging donations to the Trust Fund.

(d) Prohibition on payment of compensation

(1) In general

Except for travel expenses (including per diem in lieu of subsistence), no member of the Advisory Board should receive compensation for services performed as a member of the Board.

(2) United States representative

Notwithstanding any other provision of law (including an international agreement), a representative of the United States on the Advisory Board may not accept compensation for

services performed as a member of the Board, except that such representative may accept travel expenses, including per diem in lieu of subsistence, while away from the representative's home or regular place of business in the performance of services for the Board.

(Pub. L. 106–264, title I, §124, Aug. 19, 2000, 114 Stat. 756.)

PART B—REPORTS

§6831. Reports to Congress

(a) Annual reports by Treasury Secretary

(1) In general

Not later than 1 year after August 19, 2000, and annually thereafter for the duration of the Trust Fund, the Secretary of the Treasury shall submit to the appropriate committees of Congress a report on the Trust Fund.

(2) Report elements

The report shall include a description of—

(A) the goals of the Trust Fund;

(B) the programs, projects, and activities, including any vaccination approaches, supported by the Trust Fund;

(C) private and governmental contributions to the Trust Fund; and

(D) the criteria that have been established, acceptable to the Secretary of the Treasury and the Administrator of the United States Agency for International Development, that would be used to determine the programs and activities that should be assisted by the Trust Fund.

(b) GAO report on Trust Fund effectiveness

Not later than 2 years after August 19, 2000, the Comptroller General of the United States shall submit to the appropriate committees of the Congress a report evaluating the effectiveness of the Trust Fund, including—

(1) the effectiveness of the programs, projects, and activities described in subsection (a)(2)(B) in reducing the worldwide spread of AIDS; and

(2) an assessment of the merits of continued United States financial contributions to the Trust Fund.

(c) Appropriate committees defined

In subsection (a), the term "appropriate committees" means the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on International Relations, the Committee on Banking and Financial Services, and the Committee on Appropriations of the House of Representatives.

(Pub. L. 106–264, title I, §131, Aug. 19, 2000, 114 Stat. 757.)

CHANGE OF NAME

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

Committee on Banking and Financial Services of House of Representatives abolished and replaced by Committee on Financial Services of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred from Committee on Energy and Commerce of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

PART C—UNITED STATES FINANCIAL PARTICIPATION

§6841. Authorization of appropriations

(a) In general

In addition to any other funds authorized to be appropriated for multilateral or bilateral programs related to HIV/AIDS or economic development, there is authorized to be appropriated to the Secretary of the Treasury $150,000,000 for each of the fiscal years 2001 and 2002 for payment to the Trust Fund.

(b) Allocation of funds

Of the amounts authorized to be appropriated by subsection (a) for the fiscal years 2001 and 2002, $50,000,000 are authorized to be available each such fiscal year only for programs that benefit orphans.

(Pub. L. 106–264, title I, §141, Aug. 19, 2000, 114 Stat. 758.)

§6842. Certification requirement

(a) In general

Prior to the initial obligation or expenditure of funds appropriated pursuant to section 6841 of this title, the Secretary of the Treasury shall certify that adequate procedures and standards have been established to ensure accountability for and monitoring of the use of funds contributed to the Trust Fund, including the cost of administering the Trust Fund.

(b) Transmittal of certification

The certification required by subsection (a), and the bases for that certification, shall be submitted by the Secretary of the Treasury to Congress.

(Pub. L. 106–264, title I, §142, Aug. 19, 2000, 114 Stat. 758.)

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SUBCHAPTER I—GENERAL PROVISIONS

§6901. Findings

The Congress finds the following:

(1) In 1980, the United States opened trade relations with the People's Republic of China by entering into a bilateral trade agreement, which was approved by joint resolution enacted pursuant to section 2435(c) of title 19.

(2) Since 1980, the President has consistently extended nondiscriminatory treatment to products of the People's Republic of China, pursuant to his authority under section 2434 of title 19.

(3) Since 1980, the United States has entered into several additional trade-related agreements with the People's Republic of China, including a memorandum of understanding on market access in 1992, two agreements on intellectual property rights protection in 1992 and 1995, and an agreement on agricultural cooperation in 1999.

(4) Trade in goods between the People's Republic of China and the United States totaled almost $95,000,000,000 in 1999, compared with approximately $18,000,000,000 in 1989, representing growth of approximately 428 percent over 10 years.

(5) The United States merchandise trade deficit with the People's Republic of China has grown

from approximately $6,000,000,000 in 1989 to over $68,000,000,000 in 1999, a growth of over 1,000 percent.

(6) The People's Republic of China currently restricts imports through relatively high tariffs and nontariff barriers, including import licensing, technology transfer, and local content requirements.

(7) United States businesses attempting to sell goods to markets in the People's Republic of China have complained of uneven application of tariffs, customs procedures, and other laws, rules, and administrative measures affecting their ability to sell their products in the Chinese market.

(8) On November 15, 1999, the United States and the People's Republic of China concluded a bilateral agreement concerning terms of the People's Republic of China's eventual accession to the World Trade Organization.

(9) The commitments that the People's Republic of China made in its November 15, 1999, agreement with the United States promise to eliminate or greatly reduce the principal barriers to trade with and investment in the People's Republic of China, if those commitments are effectively complied with and enforced.

(10) The record of the People's Republic of China in implementing trade-related commitments has been mixed. While the People's Republic of China has generally met the requirements of the 1992 market access memorandum of understanding and the 1992 and 1995 agreements on intellectual property rights protection, other measures remain in place or have been put into place which tend to diminish the benefit to United States businesses, farmers, and workers from the People's Republic of China's implementation of those earlier commitments. Notably, administration of tariff-rate quotas and other trade-related laws remains opaque, new local content requirements have proliferated, restrictions on importation of animal and plant products are not always supported by sound science, and licensing requirements for importation and distribution of goods remain common. Finally, the Government of the People's Republic of China has failed to cooperate with the United States Customs Service in implementing a 1992 memorandum of understanding prohibiting trade in products made by prison labor.

(11) The human rights record of the People's Republic of China is a matter of very serious concern to the Congress. The Congress notes that the Department of State's 1999 Country Reports on Human Rights Practices for the People's Republic of China finds that "[t]he Government's poor human rights record deteriorated markedly throughout the year, as the Government intensified efforts to suppress dissent, particularly organized dissent.".

(12) The Congress deplores violations by the Government of the People's Republic of China of human rights, religious freedoms, and worker rights that are referred to in the Department of State's 1999 Country Reports on Human Rights Practices for the People's Republic of China, including the banning of the Falun Gong spiritual movement, denial in many cases, particularly politically sensitive ones, of effective representation by counsel and public trials, extrajudicial killings and torture, forced abortion and sterilization, restriction of access to Tibet and Xinjiang, perpetuation of "reeducation through labor", denial of the right of workers to organize labor unions or bargain collectively with their employers, and failure to implement a 1992 memorandum of understanding prohibiting trade in products made by prison labor.

(Pub. L. 106–286, div. B, title II, §202, Oct. 10, 2000, 114 Stat. 892.)

SHORT TITLE OF 2003 AMENDMENT

Pub. L. 108–7, div. P, §1, Feb. 20, 2003, 117 Stat. 552, provided that: "This division [amending section 7002 of this title and enacting provisions set out as notes under section 7002 of this title] may be cited as the 'United States-China Economic and Security Review Commission'."

SHORT TITLE

Pub. L. 106–286, div. B, title II, §201(a), Oct. 10, 2000, 114 Stat. 891, provided that: "This division [enacting this chapter] may be cited as the 'U.S.-China Relations Act of 2000'."

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d),

and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107–296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114–125, and section 802(b) of Pub. L. 114–125, set out as a note under section 211 of Title 6.

MONITORING OF IMPLEMENTATION OF 1979 AGREEMENT BETWEEN THE UNITED STATES AND CHINA ON COOPERATION IN SCIENCE AND TECHNOLOGY

Pub. L. 107–314, div. A, title XII, §1207, Dec. 2, 2002, 116 Stat. 2666, as amended by Pub. L. 114–323, title VII, §715(b)(4), Dec. 16, 2016, 130 Stat. 1946, provided that:

"(a) IN GENERAL.—The Secretary of State shall—

"(1) monitor the implementation of the Agreement specified in subsection (c);

"(2) keep a systematic account of the protocols to the Agreement;

"(3) coordinate the activities of all agencies of the United States Government that carry out cooperative activities under the Agreement; and

"(4) ensure that all activities conducted under the Agreement comply with applicable laws and regulations concerning the transfer of militarily sensitive technologies and dual-use technologies.

"(b) RESPONSIBILITIES OF THE OFFICE OF SCIENCE AND TECHNOLOGY COOPERATION .—Except as otherwise provided by the Secretary of State, the functions of the Secretary under this section shall be carried out through the Director of the Office of Science and Technology Cooperation of the Department of State.

"(c) AGREEMENT DEFINED.—For purposes of this section, the term 'Agreement' means the agreement between the United States and the People's Republic of China known as the 'Agreement between the Government of the United States of America and the Government of the People's Republic of China on Cooperation in Science and Technology', signed in Washington on January 31, 1979, and its protocols.

"(d) INTERAGENCY WORKING GROUP.—The President shall establish an interagency working group to oversee the implementation of the Agreement by departments and agencies of the United States. The working group shall consist of representatives of such departments, agencies, and offices of the executive branch as the President considers appropriate. The working group shall perform the following functions:

"(1) Assisting the Secretary of State and other appropriate officials in setting standards under the Agreement for science and technology transfers between the United States and the People's Republic of China.

"(2) Monitoring ongoing programs and activities under the Agreement and recommending future programs and activities under the Agreement.

"(3) Developing a comprehensive database of all government-to-government programs and United States Government-funded programs under the Agreement.

"(4) Coordinating activities under the Agreement between United States Government agencies, including elements of the intelligence community, as appropriate."

[Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108–458, set out as a note under section 3001 of Title 50, War and National Defense.]

TIBETAN POLICY

Pub. L. 107–228, div. A, title VI, subtitle B, Sept. 30, 2002, 116 Stat. 1396, as amended by Pub. L. 114–323, title VII, §715(b)(1), Dec. 16, 2016, 130 Stat. 1946, provided that:

"SEC. 611. SHORT TITLE.

"This subtitle may be cited as 'Tibetan Policy Act of 2002'.

"SEC. 612. STATEMENT OF PURPOSE.

"The purpose of this subtitle is to support the aspirations of the Tibetan people to safeguard their distinct identity.

"SEC. 613. TIBET NEGOTIATIONS.

"(a) IN GENERAL.—The President and the Secretary should encourage the Government of the People's Republic of China to enter into a dialogue with the Dalai Lama or his representatives leading to a negotiated agreement on Tibet.

"(b) COMPLIANCE.—After such an agreement is reached, the President and the Secretary should work to ensure compliance with the agreement.

"SEC. 614. REPORTING ON TIBET.

"Whenever a report is transmitted to Congress under section 116 or 502B of the Foreign Assistance Act of 1961 (22 U.S.C. 2151m [2151n], 2304) or under section 102(b) of the International Religious Freedom Act of 1998 (22 U.S.C. 6412(b)), Tibet shall be included in such report as a separate section.

"SEC. 615. CONGRESSIONAL-EXECUTIVE COMMISSION ON THE PEOPLE'S REPUBLIC OF CHINA.

[Amended section 6912 of this title.]

"SEC. 616. ECONOMIC DEVELOPMENT IN TIBET.

"(a) DECLARATIONS OF POLICY.—It is the policy of the United States to support economic development, cultural preservation, health care, and education and environmental sustainability for Tibetans inside Tibet. In support of this policy, the United States shall use its voice and vote to support projects designed in accordance with the principles contained in subsection (d) that are designed to raise the standard of living for the Tibetan people and assist Tibetans to become self-sufficient.

"(b) INTERNATIONAL FINANCIAL INSTITUTIONS.—The Secretary of the Treasury shall instruct the United States executive director of each international financial institution to use the voice and vote of the United States to support projects in Tibet, if the projects are designed in accordance with the principles contained in subsection (d).

"(c) EXPORT-IMPORT BANK AND TDA.—The Export-Import Bank of the United States and the Trade and Development Agency should support projects proposed to be funded or otherwise supported by such entities in Tibet, if the projects are designed in accordance with the principles contained in subsection (d).

"(d) TIBET PROJECT PRINCIPLES.—Projects in Tibet supported by international financial institutions, other international organizations, nongovernmental organizations, and the United States entities referred to in subsection (c), should—

"(1) be implemented only after conducting a thorough assessment of the needs of the Tibetan people through field visits and interviews;

"(2) be preceded by cultural and environmental impact assessments;

"(3) foster self-sufficiency and self-reliance of Tibetans;

"(4) promote accountability of the development agencies to the Tibetan people and active participation of Tibetans in all project stages;

"(5) respect Tibetan culture, traditions, and the Tibetan knowledge and wisdom about their landscape and survival techniques;

"(6) be subject to on-site monitoring by the development agencies to ensure that the intended target group benefits;

"(7) be implemented by development agencies prepared to use Tibetan as the working language of the projects;

"(8) neither provide incentive for, nor facilitate the migration and settlement of, non-Tibetans into Tibet; and

"(9) neither provide incentive for, nor facilitate the transfer of ownership of, Tibetan land or natural resources to non-Tibetans.

"SEC. 617. RELEASE OF PRISONERS AND ACCESS TO PRISONS.

"The President and the Secretary, in meetings with representatives of the Government of the People's Republic of China, should—

"(1) request the immediate and unconditional release of all those held prisoner for expressing their political or religious views in Tibet;

"(2) seek access for international humanitarian organizations to prisoners in Tibet to ensure that prisoners are not being mistreated and are receiving necessary medical care; and

"(3) seek the immediate medical parole of Tibetan prisoners known to be in serious ill health.

"SEC. 618. ESTABLISHMENT OF A UNITED STATES BRANCH OFFICE IN LHASA, TIBET.

"The Secretary should make best efforts to establish an office in Lhasa, Tibet, to monitor political, economic, and cultural developments in Tibet.

"SEC. 619. REQUIREMENT FOR TIBETAN LANGUAGE TRAINING.

"The Secretary shall ensure that Tibetan language training is available to Foreign Service officers, and that every effort is made to ensure that a Tibetan-speaking Foreign Service officer is assigned to a United States post in the People's Republic of China responsible for monitoring developments in Tibet.

"SEC. 620. RELIGIOUS PERSECUTION IN TIBET.

"(a) HIGH-LEVEL CONTACTS.—Pursuant to section 105 of the International Religious Freedom Act of 1998 (22 U.S.C. 6414), the United States Ambassador to the People's Republic of China should—

"(1) meet with the 11th Panchen Lama, who was taken from his home on May 17, 1995, and otherwise ascertain information concerning his whereabouts and well-being; and

"(2) request that the Government of the People's Republic of China release the 11th Panchen Lama and allow him to pursue his religious studies without interference and according to tradition.

"(b) PROMOTION OF INCREASED ADVOCACY.—Pursuant to section 108(a) of the International Religious Freedom Act of 1998 (22 U.S.C. 6417(a)), it is the sense of Congress that representatives of the United States Government in exchanges with officials of the Government of the People's Republic of China should call for and otherwise promote the cessation of all interference by the Government of the People's Republic of China or the Communist Party in the religious affairs of the Tibetan people.

"SEC. 621. UNITED STATES SPECIAL COORDINATOR FOR TIBETAN ISSUES.

"(a) UNITED STATES SPECIAL COORDINATOR FOR TIBETAN ISSUES.—There shall be within the Department a United States Special Coordinator for Tibetan Issues (in this section referred to as the 'Special Coordinator').

"(b) CONSULTATION.—The Secretary shall consult with the chairmen and ranking minority members of the appropriate congressional committees prior to the designation of the Special Coordinator.

"(c) CENTRAL OBJECTIVE.—The central objective of the Special Coordinator is to promote substantive dialogue between the Government of the People's Republic of China and the Dalai Lama or his representatives.

"(d) DUTIES AND RESPONSIBILITIES.—The Special Coordinator shall—

"(1) coordinate United States Government policies, programs, and projects concerning Tibet;

"(2) vigorously promote the policy of seeking to protect the distinct religious, cultural, linguistic, and national identity of Tibet, and pressing for improved respect for human rights;

"(3) maintain close contact with religious, cultural, and political leaders of the Tibetan people, including regular travel to Tibetan areas of the People's Republic of China, and to Tibetan refugee settlements in India and Nepal;

"(4) consult with Congress on policies relevant to Tibet and the future and welfare of the Tibetan people;

"(5) make efforts to establish contacts in the foreign ministries of other countries to pursue a negotiated solution for Tibet; and

"(6) take all appropriate steps to ensure adequate resources, staff, and bureaucratic support to fulfill the duties and responsibilities of the Special Coordinator."

[For definitions of "Secretary" and "appropriate congressional committees" as used in subtitle B of title VI of div. A of Pub. L. 107–228, set out above, see section 3 of Pub. L. 107–228, set out as a note under section 2651 of this title.]

[Functions of President under section 613(b) of Pub. L. 107–228, set out above, delegated to Secretary of State by section 1 of Ex. Ord. No. 13313, July 31, 2003, 68 F.R. 46073, set out as a note under section 301 of Title 3, The President.]

POLICY OF THE UNITED STATES WITH RESPECT TO MACAU

Pub. L. 106–570, title II, Dec. 27, 2000, 114 Stat. 3040, provided that:

"SEC. 201. SHORT TITLE.

"This title may be cited as the 'United States-Macau Policy Act of 2000'.

"SEC. 202. FINDINGS AND DECLARATIONS; SENSE OF CONGRESS.

"(a) FINDINGS AND DECLARATIONS.—Congress makes the following findings and declarations:

"(1) The continued economic prosperity of Macau furthers United States interests in the People's Republic of China and Asia.

"(2) Support for democratization is a fundamental principle of United States foreign policy, and as such, that principle naturally applies to United States policy toward Macau.

"(3) The human rights of the people of Macau are of great importance to the United States and are directly relevant to United States interests in Macau.

"(4) A fully successful transition in the exercise of sovereignty over Macau must continue to safeguard human rights in and of themselves.

"(5) Human rights also serve as a basis for Macau's continued economic prosperity, and Congress

takes note of Macau's adherence to the International Covenant on Civil and Political Rights and the International Convention on Economic, Social, and Cultural Rights.

"(b) SENSE OF CONGRESS.—It is the sense of Congress that—

"(1) the United States should play an active role in maintaining Macau's confidence and prosperity, Macau's unique cultural heritage, and the mutually beneficial ties between the people of the United States and the people of Macau;

"(2) through its policies, the United States should contribute to Macau's ability to maintain a high degree of autonomy in matters other than defense and foreign affairs as promised by the People's Republic of China and the Republic of Portugal in the Joint Declaration, particularly with respect to such matters as trade, commerce, law enforcement, finance, monetary policy, aviation, shipping, communications, tourism, cultural affairs, sports, and participation in international organizations, consistent with the national security and other interests of the United States; and

"(3) the United States should actively seek to establish and expand direct bilateral ties and agreements with Macau in economic, trade, financial, monetary, mutual legal assistance, law enforcement, communication, transportation, and other appropriate areas.

"SEC. 203. CONTINUED APPLICATION OF UNITED STATES LAW.

"(a) CONTINUED APPLICATION.—

"(1) IN GENERAL.—Notwithstanding any change in the exercise of sovereignty over Macau, and subject to subsections (b) and (c), the laws of the United States shall continue to apply with respect to Macau in the same manner as the laws of the United States were applied with respect to Macau before December 20, 1999, unless otherwise expressly provided by law or by Executive order issued pursuant to paragraph (2).

"(2) EXCEPTION.—Whenever the President determines that Macau is not sufficiently autonomous to justify treatment under a particular law of the United States, or any provision thereof, different from that accorded the People's Republic of China, the President may issue an Executive order suspending the application of paragraph (1) to such law or provision of law. The President shall promptly notify the Committee on International Relations [now Committee on Foreign Affairs] of the House of Representatives and the Committee on Foreign Relations of the Senate concerning any such determination and shall publish the Executive order in the Federal Register.

"(b) EXPORT CONTROLS.—

"(1) IN GENERAL.—The export control laws, regulations, and practices of the United States shall apply to Macau in the same manner and to the same extent that such laws, regulations, and practices apply to the People's Republic of China, and in no case shall such laws, regulations, and practices be applied less restrictively to exports to Macau than to exports to the People's Republic of China.

"(2) RULE OF CONSTRUCTION.—Paragraph (1) shall not be construed as prohibiting the provision of export control assistance to Macau.

"(c) INTERNATIONAL AGREEMENTS.—

"(1) IN GENERAL.—Subject to subsection (b) and paragraph (2), for all purposes, including actions in any court of the United States, Congress approves of the continuation in force after December 20, 1999, of all treaties and other international agreements, including multilateral conventions, entered into before such date between the United States and Macau, or entered into force before such date between the United States and the Republic of Portugal and applied to Macau, unless or until terminated in accordance with law.

"(2) EXCEPTION.—If, in carrying out this subsection, the President determines that Macau is not legally competent to carry out its obligations under any such treaty or other international agreement, or that the continuation of Macau's obligations or rights under any such treaty or other international agreement is not appropriate under the circumstances, the President shall take appropriate action to modify or terminate such treaty or other international agreement. The President shall promptly notify the Committee on International Relations [now Committee on Foreign Affairs] of the House of Representatives and the Committee on Foreign Relations of the Senate concerning such determination.

"SEC. 204. REPORTING REQUIREMENT.

"(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act [Dec. 27, 2000], and not later than March 31 of each of the years 2001, 2002, and 2003, the Secretary of State shall transmit to the Committee on International Relations [now Committee on Foreign Affairs] of the House of Representatives and the Committee on Foreign Relations of the Senate a report on conditions in Macau of interest to the United States. The report shall describe—

"(1) significant developments in United States relations with Macau, including any determination

made under section 203;

"(2) significant developments related to the change in the exercise of sovereignty over Macau affecting United States interests in Macau or United States relations with Macau and the People's Republic of China;

"(3) the development of democratic institutions in Macau;

"(4) compliance by the Government of the People's Republic of China and the Government of the Republic of Portugal with their obligations under the Joint Declaration; and

"(5) the nature and extent of Macau's participation in multilateral forums.

"(b) SEPARATE PART OF COUNTRY REPORTS.—Whenever a report is transmitted to Congress on a country-by-country basis, there shall be included in such report, where applicable, a separate subreport on Macau under the heading of the country that exercises sovereignty over Macau.

"SEC. 205. DEFINITIONS.

"In this title:

"(1) JOINT DECLARATION.—The term 'Joint Declaration' means the Joint Declaration of the Government of the People's Republic of China and the Government of the Republic of Portugal on the Question of Macau, dated April 13, 1987.

"(2) MACAU.—The term 'Macau' means the territory that prior to December 20, 1999, was the Portuguese Dependent Territory of Macau and after December 20, 1999, became the Macau Special Administrative Region of the People's Republic of China."

§6902. Policy

It is the policy of the United States—

(1) to develop trade relations that broaden the benefits of trade, and lead to a leveling up, rather than a leveling down, of labor, environmental, commercial rule of law, market access, anticorruption, and other standards across national borders;

(2) to pursue effective enforcement of trade-related and other international commitments by foreign governments through enforcement mechanisms of international organizations and through the application of United States law as appropriate;

(3) to encourage foreign governments to conduct both commercial and noncommercial affairs according to the rule of law developed through democratic processes;

(4) to encourage the Government of the People's Republic of China to afford its workers internationally recognized worker rights;

(5) to encourage the Government of the People's Republic of China to protect the human rights of people within the territory of the People's Republic of China, and to take steps toward protecting such rights, including, but not limited to—

(A) ratifying the International Covenant on Civil and Political Rights;

(B) protecting the right to liberty of movement and freedom to choose a residence within the People's Republic of China and the right to leave from and return to the People's Republic of China; and

(C) affording a criminal defendant—

(i) the right to be tried in his or her presence, and to defend himself or herself in person or through legal assistance of his or her own choosing;

(ii) the right to be informed, if he or she does not have legal assistance, of the right set forth in clause (i);

(iii) the right to have legal assistance assigned to him or her in any case in which the interests of justice so require and without payment by him or her in any such case if he or she does not have sufficient means to pay for it;

(iv) the right to a fair and public hearing by a competent, independent, and impartial tribunal established by the law;

(v) the right to be presumed innocent until proved guilty according to law; and

(vi) the right to be tried without undue delay; and

(6) to highlight in the United Nations Human Rights Commission and in other appropriate fora violations of human rights by foreign governments and to seek the support of other governments

in urging improvements in human rights practices.

(Pub. L. 106–286, div. B, title II, §203, Oct. 10, 2000, 114 Stat. 893.)

§6903. Definitions

In this chapter:

(1) Dispute Settlement Understanding

The term "Dispute Settlement Understanding" means the Understanding on Rules and Procedures Governing the Settlement of Disputes referred to in section 3511(d)(16) of title 19.

(2) Government of the People's Republic of China

The term "Government of the People's Republic of China" means the central Government of the People's Republic of China and any other governmental entity, including any provincial, prefectural, or local entity and any enterprise that is controlled by the central Government or any such governmental entity or as to which the central Government or any such governmental entity is entitled to receive a majority of the profits.

(3) Internationally recognized worker rights

The term "internationally recognized worker rights" has the meaning given that term in section 2467(4) of title 19 and includes the right to the elimination of the "worst forms of child labor", as defined in section 2467(6) of title 19.

(4) Trade Representative

The term "Trade Representative" means the United States Trade Representative.

(5) WTO; World Trade Organization

The terms "WTO" and "World Trade Organization" mean the organization established pursuant to the WTO Agreement.

(6) WTO Agreement

The term "WTO Agreement" means the Agreement Establishing the World Trade Organization entered into on April 15, 1994.

(7) WTO member

The term "WTO member" has the meaning given that term in section 3501(10) of title 19.

(Pub. L. 106–286, div. B, title II, §204, Oct. 10, 2000, 114 Stat. 894.)

SUBCHAPTER II—CONGRESSIONAL-EXECUTIVE COMMISSION ON THE PEOPLE'S REPUBLIC OF CHINA

§6911. Establishment of Congressional-Executive Commission on the People's Republic of China

There is established a Congressional-Executive Commission on the People's Republic of China (in this subchapter referred to as the "Commission").

(Pub. L. 106–286, div. B, title III, §301, Oct. 10, 2000, 114 Stat. 895.)

§6912. Functions of the Commission

(a) Monitoring compliance with human rights

The Commission shall monitor the acts of the People's Republic of China which reflect compliance with or violation of human rights, in particular, those contained in the International Covenant on Civil and Political Rights and in the Universal Declaration of Human Rights, including, but not limited to, effectively affording—

(1) the right to engage in free expression without fear of any prior restraints;

(2) the right to peaceful assembly without restrictions, in accordance with international law;

(3) religious freedom, including the right to worship free of involvement of and interference by the government;

(4) the right to liberty of movement and freedom to choose a residence within the People's Republic of China and the right to leave from and return to the People's Republic of China;

(5) the right of a criminal defendant—

(A) to be tried in his or her presence, and to defend himself or herself in person or through legal assistance of his or her own choosing;

(B) to be informed, if he or she does not have legal assistance, of the right set forth in subparagraph (A);

(C) to have legal assistance assigned to him or her in any case in which the interests of justice so require and without payment by him or her in any such case if he or she does not have sufficient means to pay for it;

(D) to a fair and public hearing by a competent, independent, and impartial tribunal established by the law;

(E) to be presumed innocent until proved guilty according to law; and

(F) to be tried without undue delay;

(6) the right to be free from torture and other forms of cruel or unusual punishment;

(7) protection of internationally recognized worker rights;

(8) freedom from incarceration as punishment for political opposition to the government;

(9) freedom from incarceration as punishment for exercising or advocating human rights (including those described in this section);

(10) freedom from arbitrary arrest, detention, or exile;

(11) the right to fair and public hearings by an independent tribunal for the determination of a citizen's rights and obligations; and

(12) free choice of employment.

(b) Victims lists

The Commission shall compile and maintain lists of persons believed to be imprisoned, detained, or placed under house arrest, tortured, or otherwise persecuted by the Government of the People's Republic of China due to their pursuit of the rights described in subsection (a). In compiling such lists, the Commission shall exercise appropriate discretion, including concerns regarding the safety and security of, and benefit to, the persons who may be included on the lists and their families.

(c) Monitoring development of rule of law

The Commission shall monitor the development of the rule of law in the People's Republic of China, including, but not limited to—

(1) progress toward the development of institutions of democratic governance;

(2) processes by which statutes, regulations, rules, and other legal acts of the Government of the People's Republic of China are developed and become binding within the People's Republic of China;

(3) the extent to which statutes, regulations, rules, administrative and judicial decisions, and other legal acts of the Government of the People's Republic of China are published and are made accessible to the public;

(4) the extent to which administrative and judicial decisions are supported by statements of reasons that are based upon written statutes, regulations, rules, and other legal acts of the Government of the People's Republic of China;

(5) the extent to which individuals are treated equally under the laws of the of the [1] People's

Republic of China without regard to citizenship;

(6) the extent to which administrative and judicial decisions are independent of political pressure or governmental interference and are reviewed by entities of appellate jurisdiction; and

(7) the extent to which laws in the People's Republic of China are written and administered in ways that are consistent with international human rights standards, including the requirements of the International Covenant on Civil and Political Rights.

(d) Bilateral cooperation

The Commission shall monitor and encourage the development of programs and activities of the United States Government and private organizations with a view toward increasing the interchange of people and ideas between the United States and the People's Republic of China and expanding cooperation in areas that include, but are not limited to—

(1) increasing enforcement of human rights described in subsection (a); and

(2) developing the rule of law in the People's Republic of China.

(e) Contacts with nongovernmental organizations

In performing the functions described in subsections (a) through (d), the Commission shall, as appropriate, seek out and maintain contacts with nongovernmental organizations, including receiving reports and updates from such organizations and evaluating such reports.

(f) Cooperation with Special Coordinator

In performing the functions described in subsections (a) through (d), the Commission shall cooperate with the Special Coordinator for Tibetan Issues in the Department of State.

(g) Annual reports

The Commission shall issue a report to the President and the Congress not later than 12 months after October 10, 2000, and not later than the end of each 12-month period thereafter, setting forth the findings of the Commission during the preceding 12-month period, in carrying out subsections (a) through (c). The Commission's report may contain recommendations for legislative or executive action.

(h) Specific information in annual reports

The Commission's report under subsection (g) shall include—

(1) specific information as to the nature and implementation of laws or policies concerning the rights set forth in paragraphs (1) through (12) of subsection (a), and as to restrictions applied to or discrimination against persons exercising any of the rights set forth in such paragraphs; and

(2) a description of the status of negotiations between the Government of the People's Republic of China and the Dalai Lama or his representatives, and measures taken to safeguard Tibet's distinct historical, religious, cultural, and linguistic identity and the protection of human rights.

(i) Congressional hearings on annual reports

(1) The Committee on International Relations of the House of Representatives shall, not later than 30 days after the receipt by the Congress of the report referred to in subsection (g), hold hearings on the contents of the report, including any recommendations contained therein, for the purpose of receiving testimony from Members of Congress, and such appropriate representatives of Federal departments and agencies, and interested persons and groups, as the committee deems advisable, with a view to reporting to the House of Representatives any appropriate legislation in furtherance of such recommendations. If any such legislation is considered by the Committee on International Relations within 45 days after receipt by the Congress of the report referred to in subsection (g), it shall be reported by the committee not later than 60 days after receipt by the Congress of such report.

(2) The provisions of paragraph (1) are enacted by the Congress—

(A) as an exercise of the rulemaking power of the House of Representatives, and as such are deemed a part of the rules of the House, and they supersede other rules only to the extent that they are inconsistent therewith; and

(B) with full recognition of the constitutional right of the House to change the rules (so far as relating to the procedure of the House) at any time, in the same manner and to the same extent as

in the case of any other rule of the House.

(j) Supplemental reports

The Commission may submit to the President and the Congress reports that supplement the reports described in subsection (g), as appropriate, in carrying out subsections (a) through (c).

(Pub. L. 106–286, div. B, title III, §302, Oct. 10, 2000, 114 Stat. 895; Pub. L. 107–228, div. A, title VI, §615, Sept. 30, 2002, 116 Stat. 1396.)

AMENDMENTS

2002—Subsec. (h). Pub. L. 107–228 substituted "shall include—" for "shall include", inserted par. (1) designation before "specific information", and added par. (2).

CHANGE OF NAME

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

[1] *So in original.*

§6913. Membership of the Commission

(a) Selection and appointment of members

The Commission shall be composed of 23 members as follows:

(1) Nine Members of the House of Representatives appointed by the Speaker of the House of Representatives. Five members shall be selected from the majority party and four members shall be selected, after consultation with the minority leader of the House, from the minority party.

(2) Nine Members of the Senate appointed by the President of the Senate. Five members shall be selected, after consultation with the majority leader of the Senate, from the majority party, and four members shall be selected, after consultation with the minority leader of the Senate, from the minority party.

(3) One representative of the Department of State, appointed by the President of the United States from among officers and employees of that Department.

(4) One representative of the Department of Commerce, appointed by the President of the United States from among officers and employees of that Department.

(5) One representative of the Department of Labor, appointed by the President of the United States from among officers and employees of that Department.

(6) Two at-large representatives, appointed by the President of the United States, from among the officers and employees of the executive branch.

(b) Chairman and Cochairman

(1) Designation of Chairman

At the beginning of each odd-numbered Congress, the President of the Senate, on the recommendation of the majority leader, shall designate one of the members of the Commission from the Senate as Chairman of the Commission. At the beginning of each even-numbered Congress, the Speaker of the House of Representatives shall designate one of the members of the Commission from the House as Chairman of the Commission.

(2) Designation of Cochairman

At the beginning of each odd-numbered Congress, the Speaker of the House of Representatives shall designate one of the members of the Commission from the House as Cochairman of the Commission. At the beginning of each even-numbered Congress, the President of the Senate, on the recommendation of the majority leader, shall designate one of the members of the Commission from the Senate as Cochairman of the Commission.

(Pub. L. 106–286, div. B, title III, §303, Oct. 10, 2000, 114 Stat. 898.)

§6914. Votes of the Commission

Decisions of the Commission, including adoption of reports and recommendations to the executive branch or to the Congress, shall be made by a majority vote of the members of the Commission present and voting. Two-thirds of the Members [1] of the Commission shall constitute a quorum for purposes of conducting business.

(Pub. L. 106–286, div. B, title III, §304, Oct. 10, 2000, 114 Stat. 899.)

[1] *So in original. Probably should not be capitalized.*

§6915. Expenditure of appropriations

For each fiscal year for which an appropriation is made to the Commission, the Commission shall issue a report to the Congress on its expenditures under that appropriation.

(Pub. L. 106–286, div. B, title III, §305, Oct. 10, 2000, 114 Stat. 899.)

§6916. Testimony of witnesses, production of evidence; issuance of subpoenas; administration of oaths

In carrying out this subchapter, the Commission may require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, documents, and electronically recorded data as it considers necessary. Subpoenas may be issued only pursuant to a two-thirds vote of members of the Commission present and voting. Subpoenas may be issued over the signature of the Chairman of the Commission or any member designated by the Chairman, and may be served by any person designated by the Chairman or such member. The Chairman of the Commission, or any member designated by the Chairman, may administer oaths to any witness.

(Pub. L. 106–286, div. B, title III, §306, Oct. 10, 2000, 114 Stat. 899.)

§6917. Appropriations for the Commission

(a) Authorization; disbursements

(1) Authorization

There are authorized to be appropriated to the Commission for fiscal year 2001, and each fiscal year thereafter, such sums as may be necessary to enable it to carry out its functions. Appropriations to the Commission are authorized to remain available until expended.

(2) Disbursements

Appropriations to the Commission shall be disbursed on vouchers approved—

(A) jointly by the Chairman and the Cochairman; or

(B) by a majority of the members of the personnel and administration committee established pursuant to section 6918 of this title.

(b) Foreign travel for official purposes

Foreign travel for official purposes by members and staff of the Commission may be authorized by either the Chairman or the Cochairman.

(Pub. L. 106–286, div. B, title III, §307, Oct. 10, 2000, 114 Stat. 899.)

§6918. Staff of the Commission

(a) Personnel and administration committee

The Commission shall have a personnel and administration committee composed of the Chairman, the Cochairman, the senior member of the Commission from the minority party of the House of Representatives, and the senior member of the Commission from the minority party of the Senate.

(b) Committee functions

All decisions pertaining to the hiring, firing, and fixing of pay of personnel of the Commission shall be by a majority vote of the personnel and administration committee, except that—

(1) the Chairman shall be entitled to appoint and fix the pay of the staff director, and the Cochairman shall be entitled to appoint and fix the pay of the Cochairman's senior staff member; and

(2) the Chairman and Cochairman shall each have the authority to appoint, with the approval of the personnel and administration committee, at least four professional staff members who shall be responsible to the Chairman or the Cochairman (as the case may be) who appointed them.

Subject to subsection (d), the personnel and administration committee may appoint and fix the pay of such other personnel as it considers desirable.

(c) Staff appointments

All staff appointments shall be made without regard to the provisions of title 5 governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and general schedule pay rates.

(d) Qualifications of professional staff

The personnel and administration committee shall ensure that the professional staff of the Commission consists of persons with expertise in areas including human rights, internationally recognized worker rights, international economics, law (including international law), rule of law and other foreign assistance programming, Chinese politics, economy and culture, and the Chinese language.

(e) Commission employees as congressional employees

(1) In general

For purposes of pay and other employment benefits, rights, and privileges, and for all other purposes, any employee of the Commission shall be considered to be a congressional employee as defined in section 2107 of title 5.

(2) Competitive status

For purposes of section 3304(c)(1) [1] of title 5, employees of the Commission shall be considered as if they are in positions in which they are paid by the Secretary of the Senate or the Clerk of the House of Representatives.

(Pub. L. 106–286, div. B, title III, §308, Oct. 10, 2000, 114 Stat. 899.)

REFERENCES IN TEXT

Section 3304(c)(1) of title 5, referred to in subsec. (e)(2), probably means section 3304(c)(1) of title 5 prior to amendment by Pub. L. 104–65, §16(a), (b), Dec. 19, 1995, 109 Stat. 703, which struck out section 3304(c) of title 5 and redesignated section 3304(d) of title 5 as 3304(c). Prior to amendment section 3304(c)(1) related to acquisition of competitive status by an individual who served for at least 3 years in the legislative branch in a position in which he was paid by the Secretary of the Senate or the Clerk of the House of Representatives.

[1] *See References in Text note below.*

§6919. Printing and binding costs

For purposes of costs relating to printing and binding, including the costs of personnel detailed from the Government Publishing Office, the Commission shall be deemed to be a committee of the Congress.

(Pub. L. 106–286, div. B, title III, §309, Oct. 10, 2000, 114 Stat. 900; Pub. L. 113–235, div. H, title I, §1301(b), Dec. 16, 2014, 128 Stat. 2537.)

CHANGE OF NAME

"Government Publishing Office" substituted for "Government Printing Office" in text on authority of section 1301(b) of Pub. L. 113–235, set out as a note preceding section 301 of Title 44, Public Printing and Documents.

SUBCHAPTER III—MONITORING AND ENFORCEMENT OF THE PEOPLE'S REPUBLIC OF CHINA'S WTO COMMITMENTS

PART A—REVIEW OF MEMBERSHIP OF THE PEOPLE'S REPUBLIC OF CHINA IN THE WTO

§6931. Review within the WTO

It shall be the objective of the United States to obtain as part of the Protocol of Accession of the People's Republic of China to the WTO, an annual review within the WTO of the compliance by the People's Republic of China with its terms of accession to the WTO.

(Pub. L. 106–286, div. B, title IV, §401, Oct. 10, 2000, 114 Stat. 900.)

PART B—AUTHORIZATION TO PROMOTE COMPLIANCE WITH TRADE AGREEMENTS

§6941. Findings

The Congress finds as follows:

(1) The opening of world markets through the elimination of tariff and nontariff barriers has contributed to a 56-percent increase in exports of United States goods and services since 1992.

(2) Such export expansion, along with an increase in trade generally, has helped fuel the longest economic expansion in United States history.

(3) The United States Government must continue to be vigilant in monitoring and enforcing the compliance by our trading partners with trade agreements in order for United States businesses, workers, and farmers to continue to benefit from the opportunities created by market-opening trade agreements.

(4) The People's Republic of China, as part of its accession to the World Trade Organization, has committed to eliminating significant trade barriers in the agricultural, services, and manufacturing sectors that, if realized, would provide considerable opportunities for United States farmers, businesses, and workers.

(5) For these opportunities to be fully realized, the United States Government must effectively monitor and enforce its rights under the agreements on the accession of the People's Republic of China to the WTO.

(Pub. L. 106–286, div. B, title IV, §411, Oct. 10, 2000, 114 Stat. 901.)

§6942. Purpose

The purpose of this part is to authorize additional resources for the agencies and departments engaged in monitoring and enforcement of United States trade agreements and trade laws with respect to the People's Republic of China.

(Pub. L. 106–286, div. B, title IV, §412, Oct. 10, 2000, 114 Stat. 901.)

§6943. Authorization of appropriations

(a) Department of Commerce

There is authorized to be appropriated to the Department of Commerce, in addition to amounts otherwise available for such purposes, such sums as may be necessary for fiscal year 2001, and each fiscal year thereafter, for additional staff for—

(1) monitoring compliance by the People's Republic of China with its commitments under the WTO, assisting United States negotiators with ongoing negotiations in the WTO, and defending United States antidumping and countervailing duty measures with respect to products of the People's Republic of China;

(2) enforcement of United States trade laws with respect to products of the People's Republic of China; and

(3) a Trade Law Technical Assistance Center to assist small- and medium-sized businesses, workers, and unions in evaluating potential remedies available under the trade laws of the United States with respect to trade involving the People's Republic of China.

(b) Overseas Compliance Program

(1) Authorization of appropriation

There are authorized to be appropriated to the Department of Commerce and the Department of State, in addition to amounts otherwise available, such sums as may be necessary for fiscal year 2001, and each fiscal year thereafter, to provide staff for monitoring in the People's Republic of China that country's compliance with its international trade obligations and to support the enforcement of the trade laws of the United States, as part of an Overseas Compliance Program which monitors abroad compliance with international trade obligations and supports the enforcement of United States trade laws.

(2) Reporting

The annual report on compliance by the People's Republic of China submitted to the Congress under section 6951 of this title shall include the findings of the Overseas Compliance Program with respect to the People's Republic of China.

(c) United States Trade Representative

There are authorized to be appropriated to the Office of the United States Trade Representative, in addition to amounts otherwise available for such purposes, such sums as may be necessary for fiscal year 2001, and each fiscal year thereafter, for additional staff in—

(1) the Office of the General Counsel, the Monitoring and Enforcement Unit, and the Office of the Deputy United States Trade Representative in Geneva, Switzerland, to investigate, prosecute, and defend cases before the WTO, and to administer United States trade laws, including title III of the Trade Act of 1974 (19 U.S.C. 2411 et seq.) and other trade laws relating to intellectual property, government procurement, and telecommunications, with respect to the People's Republic of China;

(2) the Office of Economic Affairs, to analyze the impact on the economy of the United States, including United States exports, of acts of the Government of the People's Republic of China

affecting access to markets in the People's Republic of China and to support the Office of the General Counsel in presenting cases to the WTO involving the People's Republic of China;

(3) the geographic office for the People's Republic of China; and

(4) offices relating to the WTO and to different sectors of the economy, including agriculture, industry, services, and intellectual property rights protection, to monitor and enforce the trade agreement obligations of the People's Republic of China in those sectors.

(d) Department of Agriculture

There are authorized to be appropriated to the Department of Agriculture, in addition to amounts otherwise available for such purposes, such sums as may be necessary for fiscal year 2001, and each fiscal year thereafter, for additional staff to increase legal and technical expertise in areas covered by trade agreements and United States trade law, including food safety and biotechnology, for purposes of monitoring compliance by the People's Republic of China with its trade agreement obligations.

(Pub. L. 106–286, div. B, title IV, §413, Oct. 10, 2000, 114 Stat. 901.)

REFERENCES IN TEXT

The Trade Act of 1974, referred to in subsec. (c)(1), is Pub. L. 93–618, Jan. 3, 1975, 88 Stat. 1978, as amended. Title III of the Act is classified principally to subchapter III (§2411 et seq.) of chapter 12 of Title 19, Customs Duties. For complete classification of this Act to the Code, see section 2101 of Title 19 and Tables.

PART C—REPORT ON COMPLIANCE BY THE PEOPLE'S REPUBLIC OF CHINA WITH WTO OBLIGATIONS

§6951. Report on compliance

(a) In general

Not later than 1 year after the entry into force of the Protocol of Accession of the People's Republic of China to the WTO, and annually thereafter, the Trade Representative shall submit a report to Congress on compliance by the People's Republic of China with commitments made in connection with its accession to the World Trade Organization, including both multilateral commitments and any bilateral commitments made to the United States.

(b) Public participation

In preparing the report described in subsection (a), the Trade Representative shall seek public participation by publishing a notice in the Federal Register and holding a public hearing.

(Pub. L. 106–286, div. B, title IV, §421, Oct. 10, 2000, 114 Stat. 903.)

SUBCHAPTER IV—TRADE AND RULE OF LAW ISSUES IN THE PEOPLE'S REPUBLIC OF CHINA

PART A—TASK FORCE ON PROHIBITION OF IMPORTATION OF PRODUCTS OF FORCED OR PRISON LABOR FROM THE PEOPLE'S REPUBLIC OF CHINA

§6961. Establishment of Task Force

There is hereby established a task force on prohibition of importation of products of forced or prison labor from the People's Republic of China (hereafter in this part referred to as the "Task Force").

(Pub. L. 106–286, div. B, title V, §501, Oct. 10, 2000, 114 Stat. 903.)

§6962. Functions of Task Force

The Task Force shall monitor and promote effective enforcement of and compliance with section 1307 of title 19 by performing the following functions:

(1) Coordinate closely with the United States Customs Service to promote maximum effectiveness in the enforcement by the Customs Service of section 1307 of title 19 with respect to the products of the People's Republic of China. In order to assure such coordination, the Customs Service shall keep the Task Force informed, on a regular basis, of the progress of its investigations of allegations that goods are being entered into the United States, or that such entry is being attempted, in violation of the prohibition in section 1307 of title 19 on entry into the United States of goods mined, produced, or manufactured wholly or in part in the People's Republic of China by convict labor, forced labor, or indentured labor under penal sanctions. Such investigations may include visits to foreign sites where goods allegedly are being mined, produced, or manufactured in a manner that would lead to prohibition of their importation into the United States under section 1307 of title 19.

(2) Make recommendations to the Customs Service on seeking new agreements with the People's Republic of China to allow Customs Service officials to visit sites where goods may be mined, produced, or manufactured by convict labor, forced labor, or indentured labor under penal sanctions.

(3) Work with the Customs Service to assist the People's Republic of China and other foreign governments in monitoring the sale of goods mined, produced, or manufactured by convict labor, forced labor, or indentured labor under penal sanctions to ensure that such goods are not exported to the United States.

(4) Coordinate closely with the Customs Service to promote maximum effectiveness in the enforcement by the Customs Service of section 1307 of title 19 with respect to the products of the People's Republic of China. In order to assure such coordination, the Customs Service shall keep the Task Force informed, on a regular basis, of the progress of its monitoring of ports of the United States to ensure that goods mined, produced, or manufactured wholly or in part in the People's Republic of China by convict labor, forced labor, or indentured labor under penal sanctions are not imported into the United States.

(5) Advise the Customs Service in performing such other functions, consistent with existing authority, to ensure the effective enforcement of section 1307 of title 19.

(6) Provide to the Customs Service all information obtained by the departments represented on the Task Force relating to the use of convict labor, forced labor, or/and indentured labor under penal sanctions in the mining, production, or manufacture of goods which may be imported into the United States.

(Pub. L. 106–286, div. B, title V, §502, Oct. 10, 2000, 114 Stat. 903.)

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107–296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114–125, and section 802(b) of Pub. L. 114–125, set out as a note under section 211 of Title 6.

§6963. Composition of Task Force

The Secretary of the Treasury, the Secretary of Commerce, the Secretary of Labor, the Secretary of State, the Commissioner of U.S. Customs and Border Protection, and the heads of other executive branch agencies, as appropriate, acting through their respective designees at or above the level of Deputy Assistant Secretary, or in the case of the Customs Service, at or above the level of Assistant Commissioner, shall compose the Task Force. The designee of the Secretary of the Treasury shall chair the Task Force.

(Pub. L. 106–286, div. B, title V, §503, Oct. 10, 2000, 114 Stat. 904; Pub. L. 114–125, title VIII, §802(d)(2), Feb. 24, 2016, 130 Stat. 210.)

CHANGE OF NAME

"Commissioner of U.S. Customs and Border Protection" substituted for "Commissioner of Customs" in text on authority of section 802(d)(2) of Pub. L. 114–125, set out as a note under section 211 of Title 6, Domestic Security.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107–296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114–125, and section 802(b) of Pub. L. 114–125, set out as a note under section 211 of Title 6.

§6964. Authorization of appropriations

There are authorized to be appropriated for fiscal year 2001, and each fiscal year thereafter, such sums as may be necessary for the Task Force to carry out the functions described in section 6962 of this title.

(Pub. L. 106–286, div. B, title V, §504, Oct. 10, 2000, 114 Stat. 904.)

§6965. Reports to Congress

(a) Frequency of reports

Not later than the date that is 1 year after October 10, 2000, and not later than the end of each 1-year period thereafter, the Task Force shall submit to the Congress a report on the work of the Task Force during the preceding 1-year period.

(b) Contents of reports

Each report under subsection (a) shall set forth, at a minimum—

(1) the number of allegations of violations of section 1307 of title 19 with respect to products of the Peoples' [1] Republic of China that were investigated during the preceding 1-year period;

(2) the number of actual violations of section 1307 of title 19 with respect to the products of the People's Republic of China that were discovered during the preceding 1-year period;

(3) in the case of each attempted entry of products of the People's Republic of China in violation of such section 1307 of title 19 discovered during the preceding 1-year period—

(A) the identity of the exporter of the goods;

(B) the identity of the person or persons who attempted to sell the goods for export; and

(C) the identity of all parties involved in transshipment of the goods; and

(4) such other information as the Task Force considers useful in monitoring and enforcing compliance with section 1307 of title 19.

(Pub. L. 106–286, div. B, title V, §505, Oct. 10, 2000, 114 Stat. 904.)

[1] *So in original. Probably should be "People's".*

PART B—ASSISTANCE TO DEVELOP COMMERCIAL AND LABOR RULE OF LAW

§6981. Establishment of technical assistance and rule of law programs

(a) Commerce rule of law program

The Secretary of Commerce, in consultation with the Secretary of State, is authorized to establish a program to conduct rule of law training and technical assistance related to commercial activities in the People's Republic of China.

(b) Labor rule of law program

(1) In general

The Secretary of Labor, in consultation with the Secretary of State, is authorized to establish a program to conduct rule of law training and technical assistance related to the protection of internationally recognized worker rights in the People's Republic of China.

(2) Use of amounts

In carrying out paragraph (1), the Secretary of Labor shall focus on activities including, but not limited to—

(A) developing,[1] laws, regulations, and other measures to implement internationally recognized worker rights;

(B) establishing national mechanisms for the enforcement of national labor laws and regulations;

(C) training government officials concerned with implementation and enforcement of national labor laws and regulations; and

(D) developing an educational infrastructure to educate workers about their legal rights and protections under national labor laws and regulations.

(3) Limitation

The Secretary of Labor may not provide assistance under the program established under this subsection to the All-China Federation of Trade Unions.

(c) Legal system and civil society rule of law program

The Secretary of State is authorized to establish a program to conduct rule of law training and technical assistance related to development of the legal system and civil society generally in the People's Republic of China.

(d) Conduct of programs

The programs authorized by this section may be used to conduct activities such as seminars and workshops, drafting of commercial and labor codes, legal training, publications, financing the operating costs for nongovernmental organizations working in this area, and funding the travel of individuals to the United States and to the People's Republic of China to provide and receive training.

(Pub. L. 106–286, div. B, title V, §511, Oct. 10, 2000, 114 Stat. 905.)

[1] *So in original. Comma probably should not appear.*

§6982. Administrative authorities

In carrying out the programs authorized by section 6981 of this title, the Secretary of Commerce and the Secretary of Labor (in consultation with the Secretary of State) may utilize any of the authorities contained in the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.] and the Foreign Service Act of 1980 [22 U.S.C. 3901 et seq.].

(Pub. L. 106–286, div. B, title V, §512, Oct. 10, 2000, 114 Stat. 906.)

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in text, is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, which is classified principally to chapter 32 (§2151 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

The Foreign Service Act of 1980, referred to in text, is Pub. L. 96–465, Oct. 17, 1980, 94 Stat. 2071, as amended, which is classified principally to chapter 52 (§3901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3901 of this title and Tables.

§6983. Prohibition relating to human rights abuses

Amounts made available to carry out this part may not be provided to a component of a ministry or other administrative unit of the national, provincial, or other local governments of the People's Republic of China, to a nongovernmental organization, or to an official of such governments or organizations, if the President has credible evidence that such component, administrative unit, organization or official has been materially responsible for the commission of human rights violations.

(Pub. L. 106–286, div. B, title V, §513, Oct. 10, 2000, 114 Stat. 906.)

§6984. Authorization of appropriations

(a) Commercial law program

There are authorized to be appropriated to the Secretary of Commerce to carry out the program described in section 6981(a) of this title such sums as may be necessary for fiscal year 2001, and each fiscal year thereafter.

(b) Labor law program

There are authorized to be appropriated to the Secretary of Labor to carry out the program described in section 6981(b) of this title such sums as may be necessary for fiscal year 2001, and each fiscal year thereafter.

(c) Legal system and civil society rule of law program

There are authorized to be appropriated to the Secretary of State to carry out the program described in section 6981(c) of this title such sums as may be necessary for fiscal year 2001, and each fiscal year thereafter.

(d) Construction with other laws

Except as provided in this chapter, funds may be made available to carry out the purposes of this part notwithstanding any other provision of law.

(Pub. L. 106–286, div. B, title V, §514, Oct. 10, 2000, 114 Stat. 906.)

SUBCHAPTER V—ACCESSION OF TAIWAN TO THE WTO

§6991. Accession of Taiwan to the WTO

It is the sense of the Congress that—

(1) immediately upon approval by the General Council of the WTO of the terms and conditions of the accession of the People's Republic of China to the WTO, the United States representative to the WTO should request that the General Council of the WTO consider Taiwan's accession to the WTO as the next order of business of the Council during the same session; and

(2) the United States should be prepared to aggressively counter any effort by any WTO member, upon the approval of the General Council of the WTO of the terms and conditions of the accession of the People's Republic of China to the WTO, to block the accession of Taiwan to the WTO.

(Pub. L. 106–286, div. B, title VI, §601, Oct. 10, 2000, 114 Stat. 906.)

SUBCHAPTER VI—RELATED ISSUES

§7001. Authorizations of appropriations for broadcasting capital improvements and international broadcasting operations

(a) Broadcasting capital improvements

In addition to such sums as may otherwise be authorized to be appropriated, there are authorized to be appropriated for "Department of State and Related Agency, Related Agency, Broadcasting Board of Governors, Broadcasting Capital Improvements" $65,000,000 for the fiscal year 2003.

(b) International broadcasting operations

(1) Authorization of appropriations

In addition to such sums as are otherwise authorized to be appropriated, there are authorized to be appropriated $34,000,000 for each of the fiscal years 2001, 2002, and 2003 for "Department of State and Related Agency, Related Agency, Broadcasting Board of Governors, International Broadcasting Operations" for the purposes under paragraph (2).

(2) Uses of funds

In addition to other authorized purposes, funds appropriated pursuant to paragraph (1) shall be used for the following:

(A) To increase personnel for the program development office to enhance marketing programming in the People's Republic of China and neighboring countries.

(B) To enable Radio Free Asia's expansion of news research, production, call-in show capability, and web site/Internet enhancement for the People's Republic of China and neighboring countries.

(C) VOA enhancements, including the opening of new news bureaus in Taipei and Shanghai, enhancement of TV Mandarin, and an increase of stringer presence abroad.

(Pub. L. 106–286, div. B, title VII, §701, Oct. 10, 2000, 114 Stat. 907; Pub. L. 107–228, div. A, title I, §121(b), Sept. 30, 2002, 116 Stat. 1361.)

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–228, §121(b)(1), substituted "2003" for "2001".
Subsec. (b)(1). Pub. L. 107–228, §121(b)(2), substituted "2001, 2002, and 2003" for "2001 and 2002".

§7002. United States-China Economic and Security Review Commission

(a) Purposes

The purposes of this section are as follows:

(1) To establish the United States-China Economic and Security Review Commission to review the national security implications of trade and economic ties between the United States and the People's Republic of China.

(2) To facilitate the assumption by the United States-China Economic and Security Review Commission of its duties regarding the review referred to in paragraph (1) by providing for the transfer to that Commission of staff, materials, and infrastructure (including leased premises) of the Trade Deficit Review Commission that are appropriate for the review upon the submittal of the final report of the Trade Deficit Review Commission.

(b) Establishment of United States-China Economic and Security Review Commission

(1) In general

There is hereby established a commission to be known as the United States-China Economic and Security Review Commission (in this section referred to as the "Commission").

(2) Purpose

The purpose of the Commission is to monitor, investigate, and report to Congress on the national security implications of the bilateral trade and economic relationship between the United States and the People's Republic of China.

(3) Membership

The Commission shall be composed of 12 members, who shall be appointed in the same manner provided for the appointment of members of the Trade Deficit Review Commission under section 127(c)(3) of the Trade Deficit Review Commission Act (19 U.S.C. 2213 note), except that—

(A) appointment of members by the Speaker of the House of Representatives shall be made after consultation with the chairman of the Committee on Armed Services of the House of Representatives, in addition to consultation with the chairman of the Committee on Ways and Means of the House of Representatives provided for under clause (iii) of subparagraph (A) of that section;

(B) appointment of members by the President pro tempore of the Senate upon the recommendation of the majority leader of the Senate shall be made after consultation with the chairman of the Committee on Armed Services of the Senate, in addition to consultation with the chairman of the Committee on Finance of the Senate provided for under clause (i) of that subparagraph;

(C) appointment of members by the President pro tempore of the Senate upon the recommendation of the minority leader of the Senate shall be made after consultation with the ranking minority member of the Committee on Armed Services of the Senate, in addition to consultation with the ranking minority member of the Committee on Finance of the Senate provided for under clause (ii) of that subparagraph;

(D) appointment of members by the minority leader of the House of Representatives shall be made after consultation with the ranking minority member of the Committee on Armed Services of the House of Representatives, in addition to consultation with the ranking minority member of the Committee on Ways and Means of the House of Representatives provided for under clause (iv) of that subparagraph;

(E) persons appointed to the Commission shall have expertise in national security matters and United States-China relations, in addition to the expertise provided for under subparagraph (B)(i)(I) of that section;

(F) each appointing authority referred to under subparagraphs (A) through (D) of this paragraph shall—

(i) appoint 3 members to the Commission;

(ii) make the appointments on a staggered term basis, such that—

(I) 1 appointment shall be for a term expiring on December 31, 2003;
(II) 1 appointment shall be for a term expiring on December 31, 2004; and
(III) 1 appointment shall be for a term expiring on December 31, 2005;

(iii) make all subsequent appointments on an approximate 2-year term basis to expire on December 31 of the applicable year; and

(iv) make appointments not later than 30 days after the date on which each new Congress convenes;

(G) members of the Commission may be reappointed for additional terms of service as members of the Commission; and

(H) members of the Trade Deficit Review Commission as of October 30, 2000, shall serve as members of the Commission until such time as members are first appointed to the Commission under this paragraph.

(4) Retention of support

The Commission shall retain and make use of such staff, materials, and infrastructure (including leased premises) of the Trade Deficit Review Commission as the Commission determines, in the judgment of the members of the Commission, are required to facilitate the ready commencement of activities of the Commission under subsection (c) or to carry out such activities after the commencement of such activities.

(5) Chairman and Vice Chairman

The members of the Commission shall select a Chairman and Vice Chairman of the Commission from among the members of the Commission.

(6) Meetings

(A) Meetings

The Commission shall meet at the call of the Chairman of the Commission.

(B) Quorum

A majority of the members of the Commission shall constitute a quorum for the transaction of business of the Commission.

(7) Voting

Each member of the Commission shall be entitled to one vote, which shall be equal to the vote of every other member of the Commission.

(c) Duties

(1) Annual report

Not later than December 1 each year (beginning in 2002), the Commission shall submit to Congress a report, in both unclassified and classified form, regarding the national security implications and impact of the bilateral trade and economic relationship between the United States and the People's Republic of China. The report shall include a full analysis, along with conclusions and recommendations for legislative and administrative actions, if any, of the national security implications for the United States of the trade and current balances with the People's Republic of China in goods and services, financial transactions, and technology transfers. The Commission shall also take into account patterns of trade and transfers through third countries to the extent practicable.

(2) Contents of report

Each report under paragraph (1) shall include, at a minimum, a full discussion of the following:

(A) The role of the People's Republic of China in the proliferation of weapons of mass destruction and other weapon systems (including systems and technologies of a dual use nature), including actions the United States might take to encourage the People's Republic of

China to cease such practices.

(B) The qualitative and quantitative nature of the transfer of United States production activities to the People's Republic of China, including the relocation of manufacturing, advanced technology and intellectual property, and research and development facilities, the impact of such transfers on the national security of the United States (including the dependence of the national security industrial base of the United States on imports from China), the economic security of the United States, and employment in the United States, and the adequacy of United States export control laws in relation to the People's Republic of China.

(C) The effects of the need for energy and natural resources in the People's Republic of China on the foreign and military policies of the People's Republic of China, the impact of the large and growing economy of the People's Republic of China on world energy and natural resource supplies, prices, and the environment, and the role the United States can play (including through joint research and development efforts and technological assistance) in influencing the energy and natural resource policies of the People's Republic of China.

(D) Foreign investment by the United States in the People's Republic of China and by the People's Republic of China in the United States, including an assessment of its economic and security implications, the challenges to market access confronting potential United States investment in the People's Republic of China, and foreign activities by financial institutions in the People's Republic of China.

(E) The military plans, strategy and doctrine of the People's Republic of China, the structure and organization of the People's Republic of China military, the decision-making process of the People's Republic of China military, the interaction between the civilian and military leadership in the People's Republic of China, the development and promotion process for leaders in the People's Republic of China military, deployments of the People's Republic of China military, resources available to the People's Republic of China military (including the development and execution of budgets and the allocation of funds), force modernization objectives and trends for the People's Republic of China military, and the implications of such objectives and trends for the national security of the United States.

(F) The strategic economic and security implications of the cyber capabilities and operations of the People's Republic of China.

(G) The national budget, fiscal policy, monetary policy, capital controls, and currency management practices of the People's Republic of China, their impact on internal stability in the People's Republic of China, and their implications for the United States.

(H) The drivers, nature, and implications of the growing economic, technological, political, cultural, people-to-people, and security relations of the People's Republic of China's with other countries, regions, and international and regional entities (including multilateral organizations), including the relationship among the United States, Taiwan, and the People's Republic of China.

(I) The compliance of the People's Republic of China with its commitments to the World Trade Organization, other multilateral commitments, bilateral agreements signed with the United States, commitments made to bilateral science and technology programs, and any other commitments and agreements strategic to the United States (including agreements on intellectual property rights and prison labor imports), and United States enforcement policies with respect to such agreements.

(J) The implications of restrictions on speech and access to information in the People's Republic of China for its relations with the United States in economic and security policy, as well as any potential impact of media control by the People's Republic of China on United States economic interests.

(K) The safety of food, drug, and other products imported from China, the measures used by the People's Republic of China Government and the United States Government to monitor and enforce product safety, and the role the United States can play (including through technical assistance) to improve product safety in the People's Republic of China.

(3) Recommendations of report

Each report under paragraph (1) shall also include recommendations for action by Congress or

the President, or both, including specific recommendations for the United States to invoke Article XXI (relating to security exceptions) of the General Agreement on Tariffs and Trade 1994 with respect to the People's Republic of China, as a result of any adverse impact on the national security interests of the United States.

(d) Hearings

(1) In general

The Commission or, at its direction, any panel or member of the Commission, may for the purpose of carrying out the provisions of this section, hold hearings, sit and act at times and places, take testimony, receive evidence, and administer oaths to the extent that the Commission or any panel or member considers advisable.

(2) Information

The Commission may secure directly from the Department of Defense, the Central Intelligence Agency, and any other Federal department or agency information that the Commission considers necessary to enable the Commission to carry out its duties under this section, except the provision of intelligence information to the Commission shall be made with due regard for the protection from unauthorized disclosure of classified information relating to sensitive intelligence sources and methods or other exceptionally sensitive matters, under procedures approved by the Director of Central Intelligence.

(3) Security

The Office of Senate Security shall—

(A) provide classified storage and meeting and hearing spaces, when necessary, for the Commission; and

(B) assist members and staff of the Commission in obtaining security clearances.

(4) Security clearances

All members of the Commission and appropriate staff shall be sworn and hold appropriate security clearances.

(e) Commission personnel matters

(1) Compensation of members

Members of the Commission shall be compensated in the same manner provided for the compensation of members of the Trade Deficit Review Commission under section 127(g)(1) and section 127(g)(6) of the Trade Deficit Review Commission Act (19 U.S.C. 2213 note).

(2) Travel expenses

Travel expenses of the Commission shall be allowed in the same manner provided for the allowance of the travel expenses of the Trade Deficit Review Commission under section 127(g)(2) of the Trade Deficit Review Commission Act.

(3) Staff

An executive director and other additional personnel for the Commission shall be appointed, compensated, and terminated in the same manner provided for the appointment, compensation, and termination of the executive director and other personnel of the Trade Deficit Review Commission under section 127(g)(3) and section 127(g)(6) of the Trade Deficit Review Commission Act. The executive director and any personnel who are employees of the United States-China Economic and Security Review Commission shall be employees under section 2105 of title 5 for purposes of chapters 63, 81, 83, 84, 85, 87, 89, and 90 of that title.

(4) Detail of government employees

Federal Government employees may be detailed to the Commission in the same manner provided for the detail of Federal Government employees to the Trade Deficit Review Commission under section 127(g)(4) of the Trade Deficit Review Commission Act.

(5) Foreign travel for official purposes

Foreign travel for official purposes by members and staff of the Commission may be authorized by either the Chairman or the Vice Chairman of the Commission.

(6) Procurement of temporary and intermittent services

The Chairman of the Commission may procure temporary and intermittent services for the Commission in the same manner provided for the procurement of temporary and intermittent services for the Trade Deficit Review Commission under section 127(g)(5) of the Trade Deficit Review Commission Act.

(f) Authorization of appropriations

(1) In general

There is authorized to be appropriated to the Commission for fiscal year 2001, and for each fiscal year thereafter, such sums as may be necessary to enable the Commission to carry out its functions under this section.

(2) Availability

Amounts appropriated to the Commission shall remain available until expended.

(g) Applicability of FACA

The provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the activities of the Commission.

(h) Effective date

This section shall take effect on the first day of the 107th Congress.

(Pub. L. 106–398, §1 [[div. A], title XII, §1238], Oct. 30, 2000, 114 Stat. 1654, 1654A–334; Pub. L. 107–67, title VI, §§645(a), 648, Nov. 12, 2001, 115 Stat. 556; Pub. L. 108–7, div. P, §2(b)(1), (c)(1), Feb. 20, 2003, 117 Stat. 552; Pub. L. 109–108, title VI, §635(b), Nov. 22, 2005, 119 Stat. 2347; Pub. L. 110–161, div. J, title I, Dec. 26, 2007, 121 Stat. 2285; Pub. L. 113–291, div. A, title XII, §1259B(a), Dec. 19, 2014, 128 Stat. 3578.)

REFERENCES IN TEXT

Section 127 of the Trade Deficit Review Commission Act, referred to in subsecs. (b)(3) and (e), is section 127 of Pub. L. 105–277, which is set out in a note under section 2213 of Title 19, Customs Duties.

The Federal Advisory Committee Act, referred to in subsec. (g), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

The first day of the 107th Congress, referred to in subsec. (h), was Jan. 3, 2001.

CODIFICATION

Section was enacted as part of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, and not as part of the U.S.-China Relations Act of 2000 which comprises this chapter.

AMENDMENTS

2014—Subsec. (c)(2). Pub. L. 113–291 added subpars. (A) to (K) and struck out former subpars. (A) to (J) which described required contents of report.

2007—Subsec. (c)(1). Pub. L. 110–161 substituted "December" for "June".

2005—Subsec. (g). Pub. L. 109–108 amended heading and text of subsec. (g) generally. Prior to amendment, text read as follows: "The provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission."

2003—Pub. L. 108–7, §2(b)(1)(A), inserted "Economic and" before "Security" in section catchline.

Subsec. (a)(1), (2). Pub. L. 108–7, §2(b)(1)(B), inserted "Economic and" before "Security".

Subsec. (b). Pub. L. 108–7, §2(b)(1)(C)(i), inserted "Economic and" before "Security" in heading.

Subsec. (b)(1). Pub. L. 108–7, §2(b)(1)(C)(ii), inserted "Economic and" before "Security".

Subsec. (b)(3). Pub. L. 108–7, §2(b)(1)(C)(iii)(I), which directed the amendment of introductory provisions by inserting "Economic and" before "Security", could not be executed because "Security" does not appear.

Subsec. (b)(3)(F). Pub. L. 108–7, §2(c)(1), added subpar. (F) and struck out former subpar. (F) which read as follows: "members shall be appointed to the Commission not later than 30 days after the date on which

each new Congress convenes;".

Subsec. (b)(3)(H), (4), (e)(1), (2). Pub. L. 108–7, §2(b)(1)(C)(iii)(II), (iv), (D)(i), (ii), which directed insertion of "Economic and" before "Security", could not be executed because "Security" does not appear.

Subsec. (e)(3). Pub. L. 108–7, §2(b)(1)(D)(iii)(II), inserted "Economic and" before "Security" in second sentence.

Pub. L. 108–7, §2(b)(1)(D)(iii)(I), which directed the amendment of first sentence by inserting "Economic and" before "Security", could not be executed because "Security" does not appear.

Subsec. (e)(4), (6). Pub. L. 108–7, §2(b)(1)(D)(iv), (v), which directed the amendment of pars. (4) and (6) by inserting "Economic and" before "Security", could not be executed because "Security" does not appear.

2001—Subsec. (c)(1). Pub. L. 107–67, §648, substituted "June" for "March".

Subsec. (e)(3). Pub. L. 107–67, §645(a), inserted at end "The executive director and any personnel who are employees of the United States-China Security Review Commission shall be employees under section 2105 of title 5 for purposes of chapters 63, 81, 83, 84, 85, 87, 89, and 90 of that title."

CHANGE OF NAME

Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108–458, set out as a note under section 3001 of Title 50, War and National Defense.

Pub. L. 108–7, div. P, §2(b)(2), Feb. 20, 2003, 117 Stat. 552, provided that: "Any reference in any Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or relating to the United States-China Security Review Commission shall be deemed to refer to the United States-China Economic and Security Review Commission."

EFFECTIVE DATE OF 2014 AMENDMENT

Pub. L. 113–291, div. A, title XII, §1259B(b), Dec. 19, 2014, 128 Stat. 3579, provided that: "The amendments made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Dec. 19, 2014], and shall apply with respect to annual reports submitted under section 1238(c) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 [22 U.S.C. 7002(c)] after such date of enactment."

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108–7, div. P, §2(c)(3), Feb. 20, 2003, 117 Stat. 554, provided that: "This section [amending this section and enacting provisions set out as notes under this section] shall take effect on the date of enactment of this Act [Feb. 20, 2003]."

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107–67, title VI, §645(b), Nov. 12, 2001, 115 Stat. 556, provided that: "The amendment made by this section [amending this section] shall take effect on January 3, 2001."

RESPONSIBILITIES OF THE COMMISSION

Pub. L. 108–7, div. P, §2(c)(2), Feb. 20, 2003, 117 Stat. 553, provided that: "The United States-China Commission shall focus, in lieu of any other areas of work or study, on the following:

> "(A) PROLIFERATION PRACTICES.—The Commission shall analyze and assess the Chinese role in the proliferation of weapons of mass destruction and other weapons (including dual use technologies) to terrorist-sponsoring states, and suggest possible steps which the United States might take, including economic sanctions, to encourage the Chinese to stop such practices.
>
> "(B) ECONOMIC REFORMS AND UNITED STATES ECONOMIC TRANSFERS.—The Commission shall analyze and assess the qualitative and quantitative nature of the shift of United States production activities to China, including the relocation of high-technology, manufacturing, and R&D facilities; the impact of these transfers on United States national security, including political influence by the Chinese Government over American firms, dependence of the United States national security industrial base on Chinese imports, the adequacy of United States export control laws, and the effect of these transfers on United States economic security, employment, and the standard of living of the American people; analyze China's national budget and assess China's fiscal strength to address internal instability problems and assess the likelihood of externalization of such problems.
>
> "(C) ENERGY.—The Commission shall evaluate and assess how China's large and growing economy

will impact upon world energy supplies and the role the United States can play, including joint R&D efforts and technological assistance, in influencing China's energy policy.

"(D) UNITED STATES CAPITAL MARKETS.—The Commission shall evaluate the extent of Chinese access to, and use of United States capital markets, and whether the existing disclosure and transparency rules are adequate to identify Chinese companies which are active in United States markets and are also engaged in proliferation activities or other activities harmful to United States security interests.

"(E) CORPORATE REPORTING.—The Commission shall assess United States trade and investment relationship with China, including the need for corporate reporting on United States investments in China and incentives that China may be offering to United States corporations to relocate production and R&D to China.

"(F) REGIONAL ECONOMIC AND SECURITY IMPACTS.—The Commission shall assess the extent of China's 'hollowing-out' of Asian manufacturing economies, and the impact on United States economic and security interests in the region; review the triangular economic and security relationship among the United States, Taipei and Beijing, including Beijing's military modernization and force deployments aimed at Taipei, and the adequacy of United States executive branch coordination and consultation with Congress on United States arms sales and defense relationship with Taipei.

"(G) UNITED STATES-CHINA BILATERAL PROGRAMS.—The Commission shall assess science and technology programs to evaluate if the United States is developing an adequate coordinating mechanism with appropriate review by the intelligence community with Congress; assess the degree of non-compliance by China and United States-China agreements on prison labor imports and intellectual property rights; evaluate United States enforcement policies; and recommend what new measures the United States Government might take to strengthen our laws and enforcement activities and to encourage compliance by the Chinese.

"(H) WORLD TRADE ORGANIZATION COMPLIANCE.—The Commission shall review China's record of compliance to date with its accession agreement to the WTO, and explore what incentives and policy initiatives should be pursued to promote further compliance by China.

"(I) MEDIA CONTROL.—The Commission shall evaluate Chinese government efforts to influence and control perceptions of the United States and its policies through the internet, the Chinese print and electronic media, and Chinese internal propaganda."

Similar provisions were contained in the following appropriation act:
Pub. L. 109–108, title VI, §635(a), Nov. 22, 2005, 119 Stat. 2346.

CHAPTER 78—TRAFFICKING VICTIMS PROTECTION

Sec.

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§7101. Purposes and findings

(a) Purposes

The purposes of this chapter are to combat trafficking in persons, a contemporary manifestation of slavery whose victims are predominantly women and children, to ensure just and effective punishment of traffickers, and to protect their victims.

(b) Findings

Congress finds that:

(1) As the 21st century begins, the degrading institution of slavery continues throughout the world. Trafficking in persons is a modern form of slavery, and it is the largest manifestation of slavery today. At least 700,000 persons annually, primarily women and children, are trafficked within or across international borders. Approximately 50,000 women and children are trafficked into the United States each year.

(2) Many of these persons are trafficked into the international sex trade, often by force, fraud, or coercion. The sex industry has rapidly expanded over the past several decades. It involves sexual exploitation of persons, predominantly women and girls, involving activities related to prostitution, pornography, sex tourism, and other commercial sexual services. The low status of women in many parts of the world has contributed to a burgeoning of the trafficking industry.

(3) Trafficking in persons is not limited to the sex industry. This growing transnational crime also includes forced labor and involves significant violations of labor, public health, and human rights standards worldwide.

(4) Traffickers primarily target women and girls, who are disproportionately affected by poverty, the lack of access to education, chronic unemployment, discrimination, and the lack of economic opportunities in countries of origin. Traffickers lure women and girls into their networks through false promises of decent working conditions at relatively good pay as nannies, maids, dancers, factory workers, restaurant workers, sales clerks, or models. Traffickers also buy children from poor families and sell them into prostitution or into various types of forced or bonded labor.

(5) Traffickers often transport victims from their home communities to unfamiliar destinations, including foreign countries away from family and friends, religious institutions, and other sources of protection and support, leaving the victims defenseless and vulnerable.

(6) Victims are often forced through physical violence to engage in sex acts or perform slavery-like labor. Such force includes rape and other forms of sexual abuse, torture, starvation, imprisonment, threats, psychological abuse, and coercion.

(7) Traffickers often make representations to their victims that physical harm may occur to them or others should the victim escape or attempt to escape. Such representations can have the same coercive effects on victims as direct threats to inflict such harm.

(8) Trafficking in persons is increasingly perpetrated by organized, sophisticated criminal enterprises. Such trafficking is the fastest growing source of profits for organized criminal enterprises worldwide. Profits from the trafficking industry contribute to the expansion of organized crime in the United States and worldwide. Trafficking in persons is often aided by official corruption in countries of origin, transit, and destination, thereby threatening the rule of law.

(9) Trafficking includes all the elements of the crime of forcible rape when it involves the involuntary participation of another person in sex acts by means of fraud, force, or coercion.

(10) Trafficking also involves violations of other laws, including labor and immigration codes and laws against kidnapping, slavery, false imprisonment, assault, battery, pandering, fraud, and extortion.

(11) Trafficking exposes victims to serious health risks. Women and children trafficked in the

sex industry are exposed to deadly diseases, including HIV and AIDS. Trafficking victims are sometimes worked or physically brutalized to death.

(12) Trafficking in persons substantially affects interstate and foreign commerce. Trafficking for such purposes as involuntary servitude, peonage, and other forms of forced labor has an impact on the nationwide employment network and labor market. Within the context of slavery, servitude, and labor or services which are obtained or maintained through coercive conduct that amounts to a condition of servitude, victims are subjected to a range of violations.

(13) Involuntary servitude statutes are intended to reach cases in which persons are held in a condition of servitude through nonviolent coercion. In United States v. Kozminski, 487 U.S. 931 (1988), the Supreme Court found that section 1584 of title 18, should be narrowly interpreted, absent a definition of involuntary servitude by Congress. As a result, that section was interpreted to criminalize only servitude that is brought about through use or threatened use of physical or legal coercion, and to exclude other conduct that can have the same purpose and effect.

(14) Existing legislation and law enforcement in the United States and other countries are inadequate to deter trafficking and bring traffickers to justice, failing to reflect the gravity of the offenses involved. No comprehensive law exists in the United States that penalizes the range of offenses involved in the trafficking scheme. Instead, even the most brutal instances of trafficking in the sex industry are often punished under laws that also apply to lesser offenses, so that traffickers typically escape deserved punishment.

(15) In the United States, the seriousness of this crime and its components is not reflected in current sentencing guidelines, resulting in weak penalties for convicted traffickers.

(16) In some countries, enforcement against traffickers is also hindered by official indifference, by corruption, and sometimes even by official participation in trafficking.

(17) Existing laws often fail to protect victims of trafficking, and because victims are often illegal immigrants in the destination country, they are repeatedly punished more harshly than the traffickers themselves.

(18) Additionally, adequate services and facilities do not exist to meet victims' needs regarding health care, housing, education, and legal assistance, which safely reintegrate trafficking victims into their home countries.

(19) Victims of severe forms of trafficking should not be inappropriately incarcerated, fined, or otherwise penalized solely for unlawful acts committed as a direct result of being trafficked, such as using false documents, entering the country without documentation, or working without documentation.

(20) Because victims of trafficking are frequently unfamiliar with the laws, cultures, and languages of the countries into which they have been trafficked, because they are often subjected to coercion and intimidation including physical detention and debt bondage, and because they often fear retribution and forcible removal to countries in which they will face retribution or other hardship, these victims often find it difficult or impossible to report the crimes committed against them or to assist in the investigation and prosecution of such crimes.

(21) Trafficking of persons is an evil requiring concerted and vigorous action by countries of origin, transit or destination, and by international organizations.

(22) One of the founding documents of the United States, the Declaration of Independence, recognizes the inherent dignity and worth of all people. It states that all men are created equal and that they are endowed by their Creator with certain unalienable rights. The right to be free from slavery and involuntary servitude is among those unalienable rights. Acknowledging this fact, the United States outlawed slavery and involuntary servitude in 1865, recognizing them as evil institutions that must be abolished. Current practices of sexual slavery and trafficking of women and children are similarly abhorrent to the principles upon which the United States was founded.

(23) The United States and the international community agree that trafficking in persons involves grave violations of human rights and is a matter of pressing international concern. The international community has repeatedly condemned slavery and involuntary servitude, violence against women, and other elements of trafficking, through declarations, treaties, and United Nations resolutions and reports, including the Universal Declaration of Human Rights; the 1956

Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery; the 1948 American Declaration on the Rights and Duties of Man; the 1957 Abolition of Forced Labor Convention; the International Covenant on Civil and Political Rights; the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; United Nations General Assembly Resolutions 50/167, 51/66, and 52/98; the Final Report of the World Congress against Sexual Exploitation of Children (Stockholm, 1996); the Fourth World Conference on Women (Beijing, 1995); and the 1991 Moscow Document of the Organization for Security and Cooperation in Europe.

(24) Trafficking in persons is a transnational crime with national implications. To deter international trafficking and bring its perpetrators to justice, nations including the United States must recognize that trafficking is a serious offense. This is done by prescribing appropriate punishment, giving priority to the prosecution of trafficking offenses, and protecting rather than punishing the victims of such offenses. The United States must work bilaterally and multilaterally to abolish the trafficking industry by taking steps to promote cooperation among countries linked together by international trafficking routes. The United States must also urge the international community to take strong action in multilateral fora to engage recalcitrant countries in serious and sustained efforts to eliminate trafficking and protect trafficking victims.

(Pub. L. 106–386, div. A, §102, Oct. 28, 2000, 114 Stat. 1466.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this division", meaning division A of Pub. L. 106–386, Oct. 28, 2000, 114 Stat. 1466, known as the Trafficking Victims Protection Act of 2000, which is classified principally to this chapter. For complete classification of division A to the Code, see Short Title note set out below and Tables.

SHORT TITLE OF 2008 AMENDMENT

Pub. L. 110–457, §1(a), Dec. 23, 2008, 122 Stat. 5044, provided that: "This Act [see Tables for classification] may be cited as the 'William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008'."

SHORT TITLE OF 2006 AMENDMENT

Pub. L. 109–164, §1(a), Jan. 10, 2006, 119 Stat. 3558, provided that: "This Act [enacting sections 7111 and 7112 of this title, sections 2428, 3271, and 3272 of Title 18, Crimes and Criminal Procedure, and sections 14044 to 14044e of Title 42, The Public Health and Welfare, amending sections 4028, 7103 to 7107, 7109a, and 7110 of this title and sections 1956 and 1961 of Title 18, and enacting provisions set out as notes under this section and sections 7105 and 7106 of this title] may be cited as the 'Trafficking Victims Protection Reauthorization Act of 2005'."

SHORT TITLE OF 2003 AMENDMENT

Pub. L. 108–193, §1, Dec. 19, 2003, 117 Stat. 2875, provided that: "This Act [enacting section 7109a of this title and section 1595 of Title 18, Crimes and Criminal Procedure, amending sections 2152d, 7102 to 7107, and 7110 of this title, sections 1101, 1182, 1184, and 1255 of Title 8, Aliens and Nationality, and sections 1591 and 1961 of Title 18, enacting provisions set out as notes under this section and section 7103 of this title, and repealing provisions set out as a note under section 7103 of this title] may be cited as the 'Trafficking Victims Protection Reauthorization Act of 2003'."

SHORT TITLE

Pub. L. 106–386, §1, Oct. 28, 2000, 114 Stat. 1464, provided that: "This Act [see Tables for classification] may be cited as the 'Victims of Trafficking and Violence Protection Act of 2000'."

Pub. L. 106–386, div. A, §101, Oct. 28, 2000, 114 Stat. 1466, provided that: "This division [enacting this chapter, section 2152d of this title, and sections 1589 to 1594 of Title 18, Crimes and Criminal Procedure, and amending sections 2151n and 2304 of this title, sections 1101, 1182, 1184, and 1255 of Title 8, Aliens and Nationality, and sections 1581, 1583, and 1584 of Title 18] may be cited as the 'Trafficking Victims Protection Act of 2000'."

PROMOTING EFFECTIVE STATE ENFORCEMENT

Pub. L. 110–457, title II, §225, Dec. 23, 2008, 122 Stat. 5072, as amended by Pub. L. 113–4, title XII,

§1243, Mar. 7, 2013, 127 Stat. 154, provided that:

"(a) RELATIONSHIP AMONG FEDERAL AND STATE LAW.—Nothing in this Act [see Short Title of 2008 Amendment note above], the Trafficking Victims Protection Act of 2000 [see Short Title note above], the Trafficking Victims Protection Reauthorization Act of 2003 [see Short Title of 2003 Amendment note above], the Trafficking Victims Protection Reauthorization Act of 2005 [see Short Title of 2006 Amendment note above], chapters 77 and 117 of title 18, United States Code, or any model law issued by the Department of Justice to carry out the purposes of any of the aforementioned statutes—

"(1) may be construed to treat prostitution as a valid form of employment under Federal law; or

"(2) shall preempt, supplant, or limit the effect of any State or Federal criminal law.

"(b) MODEL STATE CRIMINAL PROVISIONS.—In addition to any model State antitrafficking statutes in effect on the date of the enactment of this Act [Dec. 23, 2008], the Attorney General shall facilitate the promulgation of a model State statute that—

"(1) furthers a comprehensive approach to investigation and prosecution through modernization of State and local prostitution and pandering statutes;

"(2) protects children exploited through prostitution by including safe harbor provisions that—

"(A) treat an individual under 18 years of age who has been arrested for engaging in, or attempting to engage in, a sexual act with another person in exchange for monetary compensation as a victim of a severe form of trafficking in persons;

"(B) prohibit the charging or prosecution of an individual described in subparagraph (A) for a prostitution offense;

"(C) require the referral of an individual described in subparagraph (A) to appropriate service providers, including comprehensive service or community-based programs that provide assistance to child victims of commercial sexual exploitation; and

"(D) provide that an individual described in subparagraph (A) shall not be required to prove fraud, force, or coercion in order to receive the protections described under this paragraph;

"(3) is based in part on the provisions of the Act of August 15, 1935 (49 Stat. 651; D.C. Code 22–2701 et seq.) (relating to prostitution and pandering).

"(c) DISTRIBUTION.—The model statute described in subsection (b) and the text of chapter 27 of the Criminal Code of the District of Columbia (D.C. Code 22–2701 et seq.) shall be—

"(1) posted on the website of the Department of Justice; and

"(2) distributed to the Attorney General of each State."

[Amendment by section 1243 of Pub. L. 113–4, which directed amendment of section 225(b) of the Trafficking Victims Reauthorization Act of 2008, was executed by amending section 225(b) of Pub. L. 110–457, the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, set out above, to reflect the probable intent of Congress.]

CONGRESSIONAL FINDINGS

Pub. L. 109–164, §2, Jan. 10, 2006, 119 Stat. 3558, provided that: "Congress finds the following:

"(1) The United States has demonstrated international leadership in combating human trafficking and slavery through the enactment of the Trafficking Victims Protection Act of 2000 (division A of Public Law 106–386; 22 U.S.C. 7101 et seq.) and the Trafficking Victims Protection Reauthorization Act of 2003 (Public Law 108–193) [see Short Title of 2003 Amendment note above].

"(2) The United States Government currently estimates that 600,000 to 800,000 individuals are trafficked across international borders each year and exploited through forced labor and commercial sex exploitation. An estimated 80 percent of such individuals are women and girls.

"(3) Since the enactment of the Trafficking Victims Protection Act of 2000 [Oct. 28, 2000], United States efforts to combat trafficking in persons have focused primarily on the international trafficking in persons, including the trafficking of foreign citizens into the United States.

"(4) Trafficking in persons also occurs within the borders of a country, including the United States.

"(5) No known studies exist that quantify the problem of trafficking in children for the purpose of commercial sexual exploitation in the United States. According to a report issued by researchers at the University of Pennsylvania in 2001, as many as 300,000 children in the United States are at risk for commercial sexual exploitation, including trafficking, at any given time.

"(6) Runaway and homeless children in the United States are highly susceptible to being domestically trafficked for commercial sexual exploitation. According to the National Runaway Switchboard, every day in the United States, between 1,300,000 and 2,800,000 runaway and homeless youth live on the streets. One out of every seven children will run away from home before the age of 18.

"(7) Following armed conflicts and during humanitarian emergencies, indigenous populations face

increased security challenges and vulnerabilities which result in myriad forms of violence, including trafficking for sexual and labor exploitation. Foreign policy and foreign aid professionals increasingly recognize the increased activity of human traffickers in post-conflict settings and during humanitarian emergencies.

"(8) There is a need to protect populations in post-conflict settings and humanitarian emergencies from being trafficked for sexual or labor exploitation. The efforts of aid agencies to address the protection needs of, among others, internally displaced persons and refugees are useful in this regard. Nonetheless, there is a need for further integrated programs and strategies at the United States Agency for International Development, the Department of State, and the Department of Defense to combat human trafficking, including through protection and prevention methodologies, in post-conflict environments and during humanitarian emergencies.

"(9) International and human rights organizations have documented a correlation between international deployments of military and civilian peacekeepers and aid workers and a resulting increase in the number of women and girls trafficked into prostitution in post-conflict regions.

"(10) The involvement of employees and contractors of the United States Government and members of the Armed Forces in trafficking in persons, facilitating the trafficking in persons, or exploiting the victims of trafficking in persons is inconsistent with United States laws and policies and undermines the credibility and mission of United States Government programs in post-conflict regions.

"(11) Further measures are needed to ensure that United States Government personnel and contractors are held accountable for involvement with acts of trafficking in persons, including by expanding United States criminal jurisdiction to all United States Government contractors abroad."

Pub. L. 108–193, §2, Dec. 19, 2003, 117 Stat. 2875, provided that: "Congress finds the following:

"(1) Trafficking in persons continues to victimize countless men, women, and children in the United States and abroad.

"(2) Since the enactment of the Trafficking Victims Protection Act of 2000 (division A of Public Law 106–386) [see Short Title note above], the United States Government has made significant progress in investigating and prosecuting acts of trafficking and in responding to the needs of victims of trafficking in the United States and abroad.

"(3) On the other hand, victims of trafficking have faced unintended obstacles in the process of securing needed assistance, including admission to the United States under section 101(a)(15)(T)(i) of the Immigration and Nationality Act [8 U.S.C. 1101(a)(15)(T)(i)].

"(4) Additional research is needed to fully understand the phenomenon of trafficking in persons and to determine the most effective strategies for combating trafficking in persons.

"(5) Corruption among foreign law enforcement authorities continues to undermine the efforts by governments to investigate, prosecute, and convict traffickers.

"(6) International Law Enforcement Academies should be more fully utilized in the effort to train law enforcement authorities, prosecutors, and members of the judiciary to address trafficking in persons-related crimes."

§7102. Definitions

In this chapter:

(1) Abuse or threatened abuse of law or legal process

The term "abuse or threatened abuse of the legal process" means the use or threatened use of a law or legal process, whether administrative, civil, or criminal, in any manner or for any purpose for which the law was not designed, in order to exert pressure on another person to cause that person to take some action or refrain from taking some action.

(2) Appropriate congressional committees

The term "appropriate congressional committees" means the Committee on Foreign Relations and the Committee on the Judiciary of the Senate and the Committee on Foreign Affairs and the Committee on the Judiciary of the House of Representatives.

(3) Coercion

The term "coercion" means—

(A) threats of serious harm to or physical restraint against any person;

(B) any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or

(C) the abuse or threatened abuse of the legal process.

(4) Commercial sex act

The term "commercial sex act" means any sex act on account of which anything of value is given to or received by any person.

(5) Debt bondage

The term "debt bondage" means the status or condition of a debtor arising from a pledge by the debtor of his or her personal services or of those of a person under his or her control as a security for debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined.

(6) Involuntary servitude

The term "involuntary servitude" includes a condition of servitude induced by means of—

(A) any scheme, plan, or pattern intended to cause a person to believe that, if the person did not enter into or continue in such condition, that person or another person would suffer serious harm or physical restraint; or

(B) the abuse or threatened abuse of the legal process.

(7) Minimum standards for the elimination of trafficking

The term "minimum standards for the elimination of trafficking" means the standards set forth in section 7106 of this title.

(8) Nonhumanitarian, nontrade-related foreign assistance

The term "nonhumanitarian, nontrade-related foreign assistance" means—

(A) any assistance under the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.], other than—

(i) assistance under chapter 4 of part II of that Act [22 U.S.C. 2346 et seq.] in support of programs of nongovernmental organizations that is made available for any program, project, or activity eligible for assistance under chapter 1 of part I of that Act [22 U.S.C. 2151 et seq.];

(ii) assistance under chapter 8 of part I of that Act [22 U.S.C. 2291 et seq.];

(iii) any other narcotics-related assistance under part I of that Act [22 U.S.C. 2151 et seq.] or under chapter 4 or 5 [1] part II of that Act [22 U.S.C. 2346 et seq., 2347 et seq.], but any such assistance provided under this clause shall be subject to the prior notification procedures applicable to reprogrammings pursuant to section 634A of that Act [22 U.S.C. 2394–1];

(iv) disaster relief assistance, including any assistance under chapter 9 of part I of that Act [22 U.S.C. 2292 et seq.];

(v) antiterrorism assistance under chapter 8 of part II of that Act [22 U.S.C. 2349aa et seq.];

(vi) assistance for refugees;

(vii) humanitarian and other development assistance in support of programs of nongovernmental organizations under chapters 1 and 10 [2] of that Act;

(viii) programs under title IV of chapter 2 of part I of that Act [22 U.S.C. 2191 et seq.], relating to the Overseas Private Investment Corporation; and

(ix) other programs involving trade-related or humanitarian assistance; and

(B) sales, or financing on any terms, under the Arms Export Control Act [22 U.S.C. 2751 et seq.], other than sales or financing provided for narcotics-related purposes following notification in accordance with the prior notification procedures applicable to reprogrammings pursuant to section 634A of the Foreign Assistance Act of 1961 [22 U.S.C. 2394–1].

(9) Severe forms of trafficking in persons

The term "severe forms of trafficking in persons" means—

(A) sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or

(B) the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

(10) Sex trafficking

The term "sex trafficking" means the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act.

(11) State

The term "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and territories and possessions of the United States.

(12) Task Force

The term "Task Force" means the Interagency Task Force to Monitor and Combat Trafficking established under section 7103 of this title.

(13) United States

The term "United States" means the fifty States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the territories and possessions of the United States.

(14) Victim of a severe form of trafficking

The term "victim of a severe form of trafficking" means a person subject to an act or practice described in paragraph (9).

(15) Victim of trafficking

The term "victim of trafficking" means a person subjected to an act or practice described in paragraph (9) or (10).

(Pub. L. 106–386, div. A, §103, Oct. 28, 2000, 114 Stat. 1469; Pub. L. 108–193, §8(b)(1), Dec. 19, 2003, 117 Stat. 2887; Pub. L. 110–457, title III, §304(a), Dec. 23, 2008, 122 Stat. 5087; Pub. L. 113–4, title XII, §1212(b)(1), Mar. 7, 2013, 127 Stat. 143; Pub. L. 114–22, title I, §108(b), May 29, 2015, 129 Stat. 239.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this division", meaning division A of Pub. L. 106–386, Oct. 28, 2000, 114 Stat. 1466, known as the Trafficking Victims Protection Act of 2000, which is classified principally to this chapter. For complete classification of division A to the Code, see Short Title note set out under section 7101 of this title and Tables.

The Foreign Assistance Act of 1961, referred to in par. (8)(A), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, which is classified principally to chapter 32 (§2151 et seq.) of this title. Part I of the Act is classified generally to subchapter I (§2151 et seq.) of chapter 32 of this title. Chapter 1, title IV of chapter 2, chapter 8, and chapter 9 of part I of the Act are classified generally to part I (§2151 et seq.), subpart iv (§2191 et seq.) of part II, part VIII (§2291 et seq.), and part IX (§2292 et seq.), respectively, of subchapter I of chapter 32 of this title. Chapters 4, 5, and 8 of part II of the Act are classified generally to part IV (§2346 et seq.), part V (§2347 et seq.), and part VIII (§2349aa et seq.), respectively, of subchapter II of chapter 32 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

Chapters 1 and 10 of that Act, referred to in par. (8)(A)(vii), probably means chapters 1 and 10 of part I of the Foreign Assistance Act of 1961, which are classified generally to parts I (§2151 et seq.) and X (§2293 et seq.), respectively, of subchapter I of chapter 32 of this title. For complete classification of these chapters to the Code, see Tables.

The Arms Export Control Act, referred to in par. (8)(B), is Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1320,

which is classified principally to chapter 39 (§2751 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

AMENDMENTS

2015—Par. (10). Pub. L. 114–22 substituted "obtaining, patronizing, or soliciting" for "or obtaining".

2013—Pub. L. 113–4 added par. (1), redesignated former pars. (1) to (14) as (2) to (15), respectively, and substituted "paragraph (9)" for "paragraph (8)" in par. (14) and "paragraph (9) or (10)" for "paragraph (8) or (9)" in par. (15).

2008—Par. (1). Pub. L. 110–457 substituted "Committee on Foreign Affairs" for "Committee on International Relations".

2003—Par. (7)(A)(i). Pub. L. 108–193 inserted "in support of programs of nongovernmental organizations" before "that is made available".

[1] *So in original. Probably should be followed by "of".*

[2] *See References in Text note below.*

§7103. Interagency Task Force to Monitor and Combat Trafficking

(a) Establishment

The President shall establish an Interagency Task Force to Monitor and Combat Trafficking.

(b) Appointment

The President shall appoint the members of the Task Force, which shall include the Secretary of State, the Administrator of the United States Agency for International Development, the Attorney General, the Secretary of Labor, the Secretary of Health and Human Services, the Director of National Intelligence, the Secretary of Defense, the Secretary of Homeland Security, the Secretary of Education, and such other officials as may be designated by the President.

(c) Chairman

The Task Force shall be chaired by the Secretary of State.

(d) Activities of the Task Force

The Task Force shall carry out the following activities:

(1) Coordinate the implementation of this chapter.

(2) Measure and evaluate progress of the United States and other countries in the areas of trafficking prevention, protection, and assistance to victims of trafficking, and prosecution and enforcement against traffickers, including the role of public corruption in facilitating trafficking. The Task Force shall have primary responsibility for assisting the Secretary of State in the preparation of the reports described in section 7107 of this title.

(3) Expand interagency procedures to collect and organize data, including significant research and resource information on domestic and international trafficking. Any data collection procedures established under this subsection shall respect the confidentiality of victims of trafficking.

(4) Engage in efforts to facilitate cooperation among countries of origin, transit, and destination. Such efforts shall aim to strengthen local and regional capacities to prevent trafficking, prosecute traffickers and assist trafficking victims, and shall include initiatives to enhance cooperative efforts between destination countries and countries of origin and assist in the appropriate reintegration of stateless victims of trafficking.

(5) Examine the role of the international "sex tourism" industry in the trafficking of persons and in the sexual exploitation of women and children around the world.

(6) Engage in consultation and advocacy with governmental and nongovernmental organizations, among other entities, to advance the purposes of this chapter, and make reasonable

efforts to distribute information to enable all relevant Federal Government agencies to publicize the National Human Trafficking Resource Center Hotline on their websites, in all headquarters offices, and in all field offices throughout the United States.

(7) Not later than May 1, 2004, and annually thereafter, the Attorney General shall submit to the Committee on Ways and Means, the Committee on Foreign Affairs, and the Committee on the Judiciary of the House of Representatives and the Committee on Finance, the Committee on Foreign Relations, and the Committee on the Judiciary of the Senate, a report on Federal agencies that are implementing any provision of this chapter, or any amendment made by this chapter, which shall include, at a minimum, information on—

(A) the number of persons who received benefits or other services under subsections (b) and (f) [1] of section 7105 of this title in connection with programs or activities funded or administered by the Secretary of Health and Human Services, the Secretary of Labor, the Attorney General, the Board of Directors of the Legal Services Corporation, and other appropriate Federal agencies during the preceding fiscal year;

(B) the number of persons who have been granted continued presence in the United States under section 7105(c)(3) of this title during the preceding fiscal year and the mean and median time taken to adjudicate applications submitted under such section, including the time from the receipt of an application by law enforcement to the issuance of continued presence, and a description of any efforts being taken to reduce the adjudication and processing time while ensuring the safe and competent processing of the applications;

(C) the number of persons who have applied for, been granted, or been denied a visa or otherwise provided status under subparagraph (T)(i) or (U)(i) of section 1101(a)(15) of title 8 during the preceding fiscal year;

(D) the number of persons who have applied for, been granted, or been denied a visa or status under clause (ii) of section 1101(a)(15)(T) of title 8 during the preceding fiscal year, broken down by the number of such persons described in subclauses (I), (II), and (III) of such clause (ii);

(E) the amount of Federal funds expended in direct benefits paid to individuals described in subparagraph (D) in conjunction with T visa status;

(F) the number of persons who have applied for, been granted, or been denied a visa or status under section 1101(a)(15)(U)(i) of title 8 during the preceding fiscal year;

(G) the mean and median time in which it takes to adjudicate applications submitted under the provisions of law set forth in subparagraph (C), including the time between the receipt of an application and the issuance of a visa and work authorization;

(H) any efforts being taken to reduce the adjudication and processing time, while ensuring the safe and competent processing of the applications;

(I) the number of persons who have been charged or convicted under one or more of sections 1581, 1583, 1584, 1589, 1590, 1591, 1592, or 1594 of title 18 during the preceding fiscal year and the sentences imposed against each such person;

(J) the amount, recipient, and purpose of each grant issued by any Federal agency to carry out the purposes of sections 7104 and 7105 of this title, or section 2152d of this title, during the preceding fiscal year;

(K) the nature of training conducted pursuant to section 7105(c)(4) of this title during the preceding fiscal year;

(L) the amount, recipient, and purpose of each grant under sections 14044a and 14044c of title 42; [1]

(M) activities by the Department of Defense to combat trafficking in persons, including—

(i) educational efforts for, and disciplinary actions taken against, members of the United States Armed Forces;

(ii) the development of materials used to train the armed forces of foreign countries;

(iii) all known trafficking in persons cases reported to the Under Secretary of Defense for Personnel and Readiness;

(iv) efforts to ensure that United States Government contractors and their employees or

United States Government subcontractors and their employees do not engage in trafficking in persons; and

(v) all trafficking in persons activities of contractors reported to the Under Secretary of Defense for Acquisition, Technology, and Logistics;

(N) activities or actions by Federal departments and agencies to enforce—

(i) section 7104(g) of this title and any similar law, regulation, or policy relating to United States Government contractors and their employees or United States Government subcontractors and their employees that engage in severe forms of trafficking in persons, the procurement of commercial sex acts, or the use of forced labor, including debt bondage;

(ii) section 1307 of title 19 (relating to prohibition on importation of convict-made goods), including any determinations by the Secretary of Homeland Security to waive the restrictions of such section; and

(iii) prohibitions on the procurement by the United States Government of items or services produced by slave labor, consistent with Executive Order 13107 (December 10, 1998);

(O) the activities undertaken by the Senior Policy Operating Group to carry out its responsibilities under subsection (g); and [2]

(P) the activities undertaken by Federal agencies to train appropriate State, tribal, and local government and law enforcement officials to identify victims of severe forms of trafficking, including both sex and labor trafficking;

(Q) the activities undertaken by Federal agencies in cooperation with State, tribal, and local law enforcement officials to identify, investigate, and prosecute offenses under sections 1581, 1583, 1584, 1589, 1590, 1591, 1592, 1594, 2251, 2251A, 2421, 2422, and 2423 of title 18, or equivalent State offenses, including, in each fiscal year—

(i) the number, age, gender, country of origin, and citizenship status of victims identified for each offense;

(ii) the number of individuals charged, and the number of individuals convicted, under each offense;

(iii) the number of individuals referred for prosecution for State offenses, including offenses relating to the purchasing of commercial sex acts;

(iv) the number of victims granted continued presence in the United States under section 7105(c)(3) of this title;

(v) the number of victims granted a visa or otherwise provided status under subparagraph (T)(i) or (U)(i) of section 1101(a)(15) of title 8;

(vi) the number of individuals required by a court order to pay restitution in connection with a violation of each offense under title 18, the amount of restitution required to be paid under each such order, and the amount of restitution actually paid pursuant to each such order; and

(vii) the age, gender, race, country of origin, country of citizenship, and description of the role in the offense of individuals convicted under each offense; and

(R) the activities undertaken by the Department of Justice and the Department of Health and Human Services to meet the specific needs of minor victims of domestic trafficking, including actions taken pursuant to subsection (f) and section 14044a(a) of title 42, and the steps taken to increase cooperation among Federal agencies to ensure the effective and efficient use of programs for which the victims are eligible.

(e) Office To Monitor and Combat Trafficking

(1) In general

The Secretary of State shall establish within the Department of State an Office to Monitor and Combat Trafficking, which shall provide assistance to the Task Force. Any such Office shall be headed by a Director, who shall be appointed by the President, by and with the advice and consent

of the Senate, with the rank of Ambassador-at-Large. The Director shall have the primary responsibility for assisting the Secretary of State in carrying out the purposes of this chapter and may have additional responsibilities as determined by the Secretary. The Director shall consult with nongovernmental organizations and multilateral organizations, and with trafficking victims or other affected persons. The Director shall have the authority to take evidence in public hearings or by other means. The agencies represented on the Task Force are authorized to provide staff to the Office on a nonreimbursable basis.

(2) United States assistance

The Director shall be responsible for—

(A) all policy, funding, and programming decisions regarding funds made available for trafficking in persons programs that are centrally controlled by the Office to Monitor and Combat Trafficking; and

(B) coordinating any trafficking in persons programs of the Department of State or the United States Agency for International Development that are not centrally controlled by the Director.

(f) Regional strategies for combating trafficking in persons

Each regional bureau in the Department of State shall contribute to the realization of the anti-trafficking goals and objectives of the Secretary of State. Each year, in cooperation with the Office to Monitor and Combat Trafficking in Persons, each regional bureau shall submit a list of anti-trafficking goals and objectives to the Secretary of State for each country in the geographic area of responsibilities of the regional bureau. Host governments shall be informed of the goals and objectives for their particular country and, to the extent possible, host government officials should be consulted regarding the goals and objectives.

(g) Senior Policy Operating Group

(1) Establishment

There shall be established within the executive branch a Senior Policy Operating Group.

(2) Membership; related matters

(A) In general

The Operating Group shall consist of the senior officials designated as representatives of the appointed members of the Task Force (pursuant to Executive Order No. 13257 of February 13, 2002).

(B) Chairperson

The Operating Group shall be chaired by the Director of the Office to Monitor and Combat Trafficking of the Department of State.

(C) Meetings

The Operating Group shall meet on a regular basis at the call of the Chairperson.

(3) Duties

The Operating Group shall coordinate activities of Federal departments and agencies regarding policies (including grants and grant policies) involving the international trafficking in persons and the implementation of this chapter.

(4) Availability of information

Each Federal department or agency represented on the Operating Group shall fully share all information with such Group regarding the department or agency's plans, before and after final agency decisions are made, on all matters relating to grants, grant policies, and other significant actions regarding the international trafficking in persons and the implementation of this chapter.

(5) Regulations

Not later than 90 days after December 19, 2003, the President shall promulgate regulations to implement this section, including regulations to carry out paragraph (4).

(Pub. L. 106–386, div. A, §105, Oct. 28, 2000, 114 Stat. 1473; Pub. L. 108–193, §6(a)(1), (b)(1), (c)(1), Dec. 19, 2003, 117 Stat. 2880, 2881; Pub. L. 109–164, title I, §104(a), title II, §205, Jan. 10, 2006, 119 Stat. 3564, 3571; Pub. L. 110–457, title I, §§101, 102, title II, §231, title III, §304(a), Dec. 23, 2008, 122 Stat. 5045, 5072, 5087; Pub. L. 112–239, div. A, title XVII, §1707, Jan. 2, 2013, 126 Stat. 2098; Pub. L. 113–4, title XII, §§1201, 1203(a), 1231, Mar. 7, 2013, 127 Stat. 136, 138, 144; Pub. L. 114–22, title VI, §602, May 29, 2015, 129 Stat. 259.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (d)(1), (6), (7), (e)(1), and (g)(3), (4), was in the original "this division" meaning division A of Pub. L. 106–386, Oct. 28, 2000, 114 Stat. 1466, known as the Trafficking Victims Protection Act of 2000, which is classified principally to this chapter. For complete classification of division A to the Code, see Short Title note set out under section 7101 of this title and Tables.

Subsection (f) of section 7105 of this title, referred to in subsec. (d)(7)(A), probably means the first subsec. (f) of section 7105 of this title, relating to assistance for United States citizens and lawful permanent residents, as added by Pub. L. 110–457, title II, §213(a)(1), Dec. 23, 2008, 122 Stat. 5064.

Sections 14044a and 14044c of title 42, referred to in subsec. (d)(7)(L), was in the original "sections 202 and 204 of the Trafficking Victims Protection Act of 2005", and was translated as reading "sections 202 and 204 of the Trafficking Victims Protection Reauthorization Act of 2005", which enacted sections 14044a and 14044c of Title 42, The Public Health and Welfare, to reflect the probable intent of Congress.

Executive Order 13107, referred to in subsec. (d)(7)(N)(iii), is set out as a note under section 601 of Title 5, Government Organization and Employees.

Executive Order No. 13257, referred to in subsec. (g)(2)(A), is set out as a note below.

AMENDMENTS

2015—Subsec. (d)(7)(Q). Pub. L. 114–22 substituted "1590, 1591, 1592, 1594, 2251, 2251A, 2421, 2422, and 2423" for "1590, 1592, and 1594" in introductory provisions and added cls. (vi) and (vii).

2013—Subsec. (d)(6). Pub. L. 113–4, §1203(a), inserted ", and make reasonable efforts to distribute information to enable all relevant Federal Government agencies to publicize the National Human Trafficking Resource Center Hotline on their websites, in all headquarters offices, and in all field offices throughout the United States" before period at end.

Subsec. (d)(7)(B) to (H). Pub. L. 113–4, §1231(2), added subpars. (B) to (H) and struck out former subpars. (B) and (C) which read as follows:

"(B) the number of persons who have been granted continued presence in the United States under section 7105(c)(3) of this title during the preceding fiscal year;

"(C) the number of persons who have applied for, been granted, or been denied a visa or otherwise provided status under section 1101(a)(15)(T)(i) of title 8 during the preceding fiscal year;".

Former subpars. (D) to (H) redesignated (I) to (M), respectively.

Subsec. (d)(7)(H)(iii) to (v). Pub. L. 112–239 added cls. (iii) and (v) redesignated former cl. (iii) as (iv).

Subsec. (d)(7)(I). Pub. L. 113–4, §1231(1), redesignated subpar. (D) as (I). Former subpar. (I) redesignated (N).

Subsec. (d)(7)(J). Pub. L. 113–4, §1231(1), redesignated subpar. (E) as (J). Former subpar. (J) redesignated (O).

Pub. L. 113–4, §1201(1), substituted "subsection (g)" for "subsection (f) of this section".

Subsec. (d)(7)(K) to (O). Pub. L. 113–4, §1231(1), redesignated subpars. (F) to (J) as (K) to (O), respectively.

Subsec. (d)(7)(P) to (R). Pub. L. 113–4, §1231(3)–(5), added subpars. (P) to (R).

Subsec. (e)(2). Pub. L. 113–4, §1201(2), redesignated subpar. (B) and cls. (i) and (ii) as par. (2) and subpars. (A) and (B), respectively, realigned margins, and struck out former par. (2) heading and subpar. (A) which related to coordination of certain activities against use of products or materials from victims of severe forms of trafficking and sexual exploitation.

Subsecs. (f), (g). Pub. L. 113–4, §1201(3), (4), added subsec. (f) and redesignated former subsec. (f) as (g).

2008—Subsec. (b). Pub. L. 110–457, §101, inserted "the Secretary of Education," after "the Secretary of Homeland Security,".

Subsec. (d)(7). Pub. L. 110–457, §304(a), substituted "Committee on Foreign Affairs" for "Committee on International Relations" in introductory provisions.

Subsec. (d)(7)(A). Pub. L. 110–457, §231(1), substituted "subsections (b) and (f) of section 7105 of this title" for "section 7105(b) of this title" and inserted "the Attorney General," after "the Secretary of Labor,".

Subsec. (d)(7)(H) to (J). Pub. L. 110–457, §231(2)–(4), added subpars. (H) and (I) and redesignated former

subpar. (H) as (J).

Subsec. (e). Pub. L. 110–457, §102, substituted "Office To Monitor and Combat Trafficking" for "Support for the Task Force" in subsec. heading, designated existing provisions as par. (1) and inserted par. heading, substituted "The Secretary of State shall" for "The Secretary of State is authorized to", and added par. (2).

2006—Subsec. (b). Pub. L. 109–164, §104(a), substituted "the Director of National Intelligence, the Secretary of Defense, the Secretary of Homeland Security" for "the Director of Central Intelligence".

Subsec. (d)(7)(G), (H). Pub. L. 109–164, §205, added subpar. (G) and redesignated former subpar. (G) as (H).

2003—Subsec. (d)(7). Pub. L. 108–193, §6(a)(1), added par. (7).

Subsec. (e). Pub. L. 108–193, §6(b)(1), inserted before period at end of second sentence ", who shall be appointed by the President, by and with the advice and consent of the Senate, with the rank of Ambassador-at-Large".

Subsec. (f). Pub. L. 108–193, §6(c)(1), added subsec. (f).

SAVINGS PROVISION

Pub. L. 108–193, §6(b)(2), Dec. 19, 2003, 117 Stat. 2881, provided that: "The individual who holds the position of Director of the Office to Monitor and Combat Trafficking of the Department of State may continue to hold such position notwithstanding the amendment made by paragraph (1) [amending this section]."

SENIOR POLICY OPERATING GROUP

Pub. L. 108–7, div. B, title IV, §406, Feb. 20, 2003, 117 Stat. 92, required the Interagency Task Force to Monitor and Combat Trafficking to establish a Senior Policy Operating Group, prior to repeal by Pub. L. 108–193, §6(c)(2), Dec. 19, 2003, 117 Stat. 2881. See subsec. (f) of this section.

EX. ORD. NO. 13257. PRESIDENT'S INTERAGENCY TASK FORCE TO MONITOR AND COMBAT TRAFFICKING IN PERSONS

Ex. Ord. No. 13257, Feb. 13, 2002, 67 F.R. 7259, as amended by Ex. Ord. No. 13286, §5, Feb. 28, 2003, 68 F.R. 10619; Ex. Ord. No. 13333, Mar. 18, 2004, 69 F.R. 13455, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Trafficking Victims Protection Act of 2000, (22 U.S.C. 7101 *et seq*.) (the "Act"), and section 301 of title 3, United States Code, and in order to combat trafficking in persons, a contemporary manifestation of slavery whose victims are predominantly women and children, to ensure just and effective punishment of traffickers, and to protect their victims, it is hereby ordered as follows:

SECTION 1. (a) The President's Interagency Task Force to Monitor and Combat Trafficking in Persons is hereby established.

(b) The Task Force shall consist of:

(i) the Secretary of State;

(ii) the Attorney General;

(iii) the Secretary of Labor;

(iv) the Secretary of Health and Human Services;

(v) the Secretary of Homeland Security;

(vi) the Director of Central Intelligence;

(vii) the Director of the Office of Management and Budget;

(viii) the Administrator of the United States Agency for International Development; and

(ix) any additional officers or employees of the United States as may be designated by the President.

(c) The Task Force shall be chaired by the Secretary of State.

SEC. 2. *Activities*. The Task Force shall, consistent with applicable law and the constitutional authorities and duties of the President, carry out the following activities:

(a) coordinate the implementation of the Act;

(b) measure and evaluate progress of the United States and other countries in the areas of trafficking in persons prevention, protection, and assistance to victims of trafficking in persons, and prosecutions and other enforcement efforts against traffickers, including the role of public corruption in facilitating trafficking in persons;

(c) assist the Secretary of State in the preparation of the annual reports described in section 110 of the Act [22 U.S.C. 7107];

(d) expand interagency procedures to collect and organize data, including significant research and resource information on domestic and international trafficking in persons, while ensuring that any data collection procedures involved, respect the confidentiality of victims of trafficking in persons;

(e) engage in efforts to facilitate cooperation among countries of origin, transit, and destination, and such

efforts shall aim to strengthen local and regional capacities to prevent trafficking in persons, prosecute traffickers and assist trafficking victims; shall include initiatives to enhance cooperative efforts between destination countries, transit countries, and countries of origin; and shall assist in the appropriate reintegration of stateless victims of trafficking in persons;

(f) examine the role of the international "sex tourism" industry in the trafficking of persons and in the sexual exploitation of women and children around the world;

(g) engage in consultation and advocacy with governmental and nongovernmental organizations, among other entities, to advance the purposes of the Act; and

(h) address such other matters related to the purposes of the Act as the President may determine.

SEC. 3. *Administration*. (a) The Department of State shall provide funding and administrative support for the Task Force, except as otherwise provided by the Act.

(b) At the call of the Chair, the Task Force shall meet as necessary to accomplish its mission.

(c) Task Force members may designate representatives from their respective agencies to represent them at Task Force meetings.

(d) Whenever the work of the Task Force involves a matter committed by law or Presidential directive to the consideration of the National Security Council, or by Executive Order 13228 of October 8, 2001 [50 U.S.C. 3021 note], to the consideration of the Homeland Security Council, that work shall be undertaken, and any communication by the Secretary of State to the President shall be undertaken, in a manner consistent with such law, Presidential directive, or Executive Order.

(e) The Task Force shall have no directive authority or other substantial independent authority.

(f) As necessary and appropriate, the Task Force shall report to the President, through the Secretary of State, the following:

(i) progress on the implementation of the Act; and

(ii) recommendations for United States policy to monitor and eliminate trafficking in persons and to protect the victims of trafficking in persons.

SEC. 4. *Guidelines, Policies, and Regulations*. (a) The Senior Policy Operating Group (SPOG), described in subsection 105(f) [now (g)] of the Act [22 U.S.C. 7103(g)], shall (i) establish guidelines and policies to coordinate the activities of executive branch departments and agencies regarding policies (including grants and grant policies) involving the international trafficking in persons and (ii) advise the Secretary of State what regulations may be necessary to implement section 105 of the Act, including such regulations as may be necessary to carry out the sharing of information on all matters relating to grants, grant policies, or other significant actions regarding the international trafficking in persons as set forth in subsection 105(f)(4) of the Act, to the extent permitted by law.

(b) The Secretary of State, in consultation with the members of the Task Force or their representatives, shall promulgate regulations to implement section 105 of the Act [22 U.S.C. 7103].

SEC. 5. *Enhanced Prevention of Trafficking in Persons*. (a) The Secretary of State, in consultation with the members of the Task Force or their representatives, shall carry out the functions under subsection 106(c) and subsection 106(d) of the Act [22 U.S.C. 7104(c), (d)].

(b) The Secretary of State shall have the authority to determine, under section 106(e)(1) of the Act, foreign destinations where sex tourism is significant. The Secretary of Homeland Security, in consultation with the members of the Task Force or their representatives and appropriate officials of the Departments of Commerce and Transportation, shall carry out all other functions under subsection 106(e) of the Act, including promulgation of any appropriate regulations relating to the distribution of the materials described in subsection 106(e).

(c) The head of each executive branch agency responsible for the establishment and conduct of initiatives and programs described in subsections 106(a) through (e) of the Act shall consult with appropriate nongovernmental organizations consistent with section 106(f) of the Act.

(d) The Secretary of State shall have responsibility to initiate appropriate regulatory implementation of the requirements set out in section 106(g) of the Act with respect to contracts, including proposing appropriate amendments to the Federal Acquisition Regulation. Each affected executive branch department or agency shall implement, within that department or agency, the requirements set out in section 106(g) of the Act with respect to grants and cooperative agreements.

SEC. 6. *Research on Trafficking in Persons*. The entities named in section 112A of the Act [22 U.S.C. 7109a] shall carry out the research initiatives required by section 112A of the Act, and shall award grants according to such policies and guidelines as may be established by the SPOG described in section 105(f) of the Act [22 U.S.C. 7103(f)], as well as any applicable agency rules and regulations.

SEC. 7. *Guidance for Exercising Authority and Performing Duties*. In exercising authority delegated by, or performing functions assigned in, this order, officers of the United States shall ensure that all actions taken by

them are consistent with the President's constitutional authority to:

(a) conduct the foreign affairs of the United States;

(b) withhold information the disclosure of which could impair the foreign relations, the national security, the deliberative processes of the Executive, or the performance of the Executive's constitutional duties;

(c) recommend for congressional consideration such measures as the President may judge necessary or expedient; and

(d) supervise the unitary Executive Branch.

SEC. 8. *Judicial Review*. This order does not create any rights or benefits, enforceable at law or equity, against the United States, its departments, its agencies, or other entities, its officers or employees, or any other person.

GEORGE W. BUSH.

[1] *See References in Text note below.*

[2] *So in original. The word "and" probably should not appear.*

§7103a. Creating, building, and strengthening partnerships against significant trafficking in persons

(a) Declaration of purpose

The purpose of this section is to promote collaboration and cooperation—

(1) between the United States Government and governments listed on the annual Trafficking in Persons Report;

(2) between foreign governments and civil society actors; and

(3) between the United States Government and private sector entities.

(b) Partnerships

The Director of the office established pursuant to section 7103(e)(1) of this title, in coordination and cooperation with other officials at the Department of State, officials at the Department of Labor, and other relevant officials of the United States Government, shall promote, build, and sustain partnerships between the United States Government and private entities, including foundations, universities, corporations, community-based organizations, and other nongovernmental organizations, to ensure that—

(1) United States citizens do not use any item, product, or material produced or extracted with the use and labor from victims of severe forms of trafficking; and

(2) such entities do not contribute to trafficking in persons involving sexual exploitation.

(c) Program to address emergency situations

The Secretary of State, acting through the Director established pursuant to section 7103(e)(1) of this title, is authorized to establish a fund to assist foreign governments in meeting unexpected, urgent needs in prevention of trafficking in persons, protection of victims, and prosecution of trafficking offenders.

(d) Child protection compacts

(1) In general

The Secretary of State, in consultation with the Administrator of the United States Agency for International Development, the Secretary of Labor, and the heads of other relevant agencies, is authorized to provide assistance under this section for each country that enters into a child protection compact with the United States to support policies and programs that—

(A) prevent and respond to violence, exploitation, and abuse against children; and

(B) measurably reduce the trafficking of minors by building sustainable and effective systems of justice, prevention, and protection.

(2) Elements

A child protection compact under this subsection shall establish a multi-year plan for achieving shared objectives in furtherance of the purposes of this chapter. The compact should take into account, if applicable, the national child protection strategies and national action plans for human trafficking of a country, and shall describe—

(A) the specific objectives the foreign government and the United States Government expect to achieve during the term of the compact;

(B) the responsibilities of the foreign government and the United States Government in the achievement of such objectives;

(C) the particular programs or initiatives to be undertaken in the achievement of such objectives and the amount of funding to be allocated to each program or initiative by both countries;

(D) regular outcome indicators to monitor and measure progress toward achieving such objectives;

(E) a multi-year financial plan, including the estimated amount of contributions by the United States Government and the foreign government, and proposed mechanisms to implement the plan and provide oversight;

(F) how a country strategy will be developed to sustain progress made toward achieving such objectives after expiration of the compact; and

(G) how child protection data will be collected, tracked, and managed to provide strengthened case management and policy planning.

(3) Form of assistance

Assistance under this subsection may be provided in the form of grants, cooperative agreements, or contracts to or with national governments, regional or local governmental units, or non-governmental organizations or private entities with expertise in the protection of victims of severe forms of trafficking in persons.

(4) Eligible countries

The Secretary of State, in consultation with the agencies set forth in paragraph (1) and relevant officers of the Department of Justice, shall select countries with which to enter into child protection compacts. The selection of countries under this paragraph shall be based on—

(A) the selection criteria set forth in paragraph (5); and

(B) objective, documented, and quantifiable indicators, to the maximum extent possible.

(5) Selection criteria

A country shall be selected under paragraph (4) on the basis of criteria developed by the Secretary of State in consultation with the Administrator of the United States Agency for International Development and the Secretary of Labor. Such criteria shall include—

(A) a documented high prevalence of trafficking in persons within the country; and

(B) demonstrated political motivation and sustained commitment by the government of such country to undertake meaningful measures to address severe forms of trafficking in persons, including prevention, protection of victims, and the enactment and enforcement of anti-trafficking laws against perpetrators.

(6) Suspension and termination of assistance

(A) In general

The Secretary may suspend or terminate assistance provided under this subsection in whole or in part for a country or entity if the Secretary determines that—

(i) the country or entity is engaged in activities that are contrary to the national security interests of the United States;

(ii) the country or entity has engaged in a pattern of actions inconsistent with the criteria used to determine the eligibility of the country or entity, as the case may be; or

(iii) the country or entity has failed to adhere to its responsibilities under the Compact.

(B) Reinstatement

The Secretary may reinstate assistance for a country or entity suspended or terminated under this paragraph only if the Secretary determines that the country or entity has demonstrated a commitment to correcting each condition for which assistance was suspended or terminated under subparagraph (A).

(Pub. L. 106–386, div. A, §105A, as added Pub. L. 113–4, title XII, §1202, Mar. 7, 2013, 127 Stat. 136.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (d)(2), was in the original "this Act", meaning the Trafficking Victims Protection Act of 2000, as indicated by the directory language of section 1202 of Pub. L. 113–4 which added this section. The Trafficking Victims Protection Act of 2000 is div. A of Pub. L. 106–386, Oct. 28, 2000, 114 Stat. 1466, which is classified principally to this chapter. For complete classification of div. A to the Code, see Short Title note set out under section 7101 of this title and Tables.

§7104. Prevention of trafficking

(a) Economic alternatives to prevent and deter trafficking

The President shall establish and carry out international initiatives to enhance economic opportunity for potential victims of trafficking as a method to deter trafficking. Such initiatives may include—

(1) microcredit lending programs, training in business development, skills training, and job counseling;

(2) programs to promote women's participation in economic decisionmaking;

(3) programs to keep children, especially girls, in elementary and secondary schools, and to educate persons who have been victims of trafficking;

(4) development of educational curricula regarding the dangers of trafficking; and

(5) grants to nongovernmental organizations to accelerate and advance the political, economic, social, and educational roles and capacities of women in their countries.

(b) Public awareness and information

The President, acting through the Secretary of Labor, the Secretary of Health and Human Services, the Attorney General, and the Secretary of State, shall establish and carry out programs to increase public awareness, particularly among potential victims of trafficking, of the dangers of trafficking and the protections that are available for victims of trafficking.

(c) Border interdiction

The President shall establish and carry out programs of border interdiction outside the United States. Such programs shall include providing grants to foreign nongovernmental organizations that provide for transit shelters operating at key border crossings and that help train survivors of trafficking in persons to educate and train border guards and officials, and other local law enforcement officials, to identify traffickers and victims of severe forms of trafficking, and the appropriate manner in which to treat such victims. Such programs shall also include, to the extent appropriate, monitoring by such survivors of trafficking in persons of the implementation of border interdiction programs, including helping in the identification of such victims to stop the cross-border transit of victims. The President shall ensure that any program established under this subsection provides the opportunity for any trafficking victim who is freed to return to his or her previous residence if the victim so chooses.

(d) International media

The President shall establish and carry out programs that support the production of television and radio programs, including documentaries, to inform vulnerable populations overseas of the dangers of trafficking, and to increase awareness of the public in countries of destination regarding the

slave-like practices and other human rights abuses involved in trafficking, including fostering linkages between individuals working in the media in different countries to determine the best methods for informing such populations through such media.

(e) Combating international sex tourism

(1) Development and dissemination of materials

The President, pursuant to such regulations as may be prescribed, shall ensure that materials are developed and disseminated to alert travelers that sex tourism (as described in subsections (b) through (f) of section 2423 of title 18) is illegal, will be prosecuted, and presents dangers to those involved. Such materials shall be disseminated to individuals traveling to foreign destinations where the President determines that sex tourism is significant.

(2) Monitoring of compliance

The President shall monitor compliance with the requirements of paragraph (1).

(3) Feasibility report

Not later than 180 days after December 19, 2003, the President shall transmit to the Committee on International Relations of the House of Representatives and the Committee on Foreign Affairs of the Senate a report that describes the feasibility of such United States Government materials being disseminated through public-private partnerships to individuals traveling to foreign destinations.

(f) Consultation requirement

The President shall consult with appropriate nongovernmental organizations with respect to the establishment and conduct of initiatives and programs described in subsections (a) through (e).

(g) Termination of certain grants, contracts and cooperative agreements

The President shall ensure that any grant, contract, or cooperative agreement provided or entered into by a Federal department or agency under which funds are to be provided to a private entity, in whole or in part, shall include a condition that authorizes the department or agency to terminate the grant, contract, or cooperative agreement, or take any of the other remedial actions authorized under section 7104b(c) of this title, without penalty, if the grantee or any subgrantee, or the contractor or any subcontractor, engages in, or uses labor recruiters, brokers, or other agents who engage in—

(i) severe forms of trafficking in persons;

(ii) the procurement of a commercial sex act during the period of time that the grant, contract, or cooperative agreement is in effect;

(iii) the use of forced labor in the performance of the grant, contract, or cooperative agreement; or

(iv) acts that directly support or advance trafficking in persons, including the following acts:

(I) Destroying, concealing, removing, confiscating, or otherwise denying an employee access to that employee's identity or immigration documents.

(II) Failing to provide return transportation or pay for return transportation costs to an employee from a country outside the United States to the country from which the employee was recruited upon the end of employment if requested by the employee, unless—

(aa) exempted from the requirement to provide or pay for such return transportation by the Federal department or agency providing or entering into the grant, contract, or cooperative agreement; or

(bb) the employee is a victim of human trafficking seeking victim services or legal redress in the country of employment or a witness in a human trafficking enforcement action.

(III) Soliciting a person for the purpose of employment, or offering employment, by means of materially false or fraudulent pretenses, representations, or promises regarding that employment.

(IV) Charging recruited employees unreasonable placement or recruitment fees, such as fees equal to or greater than the employee's monthly salary, or recruitment fees that violate the laws

of the country from which an employee is recruited.

(V) Providing or arranging housing that fails to meet the host country housing and safety standards.

(h) Prevention of trafficking in conjunction with post-conflict and humanitarian emergency assistance

The United States Agency for International Development, the Department of State, and the Department of Defense shall incorporate anti-trafficking and protection measures for vulnerable populations, particularly women and children, into their post-conflict and humanitarian emergency assistance and program activities.

(i) Additional measures to prevent and deter trafficking

The President shall establish and carry out programs to prevent and deter trafficking in persons, including—

(1) technical assistance and other support to improve the capacity of foreign governments to investigate, identify, and carry out inspections of private entities, including labor recruitment centers, at which trafficking victims may be exploited, particularly exploitation involving forced and child labor;

(2) technical assistance and other support for foreign governments and nongovernmental organizations to provide immigrant populations with information, in the native languages of the major immigrant groups of such populations, regarding the rights of such populations in the foreign country and local in-country nongovernmental organization-operated hotlines;

(3) technical assistance to provide legal frameworks and other programs to foreign governments and nongovernmental organizations to ensure that—

(A) foreign migrant workers are provided the same protection as nationals of the foreign country;

(B) labor recruitment firms are regulated; and

(C) workers providing domestic services in households are provided protection under labor rights laws; and

(4) assistance to foreign governments to register vulnerable populations as citizens or nationals of the country to reduce the ability of traffickers to exploit such populations.

(j) Prevention of child trafficking through child marriage

The Secretary of State shall establish and implement a multi-year, multi-sectoral strategy—

(1) to prevent child marriage;

(2) to promote the empowerment of girls at risk of child marriage in developing countries;

(3) that should address the unique needs, vulnerabilities, and potential of girls younger than 18 years of age in developing countries;

(4) that targets areas in developing countries with high prevalence of child marriage; and

(5) that includes diplomatic and programmatic initiatives.

(Pub. L. 106–386, div. A, §106, Oct. 28, 2000, 114 Stat. 1474; Pub. L. 108–193, §3, Dec. 19, 2003, 117 Stat. 2875; Pub. L. 109–164, title I, §101(a), title II, §201(b), Jan. 10, 2006, 119 Stat. 3560, 3569; Pub. L. 110–457, title I, §103(a), Dec. 23, 2008, 122 Stat. 5046; Pub. L. 112–239, div. A, title XVII, §1702, Jan. 2, 2013, 126 Stat. 2093; Pub. L. 113–4, title XII, §1207(a), Mar. 7, 2013, 127 Stat. 141.)

AMENDMENTS

2013—Subsec. (g). Pub. L. 112–239 substituted "or take any of the other remedial actions authorized under section 7104b(c) of this title, without penalty, if the grantee or any subgrantee, or the contractor or any subcontractor, engages in, or uses labor recruiters, brokers, or other agents who engage in—" and cls. (i) to (iv) for "without penalty, if the grantee or any subgrantee, or the contractor or any subcontractor (i) engages in severe forms of trafficking in persons or has procured a commercial sex act during the period of time that the grant, contract, or cooperative agreement is in effect, or (ii) uses forced labor in the performance of the grant, contract, or cooperative agreement."

Subsec. (j). Pub. L. 113–4 added subsec. (j).

2008—Subsec. (i). Pub. L. 110–457 added subsec. (i).

2006—Subsec. (g). Pub. L. 109–164, §201(b), struck out designation and heading of par. (1) before "The President shall", "described in paragraph (2)" after "under which funds", and heading and text of par. (2). Text of par. (2) read as follows: "Funds referred to in paragraph (1) are funds made available to carry out any program, project, or activity abroad funded under major functional budget category 150 (relating to international affairs)."

Subsec. (h). Pub. L. 109–164, §101(a), added subsec. (h).

2003—Subsecs. (c) to (f). Pub. L. 108–193, §3(a), added subsecs. (c) to (e), redesignated former subsec. (c) as (f), and in subsec. (f) substituted "initiatives and programs described in subsections (a) through (e)" for "initiatives described in subsections (a) and (b)".

Subsec. (g). Pub. L. 108–193, §3(b), added subsec. (g).

CHANGE OF NAME

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

EFFECTIVE DATE OF 2013 AMENDMENT

Requirements of amendment by Pub. L. 112–239 applicable to grants, contracts, and cooperative agreements entered into on or after the date that is 270 days after Jan. 2, 2013, and to task and delivery orders awarded on or after Jan. 2, 2013, pursuant to contracts entered before, on, or after such date, see section 7104d(c)(1)(B) of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see section 5 of Ex. Ord. No. 13257, Feb. 13, 2002, 67 F.R. 7259, as amended, set out as a note under section 7103 of this title.

§7104a. Compliance plan and certification requirement

(a) Requirement

The head of an executive agency may not provide or enter into a grant, contract, or cooperative agreement if the estimated value of the services required to be performed under the grant, contract, or cooperative agreement outside the United States exceeds $500,000, unless a duly designated representative of the recipient of such grant, contract, or cooperative agreement certifies to the contracting or grant officer prior to receiving an award and on an annual basis thereafter, after having conducted due diligence, that—

(1) the recipient has implemented a plan to prevent the activities described in section 7104(g) of this title, as amended by section 1702, and is in compliance with that plan;

(2) the recipient has implemented procedures to prevent any activities described in such section 7104(g) of this title and to monitor, detect, and terminate any subcontractor, subgrantee, or employee of the recipient engaging in any activities described in such section; and

(3) to the best of the representative's knowledge, neither the recipient, nor any subcontractor or subgrantee of the recipient or any agent of the recipient or of such a subcontractor or subgrantee, is engaged in any of the activities described in such section.

(b) Limitation

Any plan or procedures implemented pursuant to subsection (a) shall be appropriate to the size and complexity of the grant, contract, or cooperative agreement and to the nature and scope of its activities, including the number of non-United States citizens expected to be employed.

(c) Disclosure

The recipient shall provide a copy of the plan to the contracting or grant officer upon request, and as appropriate, shall post the useful and relevant contents of the plan or related materials on its website and at the workplace.

(d) Guidance

The President, in consultation with the Secretary of State, the Attorney General, the Secretary of Defense, the Secretary of Labor, the Secretary of Homeland Security, the Administrator for the United States Agency for International Development, and the heads of such other executive agencies as the President deems appropriate, shall establish minimum requirements for contractor plans and procedures to be implemented pursuant to this section.

(Pub. L. 112–239, div. A, title XVII, §1703, Jan. 2, 2013, 126 Stat. 2094.)

REFERENCES IN TEXT

Section 7104(g) of this title, as amended by section 1702, referred to in subsec. (a)(1), means section 7104(g) of this title, as amended by section 1702 of Pub. L. 112–239.

CODIFICATION

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 2013, and not as part of the Trafficking Victims Protection Act of 2000 which comprises this chapter.

EFFECTIVE DATE

Requirements of section applicable to grants, contracts, and cooperative agreements entered into on or after the date that is 270 days after Jan. 2, 2013, and to task and delivery orders awarded on or after Jan. 2, 2013, pursuant to contracts entered before, on, or after such date, see section 7104d(c)(1)(B) of this title.

DEFINITIONS

Pub. L. 112–239, div. A, title XVII, §1701, Jan. 2, 2013, 126 Stat. 2092, provided that: "In this title [title XVII (§§1701–1708) of div. A of Pub. L. 112–239, enacting this section and sections 7104b to 7104d of this title, amending sections 7103 and 7104 of this title, section 1351 of Title 18, Crimes and Criminal Procedure, and section 2313 of Title 41, Public Contracts, and enacting provisions set out as a note under section 1101 of Title 8, Aliens and Nationality]:

"(1) EXECUTIVE AGENCY.—The term 'executive agency' has the meaning given the term in section 133 of title 41, United States Code.

"(2) SUBCONTRACTOR.—The term 'subcontractor' means a recipient of a contract at any tier under a grant, contract, or cooperative agreement.

"(3) SUBGRANTEE.—The term 'subgrantee' means a recipient of a grant at any tier under a grant or cooperative agreement.

"(4) UNITED STATES.—The term 'United States' has the meaning provided in section 103(12) [now (13)] of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102(12) [now (13)])."

§7104b. Monitoring and investigation of trafficking in persons

(a) Referral and investigation

(1) Referral

If the contracting or grant officer of an executive agency for a grant, contract, or cooperative agreement receives credible information that a recipient of the grant, contract, or cooperative agreement; any subgrantee or subcontractor of the recipient; or any agent of the recipient or of such a subgrantee or subcontractor, has engaged in an activity described in section 7104(g) of this title, as amended by section 1702, including a report from a contracting officer representative, an auditor, an alleged victim or victim's representative, or any other credible source, the contracting or grant officer shall promptly refer the matter to the agency's Office of Inspector General for investigation. The contracting officer may also direct the contractor to take specific steps to abate an alleged violation or enforce the requirements of a compliance plan implemented pursuant to section 7104a of this title.

(2) Investigation

An Inspector General who receives a referral under paragraph (1) or otherwise receives credible information that a recipient of the grant, contract, or cooperative agreement; any subgrantee or subcontractor of the recipient; or any agent of the recipient or of such a subgrantee or subcontractor, has engaged in an activity described in section 7104(g) of this title, as amended by

section 1702, shall promptly review the referral or information and determine whether to initiate an investigation of the matter. In the event that an Inspector General does not initiate an investigation, the Inspector General shall document the rationale for the decision not to investigate.

(3) Criminal investigation

If the matter is referred to the Department of Justice for criminal prosecution, the Inspector General may suspend any investigation under this subsection pending the outcome of the criminal prosecution. The Inspector General shall notify the head of the executive agency that awarded the contract, grant, or cooperative agreement of an indictment, information, or criminal complaint against the recipient of a contract, grant, or cooperative agreement; any subgrantee or subcontractor of the recipient; or any agent of the recipient or of a subgrantee or subcontractor. If the criminal investigation results in a decision not to prosecute, the Inspector General shall promptly determine whether to resume any investigation that was suspended pursuant to this paragraph. In the event that an Inspector General does not resume an investigation, the Inspector General shall document the rationale for the decision.

(b) Report

Upon completion of an investigation under subsection (a), the Inspector General shall submit a report on the investigation to the head of the executive agency that awarded the contract, grant, or cooperative agreement. The report shall include the Inspector General's conclusions regarding whether or not any allegations that the recipient of a grant, contract, or cooperative agreement; any subcontractor or subgrantee of the recipient; or any agent of the recipient or of such a subcontractor or subgrantee, engaged in any of the activities described in section 7104(g) of this title, as amended by section 1702, are substantiated.

(c) Remedial actions

(1) In general

Upon receipt of an Inspector General's report substantiating an allegation that the recipient of a contract, grant, or cooperative agreement; any subgrantee or subcontractor of the recipient; or any agent of the recipient or of a subgrantee or subcontractor, engaged in any of the activities described in section 7104(g) of this title, as amended by section 1702, or notification of an indictment, information, or criminal complaint for an offense under subsection (a)(3), the head of agency shall consider taking one or more of the following remedial actions:

(A) Requiring the recipient to remove an employee from the performance of work under the grant, contract, or cooperative agreement.

(B) Requiring the recipient to terminate a subcontract or subgrant.

(C) Suspending payments under the grant, contract, or cooperative agreement until such time as the recipient of the grant, contract, or cooperative agreement has taken appropriate remedial action.

(D) Withholding award fees, consistent with the award fee plan, for the performance period in which the agency determined the contractor or subcontractor engaged in any of the activities described in such section 7104(g) of this title.

(E) Declining to exercise available options under the contract.

(F) Terminating the contract for default or cause, in accordance with the termination clause for the contract.

(G) Referring the matter to the agency suspension and debarment official.

(2) Savings clause

Nothing in this subsection shall be construed as limiting the scope of applicable remedies available to the Federal Government.

(3) Mitigating factor

Where applicable, the head of an executive agency may consider whether the contractor or grantee had a plan in place under section 7104a of this title, and was in compliance with that plan

at the time of the violation, as a mitigating factor in determining which remedies, if any, should apply.

(4) Aggravating factor

Where applicable, the head of an executive agency may consider the failure of a contractor or grantee to abate an alleged violation or enforce the requirements of a compliance plan when directed by a contracting officer pursuant to subsection (a)(1) as an aggravating factor in determining which remedies, if any, should apply.

(d) Inclusion of report conclusions in FAPIIS

(1) In general

The head of an executive agency shall ensure that any substantiated allegation in the report under subsection (b) is included in the Federal Awardee Performance and Integrity Information System (FAPIIS) and that the contractor has an opportunity to respond to any such report in accordance with applicable statutes and regulations.

(2) Omitted

(Pub. L. 112–239, div. A, title XVII, §1704, Jan. 2, 2013, 126 Stat. 2094.)

REFERENCES IN TEXT

Section 7104(g) of this title, as amended by section 1702, referred to in subsecs. (a)(1), (2), (b), and (c)(1), means section 7104(g) of this title, as amended by section 1702 of Pub. L. 112–239.

CODIFICATION

Section is comprised of section 1704 of Pub. L. 112–239. Subsec. (d)(2) of section 1704 of Pub. L. 112–239 amended section 2313 of Title 41, Public Contracts.

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 2013, and not as part of the Trafficking Victims Protection Act of 2000 which comprises this chapter.

EFFECTIVE DATE

Requirements of subsec. (c) and second sentence of subsec. (a)(1) of this section applicable to grants, contracts, and cooperative agreements entered into on or after the date that is 270 days after Jan. 2, 2013, and to task and delivery orders awarded on or after Jan. 2, 2013, pursuant to contracts entered before, on, or after such date, see section 7104d(c)(1)(B) of this title.

§7104c. Notification to Inspectors General and cooperation with government

The head of an executive agency making or awarding a grant, contract, or cooperative agreement shall require that the recipient of the grant, contract, or cooperative agreement—

(1) immediately inform the Inspector General of the executive agency of any information it receives from any source that alleges credible information that the recipient; any subcontractor or subgrantee of the recipient; or any agent of the recipient or of such a subcontractor or subgrantee, has engaged in conduct described in section 7104(g) of this title, as amended by section 1702 of this Act; and

(2) fully cooperate with any Federal agencies responsible for audits, investigations, or corrective actions relating to trafficking in persons.

(Pub. L. 112–239, div. A, title XVII, §1705, Jan. 2, 2013, 126 Stat. 2097.)

REFERENCES IN TEXT

Section 7104(g) of this title, as amended by section 1702 of this Act, referred to in par. (1), means section 7104(g) of this title, as amended by section 1702 of Pub. L. 112–239.

CODIFICATION

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 2013, and not as part of the Trafficking Victims Protection Act of 2000 which comprises this chapter.

§7104d. Rules of construction; effective date

(a) Liability

Excluding section 1706, nothing in this title shall be construed to supersede, enlarge, or diminish the common law or statutory liabilities of any grantee, subgrantee, contractor, subcontractor, or other party covered by section 106(g) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7104(g)), as amended by section 1702.

(b) Authority of Department of Justice

Nothing in this title shall be construed as diminishing or otherwise modifying the authority of the Attorney General to investigate activities covered by this title.

(c) Implementation and effective dates

(1) Contracting requirements

(A) Not later than 270 days after January 2, 2013, the Federal Acquisition Regulation shall be amended to carry out the requirements of sections 1702, 1703, and 1704(c), and the second sentence of section 1704(a)(1), of this title.

(B) The requirements of sections 1702, 1703, and 1704(c), and the second sentence of section 1704(a)(1), of this title, shall apply to grants, contracts, and cooperative agreements entered into on or after the date that is 270 days after January 2, 2013, and to task and delivery orders awarded on or after such date pursuant to contracts entered before, on, or after such date.

(2) Investigative and procedural requirements

Federal agencies shall implement the requirements of sections 1704, 1705, and 1707 (other than subsection (c) of section 1704) not later than 90 days after January 2, 2013.

(3) Criminal law changes

The amendments made by section 1706 shall take effect upon the date of enactment and shall apply to conduct taking place on or after such date.

(Pub. L. 112–239, div. A, title XVII, §1708, Jan. 2, 2013, 126 Stat. 2098.)

REFERENCES IN TEXT

This title, referred to in text, is title XVII of div. A of Pub. L. 112–239, which enacted this section and sections 7104a to 7104c of this title, amended sections 7103 and 7104 of this title, section 1351 of Title 18, Crimes and Criminal Procedure, and section 2313 of Title 41, Public Contracts, and enacted provisions set out as a note under section 1101 of Title 8, Aliens and Nationality. For complete classification of title XVII to the Code, see Tables.

Section 1706, referred to in subsecs. (a) and (c)(3), is section 1706 of Pub. L. 112–239, which amended section 1351 of Title 18, Crimes and Criminal Procedure, and enacted provisions set out as a note under section 1101 of Title 8, Aliens and Nationality.

Section 106(g) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7104(g)), as amended by section 1702, referred to in subsec. (a), means section 7104(g) of this title, as amended by section 1702 of Pub. L. 112–239.

Section 1702, referred to in subsecs. (a) and (c)(1), is section 1702 of Pub. L. 112–239, which amended section 7104 of this title.

Section 1703, referred to in subsec. (c)(1), is section 1703 of Pub. L. 112–239, which is classified to section 7104a of this title.

Section 1704, referred to in subsec. (c)(1), (2), is section 1704 of Pub. L. 112–239, which enacted section 7104b of this title and amended section 2313 of Title 41, Public Contracts.

Section 1705, referred to in subsec. (c)(2), is section 1705 of Pub. L. 112–239, which is classified to section 7104c of this title.

Section 1707, referred to in subsec. (c)(2), is section 1707 of Pub. L. 112–239, which amended section 7103 of this title.

The date of enactment, referred to in subsec. (c)(3), probably means the date of enactment of Pub. L. 112–239, which was approved Jan. 2, 2013.

CODIFICATION

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 2013, and not as part of the Trafficking Victims Protection Act of 2000 which comprises this chapter.

§7105. Protection and assistance for victims of trafficking

(a) Assistance for victims in other countries

(1) In general

The Secretary of State and the Administrator of the United States Agency for International Development, in consultation with appropriate nongovernmental organizations, shall establish and carry out programs and initiatives in foreign countries to assist in the safe integration, reintegration, or resettlement, as appropriate, of victims of trafficking. Such programs and initiatives shall be designed to meet the appropriate assistance needs of such persons and their children, as identified by the Task Force, and shall be carried out in a manner which takes into account the cross-border, regional, and transnational aspects of trafficking in persons. In addition, such programs and initiatives shall, to the maximum extent practicable, include the following:

(A) Support for local in-country nongovernmental organization-operated hotlines, culturally and linguistically appropriate protective shelters, and regional and international nongovernmental organization networks and databases on trafficking, including support to assist nongovernmental organizations in establishing service centers and systems that are mobile and extend beyond large cities.

(B) Support for nongovernmental organizations and advocates to provide legal, social, and other services and assistance to trafficked individuals, particularly those individuals in detention, and by facilitating contact between relevant foreign government agencies and such nongovernmental organizations to facilitate cooperation between the foreign governments and such organizations.

(C) Education and training for trafficked women and girls.

(D) The safe integration or reintegration of trafficked individuals into an appropriate community or family, with full respect for the wishes, dignity, and safety of the trafficked individual.

(E) Support for developing or increasing programs to assist families of victims in locating, repatriating, and treating their trafficked family members, in assisting the voluntary repatriation of these family members or their integration or resettlement into appropriate communities, and in providing them with treatment.

(F) In cooperation and coordination with relevant organizations, such as the United Nations High Commissioner for Refugees, the International Organization for Migration, and private nongovernmental organizations that contract with, or receive grants from, the United States Government to assist refugees and internally displaced persons, support for—

(i) increased protections for refugees and internally displaced persons, including outreach and education efforts to prevent such refugees and internally displaced persons from being exploited by traffickers; and

(ii) performance of best interest determinations for unaccompanied and separated children who come to the attention of the United Nations High Commissioner for Refugees, its partner organizations, or any organization that contracts with the Department of State in order to identify child trafficking victims and to assist their safe integration, reintegration, and resettlement.

(2) Additional requirement

In establishing and conducting programs and initiatives described in paragraph (1), the Secretary of State and the Administrator of the United States Agency for International Development shall take all appropriate steps to enhance cooperative efforts among foreign countries, including countries of origin of victims of trafficking, to assist in the integration,

reintegration, or resettlement, as appropriate, of victims of trafficking, including stateless victims. In carrying out this paragraph, the Secretary and the Administrator shall take all appropriate steps to ensure that cooperative efforts among foreign countries are undertaken on a regional basis and shall brief Congress annually on such efforts.

(b) Victims in the United States

(1) Assistance

(A) Eligibility for benefits and services

Notwithstanding title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 [8 U.S.C. 1601 et seq.], an alien who is a victim of a severe form of trafficking in persons, or an alien classified as a nonimmigrant under section 1101(a)(15)(T)(ii) of title 8, shall be eligible for benefits and services under any Federal or State program or activity funded or administered by any official or agency described in subparagraph (B) to the same extent as an alien who is admitted to the United States as a refugee under section 1157 of title 8.

(B) Requirement to expand benefits and services

(i) In general

Subject to subparagraph (C) and, in the case of nonentitlement programs, to the availability of appropriations, the Secretary of Health and Human Services, the Secretary of Labor, the Board of Directors of the Legal Services Corporation, and the heads of other Federal agencies shall expand benefits and services to victims of severe forms of trafficking in persons in the United States, and aliens classified as a nonimmigrant under section 1101(a)(15)(T)(ii) of title 8, without regard to the immigration status of such victims. In the case of nonentitlement programs funded by the Secretary of Health and Human Services, such benefits and services may include services to assist potential victims of trafficking in achieving certification and to assist minor dependent children of victims of severe forms of trafficking in persons or potential victims of trafficking.

(ii) National human trafficking hotline

Beginning in fiscal year 2017, and in each fiscal year thereafter, the Secretary of Health and Human Services shall make grants for a national communication system to assist victims of severe forms of trafficking in persons in communicating with service providers. The Secretary shall give priority to grant applicants that have experience in providing telephone services to victims of severe forms of trafficking in persons.

(C) Definition of victim of a severe form of trafficking in persons

For the purposes of this paragraph, the term "victim of a severe form of trafficking in persons" means only a person—

(i) who has been subjected to an act or practice described in section 7102(8) of this title as in effect on October 28, 2000; and

(ii)(I) who has not attained 18 years of age; or

(II) who is the subject of a certification under subparagraph (E).

(D) Repealed. Pub. L. 108–193, §6(a)(2), Dec. 19, 2003, 117 Stat. 2880

(E) Certification

(i) In general

Subject to clause (ii), the certification referred to in subparagraph (C) is a certification by the Secretary of Health and Human Services, after consultation with the Secretary of Homeland Security, that the person referred to in subparagraph (C)(ii)(II)—

(I) is willing to assist in every reasonable way in the investigation and prosecution of severe forms of trafficking in persons or is unable to cooperate with such a request due to physical or psychological trauma; and

(II)(aa) has made a bona fide application for a visa under section 1101(a)(15)(T) of title

8, as added by subsection (e), that has not been denied; or

(bb) is a person whose continued presence in the United States the Secretary of Homeland Security is ensuring in order to effectuate prosecution of traffickers in persons.

(ii) Period of effectiveness

A certification referred to in subparagraph (C), with respect to a person described in clause (i)(II)(bb), shall be effective only for so long as the Secretary of Homeland Security determines that the continued presence of such person is necessary to effectuate prosecution of traffickers in persons.

(iii) Investigation and prosecution defined

For the purpose of a certification under this subparagraph, the term "investigation and prosecution" includes—

(I) identification of a person or persons who have committed severe forms of trafficking in persons;

(II) location and apprehension of such persons;

(III) testimony at proceedings against such persons; or

(IV) responding to and cooperating with requests for evidence and information.

(iv) Assistance to investigations

In making the certification described in this subparagraph with respect to the assistance to investigation or prosecution described in clause (i)(I), the Secretary of Health and Human Services shall consider statements from State and local law enforcement officials that the person referred to in subparagraph (C)(ii)(II) has been willing to assist in every reasonable way with respect to the investigation and prosecution of State and local crimes such as kidnapping, rape, slavery, or other forced labor offenses, where severe forms of trafficking appear to have been involved.

(F) No requirement of official certification for United States citizens and lawful permanent residents

Nothing in this section may be construed to require United States citizens or lawful permanent residents who are victims of severe forms of trafficking to obtain an official certification from the Secretary of Health and Human Services in order to access any of the specialized services described in this subsection or any other Federal benefits and protections to which they are otherwise entitled.

(G) Eligibility for interim assistance of children

(i) Determination

Upon receiving credible information that a child described in subparagraph (C)(ii)(I) who is seeking assistance under this paragraph may have been subjected to a severe form of trafficking in persons, the Secretary of Health and Human Services shall promptly determine if the child is eligible for interim assistance under this paragraph. The Secretary shall have exclusive authority to make interim eligibility determinations under this clause. A determination of interim eligibility under this clause shall not affect the independent determination whether a child is a victim of a severe form of trafficking.

(ii) Notification

The Secretary of Health and Human Services shall notify the Attorney General and the Secretary of Homeland Security not later than 24 hours after all interim eligibility determinations have been made under clause (i).

(iii) Duration

Assistance under this paragraph may be provided to individuals determined to be eligible under clause (i) for a period of up to 90 days and may be extended for an additional 30 days.

(iv) Long-term assistance for children

(I) Eligibility determination

Before the expiration of the period for interim assistance under clause (iii), the Secretary of Health and Human Services shall determine if the child referred to in clause (i) is eligible for assistance under this paragraph.

(II) Consultation

In making a determination under subclause (I), the Secretary shall consult with the Attorney General, the Secretary of Homeland Security, and nongovernmental organizations with expertise on victims of severe form [1] of trafficking.

(III) Letter of eligibility

If the Secretary, after receiving information the Secretary believes, taken as a whole, indicates that the child is eligible for assistance under this paragraph, the Secretary shall issue a letter of eligibility. The Secretary may not require that the child cooperate with law enforcement as a condition for receiving such letter of eligibility.

(H) Notification of children for interim assistance

Not later than 24 hours after a Federal, State, or local official discovers that a person who is under 18 years of age may be a victim of a severe form of trafficking in persons, the official shall notify the Secretary of Health and Human Services to facilitate the provision of interim assistance under subparagraph (G).

(2) Grants

(A) In general

Subject to the availability of appropriations, the Attorney General may make grants to States, Indian tribes, units of local government, and nonprofit, nongovernmental victims' service organizations to develop, expand, or strengthen victim service programs for victims of trafficking, including programs that provide housing to victims of trafficking.

(B) Allocation of grant funds

Of amounts made available for grants under this paragraph, there shall be set aside—

(i) three percent for research, evaluation, and statistics;

(ii) 5 percent for training and technical assistance, including increasing capacity and expertise on security for and protection of service providers from intimidation or retaliation for their activities.[2]

(iii) one percent for management and administration.

(C) Limitation on Federal share

The Federal share of a grant made under this paragraph may not exceed 75 percent of the total costs of the projects described in the application submitted.

(c) Trafficking victim regulations

Not later than 180 days after October 28, 2000, the Attorney General, the Secretary of Homeland Security and the Secretary of State shall promulgate regulations for law enforcement personnel, immigration officials, and Department of State officials to implement the following:

(1) Protections while in custody

Victims of severe forms of trafficking, while in the custody of the Federal Government and to the extent practicable, shall—

(A) not be detained in facilities inappropriate to their status as crime victims;

(B) receive necessary medical care and other assistance; and

(C) be provided protection if a victim's safety is at risk or if there is danger of additional harm by recapture of the victim by a trafficker, including—

(i) taking measures to protect trafficked persons and their family members from intimidation and threats of reprisals and reprisals from traffickers and their associates; and

(ii) ensuring that the names and identifying information of trafficked persons and their

family members are not disclosed to the public.

(2) Access to information

Victims of severe forms of trafficking shall have access to information about their rights and translation services. To the extent practicable, victims of severe forms of trafficking shall have access to information about federally funded or administered anti-trafficking programs that provide services to victims of severe forms of trafficking.

(3) Authority to permit continued presence in the United States

(A) Trafficking victims

(i) In general

If a Federal law enforcement official files an application stating that an alien is a victim of a severe form of trafficking and may be a potential witness to such trafficking, the Secretary of Homeland Security may permit the alien to remain in the United States to facilitate the investigation and prosecution of those responsible for such crime.

(ii) Safety

While investigating and prosecuting suspected traffickers, Federal law enforcement officials described in clause (i) shall endeavor to make reasonable efforts to protect the safety of trafficking victims, including taking measures to protect trafficked persons and their family members from intimidation, threats of reprisals, and reprisals from traffickers and their associates.

(iii) Continuation of presence

The Secretary shall permit an alien described in clause (i) who has filed a civil action under section 1595 of title 18 to remain in the United States until such action is concluded. If the Secretary, in consultation with the Attorney General, determines that the alien has failed to exercise due diligence in pursuing such action, the Secretary may revoke the order permitting the alien to remain in the United States.

(iv) Exception

Notwithstanding clause (iii), an alien described in such clause may be deported before the conclusion of the administrative and legal proceedings related to a complaint described in such clause if such alien is inadmissible under paragraph (2)(A)(i)(II), (2)(B), (2)(C), (2)(E), (2)(H), (2)(I), (3)(A)(i), (3)(A)(iii), (3)(B), or (3)(C) of section 1182(a) of title 8.

(B) Parole for relatives

Law enforcement officials may submit written requests to the Secretary of Homeland Security, in accordance with section 1229b(b)(6) of title 8, to permit the parole into the United States of certain relatives of an alien described in subparagraph (A)(i).

(C) State and local law enforcement

The Secretary of Homeland Security, in consultation with the Attorney General, shall—

(i) develop materials to assist State and local law enforcement officials in working with Federal law enforcement to obtain continued presence for victims of a severe form of trafficking in cases investigated or prosecuted at the State or local level; and

(ii) distribute the materials developed under clause (i) to State and local law enforcement officials.

(4) Training of Government personnel

(A) In general

Appropriate personnel of the Department of State, including members of the Service (as such term is defined in section 3903 of this title), the Department of Homeland Security, the Department of Health and Human Services, the Department of Labor, the Equal Employment Opportunity Commission, and the Department of Justice shall be trained in identifying victims

of severe forms of trafficking and providing for the protection of such victims, including juvenile victims. The Attorney General and the Secretary of Health and Human Services, in consultation with the Secretary of Labor, shall provide training to State and local officials to improve the identification and protection of such victims.

(B) Training components

Training under this paragraph shall include—

(i) a distance learning course on trafficking-in-persons issues and the Department of State's obligations under this Act, which shall be designed for embassy reporting officers, regional bureaus' trafficking-in-persons coordinators, and their superiors;

(ii) specific trafficking-in-persons briefings for all ambassadors and deputy chiefs of mission before such individuals depart for their posts; and

(iii) at least annual reminders to all personnel referred to in clauses (i) and (ii), including appropriate personnel from other Federal departments and agencies, at each diplomatic or consular post of the Department of State located outside the United States of—

(I) key problems, threats, methods, and warning signs of trafficking in persons specific to the country or jurisdiction in which each such post is located; and

(II) appropriate procedures to report information that any such personnel may acquire about possible cases of trafficking in persons.

(d) Construction

Nothing in subsection (c) shall be construed as creating any private cause of action against the United States or its officers or employees.

(e) Protection from removal for certain crime victims

(1)–(4) Omitted

(5) Statutory construction

Nothing in this section, or in the amendments made by this section, shall be construed as prohibiting the Secretary of Homeland Security from instituting removal proceedings under section 1229a of title 8 against an alien admitted as a nonimmigrant under section 1101(a)(15)(T)(i) of title 8, as added by subsection (e), for conduct committed after the alien's admission into the United States, or for conduct or a condition that was not disclosed to the Secretary of Homeland Security prior to the alien's admission as a nonimmigrant under such section 1101(a)(15)(T)(i) of title 8.

(f) [3] Assistance for United States citizens and lawful permanent residents

(1) In general

The Secretary of Health and Human Services and the Attorney General, in consultation with the Secretary of Labor, shall establish a program to assist United States citizens and aliens lawfully admitted for permanent residence (as defined in section 1101(a)(20) of title 8) who are victims of severe forms of trafficking. In determining the assistance that would be most beneficial for such victims, the Secretary and the Attorney General shall consult with nongovernmental organizations that provide services to victims of severe forms of trafficking in the United States.

(2) Use of existing programs

In addition to specialized services required for victims described in paragraph (1), the program established pursuant to paragraph (1) shall—

(A) facilitate communication and coordination between the providers of assistance to such victims;

(B) provide a means to identify such providers; and

(C) provide a means to make referrals to programs for which such victims are already eligible, including programs administered by the Department of Justice and the Department of Health and Human Services.

(3) Grants

(A) In general

The Secretary of Health and Human Services and the Attorney General may award grants to States, Indian tribes, units of local government, and nonprofit, nongovernmental victim service organizations to develop, expand, and strengthen victim service programs authorized under this subsection.

(B) Maximum Federal share

The Federal share of a grant awarded under this paragraph may not exceed 75 percent of the total costs of the projects described in the application submitted by the grantee.

(f) [3] Omitted

(g) Annual reports

On or before October 31 of each year, the Secretary of Homeland Security shall submit a report to the appropriate congressional committees setting forth, with respect to the preceding fiscal year, the number, if any, of otherwise eligible applicants who did not receive visas under section 1101(a)(15)(T) of title 8, as added by subsection (e), or who were unable to adjust their status under section 1255(l) of title 8, solely on account of the unavailability of visas due to a limitation imposed by section 1184(o)(2) or 1255(l)(4)(A) of title 8.

(Pub. L. 106–386, div. A, §107, Oct. 28, 2000, 114 Stat. 1474; Pub. L. 107–228, div. A, title VI, §682(a), Sept. 30, 2002, 116 Stat. 1409; Pub. L. 108–193, §§4(a)(1)–(3), 6(a)(2), 8(b)(2), Dec. 19, 2003, 117 Stat. 2877, 2880, 2887; Pub. L. 109–162, title VIII, §804, Jan. 5, 2006, 119 Stat. 3055; Pub. L. 109–164, title I, §102(a), Jan. 10, 2006, 119 Stat. 3560; Pub. L. 110–457, title I, §104, title II, §§205(a)(1), 212, 213(a)(1), (3), Dec. 23, 2008, 122 Stat. 5046, 5060, 5063, 5064, 5066; Pub. L. 113–4, title XII, §§1203(b), 1234, Mar. 7, 2013, 127 Stat. 139, 146; Pub. L. 114–22, title I, §102, title II, §§224, 231, title VI, §603, May 29, 2015, 129 Stat. 230, 250, 259; Pub. L. 114–271, §1(a), (b), Dec. 14, 2016, 130 Stat. 1398.)

REFERENCES IN TEXT

Section 1101(a)(15)(T)(ii) of title 8, referred to in subsec. (b)(1)(A), (B), was in the original "section 101(a)(15)(T)(ii)", and was translated as meaning section 101(a)(15)(T)(ii) of the Immigration and Nationality Act, act June 27, 1952, ch. 477, which is classified to section 1101(a)(15)(T)(ii) of title 8, to reflect the probable intent of Congress. Section 101 of Pub. L. 106–386 does not contain a subsec. (a)(15)(T)(ii), and section 101(a)(15)(T)(ii) of the Immigration and Nationality Act describes certain nonimmigrant aliens.

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, referred to in subsec. (b)(1)(A), is Pub. L. 104–193, Aug. 22, 1996, 110 Stat. 2105. Title IV of the Act is classified principally to chapter 14 (§1601 et seq.) of Title 8, Aliens and Nationality. For complete classification of title IV to the Code, see Tables.

This Act, referred to in subsec. (c)(4)(B)(i), is the Victims of Trafficking and Violence Protection Act of 2000, Pub. L. 106–386, Oct. 28, 2000, 114 Stat. 1464. For complete classification of this Act to the Code, see Short Title note set out under section 7101 of this title and Tables.

For the amendments made by this section, referred to in subsec. (e)(5), see Codification note below.

CODIFICATION

Section is comprised of section 107 of Pub. L. 106–386. Subsec. (e)(1)–(4) of section 107 of Pub. L. 106–386 amended sections 1101, 1182, and 1184 of Title 8, Aliens and Nationality, and second subsec. (f) of section 107 of Pub. L. 106–386 amended section 1255 of Title 8.

AMENDMENTS

2016—Subsec. (b)(1)(B). Pub. L. 114–271, §1(b), amended directory language of Pub. L. 114–22, §603. See 2015 Amendment note below.

Subsec. (b)(1)(B)(ii). Pub. L. 114–271, §1(a), struck out "of amounts made available for grants under paragraph (2)," before "the Secretary of Health and Human Services shall make grants".

2015—Subsec. (b)(1)(B). Pub. L. 114–22, §603, as amended by Pub. L. 114–271, §1(b), designated existing provisions as cl. (i) and inserted heading and added cl. (ii).

Subsec. (b)(1)(F) to (H). Pub. L. 114–22, §102, added subpar. (F), redesignated former subpars. (F) and (G) as (G) and (H), respectively, and, in subpar. (H), substituted "subparagraph (G)" for "subparagraph (F)".

Subsec. (b)(2)(A). Pub. L. 114–22, §224, inserted ", including programs that provide housing to victims of trafficking" before period at end.

Subsec. (c)(4). Pub. L. 114–22, §231, designated existing provisions as subpar. (A) and inserted heading, inserted ", including members of the Service (as such term is defined in section 3903 of this title)" after "Department of State", and added subpar. (B). Amendment was executed to this section, which is section 107 of the Trafficking Victims Protection Act of 2000, to reflect the probable intent of Congress, notwithstanding directory language purporting to amend section 105 of such Act, which is classified to section 7103 of this title and does not contain a subsec. (c)(4).

2013—Subsec. (a)(2). Pub. L. 113–4, §1203(b), inserted "and shall brief Congress annually on such efforts" before period at end.

Subsec. (c)(4). Pub. L. 113–4, §1234, inserted "the Department of Labor, the Equal Employment Opportunity Commission," before "and the Department of Justice" in first sentence, and ", in consultation with the Secretary of Labor," before "shall provide training" in second sentence.

2008—Subsec. (a)(1). Pub. L. 110–457, §104(1)(A), inserted ", and shall be carried out in a manner which takes into account the cross-border, regional, and transnational aspects of trafficking in persons" after "as identified by the Task Force" in introductory provisions.

Subsec. (a)(1)(F). Pub. L. 110–457, §104(1)(B), added subpar. (F).

Subsec. (a)(2). Pub. L. 110–457, §104(2), inserted at end "In carrying out this paragraph, the Secretary and the Administrator shall take all appropriate steps to ensure that cooperative efforts among foreign countries are undertaken on a regional basis."

Subsec. (b)(1)(E)(i)(I). Pub. L. 110–457, §212(a)(1), inserted "or is unable to cooperate with such a request due to physical or psychological trauma" before semicolon.

Subsec. (b)(1)(F), (G). Pub. L. 110–457, §212(a)(2), added subpars. (F) and (G).

Subsec. (b)(2)(B)(ii). Pub. L. 110–457, §213(a)(3), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: "two percent for training and technical assistance; and".

Subsec. (c)(3). Pub. L. 110–457, §205(a)(1), amended par. (3) generally. Prior to amendment, text read as follows: "Federal law enforcement officials may permit an alien individual's continued presence in the United States, if after an assessment, it is determined that such individual is a victim of a severe form of trafficking and a potential witness to such trafficking, in order to effectuate prosecution of those responsible, and such officials in investigating and prosecuting traffickers shall protect the safety of trafficking victims, including taking measures to protect trafficked persons and their family members from intimidation, threats of reprisals, and reprisals from traffickers and their associates."

Subsec. (c)(4). Pub. L. 110–457, §212(b), inserted ", the Department of Homeland Security, the Department of Health and Human Services," before "and the Department of Justice" and ", including juvenile victims. The Attorney General and the Secretary of Health and Human Services shall provide training to State and local officials to improve the identification and protection of such victims" before period at end.

Subsec. (f). Pub. L. 110–457, §213(a)(1), added subsec. (f) relating to assistance for United States citizens and lawful permanent residents.

2006—Subsec. (b)(1)(E). Pub. L. 109–162, §804(b)(1), (2), which directed amendment of cl. (i) by inserting "and the Secretary of Homeland Security" after "Attorney General" in introductory provisions and in subcl. (II)(bb) and the amendment of cl. (ii) by inserting "Secretary of Homeland Security" after "Attorney General", could not be executed because the words "Attorney General" did not appear subsequent to the amendment by Pub. L. 109–162, §804(a)(1). See below.

Pub. L. 109–162, §804(a)(1), substituted "Secretary of Homeland Security" for "Attorney General" wherever appearing.

Subsec. (b)(1)(E)(iii)(IV). Pub. L. 109–162, §804(b)(3), added subcl. (IV).

Subsec. (c). Pub. L. 109–162, §804(a)(2), inserted ", the Secretary of Homeland Security" after "Attorney General" in introductory provisions.

Subsec. (c)(2). Pub. L. 109–164 inserted at end "To the extent practicable, victims of severe forms of trafficking shall have access to information about federally funded or administered anti-trafficking programs that provide services to victims of severe forms of trafficking.".

Subsec. (e)(5). Pub. L. 109–162, §804(a)(1), (c), made identical amendments, substituting "Secretary of Homeland Security" for "Attorney General" in two places.

Subsec. (g). Pub. L. 109–162, §804(d), which directed the insertion of "or the Secretary of Homeland Security" after "Attorney General", could not be executed because the words "Attorney General" did not appear subsequent to the amendment by Pub. L. 109–162, §804(a)(1). See below.

Pub. L. 109–162, §804(a)(1) substituted "Secretary of Homeland Security" for "Attorney General".

2003—Subsec. (a)(1)(B). Pub. L. 108–193, §4(a)(1), inserted before period at end ", and by facilitating contact between relevant foreign government agencies and such nongovernmental organizations to facilitate cooperation between the foreign governments and such organizations".

Subsec. (b)(1)(A). Pub. L. 108–193, §4(a)(2)(A), inserted ", or an alien classified as a nonimmigrant under section 1101(a)(15)(T)(ii) of title 8," after "in persons".

Subsec. (b)(1)(B). Pub. L. 108–193, §4(a)(2)(B), inserted "and aliens classified as a nonimmigrant under section 1101(a)(15)(T)(ii) of title 8," after "United States," and inserted sentence at end relating to nonentitlement programs funded by the Secretary of Health and Human Services.

Subsec. (b)(1)(D). Pub. L. 108–193, §6(a)(2), struck out subpar. (D) which related to annual reports on the number of persons receiving benefits or services under paragraph (1).

Subsec. (b)(1)(E)(iv). Pub. L. 108–193, §4(a)(3), added cl. (iv).

Subsec. (g). Pub. L. 108–193, §8(b)(2), substituted "1184(o)(2)" for "1184(n)(1)".

2002—Subsec. (a)(1). Pub. L. 107–228 inserted "In addition, such programs and initiatives shall, to the maximum extent practicable, include the following:" at end of introductory provisions and added subpars. (A) to (E).

EFFECTIVE DATE OF 2016 AMENDMENT

Pub. L. 114–271, §1(c), Dec. 14, 2016, 130 Stat. 1398, provided that: "The amendments made by this Act [amending this section] shall take effect as if enacted as part of the Justice for Victims of Trafficking Act of 2015 (Public Law 114–22; 129 Stat. 227)."

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–457, title II, §205(a)(2), Dec. 23, 2008, 122 Stat. 5061, provided that: "The amendment made by paragraph (1) [amending this section]—

"(A) shall take effect on the date of the enactment of this Act [Dec. 23, 2008];

"(B) shall apply to pending requests for continued presence filed pursuant to section 107(c)(3) of the Trafficking Victims Protection Act [of 2000] (22 U.S.C. 7105(c)(3)) and requests filed on or after such date; and

"(C) may not be applied to an alien who is not present in the United States."

SAVINGS PROVISION

Pub. L. 109–162, title I, §104(b), Jan. 5, 2006, 119 Stat. 2979, provided that: "Nothing in this Act [see Tables for classification], or the amendments made by this Act, shall be construed to restrict the legal assistance provided to victims of trafficking and certain family members authorized under section 107(b)(1) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7105(b)(1))."

ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of Title 8, Aliens and Nationality.

ESTABLISHMENT OF PILOT PROGRAM FOR RESIDENTIAL REHABILITATIVE FACILITIES FOR VICTIMS OF TRAFFICKING

Pub. L. 109–164, title I, §102(b), Jan. 10, 2006, 119 Stat. 3561, as amended by Pub. L. 110–457, title III, §§302(1), 304(b), Dec. 23, 2008, 122 Stat. 5087; Pub. L. 113–4, title XII, §1252(1), Mar. 7, 2013, 127 Stat. 156, provided that:

"(1) STUDY.—

"(A) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Jan. 10, 2006], the Administrator of the United States Agency for International Development shall carry out a study to identify best practices for the rehabilitation of victims of trafficking in group residential facilities in foreign countries.

"(B) FACTORS.—In carrying out the study under subparagraph (A), the Administrator shall—

"(i) investigate factors relating to the rehabilitation of victims of trafficking in group residential facilities, such as the appropriate size of such facilities, services to be provided, length of stay, and cost; and

"(ii) give consideration to ensure the safety and security of victims of trafficking, provide alternative sources of income for such victims, assess and provide for the educational needs of such victims, including literacy, and assess the psychological needs of such victims and provide professional

counseling, as appropriate.

"(2) PILOT PROGRAM.—Upon completion of the study carried out pursuant to paragraph (1), the Administrator of the United States Agency for International Development shall establish and carry out a pilot program to establish residential treatment facilities in foreign countries for victims of trafficking based upon the best practices identified in the study.

"(3) PURPOSES.—The purposes of the pilot program established pursuant to paragraph (2) are to—

"(A) provide benefits and services to victims of trafficking, including shelter, psychological counseling, and assistance in developing independent living skills;

"(B) assess the benefits of providing residential treatment facilities for victims of trafficking, as well as the most efficient and cost-effective means of providing such facilities; and

"(C) assess the need for and feasibility of establishing additional residential treatment facilities for victims of trafficking.

"(4) SELECTION OF SITES.—The Administrator of the United States Agency for International Development shall select 2 sites at which to operate the pilot program established pursuant to paragraph (2).

"(5) FORM OF ASSISTANCE.—In order to carry out the responsibilities of this subsection, the Administrator of the United States Agency for International Development shall enter into contracts with, or make grants to, organizations with relevant expertise in the delivery of services to victims of trafficking.

"(6) REPORT.—Not later than one year after the date on which the first pilot program is established pursuant to paragraph (2), the Administrator of the United States Agency for International Development shall submit to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate a report on the implementation of this subsection."

[1] So in original. Probably should be "forms".

[2] So in original. The period probably should be "; and".

[3] So in original. Two subsecs. (f) have been enacted.

§7105a. Increasing effectiveness of anti-trafficking programs

(a) Awarding of grants, cooperative agreements, and contracts

In administering funds made available to carry out this Act within and outside the United States—

(1) solicitations of grants, cooperative agreements, and contracts for such programs shall be made publicly available;

(2) grants, cooperative agreements, and contracts shall be subject to full and open competition, in accordance with applicable laws; and

(3) the internal department or agency review process for such grants, cooperative agreements, and contracts shall not be subject to ad hoc or intermittent review or influence by individuals or organizations outside the United States Government except as provided under paragraphs (1) and (2).

(b) Eligibility

(1) In general

An applicant desiring a grant, contract, or cooperative agreement under this Act shall certify that, to the extent practicable, persons or entities providing legal services, social services, health services, or other assistance have completed, or will complete, training in connection with trafficking in persons.

(2) Disclosure

If appropriate, applicants should indicate collaboration with nongovernmental organizations, including organizations with expertise in trafficking in persons.

(c) Evaluation of anti-trafficking programs

(1) In general

The President shall establish a system to evaluate the effectiveness and efficiency of the assistance provided under anti-trafficking programs established under this Act on a program-by-program basis in order to maximize the long-term sustainable development impact of such assistance.

(2) Requirements

In carrying out paragraph (1), the President shall—

(A) establish performance goals for the assistance described in paragraph (1), expressed in an objective and quantifiable form, to the extent practicable;

(B) ensure that performance indicators are used for programs authorized under this Act to measure and assess the achievement of the performance goals described in subparagraph (A);

(C) provide a basis for recommendations for adjustments to the assistance described in paragraph (1) to enhance the impact of such assistance; and

(D) ensure that evaluations are conducted by subject matter experts in and outside the United States Government, to the extent practicable.

(d) Targeted use of anti-trafficking programs

In providing assistance under this chapter, the President should take into account the priorities and country assessments contained in the most recent report submitted by the Secretary of State to Congress pursuant to section 7107(b) of this title.

(e) Consistency with other programs

The President shall ensure that the design, monitoring, and evaluation of United States assistance programs for emergency relief, development, and poverty alleviation under part I and chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq. and 2346 et seq.) and other similar United States assistance programs are consistent with United States policies and other United States programs relating to combating trafficking in persons.

(f) Authorization of appropriations

For each of the fiscal years 2008 through 2011, not more than 5 percent of the amounts made available to carry out this chapter may be used to carry out this section, including—

(1) evaluations of promising anti-trafficking programs and projects funded by the disbursing agency pursuant to this Act; and

(2) evaluations of emerging problems or global trends.

(Pub. L. 106–386, div. A, §107A, as added Pub. L. 110–457, title I, §105, Dec. 23, 2008, 122 Stat. 5047.)

REFERENCES IN TEXT

This Act, referred to in text, is the Victims of Trafficking and Violence Protection Act of 2000, Pub. L. 106–386, Oct. 28, 2000, 114 Stat. 1464. For complete classification of this Act to the Code, see Short Title note set out under section 7101 of this title and Tables.

This chapter, referred to in subsecs. (d) and (f), was in the original "this division", meaning division A of Pub. L. 106–386, Oct. 28, 2000, 114 Stat. 1466, known as the Trafficking Victims Protection Act of 2000, which is classified principally to this chapter. For complete classification of division A to the Code, see Short Title note set out under section 7101 of this title and Tables.

The Foreign Assistance Act of 1961, referred to in subsec. (e), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424. Part I of the Act is classified generally to subchapter I (§2151 et seq.) of chapter 32 of this title. Chapter 4 of part II of the Act is classified generally to part IV (§2346 et seq.) of subchapter II of chapter 32 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

§7106. Minimum standards for the elimination of trafficking

(a) Minimum standards

For purposes of this chapter, the minimum standards for the elimination of trafficking applicable

to the government of a country of origin, transit, or destination for victims of severe forms of trafficking are the following:

(1) The government of the country should prohibit severe forms of trafficking in persons and punish acts of such trafficking.

(2) For the knowing commission of any act of sex trafficking involving force, fraud, coercion, or in which the victim of sex trafficking is a child incapable of giving meaningful consent, or of trafficking which includes rape or kidnapping or which causes a death, the government of the country should prescribe punishment commensurate with that for grave crimes, such as forcible sexual assault.

(3) For the knowing commission of any act of a severe form of trafficking in persons, the government of the country should prescribe punishment that is sufficiently stringent to deter and that adequately reflects the heinous nature of the offense.

(4) The government of the country should make serious and sustained efforts to eliminate severe forms of trafficking in persons.

(b) Criteria

In determinations under subsection (a)(4), the following factors should be considered as indicia of serious and sustained efforts to eliminate severe forms of trafficking in persons:

(1) Whether the government of the country vigorously investigates and prosecutes acts of severe forms of trafficking in persons, and convicts and sentences persons responsible for such acts, that take place wholly or partly within the territory of the country, including, as appropriate, requiring incarceration of individuals convicted of such acts. For purposes of the preceding sentence, suspended or significantly-reduced sentences for convictions of principal actors in cases of severe forms of trafficking in persons shall be considered, on a case-by-case basis, whether to be considered an indicator of serious and sustained efforts to eliminate severe forms of trafficking in persons. After reasonable requests from the Department of State for data regarding investigations, prosecutions, convictions, and sentences, a government which does not provide such data, consistent with the capacity of such government to obtain such data, shall be presumed not to have vigorously investigated, prosecuted, convicted or sentenced such acts. During the periods prior to the annual report submitted on June 1, 2004, and on June 1, 2005, and the periods afterwards until September 30 of each such year, the Secretary of State may disregard the presumption contained in the preceding sentence if the government has provided some data to the Department of State regarding such acts and the Secretary has determined that the government is making a good faith effort to collect such data.

(2) Whether the government of the country protects victims of severe forms of trafficking in persons and encourages their assistance in the investigation and prosecution of such trafficking, including provisions for legal alternatives to their removal to countries in which they would face retribution or hardship, and ensures that victims are not inappropriately incarcerated, fined, or otherwise penalized solely for unlawful acts as a direct result of being trafficked, including by providing training to law enforcement and immigration officials regarding the identification and treatment of trafficking victims using approaches that focus on the needs of the victims.

(3) Whether the government of the country has adopted measures to prevent severe forms of trafficking in persons, such as measures to inform and educate the public, including potential victims, about the causes and consequences of severe forms of trafficking in persons, measures to establish the identity of local populations, including birth registration, citizenship, and nationality, measures to ensure that its nationals who are deployed abroad as part of a diplomatic, peacekeeping, or other similar mission do not engage in or facilitate severe forms of trafficking in persons or exploit victims of such trafficking, a transparent system for remediating or punishing such public officials as a deterrent, measures to prevent the use of forced labor or child labor in violation of international standards, effective bilateral, multilateral, or regional information sharing and cooperation arrangements with other countries, and effective policies or laws regulating foreign labor recruiters and holding them civilly and criminally liable for fraudulent recruiting.

(4) Whether the government of the country cooperates with other governments in the

investigation and prosecution of severe forms of trafficking in persons and has entered into bilateral, multilateral, or regional law enforcement cooperation and coordination arrangements with other countries.

(5) Whether the government of the country extradites persons charged with acts of severe forms of trafficking in persons on substantially the same terms and to substantially the same extent as persons charged with other serious crimes (or, to the extent such extradition would be inconsistent with the laws of such country or with international agreements to which the country is a party, whether the government is taking all appropriate measures to modify or replace such laws and treaties so as to permit such extradition).

(6) Whether the government of the country monitors immigration and emigration patterns for evidence of severe forms of trafficking in persons and whether law enforcement agencies of the country respond to any such evidence in a manner that is consistent with the vigorous investigation and prosecution of acts of such trafficking, as well as with the protection of human rights of victims and the internationally recognized human right to leave any country, including one's own, and to return to one's own country.

(7) Whether the government of the country vigorously investigates, prosecutes, convicts, and sentences public officials, including diplomats and soldiers, who participate in or facilitate severe forms of trafficking in persons, including nationals of the country who are deployed abroad as part of a diplomatic, peacekeeping, or other similar mission who engage in or facilitate severe forms of trafficking in persons or exploit victims of such trafficking, and takes all appropriate measures against officials who condone such trafficking. A government's failure to appropriately address public allegations against such public officials, especially once such officials have returned to their home countries, shall be considered inaction under these criteria. After reasonable requests from the Department of State for data regarding such investigations, prosecutions, convictions, and sentences, a government which does not provide such data consistent with its resources shall be presumed not to have vigorously investigated, prosecuted, convicted, or sentenced such acts. During the periods prior to the annual report submitted on June 1, 2004, and on June 1, 2005, and the periods afterwards until September 30 of each such year, the Secretary of State may disregard the presumption contained in the preceding sentence if the government has provided some data to the Department of State regarding such acts and the Secretary has determined that the government is making a good faith effort to collect such data.

(8) Whether the percentage of victims of severe forms of trafficking in the country that are non-citizens of such countries is insignificant.

(9) Whether the government has entered into effective, transparent partnerships, cooperative arrangements, or agreements that have resulted in concrete and measurable outcomes with—

(A) domestic civil society organizations, private sector entities, or international nongovernmental organizations, or into multilateral or regional arrangements or agreements, to assist the government's efforts to prevent trafficking, protect victims, and punish traffickers; or

(B) the United States toward agreed goals and objectives in the collective fight against trafficking.

(10) Whether the government of the country, consistent with the capacity of such government, systematically monitors its efforts to satisfy the criteria described in paragraphs (1) through (8) and makes available publicly a periodic assessment of such efforts.

(11) Whether the government of the country achieves appreciable progress in eliminating severe forms of trafficking when compared to the assessment in the previous year.

(12) Whether the government of the country has made serious and sustained efforts to reduce the demand for—

(A) commercial sex acts; and

(B) participation in international sex tourism by nationals of the country.

(Pub. L. 106–386, div. A, §108, Oct. 28, 2000, 114 Stat. 1480; Pub. L. 108–193, §6(d), Dec. 19, 2003, 117 Stat. 2881; Pub. L. 109–164, title I, §104(b)(1), Jan. 10, 2006, 119 Stat. 3564; Pub. L. 110–457, title I, §106, Dec. 23, 2008, 122 Stat. 5048; Pub. L. 113–4, title XII, §1204, Mar. 7, 2013,

127 Stat. 139.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this division", meaning division A of Pub. L. 106–386, Oct. 28, 2000, 114 Stat. 1466, known as the Trafficking Victims Protection Act of 2000, which is classified principally to this chapter. For complete classification of division A to the Code, see Short Title note set out under section 7101 of this title and Tables.

AMENDMENTS

2013—Subsec. (b)(3). Pub. L. 113–4, §1204(1), substituted "diplomatic, peacekeeping," for "peacekeeping" and ", a transparent system for remediating or punishing such public officials as a deterrent, measures" for ", and measures", and inserted before period at end ", effective bilateral, multilateral, or regional information sharing and cooperation arrangements with other countries, and effective policies or laws regulating foreign labor recruiters and holding them civilly and criminally liable for fraudulent recruiting".

Subsec. (b)(4). Pub. L. 113–4, §1204(2), inserted "and has entered into bilateral, multilateral, or regional law enforcement cooperation and coordination arrangements with other countries" before period at end.

Subsec. (b)(7). Pub. L. 113–4, §1204(3), inserted ", including diplomats and soldiers," after "public officials" and "A government's failure to appropriately address public allegations against such public officials, especially once such officials have returned to their home countries, shall be considered inaction under these criteria." after "condone such trafficking.", and substituted "diplomatic, peacekeeping," for "peacekeeping".

Subsec. (b)(9) to (12). Pub. L. 113–4, §1204(4), (5), added par. (9) and redesignated former pars. (9) to (11) as (10) to (12), respectively.

2008—Subsec. (a). Pub. L. 110–457, §106(1), struck out "a significant number of" before "victims" in introductory provisions.

Subsec. (b)(1). Pub. L. 110–457, §106(2)(A), substituted ", including, as appropriate, requiring incarceration of individuals convicted of such acts. For purposes of the preceding sentence, suspended or significantly-reduced sentences for convictions of principal actors in cases of severe forms of trafficking in persons shall be considered, on a case-by-case basis, whether to be considered an indicator of serious and sustained efforts to eliminate severe forms of trafficking in persons." for period at end of first sentence.

Subsec. (b)(2). Pub. L. 110–457, §106(2)(B), inserted ", including by providing training to law enforcement and immigration officials regarding the identification and treatment of trafficking victims using approaches that focus on the needs of the victims" before period at end.

Subsec. (b)(3). Pub. L. 110–457, §106(2)(C), substituted "measures to establish the identity of local populations, including birth registration, citizenship, and nationality" for "measures to reduce the demand for commercial sex acts and for participation in international sex tourism by nationals of the country".

Subsec. (b)(11). Pub. L. 110–457, §106(2)(D), added par. (11).

2006—Subsec. (b)(3). Pub. L. 109–164, §104(b)(1), inserted before period at end ", measures to reduce the demand for commercial sex acts and for participation in international sex tourism by nationals of the country, measures to ensure that its nationals who are deployed abroad as part of a peacekeeping or other similar mission do not engage in or facilitate severe forms of trafficking in persons or exploit victims of such trafficking, and measures to prevent the use of forced labor or child labor in violation of international standards".

Subsec. (b)(7). Pub. L. 109–164, §104(b)(2), substituted "persons, including nationals of the country who are deployed abroad as part of a peacekeeping or other similar mission who engage in or facilitate severe forms of trafficking in persons or exploit victims of such trafficking," for "persons," in first sentence.

2003—Subsec. (b)(1). Pub. L. 108–193, §6(d)(1), substituted ", and convicts and sentences persons responsible for such acts, that take place wholly or partly within the territory of the country" for "that take place wholly or partly within the territory of the country" and inserted two sentences at end relating to presumption that foreign government has not vigorously investigated, prosecuted, convicted or sentenced acts of severe forms of trafficking in persons and disregard of presumption by Secretary of State under certain circumstances.

Subsec. (b)(7). Pub. L. 108–193, §6(d)(2), substituted ", prosecutes, convicts, and sentences" for "and prosecutes" and inserted two sentences at end relating to presumption that foreign government has not vigorously investigated, prosecuted, convicted or sentenced acts of severe forms of trafficking in persons and disregard of presumption by Secretary of State under certain circumstances.

Subsec. (b)(8) to (10). Pub. L. 108–193, §6(d)(3), added pars. (8) to (10).

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–164, title I, §104(b)(2), Jan. 10, 2006, 119 Stat. 3564, provided that: "The amendments made

by subparagraphs (A) and (B) of paragraph (1) [amending this section] take effect beginning two years after the date of the enactment of this Act [Jan. 10, 2006]."

§7107. Actions against governments failing to meet minimum standards

(a) Statement of policy

It is the policy of the United States not to provide nonhumanitarian, nontrade-related foreign assistance to any government that—

(1) does not comply with minimum standards for the elimination of trafficking; and

(2) is not making significant efforts to bring itself into compliance with such standards.

(b) Reports to Congress

(1) Annual report

Not later than June 1 of each year, the Secretary of State shall submit to the appropriate congressional committees a report describing the anti-trafficking efforts of the United States and foreign governments according to the minimum standards and criteria enumerated in section 7106 of this title, and the nature and scope of trafficking in persons in each country and analysis of the trend lines for individual governmental efforts. The report should include—

(A) a list of those countries, if any, to which the minimum standards for the elimination of trafficking are applicable and whose governments fully comply with such standards;

(B) a list of those countries, if any, to which the minimum standards for the elimination of trafficking are applicable and whose governments do not yet fully comply with such standards but are making significant efforts to bring themselves into compliance;

(C) a list of those countries, if any, to which the minimum standards for the elimination of trafficking are applicable and whose governments do not fully comply with such standards and are not making significant efforts to bring themselves into compliance;

(D) information on the measures taken by the United Nations, the Organization for Security and Cooperation in Europe, the North Atlantic Treaty Organization and, as appropriate, other multilateral organizations in which the United States participates, to prevent the involvement of the organization's employees, contractor personnel, and peacekeeping forces in trafficking in persons or the exploitation of victims of trafficking;

(E) reporting and analysis on the emergence or shifting of global patterns in human trafficking, including data on the number of victims trafficked to, through, or from major source and destination countries, disaggregated by nationality, gender, and age, to the extent possible;

(F) emerging issues in human trafficking; and

(G) a section entitled "Promising Practices in the Eradication of Trafficking in Persons" to highlight effective practices and use of innovation and technology in prevention, protection, prosecution, and partnerships, including by foreign governments, the private sector, and domestic civil society actors.

(2) Special watch list

(A) Submission of list

Not later than the date on which the determinations described in subsections (c) and (d) are submitted to the appropriate congressional committees in accordance with such subsections, the Secretary of State shall submit to the appropriate congressional committees a list of countries that the Secretary determines requires special scrutiny during the following year. The list shall be composed of the following countries:

(i) Countries that have been listed pursuant to paragraph (1)(A) in the current annual report and were listed pursuant to paragraph (1)(B) in the previous annual report.

(ii) Countries that have been listed pursuant to paragraph (1)(B) pursuant to the current annual report and were listed pursuant to paragraph (1)(C) in the previous annual report.

(iii) Countries that have been listed pursuant to paragraph (1)(B) pursuant to the current

annual report, where—

(I) the absolute number of victims of severe forms of trafficking is very significant or is significantly increasing;

(II) there is a failure to provide evidence of increasing efforts to combat severe forms of trafficking in persons from the previous year, including increased investigations, prosecutions and convictions of trafficking crimes, increased assistance to victims, and decreasing evidence of complicity in severe forms of trafficking by government officials; or

(III) the determination that a country is making significant efforts to bring themselves into compliance with minimum standards was based on commitments by the country to take additional future steps over the next year.

(B) Interim assessment

Not later than February 1st of each year, the Secretary of State shall provide to the appropriate congressional committees an assessment of the progress that each country on the special watch list described in subparagraph (A) has made since the last annual report.

(C) Relation of special watch list to annual trafficking in persons report

A determination that a country shall not be placed on the special watch list described in subparagraph (A) shall not affect in any way the determination to be made in the following year as to whether a country is complying with the minimum standards for the elimination of trafficking or whether a country is making significant efforts to bring itself into compliance with such standards.

(D) Countries on special watch list for 2 consecutive years

(i) In general

Except as provided under clause (ii), a country that is included on the special watch list described in subparagraph (A) for 2 consecutive years after December 23, 2008, shall be included on the list of countries described in paragraph (1)(C).

(ii) Exercise of waiver authority

The President may waive the application of clause (i) for up to 2 years if the President determines, and reports credible evidence to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives, that such a waiver is justified because—

(I) the country has a written plan to begin making significant efforts to bring itself into compliance with the minimum standards for the elimination of trafficking;

(II) the plan, if implemented, would constitute making such significant efforts; and

(III) the country is devoting sufficient resources to implement the plan.

(E) Public notice

Not later than 30 days after notifying Congress of each country determined to have met the requirements under subclauses (I) through (III) of subparagraph (D)(ii), the Secretary of State shall provide a detailed description of the credible evidence supporting such determination on a publicly available website maintained by the Department of State.

(3) Significant efforts

In determinations under paragraph (1) or (2) as to whether the government of a country is making significant efforts to bring itself into compliance with the minimum standards for the elimination of trafficking, the Secretary of State shall consider—

(A) the extent to which the country is a country of origin, transit, or destination for severe forms of trafficking;

(B) the extent of noncompliance with the minimum standards by the government and, particularly, the extent to which officials or employees of the government have participated in, facilitated, condoned, or are otherwise complicit in severe forms of trafficking; and

(C) what measures are reasonable to bring the government into compliance with the minimum standards in light of the resources and capabilities of the government.

(c) Notification

Not less than 45 days or more than 90 days after the submission, on or after January 1, 2003, of an annual report under subsection (b)(1), or an interim report under subsection (b)(2), the President shall submit to the appropriate congressional committees a notification of one of the determinations listed in subsection (d) with respect to each foreign country whose government, according to such report—

(A) does not comply with the minimum standards for the elimination of trafficking; and

(B) is not making significant efforts to bring itself into compliance, as described in subsection (b)(1)(C).

(d) Presidential determinations

The determinations referred to in subsection (c) are the following:

(1) Withholding of nonhumanitarian, nontrade-related assistance

The President has determined that—

(A)(i) the United States will not provide nonhumanitarian, nontrade-related foreign assistance to the government of the country for the subsequent fiscal year until such government complies with the minimum standards or makes significant efforts to bring itself into compliance; or

(ii) in the case of a country whose government received no nonhumanitarian, nontrade-related foreign assistance from the United States during the previous fiscal year, the United States will not provide such assistance to the government of the country for the subsequent fiscal year and will not provide funding for participation by officials or employees of such governments in educational and cultural exchange programs for the subsequent fiscal year until such government complies with the minimum standards or makes significant efforts to bring itself into compliance; and

(B) the President will instruct the United States Executive Director of each multilateral development bank and of the International Monetary Fund to vote against, and to use the Executive Director's best efforts to deny, any loan or other utilization of the funds of the respective institution to that country (other than for humanitarian assistance, for trade-related assistance, or for development assistance which directly addresses basic human needs, is not administered by the government of the sanctioned country, and confers no benefit to that government) for the subsequent fiscal year until such government complies with the minimum standards or makes significant efforts to bring itself into compliance.

(2) Ongoing, multiple, broad-based restrictions on assistance in response to human rights violations

The President has determined that such country is already subject to multiple, broad-based restrictions on assistance imposed in significant part in response to human rights abuses and such restrictions are ongoing and are comparable to the restrictions provided in paragraph (1). Such determination shall be accompanied by a description of the specific restriction or restrictions that were the basis for making such determination.

(3) Subsequent compliance

The Secretary of State has determined that the government of the country has come into compliance with the minimum standards or is making significant efforts to bring itself into compliance.

(4) Continuation of assistance in the national interest

Notwithstanding the failure of the government of the country to comply with minimum standards for the elimination of trafficking and to make significant efforts to bring itself into compliance, the President has determined that the provision to the country of nonhumanitarian,

nontrade-related foreign assistance or funding for participation in educational and cultural exchange programs, or the multilateral assistance described in paragraph (1)(B), or both, would promote the purposes of this chapter or is otherwise in the national interest of the United States.

(5) Exercise of waiver authority

(A) In general

The President may exercise the authority under paragraph (4) with respect to—

(i) all nonhumanitarian, nontrade-related foreign assistance or funding for participation in educational and cultural exchange programs to a country;

(ii) all multilateral assistance described in paragraph (1)(B) to a country; or

(iii) one or more programs, projects, or activities of such assistance.

(B) Avoidance of significant adverse effects

The President shall exercise the authority under paragraph (4) when necessary to avoid significant adverse effects on vulnerable populations, including women and children.

(6) Definition of multilateral development bank

In this subsection, the term "multilateral development bank" refers to any of the following institutions: the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the Asian Development Bank, the Inter-American Investment Corporation, the African Development Bank, the African Development Fund, the European Bank for Reconstruction and Development, and the Multilateral Investment Guaranty Agency.

(e) Certification

Together with any notification under subsection (c), the President shall provide a certification by the Secretary of State that, with respect to any assistance described in clause (ii), (iii), or (v) of section 7102(8)(A) of this title, or with respect to any assistance described in section 7102(8)(B) of this title, no assistance is intended to be received or used by any agency or official who has participated in, facilitated, or condoned a severe form of trafficking in persons.

(f) Subsequent waiver authority

After the President has made a determination described in subsection (d)(1) with respect to the government of a country, the President may at any time make a determination described in paragraphs (4) and (5) of subsection (d) to waive, in whole or in part, the measures imposed against the country by the previous determination under subsection (d)(1).

(Pub. L. 106–386, div. A, §110, Oct. 28, 2000, 114 Stat. 1482; Pub. L. 108–193, §6(e), (h), (i), Dec. 19, 2003, 117 Stat. 2882, 2884; Pub. L. 109–164, title I, §104(e)(1), Jan. 10, 2006, 119 Stat. 3565; Pub. L. 110–457, title I, §§107(a), (b), 108(b), Dec. 23, 2008, 122 Stat. 5049, 5051; Pub. L. 113–4, title XII, §§1205, 1212(b)(2)(A)(i), Mar. 7, 2013, 127 Stat. 139, 143.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (d)(4), was in the original "this division", meaning division A of Pub. L. 106–386, Oct. 28, 2000, 114 Stat. 1466, known as the Trafficking Victims Protection Act of 2000, which is classified principally to this chapter. For complete classification of division A to the Code, see Short Title note set out under section 7101 of this title and Tables.

AMENDMENTS

2013—Subsec. (b)(1). Pub. L. 113–4, §1205(1)(A), in introductory provisions, substituted "describing the anti-trafficking efforts of the United States and foreign governments according to the minimum standards and criteria enumerated in section 7106 of this title, and the nature and scope of trafficking in persons in each country and analysis of the trend lines for individual governmental efforts. The report should include—" for "with respect to the status of severe forms of trafficking in persons that shall include—".

Subsec. (b)(1)(G). Pub. L. 113–4, §1205(1)(B)–(D), added subpar. (G).

Subsec. (b)(2) to (4). Pub. L. 113–4, §1205(2)–(4), redesignated pars. (3) and (4) as (2) and (3), respectively, added subpar. (E) in par. (2), and struck out former par. (2) which related to interim reports.

Subsec. (e). Pub. L. 113–4, §1212(b)(2)(A)(i), substituted "section 7102(8)(A)" for "section 7102(7)(A) and "section 7102(8)(B)" for "section 7102(7)(B)".

2008—Subsec. (b)(1)(E), (F). Pub. L. 110–457, §108(b), added subpars. (E) and (F).

Subsec. (b)(3)(D). Pub. L. 110–457, §107(a), added subpar. (D).

Subsec. (d)(1)(A)(ii). Pub. L. 110–457, §107(b), inserted "such assistance to the government of the country for the subsequent fiscal year and will not provide" after "the United States will not provide".

2006—Subsec. (b)(1)(D). Pub. L. 109–164 added subpar. (D).

2003—Subsec. (b)(3), (4). Pub. L. 108–193, §6(e), added par. (3) and redesignated former par. (3) as (4).

Subsec. (d)(4). Pub. L. 108–193, §6(h)(1), inserted "or funding for participation in educational and cultural exchange programs" after "nonhumanitarian, nontrade-related foreign assistance".

Subsec. (d)(5)(A)(i). Pub. L. 108–193, §6(h)(2), inserted "or funding for participation in educational and cultural exchange programs" after "foreign assistance".

Subsec. (f). Pub. L. 108–193, §6(i), added subsec. (f).

TRANSLATION OF TRAFFICKING-IN-PERSONS REPORT

Pub. L. 110–457, title I, §107(c), Dec. 23, 2008, 122 Stat. 5050, provided that: "The Secretary of State shall—

"(1) timely translate the annual report submitted under section 110(b) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7107(b)) into the principal languages of as many countries as possible, with particular emphasis on the languages of the countries on the lists described in subparagraphs (B) and (C) of section 110(b)(1) of such Act; and

"(2) ensure that the translations described in paragraph (1) are made available to the public through postings on the Internet website of the Department of State and other appropriate websites."

PRESIDENTIAL DETERMINATION WITH RESPECT TO FOREIGN GOVERNMENTS' EFFORTS REGARDING TRAFFICKING IN PERSONS

Determination of President of the United States, No. 2016–12, Sept. 27, 2016, 81 F.R. 70311, provided:

Memorandum for the Secretary of State

Consistent with section 110 of the Trafficking Victims Protection Act of 2000 (the "Act") (22 U.S.C. 7107), I hereby:

Make the determination provided in section 110(d)(1)(A)(i) of the Act, with respect to Equatorial Guinea, Iran, South Sudan, Sudan, Venezuela, and Zimbabwe not to provide certain non-humanitarian, non-trade-related assistance for those countries' governments for Fiscal Year (FY) 2017, until such governments comply with the minimum standards or make significant efforts to bring themselves into compliance, as may be determined by the Secretary of State in a report to the Congress pursuant to section 110(b) of the Act;

Make the determination provided in section 110(d)(1)(A)(ii) of the Act, with respect to Eritrea, North Korea, Russia, and Syria not to provide non-humanitarian, non-trade-related assistance or to allow funding for participation by officials or employees of those countries' governments in educational and cultural exchange programs for FY 2017, until such governments comply with the minimum standards or make significant efforts to bring themselves into compliance, as may be determined by the Secretary of State in a report to the Congress pursuant to section 110(b) of the Act;

Make the determination provided in section 110(d)(1)(B) of the Act to instruct the United States Executive Director of each multilateral development bank and of the International Monetary Fund to vote against and use best efforts to deny any loan or other utilization of the funds of the respective institution (other than for humanitarian assistance, for trade-related assistance, or for development assistance that directly addresses basic human needs, is not administered by the government of such country, and confers no benefit to that government) to Eritrea, Iran, North Korea, Russia, and Zimbabwe for FY 2017, until such governments comply with the minimum standards or makes [sic] significant efforts to bring themselves into compliance;

Determine, consistent with section 110(d)(4) of the Act, with respect to Algeria, Belarus, Belize, Burma, Burundi, the Central African Republic, Comoros, Djibouti, The Gambia, Guinea-Bissau, Haiti, Marshall Islands, Mauritania, Papua New Guinea, Suriname, Turkmenistan, and Uzbekistan that provision to these countries' governments of all programs, projects, or activities described in sections 110(d)(1)(A) and 110(d)(1)(B) of the Act would promote the purposes of the Act or is otherwise in the national interest of the United States;

Determine, consistent with section 110(d)(4) of the Act, with respect to Equatorial Guinea, South Sudan, Sudan, Syria, and Venezuela, that assistance described in section 110(d)(1)(B) of the Act would promote the purposes of the Act or is otherwise in the national interest of the United States;

Determine, consistent with section 110(d)(4) of the Act, with respect to Eritrea, Russia, and Syria, that a partial waiver to allow funding for educational and cultural exchange programs described in section 110(d)(1)(A)(ii) of the Act would promote the purposes of the Act or is otherwise in the national interest of the United States;

Determine, consistent with section 110(d)(4) of the Act, with respect to Equatorial Guinea, that a partial waiver to allow assistance described in section 110(d)(1)(A)(i) of the Act to promote sustainable natural resource management and biodiversity and programs to advance energy access; and support the participation of government employees or officials in young leader exchanges and leadership programs would promote the purposes of the Act or is otherwise in the national interest of the United States;

Determine, consistent with section 110(d)(4) of the Act, with respect to South Sudan, that a partial waiver to allow assistance and programs described in section 110(d)(1)(A)(i) of the Act, with the exception of Foreign Military Financing, Foreign Military Sales, and Excess Defense Articles, would promote the purposes of the Act or is otherwise in the national interest of the United States;

Determine, consistent with section 110(d)(4) of the Act, with respect to South Sudan, that a waiver to allow assistance to be provided pursuant to section 1208 of the National Defense Authorization Act for Fiscal Year 2014 (Public Law 113–66), to the extent that such programs would otherwise be restricted by the Act, would promote the purposes of the Act or is otherwise in the national interest of the United States;

Determine, consistent with section 110(d)(4) of the Act, with respect to Sudan, that a partial waiver to allow assistance and programs described in section 110(d)(1)(A)(i) of the Act, with the exception of Foreign Military Financing, Foreign Military Sales, International Military Education and Training, Peacekeeping Operations, and Excess Defense Articles, would promote the purposes of the Act or is otherwise in the national interest of the United States;

Determine, consistent with section 110(d)(4) of the Act, with respect to Venezuela, that a partial waiver to allow for assistance described in section 110(d)(1)(A)(i) of the Act to strengthen the democratic process in Venezuela and for participation by government officials and employees in foreign assistance-funded programs related to democracy and rule of law would promote the purposes of the Act or is otherwise in the national interest of the United States;

Determine, consistent with section 110(d)(4) of the Act, with respect to Zimbabwe, that a partial waiver to allow for assistance described in section 110(d)(1)(A)(i) of the Act to support programs that provide assistance for victims of trafficking in persons, promote biodiversity and wildlife protection, health, good governance, education, leadership, agriculture and food security, poverty reduction, livelihoods, family planning and reproductive health, macroeconomic growth, that would have a significant adverse effect on vulnerable populations if suspended, and allow for the participation of government employees or officials in young leader exchanges and leadership programs, would promote the purposes of the Act or is otherwise in the national interest of the United States;

And determine, consistent with section 110(d)(4) of the Act, with respect to Zimbabwe, that assistance described in section 110(d)(1)(B) of the Act, which:

(1) is a regional program, project, or activity under which the total benefit to Zimbabwe does not exceed 10 percent of the total value of such program, project, or activity;

(2) has as its primary objective the addressing of basic human needs, as defined by the Department of the Treasury with respect to other, existing legislative mandates concerning U.S. participation in the multilateral development banks;

(3) is complementary to or has similar policy objectives to programs being implemented bilaterally by the United States Government;

(4) has as its primary objective the improvement of Zimbabwe's legal system, including in areas that impact Zimbabwe's ability to investigate and prosecute trafficking cases or otherwise improve implementation of its anti-trafficking policy, regulations, or legislation;

(5) is engaging a government, international organization, or civil society organization, and seeks as its primary objective(s) to: (a) increase efforts to investigate and prosecute trafficking in persons crimes; (b) increase protection for victims of trafficking through better screening, identification, rescue/removal, aftercare (shelter, counseling), training, and reintegration; or (c) expand prevention efforts through education and awareness campaigns highlighting the dangers of trafficking in persons or training and economic empowerment of populations clearly at risk of falling victim to trafficking; or

(6) is targeted macroeconomic assistance from the International Monetary Fund that strengthens the macroeconomic management capacity of Zimbabwe; would promote the purposes of the Act; or is otherwise in the national interest of the United States.

The certification required by section 110(e) of the Act is provided herewith.

You are hereby authorized and directed to submit this determination to the Congress, and to publish it in the

Federal Register.

BARACK OBAMA.

Prior determinations and certifications regarding trafficking in persons were contained in the following:
Determination of President of the United States, No. 2016–01, Oct. 5, 2015, 80 F.R. 62435.
Determination of President of the United States, No. 2014–16, Sept. 18, 2014, 79 F.R. 57699.
Determination of President of the United States, No. 2013–16, Sept. 17, 2013, 78 F.R. 58861.
Determination of President of the United States, No. 2012–16, Sept. 14, 2012, 77 F.R. 58921, as corrected by Department of State Public Notice 8048, dated Sept. 28, 2012, 77 F.R. 61046.
Determination of President of the United States, No. 2011–18, Sept. 30, 2011, 76 F.R. 62599.
Determination of President of the United States, No. 2010–15, Sept. 10, 2010, 75 F.R. 67017, 68411.
Determination of President of the United States, No. 2009–29, Sept. 14, 2009, 74 F.R. 48365.
Determination of President of the United States, No. 2009–5, Oct. 17, 2008, 73 F.R. 63839.
Determination of President of the United States, No. 2008–4, Oct. 18, 2007, 72 F.R. 61037.
Determination of President of the United States, No. 2006–25, Sept. 26, 2006, 71 F.R. 64431.
Determination of President of the United States, No. 2005–37, Sept. 21, 2005, 70 F.R. 57481.
Determination of President of the United States, No. 2004–46, Sept. 10, 2004, 69 F.R. 56155.
Determination of President of the United States, No. 2003–35, Sept. 9, 2003, 68 F.R. 53871.

DELEGATION OF WAIVER AUTHORITY PURSUANT TO SECTION 107(A) OF PUBLIC LAW 110–457

Memorandum of President of the United States, Sept. 20, 2010, 75 F.R. 67023, provided:
Memorandum for the Secretary of State
By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, I hereby delegate to you the functions conferred upon the President by section 107(a) of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (Public Law 110–457).
You are hereby authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

DELEGATION OF AUTHORITY UNDER SECTIONS 110(C) AND (D)(4) OF THE TRAFFICKING VICTIMS PROTECTION ACT OF 2000

Memorandum of President of the United States, Oct. 5, 2015, 80 F.R. 65605, provided:
Memorandum for the Secretary of State
By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, I hereby delegate to the Secretary of State the authority under section 110(d)(4) of the Trafficking Victims Protection Act of 2000 (the "Act") (22 U.S.C. 7107(d)(4)) to waive the application of the prohibition in section 110(d)(1)(A)(i) of the Act to Yemen during Fiscal Year 2016, as applicable, and to make the determinations necessary for such waiver. I hereby also delegate to the Secretary of State the authority under section 110(c) of the Act to notify the appropriate congressional committees of such waiver and the justification for granting such waiver.
You are hereby authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

Prior provisions delegating authority under section 110(d)(4) and (c) or (f) of the Trafficking Victims Protection Act of 2000 were contained in the following:
Memorandum of President of the United States, July 29, 2013, 78 F.R. 48027.—Syria, fiscal year 2013.
Memorandum of President of the United States, Feb. 3, 2012, 77 F.R. 11375.—Burma, fiscal year 2012.

§7108. Actions against significant traffickers in persons

(a) Authority to sanction significant traffickers in persons

(1) In general

The President may exercise the authorities set forth in section 1702 of title 50 without regard to section 1701 of title 50 in the case of any of the following persons:

(A) Any foreign person that plays a significant role in a severe form of trafficking in persons,

directly or indirectly in the United States.

(B) Foreign persons that materially assist in, or provide financial or technological support for or to, or provide goods or services in support of, activities of a significant foreign trafficker in persons identified pursuant to subparagraph (A).

(C) Foreign persons that are owned, controlled, or directed by, or acting for or on behalf of, a significant foreign trafficker identified pursuant to subparagraph (A).

(2) Penalties

The penalties set forth in section 1705 of title 50 apply to violations of any license, order, or regulation issued under this section.

(b) Report to Congress on identification and sanctioning of significant traffickers in persons

(1) In general

Upon exercising the authority of subsection (a), the President shall report to the appropriate congressional committees—

(A) identifying publicly the foreign persons that the President determines are appropriate for sanctions pursuant to this section and the basis for such determination; and

(B) detailing publicly the sanctions imposed pursuant to this section.

(2) Removal of sanctions

Upon suspending or terminating any action imposed under the authority of subsection (a), the President shall report to the committees described in paragraph (1) on such suspension or termination.

(3) Submission of classified information

Reports submitted under this subsection may include an annex with classified information regarding the basis for the determination made by the President under paragraph (1)(A).

(c) Law enforcement and intelligence activities not affected

Nothing in this section prohibits or otherwise limits the authorized law enforcement or intelligence activities of the United States, or the law enforcement activities of any State or subdivision thereof.

(d) Omitted

(e) Implementation

(1) Delegation of authority

The President may delegate any authority granted by this section, including the authority to designate foreign persons under paragraphs (1)(B) and (1)(C) of subsection (a).

(2) Promulgation of rules and regulations

The head of any agency, including the Secretary of Treasury, is authorized to take such actions as may be necessary to carry out any authority delegated by the President pursuant to paragraph (1), including promulgating rules and regulations.

(3) Opportunity for review

Such rules and regulations shall include procedures affording an opportunity for a person to be heard in an expeditious manner, either in person or through a representative, for the purpose of seeking changes to or termination of any determination, order, designation or other action associated with the exercise of the authority in subsection (a).

(f) Definition of foreign persons

In this section, the term "foreign person" means any citizen or national of a foreign state or any entity not organized under the laws of the United States, including a foreign government official, but does not include a foreign state.

(g) Construction

Nothing in this section shall be construed as precluding judicial review of the exercise of the

authority described in subsection (a).

(Pub. L. 106–386, div. A, §111, Oct. 28, 2000, 114 Stat. 1484.)

CODIFICATION

Section is comprised of section 111 of Pub. L. 106–386. Subsec. (d) of section 111 of Pub. L. 106–386 amended section 1182 of Title 8, Aliens and Nationality.

§7109. Strengthening prosecution and punishment of traffickers

(a) Omitted

(b) Amendment to the Sentencing Guidelines

(1) Pursuant to its authority under section 994 of title 28 and in accordance with this section, the United States Sentencing Commission shall review and, if appropriate, amend the sentencing guidelines and policy statements applicable to persons convicted of offenses involving the trafficking of persons including component or related crimes of peonage, involuntary servitude, slave trade offenses, and possession, transfer or sale of false immigration documents in furtherance of trafficking, and the Fair Labor Standards Act [29 U.S.C. 201 et seq.] and the Migrant and Seasonal Agricultural Worker Protection Act [29 U.S.C. 1801 et seq.].

(2) In carrying out this subsection, the Sentencing Commission shall—

(A) take all appropriate measures to ensure that these sentencing guidelines and policy statements applicable to the offenses described in paragraph (1) of this subsection are sufficiently stringent to deter and adequately reflect the heinous nature of such offenses;

(B) consider conforming the sentencing guidelines applicable to offenses involving trafficking in persons to the guidelines applicable to peonage, involuntary servitude, and slave trade offenses; and

(C) consider providing sentencing enhancements for those convicted of the offenses described in paragraph (1) of this subsection that—

(i) involve a large number of victims;

(ii) involve a pattern of continued and flagrant violations;

(iii) involve the use or threatened use of a dangerous weapon; or

(iv) result in the death or bodily injury of any person.

(3) The Commission may promulgate the guidelines or amendments under this subsection in accordance with the procedures set forth in section 21(a) of the Sentencing Act of 1987, as though the authority under that Act had not expired.

(Pub. L. 106–386, div. A, §112, Oct. 28, 2000, 114 Stat. 1486.)

REFERENCES IN TEXT

The Fair Labor Standards Act, referred to in subsec. (b)(1), probably means the Fair Labor Standards Act of 1938, act June 25, 1938, ch. 676, 52 Stat. 1060, as amended, which is classified generally to chapter 8 (§201 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see section 201 of Title 29 and Tables.

The Migrant and Seasonal Agricultural Worker Protection Act, referred to in subsec. (b)(1), is Pub. L. 97–470, Jan. 14, 1983, 96 Stat. 2584, as amended, which is classified generally to chapter 20 (§1801 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of Title 29 and Tables.

The Sentencing Act of 1987, referred to in subsec. (b)(3), is Pub. L. 100–182, Dec. 7, 1987, 101 Stat. 1266. Section 21(a) of the Act is set out as a note under section 994 of Title 28, Judiciary and Judicial Procedure. For complete classification of this Act to the Code, see Short Title of 1987 Amendment note set out under section 3551 of Title 18, Crimes and Criminal Procedure, and Tables.

CODIFICATION

Section is comprised of section 112 of Pub. L. 106–386. Subsec. (a) of section 112 of Pub. L. 106–386 enacted sections 1589 to 1594 of Title 18, Crimes and Criminal Procedure, and amended sections 1581, 1583,

and 1584 of Title 18.

§7109a. Research on domestic and international trafficking in persons

(a) In general

The President, acting through the Council of Economic Advisors, the National Research Council of the National Academies, the Secretary of Labor, the Secretary of Health and Human Services, the Attorney General, the Secretary of State, the Administrator of the United States Agency for International Development, and the Director of National Intelligence, shall carry out research, including by providing grants to nongovernmental organizations, as well as relevant United States Government agencies and international organizations, which furthers the purposes of this chapter and provides data to address the problems identified in the findings of this chapter. Such research initiatives shall, to the maximum extent practicable, include, but not be limited to, the following:

(1) The economic causes and consequences of trafficking in persons.

(2) The effectiveness of programs and initiatives funded or administered by Federal agencies to prevent trafficking in persons and to protect and assist victims of trafficking.

(3) The interrelationship between trafficking in persons and global health risks, particularly HIV/AIDS.

(4) Subject to subsection (b), the interrelationship between trafficking in persons and terrorism, including the use of profits from trafficking in persons to finance terrorism.

(5) An effective mechanism for quantifying the number of victims of trafficking on a national, regional, and international basis, which shall include, not later than 2 years after December 23, 2008, the establishment and maintenance of an integrated database within the Human Smuggling and Trafficking Center.

(6) The abduction and enslavement of children for use as soldiers, including steps taken to eliminate the abduction and enslavement of children for use as soldiers and recommendations for such further steps as may be necessary to rapidly end the abduction and enslavement of children for use as soldiers.

(b) Role of Human Smuggling and Trafficking Center

(1) In general

The research initiatives described in paragraphs (4) and (5) of subsection (a) shall be carried out by the Human Smuggling and Trafficking Center, established under section 1777 of title 8.

(2) Database

The database described in subsection (a)(5) shall be established by combining all applicable data collected by each Federal department and agency represented on the Interagency Task Force to Monitor and Combat Trafficking, consistent with the protection of sources and methods, and, to the maximum extent practicable, applicable data from relevant international organizations, to—

(A) improve the coordination of the collection of data related to trafficking in persons by each agency of the United States Government that collects such data;

(B) promote uniformity of such data collection and standards and systems related to such collection;

(C) undertake a meta-analysis of patterns of trafficking in persons, slavery, and slave-like conditions to develop and analyze global trends in human trafficking;

(D) identify emerging issues in human trafficking and establishing integrated methods to combat them; and

(E) identify research priorities to respond to global patterns and emerging issues.

(3) Consultation

The database established in accordance with paragraph (2) shall be maintained in consultation with the Director of the Office to Monitor and Combat Trafficking in Persons of the Department of State.

(4) Authorization of appropriations

There are authorized to be appropriated $1,000,000 to the Human Smuggling and Trafficking Center for each of the fiscal years 2014 through 2017 to carry out the activities described in this subsection.

(c) Definitions

In this section:

(1) AIDS

The term "AIDS" means the acquired immune deficiency syndrome.

(2) HIV

The term "HIV" means the human immunodeficiency virus, the pathogen that causes AIDS.

(3) HIV/AIDS

The term "HIV/AIDS" means, with respect to an individual, an individual who is infected with HIV or living with AIDS.

(Pub. L. 106–386, div. A, §112A, as added Pub. L. 108–193, §6(g)(1), Dec. 19, 2003, 117 Stat. 2883; amended Pub. L. 109–164, title I, §104(c)(1), Jan. 10, 2006, 119 Stat. 3564; Pub. L. 110–457, title I, §108(a), Dec. 23, 2008, 122 Stat. 5050; Pub. L. 113–4, title XII, §1251(1), Mar. 7, 2013, 127 Stat. 155.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this division" meaning division A of Pub. L. 106–386, Oct. 28, 2000, 114 Stat. 1466, known as the Trafficking Victims Protection Act of 2000, which is classified principally to this chapter. For complete classification of division A to the Code, see Short Title note set out under section 7101 of this title and Tables.

AMENDMENTS

2013—Subsec. (b)(4). Pub. L. 113–4 substituted "$1,000,000" for "$2,000,000" and "2014 through 2017" for "2008 through 2011".

2008—Subsec. (a)(5). Pub. L. 110–457, §108(a)(1), amended par. (5) generally. Prior to amendment, text read as follows: "An effective mechanism for quantifying the number of victims of trafficking on a national, regional, and international basis."

Subsec. (b). Pub. L. 110–457, §108(a)(2), amended subsec. (b) generally. Prior to amendment, text read as follows: "The research initiatives described in subsection (a)(4) of this section shall be carried out by the Human Smuggling and Trafficking Center (established pursuant to section 1777 of title 8)."

2006—Pub. L. 109–164 designated existing provisions as subsec. (a), inserted subsec. heading, substituted "the Director of National Intelligence" for "the Director of Central Intelligence" in introductory provisions, inserted ", particularly HIV/AIDS" before period at end of par. (3), and added pars. (4) to (6) and subsecs. (b) and (c).

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see section 6 of Ex. Ord. No. 13257, Feb. 13, 2002, 67 F.R. 7259, as amended, set out as a note under section 7103 of this title.

§7109b. Presidential Award for Extraordinary Efforts To Combat Trafficking in Persons

(a) Establishment of award

The President is authorized to establish an award, to be known as the "Presidential Award for Extraordinary Efforts To Combat Trafficking in Persons", for extraordinary efforts to combat trafficking in persons. To the maximum extent practicable, the Secretary of State shall present the award annually to not more than 5 individuals or organizations, including—

(1) individuals who are United States citizens or foreign nationals; and

(2) United States or foreign nongovernmental organizations.

(b) Selection

The President shall establish procedures for selecting recipients of the award authorized under subsection (a).

(c) Ceremony

The Secretary of State shall host an annual ceremony for recipients of the award authorized under subsection (a) as soon as practicable after the date on which the Secretary submits to Congress the report required under section 7107(b)(1) of this title. The Secretary of State may pay the travel costs of each recipient and a guest of each recipient who attends the ceremony.

(d) Authorization of appropriations

There are authorized to be appropriated, for each of the fiscal years 2008 through 2011, such sums as may be necessary to carry out this section.

(Pub. L. 106–386, div. A, §112B, as added Pub. L. 110–457, title I, §109, Dec. 23, 2008, 122 Stat. 5051.)

§7110. Authorizations of appropriations

(a) Authorization of appropriations in support of the Task Force

To carry out the purposes of sections 7103(e), 7103(f) [1] and 7107 of this title, there are authorized to be appropriated to the Secretary of State $2,000,000 for each of the fiscal years 2014 through 2017. In addition, there are authorized to be appropriated to the Office to Monitor and Combat Trafficking $1,500,000 for additional personnel, including regional trafficking in persons officers, for each of the fiscal years 2008 through 2011 for each of the fiscal years 2008 through 2011.[2]

(b) Authorization of appropriations to the Secretary of Health and Human Services

(1) Eligibility for benefits and assistance

To carry out the purposes of section 7105(b) of this title, there are authorized to be appropriated to the Secretary of Health and Human Services $14,500,000 for each of the fiscal years 2014 through 2017 [3]

(2) Additional benefits for trafficking victims

To carry out the purposes of section 7105(f) [1] of this title, there are authorized to be appropriated $8,000,000 to the Secretary of Health and Human Services for each of the fiscal years 2014 through 2017.

(c) Authorization of appropriations to the Secretary of State

(1) Bilateral assistance to combat trafficking

(A) Prevention

To carry out the purposes of section 7104 of this title, there are authorized to be appropriated to the Secretary of State $10,000,000 for each of the fiscal years 2014 through 2017.

(B) Protection

To carry out the purposes of section 7105(a) of this title, there are authorized to be appropriated to the Secretary of State $10,000,000 for each of the fiscal years 2014 through 2017. To carry out the purposes of section 7105(a)(1)(F) of this title, there are authorized to be appropriated to the Secretary of State $1,000,000 for each of the fiscal years 2014 through 2017.

(C) Prosecution and meeting minimum standards

To carry out the purposes of section 2152d of this title, there are authorized to be appropriated $10,000,000 for each of the fiscal years 2014 through 2017 to assist in promoting

prosecution of traffickers and otherwise to assist countries in meeting the minimum standards described in section 7106 of this title, including $250,000 for each such fiscal year to carry out training activities for law enforcement officers, prosecutors, and members of the judiciary with respect to trafficking in persons at the International Law Enforcement Academies.

(2) Preparation of annual country reports on human rights

To carry out the purposes of sections 2151n(f) and 2304(h) of this title, there are authorized to be appropriated to the Secretary of State such sums as may be necessary to include the additional information required by that section in the annual Country Reports on Human Rights Practices.

(d) Authorization of appropriations to Attorney General

(1) Eligibility for benefits and assistance

To carry out the purposes of section 7105(b) of this title, there are authorized to be appropriated to the Attorney General $11,000,000 for each of the fiscal years 2014 through 2017.

(2) Assistance to foreign countries

To carry out the purposes of section 2152d of this title, there are authorized to be appropriated to the President, acting through the Attorney General and the Secretary of State, $250,000 for each of fiscal years 2008 through 2011 to carry out training activities for law enforcement officers, prosecutors, and members of the judiciary with respect to trafficking in persons at the International Law Enforcement Academies.

(3) Additional benefits for trafficking victims

To carry out the purposes of section 7105(f) [1] of this title, there are authorized to be appropriated $11,000,000 to the Attorney General for each of the fiscal years 2014 through 2017.

(e) Authorization of appropriations to President

(1) Foreign victim assistance

To carry out the purposes of section 7104 of this title, there are authorized to be appropriated to the President $7,500,000 for each of the fiscal years 2014 through 2017.

(2) Assistance to foreign countries to meet minimum standards

To carry out the purposes of section 2152d of this title, there are authorized to be appropriated to the President $7,500,000 for each of the fiscal years 2014 through 2017.

(3) Research

To carry out the purposes of section 7109a of this title, there are authorized to be appropriated to the President $2,000,000 for each of the fiscal years 2008 through 2011.

(f) Authorization of appropriations to the Secretary of Labor

To carry out the purposes of section 7105(b) of this title, there are authorized to be appropriated to the Secretary of Labor $5,000,000 for each of the fiscal years 2014 through 2017.

(g) Limitation on use of funds

(1) Restriction on programs

No funds made available to carry out this chapter, or any amendment made by this chapter, may be used to promote, support, or advocate the legalization or practice of prostitution. Nothing in the preceding sentence shall be construed to preclude assistance designed to promote the purposes of this Act by ameliorating the suffering of, or health risks to, victims while they are being trafficked or after they are out of the situation that resulted from such victims being trafficked.

(2) Restriction on organizations

No funds made available to carry out this chapter, or any amendment made by this chapter, may be used to implement any program that targets victims of severe forms of trafficking in persons described in section 7102(9)(A) of this title through any organization that has not stated in either a grant application, a grant agreement, or both, that it does not promote, support, or advocate the

legalization or practice of prostitution. The preceding sentence shall not apply to organizations that provide services to individuals solely after they are no longer engaged in activities that resulted from such victims being trafficked.

(h) Authorization of appropriations to Director of the FBI

There are authorized to be appropriated to the Director of the Federal Bureau of Investigation $15,000,000 for each of the fiscal years 2008 through 2011, to remain available until expended, to investigate severe forms of trafficking in persons.

(i) Authorization of appropriations to the Secretary of Homeland Security

There are authorized to be appropriated to the Secretary of Homeland Security,[4] $10,000,000 for each of the fiscal years 2014 through 2017, to remain available until expended, for investigations by the Bureau of Immigration and Customs Enforcement of severe forms of trafficking in persons.

(Pub. L. 106–386, div. A, §113, Oct. 28, 2000, 114 Stat. 1490; Pub. L. 107–228, div. A, title VI, §682(b), Sept. 30, 2002, 116 Stat. 1410; Pub. L. 108–193, §7, Dec. 19, 2003, 117 Stat. 2884; Pub. L. 109–164, title III, §301, Jan. 10, 2006, 119 Stat. 3572; Pub. L. 110–457, title II, §213(a)(2), title III, §301, Dec. 23, 2008, 122 Stat. 5065, 5085; Pub. L. 113–4, title XII, §§1212(b)(2)(A)(ii), 1251(2), Mar. 7, 2013, 127 Stat. 143, 155.)

REFERENCES IN TEXT

Section 7103(f) of this title, referred to in subsec. (a), was redesignated section 7103(g) of this title by Pub. L. 113–4, title XII, §1201(3), Mar. 7, 2013, 127 Stat. 136.

Section 7105(f) of this title, referred to in subsecs. (b)(2) and (d)(3), probably means the subsec. (f) of section 7105 of this title which relates to assistance for United States citizens and lawful permanent residents and was added by Pub. L. 110–457, title II, §213(a)(1), Dec. 23, 2008, 122 Stat. 5064.

This chapter, referred to in subsec. (g), was in the original "this division", meaning division A of Pub. L. 106–386, Oct. 28, 2000, 114 Stat. 1466, known as the Trafficking Victims Protection Act of 2000, which is classified principally to this chapter. For complete classification of division A to the Code, see Short Title note set out under section 7101 of this title and Tables.

This Act, referred to in subsec. (g)(1), is the Victims of Trafficking and Violence Protection Act of 2000, Pub. L. 106–386, Oct. 28, 2000, 114 Stat. 1464, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 7101 of this title and Tables.

AMENDMENTS

2013—Subsec. (a). Pub. L. 113–4, §1251(2)(A)(ii), which directed the insertion of ", including regional trafficking in persons officers," after "for additional personnel," was executed by making the insertion after "for additional personnel", to reflect the probable intent of Congress.

Pub. L. 113–4, §1251(2)(A)(i), (iii), substituted "$2,000,000 for each of the fiscal years 2014 through 2017" for "$5,500,000 for each of the fiscal years 2008 through 2011" and struck out ", and $3,000 for official reception and representation expenses" before "for each of the fiscal years 2008 through 2011" the second time appearing.

Subsec. (b)(1). Pub. L. 113–4, §1251(2)(B)(i), substituted "$14,500,000 for each of the fiscal years 2014 through 2017" for "$12,500,000 for each of the fiscal years 2008 through 2011".

Subsec. (b)(2). Pub. L. 113–4, §1251(2)(B)(ii), substituted "$8,000,000 to the Secretary of Health and Human Services for each of the fiscal years 2014 through 2017." for "to the Secretary of Health and Human Services—

"(A) $2,500,000 for fiscal year 2008;

"(B) $5,000,0000 for fiscal year 2009;

"(C) $7,000,000 for fiscal year 2010; and

"(D) $7,000,000 for fiscal year 2011."

Subsec. (c)(1)(A). Pub. L. 113–4, §1251(2)(C)(i), substituted "2014 through 2017" for "2008 through 2011".

Subsec. (c)(1)(B). Pub. L. 113–4, §1251(2)(C)(ii), substituted "$10,000,000 for each of the fiscal years 2014 through 2017" for "$15,000,000 for fiscal year 2003 and $10,000,000 for each of the fiscal years 2008 through 2011" and "2014 through 2017" for "2008 through 2011".

Subsec. (c)(1)(C). Pub. L. 113–4, §1251(2)(C)(iii), substituted "2014 through 2017" for "2008 through 2011".

Subsec. (d). Pub. L. 113–4, §1251(2)(D), redesignated subpars. (A) to (C) as pars. (1) to (3), respectively, realigned margins, in par. (1) substituted "$11,000,000 for each of the fiscal years 2014 through 2017" for "$10,000,000 for each of the fiscal years 2008 through 2011", and in par. (3) substituted "$11,000,000 to the Attorney General for each of the fiscal years 2014 through 2017." for "to the Attorney General—

"(i) $2,500,000 for fiscal year 2008;

"(ii) $5,000,0000 for fiscal year 2009;

"(iii) $7,000,000 for fiscal year 2010; and

"(iv) $7,000,000 for fiscal year 2011."

Subsec. (e)(1). Pub. L. 113–4, §1251(2)(E)(i), substituted "$7,500,000 for each of the fiscal years 2014 through 2017" for "$15,000,000 for each of the fiscal years 2008 through 2011".

Subsec. (e)(2). Pub. L. 113–4, §1251(2)(E)(ii), substituted "$7,500,000 for each of the fiscal years 2014 through 2017" for "$15,000,000 for each of the fiscal years 2008 through 2011".

Subsec. (f). Pub. L. 113–4, §1251(2)(F), substituted "$5,000,000 for each of the fiscal years 2014 through 2017" for "$10,000,000 for each of the fiscal years 2008 through 2011".

Subsec. (g)(2). Pub. L. 113–4, §1212(b)(2)(A)(ii), substituted "section 7102(9)(A)" for "7102(8)(A)".

Subsec. (i). Pub. L. 113–4, §1251(2)(G), substituted "$10,000,000 for each of the fiscal years 2014 through 2017" for "$18,000,000 for each of the fiscal years 2008 through 2011".

2008—Subsec. (a). Pub. L. 110–457, §301(1)(A)(ii), (B), in first sentence, substituted "$5,500,000 for each of the fiscal years 2008 through 2011" for "$1,500,000 for fiscal year 2001, $3,000,000 for each of the fiscal years 2002 and 2003, $5,000,000 for each of the fiscal years 2004 and 2005, and $5,500,000 for each of the fiscal years 2006 and 2007" and, in second sentence, substituted "$1,500,000 for additional personnel for each of the fiscal years 2008 through 2011, and $3,000 for official reception and representation expenses" for "for official reception and representation expenses $3,000" and "2008 through 2011" for "2006 and 2007".

Pub. L. 110–457, §301(1)(A)(i), which directed striking out "section 104, and", was executed by striking out "section 104 and" after "the purposes of", to reflect the probable intent of Congress.

Subsec. (b). Pub. L. 110–457, §213(a)(2)(A), designated existing provisions as par. (1), inserted par. (1) heading, and added par. (2).

Subsec. (b)(1). Pub. L. 110–457, §301(2), substituted "$12,500,000 for each of the fiscal years 2008 through 2011" for "$5,000,000 for fiscal year 2001 and $10,000,000 for fiscal year 2002 and $15,000,000 for each of the fiscal years 2004, 2005, 2006, and 2007."

Subsec. (c)(1). Pub. L. 110–457, §301(3)(A)(i), substituted "2008 through 2011" for "2004, 2005, 2006, and 2007" wherever appearing.

Subsec. (c)(1)(B). Pub. L. 110–457, §301(3)(A)(ii), inserted at end "To carry out the purposes of section 7105(a)(1)(F) of this title, there are authorized to be appropriated to the Secretary of State $1,000,000 for each of the fiscal years 2008 through 2011."

Subsec. (c)(2). Pub. L. 110–457, §301(3)(D), substituted "sections 2151n(f) and 2304(h) of this title" for "section 104" and struck out ", including the preparation and publication of the list described in subsection (a)(1) of that section" before period at end.

Pub. L. 110–457, §301(3)(B), (C), redesignated par. (3) as (2) and struck out former par. (2). Prior to amendment, text read as follows: "To carry out the purposes of section 2152d of this title, there is authorized to be appropriated to the Secretary of State for each of the fiscal years 2001 through 2005 $300,000 for voluntary contributions to advance projects aimed at preventing trafficking, promoting respect for human rights of trafficking victims, and assisting the Organization for Security and Cooperation in Europe participating states in related legal reform for such fiscal year."

Subsec. (c)(3). Pub. L. 110–457, §301(3)(C), redesignated par. (3) as (2).

Subsec. (d). Pub. L. 110–457, §213(a)(2)(B), designated first and second sentences as subpars. (A) and (B), respectively, inserted subpar. headings, and added subpar. (C).

Subsec. (d)(A). Pub. L. 110–457, §301(4)(A), substituted "$10,000,000 for each of the fiscal years 2008 through 2011" for "$5,000,000 for fiscal year 2001 and $10,000,000 for fiscal year 2002 and $15,000,000 for each of the fiscal years 2004, 2005, 2006, and 2007".

Subsec. (d)(B). Pub. L. 110–457, §301(4)(B), substituted "2008 through 2011" for "2004, 2005, 2006, and 2007".

Subsec. (e)(1). Pub. L. 110–457, §301(5)(A), substituted "$15,000,000 for each of the fiscal years 2008 through 2011." for "$5,000,000 for fiscal year 2001, $10,000,000 for fiscal year 2002, and $15,000,000 for each of the fiscal years 2003 through 2007."

Subsec. (e)(2). Pub. L. 110–457, §301(5)(B), made technical amendment to reference in original act which appears in text as reference to section 2152d of this title and substituted "$15,000,000 for each of the fiscal years 2008 through 2011." for "$5,000,000 for fiscal year 2001, $10,000,000 for fiscal year 2002, and

$15,000,000 for each of the fiscal years 2003 through 2007."

Subsec. (e)(3). Pub. L. 110–457, §301(5)(C), substituted "$2,000,000 for each of the fiscal years 2008 through 2011." for "$300,000 for each of the fiscal years 2004 through 2007."

Subsec. (f). Pub. L. 110–457, §301(6), substituted "$10,000,000 for each of the fiscal years 2008 through 2011." for "$5,000,000 for fiscal year 2001 and $10,000,000 for fiscal year 2002 and $10,000,000 for each of the fiscal years 2004, 2005, 2006, and 2007."

Subsec. (h). Pub. L. 110–457, §301(7), substituted "each of the fiscal years 2008 through 2011" for "fiscal year 2006".

Subsec. (i). Pub. L. 110–457, §301(8), substituted "2008 through 2011" for "2006 and 2007".

2006—Subsec. (a). Pub. L. 109–164, §301(1), substituted "$5,000,000 for each of the fiscal years 2004 and 2005, and $5,500,000 for each of the fiscal years 2006 and 2007. In addition, there are authorized to be appropriated to the Office to Monitor and Combat Trafficking for official reception and representation expenses $3,000 for each of the fiscal years 2006 and 2007." for "and $5,000,000 for each of the fiscal years 2004 and 2005."

Subsec. (b). Pub. L. 109–164, §301(2), substituted "2004, 2005, 2006, and 2007" for "2004 and 2005".

Subsec. (c)(1). Pub. L. 109–164, §301(3), substituted "2004, 2005, 2006, and 2007" for "2004 and 2005" wherever appearing.

Subsec. (d). Pub. L. 109–164, §301(4), substituted "2004, 2005, 2006, and 2007" for "2004 and 2005" in two places.

Subsec. (e). Pub. L. 109–164, §301(5), substituted "2003 through 2007" for "2003 through 2005" in pars. (1) and (2) and "$300,000 for each of the fiscal years 2004 through 2007" for "$300,000 for fiscal year 2004 and $300,000 for fiscal year 2005" in par. (3).

Subsec. (f). Pub. L. 109–164, §301(6), substituted "2004, 2005, 2006, and 2007" for "2004 and 2005".

Subsecs. (h), (i). Pub. L. 109–164, §301(7), added subsecs. (h) and (i).

2003—Subsec. (a). Pub. L. 108–193, §7(1), substituted "7103(e), 7103(f)" for "7103" and ", $3,000,000 for each of the fiscal years 2002 and 2003, and $5,000,000 for each of the fiscal years 2004 and 2005" for "and $3,000,000 for each of the fiscal years 2002 and 2003".

Subsec. (b). Pub. L. 108–193, §7(2), inserted before period at end "and $15,000,000 for each of the fiscal years 2004 and 2005".

Subsec. (c)(1). Pub. L. 108–193, §7(3)(A), amended heading and text of par. (1) generally. Text read as follows: "To carry out the purposes of section 7105(a) of this title, there are authorized to be appropriated to the Secretary of State $5,000,000 for fiscal year 2001, $10,000,000 for fiscal year 2002, and $15,000,000 for fiscal year 2003."

Subsec. (c)(2). Pub. L. 108–193, §7(3)(B), substituted "for each of the fiscal years 2001 through 2005" for "for each of the fiscal years 2001, 2002, and 2003".

Subsec. (d). Pub. L. 108–193, §7(4), inserted "and $15,000,000 for each of the fiscal years 2004 and 2005" after "fiscal year 2002" and inserted at end sentence relating to authorization of appropriations to carry out training activities at the International Law Enforcement Academies.

Subsec. (e). Pub. L. 108–193, §7(5), substituted "for each of the fiscal years 2003 through 2005" for "for fiscal year 2003" in pars. (1) and (2) and added par. (3).

Subsec. (f). Pub. L. 108–193, §7(6), inserted "and $10,000,000 for each of the fiscal years 2004 and 2005" before period at end.

Subsec. (g). Pub. L. 108–193, §7(7), added subsec. (g).

2002—Subsec. (a). Pub. L. 107–228, §682(b)(1), substituted "for each of the fiscal years 2002 and 2003" for "for fiscal year 2002".

Subsec. (c)(1). Pub. L. 107–228, §682(b)(2)(A), substituted ", $10,000,000 for fiscal year 2002, and $15,000,000 for fiscal year 2003" for "and $10,000,000 for fiscal year 2002".

Subsec. (c)(2). Pub. L. 107–228, §682(b)(2)(B), substituted "there is authorized to be appropriated to the Secretary of State for each of the fiscal years 2001, 2002, and 2003" for "there are authorized to be appropriated to the Secretary of State" and "for such fiscal year" for "for fiscal year 2001".

Subsec. (e)(1), (2). Pub. L. 107–228, §682(b)(3), substituted ", $10,000,000 for fiscal year 2002, and $15,000,000 for fiscal year 2003" for "and $10,000,000 for fiscal year 2002".

RULE OF CONSTRUCTION

Pub. L. 110–457, title III, §303, Dec. 23, 2008, 122 Stat. 5087, provided that: "The amendments made by sections 301 and 302 [amending this section, sections 14044 to 14044c of Title 42, The Public Health and Welfare, and provisions set out as a note under section 7105 of this title] may not be construed to affect the availability of funds appropriated pursuant to the authorizations of appropriations under the Trafficking

Victims Protection Act of 2000 (division A of Public Law 106–386; 22 U.S.C. 7101 et seq.) and the Trafficking Victims Protection Reauthorization Act of 2005 (Public Law 109–164) [see Tables for classification] before the date of the enactment of this Act [Dec. 23, 2008]."

[1] *See References in Text note below.*

[2] *So in original.*

[3] *So in original. Probably should be followed by a period.*

[4] *So in original. The comma probably should not appear.*

§7111. Report by Secretary of State

At least 15 days prior to voting for a new or reauthorized peacekeeping mission under the auspices of the United Nations, the North Atlantic Treaty Organization, or any other multilateral organization in which the United States participates (or in an emergency, as far in advance as is practicable), the Secretary of State shall submit to the Committee on Foreign Affairs of the House of Representatives, the Committee on Foreign Relations of the Senate, and any other appropriate congressional committee a report that contains—

(A) a description of measures taken by the organization to prevent the organization's employees, contractor personnel, and peacekeeping forces serving in the peacekeeping mission from trafficking in persons, exploiting victims of trafficking, or committing acts of sexual exploitation or abuse, and the measures in place to hold accountable any such individuals who engage in any such acts while participating in the peacekeeping mission; and

(B) an analysis of the effectiveness of each of the measures referred to in subparagraph (A).

(Pub. L. 109–164, title I, §104(e)(2), Jan. 10, 2006, 119 Stat. 3566; Pub. L. 110–457, title III, §304(b), Dec. 23, 2008, 122 Stat. 5087.)

CODIFICATION

Section was enacted as part of the Trafficking Victims Protection Reauthorization Act of 2005, and not as part of the Trafficking Victims Protection Act of 2000 which comprises this chapter.

AMENDMENTS

2008—Pub. L. 110–457 substituted "Committee on Foreign Affairs" for "Committee on International Relations" in introductory provisions.

§7112. Additional activities to monitor and combat forced labor and child labor

(a) Activities of the Department of State

(1) Finding

Congress finds that in the report submitted to Congress by the Secretary of State in June 2005 pursuant to section 7107(b) of this title, the list of countries whose governments do not comply with the minimum standards for the elimination of trafficking and are not making significant efforts to bring themselves into compliance was composed of a large number of countries in which the trafficking involved forced labor, including the trafficking of women into domestic servitude.

(2) Sense of Congress

It is the sense of Congress that the Director of the Office to Monitor and Combat Trafficking of the Department of State should intensify the focus of the Office on forced labor in the countries described in paragraph (1) and other countries in which forced labor continues to be a serious human rights concern.

(3) Information sharing

The Secretary of State shall, on a regular basis, provide information relating to child labor and forced labor in the production of goods in violation of international standards to the Department of Labor to be used in developing the list described in subsection (b)(2)(C).

(b) Activities of the Department of Labor

(1) In general

The Secretary of Labor, acting through the head of the Bureau of International Labor Affairs of the Department of Labor, shall carry out additional activities to monitor and combat forced labor and child labor in foreign countries as described in paragraph (2).

(2) Additional activities described

The additional activities referred to in paragraph (1) are—

(A) to monitor the use of forced labor and child labor in violation of international standards;

(B) to provide information regarding trafficking in persons for the purpose of forced labor to the Office to Monitor and Combat Trafficking of the Department of State for inclusion in trafficking in persons report required by section 7107(b) of this title;

(C) to develop and make available to the public a list of goods from countries that the Bureau of International Labor Affairs has reason to believe are produced by forced labor or child labor in violation of international standards;

(D) to work with persons who are involved in the production of goods on the list described in subparagraph (C) to create a standard set of practices that will reduce the likelihood that such persons will produce goods using the labor described in such subparagraph; and

(E) to consult with other departments and agencies of the United States Government to reduce forced and child labor internationally and ensure that products made by forced labor and child labor in violation of international standards are not imported into the United States.

(3) Submission to Congress

Not later than December 1, 2014, and every 2 years thereafter, the Secretary of Labor shall submit the list developed under paragraph (2)(C) to Congress.

(Pub. L. 109–164, title I, §105, Jan. 10, 2006, 119 Stat. 3566; Pub. L. 113–4, title XII, §§1232, 1233, Mar. 7, 2013, 127 Stat. 146.)

CODIFICATION

Section was enacted as part of the Trafficking Victims Protection Reauthorization Act of 2005, and not as part of the Trafficking Victims Protection Act of 2000 which comprises this chapter.

AMENDMENTS

2013—Subsec. (a)(3). Pub. L. 113–4, §1233, added par. (3).
Subsec. (b)(3). Pub. L. 113–4, §1232, added par. (3).

CONSULTATIVE GROUP TO ELIMINATE THE USE OF CHILD LABOR AND FORCED LABOR IN IMPORTED AGRICULTURAL PRODUCTS

Pub. L. 110–246, title III, §3205, June 18, 2008, 122 Stat. 1838, provided that:

"(a) DEFINITIONS.—In this section:

"(1) CHILD LABOR.—The term 'child labor' means the worst forms of child labor as defined in International Labor Convention 182, the Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor, done at Geneva on June 17, 1999.

"(2) CONSULTATIVE GROUP.—The term 'Consultative Group' means the Consultative Group to Eliminate the Use of Child Labor and Forced Labor in Imported Agricultural Products established under subsection (b).

"(3) FORCED LABOR.—The term 'forced labor' means all work or service—

"(A) that is exacted from any individual under menace of any penalty for nonperformance of the work or service, and for which—

"(i) the work or service is not offered voluntarily; or

"(ii) the work or service is performed as a result of coercion, debt bondage, or involuntary

servitude (as those terms are defined in section 103 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102)); and

"(B) by 1 or more individuals who, at the time of performing the work or service, were being subjected to a severe form of trafficking in persons (as that term is defined in that section).

"(b) ESTABLISHMENT.—There is established a group to be known as the 'Consultative Group to Eliminate the Use of Child Labor and Forced Labor in Imported Agricultural Products' to develop recommendations relating to guidelines to reduce the likelihood that agricultural products or commodities imported into the United States are produced with the use of forced labor and child labor.

"(c) DUTIES.—

"(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act [June 18, 2008] and in accordance with section 105(d) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7103(d)), as applicable to the importation of agricultural products made with the use of child labor or forced labor, the Consultative Group shall develop, and submit to the Secretary [of Agriculture], recommendations relating to a standard set of practices for independent, third-party monitoring and verification for the production, processing, and distribution of agricultural products or commodities to reduce the likelihood that agricultural products or commodities imported into the United States are produced with the use of forced labor or child labor.

"(2) GUIDELINES.—

"(A) IN GENERAL.—Not later than 1 year after the date on which the Secretary receives recommendations under paragraph (1), the Secretary shall release guidelines for a voluntary initiative to enable entities to address issues raised by the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7101 et seq.).

"(B) REQUIREMENTS.—Guidelines released under subparagraph (A) shall be published in the Federal Register and made available for public comment for a period of 90 days.

"(d) MEMBERSHIP.—The Consultative Group shall be composed of not more than 13 individuals, of whom—

"(1) 2 members shall represent the Department of Agriculture, as determined by the Secretary;

"(2) 1 member shall be the Deputy Under Secretary for International Affairs of the Department of Labor;

"(3) 1 member shall represent the Department of State, as determined by the Secretary of State;

"(4) 3 members shall represent private agriculture-related enterprises, which may include retailers, food processors, importers, and producers, of whom at least 1 member shall be an importer, food processor, or retailer who utilizes independent, third-party supply chain monitoring for forced labor or child labor;

"(5) 2 members shall represent institutions of higher education and research institutions, as determined appropriate by the Bureau of International Labor Affairs of the Department of Labor;

"(6) 1 member shall represent an organization that provides independent, third-party certification services for labor standards for producers or importers of agricultural commodities or products; and

"(7) 3 members shall represent organizations described in section 501(c)(3) of the Internal Revenue Code of 1986 [26 U.S.C. 501(c)(3)] that have expertise on the issues of international child labor and do not possess a conflict of interest associated with establishment of the guidelines issued under subsection (c)(2), as determined by the Bureau of International Labor Affairs of the Department of Labor, including representatives from consumer organizations and trade unions, if appropriate.

"(e) CHAIRPERSON.—A representative of the Department of Agriculture appointed under subsection (d)(1), as determined by the Secretary, shall serve as the chairperson of the Consultative Group.

"(f) REQUIREMENTS.—Not less than 4 times per year, the Consultative Group shall meet at the call of the Chairperson, after reasonable notice to all members, to develop recommendations described in subsection (c)(1).

"(g) NONAPPLICABILITY OF FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Consultative Group.

"(h) ANNUAL REPORTS.—Not later than 1 year after the date of enactment of this Act [June 18, 2008], and annually thereafter through December 31, 2012, the Secretary [of Agriculture] shall submit to the Committees on Agriculture and Foreign Affairs of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the activities and recommendations of the Consultative Group.

"(i) TERMINATION OF AUTHORITY.—The Consultative Group shall terminate on December 31, 2012."

§7113. Accountability

All grants awarded by the Attorney General under this title or an Act amended by this title shall be subject to the following accountability provisions:

(1) Audit requirement

(A) Definition

In this paragraph, the term "unresolved audit finding" means an audit report finding in the final audit report of the Inspector General of the Department of Justice that the grantee has used grant funds for an unauthorized expenditure or otherwise unallowable cost that is not closed or resolved during the 12-month period beginning on the date on which the final audit report is issued [1]

(B) Requirement

Beginning in the first fiscal year beginning after March 7, 2013, and in each fiscal year thereafter, the Inspector General of the Department of Justice shall conduct audits of recipients of grants under this title or an Act amended by this title to prevent waste, fraud, and abuse of funds by grantees. The Inspector General shall determine the appropriate number of grantees to be audited each year.

(C) Mandatory exclusion

A recipient of grant funds under this title or an Act amended by this title that is found to have an unresolved audit finding shall not be eligible to receive grant funds under this title or an Act amended by this title during the first 2 fiscal years beginning after the end of the 12-month period described in subparagraph (A).

(D) Priority

In awarding grants under this title or an Act amended by this title, the Attorney General shall give priority to eligible applicants that did not have an unresolved audit finding during the 3 fiscal years before submitting an application for a grant under this title or an Act amended by this title.

(E) Reimbursement

If an entity is awarded grant funds under this title or an Act amended by this title during the 2-fiscal-year period during which the entity is barred from receiving grants under subparagraph (C), the Attorney General shall—

(i) deposit an amount equal to the amount of the grant funds that were improperly awarded to the grantee into the General Fund of the Treasury; and

(ii) seek to recoup the costs of the repayment to the fund from the grant recipient that was erroneously awarded grant funds.

(2) Nonprofit organization requirements

(A) Definition

For purposes of this paragraph and the grant programs under this title or an Act amended by this title, the term "nonprofit organization" means an organization that is described in section 501(c)(3) of title 26 and is exempt from taxation under section 501(a) of such title.

(B) Prohibition

The Attorney General may not award a grant under this title or an Act amended by this title to a nonprofit organization that holds money in offshore accounts for the purpose of avoiding paying the tax described in section 511(a) of title 26.

(C) Disclosure

Each nonprofit organization that is awarded a grant under this title or an Act amended by this title and uses the procedures prescribed in regulations to create a rebuttable presumption of reasonableness for the compensation of its officers, directors, trustees and key employees, shall disclose to the Attorney General, in the application for the grant, the process for determining

such compensation, including the independent persons involved in reviewing and approving such compensation, the comparability data used, and contemporaneous substantiation of the deliberation and decision. Upon request, the Attorney General shall make the information disclosed under this subparagraph available for public inspection.

(3) Conference expenditures

(A) Limitation

No amounts authorized to be appropriated to the Department of Justice under this title or an Act amended by this title may be used by the Attorney General, or by any individual or entity awarded discretionary funds through a cooperative agreement under this title or an Act amended by this title, to host or support any expenditure for conferences that uses more than $20,000 in funds made available to the Department of Justice, unless the Deputy Attorney General or the appropriate Assistant Attorney General, Director, or principal deputy (as designated by the Deputy Attorney General) provides prior written authorization that the funds may be expended to host the conference.

(B) Written approval

Written approval under subparagraph (A) shall include a written estimate of all costs associated with the conference, including the cost of all food, beverages, audio-visual equipment, honoraria for speakers, and entertainment.

(C) Report

The Deputy Attorney General shall submit an annual report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives on all conference expenditures approved under this paragraph.

(4) Annual certification

Beginning in the first fiscal year beginning after March 7, 2013, the Attorney General shall submit, to the Committee on the Judiciary and the Committee on Appropriations of the Senate and the Committee on the Judiciary and the Committee on Appropriations of the House of Representatives, an annual certification indicating whether—

(A) all audits issued by the Office of the Inspector General under paragraph (1) have been completed and reviewed by the appropriate Assistant Attorney General or Director;

(B) all mandatory exclusions required under paragraph (1)(C) have been issued;

(C) all reimbursements required under paragraph (1)(E) have been made; and

(D) includes a list of any grant recipients excluded under paragraph (1) from the previous year.

(Pub. L. 113–4, title XII, §1236, Mar. 7, 2013, 127 Stat. 147.)

REFERENCES IN TEXT

This title, referred to in text, means title XII of Pub. L. 113–4, Mar. 7, 2013, 127 Stat. 136. For complete classification of this title to the Code, see Tables.

CODIFICATION

Section was enacted as part of the Violence Against Women Reauthorization Act of 2013, and not as part of the Trafficking Victims Protection Act of 2000 which comprises this chapter.

[1] *So in original. Probably should be followed by a period.*

§7114. Efforts to end modern slavery

(a) Actions by the Secretary of Defense

(1) In general

Not later than 90 days after December 23, 2016, the Secretary of Defense shall provide to the appropriate congressional committees a briefing on the policies and guidance of the Department of Defense with respect to the education and training on human slavery and the appropriate role of the United States Armed Forces in combatting trafficking in persons that is received by personnel of the Armed Forces, including uniformed personnel and civilians engaged in partnership with foreign nations.

(2) Elements

The briefing required under paragraph (1) shall address—

(A) resources available for Armed Forces personnel who become aware of instances of human slavery or trafficking in persons while deployed overseas; and

(B) guidance on the requirement to make official reports through the chain of command, the roles and responsibilities of military and civilian officials of the United States Armed Forces and host nations, circumstances in which members of the Armed Forces are authorized to take immediate action to prevent loss of life or serious injury, and the authority to use appropriate force to stop or prevent sexual abuse or exploitation of children.

(b) Grant authorization

The Secretary of State is authorized to make a grant or grants of funding to provide support for transformational programs and projects that seek to achieve a measurable and substantial reduction of the prevalence of modern slavery in targeted populations within partner countries (or jurisdictions thereof).

(c) Monitoring and evaluation

Any grantee shall—

(1) develop specific and detailed criteria for the monitoring and evaluation of supported projects;

(2) implement a system for measuring progress against baseline data that is rigorously designed based on international corporate and nongovernmental best practices;

(3) ensure that each supported project is regularly and rigorously monitored and evaluated, on a not less than biennial basis, by an independent monitoring and evaluation entity, against the specific and detailed criteria established pursuant to paragraph (1), and that the progress of the project towards its stated goals is measured by such entity against baseline data;

(4) support the development of a scientifically sound, representative survey methodology for measuring prevalence with reference to existing research and experience, and apply the methodology consistently to determine the baseline prevalence in target populations and outcomes in order to periodically assess progress in reducing prevalence; and

(5) establish, and revise on a not less than annual basis, specific and detailed criteria for the suspension and termination, as appropriate, of projects supported by the grantee that regularly or consistently fail to meet the criteria required by this section.

(d) Auditing

(1) In general

Any grantee shall be subject to the same auditing, recordkeeping, and reporting obligations required under subsections (e), (f), (g), and (i) of section 4413 of this title.

(2) Comptroller General audit authority

(A) In general

The Comptroller General of the United States may evaluate the financial transactions of the grantee as well as the programs or activities the grantee carries out pursuant to this section.

(B) Access to records

Any grantee shall provide the Comptroller General, or the Comptroller General's duly authorized representatives, access to such records as the Comptroller General determines necessary to conduct evaluations authorized by this section.

(e) Annual report

Any grant recipient shall submit a report to the Secretary of State annually and the Secretary shall transmit it to the appropriate congressional committees within 30 days. Such report shall include the names of each of the projects or sub-grantees receiving such funding pursuant to this section and the amount of funding provided for, along with a detailed description of, each such project.

(f) Rule of construction regarding availability of fiscal year 2016 appropriations

The enactment of this section is deemed to meet the condition of the first proviso of paragraph (2) of section 7060(f) of the Department of State, Foreign Operations, and Related Appropriations [1] Act, 2016 (division K of Public Law 114–113), and the funds referred to in such paragraph shall be made available in accordance with, and for the purposes set forth in, such paragraph.

(g) Authorization of appropriations; sunset

(1) Authorization of appropriations for fiscal years 2017 through 2020

There is authorized to be appropriated to the Department of State for the purpose of making a grant or grants authorized under this section, for each fiscal year from 2017 through 2020, $37,500,000.

(2) Sunset

The authorities of subsections (b) through (f) shall expire on September 30, 2020.

(h) Comptroller general review of existing programs

(1) In general

Not later than September 30, 2018, and September 30, 2020, the Comptroller General of the United States shall submit to Congress a report on all of the programs conducted by the Department of State, the United States Agency for International Development, the Department of Labor, the Department of Defense, and the Department of the Treasury that address human trafficking and modern slavery, including a detailed analysis of the effectiveness of such programs in limiting human trafficking and modern slavery and specific recommendations on which programs are not effective at reducing the prevalence of human trafficking and modern slavery and how the funding for such programs may be redirected to more effective efforts.

(2) Consideration of report

The Comptroller General of the United States shall brief the appropriate congressional committees on the report submitted under paragraph (1). The appropriate congressional committees shall review and consider the reports and shall, as appropriate, consider modifications to authorization levels and programs within the jurisdiction of such committees to address the recommendations made in the report.

(i) Appropriate congressional committees defined

In this section, the term "appropriate congressional committees" means—

(1) the Committee on Foreign Relations, the Committee on Armed Services, and the Committee on Appropriations of the Senate; and

(2) the Committee on Foreign Affairs, the Committee on Armed Services, and the Committee on Appropriations of the House of Representatives.

(Pub. L. 114–328, div. A, title XII, §1298, Dec. 23, 2016, 130 Stat. 2563.)

REFERENCES IN TEXT

Section 7060(f)(2) of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2016, referred to in subsec. (f), is section 7060(f)(2) of div. K of Pub. L. 114–113, Dec. 18, 2015, 129 Stat. 2809, which is not classified to the Code.

CODIFICATION

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 2017, and not as part of the Trafficking Victims Protection Act of 2000 which comprises this chapter.

[1] *So in original. Probably should be preceded by "Programs".*

CHAPTER 79—TRADE SANCTIONS REFORM AND EXPORT ENHANCEMENT

Sec.

7201. Definitions.
7202. Restriction.
7203. Exceptions.
7204. Termination of sanctions.
7205. State sponsors of international terrorism.
7206. Congressional procedures.
7207. Prohibition on United States assistance and financing.
7208. Prohibition on additional imports from Cuba.
7209. Requirements relating to certain travel-related transactions with Cuba.
7210. Application of the Trade Sanctions Reform and Export Enhancement Act.
7211. Technical clarification relating to provision of material support to terrorism.

§7201. Definitions

In this chapter:

(1) Agricultural commodity

The term "agricultural commodity" has the meaning given the term in section 102 of the Agricultural Trade Act of 1978 (7 U.S.C. 5602).

(2) Agricultural program

The term "agricultural program" means—

(A) any program administered under the Food for Peace Act (7 U.S.C. 1691 et seq.);

(B) any program administered under section 1431 of title 7;

(C) any program administered under the Agricultural Trade Act of 1978 (7 U.S.C. 5601 et seq.);

(D) any commercial export sale of agricultural commodities; or

(E) any export financing (including credits or credit guarantees) provided by the United States Government for agricultural commodities.

(3) Joint resolution

The term "joint resolution" means—

(A) in the case of section 7202(a)(1) of this title, only a joint resolution introduced within 10 session days of Congress after the date on which the report of the President under section 7202(a)(1) of this title is received by Congress, the matter after the resolving clause of which is as follows: "That Congress approves the report of the President pursuant to section 903(a)(1) of the Trade Sanctions Reform and Export Enhancement Act of 2000, transmitted on _____.", with the blank completed with the appropriate date; and

(B) in the case of section 7205(1) [1] of this title, only a joint resolution introduced within 10 session days of Congress after the date on which the report of the President under section 7205(2) [1] of this title is received by Congress, the matter after the resolving clause of which is as follows: "That Congress approves the report of the President pursuant to section 906(1) of the Trade Sanctions Reform and Export Enhancement Act of 2000, transmitted on _____.", with the blank completed with the appropriate date.

(4) Medical device

The term "medical device" has the meaning given the term "device" in section 321 of title 21.

(5) Medicine

The term "medicine" has the meaning given the term "drug" in section 321 of title 21.

(6) Unilateral agricultural sanction

The term "unilateral agricultural sanction" means any prohibition, restriction, or condition on carrying out an agricultural program with respect to a foreign country or foreign entity that is imposed by the United States for reasons of foreign policy or national security, except in a case in which the United States imposes the measure pursuant to—

(A) a multilateral regime and the other member countries of that regime have agreed to impose substantially equivalent measures; or

(B) a mandatory decision of the United Nations Security Council.

(7) Unilateral medical sanction

The term "unilateral medical sanction" means any prohibition, restriction, or condition on exports of, or the provision of assistance consisting of, medicine or a medical device with respect to a foreign country or foreign entity that is imposed by the United States for reasons of foreign policy or national security, except in a case in which the United States imposes the measure pursuant to—

(A) a multilateral regime and the other member countries of that regime have agreed to impose substantially equivalent measures; or

(B) a mandatory decision of the United Nations Security Council.

(Pub. L. 106–387, §1(a) [title IX, §902], Oct. 28, 2000, 114 Stat. 1549, 1549A–67; Pub. L. 110–246, title III, §3001(b)(1)(A), (2)(X), June 18, 2008, 122 Stat. 1820, 1821; Pub. L. 113–79, title I, §1423(b), Feb. 7, 2014, 128 Stat. 695.)

REFERENCES IN TEXT

The Food for Peace Act, referred to in par. (2)(A), is act July 10, 1954, ch. 469, 68 Stat. 454, which is classified principally to chapter 41 (§1691 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 1691 of Title 7 and Tables.

The Agricultural Trade Act of 1978, referred to in par. (2)(C), is Pub. L. 95–501, Oct. 21, 1978, 92 Stat. 1685, as amended generally by Pub. L. 101–624, title XV, §1531, Nov. 28, 1990, 104 Stat. 3668, which is classified generally to chapter 87 (§5601 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 5601 of Title 7 and Tables.

Section 903(a)(1) of the Trade Sanctions Reform and Export Enhancement Act of 2000, referred to in par. (3)(A), is section 1(a) [title IX, §903(a)(1)] of Pub. L. 106–387, which is classified to section 7202(a)(1) of this title.

Section 906 of the Trade Sanctions Reform and Export Enhancement Act of 2000, referred to in par. (3)(B), is section 1(a) [title IX, §906] of Pub. L. 106–387, which is classified to section 7205 of this title. Provisions relating to report of the President and enactment into law of a joint resolution are contained in section 905 of the Act, which is classified to section 7204 of this title.

AMENDMENTS

2014—Par. (2)(D)–(F). Pub. L. 113–79 redesignated subpars. (E) and (F) as (D) and (E), respectively, and struck out former subpar. (D) which read as follows: "the dairy export incentive program administered under section 713a–14 of title 15;".

2008—Par. (2)(A). Pub. L. 110–246 substituted "Food for Peace Act" for "Agricultural Trade Development and Assistance Act of 1954".

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–246 effective May 22, 2008, see section 4(b) of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

EFFECTIVE DATE

Pub. L. 106–387, §1(a) [title IX, §911], Oct. 28, 2000, 114 Stat. 1549, 1549A–72, provided that:

"(a) IN GENERAL.—Except as provided in subsection (b), this title [enacting this chapter] shall take effect on the date of enactment of this Act [Oct. 28, 2000], and shall apply thereafter in any fiscal year.

"(b) EXISTING SANCTIONS.—In the case of any unilateral agricultural sanction or unilateral medical

sanction that is in effect as of the date of enactment of this Act, this title shall take effect 120 days after the date of enactment of this Act, and shall apply thereafter in any fiscal year."

SHORT TITLE

Pub. L. 106–387, §1(a) [title IX, §901], Oct. 28, 2000, 114 Stat. 1549, 1549A–67, provided that: "This title [enacting this chapter] may be cited as the 'Trade Sanctions Reform and Export Enhancement Act of 2000'."

DEFINITIONS

Pub. L. 106–387, §1(a) [title VII, §775], Oct. 28, 2000, 114 Stat. 1549, 1549A–45, provided that: "For purposes of administering title IX of this Act [enacting this chapter], the term 'agricultural commodity' shall also include fertilizer and organic fertilizer, except to the extent provided pursuant to section 904 of that title [22 U.S.C. 7203]."

[1] *So in original. Probably should be section "7204".*

§7202. Restriction

(a) New sanctions

Except as provided in sections 7203 and 7204 of this title and notwithstanding any other provision of law, the President may not impose a unilateral agricultural sanction or unilateral medical sanction against a foreign country or foreign entity, unless—

(1) not later than 60 days before the sanction is proposed to be imposed, the President submits a report to Congress that—

(A) describes the activity proposed to be prohibited, restricted, or conditioned; and

(B) describes the actions by the foreign country or foreign entity that justify the sanction; and

(2) there is enacted into law a joint resolution stating the approval of Congress for the report submitted under paragraph (1).

(b) Existing sanctions

The President shall terminate any unilateral agricultural sanction or unilateral medical sanction that is in effect as of October 28, 2000.

(Pub. L. 106–387, §1(a) [title IX, §903], Oct. 28, 2000, 114 Stat. 1549, 1549A–68.)

§7203. Exceptions

Section 7202 of this title shall not affect any authority or requirement to impose (or continue to impose) a sanction referred to in section 7202 of this title—

(1) against a foreign country or foreign entity—

(A) pursuant to a declaration of war against the country or entity;

(B) pursuant to specific statutory authorization for the use of the Armed Forces of the United States against the country or entity;

(C) against which the Armed Forces of the United States are involved in hostilities; or

(D) where imminent involvement by the Armed Forces of the United States in hostilities against the country or entity is clearly indicated by the circumstances; or

(2) to the extent that the sanction would prohibit, restrict, or condition the provision or use of any agricultural commodity, medicine, or medical device that is—

(A) controlled on the United States Munitions List established under section 2778 of this title;

(B) controlled on any control list established under the Export Administration Act of 1979 or any successor statute (50 U.S.C. App. 2401 et seq.); [1] or

(C) used to facilitate the design, development, or production of chemical or biological

weapons, missiles, or weapons of mass destruction.

(Pub. L. 106–387, §1(a) [title IX, §904], Oct. 28, 2000, 114 Stat. 1549, 1549A–68; Pub. L. 107–56, title II, §221(a)(1), Oct. 26, 2001, 115 Stat. 292.)

REFERENCES IN TEXT

The Export Administration Act of 1979, referred to in par. (2)(B), is Pub. L. 96–72, Sept. 29, 1979, 93 Stat. 503, which was classified principally to section 2401 et seq. of the former Appendix to Title 50, War and National Defense, prior to editorial reclassification and renumbering as chapter 56 (§4601 et seq.) of Title 50. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

2001—Par. (2)(C). Pub. L. 107–56 amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: "used to facilitate the development or production of a chemical or biological weapon or weapon of mass destruction."

[1] *See References in Text note below.*

§7204. Termination of sanctions

Any unilateral agricultural sanction or unilateral medical sanction that is imposed pursuant to the procedures described in section 7202(a) of this title shall terminate not later than 2 years after the date on which the sanction became effective unless—

(1) not later than 60 days before the date of termination of the sanction, the President submits to Congress a report containing—

(A) the recommendation of the President for the continuation of the sanction for an additional period of not to exceed 2 years; and

(B) the request of the President for approval by Congress of the recommendation; and

(2) there is enacted into law a joint resolution stating the approval of Congress for the report submitted under paragraph (1).

(Pub. L. 106–387, §1(a) [title IX, §905], Oct. 28, 2000, 114 Stat. 1549, 1549A–69.)

§7205. State sponsors of international terrorism

(a) Requirement

(1) In general

Notwithstanding any other provision of this chapter (other than section 7203 of this title), the export of agricultural commodities, medicine, or medical devices to Cuba, the Taliban or the territory of Afghanistan controlled by the Taliban, or to the government of a country that has been determined by the Secretary of State to have repeatedly provided support for acts of international terrorism under section 2371 of this title, section 4605(j)(1) of title 50, or section 2780(d) of this title, or to any other entity in such a country, shall only be made pursuant to 1-year licenses issued by the United States Government for contracts entered into during the 1-year period of the license and shipped within the 12-month period beginning on the date of the signing of the contract, except that the requirements of such 1-year licenses shall be no more restrictive than license exceptions administered by the Department of Commerce or general licenses administered by the Department of the Treasury, except that procedures shall be in place to deny licenses for exports to any entity within such country, or in the territory of Afghanistan controlled by the Taliban, promoting international terrorism.

(2) Exception

Paragraph (1) shall not apply with respect to the export of agricultural commodities, medicine,

or medical devices to the Government of Syria or to the Government of North Korea, or to any other entity in Syria or North Korea.

(b) Quarterly reports

The applicable department or agency of the Federal Government shall submit to the appropriate congressional committees on a quarterly basis a report on any activities undertaken under subsection (a)(1) during the preceding calendar quarter.

(c) Biennial reports

Not later than 2 years after October 28, 2000, and every 2 years thereafter, the applicable department or agency of the Federal Government shall submit a report to the appropriate congressional committees on the operation of the licensing system under this section for the preceding 2-year period, including—

(1) the number and types of licenses applied for;

(2) the number and types of licenses approved;

(3) the average amount of time elapsed from the date of filing of a license application until the date of its approval;

(4) the extent to which the licensing procedures were effectively implemented; and

(5) a description of comments received from interested parties about the extent to which the licensing procedures were effective, after the applicable department or agency holds a public 30-day comment period.

(Pub. L. 106–387, §1(a) [title IX, §906], Oct. 28, 2000, 114 Stat. 1549, 1549A–69; Pub. L. 107–56, title II, §221(a)(2), (3), Oct. 26, 2001, 115 Stat. 292.)

AMENDMENTS

2001—Subsec. (a)(1). Pub. L. 107–56, §221(a)(2), inserted ", the Taliban or the territory of Afghanistan controlled by the Taliban," after "Cuba" and ", or in the territory of Afghanistan controlled by the Taliban," after "entity within such country".

Subsec. (a)(2). Pub. L. 107–56, §221(a)(3), inserted ", or to any other entity in Syria or North Korea" before period at end.

§7206. Congressional procedures

(a) Referral of report

A report described in section 7202(a)(1) or 7204(1) of this title shall be referred to the appropriate committee or committees of the House of Representatives and to the appropriate committee or committees of the Senate.

(b) Referral of joint resolution

(1) In general

A joint resolution introduced in the Senate shall be referred to the Committee on Foreign Relations, and a joint resolution introduced in the House of Representatives shall be referred to the Committee on International Relations.

(2) Reporting date

A joint resolution referred to in paragraph (1) may not be reported before the eighth session day of Congress after the introduction of the joint resolution.

(Pub. L. 106–387, §1(a) [title IX, §907], Oct. 28, 2000, 114 Stat. 1549, 1549A–70.)

CHANGE OF NAME

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§7207. Prohibition on United States assistance and financing

(a) Prohibition on United States assistance

(1) In general

Notwithstanding any other provision of law, no United States Government assistance, including United States foreign assistance, United States export assistance, and any United States credit or guarantees shall be available for exports to Cuba or for commercial exports to Iran, Libya, North Korea, or Sudan.

(2) Rule of construction

Nothing in paragraph (1) shall be construed to alter, modify, or otherwise affect the provisions of section 6039 of this title or any other provision of law relating to Cuba in effect on the day before October 28, 2000.

(3) Waiver

The President may waive the application of paragraph (1) with respect to Iran, Libya, North Korea, and Sudan to the degree the President determines that it is in the national security interest of the United States to do so, or for humanitarian reasons.

(b) Prohibition on financing of agricultural sales to Cuba

(1) In general

No United States person may provide payment or financing terms for sales of agricultural commodities or products to Cuba or any person in Cuba, except in accordance with the following terms (notwithstanding part 515 of title 31, Code of Federal Regulations, or any other provision of law):

(A) Payment of cash in advance.

(B) Financing by third country financial institutions (excluding United States persons or Government of Cuba entities), except that such financing may be confirmed or advised by a United States financial institution.

Nothing in this paragraph authorizes payment terms or trade financing involving a debit or credit to an account of a person located in Cuba or of the Government of Cuba maintained on the books of a United States depository institution.

(2) Penalties

Any private person or entity that violates paragraph (1) shall be subject to the penalties provided in the Trading With the Enemy Act [50 U.S.C. 4301 et seq.] for violations under that Act.

(3) Administration and enforcement

The President shall issue such regulations as are necessary to carry out this section, except that the President, in lieu of issuing new regulations, may apply any regulations in effect on October 28, 2000, pursuant to the Trading With the Enemy Act [50 U.S.C. 4301 et seq.], with respect to the conduct prohibited in paragraph (1).

(4) Definitions

In this subsection—

(A) the term "financing" includes any loan or extension of credit;

(B) the term "United States depository institution" means any entity (including its foreign branches or subsidiaries) organized under the laws of any jurisdiction within the United States, or any agency, office or branch located in the United States of a foreign entity, that is engaged primarily in the business of banking (including a bank, savings bank, savings association, credit union, trust company, or United States bank holding company); and

(C) the term "United States person" means the Federal Government, any State or local government, or any private person or entity of the United States.

(Pub. L. 106–387, §1(a) [title IX, §908], Oct. 28, 2000, 114 Stat. 1549, 1549A–70.)

REFERENCES IN TEXT

The Trading With the Enemy Act, referred to in subsec. (b)(2), (3), is act Oct. 6, 1917, ch. 106, 40 Stat. 411, which is classified to chapter 53 (§4301 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Tables.

DETERMINATION AND WAIVER OF APPLICATION OF SECTION 908(A)(1) OF THE TRADE SANCTIONS REFORM AND EXPORT ENHANCEMENT ACT OF 2000 WITH RESPECT TO LIBYA

Determination of President of the United States, No. 2004–49, Sept. 20, 2004, 69 F.R. 58035, provided:

Memorandum for the Secretary of State[,] the Secretary of Agriculture[, and] the Secretary of Commerce

By virtue of the authority vested in me by the Constitution and laws of the United States, including section 908(a)(3) of the Trade Sanctions Reform and Export Enhancement Act of 2000, title IX, Public Law 106–387 [22 U.S.C. 7207(a)(3)] (TSRA), I hereby determine that waiver of the application of section 908(a)(1) of TSRA with respect to Libya is in the national security interest of the United States and hereby waive the application of that section with respect to Libya.

The Secretary of State is hereby authorized and directed to report this determination and waiver to the Congress and to arrange for its publication in the Federal Register.

GEORGE W. BUSH.

PRESIDENTIAL DETERMINATION ON SUDAN

Determination of President of the United States, No. 2011–05, Nov. 19, 2010, 75 F.R 75865, provided:

Memorandum for the Secretary of State [and the] President of the Export-Import Bank of the United States

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 908(a)(3) of the Trade Sanctions Reform and Export Enhancement Act of 2000, title IX, Public Law 106–387, as amended, 22 U.S.C. 7207(a)(3) (TSRA), I hereby determine it is in the national security interest of the United States to waive the application of section 908(a)(1) of TSRA to allow export assistance to be made available for the export of computers and related equipment that enables the United Nations to facilitate the referendum in Southern Sudan pursuant to the Comprehensive Peace Agreement.

The Secretary of State is hereby authorized and directed to publish this determination in the Federal Register.

BARACK OBAMA.

§7208. Prohibition on additional imports from Cuba

Nothing in this chapter shall be construed to alter, modify, or otherwise affect the provisions of section 515.204 of title 31, Code of Federal Regulations, relating to the prohibition on the entry into the United States of merchandise that: (1) is of Cuban origin; (2) is or has been located in or transported from or through Cuba; or (3) is made or derived in whole or in part of any article which is the growth, produce, or manufacture of Cuba.

(Pub. L. 106–387, §1(a) [title IX, §909], Oct. 28, 2000, 114 Stat. 1549, 1549A–71.)

§7209. Requirements relating to certain travel-related transactions with Cuba

(a) Authorization of travel relating to commercial sales of agricultural and medical goods

The Secretary of the Treasury shall promulgate regulations under which the travel-related transactions listed in paragraph (c) of section 515.560 of title 31, Code of Federal Regulations, are authorized by general license for travel to, from, or within Cuba for the marketing and sale of agricultural and medical goods pursuant to the provisions of this chapter.

(b) Prohibition on travel relating to tourist activities

(1) In general

Notwithstanding any other provision of law or regulation, the Secretary of the Treasury, or any other Federal official, may not authorize the travel-related transactions listed in subsection (c) of

section 515.560 of title 31, Code of Federal Regulations, either by a general license or on a case-by-case basis by a specific license for travel to, from, or within Cuba for tourist activities.

(2) Definition

In this subsection, the term "tourist activities" means any activity with respect to travel to, from, or within Cuba that is not expressly authorized in subsection (a) of this section, in any of paragraphs (1) through (12) of section 515.560 of title 31, Code of Federal Regulations, or in any section referred to in any of such paragraphs (1) through (12) (as such sections were in effect on June 1, 2000).

(Pub. L. 106–387, §1(a) [title IX, §910], Oct. 28, 2000, 114 Stat. 1549, 1549A–71; Pub. L. 111–8, div. D, title VI, §620, Mar. 11, 2009, 123 Stat. 677.)

AMENDMENTS

2009—Subsec. (a). Pub. L. 111–8 amended subsec. (a) generally. Prior to amendment, text read as follows: "The Secretary of the Treasury shall promulgate regulations under which the travel-related transactions listed in subsection (c) of section 515.560 of title 31, Code of Federal Regulations, may be authorized on a case-by-case basis by a specific license for travel to, from, or within Cuba for the commercial export sale of agricultural commodities pursuant to the provisions of this chapter."

§7210. Application of the Trade Sanctions Reform and Export Enhancement Act

Nothing in the Trade Sanctions Reform and Export Enhancement Act of 2000 [22 U.S.C. §7201 et seq.] shall limit the application or scope of any law establishing criminal or civil penalties, including any Executive order or regulation promulgated pursuant to such laws (or similar or successor laws), for the unlawful export of any agricultural commodity, medicine, or medical device to—

(1) a foreign organization, group, or person designated pursuant to Executive Order No. 12947 of January 23, 1995, as amended;

(2) a Foreign Terrorist Organization pursuant to the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132);

(3) a foreign organization, group, or person designated pursuant to Executive Order No. 13224 (September 23, 2001);

(4) any narcotics trafficking entity designated pursuant to Executive Order No. 12978 (October 21, 1995) or the Foreign Narcotics Kingpin Designation Act (Public Law 106–120) [21 U.S.C. §1901 et seq.]; or

(5) any foreign organization, group, or persons subject to any restriction for its involvement in weapons of mass destruction or missile proliferation.

(Pub. L. 107–56, title II, §221(b), Oct. 26, 2001, 115 Stat. 292.)

REFERENCES IN TEXT

The Trade Sanctions Reform and Export Enhancement Act of 2000, referred to in text, is section 1(a) [title IX] of Pub. L. 106–387, Oct. 28, 2000, 114 Stat. 1549, 1549A–67, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 7201 of this title and Tables.

Executive Order No. 12947, referred to in par. (1), is listed in a table under section 1701 of Title 50, War and National Defense.

The Antiterrorism and Effective Death Penalty Act of 1996, referred to in par. (2), is Pub. L. 104–132, Apr. 24, 1996, 110 Stat. 1214, as amended. For complete classification of this Act to the Code, see Short Title of 1996 Amendment note set out under section 1 of Title 18, Crimes and Criminal Procedure, and Tables.

Executive Order No. 13224, referred to in par. (3), is listed in a table under section 1701 of Title 50, War and National Defense.

Executive Order No. 12978, referred to in par. (4), is listed in a table under section 1701 of Title 50, War and National Defense.

The Foreign Narcotics Kingpin Designation Act, referred to in par. (4), is title VIII of Pub. L. 106–120, Dec. 3, 1999, 113 Stat. 1626, as amended, which is classified principally to chapter 24 (§1901 et seq.) of Title 21, Food and Drugs. For complete classification of this Act to the Code, see Short Title note set out under

section 1901 of Title 21 and Tables.

CODIFICATION

Section was enacted as part of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 or USA PATRIOT Act, and not as part of the Trade Sanctions Reform and Export Enhancement Act of 2000 which comprises this chapter.

§7211. Technical clarification relating to provision of material support to terrorism

No provision of the Trade Sanctions Reform and Export Enhancement Act of 2000 (title IX of Public Law 106–387) [22 U.S.C. §7201 et seq.] shall be construed to limit or otherwise affect section 2339A or 2339B of title 18.

(Pub. L. 107–56, title VIII, §807, Oct. 26, 2001, 115 Stat. 378.)

REFERENCES IN TEXT

The Trade Sanctions Reform and Export Enhancement Act of 2000, referred to in text, is section 1(a) [title IX] of Pub. L. 106–387, Oct. 28, 2000, 114 Stat. 1549, 1549A–67, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 7201 of this title and Tables.

CODIFICATION

Section was enacted as part of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 or USA PATRIOT Act, and not as part of the Trade Sanctions Reform and Export Enhancement Act of 2000 which comprises this chapter.

CHAPTER 80—DIPLOMATIC TELECOMMUNICATIONS SERVICE PROGRAM OFFICE (DTS-PO)

Sec.

7301. Reorganization; duties.
7302. Establishment of the Diplomatic Telecommunications Service Governance Board.
7303. Funding of the Diplomatic Telecommunications Service.
7304. Definitions.

§7301. Reorganization; duties

(a) Reorganization

The Diplomatic Telecommunications Service Program Office established pursuant to title V of Public Law 102–140 shall be reorganized in accordance with this chapter.

(b) Duties

The duties of the DTS–PO include implementing a program for the establishment and maintenance of a DTS Network capable of providing multiple levels of service to meet the wide-ranging needs of all United States Government departments and agencies operating from diplomatic and consular facilities outside of the United States, including national security needs for secure, reliable, and robust communications capabilities.

(Pub. L. 106–567, title III, §321, as added Pub. L. 111–259, title V, §501(a)(1), Oct. 7, 2010, 124 Stat. 2736.)

REFERENCES IN TEXT

Title V of Public Law 102–140, referred to in subsec. (a), is Pub. L. 102–140, title V, Oct. 28, 1991, 105 Stat. 816, known as the Department of State and Related Agencies Appropriations Act, 1992, which enacted

provisions listed in a table under section 269a of this title. For complete classification of title V to the Code, see Tables.

PRIOR PROVISIONS

A prior section 7301, Pub. L. 106–567, title III, §321, Dec. 27, 2000, 114 Stat. 2843, which related to reorganization of Diplomatic Telecommunications Service Program Office, was repealed by Pub. L. 111–259, title V, §501(a)(1), Oct. 7, 2010, 124 Stat. 2735.

SUSPENSION OF REORGANIZATION OF DIPLOMATIC TELECOMMUNICATIONS SERVICE PROGRAM OFFICE

Pub. L. 107–108, title III, §311, Dec. 28, 2001, 115 Stat. 1401, as amended by Pub. L. 107–306, title III, §351, Nov. 27, 2002, 116 Stat. 2401; Pub. L. 108–177, title III, §371, Dec. 13, 2003, 117 Stat. 2627, which provided for suspension of provisions of this chapter during the period beginning on Dec. 28, 2001, and ending on the date 60 days after notification to congressional committees of termination of the operational framework for the Office, was repealed by Pub. L. 111–259, title V, §501(b)(1)(A), Oct. 7, 2010, 124 Stat. 2738.

REFORM OF THE DIPLOMATIC TELECOMMUNICATIONS SERVICE PROGRAM OFFICE

Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title III, §305], Nov. 29, 1999, 113 Stat. 1536, 1501A–435, which related to additional resources for and improvement of the Diplomatic Telecommunications Service Program Office and required submission of a report on improving management to congressional committees not later than Mar. 31, 2000, was repealed by Pub. L. 111–259, title V, §501(b)(2)(A), Oct. 7, 2010, 124 Stat. 2738.

§7302. Establishment of the Diplomatic Telecommunications Service Governance Board

(a) Governance Board

(1) Establishment

There is established the Diplomatic Telecommunications Service Governance Board to direct and oversee the activities and performance of the DTS–PO.

(2) Executive Agent.—

(A) Designation

The Director of the Office of Management and Budget shall designate, from among the departments and agencies of the United States Government that use the DTS Network, a department or agency as the DTS–PO Executive Agent.

(B) Duties

The Executive Agent designated under subparagraph (A) shall—

(i) nominate a Director of the DTS–PO for approval by the Governance Board in accordance with subsection (e); and

(ii) perform such other duties as established by the Governance Board in the determination of written implementing arrangements and other relevant and appropriate governance processes and procedures under paragraph (3).

(3) Requirement for implementing arrangements

Subject to the requirements of this chapter, the Governance Board shall determine the written implementing arrangements and other relevant and appropriate governance processes and procedures to manage, oversee, resource, or otherwise administer the DTS–PO.

(b) Membership

(1) Selection

The Director of the Office of Management and Budget shall designate from among the departments and agencies that use the DTS Network—

(A) four departments and agencies to each appoint one voting member of the Governance Board from the personnel of such departments and agencies; and

(B) any other departments and agencies that the Director considers appropriate to each appoint one nonvoting member of the Governance Board from the personnel of such departments and agencies.

(2) Voting and nonvoting members

The Governance Board shall consist of voting members and nonvoting members as follows:

(A) Voting members

The voting members shall consist of a Chair, who shall be designated by the Director of the Office of Management and Budget, and the four members appointed by departments and agencies designated under paragraph (1)(A).

(B) Nonvoting members

The nonvoting members shall consist of the members appointed by departments and agencies designated under paragraph (1)(B) and shall act in an advisory capacity.

(c) Chair duties and authorities

The Chair of the Governance Board shall—

(1) preside over all meetings and deliberations of the Governance Board;

(2) provide the Secretariat functions of the Governance Board; and

(3) propose bylaws governing the operation of the Governance Board.

(d) Quorum, decisions, meetings

A quorum of the Governance Board shall consist of the presence of the Chair and four voting members. The decisions of the Governance Board shall require a majority of the voting membership. The Chair shall convene a meeting of the Governance Board not less than four times each year to carry out the functions of the Governance Board. The Chair or any voting member may convene a meeting of the Governance Board.

(e) Governance Board duties

The Governance Board shall have the following duties with respect to the DTS–PO:

(1) To approve and monitor the plans, services, priorities, policies, and pricing methodology of the DTS–PO for bandwidth costs and projects carried out at the request of a department or agency that uses the DTS Network.

(2) To provide to the DTS–PO Executive Agent the recommendation of the Governance Board with respect to the approval, disapproval, or modification of each annual budget request for the DTS–PO, prior to the submission of any such request by the Executive Agent.

(3) To review the performance of the DTS–PO against plans approved under paragraph (1) and the management activities and internal controls of the DTS–PO.

(4) To require from the DTS–PO any plans, reports, documents, and records the Governance Board considers necessary to perform its oversight responsibilities.

(5) To conduct and evaluate independent audits of the DTS–PO.

(6) To approve or disapprove the nomination of the Director of the DTS–PO by the Executive Agent with a majority vote of the Governance Board.

(7) To recommend to the Executive Agent the replacement of the Director of the DTS–PO with a majority vote of the Governance Board.

(f) National security interests

The Governance Board shall ensure that those enhancements of, and the provision of service for, telecommunication capabilities that involve the national security interests of the United States receive the highest prioritization.

(Pub. L. 106–567, title III, §322, as added Pub. L. 111–259, title V, §501(a)(1), Oct. 7, 2010, 124 Stat. 2736.)

PRIOR PROVISIONS

A prior section 7302, Pub. L. 106–567, title III, §322, Dec. 27, 2000, 114 Stat. 2843; Pub. L. 107–306, title VIII, §811(b)(5)(E), Nov. 27, 2002, 116 Stat. 2425, which related to personnel, was repealed by Pub. L. 111–259, title V, §501(a)(1), Oct. 7, 2010, 124 Stat. 2735.

§7303. Funding of the Diplomatic Telecommunications Service

(a) Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary for the operations, maintenance, development, enhancement, modernization, and investment costs of the DTS Network and the DTS–PO. Funds appropriated for allocation to the DTS–PO shall remain available to the DTS–PO for a period of two fiscal years.

(b) Fees

The DTS–PO shall charge a department or agency that uses the DTS Network for only those bandwidth costs attributable to such department or agency and for specific projects carried out at the request of such department or agency, pursuant to the pricing methodology for such bandwidth costs and such projects approved under section 7302(e)(1) of this title, for which amounts have not been appropriated for allocation to the DTS–PO. The DTS–PO is authorized to directly receive payments from departments or agencies that use the DTS Network and to invoice such departments or agencies for the fees under this section either in advance of, or upon or after, providing the bandwidth or performing such projects. Such funds received from such departments or agencies shall remain available to the DTS–PO for a period of two fiscal years.

(Pub. L. 106–567, title III, §323, as added Pub. L. 111–259, title V, §501(a)(1), Oct. 7, 2010, 124 Stat. 2738.)

PRIOR PROVISIONS

A prior section 7303, Pub. L. 106–567, title III, §323, Dec. 27, 2000, 114 Stat. 2845, which related to Diplomatic Telecommunications Service Oversight Board, was repealed by Pub. L. 111–259, title V, §501(a)(1), Oct. 7, 2010, 124 Stat. 2735. See section 7302 of this title.

§7304. Definitions

In this chapter:

(1) DTS Network

The term "DTS Network" means the worldwide telecommunications network supporting all United States Government agencies and departments operating from diplomatic and consular facilities outside of the United States.

(2) DTS–PO

The term "DTS–PO" means the Diplomatic Telecommunications Service Program Office.

(3) Governance Board

The term "Governance Board" means the Diplomatic Telecommunications Service Governance Board established under section 7302(a)(1) of this title.

(Pub. L. 106–567, title III, §324, as added Pub. L. 111–259, title V, §501(a)(1), Oct. 7, 2010, 124 Stat. 2738.)

PRIOR PROVISIONS

A prior section 7304, Pub. L. 106–567, title III, §324, Dec. 27, 2000, 114 Stat. 2846, which related to general provisions, was repealed by Pub. L. 111–259, title V, §501(a)(1), Oct. 7, 2010, 124 Stat. 2735.

CHAPTER 81—INTERNATIONAL CRIMINAL COURT

SUBCHAPTER I—GENERAL PROVISIONS

Sec.
7401. Restriction relating to United States accession to the International Criminal Court.
7402. Prohibition on extradition or transfer of United States citizens to the International Criminal Court.

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SUBCHAPTER I—GENERAL PROVISIONS

§7401. Restriction relating to United States accession to the International Criminal Court

(a) Prohibition

The United States shall not become a party to the International Criminal Court except pursuant to a treaty made under Article II, section 2, clause 2 of the Constitution of the United States on or after November 29, 1999.

(b) Prohibition on use of funds

None of the funds authorized to be appropriated by this or any other Act may be obligated for use by, or for support of, the International Criminal Court unless the United States has become a party to the Court pursuant to a treaty made under Article II, section 2, clause 2 of the Constitution of the United States on or after November 29, 1999.

(c) International Criminal Court defined

In this section, the term "International Criminal Court" means the court established by the Rome Statute of the International Criminal Court, adopted by the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court on July 17, 1998.

(Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title VII, §705], Nov. 29, 1999, 113 Stat. 1536, 1501A–460.)

CODIFICATION

Section was formerly set out as a note under section 262–1 of this title.

SHORT TITLE

Pub. L. 107–206, title II, §2001, Aug. 2, 2002, 116 Stat. 899, provided that: "This title [enacting subchapter II of this chapter] may be cited as the 'American Servicemembers' Protection Act of 2002'."

§7402. Prohibition on extradition or transfer of United States citizens to the International Criminal Court

(a) Prohibition on extradition

None of the funds authorized to be appropriated or otherwise made available by this or any other Act may be used to extradite a United States citizen to a foreign country that is under an obligation to surrender persons to the International Criminal Court unless that foreign country confirms to the United States that applicable prohibitions on reextradition apply to such surrender or gives other satisfactory assurances to the United States that the country will not extradite or otherwise transfer that citizen to the International Criminal Court.

(b) Prohibition on consent to extradition by third countries

None of the funds authorized to be appropriated or otherwise made available by this or any other Act may be used to provide consent to the extradition or transfer of a United States citizen by a foreign country to a third country that is under an obligation to surrender persons to the International Criminal Court, unless the third country confirms to the United States that applicable prohibitions on reextradition apply to such surrender or gives other satisfactory assurances to the United States that the third country will not extradite or otherwise transfer that citizen to the International Criminal Court.

(c) Definition

In this section, the term "International Criminal Court" has the meaning given the term in section 7401(c) of this title.

(Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title VII, §706], Nov. 29, 1999, 113 Stat. 1536, 1501A–461.)

CODIFICATION

Section was formerly set out as a note under section 262–1 of this title.

SUBCHAPTER II—AMERICAN SERVICEMEMBERS' PROTECTION

§7421. Findings

Congress makes the following findings:

(1) On July 17, 1998, the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court, meeting in Rome, Italy, adopted the "Rome Statute of the International Criminal Court". The vote on whether to proceed with the statute was 120 in favor to 7 against, with 21 countries abstaining. The United States voted against final adoption of the Rome Statute.

(2) As of April 30, 2001, 139 countries had signed the Rome Statute and 30 had ratified it. Pursuant to Article 126 of the Rome Statute, the statute will enter into force on the first day of the month after the 60th day following the date on which the 60th country deposits an instrument ratifying the statute.

(3) Since adoption of the Rome Statute, a Preparatory Commission for the International Criminal Court has met regularly to draft documents to implement the Rome Statute, including Rules of Procedure and Evidence, Elements of Crimes, and a definition of the Crime of Aggression.

(4) During testimony before the Congress following the adoption of the Rome Statute, the lead United States negotiator, Ambassador David Scheffer stated that the United States could not sign the Rome Statute because certain critical negotiating objectives of the United States had not been

achieved. As a result, he stated: "We are left with consequences that do not serve the cause of international justice.".

(5) Ambassador Scheffer went on to tell the Congress that: "Multinational peacekeeping forces operating in a country that has joined the treaty can be exposed to the Court's jurisdiction even if the country of the individual peacekeeper has not joined the treaty. Thus, the treaty purports to establish an arrangement whereby United States armed forces operating overseas could be conceivably prosecuted by the international court even if the United States has not agreed to be bound by the treaty. Not only is this contrary to the most fundamental principles of treaty law, it could inhibit the ability of the United States to use its military to meet alliance obligations and participate in multinational operations, including humanitarian interventions to save civilian lives. Other contributors to peacekeeping operations will be similarly exposed.".

(6) Notwithstanding these concerns, President Clinton directed that the United States sign the Rome Statute on December 31, 2000. In a statement issued that day, he stated that in view of the unremedied deficiencies of the Rome Statute, "I will not, and do not recommend that my successor submit the Treaty to the Senate for advice and consent until our fundamental concerns are satisfied".

(7) Any American prosecuted by the International Criminal Court will, under the Rome Statute, be denied procedural protections to which all Americans are entitled under the Bill of Rights to the United States Constitution, such as the right to trial by jury.

(8) Members of the Armed Forces of the United States should be free from the risk of prosecution by the International Criminal Court, especially when they are stationed or deployed around the world to protect the vital national interests of the United States. The United States Government has an obligation to protect the members of its Armed Forces, to the maximum extent possible, against criminal prosecutions carried out by the International Criminal Court.

(9) In addition to exposing members of the Armed Forces of the United States to the risk of international criminal prosecution, the Rome Statute creates a risk that the President and other senior elected and appointed officials of the United States Government may be prosecuted by the International Criminal Court. Particularly if the Preparatory Commission agrees on a definition of the Crime of Aggression over United States objections, senior United States officials may be at risk of criminal prosecution for national security decisions involving such matters as responding to acts of terrorism, preventing the proliferation of weapons of mass destruction, and deterring aggression. No less than members of the Armed Forces of the United States, senior officials of the United States Government should be free from the risk of prosecution by the International Criminal Court, especially with respect to official actions taken by them to protect the national interests of the United States.

(10) Any agreement within the Preparatory Commission on a definition of the Crime of Aggression that usurps the prerogative of the United Nations Security Council under Article 39 of the charter of the United Nations to "determine the existence of any . . . . act of aggression" would contravene the charter of the United Nations and undermine deterrence.

(11) It is a fundamental principle of international law that a treaty is binding upon its parties only and that it does not create obligations for nonparties without their consent to be bound. The United States is not a party to the Rome Statute and will not be bound by any of its terms. The United States will not recognize the jurisdiction of the International Criminal Court over United States nationals.

(Pub. L. 107–206, title II, §2002, Aug. 2, 2002, 116 Stat. 899.)

SHORT TITLE

For short title of this subchapter as the "American Servicemembers' Protection Act of 2002", see section 2001 of Pub. L. 107–206, set out as a note under section 7401 of this title.

§7422. Waiver and termination of prohibitions of this subchapter

(a) Authority to initially waive section 7424

The President is authorized to waive the prohibitions and requirements of section 7424 of this title for a single period of 1 year. A waiver under this subsection may be issued only if the President at least 15 days in advance of exercising such authority—

(1) notifies the appropriate congressional committees of the intention to exercise such authority; and

(2) determines and reports to the appropriate congressional committees that the International Criminal Court has entered into a binding agreement that—

(A) prohibits the International Criminal Court from seeking to exercise jurisdiction over the following persons with respect to actions undertaken by them in an official capacity:

(i) covered United States persons;

(ii) covered allied persons; and

(iii) individuals who were covered United States persons or covered allied persons; and

(B) ensures that no person described in subparagraph (A) will be arrested, detained, prosecuted, or imprisoned by or on behalf of the International Criminal Court.

(b) Authority to extend waiver of section 7424

The President is authorized to waive the prohibitions and requirements of section 7424 of this title for successive periods of 1 year each upon the expiration of a previous waiver pursuant to subsection (a) or this subsection. A waiver under this subsection may be issued only if the President at least 15 days in advance of exercising such authority—

(1) notifies the appropriate congressional committees of the intention to exercise such authority; and

(2) determines and reports to the appropriate congressional committees that the International Criminal Court—

(A) remains party to, and has continued to abide by, a binding agreement that—

(i) prohibits the International Criminal Court from seeking to exercise jurisdiction over the following persons with respect to actions undertaken by them in an official capacity:

(I) covered United States persons;

(II) covered allied persons; and

(III) individuals who were covered United States persons or covered allied persons; and

(ii) ensures that no person described in clause (i) will be arrested, detained, prosecuted, or imprisoned by or on behalf of the International Criminal Court; and

(B) has taken no steps to arrest, detain, prosecute, or imprison any person described in clause (i) of subparagraph (A).

(c) Authority to waive sections 7423 and 7425 with respect to an investigation or prosecution of a named individual

The President is authorized to waive the prohibitions and requirements of sections 7423 and 7425 of this title to the degree such prohibitions and requirements would prevent United States cooperation with an investigation or prosecution of a named individual by the International Criminal Court. A waiver under this subsection may be issued only if the President at least 15 days in advance of exercising such authority—

(1) notifies the appropriate congressional committees of the intention to exercise such authority; and

(2) determines and reports to the appropriate congressional committees that—

(A) a waiver pursuant to subsection (a) or (b) of the prohibitions and requirements of section 7424 of this title is in effect;

(B) there is reason to believe that the named individual committed the crime or crimes that are the subject of the International Criminal Court's investigation or prosecution;

(C) it is in the national interest of the United States for the International Criminal Court's investigation or prosecution of the named individual to proceed; and

(D) in investigating events related to actions by the named individual, none of the following persons will be investigated, arrested, detained, prosecuted, or imprisoned by or on behalf of the International Criminal Court with respect to actions undertaken by them in an official capacity:

(i) Covered United States persons.

(ii) Covered allied persons.

(iii) Individuals who were covered United States persons or covered allied persons.

(d) Termination of waiver pursuant to subsection (c)

Any waiver or waivers exercised pursuant to subsection (c) of the prohibitions and requirements of sections 7423 and 7425 of this title shall terminate at any time that a waiver pursuant to subsection (a) or (b) of the prohibitions and requirements of section 7424 of this title expires and is not extended pursuant to subsection (b).

(e) Termination of prohibitions of this subchapter

The prohibitions and requirements of sections 7423, 7424, and 7425 of this title shall cease to apply, and the authority of section 7427 of this title shall terminate, if the United States becomes a party to the International Criminal Court pursuant to a treaty made under article II, section 2, clause 2 of the Constitution of the United States.

(Pub. L. 107–206, title II, §2003, Aug. 2, 2002, 116 Stat. 901; Pub. L. 110–181, div. A, title XII, §1212(b)(1), Jan. 28, 2008, 122 Stat. 371.)

AMENDMENTS

2008—Subsecs. (a), (b). Pub. L. 110–181, §1212(b)(1)(A), (B), substituted "section 7424" for "sections 7424 and 7426" in heading and text.

Subsecs. (c)(2)(A), (d). Pub. L. 110–181, §1212(b)(1)(C), (D), substituted "section 7424" for "sections 7424 and 7426".

Subsec. (e). Pub. L. 110–181, §1212(b)(1)(E), substituted "and 7425" for "7425, and 7426".

§7423. Prohibition on cooperation with the International Criminal Court

(a) Application

The provisions of this section—

(1) apply only to cooperation with the International Criminal Court and shall not apply to cooperation with an ad hoc international criminal tribunal established by the United Nations Security Council before or after August 2, 2002, to investigate and prosecute war crimes committed in a specific country or during a specific conflict; and

(2) shall not prohibit—

(A) any action permitted under section 7427 of this title; or

(B) communication by the United States of its policy with respect to a matter.

(b) Prohibition on responding to requests for cooperation

Notwithstanding section 1782 of title 28 or any other provision of law, no United States Court, and no agency or entity of any State or local government, including any court, may cooperate with the International Criminal Court in response to a request for cooperation submitted by the International Criminal Court pursuant to the Rome Statute.

(c) Prohibition on transmittal of letters rogatory from the International Criminal Court

Notwithstanding section 1781 of title 28 or any other provision of law, no agency of the United States Government may transmit for execution any letter rogatory issued, or other request for cooperation made, by the International Criminal Court to the tribunal, officer, or agency in the United States to whom it is addressed.

(d) Prohibition on extradition to the International Criminal Court

Notwithstanding any other provision of law, no agency or entity of the United States Government or of any State or local government may extradite any person from the United States to the

International Criminal Court, nor support the transfer of any United States citizen or permanent resident alien to the International Criminal Court.

(e) Prohibition on provision of support to the International Criminal Court

Notwithstanding any other provision of law, no agency or entity of the United States Government or of any State or local government, including any court, may provide support to the International Criminal Court.

(f) Prohibition on use of appropriated funds to assist the International Criminal Court

Notwithstanding any other provision of law, no funds appropriated under any provision of law may be used for the purpose of assisting the investigation, arrest, detention, extradition, or prosecution of any United States citizen or permanent resident alien by the International Criminal Court.

(g) Restriction on assistance pursuant to mutual legal assistance treaties

The United States shall exercise its rights to limit the use of assistance provided under all treaties and executive agreements for mutual legal assistance in criminal matters, multilateral conventions with legal assistance provisions, and extradition treaties, to which the United States is a party, and in connection with the execution or issuance of any letter rogatory, to prevent the transfer to, or other use by, the International Criminal Court of any assistance provided by the United States under such treaties and letters rogatory.

(h) Prohibition on investigative activities of agents

No agent of the International Criminal Court may conduct, in the United States or any territory subject to the jurisdiction of the United States, any investigative activity relating to a preliminary inquiry, investigation, prosecution, or other proceeding at the International Criminal Court.

(Pub. L. 107–206, title II, §2004, Aug. 2, 2002, 116 Stat. 902.)

§7424. Restriction on United States participation in certain United Nations peacekeeping operations

(a) Policy

Effective beginning on the date on which the Rome Statute enters into force pursuant to Article 126 of the Rome Statute, the President should use the voice and vote of the United States in the United Nations Security Council to ensure that each resolution of the Security Council authorizing any peacekeeping operation under chapter VI of the charter of the United Nations or peace enforcement operation under chapter VII of the charter of the United Nations permanently exempts, at a minimum, members of the Armed Forces of the United States participating in such operation from criminal prosecution or other assertion of jurisdiction by the International Criminal Court for actions undertaken by such personnel in connection with the operation.

(b) Restriction

Members of the Armed Forces of the United States may not participate in any peacekeeping operation under chapter VI of the charter of the United Nations or peace enforcement operation under chapter VII of the charter of the United Nations, the creation of which is authorized by the United Nations Security Council on or after the date that the Rome Statute enters into effect pursuant to Article 126 of the Rome Statute, unless the President has submitted to the appropriate congressional committees a certification described in subsection (c) with respect to such operation.

(c) Certification

The certification referred to in subsection (b) is a certification by the President that—

(1) members of the Armed Forces of the United States are able to participate in the peacekeeping or peace enforcement operation without risk of criminal prosecution or other assertion of jurisdiction by the International Criminal Court because, in authorizing the operation,

the United Nations Security Council permanently exempted, at a minimum, members of the Armed Forces of the United States participating in the operation from criminal prosecution or other assertion of jurisdiction by the International Criminal Court for actions undertaken by them in connection with the operation;

(2) members of the Armed Forces of the United States are able to participate in the peacekeeping or peace enforcement operation without risk of criminal prosecution or other assertion of jurisdiction by the International Criminal Court because each country in which members of the Armed Forces of the United States participating in the operation will be present either is not a party to the International Criminal Court and has not invoked the jurisdiction of the International Criminal Court pursuant to Article 12 of the Rome Statute, or has entered into an agreement in accordance with Article 98 of the Rome Statute preventing the International Criminal Court from proceeding against members of the Armed Forces of the United States present in that country; or

(3) the national interests of the United States justify participation by members of the Armed Forces of the United States in the peacekeeping or peace enforcement operation.

(Pub. L. 107–206, title II, §2005, Aug. 2, 2002, 116 Stat. 903.)

§7425. Prohibition on direct or indirect transfer of classified national security information and law enforcement information to the International Criminal Court

(a) In general

Not later than the date on which the Rome Statute enters into force, the President shall ensure that appropriate procedures are in place to prevent the transfer of classified national security information and law enforcement information to the International Criminal Court for the purpose of facilitating an investigation, apprehension, or prosecution.

(b) Indirect transfer

The procedures adopted pursuant to subsection (a) shall be designed to prevent the transfer to the United Nations and to the government of any country that is party to the International Criminal Court of classified national security information and law enforcement information that specifically relates to matters known to be under investigation or prosecution by the International Criminal Court, except to the degree that satisfactory assurances are received from the United Nations or that government, as the case may be, that such information will not be made available to the International Criminal Court for the purpose of facilitating an investigation, apprehension, or prosecution.

(c) Construction

The provisions of this section shall not be construed to prohibit any action permitted under section 7427 of this title.

(Pub. L. 107–206, title II, §2006, Aug. 2, 2002, 116 Stat. 904.)

§7426. Repealed. Pub. L. 110–181, div. A, title XII, §1212(a), Jan. 28, 2008, 122 Stat. 371

Section, Pub. L. 107–206, title II, §2007, Aug. 2, 2002, 116 Stat. 905, prohibited United States military assistance to parties to the International Criminal Court.

§7427. Authority to free members of the Armed Forces of the United States and certain other persons detained or imprisoned by or on behalf of the International Criminal Court

(a) Authority

The President is authorized to use all means necessary and appropriate to bring about the release of any person described in subsection (b) who is being detained or imprisoned by, on behalf of, or at the request of the International Criminal Court.

(b) Persons authorized to be freed

The authority of subsection (a) shall extend to the following persons:

(1) Covered United States persons.

(2) Covered allied persons.

(3) Individuals detained or imprisoned for official actions taken while the individual was a covered United States person or a covered allied person, and in the case of a covered allied person, upon the request of such government.

(c) Authorization of legal assistance

When any person described in subsection (b) is arrested, detained, investigated, prosecuted, or imprisoned by, on behalf of, or at the request of the International Criminal Court, the President is authorized to direct any agency of the United States Government to provide—

(1) legal representation and other legal assistance to that person (including, in the case of a person entitled to assistance under section 1037 of title 10, representation and other assistance in the manner provided in that section);

(2) exculpatory evidence on behalf of that person; and

(3) defense of the interests of the United States through appearance before the International Criminal Court pursuant to Article 18 or 19 of the Rome Statute, or before the courts or tribunals of any country.

(d) Bribes and other inducements not authorized

This section does not authorize the payment of bribes or the provision of other such incentives to induce the release of a person described in subsection (b).

(Pub. L. 107–206, title II, §2008, Aug. 2, 2002, 116 Stat. 905.)

§7428. Alliance command arrangements

(a) Report on alliance command arrangements

Not later than 6 months after August 2, 2002, the President should transmit to the appropriate congressional committees a report with respect to each military alliance to which the United States is party—

(1) describing the degree to which members of the Armed Forces of the United States may, in the context of military operations undertaken by or pursuant to that alliance, be placed under the command or operational control of foreign military officers subject to the jurisdiction of the International Criminal Court because they are nationals of a party to the International Criminal Court; and

(2) evaluating the degree to which members of the Armed Forces of the United States engaged in military operations undertaken by or pursuant to that alliance may be exposed to greater risks as a result of being placed under the command or operational control of foreign military officers subject to the jurisdiction of the International Criminal Court.

(b) Description of measures to achieve enhanced protection for members of the Armed Forces of the United States

Not later than 1 year after August 2, 2002, the President should transmit to the appropriate congressional committees a description of modifications to command and operational control arrangements within military alliances to which the United States is a party that could be made in order to reduce any risks to members of the Armed Forces of the United States identified pursuant to subsection (a)(2).

(c) Submission in classified form

The report under subsection (a), and the description of measures under subsection (b), or appropriate parts thereof, may be submitted in classified form.

(Pub. L. 107–206, title II, §2009, Aug. 2, 2002, 116 Stat. 906.)

§7429. Withholdings

Funds withheld from the United States share of assessments to the United Nations or any other international organization during any fiscal year pursuant to section 7401 of this title are authorized to be transferred to the Embassy Security, Construction and Maintenance Account of the Department of State.

(Pub. L. 107–206, title II, §2010, Aug. 2, 2002, 116 Stat. 906.)

§7430. Application of sections 7423 and 7425 to exercise of constitutional authorities

(a) In general

Sections 7423 and 7425 of this title shall not apply to any action or actions with respect to a specific matter involving the International Criminal Court taken or directed by the President on a case-by-case basis in the exercise of the President's authority as Commander in Chief of the Armed Forces of the United States under article II, section 2 of the United States Constitution or in the exercise of the executive power under article II, section 1 of the United States Constitution.

(b) Notification to Congress

(1) In general

Subject to paragraph (2), not later than 15 days after the President takes or directs an action or actions described in subsection (a) that would otherwise be prohibited under section 7423 or 7425 of this title, the President shall submit a notification of such action to the appropriate congressional committees. A notification under this paragraph shall include a description of the action, a determination that the action is in the national interest of the United States, and a justification for the action.

(2) Exception

If the President determines that a full notification under paragraph (1) could jeopardize the national security of the United States or compromise a United States law enforcement activity, not later than 15 days after the President takes or directs an action or actions referred to in paragraph (1) the President shall notify the appropriate congressional committees that an action has been taken and a determination has been made pursuant to this paragraph. The President shall provide a full notification under paragraph (1) not later than 15 days after the reasons for the determination under this paragraph no longer apply.

(c) Construction

Nothing in this section shall be construed as a grant of statutory authority to the President to take any action.

(Pub. L. 107–206, title II, §2011, Aug. 2, 2002, 116 Stat. 907.)

§7431. Nondelegation

The authorities vested in the President by sections 7422 and 7430(a) of this title may not be delegated by the President pursuant to section 301 of title 3 or any other provision of law. The authority vested in the President by section 7424(c)(3) of this title may not be delegated by the

President pursuant to section 301 of title 3 or any other provision of law to any official other than the Secretary of Defense, and if so delegated may not be subdelegated.

(Pub. L. 107–206, title II, §2012, Aug. 2, 2002, 116 Stat. 907.)

§7432. Definitions

As used in this subchapter and in section 7402 of this title:

(1) Appropriate congressional committees

The term "appropriate congressional committees" means the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate.

(2) Classified national security information

The term "classified national security information" means information that is classified or classifiable under Executive Order 12958 or a successor Executive order.

(3) Covered allied persons

The term "covered allied persons" means military personnel, elected or appointed officials, and other persons employed by or working on behalf of the government of a NATO member country, a major non-NATO ally (including Australia, Egypt, Israel, Japan, Jordan, Argentina, the Republic of Korea, and New Zealand), or Taiwan, for so long as that government is not a party to the International Criminal Court and wishes its officials and other persons working on its behalf to be exempted from the jurisdiction of the International Criminal Court.

(4) Covered United States persons

The term "covered United States persons" means members of the Armed Forces of the United States, elected or appointed officials of the United States Government, and other persons employed by or working on behalf of the United States Government, for so long as the United States is not a party to the International Criminal Court.

(5) Extradition

The terms "extradition" and "extradite" mean the extradition of a person in accordance with the provisions of chapter 209 of title 18 (including section 3181(b) of such title) and such terms include both extradition and surrender as those terms are defined in Article 102 of the Rome Statute.

(6) International Criminal Court

The term "International Criminal Court" means the court established by the Rome Statute.

(7) Major non-NATO ally

The term "major non-NATO ally" means a country that has been so designated in accordance with section 517 of the Foreign Assistance Act of 1961 [22 U.S.C. 2321k].

(8) Participate in any peacekeeping operation under chapter VI of the charter of the United Nations or peace enforcement operation under chapter VII of the charter of the United Nations

The term "participate in any peacekeeping operation under chapter VI of the charter of the United Nations or peace enforcement operation under chapter VII of the charter of the United Nations" means to assign members of the Armed Forces of the United States to a United Nations military command structure as part of a peacekeeping operation under chapter VI of the charter of the United Nations or peace enforcement operation under chapter VII of the charter of the United Nations in which those members of the Armed Forces of the United States are subject to the command or operational control of one or more foreign military officers not appointed in conformity with article II, section 2, clause 2 of the Constitution of the United States.

(9) Party to the International Criminal Court

The term "party to the International Criminal Court" means a government that has deposited an instrument of ratification, acceptance, approval, or accession to the Rome Statute, and has not withdrawn from the Rome Statute pursuant to Article 127 thereof.

(10) Peacekeeping operation under chapter VI of the charter of the United Nations or peace enforcement operation under chapter VII of the charter of the United Nations

The term "peacekeeping operation under chapter VI of the charter of the United Nations or peace enforcement operation under chapter VII of the charter of the United Nations" means any military operation to maintain or restore international peace and security that—

(A) is authorized by the United Nations Security Council under chapter VI or VII of the charter of the United Nations; and

(B) is paid for from assessed contributions of United Nations members that are made available for peacekeeping or peace enforcement activities.

(11) Rome Statute

The term "Rome Statute" means the Rome Statute of the International Criminal Court, adopted by the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court on July 17, 1998.

(12) Support

The term "support" means assistance of any kind, including financial support, transfer of property or other material support, services, intelligence sharing, law enforcement cooperation, the training or detail of personnel, and the arrest or detention of individuals.

(Pub. L. 107–206, title II, §2013, Aug. 2, 2002, 116 Stat. 907; Pub. L. 109–364, div. A, title XII, §1222, Oct. 17, 2006, 120 Stat. 2423; Pub. L. 110–181, div. A, title XII, §1212(b)(2), Jan. 28, 2008, 122 Stat. 371.)

REFERENCES IN TEXT

Executive Order 12958, referred to in par. (2), which was formerly set out as a note under section 435 (now section 3161) of Title 50, War and National Defense, was revoked by Ex. Ord. No. 13526, §6.2(g), Dec. 29, 2009, 75 F.R. 731.

AMENDMENTS

2008—Par. (13). Pub. L. 110–181 struck out par. (13) which defined "United States military assistance".
2006—Par. (13)(A). Pub. L. 109–364 struck out "or 5" before "of part II".

CHANGE OF NAME

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§7433. Assistance to international efforts

Nothing in this subchapter shall prohibit the United States from rendering assistance to international efforts to bring to justice Saddam Hussein, Slobodan Milosovic, Osama bin Laden, other members of Al Queda, leaders of Islamic Jihad, and other foreign nationals accused of genocide, war crimes or crimes against humanity.

(Pub. L. 107–206, title II, §2015, Aug. 2, 2002, 116 Stat. 909.)

CHAPTER 82—AFGHANISTAN FREEDOM SUPPORT

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§7501. Definition

In this chapter, the term "Government of Afghanistan" includes—

(1) the government of any political subdivision of Afghanistan; and

(2) any agency or instrumentality of the Government of Afghanistan.

(Pub. L. 107–327, §1(c), Dec. 4, 2002, 116 Stat. 2797.)

SHORT TITLE OF 2004 AMENDMENT

Pub. L. 108–458, title VII, §7104(a), Dec. 17, 2004, 118 Stat. 3780, provided that: "This section [enacting sections 7536a and 7555 of this title, amending sections 7513, 7514, 7518, 7536, 7537, 7538, and 7554 of this title, repealing section 2374 of this title, and enacting provisions set out as notes under sections 7511, 7513, 7514, and 7536 of this title] may be cited as the 'Afghanistan Freedom Support Act Amendments of 2004'."

SHORT TITLE

Pub. L. 107–327, §1(a), Dec. 4, 2002, 116 Stat. 2797, provided that: "This Act [enacting this chapter] may be cited as the 'Afghanistan Freedom Support Act of 2002'."

SUBCHAPTER I—ECONOMIC AND DEMOCRATIC DEVELOPMENT ASSISTANCE FOR AFGHANISTAN

§7511. Declaration of policy

Congress makes the following declarations:

(1) The United States and the international community should support efforts that advance the development of democratic civil authorities and institutions in Afghanistan and the establishment of a new broad-based, multi-ethnic, gender-sensitive, and fully representative government in Afghanistan.

(2) The United States, in particular, should provide its expertise to meet immediate humanitarian and refugee needs, fight the production and flow of illicit narcotics, and aid in the

reconstruction of Afghanistan.

(3) By promoting peace and security in Afghanistan and preventing a return to conflict, the United States and the international community can help ensure that Afghanistan does not again become a source for international terrorism.

(4) The United States should support the objectives agreed to on December 5, 2001, in Bonn, Germany, regarding the provisional arrangement for Afghanistan as it moves toward the establishment of permanent institutions and, in particular, should work intensively toward ensuring the future neutrality of Afghanistan, establishing the principle that neighboring countries and other countries in the region do not threaten or interfere in one another's sovereignty, territorial integrity, or political independence, including supporting diplomatic initiatives to support this goal.

(5) The special emergency situation in Afghanistan, which from the perspective of the American people combines security, humanitarian, political, law enforcement, and development imperatives, requires that the President should receive maximum flexibility in designing, coordinating, and administering efforts with respect to assistance for Afghanistan and that a temporary special program of such assistance should be established for this purpose.

(6) To foster stability and democratization and to effectively eliminate the causes of terrorism, the United States and the international community should also support efforts that advance the development of democratic civil authorities and institutions in the broader Central Asia region.

(Pub. L. 107–327, title I, §101, Dec. 4, 2002, 116 Stat. 2798.)

CONSULTATIONS WITH CONGRESS ON A BILATERAL SECURITY AGREEMENT WITH AFGHANISTAN

Pub. L. 112–239, div. A, title XII, §1225, Jan. 2, 2013, 126 Stat. 1999, provided that:

"(a) CONSULTATIONS REQUIRED.—Commencing not later than 30 days after the date of the enactment of this Act [Jan. 2, 2013], the President shall consult periodically with the appropriate committees of Congress on the status of the negotiations on a bilateral security agreement between the United States of America and the Islamic Republic of Afghanistan. Such consultations shall include a briefing summarizing the purpose, objectives, and key issues relating to the agreement.

"(b) AVAILABILITY OF AGREEMENT TEXT.—Before entering into any bilateral security agreement with Afghanistan, the President shall make available to the appropriate committees of Congress the text of such agreement.

"(c) TERMINATION OF CONSULTATIONS.—The requirements of this section shall terminate on the date on which the United States and Afghanistan enter into a bilateral security agreement or the President notifies Congress that negotiations on such an agreement have been terminated.

"(d) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term 'appropriate committees of Congress' means—

"(1) the Committee on Armed Services and the Committee on Foreign Relations of the Senate; and

"(2) the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives."

STRATEGY FOR THE UNITED STATES RELATIONSHIP WITH AFGHANISTAN

Pub. L. 110–53, title XX, §2041, Aug. 3, 2007, 121 Stat. 518, provided that:

"(a) CONGRESSIONAL FINDINGS.—Congress finds the following:

"(1) A democratic, stable, and prosperous Afghanistan is vital to the national security of the United States and to combating international terrorism.

"(2) Following the ouster of the Taliban regime in 2001, the Government of Afghanistan, with assistance from the United States and the international community, has achieved some notable successes, including—

"(A) adopting a constitution;

"(B) holding presidential, parliamentary, and provincial council elections;

"(C) improving the protection of human rights, including women's rights; and

"(D) expanding educational opportunities.

"(3) The following factors pose a serious and immediate threat to the stability of Afghanistan:

"(A) Taliban and anti-government forces, al Qaeda, and criminal networks.

"(B) Drug trafficking and corruption.

"(C) Weak institutions of administration, security, and justice, including pervasive lack of the rule of law.

"(D) Poverty, unemployment, and lack of provision of basic services.

"(4) The United States and the international community must significantly increase political, economic, and military support to Afghanistan to ensure its long-term stability and prosperity, and to deny violent extremist groups such as al Qaeda sanctuary in Afghanistan.

"(b) STATEMENTS OF POLICY.—The following shall be the policies of the United States:

"(1) The United States shall vigorously support the people and Government of Afghanistan as they continue to commit to the path toward a government representing and protecting the rights of all Afghans, and shall maintain its long-term commitment to the people of Afghanistan by increased assistance and the continued deployment of United States troops in Afghanistan as long as the Government of Afghanistan supports such United States involvement.

"(2) In order to reduce the ability of the Taliban and al Qaeda to finance their operations through the opium trade, the President shall engage aggressively with the Government of Afghanistan, countries in the region or otherwise influenced by the trade and transit of narcotics, as well as North Atlantic Treaty Organization (NATO) partners of the United States, and in consultation with Congress, to assess the success of the current Afghan counter-narcotics strategy and to explore additional options for addressing the narcotics crisis in Afghanistan, including possible changes in rules of engagement for NATO and Coalition forces for participation in actions against narcotics trafficking and kingpins, and the provision of comprehensive assistance to farmers who rely on opium for their livelihood, including through the promotion of alternative crops and livelihoods.

"(3) The United States shall continue to work with and provide assistance to the Government of Afghanistan to strengthen local and national government institutions and the rule of law, including the training of judges and prosecutors, and to train and equip the Afghan National Security Forces.

"(4) The United States shall continue to call on NATO members participating in operations in Afghanistan to meet their commitments to provide forces and equipment, and to lift restrictions on how such forces can be deployed.

"(5) The United States shall continue to foster greater understanding and cooperation between the Governments of Afghanistan and Pakistan by taking the following actions:

"(A) Facilitating greater communication, including through official mechanisms such as the Tripartite Commission and the Joint Intelligence Operations Center, and by promoting other forms of exchange between the parliaments and civil society of the two countries.

"(B) Urging the Government of Afghanistan to enter into a political dialogue with Pakistan with respect to all issues relating to the border between the two countries, with the aim of establishing a mutually-recognized and monitored border, open to human and economic exchange, and with both countries fully responsible for border security.

"(c) STATEMENT OF CONGRESS.—Congress strongly urges that the Afghanistan Freedom Support Act of 2002 (22 U.S.C. 7501 et seq.) be reauthorized and updated to take into account new developments in Afghanistan and in the region so as to demonstrate the continued support by the United States for the people and Government of Afghanistan.

"(d) EMERGENCY INCREASE IN EFFECTIVE POLICE TRAINING AND POLICING OPERATIONS.—

"(1) CONGRESSIONAL FINDING.—Congress finds that police training programs in Afghanistan have achieved far less return on substantial investment to date and require a substantive review and justification of the means and purposes of such assistance, consequent to any provision of additional resources.

"(2) ASSISTANCE AUTHORIZED.—The President shall make increased efforts, on an urgent basis, to—

"(A) dramatically improve the capability and effectiveness of United States and international police trainers, mentors, and police personnel for police training programs in Afghanistan, as well as develop a pretraining screening program;

"(B) increase the numbers of such trainers, mentors, and personnel only if such increase is determined to improve the performance and capabilities of the Afghanistan civil security forces; and

"(C) assist the Government of Afghanistan, in conjunction with the Afghanistan civil security forces and their leadership, in addressing the corruption crisis that is threatening to undermine Afghanistan's future.

"(3) REPORT.—Not later than 180 days after the date of the enactment of this Act [Aug. 3, 2007], and every 6 months thereafter until September 30, 2010, the President shall transmit to the appropriate

congressional committees a report on United States efforts to fulfill the requirements of this subsection. The report required by this paragraph may be transmitted concurrently with any similar report required by the Afghanistan Freedom Support Act of 2002 [22 U.S.C. 7501 et seq.]."

[For definition of "appropriate congressional committees" as used in section 2041 of Pub. L. 110–53, set out above, see section 2002 of Pub. L. 110–53, set out as a note under section 2151 of this title.]

[For assignment of functions of President under section 2041(d)(3) of Pub. L. 110–53, set out above, see Memorandum of President of the United States, Sept. 28, 2007, 72 F.R. 56871, set out as a note under section 2228 of this title.]

COORDINATION OF ASSISTANCE

Pub. L. 108–458, title VII, §7104(b), Dec. 17, 2004, 118 Stat. 3780, provided that:

"(1) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

"(A) The United States and its allies in the international community have made progress in promoting economic and political reform within Afghanistan, including the establishment of a central government with a democratic constitution, a new currency, and a new army, the increase of personal freedom, and the elevation of the standard of living of many Afghans.

"(B) A number of significant obstacles must be overcome if Afghanistan is to become a secure and prosperous democracy, and such a transition depends in particular upon—

"(i) improving security throughout the country;

"(ii) disarming and demobilizing militias;

"(iii) curtailing the rule of the warlords;

"(iv) promoting equitable economic development;

"(v) protecting the human rights of the people of Afghanistan;

"(vi) continuing to hold elections for public officials; and

"(vii) ending the cultivation, production, and trafficking of narcotics.

"(C) The United States and the international community must make a long-term commitment to addressing the unstable security situation in Afghanistan and the burgeoning narcotics trade, endemic poverty, and other serious problems in Afghanistan in order to prevent that country from relapsing into a sanctuary for international terrorism.

"(2) SENSE OF CONGRESS.—It is the sense of Congress that the United States Government should take, with respect to Afghanistan, the following actions:

"(A) Work with other nations to obtain long-term security, political, and financial commitments and fulfillment of pledges to the Government of Afghanistan to accomplish the objectives of the Afghanistan Freedom Support Act of 2002 (22 U.S.C. 7501 et seq.), especially to ensure a secure, democratic, and prosperous Afghanistan that respects the rights of its citizens and is free of international terrorist organizations.

"(B) Use the voice and vote of the United States in relevant international organizations, including the North Atlantic Treaty Organization and the United Nations Security Council, to strengthen international commitments to assist the Government of Afghanistan in enhancing security, building national police and military forces, increasing counter-narcotics efforts, and expanding infrastructure and public services throughout the country.

"(C) Take appropriate steps to increase the assistance provided under programs of the Department of State and the United States Agency for International Development throughout Afghanistan and to increase the number of personnel of those agencies in Afghanistan as necessary to support the increased assistance."

DECLARATIONS OF GENERAL POLICY

Pub. L. 108–458, title VII, §7104(e)(2), Dec. 17, 2004, 118 Stat. 3782, provided that: "Congress makes the following declarations:

"(A) The United States reaffirms the support that it and other countries expressed for the report entitled 'Securing Afghanistan's Future' in their Berlin Declaration of April 2004. The United States should help enable the growth needed to create an economically sustainable Afghanistan capable of the poverty reduction and social development foreseen in the report.

"(B) The United States supports the parliamentary elections to be held in Afghanistan by April 2005 and will help ensure that such elections are not undermined, including by warlords or narcotics traffickers.

"(C) The United States continues to urge North Atlantic Treaty Organization members and other friendly countries to make much greater military contributions toward securing the peace in Afghanistan."

§7512. Purposes of assistance

The purposes of assistance authorized by this subchapter are—

(1) to help assure the security of the United States and the world by reducing or eliminating the likelihood of violence against United States or allied forces in Afghanistan and to reduce the chance that Afghanistan will again be a source of international terrorism;

(2) to support the continued efforts of the United States and the international community to address the humanitarian crisis in Afghanistan and among Afghan refugees in neighboring countries;

(3) to fight the production and flow of illicit narcotics, to control the flow of precursor chemicals used in the production of heroin, and to enhance and bolster the capacities of Afghan governmental authorities to control poppy cultivation and related activities;

(4) to help achieve a broad-based, multi-ethnic, gender-sensitive, and fully representative government in Afghanistan that is freely chosen by the people of Afghanistan and that respects the human rights of all Afghans, particularly women, including authorizing assistance for the rehabilitation and reconstruction of Afghanistan with a particular emphasis on meeting the educational, health, and sustenance needs of women and children to better enable their full participation in Afghan society;

(5) to support the Government of Afghanistan in its development of the capacity to facilitate, organize, develop, and implement projects and activities that meet the needs of the Afghan people;

(6) to foster the participation of civil society in the establishment of the new Afghan government in order to achieve a broad-based, multi-ethnic, gender-sensitive, fully representative government freely chosen by the Afghan people, without prejudice to any decisions which may be freely taken by the Afghan people about the precise form in which their government is to be organized in the future;

(7) to support the reconstruction of Afghanistan through, among other things, programs that create jobs, facilitate clearance of landmines, and rebuild the agriculture sector, the health care system, and the educational system of Afghanistan;

(8) to provide resources to the Ministry for Women's Affairs of Afghanistan to carry out its responsibilities for legal advocacy, education, vocational training, and women's health programs; and

(9) to foster the growth of a pluralistic society that promotes and respects religious freedom.

(Pub. L. 107–327, title I, §102, Dec. 4, 2002, 116 Stat. 2798.)

§7513. Authorization of assistance

(a) In general

Notwithstanding any other provision of law, the President is authorized to provide assistance for Afghanistan for the following activities:

(1) Urgent humanitarian needs

To assist in meeting the urgent humanitarian needs of the people of Afghanistan, including assistance such as—

(A) emergency food, shelter, and medical assistance;

(B) clean drinking water and sanitation;

(C) preventative health care, including childhood vaccination, therapeutic feeding, maternal child health services, and infectious diseases surveillance and treatment;

(D) family tracing and reunification services; and

(E) clearance of landmines and other unexploded ordinance.[1]

(2) Repatriation and resettlement of refugees and internally displaced persons

To assist refugees and internally displaced persons as they return to their home communities in Afghanistan and to support their reintegration into those communities, including assistance such

as—

(A) assistance identified in paragraph (1);

(B) assistance to communities, including those in neighboring countries, that have taken in large numbers of refugees in order to rehabilitate or expand social, health, and educational services that may have suffered as a result of the influx of large numbers of refugees;

(C) assistance to international organizations and host governments in maintaining security by screening refugees to ensure the exclusion of armed combatants, members of foreign terrorist organizations, and other individuals not eligible for economic assistance from the United States; and

(D) assistance for voluntary refugee repatriation and reintegration inside Afghanistan and continued assistance to those refugees who are unable or unwilling to return, and humanitarian assistance to internally displaced persons, including those persons who need assistance to return to their homes, through the United Nations High Commissioner for Refugees and other organizations charged with providing such assistance.

(3) Counternarcotics efforts

(A) To assist in the eradication of poppy cultivation, the disruption of heroin production, and the reduction of the overall supply and demand for illicit narcotics in Afghanistan and the region, with particular emphasis on assistance to—

(i) eradicate opium poppy, promote alternatives to poppy cultivation, including the introduction of high value crops that are suitable for export and the provision of appropriate technical assistance and credit mechanisms for farmers, purchase nonopium products from farmers in opium-growing areas, quick-impact public works programs to divert labor from narcotics production, develop projects directed specifically at narcotics production, processing, or trafficking areas to provide incentives to cooperation in narcotics suppression activities, and related programs;

(ii) establish or provide assistance to one or more entities within the Government of Afghanistan, including the Afghan State High Commission for Drug Control, and to provide training and equipment for the entities, to help enforce counternarcotics laws in Afghanistan and limit illicit narcotics growth, production, and trafficking in Afghanistan, and to create special counternarcotics courts, prosecutors, and places of incarceration;

(iii) train and provide equipment for customs, police, and other border control entities in Afghanistan and the region relating to illicit narcotics interdiction and relating to precursor chemical controls and interdiction to help disrupt heroin production in Afghanistan and the region, in particular, notwithstanding section 2420 of this title, by providing non-lethal equipment, training (including training in internationally recognized standards of human rights, the rule of law, anti-corruption, and the promotion of civilian police roles that support democracy), and payments, during fiscal years 2005 through 2008, for salaries for special counternarcotics police and supporting units;

(iv) continue the annual opium crop survey and strategic studies on opium crop planting and farming in Afghanistan;

(v) reduce demand for illicit narcotics among the people of Afghanistan, including refugees returning to Afghanistan; and

(vi) assist the Afghan National Army with respect to any of the activities under this paragraph.

(B) For each of the fiscal years 2003 through 2006, $15,000,000 is authorized to be appropriated to the President to be made available for a contribution to the United Nations Drug Control Program for the purpose of carrying out activities described in clauses (i) through (v) of subparagraph (A). Amounts made available under the preceding sentence are in addition to amounts otherwise available for such purposes.

(4) Reestablishment of food security, rehabilitation of the agriculture sector, improvement in health conditions, and the reconstruction of basic infrastructure

To assist in expanding access to markets in Afghanistan, to increase the availability of food in markets in Afghanistan, to rehabilitate the agriculture sector in Afghanistan by creating jobs for former combatants, returning refugees, and internally displaced persons, to improve health conditions, and assist in the rebuilding of basic infrastructure in Afghanistan, including assistance such as—

(A) rehabilitation of the agricultural infrastructure, including irrigation systems and rural roads;

(B) extension of credit;

(C) provision of critical agricultural inputs, such as seeds, tools, and fertilizer, and strengthening of seed multiplication, certification, and distribution systems;

(D) improvement in the quantity and quality of water available through, among other things, rehabilitation of existing irrigation systems and the development of local capacity to manage irrigation systems;

(E) livestock rehabilitation through market development and other mechanisms to distribute stocks to replace those stocks lost as a result of conflict or drought;

(F) mine awareness and demining programs and programs to assist mine victims, war orphans, and widows;

(G) programs relating to infant and young child feeding, immunizations, vitamin A supplementation, and prevention and treatment of diarrheal diseases and respiratory infections;

(H) programs to improve maternal and child health and reduce maternal and child mortality;

(I) programs to improve hygienic and sanitation practices and for the prevention and treatment of infectious diseases, such as tuberculosis and malaria;

(J) programs to reconstitute the delivery of health care, including the reconstruction of health clinics or other basic health infrastructure, with particular emphasis on health care for children who are orphans;

(K) programs for housing (including repairing homes damaged during military operations), rebuilding urban infrastructure, and supporting basic urban services;

(L) disarmament, demobilization, and reintegration of armed combatants into society, particularly child soldiers; and

(M) assistance in identifying and surveying key road and rail routes that are essential for economic renewal in Afghanistan and the region and support for the establishment of a customs service and training for customs officers.

(5) Education, the rule of law, and related issues

(A) Education

To assist in the development of the capacity of the Government of Afghanistan to provide education to the people of Afghanistan, including assistance such as—

(i) support for an educated citizenry through improved access to basic education, with particular emphasis on basic education for children, especially orphans;

(ii) programs to enable the Government of Afghanistan to recruit and train teachers, with special focus on the recruitment and training of female teachers;

(iii) programs to enable the Government of Afghanistan to develop school curricula that incorporate relevant information such as landmine awareness, food security and agricultural education, civic education, and human rights education, including education relating to religious freedom;

(iv) programs to construct, renovate, or rebuild, and to equip and provide teacher training, for primary schools, secondary schools, and universities; and

(v) programs to increase educational exchanges and partnerships between the United States and Afghanistan.

(B) Rule of law

To assist in the development of the rule of law and good governance and reduced corruption in Afghanistan, including assistance such as—

(i) support for the activities of the Government of Afghanistan to implement its

constitution, to develop modern legal codes and court rules, to provide for the creation of legal assistance programs, and other initiatives to promote the rule of law in Afghanistan;

(ii) support for improvements in the capacity and physical infrastructure of the justice system in Afghanistan, such as for professional training (including for women) to improve the administration of justice, for programs to enhance prosecutorial and judicial capabilities and to protect participants in judicial cases, for improvements in the instruction of law enforcement personnel (including human rights training), and for the promotion of civilian police roles that support democracy;

(iii) support for rehabilitation and rebuilding of courthouses and detention facilities;

(iv) support for the effective administration of justice at the national, regional, and local levels, including programs to improve penal institutions and the rehabilitation of prisoners, and to establish a responsible and community-based police force;

(v) support to increase the transparency, accountability, and participatory nature of governmental institutions, including programs designed to combat corruption and other programs for the promotion of good governance, such as the development of regulations relating to financial disclosure for public officials, political parties, and candidates for public office, and transparent budgeting processes and financial management systems;

(vi) support for establishment of a central bank and central budgeting authority;

(vii) support for international organizations that provide civil advisers to the Government of Afghanistan; and

(viii) support for Afghan and international efforts to investigate human rights atrocities committed in Afghanistan by the Taliban regime, opponents of such regime, and terrorist groups operating in Afghanistan, including the collection of forensic evidence relating to such atrocities.

(C) Civil society and democracy

To support the development of democratic institutions in Afghanistan, including assistance for—

(i) international monitoring and observing of, and the promotion of, free and fair elections;

(ii) strengthening democratic political parties;

(iii) international exchanges and professional training for members or officials of government, political, and civic or other nongovernmental entities;

(iv) national, regional, and local elections and political party development;

(v) an independent media;

(vi) programs that support the expanded participation of women and members of all ethnic groups in government at national, regional, and local levels; and

(vii) programs to strengthen civil society organizations that promote human rights, including religious freedom, freedom of expression, and freedom of association, and support human rights monitoring.

(D) Protection of sites

To provide for the protection of Afghanistan's culture, history, and national identity, including the rehabilitation of Afghanistan's museums and sites of cultural significance.

(6) Market economy

To support the establishment of a market economy, the establishment of private financial institutions, the adoption of policies to promote foreign direct investment, the development of a basic telecommunication infrastructure, and the development of trade and other commercial links with countries in the region and with the United States, including policies to—

(A) encourage the return of Afghanistan citizens or nationals living abroad who have marketable and business-related skills;

(B) establish financial institutions, including credit unions, cooperatives, and other entities providing microenterprise credits and other income-generation programs for the poor, with particular emphasis on women;

(C) facilitate expanded trade with countries in the region;

(D) promote and foster respect for basic workers' rights and protections against exploitation of child labor;

(E) develop handicraft and other small-scale industries; and

(F) provide financing programs for the reconstruction of Kabul and other major cities in Afghanistan.

(7) Assistance to women and girls

(A) Assistance objectives

To assist women and girls in Afghanistan in the areas of political and human rights, health care, education, training, security, and shelter, with particular emphasis on assistance—

(i) to support construction of, provide equipment and medical supplies to, and otherwise facilitate the establishment and rehabilitation of, health care facilities in order to improve the health care of women, children, and infants;

(ii) to expand immunization programs for women and children;

(iii) to establish, maintain, and expand primary and secondary schools for girls that include mathematics, science, and languages in their primary curriculum;

(iv) to develop and expand technical and vocational training programs and income-generation projects for women;

(v) to provide special educational opportunities for girls whose schooling was ended by the Taliban, and to support the ability of women to have access to higher education;

(vi) to develop and implement programs to protect women and girls against sexual and physical abuse, abduction, trafficking, exploitation, and sex discrimination in the delivery of humanitarian supplies and services;

(vii) to provide emergency shelters for women and girls who face danger from violence;

(viii) to direct humanitarian assistance to widows, who make up a very large and needy population in war-torn Afghanistan;

(ix) to support the work of women-led and local nongovernmental organizations with demonstrated experience in delivering services to Afghan women and children;

(x) to disseminate information throughout Afghanistan on the rights of women and on international standards of human rights, including the rights of religious freedom, freedom of expression, and freedom of association;

(xi) to provide women's rights and human rights training for military, police, and legal personnel; and

(xii) to support the Afghan Independent Human Rights Commission in programs to promote women's rights and human rights, including the rights of religious freedom, freedom of expression, and freedom of association, and in the investigation and monitoring of women's rights and human rights abuses.

(B) Availability of funds

For each of the fiscal years 2003 through 2006—

(i) $15,000,000 is authorized to be appropriated to the President to be made available to the Afghan Ministry of Women's Affairs; and

(ii) $5,000,000 is authorized to be appropriated to the President to be made available to the National Human Rights Commission of Afghanistan.

(C) Relation to other available funds

Amounts made available under subparagraph (B) are in addition to amounts otherwise available for such purposes.

(b) Limitation

(1) In general

Amounts made available to carry out this subchapter (except amounts made available for assistance under paragraphs (1) through (3) and subparagraphs (F) through (I) of paragraph (4) of

subsection (a)) may be provided only if the President first determines and certifies to Congress with respect to the fiscal year involved that progress is being made toward adopting a constitution and establishing a democratically elected government for Afghanistan that respects human rights.

(2) Waiver

(A) In general

The President may waive the application of paragraph (1) if the President first determines and certifies to Congress that it is important to the national interest of the United States to do so.

(B) Contents of certification

A certification transmitted to Congress under subparagraph (A) shall include a written explanation of the basis for the determination of the President to waive the application of paragraph (1).

(c) Enterprise fund

(1) Authorization of appropriations

In addition to funds otherwise available for such purpose, there are authorized to be appropriated to the President for an enterprise fund for Afghanistan $300,000,000. The provisions contained in section 5421 of this title (excluding the authorizations of appropriations provided in subsection (b) of that section) shall apply with respect to such enterprise fund and to funds made available to such enterprise fund under this subsection.

(2) Availability of funds

Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

(d) Monitoring of assistance for Afghanistan

(1) Report

(A) In general

The Secretary of State, in consultation with the Administrator for the United States Agency for International Development, shall submit to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives a report on the obligations of United States assistance for Afghanistan from all United States Government departments and agencies.

(B) Contents

Each such report shall set forth, for the preceding annual period and cumulatively, a description of—

(i) the activities and the purposes for which funds were obligated;

(ii) the source of the funds stated specifically by fiscal year, agency, and program;

(iii) the participation of each United States Government department or agency; and

(iv) such other information as the Secretary considers appropriate to fully inform Congress on such matters.

(C) Additional requirements

The first report submitted under this paragraph shall include a cumulative account of information described in subparagraph (B) from all prior periods beginning with fiscal year 2001. The first report under this paragraph shall be submitted not later than March 15, 2005. Subsequent reports shall be submitted every 12 months thereafter and may be included in the report required under section 7536(c)(2) [2] of this title.

(2) Submission of information for report

The head of each United States Government agency referred to in paragraph (1) shall provide on a timely basis to the Secretary of State such information as the Secretary may reasonably require to allow the Secretary to prepare and submit the report required under paragraph (1).

(Pub. L. 107–327, title I, §103, Dec. 4, 2002, 116 Stat. 2799; Pub. L. 108–458, title VII, §7104(e)(1)(B), (f)(2)–(g), (j)(1), (k)(2), Dec. 17, 2004, 118 Stat. 3782, 3783, 3785, 3787, 3788.)

REFERENCES IN TEXT

Section 7536 of this title, referred to in subsec. (d)(1)(C), was omitted from the Code.

AMENDMENTS

2004—Subsec. (a). Pub. L. 108–458, §7104(e)(1)(B), substituted "any other" for "section 512 of Public Law 107–115 or any other similar" in introductory provisions.

Subsec. (a)(3)(A)(i). Pub. L. 108–458, §7104(j)(1)(A), substituted "promote alternatives to poppy cultivation, including the introduction of high value crops that are suitable for export and the provision of appropriate technical assistance and credit mechanisms for farmers," for "establish crop substitution programs,".

Subsec. (a)(3)(A)(ii). Pub. L. 108–458, §7104(j)(1)(B), inserted ", and to create special counternarcotics courts, prosecutors, and places of incarceration" before semicolon at end.

Subsec. (a)(3)(A)(iii). Pub. L. 108–458, §7104(j)(1)(C), inserted before semicolon at end ", in particular, notwithstanding section 2420 of this title, by providing non-lethal equipment, training (including training in internationally recognized standards of human rights, the rule of law, anti-corruption, and the promotion of civilian police roles that support democracy), and payments, during fiscal years 2005 through 2008, for salaries for special counternarcotics police and supporting units".

Subsec. (a)(3)(A)(vi). Pub. L. 108–458, §7104(j)(1)(D)–(F), added cl. (vi).

Subsec. (a)(4)(M). Pub. L. 108–458, §7104(f)(3), added subpar. (M).

Subsec. (a)(5). Pub. L. 108–458, §7104(f)(2), amended heading and text of par. (5) generally, substituting provisions relating to education, the rule of law, and related issues, for provisions relating to reestablishment of Afghanistan as a viable nation-state.

Subsec. (a)(7)(A)(xii). Pub. L. 108–458, §7104(k)(2), substituted "Afghan Independent" for "National".

Subsec. (d). Pub. L. 108–458, §7104(g), added subsec. (d).

CHANGE OF NAME

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

PLAN REQUIRED TO PROMOTE SECURITY OF AFGHAN WOMEN AND GIRLS

Pub. L. 114–328, div. A, title XV, §1521(c)(2), Dec. 23, 2016, 130 Stat. 2576, provided that:

"(A) IN GENERAL.—The Secretary of Defense, with the concurrence of the Secretary of State, shall support, to the extent practicable, the efforts of the Government of Afghanistan to promote the security of Afghan women and girls during and after the security transition process through the development and implementation by the Government of Afghanistan of an Afghan-led plan that should include the elements described in this paragraph.

"(B) TRAINING.—The Secretary of Defense, with the concurrence of the Secretary of State and working with the NATO-led Resolute Support mission, should encourage the Government of Afghanistan to develop—

"(i) measures for the evaluation of the effectiveness of existing training for Afghan National Security Forces on this issue;

"(ii) a plan to increase the number of female security officers specifically trained to address cases of gender-based violence, including ensuring the Afghan National Police's Family Response Units have the necessary resources and are available to women across Afghanistan;

"(iii) mechanisms to enhance the capacity for units of National Police's Family Response Units to fulfill their mandate as well as indicators measuring the operational effectiveness of these units;

"(iv) a plan to address the development of accountability mechanisms for Afghanistan National Army and Afghanistan National Police personnel who violate codes of conduct relating to the human rights of women and girls, including female members of the Afghan National Security Forces;

"(v) a plan to address the development of accountability mechanisms for Afghanistan National Army and Afghanistan National Police personnel who violate codes of conduct relating to protecting children from sexual abuse; and

"(vi) a plan to develop training for the Afghanistan National Army and the Afghanistan National Police to increase awareness and responsiveness among Afghanistan National Army and Afghanistan National Police personnel regarding the unique security challenges women confront when serving in those forces.

"(C) ENROLLMENT AND TREATMENT.—The Secretary of Defense, with the concurrence of the

Secretary of State and in cooperation with the Afghan Ministries of Defense and Interior, shall seek to assist the Government of Afghanistan in including as part of the plan developed under subparagraph (A) the development and implementation of a plan to increase the number of female members of the Afghanistan National Army and the Afghanistan National Police and to promote their equal treatment, including through such steps as providing appropriate equipment, modifying facilities, and ensuring literacy and gender awareness training for recruits.

"(D) ALLOCATION OF FUNDS.—

"(i) IN GENERAL.—Of the funds available to the Department of Defense for the Afghan Security Forces Fund for fiscal year 2017, it is the goal that $25,000,000, but in no event less than $10,000,000, shall be used for—

"(I) the recruitment, integration, retention, training, and treatment of women in the Afghan National Security Forces; and

"(II) the recruitment, training, and contracting of female security personnel for future elections.

"(ii) TYPES OF PROGRAMS AND ACTIVITIES.—Such programs and activities may include—

"(I) efforts to recruit women into the Afghan National Security Forces, including the special operations forces;

"(II) programs and activities of the Afghan Ministry of Defense Directorate of Human Rights and Gender Integration and the Afghan Ministry of Interior Office of Human Rights, Gender and Child Rights;

"(III) development and dissemination of gender and human rights educational and training materials and programs within the Afghan Ministry of Defense and the Afghan Ministry of Interior;

"(IV) efforts to address harassment and violence against women within the Afghan National Security Forces;

"(V) improvements to infrastructure that address the requirements of women serving in the Afghan National Security Forces, including appropriate equipment for female security and police forces, and transportation for policewomen to their station;

"(VI) support for Afghanistan National Police Family Response Units; and

"(VII) security provisions for high-profile female police and army officers."

Similar provisions were contained in the following prior appropriation act:

Pub. L. 114–92, div. A, title XV, §1531(c)(2), Nov. 25, 2015, 129 Stat. 1089.

AUTHORITY TO ESTABLISH A PROGRAM TO DEVELOP AND CARRY OUT INFRASTRUCTURE PROJECTS IN AFGHANISTAN

Pub. L. 111–383, div. A, title XII, §1217, Jan. 7, 2011, 124 Stat. 4393, as amended by Pub. L. 112–81, div. A, title XII, §1217, Dec. 31, 2011, 125 Stat. 1632; Pub. L. 112–239, div. A, title XII, §1219, Jan. 2, 2013, 126 Stat. 1991; Pub. L. 113–66, div. A, title XII, §1215(a), Dec. 26, 2013, 127 Stat. 907, provided that:

"(a) AUTHORITY.—The Secretary of Defense and the Secretary of State are authorized to establish a program to develop and carry out infrastructure projects in Afghanistan in accordance with the requirements of this section.

"(b) FORMULATION AND EXECUTION OF PROGRAM.—

"(1) IN GENERAL.—The Secretary of State and the Secretary of Defense shall jointly develop any project under the program authorized under subsection (a). Except as provided in paragraph (2), the Secretary of State, in coordination with the Secretary of Defense, shall implement any project under the program authorized under subsection (a).

"(2) EXCEPTION.—The Secretary of Defense shall implement a project under the program authorized under subsection (a) if the Secretary of Defense and the Secretary of State jointly determine that the Secretary of Defense should implement the project.

"(c) TYPES OF PROJECTS.—Infrastructure projects under the program authorized under subsection (a) may include—

"(1) water, power, and transportation projects; and

"(2) other projects in support of the counterinsurgency strategy in Afghanistan.

"(d) AUTHORITY IN ADDITION TO OTHER AUTHORITIES.—The authority to establish the program and develop and carry out infrastructure projects under subsection (a) is in addition to any other authority to provide assistance to foreign countries.

"(e) APPLICABILITY OF CERTAIN ADMINISTRATIVE PROVISIONS.—

"(1) IN GENERAL.—The administrative provisions of chapter 2 of part III of the Foreign Assistance Act of 1961 (22 U.S.C. 2381 et seq.) shall apply to funds made available to the Secretary of State for purposes of carrying out infrastructure projects under the program authorized under subsection (a) to the

same extent and in the same manner as such administrative provisions apply to funds made available to carry out part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.).

"(2) GIFTS, ETC.—The Secretary of Defense and the Secretary of State may accept and use in furtherance of the purposes of this section, money, funds, property, and services of any kind made available by gift, devise, bequest, grant, or otherwise for such purposes.

"(f) FUNDING.—

"(1) IN GENERAL.—Subject to paragraph (2), to carry out the program authorized under subsection (a), the Secretary of Defense may use amounts as follows:

"(A) Up to $400,000,000 made available to the Department of Defense for operation and maintenance for fiscal year 2012.

"(B) Up to $350,000,000 made available to the Department of Defense for operation and maintenance for fiscal year 2013.

"(C) Up to $250,000,000 made available to the Department of Defense for operation and maintenance for fiscal year 2014.

"(2) LIMITATION.—The Secretary of Defense may use not more than 50 percent of the amount specified in paragraph (1) for a fiscal year after fiscal year 2011 to carry out the program authorized under subsection (a) until the Secretary of Defense, in consultation with the Secretary of State, submits to the appropriate congressional committees a plan for the allocation and use of funds under the program for such fiscal year, including for each project, or phase of a project, to be initiated during such fiscal year the following:

"(A) An estimate of the financial and other requirements necessary to sustain such project on an annual basis after the completion of such project.

"(B) An assessment whether the Government of Afghanistan is committed to and has the capacity to maintain and use such project after its completion.

"(C) An assessment of the capability of the Afghan National Security Forces (ANSF) to provide security for such project after January 1, 2015, including an estimate of the ANSF force levels, if any, required to secure such project. Such assessment should include the estimated costs of providing security and whether or not the Government of Afghanistan is committed to providing such security.

"(D) A description of any arrangements for the sustainment of such project following its completion if the Government of Afghanistan lacks the capacity (in either financial or human resources) to maintain such project.

"(3) AVAILABILITY.—Funds made available by paragraph (1) are authorized to remain available as follows:

"(A) In the case of funds for fiscal year 2011, until September 30, 2012.

"(B) In the case of funds for fiscal year 2012, until September 30, 2013.

"(C) In the case of funds for fiscal year 2013, until September 30, 2014.

"(D) In the case of funds for fiscal year 2014, until September 30, 2015.

"(g) CONGRESSIONAL NOTIFICATION.—The Secretary of Defense shall notify the appropriate congressional committees not less than 15 days before obligating or expending funds to carry out a project or transferring funds to the Secretary of State for the purpose of implementing a project under the program authorized under subsection (a). Such notification shall be in writing and contain a description of the details of the proposed project, including—

"(1) a plan for the sustainment of the project; and

"(2) a description of how the project supports the counterinsurgency strategy in Afghanistan.

"(h) RETURN OF UNEXPENDED FUNDS.—

"(1) IN GENERAL.—Any unexpended funds transferred to the Secretary of State for the purpose of implementing a project under the program authorized under subsection (a) shall be returned to the Secretary of Defense if the Secretary of State, in coordination with the Secretary of Defense, determines that the project cannot be implemented for any reason or that the project no longer supports the counterinsurgency strategy in Afghanistan.

"(2) AVAILABILITY.—Any funds returned to the Secretary of Defense under this subsection shall be available for use under this section and shall be treated in the same manner as funds not transferred to the Secretary of State.

"(i) REPORTS.—

"(1) REPORT REQUIRED.—Not later than 30 days after the end of each fiscal year in which funds are obligated, expended, or transferred under the program authorized under subsection (a), the Secretary of Defense, in coordination with the Secretary of State, shall submit to the appropriate congressional committees a report regarding implementation of the program during such fiscal year.

"(2) MATTERS TO BE INCLUDED.—The report required under paragraph (1) shall include the following:

"(A) The allocation and use of funds under the program during the fiscal year.

"(B) A description of each project for which funds were expended or transferred during the fiscal year.

"(j) DEFINITION.—In this section, the term 'appropriate congressional committees' means—

"(1) the Committee on Armed Services, the Committee on Foreign Affairs, and the Committee on Appropriations of the House of Representatives; and

"(2) the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Appropriations of the Senate."

[Pub. L. 113–66, div. A, title XII, §1215(b), Dec. 26, 2013, 127 Stat. 908, provided that: "The amendments made by this section [amending section 1217 of Pub. L. 111–383, set out above] shall take effect on October 1, 2013."]

[For termination, effective Dec. 31, 2021, of annual reporting provisions in section 1217(i) of Pub. L. 111–383, set out above, see section 1061 of Pub. L. 114–328, set out as a note under section 111 of Title 10, Armed Forces.]

PERFORMANCE MONITORING SYSTEM FOR UNITED STATES-LED PROVINCIAL RECONSTRUCTION TEAMS IN AFGHANISTAN

Pub. L. 110–417, [div. A], title XII, §1215, Oct. 14, 2008, 122 Stat. 4632, provided that:

"(a) IN GENERAL.—The President, acting through the Secretary of Defense and the Secretary of State, shall develop and implement a system to monitor the performance of United States-led Provincial Reconstruction Teams (PRTs) in Afghanistan.

"(b) ELEMENTS OF PERFORMANCE MONITORING SYSTEM.—The performance monitoring system required under subsection (a) shall include—

"(1) PRT-specific work plans that incorporate the long-term strategy, mission, and clearly defined objectives required by section 1230(c)(3) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 386), and include plans for developing the capacity of national, provincial, and local government and other civil institutions in Afghanistan to assume increasing responsibility for the formulation, implementation, and oversight of reconstruction and development activities; and

"(2) comprehensive performance indicators and measures of progress toward sustainable long-term security and stability in Afghanistan, and include performance standards and progress goals together with a notional timetable for achieving such goals, consistent with the requirements of section 1230(d) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 388).

"(c) REPORT.—Not later than 90 days after the date of the enactment of this Act [Oct. 14, 2008], the President shall submit to the appropriate congressional committees a report on the implementation of the performance monitoring system required under subsection (a).

"(d) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term 'appropriate congressional committees' means—

"(1) the Committee on Armed Services, the Committee on Appropriations, and the Committee on Foreign Affairs of the House of Representatives; and

"(2) the Committee on Armed Services, the Committee on Appropriations, and the Committee on Foreign Relations of the Senate."

DECLARATIONS OF POLICY

Pub. L. 108–458, title VII, §7104(e)(1)(A), Dec. 17, 2004, 118 Stat. 3781, provided that: "Congress reaffirms the authorities contained in title I of the Afghanistan Freedom Support Act of 2002 (22 U.S.C. 7501 [7511] et seq.), relating to economic and democratic development assistance for Afghanistan."

Pub. L. 108–458, title VII, §7104(f)(1), Dec. 17, 2004, 118 Stat. 3783, provided that: "Congress declares that, although Afghanistan has adopted a new constitution and made progress on primary education, the United States must invest in a concerted effort in Afghanistan to improve the rule of law, good governance, and effective policing, to accelerate work on secondary and university education systems, and to establish new initiatives to increase the capacity of civil society."

RELIEF FOR AFGHAN WOMEN AND CHILDREN

Pub. L. 107–81, Dec. 12, 2001, 115 Stat. 811, provided that:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Afghan Women and Children Relief Act of 2001'.

"SEC. 2. FINDINGS.

"Congress makes the following findings:

"(1) In Afghanistan, Taliban restrictions on women's participation in society make it nearly impossible for women to exercise their basic human rights. The Taliban restrictions on Afghan women's freedom of expression, association, and movement deny women full participation in society and, consequently, from effectively securing basic access to work, education, and health care.

"(2) Afghanistan has one of the highest infant (165 of 1000) and child (257 of 1000) mortality rates in the world.

"(3) Only 5 percent of rural and 39 percent of urban Afghans have access to safe drinking water.

"(4) It is estimated that 42 percent of all deaths in Afghanistan are due to diarrheal diseases caused by contaminated food and water.

"(5) Over one-third of Afghan children under 5 years of age suffer from malnutrition, 85,000 of whom die annually.

"(6) Seventy percent of the health care system in Afghanistan is dependent on foreign assistance.

"(7) As of May 1998, only 20 percent of hospital medical and surgical beds dedicated to adults were available for women, and thousands of Afghan women and girls are routinely denied health care.

"(8) Women are forbidden to leave their homes without being escorted by a male relative. This prevents many women from seeking basic necessities like health care and food for their children. Doctors, virtually all of whom are male, are also not permitted to provide certain types of care not deemed appropriate by the Taliban.

"(9) Before the Taliban took control of Kabul, schools were coeducational, with women accounting for 70 percent of the teaching force. Women represented about 50 percent of the civil service corps, and 40 percent of the city's physicians were women. Today, the Taliban prohibits women from working as teachers, doctors, and in any other occupation.

"(10) The Taliban prohibit [sic] girls and women from attending school. In 1998, the Taliban ordered the closing of more than 100 privately funded schools where thousands of young women and girls were receiving education and training in skills that would have helped them support themselves and their families.

"(11) Of the many tens of thousands of war widows in Afghanistan, many are forced to beg for food and to sell their possessions because they are not allowed to work.

"(12) Resistance movements courageously continue to educate Afghan girls in secrecy and in foreign countries against Taliban law.

"SEC. 3. AUTHORIZATION OF ASSISTANCE.

"(a) IN GENERAL.—Subject to subsection (b), the President is authorized, on such terms and conditions as the President may determine, to provide educational and health care assistance for the women and children living in Afghanistan and as refugees in neighboring countries.

"(b) IMPLEMENTATION.—(1) In providing assistance under subsection (a), the President shall ensure that such assistance is provided in a manner that protects and promotes the human rights of all people in Afghanistan, utilizing indigenous institutions and nongovernmental organizations, especially women's organizations, to the extent possible.

"(2) Beginning 6 months after the date of enactment of this Act [Dec. 12, 2001], and at least annually for the 2 years thereafter, the Secretary of State shall submit a report to the Committee on Appropriations and the Committee on Foreign Relations of the Senate and the Committee on Appropriations and the Committee on International Relations [now Committee on Foreign Affairs] of the House of Representatives describing the activities carried out under this Act and otherwise describing the condition and status of women and children in Afghanistan and the persons in refugee camps while United States aid is given to displaced Afghans.

"(c) AVAILABILITY OF FUNDS.—Funds made available under the 2001 Emergency Supplemental Appropriations Act for Recovery from and Response to Terrorist Attacks on the United States (Public Law 107–38) [115 Stat. 220], shall be available to carry out this Act."

[1] *So in original. Probably should be "ordnance."*

[2] *See References in Text note below.*

§7514. Coordination of assistance

(a) In general

The President shall designate, within the Department of State, a coordinator who shall be responsible for—

(1) designing an overall strategy to advance United States interests in Afghanistan;

(2) ensuring program and policy coordination among agencies of the United States Government in carrying out the policies set forth in this subchapter;

(3) pursuing coordination with other countries and international organizations with respect to assistance to Afghanistan;

(4) ensuring that United States assistance programs for Afghanistan are consistent with this subchapter;

(5) ensuring proper management, implementation, and oversight by agencies responsible for assistance programs for Afghanistan; and

(6) resolving policy and program disputes among United States Government agencies with respect to United States assistance for Afghanistan.

(b) Rank and status of the coordinator

The coordinator designated under subsection (a) shall have the rank and status of ambassador.

(c) Assistance plan

(1) Submission to Congress

The coordinator designated under subsection (a) shall annually submit the Afghanistan assistance plan of the Administration to—

(A) the Committee on Foreign Relations of the Senate;

(B) the Committee on International Relations of the House of Representatives;

(C) the Committee on Appropriations of the Senate; and

(D) the Committee on Appropriations of the House of Representatives.

(2) Contents

The assistance plan submitted under paragraph (1) shall describe—

(A) how the plan relates to the strategy provided pursuant to section 7554 of this title; and

(B) how the plan builds upon United States assistance provided to Afghanistan since 2001.

(d) Coordination with international community

(1) In general

The coordinator designated under subsection (a) shall work with the international community and the Government of Afghanistan to ensure that assistance to Afghanistan is implemented in a coherent, consistent, and efficient manner to prevent duplication and waste.

(2) International financial institutions

The coordinator designated under subsection (a), under the direction of the Secretary of State, shall work through the Secretary of the Treasury and the United States Executive Directors at the international financial institutions (as defined in section 262r(c)(2) of this title) to coordinate United States assistance for Afghanistan with international financial institutions.

(Pub. L. 107–327, title I, §104, Dec. 4, 2002, 116 Stat. 2804; Pub. L. 108–458, title VII, §7104(c)(2), (d), Dec. 17, 2004, 118 Stat. 3781.)

AMENDMENTS

2004—Subsec. (a). Pub. L. 108–458, §7104(c)(2), substituted "shall" for "is strongly urged to" in introductory provisions.

Subsecs. (c), (d). Pub. L. 108–458, §7104(d), added subsecs. (c) and (d).

CHANGE OF NAME

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

FINDINGS

Pub. L. 108–458, title VII, §7104(c)(1), Dec. 17, 2004, 118 Stat. 3781, provided that: "Congress makes the following findings:

"(A) The Final Report of the National Commission on Terrorist Attacks Upon the United States criticized the provision of United States assistance to Afghanistan for being too inflexible.

"(B) The Afghanistan Freedom Support Act of 2002 (22 U.S.C. 7501 et seq.) contains provisions that provide for flexibility in the provision of assistance for Afghanistan and are not subject to the requirements of typical foreign assistance programs and provide for the designation of a coordinator to oversee United States assistance for Afghanistan."

§7515. Sense of Congress regarding promoting cooperation in opium producing areas

It is the sense of Congress that the President should—

(1) to the extent practicable, under such procedures as the President may prescribe, withhold United States bilateral assistance from, and oppose multilateral assistance to, opium-producing areas of Afghanistan if, within such areas, appropriate cooperation is not provided to the United States, the Government of Afghanistan, and international organizations with respect to the suppression of narcotics cultivation and trafficking, and if withholding such assistance would promote such cooperation;

(2) redistribute any United States bilateral assistance (and to promote the redistribution of any multilateral assistance) withheld from an opium-producing area to other areas with respect to which assistance has not been withheld as a consequence of this section; and

(3) define or redefine the boundaries of opium producing areas of Afghanistan for the purposes of this section.

(Pub. L. 107–327, title I, §105, Dec. 4, 2002, 116 Stat. 2805.)

§7516. Administrative provisions

(a) Applicable administrative authorities

Except to the extent inconsistent with the provisions of this subchapter, the administrative authorities under chapters 1 and 2 of part III of the Foreign Assistance Act of 1961 [22 U.S.C. 2351 et seq., 2381 et seq.] shall apply to the provision of assistance under this subchapter to the same extent and in the same manner as such authorities apply to the provision of economic assistance under part I of such Act [22 U.S.C. 2151 et seq.].

(b) Use of the expertise of Afghan-Americans

In providing assistance authorized by this subchapter, the President should—

(1) maximize the use, to the extent feasible, of the services of Afghan-Americans who have expertise in the areas for which assistance is authorized by this subchapter; and

(2) in the awarding of contracts and grants to implement activities authorized under this subchapter, encourage the participation of such Afghan-Americans (including organizations employing a significant number of such Afghan-Americans).

(c) Donations of manufacturing equipment; use of colleges and universities

In providing assistance authorized by this subchapter, the President, to the maximum extent practicable, should—

(1) encourage the donation of appropriate excess or obsolete manufacturing and related equipment by United States businesses (including small businesses) for the reconstruction of Afghanistan; and

(2) utilize research conducted by United States colleges and universities and the technical expertise of professionals within those institutions, particularly in the areas of agriculture and rural development.

(d) Administrative expenses

Of the funds made available to carry out the purposes of assistance authorized by this subchapter in any fiscal year, up to 7 percent may be used for administrative expenses of Federal departments and agencies in connection with the provision of such assistance.

(e) Monitoring

(1) Comptroller General

The Comptroller General shall monitor the provision of assistance under this subchapter.

(2) Inspector General of USAID

The Inspector General of the United States Agency for International Development shall conduct audits, inspections, and other activities, as appropriate, associated with the expenditure of the funds to carry out this subchapter.

(f) Priority for direct assistance to the Government of Afghanistan

To the maximum extent practicable, assistance authorized under this subchapter should be provided directly to the Government of Afghanistan (including any appropriate ministry thereof).

(Pub. L. 107–327, title I, §106, Dec. 4, 2002, 116 Stat. 2805.)

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsec. (a), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424. Part I of the Act is classified generally to subchapter I (§2151 et seq.) of chapter 32 of this title. Chapters 1 and 2 of part III of the Act are classified generally to parts I (§2351 et seq.) and II (§2381 et seq.), respectively, of subchapter III of chapter 32 of this title. For provisions deeming references to subchapter I to include parts IV (§2346 et seq.), VI (§2348 et seq.), and VIII (§2349aa et seq.) of subchapter II of chapter 32, see section 202(b) of Pub. L. 92–226, set out as a note under section 2346 of this title, and sections 2348c and 2349aa–5 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

§7517. Relationship to other authority

The authority to provide assistance under this subchapter is in addition to any other authority to provide assistance to the Government of Afghanistan.

(Pub. L. 107–327, title I, §107, Dec. 4, 2002, 116 Stat. 2806.)

§7518. Authorization of appropriations

(a) In general

There is authorized to be appropriated to the President to carry out this subchapter (other than section 7513(c) of this title) such sums as may be necessary for each of the fiscal years 2005 and 2006.

(b) Availability

Amounts appropriated pursuant to the authorization of appropriations under subsection (a) are—

(1) authorized to remain available until expended; and

(2) in addition to funds otherwise available for such purposes, including, with respect to food assistance under section 7513(a)(1) of this title, funds available under title II of the Food for Peace Act [7 U.S.C. 1721 et seq.], section 1736o of title 7, and section 1431(b) of title 7.

(Pub. L. 107–327, title I, §108, Dec. 4, 2002, 116 Stat. 2806; Pub. L. 108–106, title II, §2214, Nov. 6, 2003, 117 Stat. 1232; Pub. L. 108–458, title VII, §7104(m), Dec. 17, 2004, 118 Stat. 3788; Pub. L. 110–246, title III, §3001(c), June 18, 2008, 122 Stat. 1821.)

REFERENCES IN TEXT

The Food for Peace Act, referred to in subsec. (b)(2), is act July 10, 1954, ch. 469, 68 Stat. 454. Title II of the Act is classified generally to subchapter III (§1721 et seq.) of chapter 41 of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 1691 of Title 7 and Tables.

AMENDMENTS

2004—Subsec. (a). Pub. L. 108–458 substituted "such sums as may be necessary for each of the fiscal years 2005 and 2006." for "$1,825,000,000 for fiscal year 2004 and $425,000,000 for each of fiscal years 2005 and 2006."

2003—Subsec. (a). Pub. L. 108–106 substituted "$1,825,000,000 for fiscal year 2004 and $425,000,000 for each of fiscal years 2005 and 2006" for "$425,000,000 for each of the fiscal years 2003 through 2006".

CHANGE OF NAME

"Food for Peace Act" substituted for "Agricultural Trade Development and Assistance Act of 1954" in subsec. (b)(2) on authority of section 3001(c) of Pub. L. 110–246, set out as a note under section 1691 of Title 7, Agriculture.

SUBCHAPTER II—MILITARY ASSISTANCE FOR AFGHANISTAN AND CERTAIN OTHER FOREIGN COUNTRIES AND INTERNATIONAL ORGANIZATIONS

§§7531 to 7538. Omitted

CODIFICATION

Sections 7531 to 7538 of this title were omitted pursuant to section 7538 of this title, which provided that the authority of this subchapter expired after Sept. 30, 2006.

Section 7531, Pub. L. 107–327, title II, §201, Dec. 4, 2002, 116 Stat. 2807, related to sense of Congress regarding United States support for security during transition in Afghanistan.

Section 7532, Pub. L. 107–327, title II, §202, Dec. 4, 2002, 116 Stat. 2807; Pub. L. 108–106, title II, §2206, Nov. 6, 2003, 117 Stat. 1231; Pub. L. 108–287, title IX, §9008, Aug. 5, 2004, 118 Stat. 1008, provided authorization of drawdown assistance for Afghanistan and other eligible foreign countries and international organizations.

Section 7533, Pub. L. 107–327, title II, §203, Dec. 4, 2002, 116 Stat. 2807, described eligibility criteria for foreign countries and international organizations to receive assistance under section 7532 of this title.

Section 7534, Pub. L. 107–327, title II, §204, Dec. 4, 2002, 116 Stat. 2808, related to reimbursement to the Department of Defense for assistance.

Section 7535, Pub. L. 107–327, title II, §205, Dec. 4, 2002, 116 Stat. 2808, required the President to notify certain congressional committees before providing assistance under this subchapter.

Section 7536, Pub. L. 107–327, title II, §206, Dec. 4, 2002, 116 Stat. 2808; Pub. L. 108–458, title VII, §7104(h)(2), (i), (k)(1), Dec. 17, 2004, 118 Stat. 3786, 3788, related to promoting secure delivery of humanitarian and other assistance in Afghanistan and expansion of the International Security Assistance Force.

Section 7536a, Pub. L. 107–327, title II, §207, as added Pub. L. 108–458, title VII, §7104(j)(2)(B), Dec. 17, 2004, 118 Stat. 3787, related to sense of Congress regarding counter-drug activities in Afghanistan and required the Secretary of Defense and the Secretary of State to prepare a joint report regarding counter-drug efforts in Afghanistan.

Section 7537, Pub. L. 107–327, title II, §208, formerly §207, Dec. 4, 2002, 116 Stat. 2811; renumbered §208, Pub. L. 108–458, title VII, §7104(j)(2)(A), Dec. 17, 2004, 118 Stat. 3787, related to relationship to other legal authority to provide assistance.

Section 7538, Pub. L. 107–327, title II, §209, formerly §208, Dec. 4, 2002, 116 Stat. 2811; renumbered §209, Pub. L. 108–458, title VII, §7104(j)(2)(A), Dec. 17, 2004, 118 Stat. 3787, provided that the authority of this subchapter would expire after Sept. 30, 2006.

SUBCHAPTER III—MISCELLANEOUS PROVISIONS

§7551. Requirement to comply with procedures relating to the prohibition on assistance to drug traffickers

Assistance provided under this chapter shall be subject to the same provisions as are applicable to assistance under the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.] and the Arms Export Control Act [22 U.S.C. 2751 et seq.] under section 487 of the Foreign Assistance Act of 1961 (relating to the prohibition on assistance to drug traffickers; 22 U.S.C. 2291f), and the applicable regulations issued under that section.

(Pub. L. 107–327, title III, §301, Dec. 4, 2002, 116 Stat. 2812.)

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in text, is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, which is classified principally to chapter 32 (§2151 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

The Arms Export Control Act, referred to in text, is Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1320, as amended, which is classified principally to chapter 39 (§2751 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

§7552. Sense of Congress regarding protecting Afghanistan's President

It is the sense of Congress that—

(1) any United States physical protection force provided for the personal security of the President of Afghanistan should be composed of United States diplomatic security, law-enforcement, or military personnel, and should not utilize private contracted personnel to provide actual physical protection services;

(2) United States allies should be invited to volunteer active-duty military or law enforcement personnel to participate in such a protection force; and

(3) such a protection force should be limited in duration and should be succeeded by qualified Afghan security forces as soon as practicable.

(Pub. L. 107–327, title III, §302, Dec. 4, 2002, 116 Stat. 2812.)

§7553. Donor contributions to Afghanistan and reports

(a) Findings

The Congress finds that inadequate amounts of international assistance promised by donor states at the Tokyo donors conference and elsewhere have been delivered to Afghanistan, imperiling the rebuilding and development of civil society and infrastructure, and endangering peace and security in that war-torn country.

(b) Sense of Congress

It is the sense of Congress that the United States should use all appropriate diplomatic means to encourage all states that have pledged assistance to Afghanistan to deliver as soon as possible the total amount of assistance pledged.

(c) Reports

(1) In general

The Secretary of State shall submit reports to the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on International Relations and the Committee on Appropriations of the House of Representatives, in accordance with this paragraph,

on the status of contributions of assistance from donor states to Afghanistan. The first report shall be submitted not later than 60 days after December 4, 2002, the second report shall be submitted 90 days thereafter, and subsequent reports shall be submitted every 180 days thereafter through December 31, 2004.

(2) Further requirements

Each report, which shall be unclassified and posted upon the Department of State's Internet website, shall include, by donor country, the total amount pledged, the amount delivered within the previous 60 days, the total amount of assistance delivered, the type of assistance and type of projects supported by the assistance.

(Pub. L. 107–327, title III, §303, Dec. 4, 2002, 116 Stat. 2812.)

CHANGE OF NAME

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§7554. Reports

(a) In general

The Secretary of State shall submit reports to the Committees on Foreign Relations and Appropriations of the Senate, and the Committees on International Relations and Appropriations of the House of Representatives on progress made in accomplishing the "Purposes of Assistance" set forth in section 7512 of this title utilizing assistance provided by the United States for Afghanistan.

(b) Deadline for submission

The first report shall be submitted no later than December 31, 2003, and subsequent reports shall be submitted in conjunction with reports required under section 7553 of this title and thereafter through December 31, 2004.

(c) Form of reports

Any report or other matter that is required to be submitted to Congress (including a committee of Congress) by this chapter may contain a classified annex.

(Pub. L. 107–327, title III, §304, as added Pub. L. 108–106, title II, §2215(c), Nov. 6, 2003, 117 Stat. 1233; amended Pub. L. 108–458, title VII, §7104(e)(3), Dec. 17, 2004, 118 Stat. 3782.)

AMENDMENTS

2004—Pub. L. 108–458 designated existing provisions as subsecs. (a) and (b), inserted subsec. headings, and added subsec. (c).

CHANGE OF NAME

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§7555. Formulation of long-term strategy for Afghanistan

(a) Strategy

(1) In general

Not later than 180 days after December 17, 2004, the President shall formulate a 5-year strategy for Afghanistan and submit such strategy to—

(A) the Committee on Foreign Relations of the Senate;

(B) the Committee on International Relations of the House of Representatives;

(C) the Committee on Appropriations of the Senate; and

(D) the Committee on Appropriations of the House of Representatives.

(2) Contents

The strategy formulated under paragraph (1) shall include specific and measurable goals for addressing the long-term development and security needs of Afghanistan, including sectors such as agriculture and irrigation, parliamentary and democratic development, the judicial system and rule of law, human rights, education, health, telecommunications, electricity, women's rights, counternarcotics, police, border security, anti-corruption, and other law-enforcement activities, as well as the anticipated costs and time frames associated with achieving those goals.

(b) Monitoring

(1) [1] Annual report

The President shall transmit on an annual basis through 2010 a report describing the progress made toward the implementation of the strategy required by subsection (a) and any changes to the strategy since the date of the submission of the last report to—

(A) the Committee on Foreign Relations of the Senate;

(B) the Committee on International Relations of the House of Representatives;

(C) the Committee on Appropriations of the Senate; and

(D) the Committee on Appropriations of the House of Representatives.

(Pub. L. 107–327, title III, §305, as added Pub. L. 108–458, title VII, §7104(e)(4)(A), Dec. 17, 2004, 118 Stat. 3782.)

CHANGE OF NAME

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

DELEGATION OF FUNCTIONS

Reporting functions of President under this section assigned to Secretary of State by section 1 of Memorandum of President of the United States, Apr. 21, 2005, 70 F.R. 48633, set out as a note under section 301 of title 3, The President.

[1] So in original. No par. (2) has been enacted.

§7556. Benchmarks to evaluate the progress being made toward the transition of security responsibilities for Afghanistan to the Government of Afghanistan

(a) Options for expansion of capacity of Afghan National Security Forces

The President shall, acting through the Secretary of Defense, establish and update as appropriate, and submit to Congress, options to accelerate the expansion of the capacity of Afghan National Security Forces with the goal of—

(1) enabling the Government of the Islamic Republic of Afghanistan, consistent with the Framework for Inteqal, to assume lead responsibility for security in all areas of Afghanistan, to maintain security in those areas, and to sustain the Afghan National Security Forces;

(2) achieving United States national security objectives to disrupt, dismantle, and defeat al-Qaeda and its extremist allies in Afghanistan, and preventing the establishment of safe havens for those entities; and

(3) enabling the United States to move to an enduring partnership with the Government of the Islamic Republic of Afghanistan, fully consistent with the Declaration by the North Atlantic Treaty Organization and the Government of the Islamic Republic of Afghanistan on an Enduring Partnership as issued at the Lisbon conference on November 20, 2010.

(b) Benchmarks

The President shall establish, and may update from time to time, a comprehensive set of benchmarks to evaluate progress being made toward meeting the goals set forth in paragraphs (1)

through (3) of subsection (a).

(c) Submittal to Congress

The President shall include the most current set of benchmarks established pursuant to subsection (b) with each report on progress toward security and stability in Afghanistan that is submitted to Congress under sections 1230 and 1231 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 385, 390).

(Pub. L. 112–81, div. A, title XII, §1221, Dec. 31, 2011, 125 Stat. 1635.)

REFERENCES IN TEXT

Sections 1230 and 1231 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 385, 390), referred to in subsec. (c), are not classified to the Code.

CODIFICATION

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 2012, and not as part of the Afghanistan Freedom Support Act of 2002 which comprises this chapter.

COMPLETION OF ACCELERATED TRANSITION OF SECURITY RESPONSIBILITY FROM UNITED STATES ARMED FORCES TO THE AFGHAN NATIONAL SECURITY FORCES

Pub. L. 113–66, div. A, title XII, §1222, Dec. 26, 2013, 127 Stat. 917, provided that:

"(a) IN GENERAL.—It is the policy of the United States, in coordination with the Government of Afghanistan, North Atlantic Treaty Organization (NATO) member countries, and other allies in Afghanistan, that—

"(1) the accelerated transition of security responsibility from United States Armed Forces to the Afghan National Security Forces and the associated draw down of United States Armed Forces from Afghanistan shall be completed by not later than December 31, 2014;

"(2) the United States shall support an Afghan-led and Afghan-owned peace negotiation process leading to a political settlement of the conflict in Afghanistan, with the goal of establishing a secure and independent Afghanistan and promoting regional security and stability; and

"(3) any political settlement resulting from such peace negotiations must result in insurgent groups breaking ties with al Qaeda, renouncing violence, and accepting the Afghanistan constitution, including its protections for women and minorities.

"(b) SENSE OF CONGRESS.—It is the sense of Congress that, before making a public announcement regarding a decision on a United States military presence in Afghanistan after December 31, 2014, the President should consult with Congress regarding the size, mission, and estimated duration of such a presence.

"(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed so as to limit or prohibit any authority of the President to modify the military strategy, tactics, and operations of United States Armed Forces as such Armed Forces draw down from Afghanistan."

CHAPTER 83—UNITED STATES LEADERSHIP AGAINST HIV/AIDS, TUBERCULOSIS, AND MALARIA

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§7601. Findings

Congress makes the following findings:

(1) During the last 20 years, HIV/AIDS has assumed pandemic proportions, spreading from the most severely affected regions, sub-Saharan Africa and the Caribbean, to all corners of the world, and leaving an unprecedented path of death and devastation.

(2) According to the Joint United Nations Programme on HIV/AIDS (UNAIDS), more than 65,000,000 individuals worldwide have been infected with HIV since the epidemic began, more than 25,000,000 of these individuals have lost their lives to the disease, and more than 14,000,000 children have been orphaned by the disease. HIV/AIDS is the fourth-highest cause of death in the world.

(3)(A) At the end of 2002, an estimated 42,000,000 individuals were infected with HIV or living with AIDS, of which more than 75 percent live in Africa or the Caribbean. Of these individuals, more than 3,200,000 were children under the age of 15 and more than 19,200,000 were women.

(B) Women are four times more vulnerable to infection than are men and are becoming infected at increasingly high rates, in part because many societies do not provide poor women and young girls with the social, legal, and cultural protections against high risk activities that expose them to HIV/AIDS.

(C) Women and children who are refugees or are internally displaced persons are especially vulnerable to sexual exploitation and violence, thereby increasing the possibility of HIV infection.

(4) As the leading cause of death in sub-Saharan Africa, AIDS has killed more than 19,400,000 individuals (more than 3 times the number of AIDS deaths in the rest of the world) and will claim the lives of one-quarter of the population, mostly adults, in the next decade.

(5) An estimated 2,000,000 individuals in Latin America and the Caribbean and another 7,100,000 individuals in Asia and the Pacific region are infected with HIV or living with AIDS. Infection rates are rising alarmingly in Eastern Europe (especially in the Russian Federation), Central Asia, and China.

(6) HIV/AIDS threatens personal security by affecting the health, lifespan, and productive capacity of the individual and the social cohesion and economic well-being of the family.

(7) HIV/AIDS undermines the economic security of a country and individual businesses in that country by weakening the productivity and longevity of the labor force across a broad array of economic sectors and by reducing the potential for economic growth over the long term.

(8) HIV/AIDS destabilizes communities by striking at the most mobile and educated members of society, many of whom are responsible for security at the local level and governance at the national and subnational levels as well as many teachers, health care personnel, and other community workers vital to community development and the effort to combat HIV/AIDS. In some countries the overwhelming challenges of the HIV/AIDS epidemic are accelerating the outward migration of critically important health care professionals.

(9) HIV/AIDS weakens the defenses of countries severely affected by the HIV/AIDS crisis through high infection rates among members of their military forces and voluntary peacekeeping personnel. According to UNAIDS, in sub-Saharan Africa, many military forces have infection rates as much as five times that of the civilian population.

(10) HIV/AIDS poses a serious security issue for the international community by—

(A) increasing the potential for political instability and economic devastation, particularly in those countries and regions most severely affected by the disease;

(B) decreasing the capacity to resolve conflicts through the introduction of peacekeeping forces because the environments into which these forces are introduced pose a high risk for the spread of HIV/AIDS; and

(C) increasing the vulnerability of local populations to HIV/AIDS in conflict zones from peacekeeping troops with HIV infection rates significantly higher than civilian populations.

(11) The devastation wrought by the HIV/AIDS pandemic is compounded by the prevalence of tuberculosis and malaria, particularly in developing countries where the poorest and most vulnerable members of society, including women, children, and those individuals living with HIV/AIDS, become infected. According to the World Health Organization (WHO), HIV/AIDS, tuberculosis, and malaria accounted for more than 5,700,000 deaths in 2001 and caused debilitating illnesses in millions more.

(12) Together, HIV/AIDS, tuberculosis, malaria and related diseases are undermining agricultural production throughout Africa. According to the United Nations Food and Agricultural Organization, 7,000,000 agricultural workers throughout 25 African countries have died from AIDS since 1985. Countries with poorly developed agricultural systems, which already face chronic food shortages, are the hardest hit, particularly in sub-Saharan Africa, where high HIV prevalence rates are compounding the risk of starvation for an estimated 14,400,000 people.

(13) Tuberculosis is the cause of death for one out of every three people with AIDS worldwide and is a highly communicable disease. HIV infection is the leading threat to tuberculosis control. Because HIV infection so severely weakens the immune system, individuals with HIV and latent tuberculosis infection have a 100 times greater risk of developing active tuberculosis diseases thereby increasing the risk of spreading tuberculosis to others. Tuberculosis, in turn, accelerates the onset of AIDS in individuals infected with HIV.

(14) Malaria, the most deadly of all tropical parasitic diseases, has been undergoing a dramatic resurgence in recent years due to increasing resistance of the malaria parasite to inexpensive and effective drugs. At the same time, increasing resistance of mosquitoes to standard insecticides makes control of transmission difficult to achieve. The World Health Organization estimates that between 300,000,000 and 500,000,000 new cases of malaria occur each year, and annual deaths

from the disease number between 2,000,000 and 3,000,000. Persons infected with HIV are particularly vulnerable to the malaria parasite. The spread of HIV infection contributes to the difficulties of controlling resurgence of the drug resistant malaria parasite.

(15) HIV/AIDS is first and foremost a health problem. Successful strategies to stem the spread of the HIV/AIDS pandemic will require clinical medical interventions, the strengthening of health care delivery systems and infrastructure, and determined national leadership and increased budgetary allocations for the health sector in countries affected by the epidemic as well as measures to address the social and behavioral causes of the problem and its impact on families, communities, and societal sectors.

(16) Basic interventions to prevent new HIV infections and to bring care and treatment to people living with AIDS, such as voluntary counseling and testing and mother-to-child transmission programs, are achieving meaningful results and are cost-effective. The challenge is to expand these interventions from a pilot program basis to a national basis in a coherent and sustainable manner.

(17) Appropriate treatment of individuals with HIV/AIDS can prolong the lives of such individuals, preserve their families, prevent children from becoming orphans, and increase productivity of such individuals by allowing them to lead active lives and reduce the need for costly hospitalization for treatment of opportunistic infections caused by HIV.

(18) Nongovernmental organizations, including faith-based organizations, with experience in health care and HIV/AIDS counseling, have proven effective in combating the HIV/AIDS pandemic and can be a resource in assisting indigenous organizations in severely affected countries in their efforts to provide treatment and care for individuals infected with HIV/AIDS.

(19) Faith-based organizations are making an important contribution to HIV prevention and AIDS treatment programs around the world. Successful HIV prevention programs in Uganda, Jamaica, and elsewhere have included local churches and faith-based groups in efforts to promote behavior changes to prevent HIV, to reduce stigma associated with HIV infection, to treat those afflicted with the disease, and to care for orphans. The Catholic Church alone currently cares for one in four people being treated for AIDS worldwide. Faith-based organizations possess infrastructure, experience, and knowledge that will be needed to carry out these programs in the future and should be an integral part of United States efforts.

(20)(A) Uganda has experienced the most significant decline in HIV rates of any country in Africa, including a decrease among pregnant women from 20.6 percent in 1991 to 7.9 percent in 2000.

(B) Uganda made this remarkable turnaround because President Yoweri Museveni spoke out early, breaking long-standing cultural taboos, and changed widespread perceptions about the disease. His leadership stands as a model for ways political leaders in Africa and other developing countries can mobilize their nations, including civic organizations, professional associations, religious institutions, business and labor to combat HIV/AIDS.

(C) Uganda's successful AIDS treatment and prevention program is referred to as the ABC model: "Abstain, Be faithful, use Condoms", in order of priority. Jamaica, Zambia, Ethiopia and Senegal have also successfully used the ABC model. Beginning in 1986, Uganda brought about a fundamental change in sexual behavior by developing a low-cost program with the message: "Stop having multiple partners. Be faithful. Teenagers, wait until you are married before you begin sex.".

(D) By 1995, 95 percent of Ugandans were reporting either one or zero sexual partners in the past year, and the proportion of sexually active youth declined significantly from the late 1980s to the mid-1990s. The greatest percentage decline in HIV infections and the greatest degree of behavioral change occurred in those 15 to 19 years old. Uganda's success shows that behavior change, through the use of the ABC model, is a very successful way to prevent the spread of HIV.

(21) The magnitude and scope of the HIV/AIDS crisis demands a comprehensive, long-term, international response focused upon addressing the causes, reducing the spread, and ameliorating the consequences of the HIV/AIDS pandemic, including—

(A) prevention and education, care and treatment, basic and applied research, and training of health care workers, particularly at the community and provincial levels, and other community

workers and leaders needed to cope with the range of consequences of the HIV/AIDS crisis;

(B) development of health care infrastructure and delivery systems through cooperative and coordinated public efforts and public and private partnerships;

(C) development and implementation of national and community-based multisector strategies that address the impact of HIV/AIDS on the individual, family, community, and nation and increase the participation of at-risk populations in programs designed to encourage behavioral and social change and reduce the stigma associated with HIV/AIDS; and

(D) coordination of efforts between international organizations such as the Global Fund to Fight AIDS, Tuberculosis and Malaria, the Joint United Nations Programme on HIV/AIDS (UNAIDS), the World Health Organization (WHO), national governments, and private sector organizations, including faith-based organizations.

(22) The United States has the capacity to lead and enhance the effectiveness of the international community's response by—

(A) providing substantial financial resources, technical expertise, and training, particularly of health care personnel and community workers and leaders;

(B) promoting vaccine and microbicide research and the development of new treatment protocols in the public and commercial pharmaceutical research sectors;

(C) making available pharmaceuticals and diagnostics for HIV/AIDS therapy;

(D) encouraging governments and faith-based and community-based organizations to adopt policies that treat HIV/AIDS as a multisectoral public health problem affecting not only health but other areas such as agriculture, education, the economy, the family and society, and assisting them to develop and implement programs corresponding to these needs;

(E) promoting healthy lifestyles, including abstinence, delaying sexual debut, monogamy, marriage, faithfulness, use of condoms, and avoiding substance abuse; and

(F) encouraging active involvement of the private sector, including businesses, pharmaceutical and biotechnology companies, the medical and scientific communities, charitable foundations, private and voluntary organizations and nongovernmental organizations, faith-based organizations, community-based organizations, and other nonprofit entities.

(23) Prostitution and other sexual victimization are degrading to women and children and it should be the policy of the United States to eradicate such practices. The sex industry, the trafficking of individuals into such industry, and sexual violence are additional causes of and factors in the spread of the HIV/AIDS epidemic. One in nine South Africans is living with AIDS, and sexual assault is rampant, at a victimization rate of one in three women. Meanwhile in Cambodia, as many as 40 percent of prostitutes are infected with HIV and the country has the highest rate of increase of HIV infection in all of Southeast Asia. Victims of coercive sexual encounters do not get to make choices about their sexual activities.

(24) Strong coordination must exist among the various agencies of the United States to ensure effective and efficient use of financial and technical resources within the United States Government with respect to the provision of international HIV/AIDS assistance.

(25) In his address to Congress on January 28, 2003, the President announced the Administration's intention to embark on a five-year emergency plan for AIDS relief, to confront HIV/AIDS with the goals of preventing 7,000,000 new HIV/AIDS infections, treating at least 2,000,000 people with life-extending drugs, and providing humane care for millions of people suffering from HIV/AIDS, and for children orphaned by HIV/AIDS.

(26) In this address to Congress, the President stated the following: "Today, on the continent of Africa, nearly 30,000,000 people have the AIDS virus—including 3,000,000 children under the age of 15. There are whole countries in Africa where more than one-third of the adult population carries the infection. More than 4,000,000 require immediate drug treatment. Yet across that continent, only 50,000 AIDS victims—only 50,000—are receiving the medicine they need.".

(27) Furthermore, the President focused on care and treatment of HIV/AIDS in his address to Congress, stating the following: "Because the AIDS diagnosis is considered a death sentence,

many do not seek treatment. Almost all who do are turned away. A doctor in rural South Africa describes his frustration. He says, 'We have no medicines. Many hospitals tell people, you've got AIDS, we can't help you. Go home and die.' In an age of miraculous medicines, no person should have to hear those words. AIDS can be prevented. Anti-retroviral drugs can extend life for many years * * * Ladies and gentlemen, seldom has history offered a greater opportunity to do so much for so many.".

(28) Finally, the President stated that "[w]e have confronted, and will continue to confront, HIV/AIDS in our own country", proposing now that the United States should lead the world in sparing innocent people from a plague of nature, and asking Congress "to commit $15,000,000,000 over the next five years, including nearly $10,000,000,000 in new money, to turn the tide against AIDS in the most afflicted nations of Africa and the Caribbean".

(29) On May 27, 2003, the President signed this chapter into law, launching the largest international public health program of its kind ever created.

(30) Between 2003 and 2008, the United States, through the President's Emergency Plan for AIDS Relief (PEPFAR) and in conjunction with other bilateral programs and the multilateral Global Fund has helped to—

(A) provide antiretroviral therapy for over 1,900,000 people;

(B) ensure that over 150,000 infants, most of whom would have likely been infected with HIV during pregnancy or childbirth, were not infected; and

(C) provide palliative care and HIV prevention assistance to millions of other people.

(31) While United States leadership in the battles against HIV/AIDS, tuberculosis, and malaria has had an enormous impact, these diseases continue to take a terrible toll on the human race.

(32) According to the 2007 AIDS Epidemic Update of the Joint United Nations Programme on HIV/AIDS (UNAIDS)—

(A) an estimated 2,100,000 people died of AIDS-related causes in 2007; and

(B) an estimated 2,500,000 people were newly infected with HIV during that year.

(33) According to the World Health Organization, malaria kills more than 1,000,000 people per year, 70 percent of whom are children under 5 years of age.

(34) According to the World Health Organization, 1/3 of the world's population is infected with the tuberculosis bacterium, and tuberculosis is 1 of the greatest infectious causes of death of adults worldwide, killing 1,600,000 people per year.

(35) Efforts to promote abstinence, fidelity, the correct and consistent use of condoms, the delay of sexual debut, and the reduction of concurrent sexual partners represent important elements of strategies to prevent the transmission of HIV/AIDS.

(36) According to UNAIDS—

(A) women and girls make up nearly 60 percent of persons in sub-Saharan Africa who are HIV positive;

(B) women and girls are more biologically, economically, and socially vulnerable to HIV infection; and

(C) gender issues are critical components in the effort to prevent HIV/AIDS and to care for those affected by the disease.

(37) Children who have lost a parent to HIV/AIDS, who are otherwise directly affected by the disease, or who live in areas of high HIV prevalence may be vulnerable to the disease or its socioeconomic effects.

(38) Lack of health capacity, including insufficient personnel and inadequate infrastructure, in sub-Saharan Africa and other regions of the world is a critical barrier that limits the effectiveness of efforts to combat HIV/AIDS, tuberculosis, and malaria, and to achieve other global health goals.

(39) On March 30, 2007, the Institute of Medicine of the National Academies released a report entitled "PEPFAR Implementation: Progress and Promise", which found that budget allocations

setting percentage levels for spending on prevention, care, and treatment and for certain subsets of activities within the prevention category—

(A) have "adversely affected implementation of the U.S. Global AIDS Initiative";

(B) have inhibited comprehensive, integrated, evidence based approaches;

(C) "have been counterproductive";

(D) "may have been helpful initially in ensuring a balance of attention to activities within the 4 categories of prevention, treatment, care, and orphans and vulnerable children";

(E) "have also limited PEPFAR's ability to tailor its activities in each country to the local epidemic and to coordinate with the level of activities in the countries' national plans"; and

(F) should be removed by Congress and replaced with more appropriate mechanisms that—

(i) "ensure accountability for results from Country Teams to the U.S. Global AIDS Coordinator and to Congress"; and

(ii) "ensure that spending is directly linked to and commensurate with necessary efforts to achieve both country and overall performance targets for prevention, treatment, care, and orphans and vulnerable children".

(40) The United States Government has endorsed the principles of harmonization in coordinating efforts to combat HIV/AIDS commonly referred to as the "Three Ones", which includes—

(A) 1 agreed HIV/AIDS action framework that provides the basis for coordination of the work of all partners;

(B) 1 national HIV/AIDS coordinating authority, with a broadbased multisectoral mandate; and

(C) 1 agreed HIV/AIDS country-level monitoring and evaluating system.

(41) In the Abuja Declaration on HIV/AIDS, Tuberculosis and Other Related Infectious Diseases, of April 26–27, 2001 (referred to in this chapter as the "Abuja Declaration"), the Heads of State and Government of the Organization of African Unity (OAU)—

(A) declared that they would "place the fight against HIV/AIDS at the forefront and as the highest priority issue in our respective national development plans";

(B) committed "TO TAKE PERSONAL RESPONSIBILITY AND PROVIDE LEADERSHIP for the activities of the National AIDS Commissions/Councils";

(C) resolved "to lead from the front the battle against HIV/AIDS, Tuberculosis and Other Related Infectious Diseases by personally ensuring that such bodies were properly convened in mobilizing our societies as a whole and providing focus for unified national policymaking and programme implementation, ensuring coordination of all sectors at all levels with a gender perspective and respect for human rights, particularly to ensure equal rights for people living with HIV/AIDS"; and

(D) pledged "to set a target of allocating at least 15% of our annual budget to the improvement of the health sector".

(Pub. L. 108–25, §2, May 27, 2003, 117 Stat. 712; Pub. L. 110–293, §2, July 30, 2008, 122 Stat. 2919.)

REFERENCES IN TEXT

This chapter, referred to in pars. (29) and (41), was in the original "this Act", meaning Pub. L. 108–25, May 27, 2003, 117 Stat. 711, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

AMENDMENTS

2008—Pars. (29) to (41). Pub. L. 110–293 added pars. (29) to (41).

SHORT TITLE OF 2013 AMENDMENT

Pub. L. 113–56, §1, Dec. 2, 2013, 127 Stat. 648, provided that: "This Act [amending sections 2151b–2, 7611, 7622, and 7673 of this title] may be cited as the 'PEPFAR Stewardship and Oversight Act of 2013'."

SHORT TITLE OF 2008 AMENDMENT

Pub. L. 110–293, §1(a), July 30, 2008, 122 Stat. 2918, provided that: "This Act [see Tables for classification] may be cited as the 'Tom Lantos and Henry J. Hyde United States Global Leadership Against HIV/AIDS, Tuberculosis, and Malaria Reauthorization Act of 2008'."

SHORT TITLE

Pub. L. 108–25, §1(a), May 27, 2003, 117 Stat. 711, provided that: "This Act [enacting this chapter and sections 262p–8 and 2151b–2 to 2151b–4 of this title and amending sections 2151b, 2222, and 2651a of this title and section 242l of Title 42, The Public Health and Welfare] may be cited as the 'United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003'."

DELEGATION OF FUNCTIONS

For delegation of functions of President under this chapter, except for functions set forth in section 7622(d)(4)(C)(i), (ii) of this title, to Secretary of State, see section 1–100(a)(16) of Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§7602. Definitions

In this chapter:

(1) AIDS

The term "AIDS" means the acquired immune deficiency syndrome.

(2) Appropriate congressional committees

The term "appropriate congressional committees" means the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives, the Committee on Appropriations of the Senate, and the Committee on Appropriations of the House of Representatives.

(3) Global AIDS Coordinator

The term "Global AIDS Coordinator" means the Coordinator of United States Government Activities to Combat HIV/AIDS Globally.

(4) Global Fund

The term "Global Fund" means the public-private partnership known as the Global Fund to Fight AIDS, Tuberculosis and Malaria established pursuant to Article 80 of the Swiss Civil Code.

(5) HIV

The term "HIV" means the human immunodeficiency virus, the pathogen that causes AIDS.

(6) HIV/AIDS

The term "HIV/AIDS" means, with respect to an individual, an individual who is infected with HIV or living with AIDS.

(7) Impact evaluation research

The term "impact evaluation research" means the application of research methods and statistical analysis to measure the extent to which change in a population-based outcome can be attributed to program intervention instead of other environmental factors.

(8) Operations research

The term "operations research" means the application of social science research methods, statistical analysis, and other appropriate scientific methods to judge, compare, and improve policies and program outcomes, from the earliest stages of defining and designing programs through their development and implementation, with the objective of the rapid dissemination of conclusions and concrete impact on programming.

(9) Paraprofessional

The term "paraprofessional" means an individual who is trained and employed as a health agent

for the provision of basic assistance in the identification, prevention, or treatment of illness or disability.

(10) Partner government

The term "partner government" means a government with which the United States is working to provide assistance to combat HIV/AIDS, tuberculosis, or malaria on behalf of people living within the jurisdiction of such government.

(11) Program monitoring

The term "program monitoring" means the collection, analysis, and use of routine program data to determine—

(A) how well a program is carried out; and

(B) how much the program costs.

(12) Relevant executive branch agencies

The term "relevant executive branch agencies" means the Department of State, the United States Agency for International Development, and any other department or agency of the United States that participates in international HIV/AIDS activities pursuant to the authorities of such department or agency or the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.].

(Pub. L. 108–25, §3, May 27, 2003, 117 Stat. 717; Pub. L. 110–293, §3, July 30, 2008, 122 Stat. 2921.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 108–25, May 27, 2003, 117 Stat. 711, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 7601 of this title and Tables.

The Foreign Assistance Act of 1961, referred to in par. (12), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, which is classified principally to chapter 32 (§2151 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

AMENDMENTS

2008—Pub. L. 110–293 substituted "Committee on Foreign Affairs of the House of Representatives, the Committee on Appropriations of the Senate, and the Committee on Appropriations" for "Committee on International Relations" in par. (2), added pars. (3) and (7) to (11), and redesignated former pars. (3) to (5) and (6) as (4) to (6) and (12), respectively.

§7603. Purpose

The purpose of this chapter is to strengthen and enhance United States leadership and the effectiveness of the United States response to the HIV/AIDS, tuberculosis, and malaria pandemics and other related and preventable infectious diseases as part of the overall United States health and development agenda by—

(1) establishing comprehensive, coordinated, and integrated 5-year, global strategies to combat HIV/AIDS, tuberculosis, and malaria by—

(A) building on progress and successes to date;

(B) improving harmonization of United States efforts with national strategies of partner governments and other public and private entities; and

(C) emphasizing capacity building initiatives in order to promote a transition toward greater sustainability through the support of country-driven efforts;

(2) providing increased resources for bilateral and multilateral efforts to fight HIV/AIDS, tuberculosis, and malaria as integrated components of United States development assistance;

(3) intensifying efforts to—

(A) prevent HIV infection;

(B) ensure the continued support for, and expanded access to, treatment and care programs;

(C) enhance the effectiveness of prevention, treatment, and care programs; and
(D) address the particular vulnerabilities of girls and women;

(4) encouraging the expansion of private sector efforts and expanding public-private sector partnerships to combat HIV/AIDS, tuberculosis, and malaria;
(5) reinforcing efforts to—
(A) develop safe and effective vaccines, microbicides, and other prevention and treatment technologies; and
(B) improve diagnostics capabilities for HIV/AIDS, tuberculosis, and malaria; and

(6) helping partner countries to—
(A) strengthen health systems;
(B) expand health workforce; and
(C) address infrastructural weaknesses.

(Pub. L. 108–25, §4, May 27, 2003, 117 Stat. 717; Pub. L. 110–293, §4, July 30, 2008, 122 Stat. 2922.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 108–25, May 27, 2003, 117 Stat. 711, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 7601 of this title and Tables.

AMENDMENTS

2008—Pub. L. 110–293 amended section generally. Prior to amendment, section stated the purpose of this chapter.

§7604. Authority to consolidate and combine reports

With respect to the reports required by this chapter to be submitted by the President, to ensure an efficient use of resources, the President may, in his discretion and notwithstanding any other provision of this chapter, consolidate or combine any of these reports, except for the report required by section 7611 of this title, so long as the required elements of each report are addressed and reported within a 90-day period from the original deadline date for submission of the report specified in this chapter. The President may also enter into contracts with organizations with relevant expertise to develop, originate, or contribute to any of the reports required by this chapter to be submitted by the President, with the exception of the 5-year strategy.

(Pub. L. 108–25, §5, May 27, 2003, 117 Stat. 718; Pub. L. 110–293, §5, July 30, 2008, 122 Stat. 2922.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 108–25, May 27, 2003, 117 Stat. 711, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 7601 of this title and Tables.

AMENDMENTS

2008—Pub. L. 110–293 inserted ", with the exception of the 5-year strategy" before the period at end.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

SUBCHAPTER I—POLICY PLANNING AND COORDINATION

§7611. Development of a comprehensive, five-year, global strategy

(a) Strategy

The President shall establish a comprehensive, integrated, 5-year strategy to expand and improve efforts to combat global HIV/AIDS. This strategy shall—

(1) further strengthen the capability of the United States to be an effective leader of the international campaign against this disease and strengthen the capacities of nations experiencing HIV/AIDS epidemics to combat this disease;

(2) maintain sufficient flexibility and remain responsive to—

(A) changes in the epidemic;

(B) challenges facing partner countries in developing and implementing an effective national response; and

(C) evidence-based improvements and innovations in the prevention, care, and treatment of HIV/AIDS;

(3) situate United States efforts to combat HIV/AIDS, tuberculosis, and malaria within the broader United States global health and development agenda, establishing a roadmap to link investments in specific disease programs to the broader goals of strengthening health systems and infrastructure and to integrate and coordinate HIV/AIDS, tuberculosis, or malaria programs with other health or development programs, as appropriate;

(4) provide a plan to—

(A) prevent 12,000,000 new HIV infections worldwide;

(B) support—

(i) the increase in the number of individuals with HIV/AIDS receiving antiretroviral treatment above the goal established under section 7672(a)(3) of this title and increased pursuant to paragraphs (1) through (3) of section 7673(d) of this title; and

(ii) additional treatment through coordinated multilateral efforts;

(C) support care for 12,000,000 individuals infected with or affected by HIV/AIDS, including 5,000,000 orphans and vulnerable children affected by HIV/AIDS, with an emphasis on promoting a comprehensive, coordinated system of services to be integrated throughout the continuum of care;

(D) help partner countries in the effort to achieve goals of 80 percent access to counseling, testing, and treatment to prevent the transmission of HIV from mother to child, emphasizing a continuum of care model;

(E) help partner countries to provide care and treatment services to children with HIV in proportion to their percentage within the HIV-infected population in each country;

(F) promote preservice training for health professionals designed to strengthen the capacity of institutions to develop and implement policies for training health workers to combat HIV/AIDS, tuberculosis, and malaria;

(G) equip teachers with skills needed for HIV/AIDS prevention and support for persons with, or affected by, HIV/AIDS;

(H) provide and share best practices for combating HIV/AIDS with health professionals;

(I) promote pediatric HIV/AIDS training for physicians, nurses, and other health care workers, through public-private partnerships if possible, including through the designation, if appropriate, of centers of excellence for training in pediatric HIV/AIDS prevention, care, and treatment in partner countries; and

(J) help partner countries to train and support retention of health care professionals and paraprofessionals, with the target of training and retaining at least 140,000 new health care professionals and paraprofessionals with an emphasis on training and in country deployment of critically needed doctors and nurses and to strengthen capacities in developing countries,

especially in sub-Saharan Africa, to deliver primary health care with the objective of helping countries achieve staffing levels of at least 2.3 doctors, nurses, and midwives per 1,000 population, as called for by the World Health Organization;

(5) include multisectoral approaches and specific strategies to treat individuals infected with HIV/AIDS and to prevent the further transmission of HIV infections, with a particular focus on the needs of families with children (including the prevention of mother-to-child transmission), women, young people, orphans, and vulnerable children;

(6) establish a timetable with annual global treatment targets with country-level benchmarks for antiretroviral treatment;

(7) expand the integration of timely and relevant research within the prevention, care, and treatment of HIV/AIDS;

(8) include a plan for program monitoring, operations research, and impact evaluation and for the dissemination of a best practices report to highlight findings;

(9) support the in-country or intra-regional training, preferably through public-private partnerships, of scientific investigators, managers, and other staff who are capable of promoting the systematic uptake of clinical research findings and other evidence-based interventions into routine practice, with the goal of improving the quality, effectiveness, and local leadership of HIV/AIDS health care;

(10) expand and accelerate research on and development of HIV/AIDS prevention methods for women, including enhancing inter-agency collaboration, staffing, and organizational infrastructure dedicated to microbicide research;

(11) provide for consultation with local leaders and officials to develop prevention strategies and programs that are tailored to the unique needs of each country and community and targeted particularly toward those most at risk of acquiring HIV infection;

(12) make the reduction of HIV/AIDS behavioral risks a priority of all prevention efforts by—

(A) promoting abstinence from sexual activity and encouraging monogamy and faithfulness;

(B) encouraging the correct and consistent use of male and female condoms and increasing the availability of, and access to, these commodities;

(C) promoting the delay of sexual debut and the reduction of multiple concurrent sexual partners;

(D) promoting education for discordant couples (where an individual is infected with HIV and the other individual is uninfected or whose status is unknown) about safer sex practices;

(E) promoting voluntary counseling and testing, addiction therapy, and other prevention and treatment tools for illicit injection drug users and other substance abusers;

(F) educating men and boys about the risks of procuring sex commercially and about the need to end violent behavior toward women and girls;

(G) supporting partner country and community efforts to identify and address social, economic, or cultural factors, such as migration, urbanization, conflict, gender-based violence, lack of empowerment for women, and transportation patterns, which directly contribute to the transmission of HIV;

(H) supporting comprehensive programs to promote alternative livelihoods, safety, and social reintegration strategies for commercial sex workers and their families;

(I) promoting cooperation with law enforcement to prosecute offenders of trafficking, rape, and sexual assault crimes with the goal of eliminating such crimes; and

(J) working to eliminate rape, gender-based violence, sexual assault, and the sexual exploitation of women and children;

(13) include programs to reduce the transmission of HIV, particularly addressing the heightened vulnerabilities of women and girls to HIV in many countries; and

(14) support other important means of preventing or reducing the transmission of HIV, including—

(A) medical male circumcision;

(B) the maintenance of a safe blood supply;
(C) promoting universal precautions in formal and informal health care settings;
(D) educating the public to recognize and to avoid risks to contract HIV through blood exposures during formal and informal health care and cosmetic services;
(E) investigating suspected nosocomial infections to identify and stop further nosocomial transmission; and
(F) other mechanisms to reduce the transmission of HIV;

(15) increase support for prevention of mother-to-child transmission;
(16) build capacity within the public health sector of developing countries by improving health systems and public health infrastructure and developing indicators to measure changes in broader public health sector capabilities;
(17) increase the coordination of HIV/AIDS programs with development programs;
(18) provide a framework for expanding or developing existing or new country or regional programs, including—
(A) drafting compacts or other agreements, as appropriate;
(B) establishing criteria and objectives for such compacts and agreements; and
(C) promoting sustainability;

(19) provide a plan for national and regional priorities for resource distribution and a global investment plan by region;
(20) provide a plan to address the immediate and ongoing needs of women and girls, which—
(A) addresses the vulnerabilities that contribute to their elevated risk of infection;
(B) includes specific goals and targets to address these factors;
(C) provides clear guidance to field missions to integrate gender across prevention, care, and treatment programs;
(D) sets forth gender-specific indicators to monitor progress on outcomes and impacts of gender programs;
(E) supports efforts in countries in which women or orphans lack inheritance rights and other fundamental protections to promote the passage, implementation, and enforcement of such laws;
(F) supports life skills training, especially among women and girls, with the goal of reducing vulnerabilities to HIV/AIDS;
(G) addresses and prevents gender-based violence; and
(H) addresses the posttraumatic and psychosocial consequences and provides postexposure prophylaxis protecting against HIV infection to victims of gender-based violence and rape;

(21) provide a plan to—
(A) determine the local factors that may put men and boys at elevated risk of contracting or transmitting HIV;
(B) address male norms and behaviors to reduce these risks, including by reducing alcohol abuse;
(C) promote responsible male behavior; and
(D) promote male participation and leadership at the community level in efforts to promote HIV prevention, reduce stigma, promote participation in voluntary counseling and testing, and provide care, treatment, and support for persons with HIV/AIDS;

(22) provide a plan to address the vulnerabilities and needs of orphans and children who are vulnerable to, or affected by, HIV/AIDS;
(23) encourage partner countries to develop health care curricula and promote access to training tailored to individuals receiving services through, or exiting from, existing programs geared to orphans and vulnerable children;
(24) provide a framework to work with international actors and partner countries toward

universal access to HIV/AIDS prevention, treatment, and care programs, recognizing that prevention is of particular importance;

(25) enhance the coordination of United States bilateral efforts to combat global HIV/AIDS with other major public and private entities;

(26) enhance the attention given to the national strategic HIV/AIDS plans of countries receiving United States assistance by—

(A) reviewing the planning and programmatic decisions associated with that assistance; and

(B) helping to strengthen such national strategies, if necessary;

(27) support activities described in the Global Plan to Stop TB, including—

(A) expanding and enhancing the coverage of the Directly Observed Treatment Short-course (DOTS) in order to treat individuals infected with tuberculosis and HIV, including multi-drug resistant or extensively drug resistant tuberculosis; and

(B) improving coordination and integration of HIV/AIDS and tuberculosis programming;

(28) ensure coordination between the Global AIDS Coordinator and the Malaria Coordinator and address issues of comorbidity between HIV/AIDS and malaria; and

(29) include a longer term estimate of the projected resource needs, progress toward greater sustainability and country ownership of HIV/AIDS programs, and the anticipated role of the United States in the global effort to combat HIV/AIDS during the 10-year period beginning on October 1, 2013.

(b) Report

(1) In general

Not later than October 1, 2009, the President shall submit a report to the appropriate congressional committees that sets forth the strategy described in subsection (a).

(2) Contents

The report required under paragraph (1) shall include a discussion of the following elements:

(A) The purpose, scope, methodology, and general and specific objectives of the strategy.

(B) The problems, risks, and threats to the successful pursuit of the strategy.

(C) The desired goals, objectives, activities, and outcome-related performance measures of the strategy.

(D) A description of future costs and resources needed to carry out the strategy.

(E) A delineation of United States Government roles, responsibility, and coordination mechanisms of the strategy.

(F) A description of the strategy—

(i) to promote harmonization of United States assistance with that of other international, national, and private actors as elucidated in the "Three Ones"; and

(ii) to address existing challenges in harmonization and alignment.

(G) A description of the manner in which the strategy will—

(i) further the development and implementation of the national multisectoral strategic HIV/AIDS frameworks of partner governments; and

(ii) enhance the centrality, effectiveness, and sustainability of those national plans.

(H) A description of how the strategy will seek to achieve the specific targets described in subsection (a) and other targets, as appropriate.

(I) A description of, and rationale for, the timetable for annual global treatment targets with country-level estimates of numbers of persons in need of antiretroviral treatment, country-level benchmarks for United States support for assistance for antiretroviral treatment, and numbers of persons enrolled in antiretroviral treatment programs receiving United States support. If global benchmarks are not achieved within the reporting period, the report shall include a description of steps being taken to ensure that global benchmarks will be achieved and a detailed

breakdown and justification of spending priorities in countries in which benchmarks are not being met, including a description of other donor or national support for antiretroviral treatment in the country, if appropriate.

(J) A description of how operations research is addressed in the strategy and how such research can most effectively be integrated into care, treatment, and prevention activities in order to—

(i) improve program quality and efficiency;

(ii) ascertain cost effectiveness;

(iii) ensure transparency and accountability;

(iv) assess population-based impact;

(v) disseminate findings and best practices; and

(vi) optimize delivery of services.

(K) An analysis of United States-assisted strategies to prevent the transmission of HIV/AIDS, including methodologies to promote abstinence, monogamy, faithfulness, the correct and consistent use of male and female condoms, reductions in concurrent sexual partners, and delay of sexual debut, and of intended monitoring and evaluation approaches to measure the effectiveness of prevention programs and ensure that they are targeted to appropriate audiences.

(L) Within the analysis required under subparagraph (K), an examination of additional planned means of preventing the transmission of HIV including medical male circumcision, maintenance of a safe blood supply, public education about risks to acquire HIV infection from blood exposures, promotion of universal precautions, investigation of suspected nosocomial infections and other tools.

(M) A description of efforts to assist partner country and community to identify and address social, economic, or cultural factors, such as migration, urbanization, conflict, gender-based violence, lack of empowerment for women, and transportation patterns, which directly contribute to the transmission of HIV.

(N) A description of the specific targets, goals, and strategies developed to address the needs and vulnerabilities of women and girls to HIV/AIDS, including—

(i) activities directed toward men and boys;

(ii) activities to enhance educational, microfinance, and livelihood opportunities for women and girls;

(iii) activities to promote and protect the legal empowerment of women, girls, and orphans and vulnerable children;

(iv) programs targeted toward gender-based violence and sexual coercion;

(v) strategies to meet the particular needs of adolescents;

(vi) assistance for victims of rape, sexual abuse, assault, exploitation, and trafficking; and

(vii) programs to prevent alcohol abuse.

(O) A description of strategies to address male norms and behaviors that contribute to the transmission of HIV, to promote responsible male behavior, and to promote male participation and leadership in HIV/AIDS prevention, care, treatment, and voluntary counseling and testing.

(P) A description of strategies—

(i) to address the needs of orphans and vulnerable children, including an analysis of—

(I) factors contributing to children's vulnerability to HIV/AIDS; and

(II) vulnerabilities caused by the impact of HIV/AIDS on children and their families; and

(ii) in areas of higher HIV/AIDS prevalence, to promote a community-based approach to vulnerability, maximizing community input into determining which children participate.

(Q) A description of capacity-building efforts undertaken by countries themselves, including adherents of the Abuja Declaration and an assessment of the impact of International Monetary

Fund macroeconomic and fiscal policies on national and donor investments in health.

(R) A description of the strategy to—

(i) strengthen capacity building within the public health sector;

(ii) improve health care in those countries;

(iii) help countries to develop and implement national health workforce strategies;

(iv) strive to achieve goals in training, retaining, and effectively deploying health staff;

(v) promote the use of codes of conduct for ethical recruiting practices for health care workers; and

(vi) increase the sustainability of health programs.

(S) A description of the criteria for selection, objectives, methodology, and structure of compacts or other framework agreements with countries or regional organizations, including—

(i) the role of civil society;

(ii) the degree of transparency;

(iii) benchmarks for success of such compacts or agreements; and

(iv) the relationship between such compacts or agreements and the national HIV/AIDS and public health strategies and commitments of partner countries.

(T) A strategy to better coordinate HIV/AIDS assistance with nutrition and food assistance programs.

(U) A description of transnational or regional initiatives to combat regionalized epidemics in highly affected areas such as the Caribbean.

(V) A description of planned resource distribution and global investment by region.

(W) A description of coordination efforts in order to better implement the Stop TB Strategy and to address the problem of coinfection of HIV/AIDS and tuberculosis and of projected challenges or barriers to successful implementation.

(X) A description of coordination efforts to address malaria and comorbidity with malaria and HIV/AIDS.

(c) Study of progress toward achievement of policy objectives

(1) Design and budget plan for data evaluation

The Global AIDS Coordinator shall enter into a contract with the Institute of Medicine of the National Academies that provides that not later than 18 months after July 30, 2008, the Institute, in consultation with the Global AIDS Coordinator and other relevant parties representing the public and private sector, shall provide the Global AIDS Coordinator with a design plan and budget for the evaluation and collection of baseline and subsequent data to address the elements set forth in paragraph (2)(B). The Global AIDS Coordinator shall submit the budget and design plan to the appropriate congressional committees.

(2) Study

(A) In general

Not later than 4 years after July 30, 2008, the Institute of Medicine of the National Academies shall publish a study that includes—

(i) an assessment of the performance of United States-assisted global HIV/AIDS programs; and

(ii) an evaluation of the impact on health of prevention, treatment, and care efforts that are supported by United States funding, including multilateral and bilateral programs involving joint operations.

(B) Content

The study conducted under this paragraph shall include—

(i) an assessment of progress toward prevention, treatment, and care targets;

(ii) an assessment of the effects on health systems, including on the financing and management of health systems and the quality of service delivery and staffing;

(iii) an assessment of efforts to address gender-specific aspects of HIV/AIDS, including gender related constraints to accessing services and addressing underlying social and economic vulnerabilities of women and men;

(iv) an evaluation of the impact of treatment and care programs on 5-year survival rates, drug adherence, and the emergence of drug resistance;

(v) an evaluation of the impact of prevention programs on HIV incidence in relevant population groups;

(vi) an evaluation of the impact on child health and welfare of interventions authorized under this chapter on behalf of orphans and vulnerable children;

(vii) an evaluation of the impact of programs and activities authorized in this chapter on child mortality; and

(viii) recommendations for improving the programs referred to in subparagraph (A)(i).

(C) Methodologies

Assessments and impact evaluations conducted under the study shall utilize sound statistical methods and techniques for the behavioral sciences, including random assignment methodologies as feasible. Qualitative data on process variables should be used for assessments and impact evaluations, wherever possible.

(3) Contract authority

The Institute of Medicine may enter into contracts or cooperative agreements or award grants to conduct the study under paragraph (2).

(4) Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out the study under this subsection.

(d) Comptroller General report

(1) Report required

Not later than 3 years after July 30, 2008, the Comptroller General of the United States shall submit a report on the global HIV/AIDS programs of the United States to the appropriate congressional committees.

(2) Contents

The report required under paragraph (1) shall include—

(A) a description and assessment of the monitoring and evaluation practices and policies in place for these programs;

(B) an assessment of coordination within Federal agencies involved in these programs, examining both internal coordination within these programs and integration with the larger global health and development agenda of the United States;

(C) an assessment of procurement policies and practices within these programs;

(D) an assessment of harmonization with national government HIV/AIDS and public health strategies as well as other international efforts;

(E) an assessment of the impact of global HIV/AIDS funding and programs on other United States global health programming; and

(F) recommendations for improving the global HIV/AIDS programs of the United States.

(e) Best practices report

(1) In general

Not later than 1 year after July 30, 2008, and annually thereafter, the Global AIDS Coordinator shall publish a best practices report that highlights the programs receiving financial assistance from the United States that have the potential for replication or adaption, particularly at a low cost, across global AIDS programs, including those that focus on both generalized and localized epidemics.

(2) Dissemination of findings

(A) Publication on Internet website

The Global AIDS Coordinator shall disseminate the full findings of the annual best practices report on the Internet website of the Office of the Global AIDS Coordinator.

(B) Dissemination guidance

The Global AIDS Coordinator shall develop guidance to ensure timely submission and dissemination of significant information regarding best practices with respect to global AIDS programs.

(f) Inspectors General

(1) Oversight plan

(A) Development

The Inspectors General of the Department of State and Broadcasting Board of Governors, the Department of Health and Human Services, and the United States Agency for International Development shall jointly develop coordinated annual plans for oversight activity in each of the fiscal years 2009 through 2018, with regard to the programs authorized under this chapter and sections 2151b–2, 2151b–3, and 2151b–4 of this title.

(B) Contents

The plans developed under subparagraph (A) shall include a schedule for financial audits, inspections, and performance reviews, as appropriate.

(C) Deadline

(i) Initial plan

The first plan developed under subparagraph (A) shall be completed not later than the later of—

(I) September 1, 2008; or

(II) 60 days after July 30, 2008.

(ii) 2010 through 2013 plans

Each of the plans for fiscal years 2010 through 2013 developed under subparagraph (A) shall be completed not later than 30 days before each of the fiscal years 2010 through 2013, respectively.

(iii) 2014 plan

The plan developed under subparagraph (A) for fiscal year 2014 shall be completed not later than 60 days after December 2, 2013.

(iv) Subsequent plans

Each of the last four plans developed under subparagraph (A) shall be completed not later than 30 days before each of the fiscal years 2015 through 2018, respectively.

(2) Coordination

In order to avoid duplication and maximize efficiency, the Inspectors General described in paragraph (1) shall coordinate their activities with—

(A) the Government Accountability Office; and

(B) the Inspectors General of the Department of Commerce, the Department of Defense, the Department of Labor, and the Peace Corps, as appropriate, pursuant to the 2004 Memorandum of Agreement Coordinating Audit Coverage of Programs and Activities Implementing the President's Emergency Plan for AIDS Relief, or any successor agreement.

(3) Funding

The Global AIDS Coordinator and the Coordinator of the United States Government Activities to Combat Malaria Globally shall make available necessary funds not exceeding $15,000,000

during the 5-year period beginning on October 1, 2008 to the Inspectors General described in paragraph (1) for the audits, inspections, and reviews described in that paragraph.

(g) Annual study

(1) In general

Not later than September 30, 2009, and annually thereafter through September 30, 2019, the Global AIDS Coordinator shall complete a study of treatment providers that—

(A) represents a range of countries and service environments;

(B) estimates the per-patient cost of antiretroviral HIV/AIDS treatment and the care of people with HIV/AIDS not receiving antiretroviral treatment, including a comparison of the costs for equivalent services provided by programs not receiving assistance under this chapter;

(C) estimates per-patient costs across the program and in specific categories of service providers, including—

(i) urban and rural providers;

(ii) country-specific providers; and

(iii) other subcategories, as appropriate.

(2) 2013 through 2018 studies

The studies required to be submitted by September 30, 2014, and annually thereafter through September 30, 2018, shall include, in addition to the elements set forth under paragraph (1), the following elements:

(A) A plan for conducting cost studies of United States assistance under section 2151b–2 of this title in partner countries, taking into account the goal for more systematic collection of data, as well as the demands of such analysis on available human and fiscal resources.

(B) A comprehensive and harmonized expenditure analysis by partner country, including—

(i) an analysis of Global Fund and national partner spending and comparable data across United States, Global Fund, and national partner spending; or

(ii) where providing such comparable data is not currently practicable, an explanation of why it is not currently practicable, and when it will be practicable.

(3) Publication

Not later than 90 days after the completion of each study under paragraph (1), the Global AIDS Coordinator shall make the results of such study available on a publicly accessible Web site.

(4) Partner country defined

In this subsection, the term "partner country" means a country with a minimum United States Government investment of HIV/AIDS assistance of at least $5,000,000 in the prior fiscal year.

(h) Message

The Global AIDS Coordinator shall develop a message, to be prominently displayed by each program receiving funds under this chapter, that—

(1) demonstrates that the program is a commitment by citizens of the United States to the global fight against HIV/AIDS, tuberculosis, and malaria; and

(2) enhances awareness by program recipients that the program is an effort on behalf of the citizens of the United States.

(Pub. L. 108–25, title I, §101, May 27, 2003, 117 Stat. 718; Pub. L. 110–293, title I, §101, July 30, 2008, 122 Stat. 2923; Pub. L. 113–56, §§2, 3(a), Dec. 2, 2013, 127 Stat. 648.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (c)(2)(B)(vi), (vii), (f)(1)(A), (g)(1)(B), and (h), was in the original "this Act", meaning Pub. L. 108–25, May 27, 2003, 117 Stat. 711, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 7601 of this title and Tables.

AMENDMENTS

2013—Subsec. (f)(1)(A). Pub. L. 113–56, §2(1), substituted "coordinated annual plans for oversight

activity in each of the fiscal years 2009 through 2018" for "5 coordinated annual plans for oversight activity in each of the fiscal years 2009 through 2013".

Subsec. (f)(1)(C)(ii). Pub. L. 113–56, §2(2)(A), substituted "2010 through 2013 plans" for "Subsequent plans" in heading and "the plans for fiscal years 2010 through 2013" for "the last four plans" in text.

Subsec. (f)(1)(C)(iii), (iv). Pub. L. 113–56, §2(2)(B), added cls. (iii) and (iv).

Subsec. (g)(1). Pub. L. 113–56, §3(a)(1), substituted "through September 30, 2019" for "through September 30, 2013" in introductory provisions.

Subsec. (g)(2), (3). Pub. L. 113–56, §3(a)(2), (3), added par. (2) and redesignated former par. (2) as (3).

Subsec. (g)(4). Pub. L. 113–56, §3(a)(4), added par. (4).

2008—Subsec. (a). Pub. L. 110–293, §101(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) required the President to establish a comprehensive, integrated, five-year strategy to combat global HIV/AIDS that strengthened the capacity of the United States to be an effective leader of the international campaign against HIV/AIDS and set out standards in pars. (1) to (10) for this strategy.

Subsec. (b). Pub. L. 110–293, §101(b), amended subsec. (b) generally. Prior to amendment, subsec. (b) consisted of pars. (1) to (3) relating to presidential submission of a report to Congress setting forth the strategy described in subsec. (a).

Subsec. (c). Pub. L. 110–293, §101(c), amended subsec. (c) generally. Prior to amendment, subsec. (c) related to the study of success rates and distribution of resources under the strategy described in subsec. (a).

Subsecs. (d) to (f). Pub. L. 110–293, §101(d), added subsecs. (d) to (f).

Subsecs. (g), (h). Pub. L. 110–293, §101(e), added subsecs. (g) and (h).

DELEGATION OF CERTAIN AUTHORITY UNDER THE UNITED STATES LEADERSHIP AGAINST HIV/AIDS, TUBERCULOSIS, AND MALARIA ACT OF 2003

For delegation of functions of President under this chapter to Secretary of State, see Delegation of Functions note set out under section 7601 of this title.

Memorandum of President of the United States, Feb. 23, 2004, 69 F.R. 9509, provided:

Memorandum for the Secretary of State

By the authority vested in me as President by the Constitution and the laws of the United States, including section 301 of title 3, United States Code, I hereby delegate to you the functions and authority conferred upon the President by sections 202(c), 305, and 313 of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (Public Law 108–25) [22 U.S.C. 7622(c), 7635, and 7653], to provide the specified reports to the Congress. In addition, I delegate to you the authority vested in the President by section 101 of Public Law 108–25 [22 U.S.C. 7611] to establish a comprehensive, integrated, 5-year strategy to combat global HIV/AIDS and to submit to the appropriate congressional committees a report setting forth the strategy.

You are authorized and directed to publish this memorandum in the Federal Register.

GEORGE W. BUSH.

§7612. HIV/AIDS response Coordinator

(a) Omitted

(b) Resources

Not later than 90 days after May 27, 2003, the President shall specify the necessary financial and personnel resources, from funds appropriated pursuant to the authorization of appropriations under section 7671 of this title for HIV/AIDS assistance, that shall be assigned to and under the direct control of the Coordinator of United States Government Activities to Combat HIV/AIDS Globally to establish and maintain the duties and supporting activities assigned to the Coordinator by this chapter and the amendments made by this chapter.

(c) Establishment of separate account

There is established in the general fund of the Treasury a separate account which shall be known as the "Activities to Combat HIV/AIDS Globally Fund" and which shall be administered by the Coordinator of United States Government Activities to Combat HIV/AIDS Globally. There shall be

deposited into the Fund all amounts appropriated pursuant to the authorization of appropriations under section 7671 of this title for HIV/AIDS assistance, except for amounts appropriated for United States contributions to the Global Fund.

(d) Sense of Congress

It is the sense of Congress that—

(1) full-time country level coordinators, preferably with management experience, should head each HIV/AIDS country team for United States missions overseeing significant HIV/AIDS programs;

(2) foreign service nationals provide critically important services in the design and implementation of United States country-level HIV/AIDS programs and their skills and experience as public health professionals should be recognized within hiring and compensation practices; and

(3) staffing levels for United States country-level HIV/AIDS teams should be adequately maintained to fulfill oversight and other obligations of the positions.

(Pub. L. 108–25, title I, §102, May 27, 2003, 117 Stat. 721; Pub. L. 110–293, title I, §103, July 30, 2008, 122 Stat. 2935.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original "this Act", meaning Pub. L. 108–25, May 27, 2003, 117 Stat. 711, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 7601 of this title and Tables.

CODIFICATION

Section is comprised of section 102 of Pub. L. 108–25. Subsec. (a) of section 102 of Pub. L. 108–25 amended section 2651a of this title.

AMENDMENTS

2008—Subsec. (d). Pub. L. 110–293 added subsec. (d).

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§7612a. HIV/AIDS Working Capital Fund

(1) In furtherance of the purposes of section 2151b–2 of this title, and to assist in providing a safe, secure, reliable, and sustainable supply chain of pharmaceuticals and other products needed to provide care and treatment of persons with HIV/AIDS and related infections, the Coordinator of the United States Government Activities to Combat HIV/AIDS Globally (the "Coordinator") is authorized to establish an HIV/AIDS Working Capital Fund (in this section referred to as the "HIV/AIDS Fund").

(2) Funds deposited during any fiscal year in the HIV/AIDS Fund shall be available without fiscal year limitation and used for pharmaceuticals and other products needed to provide care and treatment of persons with HIV/AIDS and related infections, including, but not limited to—

(A) anti-retroviral drugs;

(B) other pharmaceuticals and medical items needed to provide care and treatment to persons with HIV/AIDS and related infections;

(C) laboratory and other supplies for performing tests related to the provision of care and treatment to persons with HIV/AIDS and related infections;

(D) other medical supplies needed for the operation of HIV/AIDS treatment and care centers, including products needed in programs for the prevention of mother-to-child transmission;

(E) pharmaceuticals and health commodities needed for the provision of palliative care; and

(F) laboratory and clinical equipment, as well as equipment needed for the transportation and care of HIV/AIDS supplies, and other equipment needed to provide prevention, care and treatment

of HIV/AIDS described above.

(3) There may be deposited during any fiscal year in the HIV/AIDS Fund payments for HIV/AIDS pharmaceuticals and products provided from the HIV/AIDS Fund received from applicable appropriations and funds of the United States Agency for International Development, the Department of Health and Human Services, the Department of Defense, or other Federal agencies and other sources at actual cost of the HIV/AIDS pharmaceuticals and other products, actual cost plus the additional costs of providing such HIV/AIDS pharmaceuticals and other products, or at any other price agreed to by the Coordinator or his designee.

(4) There may be deposited in the HIV/AIDS Fund payments for the loss of, or damage to, HIV/AIDS pharmaceuticals and products held in the HIV/AIDS Fund, rebates, reimbursements, refunds and other credits applicable to the operation of the HIV/AIDS Fund.

(5) At the close of each fiscal year the Coordinator may transfer out of the HIV/AIDS Fund to other HIV/AIDS programmatic areas such amounts as the Coordinator determines to be in excess of the needs of the HIV/AIDS Fund.

(6) At the close of each fiscal year the Coordinator shall submit a report to the Committees on Appropriations detailing the financial activities of the HIV/AIDS Fund, including sources of income and information regarding disbursements.

(Pub. L. 108–447, div. D, title V, §525(b), Dec. 8, 2004, 118 Stat. 3000.)

CODIFICATION

Section was enacted as part of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005, and also as part of the Consolidated Appropriations Act, 2005, and not as part of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 which comprises this chapter.

SUBCHAPTER II—SUPPORT FOR MULTILATERAL FUNDS, PROGRAMS, AND PUBLIC-PRIVATE PARTNERSHIPS

§7621. Sense of Congress on public-private partnerships

(a) Findings

Congress makes the following findings:

(1) Innovative partnerships between governments and organizations in the private sector (including foundations, universities, corporations, faith-based and community-based organizations, and other nongovernmental organizations) have proliferated in recent years, particularly in the area of health.

(2) Public-private sector partnerships multiply local and international capacities to strengthen the delivery of health services in developing countries and to accelerate research for vaccines and other pharmaceutical products that are essential to combat infectious diseases decimating the populations of these countries.

(3) These partnerships maximize the unique capabilities of each sector while combining financial and other resources, scientific knowledge, and expertise toward common goals which neither the public nor the private sector can achieve alone.

(4) Sustaining existing public-private partnerships and building new ones are critical to the success of the international community's efforts to combat HIV/AIDS and other infectious diseases around the globe.

(b) Sense of Congress

It is the sense of Congress that—

(1) the sustainment and promotion of public-private partnerships should be a priority element of

the strategy pursued by the United States to combat the HIV/AIDS pandemic and other global health crises; and

(2) the United States should systematically track the evolution of these partnerships and work with others in the public and private sector to profile and build upon those models that are most effective.

(Pub. L. 108–25, title II, §201, May 27, 2003, 117 Stat. 723.)

§7622. Participation in the Global Fund to Fight AIDS, Tuberculosis and Malaria

(a) Findings; sense of Congress

(1) Findings

Congress makes the following findings:

(A) The establishment of the Global Fund in January 2002 is consistent with the general principles for an international AIDS trust fund first outlined by Congress in the Global AIDS and Tuberculosis Relief Act of 2000 (Public Law 106–264) [22 U.S.C. 6801 et seq.].

(B) The Global Fund is an innovative financing mechanism which—

(i) has made progress in many areas in combating HIV/AIDS, tuberculosis, and malaria; and

(ii) represents the multilateral component of this chapter, extending United States efforts to more than 130 countries around the world.

(C) The Global Fund and United States bilateral assistance programs—

(i) are demonstrating increasingly effective coordination, with each possessing certain comparative advantages in the fight against HIV/AIDS, tuberculosis, and malaria; and

(ii) often work most effectively in concert with each other.

(D) The United States Government—

(i) is the largest supporter of the Global Fund in terms of resources and technical support;

(ii) made the founding contribution to the Global Fund; and

(iii) is fully committed to the success of the Global Fund as a multilateral public-private partnership.

(2) Sense of Congress

It is the sense of Congress that—

(A) transparency and accountability are crucial to the long-term success and viability of the Global Fund;

(B) the Global Fund has made significant progress toward addressing concerns raised by the Government Accountability Office by—

(i) improving risk assessment and risk management capabilities;

(ii) providing clearer guidance for and oversight of Local Fund Agents; and

(iii) strengthening the Office of the Inspector General for the Global Fund;

(C) the provision of sufficient resources and authority to the Office of the Inspector General for the Global Fund to ensure that office has the staff and independence necessary to carry out its mandate will be a measure of the commitment of the Global Fund to transparency and accountability;

(D) regular, publicly published financial, programmatic, and reporting audits of the Fund, its grantees, and Local Fund Agents are also important benchmarks of transparency;

(E) the Global Fund should establish and maintain a system to track—

(i) the amount of funds disbursed to each subrecipient on the grant's fiscal cycle; and

(ii) the distribution of resources, by grant and principal recipient, for prevention, care,

treatment, drug and commodity purchases, and other purposes;

(F) relevant national authorities in recipient countries should exempt from duties and taxes all products financed by Global Fund grants and procured by any principal recipient or subrecipient for the purpose of carrying out such grants;

(G) the Global Fund, UNAIDS, and the Global AIDS Coordinator should work together to standardize program indicators wherever possible;

(H) for purposes of evaluating total amounts of funds contributed to the Global Fund under subsection (d)(4)(A)(i), the timetable for evaluations of contributions from sources other than the United States should take into account the fiscal calendars of other major contributors; and

(I) the Global Fund should not support activities involving the "Affordable Medicines Facility-Malaria" or similar entities pending compelling evidence of success from pilot programs as evaluated by the Coordinator of United States Government Activities to Combat Malaria Globally.

(b) Authority for United States participation

(1) United States participation

The United States is hereby authorized to participate in the Global Fund.

(2) Privileges and immunities

The Global Fund shall be considered a public international organization for purposes of section 288 of this title.

(3) Statement of policy

The United States Government regards the imposition by recipient countries of taxes or tariffs on goods or services provided by the Global Fund, which are supported through public and private donations, including the substantial contribution of the American people, as inappropriate and inconsistent with standards of good governance. The Global AIDS Coordinator or other representatives of the United States Government shall work with the Global Fund to dissuade governments from imposing such duties, tariffs, or taxes.

(c) Reports to Congress

Not later than 1 year after May 27, 2003, and annually thereafter for the duration of the Global Fund, the President shall submit to the appropriate congressional committees a report on the Global Fund, including contributions pledged to, contributions (including donations from the private sector) received by, and projects funded by the Global Fund, and the mechanisms established for transparency and accountability in the grant-making process.

(d) United States financial participation

(1) Authorization of appropriations

In addition to any other funds authorized to be appropriated for bilateral or multilateral HIV/AIDS, tuberculosis, or malaria programs, of the amounts authorized to be appropriated under section 7671 of this title, there are authorized to be appropriated to the President up to $2,000,000,000 for fiscal year 2009,,[1] and such sums as may be necessary for each of the fiscal years 2010 through 2013, for contributions to the Global Fund.

(2) Availability of funds

Amounts appropriated under paragraph (1) are authorized to remain available until expended.

(3) Reprogramming of fiscal year 2001 funds

Funds made available for fiscal year 2001 under section 141 of the Global AIDS and Tuberculosis Relief Act of 2000 [22 U.S.C. 6841]—

(A) are authorized to remain available until expended; and

(B) shall be transferred to, merged with, and made available for the same purposes as, funds made available for fiscal years 2004 through 2008 under paragraph (1).

(4) Limitation

(A)(i) At any time during fiscal years 2009 through 2018, no United States contribution to the Global Fund may cause the total amount of United States Government contributions to the Global Fund to exceed 33 percent of the total amount of funds contributed to the Global Fund from all sources. Contributions to the Global Fund from the International Bank for Reconstruction and Development and the International Monetary Fund shall not be considered in determining compliance with this paragraph.

(ii) If, at any time during any of the fiscal years 2009 through 2018, the President determines that the Global Fund has provided assistance to a country, the government of which the Secretary of State has determined, for purposes of section 4605(j)(1) of title 50, has repeatedly provided support for acts of international terrorism, then the United States shall withhold from its contribution for the next fiscal year an amount equal to the amount expended by the Fund to the government of each such country.

(iii) If at any time the President determines that the expenses of the Governing, Administrative, and Advisory Bodies (including the Partnership Forum, the Foundation Board, the Secretariat, and the Technical Review Board) of the Global Fund exceed 10 percent of the total expenditures of the Fund for any 2-year period, the United States shall withhold from its contribution for the next fiscal year an amount equal the to the average annual amount expended by the Fund for such 2-year period for the expenses of the Governing, Administrative, and Advisory Bodies in excess of 10 percent of the total expenditures of the Fund.

(iv) The President may waive the application of clause (iii) if the President determines that extraordinary circumstances warrant such a waiver. No waiver under this clause may be for any period that exceeds 1 year.

(v) If, at any time during any of the fiscal years 2004 through 2008, the President determines that the salary of any individual employed by the Global Fund exceeds the salary of the Vice President of the United States (as determined under section 104 of title 3) for that fiscal year, then the United States shall withhold from its contribution for the next fiscal year an amount equal to the aggregate amount by which the salary of each such individual exceeds the salary of the Vice President of the United States.

(vi) For the purposes of clause (i), "funds contributed to the Global Fund from all sources" means funds contributed to the Global Fund at any time during fiscal years 2009 through 2018 that are not contributed to fulfill a commitment made for a fiscal year before fiscal year 2009.

(B)(i) Any amount made available that is withheld by reason of subparagraph (A)(i) shall be contributed to the Global Fund as soon as practicable, subject to subparagraph (A)(i), after additional contributions to the Global Fund are made from other sources.

(ii) Any amount made available that is withheld by reason of subparagraph (A)(iii) shall be transferred to the Activities to Combat HIV/AIDS Globally Fund and shall remain available under the same terms and conditions as funds appropriated to carry out section 2151b–2 of this title for HIV/AIDS assistance.

(iii) Any amount made available that is withheld by reason of clause (ii) or (iii) of subparagraph (A) is authorized to be made available to carry out section 2151b–2 of this title. Amounts made available under the preceding sentence are in addition to amounts appropriated pursuant to the authorization of appropriations under section 7671 of this title for HIV/AIDS assistance.

(iv) Notwithstanding clause (i), after July 31 of each of the fiscal years 2009 through 2018, any amount made available that is withheld by reason of subparagraph (A)(i) is authorized to be made available to carry out sections 2151b–2, 2151b–3, and 2151b–4 of this title.

(C)(i) The President may suspend the application of subparagraph (A) with respect to a fiscal year if the President determines that an international health emergency threatens the national security interests of the United States.

(ii) The President shall notify the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate not less than 5 days before making a determination under clause (i) with respect to the application of subparagraph (A)(i) and shall include in the notification—

(I) a justification as to why increased United States Government contributions to the Global Fund is preferable to increased United States assistance to combat HIV/AIDS, tuberculosis, and malaria on a bilateral basis; and

(II) an explanation as to why other government donors to the Global Fund are unable to provide adequate contributions to the Fund.

(5) Withholding funds

Notwithstanding any other provision of this chapter, 20 percent of the amounts appropriated pursuant to this chapter for a contribution to support the Global Fund for each of the fiscal years 2010 through 2018 shall be withheld from obligation to the Global Fund until the Secretary of State certifies to the appropriate congressional committees that the Global Fund—

(A) has established an evaluation framework for the performance of Local Fund Agents (referred to in this paragraph as "LFAs");

(B) is undertaking a systematic assessment of the performance of LFAs;

(C) has adopted, and is implementing, a policy to publish on a publicly available Web site in an open, machine readable format—

(i) grant performance reviews;

(ii) all reports of the Inspector General of the Global Fund, in a manner that is consistent with the Policy for Disclosure of Reports of the Inspector General, approved at the 16th Meeting of the Board of the Global Fund;

(iii) decision points of the Board of the Global Fund;

(iv) reports from Board committees to the Board; and

(v) a regular collection, analysis, and reporting of performance data and funding of grants of the Global Fund, which covers all principal recipients and all subrecipients on the fiscal cycle of each grant, and includes the distribution of resources, by grant and principal recipient and subrecipient, for prevention, care, treatment, drugs, and commodities purchase, and other purposes as practicable;

(D) is maintaining an independent, well-staffed Office of the Inspector General that—

(i) reports directly to the Board of the Global Fund; and

(ii) compiles regular, publicly published audits, in an open, machine readable format, of financial, programmatic, and reporting aspects of the Global Fund, its grantees, and LFAs;

(E) has established, and is reporting publicly, in an open, machine readable format, on, standard indicators for all program areas;

(F) has established a methodology to track and is publicly reporting on—

(i) all subrecipients and the amount of funds disbursed to each subrecipient on the grant's fiscal cycle;

(ii) all principal recipients and subrecipients and the amount of funds disbursed to each principal recipient and subrecipient on the fiscal cycle of the grant;

(iii) expenditure data—

(I) tracked by principal recipients and subrecipients by program area, where practicable, prevention, care, and treatment and reported in a format that allows comparison with other funding streams in each country; or

(II) if such expenditure data is not available, outlay or disbursement data, and an explanation of progress made toward providing such expenditure data; and

(iv) high-quality grant performance evaluations measuring inputs, outputs, and outcomes, as appropriate, with the goal of achieving outcome reporting;

(G) has published an annual report on a publicly available Web site in an open, machine readable format, that includes—

(i) a list of all countries imposing import duties and internal taxes on any goods or services financed by the Global Fund;

(ii) a description of the types of goods or services on which the import duties and internal taxes are levied;

(iii) the total cost of the import duties and internal taxes;

(iv) recovered import duties or internal taxes; and

(v) the status of country status-agreements;

(H) through its Secretariat, has taken meaningful steps to prevent national authorities in recipient countries from imposing taxes or tariffs on goods or services provided by the Fund;

(I) is maintaining its status as a financing institution focused on programs directly related to HIV/AIDS, malaria, and tuberculosis;

(J) is maintaining and making progress on—

(i) sustaining its multisectoral approach, through country coordinating mechanisms; and

(ii) the implementation of grants, as reflected in the proportion of resources allocated to different sectors, including governments, civil society, and faith- and community-based organizations; and

(K) has established procedures providing access by the Office of Inspector General of the Department of State and Broadcasting Board of Governors, as cognizant Inspector General, and the Inspector General of the Health and Human Services and the Inspector General of the United States Agency for International Development, to Global Fund financial data, and other information relevant to United States contributions (as determined by the Inspector General in consultation with the Global AIDS Coordinator).

(6) Summaries of Board decisions and United States positions

Following each meeting of the Board of the Global Fund, the Coordinator of United States Government Activities to Combat HIV/AIDS Globally shall report on the public website of the Coordinator a summary of Board decisions and how the United States Government voted and its positions on such decisions.

(e) Interagency technical review panel

(1) Establishment

The Coordinator of United States Government Activities to Combat HIV/AIDS Globally, established in section 2651a(f)(1) of this title, shall establish in the executive branch an interagency technical review panel.

(2) Duties

The interagency technical review panel shall serve as a "shadow" panel to the Global Fund by—

(A) periodically reviewing all proposals received by the Global Fund; and

(B) providing guidance to the United States persons who are representatives on the panels, committees, and boards of the Global Fund, on the technical efficacy, suitability, and appropriateness of the proposals, and ensuring that such persons are fully informed of technical inadequacies or other aspects of the proposals that are inconsistent with the purposes of this chapter or any other Act relating to the provision of foreign assistance in the area of AIDS.

(3) Membership

The interagency technical review panel shall consist of qualified medical and development experts who are officers or employees of the Department of Health and Human Services, the Department of State, and the United States Agency for International Development.

(4) Chair

The Coordinator referred to in paragraph (1) shall chair the interagency technical review panel.

(f) Monitoring by Comptroller General

(1) Monitoring

The Comptroller General shall monitor and evaluate projects funded by the Global Fund.

(2) Report

The Comptroller General shall on a biennial basis shall prepare and submit to the appropriate congressional committees a report that contains the results of the monitoring and evaluation described in paragraph (1) for the preceding 2-year period.

(g) Provision of information to Congress

The Coordinator of United States Government Activities to Combat HIV/AIDS Globally shall make available to the Congress the following documents within 30 days of a request by the Congress for such documents:

(1) All financial and accounting statements for the Global Fund and the Activities to Combat HIV/AIDS Globally Fund, including administrative and grantee statements.

(2) Reports provided to the Global Fund and the Activities to Combat HIV/AIDS Globally Fund by organizations contracted to audit recipients of funds.

(3) Project proposals submitted by applicants for funding from the Global Fund and the Activities to Combat HIV/AIDS Globally Fund, but which were not funded.

(4) Progress reports submitted to the Global Fund and the Activities to Combat HIV/AIDS Globally Fund by grantees.

(h) Sense of the Congress regarding encouragement of private contributions to the Global Fund

It is the sense of the Congress that the President should—

(1) conduct an outreach campaign that is designed to—

(A) inform the public of the existence of—

(i) the Global Fund; and

(ii) any entity that will accept private contributions intended for use by the Global Fund; and

(B) encourage private contributions to the Global Fund; and

(2) encourage private contributions intended for use by the Global Fund by—

(A) establishing and operating an Internet website, and publishing information about the website; and

(B) making public service announcements on radio and television.

(Pub. L. 108–25, title II, §202, May 27, 2003, 117 Stat. 724; Pub. L. 108–199, div. D, title V, §595(1), (2), Jan. 23, 2004, 118 Stat. 209; Pub. L. 110–293, title II, §202, July 30, 2008, 122 Stat. 2936; Pub. L. 113–56, §4, Dec. 2, 2013, 127 Stat. 649.)

REFERENCES IN TEXT

The Global AIDS and Tuberculosis Relief Act of 2000, referred to in subsec. (a)(1)(A), is Pub. L. 106–264, Aug. 19, 2000, 114 Stat. 748, which is classified principally to chapter 76 (§6801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6801 of this title and Tables.

This chapter, referred to in subsecs. (a)(1)(B)(ii), (d)(5), and (e)(2)(B), was in the original a reference to this Act, meaning Pub. L. 108–25, May 27, 2003, 117 Stat. 711, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 7601 of this title and Tables.

AMENDMENTS

2013—Subsec. (d)(4)(A)(i). Pub. L. 113–56, §4(a)(1)(A), substituted "2018" for "2013".

Subsec. (d)(4)(A)(ii). Pub. L. 113–56, §4(a)(1)(B), substituted "2018" for "2013" and struck out at end "The President may waive the application of this clause with respect to assistance for Sudan that is overseen by the Southern Country Coordinating Mechanism, including Southern Sudan, Southern Kordofan, Blue Nile State, and Abyei, if the President determines that the national interest or humanitarian reasons justify such a waiver. The President shall publish each waiver of this clause in the Federal Register and, not later than 15 days before the waiver takes effect, shall consult with the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives regarding the proposed waiver."

Subsec. (d)(4)(A)(vi). Pub. L. 113–56, §4(a)(1)(C), substituted "2018" for "2013".

Subsec. (d)(4)(B). Pub. L. 113–56, §4(a)(2)(A), struck out "under this subsection" after "amount made available" in cls. (i) to (iv).

Subsec. (d)(4)(B)(ii). Pub. L. 113–56, §4(a)(2)(B), substituted "to carry out section 2151b–2 of this title" for "pursuant to the authorization of appropriations under section 7671 of this title".

Subsec. (d)(4)(B)(iv). Pub. L. 113–56, §4(a)(2)(C), substituted "2018" for "2013".

Subsec. (d)(5). Pub. L. 113–56, §4(b)(1)(A), substituted "2018" for "2013" in introductory provisions.

Subsec. (d)(5)(C). Pub. L. 113–56, §4(b)(1)(B)(i), inserted "in an open, machine readable format" after "site" in introductory provisions.

Subsec. (d)(5)(C)(v). Pub. L. 113–56, §4(b)(1)(B)(ii), amended cl. (v) generally. Prior to amendment, cl. (v) read as follows: "a regular collection and analysis of performance data and funding of grants of the Global Fund, which shall cover all principal recipients and all subrecipients;".

Subsec. (d)(5)(D)(ii). Pub. L. 113–56, §4(b)(1)(C), inserted ", in an open, machine readable format," after "audits".

Subsec. (d)(5)(E). Pub. L. 113–56, §4(b)(1)(D), inserted ", in an open, machine readable format," after "publicly".

Subsec. (d)(5)(F)(ii) to (iv). Pub. L. 113–56, §4(b)(1)(E), added cls. (ii) to (iv) and struck out former cl. (ii) which read as follows: "the distribution of resources, by grant and principal recipient, for prevention, care, treatment, drugs and commodities purchase, and other purposes;".

Subsec. (d)(5)(G). Pub. L. 113–56, §4(b)(1)(F), amended subpar. (G) generally. Prior to amendment, subpar. (G) read as follows: "has established a policy on tariffs imposed by national governments on all goods and services financed by the Global Fund;".

2008—Subsec. (a). Pub. L. 110–293, §202(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) stated findings of Congress.

Subsec. (b)(3). Pub. L. 110–293, §202(b), added par. (3).

Subsec. (d)(1). Pub. L. 110–293, §202(c)(1), substituted "$2,000,000,000 for fiscal year 2009," for "$1,000,000,000 for the period of fiscal year 2004 beginning on January 1, 2004" and "each of the fiscal years 2010 through 2013" for "the fiscal years 2005–2008".

Subsec. (d)(4)(A)(i). Pub. L. 110–293, §202(c)(2)(A)(i), substituted "fiscal years 2009 through 2013" for "fiscal years 2004 through 2008".

Subsec. (d)(4)(A)(ii). Pub. L. 110–293, §202(c)(2)(A)(ii), substituted "during any of the fiscal years 2009 through 2013" for "during any of the fiscal years 2004 through 2008" and inserted at end "The President may waive the application of this clause with respect to assistance for Sudan that is overseen by the Southern Country Coordinating Mechanism, including Southern Sudan, Southern Kordofan, Blue Nile State, and Abyei, if the President determines that the national interest or humanitarian reasons justify such a waiver. The President shall publish each waiver of this clause in the Federal Register and, not later than 15 days before the waiver takes effect, shall consult with the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives regarding the proposed waiver."

Subsec. (d)(4)(A)(vi). Pub. L. 110–293, §202(c)(2)(A)(iii), substituted "For the purposes" for "for the purposes", "fiscal years 2009 through 2013" for "fiscal years 2004 through 2008", and "before fiscal year 2009" for "prior to fiscal year 2004".

Subsec. (d)(4)(B)(iv). Pub. L. 110–293, §202(c)(2)(B), substituted "fiscal years 2009 through 2013" for "fiscal years 2004 through 2008".

Subsec. (d)(4)(C)(ii). Pub. L. 110–293, §202(c)(2)(C), substituted "Committee on Foreign Affairs" for "Committee on International Relations".

Subsec. (d)(5), (6). Pub. L. 110–293, §202(c)(3), added pars. (5) and (6).

2004—Subsec. (d)(4)(A)(vi). Pub. L. 108–199, §595(1), added cl. (vi).

Subsec. (d)(4)(B)(iv). Pub. L. 108–199, §595(2), added cl. (iv).

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title, and Memorandum of President of Feb. 23, 2004, 69 F.R. 9509, set out as a note under section 7611 of this title.

[1] *So in original.*

§7623. Combating HIV/AIDS, tuberculosis, and malaria by strengthening health policies and health systems of partner countries

(a) Statement of policy

It shall be the policy of the United States Government—

(1) to invest appropriate resources authorized under this chapter—

(A) to carry out activities to strengthen HIV/AIDS, tuberculosis, and malaria health policies and health systems; and

(B) to provide workforce training and capacity-building consistent with the goals and objectives of this chapter; and

(2) to support the development of a sound policy environment in partner countries to increase the ability of such countries—

(A) to maximize utilization of health care resources from donor countries;

(B) to increase national investments in health and education and maximize the effectiveness of such investments;

(C) to improve national HIV/AIDS, tuberculosis, and malaria strategies;

(D) to deliver evidence-based services in an effective and efficient manner; and

(E) to reduce barriers that prevent recipients of services from achieving maximum benefit from such services.

(b) Assistance to improve public finance management systems

(1) In general

Consistent with the authority under section 2151aa of this title, the Secretary of the Treasury, acting through the head of the Office of Technical Assistance, is authorized to provide assistance for advisors and partner country finance, health, and other relevant ministries to improve the effectiveness of public finance management systems in partner countries to enable such countries to receive funding to carry out programs to combat HIV/AIDS, tuberculosis, and malaria and to manage such programs.

(2) Authorization of appropriations

Of the amounts authorized to be appropriated under section 7671 of this title for HIV/AIDS assistance, there are authorized to be appropriated to the Secretary of the Treasury such sums as may be necessary for each of the fiscal years 2009 through 2013 to carry out this subsection.

(c) Plan required

The Global AIDS Coordinator, in collaboration with the Administrator of the United States Agency for International Development (USAID), shall develop and implement a plan to combat HIV/AIDS by strengthening health policies and health systems of partner countries as part of USAID's "Health Systems 2020" project. Recognizing that human and institutional capacity form the core of any health care system that can sustain the fight against HIV/AIDS, tuberculosis, and malaria, the plan shall include a strategy to encourage postsecondary educational institutions in partner countries, particularly in Africa, in collaboration with United States postsecondary educational institutions, including historically black colleges and universities, to develop such human and institutional capacity and in the process further build their capacity to sustain the fight against these diseases.

(Pub. L. 108–25, title II, §204 as added Pub. L. 110–293, title II, §204(a), July 30, 2008, 122 Stat. 2942.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(1), was in the original "this Act", meaning Pub. L. 108–25, May 27, 2003, 117 Stat. 711, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 7601 of this title and Tables.

§7624. Facilitating vaccine development

(a) Technical assistance for developing countries

The Administrator of the United States Agency for International Development, utilizing public-private partners, as appropriate, and working in coordination with other international development agencies, is authorized to strengthen the capacity of developing countries' governmental institutions to—

(1) collect evidence for informed decision-making and introduction of new vaccines, including potential HIV/AIDS, tuberculosis, and malaria vaccines, if such vaccines are determined to be safe and effective;

(2) review protocols for clinical trials and impact studies and improve the implementation of clinical trials; and

(3) ensure adequate supply chain and delivery systems.

(b) Advanced market commitments

(1) Purpose

The purpose of this subsection is to improve global health by requiring the United States to participate in negotiations for advance market commitments for the development of future vaccines, including potential vaccines for HIV/AIDS, tuberculosis, and malaria.

(2) Negotiation requirement

The Secretary of the Treasury shall enter into negotiations with the appropriate officials of the International Bank of Reconstruction and Development (World Bank) and the GAVI Alliance, the member nations of such entities, and other interested parties to establish advanced market commitments to purchase vaccines to combat HIV/AIDS, tuberculosis, malaria, and other related infectious diseases.

(3) Requirements

In negotiating the United States participation in programs for advanced market commitments, the Secretary of the Treasury shall take into account whether programs for advance market commitments include—

(A) legally binding contracts for product purchase that include a fair market price for up to a maximum number of treatments, creating a strong market incentive;

(B) clearly defined and transparent rules of program participation for qualified developers and suppliers of the product;

(C) clearly defined requirements for eligible vaccines to ensure that they are safe and effective and can be delivered in developing country contexts;

(D) dispute settlement mechanisms; and

(E) sufficient flexibility to enable the contracts to be adjusted in accord with new information related to projected market size and other factors while still maintaining the purchase commitment at a fair price.

(4) Report

Not later than 1 year after July 30, 2008—

(A) the Secretary of the Treasury shall submit a report to the appropriate congressional committees on the status of the United States negotiations to participate in programs for the advanced market commitments under this subsection; and

(B) the President shall produce a comprehensive report, written by a study group of qualified professionals from relevant Federal agencies and initiatives, nongovernmental organizations, and industry representatives, that sets forth a coordinated strategy to accelerate development of vaccines for infectious diseases, such as HIV/AIDS, malaria, and tuberculosis, which includes—

(i) initiatives to create economic incentives for the research, development, and manufacturing of vaccines for HIV/AIDS, tuberculosis, malaria, and other infectious

diseases;

(ii) an expansion of public-private partnerships and the leveraging of resources from other countries and the private sector; and

(iii) efforts to maximize United States capabilities to support clinical trials of vaccines in developing countries and to address the challenges of delivering vaccines in developing countries to minimize delays in access once vaccines are available.

(Pub. L. 110–293, title II, §206, July 30, 2008, 122 Stat. 2944.)

CODIFICATION

Section was enacted as part of the Tom Lantos and Henry J. Hyde United States Global Leadership Against HIV/AIDS, Tuberculosis, and Malaria Reauthorization Act of 2008, and not as part of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 which comprises this chapter.

SUBCHAPTER III—BILATERAL EFFORTS

PART A—GENERAL ASSISTANCE AND PROGRAMS

§7631. Assistance to combat HIV/AIDS

(a) Omitted

(b) Authorization of appropriations

(1) In general

In addition to funds available under section 104(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b(c)) for such purpose or under any other provision of that Act [22 U.S.C. 2151 et seq.], there are authorized to be appropriated to the President, from amounts authorized to be appropriated under section 7671 of this title, such sums as may be necessary for each of the fiscal years 2009 through 2013 to carry out section 104A of the Foreign Assistance Act of 1961, as added by subsection (a) [22 U.S.C. 2151b–2].

(2) Availability of funds

Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

(3) Allocation of funds

Of the amount authorized to be appropriated by paragraph (1) for the fiscal years 2009 through 2013, such sums as may be necessary are authorized to be appropriated to carry out section 104A(d)(4) of the Foreign Assistance Act of 1961 (as added by subsection (a)) [22 U.S.C. 2151b–2(d)(4)], relating to the procurement and distribution of HIV/AIDS pharmaceuticals.

(c) Food and nutritional support

(1) In general

As indicated in the report produced by the Institute of Medicine, entitled "PEPFAR Implementation: Progress and Promise", inadequate caloric intake has been clearly identified as a principal reason for failure of clinical response to antiretroviral therapy. In recognition of the impact of malnutrition as a clinical health issue for many persons living with HIV/AIDS that is often associated with health and economic impacts on these individuals and their families, the Global AIDS Coordinator and the Administrator of the United States Agency for International Development shall—

(A) follow World Health Organization guidelines for HIV/AIDS food and nutrition services;

(B) integrate nutrition programs with HIV/AIDS activities through effective linkages among the health, agricultural, and livelihood sectors and establish additional services in circumstances in which referrals are inadequate or impossible;

(C) provide, as a component of care and treatment programs for persons with HIV/AIDS, food and nutritional support to individuals infected with, and affected by, HIV/AIDS who meet established criteria for nutritional support (including clinically malnourished children and adults, and pregnant and lactating women in programs in need of supplemental support), including—

(i) anthropometric and dietary assessment;

(ii) counseling; and

(iii) therapeutic and supplementary feeding;

(D) provide food and nutritional support for children affected by HIV/AIDS and to communities and households caring for children affected by HIV/AIDS; and

(E) in communities where HIV/AIDS and food insecurity are highly prevalent, support programs to address these often intersecting health problems through community-based assistance programs, with an emphasis on sustainable approaches.

(2) Authorization of appropriations

Of the amounts authorized to be appropriated under section 7671 of this title, there are authorized to be appropriated to the President such sums as may be necessary for each of the fiscal years 2009 through 2013 to carry out this subsection.

(d) Eligibility for assistance

An organization, including a faith-based organization, that is otherwise eligible to receive assistance under section 104A of the Foreign Assistance Act of 1961 [22 U.S.C. 2151b–2], under this chapter, or under any amendment made by this chapter or by the Tom Lantos and Henry J. Hyde United States Global Leadership Against HIV/AIDS, Tuberculosis, and Malaria Reauthorization Act of 2008, for HIV/AIDS prevention, treatment, or care—

(1) shall not be required, as a condition of receiving such assistance—

(A) to endorse or utilize a multisectoral or comprehensive approach to combating HIV/AIDS; or

(B) to endorse, utilize, make a referral to, become integrated with, or otherwise participate in any program or activity to which the organization has a religious or moral objection; and

(2) shall not be discriminated against in the solicitation or issuance of grants, contracts, or cooperative agreements under such provisions of law for refusing to meet any requirement described in paragraph (1).

(e) Limitation

No funds made available to carry out this chapter, or any amendment made by this chapter, may be used to promote or advocate the legalization or practice of prostitution or sex trafficking. Nothing in the preceding sentence shall be construed to preclude the provision to individuals of palliative care, treatment, or post-exposure pharmaceutical prophylaxis, and necessary pharmaceuticals and commodities, including test kits, condoms, and, when proven effective, microbicides.

(f) Limitation

No funds made available to carry out this chapter, or any amendment made by this chapter, may be used to provide assistance to any group or organization that does not have a policy explicitly opposing prostitution and sex trafficking, except that this subsection shall not apply to the Global Fund to Fight AIDS, Tuberculosis and Malaria, the World Health Organization, the International AIDS Vaccine Initiative or to any United Nations agency.

(g) Sense of Congress relating to food assistance for individuals living with HIV/AIDS

(1) Findings

Congress finds the following:

(A) The United States provides more than 60 percent of all food assistance worldwide.

(B) According to the United Nations World Food Program and other United Nations agencies, food insecurity of individuals infected or living with HIV/AIDS is a major problem in countries with large populations of such individuals, particularly in African countries.

(C) Although the United States is willing to provide food assistance to these countries in need, a few of the countries object to part or all of the assistance because of fears of benign genetic modifications to the foods.

(D) Healthy and nutritious foods for individuals infected or living with HIV/AIDS are an important complement to HIV/AIDS medicines for such individuals.

(E) Individuals infected with HIV have higher nutritional requirements than individuals who are not infected with HIV, particularly with respect to the need for protein. Also, there is evidence to suggest that the full benefit of therapy to treat HIV/AIDS may not be achieved in individuals who are malnourished, particularly in pregnant and lactating women.

(2) Sense of Congress

It is therefore the sense of Congress that United States food assistance should be accepted by countries with large populations of individuals infected or living with HIV/AIDS, particularly African countries, in order to help feed such individuals.

(Pub. L. 108–25, title III, §301, May 27, 2003, 117 Stat. 728; Pub. L. 108–199, div. D, title V, §595(3), Jan. 23, 2004, 118 Stat. 209; Pub. L. 110–293, title III, §301(f)–(h), July 30, 2008, 122 Stat. 2956, 2957.)

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsec. (b)(1), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, which is classified principally to chapter 32 (§2151 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

This chapter, referred to in subsecs. (d) to (f), was in the original "this Act", meaning Pub. L. 108–25, May 27, 2003, 117 Stat. 711, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 7601 of this title and Tables.

The Tom Lantos and Henry J. Hyde United States Global Leadership Against HIV/AIDS, Tuberculosis, and Malaria Reauthorization Act of 2008, referred to in subsec. (d), is Pub. L. 110–293, July 30, 2008, 122 Stat. 2918. For complete classification of this Act to the Code, see Short Title of 2008 Amendment note set out under section 7601 of this title and Tables.

CODIFICATION

Section is comprised of section 301 of Pub. L. 108–25. Subsec. (a) of section 301 of Pub. L. 108–25 amended section 2151b of this title and enacted section 2151b–2 of this title.

CONSTITUTIONALITY

For information regarding constitutionality of certain provisions of section 301 of Pub. L. 108–25, see Congressional Research Service, The Constitution of the United States of America: Analysis and Interpretation, Appendix 1, Acts of Congress Held Unconstitutional in Whole or in Part by the Supreme Court of the United States.

AMENDMENTS

2008—Subsec. (b)(1), (3). Pub. L. 110–293, §301(f), substituted "fiscal years 2009 through 2013" for "fiscal years 2004 through 2008".

Subsec. (c). Pub. L. 110–293, §301(g), amended subsec. (c) generally. Prior to amendment, text read as follows: "In recognition of the fact that malnutrition may hasten the progression of HIV to AIDS and may exacerbate the decline among AIDS patients leading to a shorter life span, the Administrator of the United States Agency for International Development shall, as appropriate—

"(1) integrate nutrition programs with HIV/AIDS activities, generally;

"(2) provide, as a component of an anti-retroviral therapy program, support for food and nutrition to individuals infected with and affected by HIV/AIDS; and

"(3) provide support for food and nutrition for children affected by HIV/AIDS and to communities and households caring for children affected by HIV/AIDS."

Subsec. (d). Pub. L. 110–293, §301(h), amended subsec. (d) generally. Prior to amendment, text read as follows: "An organization that is otherwise eligible to receive assistance under section 104A of the Foreign Assistance Act of 1961 (as added by subsection (a)) or under any other provision of this chapter (or any amendment made by this chapter) to prevent, treat, or monitor HIV/AIDS shall not be required, as a condition of receiving the assistance, to endorse or utilize a multisectoral approach to combatting HIV/AIDS, or to endorse, utilize, or participate in a prevention method or treatment program to which the organization has a religious or moral objection."

2004—Subsec. (f). Pub. L. 108–199, §595(3), inserted ", except that this subsection shall not apply to the Global Fund to Fight AIDS, Tuberculosis and Malaria, the World Health Organization, the International AIDS Vaccine Initiative or to any United Nations agency" after "trafficking".

§7631a. United States Agency for International Development

(1) In general

The Administrator of the United States Agency for International Development, in coordination with the Coordinator of United States Government Activities to Combat HIV/AIDS Globally, may facilitate availability and accessibility of microbicides, provided that such pharmaceuticals are approved, tentatively approved, or otherwise authorized for use by—

(A) the Food and Drug Administration;

(B) a stringent regulatory agency acceptable to the Secretary of Health and Human Services; or

(C) a quality assurance mechanism acceptable to the Secretary of Health and Human Services.

(2) Authorization of appropriations

Of the amounts authorized to be appropriated under section 7671 of this title for HIV/AIDS assistance, there are authorized to be appropriated to the President such sums as may be necessary for each of the fiscal years 2009 through 2013 to carry out this section.

(Pub. L. 110–293, title II, §203(e), July 30, 2008, 122 Stat. 2941.)

CODIFICATION

Section was enacted as part of the Tom Lantos and Henry J. Hyde United States Global Leadership Against HIV/AIDS, Tuberculosis, and Malaria Reauthorization Act of 2008, and not as part of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 which comprises this chapter.

§7632. Authorization of appropriations to combat tuberculosis

(1) In general

In addition to funds available under section 104(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b(c)) for such purpose or under any other provision of that Act [22 U.S.C. 2151 et seq.], there are authorized to be appropriated to the President, from amounts authorized to be appropriated under section 7671 of this title, a total of $4,000,000,000 for the 5-year period beginning on October 1, 2008.[1] to carry out section 104B of the Foreign Assistance Act of 1961, as added by subsection (a) [22 U.S.C. 2151b–3].

(2) Availability of funds

Amounts appropriated pursuant to the authorization of appropriations under paragraph (1) are authorized to remain available until expended.

(3) Transfer of prior year funds

Unobligated balances of funds made available for fiscal year 2001, 2002, or 2003 under section 104(c)(7) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b(c)(7) (as in effect immediately before May 27, 2003) shall be transferred to, merged with, and made available for the same purposes as funds made available for fiscal years 2009 through 2013.[1] under paragraph (1).

(Pub. L. 108–25, title III, §302(b), May 27, 2003, 117 Stat. 736; Pub. L. 110–293, title III, §302(f),

July 30, 2008, 122 Stat. 2959.)

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in par. (1), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, which is classified principally to chapter 32 (§2151 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

AMENDMENTS

2008—Par. (1). Pub. L. 110–293, §302(f)(1), substituted "a total of $4,000,000,000 for the 5-year period beginning on October 1, 2008." for "such sums as may be necessary for each of the fiscal years 2004 through 2008".

Par. (3). Pub. L. 110–293, §302(f)(2), substituted "fiscal years 2009 through 2013." for "fiscal years 2004 through 2008".

[1] *So in original. The period probably should not appear.*

§7633. Assistance to combat malaria

(a) Omitted

(b) Authorization of appropriations

(1) In general

In addition to funds available under section 104(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b(c)) for such purpose or under any other provision of that Act [22 U.S.C. 2151 et seq.], there are authorized to be appropriated to the President, from amounts authorized to be appropriated under section 7671 of this title, $5,000,000,000 during the 5-year period beginning on October 1, 2008 to carry out section 104C of the Foreign Assistance Act of 1961, as added by subsection (a) [22 U.S.C. 2151b–4], including for the development of anti-malarial pharmaceuticals by the Medicines for Malaria Venture.

(2) Availability of funds

Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

(3) Transfer of prior year funds

Unobligated balances of funds made available for fiscal year 2001, 2002, or 2003 under section 104(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b(c) [1] (as in effect immediately before May 27, 2003) and made available for the control of malaria shall be transferred to, merged with, and made available for the same purposes as funds made available for fiscal years 2009 through 2013 under paragraph (1).

(c) Statement of policy

Providing assistance for the prevention, control, treatment, and the ultimate eradication of malaria is—

(1) a major objective of the foreign assistance program of the United States; and

(2) 1 component of a comprehensive United States global health strategy to reduce disease burdens and strengthen communities around the world.

(d) Development of a comprehensive 5-Year strategy

The President shall establish a comprehensive, 5-year strategy to combat global malaria that—

(1) strengthens the capacity of the United States to be an effective leader of international efforts to reduce [2] malaria burden;

(2) maintains sufficient flexibility and remains responsive to the ever-changing nature of the global malaria challenge;

(3) includes specific objectives and multisectoral approaches and strategies to reduce the

prevalence, mortality, incidence, and spread of malaria;

(4) describes how this strategy would contribute to the United States' overall global health and development goals;

(5) clearly explains how outlined activities will interact with other United States Government global health activities, including the 5-year global AIDS strategy required under this chapter;

(6) expands public-private partnerships and leverage of resources;

(7) coordinates among relevant Federal agencies to maximize human and financial resources and to reduce duplication among these agencies, foreign governments, and international organizations;

(8) coordinates with other international entities, including the Global Fund;

(9) maximizes United States capabilities in the areas of technical assistance and training and research, including vaccine research; and

(10) establishes priorities and selection criteria for the distribution of resources based on factors such as—

(A) the size and demographics of the population with malaria;

(B) the needs of that population;

(C) the country's existing infrastructure; and

(D) the ability to closely coordinate United States Government efforts with national malaria control plans of partner countries.

(Pub. L. 108–25, title III, §303, May 27, 2003, 117 Stat. 736; Pub. L. 110–293, title III, §303(b), July 30, 2008, 122 Stat. 2960.)

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsec. (b)(1), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, which is classified principally to chapter 32 (§2151 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

This chapter, referred to in subsec. (d)(5), was in the original "this Act", meaning Pub. L. 108–25, May 27, 2003, 117 Stat. 711, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 7601 of this title and Tables.

CODIFICATION

Section is comprised of section 303 of Pub. L. 108–25. Subsec. (a) and another subsec. (c) of section 303 of Pub. L. 108–25, respectively, enacted section 2151b–4 of this title and amended section 2151b of this title.

AMENDMENTS

2008—Subsec. (b)(1). Pub. L. 110–293, §303(b)(1)(A), substituted "$5,000,000,000 during the 5-year period beginning on October 1, 2008" for "such sums as may be necessary for fiscal years 2004 through 2008".

Subsec. (b)(3). Pub. L. 110–293, §303(b)(1)(B), substituted "fiscal years 2009 through 2013" for "fiscal years 2004 through 2008".

Subsecs. (c), (d). Pub. L. 110–293, §303(b)(2), added subsecs. (c) relating to statement of policy and (d).

[1] So in original. Probably should be followed by a second closing parenthesis.

[2] So in original. Probably should be followed by "the".

§7634. Malaria response Coordinator

(a) In general

There is established within the United States Agency for International Development a Coordinator of United States Government Activities to Combat Malaria Globally (referred to in this section as the "Malaria Coordinator"), who shall be appointed by the President.

(b) Authorities

The Malaria Coordinator, acting through nongovernmental organizations (including faith-based and community-based organizations), partner country finance, health, and other relevant ministries, and relevant executive branch agencies as may be necessary and appropriate to carry out this section, is authorized to—

(1) operate internationally to carry out prevention, care, treatment, support, capacity development, and other activities to reduce the prevalence, mortality, and incidence of malaria;

(2) provide grants to, and enter into contracts and cooperative agreements with, nongovernmental organizations (including faith-based organizations) to carry out this section; and

(3) transfer and allocate executive branch agency funds that have been appropriated for the purposes described in paragraphs (1) and (2).

(c) Duties

(1) In general

The Malaria Coordinator has primary responsibility for the oversight and coordination of all resources and international activities of the United States Government relating to efforts to combat malaria.

(2) Specific duties

The Malaria Coordinator shall—

(A) facilitate program and policy coordination of antimalarial efforts among relevant executive branch agencies and nongovernmental organizations by auditing, monitoring, and evaluating such programs;

(B) ensure that each relevant executive branch agency undertakes antimalarial programs primarily in those areas in which the agency has the greatest expertise, technical capability, and potential for success;

(C) coordinate relevant executive branch agency activities in the field of malaria prevention and treatment;

(D) coordinate planning, implementation, and evaluation with the Global AIDS Coordinator in countries in which both programs have a significant presence;

(E) coordinate with national governments, international agencies, civil society, and the private sector; and

(F) establish due diligence criteria for all recipients of funds appropriated by the Federal Government for malaria assistance.

(d) Assistance for the World Health Organization

In carrying out this section, the President may provide financial assistance to the Roll Back Malaria Partnership of the World Health Organization to improve the capacity of countries with high rates of malaria and other affected countries to implement comprehensive malaria control programs.

(e) Coordination of assistance efforts

In carrying out this section and in accordance with section 2151b–4 of this title, the Malaria Coordinator shall coordinate the provision of assistance by working with—

(1) relevant executive branch agencies, including—

(A) the Department of State (including the Office of the Global AIDS Coordinator);

(B) the Department of Health and Human Services;

(C) the Department of Defense; and

(D) the Office of the United States Trade Representative;

(2) relevant multilateral institutions, including—

(A) the World Health Organization;

(B) the United Nations Children's Fund;

(C) the United Nations Development Programme;

(D) the Global Fund;

(E) the World Bank; and

(F) the Roll Back Malaria Partnership;

(3) program delivery and efforts to lift barriers that would impede effective and comprehensive malaria control programs; and

(4) partner or recipient country governments and national entities including universities and civil society organizations (including faith- and community-based organizations).

(f) Research

To carry out this section, the Malaria Coordinator, in accordance with section 2151b–4 of this title, shall ensure that operations and implementation research conducted under this chapter will closely complement the clinical and program research being undertaken by the National Institutes of Health. The Centers for Disease Control and Prevention should advise the Malaria Coordinator on priorities for operations and implementation research and should be a key implementer of this research.

(g) Monitoring

To ensure that adequate malaria controls are established and implemented, the Centers for Disease Control and Prevention should advise the Malaria Coordinator on monitoring, surveillance, and evaluation activities and be a key implementer of such activities under this chapter. Such activities shall complement, rather than duplicate, the work of the World Health Organization.

(h) Annual report

(1) Submission

Not later than 1 year after July 30, 2008, and annually thereafter, the President shall submit a report to the appropriate congressional committees that describes United States assistance for the prevention, treatment, control, and elimination of malaria.

(2) Contents

The report required under paragraph (1) shall describe—

(A) the countries and activities to which malaria resources have been allocated;

(B) the number of people reached through malaria assistance programs, including data on children and pregnant women;

(C) research efforts to develop new tools to combat malaria, including drugs and vaccines;

(D) the collaboration and coordination of United States antimalarial efforts with the World Health Organization, the Global Fund, the World Bank, other donor governments, major private efforts, and relevant executive agencies;

(E) the coordination of United States antimalarial efforts with the national malarial strategies of other donor or partner governments and major private initiatives;

(F) the estimated impact of United States assistance on childhood mortality and morbidity from malaria;

(G) the coordination of antimalarial efforts with broader health and development programs; and

(H) the constraints on implementation of programs posed by health workforce shortages or capacities; and

(I) the number of personnel trained as health workers and the training levels achieved.

(Pub. L. 108–25, title III, §304, May 27, 2003, 117 Stat. 737; Pub. L. 110–293, title III, §304, July 30, 2008, 122 Stat. 2961.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (f) and (g), was in the original "this Act", meaning Pub. L. 108–25, May 27, 2003, 117 Stat. 711, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 7601 of this title and Tables.

AMENDMENTS

2008—Pub. L. 110–293 amended section generally. Prior to amendment, section consisted of subsecs. (a)

to (h) relating to a pilot program for the placement of health care professionals in overseas areas severely affected by HIV/AIDS, tuberculosis, and malaria.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§7635. Report on treatment activities by relevant executive branch agencies

(a) In general

Not later than 15 months after May 27, 2003, the President shall submit to appropriate congressional committees a report on the programs and activities of the relevant executive branch agencies that are directed to the treatment of individuals in foreign countries infected with HIV or living with AIDS.

(b) Report elements

The report shall include—

(1) a description of the activities of relevant executive branch agencies with respect to—

(A) the treatment of opportunistic infections;

(B) the use of antiretrovirals;

(C) the status of research into successful treatment protocols for individuals in the developing world;

(D) technical assistance and training of local health care workers (in countries affected by the pandemic) to administer antiretrovirals, manage side effects, and monitor patients' viral loads and immune status;

(E) the status of strategies to promote sustainability of HIV/AIDS pharmaceuticals (including antiretrovirals) and the effects of drug resistance on HIV/AIDS patients; and

(F) the status of appropriate law enforcement officials working to ensure that HIV/AIDS pharmaceutical treatment is not diminished through illegal counterfeiting and black market sales of such pharmaceuticals;

(2) information on existing pilot projects, including a discussion of why a given population was selected, the number of people treated, the cost of treatment, the mechanisms established to ensure that treatment is being administered effectively and safely, and plans for scaling up pilot projects (including projected timelines and required resources); and

(3) an explanation of how those activities relate to efforts to prevent the transmission of the HIV infection.

(Pub. L. 108–25, title III, §305, May 27, 2003, 117 Stat. 739.)

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title, and Memorandum of President of Feb. 23, 2004, 69 F.R. 9509, set out as a note under section 7611 of this title.

§7636. Study on illegal diversions of prescription drugs

Not later than 180 days after May 27, 2003, the Secretary of Health and Human Services, in coordination with other agencies, shall submit a report to the Congress that includes the following:

(1) A thorough accounting of evidence indicating illegal diversion into the United States of prescription drugs donated or sold for humanitarian efforts, and an estimate of the extent of such diversion.

(2) Recommendations to increase the administrative and enforcement powers of the United States to identify, monitor, and prevent the illegal diversion into the United States of prescription

drugs donated or sold for humanitarian efforts.

(3) Recommendations and guidelines to advise and provide technical assistance to developing countries on how to implement a program that minimizes diversion into the United States of prescription drugs donated or sold for humanitarian efforts.

(Pub. L. 108–25, title III, §307, May 27, 2003, 117 Stat. 740.)

PART B—ASSISTANCE FOR WOMEN, CHILDREN, AND FAMILIES

§7651. Findings

Congress makes the following findings:

(1) Approximately 2,000 children around the world are infected each day with HIV through mother-to-child transmission. Transmission can occur during pregnancy, labor, and delivery or through breast feeding. Over 90 percent of these cases are in developing nations with little or no access to public health facilities.

(2) Mother-to-child transmission is largely preventable with the proper application of pharmaceuticals, therapies, and other public health interventions.

(3) Certain antiretroviral drugs reduce mother-to-child transmission by nearly 50 percent. Universal availability of this drug could prevent up to 400,000 infections per year and dramatically reduce the number of AIDS-related deaths.

(4) At the United Nations Special Session on HIV/AIDS in June 2001, the United States committed to the specific goals with respect to the prevention of mother-to-child transmission, including the goals of reducing the proportion of infants infected with HIV by 20 percent by the year 2005 and by 50 percent by the year 2010, as specified in the Declaration of Commitment on HIV/AIDS adopted by the United Nations General Assembly at the Special Session.

(5) Several United States Government agencies including the United States Agency for International Development and the Centers for Disease Control are already supporting programs to prevent mother-to-child transmission in resource-poor nations and have the capacity to expand these programs rapidly by working closely with foreign governments and nongovernmental organizations.

(6) Efforts to prevent mother-to-child transmission can provide the basis for a broader response that includes care and treatment of mothers, fathers, and other family members who are infected with HIV or living with AIDS.

(7) HIV/AIDS has devastated the lives of countless children and families across the globe. Since the epidemic began, an estimated 13,200,000 children under the age of 15 have been orphaned by AIDS, that is they have lost their mother or both parents to the disease. The Joint United Nations Program on HIV/AIDS (UNAIDS) estimates that this number will double by the year 2010.

(8) HIV/AIDS also targets young people between the ages of 15 to 24, particularly young women, many of whom carry the burden of caring for family members living with HIV/AIDS. An estimated 10,300,000 young people are now living with HIV/AIDS. One-half of all new infections are occurring among this age group.

(Pub. L. 108–25, title III, §311, May 27, 2003, 117 Stat. 740.)

§7652. Policy and requirements

(a) Policy

The United States Government's response to the global HIV/AIDS pandemic should place high priority on the prevention of mother-to-child transmission, the care and treatment of family members

and caregivers, and the care of children orphaned by AIDS. To the maximum extent possible, the United States Government should seek to leverage its funds by seeking matching contributions from the private sector, other national governments, and international organizations.

(b) Requirements

The 5-year United States Government strategy required by section 7611 of this title shall—

(1) establish a target for the prevention and treatment of mother-to-child transmission of HIV that, by 2013, will reach at least 80 percent of pregnant women in those countries most affected by HIV/AIDS in which the United States has HIV/AIDS programs;

(2) establish a target that, by 2013, the proportion of children receiving care and treatment under this chapter is proportionate to their numbers within the population of HIV infected individuals in each country;

(3) integrate care and treatment with prevention of mother-to-child transmission of HIV programs to improve outcomes for HIV-affected women and families as soon as is feasible and support strategies that promote successful follow-up and continuity of care of mother and child;

(4) expand programs designed to care for children orphaned by, affected by, or vulnerable to HIV/AIDS;

(5) ensure that women in prevention of mother-to-child transmission of HIV programs are provided with, or referred to, appropriate maternal and child services; and

(6) develop a timeline for expanding access to more effective regimes to prevent mother-to-child transmission of HIV, consistent with the national policies of countries in which programs are administered under this chapter and the goal of achieving universal use of such regimes as soon as possible.

(c) Prevention of Mother-to-Child Transmission Expert Panel

(1) Establishment

The Global AIDS Coordinator shall establish a panel of experts to be known as the Prevention of Mother-to-Child Transmission Panel (referred to in this subsection as the "Panel") to—

(A) provide an objective review of activities to prevent mother-to-child transmission of HIV; and

(B) provide recommendations to the Global AIDS Coordinator and to the appropriate congressional committees for scale-up of mother-to-child transmission prevention services under this chapter in order to achieve the target established in subsection (b)(1).

(2) Membership

The Panel shall be convened and chaired by the Global AIDS Coordinator, who shall serve as a nonvoting member. The Panel shall consist of not more than 15 members (excluding the Global AIDS Coordinator), to be appointed by the Global AIDS Coordinator not later than 1 year after July 30, 2008, including—

(A) 2 members from the Department of Health and Human Services with expertise relating to the prevention of mother-to-child transmission activities;

(B) 2 members from the United States Agency for International Development with expertise relating to the prevention of mother-to-child transmission activities;

(C) 2 representatives from among health ministers of national governments of foreign countries in which programs under this chapter are administered;

(D) 3 members representing organizations implementing prevention of mother-to-child transmission activities under this chapter;

(E) 2 health care researchers with expertise relating to global HIV/AIDS activities; and

(F) representatives from among patient advocate groups, health care professionals, persons living with HIV/AIDS, and non-governmental organizations with expertise relating to the prevention of mother-to-child transmission activities, giving priority to individuals in foreign countries in which programs under this chapter are administered.

(3) Duties of Panel

The Panel shall—

(A) assess the effectiveness of current activities in reaching the target described in subsection (b)(1);

(B) review scientific evidence related to the provision of mother-to-child transmission prevention services, including programmatic data and data from clinical trials;

(C) review and assess ways in which the Office of the United States Global AIDS Coordinator collaborates with international and multilateral entities on efforts to prevent mother-to-child transmission of HIV in affected countries;

(D) identify barriers and challenges to increasing access to mother-to-child transmission prevention services and evaluate potential mechanisms to alleviate those barriers and challenges;

(E) identify the extent to which stigma has hindered pregnant women from obtaining HIV counseling and testing or returning for results, and provide recommendations to address such stigma and its effects;

(F) identify opportunities to improve linkages between mother-to-child transmission prevention services and care and treatment programs; and

(G) recommend specific activities to facilitate reaching the target described in subsection (b)(1).

(4) Report

(A) In general

Not later than 1 year after the date on which the Panel is first convened, the Panel shall submit a report containing a detailed statement of the recommendations, findings, and conclusions of the Panel to the appropriate congressional committees.

(B) Availability

The report submitted under subparagraph (A) shall be made available to the public.

(C) Consideration by Coordinator

The Coordinator shall—

(i) consider any recommendations contained in the report submitted under subparagraph (A); and

(ii) include in the annual report required under section 2151b–2(f) of this title a description of the activities conducted in response to the recommendations made by the Panel and an explanation of any recommendations not implemented at the time of the report.

(5) Authorization of appropriations

There are authorized to be appropriated to the Panel such sums as may be necessary for each of the fiscal years 2009 through 2011 to carry out this section.

(6) Termination

The Panel shall terminate on the date that is 60 days after the date on which the Panel submits the report to the appropriate congressional committees under paragraph (4).

(Pub. L. 108–25, title III, §312, May 27, 2003, 117 Stat. 741; Pub. L. 110–293, title III, §§307, 309, July 30, 2008, 122 Stat. 2963, 2964.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (b)(2), (6) and (c)(1), (2), was in the original "this Act", meaning Pub. L. 108–25, May 27, 2003, 117 Stat. 711, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 7601 of this title and Tables.

AMENDMENTS

2008—Subsec. (b)(1) to (6). Pub. L. 110–293, §307, added pars. (1) to (6) and struck out former pars. (1) to (3) which read as follows:

"(1) provide for meeting or exceeding the goal to reduce the rate of mother-to-child transmission of HIV by 20 percent by 2005 and by 50 percent by 2010;

"(2) include programs to make available testing and treatment to HIV-positive women and their family members, including drug treatment and therapies to prevent mother-to-child transmission; and

"(3) expand programs designed to care for children orphaned by AIDS."

Subsec. (c). Pub. L. 110–293, §309, added subsec. (c).

§7653. Annual reports on prevention of mother-to-child transmission of the HIV infection

(a) In general

Not later than 1 year after May 27, 2003, and annually thereafter for a period of 10 years, the President shall submit to appropriate congressional committees a report on the activities of relevant executive branch agencies during the reporting period to assist in the prevention of mother-to-child transmission of the HIV infection.

(b) Report elements

Each report shall include—

(1) a statement of whether or not all relevant executive branch agencies have met the goal described in section 7652(b)(1) of this title; and

(2) a description of efforts made by the relevant executive branch agencies to expand those activities, including—

(A) information on the number of sites supported for the prevention of mother-to-child transmission of the HIV infection;

(B) the specific activities supported;

(C) the number of women tested and counseled; and

(D) the number of women receiving preventative drug therapies.

(c) Reporting period defined

In this section, the term "reporting period" means, in the case of the initial report, the period since May 27, 2003, and, in the case of any subsequent report, the period since the date of submission of the most recent report.

(Pub. L. 108–25, title III, §313, May 27, 2003, 117 Stat. 741; Pub. L. 110–293, title III, §308, July 30, 2008, 122 Stat. 2964.)

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–293 substituted "10 years" for "5 years".

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title, and Memorandum of President of Feb. 23, 2004, 69 F.R. 9509, set out as a note under section 7611 of this title.

§7654. Pilot program of assistance for children and families affected by HIV/AIDS

(a) In general

The President, acting through the United States Agency for International Development, should establish a program of assistance that would demonstrate the feasibility of the provision of care and treatment to orphans and other children and young people affected by HIV/AIDS in foreign countries.

(b) Program requirements

The program should—

(1) build upon and be integrated into programs administered as of May 27, 2003, by the relevant

executive branch agencies for children affected by HIV/AIDS;

(2) work in conjunction with indigenous community-based programs and activities, particularly those that offer proven services for children;

(3) reduce the stigma of HIV/AIDS to encourage vulnerable children infected with HIV or living with AIDS and their family members and caregivers to avail themselves of voluntary counseling and testing, and related programs, including treatments;

(4) ensure the importance of inheritance rights of women, particularly women in African countries, due to the exponential growth in the number of young widows, orphaned girls, and grandmothers becoming heads of households as a result of the HIV/AIDS pandemic;

(5) provide, in conjunction with other relevant executive branch agencies, the range of services for the care and treatment, including the provision of antiretrovirals and other necessary pharmaceuticals, of children, parents, and caregivers infected with HIV or living with AIDS;

(6) provide nutritional support and food security, and the improvement of overall family health;

(7) work with parents, caregivers, and community-based organizations to provide children with educational opportunities; and

(8) provide appropriate counseling and legal assistance for the appointment of guardians and the handling of other issues relating to the protection of children.

(c) Report

Not later than 18 months after May 27, 2003, the President should submit a report on the implementation of this section to the appropriate congressional committees. Such report should include a description of activities undertaken to carry out subsection (b)(4).

(d) Authorization of appropriations

(1) In general

In addition to amounts otherwise available for such purpose, there are authorized to be appropriated to the President, from amounts authorized to be appropriated under section 7671 of this title, such sums as may be necessary for each of the fiscal years 2004 through 2008 to carry out the program. A significant percentage of the amount appropriated pursuant to the authorization of appropriations under the preceding sentence for a fiscal year should be made available to carry out subsection (b)(4).

(2) Availability of funds

Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

(Pub. L. 108–25, title III, §314, May 27, 2003, 117 Stat. 742.)

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§7655. Pilot program on family survival partnerships

(a) Purpose

The purpose of this section is to authorize the President to establish a program, through a public-private partnership, for the provision of medical care and support services to HIV positive parents and their children identified through existing programs to prevent mother-to-child transmission of HIV in countries with or at risk for severe HIV epidemic with particular attention to resource constrained countries.

(b) Grants

(1) In general

The President is authorized to establish a program for the award of grants to eligible

administrative organizations to enable such organizations to award subgrants to eligible entities to expand activities to prevent the mother-to-child transmission of HIV by providing medical care and support services to HIV infected parents and their children.

(2) Use of funds

Amounts provided under a grant awarded under paragraph (1) shall be used—

(A) to award subgrants to eligible entities to enable such entities to carry out activities described in subsection (c);

(B) for administrative support and subgrant management;

(C) for administrative data collection and reporting concerning grant activities;

(D) for the monitoring and evaluation of grant activities;

(E) for training and technical assistance for subgrantees; and

(F) to promote sustainability.

(c) Subgrants

(1) In general

An organization awarded a grant under subsection (b) shall use amounts received under the grant to award subgrants to eligible entities.

(2) Eligibility

To be eligible to receive a subgrant under paragraph (1), an entity shall—

(A) be a local health organization, an international organization, or a partnership of such organizations; and

(B) demonstrate to the awarding organization that such entity—

(i) is currently administering a proven intervention to prevent mother-to-child transmission of HIV in countries with or at risk for severe HIV epidemic with particular attention to resource constrained countries, as determined by the President;

(ii) has demonstrated support for the proposed program from relevant government entities; and

(iii) is able to provide HIV care, including antiretroviral treatment when medically indicated, to HIV positive women, men, and children with the support of the project funding.

(3) Local health and international organizations

For purposes of paragraph (2)(A)—

(A) the term "local health organization" means a public sector health system, nongovernmental organization, institution of higher education, community-based organization, or nonprofit health system that provides directly, or has a clear link with a provider for the indirect provision of, primary health care services; and

(B) the term "international organization" means—

(i) a nonprofit international entity;

(ii) an international charitable institution;

(iii) a private voluntary international entity; or

(iv) a multilateral institution.

(4) Priority requirement

In awarding subgrants under this subsection, the organization shall give priority to eligible applicants that are currently administering a program of proven intervention to HIV positive individuals to prevent mother-to-child transmission in countries with or at risk for severe HIV epidemic with particular attention to resource constrained countries, and who are currently administering a program to HIV positive women, men, and children to provide life-long care in family-centered care programs using non-Federal funds.

(5) Selection of subgrant recipients

In awarding subgrants under this subsection, the organization should—

(A) consider applicants from a range of health care settings, program approaches, and

geographic locations; and

(B) if appropriate, award not less than 1 grant to an applicant to fund a national system of health care delivery to HIV positive families.

(6) Use of subgrant funds

An eligible entity awarded a subgrant under this subsection shall use subgrant funds to expand activities to prevent mother-to-child transmission of HIV by providing medical treatment and care and support services to parents and their children, which may include—

(A) providing treatment and therapy, when medically indicated, to HIV-infected women, their children, and families;

(B) the hiring and training of local personnel, including physicians, nurses, other health care providers, counselors, social workers, outreach personnel, laboratory technicians, data managers, and administrative support personnel;

(C) paying laboratory costs, including costs related to necessary equipment and diagnostic testing and monitoring (including rapid testing), complete blood counts, standard chemistries, and liver function testing for infants, children, and parents, and costs related to the purchase of necessary laboratory equipment;

(D) purchasing pharmaceuticals for HIV-related conditions, including antiretroviral therapies;

(E) funding support services, including adherence and psychosocial support services;

(F) operational support activities; and

(G) conducting community outreach and capacity building activities, including activities to raise the awareness of individuals of the program carried out by the subgrantee, other communications activities in support of the program, local advisory board functions, and transportation necessary to ensure program participation.

(d) Reports

The President shall require that each organization awarded a grant under subsection (b)(1) to submit an annual report that includes—

(1) the progress of programs funded under this section;

(2) the benchmarks of success of programs funded under this section; and

(3) recommendations of how best to proceed with the programs funded under this section upon the expiration of funding under subsection (e).

(e) Funding

There are authorized to be appropriated to the President, from amounts authorized to be appropriated under section 7671 of this title, such sums as may be necessary for each of the fiscal years 2004 through 2008 to carry out the program.

(f) Limitation on administrative expenses

An organization shall ensure that not more than 7 percent of the amount of a grant received under this section by the organization is used for administrative expenses.

(Pub. L. 108–25, title III, §315, May 27, 2003, 117 Stat. 743.)

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

SUBCHAPTER IV—AUTHORIZATION OF APPROPRIATIONS

§7671. Authorization of appropriations

(a) In general

There are authorized to be appropriated to the President to carry out this chapter and the amendments made by this chapter $48,000,000,000 for the 5-year period beginning on October 1, 2008.

(b) Availability

Amounts appropriated pursuant to the authorization of appropriations in subsection (a) are authorized to remain available until expended.

(c) Availability of authorizations

Authorizations of appropriations under subsection (a) shall remain available until the appropriations are made.

(Pub. L. 108–25, title IV, §401, May 27, 2003, 117 Stat. 745; Pub. L. 110–293, title IV, §401(a), July 30, 2008, 122 Stat. 2966.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this Act", meaning Pub. L. 108–25, May 27, 2003, 117 Stat. 711, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 7601 of this title and Tables.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–293 substituted "$48,000,000,000 for the 5-year period beginning on October 1, 2008" for "$3,000,000,000 for each of the fiscal years 2004 through 2008".

§7672. Sense of Congress

(a) Increase in HIV/AIDS antiretroviral treatment

It is a sense of the Congress that an urgent priority of United States assistance programs to fight HIV/AIDS should be the rapid increase in distribution of antiretroviral treatment so that—

(1) by the end of fiscal year 2004, at least 500,000 individuals with HIV/AIDS are receiving antiretroviral treatment through United States assistance programs;

(2) by the end of fiscal year 2005, at least 1,000,000 such individuals are receiving such treatment; and

(3) by the end of fiscal year 2006, at least 2,000,000 such individuals are receiving such treatment.

(b) Effective distribution of HIV/AIDS funds

It is the sense of Congress that, of the amounts appropriated pursuant to the authorization of appropriations under section 7671 of this title for HIV/AIDS assistance, 10 percent should be used for orphans and vulnerable children.

(Pub. L. 108–25, title IV, §402, May 27, 2003, 117 Stat. 745; Pub. L. 110–293, title IV, §402, July 30, 2008, 122 Stat. 2966.)

AMENDMENTS

2008—Subsec. (b). Pub. L. 110–293 substituted "10 percent should be used" for "an effective distribution of such amounts would be—

"(1) 55 percent of such amounts for treatment of individuals with HIV/AIDS;

"(2) 15 percent of such amounts for palliative care of individuals with HIV/AIDS;

"(3) 20 percent of such amounts for HIV/AIDS prevention consistent with section 2151b–2(d) of this title, of which such amount at least 33 percent should be expended for abstinence-until-marriage programs; and

"(4) 10 percent of such amounts".

§7673. Allocation of funds

(a) Balanced funding requirement

(1) In general

The Global AIDS Coordinator shall—

(A) provide balanced funding for prevention activities for sexual transmission of HIV/AIDS; and

(B) ensure that activities promoting abstinence, delay of sexual debut, monogamy, fidelity, and partner reduction are implemented and funded in a meaningful and equitable way in the strategy for each host country based on objective epidemiological evidence as to the source of infections and in consultation with the government of each host county [1] involved in HIV/AIDS prevention activities.

(2) Prevention strategy

(A) Establishment

In carrying out paragraph (1), the Global AIDS Coordinator shall establish an HIV sexual transmission prevention strategy governing the expenditure of funds authorized under this chapter to prevent the sexual transmission of HIV in any host country with a generalized epidemic.

(B) Report

In each host country described in subparagraph (A), if the strategy established under subparagraph (A) provides less than 50 percent of the funds described in subparagraph (A) for activities promoting abstinence, delay of sexual debut, monogamy, fidelity, and partner reduction, the Global AIDS Coordinator shall, not later than 30 days after the issuance of this strategy, report to the appropriate congressional committees on the justification for this decision.

(3) Exclusion

Programs and activities that implement or purchase new prevention technologies or modalities, such as medical male circumcision, public education about risks to acquire HIV infection from blood exposures, promoting universal precautions, investigating suspected nosocomial infections, pre-exposure pharmaceutical prophylaxis to prevent transmission of HIV, or microbicides and programs and activities that provide counseling and testing for HIV or prevent mother-to-child prevention of HIV, shall not be included in determining compliance with paragraph (2).

(4) Report

Not later than 1 year after July 30, 2008, and annually thereafter as part of the annual report required under section 2151b–2(e) of this title, the President shall—

(A) submit a report on the implementation of paragraph (2) for the most recently concluded fiscal year to the appropriate congressional committees; and

(B) make the report described in subparagraph (A) available to the public.

(b) Orphans and vulnerable children

For fiscal years 2009 through 2018, not less than 10 percent of the amounts appropriated or otherwise made available to carry out the provisions of section 2151b–2 of this title for HIV/AIDS assistance for each such fiscal year shall be expended for assistance for orphans and other children affected by, or vulnerable to, HIV/AIDS, of which such amount at least 50 percent shall be provided through non-profit, nongovernmental organizations, including faith-based organizations, that implement programs on the community level.

(c) Funding allocation

For each of the fiscal years 2009 through 2018, more than half of the amounts appropriated or otherwise made available to carry out the provisions of section 2151b–2 of this title shall be expended for—

(1) antiretroviral treatment for HIV/AIDS;

(2) clinical monitoring of HIV-seropositive people not in need of antiretroviral treatment;
(3) care for associated opportunistic infections;
(4) nutrition and food support for people living with HIV/AIDS; and
(5) other essential HIV/AIDS-related medical care for people living with HIV/AIDS.

(d) Treatment, prevention, and care goals

For each of the fiscal years 2009 through 2013—

(1) the treatment goal under section 7672(a)(3) of this title shall be increased above 2,000,000 by at least the percentage increase in the amount appropriated for bilateral global HIV/AIDS assistance for such fiscal year compared with fiscal year 2008;

(2) any increase in the treatment goal under section 7672(a)(3) of this title above the percentage increase in the amount appropriated for bilateral global HIV/AIDS assistance for such fiscal year compared with fiscal year 2008 shall be based on long-term requirements, epidemiological evidence, the share of treatment needs being met by partner governments and other sources of treatment funding, and other appropriate factors;

(3) the treatment goal under section 7672(a)(3) of this title shall be increased above the number calculated under paragraph (1) by the same percentage that the average United States Government cost per patient of providing treatment in countries receiving bilateral HIV/AIDS assistance has decreased compared with fiscal year 2008; and

(4) the prevention and care goals established in clauses (i) and (iv) of section 2151b–2(b)(1)(A) of this title shall be increased consistent with epidemiological evidence and available resources.

(Pub. L. 108–25, title IV, §403, May 27, 2003, 117 Stat. 746; Pub. L. 110–293, title IV, §403, July 30, 2008, 122 Stat. 2966; Pub. L. 113–56, §6, Dec. 2, 2013, 127 Stat. 654.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(2)(A), was in the original "this Act", meaning Pub. L. 108–25, May 27, 2003, 117 Stat. 711, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 7601 of this title and Tables.

AMENDMENTS

2013—Subsec. (b). Pub. L. 113–56, §6(a), substituted "2018" for "2013" and "amounts appropriated or otherwise made available to carry out the provisions of section 2151b–2 of this title" for "amounts appropriated pursuant to the authorization of appropriations under section 7671 of this title".

Subsec. (c). Pub. L. 113–56, §6(b), substituted "2018" for "2013" and "amounts appropriated or otherwise made available to carry out the provisions of section 2151b–2 of this title" for "amounts appropriated for bilateral global HIV/AIDS assistance pursuant to section 7671 of this title" in introductory provisions.

2008—Subsec. (a). Pub. L. 110–293, §403(1), amended subsec. (a) generally. Prior to amendment, text read as follows: "For fiscal years 2006 through 2008, not less than 55 percent of the amounts appropriated pursuant to the authorization of appropriations under section 7671 of this title for HIV/AIDS assistance for each such fiscal year shall be expended for therapeutic medical care of individuals infected with HIV, of which such amount at least 75 percent should be expended for the purchase and distribution of antiretroviral pharmaceuticals and at least 25 percent should be expended for related care. For fiscal years 2006 through 2008, not less than 33 percent of the amounts appropriated pursuant to the authorization of appropriations under section 7671 of this title for HIV/AIDS prevention consistent with section 2151b–2(d) of this title for each such fiscal year shall be expended for abstinence-until-marriage programs."

Subsec. (b). Pub. L. 110–293, §403(2), substituted "fiscal years 2009 through 2013" for "fiscal years 2006 through 2008" and "other children affected by, or vulnerable to," for "vulnerable children affected by".

Subsecs. (c), (d). Pub. L. 110–293, §403(3), added subsecs. (c) and (d).

[1] So in original. Probably should be "country".

§7674. Assistance from the United States private sector to prevent and reduce HIV/AIDS in sub-Saharan Africa

It is the sense of Congress that United States businesses should be encouraged to provide

assistance to sub-Saharan African countries to prevent and reduce the incidence of HIV/AIDS in sub-Saharan Africa. In providing such assistance, United States businesses should be encouraged to consider the establishment of an HIV/AIDS Response Fund in order to provide for coordination among such businesses in the collection and distribution of the assistance to sub-Saharan African countries.

(Pub. L. 108–25, title IV, §404, May 27, 2003, 117 Stat. 746.)

SUBCHAPTER V—INTERNATIONAL FINANCIAL INSTITUTIONS

§7681. Report on expansion of debt relief to non-HIPC countries

(a) In general

Not later than 90 days after May 27, 2003, the Secretary of the Treasury shall submit to Congress a report on—

(1) the options and costs associated with the expansion of debt relief provided by the Enhanced HIPC Initiative to include poor countries that were not eligible for inclusion in the Enhanced HIPC Initiative;

(2) options for burden-sharing among donor countries and multilateral institutions of costs associated with the expansion of debt relief; and

(3) options, in addition to debt relief, to ensure debt sustainability in poor countries, particularly in cases when the poor country has suffered an external economic shock or a natural disaster.

(b) Specific options to be considered

Among the options for the expansion of debt relief provided by the Enhanced HIPC Initiative, consideration should be given to making eligible for that relief poor countries for which outstanding public and publicly guaranteed debt requires annual payments in excess of 10 percent or, in the case of a country suffering a public health crisis (as defined in section 262p–8(e) of this title), not more than 5 percent, of the amount of the annual current revenues received by the country from internal resources.

(c) Enhanced HIPC Initiative defined

In this section, the term "Enhanced HIPC Initiative" means the multilateral debt initiative for heavily indebted poor countries presented in the Report of G–7 Finance Ministers on the Cologne Debt Initiative to the Cologne Economic Summit, Cologne, June 18–20, 1999.

(Pub. L. 108–25, title V, §502, May 27, 2003, 117 Stat. 749.)

§7682. Authorization of appropriations

(a) In general

There are authorized to be appropriated to the President such sums as may be necessary for the fiscal year 2004 and each fiscal year thereafter to carry out section 262p–8 of this title.

(b) Availability of funds

Amounts appropriated pursuant to subsection (a) are authorized to remain available until expended.

(Pub. L. 108–25, title V, §503, May 27, 2003, 117 Stat. 749.)

CHAPTER 84—MILLENNIUM CHALLENGE

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§7701. Purposes

The purposes of this chapter are—

(1) to provide United States assistance for global development through the Millennium Challenge Corporation, as described in section 7703 of this title; and

(2) to provide such assistance in a manner that promotes economic growth and the elimination of extreme poverty and strengthens good governance, economic freedom, and investments in people.

(Pub. L. 108–199, div. D, title VI, §602, Jan. 23, 2004, 118 Stat. 211.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this title", meaning title VI of Pub. L. 108–199, div. D, Jan. 23, 2004, 118 Stat. 211, which is classified generally to this chapter. For complete classification of this title to the Code, see Short Title note set out below and Tables.

SHORT TITLE

Pub. L. 108–199, div. D, title VI, §601, Jan. 23, 2004, 118 Stat. 211, provided that: "This title [enacting this chapter and amending section 5313 of Title 5, Government Organizations and Employees, and section 9101 of Title 31, Money and Finance] may be cited as the 'Millennium Challenge Act of 2003'."

§7702. Definitions

In this chapter:

(1) Appropriate congressional committees

The term "appropriate congressional committees" means—

(A) the Committee on International Relations and the Committee on Appropriations of the House of Representatives; and

(B) the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

(2) Board

The term "Board" means the Board of Directors of the Corporation established pursuant to section 7703(c) of this title.

(3) Candidate country

The term "candidate country" means a country that meets the requirements of section 7705 of this title.

(4) Chief Executive Officer

The term "Chief Executive Officer" means the chief executive officer of the Corporation appointed pursuant to section 7703(b) of this title.

(5) Compact

The term "Compact" means a Millennium Challenge Compact described in section 7708 of this title.

(6) Corporation

The term "Corporation" means the Millennium Challenge Corporation established by section 7703(a) of this title.

(7) Eligible country

The term "eligible country" means a candidate country that is determined, under section 7706 of this title, to be an eligible country to receive assistance under section 7704 of this title.

(8) Investments in the people

The term "investments in the people" means government policies or programs of an eligible country that promote the health, education, and other factors which contribute to the well-being and productivity of their people, such as decent, affordable housing for all.

(Pub. L. 108–199, div. D, title VI, §603, Jan. 23, 2004, 118 Stat. 211; Pub. L. 108–447, div. D, title V, §534(q), Dec. 8, 2004, 118 Stat. 3008.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this title", meaning title VI of Pub. L. 108–199, div. D, Jan. 23, 2004, 118 Stat. 211, which is classified generally to this chapter. For complete classification of this title to the Code, see Short Title note set out under section 7701 of this title and Tables.

AMENDMENTS

2004—Par. (8). Pub. L. 108–447 added par. (8).

CHANGE OF NAME

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§7703. Establishment and management of the Millennium Challenge Corporation

(a) Establishment

There is established in the executive branch a corporation to be known as the "Millennium Challenge Corporation" that shall be responsible for carrying out this chapter. The Corporation shall be a government corporation, as defined in section 103 of title 5.

(b) Chief Executive Officer

(1) In general

There shall be in the Corporation a Chief Executive Officer who shall be responsible for the management of the Corporation.

(2) Appointment

(A) In general

Except as provided in subparagraph (B), the Chief Executive Officer shall be appointed by

the President, by and with the advice and consent of the Senate.

(B) Interim CEO

The members of the Board of Directors described in subsection (c)(3)(A) may designate by unanimous consent in writing an individual who is an officer within any Federal department or agency (and who has been appointed to such position by the President, by and with the advice and consent of the Senate) to carry out the duties described in this subsection until the Chief Executive Officer is appointed pursuant to subparagraph (A).

(3) Relationship to Board

The Chief Executive Officer shall report to and be under the direct authority of the Board.

(4) Compensation and rank

(A) In general

The Chief Executive Officer shall be compensated at the rate provided for level II of the Executive Schedule under section 5313 of title 5 and shall have the equivalent rank of Deputy Secretary.

(B) Omitted

(5) Authorities and duties

The Chief Executive Officer shall be responsible for the management of the Corporation and shall exercise the powers and discharge the duties of the Corporation.

(6) Authority to appoint officers

In consultation and with approval of the Board, the Chief Executive Officer shall appoint all officers of the Corporation.

(c) Board of Directors

(1) Establishment

There shall be in the Corporation a Board of Directors.

(2) Duties

The Board shall perform the functions specified to be carried out by the Board in this chapter and may prescribe, amend, and repeal bylaws, rules, regulations, and procedures governing the manner in which the business of the Corporation may be conducted and in which the powers granted to it by law may be exercised.

(3) Membership

The Board shall consist of—

(A) the Secretary of State, the Secretary of the Treasury, the Administrator of the United States Agency for International Development, the Chief Executive Officer of the Corporation, and the United States Trade Representative; and

(B) four other individuals with relevant international experience who shall be appointed by the President, by and with the advice and consent of the Senate, of which—

(i) one individual should be appointed from among a list of individuals submitted by the majority leader of the House of Representatives;

(ii) one individual should be appointed from among a list of individuals submitted by the minority leader of the House of Representatives;

(iii) one individual should be appointed from among a list of individuals submitted by the majority leader of the Senate; and

(iv) one individual should be appointed from among a list of individuals submitted by the minority leader of the Senate.

(4) Terms

(A) Officers of the Federal Government

Each member of the Board described in paragraph (3)(A) shall serve for a term that is concurrent with the term of service of the individual's position as an officer within the other Federal department or agency.

(B) Other members

Each member of the Board described in paragraph (3)(B) shall be appointed for a term of 3 years and may be reappointed for a term of an additional 2 years.

(C) Vacancies

A vacancy in the Board shall be filled in the manner in which the original appointment was made.

(5) Chairperson

There shall be a Chairperson of the Board. The Secretary of State shall serve as the Chairperson.

(6) Quorum

A majority of the members of the Board shall constitute a quorum, which, except with respect to a meeting of the Board during the 135-day period beginning on January 23, 2004, shall include at least one member of the Board described in paragraph (3)(B).

(7) Meetings

The Board shall meet at the call of the Chairperson.

(8) Compensation

(A) Officers of the Federal Government

(i) In general

A member of the Board described in paragraph (3)(A) may not receive additional pay, allowances, or benefits by reason of the member's service on the Board.

(ii) Travel expenses

Each such member of the Board shall receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5.

(B) Other members

(i) In general

Except as provided in clause (ii), a member of the Board described in paragraph (3)(B)—

(I) shall be paid compensation out of funds made available for the purposes of this chapter at the daily equivalent of the highest rate payable under section 5332 of title 5 for each day (including travel time) during which the member is engaged in the actual performance of duties as a member of the Board; and

(II) while away from the member's home or regular place of business on necessary travel in the actual performance of duties as a member of the Board, shall be paid per diem, travel, and transportation expenses in the same manner as is provided under subchapter I of chapter 57 of title 5.

(ii) Limitation

A member of the Board may not be paid compensation under clause (i)(II) for more than 90 days in any calendar year.

(Pub. L. 108–199, div. D, title VI, §604, Jan. 23, 2004, 118 Stat. 212.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (c)(2), (8)(B)(i)(I), was in the original "this title", meaning title VI of Pub. L. 108–199, div. D, Jan. 23, 2004, 118 Stat. 211, which is classified generally to this chapter. For complete classification of this title to the Code, see Short Title note set out under section 7701 of this title and

Tables.

CODIFICATION

Section is comprised of section 604 of div. D of Pub. L. 108–199. Subsec. (b)(4)(B) of section 604 of div. D of Pub. L. 108–199 amended section 5313 of Title 5, Government Organization and Employees.

§7704. Authorization of assistance

(a) Assistance

Notwithstanding any other provision of law (other than a provision of this chapter), the Board, acting through the Chief Executive Officer, is authorized to provide assistance under this section for each country that enters into a Millennium Challenge Compact with the United States pursuant to section 7708 of this title to support policies and programs that advance the progress of the country in achieving lasting economic growth and poverty reduction and are in furtherance of the purposes of this chapter.

(b) Form of assistance

Assistance under this section may be provided in the form of grants, cooperative agreements, or contracts to or with eligible entities described in subsection (c). Assistance under this section may not be provided in the form of loans.

(c) Eligible entities

An eligible entity referred to in subsection (b) is—

(1) the national government of the eligible country;

(2) regional or local governmental units of the country; or

(3) a nongovernmental organization or a private entity.

(d) Application

The Chief Executive Officer, in consultation with the Board and working with eligible countries selected by the Board for negotiation of Compacts, should develop and recommend procedures for considering solicited and unsolicited proposals in Compacts prior to an approval of the Compacts by the Board.

(e) Limitations

(1) Prohibition on military assistance and training

Assistance under this section may not include military assistance or military training for a country.

(2) Prohibition on assistance relating to United States job loss or production displacement

Assistance under this section may not be provided for any project that is likely to cause a substantial loss of United States jobs or a substantial displacement of United States production.

(3) Prohibition on assistance relating to environmental, health, or safety hazards

Assistance under this section may not be provided for any project that is likely to cause a significant environmental, health, or safety hazard.

(4) Prohibition on use of funds for abortions and involuntary sterilizations

The prohibitions on use of funds contained in paragraphs (1) through (3) of section 104(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b(f)(1)–(3)) shall apply to funds made available to carry out this section to the same extent and in the same manner as such prohibitions apply to funds made available to carry out part I of such Act [22 U.S.C. 2151 et seq.]. The prohibition on use of funds contained in any provision of law comparable to the eleventh and fourteenth provisos under the heading "Child Survival and Health Programs Fund" of division E of Public Law 108–7 (117 Stat. 162) shall apply to funds made available to carry out this section for fiscal year 2004.

(f) Coordination

The provision of assistance under this section shall be coordinated with other United States foreign assistance programs.

(Pub. L. 108–199, div. D, title VI, §605, Jan. 23, 2004, 118 Stat. 214.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this title", meaning title VI of Pub. L. 108–199, div. D, Jan. 23, 2004, 118 Stat. 211, which is classified generally to this chapter. For complete classification of this title to the Code, see Short Title note set out under section 7701 of this title and Tables.

The Foreign Assistance Act of 1961, referred to in subsec (e)(4), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424. Part I of the Act is classified generally to subchapter I (§2151 et seq.) of chapter 32 of this title. For provisions deeming references to subchapter I to include parts IV (§2346 et seq.), VI (§2348 et seq.), and VIII (§2349aa et seq.) of subchapter II of chapter 32, see section 202(b) of Pub. L. 92–226, set out as a note under section 2346 of this title, and sections 2348c and 2349aa–5 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

The provisos of Public Law 108–7, referred to in subsec. (e)(4), are contained in Pub. L. 108–7, div. E, title II, Feb. 20, 2003, 117 Stat. 162, and are not classified to the Code.

§7705. Candidate countries

(a) Low income countries

(1) Fiscal year 2004

A country shall be a candidate country for purposes of eligibility for assistance for fiscal year 2004 if—

(A) the country is eligible for assistance from the International Development Association, and the per capita income of the country is equal to or less than the historical ceiling of the International Development Association for that year, as defined by the International Bank for Reconstruction and Development; and

(B) subject to paragraph (3), the country is not ineligible to receive United States economic assistance under part I of the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.] by reason of the application of any provision of the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.] or any other provision of law.

(2) Fiscal year 2005 and subsequent fiscal years

A country shall be a candidate country for purposes of eligibility for assistance for fiscal year 2005 or a subsequent fiscal year if—

(A) the per capita income of the country is equal to or less than the historical ceiling of the International Development Association for the fiscal year involved, as defined by the International Bank for Reconstruction and Development; and

(B) the country meets the requirements of paragraph (1)(B).

(3) Rule of construction

For the purposes of determining whether a country is eligible for receiving assistance under section 7704 of this title pursuant to paragraph (1)(B), the exercise by the President, the Secretary of State, or any other officer or employee of the United States of any waiver or suspension of any provision of law referred to in such paragraph, and notification to the appropriate congressional committees in accordance with such provision of law, shall be construed as satisfying the requirement of such paragraph.

(b) Lower middle income countries

(1) In general

In addition to countries described in subsection (a), a country shall be a candidate country for purposes of eligibility for assistance for fiscal year 2006 or a subsequent fiscal year if the country—

(A) is classified as a lower middle income country in the then most recent edition of the

World Development Report for Reconstruction and Development published by the International Bank for Reconstruction and Development and has an income greater than the historical ceiling for International Development Association eligibility for the fiscal year involved; and

(B) meets the requirements of subsection (a)(1)(B).

(2) Limitation

The total amount of assistance provided to countries described in paragraph (1) for fiscal year 2006 or any subsequent fiscal year may not exceed 25 percent of the total amount of assistance provided to all countries under section 7704 of this title for fiscal year 2006 or the subsequent fiscal year, as the case may be.

(c) Identification by the Board

The Board shall identify whether a country is a candidate country for purposes of this section.

(Pub. L. 108–199, div. D, title VI, §606, Jan. 23, 2004, 118 Stat. 215.)

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsec. (a)(1)(B), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, which is classified principally to chapter 32 (§2151 et seq.) of this title. Part I of the Act is classified generally to subchapter I (§2151 et seq.) of chapter 32 of this title. For provisions deeming references to subchapter I to include parts IV (§2346 et seq.), VI (§2348 et seq.), and VIII (§2349aa et seq.) of subchapter II of chapter 32, see section 202(b) of Pub. L. 92–226, set out as a note under section 2346 of this title, and sections 2348c and 2349aa–5 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

§7706. Eligible countries

(a) Determination by the Board

The Board shall determine whether a candidate country is an eligible country for purposes of this section. Such determination shall be based, to the maximum extent possible, upon objective and quantifiable indicators of a country's demonstrated commitment to the criteria in subsection (b), and shall, where appropriate, take into account and assess the role of women and girls.

(b) Criteria

A candidate country should be considered to be an eligible country for purposes of this section if the Board determines that the country has demonstrated a commitment to—

(1) just and democratic governance, including a demonstrated commitment to—

(A) promote political pluralism, equality, and the rule of law;

(B) respect human and civil rights, including the rights of people with disabilities;

(C) protect private property rights;

(D) encourage transparency and accountability of government; and

(E) combat corruption;

(2) economic freedom, including a demonstrated commitment to economic policies that—

(A) encourage citizens and firms to participate in global trade and international capital markets;

(B) promote private sector growth;

(C) strengthen market forces in the economy; and

(D) respect worker rights, including the right to form labor unions; and

(3) investments in the people of such country, particularly women and children, including programs that—

(A) promote broad-based primary education;

(B) strengthen and build capacity to provide quality public health and reduce child mortality; and

(C) promote the protection of biodiversity and the transparent and sustainable management and use of natural resources.

(c) Selection by the Board

(1) In general

At the time the Board determines eligible countries under this section for a fiscal year, the Board shall select those eligible countries with respect to which the United States will initially seek to enter into a Millennium Challenge Compact pursuant to section 7708 of this title.

(2) Factors

In selecting eligible countries under paragraph (1), the Board shall consider the following factors:

(A) The extent to which the country clearly meets or exceeds the eligibility criteria.

(B) The opportunity to reduce poverty and generate economic growth in the country.

(C) The availability of amounts to carry out this chapter.

(d) Establishment of criteria and methodology

The criteria and methodology submitted by the Board to Congress and published in the Federal Register under section 7707(b)(2) of this title with respect to a fiscal year shall remain fixed for purposes of eligibility determinations for such year.

(e) Annual modification of criteria and methodology

As appropriate, the Board, acting through the Chief Executive Officer, shall review the eligibility criteria and methodology and modify such criteria and methodology in subsequent years consistent with section 7707(b) of this title.

(Pub. L. 108–199, div. D, title VI, §607, Jan. 23, 2004, 118 Stat. 216; Pub. L. 110–161, div. J, title VI, §699I(a), Dec. 26, 2007, 121 Stat. 2372.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (c)(2)(C), was in the original "this title", meaning title VI of Pub. L. 108–199, div. D, Jan. 23, 2004, 118 Stat. 211, which is classified generally to this chapter. For complete classification of this title to the Code, see Short Title note set out under section 7701 of this title and Tables.

AMENDMENTS

2007—Subsec. (b)(2)(B). Pub. L. 110–161, §699I(a)(1), struck out "and the sustainable management of natural resources" after "growth".

Subsec. (b)(3)(C). Pub. L. 110–161, §699I(a)(2), added subpar. (C).

§7707. Congressional and public notification of candidate countries, eligibility criteria, and eligible countries

(a) Identification of candidate countries

Not later than 90 days prior to the date on which the Board determines eligible countries under section 7706 of this title for a fiscal year, the Chief Executive Officer—

(1) shall prepare and submit to the appropriate congressional committees a report that contains a list of all candidate countries identified under section 7705 of this title, and all countries that would be candidate countries if the countries met the requirement contained in section 7705(a)(1)(B) of this title, for the fiscal year; and

(2) shall publish in the Federal Register the information contained in the report described in paragraph (1).

(b) Identification of eligibility criteria and methodology

Not later than 60 days prior to the date on which the Board determines eligible countries under section 7706 of this title for a fiscal year, the Chief Executive Officer—

(1) shall prepare and submit to the appropriate congressional committees a report that contains a

list of the criteria and methodology described in subsections (a) and (b) of section 7706 of this title that will be used to determine eligibility for each candidate country identified under subsection (a);

(2) shall publish in the Federal Register the information contained in the report described in paragraph (1); and

(3) may conduct one or more public hearings on the eligibility criteria and methodology.

(c) Public comment and congressional consultation

(1) Public comment

The Chief Executive Officer shall, for the 30-day period beginning on the date of publication in the Federal Register of the information contained in the report described in subsection (b)(1), accept public comment and consider such comment for purposes of determining eligible countries under section 7706 of this title.

(2) Congressional consultation

The Chief Executive Officer shall consult with the appropriate congressional committees on the extent to which the candidate countries meet the criteria described in section 7706(b) of this title.

(d) Identification of eligible countries

Not later than 5 days after the date on which the Board determines eligible countries under section 7706 of this title for a fiscal year, the Chief Executive Officer—

(1) shall prepare and submit to the appropriate congressional committees a report that contains a list of all such eligible countries, an identification of those countries on such list with respect to which the Board will seek to enter into a Compact under section 7708 of this title, and a justification for such eligibility determination and selection for Compact negotiation; and

(2) shall publish in the Federal Register the information contained in the report described in paragraph (1).

(Pub. L. 108–199, div. D, title VI, §608, Jan. 23, 2004, 118 Stat. 217.)

§7708. Millennium Challenge Compact

(a) Compact

The Board, acting through the Chief Executive Officer of the Corporation, may provide assistance for an eligible country only if the country enters into an agreement with the United States, to be known as a "Millennium Challenge Compact", that establishes a multi-year plan for achieving shared development objectives in furtherance of the purposes of this chapter.

(b) Elements

(1) In general

The Compact should take into account the national development strategy of the eligible country and shall contain—

(A) the specific objectives that the country and the United States expect to achieve during the term of the Compact;

(B) the responsibilities of the country and the United States in the achievement of such objectives;

(C) regular benchmarks to measure, where appropriate, progress toward achieving such objectives;

(D) an identification of the intended beneficiaries, disaggregated by income level, gender, and age, to the maximum extent practicable;

(E) a multi-year financial plan, including the estimated amount of contributions by the Corporation and the country and proposed mechanisms to implement the plan and provide oversight, that describes how the requirements of subparagraphs (A) through (D) will be met, including identifying the role of civil society in the achievement of such requirements;

(F) where appropriate, a description of the current and potential participation of other donors in the achievement of such objectives;

(G) a plan to ensure appropriate fiscal accountability for the use of assistance provided under section 7704 of this title;

(H) where appropriate, a process or processes for consideration of solicited proposals under the Compact as well as a process for consideration of unsolicited proposals by the Corporation and national, regional, or local units of government;

(I) a requirement that open, fair, and competitive procedures are used in a transparent manner in the administration of grants or cooperative agreements or the procurement of goods and services for the accomplishment of objectives under the Compact;

(J) the strategy of the eligible country to sustain progress made toward achieving such objectives after expiration of the Compact; and

(K) a description of the role of the United States Agency for International Development in any design, implementation, and monitoring of programs and activities funded under the Compact.

(2) Lower middle income countries

In addition to the elements described in subparagraphs (A) through (K) of paragraph (1), with respect to a lower middle income country described in section 7705(b) of this title, the Compact shall identify a contribution, as appropriate, from the country relative to its national budget, taking into account the prevailing economic conditions, toward meeting the objectives of the Compact. Any such contribution should be in addition to government spending allocated for such purposes in the country's budget for the year immediately preceding the establishment of the Compact and should continue for the duration of the Compact.

(3) Definition

In this subsection, the term "national development strategy" means any strategy to achieve market-driven economic growth and eliminate extreme poverty that has been developed by the government of the country in consultation with a wide variety of civic participation, including nongovernmental organizations, private and voluntary organizations, academia, women's and student organizations, local trade and labor unions, and the business community.

(c) Additional provision relating to prohibition on taxation

In addition to the elements described in subsection (c), each Compact shall contain a provision that states that assistance provided by the United States under the Compact shall be exempt from taxation by the government of the eligible country.

(d) Local input

In entering into a Compact, the United States shall seek to ensure that the government of an eligible country—

(1) takes into account the local-level perspectives of the rural and urban poor, including women, in the eligible country; and

(2) consults with private and voluntary organizations, the business community, and other donors in the eligible country.

(e) Consultation

During any discussions with a country for the purpose of entering into a Compact with the country, officials of the Corporation participating in such discussions shall, at a minimum, consult with appropriate officials of the United States Agency for International Development, particularly with those officials responsible for the appropriate region or country on development issues related to the Compact.

(f) Coordination with other donors

To the maximum extent feasible, activities undertaken to achieve the objectives of the Compact shall be undertaken in coordination with the assistance activities of other donors.

(g) Assistance for development of compact

Notwithstanding subsection (a), the Chief Executive Officer may enter into contracts or make grants for any eligible country for the purpose of facilitating the development and implementation of the Compact between the United States and the country.

(h) Requirement for approval by the Board

Each Compact shall be approved by the Board before the United States enters into the Compact.

(i) Increase or extension of assistance under a Compact

Not later than 15 days after making a determination to increase or extend assistance under a Compact with an eligible country, the Board, acting through the Chief Executive Officer—

(1) shall prepare and transmit to the appropriate congressional committees a written report and justification that contains a detailed summary of the proposed increase in or extension of assistance under the Compact and a copy of the full text of the amendment to the Compact; and

(2) shall publish a detailed summary, full text, and justification of the proposed increase in or extension of assistance under the Compact in the Federal Register and on the Internet website of the Corporation.

(j) Duration of Compact

The duration of a Compact shall not exceed 5 years.

(k) Subsequent Compacts

An eligible country and the United States may enter into and have in effect only one Compact at any given time under this section. An eligible country and the United States may enter into one or more subsequent Compacts in accordance with the requirements of this chapter after the expiration of the existing Compact.

(Pub. L. 108–199, div. D, title VI, §609, Jan. 23, 2004, 118 Stat. 218.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (k), was in the original "this title", meaning title VI of Pub. L. 108–199, div. D, Jan. 23, 2004, 118 Stat. 211, which is classified generally to this chapter. For complete classification of this title to the Code, see Short Title note set out under section 7701 of this title and Tables.

§7709. Congressional and public notification of Compact

(a) Congressional consultation prior to Compact negotiations

Not later than 15 days prior to the start of negotiations of a Compact with an eligible country, the Board, acting through the Chief Executive Officer—

(1) shall consult with the appropriate congressional committees with respect to the proposed Compact negotiation; and

(2) shall identify the objectives and mechanisms to be used for the negotiation of the Compact.

(b) Congressional and public notification after entering into a Compact

Not later than 10 days after entering into a Compact with an eligible country, the Board, acting through the Chief Executive Officer—

(1) shall provide notification of the Compact to the appropriate congressional committees, including a detailed summary of the Compact and a copy of the text of the Compact; and

(2) shall publish such detailed summary and the text of the Compact in the Federal Register and on the Internet website of the Corporation.

(Pub. L. 108–199, div. D, title VI, §610, Jan. 23, 2004, 118 Stat. 220.)

§7710. Suspension and termination of assistance

(a) Suspension and termination of assistance

After consultation with the Board, the Chief Executive Officer may suspend or terminate assistance in whole or in part for a country or entity under section 7704 of this title if the Chief Executive Officer determines that—

(1) the country or entity is engaged in activities which are contrary to the national security interests of the United States;

(2) the country or entity has engaged in a pattern of actions inconsistent with the criteria used to determine the eligibility of the country or entity, as the case may be; or

(3) the country or entity has failed to adhere to its responsibilities under the Compact.

(b) Reinstatement

The Chief Executive Officer may reinstate assistance for a country or entity under section 7704 of this title only if the Chief Executive Officer determines that the country or entity has demonstrated a commitment to correcting each condition for which assistance was suspended or terminated under subsection (a).

(c) Congressional notification

Not later than 3 days after the date on which the Chief Executive Officer suspends or terminates assistance under subsection (a) for a country or entity, or reinstates assistance under subsection (b) for a country or entity, the Chief Executive Officer shall submit to the appropriate congressional committees a report that contains the determination of the Chief Executive Officer under subsection (a) or subsection (b), as the case may be.

(d) Rule of construction

The authority to suspend or terminate assistance under this section includes the authority to suspend or terminate obligations and sub-obligations.

(Pub. L. 108–199, div. D, title VI, §611, Jan. 23, 2004, 118 Stat. 220.)

§7711. Disclosure

(a) Requirement for disclosure

The Corporation shall make available to the public on at least a quarterly basis, the following information:

(1) For assistance provided under section 7704 of this title—

(A) the name of each entity to which assistance is provided;

(B) the amount of assistance provided to the entity; and

(C) a description of the program or project, including—

(i) a description of whether the program or project was solicited or unsolicited; and

(ii) a detailed description of the objectives and measures for results of the program or project.

(2) For funds allocated or transferred under section 7718(b) of this title—

(A) the name of each United States Government agency to which such funds are transferred or allocated;

(B) the amount of funds transferred or allocated to such agency; and

(C) a description of the program or project to be carried out by such agency with such funds.

(b) Dissemination

The information required to be disclosed under subsection (a) shall be made available to the public by means of publication in the Federal Register and on the Internet website of the Corporation, as well as by any other methods that the Board determines appropriate.

(Pub. L. 108–199, div. D, title VI, §612, Jan. 23, 2004, 118 Stat. 221.)

§7712. Annual report

(a) Report

Not later than March 31, 2005, and each March 31 thereafter, the President shall submit to Congress a report on the assistance provided under section 7704 of this title during the prior fiscal year.

(b) Contents

The report shall include the following:

(1) The amount of obligations and expenditures for assistance provided to each eligible country during the prior fiscal year.

(2) For each eligible country, an assessment of—

(A) the progress made during each year by the country toward achieving the objectives set out in the Compact entered into by the country; and

(B) the extent to which assistance provided under section 7704 of this title has been effective in helping the country to achieve such objectives.

(3) A description of the coordination of assistance provided under section 7704 of this title with other United States foreign assistance and related trade policies.

(4) A description of the coordination of assistance provided under section 7704 of this title with assistance provided by other donor countries.

(5) Any other information the President considers relevant with respect to assistance provided under section 7704 of this title.

(Pub. L. 108–199, div. D, title VI, §613, Jan. 23, 2004, 118 Stat. 221.)

ASSIGNMENT OF FUNCTION TO SUBMIT A REPORT RELATING TO MILLENNIUM CHALLENGE CORPORATION ACTIVITIES

Memorandum of President of the United States, Mar. 31, 2005, 70 F.R. 17195, provided:

Memorandum for the Secretary of State

Consistent with section 301 of title 3, United States Code, the function of the President under section 613 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2004 (Division D of Public Law 108–199) [22 U.S.C. 7712] is assigned to the Secretary of State.

The Secretary of State shall perform such function in a manner consistent with the President's constitutional authority to withhold information the disclosure of which could impair foreign relations, national security, the deliberative processes of the Executive, or the performance of the Executive's constitutional duties. Heads of departments and agencies shall, to the extent permitted by law, furnish to the Secretary information the Secretary requests to perform such function, in the format and on the schedule specified by the Secretary.

Any reference in this memorandum to the provision of any Act shall be deemed to include references to any hereafter-enacted provision of law that is the same or substantially the same as such provision.

You are authorized and directed to publish this memorandum in the Federal Register.

GEORGE W. BUSH.

§7713. Powers of the Corporation; related provisions

(a) Powers

The Corporation—

(1) shall have perpetual succession unless dissolved by a law enacted after January 23, 2004;

(2) may adopt, alter, and use a seal, which shall be judicially noticed;

(3) may make and perform such contracts, grants, and other agreements with any person or government however designated and wherever situated, as may be necessary for carrying out the functions of the Corporation;

(4) may determine and prescribe the manner in which its obligations shall be incurred and its expenses allowed and paid, including expenses for representation;

(5) may lease, purchase, or otherwise acquire, improve, and use such real property wherever situated, as may be necessary for carrying out the functions of the Corporation;

(6) may accept cash gifts or donations of services or of property (real, personal, or mixed), tangible or intangible, for the purpose of carrying out the provisions of this chapter;

(7) may use the United States mails in the same manner and on the same conditions as the executive departments;

(8) may contract with individuals for personal services, who shall not be considered Federal employees for any provision of law administered by the Office of Personnel Management;

(9) may hire or obtain passenger motor vehicles; and

(10) shall have such other powers as may be necessary and incident to carrying out this chapter.

(b) Principal office

The Corporation shall maintain its principal office in the metropolitan area of Washington, District of Columbia.

(c) Positions with foreign governments

When approved by the Chief Executive Officer, for purposes of implementing a Compact, employees of the Corporation (including individuals detailed to the Corporation) may accept and hold offices or positions to which no compensation is attached with governments or governmental agencies of foreign countries or with international organizations.

(d) Other authorities

Except to the extent inconsistent with the provisions of this chapter, the administrative authorities contained in the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a et seq.) and the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) shall apply to the implementation of this chapter to the same extent and in the same manner as such authorities apply to the implementation of those Acts.

(e) Applicability of Government Corporation Control Act

(1) In general

The Corporation shall be subject to chapter 91 of subtitle VI of title 31, except that the Corporation shall not be authorized to issue obligations or offer obligations to the public.

(2) Omitted

(f) Inspector General

(1) In general

The Inspector General of the United States Agency for International Development shall serve as Inspector General of the Corporation, and, in acting in such capacity, may conduct reviews, investigations, and inspections of all aspects of the operations and activities of the Corporation.

(2) Authority of the Board

In carrying out the responsibilities under this subsection, the Inspector General shall report to and be under the general supervision of the Board.

(3) Reimbursement and authorization of services

(A) Reimbursement

The Corporation shall reimburse the United States Agency for International Development for all expenses incurred by the Inspector General in connection with the Inspector General's responsibilities under this subsection.

(B) Authorization for services

Of the amount authorized to be appropriated under section 7718(a) of this title for a fiscal year, up to $5,000,000 is authorized to be made available to the Inspector General of the United States Agency for International Development to conduct reviews, investigations, and inspections of operations and activities of the Corporation.

(g) Special assistance

(1) In general

The Chief Executive Officer is authorized to contract with any nongovernmental organization (including a university, independent foundation, or other organization) in the United States or in a candidate country, and, where appropriate, directly with a governmental agency of any such country, that is undertaking research aimed at improving data related to eligibility criteria under this chapter with respect to the country.

(2) Funding

Of the amount authorized to be appropriated under section 7718(a) of this title for a fiscal year, up to $5,000,000 is authorized to be made available to carry out paragraph (1).

(Pub. L. 108–199, div. D, title VI, §614, Jan. 23, 2004, 118 Stat. 222.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(6), (10), (d), and (g)(1), was in the original "this title", meaning title VI of Pub. L. 108–199, div. D, Jan. 23, 2004, 118 Stat. 211, which is classified generally to this chapter. For complete classification of this title to the Code, see Short Title note set out under section 7701 of this title and Tables.

The State Department Basic Authorities Act of 1956, referred to in subsec. (d), is act Aug. 1, 1956, ch. 841, 70 Stat. 890, which enacted sections 2651a, 2669, 2670, 2671, 2672, 2673 to 2679a, 2680, 2680a, 2684, 2687 to 2690, 2692, 2695, 2696 to 2715, and 2715b to 2734 of this title and chapters 53 (§4301 et seq.), 53A (§4341 et seq.), and 53B (§4351 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2651 of this title and Tables.

The Foreign Assistance Act of 1961, referred to in subsec. (d), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, which is classified principally to chapter 32 (§2151 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

CODIFICATION

Section is comprised of section 614 of div. D of Pub. L. 108–199. Subsec. (e)(2) of section 614 of div. D of Pub. L. 108–199 amended section 9101 of Title 31, Money and Finance.

§7714. Coordination with United States Agency for International Development

(a) Requirement for coordination

The Chief Executive Officer shall consult with the Administrator of the United States Agency for International Development in order to coordinate the activities of the Corporation with the activities of the Agency.

(b) USAID programs

The Administrator of the United States Agency for International Development shall seek to ensure that appropriate programs of the Agency play a primary role in preparing candidate countries to become eligible countries.

(Pub. L. 108–199, div. D, title VI, §615, Jan. 23, 2004, 118 Stat. 224.)

§7715. Assistance to certain candidate countries

(a) Authorization

The Board, acting through the Chief Executive Officer, is authorized to provide assistance to a candidate country described in subsection (b) for the purpose of assisting such country to become an eligible country.

(b) Candidate country described

A candidate country referred to in subsection (a) is a candidate country that—

(1) satisfies the requirements contained in subsection (a) or (b) of section 7705 of this title; and

(2) demonstrates a significant commitment to meet the requirements of section 7706(b) of this title but fails to meet such requirements (including by reason of the absence or unreliability of data).

(c) Administration

Assistance under this section may be provided through the United States Agency for International Development.

(d) Funding

Not more than 10 percent of the amount appropriated pursuant to the authorization of appropriations under section 7718(a) of this title for fiscal year 2004 is authorized to be made available to carry out this section.

(Pub. L. 108–199, div. D, title VI, §616, Jan. 23, 2004, 118 Stat. 224; Pub. L. 109–13, div. A, title II, §2109, May 11, 2005, 119 Stat. 268.)

AMENDMENTS

2005—Subsec. (b)(1). Pub. L. 109–13 substituted "subsection (a) or (b) of section 7705" for "subparagraphs (A) and (B) of section 7705(a)(1)".

§7716. General personnel authorities

(a) Detail of personnel

Upon request of the Chief Executive Officer, the head of an agency may detail any employee of such agency to the Corporation on a reimbursable basis. Any employee so detailed remains, for the purpose of preserving such employee's allowances, privileges, rights, seniority, and other benefits, an employee of the agency from which detailed.

(b) Reemployment rights

(1) In general

An employee of an agency who is serving under a career or career conditional appointment (or the equivalent), and who, with the consent of the head of such agency, transfers to the Corporation, is entitled to be reemployed in such employee's former position or a position of like seniority, status, and pay in such agency, if such employee—

(A) is separated from the Corporation for any reason, other than misconduct, neglect of duty, or malfeasance; and

(B) applies for reemployment not later than 90 days after the date of separation from the Corporation.

(2) Specific rights

An employee who satisfies paragraph (1) is entitled to be reemployed (in accordance with such paragraph) within 30 days after applying for reemployment and, on reemployment, is entitled to at least the rate of basic pay to which such employee would have been entitled had such employee never transferred.

(c) Hiring authority

Of persons employed by the Corporation, not to exceed 30 persons may be appointed, compensated, or removed without regard to the civil service laws and regulations.

(d) Basic pay

The Chief Executive Officer may fix the rate of basic pay of employees of the Corporation without regard to the provisions of chapter 51 of title 5 (relating to the classification of positions), subchapter III of chapter 53 of such title (relating to General Schedule pay rates), except that no employee of the Corporation may receive a rate of basic pay that exceeds the rate for level II of the Executive Schedule under section 5313 of such title.

(e) Definitions

In this section—

(1) the term "agency" means an executive agency, as defined by section 105 of title 5; and

(2) the term "detail" means the assignment or loan of an employee, without a change of position, from the agency by which such employee is employed to the Corporation.

(Pub. L. 108–199, div. D, title VI, §617, Jan. 23, 2004, 118 Stat. 224.)

§7717. Personnel outside the United States

(a) Assignment to United States embassies

An employee of the Corporation, including an individual detailed to or contracted by the Corporation, may be assigned to a United States diplomatic mission or consular post or a United States Agency for International Development field mission.

(b) Privileges and immunities

The Secretary of State shall seek to ensure that an employee of the Corporation, including an individual detailed to or contracted by the Corporation, and the members of the family of such employee, while the employee is performing duties in any country or place outside the United States, enjoy the privileges and immunities that are enjoyed by a member of the Foreign Service, or the family of a member of the Foreign Service, as appropriate, of comparable rank and salary of such employee, if such employee or a member of the family of such employee is not a national of or permanently resident in such country or place.

(c) Responsibility of chief of mission

An employee of the Corporation, including an individual detailed to or contracted by the Corporation, and a member of the family of such employee, shall be subject to section 3927 of this title in the same manner as United States Government employees while the employee is performing duties in any country or place outside the United States if such employee or member of the family of such employee is not a national of or permanently resident in such country or place.

(Pub. L. 108–199, div. D, title VI, §618, Jan. 23, 2004, 118 Stat. 225.)

§7718. Authorization of appropriations

(a) Authorization of appropriations

There are authorized to be appropriated to carry out this chapter such sums as may be necessary for each of the fiscal years 2004 and 2005.

(b) Allocation of funds

(1) In general

The Corporation may allocate or transfer to any agency of the United States Government any of the funds available for carrying out this chapter. Such funds shall be available for obligation and expenditure for the purposes for which the funds were authorized, in accordance with authority granted in this chapter or under authority governing the activities of the United States Government agency to which such funds are allocated or transferred.

(2) Notification

The Corporation shall notify the appropriate congressional committees not less than 15 days prior to an allocation or transfer of funds pursuant to paragraph (1).

(Pub. L. 108–199, div. D, title VI, §619, Jan. 23, 2004, 118 Stat. 225.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b)(1), was in the original "this title", meaning title VI of Pub.

L. 108–199, div. D, Jan. 23, 2004, 118 Stat. 211, which is classified generally to this chapter. For complete classification of this title to the Code, see Short Title note set out under section 7701 of this title and Tables.

CHAPTER 85—NORTH KOREAN HUMAN RIGHTS

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§7801. Findings

Congress makes the following findings:

(1) According to the Department of State, the Government of North Korea is "a dictatorship under the absolute rule of Kim Jong Il" that continues to commit numerous, serious human rights abuses.

(2) The Government of North Korea attempts to control all information, artistic expression, academic works, and media activity inside North Korea and strictly curtails freedom of speech and access to foreign broadcasts.

(3) The Government of North Korea subjects all its citizens to systematic, intensive political and ideological indoctrination in support of the cult of personality glorifying Kim Jong Il and the late Kim Il Sung that approaches the level of a state religion.

(4) The Government of North Korea divides its population into categories, based on perceived loyalty to the leadership, which determines access to food, employment, higher education, place of residence, medical facilities, and other resources.

(5) According to the Department of State, "[t]he [North Korean] Penal Code is [d]raconian, stipulating capital punishment and confiscation of assets for a wide variety of 'crimes against the revolution,' including defection, attempted defection, slander of the policies of the Party or State, listening to foreign broadcasts, writing 'reactionary' letters, and possessing reactionary printed matter".

(6) The Government of North Korea executes political prisoners, opponents of the regime, some repatriated defectors, some members of underground churches, and others, sometimes at public meetings attended by workers, students, and schoolchildren.

(7) The Government of North Korea holds an estimated 200,000 political prisoners in camps that its State Security Agency manages through the use of forced labor, beatings, torture, and executions, and in which many prisoners also die from disease, starvation, and exposure.

(8) According to eyewitness testimony provided to the United States Congress by North Korean camp survivors, camp inmates have been used as sources of slave labor for the production of export goods, as targets for martial arts practice, and as experimental victims in the testing of chemical and biological poisons.

(9) According to credible reports, including eyewitness testimony provided to the United States Congress, North Korean Government officials prohibit live births in prison camps, and forced abortion and the killing of newborn babies are standard prison practices.

(10) According to the Department of State, "[g]enuine religious freedom does not exist in North Korea" and, according to the United States Commission on International Religious Freedom, "[t]he North Korean state severely represses public and private religious activities" with penalties that reportedly include arrest, imprisonment, torture, and sometimes execution.

(11) More than 2,000,000 North Koreans are estimated to have died of starvation since the early 1990s because of the failure of the centralized agricultural and public distribution systems operated by the Government of North Korea.

(12) According to a 2002 United Nations-European Union survey, nearly one out of every ten children in North Korea suffers from acute malnutrition and four out of every ten children in North Korea are chronically malnourished.

(13) Since 1995, the United States has provided more than 2,000,000 tons of humanitarian food assistance to the people of North Korea, primarily through the World Food Program.

(14) Although United States food assistance has undoubtedly saved many North Korean lives and there have been minor improvements in transparency relating to the distribution of such assistance in North Korea, the Government of North Korea continues to deny the World Food Program forms of access necessary to properly monitor the delivery of food aid, including the ability to conduct random site visits, the use of native Korean-speaking employees, and travel access throughout North Korea.

(15) The risk of starvation, the threat of persecution, and the lack of freedom and opportunity in North Korea have caused large numbers, perhaps even hundreds of thousands, of North Koreans to flee their homeland, primarily into China.

(16) North Korean women and girls, particularly those who have fled into China, are at risk of being kidnapped, trafficked, and sexually exploited inside China, where many are sold as brides or concubines, or forced to work as prostitutes.

(17) The Governments of China and North Korea have been conducting aggressive campaigns to locate North Koreans who are in China without permission and to forcibly return them to North Korea, where they routinely face torture and imprisonment, and sometimes execution.

(18) Despite China's obligations as a party to the 1951 United Nations Convention Relating to the Status of Refugees and the 1967 Protocol Relating to the Status of Refugees, China routinely classifies North Koreans seeking asylum in China as mere "economic migrants" and returns them to North Korea without regard to the serious threat of persecution they face upon their return.

(19) The Government of China does not provide North Koreans whose asylum requests are rejected a right to have the rejection reviewed prior to deportation despite its obligations under the 1951 United Nations Convention Relating to the Status of Refugees and the 1967 Protocol Relating to the Status of Refugees.

(20) North Koreans who seek asylum while in China are routinely imprisoned and tortured, and in some cases killed, after they are returned to North Korea.

(21) The Government of China has detained, convicted, and imprisoned foreign aid workers attempting to assist North Korean refugees in proceedings that did not comply with Chinese law or international standards.

(22) In January 2000, North Korean agents inside China allegedly abducted the Reverend Kim Dong-shik, a United States permanent resident and advocate for North Korean refugees, whose condition and whereabouts remain unknown.

(23) Between 1994 and 2003, South Korea has admitted approximately 3,800 North Korean refugees for domestic resettlement, a number that is small in comparison with the total number of North Korean escapees but far greater than the number legally admitted in any other country.

(24) Although the principal responsibility for North Korean refugee resettlement naturally falls to the Government of South Korea, the United States should play a leadership role in focusing international attention on the plight of these refugees, and formulating international solutions to that profound humanitarian dilemma.

(25) In addition to infringing the rights of its own citizens, the Government of North Korea has been responsible in years past for the abduction of numerous citizens of South Korea and Japan, whose condition and whereabouts remain unknown.

(Pub. L. 108–333, §3, Oct. 18, 2004, 118 Stat. 1287.)

SHORT TITLE OF 2013 AMENDMENT

Pub. L. 112–264, §1, Jan. 14, 2013, 126 Stat. 2432, provided that: "This Act [enacting section 7834 of this title and provisions set out as a note under section 7834 of this title] may be cited as the 'North Korean Child Welfare Act of 2012'."

SHORT TITLE OF 2012 AMENDMENT

Pub. L. 112–172, §1, Aug. 16, 2012, 126 Stat. 1307, provided that: "This Act [amending sections 7812, 7814, 7817, 7831, 7833, and 7845 of this title and enacting provisions set out as a note under this section] may be cited as the 'Ambassador James R. Lilley and Congressman Stephen J. Solarz North Korea Human Rights Reauthorization Act of 2012'."

SHORT TITLE OF 2008 AMENDMENT

Pub. L. 110–346, §1, Oct. 7, 2008, 122 Stat. 3939, provided that: "This Act [amending sections 7803, 7812, 7814, 7817, 7831, 7833, and 7845 of this title and enacting provisions set out as notes under this section] may be cited as the 'North Korean Human Rights Reauthorization Act of 2008'."

SHORT TITLE

Pub. L. 108–333, §1, Oct. 18, 2004, 118 Stat. 1287, provided that: "This Act [enacting this chapter] may be cited as the 'North Korean Human Rights Act of 2004'."

FINDINGS

Pub. L. 112–172, §2, Aug. 16, 2012, 126 Stat. 1307, provided that: "Congress finds the following:

"(1) The North Korean Human Rights Act of 2004 (Public Law 108–333; 22 U.S.C. 7801 et seq.) and the North Korean Human Rights Reauthorization Act of 2008 (Public Law 110–346) [see Short Title of 2008 Amendment note above] were the product of broad, bipartisan consensus regarding the promotion of human rights, transparency in the delivery of humanitarian assistance, and the importance of refugee protection.

"(2) In addition to the longstanding commitment of the United States to refugee and human rights advocacy, the United States is home to the largest Korean population outside of northeast Asia, and many in the two-million strong Korean-American community have family ties to North Korea.

"(3) Although the transition to the leadership of Kim Jong-Un after the death of Kim Jong-Il has introduced new uncertainties and possibilities, the fundamental human rights and humanitarian conditions inside North Korea remain deplorable, North Korean refugees remain acutely vulnerable, and the findings in the 2004 Act and 2008 Reauthorization remain substantially accurate today.

"(4) Media and nongovernmental organizations have reported a crackdown on unauthorized border crossing during the North Korean leadership transition, including authorization for on-the-spot execution of attempted defectors, as well as an increase in punishments during the 100-day official mourning period after the death of Kim Jong-Il.

"(5) Notwithstanding high-level advocacy by the United States, the Republic of Korea, and the United Nations High Commissioner for Refugees, China has continued to forcibly repatriate North Koreans, including dozens of presumed refugees who were the subject of international humanitarian appeals during February and March of 2012.

"(6) The United States, which has the largest international refugee resettlement program in the world, has resettled 128 North Koreans since passage of the 2004 Act, including 23 North Koreans in fiscal year 2011.

"(7) In a career of Asia-focused public service that spanned more than half a century, including service

as a senior United States diplomat in times and places where there were significant challenges to human rights, Ambassador James R. Lilley also served as a director of the Committee for Human Rights in North Korea until his death in 2009.

"(8) Following his 18 years of service in the House of Representatives, including as Chairman of the Foreign Affairs Subcommittee on East Asian and Pacific Affairs, Stephen J. Solarz committed himself to, in his words, highlighting 'the plight of ordinary North Koreans who are denied even the most basic human rights, and the dramatic and heart-rending stories of those who risk their lives in the struggle to escape what is certainly the world's worst nightmare', and served as co-chairman of the Committee for Human Rights in North Korea until his death in 2010."

Pub. L. 110–346, §2, Oct. 7, 2008, 122 Stat. 3939, provided that: "Congress finds the following:

"(1) The North Korean Human Rights Act of 2004 (Public Law 108–333; 22 U.S.C. 7801 et seq.) (in this section referred to as 'the Act') was the product of broad, bipartisan consensus in Congress regarding the promotion of human rights, transparency in the delivery of humanitarian assistance, and refugee protection.

"(2) In addition to the longstanding commitment of the United States to refugee and human rights advocacy, the United States is home to the largest Korean population outside of northeast Asia, and many in the two-million strong Korean-American community have family ties to North Korea.

"(3) Human rights and humanitarian conditions inside North Korea are deplorable, North Korean refugees remain acutely vulnerable, and the findings in section 3 of the Act [22 U.S.C. 7801] remain accurate today.

"(4) The Government of China is conducting an increasingly aggressive campaign to locate and forcibly return border-crossers to North Korea, where they routinely face torture and imprisonment, and sometimes execution. According to recent reports, the Chinese Government is shutting down Christian churches and imprisoning people who help North Korean defectors and has increased the bounty paid for turning in North Korean refugees.

"(5) In an attempt to deter escape attempts, the Government of North Korea has reportedly stepped up its public execution of border-crossers and those who help others cross into China.

"(6) In spite of the requirement of the Act that the Special Envoy on Human Rights in North Korea (the 'Special Envoy') report to the Congress no later than April 16, 2005, a Special Envoy was not appointed until August 19, 2005, more than four months after the reporting deadline.

"(7) The Special Envoy appointed by the President has filled that position on a part-time basis only.

"(8) Since the passage of the North Korean Human Rights Act, Congress has on several occasions expressed interest in the status of North Korean refugees, and on February 21, 2006, a bipartisan group of senior Members of the House and Senate wrote Secretary of State Condoleezza Rice 'to express [their] deep concern for the lack of progress in funding and implementing the key provisions of the North Korean Human Rights Act', particularly the lack of North Korean refugee admissions to the United States.

"(9) Although the United States refugee resettlement program remains the largest in the world by far, the United States has resettled only 37 North Koreans in the period from 2004 through 2007.

"(10) From the end of 2004 through 2007, the Republic of Korea resettled 5,961 North Koreans.

"(11) Extensive delays in assessment and processing have led numerous North Korean refugees to abandon their quest for United States resettlement, and long waits (of more than a year in some cases) have been the source of considerable discouragement and frustration among refugees, many of whom are awaiting United States resettlement in circumstances that are unsafe and insecure.

"(12) From 2000 through 2006, the United States granted asylum to 15 North Koreans, as compared to 60 North Korean asylum grantees in the United Kingdom, and 135 in Germany during that same period."

SENSE OF CONGRESS

Pub. L. 110–346, §3, Oct. 7, 2008, 122 Stat. 3940, provided that: "It is the sense of Congress that—

"(1) the United States should continue to make it a priority to seek broader permission and greater cooperation from foreign governments to allow the United States to process North Korean refugees overseas for resettlement in the United States, through persistent diplomacy by senior officials of the United States, including United States ambassadors to Asia-Pacific nations;

"(2) at the same time that careful screening of intending refugees is important, the United States also should make every effort to ensure that its screening, processing, and resettlement of North Korean refugees are as efficient and expeditious as possible;

"(3) the Special Envoy for North Korean Human Rights Issues should be a full-time position within the Department of State in order to properly promote and coordinate North Korean human rights and humanitarian issues, and to participate in policy planning and implementation with respect to refugee

issues, as intended by the North Korean Human Rights Act of 2004 (Public Law 108–333; 22 U.S.C. 7801 et seq.);

"(4) in an effort to more efficiently and actively participate in humanitarian burden-sharing, the United States should approach our ally, the Republic of Korea, to revisit and explore new opportunities for coordinating efforts to screen and resettle North Koreans who have expressed a wish to pursue resettlement in the United States and have not yet availed themselves of any right to citizenship they may enjoy under the Constitution of the Republic of Korea; and

"(5) because there are genuine refugees among North Koreans fleeing into China who face severe punishments upon their forcible return, the United States should urge the Government of China to—

"(A) immediately halt its forcible repatriation of North Koreans;

"(B) fulfill its obligations pursuant to the 1951 United Nations Convention Relating to the Status of Refugees, the 1967 Protocol Relating to the Status of Refugees, and the 1995 Agreement on the Upgrading of the UNHCR Mission in the People's Republic of China to UNHCR Branch Office in the People's Republic of China; and

"(C) allow the United Nations High Commissioner for Refugees (UNHCR) unimpeded access to North Koreans inside China to determine whether they are refugees and whether they require assistance."

§7802. Purposes

The purposes of this chapter are—

(1) to promote respect for and protection of fundamental human rights in North Korea;

(2) to promote a more durable humanitarian solution to the plight of North Korean refugees;

(3) to promote increased monitoring, access, and transparency in the provision of humanitarian assistance inside North Korea;

(4) to promote the free flow of information into and out of North Korea; and

(5) to promote progress toward the peaceful reunification of the Korean peninsula under a democratic system of government.

(Pub. L. 108–333, §4, Oct. 18, 2004, 118 Stat. 1290.)

§7803. Definitions

In this chapter:

(1) Appropriate congressional committees

The term "appropriate congressional committees" means—

(A) the Committee on Foreign Affairs of the House of Representatives; and

(B) the Committee on Foreign Relations of the Senate.

(2) China

The term "China" means the People's Republic of China.

(3) Humanitarian assistance

The term "humanitarian assistance" means assistance to meet humanitarian needs, including needs for food, medicine, medical supplies, clothing, and shelter.

(4) North Korea

The term "North Korea" means the Democratic People's Republic of Korea.

(5) North Koreans

The term "North Koreans" means persons who are citizens or nationals of North Korea.

(6) South Korea

The term "South Korea" means the Republic of Korea.

(Pub. L. 108–333, §5, Oct. 18, 2004, 118 Stat. 1290; Pub. L. 110–346, §4, Oct. 7, 2008, 122 Stat. 3941.)

AMENDMENTS

2008—Par. (1)(A). Pub. L. 110–346 substituted "Foreign Affairs" for "International Relations".

SUBCHAPTER I—PROMOTING THE HUMAN RIGHTS OF NORTH KOREANS

§7811. Sense of Congress regarding negotiations with North Korea

It is the sense of Congress that the human rights of North Koreans should remain a key element in future negotiations between the United States, North Korea, and other concerned parties in Northeast Asia.

(Pub. L. 108–333, title I, §101, Oct. 18, 2004, 118 Stat. 1290.)

§7812. Support for human rights and democracy programs

(a) Support

The President is authorized to provide grants to private, nonprofit organizations to support programs that promote human rights, democracy, rule of law, and the development of a market economy in North Korea. Such programs may include appropriate educational and cultural exchange programs with North Korean participants, to the extent not otherwise prohibited by law.

(b) Authorization of appropriations

(1) In general

There are authorized to be appropriated to the President $2,000,000 for each of the fiscal years 2005 through 2008 and $2,000,000 for each of fiscal years 2009 through 2017 to carry out this section.

(2) Availability

Amounts appropriated pursuant to the authorization of appropriations under paragraph (1) are authorized to remain available until expended.

(Pub. L. 108–333, title I, §102, Oct. 18, 2004, 118 Stat. 1290; Pub. L. 110–346, §5, Oct. 7, 2008, 122 Stat. 3941; Pub. L. 112–172, §4, Aug. 16, 2012, 126 Stat. 1308.)

AMENDMENTS

2012—Subsec. (b)(1). Pub. L. 112–172 substituted "2017" for "2012".

2008—Subsec. (b)(1). Pub. L. 110–346 inserted "and $2,000,000 for each of fiscal years 2009 through 2012" after "2008".

§7813. Radio broadcasting to North Korea

(a) Sense of Congress

It is the sense of Congress that the United States should facilitate the unhindered dissemination of information in North Korea by increasing its support for radio broadcasting to North Korea, and that the Broadcasting Board of Governors should increase broadcasts to North Korea from current levels, with a goal of providing 12-hour-per-day broadcasting to North Korea, including broadcasts by Radio Free Asia and Voice of America.

(b) Report

Not later than 120 days after October 18, 2004, the Broadcasting Board of Governors shall submit

to the appropriate congressional committees a report that—

(1) describes the status of current United States broadcasting to North Korea; and

(2) outlines a plan for increasing such broadcasts to 12 hours per day, including a detailed description of the technical and fiscal requirements necessary to implement the plan.

(Pub. L. 108–333, title I, §103, Oct. 18, 2004, 118 Stat. 1291.)

§7814. Actions to promote freedom of information

(a) Actions

The President is authorized to take such actions as may be necessary to increase the availability of information inside North Korea by increasing the availability of sources of information not controlled by the Government of North Korea, including sources such as radios capable of receiving broadcasting from outside North Korea.

(b) Authorization of appropriations

(1) In general

There are authorized to be appropriated to the President $2,000,000 for each of the fiscal years 2005 through 2017 to carry out subsection (a).

(2) Availability

Amounts appropriated pursuant to the authorization of appropriations under paragraph (1) are authorized to remain available until expended.

(c) Report

Not later than 1 year after October 18, 2004, and annually through 2017, the Secretary of State, after consultation with the heads of other appropriate Federal departments and agencies, shall submit to the appropriate congressional committees a report, in classified form, on actions taken pursuant to this section.

(d) Information technology study

Not later than 180 days after the date of the enactment of the North Korea Sanctions and Policy Enhancement Act of 2015,[1] the President shall submit to the appropriate congressional committees a classified report that sets forth a detailed plan for making unrestricted, unmonitored, and inexpensive electronic mass communications available to the people of North Korea.

(Pub. L. 108–333, title I, §104, Oct. 18, 2004, 118 Stat. 1291; Pub. L. 110–346, §7, Oct. 7, 2008, 122 Stat. 3941; Pub. L. 112–172, §6, Aug. 16, 2012, 126 Stat. 1309; Pub. L. 114–122, title III, §301, Feb. 18, 2016, 130 Stat. 112.)

REFERENCES IN TEXT

The date of the enactment of the North Korea Sanctions and Policy Enhancement Act of 2015, referred to in subsec. (d), probably means the date of enactment of the North Korea Sanctions and Policy Enhancement Act of 2016, Pub. L. 114–122, which was approved Feb. 18, 2016.

AMENDMENTS

2016—Subsec. (d). Pub. L. 114–122 added subsec. (d).

2012—Subsecs. (b)(1), (c). Pub. L. 112–172 substituted "2017" for "2012".

2008—Subsec. (b)(1). Pub. L. 110–346, §7(1), substituted "2012" for "2008".

Subsec. (c). Pub. L. 110–346, §7(2), substituted "annually through 2012" for "in each of the 3 years thereafter".

DELEGATION OF FUNCTIONS

Functions of President under section 301 of Pub. L. 114–122 (adding subsec. (d) of this section) delegated to Secretary of State by Memorandum of President of the United States, May 18, 2016, 81 F.R. 37479, set out as a note under section 9212 of this title.

[1] *See References in Text note below.*

§7815. United Nations Commission on Human Rights

It is the sense of Congress that the United Nations has a significant role to play in promoting and improving human rights in North Korea, and that—

(1) the United Nations Commission on Human Rights (UNCHR) has taken positive steps by adopting Resolution 2003/10 and Resolution 2004/13 on the situation of human rights in North Korea, and particularly by requesting the appointment of a Special Rapporteur on the situation of human rights in North Korea; and

(2) the severe human rights violations within North Korea warrant country-specific attention and reporting by the United Nations Working Group on Arbitrary Detention, the Working Group on Enforced and Involuntary Disappearances, the Special Rapporteur on Extrajudicial, Summary, or Arbitrary Executions, the Special Rapporteur on the Right to Food, the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, the Special Rapporteur on Freedom of Religion or Belief, and the Special Rapporteur on Violence Against Women.

(Pub. L. 108–333, title I, §105, Oct. 18, 2004, 118 Stat. 1291.)

§7816. Establishment of regional framework

(a) Findings

The Congress finds that human rights initiatives can be undertaken on a multilateral basis, such as the Organization for Security and Cooperation in Europe (OSCE), which established a regional framework for discussing human rights, scientific and educational cooperation, and economic and trade issues.

(b) Sense of Congress

It is the sense of Congress that the United Sates [1] should explore the possibility of a regional human rights dialogue with North Korea that is modeled on the Helsinki process, engaging all countries in the region in a common commitment to respect human rights and fundamental freedoms.

(Pub. L. 108–333, title I, §106, Oct. 18, 2004, 118 Stat. 1292.)

[1] *So in original. Probably should be "States".*

§7817. Special Envoy on North Korean human rights issues

(a) Special Envoy

The President shall appoint a special envoy for North Korean human rights issues within the Department of State (hereafter in this section referred to as the "Special Envoy"), by and with the advice and consent of the Senate. The Special Envoy should be a person of recognized distinction in the field of human rights who shall have the rank of ambassador and shall hold the office at the pleasure of the President.

(b) Central objective

The central objective of the Special Envoy is to coordinate and promote efforts to improve respect for the fundamental human rights of the people of North Korea, including, in coordination with the Bureau of Population, Refugees, and Migration, the protection of those people who have fled as refugees.

(c) Duties and responsibilities

The Special Envoy shall—

(1) participate in the formulation and the implementation of activities carried out pursuant to this chapter;

(2) engage in discussions with North Korean officials regarding human rights;

(3) support international efforts to promote human rights and political freedoms in North Korea, including coordination and dialogue between the United States and the United Nations, the European Union, North Korea, and the other countries in Northeast Asia;

(4) consult with non-governmental organizations who have attempted to address human rights in North Korea;

(5) make recommendations regarding the funding of activities authorized in sections 7812 and 7814 of this title;

(6) review strategies for improving protection of human rights in North Korea, including technical training and exchange programs; and

(7) develop an action plan for supporting implementation of the United Nations Commission on Human Rights Resolution 2004/13.

(d) Report on activities

Not later than 180 days after October 18, 2004, and annually thereafter through 2017, the Special Envoy shall submit to the appropriate congressional committees a report on the activities undertaken in the preceding 12 months under subsection (c).

(Pub. L. 108–333, title I, §107, Oct. 18, 2004, 118 Stat. 1292; Pub. L. 110–346, §8, Oct. 7, 2008, 122 Stat. 3941; Pub. L. 112–172, §7, Aug. 16, 2012, 126 Stat. 1309.)

AMENDMENTS

2012—Subsec. (d). Pub. L. 112–172 substituted "2017" for "2012".

2008—Pub. L. 110–346, §8(1), substituted "North Korean human rights issues" for "human rights in North Korea" in section catchline.

Subsec. (a). Pub. L. 110–346, §8(2), in first sentence, substituted "North Korean human rights issues" for "human rights in North Korea" and inserted ", by and with the advice and consent of the Senate" before period at end and, in second sentence, inserted "who shall have the rank of ambassador and shall hold the office at the pleasure of the President" before period at end.

Subsec. (b). Pub. L. 110–346, §8(3), inserted ", including, in coordination with the Bureau of Population, Refugees, and Migration, the protection of those people who have fled as refugees" after "North Korea".

Subsec. (c). Pub. L. 110–346, §8(4), added par. (1), redesignated former pars. (1) to (6) as (2) to (7), respectively, and substituted "sections 7812 and 7814" for "section 7812" in par. (5).

Subsec. (d). Pub. L. 110–346, §8(5), substituted "thereafter through 2012" for "for the subsequent 5 year-period".

SUBCHAPTER II—ASSISTING NORTH KOREANS IN NEED

§7831. Report on United States humanitarian assistance

(a) Report

Not later than 180 days after October 18, 2004, and annually thereafter through 2017, the Administrator of the United States Agency for International Development, in conjunction with the Secretary of State, shall submit to the appropriate congressional committees a report that describes—

(1) all activities to provide humanitarian assistance inside North Korea, and to North Koreans outside of North Korea, that receive United States funding;

(2) any improvements in humanitarian transparency, monitoring, and access inside North Korea during the previous 1-year period, including progress toward meeting the conditions identified in subparagraphs (A) through (D) of section 7832(b)(1) of this title; and

(3) specific efforts to secure improved humanitarian transparency, monitoring, and access inside

North Korea made by the United States and United States grantees, including the World Food Program, during the previous 1-year period.

(b) Form

The information required by subsection (a)(1) may be provided in classified form if necessary.

(Pub. L. 108–333, title II, §201, Oct. 18, 2004, 118 Stat. 1293; Pub. L. 108–447, div. D, title V, §534(j), Dec. 8, 2004, 118 Stat. 3007; Pub. L. 110–346, §9, Oct. 7, 2008, 122 Stat. 3942; Pub. L. 112–172, §8, Aug. 16, 2012, 126 Stat. 1309.)

AMENDMENTS

2012—Subsec. (a). Pub. L. 112–172 substituted "2017" for "2012" in introductory provisions.

2008—Subsec. (a). Pub. L. 110–346 substituted "annually thereafter through 2012" for "in each of the 2 years thereafter" in introductory provisions.

2004—Subsec. (a)(2). Pub. L. 108–447 substituted "subparagraphs (A) through (D) of section 7832(b)(1) of this title" for "paragraphs (1) through (4) of section 7832(b) of this title".

§7832. Assistance provided inside North Korea

(a) Humanitarian assistance through nongovernmental and international organizations

It is the sense of the Congress that—

(1) at the same time that Congress supports the provision of humanitarian assistance to the people of North Korea on humanitarian grounds, such assistance also should be provided and monitored so as to minimize the possibility that such assistance could be diverted to political or military use, and to maximize the likelihood that it will reach the most vulnerable North Koreans;

(2) significant increases above current levels of United States support for humanitarian assistance provided inside North Korea should be conditioned upon substantial improvements in transparency, monitoring, and access to vulnerable populations throughout North Korea; and

(3) the United States should encourage other countries that provide food and other humanitarian assistance to North Korea to do so through monitored, transparent channels, rather than through direct, bilateral transfers to the Government of North Korea.

(b) United States assistance to the government of North Korea

It is the sense of Congress that—

(1) United States humanitarian assistance to any department, agency, or entity of the Government of North Korea shall—

(A) be delivered, distributed, and monitored according to internationally recognized humanitarian standards;

(B) be provided on a needs basis, and not used as a political reward or tool of coercion;

(C) reach the intended beneficiaries, who should be informed of the source of the assistance; and

(D) be made available to all vulnerable groups in North Korea, no matter where in the country they may be located; and

(2) United States nonhumanitarian assistance to North Korea shall be contingent on North Korea's substantial progress toward—

(A) respect for the basic human rights of the people of North Korea, including freedom of religion;

(B) providing for family reunification between North Koreans and their descendants and relatives in the United States;

(C) fully disclosing all information regarding citizens of Japan and the Republic of Korea abducted by the Government of North Korea;

(D) allowing such abductees, along with their families, complete and genuine freedom to leave North Korea and return to the abductees' original home countries;

(E) reforming the North Korean prison and labor camp system, and subjecting such reforms

to independent international monitoring; and

(F) decriminalizing political expression and activity.

(c) Report

Not later than 180 days after October 18, 2004, the Administrator of the Agency for International Development shall submit to the appropriate congressional committees a report describing compliance with this section.

(Pub. L. 108–333, title II, §202, Oct. 18, 2004, 118 Stat. 1293.)

§7833. Assistance provided outside of North Korea

(a) Assistance

The President is authorized to provide assistance to support organizations or persons that provide humanitarian assistance to North Koreans who are outside of North Korea without the permission of the Government of North Korea.

(b) Types of assistance

Assistance provided under subsection (a) should be used to provide—

(1) humanitarian assistance to North Korean refugees, defectors, migrants, and orphans outside of North Korea, which may include support for refugee camps or temporary settlements; and

(2) humanitarian assistance to North Korean women outside of North Korea who are victims of trafficking, as defined in section 7102(15) of this title, or are in danger of being trafficked.

(c) Authorization of appropriations

(1) In general

In addition to funds otherwise available for such purposes, there are authorized to be appropriated to the President $5,000,000 for each of the fiscal years 2013 through 2017 to carry out this section.

(2) Availability

Amounts appropriated pursuant to the authorization of appropriations under paragraph (1) are authorized to remain available until expended.

(Pub. L. 108–333, title II, §203, Oct. 18, 2004, 118 Stat. 1294; Pub. L. 110–346, §10, Oct. 7, 2008, 122 Stat. 3942; Pub. L. 112–172, §9, Aug. 16, 2012, 126 Stat. 1309; Pub. L. 113–4, title XII, §1212(b)(2)(B), Mar. 7, 2013, 127 Stat. 144.)

AMENDMENTS

2013—Subsec. (b)(2). Pub. L. 113–4 substituted "section 7102(15)" for "section 7102(14)".

2012—Subsec. (c)(1). Pub. L. 112–172 substituted "$5,000,000" for "$20,000,000" and "2013 through 2017" for "2005 through 2012".

2008—Subsec. (c)(1). Pub. L. 110–346 substituted "2012" for "2008".

§7834. Briefings on the welfare of North Korean children

(a) In general

The Secretary of State shall designate a representative to regularly brief the appropriate congressional committees in an unclassified setting on United States Government efforts to advocate for the best interests of North Korean children and children of one North Korean parent, including efforts to address, when appropriate, the adoption of such children living outside North Korea without parental care.

(b) Contents

The Secretary's designee shall be prepared to address in each briefing the following topics:

(1) The analysis of the Department of State of the challenges facing North Korean children residing outside North Korea and challenges facing children of one North Korean parent in other countries who are fleeing persecution or are living as de jure or de facto stateless persons.

(2) Department of State efforts to advocate for the best interest of North Korean children residing outside North Korea or children of one North Korean parent living in other countries who are fleeing persecution or are living as de jure or de facto stateless persons, including, when possible, efforts to address the immediate care and family reunification of these children, and, in individual cases where appropriate, the adoption of eligible North Korean children living outside North Korea and children of one North Korean parent living outside North Korea.

(3) Department of State efforts to develop a comprehensive strategy to address challenges that United States citizens would encounter in attempting to adopt, via intercountry adoption, North Korean-origin children residing in other countries or children of one North Korean parent residing outside North Korea who are fleeing persecution or are living as de jure or de facto stateless persons, including efforts to overcome the complexities involved in determining jurisdiction for best interest determinations and adoption processing, if appropriate, of those who habitually reside in a Hague country or a non-Hague country.

(4) Department of State diplomatic efforts to encourage countries in which North Korean children or children of one North Korean parent are fleeing persecution or reside as de jure or de facto stateless persons to resolve issues of statelessness of North Koreans residing in that country.

(5) Department of State efforts to work with the Government of the Republic of Korea to establish pilot programs that identify, provide for the immediate care of, and assist in the family reunification of North Korean children and children of one North Korean parent living within South Korea and other countries who are fleeing persecution or are living as de jure or de facto stateless persons.

(Pub. L. 112–264, §4, Jan. 14, 2013, 126 Stat. 2432.)

CODIFICATION

This section was enacted as part of the North Korean Child Welfare Act of 2012, and not as part of the North Korean Human Rights Act of 2004 which comprises this chapter.

DEFINITIONS

Pub. L. 112–264, §3, Jan. 14, 2013, 126 Stat. 2432, provided that: "In this Act [enacting this section and provisions set out as a note under section 7801 of this title]:

"(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term 'appropriate congressional committees' means the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives.

"(2) HAGUE COUNTRY.—The term 'Hague country' means a country where the Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption, done at The Hague May 29, 1993, has entered into force and is fully implemented.

"(3) NON-HAGUE COUNTRY.—The term 'non-Hague country' means a country where the Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption, done at The Hague May 29, 1993, has not entered into force."

SUBCHAPTER III—PROTECTING NORTH KOREAN REFUGEES

§7841. United States policy toward refugees and defectors

(a) Report

Not later than 120 days after October 18, 2004, the Secretary of State, in consultation with the heads of other appropriate Federal departments and agencies, shall submit to the appropriate

congressional committees and the Committees on the Judiciary of the House of Representatives and the Senate a report that describes the situation of North Korean refugees and explains United States Government policy toward North Korean nationals outside of North Korea.

(b) Contents

The report shall include—

(1) an assessment of the circumstances facing North Korean refugees and migrants in hiding, particularly in China, and of the circumstances they face if forcibly returned to North Korea;

(2) an assessment of whether North Koreans in China have effective access to personnel of the United Nations High Commissioner for Refugees, and of whether the Government of China is fulfilling its obligations under the 1951 Convention Relating to the Status of Refugees, particularly Articles 31, 32, and 33 of such Convention;

(3) an assessment of whether North Koreans presently have unobstructed access to United States refugee and asylum processing, and of United States policy toward North Koreans who may present themselves at United States embassies or consulates and request protection as refugees or asylum seekers and resettlement in the United States;

(4) the total number of North Koreans who have been admitted into the United States as refugees or asylees in each of the past 5 years;

(5) an estimate of the number of North Koreans with family connections to United States citizens; and

(6) a description of the measures that the Secretary of State is taking to carry out section 7843 of this title.

(c) Form

The information required by paragraphs (1) through (5) of subsection (b) shall be provided in unclassified form. All or part of the information required by subsection (b)(6) may be provided in classified form, if necessary.

(Pub. L. 108–333, title III, §301, Oct. 18, 2004, 118 Stat. 1295.)

§7842. Eligibility for refugee or asylum consideration

(a) Purpose

The purpose of this section is to clarify that North Koreans are not barred from eligibility for refugee status or asylum in the United States on account of any legal right to citizenship they may enjoy under the Constitution of the Republic of Korea. It is not intended in any way to prejudice whatever rights to citizenship North Koreans may enjoy under the Constitution of the Republic of Korea, or to apply to former North Korean nationals who have availed themselves of those rights.

(b) Treatment of nationals of North Korea

For purposes of eligibility for refugee status under section 1157 of title 8, or for asylum under section 1158 of title 8, a national of the Democratic People's Republic of Korea shall not be considered a national of the Republic of Korea.

(Pub. L. 108–333, title III, §302, Oct. 18, 2004, 118 Stat. 1295.)

§7843. Facilitating submission of applications for admission as a refugee

The Secretary of State shall undertake to facilitate the submission of applications under section 1157 of title 8 by citizens of North Korea seeking protection as refugees (as defined in section 1101(a)(42) of title 8).

(Pub. L. 108–333, title III, §303, Oct. 18, 2004, 118 Stat. 1296.)

§7844. United Nations High Commissioner for Refugees

(a) Actions in China

It is the sense of Congress that—

(1) the Government of China has obligated itself to provide the United Nations High Commissioner for Refugees (UNHCR) with unimpeded access to North Koreans inside its borders to enable the UNHCR to determine whether they are refugees and whether they require assistance, pursuant to the 1951 United Nations Convention Relating to the Status of Refugees, the 1967 Protocol Relating to the Status of Refugees, and Article III, paragraph 5 of the 1995 Agreement on the Upgrading of the UNHCR Mission in the People's Republic of China to UNHCR Branch Office in the People's Republic of China (referred to in this section as the "UNHCR Mission Agreement");

(2) the United States, other UNHCR donor governments, and UNHCR should persistently and at the highest levels continue to urge the Government of China to abide by its previous commitments to allow UNHCR unimpeded access to North Korean refugees inside China;

(3) the UNHCR, in order to effectively carry out its mandate to protect refugees, should liberally employ as professionals or Experts on Mission persons with significant experience in humanitarian assistance work among displaced North Koreans in China;

(4) the UNHCR, in order to effectively carry out its mandate to protect refugees, should liberally contract with appropriate nongovernmental organizations that have a proven record of providing humanitarian assistance to displaced North Koreans in China;

(5) the UNHCR should pursue a multilateral agreement to adopt an effective "first asylum" policy that guarantees safe haven and assistance to North Korean refugees; and

(6) should the Government of China begin actively fulfilling its obligations toward North Korean refugees, all countries, including the United States, and relevant international organizations should increase levels of humanitarian assistance provided inside China to help defray costs associated with the North Korean refugee presence.

(b) Arbitration proceedings

It is further the sense of Congress that—

(1) if the Government of China continues to refuse to provide the UNHCR with access to North Koreans within its borders, the UNHCR should initiate arbitration proceedings pursuant to Article XVI of the UNHCR Mission Agreement and appoint an arbitrator for the UNHCR; and

(2) because access to refugees is essential to the UNHCR mandate and to the purpose of a UNHCR branch office, a failure to assert those arbitration rights in present circumstances would constitute a significant abdication by the UNHCR of one of its core responsibilities.

(Pub. L. 108–333, title III, §304, Oct. 18, 2004, 118 Stat. 1296.)

§7845. Annual reports

(a) Immigration and refugee information

Not later than 1 year after October 18, 2004, and every 12 months thereafter through 2017, the Secretary of State and the Secretary of Homeland Security shall submit a joint report to the appropriate congressional committees and the Committees on the Judiciary of the House of Representatives and the Senate on the operation of this subchapter during the previous year, which shall include the following:

(1) The number of aliens who are nationals or citizens of North Korea who applied for political asylum and the number who were granted political asylum.

(2) The number of aliens who are nationals or citizens of North Korea who applied for refugee status and the number who were granted refugee status.

(3) A detailed description of the measures undertaken by the Secretary of State to carry out section 7843 of this title, including country-specific information with respect to United States efforts to secure the cooperation and permission of the governments of countries in East and

Southeast Asia to facilitate United States processing of North Koreans seeking protection as refugees. The information required under this paragraph shall be provided in unclassified form, with a classified annex, if necessary.

(b) Countries of particular concern

The President shall include in each annual report on proposed refugee admission pursuant to section 1157(d) of title 8, information about specific measures taken to facilitate access to the United States refugee program for individuals who have fled countries of particular concern for violations of religious freedom, identified pursuant to section 6442(b) of this title. The report shall include, for each country of particular concern, a description of access of the nationals or former habitual residents of that country to a refugee determination on the basis of—

(1) referrals by external agencies to a refugee adjudication;

(2) groups deemed to be of special humanitarian concern to the United States for purposes of refugee resettlement; and

(3) family links to the United States.

(Pub. L. 108–333, title III, §305, Oct. 18, 2004, 118 Stat. 1297; Pub. L. 110–346, §11, Oct. 7, 2008, 122 Stat. 3942; Pub. L. 112–172, §10, Aug. 16, 2012, 126 Stat. 1309.)

AMENDMENTS

2012—Subsec. (a). Pub. L. 112–172 substituted "2017" for "2012" in introductory provisions.

2008—Subsec. (a). Pub. L. 110–346, §11(1), (2), inserted "and refugee" before "information" in heading, and, in introductory provisions, substituted "through 2012" for "for each of the following 5 years" and "which shall include the following:" for "which shall include—".

Pub. L. 110–346, §11(3)–(5), substituted "The number of aliens" for "the number of aliens" in pars. (1) and (2) and a period for "; and" in par. (1) and added par. (3).

CHAPTER 86—CLIMATE CHANGE TECHNOLOGY DEPLOYMENT IN DEVELOPING COUNTRIES

Sec.

7901. Definitions.
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7906. Technology demonstration projects.
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7909. Authorization for the Clean Technology Fund.

§7901. Definitions

In this chapter:

(1) Carbon sequestration

The term "carbon sequestration" means the capture of carbon dioxide through terrestrial, geological, biological, or other means, which prevents the release of carbon dioxide into the atmosphere.

(2) Greenhouse gas

The term "greenhouse gas" means carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

(3) Greenhouse gas intensity

The term "greenhouse gas intensity" means the ratio of greenhouse gas emissions to economic output.

(Pub. L. 101–240, title VII, §731, as added Pub. L. 109–58, title XVI, §1611, Aug. 8, 2005, 119 Stat. 1113.)

EFFECTIVE DATE

Pub. L. 101–240, title VII, §739, as added Pub. L. 109–58, title XVI, §1611, Aug. 8, 2005, 119 Stat. 1117, provided that: "Except as otherwise provided in this part [part C (§§731–739) of title VII of Pub. L. 101–240, enacting this chapter], this part takes effect on October 1, 2005."

§7902. Reduction of greenhouse gas intensity

(a) Lead agency

(1) In general

The Department of State shall act as the lead agency for integrating into United States foreign policy the goal of reducing greenhouse gas intensity in developing countries.

(2) Reports

(A) Initial report

Not later than 180 days after August 8, 2005, the Secretary of State shall submit to the appropriate authorizing and appropriating committees of Congress an initial report, based on the most recent information available to the Secretary from reliable public sources, that identifies the 25 developing countries that are the largest greenhouse gas emitters, including for each country—

(i) an estimate of the quantity and types of energy used;

(ii) an estimate of the greenhouse gas intensity of the energy, manufacturing, agricultural, and transportation sectors;

(iii) a description [1] the progress of any significant projects undertaken to reduce greenhouse gas intensity;

(iv) a description of the potential for undertaking projects to reduce greenhouse gas intensity;

(v) a description of any obstacles to the reduction of greenhouse gas intensity; and

(vi) a description of the best practices learned by the Agency for International Development from conducting previous pilot and demonstration projects to reduce greenhouse gas intensity.

(B) Update

Not later than 18 months after the date on which the initial report is submitted under subparagraph (A), the Secretary shall submit to the appropriate authorizing and appropriating committees of Congress, based on the best information available to the Secretary, an update of the information provided in the initial report.

(C) Use

(i) Initial report

The Secretary of State shall use the initial report submitted under subparagraph (A) to establish baselines for the developing countries identified in the report with respect to the information provided under clauses (i) and (ii) of that subparagraph.

(ii) Annual reports

The Secretary of State shall use the annual reports prepared under subparagraph (B) and any other information available to the Secretary to track the progress of the developing countries with respect to reducing greenhouse gas intensity.

(b) Projects

The Secretary of State, in coordination with Administrator of the United States Agency for International Development, shall (directly or through agreements with the World Bank, the International Monetary Fund, the Overseas Private Investment Corporation, and other development institutions) provide assistance to developing countries specifically for projects to reduce greenhouse gas intensity, including projects to—

(1) leverage, through bilateral agreements, funds for reduction of greenhouse gas intensity;

(2) increase private investment in projects and activities to reduce greenhouse gas intensity; and

(3) expedite the deployment of technology to reduce greenhouse gas intensity.

(c) Focus

In providing assistance under subsection (b), the Secretary of State shall focus on—

(1) promoting the rule of law, property rights, contract protection, and economic freedom; and

(2) increasing capacity, infrastructure, and training.

(d) Priority

In providing assistance under subsection (b), the Secretary of State shall give priority to projects in the 25 developing countries identified in the report submitted under subsection (a)(2)(A).

(Pub. L. 101–240, title VII, §732, as added Pub. L. 109–58, title XVI, §1611, Aug. 8, 2005, 119 Stat. 1113.)

[1] *So in original. Probably should be "description of".*

§7903. Technology inventory for developing countries

(a) In general

The Secretary of Energy, in coordination with the Secretary of State and the Secretary of Commerce, shall conduct an inventory of greenhouse gas intensity reducing technologies that are developed, or under development in the United States, to identify technologies that are suitable for transfer to, deployment in, and commercialization in the developing countries identified in the report submitted under section 7902(a)(2)(A) of this title.

(b) Report

Not later than 180 days after the completion of the inventory under subsection (a), the Secretary of State and the Secretary of Energy shall jointly submit to Congress a report that—

(1) includes the results of the completed inventory;

(2) identifies obstacles to the transfer, deployment, and commercialization of the inventoried technologies;

(3) includes results from previous Federal reports related to the inventoried technologies; and

(4) includes an analysis of market forces related to the inventoried technologies.

(Pub. L. 101–240, title VII, §733, as added Pub. L. 109–58, title XVI, §1611, Aug. 8, 2005, 119 Stat. 1114.)

§7904. Trade-related barriers to export of greenhouse gas intensity reducing technologies

(a) In general

Not later than 1 year after August 8, 2005, the United States Trade Representative shall (as appropriate and consistent with applicable bilateral, regional, and mutual trade agreements)—

(1) identify trade-relations barriers maintained by foreign countries to the export of greenhouse gas intensity reducing technologies and practices from the United States to the developing

countries identified in the report submitted under section 7902(a)(2)(A) of this title; and

(2) negotiate with foreign countries for the removal of those barriers.

(b) Annual report

Not later than 1 year after the date on which a report is submitted under subsection (a)(1) and annually thereafter, the United States Trade Representative shall submit to Congress a report that describes any progress made with respect to removing the barriers identified by the United States Trade Representative under subsection (a)(1).

(Pub. L. 101–240, title VII, §734, as added Pub. L. 109–58, title XVI, §1611, Aug. 8, 2005, 119 Stat. 1115.)

§7905. Greenhouse Gas Intensity Reducing Technology Export Initiative

(a) In general

There is established an interagency working group to carry out a Greenhouse Gas Intensity Reducing Technology Export Initiative to—

(1) promote the export of greenhouse gas intensity reducing technologies and practices from the United States;

(2) identify developing countries that should be designated as priority countries for the purpose of exporting greenhouse gas intensity reducing technologies and practices, based on the report submitted under section 7902(a)(2)(A) of this title;

(3) identify potential barriers to adoption of exported greenhouse gas intensity reducing technologies and practices based on the reports submitted under section 7904 of this title; and

(4) identify previous efforts to export energy technologies to learn best practices.

(b) Composition

The working group shall be composed of—

(1) the Secretary of State, who shall act as the head of the working group;

(2) the Administrator of the United States Agency for International Development;

(3) the United States Trade Representative;

(4) a designee of the Secretary of Energy;

(5) a designee of the Secretary of Commerce; and

(6) a designee of the Administrator of the Environmental Protection Agency.

(c) Performance reviews and reports

Not later than 180 days after August 8, 2005, and each year thereafter, the interagency working group shall—

(1) conduct a performance review of actions taken and results achieved by the Federal Government (including each of the agencies represented on the interagency working group) to promote the export of greenhouse gas intensity reducing technologies and practices from the United States; and

(2) submit to the appropriate authorizing and appropriating committees of Congress a report that describes the results of the performance reviews and evaluates progress in promoting the export of greenhouse gas intensity reducing technologies and practices from the United States, including any recommendations for increasing the export of the technologies and practices.

(Pub. L. 101–240, title VII, §735, as added Pub. L. 109–58, title XVI, §1611, Aug. 8, 2005, 119 Stat. 1115.)

§7906. Technology demonstration projects

(a) In general

The Secretary of State, in coordination with the Secretary of Energy and the Administrator of the

United States Agency for International Development, shall promote the adoption of technologies and practices that reduce greenhouse gas intensity in developing countries in accordance with this section.

(b) Demonstration projects

(1) In general

The Secretaries and the Administrator shall plan, coordinate, and carry out, or provide assistance for the planning, coordination, or carrying out of, demonstration projects under this section in at least 10 eligible countries, as determined by the Secretaries and the Administrator.

(2) Eligibility

A country shall be eligible for assistance under this subsection if the Secretaries and the Administrator determine that the country has demonstrated a commitment to—

(A) just governance, including—

(i) promoting the rule of law;

(ii) respecting human and civil rights;

(iii) protecting private property rights; and

(iv) combating corruption; and

(B) economic freedom, including economic policies that—

(i) encourage citizens and firms to participate in global trade and international capital markets;

(ii) promote private sector growth and the sustainable management of natural resources; and

(iii) strengthen market forces in the economy.

(3) Selection

In determining which eligible countries to provide assistance to under paragraph (1), the Secretaries and the Administrator shall consider—

(A) the opportunity to reduce greenhouse gas intensity in the eligible country; and

(B) the opportunity to generate economic growth in the eligible country.

(4) Types of projects

Demonstration projects under this section may include—

(A) coal gasification, coal liquefaction, and clean coal projects;

(B) carbon sequestration projects;

(C) cogeneration technology initiatives;

(D) renewable projects; and

(E) lower emission transportation.

(Pub. L. 101–240, title VII, §736, as added Pub. L. 109–58, title XVI, §1611, Aug. 8, 2005, 119 Stat. 1116.)

§7907. Fellowship and exchange programs

The Secretary of State, in coordination with the Secretary of Energy, the Secretary of Commerce, and the Administrator of the Environmental Protection Agency, shall carry out fellowship and exchange programs under which officials from developing countries visit the United States to acquire expertise and knowledge of best practices to reduce greenhouse gas intensity in their countries.

(Pub. L. 101–240, title VII, §737, as added Pub. L. 109–58, title XVI, §1611, Aug. 8, 2005, 119 Stat. 1117.)

§7908. Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this chapter.

(Pub. L. 101–240, title VII, §738, as added Pub. L. 109–58, title XVI, §1611, Aug. 8, 2005, 119 Stat. 1117.)

§7909. Authorization for the Clean Technology Fund

(1) Limitations on authorization of appropriations

For fiscal year 2010, up to $300,000,000 is authorized to be appropriated for a United States contribution to the Clean Technology Fund (the Fund).

(2) Limits on country access

The Secretary of the Treasury shall use the voice and vote of the United States to ensure that—

(A) The Fund does not provide more than 15 percent of Fund resources to any one country;

(B) Prior to the obligation of funds, recipient countries submit to the governing body of the Fund, and the governing body of the Fund appropriately reviews and considers, an investment plan that will achieve significant net reductions in national-level greenhouse gas emissions;

(C) The investment plan for a recipient country, whose borrowing status is classified by the World Bank as "International Development Association (IDA) blend", shall have at least 15 percent of its total cost for public sector activities contributed from the public funds of the recipient country, and any recipient country whose borrowing status is classified by the World Bank as "International Bank for Reconstruction and Development (IBRD) Only" status, shall have at least 25 percent of its total cost for public sector activities contributed from public funds of the recipient country; and

(D) Assistance made available by the Fund is used exclusively to support the deployment of clean energy technologies in developing countries (including, where appropriate, through the provision of technical support or support for policy or institutional reforms) in a manner that achieves substantial net reductions in greenhouse gas emissions.

(3) Repealed. Pub. L. 113–76, div. K, title VII, §7034(i), Jan. 17, 2014, 128 Stat. 514

(4) Definitions

For purposes of this section—

(A) Net reductions

The term "net reductions" refers to the extent to which a project or program supported under this section results in lower greenhouse gas emissions than would be emitted by the same entity or sector in the same country in the absence of the Fund's project, taking into account, unless impracticable, effects beyond the physical boundaries of the project or program that result from project or program activities.

(B) Public sector activities

The term "public sector activities" may include sovereign loans assumed by the recipient country to contribute to the financing of the investment plan.

(C) Clean energy technology

The term "clean energy technology" means a technology that, as compared with technologies being deployed at that time for widespread commercial use in the country involved—

(i) achieves substantial reductions in greenhouse gas emissions;

(ii) does not result in significant incremental adverse effects on public health or the environment; and

(iii) does one or more of the following:

(I) generates electricity or useful thermal energy from a renewable resource;

(II) substantially increases the energy efficiency of buildings, industrial, or agricultural

processes, or of electricity transmission, distribution, or end-use consumption; or

(III) substantially increases the energy efficiency of the transportation system or increases utilization of transportation fuels that have lifecycle greenhouse gas emissions that are substantially lower than those attributable to fossil fuel-based alternatives.

(Pub. L. 111–117, div. F, title VII, §7081(g), Dec. 16, 2009, 123 Stat. 3398; Pub. L. 113–76, div. K, title VII, §7034(i), Jan. 17, 2014, 128 Stat. 514.)

CODIFICATION

Section was enacted as part of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2010, and also as part of the Consolidated Appropriations Act, 2010, and not as part of part C of the Global Environmental Protection Assistance Act of 1989 which comprises this chapter.

AMENDMENTS

2014—Par. (3). Pub. L. 113–76 struck out par. (3), which established a reporting requirement for operations and governance of the Fund.

CONTINUATION OF PRIOR LAW

Pub. L. 113–235, div. J, title VII, §7060(c)(9), Dec. 16, 2014, 128 Stat. 2672, provided that: "Section 7081(g)(2) and (4) of division F of Public Law 111–117 [22 U.S.C. 7909(2), (4)] shall continue in effect during fiscal year 2015 as if part of this Act [div. J of Pub. L. 113–235, 128 Stat. 2573]."

Prior continuations were contained in the following acts:

Pub. L. 113–76, div. K, title VII, §7060(c)(9), Jan. 17, 2014, 128 Stat. 554.

Pub. L. 112–74, div. I, title VII, §7062(c)(8), Dec. 23, 2011, 125 Stat. 1250.

CHAPTER 87—UNITED STATES AND INDIA NUCLEAR COOPERATION

Sec.

8001. Sense of Congress.
8002. Statements of policy.
8003. Waiver authority and congressional approval.
8004. United States compliance with its nuclear nonproliferation treaty obligations.
8005. Inoperability of determination and waivers.
8006. MTCR adherent status.
8007. United States-India scientific cooperative nuclear nonproliferation program.
8008. Definitions.

§8001. Sense of Congress

It is the sense of Congress that—

(1) preventing the proliferation of nuclear weapons, other weapons of mass destruction, the means to produce them, and the means to deliver them are critical objectives for United States foreign policy;

(2) sustaining the Nuclear Non-Proliferation Treaty (NPT) and strengthening its implementation, particularly its verification and compliance, is the keystone of United States nonproliferation policy;

(3) the NPT has been a significant success in preventing the acquisition of nuclear weapons capabilities and maintaining a stable international security situation;

(4) countries that have never become a party to the NPT and remain outside that treaty's legal regime pose a potential challenge to the achievement of the overall goals of global nonproliferation, because those countries have not undertaken the NPT obligation to prohibit the spread of nuclear weapons capabilities;

(5) it is in the interest of the United States to the fullest extent possible to ensure that those countries that are not States Party to the NPT are responsible in the disposition of any nuclear technology they develop;

(6) it is in the interest of the United States to enter into an agreement for nuclear cooperation arranged pursuant to section 2153 of title 42 with a country that has never been a State Party to the NPT if—

(A) the country has demonstrated responsible behavior with respect to the nonproliferation of technology related to nuclear weapons and the means to deliver them;

(B) the country has a functioning and uninterrupted democratic system of government, has a foreign policy that is congruent to that of the United States, and is working with the United States on key foreign policy initiatives related to nonproliferation;

(C) such cooperation induces the country to promulgate and implement substantially improved protections against the proliferation of technology related to nuclear weapons and the means to deliver them, and to refrain from actions that would further the development of its nuclear weapons program; and

(D) such cooperation will induce the country to give greater political and material support to the achievement of United States global and regional nonproliferation objectives, especially with respect to dissuading, isolating, and, if necessary, sanctioning and containing states that sponsor terrorism and terrorist groups that are seeking to acquire a nuclear weapons capability or other weapons of mass destruction capability and the means to deliver such weapons;

(7) the United States should continue its policy of engagement, collaboration, and exchanges with and between India and Pakistan;

(8) strong bilateral relations with India are in the national interest of the United States;

(9) the United States and India share common democratic values and the potential for increasing and sustained economic engagement;

(10) commerce in civil nuclear energy with India by the United States and other countries has the potential to benefit the people of all countries;

(11) such commerce also represents a significant change in United States policy regarding commerce with countries that are not States Party to the NPT, which remains the foundation of the international nonproliferation regime;

(12) any commerce in civil nuclear energy with India by the United States and other countries must be achieved in a manner that minimizes the risk of nuclear proliferation or regional arms races and maximizes India's adherence to international nonproliferation regimes, including, in particular, the guidelines of the Nuclear Suppliers Group (NSG); and

(13) the United States should not seek to facilitate or encourage the continuation of nuclear exports to India by any other party if such exports are terminated under United States law.

(Pub. L. 109–401, title I, §102, Dec. 18, 2006, 120 Stat. 2726.)

SHORT TITLE

Pub. L. 109–401, title I, §101, Dec. 18, 2006, 120 Stat. 2726, provided that: "This title [enacting this chapter and amending section 2652c of this title and section 2153 of Title 42, The Public Health and Welfare] may be cited as the 'Henry J. Hyde United States-India Peaceful Atomic Energy Cooperation Act of 2006'."

UNITED STATES-INDIA NUCLEAR COOPERATION APPROVAL AND NONPROLIFERATION ENHANCEMENT

Pub. L. 110–369, Oct. 8, 2008, 122 Stat. 4028, provided that:

"SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

"(a) SHORT TITLE.—This Act may be cited as the 'United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act'.

"(b) TABLE OF CONTENTS.—[Omitted.]

"SEC. 2. DEFINITIONS.

"In this Act:

"(1) AGREEMENT.—The term 'United States-India Agreement for Cooperation on Peaceful Uses of Nuclear Energy' or 'Agreement' means the Agreement for Cooperation Between the Government of the United States of America and the Government of India Concerning Peaceful Uses of Nuclear Energy that was transmitted to Congress by the President on September 10, 2008.

"(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term 'appropriate congressional committees' means the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

"TITLE I—APPROVAL OF UNITED STATES-INDIA AGREEMENT FOR COOPERATION ON PEACEFUL USES OF NUCLEAR ENERGY

"SEC. 101. APPROVAL OF AGREEMENT.

"(a) IN GENERAL.—Notwithstanding the provisions for congressional consideration and approval of a proposed agreement for cooperation in section 123 b. and d. of the Atomic Energy Act of 1954 (42 U.S.C. 2153(b) and (d)), Congress hereby approves the United States-India Agreement for Cooperation on Peaceful Uses of Nuclear Energy, subject to subsection (b).

"(b) APPLICABILITY OF ATOMIC ENERGY ACT OF 1954, HYDE ACT, AND OTHER PROVISIONS OF LAW.—The Agreement shall be subject to the provisions of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), the Henry J. Hyde United States-India Peaceful Atomic Energy Cooperation Act of 2006 (22 U.S.C. 8001 et. seq; Public Law 109–401), and any other applicable United States law as if the Agreement had been approved pursuant to the provisions for congressional consideration and approval of a proposed agreement for cooperation in section 123 b. and d. of the Atomic Energy Act of 1954.

"(c) SUNSET OF EXEMPTION AUTHORITY UNDER HYDE ACT.—[Amended section 8003 of this title.]

"SEC. 102. DECLARATIONS OF POLICY; CERTIFICATION REQUIREMENT; RULE OF CONSTRUCTION.

"(a) DECLARATIONS OF POLICY RELATING TO MEANING AND LEGAL EFFECT OF AGREEMENT.—Congress declares that it is the understanding of the United States that the provisions of the United States-India Agreement for Cooperation on Peaceful Uses of Nuclear Energy have the meanings conveyed in the authoritative representations provided by the President and his representatives to the Congress and its committees prior to September 20, 2008, regarding the meaning and legal effect of the Agreement.

"(b) DECLARATIONS OF POLICY RELATING TO TRANSFER OF NUCLEAR EQUIPMENT, MATERIALS, AND TECHNOLOGY TO INDIA.—Congress makes the following declarations of policy:

"(1) Pursuant to section 103(a)(6) of the Henry J. Hyde United States-India Peaceful Atomic Energy Cooperation Act of 2006 (22 U.S.C. 8002(a)(6)), in the event that nuclear transfers to India are suspended or terminated pursuant to title I of such Act (22 U.S.C. 8001 et seq.), the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), or any other United States law, it is the policy of the United States to seek to prevent the transfer to India of nuclear equipment, materials, or technology from other participating governments in the Nuclear Suppliers Group (NSG) or from any other source.

"(2) Pursuant to section 103(b)(10) of the Henry J. Hyde United States-India Peaceful Atomic Energy Cooperation Act of 2006 (22 U.S.C. 8002(b)(10)), any nuclear power reactor fuel reserve provided to the Government of India for use in safeguarded civilian nuclear facilities should be commensurate with reasonable reactor operating requirements.

"(c) CERTIFICATION REQUIREMENT.—Before exchanging diplomatic notes pursuant to Article 16(1) of the Agreement, the President shall certify to Congress that entry into force and implementation of the Agreement pursuant to its terms is consistent with the obligation of the United States under the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow July 1, 1968, and entered into force March 5, 1970 (commonly known as the 'Nuclear Non-Proliferation Treaty'), not in any way to assist, encourage, or induce India to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices.

"(d) RULE OF CONSTRUCTION.—Nothing in the Agreement shall be construed to supersede the legal requirements of the Henry J. Hyde United States-India Peaceful Atomic Energy Cooperation Act of 2006 [22 U.S.C. 8001 et seq.] or the Atomic Energy Act of 1954.

"SEC. 103. ADDITIONAL PROTOCOL BETWEEN INDIA AND THE IAEA.

"Congress urges the Government of India to sign and adhere to an Additional Protocol with the International Atomic Energy Agency (IAEA), consistent with IAEA principles, practices, and policies, at the earliest possible date.

"SEC. 104. IMPLEMENTATION OF SAFEGUARDS AGREEMENT BETWEEN INDIA AND THE IAEA.

"Licenses may be issued by the Nuclear Regulatory Commission for transfers pursuant to the Agreement only after the President determines and certifies to Congress that—

"(1) the Agreement Between the Government of India and the International Atomic Energy Agency for

the Application of Safeguards to Civilian Nuclear Facilities, as approved by the Board of Governors of the International Atomic Energy Agency on August 1, 2008 (the 'Safeguards Agreement'), has entered into force; and

"(2) the Government of India has filed a declaration of facilities pursuant to paragraph 13 of the Safeguards Agreement that is not materially inconsistent with the facilities and schedule described in paragraph 14 of the separation plan presented in the national parliament of India on May 11, 2006, taking into account the later initiation of safeguards than was anticipated in the separation plan.

"SEC. 105. MODIFIED REPORTING TO CONGRESS.

"[Amended section 8003 of this title.]

"TITLE II—STRENGTHENING UNITED STATES NONPROLIFERATION LAW RELATING TO PEACEFUL NUCLEAR COOPERATION

"SEC. 201. PROCEDURES REGARDING A SUBSEQUENT ARRANGEMENT ON REPROCESSING.

"(a) IN GENERAL.—Notwithstanding section 131 of the Atomic Energy Act of 1954 (42 U.S.C. 2160), no proposed subsequent arrangement concerning arrangements and procedures regarding reprocessing or other alteration in form or content, as provided for in Article 6 of the Agreement, shall take effect until the requirements specified in subsection (b) are met.

"(b) REQUIREMENTS.—The requirements referred to in subsection (a) are the following:

"(1) The President transmits to the appropriate congressional committees a report containing—

"(A) the reasons for entering into such proposed subsequent arrangement;

"(B) a detailed description, including the text, of such proposed subsequent arrangement; and

"(C) a certification that the United States will pursue efforts to ensure that any other nation that permits India to reprocess or otherwise alter in form or content nuclear material that the nation has transferred to India or nuclear material and by-product material used in or produced through the use of nuclear material, non-nuclear material, or equipment that it has transferred to India requires India to do so under similar arrangements and procedures.

"(2) A period of 30 days of continuous session (as defined by section 130 g.(2) of the Atomic Energy Act of 1954 (42 U.S.C. 2159(g)(2)) has elapsed after transmittal of the report required under paragraph (1).

"(c) RESOLUTION OF DISAPPROVAL.—Notwithstanding the requirements in subsection (b) having been met, a subsequent arrangement referred to in subsection (a) shall not become effective if during the time specified in subsection (b)(2), Congress adopts, and there is enacted, a joint resolution stating in substance that Congress does not favor such subsequent arrangement. Any such resolution shall be considered pursuant to the procedures set forth in section 130 i. of the Atomic Energy Act of 1954 (42 U.S.C. 2159(i)), as amended by section 205 of this Act.

"SEC. 202. INITIATIVES AND NEGOTIATIONS RELATING TO AGREEMENTS FOR PEACEFUL NUCLEAR COOPERATION.

"[Amended section 2153 of Title 42, The Public Health and Welfare.]

"SEC. 203. ACTIONS REQUIRED FOR RESUMPTION OF PEACEFUL NUCLEAR COOPERATION.

"[Amended section 2158 of Title 42.]

"SEC. 204. UNITED STATES GOVERNMENT POLICY AT THE NUCLEAR SUPPLIERS GROUP TO STRENGTHEN THE INTERNATIONAL NUCLEAR NONPROLIFERATION REGIME.

"(a) CERTIFICATION.—Before exchanging diplomatic notes pursuant to Article 16(1) of the Agreement, the President shall certify to the appropriate congressional committees that it is the policy of the United States to work with members of the Nuclear Suppliers Group (NSG), individually and collectively, to agree to further restrict the transfers of equipment and technology related to the enrichment of uranium and reprocessing of spent nuclear fuel.

"(b) PEACEFUL USE ASSURANCES FOR CERTAIN BY-PRODUCT MATERIAL.—The President shall seek to achieve, by the earliest possible date, either within the NSG or with relevant NSG Participating Governments, the adoption of principles, reporting, and exchanges of information as may be appropriate to assure peaceful use and accounting of by-product material in a manner that is substantially equivalent to the relevant provisions of the Agreement.

"(c) REPORT.—

"(1) IN GENERAL.—Not later than six months after the date of the enactment of this Act [Oct. 8, 2008], and every six months thereafter, the President shall transmit to the appropriate congressional committees a report on efforts by the United States pursuant to subsections (a) and (b).

"(2) TERMINATION.—The requirement to transmit the report under paragraph (1) terminates on the date on which the President transmits a report pursuant to such paragraph stating that the objectives in subsections (a) and (b) have been achieved.

"SEC. 205. CONFORMING AMENDMENTS.

"[Amended section 2159 of Title 42.]"

[Functions of President under section 201(b) of Pub. L. 110–369, set out above, delegated to Secretary of Energy by Memorandum of President of the United States, May 4, 2010, 75 F.R. 27155.]

[Functions of President under section 204(c) of Pub. L. 110–369, set out above, delegated to Secretary of State by Memorandum of President of the United States, Mar. 10, 2010, 75 F.R. 13427.]

CERTIFICATIONS PURSUANT TO THE UNITED STATES-INDIA NUCLEAR COOPERATION APPROVAL AND NONPROLIFERATION ENHANCEMENT ACT (PUBLIC LAW 110–369)

Determination of President of the United States, No. 2009–6, Oct. 20, 2008, 73 F.R. 63841, provided:

Memorandum for the Secretary of State

Pursuant to section 102(c) and section 204(a) of the United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act, I hereby certify that:

1. Entry into force and implementation of the United States-India Agreement for Cooperation on Peaceful Uses of Nuclear Energy pursuant to its terms is consistent with the obligation of the United States under the Treaty on the Non-Proliferation of Nuclear Weapons not in any way to assist, encourage, or induce India to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices; and

2. It is the policy of the United States to work with members of the Nuclear Suppliers Group, individually and collectively, to agree to further restrict the transfers of equipment and technology related to the enrichment of uranium and reprocessing of spent nuclear fuel.

You are authorized and directed to publish this determination in the Federal Register.

GEORGE W. BUSH.

Determination of President of the United States, No. 2010–04, Feb. 3, 2010, 75 F.R. 7337, provided:

Memorandum for the Secretary of State

Pursuant to section 104 of the United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act (Public Law 110–369), I hereby determine and certify that:

1. The Agreement between the Government of India and the International Atomic Energy Agency for the Application of Safeguards to Civilian Nuclear Facilities, as approved by the Board of Governors of the International Atomic Energy Agency on August 1, 2008 (the "Safeguards Agreement"), has entered into force; and

2. The Government of India has filed a declaration of facilities pursuant to paragraph 13 of the Safeguards Agreement that is not materially inconsistent with the facilities and schedule described in paragraph 14 of the Separation Plan presented in the national parliament of India on May 11, 2006, taking into account the later initiation of safeguards than was anticipated in the Separation Plan.

You are authorized and directed to publish this determination in the Federal Register.

BARACK OBAMA.

§8002. Statements of policy

(a) In general

The following shall be the policies of the United States:

(1) Oppose the development of a capability to produce nuclear weapons by any non-nuclear weapon state, within or outside of the NPT.

(2) Encourage States Party to the NPT to interpret the right to "develop research, production and use of nuclear energy for peaceful purposes", as set forth in Article IV of the NPT, as being a right that applies only to the extent that it is consistent with the object and purpose of the NPT to prevent the spread of nuclear weapons and nuclear weapons capabilities, including by refraining from all nuclear cooperation with any State Party that the International Atomic Energy Agency (IAEA) determines is not in full compliance with its NPT obligations, including its safeguards obligations.

(3) Act in a manner fully consistent with the Guidelines for Nuclear Transfers and the

Guidelines for Transfers of Nuclear-Related Dual-Use Equipment, Materials, Software and Related Technology developed by the NSG, and decisions related to the those [1] guidelines, and the rules and practices regarding NSG decisionmaking.

(4) Strengthen the NSG guidelines and decisions concerning consultation by members regarding violations of supplier and recipient understandings by instituting the practice of a timely and coordinated response by NSG members to all such violations, including termination of nuclear transfers to an involved recipient, that discourages individual NSG members from continuing cooperation with such recipient until such time as a consensus regarding a coordinated response has been achieved.

(5) Given the special sensitivity of equipment and technologies related to the enrichment of uranium, the reprocessing of spent nuclear fuel, and the production of heavy water, work with members of the NSG, individually and collectively, to further restrict the transfers of such equipment and technologies, including to India.

(6) Seek to prevent the transfer to a country of nuclear equipment, materials, or technology from other participating governments in the NSG or from any other source if nuclear transfers to that country are suspended or terminated pursuant to this chapter, the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), or any other United States law.

(b) With respect to South Asia

The following shall be the policies of the United States with respect to South Asia:

(1) Achieve, at the earliest possible date, a moratorium on the production of fissile material for nuclear explosive purposes by India, Pakistan, and the People's Republic of China.

(2) Achieve, at the earliest possible date, the conclusion and implementation of a treaty banning the production of fissile material for nuclear weapons to which both the United States and India become parties.

(3) Secure India's—

(A) full participation in the Proliferation Security Initiative;

(B) formal commitment to the Statement of Interdiction Principles of such Initiative;

(C) public announcement of its decision to conform its export control laws, regulations, and policies with the Australia Group and with the Guidelines, Procedures, Criteria, and Control Lists of the Wassenaar Arrangement;

(D) demonstration of satisfactory progress toward implementing the decision described in subparagraph (C); and

(E) ratification of or accession to the Convention on Supplementary Compensation for Nuclear Damage, done at Vienna on September 12, 1997.

(4) Secure India's full and active participation in United States efforts to dissuade, isolate, and, if necessary, sanction and contain Iran for its efforts to acquire weapons of mass destruction, including a nuclear weapons capability and the capability to enrich uranium or reprocess nuclear fuel, and the means to deliver weapons of mass destruction.

(5) Seek to halt the increase of nuclear weapon arsenals in South Asia and to promote their reduction and eventual elimination.

(6) Ensure that spent fuel generated in India's civilian nuclear power reactors is not transferred to the United States except pursuant to the Congressional review procedures required under section 131 f. of the Atomic Energy Act of 1954 (42 U.S.C. 2160(f)).

(7) Pending implementation of the multilateral moratorium described in paragraph (1) or the treaty described in paragraph (2), encourage India not to increase its production of fissile material at unsafeguarded nuclear facilities.

(8) Ensure that any safeguards agreement or Additional Protocol to which India is a party with the IAEA can reliably safeguard any export or reexport to India of any nuclear materials and equipment.

(9) Ensure that the text and implementation of any agreement for cooperation with India arranged pursuant to section 123 of the Atomic Energy Act of 1954 (42 U.S.C. 2153) meet the

requirements set forth in subsections a.(1) and a.(3) through a.(9) of such section [42 U.S.C. 2153(a)(1), (3)–(9)].

(10) Any nuclear power reactor fuel reserve provided to the Government of India for use in safeguarded civilian nuclear facilities should be commensurate with reasonable reactor operating requirements.

(Pub. L. 109–401, title I, §103, Dec. 18, 2006, 120 Stat. 2727.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(6), was in the original "this title", meaning title I of Pub. L. 109–401, Dec. 18, 2006, 120 Stat. 2726, which is classified principally to this chapter. For complete classification of title I to the Code, see Short Title note set out under section 8001 of this title and Tables.

The Atomic Energy Act of 1954, referred to in subsec. (a)(6), is act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, which is classified principally to chapter 23 (§2011 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 42 and Tables.

[1] *So in original.*

§8003. Waiver authority and congressional approval

(a) In general

If the President makes the determination described in subsection (b), the President may—

(1) exempt a proposed agreement for cooperation with India arranged pursuant to section 2153 of title 42 from the requirement of subsection (a)(2) of such section;

(2) waive the application of section 2157 of title 42 with respect to exports to India; and

(3) waive with respect to India the application of—

(A) section 2158(a)(1)(D) of title 42; and

(B) section 2158 of title 42 regarding any actions that occurred before July 18, 2005.

(b) Determination by the President

The determination referred to in subsection (a) is a determination by the President that the following actions have occurred:

(1) India has provided the United States and the IAEA with a credible plan to separate civil and military nuclear facilities, materials, and programs, and has filed a declaration regarding its civil facilities and materials with the IAEA.

(2) India and the IAEA have concluded all legal steps required prior to signature by the parties of an agreement requiring the application of IAEA safeguards in perpetuity in accordance with IAEA standards, principles, and practices (including IAEA Board of Governors Document GOV/1621 (1973)) to India's civil nuclear facilities, materials, and programs as declared in the plan described in paragraph (1), including materials used in or produced through the use of India's civil nuclear facilities.

(3) India and the IAEA are making substantial progress toward concluding an Additional Protocol consistent with IAEA principles, practices, and policies that would apply to India's civil nuclear program.

(4) India is working actively with the United States for the early conclusion of a multilateral treaty on the cessation of the production of fissile materials for use in nuclear weapons or other nuclear explosive devices.

(5) India is working with and supporting United States and international efforts to prevent the spread of enrichment and reprocessing technology to any state that does not already possess full-scale, functioning enrichment or reprocessing plants.

(6) India is taking the necessary steps to secure nuclear and other sensitive materials and technology, including through—

(A) the enactment and effective enforcement of comprehensive export control legislation and

regulations;

(B) harmonization of its export control laws, regulations, policies, and practices with the guidelines and practices of the Missile Technology Control Regime (MTCR) and the NSG; and

(C) adherence to the MTCR and the NSG in accordance with the procedures of those regimes for unilateral adherence.

(7) The NSG has decided by consensus to permit supply to India of nuclear items covered by the guidelines of the NSG.

(c) Submission to Congress

(1) In general

The President shall submit to the appropriate congressional committees the determination made pursuant to subsection (b), together with a report detailing the basis for the determination.

(2) Information to be included

To the fullest extent available to the United States, the report referred to in paragraph (1) shall include the following information:

(A) A summary of the plan provided by India to the United States and the IAEA to separate India's civil and military nuclear facilities, materials, and programs, and the declaration made by India to the IAEA identifying India's civil facilities to be placed under IAEA safeguards, including an analysis of the credibility of such plan and declaration, together with copies of the plan and declaration.

(B) A summary of the agreement that has been entered into between India and the IAEA requiring the application of safeguards in accordance with IAEA practices to India's civil nuclear facilities as declared in the plan described in subparagraph (A), together with a copy of the agreement, and a description of the progress toward its full implementation.

(C) A summary of the progress made toward conclusion and implementation of an Additional Protocol between India and the IAEA, including a description of the scope of such Additional Protocol.

(D) A description of the steps that India is taking to work with the United States for the conclusion of a multilateral treaty banning the production of fissile material for nuclear weapons, including a description of the steps that the United States has taken and will take to encourage India to identify and declare a date by which India would be willing to stop production of fissile material for nuclear weapons unilaterally or pursuant to a multilateral moratorium or treaty.

(E) A description of the steps India is taking to prevent the spread of nuclear-related technology, including enrichment and reprocessing technology or materials that can be used to acquire a nuclear weapons capability, as well as the support that India is providing to the United States to further United States objectives to restrict the spread of such technology.

(F) A description of the steps that India is taking to secure materials and technology applicable for the development, acquisition, or manufacture of weapons of mass destruction and the means to deliver such weapons through the application of comprehensive export control legislation and regulations, and through harmonization with and adherence to MTCR, NSG, Australia Group, and Wassenaar Arrangement guidelines, compliance with United Nations Security Council Resolution 1540, and participation in the Proliferation Security Initiative.

(G) A description and assessment of the specific measures that India has taken to fully and actively participate in United States and international efforts to dissuade, isolate, and, if necessary, sanction and contain Iran for its efforts to acquire weapons of mass destruction, including a nuclear weapons capability and the capability to enrich uranium or reprocess nuclear fuel and the means to deliver weapons of mass destruction.

(H) A description of the decision of the NSG relating to nuclear cooperation with India, including whether nuclear cooperation by the United States under an agreement for cooperation arranged pursuant to section 2153 of title 42 is consistent with the decision, practices, and policies of the NSG.

(I) A description of the scope of peaceful cooperation envisioned by the United States and India that will be implemented under the agreement for nuclear cooperation, including whether such cooperation will include the provision of enrichment and reprocessing technology.

(J) A description of the steps taken to ensure that proposed United States civil nuclear cooperation with India will not in any way assist India's nuclear weapons program.

(d) Restrictions on nuclear transfers

(1) In general

Pursuant to the obligations of the United States under Article I of the NPT, nothing in this chapter constitutes authority to carry out any civil nuclear cooperation between the United States and a country that is not a nuclear-weapon State Party to the NPT that would in any way assist, encourage, or induce that country to manufacture or otherwise acquire nuclear weapons or nuclear explosive devices.

(2) NSG transfer guidelines

Notwithstanding the entry into force of an agreement for cooperation with India arranged pursuant to section 2153 of title 42 and pursuant to this chapter, no item subject to such agreement or subject to the transfer guidelines of the NSG, or to NSG decisions related thereto, may be transferred to India if such transfer would be inconsistent with the transfer guidelines of the NSG in effect on the date of the transfer.

(3) Termination of nuclear transfers to India

(A) In general

Notwithstanding the entry into force of an agreement for cooperation with India arranged pursuant to section 2153 of title 42 and pursuant to this chapter, and except as provided under subparagraph (B), exports of nuclear and nuclear-related material, equipment, or technology to India shall be terminated if there is any materially significant transfer by an Indian person of—

(i) nuclear or nuclear-related material, equipment, or technology that is not consistent with NSG guidelines or decisions, or

(ii) ballistic missiles or missile-related equipment or technology that is not consistent with MTCR guidelines,

unless the President determines that cessation of such exports would be seriously prejudicial to the achievement of United States nonproliferation objectives or otherwise jeopardize the common defense and security.

(B) Exception

The President may choose not to terminate exports of nuclear and nuclear-related material, equipment, and technology to India under subparagraph (A) if—

(i) the transfer covered under such subparagraph was made without the knowledge of the Government of India;

(ii) at the time of the transfer, either the Government of India did not own, control, or direct the Indian person that made the transfer or the Indian person that made the transfer is a natural person who acted without the knowledge of any entity described in subparagraph (B) or (C) of section 8008(5) of this title; and

(iii) the President certifies to the appropriate congressional committees that the Government of India has taken or is taking appropriate judicial or other enforcement actions against the Indian person with respect to such transfer.

(4) Exports, reexports, transfers, and retransfers to India related to enrichment, reprocessing, and heavy water production

(A) In general

(i) Nuclear Regulatory Commission

The Nuclear Regulatory Commission may only issue licenses for the export or reexport to

India of any equipment, components, or materials related to the enrichment of uranium, the reprocessing of spent nuclear fuel, or the production of heavy water if the requirements of subparagraph (B) are met.

(ii) Secretary of Energy

The Secretary of Energy may only issue authorizations for the transfer or retransfer to India of any equipment, materials, or technology related to the enrichment of uranium, the reprocessing of spent nuclear fuel, or the production of heavy water (including under the terms of a subsequent arrangement under section 2160 of title 42) if the requirements of subparagraph (B) are met.

(B) Requirements for approvals

Exports, reexports, transfers, and retransfers referred to in subparagraph (A) may only be approved if—

(i) the end user—

(I) is a multinational facility participating in an IAEA-approved program to provide alternatives to national fuel cycle capabilities; or

(II) is a facility participating in, and the export, reexport, transfer, or retransfer is associated with, a bilateral or multinational program to develop a proliferation-resistant fuel cycle;

(ii) appropriate measures are in place at any facility referred to in clause (i) to ensure that no sensitive nuclear technology, as defined in section 3203(5) of this title, will be diverted to any person, site, facility, location, or program not under IAEA safeguards; and

(iii) the President determines that the export, reexport, transfer, or retransfer will not assist in the manufacture or acquisition of nuclear explosive devices or the production of fissile material for military purposes.

(5) Nuclear export accountability program

(A) In general

The President shall ensure that all appropriate measures are taken to maintain accountability with respect to nuclear materials, equipment, and technology sold, leased, exported, or reexported to India so as to ensure—

(i) full implementation of the protections required under section 2153(a)(1) of title 42; and

(ii) United States compliance with Article I of the NPT.

(B) Measures

The measures taken pursuant to subparagraph (A) shall include the following:

(i) Obtaining and implementing assurances and conditions pursuant to the export licensing authorities of the Nuclear Regulatory Commission and the Department of Commerce and the authorizing authorities of the Department of Energy, including, as appropriate, conditions regarding end-use monitoring.

(ii) A detailed system of reporting and accounting for technology transfers, including any retransfers in India, authorized by the Department of Energy pursuant to section 2077(b) of title 42. Such system shall be capable of providing assurances that—

(I) the identified recipients of the nuclear technology are authorized to receive the nuclear technology;

(II) the nuclear technology identified for transfer will be used only for peaceful safeguarded nuclear activities and will not be used for any military or nuclear explosive purpose; and

(III) the nuclear technology identified for transfer will not be retransferred without the prior consent of the United States, and facilities, equipment, or materials derived through the use of transferred technology will not be transferred without the prior consent of the United States.

(iii) In the event the IAEA is unable to implement safeguards as required by an agreement for cooperation arranged pursuant to section 2153 of title 42, appropriate assurance that arrangements will be put in place expeditiously that are consistent with the requirements of section 2153(a)(1) of title 42 regarding the maintenance of safeguards as set forth in the agreement regardless of whether the agreement is terminated or suspended for any reason.

(C) Implementation

The measures described in subparagraph (B) shall be implemented to provide reasonable assurances that the recipient is complying with the relevant requirements, terms, and conditions of any licenses issued by the United States regarding such exports, including those relating to the use, retransfer, safe handling, secure transit, and storage of such exports.

(e) Omitted

(f) Sunset

The authority provided under subsection (a)(1) to exempt an agreement shall terminate upon October 8, 2008.

(g) Reporting to Congress

(1) Information on nuclear activities of India

The President shall keep the appropriate congressional committees fully and currently informed of the facts and implications of any significant nuclear activities of India, including—

(A) any material noncompliance on the part of the Government of India with—

(i) the nonproliferation commitments undertaken in the Joint Statement of July 18, 2005, between the President of the United States and the Prime Minister of India;

(ii) the separation plan presented in the national parliament of India on March 7, 2006, and in greater detail on May 11, 2006;

(iii) a safeguards agreement between the Government of India and the IAEA;

(iv) an Additional Protocol between the Government of India and the IAEA;

(v) an agreement for cooperation between the Government of India and the United States Government arranged pursuant to section 2153 of title 42 or any subsequent arrangement under section 2160 of title 42;

(vi) the terms and conditions of any approved licenses regarding the export or reexport of nuclear material or dual-use material, equipment, or technology; and

(vii) United States laws and regulations regarding such licenses;

(B) any material inconsistencies between the content or timeliness of notifications by the Government of India pursuant to paragraph 14(a) of the Safeguards Agreement and the facilities and schedule described in paragraph (14) of the separation plan presented in the national parliament of India on May 11, 2006, taking into account the later initiation of safeguards than was anticipated in the separation plan;

(C) the construction of a nuclear facility in India after December 18, 2006;

(D) significant changes in the production by India of nuclear weapons or in the types or amounts of fissile material produced; and

(E) changes in the purpose or operational status of any unsafeguarded nuclear fuel cycle activities in India.

(2) Implementation and compliance report

Not later than 180 days after the date on which an agreement for cooperation with India arranged pursuant to section 2153 of title 42 enters into force, and annually thereafter, the President shall submit to the appropriate congressional committees a report including—

(A) a description of any additional nuclear facilities and nuclear materials that the Government of India has placed or intends to place under IAEA safeguards;

(B) a comprehensive listing of—

(i) all licenses that have been approved by the Nuclear Regulatory Commission and the Secretary of Energy for exports and reexports to India under parts 110 and 810 of title 10, Code of Federal Regulations;

(ii) any licenses approved by the Department of Commerce for the export or reexport to India of commodities, related technology, and software which are controlled for nuclear nonproliferation reasons on the Nuclear Referral List of the Commerce Control List maintained under part 774 of title 15, Code of Federal Regulation,[1] or any successor regulation;

(iii) any other United States authorizations for the export or reexport to India of nuclear materials and equipment; and

(iv) with respect to each such license or other form of authorization described in clauses (i), (ii), and (iii)—

(I) the number or other identifying information of each license or authorization;

(II) the name or names of the authorized end user or end users;

(III) the name of the site, facility, or location in India to which the export or reexport was made;

(IV) the terms and conditions included on such licenses and authorizations;

(V) any post-shipment verification procedures that will be applied to such exports or reexports; and

(VI) the term of validity of each such license or authorization;

(C) a description of any significant nuclear commerce between India and other countries, including any such trade that—

(i) is not consistent with applicable guidelines or decisions of the NSG; or

(ii) would not meet the standards applied to exports or reexports of such material, equipment, or technology of United States origin;

(D) either—

(i) an assessment that India is in full compliance with the commitments and obligations contained in the agreements and other documents referenced in clauses (i) through (vi) of paragraph (1)(A); or

(ii) an identification and analysis of all compliance issues arising with regard to the adherence by India to its commitments and obligations, including—

(I) the measures the United States Government has taken to remedy or otherwise respond to such compliance issues;

(II) the responses of the Government of India to such measures;

(III) the measures the United States Government plans to take to this end in the coming year; and

(IV) an assessment of the implications of any continued noncompliance, including whether nuclear commerce with India remains in the national security interest of the United States;

(E)(i) an assessment of whether India is fully and actively participating in United States and international efforts to dissuade, isolate, and, if necessary, sanction and contain Iran for its efforts to acquire weapons of mass destruction, including a nuclear weapons capability (including the capability to enrich uranium or reprocess nuclear fuel), and the means to deliver weapons of mass destruction, including a description of the specific measures that India has taken in this regard; and

(ii) if India is not assessed to be fully and actively participating in such efforts, a description of—

(I) the measures the United States Government has taken to secure India's full and active participation in such efforts;

(II) the responses of the Government of India to such measures; and

(III) the measures the United States Government plans to take in the coming year to secure India's full and active participation;

(F) an analysis of whether United States civil nuclear cooperation with India is in any way assisting India's nuclear weapons program, including through—

(i) the use of any United States equipment, technology, or nuclear material by India in an unsafeguarded nuclear facility or nuclear-weapons related complex;

(ii) the replication and subsequent use of any United States technology by India in an unsafeguarded nuclear facility or unsafeguarded nuclear weapons-related complex, or for any activity related to the research, development, testing, or manufacture of nuclear explosive devices; and

(iii) the provision of nuclear fuel in such a manner as to facilitate the increased production by India of highly enriched uranium or plutonium in unsafeguarded nuclear facilities;

(G) a detailed description of—

(i) United States efforts to promote national or regional progress by India and Pakistan in disclosing, securing, limiting, and reducing their fissile material stockpiles, including stockpiles for military purposes, pending creation of a worldwide fissile material cut-off regime, including the institution of a Fissile Material Cut-off Treaty;

(ii) the responses of India and Pakistan to such efforts; and

(iii) assistance that the United States is providing, or would be able to provide, to India and Pakistan to promote the objectives in clause (i), consistent with its obligations under international law and existing agreements;

(H) an estimate of—

(i) the amount of uranium mined and milled in India during the previous year;

(ii) the amount of such uranium that has likely been used or allocated for the production of nuclear explosive devices; and

(iii) the rate of production in India of—

(I) fissile material for nuclear explosive devices; and

(II) nuclear explosive devices;

(I) an estimate of the amount of electricity India's nuclear reactors produced for civil purposes during the previous year and the proportion of such production that can be attributed to India's declared civil reactors;

(J) an analysis as to whether imported uranium has affected the rate of production in India of nuclear explosive devices;

(K) a detailed description of efforts and progress made toward the achievement of India's—

(i) full participation in the Proliferation Security Initiative;

(ii) formal commitment to the Statement of Interdiction Principles of such Initiative;

(iii) public announcement of its decision to conform its export control laws, regulations, and policies with the Australia Group and with the Guidelines, Procedures, Criteria, and Controls List of the Wassenaar Arrangement; and

(iv) effective implementation of the decision described in clause (iii);

(L) the disposal during the previous year of spent nuclear fuel from India's civilian nuclear program, and any plans or activities relating to future disposal of such spent nuclear fuel; and

(M) with respect to the United States-India Agreement for Cooperation on Peaceful Uses of Nuclear Energy (hereinafter in this subparagraph referred to as the "Agreement") approved under section 101(a) of the United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act—

(i) a listing of—

(I) all provision of sensitive nuclear technology to India, and other such information as

may be so designated by the United States or India under Article 1(Q); and
(II) all facilities in India notified pursuant to Article 7(1) of the Agreement;

(ii) a description of—
(I) any agreed safeguards or any other form of verification for by-product material decided by mutual agreement pursuant to the terms of Article 1(A) of the Agreement;
(II) research and development undertaken in such areas as may be agreed between the United States and India as detailed in Article 2(2)(a.) of the Agreement;
(III) the civil nuclear cooperation activities undertaken under Article 2(2)(d.) of the Agreement;
(IV) any United States efforts to help India develop a strategic reserve of nuclear fuel as called for in Article 2(2)(e.) of the Agreement;
(V) any United States efforts to fulfill political commitments made in Article 5(6) of the Agreement;
(VI) any negotiations that have occurred or are ongoing under Article 6(iii.) of the Agreement; and
(VII) any transfers beyond the territorial jurisdiction of India pursuant to Article 7(2) of the Agreement, including a listing of the receiving country of each such transfer;

(iii) an analysis of—
(I) any instances in which the United States or India requested consultations arising from concerns over compliance with the provisions of Article 7(1) of the Agreement, and the results of such consultations; and
(II) any matters not otherwise identified in this report that have become the subject of consultations pursuant to Article 13(2) of the Agreement, and a statement as to whether such matters were resolved by the end of the reporting period; and

(iv) a statement as to whether—
(I) any consultations are expected to occur under Article 16(5) of the Agreement; and
(II) any enrichment is being carried out pursuant to Article 6 of the Agreement.

(3) Submittal with other annual reports

(A) Report on proliferation prevention

Each annual report submitted under paragraph (2) after the initial report may be submitted together with the annual report on proliferation prevention required under section 3281(a) of this title.

(B) Report on progress toward regional nonproliferation

The information required to be submitted under paragraph (2)(F) after the initial report may be submitted together with the annual report on progress toward regional nonproliferation required under section 2376(c) [2] of this title.

(4) Form

Each report submitted under this subsection shall be submitted in unclassified form, but may contain a classified annex.

(Pub. L. 109–401, title I, §104, Dec. 18, 2006, 120 Stat. 2729; Pub. L. 110–369, title I, §§101(c), 105, Oct. 8, 2008, 122 Stat. 4029, 4030.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (d)(1), (2), (3)(A), was in the original "this title", meaning title I of Pub. L. 109–401, Dec. 18, 2006, 120 Stat. 2726, which is classified principally to this chapter. For complete classification of title I to the Code, see Short Title note set out under section 8001 of this title and Tables.

Section 101(a) of the United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act, referred to in subsec. (g)(2)(M), is section 101(a) of Pub. L. 110–369, which is set out in a

note under section 8001 of this title.

Section 2376(c) of this title, referred to in subsec. (g)(3)(B), was repealed by Pub. L. 113–188, title XIV, §1401, Nov. 26, 2014, 128 Stat. 2023.

CODIFICATION

Section is comprised of section 104 of Pub. L. 109–401. Subsec. (e) of section 104 of Pub. L. 109–401 amended section 2153(d) of Title 42, The Public Health and Welfare.

AMENDMENTS

2008—Subsec. (f). Pub. L. 110–369, §101(c), substituted "October 8, 2008" for "the enactment of a joint resolution under section 2153(d) of title 42 approving such an agreement".

Subsec. (g)(1)(B) to (E). Pub. L. 110–369, §105(a), added subpar. (B) and redesignated former subpars. (B) to (D) as (C) to (E), respectively.

Subsec. (g)(2)(M). Pub. L. 110–369, §105(b), added subpar. (M).

PROPOSED AGREEMENT FOR COOPERATION BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF INDIA CONCERNING PEACEFUL USES OF NUCLEAR ENERGY

Determination of President of the United States, No. 2008–26, Sept. 10, 2008, 73 F.R. 54287, provided:

Memorandum for the Secretary of State [and] the Secretary of Energy

I have considered the Proposed Agreement for Cooperation Between the Government of the United States of America and the Government of India Concerning Peaceful Uses of Nuclear Energy, along with the views, recommendations, and statements of interested agencies.

I have determined that the performance of the Agreement will promote, and will not constitute an unreasonable risk to, the common defense and security. Pursuant to section 123 b. of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2153(B) [sic]), I hereby approve the proposed agreement and authorize the Secretary of State to arrange for its execution.

In addition, pursuant to the authority vested in me by the Constitution and the laws of the United States of America, including the Henry J. Hyde United States-India Peaceful Atomic Energy Cooperation Act of 2006 (Public Law 109–401), I hereby determine that:

1. India has provided the United States and the IAEA with a credible plan to separate civil and military nuclear facilities, materials, and programs, and has filed a declaration regarding its civil facilities and materials with the IAEA;

2. India and the IAEA have concluded all legal steps required prior to signature by the parties of an agreement requiring the application of IAEA safeguards in perpetuity in accordance with IAEA standards, principles, and practices (including IAEA Board of Governors Document GOV/1621 (1973)) to India's civil nuclear facilities, materials, and programs as declared in the plan described in paragraph (1), including materials used in or produced through the use of India's civil nuclear facilities;

3. India and the IAEA are making substantial progress toward concluding an Additional Protocol consistent with IAEA principles, practices, and policies that would apply to India's civil nuclear program;

4. India is working actively with the United States for the early conclusion of a multilateral treaty on the cessation of the production of fissile materials for use in nuclear weapons or other nuclear explosive devices;

5. India is working with and supporting United States and international efforts to prevent the spread of enrichment and reprocessing technology to any state that does not already possess full-scale, functioning enrichment or reprocessing plants;

6. India is taking the necessary steps to secure nuclear and other sensitive materials and technology, including through (A) the enactment and effective enforcement of comprehensive export control legislation and regulations; (B) harmonization of its export control laws, regulations, policies, and practices with the guidelines and practices of the Missile Technology Control Regime (MTCR) and the Nuclear Suppliers Group (NSG); and (C) adherence to the MTCR and the NSG in accordance with the procedures of those regimes for unilateral adherence; and

7. The NSG has decided by consensus to permit supply to India of nuclear items covered by the guidelines of the NSG.

I therefore hereby (1) exempt the proposed Agreement for Cooperation Between the Government of the United States of America and the Government of India Concerning Peaceful Uses of Nuclear Energy arranged pursuant to section 123 of the Atomic Energy Act of 1954 (42 U.S.C. 2153) from the requirement of subsection 123 a.(2) of such section; (2) waive the application of section 128 of the Atomic Energy Act of 1954 (42 U.S.C. 2157) with respect to exports to India; and (3) waive with respect to India the application of:

(A) subsection 129 a.(1)(D) of the Atomic Energy Act of 1954 (42 U.S.C. 2158(a)(1)(D)); and

(B) section 129 of the Atomic Energy Act of 1954 (42 U.S.C. 2158) regarding any actions that occurred before July 18, 2005.

The Secretary of State is authorized and directed to publish this determination in the Federal Register.

GEORGE W. BUSH.

DELEGATION OF CERTAIN FUNCTIONS UNDER SECTION 104(G) OF THE UNITED STATES-INDIA PEACEFUL ATOMIC ENERGY COOPERATION ACT OF 2006, AS AMENDED BY PUBLIC LAW 110–369

Memorandum of President of the United States, Apr. 27, 2010, 75 F.R. 23563, provided:

Memorandum for the Secretary of State

By the authority vested in me as President by the Constitution and the laws of the United States, including section 301 of title 3, United States Code, I hereby delegate to you the functions and authority conferred upon the President by section 104(g) of the [Henry J. Hyde] United States-India Peaceful Atomic Energy Cooperation Act of 2006 (Public Law 109–401), as amended by section 105 of Public Law 110–369, to make the specified report to the Congress.

You are authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

[1] So in original. Probably should be "Regulations,".

[2] See References in Text note below.

§8004. United States compliance with its nuclear nonproliferation treaty obligations

Nothing in this chapter constitutes authority for any action in violation of an obligation of the United States under the NPT.

(Pub. L. 109–401, title I, §105, Dec. 18, 2006, 120 Stat. 2738.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this title", meaning title I of Pub. L. 109–401, Dec. 18, 2006, 120 Stat. 2726, which is classified principally to this chapter. For complete classification of title I to the Code, see Short Title note set out under section 8001 of this title and Tables.

§8005. Inoperability of determination and waivers

A determination and any waiver under section 8003 of this title shall cease to be effective if the President determines that India has detonated a nuclear explosive device after December 18, 2006.

(Pub. L. 109–401, title I, §106, Dec. 18, 2006, 120 Stat. 2738.)

§8006. MTCR adherent status

Congress finds that India is not an MTCR adherent for the purposes of section 2797b of this title.

(Pub. L. 109–401, title I, §107, Dec. 18, 2006, 120 Stat. 2738.)

§8007. United States-India scientific cooperative nuclear nonproliferation program

(a) Establishment

The Secretary of Energy, acting through the Administrator of the National Nuclear Security Administration, is authorized to establish a cooperative nuclear nonproliferation program to pursue

jointly with scientists from the United States and India a program to further common nuclear nonproliferation goals, including scientific research and development efforts, with an emphasis on nuclear safeguards (in this section referred to as "the program").

(b) Consultation

The program shall be carried out in consultation with the Secretary of State and the Secretary of Defense.

(c) National Academies recommendations

(1) In general

The Secretary of Energy shall enter into an agreement with the National Academies to develop recommendations for the implementation of the program.

(2) Recommendations

The agreement entered into under paragraph (1) shall provide for the preparation by qualified individuals with relevant expertise and knowledge and the communication to the Secretary of Energy each fiscal year of—

(A) recommendations for research and related programs designed to overcome existing technological barriers to nuclear nonproliferation; and

(B) an assessment of whether activities and programs funded under this section are achieving the goals of the activities and programs.

(3) Public availability

The recommendations and assessments prepared under this subsection shall be made publicly available.

(d) Consistency with Nuclear Non-Proliferation Treaty

All United States activities related to the program shall be consistent with United States obligations under the Nuclear Non-Proliferation Treaty.

(e) Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out this section for each of fiscal years 2007 through 2011.

(Pub. L. 109–401, title I, §109, Dec. 18, 2006, 120 Stat. 2739.)

§8008. Definitions

In this chapter:

(1) The term "Additional Protocol" means a protocol additional to a safeguards agreement with the IAEA, as negotiated between a country and the IAEA based on a Model Additional Protocol as set forth in IAEA information circular (INFCIRC) 540.

(2) The term "appropriate congressional committees" means the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

(3) The term "dual-use material, equipment, or technology" means material, equipment, or technology that may be used in nuclear or nonnuclear applications.

(4) The term "IAEA safeguards" has the meaning given the term in section 6305(3) of this title.

(5) The term "Indian person" means—

(A) a natural person that is a citizen of India or is subject to the jurisdiction of the Government of India;

(B) a corporation, business association, partnership, society, trust, or any other nongovernmental entity, organization, or group, that is organized under the laws of India or has its principal place of business in India; and

(C) any Indian governmental entity, including any governmental entity operating as a business enterprise.

(6) The terms "Missile Technology Control Regime", "MTCR", and "MTCR adherent" have the meanings given the terms in section 2797c of this title.

(7) The term "nuclear materials and equipment" means source material, special nuclear material, production and utilization facilities and any components thereof, and any other items or materials that are determined to have significance for nuclear explosive purposes pursuant to subsection [1] 2139(b) of title 42.

(8) The terms "Nuclear Non-Proliferation Treaty" and "NPT" mean the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow July 1, 1968, and entered into force March 5, 1970 (21 UST 483).

(9) The terms "Nuclear Suppliers Group" and "NSG" refer to a group, which met initially in 1975 and has met at least annually since 1992, of Participating Governments that have promulgated and agreed to adhere to Guidelines for Nuclear Transfers (currently IAEA INFCIRC/254/Rev.8/Part 1) and Guidelines for Transfers of Nuclear-Related Dual-Use Equipment, Materials, Software, and Related Technology (currently IAEA INFCIRC/254/Rev.7/Part 2).

(10) The terms "nuclear weapon" and "nuclear explosive device" mean any device designed to produce an instantaneous release of an amount of nuclear energy from special nuclear material that is greater than the amount of energy that would be released from the detonation of one pound of trinitrotoluene (TNT).

(11) The term "process" includes the term "reprocess".

(12) The terms "reprocessing" and "reprocess" refer to the separation of irradiated nuclear materials and fission products from spent nuclear fuel.

(13) The term "sensitive nuclear technology" means any information, including information incorporated in a production or utilization facility or important component part thereof, that is not available to the public and which is important to the design, construction, fabrication, operation, or maintenance of a uranium enrichment or nuclear fuel reprocessing facility or a facility for the production of heavy water.

(14) The term "source material" has the meaning given the term in section 2014(z) of title 42.

(15) The term "special nuclear material" has the meaning given the term in section 2014(aa) of title 42.

(16) The term "unsafeguarded nuclear fuel-cycle activity" means research on, or development, design, manufacture, construction, operation, or maintenance of—

(A) any existing or future reactor, critical facility, conversion plant, fabrication plant, reprocessing plant, plant for the separation of isotopes of source or special fissionable material, or separate storage installation with respect to which there is no obligation to accept IAEA safeguards at the relevant reactor, facility, plant, or installation that contains source or special fissionable material; or

(B) any existing or future heavy water production plant with respect to which there is no obligation to accept IAEA safeguards on any nuclear material produced by or used in connection with any heavy water produced therefrom.

(Pub. L. 109–401, title I, §110, Dec. 18, 2006, 120 Stat. 2739.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this title", meaning title I of Pub. L. 109–401, Dec. 18, 2006, 120 Stat. 2726, which is classified principally to this chapter. For complete classification of title I to the Code, see Short Title note set out under section 8001 of this title and Tables.

CHANGE OF NAME

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

[1] So in original. Probably should be "section".

CHAPTER 88—NUCLEAR NON-PROLIFERATION TREATY—UNITED STATES ADDITIONAL PROTOCOL IMPLEMENTATION

Sec.

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SUBCHAPTER VIII—AUTHORIZATION OF APPROPRIATIONS

8181. Authorization of appropriations.

§8101. Findings

Congress makes the following findings:

(1) The proliferation of nuclear weapons and other nuclear explosive devices poses a grave threat to the national security of the United States and its vital national interests.

(2) The Nuclear Non-Proliferation Treaty has proven critical to limiting such proliferation.

(3) For the Nuclear Non-Proliferation Treaty to be effective, each of the non-nuclear-weapon State Parties must conclude a comprehensive safeguards agreement with the IAEA, and such agreements must be honored and enforced.

(4) Recent events emphasize the urgency of strengthening the effectiveness and improving the

efficiency of the safeguards system. This can best be accomplished by providing IAEA inspectors with more information about, and broader access to, nuclear activities within the territory of non-nuclear-weapon State Parties.

(5) The proposed scope of such expanded information and access has been negotiated by the member states of the IAEA in the form of a Model Additional Protocol to its existing safeguards agreements, and universal acceptance of Additional Protocols by non-nuclear weapons states is essential to enhancing the effectiveness of the Nuclear Non-Proliferation Treaty.

(6) On June 12, 1998, the United States, as a nuclear-weapon State Party, signed an Additional Protocol that is based on the Model Additional Protocol, but which also contains measures, consistent with its existing safeguards agreements with its members, that protect the right of the United States to exclude the application of IAEA safeguards to locations and activities with direct national security significance or to locations or information associated with such activities.

(7) Implementation of the Additional Protocol in the United States in a manner consistent with United States obligations under the Nuclear Non-Proliferation Treaty may encourage other parties to the Nuclear Non-Proliferation Treaty, especially non-nuclear-weapon State Parties, to conclude Additional Protocols and thereby strengthen the Nuclear Non-Proliferation Treaty safeguards system and help reduce the threat of nuclear proliferation, which is of direct and substantial benefit to the United States.

(8) Implementation of the Additional Protocol by the United States is not required and is completely voluntary given its status as a nuclear-weapon State Party, but the United States has acceded to the Additional Protocol to demonstrate its commitment to the nuclear nonproliferation regime and to make United States civil nuclear activities available to the same IAEA inspections as are applied in the case of non-nuclear-weapon State Parties.

(9) In accordance with the national security exclusion contained in Article 1.b of its Additional Protocol, the United States will not allow any inspection activities, nor make any declaration of any information with respect to, locations, information, and activities of direct national security significance to the United States.

(10) Implementation of the Additional Protocol will conform to the principles set forth in the letter of April 30, 2002, from the United States Permanent Representative to the International Atomic Energy Agency and the Vienna Office of the United Nations to the Director General of the International Atomic Energy Agency.

(Pub. L. 109–401, title II, §202, Dec. 18, 2006, 120 Stat. 2741.)

SHORT TITLE

Pub. L. 109–401, title II, §201, Dec. 18, 2006, 120 Stat. 2741, provided that: "This title [enacting this chapter] may be cited as the 'United States Additional Protocol Implementation Act'."

EX. ORD. NO. 13458. IMPLEMENTATION OF THE PROTOCOL ADDITIONAL TO THE AGREEMENT BETWEEN THE UNITED STATES AND THE INTERNATIONAL ATOMIC ENERGY AGENCY FOR THE APPLICATION OF SAFEGUARDS IN THE UNITED STATES OF AMERICA

Ex. Ord. No. 13458, Feb. 4, 2008, 73 F.R. 7181, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the United States Additional Protocol Implementation Act (the "Act") (Public Law 109–401[, title II]) and section 301 of title 3, United States Code, and in order to facilitate implementation of the Act and the Protocol Additional to the Agreement between the United States and the International Atomic Energy Agency for the Application of Safeguards in the United States of America (the "Additional Protocol"), it is hereby ordered as follows:

SECTION 1. The Secretaries of State, Defense, Commerce, and Energy, the Attorney General, the Nuclear Regulatory Commission, and heads of such other agencies as appropriate, each shall issue, amend, or revise, and enforce such regulations, orders, directives, instructions, or procedures as are necessary to implement the Act and United States obligations under the Additional Protocol.

SEC. 2. The Secretary of Commerce, with the assistance, as necessary, of the Attorney General, is authorized to obtain and to execute warrants pursuant to section 223 of the Act for the purpose of gaining complementary access to locations subject to regulations issued by the Department of Commerce pursuant to

section 1 of this order.

SEC. 3. The Secretaries of State, Defense, Commerce, and Energy, the Attorney General, the Nuclear Regulatory Commission, and heads of such other departments and agencies as appropriate, are authorized to carry out, consistent with the Act and in accordance with subsequent directives, appropriate functions that are not otherwise assigned in the Act and are necessary to implement the Act and United States obligations under the Additional Protocol. The Secretary of State shall perform the function of providing notifications or information to the Congress when required by the Act.

SEC. 4. This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

SEC. 5. This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity, by any party against the United States, its departments, agencies, instrumentalities, or entities, its officers, employees, or agents, or any other person.

GEORGE W. BUSH.

§8102. Definitions

In this chapter:

(1) Additional protocol

The term "Additional Protocol", when used in the singular form, means the Protocol Additional to the Agreement between the United States of America and the International Atomic Energy Agency for the Application of Safeguards in the United States of America, with Annexes, signed at Vienna June 12, 1998 (T. Doc. 107–7).

(2) Appropriate congressional committees

The term "appropriate congressional committees" means the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Appropriations of the Senate and the Committee on Armed Services, the Committee on International Relations, the Committee on Science, and the Committee on Appropriations of the House of Representatives.

(3) Complementary access

The term "complementary access" means the exercise of the IAEA's access rights as set forth in Articles 4 to 6 of the Additional Protocol.

(4) Executive agency

The term "executive agency" has the meaning given such term in section 105 of title 5.

(5) Facility

The term "facility" has the meaning set forth in Article 18i. of the Additional Protocol.

(6) IAEA

The term "IAEA" means the International Atomic Energy Agency.

(7) Judge of the United States

The term "judge of the United States" means a United States district judge, or a United States magistrate judge appointed under the authority of chapter 43 of title 28.

(8) Location

The term "location" means any geographic point or area declared or identified by the United States or specified by the International Atomic Energy Agency.

(9) Nuclear Non-Proliferation Treaty

The term "Nuclear Non-Proliferation Treaty" means the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow July 1, 1968, and entered into force March 5, 1970 (21 UST 483).

(10) Nuclear-weapon State Party and non-nuclear-weapon State Party

The terms "nuclear-weapon State Party" and "non-nuclear-weapon State Party" have the

meanings given such terms in the Nuclear Non-Proliferation Treaty.

(11) Person

The term "person", except as otherwise provided, means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, any State or any political subdivision thereof, or any political entity within a State, any foreign government or nation or any agency, instrumentality, or political subdivision of any such government or nation, or other entity located in the United States.

(12) Site

The term "site" has the meaning set forth in Article 18b. of the Additional Protocol.

(13) United States

The term "United States", when used as a geographic reference, means the several States of the United States, the District of Columbia, and the commonwealths, territories, and possessions of the United States and includes all places under the jurisdiction or control of the United States, including—

(A) the territorial sea and the overlying airspace;

(B) any civil aircraft of the United States or public aircraft, as such terms are defined in paragraphs (17) and (41), respectively, of section 40102(a) of title 49; and

(C) any vessel of the United States, as such term is defined in section 70502(b) of title 46.

(14) Wide-area environmental sampling

The term "wide-area environmental sampling" has the meaning set forth in Article 18g. of the Additional Protocol.

(Pub. L. 109–401, title II, §203, Dec. 18, 2006, 120 Stat. 2742.)

CODIFICATION

In par. (13)(C), "section 70502(b) of title 46" substituted for "section 3(b) of the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1903(b))" on authority of Pub. L. 109–304, §18(c), Oct. 6, 2006, 120 Stat. 1709, which Act enacted section 70502 of Title 46, Shipping.

CHANGE OF NAME

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives and Committee on Science of House of Representatives changed to Committee on Science and Technology of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007. Committee on Science and Technology of House of Representatives changed to Committee on Science, Space, and Technology of House of Representatives by House Resolution No. 5, One Hundred Twelfth Congress, Jan. 5, 2011.

§8103. Severability

If any provision of this chapter, or the application of such provision to any person or circumstance, is held invalid, the remainder of this chapter, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

(Pub. L. 109–401, title II, §204, Dec. 18, 2006, 120 Stat. 2743.)

SUBCHAPTER I—GENERAL PROVISIONS

§8111. Authority

(a) In general

The President is authorized to implement and carry out the provisions of this chapter and the Additional Protocol and shall designate through Executive order which executive agency or agencies of the United States, which may include but are not limited to the Department of State, the Department of Defense, the Department of Justice, the Department of Commerce, the Department of Energy, and the Nuclear Regulatory Commission, shall issue or amend and enforce regulations in order to implement this chapter and the provisions of the Additional Protocol.

(b) Included authority

For any executive agency designated under subsection (a) that does not currently possess the authority to conduct site vulnerability assessments and related activities, the authority provided in subsection (a) includes such authority.

(c) Exception

The authority described in subsection (b) does not supersede or otherwise modify any existing authority of any Federal department or agency already having such authority.

(Pub. L. 109–401, title II, §211, Dec. 18, 2006, 120 Stat. 2743.)

SUBCHAPTER II—COMPLEMENTARY ACCESS

§8121. Requirement for authority to conduct complementary access

(a) Prohibition

No complementary access to any location in the United States shall take place pursuant to the Additional Protocol without the authorization of the United States Government in accordance with the requirements of this chapter.

(b) Authority

(1) In general

Complementary access to any location in the United States subject to access under the Additional Protocol is authorized in accordance with this chapter.

(2) United States representatives

(A) Restrictions

In the event of complementary access to a privately owned or operated location, no employee of the Environmental Protection Agency or of the Mine Safety and Health Administration or the Occupational Safety and Health Administration of the Department of Labor may participate in the access.

(B) Number

The number of designated United States representatives accompanying IAEA inspectors shall be kept to the minimum necessary.

(Pub. L. 109–401, title II, §221, Dec. 18, 2006, 120 Stat. 2744.)

§8122. Procedures for complementary access

(a) In general

Each instance of complementary access to a location in the United States under the Additional Protocol shall be conducted in accordance with this subchapter.

(b) Notice

(1) In general

Complementary access referred to in subsection (a) may occur only upon the issuance of an actual written notice by the United States Government to the owner, operator, occupant, or agent in charge of the location to be subject to complementary access.

(2) Time of notification

The notice under paragraph (1) shall be submitted to such owner, operator, occupant, or agent as soon as possible after the United States Government has received notification that the IAEA seeks complementary access. Notices may be posted prominently at the location if the United States Government is unable to provide actual written notice to such owner, operator, occupant, or agent.

(3) Content of notice

(A) [1] In general

The notice required by paragraph (1) shall specify—

(i) the purpose for the complementary access;

(ii) the basis for the selection of the facility, site, or other location for the complementary access sought;

(iii) the activities that will be carried out during the complementary access;

(iv) the time and date that the complementary access is expected to begin, and the anticipated period covered by the complementary access; and

(v) the names and titles of the inspectors.

(4) Separate notices required

A separate notice shall be provided each time that complementary access is sought by the IAEA.

(c) Credentials

The complementary access team of the IAEA and representatives or designees of the United States Government shall display appropriate identifying credentials to the owner, operator, occupant, or agent in charge of the location before gaining entry in connection with complementary access.

(d) Scope

(1) In general

Except as provided in a warrant issued under section 8123 of this title, and subject to the rights of the United States Government under the Additional Protocol to limit complementary access, complementary access to a location pursuant to this chapter may extend to all activities specifically permitted for such locations under Article 6 of the Additional Protocol.

(2) Exception

Unless required by the Additional Protocol, no inspection under this chapter shall extend to—

(A) financial data (other than production data);

(B) sales and marketing data (other than shipment data);

(C) pricing data;

(D) personnel data;

(E) patent data;

(F) data maintained for compliance with environmental or occupational health and safety regulations; or

(G) research data.

(e) Environment, health, safety, and security

In carrying out their activities, members of the IAEA complementary access team and representatives or designees of the United States Government shall observe applicable

environmental, health, safety, and security regulations established at the location subject to complementary access, including those for protection of controlled environments within a facility and for personal safety.

(Pub. L. 109–401, title II, §222, Dec. 18, 2006, 120 Stat. 2744.)

[1] *So in original. No subpar. (B) has been enacted.*

§8123. Consents, warrants, and complementary access

(a) In general

(1) Procedure

(A) Consent

Except as provided in paragraph (2), an appropriate official of the United States Government shall seek or have the consent of the owner, operator, occupant, or agent in charge of a location prior to entering that location in connection with complementary access pursuant to sections 8121 and 8122 of this title. The owner, operator, occupant, or agent in charge of the location may withhold consent for any reason or no reason.

(B) Administrative search warrant

In the absence of consent, the United States Government may seek an administrative search warrant from a judge of the United States under subsection (b). Proceedings regarding the issuance of an administrative search warrant shall be conducted ex parte, unless otherwise requested by the United States Government.

(2) Expedited access

For purposes of obtaining access to a location pursuant to Article 4b.(ii) of the Additional Protocol in order to satisfy United States obligations under the Additional Protocol when notice of two hours or less is required, the United States Government may gain entry to such location in connection with complementary access, to the extent such access is consistent with the Fourth Amendment to the United States Constitution, without obtaining either a warrant or consent.

(b) Administrative search warrants for complementary access

(1) Obtaining administrative search warrants

For complementary access conducted in the United States pursuant to the Additional Protocol, and for which the acquisition of a warrant is required, the United States Government shall first obtain an administrative search warrant from a judge of the United States. The United States Government shall provide to such judge all appropriate information regarding the basis for the selection of the facility, site, or other location to which complementary access is sought.

(2) Content of affidavits for administrative search warrants

A judge of the United States shall promptly issue an administrative search warrant authorizing the requested complementary access upon an affidavit submitted by the United States Government—

(A) stating that the Additional Protocol is in force;

(B) stating that the designated facility, site, or other location is subject to complementary access under the Additional Protocol;

(C) stating that the purpose of the complementary access is consistent with Article 4 of the Additional Protocol;

(D) stating that the requested complementary access is in accordance with Article 4 of the Additional Protocol;

(E) containing assurances that the scope of the IAEA's complementary access, as well as what it may collect, shall be limited to the access provided for in Article 6 of the Additional

Protocol;

(F) listing the items, documents, and areas to be searched and seized;

(G) stating the earliest commencement and the anticipated duration of the complementary access period, as well as the expected times of day during which such complementary access will take place; and

(H) stating that the location to which entry in connection with complementary access is sought was selected either—

(i) because there is probable cause, on the basis of specific evidence, to believe that information required to be reported regarding a location pursuant to regulations promulgated under this chapter is incorrect or incomplete, and that the location to be accessed contains evidence regarding that violation; or

(ii) pursuant to a reasonable general administrative plan based upon specific neutral criteria.

(3) Content of warrants

A warrant issued under paragraph (2) shall specify the same matters required of an affidavit under that paragraph. In addition, each warrant shall contain the identities of the representatives of the IAEA on the complementary access team and the identities of the representatives or designees of the United States Government required to display identifying credentials under section 8122(c) of this title.

(Pub. L. 109–401, title II, §223, Dec. 18, 2006, 120 Stat. 2745.)

§8124. Prohibited acts relating to complementary access

It shall be unlawful for any person willfully to fail or refuse to permit, or to disrupt, delay, or otherwise impede, a complementary access authorized by this subchapter or an entry in connection with such access.

(Pub. L. 109–401, title II, §224, Dec. 18, 2006, 120 Stat. 2747.)

SUBCHAPTER III—CONFIDENTIALITY OF INFORMATION

§8131. Protection of confidentiality of information

Information reported to, or otherwise acquired by, the United States Government under this chapter or under the Additional Protocol shall be exempt from disclosure under section 552 of title 5.

(Pub. L. 109–401, title II, §231, Dec. 18, 2006, 120 Stat. 2747.)

SUBCHAPTER IV—ENFORCEMENT

§8141. Recordkeeping violations

It shall be unlawful for any person willfully to fail or refuse—

(1) to establish or maintain any record required by any regulation prescribed under this chapter;

(2) to submit any report, notice, or other information to the United States Government in accordance with any regulation prescribed under this chapter; or

(3) to permit access to or copying of any record by the United States Government in accordance with any regulation prescribed under this chapter.

(Pub. L. 109–401, title II, §241, Dec. 18, 2006, 120 Stat. 2747.)

§8142. Penalties

(a) Civil

(1) Penalty amounts

Any person that is determined, in accordance with paragraph (2), to have violated section 8124 of this title or section 8141 of this title shall be required by order to pay a civil penalty in an amount not to exceed $25,000 for each violation. For the purposes of this paragraph, each day during which a violation of section 8124 of this title continues shall constitute a separate violation of that section.

(2) Notice and hearing

(A) In general

Before imposing a penalty against a person under paragraph (1), the head of an executive agency designated under section 8111(a) of this title shall provide the person with notice of the order. If, within 15 days after receiving the notice, the person requests a hearing, the head of the designated executive agency shall initiate a hearing on the violation.

(B) Conduct of hearing

Any hearing so requested shall be conducted before an administrative judge. The hearing shall be conducted in accordance with the requirements of section 554 of title 5. If no hearing is so requested, the order imposed by the head of the designated agency shall constitute a final agency action.

(C) Issuance of orders

If the administrative judge determines, upon the preponderance of the evidence received, that a person named in the complaint has violated section 8124 of this title or section 8141 of this title, the administrative judge shall state the findings of fact and conclusions of law, and issue and serve on such person an order described in paragraph (1).

(D) Factors for determination of penalty amounts

In determining the amount of any civil penalty, the administrative judge or the head of the designated agency shall take into account the nature, circumstances, extent, and gravity of the violation or violations and, with respect to the violator, the ability to pay, effect on ability to continue to do business, any history of such violations, the degree of culpability, the existence of an internal compliance program, and such other matters as justice may require.

(E) Content of notice

For the purposes of this paragraph, notice shall be in writing and shall be verifiably served upon the person or persons subject to an order described in paragraph (1). In addition, the notice shall—

(i) set forth the time, date, and specific nature of the alleged violation or violations; and

(ii) specify the administrative and judicial remedies available to the person or persons subject to the order, including the availability of a hearing and subsequent appeal.

(3) Administrative appellate review

The decision and order of an administrative judge shall be the recommended decision and order and shall be referred to the head of the designated executive agency for final decision and order. If, within 60 days, the head of the designated executive agency does not modify or vacate the decision and order, it shall become a final agency action under this subsection.

(4) Judicial review

A person adversely affected by a final order may, within 30 days after the date the final order is

issued, file a petition in the Court of Appeals for the District of Columbia Circuit or in the Court of Appeals for the district in which the violation occurred.

(5) Enforcement of final orders

(A) In general

If a person fails to comply with a final order issued against such person under this subsection and—

(i) the person has not filed a petition for judicial review of the order in accordance with paragraph (4), or

(ii) a court in an action brought under paragraph (4) has entered a final judgment in favor of the designated executive agency,

the head of the designated executive agency shall commence a civil action to seek compliance with the final order in any appropriate district court of the United States.

(B) No review

In any such civil action, the validity and appropriateness of the final order shall not be subject to review.

(C) Interest

Payment of penalties assessed in a final order under this section shall include interest at currently prevailing rates calculated from the date of expiration of the 60-day period referred to in paragraph (3) or the date of such final order, as the case may be.

(b) Criminal

Any person who violates section 8124 of this title or section 8141 of this title may, in addition to or in lieu of any civil penalty which may be imposed under subsection (a) for such violation, be fined under title 18, imprisoned for not more than five years, or both.

(Pub. L. 109–401, title II, §242, Dec. 18, 2006, 120 Stat. 2747.)

§8143. Specific enforcement

(a) Jurisdiction

The district courts of the United States shall have jurisdiction over civil actions brought by the head of an executive agency designated under section 8111(a) of this title—

(1) to restrain any conduct in violation of section 8124 of this title or section 8141 of this title; or

(2) to compel the taking of any action required by or under this chapter or the Additional Protocol.

(b) Civil actions

(1) In general

A civil action described in subsection (a) may be brought—

(A) in the case of a civil action described in paragraph (1) of such subsection, in the United States district court for the judicial district in which any act, omission, or transaction constituting a violation of section 8124 of this title or section 8141 of this title occurred or in which the defendant is found or transacts business; or

(B) in the case of a civil action described in paragraph (2) of such subsection, in the United States district court for the judicial district in which the defendant is found or transacts business.

(2) Service of process

In any such civil action, process shall be served on a defendant wherever the defendant may reside or may be found.

(Pub. L. 109–401, title II, §243, Dec. 18, 2006, 120 Stat. 2749.)

SUBCHAPTER V—ENVIRONMENTAL SAMPLING

§8151. Notification to Congress of IAEA Board approval of wide-area environmental sampling

(a) In general

Not later than 30 days after the date on which the Board of Governors of the IAEA approves wide-area environmental sampling for use as a safeguards verification tool, the President shall notify the appropriate congressional committees.

(b) Content

The notification under subsection (a) shall contain—

(1) a description of the specific methods and sampling techniques approved by the Board of Governors that are to be employed for purposes of wide-area sampling;

(2) a statement as to whether or not such sampling may be conducted in the United States under the Additional Protocol; and

(3) an assessment of the ability of the approved methods and sampling techniques to detect, identify, and determine the conduct, type, and nature of nuclear activities.

(Pub. L. 109–401, title II, §251, Dec. 18, 2006, 120 Stat. 2749.)

§8152. Application of national security exclusion to wide-area environmental sampling

In accordance with Article 1(b) of the Additional Protocol, the United States shall not permit any wide-area environmental sampling proposed by the IAEA to be conducted at a specified location in the United States under Article 9 of the Additional Protocol unless the President has determined and reported to the appropriate congressional committees with respect to that proposed use of environmental sampling that—

(1) the proposed use of wide-area environmental sampling is necessary to increase the capability of the IAEA to detect undeclared nuclear activities in the territory of a non-nuclear-weapon State Party;

(2) the proposed use of wide-area environmental sampling will not result in access by the IAEA to locations, activities, or information of direct national security significance; and

(3) the United States—

(A) has been provided sufficient opportunity for consultation with the IAEA if the IAEA has requested complementary access involving wide-area environmental sampling; or

(B) has requested under Article 8 of the Additional Protocol that the IAEA engage in complementary access in the United States that involves the use of wide-area environmental sampling.

(Pub. L. 109–401, title II, §252, Dec. 18, 2006, 120 Stat. 2750.)

§8153. Application of national security exclusion to location-specific environmental sampling

In accordance with Article 1(b) of the Additional Protocol, the United States shall not permit any location-specific environmental sampling in the United States under Article 5 of the Additional Protocol unless the President has determined and reported to the appropriate congressional

committees with respect to that proposed use of environmental sampling that—

(1) the proposed use of location-specific environmental sampling is necessary to increase the capability of the IAEA to detect undeclared nuclear activities in the territory of a non-nuclear-weapon State Party;

(2) the proposed use of location-specific environmental sampling will not result in access by the IAEA to locations, activities, or information of direct national security significance; and

(3) with respect to the proposed use of environmental sampling, the United States—

(A) has been provided sufficient opportunity for consultation with the IAEA if the IAEA has requested complementary access involving location-specific environmental sampling; or

(B) has requested under Article 8 of the Additional Protocol that the IAEA engage in complementary access in the United States that involves the use of location-specific environmental sampling.

(Pub. L. 109–401, title II, §253, Dec. 18, 2006, 120 Stat. 2750.)

§8154. Rule of construction

As used in this subchapter, the term "necessary to increase the capability of the IAEA to detect undeclared nuclear activities in the territory of a non-nuclear-weapon State Party" shall not be construed to encompass proposed uses of environmental sampling that might assist the IAEA in detecting undeclared nuclear activities in the territory of a non-nuclear-weapon State Party by—

(1) setting a good example of cooperation in the conduct of such sampling; or

(2) facilitating the formation of a political consensus or political support for such sampling in the territory of a non-nuclear-weapon State Party.

(Pub. L. 109–401, title II, §254, Dec. 18, 2006, 120 Stat. 2751.)

SUBCHAPTER VI—PROTECTION OF NATIONAL SECURITY INFORMATION AND ACTIVITIES

§8161. Protection of certain information

(a) Locations and facilities of direct national security significance

No current or former Department of Defense or Department of Energy location, site, or facility of direct national security significance shall be declared or be subject to IAEA inspection under the Additional Protocol.

(b) Information of direct national security significance

No information of direct national security significance regarding any location, site, or facility associated with activities of the Department of Defense or the Department of Energy shall be provided under the Additional Protocol.

(c) Restricted data

Nothing in this chapter shall be construed to permit the communication or disclosure to the IAEA or IAEA employees of restricted data controlled by the provisions of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), including in particular "Restricted Data" as defined under paragraph (1) of section 11 y. of such Act (42 U.S.C. 2014(y)).

(d) Classified information

Nothing in this Act shall be construed to permit the communication or disclosure to the IAEA or IAEA employees of national security information and other classified information.

(Pub. L. 109–401, title II, §261, Dec. 18, 2006, 120 Stat. 2751.)

REFERENCES IN TEXT

The Atomic Energy Act of 1954, referred to in subsec. (c), is act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, which is classified principally to chapter 23 (§2011 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 42 and Tables.

This Act, referred to in subsec. (d), is Pub. L. 109–401, Dec. 18, 2006, 120 Stat. 2726, which enacted this chapter and chapter 87 (§8001 et seq.) of this title and amended section 2652c of this title and section 2153 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Tables.

§8162. IAEA inspections and visits

(a) Certain individuals prohibited from obtaining access

No national of a country designated by the Secretary of State under section 2371 of this title as a government supporting acts of international terrorism shall be permitted access to the United States to carry out an inspection activity under the Additional Protocol or a related safeguards agreement.

(b) Presence of United States Government personnel

IAEA inspectors shall be accompanied at all times by United States Government personnel when inspecting sites, locations, facilities, or activities in the United States under the Additional Protocol.

(c) Vulnerability and related assessments

The President shall conduct vulnerability, counterintelligence, and related assessments not less than every 5 years to ensure that information of direct national security significance remains protected at all sites, locations, facilities, and activities in the United States that are subject to IAEA inspection under the Additional Protocol.

(Pub. L. 109–401, title II, §262, Dec. 18, 2006, 120 Stat. 2751.)

SUBCHAPTER VII—REPORTS

§8171. Report on initial United States declaration

Not later than 60 days before submitting the initial United States declaration to the IAEA under the Additional Protocol, the President shall submit to Congress a list of the sites, locations, facilities, and activities in the United States that the President intends to declare to the IAEA, and a report thereon.

(Pub. L. 109–401, title II, §271, Dec. 18, 2006, 120 Stat. 2752.)

§8172. Report on revisions to initial United States declaration

Not later than 60 days before submitting to the IAEA any revisions to the United States declaration submitted under the Additional Protocol, the President shall submit to Congress a list of any sites, locations, facilities, or activities in the United States that the President intends to add to or remove from the declaration, and a report thereon.

(Pub. L. 109–401, title II, §272, Dec. 18, 2006, 120 Stat. 2752.)

§8173. Content of reports on United States declarations

The reports required under section 8171 of this title and section 8172 of this title shall present the reasons for each site, location, facility, and activity being declared or being removed from the

declaration list and shall certify that—

(1) each site, location, facility, and activity included in the list has been examined by each agency with national security equities with respect to such site, location, facility, or activity; and

(2) appropriate measures have been taken to ensure that information of direct national security significance will not be compromised at any such site, location, facility, or activity in connection with an IAEA inspection.

(Pub. L. 109–401, title II, §273, Dec. 18, 2006, 120 Stat. 2752.)

§8174. Report on efforts to promote the implementation of additional protocols

Not later than 180 days after the entry into force of the Additional Protocol, the President shall submit to the appropriate congressional committees a report on—

(1) measures that have been or should be taken to achieve the adoption of additional protocols to existing safeguards agreements signed by non-nuclear-weapon State Parties; and

(2) assistance that has been or should be provided by the United States to the IAEA in order to promote the effective implementation of additional protocols to existing safeguards agreements signed by non-nuclear-weapon State Parties and the verification of the compliance of such parties with IAEA obligations, with a plan for providing any needed additional funding.

(Pub. L. 109–401, title II, §274, Dec. 18, 2006, 120 Stat. 2752.)

§8175. Notice of IAEA notifications

The President shall notify Congress of any notifications issued by the IAEA to the United States under Article 10 of the Additional Protocol.

(Pub. L. 109–401, title II, §275, Dec. 18, 2006, 120 Stat. 2753.)

SUBCHAPTER VIII—AUTHORIZATION OF APPROPRIATIONS

§8181. Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out this chapter.

(Pub. L. 109–401, title II, §281, Dec. 18, 2006, 120 Stat. 2753.)

CHAPTER 89—ADVANCING DEMOCRATIC VALUES

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§8201. Findings

Congress finds the following:

(1) The United States Declaration of Independence, the United States Constitution, and the United Nations Universal Declaration of Human Rights declare that all human beings are created equal and possess certain rights and freedoms, including the fundamental right to participate in the political life and government of their respective countries.

(2) The development of democracy constitutes a long-term challenge that goes through unique phases and paces in individual countries as such countries develop democratic institutions such as a thriving civil society, a free media, and an independent judiciary, and must be led from within such countries, including by nongovernmental and governmental reformers.

(3) Individuals, nongovernmental organizations, and movements that support democratic principles, practices, and values are under increasing pressure from some governments of nondemocratic countries (as well as, in some cases, from governments of democratic transition countries), including by using administrative and regulatory mechanisms to undermine the activities of such individuals, organizations, and movements.

(4) Democratic countries have a number of instruments available for supporting democratic reformers who are committed to promoting effective, nonviolent change in nondemocratic countries and who are committed to keeping their countries on the path to democracy.

(5) United States efforts to promote democracy and protect human rights can be strengthened to improve assistance for such reformers, including through an enhanced role for United States diplomats when properly trained and given the right incentives.

(6) The promotion of democracy requires a broad-based effort with cooperation between all democratic countries, including through the Community of Democracies.

(Pub. L. 110–53, title XXI, §2102, Aug. 3, 2007, 121 Stat. 526.)

SHORT TITLE

Pub. L. 110–53, title XXI, §2101, Aug. 3, 2007, 121 Stat. 526, provided that: "This title [enacting this chapter and amending provisions set out as a note under section 2151n of this title] may be cited as the 'Advance Democratic Values, Address Nondemocratic Countries, and Enhance Democracy Act of 2007' or the 'ADVANCE Democracy Act of 2007'."

DEEPENING U.S. GOVERNMENT EFFORTS TO COLLABORATE WITH AND STRENGTHEN CIVIL SOCIETY

Memorandum of President of the United States, Sept. 23, 2014, 79 F.R. 58237, provided:

Memorandum for the Heads of Executive Departments and Agencies

The participation of civil society is fundamental to democratic governance. Through civil society, citizens come together to hold their leaders accountable and address challenges that governments cannot tackle alone. Civil society organizations—such as community groups, non-governmental organizations, labor unions,

indigenous groups, charitable organizations, faith-based organizations, professional associations, and foundations—often drive innovations and develop new ideas and approaches to solve social, economic, and political problems that governments can apply on a larger scale. Moreover, by giving people peaceful avenues to advance their interests and express their convictions, a free and flourishing civil society contributes to stability and helps to counter violent extremism. Countries should ensure that civil society organizations can engage freely in legitimate and peaceful activity, while recognizing the potential for illicit actors to abuse the sector and establishing proportionate and targeted safeguards to prevent that abuse.

The rights to freedom of expression, peaceful assembly, and association that enable civil society to participate fully in social, economic, and political life are enshrined in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. In many parts of the world, however, these rights are in danger. An increasing number of governments are inhibiting the free operation of civil society and cutting off civil society organizations' ability to receive funding from legitimate sources. In some cases, these restrictions arise out of the implementation of laws, regulations, and administrative measures that are being inappropriately applied; in other cases, the laws, regulations, and administrative measures are themselves problematic. Despite concerted efforts by the United States and a growing number of like-minded governments to address this problem, greater, sustained energy and attention is needed worldwide.

On September 23, 2013, during the United Nations General Assembly, the United States convened a High Level Event on Civil Society that included heads of state, representatives of civil society, the philanthropic community, and multilateral organizations to spur coordinated international action to support and defend civil society. Through the issuance of a Joint Statement on the Promotion and Protection of Civil Society, attendees affirmed that the strength and success of nations depend on allowing civil society to function without interference, and on robust engagement between governments and civil society to advance shared goals of peace, prosperity, and the well-being of all people. Attendees also committed to take concrete steps, individually and jointly, and to lead by example to promote laws, policies, and practices that expand the space for civil society to operate in accordance with international law.

To take further steps to fulfill that commitment, this memorandum directs agencies engaged abroad (as defined in section 6 of this memorandum), including those that do not traditionally work with civil society, to take actions that elevate and strengthen the role of civil society; challenge undue restrictions on civil society; and foster constructive engagement between governments and civil society.

Therefore, by the authority vested in me as President by the Constitution and the laws of the United States of America, I hereby direct the following:

SEC. 1. *Engaging in Consultation with Civil Society Representatives*. (a) In the conduct of U.S. foreign policy, it is in the national interest to build relationships with people, as well as with governments. Therefore, agencies engaged abroad shall consult with representatives of civil society to explain the views of the United States on particular issues, seek their perspectives, utilize their expertise, and build strong partnerships to address joint challenges.

(b) When traveling overseas, senior U.S. officials of agencies engaged abroad shall seek opportunities to meet with representatives of civil society, especially those who face restrictions on their work and who may benefit from international support and solidarity.

(c) Each agency engaged abroad shall incorporate inclusive outreach to civil society into their international engagement.

SEC. 2. *Working with Civil Society Organizations*. The U.S. Government works with civil society organizations even when local laws restrict the ability of civil society organizations to operate or where local laws restrict the fundamental freedoms of expression, peaceful assembly, and association, with due regard for the safety of civil society interlocutors and their operations. Agencies engaged abroad shall oppose, through appropriate means, efforts by foreign governments to dictate the nature of U.S. assistance to civil society, the selection of individuals or entities to implement U.S. Government programs, or the selection of recipients or beneficiaries of those programs. Additionally, agencies engaged abroad shall review their internal regulations, policies, and procedures to ensure that programmatic requirements do not inadvertently impede civil society operations.

SEC. 3. *Opposing Undue Restrictions on Civil Society and Fundamental Freedoms*. (a) Agencies engaged abroad shall oppose, through appropriate means, efforts by foreign governments that restrict the freedoms of expression, peaceful assembly, and association in a manner inconsistent with their international obligations and commitments. Such actions may include urging relevant governments or legislatures to reverse course; making high-level statements or delivering messages publicly or privately; working with local and international civil society organizations and stakeholders, like-minded countries, and regional and multilateral organizations and bodies; and, where possible, providing direct assistance to civil society actors engaged in these efforts.

(b) Agencies engaged abroad shall, where possible, expand the provision of advice and other support to governments seeking to institute legal and political reforms to protect civic space, and to civil society organizations where governments are not engaged in such affirmative reform efforts. This may include funding for democracy, human rights, workers' rights, and governance assistance, as well as emergency support to activists and organizations.

(c) Agencies engaged abroad shall seek diplomatic and programmatic opportunities in regional and multilateral organizations and bodies to protect and strengthen civil society. This shall include efforts to enhance support for the work of the U.N. Special Rapporteurs charged with advancing relevant rights, including the rights to freedom of opinion and expression, peaceful assembly and association, and human rights defenders.

SEC. 4. *Facilitating Exchanges between Governments and Civil Society*. (a) Agencies engaged abroad shall seek to foster improved relations and understanding between governments and civil society, including in the advancement of social, economic, and development priorities. Such efforts may include training for government and civil society representatives; brokering dialogue between government and civil society representatives; identifying affirmative activities around which governments and civil society organizations can engage; providing legal or other assistance to governments and civil society organizations to draft or improve laws, regulations, and administrative measures; and sharing best practices regarding the proper implementation of these laws.

(b) Agencies engaged abroad that organize public, U.S.-hosted international gatherings shall create opportunities for civil society to substantively engage in such events, where appropriate.

SEC. 5. *Reporting on Progress*. The National Security Advisor shall prepare an annual report for the President on the Federal Government's progress implementing the requirements of this memorandum. Agencies engaged abroad shall provide the National Security Advisor with any requested information on their progress implementing the requirements of this memorandum to include in this annual report.

SEC. 6. *Definitions*. For the purposes of this memorandum, "agencies engaged abroad" are the Departments of State, the Treasury, Defense, Justice, Agriculture, Commerce, Labor, Health and Human Services, and Homeland Security, the United States Agency for International Development, the Millennium Challenge Corporation, and the Office of the United States Trade Representative.

SEC. 7. *General Provisions*. (a) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(b) Nothing in this memorandum shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department, agency, or the head thereof, or the status of that department or agency within the Federal Government; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(c) Nothing in this memorandum shall alter the role of the Secretary of State or Chiefs of Mission in the coordination or implementation of U.S. foreign policy, and this memorandum shall be implemented consistent with agencies' respective missions.

(d) This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations.

(e) The Secretary of State is hereby authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

§8202. Statement of policy

It is the policy of the United States—

(1) to promote freedom and democracy in foreign countries as a fundamental component of United States foreign policy, along with other key foreign policy goals;

(2) to affirm fundamental freedoms and internationally recognized human rights in foreign countries, as reflected in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, and to condemn offenses against those freedoms and rights as a fundamental component of United States foreign policy, along with other key foreign policy goals;

(3) to protect and promote such fundamental freedoms and rights, including the freedoms of

association, of expression, of the press, and of religion, and the right to own private property;

(4) to commit to the long-term challenge of promoting universal democracy by promoting democratic institutions, including institutions that support the rule of law (such as an independent judiciary), an independent and professional media, strong legislatures, a thriving civil society, transparent and professional independent governmental auditing agencies, civilian control of the military, and institutions that promote the rights of minorities and women;

(5) to use instruments of United States influence to support, promote, and strengthen democratic principles, practices, and values, including the right to free, fair, and open elections, secret balloting, and universal suffrage, including by—

(A) providing appropriate support to individuals, nongovernmental organizations, and movements located in nondemocratic countries that aspire to live in freedom and establish full democracy in such countries; and

(B) providing political, economic, and other support to foreign countries and individuals, nongovernmental organizations, and movements that are willingly undertaking a transition to democracy; and

(6) to strengthen cooperation with other democratic countries in order to better promote and defend shared values and ideals.

(Pub. L. 110–53, title XXI, §2103, Aug. 3, 2007, 121 Stat. 527.)

§8203. Definitions

In this chapter:

(1) Annual Report on Advancing Freedom and Democracy

The term "Annual Report on Advancing Freedom and Democracy" refers to the annual report submitted to Congress by the Department of State pursuant to section 665(c) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228; 22 U.S.C. 2151n note), in which the Department reports on actions taken by the United States Government to encourage respect for human rights and democracy.

(2) Appropriate congressional committees

The term "appropriate congressional committees" means the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

(3) Assistant Secretary

The term "Assistant Secretary" means the Assistant Secretary of State for Democracy, Human Rights, and Labor.

(4) Community of Democracies and Community

The terms "Community of Democracies" and "Community" mean the association of democratic countries committed to the global promotion of democratic principles, practices, and values, which held its First Ministerial Conference in Warsaw, Poland, in June 2000.

(5) Department

The term "Department" means the Department of State.

(6) Nondemocratic country or democratic transition country

The term "nondemocratic country" or "democratic transition country" shall include any country which is not governed by a fully functioning democratic form of government, as determined by the Secretary, taking into account the general consensus regarding the status of civil and political rights in a country by major nongovernmental organizations that conduct assessments of such conditions in countries and whether the country exhibits the following characteristics:

(A) All citizens of such country have the right to, and are not restricted in practice from, fully and freely participating in the political life of such country.

(B) The national legislative body of such country and, if directly elected, the head of government of such country, are chosen by free, fair, open, and periodic elections, by universal and equal suffrage, and by secret ballot.

(C) More than one political party in such country has candidates who seek elected office at the national level and such parties are not restricted in their political activities or their process for selecting such candidates, except for reasonable administrative requirements commonly applied in countries categorized as fully democratic.

(D) All citizens in such country have a right to, and are not restricted in practice from, fully exercising such fundamental freedoms as the freedom of expression, conscience, and peaceful assembly and association, and such country has a free, independent, and pluralistic media.

(E) The current government of such country did not come to power in a manner contrary to the rule of law.

(F) Such country possesses an independent judiciary and the government of such country generally respects the rule of law.

(G) Such country does not violate other core principles enshrined in the United Nations Charter, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, United Nations Commission on Human Rights Resolution 1499/57 (entitled "Promotion of the Right to Democracy"), and the United Nations General Assembly Resolution 55/96 (entitled "Promoting and consolidating democracy").

(H) As applicable, whether the country has scored favorably on the political, civil liberties, corruption, and rule of law indicators used to determine eligibility for financial assistance disbursed from the Millennium Challenge Account.

(7) Secretary

The term "Secretary" means the Secretary of State.

(Pub. L. 110–53, title XXI, §2104, Aug. 3, 2007, 121 Stat. 527.)

SUBCHAPTER I—ACTIVITIES TO ENHANCE THE PROMOTION OF DEMOCRACY

§8211. Democracy promotion at the Department of State

(a) Democracy Liaison Officers

(1) In general

The Secretary of State shall establish and staff Democracy Liaison Officer positions. Democracy Liaison Officers shall serve under the supervision of the Assistant Secretary. Democracy Liaison Officers may be assigned to the following posts:

(A) United States missions to, or liaisons with, regional and multilateral organizations, including the United States missions to the European Union, African Union, Organization of American States, and any other appropriate regional organization, the Organization for Security and Cooperation in Europe, the United Nations and its relevant specialized agencies, and the North Atlantic Treaty Organization.

(B) Regional public diplomacy centers of the Department of State.

(C) United States combatant commands.

(D) Other posts as designated by the Secretary.

(2) Responsibilities

Each Democracy Liaison Officer should—

(A) provide expertise on effective approaches to promote and build democracy;

(B) assist in formulating and implementing strategies for transitions to democracy; and

(C) carry out such other responsibilities as the Secretary or the Assistant Secretary may assign.

(3) New positions

To the fullest extent practicable, taking into consideration amounts appropriated to carry out this subsection and personnel available for assignment to the positions described in paragraph (1), the Democracy Liaison Officer positions established under subsection (a) shall be new positions that are in addition to existing positions with responsibility for other human rights and democracy related issues and programs, including positions with responsibility for labor issues.

(4) Relationship to other authorities

Nothing in this subsection may be construed as altering any authority or responsibility of a chief of mission or other employee of a diplomatic mission of the United States provided under any other provision of law, including any authority or responsibility for the development or implementation of strategies to promote democracy.

(b) Office related to democratic movements and transitions

(1) Establishment

There shall be identified within the Bureau of Democracy, Human Rights, and Labor of the Department at least one office that shall be responsible for working with democratic movements and facilitating the transition to full democracy of nondemocratic countries and democratic transition countries.

(2) Responsibilities

The Assistant Secretary shall, including by acting through the office or offices identified pursuant to paragraph (1)—

(A) provide support for Democratic Liaison Officers established under subsection (a);

(B) develop relations with, consult with, and provide assistance to nongovernmental organizations, individuals, and movements that are committed to the peaceful promotion of democracy and fundamental rights and freedoms, including fostering relationships with the United States Government and the governments of other democratic countries; and

(C) assist officers and employees of regional bureaus of the Department to develop strategies and programs to promote peaceful change in nondemocratic countries and democratic transition countries.

(3) Liaison

Within the Bureau of Democracy, Human Rights, and Labor, the Assistant Secretary shall identify officers or employees who have expertise in and shall be responsible for working with nongovernmental organizations, individuals, and movements that develop relations with, consult with, and provide assistance to nongovernmental organizations, individuals, and movements in foreign countries that are committed to the peaceful promotion of democracy and fundamental rights and freedoms.

(c) Actions by chiefs of mission

Each chief of mission in each nondemocratic country or democratic transition country should—

(1) develop, as part of annual program planning, a strategy to promote democratic principles, practices, and values in each such foreign country and to provide support, as appropriate, to nongovernmental organizations, individuals, and movements in each such country that are committed to democratic principles, practices, and values, such as by—

(A) consulting and coordinating with and providing support to such nongovernmental organizations, individuals, and movements regarding the promotion of democracy;

(B) issuing public condemnations of violations of internationally recognized human rights, including violations of religious freedom, and visiting local landmarks and other local sites associated with nonviolent protest in support of democracy and freedom from oppression; and

(C) holding periodic meetings with such nongovernmental organizations, individuals, and

movements to discuss democracy and political, social, and economic freedoms;

(2) hold ongoing discussions with the leaders of each such nondemocratic country or democratic transition country regarding progress toward a democratic system of governance and the development of political, social, and economic freedoms and respect for human rights, including freedom of religion or belief, in such country; and

(3) conduct meetings with civil society, interviews with media that can directly reach citizens of each such country, and discussions with students and young people of each such country regarding progress toward a democratic system of governance and the development of political, social, and economic freedoms in each such country.

(d) Recruitment

The Secretary should seek to increase the proportion of members of the Foreign Service who serve in the Bureau of Democracy, Human Rights, and Labor.

(e) Authorization of appropriations

There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this section.

(Pub. L. 110–53, title XXI, §2111, Aug. 3, 2007, 121 Stat. 529.)

§8212. Democracy Fellowship Program

(a) Requirement for Program

The Secretary shall establish a Democracy Fellowship Program to enable officers of the Department to gain an additional perspective on democracy promotion in foreign countries by working on democracy issues in appropriate congressional offices or congressional committees with oversight over the subject matter of this chapter, including the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate, and international or nongovernmental organizations involved in democracy promotion.

(b) Selection and placement

The Assistant Secretary shall play a central role in the selection of Democracy Fellows and facilitate their placement in appropriate congressional offices, congressional committees, international organizations, and nongovernmental organizations.

(Pub. L. 110–53, title XXI, §2112, Aug. 3, 2007, 121 Stat. 531.)

§8213. Investigations of violations of international humanitarian law

(a) In general

The President, with the assistance of the Secretary, the Under Secretary of State for Democracy and Global Affairs, and the Ambassador-at-Large for War Crimes Issues, shall collect information regarding incidents that may constitute crimes against humanity, genocide, slavery, or other violations of international humanitarian law.

(b) Accountability

The President shall consider what actions can be taken to ensure that any government of a country or the leaders or senior officials of such government who are responsible for crimes against humanity, genocide, slavery, or other violations of international humanitarian law identified under subsection (a) are brought to account for such crimes in an appropriately constituted tribunal.

(Pub. L. 110–53, title XXI, §2113, Aug. 3, 2007, 121 Stat. 531.)

SUBCHAPTER II—STRATEGIES AND REPORTS ON HUMAN RIGHTS AND THE PROMOTION OF DEMOCRACY

§8221. Strategies, priorities, and annual report

(a) Expansion of country-specific strategies to promote democracy

(1) Commendation

Congress commends the Secretary for the ongoing work by the Department to develop country-specific strategies for promoting democracy.

(2) Expansion

The Secretary shall expand the development of such strategies to all nondemocratic countries and democratic transition countries.

(3) Briefings

The Secretary shall keep the appropriate congressional committees fully and currently informed as such strategies are developed.

(b) Omitted

(c) Enhanced report

The Annual Report on Advancing Freedom and Democracy shall include, as appropriate—

(1) United States priorities for the promotion of democracy and the protection of human rights for each nondemocratic country and democratic transition country, developed in consultation with relevant parties in such countries; and

(2) specific actions and activities of chiefs of missions and other United States officials to promote democracy and protect human rights in each such country.

(Pub. L. 110–53, title XXI, §2121, Aug. 3, 2007, 121 Stat. 531.)

CODIFICATION

Section is comprised of section 2121 of Pub. L. 110–53. Subsecs. (b) and (d) of section 2121 of Pub. L. 110–53 amended section 665(c) of Pub. L. 107–228 which is set out as a note under section 2151n of this title.

§8222. Translation of human rights reports

(a) In general

The Secretary shall continue to expand the timely translation of the applicable parts of the Country Reports on Human Rights Practices required under sections 2151n(d) and 2304(b) of this title, the Annual Report on International Religious Freedom required under section 6412(b) of this title, the Trafficking in Persons Report required under section 7107(b) of this title, and any separate report on democracy and human rights policy submitted in accordance with section 665(c) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228; 22 U.S.C. 2151n note) into the principal languages of as many countries as possible, with particular emphasis on nondemocratic countries, democratic transition countries, and countries in which extrajudicial killings, torture, or other serious violations of human rights have occurred.

(b) Report

(1) Requirement

Not later than April 1, 2008, and annually thereafter through 2010, the Secretary shall submit to the appropriate congressional committees a report describing any translations of the reports specified in subsection (a) for the preceding year, including which of such reports have been

translated into which principal languages and the countries in which such translations have been distributed by posting on a relevant website or elsewhere.

(2) Form

The report required under paragraph (1) may be included in any separate report on democracy and human rights policy submitted in accordance with section 665(c) of the Foreign Relations Authorization Act, Fiscal Year 2003.

(Pub. L. 110–53, title XXI, §2122, Aug. 3, 2007, 121 Stat. 532.)

SUBCHAPTER III—ADVISORY COMMITTEE ON DEMOCRACY PROMOTION AND THE INTERNET WEBSITE OF THE DEPARTMENT OF STATE

§8231. Advisory Committee on Democracy Promotion

Congress commends the Secretary for creating an Advisory Committee on Democracy Promotion, and it is the sense of Congress that the Committee should play a significant role in the Department's transformational diplomacy by advising the Secretary regarding United States efforts to promote democracy and democratic transition in connection with the formulation and implementation of United States foreign policy and foreign assistance, including reviewing and making recommendations on—

(1) how to improve the capacity of the Department to promote democracy and human rights; and

(2) how to improve foreign assistance programs related to the promotion of democracy.

(Pub. L. 110–53, title XXI, §2131, Aug. 3, 2007, 121 Stat. 533.)

§8232. Sense of Congress regarding the Internet website of the Department of State

It is the sense of Congress that in order to facilitate access by individuals, nongovernmental organizations, and movements in foreign countries to documents, streaming video and audio, and other media regarding democratic principles, practices, and values, and the promotion and strengthening of democracy, the Secretary should take additional steps to enhance the Internet site for global democracy and human rights of the Department, which should include, where practicable, the following:

(1) Narratives and histories, published by the United States Government, of significant democratic movements in foreign countries, particularly regarding successful nonviolent campaigns to promote democracy in non-democratic countries and democratic transition countries.

(2) Narratives, published by the United States Government, relating to the importance of the establishment of and respect for internationally recognized human rights, democratic principles, practices, and values, and other fundamental freedoms.

(3) Major human rights reports by the United States Government, including translations of such materials, as appropriate.

(4) Any other documents, references, or links to appropriate external Internet websites (such as websites of international or nongovernmental organizations), including references or links to training materials, narratives, and histories regarding successful democratic movements.

(Pub. L. 110–53, title XXI, §2132, Aug. 3, 2007, 121 Stat. 533.)

SUBCHAPTER IV—TRAINING IN DEMOCRACY AND HUMAN RIGHTS; INCENTIVES

§8241. Training in democracy promotion and the protection of human rights

(a) In general

The Secretary shall continue to enhance training for members of the Foreign Service and civil service responsible for the promotion of democracy and the protection of human rights. Such training shall include appropriate instruction and training materials regarding:

(1) International documents and United States policy regarding the promotion of democracy and respect for human rights.

(2) United States policy regarding the promotion and strengthening of democracy around the world, with particular emphasis on the transition to democracy in nondemocratic countries and democratic transition countries.

(3) For any member, chief of mission, or deputy chief of mission who is to be assigned to a nondemocratic country or democratic transition country, ways to promote democracy in such country and to assist individuals, nongovernmental organizations, and movements in such country that support democratic principles, practices, and values.

(4) The protection of internationally recognized human rights (including the protection of religious freedom) and standards related to such rights, provisions of United States law related to such rights, diplomatic tools to promote respect for such rights, and the protection of individuals who have fled their countries due to violations of such rights.

(b) Consultation

The Secretary, acting through the Director of the National Foreign Affairs Training Center of the Foreign Service Institute of the Department, shall consult, as appropriate, with nongovernmental organizations involved in the protection and promotion of such rights and the United States Commission on International Religious Freedom with respect to the training required by this subsection.[1]

(c) Report

Not later than 180 days after August 3, 2007, the Secretary shall submit to the appropriate congressional committees a report containing a description of the current and planned training provided to Foreign Service officers in human rights and democracy promotion, including such training provided to chiefs of mission serving or preparing to serve in nondemocratic countries or democratic transition countries.

(Pub. L. 110–53, title XXI, §2141, Aug. 3, 2007, 121 Stat. 534.)

CHANGE OF NAME

References to National Foreign Affairs Training Center considered to refer to George P. Shultz National Foreign Affairs Training Center, see section 1(b) of Pub. L. 107–132, set out as a note under section 4021 of this title.

[1] *So in original. Probably should be "section".*

§8242. Sense of Congress regarding ADVANCE Democracy Award

It is the sense of Congress that—

(1) the Secretary should further strengthen the capacity of the Department to carry out results-based democracy promotion efforts through the establishment of an annual award to be known as the "Outstanding Achievements in Advancing Democracy Award", or the "ADVANCE Democracy Award", that would be awarded to officers or employees of the Department; and

(2) the Secretary should establish procedures for selecting recipients of such award, including any financial terms associated with such award.

(Pub. L. 110–53, title XXI, §2142, Aug. 3, 2007, 121 Stat. 534.)

§8243. Personnel policies at the Department of State

In addition to the awards and other incentives already implemented, the Secretary should increase incentives for members of the Foreign Service and other employees of the Department who take assignments relating to the promotion of democracy and the protection of human rights, including the following:

(1) Providing performance pay under section 3965 of this title to such members and employees who carry out their assignment in an outstanding manner.

(2) Considering such an assignment as a basis for promotion into the Senior Foreign Service.

(3) Providing Foreign Service Awards under section 4013 of this title to such members and employees who provide distinguished or meritorious service in the promotion of democracy or the protection of human rights.

(Pub. L. 110–53, title XXI, §2143, Aug. 3, 2007, 121 Stat. 535.)

SUBCHAPTER V—COOPERATION WITH DEMOCRATIC COUNTRIES

§8251. Cooperation with democratic countries

(a) Sense of Congress

It is the sense of Congress that the United States should cooperate with other democratic countries to—

(1) promote and protect democratic principles, practices, and values;

(2) promote and protect shared political, social, and economic freedoms, including the freedoms of association, of expression, of the press, of religion, and to own private property;

(3) promote and protect respect for the rule of law;

(4) develop, adopt, and pursue strategies to advance common interests in international organizations and multilateral institutions to which members of cooperating democratic countries belong; and

(5) provide political, economic, and other necessary support to countries that are undergoing a transition to democracy.

(b) Community of Democracies

(1) Sense of Congress

It is the sense of Congress that—

(A) the Community of Democracies should develop a more formal mechanism for carrying out work between ministerial meetings, such as through the creation of a permanent secretariat with appropriate staff to carry out such work, and should establish a headquarters; and

(B) nondemocratic countries should not participate in any association or group of democratic countries aimed at working together to promote democracy.

(2) Detail of personnel

The Secretary is authorized to detail on a nonreimbursable basis any employee of the Department to any permanent secretariat of the Community of Democracies or to the government of any country that is a member of the Convening Group of the Community of Democracies.

(c) Establishment of an office for multilateral democracy promotion

The Secretary should establish an office of multilateral democracy promotion with the mission to further develop and strengthen the institutional structure of the Community of Democracies, develop interministerial projects, enhance the United Nations Democracy Caucus, manage policy development of the United Nations Democracy Fund, and enhance coordination with other regional and multilateral bodies with jurisdiction over democracy issues.

(d) International Center for Democratic Transition

(1) Sense of Congress

It is the sense of Congress that the International Center for Democratic Transition, an initiative of the Government of Hungary, serves to promote practical projects and the sharing of best practices in the area of democracy promotion and should be supported by, in particular, the United States, other European countries with experiences in democratic transitions, and private individuals.

(2) Authorization of appropriations

There is authorized to be appropriated $1,000,000 for each of fiscal years 2008, 2009, and 2010 to the Secretary for a grant to the International Center for Democratic Transition. Amounts appropriated under this paragraph are authorized to remain available until expended.

(Pub. L. 110–53, title XXI, §2151, Aug. 3, 2007, 121 Stat. 535.)

SUBCHAPTER VI—FUNDING FOR PROMOTION OF DEMOCRACY

§8261. The United Nations Democracy Fund

(a) Sense of Congress

It is the sense of Congress that the United States should work with other countries to enhance the goals and work of the United Nations Democracy Fund, an essential tool to promote democracy, and in particular support civil society in foreign countries in their efforts to help consolidate democracy and bring about transformational change.

(b) Authorization of appropriations

There is authorized to be appropriated $14,000,000 for each of fiscal years 2008 and 2009 to the Secretary for a United States contribution to the United Nations Democracy Fund.

(Pub. L. 110–53, title XXI, §2161, Aug. 3, 2007, 121 Stat. 536.)

§8262. United States democracy assistance programs

(a) Sense of Congress regarding use of instruments of democracy promotion

It is the sense of Congress that—

(1) United States support for democracy is strengthened by using a variety of different instrumentalities, such as the National Endowment for Democracy, the United States Agency for International Development, and the Department; and

(2) the purpose of the Department's Human Rights and Democracy Fund should be to support innovative programming, media, and materials designed to uphold democratic principles, practices, and values, support and strengthen democratic institutions, promote human rights and the rule of law, and build civil societies in countries around the world.

(b) Sense of Congress regarding mechanisms for delivering assistance

(1) Findings

Congress finds the following:

(A) Democracy assistance has many different forms, including assistance to promote the rule of law, build the capacity of civil society, political parties, and legislatures, improve the independence of the media and the judiciary, enhance independent auditing functions, and advance security sector reform.

(B) There is a need for greater clarity on the coordination and delivery mechanisms for United States democracy assistance.

(2) Sense of Congress

It is the sense of Congress that the Secretary and the Administrator of the United States Agency for International Development should develop guidelines, in consultation with the appropriate congressional committees, building on the existing framework for grants, cooperative agreements, contracts, and other acquisition mechanisms to guide United States missions in foreign countries in coordinating United States democracy assistance and selecting the appropriate combination of such mechanisms for such assistance.

(Pub. L. 110–53, title XXI, §2162, Aug. 3, 2007, 121 Stat. 536.)

CHAPTER 90—VOLUNTEERS FOR PROSPERITY PROGRAM

Sec.

8301. Findings.
8302. Definitions.
8303. Office of Volunteers for Prosperity.
8304. Authorization of appropriations.

§8301. Findings

Congress makes the following findings:

(1) Americans engaged in international volunteer service, and the organizations deploying them—

(A) play critical roles in responding to the needs of people living throughout the developing world; and

(B) advance the international public diplomacy of the United States.

(2) The Volunteers for Prosperity Program has successfully promoted international volunteer service by skilled American professionals.

(3) In its first 4 years, the VfP Program helped to mobilize 74,000 skilled Americans, including doctors, nurses, engineers, businesspeople, and teachers, through a network of 250 nonprofit organizations and companies in the United States, to carry out development and humanitarian efforts for those affected by great global challenges in health, the environment, poverty, illiteracy, financial literacy, disaster relief, and other challenges.

(4) The VfP Program has undertaken activities, including—

(A) direct outreach to leading nonprofit organizations and companies in the United States;

(B) promotion of the work of skilled Americans and nonprofit organizations and companies in the United States as it relates to international volunteer service;

(C) public recognition of skilled American volunteers;

(D) support for organizations that utilize skilled Americans as volunteers;

(E) participation in the development of special initiatives to further opportunities for skilled Americans; and

(F) leadership of an innovative public-private partnership to provide eligible skilled [1] with financial assistance for volunteer assignments.

(Pub. L. 111–13, title V, §5101, Apr. 21, 2009, 123 Stat. 1597.)

EFFECTIVE DATE

Chapter effective Oct. 1, 2009, see section 6101(a) of Pub. L. 111–13, set out as an Effective Date of 2009 Amendment note under section 4950 of Title 42, The Public Health and Welfare.

EX. ORD. NO. 13317. VOLUNTEERS FOR PROSPERITY

Ex. Ord. No. 13317, Sept. 25, 2003, 68 F.R. 56515, as amended by Ex. Ord. No. 13418, Dec. 14, 2006, 71 F.R. 75647, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to encourage volunteer service by highly skilled Americans to support major initiatives by the United States for promoting health and prosperity around the world, it is hereby ordered as follows:

SECTION 1. (a) *Policy*. A part of USA Freedom Corps, "Volunteers for Prosperity" is a call to service to support major U.S. initiatives that promote health and prosperity around the world. Deploying highly skilled volunteers abroad is an efficient way to use our resources consistent with the objectives of the United States Government's global prosperity agenda. United States volunteers will help to achieve the objectives of the global prosperity agenda, including providing clean water to the poor, promoting democratic governance, developing economic freedom, promoting free and open markets, stemming the spread of HIV/AIDS and controlling malaria.

The investment of Federal resources to enable U.S. volunteers to work with nongovernmental and voluntary service organizations overseas is a preferred use of our resources and also will help leverage private sector resources. United States citizens who are skilled professionals and who volunteer, when matched with organizations working on specific U.S. prosperity initiatives overseas, can provide invaluable support for these initiatives and will supplement and complement the traditions and accomplishments of the Peace Corps.

United States prosperity initiatives that can benefit from volunteer service include, but are not limited to, the Emergency Plan for AIDS Relief, the Digital Freedom Initiative, the Water for the Poor Initiative, the Trade for African Development and Enterprise Initiative, the Middle East Partnership Initiative, and the President's Malaria Initiative.

Volunteer service in support of other initiatives, consistent with U.S. foreign policy, shall be considered as well.

(b) *Applicability*. The following agencies are subject to the requirements of this order: the United States Agency for International Development (USAID), the Department of State, the Department of Commerce, the Department of Health and Human Services, and such other Federal agencies as the President may designate in the future.

SEC. 2. *Establishment*. (a) Agencies subject to this order shall each establish within their respective organizations an Office for Volunteers for Prosperity (Office) or, as appropriate, an operating unit within an office.

(b) Each agency subject to this order shall provide its Office or unit with appropriate staff, administrative support, and resources to meet its responsibilities under this order.

(c) Each of these Offices or units shall begin operations no later than 30 days from the date of this order.

(d) Agencies subject to this order shall consider, in evaluating grant applications for assistance activities to be implemented abroad, the applicant's use of highly skilled U.S. volunteers to support U.S. prosperity objectives and initiatives.

SEC. 3. *Purpose*. To the extent permitted by law, the purpose of the Offices will be to promote, expand, and enhance well-defined volunteer service opportunities for highly skilled U.S. professionals who wish to work with nongovernmental and voluntary service organizations around the world in support of major U.S. prosperity initiatives as identified in section 1 of this order. Such promotion, expansion, and enhancement would include actively participating in the design and selection processes for grants within their agencies, tracking the use of U.S. private volunteer organizations by their agencies, and coordinating with White House Offices including the USA Freedom Corps, the Office of National AIDS Policy, and the Office of Faith-Based and Community Initiatives, as appropriate.

SEC. 4. *Funding*. Agencies subject to this order are hereby directed to use their best efforts to use funds available for the U.S. prosperity initiatives listed in section 1 of this order to provide appropriate support to organizations that use highly skilled U.S. volunteers to accomplish the objectives identified in those initiatives.

SEC. 5. *Coordination*. The USAID shall serve as the inter-agency coordinator for the Volunteers for Prosperity initiative. In that capacity, the USAID shall coordinate the activities that fall within the scope of the initiative and report on the progress of the initiative to the USA Freedom Corps Office, within the White

House Office. The reports shall be submitted within 180 days after the date of this order and annually thereafter. The USA Freedom Corps Council shall encourage consistency in policies and practices within the agencies subject to this order, as appropriate, for purposes related to the Volunteers for Prosperity initiative.

SEC. 6. *Administration*. The actions directed by this order shall be carried out subject to the availability of appropriations, to the extent permitted by law, and consistent with the agencies' missions.

SEC. 7. *Judicial Review*. This order is intended only to improve the internal management of the executive branch of the Federal Government, and it is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity, against the United States, its departments, agencies, or other entities, its officers or employees, or any other person.

GEORGE W. BUSH.

[1] *So in original. Probably should be "eligible skilled professionals".*

§8302. Definitions

In this chapter:

(1) VfP Office

The term "VfP Office" means the Office of Volunteers for Prosperity of the United States Agency for International Development.

(2) VfP Program

The term "VfP Program" means the Volunteers for Prosperity Program established through Executive Order 13317.

(3) VfPServe

The term "VfPServe" means a program established by the VfP Office, in cooperation with the USA Freedom Corps, to provide eligible skilled professionals with fixed amount stipends to offset the travel and living costs of volunteering abroad.

(Pub. L. 111–13, title V, §5102, Apr. 21, 2009, 123 Stat. 1598.)

REFERENCES IN TEXT

Executive Order 13317, referred to in par. (2), is set out as a note under section 8301 of this title.

§8303. Office of Volunteers for Prosperity

(a) Functions

The VfP Office shall pursue the objectives of the VfP Program described in subsection (b) by—

(1) implementing the VfPServe Program to provide eligible skilled professionals with matching grants to offset the travel and living expenses of volunteering abroad with nonprofit organizations;

(2) otherwise promoting short- and long-term international volunteer service by skilled American professionals, including connecting such professionals with nonprofit organizations, to achieve such objectives;

(3) helping nonprofit organizations in the United States recruit and effectively manage additional skilled American professionals for volunteer assignments throughout the developing world;

(4) providing recognition for skilled American volunteers and the organizations deploying them;

(5) helping nonprofit organizations and corporations in the United States to identify resources and opportunities in international volunteer service utilizing skilled Americans;

(6) encouraging the establishment of international volunteer programs for employees of United States corporations; and

(7) encouraging international voluntary service by highly skilled Americans to promote health and prosperity throughout the world.

(b) VfP Program objectives

The objectives of the VfP Program should include—

(1) eliminating extreme poverty;

(2) reducing world hunger and malnutrition;

(3) increasing access to safe potable water;

(4) enacting universal education;

(5) reducing child mortality and childhood diseases;

(6) combating the spread of preventable diseases, including HIV, malaria, and tuberculosis;

(7) providing educational and work skill support for girls and empowering women to achieve independence;

(8) creating sustainable business and entrepreneurial opportunities; and

(9) increasing access to information technology.

(c) Volunteers for Prosperity Service Incentive Program

(1) In general

The VfP Office may provide matching grants to offset the travel and living costs of volunteering abroad to any eligible organization that—

(A) has members who possess skills relevant to addressing any objective described in subsection (b); and

(B) provides a dollar-for-dollar match for such grant—

(i) through the organization with which the individual is serving; or

(ii) by raising private funds.

(2) Nondiscrimination requirement

The VfP Office may not provide a stipend to an individual under paragraph (1) unless the nonprofit organization to which the individual is assigned has certified to the VfP Office that it does not discriminate with respect to any project or activity receiving Federal financial assistance, including a stipend under this chapter, because of race, religion, color, national origin, sex, political affiliation, or beliefs.

(3) Compliance with ineligible service categories

Service carried out by a volunteer receiving funds under this section may not provide a direct benefit to any—

(A) business organized for profit;

(B) labor union;

(C) partisan political organization; or

(D) religious or faith-based organization for the purpose of proselytization, worship or any other explicitly religious activity.

(d) Funding

(1) In general

The Administrator of the United States Agency for International Development shall make available the amounts appropriated pursuant to section 8304 of this title to the VfP Office to pursue the objectives described in subsection (b) by carrying out the functions described in subsection (a).

(2) Use of funds

Amounts made available under paragraph (1) may be used by the VfP Office to provide personnel and other resources to develop, manage, and expand the VfP Program, under the supervision of the United States Agency for International Development.

(e) Coordination

The VfP Office shall coordinate its efforts with other public and private efforts that aim to send skilled professionals to serve in developing nations.

(f) Report

The VfP Office shall submit an annual report to Congress on the activities of the VfP Office.

(Pub. L. 111–13, title V, §5103, Apr. 21, 2009, 123 Stat. 1598.)

§8304. Authorization of appropriations

(a) In general

There are authorized to be appropriated to carry out this chapter $10,000,000 for fiscal year 2010, and such sums as may be necessary for each of the fiscal years 2011 through 2014.

(b) Allocation of funds

Not more than 10 percent of the amounts appropriated pursuant to subsection (a) may be expended for the administrative costs of the United States Agency for International Development to manage the VfP Program.

(Pub. L. 111–13, title V, §5104, Apr. 21, 2009, 123 Stat. 1600.)

CHAPTER 91—ENHANCED PARTNERSHIP WITH PAKISTAN

Sec.

8401. Definitions.
8402. Findings.
8403. Statement of principles.

SUBCHAPTER I—DEMOCRATIC, ECONOMIC, AND DEVELOPMENT ASSISTANCE FOR PAKISTAN

8411. Authorization of assistance.
8412. Authorization of appropriations.
8413. Auditing.

SUBCHAPTER II—SECURITY ASSISTANCE FOR PAKISTAN

8421. Purposes of assistance.
8422. Authorization of assistance.
8423. Limitations on certain assistance.
8424. Pakistan Counterinsurgency Capability Fund.
8425. Requirements for civilian control of certain assistance.

SUBCHAPTER III—STRATEGY, ACCOUNTABILITY, MONITORING, AND OTHER PROVISIONS

8441. Strategy reports.
8442. Monitoring reports.

§8401. Definitions

In this chapter:

(1) Appropriate congressional committees

Except as otherwise provided in this chapter, the term "appropriate congressional committees" means the Committees on Appropriations and Foreign Relations of the Senate and the Committees on Appropriations and Foreign Affairs of the House of Representatives.

(2) Counterinsurgency

The term "counterinsurgency" means efforts to defeat organized movements that seek to overthrow the duly constituted Governments of Pakistan and Afghanistan through violent means.

(3) Counterterrorism

The term "counterterrorism" means efforts to combat al Qaeda and other foreign terrorist organizations that are designated by the Secretary of State in accordance with section 1189 of title 8, or other individuals and entities engaged in terrorist activity or support for such activity.

(4) FATA

The term "FATA" means the Federally Administered Tribal Areas of Pakistan.

(5) Frontier Crimes Regulation

The term "Frontier Crimes Regulation" means the Frontier Crimes Regulation, codified under British law in 1901, and applicable to the FATA.

(6) Impact evaluation research

The term "impact evaluation research" means the application of research methods and statistical analysis to measure the extent to which change in a population-based outcome can be attributed to program intervention instead of other environmental factors.

(7) Major defense equipment

The term "major defense equipment" has the meaning given the term in section 2794(6) of this title.

(8) NWFP

The term "NWFP" means the North West Frontier Province of Pakistan, which has Peshawar as its provincial capital.

(9) Operations research

The term "operations research" means the application of social science research methods, statistical analysis, and other appropriate scientific methods to judge, compare, and improve policies and program outcomes, from the earliest stages of defining and designing programs through their development and implementation, with the objective of the rapid dissemination of conclusions and concrete impact on programming.

(10) Security forces of Pakistan

The term "security forces of Pakistan" means the military and intelligence services of the Government of Pakistan, including the Armed Forces, Inter-Services Intelligence Directorate, Intelligence Bureau, police forces, levies, Frontier Corps, and Frontier Constabulary.

(11) Security-related assistance

The term "security-related assistance"—

(A) means—

(i) grant assistance to carry out section 2763 of this title; and

(ii) assistance under chapter 2 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2311 et. seq [1]); but

(B) does not include—

(i) assistance authorized to be appropriated or otherwise made available under any provision of law that is funded from accounts within budget function 050 (National Defense); and

(ii) amounts appropriated or otherwise available to the Pakistan Counterinsurgency Capability Fund established under the Supplemental Appropriations Act, 2009 (Public Law 111–32).

(Pub. L. 111–73, §2, Oct. 15, 2009, 123 Stat. 2060.)

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in par. (11)(A)(ii), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424. Chapter 2 of part II of the Act is classified generally to part II (§2311 et seq.) of subchapter II of chapter 32 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

The Supplemental Appropriations Act, 2009, referred to in par. (11)(B)(ii), is Pub. L. 111–32, June 24, 2009, 123 Stat. 1859. For complete classification of this Act to the Code, see Tables.

SHORT TITLE

Pub. L. 111–73, §1(a), Oct. 15, 2009, 123 Stat. 2060, provided that: "This Act [enacting this chapter] may be cited as the 'Enhanced Partnership with Pakistan Act of 2009'."

[1] *So in original. Probably should be "et seq.".*

§8402. Findings

Congress finds the following:

(1) The people of the Islamic Republic of Pakistan and the United States share a long history of friendship and comity, and the interests of both nations are well-served by strengthening and deepening this friendship.

(2) Since 2001, the United States has contributed more than $15,000,000,000 to Pakistan, of which more than $10,000,000,000 has been security-related assistance and direct payments.

(3) With the free and fair election of February 18, 2008, Pakistan returned to civilian rule, reversing years of political tension and mounting popular concern over military rule and Pakistan's own democratic reform and political development.

(4) Pakistan is a major non-NATO ally of the United States and has been a valuable partner in the battle against al Qaeda and the Taliban, but much more remains to be accomplished by both nations.

(5) The struggle against al Qaeda, the Taliban, and affiliated terrorist groups has led to the deaths of several thousand Pakistani civilians and members of the security forces of Pakistan over the past seven years.

(6) Despite killing or capturing hundreds of al Qaeda operatives and other terrorists—including major al Qaeda leaders, such as Khalid Sheikh Muhammad, Ramzi bin al-Shibh, and Abu Faraj al-Libi—the FATA, parts of the NWFP, Quetta in Balochistan, and Muridke in Punjab remain a sanctuary for al Qaeda, the Afghan Taliban, the Terikh-e Taliban and affiliated groups from which these groups organize terrorist actions against Pakistan and other countries.

(7) The security forces of Pakistan have struggled to contain a Taliban-backed insurgency, recently taking direct action against those who threaten Pakistan's security and stability, including military operations in the FATA and the NWFP.

(8) On March 27, 2009, President Obama noted, "Multiple intelligence estimates have warned that al Qaeda is actively planning attacks on the United States homeland from its safe-haven in Pakistan.".

(9) According to a Government Accountability Office report (GAO–08–622), "since 2003, the [A]dministration's national security strategies and Congress have recognized that a comprehensive plan that includes all elements of national power—diplomatic, military, intelligence, development assistance, economic, and law enforcement support—was needed to address the terrorist threat emanating from the FATA" and that such a strategy was also mandated by section 7102(b)(3) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 22 U.S.C. 2656f note) and section 2042(b)(2) of the Implementing the [1] Recommendations of the 9/11 Commission Act of 2007 (Public Law 110–53; 22 U.S.C. 2375 note).

(10) During 2008 and 2009, the people of Pakistan have been especially hard hit by rising food and commodity prices and severe energy shortages, with 2/3 of the population living on less than $2 a day and 1/5 of the population living below the poverty line according to the United Nations Development Program.

(11) Economic growth is a fundamental foundation for human security and national stability in Pakistan, a country with more than 175,000,000 people, an annual population growth rate of two percent, and a ranking of 136 out of 177 countries in the United Nations Human Development Index.

(12) The 2009 Pakistani military offensive in the NWFP and the FATA displaced millions of residents in one of the gravest humanitarian crises Pakistan has faced, and despite the heroic efforts of Pakistanis to respond to the needs of the displaced millions and facilitate the return of many, it has highlighted the need for Pakistan to develop an effective national counterinsurgency strategy.

(Pub. L. 111–73, §3, Oct. 15, 2009, 123 Stat. 2061.)

[1] *So in original. The word "the" probably should not appear.*

§8403. Statement of principles

Congress declares that the relationship between the United States and Pakistan should be based on the following principles:

(1) Pakistan is a critical friend and ally to the United States, both in times of strife and in times of peace, and the two countries share many common goals, including combating terrorism and violent radicalism, solidifying democracy and rule of law in Pakistan, and promoting the social and economic development of Pakistan.

(2) United States assistance to Pakistan is intended to supplement, not supplant, Pakistan's own efforts in building a stable, secure, and prosperous Pakistan.

(3) The United States requires a balanced, integrated, countrywide strategy for Pakistan that provides assistance throughout the country and does not disproportionately focus on security-related assistance or one particular area or province.

(4) The United States supports Pakistan's struggle against extremist elements and recognizes the profound sacrifice made by Pakistan in the fight against terrorism, including the loss of more than 1,900 soldiers and police since 2001 in combat with al Qaeda, the Taliban, and other extremist and terrorist groups.

(5) The United States intends to work with the Government of Pakistan—

(A) to build mutual trust and confidence by actively and consistently pursuing a sustained, long-term, multifaceted relationship between the two countries, devoted to strengthening the mutual security, stability, and prosperity of both countries;

(B) to support the people of Pakistan and their democratic government in their efforts to consolidate democracy, including strengthening Pakistan's parliament, helping Pakistan reestablish an independent and transparent judicial system, and working to extend the rule of law in all areas in Pakistan;

(C) to promote sustainable long-term development and infrastructure projects, including in healthcare, education, water management, and energy programs, in all areas of Pakistan, that are sustained and supported by each successive democratic government in Pakistan;

(D) to ensure that all the people of Pakistan, including those living in areas governed by the Frontier Crimes Regulation, have access to public, modernized education and vocational training to enable them to provide for themselves, for their families, and for a more prosperous future for their children;

(E) to support the strengthening of core curricula and the quality of schools across Pakistan, including madrassas, in order to improve the prospects for Pakistani children's futures and eliminate incitements to violence and intolerance;

(F) to encourage and promote public-private partnerships in Pakistan in order to bolster ongoing development efforts and strengthen economic prospects, especially with respect to opportunities to build civic responsibility and professional skills of the people of Pakistan, including support for institutions of higher learning with international accreditation;

(G) to expand people-to-people engagement between the two countries, through increased educational, technical, and cultural exchanges and other methods;

(H) to encourage the development of local analytical capacity to measure program effectiveness and progress on an integrated basis, especially across the areas of United States

assistance and payments to Pakistan, and increase accountability for how such assistance and payments are being spent;

(I) to assist Pakistan's efforts to improve counterterrorism financing and anti-money laundering regulatory structure in order to achieve international standards and encourage Pakistan to apply for "Financial Action Task Force" observer status and adhere to the United Nations International Convention for the Suppression of the Financing of Terrorism;

(J) to strengthen Pakistan's counterinsurgency and counterterrorism strategy to help prevent any territory of Pakistan from being used as a base or conduit for terrorist attacks in Pakistan or elsewhere;

(K) to strengthen Pakistan's efforts to develop strong and effective law enforcement and national defense forces under civilian leadership;

(L) to achieve full cooperation in matters of counter-proliferation of nuclear materials and related networks;

(M) to strengthen Pakistan's efforts to gain control of its under-governed areas and address the threat posed by any person or group that conducts violence, sabotage, or other terrorist activities in Pakistan or its neighboring countries; and

(N) to explore means to consult with and utilize the relevant expertise and skills of the Pakistani-American community.

(Pub. L. 111–73, §4, Oct. 15, 2009, 123 Stat. 2063.)

SUBCHAPTER I—DEMOCRATIC, ECONOMIC, AND DEVELOPMENT ASSISTANCE FOR PAKISTAN

§8411. Authorization of assistance

(a) In general

The President is authorized to provide assistance to Pakistan—

(1) to support the consolidation of democratic institutions;

(2) to support the expansion of rule of law, build the capacity of government institutions, and promote respect for internationally-recognized human rights;

(3) to promote economic freedoms and sustainable economic development;

(4) to support investment in people, including those displaced in on-going counterinsurgency operations; and

(5) to strengthen public diplomacy.

(b) Activities supported

Activities that may be supported by assistance under subsection (a) include the following:

(1) To support democratic institutions in Pakistan in order to strengthen civilian rule and long-term stability, including assistance such as—

(A) support for efforts to strengthen Pakistan's institutions, including the capacity of the National Parliament of Pakistan, such as enhancing the capacity of committees to oversee government activities, including national security issues, enhancing the ability of members of parliament to respond to constituents, and supporting of parliamentary leadership;

(B) support for voter education and civil society training as well as appropriate support for political party capacity building and responsiveness to the needs of all the people of Pakistan; and

(C) support for strengthening the capacity of the civilian Government of Pakistan to carry out its responsibilities at the national, provincial, and local levels.

(2) To support Pakistan's efforts to expand rule of law, build the capacity, transparency, and

trust in government institutions, and promote internationally recognized human rights, including assistance such as—

(A) supporting the establishment of frameworks that promote government transparency and criminalize corruption in both the government and private sector;

(B) support for police professionalization, including training regarding use of force, human rights, and community policing;

(C) support for independent, efficient, and effective judicial and criminal justice systems, such as case management, training, and efforts to enhance the rule of law to all areas in Pakistan;

(D) support for the implementation of legal and political reforms in the FATA;

(E) support to counter the narcotics trade;

(F) support for internationally recognized human rights, including strengthening civil society and nongovernmental organizations working in the area of internationally recognized human rights, as well as organizations that focus on protection of women and girls, promotion of freedom of religion and religious tolerance, and protection of ethnic or religious minorities; and

(G) support for promotion of a responsible, capable, and independent media.

(3) To support economic freedom and economic development in Pakistan, including—

(A) programs that support sustainable economic growth, including in rural areas, and the sustainable management of natural resources through investments in water resource management systems;

(B) expansion of agricultural and rural development, such as farm-to-market roads, systems to prevent spoilage and waste, and other small-scale infrastructure improvements;

(C) investments in energy, including energy generation and cross-border infrastructure projects with Afghanistan;

(D) employment generation, including increasing investment in infrastructure projects, including construction of roads and the continued development of a national aviation industry and aviation infrastructure, as well as support for small and medium enterprises;

(E) worker rights, including the right to form labor unions and legally enforce provisions safeguarding the rights of workers and local community stakeholders;

(F) access to microfinance for small business establishment and income generation, particularly for women; and

(G) countering radicalization by providing economic, social, educational, and vocational opportunities and life-skills training to at-risk youth.

(4) To support investments in people, particularly women and children, including—

(A) promoting modern, public primary and secondary education and vocational and technical training, including programs to assist in the development of modern, nationwide school curriculums for public, private, and religious schools; support for the proper oversight of all educational institutions, including religious schools, as required by Pakistani law; initiatives to enhance access to education and vocational and technical training for women and girls and to increase women's literacy, with a special emphasis on helping girls stay in school; and construction and maintenance of libraries and public schools;

(B) programs relating to higher education to ensure a breadth and consistency of Pakistani graduates, including through public-private partnerships;

(C) improving quality public health to eliminate diseases such as hepatitis and to reduce maternal and under-five mortality rates;

(D) building capacity for nongovernmental and civil society organizations, particularly organizations with demonstrated experience in delivering services to the people of Pakistan, particularly to women, children, and other vulnerable populations; and

(E) support for refugees and internally displaced persons and long-term development in regions of Pakistan where internal conflict has caused large-scale displacement.

(5) To strengthen public diplomacy to combat militant extremism and promote a better understanding of the United States, including—

(A) encouraging civil society, respected scholars, and other leaders to speak out against militancy and violence; and

(B) expanded exchange activities under the Fulbright Program, the International Visitor Leadership Program, the Youth Exchange and Study Program, and related programs administered by the Department of State designed to promote mutual understanding and interfaith dialogue and expand sister institution programs between United States and Pakistani schools and universities.

(c) Additional and related activities

(1) Availability of amounts for Pakistani police professionalization, equipping, and training

Not less than $150,000,000 of the amounts appropriated for fiscal year 2010 pursuant to the authorization of appropriations under section 8412 of this title should be made available for assistance to Pakistan under this section for police professionalization, equipping, and training.

(2) Availability of amounts for administrative expenses

Up to $10,000,000 of the amounts appropriated for each fiscal year pursuant to the authorization of appropriations under section 8412 of this title may be made available for administrative expenses of civilian departments and agencies of the United States Government in connection with the provision of assistance under this section. Such amounts shall be in addition to amounts otherwise available for such purposes.

(3) Utilizing Pakistani organizations

The President is encouraged, as appropriate, to utilize Pakistani firms and community and local nongovernmental organizations in Pakistan, including through host country contracts, and to work with local leaders to provide assistance under this section.

(4) Use of direct expenditures

Amounts appropriated for each fiscal year pursuant to the authorization of appropriations under section 8412 of this title or otherwise made available to carry out this section shall be utilized to the maximum extent possible as direct expenditures for projects and programs, subject to existing reporting and notification requirements.

(5) Chief of Mission Fund

Of the amounts appropriated for each fiscal year pursuant to the authorization of appropriations under section 8412 of this title, up to $5,000,000 may be used by the Secretary of State to establish a fund for use by the Chief of Mission in Pakistan to provide assistance to Pakistan under this subchapter or the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) to address urgent needs or opportunities, consistent with the purposes of this section, or for purposes of humanitarian relief. The fund established pursuant to this paragraph may be referred to as the "Chief of Mission Fund".

(6) Sense of Congress

It is the sense of Congress that—

(A) the United States should provide robust assistance to the people of Pakistan who have been displaced as a result of ongoing conflict and violence in Pakistan and support international efforts to coordinate assistance to refugees and internally displaced persons in Pakistan, including by providing support to international and nongovernmental organizations for this purpose;

(B) the Administrator of the United States Agency for International Development should support the development objectives of the Refugee Affected and Host Areas (RAHA) Initiative in Pakistan to address livelihoods, health, education, infrastructure development, and environmental restoration in identified parts of the country where Afghan refugees have lived; and

(C) the United States should have a coordinated, strategic communications strategy to engage the people of Pakistan and to help ensure the success of the measures authorized by this subchapter.

(d) Notification

For fiscal years 2010 through 2014, the President shall notify the appropriate congressional committees not later than 15 days before obligating any assistance under this section as budgetary support to the Government of Pakistan or any element of the Government of Pakistan and shall include in such notification a description of the purpose and conditions attached to any such budgetary support.

(Pub. L. 111–73, title I, §101, Oct. 15, 2009, 123 Stat. 2064.)

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsec. (c)(5), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, which is classified principally to chapter 32 (§2151 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

§8412. Authorization of appropriations

(a) In general

There are authorized to be appropriated to the President, for the purposes of providing assistance to Pakistan under this subchapter and to provide assistance to Pakistan under the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), up to $1,500,000,000 for each of the fiscal years 2010 through 2014.

(b) Availability of funds

(1) In general

Of the amounts appropriated in each fiscal year pursuant to the authorization of appropriations in subsection (a)—

(A) none of the amounts appropriated for assistance to Pakistan may be made available after the date that is 60 days after October 15, 2009, unless the Pakistan Assistance Strategy Report has been submitted to the appropriate congressional committees pursuant to section 8441(a) of this title; and

(B) not more than $750,000,000 may be made available for assistance to Pakistan unless the President's Special Representative to Afghanistan and Pakistan submits to the appropriate congressional committees during such fiscal year—

(i) a certification that assistance provided to Pakistan under this subchapter or the Foreign Assistance Act of 1961 to date has made or is making reasonable progress toward achieving the principal objectives of United States assistance to Pakistan contained in the Pakistan Assistance Strategy Report; and

(ii) a memorandum explaining the reasons justifying the certification described in clause (i).

(2) Maker of certification

In the event of a vacancy in, or the termination of, the position of the President's Special Representative to Afghanistan and Pakistan, the certification and memorandum described under paragraph (1)(B) may be made by the Secretary of State.

(c) Waiver

The Secretary of State may waive the limitations in subsection (b) if the Secretary determines, and certifies to the appropriate congressional committees, that it is in the national security interests of the United States to do so.

(d) Sense of Congress on foreign assistance funds

It is the sense of Congress that, subject to an improving political and economic climate in Pakistan, there should be authorized to be appropriated up to $1,500,000,000 for each of the fiscal years 2015 through 2019 for the purpose of providing assistance to Pakistan under the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.].

(Pub. L. 111–73, title I, §102, Oct. 15, 2009, 123 Stat. 2068.)

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsecs. (a), (b)(1)(B)(i), and (d), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, which is classified principally to chapter 32 (§2151 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

§8413. Auditing

(a) Assistance authorized

The Inspector General of the Department of State, the Inspector General of the United States Agency for International Development, and the inspectors general of other Federal departments and agencies (other than the Inspector General of the Department of Defense) carrying out programs, projects, and activities using amounts appropriated to carry out this subchapter shall audit, investigate, and oversee the obligation and expenditure of such amounts.

(b) Authorization for in-country presence

The Inspector General of the Department of State and the Inspector General of the United States Agency for International Development, after consultation with the Secretary of State and the Administrator of the United States Agency for International Development, are authorized to establish field offices in Pakistan with sufficient staff from each of the Offices of the Inspector General, respectively, to carry out subsection (a).

(c) Authorization of appropriations

(1) In general

Of the amounts authorized to be appropriated under section 8412 of this title for each of the fiscal years 2010 through 2014, up to $30,000,000 for each fiscal year is authorized to be made available to carry out this section.

(2) Relation to other available funds

Amounts made available under paragraph (1) are in addition to amounts otherwise available for such purposes.

(Pub. L. 111–73, title I, §103, Oct. 15, 2009, 123 Stat. 2069.)

SUBCHAPTER II—SECURITY ASSISTANCE FOR PAKISTAN

§8421. Purposes of assistance

The purposes of assistance under this subchapter are—

(1) to support Pakistan's paramount national security need to fight and win the ongoing counterinsurgency within its borders in accordance with its national security interests;

(2) to work with the Government of Pakistan to improve Pakistan's border security and control and help prevent any Pakistani territory from being used as a base or conduit for terrorist attacks in Pakistan, or elsewhere;

(3) to work in close cooperation with the Government of Pakistan to coordinate action against extremist and terrorist targets; and

(4) to help strengthen the institutions of democratic governance and promote control of military institutions by a democratically elected civilian government.

(Pub. L. 111–73, title II, §201, Oct. 15, 2009, 123 Stat. 2069.)

§8422. Authorization of assistance

(a) International military education and training

(1) In general

There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2010 through 2014 for assistance under chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 et seq.; relating to international military education and training) for Pakistan, including expanded international military education and training (commonly known as "E–IMET").

(2) Use of funds

It is the sense of Congress that a substantial amount of funds made available to carry out this subsection for a fiscal year should be used to pay for courses of study and training in counterinsurgency and civil-military relations.

(b) Foreign Military Financing program

(1) In general

There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2010 through 2014 for grant assistance under section 2763 of this title (relating to the Foreign Military Financing program) for the purchase of defense articles, defense services, and military education and training for Pakistan.

(2) Use of funds

(A) In general

A significant portion of the amount made available to carry out this subsection for a fiscal year shall be for the purchase of defense articles, defense services, and military education and training for activities relating to counterinsurgency and counterterrorism operations in Pakistan.

(B) Sense of Congress

It is the sense of Congress that a significant majority of funds made available to carry out this subsection for a fiscal year should be used for the purpose described in subparagraph (A).

(3) Additional authority

Except as provided in sections 2753 and 2799aa–1 of this title, the second section 620J [1] of the Foreign Assistance Act of 1961 (as added by Public Law 110–161) [22 U.S.C. 2378d], and any provision of an Act making appropriations for the Department of State, foreign operations, and related programs that restricts assistance to the government of any country whose duly elected head of government is deposed by military coup or decree, and except as otherwise provided in this subchapter, amounts authorized to be made available to carry out paragraph (2) for fiscal years 2010 and 2011 are authorized to be made available notwithstanding any other provision of law.

(4) Definitions

In this section, the terms "defense articles", "defense services", and "military education and training" have the meaning given such terms in section 644 of the Foreign Assistance Act of 1961 (22 U.S.C. 2403).

(c) Sense of Congress

It is the sense of Congress that the United States should facilitate Pakistan's establishment of a

program to provide reconstruction assistance, including through Pakistan's military as appropriate, in areas damaged by combat operations.

(d) Exchange program between military and civilian personnel of Pakistan and certain other countries

(1) In general

The Secretary of State is authorized to establish an exchange program between—

(A) military and civilian personnel of Pakistan; and

(B)(i) military and civilian personnel of countries determined by the Secretary of State to be in the process of consolidating and strengthening a democratic form of government; or

(ii) military and civilian personnel of North Atlantic Treaty Organization member countries,

in order to foster greater mutual respect for and understanding of the principle of civilian rule of the military.

(2) Elements of program

The program authorized under paragraph (1) may include conferences, seminars, exchanges, and other events, distribution of publications and reimbursements of expenses of foreign military personnel participating in the program, including transportation, translation and administrative expenses.

(3) Role of nongovernmental organizations

Amounts authorized to be appropriated to carry out this section for a fiscal year are authorized to be made available for nongovernmental organizations to facilitate the implementation of the program authorized under paragraph (1).

(4) Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2010 through 2014 to carry out the program established by this subsection.

(Pub. L. 111–73, title II, §202, Oct. 15, 2009, 123 Stat. 2069.)

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsec. (a)(1), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424. Chapter 5 of part II of the Act is classified generally to part V (§2347 et seq.) of subchapter II of chapter 32 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

The second section 620J of the Foreign Assistance Act of 1961 (as added by Public Law 110–161), referred to in subsec. (b), which is classified to section 2378d of this title, was renumbered section 620M of the Foreign Assistance Act of 1961 by Pub. L. 112–74, div. I, title VII, §7034(k)(1), Dec. 23, 2011, 125 Stat. 1216.

[1] *See References in Text note below.*

§8423. Limitations on certain assistance

(a) Limitation on security-related assistance

For fiscal years 2011 through 2014, no security-related assistance may be provided to Pakistan in a fiscal year until the Secretary of State, under the direction of the President, makes the certification required under subsection (c) for such fiscal year.

(b) Limitation on arms transfers

For fiscal years 2012 through 2014, no letter of offer to sell major defense equipment to Pakistan may be issued pursuant to the Arms Export Control Act (22 U.S.C. 2751 et seq.) and no license to export major defense equipment to Pakistan may be issued pursuant to such Act in a fiscal year until

the Secretary of State, under the direction of the President, makes the certification required under subsection (c) for such fiscal year.

(c) Certification

The certification required by this subsection is a certification by the Secretary of State, under the direction of the President, to the appropriate congressional committees that—

(1) the Government of Pakistan is continuing to cooperate with the United States in efforts to dismantle supplier networks relating to the acquisition of nuclear weapons-related materials, such as providing relevant information from or direct access to Pakistani nationals associated with such networks;

(2) the Government of Pakistan during the preceding fiscal year has demonstrated a sustained commitment to and is making significant efforts towards combating terrorist groups, consistent with the purposes of assistance described in section 8421 of this title, including taking into account the extent to which the Government of Pakistan has made progress on matters such as—

(A) ceasing support, including by any elements within the Pakistan military or its intelligence agency, to extremist and terrorist groups, particularly to any group that has conducted attacks against United States or coalition forces in Afghanistan, or against the territory or people of neighboring countries;

(B) preventing al Qaeda, the Taliban and associated terrorist groups, such as Lashkar-e-Taiba and Jaish-e-Mohammed, from operating in the territory of Pakistan, including carrying out cross-border attacks into neighboring countries, closing terrorist camps in the FATA, dismantling terrorist bases of operations in other parts of the country, including Quetta and Muridke, and taking action when provided with intelligence about high-level terrorist targets; and

(C) strengthening counterterrorism and anti-money laundering laws; and

(3) the security forces of Pakistan are not materially and substantially subverting the political or judicial processes of Pakistan.

(d) Certain payments

(1) In general

Subject to paragraph (2), none of the funds appropriated for security-related assistance for fiscal years 2010 through 2014, or any amounts appropriated to the Pakistan Counterinsurgency Capability Fund established under the Supplemental Appropriations Act, 2009 (Public Law 111–32), may be obligated or expended to make payments relating to—

(A) the Letter of Offer and Acceptance PK–D–YAD signed between the Governments of the United States of America and Pakistan on September 30, 2006;

(B) the Letter of Offer and Acceptance PK–D–NAP signed between the Governments of the United States of America and Pakistan on September 30, 2006; and

(C) the Letter of Offer and Acceptance PK–D–SAF signed between the Governments of the United States of America and Pakistan on September 30, 2006.

(2) Exception

Funds appropriated for security-related assistance for fiscal years 2010 through 2014 may be used for construction and related activities carried out pursuant to the Letters of Offer and Acceptance described in paragraph (1).

(e) Waiver

(1) In general

The Secretary of State, under the direction of the President, may waive the limitations contained in subsections (a), (b), and (d) for a fiscal year if the Secretary of State determines that is important to the national security interests of the United States to do so.

(2) Prior notice of waiver

The Secretary of State, under the direction of the President, may not exercise the authority of paragraph (1) until 7 days after the Secretary of State provides to the appropriate congressional committees a written notice of the intent to issue to waiver [1] and the reasons therefor. The notice may be submitted in classified or unclassified form, as necessary.

(f) Appropriate congressional committees defined

In this section, the term "appropriate congressional committees" means—

(1) the Committee on Foreign Affairs, the Committee on Armed Services, the Committee on Oversight and Government Reform, and the Permanent Select Committee on Intelligence of the House of Representatives; and

(2) the Committee on Foreign Relations, the Committee on Armed Services, and the Select Committee on Intelligence of the Senate.

(Pub. L. 111–73, title II, §203, Oct. 15, 2009, 123 Stat. 2071.)

REFERENCES IN TEXT

The Arms Export Control Act, referred to in subsec. (b), is Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1320, which is classified principally to chapter 39 (§2751 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

The Supplemental Appropriations Act, 2009, referred to in subsec. (d)(1), is Pub. L. 111–32, June 24, 2009, 123 Stat. 1859. For complete classification of this Act to the Code, see Tables.

[1] *So in original.*

§8424. Pakistan Counterinsurgency Capability Fund

(a) For fiscal year 2010

(1) In general

For fiscal year 2010, the Department of State's Pakistan Counterinsurgency Capability Fund established under the Supplemental Appropriations Act, 2009 (Public Law 111–32), hereinafter in this section referred to as the "Fund", shall consist of the following:

(A) Amounts appropriated to carry out this subsection (which may not include any amounts appropriated to carry out subchapter I of this chapter).

(B) Amounts otherwise available to the Secretary of State to carry out this subsection.

(2) Purposes of Fund

Amounts in the Fund made available to carry out this subsection for any fiscal year are authorized to be used by the Secretary of State, with the concurrence of the Secretary of Defense, to build and maintain the counterinsurgency capability of Pakistan under the same terms and conditions (except as otherwise provided in this subsection) that are applicable to amounts made available under the Fund for fiscal year 2009.

(3) Transfer authority

(A) In general

The Secretary of State is authorized to transfer amounts in the Fund made available to carry out this subsection for any fiscal year to the Department of Defense's Pakistan Counterinsurgency Fund established under the Supplemental Appropriations Act, 2009 (Public Law 111–32) and such amounts may be transferred back to the Fund if the Secretary of Defense, with the concurrence of the Secretary of State, determines that such amounts are not needed for the purposes for which initially transferred.

(B) Treatment of transferred funds

Subject to subsections (d) and (e) of section 8423 of this title, transfers from the Fund under the authority of subparagraph (A) shall be merged with and be available for the same purposes

and for the same time period as amounts in the Department of Defense's Pakistan Counterinsurgency Fund.

(C) Relation to other authorities

The authority to provide assistance under this subsection is in addition to any other authority to provide assistance to foreign countries.

(D) Notification

The Secretary of State shall, not less than 15 days prior to making transfers from the Fund under subparagraph (A), notify the appropriate congressional committees in writing of the details of any such transfer.

(b) Submission of notifications

Any notification required by this section may be submitted in classified or unclassified form, as necessary.

(c) Appropriate congressional committees defined

In this section, the term "appropriate congressional committees" means—

(1) the Committee on Appropriations, the Committee on Armed Services, and the Committee on Foreign Affairs of the House of Representatives; and

(2) the Committee on Appropriations, the Committee on Armed Services, and the Committee on Foreign Relations of the Senate.

(Pub. L. 111–73, title II, §204, Oct. 15, 2009, 123 Stat. 2072.)

REFERENCES IN TEXT

The Supplemental Appropriations Act, 2009, referred to in subsec. (a)(1), (3)(A), is Pub. L. 111–32, June 24, 2009, 123 Stat. 1859. For complete classification of this Act to the Code, see Tables.

§8425. Requirements for civilian control of certain assistance

(a) Requirements

(1) In general

For fiscal years 2010 through 2014, any direct cash security-related assistance or non-assistance payments by the United States to the Government of Pakistan may only be provided or made to civilian authorities of a civilian government of Pakistan.

(2) Documentation

For fiscal years 2010 through 2014, the Secretary of State, in coordination with the Secretary of Defense, shall ensure that civilian authorities of a civilian government of Pakistan have received a copy of final documentation provided to the United States related to non-assistance payments provided or made to the Government of Pakistan.

(b) Waiver

(1) Security-related assistance

The Secretary of State, in consultation with the Secretary of Defense, may waive the requirements of subsection (a) with respect to security-related assistance described in subsection (a) funded from accounts within budget function 150 (International Affairs) if the Secretary of State certifies to the appropriate congressional committees that the waiver is important to the national security interest of the United States.

(2) Non-assistance payments

The Secretary of Defense, in consultation with the Secretary of State, may waive the requirements of subsection (a) with respect to non-assistance payments described in subsection (a)

funded from accounts within budget function 050 (National Defense) if the Secretary of Defense certifies to the appropriate congressional committees that the waiver is important to the national security interest of the United States.

(c) Application to certain activities

Nothing in this section shall apply with respect to—

(1) any activities subject to reporting requirements under title V of the National Security Act of 1947 [50 U.S.C. 3091 et seq.];

(2) any assistance to promote democratic elections or public participation in democratic processes;

(3) any assistance or payments if the Secretary of State determines and certifies to the appropriate congressional committees that subsequent to the termination of assistance or payments a democratically elected government has taken office;

(4) any assistance or payments made pursuant to section 1208 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2086), as amended;

(5) any payments made pursuant to the Acquisition and Cross-Servicing Agreement between the Department of Defense of the United States of America and the Ministry of Defense of the Islamic Republic of Pakistan; and

(6) any assistance or payments made pursuant to section 943 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110–417; 122 Stat. 4578).

(d) Definitions

In this section—

(1) the term "appropriate congressional committees" means the Committees on Appropriations, Armed Services, and Foreign Affairs of the House of Representatives and the Committees on Appropriations, Armed Services, and Foreign Relations of the Senate; and

(2) the term "civilian government of Pakistan" does not include any government of Pakistan whose duly elected head of government is deposed by military coup or decree.

(Pub. L. 111–73, title II, §205, Oct. 15, 2009, 123 Stat. 2074.)

REFERENCES IN TEXT

The National Security Act of 1947, referred to in subsec. (c)(1), is act July 26, 1947, ch. 343, 61 Stat. 495, which was formerly classified principally to chapter 15 (§401 et seq.) of Title 50, War and National Defense, prior to editorial reclassification in chapter 44 (§3001 et seq.) of Title 50. Title V of the Act is now classified generally to subchapter III (§3091 et seq.) of chapter 44 of Title 50. For complete classification of this Act to the Code, see Tables.

Section 1208 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2086), referred to in subsec. (c)(4), is not classified to the Code.

Section 943 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110–417; 122 Stat. 4578), referred to in subsec. (c)(6), is not classified to the Code.

SUBCHAPTER III—STRATEGY, ACCOUNTABILITY, MONITORING, AND OTHER PROVISIONS

§8441. Strategy reports

(a) Pakistan assistance strategy report

Not later than 45 days after October 15, 2009, the Secretary of State shall submit to the appropriate congressional committees a report describing United States policy and strategy with respect to assistance to Pakistan under this chapter. The report shall include the following:

(1) A description of the principal objectives of United States assistance to Pakistan to be

provided under subchapter I of this chapter.

(2) A general description of the specific programs, projects, and activities designed to achieve the purposes of section 8411 of this title and the respective funding levels for such programs, projects, and activities for fiscal years 2010 through 2014.

(3) A plan for program monitoring, operations research, and impact evaluation research for assistance authorized under subchapter I of this chapter.

(4) A description of the role to be played by Pakistani national, regional, and local officials and members of Pakistani civil society and local private sector, civic, religious, and tribal leaders in helping to identify and implement programs and projects for which assistance is to be provided under this chapter, and of consultations with such representatives in developing the strategy.

(5) A description of the steps taken, or to be taken, to ensure assistance provided under this chapter is not awarded to individuals or entities affiliated with terrorist organizations.

(6) A projection of the levels of assistance to be provided to Pakistan under this chapter, broken down into the following categories as described in the annual "Report on the Criteria and Methodology for Determining the Eligibility of Candidate Countries for Millennium Challenge Account Assistance":

(A) Civil liberties.
(B) Political rights.
(C) Voice and accountability.
(D) Government effectiveness.
(E) Rule of law.
(F) Control of corruption.
(G) Immunization rates.
(H) Public expenditure on health.
(I) Girls' primary education completion rate.
(J) Public expenditure on primary education.
(K) Natural resource management.
(L) Business start-up.
(M) Land rights and access.
(N) Trade policy.
(O) Regulatory quality.
(P) Inflation control.
(Q) Fiscal policy.

(7) An analysis for the suitable replacement for existing Pakistani helicopters, including recommendations for sustainment and training.

(b) Comprehensive regional strategy report

(1) Sense of Congress

It is the sense of Congress that the achievement of United States national security goals to eliminate terrorist threats and close safe havens in Pakistan requires the development of a comprehensive plan that utilizes all elements of national power, including in coordination and cooperation with other concerned governments, and that it is critical to Pakistan's long-term prosperity and security to strengthen regional relationships among India, Pakistan, and Afghanistan.

(2) Comprehensive regional security strategy

The President shall develop a comprehensive interagency regional security strategy to eliminate terrorist threats and close safe havens in Pakistan, including by working with the Government of Pakistan and other relevant governments and organizations in the region and elsewhere, as appropriate, to best implement effective counterinsurgency and counterterrorism efforts in and near the border areas of Pakistan and Afghanistan, including the FATA, the NWFP, parts of Balochistan, and parts of Punjab.

(3) Report

(A) In general

Not later than 180 days after October 15, 2009, the President shall submit to the appropriate congressional committees a report on the comprehensive regional security strategy required under paragraph (2).

(B) Contents

The report shall include a copy of the comprehensive regional security strategy, including specifications of goals, and proposed timelines and budgets for implementation of the strategy.

(C) Appropriate congressional committees defined

In this paragraph, the term "appropriate congressional committees" means—

(i) the Committee on Appropriations, the Committee on Armed Services, the Committee on Foreign Affairs, and the Permanent Select Committee on Intelligence of the House of Representatives; and

(ii) the Committee on Appropriations, the Committee on Armed Services, the Committee on Foreign Relations, and the Select Committee on Intelligence of the Senate.

(c) Security-related assistance plan

Not later than 180 days after October 15, 2009, the Secretary of State shall submit to the appropriate congressional committees a plan for the proposed use of amounts authorized for security-related assistance for each of the fiscal years 2010 through 2014. Such plan shall include an assessment of how the use of such amounts complements or otherwise is related to amounts described in section 8424 of this title.

(Pub. L. 111–73, title III, §301, Oct. 15, 2009, 123 Stat. 2075.)

DELEGATION OF A REPORTING AUTHORITY

Memorandum of President of the United States, Apr. 7, 2010, 75 F.R. 19533, provided:

Memorandum for the Secretary of State

By the authority vested in me as President by the Constitution and the laws of the United States, including section 301 of title 3, United States Code, I hereby delegate to you the functions and authority conferred upon the President by section 301 of the Enhanced Partnership with Pakistan Act of 2009, Public Law 111–73, to make the specified report to the Congress.

You are authorized and directed to notify the appropriate congressional committees and publish this memorandum in the Federal Register.

BARACK OBAMA.

§8442. Monitoring reports

(a) Semi-annual monitoring report

Not later than 180 days after the submission of the Pakistan Assistance Strategy Report pursuant to section 8441(a) of this title, and every 180 days thereafter through September 30, 2014, the Secretary of State, in consultation with the Secretary of Defense, shall submit to the appropriate congressional committees a report that describes the assistance provided under this chapter during the preceding 180-day period. The report shall include—

(1) a description of all assistance by program, project, and activity, as well as by geographic area, provided pursuant to subchapter I of this chapter during the period covered by the report, including the amount of assistance provided for each program or project, and with respect to the first report a description of all amounts made available for assistance to Pakistan during fiscal year 2009, including a description of each program, project, and activity for which funds were made available;

(2) a list of persons or entities from the United States or other countries that have received funds in excess of $100,000 to conduct projects under subchapter I of this chapter during the period

covered by the report, which may be included in a classified annex, if necessary to avoid a security risk, and a justification for the classification;

(3) with respect to the plan described in section 8441(a)(3) of this title, updates to such plan and a description of best practices to improve the impact of the assistance authorized under subchapter I of this chapter;

(4) an assessment of the effectiveness of assistance provided under subchapter I of this chapter during the period covered by the report in achieving desired objectives and outcomes as guided by the plan described in section 8441(a)(3) of this title, and as updated pursuant to paragraph (3) of this subsection, including a systematic, qualitative, and where possible, quantitative basis for assessing whether desired outcomes are achieved and a timeline for completion of each project and program;

(5) a description of any shortfall in United States financial, physical, technical, or human resources that hinder the effective use and monitoring of such funds;

(6) a description of any negative impact, including the absorptive capacity of the region for which the resources are intended, of United States bilateral or multilateral assistance and recommendations for modification of funding, if any;

(7) any incidents or reports of waste, fraud, and abuse of expenditures under subchapter I of this chapter;

(8) the amount of funds authorized to be appropriated pursuant to section 8412 that were used during the reporting period for administrative expenses or for audits and program reviews pursuant to the authority under sections 8411(c)(2) and 8413 of this title;

(9) a description of the expenditures made from any Chief of Mission Fund established pursuant to section 8411(c)(5) of this title during the period covered by the report, the purposes for which such expenditures were made, and a list of the recipients of any expenditures from the Chief of Mission Fund in excess of $100,000;

(10) an accounting of assistance provided to Pakistan under subchapter I of this chapter, broken down into the categories set forth in section 8441(a)(6) of this title;

(11) an evaluation of efforts undertaken by the Government of Pakistan to—

(A) disrupt, dismantle, and defeat al Qaeda, the Taliban, and other extremist and terrorist groups in the FATA and settled areas;

(B) eliminate the safe havens of such forces in Pakistan;

(C) close terrorist camps, including those of Lashkar-e-Taiba and Jaish-e-Mohammed;

(D) cease all support for extremist and terrorist groups;

(E) prevent attacks into neighboring countries;

(F) increase oversight over curriculum in madrassas, including closing madrassas with direct links to the Taliban or other extremist and terrorist groups; and

(G) improve counterterrorism financing and anti-money laundering laws, apply for observer status for the Financial Action Task Force, and take steps to adhere to the United Nations International Convention for the Suppression of Financing of Terrorism;

(12) a detailed description of Pakistan's efforts to prevent proliferation of nuclear-related material and expertise;

(13) an assessment of whether assistance provided to Pakistan has directly or indirectly aided the expansion of Pakistan's nuclear weapons program, whether by the diversion of United States assistance or the reallocation of Pakistan's financial resources that would otherwise be spent for programs and activities unrelated to its nuclear weapons program;

(14) a detailed description of the extent to which funds obligated and expended pursuant to section 8422(b) of this title meet the requirements of such section; and

(15) an assessment of the extent to which the Government of Pakistan exercises effective civilian control of the military, including a description of the extent to which civilian executive leaders and parliament exercise oversight and approval of military budgets, the chain of command, the process of promotion for senior military leaders, civilian involvement in strategic guidance and planning, and military involvement in civil administration.

(b) Government Accountability Office reports

(1) Pakistan Assistance Strategy Report

Not later than one year after the submission of the Pakistan Assistance Strategy Report pursuant to section 8441(a) of this title, the Comptroller General of the United States shall submit to the appropriate congressional committees a report that contains—

(A) a review of, and comments addressing, the Pakistan Assistance Strategy Report;

(B) recommendations relating to any additional actions the Comptroller General believes could help improve the efficiency and effectiveness of United States efforts to meet the objectives of this chapter;

(C) a detailed description of the expenditures made by Pakistan pursuant to grant assistance under section 2763 of this title (relating to the Foreign Military Financing program); and

(D) an assessment of the impact of the assistance on the security and stability of Pakistan.

(2) Certification report

Not later than 120 days after the date on which the President makes the certification described in section 8423(c) of this title for a fiscal year, the Comptroller General of the United States shall conduct an independent analysis of the certification described in such section and shall submit to the appropriate congressional committees a report containing the results of the independent analysis.

(c) Submission

The Secretary of State may submit the reports required by this section in conjunction with other reports relating to Pakistan required under other provisions of law, including sections 1116 and 1117 of the Supplemental Appropriations Act, 2009 (Public Law 111–32; 123 Stat. 1906 and 1907).

(d) Appropriate congressional committees defined

In this section, the term "appropriate congressional committees" means—

(1) the Committee on Appropriations, the Committee on Armed Services, and the Committee on Foreign Affairs of the House of Representatives; and

(2) the Committee on Appropriations, the Committee on Armed Services, and the Committee on Foreign Relations of the Senate.

(Pub. L. 111–73, title III, §302, Oct. 15, 2009, 123 Stat. 2077.)

REFERENCES IN TEXT

Sections 1116 and 1117 of the Supplemental Appropriations Act, 2009 (Public Law 111–32; 123 Stat. 1906 and 1907), referred to in subsec. (c), are not classified to the Code.

CHAPTER 92—COMPREHENSIVE IRAN SANCTIONS, ACCOUNTABILITY, AND DIVESTMENT

Sec.

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§8501. Findings

Congress makes the following findings:

(1) The illicit nuclear activities of the Government of Iran, combined with its development of unconventional weapons and ballistic missiles and its support for international terrorism, represent a threat to the security of the United States, its strong ally Israel, and other allies of the United States around the world.

(2) The United States and other responsible countries have a vital interest in working together to prevent the Government of Iran from acquiring a nuclear weapons capability.

(3) The International Atomic Energy Agency has repeatedly called attention to Iran's illicit nuclear activities and, as a result, the United Nations Security Council has adopted a range of sanctions designed to encourage the Government of Iran to suspend those activities and comply with its obligations under the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow July 1, 1968, and entered into force March 5, 1970 (commonly known as the "Nuclear Non-Proliferation Treaty").

(4) The serious and urgent nature of the threat from Iran demands that the United States work together with its allies to do everything possible—diplomatically, politically, and economically—to prevent Iran from acquiring a nuclear weapons capability.

(5) The United States and its major European allies, including the United Kingdom, France, and Germany, have advocated that sanctions be strengthened should international diplomatic efforts fail to achieve verifiable suspension of Iran's uranium enrichment program and an end to its nuclear weapons program and other illicit nuclear activities.

(6) The Government of Iran continues to engage in serious, systematic, and ongoing violations of human rights, including suppression of freedom of expression and religious freedom,

illegitimately prolonged detention, torture, and executions. Such violations have increased in the aftermath of the fraudulent presidential election in Iran on June 12, 2009.

(7) The Government of Iran has been unresponsive to President Obama's unprecedented and serious efforts at engagement, revealing that the Government of Iran is not interested in a diplomatic resolution, as made clear, for example, by the following:

(A) Iran's apparent rejection of the Tehran Research Reactor plan, generously offered by the United States and its partners, of potentially great benefit to the people of Iran, and endorsed by Iran's own negotiators in October 2009.

(B) Iran's ongoing clandestine nuclear program, as evidenced by its work on the secret uranium enrichment facility at Qom, its subsequent refusal to cooperate fully with inspectors from the International Atomic Energy Agency, and its announcement that it would build 10 new uranium enrichment facilities.

(C) Iran's official notification to the International Atomic Energy Agency that it would enrich uranium to the 20 percent level, followed soon thereafter by its providing to that Agency a laboratory result showing that Iran had indeed enriched some uranium to 19.8 percent.

(D) A February 18, 2010, report by the International Atomic Energy Agency expressing "concerns about the possible existence in Iran of past or current undisclosed activities related to the development of a nuclear payload for a missile. These alleged activities consist of a number of projects and sub-projects, covering nuclear and missile related aspects, run by military-related organizations.".

(E) A May 31, 2010, report by the International Atomic Energy Agency expressing continuing strong concerns about Iran's lack of cooperation with the Agency's verification efforts and Iran's ongoing enrichment activities, which are contrary to the longstanding demands of the Agency and the United Nations Security Council.

(F) Iran's announcement in April 2010 that it had developed a new, faster generation of centrifuges for enriching uranium.

(G) Iran's ongoing arms exports to, and support for, terrorists in direct contravention of United Nations Security Council resolutions.

(H) Iran's July 31, 2009, arrest of 3 young citizens of the United States on spying charges.

(8) There is an increasing interest by State governments, local governments, educational institutions, and private institutions, business firms, and other investors to disassociate themselves from companies that conduct business activities in the energy sector of Iran, since such business activities may directly or indirectly support the efforts of the Government of Iran to achieve a nuclear weapons capability.

(9) Black market proliferation networks continue to flourish in the Middle East, allowing countries like Iran to gain access to sensitive dual-use technologies.

(10) Economic sanctions imposed pursuant to the provisions of this Act, the Iran Sanctions Act of 1996, as amended by this Act, and the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), and other authorities available to the United States to impose economic sanctions to prevent Iran from developing nuclear weapons, are necessary to protect the essential security interests of the United States.

(Pub. L. 111–195, §2, July 1, 2010, 124 Stat. 1313.)

TERMINATION OF SECTION

For termination of section, see section 8551(a) of this title.

REFERENCES IN TEXT

This Act, referred to in par. (10), is Pub. L. 111–195, July 1, 2010, 124 Stat. 1312, which enacted this chapter, amended sections 287c, 2778, and 2780 of this title, section 80a–13 of Title 15, Commerce and Trade, section 310 of Title 31, Money and Finance, and section 4315 of Title 50, War and National Defense, enacted provisions set out as notes under section 80a–13 of Title 15 and section 1701 of Title 50, and amended provisions set out as notes under section 1701 of Title 50. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

The Iran Sanctions Act of 1996, as amended by this Act, referred to in par. (10), is Pub. L. 104–172, Aug. 5, 1996, 110 Stat. 1541, as amended by Pub. L. 111–195, which is set out as a note under section 1701 of Title 50, War and National Defense.

The International Emergency Economic Powers Act, referred to in par. (10), is title II of Pub. L. 95–223, Dec. 28, 1977, 91 Stat. 1626, which is classified generally to chapter 35 (§1701 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 50 and Tables.

SHORT TITLE

Pub. L. 111–195, §1(a), July 1, 2010, 124 Stat. 1312, provided that: "This Act [enacting this chapter, amending sections 287c, 2778, and 2780 of this title, section 80a–13 of Title 15, Commerce and Trade, section 310 of Title 31, Money and Finance, and section 4315 of Title 50, War and National Defense, enacting provisions set out as notes under section 80a–13 of Title 15 and section 1701 of Title 50, and amending provisions set out as notes under section 1701 of Title 50] may be cited as the 'Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010'."

DELEGATION OF CERTAIN FUNCTIONS AND AUTHORITIES UNDER THE COMPREHENSIVE IRAN SANCTIONS, ACCOUNTABILITY, AND DIVESTMENT ACT OF 2010

Memorandum of President of the United States, Sept. 23, 2010, 75 F.R. 67025, provided:

Memorandum for the Secretary of State[,] the Secretary of the Treasury[,] the Attorney General[,] the Secretary of Commerce[,] United States Trade Representative[,] Chairman of the Board of Governors of the Federal Reserve System[, and] President of the Export-Import Bank of the United States

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, I hereby order as follows:

I hereby delegate to the Secretary of State the functions vested in the President by sections 4(c), 5(a), 5(b), 5(c), 5(f), 6(a)(1), 6(a)(2), 6(b)(5), and 9(c) of the Iran Sanctions Act of 1996, as amended (Public Law 104–172, 50 U.S.C. 1701 note, as amended most recently by the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (CISADA) (Public Law 111–195)) (the "Iran Sanctions Act"), such functions to be exercised in consultation with the Secretaries of the Treasury and Commerce and the United States Trade Representative, and with the President of the Export-Import Bank and the Chairman of the Board of the Federal Reserve System and other agencies as appropriate.

I hereby delegate to the Secretary of State the functions vested in the President by sections 4(a), 4(b), 4(e), 5(d), 5(e), 9(a), 9(b), and 10 of the Iran Sanctions Act.

I hereby delegate to the Secretary of the Treasury, in consultation with the Secretary of State, the functions vested in the President by sections 6(a)(6), 6(a)(7), and 6(a)(8) of the Iran Sanctions Act, if the sanctions that those provisions authorize have been selected pursuant to section 5(a) of the Iran Sanctions Act in accordance with the terms of this memorandum.

The Presidential Memorandum of November 21, 1996 (Delegation of Responsibilities Under the Iran and Libya Sanctions Act of 1996), shall remain in effect with regard to implementation under section 102(h)(2) of CISADA of the provisions of the Iran Sanctions Act in effect on the day before the date of enactment of CISADA.

I hereby delegate functions vested in the President by CISADA, as follows:

• section 102(h)(5) [50 U.S.C. 1701 note] to the Secretary of State;

• section 103(b)(3) [22 U.S.C. 8512(b)(3)] to the Secretary of State and the Secretary of the Treasury, consistent with Executive Orders 13224 and 13382, as amended, and any other relevant Executive Orders;

• section 103(d)(1) to the Secretary of the Treasury, in consultation with the Secretary of State and, as appropriate, other agencies;

• section 103(d)(2)(A) to the Secretary of the Treasury, in consultation with the Secretary of State;

• section 103(d)(2)(B) to the Secretary of State, in consultation with the Secretary of the Treasury and the Secretary of Commerce;

• section 106 [22 U.S.C. 8515] to the Secretary of State, in consultation with the Secretary of Commerce;

• section 110 [22 U.S.C. 8518] to the Secretary of State;

• section 111(a) [22 U.S.C. 8519(a)] to the Secretary of State, in consultation with the Secretary of the Treasury and the President of the Export-Import Bank;

• section 111(b) to the President of the Export Import Bank, in consultation with the Secretary of State and the Secretary of the Treasury;

• section 115 [124 Stat. 1341] to the Secretary of State, in consultation with the Attorney General and the

Secretary of the Treasury;

• sections 303(a) and 303(b) [22 U.S.C. 8543(a), (b)] to the Secretary of State, in consultation with the Secretary of Commerce;

• section 303(c) to the Secretary of Commerce with regard to exports governed by the Export Administration Regulations, and to the Secretary of State with regard to exports governed by the International Traffic in Arms Regulations;

• section 303(d) to the Secretary of State, in consultation with the Secretary of Commerce;

• section 303(e) to the Secretary of State, in consultation with the Secretary of Commerce;

• section 304 [124 Stat. 1349] to the Secretary of State, in consultation with the Secretary of Commerce;

• section 401(b) [22 U.S.C. 8551(b)] to the Secretary of State, in consultation with the Secretary of the Treasury and, as appropriate, other agencies, with respect to the waiver of sanctions under section 103(b); to the Secretary of State, in consultation with the Secretary of Commerce, with respect to the waiver of the application of the prohibition under section 106(a); and to the Secretary of State, in consultation with the Secretary of Commerce, with respect to the waiver of the imposition of the licensing requirement under section 303(c).

Any reference in this memorandum to provisions of any Act related to the subject of this memorandum shall be deemed to include references to any hereafter-enacted provision of law that is the same or substantially the same as such provisions.

The Secretary of State is authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

SUBCHAPTER I—SANCTIONS

§8511. Definitions

In this subchapter:

(1) Agricultural commodity

The term "agricultural commodity" has the meaning given that term in section 5602 of title 7.

(2) Appropriate congressional committees

The term "appropriate congressional committees" has the meaning given that term in section 14 of the Iran Sanctions Act of 1996 (Public Law 104–172; 50 U.S.C. 1701 note), as amended by section 102 of this Act.

(3) Executive agency

The term "executive agency" has the meaning given that term in section 133 of title 41.

(4) Family member

The term "family member" means, with respect to an individual, a spouse, child, parent, sibling, grandchild, or grandparent of the individual.

(5) Iranian diplomats and representatives of other government and military or quasi-governmental institutions of Iran

The term "Iranian diplomat or representative of another government or military or quasi-governmental institution of Iran" means any of the Iranian diplomats and representatives of other government and military or quasi-governmental institutions of Iran (as that term is defined in section 14 of the Iran Sanctions Act of 1996 (Public Law 104–172; 50 U.S.C. 1701 note)).

(6) Knowingly

The term "knowingly", with respect to conduct, a circumstance, or a result, means that a person has actual knowledge, or should have known, of the conduct, the circumstance, or the result.

(7) Medical device

The term "medical device" has the meaning given the term "device" in section 321 of title 21.

(8) Medicine

The term "medicine" has the meaning given the term "drug" in section 321 of title 21.

(9) State

The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the United States Virgin Islands, and any other territory or possession of the United States.

(10) United States person

The term "United States person" means—

(A) a natural person who is a citizen or resident of the United States or a national of the United States (as defined in section 1101(a) of title 8; [1] and

(B) an entity that is organized under the laws of the United States or any State.

(Pub. L. 111–195, title I, §101, July 1, 2010, 124 Stat. 1316; Pub. L. 112–158, title III, §311(b)(2), Aug. 10, 2012, 126 Stat. 1248.)

TERMINATION OF SECTION

For termination of section, see section 8551(a) of this title.

REFERENCES IN TEXT

This subchapter, referred to in introductory provisions, was in the original "this title", meaning Pub. L. 111–195, title I, July 1, 2010, 124 Stat. 1316, which enacted this subchapter, amended sections 287c, 2778, and 2780 of this title, section 310 of Title 31, Money and Finance, and section 4315 of Title 50, War and National Defense, enacted and amended provisions set out as notes under section 1701 of Title 50. For complete classification of title I to the Code, see Tables.

Section 102 of this Act, referred to in par. (2), is section 102 of Pub. L. 111–195, which enacted and amended provisions set out as notes under section 1701 of Title 50, War and National Defense.

AMENDMENTS

2012—Par. (3). Pub. L. 112–158 substituted "section 133 of title 41" for "section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403)".

[1] *So in original. Probably should be "title 8);".*

§8512. Economic sanctions relating to Iran

(a) In general

Notwithstanding section 101 of the Iran Freedom Support Act (Public Law 109–293; 120 Stat. 1344), and in addition to any other sanction in effect, beginning on the date that is 90 days after July 1, 2010, the economic sanctions described in subsection (b) shall apply with respect to Iran.

(b) Sanctions

The sanctions described in this subsection are the following:

(1) Prohibition on imports

(A) In general

Except as provided in subparagraph (B), no good or service of Iranian origin may be imported directly or indirectly into the United States.

(B) Exceptions

The exceptions provided for in section 203(b) of the International Emergency Economic Powers Act (50 U.S.C. 1702(b)), including the exception for information and informational materials, shall apply to the prohibition in subparagraph (A) of this paragraph to the same extent that such exceptions apply to the authority provided under section 203(a) of that Act.

(2) Prohibition on exports

(A) In general

Except as provided in subparagraph (B), no good, service, or technology of United States origin may be exported to Iran from the United States or by a United States person, wherever located.

(B) Exceptions

(i) Personal communications; articles to relieve human suffering; information and informational materials; transactions incident to travel

The exceptions provided for in section 203(b) of the International Emergency Economic Powers Act (50 U.S.C. 1702(b)), including the exception for information and informational materials, shall apply to the prohibition in subparagraph (A) of this paragraph to the same extent that such exceptions apply to the authority provided under section 203(a) of that Act.

(ii) Food; medicine; humanitarian assistance

The prohibition in subparagraph (A) shall not apply to the exportation of—

(I) agricultural commodities, food, medicine, or medical devices; or

(II) articles exported to Iran to provide humanitarian assistance to the people of Iran.

(iii) Internet communications

The prohibition in subparagraph (A) shall not apply to the exportation of—

(I) services incident to the exchange of personal communications over the Internet or software necessary to enable such services, as provided for in section 560.540 of title 31, Code of Federal Regulations (or any corresponding similar regulation or ruling);

(II) hardware necessary to enable such services; or

(III) hardware, software, or technology necessary for access to the Internet.

(iv) Goods, services, or technologies necessary to ensure the safe operation of commercial aircraft

The prohibition in subparagraph (A) shall not apply to the exportation of goods, services, or technologies necessary to ensure the safe operation of commercial aircraft produced in the United States or commercial aircraft into which aircraft components produced in the United States are incorporated, if the exportation of such goods, services, or technologies is approved by the Secretary of the Treasury, in consultation with the Secretary of Commerce, pursuant to regulations issued by the Secretary of the Treasury regarding the exportation of such goods, services, or technologies, if appropriate.

(v) Goods, services, or technologies exported to support international organizations

The prohibition in subparagraph (A) shall not apply to the exportation of goods, services, or technologies that—

(I) are provided to the International Atomic Energy Agency and are necessary to support activities of that Agency in Iran; or

(II) are necessary to support activities, including the activities of nongovernmental organizations, relating to promoting democracy in Iran.

(vi) Exports in the national interest

The prohibition in subparagraph (A) shall not apply to the exportation of goods, services, or technologies if the President determines the exportation of such goods, services, or technologies to be in the national interest of the United States.

(3) Freezing assets

(A) In general

At such time as the President determines that a person in Iran, including an Iranian diplomat or representative of another government or military or quasi-governmental institution of Iran (including Iran's Revolutionary Guard Corps and its affiliates), satisfies the criteria for

designation with respect to the imposition of sanctions under the authority of the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), the President shall take such action as may be necessary to freeze, as soon as possible—

(i) the funds and other assets belonging to that person; and

(ii) any funds or other assets that person transfers, on or after the date on which the President determines the person satisfies such criteria, to any family member or associate acting for or on behalf of the person.

(B) Reports to the Office of Foreign Assets Control

The action described in subparagraph (A) includes requiring any United States financial institution that holds funds or assets of a person described in that subparagraph or funds or assets that person transfers to a family member or associate described in that subparagraph to report promptly to the Office of Foreign Assets Control information regarding such funds and assets.

(C) Reports to Congress

Not later than 14 days after a decision is made to freeze the funds or assets of any person under subparagraph (A), the President shall report the name of the person to the appropriate congressional committees. Such a report may contain a classified annex.

(D) Termination

The President shall release assets or funds frozen under subparagraph (A) if the person to which the assets or funds belong or the person that transfers the assets or funds as described in subparagraph (A)(ii) (as the case may be) no longer satisfies the criteria for designation with respect to the imposition of sanctions under the authority of the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.).

(E) United States financial institution defined

In this paragraph, the term "United States financial institution" means a financial institution (as defined in section 14 of the Iran Sanctions Act of 1996 (Public Law 104–172; 50 U.S.C. 1701 note)) that is a United States person.

(c) Penalties

The penalties provided for in subsections (b) and (c) of section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) shall apply to a person that violates, attempts to violate, conspires to violate, or causes a violation of this section or regulations prescribed under this section to the same extent that such penalties apply to a person that commits an unlawful act described in section 206(a) of that Act.

(d) Regulatory authority

(1) In general

The President shall prescribe regulations to carry out this section, which may include regulatory exceptions to the sanctions described in subsection (b).

(2) Applicability of certain regulations

No exception to the prohibition under subsection (b)(1) may be made for the commercial importation of an Iranian origin good described in section 560.534(a) of title 31, Code of Federal Regulations (as in effect on the day before July 1, 2010), unless the President—

(A) prescribes a regulation providing for such an exception on or after July 1, 2010; and

(B) submits to the appropriate congressional committees—

(i) a certification in writing that the exception is in the national interest of the United States; and

(ii) a report describing the reasons for the exception.

(Pub. L. 111–195, title I, §103, July 1, 2010, 124 Stat. 1328.)

TERMINATION OF SECTION

For termination of section, see section 8551(a) of this title.

REFERENCES IN TEXT

Section 101 of the Iran Freedom Support Act, referred to in subsec. (a), is section 101 of Pub. L. 109–293, which is set out as a note under section 1701 of Title 50, War and National Defense.

The International Emergency Economic Powers Act, referred to in subsec. (b)(3)(A), (D), is title II of Pub. L. 95–223, Dec. 28, 1977, 91 Stat. 1626, which is classified generally to chapter 35 (§1701 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 50 and Tables.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Memorandum of President of the United States, Sept. 23, 2010, 75 F.R. 67025, set out as a note under section 8501 of this title.

§8513. Mandatory sanctions with respect to financial institutions that engage in certain transactions

(a) Findings

Congress makes the following findings:

(1) The Financial Action Task Force is an intergovernmental body whose purpose is to develop and promote national and international policies to combat money laundering and terrorist financing.

(2) Thirty-three countries, plus the European Commission and the Cooperation Council for the Arab States of the Gulf, belong to the Financial Action Task Force. The member countries of the Financial Action Task Force include the United States, Canada, most countries in western Europe, Russia, the People's Republic of China, Japan, South Korea, Argentina, and Brazil.

(3) In 2008 the Financial Action Task Force extended its mandate to include addressing "new and emerging threats such as proliferation financing", meaning the financing of the proliferation of weapons of mass destruction, and published "guidance papers" for members to assist them in implementing various United Nations Security Council resolutions dealing with weapons of mass destruction, including United Nations Security Council Resolutions 1737 (2006) and 1803 (2008), which deal specifically with proliferation by Iran.

(4) The Financial Action Task Force has repeatedly called on members—

(A) to advise financial institutions in their jurisdictions to give special attention to business relationships and transactions with Iran, including Iranian companies and financial institutions;

(B) to apply effective countermeasures to protect their financial sectors from risks relating to money laundering and financing of terrorism that emanate from Iran;

(C) to protect against correspondent relationships being used by Iran and Iranian companies and financial institutions to bypass or evade countermeasures and risk-mitigation practices; and

(D) to take into account risks relating to money laundering and financing of terrorism when considering requests by Iranian financial institutions to open branches and subsidiaries in their jurisdictions.

(5) At a February 2010 meeting of the Financial Action Task Force, the Task Force called on members to apply countermeasures "to protect the international financial system from the ongoing and substantial money laundering and terrorist financing (ML/TF) risks" emanating from Iran.

(b) Sense of Congress regarding the imposition of sanctions on the Central Bank of Iran

Congress—

(1) acknowledges the efforts of the United Nations Security Council to impose limitations on transactions involving Iranian financial institutions, including the Central Bank of Iran; and

(2) urges the President, in the strongest terms, to consider immediately using the authority of the President to impose sanctions on the Central Bank of Iran and any other Iranian financial institution engaged in proliferation activities or support of terrorist groups.

(c) Prohibitions and conditions with respect to certain accounts held by foreign financial institutions

(1) In general

Not later than 90 days after July 1, 2010, the Secretary of the Treasury shall prescribe regulations to prohibit, or impose strict conditions on, the opening or maintaining in the United States of a correspondent account or a payable-through account by a foreign financial institution that the Secretary finds knowingly engages in an activity described in paragraph (2).

(2) Activities described

A foreign financial institution engages in an activity described in this paragraph if the foreign financial institution—

(A) facilitates the efforts of the Government of Iran (including efforts of Iran's Revolutionary Guard Corps or any of its agents or affiliates)—

(i) to acquire or develop weapons of mass destruction or delivery systems for weapons of mass destruction; or

(ii) to provide support for organizations designated as foreign terrorist organizations under section 1189(a) of title 8 or support for acts of international terrorism (as defined in section 14 of the Iran Sanctions Act of 1996 (Public Law 104–172; 50 U.S.C. 1701 note));

(B) facilitates the activities of—

(i) a person subject to financial sanctions pursuant to United Nations Security Council Resolution 1737 (2006), 1747 (2007), 1803 (2008), or 1929 (2010), or any other resolution that is agreed to by the Security Council and imposes sanctions with respect to Iran; or

(ii) a person acting on behalf of or at the direction of, or owned or controlled by, a person described in clause (i);

(C) engages in money laundering to carry out an activity described in subparagraph (A) or (B);

(D) facilitates efforts by the Central Bank of Iran or any other Iranian financial institution to carry out an activity described in subparagraph (A) or (B); or

(E) facilitates a significant transaction or transactions or provides significant financial services for—

(i) Iran's Revolutionary Guard Corps or any of its agents or affiliates whose property or interests in property are blocked pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.); or

(ii) a person whose property or interests in property are blocked pursuant to that Act in connection with—

(I) Iran's proliferation of weapons of mass destruction or delivery systems for weapons of mass destruction; or

(II) Iran's support for international terrorism.

(3) Penalties

The penalties provided for in subsections (b) and (c) of section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) shall apply to a person that violates, attempts to violate, conspires to violate, or causes a violation of regulations prescribed under paragraph (1) of this subsection to the same extent that such penalties apply to a person that commits an unlawful act described in section 206(a) of that Act.

(4) Determinations regarding NIOC and NITC

(A) Determinations

For purposes of paragraph (2)(E), the Secretary of the Treasury shall, not later than 45 days after August 10, 2012—

(i) determine whether the NIOC or the NITC is an agent or affiliate of Iran's Revolutionary

Guard Corps; and

(ii) submit to the appropriate congressional committees a report on the determinations made under clause (i), together with the reasons for those determinations.

(B) Form of report

A report submitted under subparagraph (A)(ii) shall be submitted in unclassified form but may contain a classified annex.

(C) Applicability with respect to petroleum transactions

(i) Application of sanctions

Except as provided in clause (ii), if the Secretary of the Treasury determines that the NIOC or the NITC is a person described in clause (i) or (ii) of paragraph (2)(E), the regulations prescribed under paragraph (1) shall apply with respect to a significant transaction or transactions or significant financial services knowingly facilitated or provided by a foreign financial institution for the NIOC or the NITC, as applicable, for the purchase of petroleum or petroleum products from Iran, only if a determination of the President under section 8513a(d)(4)(B) of this title that there is a sufficient supply of petroleum and petroleum products produced in countries other than Iran to permit purchasers of petroleum and petroleum products from Iran to reduce significantly their purchases from Iran is in effect at the time of the transaction or the provision of the service.

(ii) Exception for certain countries

If the Secretary of the Treasury determines that the NIOC or the NITC is a person described in clause (i) or (ii) of paragraph (2)(E), the regulations prescribed under paragraph (1) shall not apply to a significant transaction or transactions or significant financial services knowingly facilitated or provided by a foreign financial institution for the NIOC or the NITC, as applicable, for the purchase of petroleum or petroleum products from Iran if an exception under paragraph (4)(D) of section 8513a(d) of this title applies to the country with primary jurisdiction over the foreign financial institution at the time of the transaction or the provision of the service.

(iii) Rule of construction

The exceptions in clauses (i) and (ii) shall not be construed to limit the authority of the Secretary of the Treasury to impose sanctions pursuant to the regulations prescribed under paragraph (1) for an activity described in paragraph (2) to the extent the activity would meet the criteria described in that paragraph in the absence of the involvement of the NIOC or the NITC.

(D) Definitions

In this paragraph:

(i) NIOC

The term "NIOC" means the National Iranian Oil Company.

(ii) NITC

The term "NITC" means the National Iranian Tanker Company.

(d) Penalties for domestic financial institutions for actions of persons owned or controlled by such financial institutions

(1) In general

Not later than 90 days after July 1, 2010, the Secretary of the Treasury shall prescribe regulations to prohibit any person owned or controlled by a domestic financial institution from knowingly engaging in a transaction or transactions with or benefitting Iran's Revolutionary Guard Corps or any of its agents or affiliates whose property or interests in property are blocked pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.).

(2) Penalties

The penalties provided for in section 206(b) of the International Emergency Economic Powers Act (50 U.S.C. 1705(b)) shall apply to a domestic financial institution to the same extent that such penalties apply to a person that commits an unlawful act described in section 206(a) of that Act if—

(A) a person owned or controlled by the domestic financial institution violates, attempts to violate, conspires to violate, or causes a violation of regulations prescribed under paragraph (1) of this subsection; and

(B) the domestic financial institution knew or should have known that the person violated, attempted to violate, conspired to violate, or caused a violation of such regulations.

(e) Requirements for financial institutions maintaining accounts for foreign financial institutions

(1) In general

The Secretary of the Treasury shall prescribe regulations to require a domestic financial institution maintaining a correspondent account or payable-through account in the United States for a foreign financial institution to do one or more of the following:

(A) Perform an audit of activities described in subsection (c)(2) that may be carried out by the foreign financial institution.

(B) Report to the Department of the Treasury with respect to transactions or other financial services provided with respect to any such activity.

(C) Certify, to the best of the knowledge of the domestic financial institution, that the foreign financial institution is not knowingly engaging in any such activity.

(D) Establish due diligence policies, procedures, and controls, such as the due diligence policies, procedures, and controls described in section 5318(i) of title 31, reasonably designed to detect whether the Secretary of the Treasury has found the foreign financial institution to knowingly engage in any such activity.

(2) Penalties

The penalties provided for in sections 5321(a) and 5322 of title 31 shall apply to a person that violates a regulation prescribed under paragraph (1) of this subsection, in the same manner and to the same extent as such penalties would apply to any person that is otherwise subject to such section 5321(a) or 5322.

(f) Waiver

The Secretary of the Treasury may waive the application of a prohibition or condition imposed with respect to a foreign financial institution pursuant to subsection (c) or section 8513b of this title or the imposition of a penalty under subsection (d) with respect to a domestic financial institution on and after the date that is 30 days after the Secretary—

(1) determines that such a waiver is necessary to the national interest of the United States; and

(2) submits to the appropriate congressional committees a report describing the reasons for the determination.

(g) Procedures for judicial review of classified information

(1) In general

If a finding under paragraph (1) or (4) of subsection (c) or section 8513b of this title, a prohibition, condition, or penalty imposed as a result of any such finding, or a penalty imposed under subsection (d), is based on classified information (as defined in section 1(a) of the Classified Information Procedures Act (18 U.S.C. App.)) and a court reviews the finding or the imposition of the prohibition, condition, or penalty, the Secretary of the Treasury may submit such information to the court ex parte and in camera.

(2) Rule of construction

Nothing in this subsection shall be construed to confer or imply any right to judicial review of

any finding under paragraph (1) or (4) of subsection (c) or section 8513b of this title, any prohibition, condition, or penalty imposed as a result of any such finding, or any penalty imposed under subsection (d).

(h) Consultations in implementation of regulations

In implementing this section and the regulations prescribed under this section, the Secretary of the Treasury—

(1) shall consult with the Secretary of State; and

(2) may, in the sole discretion of the Secretary of the Treasury, consult with such other agencies and departments and such other interested parties as the Secretary considers appropriate.

(i) Definitions

(1) In general

In this section:

(A) Account; correspondent account; payable-through account

The terms "account", "correspondent account", and "payable-through account" have the meanings given those terms in section 5318A of title 31.

(B) Agent

The term "agent" includes an entity established by a person for purposes of conducting transactions on behalf of the person in order to conceal the identity of the person.

(C) Financial institution

The term "financial institution" means a financial institution specified in subparagraph (A), (B), (C), (D), (E), (F), (G), (H), (I), (J), (M), or (Y) of section 5312(a)(2) of title 31.

(D) Foreign financial institution; domestic financial institution

The terms "foreign financial institution" and "domestic financial institution" shall have the meanings of those terms as determined by the Secretary of the Treasury.

(E) Money laundering

The term "money laundering" means the movement of illicit cash or cash equivalent proceeds into, out of, or through a country, or into, out of, or through a financial institution.

(2) Other definitions

The Secretary of the Treasury may further define the terms used in this section in the regulations prescribed under this section.

(Pub. L. 111–195, title I, §104, July 1, 2010, 124 Stat. 1331; Pub. L. 112–158, title II, §§214(a), 215(a), title III, §312(b), (c), Aug. 10, 2012, 126 Stat. 1231, 1249.)

TERMINATION OF SECTION

For termination of section, see section 8551(a) of this title.

REFERENCES IN TEXT

The International Emergency Economic Powers Act, referred to in subsecs. (c)(2)(E) and (d)(1), is title II of Pub. L. 95–223, Dec. 28, 1977, 91 Stat. 1626, which is classified generally to chapter 35 (§1701 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 50 and Tables.

The Classified Information Procedures Act, referred to in subsec. (g)(1), is Pub. L. 96–456, Oct. 15, 1980, 94 Stat. 2025, which is set out in the Appendix to Title 18, Crimes and Criminal Procedure.

AMENDMENTS

2012—Subsec. (c)(2)(B). Pub. L. 112–158, §214(a), substituted "of—" for "of", inserted cl. (i) designation before "a person subject", and added cl. (ii).

Subsec. (c)(2)(E)(ii). Pub. L. 112–158, §215(a), substituted "person" for "financial institution" in introductory provisions.

Subsec. (c)(4). Pub. L. 112–158, §312(b), added par. (4).

Subsec. (f). Pub. L. 112–158, §312(c)(1), inserted "or section 8513b of this title" after "subsection (c)" in introductory provisions.

Subsec. (g). Pub. L. 112–158, §312(c)(2), substituted "paragraph (1) or (4) of subsection (c) or section 8513b of this title" for "subsection (c)(1)" in pars. (1) and (2).

REGULATIONS

Pub. L. 112–158, title II, §214(b), Aug. 10, 2012, 126 Stat. 1231, provided that: "Not later than 90 days after the date of the enactment of this Act [Aug. 10, 2012], the Secretary of the Treasury shall make such revisions to the regulations prescribed under section 104 of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (22 U.S.C. 8513) as are necessary to carry out the amendments made by subsection (a) [amending this section]."

Pub. L. 112–158, title II, §215(b), Aug. 10, 2012, 126 Stat. 1231, provided that: "Not later than 90 days after the date of the enactment of this Act [Aug. 10, 2012], the Secretary of the Treasury shall make such revisions to the regulations prescribed under section 104 of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (22 U.S.C. 8513) as are necessary to carry out the amendment made by subsection (a) [amending this section]."

EXCEPTION TO SANCTIONS REGARDING NATIONAL IRANIAN OIL COMPANY AND NATIONAL IRANIAN TANKER COMPANY

Pub. L. 112–158, title III, §312(d), Aug. 10, 2012, 126 Stat. 1250, provided that:

"(1) IN GENERAL.—If an exception to sanctions described in clause (i) or (ii) of paragraph (4)(C) of section 104(c) of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 [22 U.S.C. 8513(c)], as added by subsection (b), applies to a person that engages in a transaction described in paragraph (2) at the time of the transaction, the President is authorized not to impose sanctions with respect to the transaction under—

"(A) section 302(b)(1) [22 U.S.C. 8742(b)(1)];

"(B) section 104A of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 [22 U.S.C. 8513b], as added by section 216; or

"(C) any other applicable provision of law authorizing the imposition of sanctions with respect to Iran.

"(2) TRANSACTION DESCRIBED.—A transaction described in this paragraph is a transaction—

"(A) solely for the purchase of petroleum or petroleum products from Iran; and

"(B) for which sanctions may be imposed solely as a result of the involvement of the National Iranian Oil Company or the National Iranian Tanker Company in the transaction under—

"(i) section 302(b)(1);

"(ii) section 104A of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010, as added by section 216; or

"(iii) any other applicable provision of law authorizing the imposition of sanctions with respect to Iran."

§8513a. Imposition of sanctions with respect to the financial sector of Iran

(a) Findings

Congress makes the following findings:

(1) On November 21, 2011, the Secretary of the Treasury issued a finding under section 5318A of title 31 that identified Iran as a jurisdiction of primary money laundering concern.

(2) In that finding, the Financial Crimes Enforcement Network of the Department of the Treasury wrote, "The Central Bank of Iran, which regulates Iranian banks, has assisted designated Iranian banks by transferring billions of dollars to these banks in 2011. In mid-2011, the CBI transferred several billion dollars to designated banks, including Saderat, Mellat, EDBI and Melli, through a variety of payment schemes. In making these transfers, the CBI attempted to evade sanctions by minimizing the direct involvement of large international banks with both CBI and designated Iranian banks.".

(3) On November 22, 2011, the Under Secretary of the Treasury for Terrorism and Financial Intelligence, David Cohen, wrote, "Treasury is calling out the entire Iranian banking sector, including the Central Bank of Iran, as posing terrorist financing, proliferation financing, and money laundering risks for the global financial system.".

(b) Designation of financial sector of Iran as of primary money laundering concern

The financial sector of Iran, including the Central Bank of Iran, is designated as a primary money laundering concern for purposes of section 5318A of title 31 because of the threat to government and financial institutions resulting from the illicit activities of the Government of Iran, including its pursuit of nuclear weapons, support for international terrorism, and efforts to deceive responsible financial institutions and evade sanctions.

(c) Freezing of assets of Iranian financial institutions

The President shall, pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), block and prohibit all transactions in all property and interests in property of an Iranian financial institution if such property and interests in property are in the United States, come within the United States, or are or come within the possession or control of a United States person.

(d) Imposition of sanctions with respect to the Central Bank of Iran and other Iranian financial institutions

(1) In general

Except as specifically provided in this subsection, beginning on the date that is 60 days after December 31, 2011, the President—

(A) shall prohibit the opening, and prohibit or impose strict conditions on the maintaining, in the United States of a correspondent account or a payable-through account by a foreign financial institution that the President determines has knowingly conducted or facilitated any significant financial transaction with the Central Bank of Iran or another Iranian financial institution designated by the Secretary of the Treasury for the imposition of sanctions pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.); and

(B) may impose sanctions pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) with respect to the Central Bank of Iran.

(2) Exception for sales of agricultural commodities, food, medicine, and medical devices

The President may not impose sanctions under paragraph (1) with respect to any person for conducting or facilitating a transaction for the sale of agricultural commodities, food, medicine, or medical devices to Iran.

(3) Applicability of sanctions with respect to foreign central banks

Except as provided in paragraph (4), sanctions imposed under paragraph (1)(A) shall apply with respect to a central bank of a foreign country, only insofar as it engages in a financial transaction for the sale or purchase of petroleum or petroleum products to or from Iran conducted or facilitated on or after that date that is 180 days after December 31, 2011.

(4) Applicability of sanctions with respect to petroleum transactions

(A) Report required

Not later than October 25, 2012, and the last Thursday of every other month thereafter, the Administrator of the Energy Information Administration, in consultation with the Secretary of the Treasury, the Secretary of State, and the Director of National Intelligence, shall submit to Congress a report on the availability and price of petroleum and petroleum products produced in countries other than Iran in the 2-month period preceding the submission of the report.

(B) Determination required

Not later than 90 days after December 31, 2011, and every 180 days thereafter, the President shall make a determination, based on the reports required by subparagraph (A), of whether the price and supply of petroleum and petroleum products produced in countries other than Iran is sufficient to permit purchasers of petroleum and petroleum products from Iran to reduce significantly in volume their purchases from Iran.

(C) Application of sanctions

Except as provided in subparagraph (D), sanctions imposed under paragraph (1)(A) shall

apply with respect to a financial transaction conducted or facilitated by a foreign financial institution on or after the date that is 180 days after December 31, 2011, for the purchase of petroleum or petroleum products from Iran if the President determines pursuant to subparagraph (B) that there is a sufficient supply of petroleum and petroleum products from countries other than Iran to permit a significant reduction in the volume of petroleum and petroleum products purchased from Iran by or through foreign financial institutions.

(D) Exception

(i) In general

Sanctions imposed pursuant to paragraph (1) shall not apply with respect to a financial transaction described in clause (ii) conducted or facilitated by a foreign financial institution if the President determines and reports to Congress, not later than 90 days after the date on which the President makes the determination required by subparagraph (B), and every 180 days thereafter, that the country with primary jurisdiction over the foreign financial institution—

(I) has significantly reduced reduced [1] its volume of crude oil purchases from Iran during the period beginning on the date on which the President submitted the last report with respect to the country under this subparagraph; or

(II) in the case of a country that has previously received an exception under this subparagraph, has, after receiving the exception, reduced its crude oil purchases from Iran to zero.

(ii) Financial transactions described

A financial transaction conducted or facilitated by a foreign financial institution is described in this clause if—

(I) the financial transaction is only for trade in goods or services between the country with primary jurisdiction over the foreign financial institution and Iran; and

(II) any funds owed to Iran as a result of such trade are credited to an account located in the country with primary jurisdiction over the foreign financial institution.

(5) Waiver

The President may waive the imposition of sanctions under paragraph (1) for a period of not more than 120 days, and may renew that waiver for additional periods of not more than 120 days, if the President—

(A) determines that such a waiver is in the national security interest of the United States; and

(B) submits to Congress a report—

(i) providing a justification for the waiver;

(ii) certifying that the country with primary jurisdiction over the foreign financial institution otherwise subject to the sanctions faced exceptional circumstances that prevented the country from being able to reduce significantly its purchases of petroleum and petroleum products from Iran; and

(iii) that includes any concrete cooperation the President has received or expects to receive as a result of the waiver.

(e) Multilateral diplomacy initiative

(1) In general

The President shall—

(A) carry out an initiative of multilateral diplomacy to persuade countries purchasing oil from Iran—

(i) to limit the use by Iran of revenue from purchases of oil to purchases of non-luxury consumers goods from the country purchasing the oil; and

(ii) to prohibit purchases by Iran of—

(I) military or dual-use technology, including items—

(aa) in the Annex to the Missile Technology Control Regime Guidelines;

(bb) in the Annex on Chemicals to the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, done at Paris January 13, 1993, and entered into force April 29, 1997 (commonly known as the "Chemical Weapons Convention");

(cc) in Part 1 or 2 of the Nuclear Suppliers Group Guidelines; or

(dd) on a control list of the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies; or

(II) any other item that could contribute to Iran's conventional, nuclear, chemical, or biological weapons program; and

(B) conduct outreach to petroleum-producing countries to encourage those countries to increase their output of crude oil to ensure there is a sufficient supply of crude oil from countries other than Iran and to minimize any impact on the price of oil resulting from the imposition of sanctions under this section.

(2) Report required

Not later than 180 days after December 31, 2011, and every 180 days thereafter, the President shall submit to Congress a report on the efforts of the President to carry out the initiative described in paragraph (1)(A) and conduct the outreach described in paragraph (1)(B) and the results of those efforts.

(f) Form of reports

Each report submitted under this section shall be submitted in unclassified form, but may contain a classified annex.

(g) Implementation; penalties

(1) Implementation

The President may exercise all authorities provided under sections 203 and 205 of the International Emergency Economic Powers Act (50 U.S.C. 1702 and 1704) to carry out this section.

(2) Penalties

The penalties provided for in subsections (b) and (c) of section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) shall apply to a person that violates, attempts to violate, conspires to violate, or causes a violation of this section or regulations prescribed under this section to the same extent that such penalties apply to a person that commits an unlawful act described in section 206(a) of that Act.

(h) Definitions

In this section:

(1) Account; correspondent account; payable-through account

The terms "account", "correspondent account", and "payable-through account" have the meanings given those terms in section 5318A of title 31.

(2) Foreign financial institution

The term "foreign financial institution" has the meaning of that term as determined by the Secretary of the Treasury pursuant to section 8513(i) of this title.

(3) Significant reductions

The terms "reduce significantly", "significant reduction", and "significantly reduced", with respect to purchases from Iran of petroleum and petroleum products, include a reduction in such purchases in terms of price or volume toward a complete cessation of such purchases.

(4) United States person

The term "United States person" means—

(A) a natural person who is a citizen or resident of the United States or a national of the United States (as defined in section 1101(a) of title 8); and

(B) an entity that is organized under the laws of the United States or a jurisdiction within the United States.

(i) Termination

The provisions of this section shall terminate on the date that is 30 days after the date on which the President submits to Congress the certification described in section 8551(a) of this title.

(Pub. L. 112–81, div. A, title XII, §1245, Dec. 31, 2011, 125 Stat. 1647; Pub. L. 112–158, title V, §§503(a)(1), (b)(1), 504(a), Aug. 10, 2012, 126 Stat. 1260, 1261; Pub. L. 112–239, div. A, title XII, §1250, Jan. 2, 2013, 126 Stat. 2016.)

REFERENCES IN TEXT

The International Emergency Economic Powers Act, referred to in subsecs. (c) and (d)(1), is title II of Pub. L. 95–223, Dec. 28, 1977, 91 Stat. 1626, which is classified generally to chapter 35 (§1701 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 50 and Tables.

CODIFICATION

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 2012, and not as part of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 which comprises this chapter.

AMENDMENTS

2013—Subsec. (d)(5)(B)(ii), (iii). Pub. L. 112–239 added cl. (ii) and redesignated former cl. (ii) as (iii).

2012—Subsec. (d)(2). Pub. L. 112–158, §503(a)(1), inserted "agricultural commodities," after "sales of" in heading and after "sale of" in text.

Subsec. (d)(3). Pub. L. 112–158, §504(a)(1)(A), struck out "a foreign financial institution owned or controlled by the government of a foreign country, including" after "with respect to".

Subsec. (d)(4)(A). Pub. L. 112–158, §503(b)(1), substituted "October 25, 2012, and the last Thursday of every other month thereafter" for "60 days after December 31, 2011, and every 60 days thereafter" and "2-month period" for "60-day period".

Subsec. (d)(4)(D)(i). Pub. L. 112–158, §504(a)(1)(B)(i), (ii), designated existing provisions as cl. (i) and inserted cl. heading, substituted "a financial transaction described in clause (ii) conducted or facilitated by a foreign financial institution" for "a foreign financial institution" and "institution—" for "institution has significantly", inserted subcl. (I) designation and "has significantly reduced" before "reduced its volume", and added subcl. (II).

Subsec. (d)(4)(D)(ii). Pub. L. 112–158, §504(a)(1)(B)(iii), added cl. (ii).

Subsec. (h)(3), (4). Pub. L. 112–158, §504(a)(2), added par. (3) and redesignated former par. (3) as (4).

Subsec. (i). Pub. L. 112–158, §504(a)(3), added subsec. (i).

EFFECTIVE DATE OF 2012 AMENDMENT

Pub. L. 112–158, title V, §503(a)(2), Aug. 10, 2012, 126 Stat. 1261, provided that: "The amendments made by paragraph (1) [amending this section] shall take effect as if included in the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112–81; 125 Stat. 1298)."

Pub. L. 112–158, title V, §503(b)(2), Aug. 10, 2012, 126 Stat. 1261, provided that: "The amendments made by paragraph (1) [amending this section] shall take effect on September 1, 2012."

Pub. L. 112–158, title V, §504(b), Aug. 10, 2012, 126 Stat. 1262, provided that: "The amendments made by paragraphs (1) and (2) of subsection (a) [amending this section] shall apply with respect to financial transactions conducted or facilitated on or after the date that is 180 days after the date of the enactment of this Act [Aug. 10, 2012]."

DELEGATION OF FUNCTIONS

Ex. Ord. No. 13599, Feb. 5, 2012, 77 F.R. 6659, which is listed in a table under section 1701 of Title 50, War and National Defense, provided in section 10 that the Secretary of the Treasury, in consultation with the Secretary of State, is authorized to exercise the functions and authorities conferred upon the President by subsecs. (d)(1)(A) and (g)(1) of this section and to redelegate such functions and authorities consistent with applicable law; and provided in section 11 that the Secretary of State, in consultation with the Secretary of the

Treasury, the Secretary of Energy, and the Director of National Intelligence, is authorized to exercise the functions and authorities conferred upon the President by subsec. (d)(4)(D) of this section and that the Secretary of State, in consultation with the Secretary of the Treasury, is authorized to exercise the functions and authorities conferred upon the President by subsecs. (e)(1), (2) and (g)(1) of this section and to redelegate all such functions and authorities consistent with applicable law.

Memorandum of President of the United States, Jan. 20, 2014, 79 F.R.6453, provided:

Memorandum for the Secretary of State

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3 of the United States Code, I hereby delegate to the Secretary of State, in consultation with the Secretary of the Treasury, the authority conferred upon the President by section 1245(d)(5) of the Fiscal Year (FY) 2012 National Defense Authorization Act (NDAA).

Any reference in this memorandum to provisions of the FY 2012 NDAA related to the subject of this memorandum shall be deemed to include references to any hereafter enacted provisions of law that is the same or substantially the same as such provisions.

You are authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

PRESIDENTIAL DETERMINATIONS RELATING TO PETROLEUM OR PETROLEUM PRODUCTS FROM IRAN

The following Presidential Determinations related to the existence of sufficient supplies of petroleum and petroleum products from countries other than Iran pursuant to subsec. (d)(4)(B) and (C) of this section:

Determination of President of the United States, No. 2017–01, Nov. 14, 2016, 81 F.R. 85833.
Determination of President of the United States, No. 2016–06, May 19, 2016, 81 F.R. 37481.
Determination of President of the United States, No. 2016–03, Nov. 18, 2015, 80 F.R. 75921.
Determination of President of the United States, No. 2015–06, May 19, 2015, 80 F.R. 32851.
Determination of President of the United States, No. 2015–02, Nov. 21, 2014, 79 F.R. 71619.
Determination of President of the United States, No. 2014–11, June 4, 2014, 79 F.R. 33841.
Determination of President of the United States, No. 2014–03, Nov. 29, 2013, 78 F.R. 76717.
Determination of President of the United States, No. 2013–10, June 5, 2013, 78 F.R. 35537.
Determination of President of the United States, No. 2013–03, Dec. 7, 2012, 77 F.R. 76213.
Determination of President of the United States, No. 2012–09, June 11, 2012, 77 F.R. 36387.
Determination of President of the United States, No. 2012–05, Mar. 30, 2012, 77 F.R. 21387.

[1] *So in original.*

§8513b. Expansion of, and reports on, mandatory sanctions with respect to financial institutions that engage in certain activities

(a) In general

Not later than 90 days after August 10, 2012, the Secretary of the Treasury shall revise the regulations prescribed under section 8513(c)(1) of this title to apply to a foreign financial institution described in subsection (b) to the same extent and in the same manner as those regulations apply to a foreign financial institution that the Secretary of the Treasury finds knowingly engages in an activity described in section 8513(c)(2) of this title.

(b) Foreign financial institutions described

A foreign financial institution described in this subsection is a foreign financial institution, including an Iranian financial institution, that the Secretary of the Treasury finds—

(1) knowingly facilitates, or participates or assists in, an activity described in section 8513(c)(2) of this title, including by acting on behalf of, at the direction of, or as an intermediary for, or otherwise assisting, another person with respect to the activity;

(2) attempts or conspires to facilitate or participate in such an activity; or

(3) is owned or controlled by a foreign financial institution that the Secretary finds knowingly engages in such an activity.

(c) Reports required

(1) In general

Not later than 180 days after August 10, 2012, and every 180 days thereafter, the Secretary of the Treasury shall submit to the appropriate congressional committees a report that contains a detailed description of—

(A) the effect of the regulations prescribed under section 8513(c)(1) of this title on the financial system and economy of Iran and capital flows to and from Iran; and

(B) the ways in which funds move into and out of financial institutions described in section 8513(c)(2)(E)(ii) of this title, with specific attention to the use of other Iranian financial institutions and other foreign financial institutions to receive and transfer funds for financial institutions described in that section.

(2) Form of report

Each report submitted under paragraph (1) shall be submitted in unclassified form but may contain a classified annex.

(d) Definitions

In this section:

(1) Financial institution

The term "financial institution" means a financial institution specified in subparagraph (A), (B), (C), (D), (E), (F), (G), (H), (I), (J), (K), (M), (N), (R), or (Y) of section 5312(a)(2) of title 31.

(2) Foreign financial institution

The term "foreign financial institution" has the meaning of that term as determined by the Secretary of the Treasury pursuant to section 8513(i) of this title.

(3) Iranian financial institution

The term "Iranian financial institution" means—

(A) a financial institution organized under the laws of Iran or any jurisdiction within Iran, including a foreign branch of such an institution;

(B) a financial institution located in Iran;

(C) a financial institution, wherever located, owned or controlled by the Government of Iran; and

(D) a financial institution, wherever located, owned or controlled by a financial institution described in subparagraph (A), (B), or (C).

(Pub. L. 111–195, title I, §104A, as added Pub. L. 112–158, title II, §216(a), Aug. 10, 2012, 126 Stat. 1232.)

§8514. Imposition of sanctions on certain persons who are responsible for or complicit in human rights abuses committed against citizens of Iran or their family members after the June 12, 2009, elections in Iran

(a) In general

The President shall impose sanctions described in subsection (c) with respect to each person on the list required by subsection (b).

(b) List of persons who are responsible for or complicit in certain human rights abuses

(1) In general

Not later than 90 days after July 1, 2010, the President shall submit to the appropriate congressional committees a list of persons who are officials of the Government of Iran or persons acting on behalf of that Government (including members of paramilitary organizations such as Ansar-e-Hezbollah and Basij-e Mostaz'afin), that the President determines, based on credible

evidence, are responsible for or complicit in, or responsible for ordering, controlling, or otherwise directing, the commission of serious human rights abuses against citizens of Iran or their family members on or after June 12, 2009, regardless of whether such abuses occurred in Iran.

(2) Updates of list

The President shall submit to the appropriate congressional committees an updated list under paragraph (1)—

(A) not later than 270 days after July 1, 2010, and every 180 days thereafter; and

(B) as new information becomes available.

(3) Form of report; public availability

(A) Form

The list required by paragraph (1) shall be submitted in unclassified form but may contain a classified annex.

(B) Public availability

The unclassified portion of the list required by paragraph (1) shall be made available to the public and posted on the websites of the Department of the Treasury and the Department of State.

(4) Consideration of data from other countries and nongovernmental organizations

In preparing the list required by paragraph (1), the President shall consider credible data already obtained by other countries and nongovernmental organizations, including organizations in Iran, that monitor the human rights abuses of the Government of Iran.

(c) Sanctions described

The sanctions described in this subsection are ineligibility for a visa to enter the United States and sanctions pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), including blocking of property and restrictions or prohibitions on financial transactions and the exportation and importation of property, subject to such regulations as the President may prescribe, including regulatory exceptions to permit the United States to comply with the Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations, signed June 26, 1947, and entered into force November 21, 1947, and other applicable international obligations.

(d) Termination of sanctions

The provisions of this section shall terminate on the date on which the President determines and certifies to the appropriate congressional committees that the Government of Iran has—

(1) unconditionally released all political prisoners, including the citizens of Iran detained in the aftermath of the June 12, 2009, presidential election in Iran;

(2) ceased its practices of violence, unlawful detention, torture, and abuse of citizens of Iran while engaging in peaceful political activity;

(3) conducted a transparent investigation into the killings, arrests, and abuse of peaceful political activists that occurred in the aftermath of the June 12, 2009, presidential election in Iran and prosecuted the individuals responsible for such killings, arrests, and abuse; and

(4) made public commitments to, and is making demonstrable progress toward—

(A) establishing an independent judiciary; and

(B) respecting the human rights and basic freedoms recognized in the Universal Declaration of Human Rights.

(Pub. L. 111–195, title I, §105, July 1, 2010, 124 Stat. 1335.)

REFERENCES IN TEXT

The International Emergency Economic Powers Act, referred to in subsec. (c), is title II of Pub. L. 95–223, Dec. 28, 1977, 91 Stat. 1626, which is classified generally to chapter 35 (§1701 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 50 and Tables.

DELEGATION OF FUNCTIONS

Ex. Ord. No. 13553, §§5–7, Sept. 28, 2010, 75 F.R. 60568, 60569, authorized the Secretary of the Treasury, in consultation with the Secretary of State, to employ all powers granted to the President by subsecs. (a) to (c) of this section and to take such actions, including the promulgation of rules and regulations, as may be necessary to carry out the purposes of Ex. Ord. No. 13553, except that (1) the Secretary of State is authorized to exercise the functions and authorities conferred upon the President by subsec. (a) with respect to imposition of the visa sanctions described in subsec. (c) and is further authorized to exercise the functions and authorities conferred upon the President by subsec. (c) with respect to the promulgation of rules and regulations related to the visa sanctions described therein; and (2) the Secretary of State, in consultation with the Secretary of the Treasury, is authorized to submit to Congress, as required by subsec. (b), the initial and updated lists of persons subject to visa sanctions and blockage of property pursuant to Ex. Ord. No. 13553.

§8514a. Imposition of sanctions with respect to the transfer of goods or technologies to Iran that are likely to be used to commit human rights abuses

(a) In general

The President shall impose sanctions in accordance with subsection (c) with respect to each person on the list required by subsection (b).

(b) List

(1) In general

Not later than 90 days after August 10, 2012, the President shall submit to the appropriate congressional committees a list of persons that the President determines have knowingly engaged in an activity described in paragraph (2) on or after August 10, 2012.

(2) Activity described

(A) In general

A person engages in an activity described in this paragraph if the person—

(i) transfers, or facilitates the transfer of, goods or technologies described in subparagraph (C) to Iran, any entity organized under the laws of Iran or otherwise subject to the jurisdiction of the Government of Iran, or any national of Iran, for use in or with respect to Iran; or

(ii) provides services (including services relating to hardware, software, and specialized information, and professional consulting, engineering, and support services) with respect to goods or technologies described in subparagraph (C) after such goods or technologies are transferred to Iran.

(B) Applicability to contracts and other agreements

A person engages in an activity described in subparagraph (A) without regard to whether the activity is carried out pursuant to a contract or other agreement entered into before, on, or after August 10, 2012.

(C) Goods or technologies described

Goods or technologies described in this subparagraph are goods or technologies that the President determines are likely to be used by the Government of Iran or any of its agencies or instrumentalities (or by any other person on behalf of the Government of Iran or any of such agencies or instrumentalities) to commit serious human rights abuses against the people of Iran, including—

(i) firearms or ammunition (as those terms are defined in section 921 of title 18), rubber bullets, police batons, pepper or chemical sprays, stun grenades, electroshock weapons, tear gas, water cannons, or surveillance technology; or

(ii) sensitive technology (as defined in section 8515(c) of this title).

(3) Special rule to allow for termination of sanctionable activity

The President shall not be required to include a person on the list required by paragraph (1) if the President certifies in writing to the appropriate congressional committees that—

(A) the person is no longer engaging in, or has taken significant verifiable steps toward stopping, the activity described in paragraph (2) for which the President would otherwise have included the person on the list; and

(B) the President has received reliable assurances that the person will not knowingly engage in any activity described in paragraph (2) in the future.

(4) Updates of list

The President shall submit to the appropriate congressional committees an updated list under paragraph (1)—

(A) each time the President is required to submit an updated list to those committees under section 8514(b)(2)(A) of this title; and

(B) as new information becomes available.

(5) Form of report; public availability

(A) Form

The list required by paragraph (1) shall be submitted in unclassified form but may contain a classified annex.

(B) Public availability

The unclassified portion of the list required by paragraph (1) shall be made available to the public and posted on the websites of the Department of the Treasury and the Department of State.

(c) Application of sanctions

(1) In general

Subject to paragraph (2), the President shall impose sanctions described in section 8514(c) of this title with respect to a person on the list required by subsection (b).

(2) Transfers to Iran's Revolutionary Guard Corps

In the case of a person on the list required by subsection (b) for transferring, or facilitating the transfer of, goods or technologies described in subsection (b)(2)(C) to Iran's Revolutionary Guard Corps, or providing services with respect to such goods or technologies after such goods or technologies are transferred to Iran's Revolutionary Guard Corps, the President shall—

(A) impose sanctions described in section 8514(c) of this title with respect to the person; and

(B) impose such other sanctions from among the sanctions described in section 6(a) of the Iran Sanctions Act of 1996 (Public Law 104–172; 50 U.S.C. 1701 note) as the President determines appropriate.

(Pub. L. 111–195, title I, §105A, as added Pub. L. 112–158, title IV, §402(a), Aug. 10, 2012, 126 Stat. 1252.)

§8514b. Imposition of sanctions with respect to persons who engage in censorship or other related activities against citizens of Iran

(a) In general

The President shall impose sanctions described in section 8514(c) of this title with respect to each person on the list required by subsection (b).

(b) List of persons who engage in censorship

(1) In general

Not later than 90 days after August 10, 2012, the President shall submit to the appropriate congressional committees a list of persons that the President determines have, on or after June 12,

2009, engaged in censorship or other activities with respect to Iran that—

(A) prohibit, limit, or penalize the exercise of freedom of expression or assembly by citizens of Iran; or

(B) limit access to print or broadcast media, including the facilitation or support of intentional frequency manipulation by the Government of Iran or an entity owned or controlled by that Government that would jam or restrict an international signal.

(2) Updates of list

The President shall submit to the appropriate congressional committees an updated list under paragraph (1)—

(A) each time the President is required to submit an updated list to those committees under section 8514(b)(2)(A) of this title; and

(B) as new information becomes available.

(3) Form of report; public availability

(A) Form

The list required by paragraph (1) shall be submitted in unclassified form but may contain a classified annex.

(B) Public availability

The unclassified portion of the list required by paragraph (1) shall be made available to the public and posted on the websites of the Department of the Treasury and the Department of State.

(Pub. L. 111–195, title I, §105B, as added Pub. L. 112–158, title IV, §403(b), Aug. 10, 2012, 126 Stat. 1254.)

§8514c. Imposition of sanctions with respect to persons engaged in the diversion of goods intended for the people of Iran

(a) Imposition of sanctions

(1) In general

The President shall impose sanctions described in section 8514(c) of this title with respect to each person on the list required by subsection (b).

(2) Exception

The requirement to impose sanctions under paragraph (1) shall not include the authority to impose sanctions on the importation of goods.

(b) List of persons who engage in diversion

(1) In general

As relevant information becomes available, the President shall submit to the appropriate congressional committees a list of persons that the President determines have, on or after January 2, 2013, engaged in corruption or other activities relating to—

(A) the diversion of goods, including agricultural commodities, food, medicine, and medical devices, intended for the people of Iran; or

(B) the misappropriation of proceeds from the sale or resale of such goods.

(2) Form of report; public availability

(A) Form

The list required by paragraph (1) shall be submitted in unclassified form but may contain a classified annex.

(B) Public availability

The unclassified portion of the list required by paragraph (1) shall be made available to the public and posted on the websites of the Department of the Treasury and the Department of State.

(c) Good defined

In this section, the term "good" has the meaning given that term in section 8801(a) of this title.

(Pub. L. 111–195, title I, §105C, as added Pub. L. 112–239, div. A, title XII, §1249(a), Jan. 2, 2013, 126 Stat. 2015.)

DELEGATION OF FUNCTIONS

For delegation of certain functions and authorities vested in the President by this section, see Memorandum of President of the United States, June 3, 2013, 78 F.R. 35545, set out as a note under section 8801 of this title.

§8515. Prohibition on procurement contracts with persons that export sensitive technology to Iran

(a) In general

Except as provided in subsection (b), and pursuant to such regulations as the President may prescribe, the head of an executive agency may not enter into or renew a contract, on or after the date that is 90 days after July 1, 2010, for the procurement of goods or services with a person that exports sensitive technology to Iran.

(b) Authorization to exempt certain products

The President is authorized to exempt from the prohibition under subsection (a) only eligible products, as defined in section 2518(4) of title 19, of any foreign country or instrumentality designated under section 2511(b) of title 19.

(c) Sensitive technology defined

(1) In general

The term "sensitive technology" means hardware, software, telecommunications equipment, or any other technology, that the President determines is to be used specifically—

(A) to restrict the free flow of unbiased information in Iran; or

(B) to disrupt, monitor, or otherwise restrict speech of the people of Iran.

(2) Exception

The term "sensitive technology" does not include information or informational materials the exportation of which the President does not have the authority to regulate or prohibit pursuant to section 1702(b)(3) of title 50.

(d) Government Accountability Office report on effect of procurement prohibition

Not later than 1 year after July 1, 2010, the Comptroller General of the United States shall submit to the appropriate congressional committees, the Committee on Armed Services of the Senate, and the Committee on Armed Services of the House of Representatives, a report assessing the extent to which executive agencies would have entered into or renewed contracts for the procurement of goods or services with persons that export sensitive technology to Iran if the prohibition under subsection (a) were not in effect.

(Pub. L. 111–195, title I, §106, July 1, 2010, 124 Stat. 1336.)

TERMINATION OF SECTION

For termination of section, see section 8551(a) of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Memorandum of President of the United

States, Sept. 23, 2010, 75 F.R. 67025, set out as a note under section 8501 of this title.

§8516. Authority to implement United Nations Security Council resolutions imposing sanctions with respect to Iran

In addition to any other authority of the President with respect to implementing resolutions of the United Nations Security Council, the President may prescribe such regulations as may be necessary to implement a resolution that is agreed to by the United Nations Security Council and imposes sanctions with respect to Iran.

(Pub. L. 111–195, title I, §108, July 1, 2010, 124 Stat. 1337.)

TERMINATION OF SECTION

For termination of section, see section 8551(a) of this title.

§8517. Increased capacity for efforts to combat unlawful or terrorist financing

(a) Findings

Congress finds the following:

(1) The work of the Office of Terrorism and Financial Intelligence of the Department of the Treasury, which includes the Office of Foreign Assets Control and the Financial Crimes Enforcement Network, is critical to ensuring that the international financial system is not used for purposes of supporting terrorism and developing weapons of mass destruction.

(2) The Secretary of the Treasury has designated, including most recently on June 16, 2010, various Iranian individuals and banking, military, energy, and shipping entities as proliferators of weapons of mass destruction pursuant to Executive Order 13382 (50 U.S.C. 1701 note), thereby blocking transactions subject to the jurisdiction of the United States by those individuals and entities and their supporters.

(3) The Secretary of the Treasury has also identified an array of entities in the insurance, petroleum, and petrochemicals industries that the Secretary has determined to be owned or controlled by the Government of Iran and added those entities to the list contained in Appendix A to part 560 of title 31, Code of Federal Regulations (commonly known as the "Iranian Transactions Regulations"), thereby prohibiting transactions between United States persons and those entities.

(b) Authorization of appropriations for Office of Terrorism and Financial Intelligence

There are authorized to be appropriated to the Secretary of the Treasury for the Office of Terrorism and Financial Intelligence—

(1) $102,613,000 for fiscal year 2011; and

(2) such sums as may be necessary for each of the fiscal years 2012 and 2013.

(c) Omitted

(d) Authorization of appropriations for Bureau of Industry and Security of the Department of Commerce

There are authorized to be appropriated to the Secretary of Commerce for the Bureau of Industry and Security of the Department of Commerce—

(1) $113,000,000 for fiscal year 2011; and

(2) such sums as may be necessary for each of the fiscal years 2012 and 2013.

(Pub. L. 111–195, title I, §109, July 1, 2010, 124 Stat. 1338.)

TERMINATION OF SECTION

For termination of section, see section 8551(a) of this title.

CODIFICATION

Section is comprised of section 109 of Pub. L. 111–195. Subsec. (c) of section 109 of Pub. L. 111–195 amended section 310 of Title 31, Money and Finance.

§8518. Reports on investments in the energy sector of Iran

(a) Initial report

(1) In general

Not later than 90 days after July 1, 2010, the President shall submit to the appropriate congressional committees a report—

(A) on investments in the energy sector of Iran that were made during the period described in paragraph (2); and

(B) that contains—

(i) an estimate of the volume of energy-related resources (other than refined petroleum), including ethanol, that Iran imported during the period described in paragraph (2); and

(ii) a list of all significant known energy-related joint ventures, investments, and partnerships located outside Iran that involve Iranian entities in partnership with entities from other countries, including an identification of the entities from other countries; and

(iii) an estimate of—

(I) the total value of each such joint venture, investment, and partnership; and

(II) the percentage of each such joint venture, investment, and partnership owned by an Iranian entity.

(2) Period described

The period described in this paragraph is the period beginning on January 1, 2006, and ending on the date that is 60 days after July 1, 2010.

(b) Updated reports

Not later than 180 days after submitting the report required by subsection (a), and every 180 days thereafter, the President shall submit to the appropriate congressional committees a report, covering the 180-day period beginning on the date that is 30 days before the date on which the preceding report was required to be submitted by this section, that—

(1) contains the matters required in the report under subsection (a)(1); and

(2) identifies—

(A) the volume of crude oil and refined petroleum products imported to and exported from Iran (including through swaps and similar arrangements);

(B) the persons selling and transporting crude oil and refined petroleum products described in subparagraph (A), the countries with primary jurisdiction over those persons, and the countries in which those products were refined;

(C) the sources of financing for imports to Iran of crude oil and refined petroleum products described in subparagraph (A); and

(D) the involvement of foreign persons in efforts to assist Iran in—

(i) developing upstream oil and gas production capacity;

(ii) importing advanced technology to upgrade existing Iranian refineries;

(iii) converting existing chemical plants to petroleum refineries; or

(iv) maintaining, upgrading, or expanding existing refineries or constructing new refineries.

(Pub. L. 111–195, title I, §110, July 1, 2010, 124 Stat. 1338; Pub. L. 112–158, title II, §224, Aug. 10, 2012, 126 Stat. 1240.)

TERMINATION OF SECTION

For termination of section, see section 8551(a) of this title.

AMENDMENTS

2012—Subsec. (b). Pub. L. 112–158 substituted "a report, covering the 180-day period beginning on the date that is 30 days before the date on which the preceding report was required to be submitted by this section, that—" for "a report containing the matters required in the report under subsection (a)(1) for the 180-day period beginning on the date that is 30 days before the date on which the preceding report was required to be submitted by this section." and added pars. (1) and (2).

DELEGATION OF FUNCTIONS

Functions of President under this section delegated to Secretary of State, see Memorandum of President of the United States, Sept. 23, 2010, 75 F.R. 67025, set out as a note under section 8501 of this title.

§8519. Reports on certain activities of foreign export credit agencies and of the Export-Import Bank of the United States

(a) Report on certain activities of export credit agencies of foreign countries

(1) In general

Not later than 90 days after July 1, 2010, the President shall submit to the appropriate congressional committees a report on any activity of an export credit agency of a foreign country that is an activity comparable to an activity described in subsection (a) or (b) of section 5 of the Iran Sanctions Act of 1996, as amended by section 102 of this Act.

(2) Updates

The President shall update the report required by paragraph (1) as new information becomes available with respect to the activities of export credit agencies of foreign countries.

(b) Report on certain financing by the Export-Import Bank of the United States

Not later than 30 days (or, in extraordinary circumstances, not later than 15 days) before the Export-Import Bank of the United States approves cofinancing (including loans, guarantees, other credits, insurance, and reinsurance) in which an export credit agency of a foreign country identified in the report required by subsection (a) will participate, the President shall submit to the appropriate congressional committees a report identifying—

(1) the export credit agency of the foreign country; and

(2) the beneficiaries of the financing.

(Pub. L. 111–195, title I, §111, July 1, 2010, 124 Stat. 1339.)

TERMINATION OF SECTION

For termination of section, see section 8551(a) of this title.

REFERENCES IN TEXT

Section 5 of the Iran Sanctions Act of 1996, as amended by section 102 of this Act, referred to in subsec. (a)(1), is section 5 of Pub. L. 104–172, as amended by section 102 of Pub. L. 111–195, which is set out as a note under section 1701 of Title 50, War and National Defense.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Memorandum of President of the United States, Sept. 23, 2010, 75 F.R. 67025, set out as a note under section 8501 of this title.

SUBCHAPTER II—DIVESTMENT FROM CERTAIN COMPANIES THAT INVEST IN IRAN

§8531. Definitions

In this subchapter:

(1) Energy sector of Iran

The term "energy sector of Iran" refers to activities to develop petroleum or natural gas resources or nuclear power in Iran.

(2) Financial institution

The term "financial institution" has the meaning given that term in section 14 of the Iran Sanctions Act of 1996 (Public Law 104–172; 50 U.S.C. 1701 note).

(3) Iran

The term "Iran" includes the Government of Iran and any agency or instrumentality of Iran.

(4) Person

The term "person" means—

(A) a natural person, corporation, company, business association, partnership, society, trust, or any other nongovernmental entity, organization, or group;

(B) any governmental entity or instrumentality of a government, including a multilateral development institution (as defined in section 262r(c)(3) of this title); and

(C) any successor, subunit, parent entity, or subsidiary of, or any entity under common ownership or control with, any entity described in subparagraph (A) or (B).

(5) State

The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the United States Virgin Islands, and any other territory or possession of the United States.

(6) State or local government

The term "State or local government" includes—

(A) any State and any agency or instrumentality thereof;

(B) any local government within a State, and any agency or instrumentality thereof;

(C) any other governmental instrumentality of a State or locality; and

(D) any public institution of higher education within the meaning of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.).

(Pub. L. 111–195, title II, §201, July 1, 2010, 124 Stat. 1341.)

TERMINATION OF SECTION

For termination of section, see section 8551(a) of this title.

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original "this title", meaning Pub. L. 111–195, title II, July 1, 2010, 124 Stat. 1341, which enacted this subchapter, amended section 80a–13 of Title 15, Commerce and Trade, enacted provisions set out as notes under section 80a–13 of Title 15, and amended provisions set out as a note under section 1701 of Title 50, War and National Defense. For complete classification of title II to the Code, see Tables.

The Higher Education Act of 1965, referred to in par. (6)(D), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219, which is classified generally to chapter 28 (§1001 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables.

§8532. Authority of State and local governments to divest from certain companies that invest in Iran

(a) Sense of Congress

It is the sense of Congress that the United States should support the decision of any State or local government that for moral, prudential, or reputational reasons divests from, or prohibits the investment of assets of the State or local government in, a person that engages in investment

activities in the energy sector of Iran, as long as Iran is subject to economic sanctions imposed by the United States.

(b) Authority to divest

Notwithstanding any other provision of law, a State or local government may adopt and enforce measures that meet the requirements of subsection (d) to divest the assets of the State or local government from, or prohibit investment of the assets of the State or local government in, any person that the State or local government determines, using credible information available to the public, engages in investment activities in Iran described in subsection (c).

(c) Investment activities described

A person engages in investment activities in Iran described in this subsection if the person—

(1) has an investment of $20,000,000 or more in the energy sector of Iran, including in a person that provides oil or liquified natural gas tankers, or products used to construct or maintain pipelines used to transport oil or liquified natural gas, for the energy sector of Iran; or

(2) is a financial institution that extends $20,000,000 or more in credit to another person, for 45 days or more, if that person will use the credit for investment in the energy sector of Iran.

(d) Requirements

Any measure taken by a State or local government under subsection (b) shall meet the following requirements:

(1) Notice

The State or local government shall provide written notice to each person to which a measure is to be applied.

(2) Timing

The measure shall apply to a person not earlier than the date that is 90 days after the date on which written notice is provided to the person under paragraph (1).

(3) Opportunity for hearing

The State or local government shall provide an opportunity to comment in writing to each person to which a measure is to be applied. If the person demonstrates to the State or local government that the person does not engage in investment activities in Iran described in subsection (c), the measure shall not apply to the person.

(4) Sense of Congress on avoiding erroneous targeting

It is the sense of Congress that a State or local government should not adopt a measure under subsection (b) with respect to a person unless the State or local government has made every effort to avoid erroneously targeting the person and has verified that the person engages in investment activities in Iran described in subsection (c).

(e) Notice to Department of Justice

Not later than 30 days after adopting a measure pursuant to subsection (b), a State or local government shall submit written notice to the Attorney General describing the measure.

(f) Nonpreemption

A measure of a State or local government authorized under subsection (b) or (i) is not preempted by any Federal law or regulation.

(g) Definitions

In this section:

(1) Assets

(A) In general

Except as provided in subparagraph (B), the term "assets" refers to public monies and includes any pension, retirement, annuity, or endowment fund, or similar instrument, that is

controlled by a State or local government.

(B) Exception

The term "assets" does not include employee benefit plans covered by title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.).

(2) Investment

The "investment" includes—

(A) a commitment or contribution of funds or property;

(B) a loan or other extension of credit; and

(C) the entry into or renewal of a contract for goods or services.

(h) Effective date

(1) In general

Except as provided in paragraph (2) or subsection (i), this section applies to measures adopted by a State or local government before, on, or after July 1, 2010.

(2) Notice requirements

Except as provided in subsection (i), subsections (d) and (e) apply to measures adopted by a State or local government on or after July 1, 2010.

(i) Authorization for prior enacted measures

(1) In general

Notwithstanding any other provision of this section or any other provision of law, a State or local government may enforce a measure (without regard to the requirements of subsection (d), except as provided in paragraph (2)) adopted by the State or local government before July 1, 2010, that provides for the divestment of assets of the State or local government from, or prohibits the investment of the assets of the State or local government in, any person that the State or local government determines, using credible information available to the public, engages in investment activities in Iran (determined without regard to subsection (c)) or other business activities in Iran that are identified in the measure.

(2) Application of notice requirements

A measure described in paragraph (1) shall be subject to the requirements of paragraphs (1) and (2) and the first sentence of paragraph (3) of subsection (d) on and after the date that is 2 years after July 1, 2010.

(j) Rule of construction

Nothing in this Act or any other provision of law authorizing sanctions with respect to Iran shall be construed to abridge the authority of a State to issue and enforce rules governing the safety, soundness, and solvency of a financial institution subject to its jurisdiction or the business of insurance pursuant to the Act of March 9, 1945 (15 U.S.C. 1011 et seq.) (commonly known as the "McCarran-Ferguson Act").

(Pub. L. 111–195, title II, §202, July 1, 2010, 124 Stat. 1342; Pub. L. 112–158, title II, §222(b), Aug. 10, 2012, 126 Stat. 1239.)

TERMINATION OF SECTION

For termination of section, see section 8551(a) of this title.

REFERENCES IN TEXT

The Employee Retirement Income Security Act of 1974, referred to in subsec. (g)(1)(B), is Pub. L. 93–406, Sept. 2, 1974, 88 Stat. 829. Title I of the Act is classified generally to subchapter I (§1001 et seq.) of chapter 18 of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 29 and Tables.

This Act, referred to in subsec. (j), is Pub. L. 111–195, July 1, 2010, 124 Stat. 1312, which enacted this chapter, amended sections 287c, 2778, and 2780 of this title, section 80a–13 of Title 15, Commerce and

Trade, section 310 of Title 31, Money and Finance, and section 4315 of Title 50, War and National Defense, enacted provisions set out as notes under section 80a–13 of Title 15 and section 1701 of Title 50, and amended provisions set out as notes under section 1701 of Title 50. For complete classification of this Act to the Code, see Short Title note set out under section 8501 of this title and Tables.

Act of March 9, 1945, referred to in subsec. (j), is act Mar. 9, 1945, ch. 20, 59 Stat. 33, popularly known as the McCarran-Ferguson Act, which is classified generally to chapter 20 (§ 1011 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1011 of Title 15 and Tables.

AMENDMENTS

2012—Subsec. (j). Pub. L. 112–158 added subsec. (j).

SUBCHAPTER III—PREVENTION OF DIVERSION OF CERTAIN GOODS, SERVICES, AND TECHNOLOGIES TO IRAN

§8541. Definitions

In this subchapter:

(1) Allow

The term "allow", with respect to the diversion through a country of goods, services, or technologies, means the government of the country knows or has reason to know that the territory of the country is being used for such diversion.

(2) Appropriate congressional committees

The term "appropriate congressional committees" means—

(A) the Committee on Banking, Housing, and Urban Affairs, the Committee on Foreign Relations, and the Select Committee on Intelligence of the Senate; and

(B) the Committee on Foreign Affairs and the Permanent Select Committee on Intelligence of the House of Representatives.

(3) Commerce Control List

The term "Commerce Control List" means the list maintained pursuant to part 774 of the Export Administration Regulations (or any corresponding similar regulation or ruling).

(4) Divert; diversion

The terms "divert" and "diversion" refer to the transfer or release, directly or indirectly, of a good, service, or technology to an end-user or an intermediary that is not an authorized recipient of the good, service, or technology.

(5) End-user

The term "end-user", with respect to a good, service, or technology, means the person that receives and ultimately uses the good, service, or technology.

(6) Export Administration Regulations

The term "Export Administration Regulations" means subchapter C of chapter VII of title 15, Code of Federal Regulations (or any corresponding similar regulation or ruling).

(7) Government

The term "government" includes any agency or instrumentality of a government.

(8) Intermediary

The term "intermediary" means a person that receives a good, service, or technology while the good, service, or technology is in transit to the end-user of the good, service, or technology.

(9) International Traffic in Arms Regulations

The term "International Traffic in Arms Regulations" means subchapter M of chapter I of title 22, Code of Federal Regulations (or any corresponding similar regulation or ruling).

(10) Iran

The term "Iran" includes the Government of Iran and any agency or instrumentality of Iran.

(11) Iranian end-user

The term "Iranian end-user" means an end-user that is the Government of Iran or a person in, or an agency or instrumentality of, Iran.

(12) Iranian intermediary

The term "Iranian intermediary" means an intermediary that is the Government of Iran or a person in, or an agency or instrumentality of, Iran.

(13) State sponsor of terrorism

The term "state sponsor of terrorism" means any country the government of which the Secretary of State has determined has repeatedly provided support for acts of international terrorism pursuant to—

(A) section 4605(j)(1)(A) of title 50 (or any successor thereto);
(B) section 2780(d) of this title; or
(C) section 2371(a) of this title.

(14) United States Munitions List

The term "United States Munitions List" means the list maintained pursuant to part 121 of the International Traffic in Arms Regulations (or any corresponding similar regulation or ruling).

(Pub. L. 111–195, title III, §301, July 1, 2010, 124 Stat. 1345.)

TERMINATION OF SECTION

For termination of section, see section 8551(a) of this title.

§8542. Identification of countries of concern with respect to the diversion of certain goods, services, and technologies to or through Iran

(a) In general

Not later than 180 days after July 1, 2010, the Director of National Intelligence shall submit to the President, the Secretary of Defense, the Secretary of Commerce, the Secretary of State, the Secretary of the Treasury, and the appropriate congressional committees a report that identifies each country the government of which the Director believes, based on all information available to the Director, is allowing the diversion through the country of goods, services, or technologies described in subsection (b) to Iranian end-users or Iranian intermediaries.

(b) Goods, services, and technologies described

Goods, services, or technologies described in this subsection are goods, services, or technologies—

(1) that—
(A) originated in the United States;
(B) would make a material contribution to Iran's—
(i) development of nuclear, chemical, or biological weapons;
(ii) ballistic missile or advanced conventional weapons capabilities; or
(iii) support for international terrorism; and

(C) are—
(i) items on the Commerce Control List or services related to those items; or

(ii) defense articles or defense services on the United States Munitions List; or

(2) that are prohibited for export to Iran under a resolution of the United Nations Security Council.

(c) Updates

The Director of National Intelligence shall update the report required by subsection (a)—

(1) as new information becomes available; and

(2) not less frequently than annually.

(d) Form

The report required by subsection (a) and the updates required by subsection (c) may be submitted in classified form.

(Pub. L. 111–195, title III, §302, July 1, 2010, 124 Stat. 1346.)

TERMINATION OF SECTION

For termination of section, see section 8551(a) of this title.

§8543. Destinations of Diversion Concern

(a) Designation

(1) In general

The President shall designate a country as a Destination of Diversion Concern if the President determines that the government of the country allows substantial diversion of goods, services, or technologies described in section 8542(b) of this title through the country to Iranian end-users or Iranian intermediaries.

(2) Determination of substantial

For purposes of paragraph (1), the President shall determine whether the government of a country allows substantial diversion of goods, services, or technologies described in section 8542(b) of this title through the country to Iranian end-users or Iranian intermediaries based on criteria that include—

(A) the volume of such goods, services, and technologies that are diverted through the country to such end-users or intermediaries;

(B) the inadequacy of the export controls of the country;

(C) the unwillingness or demonstrated inability of the government of the country to control the diversion of such goods, services, and technologies to such end-users or intermediaries; and

(D) the unwillingness or inability of the government of the country to cooperate with the United States in efforts to interdict the diversion of such goods, services, or technologies to such end-users or intermediaries.

(b) Report on designation

Upon designating a country as a Destination of Diversion Concern under subsection (a), the President shall submit to the appropriate congressional committees a report—

(1) notifying those committees of the designation of the country; and

(2) containing a list of the goods, services, and technologies described in section 8542(b) of this title that the President determines are diverted through the country to Iranian end-users or Iranian intermediaries.

(c) Licensing requirement

Not later than 45 days after submitting a report required by subsection (b) with respect to a country designated as a Destination of Diversion Concern under subsection (a), the President shall require a license under the Export Administration Regulations or the International Traffic in Arms Regulations (whichever is applicable) to export to that country a good, service, or technology on the

list required under subsection (b)(2), with the presumption that any application for such a license will be denied.

(d) Delay of imposition of licensing requirement

(1) In general

The President may delay the imposition of the licensing requirement under subsection (c) with respect to a country designated as a Destination of Diversion Concern under subsection (a) for a 12-month period if the President—

(A) determines that the government of the country is taking steps—

(i) to institute an export control system or strengthen the export control system of the country;

(ii) to interdict the diversion of goods, services, or technologies described in section 8542(b) of this title through the country to Iranian end-users or Iranian intermediaries; and

(iii) to comply with and enforce United Nations Security Council Resolutions 1696 (2006), 1737 (2006), 1747 (2007), 1803 (2008), and 1929 (2010), and any other resolution that is agreed to by the Security Council and imposes sanctions with respect to Iran;

(B) determines that it is appropriate to carry out government-to-government activities to strengthen the export control system of the country; and

(C) submits to the appropriate congressional committees a report describing the steps specified in subparagraph (A) being taken by the government of the country.

(2) Additional 12-month periods

The President may delay the imposition of the licensing requirement under subsection (c) with respect to a country designated as a Destination of Diversion Concern under subsection (a) for additional 12-month periods after the 12-month period referred to in paragraph (1) if the President, for each such 12-month period—

(A) makes the determinations described in subparagraphs (A) and (B) of paragraph (1) with respect to the country; and

(B) submits to the appropriate congressional committees an updated version of the report required by subparagraph (C) of paragraph (1).

(3) Strengthening export control systems

If the President determines under paragraph (1)(B) that is it appropriate to carry out government-to-government activities to strengthen the export control system of a country designated as a Destination of Diversion Concern under subsection (a), the United States shall initiate government-to-government activities that may include—

(A) cooperation by agencies and departments of the United States with counterpart agencies and departments in the country—

(i) to develop or strengthen the export control system of the country;

(ii) to strengthen cooperation among agencies of the country and with the United States and facilitate enforcement of the export control system of the country; and

(iii) to promote information and data exchanges among agencies of the country and with the United States;

(B) training officials of the country to strengthen the export control systems of the country—

(i) to facilitate legitimate trade in goods, services, and technologies; and

(ii) to prevent terrorists and state sponsors of terrorism, including Iran, from obtaining nuclear, biological, and chemical weapons, defense technologies, components for improvised explosive devices, and other defense articles; and

(C) encouraging the government of the country to participate in the Proliferation Security Initiative, such as by entering into a ship boarding agreement pursuant to the Initiative.

(e) Termination of designation

The designation of a country as a Destination of Diversion Concern under subsection (a) shall terminate on the date on which the President determines, and certifies to the appropriate congressional committees, that the country has adequately strengthened the export control system of the country to prevent the diversion of goods, services, and technologies described in section 8542(b) of this title to Iranian end-users or Iranian intermediaries.

(f) Form of reports

A report required by subsection (b) or (d) may be submitted in classified form.

(Pub. L. 111–195, title III, §303, July 1, 2010, 124 Stat. 1347.)

TERMINATION OF SECTION

For termination of section, see section 8551(a) of this title.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Memorandum of President of the United States, Sept. 23, 2010, 75 F.R. 67025, set out as a note under section 8501 of this title.

§8544. Enforcement authority

The Secretary of Commerce may designate any employee of the Office of Export Enforcement of the Department of Commerce to conduct activities specified in clauses (i), (ii), and (iii) of section 12(a)(3)(B) of the Export Administration Act of 1979 (50 U.S.C. App. 2411(a)(3)(B)) [1] when the employee is carrying out activities to enforce—

(1) the provisions of the Export Administration Act of 1979 (50 U.S.C. App. 2401 et seq.) [1] (as in effect pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.));

(2) the provisions of this subchapter, or any other provision of law relating to export controls, with respect to which the Secretary of Commerce has enforcement responsibility; or

(3) any license, order, or regulation issued under—

(A) the Export Administration Act of 1979 (50 U.S.C. App. 2401 et seq.) [1] (as in effect pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.)); or

(B) a provision of law referred to in paragraph (2).

(Pub. L. 111–195, title III, §305, July 1, 2010, 124 Stat. 1349.)

REFERENCES IN TEXT

The Export Administration Act of 1979, referred to in pars. (1) and (3)(A), is Pub. L. 96–72, Sept. 29, 1979, 93 Stat. 503, which was classified principally to section 2401 et seq. of the former Appendix to Title 50, War and National Defense, prior to editorial reclassification and renumbering as chapter 56 (§4601 et seq.) of Title 50. Section 12 of the Act is now classified to section 4614 of Title 50. For complete classification of this Act to the Code, see Tables.

The International Emergency Economic Powers Act, referred to in pars. (1) and (3)(A), is title II of Pub. L. 95–223, Dec. 28, 1977, 91 Stat. 1626, which is classified generally to chapter 35 (§1701 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 50 and Tables.

[1] *See References in Text note below.*

SUBCHAPTER IV—GENERAL PROVISIONS

§8551. General provisions

(a) Sunset

The provisions of this Act (other than sections 105 and 305 [22 U.S.C. 8514, 8544] and the amendments made by sections 102, 107, 109, and 205) shall terminate, and section 80a–13(c)(1)(B) of title 15, as added by section 203(a), shall cease to be effective, on the date that is 30 days after the date on which the President certifies to Congress that—

(1) the Government of Iran has ceased providing support for acts of international terrorism and no longer satisfies the requirements for designation as a state sponsor of terrorism (as defined in section 301 [22 U.S.C. 8541]) under—

(A) section 4605(j)(1)(A) of title 50 (or any successor thereto);

(B) section 2780(d) of this title; or

(C) section 2371(a) of this title; and

(2) Iran has ceased the pursuit, acquisition, and development of, and verifiably dismantled its, nuclear, biological, and chemical weapons and ballistic missiles and ballistic missile launch technology.

(b) Presidential waivers

(1) In general

The President may waive the application of sanctions under section 103(b) [22 U.S.C. 8512(b)], the requirement to impose or maintain sanctions with respect to a person under section 105(a) [22 U.S.C. 8514(a)], 105A(a) [22 U.S.C. 8514a(a)], 105B(a) [22 U.S.C. 8514b(a)], or 105C(a) [22 U.S.C. 8514c(a)], the requirement to include a person on the list required by section 105(b) [22 U.S.C. 8514(b)], 105A(b) [22 U.S.C. 8514a(b)], 105B(b) [22 U.S.C. 8514b(b)], or 105C(b) [22 U.S.C. 8514c(b)], the application of the prohibition under section 106(a) [22 U.S.C. 8515(a)], or the imposition of the licensing requirement under section 303(c) [22 U.S.C. 8543(c)] with respect to a country designated as a Destination of Diversion Concern under section 303(a) [22 U.S.C. 8543(a)], if the President determines that such a waiver is in the national interest of the United States.

(2) Reports

(A) In general

If the President waives the application of a provision pursuant to paragraph (1), the President shall submit to the appropriate congressional committees a report describing the reasons for the waiver.

(B) Special rule for report on waiving imposition of licensing requirement under section 303(c)

In any case in which the President waives, pursuant to paragraph (1), the imposition of the licensing requirement under section 303(c) [22 U.S.C. 8543(c)] with respect to a country designated as a Destination of Diversion Concern under section 303(a) [22 U.S.C. 8543(a)], the President shall include in the report required by subparagraph (A) of this paragraph an assessment of whether the government of the country is taking the steps described in subparagraph (A) of section 303(d)(1) [22 U.S.C. 8543(d)(1)(A)].

(c) Authorizations of appropriations

(1) Authorization of appropriations for the Department of State and the Department of the Treasury

There are authorized to be appropriated to the Secretary of State and to the Secretary of the Treasury such sums as may be necessary to implement the provisions of, and amendments made by, titles I and III of this Act [22 U.S.C. 8511 et seq., 8541 et seq.].

(2) Authorization of appropriations for the Department of Commerce

There are authorized to be appropriated to the Secretary of Commerce such sums as may be necessary to carry out title III [22 U.S.C. 8541 et seq.].

(Pub. L. 111–195, title IV, §401, July 1, 2010, 124 Stat. 1350; Pub. L. 112–158, title IV, §403(d),

title VI, §605(b), Aug. 10, 2012, 126 Stat. 1255, 1265; Pub. L. 112–239, div. A, title XII, §1249(b), Jan. 2, 2013, 126 Stat. 2016.)

REFERENCES IN TEXT

This Act, referred to in subsecs. (a) and (c)(1), is Pub. L. 111–195, July 1, 2010, 124 Stat. 1312, known as the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010, which enacted this chapter, amended sections 287c, 2778, and 2780 of this title, section 80a–13 of Title 15, Commerce and Trade, section 310 of Title 31, Money and Finance, and section 4315 of Title 50, War and National Defense, enacted provisions set out as notes under section 80a–13 of Title 15 and section 1701 of Title 50, and amended provisions set out as notes under section 1701 of Title 50. Title I of the Act enacted subchapter I of this chapter, amended sections 287c, 2778, and 2780 of this title, section 310 of Title 31, and section 4315 of Title 50, enacted provisions set out as a note under section 1701 of Title 50, and amended provisions set out as a note under section 1701 of Title 50. Title III of the Act enacted subchapter III of this chapter. Section 102 of the Act enacted and amended provisions set out as notes under section 1701 of Title 50. Section 107 of the Act amended sections 287c, 2778, and 2780 of this title and section 4315 of Title 50. Section 109 of the Act enacted section 8517 of this title and amended section 310 of Title 31. Section 205 of the Act amended section 80a–13 of Title 15, enacted provisions set out as a note under section 80a–13 of Title 15, and amended provisions set out as a note under section 1701 of Title 50. For complete classification of this Act to the Code, see Short Title note set out under section 8501 of this title and Tables.

AMENDMENTS

2013—Subsec. (b)(1). Pub. L. 112–239 substituted "105B(a), or 105C(a)" for "or 105B(a)" and "105B(b), or 105C(b)" for "or 105B(b)".

2012—Subsec. (a)(2). Pub. L. 112–158, §605(b), inserted ", and verifiably dismantled its," after "development of".

Subsec. (b)(1). Pub. L. 112–158, §403(d), inserted ", 105A(a), or 105B(a)" after "105(a)" and ", 105A(b), or 105B(b)" after "105(b)".

DELEGATION OF FUNCTIONS

Ex. Ord. No. 13553, §§5–7, Sept. 28, 2010, 77 Stat. 60568, 60569, authorized the Secretary of the Treasury, in consultation with the Secretary of State, to exercise the functions and waiver authorities conferred upon the President by subsec. (b) of this section with respect to the requirement to impose or maintain sanctions pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) under section 8514(a) of this title; authorized the Secretary of State, in consultation with the Secretary of Homeland Security on certain admissibility matters, to exercise the functions and waiver authorities conferred upon the President by subsec. (b) of this section with respect to the requirement to impose or maintain visa sanctions under section 8514(a) of this title; and authorized the Secretary of State, in consultation with the Secretary of the Treasury, to exercise the functions and waiver authorities conferred upon the President by subsec. (b) of this section with respect to the requirement to include a person on the list required by section 8514(b) of this title.

Other delegations of functions vested in the President by this section were contained in the following:

Memorandum of President of the United States, June 3, 2013, 78 F.R. 35545, set out as a note under section 8801 of this title.

Memorandum of President of the United States, Sept. 23, 2010, 75 F.R. 67025, set out as a note under section 8501 of this title.

CHAPTER 93—UNITED STATES-ISRAEL COOPERATION

Sec.

8601. Findings.
8602. Statement of policy.
8603. United States actions to assist in the defense of Israel and protect United States interests.
8604. Reports required.
8605. Definitions.
8606. United States-Israel cooperation on energy, water, homeland security, agriculture, and alternative fuel technologies.

§8601. Findings

Congress makes the following findings:

(1) Since 1948, United States Presidents and both houses of Congress, on a bipartisan basis and supported by the American people, have repeatedly reaffirmed the special bond between the United States and Israel, based on shared values and shared interests.

(2) The Middle East is undergoing rapid change, bringing with it hope for an expansion of democracy but also great challenges to the national security of the United States and our allies in the region, particularly to our most important ally in the region, Israel.

(3) The Government of the Islamic Republic of Iran is continuing its decades-long pattern of seeking to foment instability and promote extremism in the Middle East, particularly in this time of dramatic political transition.

(4) At the same time, the Government of the Islamic Republic of Iran continues to enrich uranium in defiance of multiple United Nations Security Council resolutions.

(5) A nuclear-weapons capable Iran would fundamentally threaten vital United States interests, encourage regional nuclear proliferation, further empower Iran, the world's leading state sponsor of terror, and pose a serious and destabilizing threat to Israel and the region.

(6) Over the past several years, with the assistance of the Governments of the Islamic Republic of Iran and Syria, Hizbollah and Hamas have increased their stockpile of rockets, with more than 60,000 now ready to be fired at Israel. The Government of the Islamic Republic of Iran continues to add to its arsenal of ballistic missiles and cruise missiles, which threaten Iran's neighbors, Israel, and United States Armed Forces in the region.

(7) As a result, Israel is facing a fundamentally altered strategic environment.

(8) Pursuant to chapter 5 of title 1 of the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108–11; 117 Stat. 576), the authority to make available loan guarantees to Israel is currently set to expire on September 30, 2012.

(Pub. L. 112–150, §2, July 27, 2012, 126 Stat. 1146.)

SHORT TITLE OF 2014 AMENDMENT

Pub. L. 113–296, §1, Dec. 19, 2014, 128 Stat. 4075, provided that: "This Act [enacting section 8606 of this title, amending sections 2321h and 2776 of this title and section 17337 of Title 42, The Public Health and Welfare, enacting provisions set out as notes under this section and sections 8602, 8603, and 8606 of this title, and amending provisions set out as a note under section 2776 of this title] may be cited as the 'United States-Israel Strategic Partnership Act of 2014'."

SHORT TITLE

Pub. L. 112–150, §1, July 27, 2012, 126 Stat. 1146, provided that: "This Act [enacting this chapter and amending section 2321h of this title] may be cited as the 'United States-Israel Enhanced Security Cooperation Act of 2012'."

FINDINGS

Pub. L. 113–296, §2, Dec. 19, 2014, 128 Stat. 4075, provided that: "Congress makes the following findings:

"(1) The people and the Governments of the United States and of Israel share a deep and unbreakable bond, forged by over 60 years of shared interests and shared values.

"(2) Today, the people and Governments of the United States and of Israel are facing a dynamic and rapidly changing security environment in the Middle East and North Africa, necessitating deeper cooperation on a range of defense, security, and intelligence matters.

"(3) From Gaza, Hamas continues to deny Israel's right to exist and persists in firing rockets indiscriminately at population centers in Israel.

"(4) Hezbollah—with support from Iran—continues to stockpile rockets and may be seeking to exploit the tragic and volatile security situation within Syria.

"(5) The Government of Iran continues to pose a grave threat to the region and the world at large with its reckless pursuit of nuclear weapons.

"(6) Given these challenges, it is imperative that the United States continues to deepen cooperation with allies like Israel in pursuit of shared policy objectives."

§8602. Statement of policy

It is the policy of the United States:

(1) To reaffirm our unwavering commitment to the security of the State of Israel as a Jewish state. As President Barack Obama stated on December 16, 2011, "America's commitment and my commitment to Israel and Israel's security is unshakeable." And as President George W. Bush stated before the Israeli Knesset on May 15, 2008, on the 60th anniversary of the founding of the State of Israel, "The alliance between our governments is unbreakable, yet the source of our friendship runs deeper than any treaty.".

(2) To help the Government of Israel preserve its qualitative military edge amid rapid and uncertain regional political transformation.

(3) To veto any one-sided anti-Israel resolutions at the United Nations Security Council.

(4) To support Israel's inherent right to self-defense.

(5) To pursue avenues to expand cooperation with the Government of Israel both in defense and across the spectrum of civilian sectors, including high technology, agriculture, medicine, health, pharmaceuticals, and energy.

(6) To assist the Government of Israel with its ongoing efforts to forge a peaceful, negotiated settlement of the Israeli-Palestinian conflict that results in two states living side-by-side in peace and security, and to encourage Israel's neighbors to recognize Israel's right to exist as a Jewish state.

(7) To encourage further development of advanced technology programs between the United States and Israel given current trends and instability in the region.

(Pub. L. 112–150, §3, July 27, 2012, 126 Stat. 1147.)

STATEMENT OF POLICY

Pub. L. 113–296, §3, Dec. 19, 2014, 128 Stat. 4075, provided that: "It is the policy of the United States—

"(1) to reaffirm the unwavering support of the people and the Government of the United States for the security of Israel as a Jewish state;

"(2) to reaffirm the principles and objectives enshrined in the United States-Israel Enhanced Security Cooperation Act of 2012 (Public Law 112–150) [22 U.S.C. 8601 et seq.] and ensure its implementation to the fullest extent;

"(3) to reaffirm the importance of the 2007 United States-Israel Memorandum of Understanding on United States assistance to Israel and the semi-annual Strategic Dialogue between the United States and Israel;

"(4) to pursue every opportunity to deepen cooperation with Israel on a range of critical issues including defense, homeland security, energy, and cybersecurity;

"(5) to continue to provide Israel with robust security assistance, including for the procurement of the Iron Dome Missile Defense System; and

"(6) to support the Government of Israel in its ongoing efforts to reach a negotiated political settlement with the Palestinian people that results in two states living side-by-side in peace and security."

STATEMENT OF POLICY REGARDING THE VISA WAIVER PROGRAM

Pub. L. 113–296, §9, Dec. 19, 2014, 128 Stat. 4077, provided that: "It shall be the policy of the United States to include Israel in the list of countries that participate in the visa waiver program under section 217 of the Immigration and Nationality Act (8 U.S.C. 1187) when Israel satisfies, and as long as Israel continues to satisfy, the requirements for inclusion in such program specified in such section."

§8603. United States actions to assist in the defense of Israel and protect United States interests

It is the sense of Congress that the United States Government should take the following actions to assist in the defense of Israel:

(1) Seek to enhance the capabilities of the Governments of the United States and Israel to address emerging common threats, increase security cooperation, and expand joint military

exercises.

(2) Provide the Government of Israel such support as may be necessary to increase development and production of joint missile defense systems, particularly such systems that defend against the urgent threat posed to Israel and United States forces in the region.

(3) Provide the Government of Israel assistance specifically for the production and procurement of the Iron Dome defense system for purposes of intercepting short-range missiles, rockets, and projectiles launched against Israel.

(4) Provide the Government of Israel defense articles and defense services through such mechanisms as appropriate, to include air refueling tankers, missile defense capabilities, and specialized munitions.

(5) Provide the Government of Israel additional excess defense articles, as appropriate, in the wake of the withdrawal of United States forces from Iraq.

(6) Examine ways to strengthen existing and ongoing efforts, including the Gaza Counter Arms Smuggling Initiative, aimed at preventing weapons smuggling into Gaza pursuant to the 2009 agreement following the Israeli withdrawal from Gaza, as well as measures to protect against weapons smuggling and terrorist threats from the Sinai Peninsula.

(7) Offer the Air Force of Israel additional training and exercise opportunities in the United States to compensate for Israel's limited air space.

(8) Work to encourage an expanded role for Israel with the North Atlantic Treaty Organization (NATO), including an enhanced presence at NATO headquarters and exercises.

(9) Expand already-close intelligence cooperation, including satellite intelligence, with Israel.

(Pub. L. 112–150, §4, July 27, 2012, 126 Stat. 1147.)

ELIGIBILITY OF ISRAEL FOR THE STRATEGIC TRADE AUTHORIZATION EXCEPTION TO CERTAIN EXPORT CONTROL LICENSING REQUIREMENTS

Pub. L. 113–296, §6, Dec. 19, 2014, 128 Stat. 4076, provided that:

"(a) FINDINGS.—Congress finds that Israel—

"(1) has adopted high standards in the field of export controls;

"(2) has declared its unilateral adherence to the Missile Technology Control Regime, the Australia Group, and the Nuclear Suppliers Group; and

"(3) is a party to—

"(A) the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which may be Deemed to be Excessively Injurious or to Have Indiscriminate Effects, signed at Geneva October 10, 1980;

"(B) the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, signed at Geneva June 17, 1925; and

"(C) the Convention on the Physical Protection of Nuclear Material, adopted at Vienna on October 26, 1979.

"(b) ELIGIBILITY FOR STRATEGIC TRADE AUTHORIZATION EXCEPTION.—The President, consistent with the commitments of the United States under international arrangements, shall take steps so that Israel may be included in the list of countries eligible for the strategic trade authorization exception under section 740.20(c)(1) of title 15, Code of Federal Regulations, to the requirement for a license for the export, reexport, or in-country transfer of an item subject to controls under the Export Administration Regulations."

§8604. Reports required

(a) Report on Israel's qualitative military edge (QME)

(1) In general

Not later than 180 days after July 27, 2012, the President shall submit to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives a report on the status of Israel's qualitative military edge in light of current trends and instability in the region.

(2) Substitution for quadrennial report

If submitted within one year of the date that the first quadrennial report required by section 201(c)(2) of the Naval Vessel Transfer Act of 2008 (Public Law 110–429; 22 U.S.C. 2776 note) is due to be submitted, the report required by paragraph (1) may substitute for such quadrennial report.

(b) Reports on other matters

Not later than 180 days after July 27, 2012, the President shall submit to the appropriate congressional committees a report on each of the following matters:

(1) Taking into account the Government of Israel's urgent requirement for F–35 aircraft, actions to improve the process relating to its purchase of F–35 aircraft, particularly with respect to cost efficiency and timely delivery.

(2) Efforts to expand cooperation between the United States and Israel in homeland security, counter-terrorism, maritime security, energy, cyber-security, and other related areas.

(3) Actions to integrate Israel into the defense of the Eastern Mediterranean.

(Pub. L. 112–150, §6, July 27, 2012, 126 Stat. 1148.)

DELEGATION OF CERTAIN FUNCTIONS UNDER SECTION 6 OF PUBLIC LAW 112–150

Memorandum of President of the United States, Jan. 15, 2013, 78 F.R. 5705, provided that:

Memorandum for the Secretary of State

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, I hereby delegate to you all functions conferred upon the President by subsections (a) and (b) of section 6 of Public Law 112–150. You will exercise these functions in coordination with the Secretary of Defense.

You are authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

§8605. Definitions

In this chapter:

(1) Appropriate congressional committees

The term "appropriate congressional committees" means—

(A) the Committee on Appropriations, the Committee on Armed Services, the Committee on Foreign Relations, and the Select Committee on Intelligence of the Senate; and

(B) the Committee on Appropriations, the Committee on Armed Services, the Committee on Foreign Affairs, and the Permanent Select Committee on Intelligence of the House of Representatives.

(2) Qualitative military edge

The term "qualitative military edge" has the meaning given the term in section 2776(h)(2) [1] of this title.

(Pub. L. 112–150, §7, July 27, 2012, 126 Stat. 1149.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 112–150, July 27, 2012, 126 Stat. 1146, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 8601 of this title and Tables.

Section 2776(h)(2) of this title, referred to in par. (2), was redesignated section 2776(h)(3) of this title by Pub. L. 113–296, §11(b)(1), Dec. 19, 2014, 128 Stat. 4078.

[1] *See References in Text note below.*

§8606. United States-Israel cooperation on energy, water, homeland security,

agriculture, and alternative fuel technologies

(a) In general

The President is authorized, subject to existing law—

(1) to undertake activities in cooperation with Israel; and

(2) to provide assistance promoting cooperation in the fields of energy, water, agriculture, and alternative fuel technologies.

(b) Requirements

In carrying out subsection (a), the President is authorized, subject to existing requirements of law and any applicable agreements or understandings between the United States and Israel—

(1) to share and exchange with Israel research, technology, intelligence, information, equipment, and personnel, including through sales, leases, or exchanges in kind, that the President determines will advance the national security interests of the United States and are consistent with the Strategic Dialogue and pertinent provisions of law; and

(2) to enhance scientific cooperation between Israel and the United States.

(c) Cooperative research programs

The Secretary of Homeland Security, acting through the Director of the Homeland Security Advanced Research Projects Agency and with the concurrence of the Secretary of State, is authorized, subject to existing law, to enter into cooperative research programs with Israel to enhance Israel's capabilities in—

(1) border, maritime, and aviation security;

(2) explosives detection;

(3) emergency services; and

(4) cybersecurity.

(Pub. L. 113–296, §7, Dec. 19, 2014, 128 Stat. 4077; Pub. L. 114–304, §2(b), Dec. 16, 2016, 130 Stat. 1520.)

CODIFICATION

Section was enacted as part of the United States-Israel Strategic Partnership Act of 2014, and not as part of the United States-Israel Enhanced Security Cooperation Act of 2012 which comprises this chapter.

AMENDMENTS

2016—Subsec. (c). Pub. L. 114–304, §2(b)(1), (2), struck out "pilot" before "programs" in heading and in introductory provisions.

Subsec. (c)(4). Pub. L. 114–304, §2(b)(3)–(5), added par. (4).

UNITED STATES-ISRAEL ANTI-TUNNEL COOPERATION

Pub. L. 114–92, div. A, title XII, §1279, Nov. 25, 2015, 129 Stat. 1079, as amended by Pub. L. 114–328, div. A, title XII, §1295(a), (b), Dec. 23, 2016, 130 Stat. 2562, provided that:

"(a) AUTHORITY TO ESTABLISH ANTI-TUNNEL CAPABILITIES PROGRAM WITH ISRAEL.—

"(1) IN GENERAL.—The Secretary of Defense, upon request of the Ministry of Defense of Israel and in consultation with the Secretary of State and the Director of National Intelligence, is authorized to carry out research, development, test, and evaluation, on a joint basis with Israel, to establish anti-tunnel capabilities to detect, map, and neutralize underground tunnels that threaten the United States or Israel. Any activities carried out pursuant to such authority shall be conducted in a manner that appropriately protects sensitive information and United States and Israel national security interests.

"(2) REPORT.—The activities described in paragraph (1) and subsection (b) may be carried out after the Secretary of Defense submits to the appropriate committees of Congress a report setting forth the following:

"(A) A memorandum of agreement between the United States and Israel regarding sharing of research and development costs for the capabilities described in paragraph (1), and any supporting documents.

"(B) A certification that the memorandum of agreement—

"(i) requires sharing of costs of projects, including in-kind support, between the United States and Israel;

"(ii) establishes a framework to negotiate the rights to any intellectual property developed under the memorandum of agreement; and

"(iii) requires the United States Government to receive semiannual reports on expenditure of funds, if any, by the Government of Israel, including a description of what the funds have been used for, when funds were expended, and an identification of entities that expended the funds.

"(b) SUPPORT IN CONNECTION WITH PROGRAM.—

"(1) IN GENERAL.—The Secretary of Defense is authorized to provide maintenance and sustainment support to Israel for the anti-tunnel capabilities research, development, test, and evaluation activities authorized in subsection (a)(1). Such authority includes authority to install equipment necessary to carry out such research, development, test, and evaluation.

"(2) REPORT.—Support may not be provided under paragraph (1) until 15 days after the Secretary submits to the appropriate committees of Congress a report setting forth a detailed description of the support to be provided.

"(3) MATCHING CONTRIBUTION.—Support may not be provided under this subsection unless the Government of Israel contributes an amount not less than the amount of support to be so provided to the program, project, or activity for which the support is to be so provided in the calendar year in which the support is provided.

"(4) ANNUAL LIMITATION ON AMOUNT.—The amount of support provided under this subsection in any year may not exceed $50,000,000.

"(c) LEAD AGENCY.—The Secretary of Defense shall designate an appropriate research and development entity of a military department as the lead agency of the Department of Defense in carrying out this section.

"(d) SEMIANNUAL REPORTS.—The Secretary of Defense shall submit to the appropriate committees of Congress on a semiannual basis a report that contains a copy of the most recent semiannual report provided by the Government of Israel to the Department of Defense pursuant to subsection (a)(2)(B)(iii).

"(e) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term 'appropriate committees of Congress' means—

"(1) the Committee on Armed Services, the Committee on Foreign Relations, the Committee on Homeland Security, the Committee on Appropriations, and the Select Committee on Intelligence of the Senate; and

"(2) the Committee on Armed Services, the Committee on Foreign Affairs, the Committee on Homeland Security, the Committee on Appropriations, and the Permanent Select Committee on Intelligence of the House of Representatives.

"(f) SUNSET.—The authority in this section to carry out activities described in subsection (a), and to provide support described in subsection (b), shall expire on December 31, 2018."

CONSTRUCTIVE REGIONAL ENERGY COOPERATION

Pub. L. 113–296, §12(c)(2), Dec. 19, 2014, 128 Stat. 4081, provided that: "The Secretary of State shall continue the ongoing diplomacy efforts of the Secretary of State in—

"(A) engaging and supporting the energy security of Israel; and

"(B) promoting constructive regional energy cooperation in the Eastern Mediterranean."

CHAPTER 94—IRAN THREAT REDUCTION AND SYRIA HUMAN RIGHTS

Sec.

8701. Definitions.

SUBCHAPTER I—EXPANSION OF MULTILATERAL SANCTIONS REGIME WITH RESPECT TO IRAN

8711. Sense of Congress on enforcement of multilateral sanctions regime and expansion and implementation of sanctions laws.

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SUBCHAPTER II—ADDITIONAL MEASURES RELATING TO SANCTIONS AGAINST IRAN

8721. Imposition of sanctions with respect to the provision of vessels or shipping services to transport certain goods related to proliferation or terrorism activities to Iran.

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Company.
8723. Imposition of sanctions with respect to purchase, subscription to, or facilitation of the issuance of Iranian sovereign debt.
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8791. Imposition of sanctions with respect to certain persons who are responsible for or complicit in human rights abuses committed against citizens of Syria or their family members.
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8793. Imposition of sanctions with respect to persons who engage in censorship or other forms of repression in Syria.
8794. Waiver.
8795. Termination.

§8701. Definitions

Except as otherwise specifically provided, in this Act:

(1) Appropriate congressional committees

The term "appropriate congressional committees" has the meaning given that term in section 14 of the Iran Sanctions Act of 1996 (Public Law 104–172; 50 U.S.C. 1701 note).

(2) Financial transaction

The term "financial transaction" means any transfer of value involving a financial institution, including the transfer of forwards, futures, options, swaps, or precious metals, including gold, silver, platinum, and palladium.

(3) Knowingly

The term "knowingly" has the meaning given that term in section 14 of the Iran Sanctions Act of 1996 (Public Law 104–172; 50 U.S.C. 1701 note).

(4) United States person

The term "United States person" has the meaning given that term in section 8511 of this title.

(Pub. L. 112–158, §2, Aug. 10, 2012, 126 Stat. 1216.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 112–158, Aug. 10, 2012, 126 Stat. 1214, known as the Iran Threat Reduction and Syria Human Rights Act of 2012, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

SHORT TITLE

Pub. L. 112–158, §1(a), Aug. 10, 2012, 126 Stat. 1214, provided that: "This Act [enacting this chapter and sections 8513b, 8514a, and 8514b of this title, amending sections 8511, 8513, 8513a, 8518, 8532, 8551 of this title, section 78m of Title 15, Commerce and Trade, and section 1610 of Title 28, Judiciary and Judicial Procedure, enacting provisions set out as notes under this section and sections 8513 and 8513a of this title, section 78m of Title 15, and section 1701 of Title 50, War and National Defense, and amending provisions set out as notes under section 1610 of Title 28 and section 1701 of Title 50] may be cited as the 'Iran Threat Reduction and Syria Human Rights Act of 2012'."

Pub. L. 112–158, title VII, §701, Aug. 10, 2012, 126 Stat. 1265, provided that: "This title [enacting subchapter VII of this chapter] may be cited as the 'Syria Human Rights Accountability Act of 2012'."

REPORT ON USE BY IRAN OF FUNDS MADE AVAILABLE THROUGH SANCTIONS RELIEF

Pub. L. 114–113, div. M, title V, §514, Dec. 18, 2015, 129 Stat. 2926, provided that:

"(a) IN GENERAL.—At the times specified in subsection (b), the Director of National Intelligence, in consultation with the Secretary of the Treasury, shall submit to the appropriate congressional committees a report assessing the following:

"(1) The monetary value of any direct or indirect forms of sanctions relief that Iran has received since the Joint Plan of Action first entered into effect.

"(2) How Iran has used funds made available through sanctions relief, including the extent to which any such funds have facilitated the ability of Iran—

"(A) to provide support for—

"(i) any individual or entity designated for the imposition of sanctions for activities relating to international terrorism pursuant to an executive order or by the Office of Foreign Assets Control of the Department of the Treasury as of the date of the enactment of this Act [Dec. 18, 2015];

"(ii) any organization designated by the Secretary of State as a foreign terrorist organization under section 219(a) of the Immigration and Nationality Act (8 U.S.C. 1189(a)) as of the date of the enactment of this Act;

"(iii) any other terrorist organization; or

"(iv) the regime of Bashar al Assad in Syria;

"(B) to advance the efforts of Iran or any other country to develop nuclear weapons or ballistic missiles overtly or covertly; or

"(C) to commit any violation of the human rights of the people of Iran.

"(3) The extent to which any senior official of the Government of Iran has diverted any funds made

available through sanctions relief to be used by the official for personal use.

"(b) SUBMISSION TO CONGRESS.—

"(1) IN GENERAL.—The Director shall submit the report required by subsection (a) to the appropriate congressional committees—

"(A) not later than 180 days after the date of the enactment of this Act [Dec. 18, 2015] and every 180 days thereafter during the period that the Joint Plan of Action is in effect; and

"(B) not later than 1 year after a subsequent agreement with Iran relating to the nuclear program of Iran takes effect and annually thereafter during the period that such agreement remains in effect.

"(2) NONDUPLICATION.—The Director may submit the information required by subsection (a) with a report required to be submitted to Congress under another provision of law if—

"(A) the Director notifies the appropriate congressional committees of the intention of making such submission before submitting that report; and

"(B) all matters required to be covered by subsection (a) are included in that report.

"(c) FORM OF REPORTS.—Each report required by subsection (a) shall be submitted in unclassified form, but may include a classified annex.

"(d) DEFINITIONS.—In this section:

"(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term 'appropriate congressional committees' means—

"(A) the Committee on Banking, Housing, and Urban Affairs, the Committee on Finance, the Committee on Foreign Relations, and the Select Committee on Intelligence of the Senate; and

"(B) the Committee on Financial Services, the Committee on Foreign Affairs, the Committee on Ways and Means, and the Permanent Select Committee on Intelligence of the House of Representatives.

"(2) JOINT PLAN OF ACTION.—The term 'Joint Plan of Action' means the Joint Plan of Action, signed at Geneva November 24, 2013, by Iran and by France, Germany, the Russian Federation, the People's Republic of China, the United Kingdom, and the United States, and all implementing materials and agreements related to the Joint Plan of Action, including the technical understandings reached on January 12, 2014, the extension thereto agreed to on July 18, 2014, and the extension thereto agreed to on November 24, 2014."

REPORTS ON NUCLEAR PROGRAM OF IRAN

Pub. L. 113–291, div. A, title XII, §1271, Dec. 19, 2014, 128 Stat. 3588, provided that:

"(a) IN GENERAL.—Not later than 30 days after the date of the enactment of this Act [Dec. 19, 2014], the President shall submit to the appropriate congressional committees a report on the interim agreement relating to the nuclear program of Iran. Such report shall include—

"(1) verification of whether Iran is complying with such agreement; and

"(2) an assessment of the overall state of the nuclear program of Iran.

"(b) ADDITIONAL REPORTS.—If the interim agreement described in subsection (a) is renewed or if a comprehensive and final agreement is entered into regarding the nuclear program of Iran, by not later than 90 days after such renewal or final agreement being entered into, and every 180 days thereafter, the President shall submit to the appropriate congressional committees a report on such renewed or final agreement. Such report shall include the matters described in paragraphs (1) and (2) of subsection (a).

"(c) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term 'appropriate congressional committees' means—

"(1) the Committee on Armed Services and the Committee on Foreign Relations of the Senate; and

"(2) the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives.

"(d) SUNSET.—This section shall terminate on the date that is 10 years after the date of the enactment of this Act."

COUNTERING IRAN IN THE WESTERN HEMISPHERE

Pub. L. 112–220, Dec. 28, 2012, 126 Stat. 1596, provided that:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Countering Iran in the Western Hemisphere Act of 2012'.

"SEC. 2. FINDINGS.

"Congress finds the following:

"(1) The United States has vital political, economic, and security interests in the Western Hemisphere.

"(2) Iran is pursuing cooperation with Latin American countries by signing economic and security

agreements in order to create a network of diplomatic and economic relationships to lessen the blow of international sanctions and oppose Western attempts to constrict its ambitions.

"(3) According to the Department of State, Hezbollah, with Iran as its state sponsor, is considered the 'most technically capable terrorist group in the world' with 'thousands of supporters, several thousand members, and a few hundred terrorist operatives,' and officials from the Iranian Islamic Revolutionary Guard Corps (IRGC) Qods Force have been working in concert with Hezbollah for many years.

"(4) The IRGC's Qods Force has a long history of supporting Hezbollah's military, paramilitary, and terrorist activities, providing it with guidance, funding, weapons, intelligence, and logistical support, and in 2007, the Department of the Treasury placed sanctions on the IRGC and its Qods Force for their support of terrorism and proliferation activities.

"(5) The IRGC's Qods Force stations operatives in foreign embassies, charities, and religious and cultural institutions to foster relationships, often building on existing socioeconomic ties with the well established Shia Diaspora, and recent years have witnessed an increased presence in Latin America.

"(6) According to the Department of Defense, the IRGC and its Qods Force played a significant role in some of the deadliest terrorist attacks of the past two decades, including the 1994 attack on the AMIA Jewish Community Center in Buenos Aires, by generally directing or supporting the groups that actually executed the attacks.

"(7) Reports of Iranian intelligence agents being implicated in Hezbollah-linked activities since the early 1990s suggest direct Iranian government support of Hezbollah activities in the Tri-Border Area of Argentina, Brazil, and Paraguay, and in the past decade, Iran has dramatically increased its diplomatic missions to Venezuela, Bolivia, Nicaragua, Ecuador, Argentina, and Brazil. Iran has built 17 cultural centers in Latin America, and it currently maintains 11 embassies, up from 6 in 2005.

"(8) Hezbollah and other Iranian proxies with a presence in Latin America have raised revenues through illicit activities, including drug and arms trafficking, counterfeiting, money laundering, forging travel documents, pirating software and music, and providing haven and assistance to other terrorists transiting the region.

"(9) Bolivia, Cuba, Ecuador, Nicaragua, and Venezuela expressed their intention to assist Iran in evading sanctions by signing a statement supporting Iran's nuclear activities and announcing at a 2010 joint press conference in Tehran their determination to 'continue and expand their economic ties to Iran' with confidence that 'Iran can give a crushing response to the threats and sanctions imposed by the West and imperialism'.

"(10) The U.S. Drug Enforcement Administration concluded in 2008 that almost one-half of the foreign terrorist organizations in the world are linked to narcotics trade and trafficking, including Hezbollah and Hamas.

"(11) In October 2011, the United States charged two men, Manssor Arbabsiar, a United States citizen holding both Iranian and United States passports, and Gholam Shakuri, an Iran-based member of Iran's IRGC Qods Force, with conspiracy to murder a foreign official using explosives in an act of terrorism. Arbabsiar traveled to Mexico with the express intent to hire 'someone in the narcotics business' to carry out the assassination of the Saudi Arabian Ambassador in the United States. While in the end, he only engaged a U.S. Drug Enforcement Agency informant posing as an associate of a drug trafficking cartel, Arbabsiar believed that he was working with a member of a Mexican drug trafficking organization and sought to send money to this individual in installments and not in a single transfer.

"(12) In February 2011, actions by the Department of the Treasury effectively shut down the Lebanese Canadian Bank. Subsequent actions by the United States Government in connection with the investigation into Lebanese Canadian Bank resulted in the indictment in December 2011 of Ayman Joumaa, an individual of Lebanese nationality, with citizenship in Lebanon and Colombia, and with ties to Hezbollah, for trafficking cocaine to the Los Zetas drug trafficking organization in Mexico City for sale in the United States and for laundering the proceeds.

"SEC. 3. STATEMENT OF POLICY.

"It shall be the policy of the United States to use a comprehensive government-wide strategy to counter Iran's growing hostile presence and activity in the Western Hemisphere by working together with United States allies and partners in the region to mutually deter threats to United States interests by the Government of Iran, the Iranian Islamic Revolutionary Guard Corps (IRGC), the IRGC's Qods Force, and Hezbollah.

"SEC. 4. DEFINITIONS.

"In this Act:

"(1) WESTERN HEMISPHERE.—The term 'Western Hemisphere' means the United States, Canada, Mexico, the Caribbean, South America, and Central America.

"(2) RELEVANT CONGRESSIONAL COMMITTEES.—The term 'relevant congressional committees' means the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

"SEC. 5. REQUIREMENT OF A STRATEGY TO ADDRESS IRAN'S GROWING HOSTILE PRESENCE AND ACTIVITY IN THE WESTERN HEMISPHERE.

"(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Dec. 28, 2012], the Secretary of State shall conduct an assessment of the threats posed to the United States by Iran's growing presence and activity in the Western Hemisphere and submit to the relevant congressional committees the results of the assessment and a strategy to address Iran's growing hostile presence and activity in the Western Hemisphere.

"(b) MATTERS TO BE INCLUDED.—The strategy described in subsection (a) should include—

"(1) a description of the presence, activities, and operations of Iran, the Iranian Islamic Revolutionary Guard Corps (IRGC), its Qods Force, Hezbollah, and other terrorist organizations linked to Iran that may be present in the Western Hemisphere, including information about their leaders, objectives, and areas of influence and information on their financial networks, trafficking activities, and safe havens;

"(2) a description of the terrain, population, ports, foreign firms, airports, borders, media outlets, financial centers, foreign embassies, charities, religious and cultural centers, and income-generating activities in the Western Hemisphere utilized by Iran, the IRGC, its Qods Force, Hezbollah, and other terrorist organizations linked to Iran that may be present in the Western Hemisphere;

"(3) a description of the relationship of Iran, the IRGC, its Qods Force, and Hezbollah with transnational criminal organizations linked to Iran and other terrorist organizations in the Western Hemisphere, including information on financial networks and trafficking activities;

"(4) a description of the relationship of Iran, the IRGC, its Qods Force, Hezbollah, and other terrorist organizations linked to Iran that may be present in the Western Hemisphere with the governments in the Western Hemisphere, including military-to-military relations and diplomatic, economic, and security partnerships and agreements;

"(5) a description of the Federal law enforcement capabilities, military forces, State and local government institutions, and other critical elements, such as nongovernmental organizations, in the Western Hemisphere that may organize to counter the threat posed by Iran, the IRGC, its Qods Force, Hezbollah, and other terrorist organizations linked to Iran that may be present in the Western Hemisphere;

"(6) a description of activity by Iran, the IRGC, its Qods Force, Hezbollah, and other terrorist organizations linked to Iran that may be present at the United States borders with Mexico and Canada and at other international borders within the Western Hemisphere, including operations related to drug, human, and arms trafficking, human support networks, financial support, narco-tunneling, and technological advancements that incorporates—

"(A) with respect to the United States borders, in coordination with the Governments of Mexico and Canada and the Secretary of Homeland Security, a plan to address resources, technology, and infrastructure to create a secure United States border and strengthen the ability of the United States and its allies to prevent operatives from Iran, the IRGC, its Qods Force, Hezbollah, or any other terrorist organization from entering the United States; and

"(B) within Latin American countries, a multiagency action plan, in coordination with United States allies and partners in the region, that includes the development of strong rule-of-law institutions to provide security in such countries and a counterterrorism and counter-radicalization plan to isolate Iran, the IRGC, its Qods Force, Hezbollah, and other terrorist organizations linked to Iran that may be present in the Western Hemisphere from their sources of financial support and counter their facilitation of terrorist activity; and

"(7) a plan—

"(A) to address any efforts by foreign persons, entities, and governments in the region to assist Iran in evading United States and international sanctions;

"(B) to protect United States interests and assets in the Western Hemisphere, including embassies, consulates, businesses, energy pipelines, and cultural organizations, including threats to United States allies;

"(C) to support United States efforts to designate persons and entities in the Western Hemisphere for proliferation activities and terrorist activities relating to Iran, including affiliates of the IRGC, its Qods Force, and Hezbollah, under applicable law including the International Emergency Economic Powers Act; and

"(D) to address the vital national security interests of the United States in ensuring energy supplies from the Western Hemisphere that are free from the influence of any foreign government that

would attempt to manipulate or disrupt global energy markets.

"(c) DEVELOPMENT.—In developing the strategy under this section, the Secretary of State shall consult with the heads of all appropriate United States departments and agencies, including the Secretary of Defense, the Director of National Intelligence, the Secretary of Homeland Security, the Secretary of the Treasury, the Attorney General, and the United States Trade Representative.

"(d) FORM.—The strategy in this section may be submitted in classified form, but shall include an unclassified summary of policy recommendations to address the growing Iranian threat in the Western Hemisphere.

"SEC. 6. SENSE OF CONGRESS.

"It is the sense of Congress that the Secretary of State should keep the relevant congressional committees continually informed on the hostile actions of Iran in the Western Hemisphere.

"SEC. 7. RULE OF CONSTRUCTION.

"Nothing in this Act shall be construed to limit the rights or protections enjoyed by United States citizens under the United States Constitution or other Federal law, or to create additional authorities for the Federal Government that are contrary to the United States Constitution and United States law."

SUBCHAPTER I—EXPANSION OF MULTILATERAL SANCTIONS REGIME WITH RESPECT TO IRAN

§8711. Sense of Congress on enforcement of multilateral sanctions regime and expansion and implementation of sanctions laws

It is the sense of Congress that the goal of compelling Iran to abandon efforts to acquire a nuclear weapons capability and other threatening activities can be effectively achieved through a comprehensive policy that includes economic sanctions, diplomacy, and military planning, capabilities and options, and that this objective is consistent with the one stated by President Barack Obama in the 2012 State of the Union Address: "Let there be no doubt: America is determined to prevent Iran from getting a nuclear weapon, and I will take no options off the table to achieve that goal". Among the economic measures to be taken are—

(1) prompt enforcement of the current multilateral sanctions regime with respect to Iran;

(2) full, timely, and vigorous implementation of all sanctions enacted into law, including sanctions imposed or expanded by this Act or amendments made by this Act, through—

(A) intensified monitoring by the President and the designees of the President, including the Secretary of the Treasury, the Secretary of State, and senior officials in the intelligence community (as defined in section 401a(4) of title 50), as appropriate;

(B) more extensive use of extraordinary authorities provided for under the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) and other sanctions laws;

(C) reallocation of resources to provide the personnel necessary, within the Department of the Treasury, the Department of State, and the Department of Commerce, and, where appropriate, the intelligence community, to apply and enforce sanctions; and

(D) expanded cooperation with international sanctions enforcement efforts;

(3) urgent consideration of the expansion of existing sanctions with respect to such areas as—

(A) the provision of energy-related services to Iran;

(B) the provision of insurance and reinsurance services to Iran;

(C) the provision of shipping services to Iran; and

(D) those Iranian financial institutions not yet designated for the imposition of sanctions that may be acting as intermediaries for Iranian financial institutions that are designated for the imposition of sanctions; and

(4) a focus on countering Iran's efforts to evade sanctions, including—

(A) the activities of telecommunications, Internet, and satellite service providers, in and outside of Iran, to ensure that such providers are not participating in or facilitating, directly or indirectly, the evasion of the sanctions regime with respect to Iran or violations of the human rights of the people of Iran;

(B) the activities of financial institutions or other businesses or government agencies, in or outside of Iran, not yet designated for the imposition of sanctions; and

(C) urgent and ongoing evaluation of Iran's energy, national security, financial, and telecommunications sectors, to gauge the effects of, and possible defects in, particular sanctions, with prompt efforts to correct any gaps in the existing sanctions regime with respect to Iran.

(Pub. L. 112–158, title I, §101, Aug. 10, 2012, 126 Stat. 1216.)

TERMINATION OF SECTION

For termination of section, see section 8785(a) of this title.

REFERENCES IN TEXT

This Act, referred to in par. (2), is Pub. L. 112–158, Aug. 10, 2012, 126 Stat. 1214, known as the Iran Threat Reduction and Syria Human Rights Act of 2012, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 8701 of this title and Tables.

The International Emergency Economic Powers Act, referred to in par. (2)(B), is title II of Pub. L. 95–223, Dec. 28, 1977, 91 Stat. 1626, which is classified generally to chapter 35 (§1701 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 50 and Tables.

§8712. Diplomatic efforts to expand multilateral sanctions regime

(a) Multilateral negotiations

Congress urges the President to intensify diplomatic efforts, both in appropriate international fora such as the United Nations and bilaterally with allies of the United States, for the purpose of—

(1) expanding the United Nations Security Council sanctions regime to include—

(A) a prohibition on the issuance of visas to any official of the Government of Iran who is involved in—

(i) human rights violations in or outside of Iran;

(ii) the development of a nuclear weapons program and a ballistic missile capability in Iran; or

(iii) support by the Government of Iran for terrorist organizations, including Hamas and Hezbollah; and

(B) a requirement that each member country of the United Nations—

(i) prohibit the Islamic Republic of Iran Shipping Lines from landing at seaports, and cargo flights of Iran Air from landing at airports, in that country because of the role of those organizations in proliferation and illegal arms sales; and

(ii) apply the prohibitions described in clause (i) to other Iranian entities designated for the imposition of sanctions on or after August 10, 2012;

(2) expanding the range of sanctions imposed with respect to Iran by allies of the United States;

(3) expanding efforts to limit the development of petroleum resources and the importation of refined petroleum products by Iran;

(4) developing additional initiatives to—

(A) increase the production of crude oil in countries other than Iran; and

(B) assist countries that purchase or otherwise obtain crude oil or petroleum products from Iran to eliminate their dependence on crude oil and petroleum products from Iran; and

(5) eliminating the revenue generated by the Government of Iran from the sale of petrochemical products produced in Iran to other countries.

(b) Reports to Congress

Not later than 180 days after August 10, 2012, and every 180 days thereafter, the President shall submit to the appropriate congressional committees a report on the extent to which diplomatic efforts described in subsection (a) have been successful that includes—

(1) an identification of the countries that have agreed to impose sanctions or take other measures to further the policy set forth in subsection (a);

(2) the extent of the implementation and enforcement of those sanctions or other measures by those countries;

(3) the criteria the President uses to determine whether a country has significantly reduced its crude oil purchases from Iran pursuant to section 8513a(d)(4)(D) of this title, as amended by section 504, including considerations of reductions both in terms of volume and price;

(4) an identification of the countries that have not agreed to impose such sanctions or measures, including such countries granted exceptions for significant reductions in crude oil purchases pursuant to such section 8513a(d)(4)(D);

(5) recommendations for additional measures that the United States could take to further diplomatic efforts described in subsection (a); and

(6) the disposition of any decision with respect to sanctions imposed with respect to Iran by the World Trade Organization or its predecessor organization.

(Pub. L. 112–158, title I, §102, Aug. 10, 2012, 126 Stat. 1218.)

TERMINATION OF SECTION

For termination of section, see section 8785(a) of this title.

REFERENCES IN TEXT

Section 8513a(d)(4)(D) of this title, as amended by section 504, referred to in subsec. (b)(3), means section 8513a(d)(4)(D) of this title, as amended by section 504 of Pub. L. 112–158.

SUBCHAPTER II—ADDITIONAL MEASURES RELATING TO SANCTIONS AGAINST IRAN

§8721. Imposition of sanctions with respect to the provision of vessels or shipping services to transport certain goods related to proliferation or terrorism activities to Iran

(a) In general

Except as provided in subsection (c), if the President determines that a person, on or after August 10, 2012, knowingly sells, leases, or provides a vessel or provides insurance or reinsurance or any other shipping service for the transportation to or from Iran of goods that could materially contribute to the activities of the Government of Iran with respect to the proliferation of weapons of mass destruction or support for acts of international terrorism, the President shall, pursuant to Executive Order No. 13382 (70 Fed. Reg. 38567; relating to blocking of property of weapons of mass destruction proliferators and their supporters) or Executive Order No. 13224 (66 Fed. Reg. 49079; relating to blocking property and prohibiting transactions with persons who commit, threaten to commit, or support terrorism), or otherwise pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), block and prohibit all transactions in all property and interests in property of the persons specified in subsection (b) if such property and interests in property are in the United States, come within the United States, or are or come within the possession or control of a United States person.

(b) Persons specified

The persons specified in this subsection are—

(1) the person that sold, leased, or provided a vessel or provided insurance or reinsurance or another shipping service described in subsection (a); and

(2) any person that—

(A) is a successor entity to the person referred to in paragraph (1);

(B) owns or controls the person referred to in paragraph (1), if the person that owns or controls the person referred to in paragraph (1) had actual knowledge or should have known that the person referred to in paragraph (1) sold, leased, or provided the vessel or provided the insurance or reinsurance or other shipping service; or

(C) is owned or controlled by, or under common ownership or control with, the person referred to in paragraph (1), if the person owned or controlled by, or under common ownership or control with (as the case may be), the person referred to in paragraph (1) knowingly engaged in the sale, lease, or provision of the vessel or the provision of the insurance or reinsurance or other shipping service.

(c) Waiver

The President may waive the requirement to impose sanctions with respect to a person under subsection (a) on or after the date that is 30 days after the President—

(1) determines that such a waiver is vital to the national security interests of the United States; and

(2) submits to the appropriate congressional committees a report that contains the reasons for that determination.

(d) Report required

(1) In general

Not later than 90 days after August 10, 2012, and every 90 days thereafter, the Secretary of the Treasury, in coordination with the Secretary of State, shall submit to the appropriate congressional committees a report identifying operators of vessels and other persons that conduct or facilitate significant financial transactions with persons that manage ports in Iran that have been designated for the imposition of sanctions pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.).

(2) Form of report

A report submitted under paragraph (1) shall be submitted in unclassified form but may contain a classified annex.

(e) Rule of construction

Nothing in this section shall be construed to limit the authority of the President to designate persons for the imposition of sanctions pursuant to Executive Order No. 13382 (70 Fed. Reg. 38567; relating to the blocking of property of weapons of mass destruction proliferators and their supporters) or Executive Order No. 13224 (66 Fed. Reg. 49079; relating to blocking property and prohibiting transactions with persons who commit, threaten to commit, or support terrorism), or otherwise pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.).

(Pub. L. 112–158, title II, §211, Aug. 10, 2012, 126 Stat. 1228.)

TERMINATION OF SECTION

For termination of section, see section 8785(a) of this title.

REFERENCES IN TEXT

Executive Order No. 13382, referred to in subsecs. (a) and (e), is Ex. Ord. No. 13382, June 28, 2005, 70 F.R. 38567, which is listed in a table under section 1701 of Title 50, War and National Defense.

Executive Order No. 13224, referred to in subsecs. (a) and (e), is Ex. Ord. No. 13224, Sept. 23, 2001, 66 F.R. 49079, which is listed in a table under section 1701 of Title 50, War and National Defense.

The International Emergency Economic Powers Act, referred to in subsecs. (a), (d)(1), and (e), is title II of

Pub. L. 95–223, Dec. 28, 1977, 91 Stat. 1626, which is classified generally to chapter 35 (§1701 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 50 and Tables.

§8722. Imposition of sanctions with respect to provision of underwriting services or insurance or reinsurance for the National Iranian Oil Company or the National Iranian Tanker Company

(a) In general

Except as provided in subsection (b), not later than 60 days after August 10, 2012, the President shall impose 5 or more of the sanctions described in section 6(a) of the Iran Sanctions Act of 1996, as amended by section 204, with respect to a person if the President determines that the person knowingly, on or after August 10, 2012, provides underwriting services or insurance or reinsurance for the National Iranian Oil Company, the National Iranian Tanker Company, or a successor entity to either such company.

(b) Exceptions

(1) Underwriters and insurance providers exercising due diligence

The President is authorized not to impose sanctions under subsection (a) with respect to a person that provides underwriting services or insurance or reinsurance if the President determines that the person has exercised due diligence in establishing and enforcing official policies, procedures, and controls to ensure that the person does not provide underwriting services or insurance or reinsurance for the National Iranian Oil Company, the National Iranian Tanker Company, or a successor entity to either such company.

(2) Food; medicine; humanitarian assistance

The President may not impose sanctions under subsection (a) for the provision of underwriting services or insurance or reinsurance for any activity relating solely to—

(A) the provision of agricultural commodities, food, medicine, or medical devices to Iran; or

(B) the provision of humanitarian assistance to the people of Iran.

(3) Termination period

The President is authorized not to impose sanctions under subsection (a) with respect to a person if the President receives reliable assurances that the person will terminate the provision of underwriting services or insurance or reinsurance for the National Iranian Oil Company, the National Iranian Tanker Company, and any successor entity to either such company, not later than the date that is 120 days after August 10, 2012.

(c) Definitions

In this section:

(1) Agricultural commodity

The term "agricultural commodity" has the meaning given that term in section 5602 of title 7.

(2) Medical device

The term "medical device" has the meaning given the term "device" in section 321 of title 21.

(3) Medicine

The term "medicine" has the meaning given the term "drug" in section 321 of title 21.

(d) Application of provisions of Iran Sanctions Act of 1996

The following provisions of the Iran Sanctions Act of 1996, as amended by this Act, apply with respect to the imposition of sanctions under subsection (a) to the same extent that such provisions apply with respect to the imposition of sanctions under section 5(a) of the Iran Sanctions Act of 1996:

(1) Subsection (c) of section 4.
(2) Subsections (c), (d), and (f) of section 5.
(3) Section 8.
(4) Section 9.
(5) Section 11.
(6) Section 12.
(7) Subsection (b) of section 13.
(8) Section 14.

(e) Rule of construction and implementation

Nothing in this section shall be construed to limit the authority of the President to impose sanctions pursuant to the Iran Sanctions Act of 1996 (Public Law 104–172; 50 U.S.C. 1701 note), the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (22 U.S.C. 8501 et seq.), the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), section 8513a of this title, or any other provision of this Act.

(Pub. L. 112–158, title II, §212, Aug. 10, 2012, 126 Stat. 1229.)

TERMINATION OF SECTION

For termination of section, see section 8785(a) of this title.

REFERENCES IN TEXT

The Iran Sanctions Act of 1996, referred to in subsecs. (a), (d), and (e), is Pub. L. 104–172, Aug. 5, 1996, 110 Stat. 1541, which is set out as a note under section 1701 of Title 50, War and National Defense. Section 6(a) of the Act, as amended by section 204, is section 6(a) of Pub. L. 104–172, as amended by section 204 of Pub. L. 112–158.

This Act, referred to in subsecs. (d) and (e), is Pub. L. 112–158, Aug. 10, 2012, 126 Stat. 1214, known as the Iran Threat Reduction and Syria Human Rights Act of 2012, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 8701 of this title and Tables.

The Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010, referred to in subsec. (e), is Pub. L. 111–195, July 1, 2010, 124 Stat. 1312, which is classified principally to chapter 92 (§8501 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 8501 of this title and Tables.

The International Emergency Economic Powers Act, referred to in subsec. (e), is title II of Pub. L. 95–223, Dec. 28, 1977, 91 Stat. 1626, which is classified generally to chapter 35 (§1701 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 50 and Tables.

§8723. Imposition of sanctions with respect to purchase, subscription to, or facilitation of the issuance of Iranian sovereign debt

(a) In general

The President shall impose 5 or more of the sanctions described in section 6(a) of the Iran Sanctions Act of 1996, as amended by section 204, with respect to a person if the President determines that the person knowingly, on or after August 10, 2012, purchases, subscribes to, or facilitates the issuance of—

(1) sovereign debt of the Government of Iran issued on or after August 10, 2012, including governmental bonds; or

(2) debt of any entity owned or controlled by the Government of Iran issued on or after August 10, 2012, including bonds.

(b) Application of provisions of Iran Sanctions Act of 1996

The following provisions of the Iran Sanctions Act of 1996, as amended by this Act, apply with respect to the imposition of sanctions under subsection (a) to the same extent that such provisions apply with respect to the imposition of sanctions under section 5(a) of the Iran Sanctions Act of

1996:

(1) Subsection (c) of section 4.
(2) Subsections (c), (d), and (f) of section 5.
(3) Section 8.
(4) Section 9.
(5) Section 11.
(6) Section 12.
(7) Subsection (b) of section 13.
(8) Section 14.

(Pub. L. 112–158, title II, §213, Aug. 10, 2012, 126 Stat. 1230.)

TERMINATION OF SECTION

For termination of section, see section 8785(a) of this title.

REFERENCES IN TEXT

The Iran Sanctions Act of 1996, referred to in text, is Pub. L. 104–172, Aug. 5, 1996, 110 Stat. 1541, which is set out as a note under section 1701 of Title 50, War and National Defense. Section 6(a) of the Act, as amended by section 204, is section 6(a) of Pub. L. 104–172, as amended by section 204 of Pub. L. 112–158.

This Act, referred to in subsec. (b), is Pub. L. 112–158, Aug. 10, 2012, 126 Stat. 1214, known as the Iran Threat Reduction and Syria Human Rights Act of 2012, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 8701 of this title and Tables.

DELEGATION OF CERTAIN FUNCTIONS AND AUTHORITIES UNDER SECTION 213(B)(1) OF THE IRAN THREAT REDUCTION AND SYRIA HUMAN RIGHTS ACT OF 2012

Memorandum of President of the United States, Oct. 18, 2015, 80 F.R. 66781, provided:

Memorandum for the Secretary of State[,] the Secretary of the Treasury[,] the Secretary of Commerce[,] the United States Trade Representative[,] the Secretary of Homeland Security[, and] the Chairman of the Board of Governors of the Federal Reserve System

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, I hereby order as follows:

I hereby delegate the functions and authorities vested in the President by section 213(b)(1) of the Iran Threat Reduction and Syria Human Rights Act of 2012 (TRA) to the Secretary of State, in consultation with: the Secretaries of the Treasury and Commerce and the United States Trade Representative; and with the Secretary of Homeland Security, the Chairman of the Board of Governors of the Federal Reserve System, and other agencies as appropriate.

The delegation of authorities under section 213(b)(1) of the TRA to the Secretary of the Treasury contained in the Presidential Memorandum of October 9, 2012, entitled "Delegation of Certain Functions and Authorities Under the Iran Threat Reduction and Syria Human Rights Act of 2012" is hereby rescinded. The other provisions of that Presidential Memorandum remain in effect.

Any reference herein to provisions of any Act related to the subject of this memorandum shall be deemed to include references to any hereafter-enacted provisions of law that are the same or substantially the same as such provisions.

The Secretary of State is authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

§8724. Continuation in effect of sanctions with respect to the Government of Iran, the Central Bank of Iran, and sanctions evaders

(a) Sanctions relating to blocking of property of the Government of Iran and Iranian financial institutions

United States sanctions with respect to Iran provided for in Executive Order No. 13599 (77 Fed. Reg. 6659), as in effect on the day before August 10, 2012, shall remain in effect until the date that is 90 days after the date on which the President submits to the appropriate congressional committees the certification described in subsection (d).

(b) Sanctions relating to foreign sanctions evaders

United States sanctions with respect to Iran provided for in Executive Order No. 13608 (77 Fed. Reg. 26409), as in effect on the day before August 10, 2012, shall remain in effect until the date that is 30 days after the date on which the President submits to the appropriate congressional committees the certification described in section 401(a) of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (22 U.S.C. 8551(a)).

(c) Continuation of sanctions with respect to the Central Bank of Iran

In addition to the sanctions referred to in subsection (a), the President shall continue to apply to the Central Bank of Iran sanctions pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), including blocking of property and restrictions or prohibitions on financial transactions and the exportation of property, until the date that is 90 days after the date on which the President submits to Congress the certification described in subsection (d).

(d) Certification described

(1) In general

The certification described in this subsection is the certification of the President to Congress that the Central Bank of Iran is not—

(A) providing financial services in support of, or otherwise facilitating, the ability of Iran to—

(i) acquire or develop chemical, biological, or nuclear weapons, or related technologies;

(ii) construct, equip, operate, or maintain nuclear facilities that could aid Iran's effort to acquire a nuclear capability; or

(iii) acquire or develop ballistic missiles, cruise missiles, or destabilizing types and amounts of conventional weapons; or

(B) facilitating transactions or providing financial services for—

(i) Iran's Revolutionary Guard Corps; or

(ii) financial institutions the property or interests in property of which are blocked pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) in connection with—

(I) Iran's proliferation of weapons of mass destruction or delivery systems for weapons of mass destruction; or

(II) Iran's support for international terrorism.

(2) Submission to Congress

(A) In general

The President shall submit the certification described in paragraph (1) to the appropriate congressional committees in writing and shall include a justification for the certification.

(B) Form of certification

The certification described in paragraph (1) shall be submitted in unclassified form but may contain a classified annex.

(e) Rule of construction

Nothing in this section shall be construed to limit the authority of the President pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) or the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (22 U.S.C. 8501 et seq.).

(Pub. L. 112–158, title II, §217, Aug. 10, 2012, 126 Stat. 1233.)

REFERENCES IN TEXT

Executive Order No. 13599, referred to in subsec. (a), is Ex. Ord. No. 13599, Feb. 5, 2012, 77 F.R. 6659, which is listed in a table under section 1701 of Title 50, War and National Defense.

Executive Order No. 13608, referred to in subsec. (b), is Ex. Ord. No. 13608, May 1, 2012, 77 F.R. 26409,

which is listed in tables under section 1701 of Title 50, War and National Defense.

The International Emergency Economic Powers Act, referred to in subsecs. (c), (d)(1)(B)(ii), and (e), is title II of Pub. L. 95–223, Dec. 28, 1977, 91 Stat. 1626, which is classified generally to chapter 35 (§1701 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 50 and Tables.

The Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010, referred to in subsec. (e), is Pub. L. 111–195, July 1, 2010, 124 Stat. 1312, which is classified principally to chapter 92 (§8501 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 8501 of this title and Tables.

§8725. Liability of parent companies for violations of sanctions by foreign subsidiaries

(a) Definitions

In this section:

(1) Entity

The term "entity" means a partnership, association, trust, joint venture, corporation, or other organization.

(2) Own or control

The term "own or control" means, with respect to an entity—

(A) to hold more than 50 percent of the equity interest by vote or value in the entity;

(B) to hold a majority of seats on the board of directors of the entity; or

(C) to otherwise control the actions, policies, or personnel decisions of the entity.

(b) Prohibition

Not later than 60 days after August 10, 2012, the President shall prohibit an entity owned or controlled by a United States person and established or maintained outside the United States from knowingly engaging in any transaction directly or indirectly with the Government of Iran or any person subject to the jurisdiction of the Government of Iran that would be prohibited by an order or regulation issued pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) if the transaction were engaged in by a United States person or in the United States.

(c) Civil penalty

The civil penalties provided for in section 206(b) of the International Emergency Economic Powers Act (50 U.S.C. 1705(b)) shall apply to a United States person to the same extent that such penalties apply to a person that commits an unlawful act described in section 206(a) of that Act if an entity owned or controlled by the United States person and established or maintained outside the United States violates, attempts to violate, conspires to violate, or causes a violation of any order or regulation issued to implement subsection (b).

(d) Applicability

Subsection (c) shall not apply with respect to a transaction described in subsection (b) by an entity owned or controlled by a United States person and established or maintained outside the United States if the United States person divests or terminates its business with the entity not later than the date that is 180 days after August 10, 2012.

(Pub. L. 112–158, title II, §218, Aug. 10, 2012, 126 Stat. 1234.)

TERMINATION OF SECTION

For termination of section, see section 8785(a) of this title.

REFERENCES IN TEXT

The International Emergency Economic Powers Act, referred to in subsec. (b), is title II of Pub. L. 95–223, Dec. 28, 1977, 91 Stat. 1626, which is classified generally to chapter 35 (§1701 et seq.) of Title 50, War and

National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 50 and Tables.

§8726. Reports on, and authorization of imposition of sanctions with respect to, the provision of specialized financial messaging services to the Central Bank of Iran and other sanctioned Iranian financial institutions

(a) Sense of Congress

It is the sense of Congress that—

(1) providers of specialized financial messaging services are a critical link to the international financial system;

(2) the European Union is to be commended for strengthening the multilateral sanctions regime against Iran by deciding that specialized financial messaging services may not be provided to the Central Bank of Iran and other sanctioned Iranian financial institutions by persons subject to the jurisdiction of the European Union; and

(3) the loss of access by sanctioned Iranian financial institutions to specialized financial messaging services must be maintained.

(b) Reports required

(1) In general

Not later than 60 days after August 10, 2012, and every 90 days thereafter, the Secretary of the Treasury shall submit to the appropriate congressional committees a report that contains—

(A) a list of all persons that the Secretary has identified that directly provide specialized financial messaging services to, or enable or facilitate direct or indirect access to such messaging services for, the Central Bank of Iran or a financial institution described in section 104(c)(2)(E)(ii) of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (22 U.S.C. 8513(c)(2)(E)(ii)); and

(B) a detailed assessment of the status of efforts by the Secretary to end the direct provision of such messaging services to, and the enabling or facilitation of direct or indirect access to such messaging services for, the Central Bank of Iran or a financial institution described in that section.

(2) Enabling or facilitation of access to specialized financial messaging services through intermediary financial institutions

For purposes of paragraph (1) and subsection (c), enabling or facilitating direct or indirect access to specialized financial messaging services for the Central Bank of Iran or a financial institution described in section 104(c)(2)(E)(ii) of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (22 U.S.C. 8513(c)(2)(E)(ii)) includes doing so by serving as an intermediary financial institution with access to such messaging services.

(3) Form of report

A report submitted under paragraph (1) shall be submitted in unclassified form but may contain a classified annex.

(c) Authorization of imposition of sanctions

(1) In general

Except as provided in paragraph (2), if, on or after the date that is 90 days after August 10, 2012, a person continues to knowingly and directly provide specialized financial messaging services to, or knowingly enable or facilitate direct or indirect access to such messaging services for, the Central Bank of Iran or a financial institution described in paragraph (2)(E)(ii) of section 104(c) of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (22 U.S.C. 8513(c)), the President may impose sanctions pursuant to that section or the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) with respect to the person.

(2) Exception

The President may not impose sanctions pursuant to paragraph (1) with respect to a person for directly providing specialized financial messaging services to, or enabling or facilitating direct or indirect access to such messaging services for, the Central Bank of Iran or a financial institution described in section 104(c)(2)(E)(ii) of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (22 U.S.C. 8513(c)(2)(E)(ii)) if—

(A) the person is subject to a sanctions regime under its governing foreign law that requires it to eliminate the knowing provision of such messaging services to, and the knowing enabling and facilitation of direct or indirect access to such messaging services for—

(i) the Central Bank of Iran; and

(ii) a group of Iranian financial institutions identified under such governing foreign law for purposes of that sanctions regime if the President determines that—

(I) the group is substantially similar to the group of financial institutions described in section 104(c)(2)(E)(ii) of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (22 U.S.C. 8513(c)(2)(E)(ii)); and

(II) the differences between those groups of financial institutions do not adversely affect the national interest of the United States; and

(B) the person has, pursuant to that sanctions regime, terminated the knowing provision of such messaging services to, and the knowing enabling and facilitation of direct or indirect access to such messaging services for, the Central Bank of Iran and each Iranian financial institution identified under such governing foreign law for purposes of that sanctions regime.

(d) Rule of construction

Nothing in this section shall be construed to limit the authority of the President pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) or the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (22 U.S.C. 8501 et seq.).

(Pub. L. 112–158, title II, §220, Aug. 10, 2012, 126 Stat. 1237.)

TERMINATION OF SECTION

For termination of section, see section 8785(a) of this title.

REFERENCES IN TEXT

The International Emergency Economic Powers Act, referred to in subsecs. (c)(1) and (d), is title II of Pub. L. 95–223, Dec. 28, 1977, 91 Stat. 1626, which is classified generally to chapter 35 (§1701 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 50 and Tables.

The Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010, referred to in subsec. (d), is Pub. L. 111–195, July 1, 2010, 124 Stat. 1312, which is classified principally to chapter 92 (§8501 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 8501 of this title and Tables.

§8727. Identification of, and immigration restrictions on, senior officials of the Government of Iran and their family members

(a) Identification

Not later than 180 days after August 10, 2012, and annually thereafter, the President shall publish a list of each individual the President determines is—

(1) a senior official of the Government of Iran described in subsection (b) that is involved in Iran's—

(A) illicit nuclear activities or proliferation of weapons of mass destruction or delivery systems for weapons of mass destruction;

(B) support for international terrorism; or

(C) commission of serious human rights abuses against citizens of Iran or their family members; or

(2) a family member of such an official.

(b) Senior officials of the Government of Iran described

A senior official of the Government of Iran described in this subsection is any senior official of that Government, including—

(1) the Supreme Leader of Iran;
(2) the President of Iran;
(3) a member of the Cabinet of the Government of Iran;
(4) a member of the Assembly of Experts;
(5) a senior member of the Intelligence Ministry of Iran; or
(6) a senior member of Iran's Revolutionary Guard Corps, including a senior member of a paramilitary organization such as Ansar-e-Hezbollah or Basij-e Motaz'afin.

(c) Exclusion from United States

Except as provided in subsection (d), the Secretary of State shall deny a visa to, and the Secretary of Homeland Security shall exclude from the United States, any alien who is on the list required by subsection (a).

(d) Exception to comply with United Nations Headquarters agreement

Subsection (c) shall not apply to an individual if admitting the individual to the United States is necessary to permit the United States to comply with the Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations, signed June 26, 1947, and entered into force November 21, 1947, and other applicable international obligations.

(e) Waiver

The President may waive the application of subsection (a) or (c) with respect to an individual if the President—

(1) determines that such a waiver is essential to the national interests of the United States; and
(2) not less than 7 days before the waiver takes effect, notifies Congress of the waiver and the reason for the waiver.

(Pub. L. 112–158, title II, §221, Aug. 10, 2012, 126 Stat. 1238.)

TERMINATION OF SECTION

For termination of section, see section 8785(a) of this title.

SUBCHAPTER III—SANCTIONS WITH RESPECT TO IRAN'S REVOLUTIONARY GUARD CORPS

§8741. Identification of, and imposition of sanctions with respect to, officials, agents, and affiliates of Iran's Revolutionary Guard Corps

(a) In general

Not later than 90 days after August 10, 2012, and as appropriate thereafter, the President shall—

(1) identify foreign persons that are officials, agents, or affiliates of Iran's Revolutionary Guard Corps; and

(2) for each foreign person identified under paragraph (1) that is not already designated for the imposition of sanctions pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.)—

(A) designate that foreign person for the imposition of sanctions pursuant to that Act; and

(B) block and prohibit all transactions in all property and interests in property of that foreign person if such property and interests in property are in the United States, come within the United States, or are or come within the possession or control of a United States person.

(b) Priority for investigation

In identifying foreign persons pursuant to subsection (a)(1) as officials, agents, or affiliates of Iran's Revolutionary Guard Corps, the President shall give priority to investigating—

(1) foreign persons or entities identified under section 560.304 of title 31, Code of Federal Regulations (relating to the definition of the Government of Iran); and

(2) foreign persons for which there is a reasonable basis to find that the person has conducted or attempted to conduct one or more sensitive transactions or activities described in subsection (c).

(c) Sensitive transactions and activities described

A sensitive transaction or activity described in this subsection is—

(1) a financial transaction or series of transactions valued at more than $1,000,000 in the aggregate in any 12-month period involving a non-Iranian financial institution;

(2) a transaction to facilitate the manufacture, importation, exportation, or transfer of items needed for the development by Iran of nuclear, chemical, biological, or advanced conventional weapons, including ballistic missiles;

(3) a transaction relating to the manufacture, procurement, or sale of goods, services, and technology relating to Iran's energy sector, including a transaction relating to the development of the energy resources of Iran, the exportation of petroleum products from Iran, the importation of refined petroleum to Iran, or the development of refining capacity available to Iran;

(4) a transaction relating to the manufacture, procurement, or sale of goods, services, and technology relating to Iran's petrochemical sector; or

(5) a transaction relating to the procurement of sensitive technologies (as defined in section 8515(c) of this title).

(d) Exclusion from United States

(1) In general

Subject to paragraph (2), the Secretary of State shall deny a visa to, and the Secretary of Homeland Security shall exclude from the United States, any alien who, on or after August 10, 2012, is a foreign person designated pursuant to subsection (a) for the imposition of sanctions pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.).

(2) Regulatory exceptions to comply with international obligations

The requirement to deny visas to and exclude aliens from the United States pursuant to paragraph (1) shall be subject to such regulations as the President may prescribe, including regulatory exceptions to permit the United States to comply with the Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations, signed June 26, 1947, and entered into force November 21, 1947, and other applicable international obligations.

(e) Waiver of imposition of sanctions

(1) In general

The President may waive the application of subsection (a) or (d) with respect to a foreign person if the President—

(A) determines that it is vital to the national security interests of the United States to do so; and

(B) submits to the appropriate congressional committees a report that—

(i) identifies the foreign person with respect to which the waiver applies; and

(ii) sets forth the reasons for the determination.

(2) Form of report

A report submitted under paragraph (1)(B) shall be submitted in unclassified form but may

contain a classified annex.

(f) Rule of construction

Nothing in this section shall be construed to remove any sanction of the United States in force with respect to Iran's Revolutionary Guard Corps as of August 10, 2012.

(Pub. L. 112–158, title III, §301, Aug. 10, 2012, 126 Stat. 1241.)

TERMINATION OF SECTION

For termination of section, see section 8785(a) of this title.

REFERENCES IN TEXT

The International Emergency Economic Powers Act, referred to in subsecs. (a)(2) and (d)(1), is title II of Pub. L. 95–223, Dec. 28, 1977, 91 Stat. 1626, which is classified generally to chapter 35 (§1701 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 50 and Tables.

§8742. Identification of, and imposition of sanctions with respect to, persons that support or conduct certain transactions with Iran's Revolutionary Guard Corps or other sanctioned persons

(a) Identification

(1) In general

Not later than 90 days after August 10, 2012, and every 180 days thereafter, the President shall submit to the appropriate congressional committees a report identifying foreign persons that the President determines, on or after August 10, 2012, knowingly—

(A) materially assist, sponsor, or provide financial, material, or technological support for, or goods or services in support of, Iran's Revolutionary Guard Corps or any of its officials, agents, or affiliates the property and interests in property of which are blocked pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.);

(B) engage in a significant transaction or transactions with Iran's Revolutionary Guard Corps or any of its officials, agents, or affiliates—

(i) the property and interests in property of which are blocked pursuant to that Act; or

(ii) that are identified under section 8741(a)(1) of this title or pursuant to paragraph (4)(A) of section 8513(c) of this title, as added by section 312; or

(C) engage in a significant transaction or transactions with—

(i) a person subject to financial sanctions pursuant to United Nations Security Council Resolution 1737 (2006), 1747 (2007), 1803 (2008), or 1929 (2010), or any other resolution that is adopted by the Security Council and imposes sanctions with respect to Iran or modifies such sanctions; or

(ii) a person acting on behalf of or at the direction of, or owned or controlled by, a person described in clause (i).

(2) Form of report

A report submitted under paragraph (1) shall be submitted in unclassified form but may contain a classified annex.

(3) Barter transactions

For purposes of paragraph (1), the term "transaction" includes a barter transaction.

(b) Imposition of sanctions

If the President determines under subsection (a)(1) that a foreign person has knowingly engaged in an activity described in that subsection, the President—

(1) shall impose 5 or more of the sanctions described in section 6(a) of the Iran Sanctions Act of

1996, as amended by section 204; and

(2) may impose additional sanctions pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) with respect to the person.

(c) Termination

The President may terminate a sanction imposed with respect to a foreign person pursuant to subsection (b) if the President determines that the person—

(1) no longer engages in the activity for which the sanction was imposed; and

(2) has provided assurances to the President that the person will not engage in any activity described in subsection (a)(1) in the future.

(d) Waiver of imposition of sanctions

(1) In general

The President may waive the imposition of sanctions under subsection (b) with respect to a foreign person if the President—

(A)(i) determines that the person has ceased the activity for which sanctions would otherwise be imposed and has taken measures to prevent a recurrence of the activity; or

(ii) determines that it is essential to the national security interests of the United States to do so; and

(B) submits to the appropriate congressional committees a report that—

(i) identifies the foreign person with respect to which the waiver applies;

(ii) describes the activity that would otherwise subject the foreign person to the imposition of sanctions under subsection (b); and

(iii) sets forth the reasons for the determination.

(2) Form of report

A report submitted under paragraph (1)(B) shall be submitted in unclassified form but may contain a classified annex.

(e) Waiver of identifications and designations

Notwithstanding any other provision of this subchapter and subject to paragraph (2), the President shall not be required to make any identification of a foreign person under subsection (a) or any identification or designation of a foreign person under section 8741(a) of this title if the President—

(1) determines that doing so would cause damage to the national security of the United States; and

(2) notifies the appropriate congressional committees of the exercise of the authority provided under this subsection.

(f) Application of provisions of Iran Sanctions Act of 1996

The following provisions of the Iran Sanctions Act of 1996, as amended by this Act, apply with respect to the imposition under subsection (b)(1) of sanctions relating to activities described in subsection (a)(1) to the same extent that such provisions apply with respect to the imposition of sanctions under section 5(a) of the Iran Sanctions Act of 1996:

(1) Subsections (c) and (e) of section 4.

(2) Subsections (c), (d), and (f) of section 5.

(3) Section 8.

(4) Section 9.

(5) Section 11.

(6) Section 12.

(7) Subsection (b) of section 13.

(8) Section 14.

(Pub. L. 112–158, title III, §302, Aug. 10, 2012, 126 Stat. 1243.)

TERMINATION OF SECTION

For termination of section, see section 8785(a) of this title.

REFERENCES IN TEXT

The International Emergency Economic Powers Act, referred to in subsecs. (a)(1)(A), (B)(i) and (b)(2), is title II of Pub. L. 95–223, Dec. 28, 1977, 91 Stat. 1626, which is classified generally to chapter 35 (§1701 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 50 and Tables.

Section 8513(c) of this title, as added by section 312, referred to in subsec. (a)(1)(B)(ii), means section 8513(c) of this title, as added by section 312 of Pub. L. 112–158.

The Iran Sanctions Act of 1996, referred to in subsecs. (b)(1) and (f), is Pub. L. 104–172, Aug. 5, 1996, 110 Stat. 1541, which is set out as a note under section 1701 of Title 50, War and National Defense. Section 6(a) of the Act, as amended by section 204, is section 6(a) of Pub. L. 104–172, as amended by section 204 of Pub. L. 112–158.

This Act, referred to in subsec. (f), is Pub. L. 112–158, Aug. 10, 2012, 126 Stat. 1214, known as the Iran Threat Reduction and Syria Human Rights Act of 2012, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 8701 of this title and Tables.

§8743. Identification of, and imposition of measures with respect to, foreign government agencies carrying out activities or transactions with certain Iran-affiliated persons

(a) Identification

(1) In general

Not later than 120 days after August 10, 2012, and every 180 days thereafter, the President shall submit to the appropriate congressional committees a report that identifies each agency of the government of a foreign country (other than Iran) that the President determines knowingly and materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services in support of, or knowingly and materially engaged in a significant transaction with, any person described in paragraph (2).

(2) Person described

A person described in this paragraph is—

(A) a foreign person that is an official, agent, or affiliate of Iran's Revolutionary Guard Corps that is designated for the imposition of sanctions pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.);

(B) a foreign person that is designated and subject to financial sanctions pursuant to—

(i) the Annex of United Nations Security Council Resolution 1737 (2006);

(ii) Annex I of United Nations Security Council Resolution 1747 (2007);

(iii) Annex I, II, or III of United Nations Security Council Resolution 1803 (2008);

(iv) Annex I, II, or III of United Nations Security Council Resolution 1929 (2010); or

(v) any subsequent and related United Nations Security Council resolution, or any annex thereto, that imposes new sanctions with respect to Iran or modifies existing sanctions with respect to Iran; or

(C) a foreign person that the agency knows is acting on behalf of or at the direction of, or owned or controlled by, a person described in subparagraph (A) or (B).

(3) Form of report

Each report submitted under paragraph (1) shall be submitted in unclassified form but may contain a classified annex.

(b) Imposition of measures

(1) In general

The President may impose any of the following measures with respect to an agency identified

pursuant to subsection (a) if the President determines that the assistance, exports, or other support to be prohibited by reason of the imposition of the measures have contributed and would otherwise directly or indirectly contribute to the agency's capability to continue the activities or transactions for which the agency has been identified pursuant to subsection (a):

(A) No assistance may be provided to the agency under the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) or the Arms Export Control Act (22 U.S.C. 2751 et seq.) other than humanitarian assistance or the provision of food or other agricultural commodities.

(B) No sales of any defense articles, defense services, or design and construction services under the Arms Export Control Act (22 U.S.C. 2751 et seq.) may be made to the agency.

(C) No licenses for export of any item on the United States Munitions List that include the agency as a party to the license may be granted.

(D) No exports may be permitted to the agency of any goods or technologies controlled for national security reasons under the Export Administration Regulations, except that such prohibition shall not apply to any transaction subject to the reporting requirements of title V of the National Security Act of 1947 ([50 U.S.C. 3091 et seq.]; relating to congressional oversight of intelligence activities).

(E) The United States shall oppose any loan or financial or technical assistance to the agency by international financial institutions in accordance with section 262d of this title.

(F) The United States shall deny to the agency any credit or financial assistance by any department, agency, or instrumentality of the United States Government, except that this paragraph shall not apply—

(i) to any transaction subject to the reporting requirements of title V of the National Security Act of 1947 ([50 U.S.C. 3091 et seq.]; relating to congressional oversight of intelligence activities);

(ii) to the provision of medicines, medical equipment, and humanitarian assistance; or

(iii) to any credit, credit guarantee, or financial assistance provided by the Department of Agriculture to support the purchase of food or other agricultural commodities.

(G) Additional restrictions as may be imposed pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.).

(2) Rule of construction

Nothing in this subsection shall be construed to impose measures with respect to programs under section 1501 of the National Defense Authorization Act for Fiscal Year 1997 (50 U.S.C. 2632 [1] note) and programs under the Atomic Energy Defense Act (50 U.S.C. 2501 et seq.).

(c) Termination

The President may terminate any measures imposed with respect to an agency pursuant to subsection (b) if the President determines and notifies the appropriate congressional committees that—

(1)(A) a person described in subparagraph (A) or (B) of subsection (a)(2) with respect to which the agency is carrying out activities or transactions is no longer designated pursuant to subparagraph (A) or (B) of subsection (a)(2); or

(B) any person described in subparagraph (C) of subsection (a)(2) with respect to which the agency is carrying out activities or transactions is no longer acting on behalf of or at the direction of, or owned or controlled by, any person described in subparagraph (A) or (B) of subsection (a)(2);

(2) the agency is no longer carrying out activities or transactions for which the measures were imposed and has provided assurances to the United States Government that the agency will not carry out the activities or transactions in the future; or

(3) it is essential to the national security interest of the United States to terminate such measures.

(d) Waiver

If the President does not impose one or more measures described in subsection (b) with respect to an agency identified in the report required by subsection (a), the President shall include in the subsequent report an explanation as to why the President did not impose such measures.

(e) Definition

In this section, the term "appropriate congressional committees" means—

(1) the Committee on Foreign Relations, the Committee on Appropriations, the Committee on Armed Services, the Committee on Banking, Housing, and Urban Affairs, the Committee on Finance, and the Select Committee on Intelligence of the Senate; and

(2) the Committee on Foreign Affairs, the Committee on Appropriations, the Committee on Armed Services, the Committee on Financial Services, the Committee on Ways and Means, and the Permanent Select Committee on Intelligence of the House of Representatives.

(f) Effective date

This section shall take effect on August 10, 2012, and apply with respect to activities and transactions described in subsection (a) that are carried out on or after the later of—

(1) the date that is 45 days after August 10, 2012; or

(2) the date that is 45 days after a person is designated as described in subparagraph (A) or (B) of subsection (a)(2).

(Pub. L. 112–158, title III, §303, Aug. 10, 2012, 126 Stat. 1245.)

TERMINATION OF SECTION

For termination of section, see section 8785(a) of this title.

REFERENCES IN TEXT

The International Emergency Economic Powers Act, referred to in subsecs. (a)(2)(A) and (b)(1)(G), is title II of Pub. L. 95–223, Dec. 28, 1977, 91 Stat. 1626, which is classified generally to chapter 35 (§1701 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 50 and Tables.

The Foreign Assistance Act of 1961, referred to in subsec. (b)(1)(A), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, which is classified principally to chapter 32 (§2151 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

The Arms Export Control Act, referred to in subsec. (b)(1)(A), (B), is Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1320, which is classified principally to chapter 39 (§2751 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

The National Security Act of 1947, referred to in subsec. (b)(1)(D), (F)(i), is act July 26, 1947, ch. 343, 61 Stat. 495, which was formerly classified principally to chapter 15 (§401 et seq.) of Title 50, War and National Defense, prior to editorial reclassification in chapter 44 (§3001 et seq.) of Title 50. Title V of the Act is now classified generally to subchapter III (§3091 et seq.) of chapter 44 of Title 50. For complete classification of this Act to the Code, see Tables.

Section 1501 of the National Defense Authorization Act for Fiscal Year 1997, referred to in subsec. (b)(2), is section 1501 of Pub. L. 104–201, which was formerly set out as a note under section 2362 of Title 50, War and National Defense, and was repealed by Pub. L. 113–291, div. A, title XIII, §1351(5), Dec. 19, 2014, 128 Stat. 3607.

The Atomic Energy Defense Act, referred to in subsec. (b)(2), is Pub. L. 107–314, div. D, as added Pub. L. 108–136, div. C, title XXXI, §3141(b), Nov. 24, 2003, 117 Stat. 1753, which is classified generally to chapter 42 (§2501 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 2501 of Title 50 and Tables.

[1] *So in original. Probably should be "2362".*

§8744. Rule of construction

Nothing in this subchapter shall be construed to limit the authority of the President to designate foreign persons for the imposition of sanctions pursuant to the International Emergency Economic

Powers Act (50 U.S.C. 1701 et seq.).

(Pub. L. 112–158, title III, §304, Aug. 10, 2012, 126 Stat. 1247.)

TERMINATION OF SECTION

For termination of section, see section 8785(a) of this title.

REFERENCES IN TEXT

The International Emergency Economic Powers Act, referred to in text, is title II of Pub. L. 95–223, Dec. 28, 1977, 91 Stat. 1626, which is classified generally to chapter 35 (§1701 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 50 and Tables.

SUBCHAPTER IV—MEASURES TO PROMOTE HUMAN RIGHTS

§8751. Codification of sanctions with respect to grave human rights abuses by the Governments of Iran and Syria using information technology

United States sanctions with respect to Iran and Syria provided for in Executive Order No. 13606 (77 Fed. Reg. 24571), as in effect on the day before August 10, 2012, shall remain in effect—

(1) with respect to Iran, until the date that is 30 days after the date on which the President submits to Congress the certification described in section 8551(a) of this title; and

(2) with respect to Syria, until the date on which the provisions of and sanctions imposed pursuant to subchapter VII terminate pursuant to section 8795 of this title.

(Pub. L. 112–158, title IV, §411, Aug. 10, 2012, 126 Stat. 1255.)

REFERENCES IN TEXT

Executive Order No. 13606, referred to in text, is listed in tables under section 1701 of Title 50, War and National Defense.

Subchapter VII, referred to in par. (2), was in the original a reference to title VII of Pub. L. 112–158, which enacted subchapter VII of this chapter and provisions set out as a note under section 8701 of this title.

§8752. Clarification of sensitive technologies for purposes of procurement ban under Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010

The Secretary of State shall—

(1) not later than 90 days after August 10, 2012, issue guidelines to further describe the technologies that may be considered "sensitive technology" for purposes of section 106 of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (22 U.S.C. 8515), with special attention to new forms of sophisticated jamming, monitoring, and surveillance technology relating to mobile telecommunications and the Internet, and publish those guidelines in the Federal Register;

(2) determine the types of technologies that enable any indigenous capabilities that Iran has to disrupt and monitor information and communications in that country, and consider adding descriptions of those items to the guidelines; and

(3) periodically review, but in no case less than once each year, the guidelines and, if necessary, amend the guidelines on the basis of technological developments and new information regarding transfers of technologies to Iran and the development of Iran's indigenous capabilities to disrupt and monitor information and communications in Iran.

(Pub. L. 112–158, title IV, §412, Aug. 10, 2012, 126 Stat. 1255.)

§8753. Expedited consideration of requests for authorization of certain human rights-, humanitarian-, and democracy-related activities with respect to Iran

(a) Requirement

The Office of Foreign Assets Control, in consultation with the Department of State, shall establish an expedited process for the consideration of complete requests for authorization to engage in human rights-, humanitarian-, or democracy-related activities relating to Iran that are submitted by—

(1) entities receiving funds from the Department of State to engage in the proposed activity;

(2) the Broadcasting Board of Governors; and

(3) other appropriate agencies of the United States Government.

(b) Procedures

Requests for authorization under subsection (a) shall be submitted to the Office of Foreign Assets Control in conformance with the Office's regulations, including section 501.801 of title 31, Code of Federal Regulations (commonly known as the Reporting, Procedures and Penalties Regulations). Applicants shall fully disclose the parties to the transactions as well as describe the activities to be undertaken. License applications involving the exportation or reexportation of goods, technology, or software to Iran shall include a copy of an official Commodity Classification issued by the Department of Commerce, Bureau of Industry and Security, as part of the license application.

(c) Foreign policy review

The Department of State shall complete a foreign policy review of a request for authorization under subsection (a) not later than 30 days after the request is referred to the Department by the Office of Foreign Assets Control.

(d) License determinations

License determinations for complete requests for authorization under subsection (a) shall be made not later than 90 days after receipt by the Office of Foreign Assets Control, with the following exceptions:

(1) Any requests involving the exportation or reexportation to Iran of goods, technology, or software listed on the Commerce Control List maintained pursuant to part 774 of title 15, Code of Federal Regulations, shall be processed in a manner consistent with the Iran-Iraq Arms Non-Proliferation Act of 1992 (title XVI of Public Law 102–484) and other applicable provisions of law.

(2) Any other requests presenting unusual or extraordinary circumstances.

(e) Regulations

The Secretary of the Treasury may prescribe such regulations as are appropriate to carry out this section.

(Pub. L. 112–158, title IV, §413, Aug. 10, 2012, 126 Stat. 1256.)

REFERENCES IN TEXT

The Iran-Iraq Arms Non-Proliferation Act of 1992, referred to in subsec. (d)(1), is title XVI of div. A of Pub. L. 102–484, Oct. 23, 1992, 106 Stat. 2571, which is set out as a note under section 1701 of Title 50, War and National Defense.

§8754. Comprehensive strategy to promote Internet freedom and access to information in Iran

Not later than 90 days after August 10, 2012, the Secretary of State, in consultation with the Secretary of the Treasury and the heads of other Federal agencies, as appropriate, shall submit to the appropriate congressional committees a comprehensive strategy to—

(1) assist the people of Iran to produce, access, and share information freely and safely via the

Internet, including in Farsi and regional languages;

(2) support the development of counter-censorship technologies that enable the citizens of Iran to undertake Internet activities without interference from the Government of Iran;

(3) increase the capabilities and availability of secure mobile and other communications through connective technology among human rights and democracy activists in Iran;

(4) provide resources for digital safety training for media and academic and civil society organizations in Iran;

(5) provide accurate and substantive Internet content in local languages in Iran;

(6) increase emergency resources for the most vulnerable human rights advocates seeking to organize, share information, and support human rights in Iran;

(7) expand surrogate radio, television, live stream, and social network communications inside Iran, including—

(A) by expanding Voice of America's Persian News Network and Radio Free Europe/Radio Liberty's Radio Farda to provide hourly live news update programming and breaking news coverage capability 24 hours a day and 7 days a week; and

(B) by assisting telecommunications and software companies that are United States persons to comply with the export licensing requirements of the United States for the purpose of expanding such communications inside Iran;

(8) expand activities to safely assist and train human rights, civil society, and democracy activists in Iran to operate effectively and securely;

(9) identify and utilize all available resources to overcome attempts by the Government of Iran to jam or otherwise deny international satellite broadcasting signals;

(10) expand worldwide United States embassy and consulate programming for and outreach to Iranian dissident communities;

(11) expand access to proxy servers for democracy activists in Iran; and

(12) discourage telecommunications and software companies from facilitating Internet censorship by the Government of Iran.

(Pub. L. 112–158, title IV, §414, Aug. 10, 2012, 126 Stat. 1256.)

§8755. Statement of policy on political prisoners

It shall be the policy of the United States—

(1) to support efforts to research and identify prisoners of conscience and cases of human rights abuses in Iran;

(2) to offer refugee status or political asylum in the United States to political dissidents in Iran if requested and consistent with the laws and national security interests of the United States;

(3) to offer to assist, through the United Nations High Commissioner for Refugees, with the relocation of such political prisoners to other countries if requested, as appropriate and with appropriate consideration for the national security interests of the United States; and

(4) to publicly call for the release of Iranian dissidents by name and raise awareness with respect to individual cases of Iranian dissidents and prisoners of conscience, as appropriate and if requested by the dissidents or prisoners themselves or their families.

(Pub. L. 112–158, title IV, §415, Aug. 10, 2012, 126 Stat. 1257.)

SUBCHAPTER V—MISCELLANEOUS

§8771. Exclusion of citizens of Iran seeking education relating to the nuclear and energy sectors of Iran

(a) In general

The Secretary of State shall deny a visa to, and the Secretary of Homeland Security shall exclude from the United States, any alien who is a citizen of Iran that the Secretary of State determines seeks to enter the United States to participate in coursework at an institution of higher education (as defined in section 1001(a) of title 20) to prepare the alien for a career in the energy sector of Iran or in nuclear science or nuclear engineering or a related field in Iran.

(b) Applicability

Subsection (a) applies with respect to visa applications filed on or after August 10, 2012.

(Pub. L. 112–158, title V, §501, Aug. 10, 2012, 126 Stat. 1258.)

TERMINATION OF SECTION

For termination of section, see section 8785(a) of this title.

§8772. Interests in certain financial assets of Iran

(a) Interests in blocked assets

(1) In general

Subject to paragraph (2), notwithstanding any other provision of law, including any provision of law relating to sovereign immunity, and preempting any inconsistent provision of State law, a financial asset that is—

(A) held in the United States for a foreign securities intermediary doing business in the United States;

(B) a blocked asset (whether or not subsequently unblocked) that is property described in subsection (b); and

(C) equal in value to a financial asset of Iran, including an asset of the central bank or monetary authority of the Government of Iran or any agency or instrumentality of that Government, that such foreign securities intermediary or a related intermediary holds abroad,

shall be subject to execution or attachment in aid of execution in order to satisfy any judgment to the extent of any compensatory damages awarded against Iran for damages for personal injury or death caused by an act of torture, extrajudicial killing, aircraft sabotage, or hostage-taking, or the provision of material support or resources for such an act.

(2) Court determination required

In order to ensure that Iran is held accountable for paying the judgments described in paragraph (1) and in furtherance of the broader goals of this Act to sanction Iran, prior to an award turning over any asset pursuant to execution or attachment in aid of execution with respect to any judgments against Iran described in paragraph (1), the court shall determine whether Iran holds equitable title to, or the beneficial interest in, the assets described in subsection (b) and that no other person possesses a constitutionally protected interest in the assets described in subsection (b) under the Fifth Amendment to the Constitution of the United States. To the extent the court determines that a person other than Iran holds—

(A) equitable title to, or a beneficial interest in, the assets described in subsection (b) (excluding a custodial interest of a foreign securities intermediary or a related intermediary that holds the assets abroad for the benefit of Iran); or

(B) a constitutionally protected interest in the assets described in subsection (b),

such assets shall be available only for execution or attachment in aid of execution to the extent of Iran's equitable title or beneficial interest therein and to the extent such execution or attachment does not infringe upon such constitutionally protected interest.

(b) Financial assets described

The financial assets described in this section are the financial assets that are identified in and the subject of proceedings in the United States District Court for the Southern District of New York in Peterson et al. v. Islamic Republic of Iran et al., Case No. 10 Civ. 4518 (BSJ) (GWG), that were restrained by restraining notices and levies secured by the plaintiffs in those proceedings, as modified by court order dated June 27, 2008, and extended by court orders dated June 23, 2009, May 10, 2010, and June 11, 2010, so long as such assets remain restrained by court order.

(c) Rules of construction

Nothing in this section shall be construed—

(1) to affect the availability, or lack thereof, of a right to satisfy a judgment in any other action against a terrorist party in any proceedings other than proceedings referred to in subsection (b); or

(2) to apply to assets other than the assets described in subsection (b), or to preempt State law, including the Uniform Commercial Code, except as expressly provided in subsection (a)(1).

(d) Definitions

In this section:

(1) Blocked asset

The term "blocked asset"—

(A) means any asset seized or frozen by the United States under section 4305(b) of title 50 or under section 202 or 203 of the International Emergency Economic Powers Act (50 U.S.C. 1701 and 1702); and

(B) does not include property that—

(i) is subject to a license issued by the United States Government for final payment, transfer, or disposition by or to a person subject to the jurisdiction of the United States in connection with a transaction for which the issuance of the license has been specifically required by a provision of law other than the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) or the United Nations Participation Act of 1945 (22 U.S.C. 287 et seq.); or

(ii) is property subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations, or that enjoys equivalent privileges and immunities under the laws of the United States, and is being used exclusively for diplomatic or consular purposes.

(2) Financial asset; securities intermediary

The terms "financial asset" and "securities intermediary" have the meanings given those terms in the Uniform Commercial Code, but the former includes cash.

(3) Iran

The term "Iran" means the Government of Iran, including the central bank or monetary authority of that Government and any agency or instrumentality of that Government.

(4) Person

(A) In general

The term "person" means an individual or entity.

(B) Entity

The term "entity" means a partnership, association, trust, joint venture, corporation, group, subgroup, or other organization.

(5) Terrorist party

The term "terrorist party" has the meaning given that term in section 201(d) of the Terrorism Risk Insurance Act of 2002 (28 U.S.C. 1610 note).

(6) United States

The term "United States" includes all territory and waters, continental, or insular, subject to the jurisdiction of the United States.

(Pub. L. 112–158, title V, §502, Aug. 10, 2012, 126 Stat. 1258.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a)(2), is Pub. L. 112–158, Aug. 10, 2012, 126 Stat. 1214, known as the Iran Threat Reduction and Syria Human Rights Act of 2012, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 8701 of this title and Tables.

The International Emergency Economic Powers Act, referred to in subsec. (d)(1)(B)(i), is title II of Pub. L. 95–223, Dec. 28, 1977, 91 Stat. 1626, which is classified generally to chapter 35 (§1701 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 50 and Tables.

The United Nations Participation Act of 1945, referred to in subsec. (d)(1)(B)(i), is act of Dec. 20, 1945, ch. 583, 59 Stat. 619, which is classified to subchapter XVI (§287 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 287 of this title and Tables.

Section 201(d) of the Terrorism Risk Insurance Act of 2002, referred to in subsec. (d)(5), is section 201(d) of Pub. L. 107–297, which is set out as a note under section 1610 of Title 28, Judiciary and Judicial Procedure.

CODIFICATION

Section is comprised of section 502 of Pub. L. 112–158. Subsec. (e) of section 502 of Pub. L. 112–158 amended section 1610 of Title 28, Judiciary and Judicial Procedure, and amended section 201 of Pub. L. 107–297, set out as a note under section 1610 of Title 28.

§8773. Report on membership of Iran in international organizations

Not later than 180 days after August 10, 2012, and not later than September 1 of each year thereafter, the Secretary of State shall submit to the appropriate congressional committees a report listing the international organizations of which Iran is a member and detailing the amount that the United States contributes to each such organization on an annual basis.

(Pub. L. 112–158, title V, §506, Aug. 10, 2012, 126 Stat. 1263.)

SUBCHAPTER VI—GENERAL PROVISIONS

§8781. Implementation; penalties

(a) Implementation

The President may exercise all authorities provided under sections 1702 and 1704 of title 50 to carry out—

(1) sections 8721, 8722, 8723, 8724, 8725, 8726 of this title, 312,[1] and 8751 of this title, subchapter III, and subchapter VII;

(2) section 8513b of this title, as added by section 312; [1] and

(3) sections 8514a and 8514b of this title, as added by subtitle A of title IV.

(b) Penalties

(1) In general

The penalties provided for in subsections (b) and (c) of section 1705 of title 50 shall apply to a person that violates, attempts to violate, conspires to violate, or causes a violation of a provision specified in paragraph (2) of this subsection, or an order or regulation prescribed under such a provision, to the same extent that such penalties apply to a person that commits an unlawful act described in section 1705(a) of title 50.

(2) Provisions specified

The provisions specified in this paragraph are the following:

(A) Sections 8721, 8722, 8723, and 8726 of this title, subchapter III, and subchapter VII.

(B) Sections 8514a and 8514b of this title, as added by subtitle A of title IV.

(Pub. L. 112–158, title VI, §601, Aug. 10, 2012, 126 Stat. 1263.)

REFERENCES IN TEXT

Section 312, referred to in subsec. (a)(1), is section 312 of Pub. L. 112–158, Aug. 10, 2012, 126 Stat. 1249. Subsec. (a) of section 312 is not classified to the Code. Subsecs. (b) and (c) of section 312 amended section 8513 of this title. Subsec. (d) of section 312 enacted provisions set out as a note under section 8513 of this title.

Section 8513b of this title, as added by section 312, referred to in subsec. (a)(2), was in the original "section 104A of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010, as added by section 312" and was translated as meaning section 104A of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010, as added by section 216(a) of Pub. L. 112–158, to reflect the probable intent of Congress. For classification of section 312 of Pub. L. 112–158, see above.

Sections 8514a and 8514b of this title, as added by subtitle A of title IV, referred to in subsecs. (a)(3) and (b)(2)(B), are sections 8514a and 8514b of this title, as added by subtitle A (§§401–403) of title IV of Pub. L. 112–158.

[1] *See References in Text note below.*

§8782. Applicability to certain intelligence activities

Nothing in this Act or the amendments made by this Act shall apply to the authorized intelligence activities of the United States.

(Pub. L. 112–158, title VI, §602, Aug. 10, 2012, 126 Stat. 1264.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 112–158, Aug. 10, 2012, 126 Stat. 1214, known as the Iran Threat Reduction and Syria Human Rights Act of 2012, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 8701 of this title and Tables.

§8783. Applicability to certain natural gas projects

(a) Exception for certain natural gas projects

Nothing in this Act or the amendments made by this Act shall apply to any activity relating to a project—

(1) for the development of natural gas and the construction and operation of a pipeline to transport natural gas from Azerbaijan to Turkey and Europe;

(2) that provides to Turkey and countries in Europe energy security and energy independence from the Government of the Russian Federation and other governments with jurisdiction over persons subject to sanctions imposed under this Act or amendments made by this Act; and

(3) that was initiated before August 10, 2012, pursuant to a production-sharing agreement, or an ancillary agreement necessary to further a production-sharing agreement, entered into with, or a license granted by, the government of a country other than Iran before August 10, 2012.

(b) Termination of exception

(1) In general

The exception under subsection (a) shall not apply with respect to a project described in that subsection on or after the date on which the President certifies to the appropriate congressional committees that—

(A) the percentage of the equity interest in the project held by or on behalf of an entity described in paragraph (2) has increased relative to the percentage of the equity interest in the

project held by or on behalf of such an entity on January 1, 2002; or

(B) an entity described in paragraph (2) has assumed an operational role in the project.

(2) Entity described

An entity described in this paragraph is—

(A) an entity—

(i) owned or controlled by the Government of Iran or identified under section 560.304 of title 31, Code of Federal Regulations (relating to the definition of the Government of Iran); or

(ii) organized under the laws of Iran or with the participation or approval of the Government of Iran;

(B) an entity owned or controlled by an entity described in subparagraph (A); or

(C) a successor entity to an entity described in subparagraph (A).

(Pub. L. 112–158, title VI, §603, Aug. 10, 2012, 126 Stat. 1264.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a), is Pub. L. 112–158, Aug. 10, 2012, 126 Stat. 1214, known as the Iran Threat Reduction and Syria Human Rights Act of 2012, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 8701 of this title and Tables.

§8784. Rule of construction with respect to use of force against Iran and Syria

Nothing in this Act or the amendments made by this Act shall be construed as a declaration of war or an authorization of the use of force against Iran or Syria.

(Pub. L. 112–158, title VI, §604, Aug. 10, 2012, 126 Stat. 1265.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 112–158, Aug. 10, 2012, 126 Stat. 1214, known as the Iran Threat Reduction and Syria Human Rights Act of 2012, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 8701 of this title and Tables.

RULE OF CONSTRUCTION FOR SPECIFIC ACTS

Pub. L. 114–92, div. A, title XII, §1235, Nov. 25, 2015, 129 Stat. 1059, provided that: "Nothing in this Act [see Tables for classification] shall be construed as authorizing the use of force against Iran."

Pub. L. 113–291, div. A, title XII, §1279, Dec. 19, 2014, 128 Stat. 3593, provided that: "Nothing in this Act [see Tables for classification] shall be construed as authorizing the use of force against Iran."

Pub. L. 113–66, div. A, title XII, §1252, Dec. 26, 2013, 127 Stat. 926, provided that: "Nothing in this Act [see Tables for classification] shall be construed as authorizing the use of force against Syria or Iran."

Pub. L. 112–239, div. A, title XII, §1234, Jan. 2, 2013, 126 Stat. 2004, provided that: "Nothing in this Act [see Tables for classification] shall be construed as authorizing the use of force against Iran."

§8785. Termination

(a) In general

The provisions of sections 8721, 8722, 8723, 8725, 8726, 8727, and 8771 of this title, subchapter I, and subchapter III shall terminate on the date that is 30 days after the date on which the President makes the certification described in section 8551(a) of this title.

(b) Omitted

(Pub. L. 112–158, title VI, §605, Aug. 10, 2012, 126 Stat. 1265.)

CODIFICATION

Section is comprised of section 605 of Pub. L. 112–158. Subsec. (b) of section 605 of Pub. L. 112–158 amended section 8551 of this title.

SUBCHAPTER VII—SANCTIONS WITH RESPECT TO HUMAN RIGHTS ABUSES IN SYRIA

§8791. Imposition of sanctions with respect to certain persons who are responsible for or complicit in human rights abuses committed against citizens of Syria or their family members

(a) In general

The President shall impose sanctions described in subsection (c) with respect to each person on the list required by subsection (b).

(b) List of persons who are responsible for or complicit in certain human rights abuses

(1) In general

Not later than 120 days after August 10, 2012, the President shall submit to the appropriate congressional committees a list of persons who are officials of the Government of Syria or persons acting on behalf of that Government that the President determines, based on credible evidence, are responsible for or complicit in, or responsible for ordering, controlling, or otherwise directing, the commission of serious human rights abuses against citizens of Syria or their family members, regardless of whether such abuses occurred in Syria.

(2) Updates of list

The President shall submit to the appropriate congressional committees an updated list under paragraph (1)—

(A) not later than 300 days after August 10, 2012, and every 180 days thereafter; and

(B) as new information becomes available.

(3) Form of report; public availability

(A) Form

The list required by paragraph (1) shall be submitted in unclassified form but may contain a classified annex.

(B) Public availability

The unclassified portion of the list required by paragraph (1) shall be made available to the public and posted on the websites of the Department of the Treasury and the Department of State.

(4) Consideration of data from other countries and nongovernmental organizations

In preparing the list required by paragraph (1), the President shall consider credible data already obtained by other countries and nongovernmental organizations, including organizations in Syria, that monitor the human rights abuses of the Government of Syria.

(c) Sanctions described

The sanctions described in this subsection are sanctions pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), including blocking of property and restrictions or prohibitions on financial transactions and the exportation of property, subject to such regulations as the President may prescribe.

(Pub. L. 112–158, title VII, §702, Aug. 10, 2012, 126 Stat. 1265.)

TERMINATION OF SECTION

For termination of section, see section 8795 of this title.

REFERENCES IN TEXT

The International Emergency Economic Powers Act, referred to in subsec. (c), is title II of Pub. L. 95–223, Dec. 28, 1977, 91 Stat. 1626, which is classified generally to chapter 35 (§1701 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 50 and Tables.

SHORT TITLE

For short title of this subchapter as the "Syria Human Rights Accountability Act of 2012", see section 701 of Pub. L. 112–158, set out as a note under section 8701 of this title.

§8792. Imposition of sanctions with respect to the transfer of goods or technologies to Syria that are likely to be used to commit human rights abuses

(a) In general

The President shall impose sanctions described in section 8791(c) of this title with respect to—

(1) each person on the list required by subsection (b); and

(2) any person that—

(A) is a successor entity to a person on the list;

(B) owns or controls a person on the list, if the person that owns or controls the person on the list had actual knowledge or should have known that the person on the list engaged in the activity described in subsection (b)(2) for which the person was included in the list; or

(C) is owned or controlled by, or under common ownership or control with, the person on the list, if the person owned or controlled by, or under common ownership or control with (as the case may be), the person on the list knowingly engaged in the activity described in subsection (b)(2) for which the person was included in the list.

(b) List

(1) In general

Not later than 120 days after August 10, 2012, the President shall submit to the appropriate congressional committees a list of persons that the President determines have knowingly engaged in an activity described in paragraph (2) on or after August 10, 2012.

(2) Activity described

(A) In general

A person engages in an activity described in this paragraph if the person—

(i) transfers, or facilitates the transfer of, goods or technologies described in subparagraph (C) to Syria; or

(ii) provides services with respect to goods or technologies described in subparagraph (C) after such goods or technologies are transferred to Syria.

(B) Applicability to contracts and other agreements

A person engages in an activity described in subparagraph (A) without regard to whether the activity is carried out pursuant to a contract or other agreement entered into before, on, or after August 10, 2012.

(C) Goods or technologies described

Goods or technologies described in this subparagraph are goods or technologies that the President determines are likely to be used by the Government of Syria or any of its agencies or instrumentalities to commit human rights abuses against the people of Syria, including—

(i) firearms or ammunition (as those terms are defined in section 921 of title 18), rubber bullets, police batons, pepper or chemical sprays, stun grenades, electroshock weapons, tear gas, water cannons, or surveillance technology; or

(ii) sensitive technology.

(D) Sensitive technology defined

(i) In general

For purposes of subparagraph (C), the term "sensitive technology" means hardware, software, telecommunications equipment, or any other technology, that the President determines is to be used specifically—

(I) to restrict the free flow of unbiased information in Syria; or

(II) to disrupt, monitor, or otherwise restrict speech of the people of Syria.

(ii) Exception

The term "sensitive technology" does not include information or informational materials the exportation of which the President does not have the authority to regulate or prohibit pursuant to section 1702(b)(3) of title 50.

(3) Special rule to allow for termination of sanctionable activity

The President shall not be required to include a person on the list required by paragraph (1) if the President certifies in writing to the appropriate congressional committees that—

(A) the person is no longer engaging in, or has taken significant verifiable steps toward stopping, the activity described in paragraph (2) for which the President would otherwise have included the person on the list; and

(B) the President has received reliable assurances that the person will not knowingly engage in any activity described in paragraph (2) in the future.

(4) Updates of list

The President shall submit to the appropriate congressional committees an updated list under paragraph (1)—

(A) not later than 300 days after August 10, 2012, and every 180 days thereafter; and

(B) as new information becomes available.

(5) Form of report; public availability

(A) Form

The list required by paragraph (1) shall be submitted in unclassified form but may contain a classified annex.

(B) Public availability

The unclassified portion of the list required by paragraph (1) shall be made available to the public and posted on the websites of the Department of the Treasury and the Department of State.

(Pub. L. 112–158, title VII, §703, Aug. 10, 2012, 126 Stat. 1266.)

TERMINATION OF SECTION

For termination of section, see section 8795 of this title.

§8793. Imposition of sanctions with respect to persons who engage in censorship or other forms of repression in Syria

(a) In general

The President shall impose sanctions described in section 8791(c) of this title with respect to each person on the list required by subsection (b).

(b) List of persons who engage in censorship

(1) In general

Not later than 120 days after August 10, 2012, the President shall submit to the appropriate

congressional committees a list of persons that the President determines have engaged in censorship, or activities relating to censorship, in a manner that prohibits, limits, or penalizes the legitimate exercise of freedom of expression by citizens of Syria.

(2) Updates of list

The President shall submit to the appropriate congressional committees an updated list under paragraph (1)—

(A) not later than 300 days after August 10, 2012, and every 180 days thereafter; and

(B) as new information becomes available.

(3) Form of report; public availability

(A) Form

The list required by paragraph (1) shall be submitted in unclassified form but may contain a classified annex.

(B) Public availability

The unclassified portion of the list required by paragraph (1) shall be made available to the public and posted on the websites of the Department of the Treasury and the Department of State.

(Pub. L. 112–158, title VII, §704, Aug. 10, 2012, 126 Stat. 1268.)

TERMINATION OF SECTION

For termination of section, see section 8795 of this title.

§8794. Waiver

The President may waive the requirement to include a person on a list required by section 8791, 8792, or 8793 of this title or to impose sanctions pursuant to any such section if the President—

(1) determines that such a waiver is in the national security interests of the United States; and

(2) submits to the appropriate congressional committees a report on the reasons for that determination.

(Pub. L. 112–158, title VII, §705, Aug. 10, 2012, 126 Stat. 1268.)

TERMINATION OF SECTION

For termination of section, see section 8795 of this title.

§8795. Termination

(a) In general

The provisions of this subchapter and any sanctions imposed pursuant to this subchapter shall terminate on the date on which the President submits to the appropriate congressional committees—

(1) the certification described in subsection (b); and

(2) a certification that—

(A) the Government of Syria is democratically elected and representative of the people of Syria; or

(B) a legitimate transitional government of Syria is in place.

(b) Certification described

A certification described in this subsection is a certification by the President that the Government of Syria—

(1) has unconditionally released all political prisoners;

(2) has ceased its practices of violence, unlawful detention, torture, and abuse of citizens of Syria engaged in peaceful political activity;

(3) has ceased its practice of procuring sensitive technology designed to restrict the free flow of unbiased information in Syria, or to disrupt, monitor, or otherwise restrict the right of citizens of Syria to freedom of expression;

(4) has ceased providing support for foreign terrorist organizations and no longer allows such organizations, including Hamas, Hezbollah, and Palestinian Islamic Jihad, to maintain facilities in territory under the control of the Government of Syria; and

(5) has ceased the development and deployment of medium- and long-range surface-to-surface ballistic missiles;

(6) is not pursuing or engaged in the research, development, acquisition, production, transfer, or deployment of biological, chemical, or nuclear weapons, and has provided credible assurances that it will not engage in such activities in the future; and

(7) has agreed to allow the United Nations and other international observers to verify that the Government of Syria is not engaging in such activities and to assess the credibility of the assurances provided by that Government.

(c) Suspension of sanctions after election of democratic government

If the President submits to the appropriate congressional committees the certification described in subsection (a)(2), the President may suspend the provisions of this subchapter and any sanctions imposed under this subchapter for not more than 180 days to allow time for a certification described in subsection (b) to be submitted.

(Pub. L. 112–158, title VII, §706, Aug. 10, 2012, 126 Stat. 1268.)

REFERENCES IN TEXT

This subchapter, referred to in subsecs. (a) and (c), was in the original a reference to title VII of Pub. L. 112–158, which enacted this subchapter and provisions set out as a note under section 8701 of this title.

CHAPTER 95—IRAN FREEDOM AND COUNTERPROLIFERATION

Sec.

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§8801. Definitions

(a) In general

In this chapter:

(1) Agricultural commodity

The term "agricultural commodity" has the meaning given that term in section 5602 of title 7.

(2) Appropriate congressional committees

The term "appropriate congressional committees" means—

(A) the committees specified in section 14(2) of the Iran Sanctions Act of 1996 (Public Law 104–172; 50 U.S.C. 1701 note); and

(B) the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives.

(3) Coal

The term "coal" means metallurgical coal, coking coal, or fuel coke.

(4) Correspondent account; payable-through account

The terms "correspondent account" and "payable-through account" have the meanings given those terms in section 5318A of title 31.

(5) Foreign financial institution

The term "foreign financial institution" has the meaning of that term as determined by the Secretary of the Treasury pursuant to section 8513(i) of this title.

(6) Good

The term "good" has the meaning given that term in section 4618 of title 50 (as continued in effect pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.)).

(7) Iranian financial institution

The term "Iranian financial institution" has the meaning given that term in section 8513b(d) of this title.

(8) Iranian person

The term "Iranian person" means—

(A) an individual who is a citizen or national of Iran; and

(B) an entity organized under the laws of Iran or otherwise subject to the jurisdiction of the Government of Iran.

(9) Knowingly

The term "knowingly", with respect to conduct, a circumstance, or a result, means that a person has actual knowledge, or should have known, of the conduct, the circumstance, or the result.

(10) Medical device

The term "medical device" has the meaning given the term "device" in section 321 of title 21.

(11) Medicine

The term "medicine" has the meaning given the term "drug" in section 321 of title 21.

(12) Shipping

The term "shipping" refers to the transportation of goods by a vessel and related activities.

(13) United States person

The term "United States person" has the meaning given that term in section 8511 of this title.

(14) Vessel

The term "vessel" has the meaning given that term in section 3 of title 1.

(b) Determinations of significance

For purposes of this chapter, in determining if financial transactions or financial services are significant, the President may consider the totality of the facts and circumstances, including factors similar to the factors set forth in section 561.404 of title 31, Code of Federal Regulations (or any corresponding similar regulation or ruling).

(Pub. L. 112–239, div. A, title XII, §1242, Jan. 2, 2013, 126 Stat. 2004.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this subtitle", meaning subtitle D (§§1241–1255) of title XII of div. A of Pub. L. 112–239, Jan. 2, 2013, 126 Stat. 2004, known as the Iran Freedom and Counter-Proliferation Act of 2012, which is classified principally to this chapter. For complete classification of subtitle D to the Code, see Short Title note set out below and Tables.

The International Emergency Economic Powers Act, referred to in subsec. (a)(6), is title II of Pub. L. 95–223, Dec. 28, 1977, 91 Stat. 1626, which is classified generally to chapter 35 (§1701 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 50 and Tables.

SHORT TITLE

Pub. L. 112–239, div. A, title XII, §1241, Jan. 2, 2013, 126 Stat. 2004, provided that: "This subtitle [subtitle D (§§1241–1255) of title XII of div. A of Pub. L. 112–239, enacting this chapter and section 8514c of this title, amending sections 8513a and 8551 of this title and section 2335 of Title 18, Crimes and Criminal Procedure, and enacting provisions set out as notes under sections 2333 and 2335 of Title 18] may be cited as the 'Iran Freedom and Counter-Proliferation Act of 2012'."

EX. ORD. NO. 13716. REVOCATION OF EXECUTIVE ORDERS 13574, 13590, 13622, AND 13645 WITH RESPECT TO IRAN, AMENDMENT OF EXECUTIVE ORDER 13628 WITH RESPECT TO IRAN, AND PROVISION OF IMPLEMENTATION AUTHORITIES FOR ASPECTS OF CERTAIN STATUTORY SANCTIONS OUTSIDE THE SCOPE OF U.S. COMMITMENTS UNDER THE JOINT COMPREHENSIVE PLAN OF ACTION OF JULY 14, 2015

Ex. Ord. No. 13716, Jan. 16, 2016, 81 F.R. 3693, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) (IEEPA), the National Emergencies Act (50 U.S.C. 1601 et seq.) (NEA), the Iran Sanctions Act of 1996 (Public Law 104–172) (50 U.S.C. 1701 note), the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (Public Law 111–195) (22 U.S.C. 8501 et seq.), the Iran Threat Reduction and Syria Human Rights Act of 2012 (Public Law 112–158), the Iran Freedom and Counter-Proliferation Act of 2012 (subtitle D of title XII of Public Law 112–239) (22 U.S.C. 8801 et seq.) (IFCA), section 212(f) of the Immigration and Nationality Act of 1952 (8 U.S.C. 1182(f)), and section 301 of title 3, United States Code,

I, BARACK OBAMA, President of the United States of America, have determined that Iran's implementation of the nuclear-related measures specified in sections 15.1–15.11 of Annex V of the Joint Comprehensive Plan of Action of July 14, 2015 (JCPOA) between the P5+1 (China, France, Germany, the Russian Federation, the United Kingdom, and the United States), the European Union, and Iran, as verified by the International Atomic Energy Agency, marks a fundamental shift in circumstances with respect to Iran's nuclear program. In order to give effect to the United States commitments with respect to sanctions described in section 4 of Annex II and section 17.4 of Annex V of the JCPOA, I am revoking Executive Orders 13574 of May 23, 2011, 13590 of November 20, 2011, 13622 of July 30, 2012, and 13645 of June 3, 2013, and amending Executive Order 13628 of October 9, 2012, by revoking sections 5 through 7 and section 15. In addition, in section 3 of this order, I am taking steps with respect to the national emergency declared in Executive Order 12957 of March 15, 1995, to provide implementation authorities for aspects of certain statutory sanctions that are outside the scope of the U.S. commitment to lift nuclear-related sanctions under the JCPOA.

This action is not intended to, and does not, limit the applicability of waiver determinations or any renewals thereof issued by the Secretary of State, or licenses issued by the Secretary of the Treasury, to give effect to sanctions commitments described in sections 17.1–17.3 and 17.5 of Annex V of the JCPOA, or otherwise affect the national emergency declared in Executive Order 12957, which shall remain in place, or any Executive Order issued in furtherance of that national emergency other than Executive Orders 13574, 13590, 13622, 13628, and 13645.

I hereby order:

SECTION 1. *Revocation of Executive Orders*. The following Executive Orders [listed in a table under section 1701 of Title 50, War and National Defense] are revoked:

(a) Executive Order 13574 of May 23, 2011 (Authorizing the Implementation of Certain Sanctions Set Forth in the Iran Sanctions Act of 1996, as Amended);

(b) Executive Order 13590 of November 20, 2011 (Authorizing the Imposition of Certain Sanctions With Respect to the Provision of Goods, Services, Technology, or Support for Iran's Energy and Petrochemical Sectors);

(c) Executive Order 13622 of July 30, 2012 (Authorizing Additional Sanctions With Respect to Iran); and

(d) Executive Order 13645 of June 3, 2013 (Authorizing the Implementation of Certain Sanctions Set Forth in the Iran Freedom and Counter-Proliferation Act of 2012 and Additional Sanctions With Respect To Iran).

SEC. 2. *Amendment of Executive Order*. [Amended Ex. Ord. No. 13628, listed in a table under section 1701 of Title 50, War and National Defense.]

SEC. 3. *Provision of Implementation Authorities for Sanctions Outside the Scope of the JCPOA*.

(a)(i) The Secretary of the Treasury, in consultation with the Secretary of State, is hereby authorized to impose on a person the measures described in subsection (a)(ii) of this section upon determining, pursuant to authority delegated by the President and in accordance with the terms of such delegation, that sanctions shall be imposed on such person pursuant to section 1244(c)(1)(A) of IFCA for knowingly providing significant financial, material, technological, or other support to, or goods or services in support of any activity or transaction on behalf of or for the benefit of persons described in section 1244(c)(2)(C)(iii) of IFCA.

(ii) With respect to any person determined by the Secretary of the Treasury in accordance with this subsection to meet the criteria set forth in subsection (a)(i) of this section, all property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of any United States person (including any foreign branch) of such person are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in.

(iii) The prohibitions in subsection (a)(ii) of this section apply except to the extent provided by statutes, or in regulations, orders, directives, or licenses that may be issued pursuant to this order, and notwithstanding any contract entered into or any license or permit granted prior to the date of this order.

(b)(i) When the Secretary of State or the Secretary of the Treasury, pursuant to authority delegated by the President and in accordance with the terms of such delegation, has determined that sanctions shall be imposed on a person pursuant to sections 1244(d)(1)(A), 1245(a)(1), or 1246(a)(1) of IFCA (including in each case as informed by section 1253(c)(2) of IFCA) for engaging in transactions or activities outside the scope of the waiver determinations as to IFCA issued by the Secretary of State to give effect to sanctions commitments described in sections 17.1–17.3 and 17.5 of Annex V of the JCPOA, and any renewals thereof, such Secretary may select one or more of the sanctions set forth below to impose on that person, and the Secretary of the Treasury, in consultation with the Secretary of State, shall take the following actions where necessary to implement the sanctions selected and maintained by the Secretary of State or the Secretary of the Treasury:

(A) prohibit any United States financial institution from making loans or providing credits to the sanctioned person totaling more than $10,000,000 in any 12-month period, unless such person is engaged in activities to relieve human suffering and the loans or credits are provided for such activities;

(B) prohibit any transactions in foreign exchange that are subject to the jurisdiction of the United States and in which the sanctioned person has any interest;

(C) prohibit any transfers of credit or payments between financial institutions or by, through, or to any financial institution, to the extent that such transfers or payments are subject to the jurisdiction of the United States and involve any interest of the sanctioned person;

(D) block all property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of any United States person (including any foreign branch) of the sanctioned person, and provide that such property and interests in property may not be transferred, paid, exported, withdrawn, or otherwise dealt in;

(E) prohibit any United States person from investing in or purchasing significant amounts of equity or debt instruments of a sanctioned person;

(F) restrict or prohibit imports of goods, technology, or services, directly or indirectly, into the United States from the sanctioned person; or

(G) impose on the principal executive officer or officers, or persons performing similar functions and with similar authorities, of a sanctioned person the sanctions described in subsections (b)(i)(A)–(F) of this section, as selected by the Secretary of State or the Secretary of the Treasury, as appropriate.

(ii) The prohibitions in subsection (b)(i) of this section apply except to the extent provided by statutes, or in regulations, orders, directives, or licenses that may be issued pursuant to this order, and notwithstanding any contract entered into or any license or permit granted prior to the date of this order.

(c)(i) All property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of any United States person (including any foreign branch) of the following persons are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in: any person determined by the Secretary of the Treasury, in consultation with or at the recommendation of the Secretary of State:

(A) to have engaged, on or after January 2, 2013, in corruption or other activities relating to the diversion of goods, including agricultural commodities, food, medicine, and medical devices, intended for the people of

Iran;

(B) to have engaged, on or after January 2, 2013, in corruption or other activities relating to the misappropriation of proceeds from the sale or resale of goods described in subsection (c)(i)(A) of this section;

(C) to have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, the activities described in subsection (c)(i)(A) or (c)(i)(B) of this section or any person whose property and interests in property are blocked pursuant to subsection (c)(i) of this section; or

(D) to be owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to subsection (c)(i) of this section.

(ii) The prohibitions in subsection (c)(i) of this section apply except to the extent provided by statutes, or in regulations, orders, directives, or licenses that may be issued pursuant to this order, and notwithstanding any contract entered into or any license or permit granted prior to the date of this order.

SEC. 4. *Donations*. I hereby determine that, to the extent section 203(b)(2) of IEEPA (50 U.S.C. 1702(b)(2)) may apply, the making of donations of the types of articles specified in such section by, to, or for the benefit of any person whose property and interests in property are blocked pursuant to this order would seriously impair my ability to deal with the national emergency declared in Executive Order 12957, and I hereby prohibit such donations as provided by subsections 3(a)(ii), 3(b)(i)(D), and 3(c)(i) of this order.

SEC. 5. *Prohibitions*. The prohibitions in subsections 3(a)(ii), 3(b)(i)(D), and 3(c)(i) of this order include but are not limited to:

(a) the making of any contribution or provision of funds, goods, or services by, to, or for the benefit of any person whose property and interests in property are blocked pursuant to this order; and

(b) the receipt of any contribution or provision of funds, goods, or services from any such person.

SEC. 6. *Entry into the United States*. I hereby find that the unrestricted immigrant and nonimmigrant entry into the United States of aliens who are determined to meet one or more of the criteria in subsections 3(a)(i) and 3(c)(i) of this order would be detrimental to the interests of the United States, and I hereby suspend the entry into the United States, as immigrants or nonimmigrants, of such persons as of the date of this order. Such persons shall be treated as persons covered by section 1 of Proclamation 8693 of July 24, 2011 (Suspension of Entry of Aliens Subject to United Nations Security Council Travel Bans and International Emergency Economic Powers Act Sanctions).

SEC. 7. *General Authorities*. The Secretary of the Treasury, in consultation with the Secretary of State, is hereby authorized to take such actions, including the promulgation of rules and regulations, and to employ all powers granted to the President by IEEPA as may be necessary to carry out the purposes of this order, other than the purposes described in section 6 of this order. The Secretary of the Treasury may redelegate any of these functions to other officers and agencies of the United States Government consistent with applicable law.

SEC. 8. *Evasion and Conspiracy*. (a) Any transaction that evades or avoids, has the purpose of evading or avoiding, causes a violation of, or attempts to violate any of the prohibitions set forth in this order is prohibited.

(b) Any conspiracy formed to violate any of the prohibitions set forth in this order is prohibited.

SEC. 9. *Definitions*. For the purposes of this order:

(a) the term "entity" means a partnership, association, trust, joint venture, corporation, group, subgroup, or other organization;

(b) the term "financial institution," as used in subsection 3(b) of this order, includes:

(i) a depository institution (as defined in section 3(c)(1) of the Federal Deposit Insurance Act) (12 U.S.C. 1813(c)(1)), including a branch or agency of a foreign bank (as defined in section 1(b)(7) of the International Banking Act of 1978) (12 U.S.C. 3101(7));

(ii) a credit union;

(iii) a securities firm, including a broker or dealer;

(iv) an insurance company, including an agency or underwriter; and

(v) any other company that provides financial services;

(c) the term "Government of Iran" includes the Government of Iran, any political subdivision, agency, or instrumentality thereof, including the Central Bank of Iran, and any person owned or controlled by, or acting for or on behalf of, the Government of Iran;

(d) the term "Iran" means the Government of Iran and the territory of Iran and any other territory or marine area, including the exclusive economic zone and continental shelf, over which the Government of Iran claims sovereignty, sovereign rights, or jurisdiction, provided that the Government of Iran exercises partial or total de facto control over the area or derives a benefit from economic activity in the area pursuant to international arrangements;

(e) the term "person" means an individual or entity;

(f) the term "sanctioned person" means a person that the Secretary of State or the Secretary of the Treasury, pursuant to authority delegated by the President and in accordance with the terms of such delegation, has determined is a person on whom sanctions shall be imposed pursuant to section 1244(d)(1)(A), 1245(a)(1), or 1246(a)(1) of IFCA (including in each case as informed by section 1253(c)(2) of IFCA) for engaging in transactions or activities outside the scope of the waiver determinations as to IFCA issued by the Secretary of State to give effect to sanctions commitments described in sections 17.1–17.3 and 17.5 of Annex V of the JCPOA, and any renewals thereof, and on whom the Secretary of State or the Secretary of the Treasury has imposed any of the sanctions in subsection 3(b) of this order;

(g) the term "United States financial institution" means a financial institution as defined in subsection (b) of this section (including its foreign branches) organized under the laws of the United States or any jurisdiction within the United States or located in the United States; and

(h) the term "United States person" means any United States citizen, permanent resident alien, entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches), or any person in the United States.

SEC. 10. *Notice*. For those persons whose property and interests in property are blocked pursuant to this order who might have a constitutional presence in the United States, I find that because of the ability to transfer funds or other assets instantaneously, prior notice to such persons of measures to be taken pursuant to this order would render those measures ineffectual. I therefore determine that for these measures to be effective in addressing the national emergency declared in Executive Order 12957, there need be no prior notice of an action taken pursuant to subsection 3(a)(ii), 3(b)(i)(D), or 3(c)(i) of this order.

SEC. 11. *Direction to Agencies*. All agencies of the United States Government are hereby directed to take all appropriate measures within their authority to carry out the provisions of this order.

SEC. 12. *Rights*. This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

SEC. 13. *Effect on Actions or Proceedings*. Pursuant to section 202 of the NEA (50 U.S.C. 1622), the revocation of Executive Orders 13574, 13590, 13622, and 13645 and the amendments to Executive Order 13628 as set forth in sections 1 and 2 of this order, shall not affect any action taken or proceeding pending not finally concluded or determined as of the date of this order, or any action or proceeding based on any act committed prior to the date of this order, or any rights or duties that matured or penalties that were incurred prior to the date of this order.

SEC. 14. *Relationship to Algiers Accords*. The measures taken pursuant to this order are in response to actions of the Government of Iran occurring after the conclusion of the 1981 Algiers Accords, and are intended solely as a response to those later actions.

BARACK OBAMA.

DELEGATION OF CERTAIN FUNCTIONS AND AUTHORITIES UNDER THE IRAN FREEDOM AND COUNTER-PROLIFERATION ACT OF 2012

Memorandum of President of the United States, June 3, 2013, 78 F.R. 35545, provided:

Memorandum for the Secretary of State[,] the Secretary of the Treasury[,] the Attorney General[,] the Secretary of Energy[,] the Secretary of Commerce[,] the Secretary of Homeland Security[, the] United States Trade Representative[,] the Director of National Intelligence[, the] Chairman of the Board of Governors of the Federal Reserve System[, and the] President of the Export-Import Bank

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, I hereby order as follows:

I hereby delegate functions and authorities vested in the President by the Iran Freedom and Counter-Proliferation Act of 2012 (subtitle D of title XII of [division A of] Public Law 112–239) (22 U.S.C. 8801 et seq.) (IFCA), as follows:

• Section 1244(c)(1) and (c)(2) [22 U.S.C. 8803(c)(1), (c)(2)] to the Secretary of the Treasury, in consultation with the Secretary of State;

• Section 1244(d)(1)(A) to the Secretary of State, in consultation with the Secretaries of the Treasury and Commerce and the United States Trade Representative, and with the Secretary of Homeland Security, the President of the Export-Import Bank of the United States, and the Chairman of the Board of Governors of the Federal Reserve System and other agencies as appropriate, and, once applicable sanctions outlined in section 6(a) of the Iran Sanctions Act of 1996 (Public Law 104–172) (50 U.S.C. 1701 note), as amended (ISA), are

selected pursuant to section 1244(d)(1)(A), authority to implement such sanctions is delegated to the relevant agency heads commensurate with any delegation of such authorities and consistent with any relevant Executive Orders implementing ISA;

- Section 1244(d)(2) to the Secretary of the Treasury, in consultation with the Secretary of State;
- Section 1244(f) to the Secretary of State, in consultation with the Secretary of the Treasury;
- Section 1244(i) to the Secretary of State, in consultation with the Secretary of the Treasury;
- Section 1245(a)(1)(A) [22 U.S.C. 8804(a)(1)(A)] to the Secretary of the Treasury, in consultation with the Secretaries of State and Commerce and the United States Trade Representative, and with the Secretary of Homeland Security, the President of the Export-Import Bank of the United States, and the Chairman of the Board of Governors of the Federal Reserve System and other agencies as appropriate, and, once applicable sanctions outlined in section 6(a) of ISA are selected pursuant to section 1245(a)(1)(A), authority to implement such sanctions is delegated to the relevant agency heads commensurate with any delegation of such authorities and consistent with any relevant Executive Orders implementing ISA;
- Sections [sic] 1245(a)(1)(B) and (C) to the Secretary of State, in consultation with the Secretaries of the Treasury and Commerce and the United States Trade Representative, and with the Secretary of Homeland Security, the President of the Export-Import Bank of the United States, and the Chairman of the Board of Governors of the Federal Reserve System and other agencies as appropriate, and, once applicable sanctions outlined in section 6(a) of ISA are selected pursuant to section 1245(a)(1)(B) or (C), authority to implement such sanctions is delegated to the relevant agency heads commensurate with any delegation of such authorities and consistent with any relevant Executive Orders implementing ISA;
- Section 1245(c) to the Secretary of the Treasury, in consultation with the Secretary of State;
- Section 1245(e) to the Secretary of State, in consultation with the Secretary of the Treasury;
- Section 1245(f) to the Secretary of State and the Secretary of the Treasury commensurate with their respective areas of responsibility, in consultation with each other;
- Section 1245(g) to the Secretary of State, in consultation with the Secretary of the Treasury;
- Section 1246(a)(1)(A) [22 U.S.C. 8805(a)(1)(A)] to the Secretary of State and the Secretary of the Treasury commensurate with their respective areas of responsibility, in consultation with each other, the Secretary of Commerce and the United States Trade Representative, and with the Secretary of Homeland Security, the President of the Export-Import Bank of the United States, and the Chairman of the Board of Governors of the Federal Reserve System and other agencies as appropriate, and, once applicable sanctions outlined in section 6(a) of ISA are selected pursuant to section 1246(a)(1)(A), authority to implement such sanctions is delegated to the relevant agency heads commensurate with any delegation of such authorities and consistent with any relevant Executive Orders implementing ISA;
- Sections [sic] 1246(a)(1)(B)(i) and (ii) to the Secretary of State, in consultation with the Secretaries of the Treasury and Commerce and the United States Trade Representative, and with the Secretary of Homeland Security, the President of the Export-Import Bank of the United States, and the Chairman of the Board of Governors of the Federal Reserve System and other agencies as appropriate, and, once applicable sanctions outlined in section 6(a) of ISA are selected pursuant to section 1246(a)(1)(B)(i) or (ii), authority to implement such sanctions is delegated to the relevant agency heads commensurate with any delegation of such authorities and consistent with any relevant Executive Orders implementing ISA;
- Section 1246(a)(1)(B)(iii) to the Secretary of State and the Secretary of the Treasury commensurate with their respective areas of responsibility, in consultation with each other, the Secretary of Commerce and the United States Trade Representative, and with the Secretary of Homeland Security, the President of the Export-Import Bank of the United States, and the Chairman of the Board of Governors of the Federal Reserve System and other agencies as appropriate, and, once applicable sanctions outlined in section 6(a) of ISA are selected pursuant to section 1246(a)(1)(B)(iii), authority to implement such sanctions is delegated to the relevant agency heads commensurate with any delegation of such authorities and consistent with any relevant Executive Orders implementing ISA;
- Section 1246(a)(1)(C) to the Secretary of the Treasury, in consultation with the Secretaries of State and Commerce and the United States Trade Representative, and with the Secretary of Homeland Security, the President of the Export-Import Bank of the United States, and the Chairman of the Board of Governors of the Federal Reserve System and other agencies as appropriate, and, once applicable sanctions outlined in section 6(a) of ISA are selected pursuant to section 1246(a)(1)(C), authority to implement such sanctions is delegated to the relevant agency heads commensurate with any delegation of such authorities and consistent with any relevant Executive Orders implementing ISA;
- Section 1246(d) to the Secretary of State and the Secretary of the Treasury commensurate with their respective areas of responsibility, in consultation with each other;
- Section 1246(e) to the Secretary of State, in consultation with the Secretary of the Treasury;

• Section 1247(a) [22 U.S.C. 8806(a)] to the Secretary of the Treasury, in consultation with the Secretary of State;

• Section 1247(f) to the Secretary of State, in consultation with the Secretary of the Treasury;

• Section 1248(b)(1) [22 U.S.C. 8807(b)(1)] to the Secretary of the Treasury, in consultation with the Secretary of State, with respect to the requirement to impose applicable sanctions pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) (IEEPA) described in section 105(c) of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (Public Law 111–195) (22 U.S.C. 8501 et seq.) (CISADA), and with respect to the requirement to include the sanctioned persons on the list of specially designated nationals and blocked persons maintained by the Office of Foreign Assets Control of the Department of the Treasury;

• Section 1248(b)(1) to the Secretary of State, with respect to the requirement to impose visa sanctions described in section 105(c) of CISADA;

• Section 1248(b)(3) to the Secretary of the Treasury, in consultation with the Secretary of State, with respect to application of section 401(b) of CISADA to IEEPA sanctions imposed under section 1248(b)(1)(A) of IFCA;

• Section 1248(b)(3) to the Secretary of State, in consultation with the Secretary of Homeland Security on matters related to admissibility or inadmissibility within the authority of the Secretary of Homeland Security, with respect to application of section 401(b) of CISADA to visa sanctions imposed under section 1248(b)(1)(A) of IFCA;

• Section 1252(a) [22 U.S.C. 8808(a)] to the Director of National Intelligence, in consultation with the Secretaries of State and the Treasury;

• Section 1253(a) [22 U.S.C. 8809(a)] to the Secretary of the Treasury and the Secretary of State, commensurate with their respective areas of responsibility outlined in this memorandum;

• Section 1253(c)(1) to the Secretary of State, in consultation with the Secretaries of the Treasury and Commerce and the United States Trade Representative, and with the Secretary of Homeland Security, the President of the Export-Import Bank of the United States, and the Chairman of the Board of Governors of the Federal Reserve System and other agencies as appropriate;

• Section 1253(c)(2) to the Secretary of State and the Secretary of the Treasury commensurate with their respective areas of responsibility, in consultation with each other, the Secretary of Commerce, and the United States Trade Representative, and with the Secretary of Homeland Security, the President of the Export-Import Bank of the United States, and the Chairman of the Board of Governors of the Federal Reserve System and other agencies as appropriate, and, once applicable sanctions outlined in section 6(a) of ISA are selected pursuant to section 1244(d)(1)(A), 1245(a)(1), or 1246(a)(1) (including in each case as informed by section 1253(c)(2)), authority to implement such sanctions is delegated to the relevant agency heads commensurate with any delegation of such authorities and consistent with any relevant Executive Orders implementing ISA.

I hereby delegate functions and authorities vested in the President by CISADA, as amended by section 1249 of IFCA, as follows:

• Section 105C(b) [22 U.S.C. 8514c(b)] to the Secretary of the Treasury, in consultation with or at the recommendation of the Secretary of State, with respect to the determinations described in sections [sic] 105C(b)(1);

• Section 105C(b) to the Secretary of State, in consultation with the Secretary of the Treasury, with respect to the requirement to submit any lists of persons determined to meet the criteria described in sections [sic] 105C(b)(1), to the appropriate congressional committees as required by sections [sic] 105C(b);

• Section 401(b) [22 U.S.C. 8551(b)] to the Secretary of State, in consultation with the Secretary of the Treasury, with respect to the requirement to include a person on the list described in section 105C(b);

• Sections 105C(a)(1) and 401(b) to the Secretary of the Treasury, in consultation with the Secretary of State, with respect to the requirement to impose or maintain applicable sanctions pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) (IEEPA) under section 105C(a)(1);

• Section 105C(a)(1) to the Secretary of State, with respect to the requirement to impose or maintain visa sanctions; and

• Section 401(b) to the Secretary of State, in consultation with the Secretary of Homeland Security on matters related to admissibility or inadmissibility within the authority of the Secretary of Homeland Security, with respect to functions and waiver authorities regarding the requirement to impose or maintain visa sanctions under sections [sic] 105C(a)(1).

Any reference in this memorandum to provisions of any Act related to the subject of this memorandum shall be deemed to include references to any hereafter-enacted provisions of law that is the same or substantially the same as such provisions.

The Secretary of State is authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

§8802. Sense of Congress relating to violations of human rights by Iran

(a) Finding

Congress finds that the interests of the United States and international peace are threatened by the ongoing and destabilizing actions of the Government of Iran, including its massive, systematic, and extraordinary violations of the human rights of its own citizens.

(b) Sense of Congress

It is the sense of Congress that the United States should—

(1) deny the Government of Iran the ability to continue to oppress the people of Iran and to use violence and executions against pro-democracy protestors and regime opponents;

(2) fully and publicly support efforts made by the people of Iran to promote the establishment of basic freedoms that build the foundation for the emergence of a freely elected, open, and democratic political system;

(3) help the people of Iran produce, access, and share information freely and safely via the Internet and through other media; and

(4) defeat all attempts by the Government of Iran to jam or otherwise obstruct international satellite broadcast signals.

(Pub. L. 112–239, div. A, title XII, §1243, Jan. 2, 2013, 126 Stat. 2005.)

§8803. Imposition of sanctions with respect to the energy, shipping, and shipbuilding sectors of Iran

(a) Findings

Congress makes the following findings:

(1) Iran's energy, shipping, and shipbuilding sectors and Iran's ports are facilitating the Government of Iran's nuclear proliferation activities by providing revenue to support proliferation activities.

(2) The United Nations Security Council and the United States Government have expressed concern about the proliferation risks presented by the Iranian nuclear program.

(3) The Director General of the International Atomic Energy Agency (in this section referred to as the "IAEA") has in successive reports (GOV/2012/37 and GOV/2011/65) identified possible military dimensions of Iran's nuclear program.

(4) The Government of Iran continues to defy the requirements and obligations contained in relevant IAEA Board of Governors and United Nations Security Council resolutions, including by continuing and expanding uranium enrichment activities in Iran, as reported in IAEA Report GOV/2012/37.

(5) United Nations Security Council Resolution 1929 (2010) recognizes the "potential connection between Iran's revenues derived from its energy sector and the funding of Iran's proliferation sensitive nuclear activities".

(6) The National Iranian Tanker Company is the main carrier for the Iranian Revolutionary Guard Corps-designated National Iranian Oil Company and a key element in the petroleum supply chain responsible for generating energy revenues that support the illicit nuclear proliferation activities of the Government of Iran.

(b) Designation of ports and entities in the energy, shipping, and shipbuilding sectors of Iran as entities of proliferation concern

Entities that operate ports in Iran and entities in the energy, shipping, and shipbuilding sectors of Iran, including the National Iranian Oil Company, the National Iranian Tanker Company, the Islamic

Republic of Iran Shipping Lines, and their affiliates, play an important role in Iran's nuclear proliferation efforts and all such entities are hereby designated as entities of proliferation concern.

(c) Blocking of property of entities in energy, shipping, and shipbuilding sectors

(1) Blocking of property

(A) In general

On and after the date that is 180 days after January 2, 2013, the President shall block and prohibit all transactions in all property and interests in property of any person described in paragraph (2) if such property and interests in property are in the United States, come within the United States, or are or come within the possession or control of a United States person.

(B) Exception

The requirement to block and prohibit all transactions in all property and interests in property under subparagraph (A) shall not include the authority to impose sanctions on the importation of goods.

(2) Persons described

A person is described in this paragraph if the President determines that the person, on or after the date that is 180 days after January 2, 2013—

(A) is part of the energy, shipping, or shipbuilding sectors of Iran;

(B) operates a port in Iran; or

(C) knowingly provides significant financial, material, technological, or other support to, or goods or services in support of any activity or transaction on behalf of or for the benefit of—

(i) a person determined under subparagraph (A) to be a part of the energy, shipping, or shipbuilding sectors of Iran;

(ii) a person determined under subparagraph (B) to operate a port in Iran; or

(iii) an Iranian person included on the list of specially designated nationals and blocked persons maintained by the Office of Foreign Assets Control of the Department of the Treasury (other than an Iranian financial institution described in paragraph (3)).

(3) Iranian financial institutions described

An Iranian financial institution described in this paragraph is an Iranian financial institution that has not been designated for the imposition of sanctions in connection with—

(A) Iran's proliferation of weapons of mass destruction or delivery systems for weapons of mass destruction;

(B) Iran's support for international terrorism; or

(C) Iran's abuses of human rights.

(d) Additional sanctions with respect to the energy, shipping, and shipbuilding sectors of Iran

(1) Sale, supply, or transfer of certain goods and services

(A) In general

Except as provided in this section, the President shall impose 5 or more of the sanctions described in section 6(a) of the Iran Sanctions Act of 1996 (Public Law 104–172; 50 U.S.C. 1701 note) with respect to a person if the President determines that the person knowingly, on or after the date that is 180 days after January 2, 2013, sells, supplies, or transfers to or from Iran goods or services described in paragraph (3).

(B) Exception

The requirement to impose sanctions under subparagraph (A) shall not include the authority to impose sanctions relating to the importation of goods under paragraph (8)(A) or (12) of section 6(a) of the Iran Sanctions Act of 1996, and any sanction relating to the importation of goods shall not count for purposes of the requirement to impose sanctions under subparagraph (A).

(2) Facilitation of certain transactions

Except as provided in this section, the President shall prohibit the opening, and prohibit or impose strict conditions on the maintaining, in the United States of a correspondent account or a payable-through account by a foreign financial institution that the President determines knowingly, on or after the date that is 180 days after January 2, 2013, conducts or facilitates a significant financial transaction for the sale, supply, or transfer to or from Iran of goods or services described in paragraph (3).

(3) Goods and services described

Goods or services described in this paragraph are significant goods or services used in connection with the energy, shipping, or shipbuilding sectors of Iran, including the National Iranian Oil Company, the National Iranian Tanker Company, and the Islamic Republic of Iran Shipping Lines.

(e) Humanitarian exception

The President may not impose sanctions under this section with respect to any person for conducting or facilitating a transaction for the sale of agricultural commodities, food, medicine, or medical devices to Iran or for the provision of humanitarian assistance to the people of Iran.

(f) Exception for Afghanistan reconstruction

The President may provide for an exception from the imposition of sanctions under this section for reconstruction assistance or economic development for Afghanistan—

(1) to the extent that the President determines that such an exception is in the national interest of the United States; and

(2) if the President submits to the appropriate congressional committees a notification of and justification for the exception not later than 15 days before issuing the exception.

(g) Applicability of sanctions to petroleum and petroleum products

(1) In general

Except as provided in paragraph (2), this section shall apply with respect to the purchase of petroleum or petroleum products from Iran only if, at the time of the purchase, a determination of the President under section 8513a(d)(4)(B) of this title that the price and supply of petroleum and petroleum products produced in countries other than Iran is sufficient to permit purchasers of petroleum and petroleum products from Iran to reduce significantly their purchases from Iran is in effect.

(2) Exception for certain countries

(A) Exportation

This section shall not apply with respect to the exportation of petroleum or petroleum products from Iran to a country to which the exception under section 8513a(d)(4)(D)(i) of this title applies at the time of the exportation of the petroleum or petroleum products.

(B) Financial transactions

(i) In general

This section shall not apply with respect to a financial transaction described in clause (ii) conducted or facilitated by a foreign financial institution if, at the time of the transaction, the exception under section 8513a(d)(4)(D)(i) of this title applies to the country with primary jurisdiction over the foreign financial institution.

(ii) Financial transactions described

A financial transaction conducted or facilitated by a foreign financial institution is described in this clause if—

(I) the financial transaction is only for trade in goods or services—

(aa) not otherwise subject to sanctions under the law of the United States; and

(bb) between the country with primary jurisdiction over the foreign financial institution and Iran; and

(II) any funds owed to Iran as a result of such trade are credited to an account located in the country with primary jurisdiction over the foreign financial institution.

(h) Applicability of sanctions to natural gas

(1) Sale, supply, or transfer

Except as provided in paragraph (2), this section shall not apply to the sale, supply, or transfer to or from Iran of natural gas.

(2) Financial transactions

This section shall apply to a foreign financial institution that conducts or facilitates a financial transaction for the sale, supply, or transfer to or from Iran of natural gas unless—

(A) the financial transaction is only for trade in goods or services—

(i) not otherwise subject to sanctions under the law of the United States; and

(ii) between the country with primary jurisdiction over the foreign financial institution and Iran; and

(B) any funds owed to Iran as a result of such trade are credited to an account located in the country with primary jurisdiction over the foreign financial institution.

(i) Waiver

(1) In general

The President may waive the imposition of sanctions under this section for a period of not more than 180 days, and may renew that waiver for additional periods of not more than 180 days, if the President—

(A) determines that such a waiver is vital to the national security of the United States; and

(B) submits to the appropriate congressional committees a report providing a justification for the waiver.

(2) Form of report

Each report submitted under paragraph (1)(B) shall be submitted in unclassified form, but may include a classified annex.

(Pub. L. 112–239, div. A, title XII, §1244, Jan. 2, 2013, 126 Stat. 2006.)

DELEGATION OF FUNCTIONS

For delegation of certain functions and authorities vested in the President by this section, see Memorandum of President of the United States, June 3, 2013, 78 F.R. 35545, set out as a note under section 8801 of this title.

§8804. Imposition of sanctions with respect to the sale, supply, or transfer of certain materials to or from Iran

(a) Sale, supply, or transfer of certain materials

(1) In general

The President shall impose 5 or more of the sanctions described in section 6(a) of the Iran Sanctions Act of 1996 (Public Law 104–172; 50 U.S.C. 1701 note) with respect to a person if the President determines that the person knowingly, on or after the date that is 180 days after January 2, 2013, sells, supplies, or transfers, directly or indirectly, to or from Iran—

(A) a precious metal;

(B) a material described in subsection (d) determined pursuant to subsection (e)(1) to be used by Iran as described in that subsection;

(C) any other material described in subsection (d) if—

(i) the material is—

(I) to be used in connection with the energy, shipping, or shipbuilding sectors of Iran or any sector of the economy of Iran determined pursuant to subsection (e)(2) to be controlled directly or indirectly by Iran's Revolutionary Guard Corps;

(II) sold, supplied, or transferred to or from an Iranian person included on the list of specially designated nationals and blocked persons maintained by the Office of Foreign Assets Control of the Department of the Treasury (other than an Iranian financial institution described in subsection (b)); or

(III) determined pursuant to subsection (e)(3) to be used in connection with the nuclear, military, or ballistic missile programs of Iran; or

(ii) the material is resold, retransferred, or otherwise supplied—

(I) to an end-user in a sector described in subclause (I) of clause (i);

(II) to a person described in subclause (II) of that clause; or

(III) for a program described in subclause (III) of that clause.

(2) Exception

The requirement to impose sanctions under paragraph (1) shall not include the authority to impose sanctions relating to the importation of goods under paragraph (8)(A) or (12) of section 6(a) of the Iran Sanctions Act of 1996, and any sanction relating to the importation of goods shall not count for purposes of the requirement to impose sanctions under paragraph (1).

(b) Iranian financial institutions described

An Iranian financial institution described in this subsection is an Iranian financial institution that has not been designated for the imposition of sanctions in connection with—

(1) Iran's proliferation of weapons of mass destruction or delivery systems for weapons of mass destruction;

(2) Iran's support for international terrorism; or

(3) Iran's abuses of human rights.

(c) Facilitation of certain transactions

The President shall prohibit the opening, and prohibit or impose strict conditions on the maintaining, in the United States of a correspondent account or a payable-through account by a foreign financial institution that the President determines knowingly, on or after the date that is 180 days after January 2, 2013, conducts or facilitates a significant financial transaction for the sale, supply, or transfer to or from Iran of materials the sale, supply, or transfer of which would subject a person to sanctions under subsection (a).

(d) Materials described

Materials described in this subsection are graphite, raw or semi-finished metals such as aluminum and steel, coal, and software for integrating industrial processes.

(e) Determination with respect to use of materials

Not later than 180 days after January 2, 2013, and every 180 days thereafter, the President shall submit to the appropriate congressional committees and publish in the Federal Register a report that contains the determination of the President with respect to—

(1) whether Iran is—

(A) using any of the materials described in subsection (d) as a medium for barter, swap, or any other exchange or transaction; or

(B) listing any of such materials as assets of the Government of Iran for purposes of the national balance sheet of Iran;

(2) which sectors of the economy of Iran are controlled directly or indirectly by Iran's Revolutionary Guard Corps; and

(3) which of the materials described in subsection (d) are used in connection with the nuclear, military, or ballistic missile programs of Iran.

(f) Exception for persons exercising due diligence

The President may not impose sanctions under subsection (a) or (c) with respect to a person if the President determines that the person has exercised due diligence in establishing and enforcing official policies, procedures, and controls to ensure that the person does not sell, supply, or transfer to or from Iran materials the sale, supply, or transfer of which would subject a person to sanctions under subsection (a) or conduct or facilitate a financial transaction for such a sale, supply, or transfer.

(g) Waiver

(1) In general

The President may waive the imposition of sanctions under this section for a period of not more than 180 days, and may renew that waiver for additional periods of not more than 180 days, if the President—

(A) determines that such a waiver is vital to the national security of the United States; and

(B) submits to the appropriate congressional committees a report providing a justification for the waiver.

(2) Form of report

Each report submitted under paragraph (1)(B) shall be submitted in unclassified form, but may include a classified annex.

(h) National balance sheet of Iran defined

For purposes of this section, the term "national balance sheet of Iran" refers to the ratio of the assets of the Government of Iran to the liabilities of that Government.

(Pub. L. 112–239, div. A, title XII, §1245, Jan. 2, 2013, 126 Stat. 2009.)

DELEGATION OF FUNCTIONS

For delegation of certain functions and authorities vested in the President by this section, see Memorandum of President of the United States, June 3, 2013, 78 F.R. 35545, set out as a note under section 8801 of this title.

§8805. Imposition of sanctions with respect to the provision of underwriting services or insurance or reinsurance for activities or persons with respect to which sanctions have been imposed

(a) Imposition of sanctions

(1) In general

Except as provided in this section, the President shall impose 5 or more of the sanctions described in section 6(a) of the Iran Sanctions Act of 1996 (Public Law 104–172; 50 U.S.C. 1701 note) with respect to a person if the President determines that the person knowingly, on or after the date that is 180 days after January 2, 2013, provides underwriting services or insurance or reinsurance—

(A) for any activity with respect to Iran for which sanctions have been imposed under this chapter, the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), the Iran Sanctions Act of 1996, the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (22 U.S.C. 8501 et seq.), the Iran Threat Reduction and Syria Human Rights Act of 2012 (22 U.S.C. 8701 et seq.), the Iran, North Korea, and Syria Nonproliferation Act (Public Law 106–178; 50 U.S.C. 1701 note), or any other provision of law relating to the imposition of sanctions with respect to Iran;

(B) to or for any person—

(i) with respect to, or for the benefit of any activity in the energy, shipping, or shipbuilding sectors of Iran for which sanctions are imposed under this chapter;

(ii) for the sale, supply, or transfer to or from Iran of materials described in section 8804(d)

of this title for which sanctions are imposed under this chapter; or

(iii) designated for the imposition of sanctions pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) in connection with—

(I) Iran's proliferation of weapons of mass destruction or delivery systems for weapons of mass destruction; or

(II) Iran's support for international terrorism; or

(C) to or for any Iranian person included on the list of specially designated nationals and blocked persons maintained by the Office of Foreign Assets Control of the Department of the Treasury (other than an Iranian financial institution described in subsection (b)).

(2) Exception

The requirement to impose sanctions under paragraph (1) shall not include the authority to impose sanctions relating to the importation of goods under paragraph (8)(A) or (12) of section 6(a) of the Iran Sanctions Act of 1996, and any sanction relating to the importation of goods shall not count for purposes of the requirement to impose sanctions under paragraph (1).

(b) Iranian financial institutions described

An Iranian financial institution described in this subsection is an Iranian financial institution that has not been designated for the imposition of sanctions in connection with—

(1) Iran's proliferation of weapons of mass destruction or delivery systems for weapons of mass destruction;

(2) Iran's support for international terrorism; or

(3) Iran's abuses of human rights.

(c) Humanitarian exception

The President may not impose sanctions under subsection (a) for the provision of underwriting services or insurance or reinsurance for a transaction for the sale of agricultural commodities, food, medicine, or medical devices to Iran or for the provision of humanitarian assistance to the people of Iran.

(d) Exception for underwriters and insurance providers exercising due diligence

The President may not impose sanctions under subparagraph (A) or (C) or clause (i) or (ii) of subparagraph (B) of subsection (a)(1) with respect to a person that provides underwriting services or insurance or reinsurance if the President determines that the person has exercised due diligence in establishing and enforcing official policies, procedures, and controls to ensure that the person does not underwrite or enter into a contract to provide insurance or reinsurance for an activity described in subparagraph (A) of that subsection or to or for any person described in subparagraph (C) or clause (i) or (ii) of subparagraph (B) of that subsection.

(e) Waiver

(1) In general

The President may waive the imposition of sanctions under subsection (a) for a period of not more than 180 days, and may renew that waiver for additional periods of not more than 180 days, if the President—

(A) determines that such a waiver is vital to the national security of the United States; and

(B) submits to the appropriate congressional committees a report providing a justification for the waiver.

(2) Form of report

Each report submitted under paragraph (1)(B) shall be submitted in unclassified form, but may include a classified annex.

(Pub. L. 112–239, div. A, title XII, §1246, Jan. 2, 2013, 126 Stat. 2011.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(1)(A), (B)(i), (ii), was in the original "this subtitle", meaning subtitle D (§§1241–1255) of title XII of div. A of Pub. L. 112–239, Jan. 2, 2013, 126 Stat. 2004, known as the Iran Freedom and Counter-Proliferation Act of 2012, which is classified principally to this chapter. For complete classification of subtitle D to the Code, see Short Title note set out under section 8801 of this title and Tables.

The International Emergency Economic Powers Act, referred to in subsec. (a)(1)(A), (B)(iii), is title II of Pub. L. 95–223, Dec. 28, 1977, 91 Stat. 1626, which is classified generally to chapter 35 (§1701 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 50 and Tables.

The Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010, referred to in subsec. (a)(1)(A), is Pub. L. 111–195, July 1, 2010, 124 Stat. 1312, which is classified principally to chapter 92 (§8501 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 8501 of this title and Tables.

The Iran Threat Reduction and Syria Human Rights Act of 2012, referred to in subsec. (a)(1)(A), is Pub. L. 112–158, Aug. 10, 2012, 126 Stat. 1214, which is classified principally to chapter 94 (§8701 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 8701 of this title and Tables.

DELEGATION OF FUNCTIONS

For delegation of certain functions and authorities vested in the President by this section, see Memorandum of President of the United States, June 3, 2013, 78 F.R. 35545, set out as a note under section 8801 of this title.

§8806. Imposition of sanctions with respect to foreign financial institutions that facilitate financial transactions on behalf of specially designated nationals

(a) In general

Except as provided in this section, the President shall prohibit the opening, and prohibit or impose strict conditions on the maintaining, in the United States of a correspondent account or a payable-through account by a foreign financial institution that the President determines has, on or after the date that is 180 days after January 2, 2013, knowingly facilitated a significant financial transaction on behalf of any Iranian person included on the list of specially designated nationals and blocked persons maintained by the Office of Foreign Assets Control of the Department of the Treasury (other than an Iranian financial institution described in subsection (b)).

(b) Iranian financial institutions described

An Iranian financial institution described in this subsection is an Iranian financial institution that has not been designated for the imposition of sanctions in connection with—

(1) Iran's proliferation of weapons of mass destruction or delivery systems for weapons of mass destruction;

(2) Iran's support for international terrorism; or

(3) Iran's abuses of human rights.

(c) Humanitarian exception

The President may not impose sanctions under subsection (a) with respect to any person for conducting or facilitating a transaction for the sale of agricultural commodities, food, medicine, or medical devices to Iran or for the provision of humanitarian assistance to the people of Iran.

(d) Applicability of sanctions to petroleum and petroleum products

(1) In general

Except as provided in paragraph (2), subsection (a) shall apply with respect to a financial transaction for the purchase of petroleum or petroleum products from Iran only if, at the time of the transaction, a determination of the President under section 8513a(d)(4)(B) of this title that the price and supply of petroleum and petroleum products produced in countries other than Iran is sufficient to permit purchasers of petroleum and petroleum products from Iran to reduce significantly their purchases from Iran is in effect.

(2) Exception for certain countries

(A) In general

Subsection (a) shall not apply with respect to a financial transaction described in subparagraph (B) conducted or facilitated by a foreign financial institution if, at the time of the transaction, the exception under section 8513a(d)(4)(D)(i) of this title applies to the country with primary jurisdiction over the foreign financial institution.

(B) Financial transactions described

A financial transaction conducted or facilitated by a foreign financial institution is described in this subparagraph if—

(i) the financial transaction is only for trade in goods or services—

(I) not otherwise subject to sanctions under the law of the United States; and

(II) between the country with primary jurisdiction over the foreign financial institution and Iran; and

(ii) any funds owed to Iran as a result of such trade are credited to an account located in the country with primary jurisdiction over the foreign financial institution.

(e) Applicability of sanctions to natural gas

Subsection (a) shall apply to a foreign financial institution that conducts or facilitates a financial transaction for the sale, supply, or transfer to or from Iran of natural gas unless—

(1) the financial transaction is only for trade in goods or services—

(A) not otherwise subject to sanctions under the law of the United States; and

(B) between the country with primary jurisdiction over the foreign financial institution and Iran; and

(2) any funds owed to Iran as a result of such trade are credited to an account located in the country with primary jurisdiction over the foreign financial institution.

(f) Waiver

(1) In general

The President may waive the imposition of sanctions under subsection (a) for a period of not more than 180 days, and may renew that waiver for additional periods of not more than 180 days, if the President—

(A) determines that such a waiver is vital to the national security of the United States; and

(B) submits to the appropriate congressional committees a report providing a justification for the waiver.

(2) Form of report

Each report submitted under paragraph (1)(B) shall be submitted in unclassified form, but may include a classified annex.

(Pub. L. 112–239, div. A, title XII, §1247, Jan. 2, 2013, 126 Stat. 2013.)

DELEGATION OF FUNCTIONS

For delegation of certain functions and authorities vested in the President by this section, see Memorandum of President of the United States, June 3, 2013, 78 F.R. 35545, set out as a note under section 8801 of this title.

§8807. Impositions of sanctions with respect to the Islamic Republic of Iran Broadcasting

(a) Findings

Congress makes the following findings:

(1) The Islamic Republic of Iran Broadcasting has contributed to the infringement of individuals' human rights by broadcasting forced televised confession and show trials.

(2) In March 2012, the European Council imposed sanctions on the President of the Islamic Republic of Iran Broadcasting, Ezzatollah Zargami, for broadcasting forced confessions of detainees and a series of "show trials" in August 2009 and December 2011 that constituted a clear violation of international law with respect to the right to a fair trial and due process.

(b) Imposition of sanctions

(1) In general

The President shall, after January 2, 2013—

(A) impose sanctions described in section 8514(c) of this title with respect to the Islamic Republic of Iran Broadcasting and the President of the Islamic Republic of Iran Broadcasting, Ezzatollah Zargami; and

(B) include the Islamic Republic of Iran Broadcasting and the President of the Islamic Republic of Iran Broadcasting, Ezzatollah Zargami, on the list of specially designated nationals and blocked persons maintained by the Office of Foreign Assets Control of the Department of the Treasury.

(2) Exception

The requirement to impose sanctions under paragraph (1)(A) shall not include the authority to impose sanctions on the importation of goods.

(3) Application of certain provisions

Sections 8514(d) and 8551(b) of this title shall apply with respect to sanctions imposed under paragraph (1)(A) to the same extent that such sections apply with respect to the imposition of sanctions under section 8514(a) of this title.

(Pub. L. 112–239, div. A, title XII, §1248, Jan. 2, 2013, 126 Stat. 2015.)

DELEGATION OF FUNCTIONS

For delegation of certain functions and authorities vested in the President by this section, see Memorandum of President of the United States, June 3, 2013, 78 F.R. 35545, set out as a note under section 8801 of this title.

§8808. Report on use of certain Iranian seaports by foreign vessels and use of foreign airports by sanctioned Iranian air carriers

(a) In general

Not later than 180 days after January 2, 2013, and annually thereafter through 2016, the President shall submit to the appropriate congressional committees a report that contains—

(1) a list of large or otherwise significant vessels that have entered seaports in Iran controlled by the Tidewater Middle East Company during the period specified in subsection (b) and the owners and operators of those vessels; and

(2) a list of all airports at which aircraft owned or controlled by an Iranian air carrier on which sanctions have been imposed by the United States have landed during the period specified in subsection (b).

(b) Period specified

The period specified in this subsection is—

(1) in the case of the first report submitted under subsection (a), the 180-day period preceding the submission of the report; and

(2) in the case of any subsequent report submitted under that subsection, the year preceding the submission of the report.

(c) Form of report

Each report required by subsection (a) shall be submitted in unclassified form, but may include a classified annex.

(Pub. L. 112–239, div. A, title XII, §1252, Jan. 2, 2013, 126 Stat. 2017.)

DELEGATION OF FUNCTIONS

For delegation of certain functions and authorities vested in the President by this section, see Memorandum of President of the United States, June 3, 2013, 78 F.R. 35545, set out as a note under section 8801 of this title.

§8809. Implementation; penalties

(a) Implementation

The President may exercise all authorities provided under sections 1702 and 1704 of title 50 to carry out this chapter.

(b) Penalties

The penalties provided for in subsections (b) and (c) of section 1705 of title 50 shall apply to a person that violates, attempts to violate, conspires to violate, or causes a violation of this chapter or regulations prescribed under this chapter to the same extent that such penalties apply to a person that commits an unlawful act described in section 1705(a) of title 50.

(c) Application of certain provisions of Iran Sanctions Act of 1996

The following provisions of the Iran Sanctions Act of 1996 (Public Law 104–172; 50 U.S.C. 1701 note) shall apply with respect to the imposition of sanctions under sections 8803(d), 8804(a), and 8805(a) of this title to the same extent that such provisions apply with respect to the imposition of sanctions under section 5(a) of the Iran Sanctions Act of 1996, and, as appropriate, instead of sections 8803(i), 8804(g), and 8805(e) of this title:

(1) Paragraphs (1)(A), (2)(A), and (2)(B)(i) of section 4(c).
(2) Subsections (c), (d), and (f) of section 5.
(3) Section 8.
(4) Section 11.
(5) Section 12.
(6) Section 13(b).

(Pub. L. 112–239, div. A, title XII, §1253, Jan. 2, 2013, 126 Stat. 2017.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b), was in the original "this subtitle", meaning subtitle D (§§1241–1255) of title XII of div. A of Pub. L. 112–239, Jan. 2, 2013, 126 Stat. 2004, known as the Iran Freedom and Counter-Proliferation Act of 2012, which is classified principally to this chapter. For complete classification of subtitle D to the Code, see Short Title note set out under section 8801 of this title and Tables.

DELEGATION OF FUNCTIONS

For delegation of certain functions and authorities vested in the President by this section, see Memorandum of President of the United States, June 3, 2013, 78 F.R. 35545, set out as a note under section 8801 of this title.

§8810. Applicability to certain natural gas projects

Nothing in this subtitle or the amendments made by this subtitle shall apply with respect to any activity relating to a project described in subsection (a) of section 8783 of this title to which the exception under that section applies at the time of the activity.

(Pub. L. 112–239, div. A, title XII, §1254, Jan. 2, 2013, 126 Stat. 2018.)

REFERENCES IN TEXT

This subtitle, referred to in text, is subtitle D (§§1241–1255) of title XII of div. A of Pub. L. 112–239, Jan. 2, 2013, 126 Stat. 2004, known as the Iran Freedom and Counter-Proliferation Act of 2012, which is classified principally to this chapter. For complete classification of subtitle D to the Code, see Short Title note set out under section 8801 of this title and Tables.

§8811. Rule of construction

Nothing in this subtitle or the amendments made by this subtitle shall be construed to limit sanctions imposed with respect to Iran under any other provision of law or to limit the authority of the President to impose additional sanctions with respect to Iran.

(Pub. L. 112–239, div. A, title XII, §1255, Jan. 2, 2013, 126 Stat. 2018.)

REFERENCES IN TEXT

This subtitle, referred to in text, is subtitle D (§§1241–1255) of title XII of div. A of Pub. L. 112–239, Jan. 2, 2013, 126 Stat. 2004, known as the Iran Freedom and Counter-Proliferation Act of 2012, which is classified principally to this chapter. For complete classification of subtitle D to the Code, see Short Title note set out under section 8801 of this title and Tables.

CHAPTER 96—SOVEREIGNTY, INTEGRITY, DEMOCRACY, AND ECONOMIC STABILITY OF UKRAINE

Sec.

8901. Definitions.
8902. United States policy toward Ukraine.
8903. Provision of costs of loan guarantees for Ukraine.
8904. Recovery of assets linked to governmental corruption in Ukraine.
8905. Democracy, civil society, governance, and technical assistance for Ukraine and other states in Central and Eastern Europe.
8906. Enhanced security cooperation with Ukraine and other countries in Central and Eastern Europe.
8907. Sanctions on persons responsible for violence or undermining the peace, security, stability, sovereignty, or territorial integrity of Ukraine.
8908. Sanctions on persons in the Russian Federation complicit in or responsible for significant corruption.
8909. Repealed.

§8901. Definitions

In this chapter:

(1) Alien

The term "alien" has the meaning given that term in section 1101(a) of title 8.

(2) Appropriate congressional committees

The term "appropriate congressional committees" means—

(A) the Committee on Foreign Relations, the Select Committee on Intelligence, the Committee on Appropriations, and the majority leader and minority leader of the Senate; and

(B) the Committee on Foreign Affairs, the Permanent Select Committee on Intelligence, the Committee on Appropriations, and the Speaker and minority leader of the House of Representatives.

(3) Materially assisted

The term "materially assisted" means the provision of assistance that is significant and of a kind directly relevant to acts described in paragraph (1), (2), or (3) of section 8907(a) of this title or acts

described in section 8908(a)(1) of this title.

(4) United States person

The term "United States person" means—

(A) a United States citizen or an alien lawfully admitted for permanent residence to the United States; or

(B) an entity organized under the laws of the United States or of any jurisdiction within the United States, including a foreign branch of such an entity.

(Pub. L. 113–95, §2, Apr. 3, 2014, 128 Stat. 1088.)

SHORT TITLE

Pub. L. 113–95, §1, Apr. 3, 2014, 128 Stat. 1088, provided that: "This Act [enacting this chapter] may be cited as the 'Support for the Sovereignty, Integrity, Democracy, and Economic Stability of Ukraine Act of 2014'."

§8902. United States policy toward Ukraine

It is the policy of the United States—

(1) to condemn the unjustified military intervention of the Russian Federation in the Crimea region of Ukraine and its concurrent occupation of that region, as well as any other form of political, economic, or military aggression against Ukraine;

(2) to reaffirm the commitment of the United States to, and to remind Russia of its ongoing commitment to, the 1994 Budapest Memorandum on Security Assurances, which was executed jointly with the Russian Federation and the United Kingdom and explicitly secures the independence, sovereignty, and territorial integrity and borders of Ukraine, and to demand the immediate cessation of improper activities, including the seizures of airfields and other locations, and the immediate return of Russian forces to their barracks;

(3) to work with United States partners in the European Union, the North Atlantic Treaty Organization, and at the United Nations to ensure that all nations recognize and not undermine, nor seek to undermine, the independence, sovereignty, or territorial or economic integrity of Ukraine;

(4) to use all appropriate economic elements of United States national power, in coordination with United States allies, to protect the independence, sovereignty, and territorial and economic integrity of Ukraine;

(5) to support the people of Ukraine in their desire to forge closer ties with Europe, including signing an Association Agreement with the European Union as a means to address endemic corruption, consolidate democracy, and achieve sustained prosperity;

(6) to use the voice and vote of the United States to secure sufficient resources through the International Monetary Fund to support needed economic structural reforms in Ukraine under conditions that will reinforce a sovereign decision by the Government of Ukraine to sign and implement an association agreement with the European Union;

(7) to help the Government of Ukraine prepare for the presidential election in May 2014;

(8) to reinforce the efforts of the Government of Ukraine to bring to justice those responsible for the acts of violence against peaceful protestors and other unprovoked acts of violence related to the antigovernment protests in [1] that began on November 21, 2013;

(9) to support the efforts of the Government of Ukraine to recover and return to the Ukrainian state funds stolen by former President Yanukovych, his family, and other current and former members of the Ukrainian government and elites;

(10) to support the continued professionalization of the Ukrainian military;

(11) to condemn economic extortion by the Russian Federation against Ukraine, Moldova, Lithuania, and other countries in the region designed to obstruct closer ties between the European Union and the countries of the Eastern Partnership and to reduce the harmful consequences of such extortion;

(12) to condemn the continuing and long-standing pattern and practice by the Government of the Russian Federation of physical and economic aggression toward neighboring countries;

(13) to enhance and extend our security cooperation with, security assistance to, and military exercises conducted with, states in Central and Eastern Europe, including North Atlantic Treaty Organization (NATO) member countries, NATO aspirants, and appropriate Eastern Partnership countries;

(14) to reaffirm United States defense commitments to its treaty allies under Article V of the North Atlantic Treaty;

(15) that the continued participation of the Russian Federation in the Group of Eight (G–8) nations should be conditioned on the Government of the Russian Federation respecting the territorial integrity of its neighbors and accepting and adhering to the norms and standards of free, democratic societies as generally practiced by every other member nation of the G–8 nations;

(16) to explore ways for the United States Government to assist the countries of Central and Eastern Europe to diversify their energy sources and achieve energy security; and

(17) to ensure the United States maintains its predominant leadership position and influence within the International Monetary Fund, and to guarantee the International Monetary Fund has the resources and governance structure necessary to support structural reforms in Ukraine and respond to and prevent a potentially serious financial crisis in Ukraine or other foreign economic crises that threatens United States national security.

(Pub. L. 113–95, §3, Apr. 3, 2014, 128 Stat. 1088.)

[1] *So in original.*

§8903. Provision of costs of loan guarantees for Ukraine

(a) In general

From the unobligated balance of amounts appropriated or otherwise made available under the heading "economic support fund" under the heading "Funds Appropriated to the President" in title III of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2014 (division K of Public Law 113–76) [128 Stat. 479] and in Acts making appropriations for the Department of State, foreign operations, and related programs for preceding fiscal years (other than amounts designated pursuant to section 901(b)(2)(A) of title 2), amounts shall be made available for the costs (as defined in section 661a of title 2) of loan guarantees for Ukraine that are hereby authorized to be provided under this chapter.

(b) Inapplicability of certain limitations

Amounts made available for the costs of loan guarantees for Ukraine pursuant to subsection (a) shall not be considered "assistance" for the purpose of provisions of law limiting assistance to Ukraine.

(Pub. L. 113–95, §4, Apr. 3, 2014, 128 Stat. 1090.)

§8904. Recovery of assets linked to governmental corruption in Ukraine

(a) Asset recovery

The Secretary of State, in coordination with the Attorney General and the Secretary of the Treasury, shall assist, on an expedited basis as appropriate, the Government of Ukraine to identify, secure, and recover assets linked to acts of corruption by Viktor Yanukovych, members of his family, or other former or current officials of the Government of Ukraine or their accomplices in any jurisdiction through appropriate programs, including the Kleptocracy Asset Recovery Initiative of the Department of Justice.

(b) Coordination

Any asset recovery efforts undertaken pursuant to subsection (a) shall be coordinated through the relevant bilateral or multilateral entities, including, as appropriate, the Egmont Group of Financial Intelligence Units, the Stolen Asset Recovery Initiative of the World Bank Group and the United Nations Office on Drugs and Crime, the Camden Asset Recovery Inter-Agency Network, and the Global Focal Point Initiative of the International Criminal Police Organization (INTERPOL).

(c) Investigative assistance

The Secretary of State, in coordination with the Attorney General, shall assist the Government of Ukraine, the European Union, and other appropriate countries, on an expedited basis, with formal and informal investigative assistance and training, as appropriate, to support the identification, seizure, and return to the Government of Ukraine of assets linked to acts of corruption.

(d) Priority assigned

The Secretary of the Treasury shall ensure that the Financial Crimes Enforcement Network of the Department of the Treasury assists the Government of Ukraine, the European Union, and other appropriate countries under section 314(a) of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (31 U.S.C. 5311 note).

(Pub. L. 113–95, §5, Apr. 3, 2014, 128 Stat. 1090.)

REFERENCES IN TEXT

Section 314(a) of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, referred to in subsec. (d), is section 314(a) of Pub. L. 107–56, which is set out as a note under section 5311 of Title 31, Money and Finance.

§8905. Democracy, civil society, governance, and technical assistance for Ukraine and other states in Central and Eastern Europe

(a) In general

The Secretary of State shall, subject to the availability of appropriations, directly or through nongovernmental organizations—

(1) improve democratic governance, transparency, accountability, rule of law, and anti-corruption efforts in Ukraine;

(2) support efforts by the Government of Ukraine to foster greater unity among the people and regions of the country;

(3) support the people and Government of Ukraine in preparing to conduct and contest free and fair elections, including through domestic and international election monitoring;

(4) assist in diversifying Ukraine's economy, trade, and energy supplies, including at the national, regional, and local levels;

(5) strengthen democratic institutions and political and civil society organizations in Ukraine;

(6) expand free and unfettered access to independent media of all kinds in Ukraine and assist with the protection of journalists and civil society activists who have been targeted for free speech activities;

(7) support political and economic reform initiatives by Eastern Partnership countries; and

(8) support the efforts of the Government of Ukraine, civil society, and international organizations to enhance the economic and political empowerment of women in Ukraine and to prevent and address violence against women and girls in Ukraine, and support the inclusion of women in Ukraine in any negotiations to restore Ukraine's security, independence, sovereignty, or territorial or economic integrity.

(b) Authorization of appropriations

There is authorized to be appropriated to the Secretary of State $50,000,000 for fiscal year 2015 to carry out the activities set forth in subsection (a). Amounts appropriated for the activities set forth in

subsection (a) shall be used pursuant to the authorization and requirements contained in this section. Additional amounts may be authorized to be appropriated under other provisions of law.

(c) Strategy requirement

Not later than 60 days after April 3, 2014, the President shall submit to the appropriate congressional committees a strategy to carry out the activities set forth in subsection (a).

(d) Notification requirement

(1) In general

Funds appropriated or otherwise made available pursuant to subsection (b) may not be obligated until 15 days after the date on which the President has provided notice of intent to obligate such funds to the appropriate congressional committees.

(2) Waiver

The President may waive the notification requirement under paragraph (1) if the President determines that failure to do so would pose a substantial risk to human health or welfare, in which case notification shall be provided as early as practicable, but in no event later than three days after taking the action to which such notification requirement was applicable in the context of the circumstances necessitating such waiver.

(Pub. L. 113–95, §6, Apr. 3, 2014, 128 Stat. 1091.)

§8906. Enhanced security cooperation with Ukraine and other countries in Central and Eastern Europe

(a) In general

The President shall, subject to the availability of appropriations—

(1) enhance security cooperation efforts and relationships amongst countries in Central and Eastern Europe and among the United States, the European Union, and countries in Central and Eastern Europe;

(2) provide additional security assistance, including defense articles and defense services (as those terms are defined in section 2794 of this title) and military training, to countries in Central and Eastern Europe, including Ukraine; and

(3) support greater reform, professionalism, and capacity-building efforts within the military, intelligence, and security services in Central and Eastern Europe, including Ukraine.

(b) Authorization of appropriations

There is authorized to be appropriated to the President a total of $100,000,000 for fiscal years 2015 through 2017 to carry out this section. Amounts appropriated for the activities set forth in subsection (a) shall be used pursuant to the authorization and requirements contained in this section. Additional amounts may be authorized to be appropriated under other provisions of law.

(c) Strategy requirement

Not later than 60 days after April 3, 2014, the President shall submit to the appropriate congressional committees a strategy to carry out the activities set forth in subsection (a).

(d) Notification requirement

(1) In general

Funds appropriated or otherwise made available pursuant to subsection (b) may not be obligated until 15 days after the date on which the President has provided notice of intent to obligate such funds to the appropriate congressional committees and the Committees on Armed Services of the Senate and the House of Representatives.

(2) Waiver

The President may waive the notification requirement under paragraph (1) if the President

determines that failure to do so would pose a substantial risk to human health or welfare, in which case notification shall be provided as early as practicable, but in no event later than three days after taking the action to which such notification requirement was applicable in the context of the circumstances necessitating such waiver.

(Pub. L. 113–95, §7, Apr. 3, 2014, 128 Stat. 1092.)

§8907. Sanctions on persons responsible for violence or undermining the peace, security, stability, sovereignty, or territorial integrity of Ukraine

(a) In general

The President shall impose the sanctions described in subsection (b) with respect to—

(1) any person, including a current or former official of the Government of Ukraine or a person acting on behalf of that Government, that the President determines has perpetrated, or is responsible for ordering, controlling, or otherwise directing, significant acts of violence or gross human rights abuses in Ukraine against persons associated with the antigovernment protests in Ukraine that began on November 21, 2013;

(2) any person that the President determines has perpetrated, or is responsible for ordering, controlling, or otherwise directing, significant acts that are intended to undermine the peace, security, stability, sovereignty, or territorial integrity of Ukraine, including acts of economic extortion;

(3) any official of the Government of the Russian Federation, or a close associate or family member of such an official, that the President determines is responsible for, complicit in, or responsible for ordering, controlling, or otherwise directing, acts of significant corruption in Ukraine, including the expropriation of private or public assets for personal gain, corruption related to government contracts or the extraction of natural resources, bribery, or the facilitation or transfer of the proceeds of corruption to foreign jurisdictions; and

(4) any individual that the President determines materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services in support of, the commission of acts described in paragraph (1), (2), or (3).

(b) Sanctions described

(1) In general

The sanctions described in this subsection are the following:

(A) Asset blocking

The exercise of all powers granted to the President by the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) to the extent necessary to block and prohibit all transactions in all property and interests in property of a person determined by the President to be subject to subsection (a) if such property and interests in property are in the United States, come within the United States, or are or come within the possession or control of a United States person.

(B) Exclusion from the United States and revocation of visa or other documentation

In the case of an alien determined by the President to be subject to subsection (a), denial of a visa to, and exclusion from the United States of, the alien, and revocation in accordance with section 1201(i) of title 8, of any visa or other documentation of the alien.

(2) Penalties

A person that violates, attempts to violate, conspires to violate, or causes a violation of paragraph (1)(A) or any regulation, license, or order issued to carry out paragraph (1)(A) shall be subject to the penalties set forth in subsections (b) and (c) of section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) to the same extent as a person that commits an unlawful act described in subsection (a) of that section.

(3) Exception relating to the importation of goods

(A) In general

The requirement to block and prohibit all transactions in all property and interests in property under paragraph (1)(A) shall not include the authority to impose sanctions on the importation of goods.

(B) Good defined

In this paragraph, the term "good" has the meaning given that term in section 4618 of title 50 (as continued in effect pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.)).

(4) Exception to comply with United Nations headquarters agreement

Sanctions under paragraph (1)(B) shall not apply to an alien if admitting the alien into the United States is necessary to permit the United States to comply with the Agreement regarding the Headquarters of the United Nations, signed at Lake Success June 26, 1947, and entered into force November 21, 1947, between the United Nations and the United States, or other applicable international obligations.

(c) Waiver

The President may waive the application of sanctions under subsection (b) with respect to a person if the President—

(1) determines that such a waiver is in the national security interests of the United States; and

(2) on or before the date on which the waiver takes effect, submits to the Committee on Foreign Relations and the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Foreign Affairs and the Committee on Financial Services of the House of Representatives a notice of and a justification for the waiver.

(d) Regulatory authority

The President shall issue such regulations, licenses, and orders as are necessary to carry out this section.

(Pub. L. 113–95, §8, Apr. 3, 2014, 128 Stat. 1093.)

REFERENCES IN TEXT

The International Emergency Economic Powers Act, referred to in subsec. (b)(1)(A), (3)(B), is title II of Pub. L. 95–223, Dec. 28, 1977, 91 Stat. 1626, which is classified generally to chapter 35 (§1701 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 50 and Tables.

§8908. Sanctions on persons in the Russian Federation complicit in or responsible for significant corruption

(a) In general

The President is authorized and encouraged to impose the sanctions described in subsection (b) with respect to—

(1) any official of the Government of the Russian Federation, or a close associate or family member of such an official, that the President determines is responsible for, or complicit in, or responsible for ordering, controlling, or otherwise directing, acts of significant corruption in the Russian Federation, including the expropriation of private or public assets for personal gain, corruption related to government contracts or the extraction of natural resources, bribery, or the facilitation or transfer of the proceeds of corruption to foreign jurisdictions; and

(2) any individual who has materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services in support of, an act described in paragraph (1).

(b) Sanctions described

(1) In general

The sanctions described in this subsection are the following:

(A) Asset blocking

The exercise of all powers granted to the President by the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) to the extent necessary to block and prohibit all transactions in all property and interests in property of a person determined by the President to be subject to subsection (a) if such property and interests in property are in the United States, come within the United States, or are or come within the possession or control of a United States person.

(B) Exclusion from the United States and revocation of visa or other documentation

In the case of an alien determined by the President to be subject to subsection (a), denial of a visa to, and exclusion from the United States of, the alien, and revocation in accordance with section 1201(i) of title 8, of any visa or other documentation of the alien.

(2) Penalties

A person that violates, attempts to violate, conspires to violate, or causes a violation of paragraph (1)(A) or any regulation, license, or order issued to carry out paragraph (1)(A) shall be subject to the penalties set forth in subsections (b) and (c) of section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) to the same extent as a person that commits an unlawful act described in subsection (a) of that section.

(3) Exception relating to the importation of goods

(A) In general

The authority to block and prohibit all transactions in all property and interests in property under paragraph (1)(A) shall not include the authority to impose sanctions on the importation of goods.

(B) Good defined

In this paragraph, the term "good" has the meaning given that term in section 4618 of title 50 (as continued in effect pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.)).

(4) Exception to comply with United Nations headquarters agreement

Sanctions under paragraph (1)(B) shall not apply to an alien if admitting the alien into the United States is necessary to permit the United States to comply with the Agreement regarding the Headquarters of the United Nations, signed at Lake Success June 26, 1947, and entered into force November 21, 1947, between the United Nations and the United States, or other applicable international obligations.

(c) Waiver

The President may waive the application of sanctions under subsection (b) with respect to a person if the President—

(1) determines that such a waiver is in the national security interests of the United States; and

(2) on or before the date on which the waiver takes effect, submits to the Committee on Foreign Relations and the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Foreign Affairs and the Committee on Financial Services of the House of Representatives a notice of and a justification for the waiver.

(d) Regulatory authority

The President shall issue such regulations, licenses, and orders as are necessary to carry out this section.

(Pub. L. 113–95, §9, Apr. 3, 2014, 128 Stat. 1094.)

REFERENCES IN TEXT

The International Emergency Economic Powers Act, referred to in subsec. (b)(1)(A), (3)(B), is title II of Pub. L. 95–223, Dec. 28, 1977, 91 Stat. 1626, which is classified generally to chapter 35 (§1701 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 50 and Tables.

§8909. Repealed. Pub. L. 113–291, div. A, title XII, §1245(f), formerly §1245(e), Dec. 19, 2014, 128 Stat. 3568, renumbered §1245(f), Pub. L. 114–328, div. A, title XII, §1235(b)(1), Dec. 23, 2016, 130 Stat. 2491

Section, Pub. L. 113–95, §10, Apr. 3, 2014, 128 Stat. 1096, related to annual report on military and security developments involving the Russian Federation and was superseded by Pub. L. 113–291, div. A, title XII, §1245, Dec. 19, 2014, 128 Stat. 3566, which is not classified to the Code.

CHAPTER 96A—UKRAINE FREEDOM SUPPORT

Sec.

8921. Definitions.
8922. Statement of policy regarding Ukraine.
8923. Sanctions relating to the defense and energy sectors of the Russian Federation.
8924. Sanctions on Russian and other foreign financial institutions.
8925. Increased military assistance for the Government of Ukraine.
8926. Expanded nonmilitary assistance for Ukraine.
8927. Expanded broadcasting in countries of the former Soviet Union.
8928. Support for Russian democracy and civil society organizations.
8929. Report on non-compliance by the Russian Federation of its obligations under the INF Treaty.
8930. Rule of construction.

§8921. Definitions

In this chapter:

(1) Account; correspondent account; payable-through account

The terms "account", "correspondent account", and "payable-through account" have the meanings given those terms in section 5318A of title 31.

(2) Appropriate congressional committees

The term "appropriate congressional committees" means—

(A) the Committee on Foreign Relations and the Committee on Banking, Housing, and Urban Affairs of the Senate; and

(B) the Committee on Foreign Affairs and the Committee on Financial Services of the House of Representatives.

(3) Defense article; defense service; training

The terms "defense article", "defense service", and "training" have the meanings given those terms in section 2794 of this title.

(4) Financial institution

The term "financial institution" means a financial institution specified in subparagraph (A), (B), (C), (D), (E), (F), (G), (H), (I), (J), (M), or (Y) of section 5312(a)(2) of title 31.

(5) Foreign financial institution

The term "foreign financial institution" has the meaning given that term in section 561.308 of title 31, Code of Federal Regulations (or any corresponding similar regulation or ruling).

(6) Foreign person

The term "foreign person" means any individual or entity that is not a United States citizen, a permanent resident alien, or an entity organized under the laws of the United States or any jurisdiction within the United States.

(7) Knowingly

The term "knowingly", with respect to conduct, a circumstance, or a result, means that a person has actual knowledge, or should have known, of the conduct, the circumstance, or the result.

(8) Russian person

The term "Russian person" means—

(A) an individual who is a citizen or national of the Russian Federation; or

(B) an entity organized under the laws of the Russian Federation.

(9) Special Russian crude oil project

The term "special Russian crude oil project" means a project intended to extract crude oil from—

(A) the exclusive economic zone of the Russian Federation in waters more than 500 feet deep;

(B) Russian Arctic offshore locations; or

(C) shale formations located in the Russian Federation.

(Pub. L. 113–272, §2, Dec. 18, 2014, 128 Stat. 2952.)

SHORT TITLE

Pub. L. 113–272, §1(a), Dec. 18, 2014, 128 Stat. 2952, provided that: "This Act [enacting this chapter] may be cited as the 'Ukraine Freedom Support Act of 2014'."

§8922. Statement of policy regarding Ukraine

It is the policy of the United States to further assist the Government of Ukraine in restoring its sovereignty and territorial integrity to deter the Government of the Russian Federation from further destabilizing and invading Ukraine and other independent countries in Central and Eastern Europe, the Caucasus, and Central Asia. That policy shall be carried into effect, among other things, through a comprehensive effort, in coordination with allies and partners of the United States where appropriate, that includes economic sanctions, diplomacy, assistance for the people of Ukraine, and the provision of military capabilities to the Government of Ukraine that will enhance the ability of that Government to defend itself and to restore its sovereignty and territorial integrity in the face of unlawful actions by the Government of the Russian Federation.

(Pub. L. 113–272, §3, Dec. 18, 2014, 128 Stat. 2953.)

§8923. Sanctions relating to the defense and energy sectors of the Russian Federation

(a) Sanctions relating to the defense sector

(1) Rosoboronexport

Except as provided in subsection (d), not later than 30 days after December 18, 2014, the President shall impose 3 or more of the sanctions described in subsection (c) with respect to Rosoboronexport.

(2) Russian producers, transferors, or brokers of defense articles

Except as provided in subsection (d), on and after the date that is 45 days after December 18, 2014, the President shall impose 3 or more of the sanctions described in subsection (c) with respect to a foreign person the President determines—

(A) is an entity—

(i) owned or controlled by the Government of the Russian Federation or owned or controlled by nationals of the Russian Federation; and

(ii) that—

(I) knowingly manufactures or sells defense articles transferred into Syria or into the territory of a specified country without the consent of the internationally recognized government of that country;

(II) transfers defense articles into Syria or into the territory of a specified country without the consent of the internationally recognized government of that country; or

(III) brokers or otherwise assists in the transfer of defense articles into Syria or into the territory of a specified country without the consent of the internationally recognized government of that country; or

(B) knowingly, on or after December 18, 2014, assists, sponsors, or provides financial, material, or technological support for, or goods or services to or in support of, an entity described in subparagraph (A) with respect to an activity described in clause (ii) of that subparagraph.

(3) Specified country defined

(A) In general

In this subsection, the term "specified country" means—

(i) Ukraine, Georgia, and Moldova; and

(ii) any other country designated by the President as a country of significant concern for purposes of this subsection, such as Poland, Lithuania, Latvia, Estonia, and the Central Asia republics.

(B) Notice to Congress

The President shall notify the appropriate congressional committees in writing not later than 15 days before—

(i) designating a country as a country of significant concern under subparagraph (A)(ii); or

(ii) terminating a designation under that subparagraph, including the termination of any such designation pursuant to subsection (h).

(b) Sanctions related to the energy sector

(1) Development of special Russian crude oil projects

Except as provided in subsection (d), on and after the date that is 45 days after December 18, 2014, the President may impose 3 or more of the sanctions described in subsection (c) with respect to a foreign person if the President determines that the foreign person knowingly makes a significant investment in a special Russian crude oil project.

(2) Authorization for extension of licensing limitations on certain equipment

The President, through the Bureau of Industry and Security of the Department of Commerce or the Office of Foreign Assets Control of the Department of the Treasury, as appropriate, may impose additional licensing requirements for or other restrictions on the export or reexport of items for use in the energy sector of the Russian Federation, including equipment used for tertiary oil recovery.

(3) Contingent sanction relating to Gazprom

If the President determines that Gazprom is withholding significant natural gas supplies from member countries of the North Atlantic Treaty Organization, or further withholds significant natural gas supplies from countries such as Ukraine, Georgia, or Moldova, the President shall, not later than 45 days after making that determination, impose the sanction described in subsection (c)(7) and at least one additional sanction described in subsection (c) with respect to Gazprom.

(c) Sanctions described

The sanctions the President may impose with respect to a foreign person under subsection (a) or (b) are the following:

(1) Export-Import Bank assistance

The President may direct the Export-Import Bank of the United States not to approve the issuance of any guarantee, insurance, extension of credit, or participation in the extension of credit in connection with the export of any goods or services to the foreign person.

(2) Procurement sanction

The President may prohibit the head of any executive agency (as defined in section 133 of title 41) from entering into any contract for the procurement of any goods or services from the foreign person.

(3) Arms export prohibition

The President may prohibit the exportation or provision by sale, lease or loan, grant, or other means, directly or indirectly, of any defense article or defense service to the foreign person and the issuance of any license or other approval to the foreign person under section 2778 of this title.

(4) Dual-use export prohibition

The President may prohibit the issuance of any license and suspend any license for the transfer to the foreign person of any item the export of which is controlled under the Export Administration Act of 1979 (50 U.S.C. App. 2401 et seq.) [1] (as in effect pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.)) or the Export Administration Regulations under subchapter C of chapter VII of title 15, Code of Federal Regulations.

(5) Property transactions

The President may, pursuant to such regulations as the President may prescribe, prohibit any person from—

(A) acquiring, holding, withholding, using, transferring, withdrawing, transporting, or exporting any property that is subject to the jurisdiction of the United States and with respect to which the foreign person has any interest;

(B) dealing in or exercising any right, power, or privilege with respect to such property; or

(C) conducting any transaction involving such property.

(6) Banking transactions

The President may, pursuant to such regulations as the President may prescribe, prohibit any transfers of credit or payments between financial institutions or by, through, or to any financial institution, to the extent that such transfers or payments are subject to the jurisdiction of the United States and involve any interest of the foreign person.

(7) Prohibition on investment in equity or debt of sanctioned person

The President may, pursuant to such regulations as the President may prescribe, prohibit any United States person from transacting in, providing financing for, or otherwise dealing in—

(A) debt—

(i) of longer than 30 days' maturity of a foreign person with respect to which sanctions are imposed under subsection (a) or of longer than 90 days' maturity of a foreign person with respect to which sanctions are imposed under subsection (b); and

(ii) issued on or after the date on which such sanctions are imposed with respect to the foreign person; or

(B) equity of the foreign person issued on or after that date.

(8) Exclusion from the United States and revocation of visa or other documentation

In the case of a foreign person who is an individual, the President may direct the Secretary of State to deny a visa to, and the Secretary of Homeland Security to exclude from the United States,

the foreign person, subject to regulatory exceptions to permit the United States to comply with the Agreement regarding the Headquarters of the United Nations, signed at Lake Success June 26, 1947, and entered into force November 21, 1947, between the United Nations and the United States, or other applicable international obligations.

(9) Sanctions on principal executive officers

In the case of a foreign person that is an entity, the President may impose on the principal executive officer or officers of the foreign person, or on individuals performing similar functions and with similar authorities as such officer or officers, any of the sanctions described in this subsection applicable to individuals.

(d) Exceptions

(1) Importation of goods

(A) In general

The authority to block and prohibit all transactions in all property and interests in property under subsection (c)(5) shall not include the authority to impose sanctions on the importation of goods.

(B) Good defined

In this paragraph, the term "good" has the meaning given that term in section 16 of the Export Administration Act of 1979 (50 U.S.C. App. 2415) [1] (as continued in effect pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.)).

(2) Additional exceptions

The President shall not be required to apply or maintain the sanctions under subsection (a) or (b)—

(A) in the case of procurement of defense articles or defense services under existing contracts, subcontracts, or other business agreements, including ancillary or incidental contracts for goods, or for services or funding (including necessary financial services) associated with such goods, as necessary to give effect to such contracts, subcontracts, or other business agreements, and the exercise of options for production quantities to satisfy requirements essential to the national security of the United States—

(i) if the President determines in writing that—

(I) the foreign person to which the sanctions would otherwise be applied is a sole source supplier of the defense articles or services;

(II) the defense articles or services are essential;

(III) alternative sources are not readily or reasonably available; and

(IV) the national interests of the United States would be adversely affected by the application or maintenance of such sanctions; or

(ii) if the President determines in writing that—

(I) such articles or services are essential to the national security under defense coproduction agreements; and

(II) the national interests of the United States would be adversely affected by the application or maintenance of such sanctions;

(B) in the case of procurement, to eligible products, as defined in section 2518(4) of title 19, of any foreign country or instrumentality designated under section 2511(b)(1) of title 19;

(C) to products, technology, or services provided under contracts, subcontracts, or other business agreements (including ancillary or incidental contracts for goods, or for services or funding (including necessary financial services) associated with such goods, as necessary to give effect to such contracts, subcontracts, or other business agreements) entered into before the date on which the President publishes in the Federal Register the name of the foreign person with respect to which the sanctions are to be imposed;

(D) to—

(i) spare parts that are essential to United States products or production;

(ii) component parts, but not finished products, essential to United States products or production; or

(iii) routine servicing and maintenance of United States products, to the extent that alternative sources are not readily or reasonably available;

(E) to information and technology essential to United States products or production; or

(F) to food, medicine, medical devices, or agricultural commodities (as those terms are defined in section 8511 of this title).

(e) National security waiver

(1) In general

The President may waive the application of sanctions under subsection (a) or (b) with respect to a foreign person if the President—

(A) determines that the waiver is in the national security interest of the United States; and

(B) submits to the appropriate congressional committees a report on the determination and the reasons for the determination.

(2) Form of report

The report required by paragraph (1)(B) shall be submitted in unclassified form, but may include a classified annex.

(f) Transaction-specific national security waiver

(1) In general

The President may waive the application of sanctions under subsection (a) or (b) with respect to a specific transaction if the President—

(A) determines that the transaction is in the national security interest of the United States; and

(B) submits to the appropriate congressional committees a detailed report on the determination and the specific reasons for the determination that a waiver with respect to the transaction is necessary and appropriate.

(2) Form of report

The report required by paragraph (1)(B) shall be submitted in unclassified form, but may include a classified annex.

(g) Implementation; penalties

(1) Implementation

The President may exercise all authorities provided under sections 203 and 205 of the International Emergency Economic Powers Act (50 U.S.C. 1702 and 1704) to carry out the purposes of this section.

(2) Penalties

The penalties provided for in subsections (b) and (c) of section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) shall apply to a person that violates, attempts to violate, or conspires to violate, or causes a violation of, subsection (a) or (b) of this section, or an order or regulation prescribed under either such subsection, to the same extent that such penalties apply to a person that commits an unlawful act described in section 206(a) of the International Emergency Economic Powers Act.

(h) Termination

(1) In general

Except as provided in paragraph (2), this section, and sanctions imposed under this section, shall terminate on the date on which the President submits to the appropriate congressional

committees a certification that the Government of the Russian Federation has ceased ordering, controlling, or otherwise directing, supporting, or financing, significant acts intended to undermine the peace, security, stability, sovereignty, or territorial integrity of Ukraine, including through an agreement between the appropriate parties.

(2) Applicability with respect to Syria

The termination date under paragraph (1) shall not apply with respect to the provisions of subsection (a) relating to the transfer of defense articles into Syria or sanctions imposed pursuant to such provisions.

(Pub. L. 113–272, §4, Dec. 18, 2014, 128 Stat. 2953.)

TERMINATION OF SECTION

For termination of section, see subsection (h) of this section.

REFERENCES IN TEXT

The Export Administration Act of 1979, referred to in subsec. (c)(4), is Pub. L. 96–72, Sept. 29, 1979, 93 Stat. 503, which was classified principally to section 2401 et seq. of the former Appendix to Title 50, War and National Defense, prior to editorial reclassification and renumbering as chapter 56 (§4601 et seq.) of Title 50. Section 16 of the Act is now classified to section 4618 of Title 50. For complete classification of this Act to the Code, see Tables.

The International Emergency Economic Powers Act, referred to in subsecs. (c)(4) and (d)(1)(B), is title II of Pub. L. 95–223, Dec. 28, 1977, 91 Stat. 1626, which is classified generally to chapter 35 (§1701 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 50 and Tables.

[1] *See References in Text note below.*

§8924. Sanctions on Russian and other foreign financial institutions

(a) Facilitation of certain defense- and energy-related transactions

The President may impose the sanction described in subsection (c) with respect to a foreign financial institution that the President determines knowingly engages, on or after December 18, 2014, in significant transactions involving activities described in subparagraph (A)(ii) or (B) of section 8923(a)(2) of this title or paragraph (1) or (3) of section 8923(b) of this title for persons with respect to which sanctions are imposed under section 8923 of this title.

(b) Facilitation of financial transactions on behalf of specially designated nationals

The President may impose the sanction described in subsection (c) with respect to a foreign financial institution if the President determines that the foreign financial institution has, on or after the date that is 180 days after December 18, 2014, knowingly facilitated a significant financial transaction on behalf of any Russian person included on the list of specially designated nationals and blocked persons maintained by the Office of Foreign Assets Control of the Department of the Treasury, pursuant to—

(1) this chapter;

(2) Executive Order No. 13660 (79 Fed. Reg. 13,493), 13661 (79 Fed. Reg. 15,535), or 13662 (79 Fed. Reg. 16,169); or

(3) any other Executive order addressing the crisis in Ukraine.

(c) Sanction described

The sanction described in this subsection is, with respect to a foreign financial institution, a prohibition on the opening, and a prohibition or the imposition of strict conditions on the maintaining, in the United States of a correspondent account or a payable-through account by the foreign financial institution.

(d) National security waiver

The President may waive the application of sanctions under this section with respect to a foreign financial institution if the President—

(1) determines that the waiver is in the national security interest of the United States; and

(2) submits to the appropriate congressional committees a report on the determination and the reasons for the determination.

(e) Implementation; penalties

(1) Implementation

The President may exercise all authorities provided under sections 1702 and 1704 of title 50 to carry out the purposes of this section.

(2) Penalties

The penalties provided for in subsections (b) and (c) of section 1705 of title 50 shall apply to a person that violates, attempts to violate, or conspires to violate, or causes a violation of, subsection (a) or (b) of this section, or an order or regulation prescribed under either such subsection, to the same extent that such penalties apply to a person that commits an unlawful act described in section 1705(a) of title 50.

(f) Termination

This section, and sanctions imposed under this section, shall terminate on the date on which the President submits to the appropriate congressional committees the certification described in section 8923(h) of this title.

(Pub. L. 113–272, §5, Dec. 18, 2014, 128 Stat. 2958.)

TERMINATION OF SECTION

For termination of section, see subsection (f) of this section.

REFERENCES IN TEXT

Executive Order No. 13660, referred to in subsec. (b)(2), is Ex. Ord. No. 13660, Mar. 6, 2014, 79 F.R. 13493, which is listed in a table under section 1701 of Title 50, War and National Defense.

Executive Order No. 13661, referred to in subsec. (b)(2), is Ex. Ord. No. 13661, Mar. 16, 2014, 79 F.R. 15535, which is listed in a table under section 1701 of Title 50, War and National Defense.

Executive Order No. 13662, referred to in subsec. (b)(2), is Ex. Ord. No. 13662, Mar. 20, 2014, 79 F.R. 16169, which is listed in a table under section 1701 of Title 50, War and National Defense.

§8925. Increased military assistance for the Government of Ukraine

(a) In general

The President is authorized to provide defense articles, defense services, and training to the Government of Ukraine for the purpose of countering offensive weapons and reestablishing the sovereignty and territorial integrity of Ukraine, including anti-tank and anti-armor weapons, crew weapons and ammunition, counter-artillery radars to identify and target artillery batteries, fire control, range finder, and optical and guidance and control equipment, tactical troop-operated surveillance drones, and secure command and communications equipment, pursuant to the provisions of the Arms Export Control Act (22 U.S.C. 2751 et seq.), the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), and other relevant provisions of law.

(b) Report required

Not later than 60 days after December 18, 2014, the President shall submit a report detailing the anticipated defense articles, defense services, and training to be provided pursuant to this section and a timeline for the provision of such defense articles, defense services, and training, to—

(1) the Committee on Foreign Relations, the Committee on Appropriations, and the Committee on Armed Services of the Senate; and

(2) the Committee on Foreign Affairs, the Committee on Appropriations, and the Committee on

Armed Services of the House of Representatives.

(c) Authorization of appropriations

(1) In general

There are authorized to be appropriated to the Secretary of State $100,000,000 for fiscal year 2015, $125,000,000 for fiscal year 2016, and $125,000,000 for fiscal year 2017 to carry out activities under this section.

(2) Availability of amounts

Amounts authorized to be appropriated pursuant to paragraph (1) shall remain available for obligation and expenditure through the end of fiscal year 2018.

(d) Authority for the use of funds

The funds made available pursuant to subsection (c) for provision of defense articles, defense services, and training may be used to procure such articles, services, and training from the United States Government or other appropriate sources.

(e) Protection of civilians

It is the sense of Congress that the Government of Ukraine should take all appropriate steps to protect civilians.

(Pub. L. 113–272, §6, Dec. 18, 2014, 128 Stat. 2959.)

REFERENCES IN TEXT

The Arms Export Control Act, referred to in subsec.(a), is Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1320, which is classified principally to chapter 39 (§2751 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

The Foreign Assistance Act of 1961, referred to in subsec. (a), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, which is classified principally to chapter 32 (§2151 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

DELEGATION OF AUTHORITY UNDER THE UKRAINE FREEDOM SUPPORT ACT OF 2014

Memorandum of President of the United States, Feb. 19, 2015, 80 F.R. 12071, provided:

Memorandum for the Secretary of State

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, I hereby order as follows:

I hereby delegate to the Secretary of State the authority to prepare and submit to the Congress the reports and strategies required by subsections 6(b), 7(d), 9(c), and 10(c) of the Ukraine Freedom Support Act of 2014 (Public Law 113–272) (the "Act").

Any reference in this memorandum to the Act shall be deemed to be a reference to any future Act that is the same or substantially the same as such provision.

BARACK OBAMA.

§8926. Expanded nonmilitary assistance for Ukraine

(a) Assistance to internally displaced people in Ukraine

(1) In general

Not later than 30 days after December 18, 2014, the Secretary of State shall submit a plan, including actions by the United States Government, other governments, and international organizations, to meet the need for protection of and assistance for internally displaced persons in Ukraine, to—

(A) the Committee on Foreign Relations, the Committee on Appropriations, and the Committee on Energy and Natural Resources of the Senate; and

(B) the Committee on Foreign Affairs, the Committee on Appropriations, and the Committee on Energy and Commerce of the House of Representatives.

(2) Elements

The plan required by paragraph (1) should include, as appropriate, activities in support of—

(A) helping to establish a functional and adequately resourced central registration system in Ukraine that can ensure coordination of efforts to provide assistance to internally displaced persons in different regions;

(B) encouraging adoption of legislation in Ukraine that protects internally displaced persons from discrimination based on their status and provides simplified procedures for obtaining the new residency registration or other official documentation that is a prerequisite to receiving appropriate social payments under the laws of Ukraine, such as pensions and disability, child, and unemployment benefits; and

(C) helping to ensure that information is available to internally displaced persons about—

(i) government agencies and independent groups that can provide assistance to such persons in various regions; and

(ii) evacuation assistance available to persons seeking to flee armed conflict areas.

(3) Assistance through international organizations

The President shall instruct the United States permanent representative or executive director, as the case may be, to the relevant United Nations voluntary agencies, including the United Nations High Commissioner for Refugees and the United Nations Office for the Coordination of Humanitarian Affairs, and other appropriate international organizations, to use the voice and vote of the United States to support appropriate assistance for internally displaced persons in Ukraine.

(b) Assistance to the defense sector of Ukraine

The Secretary of State and the Secretary of Defense should assist entities in the defense sector of Ukraine to reorient exports away from customers in the Russian Federation and to find appropriate alternative markets for those entities in the defense sector of Ukraine that have already significantly reduced exports to and cooperation with entities in the defense sector of the Russian Federation.

(c) Assistance to address the energy crisis in Ukraine

(1) Emergency energy assistance

(A) Plan required

The Secretary of State and the Secretary of Energy, in collaboration with the Administrator of the United States Agency for International Development and the Administrator of the Federal Emergency Management Agency, shall work with officials of the Government of Ukraine to develop a short-term emergency energy assistance plan designed to help Ukraine address the potentially severe short-term heating fuel and electricity shortages facing Ukraine in 2014 and 2015.

(B) Elements

The plan required by subparagraph (A) should include strategies to address heating fuel and electricity shortages in Ukraine, including, as appropriate—

(i) the acquisition of short-term, emergency fuel supplies;

(ii) the repair or replacement of infrastructure that could impede the transmission of electricity or transportation of fuel;

(iii) the prioritization of the transportation of fuel supplies to the areas where such supplies are needed most;

(iv) streamlining emergency communications throughout national, regional, and local governments to manage the potential energy crisis resulting from heating fuel and electricity shortages;

(v) forming a crisis management team within the Government of Ukraine to specifically address the potential crisis, including ensuring coordination of the team's efforts with the efforts of outside governmental and nongovernmental entities providing assistance to address the potential crisis; and

(vi) developing a public outreach strategy to facilitate preparation by the population and

communication with the population in the event of a crisis.

(C) Assistance

The Secretary of State, the Secretary of Energy, and the Administrator of the United States Agency for International Development are authorized to provide assistance in support of, and to invest in short-term solutions for, enabling Ukraine to secure the energy safety of the people of Ukraine during 2014 and 2015, including through—

(i) procurement and transport of emergency fuel supplies, including reverse pipeline flows from Europe;

(ii) provision of technical assistance for crisis planning, crisis response, and public outreach;

(iii) repair of infrastructure to enable the transport of fuel supplies;

(iv) repair of power generating or power transmission equipment or facilities;

(v) procurement and installation of compressors or other appropriate equipment to enhance short-term natural gas production;

(vi) procurement of mobile electricity generation units;

(vii) conversion of natural gas heating facilities to run on other fuels, including alternative energy sources; and

(viii) provision of emergency weatherization and winterization materials and supplies.

(2) Reduction of Ukraine's reliance on energy imports

(A) Plans required

The Secretary of State, in collaboration with the Secretary of Energy and the Administrator of the United States Agency for International Development, shall work with officials of the Government of Ukraine to develop medium- and long-term plans to increase energy production and efficiency to increase energy security by helping Ukraine reduce its dependence on natural gas imported from the Russian Federation.

(B) Elements

The medium- and long-term plans required by subparagraph (A) should include strategies, as appropriate, to—

(i) improve corporate governance and unbundling of state-owned oil and gas sector firms;

(ii) increase production from natural gas fields and from other sources, including renewable energy;

(iii) license new oil and gas blocks transparently and competitively;

(iv) modernize oil and gas upstream infrastructure; and

(v) improve energy efficiency.

(C) Prioritization

The Secretary of State, the Administrator of the United States Agency for International Development, and the Secretary of Energy should, during fiscal years 2015 through 2018, work with other donors, including multilateral agencies and nongovernmental organizations, to prioritize, to the extent practicable and as appropriate, the provision of assistance from such donors to help Ukraine to improve energy efficiency, increase energy supplies produced in Ukraine, and reduce reliance on energy imports from the Russian Federation, including natural gas.

(D) Authorization of appropriations

There are authorized to be appropriated $50,000,000 in the aggregate for fiscal years 2016 through 2018 to carry out activities under this paragraph.

(3) Support from the Overseas Private Investment Corporation

The Overseas Private Investment Corporation shall—

(A) prioritize, to the extent practicable, support for investments to help increase energy efficiency, develop domestic oil and natural gas reserves, improve and repair electricity

infrastructure, and develop renewable and other sources of energy in Ukraine; and

(B) implement procedures for expedited review and, as appropriate, approval, of applications by eligible investors (as defined in section 2198 of this title) for loans, loan guarantees, and insurance for such investments.

(4) Support by the World Bank Group and the European Bank for Reconstruction and Development

The President shall, to the extent practicable and as appropriate, direct the United States Executive Directors of the World Bank Group and the European Bank for Reconstruction and Development to use the voice, vote, and influence of the United States to encourage the World Bank Group and the European Bank for Reconstruction and Development and other international financial institutions—

(A) to invest in, and increase their efforts to promote investment in, projects to improve energy efficiency, improve and repair electricity infrastructure, develop domestic oil and natural gas reserves, and develop renewable and other sources of energy in Ukraine; and

(B) to stimulate private investment in such projects.

(d) Assistance to civil society in Ukraine

(1) In general

The Secretary of State and the Administrator of the United States Agency for International Development shall, directly or through nongovernmental or international organizations, such as the Organization for Security and Co-operation in Europe, the National Endowment for Democracy, and related organizations—

(A) strengthen the organizational and operational capacity of democratic civil society in Ukraine;

(B) support the efforts of independent media outlets to broadcast, distribute, and share information in all regions of Ukraine;

(C) counter corruption and improve transparency and accountability of institutions that are part of the Government of Ukraine; and

(D) provide support for democratic organizing and election monitoring in Ukraine.

(2) Strategy required

Not later than 60 days after December 18, 2014, the President shall submit a strategy to carry out the activities described in paragraph (1) to—

(A) the Committee on Foreign Relations and the Committee on Appropriations of the Senate; and

(B) the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives.

(3) Authorization of appropriations

There are authorized to be appropriated to the Secretary of State $20,000,000 for fiscal year 2016 to carry out this subsection.

(4) Transparency requirements

Any assistance provided pursuant to this subsection shall be conducted in as transparent of a manner as possible, consistent with the nature and goals of this subsection. The President shall provide a briefing on the activities funded by this subsection at the request of the committees specified in paragraph (2).

(Pub. L. 113–272, §7, Dec. 18, 2014, 128 Stat. 2960.)

DELEGATION OF FUNCTIONS

Functions of President under subsec. (d) of this section delegated to Secretary of State by Memorandum of President of the United States, Feb. 19, 2015, 80 F.R. 12071, set out as a note under section 8925 of this title.

§8927. Expanded broadcasting in countries of the former Soviet Union

(a) In general

Not later than 90 days after December 18, 2014, the Chairman of the Broadcasting Board of Governors shall submit to Congress a plan, including a cost estimate, for immediately and substantially increasing, and maintaining through fiscal year 2017, the quantity of Russian-language broadcasting into the countries of the former Soviet Union funded by the United States in order to counter Russian Federation propaganda.

(b) Prioritization of broadcasting into Ukraine, Georgia, and Moldova

The plan required by subsection (a) shall prioritize broadcasting into Ukraine, Georgia, and Moldova by the Voice of America and Radio Free Europe/Radio Liberty.

(c) Additional priorities

In developing the plan required by subsection (a), the Chairman shall consider—

(1) near-term increases in Russian-language broadcasting for countries of the former Soviet Union (other than the countries specified in subsection (b)), including Latvia, Lithuania, and Estonia; and

(2) increases in broadcasting in other critical languages, including Ukrainian and Romanian languages.

(d) Broadcasting defined

In this section, the term "broadcasting" means the distribution of media content via radio broadcasting, television broadcasting, and Internet-based platforms, among other platforms.

(e) Authorization of appropriations

(1) In general

There are authorized to be appropriated to the Broadcasting Board of Governors $10,000,000 for each of fiscal years 2016 through 2018 to carry out activities under this section.

(2) Supplement not supplant

Amounts authorized to be appropriated pursuant to paragraph (1) shall supplement and not supplant other amounts made available for activities described in this section.

(Pub. L. 113–272, §8, Dec. 18, 2014, 128 Stat. 2964.)

§8928. Support for Russian democracy and civil society organizations

(a) In general

The Secretary of State shall, directly or through nongovernmental or international organizations, such as the Organization for Security and Co-operation in Europe, the National Endowment for Democracy, and related organizations—

(1) improve democratic governance, transparency, accountability, rule of law, and anti-corruption efforts in the Russian Federation;

(2) strengthen democratic institutions and political and civil society organizations in the Russian Federation;

(3) expand uncensored Internet access in the Russian Federation; and

(4) expand free and unfettered access to independent media of all kinds in the Russian Federation, including through increasing United States Government-supported broadcasting activities, and assist with the protection of journalists and civil society activists who have been targeted for free speech activities.

(b) Authorization of appropriations

There are authorized to be appropriated to the Secretary of State $20,000,000 for each of fiscal years 2016 through 2018 to carry out the activities set forth in subsection (a).

(c) Strategy requirement

Not later than 60 days after December 18, 2014, the President shall submit a strategy to carry out the activities set forth in subsection (a) to—

(1) the Committee on Foreign Relations and the Committee on Appropriations of the Senate; and

(2) the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives.

(d) Transparency requirements

Any assistance provided pursuant to this section shall be conducted in as transparent of a manner as possible, consistent with the nature and goals of this section. The President shall provide a briefing on the activities funded by this section at the request of the committees specified in subsection (c).

(Pub. L. 113–272, §9, Dec. 18, 2014, 128 Stat. 2964.)

DELEGATION OF FUNCTIONS

Functions of President under subsec. (c) of this section delegated to Secretary of State by Memorandum of President of the United States, Feb. 19, 2015, 80 F.R. 12071, set out as a note under section 8925 of this title.

§8929. Report on non-compliance by the Russian Federation of its obligations under the INF Treaty

(a) Findings

Congress makes the following findings:

(1) The Russian Federation is in violation of its obligations under the Treaty between the United States of America and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range and Shorter-Range Missiles, signed at Washington December 8, 1987, and entered into force June 1, 1988 (commonly referred to as the "Intermediate-Range Nuclear Forces Treaty" or "INF Treaty").

(2) This behavior poses a threat to the United States, its deployed forces, and its allies.

(b) Sense of Congress

It is the sense of Congress that—

(1) the President should hold the Russian Federation accountable for being in violation of its obligations under the INF Treaty; and

(2) the President should demand the Russian Federation completely and verifiably eliminate the military systems that constitute the violation of its obligations under the INF Treaty.

(c) Report

(1) In general

Not later than 90 days after December 18, 2014, and every 90 days thereafter, the President shall submit to the committees specified in subsection (d) a report that includes the following elements:

(A) A description of the status of the President's efforts, in cooperation with United States allies, to hold the Russian Federation accountable for being in violation of its obligations under the INF Treaty and obtain the complete and verifiable elimination of its military systems that constitute the violation of its obligations under the INF Treaty.

(B) The President's assessment as to whether it remains in the national security interests of the United States to remain a party to the INF Treaty, and other related treaties and agreements, while the Russian Federation is in violation of its obligations under the INF Treaty.

(C) Notification of any deployment by the Russian Federation of a ground launched ballistic or cruise missile system with a range of between 500 and 5,500 kilometers.

(D) A plan developed by the Secretary of State, in consultation with the Director of National

Intelligence and the Defense Threat Reduction Agency (DTRA), to verify that the Russian Federation has fully and completely dismantled any ground launched cruise missiles or ballistic missiles with a range of between 500 and 5,500 kilometers, including details on facilities that inspectors need access to, people inspectors need to talk with, how often inspectors need the accesses for, and how much the verification regime would cost.

(2) Form

The report required under paragraph (1) shall be submitted in unclassified form but may contain a classified annex.

(d) Committees specified

The committees specified in this subsection are—

(1) the Committee on Foreign Relations, the Committee on Armed Services, and the Select Committee on Intelligence of the Senate; and

(2) the Committee on Foreign Affairs, the Committee on Armed Services, and the Permanent Select Committee on Intelligence of the House of Representatives.

(Pub. L. 113–272, §10, Dec. 18, 2014, 128 Stat. 2965.)

DELEGATION OF FUNCTIONS

Functions of President under subsec. (c) of this section delegated to Secretary of State by Memorandum of President of the United States, Feb. 19, 2015, 80 F.R. 12071, set out as a note under section 8925 of this title.

§8930. Rule of construction

Nothing in this chapter shall be construed as an authorization for the use of military force.

(Pub. L. 113–272, §11, Dec. 18, 2014, 128 Stat. 2966.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act or an amendment made by this Act", meaning Pub. L. 113–272, Dec. 18, 2014, 128 Stat. 2952, which enacted this chapter and provisions set out as a note under section 8921 of this title. Pub. L. 113–272 did not make any amendments.

CHAPTER 97—INTERNATIONAL CHILD ABDUCTION REMEDIES

Sec.

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§9001. Findings and declarations

(a) Findings

The Congress makes the following findings:

(1) The international abduction or wrongful retention of children is harmful to their well-being.

(2) Persons should not be permitted to obtain custody of children by virtue of their wrongful

removal or retention.

(3) International abductions and retentions of children are increasing, and only concerted cooperation pursuant to an international agreement can effectively combat this problem.

(4) The Convention on the Civil Aspects of International Child Abduction, done at The Hague on October 25, 1980, establishes legal rights and procedures for the prompt return of children who have been wrongfully removed or retained, as well as for securing the exercise of visitation rights. Children who are wrongfully removed or retained within the meaning of the Convention are to be promptly returned unless one of the narrow exceptions set forth in the Convention applies. The Convention provides a sound treaty framework to help resolve the problem of international abduction and retention of children and will deter such wrongful removals and retentions.

(b) Declarations

The Congress makes the following declarations:

(1) It is the purpose of this chapter to establish procedures for the implementation of the Convention in the United States.

(2) The provisions of this chapter are in addition to and not in lieu of the provisions of the Convention.

(3) In enacting this chapter the Congress recognizes—

(A) the international character of the Convention; and

(B) the need for uniform international interpretation of the Convention.

(4) The Convention and this chapter empower courts in the United States to determine only rights under the Convention and not the merits of any underlying child custody claims.

(Pub. L. 100–300, §2, Apr. 29, 1988, 102 Stat. 437.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original "this Act" meaning Pub. L. 100–300, Apr. 29, 1988, 102 Stat. 437, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note below and Tables.

CODIFICATION

Section was formerly classified to section 11601 of Title 42, The Public Health and Welfare.

SHORT TITLE OF 2004 AMENDMENT

Pub. L. 108–370, §1, Oct. 25, 2004, 118 Stat. 1750, provided that: "This Act [amending section 9006 of this title] may be cited as the 'Prevention of Child Abduction Partnership Act'."

SHORT TITLE

Pub. L. 100–300, §1, Apr. 29, 1988, 102 Stat. 437, provided that: "This Act [enacting this chapter and amending section 663 of Title 42, The Public Health and Welfare] may be cited as the 'International Child Abduction Remedies Act'."

§9002. Definitions

For the purposes of this chapter—

(1) the term "applicant" means any person who, pursuant to the Convention, files an application with the United States Central Authority or a Central Authority of any other party to the Convention for the return of a child alleged to have been wrongfully removed or retained or for arrangements for organizing or securing the effective exercise of rights of access pursuant to the Convention;

(2) the term "Convention" means the Convention on the Civil Aspects of International Child Abduction, done at The Hague on October 25, 1980;

(3) the term "Parent Locator Service" means the service established by the Secretary of Health and Human Services under section 653 of title 42;

(4) the term "petitioner" means any person who, in accordance with this chapter, files a petition

in court seeking relief under the Convention;

(5) the term "person" includes any individual, institution, or other legal entity or body;

(6) the term "respondent" means any person against whose interests a petition is filed in court, in accordance with this chapter, which seeks relief under the Convention;

(7) the term "rights of access" means visitation rights;

(8) the term "State" means any of the several States, the District of Columbia, and any commonwealth, territory, or possession of the United States; and

(9) the term "United States Central Authority" means the agency of the Federal Government designated by the President under section 9006(a) of this title.

(Pub. L. 100–300, §3, Apr. 29, 1988, 102 Stat. 437.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act" meaning Pub. L. 100–300, Apr. 29, 1988, 102 Stat. 437, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note under section 9001 of this title and Tables.

CODIFICATION

Section was formerly classified to section 11602 of Title 42, The Public Health and Welfare.

§9003. Judicial remedies

(a) Jurisdiction of courts

The courts of the States and the United States district courts shall have concurrent original jurisdiction of actions arising under the Convention.

(b) Petitions

Any person seeking to initiate judicial proceedings under the Convention for the return of a child or for arrangements for organizing or securing the effective exercise of rights of access to a child may do so by commencing a civil action by filing a petition for the relief sought in any court which has jurisdiction of such action and which is authorized to exercise its jurisdiction in the place where the child is located at the time the petition is filed.

(c) Notice

Notice of an action brought under subsection (b) shall be given in accordance with the applicable law governing notice in interstate child custody proceedings.

(d) Determination of case

The court in which an action is brought under subsection (b) shall decide the case in accordance with the Convention.

(e) Burdens of proof

(1) A petitioner in an action brought under subsection (b) shall establish by a preponderance of the evidence—

(A) in the case of an action for the return of a child, that the child has been wrongfully removed or retained within the meaning of the Convention; and

(B) in the case of an action for arrangements for organizing or securing the effective exercise of rights of access, that the petitioner has such rights.

(2) In the case of an action for the return of a child, a respondent who opposes the return of the child has the burden of establishing—

(A) by clear and convincing evidence that one of the exceptions set forth in article 13b or 20 of the Convention applies; and

(B) by a preponderance of the evidence that any other exception set forth in article 12 or 13 of the Convention applies.

(f) Application of Convention

For purposes of any action brought under this chapter—

(1) the term "authorities", as used in article 15 of the Convention to refer to the authorities of the state of the habitual residence of a child, includes courts and appropriate government agencies;

(2) the terms "wrongful removal or retention" and "wrongfully removed or retained", as used in the Convention, include a removal or retention of a child before the entry of a custody order regarding that child; and

(3) the term "commencement of proceedings", as used in article 12 of the Convention, means, with respect to the return of a child located in the United States, the filing of a petition in accordance with subsection (b) of this section.

(g) Full faith and credit

Full faith and credit shall be accorded by the courts of the States and the courts of the United States to the judgment of any other such court ordering or denying the return of a child, pursuant to the Convention, in an action brought under this chapter.

(h) Remedies under Convention not exclusive

The remedies established by the Convention and this chapter shall be in addition to remedies available under other laws or international agreements.

(Pub. L. 100–300, §4, Apr. 29, 1988, 102 Stat. 438.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (f) to (h), was in the original "this Act" meaning Pub. L. 100–300, Apr. 29, 1988, 102 Stat. 437, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note under section 9001 of this title and Tables.

CODIFICATION

Section was formerly classified to section 11603 of Title 42, The Public Health and Welfare.

§9004. Provisional remedies

(a) Authority of courts

In furtherance of the objectives of article 7(b) and other provisions of the Convention, and subject to the provisions of subsection (b) of this section, any court exercising jurisdiction of an action brought under section 9003(b) of this title may take or cause to be taken measures under Federal or State law, as appropriate, to protect the well-being of the child involved or to prevent the child's further removal or concealment before the final disposition of the petition.

(b) Limitation on authority

No court exercising jurisdiction of an action brought under section 9003(b) of this title may, under subsection (a) of this section, order a child removed from a person having physical control of the child unless the applicable requirements of State law are satisfied.

(Pub. L. 100–300, §5, Apr. 29, 1988, 102 Stat. 439.)

CODIFICATION

Section was formerly classified to section 11604 of Title 42, The Public Health and Welfare.

§9005. Admissibility of documents

With respect to any application to the United States Central Authority, or any petition to a court under section 9003 of this title, which seeks relief under the Convention, or any other documents or information included with such application or petition or provided after such submission which

relates to the application or petition, as the case may be, no authentication of such application, petition, document, or information shall be required in order for the application, petition, document, or information to be admissible in court.

(Pub. L. 100–300, §6, Apr. 29, 1988, 102 Stat. 439.)

CODIFICATION

Section was formerly classified to section 11605 of Title 42, The Public Health and Welfare.

§9006. United States Central Authority

(a) Designation

The President shall designate a Federal agency to serve as the Central Authority for the United States under the Convention.

(b) Functions

The functions of the United States Central Authority are those ascribed to the Central Authority by the Convention and this chapter.

(c) Regulatory authority

The United States Central Authority is authorized to issue such regulations as may be necessary to carry out its functions under the Convention and this chapter.

(d) Obtaining information from Parent Locator Service

The United States Central Authority may, to the extent authorized by the Social Security Act [42 U.S.C. 301 et seq.], obtain information from the Parent Locator Service.

(e) Grant authority

The United States Central Authority is authorized to make grants to, or enter into contracts or agreements with, any individual, corporation, other Federal, State, or local agency, or private entity or organization in the United States for purposes of accomplishing its responsibilities under the Convention and this chapter.

(f) Limited liability of private entities acting under the direction of the United States Central Authority

(1) Limitation on liability

Except as provided in paragraphs (2) and (3), a private entity or organization that receives a grant from or enters into a contract or agreement with the United States Central Authority under subsection (e) of this section for purposes of assisting the United States Central Authority in carrying out its responsibilities and functions under the Convention and this chapter, including any director, officer, employee, or agent of such entity or organization, shall not be liable in any civil action sounding in tort for damages directly related to the performance of such responsibilities and functions as defined by the regulations issued under subsection (c) of this section that are in effect on October 1, 2004.

(2) Exception for intentional, reckless, or other misconduct

The limitation on liability under paragraph (1) shall not apply in any action in which the plaintiff proves that the private entity, organization, officer, employee, or agent described in paragraph (1), as the case may be, engaged in intentional misconduct or acted, or failed to act, with actual malice, with reckless disregard to a substantial risk of causing injury without legal justification, or for a purpose unrelated to the performance of responsibilities or functions under this chapter.

(3) Exception for ordinary business activities

The limitation on liability under paragraph (1) shall not apply to any alleged act or omission related to an ordinary business activity, such as an activity involving general administration or

operations, the use of motor vehicles, or personnel management.

(Pub. L. 100–300, §7, Apr. 29, 1988, 102 Stat. 439; Pub. L. 105–277, div. G, title XXII, §2213, Oct. 21, 1998, 112 Stat. 2681–812; Pub. L. 108–370, §2, Oct. 25, 2004, 118 Stat. 1750.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (b), (c), (e), and (f), was in the original "this Act" meaning Pub. L. 100–300, Apr. 29, 1988, 102 Stat. 437, as amended, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 9001 of this title and Tables.

The Social Security Act, referred to in subsec. (d), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended, which is classified generally to chapter 7 (§301 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

CODIFICATION

Section was formerly classified to section 11606 of Title 42, The Public Health and Welfare.

AMENDMENTS

2004—Subsec. (f). Pub. L. 108–370 added subsec. (f).
1998—Subsec. (e). Pub. L. 105–277 added subsec. (e).

EX. ORD. NO. 12648. IMPLEMENTATION OF CONVENTION ON CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION

Ex. Ord. No. 12648, Aug. 11, 1988, 53 F.R. 30637, provided:

The United States of America deposited its instrument of ratification of the Hague Convention on the Civil Aspects of International Child Abduction ("Convention") on April 29, 1988. The Convention entered into force for the United States on July 1, 1988. Article 6 of the Convention imposes upon Contracting States an obligation to designate a "Central Authority" for the purpose of discharging certain specified functions.

In order that the Government of the United States of America may give full and complete effect to the Convention, and pursuant to section 7 of the International Child Abduction Remedies Act, Public Law No. 100–300 (1988) [22 U.S.C. 9006], it is expedient and necessary that I designate a Central Authority within the Executive branch of said Government:

NOW, THEREFORE, by virtue of the authority vested in me as President by the Constitution and the laws of the United States, including section 301 of Title 3 of the United States Code and section 7 of the International Child Abduction Remedies Act, it is ordered as follows:

SECTION 1. *Designation of Central Authority*. The Department of State is hereby designated as the Central Authority of the United States for purposes of the Hague Convention on the Civil Aspects of International Child Abduction. The Secretary of State is hereby authorized and empowered, in accordance with such regulations as he may prescribe, to perform all lawful acts that may be necessary and proper in order to execute the functions of the Central Authority in a timely and efficient manner.

RONALD REAGAN.

§9007. Costs and fees

(a) Administrative costs

No department, agency, or instrumentality of the Federal Government or of any State or local government may impose on an applicant any fee in relation to the administrative processing of applications submitted under the Convention.

(b) Costs incurred in civil actions

(1) Petitioners may be required to bear the costs of legal counsel or advisors, court costs incurred in connection with their petitions, and travel costs for the return of the child involved and any accompanying persons, except as provided in paragraphs (2) and (3).

(2) Subject to paragraph (3), legal fees or court costs incurred in connection with an action brought under section 9003 of this title shall be borne by the petitioner unless they are covered by payments from Federal, State, or local legal assistance or other programs.

(3) Any court ordering the return of a child pursuant to an action brought under section 9003 of

this title shall order the respondent to pay necessary expenses incurred by or on behalf of the petitioner, including court costs, legal fees, foster home or other care during the course of proceedings in the action, and transportation costs related to the return of the child, unless the respondent establishes that such order would be clearly inappropriate.

(Pub. L. 100–300, §8, Apr. 29, 1988, 102 Stat. 440.)

CODIFICATION

Section was formerly classified to section 11607 of Title 42, The Public Health and Welfare.

§9008. Collection, maintenance, and dissemination of information

(a) In general

In performing its functions under the Convention, the United States Central Authority may, under such conditions as the Central Authority prescribes by regulation, but subject to subsection (c), receive from or transmit to any department, agency, or instrumentality of the Federal Government or of any State or foreign government, and receive from or transmit to any applicant, petitioner, or respondent, information necessary to locate a child or for the purpose of otherwise implementing the Convention with respect to a child, except that the United States Central Authority—

(1) may receive such information from a Federal or State department, agency, or instrumentality only pursuant to applicable Federal and State statutes; and

(2) may transmit any information received under this subsection notwithstanding any provision of law other than this chapter.

(b) Requests for information

Requests for information under this section shall be submitted in such manner and form as the United States Central Authority may prescribe by regulation and shall be accompanied or supported by such documents as the United States Central Authority may require.

(c) Responsibility of government entities

Whenever any department, agency, or instrumentality of the United States or of any State receives a request from the United States Central Authority for information authorized to be provided to such Central Authority under subsection (a), the head of such department, agency, or instrumentality shall promptly cause a search to be made of the files and records maintained by such department, agency, or instrumentality in order to determine whether the information requested is contained in any such files or records. If such search discloses the information requested, the head of such department, agency, or instrumentality shall immediately transmit such information to the United States Central Authority, except that any such information the disclosure of which—

(1) would adversely affect the national security interests of the United States or the law enforcement interests of the United States or of any State; or

(2) would be prohibited by section 9 of title 13;

shall not be transmitted to the Central Authority. The head of such department, agency, or instrumentality shall, immediately upon completion of the requested search, notify the Central Authority of the results of the search, and whether an exception set forth in paragraph (1) or (2) applies. In the event that the United States Central Authority receives information and the appropriate Federal or State department, agency, or instrumentality thereafter notifies the Central Authority that an exception set forth in paragraph (1) or (2) applies to that information, the Central Authority may not disclose that information under subsection (a).

(d) Information available from Parent Locator Service

To the extent that information which the United States Central Authority is authorized to obtain under the provisions of subsection (c) can be obtained through the Parent Locator Service, the United States Central Authority shall first seek to obtain such information from the Parent Locator Service, before requesting such information directly under the provisions of subsection (c) of this section.

(e) Recordkeeping

The United States Central Authority shall maintain appropriate records concerning its activities and the disposition of cases brought to its attention.

(Pub. L. 100–300, §9, Apr. 29, 1988, 102 Stat. 440.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(2), was in the original "this Act" meaning Pub. L. 100–300, Apr. 29, 1988, 102 Stat. 437, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note under section 9001 of this title and Tables.

CODIFICATION

Section was formerly classified to section 11608 of Title 42, The Public Health and Welfare.

§9009. Office of Children's Issues

(a) Director requirements

The Secretary of State shall fill the position of Director of the Office of Children's Issues of the Department of State (in this section referred to as the "Office") with an individual of senior rank who can ensure long-term continuity in the management and policy matters of the Office and has a strong background in consular affairs.

(b) Case officer staffing

Effective April 1, 2000, there shall be assigned to the Office of Children's Issues of the Department of State a sufficient number of case officers to ensure that the average caseload for each officer does not exceed 75.

(c) Embassy contact

The Secretary of State shall designate in each United States diplomatic mission an employee who shall serve as the point of contact for matters relating to international abductions of children by parents. The Director of the Office shall regularly inform the designated employee of children of United States citizens abducted by parents to that country.

(d) Reports to parents

(1) In general

Except as provided in paragraph (2), beginning 6 months after November 29, 1999, and at least once every 6 months thereafter, the Secretary of State shall report to each parent who has requested assistance regarding an abducted child overseas. Each such report shall include information on the current status of the abducted child's case and the efforts by the Department of State to resolve the case.

(2) Exception

The requirement in paragraph (1) shall not apply in a case of an abducted child if—

(A) the case has been closed and the Secretary of State has reported the reason the case was closed to the parent who requested assistance; or

(B) the parent seeking assistance requests that such reports not be provided.

(Pub. L. 106–113, div. B, §1000(a)(7) [div. A, title II, §201], Nov. 29, 1999, 113 Stat. 1536, 1501A–419).

CODIFICATION

Section was enacted as part of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001, and not as part of the International Child Abduction Remedies Act which comprises this chapter.

Section was formerly classified to section 11608a of Title 42, The Public Health and Welfare.

§9010. Interagency coordinating group

The Secretary of State, the Secretary of Health and Human Services, and the Attorney General shall designate Federal employees and may, from time to time, designate private citizens to serve on an interagency coordinating group to monitor the operation of the Convention and to provide advice on its implementation to the United States Central Authority and other Federal agencies. This group shall meet from time to time at the request of the United States Central Authority. The agency in which the United States Central Authority is located is authorized to reimburse such private citizens for travel and other expenses incurred in participating at meetings of the interagency coordinating group at rates not to exceed those authorized under subchapter I of chapter 57 of title 5 for employees of agencies.

(Pub. L. 100–300, §10, Apr. 29, 1988, 102 Stat. 441.)

CODIFICATION

Section was formerly classified to section 11609 of Title 42, The Public Health and Welfare.

§9011. Authorization of appropriations

There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the purposes of the Convention and this chapter.

(Pub. L. 100–300, §12, Apr. 29, 1988, 102 Stat. 442.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act" meaning Pub. L. 100–300, Apr. 29, 1988, 102 Stat. 437, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note under section 9001 of this title and Tables.

CODIFICATION

Section was formerly classified to section 11610 of Title 42, The Public Health and Welfare.

CHAPTER 98—INTERNATIONAL CHILD ABDUCTION PREVENTION AND RETURN

Sec.

9101. Definitions.

SUBCHAPTER I—DEPARTMENT OF STATE ACTIONS

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SUBCHAPTER III—PREVENTION OF INTERNATIONAL CHILD ABDUCTION

9141. Authorization for judicial training on international parental child abduction.

§9101. Definitions

In this chapter:

(1) Abducted child

The term "abducted child" means a child who is the victim of international child abduction.

(2) Abduction

The term "abduction" means the alleged wrongful removal of a child from the child's country of habitual residence, or the wrongful retention of a child outside such country, in violation of a left-behind parent's custodial rights, including the rights of a military parent.

(3) Abduction case

The term "abduction case" means a case that—

(A) has been reported to the Central Authority of the United States by a left-behind parent for the resolution of an abduction; and

(B) meets the criteria for an international child abduction under the Hague Abduction Convention, regardless of whether the country at issue is a Convention country.

(4) Access case

The term "access case" means a case involving an application filed with the Central Authority of the United States by a parent seeking rights of access.

(5) Annual Report

The term "Annual Report" means the Annual Report on International Child Abduction required under section 9111 of this title.

(6) Application

The term "application" means—

(A) in the case of a Convention country, the application required pursuant to article 8 of the Hague Abduction Convention;

(B) in the case of a bilateral procedures country, the formal document required, pursuant to the provisions of the applicable arrangement, to request the return of an abducted child or to request rights of access, as applicable; and

(C) in the case of a non-Convention country, the formal request by the Central Authority of the United States to the Central Authority of such country requesting the return of an abducted child or for rights of contact with an abducted child.

(7) Appropriate congressional committees

The term "appropriate congressional committees" means the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives.

(8) Bilateral procedures

The term "bilateral procedures" means any procedures established by, or pursuant to, a bilateral arrangement, including a Memorandum of Understanding between the United States and another country, to resolve abduction and access cases, including procedures to address interim contact matters.

(9) Bilateral procedures country

The term "bilateral procedures country" means a country with which the United States has entered into bilateral procedures, including Memoranda of Understanding, with respect to child abductions.

(10) Central Authority

The term "Central Authority" means—

(A) in the case of a Convention country, the meaning given such term in article 6 of the Hague Abduction Convention;

(B) in the case of a bilateral procedures country, the official entity designated by the government of the bilateral procedures country within the applicable memorandum of

understanding pursuant to section 9113(b)(1) of this title to discharge the duties imposed on the entity; and

(C) in the case of a non-Convention country, the foreign ministry or other appropriate authority of such country.

(11) Child

The term "child" means an individual who has not attained 16 years of age.

(12) Convention country

The term "Convention country" means a country for which the Hague Abduction Convention has entered into force with respect to the United States.

(13) Hague Abduction Convention

The term "Hague Abduction Convention" means the Convention on the Civil Aspects of International Child Abduction, done at The Hague October 25, 1980.

(14) Interim contact

The term "interim contact" means the ability of a left-behind parent to communicate with or visit an abducted child during the pendency of an abduction case.

(15) Left-behind parent

The term "left-behind parent" means an individual or legal custodian who alleges that an abduction has occurred that is in breach of rights of custody attributed to such individual.

(16) Non-Convention country

The term "non-Convention country" means a country in which the Hague Abduction Convention has not entered into force with respect to the United States.

(17) Overseas military dependent child

The term "overseas military dependent child" means a child whose habitual residence is the United States according to United States law even though the child is residing outside the United States with a military parent.

(18) Overseas military parent

The term "overseas military parent" means an individual who—

(A) has custodial rights with respect to a child; and

(B) is serving outside the United States as a member of the United States Armed Forces.

(19) Pattern of noncompliance

(A) In general

The term "pattern of noncompliance" means the persistent failure—

(i) of a Convention country to implement and abide by provisions of the Hague Abduction Convention;

(ii) of a non-Convention country to abide by bilateral procedures that have been established between the United States and such country; or

(iii) of a non-Convention country to work with the Central Authority of the United States to resolve abduction cases.

(B) Persistent failure

Persistent failure under subparagraph (A) may be evidenced in a given country by the presence of 1 or more of the following criteria:

(i) Thirty percent or more of the total abduction cases in such country are unresolved abduction cases.

(ii) The Central Authority regularly fails to fulfill its responsibilities pursuant to—

(I) the Hague Abduction Convention; or

(II) any bilateral procedures between the United States and such country.

(iii) The judicial or administrative branch, as applicable, of the national government of a Convention country or a bilateral procedures country fails to regularly implement and comply with the provisions of the Hague Abduction Convention or bilateral procedures, as applicable.

(iv) Law enforcement authorities regularly fail to enforce return orders or determinations of rights of access rendered by the judicial or administrative authorities of the government of the country in abduction cases.

(20) Rights of access

The term "rights of access" means the establishment of rights of contact between a child and a parent seeking access in Convention countries—

(A) by operation of law;

(B) through a judicial or administrative determination; or

(C) through a legally enforceable arrangement between the parties.

(21) Rights of custody

The term "rights of custody" means rights of care and custody of a child, including the right to determine the place of residence of a child, under the laws of the country in which the child is a habitual resident—

(A) attributed to an individual or legal custodian; and

(B) arising—

(i) by operation of law; or

(ii) through a judicial or administrative decision; or

(iii) through a legally enforceable arrangement between the parties.

(22) Rights of interim contact

The term "rights of interim contact" means the rights of contact between a child and a left-behind parent, which has been provided as a provisional measure while an abduction case is pending, under the laws of the country in which the child is located—

(A) by operation of law; or

(B) through a judicial or administrative determination; or

(C) through a legally enforceable arrangement between the parties.

(23) Unresolved abduction case

(A) In general

Subject to subparagraph (B), the term "unresolved abduction case" means an abduction case that remains unresolved for a period that exceeds 12 months after the date on which the completed application for return of the child is submitted for determination to the judicial or administrative authority, as applicable, in the country in which the child is located.

(B) Resolution of case

An abduction case shall be considered to be resolved if—

(i) the child is returned to the country of habitual residence, pursuant to the Hague Abduction Convention or other appropriate bilateral procedures, if applicable;

(ii) the judicial or administrative branch, as applicable, of the government of the country in which the child is located has implemented, and is complying with, the provisions of the Hague Abduction Convention or other bilateral procedures, as applicable;

(iii) the left-behind parent reaches a voluntary arrangement with the other parent;

(iv) the left-behind parent submits a written withdrawal of the application or the request for assistance to the Department of State;

(v) the left-behind parent cannot be located for 1 year despite the documented efforts of the Department of State to locate the parent; or

(vi) the child or left-behind parent is deceased.

(Pub. L. 113–150, §3, Aug. 8, 2014, 128 Stat. 1809.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 113–150, Aug. 8, 2014, 126 Stat. 1807, known as the Sean and David Goldman International Child Abduction Prevention and Return Act of 2014, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

SHORT TITLE

Pub. L. 113–150, §1(a), Aug. 8, 2014, 128 Stat. 1807, provided that: "This Act [enacting this chapter and section 241 of Title 6, Domestic Security, repealing section 11611 of Title 42, The Public Health and Welfare, and enacting provisions set out as a note under this section] may be cited as the 'Sean and David Goldman International Child Abduction Prevention and Return Act of 2014'."

FINDINGS; SENSE OF CONGRESS; PURPOSES

Pub. L. 113–150, §2, Aug. 8, 2014, 128 Stat. 1807, provided that:

"(a) FINDINGS.—Congress finds the following:

"(1) Sean Goldman, a United States citizen and resident of New Jersey, was abducted from the United States in 2004 and separated from his father, David Goldman, who spent nearly 6 years battling for the return of his son from Brazil before Sean was finally returned to Mr. Goldman's custody on December 24, 2009.

"(2) The Department of State's Office of Children's Issues, which serves as the Central Authority of the United States for the purposes of the 1980 Hague Convention on the Civil Aspects of International Child Abduction (referred to in this Act [see Short Title note above] as the 'Hague Abduction Convention'), has received thousands of requests since 2007 for assistance in the return to the United States of children who have been wrongfully abducted by a parent or other legal guardian to another country.

"(3) For a variety of reasons reflecting the significant obstacles to the recovery of abducted children, as well as the legal and factual complexity involving such cases, not all cases are reported to the Central Authority of the United States.

"(4) More than 1,000 outgoing international child abductions are reported every year to the Central Authority of the United States, which depends solely on proactive reporting of abduction cases.

"(5) Only about one-half of the children abducted from the United States to countries with which the United States enjoys reciprocal obligations under the Hague Abduction Convention are returned to the United States.

"(6) The United States and other Convention countries have expressed their desire, through the Hague Abduction Convention, 'to protect children internationally from the harmful effects of their wrongful removal or retention and to establish procedures to ensure their prompt return to the State of their habitual residence, as well as to secure protection for rights of access.'

"(7) Compliance by the United States and other Convention countries depends on the actions of their designated central authorities, the performance of their judicial systems as reflected in the legal process and decisions rendered to enforce or effectuate the Hague Abduction Convention, and the ability and willingness of their law enforcement authorities to ensure the swift enforcement of orders rendered pursuant to the Hague Abduction Convention.

"(8) According to data from the Department of State, approximately 40 percent of abduction cases involve children taken from the United States to countries with which the United States does not have reciprocal obligations under the Hague Abduction Convention or other arrangements relating to the resolution of abduction cases.

"(9) According to the Department of State's April 2010 Report on Compliance with the Hague Convention on the Civil Aspects of International Child Abduction, 'parental child abduction jeopardizes the child and has substantial long-term consequences for both the child and the left-behind parent.'

"(10) Few left-behind parents have the extraordinary financial resources necessary—

"(A) to pursue individual civil or criminal remedies in both the United States and a foreign country, even if such remedies are available; or

"(B) to engage in repeated foreign travel to attempt to obtain the return of their children through diplomatic or other channels.

"(11) Military parents often face additional complications in resolving abduction cases because of the challenges presented by their military obligations.

"(12) In addition to using the Hague Abduction Convention to achieve the return of abducted children, the United States has an array of Federal, State, and local law enforcement, criminal justice, and judicial tools at its disposal to prevent international abductions.

"(13) Federal agencies tasked with preventing international abductions have indicated that the most effective way to stop international child abductions is while they are in progress, rather than after the child has been removed to a foreign destination.

"(14) Parental awareness of abductions in progress, rapid response by relevant law enforcement, and effective coordination among Federal, State, local, and international stakeholders are critical in preventing such abductions.

"(15) A more robust application of domestic tools, in cooperation with international law enforcement entities and appropriate application of the Hague Abduction Convention could—

"(A) discourage some parents from attempting abductions;

"(B) block attempted abductions at ports of exit; and

"(C) help achieve the return of more abducted children.

"(b) SENSE OF CONGRESS.—It is the sense of Congress that the United States should set a strong example for other Convention countries in the timely location and prompt resolution of cases involving children abducted abroad and brought to the United States.

"(c) PURPOSES.—The purposes of this Act [see Short Title note above] are—

"(1) to protect children whose habitual residence is the United States from wrongful abduction;

"(2) to assist left-behind parents in quickly resolving cases and maintaining safe and predictable contact with their child while an abduction case is pending;

"(3) to protect the custodial rights of parents, including military parents, by providing the parents, the judicial system, and law enforcement authorities with the information they need to prevent unlawful abduction before it occurs;

"(4) to enhance the prompt resolution of abduction and access cases;

"(5) to detail an appropriate set of actions to be undertaken by the Secretary of State to address persistent problems in the resolution of abduction cases;

"(6) to establish a program to prevent wrongful abductions; and

"(7) to increase interagency coordination in preventing international child abduction by convening a working group composed of presidentially appointed and Senate confirmed officials from the Department of State, the Department of Homeland Security, and the Department of Justice."

SUBCHAPTER I—DEPARTMENT OF STATE ACTIONS

§9111. Annual Report

(a) In general

Not later than April 30 of each year, the Secretary of State shall submit to the appropriate congressional committees an Annual Report on International Child Abduction. The Secretary shall post the Annual Report to the publicly accessible website of the Department of State.

(b) Contents

Each Annual Report shall include—

(1) a list of all countries in which there were 1 or more abduction cases, during the preceding calendar year, relating to a child whose habitual residence is the United States, including a description of whether each such country—

(A) is a Convention country;

(B) is a bilateral procedures country;

(C) has other procedures for resolving such abductions; or

(D) adheres to no protocols with respect to child abduction;

(2) for each country with respect to which there were 5 or more pending abduction cases, during the preceding year, relating to a child whose habitual residence is the United States—

(A) the number of such new abduction and access cases reported during the preceding year;

(B) for Convention and bilateral procedures countries—

(i) the number of abduction and access cases that the Central Authority of the United States

transmitted to the Central Authority of such country; and

(ii) the number of abduction and access cases that were not submitted by the Central Authority to the judicial or administrative authority, as applicable, of such country;

(C) the reason for the delay in submission of each case identified in subparagraph (B)(ii) by the Central Authority of such country to the judicial or administrative authority of that country;

(D) the number of unresolved abduction and access cases, and the length of time each case has been pending;

(E) the number and percentage of unresolved abduction cases in which law enforcement authorities have—

(i) not located the abducted child;

(ii) failed to undertake serious efforts to locate the abducted child; and

(iii) failed to enforce a return order rendered by the judicial or administrative authorities of such country;

(F) the total number and the percentage of the total number of abduction and access cases, respectively, resolved during the preceding year;

(G) recommendations to improve the resolution of abduction and access cases; and

(H) the average time it takes to locate a child;

(3) the number of abducted children whose habitual residence is in the United States and who were returned to the United States from—

(A) Convention countries;

(B) bilateral procedures countries;

(C) countries having other procedures for resolving such abductions; or

(D) countries adhering to no protocols with respect to child abduction;

(4) a list of Convention countries and bilateral procedures countries that have failed to comply with any of their obligations under the Hague Abduction Convention or bilateral procedures, as applicable, with respect to the resolution of abduction and access cases;

(5) a list of countries demonstrating a pattern of noncompliance and a description of the criteria on which the determination of a pattern of noncompliance for each country is based;

(6) information on efforts by the Secretary of State to encourage non-Convention countries—

(A) to ratify or accede to the Hague Abduction Convention;

(B) to enter into or implement other bilateral procedures, including memoranda of understanding, with the United States; and

(C) to address pending abduction and access cases;

(7) the number of cases resolved without abducted children being returned to the United States from Convention countries, bilateral procedures countries, or other non-Convention countries;

(8) a list of countries that became Convention countries with respect to the United States during the preceding year; and

(9) information about efforts to seek resolution of abduction cases of children whose habitual residence is in the United States and whose abduction occurred before the Hague Abduction Convention entered into force with respect to the United States.

(c) Exceptions

Unless a left-behind parent provides written permission to the Central Authority of the United States to include personally identifiable information about the parent or the child in the Annual Report, the Annual Report may not include any personally identifiable information about any such parent, child, or party to an abduction or access case involving such parent or child.

(d) Additional sections

Each Annual Report shall also include—

(1) information on the number of unresolved abduction cases affecting military parents;

(2) a description of the assistance offered to such military parents;

(3) information on the use of airlines in abductions, voluntary airline practices to prevent abductions, and recommendations for best airline practices to prevent abductions;

(4) information on actions taken by the Central Authority of the United States to train domestic judges in the application of the Hague Abduction Convention; and

(5) information on actions taken by the Central Authority of the United States to train United States Armed Forces legal assistance personnel, military chaplains, and military family support center personnel about—

(A) abductions;

(B) the risk of loss of contact with children; and

(C) the legal means available to resolve such cases.

(e) Omitted

(f) Notification to Congress on countries in noncompliance

(1) In general

The Secretary of State shall include, in a separate section of the Annual Report, the Secretary's determination, pursuant to the provisions under section 9122(b) of this title, of whether each country listed in the report has engaged in a pattern of noncompliance in cases of child abduction during the preceding 12 months.

(2) Contents

The section described in paragraph (1)—

(A) shall identify any action or actions described in section 9122(d) of this title (or commensurate action as provided in section 9122(e) of this title) that have been taken by the Secretary with respect to each country;

(B) shall describe the basis for the Secretary's determination of the pattern of noncompliance by each country;

(C) shall indicate whether noneconomic policy options designed to resolve the pattern of noncompliance have reasonably been exhausted, including the consultations required under section 9123 of this title.

(Pub. L. 113–150, title I, §101, Aug. 8, 2014, 128 Stat. 1813.)

CODIFICATION

Section is comprised of section 101 of Pub. L. 113–150. Subsec. (e) of section 101 of Pub. L. 113–150 repealed section 11611 of Title 42, The Public Health and Welfare.

§9112. Standards and assistance

The Secretary of State shall—

(1) ensure that United States diplomatic and consular missions abroad—

(A) maintain a consistent reporting standard with respect to abduction and access cases;

(B) designate at least 1 senior official in each such mission, at the discretion of the Chief of Mission, to assist left-behind parents from the United States who are visiting such country or otherwise seeking to resolve abduction or access cases; and

(C) monitor developments in abduction and access cases; and

(2) develop and implement written strategic plans for engagement with any Convention or non-Convention country in which there are 5 or more cases of international child abduction.

(Pub. L. 113–150, title I, §102, Aug. 8, 2014, 128 Stat. 1815.)

§9113. Bilateral procedures, including memoranda of understanding

(a) Development

(1) In general

Not later than 180 days after August 8, 2014, the Secretary of State shall initiate a process to develop and enter into appropriate bilateral procedures, including memoranda of understanding, as appropriate, with non-Convention countries that are unlikely to become Convention countries in the foreseeable future, or with Convention countries that have unresolved abduction cases that occurred before the Hague Abduction Convention entered into force with respect to the United States or that country.

(2) Prioritization

In carrying out paragraph (1), the Secretary of State shall give priority to countries with significant abduction cases and related issues.

(b) Elements

The bilateral procedures described in subsection (a) should include provisions relating to—

(1) the identification of—

(A) the Central Authority;

(B) the judicial or administrative authority that will promptly adjudicate abduction and access cases;

(C) the law enforcement agencies; and

(D) the implementation of procedures to ensure the immediate enforcement of an order issued by the authority identified pursuant to subparagraph (B) to return an abducted child to a left-behind parent, including by—

(i) conducting an investigation to ascertain the location of the abducted child;

(ii) providing protection to the abducted child after such child is located; and

(iii) retrieving the abducted child and making the appropriate arrangements for such child to be returned to the child's country of habitual residence;

(2) the implementation of a protocol to effectuate the return of an abducted child identified in an abduction case not later than 6 weeks after the application with respect to the abduction case has been submitted to the judicial or administrative authority, as applicable, of the country in which the abducted child is located;

(3) the implementation of a protocol for the establishment and protection of the rights of interim contact during pendency of abduction cases; and

(4) the implementation of a protocol to establish periodic visits between a United States embassy or consular official and an abducted child, in order to allow the official to ascertain the child's location and welfare.

(Pub. L. 113–150, title I, §103, Aug. 8, 2014, 128 Stat. 1815.)

§9114. Report to congressional representatives

(a) Notification

The Secretary of State shall submit written notification to the Member of Congress and Senators, or Resident Commissioner or Delegate, as appropriate, representing the legal residence of a left-behind parent if such parent—

(1) reports an abduction to the Central Authority of the United States; and

(2) consents to such notification.

(b) Timing

At the request of any person who is a left-behind parent, including a left-behind parent who previously reported an abduction to the Central Authority of the United States before August 8,

2014, the notification required under subsection (a) shall be provided as soon as is practicable.
(Pub. L. 113–150, title I, §104, Aug. 8, 2014, 128 Stat. 1816.)

SUBCHAPTER II—ACTIONS BY THE SECRETARY OF STATE

§9121. Response to international child abductions

(a) United States policy

It is the policy of the United States—

(1) to promote the best interest of children wrongfully abducted from the United States by—

(A) establishing legal rights and procedures for their prompt return; and

(B) ensuring the enforcement of reciprocal international obligations under the Hague Abduction Convention or arrangements under bilateral procedures;

(2) to promote the timely resolution of abduction cases through 1 or more of the actions described in section 9122 of this title; and

(3) to ensure appropriate coordination within the Federal Government and between Federal, State, and local agencies involved in abduction prevention, investigation, and resolution.

(b) Actions by the Secretary of State in response to unresolved cases

(1) Determination of action by the Secretary of State

For each abduction or access case relating to a child whose habitual residence is in the United States that remains pending or is otherwise unresolved on the date that is 12 months after the date on which the Central Authority of the United States submits such case to a foreign country, the Secretary of State shall determine whether the government of such foreign country has failed to take appropriate steps to resolve the case. If the Secretary of State determines that such failure occurred, the Secretary should, as expeditiously as practicable—

(A) take 1 or more of the actions described in subsections (d) and (e) of section 9122 of this title; and

(B) direct the Chief of Mission in that foreign country to directly address the resolution of the case with senior officials in the foreign government.

(2) Authority for delay of action by the Secretary of State

The Secretary of State may delay any action described in paragraph (1) if the Secretary determines that an additional period of time, not to exceed 1 year, will substantially assist in resolving the case.

(3) Report

If the Secretary of State delays any action pursuant to paragraph (2) or decides not to take an action described in subsection (d) or (e) of section 9122 of this title after making the determination described in paragraph (1), the Secretary, not later than 15 days after such delay or decision, shall provide a report to the appropriate congressional committees that details the reasons for delaying action or not taking action, as appropriate.

(4) Congressional briefings

At the request of the appropriate congressional committees, the Secretary of State shall provide a detailed briefing, including a written report, if requested, on actions taken to resolve a case or the cause for delay.

(c) Implementation

(1) In general

In carrying out subsection (b), the Secretary of State should—

(A) take 1 or more actions that most appropriately respond to the nature and severity of the governmental failure to resolve the unresolved abduction case; and

(B) seek, to the fullest extent possible—

(i) to initially respond by communicating with the Central Authority of the country; and

(ii) if clause (i) is unsuccessful, to target subsequent actions—

(I) as narrowly as practicable, with respect to the agencies or instrumentalities of the foreign government that are responsible for such failures; and

(II) in ways that respect the separation of powers and independence of the judiciary of the country, as applicable.

(2) Guidelines for actions by the Secretary of State

In addition to the guidelines under paragraph (1), the Secretary of State, in determining whether to take 1 or more actions under paragraphs (5) through (7) of section 9122(d) of this title or section 9122(e) of this title, shall seek to minimize any adverse impact on—

(A) the population of the country whose government is targeted by the action or actions;

(B) the humanitarian activities of United States and nongovernmental organizations in the country; and

(C) the national security interests of the United States.

(Pub. L. 113–150, title II, §201, Aug. 8, 2014, 128 Stat. 1817.)

§9122. Actions by the Secretary of State in response to patterns of noncompliance in cases of international child abductions

(a) Response to a pattern of noncompliance

It is the policy of the United States—

(1) to oppose institutional or other systemic failures of foreign governments to fulfill their obligations pursuant to the Hague Abduction Convention or bilateral procedures, as applicable, to resolve abduction and access cases;

(2) to promote reciprocity pursuant to, and in compliance with, the Hague Abduction Convention or bilateral procedures, as appropriate; and

(3) to directly engage with senior foreign government officials to most effectively address patterns of noncompliance.

(b) Determination of countries with patterns of noncompliance in cases of international child abduction

(1) Annual review

Not later than April 30 of each year, the Secretary of State shall—

(A) review the status of abduction and access cases in each foreign country in order to determine whether the government of such country has engaged in a pattern of noncompliance during the preceding 12 months; and

(B) report such determination pursuant to section 9111(f) of this title.

(2) Determinations of responsible parties

The Secretary of State shall seek to determine the agencies or instrumentalities of the government of each country determined to have engaged in a pattern of noncompliance under paragraph (1)(A) that are responsible for such pattern of noncompliance—

(A) to appropriately target actions in response to such noncompliance; and

(B) to engage with senior foreign government officials to effectively address such noncompliance.

(c) Actions by the Secretary of State with respect to a country with a pattern of noncompliance

(1) In general

Not later than 90 days (or 180 days in case of a delay under paragraph (2)) after a country is determined to have been engaged in a pattern of noncompliance under subsection (b)(1)(A), the Secretary of State shall—

(A) take 1 or more of the actions described in subsection (d);

(B) direct the Chief of Mission in that country to directly address the systemic problems that led to such determination; and

(C) inform senior officials in the foreign government of the potential repercussions related to such designation.

(2) Authority for delay of actions by the Secretary of State

The Secretary shall not be required to take action under paragraph (1) until the expiration of a single, additional period of up to 90 days if, on or before the date on which the Secretary of State is required to take such action, the Secretary determines and certifies to the appropriate congressional committees that such additional period is necessary—

(A) for a continuation of negotiations that have been commenced with the government of a country described in paragraph (1) in order to bring about a cessation of the pattern of noncompliance by such country;

(B) for a review of corrective action taken by a country after the designation of such country as being engaged in a pattern of noncompliance under subsection (b)(1)(A); or

(C) in anticipation that corrective action will be taken by such country during such 90-day period.

(3) Exception for additional action by the Secretary of State

The Secretary of State shall not be required to take additional action under paragraph (1) with respect to a country determined to have been engaged in a persistent pattern of noncompliance if the Secretary—

(A) has taken action pursuant to paragraph (5), (6), or (7) of subsection (d) with respect to such country in the preceding year and such action continues to be in effect;

(B) exercises the waiver under section 9124 of this title and briefs the appropriate congressional committees; or

(C) submits a report to the appropriate congressional committees that—

(i) indicates that such country is subject to multiple, broad-based sanctions; and

(ii) describes how such sanctions satisfy the requirements under this subsection.

(4) Report to Congress

Not later than 90 days after the submission of the Annual Report, the Secretary shall submit a report to Congress on the specific actions taken against countries determined to have been engaged in a pattern of noncompliance under this section.

(d) Description of actions by the Secretary of State in Hague Abduction Convention countries

Except as provided in subsection (f), the actions by the Secretary of State referred to in this subsection are—

(1) a demarche;

(2) an official public statement detailing unresolved cases;

(3) a public condemnation;

(4) a delay or cancellation of 1 or more bilateral working, official, or state visits;

(5) the withdrawal, limitation, or suspension of United States development assistance in accordance with section 116 of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n);

(6) the withdrawal, limitation, or suspension of United States security assistance in accordance with section 502B of the Foreign Assistance Act of 1961 (22 U.S.C. 2304);

(7) the withdrawal, limitation, or suspension of assistance to the central government of a country pursuant to chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 et seq.; relating to the Economic Support Fund); and

(8) a formal request to the foreign country concerned to extradite an individual who is engaged in abduction and who has been formally accused of, charged with, or convicted of an extraditable

offense.

(e) Commensurate action

(1) In general

Except as provided in subsection (f), the Secretary of State may substitute any other action authorized by law for any action described in subsection (d) if the Secretary determines that such action—

(A) is commensurate in effect to the action substituted; and

(B) would substantially further the purposes of this chapter.

(2) Notification

If commensurate action is taken pursuant to this subsection, the Secretary shall submit a report to the appropriate congressional committees that—

(A) describes such action;

(B) explains the reasons for taking such action; and

(C) specifically describes the basis for the Secretary's determination under paragraph (1) that such action—

(i) is commensurate with the action substituted; and

(ii) substantially furthers the purposes of this chapter.

(f) Resolution

The Secretary of State shall seek to take all appropriate actions authorized by law to resolve the unresolved case or to obtain the cessation of such pattern of noncompliance, as applicable.

(g) Humanitarian exception

Any action taken pursuant to subsection (d) or (e) may not prohibit or restrict the provision of medicine, medical equipment or supplies, food, or other life-saving humanitarian assistance.

(Pub. L. 113–150, title II, §202, Aug. 8, 2014, 128 Stat. 1818.)

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsec. (d)(7), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424. Chapter 4 of part II of the Act is classified generally to part IV (§2346 et seq.) of subchapter II of chapter 32 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

This chapter, referred to in subsec. (e)(1)(B), (2)(C)(ii), was in the original "this Act", meaning Pub. L. 113–150, Aug. 8, 2014, 126 Stat. 1807, known as the Sean and David Goldman International Child Abduction Prevention and Return Act of 2014, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 9101 of this title and Tables.

§9123. Consultations with foreign governments

As soon as practicable after the Secretary of State makes a determination under section 9121 of this title in response to a failure to resolve unresolved abduction cases or the Secretary takes an action under subsection (d) or (e) of section 9122 of this title, based on a pattern of noncompliance, the Secretary shall request consultations with the government of such country regarding the situation giving rise to such determination.

(Pub. L. 113–150, title II, §203, Aug. 8, 2014, 128 Stat. 1820.)

§9124. Waiver by the Secretary of State

(a) In general

Subject to subsection (b), the Secretary of State may waive the application of any of the actions described in subsections (d) and (e) of section 9122 of this title with respect to a country if the

Secretary determines and notifies the appropriate congressional committees that—

(1) the government of such country—

(A) has satisfactorily resolved the abduction cases giving rise to the application of any of such actions; or

(B) has ended such country's pattern of noncompliance; or

(2) the national security interest of the United States requires the exercise of such waiver authority.

(b) Congressional notification

Not later than the date on which the Secretary of State exercises the waiver authority under subsection (a), the Secretary shall—

(1) notify the appropriate congressional committees of such waiver; and

(2) provide such committees with a detailed justification for such waiver, including an explanation of the steps the noncompliant government has taken—

(A) to resolve abductions cases; or

(B) to end its pattern of noncompliance.

(c) Publication in Federal Register

Subject to subsection (d), the Secretary of State shall ensure that each waiver determination under this section—

(1) is published in the Federal Register; or

(2) is posted on the Department of State website.

(d) Limited disclosure of information

The Secretary of State may limit the publication of information under subsection (c) in the same manner and to the same extent as the President may limit the publication of findings and determinations described in section 2414(c) of this title, if the Secretary determines that the publication of such information would be harmful to the national security of the United States and would not further the purposes of this chapter.

(Pub. L. 113–150, title II, §204, Aug. 8, 2014, 128 Stat. 1821.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (d), was in the original "this Act", meaning Pub. L. 113–150, Aug. 8, 2014, 126 Stat. 1807, known as the Sean and David Goldman International Child Abduction Prevention and Return Act of 2014, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 9101 of this title and Tables.

§9125. Termination of actions by the Secretary of State

Any specific action taken under this Act or any amendment made by this Act with respect to a foreign country shall terminate on the date on which the Secretary of State submits a written certification to Congress that the government of such country—

(1) has resolved any unresolved abduction case that gave rise to such specific action; or

(2) has taken substantial and verifiable steps to correct such country's persistent pattern of noncompliance that gave rise to such specific action, as applicable.

(Pub. L. 113–150, title II, §205, Aug. 8, 2014, 128 Stat. 1821.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 113–150, Aug. 8, 2014, 126 Stat. 1807, known as the Sean and David Goldman International Child Abduction Prevention and Return Act of 2014, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 9101 of this title and Tables.

SUBCHAPTER III—PREVENTION OF INTERNATIONAL CHILD ABDUCTION

§9141. Authorization for judicial training on international parental child abduction

(a) In general

The Secretary of State, subject to the availability of appropriations, shall seek to provide training, directly or through another government agency or nongovernmental organizations, on the effective handling of parental abduction cases to the judicial and administrative authorities in countries—

(1) in which a significant number of unresolved abduction cases are pending; or

(2) that have been designated as having a pattern of noncompliance under section 9122(b) of this title.

(b) Strategy requirement

Not later than 180 days after August 8, 2014, the President shall submit a strategy to carry out the activities described in subsection (a) to—

(1) the Committee on Foreign Relations of the Senate;

(2) the Committee on Foreign Affairs of the House of Representatives;

(3) the Committee on Appropriations of the Senate; and

(4) the Committee on Appropriations of the House of Representatives.

(c) Authorization of appropriations

(1) In general

There is authorized to be appropriated to the Secretary of State $1,000,000 for each of the fiscal years 2015 and 2016 to carry out subsection (a).

(2) Use of funds

Amounts appropriated for the activities set forth in subsection (a) shall be used pursuant to the authorization and requirements under this section.

(Pub. L. 113–150, title III, §302, Aug. 8, 2014, 128 Stat. 1822.)

DELEGATION OF AUTHORITY PURSUANT TO SECTION 302(B) OF THE SEAN AND DAVID GOLDMAN INTERNATIONAL CHILD ABDUCTION PREVENTION AND RETURN ACT OF 2014

Memorandum of President of the United States, May 7, 2015, 80 F.R. 32849, provided:

Memorandum for the Secretary of State

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, I hereby delegate the functions and authorities vested in the President by section 302(b) of the Sean and David Goldman International Child Abduction Prevention and Return Act of 2014 (Public Law 113–150) (the "Act"), to the Secretary of State.

Any reference in this memorandum to the Act shall be deemed to be a reference to any future act that is the same or substantially the same as such provision.

You are authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

CHAPTER 99—NORTH KOREA SANCTIONS AND POLICY ENHANCEMENT

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§9201. Findings; purposes

(a) Findings

Congress finds the following:

(1) The Government of North Korea—

(A) has repeatedly violated its commitments to the complete, verifiable, and irreversible dismantlement of its nuclear weapons programs; and

(B) has willfully violated multiple United Nations Security Council resolutions calling for North Korea to cease development, testing, and production of weapons of mass destruction.

(2) Based on its past actions, including the transfer of sensitive nuclear and missile technology to state sponsors of terrorism, North Korea poses a grave risk for the proliferation of nuclear weapons and other weapons of mass destruction.

(3) The Government of North Korea has been implicated repeatedly in money laundering and other illicit activities, including—

(A) prohibited arms sales;

(B) narcotics trafficking;

(C) the counterfeiting of United States currency;
(D) significant activities undermining cybersecurity; and
(E) the counterfeiting of intellectual property of United States persons.

(4) North Korea has—
(A) unilaterally withdrawn from the Agreement Concerning a Military Armistice in Korea, signed at Panmunjom July 27, 1953 (commonly referred to as the "Korean War Armistice Agreement"); and
(B) committed provocations against South Korea—
(i) by sinking the warship *Cheonan* and killing 46 of her crew on March 26, 2010;
(ii) by shelling Yeonpyeong Island and killing 4 South Korean civilians on November 23, 2010;
(iii) by its involvement in the "DarkSeoul" cyberattacks against the financial and communications interests of South Korea on March 20, 2013; and
(iv) by planting land mines near a guard post in the South Korean portion of the demilitarized zone that maimed 2 South Korean soldiers on August 4, 2015.

(5) North Korea maintains a system of brutal political prison camps that contain as many as 200,000 men, women, and children, who are—
(A) kept in atrocious living conditions with insufficient food, clothing, and medical care; and
(B) under constant fear of torture or arbitrary execution.

(6) North Korea has prioritized weapons programs and the procurement of luxury goods—
(A) in defiance of United Nations Security Council Resolutions 1695 (2006), 1718 (2006), 1874 (2009), 2087 (2013), and 2094 (2013); and
(B) in gross disregard of the needs of the people of North Korea.

(7) Persons, including financial institutions, who engage in transactions with, or provide financial services to, the Government of North Korea and its financial institutions without establishing sufficient financial safeguards against North Korea's use of such transactions to promote proliferation, weapons trafficking, human rights violations, illicit activity, and the purchase of luxury goods—
(A) aid and abet North Korea's misuse of the international financial system; and
(B) violate the intent of the United Nations Security Council resolutions referred to in paragraph (6)(A).

(8) The Government of North Korea has provided technical support and conducted destructive and coercive cyberattacks, including against Sony Pictures Entertainment and other United States persons.
(9) The conduct of the Government of North Korea poses an imminent threat to—
(A) the security of the United States and its allies;
(B) the global economy;
(C) the safety of members of the United States Armed Forces;
(D) the integrity of the global financial system;
(E) the integrity of global nonproliferation programs; and
(F) the people of North Korea.

(10) The Government of North Korea has sponsored acts of international terrorism, including—
(A) attempts to assassinate defectors and human rights activists; and
(B) the shipment of weapons to terrorists and state sponsors of terrorism.

(b) Purposes

The purposes of this chapter are—
(1) to use nonmilitary means to address the crisis described in subsection (a);

(2) to provide diplomatic leverage to negotiate necessary changes in the conduct of the Government of North Korea;

(3) to ease the suffering of the people of North Korea; and

(4) to reaffirm the purposes set forth in section 7802 of this title.

(Pub. L. 114–122, §2, Feb. 18, 2016, 130 Stat. 94.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original "this Act", meaning Pub. L. 114–122, Feb. 18, 2016, 130 Stat. 93, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note below and Tables.

EFFECTIVE DATE

Pub. L. 114–122, title IV, §406, Feb. 18, 2016, 130 Stat. 116, provided that: "Except as otherwise provided in this Act, this Act [see Short Title note below] and the amendments made by this Act shall take effect on the date of the enactment of this Act [Feb. 18, 2016]."

SHORT TITLE

Pub. L. 114–122, §1(a), Feb. 18, 2016, 130 Stat. 93, provided that: "This Act [enacting this chapter and amending section 7814 of this title and sections 981, 983, and 1956 of Title 18, Crimes and Criminal Procedure] may be cited as the 'North Korea Sanctions and Policy Enhancement Act of 2016'."

§9202. Definitions

In this chapter:

(1) Applicable Executive order

The term "applicable Executive order" means—

(A) Executive Order 13382 (50 U.S.C. 1701 note; relating to blocking property of weapons of mass destruction proliferators and their supporters), Executive Order 13466 (50 U.S.C. 1701 note; relating to continuing certain restrictions with respect to North Korea and North Korean nationals), Executive Order 13551 (50 U.S.C. 1701 note; relating to blocking property of certain persons with respect to North Korea), Executive Order 13570 (50 U.S.C. 1701 note; relating to prohibiting certain transactions with respect to North Korea), Executive Order 13619 (50 U.S.C. 1701 note; relating to blocking property of persons threatening the peace, security, or stability of Burma), Executive Order 13687 (50 U.S.C. 1701 note; relating to imposing additional sanctions with respect to North Korea), or Executive Order 13694 (50 U.S.C. 1701 note; relating to blocking the property of certain persons engaging in significant malicious cyber-enabled activities), to the extent that such Executive order—

(i) authorizes the imposition of sanctions on persons for conduct with respect to North Korea;

(ii) prohibits transactions or activities involving the Government of North Korea; or

(iii) otherwise imposes sanctions with respect to North Korea; and

(B) any Executive order adopted on or after February 18, 2016, to the extent that such Executive order—

(i) authorizes the imposition of sanctions on persons for conduct with respect to North Korea;

(ii) prohibits transactions or activities involving the Government of North Korea; or

(iii) otherwise imposes sanctions with respect to North Korea.

(2) Applicable United Nations Security Council resolution

The term "applicable United Nations Security Council resolution" means—

(A) United Nations Security Council Resolution 1695 (2006), 1718 (2006), 1874 (2009), 2087 (2013), or 2094 (2013); and

(B) any United Nations Security Council resolution adopted on or after February 18, 2016,

that—

(i) authorizes the imposition of sanctions on persons for conduct with respect to North Korea;

(ii) prohibits transactions or activities involving the Government of North Korea; or

(iii) otherwise imposes sanctions with respect to North Korea.

(3) Appropriate congressional committees

The term "appropriate congressional committees" means—

(A) the Committee on Foreign Relations and the Committee on Banking, Housing, and Urban Affairs of the Senate; and

(B) the Committee on Foreign Affairs, the Committee on Financial Services, and the Committee on Ways and Means of the House of Representatives.

(4) Designated person

The term "designated person" means a person designated under subsection (a) or (b) of section 9214 of this title for purposes of applying 1 or more of the sanctions described in subchapter I or II with respect to the person.

(5) Government of North Korea

The term "Government of North Korea" means the Government of North Korea and its agencies, instrumentalities, and controlled entities.

(6) Humanitarian assistance

The term "humanitarian assistance" means assistance to meet humanitarian needs, including needs for food, medicine, medical supplies, clothing, and shelter.

(7) Intelligence community

The term "intelligence community" has the meaning given such term in section 3003(4) of title 50.

(8) Luxury goods

The term "luxury goods"—

(A) has the meaning given such term in section 746.4(b)(1) of title 15, Code of Federal Regulations; and

(B) includes the items listed in Supplement No. 1 to part 746 of such title, and any similar items.

(9) Monetary instruments

The term "monetary instruments" has the meaning given such term in section 5312(a) of title 31.

(10) North Korea

The term "North Korea" means the Democratic People's Republic of Korea.

(11) North Korean financial institution

The term "North Korean financial institution" means any financial institution that—

(A) is organized under the laws of North Korea or any jurisdiction within North Korea (including a foreign branch of such an institution);

(B) is located in North Korea, except for a financial institution that is excluded by the President in accordance with section 9228(c) of this title;

(C) is owned or controlled by the Government of North Korea, regardless of location; or

(D) is owned or controlled by a financial institution described in subparagraph (A), (B), or (C), regardless of location.

(12) Significant activities undermining cybersecurity

The term "significant activities undermining cybersecurity" includes—

(A) significant efforts to—

(i) deny access to or degrade, disrupt, or destroy an information and communications technology system or network; or

(ii) exfiltrate information from such a system or network without authorization;

(B) significant destructive malware attacks;

(C) significant denial of service activities; and

(D) such other significant activities described in regulations promulgated to implement section 9214 of this title.

(13) South Korea

The term "South Korea" means the Republic of Korea.

(14) United States person

The term "United States person" means—

(A) a United States citizen or an alien lawfully admitted for permanent residence to the United States; or

(B) an entity organized under the laws of the United States or of any jurisdiction within the United States, including a foreign branch of such an entity.

(Pub. L. 114–122, §3, Feb. 18, 2016, 130 Stat. 95.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 114–122, Feb. 18, 2016, 130 Stat. 93, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of this title and Tables.

Subchapter I or II, referred to in par. (4), was in the original "title I or II", meaning titles I and II of Pub. L. 114–122. Title I is classified principally to subchapter I of this chapter. Title II is classified generally to subchapter II of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of this title and Tables.

SUBCHAPTER I—INVESTIGATIONS, PROHIBITED CONDUCT, AND PENALTIES

§9211. Statement of policy

In order to achieve the peaceful disarmament of North Korea, Congress finds that it is necessary—

(1) to encourage all member states of the United Nations to fully and promptly implement United Nations Security Council Resolution 2094 (2013);

(2) to sanction the persons, including financial institutions, that facilitate proliferation, illicit activities, arms trafficking, cyberterrorism, imports of luxury goods, serious human rights abuses, cash smuggling, and censorship by the Government of North Korea;

(3) to authorize the President to sanction persons who fail to exercise due diligence to ensure that such financial institutions and member states do not facilitate proliferation, arms trafficking, kleptocracy, or imports of luxury goods by the Government of North Korea;

(4) to deny the Government of North Korea access to the funds it uses to develop or obtain nuclear weapons, ballistic missiles, cyberwarfare capabilities, and luxury goods instead of providing for the needs of the people of North Korea; and

(5) to enforce sanctions in a manner that does not significantly hinder or delay the efforts of legitimate United States or foreign humanitarian organizations from providing assistance to meet the needs of civilians facing humanitarian crisis, including access to food, health care, shelter, and clean drinking water, to prevent or alleviate human suffering.

(Pub. L. 114–122, title I, §101, Feb. 18, 2016, 130 Stat. 98.)

§9212. Investigations

(a) Initiation

The President shall initiate an investigation into the possible designation of a person under section 9214(a) of this title upon receipt by the President of credible information indicating that such person has engaged in conduct described in section 9214(a) of this title.

(b) Personnel

The President may direct the Secretary of State, the Secretary of the Treasury, and the heads of other Federal departments and agencies as may be necessary to assign sufficient experienced and qualified investigators, attorneys, and technical personnel—

(1) to investigate the conduct described in subsections (a) and (b) of section 9214 of this title; and

(2) to coordinate and ensure the effective enforcement of this chapter.

(Pub. L. 114–122, title I, §102, Feb. 18, 2016, 130 Stat. 98.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b)(2), was in the original "this Act", meaning Pub. L. 114–122, Feb. 18, 2016, 130 Stat. 93, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of this title and Tables.

DELEGATION OF CERTAIN FUNCTIONS AND AUTHORITIES UNDER THE NORTH KOREA SANCTIONS AND POLICY ENHANCEMENT ACT OF 2016

Memorandum of President of the United States, May 18, 2016, 81 F.R. 37479, provided:

Memorandum for the Secretary of State[,] the Secretary of the Treasury[,] the Director of National Intelligence[, and] the Secretary of Commerce

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, I hereby order as follows:

I hereby delegate to the Secretary of State, in consultation with the Secretary of the Treasury, functions and authorities vested in the President by section 103(a) of the North Korea Sanctions and Policy Enhancement Act of 2016 (Public Law 114–122, 22 U.S.C. 9201 note [22 U.S.C. 9201 et seq.]) (the "Act").

I hereby delegate to the Secretary of State the functions and authorities vested in the President by sections 208(b), 208(c), 401(a), 401(b), and 402. These functions and authorities shall be executed in consultation with the Secretary of the Treasury when affecting actions undertaken by the Department of the Treasury pursuant to authorities delegated herein or pursuant to authorities conferred by the Act.

I hereby delegate to the Secretary of State the functions and authorities vested in the President by section 301 of the Act and direct the Secretary of State to develop, in coordination with other executive departments and agencies, as appropriate, the strategy described in section 202(c) of the Act.

I hereby delegate to the Secretary of the Treasury, in consultation with the Secretary of State, the functions and authorities vested in the President by sections 104(a), 104(b), 104(d), 209(b), and 304(b) of the Act.

I hereby delegate to the Secretary of the Treasury the functions and authorities vested in the President by sections 102(a), 104(c), 104(e), and 208(d) of the Act.

I hereby delegate to the Director of National Intelligence, in consultation with the Secretary of State, the functions and authorities vested in the President by section 205(a) of the Act.

I hereby delegate the functions and authorities vested in the President by section 209(a) as follows:

The Secretary of the Treasury, in consultation with the Secretary of State and the Director of National Intelligence, shall have the responsibility for submitting the report described in subsection 209(a)(1) and for providing the information described in subsections 209(a)(2)(A) and (B).

The Director of National Intelligence, in consultation with the Secretary of the Treasury and the Secretary of State, shall have the responsibility for providing the description of significant activities described by subsection 209(a)(1) and the assessment described in subsection 209(a)(2)(C).

The Secretary of State, in consultation with the Secretary of the Treasury and the Director of National Intelligence, shall have the responsibility for providing the strategy described in subsection 209(a)(2)(D).

I hereby delegate to the Secretary of State, the Secretary of the Treasury, the Secretary of Commerce, and the Director of National Intelligence the functions and authorities vested in the President by section 404(a) of the Act as may be necessary to carry out the provisions of the Act, including the foregoing delegations.

Any reference herein to provisions of any act related to the subject of this memorandum shall be deemed to include references to any hereafter-enacted provisions of law that are the same or substantially the same as such provisions.

The Secretary of State is authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

§9213. Reporting requirements

(a) Presidential briefings to Congress

Not later than 180 days after February 18, 2016, and periodically thereafter, the President shall provide a briefing to the appropriate congressional committees on efforts to implement this chapter.

(b) Report from Secretary of State

Not later than 180 days after February 18, 2016, the Secretary of State shall conduct, coordinate, and submit to Congress a comprehensive report on United States policy towards North Korea that—

(1) is based on a full and complete interagency review of current policies and possible alternatives, including with respect to North Korea's weapons of mass destruction and missile programs, human rights atrocities, and significant activities undermining cybersecurity; and

(2) includes recommendations for such legislative or administrative action as the Secretary considers appropriate based on the results of the review.

(Pub. L. 114–122, title I, §103, Feb. 18, 2016, 130 Stat. 98.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original "this Act", meaning Pub. L. 114–122, Feb. 18, 2016, 130 Stat. 93, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of this title and Tables.

DELEGATION OF FUNCTIONS

Functions and authorities of President under subsec. (a) of this section delegated to Secretary of State, in consultation with Secretary of the Treasury, by Memorandum of President of the United States, May 18, 2016, 81 F.R. 37479, set out as a note under section 9212 of this title.

§9214. Designation of persons

(a) Mandatory designations

Except as provided in section 9228 of this title, the President shall designate under this subsection any person that the President determines—

(1) knowingly, directly or indirectly, imports, exports, or reexports to, into, or from North Korea any goods, services, or technology controlled for export by the United States because of the use of such goods, services, or technology for weapons of mass destruction or delivery systems for such weapons and materially contributes to the use, development, production, possession, or acquisition by any person of a nuclear, radiological, chemical, or biological weapon or any device or system designed in whole or in part to deliver such a weapon;

(2) knowingly, directly or indirectly, provides training, advice, or other services or assistance, or engages in significant financial transactions, relating to the manufacture, maintenance, or use of any such weapon, device, or system to be imported, exported, or reexported to, into, or from North Korea;

(3) knowingly, directly or indirectly, imports, exports, or reexports luxury goods to or into North Korea;

(4) knowingly engages in, is responsible for, or facilitates censorship by the Government of North Korea;

(5) knowingly engages in, is responsible for, or facilitates serious human rights abuses by the Government of North Korea;

(6) knowingly, directly or indirectly, engages in money laundering, the counterfeiting of goods or currency, bulk cash smuggling, or narcotics trafficking that supports the Government of North Korea or any senior official or person acting for or on behalf of that Government;

(7) knowingly engages in significant activities undermining cybersecurity through the use of computer networks or systems against foreign persons, governments, or other entities on behalf of the Government of North Korea;

(8) knowingly, directly or indirectly, sells, supplies, or transfers to or from the Government of North Korea or any person acting for or on behalf of that Government, a significant amount of precious metal, graphite, raw or semi-finished metals or aluminum, steel, coal, or software, for use by or in industrial processes directly related to weapons of mass destruction and delivery systems for such weapons, other proliferation activities, the Korean Workers' Party, armed forces, internal security, or intelligence activities, or the operation and maintenance of political prison camps or forced labor camps, including outside of North Korea;

(9) knowingly, directly or indirectly, imports, exports, or reexports to, into, or from North Korea any arms or related materiel; or

(10) knowingly attempts to engage in any of the conduct described in paragraphs (1) through (9).

(b) Additional discretionary designations

(1) Prohibited conduct described

Except as provided in section 9228 of this title, the President may designate under this subsection any person that the President determines—

(A) knowingly engages in, contributes to, assists, sponsors, or provides financial, material or technological support for, or goods and services in support of, any person designated pursuant to an applicable United Nations Security Council resolution;

(B) knowingly contributed to—

(i) the bribery of an official of the Government of North Korea or any person acting for on behalf of that official;

(ii) the misappropriation, theft, or embezzlement of public funds by, or for the benefit of, an official of the Government of North Korea or any person acting for or on behalf of that official; or

(iii) the use of any proceeds of any activity described in clause (i) or (ii); or

(C) knowingly and materially assisted, sponsored, or provided significant financial, material, or technological support for, or goods or services to or in support of, the activities described in subparagraph (A) or (B).

(2) Effect of designation

With respect to any person designated under this subsection, the President may—

(A) apply the sanctions described in section 9224, 9225(c), or 9226 of this title to the person to the same extent and in the same manner as if the person were designated under subsection (a);

(B) apply any applicable special measures described in section 5318A of title 31;

(C) prohibit any transactions in foreign exchange—

(i) that are subject to the jurisdiction of the United States; and

(ii) in which such person has any interest; and

(D) prohibit any transfers of credit or payments between financial institutions or by, through, or to any financial institution, to the extent that such transfers or payments—

(i) are subject to the jurisdiction of the United States; and

(ii) involve any interest of such person.

(c) Asset blocking

The President shall exercise all of the powers granted to the President under the International

Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) to the extent necessary to block and prohibit all transactions in property and interests in property of a designated person, the Government of North Korea, or the Workers' Party of Korea, if such property and interests in property are in the United States, come within the United States, or are or come within the possession or control of a United States person.

(d) Application to subsidiaries and agents

The designation of a person under subsection (a) or (b) and the blocking of property and interests in property under subsection (c) shall apply with respect to a person who is determined to be owned or controlled by, or to have acted or purported to have acted for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to this section.

(e) Transaction licensing

The President shall deny or revoke any license for any transaction that the President determines to lack sufficient financial controls to ensure that such transaction will not facilitate any activity described in subsection (a) or (b).

(f) Penalties

The penalties provided for in subsections (b) and (c) of section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) shall apply to any person who violates, attempts to violate, conspires to violate, or causes a violation of any prohibition of this section, or an order or regulation prescribed under this section, to the same extent that such penalties apply to a person that commits an unlawful act described in section 206(a) of such Act (50 U.S.C. 1705(a)).

(Pub. L. 114–122, title I, §104, Feb. 18, 2016, 130 Stat. 99.)

REFERENCES IN TEXT

The International Emergency Economic Powers Act, referred to in subsec. (c), is title II of Pub. L. 95–223, Dec. 28, 1977, 91 Stat. 1626, which is classified generally to chapter 35 (§1701 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 50 and Tables.

DELEGATION OF FUNCTIONS

Functions and authorities of President under subsecs. (a), (b), and (d) of this section delegated to Secretary of the Treasury, in consultation with Secretary of State, and functions and authorities under subsecs. (c) and (e) of this section delegated to Secretary of the Treasury, by Memorandum of President of the United States, May 18, 2016, 81 F.R. 37479, set out as a note under section 9212 of this title.

SUBCHAPTER II—SANCTIONS AGAINST NORTH KOREAN PROLIFERATION, HUMAN RIGHTS ABUSES, AND ILLICIT ACTIVITIES

§9221. Determinations with respect to North Korea as a jurisdiction of primary money laundering concern

(a) Findings

Congress makes the following findings:

(1) The Under Secretary of the Treasury for Terrorism and Financial Intelligence, who is responsible for safeguarding the financial system against illicit use, money laundering, terrorist financing, and the proliferation of weapons of mass destruction, and has repeatedly expressed concern about North Korea's misuse of the international financial system—

(A) in 2006—

(i) stated, "Given [North Korea's] counterfeiting of U.S. currency, narcotics trafficking and

use of accounts world-wide to conduct proliferation-related transactions, the line between illicit and licit North Korean money is nearly invisible."; and

(ii) urged financial institutions worldwide to "think carefully about the risks of doing any North Korea-related business";

(B) in 2011, stated that North Korea—

(i) "remains intent on engaging in proliferation, selling arms as well as bringing in material"; and

(ii) was "aggressively pursuing the effort to establish front companies."; and

(C) in 2013, stated—

(i) in reference to North Korea's distribution of high-quality counterfeit United States currency, that "North Korea is continuing to try to pass a supernote into the international financial system"; and

(ii) the Department of the Treasury would soon introduce new currency with improved security features to protect against counterfeiting by the Government of North Korea.

(2) The Financial Action Task Force, an intergovernmental body whose purpose is to develop and promote national and international policies to combat money laundering and terrorist financing, has repeatedly—

(A) expressed concern at deficiencies in North Korea's regimes to combat money laundering and terrorist financing;

(B) urged North Korea to adopt a plan of action to address significant deficiencies in those regimes and the serious threat those deficiencies pose to the integrity of the international financial system;

(C) urged all jurisdictions to apply countermeasures to protect the international financial system from ongoing and substantial money laundering and terrorist financing risks emanating from North Korea;

(D) urged all jurisdictions to advise their financial institutions to give special attention to business relationships and transactions with North Korea, including North Korean companies and financial institutions; and

(E) called on all jurisdictions—

(i) to protect against correspondent relationships being used to bypass or evade countermeasures and risk mitigation practices; and

(ii) to take into account money laundering and terrorist financing risks when considering requests by North Korean financial institutions to open branches and subsidiaries in their respective jurisdictions.

(3) On March 7, 2013, the United Nations Security Council unanimously adopted Resolution 2094, which—

(A) welcomed the Financial Action Task Force's—

(i) recommendation on financial sanctions related to proliferation; and

(ii) guidance on the implementation of such sanctions;

(B) decided that United Nations member states should apply enhanced monitoring and other legal measures to prevent the provision of financial services or the transfer of property that could contribute to activities prohibited by applicable United Nations Security Council resolutions; and

(C) called upon United Nations member states to prohibit North Korean financial institutions from establishing or maintaining correspondent relationships with financial institutions in their respective jurisdictions to prevent the provision of financial services if such member states have information that provides reasonable grounds to believe that such activities could contribute to—

(i) activities prohibited by an applicable United Nations Security Council resolution; or
(ii) the evasion of such prohibitions.

(b) Sense of Congress regarding the designation of North Korea as a jurisdiction of primary money laundering concern

Congress—

(1) acknowledges the efforts of the United Nations Security Council to impose limitations on, and to require the enhanced monitoring of, transactions involving North Korean financial institutions that could contribute to sanctioned activities;

(2) urges the President, in the strongest terms—

(A) to immediately designate North Korea as a jurisdiction of primary money laundering concern; and

(B) to adopt stringent special measures to safeguard the financial system against the risks posed by North Korea's willful evasion of sanctions and its illicit activities; and

(3) urges the President to seek the prompt implementation by other countries of enhanced monitoring and due diligence to prevent North Korea's misuse of the international financial system, including by sharing information about activities, transactions, and property that could contribute to—

(A) activities sanctioned by applicable United Nations Security Council resolutions; or
(B) the evasion of such sanctions.

(c) Determinations regarding North Korea

(1) In general

Not later than 180 days after February 18, 2016, the Secretary of the Treasury, in consultation with the Secretary of State and the Attorney General, and in accordance with section 5318A of title 31, shall determine whether reasonable grounds exist for concluding that North Korea is a jurisdiction of primary money laundering concern.

(2) Enhanced due diligence and reporting requirements

If the Secretary of the Treasury determines under paragraph (1) that reasonable grounds exist for concluding that North Korea is a jurisdiction of primary money laundering concern, the Secretary, in consultation with the Federal functional regulators (as defined in section 6809 of title 15), shall impose 1 or more of the special measures described in section 5318A(b) of title 31 with respect to the jurisdiction of North Korea.

(3) Report required

(A) In general

Not later than 90 days after the date on which the Secretary of the Treasury makes a determination under paragraph (1), the Secretary shall submit to the appropriate congressional committees a report that contains the reasons for such determination.

(B) Form

The report submitted under subparagraph (A) shall be submitted in unclassified form, but may include a classified annex.

(Pub. L. 114–122, title II, §201, Feb. 18, 2016, 130 Stat. 101.)

§9222. Ensuring the consistent enforcement of United Nations Security Council resolutions and financial restrictions on North Korea

(a) Findings

Congress makes the following findings:

(1) All member states of the United Nations are obligated to implement and enforce applicable

United Nations Security Council resolutions fully and promptly, including by blocking the property of, and ensuring that any property is prevented from being made available to, persons designated for the blocking of property by the Security Council under applicable United Nations Security Council resolutions.

(2) As of May 2015, 158 of the 193 member states of the United Nations had not submitted reports on measures taken to implement North Korea-specific United Nations Security Council resolutions 1718, 1874, and 2094.

(3) A recent report by the Government Accountability Office (GAO–15–485)—

(A) finds that officials of the United States and representatives of the United Nations Panel of Experts established pursuant to United Nations Security Council Resolution 1874 (2009), which monitors and facilitates implementation of United Nations sanctions on North Korea, "agree that the lack of detailed reports from all member states is an impediment to the UN's effective implementation of its sanctions"; and

(B) notes that "many member states lack the technical capacity to enforce sanctions and prepare reports" on the implementation of United Nations sanctions on North Korea.

(4) All member states share a common interest in protecting the international financial system from the risks of money laundering and illicit transactions emanating from North Korea.

(5) The United States dollar and the euro are the world's principal reserve currencies, and the United States and the European Union are primarily responsible for the protection of the international financial system from the risks described in paragraph (4).

(6) The cooperation of the People's Republic of China, as North Korea's principal trading partner, is essential to—

(A) the enforcement of applicable United Nations Security Council resolutions; and

(B) the protection of the international financial system.

(7) The report of the Panel of Experts expressed concern about the ability of banks to detect and prevent illicit transfers involving North Korea if such banks are located in member states with less effective regulators or member states that are unable to afford effective compliance.

(8) North Korea has historically exploited inconsistencies between jurisdictions in the interpretation and enforcement of financial regulations and applicable United Nations Security Council resolutions to circumvent sanctions and launder the proceeds of illicit activities.

(9) Amroggang Development Bank, Bank of East Land, and Tanchon Commercial Bank have been designated by the Secretary of the Treasury, the United Nations Security Council, and the European Union as having materially contributed to the proliferation of weapons of mass destruction.

(10) Korea Daesong Bank and Korea Kwangson Banking Corporation have been designated by the Secretary of the Treasury and the European Union as having materially contributed to the proliferation of weapons of mass destruction.

(11) The Foreign Trade Bank of North Korea has been designated by the Secretary of the Treasury for facilitating transactions on behalf of persons linked to its proliferation network and for serving as "a key financial node".

(12) Daedong Credit Bank has been designated by the Secretary of the Treasury for activities prohibited by applicable United Nations Security Council resolutions, including the use of deceptive financial practices to facilitate transactions on behalf of persons linked to North Korea's proliferation network.

(b) Sense of Congress

It is the sense of Congress that the President should intensify diplomatic efforts in appropriate international fora, such as the United Nations, and bilaterally, to develop and implement a coordinated, consistent, multilateral strategy for protecting the global financial system against risks emanating from North Korea, including—

(1) the cessation of any financial services the continuation of which is inconsistent with applicable United Nations Security Council resolutions;

(2) the cessation of any financial services to persons, including financial institutions, that present unacceptable risks of facilitating money laundering and illicit activity by the Government of North Korea;

(3) the blocking by all member states, in accordance with the legal process of the state in which the property is held, of any property required to be blocked under applicable United Nations Security Council resolutions;

(4) the blocking of any property derived from illicit activity, or from the misappropriation, theft, or embezzlement of public funds by, or for the benefit of, officials of the Government of North Korea;

(5) the blocking of any property involved in significant activities undermining cybersecurity by the Government of North Korea, directly or indirectly, against United States persons, or the theft of intellectual property by the Government of North Korea, directly or indirectly from United States persons; and

(6) the blocking of any property of persons directly or indirectly involved in censorship or human rights abuses by the Government of North Korea.

(c) Strategy to improve international implementation and enforcement of United Nations North Korea-specific sanctions

The President shall direct the Secretary of State, in coordination with other Federal departments and agencies, as appropriate, to develop a strategy to improve international implementation and enforcement of United Nations North Korea-specific sanctions. The strategy should include elements—

(1) to increase the number of countries submitting reports to the United Nations Panel of Experts established pursuant to United Nations Security Council Resolution 1874 (2009), including developing a list of targeted countries where effective implementation and enforcement of United Nations sanctions would reduce the threat from North Korea;

(2) to encourage member states of the United Nations to cooperate and share information with the panel in order to help facilitate investigations;

(3) to expand cooperation with the Panel of Experts;

(4) to provide technical assistance to member states to implement United Nations sanctions, including developing the capacity to enforce sanctions through improved export control regulations, border security, and customs systems;

(5) to harness existing United States Government initiatives and assistance programs, as appropriate, to improve sanctions implementation and enforcement; and

(6) to increase outreach to the people of North Korea, and to support the engagement of independent, non-governmental journalistic, humanitarian, and other institutions in North Korea.

(d) Report required

Not later than 90 days after February 18, 2016, and annually thereafter, the Secretary of State shall submit to the appropriate congressional committees a report that describes the actions undertaken to implement the strategy required by subsection (c).

(Pub. L. 114–122, title II, §202, Feb. 18, 2016, 130 Stat. 104.)

§9223. Proliferation prevention sanctions

(a) Export of certain goods or technology

A validated license shall be required for the export to North Korea of any goods or technology otherwise covered under section 4605(j) of title 50. No defense exports may be approved for the Government of North Korea.

(b) Transactions in lethal military equipment

(1) In general

The President shall withhold assistance under the Foreign Assistance Act of 1961 (22 U.S.C.

2151 et seq.) to the government of any country that provides lethal military equipment to the Government of North Korea.

(2) Applicability

The prohibition under paragraph (1) with respect to a government shall terminate on the date that is 1 year after the date on which the prohibition under paragraph (1) is applied to that government.

(c) Waiver

Notwithstanding any other provision of law, the Secretary of State may waive the prohibitions under this section with respect to a country if the Secretary—

(1) determines that such waiver is in the national interest of the United States; and

(2) submits a written report to the appropriate congressional committees that describes—

(A) the steps that the relevant agencies are taking to curtail the trade described in subsection (b)(1); and

(B) why such waiver is in the national interest of the United States.

(d) Exception

The prohibitions under this section shall not apply to the provision of assistance for human rights, democracy, rule of law, or emergency humanitarian purposes.

(Pub. L. 114–122, title II, §203, Feb. 18, 2016, 130 Stat. 106.)

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsec. (b)(1), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, which is classified principally to chapter 32 (§2151 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

§9224. Procurement sanctions

(a) In general

Except as provided in this section, the head of an executive agency may not procure, or enter into any contract for the procurement of, any goods or services from any person designated under section 9214(a) of this title.

(b) Federal acquisition regulation

(1) In general

The Federal Acquisition Regulation issued pursuant to section 1303(a)(1) of title 41 shall be revised to require that each person that is a prospective contractor submit a certification that such person does not engage in any activity described in section 9214(a) of this title.

(2) Applicability

The revision required under paragraph (1) shall apply with respect to contracts for which solicitations are issued on or after the date that is 90 days after February 18, 2016.

(c) Remedies

(1) Inclusion on list

The Administrator of General Services shall include, on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs maintained by the Administrator under part 9 of the Federal Acquisition Regulation, each person that is debarred, suspended, or proposed for debarment or suspension by the head of an executive agency on the basis of a determination of a false certification under subsection (b).

(2) Contract termination; suspension

If the head of an executive agency determines that a person has submitted a false certification under subsection (b) after the date on which the Federal Acquisition Regulation is revised to

implement the requirements of this section, the head of such executive agency shall—

(A) terminate any contract with such person; and

(B) debar or suspend such person from eligibility for Federal contracts for a period of not longer than 2 years.

(3) Applicable procedures

Any debarment or suspension under paragraph (2)(B) shall be subject to the procedures that apply to debarment and suspension under subpart 9.4 of the Federal Acquisition Regulation.

(d) Clarification regarding certain products

The remedies specified in subsection (c) shall not apply with respect to the procurement of any eligible product (as defined in section 2518(4) of title 19 of any foreign country or instrumentality designated under section 2511(b) of title 19.

(e) Rule of construction

Nothing in this subsection may be construed to limit the use of other remedies available to the head of an executive agency or any other official of the Federal Government on the basis of a determination of a false certification under subsection (b).

(f) Executive agency defined

In this section, the term "executive agency" has the meaning given such term in section 133 of title 41.

(Pub. L. 114–122, title II, §204, Feb. 18, 2016, 130 Stat. 107.)

§9225. Enhanced inspection authorities

(a) Report required

Not later than 180 days after February 18, 2016, and annually thereafter, the President shall submit to the appropriate congressional committees a report that identifies foreign ports and airports at which inspections of ships, aircraft, and conveyances originating in North Korea, carrying North Korean property, or operated by the Government of North Korea are not sufficient to effectively prevent the facilitation of any of the activities described in section 9214(a) of this title.

(b) Enhanced customs inspection requirements

The Secretary of Homeland Security may require enhanced inspections of any goods entering the United States that have been transported through a port or airport identified by the President under subsection (a).

(c) Seizure and forfeiture

A vessel, aircraft, or conveyance used to facilitate any of the activities described in section 9214(a) of this title under the jurisdiction of the United States may be seized and forfeited under—

(1) chapter 46 of title 18; or

(2) title V [1] of the Tariff Act of 1930 (19 U.S.C. 1501 et seq.).

(Pub. L. 114–122, title II, §205, Feb. 18, 2016, 130 Stat. 108.)

REFERENCES IN TEXT

The Tariff Act of 1930, referred to in subsec. (c)(2), is act June 17, 1930, ch. 497, 46 Stat. 590, which is classified generally to chapter 4 (§1202 et seq.) of Title 19, Customs Duties. The Act does not contain a title V. Section 1501 et seq. of Title 19 is contained in title IV of the Act. For complete classification of this Act to the Code, see section 1654 of Title 19 and Tables.

DELEGATION OF FUNCTIONS

Functions and authorities of President under subsec. (a) of this section delegated to Director of National Intelligence, in consultation with Secretary of State, by Memorandum of President of the United States, May 18, 2016, 81 F.R. 37479, set out as a note under section 9212 of this title.

[1] *See References in Text note below.*

§9226. Travel sanctions

The Secretary of State may deny a visa to, and the Secretary of Homeland Security may deny entry into the United States of, any alien who is—

(1) a designated person;

(2) a corporate officer of a designated person; or

(3) a principal shareholder with a controlling interest in a designated person.

(Pub. L. 114–122, title II, §206, Feb. 18, 2016, 130 Stat. 108.)

§9227. Travel recommendations for United States citizens to North Korea

The Secretary of State shall expand the scope and frequency of issuance of travel warnings for all United States citizens to North Korea. The expanded travel warnings, which should be issued or updated not less frequently than every 90 days, should include—

(1) publicly released or credible open source information regarding the detention of United States citizens by North Korean authorities, including available information on circumstances of arrest and detention, duration, legal proceedings, and conditions under which a United States citizen has been, or continues to be, detained by North Korean authorities, including present-day cases and cases occurring during the 10-year period ending on February 18, 2016;

(2) publicly released or credible open source information on the past and present detention and abduction or alleged abduction of citizens of the United States, South Korea, or Japan by North Korean authorities;

(3) unclassified information about the nature of the North Korean regime, as described in congressionally mandated reports and annual reports issued by the Department of State and the United Nations, including information about North Korea's weapons of mass destruction programs, illicit activities, international sanctions violations, and human rights situation; and

(4) any other information that the Secretary deems useful to provide United States citizens with a comprehensive picture of the nature of the North Korean regime.

(Pub. L. 114–122, title II, §207, Feb. 18, 2016, 130 Stat. 108.)

§9228. Exemptions, waivers, and removals of designation

(a) Exemptions

The following activities shall be exempt from sanctions under sections 9214, 9226, 9229, and 9243 of this title:

(1) Activities subject to the reporting requirements under title V of the National Security Act of 1947 (50 U.S.C. 3091 et seq.), or to any authorized intelligence activities of the United States.

(2) Any transaction necessary to comply with United States obligations under the Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations, signed at Lake Success June 26, 1947, and entered into force November 21, 1947, or under the Convention on Consular Relations, done at Vienna April 24, 1963, and entered into force March 19, 1967, or under other international agreements.

(3) Any activities incidental to the POW/MIA accounting mission in North Korea, including activities by the Defense POW/MIA Accounting Agency and other governmental or nongovernmental organizations tasked with identifying or recovering the remains of members of the United States Armed Forces in North Korea.

(b) Humanitarian waiver

(1) In general

The President may waive, for renewable periods of between 30 days and 1 year, the application of the sanctions authorized under section 9214, 9224, 9225, 9226, 9229(b), or 9243(b) of this title if the President submits to the appropriate congressional committees a written determination that the waiver is necessary for humanitarian assistance or to carry out the humanitarian purposes set forth section 7802 of this title.

(2) Content of written determination

A written determination submitted under paragraph (1) with respect to a waiver shall include a description of all notification and accountability controls that have been employed in order to ensure that the activities covered by the waiver are humanitarian assistance or are carried out for the purposes set forth in section 7802 of this title and do not entail any activities in North Korea or dealings with the Government of North Korea not reasonably related to humanitarian assistance or such purposes.

(3) Clarification of permitted activities under waiver

An internationally recognized humanitarian organization shall not be subject to sanctions under section 9214, 9224, 9225, 9226, 9229(b), or 9243(b) of this title for—

(A) engaging in a financial transaction relating to humanitarian assistance or for humanitarian purposes pursuant to a waiver issued under paragraph (1);

(B) transporting goods or services that are necessary to carry out operations relating to humanitarian assistance or humanitarian purposes pursuant to such a waiver; or

(C) having merely incidental contact, in the course of providing humanitarian assistance or aid for humanitarian purposes pursuant to such a waiver, with individuals who are under the control of a foreign person subject to sanctions under this chapter.

(c) Waiver

The President may waive, on a case-by-case basis, for renewable periods of between 30 days and 1 year, the application of the sanctions authorized under section 9214, 9221(c)(2), 9224, 9225, 9226, 9229(b), or 9243(b) of this title if the President submits to the appropriate congressional committees a written determination that the waiver—

(1) is important to the national security interests of the United States; or

(2) will further the enforcement of this chapter or is for an important law enforcement purpose.

(d) Financial services for humanitarian and consular activities

The President may promulgate such regulations, rules, and policies as may be necessary to facilitate the provision of financial services by a foreign financial institution that is not a North Korean financial institution in support of activities conducted pursuant to an exemption or waiver under this section.

(Pub. L. 114–122, title II, §208, Feb. 18, 2016, 130 Stat. 109.)

REFERENCES IN TEXT

The National Security Act of 1947, referred to in subsec. (a)(1), is act July 26, 1947, ch. 343, 61 Stat. 495. Title V of the Act is classified generally to subchapter III (§3091 et seq.) of chapter 44 of Title 50. For complete classification of this Act to the Code, see Tables.

This chapter, referred to in subsecs. (b)(3)(C) and (c)(2), was in the original "this Act", meaning Pub. L. 114–122, Feb. 18, 2016, 130 Stat. 93, which is classified principally to this chapter. For complete classification of this Act to the Code, Short Title note set out under section 9201 of this title and Tables.

DELEGATION OF FUNCTIONS

Functions and authorities of President under subsecs. (b) and (c) of this section delegated to Secretary of State, to be executed in consultation with Secretary of the Treasury when appropriate, and functions and authorities of President under subsec. (d) of this section delegated to Secretary of the Treasury, by Memorandum of President of the United States, May 18, 2016, 81 F.R. 37479, set out as a note under section 9212 of this title.

§9229. Report on and imposition of sanctions to address persons responsible for knowingly engaging in significant activities undermining cybersecurity

(a) Report required

(1) In general

The President shall submit to the appropriate congressional committees a report that describes significant activities undermining cybersecurity aimed against the United States Government or any United States person and conducted by the Government of North Korea, or a person owned or controlled, directly or indirectly, by the Government of North Korea or any person acting for or on behalf of that Government.

(2) Information

The report required under paragraph (1) shall include—

(A) the identity and nationality of persons that have knowingly engaged in, directed, or provided material support to conduct significant activities undermining cybersecurity described in paragraph (1);

(B) a description of the conduct engaged in by each person identified;

(C) an assessment of the extent to which a foreign government has provided material support to the Government of North Korea or any person acting for or on behalf of that Government to conduct significant activities undermining cybersecurity; and

(D) a United States strategy to counter North Korea's efforts to conduct significant activities undermining cybersecurity against the United States, that includes efforts to engage foreign governments to halt the capability of the Government of North Korea and persons acting for or on behalf of that Government to conduct significant activities undermining cybersecurity.

(3) Submission and form

(A) Submission

The report required under paragraph (1) shall be submitted not later than 90 days after February 18, 2016, and every 180 days thereafter.

(B) Form

The report required under paragraph (1) shall be submitted in an unclassified form, but may include a classified annex.

(b) Designation of persons

The President shall designate under section 9214(a) of this title any person identified in the report required under subsection (a)(1) that knowingly engages in significant activities undermining cybersecurity through the use of computer networks or systems against foreign persons, governments, or other entities on behalf of the Government of North Korea.

(Pub. L. 114–122, title II, §209, Feb. 18, 2016, 130 Stat. 110.)

DELEGATION OF FUNCTIONS

For delegation of certain functions of President under this section, see Memorandum of President of the United States, May 18, 2016, 81 F.R. 37479, set out as a note under section 9212 of this title.

§9230. Codification of sanctions with respect to North Korean activities undermining cybersecurity

(a) In general

United States sanctions with respect to activities of the Government of North Korea, persons acting for or on behalf of that Government, or persons located in North Korea that undermine cybersecurity provided for in Executive Order 13687 (50 U.S.C. 1701 note; relating to imposing

additional sanctions with respect to North Korea) or Executive Order 13694 (50 U.S.C. 1701 note; relating to blocking the property of certain persons engaging in significant malicious cyber-enabled activities), as such Executive Orders are in effect on the day before February 18, 2016, shall remain in effect until the date that is 30 days after the date on which the President submits to Congress a certification that the Government of North Korea, persons acting for or on behalf of that Government, and persons owned or controlled, directly or indirectly, by that Government or persons acting for or on behalf of that Government, are no longer engaged in the illicit activities described in such Executive Orders, including actions in violation of United Nations Security Council Resolutions 1718 (2006), 1874 (2009), 2087 (2013), and 2094 (2013).

(b) Rule of construction

Nothing in this section shall be construed to limit the authority of the President pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.).

(Pub. L. 114–122, title II, §210, Feb. 18, 2016, 130 Stat. 111.)

REFERENCES IN TEXT

The International Emergency Economic Powers Act, referred to in subsec. (b), is title II of Pub. L. 95–223, Dec. 28, 1977, 91 Stat. 1626, which is classified generally to chapter 35 (§1701 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 50 and Tables.

§9231. Sense of Congress on trilateral cooperation between the United States, South Korea, and Japan

(a) In general

It is the sense of Congress that the President—

(1) should seek to strengthen high-level trilateral mechanisms for discussion and coordination of policy toward North Korea between the Government of the United States, the Government of South Korea, and the Government of Japan;

(2) should ensure that the mechanisms specifically address North Korea's nuclear, ballistic, and conventional weapons programs, its human rights record, and cybersecurity threats posed by North Korea;

(3) should ensure that representatives of the United States, South Korea, and Japan meet on a regular basis and include representatives of the United States Department of State, the United States Department of Defense, the United States intelligence community, and representatives of counterpart agencies in South Korea and Japan; and

(4) should continue to brief the relevant congressional committees regularly on the status of such discussions.

(b) Relevant committees

The relevant committees referred to in subsection (a)(4) shall include—

(1) the Committee on Foreign Relations, the Committee on Armed Services, and the Select Committee on Intelligence of the Senate; and

(2) the Committee on Foreign Affairs, the Committee on Armed Services, and the Permanent Select Committee on Intelligence of the House of Representatives.

(Pub. L. 114–122, title II, §211, Feb. 18, 2016, 130 Stat. 111.)

SUBCHAPTER III—PROMOTION OF HUMAN RIGHTS

§9241. Strategy to promote North Korean human rights

(a) In general

Not later than 180 days after February 18, 2016, the Secretary of State, in coordination with other appropriate Federal departments and agencies, shall submit to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives a report that details a United States strategy to promote initiatives to enhance international awareness of and to address the human rights situation in North Korea.

(b) Information

The report required under subsection (a) should include—

(1) a list of countries that forcibly repatriate refugees from North Korea; and

(2) a list of countries where North Korean laborers work, including countries the governments of which have formal arrangements with the Government of North Korea or any person acting for or on behalf of that Government to employ North Korean workers.

(c) Strategy

The report required under subsection (a) should include—

(1) a plan to enhance bilateral and multilateral outreach, including sustained engagement with the governments of partners and allies with overseas posts to routinely demarche or brief those governments on North Korea human rights issues, including forced labor, trafficking, and repatriation of citizens of North Korea;

(2) public affairs and public diplomacy campaigns, including options to work with news organizations and media outlets to publish opinion pieces and secure public speaking opportunities for United States Government officials on issues related to the human rights situation in North Korea, including forced labor, trafficking, and repatriation of citizens of North Korea; and

(3) opportunities to coordinate and collaborate with appropriate nongovernmental organizations and private sector entities to raise awareness and provide assistance to North Korean defectors throughout the world.

(Pub. L. 114–122, title III, §302, Feb. 18, 2016, 130 Stat. 112.)

§9242. Report on North Korean prison camps

(a) In general

The Secretary of State shall submit to the appropriate congressional committees a report that describes, with respect to each political prison camp in North Korea, to the extent information is available—

(1) the camp's estimated prisoner population;

(2) the camp's geographical coordinates;

(3) the reasons for the confinement of the prisoners;

(4) the camp's primary industries and products, and the end users of any goods produced in the camp;

(5) the individuals and agencies responsible for conditions in the camp;

(6) the conditions under which prisoners are confined, with respect to the adequacy of food, shelter, medical care, working conditions, and reports of ill-treatment of prisoners; and

(7) imagery, to include satellite imagery of the camp, in a format that, if published, would not compromise the sources and methods used by the United States intelligence community to capture geospatial imagery.

(b) Form

The report required under subsection (a) may be included in the first human rights report required to be submitted to Congress after February 18, 2016, under sections 2151n(d) and 2304(b) of this title.

(Pub. L. 114–122, title III, §303, Feb. 18, 2016, 130 Stat. 113.)

§9243. Report on and imposition of sanctions with respect to serious human rights abuses or censorship in North Korea

(a) Report required

(1) In general

The Secretary of State shall submit to the appropriate congressional committees a report that—

(A) identifies each person the Secretary determines to be responsible for serious human rights abuses or censorship in North Korea and describes the conduct of that person; and

(B) describes serious human rights abuses or censorship undertaken by the Government of North Korea or any person acting for or on behalf of that Government in the most recent year ending before the submission of the report.

(2) Consideration

In preparing the report required under paragraph (1), the Secretary of State shall—

(A) give due consideration to the findings of the United Nations Commission of Inquiry on Human Rights in North Korea; and

(B) make specific findings with respect to the responsibility of Kim Jong Un, and of each individual who is a member of the National Defense Commission of North Korea or the Organization and Guidance Department of the Workers' Party of Korea, for serious human rights abuses and censorship.

(3) Submission and form

(A) Submission

The report required under paragraph (1) shall be submitted not later than 120 days after February 18, 2016, and every 180 days thereafter for a period not to exceed 3 years, and shall be included in each human rights report required under sections 2151n(d) and 2304(b) of this title.

(B) Form

The report required under paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

(C) Public availability

The Secretary of State shall publish the unclassified part of the report required under paragraph (1) on the website of the Department of State.

(b) Designation of persons

The President shall designate under section 9214(a) of this title any person listed in the report required under subsection (a)(1) that—

(1) knowingly engages in, is responsible for, or facilitates censorship by the Government of North Korea; or

(2) knowingly engages in, is responsible for, or facilitates serious human rights abuses by the Government of North Korea.

(c) Sense of Congress

It is the sense of Congress that the President should—

(1) seek the prompt adoption by the United Nations Security Council of a resolution calling for the blocking of the assets of all persons responsible for severe human rights abuses or censorship in North Korea; and

(2) fully cooperate with the prosecution of any individual listed in the report required under subsection (a)(1) before any international tribunal that may be established to prosecute persons responsible for severe human rights abuses or censorship in North Korea.

(Pub. L. 114–122, title III, §304, Feb. 18, 2016, 130 Stat. 113.)

DELEGATION OF FUNCTIONS

Functions and authorities of President under subsec. (b) of this section delegated to Secretary of the Treasury, in consultation with Secretary of State, by Memorandum of President of the United States, May 18, 2016, 81 F.R. 37479, set out as a note under section 9212 of this title.

SUBCHAPTER IV—GENERAL AUTHORITIES

§9251. Suspension of sanctions and other measures

(a) In general

Any sanction or other measure required under subchapter I, II, or III (or any amendment made by such subchapters) may be suspended for up to 1 year upon certification by the President to the appropriate congressional committees that the Government of North Korea has made progress toward—

(1) verifiably ceasing its counterfeiting of United States currency, including the surrender or destruction of specialized materials and equipment used or particularly suitable for counterfeiting;

(2) taking steps toward financial transparency to comply with generally accepted protocols to cease and prevent the laundering of monetary instruments;

(3) taking steps toward verification of its compliance with applicable United Nations Security Council resolutions;

(4) taking steps toward accounting for and repatriating the citizens of other countries—

(A) abducted or unlawfully held captive by the Government of North Korea; or

(B) detained in violation of the Agreement Concerning a Military Armistice in Korea, signed at Panmunjom July 27, 1953 (commonly referred to as the "Korean War Armistice Agreement");

(5) accepting and beginning to abide by internationally recognized standards for the distribution and monitoring of humanitarian aid; and

(6) taking verified steps to improve living conditions in its political prison camps.

(b) Renewal of suspension

The suspension described in subsection (a) may be renewed for additional, consecutive 180-day periods after the President certifies to the appropriate congressional committees that the Government of North Korea has continued to comply with the conditions described in subsection (a) during the previous year.

(Pub. L. 114–122, title IV, §401, Feb. 18, 2016, 130 Stat. 114.)

REFERENCES IN TEXT

Subchapter I, II, or III (or any amendment made by such subchapters), referred to in subsec. (a), was in the original "title I, II, or III (or any amendment made by such titles", meaning titles I, II, and III of Pub. L. 114–122, Feb. 18, 2016, 130 Stat. 98, 101, 112. Titles I and III are classified principally to subchapters I and III, respectively, of this chapter. Title II is classified generally to subchapter II of this chapter. For complete classification of titles I, II, and III of this Act to the Code, see Tables.

DELEGATION OF FUNCTIONS

Functions and authorities of President under subsecs. (a) and (b) of this section delegated to Secretary of State, to be executed in consultation with Secretary of the Treasury when appropriate, by Memorandum of President of the United States, May 18, 2016, 81 F.R. 37479, set out as a note under section 9212 of this title.

§9252. Termination of sanctions and other measures

Any sanction or other measure required under subchapter I, II, or III (or any amendment made by such subchapters) shall terminate on the date on which the President determines and certifies to the

appropriate congressional committees that the Government of North Korea has—

(1) met the requirements set forth in section 9251 of this title; and

(2) made significant progress toward—

(A) completely, verifiably, and irreversibly dismantling all of its nuclear, chemical, biological, and radiological weapons programs, including all programs for the development of systems designed in whole or in part for the delivery of such weapons;

(B) releasing all political prisoners, including the citizens of North Korea detained in North Korea's political prison camps;

(C) ceasing its censorship of peaceful political activity;

(D) establishing an open, transparent, and representative society; and

(E) fully accounting for and repatriating United States citizens (including deceased United States citizens)—

(i) abducted or unlawfully held captive by the Government of North Korea; or

(ii) detained in violation of the Agreement Concerning a Military Armistice in Korea, signed at Panmunjom July 27, 1953 (commonly referred to as the "Korean War Armistice Agreement").

(Pub. L. 114–122, title IV, §402, Feb. 18, 2016, 130 Stat. 115.)

REFERENCES IN TEXT

Subchapter I, II, or III (or any amendment made by such subchapters), referred to in subsec. (a), was in the original "title I, II, or III (or any amendment made by such titles"is titles I, II, and III of Pub. L. 114–122, Feb. 18, 2016, 130 Stat. 98, 101, 112. Titles I and III are classified principally to subchapters I and III, respectively, of this chapter. Title II is classified generally to subchapter II of this chapter. For complete classification of titles I, II, and III of this Act to the Code, see Tables.

DELEGATION OF FUNCTIONS

Functions and authorities of President under this section delegated to Secretary of State, to be executed in consultation with Secretary of the Treasury when appropriate, by Memorandum of President of the United States, May 18, 2016, 81 F.R. 37479, set out as a note under section 9212 of this title.

§9253. Authorization of appropriations

(a) In general

There are authorized to be appropriated for each of fiscal years 2017 through 2021—

(1) $3,000,000 to carry out section 103 of the North Korea Human Rights Act of 2004 (22 U.S.C. 7813);

(2) $3,000,000 to carry out subsections (a), (b), and (c) of section 104 of that Act (22 U.S.C. 7814);

(3) $2,000,000 to carry out subsection (d) of such section 104, as add [1] by section 301 of this Act; and

(4) $2,000,000 to carry out section 203 of the North Korea Human Rights Act of 2004 (22 U.S.C. 7833).

(b) Availability of funds

Amounts appropriated for each fiscal year pursuant to subsection (a) shall remain available until expended.

(Pub. L. 114–122, title IV, §403, Feb. 18, 2016, 130 Stat. 115.)

REFERENCES IN TEXT

The North Korea Human Rights Act of 2004, referred to in subsec. (a), probably means the North Korean Human Rights Act of 2004, Pub. L. 108–333, Oct. 18, 2004, 118 Stat. 1287, which enacted chapter 85 (§7801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 7801 of this title and Tables.

This Act, referred to in subsec. (a)(3), is Pub. L. 114–122, Feb. 18, 2016, 130 Stat. 93, which is classified

principally to this chapter. Section 301 of this Act amended section 7814 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of this title and Tables.

[1] *So in original. Probably should be "added".*

§9254. Rulemaking

(a) In general

The President is authorized to promulgate such rules and regulations as may be necessary to carry out the provisions of this chapter (which may include regulatory exceptions), including under section 205 of the International Emergency Economic Powers Act (50 U.S.C. 1704).

(b) Rule of construction

Nothing in this chapter, or in any amendment made by this chapter, may be construed to limit the authority of the President to designate or sanction persons pursuant to an applicable Executive order or otherwise pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.).

(Pub. L. 114–122, title IV, §404, Feb. 18, 2016, 130 Stat. 116.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 114–122, Feb. 18, 2016, 130 Stat. 93, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of this title and Tables.

The International Emergency Economic Powers Act, referred to in subsec. (b), is title II of Pub. L. 95–223, Dec. 28, 1977, 91 Stat. 1626, which is classified generally to chapter 35 (§1701 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 50 and Tables.

DELEGATION OF FUNCTIONS

Functions and authorities of President under subsec. (a) of this section delegated to Secretary of State, Secretary of the Treasury, Secretary of Commerce, and Director of National Intelligence by Memorandum of President of the United States, May 18, 2016, 81 F.R. 37479, set out as a note under section 9212 of this title.

§9255. Authority to consolidate reports

Any and all reports required to be submitted to appropriate congressional committees under this chapter or any amendment made by this chapter that are subject to a deadline for submission consisting of the same unit of time may be consolidated into a single report that is submitted to appropriate congressional committees pursuant to such deadline. The consolidated reports must contain all information required under this Act or any amendment made by this Act, in addition to all other elements mandated by previous law.

(Pub. L. 114–122, title IV, §405, Feb. 18, 2016, 130 Stat. 116.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 114–122, Feb. 18, 2016, 130 Stat. 93, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of this title and Tables.

CHAPTER 100—GLOBAL FOOD SECURITY

Sec.

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§9301. Findings

Congress makes the following findings:

(1) According to the Food and Agriculture Organization of the United Nations (referred to in this section as the "FAO"), 805,000,000 people worldwide suffer from chronic hunger. Hunger and malnutrition rob people of health and productive lives and stunt the mental and physical development of future generations.

(2) According to the January 2014 "Worldwide Threat Assessment of the US Intelligence Community"—

(A) the "[l]ack of adequate food will be a destabilizing factor in countries important to US national security that do not have the financial or technical abilities to solve their internal food security problems"; and

(B) "[f]ood and nutrition insecurity in weakly governed countries might also provide opportunities for insurgent groups to capitalize on poor conditions, exploit international food aid, and discredit governments for their inability to address basic needs".

(3) A comprehensive approach to sustainable food and nutrition security should not only respond to emergency food shortages, but should also address malnutrition, resilience to food and nutrition insecurity, building the capacity of poor, rural populations to improve their agricultural productivity and incomes, removing institutional impediments to agricultural development, value chain access and efficiency, including processing and storage, enhancing agribusiness development, access to markets and activities that address the specific needs and barriers facing women and small-scale producers, education, and collaborative research.

(Pub. L. 114–195, §2, July 20, 2016, 130 Stat. 675.)

SHORT TITLE

Pub. L. 114–195, §1, July 20, 2016, 130 Stat. 675, provided that: "This Act [enacting this chapter and amending sections 2292 and 2292a of this title] may be cited as the 'Global Food Security Act of 2016'."

§9302. Statement of policy objectives; sense of Congress

(a) Statement of policy objectives

It is in the national interest of the United States to promote global food security, resilience, and nutrition, consistent with national food security investment plans, which is reinforced through programs, activities, and initiatives that—

(1) place food insecure countries on a path toward self-sufficiency and economic freedom through the coordination of United States foreign assistance programs;

(2) accelerate inclusive, agricultural-led economic growth that reduces global poverty, hunger, and malnutrition, particularly among women and children;

(3) increase the productivity, incomes, and livelihoods of small-scale producers, especially women, by working across agricultural value chains, enhancing local capacity to manage agricultural resources effectively and expanding producer access to local and international markets;

(4) build resilience to food shocks among vulnerable populations and households while reducing reliance upon emergency food assistance;

(5) create an enabling environment for agricultural growth and investment, including through

the promotion of secure and transparent property rights;

(6) improve the nutritional status of women and children, with a focus on reducing child stunting, including through the promotion of highly nutritious foods, diet diversification, and nutritional behaviors that improve maternal and child health;

(7) demonstrably meet, align with and leverage broader United States strategies and investments in trade, economic growth, national security, science and technology, agriculture research and extension, maternal and child health, nutrition, and water, sanitation, and hygiene;

(8) continue to strengthen partnerships between United States-based universities, including land-grant colleges, and universities and institutions in target countries and communities that build agricultural capacity; and

(9) ensure the effective use of United States taxpayer dollars to further these objectives.

(b) Sense of Congress

It is the sense of the Congress that the President, in providing assistance to implement the Global Food Security Strategy, should—

(1) coordinate, through a whole-of-government approach, the efforts of relevant Federal departments and agencies to implement the Global Food Security Strategy;

(2) seek to fully utilize the unique capabilities of each relevant Federal department and agency while collaborating with and leveraging the contributions of other key stakeholders; and

(3) utilize open and streamlined solicitations to allow for the participation of a wide range of implementing partners through the most appropriate procurement mechanisms, which may include grants, contracts, cooperative agreements, and other instruments as necessary and appropriate.

(Pub. L. 114–195, §3, July 20, 2016, 130 Stat. 676.)

§9303. Definitions

In this chapter:

(1) Appropriate congressional committees

The term "appropriate congressional committees" means—

(A) the Committee on Foreign Relations of the Senate;

(B) the Committee on Agriculture, Nutrition, and Forestry of the Senate;

(C) the Committee on Appropriations of the Senate;

(D) the Committee on Foreign Affairs of the House of Representatives;

(E) the Committee on Agriculture of the House of Representatives; and

(F) the Committee on Appropriations of the House of Representatives.

(2) Feed the Future Innovation Labs

The term "Feed the Future Innovation Labs" means research partnerships led by United States universities that advance solutions to reduce global hunger, poverty, and malnutrition.

(3) Food and nutrition security

The term "food and nutrition security" means access to, and availability, utilization, and stability of, sufficient food to meet caloric and nutritional needs for an active and healthy life.

(4) Global Food Security Strategy

The term "Global Food Security Strategy" means the strategy developed and implemented pursuant to section 9304(a) of this title.

(5) Key stakeholders

The term "key stakeholders" means actors engaged in efforts to advance global food security programs and objectives, including—

(A) relevant Federal departments and agencies;

(B) national and local governments in target countries;

(C) other bilateral donors;

(D) international and regional organizations;

(E) international, regional, and local financial institutions;

(F) international, regional, and local private voluntary, nongovernmental, faith-based, and civil society organizations;

(G) the private sector, including agribusinesses and relevant commodities groups;

(H) agricultural producers, including farmer organizations, cooperatives, small-scale producers, and women; and

(I) agricultural research and academic institutions, including land-grant universities and extension services.

(6) Malnutrition

The term "malnutrition" means poor nutritional status caused by nutritional deficiency or excess.

(7) Relevant Federal departments and agencies

The term "relevant Federal departments and agencies" means the United States Agency for International Development, the Department of Agriculture, the Department of Commerce, the Department of State, the Department of the Treasury, the Millennium Challenge Corporation, the Overseas Private Investment Corporation, the Peace Corps, the Office of the United States Trade Representative, the United States African Development Foundation, the United States Geological Survey, and any other department or agency specified by the President for purposes of this section.

(8) Resilience

The term "resilience" means the ability of people, households, communities, countries, and systems to mitigate, adapt to, and recover from shocks and stresses to food security in a manner that reduces chronic vulnerability and facilitates inclusive growth.

(9) Small-scale producer

The term "small-scale producer" means farmers, pastoralists, foresters, and fishers that have a low asset base and limited resources, including land, capital, skills and labor, and, in the case of farmers, typically farm on fewer than 5 hectares of land.

(10) Stunting

The term "stunting" refers to a condition that—

(A) is measured by a height-to-age ratio that is more than 2 standard deviations below the median for the population;

(B) manifests in children who are younger than 2 years of age;

(C) is a process that can continue in children after they reach 2 years of age, resulting in an individual being "stunted";

(D) is a sign of chronic malnutrition; and

(E) can lead to long-term poor health, delayed motor development, impaired cognitive function, and decreased immunity.

(11) Sustainable

The term "sustainable" means the ability of a target country, community, implementing partner, or intended beneficiary to maintain, over time, the programs authorized and outcomes achieved pursuant to this chapter.

(12) Target country

The term "target country" means a developing country that is selected to participate in agriculture and nutrition security programs under the Global Food Security Strategy pursuant to the selection criteria described in section 9304(a)(2) of this title, including criteria such as the potential for agriculture-led economic growth, government commitment to agricultural investment and policy reform, opportunities for partnerships and regional synergies, the level of need, and resource availability.

(Pub. L. 114–195, §4, July 20, 2016, 130 Stat. 676.)

§9304. Comprehensive Global Food Security Strategy

(a) Strategy

The President shall coordinate the development and implementation of a United States whole-of-government strategy to accomplish the policy objectives set forth in section 9302(a) of this title, which shall—

(1) set specific and measurable goals, benchmarks, timetables, performance metrics, and monitoring and evaluation plans that reflect international best practices relating to transparency, accountability, food and nutrition security, and agriculture-led economic growth, consistent with the policy objectives described in section 9302(a) of this title;

(2) establish clear and transparent selection criteria for target countries, communities, regions, and intended beneficiaries of assistance;

(3) describe the methodology and criteria for the selection of target countries;

(4) support and be aligned with country-owned agriculture, nutrition, and food security policy and investment plans developed with input from key stakeholders, as appropriate;

(5) support inclusive agricultural value chain development, with small-scale producers, especially women, gaining greater access to the inputs, skills, resource management capacity, networking, bargaining power, financing, and market linkages needed to sustain their long-term economic prosperity;

(6) support improvement of the nutritional status of women and children, particularly during the critical first 1,000-day window until a child reaches 2 years of age and with a focus on reducing child stunting, through nutrition-specific and nutrition-sensitive programs, including related water, sanitation, and hygiene programs;

(7) facilitate communication and collaboration, as appropriate, among local stakeholders in support of a multi-sectoral approach to food and nutrition security, to include analysis of the multiple underlying causes of malnutrition, including lack of access to safe drinking water, sanitation, and hygiene;

(8) support the long-term success of programs by building the capacity of local organizations and institutions in target countries and communities;

(9) integrate resilience and nutrition strategies into food security programs, such that chronically vulnerable populations are better able to build safety nets, secure livelihoods, access markets, and access opportunities for longer-term economic growth;

(10) develop community and producer resilience to natural disasters, emergencies, and natural occurrences that adversely impact agricultural yield;

(11) harness science, technology, and innovation, including the research and extension activities supported by relevant Federal Departments and agencies and Feed the Future Innovation Labs, or any successor entities;

(12) integrate agricultural development activities among food insecure populations living in proximity to designated national parks or wildlife areas into wildlife conservation efforts, as necessary and appropriate;

(13) leverage resources and expertise through partnerships with the private sector, farm organizations, cooperatives, civil society, faith-based organizations, and agricultural research and academic institutions;

(14) strengthen and expand collaboration between United States universities, including public, private, and land-grant universities, with higher education institutions in target countries to increase their effectiveness and relevance to promote agricultural development and innovation through the creation of human capital, innovation, and cutting edge science in the agricultural sector;

(15) seek to ensure that target countries and communities respect and promote land tenure rights of local communities, particularly those of women and small-scale producers;

(16) include criteria and methodologies for graduating target countries and communities from assistance provided to implement the Global Food Security Strategy as such countries and

communities meet the progress benchmarks identified pursuant to section 9307(b)(4) of this title; and

(17) demonstrably support the United States national security and economic interest in the countries where assistance is being provided.

(b) Coordination

The President shall coordinate, through a whole-of-government approach, the efforts of relevant Federal departments and agencies in the implementation of the Global Food Security Strategy by—

(1) establishing monitoring and evaluation systems, coherence, and coordination across relevant Federal departments and agencies;

(2) establishing linkages with other initiatives and strategies of relevant Federal departments and agencies; and

(3) establishing platforms for regular consultation and collaboration with key stakeholders and the appropriate congressional committees.

(c) Strategy submission

(1) In general

Not later than October 1, 2016, the President, in consultation with the head of each relevant Federal department and agency, shall submit to the appropriate congressional committees the Global Food Security Strategy required under this section, including a detailed description of how the United States intends to advance the objectives set forth in section 9302(a) of this title and the agency-specific plans described in paragraph (2).

(2) Agency-specific plans

The Global Food Security Strategy shall include specific implementation plans from each relevant Federal department and agency that describes—

(A) the anticipated contributions of the department or agency, including technical, financial, and in-kind contributions, to implement the Global Food Security Strategy; and

(B) the efforts of the department or agency to ensure that the activities and programs carried out pursuant to the strategy are designed to achieve maximum impact and long-term sustainability.

(Pub. L. 114–195, §5, July 20, 2016, 130 Stat. 678.)

§9305. Assistance to implement the Global Food Security Strategy

(a) Food shortages

The President is authorized to carry out activities pursuant to section 103, section 103A, title XII of chapter 2 of part I, and chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2151a, 2151a–1, 2220a et seq., and 2346 et seq.) to prevent or address food shortages notwithstanding any other provision of law.

(b) Authorization of appropriations

There is authorized to be appropriated to the Secretary of State and the Administrator of the United States Agency for International Development $1,000,600,000 for each of fiscal years 2017 and 2018 to carry out those portions of the Global Food Security Strategy that relate to the Department of State and the United States Agency for International Development, respectively.

(c) Monitoring and evaluation

The President shall seek to ensure that assistance to implement the Global Food Security Strategy is provided under established parameters for a rigorous accountability system to monitor and evaluate progress and impact of the strategy, including by reporting to the appropriate congressional committees and the public on an annual basis.

(Pub. L. 114–195, §6, July 20, 2016, 130 Stat. 680.)

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsec. (a), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424. Title XII of chapter 2 of part I of the Act is classified generally to subpart XII (§2220a et seq.) of part II of subchapter I of chapter 32 of this title. Chapter 4 of part II of the Act is classified generally to part IV (§2346 et seq.) of subchapter II of chapter 32 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

§9306. Emergency Food Security Program

(a) Sense of Congress

It is the sense of Congress that—

(1) the crisis in Syria, which is characterized by acts of terrorism and atrocities directed against civilians, including mass murder, forced displacement, aerial bombardment, ethnic and religious persecution, torture, kidnapping, rape and sexual enslavement, has triggered one of the most profound humanitarian crises of this century and poses a direct threat to regional security and the national security interests of the United States;

(2) it is in the national security interests of the United States to respond to the needs of displaced Syrian persons and the communities hosting such persons, including with food assistance; and

(3) after four years of conflict in Syria and the onset of other major humanitarian emergencies where, like Syria, the provision of certain United States humanitarian assistance has been particularly challenging, including the 2013 super-typhoon in the Philippines, the 2014 outbreak of Ebola in west Africa, the 2015 earthquake in Nepal, ongoing humanitarian disasters in Yemen and South Sudan, and the threat of a major El Nino event in 2016, United States international disaster assistance has become severely stressed.

(b) Statement of policy

It shall be the policy of the United States, in coordination with other donors, regional governments, international organizations, and international financial institutions, to fully leverage, enhance, and expand the impact and reach of available United States humanitarian resources, including for food assistance, to mitigate the effects of manmade and natural disasters by utilizing innovative new approaches to delivering aid that support affected persons and the communities hosting them, build resilience and early recovery, and reduce opportunities for waste, fraud, and abuse.

(Pub. L. 114–195, §7, July 20, 2016, 130 Stat. 680.)

CODIFICATION

Section is comprised of section 7 of Pub. L. 114–195. Subsec. (c)(1) of section 7 of Pub. L. 114–195 amended section 2292 of this title and subsec. (c)(2) of section 7 of Pub. L. 114–195 amended section 2292a of this title.

§9307. Reports

(a) Global Food Security Strategy implementation reports

Not later than 1 year and 2 years after the date of the submission of the strategy required under section 9304(c) of this title, the President shall submit to the appropriate congressional committees reports that describe the status of the implementation of the Global Food Security Strategy for 2017 and 2018, which shall—

(1) contain a summary of the Global Food Security Strategy as an appendix;

(2) identify any substantial changes made in the Global Food Security Strategy during the preceding calendar year;

(3) describe the progress made in implementing the Global Food Security Strategy;

(4) identify the indicators used to establish benchmarks and measure results over time, as well as the mechanisms for reporting such results in an open and transparent manner;

(5) describe related strategies and benchmarks for graduating target countries and communities from assistance provided under the Global Food Security Strategy over time, including by building resilience, reducing risk, and enhancing the sustainability of outcomes from United States investments in agriculture and nutrition security;

(6) indicate how findings from monitoring and evaluation were incorporated into program design and budget decisions;

(7) contain a transparent, open, and detailed accounting of spending by relevant Federal departments and agencies to implement the Global Food Security Strategy, including, for each Federal department and agency, the statutory source of spending, amounts spent, implementing partners and targeted beneficiaries, and activities supported to the extent practicable and appropriate;

(8) describe how the Global Food Security Strategy leverages other United States food security and development assistance programs on the continuum from emergency food aid through sustainable, agriculture-led economic growth and eventual self-sufficiency;

(9) describe the contributions of the Global Food Security Strategy to, and assess the impact of, broader international food and nutrition security assistance programs, including progress in the promotion of land tenure rights, creating economic opportunities for women and small-scale producers, and stimulating agriculture-led economic growth in target countries and communities;

(10) assess efforts to coordinate United States international food security and nutrition programs, activities, and initiatives with key stakeholders;

(11) assess United States Government-facilitated private investment in related sectors and the impact of private sector investment in target countries and communities;

(12) identify any United States legal or regulatory impediments that could obstruct the effective implementation of the programming referred to in paragraphs (8) and (9);

(13) contain a clear gender analysis of programming, to inform project-level activities, that includes established disaggregated gender indicators to better analyze outcomes for food productivity, income growth, control of assets, equity in access to inputs, jobs and markets, and nutrition; and

(14) incorporate a plan for regularly reviewing and updating strategies, partnerships, and programs and sharing lessons learned with a wide range of stakeholders in an open, transparent manner.

(b) Global food security crosscut report

Not later than 120 days after the President submits the budget to Congress under section 1105(a) of title 31, the Director of the Office of Management and Budget shall submit to the appropriate congressional committees a report including—

(1) an interagency budget crosscut report that—

(A) displays the budget proposed, including any planned interagency or intra-agency transfer, for each of the principal Federal agencies that carries out global food security activities in the upcoming fiscal year, separately reporting the amount of planned funding to be provided under existing laws pertaining to the global food security strategy to the extent available; and

(B) to the extent available, identifies all assistance and research expenditures at the account level in each of the five prior fiscal years by the Federal Government and United States multilateral commitments using Federal funds for global food security strategy activities;

(2) to the extent available, a detailed accounting of all assistance funding received and obligated by the principal Federal agencies identified in the report and United States multilateral commitments using Federal funds, for global food security activities during the current fiscal year; and

(3) a breakout of the proposed budget for the current and budget years by agency, categorizing expenditures by type of funding, including research, resiliency, and other food security activities to the extent that such information is available.

(c) Public availability of information

The information referred to in subsections (a) and (b) shall be made available on the public website of the United States Agency for International Development in an open, machine readable format, in a timely manner.

(Pub. L. 114–195, §8, July 20, 2016, 130 Stat. 682.)

§9308. Rule of construction

(a) Effect on other programs

Nothing in the Global Food Security Strategy or this chapter or the amendments made by this Act shall be construed to supersede or otherwise affect the authority of the relevant Federal departments and agencies to carry out programs specified in subsection (b), in the manner provided, and subject to the terms and conditions, of those programs, including, but not limited to, the terms, conditions, and requirements relating to the procurement and transportation of food assistance furnished pursuant to such programs.

(b) Programs described

The programs referred to in subsection (a) are the following:

(1) The Food for Peace Act (7 U.S.C. 1691 et seq.).

(2) The Food for Progress Act of 1985 (7 U.S.C. 1736o).

(3) Section 416(b) of the Agriculture [1] Act of 1949 (7 U.S.C. 1431).[2]

(4) McGovern-Dole Food for Education Program (7 U.S.C. 1736o–1).

(5) Local and Regional Procurement Program (7 U.S.C. 1726c).

(6) Bill Emerson Humanitarian Trust Act (7 U.S.C. 1736f–1).

(7) Any other food and nutrition security and emergency and non-emergency food assistance program of the Department of Agriculture.

(Pub. L. 114–195, §9, July 20, 2016, 130 Stat. 684.)

REFERENCES IN TEXT

The amendments made by this Act, referred to in subsec. (a), are the amendments made by Pub. L. 114–195, section 7(c) of which amended sections 2292 and 2292a of this title.

The Food for Peace Act, referred to in subsec. (b)(1), is act July 10, 1954, ch. 469, 68 Stat. 454, which is classified generally to chapter 41 (§1691 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 1691 of Title 7 and Tables.

The Food for Progress Act of 1985, referred to in subsec. (b)(2), is Pub. L. 99–198, title XI, §1110, Dec. 23, 1985, 99 Stat. 1472, which is classified to section 1736o of Title 7, Agriculture.

The Bill Emerson Humanitarian Trust Act, referred to in subsec. (b)(6), is title III of Pub. L. 96–494, as added by Pub. L. 104–127, title II, §225(a), Apr. 4, 1996, 110 Stat. 959, which is classified to section 1736f–1 of Title 7, Agriculture.

[1] So in original. Probably should be "Agricultural".

[2] So in original. Probably should be "1431(b))."